

Zoning Ordinance Approval

CITY OF AUSTIN

RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 44

AGENDA DATE: Thu 01/29/2004

PAGE: 1 of 1

SUBJECT: C14-03-0166.SH - Red Willow Drive - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 8422-8504 Red Willow Drive (Williamson Creek-Barton Springs Zone) from rural residence (RR) district zoning to single family residence standard lot (SF-2) district zoning. First reading on January 15, 2004. Vote: 6-0, McCracken off the dais. Conditions met as follows: Restrictive Covenant incorporates the conditions accepted by City Council at first ordinance reading. Applicant: DSJ, Land Group, LTD. Agent: Steve Jensen. City Staff: Annick Beaudet, 974-2975

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guemsey

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-03-0166.SH

REQUEST:

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code rezoning the property locally known 8422-8504 Red Willow Drive from rural residence district (RR) zoning to single family residence standard lot district (SF-2) zoning.

DEPARTMENT COMMENTS:

The subject property is within the Barton Springs Zone.

The applicant is in agreement with the staff recommendation to provide an Integrated Pest Management Plan (IPM)/Grow Green Plant List restrictive covenant as requested by the City Council on first reading. The IPM restrictive covenant will be executed prior to second/third reading.

OWNER/APPLICANT: DSJ Land Group, LTD.

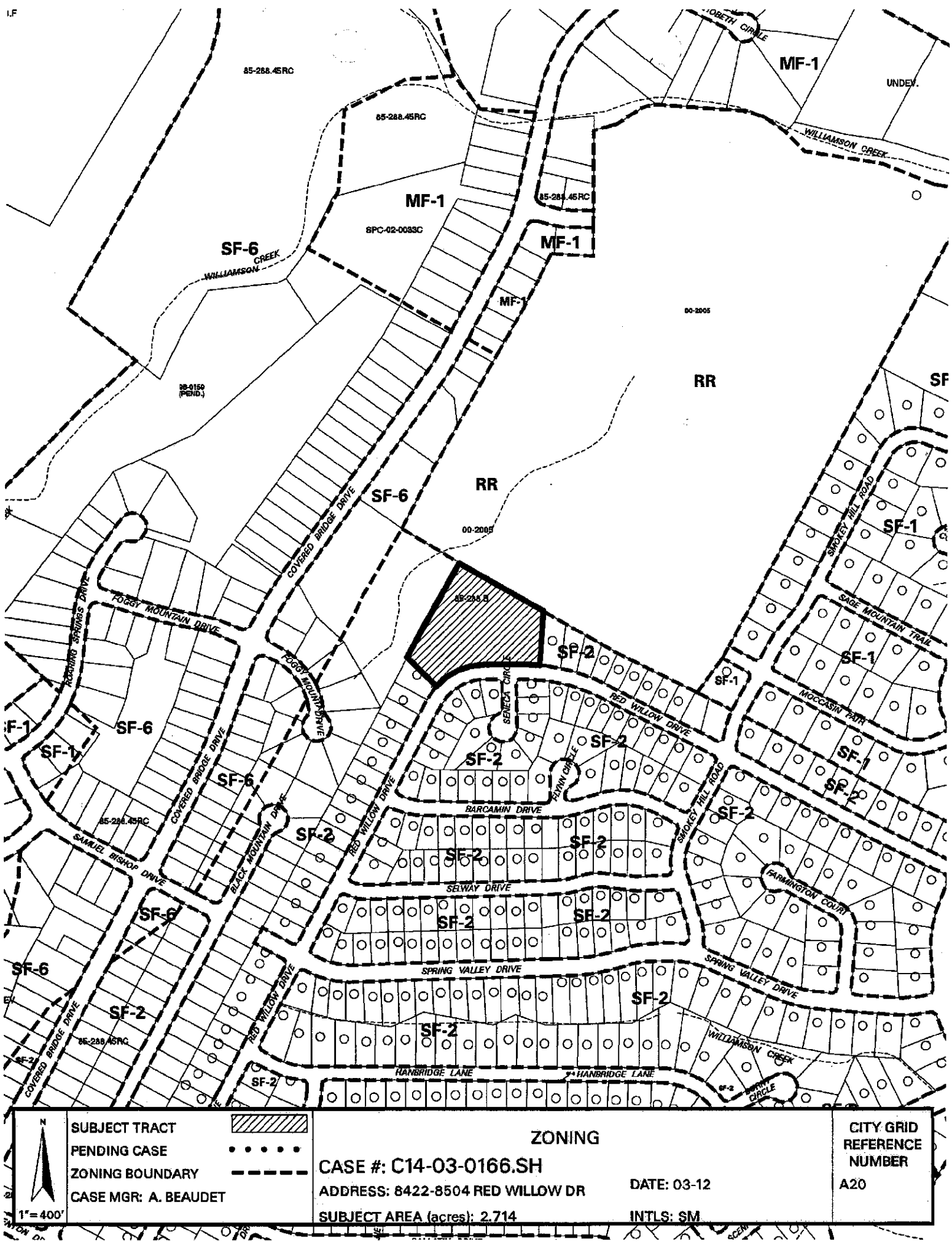
AGENT: Steve E. Jensen

DATE OF FIRST READING: January 15, 2004.

CITY COUNCIL ACTION: To approve single family residence standard lot district (SF-2) zoning on first reading only. Vote: 6-0, McCracken off dais.

CITY COUNCIL HEARING DATE: January 29, 2003

ASSIGNED STAFF: Annick Beaudet, 974-2975.



ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 8422-8504 RED WILLOW DRIVE FROM RURAL
3 RESIDENCE (RR) DISTRICT TO SINGLE FAMILY RESIDENCE STANDARD
4 LOT (SF-2) DISTRICT.

