

Leak, Erica

Late Backup

LATE BACKUP
ITEMS #42-47

From: Toni House [REDACTED]
Sent: Thursday, March 07, 2013 9:28 AM
To: Morrison, Laura; Martinez, Mike [Council Member]; Cole, Sheryl; Spelman, William; Leffingwell, Lee; Riley, Chris; Tovo, Kathie
Cc: Harden, Joi; Leak, Erica
Subject: 3/7/13 City Council Agenda Items 42-47; E. Riverside Corridor Regulating Plan

Dear Mayor Leffingwell, Mayor Pro Tem Cole, and Council Members:

Both the E. Riverside Corridor Master Plan and E. Riverside Corridor Regulating Plan are the result of a *City-wide* planning process. Participation was not limited to those who live, work, or own property within EROC and Montopolis, but was spread across the entire City of Austin. The commercial interests who chose not to participate in this very public, lengthy and extremely detailed planning process should not be allowed to hijack these efforts now. To wait to bring up the drive-through issues shortly before what was supposed to be adoption of the Regulating Plan shows a callous disregard for public process and the efforts of not only City staff, but of the citizens of Austin who committed their time and efforts to these endeavors.

Why did the drive-through interests not respond to the online surveys or attend numerous meetings held by the City – Corridor Planning Open House meetings, Planning Commission subcommittee meetings that focused on specific Corridor planning issues, and the Corridor Working Group meetings? I did, and a clear directive by participants in the planning process – not just EROC residents – was to make the Corridor pedestrian oriented.

At every meeting I attended (and I missed very few), a consistent cry was to make the Corridor safe for walking and bicycling. When the question of “but how can we do that” was asked, the first answer was always, “reduce curb cuts and drive-throughs.” This response came from architects and other non-City planning professionals within earshot of whoever asked that question. The idea of prohibiting future drive-throughs was not new, and if it was so onerous, concerns should have been raised a couple of years ago – not as late as November, and certainly not now.

Regarding existing drive-through businesses’ concerns about remodeling, as long as what constitutes a “remodel” is clearly defined in the Plan, I don’t have a problem with them doing a 1,000 sq. ft. remodel without triggering the Corridor regulations. I will not support their being allowed to demolish a drive-through location and rebuild without triggering the regulations. When a drive-through property is sold, the drive through should no longer be allowed and any remodel should trigger the Corridor regulations. Additionally, the triggering date for protection of existing drive-through facilities should be the date of adoption of the regulating plan -- this date should not be extended beyond the adoption date of the Regulating Plan.

If you cave in to the drive-through interests’ demands, we will not be able to achieve the density levels the City has mandated and we will never realize the vision the City has for the Corridor. Thank you for your consideration.

Sincerely,
/s/ Toni House
EROC NPCT and SRCC Member
Austin, TX 78741
Office: 615-1219

Leak, Erica

From: Gayle Goff [REDACTED]
Sent: Thursday, March 07, 2013 8:38 AM
To: Morrison, Laura; Martinez, Mike [Council Member]; Cole, Sheryl; Spelman, William; Leffingwell, Lee; Riley, Chris; Tovo, Kathie
Cc: Leak, Erica
Subject: Agenda Items 42-47--E R Corridor

Mayor and Council--

I urge you to listen to input of your Planning Commission and to the voices of those who participated in the "planning" process for this corridor.

---Adopt the Planning Commission recommendations;

---Require Neighborhood Contact Team notification of any Alternative Equivalent Compliance applications AND allow sufficient time for Contact Team input;

---Do not allow automotive uses within the Neighborhood Mixed Use subdistrict; throughout this lengthy planning process, participants consistently advocated for restrictions on automotive uses and this is reflected in the draft regulating plan and should be upheld;

---Adopt the hub boundaries as reflected in the September 14th Regulating Plan draft, **except for the Penick Dr. and E. Riverside properties identified in EROC NPA-2012-0021.02 - these properties should remain SF-1;**

---Increase the development impact fees so that the developers pay for this growth;

---Require a review of the ERC Master and Regulating Plans if urban rail is not funded;

---Allow interior remodel of existing commercial structures without triggering new requirements ONLY IF limited to 1000 sq ft and ONLY IF the definition of "remodel" is very specific. **DO NOT** allow drive-thru's to exist forever!!

