ZONING CHANGE REVIEW SHEET

CASE: C814-90-0003.17 (Harris Branch PUD Amendment #17)

Z.A.P. DATE: May 15, 2012
June 5, 2012

ADDRESS: 12045 ½ Cameron Road

APPLICANT/OWNER: Austin HB Residential Properties (John McCullough)

AGENT: CSF Civil Group, LLC (Charles Steinman)

ZONING FROM: PUD **TO:** PUD **AREA:** 420.62 acres

The applicant is requesting a 17th revision to the Harris Branch Planned Unit Development to make changes to 34 parcels within the PUD (Please see Changes by Parcel No. Chart – Attachment A). In this request, the applicant is asking to remove two school sites, to increase SF-2 areas by 24.36 acres, to decrease SF-6 areas by 17.76 acres, to increase LI designated areas by 6.61 acres, decrease IP areas by 0.87 acres, to increase private park areas by 17.92 acres, and to increase right-of way areas by 9.74 acres within the PUD (Please see Summary of Land Use Changes Chart – Attachment B).

SUMMARY STAFF RECOMMENDATION:

The staff recommends denial of the applicant's request for an amendment to the Harris Branch Planned Unit Development.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

5/15/12: Postponed at the applicant's request to June 5, 2012 on consent (Vote: 5-0, P. Seeger and G. Bourgeois-absent); G. Rojas-1st, S. Baldridge-2nd.

6/05/12: Approved the staff's recommendation for denial of the proposed PUD amendment (4-3, B. Baker, C. Banks, G. Bourgeois-No); S. Baldridge-1st, P. Seeger-2nd.

DEPARTMENT COMMENTS:

The property in question is undeveloped. On August 22, 2011, the applicant submitted the seventeenth revision to the Harris Branch Planned Unit Development to relocate the acreage of land uses on 34 parcels within the PUD (Please see the current and proposed version of the PUD Land Use Plan – Attachment C). As part of this request, the applicant is asking to remove 40 acres of designated school sites within the PUD. Therefore, this has been determined to be a formal amendment that will require Commission and City Council review and approval.

The staff recommends the applicant's request to relocate/increase/decrease the density of uses on 34 undeveloped parcels as the proposed changes do not increase the intensity of uses within the PUD and are consistent with the designated land uses on the surrounding parcels.

However, the staff is unable to support the applicant's request to remove a 15-acre Elementary School site on parcel E-35A and a 25-acre Junior High School site on parcel E-38 within the

PUD. These school sites are part of the original benefits of this Planned Unit Development. The applicant proposes to reallocate the Elementary School site for SF-6 district uses and the Junior High School site for SF-2 district uses. The applicant has contacted Manor Independent School District, at the staff's request, and the school district has stated that they are still interested in these potential school sites (Please see Correspondence between the Applicant and Manor I.S.D. – Attachment D). The applicant has not proposed any new benefits to the PUD that will maintain the apportionment of the public uses contemplated in the original PUD.

In addition, the staff has requested that the applicant show the extension of North Gate Drive and Ridge Gate Drive per the approved North Gate Preliminary Plan, Case # C8J-2008-0200 (Please see Approved North Gate Preliminary Plan – Attachment E). North Gate Drive and Ridge Gate Drive align with approved median cut locations on Howard Lane and therefore the median cut locations should be updated on the Land Use Plan. These streets are collector roadways and the director has determined that collector streets are required to be shown on the PUD land use plan in accordance with Land Development Code Sec. 25-2-375 Sec. 1.4.1.F and Sec. 1.4.2.

The applicant/agent has not submitted a formal update (as required by Master Report #3) for this case and has not attempted to address or clear the staff's outstanding comments. On April 9, 2012, the staff received an e-mail from Mr. John Joseph that stated his opinion on the staff's outstanding comments and requested that the case be placed on the Zoning and Platting Commission agenda for consideration (Please see Letter from Mr. Joseph – Attachment F).

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	PUD	Undeveloped
North	County	Undeveloped
South	GR-MU-CO, County, DR, PUD, County	Office, Residential, Agricultural Uses (Cattle Grazing), Tavern (Cocktail Lounge), Undeveloped Tract, Retail Sales, Undeveloped Tracts
East	DR, County	Undeveloped
West	County, PUD	Undeveloped Tract, Office/Equipment Repair/Outdoor Storage, Single Family Residences

AREA STUDY: N/A **TIA:**

WATERSHED: Harris Branch, Gilleland Creek, Decker Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No **HILL COUNTRY ROADWAY:** No

NEIGHBORHOOD ORGANIZATIONS:

Austin Heritage Tree Foundation
Austin Neighborhoods Council
Austin Monorail Project
Austin Parks Foundation
Edward Joseph Developments, Ltd.
Gilleland Creek Neighborhood Association

Harris Branch Master Association, Inc.
Harris Branch Residential Property Owners Association
Home Builders Association of Greater Austin
Homeless Neighborhood Association
League of Bicycling Voters
Manor ISD Population and Survey Analysts
North East Action Group
North Growth Corridor Alliance
Pflugerville Independent School District
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
C814-90-0003.16	PUD to PUD	11/02/09: Approved Administratively	N/A
C814-90-0003.15	PUD to PUD: To amend the Harris Branch PUD to move Tract B-17 which location shifts slightly to the east, Tract B-24 which location shifts slightly to the north, Tract B-44 which increases in acreage from 11.00 to 15.00 and relocates from Gregg Howard Lane to Cameron Road, Tract E-27 which decreases slightly in acreage from 19.49 to 19.25, Tract E-30 which increases slightly in acreage from 60.00 to 60.10, Tract E-35A which relocates from Cameron Road to Greg Howard Lane, Tract E-35B which increases in acreage from 17.57 to 20.26, Tract E-50B which changes land uses from LR to the GO designation, Tract E-54 which increases in acreage from 13.83 to 18.63, Tract E-55 which increases in acreage from 11.90 to 18.41, Tract E-56B which decreases in	1/23/09: Approved Administratively	N/A

	acreage from 11.42 to 6.62, Tract E-57 which decreases in acreage from 28.89 to 9.47, Tract E-57B which changes in shape slightly, Tract E-58 which increases in acreage from 7.75 to 12.91, changes land use from SF-6 to LI designation, and relocates slightly to the northwest, Tract E-58A which is created as a buffer to the adjacent single-family from an internal LI land use (3.19 acres), and acquires the SF-6 land use designation, Tract E-58 B which is created as a buffer to the adjacent single-family from an internal LI land use (2.74 acres), and acquires the SF-6 land use designation, Tract E-62 which decreases in acreage from 17.88 to 13.88, Tract E-68 which shape changes slightly and the Park Right-of Way which decreases slightly from 175.31 to 174.58.		
C814-90-0003.14	PUD to PUD: To amend the Harris Branch PUD to increase in the density of uses on tract E-56A from 'SF-6 (Townhouse & Condominium Residence District)' to 'LR (Neighborhood Commercial District)' and 'GO (General Office District)' uses. Tract E-56A will be divided into two tracts known as E-54 and E-56B with 'LR' and 'GO' land uses respectively.	9/18/07: Approved staff's recommendation for PUD amendment by consent (7-0, B. Baker-absent); K. Jackson-1st, S. Hale-2nd.	10/18/07: Approved PUD amendment on all 3 readings (6-0, M. Martinez-off the dias); B. Dunkerley-1st, McCracken-2nd.

C814-90-0003.13	PUD to PUD: To amend 331.140 acres of the Harris Branch PUD to allow CH, Commercial Highway, district and P, Public, district uses and development standards on Tracts SG-1 through SG-14 of the PUD and to request variances/waivers to the original conditions of the PUD.	9/20/05: Approved PUD amendment to allow the following: • CH development regulations and uses on Tracts SG-1, SG-2, SG-3, SG-4, SG-6, SG-7, SG-8, SG-9, SG-10, SG-13, SG-14 and P development regulations and uses on 2.17 acre Transit Tract (located at the south eastern corner of the PUD). • Limit height to 125 feet in CH designated areas (Tracts SG-1, SG-2, SG-3, SG-4, SG-6, SG-7, SG-8, SG-9, SG-10, SG-13, SG-14). • If additional parkland requirements are triggered as a result of any residential development within the East and West PUD tracts fronting US Highway 290, this will be satisfied through the parkland dedication made and required to be made in the remainder of the Harris Branch PUD. • Permitted uses, conditional uses, prohibited uses, accessory uses, and site development regulations are modified to allow development in the PUD to comply with site development regulations and permitted uses of the PUD land use plan. • Traffic Impact Analyses will be	10/27/05: Approved ZAP recommendation for PUD amendment with additional conditions by consent (6-0, Alvarez-off dias); 1st reading 3/23/06: Approved Ordinance No. 20060323-057 for Planned Unit Development change a condition of zoning with amendments on consent (7-0); 2nd/3rd readings

