

## SECOND/THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-2008-0183.SH -- Lexington Parke

REQUEST:

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as North of Pearce Lane and East of SH 130 (Onion Creek Watershed) from development reserve (DR) district zoning and single family residence small lot (SF-4A) district zoning to community commercial– conditional overlay (GR-CO) combining district zoning for Tract 1 and multifamily residence medium density (MF-3) district zoning for Tract 2 with conditions. The conditional overlay on Tract 1 prohibits the automotive sales use. The Restrictive Covenant is for conditions of the Traffic Impact Analysis Addendum.

DEPARTMENT COMMENTS:

The Conditional Overlay and Restrictive Covenant incorporate the conditions imposed by the City Council at First Reading.

OWNER: Lexington 281, L.P. (Mehrdad Moayedi).

AGENT: Kodiak Development (Brian Saathoff).

DATE OF FIRST READING: May 21, 2009, approved GR-CO district zoning for Tract 1 and MF-3 district zoning for Tract 2 with conditions, on First Reading (7-0).

CITY COUNCIL HEARING DATE: June 11, 2009

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ASSIGNED STAFF: Wendy Rhoades  
e-mail: wendy.rhoades@ci.austin.tx.us

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2008-0183.SH – Lexington Parke

**Z.A.P. DATE:** March 3, 2009

March 17, 2009

April 7, 2009

May 5, 2009

May 19, 2009

**ADDRESS:** North of Pearce Lane and East of SH 130

**OWNER:** Lexington 281, L.P.  
(Mehrdad Moayed)

**AGENT:** Kodiak Development  
(Brian Saathoff)

**ZONING FROM:** DR; SF-4A

**TO:** GR for Tract 1 (17.876 acres);  
MF-3 for Tract 2 (14.305 acres)

**TOTAL AREA:** 32.181 acres

### **SUMMARY STAFF RECOMMENDATION:**

The Staff recommendation is to grant community commercial – conditional overlay (GR-CO) combining district for Tract 1 and multifamily residence medium density (MF-3) district zoning for Tract 2. On Tract 1, the Conditional Overlay prohibits automotive sales.

The Restrictive Covenant includes all recommendations listed in the Traffic Impact Analysis memorandum, dated March 31, 2009, as provided in Attachment A.

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

March 3, 2009: *APPROVED A POSTPONEMENT REQUEST BY THE STAFF TO 3-17-09.*  
*[K. JACKSON; R. EVANS – 2<sup>ND</sup>] (6-0) J. GOHIL – ILL*

March 17, 2009: *APPROVED A POSTPONEMENT REQUEST BY THE STAFF TO 4-7-09.*  
*[K. JACKSON; T. RABAGO – 2<sup>ND</sup>] (5-0) R. EVANS – ABSENT; D. TIEMANN – ILL*

April 7, 2009: *APPROVED A POSTPONEMENT REQUEST BY THE ADJACENT*  
*PROPERTY OWNER TO 5-5-09.*  
*[K. JACKSON; T. RABAGO – 2<sup>ND</sup>] (7-0)*

May 5, 2009: *APPROVED A POSTPONEMENT REQUEST BY THE ADJACENT*  
*PROPERTY OWNER TO 5-19-09.*  
*[K. JACKSON; C. HAMMOND – 2<sup>ND</sup>] (4-3) B. BAKER; T. RABAGO; C. BANKS –*  
*NAY*

May 19, 2009: *APPROVED GR-CO DISTRICT ZONING FOR TRACT 1 AND MF-3 DISTRICT ZONING FOR TRACT 2 WITH CONDITIONS OF THE TRAFFIC IMPACT ANALYSIS AS STAFF RECOMMENDED; BY CONSENT.*  
*[K. JACKSON; T. RABAGO – 2<sup>ND</sup>] (7-0)*

**ISSUES:**

The Applicant's agent and representatives for the owner of the Cooper Meadows tract (an adjacent property to the east) have reached agreement regarding two un-built and un-platted portions of the Lexington Parke project known as the Irvine Lane stub out and the Stockton Lane stub out. Please refer to correspondence attached at the back of the Staff report.

This rezoning case has been approved to participate in the City's S.M.A.R.T. (Safe, Mixed-Income, Accessible, Reasonably-priced, Transit-Oriented) Housing expedited review program. Please refer to Attachment B at the back of the Staff report.

**DEPARTMENT COMMENTS:**

The proposed area consists of undeveloped acreage located on the northeast corner of the SH 130 frontage lanes, with the Pearce Lane frontage zoned development reserve (DR) and the remainder zoned single family residence small lot (SF-4A) district by a 2003 case. There is undeveloped land planned for single family residences within the Lexington Parke development to the north (SF-4A), a vacant manufactured home park to the east (MH-CO), single family residences on large lots to the south (County) and the northbound frontage lanes of SH 130 to the west. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View) and A-2 (Vicinity Map).

The Applicant has proposed community commercial (GR) district zoning for 17.86 (Tract 1) and multifamily residence medium density (MF-3) district zoning for 14.305 acres (Tract 2) in order to be able to develop 75,000 square feet of specialty retail, a service station with 10 fueling positions and a convenience store, and 250 apartment units. Staff supports the Applicant's request for GR given its location at the intersection of a State Highway and an arterial roadway, and commercial zoning would enable the provision of goods and services to several single family residential neighborhoods in the vicinity. The Conditional Overlay prohibits automotive sales, as it would set precedent on this segment of SH 130 and concerns of compatibility with adjacent residential uses. Staff supports MF-3 as it provides a second type of residential development to the Lexington Parke development, thereby diversifying housing choices and it provides a transition from the commercial uses on SH 130 and the planned single family residential subdivision to the east.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	DR; SF-4A	Undeveloped
<i>North</i>	SF-4A	Undeveloped
<i>South</i>	County	Single family residences on large lots; Undeveloped
<i>East</i>	MH-CO	Vacant manufactured home park
<i>West</i>	N/A	Northbound lanes of SH 130

**AREA STUDY:** N/A**TIA ADDENDUM:** Please refer to Attachment A**WATERSHED:** Onion Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** No**SCENIC ROADWAY:** Yes – SH 130**NEIGHBORHOOD ORGANIZATIONS:**

627 – Onion Creek Homeowners Association

640 – Deerwood Premier Manufactured Home Association

750 – Del Valle Neighborhood Association 774 – Del Valle Independent School District

786 – Home Builders Association of Greater Austin 1005 – Elroy Preservation Association

1037 – Homeless Neighborhood Association 1113 – Austin Parks Foundation

**SCHOOLS:**

The subject property is within the Del Valle Independent School District.

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2007-0271 – Deerwood Manufactured Home Park – 12400 Pearce Lane	I-RR to MH	To Grant MH-CO, with the CO for 2,000 trips and conditions of r-o-w on Pearce Lane and Ross Road	Approved MH-CO with a Street Deed for r-o-w on Pearce Lane and Ross Road as Commission recommended (4-24- 08).
C14-97-0005 – Deerwood - A Planned Residential Community – in the vicinity of Pearce Lane and Ross Road	DR to MH	To Grant MH, with conditions	Approved MH with a Restrictive Covenant that a landscaping buffer be maintained in the 25' setback on Pearce Lane that includes 20 2-inch caliper trees, and vehicle and pedestrian

			access (4-24-97).
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**RELATED CASES:**

The Pearce Lane frontage was annexed into the City limits on July 18, 1985 and zoned DR. The remaining acreage was annexed into the City limits on September 8, 2003 (Ordinance Number 030828-31). On December 11, 2003, a zoning change from DR and I-RR to SF-4A was approved along with a Traffic Impact Analysis for 218.75 acres on Pearce Lane and Ross Road (C14-03-0135.SH).

A revision to the approved preliminary plan (Case No.: C8J-2003-0111.SH) was filed on July 8, 2008 for the proposed commercial and multifamily land uses (Case No.: C8-2008-0167.SH) and is currently under review and pending approval, subject to the approval of the rezoning request.

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	ADT
Ross Road	100 – 114 feet	Varies	Two-lane, minor arterial	4,413 (2/1/05)*
Pearce Lane	90 – 114 feet	Varies	Two-lane, minor arterial	5,611 (2/1/05)**

\*6200 Block, north of Pearce Lane

\*\*12600 Block, west of Ross Road

**CITY COUNCIL DATE:** April 23, 2009

**ACTION:** Approved a Postponement request by Staff to May 21, 2009 (7-0).

May 21, 2009

Approved GR-CO district zoning for Tract 1 and MF-3 district zoning for Tract 2 with conditions of the Traffic Impact Analysis as the Zoning and Platting Commission recommended, on First Reading (7-0).

June 11, 2009

**ORDINANCE READINGS:** 1<sup>st</sup> May 21, 2009

2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Rhoades  
e-mail: wendy.rhoades@ci.austin.tx.us

**PHONE:** 974-7719

**SUMMARY STAFF RECOMMENDATION:**

The Staff recommendation is to grant community commercial – conditional overlay (GR-CO) combining district for Tract 1 and multifamily residence medium density (MF-3) district zoning for Tract 2. On Tract 1, the Conditional Overlay prohibits automotive sales.

The Restrictive Covenant includes all recommendations listed in the Traffic Impact Analysis memorandum, dated March 31, 2009, as provided in Attachment A.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.*

Tract 1: The proposed GR, community commercial district is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major trafficways. The mixed use (MU) district is intended to allow for office, retail, commercial and residential uses to be combined in a single development.

Tract 2: The multifamily residence medium density (MF-3) district is intended to accommodate multifamily use with a maximum density of up to 36 units per acre, depending on unit size. This district is appropriate for multifamily residential areas located near supporting transportation and commercial facilities, generally in more centrally located areas, and in other selected areas where medium density multiple use is desirable.

*The property has access to the northbound frontage lanes of SH 130 and Pearce Lane, both classified as major arterial roadways.*

- 2. Zoning changes should promote an orderly and compatible relationship among land uses.*

Staff supports the Applicant's request for GR given its location at the intersection of a State Highway and an arterial roadway, and commercial zoning would enable the provision of goods and services to several single family residential neighborhoods in the vicinity. The Conditional Overlay prohibits automotive sales, as it would set precedent on this segment of SH 130 and concerns of compatibility with adjacent residential uses. Staff supports MF-3 as it provides a second type of residential development to the Lexington Parke development, thereby diversifying housing choices and it provides a transition from the commercial uses on SH 130 and the planned single family residential subdivision to the east.

## EXISTING CONDITIONS

### Site Characteristics

The subject property is undeveloped and relatively flat. There appear to be no significant topographical constraints on the site.

### Impervious Cover

The maximum impervious cover allowed by the GR zoning district is 80%, which is based on the more restrictive watershed regulations. The maximum impervious cover allowed by the MF-3 zoning district would be 60% which is based on the more restrictive watershed regulations.

### Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Onion Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is floodplain within, or adjacent to the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone should be limited to 30%.

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

At this time, site specific information is unavailable regarding existing trees and 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 the following water quality control requirements:

Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

**Transportation**

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA. [LDC, Sec. 25-6-142]. Comments are provided in Attachment A.

**Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at his 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.

**Site Plan and Compatibility Standards**

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

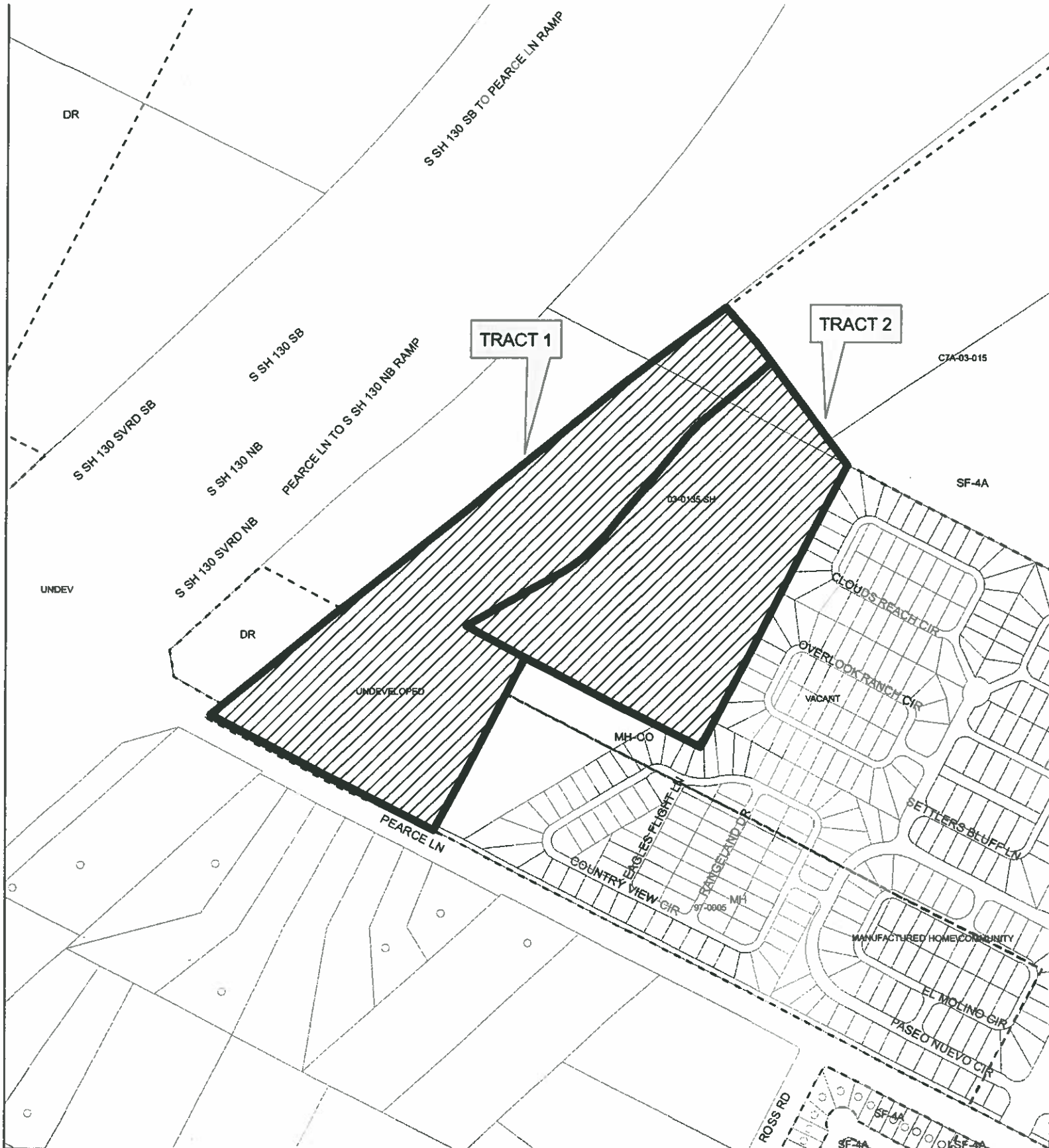
Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations. It appears the site is subject to compatibility standards. Along the northeast property line, 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.
- A landscape area at least 18 feet wide is required along 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.

- for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- No parking or driveways are allowed within 25 feet of the property line










1" = 400'

**LEGEND**

-  **SUBJECT TRACT**
-  **ZONING BOUNDARY**
-  **PENDING CASE**

**OPERATOR: S. MEEKS**

**ZONING**

**ZONING CASE#: C14-2008-0183.SH**


**ADDRESS: N OF PEARCE LANE & E OF SH 130**

**SUBJECT AREA: 32.181 ACRES**

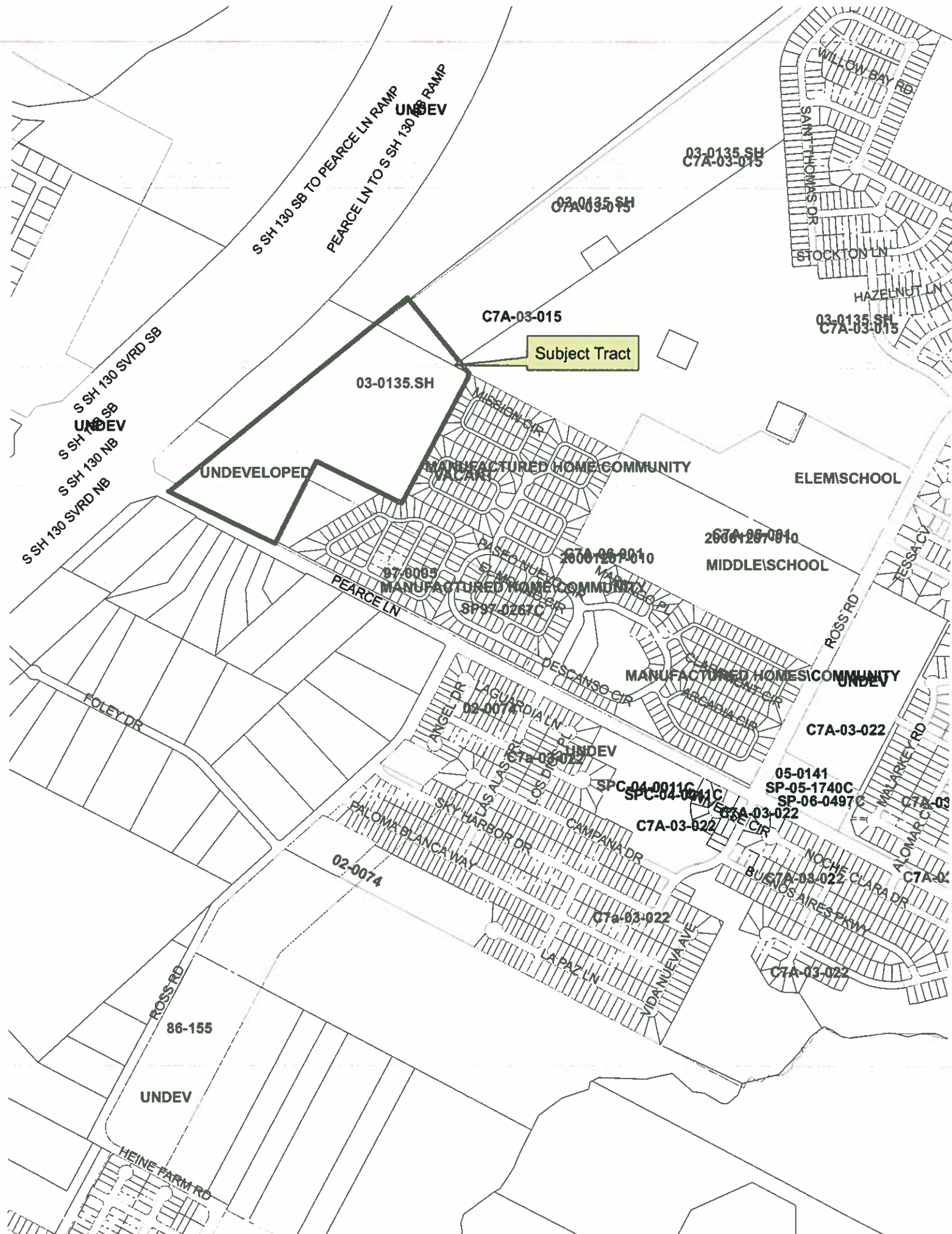
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**MANAGER: W. RHOADES**

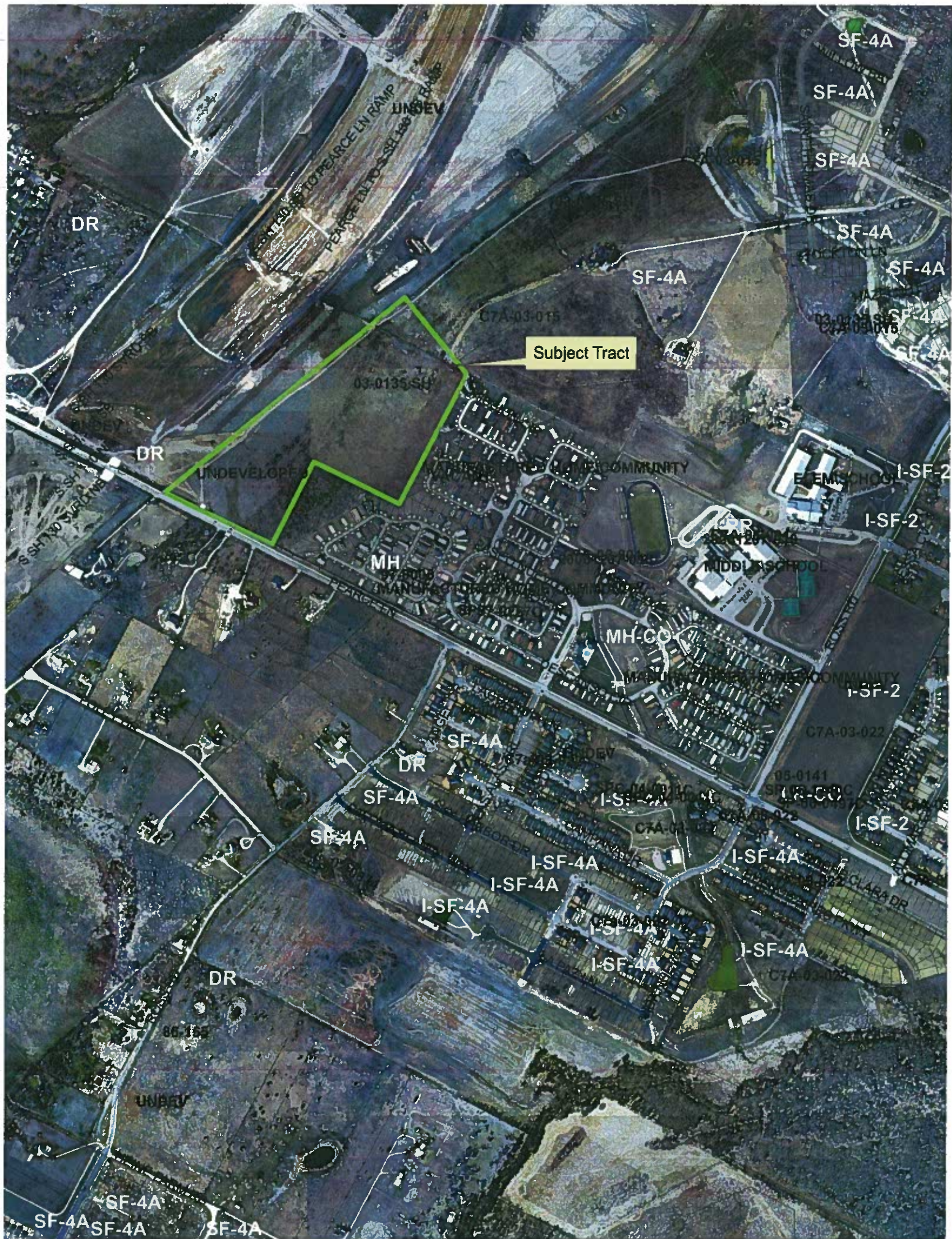
**EXHIBIT A**



This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.









