

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2008-0239 Courtyard Park

**P.C. DATE:** January 15, 2009

**C.C. DATE:** February 26, 2009

**ADDRESS:** 5811 Southwest Parkway

**OWNER/APPLICANT:** Realtex (Larry Rother)

**AGENT:** McDill Engineering (Tom McDill)

**ZONING FROM:** LR-CO

**TO:** LR-CO

**AREA:** 3.026 acres (131,813 sq.ft.)

**SUMMARY STAFF RECOMMENDATION:** Staff recommends denial of LR-CO (Neighborhood Commercial-Conditional Overlay district zoning) to amend the permitted uses of the conditional overlay.

**PLANNING COMMISSION RECOMMENDATION:** 1/13/2009 - The Planning Commission recommended to allow drive-in services as a permitted use under the conditional overlay (7-0; Kirk motion, Small 2<sup>nd</sup>).

**DEPARTMENT COMMENTS:** The subject tract is a 3.026 acre lot zoned LR-CO and currently developed with a small mobile home park. There is a site plan application currently in review (SP-2008 0398C) for this site which proposes a Daycare (Commercial) use and a Restaurant (General) use with a drive-through. The proposed development does not meet the restrictions of the current zoning ordinance. On September 8, 2006 a zoning case (C14-06-0141) for this property was approved by Council with a conditional overlay that prohibited several uses including Custom Manufacturing, Service Station, Off-site Accessory Parking and Drive-in Services. The applicant would like to have the prohibition on Drive-in Services removed so that a drive-through coffee shop use can be added to the site plan. Due to prior Council direction to restrict Drive-in Services and the fact that conditions along Southwest Parkway have not changed, the staff cannot recommend a change to the conditional overlay.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LR-CO	Mobile Home Park
<i>North</i>	MF-2/MF-2-CO	Apartments
<i>South</i>	GO-CO	Private School
<i>East</i>	GO-MU-CO	Undeveloped
<i>West</i>	GO-CO	Private School

**AREA STUDY:** East Oak Hill

**TIA:** Waived

**WATERSHED:** Barton Creek

**DESIRED DEVELOPMENT ZONE:** No

**CAPITOL VIEW CORRIDOR:** No

**HILL COUNTRY ROADWAY:** Yes

**NEIGHBORHOOD ORGANIZATIONS:**

Oak Hill Association of Neighborhoods  
Barton Springs/Edwards Aquifer Conservation District

**SCHOOLS:**

Oak Hill Elementary School  
Small Middle School

Save Barton Creek Association  
 Home Builders Association of Greater Austin  
 Homeless Neighborhood Association  
 Save Our Springs Alliance  
 Oak Acres Neighborhood Association

Austin High School

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>PLANNING COMMISSION</b>	<b>CITY COUNCIL</b>
C14-06-0229	DR to GO	6/22/07 - Approved staff recommendation of GO-MU-CO & LO-MU-CO by consent (9-0)	Approved Ordinance 20070726-110 for GO-MU-CO & LO-MU-CO (7-0); all 3 readings
C14-06-0103	GO-CO & LO-CO to GO-CO	6/13/06 - Approved staff recommendation of GO-CO by consent (8-0)	6/22/06 Approved GO-CO (7-0); All 3 readings
C14-00-2238	MF-2-CO to LO-CO	1/23/01 Approved staff recommendation of LO-CO by consent (8-0)	4/05/01 - Approved LO-CO, 2 <sup>nd</sup> /3 <sup>rd</sup> readings (7-0)

**RELATED CASES:**

C14-06-0141	DR to LO	7/25/06 Approved LO-CO by consent (7-0).	9/28/06 Approved LR-CO (7-0); 2nd/3rd readings
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## **BASIS FOR RECOMMENDATION**

- 1. The proposed zoning should be consistent with the goals and objectives of the City Council.***

On September 8, 2006, a zoning case for this property was approved by Council with a conditional overlay that placed the following restrictions placed on the permitted uses:

Custom Manufacturing  
Service Station  
Off-site Accessory Parking  
Drive-in Services

Due to prior Council direction to restrict Drive-in Services and the fact that conditions along Southwest Parkway have not changed, the staff cannot recommend a change to the conditional overlay.

