



Zoning
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: Z-7
AGENDA DATE: Thu 02/05/2004
PAGE: 1 of 1

SUBJECT: C14-03-0176.SH - Pleasant Valley Courtyards - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4503 - 4511 East St. Elmo Road (Williamson Creek Watershed) from multi-family residence medium density-conditional overlay-neighborhood plan (MF-3-CO-NP) combining district zoning to multi-family residence medium density-conditional overlay-neighborhood plan (MF-3-CO-NP) combining district zoning in order to change a condition of zoning. Planning Commission Recommendation: To be considered by the Commission on January 27, 2004. Applicant: Pleasant Valley Courtyards, L.P. (Craig Alter on behalf of Carlos Herrera). Agent: Brown McCarroll, L.L.P. (Nikelle Meade). City Staff: Wendy Walsh, 974-7719. (continued from 1/29/04)

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE: C14-03-0176.SH

P.C. DATE: January 13, 2004
January 27, 2004

ADDRESS: 4503 – 4511 East St. Elmo Road

OWNER AND APPLICANT: Pleasant Valley
Courtyards, L.P.
(Craig Alter on behalf of Carlos Herrera)

AGENT: Brown McCarroll, L.L.P.
(Nikelle Meade)

ZONING FROM: MF-3-CO-NP **TO:** MF-3-CO-NP – to amend uses allowed on Tract One

AREA: 3.950 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant multi-family residence medium density – conditional overlay – neighborhood plan (MF-3-CO-NP) combining district zoning, subject to: 1) the approval of a modification to the Conditional Overlay to allow multi-family residence units on Tract One, and 2) the denial of a modification to the Conditional Overlay to allow a community recreation (private) use as a principal or accessory use on Tract One.

PLANNING COMMISSION RECOMMENDATION:

January 13, 2004: *POSTPONEMENT REQUEST BY THE NEIGHBORHOOD AND STAFF TO 1-27-04*
D.S, M.M 2ND] (5-0) N.S, C.R - ABSENT, ORTIZ ON LEAVE

January 27, 2004: *APPROVED STAFF RECOMMENDATION WITH ADDITIONAL CONDITIONS AS AGREED TO BETWEEN THE APPLICANT AND THE NEIGHBORHOOD THAT DEVELOPMENT OF THE PROPERTY MAY NOT EXCEED SEVEN RESIDENTIAL DWELLING UNITS; THE UNITS SHALL BE CONTAINED IN A SINGLE BUILDING AND THE MAXIMUM HEIGHT OF THE BUILDING SHALL BE 2 STORIES OR 40 FEET.*

VOTE: 7-0 (DS-1st, NS-2nd)

ISSUES:

The applicant has discussed the proposed modifications with representatives of the Kensington Park Homeowners Association. Kensington Park has conveyed to staff that they are opposed to any recreation use on Tract One, but are willing and continuing to work with the applicant's representatives on site design alternatives and to find a mutually agreeable resolution. One of these alternatives involves a limited residential use of Tract 1, with restrictions on size, number of units, siting, parking, lighting, and access to St. Elmo. The question of size has now been agreed to between Kensington Park and the applicant: a single two-story building of seven (7) units. However, unless and until the remaining questions have been resolved, the negotiations finalized, and enforceable agreements put in place, Kensington Park opposes any change in zoning that would allow a residential use of Tract 1. It is their position that such a change would make the negotiations currently underway more difficult.

The building of Pleasant Valley Road from its terminus on the south side of the Pleasant Valley Courtyards project to East St. Elmo Road is anticipated to begin construction in July 2005. While Pleasant Valley Courtyards is being built, there is a temporary construction driveway in operation from the terminus of Pleasant Valley Road, on the south side of the project. The applicant is working with Kensington Park to convert the temporary construction driveway to a 2-way temporary access driveway / road for the use of the apartment residents and visitors, and the City has assisted both parties in outlining how the driveway could be accomplished. The applicant has agreed to build the temporary access driveway and have it in place by the time a Certificate of Occupancy is issued or to post fiscal surety for the driveway construction. A letter from Kensington Park Homeowners Association is attached.

Franklin Park Neighborhood Association has provided a letter stating that they are supportive of the zoning change to allow the residential building on Tract One, but are opposed to a request from Kensington Park to close the driveway access to Pleasant Valley Courtyards from East St. Elmo Road. Please refer to attached letter. A letter from the Southeast Corner Alliance of Neighborhoods (SCAN) is also attached.

This rezoning case has been approved to participate in the City's SMART (Safe, Mixed-Income, Accessible, Reasonably-priced, Transit-Oriented) Housing expedited review program. See Attachment A.

DEPARTMENT COMMENTS:

Pleasant Valley Courtyards is a multi-family residential project consisting of 163 dwelling units, a leasing / community center and a swimming pool situated on approximately 26 acres south of East St. Elmo Road. The rezoning area, which is the north portion of Pleasant Valley Courtyards, is known as Tract One and carries multi-family residence medium density – conditional overlay – neighborhood plan (MF-3-CO-NP) combining district zoning by way of a 2002 rezoning application. Two provisions of the Conditional Overlay pertaining to Tract One prohibit: 1) community recreation (private) use and 2) residential dwelling units. Accordingly, there is an approved Site Plan showing a leasing / community center on Tract One. Please refer to Exhibits A and A-1.

The applicant proposes to modify the Conditional Overlay on Tract One to allow for the opportunity to construct a swimming pool (classified as a community recreation (private) use) as well as multi-family residences. The applicant has also submitted a Site Plan revision that is presently under staff review which relocates one 2-story, seven unit multi-family residential building to Tract One and likewise, shifts the location of the leasing / community center to Tract Two, directly south and west. No changes to the approved access points are proposed. Please refer to Exhibits B (recorded subdivision plat), C and C-1 (approved Site Plan), and D (proposed revisions to the approved Site Plan).

Staff recommends modifying the Conditional Overlay to allow for the location of multi-family residences on Tract One because it does not change the number of dwelling units approved. However, staff encourages retaining the central location of the community recreation (private) use (i.e., the swimming pool) on Tract Two in order to be nearby and more accessible to Pleasant Valley Courtyard residents. Furthermore, the staff has discussed with the applicant's representatives alternative site design measures that continue to provide the swimming pool on Tract Two and also meet the State's requirements regarding project size limitations, which is illustrated in Exhibit D. Therefore, the staff is unable to recommend locating the swimming pool on Tract One because it would be at a considerably further distance from the residents that it is intended to serve.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	MF-3-CO-NP – Tract One	Undeveloped – approved for leasing / community center and proposed for the opportunity for multi-family residential and a swimming pool to occur
<i>North</i>	SF-3-NP; LI-NP; LI-CO-NP; RR-NP; SF-2-NP	Undeveloped; Warehouse; Single family residences
<i>South</i>	RR-CO-NP; MF-3-CO-NP; MF-2-NP; SF-3-NP – Tracts Two and Three	Approved for construction of 163 multi-family residential units and a swimming pool
<i>East</i>	SF-6-CO-NP; LO-CO-NP; SF-2-CO-NP; MF-2-CO-NP	Condominiums; Single family residences; Undeveloped; Undeveloped land planned for multi-family residential development
<i>West</i>	LO-NP; CS-1-NP; LI-CO-NP; SF-2-CO-NP	Custom manufacturing; Undeveloped; Warehouse; American Legion Post; Right-of-way for South Pleasant Valley Drive (not on ground)

NEIGHBORHOOD PLANNING AREA: Southeast **TIA:** Is not required
(Franklin Park)

WATERSHED: Williamson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

27 – Franklin Park Neighborhood Association

96 – Southeast Corner Alliance of Neighborhoods (SCAN)

176 – Kensington Park Homeowners Association

300 – Terrell Lane Interceptor Association

428 – Barton Springs / Edwards Aquifer Conservation District

511 – Austin Neighborhoods Council

627 – Onion Creek Homeowners Assoc.

