RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-85-339(RCA) / East Yager Lane Restrictive Covenant Amendment

ZAP DATE: July 7, 2009
May 5, 2009
April 7, 2009
March 17, 2009
March 3, 2009

ADDRESS: 400 – 900 Block of East Yager Lane

OWNER: Allen Samuels Realty, (Jeff Wooley) (254) 761-6800
Solo Star Realty Inc., (John McCormack) (713) 935-4418
Burton Landing L.L.C. (Robert S. Peek, Jr. (225) 924-3300
Austin Korean Presbyterian Church

AGENT: Armbrust & Brown (Amanda Morrow) 512-435-2368

ZONING: LO / LR / MF-2 / SF-6

SITE AREA: 101.79 acres (4,433,972.4 sq. ft.)

SUMMARY STAFF RECOMMENDATION: Staff recommends the Applicant's request to amend the Restrictive Covenant to combine Section 3 and Section 4 to read "At time of preliminary plan approval, the area identified on Exhibit "B" shall be dedicated to the City for parkland purposes in order to comply with the Parkland Ordinance for the property described on Exhibit "C". This amendment will identify the specific area of land that will be dedicated as parkland. In addition, staff has an alternate recommendation to deleting the requirement to construct a four-lane roadway. Staff's alternative amendment will revise Section 8 of the Restrictive Covenant to state "A residential collector with 60 feet of right-of-way and 40 feet of pavement shall be provided as generally described on Exhibit "D"".

ZONING AND PLATTING RECOMMENDATION: On July 7, 2009, the Zoning and Platting Commission *APPROVED* the staff's recommendation for the Restrictive Covenant Amendment on the Consent Agenda by Commissioner Keith Jackson's motion, Commissioner Cynthia Banks second the motion on a vote of 6-0. Commissioner Jay Gohil was absent.

(This case was postponed by staff on March 3, 2009, by the applicant on March 17, 2009, jointly by the staff and applicant on April 7, 2009 and by the applicant on May 5, 2009).

ISSUES: The Applicant is in agreement with the staff's recommendations.

The Copperfield Neighborhood Organization, the Friends of Copperfield Nature Trails, and the Northeast Walnut Creek Neighborhood Association have provided letters of support for the proposed Restrictive Covenant Amendment.

DEPARTMENT COMMENTS: This Restrictive Covenant was executed in conjunction with a 1985-1987 rezoning request (C14-85-339). This Restrictive Covenant encumbers approximately 101.79 acres of land. This amendment is requested for a 61.751 acre tract and it is zoned LO, LR, MF-2 and SF-6.

The restrictions listed under Section 3 and Section 4 of the Covenant requires land east of the drainage easement on Block B, Lot 7 and Block B, Lot 8 to be dedicated to the City prior to a Certificate of Occupancy to comply with the Parkland Ordinance. However, the Restrictions do not include an exhibit that identifies the area that will be dedicated to the city. The proposed amendment will identify the specific areas which will be dedicated as parkland at the time of preliminary plan approval.

In addition, the restriction listed under Section 8 of the Covenant requires the owner to construct a four-lane divided roadway, with 90 feet of right-of-way. The applicant maintains that since the Covenant was recorded there have been numerous roadway improvements that have occurred in the area. Therefore, it is the applicant's desire to develop the property with a less intense use than the existing MF-2, LO and LR zoning districts (there is a pending rezoning application to rezone this area to SF-6 under case number C14-2008-0193) and to delete the large roadway section. Staff understands the applicant's concerns; however, the alternative recommendation is to provide a residential collector with 60 feet of right-of-way and 40 feet of pavement. The staff position is that a collector street is necessary to provide the connectivity from IH-35 to Yager Lane, and the collector section is a more appropriate roadway section for the uses in the area.

The staff recommendation is to approve the requested Restrictive Covenant Amendment that will dedicate specific areas of parkland and reduce the size of the right-of-way.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LO / LR / MF-2	Undeveloped
North	P / MF-2 / SF-6	Undeveloped / Apartments
South	SF-2	Single-family residences
East	DR / SF-2	Town homes / Single-family residences
West	GO / GR-CO / MF-3-CO	Apartments / VFW Hall / Undeveloped

NEIGHBORHOOD PLAN AREA: The property does not lie within a designated neighborhood planning area.

