

## SECOND/THIRD READING SUMMARY SHEET

**ZONING CASE NUMBER:** C14-2011-0055 (Kessler Zoning Change)

**REQUEST:**

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code, zoning the property locally known as 12502 Tomanet Trail from SF-1, Single-Family Residence-Large Lot District, zoning to NO-MU-CO, Neighborhood Office-Mixed Use-Conditional Overlay Combining District, zoning.

The ordinance and public restrictive covenant reflect the conditions imposed by the City Council on 1<sup>st</sup> reading.

**PROPERTY OWNER:** Illan David Kessler

**DEPARTMENT COMMENTS:**

The property in question currently contains an undeveloped lot. 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).

The staff recommends NO-MU-CO zoning at this location because the property meets the intent of the Neighborhood Office-Mixed Use District. The property in question has been vacant for at least 10 years. The proposed NO-MU-CO zoning is appropriate for this site because this lot is located between a commercial day care facility to the north, a retail center that fronts onto Parmer Lane to the south, and a City of Austin Fire/EMS station at the rear of the property to the west. NO-MU-CO zoning will provide a transition in zoning/land use intensity away from Parmer Lane to the north. The proposed zoning category will permit the applicant to develop low intensity office and/or residential uses that are compatible with the single-family uses to the north and east.

The applicant agrees with the City Council's recommendation at 1<sup>st</sup> reading.

**DATE OF FIRST READING/VOTE:** January 12, 2011 **ACTION:** Approved staff's rec. of NO-MU-CO zoning on consent on 1<sup>st</sup> reading (7-0); S. Cole-1<sup>st</sup>, L. Morrison-2<sup>nd</sup>.

**CITY COUNCIL DATE:** February 9, 2012

**CITY COUNCIL ACTION:**

**ASSIGNED STAFF:** Sherri Sirwaitis

**PHONE:** 974-3057  
sherri.sirwaitis@ci.austin.tx.us

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2011-0055 (Kessler Zoning Change)

**Z.A.P. DATE:** July 19, 2011  
October 18, 2011

**ADDRESS:** 12502 and ~~12504~~\* Tomanet Trail

**OWNER/ APPLICANT:** Illan David Kessler

**ZONING FROM:** SF-1

**TO:** LR\*  
NO-MU

**AREA:** ~~1.3276~~-acres\*  
0.6563 acres

### **SUMMARY STAFF RECOMMENDATION:**

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

**\*The staff recommends the applicant's amended request of NO-MU-CO, Neighborhood Office-Mixed Use-Conditional Overlay Combining District, zoning. The conditional overlay will limit development on the site to less than 300 vehicle trips per day [per LDC, 25-6-117].**

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

7/19/11: Approved staff's recommendation for denial (6-0); D. Tiemann-1<sup>st</sup>, B. Baker-2<sup>nd</sup>.

10/18/11: Move to approve the staff's recommendation of NO-MU-CO zoning (3-3, B. Baker, P. Seeger, and G. Rojas-No) – Motion failed. The Commission forwarded the case to City Council with no recommendation.

### **ISSUES:**

**\* On August 4, 2011, the applicant sent the staff an e-mail amending his rezoning request to NO, Neighborhood Office, for the property located at 12502 Tomanet Trail. The property at 12504 Tomanet Trail was removed from this rezoning request (Please see Request Letter-Attachment A). The applicant added a MU, Mixed Use Combining District, to his amended request through an e-mail to the staff on September 21, 2011. At the City Council meeting on September 22, 2011, the applicant asked the Council to send his case back to the Zoning and Platting Commission so that they could reconsider his amended rezoning request. The City Council voted to indefinitely postpone this case so that it could be re-noticed for a future Zoning and Platting Commission meeting and City Council date.**

### **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 staff recommends NO-MU-CO zoning at this location because the property meets the intent of the Neighborhood Office-Mixed Use District. The property in question has been vacant for at least 10 years. The proposed NO-MU-CO zoning is appropriate for this site because this lot is located between a commercial day care facility to the north, a retail center that fronts onto Parmer Lane to the south, and a City of Austin Fire/EMS station at the rear of the property to the west. NO-MU-CO zoning will provide a transition in zoning/land use intensity away from Parmer Lane to the north. The proposed zoning category will permit the applicant to develop low intensity office and/or residential uses that are compatible with the single-family uses to the north and east.**

**The applicant agrees with the staff's revised recommendation.**

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<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:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
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 <sup>st</sup> , S. Baldrige-2 <sup>nd</sup> .	2/10/11: Approved GO-CO zoning on consent on all 3 readings (6-0, Martinez- absent); Spelman-1 <sup>st</sup> , Morrison-2 <sup>nd</sup> .
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 <sup>st</sup> , S. Baldrige-2 <sup>nd</sup> .	7/29/10: Approved LR-CO on consent (7-0); L. Morrison-1 <sup>st</sup> , M. Martinez-2 <sup>nd</sup> .
C14-2010-0030 (12500 Limerick Ave.)	NO-MU to GO* *The applicant amended his re-zoning request to LO zoning at the 5/04/10 ZAP Commission meeting.	5/04/10: Approved LO-CO zoning with the following conditions: limit the building size on the site to 2,000 sq. ft. and limit the site to less 200 vehicle trips per day (4-3, D. Tiemann, P. Seeger and B. Baker-No); S. Baldrige-1 <sup>st</sup> , T. Rabago-2 <sup>nd</sup> .	5/13/10: Denied LO-CO zoning (6-1, L. Leffingwell-No); B. Spelman-1 <sup>st</sup> , L. Morrison-2 <sup>nd</sup> .
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 <sup>st</sup> , P. Seeger-2 <sup>nd</sup> .	9/23/10: Denied the re-zoning request (6-0, S. Cole-off dais); L. Morrison-1 <sup>st</sup> , M. Martinez-2 <sup>nd</sup> .
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 <sup>st</sup> , B.Baker-2 <sup>nd</sup> .	3/26/09: Denied the request for 'NO' zoning (6-0, B. McCracken-off the dias); J. Morrison-1 <sup>st</sup> , R. Shade-2 <sup>nd</sup> .
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-abstained; 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: <del>GR</del> 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 <sup>st</sup> , B.Baker-2 <sup>nd</sup> .	8/31/06: Approved LR-CO zoning on 1 <sup>st</sup> reading (7-0); J. Kim-1 <sup>st</sup> , L. Leffingwell-2 <sup>nd</sup> . 9/28/06: Approved LR-CO zoning with conditions by consent (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-05-0054 (Tomanet Estates Zoning #4, City Initiated: 2206- 2310 Cindy Lane)	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
C14-05-0053 (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 <sup>st</sup> , B.Baker-	3/03/05: Approved SF-1 on 1 <sup>st</sup> reading (7-0)

