

ZONING CHANGE REVIEW SHEET

CASE: C14-2013-0148
Dabney-Horne House

P.C. DATE: January 28, 2014
January 14, 2014

ADDRESS: 507 W. 23rd Street

AREA: 0.116 Acres

OWNER: University Cooperative Society (George Mitchell)

AGENT: Mike McHone Real Estate (Mike McHone)

FROM: GO-CO-H-NP

TO: GO-CO-NP

NEIGHBORHOOD PLAN AREA: Central Austin Combined (UNO)

DESIRED DEVELOPMENT ZONE: Yes

WATERSHED: Shoal Creek

SCENIC ROADWAY: No

CAPITOL VIEW CORRIDOR: No

TIA: N/A

SUMMARY STAFF RECOMMENDATION:

Pending

HISTORIC LANDMARK COMMISSION RECOMMENDATION:

January 27, 2014:

PLANNING COMMISSION RECOMMENDATION:

January 14, 2014: *POSTPONEMENT REQUEST BY STAFF, APPROVED ON CONSENT, (8-0)*
[HERNANDEZ- 1ST, STEVENS- 2ND; HATFIELD- ABSENT]

ISSUES:

This rezoning request is related to two other current items: an appeal of a certificate of appropriateness (City File # C14H-1989-0010), and a restrictive covenant termination request (City File # C14-91-0038 (RCT)). These three items should be considered together.

Since the previous Planning Commission meeting, City of Austin Law Department has determined that the certificate of appropriateness has been approved, in accordance with Section 25-2-213 of the Land Development Code.

The proposed rezoning parcel is a portion of a larger property that is zoned GO-CO-H-NP and occupied by the Dabney-Horne House. The Applicant proposes relocating the historic house within the property, adjusting its location to make development of the remainder of the property more feasible. The portion of the property on which the Dabney-Horne House would be located would remain unchanged as GO-CO-H-NP.

DEPARTMENT COMMENTS:

The subject property is located on the southeast corner of 23rd Street and Nueces Street and is developed with the Dabney-Horne House. The structure is currently being used for administrative offices. Immediately to the south is a property zoned GO-NP that is developed with a parking lot. The next property to the south is developed with apartments, and is zoned MF-4-NP. Across Nueces to the west are properties zoned MF-4-NP and MF-4-H-NP, developed with single family, duplex, and multifamily residential. Across the intersection with 23rd Street to the northwest are apartments zoned CS-MU-NP. To the north and northeast across 23rd Street are properties zoned MF-4-NP and MF-4-CO-NP that are occupied by office and apartment land uses. Across an alley to the east of the subject property is a parking garage zoned CS-NP. The parking garage has professional offices on the ground floor facing 23rd Street. Please refer to Exhibits A and B (Zoning Map and Aerial View).

As stated previously, the Applicant proposes relocating the historic Dabney-Horne House within the property at 507 W. 23rd. Please refer to Exhibit C (Relocation within Site Exhibit). Therefore, the rezoning to GO-NP is requested only for a portion of the property; the portion of the property on which the Dabney-Horne House would be located would remain unchanged as GO-CO-H-NP. The house would be moved closer to the intersection of 23rd and Nueces, and the eastern and southern portions of the property would be rezoned, as shown on the zoning map. If approved, the rezoned area would differ from the existing conditions and remainder of the property in the following ways:

- No Historic (H) zoning designation;
- Height would not be limited to 40 feet.

University Neighborhood Overlay (UNO) & Zoning History

The property is located in the Inner West Campus section of the University Neighborhood Overlay (UNO), and within the West University section of the Central Austin Combined Neighborhood Planning Area. This overlay supersedes zoning regulation, wherever standards conflict. The purpose of the UNO district is to promote high density redevelopment in this area, provide a help create a densely populated but livable and pedestrian friendly environment, and protect the character of the predominantly single-family residential neighborhoods adjacent to the district.

The subject property was zoned in 1991, prior to creation of the UNO ordinance. In 1991, the property was rezoned from MF-4 to GO-CO. The existing conditional overlay (CO) limits building height to 40 feet. UNO allows 175 feet of building height. The proposed rezoning eliminates the CO, resulting in the UNO-permitted building height of 175 feet. The surrounding Inner West Campus properties all share the same 175-foot height limit, except where limited by site specific conditional overlay. Please refer to Exhibit D (UNO Height Districts Map).

