

**Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 51
AGENDA DATE: Thu 3/24/2005
PAGE: 1 of 1**

SUBJECT: C14-03-0125 - Wagner Tract - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 13801-14409 North IH-35 Service Road North Bound (Walnut Creek Watershed) from single family residence standard lot (SF-2) district zoning to general commercial services (CS-CO) combining district zoning. First reading on June 17, 2004. Vote: (7-0). Conditions met as follows: Conditional Overlay and Restrictive Covenant incorporates the conditions imposed or accepted by City Council at first ordinance reading. Applicant: Karl B. Wagner, Jr., Mary Ella Wagner Jones, and JP Morgan Chase Bank (Terry Anderson, Trust Officer). Agent: Doucet & Associates, Inc. (Carol M. Stewart). City Staff: Sherri Gager, 974-3057.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-03-0125

REQUEST:

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code, zoning the property locally known as 13801-14409 North IH-35 Service Road North Bound from SF-2, Single Family Residence-Standard Lot District, zoning to CS-CO, General Commercial Services-Conditional Overlay District, zoning.

Conditions met as follows:

- 1) Limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA [Alliance Texas Engineering (Brian Craiq, P.E.) - December 2003].

- 2) Prohibit the following uses:

Art & Craft Studio (General)
Building Maintenance Services
Campground
Commercial Blood Plasma Center
Drop-off Recycling Collection Facility
Equipment Repair Services
Equipment Sales
Kennels
Laundry Service
Pawn Shop Services
Vehicle Storage
Veterinary Services
Maintenance and Service Facilities
Adult-Oriented Businesses

- 3) Make the following uses Conditional:

Automotive Repair Services (Any proposed Automotive Repair Service use will be located a minimum of 400 feet from the common property lines with the cemeteries located to the north and south of the property in question.)

Convenience Storage
Limited Warehousing and Distribution

PROPERTY OWNER: Karl B. Wagner, Jr.
Mary Ella Wagner Jones
JP Morgan Chase Bank (Terry Anderson, Trust Officer)

AGENT: Doucet & Associates, Inc. (Carol M. Stewart)

ISSUES:

The Texas Department of Transportation submitted a letter to the staff on February 22, 2005, requesting a change in the conditions of the TIA memorandum for this case (Attachment C). The staff has revised the TIA memo requirements in Attachment D and therefore this case is ready to proceed for 2nd/3rd readings.

DEPARTMENT COMMENTS:

The applicants are requesting CS, General Commercial Services District, zoning for the property in question because they propose to develop the site with a retail shopping center and two restaurant uses. The applicants and the neighborhood association have agreed to the proposed CS-CO zoning (Attachment B).

The staff is recommending CS zoning for the site because the proposed zoning is compatible with the surrounding commercial uses and the property fronts onto an interstate highway.

The applicant agrees with the City Council's recommendation at first reading.

DATE OF FIRST READING/VOTE: June 17, 2004/ Granted CS-CO as recommended by staff, with additional conditions agreed to between the applicant and the neighborhood association (7-0); 1st reading.

DATE OF SECOND & THIRD READING/VOTE: July 29, 2004/ Postponed to September 30, 2004 at staff's request (6-0, Alvarez-off dias)

September 30, 2004/ Postponed to December 2, 2004 at applicant's request (7-0)

December 2, 2004/ Postponed to February 10, 2005 at the applicant's request (7-0)

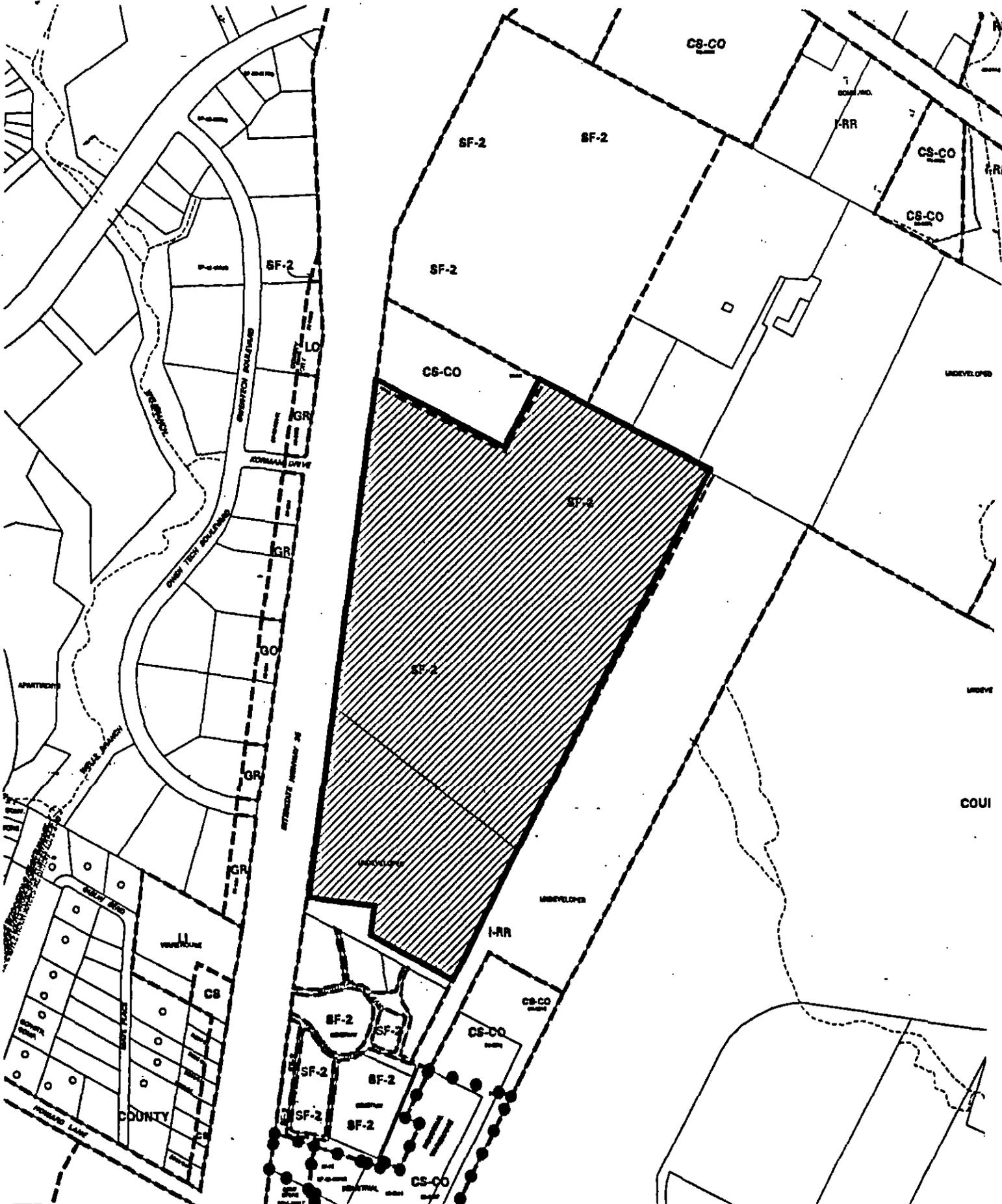
February 10, 2005/ Postponed to March 24, 2005 at the applicant's request (7-0) – Applicant requested additional time to continue negotiating with TXDOT on a drainage easement dedication.