5
6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
7

8 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
9 change the base district from rural residence (RR) district to single family residence
10 standard lot (SF-2) district on the property described in Zoning Case No.C14-03-0166SH,
11 on file at the Neighborhood Planning and Zoning Department, as follows:
12

13 A 2.714 acre tract of land, more or less, out of the Hugh Kelly Survey No. 525, in
14 Travis County, the tract of land being more particularly described by metes and
15 bounds in Exhibit "A" incorporated into this ordinance,
16

17 locally known as 8422-8504 Red Willow Drive, in the City of Austin, Travis County,
18 Texas, and generally identified in the map attached as Exhibit "B".
19

20 PART 2. This ordinance takes effect on _____, 2004.
21

22
23 PASSED AND APPROVED
24

25
26
27 _____, 2004

§
§
§

Will Wynn
Mayor

28
29
30
31
32 APPROVED: _____

33 David Allan Smith
34 City Attorney

ATTEST: _____

Shirley A. Brown
City Clerk

C14-03-0166.S



P. O. Box 324
Cedar Park, Texas 78630-0324
(512) 259-3361 Phone
(512) 259-3381 Fax

**METES AND BOUNDS DESCRIPTION
2.714 ACRES OF LAND
IN TRAVIS COUNTY, TEXAS**

BEING A 2.714 ACRE TRACT OF LAND SITUATED IN THE HUGH KELLY SURVEY NO. 525, IN TRAVIS COUNTY, TEXAS, AND ALSO BEING OUT OF THAT CERTAIN 174.815 ACRE TRACT OF LAND CONVEYED TO BILL MILBURN, INC., BY INSTRUMENT RECORDED IN VOLUME 6511, PAGE 1462 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 2.714 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8" iron pipe found for the Northeast corner of Lot 20, Block "E", "Covered Bridge, Section One", recorded in Volume 78, Page 67 of the Travis County Plat Records, same being in the South line of that certain 51.7 acre tract of land conveyed Marvin Bassford by instrument recorded in Volume 1347, Page 5 of the Deed Records of Travis County, Texas, for the Northwest corner hereof;

THENCE, with the South boundary line of said 51.7 acre Bassford tract for the North boundary line hereof, South 59°00'56" East, a distance of 336.47 feet to a 1/2" iron rod found in the South boundary line said 51.7 acre Bassford tract, same being the Northwest corner of Lot 11, Block "A", "Windmill Run, Section Two-A", recorded in Volume 80, Page 186 of the Travis County Plat Records, for the Northeast corner hereof;

THENCE, with the West boundary line of said Lot 11 for the East boundary line hereof, South 05°04'17" West, a distance of 188.43 feet to a 1/2" iron rod found for the Southwest corner of said Lot 11, same being in the North Right-of-Way line of Red Willow Drive (50' Right-of-Way per Volume 80, Page 186, Travis County Plat Records), for the Southeast corner hereof;

THENCE, along the North Right-of-Way of Red Willow Drive with the South boundary line hereof the following three courses;

EXHIBIT A



 1" = 400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: A. BEAUDET	ZONING EXHIBIT B CASE #: C14-03-0166.SH ADDRESS: 8422-8504 RED WILLOW DR SUBJECT AREA (acres): 2.714		CITY GRID REFERENCE NUMBER A20
		DATE: 03-12 INTLS: SM		

ZONING CHANGE REVIEW SHEET

CASE: C14-03-0166.SH

ZPC DATE: December 16, 2003

ADDRESS: 8422-8504 Red Willow Drive

OWNER/APPLICANT: DSJ Land Group, LTD.

AGENT: Steve E. Jensen

ZONING FROM: RR

TO: SF-2

AREA: 2.714 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends single family residence standard lot (SF-2) district zoning.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

12-16-03: Approved staff's recommendation of single family residence standard lot (SF-2) zoning.

Vote: (8-0) CH – absent

ISSUES:

None at this time.

DEPARTMENT COMMENTS:

This is a City of Austin S.M.A.R.T Housing project. (Exhibit A)

The applicant has indicated the intent to develop a single-family subdivision development. The number of units will be determined at the time of subdivision and will be limited by impervious cover limits as required in the Barton Springs Zone.

According to the applicant, this site does contain some fill (rock and soil) from the construction of the adjacent road during the buildout of the subdivision in the late 1970s and early 1980s. Three lots outside the subject tract but on the fill area have been platted and zoned - at the eastern and western edges of the fill area - and two of these lots have been built with single-family houses. The applicant has had a geotechnical study done and has determined that the site is appropriate for single-family housing, and will be using concrete piers for the foundation. The applicant has also had a phase I environmental study conducted.

The adjacent subdivision was approved on January 13, 1981. (Exhibit B).

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	RR	Undeveloped
<i>North</i>	RR	Undeveloped
<i>South</i>	SF-2	Single family homes
<i>East</i>	SF-2	Undeveloped, single family homes
<i>West</i>	SF-2	Undeveloped

AREA STUDY: Oak Hill Area Study

TIA: Not required.

WATERSHED: Williamson Creek

DESIRED DEVELOPMENT ZONE: No.

CAPITOL VIEW CORRIDOR: No.

HILL COUNTRY ROADWAY: No.

NEIGHBORHOOD ORGANIZATIONS:

Save Barton Creek Assn.
Barton Springs Coalition
Wynrock Area Neighborhood Assn.
Hill Country Estates Homeowners Assoc.
Save Our Springs Alliance

CASE HISTORIES:

NUMBER	REQUEST	ZONING AND PLATTING/PLANNING COMMISSION	CITY COUNCIL
C14-85-288.B	Oak Hill Area Study	Not available.	Approved June 11, 1987.
C14-00-2005	City initiated zoning case from I-RR to RR	3-21-00: Recommend by consent.	4-20-00: Approve RR zoning.

RELATED CASES:

There are no pending site plan or subdivision applications currently under review by the City of Austin.