688 – Southeast Neighborhood Planning Contact Team

SCHOOLS:

Rodriguez Elementary School

Mendez Middle School

Johnston High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-01-0144	RR; SF-3; MF-2; MF-3 to SF-2	To Grant SF-2	Approved SF-2 (1-10-02)
C14-01-0041	SF-2 to MF-2	To Grant MF-2-CO w/conds. for a portion of Tract 1 and all of Tract 2;	Approved MF-2-CO w/conditions for a portion of Tract 1 and all

		Retain SF-2 for a portion of Tract 1	of Tract 2; Retain SF-2 for a portion of Tract 1 (9-27-01)
C14-01-0032(SH)	LO to SF-6	To Deny SF-6	Denied SF-6 (5-10-01)
C14-00-2266	SF-2 to LI	To Grant LI-CO w/conds.	Approved LI-CO w/conds. (4-19-01)
C14-99-0106	SF-2 to LI	To Grant LI-CO w/conds.	Approved LI-CO w/conds. (6-29-00)
C14-98-0023	SF-2 to LI	To Grant LI; RR	Approved LI w/conds. (10-8-98)
C14-86-025 (RC)	SF-2 to CS on Tract 1; MF-3 on Tract 2	To Grant LO on Tracts 1 and 2; SF-3 on Tracts 3, 4 and 5; RR on Tract 6 w/conds.	Approved LO on Tract 1; CS on Tract 2; MF-3 on Tract 3; MF-2 on Tract 4; SF-6 on Tract 5; RR on Tract 6 with a Restrictive Covenant (7-31-86)

RELATED CASES:

Two rezoning cases have occurred in conjunction with the Pleasant Valley Courtyards project:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-02-0155.SH	RR-NP; LO-NP; CS-NP to MF-3-CO-NP	To Grant MF-3-CO-NP with CO for a maximum of 163 units and 2,000 trips, and requiring setbacks from creek centerlines	Approved RR-NP and MF-3-CO-NP. The Conditional Overlay establishes a maximum of 163 residential units; 10.038 u.p.a.; 2,000 trips; 50 foot creek setback; prohibits community recreation (private) use on Tracts One and Two; and prohibits residential dwelling units on Tract One (10-31-02)
C14-86-025 (RCA)	Request to terminate Item 1 of the Restrictive Covenant so that residential access may be taken from both East St. Elmo Road and South Pleasant Valley Drive.	To forward the request to Council without a recommendation	Approved vehicular access for a residential or civic use to East St. Elmo Road from Tract Two only to occur from specific location; access to St. Elmo shall be entrance only after Pleasant Valley Road is open to the public; prohibits access from Tract Two to St. Elmo if

			a commercial or industrial use is developed (1-9-03)
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The east portion of the property is platted as Pleasant Valley Courtyards Subdivision (C8-03-0033.OA.SH). The remainder of the property is a legal lot of 20.25 acres in size (C8i-03-0016).

ABUTTING STREETS:

STREET	RIGHT-OF-WAY	PAVEMENT WIDTH	CLASSIFICATION	DAILY TRAFFIC
East St. Elmo Road	60 feet	22 feet	Primary Collector	Not available
South Pleasant Valley Drive	114 feet	4-lane, divided	Arterial	Not available

CITY COUNCIL DATE: January 29, 2004

ACTION: Approved Postponement request by the Neighborhood to February 5, 2004 (6-0, Wynn temporarily off the dais)

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

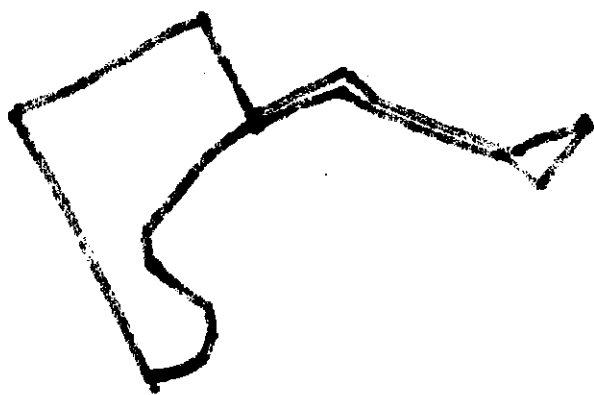
CASE MANAGER: Wendy Walsh
e-mail: wendy.walsh@ci.austin.tx.us

PHONE: 974-7719



100-100000

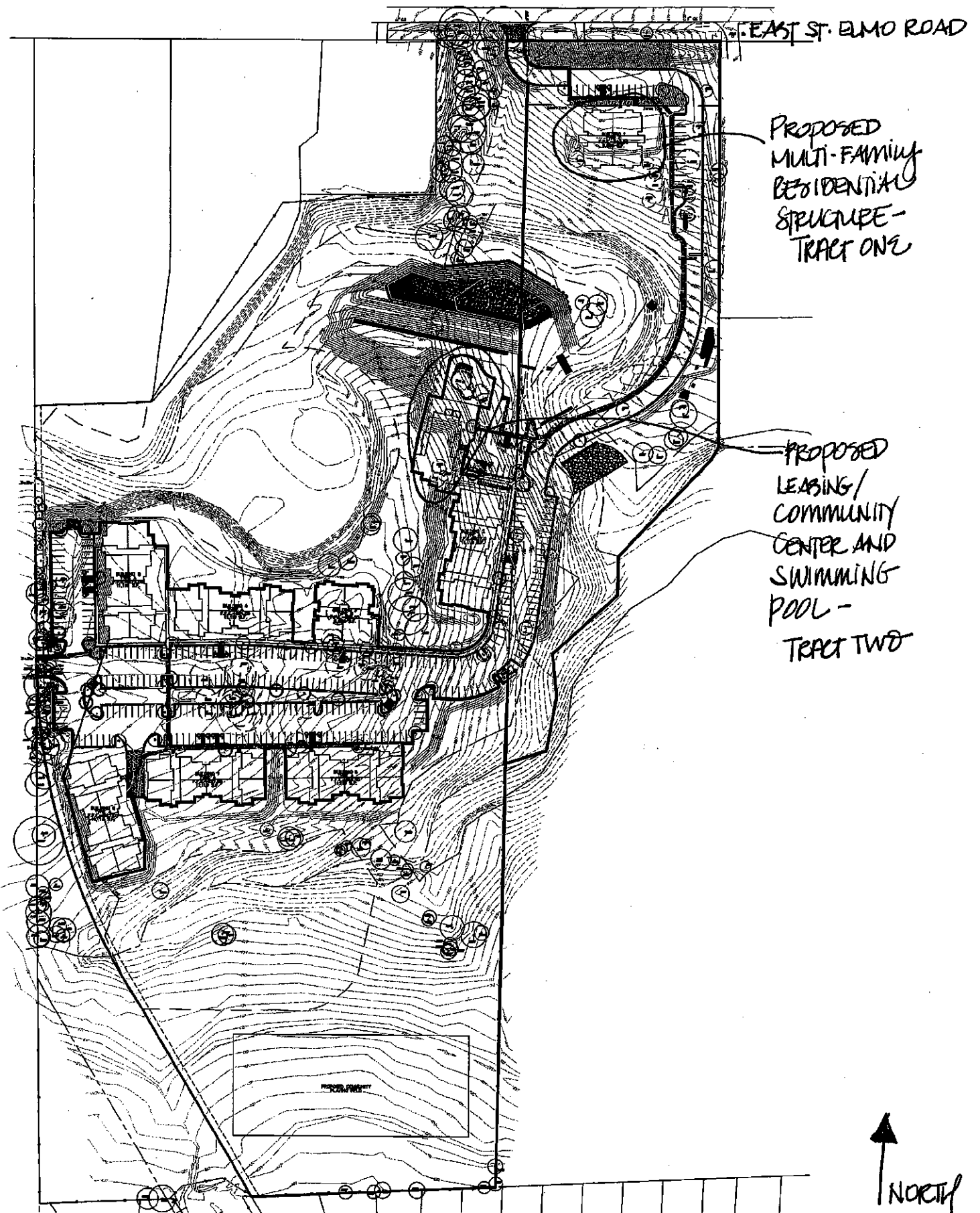
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Pleasant Valley Courtyards EXHIBIT D

December 2003 PROPOSED
Scale: 1" = 120' REVISIONS -
SITE PLAN



City of Austin

Founded by Congress, Republic of Texas, 1839

Neighborhood Housing and Community Development Office

505 Barton Springs Road, Suite 600, P.O. Box 1088, Austin, Texas 78767-8810

512/974-3100 Fax: 512/974-3112

January 3, 2002

S.M.A.R.T. Housing Certification

TO WHOM IT MAY CONCERN:


Pleasant Valley Courtyards is a 163 unit multi-family development located at 4503 East St. Elmo Road in southeast Austin. The development is eligible for 100% waiver of fees since 80% of the units will serve families at 50% Median Family Income or below.

The filing fee for the zoning change will be waived once the applicant has provided acceptable documentation to Neighborhood Housing and Community Development of meetings with registered neighborhood associations that will receive notice and efforts to resolve issues of concern.

100% of the following fees will be waived once the project secures necessary zoning and is certified by Austin Energy as complying with Green Building Standards and by the Buck Group as complying with the accessibility standards of the Voluntary Compliance Agreement.

- Zoning Verification
- Zoning Variance
- Subdivision Application
- Public Works Construction Inspection
- Site Plan
- Capital Recovery
- Building Plan Review
- Building Permit
- Concrete Permit
- Electrical Permit
- Mechanical Permit
- Plumbing Permit

Please call me at 974-3154 if you need additional information.


Stuart Hersh, S.M.A.R.T. Housing
Neighborhood Housing and Community Development Office

ATTACHMENT A

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant multi-family residence medium density – conditional overlay – neighborhood plan (MF-3-CO-NP) combining district zoning, subject to: 1) the approval of a modification to the Conditional Overlay to allow multi-family residence units on Tract One, and 2) the denial of a modification to the Conditional Overlay to allow a community recreation (private) use as a principal or accessory use on Tract One.

BACKGROUND

Pleasant Valley Courtyards is a multi-family residential project consisting of 163 dwelling units, a leasing / community center and a swimming pool situated on approximately 26 acres south of East St. Elmo Road. The rezoning area, which is the north portion of Pleasant Valley Courtyards, is known as Tract One and carries multi-family residence medium density – conditional overlay – neighborhood plan (MF-3-CO-NP) combining district zoning by way of a 2002 rezoning application. Two provisions of the Conditional Overlay pertaining to Tract One prohibit: 1) community recreation (private) use and 2) residential dwelling units. Accordingly, there is an approved Site Plan showing a leasing / community center on Tract One.

The applicant proposes to modify the Conditional Overlay on Tract One to allow for the opportunity to construct a swimming pool (classified as a community recreation (private) use) as well as multi-family residences. The applicant has also submitted a Site Plan revision that is presently under staff review which relocates one 2-story, seven unit multi-family residential building to Tract One and likewise, shifts the location of the leasing / community center to Tract Two, directly south and west. No changes to the approved access points are proposed.

Staff recommends modifying the Conditional Overlay to allow for the location of multi-family residences on Tract One because it does not change the number of dwelling units approved. However, staff encourages retaining the central location of the community recreation (private) use (i.e., the swimming pool) on Tract Two in order to be nearby and more accessible to Pleasant Valley Courtyard residents. Furthermore, the staff has discussed with the applicant's representatives alternative site design measures that continue to provide the swimming pool on Tract Two and also meet the State's requirements regarding project size limitations, which is illustrated in Exhibit D. Therefore, the staff is unable to recommend locating the swimming pool on Tract One because it would be at a considerably further distance from the residents that it is intended to serve.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

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

The MF-3, Multifamily Residence District is intended to accommodate multifamily use with a maximum density of up to 36 units per acre, depending on unit size. This district is appropriate for multifamily residential areas located near supporting transportation and commercial facilities, generally in more centrally located areas.

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

Staff recommends modifying the Conditional Overlay to allow for the location of multi-family residences on Tract One because it does not change the number of dwelling units approved. However, staff encourages retaining the central location of the community recreation (private) use (i.e., the swimming pool) on Tract Two in order to be nearby and more accessible to Pleasant

Valley Courtyard residents. Furthermore, the staff has discussed with the applicant's representatives alternative site design measures that continue to provide the swimming pool on Tract Two and also meet the State's requirements regarding project size limitations, which is illustrated in Exhibit D. Therefore, the staff is unable to recommend locating the swimming pool on Tract One because it would be at a considerably further distance from the residents that it is intended to serve.

EXISTING CONDITIONS

Site Characteristics

The site consists of undeveloped acreage. Staff site visits have confirmed the existence of wetland and riparian areas that the City has deemed as Critical Environmental Features (CEF). The applicant and Staff have worked to establish the proper CEF setbacks and ensure these areas have the proper protection.

