

PUBLIC HEARING INFORMATION

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Margaret Mayo

Your Name (please print)

6801 Becker Rd #1312

Your address(es) affected by this application

Margaret Mayo

Signature

Date

12-29-08

Comments:

Any chg that allows for commercial or retail construction will devalue my property.

Do NOT APPROVE!!

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Wendy Rhoades}

P. O. Box 1088

Austin, TX 78767-8810

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☐ I am in favor
☒ I object

ROBERT D. BARKER

Your Name (please print)

6801 BECKETT RD. #118R AUSTIN 78749

Your address(es) affected by this application

Robert D. Barker

Signature

12-28-08

Date

Comments: I FEEL THAT ANY ZONING CHANGE OF THIS NATURE WILL OPEN THE DOOR TO MORE OF THE SAME. IN THE FUTURE, THIS GENERAL AREA HAS MORE THAN AN ADEQUATE AMOUNT OF RETAIL AND PROFESSIONAL SERVICES WITHIN EASY REACH. I ENJOY LOOKING OUT OF MY WINDOW AND SEEING OPEN LAND INSTEAD OF MORE HOUSES OR BUSINESS BLDGS. WHY CAN'T WE HAVE SOME AREAS PROTECTED FROM DEVELOPMENT?

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☐ I am in favor
☒ I object

Regina Anderson
Your Name (please print)

5415 Westview Rd, Austin 78749

Your address(es) affected by this application

R. F. Anderson *1/2/09*
Signature Date

Comments: *This request was already heard by the Planning Comm., as part of the Oak Hill FL-UPM, it was denied last summer. City Council also denied request as part of the FL-UPM one month ago. Note was 7-0 against it. This case has been brought up by greedy landowners who want to sell commercial. They are willing to ruin the rest of Buckett Estates neighborhood to achieve their goals. Please deny this request again.*

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☐ I am in favor
☒ I object

RANDALL CHAY

Your Name (please print)

6801 BECKETT #123L AUSTIN 78749

Your address(es) affected by this application

12-28

Signature

Date

Comments:

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☐ I am in favor
☒ I object

Keri Brophy-Martinez
Your Name (please print)

5713 Westview Road Austin, TX. 78749

Your address(es) affected by this application

Keri Brophy-Martinez
Signature

1/2/2009
Date

Comments: Although we are one of the few families living in this neighborhood with small children, we are worried about the increase in traffic a re-zone will cause. Many people are already using our streets as cut-offs from William Cannon. In addition, I can not think of one additional business that would improve my life, and livelihood. Therefore, I object to this change.

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☐ I am in favor
☒ I object

Joan Foster

Your Name (please print)

5711 Reynolds Rd, Austin, TX 78749

Your address(es) affected by this application

Joan E. Foster

Signature

1-6-09

Date

Comments: I strongly oppose the rezoning request. My property borders 6807 Ridge Oak AND 5703 Reynolds Rd. No advantage to split a city block as a unit and expect residential single family rural to coincide with mixed-use commercial. Inside the Edwards Aquifer recharge zone, so regulates impervious ground cover. Therefore to be compliant, developers can build up to a 3-story building w/ business, parking, + condos on top. This violates my privacy and security.

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Joan Foster

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☐ I am in favor
☒ I object

Dr. Michael E. Foster, DPS

Your Name (please print)

5711 Reynolds Rd, Austin, TX 78749

Your address(es) affected by this application

Michael E. Foster 11/6/09

Signature

Date

Comments: Protect our deed restrictions that preclude zoning requests. This zoning request benefits a few for financial gain, not the homeowners of Beckett Estates. A mixed-use commercial will create an arbitrary development pattern with construction possibly to vary for years. Multiple, unsafe curb cuts on a curve on William Cannon would be created. Stay consistent with FLUM objectives for Oak Hill.

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☐ I am in favor
☒ I object

PATRICIA BORDIE

Your Name (please print)

5617 WESTVIEW RD.

Your address(es) affected by this application

Patricia Bordie

Signature

1/4/09

Date

Comments:

I oppose the re-zoning of this property because this re-zoning would be inconsistent with the Oak Hill Neighborhood Plan FLUM. This re-zoning would set an undesirable precedent by removing a piece of a well-established neighborhood and tract to re-zone commercial. The well established tract has consistently been zoned rural residential. This zoning change would be incompatible with the neighborhood character and would not satisfy a neighborhood or public need.

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☐ I am in favor
☒ I object

Ralph Bordie

Your Name (please print)

5617 Westview Rd

Your address(es) affected by this application

[Signature] 11/4/09

Signature

Date

Comments: Ten years ago we bought this property specifically because it was in the center of a well established neighborhood with deed restrictions preventing commercial use. Since then I have removed invasive species and replaced them with wildlife friendly native plants. A pond and circulating stream have vastly increased the wildlife population, and we are excited as a wildlife habitat. The zoning change would allow heavy traffic 250 feet from the habitat and adversely affect what I have worked on for ten years.

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☐ I am in favor
☒ I object

JANE D. OSHELSKI

Your Name (please print)

6801 Beckett Rd 12606

Your address(es) affected by this application

Jane D. Osheleski 1-5-09

Signature

Date

Comments:

I object to this property being anything other than residential. The last thing we cannot needs is more residential traffic. There are already built buildings across the street that are still "low lease". Keep this residential!

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☐ I am in favor
☒ I object

Anna Garcia
Your Name (please print)

6801 Beckett Rd
Your address(es) affected by this application

[Signature] Signature
01/02/09 Date

Comments:

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☐ I object

Valerie Bankmen

Your Name (please print)

560 Reynolds Road

Your address(es) affected by this application

Val Bankmen

Signature

1/06/08

Date

Comments:

The homes on Reynolds Road that are just
North of William Cannon are in no way
a "Rural Residential" area. We are
located within 250 feet of a major
road that serves a traffic of over 37,000
cars/trucks per day. The plan should be
consistent with the established neighborhood.
We could provide a 50' buffer for the rest of
the Beckett Estate homes should the South side of Reynolds
Road be changed to mixed use.

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

James F. Hogan, Jr.

Your Name (please print)

6605 & 6509 Ridge Oak Rd. Austin, Tx. 78749

Your address(es) affected by this application

James F. Hogan, Jr. 1/6/09
Signature Date

Comments:

Requested Zoning will only benefit a few
At the expense of many. Further, there
is significant opposition by most of the neighborhood
As well the surrounding community through OHAN
& The Western Oaks Neighborhood Assn.

