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ZONING CHANGE REVIEW SHEET

CASE: C14-2011-0055 (Kessler Zoning)

Z.A.P. DATE: July 19, 2011

ADDRESS: 12502 and 12504 Tomanet Trail

OWNER/ APPLICANT: Illan David Kessler

ZONING FROM: SF-1

TO: LR

AREA: 1.3276 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to deny LR, Neighborhood Commercial District, zoning for this site.

However, if the zoning is recommended by the Zoning and Platting Commission and granted by the City Council, development should be limited through a conditional overlay to less than 300 vehicle trips per day [LDC, Sec. 25-6-117].

ZONING AND PLATTING COMMISSION RECOMMENDATION:

DEPARTMENT COMMENTS:

The properties in question currently contain an undeveloped lot and single family residence that has been converted into a day care facility (Four Season's Community School). According to city records, this area was annexed by the City of Austin on November 12, 1984 (case C7A-84-020), de-annexed through the provisions of State Bill 962 on September 21, 1989 (case C7AD-89-141), and re-annexed by the City of Austin on December 31, 1996 (case C7A-96-002). During the hearing for zoning case C14-04-0201, the staff was directed by the Zoning and Platting Commission to initiate cases to establish permanent SF-1 zoning for all properties that had the interim-rural residential (I-RR) designation on Cindy Lane, Tomanet Trail, and Silver Spur Streets. These properties are located within the North Lamar Area Study, which was adopted by the City Council on October 3, 1985. The study recommends single-family land use for this area located to the south of Parmer Lane (North Lamar Area Study-Map 4, page 16). A conditional use permit for a day care facility was approved for 12504 Tomanet Trail by the Zoning and Platting Commission on July 28, 2009 (case SPC-2009-0064A). The conditions of the CUP limit the day care to a maximum of 35 children.

The staff is recommending denial of the applicant's request because the property is located within an existing single-family neighborhood. The lots under consideration meet the intent of the SF-1 district. The property fronts onto a residential street, Tomanet Trail, and is surrounded by single-family uses and SF-1 zoning to the south and east. There is an established depth of office/commercial zoning transitioning away from Parmer Lane to the north. The staff's recommendation will preserve residential housing opportunities in this area of the city.

The applicant does not agree with the staff's recommendation.

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EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-1	Undeveloped Lot, Day Care Facility (Four Season's Community School)
<i>North</i>	SF-1	Single-Family Residence
<i>South</i>	GR-CO	Retail Center (EZ Loans, Jumbo Donuts, Cricket Wireless, Fed Ex/Kinko's)
<i>East</i>	SF-1	Single-Family Residences
<i>West</i>	P	City of Austin Fire/EMS Station

AREA STUDY: North Lamar Area Study

TIA: Waived

WATERSHED: Walnut Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
 Austin Monorail Project
 Austin Neighborhoods Council
 Austin Parks Foundation
 Home Builders Association of Greater Austin
 Homeless Neighborhood Association
 Lamplight Village Area Neighborhood Association
 League of Bicycling Voters
 North Growth Corridor Alliance
 Sierra Club, Austin Regional Group
 Super Duper Neighborhood Objectors and Appealers Organization
 The Real Estate Council of Austin, Inc.

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2010-0166 – (12412 Tomanet Trail)	NO to GR* *On 1/03/10, the applicant amended their request to the staff's rec. of GO-CO	1/04/11: Approved the staff's recommendation of GO-CO zoning on consent (5-0, B. Baker-absent); G. Bourgeois-1 st , S. Baldrige-2 nd .	2/10/11: Approved GO-CO zoning on consent on all 3 readings (6-0, Martinez- absent); Spelman-1 st , Morrison-2 nd .
C14-2010-0058 (2209 W. Parmer Lane)	NO to LR-CO	6/15/10: Approved the staff's recommendation of LR-CO zoning by consent (7-0); P. Seeger-1 st , S. Baldrige-2 nd .	7/29/10: Approved LR-CO on consent (7-0); L. Morrison-1 st , M. Martinez-2 nd .
C14-2010-0030 (12500 Limerick Ave.)	NO-MU to GO* *The applicant amended his	5/04/10: Approved LO-CO zoning with the following conditions: limit the building size on the site to 2,000 sq. ft.	5/13/10: Denied LO-CO zoning (6-1, L. Leffingwell-No); B. Spelman-1 st , L. Morrison-2 nd .