ABUTTING STREETS:

Name	ROW	Pavement	Classification
Red Willow Drive	50'	30'	Local Residential

CITY COUNCIL DATE: January 29, 2004

ACTION: To approve single family residence standard lot (SF-2) district zoning on first reading only. To require an Integrated Pest Management/Grow Green Plant List restrictive covenant be executed prior to second/third reading. Vote: 6-0, McCracken off dais.

ORDINANCE READINGS: 1st 1-15-04 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Annick Beaudet

PHONE: 974-2975



 1" = 400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: A. BEAUDET	 	ZONING CASE #: C14-03-0166.SH ADDRESS: 8422-8504 RED WILLOW DR SUBJECT AREA (acres): 2.714	DATE: 03-12 INTLS: SM	CITY GRID REFERENCE NUMBER A20
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STAFF RECOMMENDATION

C14-03-0166.SH

Staff recommends single-family residence standard lot (SF-2) district zoning.

BACKGROUND

The property was zoned rural residence (RR) district zoning via the Oak Hill Area Study rezonings in 1985. The planning process for the Oak Hill Area Study provided for three zoning recommendations (staff, neighborhood, and property owner). The staff recommendation in 1985, according to the Oak Hill Area Study document, was RR, the neighborhood recommendation, in 1985, was single family residence standard lot (SF-2), and the property owner apparently did not indicate a preferred zoning for the property.

BASIS FOR RECOMMENDATION

- The requested zoning is compatible with the adjacent, existing SF-2 zoning and land uses and provides for an orderly relationship among land uses and zoning.
- The request is consistent with existing residential densities within the immediate and surrounding area.
- The rezoning request is a certified City of Austin S.M.A.R.T. housing project, which fulfills policies and principals of the City Council regarding the desire to provide reasonably priced housing in Austin.
- The rezoning request is consistent with the Oak Hill Area Study staff recommendations and findings. Page nine of the study states that the area “should continue to develop with similar uses and density.”

EXISTING CONDITIONS

Site Characteristics

The site is undeveloped with sparse, naturally occurring vegetation. There is steep, uneven grade at the back of the property.

Impervious Cover

The maximum impervious cover allowed by the SF-2 zoning district would be 45%. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations. This site is not located over the Edward's Aquifer Recharge Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, and is classified as a Barton Springs Zone (BSZ) watershed. It is in the Drinking Water Protection Zone. Project applications at the time of this report are subject to the SOS Ordinance that allows 15% impervious cover in the recharge zone, 20% impervious cover in the Barton Creek watershed and 25% impervious cover in the Contributing zone. This tract lies in the Contributing Zone. Impervious cover on this property is limited to 25%.

Environmental

According to flood plain maps, there is no flood plain within the project location.

The site is not located within the endangered species survey area.

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

At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention. Runoff from the site is required to comply with pollutant load restrictions as specified in LDC Section 25-8-514.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code regulations.

Transportation

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

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]

The trip generation under the requested zoning is estimated to be 194 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

Capital Metro bus service is not available within 1/4 mile of this property.

There are existing sidewalks along Red Willow Drive (south side).

Existing Street Characteristics:

Name	ROW	Pavement	Classification
Red Willow Drive	50'	30'	Local Residential

Water and Wastewater

The landowner intends to serve the site and each proposed lot with City water and wastewater utilities. Water and wastewater utility improvements and system upgrades are required. The landowner will be responsible for all costs and providing. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City's utility design criteria.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Compatibility Standards

The proposed zoning does not trigger compatibility issues.

DEPARTMENT COMMENTS

This is a City of Austin S.M.A.R.T Housing project. (Exhibit A)

The applicant has indicated the intent to develop a single-family subdivision development. The number of units will be determined at the time of subdivision and will be limited by impervious cover limits as required in the Barton Springs Zone.

According to the applicant, this site does contain some fill (rock and soil) from the construction of the adjacent road during the buildout of the subdivision in the late 1970s and early 1980s. Three lots outside the subject tract but on the fill area have been platted and zoned - at the eastern and western edges of the fill area - and two of these lots have been built with single-family houses. The applicant has had a geotechnical study done and has determined that the site is appropriate for single-family housing, and will be using concrete piers for the foundation. The applicant has also had a phase I environmental study conducted.

The adjacent subdivision was approved on January 13, 1981. (Exhibit B).



City of Austin

P.O. Box 1088, Austin, TX 78767
www.cityofaustin.org/housing

Neighborhood Housing and Community Development Office

Gina Copic, S.M.A.R.T. Housing Manager
(512) 974-3180, Fax: (512) 974-3112, gina.copic@ci.austin.tx.us

October 30, 2003

S.M.A.R.T. Housing Certification
Red Willow Drive Subdivision
DSJ Land Group/Stephen Jensen 220-3881

TO WHOM IT MAY CONCERN:

DSJ Land Group is proposing a 10 unit single-family subdivision between 8422 and 8504 on Red Willow Drive. The Neighborhood Housing and Community Development Department (NHCD) certifies that the proposed construction meets the S.M.A.R.T. Housing™ standards at the pre-submittal stage. Since 2 (20%) of the homes will serve families at 80% Median Family Income (MFI) or below, the development will be **eligible for 50% waiver** of the fees listed in Exhibit A of the S.M.A.R.T. Housing Resolution adopted by the City Council. The expected fee waivers include, but are not limited to, the following:

Zoning Fees	Concrete Permit
Subdivision Fees	Electrical Permit
Construction Inspection Fee	Mechanical Permit
Capital Recovery Fees	Plumbing Permit
Building Permit	

Prior to commencement of construction, the developer must:

- ◆ Obtain a signed Conditional Approval from the Austin Energy Green Building Program stating that the plans and specifications for the proposed development meet the criteria for a Green Building Rating. (Shirley Muns, Austin Energy, 322-6453).