		deferred to the site plan stage of development. • The impervious cover for State Highway 130 and U.S. Highway 290 shall not be included in the impervious cover calculations for the PUD (requested variance to LDC Sec. 25-8-65). • An administrative variance to cut and fill in excess of four (4) feet but less than fifteen (15) feet. • There shall be no cut and fill limitations with respect to cut and fill to occur under a foundation with sides perpendicular to the ground for backfill for utility construction, in public or private roadway right-of-way, for utility construction, storm water and water quality facilities, driveways and sidewalks. • Impervious cover allowances designated in the zoning granted for the PUD shall not be diminished by watershed regulations. If this is necessary, then the watershed regulations shall be varied to make the allowable impervious cover under the applicable watershed regulation the same as allowed in the CH, Commercial Highway District, zoning designation (85%). • A block length variance	

		shall be granted for all streets within the amended PUD (requested variance to LDC Section 25-4-153). • Stock tanks and water features shall meet the satisfaction of the Environmental staff. • Incorporate applicable conditions listed in the letter to Pat Murphy, the Environmental Officer, dated September 20, 2005. Vote: (9-0); K. Jackson-1st, J. Martinez-2nd	
C14-04-0008	I-RR to GR-MU	3/02/04: Approved staff's rec. of GR-MU-CO, with a CO for a 2,000 vtpd limit, by consent (8-0, J. Gohil-absent)	4/01/04: Granted ZAP rec. for GR-MU-CO zoning by consent (7-0); all 3 readings
C814-90-0003.12 (Harris Branch PUD)	11/08/01: PUD Revision #12	Approved Administratively 2/26/02: Approved Appeal to deny staff administrative amendment to PUD land use plan (8-0)	8/22/02: Upheld appeal (7-0)
C814-90-0003.11	8/31/00: PUD Revision #11	1/23/01: Approved staff rec. w/conditions by consent (8-0)	3/1/01: Approved PUD (7-0); all 3 readings
C814-90-0003.10	11/05/99: PUD Revision #10	11/22/99: Approved Administratively	N/A
C814-90-0003.09	12/22/97: PUD Revision #9	5/13/98: Approved Administratively	N/A
C814-90-0003.08	3/18/96: PUD Revision #8	3/15/96: Administrative Approval of Parks/Trails Package	N/A
C814-90-0003.07	1/06/94: PUD Revision #7	1/15/96: Approved Administratively	N/A
C814-90-0003.06	10/11/93: PUD Revision #6	6/06/94: Approved Administratively	N/A
C814-90-0003.05	11/09/92: PUD Revision #5	12/4/92: Approved Change Acreages to Comply with Tract	N/A

		Surveys-Administrative Revision # 5	
C814-90-0003.04	3/02/92: PUD Revision #4	6/29/92: Approved Administratively	N/A
C814-90-0003.03	9/06/91: PUD Revision #3	1/14/92: Approved Administratively	N/A
C814-90-0003.02	8/13/91: PUD Revision #2	9/05/91:Approved Administratively	N/A
C814-90-0003.01	7/08/91: PUD Revision #1	7/29/91:Approved Administratively	N/A
C814-90-0003	10/31/90: PUD Revision From DR to PUD (LI)	12/11/90: Approved PUD w/ conditions (6-0-1, WB-abstain)	12/13/90: Approved PUD (5-0); all 3 readings
C814-89-0004 (Harris Branch PUD)	SF-2, SF-4, & SF-6 to PUD	6/27/89: Granted with conditions.	7/27/89: Approved PUD w/ conditions (6-0); 1st reading 11/16/89: Approved PUD w/ conditions (5-0); 2nd/3rd readings
C14-86-188	DR, I-RR to SF-2, SF-4 DR, I-RR to SF-6, MF-2 DR, I-RR to MF-3, LR DR, I-RR to GR, GO DR, I-RR to LO, LI DR, I-RR to IP, P	11/4/86: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, LO, GO, LI, IP, P & RR w/ conditions (6-3)	12/18/86: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, GO, LO, LI, IP, & P; 1st reading 4/23/87: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, GO, LO, LI, IP, & P (4-0); 2nd reading 4/30/87: Approved SF-2, SF-4, SF-6, MF-2, MF-3, LR, GR, GO, LO, LI, IP, & P (5-0); 3rd reading

RELATED CASES: C814-90-0003 (Harris Branch Planned Unit Development)

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Parmer Lane	200'	Varies	Arterial	
US Hwy 290	Varies	Varies	Arterial	
SH 130	Varies	Not constructed	Toll Facility	

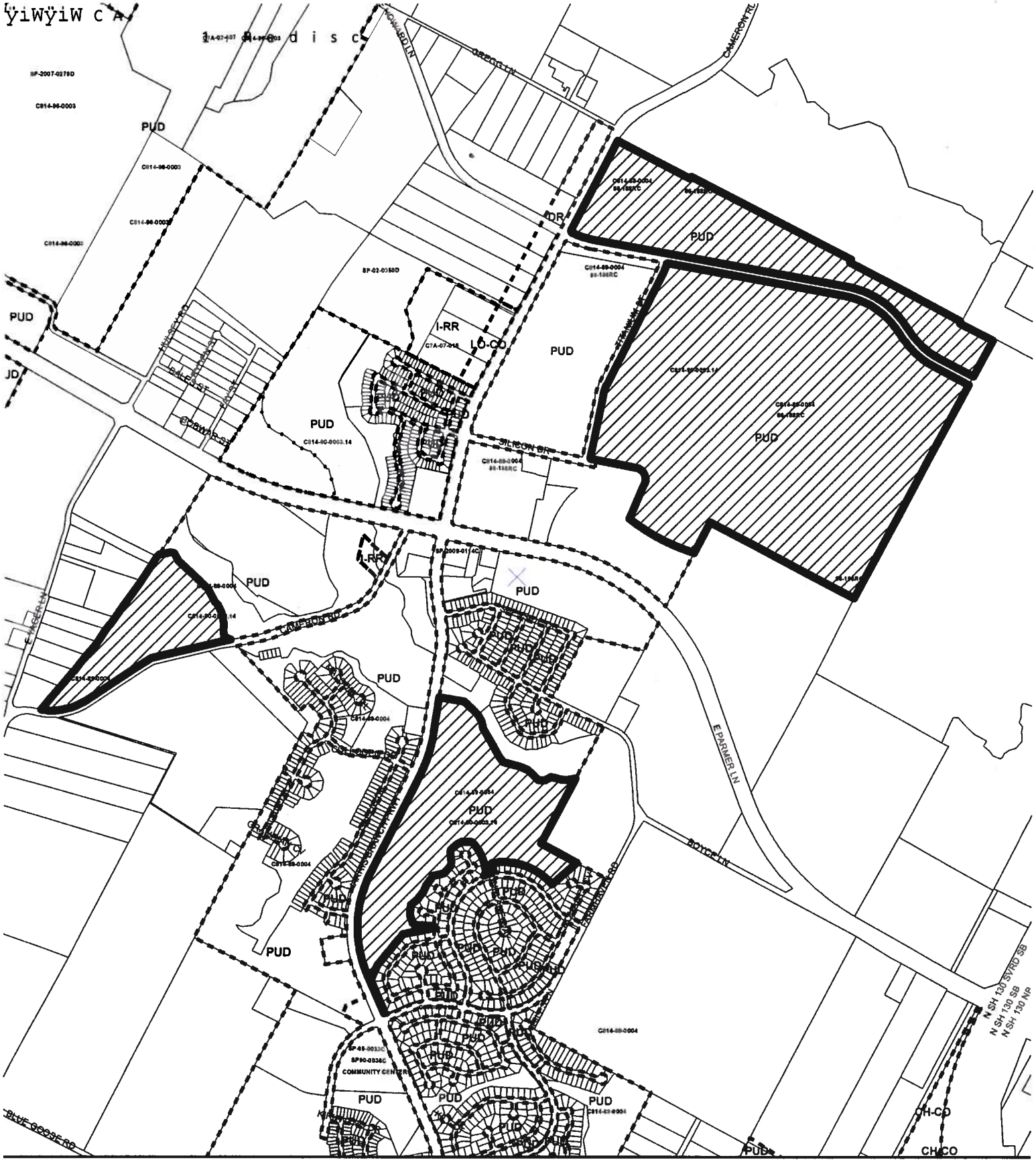
CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057
sherri.sirwaitis@austintexas.gov

CITY COUNCIL DATE: June 14, 2012 **ACTION:**

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 18000'

ZONING

ZONING CASE#: C814-90-0003.17

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 recommends denial of the applicant's request for an amendment to the Harris Branch Planned Unit Development.