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	re-zoning request to LO zoning at the 5/04/10 ZAP Commission meeting.	and limit the site to less 200 vehicle trips per day (4-3, D. Tiemann, P. Seeger and B. Baker-No); S. Baldrige-1 st , T. Rabago-2 nd .	
C14-2009-0078 (Limerick: 12412 Limerick Ave.)	NO to LR* *The applicant sent an e-mail to the staff on 4/29/10 asking to amend his re-zoning request to the GO zoning.	4/20/10: Recommended denial of the applicant's re-zoning request (7-0); D. Tiemann-1 st , P. Seeger-2 nd .	9/23/10: Denied the re-zoning request (6-0, S. Cole-off dais); L. Morrison-1 st , M. Martinez-2 nd .
C14-2009-0005 (Tomanet: 12408 Tomanet Trail)	SF-1 to NO	2/17/09: Approved staff's recommendation to deny 'NO' district zoning (6-0, R. Evans-absent); C. Hammond-1 st , B. Baker-2 nd .	3/26/09: Denied the request for 'NO' zoning (6-0, B. McCracken-off the dias); J. Morrison-1 st , R. Shade-2 nd
C14-07-0027	SF-2 to NO	4/03/07: Approved the staff's recommendation of NO-MU zoning on consent (6-0, J. Gohil-absainted; K. Jackson and S. Hale-absent)	5/03/07: Approved NO-MU zoning by consent (7-0); all 3 readings
C14-06-0097 (Cody Pools: 2300 West Parmer Lane)	I-RR to: GR CS* * On June 6, 2006, the staff received an e-mail from the agent for this case asking to amend the rezoning request for this property from 'GR' to 'CS'. The CS District will permit the Construction Sales and Services use that currently exists on the site.	8/01/06: Approved LR-CO zoning with the following conditions: 700 vehicle trip limit per day and 100-feet of right-of-way reservation from the centerline of Parmer Lane (9-0); K. Jackson-1 st , B. Baker-2 nd .	8/31/06: Approved LR-CO zoning on 1 st reading (7-0); J. Kim-1 st , L. Leffingwell-2 nd . 9/28/06: Approved LR-CO zoning with conditions by consent (7-0); 2 nd /3 rd readings
C14-05-0054 (Tomanet Estates Zoning #4, City Initiated: 2206-	I-RR to SF-1	5/03/05: Approved staff's recommendation of SF-1 zoning by consent (8-0, J. Martinez-absent)	6/09/05: Approved SF-1 (6-0, McCracken-off dias); all 3 readings

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2310 Cindy Lane)			
C14-05-0053 (Tomanet Estates Zoning #3, City Initiated: 12503-12609 Silver Spur)	I-RR to SF-1	5/03/05: Approved staff's recommendation of SF-1 zoning by consent (8-0, J. Martinez-absent)	6/09/05: Approved SF-1 (6-0, McCracken-off dias); all 3 readings
C14-05-0052 (Tomanet Estates Zoning #2, City Initiated: 12505-12605 Tomanet Trail, 12502-12610 Silver Spur)	I-RR to SF-1	5/03/05: Approved staff's recommendation of SF-1 zoning by consent (8-0, J. Martinez-absent)	6/09/05: Approved SF-1 (6-0, McCracken-off dias); all 3 readings
C14-05-0051 (Tomanet Estates Zoning #1, City Initiated: 12502-12604 Tomanet Trail)	I-RR to SF-1	5/03/05: Approved staff's recommendation of SF-1 zoning by consent (8-0, J. Martinez-absent)	6/09/05: Approved SF-1 (6-0, McCracken-off dias); all 3 readings
C14-04-0201 (12503 Tomanet Trail)	I-RR to LR	2/01/05: Approved staff's recommendation for SF-1 zoning (9-0); J. Martinez-1 st , B. Baker-2 nd . Motion made for staff to initiate a zoning case for all properties that are zoned I-RR on Cindy Lane, Tomanet Trail and Silver Spur Streets, to SF-1 zoning (9-0); B. Baker-1 st , K. Jackson-2 nd .	3/03/05: Approved SF-1 on 1 st reading (7-0) 4/07/05: Approved SF-1 (7-0); 2 nd /3 rd readings
C14-04-0172 (Filipino Video and Oriental Store: 2309 W. Parmer Lane)	NO to LR	11/16/04: Approved staff rec. of LR-CO (9-0), with the following condition: Drive-in service is prohibited as an accessory use to a commercial use.	1/13/05: Approved LR-CO (7-0); all 3 readings
C14-04-0119 (Ivarra Zoning Change from NO to LR: 2303 W. Parmer Lane)	NO to LR	9/21/04: Approved staff's rec. of LR (7-0)	10/21/04: Approved LR (7-0); all 3 readings
C14-02-0135 (Perfect Shirt: 12500 Tomanet Trail)	NO to GR	9/17/02: Approved staff's rec. of GR-CO zoning by consent (7-0)	10/24/02: Granted GR-CO on all 3 readings (6-0, Dunkerley-absent)
C14-01-0184 (Perfect Shirt: 12500 Tomanet Trail)	NO to GR	1/29/02: Postponed to 2/26/02 by applicant (8-0, A. Adams-absent) 2/26/02: Approved staff's recommendation of GR-CO	4/4/02: Approved ZAP rec. of GR-CO with conditions on all 3 readings (6-0, Goodman out of room)