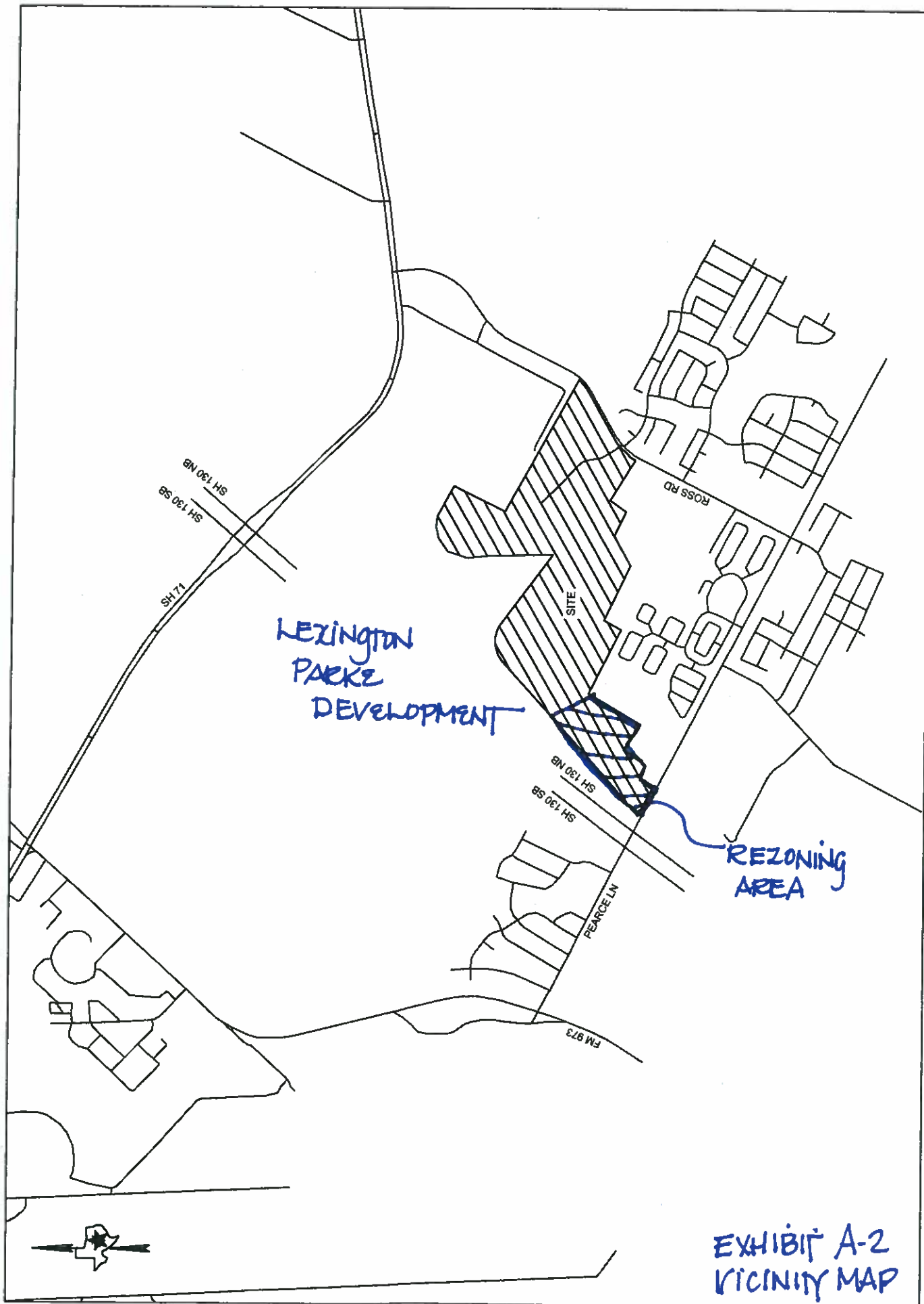
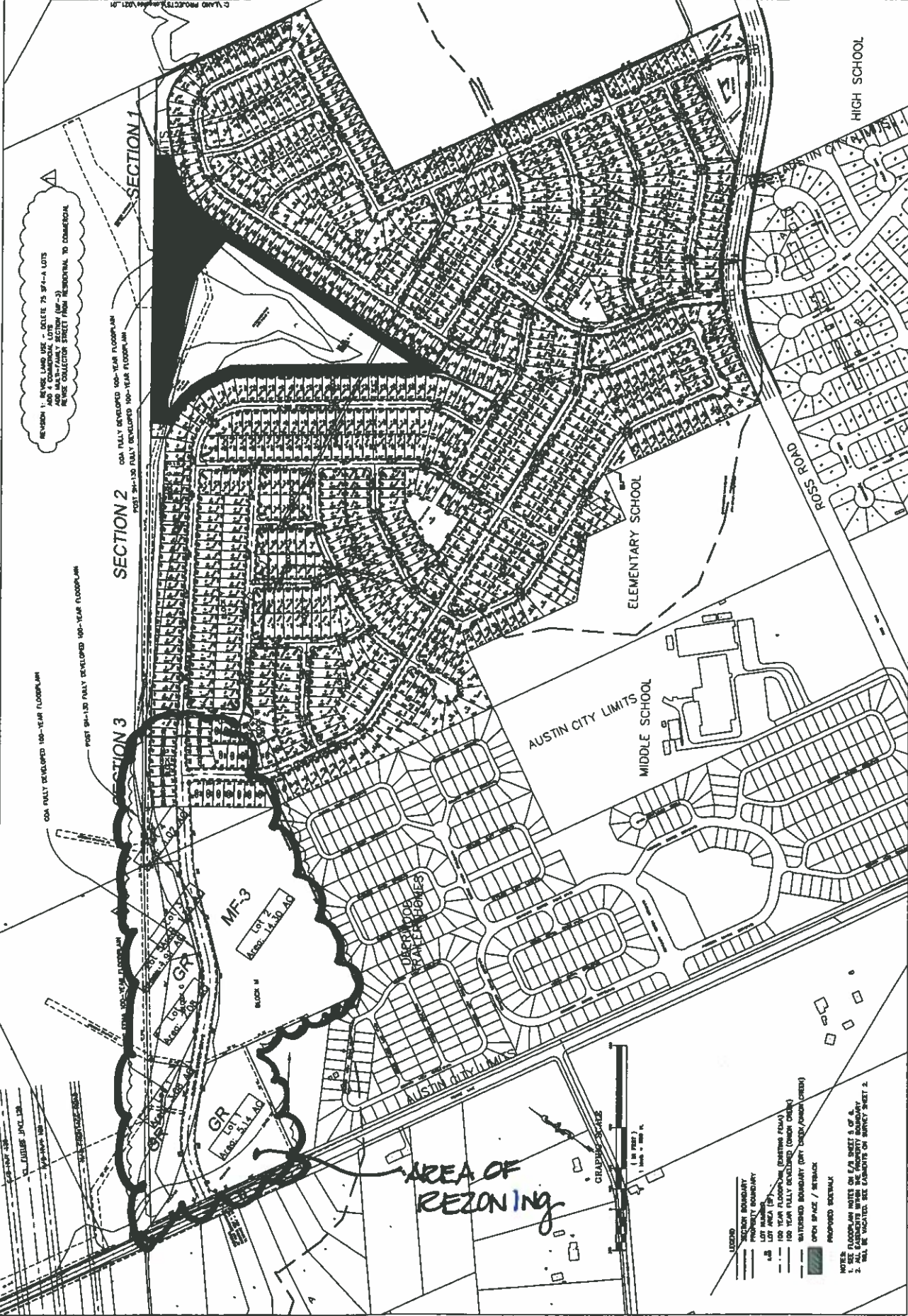


Figure 1. Study Area









**EXHIBIT B**  
**REVISED**  
**PRELIMINARY**  
**PLAN**



## MEMORANDUM

**TO:** Wendy Rhoades, NPZD  
**CC:** Members of the Zoning and Platting Commission  
**FROM:** Joe Almazan, WPDR  
**DATE:** March 31, 2009  
**SUBJECT:** Lexington Parke Traffic Impact Analysis (TIA) Addendum  
Zoning Case No.: C14-2008-0183.SH

The Transportation Review Section has reviewed the traffic impact analysis for the Lexington Parke development dated July 2008 and December 2008 (1<sup>st</sup> Update) and March 2009 (2<sup>nd</sup> Update), prepared by Scott A. Feldman, P.E., Alliance Transportation, Inc. and offers the following comments:

### TRIP GENERATION

Lexington Parke is a planned residential and commercial development located north of Pearce Lane, between S.H. 130 and Ross Road in southeast Austin. This development was originally planned for 950 single-family residential dwelling units. The previous TIA was approved with the zoning in 2003 (Case No.: C14-2003-0135.SH). The development was expected to be completed by 2009.

**Table 1: 2003 Land Use and Trip Generation (Original TIA)**

Land Use	Size	ADT	AM			PM		
			Total	Enter	Exit	Total	Enter	Exit
Single-Family Residential	950 d.u.	9,092	713	181	532	960	618	342
<b>TOTAL</b>		<b>9,092</b>	<b>713</b>	<b>181</b>	<b>532</b>	<b>960</b>	<b>618</b>	<b>342</b>

This TIA Addendum has been prepared to address the change of land uses from single-family residential to single-family residential, multi-family apartments, and commercial land uses. The new development is expected to be completed in phases with Phase One by 2015 and Phase Two by 2020. Phase One of the project will consist of 583 single-family residential dwelling units, 250 apartment units, 10,000 sq.ft. general office use, and a convenience store with gas pumps. Phase Two of the project will consist of 292 single-family residential dwelling units and 65,000 sq.ft. of shopping center retail uses.

Based on the standardized trip generation rates established by the Institute of Transportation Engineers (ITE), this development will generate 16,173 trips per day. This results in an increase of 7,081 trips per day over the previous approved trips with the 2003 zoning case (9,092 trips per day). However, reductions for passer-by and internal capture were assumed for the uses. This results in an adjusted trip rate of 14,498 trips per day.