BASIS FOR RECOMMENDATION

1. *The Planned Unit Development District (PUD) is intended for large or complex developments under unified control planned as a single contiguous project. The PUD is intended to allow single or multi-use projects within its boundaries and provide greater flexibility for development proposed within the PUD.*

   This proposed amendment to the Harris Branch PUD does **not** provide benefits to the overall development. The applicant has requested greater flexibility by administratively relocating land uses on 34 parcels within the PUD. However, in this same amendment, the applicant is seeking to take away some of the original superiority of the PUD without providing new benefits that will continue to justify the current Planned Unit Development district zoning. The applicant has decided to remove 40 acres of school sites and replace these future civic uses with additional single-family residential development. In addition, the applicant has declined to comply with staff's requests to show the extension of North Gate Drive and Ridge Gate Drive on the PUD land use plan per the approved North Gate Preliminary Plan, Case # C8J-2008-0200. These streets are collector roadways and the director has determined that collector streets are required to be shown on the PUD land use plan in accordance with Land Development Code Sec. 25-2-375 Sec. 1.4.1.F and Sec. 1.4.2.

2. *Use of a PUD District should result in development superior to that which would occur using conventional zoning and subdivision regulations. PUD zoning is appropriate if the PUD enhances preservation of the natural environment; encourages high quality development and innovative design; and ensures adequate public facilities and services for development with in the PUD.*

   The proposed amendment #17 to the Harris Branch PUD will **not** result in a superior development than that which could have occurred using conventional zoning. In this application, the applicant is requesting to remove a 15-acre Elementary School site on parcel E-35A and a 25-acre Junior High School site on parcel E-38 within the PUD. These school sites are part of the original benefits of this Planned Unit Development. In this amendment the applicant has not provided any new benefits/improvements to the PUD that will result in superior development through these changes for the overall PUD. The agent for this case has stated in his response to the staff that parcel E-35A has difficult topographical constraints and is not suitable to be developed with a public educational facility. The question remains then, why has this land been set aside and offered by the applicant to the Manor School District as property that could be developed as for a potential school site since the conception of this PUD in 1990. In addition, the staff would like to know how this land be developed with single-family residential uses due to the topographical issues. Perhaps, there is another site within the PUD that is more suitable for the applicant to be set aside as a future Junior High School site as an offsetting benefit for this PUD.

   Legal representation for the applicant has stated that the school sites were proposed as part of the previous North Travis County Municipal Utility District No. 1 agreement. However, this rezoning case does not concern a dissolved MUD, but the current Planned Unit Development zoning designation for this property.

Existing Land Use

The property in question is part of an existing PUD that consists of 2113.52 acres of land located at the intersection of U.S Highway 290 East and Parmer Lane. The tracts under consideration are currently undeveloped.

Impervious Cover

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Decker Creek, Gilleland Creek, and Harris Branch Watersheds of the Colorado River Basin, which are classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The property lies within the Desired Development Zone.

Drainage Engineering

No comments.

Environmental

No comments.

Floodplain

A portion of the PUD site is within the 100-year floodplain as per FEMA FIRM 48453C 0115E, dated 16 June 1993 for Travis County, Texas.
No comments.

Parks and Recreation

Information provided does not clearly convey changes to the PUD. Provide most current version and a redlined version for comparison.

Update #1: Comment cleared.

While the information provided indicates there is a proposed increase in the amount of parkland/open space, the newly created park parcels E-57D and E57E are now on the periphery of the PUD boundary and are fragmented. In order to better serve the development, Parkland/Open Space should be centrally located and contiguous. It is recommended that parcel E-57E is moved between LI parcels E-56A and E-57C and parcel E57D is removed and the acreage folded into E-57E or the larger park parcel E-57B.

Update #1: After meeting with PARD, the applicant amended the Harris Branch PUD Land Use Plan to better utilize the P Private Park zoning in the northern area of the PUD. Therefore, the current proposed PUD Land Use Plan includes a new configuration of the effected Parcel E-57D. – Comment cleared.

Site Plan

Since schools are proposed, during the site plan process the projects will be reviewed under the Manor ISD /COA interlocal agreement. However the projects may choose to develop under the PUD, but cannot benefit from both sets of regulations.

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

Provide a memorandum to update the land uses and trip generation assumed in the TIA.

Update #1: A TIA addendum (reanalysis) is not the request. Staff requested a memorandum to update the land uses and the associated trip generation.

Update #2: Comment cleared.

Commercial and industrial cul-de-sac throat lengths may not exceed 600 ft. TCM, Fig. 1-41 and 1-42. Please explain why Silicon Drive is not stubbed out for future connectivity. This comment also applies to the unnamed dead-end street between Silicon Drive and Gregg/Howard Lane.

Update #1: Comment cleared.

Show the extension of North Gate Drive and Ridge Gate Drive per the approved North Gate Preliminary Plan (Case # C8J-2008-0200). North Gate Drive and Ridge Gate Drive align with approved median cut locations on Howard Lane. Median cut locations should be updated on the Land Use Plan.

Update #2: In accordance with LDC, 25-2-375 Sec. 1.4.1.F and Sec. 1.4.2, the director has determined that collector streets are required to be shown on the revised PUD Land Use Plan. Please show on the proposed PUD Land Use Plan the extension of North Gate Drive and Ridge Gate Drive, two collector roadways, per the approved North Gate Preliminary Plan (Case # C8J-2008-0200).

Water Quality

RELEASE OF THIS APPLICATION DOES NOT CONSTITUTE A VERIFICATION OF ALL DATA, INFORMATION, AND CALCULATIONS SUPPLIED BY THE APPLICANT. THE ENGINEER OF RECORD IS SOLELY RESPONSIBLE FOR THE COMPLETENESS, ACCURACY, AND ADEQUACY OF HIS/HER SUBMITTAL, WHETHER OR NOT THE APPLICATION IS REVIEWED FOR CODE COMPLIANCE BY CITY ENGINEERS.

This project is located at GILES LN and is within the Decker Creek and Gilleland Creek watershed(s), which are classified as Suburban Watershed, Suburban Watershed. This project located within the Edwards Aquifer Contributing Zone.
Water quality is to be addressed at preliminary and final plat stage.

No comments.

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.

Attachment A

Harris Branch PUD (C814-90-0003.17)
Revision No. 17 (update two)

Detail of Changes by Parcel No.

Parcel Number	PUD 16 Acreage	PUD 17 Acreage	PUD 16 Land Use	PUD 17 Land Use
B-17	11.80	11.80	SF-2	SF-2
B-24	10.40	10.40	SF-2	SF-2
B-44	11.00		SF-6	
E-35A	15.00	15.00	P (School)	SF-6
E-38	25.00	24.36	P (School)	SF-2
E-39	22.34	22.68	SF-6	SF-6
E-39B	15.04	15.24	P (Private Park)	P (Private Park)
E-40	15.86	16.06	P (Private Park)	P (Private Park)
E-52A	14.01	8.93	LI	LI
E-52B		5.95		LI
E-55	11.90	11.03	IP	IP
E-56	134.67	60.90	LI	LI
E-56A		14.90		LI
E-56B		7.66		LI
E-56C		6.87		LI
E-56D		6.57		LI
E-56E		5.82		LI
E-56F		8.22		LI
E-56G		5.02		LI
E-56H		5.58		LI
E-56I		6.26		LI
E-56J		6.35		LI
E-57	26.39	18.72	LI	LI
E-57A	2.50		P (Private Park)	
E-57D		1.72		P (Private Park)
E-57E		1.05		P (Private Park)
E-57B	55.00	48.65	P (Public Park)	P (Public Park)
E-57C		13.93		LI
E-58	7.75		SF-6	
E-62	17.88		SF-6	
E-62A		17.25		P (Private Park)
E-62B		6.35		P (Public Park)
E-67	5.13		SF-6	
E-68	18.95	27.61	SF-6	SF-6
ROW		9.74		P (row)
TOTAL	**420.62**	**420.62**		

Attachment B

Harris Branch PUD (C814-90-0003.17)
Revision No. 17 (update two)