## **EXISTING CONDITIONS**

### **ENVIRONMENTAL**

This site is located over the Edwards Aquifer Recharge Zone. The site is in the Barton Creek Watershed of the Colorado River Basin, which is classified as a Barton Springs Zone (BSZ) watershed. It is in the Drinking Water Protection Zone.

Project applications at the time of this report are subject to the SOS Ordinance that allows 15% impervious cover in the recharge zone, 20% impervious cover in the Barton Creek watershed and 25% impervious cover in the Contributing zone. This tract lies in the recharge zone.

According to flood plain maps, there is no flood plain within the project location.

The site is located within the endangered species survey area.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention. Runoff from the site is required to comply with pollutant load restrictions as specified in LDC Section 25-8-514.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code regulations.

### **Water and Wastewater**

If the landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

### **Stormwater Detention**

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

### **TRANSPORTATION:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
Southwest Pkwy	109'	70'	Arterial	Yes	No	No

No additional right-of-way is needed at this time.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

### **SITE PLAN**

There is a site plan application currently in review (SP-2008-0398C) for this site which proposes a Daycare (Commercial) use and a Restaurant (General) use with a drive-through. The proposed development does not meet the restrictions of the current zoning ordinance.

This tract is already developed and the proposed zoning change is a footprint within the existing development.

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is across the street from, adjoining or located 540-feet or less from property zoned SF-5 or more restrictive, or on which a use permitted in an SF-5 or more restrictive zoning district is located will be subject to compatibility development regulations.

The site is located within 1,000 feet of Southwest Parkway and within a Hill Country Roadway Corridor. The site is located within the low intensity zone of Southwest Parkway. The site may be developed with the following maximum floor-to-area ratio (FAR):

<u>Slope</u>	<u>Maximum FAR</u>
0-15%	.20
15-25%	.08
25-35%	.04

Except for clearing necessary to provide utilities or site access, a 100 foot vegetative buffer will be required along Southwest Parkway. At least 40% of the site (excluding dedicated right-of-way) must be left in a natural state.

The allowable height is as follows: in the Southwest Parkway corridor may not exceed the lesser of  
 1.) The height permitted by the zoning district or,  
 2.) 60 feet.

Prior to the issuance of a building permit for the proposed use, a site plan must be approved by the Planning Commission

