

RECEIVED**AUG 23 2017**

Abraham Birgani
12606 Blackfoot Trail
Austin, Texas 78729
(512) 998-2525

Planning & Zoning Department

REQUEST FOR POSTPONEMENT
TO CITY COUNCIL

Date: August 23, 2017

To: Honorable Mayor Steve Adler
and Honorable Members of the Austin City Council
P.O. Box 1088
Austin, Texas 78767-1088

Case Manager Sherri Sirwaitis,
Zoning case# C14-2017-0042
Phone# (512) 974-3057
Sherri.sirwaitis@AustinTexas.gov

From: The Property Owner
Abraham Birgani
Phone# (512) 998-2525
Cyrus_birgani@yahoo.com

Dear Honorable Major Adler, Distinguished Council members and Ms. Sirwaitis,

On August 15, 2017, the Planning and Zoning Commission heard the above reference case and made a very creative and complex recommendation based upon the unique problems in my case.

First, my property consists of one building, the front part facing McNeil and the other side extending onto Blackfoot Trail. The property is located in Williamson County and was zoned entirely commercial with other 3 lots of Indian Oaks 2 Subdivision until the City of Austin annexed it in 1997 and drew an artificial property line through the middle of the building and imposed impossible conditions

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on the property rendering it commercially unfeasible. Due to such restrictions, it remained vacant for most of the past 20 years.

The main concern in the Planning and Zoning hearing was the issue of access from Blackfoot Trail. This issue was resolved with a recommendation agreed to by all parties to prohibit any access from or business activity on Blackfoot Trail. The Planning and Zoning Commission recommended zoning the front part of the building entirely facing McNeil, (approximately 1500 square feet), as GR with restrictions, but recommended the back portion (approximately 2388 square feet), of the same building as SF-2, which obviously prohibits *any* commercial use, even storage or offices, within the back portion of the same building, regardless of the fact that:

1. It will not have any business activity on Blackfoot Trail
2. It has the aesthetic of a residential property.
3. On Eastside, the two property owners immediately across from the Blackfoot side 12603 Blackfoot trail and 12605 Blackfoot Trail are not in opposition to commercial zoning of the extension of the building along Blackfoot Trail
4. On the Northside, 12604 Blackfoot trial property is belonging to myself (Abraham Birgani) and I am not in opposition of commercial rezoning.
5. On the Westside, private daycare is not in opposition to commercial zoning of the extension of the building along Blackfoot trail.
6. Not anyone of the property owners adjacent to the property for rezoning is in opposition of rezoning and total of 87.57% property effected by this rezoning either supporting or not in opposition.

The current Planning Commission recommendation still makes the property commercially unfeasible. But to make a proper presentation to this honorable council, I need to consult with a real estate appraiser to conduct an appraisal on the property with the current zoning recommendation and to conduct a cost analysis. Unfortunately, because of the high demand for appraisers and the time it will take to render a cost analysis, I am not able to properly inform this council of the relevant facts by August 31, 2017. I am certain that the Austin City Council would like to have all the pertinent facts before conducting a first reading.

Second, the Zoning Change Review Sheet of August 15, 2017 still provides the following recommendation: "In addition, if the requested zoning change is granted, then 57 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive to accommodate the required ROW for a Major Arterial Divided 4-lane roadway at 114 feet." This was included despite assurances by staff that this provision was superseded by the ATD Memorandum of July 26, 2017, that provided in part: ". . .the Director has determined that the right of-way dedication is deferred site plan." Third, even with this modification, significant problems remain in the event that a new site plan must be submitted due to zoning changes or environmental issues. Finally, this issue in long run will cause the following issue for me which I need more time to resolve them with ATD:

1. The extensive concrete drainage/flood control system adjacent to Blackfoot required by FEMA and the City of Austin in the original site plan was designed to use the existing square footage of the entire parking area for overflow. The drainage/flood control system can only drain water at a fixed rate. Reducing the square footage of the parking area would require move to move the existing building back at least another 7 feet at a cost approaching \$1,000,000.00.
2. This drainage/flood control system (and parking lot overflow) was required as a part of his site plan. In 2002, Birgani built this system, costing approximately \$300,000.00. Please refer to the approved site plan permit number: SP-99-2171C, dated, 11/10/99.
3. ROW requirement would encroach 7 feet into the parking lot. This would eliminate one entire row of parking.
4. The compatibility standards also provide in part, "No structure may be built within 25 feet of the property line." Because the approved, existing drainage/flood containment structures are within 25 feet of the property line, which was approved by the city in 1999, this requirement must be removed or waived.

5. The compatibility standards also provide in part, "No parking or driveways are allowed within 25 feet of the property line." Please note that these standards apply *only* to driveways along the north, of the property, the existing driveway off McNeil is on the *south* of the property, therefore this standard does not apply. Even if it did, the original site plan allowed the placement of the existing driveway off McNeil within 25 feet of the property line, presumably as a part of the engineered drainage system, the imposition of this standard would also create similar problems to those addressed above.

I proposed a compromise: a ROW agreement of 50 feet from the center of McNeil Drive to the existing McNeil curb of his property, thus allowing me to preserve my existing parking and drainage/overflow and allowing the city and state to expand McNeil by another lane. Despite numerous phone calls and emails, there has been no response to proposal form ATD.

In short, it is my opinion that the imposition of these conditions is not only unreasonable, but constitute a regulatory taking of my property. I need some time to work with Austin transportation department to resolve this issue too.

Accordingly, I am respectfully request just one postponement for the first reading from August 31st, 2017 to October 5th, 2017. I look forward to your response. Also, please confirm that you receive my request and is accepted by you. Thank you!

Respectfully submitted,

Abraham Birgani

Abraham Birgani
08/23/2017

ON ALL SITE PLANS

Conformance with the released site plan shall require a site plan amendment and Development Department; minor Building Plan Review Section at the

include Building Code and Fire Code

of relocation, or damage to,

required at a later date.

and prior to an application for
ed or Planning Commission approved

asphalt or concrete pavement prior
driving surface.

center of the four-inch opening at
The four-inch opening must face
to six-foot setbacks from the
within three feet of any
must be totally unobstructed from the

fire protection facilities are installed
shall include all surface access
ade serviceable prior to and during
ernative methods of protection, as
vided, the above may be modified or

all be engineered and installed for
vious/decorative paving within
approved by the Fire Department.

with an individual capacity of 1.5
stored or placed within ten feet of
stible eave lines.

shall be registered with City of
ected for final approval.

apparatus is 13 feet, 6 inches for

PROPERTY OWNER:

Abraham Birganl
12602 Blackfoot Trall
Austin, Texas 78729
(512)331-5666

LEGAL DESCRIPTION

Lot 2, Indian Oaks 2, part of the Wm. J. Baker Survey #10,
Recorded in Plat Records, Cabinet J, Slide 264, of Williamson
County, Texas.

SITE PLAN NOTES:

1. Total site is 25,039 or 0.5748 acres.
2. Total area being developed is 17,289 S.F. = 0.397 acres.
3. Existing Impervious Cover
 - a. 1-Story Bldg.- 3888 s.f. 15.53%
 - b. Concrete flat work- 1073 s.f. 4.29%
 - Total Impervious Cover 4,961 s.f. 19.81%
4. Impervious Cover to Remain and New Concrete Pavement
 - a. 1 Story Bldg.- 3888 s.f. 15.53%
 - b. Existing Conc. flat work- 982 s.f. 3.92%
 - c. New Pavement- 7851 s.f. 31.36%
 - d. New Conc. flat work- 91 s.f. 0.36%
 - Total Impervious Cover 12,812 s.f. 51.17%
5. Increase in Impervious Cover: 7851 s.f. 31.36%
6. Limits of Construction (within property lines) - 13,130 s.f.

GARBAGE PICKUP: At Curb Side

RELATED CASES: NONE

GENERAL CONSTRUCTION NOTES:

1. All new concrete work shall be constructed with 3000 p.s.i. concrete.
2. All excavated surplus material shall be hauled off by Contractor to approved Landfill.
3. All disturbed and regraded permeable areas shall be finished with 3' of approved fertile topsoil. Same areas shall be hydromulched. Watering will be done by Contractor. See re-vegetation notes on Sht. C5.
4. All pavement & sidewalk surfaces shall be hard-trowelled & finished with a medium coarse brush. Other exposed surfaces; i.e., vertical surfaces & curbs shall be grouted with a sand/cement mix & finished with a rubber float.
5. All finished concrete work shall be immediately sealed with a curing compound.
6. Following completion of concrete drive, the contractor shall barricade drive to assure that vehicular traffic does not enter drive. Barricades shall be maintained for 7 days.
7. Upon completion of the proposed site improvements and prior to the release of the certificate of occupancy or final inspection release by the city, the design engineer shall certify in writing that the proposed drainage and detention facilities were constructed in conformance with the approved plans.

OAKS

LOT 1

BUILDING

N70°42'00"E

151.00'

5.5' WOOD FENCE

5' B.L.
5.5' WOOD FENCE

EXISTING RESIDENCE
& IMPORT/EXPORT
BUSINESS
ONE STORY
F.F.=914.32

EXISTING
TWO CAR
CONCRETE
DRIVEWAY

TRACT
SF-2

EXISTING
SEPTIC
FIELD
TO BE
ABANDONED

EXISTING
STORAGE
BUILDING
ON CONC. SLAB

EXISTING
BEAUTY SHOP
ONE STORY
F.F.=914.16

ACCESSIBLE ROUTE

LOT 2

TRACT 2

LR-CO

CONCRETE PAVEMENT

K1

3 SP. @ 9.0' = 27.0'

3 SP. @ 9.0' = 27.0'

10' FUTURE R.O.W.
RESERVED AS PER SEC. 13-5-8

131.00'

S70°57'00"W

N25°49'17"E
C=28.47' A=51.69'

BACK OF CURB
AT DOW LINE