WATERSHED: Walnut Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:
Home Builders Association of Greater Austin
Northeast Walnut Creek Neighborhood Assn.
North Growth Corridor Alliance
Austin Neighborhoods Council
Homeless Neighborhood Organization
Yager Planning Area
NorthEast Action Group

SCHOOLS:
Austin Independent School District
Graham Elementary School Dobie Middle School Reagan High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-03-0151 – 12301 BLOCK OF N I 35 SVC RD NB – ALLEN SAMUELS DODGE	From GO and LO to GR	12/2/2003 APVD STAFF ALT REC OF GR-CO W/CONDS (6-0-3, JM/MW/BB-ABSTAIN) The CO limits vehicle trips to 2,000 per day and Prohibits: Cultural Services, Daycare Services (Commercial, General, Limited), Guidance Services, Hospital Services (Limited), Local Utility Services, Private Primary and Secondary Educational Facilities, Public Primary and Secondary Educational Facilities, College and University Facilities, Communication Service Facilities, Community Recreation (Private, Public) Congregate Living, Residential Treatment, Safety Services, Art and Craft Studio (Limited), Business or Trade School, Business Support Services, Communication Services, Drop-Off Recycling Collection Facility, Exterminating Services, Financial Services, Food Sales, Funeral Services, General Retail Sales (Convenience, General), Indoor Entertainment, Indoor and Outdoor Sports and Recreation, Medical Offices, Pawn Shop Services, Personal Improvement Services, Personal Services, Pet Services, Professional Office, Research Services Restaurant (Drive-In, Fast Food, Limited and General) Service Station Software Development, Theater, Hospital Services (General), Club or Lodge, Outdoor Entertainment, Plant Nursery, Special Use Historic.	1/8/2004 APVD GR-CO (7-0); ALL 3 RDGS [HOTEL/MOTEL ADDED TO LIST OF PROHIBITED USES]
C14-00-2084 – 500 VFW RD – V.F.W. POST	From DR to GR	6/27/2000 APVD STAFF REC of GO-CO, w/2,000 vehicle trips per day limit BY CONSENT (9-0)	8/3/2000 APVD GO-CO ON ALL 3 RDGS (7-0)
C14-00-2150 – 305 E YAGER LN – CANYON RIDGE APARTMENTS	From GO,GR to MF-3	8/29/2000 APVD STAFF REC W/CONDITIONS OF NO MORE THAN 18 UNITS PER ACRE, 2000 VEHICLE TRIP LIMITATION (5-1, RV-NAY)	10/5/2000 APVD MF-3-CO (5-0) ALL 3 RDGS

TRANSPORTATION

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
East Yager Lane/ Canyon Ridge Drive	80'	33'	Collector	10,112 (COA, 2008)
Peggotty Place	64'	41'	Collector	Not available
Olmos Drive	50'	Varies	Local	Not available
VFW Road	70'	Varies	Collector	Not available

Staff Recommendation: Right-of-way for the proposed Park North Drive should be reduced to residential collector standard (60' wide). Connectivity is needed in accordance with § 25-4-157(B) which requires a new subdivision to connect to at least two access streets. In addition, each of the two access streets must connect to a different external street. Connectivity is also needed to provide emergency access.

A traffic impact analysis was submitted in support of the related zoning case (City of Austin case number C14-2008-0193). A traffic impact analysis was not required for this case because the traffic generated by the proposed restrictive covenant amendment does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

There are no existing sidewalks along East Yager Lane.

East Yager Lane is classified in the Bicycle Plan as a Priority 1 bike route (route #8).

Capital Metro bus service (route no. 392) is available along East Yager Lane.

RELATED CASES: C14-85-339 – Original Rezoning Case

CITY COUNCIL DATE:	**ACTION:**
April 2, 2009	This item was postponed to May 14, 2009 at the applicant's request on consent on Council Member Morrison's motion, Council Member Leffingwell's second on a 7-0 vote.
May 14, 2009	This item was postponed on consent to July 23, 2009 at the staff's request on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.
July 23, 2009	This item was postponed on consent to August 6, 2009 at the applicant's request on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
August 6, 2009	This item was postponed on consent to August 20, 2009 at the applicant's request

on Council Member Spelman's motion, Council Member Shade's second on a 7-0 vote.

August 20, 2009

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Joi Harden **PHONE:** 974-2122
E-MAIL: joi.harden@ci.austin.tx.us

RESTRICTIVE COVENANT

4 22 9897

THE STATE OF TEXAS
COUNTY OF TRAVIS

§ KNOWN ALL MEN BY THESE PRESENTS:

2:14 PM 6967 47.00 INDX
3 3 05/14/87
6353.57-CHK#
.99-DOC#

WHEREAS, VCMS INVESTMENTS of Travis County, Texas, is Owner of the following described property ("Property"):

All that certain tract, piece or parcel of land, lying and being situated in the County of Travis, State of Texas, described in Exhibit "A" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property;

and,

WHEREAS, the City of Austin, Texas, and the Owner of the Property have agreed that the Property should be impressed with certain covenants and restrictions running with the land, and desire to set forth such agreement in writing;

NOW THEREFORE, in consideration of One and No/100 Dollars ($1.00) and other good and valuable consideration paid by the City of Austin in hand to the Owner, the receipt and sufficiency of which is acknowledged, the Owner does hereby impress upon the Property, the following covenants and conditions which shall be considered to be covenants running with the land, and which shall be binding on the Owner, its successors and assigns, as follows:

1. A site plan will be submitted to the City on each lot and will be reviewed under Section 6100 et seq. of Chapter 13-2A of the City Code of 1981, as amended.