**CITY COUNCIL DATE:** 2/26/09

**ACTION:**

**ORDINANCE READINGS:** 1st

2<sup>nd</sup>

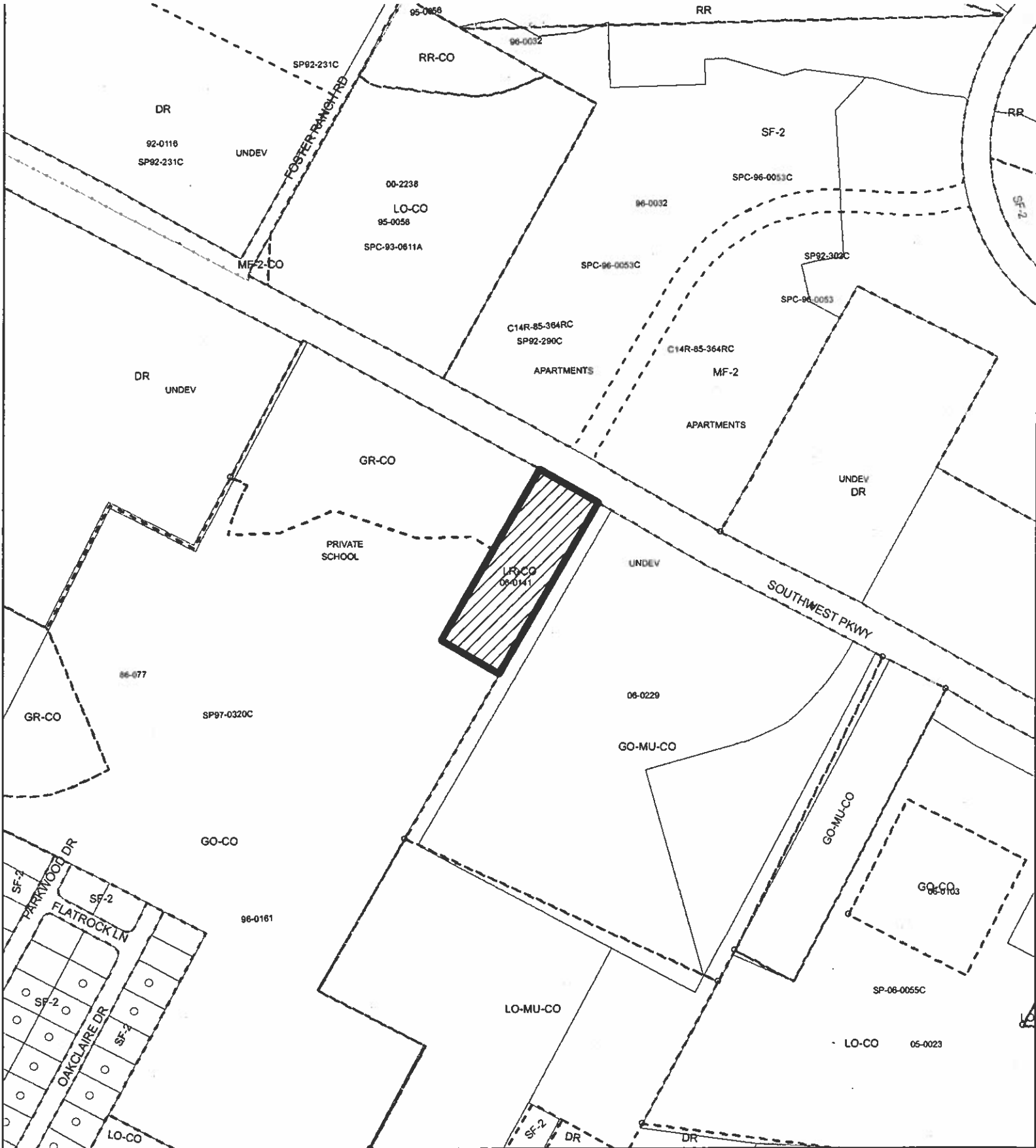
3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Stephen Rye