*ATTACHMENT A*

**Table 2: Unadjusted Trip Generation**

Land Use	Size	ADT	AM			PM		
			Total	Enter	Exit	Total	Enter	Exit
Single-Family Residential	875 d.u.	7,469	621	155	466	755	476	279
Apartments	250 d.u.	1,653	126	25	101	155	101	54
Shopping Center	65,000 s.f.	5,133	121	74	47	471	226	245
General Office	10,000 s.f.	110	16	14	2	15	3	13
Convenience Store with Gas Pumps	10 fueling stations	1,628	101	50	50	134	67	67
<b>TOTAL</b>		<b>16,173</b>	<b>985</b>	<b>318</b>	<b>666</b>	<b>1,530</b>	<b>873</b>	<b>657</b>

**Table 3: Adjusted Trip Generation**

Land Use	Size	ADT	AM			PM		
			Total	Enter	Exit	Total	Enter	Exit
Single-Family Residential	875 d.u.	7,376	621	155	466	747	476	271
Apartments	250 d.u.	1,378	126	25	101	144	87	46
Shopping Center	65,000 s.f.	4,296	121	74	47	283	136	147
General Office	10,000 s.f.	92	16	14	2	13	3	10
Convenience Store with Gas Pumps	10 fueling stations	1,356	38	19	19	60	30	30
<b>TOTAL</b>		<b>14,498</b>	<b>922</b>	<b>287</b>	<b>635</b>	<b>1,247</b>	<b>739</b>	<b>508</b>

**Table 4: Trip Generation By Phase**

Phases	Build-Out Year	Land Use	Size	Trip Generation		
				ADT	AM	PM
Phase I	2015	Single-Family Residential	583 d.u.	4,917	414	498
		Apartments	250 d.u.	1,378	126	144
		General Office	10,000 s.f.	92	16	13
		Convenience Store with Gas Pumps	10 fueling stations	1,356	38	60
		Phase Total		7,743	594	715
Phase II	2020	Single-Family Residential	292 d.u.	2,459	207	249
		Shopping Center	65,000 s.f.	4,296	121	283
		Phase Total		6,755	328	532
		Grand Total		14,498	922	1,247



## ASSUMPTIONS

1. Reductions were assumed for pass-by and internal capture for the following uses:

**Table 5: Summary of Pass-By and Internal Capture Rates**

Land Use	Pass-By %		Internal Capture %	
	AM Peak	PM Peak	AM Peak	PM Peak
Single-Family Residential	0.0%	0.0%	0.0%	2.9%
Apartments	0.0%	0.0%	0.0%	14.4%%
General Office	0.0%	0.0%	0.0%	13.3%
Shopping Center Retail	0.0%	34.0%	0.0%	21.4%
Convenience Store with Gas Pumps	62.0%	56.0%	0.0%	21.4%

2. No adjustments were assumed for transit use.
3. A growth rate of 4.0% was applied to existing traffic counts of area roadways.
4. A 5.0% adjustment was also applied to existing traffic counts of area roadways for a seasonal adjustment.
5. A 5.0% adjustment was also applied to existing traffic counts of area roadways during the A.M. peak period for school traffic.

## TRANSPORTATION ROADWAY SYSTEM

SH 130 – SH 130 is classified as a four-lane toll parkway. It is proposed to be upgraded to a six-lane freeway according to the 2025 Austin Metropolitan Area Transportation Plan (AMATP).

SH 71 – SH 71 is currently a four-lane, divided major arterial. It is proposed to be upgraded to a six-lane freeway according to 2025 AMATP.

FM 973 – FM 973 is currently a two-lane minor arterial. It is proposed to be upgraded to a six-lane, divided major arterial according to 2025 AMATP.

Pearce Lane – Pearce Lane is currently a two-lane minor arterial. It is proposed to be upgraded to a four-lane divided arterial according to 2025 AMATP.

## TRAFFIC ANALYSIS

The TIA analyzed the existing conditions in 2008 and the two separate phases for year 2015 and 2020 estimated traffic conditions for all eight intersections, five of which are signalized. Table 6 and 7 summarizes the overall levels of service (LOS) at each intersection. The 2020 LOS assumes that any recommended intersection and roadway improvements have been implemented.

For Phase One – 2015 estimated traffic conditions, results of the analysis demonstrates that the intersections will operate at overall acceptable LOS D or better with the exception of the SH 130 and SH 71 interchange. The analysis assumed that the current two-lane cross-section of the SH 130 ramps will remain for 2015 traffic conditions. The northbound and southbound frontage roads of SH 130 will operate at unacceptable LOS F for non-site and site traffic conditions during the morning peak hour travel period. However, site traffic comprises less than one percent of peak hour traffic volumes

at this interchange. No further intersection or roadway improvements are assumed with 2015 traffic conditions and Phase One development.

<b>Table 6: 2015 Levels of Service</b>					
<b>Intersection</b>	<b>Type of Control</b>	<b>Background Traffic</b>		<b>Site + Background Traffic</b>	
		<b>AM</b>	<b>PM</b>	<b>AM</b>	<b>PM</b>
SH 130 SB & Pearce Lane	Unsignalized	A	A	A	A
SH 130 NB & Pearce Lane	Unsignalized	A	A	A	A
SH 130 SB & SH 71 EB	Signalized	A	B	A	A
SH 130 SB & SH 71 WB	Signalized	F	A	F	A
SH 130 NB & SH 71 WB	Signalized	F	A	F	A
SH 130 NB & SH 71 EB	Signalized	A	E	A	A
Pearce Lane & FM 973	Signalized	C	B	C	C
Ducks Unlimited Drive & Pearce Lane	Unsignalized	N/A	N/A	A	D
Ducks Unlimited Drive & Convenience Store site driveway	Unsignalized	N/A	N/A	A	A
Ducks Unlimited Drive & Shopping Center site driveway	Unsignalized	N/A	N/A	A	A
Ducks Unlimited Drive & Apartments site driveway	Unsignalized	N/A	N/A	A	A

For Phase Two – 2020 estimated traffic conditions, results of the analysis demonstrates that the intersections will operate at overall acceptable LOS D or better with the exception of the SH 130 and SH 71 interchange. As with Phase One of the project, the analysis assumed that the current two-lane cross-section of the SH 130 ramps will remain for 2020 traffic conditions. Both the northbound and southbound frontage roads of SH 130 will continue to operate at unacceptable LOS E and F for non-site and site traffic conditions during the morning and evening peak hour travel periods. It should be noted that site traffic still comprises less than one percent of peak hour traffic volumes at this interchange.

**Table 7: 2020 Levels of Service**

Intersection	Type of Control	Background Traffic		Site + Background Traffic	
		AM	PM	AM	PM
SH 130 SB & Pearce Lane	Unsignalized	A	A	A	B
SH 130 NB & Pearce Lane	Unsignalized	A	A	A	A
SH 130 SB & SH 71 EB	Signalized	A	B	A	B
SH 130 SB & SH 71 WB	Signalized	F	A	F	A
SH 130 NB & SH 71 WB	Signalized	F	A	F	A
SH 130 NB & SH 71 EB	Signalized	A	E	A	E
Pearce Lane & FM 973	Signalized	C	B	B**	C**
Ducks Unlimited Drive & Pearce Lane	Unsignalized	N/A	N/A	A**	D**
Ducks Unlimited Drive & Convenience Store site driveway	Unsignalized	N/A	N/A	A	A
Ducks Unlimited Drive & Shopping Center site driveway	Unsignalized	N/A	N/A	A	A
Ducks Unlimited Drive & Apartments site driveway	Unsignalized	N/A	N/A	A	A

\*\*Assumes intersection and/or roadway improvements

For the intersection of Ducks Unlimited Drive and Pearce Lane, the acceptable LOS C or better results from the assumption that Pearce Lane will be widened to four lanes with a divided median from the SH 130 northbound frontage road to approximately 600 feet east of the intersection with Ducks Unlimited Drive. This roadway improvement is recommended because of efforts by the City of Austin Transportation Department to reduce traffic signal installation along Pearce Lane in proximity to SH 130. This improvement would become necessary with 2020 traffic conditions and Phase Two of the development. Although the four-lane, divided arterial provides for maximum separation of turning movements at intersections and additional travel capacity, the City of Austin does not have any current plans to upgrade this roadway.

For the intersection of FM 973 and Pearce Lane, the acceptable LOS C or better results from the assumption that the recommended intersection and roadway improvements will be implemented as follows: (a) FM 973 will be widened to four-lanes with a divided median near Pearce Lane, and (b) a right-turn lane with 150 feet of storage space will be constructed for the westbound approach on

Pearce Lane. These improvements would become necessary with 2020 traffic conditions and Phase Two of the development. The Texas Department of Transportation (TxDOT) has no current plans to upgrade FM 973.

As with all large developments, reducing single-occupant vehicle trips should be the primary goal. It is recommended that "trip reduction techniques" be implemented for the development. Currently, fixed route transit service is not provided by Capital Metro in the neighborhood, but preliminary discussions with Capital Metro indicate that "future" service to the area will be considered. Coordination with Capital Metro on vanpooling and transit routes as well as promoting alternate modes of travel such as ridesharing, bicycling and walking could result in a significant reduction of vehicle trips to and from this development. For the commercial and multifamily development, site improvements that will encourage pedestrian, bicycle, and vehicular connectivity should be considered, including sidewalk and bike access points and driveway stub-outs, where technically feasible.

## **RECOMMENDATIONS**


- 1) As recommended in the TIA, Pearce Lane should be reconstructed and widened to a four lane, divided arterial roadway (MAD-4) in accordance with the 2025 AMATP from the intersection of SH 130 northbound frontage road for approximately 600 feet to the east of the intersection with Ducks Unlimited Drive. At the time of site plan application for Phase Two, the applicant should submit a construction cost estimate signed and sealed by an engineer to verify the amount required for posting. Prior to any approval of the Phase Two development, the applicant should post fiscal for a pro-rata share of the estimated cost for this improvement: 20.3 percent.
- 2) As recommended in the TIA, FM 973 should be reconstructed and widened to a six lane, divided arterial roadway (MAD-6) in accordance with the 2025 AMATP between SH 71 and Pearce Lane. South of Pearce Lane, FM 973 should be reconstructed and widened to a four lane, divided arterial (MAD-4) in accordance with the 2025 Austin Metropolitan Area Transportation Plan. At the time of site plan application for Phase Two, the applicant should submit a construction cost estimate signed and sealed by an engineer to verify the amount required for posting. Prior to any approval of the Phase Two development, the applicant should post fiscal for a pro-rata share of the estimated cost for this improvement: 10.7 percent.
- 3) As recommended in the TIA, at the intersection of F.M. 973 and Pearce Lane, a right turn lane with 150 feet of storage space should be constructed for the westbound approach along Pearce Lane. At the time of site plan application for Phase Two, the applicant should submit a construction cost estimate signed and sealed by an engineer to verify the amount required for posting. Prior to any approval of the Phase Two development, the applicant should post fiscal for a pro-rata share of the estimated cost for this improvement: 25.1 percent.
- 4) As recommended in the TIA, at the intersection of Pearce Lane, Ducks Unlimited Drive should be constructed with sufficient width to accommodate separate outbound lanes for left-turn and right-turn movements for site traffic leaving the development.
- 5) It is also recommended that the developer coordinate with Capital Metro to expand transit service to the area as well as continue to work with the development to implement traffic management techniques (TDM) such as ridesharing, bicycling, and walking to reduce vehicle trips to and from this development. Between the commercial and multifamily development, site improvements that will encourage pedestrian, bicycle, and vehicular connectivity should be considered, including sidewalk and bike access points and driveway stub-outs, where technically feasible.

