

## NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

**NEIGHORHOOD PLAN:** East Martin Luther King Neighborhood Plan

**CASE#:** NPA-2011-0015.02      **DATE FILED:** July 28, 2011 (In-cycle)

**PC DATE:** February 28, 2012  
January 24, 2012  
January 10, 2012

**ADDRESS/ES:** 2200 Tillery Street

**SITE AREA:** Approx. 1.217 acres

**APPLICANT/AGENT:** Richard H. Crank, ASLA

**OWNER:** DCR III Mortgage Sub I, LLC, (Lance B. Amano)

**TYPE OF AMENDMENT:**

**Change in Future Land Use Designation**

**From:** Mixed Use

**To:** Commercial

*(As of January 18, 2012, the applicant has not withdrawn the plan amendment application although it is unnecessary with the revised zoning request of CS-MU-NP)*

**Base District Zoning Change**

**Related Zoning Case:** C14-2011-0088 (SS)

**From:** LO-MU-NP

**To:** CS-MU-NP (original request was W/LO-NP)

**Other Related Case: Restrictive Covenant Termination:** C14-84-361 (RCT) (SS)

**NEIGHBORHOOD PLAN ADOPTION DATE:** November 7, 2001

**PLANNING COMMISSION RECOMMENDATION:** Pending

**STAFF RECOMMENDATION:** Staff does not recommend the change in the future land use map to Commercial. However, with the applicant's new zoning request of CS-MU-NP, then a plan amendment would not be required.

**BASIS FOR STAFF'S RECOMMENDATION:** The request to change the future land use map from Mixed Use to Commercial does not support the following plan Goals, Objective, and Recommendations:

**Goal 1 - Preserve established residential areas and improve opportunities for home ownership by promoting the rehabilitation of existing housing and new, infill housing compatible with the existing style of this neighborhood.**

**Goal 2 - Promote a mix of land uses that respect and enhance the existing neighborhood and address compatibility between residential, commercial, and industrial uses.**

**Objective 2.1:** Where appropriate, address mis-matches between desired land use and zoning.

**Objective 2.2:** Reduce the impact of commercial and industrial uses on residential areas.

**Goal 3 - Preserve existing small businesses and encourage new neighborhood-serving commercial services in appropriate locations.**

**Objective 3.1:** Where zoning permits, promote neighborhood-oriented businesses and services such as restaurants, corners stores, and laundromats.

**Goal 4 - Promote the development and enhancement of the neighborhood's major corridors.**

**Objective 4.1:** Allow mixed use development along major corridors and intersections.

## **JJ Seabrook**

### **Existing Conditions**

The JJ Seabrook neighborhood features primarily older homes, many of which are situated on relatively large lots. The major corridors (Airport Boulevard, Manor Road, and MLK Boulevard) have already developed with relatively intense commercial uses, although much of MLK Blvd. remains primarily single-family residential. Heavy commercial and industrial uses, including vehicle storage, petroleum storage, and construction sales, have occurred well into the residential parts of the neighborhood, especially near the entrance of the former Mueller Airport. Many of the commercial uses that exist in the area were related to the former airport and may no longer be appropriate.

### **Recommendations**

JJ Seabrook is the neighborhood in the East MLK Neighborhood Planning Area that will likely be most affected by the Mueller redevelopment project. Land use and development in the area should be coordinated with the Mueller Master Plan to the greatest extent possible, while protecting the established residential areas from increased traffic and real estate pressures. Additionally, existing commercial properties should be encouraged to redevelop with mixed use and neighborhood-serving businesses.

### **Action Items**

**Action 3-** Maintain existing single-family zoning in established residential areas.

**Action 4-** Reduce the effects of commercial and industrial properties in the neighborhood interior. Encourage redevelopment of these properties as Mixed Use/Office.

**Action 5-** Allow Mixed Use/Commercial on Airport Blvd., Manor Rd., and MLK Blvd. west of Tillery Street.

**Action 6-** Allow the “Neighborhood Urban Center” special use at the intersection of Manor and Pershing.

**Action 7-** Allow higher density single-family along MLK Blvd.

## **Transportation**

Recommendations in this plan aim to promote well-designed, mixed-use, and multi-modal corridors on collector and arterial streets. There is a strong desire to make Airport Blvd. a safer, more attractive and pedestrian friendly corridor. The plan also emphasizes making neighborhood streets safer and more pedestrian friendly.

**Goal 7 -** Create a transportation network that allows all residents to travel safely throughout the neighborhood by improving safety on major arterials and neighborhood streets.

**Objective 7.1:** Increase pedestrian safety by constructing new sidewalks and improving pedestrian crossings. (Please refer to the Proposed Sidewalk Map on page 86.)

### **Neighborhood Street Sidewalks**

#### *MLK NP Area:*

#### **Action 95- Construct the following priority sidewalks:**

- Deloney (either side) from 12<sup>th</sup> to MLK Blvd.
- Leslie (either side) from Cometa to Springdale.
- *Gunter (either side) from Airport to Oak Springs.*

#### **Action 96- Construct the following additional sidewalks:**

- Luna (either side) from 12<sup>th</sup> to 16<sup>th</sup>.
- Perez (either side) from 12<sup>th</sup> to 16<sup>th</sup>.
- **Tillery (west side) from Manor to MLK Blvd.**
- Tillery (west side) from MLK Blvd to 14<sup>th</sup>.
- Pershing (east side) from EM Franklin to MLK Blvd.
- Greenwood (either side) from Manor to MLK Blvd.
- JJ Seabrook (either side) MLK Blvd to Perez.
- EM Franklin (west side) from MLK Blvd to 12<sup>th</sup>.
- EM Franklin (either side) from Manor to MLK Blvd.
- Manorwood (either side) from Manor to Anchor.

**Staff Analysis:** The East Martin Luther King Neighborhood Plan recognizes that many of the industrial and heavy commercial business that are located near residential areas are there because of the former Mueller Airport and that these uses are not pedestrian or neighborhood friendly. Now that the airport has moved, they believe, along with neighborhood planning staff, that it is time for these uses to transition to more neighborhood-friendly uses providing services that the people who live in the neighborhoods can use. It is through the rezoning process that this transition can happen. Approving the FLUM to change to Commercial land use to allow the Warehouse/Limited Office zoning district, will encourage the intensification of the site into a warehouse use that will increase heavy truck traffic and possibly 18-wheelers on a residential street in close proximity to an established single family neighborhood. The City Council-approved plan document does not support this change.

**BACKGROUND:** The East Martin Luther King Neighborhood Plan was completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on November 7, 2002. The East MLK Combined Neighborhood Planning Area is located in the east part of Austin's Urban Core. The combined planning area is bounded by Airport Blvd., Anchor Lane and Manor Rd. on the West; Loyola Lane, Ed Bluestein Blvd. and Little Walnut Creek on the North; the former Missouri-Kansas Railroad right-of-way on the East; and the Austin NW Railroad on the South.

The applicant is requesting a change in the future land use map from Mixed Use to Commercial. The rezoning request is for W/LO - Warehouse/Limited Office zoning district to accommodate the exiting warehouse formerly owned by the State of Texas, which exempted it from any previous zoning. Please see the zoning case report for more information related to the zoning request and the restrictive covenant termination request.

**PUBLIC MEETINGS:** The ordinance-required community meeting was held on September 27, 2011. One hundred fifty-one notices were mailed to property owners and utility account holders located within 500 feet of the property, in addition to neighborhood and environmental organizations registered on the Community Registry. Eighteen people attended the meeting, including one staff member.

Richard Crank, agent for the property owner, gave an overview of the history of the property. See his letter on pages six through eight.

A member of the J.J. Seabrook Neighborhood Association said that the staff recommendation of GR-MU-CO-NP from the previous zoning case filed in 2007 (Case number C14-2007-0076), was made without input from the surrounding neighborhoods. They did not support GR-MU-CO-NP in 2007 and they do not support the applicant's request for W/LO for this current application. The neighborhood does not want a commercial use that could bring heavy truck traffic on a residential street because there are elderly people in the single family neighborhood directly across the street who would find this dangerous.

There was a brief discussion whether street signs could direct truck drivers to exit the property on Tillery Street to be directed to the north, away from the residential part of the Tillery Street. The attendees said it would be difficult to enforce this. They also discussed building a driveway that would physically prohibit trucks from driving south on Tillery Street. Richard Crank said a transportation reviewer with the City said the Fire Department might not support this option.

There was also a discussion whether the city could require the applicant to provide sidewalks on their property to meet the goals of the E MLK Neighborhood Plan to provide residents a safe place to walk.

Richard Crank said the LO-Limited Parking zoning requires two times as much parking, which the site cannot accommodate. Also, the Warehouse/Limited Office use would generate less traffic than the office zoning and would make it more compatible for the area.

The East MLK Planning Contact Team submitted a letter that does not support the plan amendment change to commercial or the zoning change to Warehouse/Limited Office. Also included is a letter in opposition from the J.J. Seabrook Neighborhood Association and a comment form in opposition from a surrounding property owner.

**CITY COUNCIL DATE:** February 9, 2012      **ACTION:** Pending.

**CASE MANAGER:** Maureen Meredith      **PHONE:** (512) 974-2695

**EMAIL:** Maureen.meredith@austintexas.gov



**2200 TILLERY ST.  
NEIGHBORHOOD PLAN/ZONING INFORMATION SUMMARY  
July 25, 2011**

**Background**

The property to be rezoned is located on the west side of Tillery St., just south of Manor Rd. It is a 1.217 acre parcel that has not been formally subdivided, but received a Land Status Determination on May 24, 2007, stating that platting was not required. The property is located within the boundary of the East MLK Combined Neighborhood Planning Area, and is currently designated as Mixed Use on the Future Land Use Map and zoned LO-MU-NP. It is currently improved as a 20,000 SF office/warehouse building with two loading docks and related parking.

The property is located within a transition area that ranges from single family use and zoning to the south and east, to commercial use and zoning to the north and west. The property across Tillery St. to the east is zoned SF-3-NP and CS-CO-NP. The adjacent property to the south is zoned MF-2-NP and appears to be used as a single family residence and possibly a business. The adjacent property to the west is zoned GR-V-NP and is used as a truck and equipment tire business; while the adjacent property to the north is zoned CS-V-CO-NP and is used as a large scale landscape business.

The property was zoned from MF-2 to LO in 1985 (C14-84-361), and a restrictive covenant was also entered into with the City of Austin. The restrictive covenant was amended in 1986 to allow for the State Bar of Texas to use it for its purposes, including a print shop facility. The property was then developed as currently improved, presumably by or for the State Bar of Texas, and used by the State Bar of Texas as an office/warehouse including a print shop facility. The East MLK Combined Neighborhood Plan was adopted on November 7, 2002, which changed the zoning from LO to LO-MU-NP.

The State Bar of Texas sold the property to an individual in 2000, who in turn requested a change in zoning from LO-MU-NP to CS-MU-CO-NP (C14-2007-0076), and termination of the restrictive covenant. Zoning review staff proposed an alternate recommendation of GR-MU-CO-NP and also recommended the termination of the restrictive covenant, both of which were later recommended by the Planning Commission, and scheduled for City Council in November 2007. The applicant requested a postponement, it appears that the City Council never voted on the request, and the applications for rezoning and termination of the restrictive covenant appear to have expired. The property was recently foreclosed in February 2011, is vacant, and currently owned by a mortgage company that has it listed for sale.

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**Proposed Plan Amendment And Zoning**

The property as currently improved cannot be fully utilized under LO zoning, which does not allow for warehouse use. It also has a substantial parking deficiency for office or retail use. The 20,000 SF building is served by approximately 32 parking spaces, or 1 space per 625SF of building area. Office use allowed under the current LO zoning, and many uses allowed under the previously recommended GR zoning, require 1 parking space per 275SF of building area or about 73 spaces. The required parking can be reduced to 80% or 58 spaces as allowed within the Urban Core, which still leaves much of the building area without parking. Therefore, the applicant is requesting a change in zoning to WLO-CO-NP, to allow for the building to be used as an office/warehouse, which will also allow for uses that have a required parking ratio based on the actual uses of the building area as per Appendix A, Tables Of Off-street Parking and Loading Requirements, Schedule A.

Since the WLO zoning district is not considered to be typically located within the Mixed Use designation on the FLUM, as per the Land Use And Zoning Matrix, the rezoning will require a Plan Amendment to change the FLUM from Mixed Use to Commercial. The property is adjacent to commercial zoning and uses on two sides, and it is unlikely that the current improvements are suitable for residential use in the foreseeable future. The applicant believes that the WLO zoning is suitable for the property since it allows for it to be used as an office/warehouse which serves as a suitable transition from the single family uses to the construction and automotive uses within the immediate area. The definition for WLO allows for it to be permitted adjacent to some residential uses, and the adjacent residential use is zoned MF-2. The applicant is willing to prohibit some allowable uses within the WLO district that are less compatible with the nearby single family residential use, which will be identified after further discussion with the area residents. The applicant has met with the Contact Team to preliminarily review the requested Plan Amendment and rezoning, and has scheduled a meeting with the JJ SEABROOK NEIGHBORHOOD ASSOCIATION to discuss the request prior to the formal Plan Amendment meeting to be scheduled by COA staff.

The applicant is also submitting an application requesting the termination of the existing restrictive covenant since it does not allow for office/warehouse use, and a Neighborhood Plan has been adopted since the restrictive covenant was put in place over 25 years ago. Termination of the restrictive covenant was previously recommended by COA staff and the Planning Commission.

**Conclusion**

The proposed Plan Amendment to Commercial Land Use, rezoning to WLO-CO-NP and termination of the restrictive covenant are reasonable and appropriate for this property for the following reasons:

- The property is already developed with office/warehouse use, and has been used as such for many years



- The proposed zoning is an appropriate transition zoning given the existing zoning and uses surrounding the property.
- The Commercial Land Use designation is only needed because the WLO does not combine with Mixed Use, and it is unlikely that the property will be used for residential purposes in the foreseeable future
- Some allowable WLO uses will be prohibited in the Conditional Overlay
- The site generated traffic for office/warehouse use is very low
- WLO only allows for indoor storage use
- The restrictive covenant is cumbersome to modify, was put in place before the adoption of the Neighborhood Plan, and was recommended to be terminated in 2007



**Letter in Opposition from the E MLK Planning Contact Team**

To: City of Austin Planning Commission

Re: Case Number NPA-2011-0015.02

Date: November 6, 2011

On October 17, 2011 the East MLK Combined Neighborhood Contact Team held a meeting in which Ben Heimsath of the JJ Seabrook Neighborhood Association presented the NA Subcommittee position regarding the 2200 Tillery Case. This meeting followed the City-arranged meeting on September 17, 2011 in which Richard Crank presented his case to the Neighborhood. Richard Crank's client owns the property at 2200 Tillery. It is currently zoned as LO-MU-NP, but Mr. Crank's client wishes to change the land use from Mixed Use to Commercial and also change the zoning to W/LO-NP. The JJ Seabrook Subcommittee opposes the proposed land use and zoning changes.

The East MLK Combined Neighborhood Contact Team voted to oppose the proposed land use and zoning change because it would entail the loss of the Mixed Use land use for 2200 Tillery. JJ Seabrook Neighborhood has witnessed tremendous change since the old Austin airport closed. What was once a very commercial and industrial area has changed into a much more residential-friendly neighborhood (even though the neighborhood existed all along). The Mixed Use appropriation for the property at 2200 Tillery is appropriate as Mixed Use allows for various development, including that of a live/work type of structure in which the neighborhood would most like to see at the aforementioned property. By changing the land use to commercial, the live/work development model would be prohibited. Additionally, the buffer zone that Mixed Use currently lends to the primarily residential properties that surround 2200 Tillery would be lost.

The Contact Team believes that such a change in the land use and zoning is a step back in time. The JJ Seabrook Neighborhood Plan states that "many of the commercial uses that [currently] exist in the area were related to the former airport and may no longer be appropriate." Therefore, the fact that the property at 2200 Tillery could be converted into commercial does not reflect the current needs and character of the neighborhood. Furthermore, the Plan goes on to say that while development will occur due to the conversion of Mueller, "existing commercial properties should be encouraged to redevelop with mixed use." To re-iterate—changing the property to commercial would completely contradict what the Neighborhood Plan envisions for the area.

Please contact us if you have any questions or concerns.

Respectfully submitted,

Joy Casnovsky, East MLK Combined Neighborhood Contact Team Chair  
512.589.1090

## *J.J. Seabrook Neighborhood Association*

January 23, 2012

FROM: Dan Daniels, President,  
P.O. Box 6219, Austin, TX 78762

(512) 708-8926

RE: 2200 Tillery Street;  
Case No. NPA-2011-0015.02 and associated cases: C14-2011-2088; C14-84-361  
RCT);  
Request for rezoning, re-FLUMing, and abandonment of restrictive  
covenant (represented by Richard Crank).

TO: City Planning Staff, Planning Commissioners, and City Council Members

The J.J. Seabrook Neighborhood Association has adopted the position that no change should be made to the FLUM or to the zoning for 2200 Tillery Street, nor should the restrictive covenant be abandoned for that property. JJSNA's position reflects the fact that 2200 Tillery is a property on an "interior neighborhood street, not on a flanking arterial roadway. Tillery Street at this location is very narrow (not the same as the "other Tillery Street" south of Oak Springs). Moreover, it is a street without sidewalks, and pedestrians must walk in the roadway. Injecting more/commercial traffic into this residential neighborhood would be a dangerous decision and a terrible plan.

The existing building was built by the State Bar of Texas (which was obviously exempt from zoning constraints) for a specific use. Consequently, the building is an anomaly. A concurrently created public restrictive covenant promised quality-of-life protection to neighboring residents, and the city should not turn its back on its obligations thereunder. These historical developments on this lot may have made sense when the old airport still existed, but that was then. The current property owner is a mortgage-buyer, a debt buyer, not even an original lender. It is an out of state operation offering no vision whatsoever for this lot, nor any benefits to the city nor to the neighborhood. The existing zoning and the FLUM and the building itself reflect an outdated vision for this part of town, and the owner is mired in a problem of his own creation. Decisions being made by the city now for this 2200 Tillery site should be forward-looking, not simply acquiesce in the need of a debt-buyer to make a big profit.

This neighborhood remains a predominantly black neighborhood and most of the properties protected by the restrictive covenant are still owned by the same families who owned those properties when it was created in the 1980's. This has been a uniquely stable, very successful black neighborhood that deserves recognition, not to be treated cavalierly and destroyed. Unlike the average American who moves every - how often, 7? years), many of these neighbors have been in their homes for four decades. The city's African American Quality of Life Initiative

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wisely recognizes that the city needs to maintain a conscious focus on "neighborhood sustainability." <http://www.ci.austin.tx.us/aaql/> We should not lose sight of this important city priority.

The JJ Seabrook Neighborhood Association is all about protecting and reinvigorating the quality of life in this neighborhood. To that end, we have drafted a neighborhood master plan and will present it soon to the newly reinvigorated East MLK Combined Neighborhoods Contact Team. Kicking off the implementation of this grass-roots-driven forward-looking 21<sup>st</sup> Century planning effort, revitalization will be launched by the soon-to-be-implemented Austin Watershed Department's JJ Seabrook Stream Restoration and Rain Garden Project. The repurposed JJ Seabrook greenbelt/park will serve as a community-reinforcing neighborhood asset at the heart of this residential neighborhood.

The 21<sup>st</sup> century vision for this part of town has yet to be fully incorporated into any existing master plans for areas outside of Mueller, or the outdated FLUM. JJSNA's position regarding 2200 Tillery is that rezoning for a warehouse/industrial/commercial use is inconsistent with both the existing single-family residential uses of adjacent and nearby properties, and also inconsistent with the potential future TOD rezoning and redevelopment of adjacent properties on Manor Road when/if the Metro-Rail Red Line is built.

IN CONCLUSION, Warehouse/commercial usage for this property is not a forward-looking use for this site, and subordinates too many interests to that of the mortgagee/owner. The city should not renege on its commitment in the restrictive covenant given to this stable, successful black neighborhood to protect its quality of life from the depredation that can too easily happen when a commercial property-owner's interest subordinates the interests of neighboring residential property owners. The requested changes do not serve the public interest in any cognizable way and should be rejected.

Dan Daniels

JJSNA President

## PUBLIC HEARING COMMENT FORM

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

City of Austin

Planning and Development Review Department

Maureen Meredith

P. O. Box 1088

Austin, TX 78767-8810

RECEIVED  
1/4/2012

If you do not use this form to submit your comments, you must include the name of the body conducting the public hearing, its scheduled date, the Case Number and the contact person listed on the notice in your submission.

Case Number: NPA-2011-0015.02

Contact: Maureen Meredith

Public Hearings -

Planning Commission: Jan. 10, 2012

City Council: Feb. 9, 2012

☐ I am in favor  
☒ I object

Jessie L. Hollins

Your Name (please print)

3300 Denver Avenue

Your address(es) affected by this application

Jessie Hollins

Signature

12-29-11

Date

Comments:

I object to any changes to the future  
land use designation for specified property  
the Neighborhood Plan from MIXED USE  
COMMERCIAL located: 2300 Tillery St  
(1.219 AC OF OLD 50 DIVISION B)  
This property should continue as MIXED  
USE.





## NEIGHBORHOOD PLAN AMENDMENT



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