

SUBDIVISION REVIEW SHEET

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CASE NO.: C8-2010-0030.0A

ZAP DATE: October 19, 2010
November 16, 2010
December 7, 2010

SUBDIVISION NAME: RESUBDIVISION OF LOT 10 & 11, BLOCK F, SUMMIT OAKS

AREA: 2.95 Acres

LOTS: (2)

APPLICANT: John Boulton

AGENT: Way Consulting Engineers, Inc.
(Way Atmadja)

ADDRESS OF SUBDIVISION: Tweed Court

GRIDS: J36

COUNTY: Travis

WATERSHED: Walnut Creek

JURISDICTION: Full Purpose

EXISTING ZONING: SF-2

PROPOSED LAND USE: Single Family

ADMINISTRATIVE WAIVERS: None

VARIANCES: None

SIDEWALKS:

Sidewalks will be provided on the subdivision side of all boundary streets.

DEPARTMENT COMMENTS:

The request is for approval of the Resubdivision of Lot 10 & 11, Block F, Summit Oaks. State law entitles the Zoning and Platting Commission to approve a requested resubdivision of the previously platted land, without vacating the preceding plat. The resubdivision entails the creation of (3) legal lots from (2) lots. The subdivision is composed of (3) lots on 2.95 acres. The proposed Lot 10-A and 10-C are currently developed with single-family homes. The City of Austin will provide water and wastewater service. Austin Energy will provide electric service. The Austin Fire Department has reviewed and approved the flag lot configuration for the proposed Lot 10-B. This resubdivision is exempt from parkland dedication requirements. The developer will be responsible for all costs associated with any required improvements.

Staff has been contacted and has met with adjacent neighbor's regarding their concern for existing drainage problems in the area. Staff and the applicant's engineer has visited the site and based upon existing conditions have agreed to a diversion berm on Lot 10B, (1' X 100') to redirect increased stormwater runoff to the adjacent buffer to the northeast as a condition of RSMP approval.

Staff has also been informed by the neighborhood that this proposal violates a deed restriction requiring 100 feet of frontage for each lot. However, the City of Austin is not a party to these private restrictions and therefore the City cannot enforce the restriction on this resubdivision application.

STAFF RECOMMENDATION:

The staff recommends approval of the Resubdivision of Lot 10 & 11, Block F, Summit Oaks. The plat meets all applicable State and City of Austin LDC requirements.

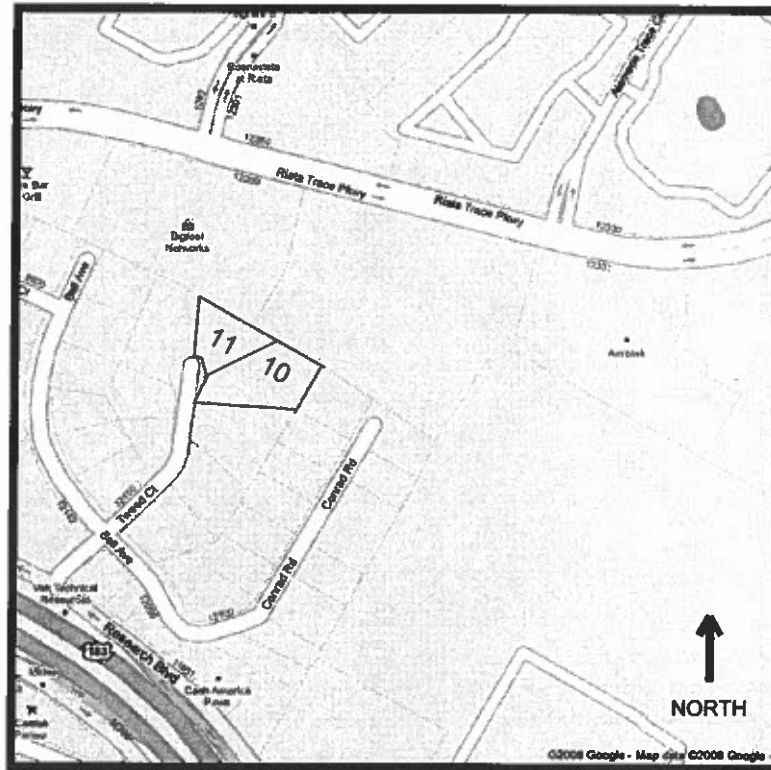
ZONING AND PLATTING COMMISSION ACTION:

CASE MANAGER: Don Perryman
e-mail: don.perryman@ci.austin.tx.us

PHONE: 974-2786

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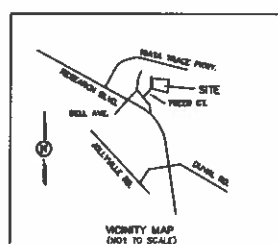
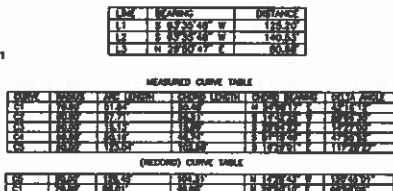


KEY MAP

0 200 400 600 800

$3\frac{1}{2} \times 11 \text{ PLAT}$

MAP SYMBOLS	
P.U.E.	PUBLIC UTILITY EASEMENT
B.L.	BUILDING LINE
⊙	1/2" REBAR FOUND
⊙	1/2" REBAR SET
⊙	CAPPED "HARPER-BRANT"
⊙	IRON PIPE FOUND
1	CONTROL MONUMENT
1	RECORD DATA FROM
1	PLAT BL. 7, PG. 503
S.E.	SUBURBAN EASEMENT
R.O.W.	RIGHT-OF-WAY



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SHEET 1 OF 1

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ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

MARK L. HAWKINS
(512) 435-2309

~~mark.l.hawkins@armbrustbrown.com~~

October 14, 2010

VIA HAND DELIVERY AND EMAIL

Betty Baker
City of Austin
Planning and Development Review Department
505 Barton Springs, 4th Floor
Austin, Texas 78704

Re: Postponement Request for Case Number CS-2010-0030.0A

Dear Ms. Baker:

This firm represents and this letter is written on behalf of Douglas and Marie Moore who own property located at 12202 Conrad Road in Austin, Texas, and are registered as interested parties in the above referenced case number. Mr. and Mrs. Moore hereby request a four (4) week postponement from the October 19, 2010 Zoning and Platting Commission meeting until November 16, 2010. The purpose for the postponement is to allow additional time to coordinate a mandatory on-site meeting with the City of Austin Drainage Engineer, the applicant in the above referenced case, and our clients to discuss drainage concerns.

Your attention to this matter is greatly appreciated. Please feel free to contact me if you have any questions or comments.

Very truly yours,



Mark L. Hawkins

MLH/klf

Attachments

cc: Sandra Baldridge, *Parliamentarian* - sbald@sbcglobal.net
Gregory Bourgeois, *Secretary* - gbourgeois@jonescarter.com
Teresa Rabago, *Secretary* - trabago@austin.rr.com
Patricia Seeger, *Vice Chair* - prseeger@austin.rr.com
Cynthia Banks - crbanks@hotmail.com
Donna Tiemann - donna.zap@gmail.com
Don Perryman - don.perryman@ci.austin.tx.us

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ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

MARK L. HAWKINS
(512) 435-2309
~~mark.hawkins@armbrustbrown.com~~

October 14, 2010

VIA HAND DELIVERY AND EMAIL

Betty Baker
City of Austin
Planning and Development Review Department
505 Barton Springs, 4th Floor
Austin, Texas 78704

Re: Permit/Case # 2010-019092-C8
Reference File Name C8-2010-0030.0A
Resubdivision of 2.95 acres
Hearing Date: October 19, 2010, 6:00 p.m.

Dear Ms. Baker:

This firm represents and this letter is written on behalf of Douglas and Marie Moore who own property located at 12202 Conrad Road in Austin, Texas, and are registered as interested parties in the above referenced case number. Attached is a copy of an older plat that shows the location of the Moore's property relative to the proposed subdivision. As you can see, the Moore's property and the 2.95 acres share common lot lines. More specifically this letter is written to express Mr. and Mrs. Moore's strong opposition to the proposed subdivision because of the adverse impact it will have on water drainage to their property, and because it violates the restrictions applicable to the subject property.