Before a Certificate of Occupancy will be granted, the development must:

- ◆ Pass a final inspection and obtain a signed Final Approval from the Green Building Program. (Note: this inspection is separate from any other inspections required by the City of Austin or Austin Energy).
- ◆ Pass a final inspection by NHCD to certify that Visitability standards have been met.

Please call me at 974-3180 if you need additional information.

Gina Copic, S.M.A.R.T. Housing™ Manager
Neighborhood Housing and Community Development Office

Cc:	Javier Delgado, WPDR	Janet Gallagher, WPDR	Stuart Hersh, NHCD
	Robby McArthur, WWW Taps	Jim Lund, PW	Steve Barney, NHCD
	Shirley Muns, Austin Energy	Marzia Volpe, WPDR	Ricardo Soliz, NPZD
	Marisol Claudio-Ehalt, WPDR	Anthony Fryer, WPDR	Steve Rossiter, NPZD

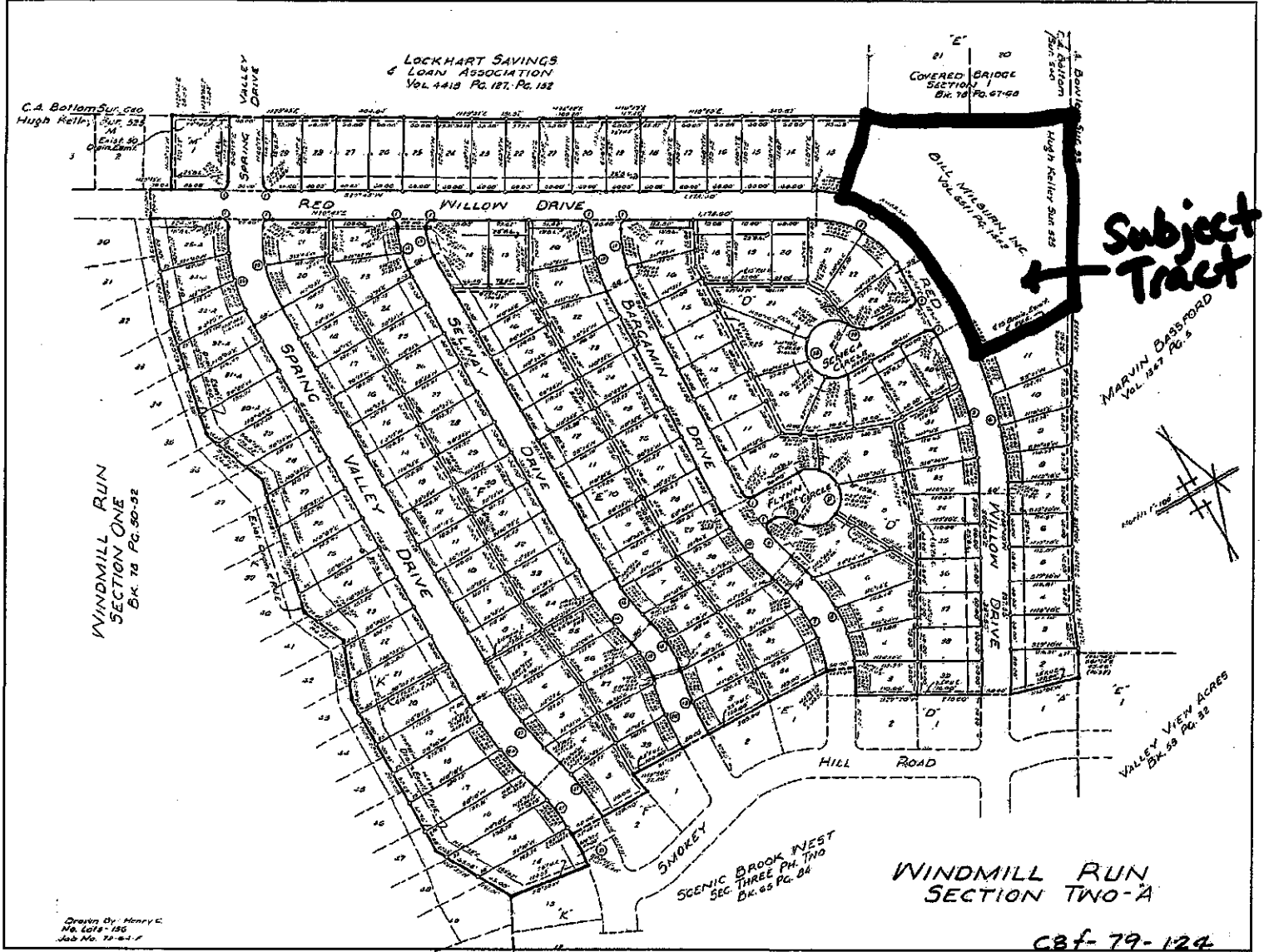


Exhibit B

M E M O R A N D U M

TO: Betty Baker, Chair and Members of the Zoning and Platting Commission

FROM: Dora Anguiano, Zoning and Platting Commission Coordinator
Neighborhood Planning and Zoning Department

DATE: January 7, 2004

SUBJECT: Zoning and Platting Commission Summary

Attached is a Zoning and Platting Commission summary, which will be forwarded to the City Council.

CASE # C14-03-0166.SH

13. C14-03-0166.SH – DSJ LAND GROUP, LTD. (Stephen E. Jensen), By: REG, Inc. (Stephen E. Jensen), 8422-8504 Red Willow Drive. (Williamson Creek). **FROM RR TO SF-2. RECOMMENDED. City Staff: Annick Beaudet, 974-2975.**

SUMMARY

Annick Beaudet, staff – “This is a rezoning request from RR to SF-2; it’s approximately 2.714 acres and staff recommends this rezoning request to SF-2 district zoning...”.

Commissioner Baker – “Let me interrupt you; is there opposition to this?”