		2 <sup>nd</sup> . 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 <sup>st</sup> , K. Jackson-2 <sup>nd</sup> .	4/07/05: Approved SF-1 (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> 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 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)	4/4/02: Approved ZAP rec. of GR-CO with conditions on all 3 readings (6-0, Goodman out of room)
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 <sup>st</sup> reading (7-0)  10/12/00: Approved GR-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-98-0082 (Perfect Shirt, Inc.: 12500	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 <sup>st</sup> reading

Tomanet Trail)			Administrative-EXPIRED 9/7/99, no 3 <sup>rd</sup> 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 <sup>st</sup> reading  8/8/96: Approved LR-CO subject to conditions (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> 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 <sup>st</sup> reading  11/17/94: Approved LO-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> 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

**ACTION:** Postponed to September 22, 2011 at the applicant's request (7-0); S. Cole-1<sup>st</sup>, B. Spelman-2<sup>nd</sup>.

September 22, 2011

**ACTION:** The case was indefinitely postponed by consent at the applicant's request (7-0); B. Spelman-1<sup>st</sup>, L. Morrison-2<sup>nd</sup>.

November 3, 2011

**ACTION:** Postponed to December 15, 2011 at the applicant's request (7-0); B. Spelman-1<sup>st</sup>, L. Morrison-2<sup>nd</sup>.

December 15, 2011

**ACTION:** Postponed to January 12, 2012 at the applicant's request (7-0); M. Martinez-1<sup>st</sup>, L. Morrison-2<sup>nd</sup>.

January 12, 2011

**ACTION:** Approved staff's rec. of NO-MU-CO zoning on consent (7-0); 1<sup>st</sup> reading

**ORDINANCE READINGS:** 1<sup>st</sup> 1/12/12

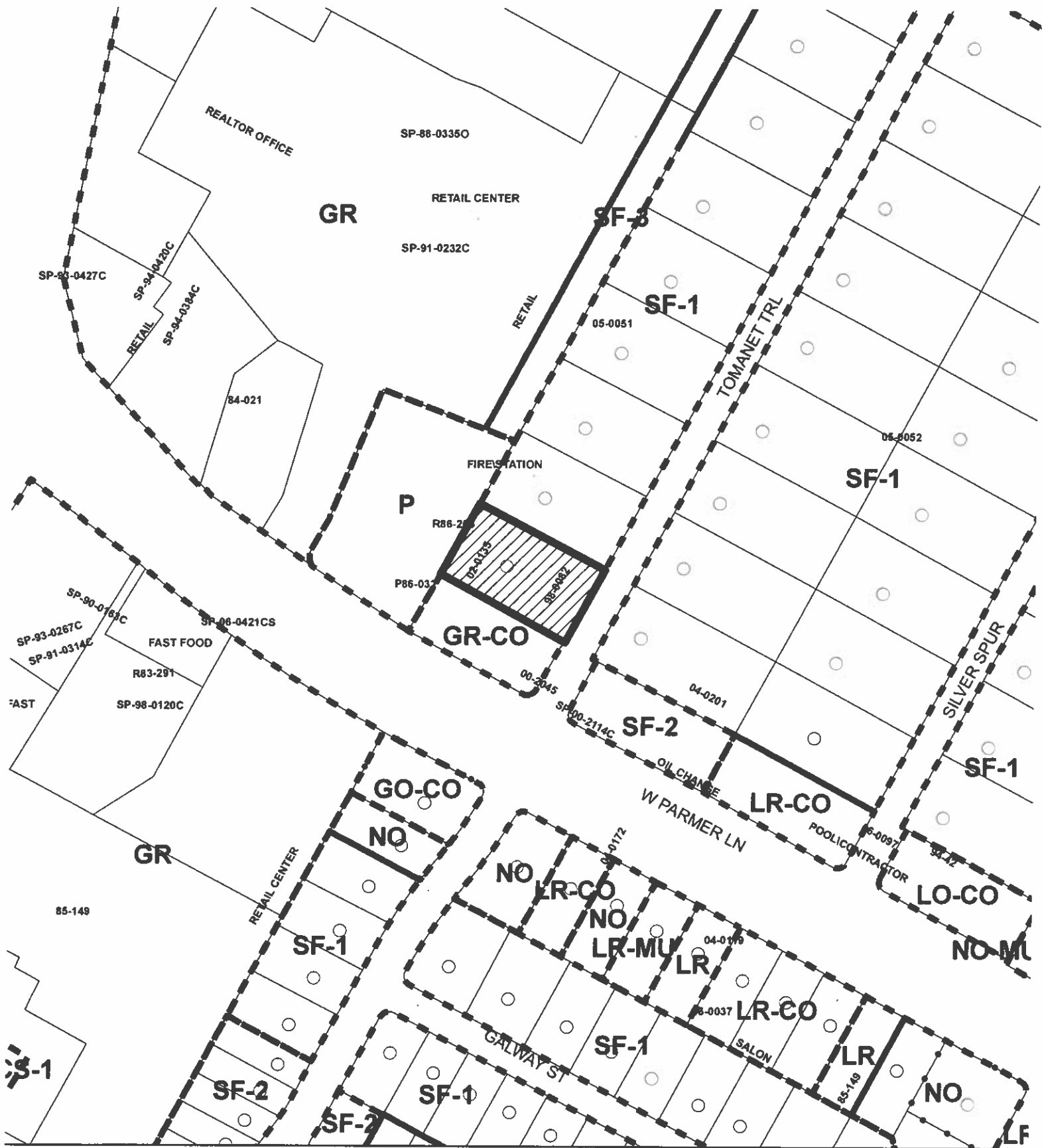
2<sup>nd</sup>

3<sup>rd</sup>




**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 974-3057  
[sherri.sirwaitis@ci.austin.tx.us](mailto:sherri.sirwaitis@ci.austin.tx.us)



1" = 200'