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Wendy Rhoades}

P. O. Box 1088

Austin, TX 78767-8810

PUBLIC HEARING INFORMATION

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

THEODORE A. & CARLA W. MILLER
Your Name (please print)

5706 REYNOLDS ROAD 78749-2014

Your address(es) affected by this application

Michael Miller + Carla W. Miller 1/13/09
Signature Date

Comments: PLEASE SEE ATTACHMENT.

If you use this form to comment, it may be returned to:

City of Austin
Neighborhood Planning and Zoning Department
Wendy Rhoades
P. O. Box 1088
Austin, TX 78767-8810

January 9, 2009

Wendy Rhoades and Planning Commission Members
Neighborhood Planning and Zoning Department
City of Austin
P.O. box 1088
Austin TX 78767-8810

Subject: 1/13/2009 Planning Commission Agenda, Case #C14-2008-0222.

Dear Ms. Wendy Rhoades and Honorable Planning Commission Members:

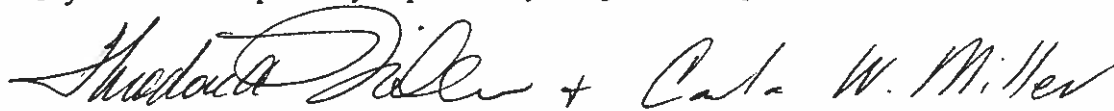
My wife and I moved to Austin in May, 1977, and tried to find a home within Austin's then "Preferred Growth Corridor". Unfortunately, we could find nothing we could afford so bought in Beckett Estates in Oak Hill which was then located in the County as it hadn't yet been annexed by Austin. At the time we were literally "out in the country". We were annexed in the early 1980's when the City took in the Motorola properties across 290/71. Since then, new sub-divisions have grown up all around us. In spite of this growth we still reside in a large lot sub-division that reflects an "out in the country" character. However, "country life" hasn't been without "city" issues.

The single biggest problem we have faced over the years has been purchasers of lots within the sub-division whose intent was to run commercial enterprises from their residences. Over the 32 years we have lived here, the neighborhood has enforced our deed restrictions to preserve the neighborhood's residential restrictions and character with nine (9) successful legal actions. Now we have a group of property owners who want to rezone the 16 plus acres of the properties backing up to William Cannon to LO-MU-NP.

We live right across the street from the properties whose owners are asking for the zoning change and, if approved, will be looking at the backside of commercial establishments and dumpsters. We and the rest of the property owners in the sub-division feel that in addition to the previously mentioned legal challenges we have faced we must now also fight City Hall! Why is that? All but two of those property owners bought with William Cannon already at their back door. The two that didn't were here long before William Cannon was ever constructed.

Our neighborhood is diverse with homes built from the 1960's on and with at least 5 built in the last two years. Market values run from an approximate low of \$200,000 to over \$500,000. Most of the older homes have been upgraded by their owners retaining their value and marketability. There is no way a commercial strip along William Cannon will be compatible with our large lot (minimum 1 acre) subdivision. And, if you will look at a subdivision map of the area you will see that *we are an oasis of large lots in a sea of very high density development*. What does this say about the efforts to preserve open space over the Edwards Aquifer Recharge Zone?

My wife and I respectfully request that you reject this requested zoning change.



Theodore A. and Carla W. Miller
5706 Reynolds Road
Austin TX 78749-2014
512-892-1314

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

DANIEL PEREIRA

Your Name (please print)

6801 BECKETT RD UNIT 123R

Your address(es) affected by this application

Daniel Signature **1/11/09** Date

Comments:

This rezoning will have a negative impact in the adjacent properties value, and it will create traffic, commercial signs, as well as the sanctity and peacefulness of our neighborhood.

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Wendy Rhoades

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Ralph Mock/Margaret Mock
Your Name (please print)

6606 Beckett Rd Austin Tx 78749
Your address(es) affected by this application

Ralph Mock Margaret Mock 1-08-2009
Signature Date

Comments: Rural characteristics & low
density are desired for our area now
as they were in 1959 when we
bought our home on Beckett Rd
& Westview. To rezone to LR-MU-NP
would destroy the country uniqueness
of our historic neighborhood.
Please accept the zoning RR-NP.
Thank you!

If you use this form to comment, it may be returned to:
City of Austin
Neighborhood Planning and Zoning Department
Wendy Rhoades}
P. O. Box 1088
Austin, TX 78767-8810

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

WANDA H. LANCASTER

Your Name (please print)

7206 Beckett Road

Your address(es) affected by this application

Wanda H. Lancaster

Signature

1/13/09

Date

Comments:

Cluster development at
major industrial
area.

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ Object

Glenn Ross

Your Name (please print)

5115 WOODSICK RD 78749

Your address(es) affected by this application

1/13/09
Date

Signature

Comments:

Let's not lose the unique
flavor of our neighborhood. Please
Don't rezone!

If you use this form to comment, it may be returned to:

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Wendy Rhoades}

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Gene Faulk

Your Name (please print)

5504 Westview Road Austin, TX 78749

Your address(es) affected by this application

Gene Faulk

Signature

1/13/08

Date

Comments: There are residential properties

up and down William Cannon Blvd. that

are much closer to the street than

these residences.

If you use this form to comment, it may be returned to:

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Neighborhood Planning and Zoning Department

Wendy Rhoades}

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

CLAUDIA PERRY
Your Name (please print)

5512 ABILENE TRAIL, AUSTIN, TX
Your address(es) affected by this application

Claudia Perry 1-11-09
Signature Date

Comments:

If you use this form to comment, it may be returned to:

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Austin, TX 78767-8810

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Mani T. Benavidez

Your Name (please print)

5900 Kabaye Cove Austin TX 78749

Your address(es) affected by this application

Mani T. Benavidez *1/11/09*

Signature

Date

Comments:

I object to the rezoning please keep it RR.