**PHONE:** 974-7604

**stephen.rye@ci.autin.tx.us**



**N**

**SUBJECT TRACT**

**ZONING BOUNDARY**

**PENDING CASE**

**OPERATOR: S. MEEKS**

**ZONING**

**ZONING CASE#: C14-2008-0239**

**ADDRESS: 5811 SOUTHWEST PKWY**

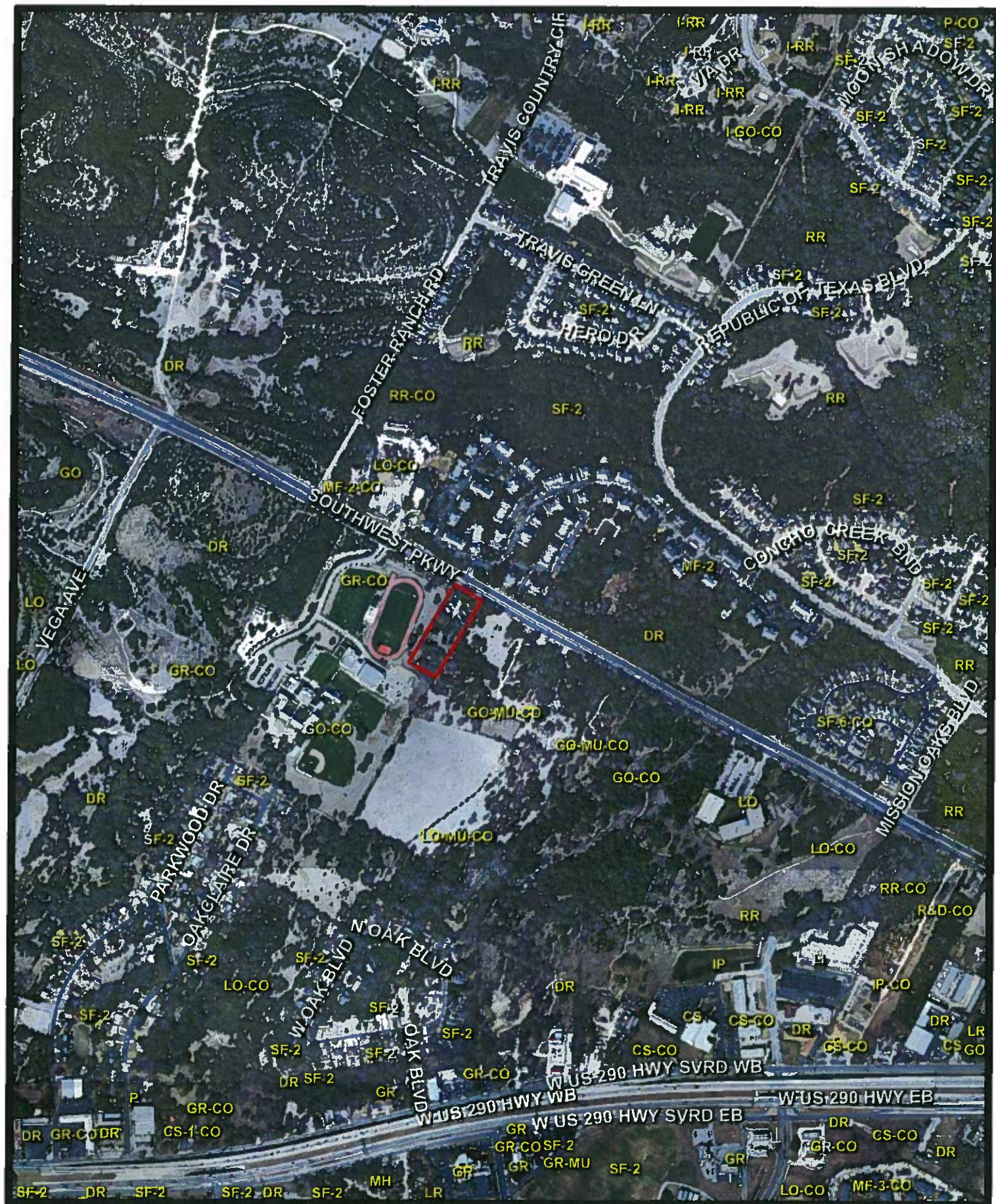
**SUBJECT AREA: 3.026 ACRES**

**GRID: D20**

**MANAGER: S. RYE**







**C14-2008-0239 5811 Southwest Parkway**  
**From LR-CO to LR-CO**

**(Neighborhood Commercial-Conditional Overlay) District Zoning**



**ORDINANCE NO. 20060928-084**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 5811 SOUTHWEST PARKWAY FROM DEVELOPMENT RESERVE (DR) DISTRICT TO NEIGHBORHOOD COMMERCIAL-CONDITIONAL OVERLAY (LR-CO) COMBINING DISTRICT.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from development reserve (DR) district to neighborhood commercial-conditional overlay (LR-CO) combining district on the property described in Zoning Case No. C14-06-0141, on file at the Neighborhood Planning and Zoning Department, as follows:

A 2.99 acre tract of land, more or less, out of the Thomas Anderson League No. 17, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as 5811 Southwest Parkway in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

**PART 2.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. The following uses are prohibited uses of the Property:

Custom manufacturing  
Service station

Off-site accessory parking

2. Drive-in service is prohibited as an accessory use to commercial uses.
3. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.




Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the neighborhood office (LR) base district and other applicable requirements of the City Code.