6) Development of this site shall be limited to land uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip characteristics, traffic distributions, roadway conditions, and other traffic related characteristics.

7) For information: Three copies of the final TIA incorporating all corrections and revisions must be submitted prior to final reading of the zoning.

---

If you have any questions or require additional information, please contact me at 974-2674.



Joe R. Almazan  
Development Services Process Coordinator  
City of Austin, Watershed Protection and Development Review Department  
Land Use Review Division/Transportation Review Section/One Stop Shop  
505 Barton Springs Rd., 4<sup>th</sup> Floor  
Tel: 974-2674  
Fax: 974-3010



## City of Austin

P.O. Box 1088, Austin, TX 78767  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

### Neighborhood Housing and Community Development Department

Gina Copic, S.M.A.R.T. Housing Program Manager  
(512) 974-3180, Fax: (512) 974-3112, [gina.copic@ci.austin.tx.us](mailto:gina.copic@ci.austin.tx.us)

August 29, 2003

S.M.A.R.T. Housing Certification  
Lexington Parke (Berdoll Tract)  
Onion Creek Partners, Ltd.: Brian Saathoff, 257-9549

#### TO WHOM IT MAY CONCERN:

Onion Creek Partners is proposing to develop a 986 unit single-family subdivision in the newly annexed area known as Lexington Parke adjacent to Ross Road. NHCD certifies that the proposed development meets the S.M.A.R.T. Housing standards at the pre-submittal stage. Since 40% of the homes will serve families at 80% Median Family Income (MFI) or below, the development will be eligible for 100% waiver of the fees listed in Exhibit A of the S.M.A.R.T. Housing Resolution adopted by the City Council. The expected fee waivers include, but are not limited to, the following:

- |                                |                   |
|--------------------------------|-------------------|
| — Zoning Fees                  | Building Permit   |
| Subdivision Fees               | Concrete Permit   |
| Construction Inspection Fees   | Electrical Permit |
| — Traffic Impact Analysis Fees | Mechanical Permit |
| Capital Recovery Fees          | Plumbing Permit   |
| Building Plan Review           |                   |

#### Prior to commencement of construction, the developer must:

- ◆ Obtain a signed Conditional Approval from the Austin Energy Green Building Program stating that the plans and specifications for the proposed development meet the criteria for a Green Building Rating. (Shirley Muns, Austin Energy, 322-6453).

#### Before a Certificate of Occupancy will be granted, the development must:

- ◆ Pass a final inspection and obtain a signed Final Approval from the Green Building Program. (Note: this inspection is separate from any other inspections required by the City of Austin or Austin Energy).
- ◆ Pass a final inspection by NHCD to certify that Visitability standards have been met.

Please contact me at 974-3180 if you need additional information.

*Gina Copic*

Gina Copic, S.M.A.R.T. Housing Manager  
Neighborhood Housing and Community Development Office

Cc:	Javier Delgado, NHCD	Janet Gallagher, WPDR	Steve Barney, NHCD
	Robby McArthur, WWW Taps	Stuart Hersh, NHCD	Ricardo Soliz, NPZD
	Shirley Muns, Austin Energy	Nathan Doxsey, Austin Energy	Marzia Volpe, WPDR
	Anthony Fryer, WPDR	Marisol Claudio-Ehalt, WPDR	Steve Rossiter, NPZD
	Jim Lund, PW	Shaw Hamilton, WPDR	



# City of Austin

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P.O. Box 1088, Austin, TX 78767  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

## **Neighborhood Housing and Community Development Department**

**Gina Copic, S.M.A.R.T. Housing Program Manager**  
(512) 974-3180, Fax: (512) 974-3112, [regina.copic@ci.austin.tx.us](mailto:regina.copic@ci.austin.tx.us)

March 6, 2009

### **Lexington Parke Rezoning Request (C14-2008-0183.SH)**

#### **TO WHOM IT MAY CONCERN:**

The S.M.A.R.T. Housing Program is in support of the proposed zoning request subject to the application meeting all the provisions and requirements of the Land Development Code and other applicable regulations.

If you need additional information, please contact Javier Delgado at 974-3154.

Javier V. Delgado  
Project Coordinator  
Neighborhood Housing and Community Development

Cc: Wendy Rhoades, NPZID  
George Zapalac, WPIDR  
Joe Almazan, WPIDR



# Lexington Parke SMART Housing Development

Zoning Request - GR & MF-3

Case #C14-2008-0183.SH

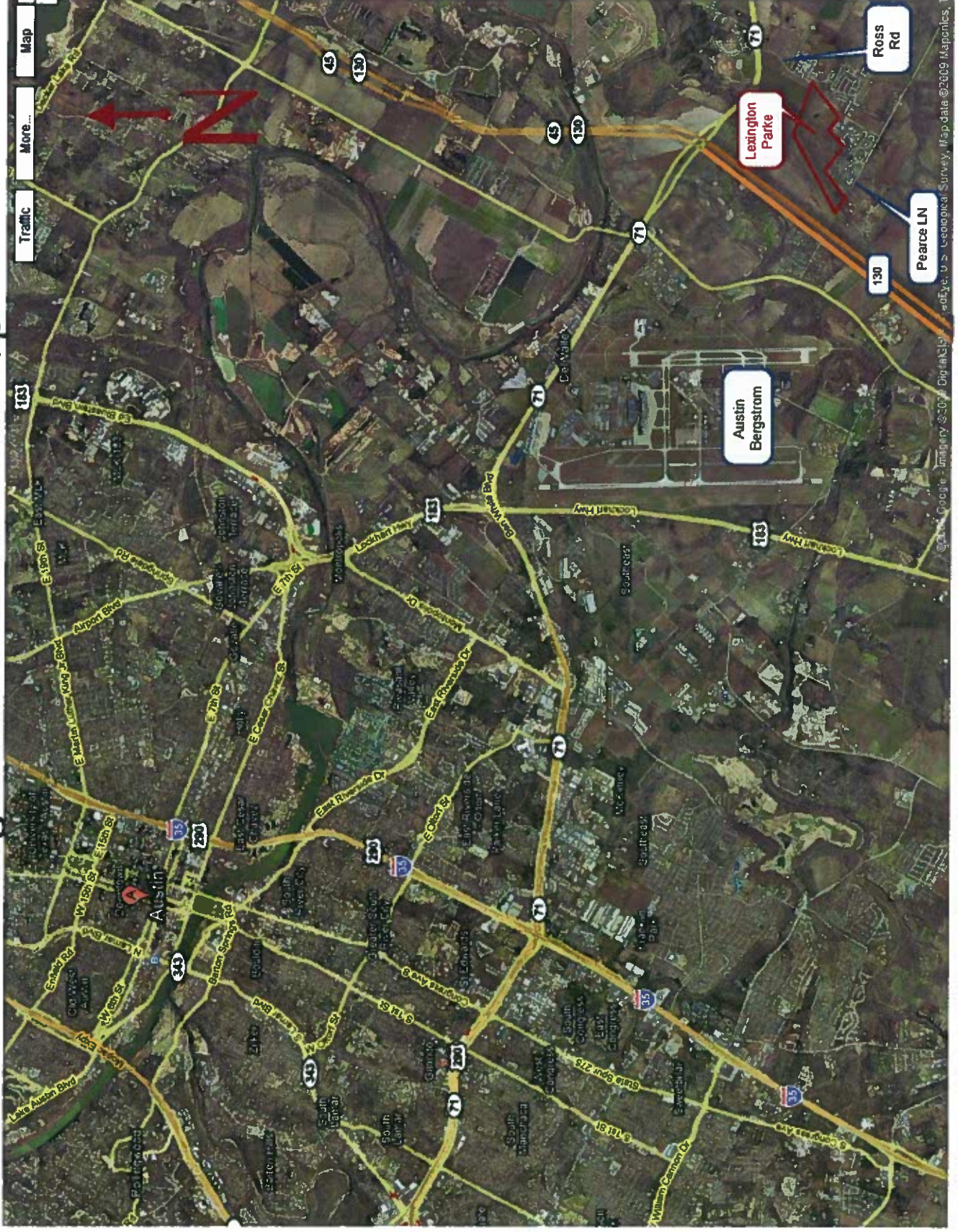
ZAP Agenda: April 7, 2009

Brian Saathoff - Project Manager

Bus: (512) 657-6420

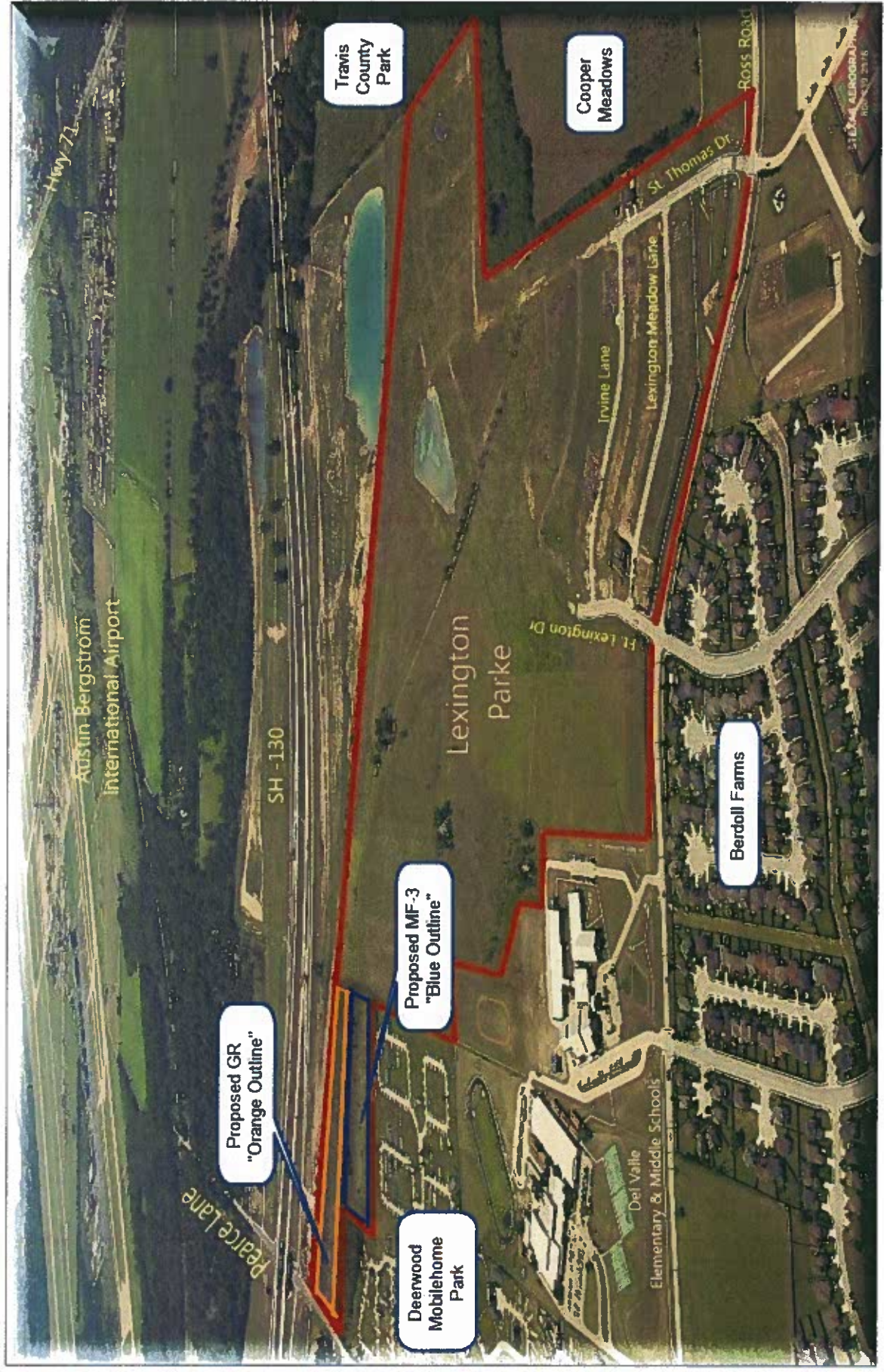
Email: [Saathoff@Texas.Net](mailto:Saathoff@Texas.Net)