Summary of Changes by Land Use

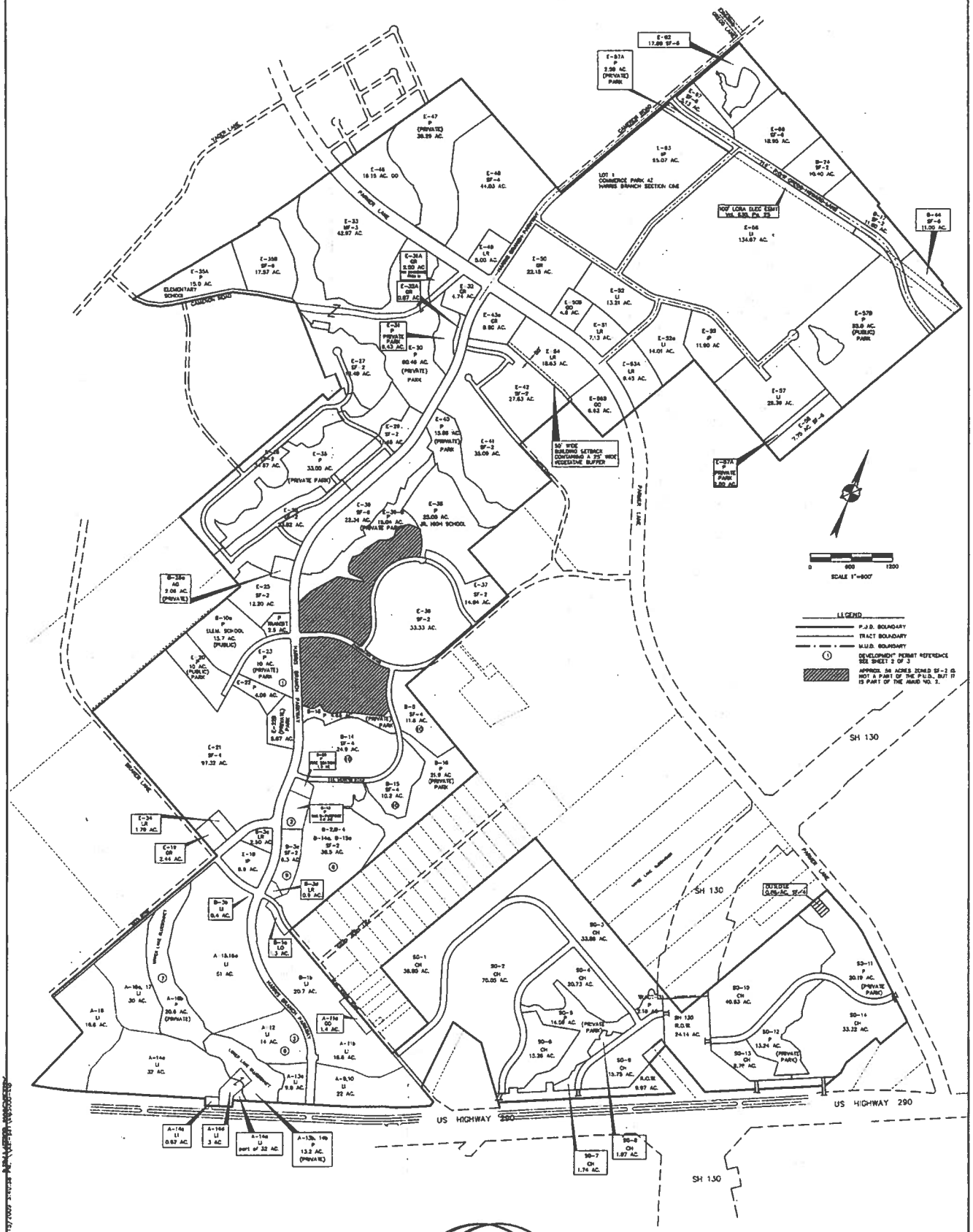
Land Use Category	PUD 16 Acreage	PUD 17 Acreage	Change
SF-2	22.20	46.56	24.36
SF-6	83.05	65.29	-17.76
LI	175.07	181.68	6.61
IP	11.90	11.03	-0.87
P (Public Park)	55.00	55.00	0.00
P (Private Park)	33.40	51.32	17.92
P (School)	40.00	0.00	-40.00
P (ROW)	0.00	9.74	9.74
TOTAL	**420.62**	**420.62**	**0.00**

Current Land Use Plan

P.U.D. LAND USE PLAN

Attachment C

C814-90-0003



HARRISBRANCH

SHEET 1 OF 4

Attachment 1

P.U.D. LAND USE PLAN

C814-90-0003

P.U.D. Land Use Plan Originally prepared by:
Lichliter/Jameson & Associates, Inc.
Consulting Engineers

REVISION

ADMINISTRATIVELY APPROVED BY CITY OF AUSTIN DEVELOPMENT REVIEW AND INSPECTION DEPARTMENT — DATE

REVISIONS PREPARED BY:

CSA COOK-STEPHENSON & ASSOCIATES, INC.
Consulting Engineers and Land Planning

Harris Branch PUD
Revision No. 16

Changes by Parcel No.

Parcel Number	Previous Acreage	Proposed Acreage	Previous Land Use	Proposed Land Use
E-30	60.10	60.46	P (Private Park)	P (Private Park)
E-31	10.39	6.43	P (Private Park)	P (Private Park)
E-31A	0.00	2.50	-	GR
E-50B	4.80	4.80	LR	GO
E-54	13.83	18.63	LR	LR
E-57	28.89	26.39	LI	LI
E-57A	0.00	2.50	-	P (Private Park)
E-56B	11.42	6.62	GO	GO
ROW	175.31	176.41	P (Row)	P (Row)
TOTAL	304.74	304.74		

Harris Branch PUD
Revision No. 16

Summary of Land Use Changes

Land Use Category	Previous Acreage	Proposed Acreage	Change
GO	11.42	11.42	0.00
GR	0.00	2.50	2.50
LI	28.89	26.39	-2.50
LR	18.63	18.63	0.00
P (Private Park)	70.49	69.39	-1.10
P (Row)	175.31	176.41	1.10
TOTAL	304.74	304.74	0.00

HARRIS BRANCH

Stanley Consultants INC.