**PART 3.** This ordinance takes effect on October 9, 2006.

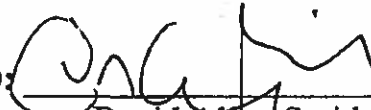
**PASSED AND APPROVED**

September 28, 2006

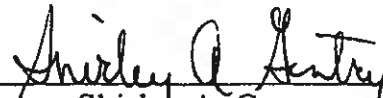
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\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Shirley A. Gentry  
City Clerk

**Resolution in support of 5811 Southwest Parkway**

WHEREAS, this project is the first to be attempted under the new "Redevelopment Ordinance of 2007"

WHEREAS, this project will improve the water quality coming off the site

WHEREAS, this project attempted to meet the SOS requirements, the Hill Country Roadway Ordinance, and the Design Standards Ordinance, where necessary SOS requirements were implemented

WHEREAS, this neighborhood can use a child care facility

WHEREAS, this project will serve the immediate community, and not pose any threat to an immediately neighboring residential area

**NOW, THEREFORE, BE IT RESOLVED**, that the Oak Hill Association of Neighborhoods supports the Children's Courtyard, at 5811 Southwest Parkway, project and urges its approval by the Austin Zoning and Platting Commission and the Austin City Council.

Approved by unanimous vote September 10, 2008

*Dwain K. Rogers*

Dwain Rogers  
President



## **TRAVIS COUNTRY CSA, INC.**

4504 Travis Country Circle, Austin, TX 78735

Phone: 512-892-2256 Fax: 512-891-9554

E-mail: [tcoffice@traviscountry.com](mailto:tcoffice@traviscountry.com)

Mr. Stephen Rye  
City of Austin  
Neighborhood Planning and Zoning Department  
505 Barton Springs Road  
Austin, Texas 78704

January 7, 2009

Re: 5811 Southwest Parkway  
Zoning Case C14-2008-0239

Dear Mr. Rye:

On behalf the Travis Country Neighborhood Association, the Travis Country Board of Directors would like to state our opposition to the referenced Zoning Case. The Board is unanimous (with the exception of one board member who has recused himself and is not involved) in opposing the zoning change as proposed by Zoning Case C14-2008-0239, for property located at 5811 Southwest Parkway.

Travis Country is a community of 1500+ homes located off of Southwest Parkway, west of its intersection with MoPac. We have a direct interest in seeing that development along Southwest Parkway, to the extent it occurs, fully complies with all zoning and other applicable overlays, rules and restrictions. We are very concerned over the precedent setting nature of allowing a drive-through restaurant along this scenic roadway, particularly with access directly onto Southwest Parkway.

The granting of such requests would start us down a slippery slope towards more and more of these requests along with other variances/exceptions, which would damage the scenic nature, traffic flow and safety along Southwest Parkway. This will negatively affect those of us who reside in the area. The conditions established from the 2006 zoning case on this property, along with other development regulations, were put in place for good reason and should not be set aside.

Specific issues we have with the proposed zoning case follows:

1. Precedence for allowing drive-through restaurants along Southwest Parkway.
2. The location of the proposed restaurant building, drive-through lane, and other ancillary uses, as shown on the applicant's supporting site plan, is not in compliance with the Hill Country Scenic Roadway Corridor setback rules and regulations and would adversely impact the scenic preservation intent of these rules.
3. The location of the proposed drive-through lane, in our opinion, creates hazards with Southwest Parkway traffic and we strongly recommend the City's transportation staff review this thoroughly. We foresee direct nighttime headlight conflicts with eastbound parkway traffic, and

the 180 degree turn required to exit the drive-through lane onto Southwest Parkway will likely require vehicles to encroach into multiple lanes, creating additional safety concerns.

For these reasons, we oppose the changes requested in the referenced zoning case. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Peterman', written in a cursive style.

Anthony Peterman  
President  
Travis Country CSA Board of Directors

# KOONTZ • MCCOMBS

January 7, 2009

Mr. Tom McDill  
Tom McDill Company  
10706 Indian Scout  
Austin, TX 78736

RE: 5811 Southwest Parkway

Dear Tom:

This letter provides our support of your zoning case for 5811 Southwest Parkway which will allow construction on your property of a drive-thru restaurant. This restaurant will be located adjacent to our property at 5707 Southwest Parkway.

We believe that adding a drive-thru restaurant along Southwest Parkway will benefit the community by providing a nearby dining option without having to drive two miles or more to other similar establishments in the South MoPac area.

We fully support your request from the City of Austin for a change in zoning status for your property.