Impervious Cover

The maximum impervious cover allowed by the MF-3 zoning district is 60%, as established by the more restrictive watershed regulations, and shown in the table below. The impervious cover on the Site Plan in process is 5.69 acres or 29.95% of the site area of the Pleasant Valley Courtyards project.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is floodplain within, or adjacent to the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone should be limited to 30%.

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

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

Transportation

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

The trip generation under the requested zoning is estimated to be 948 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).

(a) This site is under approved site plan (SP-03-0121C.SH) for proposed multi-family residential consisting of 163 apartment dwelling units. Based on the size intensity, the trip generation is estimated to be 1,078 trips per day [Site is based on 25.83 acres]

A traffic impact 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 continue to be limited through a conditional overlay to less than 2,000 vehicle trips per day for the entire Pleasant Valley Courtyards project. [LDC, 25-6-117]

TPSD Right-of-Way

The applicant is required to dedicate any right-of-way needed for the funded CIP project to construct Pleasant Valley Road from St. Elmo to Button Bend. Contact Lucia Stan at 974-7120 to verify right-of-way needs for this project.

Water and Wastewater

The landowner intends to serve the site with City water and wastewater utilities. Water and wastewater utility improvements, offsite main extension, and system upgrades are required. The landowner will be responsible for all costs and for providing.

In order to obtain City water and wastewater utility service, the landowner must obtain City approval of a Service Extension Request. For more information pertaining to the process and submittal requirements, contact Phillip Jaeger, Austin Water Utility, 625 East 10th Street, 5th Floor Waller Creek Center.

The Austin Water Utility reserves the right to make additional comments and to establish other requirements with the Service Extension Request.

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.

Compatibility Standards

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

January 7, 2004

VIA FAX AND HAND DELIVERY

Wendy Walsh
City of Austin
505 Barton Springs Road, 4th Floor
Austin, TX 78704

Re: Zoning Case No. C14-03-0176.SH; 4503 and 4511 East St. Elmo Road (4509 East St. Elmo Road)

Dear Wendy:

We understand that Kensington Park Neighborhood Association has challenged whether our application to rezone the above-referenced property has been sufficiently amended to allow the case to proceed. The application requests rezoning from MF-3-CO to MF-3-CO. That request has not changed and will not be amended. The original reason for the request was to allow community recreation uses on the property so that a clubhouse and swimming pool may be constructed on the site. That request has also not changed and will not be amended. Because Kensington Park opposed that request, we have agreed to change our site plan to call for a residential building on the property rather than the clubhouse and swimming pool. This agreement is expressly contingent upon their support of the changes and of the pending zoning application. To date, the neighborhood has agreed to support this change only if we impose several other conditions. We have not agreed to the additional conditions at this time.

We believe the parties will reach an agreement but cannot guarantee that they will given the conditions the neighborhood has presented. Accordingly, we intend for both options (Option 1: clubhouse and swimming pool AND Option 2: residential building) to be available for consideration by the staff, the Planning Commission and the City Council. The purpose of this letter is to confirm that we have asked to amend our application to make clear that the CO may be changed to allow either use on the property. Please be sure this change is reflected in your records and in the information you provide to the Commission.

If you have any questions or need any additional information, please let me know. Thank you.

Sincerely,


Nikelle S. Meade

Wendy Walsh
January 7, 2004
Page 2

cc: Carlos Herrera, Pleasant Valley Courtyards Housing
Craig Alter, Southwest Housing

Walsh, Wendy

From: MLS4598@aol.com
Sent: Wednesday, January 07, 2004 2:43 PM
To: melodye.foust@ci.austin.tx.us
Cc: wendy.walsh@ci.austin.tx.us; greg.guernsey@ci.austin.tx.us; JHAYNES4201@austin.rr.com; jack@prismnet.com
Subject: Planning Commision Zoning Case C14-03-0176.SH

Ms. Foust -- The above referenced zoning case will be before the Austin Planning Commission this coming Tuesday, 13 January 2004. Would you please forward this email to the members of the Commission. Thanks.

Lee Sloan

Ms. Lydia Ortiz, Chair
Members of the City of Austin Planning Commission

RE: C14-03-0176.SH

The Kensington Park Homeowners Association is, at this time, adamantly opposed to any change in the Zoning or Zoning Conditional Overlays which would allow a recreational use on Tract 1 (Part 3, Section 5) or allow residential use of Tract 1 (Part 3, Section 6). Such changes would be a complete violation of the agreements reached between area Neighborhoods and Pleasant Valley Courtyards.

These agreements were designed to allow the Pleasant Valley project to go forward in an expedited manner while providing appropriate protections to the surrounding neighborhoods. Chief among these protections were maintaining the rural character and quality of life for our neighborhood, and to that end, prohibitions were put in place to prevent placement of recreational, residential, laundry and/or mail facilities, or any other facilities that would result in a noisy and disruptive environment on Tract 1, which less than 300 feet from our neighborhood.

These agreements were arrived at with the full knowledge, cooperation, and participation of the City of Austin and implemented in interlocking zoning Conditional overlays, a Private Restrictive Covenant, and Public Restrictive Covenants. Pleasant Valley Courtyards now wishes to unilaterally abrogate these agreements.

Kensington Park continues to work with Pleasant Valley Courtyards to seek an equitable resolution of their problem that will preserve the agreed-on protections for the neighborhoods. Several alternate solutions have been discussed. We are cautiously optimistic that a resolution can be found within the next several weeks which will meet the needs of all parties concerned.

In light of these on-going negotiations, we are somewhat perplexed that Pleasant Valley would continue to pursue these zoning changes. We would urge the Planning Commission to honor the agreements and promises made and deny these changes.

Respectfully,

Lee Sloan, President
Kensington Park Homeowners Association

Walsh, Wendy

From: MLS4598@aol.com
Sent: Wednesday, January 07, 2004 2:43 PM
To: melodye.foust@ci.austin.tx.us
Cc: wendy.walsh@ci.austin.tx.us; greg.guernsey@ci.austin.tx.us; JHAYNES4201@austin.rr.com; jack@prismnet.com
Subject: Planning Commission Zoning Case C14-03-0176.SH

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Respectfully,

Lee Sloan, President
Kensington Park Homeowners Association

January 8, 2004

Lydia Ortiz, Chair
City of Austin Planning Commission
c/o Melody Faust
1011 San Jacinto, 3rd Floor
Austin, Texas 78701

Re: Pleasant Valley Courtyards Zoning Request, Case No. C14-03-176.SH

Dear Chair Ortiz and Members of the Planning Commission:

Pleasant Valley Courtyards Housing, L.P. has requested a zoning change to amend the existing conditional overlay to allow either community recreation use or residential buildings on Tract 1 of the property. We understand that Pleasant Valley originally proposed a clubhouse, learning center, and swimming pool on Tract 1 but has changed that proposal to address the concerns of Kensington Park Homeowners Association. The new proposal is for a seven unit residential building to be constructed on Tract 1. This building will replace the leasing office on the approved site plan. The Franklin Park Neighborhood Association supports the requested zoning change to allow the residential building on Tract One.