CITY COUNCIL DATE: March 24, 2005

CITY COUNCIL ACTION:

ASSIGNED STAFF: Sherri Sirwaitis

PHONE: 974-3057
sherri.sirwaitis@ci.austin.tx.us




 SUBJECT TRACT 
 PENDING CASE 
 ZONING BOUNDARY 
 CASE MGR: S. GAGER

CASE #: C14-03-0125
ADDRESS: N I 35 SVC RD NB
SUBJECT AREA (acres): 73.465

ZONING EXHIBIT B
 DATE: 03-08
 INTLS: SM

CITY GRID
 REFERENC
 NUMBER
M36 N36

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 13801-14409 NORTH IH-35 SERVICE ROAD
3 NORTHBOUND FROM SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2)
4 DISTRICT TO GENERAL COMMERCIAL SERVICES-CONDITIONAL
5 OVERLAY (CS-CO) COMBINING DISTRICT.
6

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
8

9 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
10 change the base district from single family residence standard lot (SF-2) district to general
11 commercial services-conditional overlay (CS-CO) combining district on the property
12 described in Zoning Case No. C14-03-0125, on file at the Neighborhood Planning and
13 Zoning Department, as follows:
14

15 A 73.465 acre tract of land, more or less, out of the L.C. Cunningham Survey No.
16 68, Abstract No. 163, Travis County, the tract of land being more particularly
17 described by metes and bounds in Exhibit "A" incorporated into this ordinance,
18 (the "Property")
19

20 locally known as 13801-14409 North IH-35 Service Road northbound, in the City of
21 Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".
22

23 PART 2. The Property within the boundaries of the conditional overlay combining district
24 established by this ordinance is subject to the following conditions:
25

26 1. The following uses are prohibited uses of the Property:
27

28 Art workshop	Building maintenance services
29 Campground	Commercial blood plasma center
30 Drop-off recycling collection facility	Equipment repair services
31 Equipment sales	Kennels
32 Laundry service	Pawn shop services
33 Vehicle storage	Veterinary services
34 Maintenance and service facilities	Adult-oriented businesses

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2. The following uses are conditional uses of the Property:

- Automotive repair services
- Limited warehousing and distribution
- Convenience storage

3. For an automotive repair use a 400-foot wide building setback shall be established along the north and south property lines.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the general commercial services (CS) base district and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

_____, 2004

Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk

FIELD NOTES
FOR
KARL WAGNER, JR.

EXHIBIT A

73.465 ACRE TRACT

PAGE 1 OF 2

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND, BEING A PORTION OF THE L.C. CUNNINGHAM SURVEY NO. 68, ABSTRACT NO. 163, TRAVIS COUNTY, TEXAS, BEING A PORTION OF TRACT ONE AND ALL OF TRACT TWO CONVEYED TO KARL B. WAGNER BY DEED RECORDED IN VOLUME 2249, PAGE 409 AND VOLUME 2249, PAGE 413, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pipe found at the Northeast corner of the said Tract 1 as conveyed to Karl B. Wagner by deed recorded in Volume 2249, Page 409, Deed Records, Travis County, Texas, being the Northwest corner of a 31.192 acre tract of land as conveyed to Capital Parks Land Investment, Inc. by deed recorded in Volume 9555, Page 325, Real Property Records, Travis County, Texas, being in the South line of that tract of land conveyed to Capital Parks Land Investments, Inc., by deed recorded in Volume 9511, Page 261, Real Property Records, Travis County, Texas, for the Northeast corner hereof;

THENCE with the East line of the said Wagner tract, being the West line of the said 31.192 acre Capital Parks Land investments, Inc. tract, S 29°29'00" W for a distance of 2740.08 feet to an iron pipe found at the Southeast corner of the said Tract 2, for the Southeast corner hereof, and from which iron pipe found, an iron pipe found at the Northeast corner of that tract of land conveyed to Memorial Hill Cemetery by deed recorded in Volume 1116, Page 63, Deed Records, Travis County, Texas, bears S 29°25' W at a distance of 16.88 feet;