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		zoning with the following conditions: Limit the development intensity to less than 2,000 vehicle trips per day; restrict vehicle access from the property to Tomanet Trail; permit Personal Services as the only 'GR' use; and limit the property to 'NO' uses. (6-0, K. Jackson-absent; N. Spelman, D. Castaneda-left early)	
C14-00-2045 (Perfect Shirt: 12500 Tomanet Trail)	NO to GR	5/9/00: Approved GR-CO (6-2, JR/JM-Nay); for building footprint only for dry cleaning use; permitted 'NO' uses; no access to Tomanet Trail; 2,000 vehicle trip limit per day; limit landscape buffer between sidewalk and street; sidewalks on Tomanet Trail; building square feet not to exceed 2,000 sq. ft.	6/8/00: Approved PC rec. of GR-CO w/ conditions on 1 st reading (7-0) 10/12/00: Approved GR-CO (7-0); 2 nd /3 rd readings
C14-98-0082 (Perfect Shirt, Inc.: 12500 Tomanet Trail)	NO to GR	8/4/98: Approved GR-CO w/ conditions (9-0)	9/10/98: Approved PC rec. of GR-CO w/ conditions (6-0); 1 st reading Administrative-EXPIRED 9/7/99, no 3 rd reading
C14-96-0037 (Beauty Salon: 2301 W. Parmer Lane)	NO to LR	5/7/96: Approved LR-CO subject to conditions of no more than 12 parking spaces on the site and a 300 vehicle trip per day limit (8-0)	5/23/96: Approved LR-CO subject to conditions (6-0); 1 st reading 8/8/96: Approved LR-CO subject to conditions (7-0); 2 nd /3 rd readings
C14-94-0042 (Koch Zoning Change: 12501 Silver Spur)	NO to LO	4/26/94: Approved LO-CO (6-0); subject to ROW; medical offices as only permitted 'LO' use, permit 'NO' uses; 0.15 FAR; 'NO' development regulations	6/9/94: Approved LO-CO (5-0); 1 st reading 11/17/94: Approved LO-CO (7-0); 2 nd /3 rd readings

RELATED CASES: C14-05-0051 (Previous Zoning Case)
SPC-2009-0064A (CUP for Day Care Facility)

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Daily Traffic
Tomanet Trail	60'	40'	Collector	Not Available
FM 734 (Parmer Lane)	155'	2@41'	Arterial	42,000 (TXDOT,

CITY COUNCIL DATE: August 4, 2011

ORDINANCE READINGS: 1st

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

ACTION:

2nd

3rd

CH
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PHONE: 974-3057

sherri.sirwaitis@ci.austin.tx.us



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SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 400'