Ms. Beaudet – “There is, there’s someone signed up to speak in opposition and I received one phone call. Continuing...this is a City of Austin SMART Housing Project and the applicant has shared with me that the intent is to develop a single-family subdivision on the property. The number of units will be determined at the time of subdivision and will be limited by impervious cover per the Barton Springs Zone, which is 25% because this tract lies in the contributing zone. I will mention also that this tract lies within the boundaries of the Oak Hill Area Study. During that process, staff came forward with a recommendation, the neighborhood came forward with a recommendation and the property owners came forward with a recommendation. The neighborhood recommendation on this tract was SF-2, to be consistent with the adjacent neighborhood. The basis for the staff recommendation to recommend the request of SF-2 is because the requested zoning is compatible with the adjacent existing SF-2 zoning and uses and provides for an orderly relationship among land use and zoning. The request is consistent with existing residential densities with the immediate and surrounding area; and the request satisfies current policies and principles of the City Council, which are to provide reasonably priced housing in the City of Austin. Lastly, the staff recommendation and findings as listed in the Oak Hill Area Study, specifically on page 9, states that the area should continue to develop with similar uses and density, having the area that subject tract lies in, being referenced. So based on that we recommend the applicant’s request”.

Commissioner Baker – “Approximately, how many lots will there be?”

Ms. Beaudet – “I think the agent will be the best to speak to that; but what was shared with me was that they really don’t know because they haven’t moved forward with subdivision yet and they’re going to be severely limited by 25% impervious cover. I will let them speak to that”.

Commissioner Baker – “Okay, thank you”.

Commissioner Jackson – “It looks like there may be some flood plain or something in the critical water quality...”

Ms. Beaudet – “I did check for floodplain and there is no floodplain currently on this subject tract”.

Commissioner Jackson – “There’s some creek or something behind it”.

Ms. Beaudet – “Yes, there is a creek...I maybe should have done a contour overlay. The contours drop very steep towards the back of the lot, it’s flat from the street and then drops severely into that creek. I’m not exactly sure how far, but a good portion of the back is probably undevelopable”.

Stuart Hersch, SMART Housing – “I have an answer to your question about the proposed number of units. The SMART Housing application that we received is for a 10 unit single-family subdivision”.

Commissioner Baker – “Okay, thank you. Do you have a presentation; or is that pretty well your presentation?”

Mr. Hersch – “No presentation”.

Commissioner Baker – “Okay, so basically you got 10 lots that will come in facing on Red Willow Drive, with the back portion undevelopable?”

Mr. Hersch – “That’s our understanding”.

FAVOR

Stephen Jensen, representing the owner – “We’re not going to be able to get the 10 lots; we’re going to see how many we can get based on the water quality requirements for the 25% impervious cover. It will be less than 10; there’s a drainage easement to the northwest side, but there is no floodplain on the property itself”.

Commissioner Cortez – “It’s nice to see some SMART Housing on the West side of the highway”.

Commissioner Baker – “I don’t disagree with you”.

Commissioner Donisi – “Is there a bus stop that’s close to this project?”

Mr. Jensen – “There actually is a bus stop right about where the property boundary is; where the SF-2 is noted”.

Commissioner Donisi – “On Red Willow?”

Mr. Jensen – “Yes, that’s correct”.

Commissioner Donisi – “Thank you”.

Commissioner Baker – “Where’s the nearest school?”

Mr. Jensen – “I’m not sure where the nearest school is”.

Commissioner Baker – “Okay, any other questions?”

OPPOSITION

Mike Bond – Spoke in opposition.

Ms. Lindinna – Spoke in opposition.

REBUTAL

Mr. Jensen – “My desire is to be consistent with the neighborhood. I realize anything that we do here is going to change their view, so I guess there’s not much else that I can say to that”.

Commissioner Martinez and Gohil moved to close the public hearing.

Commissioner Cortez – “I move to approve SF-2 zoning”.

Commissioner Gohil – “Second”.

Commissioner Baker – “I understand the opposition and I sympathize with you; but that’s a risk that you run”.

Motion carried.

**COMMISSION ACTION:
MOTION:**

AYES:

ABSENT:

MOTION CARRIED WITH VOTE: 8-0.

**CORTEZ, GOHIL
APPROVED STAFF’S
RECOMMENDATION OF SF-2
ZONING.
PINNELLI, GOHIL, MARTINEZ,
JACKSON, WHALEY, BAKER,
DONISI, CORTEZ
HAMMOND**

RESTRICTIVE COVENANT

OWNER: DSJ Land Group, Ltd., a Texas limited partnership,
ADDRESS: 6840 Grover Avenue, Austin, TX 78757
CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.
PROPERTY: A 2.714 acre tract of land, more or less, out of the Hugh Kelly Survey No. 525, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, an Integrated Pest Management (IPM) plan shall be submitted to the Watershed Protection and Development Review Department for review and approval.
2. The IPM plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of the Environmental Criteria Manual that are in effect on the date of this covenant.
3. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, a landscape plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. Ninety percent of the total plant material used, exclusive of turf, shall be native to Central Texas or on the Grow Green Native and Adapted Landscape Plants list, attached as Exhibit "B". Plants on the Invasive Species/Problem Plants list, attached as Exhibit "C", may not be included.
4. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
5. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
6. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

7. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2004.


OWNER:

DSJ Land Group, Ltd.,
a Texas limited partnership,

By: Texas DSJ Management, L.L.C.,
a Texas limited liability company,
General Partner

By: _____
Jerry Fryer, Jr., President

APPROVED AS TO FORM:


Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2004, by Jerry Fryer, Jr., President, of DSJ Management, L.L.C., a Texas limited liability company, on behalf of the company, and the company acknowledged this instrument as General Partner on behalf of DSJ Land Group, Ltd. a Texas limited partnership.