THENCE, with the South line of the said Wagner Tract 2, N 60°06'55" W for a distance of 455.02 feet to an iron rod set, being in the East line of a 0.731 acre tract of land conveyed to Memorial Hill Cemetery by deed recorded in Volume 1561, Page 371 Deed Records, Travis County, Texas, for an inside corner hereof;

THENCE N 09°58'00" E for a distance of 139.06 feet to a 60-d nail found at an inside corner of the said Wagner Tract 2, being the Northeast corner of the said 0.731 acre Memorial Hill Cemetery tract, for an inside corner hereof;

THENCE N 79°57'26" W for a distance of 320.11 feet to an aluminum capped iron found, stamped Prejean & Co. Inc. #1820, being the Southwest corner of the said Wagner Tract 2, being the Northwest corner of the said 0.731 acre Memorial Hill Cemetery tract, being in the East r.o.w. line of Interstate Highway 35, for the Southwest corner hereof;

THENCE with the West line of the said Wagner tract, being the East r.o.w. line of Interstate Highway 35, N 09°56'18" E for a distance of 2493.54 feet to an iron rod found, being the Southwest corner of a 2.521 acre tract of land as conveyed to SCI Ohio Funeral Services, Inc. by deed recorded in Volume 12709, Page 1344, Deed Records, Travis County, Texas, being the Southwest corner of Lot 1, Block A, Cook-Walden Subdivision, recorded in Plat Book 98, Pages 78-79, Plat Records, Travis County, Texas, for the most Westerly Northwest corner hereof;

THENCE S 60°22'00" E for a distance of 705.55 feet to an iron rod found at the Southeast corner of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Southeast corner of the said 2.521 acre SCI Ohio Funeral Services, Inc. tract, for an inside corner hereof;

THENCE N 29°37'49" E for a distance of 149.90 to an iron pipe found in the East line of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Northeast corner of the said 2.521 acre SCI Ohio Funeral Services, Inc. tract, being the Southeast corner of a 3.994 acre tract of land conveyed to Capital Parks Land Investments, Inc. as described in Volume 11697, Page 1032, Real Property Records, Travis County, Texas;

FIELD NOTES
FOR
KARL WAGNER, JR.

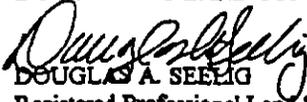
73.465 ACRE TRACT

PAGE 2 OF 2

THENCE continuing with the East line of Lot 1, Block A, Cook-Walden Subdivision, N 29°43'49" E for a distance of 123.18 feet, passing an iron rod found at the Southeast corner of Hill Country Garden at Cook-Walden/Capital Parks, as recorded in Plat Book 102, Pages 216-234, Plat Records, Travis County, Texas, and continuing on for a total distance of 217.46 feet to an iron rod found, being the Northeast corner of the said Hill Country Garden at Cook-Walden/Capital Parks, being the Northeast corner of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Northeast corner of the said 3.994 acre Capital Parks Land Investments, Inc. tract, being in the South line of that certain 0.745 acre tract of land as conveyed to Capital Parks, Inc. by deed recorded in Volume 11683, Page 851, Real Property Records, Travis County, Texas for a Northeasterly Northwest corner hereof, and from which corner an iron rod found, bears N 00°06' W for a distance of 0.09 feet, and an iron pipe found bears N 33°48' E for a distance of 0.51 feet;

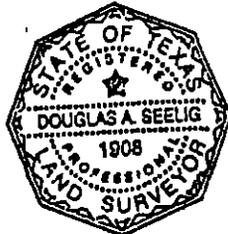
THENCE with the North line of the said Wagner Tract 1, being the South line of the said 0.745 acre Capital Parks, Inc. tract, S 60°19'53" E at a distance of approximately 479.7 feet pass the Southeast corner of the said 0.745 acre Capital Parks, Inc. tract, and continue on for a total distance of 930.67 feet to the PLACE OF BEGINNING, and containing 73.465 acres of land, more or less.

AS SURVEYED BY
DOUG SEELIG LAND SURVEYORS P.C.


DOUGLAS A. SEELIG

Registered Professional Land Surveyor No. 1908
3802 Manchaca Road
Austin, Texas 78704
November 29, 1999

Work Order No. 16896



RESTRICTIVE COVENANT

OWNER: JPMorgan Chase Bank, N.A., a national banking association,
Co-Trustee of The Karl B. Wagner Testamentary Trust for the benefit of
Karl B. Wagner, Jr., and
The Karl B. Wagner Testamentary Trust for the benefit of
Mary Ella Wagner Jones

ADDRESS: 2200 Ross Avenue, 7th Floor, Dallas, Texas 75201

OWNER: Karl B. Wagner, Jr., Individually and as Co-Trustee of The Karl B.
Wagner Testamentary Trust for the benefit of Mary Ella Wagner Jones

ADDRESS: 7 Berkshire Drive, Richmond, Texas 23229-8218

OWNER: Mary Ella Wagner Jones, Individually and as Co-Trustee of
The Karl B. Wagner Testamentary Trust for the benefit of Karl B. Wagner

ADDRESS: 33 Pine Island Road, Hilton Head Island, South Carolina 29928

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 73.465 acre tract of land, more or less, out of the L.C. Cunningham
Survey No. 68, Abstract No. 163, in Travis County, the tracts 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. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Texas Engineering Company, dated June 2004, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated March 7, 2005. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. 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.

3. 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.
4. 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.
5. 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 _____, 2005.