If you use this form to comment, it may be returned to:

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Neighborhood Planning and Zoning Department

Wendy Rhoades}

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

AQUEEL DARBAR

Your Name (please print)

5908 KABAYE COVE

Your address(es) affected by this application

AUSTIN TX 78749 1/11/2009

Date

Comments:

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

ADAM S. AVALOS
Your Name (please print)

5506 ABILENE TRAIL
Your address(es) affected by this application

[Signature]
Signature

1/10/09
Date

Comments:

If you use this form to comment, it may be returned to:

City of Austin
Neighborhood Planning and Zoning Department
Wendy Rhoades
P. O. Box 1088
Austin, TX 78767-8810

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Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Sandra G. Hill

Your Name (please print)

5502 Abilene Trl

Your address(es) affected by this application

Sandra G. Hill

Signature

Date

1-11-09

Comments:

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Wendy Rhoades}

P. O. Box 1088

Austin, TX 78767-8810

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Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Laura L. Faulk

Your Name (please print)

5504 Westview Road

Your address(es) affected by this application

[Signature]

Signature

1-12-09

Date

Comments: This is an established
neighborhood with deed
restrictions. The area in
question has been through the
Oak Hill Neighborhood Plan
and FLUM as a contested area.
It was determined then that it
should remain residential.

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Wendy Rhoades}

P. O. Box 1088

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Case Number: C14-2008-0222

Contact: Wendy Rhoades, (512) 974-7719

Public Hearing:

January 13, 2009 Planning Commission

January 29, 2009 City Council

☐ I am in favor
☒ I object

Ralph Mock/Margaret Mock
Your Name (please print)

6606 Beckett Rd Austin Tx 78749
Your address(es) affected by this application

Ralph Mock Margaret Mock 1-08-2009
Signature Date

Comments: Rural characteristics & low
density are desired for our area now
as they were in 1959 when we
bought our home on Beckett Rd
& Westview. To rezone to LR-MU-NP
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Please accept the zoning RR-NP.
Thank you.

If you use this form to comment, it may be returned to:
City of Austin
Neighborhood Planning and Zoning Department
Wendy Rhoades}
P. O. Box 1088
Austin, TX 78767-8810

Rhoades, Wendy

From: juju grimes [jg.grimes@sbcglobal.net]
Sent: Thursday, January 08, 2009 3:01 PM
To: Rhoades, Wendy
Subject: Request

Dear Members of the Planning Commission,

I respectfully request a postponement of our rezoning application for further study of the deed restrictions on our property and the area surrounding us on William Cannon. We request postponement to March 10, 2009. Rezoning # C14-2008-0222 property on William Cannon.

Thank you,

Judith Grimes

512 891 9998

1/8/2009

We request an indefinite postponement due to the nature of this case so we may approach the neighborhood with a compromise zoning use and deed restriction amendment or, failing that, to challenge the meaning and enforceability of the existing restrictions which are ambiguous at best. There should be room for reasonable compromise. Obviously, the land fronting on William Cannon is no longer best suited for single family use. The neighbors are fearful that any change in the purported single family restriction on the land owned by us the six families, will have a negative impact on their single family use. A compromise use and amended restriction could give both parties what they most desire and avoid the unpredictability where one side wins all and one side loses all.

Thank you,

I am respectfully requesting our case be indefinitely pulled to give us time to work with our neighbors to obtain a reasonable solution to our situation.

Val Rocha

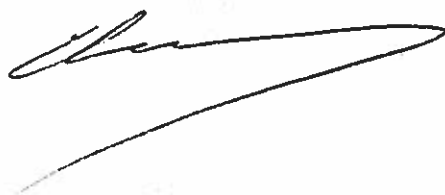
The noise levels both inside and outside of our homes with currently 47,000 vehicles per day, is already above the levels allowed by every single health and safety agency and organization in the US, and likewise by most of the international health and safety organizations worldwide.

My unexpected findings of the dangers to our families from not only the noise but the air pollution from living on the North side of William Cannon only feet away, which is to say where the prevailing winds distribute the pollutants has been numbing.

Mrs. Simmons bought her land in 1953. To say we do not want change rings hollow to the severely affected homes. To say you bought property in Beckett Estates years ago is also ridiculous because 3 of our 6 families founded Beckett Estates. Think about this...Mrs. Simmons owned her land 34 years before William Cannon was started. 34 Years!

We have paid for our zoning request once, the planning department agrees our land is best suited for neighborhood mixed use but first we must deal with the Restrictive Covenants.

I am before you today to request an indefinite postponement to give us time first to work with the neighborhood but if unsuccessful our court case. We also understand we will bear the responsibility to pay for additional notification of the next meeting before this board and we accept this responsibility. This is a fair and honest request. Thank you Chuck Spralding

A handwritten signature in black ink, appearing to read 'Chuck Spralding', with a long, sweeping underline.

KNOWN DANGERS AND THREAT TO HEALTH

Please grant our request to try and work with the neighborhood.

The most fundamental principal is we should be absent a material threat to our health from where we live due to the annexation and then the development of William Cannon. The rights of present residents not affected by the roadway should not supersede the rights of families so devastated by the changes to our land forever making our older homes unsuitable both from Air Pollutants from auto emissions and Noise Pollution from the high volume of traffic. No environmental study was ever done to address the neighborhood plan resulting in the health and safety hazard to our homes..

We are shocked by the response to our situation by applying a different standard of review to this request. The property was purchased by 3 of the 6 land owners over 50 years ago and all surrounding land was pasture surrounded by only 100 families living in Oak Hill and I purchased mine in 1953. The building of William Cannon further changed our land. Now we are completely surrounded by higher density and higher zoning than we request. The similar nature of our situation compared to all other past land request is historic in nature by applying a spot zoning to limit our use.

Jewell Simmons

SURROUNDING LAND CHANGES

Using standards that the development board used in all similar cases the request we ask for is documented that the issue of surrounding area changes and roadway type was a compelling reason for change in every case. I can provide you with hundreds of cases but you already have access to these files and the explanation from your department to the zoning changes made in like situations. We can not find another Rural Residential Area in Austin meeting all the standards of development that we meet, not already changed, and that includes not just 6 lane MAD but land along 4 lane arterial roadways also. We are deprived of the safety and health in our homesteads as it is now zoned yet change of zoning was granted to other property owners in similarly situated properties. Our request is not harmful to the environment and should even further protect the water quality.

All land abutting William Cannon from Highway 35 to Highway 290 on both the North and South Side has been zoned to better address the long term best use and planning principles the City of Austin has in place. Our request for zoning met and exceeded all standards in place at the time of request. EPA and their Support Center SCRAM, AMPO, FTA, MPO, Sierra Club, TMPO and DOT along with SMART GROWTH address the planning principles for land use along Major Divided Arterial Roadways as the City has in hundreds of zoning cases in the last few years. The planning department has met and participated with numerous organizations over the last few years addressing the best use for land and the health effects to families in older homes as the growth in cities change and roadways are built.