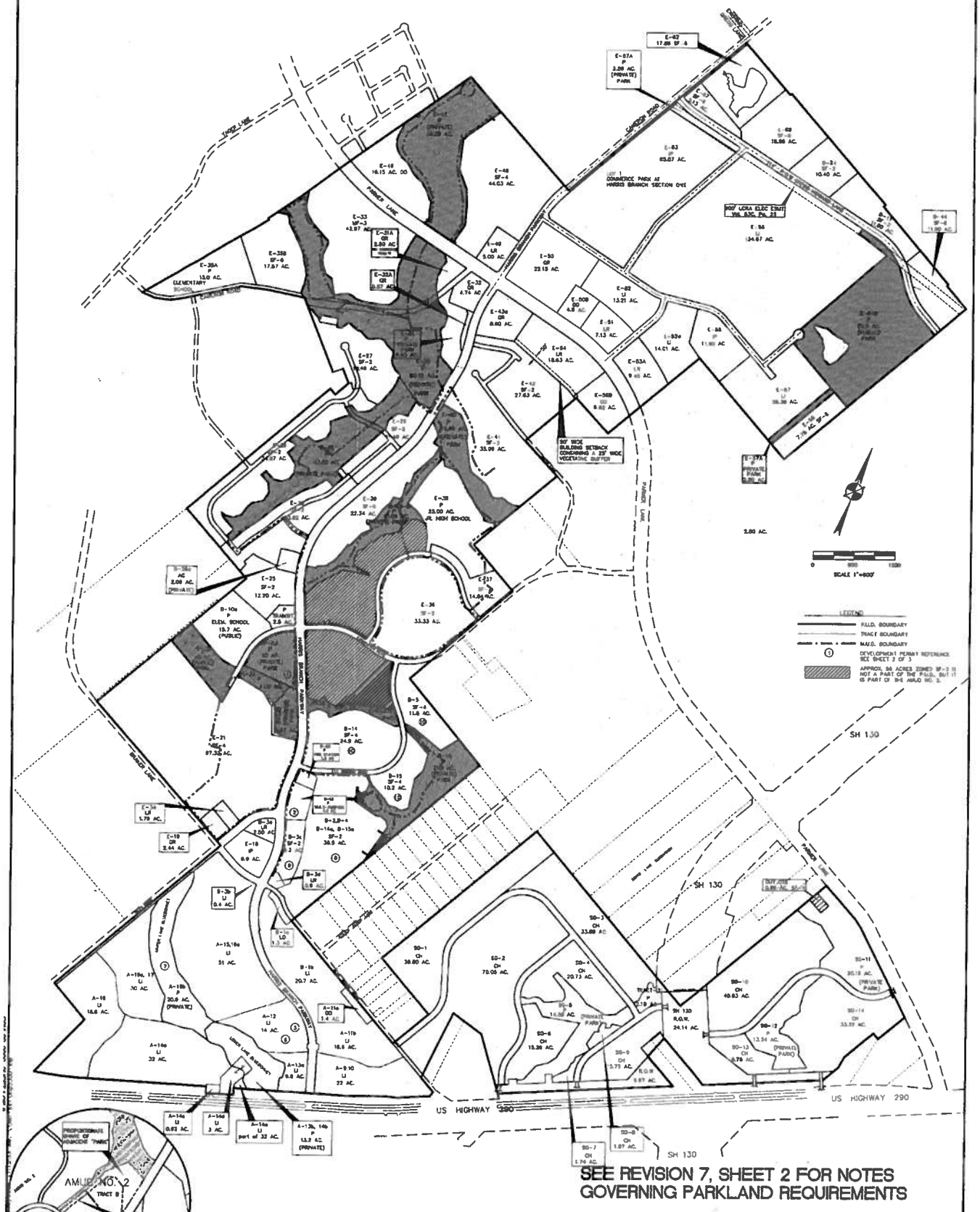
SHEET 2 OF 4

Approved

16

P.U.D. LAND USE PLAN

C814-90-0003

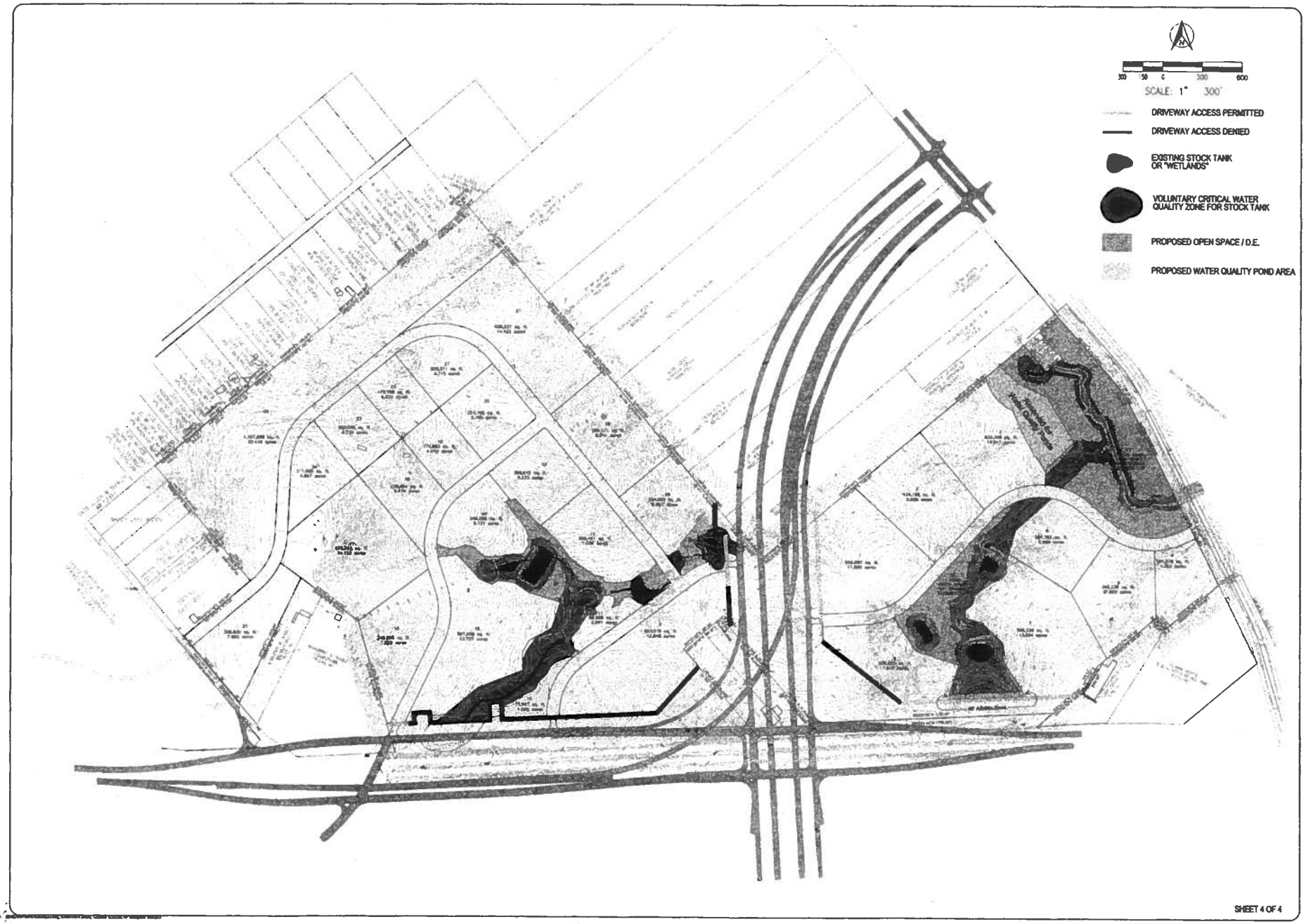


SEE REVISION 7, SHEET 2 FOR NOTES GOVERNING PARKLAND REQUIREMENTS

HARRISBRANCH

Stanley Consultants INC.

SHEET 3 OF 4



LAND STRATEGIES INC.

PAUL LINEHAN & ASSOCIATES

COOK-STEINHAU & ASSOCIATES, INC.
Consulting Engineers and Land Planning

HARRIS BRANCH P.U.D.

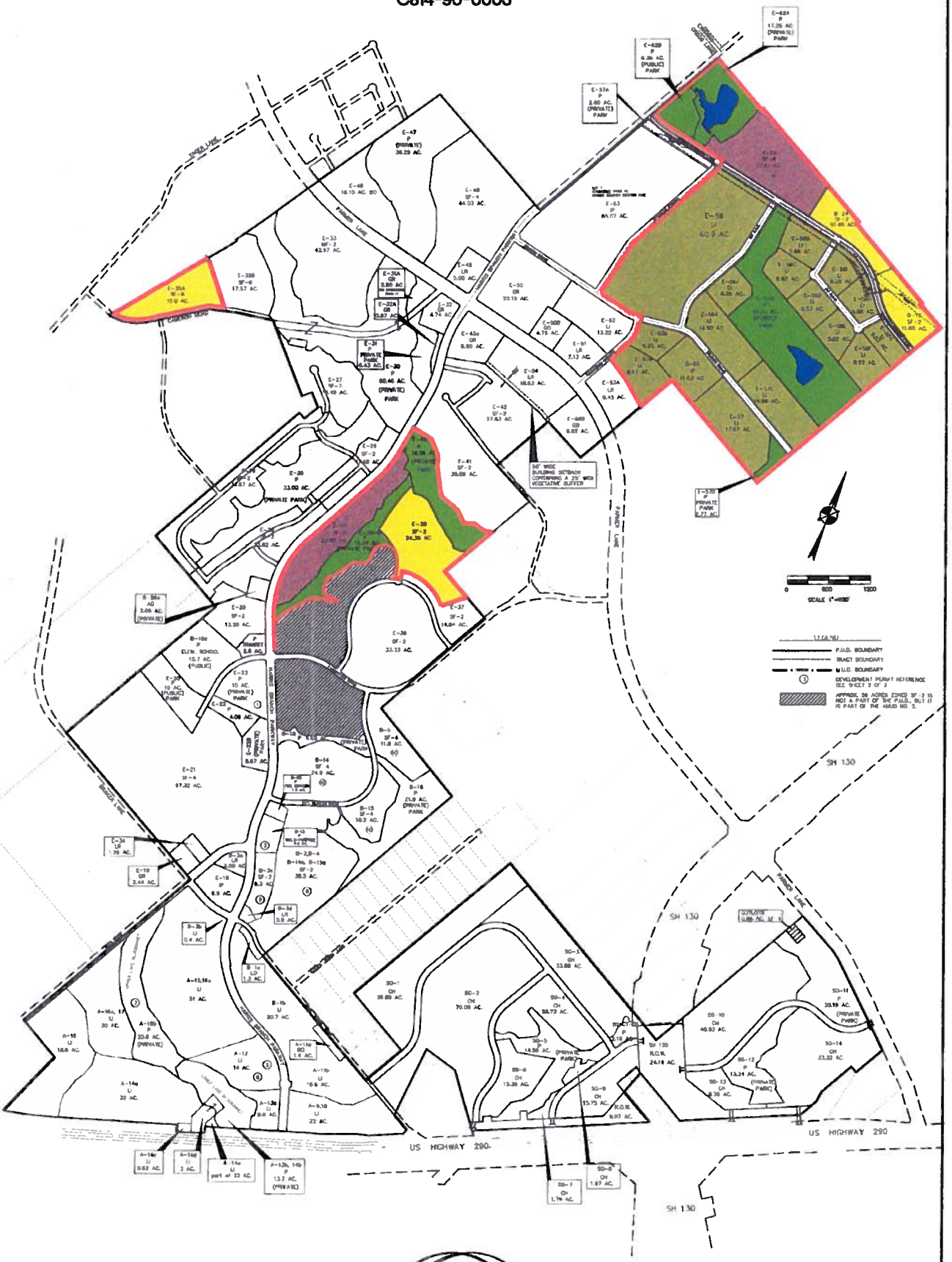
EQUINOX CENTRE
ENVIRONMENTAL BASE MAP

HARRIS BRANCH
AUSTIN MB RESIDENTIAL PROPERTIES, LTD

Proposed Land Use Plan

P.U.D. LAND USE PLAN

C814-90-0003



HARRIS BRANCH

REVISION 17 AS PROPOSED

SHEET 1 OF 4

Attachment D

GALESI-AUSTIN

DEVELOPERS OF: COMMERCE PARK ON PARMER LANE,
HARRIS BRANCH, EQUINOX CENTRE AND OTHER QUALITY MIXED-USE DEVELOPMENTS

JOHN MCCULLOUGH
SENIOR VICE PRESIDENT

August 3, 2011

US POSTAL, CERTIFIED RETURN RECEIPT REQUESTED
CERTIFIED MAIL RECEIPT #7005 1160 0004 6210 8957

Mr. Andrew Kim
Superintendent of Schools
MANOR INDEPENDENT SCHOOL DISTRICT
12904 Gregg Manor Road
Manor, TX 78653

RE: Proposed School Sites-Harris Branch PUD, Austin, TX

Dear Mr. Kim:

Austin HB Residential Properties Ltd is the developer and owner of much of the remaining properties in the community called HARRIS BRANCH, a Planned Unit Development in the City of Austin (PUD).

