

ZONING CHANGE REVIEW SHEET

CASE: C14-2009-0151 – East Block

P.C DATE: January 26, 2010
March 23, 2010

ADDRESS: 835 West 6th Street

OWNER/APPLICANT: Schlosser Development Corp. (David Vitanza)

AGENT: Alice Glasco Consulting (Alice Glasco)

AREA: 2.713 acres (118,178 sq.ft.)

NEIGHBORHOOD PLAN AREA: Downtown

CAPITOL VIEW: Yes – Barton Creek Pedestrian Bridge Capitol View Corridor

T.I.A.: Waived

HILL COUNTRY ROADWAY: No

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: DMU – Downtown Mixed Use

ZONING TO: DMU-CURE – Downtown Mixed Use -Central Urban Redevelopment District.

SUMMARY STAFF RECOMMENDATION: Staff recommends DMU-CURE: (Downtown Mixed Use – Central Urban Redevelopment District) with the applicant entering into a Restrictive Covenant to ensure that the applicant participates in the City of Austin Great Streets program for any new development on the property. The CURE overlay would modify the allowable height on the property not located in a Capitol View Corridor from 120 to 350 feet. The allowable Floor-to-Area ratio on the property will remain unchanged at 5:1, and no increase in density has been requested. The site is subject to the Barton Creek Pedestrian Bridge Capitol View Corridor. Because of the view corridor, the applicant seeks additional CURE entitlements in order to increase the allowable height on the portion of the site not located in the Capitol View Corridor.

The site is also located within the 25 year and 100 year floodplain of Shoal Creek. The City Council granted a variance for construction within these areas in 2007 and updated in 2009 (attached). A 2006 study of the Shoal Creek Watershed by the City resulted in the increase of the floodplain area on the site. The 2006 site plan on the property was previously approved with the original flood plain levels, resulting in a reduction of the developable area on the site.

Given the constraints of the Capital View Corridor and the 2006 modifications to the flood plan, staff recommends granting CURE zoning to maximize the allowable Floor-to-Area ratio without an increase in density.

DEPARTMENT COMMENTS: This 2.713 acre site is currently zoned DMU and developed with a paved surface parking lot. The applicant intends to develop a mixed-use office/retail/condominium project. The development will consist of two buildings, one outside of the Capitol View Corridor with a height of up to 350 feet, and one within the Corridor limited to 4 and 5 stories (55-70 feet). This request is similar to other requests in the Central Business District to add the CURE overlay to properties located in the urban core to allow for additional height for vertical development. This site is located within the desired development zone and near the Central Business District where density and development is encouraged to locate. The applicant has agreed to a 2-star green building level, green roof building techniques, improvements to the Shoal Creek hike-and-bike trail and channelization improvements Shoal Creek to reduce flooding. This case was heard by the Downtown Commission on December 16, 2009 and the Commission recommended approval of the request. This case was heard by the Design Commission on December 14, 2009 and the Commission recommended approval of the request (attached).

BASIS FOR RECOMMENDATION:

1. Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.

Granting the "CURE" overlay would be in keeping with recent requests for the "CURE" overlay in the Central Business District.

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

Granting the "CURE" overlay would be in keeping with the policy of the City Council to densify the Central Business District, especially with vertical development. The request is also consistent with other developments with corresponding heights in the vicinity.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	DMU	Parking Lot
NORTH	DMU	Office/ Auto Sales
SOUTH	DMU	Condominium
EAST	DMU	Office/ Cocktail Lounge
WEST	DMU	Grocery Store

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	COMMENTS
SP-06-0588C	Site Plan Approval	Approval of Site Plan	The site plan approved for this site in 2006 limiting the FAR on the property to 3.36:1. Adoption of a CURE overlay would require an update to the approved site plan or resubmittal.

