

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.

PLANNING COMMISSION RECOMMENDATION: 3/23/10 – Approved staff recommendation of DMU-CURE; (8-0, DeLeon absent).

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:

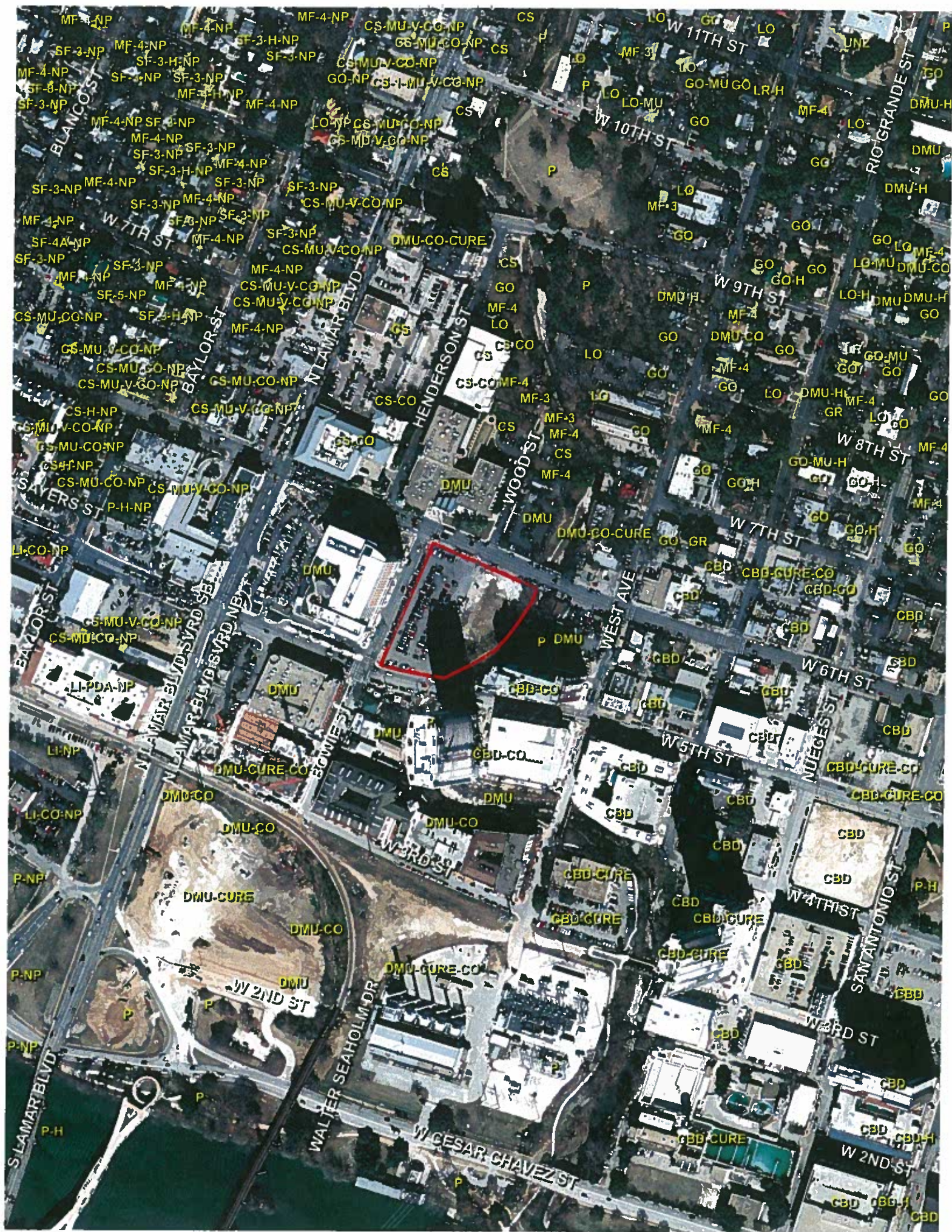
- No structure may be built within 25 feet of the property line.

- 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 (Postponed by applicant) **ACTION:**
April 22, 2010

ORDINANCE READINGS: 1ST 2ND 3RD **ORDINANCE NUMBER:**

CASE MANAGER: Stephen Rye **PHONE:** 974-7604
stephen.rye@ci.austin.tx.us





Alice Glasco Consulting

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

April 12, 2010

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

RE: Case C14--2009-0152 - DMU-CURE Rezoning - Community and Affordable
Housing Benefits Update

Dear Greg:

For your records, I am submitting an updated list of the community and affordable housing benefits that Schlosser Development offered to the Planning Commission at its March 23rd, 2010 public hearing. They community and affordable housing benefits are as follows:

Community Benefits

1. Green Building – 2 Stars
2. Lance Armstrong Bikeway – dedication of 5 feet East of Bowie Street
3. Coordinate with the City on the West side of Bowie to include scope of bike lane in the developer's project with City reimbursement
4. Green roof in appropriate areas (20,000 square feet)
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. Publicly accessible green and open space – approximately 30,000-35,000 sq. ft.
9. Participate in the City's Great Streets Program
10. Provide signs to direct pedestrian and bike traffic to alternate routes during maintenance and construction of Shoal Creek trail between West 5th and 6th Streets

Affordable Housing Proposal

1. Five percent (5%) of total units in any on-site residential component will qualify as affordable housing units (pricing at up to 80% Median Family Income); or
2. The Developer will have the option, with support of the City's Neighborhood Housing and Community Development Department, to pay a fee to the Housing Assistance Fund

Mr. Greg Guernsey

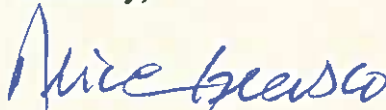
Case C14--2009-0152 - DMU-CURE Rezoning - Community and Affordable Housing
Benefits Update

In lieu of building units on-site. The affordable housing "Fee-in-lieu" will be calculated at \$3.00 per square foot of gross leasable area actually built in excess of 482,687 square feet of gross leasable area (the benchmark established in this zoning case).

3. Any affordable housing fee shall be paid by the Developer upon the issuance of a building Certificate of Occupancy for any on-site buildings that exceed the benchmark (cumulative over the full site).
4. The Developer wishes to earmark the first \$50,000 to the Boys and Girls Club of Austin through the Community Benefits Fund, as they have demonstrated direct benefits to the community by providing services related to affordable housing as outlined in Ordinance No. 20080131-132.
5. Regardless of density or mix of uses built out on the site, if the 482,687 square feet is not exceeded, the Developer will pay as its "in-lieu of fee" no less than \$100,000 towards affordable housing upon issuance of certificate of occupancy for the final phase of the development.

Please let me know if you have any questions or need additional information.

Sincerely,



Alice Glasco

Cc: Stephen Rye
Jerry Rusthoven, Zoning Division Manager
Schlosser Development

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.