The Kensington Park Homeowners Association has said that it will support this change only if the Owner agrees to close the project's E. St. Elmo driveway, leaving the only access to and from the property at Pleasant Valley Road. Franklin Park Neighborhood Association is opposed to the Kensington-requested driveway closure.

During negotiations of the private restrictive covenant related to the original Courtyards' zoning case, Kensington wanted all of the Courtyards' traffic to access the future Pleasant Valley Road. Franklin Park insisted that access also be taken to E. St. Elmo. To reach a settlement on this issue, Franklin Park compromised by yielding to the Kensington demand that the E. St. Elmo driveway be entry-only after the Pleasant Valley Road extension was completed.

Franklin Park will not amend its position concerning the St. Elmo access. Although we were willing to compromise by agreeing to make it an entrance-only access point, we are not willing to agree to close it completely. Doing so would jeopardize the safety of the children in this neighborhood who travel to school along Pleasant Valley Road. All of Pleasant Valley Road, from Terri Road to Button Bend, is a school zone. Accordingly, it is essential that new and existing developments provide alternate means of access than only through this section of Pleasant Valley Road.

As a neighborhood of 294 homes, compared to Kensington's 14, Franklin Park has a much greater stake regarding automobile traffic. Residents of Pleasant Valley Courtyards will travel through the Franklin Park neighborhood; they will not travel through Kensington. The proposed E. St. Elmo driveway entrance is west of the first entrance into Kensington. Once the E. St. Elmo driveway becomes entrance-only, all traffic exiting the Courtyards will access only Pleasant Valley Road.

Additionally, no one knows when, or if, Pleasant Valley Road will be constructed. The only access to the Courtyards prior to the road being constructed is E. St. Elmo. After Pleasant Valley Road is constructed, it makes more sense to provide multiple access points to the apartments.

Lastly, we share the Owner's concern about isolating the one residential building on Tract 1 without providing reasonable access to it. We believe that the key to a positive integration of this new development into our neighborhood is good connectivity and we do not support the construction of new streets that dead-end and do not connect to the rest of the community.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in black ink that reads "Diane Sanders". The signature is written in a cursive, flowing style.

Diane Sanders
President
Franklin Park Neighborhood Association

Southeast Corner Alliance of Neighborhoods

4901 Turnstone Drive
Austin, Texas 78744
(512) 447-9353

01 December 2003

Mayor Will Wynn
Members of the Austin City Council
Municipal Building
124 W. 8th Street
P. O. Box 1088
Austin, Texas 78767

RE: Changes in Conditional Overlays Established under C14-02-0155.SH

Dear Mayor Wynn and Council Members:

By filing a request for changes in their zoning Conditional Overlays, Pleasant Valley Courtyards is breaching written and verbal promises made to area Neighborhoods. These agreements were reached at the urging of City Council and Staff in order to provide appropriate protections for the Neighborhoods and allow the zoning to proceed on an expedited timetable to meet Texas Department of Housing deadlines.

Granting the change in zoning Conditional Overlays sought by the developer would undermine the entire process of negotiated settlement and agreement critical to the resolution of so many zoning cases. The City of Austin must not allow itself to be put in the position of breaching these protections and promises, particularly when there are viable alternatives at hand.

SCAN fully supports our South-East Austin Neighborhoods in urging the City of Austin to uphold these agreements and deny the zoning changes sought by Southwest Housing Development.

Respectfully,

Joe Munoz, President

CC: Lydia Ortiz, Chair, Planning Commission
Betty Baker, Chair, Zoning & Platting Commission

January 9, 2004

VIA HAND DELIVERY

Lee Sloan
Kensington Park Homeowners Association
4202 Afton Lane
Austin, Texas 78744

Re: Pleasant Valley Courtyards Apartments

Dear Mr. Sloan:

We have received and reviewed your December 23rd Compromise Resolution concerning the Pleasant Valley Courtyards Development. Our response thereto is as follows:

Issue #1: Only Residential on Tract One - Agreed

We agree to replace the clubhouse, pool, and leasing office proposed for Tract One with one 7-unit apartment building. We also agree to have the conditional overlay limit the number of units to 7.

Issue #2: Mail and Laundry Centers - Agreed

We agree that the central mail kiosk and laundry facilities for the development will be located on Tract Two. We may install incidental mail and laundry facilities in or near the building on Tract Two but only in a quantity sufficient to serve the residents of this building. For mail, that would be a maximum of 8 mailboxes and for laundry a maximum of 4 washers and 4 dryers.

Issue #3: Height of Tract One Residential Building - Agreed

We agree that the Tract One residential building will be two stories in height and will oriented so that no balconies are perpendicular to St. Elmo Drive. (See site plan attached).

Issue #4: Closure of Access to St. Elmo Rd. - Not Agreed

We do not agree to close access from our development to St. Elmo Road. We are unable to agree to do this for the following reasons:

- a. We have already agreed to restrict this access to entrance-only for the purpose of decreasing the amount of traffic using the access. The existence of this access point would have little impact on traffic through Kensington Park neighborhood.

Lee Sloan
January 9, 2004
Page 2

b. Closure of access to St. Elmo Road would have a detrimental impact on the safety of the residents of Pleasant Valley Courtyards apartments. Concerning crime safety and fire-safety accessibility, dual access to a property as large as the Pleasant Valley property is desirable. We do not believe it is desirable to have the Tract One residential building isolated from the remainder of the property with no proximate access to it.

c. Without the St. Elmo access, the only access to the property is Pleasant Valley Road, which is not yet constructed. There are currently no certain construction plans or dates for Pleasant Valley Road, and we do not yet know what the alignment of that roadway and the curb cuts thereon will be.

d. The proposed single residential building will generate less traffic than would the leasing office which the neighborhood is endorsing since the leasing office must accommodate staff, visitors, deliveries, repairmen, etc., and is for use by all of the residents on the property.

Given these important reasons for preserving access to St. Elmo Rd. and with our continuing agreement to limit access to and from our property by way of St. Elmo Rd., we ask that you accept our agreement concerning the remainder of the issues and rescind your request for closure of St. Elmo. If you accept, we are ready to solidify the agreement and make the appropriate written amendments to the restrictive covenant document.

We look forward to finalizing this agreement and feel that we and Kensington Park have all come a long way to find a solution that addresses most of the concerns of the parties. Please call me if you have any questions.