[illegible]



## Lexington Parke - Proposed Zoning GR & MF-3

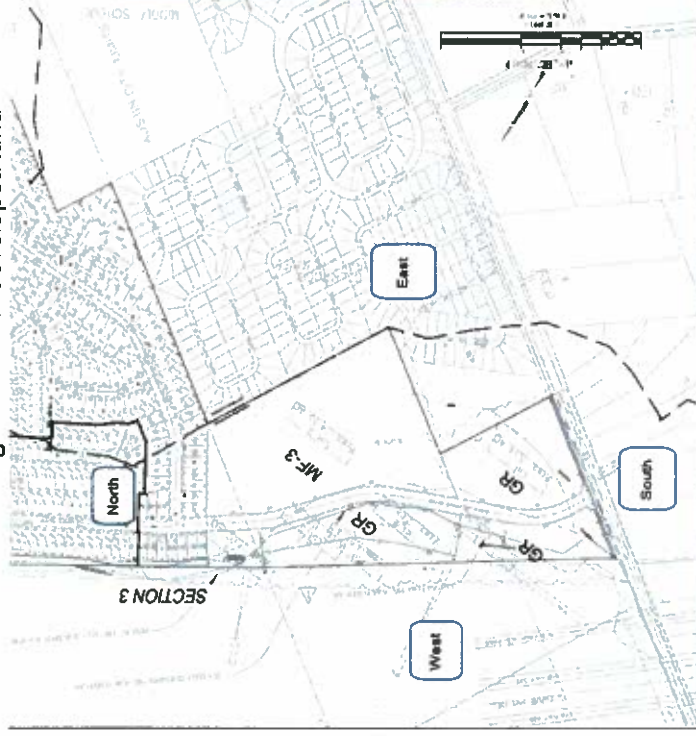




# Lexington Parke Zoning Case – Surrounding Properties



North – Lexington Parke undeveloped land



West - SH-130 and Berdoll tract



East – Deerwood mobilehome park



South – Rural acreage with a homestead

## Example of Proposed Commercial Use Along SH-130 and Pearce Lane



# Lexington Parke – Green Builder “Three Star Rating”



**Homebuilder: Cheldan Homes**  
**\* Green Builder – 3 Star Rating**



**Main Entry @ Ross Rd & Ft. Lexington Drive**





McLEAN & HOWARD, L.L.P.

April 6, 2009

1004 Mopac Circle  
Suite 100  
Austin, TX. 78746  
phone 512.328.2008  
fax 512.328.2409  
www.mcleanhowardlaw.com

Ms. Wendy Rhoades  
City of Austin  
505 Barton Springs  
Austin, TX 78701

Via Facsimile and E-mail

RE: C14-2008-0183.SH Lexington Parke - Rezoning

Dear Wendy:

Our firm represents Development Alliance of Texas, with regard to the above-referenced zoning case. Our client owns the property adjacent to the Lexington Parke project.

This letter is to request a postponement of the rezoning case from its currently scheduled date of April 7, 2009. This is my client's first postponement request for this matter.

*to May 5, 2009*

Attached are copies of previous letters that I sent to Javier Del Gado regarding our opposition to the pending applications for Lexington Parke. As I have stated in the past to other City staff members, the only acceptable resolution of this matter would be that, prior to approval of the zoning case, the revised preliminary plan or any other development application for Lexington Parke: (1) the two spite strips (Irvine and Fort Stockton) should be dedicated as public streets; (2) the developer should be required to amend their construction plans to show proper and complete construction of the spite strips; and (3) the streets and water and wastewater lines should be constructed within the strips allowing for connection to my client's property.

It is my understanding that you have had discussions with my client's consultant, Nash Gonzales, about this matter as well. As of last week, Nash informed me that staff was recommending that this application not be considered for approval until the conditions set forth in the preceding paragraph were met. Just last month, Brian Saathoff, who represents the developer, offered to make the spite strips go away if my client paid them approximately \$232,000.00. Staff needs to stay resolved on this matter and ensure that this developer corrects their blatant and intentional disregard for City Code requirements and does not get away with trying to extract money from my client to correct a condition that is illegal and that should have never come about in the first place.

Please confirm with me that this matter is postponed and that staff is requiring the developer to correct their pending Code violations.

Sincerely,

William P. McLean

cc: Joe Almazan  
George Zapalac



McLEAN & HOWARD, L.L.P.

1004 Mopac Circle  
Suite 100  
Austin, TX. 78746  
phone 512.328.2008  
fax 512.328.2409  
[www.mcleanhowardlaw.com](http://www.mcleanhowardlaw.com)

May 18, 2009

*Email to: [saathoff@texas.net](mailto:saathoff@texas.net)*

Brian G. Saathoff  
Kodiak Development  
12306 Waterton Parke Cr.  
Austin, Texas 78726

Re: Letter Agreement between Cooper Alliance of Texas, Ltd. ("Cooper Alliance") and  
Lexington 281, L.P. ("Lexington")

Dear Mr. Saathoff:

This Letter Agreement is entered into between Cooper Alliance and Lexington to address certain issues pending between the parties and their adjacent properties. Lexington is the owner and developer of the real estate project known as Lexington Parke (the "Project"), as depicted on the Preliminary Plan for the Project, which is attached as Exhibit "A." Cooper Alliance is the owner of the 79.656 acre tract (the "Cooper Property") to the north of the Project and as depicted on Exhibit "B." Lexington has recorded a final subdivision plat (the "Section One Plat") for a portion of the Project known as Lexington Parke, Section One, recorded under Document No. 200400121 of the Official Public Records of Travis County, Texas. The Section One Plat left un-built and un-platted portions of the Project known as the Irvine Lane stub out and Stockton Lane stub out (the "stub outs"), which are depicted on Exhibit "C". The stub outs were shown as public streets under the Preliminary Plan. Lexington is currently processing a rezoning case for a portion of the Project under City of Austin Case No. C14-2008-0183.SH (the "Zoning Case"). Lexington is also currently processing a revision to the Preliminary Plan under Case No. C8-2008-0167.SH (the "Revision"). Lexington and Cooper Alliance agree to the following terms and conditions with regard to their respective properties and the Project.

1. No later than thirty (30) days after the date of this letter, Lexington will cause the valid and proper dedication of the stub outs to the City of Austin as public right-of-way pursuant to right-of-way deeds (the "Deeds") recorded in the Official Public Records of Travis County, Texas. The parties agree that the Deeds must be tendered to the City for recording prior to third reading of the Zoning Case being heard by the City Council for the City of Austin.

Brian G. Saathoff

May 18, 2009

Page 2

2. Lexington will cause the stub outs streets and utilities to be constructed with its Phase 2 Section One construction from the Cooper Property to St. Thomas Drive. These stub out streets will remain barricaded until such time as Cooper needs the stub outs for secondary access only, and when other primary access serving the entire Cooper Property is completed and the permits for such access have received final inspection and sign off by Travis County and/or the City of Austin. With the Phase 2, Section One improvements, Lexington will also complete water and wastewater lines within the stub outs abutting Stockton Lane and Irvine Lane (if not already built) and extending to the Cooper Property. The roads and utilities shall be built to City of Austin standards. In connection therewith, Lexington shall be required to: a.) amend the Construction Plans for Section One of Lexington Parke to show the extension of the roads and utilities in the stub outs and amend the Subdivision Construction Agreement for Lexington Parke Section One to reflect the cost of completion of the road and utility improvements in the stub outs.
3. Cooper Alliance may construct any of the improvements described in Paragraph 2 above prior to Lexington's commencement of construction of Lexington Phase 2 Project if the roadway connections are necessary to serve as secondary access to the Cooper Property and such road connections are built after or concurrently with the construction of other, primary means of public access to the Cooper Property. Cooper Alliance's construction of the utilities in the stub outs may be done by Cooper Alliance at any time.
4. In the event Cooper Alliance constructs the water and wastewater lines and/or the streets in the stub outs prior to Lexington doing so, Lexington shall reimburse Cooper Alliance for its actual costs to complete such improvements, including, without limitation, design costs, permitting fees or expenses, and construction costs. Upon Cooper Alliance's completion of such improvements it shall demand payment from Lexington and Lexington, within 30 days of such demand, shall reimburse Cooper Alliance for such costs. Lexington's obligation to pay Cooper Alliance for the construction costs shall accrue interest at the rate of 2% annually.
5. The parties agree to promptly enter into any formal agreement or other documentation necessary to formally or more specifically memorialize the terms and conditions as set forth in this Letter Agreement, including, without limitation, a recordable memorandum of the Letter Agreement or the other formal agreements. The rights and obligations of the parties in this Letter Agreement are meant to run with the land and shall be binding on and be to the benefit of the successors and assigns of each party.
6. Lexington will provide a copy of this Letter Agreement to the Case Manager for the Rezoning Case and request that the Case Manager announce the agreement on the record at the

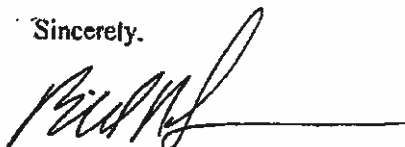


Brian G. Saathoff  
May 18, 2009  
Page 3

hearing of the Rezoning Case before Zoning and Platting Commission, and that Cooper Alliance has withdrawn its opposition thereto.

7. Both Cooper Alliance and Lexington 281, L.P. may seek their legal remedies and attorneys' fees to enforce the covenants and obligations as set forth in this Letter Agreement if not performed by the party obligated thereby.

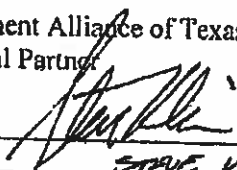
Sincerely,

  
William P. McLean

AGREED TO AND ACKNOWLEDGED BY:

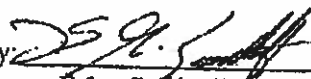
COOPER ALLIANCE OF TEXAS, LTD.

By: Development Alliance of Texas, L.L.C.,  
Its General Partner

By:   
Name: STEVE KLEIN  
Title: MANAGER

LEXINGTON 281, L.P.