- Page 3 of 3

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 McGilt
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

SUPPORTING THOSE WHO LIVE, WORK AND PLAY DOWNTOWN

PO BOX 997, AUSTIN TX, 78767 • WWW.DOWNTOWNAUSTIN.ORG



AUSTIN DESIGN COMMISSION

February 15, 2010

RE: Shoal Creek Walk Project

BART WHATLEY
CHAIR
JUAN COTERA
DAVID KNOLL
ELEANOR
MCKINNEY
JAMES SHIEH
RICHARD WEISS
JEANNIE
WIGINTON

JORGE E. ROUSSELIN
STAFF LIAISON

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

Shoal Creek Walk



Conceptual Massing

Shoal Creek Walk



Existing Condition

Shoal Creek Walk

Site information:

- Size: 2.713 acres (118,178.28 sq. ft.)
- Existing Zoning: DMU
- Allowed FAR: 5:1 (590,891 sq. ft.)
- Approved site plan FAR: 3.36:1 (397,585 sq. ft.)
- Allowed Height: 120 ft.
- 8 stories (118 ft.) Outside Capitol View Corridor
- 4 stories (55ft.)/5 stories (70ft.) in Capitol View Corridor

Shoal Creek Walk

Applicant's Request:

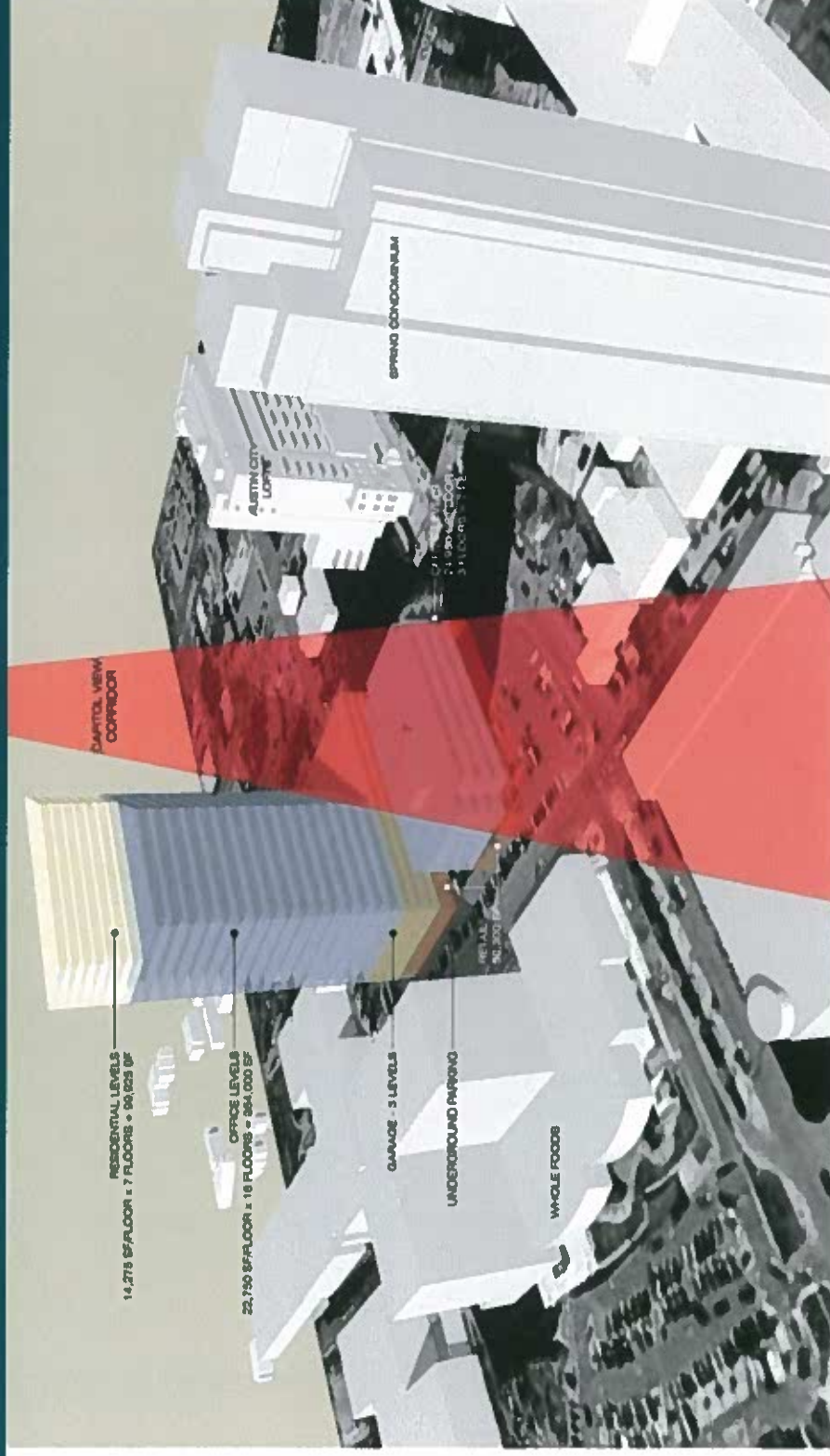
DMU-CURE for an increase in height from 120 feet to 350 feet for one building outside the Capitol View Corridor: 27 stories (350 ft.)
The building inside the Capitol View Corridor: 4-5 stories (55-70 ft.)

Proposed Use :

Office - 438,850 sq. ft.
Retail - 50,300 sq. ft.
Condos - 90 units (99,925 sq. ft.)



Shoal Creek Walk



Shoal Creek Walk



Existing Site Plan

Proposed Site Plan

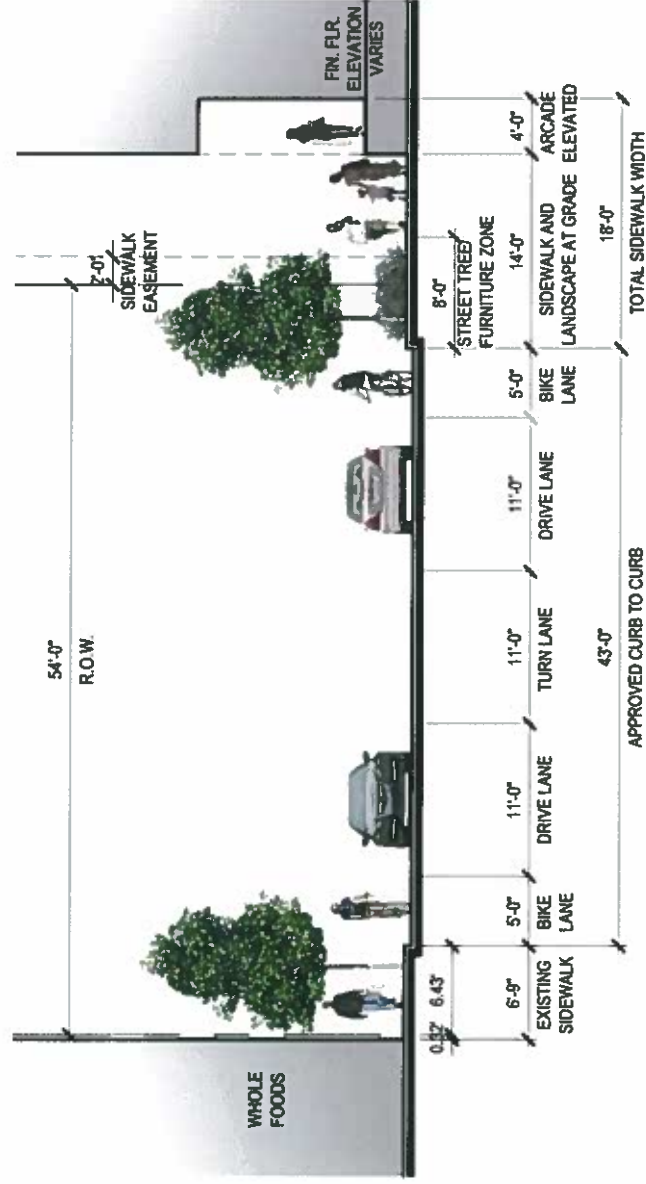
Shoal Creek Walk

Proposed Green and Open Space

- Public Green and Open Space (at Grade)
- Approx. 30,000 SF within the Site
- Approx. 5,000 SF adjacent to Creek
- Green Roof (Elevation Varies)
- Approx. 20,000 SF

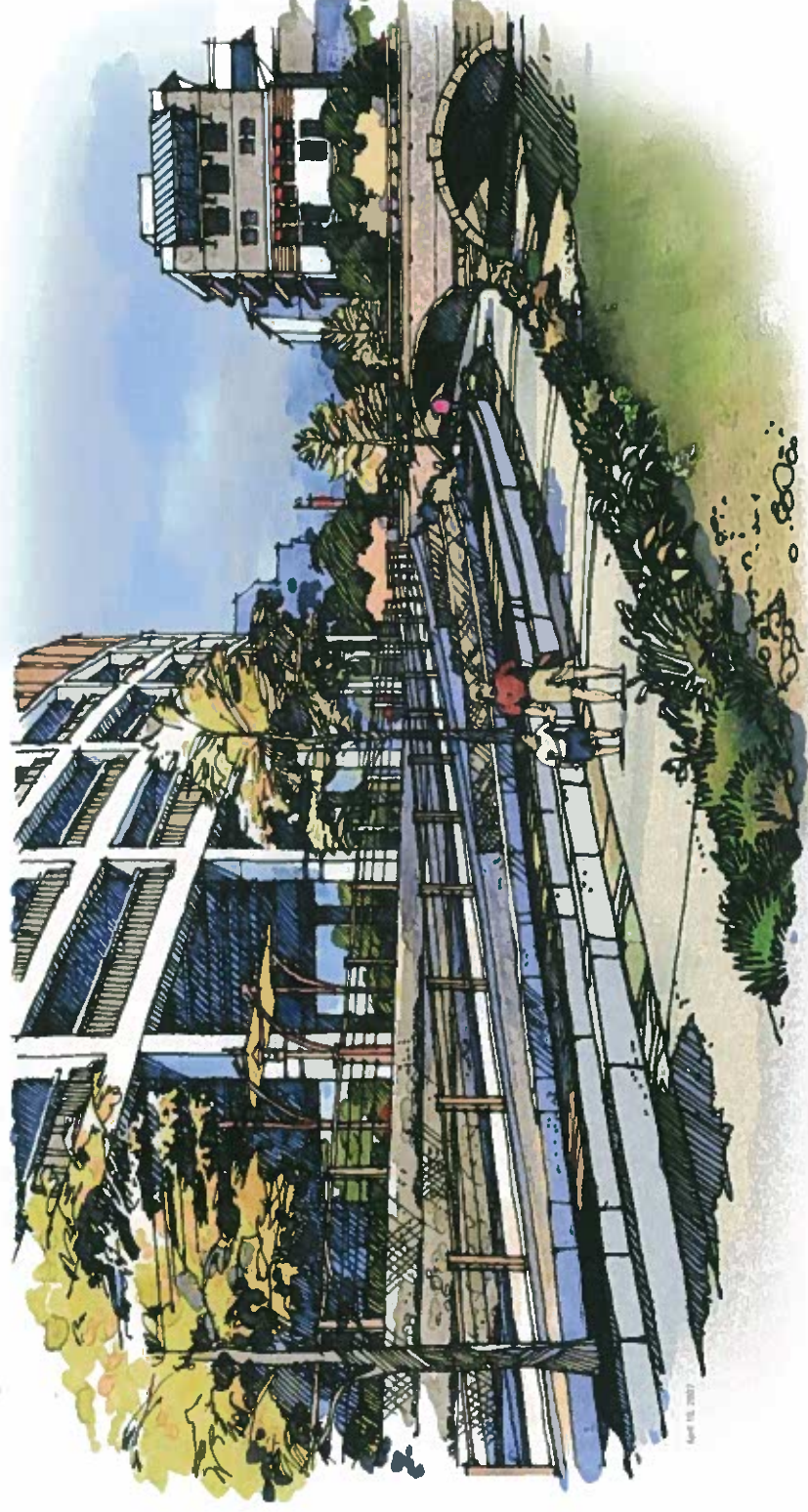


Shoal Creek Walk



Shoal Creek Walk

S I X T H & L A M A R
CREEKSIDE TRAIL AND RAMP

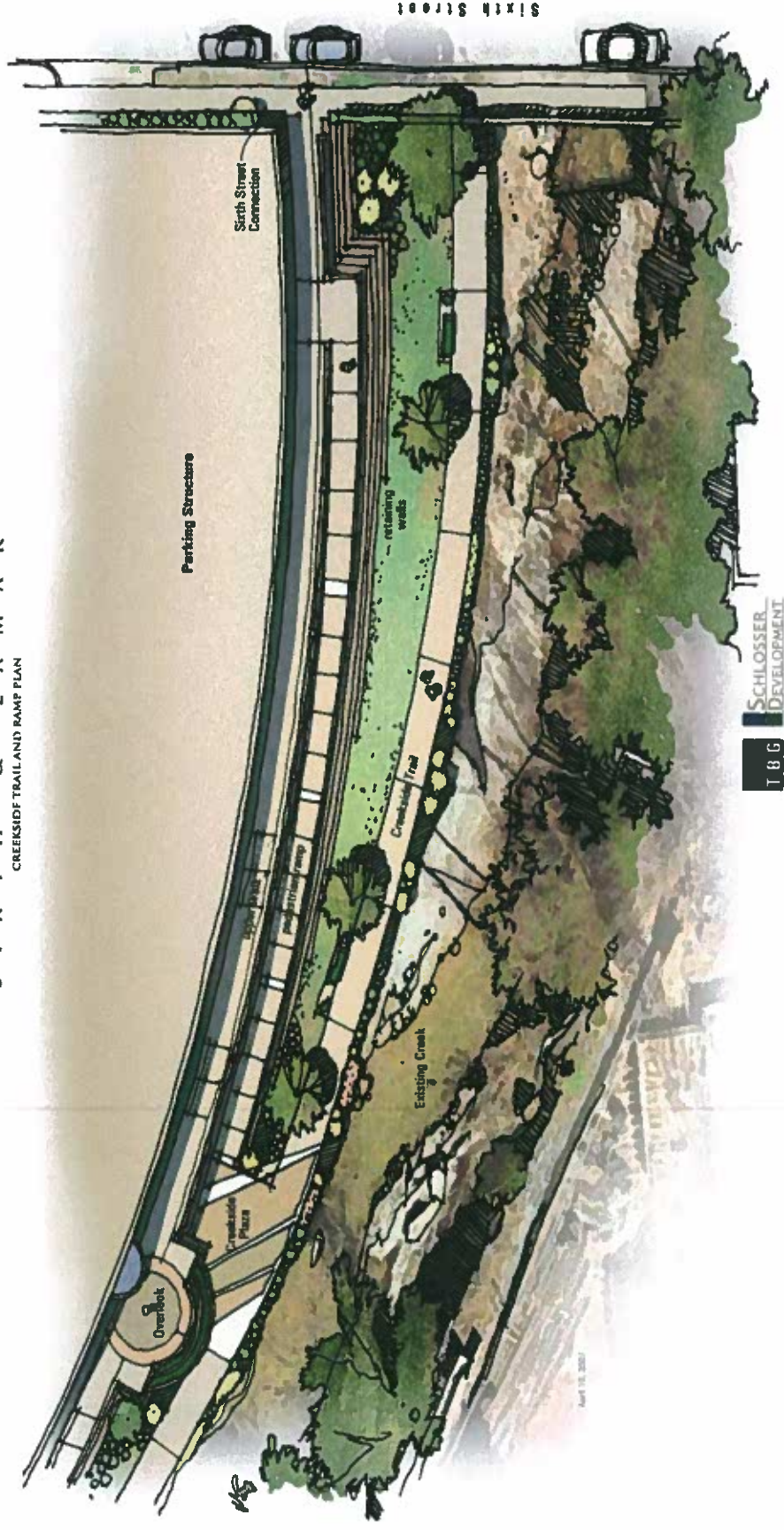


T B G
ARCHITECTS
SCHLOSSER
DEVELOPMENT

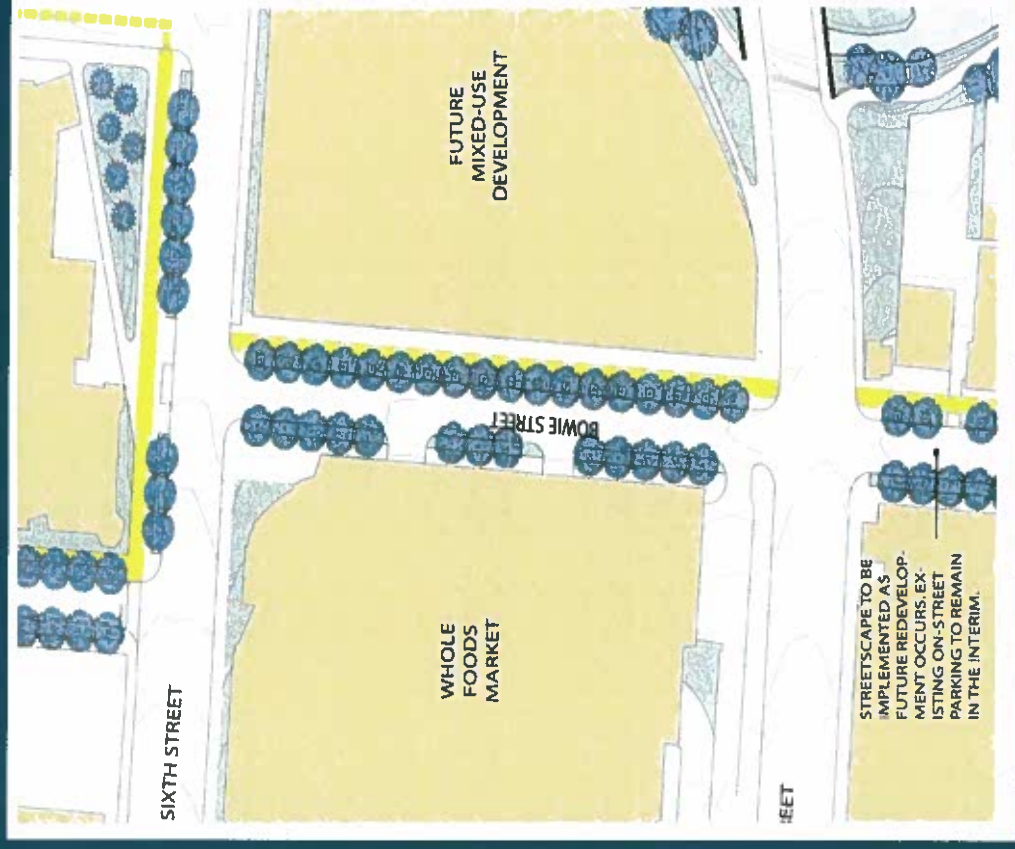
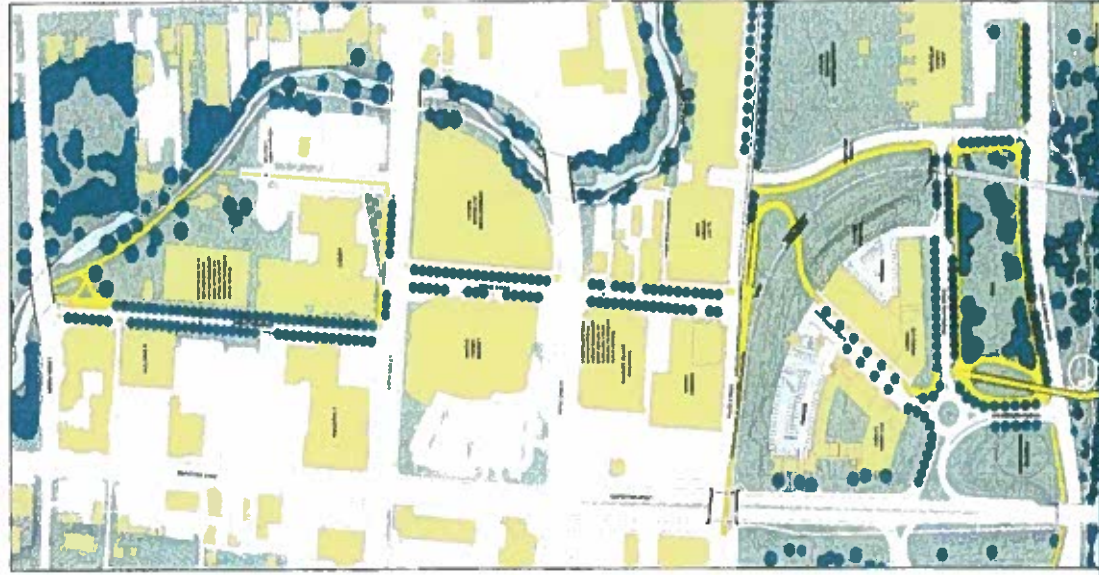
Proposed Creekside Trail and Ramp

Shoal Creek Walk

SIXTH & LAMAR CREEKSIDE TRAIL AND RAMP PLAN



Shoal Creek Walk



PFLUGER BRIDGE EXTENSION PROJECT/LANCE
ARMSTRONG BIKEWAY

Shoal Creek Walk

Developer's Proposed Community Benefits:

1. Green Building – 2 Stars
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 in appropriate areas (20,000 sf)
5. Improvements to Shoal Creek hike and bike trail
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7. Compliance with Parkland ordinance (\$650 per unit)
8. Publicly accessible green and open space –approx. 30,000-35,000 sq. ft.
9. Participate in the City's Great Streets Program
10. Provide signs to direct pedestrian and bike traffic to alternate routes during maintenance and construction of Shoal Creek trail between West 5th and 6th Streets

Affordable Housing Proposal

1. Five percent (5%) of total units in any on-site residential component will qualify as affordable housing units (pricing at up to 80% Median Family Income); or
2. The Developer will have the option, with support of NHCD, to pay a fee to the Housing Assistance Fund in lieu of building units on-site. The affordable housing “Fee-in-lieu” will be calculated at \$3.00 per square foot of GLA actually built in excess of 482,687 square feet of GLA (benchmark established in this zoning case).
3. Any affordable housing fee shall be paid by the Developer upon the issuance of a building Certificate of Occupancy for any on-site buildings that exceed the benchmark (cumulative over the full site).
4. The Developer wishes to earmark the first \$50,000 of any fee to the Boys & Girls Club of Austin through the Community Benefits Fund, as they have demonstrated direct benefits to the community by providing services related to affordable housing as outlined in the Ordinance.
5. Regardless of density or mix of uses built out on the site, if the 482,687 square feet is not exceeded, the Developer will pay as its “in-lieu of fee” no less than \$100,000 towards affordable housing upon issuance of certificate of occupancy for the final phase of the development.

SIDEWALK EASEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

That LAMAR-SIXTH-AUSTIN I, L.P., of County of Travis, State of Texas, referred to as Grantors, whether one or more, whose mailing address is 601 N. Lamar Boulevard #301, Austin, Texas 78703, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to Grantors in hand paid by the City of Austin, Texas, the receipt and sufficiency of which is acknowledged, have this day **GRANTED, SOLD AND CONVEYED** and by these presents do hereby **GRANT, SELL AND CONVEY** unto the City of Austin, a municipal corporation situated in the Counties of Travis, Hays, and Williamson, State of Texas, and whose address is P.O. Box 1088, Austin, Texas 78767, ATTN: Watershed Protection and Development Review Department, its successors and assigns, a Sidewalk Easement ("Easement") for the construction, operation, maintenance, replacement, upgrade, and repair of sidewalk structure in, under, upon and across the following described land, any and all rights and appurtenances pertaining to the Easement use; to-wit:

All that parcel of land, situated in the Travis County, Texas described in **EXHIBIT "A"** attached hereto and made a part hereof for all purposes, ("Easement Tract").

TO HAVE AND TO HOLD the same perpetually to the City of Austin and its successors and assigns, together with the right and privilege at any and all times to enter said premises, or any part thereof, for the purpose of construction, operation, maintenance, replacement, upgrade, and repair of a sidewalk therewith.

Grantor does hereby covenant and agree to **WARRANT AND FOREVER DEFEND** title to the Easement herein granted, unto the said City of Austin, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, subject to the matters set forth herein.

Executed on _____, 2007.

LAMAR-SIXTH-AUSTIN I, L.P.

By: 

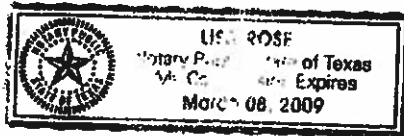
Bradley F. Schlosser, President
Lamar-Sixth-Austin, Inc., Its General
Partner

STATE OF TEXAS
COUNTY OF TRAVIS

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Before me Lisa Rose, Notary Public, on this day personally appeared Bradley F. Schlosser, President of Lamar-Sixth-Austin Inc, General Partner Lamar-Sixth-Austin I, L.P., a Texas limited partnership, known to me to personally be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on November 16, 2007.



Lisa Rose
Notary Public, State of Texas

EASEMENT APPROVED BY:
WATERSHED PROTECTION AND DEVELOPMENT REVIEW DEPARTMENT

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Assistant City Attorney

AFTER RECORDING, RETURN TO:
City of Austin
Watershed Protection and Development Review Department
Attn: _____
P.O. Box 1088
Austin, Texas 78767
Project Name: Sixth + Lamar East Block
Case No. SP-06-0588C

**CONSENT OF LIENHOLDER TO
GRANT OF EASEMENTS**

STATE OF TEXAS §

COUNTY OF TRAVIS §

RECITALS:

Whereas, **Lamar-Sixth-Austin I, L.P.**, is the Owner ("Owner") of the following described property:

That tract of land situated in Travis County, Texas described in the attached and incorporated **EXHIBIT "B"** ("Property").

Whereas, _____ ("Lienholder") is the lienholder ("Lienholder") of the Property under the terms and conditions of the following described documents:

Deed of Trust dated _____, from _____
(Owner's Full Name) to _____, (Trustee's name),
Trustee, securing the payment of one promissory note of even date in the original
principal amount of \$ _____, payable to Lienholder, of record in
Document Number _____, of the Official Public Records of Travis
County, Texas.

Whereas, Owner., has granted to the City of Austin ("City") a 0.019 acre (823 Square foot) Sidewalk Easement ("Easement") described below, and;

NOW THEREFORE, in consideration of \$10 the Lienholder agrees as follows:

_____ ("Lienholder") consents to
the grant of the following Easement and Rights described in the following document:

Easement to the City of Austin, where Owner dedicates a 0.019 acre (823 square foot) Sidewalk Easement.