City Council also required a restrictive covenant (RC) be placed on the property; that RC is the subject of the related restrictive covenant termination request (RCT) that is being processed concurrent with this rezoning under City File # C14-91-0038 (RCT). The restrictive covenant relates to the retention of the Dabney Horne Home on the property.

Staff has received correspondence in opposition to the Applicant's rezoning request. Please refer to Exhibit E (Correspondence).

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO-CO-H-NP	Administrative office

<i>North</i>	CS-MU-NP, MF-4-NP, MF-4-CO-NP	Administrative office, Multifamily
<i>South</i>	GO-NP, MF-4-NP	Parking lot, Multifamily
<i>East</i>	CS-NP	Parking garage, Professional office
<i>West</i>	MF-4-NP, MF-4-H-NP	Single family, Duplex, Multifamily residential

RELATED CASE NUMBERS:

C14-91-0038: Request: From MF-4 to GO. PC: To grant GO, General Office, subject to the retention of the existing Dabney-Horne House and a maximum height of 40 feet.

CC: 7/11/91- 1st Reading: Urdy- 1st, Larson's 2nd, (6-0-1) (Garcia off dias).

8/1/91-: Approved 2nd/3rd readings: Reynolds- 1st, Epstein- 2nd, (7-0), with conditions imposed by Council incorporated into a Conditional Overlay and Restrictive Covenant. (GO-CO)

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk	Bus Route	Bike Route
W. 23rd Street	60	22	Collector	Yes	No	No
Nueces Street	60	22	Collector	Yes	No	Yes

SCHOOLS:

Bryker Woods Elementary School

O Henry Middle School

Austin High School

NEIGHBORHOOD ORGANIZATIONS:

Austin Neighborhoods Council

Central Austin Community Development Corporation

Central Austin Neighborhood Plan Area Committee

Preservation Austin

University Area Partners

CITY COUNCIL DATE & ACTION:

February 13, 2013:

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Heather Chaffin

e-mail: heather.chaffin@austintexas.gov

PHONE: 974-2122

SUMMARY STAFF RECOMMENDATION:

Pending

Site Plan:

SP 1 Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

SP 2 The site is subject to compatibility standards. Along the west property line, the following standards apply:

- a. No structure may be built within 25 feet of the property line.
- b. No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- c. No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- d. No parking or driveways are allowed within 25 feet of the property line.
- e. A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

SP 3 Additional design regulations will be enforced at the time a site plan is submitted.

SP 4 This site is located within the Inner West Campus section of the University Neighborhood Overlay (UNO), and within the West University section of the Central Austin Combined Neighborhood Planning Area.

Transportation:

TR 1. No additional right-of-way is needed at this time.

TR 2. A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

TR 3. According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, a bicycle facility is not identified on W. 23rd Street.

Environmental:

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

2. Zoning district impervious cover limits apply in the Urban Watershed classification.

3. According to floodplain maps there is no floodplain within or adjacent to the project location.

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

5. Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

7. At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.



SAN ANTONIO

Item 3: Relocation within Site

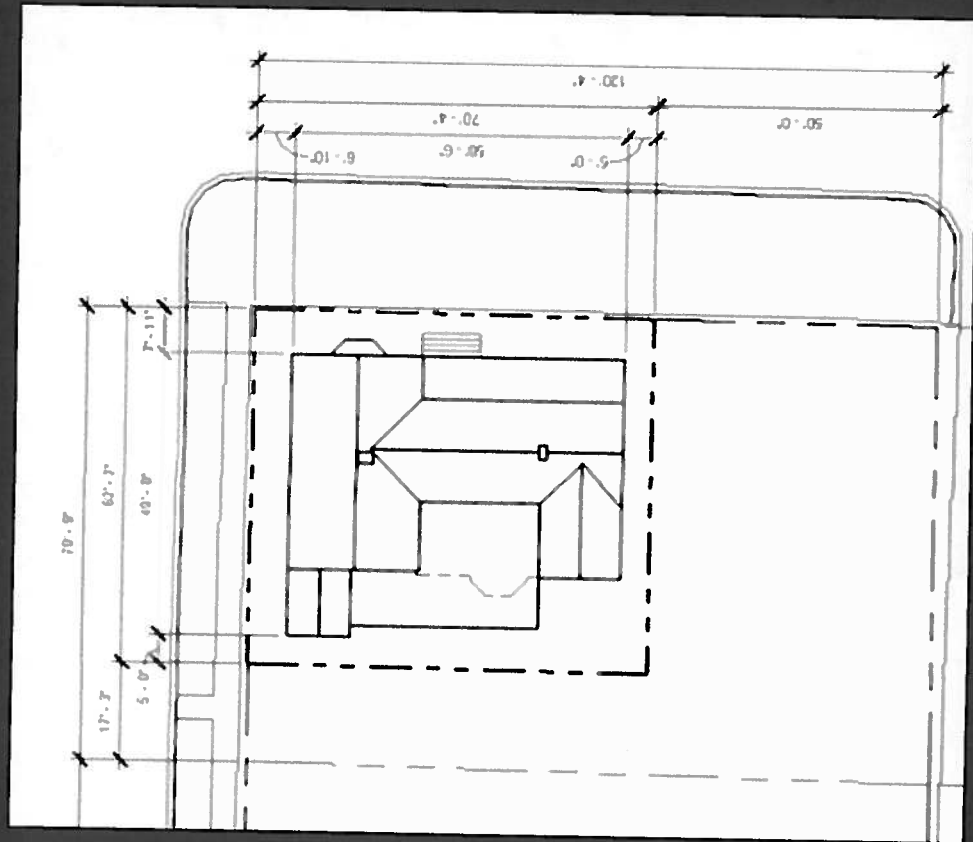
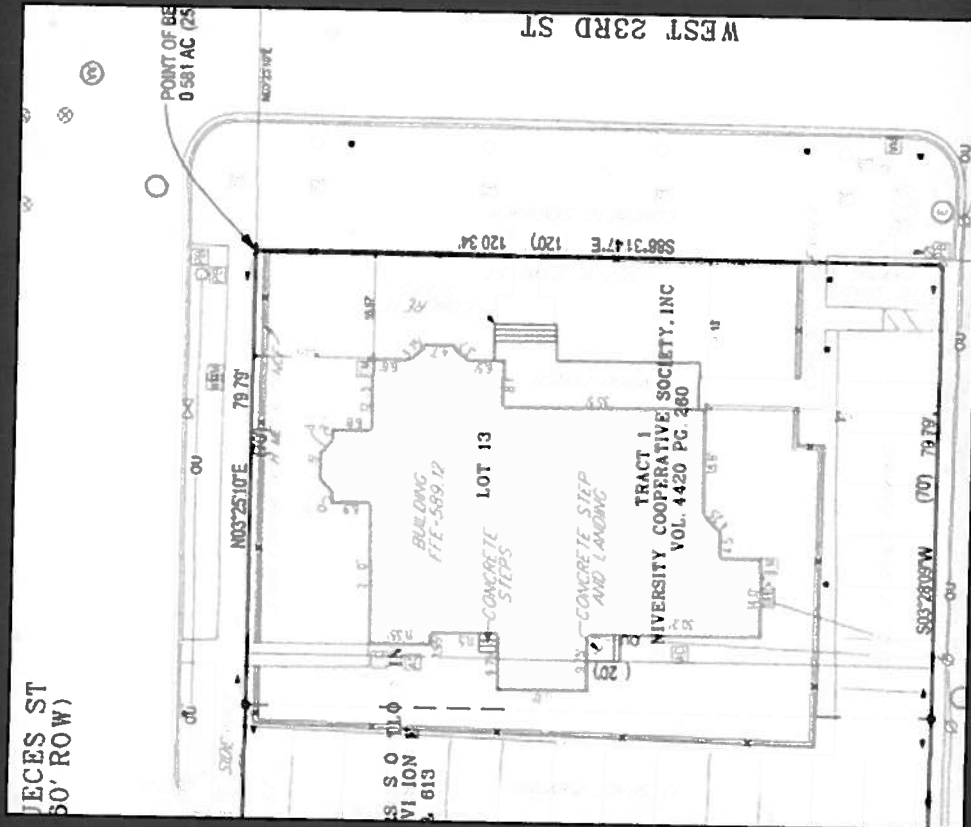
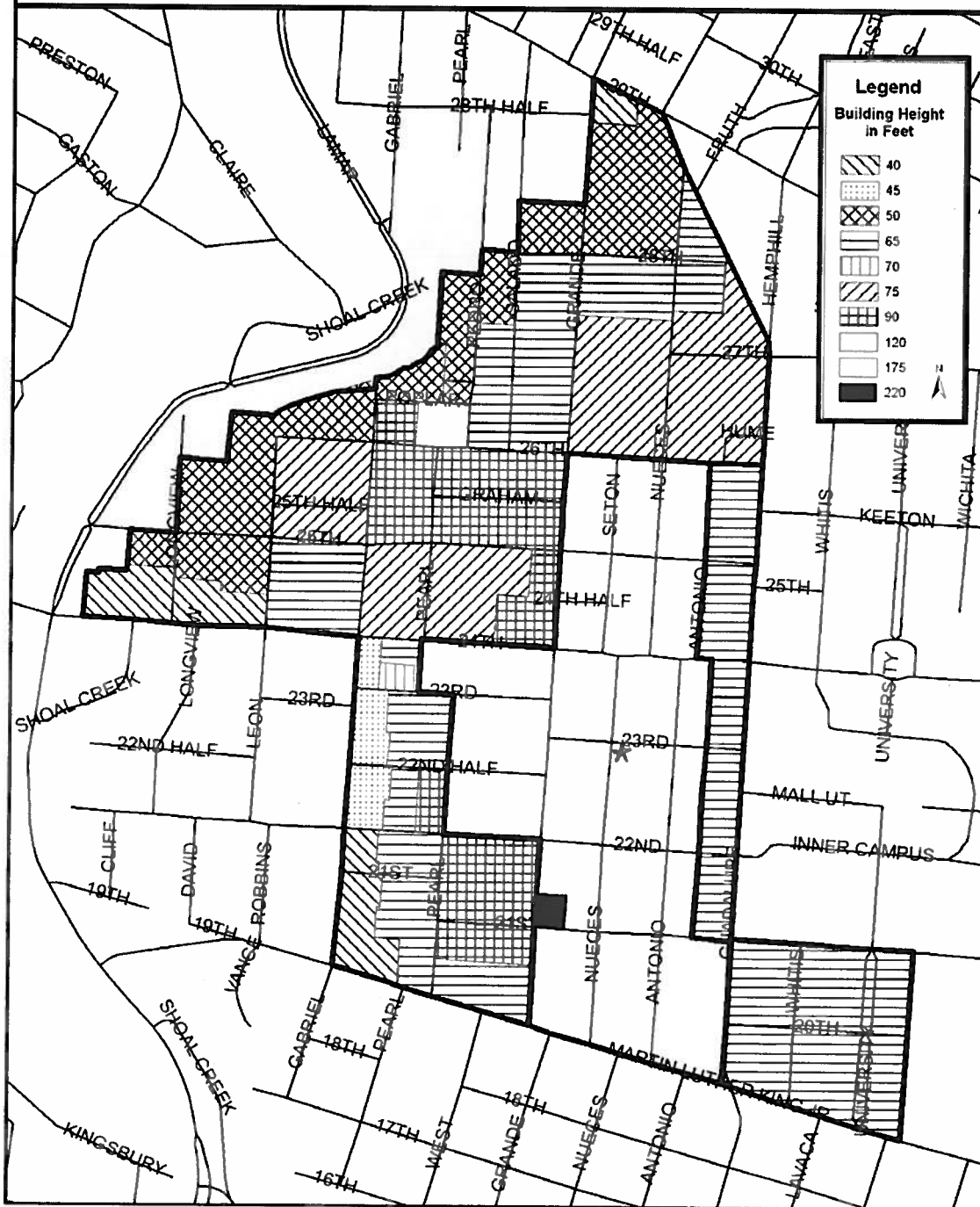


EXHIBIT D

University Neighborhood Overlay Height Districts



Chaffin, Heather

EXHIBIT E

From: crocker sarah <sarah@sarahcrockerconsultants.com>
Sent: Tuesday, December 24, 2013 11:29 AM
To: Chaffin, Heather
Subject: C14-91-0038 (RCT) and C14-2013-0148
Attachments: Interested Party Correspondence Amended july 10.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Heather,

My client owns the property at 2212 and 2210 Nueces Street and they are opposed to termination of the 1991 Restrictive Covenant (C14-91-0038 (RCT) and the proposed zoning case (C14-2013-0148) to rezone the property fro GO-NP-H to GO-NP. I have attached the July 2, 2013 correspondence I transmitted to Greg Guernsey registering my client as an Interested Party.

I'd like to review the file after the first of the year , let me know what day would be best for you. Thanks Heather.

Sarah Crocker

9415 Burnet Rd

Suite 306

Austin Texas

78758

512-529-2511

SARAH PUTNAM CROCKER CROCKER CONSULTANTS

9415 Burnet Rd Suite 306

Austin Texas 78758

July 2, 2013

Mr. Greg Guernsey
Director
Planning and Development Review
City of Austin
Austin, Texas 78704

HAND-DELIVERED

RE: Catherine and George Cary/Gerhard-Schoch 1887 LLC/ Interested Party Status

Dear Mr. Guernsey,

I have been retained to represent Catherine and George Cary (Gerhard-Schoch 1887 LLC) with regard to the pending and anticipated future applications for the proposed development of a 170-foot residential tower at 507 W. 23rd Street, which is owned by the University Cooperative Society.

My clients own the historic Gerhard-Schoch house at 2212 Nueces and the adjacent duplex at 2010 Nueces. Due to their proximity to the subject tract, which is directly across the street, my clients meet the criteria for interested parties set forth in 25-1-131, Subsection A (2) (B) of Land Development Code.

Mike McHone, agent for the University Cooperative Society, has filed the following applications for 507 W. 23rd Street.

2013-005629 TP – A request to remove a 31" Heritage Pecan tree. The EV Board recommended disapproval on March 6, 2013. The Planning Commission voted to deny the permit in April.

2013-044283 PR- Request to relocate the historic Dabney-Horne house from it's present location to 1200-02 Cotton Street. The case was postponed at my request at the May meeting of the Historic Landmark Commission. On June 24, Mr. McHone requested a thirty-day postponement. The case is scheduled to appear on the August agenda.

All three properties are located in the Inner West Campus Subdistrict of the UNO Overlay, which was awarded the most permissive site development regulations to encourage the dense development envisioned for this corridor.

My clients were aware this area was in transition when they purchased the property. But it seemed reasonable to assume that the Dabney Horne house would remain in place due to the fact the house and the lot is zoned historic.

My primary concern is the applicant's apparent disregard for the Order of Process set forth in subsection (A) of 25-1-61, which states:

(A) An applicant must obtain approvals in the following order:

(1) Zoning;

(2) Subdivision;

(3) Site plan; and

(4) Building permit.

In 1989 the City initiated historic zoning case C14h-89-0010 over the objections of the owners, who were opposed to the historic designation until such time that they were able to secure the appropriate commercial zoning. The case was postponed indefinitely. In 1991 the University Cooperative Society filed C14-91-0038 to change the zoning at 507 W 23rd Street from MF-4 to GO.

On August 1, 1991 City Council approved a zoning change from MF4 to GO-CO in conjunction, with conditions. George Mitchell, President, of the University Cooperative Society was required to sign a Restrictive Covenant, which requires the Dabney-Horne home to be retained on the property, as it existed on August 1, 1991. The Restrictive Covenant which is recorded in Volume 11514 Page 0506 of the Real Property Records of Travis County can only be amended, modified or terminated by joint action of a majority of the City Council and the owners of the property at the time of such modification, amendment or termination.

Part 2 (1) of Ordinance NO. 910801-C states that..."No structure of any kind shall be built to a height greater than 40 feet above ground level on the Property."

On August 2, 1992 the Council approved the 1989 historic zoning case, which rezoned the Dabney-Horne house and the entire lot to GO-CO-H.

I realize the purpose of the UNO Overlay is to promote high-density redevelopment, particularly in the Inner West Campus Subdistrict. The only rule for redevelopment in the Inner West Campus Subdistrict is there aren't any rules. Every facet of the approval process was streamlined which has resulted in the construction of a number of student housing projects.

However, even 25-2-752 (Conflict of Law) can't trump the restrictions set forth in a recorded Restrictive Covenant or a zoning ordinance that restricts height on a property

because City Council actions aren't subject to this division of the Land Development Code. Neither is 25-1-61, the Order of Process. The current zoning for 507 W. 23rd Street is GO-CO-H-NP (C14-20120021) (Ordinance NO. 0408826-57)

On behalf of my client, I respectfully request that the application to relocate the Dabney-Horne house be withdrawn or suspended immediately and that staff take no further action or accept any application for the property at 507 W 23 St, until the applicant and owner have secured the following:

1. File a Zoning Amendment to terminate Restrictive Covenant (C14-91-0038) that requires the Dabney-Horne house to be retained on site.
2. File a Zoning Case to delete Part 2 (1), Condition Overlay District (Ordinance NO. 910801-C) Limit height of any structure to 40' above ground level.
3. File a Zoning Case to change the zoning from GO-CO-H- NP to GO-CO-NP to remove the historic designation from the entire lot.
4. A Neighborhood Plan Amendment may be required as per Article 16 of 25-1

My clients are not opposed to redevelopment or student housing. By this fall the Gerhard-Shock project will be an active participant in the UT student housing market.

The University Partners portion of the neighborhood plan recognized the need for density but noted there were a number of historically significant structures in this corridor that would and should survive. My clients have made a significant investment in the future by preserving a slice of Austin's history and they are equally committed to the survival of the Dabney-Horne house.

I look forward to hearing from you.

Sincerely,



Sarah Crocker

Authorized Agent

Gerard-Shock 1887 LLC

SARAH PUTNAM CROCKER CROCKER CONSULTANTS

9415 Burnet Rd Suite 306

Austin Texas 78758

July 2, 2013

Mr. Greg Guernsey
Director
Planning and Development Review
City of Austin
Austin, Texas 78704

HAND-DELIVERED

RE: Catherine and George Cary/Gerhard-Schoch 1887 LLC/ Interested Party Status

Dear Mr. Guernsey,

I have been retained to represent Catherine and George Cary (Gerhard-Schoch 1887 LLC) with regard to the pending and anticipated future applications for the proposed development of a 170-foot residential tower at 507 W. 23rd Street, which is owned by the University Cooperative Society.

My clients own the historic Gerhard-Schoch house at 2212 Nueces and the adjacent duplex at 2010 Nueces. Due to their proximity to the subject tract, which is directly across the street, my clients meet the criteria for interested parties set forth in 25-1-131, Subsection A (2) (B) of Land Development Code.

Mike McHone, agent for the University Cooperative Society, has filed the following applications for 507 W. 23rd Street.

2013-005629 TP – A request to remove a 31" Heritage Pecan tree. The EV Board recommended disapproval on March 6, 2013. The Planning Commission voted to deny the permit in April.

2013-044283 PR- Request to relocate the historic Dabney-Horne house from it's present location to 1200-02 Cotton Street. The case was postponed at my request at the May meeting of the Historic Landmark Commission. On June 24, Mr. McHone requested a thirty-day postponement. The case is scheduled to appear on the August agenda.

All three properties are located in the Inner West Campus Subdistrict of the UNO Overlay, which was awarded the most permissive site development regulations to encourage the dense development envisioned for this corridor.

My clients were aware this area was in transition when they purchased the property. But it seemed reasonable to assume that the Dabney Horne house would remain in place due to the fact the house and the lot is zoned historic.

My primary concern is the applicant's apparent disregard for the Order of Process set forth in subsection (A) of 25-1-61, which states:

(A) An applicant must obtain approvals in the following order:

- (1) Zoning;
- (2) Subdivision;
- (3) Site plan; and
- (4) Building permit.

In 1989 the City initiated historic zoning case C14h-89-0010 over the objections of the owners, who were opposed to the historic designation until such time that they were able to secure the appropriate commercial zoning. The case was postponed indefinitely. In 1991 the University Cooperative Society filed C14-91-0038 to change the zoning at 507 W 23rd Street from MF-4 to GO.

On August 1, 1991 City Council approved a zoning change from MF4 to GO-CO in conjunction, with conditions. George Mitchell, President of the University Cooperative Society was required to sign a Restrictive Covenant, which requires the Dabney-Horne home to be retained on the property, as it existed on August 1, 1991. The Restrictive Covenant which is recorded in Volume 11514 Page 0506 of the Real Property Records of Travis County can only be amended, modified or terminated by joint action of a majority of the City Council and the owners of the property at the time of such modification, amendment or termination.

Part 2 (1) of Ordinance NO. 910801-C states that... "No structure of any kind shall be built to a height greater than 40 feet above ground level on the Property."

On August 2, 1992 the Council approved the 1989 historic zoning case, which rezoned the Dabney-Horne house and the entire lot to GO-CO-H.

I realize the purpose of the UNO Overlay is to promote high-density redevelopment, particularly in the Inner West Campus Subdistrict. The only rule for redevelopment in the Inner West Campus Subdistrict is there aren't any rules. Every facet of the approval process was streamlined which has resulted in the construction of a number of student housing projects.

However, even 25-2-752 (Conflict of Law) can't trump the restrictions set forth in a recorded Restrictive Covenant or a zoning ordinance that restricts height on a property

because City Council actions aren't subject to this division of the Land Development Code. Neither is 25-1-61, the Order of Process. The current zoning for 507 W. 23rd Street is GO-CO-H-NP (C14-20120021) (Ordinance NO. 0408826-57)

On behalf of my client, I respectfully request that the application to relocate the Dabney-Horne house be withdrawn or suspended immediately and that staff take no further action or accept any application for the property at 507 W 23 St, until the applicant and owner have secured the following:

1. File a Zoning Amendment to terminate Restrictive Covenant (C14-91-0038) that requires the Dabney-Horne house to be retained on site.
2. File a Zoning Case to delete Part 2 (1), Condition Overlay District (Ordinance NO. 910801-C) Limit height of any structure to 40' above ground level.
3. File a Zoning Case to change the zoning from GO-CO-H- NP to GO-CO-NP to remove the historic designation from the entire lot.
4. A Neighborhood Plan Amendment may be required as per Article 16 of 25-1

My clients are not opposed to redevelopment or student housing. By this fall the Gerhard-Shock project will be an active participant in the UT student housing market.

The University Partners portion of the neighborhood plan recognized the need for density but noted there were a number of historically significant structures in this corridor that would and should survive. My clients have made a significant investment in the future by preserving a slice of Austin's history and they are equally committed to the survival of the Dabney-Horne house.

I look forward to hearing from you.

Sincerely,



Sarah Crocker

Authorized Agent

Gerard-Shock 1887 LLC

Council-Approved Documents

What is an Ordinance?

An **Ordinance** is a law that amends, repeals or supplements the Municipal Code, provides zoning specifications, or appropriates money for specific purposes.

An **Affidavit of Publication** serves as proof of publication that an ordinance was printed in the local newspaper as required by State law. It often includes a clipping of the actual notice as it appeared in the paper.

What is a Resolution?

A **Resolution** is a formal expression of a decision, opinion, policy or directive of the City, expressed in a document, and voted upon by the City Council.

What are Minutes?

Meeting **Minutes** are a summary of the items considered, discussed, and voted on at each regular Council meeting. In addition to minutes of the Austin City Council, the minutes of other bodies – including the Austin Housing Finance Corporation (AHFC) and the Mueller Local Government Corporation (MLGC) – are also available.

Council may also call **Special Meetings**, **Emergency Meetings**, or **Working Sessions** as needed. The Minutes for these meetings are also available.

What are Agendas and Agenda-Related Documents?

An **Agenda** provides a list of the matters to be discussed or voted on during a meeting. It is published before each Council meeting.

Agenda Changes and Corrections reflect changes made to a published Agenda. The Mayor reads this document into the record at each Council meeting.

An **Agenda Addendum** includes items added to an agenda after it is initially published.

Agenda Backup are supporting documents prepared by staff or outside consultants that are given to Council members regarding matters discussed or voted on during a meeting. Generally this documentation is made available in advance of the meeting. However, some documentation – **Agenda Late Backup** – is presented just before or during a Council meeting. Agenda Backup may include Recommendations for Council Action (RCA), drafts of proposed Resolutions or Ordinances, e-mails, reports, and other supporting documentation.

Agenda Questions and Answers are staff's responses to questions raised by the Council after they have reviewed the backup material for the items on an agenda.

Citizen Communications are supporting documents presented by citizens who are scheduled to speak to Council about items that may or may not be on an agenda.

What is a Contract Cover Sheet?

A **Contract Cover Sheet** identifies the vendor, the goods purchased, the term of a contract or agreement approved by the City Council and contact information for a key staff member. If anyone needs additional information about a contract, they can contact the person noted on the Cover Sheet.

What is a Restrictive Covenant?

Restrictive Covenants define limitations on the use of land and require Council approval. These restrictions are recorded in the deeds to real property and buyers agree to these limitations when they purchase the property.

A **Restrictive Covenant Amendment** records a change to the Restrictive Covenant and is approved by the City Council.

A **Restrictive Covenant Termination** is approved when the Council determines that limitations on the property are no longer needed.

[Close this Window](#)