OWNER:

**JPMorgan Chase Bank, N.A.,
a national banking association
Co-Trustee of The Karl B. Wagner Testamentary
Trust, fbo Karl B. Wagner, Jr., and
The Karl B. Wagner Testamentary Trust
Fbo Mary Ella Wagner Jones**

By: _____
Terry W. Anderson,
Vice President

Date: _____

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2005, by Terry Anderson, Vice President of JPMorgan Chase Bank, N.A., a national banking association, on behalf of the association, and the association acknowledged this instrument as Co-Trustee of the Karl B. Wagner Testamentary Trust fbo Karl B. Wagner, Jr., and The Karl B. Wagner Testamentary Trust fbo Mary Ella Wagner Jones.

Notary Public, State of Texas

EXECUTED this the _____ day of _____, 2005.

OWNER:

Karl B. Wagner, Jr.,
Individually and as
Co-Trustee of the Karl B. Wagner Testamentary
Trust fbo Mary Ella Wagner Jones

Date: _____

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2005, by Karl B. Wagner, Jr., Individually and as Co-Trustee of the Karl B. Wagner Testamentary Trust fbo Mary Ella Wagner Jones.

Notary Public, State of _____

EXECUTED this the _____ day of _____, 2005.

OWNER:

Mary Ella Wagner Jones,
Individually, and as
Co-Trustee of the Karl B. Wagner Testamentary
Trust fbo Karl B. Wagner, Jr.

Date: _____

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2005, by Mary Ella Wagner Jones, Individually and as Co-Trustee of the Karl B. Wagner Testamentary Trust fbo Karl B. Wagner, Jr.

Notary Public Signature, State of _____

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

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

FIELD NOTES
FOR
KARL WAGNER, JR.

EXHIBIT A

73.465 ACRE TRACT

PAGE 1 OF 2

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THENCE with the East line of the said Wagner tract, being the West line of the said 31.192 acre Capital Parks Land investments, Inc. tract, S 29°29'00" W for a distance of 2740.08 feet to an iron pipe found at the Southeast corner of the said Tract 2, for the Southeast corner hereof, and from which iron pipe found, an iron pipe found at the Northeast corner of that tract of land conveyed to Memorial Hill Cemetery by deed recorded in Volume 1116, Page 63, Deed Records, Travis County, Texas, bears S 29°25' W at a distance of 16.88 feet;

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THENCE with the West line of the said Wagner tract, being the East r.o.w. line of Interstate Highway 35, N 09°56'18" E for a distance of 2493.54 feet to an iron rod found, being the Southwest corner of a 2.521 acre tract of land as conveyed to SCI Ohio Funeral Services, Inc. by deed recorded in Volume 12709, Page 1344, Deed Records, Travis County, Texas, being the Southwest corner of Lot 1, Block A, Cook-Walden Subdivision, recorded in Plat Book 98, Pages 78-79, Plat Records, Travis County, Texas, for the most Westerly Northwest corner hereof;

THENCE S 60°22'00" E for a distance of 705.55 feet to an iron rod found at the Southeast corner of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Southeast corner of the said 2.521 acre SCI Ohio Funeral Services, Inc. tract, for an inside corner hereof;

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FIELD NOTES
FOR
KARL WAGNER, JR.

73.465 ACRE TRACT

PAGE 2 OF 2

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AS SURVEYED BY
DOUG SEELIG LAND SURVEYORS P.C.

Douglas A. Seelig
DOUGLAS A. SEELIG

Registered Professional Land Surveyor No. 1908
3802 Manchaca Road
Austin, Texas 78704
November 29, 1999

Work Order No. 16896



ZONING CHANGE REVIEW SHEET

CASE: C14-03-0125

Z.A.P. DATE: May 18, 2004
June 1, 2004

ADDRESS: 13801-14409 North IH-35 Service Road North Bound

OWNER/APPLICANT: Karl B. Wagner, Jr.
Mary Ella Wagner Jones
JP Morgan Chase Bank (Terry Anderson, Trust Officer)

AGENT: Doucet & Associates, Inc. (Carol M. Stewart)

ZONING FROM: SF-2 **TO:** CS **AREA:** 73.465 acres

SUMMARY STAFF RECOMMENDATION:

The staff recommends CS, General Commercial Services District, zoning. The staff recommendation includes a public restrictive covenant that would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA [Alliance Texas Engineering (Brian Craiq, P.E.) - December 2003]. The TIA recommendations are included as Attachment A to this report.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

5/18/04: Postponed to 6/1/04 by Neighborhood (8-0); J. Martinez-1st, J. Gohil-2nd.

6/1/04: Approved GR-CO zoning with the following prohibited uses:

- Automotive Repair Services;
- Drop-Off Recycling Collection Facility;
- Pawn Shop Services;

(8-0, Pinnelli-absent); M. Whaley-1st, K. Jackson-2nd.

ISSUES:

The applicant met with the North Austin Growth Corridor Alliance on May 20, 2004, to present this zoning case for the neighborhood's review. As a result of this meeting, the applicant and the neighborhood agreed upon the conditions listed in Attachment B.

DEPARTMENT COMMENTS:

The applicants are requesting CS, General Commercial Services District, zoning for the property in question because they propose to develop the site with a retail shopping center and two restaurant uses. The staff is recommending CS zoning for the site because the proposed zoning is compatible with the surrounding commercial uses and the property fronts onto an interstate highway.