Notary Public, State of Texas

C14-03-0166.S



P. O. Box 324
Cedar Park, Texas 78630-0324
(512) 259-3361 Phone
(512) 259-3381 Fax

**METES AND BOUNDS DESCRIPTION
2.714 ACRES OF LAND
IN TRAVIS COUNTY, TEXAS**

BEING A 2.714 ACRE TRACT OF LAND SITUATED IN THE HUGH KELLY SURVEY NO. 525, IN TRAVIS COUNTY, TEXAS, AND ALSO BEING OUT OF THAT CERTAIN 174.815 ACRE TRACT OF LAND CONVEYED TO BILL MILBURN, INC., BY INSTRUMENT RECORDED IN VOLUME 6511, PAGE 1462 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 2.714 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8" iron pipe found for the Northeast corner of Lot 20, Block "E", "Covered Bridge, Section One", recorded in Volume 78, Page 67 of the Travis County Plat Records, same being in the South line of that certain 51.7 acre tract of land conveyed Marvin Bassford by instrument recorded in Volume 1347, Page 5 of the Deed Records of Travis County, Texas, for the Northwest corner hereof;

THENCE, with the South boundary line of said 51.7 acre Bassford tract for the North boundary line hereof, South 59°00'56" East, a distance of 336.47 feet to a 1/2" iron rod found in the South boundary line said 51.7 acre Bassford tract, same being the Northwest corner of Lot 11, Block "A", "Windmill Run, Section Two-'A'", recorded in Volume 80, Page 186 of the Travis County Plat Records, for the Northeast corner hereof;

THENCE, with the West boundary line of said Lot 11 for the East boundary line hereof, South 05°04'17" West, a distance of 188.43 feet to a 1/2" iron rod found for the Southwest corner of said Lot 11, same being in the North Right-of-Way line of Red Willow Drive (50' Right-of-Way per Volume 80, Page 186, Travis County Plat Records), for the Southeast corner hereof;

THENCE, along the North Right-of-Way of Red Willow Drive with the South boundary line hereof the following three courses;

EXHIBIT A

1. With a non-tangent curve to the left having a Radius of 634.24 feet, a Chord Bearing and Distance of North 86°06'59" West, 67.78 feet to a 1/2" iron rod found;
2. North 89°12'00" West, a distance of 128.92 feet (Bearing Basis for this survey) to a 1/2" iron rod found;
3. With a curve to the left having a Radius of 219.48 feet, a Chord Bearing and Distance of South 66°38'41" West, 178.60 feet to a 1/2" iron rod found for the Northeast corner of Lot 13, Block "A", of said Windmill Run subdivision, for the most southerly Southeast corner hereof;

THENCE, with North boundary line of said Lot 13, for the South boundary line hereof, North 43°51'28" West, a distance of 143.56 feet for a 1/2" iron rod found for the Northwest corner of said Lot 13, same being in the East boundary line of that certain tract of land, now or formerly, conveyed to Lockhart Savings & Loan Association by instrument recorded in Volume 4413, Page 127, Page 152, of the Deed Records of Travis County, Texas, for the Southwest corner hereof;


THENCE, with the East boundary line of said Lockhart Savings & Loan Association tract, for the West boundary line hereof, North 29°25'23" East, a distance of 12.83 feet to a 1/2" iron rod found for the Northeast corner of said Lockhart Savings & Loan Association tract, same being the Southeast corner of Lot 21, Block "E" of said Covered Bridge subdivision, for an angle point hereof;

THENCE, with the East boundary line of said Lot 21, for the West boundary line hereof, North 29°26'55" East, a distance of 54.57 feet to a 1/2" iron pipe found in the East boundary line of said Lot 21, for an angle point hereof;

THENCE, with the East boundary line of said Lots 21 and 20, for the West boundary line hereof, North 30°30'31" East, a distance of 305.39 feet to the point of **BEGINNING**, containing 2.714 Acres of land.

This legal description is to accompany a separate sketch of survey.

Surveyed under the direct supervision of the undersigned:


Charles G. Walker
Registered Professional Land Surveyor
Number 5283
Walker Texas Surveyors
P.O. Box 324
Cedar Park, Texas 78630

October 09, 2003
Date of field survey

308001.doc

Grow Green Native and Adapted Landscape Plants

Trees

Ash, Texas *Fraxinus texensis*
 Arizona Cypress *Cupressus arizonica*
 Big Tooth Maple *Acer grandidentatum*
 Cypress, Bald *Taxodium distichum*
 Cypress, Montezuma *Taxodium mucronatum*
 Elm, Cedar *Ulmus crassifolia*
 Elm, Lacebark *Ulmus parvifolia*
 Honey Mesquite *Prosopis glandulosa*
 Oak, Bur *Quercus macrocarpa*
 Oak, Chinquapin *Quercus muhlenbergii*
 Oak, Southern Live *Quercus virginiana*

Oak, Escarpment Live *Quercus fusiformis*
 Oak, Lacey *Quercus glaucoides*
 Oak, Monterey (Mexican White) *Quercus polymorpha*
 Oak, Shumard *Quercus shumardii*
 Oak, Texas Red *Quercus texana* (*Quercus buckleyi*)
 Pecan *Carya illinoensis*
 Soapberry *Sapindus drummondii*

Small Trees/Large Shrubs

Anacacho Orchit Tree *Bauhinia congesta*
 Buckeye, Mexican *Ungnadia speciosa*
 Buckeye, Rec *Aesculus pavia*
 Caolina Buckthorn *Rhamnus caroliniana*
 Cherry Laurel *Prunus caroliniana*
 Crape Myrtle *Lagerstroemia indica*
 Desert Willow *Chilopsis linearis*
 Dogwood, Roughleaf *Cornus drummondii*
 Escarpment Black Cherry *Prunus serotina* var. *eximia*
 Eve's Necklace *Sophora affinis*
 Goldenball Leadtree *Leucaena retusa*
 Holly, Possumhaw *Ilex decidua*
 Holly, Yaupon *Ilex vomitoria*
 Mountain Laurel, Texas *Sophora secundiflora*

