

THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2008-0248 North Loop Pub

REQUEST:

Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code rezoning the property locally known as 100 East North Loop Blvd. (Waller Creek Watershed) from community commercial-conditional overlay neighborhood plan (GR-CO-NP) combining district zoning to commercial-liquor sales-neighborhood plan (CS-1-NP) combining district zoning.

ISSUES:

Second Reading: At Second Reading the City Council directed the Staff to obtain a formal statement from the Neighborhood Planning Contact Team regarding the definition of a pub. Staff has corresponded with several past and present members of the Neighborhood Planning Contact Team. In summary, the current Chair of the Planning Contact Team and one other member were supportive of a pub that did not serve food. The other three members, all members from the Planning Contact Team of 2002, including two who continue to participate to this day, were supportive of a pub that served food. Please refer to the attached emails from the members of the Planning Contact Team following this summary sheet.

First Reading: At First Reading, the City Council requested that the staff clarify the Applicant's proposed CS-1 uses. The only CS-1 use that will be permitted on the property is Cocktail Lounge. To this end, the Applicant is willing to prohibit all other alcohol-related uses, including Liquor Sales and all Adult-Oriented Businesses. The City Council also requested clarification of the definition of "cocktail lounge". The Land Development Code defines the cocktail lounge use as "the use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses, other than a restaurant use..."

The City Council also directed Staff to contact the North Loop Neighborhood Planning Team (NLNPT) in an effort to clarify what their intent was when they included the "pub" use in their plan. Staff contacted Mr. Patrick Goetz of the NLNPT and asked if he could provide some input into the question regarding the meaning of "pub". He recalled that what the NLNPT had in mind was "...a place where people in the neighborhood would go after work to socialize over alcoholic beverages." Mr. Goetz also recalled that at least a couple of people got involved in the neighborhood planning effort specifically because they were interested in having a neighborhood pub that they could walk to.

DEPARTMENT COMMENTS:

The conditions imposed by City Council on First Reading have been incorporated into the ordinance.

OWNER/APPLICANT: Terrell Timmerman

AGENT: Vincent Gerard & Associates (Vince Huebinger)

DATE OF FIRST READING: February 26, 2009, The first reading of the ordinance for commercial-liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district zoning was approved on Council Member Martinez' motion, Mayor Pro Tem McCracken's second on a 4-2 vote. Those voting aye were: Mayor Pro Tem McCracken, Council Members Cole, Leffingwell, and Martinez. Those voting nay were: Council Members Morrison and Shade. Mayor Wynn was off the dais. Direction was given to staff to clarify the CS-1 uses that are permitted and provide the definition for CS-1 bar uses, develop a restrictive covenant that reflects the vision of the neighborhood for what a pub means, and to have guidance from members of the neighborhood planning team as to what the intent of the neighborhood plan was.

DATE OF SECOND READING: There was a motion by Council Member Morrison, seconded by Council Member Shade to deny the rezoning request. This motion was withdrawn by the maker.

There was a motion by Council Member Morrison, seconded by Council Member Shade to postpone this item to April 23, 2009.

The second reading of the ordinance for commercial-liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district zoning was approved on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote. Direction was given to staff to obtain a formal statement from the Neighborhood Planning Contact Team regarding the definition of a pub.

CITY COUNCIL HEARING DATE: April 23rd, 2009

ORDINANCE NUMBER:

CITY COUNCIL ACTION:

ASSIGNED STAFF: Clark Patterson

From: Hollon, Matt
Sent: Monday, April 13, 2009 2:49 PM
To: Patterson, Clark
Subject: RE: North Loop pub

Clark,

My memory is pretty fuzzy on this pub discussion 8 or 9 years ago. I do remember this coming up—that many thought a pub would be nice along North Loop—and that it was incorporated into the Plan itself. But I can't remember whether we specified that such a pub would have to serve food or not. Sitting here 8 or 9 years later and possibly contradicting what I might have said or thought back then, I guess I picture a pub with food, or at least appetizers or something.