The applicant disagrees with the Zoning and Platting Commission's recommendation. The applicant agrees with the staff recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	SF-2	Undeveloped
North	CS-CO, SF-2, County	Funeral Home, Cemetery, Undeveloped
South	SF-2	Cemetery
East	I-RR	Undeveloped
West	GR, GO, GR	Bank, Retail, Office

AREA STUDY: N/A

TIA: Yes

WATERSHED: Walnut Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

114 – North Growth Corridor Alliance

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-02-0111	TR1: GR-CO to GR TR2: CS-CO to CS	10/15/02: Approved staff's rec. of GR-CO; CS-CO zoning with added condition to prohibit Automotive Sales; by consent (7-0, D. Castaneda-absent)	12/5/02: Granted GR-CO for Tract 1 and CS-CO for Tract 2 on all 3 readings (7-0)
C14-98-0212	I-RR to CS	12/15/98: Approved GR-CO w/conditions for front to match existing GR and CS-CO for remainder of property, prohibit auto repair and auto washing except for on-site tenants (5-2, GW/DS-Nay)	1/14/99: Approved PC rec. of GR-CO w/ conditions 97-0); 1 st reading 4/15/99: Approved CS-CO w/ conditions (7-0); 2 nd /3 rd readings
C14-98-0076	I-RR to LI	7/14/98: Approved W/LO-CO w/conditions (7-1, SA-Nay)	10/8/98: Approved CS-CO w/many conditions (6-0); 1 st reading 4/1/99: Approved CS-CO w/ conditions (7-0); 2 nd /3 rd readings
C14-98-0069	I-RR to CS	7/14/98: Approved GR (8-1, RR-Nay)	8/13/98: Approved CS-CO (6-0); 1 st reading 10/1/98: Approved CS-CO w/ conditions (7-0); 2 nd /3 rd readings
C14-96-0131	SF-2 to GR	12/10/96: Approved staff rec. of GR (9-0)	1/9/97: Approved GR-CO w/ conditions (7-0); 1 st reading 3/20/97: Approved GR-CO w/ conditions (7-0); 2 nd /3 rd readings

C14-95-0195	GR to CS	1/23/96: Approved CS-CO (7-0)	7/18/96: Approved CS-CO subject to conditions (6-0); all 3 readings
C14-93-0055	SF-2 to GR	5/18/93: Approved GR by consent (9-0)	6/3/93: Approved GR (5-0-1); all 3 readings
C14-93-0047	SF-2 to CS	4/27/93: Approved GR-CO (6-0)	5/6/93: Approved GR-CO and CS-CO w/conditions (6-0); 1 st reading 6/17/93: Approved GR-CO and CS-CO (7-0); 2 nd /3 rd readings
C14-93-0005	SF-2 to LO	2/16/93: Approved LO (6-0)	3/4/93: Approved LO (6-0); 1 st reading 5/27/93: Approved LO; 2 nd /3 rd readings

RELATED CASES: There are no pending related cases.

ABUTTING STREETS: Information provided in TIA Recommendations - Attachment A.

CITY COUNCIL DATE: June 17, 2004

ACTION: Granted CS-CO as recommended by staff, with additional conditions agreed to between the applicant and the neighborhood association (7-0); 1st reading

July 29, 2004

ACTION: Postponed to September 30, 2004 at staff's request (6-0, Alvarez-off dias)

September 30, 2004

ACTION: Postponed to December 2, 2004 at the applicant's request (7-0)

December 2, 2004

ACTION: Postponed to February 10, 2005 at the applicant's request (7-0)

February 10, 2005

ACTION: Postponed to March 24, 2005 at the applicant's request (7-0) – Applicant requested additional time to continue negotiating with TXDOT on a drainage easement dedication.

March 24, 2005

ACTION:

ORDINANCE READINGS: 1st 6/17/04

2nd

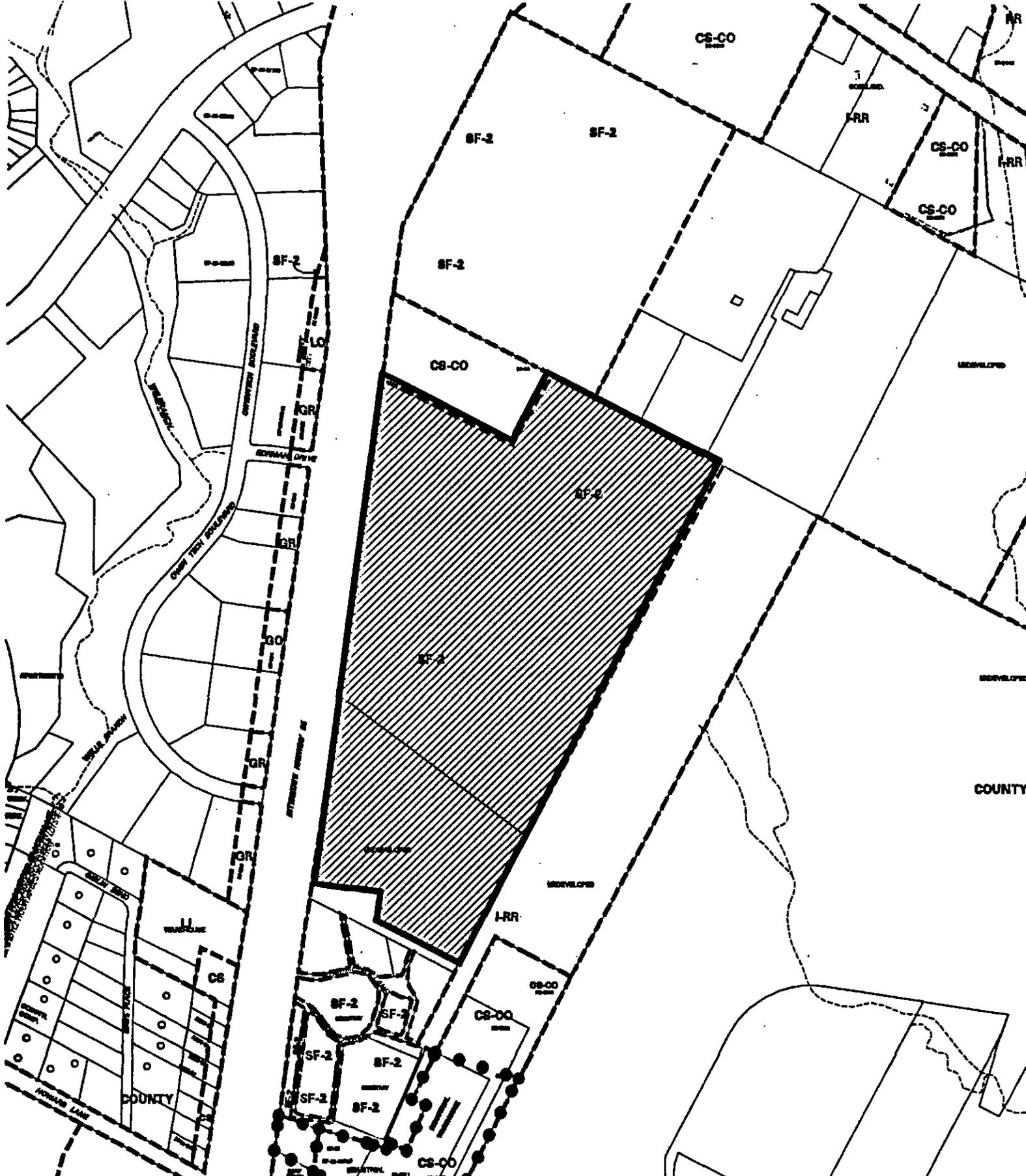
3rd

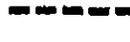
ORDINANCE NUMBER:

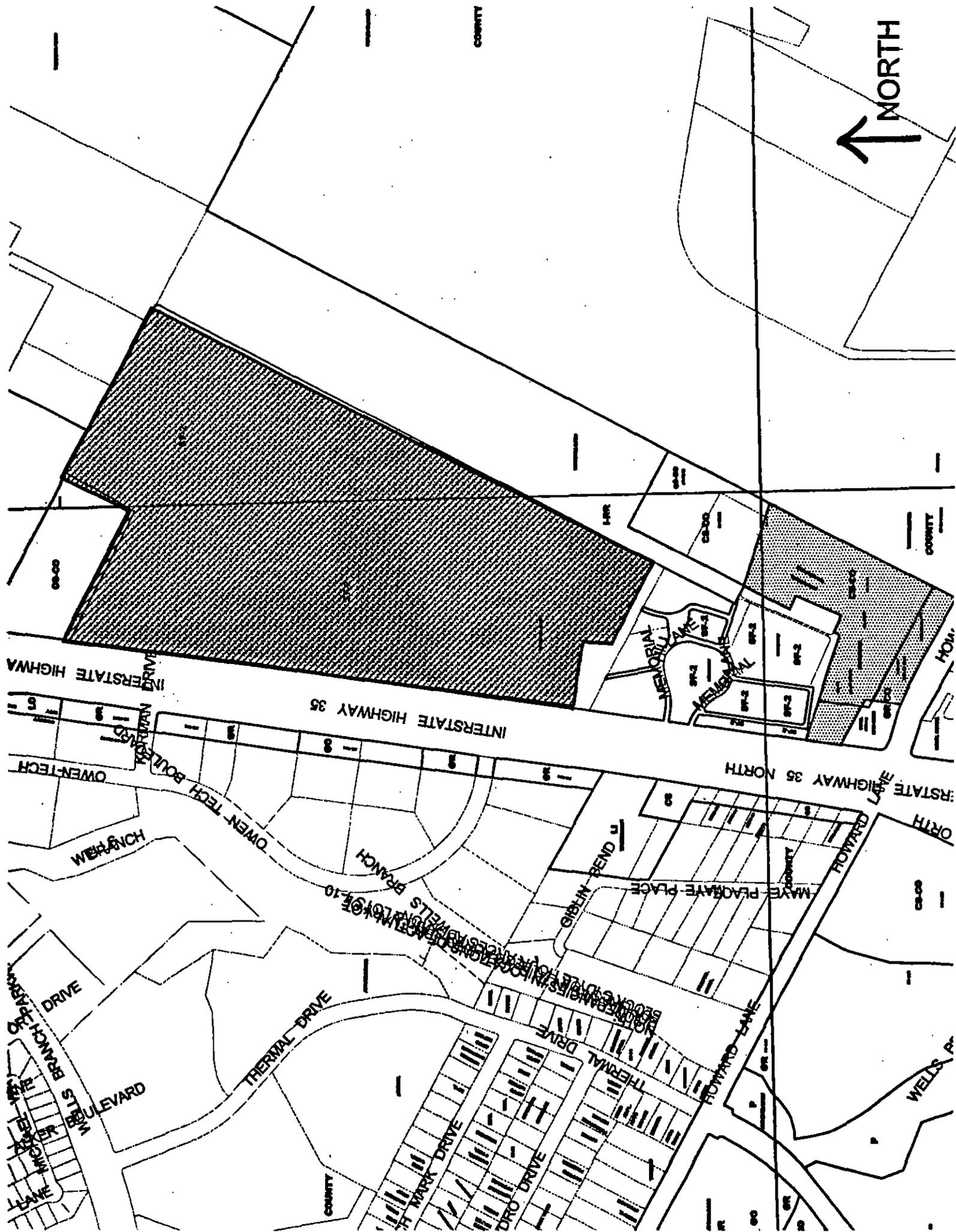
CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057,