2. Each site plan will be accompanied by a supplemental traffic report which examines local driveway and curb cut designs, signal warrants, intersection operations and other necessary transportation conditions in the immediate local vicinity of the site and must be approved by the Director of the Office of Land Development Services prior to the issuance of a building permit for the development sites covered by each site plan. The Thirty-Five North development shall provide fiscal participation based on a pro rata share of site traffic in intersection improvements identified in the traffic report.

3. The area east of the drainage easement on Block B, Lot 7 will be dedicated to the City prior to the issuance of a certificate of occupancy to comply with the Parkland Ordinance.

4. Additional land from Block B, Lot 8, as noted in condition 3, will be dedicated to the City prior to the issuance of a certificate of occupancy to comply with the Parkland Ordinance.

5. Lot 5, Block B (as designated in Exhibit "A") shall be limited to a maximum of six units per acre.

6. There shall be no structures on the Property with glass having a reflectivity of greater than twenty (20) percent.

7. All intersection impacted by the Thirty-Five North project must operate at no less than a level of Service D after site generated traffic is added to the traffic existing as of the date of the traffic report.

8. Owner will revise the final plat of Thirty-Five North (subdivision City of Austin case number C8-85-127) as a four-lane divided roadway, with 90 feet of right-of-way.

REAL PROPERTY RECORDS
Travis County, Texas

85-339

9. If any person or entity shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law or in equity, against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

10. If any part of this agreement or covenant shall be declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

11. If at any time the City of Austin, its successors or assigns, fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

12. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owner(s) of the Property at the time of such modification, amendment or termination.

EXECUTED this the 5 day of March, 1987.

VCMI INVESTMENTS

BY:VCMI Corporation, Partner

BY: Vance C. Miller
VCMI Corp., President

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on March 5, 1987, by Vance C. Miller, President of VCMI Corporation, a Texas Corporation, on behalf of said corporation, and the corporation acknowledged this instrument as partner on behalf of VCMS INVESTMENTS, a partnership.

M. Louise Kadyko
Notary Public, State of Texas

M. Louise KADYKO
Notary's Name (Printed)

Notary's commission expires: NOTARY SEAL
2-2-88

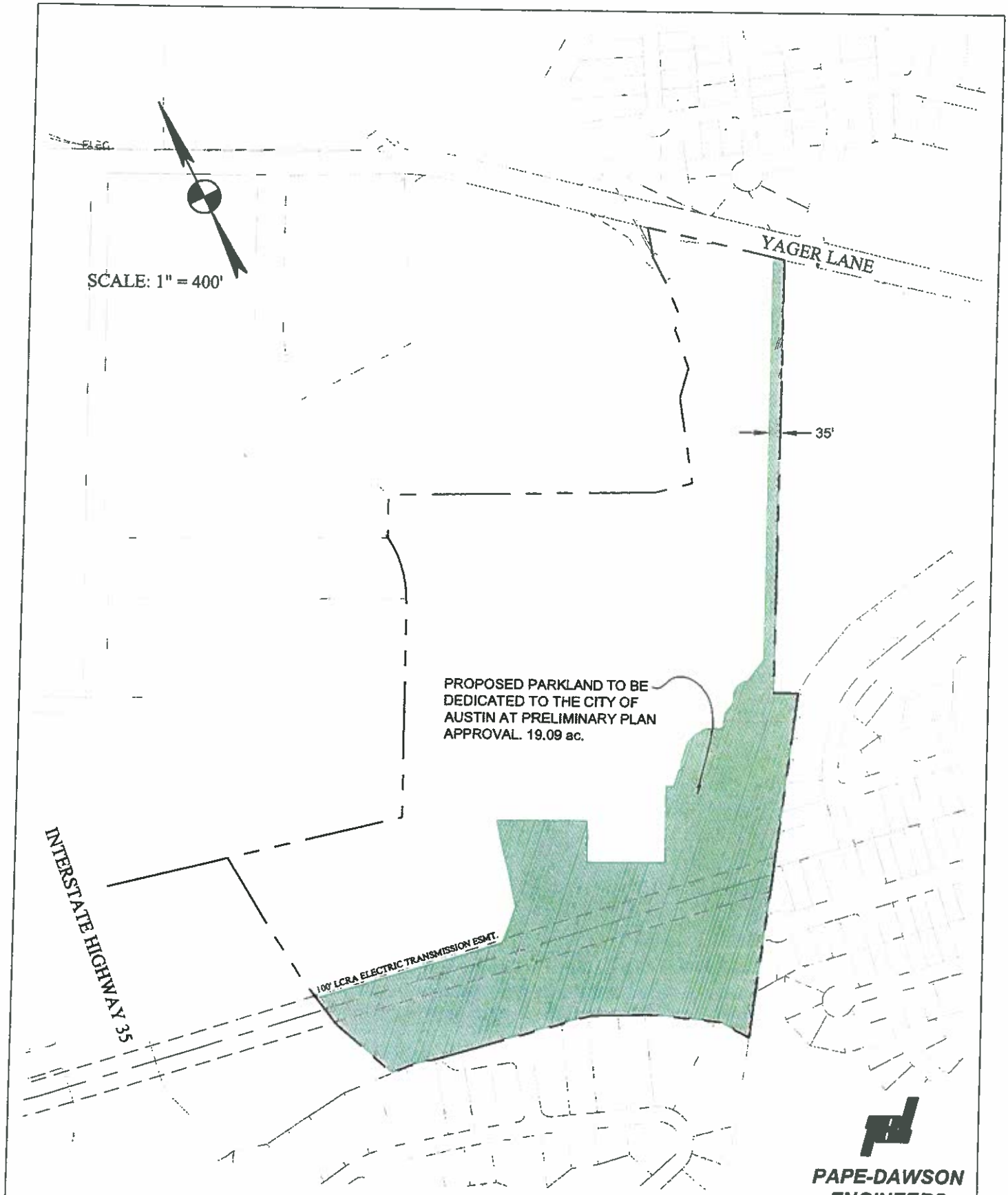


EXHIBIT "B"

PAPE-DAWSON ENGINEERS
7800 SHOAL CREEK BLVD.
SUITE 220 WEST
AUSTIN, TEXAS 78757
512-454-8711

61.751 ACRES
TRACT 1
IH 35 & YAGER LANE

EXHIBIT C

FN NO. 08-478(AJM)
AUGUST 8, 2008
BPI JOB NO. 1144-06

DESCRIPTION

OF 61.751 ACRES OF LAND OUT OF THE J.A.G. BROOKE SURVEY NO. 79, SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PART OF THE REMAINING PORTION OF THAT CERTAIN 103.397 ACRE TRACT OF LAND CONVEYED TO SOLO STAR REALTY, INC. BY DEED OF RECORD IN VOLUME 12056, PAGE 1563 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 61.751 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found in the southerly line of Yager Lane (80' R.O.W.), being the northwesterly corner of Lot 1, Block "A" Coppertree, a subdivision of record in Book 84, Pages 121A-121B of the Plat Records of Travis County, Texas, same being the northeasterly corner of said remaining portion of 103.397 acre tract, for the northeasterly corner hereof;

THENCE, S30°32'27"W, leaving the southerly line of Yager Lane, along the easterly line of said remaining portion of 103.397 acre tract, same being the westerly line of said Lot 1, a distance of 1393.73 feet to a 1/2 inch iron rod found at the southwesterly corner of said Lot 1 for an angle point in the easterly line hereof;

THENCE, S59°44'43"E, along a portion of the southerly line of said Lot 1, same being a portion of the easterly line of said remaining portion of 103.397 acre tract, a distance of 78.46 feet to the northerly common corner of Lot 30 and Lot 31 Block "A", Copperfield Section Two-B, a subdivision of record in Book 85, Pages 32B-32C of said Plat Records, for an angle point in the easterly line hereof;

THENCE, leaving the southerly line of said Lot 1, continuing along a portion of the easterly line of said remaining portion of 103.397 acre tract, same being the westerly line of said Copperfield Section Two-B, and in part along the westerly line of that certain tract of land conveyed to the City of Austin by Deed of record in Volume 10467, Page 762 of said Real Property Records, for the remainder of the easterly line hereof, the following three (3) courses and distances:

1) S37°15'34"W, a distance of 607.99 feet to an angle point hereof;

2) S37°49'09"W, a distance of 379.26 feet to a 1/2 inch iron rod found at the northwest corner of said City of Austin Tract, being the southwesterly corner of Lot 154 of said Copperfield Section Two-B, for an angle point hereof;

3) S36°54'26"W, a distance of 125.76 feet to a point in the westerly line of said City of Austin Tract, same being the northeasterly corner of Lot 16 of North Oaks, a subdivision of record in Volume 7, Page 108 of said Plat Records, same also being a point at or near the approximate center of Walnut Creek, for the southeasterly corner hereof;

THENCE, along a line at or near the approximate center of Walnut Creek, being a portion of the northerly of said North Oaks, same being along a portion of the southerly line of the remaining portion of said 103.397 acre tract, for the southerly line hereof, the following five (5) courses and distances

1) N32°01'30"W, a distance of 108.74 feet for an angle point;

2) N54°31'30"W, a distance of 226.02 feet for an angle point;

3) N60°59'06"W, a distance of 180.66 feet for an angle point;

4) N75°39'27"W, a distance of 605.76 feet for an angle point;

5) N84°41'36"W, a distance of 52.92 feet to a P.K. nail set at or near the approximate center of Walnut Creek, being the northerly line of Lot 6 North Oaks, for the southwesterly corner hereof;

THENCE, leaving the northerly line of said North Oaks Subdivision, over and across the remaining portion of said 103.397 acre tract, along a line at or near the center of an existing creek, for a portion of the easterly line hereof, the following four (4) courses and distances:

1) N18°37'33"W, a distance of 238.03 feet to a P.K. nail set for an angle point;

2) N07°22'10"W, a distance of 187.49 feet to a P.K. nail set for an angle point;

3) N02°51'09"W, a distance of 181.09 feet for to a P.K. nail set for an angle point;

4) N01°31'26"W, a distance of 268.95 feet to a 1/2 inch iron rod with cap set in the southerly line of that certain 11.846 acre tract of land conveyed to Allen Samuels Realty, Inc. by deed of record in Document No. 2004028378 of the Official Public Records of Travis County, Texas, from which a 1/2 inch iron rod with cap found in the easterly right-of-way line of Interstate Highway No. 35, (R.O.W. width varies) same being the southwesterly corner of said 11.846 acre tract, bears N73°24'31"W, a distance of 395.02 feet;

THENCE, S73°24'31"E, along a portion of the common southerly line of said 11.846 acre tract and said remaining portion of 103.397 acre tract, a distance of 567.19 feet to a 1/2 inch iron rod with cap found at the southeasterly corner of said 11.846 acre tract and an angle point hereof;

THENCE, N30°15'25"E, along a portion of the common easterly line of said 11.846 acre tract and said remaining portion of 103.397 acre tract, a distance of 376.11 feet to a 1/2 inch iron rod with cap set at the northeasterly corner of said 11.846 acre tract, being the southeasterly terminus of V.F.W. Road (60' Wide R.O.W.), for an angle point in the westerly line hereof, from which a 1/2 inch iron rod with cap found bears S31°08'40"W, a distance of 0.34 feet;

THENCE, N31°08'40"E, leaving the northerly line of said 11.846 acre tract, continuing along said remaining portion of 103.397 acre tract and along the easterly terminus of said V.F.W. Road, a distance of 60.01 feet to a 1/2 inch iron rod found at the southeasterly corner of that certain 10.48 acre tract of land conveyed to Veterans of Foreign Wars of the United States, Inc., Capitol City Post #8787 by deed of record in Volume 3555, Page 659 of said Real Property Records;

THENCE, leaving the northerly right-of-way line of V.F.W. Road, along the easterly lines of said 10.48 acre tract, that certain 4.170 acre tract conveyed to Veterans of Foreign Wars of the United States, Inc., Capitol City Post #8787 by deed of record in Volume 9280, Page 432 of said Real Property Records, and the easterly line of North Park Addition Section One, a subdivision of record in Document No. 200200321 of said Official Public Records, also being a portion of the westerly line of said remaining portion of 103.397 acre tract, the following six (6) courses and distances:

1) N30°04'14"E, a distance of 259.53 feet to a 1/2 inch iron rod found at the common easterly corner of said 10.48 acre tract and said 4.170 acre tract for the point of curvature of a non-tangent curve to the left;

2) Along said non-tangent curve to the left having a radius of 375.00 feet, a central angle of 47°28'41", passing the common easterly corner of said 4.170 acre tract and said 14.491 acre tract at an arc length of 207.81 feet, and continuing for a total arc length of 310.74 feet and a total chord which bears N06°17'29"E, a distance of 301.93 feet to a 1/2 inch iron rod found;

3) N17°23'25"W, a distance of 214.28 feet to a 1/2 inch iron rod found at the point of curvature of a non-tangent curve to the right;

4) Along said non-tangent curve to the right having a radius of 655.15 feet, a central angle of 47°44'50", an arc length of 545.97 feet and a chord which bears N06°25'36"E, a distance of 530.31 feet to a 1/2 inch iron rod found at the end of said curve;

5) N30°19'22"E, a distance of 435.75 feet to a 1/2 inch iron rod found at the point of curvature of a non-tangent curve to the left;

6) Along said non-tangent curve to the left having a radius of 25.00 feet, a central angle of 90°12'10", an arc length of 39.36 feet and a chord which bears N14°39'06"W, a distance of 35.42 feet to a 1/2 inch iron rod found in the southerly right-of-way line of Yager Lane, being the northeasterly corner of said North Park Addition, same being the northernmost northwesterly corner of said remaining portion of 103.397 acre tract and the northwesterly corner hereof;

THENCE, S59°40'13"E, along a portion of the common line of said remaining portion of 103.397 acre tract and Yager Lane, a distance of 140.04 to a 1/2 inch iron rod found, being the northwesterly corner of that certain 6.32 acre tract of land conveyed to Austin Korean Presbyterian Church by deed of record in Document No. 2005241340 of said Official Public Records, for an angle point in the irregular northerly line hereof;

THENCE, leaving the southerly right-of-way line of Yager Lane, along the westerly lines of said 6.32 acre tract, and that certain 19.854 acre tract of land conveyed to Austin Korean Presbyterian Church by deed of record in Document No. 2005241338 of said Official Public Records, same being a portion of the irregular northerly line of said remaining portion of 103.397 acre tract, for a portion of the irregular northerly line hereof, the following four (4) courses and distances:

1) Along a curve to the left having a radius of 25.00 feet, a central angle of 89°55'23", an arc length of 39.24 feet and a chord which bears S75°20'20"W, a distance of 35.33 feet to a 1/2 inch iron rod found at the end of said curve;

2) S30°19'22"W, a distance of 435.82 feet to the point of curvature of a non-tangent curve to the left;

3) Along said non-tangent curve to the left having a radius of 565.15 feet, a central angle of 47°45'08", passing a 1/2 inch iron rod found at an arc length of 287.58 feet and continuing for a total arc length of 471.01 feet and a total chord which bears S06°25'19"W, a distance of 457.50 feet to the end of said curve;

4) S17°23'25"E, a distance of 214.19 feet to a 1/2 inch iron rod with cap set at the southwesterly corner of said 19.854 acre tract and an angle point hereof;

THENCE, along the irregular northerly line of said remaining portion of 103.397 acre tract, being the southerly and easterly line of said 19.854 acre tract, for a portion of the irregular northerly line hereof, the following nine (9) courses and distances:

1) S60°32'42"E, a distance of 847.51 feet for an angle point;

2) S74°13'59"E, a distance of 122.04 feet for an angle point;

3) N21°03'11"E, a distance of 278.00 feet for an angle point;

4) N44°33'11"E, a distance of 100.00 feet for an angle point;

5) N10°33'11"E, a distance of 130.00 feet for an angle point;

6) N43°33'11"E, a distance of 50.00 feet for an angle point;

7) N07°03'11"E, a distance of 100.00 feet for an angle point;

8) N03°03'11"E, a distance of 100.00 feet for an angle point;

9) N18°33'11"E, a distance of 100.00 feet to a 1/2 inch iron rod with cap set at the northeasterly corner of said 19.854 acre tract, same being a point in the southerly line of Yager Lane and an angle point in the irregular northerly line of said remaining portion of 103.397 acre tract, for an angle point in the irregular northerly line hereof;

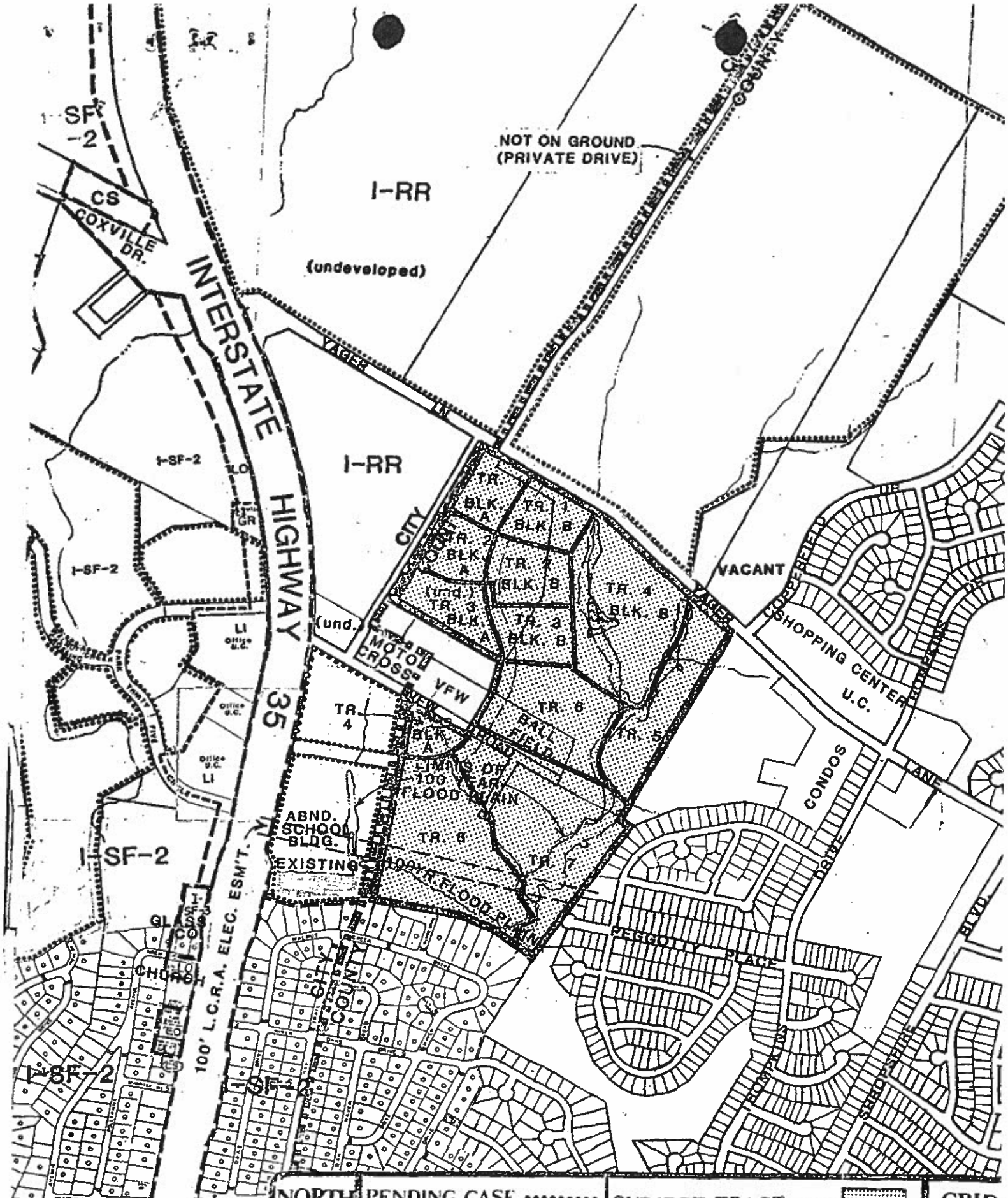
THENCE, S46°37'31"E, leaving the easterly line of said 19.854 acre tract, along a portion of the southerly line of said Yager Lane, a distance of 448.36 feet to the **POINT OF BEGINNING**, containing an area of 61.751 acres (2,689,856 sq. ft.) of land, more or less, within these metes and bounds.

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. THIS FIELDNOTE WAS PREPARED TO ACCOMPANY A LAND TITLE SURVEY.

BURY & PARTNERS, INC.
ENGINEERS-SURVEYORS
221 WEST SIXTH STREET. STE. 600
AUSTIN, TEXAS 78701

8/8/08
MARK J. JEZISEK
R.P.L.S. NO. 5267
STATE OF TEXAS

STATE OF TEXAS
REGISTERED
MARK JERRY JEZISEK
5267
PROFESSIONAL
LAND SURVEYOR


SF-2
CS
COXVILLE DR.
NOT ON GROUND (PRIVATE DRIVE)
I-RR
(undeveloped)
INTERSTATE HIGHWAY 35
VAGER LN
I-SF-2
LO
GR
I-RR
CITY LIMITS
TR. 1 BLK. A
TR. 1 BLK. B
TR. 2 BLK. A
TR. 2 BLK. B
(und.) TR. 3 BLK. A
TR. 3 BLK. B
TR. 4 BLK. B
(und.)
MOTO CROSS
VFW
TR. 4
TR. 6
BALL FIELD
TR. 5
LIMITS OF 100 YEAR FLOOD PLAIN
ABND. SCHOOL BLDG.
EXISTING
TR. 8
TR. 7
100 YR. FLOOD PLAIN
VACANT
COPPERFIELD
SHOPPING CENTER
U.C.
CONDOS
LANE
DRIVE
PEGGOTTY PLACE
BLVD.
LI
office U.C.
I-SF-2
GLASS CO
CHURCH
100' L.C.R.A. ELEC. ESM'T.
CITY LIMITS
I-SF-2
I-SF-2
NORTH
PENDING CASE
ZONING LINE
CYCLE 12/85 INTLS tj
SUBJECT TRACT
SUBJECT ACREAGE 101.1 AC.
CASE NO: C14-85-339
GRID
M & I
33

Friends of Copperfield Nature Trails

www.copperfieldtrails.org

January 11, 2009

Joi Harden
Neighborhood Planning and Zoning Department
505 Barton Springs, 5th Floor
Austin, Texas 78701

Dear Joi Harden,

I am writing to express my support for the application to amend the Restrictive Covenant, City File # C14-85-339 submitted by Amanda Morrow on behalf of Solo Star Realty, Inc.

The Friends of Copperfield Nature Trails formed in 2006 to improve the Walnut Creek greenbelt surrounding our neighborhood. As an Adopt-a-Park partner with City of Austin Parks Department, we have created trails through the existing greenbelt that adjoins this property along Walnut Creek.

This developer's attention to their property's natural features and potential for trails is evident in their parkland dedication. The area to be dedicated for park purposes allows a trail entrance at Peggotty as well as a connection to Yager Lane on the west side of our neighborhood. This benefits all area residents by increasing access to the trails, greenbelt, and Walnut Creek. Additionally, the parkland dedication allows this segment of trail to connect to a larger Walnut Creek trail system proposed by Parks Department.

In conclusion, I fully support their desire to combine Section 3 and 4 of the restrictions to clarify the parkland dedication as shown on Exhibit "B" submitted to you on December 30, 2008. If you have questions or need further clarification, please contact me.

Sincerely,

Alice Penney

Alice Penney, Coordinator
alicepenney@sbcglobal.net
1411 Alma Drive
Austin, Texas 78753
512-835-2401

cc: Amanda Morrow, Armbrust & Brown, LLP (via email)
Ricardo Soliz, City of Austin Parks Planning (via email)

CNO
Copperfield Neighborhood Organization

Steering Committee

Mike Dunn, *Chairperson*

Jocelyn Doherty, *Treasurer*

Cindy Metcalf, *Fun Club*

VACANT, *Beautification*

VACANT, *Code Education*

Stacy & Jim Sass, *Safety*

Judith Ruder, *Membership, Communications & Planning*

March 9, 2009

Joi Harden, Case Manager
Watershed Protection and Development Review
City of Austin
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Re: Rezoning Case Number: C14-2008-0193 and
Restrictive Covenant Amendment Case Number: C14-85-339(RCA)

Dear Ms. Harden,

On behalf of the Copperfield Neighborhood Organization, this letter is to inform you that we support the proposed rezoning case number C14-2008-0193 and the restrictive covenant amendment case number C14-85-339(RCA) for the property located at the 500 block of VFW Road in Austin, Texas 78753. Our neighborhood association has worked closely with the landowner on the specifics of this project.