Sincerely,



Rick Potter  
Vice President



John Noell  
Building 8  
5900 Southwest Parkway  
Austin, TX 78735

January 7, 2009

Tom McDill  
Tom McDill Company  
Austin, Texas

Re: Southwest Parkway Development

Dear Tom:

This letter is provided in support of your zoning case which will allow construction of a drive through restaurant across Southwest Parkway from my property. I believe that in conjunction with the day care facility a restaurant would be a benefit to the community allowing people officing along Southwest Parkway to have an option to eat out locally rather than drive additional miles to the restaurants along South MoPac.

I have asked the other members of the Board at 5900 Southwest Parkway for comment and I have received only one comment and it was positive for your proposal. Thank you for the opportunity to review your plan and provide input.

Sincerely,

A handwritten signature in black ink, appearing to read "John Noell", written in a cursive style.

John Noell

David Richardson  
7850 El Dorado Dr  
Austin, TX 78737

January 7, 2009

To: Councilman Brewster McCracken  
City of Austin  
301 W 2<sup>nd</sup> Street  
Austin, TX 78701

Dear CM McCracken

Oak Hill now has its Neighborhood Plan. Still, there are many needs and issues that remain unresolved. The Comprehensive Plan offers an opportunity to address some of those, specifically, roads, mobility and connectivity, parks and trails as well as managing the growth anticipated for the Oak Hill area and the greater Barton Springs Zone in Hays County.

The Leffingwell redevelopment ordinance has had virtually no impact on redevelopment in Oak Hill. Commercial real estate developers do not see any opportunity offered by the ordinance so we're stuck with legacy development and blight. There is so much more the City could do to help transform that legacy development to better serve our community and the environment.

Unfortunately, staff in some departments still hold on to the erroneous belief policy status quo serves the environment. It doesn't. We're losing ground (literally) in Hays County and Oak Hill. It is clear that development will continue in Hays County. The Belterra effluent discharge controversy demonstrates the City is incapable of regulating their way to preserving the Aquifer and Barton Springs.

Burdening (re)development in Oak Hill with disconnected single use pad sites with separate drive cuts complicates traffic safety issues but this is the norm. Well intentioned but uninformed folks fail to see that bad policy just shifts development pressure into Hays County. As a result, Oak Hill fails to get the quality commercial services we need. Our higher DVMT adds to air pollution. Growth in Hays County adds more DVMT and congestion in Oak Hill.

Conflicted policies guiding redevelopment is exemplified at 5811 Southwest Parkway where a trailer park redevelopment proposal is under consideration. Current land use now fails to serve the environment or the community with blight and outdated septic systems. A daycare center and a small restaurant would serve the community better with combined land uses. The community, neighbors, OHAN, and the Oak Hill NPCT recognize the clear benefits to redevelopment. Somehow staff even opposes putting this on the consent agenda. Something is amiss.

Contorted interpretations of City policies prevent reasonable redevelopment in the BSZ and just amps up sprawl in Hays County. If new urbanism is desired for the rest of Austin, it is urgently needed in the BSZ. Current development policies and codes as staff applies them within the BSZ just perpetuate blight, sprawl and auto dependent land use to say nothing of loss of ground water resources and water quality.

Council could greatly benefit the environment and Oak Hill by aligning development policies and codes with regional goals to give clear direction to staff and end the confusion at One Texas Center. No simple task, but sorely needed. Thanks.