ZONING

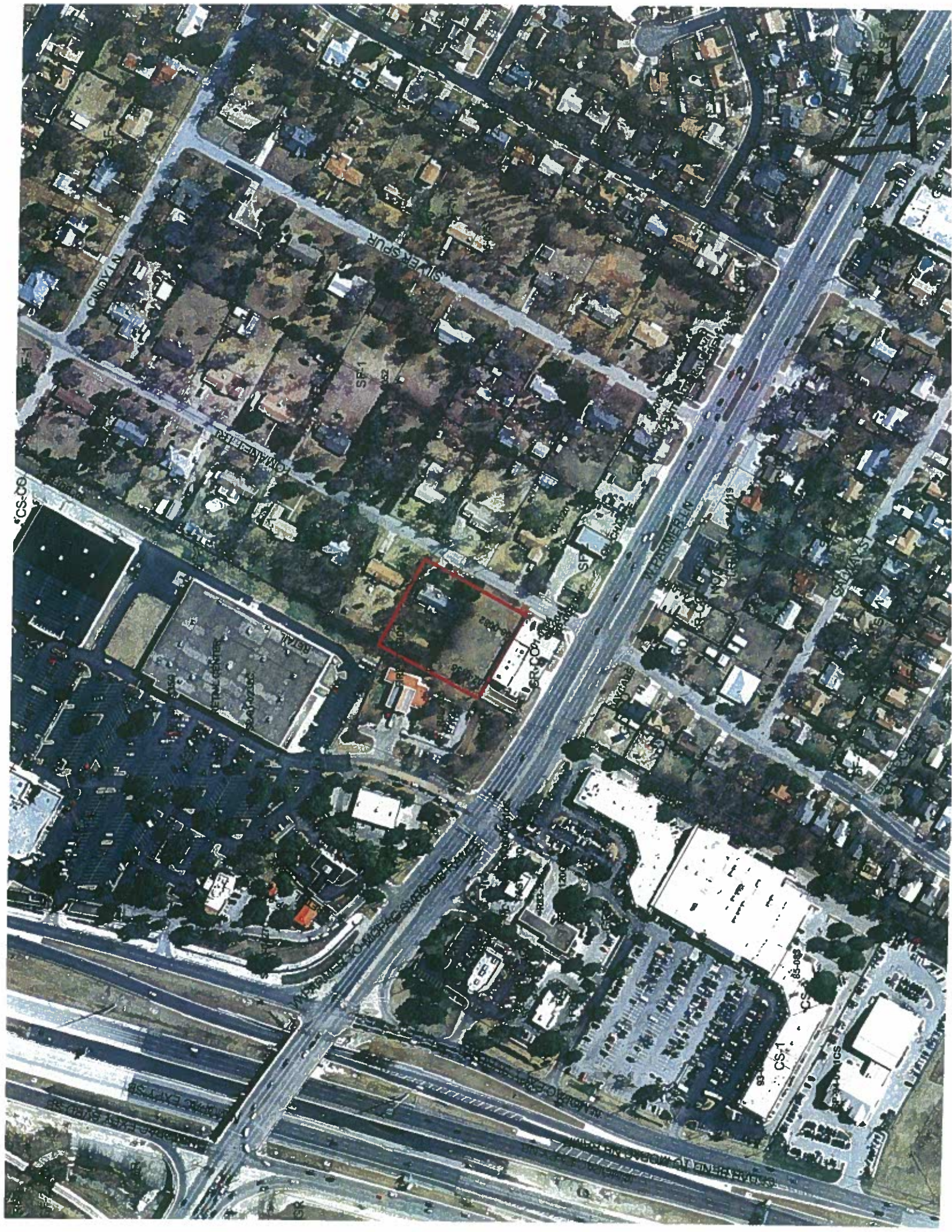
ZONING CASE#: C14-2011-0055
 LOCATION: 12502 & 12504 TOMANET TRL
 SUBJECT AREA: 1.3276 ACRES
 GRID: L35
 MANAGER: SHERRI SIRWAITIS



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.



Map showing streets and property lots. Key streets include Burnet Rd, N Mopac Expy Svr, and Waters Park Rd. Property labels include lot numbers, street names, and business names like 'RETAIL CENTER' and 'FIRE STATION'.



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STAFF RECOMMENDATION

The staff's recommendation is to deny LR, Neighborhood Commercial District, zoning for this site.

BASIS FOR RECOMMENDATION

1. *The proposed zoning does not promote consistency and orderly planning.*

The proposed LR, Neighborhood Commercial District, zoning will intrude into an existing single-family residential neighborhood. There is an established depth of office/commercial zoning transitioning away from Parmer Lane to the north. This property is located within the North Lamar Area Study, which recommends single-family land use for this area located to the south of Parmer Lane.

2. *The current zoning allows for a reasonable use of the property.*

The existing SF-1 zoning will preserve residential housing opportunities in this area of the city. The property fronts onto a residential street, Tomanet Trail, and is surrounded by single-family uses and SF-1 zoning to the north and east.

