

ZONING CHANGE REVIEW SHEET

CASE: NP-2010-0026.01

(North Lamar Combined Neighborhood Planning Area – Tract 32) /

C14-2010-0048.01

(North Lamar Neighborhood Planning Area Rezonings – Tract 32)

P.C. DATE: May 11, 2010

ADDRESS OF PROPOSED ZONING CHANGE: 320 East Rundberg Lane

APPLICANT: City of Austin (City initiated)

AGENT: Planning and Development Review Department

(Mark Walters/ Jacob Browning/ Greg Dutton/ Sherri Sirwaitis)

ZONING FROM: MF-2, MF-3, LO, GR-MU, GR

SUMMARY STAFF RECOMMENDATION:

The staff recommends that a Neighborhood Plan Combining District (NPCD) be created covering the entire plan area. Under the proposed North Lamar NPCD, the following design tools will be applied area-wide: "Parking Placement and Impervious Cover Restrictions," "Garage Placement" and "Front Porch Setback".

In addition, the staff recommends the following for Tract 32:

Northern Portion of the Tract (Tract 32D):

Recreation and Open Space land use designation on the FLUM
P-NP zoning

Eastern Portion of the Tract (Tract 32C):

Mixed Use land use designation on the FLUM

CS-V-CO-NP zoning, with the following conditions:

- 1) Vehicle trip limitation of 2,000 trips per day
- 2) Prohibit the following uses on the site:
 - Adult Oriented Businesses
 - Bail Bond Services
 - Campground
 - Hotel/Motel
 - Kennels
 - Outdoor Entertainment
 - Pawn Shop Services
 - Pet Services
 - Vehicle Storage

Western Portion of the Tract (Tract 32B):

Commercial land use designation of the FLUM

W/LO-CO-NP zoning, with the following conditions:

- 1) Vehicle trip limitation of 2,000 trips per day

Southern Portion of the Tract (Tract 32A):

Mixed Use land use designation on the FLUM

GR-MU-V-CO-NP zoning, with the following conditions:

- 1) Limit development on the site to less than 2,000 vehicle trips per day.
- 2) Prohibit the following uses on the site:
 - Automotive washing (of any type)
 - Automotive repair services
 - Automotive sales
 - Hotel/motel
 - Bail bond services
 - Pawn shop services
 - Equipment repair services
 - Equipment sales

ISSUES:

The staff received a petition from the current property representatives who are opposed to the Planning Commission recommendation for SF-6-NP zoning on the site (Attachment I). This petition is valid at 100.00% and therefore will require an affirmative vote of three-fourths of the members of Council to approve a proposed rezoning.

The excerpt below is from the City of Austin's Land Development Code and explains when the City Council is subject to the three-fourths vote.

Sec. 25-2-284 REQUIREMENT FOR APPROVAL BY THREE-FOURTHS OF COUNCIL.

- (A) *The affirmative vote of three-fourths of the members of Council is required to approve a proposed rezoning if:*
 - (1) *the Land Use Commission recommends denial of an application to rezone property to a planned unit development; or*
 - (2) *the proposed rezoning is protested in writing by the owners of not less than 20 percent of the area of land:*
 - (a) *included in the proposed change; or*
 - (b) *immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.*

DEPARTMENT COMMENTS:

The property in question consists of approximately 24-acres of undeveloped land and is currently zoned MF-2, MF-3, LO, GR-MU and GR (Please see information concerning Tract 32 as Attachment H). During the planning process to develop land use and zoning recommendations this site was discussed at length at several meetings. Although the tract was predominately zoned for multi-family, community stakeholders believed their neighborhoods had an abundance of rental and multi-family properties. According to the 2000 census, of all the residential units in the combined planning area, 80% were rental and 60% were apartments. To encourage increased homeownership in attempt to stabilize the area, the recommendation was to designate the site as High-Density Single-Family and a rezoning to SF-6-NP.

Toward the end of the planning process, members of the community were contacted by an agent of a multi-family development company who were seeking tax credit financing to develop very low income rental housing on the tract. On November 2, 2009, at one of the final meetings in the planning process, the owner of the tract, Kurt Barton, principal of Triton Financial, et. al., was in

attendance along with representatives from the multi-family development company. At the meeting, Mr. Barton and the representatives from the development company expressed their strong opposition to the recommendations; although they said they were willing to continue the conversation with the neighborhood to identify any areas of consensus. At a subsequent meeting between Mr. Barton and a neighborhood representative, Mr. Barton reiterated opposition to the proposed change and restated his intent to fight the zoning change.

On December 22, 2009, the Securities and Exchange Commission filed suit in the United States District Court for the Western District of Texas, Austin Division, against Mr. Barton and his companies and seized their assets and assigned a receiver to recoup losses incurred by Mr. Barton's investors due to his illegal business dealings. In early 2010 the prospective deal with the multi-family developer collapsed. In order to increase the value of the seized assets, the attorney for the receivership, Robert Kleeman, contacted Neighborhood Planning staff to discuss possible alternatives for the site based on a previous zoning case that was recommended by zoning staff and which advanced to first reading before the Austin City Council before it was allowed to expire. The case involved dividing the property into two parts with the eastern section to be zoned CS-CO and the western portion zoned W/LO. Mr. Kleeman arranged with neighborhood planning staff to hold a meeting to discuss the proposal with interested parties from the planning area. On April 6th, Mr. Kleeman met with eight members of the community with two staff in attendance as resources. He agreed to keep the conditions of the previous zoning case and to increase the number to address community concerns. In return he requested that the amount of CS-CO zoned area increase from 8.77 acres to 11.70 acres, the W/LO decrease from 12.93 acres to 10.02 acres, and the SF-3 to remain unchanged. Lyn Galbreth, representing Northcreek/Georgian Acres Neighborhood Association, stated that the Association's position was neutral on the proposal (Please see Attachment L for the specifics of the proposal). There was no clear consensus on the proposal from the people in attendance and Neighborhood Planning staff forwarded the proposal to the North Lamar Combined Neighborhood Planning Area email interest list. Of the five respondents, four were against the proposal and supported the original SF-6 recommendation and one discussed desired amenities of a possible multi-family project.

Planning and Develop Review staff reviewed the new proposal and agreed to it with the following additional conditions and prohibited uses:

- Equipment Repair Services
- Equipment Sales
- Automotive Repair Services
- Automotive Sales
- Automotive Washing (of any type)
- Service Station
- A continuous 50' undisturbed natural vegetative buffer along the western property line adjacent to the single family fronting onto Oriole.

On June 15, 2010, Mr. Kleeman met with Neighborhood Planning, PARD, and Real Estate Services staff, and a neighborhood representative to discuss a new proposal for Tract 32. Mr. Kleeman proposed to donate an approximately 1.19 acre portion of the tract to PARD to be used as parkland for the NLCNPA (Tract 32D in Attachment A). In exchange for the parkland, the commercial and light industrial zoning districts in the original proposal would be reinstated, although with altered boundaries. Everyone, including the neighborhood representative, agreed with the new proposal. See Attachment K for the representative's letter of support. The southern portion of Tract 32 (Tract 32A) will retain its zoning as approved by Council in 2008 (Ord. 20080828-098) with the addition of the vertical mixed use building zoning and additional conditions. The proposal for Tract 32 is as follows:

Tract 32A:

Mixed Use land use designation on the FLUM

GR-MU-V-CO-NP zoning, with the following conditions:

- 1) Limit development on the site to less than 2,000 vehicle trips per day.
- 2) Prohibit the following uses on the site:

Automotive washing (of any type)	Bail bond services
Automotive repair services	Pawn shop services
Automotive sales	Equipment repair services
Hotel/motel	Equipment sales

Tract 32B:

Commercial land use designation of the FLUM

W/LO-CO-NP zoning, with the following conditions:

- 1) Vehicle trip limitation of 2,000 trips per day

Tract 32C:

Mixed Use land use designation on the FLUM

CS-V-CO-NP zoning, with the following conditions:

- 1) Vehicle trip limitation of 2,000 trips per day
- 2) Prohibit the following uses on the site:

Adult Oriented Businesses	Outdoor Entertainment
Bail Bond Services	Pawn Shop Services
Campground	Pet Services
Hotel/Motel	Vehicle Storage
Kennels	

Tract 32D:

Recreation and Open Space land use designation on the FLUM

P-NP zoning

LIST OF ATTACHMENTS:

- A. Location Map for 320 East Rundberg Lane (Tract 32)
- B. GIS Staff Zoning Map for North Lamar Neighborhood Planning Area
- C. Current Zoning Map for North Lamar Neighborhood Planning Area
- D. Aerial Map for Tract 32
- E. Current Land Use Map for North Lamar Neighborhood Planning Area
- F. Future Land Use Map for North Lamar Neighborhood Planning Area
- G. Future Land Use Map for Tract 32
- H. Map of Recommended Zoning Changes for North Lamar Neighborhood Planning Area
- I. Information Concerning the Property Known as Tract 32
- J. Protest Letter Against The Proposed Rezoning
- K. Neighborhood Letter in Support of New Zoning Proposal, based on the June 15, 2010, meeting between the property's representative, City staff, and a neighborhood representative

PLANNING COMMISSION RECOMMENDATION:

5/11/10: Approved the staff's recommendation for the Impervious Cover & Parking Placement Restrictions, Front Porch Setback and Garage Placement design tools for the North Lamar Planning Area; Vote: (8-0, J. Reddy-absent); D. Anderson-1st, K. Tovo-2nd.

Approved the neighborhood's recommendation for High Density Single-Family FLUM and SF-6-NP zoning for Tract 32 (320 East Rundberg Lane); (6-2, J. Reddy-absent); D. Anderson-1st, B. De Leon-2nd.

AREA STUDY: North Lamar Combined Neighborhood Planning Area
North Lamar Area Study (May 31, 1985)

TIA: Not required

WATERSHEDS: Little Walnut Creek
Walnut Creek
Buttermilk Branch

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

SCHOOLS:

Walnut Creek Elementary School
Barrington Elementary School
Dobie Middle School
Webb Middle School
Lanier High School

NEIGHBORHOOD ORGANIZATIONS:

Georgian Manor Neighborhood Association
St. John Neighborhood Association
Home Builders Association of Greater Austin
Austin Independent School District
Austin Neighborhoods Council
Northeast Walnut Creek Neighborhood Association
Homeless Neighborhood Association
Greater Northcross Area
North Growth Corridor Alliance
Walnut Creek Neighborhood Association, Inc.
NACA Neighborhood Plan Contact Team
Austin Parks Foundation
Northcreek & Georgian Acres Neighborhood Association
Heritage Hills/Windsor Hills Combined COA Liaison
Pflugerville Independent School District
Highland Neighborhood Association
Brentwood/Highland Combined Neigh -COA Liaison
Responsible Growth for Northcross (RG4N)
League of Bicycling Voters
St. Johns Advisory Board
North Austin Neighborhood Alliance
Austin Monorail Project

Mockingbird Hill Neighborhood Association
 Sierra Club, Austin Regional Group
 Super Duper Neighborhood Objectors and Appealers Organization
 The Real Estate Council of Austin, Inc.
 North Austin Civic Association
 Highland/Skyview Neighborhood Plan Contact Team

RELATED CASES:

NP-2010-0026 – North Lamar Combined Neighborhood Planning Area
 C14-2010-0048 – North Lamar Combined Neighborhood Plan Area Rezoning
 C14-2010-0049 – Georgian Acres Combined Neighborhood Plan Area Rezoning

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro
Braker Lane	115'	Varies	Arterial	Yes (many sections)	Yes	Yes
Rundberg lane	100'	Varies	Arterial	Yes (many sections)	No	Yes
North Lamar Blvd	115'	Varies	Arterial	Yes (many sections)	No	Yes
IH 35	300'	Varies	Freeway	Yes (many sections)	No	No

CITY COUNCIL DATE: May 27, 2010

ACTION: Postponed consideration on Tract 32 to June 24, 2010, on the account that Robert Kleeman meet with the neighborhood to come up with a reasonable solution (6-0, Spelman-off dais); R. Shade-1st, M. Martinez-2nd.

CITY COUNCIL DATE: June 24, 2010

ACTION: Postponed on consent to July 29, 2010 at the staff's request on (7-0); Morrison- 1st, Spelman-2nd.

CITY COUNCIL DATE: July 29, 2010

ACTION:

ORDINANCE READINGS: 1st

2nd 3rd

ORDINANCE NUMBERS:

ZONING CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057

E-MAIL: sherri.sirwaitis@ci.austin.tx.us

NEIGHBORHOOD PLANNER: Mark Walters

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E-MAIL: mark.walters@ci.austin.tx.us

NEIGHBORHOOD PLANNER: Jacob Browning

PHONE: 974-7657

E-MAIL: jacob.browning@ci.austin.tx.us

NEIGHBORHOOD PLANNER: Greg Dutton

PHONE: 974-3509

E-MAIL: greg.dutton@ci.austin.tx.us

STAFF RECOMMENDATION

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In addition, the staff recommends the following for Tract 32:

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Western Portion of the Tract (Tract 32B):

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W/LO zoning, with the following conditions:

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 - Equipment sales

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

The staff's basis for recommendation is derived from the goals and objectives for land use as described in the North Lamar Combined Neighborhood Plan:

Land Use Goal: Create a well-balanced land use pattern that benefits everybody in the North Lamar Combined Neighborhood Planning Area by assigning appropriate land uses to particular properties.

Objective L.1: *Preserve the residential character of the neighborhoods in the NLCNPA.*

Recommendation 119 Non-residential uses should not encroach into the established neighborhoods of the NLCNPA.

Recommendation 120 In order to preserve the large-lot rural character of the northeastern corner of the Georgian Acres NPA, zoning requests for intense residential development should be denied.

Objective L.2: *Maintain a balanced residential character throughout the NLCNPA.*

Recommendation 121 Limit the construction of new, large multi-family residential complexes throughout the NLCNPA.

Recommendation 122 New, more intense residential development should contain a mixed use element and be located along major roadways.

Objective L.3: *Establish North Lamar Boulevard as a mixed use, pedestrian-friendly corridor.*

Recommendation 125 Incorporate small-scale, neighborhood-serving commercial or retail establishments into new mixed use developments.

Recommendation 127 All new development (mixed use, commercial, or multi-family) must be pedestrian-friendly and oriented towards the street with parking located to the rear of the building(s).

Recommendation 129 New mixed use developments must be compatible to adjacent properties and uses.

Objective L.5: *Increase the housing options and homeownership opportunities within the NLCNPA.*

Recommendation 131 Allow the Urban Home Special Use on Tracts 1 - 3.

Recommendation 132 Allow the Residential Infill Special Use on Tracts 1 - 3.

Objective L.6: *Provide a retail and/or mixed use component on Tracts 1 - 3.*

Recommendation 134 Rezone the portions of Tracts 2 and 3 that front Rundberg Lane to promote neighborhood-serving commercial and mixed use developments.

Objective L.7: Establish Ferguson Drive as a neighborhood mixed use district.

Recommendation 136 Limit the types and intensities of the uses allowed along Ferguson Drive.

Objective L.8: Preserve the largely commercial environment along the I-35 Corridor.

Recommendation 138 Place restrictions on the development of new hotels/motels along I-35.

EXISTING CONDITIONS

Zoning and Land Use

Existing Land Use for the Combined Neighborhood Plan area:

	Total Number of Parcels	Percent Total of Parcels	Acreage
Single Family	1,453	72.9%	347.1
Mobile Home	74	3.7%	15.4
Multifamily	109	5.5%	189.2
Commercial	133	6.7%	196.3
Office	32	1.6%	23.9
Industrial	67	3.4%	111.0
Civic	17	0.9%	47.0
Open Space	3	0.2%	0.8
Transportation	9	0.5%	4.1
Roads	2	0.1%	1.5
Utilities	1	0.1%	0.5
Undeveloped	92	4.6%	107.8
Total	1,992	100.0%	1,044.6

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is located both in the Little Walnut Creek Watershed and the Walnut Creek Watershed of the Colorado River Basin and is classified as an Urban Watershed and as a Suburban Watershed, respectively, by Chapter 25-8 of the City's Land Development Code.

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

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

Numerous 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.

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

Following are the comments for each watershed classification:

Urban

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 sq. ft. cumulative is exceeded, and detention for the two-year storm.

Suburban

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

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

Impervious Cover

The maximum impervious cover limits for the proposed zoning districts are as follows:

LI, Limited Industrial Services	80 %
IP, Industrial Park	80 %
CS, Commercial Services	95 %
CS-1, Commercial – Liquor Sales	95 %
W/LO, Warehouse Limited Office	70 %
GR, Community Commercial	90 %
LR, Neighborhood Commercial	80 %
GO, General Office	80 %
LO, Limited Office	70 %
NO, Neighborhood Office	60 %
MH, Mobile Home	N/A
MF-6, Multi-family Residence – Highest Density	80 %
MF-5, Multi-family Residence - High Density	70 %
MF-4, Multifamily Residence - Moderate – High Density	70 %
MF-3, Multi-family Residence - Medium Density	65 %
MF-2, Multi-family Residence - Low Density	60 %
MF-1, Multi-family Residence - Large Lot	55 %
SF-6, Townhouse & Condominium Residence	55 %
SF-5, Urban Family Residence	55 %
SF-3, Family Residence	45 %
SF-2, Single Family Residence – Standard Lot	45 %
SF-1, Single Family Residence – Large Lot	40 %
P, Public	varies (refer to the <u>Land Development Code</u>)

However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

The site is located both in the Little Walnut Creek Watershed and the Walnut Creek Watershed of the Colorado River Basin and is classified as an Urban Watershed and as a Suburban Watershed, respectively, by Chapter 25-8 of the City's Land Development Code.

Urban

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

Suburban

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

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

Note: The most restrictive impervious cover limit applies.

Site Plan/Compatibility Standards

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

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations. Therefore, the following standards will apply:

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

Transportation

Additional right-of-way (ROW) necessary for future roadway improvements within the proposed zoning may be required during the subdivision review process or the site plan review process.

Since the rezoning of this area is being initiated by the City of Austin through the neighborhood planning process and does not reflect a specific development proposal, no trip generation calculations are provided on a tract-by-tract basis for any proposed land uses.

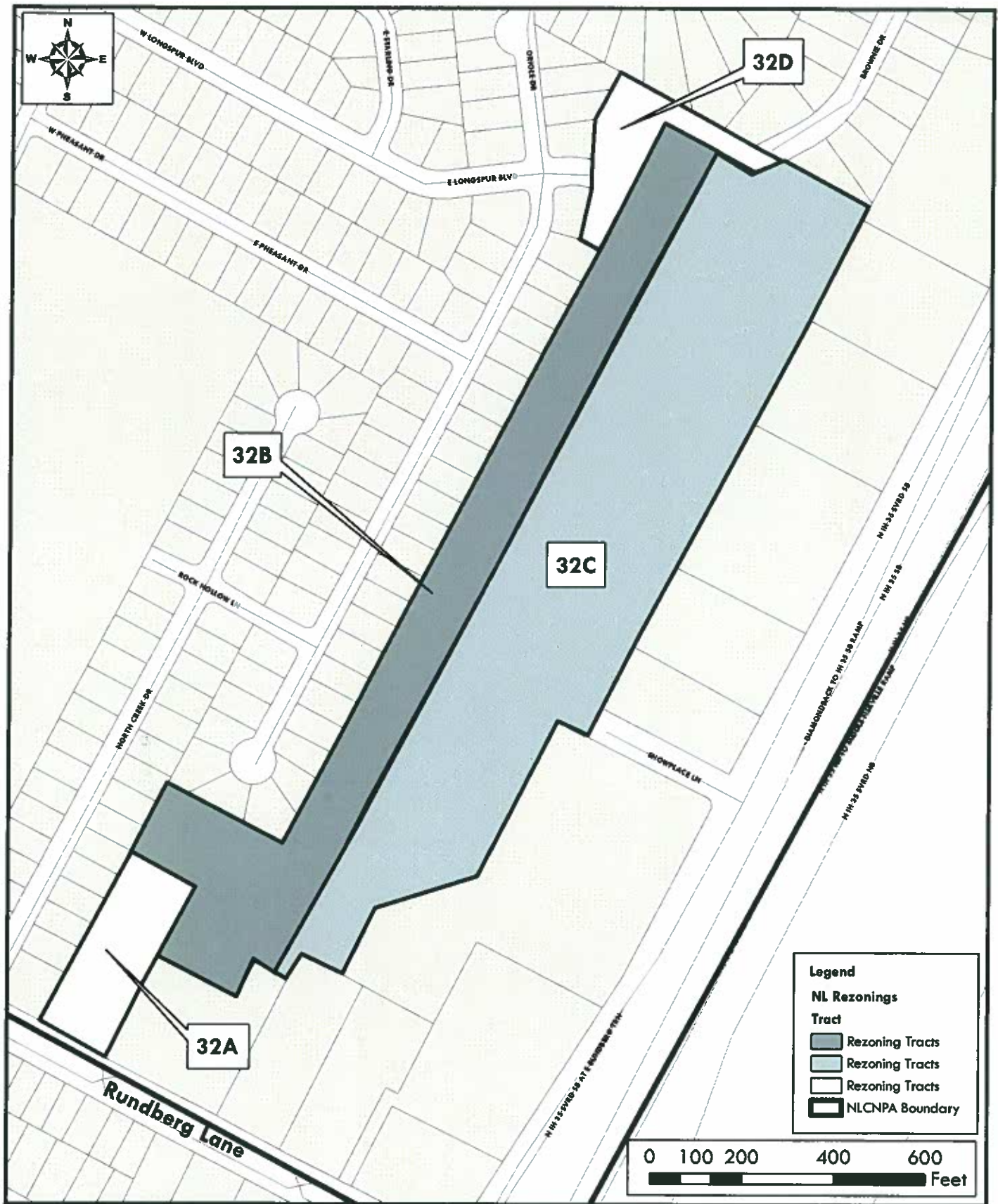
A Traffic Impact Analysis (TIA) will be required during the site plan review stage for any proposed land use that would generate over 2,000 vehicle trips per day. Additional ROW, participation in roadway improvements, and/or limitation on development intensity may also be recommended based on review of the TIA.

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro
Braker Lane	115'	Varies	Arterial	Yes (many sections)	Yes	Yes
Rundberg lane	100'	Varies	Arterial	Yes (many sections)	No	Yes
North Lamar Blvd	115'	Varies	Arterial	Yes (many sections)	No	Yes
IH 35	300'	Varies	Freeway	Yes (many sections)	No	No

Water and Wastewater

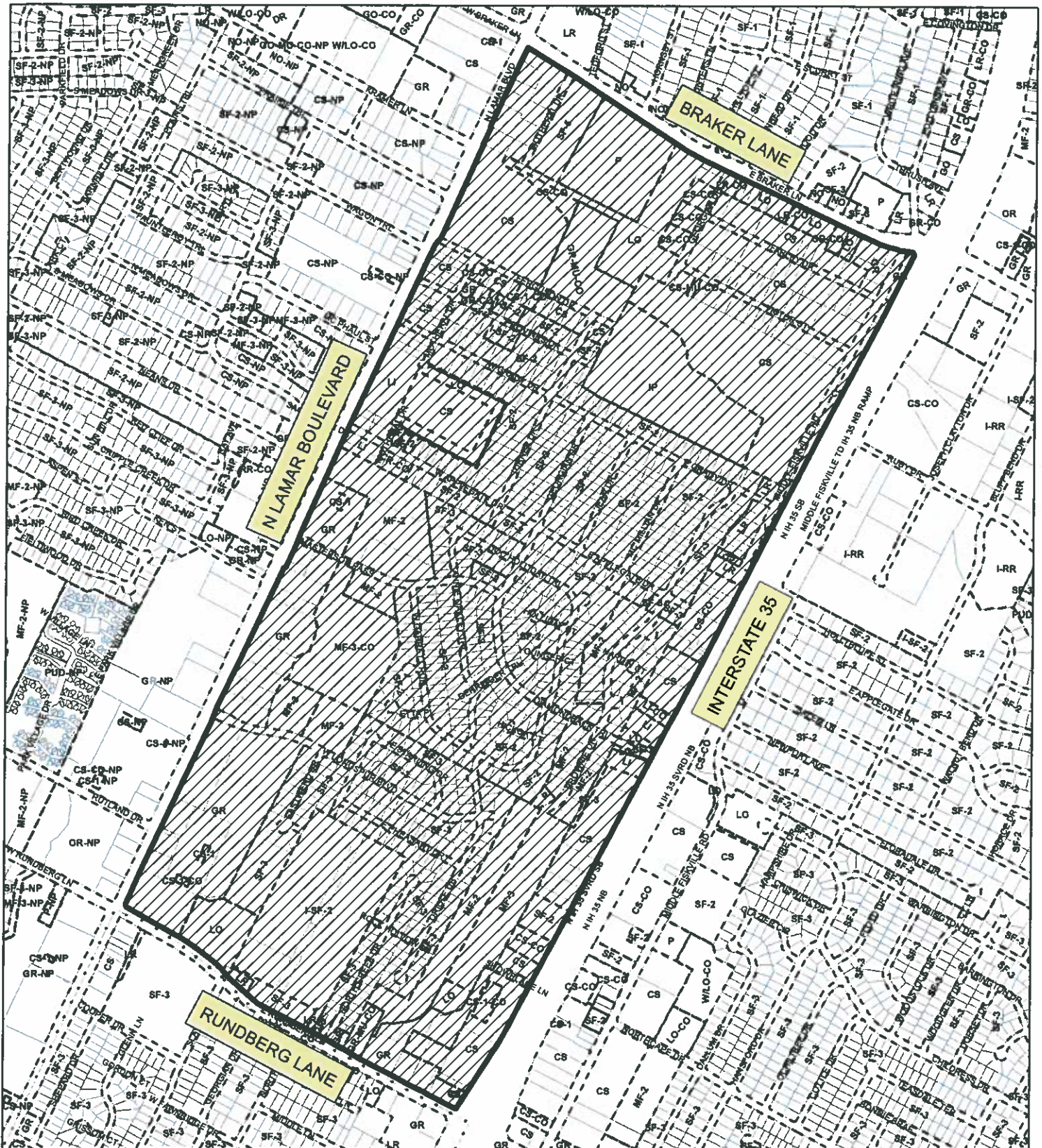
FYI: The planning area is served by City of Austin water and wastewater utilities. The landowners, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the proposed zoning. Water and wastewater utility plans 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.






North Lamar Combined Neighborhood Planning Area

North Lamar Neighborhood Plan Combining District

Zoning Case # C14-2010-0048.01 (Tract 32)

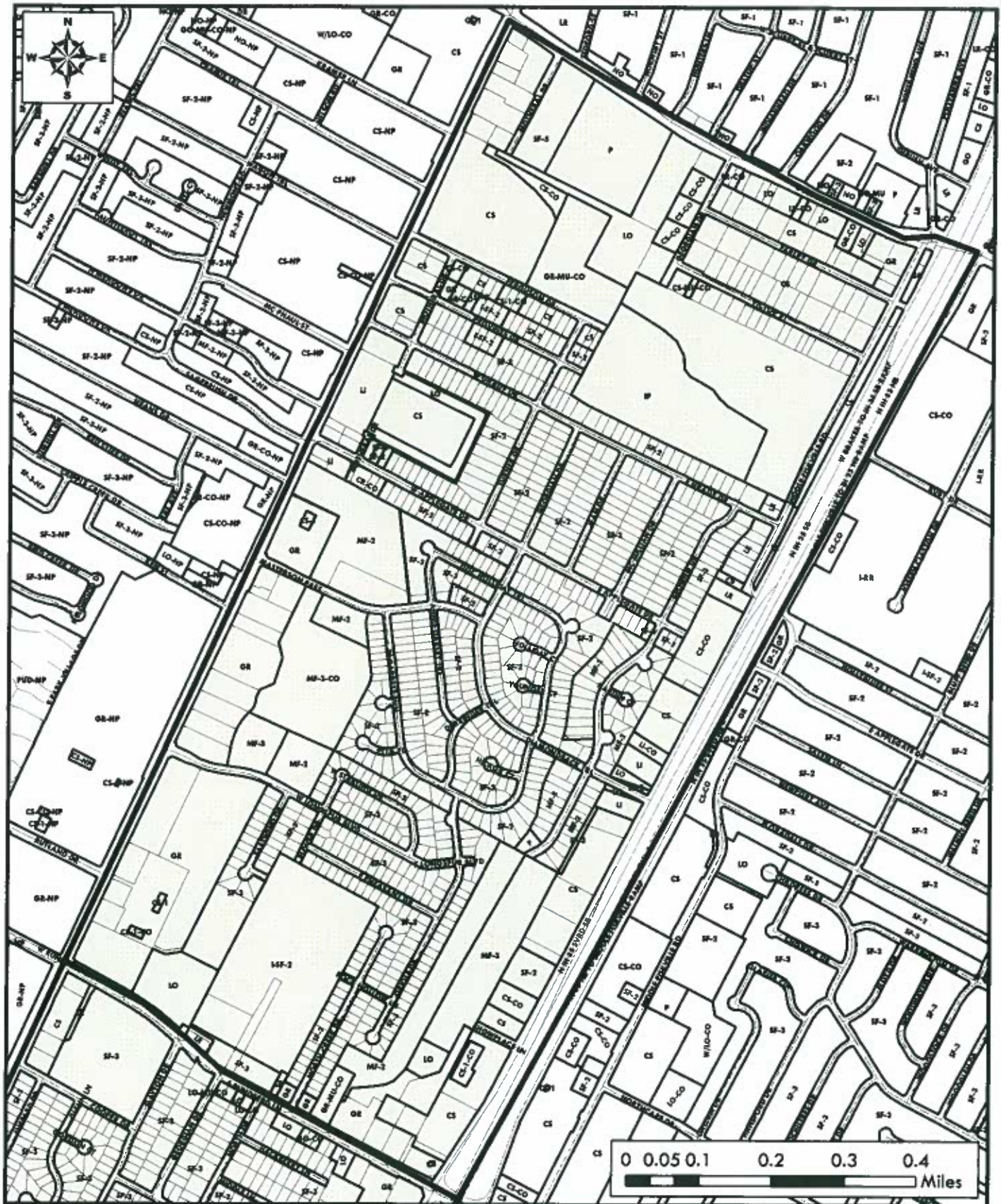


-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE

ZONING
 ZONING CASE#: C14-2010-0048
 ADDRESS: NORTH LAMAR NEIGHBORHOOD
 PLANNING AREA
 SUBJECT AREA: 627.43 ACRES
 GRID: L30-31 & M30-32
 MANAGER: JACOB BROWNING



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



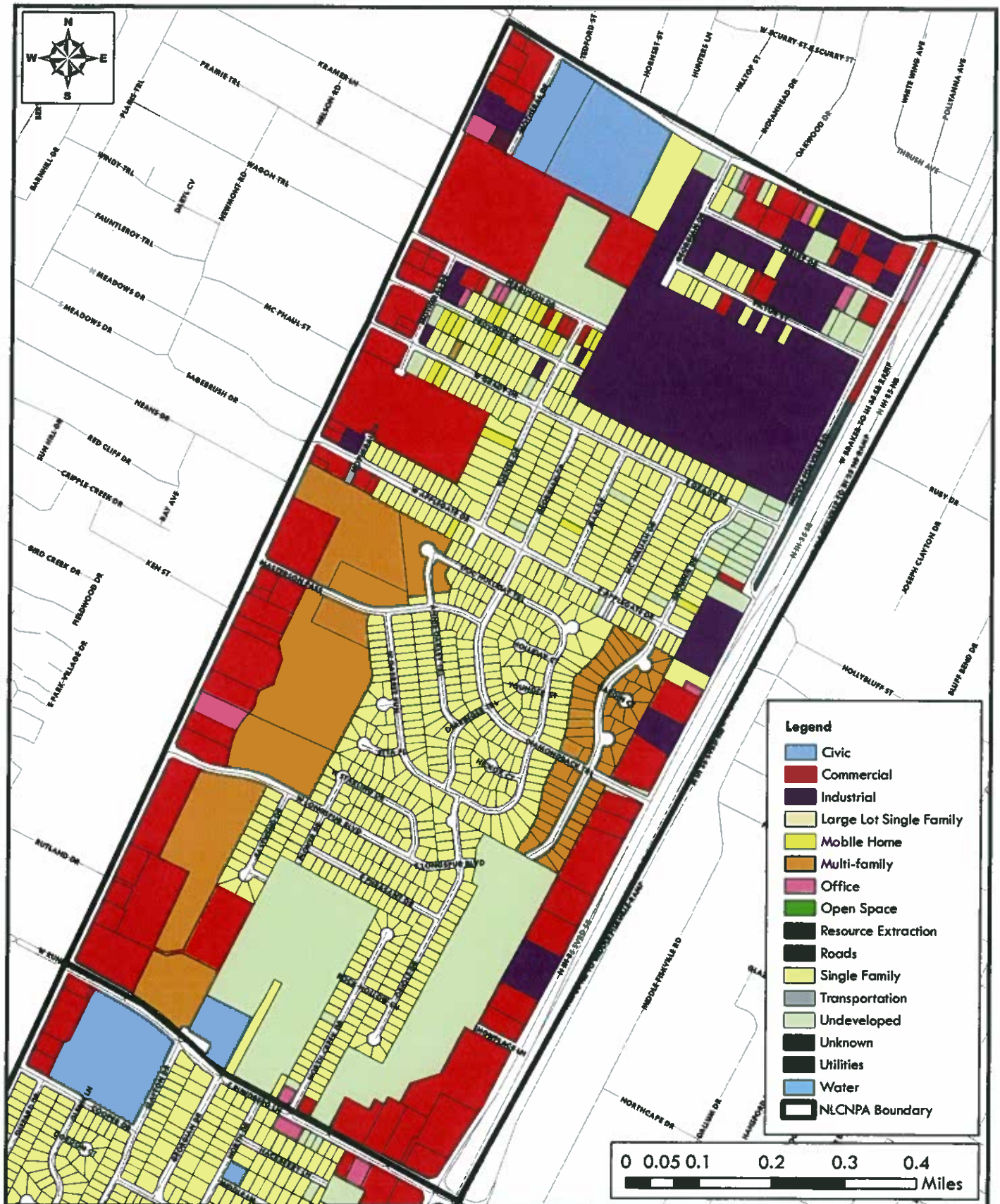
North Lamar Combined Neighborhood Planning Area

North Lamar Neighborhood Planning Area

Current Zoning Districts



North Lamar Combined Neighborhood Planning Area **Tract 32 Aerial**



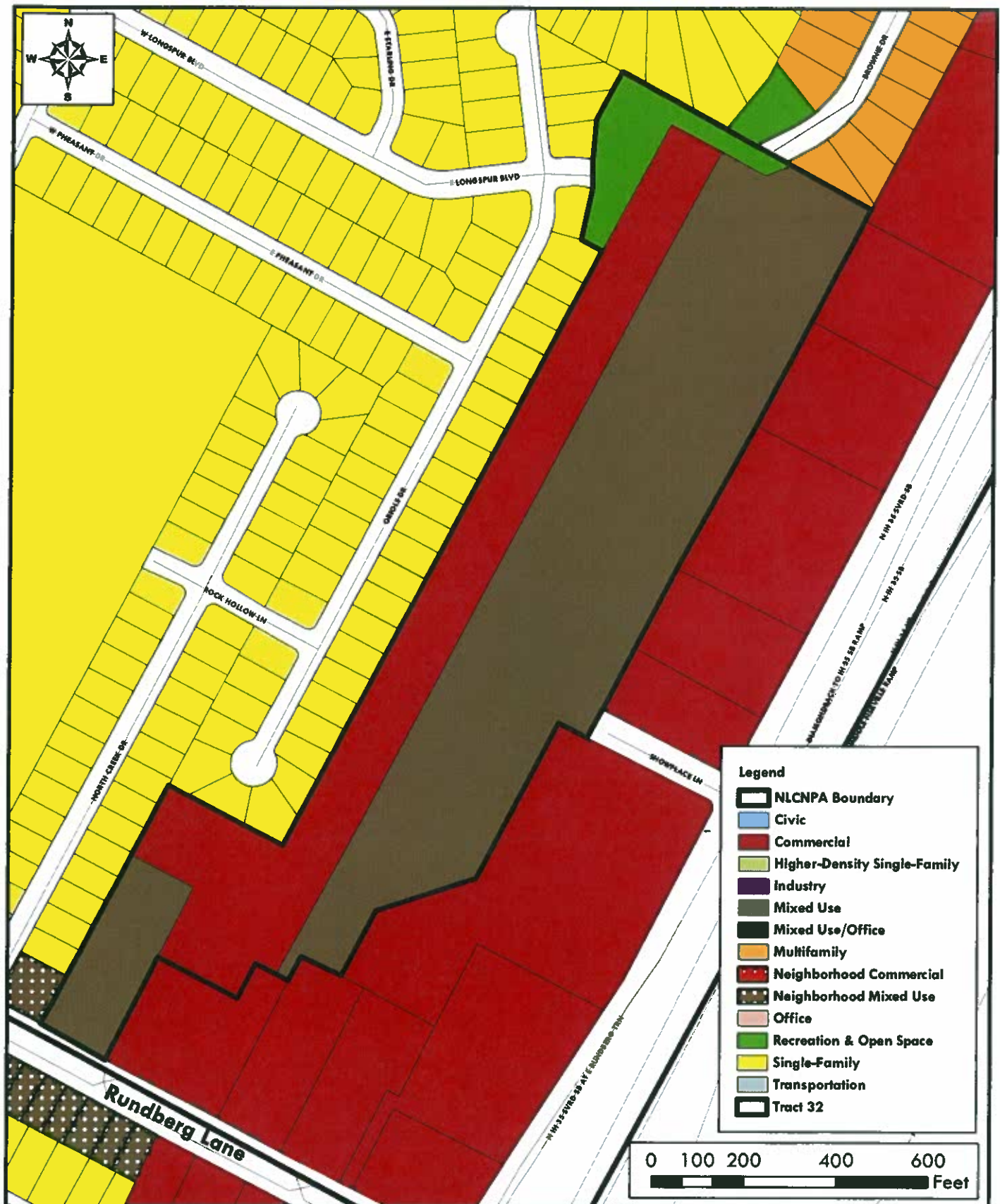
North Lamar Combined Neighborhood Planning Area
 North Lamar Neighborhood Planning Area
 Current Land Use, 2008



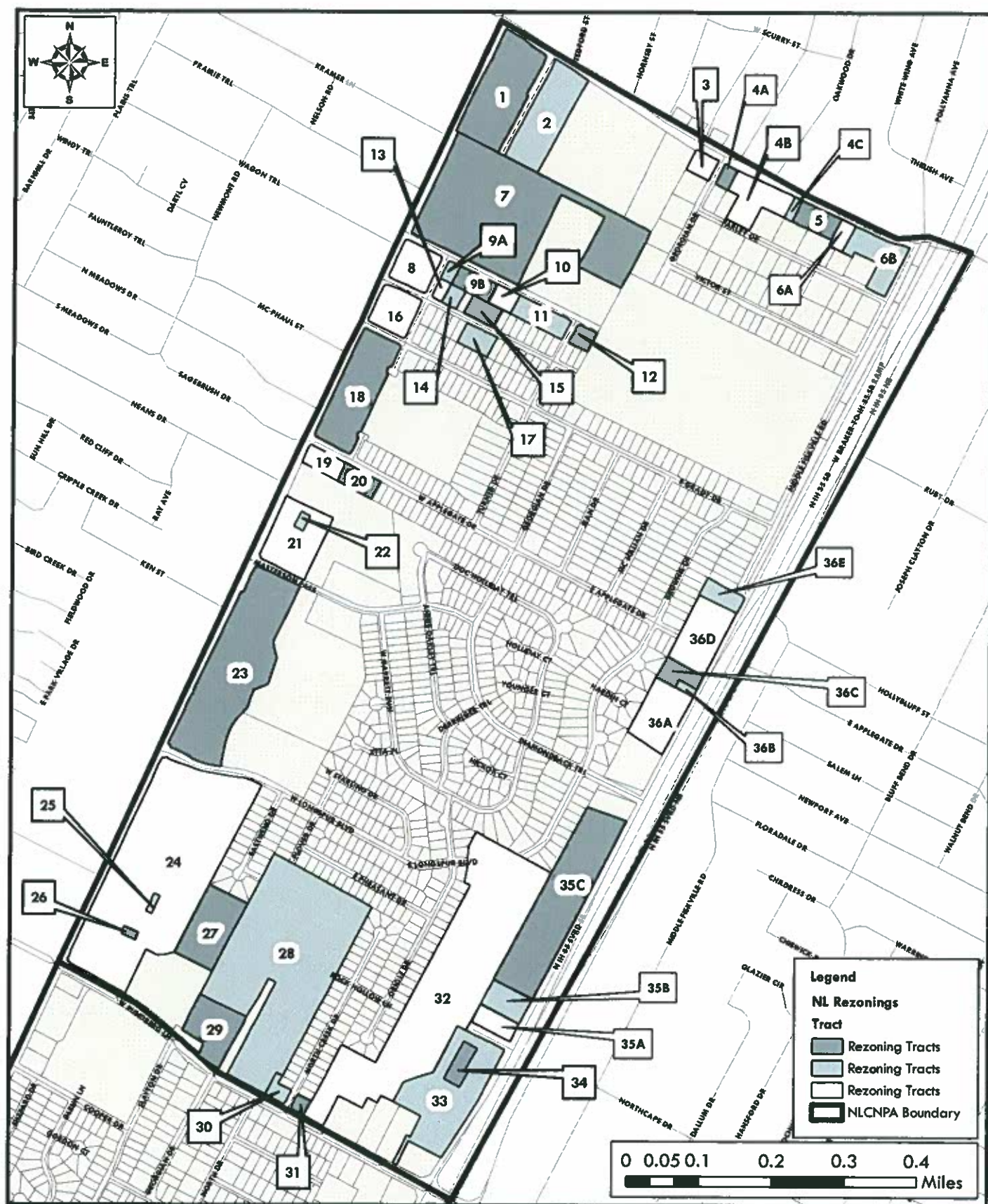
North Lamar Combined Neighborhood Planning Area

North Lamar Neighborhood Planning Area

Future Land Use Map



North Lamar Combined Neighborhood Planning Area North Lamar Neighborhood Plan Combining District Case # NP-2010-0026.01 (Tract 32)



North Lamar Combined Neighborhood Planning Area

North Lamar Neighborhood Plan Combining District

Zoning Case # C14-2010-0048

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April 15, 2010

Residents of North Creek
Georgian Acres Neighborhood Association
c/o City of Austin
Planning and Development Review Department

Re: Re-Zoning of Approximately 22.6 Acres North of Rundberg Lane ("Property")

Everyone:

I represent Steve Harr who is the court appointed Receiver for Triton Financial. The above referenced undeveloped property just west of IH 35 is owned by Rundberg Business Park, Ltd. ("RBP"), which is one of the Triton Financial entities. All of the Triton business entities were placed into receivership in December 2009. An important function of the receiver is to recover, for the benefit of the people who invested with Triton, as much value as possible from properties and assets in the receivership.

You may recall that in 2007, RBP filed a re-zoning application to change the property's zoning (which was and is primarily multi-family) to Commercial Service with conditional overlays (CS-CO) and Warehouse/Local Office (W/LO). RBP's agent, Ron Thrower, had negotiated an agreement with the adjacent neighbors regarding the re-zoning. During the final stages of the re-zoning process, RBP put the Property under contract with a San Antonio based apartment developer. As a result of the sales contract, RBP suspended its re-zoning application which eventually expired in 2008.

When RBP was placed into receivership, the contract to the San Antonio developer was still in place; however, in February 2010, the purchaser cancelled the contract. Afterwards, the Receiver determined that a multi-family use was not the highest and best use of the Property. Upon reviewing the RBP re-zoning effort in 2007/2008, the Receiver determined that the W/LO-CS-CO zoning of the Property was the most appropriate.

As you well know, the City of Austin has conducted the North Lamar Neighborhood Plan for the last two years. One of the tools in the neighborhood planning process is to re-zone property. The Receiver has notified the City of Austin that the Receiver seeks to re-zone the Property generally in accordance with the terms of a February 26, 2008 Ron Thrower letter addressed to Larry Hardison on behalf of North Creek/Georgian Neighborhood Association. The only change that the Receiver seeks from the previous agreement is to increase the area zoned CS-CO and reduce the area zoned W/LO. The attached map shows the zoning configuration that the Receiver seeks.

With the assistance of Mark Walters of the City's Planning and Development Review Department, an email notice was sent to nearby residents regarding an April 6, 2010 meeting held at the Farm

Residents of North Creek
Georgian Acres
Neighborhood Association
April 15, 2010
Page 2

Bureau of Texas office on Rundberg Lane. The purpose of the meeting was to present the re-zoning the Receiver seeks and to ask the neighbors to support this re-zoning. Approximately seven residents and land owners attended the April 6, 2010 meeting along with City staff. During the meeting, we used the February 26, 2008 Ron Thrower letter as the starting point for discussions. We discussed prohibiting additional uses on the Property, the increased area of the CS-CO zoning and the mitigation of potential adverse impacts from the development of the Property.

At the meeting, I presented a map of the Property that showed the split of the Property between W/LO and CS-CO. In short, the map showed the W/LO-area had a depth of 125 feet from the western property line of the Property with the W/LO zoned area containing approximately 7.70 acres and the CS-CO area containing approximately 14.0 acres. I explained that W/LO zoning limits building heights to one story. W/LO also has a sharp limitation on the amount of buildings that can be constructed. Because of the low density and short building profile, W/LO operates as buffer to the CS-CO zoning district. The attendees asked that the W/LO area be increased in width (and increasing the area of W/LO) and that certain uses be prohibited. The attached map shows the adjustment to the W/LO area in response to the attendees request.

The attendees also requested that I distribute to the immediately adjacent residents a description of the discussions on April 6, 2010 as well the re-zoning proposed by the Receiver. Attached is the Receiver's re-zoning proposal based on the discussions of April 6, 2010. The text of the re-zoning proposal is identical to the terms in Ron Thrower's February 26, 2008 letter except I have added the changed terms which are in boldface.

On behalf of the receiver, I request your support of the re-zoning of the Property based on the attached map and Zoning Proposal. The receiver also requests your support for commercial land use on the Future Land Use Map. Due to the receiver's obligation to proceed as quickly as possible, the receiver will ask to have the re-zoning of the Property heard at the first Planning Commission hearing on the North Lamar Neighborhood Plan.

If you have questions or comments regarding the proposed re-zoning, please contact me no later than April 27, 2010. I will be happy to discuss the re-zoning with you.

That should cover everything we talked about. Should you have any questions, comments or concerns please let me know as quickly as possible so that we can address the issues prior to the public hearing.

Very truly yours,



Robert J. Kleeman

RJK/dlr
Enclosures

ATTACHMENT

RE-ZONING PROPOSAL

"C14-2007-0232 [**previous zoning case for the Property**]" is the interior of the site which is accessible from Showplace Lane and has E. Longspur Blvd. and Brownie Drive stubbing to the site on the north end. The current zoning is a mixed bag of "GR", Community Commercial, "LO", Limited Office, "MF-3", Multifamily Residence - Medium Density, "MF-2", Musty-Family Residence - Low Density, and "SF-3", Family Residence. We had requested the zoning be for "CS", Commercial Services for the entire property. The City Staff recommendation is for "SF-3", W/LO-CO", Warehouse / Limited Office - Conditional Overlay, and "CS-CO". We are in agreement with staff's zoning districts but not in the areas as they have depicted this on their map. Pursuant to our meeting last week with neighborhood representatives, we agreed that the "SF-3" can remain as is on the north end of the site. This area totals 0.923 acres. Our potential development plan scenario contemplated a road running north-south down the center of the property and connected to only Showplace Lanes. The intent was not to connect this internal street to either E. Longspur Blvd. or Brownie Drive. Further, it is agreed that E. Longspur Blvd. and Brownie should not be connected as an independent street.

This leaves the commercial portions of the development with the "W/LO" portion at 12.931 acres [**now 10.02 acres**] and the "CS" portion at 8.768 acres [**now 11.70 acres**]. These acreages are derived by dividing the remaining larger commercial tract down the middle coinciding with the "proposed" right-of-way of the concept plan. This is more "W/LO" and less "CS" zoned land than the City Staff recommendation.