The land to the East across Ridge Oak which is 24 ft. wide the City allowed Office with the development line right on the property line giving the families on Ridge Oak less than 50 ft counting the street from development. To the West another 24 ft. street is 84 condos in a high density design again only 50 ft. from the residential area of Beckett Estates. To the North are apartments, schools, and duplexes again only 24 ft. street. The application of adequate and proper land use regulations remains the most important single instrument of locally administered environmental protection. The fundamental premise to be incorporated into regulations is the urban development of land should be without severe environmental degradation with disregard to environmental adverse affects on its citizens. The City's own plan mentions the planning for land use on major arterials roadways and the need for a buffer from anticipated traffic noise. (Policy 351.2) Our request offers a deeper buffer to the families on the north of Reynolds Road.

We respectfully request for an indefinite postponement, not debate the merits of the case. Our homes sit right on William Cannon and mine is also feet from two schools across a 16 ft. street Ridge Oak where hundreds of children play outside leaving me with noise both night and day.

We are being forced to be the buffer to the homes to the North and sacrifice our life's investment in our homes equity to solely enrich people living hundreds and even thousands of feet from William Cannon totally unaffected by the traffic noise. My husband and I were the settlers of Beckett Estates and at that time we were surrounded by a pasture and our biggest worry were the cows getting in and eating our yard. First, we would like to work with the neighborhood to see if we can come to a reasonable agreement, and only as a last resort we will be forced to take our case to court.

We respectfully request you grant us an indefinite postponement.