In the original planning of the PUD, three (3) sites were set aside for potential MISD schools within the community. Bluebonnet Trails Elementary is an example. Two sites for schools remain available. The location of each of the sites is shown on the attached aerial with site plans for each.

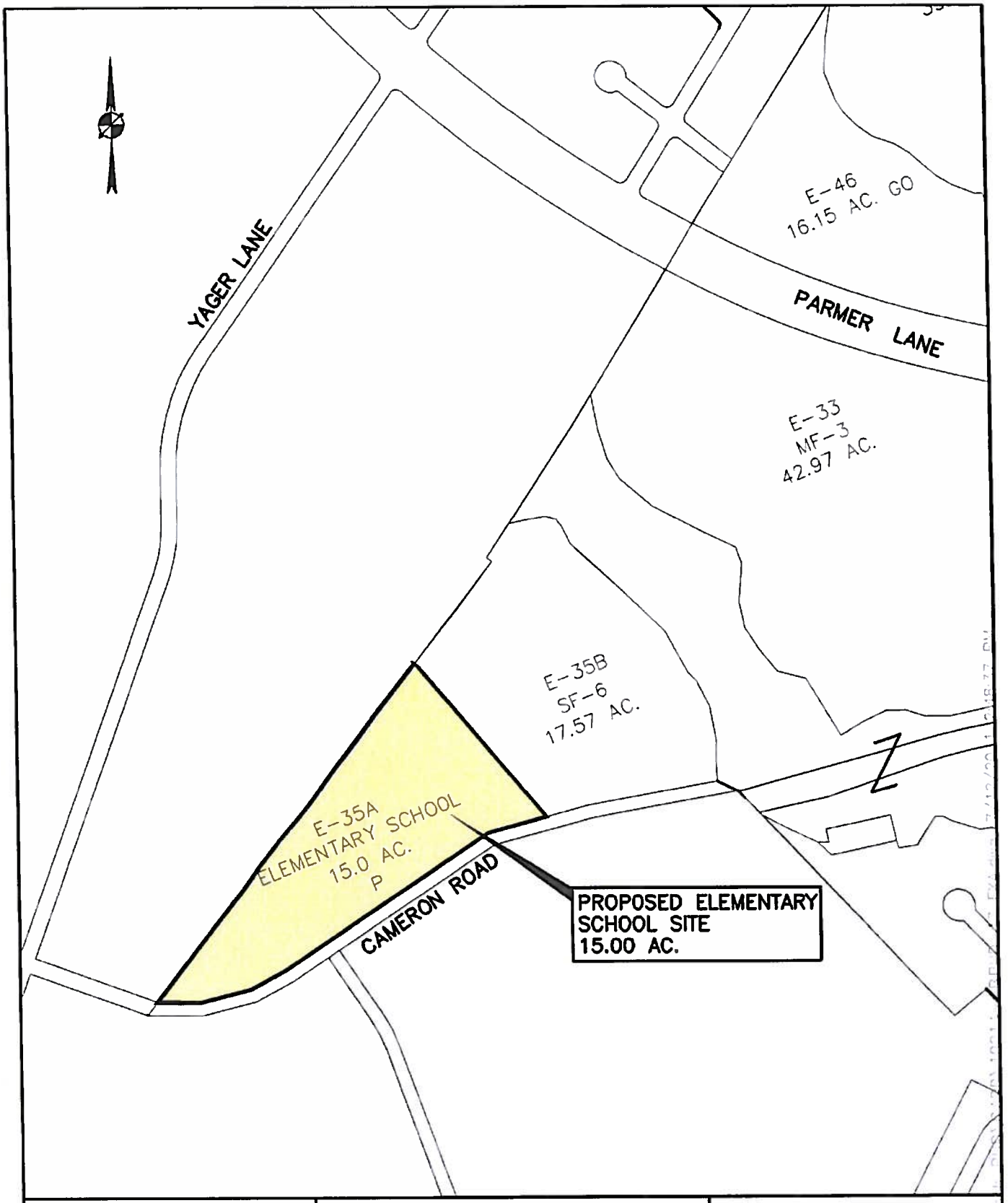
Previous conversations that I have had over the past 15 years with your predecessors, has not met with any interest by MISD in these two sites. Accordingly, not wanting to continue to hold these sites off the market any longer, I write offering these two (2) sites to MISD once again for immediate sale. The sites are offered for sale at $35,000 per acre, cash, based upon a 60 day closing.

I would be happy to discuss this matter with you at your convenience. Should I not hear from you within ten (10) days from the date of this letter, we will assume that Manor ISD is not interested in the purchase of either of these sites wherein we will proceed to position the properties for the marketplace.

Sincerely,

John McCullough

1010 RIO GRANDE STREET SUITE B · AUSTIN, TX 78701 · MAILING ADDRESS: P.O. BOX 303307 · AUSTIN, TX 78703-0056
PHONE: 512-419-7600 · FAX: 512-419-9505 · E-MAIL: jmccullough@galesi-austin.com



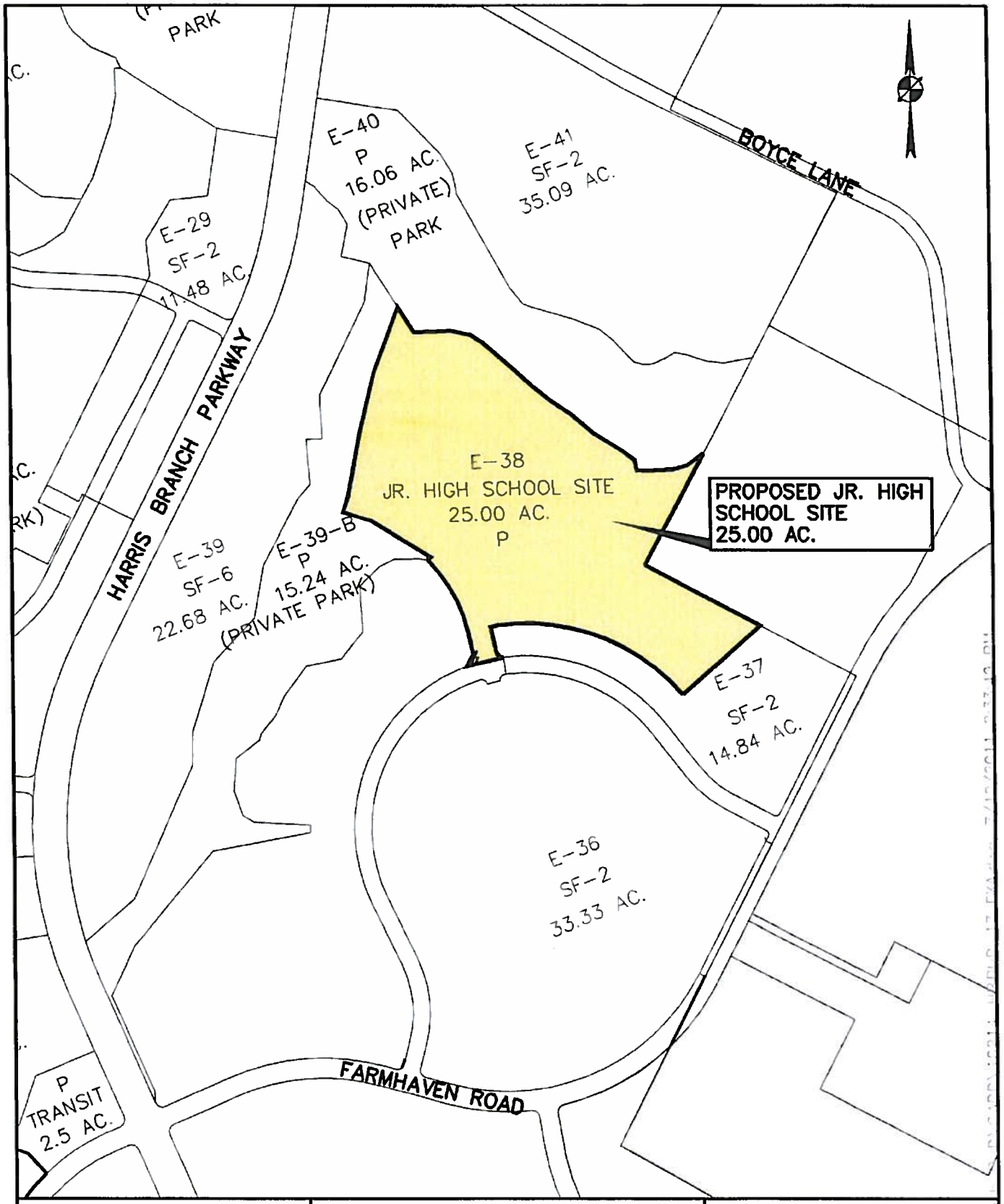
CST Civil Group
Austin, Texas
Tel (512) 614-4406
www.cstcivilgroup.com
Texas Registered Firm No. F-12377
Cook • Steinmann • Fleming
PLANNING, ENGINEERING & CONSTRUCTION SERVICES

HARRIS BRANCH

AUSTIN HB RESIDENTIAL PROPERTIES, LTD

LOCATION MAP 15-ACRE SCHOOL SITE

Date: 07/12/2011 | Scale: N.T.S. | Project No.:10214.01



CST Civil Group
Austin, Texas
Tel (512) 614-4466
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Texas Registered Firm No. F-12377
Cook • Steinmann • Fleming
PLANNING, ENGINEERING & CONSTRUCTION SERVICES

HARRIS BRANCH

AUSTIN HB RESIDENTIAL PROPERTIES, LTD

LOCATION MAP 25-ACRE SCHOOL SITE

Date: 07/12/2011 | Scale: N.T.S.

Project No.:10214.01

Manor Independent School District
www.manorisd.net

Andrew Kim
Superintendent

Russell Wallace
Deputy Superintendent

Dr. Cathy Jones
Assistant Superintendent

August 30, 2011

John McCullough
Senior Vice President
Galesi-Austin
P.O. Box 303307
Austin, TX 78703-0056

RE: Proposed School Sites-Harris Branch PUD, Austin, TX

Mr. McCullough:

Manor ISD has received your letter and documentation in regards to the two remaining sites that were set aside for potential Manor ISD schools within the Harris Branch Planned Development. Manor ISD would be very interested in both sites in the Harris Branch development. However, we would not be interested in paying $35,000 per acre for either site.

Manor ISD currently has three existing elementary campuses that were built on land that was donated to the school district by the development. In addition, Manor ISD currently owns one other elementary site and has a second promised elementary site that either has been or will be donated by the development company. All of these developers have realized the value to their overall development that a school within the community brings.

If Galesi-Austin is interested in a similar donation we would be more than happy to sit down with you and discuss our current demographic projections and future facility needs. Manor ISD continues to be one of the fastest growing districts in the state of Texas.

Please feel free to contact me at 512-278-4016 should you have further questions.

Sincerely,

Russell W. Wallace
Deputy Superintendent

P.O. Box 359 • Manor, Texas 78653 • Phone: (512) 278-4000 • Fax: (512) 278-4403

GALESI-AUSTIN

DEVELOPERS OF: COMMERCE PARK ON PARMER LANE,
HARRIS BRANCH, EQUINOX CENTRE AND OTHER QUALITY MIXED-USE DEVELOPMENTS

JOHN MCCULLOUGH
SENIOR VICE PRESIDENT

September 8, 2011

Mr. Russell W. Wallace
Deputy Supervisor
MANOR INDEPENDENT SCHOOL DISTRICT
POB 359
Manor, TX 78653

RE: Your Letter Dated August 30, 2011

Dear Mr. Wallace:

Please be advised that Galesi-Austin, representing the owner Austin HB Residential Properties LTD, does not wish to donate any land to the Manor Independent School District (MISD). Our land is available for sale only.

When proposed school site locations were designated as such on the Harris Branch PUD Land Plan, the intent was, from a planning standpoint, to pick locations that would be advantageous to the development and MISD; such designation never intended for such land to be donated, nor was any obligation created for us to do so.

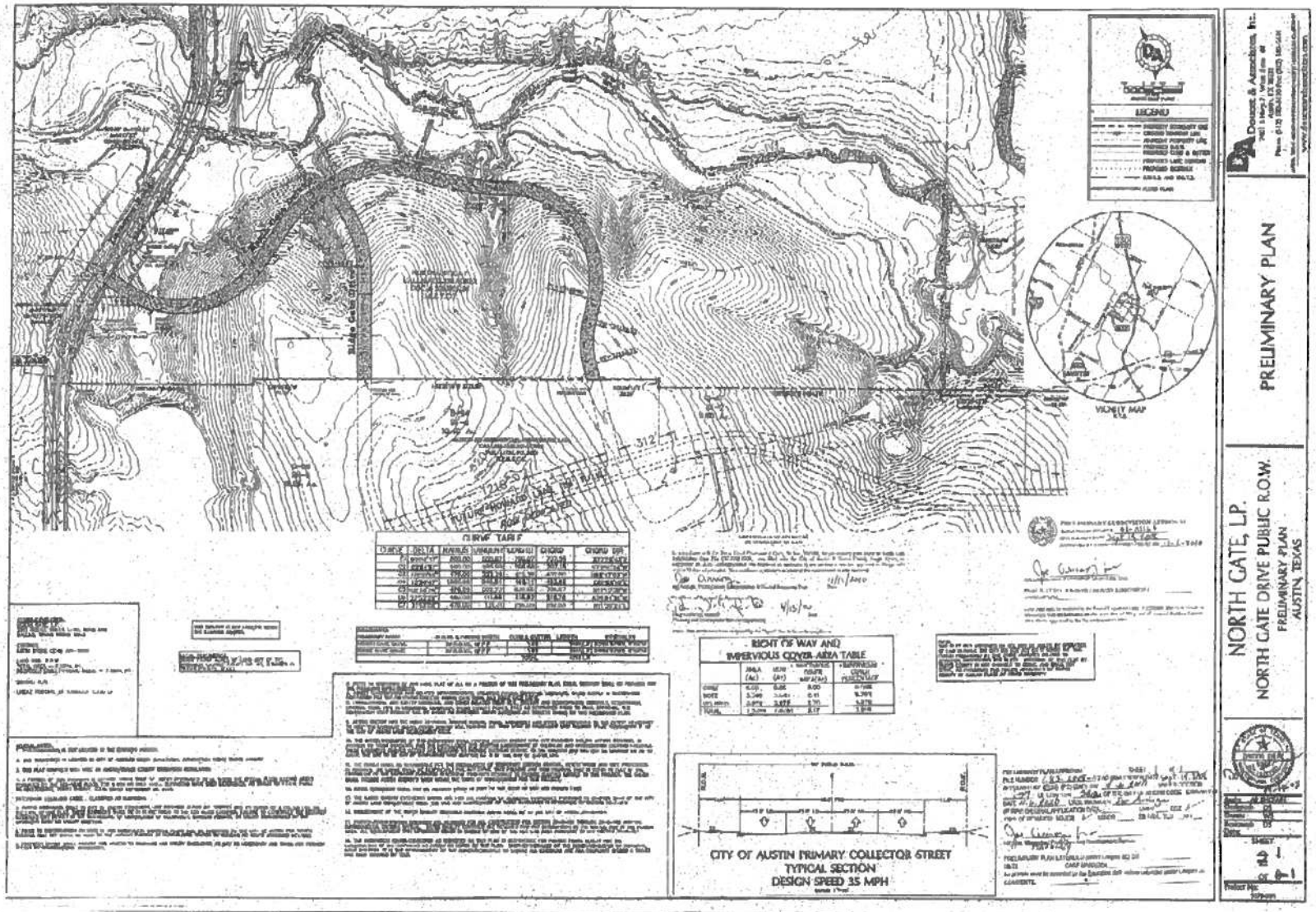
Already, the Harris Branch PUD has an elementary school, Bluebonnet Trail, centrally located within the community. Also, we are aware that the Manor Independent School District has recently acquired, through purchase, land in very close proximity to the Harris Branch PUD.

Our intent in our previous letter was to make a final offer to sale our properties to MISD. As you reflect that the MISD has no intention to pursue a purchase of our properties, we consider our offer null and void and we will proceed to position our properties in the marketplace for sale to others.