Gayle Goff

1106 Upland

SRCC, EROC

Leak, Erica

From: Carl Braun [REDACTED]
Sent: Wednesday, March 06, 2013 9:38 PM
To: Leffingwell, Lee; Cole, Sheryl; Spelman, William; Riley, Chris; Martinez, Mike [Council Member]; Tovo, Kathie; Morrison, Laura
Cc: Leak, Erica
Subject: Agenda Items 42-47

Dear Mayor & Council:

During the evolution of the East Riverside Corridor Regulating Plan an alteration of the zoning setbacks occurred which will adversely affect the integrity of the adjacent neighborhoods.

In order to provide a minimum of protection for those neighborhood dwellings and residents, I sincerely ask that you adopt the Planning Commission recommendations and that you require Neighborhood Contact Team notification of any Alternative Equivalent Compliance applications. Please adopt the hub boundaries as reflected in the September 14 Regulation Plan draft except for the Penick Dr. and E. Riverside properties identified in EROC NPA-2012-0021.02 and implement a required review of the ERC Master and Regulating Plans in the event that urban rail is not funded.

Additional problems have surfaced since my December 5, 2012 email to you on this subject.. Please do not allow automotive uses within the Neighborhood Mixed Use sub-district and see to it that the development impact fees are increased so that the developers pay for this growth.

Carl A. Braun
2506 Douglas Street

Leak, Erica

From: Mark Terranella [REDACTED]
Sent: Wednesday, March 06, 2013 4:24 PM
To: Leffingwell, Lee; Cole, Sheryl; Spelman, William; Riley, Chris; Martinez, Mike [Council Member]; Tovo, Kathie; Morrison, Laura; Leak, Erica
Subject: 3/7/13 City Council Agenda Items 42-47; E. Riverside Corridor Regulating Plan

Dear City Council Members and Our Honorable Mayor:

Please uphold the integrity of the Riverside Corridor Regulating Plan as it has evolved in the approximately four-year planning process. Please uphold the following recommendations and tenets of the proposed Plan :

- Adopt the Planning Commission recommendations;
- Require Neighborhood Contact Team notification of any Alternative Equivalent Compliance applications and allow sufficient time for Contact Team input;
- Do not allow automotive uses within the Neighborhood Mixed Use sub district; throughout this lengthy planning process, participants consistently advocated for restrictions on automotive uses and this is reflected in the draft regulating plan and should be upheld;
- Adopt the hub boundaries as reflected in the September 14th Regulating Plan draft, except for the Penick Dr. and E. Riverside properties identified in EROC NPA-2012-0021.02 – these properties should remain SF-1;
- Set the triggering date for grandfathering protection of existing drive-through facilities as the date of adoption of the regulating plan -- this date should not be extended beyond the adoption date of the Regulating Plan;
- Increase the development impact fees so that the developers pay for this growth; and
- Require a review of the ERC Master and Regulating Plans if urban rail is not funded.

The proposed plan that has been very well thought out and deserves passage in the form noted above. Please do not allow a number of objections that have been made by last minute participants in the process.

Sincerely,

Mark Terranella and Lucy Petrucelli

1702 Elmhurst Dr.
Austin, TX 78741

Leak, Erica

From: Malcolm Yeatts [REDACTED]
Sent: Tuesday, March 05, 2013 9:11 PM
To: Leffingwell, Lee; Cole, Sheryl; Spelman, William; Riley, Chris; Martinez, Mike [Council Member]; Tovo, Kathie; Morrison, Laura; Leak, Erica
Cc: 'gayle goff (2)'; 'Jean Mather'; 'Malcolm Yeatts'; 'Carl Braun'; 'Dawn Cizmar'; 'Toni House'; 'Toni'; 'Fred Krebs'; 'John Harms'; 'Amber Wilkins'; 'Linda Land'; 'Jan Long'; 'Linda Watkins'; [REDACTED]; 'Mike May'; 'Kendall Krebs'; 'Jean Mather'
Subject: City Council Agenda items 42-47

Members of the EROC NPA have worked with City staff for years to create the East Riverside Corridor Regulatory Plan. Please do not allow last minute changes to the Plan. The EROC Contact Team requests the following for the East Riverside Corridor Regulatory Plan:

- Adopt the Planning Commission recommendations;
- Require Neighborhood Contact Team notification of any Alternative Equivalent Compliance applications and allow sufficient time for Contact Team input;
- Do not allow automotive uses within the Neighborhood Mixed Use subdistrict; throughout this lengthy planning process, participants consistently advocated for restrictions on automotive uses and this is reflected in the draft regulating plan and should be upheld;
- Adopt the hub boundaries as reflected in the September 14th Regulating Plan draft, except for the Penick Dr. and E. Riverside properties identified in EROC NPA-2012-0021.02 – these properties should remain SF-1;
- Increase the development impact fees so that the developers pay for this growth; and
- Require a review of the ERC Master and Regulating Plans if urban rail is not funded.