sherri.sirwaitis@ci.austin.tx.us



 1" = 600'	SUBJECT TRACT 	ZONING	CITY GRID REFERENCE NUMBER M36 N36
	PENDING CASE 		
ZONING BOUNDARY 	CASE MGR: S. GAGER		



INTERSTATE HIGHWAY 35

INTERSTATE HIGHWAY 35

INTERSTATE HIGHWAY 35 NORTH

OWEN-TECH

HORNBACH

DRIVE

WELLS BRANCH PARKWAY

LANE

OWEN-TECH BOULEVARD

BRANCH

WELLS BRANCH PARKWAY

DRIVE

BOULEVARD

OWEN-TECH BOULEVARD

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COUNTY

STAFF RECOMMENDATION

The staff recommends CS, General Commercial Services District, zoning. The staff recommendation includes a public restrictive covenant that would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA [Alliance Texas Engineering (Brian Craiq, P.E.) - December 2003]. The TIA recommendations are included as Attachment A to this report.

BACKGROUND

The applicants are requesting CS, General Commercial Services District, zoning for the property in question because they propose to develop the site with a retail shopping center and two restaurant uses. The staff is recommending the applicant's request for CS zoning for the site because the proposed zoning is compatible with the surrounding commercial uses and the property fronts onto an interstate highway.

The applicant agrees with the staff recommendation.

BASIS FOR RECOMMENDATION

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

The General Commercial Services (CS) zoning district is intended for commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments.

- 2. The proposed zoning should promote consistency, and orderly planning.*

The CS-CO zoning district would be compatible and consistent with the surrounding uses because there is CS-CO zoning to the north and southeast of this site and GR zoning to the west, across IH-35.

- 3. The proposed zoning should allow for a reasonable use of the property.*

The CS-CO zoning district would allow for a fair and reasonable use of the site. The site exceeds the minimum size requirements for commercial development in the General Commercial Services district.

CS-CO zoning is appropriate for this location because of the commercial character of the area along Interstate Highway-35.

- 4. Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

The property fronts onto the north bound service road of Interstate Highway-35 and is located between two arterial roadways, Howard Lane (south) and Well Branch Parkway (north).

EXISTING CONDITIONS

Site Characteristics

The property in question is a large undeveloped tract of land that front onto the IH-35 North Bound Service Road. The site is relatively flat and sparsely vegetated.

Impervious Cover

The maximum impervious cover allowed by the CS zoning district would be 95%. However, because the Watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance. 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%

In the Water Quality Transition Zones, impervious cover is limited to 30%.

Note: The most restrictive impervious cover limit applies.

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 Walnut Creek and Harris Branch Watersheds of the Colorado River Basin, which are classified as a Suburban Watersheds by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is not floodplain within, or adjacent to the project boundary.

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 the following water quality control requirements:

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

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

Transportation

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA. [LDC, Sec. 25-6-142]. Comments will be provided in a separate memo (Attachment A).

Right of Way

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

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 providing.

The water and wastewater utility plan must be reviewed and approved by the City of Austin Water and Wastewater 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 storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

Compatibility Standards

This site is not subject to compatibility development regulations.

7. C14-03-0125 – KARL B. WAGNER, JR., MARY ELLA WAGNER JONES, JP MORGAN CHASE BANK (Terry Anderson, Trust Officer), By: Doucet & Associates, Inc. (Carol M. Stewart), 13801-14409 North I-35 Svc. Rd. NB. (Walnut Creek). FROM SF-2 TO CS. RECOMMENDED WITH CONDITIONS. City Staff: Sherri Gager, 974-3057. POSTPONED FROM 5-18 (NEIGHBORHOOD).

***DENIED STAFF'S RECOMMENDATION FOR CS ZONING.
APPROVED GR-CO ZONING WITH PROHIBITED USES.***

PROHIBITED USES:

***ART & CRAFT STUDIO (GENERAL);
AUTOMOTIVE REPAIR SERVICES;
BUILDING MAINTENANCE SERVICES;
CAMPGROUND;
COMMERCIAL BLOOD PLASMA CENTER;
DROP-OFF RECYCLING COLLECTION FACILITY;
EQUIPMENT REPAIR SERVICES;
EQUIPMENT SALES;
KENNELS;
LAUNDRY SERVICE;
PAWN SHOP SERVICES;
VEHICLE STORAGE;
VETERINARY SERVICES;
MAINTENANCE AND SERVICE FACILITIES;
ADULT-ORIENTED BUSINESSES;***

[M.W; K.J 2ND] (8-0) J.P – ABSENT

NEW CASES

8. C14-04-0067 – P.W.C., By: Ed Padgett, Marty Williams and Mark Clemens, Jim Bennett Consulting (Jim Bennett), 5607, 5611 and 5701 Travis Cook Road. (Williamson Creek / Barton Creek – In Barton Springs Zone). FROM RR TO SF-3. RECOMMENDED. City Staff: Wendy Walsh, 974-7719.

***APPROVED STAFF'S RECOMMENDATION FOR SF-3 ZONING; BY
CONSENT.***

[J.M; J.G 2ND] (8-0) J.P – ABSENT

9. C814-04-0024 – BRODIE 31 C/O WALTERS SOUTHWEST, By: 31 Deerfield, Ltd. c/o William S. Walters, III (William S. Walters), Land Strategies, Inc. (Paul W. Linehan), 9000-9600 Block of Brodie Lane. (Williamson Creek – In Barton Springs Zone). FROM DR TO PUD. RECOMMENDED WITH CONDITIONS. City Staff: Wendy Walsh, 974-7719.