By: Centamar Terras, L.L.C.,  
Its General Partner

By:   
Name: Brian Saathoff  
Title: Project Manager, Authorized Agent

May 29, 2009

Ms. Wendy Rhoades  
City of Austin  
505 Barton Springs  
Austin, TX 78701

Via E-mail

RE: C14-2008-0183.SH Lexington Parke - Rezoning

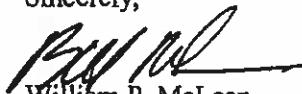
Dear Wendy:

As you know, our firm represents Development Alliance of Texas, with regard to the above-referenced zoning case. Our client owns the property adjacent to the Lexington Parke project.

I understand that the Lexington Parke zoning case had its first reading at City Council on May 21, 2009, which was passed by consent. It is also my understanding that it has been scheduled for second and third reading on June 11<sup>th</sup>. According to Terry Irion, on May 21<sup>st</sup>, the applicant submitted executed street deeds to City Legal along with the appropriate lienholder consent and lien search documents. Copies of the deeds are attached. We are requesting that the City accept and record the street deeds before the second and third reading of the zoning case on June 11<sup>th</sup>. Once recorded, I would appreciate receiving notice and copies of the file-marked deeds so that we can bring closure to this matter. If the deeds are not recorded by next Wednesday, please let me know in advance, because I will need to appear at the Council hearing to request that this is completed.

Thank you for your attention to this matter. Should you wish to discuss this further, please do not hesitate to contact me.

Sincerely,

  
William P. McLean

cc: Steve Klein  
Ercel Brashear  
Joe Almazan  
Annette Bogusch

## STREET DEED

**Grantor:** Lexington 281, L.P.

**Grantor's Mailing Address (including county):**  
1221 North I-35E, Suite 200  
Carrollton, Denton County, TX 75006

**Grantee:** City of Austin, a municipal corporation situated in Hays, Travis and Williamson Counties Texas

**Grantee's Mailing Address (including county):**  
P.O. Box 1088  
Austin, Travis County, Texas 79767-1088  
ATTN: Watershed Protection and Development Review  
Case No. C8J-03-0111.SH

**Consideration:** Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

**Property:** The Property described on the attached and incorporated EXHIBIT "A" is conveyed for street purposes ("Property").

**Conveyance:** Grantors, for the consideration here in before stated and subject to any reservations from and exceptions to conveyance and warranty stated herein, **GRANT, SELL AND CONVEY** to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee's successors or assigns forever.

Grantors binds Grantors and Grantor's heirs, executors, administrators, successors, and assigns to **WARRANT AND FOREVER DEFEND** all and singular the Property to Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part hereof. When the context requires, singular nouns and pronouns include plural.

Executed on this \_\_\_\_ day of \_\_\_\_\_, 2009.

**GRANTOR:**

\_\_\_\_\_  
Mehrdad Moayed  
Partner  
Lexington 281, L.P.

STATE OF TEXAS §

COUNTY OF DENTON §

Before me \_\_\_\_\_, Notary Public, on this day  
personally appeared \_\_\_\_\_ (name), \_\_\_\_\_  
(title) of \_\_\_\_\_ (name of  
Corporation/Partnership) a \_\_\_\_\_ [type of entity and state of  
incorporation or partnership], known to me to through  
\_\_\_\_\_ "either insert state and driver's license number  
or delete word through and insert personally" to be the person whose name is subscribed  
to the foregoing instrument and acknowledged that [insert letter s in front word 'he' if  
person signing is female] he executed the same for the purposes and consideration  
therein expressed.

Given under my hand and seal of office on \_\_\_\_\_, 2009.

\_\_\_\_\_

ACCEPTED: WATERSHED PROTECTION AND  
DEVELOPMENT REVIEW DEPARTMENT

CITY OF AUSTIN

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

**EXHIBIT A**

**BEING A 0.107 ACRE TRACT PREPARED BY DELTA SURVEY GROUP IN OCTOBER 2008 AND LOCATED IN THE JOSE ANTONIO NAVARRO GRANT, TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF A 745.12 (REMAINDER) ACRE TRACT DESCRIBED IN A DEED TO IVY BERDOLL FAMILY FARMS, INC. AND RECORDED IN VOLUME 10846 PAGE 237, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS, SAID 0.107 ACRE TRACT AS SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a 1/2 inch iron rod with plastic "Delta Survey" cap found in the south line of a 79.12 acre tract conveyed to Jeffrey Cooper and Robert Cooper in Document Number 2000022135, Official Public Records, Travis County, Texas, (unable to locate description), same being a northwest corner of Lot 11, Block F, Lexington Parke Section One Subdivision, a subdivision of record in Document Number 200400121, Official Public Records, Travis County, Texas, also being the northeast corner of said 0.107 acre tract for the **POINT OF BEGINNING**;

**THENCE** with the west line of the said Lot 11, same being the east line of the said 0.107 acre tract S30°21'11"W a distance of 93.64 feet a 1/2 inch iron rod with plastic "Delta Survey" cap found for the northeast terminus of Irvine Lane (50' right-of-way), same being a point in the west line of said Lot 11, also being the southeast corner of said 0.107 acre tract;

**THENCE** with the north line of the said Irvine Lane, same being the south line of the said 0.107 acre tract N59°38'49"W a distance of 50.00 feet a 1/2 inch iron rod with plastic "Delta Survey" cap found for the northwest terminus of said Irvine Lane, same being a point in the east line of Lot 1, Block Z, said Lexington Parke Subdivision, also being the southwest corner of said 0.107 acre tract;

**THENCE** with the east line of the said Lot 1, same being the west line of the said 0.107 acre tract N30°21'11"E a distance of 93.66 feet a 1/2 inch iron rod with plastic "Delta Survey" cap found for the northeast corner of said Lot 1, same being a point in the south line of said 79.12 acre tract, also being the northwest corner of said 0.107 acre tract;

Lexington Parke – Section 1  
0.107 Acre

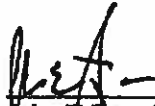
Page 2 of 3

**THENCE** with south line of said 79.12 acre tract, same being the north line of said 0.107 acre tract S59°37'24"E a distance of 50.00 feet to the **POINT OF BEGINNING** and containing 0.107 acre of land, more or less.

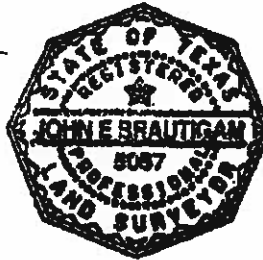
**BEARING BASIS:** Found 2 1/2 inch iron rod with plastic "KC ENG." Caps in the west ROW line of Ross Road as dedicated in Volume 13230 Page 88, Real Property Records, Travis County, Texas, held called bearing of N30°39'48"E and found distance of 1084.73 feet.

I, John E Brautigam, hereby certify that the foregoing description represents an on-the-ground survey performed under my direction and supervision during October 2008, and is true and correct to the best of my knowledge and belief.

Date: October 28, 2008



John E. Brautigam  
Registered Professional Land Surveyor  
No. 5057 State of Texas

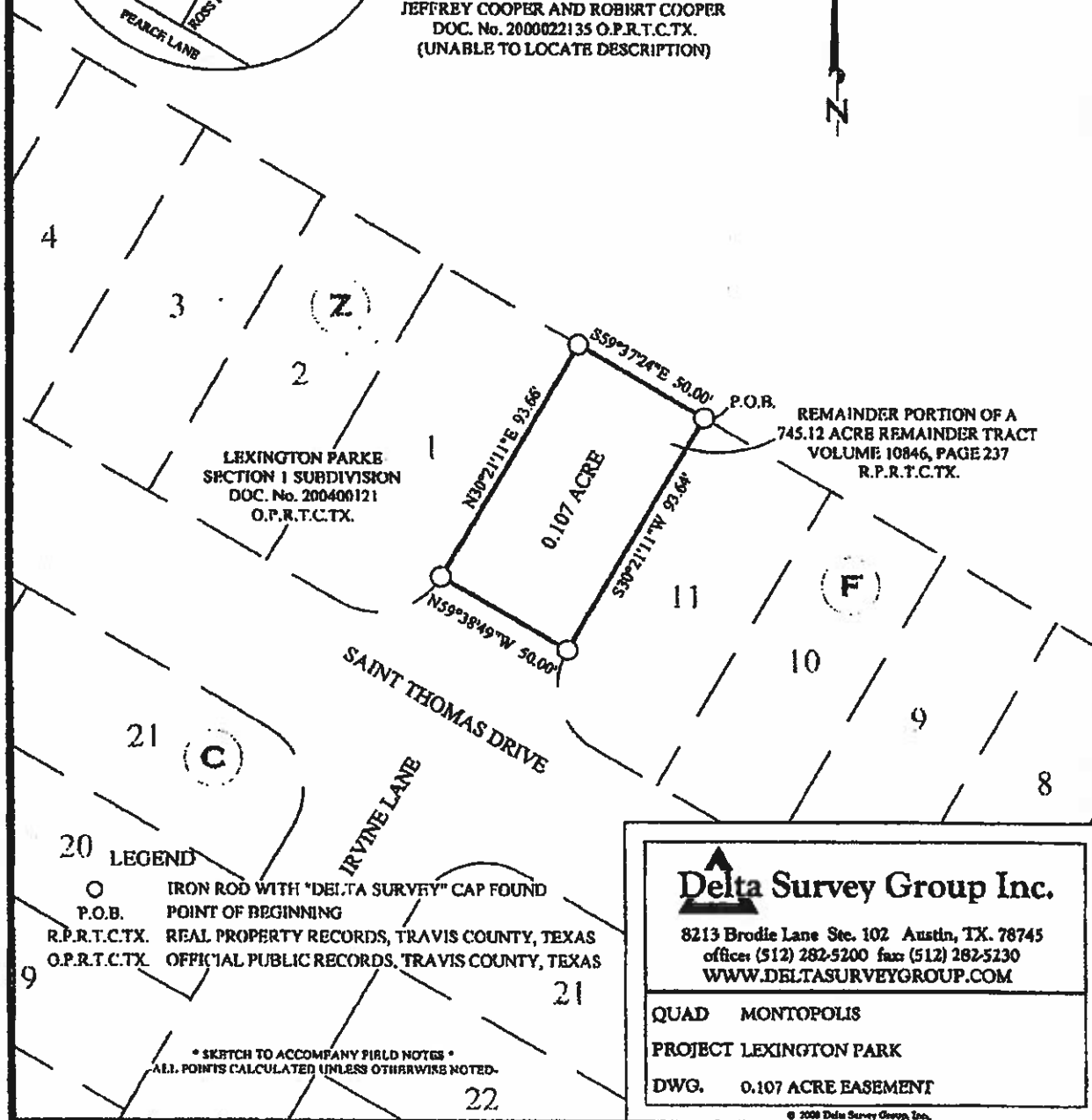


Delta Survey Group, Inc.  
8213 Brodie Lane, Suite 102  
Austin, Texas 78745



JOSE ANTONIO NAVARRO GRANT  
TRAVIS COUNTY, TEXAS  
OCTOBER 2008

79.12 ACRES  
JEFFREY COOPER AND ROBERT COOPER  
DOC. No. 2000022135 O.P.R.T.C.TX.  
(UNABLE TO LOCATE DESCRIPTION)



# 20 LEGEND

- IRON ROD WITH "DELTA SURVEY" CAP FOUND
- P.O.B. POINT OF BEGINNING
- R.P.R.T.C.TX. REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS
- O.P.R.T.C.TX. OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS

\* SKETCH TO ACCOMPANY FIELD NOTES \*  
ALL POINTS CALCULATED UNLESS OTHERWISE NOTED.