EXISTING CONDITIONS

Site Characteristics

The site under consideration consists of an undeveloped lot and single family residence that has been converted into a day care facility (Four Season's Community School). There are single-family residences to the north and east. To the west, there is a City of Austin Fire/EMS station. The property to the south, fronting Parmer Lane, contains a retail strip center (EZ Loans, Jumbo Donuts, Cricket Wireless, Fed Ex/Kinko's).

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. According to flood plain maps there is no floodplain within or adjacent to the project boundary.

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

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.

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.

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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.

Impervious Cover

The maximum impervious cover allowed by the LR zoning district would be 80%. However, if the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

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%

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.

The site is subject to compatibility standards. Along all property lines adjacent to single family, the following standards will apply with any future development:

- a. No structure may be built within 25 feet of the property line.
- b. No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- c. No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- d. No parking or driveways are allowed within 25 feet of the property line.
- e. 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.
- f. Additional design regulations will be enforced at the time a site plan is submitted.

An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining property used or zoned as SF-5 or more restrictive. [Sec. 25-2-1067(F)]

FYI for Day Care Facilities: All outdoor play areas regularly used by children must be accessible by a safe route and enclosed by a building or fence at least 4-feet high and with at least two exits [Section 3100 (81.410) Human Resources Code, Chapter 42].

FYI – during a site plan application, the applicant shall define enrollment capacity based on state standards (1:30 sq.ft. usable floor area and 1:80 sq.ft. outdoor fenced area), Texas Department of Human Resources. Enrollment capacity may be limited by site constraints as a condition of City approval [Section 3100 (81.410) Human Resources Code, Chapter 42].

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Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Transportation

No additional right-of-way is needed at this time.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 300 vehicle trips per day. [LDC, 25-6-117]

Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Tomanet	52	30	Local	No	No	Yes

Water and Wastewater

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.

DATE: May 11, 2011
PHONE:
TO: City of Austin
FROM: Illan Kessler
RE: Zoning Application

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Thank you very much for taking the time to consider my application.

I wish to rezone 2 contiguous properties located at 12502 and 12504 Tomanet Trail. The zoning request is for LR. The purpose of this application is for the opportunity to offer limited services that are compatible and complementary to the current neighborhood.

This request is open to any conditional overlays that increase the consideration of this application. This application also welcomes prohibiting and/or identifying specific uses. If necessary, I am also agreeable to modify the zoning code request for one or both properties.

For over the last 10 + years the vacant lot at 12502 Tomanet Trail was mostly used for storing a large tractor trailer truck, and often times for abandoning stolen cars & other discarded items. My plan is to clean and improve this land. The awkward location and proximity to Parmer Lane makes it less than feasible for a residential site. We believe the most appropriate use for this land would be a non-intrusive commercial designation.

Please note that the traffic impact to the area would be a nominal amount of vehicle trips per day. There is no reason for an increase in traffic through the residential streets due to the property position just off Parmer Lane; & the lack of a direct route through the neighborhood.

The following case numbers are the most comparable to this application. My property has many similarities with the property that was approved. However, there is a fundamental difference with the property that was declined. *See relevance below.*

- CASE No. C14-2010-0166, 12412 Tomanet Trail. – STAFF RECCOMENDATION
Relevance: The property access is from Tomanet Trail.

- CASE No. C14-04-0201 -12503 Tomanet Trail - STAFF NOT RECCOMENDED
Relevance: The Property at 12503 has only 1 contiguous commercial border. In contrast 12502 has 3 contiguous commercial borders; & combined 12502 and 12504 have 2.

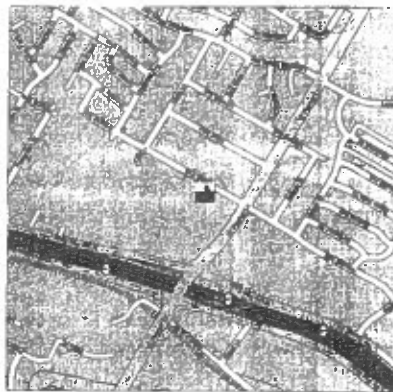
Feel free to contact me at any time. I am grateful for the opportunity and experience to participate in the zoning process.