Sincerely,

John McCullough

1010 RIO GRANDE STREET, SUITE B · AUSTIN, TX 78701 · MAILING ADDRESS: P.O. BOX 303307 · AUSTIN, TX 78703-0056
PHONE: 512-419-7600 · FAX: 512-419-9505 · E-MAIL: jmccullough@galesi-austin.com



Attachment E

Attachment F

COATS | ROSE

A Professional Corporation

JOHN M. JOSEPH

jmjoseph@coatsrose.com
Direct Dial
512.541.3593

April 9, 2012

Via U.S. Mail & Email
Sherri Sirwaitis
Planning and Development Review Department
City of Austin
505 Barton Springs Road
Austin, Texas 78704

Re: Harris Branch PUD Land Use Plan; Revision No. 17
C814-90-0003.17

Dear Ms. Sirwaitus:

We represent Galesi-Austin and Austin HB Residential Properties LTD (herein sometimes referred to collectively as the "Applicant") in connection with the Applicant's proposed revision to the Harris Branch PUD Land Use Plan. It is our understanding that the City of Austin has demanded, as a condition of approval of the pending proposed Revision No. 17 to the PUD Land Use Plan, that the Plan continue to reserve two sites – specifically, the 15-acre tract E-35A (the "Elementary School Tract") and the twenty-five acre tract E-38 (the "Junior High School Tract") – as school sites for the Manor Independent School District. The Applicant objects to the City's insistence that it continue to reserve these two sites for Manor ISD. Requiring the Applicant to reserve these sites in perpetuity is an exaction, and one, which bears no reasonable relationship to the PUD's foreseeable impact.

The school sites were initially reserved pursuant to the Agreement Concerning Creation and Operation of North Travis County Municipal Utility District No. 1 between the City of Austin, Austin HB's predecessor, Provident Development Company, and North Travis County Municipal Utility District No 1, fully executed on March 17, 1987 (the "MUD Agreement"). See Exhibit 1. That Agreement established the initial land plan and created the basis for the PUD later approved by the City of Austin in Ordinance No. 901213-H.

The Agreement contained the following provision relating to future school sites:

> Two school sites of approximately fifteen (15) acres and twenty-five (25) acres each, for a total of forty (40) acres in the aggregate, shall be donated to the Manor Independent School District (the "School District") within the North Travis Districts as shown on the Land Plan. The conveyance of said lands shall occur at the time of final plat approval of the sites. In addition, a third site of fifteen (15) acres for another school site shall be reserved within the North Travis Districts and a fourth site of fifteen (15) acres adjacent to the junior high school site shall be reserved for option to the school district. At the sole option of the school district, the school district may choose to purchase either or both additional fifteen (15) acre sites from Provident or its successors or assigns. The option for the site designated as an elementary school site in the northeast part of the land plan shall remain in effect for a period of five (5) years from the date of the execution of this agreement. The twenty-five (25) acre junior high site shall front on future Parmer Lane and shall have an unlocated access from said site to the proposed collector street to the east of said site as shown on the land plan. Such easement to be located as is mutually agreeable to the school district and Provident and shall be decided at the platting of subject property. At the sole option of the School District, the School District may choose to purchase such addition fifteen (15) acre site from Provident for an amount to be agreed upon by the School District and Provident. This option shall remain in effect for a period of two (2) years from the date of execution of this agreement.

MUD Agreement, Section 9.10(c).

The Applicant's predecessor subsequently dedicated to Manor ISD the fifteen-acre elementary school site referred to in the first sentence of this paragraph. That site is now Bluebonnet Trail Elementary.

As the MUD Agreement makes clear, the developer's obligation with respect to the other fifteen-acre elementary school site was merely to reserve it for five years from the date of execution of the Agreement, or until March 17, 1992, with an option for Manor ISD to purchase the property for "an amount to be agreed upon by the School District" and the developer. That option period expired twenty years ago. Manor ISD has made no effort to purchase the Elementary School Site during the option period, made no effort to acquire the Elementary School Site since the option period expired, even though MISD has in fact built a new high school within four miles of the PUD, built a Junior High School within two (2) miles of the PUD and acquired other school sites in the area. MISD has not asked to extend the option period and, until very recently, no other request other than that Applicant dedicate the property for no consideration, which the Applicant is unwilling to do.

The City's insistence that the Applicant reserve the Elementary School Site in perpetuity for the benefit of Manor ISD is an exaction under Section 212.904 of the Texas Local

Government Code, which codifies well-established takings jurisprudence. The City's obligations under Section 212.904 are clear. Subsection (a) specifies:

> If a municipality requires as a condition of approval for a property development project that the developer bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs, the developer's portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by a professional engineer who holds a license issued under Chapter 1001, Occupations Code, and is retained by the municipality.

Section 212.904, of course, closely tracks the United States Supreme Court's decisions in *Nollan v. California Coastal Commission*[1] and *Dolan v. City of Tigard*[2] and the Texas Supreme Court's decision in *Town of Flower Mound v. Stafford Estates*.[3] These decisions establish that an exaction is deemed a taking *unless* the city makes an individualized determination that (i) the exaction "meaningfully" supports a legitimate public purpose and (ii) the exaction has a reasonable relationship, both in nature and extent, to the development's impact. Moreover, it is the city's burden to make this individualized analysis and demonstrate the necessary conditions. An exaction imposed without this individualized determination is a taking in violation of the United States and Texas Constitutions.

Neither the City nor Manor ISD has provided my client or its representatives with any analysis showing that the dedication of the Elementary School Tract is roughly proportional to the Development's impact, particularly considering that the development has already dedicated land for one elementary school. There has been no showing, for example, that the completion of future phases of the PUD will require Manor ISD to construct additional elementary schools, or that the dedication of 15 acres of land would be roughly proportional to the PUD's impact, if any. The failure to conduct a proportionality analysis makes this exaction a *per se* violation of Section 212.904.

The City's insistence that the Applicant continue to reserve the Junior High School Tract is likewise an impermissible exaction. Although the MUD Agreement required Applicant's predecessor to donate the twenty-five acre tract at the time of final platting, that provision is not binding for two reasons. First, the parties at the time the MUD Agreement was executed contemplated that Manor ISD would *need* a twenty-five acre junior high school tract within the forty-year term of the MUD Agreement. We see no evidence that Manor ISD needs a twenty-five acre junior high school tract, however. Manor ISD expressed no interest in acquiring the tract for a junior high for twenty-five years after the MUD Agreement was executed, and we are aware of no plans by Manor ISD to construct a new junior high, either within the PUD or anywhere else within the Manor ISD..

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[1] *Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825 (1987).
[2] *Dolan v. City of Tigard*, 512 U.S. 374 (1994).
[3] *Town of Flower Mound v. Stafford Estates*, 135 S.W.3d 620 (Tex. 2004).

Second, the City's demand that Provident (the current owner) donate the Junior High School Tract in 1986 was itself an exaction. After the City forced Provident to agree to this demand, the United States Supreme Court and Texas Supreme Court clarified that such forced dedications are unconstitutional takings when they exceed the development's proportionate impact. The Texas Legislature, furthermore, has enacted Section 212.904 of the Local Government Code to provide developers a reasonable and efficient mechanism for disputing exactions. Among other things, Section 212.904(d) provides that a City cannot insist that a developer waive its right of appealing an exaction as a condition for approving a plan. The Applicant is entitled to the protections of Section 212.904(d) pursuant to Section 245.002(d) of the Local Government Code, which provides:

> Notwithstanding any provision of this chapter to the contrary, a permit holder may take advantage of recorded subdivision plat notes, recorded restrictive covenants required by a regulatory agency, or a change to the laws, rules, regulations, or ordinances of a regulatory agency that enhance or protect the project, . . . without forfeiting any rights under this chapter.

The Applicant invokes all of its rights under Section 212.904, including (i) its right to a determination by the City that the donation of the Junior High School Site is commensurate with the PUD's anticipated proportionate impact; and (ii) its right to appeal that determination, if necessary, to the City Council and District Court.

Finally, I would also like to reiterate the Applicant's objection to staff's insistence that the land use plan show the extension of North Gate Drive and Ridge Gate Drive, as reflected in Transportation Review Comment No. 3 in the March 14, 2012 Master Review Report. As Jeffrey Howard stated in his February 14, 2012 letter, "There is nothing in the Code that requires a PUD Land Use Plan to show every street that will be located within the PUD or how it will connect to other streets." The City has imposed no such requirement on any of the previous 16 revisions to the land use plan. According to the reviewer, "In accordance with LDC, 25-2-375 Sec. 1.4.1.F and Sec. 1.4.2, the director has determined that collector streets are required to be shown on the revised PUD Land Use Plan." Section 1.4.1, however, outlines requirements that apply to "an *application* for a PUD zoning district classification," not to revisions or amendments to a previously approved application. Nothing in that section allows staff or the Director to modify the requirements for amendments to the land use plan. On the contrary, Chapter 245 of the Local Government Code prohibits the City from adopting new requirements that would make the process for modifying the project more onerous or burdensome. In as much as there is no authority for the demand made, my client demands that staff immediately revise the comments to remove the requirement for the extension of North Gate Drive and Ridge Gate Drive. In the alternative, applicant demands that this application be placed on the next available Planning and Zoning Commission Agenda for consideration.

After you have had the chance to review this letter, I request the opportunity to meet with you and the City attorney to discuss these matters in more detail. If you have any questions in the meantime, please do not hesitate to contact me.

Sincerely,

John M. Joseph

cc: John McCullough, Austin HB Residential Properties, Ltd.
Jerry Rusthoven, City of Austin