Note: I was mainly representing Ridgetop NA during this process [east of Airport Blvd] and the pub area was in Northfield NA's area. We Ridgetoppers generally deferred to Northfield folk for these site-specific issues. Moreover, last year, I moved to another neighborhood and am thus obviously no longer in Ridgetop.

Matt

From: Don Smith
Sent: Monday, April 13, 2009 4:22 PM
To: Patterson, Clark
Cc:
Subject: RE: North Loop Neighborhood Plan

Mr. Patterson,

I moved out of Northfield in June of 2006 and am unaware of who the current planning team chair is. I've copied Martha Ward on this reply in order to put the two of you in contact. Martha will know who you should contact and how to get in touch with them.

I do stay in touch with my old neighbors and they're seldom of one mind about things any more. My recollection of our discussions regarding the desirability of a pub was centered on the idea of a gathering place where neighbors could hang out, drink a beer, eat a burger and watch UT football/basketball/baseball—a sports bar type place. I think there's concern on the part of some folks because there's already a problem with homeless guys/drunks/drug addicts in that area. The idea of plopping down a business that might cater to them isn't very appealing. Then again, my opinion no longer counts.

Don Smith

From: Haywood, Carol
Sent: Wednesday, April 08, 2009 2:05 PM
To: Patterson, Clark
Subject: FW: [nlnt] Meaning of "Pub"

FYI - I hope I am not repeating sending emails.

From: Monty
Sent: Wednesday, April 08, 2009 11:58 AM
To: koockward; Patrick Goetz
Cc: NLPT Chat-line; Haywood, Carol
Subject: Re: [nlnt] Meaning of "Pub"

You might be right. Having vented and griped - I will say - heck, lets roll the dice. Let's try a CS-1 zoning for this 'pub' - might as well. Nothing else has changed that much.
Monty

--- On Wed, 4/8/09, Patrick Goetz <pgoetz@mail.utexas.edu> wrote:

From: Patrick Goetz
Subject: Re: [nlnt] Meaning of "Pub"
To: koockward
Cc: "NLPT Chat-line" , carol.haywood@ci.austin.tx.us
Date: Wednesday, April 8, 2009, 11:36 AM

M Ward wrote:

- > Dear North Loop Planning Team Members:
- > yesterday at the Comprehensive Planning meeting a couple of staff came
- > to me requesting North Loop Neighborhood Planning Team fleshed out
- > concept for the "pub" listed in our approved Neighborhood Plan. The
- > City Council members are requesting this input from our planning team by
- > April 20th - to allow time to disseminate prior to the 3rd Reading on
- > Thursday 4/23 for the request to allow an only alcohol/beverage
- > serving business on No. Loop next to Hog Wild. Are there unintended
- > consequences for the neighborhood if the application currently pending
- > is approved?
- >

I'm deeply disturbed that this continues to be an issue long after I sent several detailed responses to Clark Patterson. I'm willing to hold a special meeting about this if there is strong interest, but as far as I know, only one or two households showed up at the Planning Commission hearing to dispute the rezoning. The consensus opinion I get is that no

one is that excited about Pam's proposal but most people feel like she should be allowed to pursue her vision. As I pointed out to Monty Newton, the existence of the pub is more likely to help clean that area up than the opposite, since the owner will have a vested interest in not having litter and/or unsavory characters hanging around, and if the opposite proves true, we can always deal with it then. My understanding is this is to be a yuppie cocktail lounge, not a paper bag singles dive, which already exists right next door in the form of the North Loop Food Mart. Do we really need to set the bar (no pun intended) this high for even the most microscopic attempts to change zoning or start a business?

While all this energy goes into micromanaging one tiny business, the big picture issues, as always, go unaddressed. Next thing you know we're handing millions of dollars over to Neiman Marcus again just because, hey, it seemed like a good idea at the time. Below is an exact copy of email I sent Patterson.