Illan David Kessler
280 East Dunstable Rd. Nashua NH 03062
Phone: 603 930 1291. Fax: 603 888 4425
info@northpolexmastrees.com

12504 Tomanet Trail, Austin, TX 78727
Four Seasons Community School
Site Plan

HOURS OF OPERATION:
7:00 A.M. - 6:00 P.M. Monday through Friday



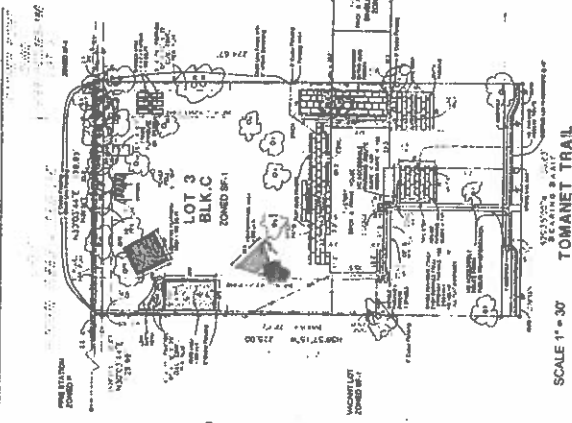
No construction will occur with this permit.

Department Requirements

1. All improvements shall be made in accordance with the applicable code provisions. Any additional improvements not specifically required by the applicable code provisions shall be determined by the Planning Commission. The City Engineer shall be notified of any proposed improvements to the City Engineer's Office for review and approval.
2. All signs must comply with the requirements of the Sign and Land Development Code.
3. The owner is responsible for all costs of installation of all drainage facilities, including but not limited to, stormwater management facilities, detention basins, and other facilities required for the project.
4. All signs must comply with the requirements of the Sign and Land Development Code.
5. All signs must comply with the requirements of the Sign and Land Development Code.
6. All signs must comply with the requirements of the Sign and Land Development Code.

Compliance

1. The applicant shall provide a copy of the site plan to the City Engineer's Office for review and approval.
2. The applicant shall provide a copy of the site plan to the City Engineer's Office for review and approval.
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6. The applicant shall provide a copy of the site plan to the City Engineer's Office for review and approval.



SCALE 1" = 30'

Updates Submitted:
May 12, 2009
Case Number SPC-2009-0064A

Warranted: William Cook
Warranted Classification: Suburban
Property Legal Description:
Improved # 2008051311
Section 1, Block C, Lot 3
Zoned SF-1
Vol. 16, page 4
Pct. 100000
Tarrant County

Property owner:
Bliss Kessler
200 East Drenth Road
Arlington, TX 76010
(817) 930-1281
EMAIL: info@blisskessler.com

Improvements: 2009
Total Building Coverage: 2415 sq. ft.
Impervious Cover: 6900 sq. ft.
Percentage: 23.19 %
Building Label: Single-Family
Deposits: 1447
(Commercial)
Parking: 270
TOTAL: 2307
One Story - Height 11 feet
Finished Floor Elevation - 779 Feet
Foundation Type - Slab

Parking Table

Land Use	# of Employees	Required Parking Ratio	Specimen	Standard	HC (Van Accessible)
Day Care (Commercial)	3	1 Employee	3	2	1

1 ADA - HC Space
Van Accessible
No Handicapped Sign Required

APPROVED
MAY 11 2009
CITY ENGINEER

CASE NUMBER
SPC-2009-0064A

SITE PLAN APPROVAL SHEET
FILE NUMBER SPC-2009-0064A APPLICATION DATE 2/14/2009
APPROVED BY COMMISSIONER ON 11/14/2009 UNDER SECTION 14.2 OF
CHAPTER 205-5 OF THE CITY OF AUSTIN CODE
EXPIRATION DATE 02-28-2011 LDC CASE MANAGER NIKOLEE LUGG
PROJECT LOCATION 12504 TOMANET TRAIL (08187603-A) 100'x150' DWFZ DDZ 1
Director, Warranted Protection and Development Review
RELEASED FOR GENERAL COMPLIANCE 11/14/2009 ZONING SE-1
Rev. 1 Corrections 1
Rev. 2 Corrections 2
Rev. 3 Corrections 3

Please note that this site plan is subject to the Project Regulation Date. If applicable, Subsequent Site Plans which do not comply with the Code current on the date of filing, and all other building permits for the project, shall be subject to the Project Regulation Date.

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9. ZAP Approved, waive from 25-2-1047(1) to permit an intensive use within 50 feet of property and beyond as SF-5 or more restrictive. (playground)
Approval.
6. Limited to 35 Children per CUP