We plan to exclude the following uses from the "CS" portion of the property:

1. Bail Bond Services;
2. Campground;
3. Kennels;
4. Pawn Shop Services;
5. Pet Services;
6. Vehicle Storage
7. **Outdoor entertainment [new];**
8. **Hotel/motel [new]; and**
9. **Adult oriented businesses [new].**

We do not plan to exclude any uses from the "W/LO" portion as this zoning district is limiting enough to provide for the transitional development through the use regulations and development regulations of that zoning district. The big one of Pawn Shop services is not a permitted use so that is not an issue for this district.

As such, the zoning case #C14-2007-0232 will have the following as an offering for consideration for approval:

1. The currently zoned "SF-3" portion at the north end of the site will be removed from the rezoning request and remain as is.

2. The western 12.931 acres [**now 10.02 acres**] is to be rezoned to "W/LO-CO"" Warehouse / Limited Office - Conditional Overlay, zoning with the conditional over ay to include provisions for vehicle trip limitations.
3. The eastern 8.768 acres [**now 11.70 acres**] is to be rezoned to "CS-CO", Commercial Services - Conditional Overlay, zoning with the conditional overlay to include the list of prohibited uses listed above and provisions for vehicle trip limitations. The combined properties of the "W/LO" and "CS" properties will have a trip limitation of 2,000 vehicle trips per day.
4. That E. Longspur Blvd. and Brownie Drive will not be extended into the property.
5. A 50' building setback along the western property line abutting residential uses and no overhead doors will be oriented to the west. The intent here is to provide a reasonable buffer to the buildings and not have overhead doors directly facing the residential area.





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May 24, 2010

Mr. Greg Guernsey, Director
Planning and Development Review
City of Austin
P.O. Box 1088
Austin, Texas 78701

Via Email: greg.guernsey@ci.austin.tx.us

Mr. Mark Walters
Planning and Development Review
City of Austin
P.O. Box 1088
Austin, Texas 78701

Via Email: mark.walters@ci.austin.tx.us

Re: C14-2010-0048; Rezoning of Tract 32

Dear Mr. Guernsey and Mr. Walters:

Rundberg Business Park, L.P. is the owner of an approximately 24.01 acre tract of land. The City of Austin has identified an approximately 22 acre portion of this land as Tract 32 in City zoning case C14-2010-0048. Rundberg Business Park is an affiliate of Triton Financial Service. By previous correspondence to the City dated January 20, 2010, the City was informed that this 24.01 acre parcel, including the 22 acre Tract 32, is subject to the Triton Financial Services receivership: *Securities and Exchange Commission v. Triton Financial, LLC, et al.* (the "Triton Entities") in Civil No. A-09-CA924-JN (the "Receivership") in the United States District Court for the Western District of Texas, Austin Division (the "Court").

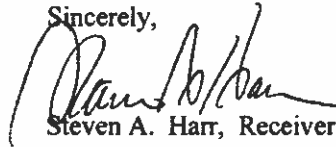
On May 17, 2010, M'Lou Bell sent a letter to the City of Austin protesting the proposed re-zoning of a portion of Tract 32 as SF-6. This letter serves as my ratification, as the receiver, of Ms. Bell's letter. I have now learned that City staff is recommending that the City Council down zone a 1.39 acre portion of Tract 32 that fronts onto Rundberg Lane. As you know, the City just rezoned this parcel in August, 2008 to GR-MU-CO.

At its May 11, 2010 meeting, the Austin Planning Commission recommended that the City Council rezone this 1.39 acre portion of Tract 32 to LR-V-CO-NP. As the receiver for the Triton Entities, I hereby protest, pursuant to Section 211.006, Texas Local Government Code, any rezoning of this 1.39 acre portion of Tract 32. Any down zoning of Tract 32 will be harmful to the value of the subject property and, therefore, the Receivership and is prohibited by the Court's December 22, 2009 order. At this time I ask you to revisit the enclosures with the January 20, 2010, letter from Robert Kleeman to the city of Austin and, in particular, the scope of the Court's order that no action be taken to harm or devalue any of the assets of the Receivership.

Mr. Greg Guernsey
Mr. Mark Walters
May 17, 2010
Page 2

If you have any questions regarding this letter or the protest of the rezoning of land owned by Rundberg Business Park, L.P., please contact the designated agent in this matter, Robert Kleeman at 391-6115.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Harr", is written over the word "Sincerely,".

Steven A. Harr, Receiver

MPB/dlr

cc: M'Lou Bell

PETITION

Case Number:

C14-2010-0048

Date:

June 10, 2010

320 E RUNDBERG LN

Total Area Within 200' of Subject Tract

1051516.226

		RUNDBERG BUSINESS		
1	<u>02412002210000</u>	<u>PARK LP ETAL</u>	<u>1051516.23</u>	<u>100.00%</u>
2				<u>0.00%</u>
3				<u>0.00%</u>
4				<u>0.00%</u>
5				<u>0.00%</u>
6				<u>0.00%</u>
7				<u>0.00%</u>
8				<u>0.00%</u>
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13				<u>0.00%</u>
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25				<u>0.00%</u>
26				<u>0.00%</u>
27				<u>0.00%</u>
Validated By:		Total Area of Petitioner:	Total %	
<u>Beau Barnett</u>		<u>1,051,516.23</u>	<u>100.00%</u>	

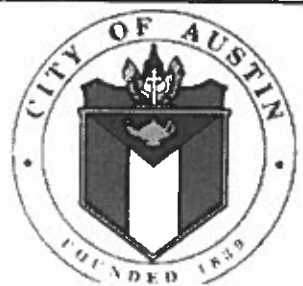


- BUFFER
- PROPERTY_OWNER
- SUBJECT_TRACT

PETITION

CASE#: C14-2010-0048
 ADDRESS: 320 E RUNDBERG LN
 GRID: L30, M30
 CASE MANAGER: MARK WALTERS

This map has been produced by the Communications Technology Management Dept.
 on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference.
 No warranty is made by the City of Austin regarding specific accuracy or completeness.



Browning, Jacob

Tract 32

From: Lyn Galbreth [REDACTED]
Sent: Friday, June 18, 2010 3:26 PM
To: Browning, Jacob
Cc: Laura Rheams ; Robert Atkinson ; Phil and Patti Otken
Subject: Triton Tracts Parkland Donation

Hi Jacob:

As you know, the neighborhood stakeholders who have chosen continued involvement in seeking passing and implementation of our neighborhood plan have had discussions with Robert Kleeman about the land that was excepted from Council's first reading acceptance, and we agree to the most recent Kleeman proposal that the receiver make a donation of parkland of 1.19 acres of the land and we will support the combination of W/LO and CS/CO with VMU zoning on the remainder of the property, according to the details you have per most recent discussions and email. I presume a postponement must be requested from Council to enable PARD staff to work out arrangements and for your office to work out the paperwork on the zoning. We appreciate your continuing dedicated assistance with this.

Please let us know when the next thing happens with this that needs our attention.

Thank you.

Lyn Galbreth

Sent on the Sprint® Now Network from my BlackBerry®