Sincerely,

Nikelle S. Meade

NSM:/mac

cc: Carlos Herrera, Pleasant Valley Courtyards Housing
Craig Alter, Southwest Housing

EAST ST. ELM ROAD

PHASE

PHASE

PHASE

PHASE

PHASE

PHASE

-PHASE

PHASE VI

STANBURY PARK, AMERICA
BOX 73, PG. 10
2 LANE, WYNDHAMIA 2

LOT	LOT	LOT	LOT
12	13	14	

Walsh, Wendy

From: Nikelle Meade [nmeade@mailbmc.com]
Sent: Tuesday, January 13, 2004 5:31 PM
To: MLS4598@aol.com; calter@southwesthousing.com
Cc: JHAYNES4201@austin.rr.com; greg.guernsey@ci.austin.tx.us;
Wendy.Walsh@ci.austin.tx.us; jack@prismnet.com
Subject: Re: Consensus Postponement for C14-03-0176.SH

Lee,

We do not join in the request for postponement. Because we have all along argued to staff and to you guys that time is of the essence for us, we could not justify asking the staff or Commission for a postponement. We also believe that even with Planning Commission action tonight there is sufficient time to get the agreement in place before the Council takes any action on the case. However, as a show of good faith and of our willingness to move forward with the newly-reached agreement, we do not oppose your request to postpone the case to the 27th of January.

Nikelle S. Meade, Esq.
Brown McCarroll, L.L.P.
111 Congress Avenue, Suite 1400
Austin, TX 78701-4043
512.479.1147/Direct
512.479.1101/Fax
nmeade@mailbmc.com
www.brownmccarroll.com

BROWN MCCARROLL, L.L.P. EMAIL CONFIDENTIALITY NOTICE

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>>> <MLS4598@aol.com> 01/13/04 05:15PM >>>
Nikelle and Craig,

Although you have indicated to the contrary, Kensington Park would respectfully request that you join us in requesting a postponement of the above-referenced hearings scheduled before the Planning Commission tonight. I believe a joint request for postponement would be a demonstration of good faith on the part of both parties.

Sincerely,

M. L. Sloan, President
Kensington Park Homeowners Association

MEETING SUMMARY
DRAFT- NOT APPROVED BY PC

CITY PLANNING COMMISSION

January 27, 2004
One Texas Center
505 Barton Springs Road
Conference Room 325

CALL TO ORDER – 6:00 P.M.

____ Maggie Armstrong, Secretary

Resigned Michael Casias

____ Cynthia Medlin, Asst. Secretary

____ Matthew Moore

____ Lydia Ortiz, Chair

____ Chris Riley, Vice Chair

____ Niyanta Spelman

____ Dave Sullivan, Parliamentarian

A. REGULAR AGENDA

EXECUTIVE SESSION (No public discussion)

The Planning Commission will announce it will go into Executive Session, if necessary, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel on matters specifically listed on this agenda. The Planning Commission may also announce it will go into Executive Session, if necessary, to receive advice from Legal Counsel regarding any other item on this agenda.

Private Consultation with Attorney – Section 551.071

CITIZEN COMMUNICATION:

1. The first four (4) speakers signed up to speak will each be allowed a three-minute allotment to address their concerns regarding items *not* posted on the agenda.

Susana Almanza presented the findings of a report regarding environmental justice and planning. Ms. Almanza distributed copies of the report to the Commissioners.

APPROVAL OF MINUTES

2. Approval of minutes from January 13, 2004.

MOTION: APPROVE BY CONSENT

VOTE: 7-0 (NS-1ST, CR-2ND)

DISCUSSION AND ACTION

3. **Briefing:** Travis County Appraisal District Property Valuation Issues
Staff: Art Cory, Travis County Appraisal District

Art Cory explained that TCAD values property differently depending on the type (residential or commercial).

In regards to valuing residential, TCAD is charged by law to value property by market value around January. There are 3000 neighborhoods in Travis County that are a grouping of houses

Facilitator: Katie Larsen, 974-6413
katie.larsen@ci.austin.tx.us

- 13. Rezoning: C14-03-0176.SH - Pleasant Valley Courtyards - S.M.A.R.T. Housing**
- Location: 4503 - 4511 East St. Elmo Road, Williamson Creek Watershed Watershed, Southeast Combined Planning Area (Franklin Park) NPA
- Owner/Applicant: Pleasant Valley Courtyards Housing, L.P. (Craig Alter on behalf of Carlos Herrera)
- Agent: Brown McCarroll, L.L.P. (Nikelle S. Meade)
- Request: MF-3-CO-NP to MF-3-CO-NP. The rezoning request is to modify the Conditional Overlay to allow for the location of residential dwelling units and community recreation (private) use on Tract One.
- Staff Rec.: **Recommended to modify the Conditional Overlay to allow residential dwelling units on Tract One. Not Recommended to allow community recreation (private) use on Tract One.**
- Staff: Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us
Neighborhood Planning and Zoning Department

Wendy Walsh presented the staff recommendation. There have been private agreements made between the applicant and nearby neighborhood associations.

PUBLIC HEARING

APPLICANT

Nikelle Meade, the applicant's agent, said they have entered into an agreement with Kensington neighborhood association, and have not completed an agreement with Franklin Park Neighborhood Association. Franklin Park is not a party to the Kensington NA agreement.

FOR, NOT SPEAKING

Lee Sloan
Shaundra Maloy

NO POSITION

Did not speak: Diane Sanders

Jack Howison, did not speak. Commissioner Sullivan asked Mr. Howison if he is satisfied that there is no threat to the creek from the crossing. Mr. Howison said that he is satisfied with the environmental protections.

MOTION: CLOSE PUBLIC HEARING

VOTE: DS-1st, NS-2nd (7-0)

MOTION: APPROVE STAFF RECOMMENDATION

VOTE: 7-0 (DS-1st, NS-2nd)

ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 4503-4511 EAST ST. ELMO ROAD IN THE FRANKLIN PARK NEIGHBORHOOD PLAN AREA FROM MULTIFAMILY RESIDENCE MEDIUM DENSITY-CONDITIONAL OVERLAY NEIGHBORHOOD PLAN (MF-3-CO-NP) COMBINING DISTRICT TO MULTIFAMILY RESIDENCE MEDIUM DENSITY-CONDITIONAL OVERLAY NEIGHBORHOOD PLAN (MF-3-CO-NP) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from multifamily residence medium density-conditional overlay-neighborhood plan (MF-3-CO-NP) combining district to multifamily residence medium density-conditional overlay-neighborhood plan (MF-3-CO-NP) combining district on the property described in Zoning Case No. C14-03-0176SH, on file at the Neighborhood Planning and Zoning Department, as follows:

A 3.950 acre tract of land, more or less, out of the Santiago Del Valle Ten League Grant in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance, (the "Property")

locally known as 4503-4511 East St. Elmo Road, in the Franklin Park neighborhood plan area, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B"

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

Development of the Property may not exceed seven residential dwelling units. The units shall be contained in a single building. The maximum height of the building shall be 2 stories or 40 feet from ground level of the Property.

PART 3. Except as otherwise provided in this ordinance, the terms and conditions of Ordinance No. 021031-Z-4 remain in effect for the Property.

1
2 **PART 4.** This ordinance takes effect on _____, 2004.