Currently the 2.95 acres is divided into two legal lots known as Lot 10 and Lot 11, Block F of Summit Oaks, a subdivision in Travis County, Texas, recorded in Book 7, Page 183. The Summit Oaks subdivision was recorded in 1956, and was developed shortly thereafter. The subdivision was built without the necessary infrastructure, which includes curb and gutter, storm sewer inlets, and other appurtenances required to convey storm water runoff effectively. Consequently, flooding in the subdivision is a common event.

During rain events, storm water conveyed by the 2.95 acres essentially sheet flows over the Moore's property, causing their property to retain as much as 1.5 inches of water. Attached are several photographs of recent rainfall events that illustrate this fact. If the City approves the resubdivision a third lot will be created whereby an additional 45% impervious cover can be placed adjacent to the Moore's property. Without the necessary infrastructure in place to help convey the additional storm water, the Moore's property is at greater risk of flooding. Therefore, Mr. and Mrs. Moore respectfully request that you deny the subdivision application.

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However, if you are legally required to approve it, Mr. and Mrs. Moore request that you condition your approval subject to a public restrictive covenant that will require the applicant to address the conveyance of storm water.

In addition to the drainage issues, there is a restrictive covenant that was recorded in 1953 which imposes certain restrictions on property subject to the Summit Oaks subdivision. Among other things, the restrictive covenant prohibits the resubdivision of property. Attached for your review, is a copy of the applicable covenants, conditions and restrictions, that prohibit subdivision of the subject lots. While it is our understanding that the City of Austin cannot enforce restrictions imposed by private restrictive covenants, Mr. and Mrs. Moore hereby reserve any and all rights, as provided to them by the restrictive covenant, to protest the resubdivision of the subject lots in a court of law.

Thank you for consideration of my clients' concerns.

Very truly yours,



Mark L. Hawkins

MLH/klf

Attachments.

cc: Sandra Baldrige, *Parliamentarian* - sbald@sbcglobal.net
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Cynthia Banks - crbanks@hotmail.com
Donna Tiemann - donna.zap@gmail.com
Don Perryman - don.perryman@ci.austin.tx.us

IRION | SLADE

ATTORNEYS & COUNSELORS AT LAW
A PROFESSIONAL LIMITED LIABILITY COMPANY

Terrence L. Irion
Attorney at Law

2224 Walsh Tarlton
Suite 210
Austin, Texas 78746

512.347.9977
Fax: 512.347.7085

October 18, 2010

~~VIA EMAIL~~

Mr. Mark L. Hawkins
Armbrust & Brown, PLLC
100 Congress Ave, Suite 1300
Austin, Texas 78701-2744

Re: Case No. C8-2010-0030.0A; Resubdivision of Lots 10 & 11, Block F, Summit Oaks
Subdivision (2.95 acres)

Dear Mark:

I am in receipt of the two letters you sent to Betty Baker as Chair of the Zoning & Platting Commission of the City of Austin on October 14, regarding the above referenced resubdivision plat in an "SF-2" zoned district.

Applicant John W. Boulton will not object to the continuance of November 16, 2010 for this final plat approval and will cooperate in the scheduling of an on-site meeting with Applicant's Engineer, Kevin Selfridge representing the City's Engineer, and you and your client to address the Moore's drainage concerns.

We believe adequate measures have been designed into the construction plans for this resubdivision that may not have been communicated to you, but in any case we are willing to discuss these measures and hear and respond to any additional concerns you may have regarding the drainage at the on-site meeting.

I note that you have also raised a concern about a possible conflict resubdividing these two lots may have with respect to a private restrictive covenant. While we do not believe there is a conflict between the proposed resubdivision and the restrictive covenant for the reasons stated below, any enforcement of the restrictions by the Moore's or others would require that they convince a Court that the restrictions have not been abandoned by the action of the Lot Owners in allowing a number of resubdivisions within the subdivision; allowing the construction of office buildings on a number of lots in Block H; and allowing the development of a number of garage apartments and other two-family residences within the subdivision.