The Lienholder consents to the grant of easements and rights to the City, and subordinates all of its liens on this Property to the rights and interest of the City, its successors and assigns, and any foreclosure of its liens will not extinguish City's rights and interests. **THE MORTGAGE/DEED OF TRUST SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE REMAINING PROPERTY.**

Executed on _____, 2007.

Name of Bank

Type and state of bank

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____ §
COUNTY OF _____ §

Before me _____ (Notary name), Notary Public, on this day
personally appeared _____ (signer's name),
_____ (title) of _____ (name
of lienholder), a _____ (name of state of incorporation if entity; National
Association or State Association if bank), known to me to personally be the person whose name
is subscribed to the foregoing instrument and acknowledged that he executed the same for the
purposes and consideration therein expressed.

Given under my hand and seal of office this ____ day of _____, 20__.

Notary Public, State of _____

EXHIBIT A

**FIELD NOTE DESCRIPTION
OF A 0.019 ACRE TRACT OF LAND
OUT OF THE
LAMAR-SIXTH-AUSTIN I, LIMITED PARTNERSHIP TRACT,
IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS**

BEING A 0.019 ACRE (823 SQUARE FEET) TRACT OF LAND, SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; SAID 0.019 ACRE TRACT BEING OUT OF THAT CERTAIN CALLED 4,940 SQUARE FOOT TRACT (TRACT 2) CONVEYED BY QUITCLAIM DEED TO LAMAR-SIXTH AUSTIN I, LIMITED PARTNERSHIP, BY DEED OF RECORD IN DOCUMENT NO. 2007095476, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.); SAID 0.019 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

COMMENCING at a cut "X" in concrete found for the common easternmost corner of said 4,940 Square Foot Tract and the northernmost corner of that certain called 2.05 acre tract conveyed to Lamar-Sixth Austin I, Limited Partnership, by Deed of record in Document No. 2000117493, O.P.R.T.C.T., said point being on the southerly right-of-way (R.O.W.) line of West 6th Street (an 80 foot wide public R.O.W. per City Fieldnotes - Dedication Unknown), and from which a 1-inch square head bolt found marking the easternmost corner of said 2.05 acre tract bears South 64 degrees 59 minutes 07 seconds East, at a distance of 341.86 feet;

THENCE, North 64 degrees 58 minutes 56 seconds West, with the common southerly R.O.W. line of said West 6th Street and the northerly line of said 4,940 Square Foot Tract, a distance of 10.01 feet to a calculated point for the **POINT OF BEGINNING** and easternmost corner of the herein described tract;

THENCE, South 25 degrees 02 minutes 25 seconds West, departing the southerly R.O.W. line of said West 6th Street, traveling through the interior of said 4,940 Square Foot Tract, parallel with and 2 feet perpendicular to the common easterly R.O.W. line of Bowie Street (a variable width public R.O.W.) and the westerly line of said 4,940 Square Foot Tract, a distance of 411.66 feet to a calculated point for the southernmost corner of the herein described tract, said point being on the common northerly R.O.W. line of West 5th Street (an 80 foot wide public R.O.W.) and the southerly line of said 4,940 Square Foot Tract, and also being the beginning of a curve to the right from which the radius point bears North 20 degrees 13 minutes 31 seconds East, at 899.60 feet;

THENCE, in a westerly direction, with said curve to the right, and with the common northerly R.O.W. line of said West 5th Street and the southerly line of said 4,940 Square Foot Tract, through a central angle of 00 degrees 07 minutes 40 seconds, an arc length of 2.01 feet, and a chord bearing and distance of North 89 degrees 42 minutes 39 seconds West - 2.01 feet to a calculated point for the westernmost corner of said 4,940 Square Foot Tract and the herein described tract, said point marking the intersection of the northerly R.O.W. line of said West 5th Street and the easterly R.O.W. line of said Bowie Street;

Field Notes for 0.019 acre tract


THENCE, North 25 degrees 02 minutes 25 seconds East, departing the northerly R.O.W. line of said West 5th Street, with the common easterly R.O.W. line of said Bowie Street and the westerly line said 4,940 Square Foot Tract, a distance of 411.82 feet to a calculated point for the northernmost corner of said 4,940 Square Foot Tract and the herein described tract, said point marking the intersection of the southerly R.O.W. line of said West 6th Street and the easterly R.O.W. line of said Bowle Street;

THENCE, South 64 degrees 58 minutes 56 seconds East, with the common southerly R.O.W. line of said West 6th Street and the northerly line of said 4,940 Square Foot Tract, a distance of 2.00 feet to the POINT OF BEGINNING of the herein described tract, delineating and encompassing within the metes recited 0.019 acre (823 square feet) of land, more or less, based on the field survey made on August 15, 2007 and the drawing made on August 16, 2007 by The Wallace Group, Inc., Round Rock, Texas.

Basis of Bearings are referenced to previously found monuments along the easterly right-of-way line of Lamar Blvd. between West 5th and 6th Streets as shown on July 1998 Accusurve Survey (North 24 degrees 57 minutes 00 seconds East) which was based on the monumented centerline of Lamar Blvd.

I, Daniel M. Flaherty, Registered Professional Land Surveyor No. 5004, State of Texas, do hereby certify that this field note description and drawing A-4234 were prepared from an actual survey of the property performed on the ground and that the same is true and correct.