-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

### ZONING

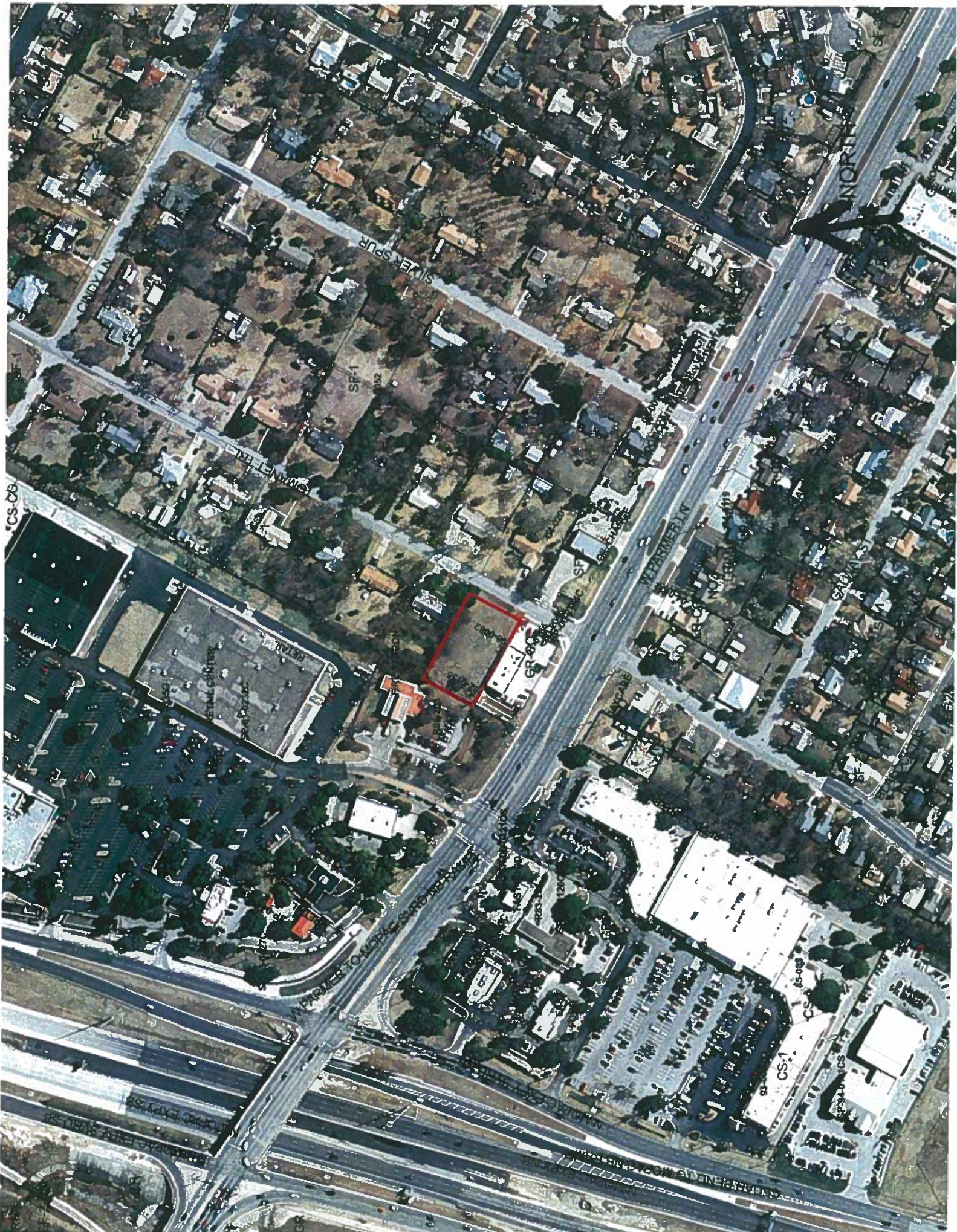
ZONING CASE#: C14-2011-0055  
(Revised map)

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.









## STAFF RECOMMENDATION

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

**\*The staff recommends the applicant's amended request of NO-MU-CO, Neighborhood Office-Mixed Use-Conditional Overlay Combining District, zoning. The conditional overlay will limit development on the site to less than 300 vehicle trips per day [per LDC, 25-6-117].**

## 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.

*The proposed zoning promotes consistency and orderly planning.*

**Neighborhood office (NO) district is the designation for a small office use that serves neighborhood or community needs, is located in or adjacent to a residential neighborhood and on a collector street that has a width of 40 feet or more, and does not unreasonably affect traffic. An office in an NO district may contain not more than one use. Site development regulations applicable to an NO district use are designed to preserve compatibility with existing neighborhoods through renovation and modernization of existing structures.**

**The property in question takes access to a neighborhood collector street and is surrounded by a commercial day care facility to the north, a retail strip center to the south, and a City of Austin fire/EMS station to the west.**

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

The existing SF-I 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-I zoning to the north and east.

**The proposed NO-MU-CO zoning will permit the applicant to develop a vacant lot with low intensity office and/or residential uses that are compatible with the single-family uses 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.

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].

### **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: July 19, 2011  
TO: City of Austin Council  
FROM: Illan Kessler  
RE: Zoning Application Presentation C14-2011-0055

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Dear Council Member,

Thank you for taking the time to review this new information important to my application. I am very grateful for the opportunity and experience to participate in the zoning process.

I would like to amend my application to NO; and also reduce the request to only the single property at 12502 Tomanet Trail (and not combined with 12504 Tomanet Trail -as originally applied). Please see attached Document A which highlights my amended vs original request.

The intended use is for a professional office such as real estate agency or law office.

A low intensity use would provide a buffer between the established residential neighborhood and the intense commercial activities on Parmer and Mopac highway.

Please consider the merit of my application based on 2 reasons: most **reasonable** use for the property and a **positive impact to neighbourhood**.

A few other factors that support this application are first a **lack of traffic** impact, second **case studies**, and third **neighbourhood response**.

#### 1. Reasonable Use

All 3 contiguous boundaries of the vacant lot at 12502 Tomanet Trail have commercial use. The noise and site proximity to Parmer Ln, Mopac Highway, and the surrounding commercial traffic; make this lot a very undesirable location for residential use.

Please follow the Youtube link in Document C which briefly demonstrates traffic, noise, and commercial proximity: <http://www.youtube.com/watch?v=27QToa8Er0I>. Document D maps the vast commercial borders.

#### 2. Positive Impact

For decades the vacant lot at 12502 Tomanet Trail has been mostly used for illicit purposes. There is a high incidence of crime reports, and the lands most common use is illegal storage of commercial trucks, drug use, and abandoning stolen cars as well as other refuse.

The opportunity to develop a professional office that is compatible and complementary to the current neighborhood would have a positive effect on the neighborhood.

To illustrate these points please see document E & F. Document E is as a crime log from APD. Document F is random satellite photos of the lot from the last 10 years.

#### 3. Low Traffic Impact:

An NO zoning change would not provide cause for a traffic increase. The traffic impact would be very nominal due to the property position just off Parmer Lane; and the lack of a direct route through the neighborhood.

#### 4. Case Study:

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 APPROVE  
Relevance: The property access is from Tomanet Trail.

- 12410 Tomanet Trail is zoned NO. 12410 is the same position as 12502 Tomanet Trail.