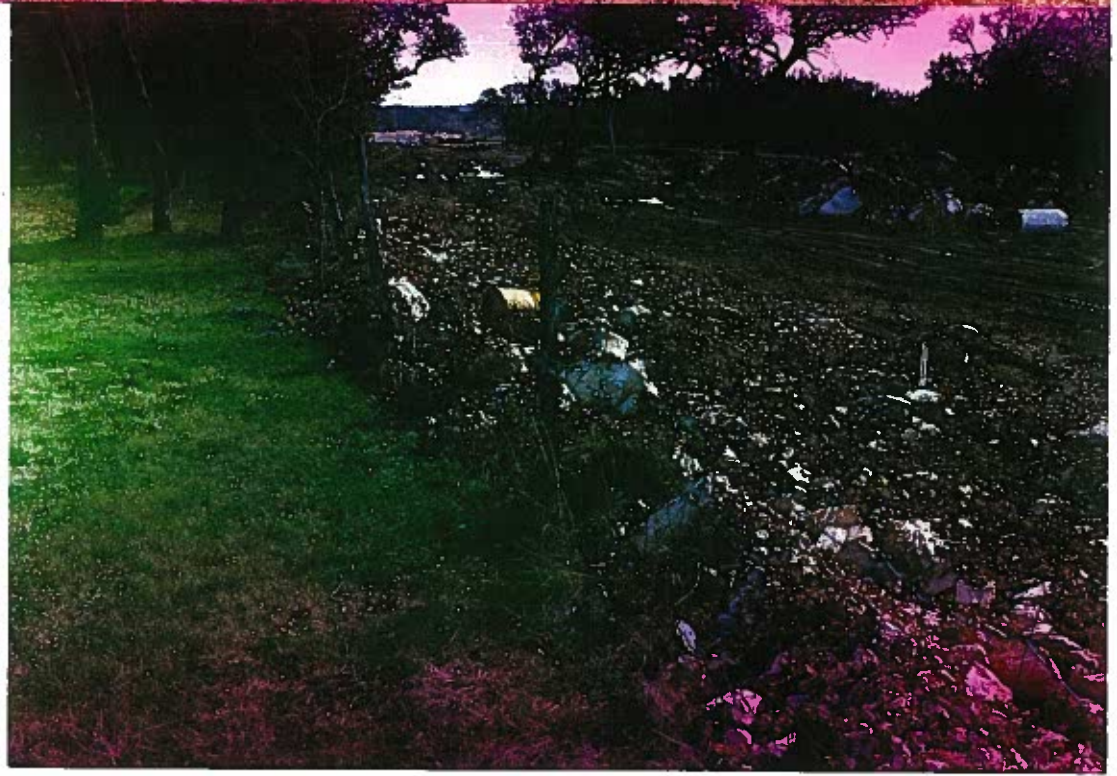
Sue Burt

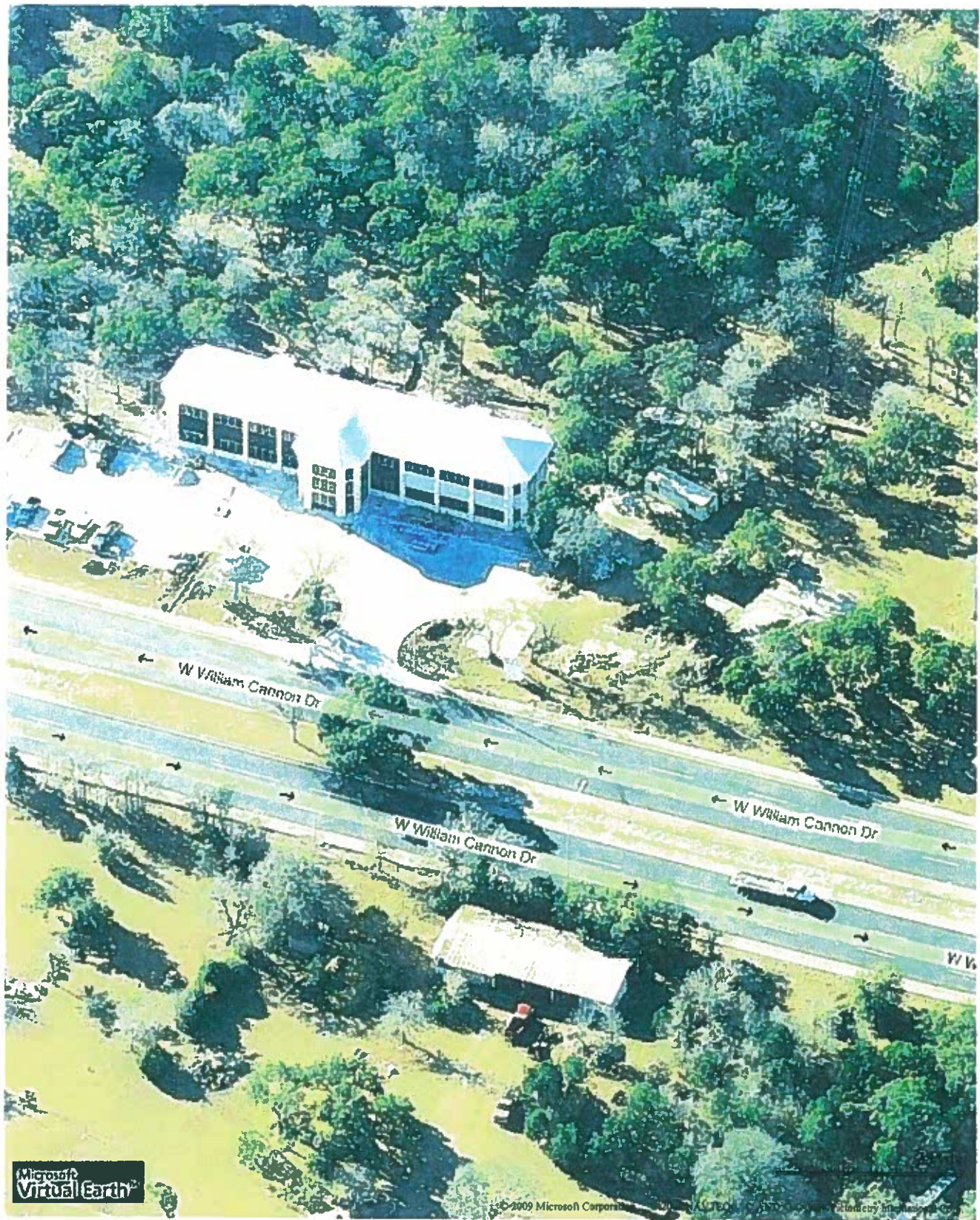
The City of Austin published its Guide to Land Use Standards in May 2008. This publication specifically addresses the issue of corridor planning first along minor corridors such as 4 lane corridors and also along major corridors such as our major 6 lane major divided corridor William Cannon.

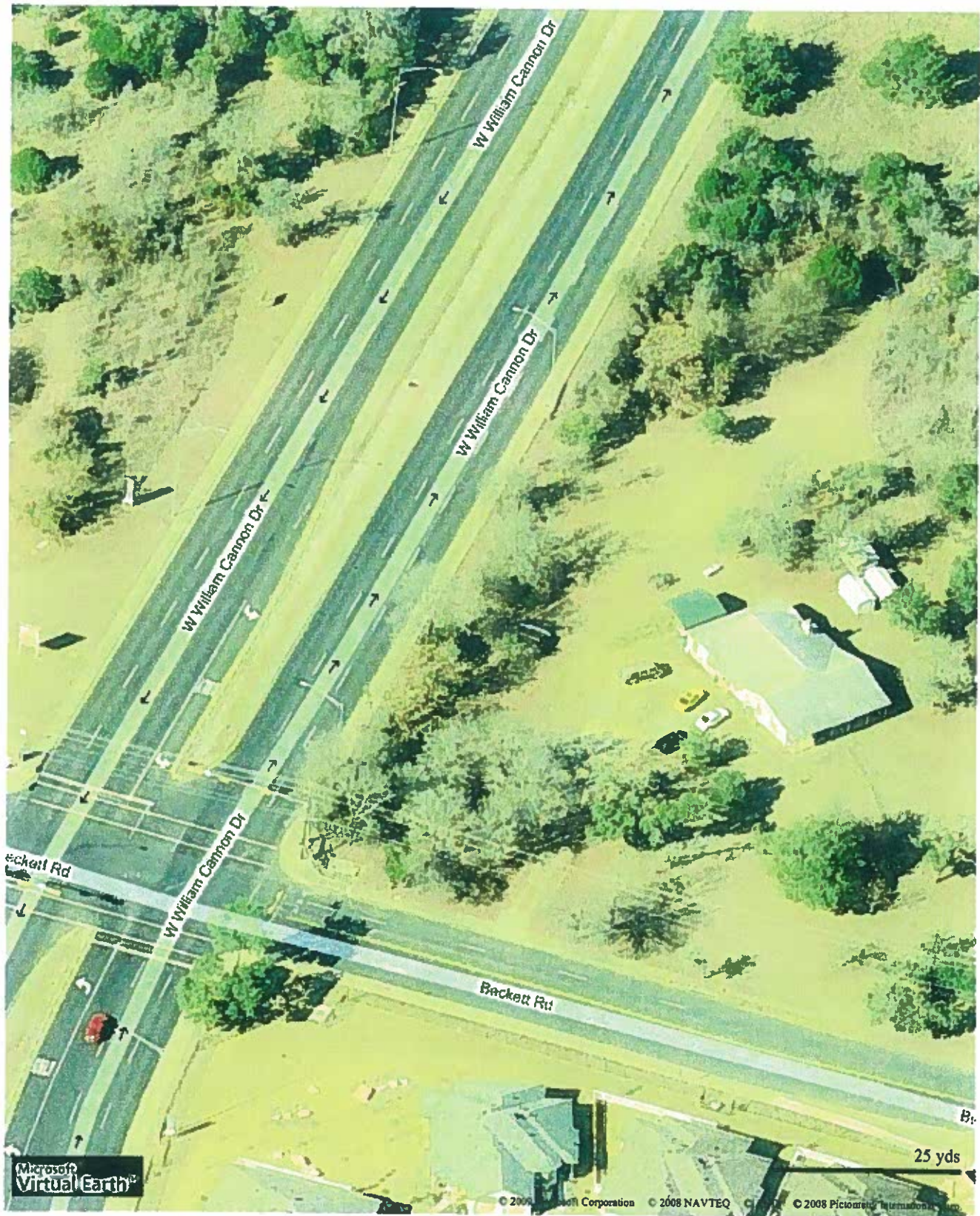
We erroneously concluded after the publication of this map that the neighborhood planning process was utilizing current planning principals to ensure the safety of families living in older homes from the danger of both air and noise pollution. The entire West William Cannon Roadway has addressed change for the land adjacent to the roadway. The last small lot changed in the middle of the next block was changed for one lot in the middle of the block to Neighborhood Mixed Use just a couple of weeks ago. We are not asking for additional Impervious Cover or anything that would damage our neighbors. We offer more buffer than any other proposed or completed project in this area.

The appropriate use of land along major corridors next to residential areas is Neighborhood Mixed Use to provide opportunities to live and work in a residential urban area. Mixed use is to provide and encourage compatible and complementary mixed development along major corridors.

Now we ask for an indefinite postponement for us to address our constitutional right of a trial. We ask not to be forced to pay for zoning the second time, but we ask you to grant our request for an indefinite postponement with full understanding of our responsibility to pay for any additional cost to repost this meeting.

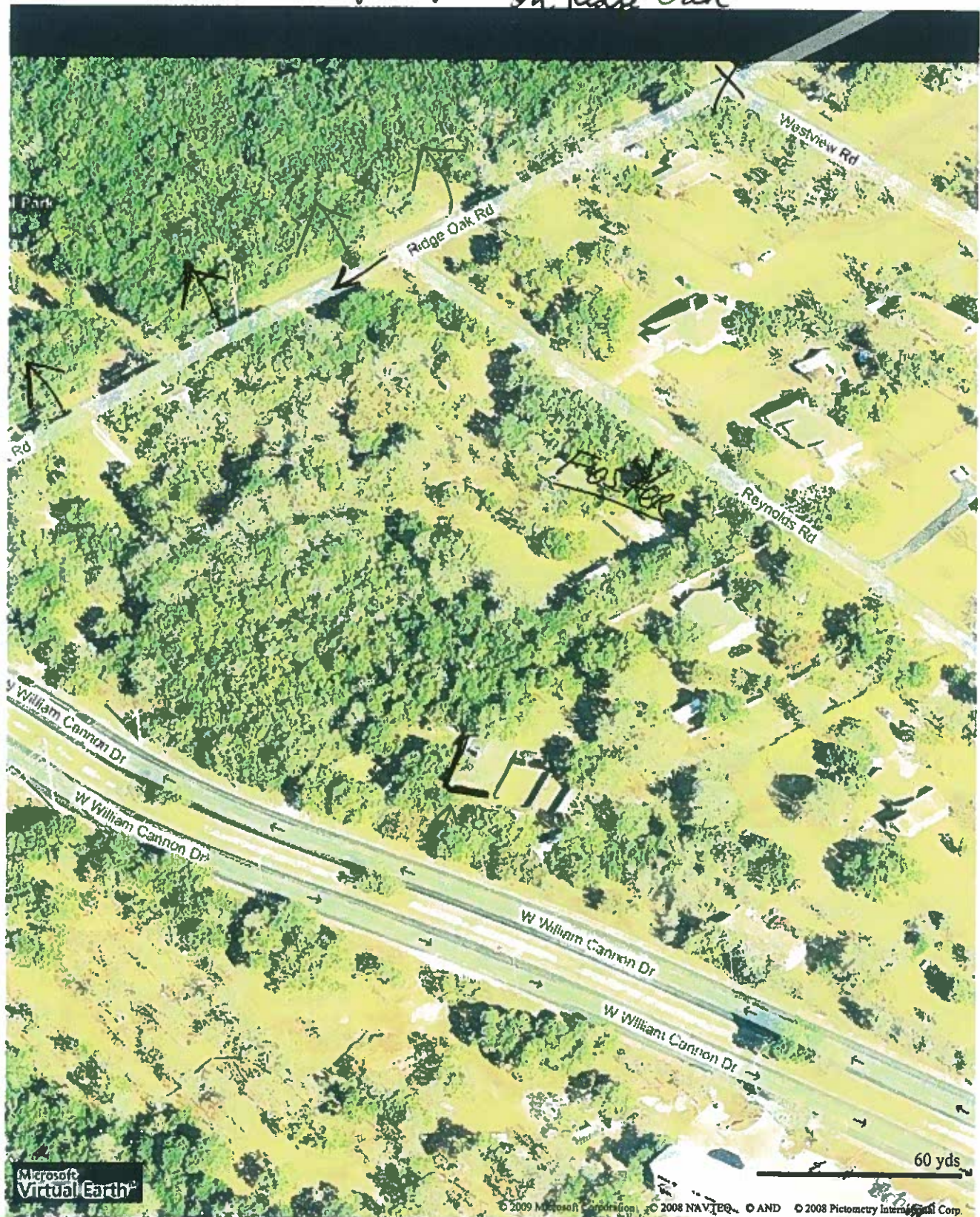




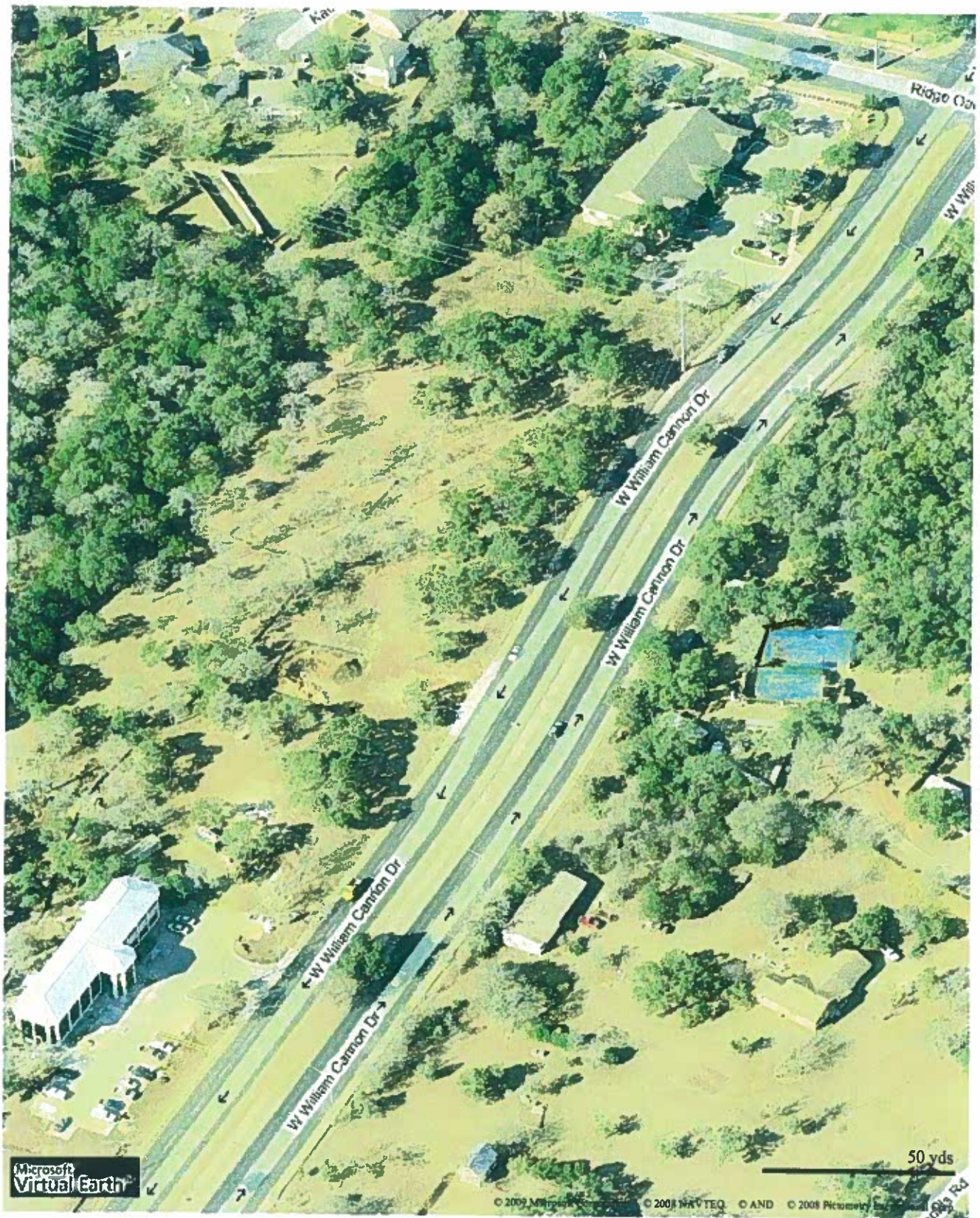


Corner of both Beckett & William Cannon
 Bought in 1953 when this
 was a pasture

about 670 ft. from ~~corner~~ of Reynolds to W. Cannon
on Ridge Oak



Foster Home on Reynolds Spalding home location
This is an old picture Now total
development of Office across Ridge Oak Office

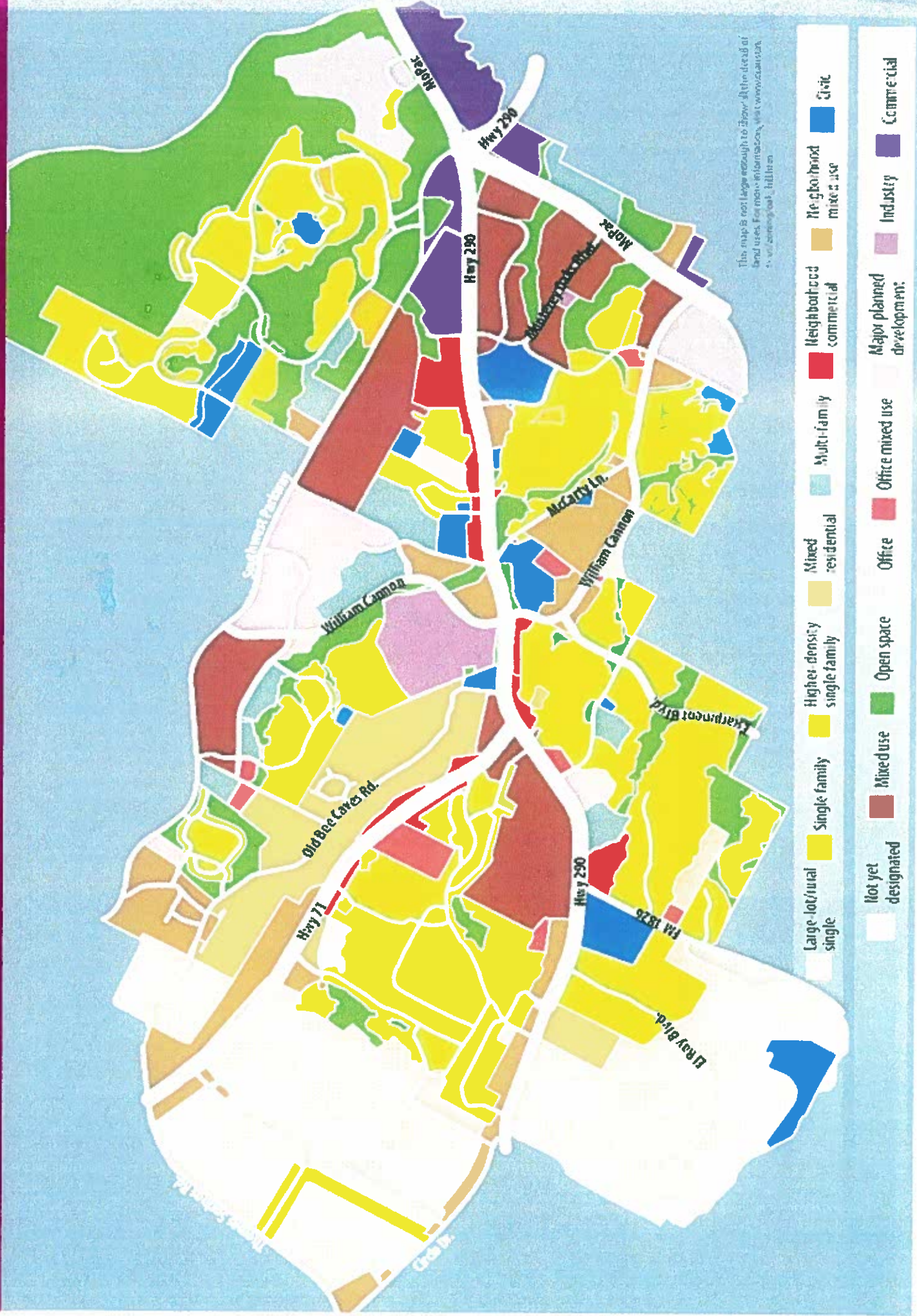


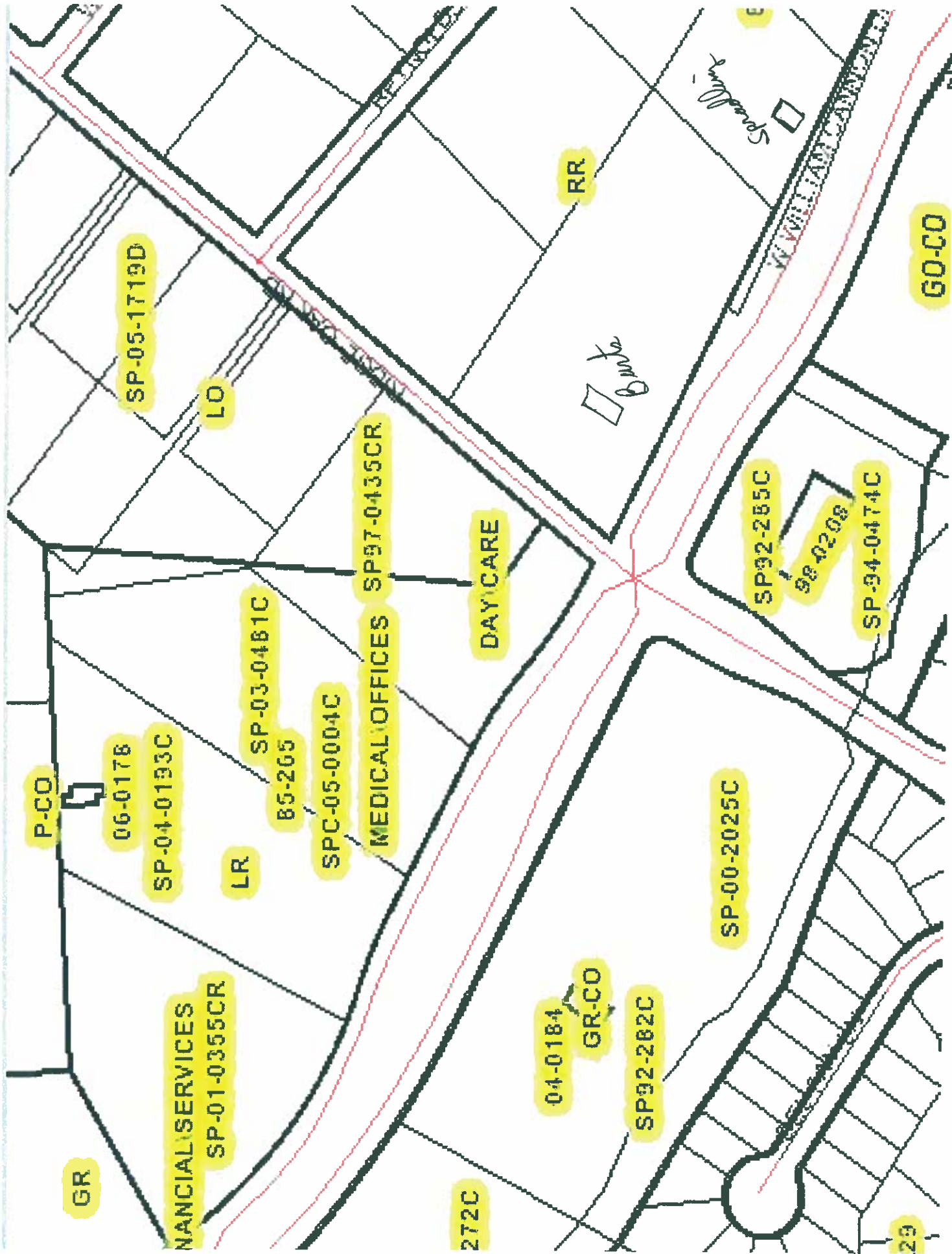
Less than 100ft from William Cannon



Distance from Laura Sauls^{home} top left corner
and Mrs. Simmons bottom Right

Tentative Future Land Use Map: What can go where in Oak Hill





IRION | SLADE

ATTORNEYS & COUNSELORS AT LAW
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February 16, 2009

VIA EMAIL: wendy.rhoades@ci.austin.tx.us

Ms. Wendy Rhoades
Senior Planner
Planning & Zoning Commission
City of Austin
P.O. Box 1088
Austin, Texas 78767

Re: Zoning Case: C14-2008-0022 John Rocha, Jewell Simon, Lloyd Burt, Judy Grimes,
Valerie Brinkman, Charles Spradling and Fast Enterprises, Ltd.
RR-NP to LR-MU-NP

Dear Ms. Rhoades:

On behalf of the Applicants described above, I am requesting an indefinite postponement of this Zoning Case for reasons beyond the control of the Applicants.

It is indeed regrettable that the staff will not recommend this re-zoning even though the Staff Report acknowledges that a non-residential district would be appropriate for consideration. It is my understanding that the staff is solely relying on a Resolution of the City Council dated December 3, 1987, to justify their denial recommendation. This Resolution states that the City Council believes the public interest is best served where there are private restrictive covenants prohibiting residential use to defer any change in zoning which might be inconsistent with such private restriction until the private restrictions are removed.

Unfortunately, the City did not feel it was appropriate to follow that policy when it acquired a portion of the deed restricted property and built a fire station which is clearly not a single family residential use. As a result of the City saying one thing when it is acting in its capacity as a property owner and another thing when it is acting in the capacity of a regulatory agency making zoning decisions, the Applicants are left with no alternative but to file suit to declare their rights under the Deed Restrictions prior to continuing with the rezoning application. The litigation of these property rights will take longer than 6 months.

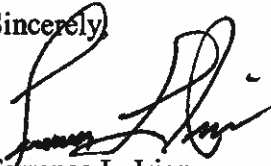
Ms. Rhoades
February 16, 2009
Page 2

Accordingly, these Applicants are requesting an indefinite postponement. The indefinite postponement is not at prejudice to any interest of the neighborhood as the neighborhood will be necessarily involved in the lawsuit in the interim period. Denial of this request for indefinite postponement will amount to nothing other than the imposition of a penalty in the form of double fees and expenses of filing the application. The Zoning Staff, by it's own acknowledgment, recognizes that a non-residential use would be a reasonable and appropriate use, but for the Restrictive Covenant. I would submit that indefinite postponement is appropriate under these circumstances.

Applicants believe it is appropriate for the Commission to grant an indefinite postponement subject to the resolution of the private Restrictive Covenant, rather than forcing applicants to withdraw, and respectfully request the same.

If you have any question regarding this matter, please feel free to contact me.

Sincerely,



Terrence L. Irion

TLI:lm

Cc: Ron Thrower
Applicants