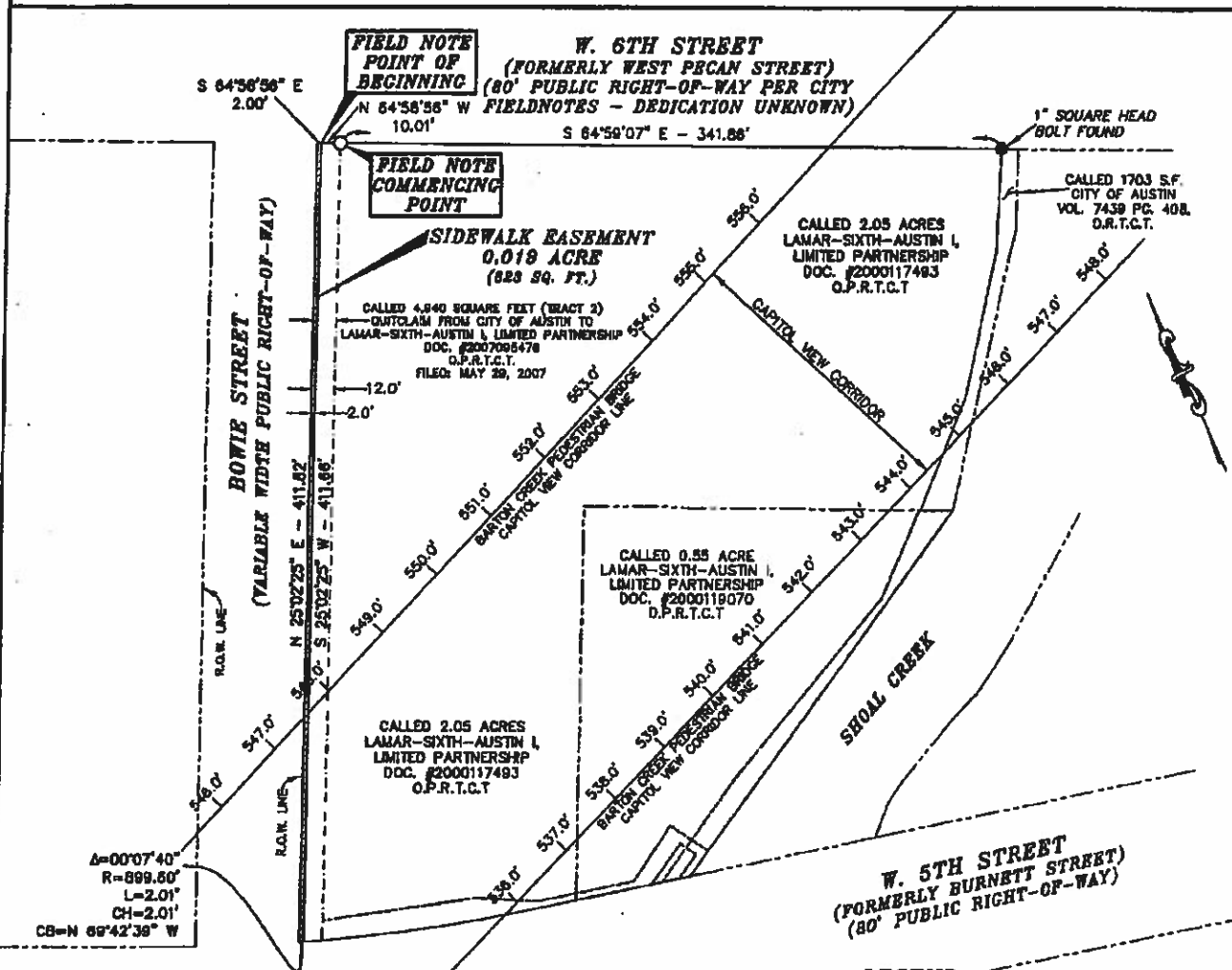



Daniel M. Flaherty, R.P.L.S. No. 5004
The Wallace Group, Inc.
One Chisholm Trail, Suite 130
Round Rock, Texas 78681
Ph. (512) 248-0065

08-16-2007
Date

See attached plat A-4234
20675-FN01.doc

**DRAWING TO ACCOMPANY FIELD NOTE DESCRIPTION
OF A 0.019 ACRE (823 SQ. FT.) SIDEWALK EASEMENT
CITY OF AUSTIN, TRAVIS COUNTY, TEXAS**



NOTES:

- 1.) BE IT KNOWN THAT THE SURVEYOR HAS NOT PERFORMED AN ABSTRACT AND HAS NOT BEEN FURNISHED A CURRENT TITLE COMMITMENT, THEREFORE EASEMENTS OR OTHER RIGHTS AFFECTING THE TRACT MAY NOT BE SHOWN.
- 2.) THIS DRAWING IS ACCOMPANIED BY A FIELD NOTE DESCRIPTION.
- 3.) BASIS OF BEARINGS ARE REFERENCED TO PREVIOUSLY FOUND MONUMENTS ALONG THE EASTERLY R.O.W. OF LAMAR BLVD. BETWEEN WEST 5TH AND 6TH STREETS AS SHOWN ON JULY 1995 ACCUSURVEY SURVEY (NORTH 24 DEGREES 57 MINUTES 00 SECONDS EAST), WHICH WAS BASED ON THE MONUMENTED CENTERLINE OF LAMAR BLVD.
- 4.) THIS DOCUMENT IS NOT TO BE USED TO CONVEY REAL PROPERTY.

LEGEND

- - 1/2" IRON ROD FOUND UNLESS OTHERWISE NOTED
- - OUT "X" IN CONCRETE FOUND (PREVIOUSLY SET BY THE WALLACE GROUP, INC)
- ▲ - CALCULATED CORNER
- O.P.R.T.C.T. - OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
- D.R.V.C.T. - DEED RECORDS OF TRAVIS COUNTY, TEXAS



The Wallace Group, Inc.

1 Chisholm Trail Suite 130, Round Rock, Texas 78681 (512) 248-0065
Engineers ■ Architects ■ Planners ■ Surveyors
Waco ■ Killeen ■ Dallas ■ Round Rock

I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THIS PLAT AND THE SURVEY UPON WHICH IT IS BASED MEETS THE REQUIREMENTS FOR LAND SURVEYS IN THE STATE OF TEXAS. THIS THE 16TH DAY OF AUGUST, 2007.

SURVEYED: 08-15-07

DANIEL M. FLAHERTY, R.P.L.S. NO. 5004



3 OF 3



© 2007 ALL RIGHTS RESERVED

PLAT NO. A-4234 DRAFT DATE 8-15-07 DRAWN BY MJM
WORK ORDER NO. 20675 FIELDBOOK/P.G. RR 72/7-12 TAB # A-4234
DIGITAL FILE 20675-ESMT.DWG F/N # 20675-FN01

Exhibit "B"

**Partial Vacation
4,940 Sq. Ft.**

**City of Austin
Bowie Street Right of Way
W. 5th Street to W. 6th Street**

PARTIAL VACATION DESCRIPTION

BEING A TWELVE AND ONE ONE-HUNDREDTH (12.01) FOOT WIDE STRIP OF LAND CONTAINING 4,940 SQUARE FEET SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AND BEING A PORTION THE BOWIE STREET RIGHT OF WAY, HAVING BEEN DEDICATED BY THE PLAT OF RAYMOND PLATEAU SUBDIVISION, OF RECORD IN VOLUME 1, PAGE 30 OF THE PLAT RECORDS OF SAID TRAVIS COUNTY, SAID STRIP OF RIGHT OF WAY TO BE VACATED BEING THE EASTERLY TWELVE AND ONE ONE-HUNDREDTH (12.01) FEET OF SAID BOWIE STREET, LOCATED BETWEEN THE NORTH LINE OF WEST 5TH STREET AND THE SOUTH LINE OF WEST 6TH STREET, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a concrete nail found at the intersection of the south line of West 6th Street with the east line of said Bowls Street, at the northwest corner of Block 5 of said Raymond Plateau Subdivision, for the northeast corner of the tract herein described;