3
4
5 **PASSED AND APPROVED**

6
7
8
9 _____, 2004

§
§
§

Will Wynn
Mayor

10
11
12
13
14 **APPROVED:** _____

ATTEST: _____

15 David Allan Smith
16 City Attorney

Shirley A. Brown
City Clerk

C14-02-0155.SW

C14-03-0176.S41

3.950 ACRES
ZONING TRACT 1
ST. ELMO MULTI-FAMILY

EXHIBIT A

FN NO. 02-299 (MTH)
OCTOBER 18, 2002
BPI NO. 1270-04.92

DESCRIPTION

OF 3.950 ACRES OF LAND SITUATED IN THE SANTIAGO DEL VALLE TEN LEAGUE GRANT, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 20.250 ACRE TRACT OF LAND CONVEYED TO NILDA A. DE LA LLATA BY DEED OF RECORD IN VOLUME 13199, PAGE 2740 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND A PORTION OF THAT CERTAIN 21.235 ACRE TRACT OF LAND CONVEYED TO BOBBY POSPISIL BY DEED OF RECORD IN DOCUMENT NO. 1999094656 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 3.950 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod with cap found in the southerly right-of-way line of St. Elmo Road (R.O.W. Varies) as conveyed to the City of Austin in a Street Deed of record in Volume 10107, Page 478 of said Real Property Records, being in the westerly line of that certain 2.986 acre tract of land conveyed to King Fisher Creek, Ltd. by deed of record in Document No. 2000165317 of said Official Public Records, same being the northeasterly corner of said 21.235 acre tract and hereof;

THENCE, S27°46'53"W, leaving the southerly right-of-way line of St. Elmo Road, along the common line of said 2.986 acre tract and said 21.235 acre tract for a portion of the easterly line hereof, a distance of 408.01 feet to a 60D Nail found in a fence post for the southwesterly corner of said 2.986 acre tract, being an interior ell corner of said 21.235 acre tract;

THENCE, S27°46'53"W, leaving the southwesterly corner of said 2.986 acre tract, over and across said 21.235 acre tract for a portion of the easterly line hereof, a distance of 181.04 feet to a point in the southerly line of that certain 5.197 acre tract of land called Tract 1 as per City of Austin Zoning Ordinance No. 870108-D;

THENCE, continuing over and across said 21.235 acre tract and said 20.250 acre tract, being along and with the southerly line of said 5.197 acre Zoning Tract for the southerly line hereof, the following twenty-four (24) courses and distances:

- 1) S87°16'31"W, a distance of 53.94 feet to the point of curvature of a non-tangent curve to the right;
- 2) Along said non-tangent curve to the right having a radius of 92.81 feet, a central angle of 37°20'10", an arc length of 60.48 feet and a chord which bears N50°31'29"W, a distance of 59.41 feet to the point of compound curvature to the right;
- 3) Along said compound curve to the right having a radius of 92.81 feet, a central angle of 38°01'14", an arc length of 61.59 feet and a chord which bears N12°49'29"W, a distance of 60.46 feet to the end of said compound curve;

- 4) N01°35'06"E, a distance of 43.08 feet to an angle point;
- 5) N63°25'36"E, a distance of 36.97 feet to an angle point;
- 6) N59°34'36"E, a distance of 57.19 feet to an angle point;
- 7) N55°04'36"E, a distance of 38.17 feet to the point of curvature of a non-tangent curve to the left;
- 8) Along said non-tangent curve to the left having a radius of 71.98 feet, a central angle of 83°37'02", an arc length of 105.05 feet and a chord which bears N00°38'24"E, a distance of 95.97 feet to the end of said curve;
- 9) N37°37'54"W, a distance of 91.19 feet to an angle point;
- 10) N38°25'24"W, a distance of 96.01 feet to an angle point;
- 11) N58°14'54"W, a distance of 99.52 feet to an angle point;
- 12) N75°20'24"W, a distance of 56.28 feet to an angle point;
- 13) N56°58'54"W, a distance of 50.01 feet to an angle point;
- 14) N65°53'24"W, a distance of 87.41 feet to an angle point;
- 15) S60°26'36"W, a distance of 70.13 feet to an angle point;
- 16) S65°04'06"W, a distance of 55.97 feet to an angle point;
- 17) S69°40'06"W, a distance of 59.44 feet to an angle point;
- 18) S67°25'06"W, a distance of 77.39 feet to an angle point;
- 19) S74°02'36"W, a distance of 69.42 feet to an angle point;
- 20) S47°52'06"W, a distance of 67.93 feet to an angle point;
- 21) S53°00'06"W, a distance of 51.97 feet to an angle point;
- 22) N32°44'24"W, a distance of 67.41 feet to an angle point;
- 23) N41°33'54"W, a distance of 64.52 feet to an angle point;
- 24) N52°20'24"W, a distance of 37.62 feet to a point in the easterly line of that certain 177.296 acre tract of land conveyed to Barkley Family Farm Partnership by deed of record in Document No. 1999114399 of said Official Public Records, being the westerly line of said 20.250 acre tract, same being the southwest corner of said 5.197 acre Zoning Tract and hereof;

THENCE, N27°07'03"E, along the common line of said 177.296 acre tract and said 20.250 acre tract, being a portion of the westerly line of said 5.197 acre Zoning Tract for a portion of the westerly line hereof, a distance of 14.01 feet to a 60D Nail found in a fence post at the southwesterly corner of that certain 2.470 acre tract of land conveyed to American Legion Knebel Post #83, Inc. by deed of record in Volume 6585, Page 95 of said Real Property Records, same being the westernmost northwesterly corner of said 20.250 acre tract of land;

THENCE, S64°18'07"E, leaving the easterly line of said 177.296 acre tract, along the common line of said 2.470 acre tract and said 20.250 acre tract, being a portion of the irregular westerly line of said 5.197 acre Zoning Tract for a portion of the irregular westerly line hereof, a distance of 172.16 feet to a 1/2 inch iron rod found at the southeasterly corner of said 2.470 acre tract, being the southwesterly corner of Five Star Acres, a subdivision of record in Volume 85, Page 8B of the Plat Records of Travis County, Texas;

THENCE, leaving the southeasterly corner of said 2.470 acre tract, along the common line of said Five Star Acres and said 20.250 acre tract, being a portion of the irregular westerly line of said 5.197 acre Zoning Tract for a portion of the westerly line hereof, the following three (3) courses and distances:

- 1) N67°56'10"E, a distance of 302.38 feet to a 1/2 inch iron rod found;
- 2) N49°50'57"E, a distance of 55.00 feet to a 1/2 inch iron rod found;
- 3) N31°35'42"E, a distance of 26.43 feet to a 1/2 inch iron rod with cap set at the southeasterly corner of said Five Star Acres, being the southwesterly corner of Lot 1 Kimberly Addition, a subdivision of record in Volume 85, Page 83A of said Plat Records;

THENCE, leaving the southeasterly corner of said Five Star Acres, along the common line of said Lot 1 Kimberly Addition and said 20.250 acre tract, being a portion of the irregular westerly line of said 5.197 acre Zoning Tract for a portion of the irregular westerly line hereof, the following two (2) courses and distances:


- 1) S62°12'07"E, a distance of 200.15 feet to a 1/2 inch iron rod found at the southeasterly corner of said Lot 1 Kimberly Addition;
- 2) N27°45'48"E, a distance of 227.40 feet to a 1/2 inch iron rod found in the southerly right-of-way line of St. Elmo Road, being the northwesterly corner of said 20.250 acre tract, said 5.197 acre Zoning Tract and hereof;

FN NO. 02-299 (MTH)
OCTOBER 18, 2002
PAGE 4 OF 4

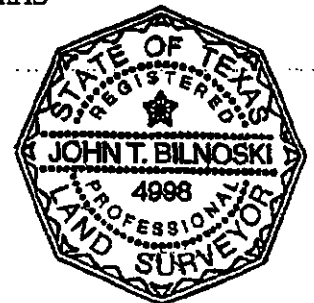
THENCE, S62°12'10"E, leaving the easterly line of said Lot 1 Kimberly Addition, along the southerly line of St. Elmo Road, being the northerly line of said 5.197 acre Zoning Tract and hereof, passing at a distance of 138.10 feet a 1/2 inch iron rod found at the common northerly corner of said 20.250 acre tract and said 21.235 acre tract and continuing for a total distance of 422.70 feet to the POINT OF BEGINNING, containing an area of 3.950 acres (172,081 sq. ft.) of land, more or less, within these metes and bounds.

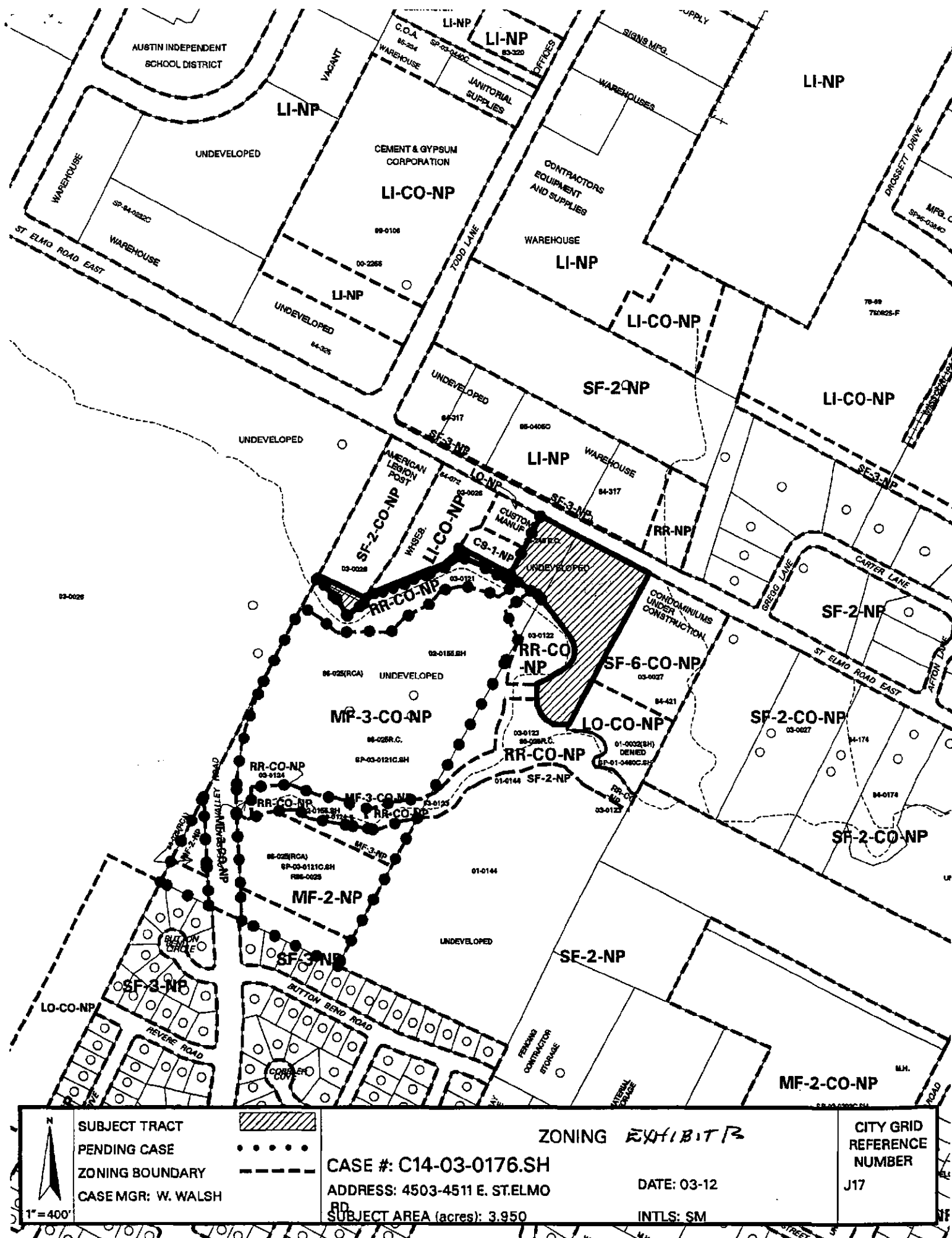
I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

BURY & PARTNERS INC.
ENGINEERS-SURVEYORS
3345 BEE CAVES ROAD, SUITE 200
AUSTIN, TEXAS 78746


JOHN T. BILNOSKI
R.P.L.S. NO. 4998
STATE OF TEXAS

10/18/02
DATE





4202 Afton Lane
Austin, Texas 78744
29 January 2004

Mayor Will Wynn
Members of the Austin City Council

RE: Request for Postponement of Zoning Case C14-03-0176.SH

The Kensington Park Homeowners Association respectfully requests a 1 week postponement to 05 February 2004 of the above referenced zoning case. We are requesting this postponement based on the following:

Granting the requested zoning at this time could place the City in the position of abetting a clear violation of Section 18 of the Private Restrictive Covenant entered into in October 2002. It will be remembered that this Covenant was part of a total package of Agreements and Covenants put in place at the urging of, and with the full knowledge, cooperation, and participation of, the City of Austin in order to allow the Pleasant Valley Courtyard Project to move forward.

In order to avoid such a situation, Pleasant Valley Courtyard and Kensington Park have just concluded an Agreement that provides a ten (10) day period starting last Tuesday to amend the Private Restrictive Covenant to bring it into agreement with the requested zoning. By granting a one week postponement to 05 February 2004, we will have the ten days in which hopefully all parties can be brought on-board and the Covenant can be so amended. At that time, Council could then move forward with its zoning action in compliance with the Restrictive Covenant.

Please give this process a chance.

Respectfully,

A handwritten signature in black ink, appearing to read "M. L. Sloan", with a long horizontal flourish extending to the right.

M. L. Sloan, President
Kensington Park Homeowners Association