## **Delta Survey Group Inc.**

8213 Brodie Lane Ste. 102 Austin, TX. 78745  
office: (512) 282-5200 fax: (512) 282-5230  
WWW.DELTASURVEYGROUP.COM

QUAD MONTOPOLIS

PROJECT LEXINGTON PARK

DWG. 0.107 ACRE EASEMENT

© 2008 Delta Survey Group, Inc.

**EXHIBIT A**

**BEING A 0.108 ACRE TRACT PREPARED BY DELTA SURVEY GROUP IN OCTOBER 2008 AND LOCATED IN THE JOSE ANTONIO NAVARRO GRANT, TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF A 745.12 (REMAINDER) ACRE TRACT DESCRIBED IN A DEED TO IVY BERDOLL FAMILY FARMS, INC. AND RECORDED IN VOLUME 10846 PAGE 237, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS, SAID 0.108 ACRE TRACT AS SHOWN ON THE ACCOMPANYING SKETCH, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a concrete monument found in the south line of a 79.12 acre tract conveyed to Jeffrey Cooper and Robert Cooper in Document Number 2000022135, Official Public Records, Travis County, Texas, (unable to locate description), same being a northwest corner of Lot 11, Block Z, Lexington Parke Section One Subdivision, a subdivision of record in Document Number 200400121, Official Public Records, Travis County, Texas, also being the northeast corner of said 0.108 acre tract for the **POINT OF BEGINNING**;

**THENCE** with the west line of the said Lot 11, same being the east line of the said 0.108 acre tract S30°22'36"W a distance of 93.87 feet a 1/2 inch iron rod with plastic "Delta Survey" cap found for the northeast terminus of Stockton Lane (50' right-of-way), same being a point in the west line of said Lot 11, also being the southeast corner of said 0.108 acre tract;

**THENCE** with the north line of the said Stockton Lane, same being the south line of the said 0.108 acre tract N59°40'13"W a distance of 50.00 feet a 1/2 inch iron rod with plastic "Delta Survey" cap found for the northwest terminus of said Irvine Lane, same being a point in the east line of Lot 184, Block G, said Lexington Parke Subdivision, also being the southwest corner of said 0.108 acre tract;

**THENCE** with the east line of the said Lot 184, same being the west line of the said 0.108 acre tract N30°22'36"E a distance of 93.91 feet a 1/2 inch iron rod with plastic "Delta Survey" cap found for the northeast corner of said Lot 184, same being a point in the south line of said 79.12 acre tract, also being the northwest corner of said 0.108 acre tract;



Lexington Parke – Section 1  
0.108 Acre

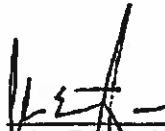
Page 2 of 3

**THENCE** with south line of said 79.12 acre tract, same being the north line of said 0.108 acre tract S59°37'24"E a distance of 50.00 feet to the **POINT OF BEGINNING** and containing 0.108 acre of land, more or less.

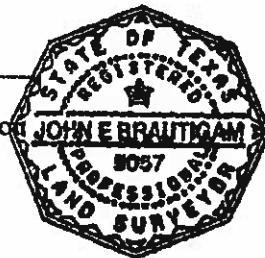
**BEARING BASIS:** Found 2 1/2 inch iron rod with plastic "KC ENG." Caps in the west ROW line of Ross Road as dedicated in Volume 13230 Page 88, Real Property Records, Travis County, Texas, held called bearing of N30°39'48"E and found distance of 1084.73 feet.

I, John E Brautigam, hereby certify that the foregoing description represents an on-the-ground survey performed under my direction and supervision during October 2008, and is true and correct to the best of my knowledge and belief.

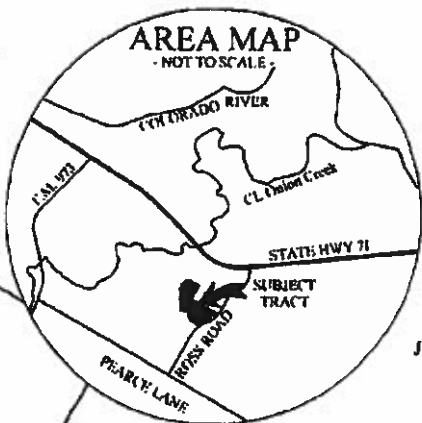
Date: October 28, 2008



John E Brautigam  
Registered Professional Land Surveyor  
No. 5057-State of Texas



Delta Survey Group, Inc.  
8213 Brodie Lane, Suite 102  
Austin, Texas 78745

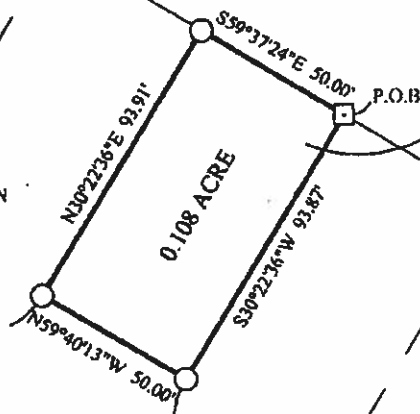


JOSE ANTONIO NAVARRO GRANT  
TRAVIS COUNTY, TEXAS  
OCTOBER 2008

79.12 ACRES  
JEFFREY COOPER AND ROBERT COOPER  
DOC. No. 2000022135 O.P.R.T.C.TX.  
(UNABLE TO LOCATE DESCRIPTION)



LEXINGTON PARKE  
SECTION 1 SUBDIVISION  
DOC. No. 200400121  
O.P.R.T.C.TX.



REMAINDER PORTION OF A  
745.12 ACRE REMAINDER TRACT  
VOLUME 10846, PAGE 237  
R.P.R.T.C.TX.

SAINT THOMAS DRIVE

STOCKTON LANE

#### LEGEND

- IRON ROD WITH "DELTA SURVEY" CAP FOUND
- CONCRETE MONUMENT FOUND
- P.O.B. POINT OF BEGINNING
- R.P.R.T.C.TX. REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS
- O.P.R.T.C.TX. OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS

\* SKETCH TO ACCOMPANY FIELD NOTES \*  
-ALL POINTS CALCULATED UNLESS OTHERWISE NOTED-

### Delta Survey Group Inc.

8213 Brodie Lane Ste. 102 Austin, TX. 78745  
office: (512) 282-5200 fax: (512) 282-5230  
WWW.DELTASURVEYGROUP.COM

QUAD MONTOPOLIS

PROJECT LEXINGTON PARK

DWG. 0.108 ACRE EASEMENT

© 2008 Delta Survey Group, Inc.

**Ownership and Lien Certificate**

Issued: 2-9-2009

This is to certify that North American Title Company has researched the following described Property and Owner through 2-2-2009 in Travis County, Texas to determine any Liens affecting the same and find the following:

**Legal Description:**

0.107 acre of land, more or less, out of the Jose Antonio Navarro Grant, Travis County, Texas.

And

0.108 acre of land, more or less, out of the Jose Antonio Navarro Grant, Travis County, Texas.

Both said tracts being more particularly described by metes and bounds attached hereto collectively as Exhibit "A".

**Owner:**

~~Warranty Deed~~ LEXINGTON 281, L.P., a Texas Limited Partnership, by virtue of Special Warranty Deed recorded under Document No.2007024509, Official Public Records of Travis County, Texas.

**Liens:**

Deed of Trust and Security Agreement dated 12-19-2005, recorded under Document No.2005238146, Official Public Records of Travis County, Texas, executed by Lexington Parke Partners, Ltd., to Thomas J. McCaffrey, Trustee, securing a note in the amount of \$3,417,456.00, payable to First Continental Investment Co., Ltd. (affects additional property)

Deed of Trust and Security Agreement dated 1-31-2007, recorded under Document No.2007024510, Official Public Records of Travis County, Texas, executed by Lexington 281 LP, to Thomas J. McCaffrey, Trustee, securing a note in the amount of \$5,600,000.00, payable to First Continental Investment Co., Ltd. (affects additional property)

\*Copies of all documents referenced herein are attached hereto for all purposes.

The Liability of North American Title shall be limited to the cost charged for this certificate.



Mark Albritton  
Title Examiner

## FULL RELEASE OF LIENS

THE STATE OF TEXAS	§	
	§	
COUNTY OF TRAVIS	§	KNOW ALL MEN BY THESE PRESENTS:

For the purposes of this Full Release of Liens instrument, the terms set forth below shall have the following meanings:

(a) **Holder:** The present owner and holder of the Note is First Continental Investment Co., Ltd., a Texas limited partnership.

(b) **Holder's Liens:** The liens which cover the Subject Property and secure the payment of the Note are:

(i) Deed of Trust and Security Agreement dated December 28, 2005, executed by LEXINGTON PARKE PARTNERS, Ltd., a Texas limited partnership ("Owner"), to Thomas J. McCaffrey, Trustee, recorded in the Official Public Records of Real Property of Travis County, Texas, under Clerk's File No. 2005238146 ("Deed of Trust"); as modified by document recorded in the Official Public Records of Real Property of Travis County, Texas under Clerk's File No. 2006002311;

(ii) UCC Financing Statement executed by Owner for the benefit of Holder, recorded in the Official Public Records of Real Property of Travis County, Texas, under Clerk's File No. 2005238147;

(iii) UCC Financing Statement executed by Owner for the benefit of Holder, recorded in the Office of the Secretary of State of Texas under File No. 05-0039491091.

(c) **Note:** One certain Promissory Note dated December 28, 2005, in the original principal sum of \$3,417,456.00, executed by Owner, payable to the order of Holder, as modified and extended.

(d) **Subject Property:** The real property, together with any improvements thereon, described in the Deed of Trust, save and except any portion of such real property heretofore released.

For and in consideration of the payment in full of all sums due pursuant to the Note, the receipt of which consideration is hereby confessed and acknowledged by the Holder, the Holder does hereby RELEASE, DISCHARGE and FOREVER ACQUIT the Subject Property from the Holder's Liens and any other liens securing the payment of the Note.

EXECUTED this 27<sup>th</sup> day of February, 2009.

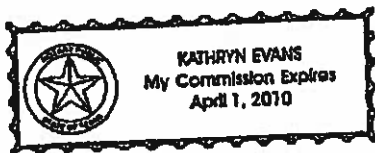
FIRST CONTINENTAL INVESTMENT CO., LTD., a  
Texas limited partnership

By: Todd Aiken  
Todd Aiken, Executive Vice President

STATE OF TEXAS           §  
                                     §  
COUNTY OF HARRIS   §

Before me Kathryn Evans on this day personally appeared Todd Aiken,  
Executive Vice President of FIRST CONTINENTAL INVESTMENT CO., LTD., a Texas  
limited partnership, known to me to be the person whose name is subscribed to the foregoing  
instrument and acknowledged to me that he executed the same for the purposes and  
consideration therein expressed.

Given under my hand and seal of office this 27<sup>th</sup> day of February, 2009.



Kathryn Evans  
NOTARY PUBLIC, STATE OF TEXAS