We are not opposing the commercial interests' last minute request to ". . . be able to do interior remodels without triggering new requirements to do site redevelopment and additions up to 1,000 sq. ft. without triggering new requirements," PROVIDED the word "remodel" is specifically defined.

And please note in regards to the concern about new drive-through facilities being prohibited, the triggering date for grandfathering protection of existing drive-through facilities should be the date of adoption of the regulating plan -- this date should not be extended beyond the adoption date of the Regulating Plan

Malcolm Yeatts EROC Contact Team chairperson

Leak, Erica

From: A Noyola <[REDACTED]>
Sent: Tuesday, March 05, 2013 7:34 PM
To: Leak, Erica
Subject: Re: East Riverside Corridor Plan

To: Honorable Mayor Leffingwell, Mayor Pro Tem Sheryl Cole, and Austin City Council Members Mike Martinez, Laura Morrison, Kathie Tovo, Bill Spelman, Chris Riley

From: Angelica Noyola, President Montopolis Ponca Neighborhood Association

Date: March 5, 2013

The Montopolis Ponca Neighborhood Association is within the boundary of the East Riverside Corridor Planning Area, **we oppose the adoption of the East Riverside Corridor Plan unless and until changes are made to address the following concerns:**

1. Give Montopolis Neighborhood Contact Teams the opportunity to approve and/or disapprove zoning changes within their contact plan area.
2. Use the existing Riverside Drive ROW to accomplish a multi-modal infrastructure that can be transitioned to different modes over time to accommodate the demand in the area rather than forcing a rail-only plan.
3. Eliminate the prohibition on drive-through uses. Although the majority of the group of interested businesses and commercial property owners isn't made up of drive-thru uses, the group as a whole unanimously supports maintaining drive-through use as a permitted use in the East Riverside Corridor.
4. Focus on form and design regulation rather than use prohibition. Many uses that are prohibited in the plan are uses that are needed in a mixed-use urban environment. Allow the uses the market demands so long as the form is appropriate for the location (ex. Gas station, laundry services, hardware store, car rental, plant nursery, etc.).
5. Exempt existing businesses from the requirements of the plan so long as they are in operation.
7. Re-look at the density bonus provisions of the plan, as they are not realistically workable as written. Density bonus doesn't address the real need for real affordable housing at 30% MFI – 60% MFI and/or the needed percentage of units.
8. In general, for this district to be motivated to improve, the City should contribute significant dollars toward physical changes. The dollars invested by the City will stimulate real changes in a shorter timeframe.

Leak, Erica

From: [REDACTED]
Sent: Tuesday, March 05, 2013 7:29 PM
To: Morrison, Laura; Tovo, Kathie; Spelman, William; Leffingwell, Lee; Martinez, Mike [Council Member]; Riley, Chris; Cole, Sheryl
Cc: Leak, Erica
Subject: Agenda Items 42-47, Council Agenda 3 7 13, ERC Regulating Plan

Mayor and Council:

After participating in the ERC Master and Regulating Plans for 4 years I urge Council to:

Adopt the Planning Commission recommendations.

Insure that developers pay for desired growth by increasing development impact fees.

And as I requested before Council last November:

Require Neighborhood Contact Team notification of any Alternative Equivalent Compliance applications and allow an opportunity for a written response.

Mandate a review of the ERC Master and Regulating Plans if urban rail is not funded.

And as regards the commercial interests that have been raised since the February 21 meeting at the Monopolis Rec Center:

Throughout the ERC Master and Regulating Plan process, participants consistently advocated for a restriction on automotive uses; to include such a permitted use as conditional under NMU would negate four years of stakeholder input.

Do not permit new drive-thrus. Even as early as 2006 with the passage of the EROC Neighborhood Plan, there was a stated desire to limit curb cuts (pages 32, 127 and 129 of the EROC Neighborhood Plan) as a means to insure corridor walkability and pedestrian safety. The drive-thrus currently in place should be grandfathered as of the date of the adoption of the plan.

Respectfully,
Jan Long
EROC Contact Team

Leak, Erica

From: Linda J. Watkins [REDACTED]
Sent: Tuesday, March 05, 2013 10:49 AM
To: Tovo, Kathie; Morrison, Laura; Riley, Chris; Martinez, Mike [Council Member]; Cole, Sheryl; Spelman, William; Leffingwell, Lee
Cc: Leak, Erica
Subject: 3/7/13 City Council Agenda Items 42-47; E. Riverside Corridor Regulating Plan

In regards to the Riverside Corridor Plan, I urge you to:

- Adopt the Planning Commission recommendations;
- Require Neighborhood Contact Team notification of any Alternative Equivalent Compliance applications and allow sufficient time for Contact Team input;
- Do not allow automotive uses within the Neighborhood Mixed Use subdistrict; throughout this lengthy planning process, participants consistently advocated for restrictions on automotive uses and this is reflected in the draft regulating plan and should be upheld;
- Adopt the hub boundaries as reflected in the September 14th Regulating Plan draft, except for the Penick Dr. and E. Riverside properties identified in EROC NPA-2012-0021.02 – these properties should remain SF-1;
- Increase the development impact fees so that the developers pay for this growth; and
- Require a review of the ERC Master and Regulating Plans if urban rail is not funded.

I am not opposing the commercial interests' last minute request to ". . . be able to do interior remodels without triggering new requirements to do site redevelopment and additions up to 1,000 sq. ft. without triggering new requirements," PROVIDED the word "remodel" is specifically defined.

And please note in regards to the concern about new drive-through facilities being prohibited, the triggering date for grandfathering protection of existing drive-through facilities should be the date of adoption of the regulating plan -- this date should not be extended beyond the adoption date of the Regulating Plan

Thank you.

Linda Watkins, EROC Neighborhood Planning Contact Team

Leak, Erica

From: PODER Austin, Texas [REDACTED]
Sent: Friday, March 01, 2013 9:54 AM
To: Leffingwell, Lee; Cole, Sheryl; Martinez, Mike [Council Member]; Morrison, Laura; Tovo, Kathie; Spelman, William; Riley, Chris; Leak, Erica
Subject: East Riverside Corridor Plan Opposition

To: Honorable Mayor Leffingwell, Mayor Pro Tem Sheryl Cole, and Austin City Council Members Mike Martinez, Laura Morrison, Kathie Tovo, Bill Spelman, Chris Riley

From: Susana Almanza, President Montopolis Neighborhood Plan Contact Team

Date: March 1, 2013

The Montopolis Neighborhood Contact Team is within the boundary of the East Riverside Corridor Planning Area, **we oppose the adoption of the East Riverside Corridor Plan unless and until changes are made to address the following concerns:**

1. Give Neighborhood Contact Teams the opportunity to approve and/or disapprove zoning changes within their contact plan area.
2. Use the existing Riverside Drive ROW to accomplish a multi-modal infrastructure that can be transitioned to different modes over time to accommodate the demand in the area rather than forcing a rail-only plan.
3. Eliminate the prohibition on drive-through uses. Although the majority of the group of interested businesses and commercial property owners isn't made up of drive-thru uses, the group as a whole unanimously supports maintaining drive-through use as a permitted use in the East Riverside Corridor.
4. Focus on form and design regulation rather than use prohibition. Many uses that are prohibited in the plan are uses that are needed in a mixed-use urban environment. Allow the uses the market demands so long as the form is appropriate for the location (ex. Gas station, laundry services, hardware store, car rental, plant nursery, etc.).
5. Exempt existing businesses from the requirements of the plan so long as they are in operation.
7. Re-look at the density bonus provisions of the plan, as they are not realistically workable as written. Density bonus doesn't address the real need for real affordable housing at 30% MFI – 60% MFI and/or the needed percentage of units.
8. In general, for this district to be motivated to improve, the City should contribute significant dollars toward physical changes. The dollars invested by the City will stimulate real changes in a shorter timeframe.

--
PODER
P.O. Box 6237

**EAST RIVERSIDE REGULATORY PLAN
AMENDMENTS NEEDED TO CURE THE FOLLOWING ISSUES**

Article 1 General Provisions; General Intent

To protect and respect currently existing businesses that have been well established by allowing their use to continue unimpeded as long as the business and property aren't abandoned.

- 1) **Remove the six lots that are located on Highway 71/Ben White Blvd from the plan. (TCAD Property ID Numbers; 483337; 483338; 483339; 483326; 483327; and 483328)**
- 2) **Modify the use table, as follows:**

COMMERCIAL USES	CMU	IMU	NMU	UR
Auto Rentals	P	P	(-) P	--
Auto Repair Services	(-) P	P	(-) P	--
Auto Sales	(-) P	P	(-) P	--
Auto Washing	(-) P	P	(-) P	--
Laundry Services	(-) P	P	(-) P	--
Plant Nursery	(-) P	P	(C) P	--
Service Stations	(-) P	(C) P	(C) P	--
CIVIC USES				
Hospital (General)	(C) P	P	C	--
(-C) P Suggested Change to Permitted				

- 3) **Drive-through and Drive-in permitted in CMU and IMU subdistricts.**
- 4) **Delete prohibition on drive through facilities (p. 27 and p. 72) to allow for design criteria to control.**
- 5) **Allow remodeling, reconstruction and redevelopment of existing businesses without triggering compliance with the ERC Regulating Plan, including scrape and build providing they do not add more than 1000 square feet.**
- 6) **The two story requirement should be made permissive not mandatory; incentivize multi-story redevelopment of existing buildings by allowing fast-track permitting and permit fee waivers.**

To:

Greg Guernsey, Director
Planning and Development Review Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Petition Against Rezoning of Property in East Riverside Corridor Plan
6301 E. Riverside Drive

I, the duly-authorized representative of OFLP 1 LTD, owner of the real property located at 6301 E. Riverside Drive, Austin, Travis County, Texas, (TCAD Geographic Parcel ID NO. 0310140120) (the "Property"), hereby protest the rezoning of the Property to any zoning district in which Automotive Rentals, Automotive Sales, Automotive Washing, Automotive Repair Services, Drive-in Facilities, or Service Station aren't permitted uses.

OFLP 1 LTD

By: Vicki Oliver

Printed Name: VICKI OLIVER

Title: Pres. V&S Enterprises GP

Date: 3-7-2013

To:

Greg Guernsey, Director
Planning and Development Review Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Petition Against Rezoning of Property in East Riverside Corridor Plan
2001 E. Riverside Drive

I, the duly-authorized representative of 1923 Limited Partnership, owner of the real property located at 2001 E. Riverside Drive, Austin, Travis County, Texas, (TCAD Geographic Parcel ID NO. 0304070705) (the "Property"), hereby protest the rezoning of the Property to any zoning district in which Automotive Rentals, Automotive Sales, Automotive Washing, Automotive Repair Services, Drive-in Facilities, or Service Station aren't permitted uses.

1923 LIMITED PARTNERSHIP

By: Vicki Oliver

Printed Name: VICKI OLIVER

Title: Pres V&S Enterprises GP

Date: 3-7-2013

To:

Greg Guernsey, Director
Planning and Development Review Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Petition Against Rezoning of Property in East Riverside Corridor Plan
1725 E. Riverside Drive

I, the duly-authorized representative of 720 Lamar Place LC, owner of the real property located at 1725 E. Riverside Drive, Austin, Travis County, Texas, (TCAD Geographic Parcel ID NO. 0302060601) (the "Property"), hereby protest the rezoning of the Property to any zoning district in which Automotive Rentals, Automotive Sales, Automotive Washing, Automotive Repair Services, Drive-in Facilities, or Service Station aren't permitted uses.

720 LAMAR PLACE LC

By:  _____

Printed Name: Greg O'Leary

Title: Manager

Date: 3/6/2013

Leak, Erica

From: Zahir Walji [REDACTED]
Sent: Thursday, March 07, 2013 8:55 AM
To: Leak, Erica; Karen Skelton; Loren Kirkpatrick; Sue Gravett
Cc: Heckman, Lee; Rhoades, Wendy
Subject: Re: FW: Email from austintexas.gov: East Riverside Corridor Plan

Dear Erica,

As owner of:

Lot 1B, Airport Commerce Park (Address: 7600 E BEN WHITE BLVD TX 78744; Property ID: 483328),
and

Lot 2B, Airport Commerce Park (Address: 7700 E BEN WHITE BLVD TX 78744; Property ID: 483327),

and as per Karen Skelton's email to you, I agree and support her request that all the Lots - 1B to 6B
in Airport Commerce park - be excluded from the ERC rezoning.

Thank you,

Zahir Walji
Triad Equities, LLC
Gen Partner.

From: "Leak, Erica" [REDACTED]
To: Karen Skelton [REDACTED]; Loren Kirkpatrick [REDACTED]; Sue Gravett [REDACTED]; Zahir Walji [REDACTED]
Cc: "Heckman, Lee" [REDACTED]; "Rhoades, Wendy" [REDACTED]
Sent: Wednesday, March 6, 2013 12:40 PM
Subject: RE: FW: Email from austintexas.gov: East Riverside Corridor Plan

Ok - I'll make sure they are on the final City Council motion sheet as contested properties for which
the request is to not have them rezoned to ERC zoning.

Cheers,
Erica

Erica Leak, Principal Planner
URBAN DESIGN
City of Austin | Planning and Development Review Department
505 Barton Springs Road | 8th floor | Austin TX | 78704

Tel | 512.974.2856
Email | [REDACTED]

-----Original Message-----

From: Karen Skelton [REDACTED]
Sent: Wednesday, March 06, 2013 11:33 AM
To: Leak, Erica; Loren Kirkpatrick; Sue Gravett; Zahir Walji

Subject: Re: FW: Email from [REDACTED]: East Riverside Corridor Plan

Dear Erica, I am on a Spring Break trip with my family and going on and off the grid. We jointly and definitely request the removal of the Airport Commerce Park properties from the ERC. These are specifically Lots 1B thru 6B of Airport Commerce Park and they do not have a street address officially assigned that I am aware of, as they are not improved. Thank you, Karen G. Skelton, Agent for Bennett Realty Group, General Partner for SouthEast Austin Associates, LP

On Tue, Mar 5, 2013 at 7:47 PM, Leak, Erica [REDACTED] wrote:

> Karen,
> Please see below.
>
> Can you please confirm that you are requesting that these properties not to be rezoned to ERC?
Can you send me the addresses for the properties, as well? I need this info. ASAP if I'm going to get it into Council backup for Thursday's meeting.
>
> "Karen Skelton represents the owners of the five adjacent tracts to the west of our property to Riverside Drive. The Property ID Nos are 483338;483339; 483326; 483327; and 483326."
>
> Thank you,
> Erica
>
> Erica Leak, Principal Planner
> URBAN DESIGN
> City of Austin | Planning and Development Review Department
> 505 Barton Springs Road | 8th floor | Austin TX | 78704
>
> Tel | 512.974.2856
> Email | [REDACTED]

>
> -----Original Message-----
> From: Sue Gravett [REDACTED]
> Sent: Tuesday, March 05, 2013 5:34 PM
> To: Leak, Erica
> Cc: Heckman, Lee; Rhoades, Wendy
> Subject: RE: Email from austintexas.gov: East Riverside Corridor Plan

>
> Yes, mam.
> Sue
>
>
> Sue Gravett
> Henry S. Miller Brokerage Austin, Inc.
> 512-340-9682 Direct
> 512-917-0447 Mobile
> 512-794-9515 Fax
> [REDACTED]

> [REDACTED]
> Information About Brokerage Service:
> www.trec.state.tx.us/pdf/contracts/OP-K.pdf

> -----Original Message-----

> From: Leak, Erica [REDACTED]
> Sent: Tuesday, March 05, 2013 5:28 PM
> To: [REDACTED]
> Cc: Heckman, Lee; Rhoades, Wendy
> Subject: RE: Email from austintexas.gov: East Riverside Corridor Plan

> So you are requesting that all six of those properties not be rezoned to ERC, correct?

> Erica Leak, Principal Planner
> URBAN DESIGN
> City of Austin | Planning and Development Review Department
> 505 Barton Springs Road | 8th floor | Austin TX | 78704
> Tel | 512.974.2856

> Please note: E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act.

> -----Original Message-----

> From: Sue Gravett [REDACTED]
> Sent: Tuesday, March 05, 2013 5:02 PM
> To: Leak, Erica; [REDACTED]
> Subject: Email from austintexas.gov: East Riverside Corridor Plan

> This message is from Sue Gravett. Erica,

> The information you requested concerning the properties that we would like removed from the East Riverside Corridor plan is as follows:

> My owner is Bridged Hybrid Financing LLC, as per TCAD the address is 7812 E. Ben White Blvd.; Property ID No. 483337; Ref ID No. 0312200292.

> Karen Skelton represents the owners of the five adjacent tracts to the west of our property to Riverside Drive. The Property ID Nos are 483338;483339; 483326; 483327; and 483326.

> I apologize for not sending this yesterday. I was traveling. Please do not hesitate to contact me if you need additional information.

> Thank you.
> Sue Gravett

> Henry S. Miller Brokerage Austin, Inc.

> 512-917-0447 Mobile

> [REDACTED]

>

>

--

Karen G. Skelton

Texas Realty Partners, LLC

248 Addie Roy Road, Building B, Suite 302 Austin, Texas 78746

COATS | ROSE

A Professional Corporation

JOHN M. JOSEPH

Direct Dial
512.541.3593

March 7, 2013

Via Email

Erica Leak
505 Barton Springs Rd., 8th Floor
Austin, Texas 78704

Re: East Riverside Corridor Regulating Plan; 1600 S. Pleasant Valley, Austin, Texas
78741

Dear Ms. Leak,

I am writing to you on behalf of GHI Investments, LLC, the owner 1600 S. Pleasant Valley, Austin (the "Owner"), which is within the area affected by the draft East Riverside Corridor Regulating Plan. Under the draft Plan, the Owner's property would be rezoned from Community Commercial (GR) to East Riverside Corridor – Neighborhood Mixed Use (ERC-NMU).

On November 1, 2012, the Owner filed an objection to the proposed rezoning, a copy of which is attached as Exhibit 1. This is, in effect, an objection to being included within the ERC Regulating Plan. At Council hearing on December 6, 2012, and again by email on January 9, 2013, we clarified that the Owner would be willing to withdraw the objection if the property were instead placed in the Corridor Mixed Use (ERC-CMU) subdistrict rather than the ERC-NMU subdistrict, and if the property were granted eligibility for additional height under the ERC's density bonus program (from a proposed maximum height of 65 feet to a proposed maximum of 120 feet). See Exhibit 2.

The proposed change is warranted by the property's location and the goals driving the ERC Regulating Plan. The property on a busy arterial, surrounded by commercial and high-density multi-family developments, which will not be affected by the requested increase in density or height. Moreover, the southern portion of the property is within a five-minute walk of the future transit center at the intersection of S. Pleasant Valley and E. Riverside. As the ERC Plan recognizes, minimum densities within a short distance of the transit centers are critical to their success. Yet the largest parcel in the vicinity – at the corner of S. Pleasant Valley and E. Riverside – is occupied by a relatively new H-E-B Plus. It is unlikely that H-E-B will covert this

Barton Oaks Plaza, 901 South MoPac Expressway, Building 1 Suite 500, Austin, Texas 78746

Phone: 512-469-7987 Fax: 512-469-9408

HOUSTON | CLEAR LAKE | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS

new store to dense multi-family within the foreseeable future. Increasing the density of the Owner's property will partially offset the loss of density due to this existing development.

Despite the Owner's offer to withdraw its objection in return for more appropriate zoning, no concrete proposal to modify the property's zoning has been forthcoming. The Owner accordingly maintains its objection to inclusion in the ERC Regulating Plan.

We submit that the Owner's objection triggers the super-majority voting requirement set forth in Section 211.006 of the Texas Local Government Code and Section 25-2-284 of the City's Land Development Code. Staff, by contrast, has taken the position that property owner opposition to ERC zoning does not constitute a petition unless 20 percent of "all property owners within the entire area being rezoned to East Riverside Corridor (ERC) . . . presented a written petition in objection." See Nov. 7, 2012 email from E. Leak to J. Joseph, attached as Exhibit 3. We believe staff's position rests on a misreading of state law.

Section 211.006(d) of the Texas Local Government Code provides in relevant part:

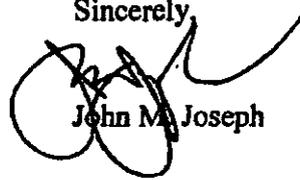
If a proposed change to a regulation or boundary is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body.

Staff, in effect, treats the hundreds of proposed zoning changes to scores of properties as a single change to a "regulation or boundary." This violates the uniformity-of-regulation requirement for zoning. Section 211.005(b) of the Texas Local Government Code, in particular, requires that "[z]oning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district." The area covered by the ERC Regulating Plan includes properties with a wide variety of zoning, from multi-family to community commercial to general commercial to industrial. A single zoning change, by definition, cannot treat properties with different zoning "uniformly." Moreover, the proposed zoning does not even treat properties with the same existing zoning uniformly. Among the properties with existing GR zoning for example, some would be placed in the ERC-CMU subdistrict, some in the ERC-NMU subdistrict, and some in the other ERC subdistricts. Some of the GR properties would be granted a 120-foot height maximum; others, including the subject property, substantially less. The Owner is entitled to be treated the same as similarly situated GR property owners within the ERC.

March 7, 2013
Page 3

For the foregoing reasons, we request you to honor the Owner's objection and deny the proposed rezoning.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Joseph", is written over the typed name. The signature is stylized with loops and a long horizontal stroke extending to the right.

John M. Joseph

Attachments

cc: Mayor and City Council Members
Karen Kennard, City Attorney
Max Hoberman, GHI

EXHIBIT
"1"

GHI INVESTMENTS, LLC

November 1, 2012

VIA EMAIL AND REGULAR MAIL

Mr. Greg Guernsey, Director
Planning & Development Review Department
City of Austin
505 Barton Springs, 5th Floor
Austin, Texas 78704

Re: 1600 S. Pleasant Valley Rd.

Dear Mr. Guernsey:

GHI Investments, LLC is the owner of the property located at 1600 South Pleasant Valley Rd., Austin, Texas 78741, which is located within the boundaries of the proposed East Riverside Corridor ("ERC") Regulating Plan. This property is currently zoned Community Commercial (GR). The proposed ERC Regulating Plan would rezone this property East Riverside Corridor - Neighborhood Mixed Use ("ERC-NMU"). The property is located very close to the intersection of South Pleasant Valley Road and East Riverside Drive and directly adjacent to a new H-E-B. The proposed zoning would not allow a sufficient intensity or range of uses for this property. The owner, accordingly, hereby protests the proposed rezoning of the property.

Sincerely,



Max Hoberman.
Manager of GHI Investments, LLC



From: Kelly Wright
Sent: Wednesday, January 09, 2013 9:46 AM
To: 'Leak, Erica'
Cc: John M. Joseph; 'Guernsey, Greg'
Subject: RE: ERC - 1600 S Pleasant Valley

Erica,

Our client, GHI Investments, LLC, requests that the property located at 1600 S. Pleasant Valley be included within the Corridor Mixed Use "CMU" Sub-district and be eligible for 120 feet of height under the ERC Development Bonuses.

Thanks,
Kelly Wright

From: Leak, Erica [REDACTED]
Sent: Tuesday, January 08, 2013 8:41 AM
To: Kelly Wright
Cc: John M. Joseph; Guernsey, Greg
Subject: RE: ERC - 1600 S Pleasant Valley

Can you confirm what the applicant is requesting? There seemed to be some confusion on this matter at the Nov. 8, 2012 public hearing. Is the applicant requesting that the property not be rezoned or that it be given a different ERC Subdistrict designation?

Thank you,
Erica

Erica Leak, Principal Planner
URBAN DESIGN
City of Austin | Planning and Development Review Department
505 Barton Springs Road | 8th floor | Austin TX | 78704

Tel | 512.974.2856
[REDACTED]

Please note: E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act.

From: Kelly Wright [REDACTED]
Sent: Friday, November 02, 2012 1:48 PM
To: Guernsey, Greg
Cc: Leak, Erica; John Joseph
Subject: ERC - 1600 S Pleasant Valley

Greg,

Please see the attached letter from Max Hoberman with GHI Investments, LLC, the owner of the property located at 1600 S. Pleasant Valley.

Thanks,
Kelly Wright

COATS | ROSE

A Professional Corporation

Kelly Wright

Entitlements Manager

Barton Oaks Plaza
901 South MoPac Expressway
Building 1, Suite 500
Austin, Texas 78746

www.coatsrose.com

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EXHIBIT
"3"

From: Leak, Erica [REDACTED]
Sent: Wednesday, November 07, 2012 3:41 PM
To: Kelly Wright; Guemsey, Greg
Cc: John Joseph; Rhoades, Wendy; Heckman, Lee
Subject: RE: ERC - 1600 S Pleasant Valley

Mr. Joseph,

Thanks for sending this letter.

On further investigation, we have determined that property owner opposition to ERC zoning does not constitute a petition unless 20 percent of either: 1) all property owners within the entire area being rezoned to East Riverside Corridor (ERC) or, 2) all property owners within a 200 foot radius outside of the East Riverside Corridor (ERC) zoning area presented a written petition in objection. Similarly, property owner opposition to a specific subdistrict would not constitute a petition unless 20 percent of all property owners within the subdistrict or, 2) all property owners within a 200 foot radius outside of the subdistrict presented a written petition in objection.

Therefore, we will include this letter in the Council backup and will add the property to our list of contested properties to be considered by Council, but be aware that this request is not considered a petition for zoning purposes.

If you have questions, feel free to contact me.

Best wishes,
Erica

Erica Leak, Principal Planner
URBAN DESIGN
City of Austin | Planning and Development Review Department
505 Barton Springs Road | 8th floor | Austin TX | 78704

Tel | 512.974.2856
[REDACTED]

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From: Kelly Wright [REDACTED]
Sent: Friday, November 02, 2012 1:48 PM
To: Guemsey, Greg
Cc: Leak, Erica; John Joseph
Subject: ERC - 1600 S Pleasant Valley

Greg,

Please see the attached letter from Max Hoberman with GHI Investments, LLC, the owner of the property located at 1600 S. Pleasant Valley.

Thanks,
Kelly Wright

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A Professional Corporation

Kelly Wright

Entitlements Manager

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