David Richardson

**ORDINANCE NO. 20060928-084**

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September 28, 2006

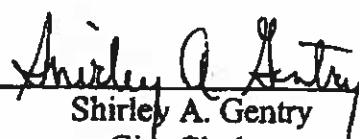
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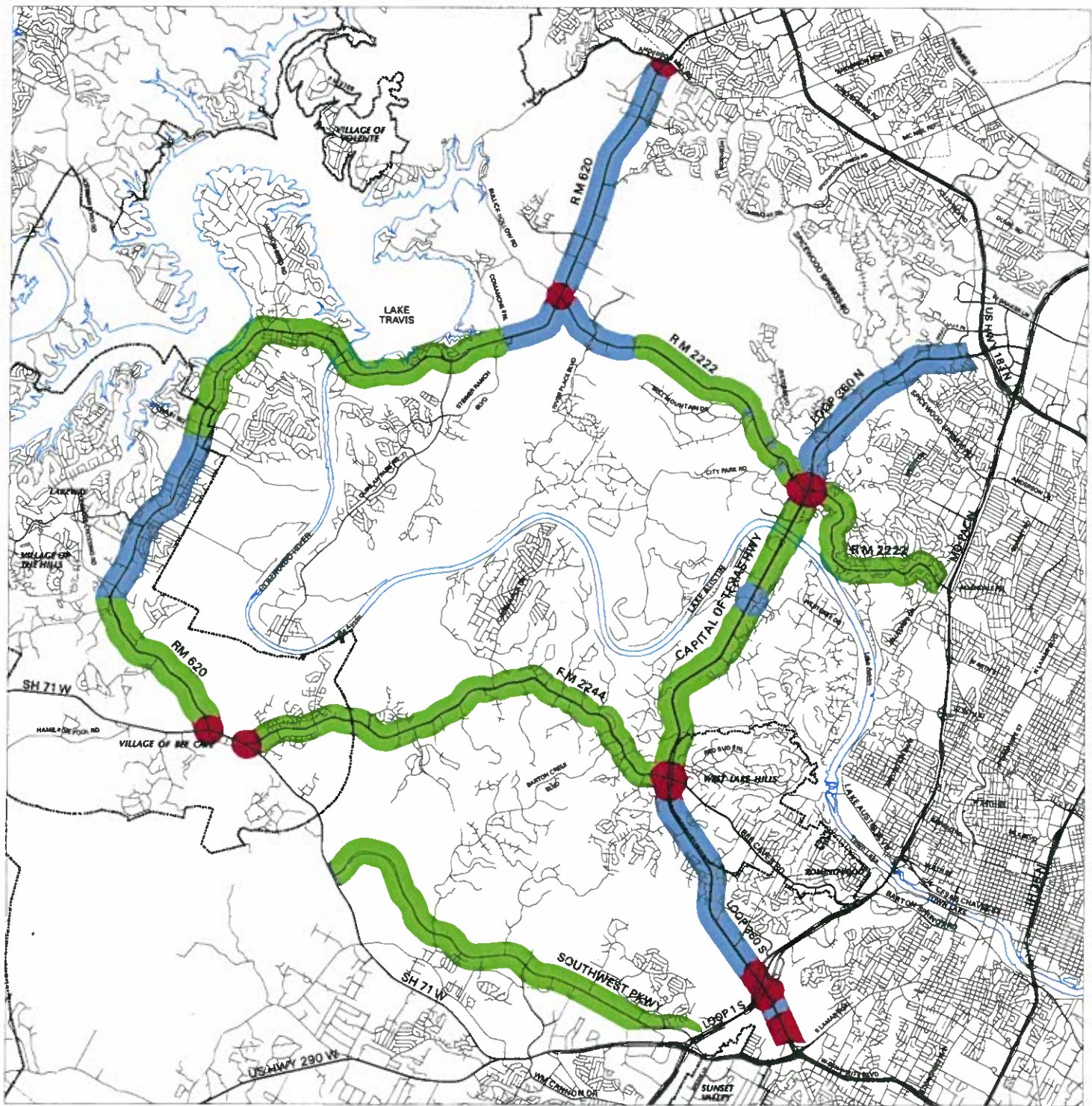
  
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Will Wynn  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Shirley A. Gentry  
City Clerk



# **HILL COUNTRY ROADWAY CORRIDORS**

Produced by:  
CTM - Regional Mapping



Plotted: February 06, 2006

**HIGH INTENSITY**

**MODERATE INTENSITY**

Additional intersections may qualify as MODERATE INTENSITY if criteria in Sec. 25-2-1121 (B) and (C) are met.

**LOW INTENSITY**

City of Austin ETJ

This map was produced by the City of Austin as a general guide only and is not intended for any other use. The accuracy of the data is not guaranteed. The City of Austin is not responsible for any errors or omissions. Representation is not warranted. CTM - Regional Mapping