THENCE, along the east line of said Bowls Street and the west line of said Block 5, South 25° 01' 52" West, a distance of 410.76 feet to a 1/4" iron pipe found at the southwest corner of said Block 5, on the curving north line of West 5th Street, for the southeast corner of the tract herein described;

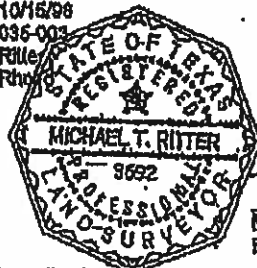
THENCE, along the north line of said West 5th Street, and along a curve to the right, having a central angle of 00° 46' 04", a radius of 898.80 feet, and a long chord bearing North 70° 01' 41" West, a distance of 12.05 feet, for an arc distance of 12.05 feet to the southwest corner of the tract herein described;

THENCE; departing the north line of said West 5th Street, and through the interior of said Bowls Street right of way, North 25° 01' 52" East, a distance of 411.84 feet to the south line of said West 6th Street, for the northwest corner of the tract herein described;

THENCE, along the south line of said West 8th Street, South 84° 59' 28" East, a distance of 12.01 feet to the POINT OF BEGINNING, containing 4,940 square feet of land, more or less.

The above description accurately represents a survey made on the ground by, under my supervision during the month of July, 1998. Bearings herein are based on the City of Austin monument line on Lamar Boulevard between 5th and 8th Streets, held as North 24° 57' 00" East.

Date: 10/15/98
Job No: 036-003
Description: Riller
Tech: Rhonda



Michael T. Ritter
Registered Professional Land Surveyor No. 3892

STANDARD FORM NO. 64

AgriSource, Inc.
International Lead Buyer for



City of Austin

Founded by Congress, Republic of Texas, 1839
Watershed Protection and Development Review Department
One Texas Center, 505 Barton Springs Road
P.O. Box 1088, Austin, Texas 78767

CAPITOL VIEW CORRIDOR DETERMINATION

C17-06-0026

For: 835 W. 6th Street

1/15/2007

Corrected with new survey information 7/10/2007

Case Reviewer: Lynda Courtney

974-2810

This site is traversed by the Capitol View Corridor #9, "Barton Creek Pedestrian Bridge". This corridor is also defined by a different endpoint and elevation as CVC #32, in the state-defined capitol corridor criteria. This was established as a view corridor in the Capitol View Preservation Ordinances 840802-T and 841220-CC. The Capitol View Corridor calculations are established to determine the maximum height structures may be built without compromising a straight line which connects a viewpoint to the base of the capitol dome.

Nine Ten points were identified on the site where edges of the view corridor meets corner points or lot lines on the existing site. These points are identified in the calculations and on the photographic exhibit as points A through-I J. The same points were analyzed for the the state-defined corridor, and are shown on the calculation sheets, with different viewpoint elevations and distances analyzed.

The specified points would allow for building heights between 68.6 feet and 96.59 101.05 feet for the City view corridor. The state-defined corridor analysis allows the same points to have maximum heights of between 80.64 77.52 feet and 107.14 93.139 feet. Since the City view corridor is more restrictive, those are the points that will prevail as the maximum height limitations. The sets of calculations are shown on the worksheet, included as an exhibit with this report. Height is measured as explained in the definition from the City of Austin Land Development Code, also included with this report. The maximum elevations shown at these points represent the heights above sea level beyond which any development on the site cannot exceed. *Note: Maximum elevations are 533.68-549.05 for the City view corridor, and between 543.016- 557.147 on the State-Defined corridor, based on more accurate surveyed information provided through Chapparral surveying and verified by John Moore of the City of Austin.*

This property is zoned DMU, "Downtown Mixed-Use", which has a 120' height limitation. The height for this site would be governed by the more restrictive view corridor limitations instead of zoning.

If you have any questions about this determination, please call Lynda Courtney at 974-2810.

Lynda J. Courtney
Development Services Process Coordinator
Watershed Protection and Development Review Department

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: C14-2009-0151

Contact: Stephen Rye, 512-974-7504

Public Hearing: March 9, 2010, Planning Commission

John Pomeroy
Your Name (please print)

500 West 5th

Your address(es) affected by this application

[Signature] 3/1/10
Signature Date

Daytime Telephone: 499-0188

Comments:

I am opposing the
proposed zoning
change. The building
at 3508 high will
be out of scale to
be next to a 12
story building. We bought
here knowing 1700' was
the height limit.

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

City of Austin

Planning & Development Review Department

Stephen Rye

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ Object

W. Bobby Nail
800 West 5th Street #1106
Austin, Texas 78703

February 19, 2010

City of Austin
Planning and Development Review Department
Stephen Rye
P.O. Box 1088
Austin, Texas 78767-8810

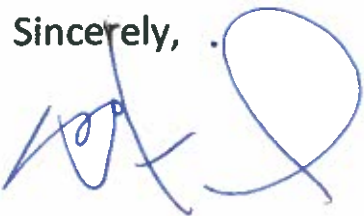
Re: Case Number C14-2009-0151

Dear Planning and Development Review Department,

I object to the above case number due to a number of reasons. The main reason is traffic congestion. Currently there is a tremendous traffic jam on 5th and 6th street at this proposed location with Whole Foods and current retail traffic. Can you please provide me with a complete traffic study showing the amount of proposed vehicles this project will add to the current traffic problem, including the potential times these vehicles will enter and exit this location? According to recent study's Austin has the 4th worst traffic in the US. This potential density will create additional unreasonable congestion.

In addition to the traffic congestion issues; if any development activities occur on this site the time at which construction can occur should be during business hours only. Many of us at Austin City Lofts lost about a year of uninterrupted sleep due to the apartments built across the street.

Sincerely,



W. Bobby Nail
512 656 1600

Rye, Stephen

From: Randy Fromberg [randy@fromberg.com]
Sent: Monday, March 01, 2010 3:05 PM
To: Rye, Stephen
Subject: Rezoning Case# C14-2009-0151

Stephen - I live at 800 West 5th. Please put me down as opposing this zoning change, as inconsistent with the neighborhood & adjacent structures. Thanks - Randy

Randall E. Fromberg, AIA, REFP
Fromberg Associates, Ltd :: *Architecture*
2406 Lake Austin Blvd, Austin, TX 78703
Phone: 512.495.9171 x28
Fax: 512.495.1837

www.fromberg.com

PUBLIC HEARING INFORMATION

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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: C14-2009-0151

Contact: Clark Patterson, 512-974-7691

Public Hearing: Feb. 23, 2010, Planning Commission

Mar. 25, 2010, City Council

W. Bobby Nail

Your Name (please print)

800 West 5th St. #1106

Your address(es) affected by this application

[Signature]

Signature

Date

Daytime Telephone: *(512) 656-1600*

Comments:

See attached

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

City of Austin

Planning & Development Review Department

Stephen Rye

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ I object