Persimmon, Texas *Diospyros texana*
 Pistachio, Texas *Pistacia texana*
 Plum, Mexican *Prunus mexicana*
 Pomegranate *Punica granatum*
 Redbud, Mexican *Cercis canadensis 'mexicana'*
 Redbud, Texas *Cercis canadensis* var. *'texensis'*
 Retama Jerusalem Thorn *Parkinsonia aculeata*
 Senna, Flowering *Cassia corymbosa*
 Smoke Tree, American *Cotinus obovatus*
 Sumac, Flameleaf *Rhus lanceolata*
 Viburnum, Rusty Blackhaw *Viburnum rufidulum*
 Viburnum, Sandankwa *Viburnum suspensum*

EXHIBIT B

Shrubs

- Abelia, Glossy *Abelia grandiflora*
 Agarita *Berberis trifoliata*
 Agave (Century Plant) *Agave sp.*
 American Beautyberry *Callicarpa americana*
 Artemisia *Artemisia 'Powis Castle'*
 Barbados Cherry *Malpighia glabra*
 Barberry, Japanese *Berberis thunbergii 'Atropurpurea'*
 Basket Grass (Sacahuista) *Nolina texana*
 Black Dalea *Dalea frutescens*
 Bush Germander *Teucrium fruticans*
 Butterfly Bush *Buddleja davidii*
 Butterfly Bush, Woolly *Buddleja marrubiiifolia*
 Coralberry *Symphoricarpos orbiculatus*
 Cotoneaster *Cotoneaster sp.*
 Eleagnus *Eleagnus pungens*
 Esperanza/Yellow Bells *Tecoma stans*
 Flame Acanthus *Anisacanthus quadrifidus var. wrightii*
 Fragrant Mimosa *Mimosa borealis*
 Holly, Burford *Ilex cornuta 'Burfordii'*
 Holly, Dwarf Chinese *Ilex cornuta 'Rotunda nana'*
 Holly, Dwarf Yaupon *Ilex vomitoria 'Nana'*
 Jasmine, Primrose *Jasminum mesnyi*
 Kidneywood *Eysenhardtia texana*
 Lantana, Native *Lantana horrida*
 Mistflower, Blue (Blue Boneset) *Eupatorium coelestinum*
 Mistflower, White (Shrubby White Boneset) *Ageratina havanense*
 Mock Orange *Philadelphus coronarius*
 Nandina *Nandina domestica 'Compacta nana' 'Gulf Stream'*
 Oleander *Nerium oleander*
 Palmetto *Sabal minor*
 Prickly Pear *Opuntia engelmannii var. lindheimeri*
 Rose, Belinda's Dream *Rosa 'Belinda's Dream'*
 Rose, Lamarne *Rosa 'Lamarne'*
 Rose, Livin' Easy *Rosa 'Livin' Easy'*
 Rose, Marie Pavie *Rosa 'Marie Pavie'*
 Rose, Martha Gonzales *Rosa 'Martha Gonzales'*
 Rose, Mutabilis *Rosa 'Mutabilis'*
 Rose, Nearly Wild *Rosa 'Nearly Wild'*
 Rose, Old Blush *Rosa 'Old Blush'*
 Rose, Perle d'or *Rosa 'Perle d'or'*
 Rock Rose *Pavonia lasiopetala*
 Rosemary *Rosmarinus officinalis*
 Sage, Mountain *Salvia regia*
 Sage, Texas (Cenizo) *Leucophyllum frutescens*
 Senna, Lindheimer *Cassia lindheimeriana*
 Southern Wax Myrtle *Myrica cerifera*
 Sumac, Evergreen *Rhus virens*
 Sumac, Fragrant (Aromatic) *Rhus aromatica*
 Texas Sotol *Dasylirion texanum*
 Turk's Cap *Malvaviscus arboreus*
 Yucca, Paleleaf *Yucca pallida*
 Yucca, Red *Hesperaloe parviflora*
 Yucca, softleaf *Yucca recurvifolia*
 Yucca, Twistleaf *Yucca rupicola*

Perennials

- Black-eyed Susan *Rudbeckia hirta*
 Bulbine *B. frutescens* or *caulescens*
 Bush Morning Glory *Ipomoea fistulosa*
 Butterfly Weed *Asclepias tuberosa*
 Butterfly Weed 'Mexican' *Asclepias curassivica*
 Cast Iron Plant *Aspidistra elatior*
 Chile Pequin *Capsicum annuum*
 Cigar Plant *Cuphea micropetala*
 Columbine, Red *Aquilegia canadensis*
 Columbine, Yellow *Aquilegia chrysantha* 'Texas Gold'
 Coreopsis *Coreopsis lanceolata*
 Daisy, Blackfoot *Melampodium leucanthum*
 Daisy, Copper Canyon *Tagetes lemmonii*
 Damiantia *Crysactina mexicana*
 Fall Aster *Aster oblongifolius*
 Fern, River *Thelypteris kunthii*
 Firebush *Hamelia patens*
 Gaura *Gaura lindeheimeri*
 Gayfeather *Liatris mucronata*
 Gregg Dalea *Dalea greggii*
 Hibiscus, Perennial *Hibiscus moscheutos*, *Hibiscus coccineus*
 Honeysuckle, Mexican *Justicia spicigera*
 Hymenoxys (Four Nerve Daisy) *Tetranneuris scaposa*
 Indigo Spires *Salvia 'Indigo Spires'*
 Iris, Bearded *Iris albicans*
 Iris, Butterfly/Bicolor (African) *Dietes sp.*
 Lamb's Ear *Stachys byzantina*
 Lantana *Lantana x hybrida* (many varieties)
 Lantana, Trailing *Lantana montevidensis*
 Marigold, Mexican Mint *Tagetes lucida*
 Obedient Plant, Fall *Physostegia virginiana*
 Oregano, Mexican *Poliomintha longiflora*
 Penstemon *Penstemon sp.*
 Phlox, Fragrant *Phlox pilosa*
 Pink Skullcap *Scutellaria suffrutescens*
 Plumbago *Plumbago auriculata*
 Poinciana, Red Bird of Paradise, Pride of Barbados
Caesalpinia pulcherrima
 Primrose, Missouri *Oenothera macrocarpa*
 Purple Coneflower *Echinacea purpurea*
 Ruellia *Ruellia brittoniana*
 Sage, Cedar *Salvia roemeriana*
 Sage, Jerusalem *Phlomis fruticosa*
 Sage, Majestic *Salvia guaranitica*
 Sage, Mealy Blue *Salvia farinacea*
 Sage, Mexican Bush *Salvia leucantha*
 Sage, Penstemon, Big Red Sage *Salvia penstemonoides*
 Sage, Russian *Perovaskia atricplifolia*
 Sage, Scarlet or 'Tropical' *Salvia coccinea*
 Salvia, Gregg (Cherry Sage) *Salvia greggii*
 Shrimp Plant *Justicia brandegeana*
 Texas Betony *Stachys coccinea*
 Verbena, Prairie *Verbena bipinnatifida*
 Yarrow *Achillea millefolium*
 Zexmenia *Wedelia texana*