With respect to Article 10 of the Restrictive Covenant which requires that lots have at least 100' on the street which the residence faces, we believe the proposed replat is in compliance with this provision. The requirement is that the building area front at least 100' on the street which the residence faces. In this case, the new Lot 10B will have 232' along the front building line that faces the street. The Covenant does not require the lot to have 100' of frontage on the street at the property line. In fact, existing Lot 11 does not have anywhere near 100' of frontage on the street at the property line because it is on a cul-de-sac. The Covenant is not a platting restriction. In fact, the Covenant was not even imposed on lots in the subdivision for more than one and a half years after the plat was recorded. The Covenant is a restriction on the construction orientation on the lot, and requires that the front yard at the building area "building line" in City of Austin jargon) have

Mr. Hawkins
October 18, 2010
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100' of width facing the street. This is very similar to the City's zoning ordinance which requires that the minimum 50' of street frontage be measured at the building line, rather than at the property line along the street. This is a very common provision on cul-de-sac lots and many of the original platted lots in the Summit Oaks Subdivision were platted without 100' of street frontage at the property line.

We look forward to coordinating a productive on-site meeting to discuss your client's drainage issues with the City input prior to resetting of the matter on the November 16 agenda of the Zoning & Platting Commission, subject to Commission approval.

Sincerely,



Terrence L. Irien
Attorney for Applicant, John W. Boulton

TLI:lm

Cc: Don Perryman
Betty Baker, Chair of Platting & Zoning Commission
Members of Platting & Zoning, Commission

Perryman, Don

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From: Judith Fox [redacted]
Sent: Monday, October 18, 2010 11:45 AM
To: Perryman, Don
Subject: Case Number: C8-2010-0030.0A

Mr. Perryman,

You should receive the response concerning Case No. C8-2010-0030.0A from my husband, Don Fox, and myself via FedEx today. Our property is located at 12203 Conrad Road, Austin. Summit Oaks, Lot 10, Block E.

I want to ask you to print and append this email to our response to be given to the Commission members so that the following information will be included.

We had problems with high water on our property during rains from the time we first moved there. Awhile back, after seeing water seep into our living room at the base of the wall during rains, we had a contractor build a berm in front of that area and put in a French drain to direct the waters to go around the house on that side. Obviously we do not want to see changes in the drainage of the neighborhood that would cause increased run-off towards our house.

Also, we understand that old drain fields from septic tanks may be disturbed in the area to be resubdivided and are concerned about health issues.

Thank you.

Judith K. Fox
P.O. Box 426
Acton, CA 93510

(661) 269-5623

PUBLIC HEARING INFORMATION

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 a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. 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.

Commission is required to approve the subdivision by State law if no variances are required, and if it meets all requirements. A board or commission's decision on a subdivision may only be appealed if it involves an environmental variance. A variance may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision. A notice of appeal must be filed with the director of the responsible department no later than 14 days after the decision. An appeal form may be available from the responsible department.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

For additional information on the City of Austin's land development process, visit our web site: 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 name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C8-2010-0030.0A

Contact: Don Perryman, 512-974-2786 or
Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Platting Commission

Allison + Mike Kelly

Your Name (please print)

☐ I am in favor
☒ I object

12105 Bell Ave Austin TX 78727

Your address(es) affected by this application

Allison Kelly *[Signature]*

Signature

Date

Daytime Telephone: 512 426 7798

Comments: we object to this subdivision
for a variety of reasons:

- imperious sewer issues and resultant
potential flooding
- concern that our property values
would be negatively affected by
changing the urban "theme" of the
neighborhood: homes on large lots, low
density.

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

City of Austin - Planning & Development Review Dept./4th Fl
Don Perryman
P. O. Box 1088
Austin, TX 78767-8810

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Case Number: C8-2010-0030.0A

Contact: Don Perryman, 512-974-2786 or

Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Platting Commission

Steven W. Schrader

Your Name (please print)

12108 Conrad Rd

Your address(es) affected by this application

Stam W. Schaal

01/01/01

Signature

Date _____

Daytime Telephone: 751-3846

Comments: Subdividing lots in Summit Oaks

It will affect the character of the neighborhood. It will set a precedent for further subdivisions and reduce property values. The proposed subdivision violates the neighborhood design restrictions by creating lots with out the required minimum frontage (100') on the street. Existing drainage problems will be aggravated by the construction of homes on the proposed lots.

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

City of Austin - Planning & Development Review Dept./4th Floor

Don Peryman

P.O. Box 1088

Austin, TX 78767-8810

proposed
lots.

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PUBLIC HEARING INFORMATION

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Case Number: C8-2010-0030.0A

Contact: Don Perryman, 512-974-2786 or

Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Platting Commission

Richard Bean

Your Name (please print)

12106 Conrad Rd

Your address(es) affected by this application

Richard Bean

2010.10.12

Signature

Date

Daytime Telephone: (512) 918-8727

Comments:

I am against the subdivision;
I think it is bad for the neighborhood.

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

City of Austin - Planning & Development Review Dept., 4th Fl

Don Perryman

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ I object

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Contact: Don Perryman, 512-974-2786 or
Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Platting Commission

Don L. Fox and Judith K. Fox
Your Name (please print)

☒ I am in favor
of the subject

12203 Conrad Road Austin TX 78727

Your address(es) affected by this application

Don L. Fox

Judith K. Fox 10-15-2010
Signature Date

Daytime Telephone: 661 269-5623

Comments: Rain water flows towards (and across) our property from the direction across the street - where Bottoms property is behind the Motel. In a hard rain, these waters are deep and rush down towards our house and garage. We believe the rain flow analysis presented is flawed because it doesn't show the correct flow of rain - off the property. The proposed re-subdivisions because it will substantially increase water flow towards our property. If you use this form to comment, it may be returned to:
and put our
City of Austin - Planning & Development Review Dept./4th Fl
Don Perryman
P. O. Box 1088
Austin, TX 78767-8810
house at severe risk for
flooding.

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PUBLIC HEARING INFORMATION

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Contact: Don Perryman, 512-974-2786 or

Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Planning Commission

Shirley A. Wozell
Your Name (please print)

☐ I am in favor
☒ I object

12200 Howard Rd - Austin 78727
Your address(es) affected by this application

Shirley Wozell
Signature

10-13-10
Date

Daytime Telephone: 512-771-6572

Comments: My major concern regards storm water run off as a result of the proposed property changes. Those of us on Howard Rd positioned adjacent to this property can only make a difficult situation much worse.

If you use this form to comment, it may be returned to:
City of Austin - Planning & Development Review Dept., 4th Fl
Don Perryman
P. O. Box 1088
Austin, TX 78767-8810

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Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Planning Commission

KENNETH HARRIS MILLS

Your Name (please print)

☐ I am in favor
☒ I object

12102 TWEED CT AUSTIN, TX 78727

Your address(es) affected by this application

[Signature]

Signature

8 Oct 2010

Date

Daytime Telephone: 512-289-6158

Comments: There are currently already parking and drainage problems in the immediate area of this project. I am concerned that this additional development will only make these problems worse.

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

City of Austin - Planning & Development Review Dept./4th Fl

Don Perryman

P. O. Box 1088

Austin, TX 78767-8810

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PUBLIC HEARING INFORMATION

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Case Number: C8-2010-0030.0A
 Contact: Don Perryman, 512-974-2786 or Yolanda Parada, 512-974-2784
 Public Hearing: October 19, 2010, Zoning & Platting Commission

LEONARD SCHLUTER
 Your Name (please print)

☐ I am in favor
☒ I object

1810 Concord Rd
 Your address(es) affected by this application

Leonard Schluter
 Signature Date 10-3-2010

Daytime Telephone: 512-258-6290

Comments: My Concord is for safety - the proposed Access to the new structure does not appear to allow for emergency vehicles.
 Also - the drainage is a concern - the water runs off to Concord Rd and affects several houses.
 Additionally - many trees will be cut down.

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 Austin, TX 78767-8810

518 PUBLIC HEARING INFORMATION

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Contact: Don Perryman, 512-974-2786 or

Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Planning Commission

Mark & Fran Patterson

Your Name (please print)

☐ I am in favor
☒ I object

12011 Bell Ave - Austin, TX 78727

Your address(es) affected by this application

Mark & Fran Patterson Oct 5-10

Signature

Date

Daytime Telephone: 512-250-9545

Comments:

Mr. Bolton wants to put a house behind his existing house. The desired house would have about 15' of road frontage. The deed restriction still on house is to have at least 100' of frontage. There is no violation of the deed restrictions. A house behind an existing house changed the character of an neighborhood. Mr. Bolton asked about 4000 sq ft of his existing house which has caused major flooding + runoff problems to surrounding neighbors.

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Don Perryman

P. O. Box 1088

Austin, TX 78767-8810

Another structure near by would cause major runoff problems. There are the major reasons why we object to this house being built -

5/6 PUBLIC HEARING INFORMATION

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Contact: Don Perryman, 512-974-2786 or
Yolanda Parada, 512-974-2784

Public Hearing: October 19, 2010, Zoning & Platting Commission

Beverly A Dillard
Your Name (please print)

☐ I am in favor
☒ I object

12200 Bell Ave Austin
Your address(es) affected by this application

Beverly A Dillard 10-11-10
Signature Date

Daytime Telephone: 512-258-1150

Comments: Planning & Development Review Dept
It's not according to the original deed
setback line & built contribute to
more flooding in this neighborhood
the lot rain by 13 inches and all the
time off water & had water in
my house -

If you use this form to comment, it may be returned to:
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Don Perryman
P. O. Box 1088
Austin, TX 78767-8810

C9/20

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Public Hearing: October 19, 2010, Zoning & Platting Commission

PATRICIA SUE MALONEY

Your Name (please print)

☐ I am in favor
☒ I object

12104 TWEED COURT, AUSTIN TX 78727

Your address(es) affected by this application

Patricia S. Maloney

Signature

Date

10/8/10

Daytime Telephone: 512-258-1245 or 512-799-8289

Comments: THE ADDITION OF ANOTHER HOUSE ONTO
THESE 2 LOTS VIOLATES DEED RESTRICTIONS
(INSUFFICIENT FRONTAGE), CHANGES
THE CHARACTER OF OUR NEIGHBORHOOD,
ADDS TRAFFIC TO A NARROW CUL-DE-SAC
ALREADY EXPERIENCING HEAVY PARKING & TRAFFIC,
AND ADDS IMPERVIOUS COVER THAT WOULD CAUSE MORE FLOODING
DOWN STREAM.

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Don Perryman
P. O. Box 1088
Austin, TX 78767-8810

Perryman, Don

C9
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From: Allison Kelly [mailto:allison.kelly@att.net]
Sent: Friday, October 15, 2010 7:47 AM
To: Perryman, Don; Parada, Yolanda
Subject: Objection to Case #C8-2010-0030.OA

Attachments: Objection to Re-Subdivision of Lots in Summit Oaks.pdf



Objection to
Re-Subdivision of...

Dear Mr. Perryman and Ms. Parada,

We want to go on record that my husband and I, homeowners in the Summit Oaks Subdivision, OBJECT to the proposed re-subdivision described in the subject case number.

We object for a variety of reasons:

- impervious cover issues and resultant potential flooding
- concern that our property values would be negatively affected by changing the "theme" of the Summit Oaks neighborhood: all homes are on large lots with low density.

I have also mailed the attached completed form to Mr. Perryman. Please feel free to contact us at the number or address below.

Thanks for your consideration in this matter.

Allison an Mike Kelly
12105 Bell Ave
Austin, TX 78727

512-426-7798

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Yolanda Parada, 512-974-2784

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Allison + Mike Kelly

Your Name (please print)

12105 Bell Ave Austin TX 78727

Your address(es) affected by this application

Signature Date

Daytime Telephone: 512-426-7798

Comments: object to this subdivision for a variety of reasons:

- improving sewer issues and resultant potential flooding
- concern that our property values would be negatively affected by changing the uniform "theme" of the neighborhood: homes on large lots, low density.

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