- CASE No. C14-04-0201 -12503 Tomanet Trail - STAFF RECCOMENDATION NOT APPROVE  
Relevance: The Property at 12503 has only 1 contiguous commercial border. In contrast 12502 has 3 contiguous commercial borders.

Included is Document G demonstrating the similar positions between 12410 and 12502 Tomanet Trail.

#### 5. Neighborhood Response:

The feedback from the city zoning letter was very positive. Several of my neighbors wrote the city and also contacted me directly expressing their support for my application.

There was only 1 respondent against within the 500' radius whose concern I would like to address. Please note there is no one else against this application within the 500' necessary to be party to a valid petition.

The stated concern of Jean Perrari of 12506 Silver Spur is parking, traffic, and property value. However, an individual seeking access to 12502 Tomanet Trail would find it very inconvenient to park on Silver Spur, or use the street as a thoroughfare from any direction. In addition, the improvement of the vacant lot is more probable to increase the nearby property values.

Included is a Document G map demonstrating all respondents within the 500' radius. Document H shows the inaccessibility for parking and driving to Tomanet Trail from Silver Spur St.

#### DOCUMENT CHECKLIST:

Document A – Amended Zoning Request Map

[Document B - Video Link](#)

Document C - Commercial Borders Map

Document D - Random Images of Illegal Land Use

Document E - Address Criminal History

Document F – 12502 & 12410 Highlighted Map

Document G - 500' Radius Map

Document H – Traffic Map

Thank you again for taking the time to review my application. Please feel free to contact me anytime. I look forward to meeting you at the hearing.

Kind Regards,

Illan David Kessler

603 930 1291, Fax 800 240 0623

[info@northpolexmastrees.com](mailto:info@northpolexmastrees.com)



DOCUMENT A:

Original Zoning Request:

**LR** for both 12502 & 12504 Tomanet Trail



Amended Zoning Request:

**NO** for Only 12502 Tomanet Trail

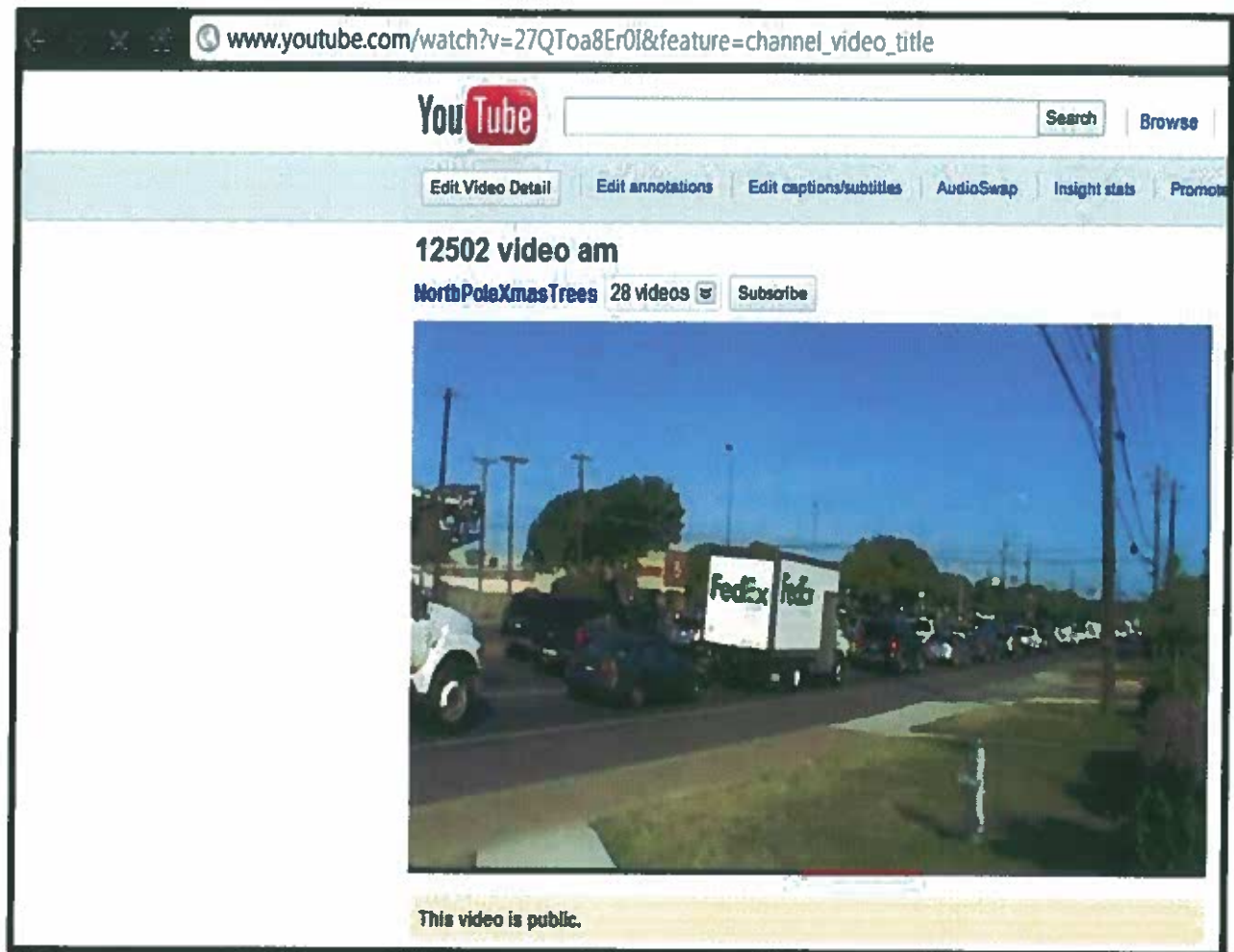




Document B - Video Link:

This video demonstrates the traffic, noise, and commercial proximity which make this property undesirable for residential use.