Ornamental Grasses

Bluestem, Big *Andropogon gerardii*
 Bluestem, Bushy *Andropogon*
glomeratus
 Bluestem, Little *Schizachyrium*
scoparium
 Fountain Grass, Dwarf *Pennisetum*
alopecuroides
 Indian Grass *Sorghastrum nutans*
 Inland Sea Oats *Chasmanthium*
latifolium

Mexican Feathergrass (Wiregrass) *Stipa*
tenuissima
 Muhly, Bamboo *Muhlenbergia dumosa*
 Muhly, Big *Muhlenbergia lindheimeri*
 Muhly, Deer *Muhlenbergia rigens*
 Muhly, Gulf *Muhlenbergia capillaris*
 Muhly, Seep *Muhlenbergia reverchonii*
 Sideoats Grama *Bouteloua curtipendula*
 Wild Rye *Elymus canadensis*

Vines

Asian Jasmine *Trachelospermum*
asiaticum
 Carolina Jessamine *Gelsemium*
sempervirens
 Coral Vine *Antigonon leptopus*
 Crossvine *Bignonia capreolata*
 Fig Vine *Ficus pumila*

Honeysuckle, Coral *Lonicera*
sempervirens
 Lady Banksia Rose *Rosa banksiae*
 Passion Vine *Passiflora incarnata*
 Trumpet Vine *Campsis radicans*
 Virginia Creeper *Parthenocissus*
quinquefolia

Groundcover

Aztec Grass *Ophiopogon japonicus*
 Frogfruit *Phyla incisa*
 Horseherb *Calyptocarpus vialis*
 Leadwort Plumbago *Ceratostigma*
plumbaginoides
 Liriope *Liriope muscari*
 Monkey Grass (Mondo Grass)
Ophiopogon japonicus
 Oregano *Origanum vulgare*
 Periwinkle, Littleleaf *Vinca minor*
 Pigeonberry *Rivina humilis*

Purple Heart *Secreasea pallida*
 Santolina (Lavender Cotton) *Santolina*
chamaecyparissus
 Sedge, Berkeley *Carex tumulicola*
 Sedge, Meadow *Carex perdentata*
 Sedge, Texas *Carex texensis*
 Sedum (Stonedrop) *Sedum nuttallianum*
 Silver Ponyfoot *Dichondra argentea*
 Woolly Stemodia *Stemodia lanata*
(Stemodia tomentosa)

Turf Grasses

Bermuda 'Tif 419', 'Sahara', 'Baby',
 'Common'
 Buffalo '609', 'Stampede', 'Prairie'
 St. Augustine 'Baby', 'Common',
 'Raleigh', 'Delmar'

Zoysia, Fine Leaf 'Matrella', 'Emerald',
 'Zorro'
 Zoysia, Coarse Leaf 'Japonica', 'Jamur',
 'El Toro', 'Palisade'

Invasive Species/Problem Plants

PLANTS TO AVOID

INVASIVES

(Plants that are non-native to the Central Texas ecosystem and tend to out-compete native species)

Do Not Plant

(Travel by seeds, berries, and spores so can be transported long distances. They have already invaded preserves and greenbelts):

- Arizona Ash
- Chinaberry
- Chinese Pistache
- Chinese Tallow
- Chinese Privet
- Elephant Ear
- Holly Fern
- Japanese Honeysuckle
- Ligustrum, Wax Leaf
- Mimosa
- Mulberry, Paper
- Nandina (large, berrying varieties)
- Photinia, Chinese
- Pyracantha
- Tamarisk
- Tree of Heaven

Do Not Plant Near

Parks/Preserves/Greenbelts

(travel by runners, rhizomes, and stems so only invade neighboring areas):

- Bamboo
- English Ivy
- Vinca (Periwinkle)

PROBLEM TREES AND SHRUBS

(Typically fast-growing, highly adaptable, but often have weak wood and are short-lived. Most are susceptible to insect and disease problems.)

- Arizona Ash
- Azalea (not adapted to Austin soils)
- Boxelder
- Camellia
- Chinaberry
- Chinese Privet
- Chinese Tallow
- Cottonwood
- Ligustrum
- Lombardy Poplar
- Mimosa
- Mulberry, Paper
- Photinia, Chinese
- Siberian Elm
- Silver Maple
- Sweetgum
- Sycamore
- Tree of Heaven

EXHIBIT C

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant