

## SECOND/THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-2015-0050 – Sunrise Pharmacy

DISTRICT: 4

REQUEST:

Approve second/third readings of an ordinance amending City Code Chapter 25-2 by rezoning property locally known as 7104, 7106, and 7108 Bennett Avenue (Buttermilk Branch Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning.

DEPARTMENT COMMENTS:

The item was approved on first reading with the following additions/modifications:

1. Limit of maximum of 300 vehicles per day.
2. A thirty-foot wide buffer provided along the southern boundary.
3. A Certificate of Occupancy for any commercial use shall not be issued until the Certificate of Occupancy for a minimum of two residential units is issued with the understanding that the construction could be completed simultaneously.
4. The following land uses would be prohibited on the property: Restaurant (general), Service station.

OWNER / APPLICANT: 11800 Metric Inc. (Abdul Patel)

AGENT: Land Answers, Inc., (Jim Wittliff)

DATE OF FIRST READING: First reading approved on September 10, 2015. Vote: 11-0.

CITY COUNCIL HEARING DATE: November 12, 2015

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ASSIGNED STAFF: Heather Chaffin  
e-mail: [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov)

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2015-0050  
Sunrise Pharmacy

**P.C. DATE:** August 11, 2015

**DISTRICT:** 4

**ADDRESS:** 7104, 7106, and 7108 Bennett Avenue

**AREA:** 0.658 Acres

**OWNER:** 11800 Metric Inc. (Abdul Patel)

**AGENT:** Land Answers, Inc. (Jim Wittliff)

**FROM:** SF-3-NP

**TO:** LR-MU-CO-NP

**NEIGHBORHOOD PLAN AREA:** St. John / Coronado Hills Combined

**WATERSHED:** Buttermilk Branch Creek

**TIA:** N/A

**DESIRED DEVELOPMENT ZONE:** Yes

### **SUMMARY STAFF RECOMMENDATION:**

Staff does not support the request for neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning.

### **ISSUES:**

A Valid Petition request was submitted by neighbors of the rezoning request, but currently does not meet the 20% threshold. The petition has 0% of valid signatures. *Please refer to Exhibit A (Petition).*

### **PLANNING COMMISSION RECOMMENDATION:**

August 11, 2015: *To grant neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning with the following conditions: 1. Development shall be limited to a maximum of 300 vehicle trips per day; 2. 30' of right-of-way shall be dedicated from centerline of Bennett Avenue; 3. A 30' wide vegetative buffer shall be provided along the southern boundary; 4. The following land uses shall be prohibited: restaurant (general) and service station. (9-2) [J. Vela- 1<sup>st</sup>, T. Nuckols- 2<sup>nd</sup>; J. Shieh, N. Zaragosa- Nay; J. Stevens- Absent.*

### **DEPARTMENT COMMENTS:**

The proposed rezoning tract is comprised of three lots located at the southwest corner of East St. Johns Avenue and Bennett Avenue. These lots are all undeveloped and zoned SF-3-NP. West of the rezoning tract is property zoned CS-MU-CO-NP and developed with multiple land uses, including limited restaurant, limited retail, and what appears to be a bus terminal. South of the rezoning tract are several single family residences and duplexes zoned SF-3-NP. Across Bennett Avenue to the east are more single family residences and duplexes zoned SF-3-NP. North of the rezoning tract, across St. Johns Avenue, are more single family and duplex residential lots zoned SF-3-NP. *Please refer to Exhibits B and C (Zoning Map and Aerial Map).*

The rezoning lots form part of the boundary between commercial land uses near IH 35 and the residential St. Johns neighborhood, which is also reflected on the north side of St. Johns Avenue. These lots were designed to residential standards as part of the St. Johns College Addition subdivision. The lots were sized for duplex or single family residences with frontage onto Bennett Avenue.

City of Austin Transportation Review recommends that, if the requested zoning is granted, site development should be limited to a maximum of 300 vehicular trips per day. Staff also recommends that vehicular access to St. Johns be prohibited as a condition of zoning because St. Johns is an arterial street and a proposed driveway will not have enough frontage to provide adequate spacing from the intersection and the adjacent driveway. Additionally, if the requested zoning is granted, 30 feet of right-of-way should be dedicated from the centerline of Bennett Avenue, in order to accommodate traffic anticipated to be generated by this site. Plans for a future protected bicycle lane along St. Johns may increase the necessary right-of-way dedication and may further affect site design. The right-of-way dedication may be deferred to time of site plan or subdivision. These transportation issues would create a significant impact on Bennett Avenue, a residential collector street.

The subject tract, like the residential lots to the north, south and east, was rezoned from SF-3 to SF-3-NP in conjunction with the development of the St. Johns Neighborhood Plan. The commercial property to the west was also rezoned at that time, from LI and CS to CS-MU-CO-NP, with the condition that a 25-foot wide vegetative buffer be provided adjacent to the residential properties to the east. The zoning for this area was processed under City File C14-2011-0115, was approved by City Council in April, 2012.

#### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NP	Vacant
<i>North</i>	SF-3-NP	Single family residential
<i>South</i>	SF-3-NP	Single family residential
<i>West</i>	CS-MU-CO-NP	Retail/commercial, Limited restaurant, Bus terminal
<i>East</i>	SF-3-NP	Single family residential

#### **ROADWAY CHARACTERISTICS:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Sidewalks</b>	<b>Bike Route</b>	<b>Capital Metro (within ¼ mile)</b>
St. Johns Avenue	83 ft.	43 ft.	Arterial	Yes	Yes	Yes
Bennett Avenue	50 ft.	36 ft.	Collector	No	No	Yes

#### **SCHOOLS:**

Pickle Elementary School

Webb Middle School

Reagan High School

#### **NEIGHBORHOOD ORGANIZATIONS:**

Austin Neighborhoods Council

AISD

Edward Joseph Developments, LTD

Friends of the Emma Barrientos MACC

Sierra Club, Austin Regional Group

St. John Neighborhood Association

Austin Heritage Tree Foundation

Bike Austin

Friends of Austin Neighborhoods

SEL Texas

St. John Contact Team

#### **CITY COUNCIL DATE/ ACTION:**

***September 10, 2015:*** To grant postponement by Staff to October 8, 2015, (11-0)

***October 1, 2015:*** The public hearing was conducted and the motion to close the public hearing and adopt the first reading of the ordinance for neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning with the following additional conditions was approved on Council Member Casar's motion, Council Member Renteria's second on an 11-0 vote.

The additional conditions were:

- Limit of maximum of 300 vehicles per day
- Thirty feet of right-of-way shall be dedicated from the center line of Bennett Ave.
- Thirty foot wide buffer provided along the southern boundary

- The following land uses would be prohibited on the property:
  - o Restaurant general
  - o Service station

There was a friendly amendment made by Council Member Casar to prohibit the Certificate of Occupancy for the commercial use from being issued until the Certificate of Occupancy for the two residential units is issued with the understanding that the construction could be completed simultaneously. The amendment was accepted without objection.

*November 12, 2015:*

**ORDINANCE READINGS:** 1<sup>st</sup> October 1, 2015      2<sup>nd</sup>      3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Heather Chaffin  
e-mail: [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov)

**PHONE:** 974-2122

**STAFF RECOMMENDATION:**

Staff does not support the request for neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning.

1. *Zoning changes should promote compatibility with adjacent and nearby uses.*

Commercial land uses are not compatible with the surrounding land uses. Although there is commercial to the west, the block where the rezoning tract is located is entirely residential.

2. *The proposed zoning should promote consistency and orderly planning, and promote an orderly relationship among land uses.*

The boundary between commercial and residential areas is clearly marked in this area, and is reflected in the adopted neighborhood plan. The proposed rezoning would not respect the established boundaries, and is not a transitional area.

**SITE PLAN**

SP 1 Site plans will be required for any new development other than single-family or duplex residential.

SP 2 Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

SP 3 Compatibility Standards. This site is less than 20,000 square feet. There are Single Family uses directly north and south of the property and across Bennett Avenue to the east. Compatibility standards apply to the north, south, and east property lines.

- No structure may be built within 15 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- A fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- Additional design regulations will be enforced at the time a site plan is submitted.

**TRANSPORTATION**

TR1. If the requested zoning is recommended for this site, 30 feet of right-of-way should be dedicated from the centerline of Bennett Avenue in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site. This right-of-way dedication is being deferred till the time of subdivision and/or site plan. LDC, 25-6-55; TCM, Tables 1-7, 1-12.

TR2. The bicycle lane on St. Johns is noted in the bicycle plan as a future protected bicycle lane. The design of the bicycle lane may increase the necessary right-of-way dedication and may further affect site design. Additional right-of-way maybe required at the time of subdivision and/or site plan.



TR3. If the requested zoning is granted, it is recommended that motor vehicular access to St. Johns be prohibited as a condition of zoning because St. Johns is an arterial street and a proposed driveway will not have enough frontage to provide adequate spacing from the intersection and the adjacent driveway.

TR4. A Neighborhood Traffic Analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 300 vehicle trips per day. [LDC, 25-6-117]

TR5. Nadia Barrera, Urban Trails, Public Works Department and Nathan Wilkes, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

TR6. Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
St. Johns Avenue	83 ft.	43 ft.	Arterial	Yes	Yes	Yes
Bennett Avenue	50 ft.	36 ft.	Collector	No	No	Yes

### **ENVIRONMENTAL**

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Buttermilk Branch 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.

### **WATER UTILITY**

FYI: 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, water or wastewater easements, utility relocations and or abandonments required by the proposed land use. Depending on the development plans submitted, water and or wastewater service extension requests may be required. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. 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.

## PETITION

Date: July 7<sup>th</sup>, 2015

Rezoning Request Case Number: C14-2015-0050

Address of Rezoning Request: 7104, 7106 & 7108 Bennett Avenue  
Austin, Texas 78752

To: Austin City Council


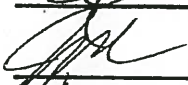
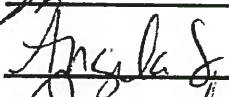
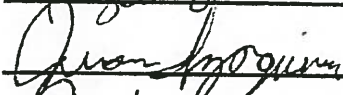
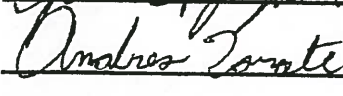
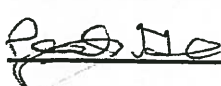

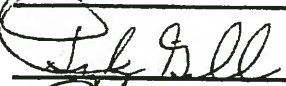
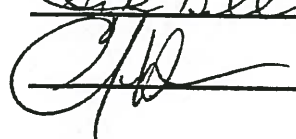
We, the undersigned owners of property affect by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would rezone the property to any classification more intense than residential, single family residential lot (SF-4A).

### REASONS FOR PROTEST

1. Any commercial use of the land is against the St. John's Future Land Use Map (FLUM) and the adopted neighborhood plan. Specifically:
  - a. A commercial lot that sells alcohol/tobacco would be against the neighborhood's FLUM's goals and focus on crime prevention along the I35 and St. John's (3/26/2015 St. John/Coronado Hills Neighborhood Plan Implementation Tracking Chart, action number 84L, page 26, plan page 38).
  - b. A commercial lot would not support the FLUM's goal of "surveying and determining the existence and extent of potential landmarks and historic districts on the St. John's neighborhood boundary streets of Atkinson Road to the south, E. Anderson the north, Bennett Avenue on the west and Blessing Avenue on the east" (March 26<sup>th</sup>, 2015 St. John/Coronado Hills Neighborhood Plan Implementation Tracking Chart, action number 182, page 35, plan page 87).
  - c. A commercial lot would not support the FLUM's goal that "residential infill development tools should be utilized by developers/property owners to ensure new housing compliments the character and scale of the existing housing stock" (March 26<sup>th</sup>, 2015 St. John/Coronado Hills Neighborhood Plan Implementation Tracking Chart, action number 183, page 35, plan page 87).
  - d. A commercial lot would not support the FLUM's goal that "design tools should be utilized by developers/property owners to ensure new housing development strengthens a neighborhood 'sense of space'" (March 26<sup>th</sup>, 2015 St. John/Coronado Hills Neighborhood Plan Implementation Tracking Chart, action number 184, page 35, plan page 87).

2. Similar adjacent lots on Bennett Street are single family residential ones and no other lot on the street has recently been changed to a commercial lot.
3. Changing any lot on Bennett Street to a commercial lot would set an undesirable precedent because it would change the residential boundary, bringing the commercial properties along the I35 access road into the neighborhood.
4. Changing the lot on Bennett Street to a commercial lot would detrimentally impact the St. John/Coronado Hills neighborhoods' character because the proposed pharmacy would sell alcohol/nicotine products, possibly adding a dangerous element into the neighborhoods.
5. Although the lots in question begin at an intersection, they would push into the middle of Bennett Street, and would unreasonably burden the neighborhood with traffic.
6. Changing it to a commercial lot would be against any neighborhood goal or purpose. *See number one above.*
7. Commercial use of the lot would be against preserving and protecting the historical and cultural significance of the neighborhood.

**PETITION SIGNATURES**  
**PLEASE USE BLACK INK WHEN SIGNING PETITION**

<u>Signature</u>	<u>Printed Name</u>	<u>Address and Phone Number</u>
	Omar Diaz	7009 Bennett Ave. 915.256.6731
	JAY PROSKE	7007 BENNETT AVE 512-277-0699
	Angela Scheer	7003 Bennett Ave #A 713-922-9211
	Juan Traguine	7003 Bennett Ave #B (713) 376-8619
	Andrea Zarate	7003 Bennett Ave #A (832) 677-2277
	Paul GARCIA	7000 Bennett Ave 512 731 1102
	J.P. Lane	7003 Bennett Ave #A (713) 922-9211
	Sylvia Grilla	7409 Bennett 512 945 9244
	Jared Kopecky	7007 Bennett Ave 979 231 0837



Date: 7/14/15

Contact Name: Jared Kopecky  
Contact Address: 7007 Bennett Avenue  
Austin, Texas 78752  
Contact Number: (979) 251-0837

Case Number:

## PETITION

C14-2015-0050

Date: 8/6/2015

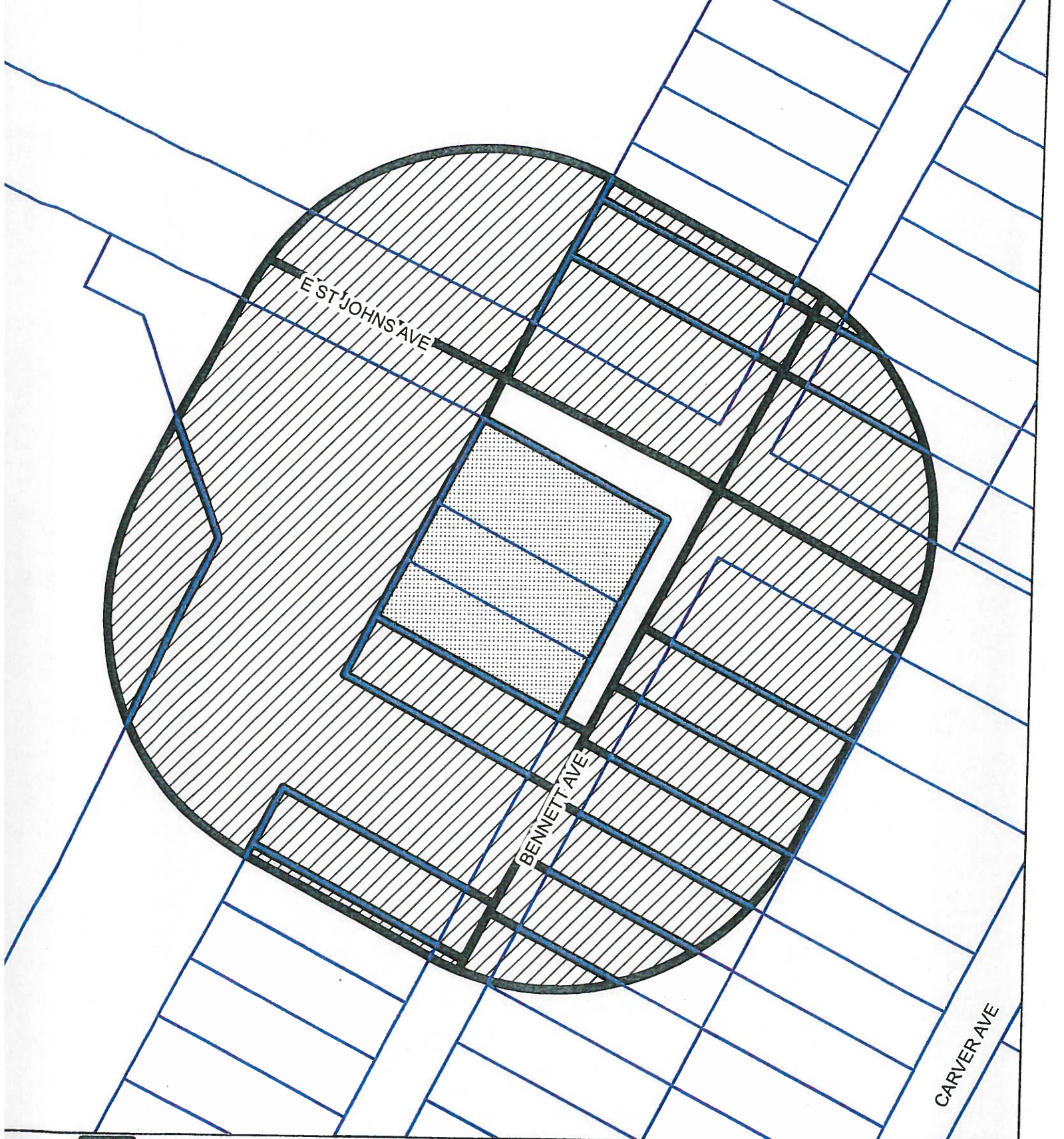
Total Square Footage of Buffer: 261188.7207

Percentage of Square Footage Owned by Petitioners Within Buffer: 0.00%

Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

TCAD ID	Address	Owner	Signature	Petition Area	Percent
0229150212	7205 BENNETT AVE 78752	ALEMAN OCTAVIANO & TRINI	no	3831.31	0.00%
0229150118	7008 BENNETT AVE AUSTIN 78752	ALEXANDER MEDINA	no	8075.19	0.00%
0229150424	7011 BENNETT AVE 78752	ARNOLD AGEAN	no	5621.33	0.00%
0229150211	7203 BENNETT AVE AUSTIN 78752	BEATTIE JUANITA	no	7630.49	0.00%
0229150143	907 E ST JOHNS AVE 78752	BRIGHT TRUCK LEASING CORPORATION % PENSKE TRUCK LEASING CO., L.P. ATTN: REAL ESTATE	no	76310.99	0.00%
0229150812	7211 N INTERSTATE HY 35 78752	CITY OF AUSTIN	no	17944.58	0.00%
0229150416	7009 BENNETT AVE 78752	CYPHERS ARVIL ESTATE % KENNETH E BANKS	no	2489.27	0.00%
0229150417	7101 BENNETT AVE 78752	DANIELS BARBARA ANN & BETTY LUE BETTY LUE SCOTT	no	7193.03	0.00%
0229150115	7102 BENNETT AVE 78752	DAVIS KATHERINE LIFE ESTATE	no	8326.25	0.00%
0229150213	7207 BENNETT AVE 78752	GAYIM FANTU	no	233.66	0.00%
0229150806	7206 BENNETT AVE 78752	GREEN EUGENIA WASHINGTON	no	2696.03	0.00%
0229150142	901 E ST JOHNS AVE 78752	HENDRICKS COMMERCIAL PROPERTIES LLC	no	10391.95	0.00%
0229150421	7107 BENNETT AVE 78752	HERRON MARY	no	8061.53	0.00%
0229150119	7006 BENNETT AVE 78752	JOHNSON JAMES EDWARD SR	no	1722.68	0.00%
0229150807	7204 BENNETT AVE 78752	MANDANICI YVONNE S APT B2	no	8308.88	0.00%
0229150422	7109 BENNETT AVE 78752	RIVERA JOSE	no	12010.11	0.00%
0229150419	7103 BENNETT AVE 78752	SAULS LENA F	no	7845.98	0.00%
0229150808	7202 BENNETT AVE 78752	SOTELO ANTONIO M	no	10025.67	0.00%
0229150420	7105 BENNETT AVE AUSTIN 78752	WEBB ALFRED RAY	no	8010.21	0.00%
<b>Total</b>				<b>206729.14</b>	<b>0.00%</b>





## PETITION

CASE#: C14-2015-0050



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2009-0002

P-NP

C14-2009-0002

SP-94-0185C

MUNICIPAL COURT & POLICE SUBSTATION

ST. JOHN'S SCHOOL

CHURCH PRKNG.

WILKS AVE

SF-3-NP

SF-3-NP

SF-3-NP

SF-3-NP

SF-3-NP

E ST JOHNS AVE

ST. JOHN'S SCHOOL

78-160

S-MU-NP

CS-MU-CO-NP  
C14-05-0037.SH

05-0037.SH

FREIGHT CO.

C14-2011-0115

CS-MU-CO-NP

SP-97-0413CS  
MOVING CO.

NP 2017-0029

S-MU-NP

LI-CO-NP  
SP-98-0248C

73-008

SF-3-NP

BENNETT AVE

SF-3-NP

SF-3-NP

SF-3-NP

MOTEL

CS-MU-NP

ME-3-NP

SF-3-NP

SF-3-NP

SF-3-NP

SF-3-NP



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

## ZONING

Zoning Case: C14-2015-0050



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1" = 200'