<http://www.youtube.com/watch?v=27QToa8Er0I>

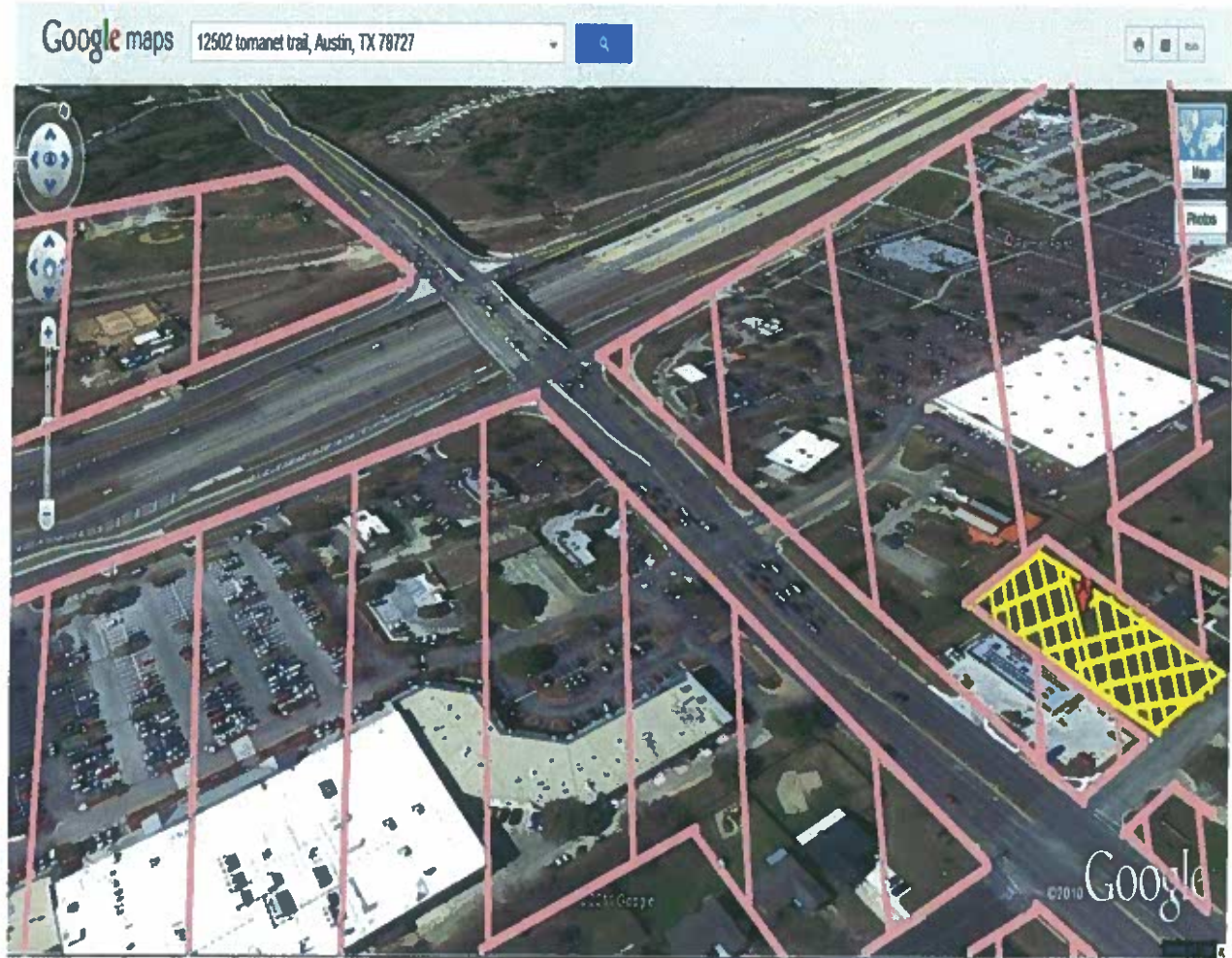


## Document C - Commercial Borders:

This map shows the vast commercial borders congruent to this property.

The yellow striping represents 12502 Tomanet Trail.

The pink striping represent property with commercial zoning. The only exception is the day care at 12504 Tomanet which is a conditional commercial use in a residential zoning. All other property is NO or higher.



## Document D – Crime Log:

Crime log generously provided by the Austin Police Department:

**Lisa Cortinas**

Austin Police Department

Public Information Office

Ofc: 512-974-5072 Main: 512-974-5017 Fax: 512-974-6670

[Lisa.Cortinas@ci.austin.tx.us](mailto:Lisa.Cortinas@ci.austin.tx.us)

### 12500 Block of Tomanet Trail

- June 11, 1997 – Public Intoxication
- Dec 28, 2002 – DWI
- Dec. 11, 2002 – theft
- May 16, 2002 – Suspicious vehicle
- Nov 24, 2005 – Possession of a controlled substance/narcotics
- Feb. 17, 2007 – Driving with a suspended license
- Nov. 16, 2007 – Possession of drug paraphernalia
- May 16, 2005 – Assist Complainant
- May 24, 2010 – Noise Violation

### 12502 Tomanet Trail

- April 15, 2009 – Suspicious person

### 12504 Tomanet Trail

- Feb. 4, 2000 – Family Disturbance
- Sept. 23, 2001 – Theft from Auto
- July 9, 2005 – Crash private property
- Nov. 24, 2005 – Custody arrest traffic warrant
- Feb. 19, 2006 – Family Disturbance
- Feb. 20, 2006 – Fire
- Feb. 27, 2006 – Burglary of Residence
- March 5, 2006 – Disturbance
- March 14, 2006 – Assist Complainant
- March 14, 2006 – Hang-up/ misdial
- March 31, 2006 – Assist Complainant
- March 31, 2006 – Assist Complainant
- March 31, 2006 – Child Endangerment/Abandonment
- April 3, 2006 – Lost Property
- May 10, 2006 – service
- May 17, 2006 – Hang-up business
- May 17, 2006 – Assault with Injury Family/Dating

### Violence

- Dec. 2, 2006 – Forgery and Passing
- Jan. 18, 2007 – Theft
- Feb. 14, 2007 – Burglary of Vehicle
- Feb. 18, 2007 – Theft
- Feb. 21, 2007 – Possession of Drug paraphernalia
- Feb. 26, 2007 – Assault with Injury Family/Dating

### Violence

- Feb. 28, 2007 – Emergency Protective Order
- March 12, 2007 – Assist Complainant
- March 12, 2007 – Harassment
- March 15, 2007 – Criminal Trespass
- March 20, 2007 – Family Disturbance
- May 17, 2007 – Violation of Emergency Protective Order
- June 17, 2007 – Assist Complainant
- July 25, 2007 – Nature Unknown Urgent
- August 10, 2007 – Family Disturbance
- August 20, 2007 – Family Disturbance
- Sept. 26, 2007 – Criminal Trespass
- March 16, 2008 – Assault
- June 1, 2008 – theft
- June 16, 2008 – ID Property Crimes
- June 16, 2008 – Burglary of Residence
- June 25, 2008 – Alarm Burglar
- Oct. 5, 2008 – Alarm Burglar
- Nov. 19, 2008 – Alarm Burglar
- Nov. 21, 2008 – Alarm Burglar
- Nov. 22, 2008 – Alarm Burglar
- Nov. 30, 2008 – Alarm Burglar
- Dec. 6, 2008 – Alarm Burglar
- Dec. 18, 2008 – Alarm Burglar
- Dec. 21, 2008 – Alarm Burglar
- Dec. 22, 2008 – Alarm Burglar
- Jan. 9, 2009 – Alarm Robbery
- Feb. 9, 2009 – Alarm Robbery
- Feb. 20, 2009 – Assist Complainant
- Feb. 28, 2009 – Alarm Burglar
- April 14, 2009 – Alarm Burglar
- May 14, 2009 – Alarm Burglar
- June 27, 2009 – Alarm Robbery



Document E - Random Images of Illegal Land Use



Document F - 12502 & 12410 Case Study: Access from Tomanet

12410 is NO zoning with access only available from Tomanet Trail.  
12502 requests NO zoning with the same positioning.