NEIGHBORHOOD ORGANIZATIONS:

- Homeless Neighborhood Assn.
- Downtown Austin Neighborhood Coalition
- Pecan Street Owner's Association
- Downtown Austin Alliance
- Austin Warehouse District Association
- Old Pecan Street Association
- Austin Neighborhood Council
- Downtown Austin Neighborhood Association

SCHOOLS:

Matthews Elementary School
O' Henry Middle School
Austin High School

ENVIRONMENTAL:

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

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

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is a flood plain within the project area.

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

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

TRANSPORTATION:**Existing Street Characteristics:**

Name	ROW	Pavement	Classification	Daily Traffic
West 5 th Street	80'	58'	Arterial (MAU4)	22,300 (TXDOT, 2005)
West 6 th Street	80'	58'	Arterial (MAU4)	25,620 (TXDOT, 2005)
Bowie Street	54'	40'	Collector	Not Available

An easement for traffic signal infrastructure (controller cabinet) located at the corner of Bowie Street and 5th Street will be required at the time of Site Plan.

The traffic impact analysis for this site was waived with the condition that a TIA may be required at time of site plan application, site plan revision, or replacement site plan. See TIA Determination dated 12/29/2009 for additional information.

There are existing sidewalks along West 6th Street. There are no existing sidewalks along West 5th Street and Bowie Street.

According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, bicycle facilities are existing and/or proposed along the adjoining streets as follows:

Street Name	Existing Bicycle Facilities	Proposed Bicycle Facilities
West 5 th Street	Shared Lane	Bike Lane
West 6 th Street	Shared Lane	Shared Lane
Bowie Street	Shared Lane	Bike Lane

Capital Metro bus service (route nos. 4, 21, 103, 122, 484, 663 - LA/UT, and 683 – ER/LA) is available along West 5th Street and West 6th Street.

WATER UTILITY:

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. 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:

The site may be subject to compatibility standards. Along the north, south and eastern property lines, the following standards may apply:

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

CITY COUNCIL DATE: March 25, 2010

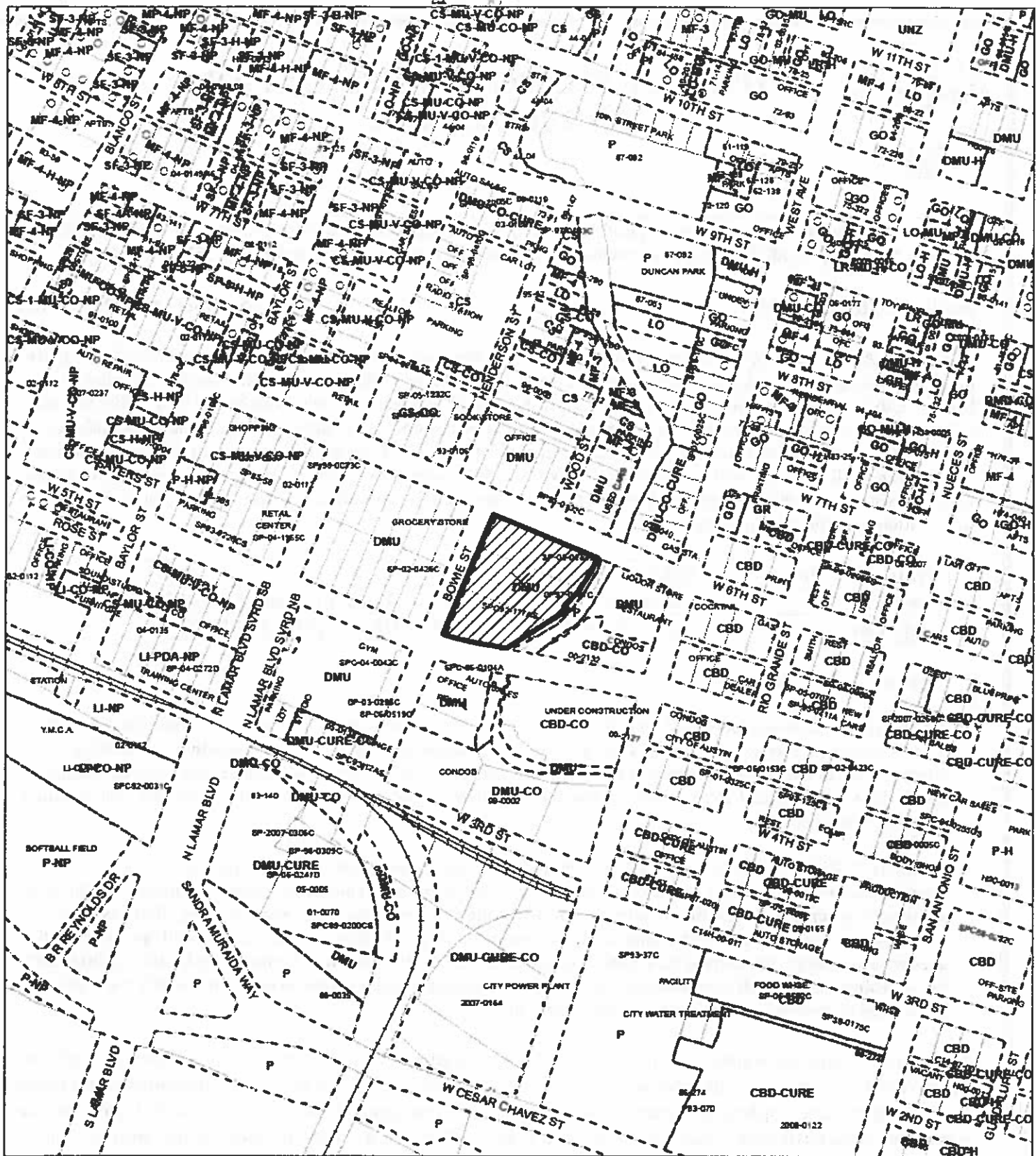
ACTION:




ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Stephen Rye
stephen.rye@ci.austin.tx.us

PHONE: 974-7604



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

OPERATOR: S. MEEKS

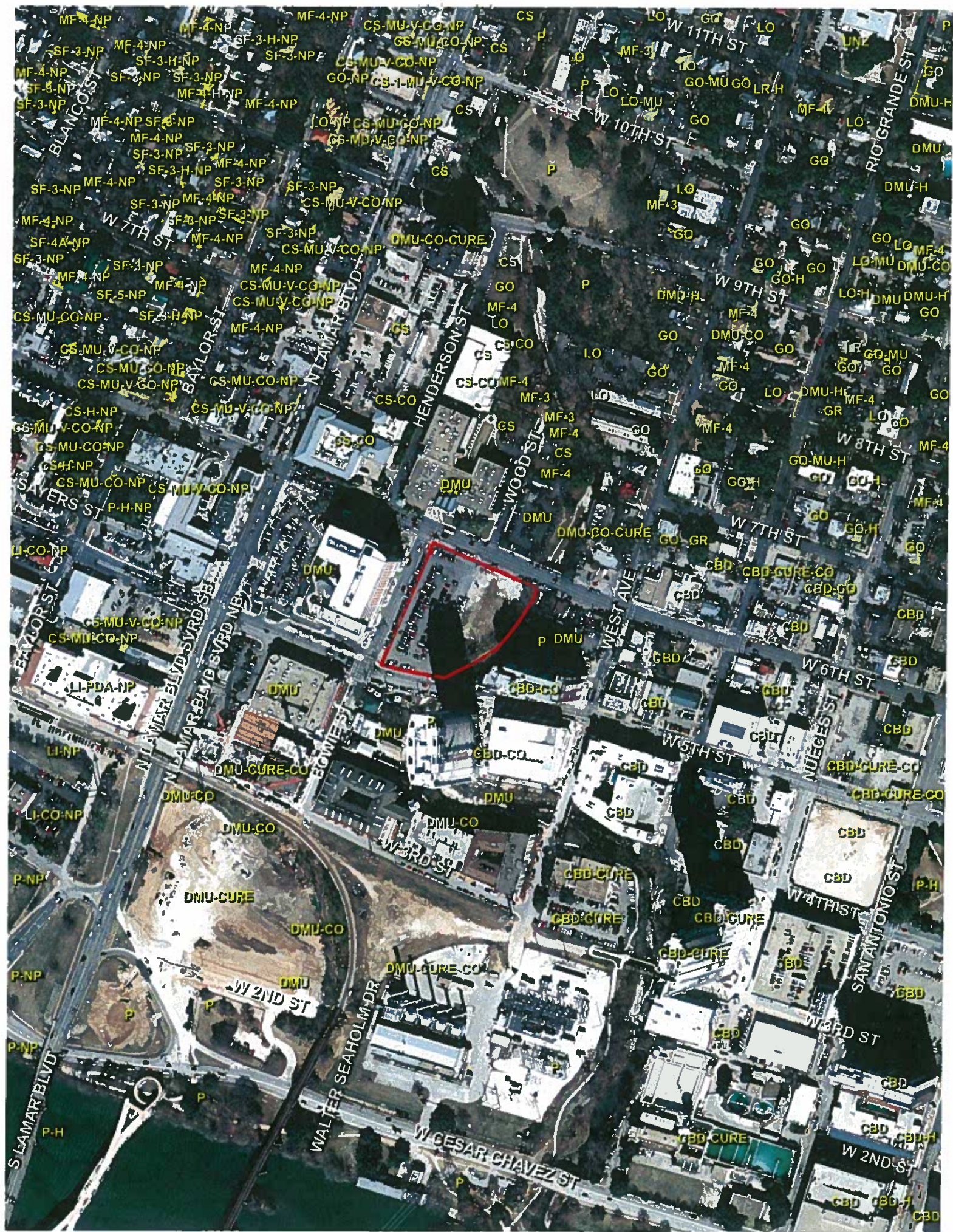
ZONING

ZONING CASE# C14-2009-0151
 ADDRESS: 835 W 6TH ST
 SUBJECT AREA: 2.713 ACRES
 GRID: H22
 MANAGER: C. PATTERSON



1" = 400'

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.





Alice Glasco Consulting

5117 Valburn Court, Suite A
Austin, TX 78731
aliceglasco@mindspring.com
512-231-8110 • 512-857-0187 Fax

November 16, 2009

Greg Guernsey, Director
Planning and Development Review Department
505 Barton Spring Road, Suite 500
Austin, Texas 78704

RE: DMU-CURE Rezoning for 835 West 6th Street

Dear Greg:

I represent Schlosser Development, the owners of the above referenced property. We are seeking a zoning change from DMU to DMU-CURE. The purpose of the rezoning is to modify the DMU zoning district in order to increase building height from 120 to 350. The FAR of 5:1 will remain unchanged. The proposed uses are retail, office, and residential.

Site Constraints:

The site is traversed by the Barton Creek Pedestrian Bridge Capitol View Corridor (see attached CVC Determination letter from city staff). The Capitol View Corridor limits height to 4-5 stories on the majority of the site and thus the FAR, on the approved site plan is currently limited to 2.3:1 even though it is zoned at a 5:1 ratio.

Floodplain: The site is in the 25-year and 100-year floodplains of Shoal Creek. The City Council has granted a variance for construction in the 25-year floodplain per ordinance number 20070621-150 and ordinance number 20090430-061, which extends the variance to October 31, 2011. Prior to 2006, a site plan for the site allowed for channelization of the floodplain, however in 2006, flow information changes gathered by the City in its survey of the Shoal Creek Watershed, made the channelization model much more challenging, and resulted in the City recommending an increase in the floodplain level in the immediate area of the subject site. This change significantly reduced the developable area that could be achieved on the site (see attached exhibit).

Mr. Greg Guernsey
DMU-CURE Rezoning for 835 West 6th Street

Justification for DMU-CURE:

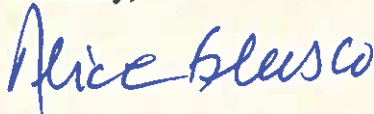
- The rezoning will allow for a taller building to be placed on the small portion of the site that is outside the view corridor and will allow for recapture of a portion of the buildable square footage that was lost due to the increase of floodplain intensity.
- The site is within a future TOD
- The proposed development is consistent with the city's desire for a diversified downtown - i.e. an area where people live, work and play.
- The request for additional height is consistent with other developments in the vicinity of the site such as: Spring condos (400 feet); Monarch (350+ feet) and Austin City Lofts (150+ feet).

Design Benefits:

- Continuation of the Shoal Creek Greenway and Hike and Bike Trail as supported by the Parks Department and the Austin Parks Foundation with access from the 6th Street bridge to the trail.
- Plazas and a pedestrian friendly environment will be featured in the development - with the Whole Foods Market complex as a guide to follow.
- Dedication of a 5 foot wide bike lane to extend/connect the Lance Armstrong bikeway from West 5th Street to 6th Street.

We look forward to staff support. Please let me know if you need additional information.

Sincerely,



Alice Glasco

Cc: George Adams, Assistant Director
Jerry Rusthoven, Zoning Division Manager
Jim Robertson, Division Manager

Shoal Creek Walk: Community Benefits Matrix

Gate Keeping Requirements	CURE	Affordable Housing Ordinance	New Proposed Bonus Plan	Developer's Proposal
Complete Design Plans	N/A	N/A	Yes	Yes
Great Streets	N/A	Yes	Yes	Yes
Substantial Compliance with Urban Design	N/A	Yes	Yes	Yes
Affordable Housing on Site	N/A	N/A	Yes	No
Affordable Housing Fee	N/A	N/A	Yes	No

Developer Community Benefits:

- 1.) Green Building – 1 Star
- 2.) Lance Armstrong Bikeway – dedication of 5' East of Bowie Street
- 3.) Coordinate with City on West side of Bowie to include scope of bike lane in our project with City reimbursement
- 4.) Green roof on one of the two buildings
- 5.) Improvements to Shoal Creek hike and bike trail
- 6.) Shoal Creek channelization to reduce flooding
- 7.) Compliance with Parkland ordinance (\$650 per unit)
- 8.) Open Space – 30,00-35,000 sf/70-80% of an acre

Approximate cost of community benefits: \$2.3m (including parkland fee)

ORDINANCE NO. 20070621-150

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 835 WEST 6TH STREET FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A RESIDENCE IN THE 25- AND 100-YEAR FLOODPLAIN; AND PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.

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

PART 1. This ordinance applies to the construction of mixed use buildings and an underground parking structure located at 835 West 6th Street within the 25- and 100-year floodplain described in Site Plan Application No. SP-06-0588C.

PART 2. Council has considered the factors for granting a variance from floodplain regulations prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by this ordinance are the minimum necessary to afford relief, are based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variances granted in this ordinance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

PART 3. A variance is granted from:

- (A) the prohibition against placing an obstruction in a waterway prescribed by City Code Section 25-7-2 (*Obstruction of Waterways Prohibited*);
- (B) the restriction on construction in the 25- and 100-year floodplains prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (C) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*) to exclude the footprint of the mixed use buildings and the parking structure from the requirement to dedicate an easement to the limits of the 100-year floodplain;
- (D) the requirement that a non-conforming use not be expanded, changed, or altered in a way which increases its nonconformity prescribed by City Code Section 25-12-3, Building Code Section G102.3 (*Nonconforming Uses*).

PART 4. The variance granted in this ordinance is only effective if the applicant meets the following conditions:

- (1) Before the City may release the site plan for the proposed structures, the applicant shall execute and record a restrictive covenant, in a form acceptable to the City Attorney, which: (1) prohibits obstructions to the flow of water beneath the elevated portions of the proposed structures other than piers designed and spaced in compliance with the latest edition of the American Society of Civil Engineers Manual 24-05 (*Flood Resistant Design and Construction*), and (2) prohibits residential use of the first floor of the proposed structures.
- (2) Before the City may release the site plan for the proposed structures, the applicant shall execute and record a perpetual maintenance agreement, in a form acceptable to the City Attorney, whereby the owner of the property perpetually maintains Shoal Creek channel improvements and bridge modifications.
- (3) Before the City may release the site plan for the proposed structures, the applicant shall submit to the City a conditional letter of map revision (CLOMR) for review and concurrence. Before the City may issue a Building Permit for the proposed structure, the applicant shall obtain approval of the CLOMR from the Federal Emergency Management Agency (FEMA).
- (4) Before the City may issue a certificate of occupancy for the proposed structures, the applicant shall submit to the City a letter of map revision (LOMR) for review and concurrence.
- (5) Before the City may issue a building permit for the proposed structures, the applicant shall submit to the City a certification by a Texas registered professional engineer or architect certifying that the proposed structures have been designed in accord with FEMA Technical Bulletin 6-93, April 1993 and any subsequent edition, "*Below-Grade Parking Requirements for Buildings Located in Special Flood Hazard Areas*", and FEMA Technical Bulletin 4-93, April 1993 and any subsequent edition, "*Elevator Installation for Buildings Located in Special Flood Hazard Areas*".
- (6) The applicant shall submit to the City certifications by a Texas registered professional engineer certifying that the proposed mixed use buildings and parking structure will withstand the flood forces generated by the 100-year flood and that the design and construction is in accord with the latest edition of the American Society of Civil Engineers Manual 24-05 (*Flood Resistant Design and Construction*). The certification regarding design must be submitted before the City may issue a building permit for the proposed structures; the certification regarding construction must be submitted before the City may issue a certificate of occupancy for the proposed structures.

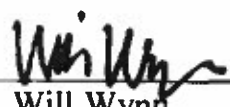
- (7) Before the City may issue a certificate of occupancy for the proposed structures, the applicant shall submit to the City a completed Elevation Certificate certifying the elevation of the finished floor of the first floor of the mixed use buildings, the aerial pedestrian crossway, and the entrances and exits to the parking structure are each a minimum of two feet above the 100-year floodplain elevation, signed by a Texas registered professional land surveyor.
- (8) Before the City may issue a certificate of occupancy for the proposed structure, the applicant shall submit to the City a Flood-Proofing Certificate, certifying that the structure is dry flood proofed to an elevation of two feet above the 100-year floodplain elevation, signed by a Texas registered professional engineer or architect.


PART 5. If the project for which this variance is granted does not receive all necessary building permits before July 2, 2009, this variance expires.

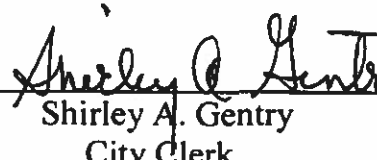
PART 6. Approval of this variance does not constitute approval of zoning, subdivision, a site plan, a building permit, or any other development permit, and it does not constitute a commitment to any particular land use, intensity of land use, or utility services. Approval of this variance does not constitute a guarantee of flood insurance availability, rates, or requirements.

PART 7. This ordinance takes effect on July 2, 2007.

PASSED AND APPROVED

_____, June 21, 2007 §
§
§ 
Will Wynn
Mayor

APPROVED: 
David Allan Smith
City Attorney

ATTEST: 
Shirley A. Gentry
City Clerk

ORDINANCE NO. 20090430-061

AN ORDINANCE AMENDING ORDINANCE 20070621-150 EXTENDING THE EXPIRATION DATE OF FLOODPLAIN VARIANCES FOR PROPERTY LOCATED AT 835 WEST 6TH STREET.

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

PART 1. This ordinance applies to the construction of mixed use buildings and underground parking structure located at 835 West 6th Street within the 25 and 100-year floodplain described in Site Plan Application No. SP-06-0588C.

PART 2. Part 5 of Ordinance 20070621-150 is amended to read:

If the project for which this variance is granted does not receive all necessary building permits before [~~July 2, 2009~~] October 3, 2011, this variance expires.

PART 3. All other provisions and conditions in Ordinance 20070621-150 remain in effect.

PART 4. This ordinance takes effect on May 11, 2009.

PASSED AND APPROVED

April 30, 2009

§
§
§ _____
Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk



DOWNTOWN AUSTIN NEIGHBORHOOD ASSOCIATION

SOCIAL KNOWLEDGEABLE INFLUENTIAL

Jamie Lagarde
PRESIDENT

Michael McGill
VICE-PRESIDENT

Lindsay Wiebrand
SECRETARY

Randy Hammelman
TREASURER

Josh Allen

Greg Anderson

Roger Cauvin

Norman Garza

George Luc

Bill McCann

Mitch McGovern

Jude Galligan

Amber Gugino

Larry Schooler

Albert Stowell

Kristina Witt

February 18th, 2010

The Downtown Austin Neighborhood Association (DANA) supports Schlosser Development's request for DMU-CURE zoning to achieve greater height for its proposed "Shoal Creek Walk" project at 6th & Bowie. However, we also strongly urge Schlosser to further optimize the experience for pedestrians and to improve the project's treatment of Shoal Creek.

DANA supports dense, mixed-use projects that enhance the vibrancy, sustainability, and walkability of downtown Austin. Given that Capitol View Corridors and the allowed height under the current DMU zoning would prevent Shoal Creek Walk from realizing the intended square footage, density, and mix of uses, we support the height increase to 350 feet. We also believe that the current surface-level parking lot at the location constitutes urban blight.

At the same time, we urge you to:

1. Maximize the width of sidewalks, including having the sidewalks extend into street parking as far as allowable. Doing so would not only improve the pedestrian experience on the sidewalks themselves, but it also would reduce the distance that pedestrians would be required to traverse when crossing 5th and Bowie Streets.
2. Design and construct the parking in such a manner that it is hidden from view and could be converted to other bottom floor uses.
3. Enhance the Shoal Creek (eastern) edge of the building by:
 - creating a linear public plaza directly adjacent & underneath the raised building footprint to strengthen the pedestrian experience between 5th and 6th streets
 - incorporating pedestrian access points to the inside of the building along the linear public plaza thus promoting a node of community interaction along the creek
4. Prepare, and provide to stakeholders, updated renderings that reflect the current design intent (civil, architectural, and landscape) and updated elevations with massing, streetscape, and fenestrations.

We are happy to discuss any of these suggestions with you.

Jamie Lagarde

President

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AUSTIN DESIGN COMMISSION

February 15, 2010

BART WHATLEY

CHAIR

JUAN COTERA

DAVID KNOLL

ELEANOR

MCKINNEY

JAMES SHIEH

RICHARD WEISS

JEANNIE

WIGINTON

JORGE E. ROUSSELIN

STAFF LIAISON

RE: Shoal Creek Walk Project

The Design Commission thanks you for the opportunity to review and comment on the proposed Shoal Creek Walk Project located at 835 W. 6th Street. We understand that the Project Team is seeking a rezoning from Downtown Mixed Use (DMU) to DMU-CURE (Central Urban Redevelopment Combining District) 120 ft to 350 ft.

We recognize and appreciate the Community Benefits that have been committed to by the developers. Those benefits, totaling more than two million dollars, include the following:

- Green Building – 1 Star
- Lance Armstrong Bikeway – dedication of 5' East of Bowie Street
- Coordinate with City on West side of Bowie to include scope of bike lane in the project with City reimbursement
- Green roof on one of the two buildings
- Improvements to Shoal Creek hike and bike trail
- Shoal Creek channelization to reduce flooding
- Compliance with Parkland ordinance (\$650 per unit)
- Open Space – 30,000-35,000 sf/70-80% of an acre

As a follow up to our recent subcommittee meeting, we would like to suggest that the Project Team look at pulling back the parking building on the 6th Street pedestrian side in order to provide a secondary use in the future that can be retrofitted if parking is not needed.

The Design Commission respectfully requests the opportunity to review a more detailed layout of the Project as it is developed.

Again, thank you for your presentation to the Design Commission and allowing us the opportunity to comment on the Project.

Sincerely,

Bart Whatley

Chair, City of Austin Design Commission