----- Original Message -----

Subject: Re: North Loop Pub

Date: Mon, 16 Mar 2009 16:31:31 -0500

From: Patrick Goetz >

To: Clark Patterson <clark.patterson@ci.austin.tx.us>

CC: jody horton

Clark Patterson wrote:

>> The North Loop Pub zoning case was heard and approved by the City
>> Council on first reading on February 26th, 2009. One of the
>> questions from the Council was what was the Neighborhood Planning
>> Team's definition of the word "pub" at the time that the neighborhood
>> plan was created in May of 2002? Do you remember any of the
>> discussion about pubs in the neighborhood commercial areas during the
>> planning phase?

I don't think that it occurred to anyone to try and define precisely what is meant by a pub. I frankly regard the question to be ridiculous -- who even ask this question? Surely someone on city council or in neighborhood planning has been in neighborhoods in southwest Chicago or Queens or Milwaukee or New Orleans or any older American city where the norm used to be to have a neighborhood pub every couple of blocks or so?

A place where people in the neighborhood would go after work to socialize over alcoholic beverages? This is what people had in mind. At least a couple of people got involved in the neighborhood planning effort SPECIFICALLY because they were interested in having a neighborhood pub that they could walk to; former NLNPT chair Bill Yoder

being one example. At the beginning of the process, he flatly stated that his primary motive was to facilitate the establishment of a neighborhood pub.

In point of fact this question should never have come up in the first place because, in theory, any zoning change is supposed to be brought to the planning team for comment. I have some serious concerns about whether or not the processes/systems the city has in place currently make any sense whatsoever. Apparently the person who wants to open the pub was told she didn't need a zoning change to make it happen. I asked her about this repeatedly and tried to explain to her that nothing in the neighborhood was automatically zoned CS-1, but she was insistent and would say things like "well, that's interesting, because you're contradicting what the city staff people told me by saying that". Since she kept insisting that she had been told she didn't need a zoning change, I never asked the NLNPT to vote on the matter.

Why on earth wasn't this woman told she'd need a letter of support from the NLNPT?! My understanding is that the whole point of having a neighborhood planning team is so that zoning changes not specified in the FLUM can be given approval/disapproval on a case by case basis, based on whether or not they comply with the spirit of the neighborhood plan. After almost a decade of effort and tens of millions of dollars spent on neighborhood planning, ordinary taxpayers like myself are wondering why this effort continues when not even city staff pays any attention to the role that neighborhood planning was supposed to play in the land use process. Seriously. We can get in a short discussion in which I explain unequivocally what city council should have done from the beginning in order for neighborhood planning to "work" the way it worked in Seattle (require that neighborhood plans allow for large increases in density, as was required in Seattle, as a ground rule) and we can get into an even shorter discussion about whether the current neighborhood planning process should be continued in light of work that is about to begin on a new comprehensive plan (not no, but "hell no"). What we must do, however, is allow current prospective small business owners and developers (not to mention neighborhoods) to enjoy playing by the rules as they are currently written. Anything else would be patently unfair.

Question: does anyone on the current city council have any idea what neighborhood planning is supposed to accomplish, what the ongoing role of neighborhood planning teams is, and how the neighborhood plan is supposed to be used? Does anyone on staff? If not, why do we continue to spend time and money on this? Let's move on. Yes, it was a train wreck, but at this point the bodies have mostly been dragged away and there's not much left to see. Onward to the comprehensive plan; maybe

we'll get it right this time.

Clark Patterson, AICP
505 Barton Springs Road, 5th floor (visit)
P. O. Box 1088 (mail)
Austin, Texas 78767
512.974.7691 (talk)
512.974.6054 (fax)
clark.patterson@ci.austin.tx.us (email)
www.cityofaustin.org (web)

From: Haywood, Carol
Sent: Wednesday, April 08, 2009 2:28 PM
To: 'koockward@yahoo.com'
Cc: Patterson, Clark; 'pgoetz@mail.utexas.edu'
Subject: RE: Are we answering the question? "Pub" booze only vs booze + food

Martha,

It has been interesting reading and I am copying Clark on this. He, being the zoning case planner, is the one who needs the "definition" for council. I was trying to help out by finding people who might have been around when the plan was written. I don't think you can require food be served in CS-1 zoning. If over 50% of her sales were to come from food she could open as a restaurant and would not need CS-1 zoning.

Please tell Patrick not to be so upset with neighborhood planning. (I guess I should copy him on this email.) I agree with many of the things about neighborhood planning that he is upset about. It should be big picture, future oriented and not mired in details. But this pertains to a zoning case and at the 2nd reading council asked zoning staff to find out what people who wrote the plan considered a pub. The planning contact team was not asked for their written recommendation because a plan amendment was not needed. The zoning that the applicant is requesting is in accordance with your FLUM. A zoning case does not require a written recommendation from the contact team (although the contact person for the planning team is sent the notice of filing when we receive a zoning application and all legal notices). I believe the applicant was told she did not need a plan amendment - she would need a zoning change to open a bar (pub).

Thank you,
Carol Haywood
Planning Manager, Comprehensive Division
Neighborhood Planning and Zoning Department
City of Austin
phone 512-974-7685
email Carol.Haywood@ci.austin.tx.us

From: M Ward [mailto:koockward@yahoo.com]
Sent: Wednesday, April 08, 2009 1:44 PM

To: Haywood, Carol

Subject: Are we answering the question? "Pub" booze only vs booze + food

Well, Carol, I will try to extract you for more of the email thread on this. It would be helpful

if City staff could give us some guidance on what would be most helpful to the Council Members. Apparently I am focused on getting "grub in the pub".

Martha

--- On **Wed, 4/8/09**, *cburnett*> wrote:

From: cburnett

Subject: Re: [nlnt] Meaning of "Pub" booze only vs booze + food

To: koockward

Cc: "Patrick Goetz" "NLPT Chat-line" carol.haywood@ci.austin.tx.us

Date: Wednesday, April 8, 2009, 12:26 PM

I find it almost comical that city staff would worry about trying to come up with a definition of "pub" when no such definition exists as a matter of state liquor law. They need to talk to TABC or the city attorney's office. A "pub" sounds like an on-premise consumption permit where alcohol sales are less than 50% of the gross receipts. Which is what I thought we wanted to see.

Off-premise = single beers sold in paper bags; on-premise = restaurants like our new pizza place.

Quoting M Ward -

- > Patrick- glad you were able to access your original email to Clark. I do
- > remember the applicant- Pam's first appearance at NLPT - it was confused
- > presentation - and a very luke warm response from those team members present
- > as I recall.
- >
- > Since we have been requested by City Council/Staff to amplify a NLPT
- > definition of "pub" and there is time prior to 3rd reading to do so;
- > and our access to original participants, and "newer members" of NLPT, let
- > take the opportunity to be clear, not only on this specific application, but
- > future forward - booze only vs booze w/ food "pub" perspective.
- >
- > What I recall the days of yore when the pub concept was being discussed is
- > never wanting a booze only establishment as part of our plan - now a place
- > like House Pizzeria just opened on 52nd and Airport - to me has the ambiance
- > of a "pub" - access to alcohol, in this case, beer and wine, and food
- > reasonably priced. I do not consider a booze only operation to be a
- > zoning or business upgrade to an otherwise neat pocket of
- > quirky establishments.
- > Love to hear from others - don't let Patrick and me wear ourselves here.
- > thanks,
- > Martha

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ZONING CHANGE REVIEW SHEET

CASE: C14-2008-0248 North Loop Pub

P. C. DATE: 01-27-2009, 02-10-09

ADDRESS: 100 East North Loop Boulevard

AREA: 0.176 acres

APPLICANT: Terrell Timmerman

AGENT: Vincent Gerard & Associates
(Vince Huebinger)

NEIGHBORHOOD PLAN AREA: North Loop

CAPITOL VIEW: No

T.I.A.: No

HILL COUNTRY ROADWAY: No

WATERSHED: Waller Creek

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: GR-CO-NP

ZONING TO: CS-1-CO-NP

SUMMARY STAFF RECOMMENDATION:

Staff recommends CS-1-CO-NP – Commercial–Liquor Sales – Conditional Overlay-Neighborhood Plan. The Conditional Overlay would limit the vehicle trips to 2000 per day.

BASIS FOR RECOMMENDATION:

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

Granting CS-1-NP would be in keeping with the adopted North Loop Neighborhood Plan.

PLANNING COMMISSION RECOMMENDATION:

DEPARTMENT COMMENTS:

One of the Neighborhood Planning Goals for the North Loop Neighborhood Planning Area is to “encourage well-designed neighborhood development that provides the needs of everyday life (shopping, employment, educational, spiritual, recreational, etc.) in locations that are readily and safely accessible within walking distance from where people live.”

The “existing neighborhood character” in the North Loop Neighborhood Planning Area is defined by a strong neighborhood feel; a place where people know each other; somewhere that is characterized by unique businesses instead of chains; the funky and eclectic nature of local businesses; a place that is pedestrian oriented and is good to walk and bike around; an area where new development complements and reflects the 1940s style of the existing residential stock; and the diversity of residents.

One of the stated goals of the North Loop Neighborhood Planning Area is to “encourage development of a diversity of neighborhood-oriented businesses. Encourage a balanced and diverse mix of independently owned, neighborhood businesses including green grocer, restaurants, coffee shops, bakery, pub, hardware store.”

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	GR-CO-NP	Retail/Vacant
North	SF-3-NP	Single Family Residential
South	CS-CO-NP	Retail
East	CS-CO-NP	Retail
West	GR-CO-NP	Retail

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-75-0198	From "O", 6 th Height & Area District to "LR", 6 th Height & Area District	Approved staff's recommendation for "LR", 6 th Height & Area District.	5/1/75: Approved staff's recommendation for LR, 6 th Height & Area District. (9-0) All 3 readings.
C14-69-181	From "A", 1 ST Height & Area District to "C", 1 ST Height & Area District	Approved staff's recommendation for "C", 1 ST Height & Area District.	5/25/72: Approved staff's recommendation for "C", (7-0) All 3 readings.

NEIGHBORHOOD ORGANIZATION:

- Homeless Neighborhood Assoc.
- Austin Neighborhoods Council
- League of Bicycling Voters
- North Austin Neighborhood Alliance
- Mueller Neighborhood Coalition
- Northfield Neighborhood Assn.

SCHOOLS:

- Ridgetop Elementary School
- Lamar Middle School
- McCallum High School

SITE PLAN:

1. A cocktail lounge in the CS-1 zoning district will require a Conditional Use Site Plan Permit, which will require approval by the Planning Commission. Staff will review the CUP under LDC Section 25-5-145 and 25-5-146.

2. The site is subject to compatibility standards. Along the north, south, east and west property lines, the following standards apply:

- No structure may be built within 25 feet of the property line.

- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection. Additional design regulations will be enforced at the time a site plan is submitted.

3. Any new development, which proposes modifications to the building is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

TRANSPORTATION:

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
East North Loop	70'	40'	Arterial	6510 (TxDOT,

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

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day [LDC, 25-6-117].

There are existing sidewalks along East North Loop Boulevard.

East North Loop Boulevard is classified in the Bicycle Plan as a Priority 1 bike route.

Capital Metro bus service (route no. 7) is available along East North Loop Boulevard.

FYI: A site plan will be required for the proposed change of use to cocktail lounge. During the site plan process compliance with parking regulations will be reviewed.

ENVIRONMENTAL:

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Waller Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the

two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

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

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.

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

CITY COUNCIL DATE: February 26th, 2008

ACTION:

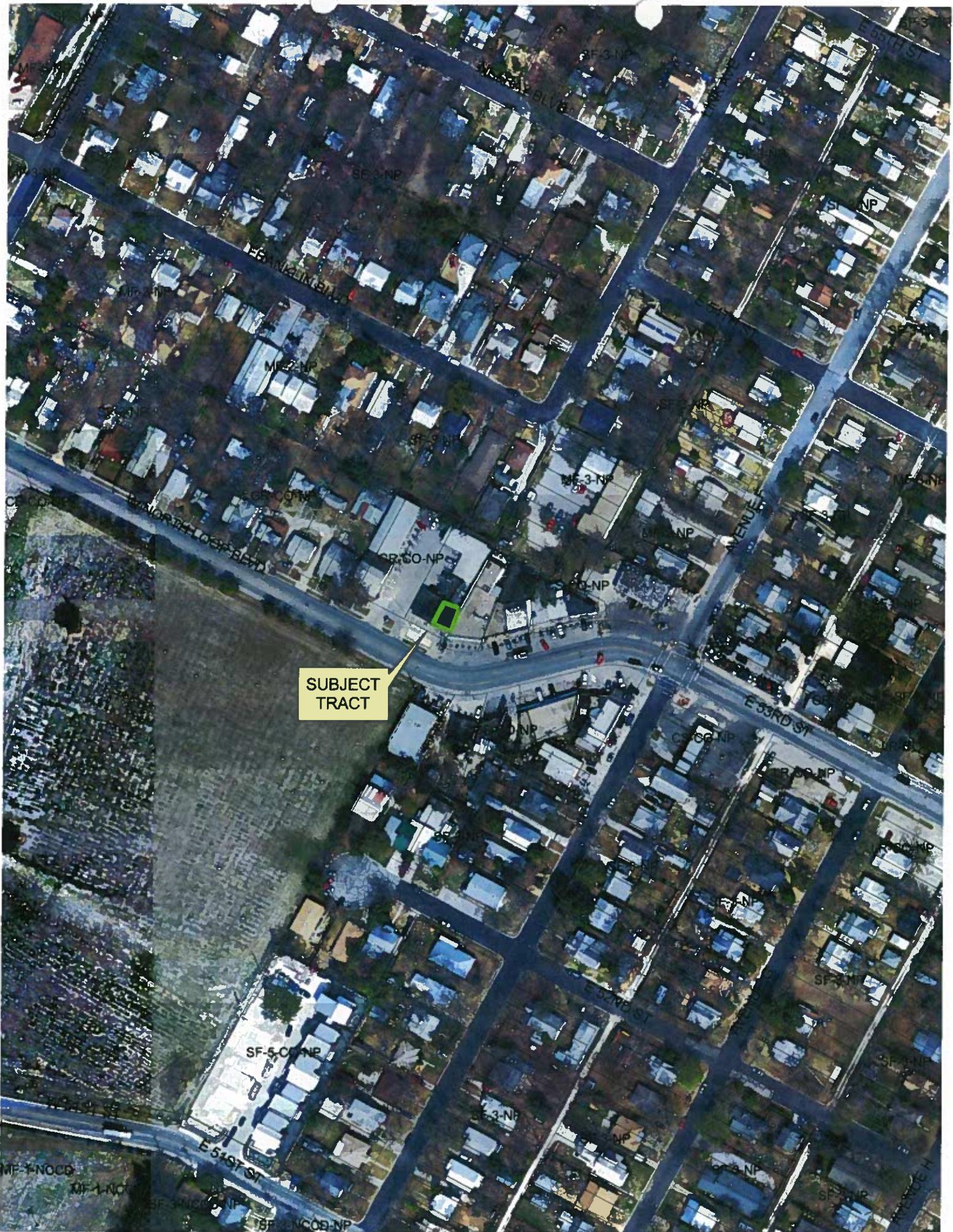
ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson

PHONE: 974-7691

Clark.patterson@ci.austin.tx.us



SUBJECT TRACT