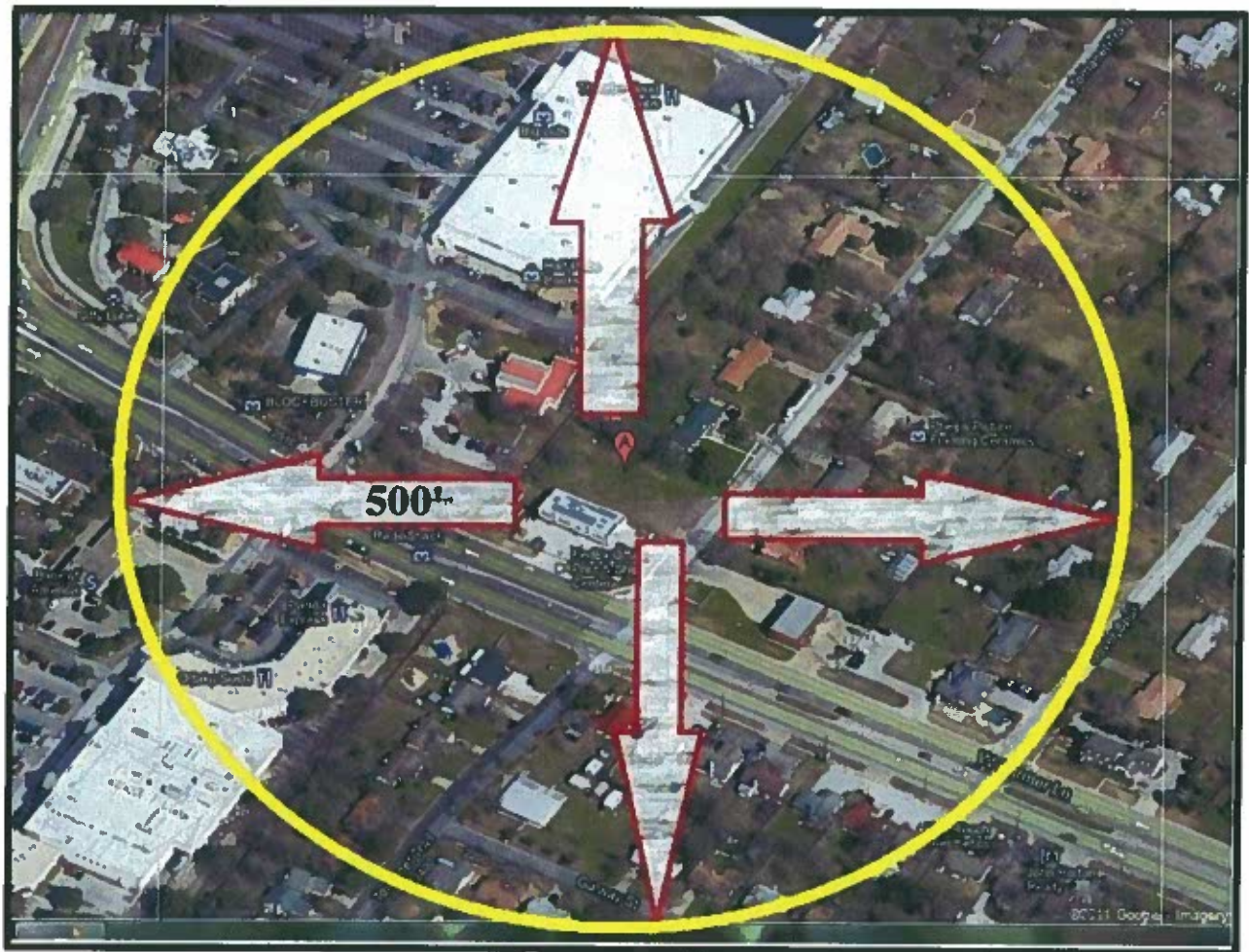




## Document G – 500' Radius Map

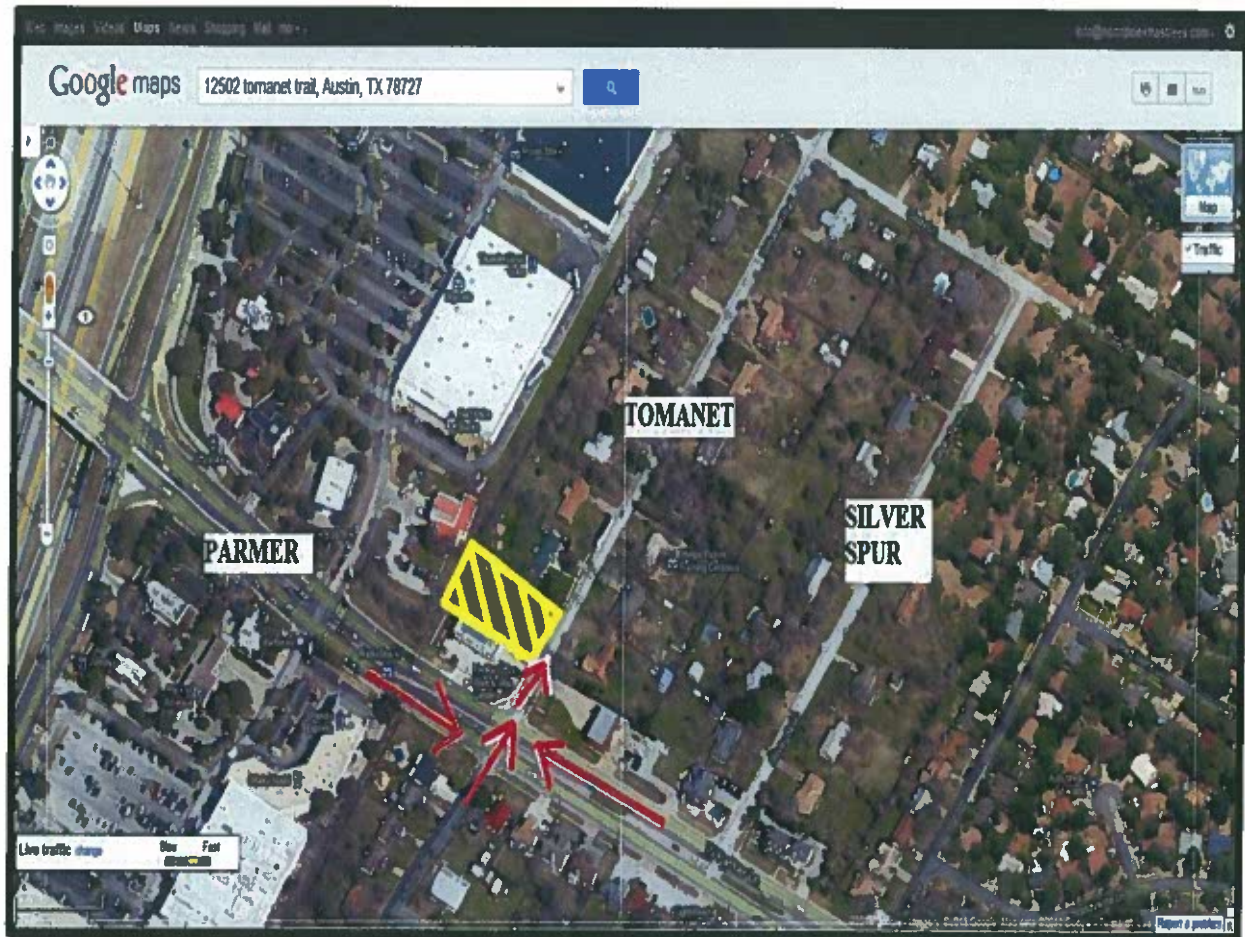
A 500' Radius is necessary to be party to a valid petition.

Individuals seeking access to 12502 Tomanet Trail would find it very inconvenient to park on Silver Spur, or use the street as a thoroughfare from any direction.



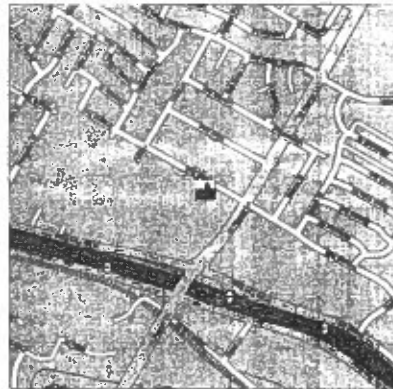
## Document H– Traffic Map:

The traffic impact would be very nominal due to the property position just off Parmer Lane; and the lack of a direct route through the neighbourhood.





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



(row number)	Type of Tree	Shaded (percent)
1	Live Oak	40
2	Live Oak	30
3	Live Oak	30
4	Live Oak	30
5	Live Oak	30
6	Live Oak	30
7	Live Oak	30
8	Live Oak	30
9	Live Oak	30
10	Live Oak	30
11	Live Oak	30
12	Live Oak	30
13	Live Oak	30
14	Live Oak	30
15	Live Oak	30
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94	Live Oak	30
95	Live Oak	30
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98	Live Oak	30
99	Live Oak	30
100	Live Oak	30

No construction will occur with this permit.

*The Business of Business: A Guide to the World of Work*

- [illegible]

## Conclusions

- [illegible]



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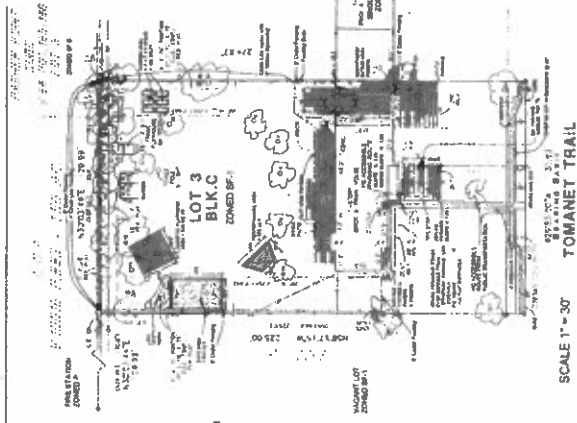
1. The Austin Fire Department operates support or concrete pavement for a concrete slab on an unimproved driveway.
2. Hydrants must be installed with the center of the hydrant opening at least 10 feet from the curb, and the hydrant opening must be at least 18 inches from the driveway or street with a 30' or less curb setback from the sidewalk(s).
3. No hydrants are allowed within three feet of any hydrant and the four-foot clearing must be fully unobstructed from the street.
4. **3.3 TANKS OF INSTALLATION.** When fire protection facilities are installed by the City of Austin, the City shall be responsible for the installation and maintenance. When alternative methods of protection, as approved by the City Council, are installed, the owner shall be responsible for the installation and maintenance. The following may be installed or removed:
  - a. All non-combustible piping shall be engineered and installed for 50,000 psi, non-leakable tanks. Any performance standard piping within 150 feet of any building must be approved by the City Department.
  - b. Commercial containers and containers with an individual capacity of 1.5 cubic feet or less, including but not limited to, but not limited to, compressed gas cylinders, combustible waste, or combustible waste tanks.
5. Fire flow required for this plan shall be determined with City of Austin Fire Department's office and inspected for final approval.
6. Vertical clearance required for fire operations is 14 feet for full width of access drive.

mitted to 25x6.7da on our clip

Approval.

9. ZAP Approved waiver from 95-2-1047(F) to permit an intensive use within 50 feet of property used or zoned as SE-5 or more restrictive. (playground)

Plans must be recorded by the Project Expiration Date, if applicable. Subsequent Site Plans which do not comply with the Code current at the time of filing, and all required Building Permits and/or a notice of



SCALE 1" = 30'



### Participating Journals

Land Use	# of Employees	Required Parking		Provided	
		Ratio	Spaces	Standard	HC (Van Accessible)
Day Care (nonresidential)	3		3 (1 van acc.)	2	1

- ADA - HC Specs
- Van Accessible
- No Hardwood Floor Required

CASE NUMBER  
SPC-2009-0064A

SITE PLAN APPROVAL SHEET  
FILE NUMBER 540-1000-0044 APPLICATION DATE 4/11/2004  
APPROVED BY COMMISSION ON 1/1 PM UNDER SECTION 14.2 OF  
CHAPTER 25-5 OF THE CITY OF AUSTIN CODE.  
EXPIRATION DATE 2/23/2011, LDC # 10002, CASE MANAGER N# 00413102  
PROJECT EXPIRATION DATE (OR) 01/09/2015 1/1 1000 DWZ ✓  
DDZ ✓

Director, Watershed Protection and Development Review  
RELEASED FOR GENERAL COMPLIANCE: 1/21/09 ZONING SEP-1



**Sirwaitis, Sherri**

---

**From:** [REDACTED]  
**Sent:** Tuesday, July 19, 2011 10:20 AM  
**To:** Sirwaitis, Sherri  
**Subject:** opposed to this zoning change to case # C14-2011-0055

I am opposed to this zoning change.

Robert Barker  
2316 N Shields Dr  
Austin, TX 78727-3146  
[REDACTED]

7/19/2011

**Sirwaitis, Sherri**

---

**From:** R. B. [REDACTED]  
**Sent:** Tuesday, July 19, 2011 4:55 PM  
**To:** Sirwaitis, Sherri  
**Subject:** Case Number: C14-2011-0055

I recently was made aware of this zoning change request in Case Number: C14-2011-0055.  
The request is to change some property from single family housing to commercial.  
I object to this change. The street is residential in nature now and such a change would negatively impact the neighborhood. We need to preserve it.  
I live nearby at 2107 Brandywine Lane, just a few blocks away.

Richard Byrnes

7/19/2011

**Sirwaitis, Sherri**

---

**From:** [REDACTED]  
**Sent:** Tuesday, July 19, 2011 9:30 AM  
**To:** Sirwaitis, Sherri  
**Subject:** Opposition to Case Number: C14-2011-0055

Hello,

I would like to state my opposition to the zoning hearing today regarding 12502 AND 12504 TOMANET TRAIL.  
(Case Number: C14-2011-0055)

I have lived in this area (Tomanet Trail from 1963 to 1980, and Lamplight Village from 1980 to present) my entire life. While we know that growth of commercial properties is generally good for the city, it isn't good for neighborhoods. I would like to state my opposition to rezoning a residential home to commercial zoning because, once one property is rezoned it opens the door to multitudes being rezoned. Rezoning would bring traffic into our streets, would cause congestion to already congested streets and put the safety of children, adults and pets in jeopardy.

Please do not rezone these properties; we would like to keep the integrity of our neighborhood for families not businesses.

Becky Wooley  
13111 Lamplight Village Ave.  
Austin, Texas 78727  
[REDACTED]

7/19/2011

**Sirwaitis, Sherri**

---

**From:** kim johnson [REDACTED]  
**Sent:** Tuesday, July 19, 2011 9:18 AM  
**To:** Sirwaitis, Sherri  
**Subject:** 12502 and 12504 Tomanet Trail; Case number: C14-2011-0055

NO, NO, NO. Stop the encroaching into our neighborhood, our streets, our living spaces.

Once you approve this zoning where will it stop???? Once you do this all the other businesses that have in the past asked for rezoning if they purchase lots in the hood could see this as an opportunity for expansion.

Please continue to PRESERVE our neighborhood streets and the residents who love living in Lamplight Village because of them. Stop the ENCROAHMENT of businesses in our LIVING spaces.

I oppose this rezoning.

Kim Johnson  
12600 Esplanade St.  
Austin, TX 78727  
[REDACTED]

7/19/2011

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However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2011-0055

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: July 19, 2011, Zoning and Platting Commission

Aug. 4, 2011, City Council

Jean Ferrara

Your Name (please print)

12506 Silver Spur

Your address(es) affected by this application

Jean Ferrara

Signature

Date

Daytime Telephone: 512-255-3360

Comments:

Jonaret Estates is already checked by commercial properties. We had to fight to stop business from using our street & drive way for parking. If this is allowed it will definitely degrade our property value and quality of life.

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor  
☒ I object

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Case Number: C14-2011-0055

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: July 19, 2011, Zoning and Platting Commission

Aug. 4, 2011, City Council

YEAUDRA KAMAR

☒ I am in favor  
☐ I object

12502 Silver Spkr Austin TX 78727

Your address(es) affected by this application

Yeaudra Kamar

Signature

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

7-16-2011

Date

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-2011-0055

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: July 19, 2011, Zoning and Platting Commission  
Aug. 4, 2011, City Council

YENDORA RAMA  
Your Name (please print)

☒ I am in favor  
☐ I object

12502 Silver Spur Austin TX 78727  
Your address(es) affected by this application

Yendra Ramal  
Signature

Date

Daytime Telephone: 512-565-6255

Comments:

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

City of Austin  
Planning & Development Review Department  
Sherri Sirwaitis  
P. O. Box 1088  
Austin, TX 78767-8810

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**Case Number: C14-2011-0055**

**Contact: Sherri Sirwaitis, (512) 974-3057**

**Public Hearing: July 19, 2011, Zoning and Platting Commission  
Aug. 4, 2011, City Council**

LAN T. ARCHER.

Your Name (please print)

☒ I am in favor  
☐ I object

12505 TOMNET TRAIL - Austin, TX 78727

Your address(es) affected by this application

San Antonio

Signature

7/16/11  
Date

Daytime Telephone: 512 925 3305

Comments: I love to see that lot to  
change of use in the future.

San Antonio

512 925 3305

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810



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Case Number: C14-2011-0055

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Oct 18, 2011, Zoning and Planning Commission

Nov 3, 2011, City Council

LAN ARCHER

Your Name (please print)

12505 TOMANET TRAIL  
AUSTIN, TX 78727

Your address(es) affected by this application

Landscule

Signature

Date

Daytime Telephone: 512 925 3305

Comments:

I Would like to see the  
City Rezone those same  
Be'cause we have so much  
land there and don't know  
what to do. If the City would  
let we turn those Land some  
use for small Business like  
Bunny some in come to family  
and more tax to City too.

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

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For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2011-0055

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Oct 18, 2011, Zoning and Platting Commission

Nov 3, 2011, City Council

YENDRA RAMA  
Your Name (please print)

12502 Silver Spur  
Your address(es) affected by this application

Austin TX 78727  
Signature

10-16-2011  
Date

☒ I am in favor  
☐ I object

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

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Case Number: C14-2011-0055

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Oct 18, 2011, Zoning and Platting Commission

Nov 3, 2011, City Council

YENDRA KAMAT  
Your Name (please print)

12502 Silver Spur  
Your address(es) affected by this application

Austin TX 78727  
Date

10-10-2011  
Date

Signature

Daytime Telephone: 512 873-8141

Comments:

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

City of Austin  
Planning & Development Review Department  
Sherri Sirwaitis  
P. O. Box 1088  
Austin, TX 78767-8810

<input checked="" type="checkbox"/> I am in favor <input type="checkbox"/> I object
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