

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:

Staff recommends General office-conditional overlay-neighborhood plan (GO-CO-NP) combining district zoning.

HISTORIC LANDMARK COMMISSION RECOMMENDATION:

January 27, 2014: *TO DENY GENERAL OFFICE-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (GO-CO-NP) COMBINING DISTRICT ZONING, (4-0-1-2) [ROBERTS- 1ST, GALINDO- 2ND; LEARY- ABSTAIN, LIMBACHER, MEYERS- ABSENT]*

PLANNING COMMISSION RECOMMENDATION:

January 28, 2014: *TO FORWARD TO COUNCIL WITHOUT A RECOMMENDATION. ACTIONS: MOTION TO DENY GENERAL OFFICE-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (GO-CO-NP) COMBINING DISTRICT ZONING, FAILED (3-4-1) [CHIMENTI- 1ST, STEVENS- 2ND; NORTEY- ABSENT]*

January 14, 2014: *POSTPONEMENT REQUEST BY STAFF, APPROVED ON CONSENT, (7-0-1) [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)). The appeal of the certificate of appropriateness has been withdrawn because the issue has been resolved based on a point of law. In accordance with Section 25-2-213 of the Land Development Code, the certificate of appropriateness has been approved.

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 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- 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)

C14h-89-0010: Request: From GO-CO to GO-CO-H. PC: To grant GO-CO-H.

CC: 4/2/92- To grant GO-CO-H, (6-0-1) [Garcia- 1st, Larson- 2nd, Todd- off dias]

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:

Staff recommendation is to approve General office-conditional overlay-neighborhood plan (GO-CO-NP) combining district zoning as requested.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. Zoning should allow for a reasonable use of a property.

Relocating the Dabney Home from the center of the property at 507 W. 23rd Street to the northwest corner of that same property will make redevelopment of the remainder of the property more feasible. Use and/or modification of the historic structure are very limited, in its current configuration.

2. The proposed zoning should be consistent with the purpose statement of the district sought.

The proposed zoning meets the goals of the University Neighborhood Overlay that was specifically designed for this area. The purpose of the UNO district is to promote high density redevelopment in this area, provide a densely populated but livable and pedestrian friendly environment, and protect the character of the predominantly single-family residential neighborhoods adjacent to the district.

Site Plan:

SP 1 Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made and design regulations will be enforced at the time a site plan is submitted.

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

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

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

4. 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.

5. 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.

[illegible]

SAN ANTONIO

EXHIBIT C



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 from 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 L&V 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 C14-91-0058 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 MF-4 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 6506 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-II.

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:

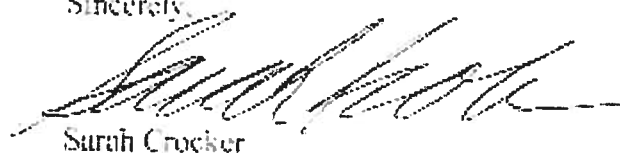
1. File a Zoning Amendment to terminate Restrictive Covenant (C14-91-0038) that requires the Dabney-Horne house to be retained on site.
2. File a Zoning Case to delete Part 2 (1), Condition Overlay District (Ordinance NO. 910801-C) Limit height of any structure to 40' above ground level.
3. File a Zoning 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

January 26, 2014

Laurie Limbacher, Chair
Historic Landmark Commission
City of Austin
Austin, Texas

RE: Request to Postpone Items A.1 and A.2 to February 24, 2014

Chair Limbacher,

I would respectfully request that these items be postponed until February 24th for the following reasons:

- I have retained the services of a civil engineer to prepare a massing study to illustrate a.) the gross s.f. that could be built under current conditions and b.) the gross s.f. that could be built if the pending zoning request is granted.
- Despite numerous requests the applicant has yet to provide the Commission with the pertinent information about the proposed student housing project, which is the driving force behind both of these cases.
- The applicant requested a permit to remove a Heritage Tree that is located behind the Dabney-Horne house and the Planning Commission denied that permit last March. The house cannot be relocated until that issue is resolved.
- There are no minimum setbacks in the Inner West Campus Subdistrict. The maximum setback is 10 feet. However, Section 25-2-757, (B), (4) allows the director to modify a maximum setback to protect a historic structure or a tree designated as significant by the city arborist.

The Commission is being asked to take the unprecedented step of reducing the setting of this historic landmark by 50% and removing approximately 25% of the structure to accommodate a student housing project.

The applicant has implied that if Dabney-Horne house isn't a.) relocated to another site or b.) whittled down to size, the proposed student housing project can't be built. To the best of my knowledge the applicant has never provided data to substantiate this claim.

This is the first student housing project that involves a historic landmark, which is why these cases are so important. Whatever action you take will have a direct impact of the viability of every historic landmark in the UNO Overlay.

The applicant filed their first application for a Certificate of Appropriateness on April 29, 2013. They have had nine months to produce this information. I'm asking for thirty days.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Crocker', written in a cursive style.

Sarah Crocker

Authorized Agent

Gerhard-Schoch 1887 LLC

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Executive Director

January 27, 2014

Chair Dave Anderson and Commission Members
Planning Commission
City of Austin
Sent via E-mail

Re: C14H-1989-0010, Dabney-Horne House, 507 W. 23rd Street

Dear Chair Anderson and Commissioners:

We understand that you may be considering a proposal to relocate the historic landmark Dabney-Horne house on its existing site in order to allow for more intense development of the remainder of the site. While we have not yet been privy to the specifics of these plans, insofar as we understand the proposal from the application materials and from walking the site, we have concerns about this latest proposal. We'd like to express our concerns regarding the general concept. We recommend that the Planning Commission take into account the following concepts.

- 1) The siting and setbacks of the historic house are now and should continue to be in keeping with the setbacks that are typical of other older and landmarked homes in the area.
- 2) Non-historic additions could be removed if they do not contribute to the historic character of the landmark property.
- 3) New construction on or adjacent to the property should be consistent with the Secretary of Interior's Standards for Rehabilitation. Standard 9 states, *"New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment."*

This is an important case that may influence treatment of other landmarked properties both in West Campus and throughout Austin. Thank you for considering our input, and for your service to our city.

Sincerely,

Tom Stacy
President