We understand that the proposed project will rezone the property from MF-2, LO and LR to SF-6 to create a residential development. Furthermore, we understand that this zoning request will downzone the property, and apartment use will no longer be allowed on the property. The zoning change will also provide an appropriate transition from more intense uses along IH-35 and our subdivision.

We also understand that the landowner proposes to amend the public restrictive covenant that affects that property. The proposed amendment will:
a) delete the requirement to construct a four-lane divided roadway, with 90 feet of right-of-way through the landowners property,
b) identify the specific parkland area, which will result in a significant amount of parkland that will be dedicated to the City of Austin, and
c) resolve the ambiguity of the restrictive covenant as it relates to an unrecorded final plat.

1006 East Vacer Lane, Suite B201, Austin Texas 78753
Copperfield@CoCare.biz (512) 836-2600

Copperfield Neighborhood Organization

Over the past several months, members of our association, the City of Austin Parks Department, Friends of Copperfield Nature Trail, and the landowner have worked closely to identify specific areas of the property that should be dedicated as parkland. This resulted in the dedication of over 18 acres of parkland to the City of Austin. As we understand and have agreed, the area that will be dedicated encompasses the most environmentally sensitive areas of the property, and provides a greenbelt buffer along the entire east and south boundaries thereof.

Because of the benefits this property will provide to not only our subdivision, but the community as a whole, it is with great pleasure that I inform you that our association is in support of case numbers C14-2008-0193 & C14-85-339(RCA).

We look forward to working with you to ensure that this project is a success. We also hope that the Zoning and Platting Commission and City Council work diligently with the landowner to ensure a successful development as we feel this project will add value to our neighborhood. Please feel free to contact us with any questions.

Yours truly,

Judith Ruder
Planning Committee Chair

Michael Dunn
CNO Chair

CC: Amanda Morrow
Land Development Consultant
Armbrust & Brown, L.L.P.

NORTHEAST WALNUT CREEK NEIGHBORHOOD ASSOCIATION

April 28, 2009

Ms. Amanda Morrow
Armbrust & Brown, L.L.P.
100 Congress Ave. Suite 1300
Austin, Texas 78701

RE: C14-2008-0193 (550 Block of VFW Rd. and Yager Lane Rezoning)
C14-85-339 RCA (East Yager Lane Restrictive Covenant Amendment)

Thank you for your presentation of this proposed rezoning case and RCA to the membership of the Northeast Walnut Creek Neighborhood Association at our October 23, 2008 meeting and for your continued cooperation with us regarding further developments since that time. Our membership regards the proposed rezoning and RCA as generally beneficial to our neighborhood, but our membership also would prefer that residential duplex units not be allowed if and when the rezoning is approved by the City Council.

It is my understanding that the applicant will agree to a condition of the proposed zoning such that residential duplexes will not be allowed. Therefore, NEWCNA supports the RCA and the proposed rezoning of the property to SF-6 subject to that condition; namely, that residential duplex units will be prohibited by the final proposed zoning ordinance presented for consideration to the Austin City Council. Otherwise, NEWCNA reserves the right to protest the proposed rezoning at such time as it is considered by the City Council.

For any questions concerning NEWCNA's position on this matter, please contact me or Mr. Michael Lee as indicated below.

Philip Stoke

Philip Stoke President
Northeast Walnut Creek Neighborhood Association
11612 January Dr.
Austrin, TX 78753
512-832-0743

cc: Mr. Michael Lee
Chairman, NEWCNA Zoning Committee
11602 Oak Haven Cove
Austin, TX 78753
512-468-0891

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.ci.austin.tx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2008-0193 & C14-85-339 (RCA)
Contact: Joi Harden,, (512) 974-2122
Public Hearing:
March 3, 2009 Zoning and Platting Commission
April 2, 2009 City Council

ZONING
☒ I am in favor
☒ I object
to Road - 4 lane deletion

JAMES BURMEISTER
Your Name *(please print)*

1015 E. YAGER LANE, #51 & 157, Austin
Your address(es) affected by this application

James Burmeister — 2/24/09
Signature — Date

Comments: I am in favor of the rezoning to Townhouse & Condo district. I do not approve of amendment to delete Section 8 of the restrictions which will remove requirements to construct a 4 lane divided road. Traffic is horrible, the Condos if built will cause more traffic, so a 4 lane divided Road should be built.

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