***APPROVED STAFF'S RECOMMENDATION FOR PUD ZONING;
INCLUDING THE CONDITIONAL OVERLAY OF THE T.I.A.***



Date: May 11, 2004
To: Sherri Gager, Case Manager
CC: Members of the Zoning and Platting Commission
 Brian Craig, P.E. Alliance Texas Engineering Co.
 Carol Stewart, Doucett and Associates
 Carol Kaml, COA Fiscal Officer
Reference: Wagner Tract TIA, C14-03-0157

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Wagner Tract, dated December 2003, prepared by Brian Craig, P.E., Alliance Texas Engineering, and offers the following comments:

TRIP GENERATION

Wagner Tract is 73.465-acre development located in north Austin on IH-35 between Howard Lane and Wells Branch Parkway.

The property is currently undeveloped and zoned Single Family Residence (SF-2). The applicant has requested a zoning change to Commercial Services (CS). The estimated completion of the project is expected in the year 2004.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 29,546 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

LAND USE	Size	ADT	AM Peak		PM Peak	
			Enter	Exit	Enter	Exit
Shopping Center	448,500sf	16,586	238	152	444	479
High Turnover Restaurant	19,000sf	2,277	92	85	55	43
Fast Food Restaurant w/ Drive Through	18,500sf	7,589	240	231	51	123
Total		26,449	570	468	550	645

ASSUMPTIONS

1. Traffic growth rates provided by the City of Austin were as follows:

Roadway Segment	%
All Roads	4.3 %

2. In addition to these growth rates, background traffic volumes for 2003 included estimated traffic volumes for the following projects:

Shops at Howard Lane	C14-02-0011
Village at Northtown	C8-02-0144
Three Points Retail Center	SP-00-2477C
Wendy's Restaurant	SP-00-2600C

Cheddar's Commercial Development	SP-00-2477C
Long John Silvers/A&W Restaurant	SP-02-0222D
Parmer Center South	SP-02-0246C
Howard Lane Retail Center	SP-02-0278C
Wells Branch Jiffy Lube	SP-02-0378C

3. Reductions were taken for pass-by:

Land Use	Pass-By Reductions %	
	AM	PM
Shopping Center	0%	34%
High Turnover Restaurant	0%	43%
Fast Food Restaurant w/ Drive Through	49%	50%

4. A 10% reduction was taken for internal capture.

5. No reductions were taken for transit use.

EXISTING AND PLANNED ROADWAYS

NAME	ROW	PAVEMENT	CLASSIFICATION	Capital Metro Route	BICYCLE PLAN
IH-35	300'	Varies	Arterial	Route #75	N/A
FM 1825	120'	Varies	Arterial	Route #75	N/A
Howard Lane	120'	Varies	Arterial	N/A	Route #1234
Wells Branch Parkway	120'	Varies	Arterial	N/A	N/A

INTERSECTION LEVEL OF SERVICE (LOS)

The TIA analyzed 8 intersections, 5 of which are signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

Intersection	2003		2004	
	AM	PM	AM	PM
IH-35 SB FR @ Wells Branch Parkway*	F	D	D	E
IH 35 NB FR @ Wells Branch Parkway*	D	F	E	E
FM 1825 @ Wells Branch Parkway*	F	F	F	F
IH-35 SB FR @ Howard Lane*	F	D	C	E
IH-35 NB FR @ Howard Lane*	F	E	D	D
IH-35 SB FR @ Driveway One			A	A
IH-35 SB FR @ Driveway Two			A	A
IH-35 SB FR @ Driveway Three**			A	A

* = SIGNALIZED **=SEE RECOMENDATIONS

RECOMMENDATIONS

1) Prior to 3rd reading at City Council, fiscal ls required to be posted for the following Improvements:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
Howard Lane @ IH-35	Signal Modifications	\$25,944	6.9%	\$1,790
Howard Lane @ IH-35 NB	Lane Addition	\$93,641	6.9%	\$6,461
Howard Lane @ IH-35 SB	Lane Addition	\$54,934	6.9%	\$3,790
Howard Lane @ IH-35 WB	Lane Addition	\$54,934	6.9%	\$3,790
Total		\$229,453		\$15,831

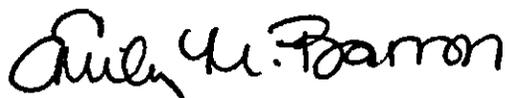
2) Prior to approval of the site development permit, fiscal ls required to be posted for the following Improvements:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
Wells Branch Parkway @ IH-35 Frontage Roads	SB ~ Add 1 Lane	\$29,509	6%	\$1,771
	WB ~ Add 1 Lane	\$253,169	6%	\$15,190
	Signal Modification	\$25,944	6%	\$1,557
Wells Branch Parkway @ FM 1825	Signal Retiming	\$2,500	4.1%	\$103
IH-35 Frontage Road	Auxiliary Lane	\$199,281	100%	\$199,281
Total		\$510,403		\$217,902*

*A NEW COST ESTIMATE IS REQUIRED TO BE PROVIDED AT THE TIME OF SITE PLAN TO ENSURE THAT THE COST ESTIMATE IS ACCURATE AT THE TIME OF FISCAL POSTING

- 3) A 15-foot drainage easement is required to be dedicated prior 3rd Reading of the zoning case. This easement will accommodate a storm drainage system being installed by TXDOT as part of roadway improvements associated with upgrades to IH-35 and future improvements associated with this application. At the time of the site plan for this property, the 15' drainage easement will be required to be dedicated as right-of-way in order to allow for installation and maintenance of the auxiliary lane along the property frontage. Any public utilities should be placed in a public utility easement outside of the 15-foot drainage easement/future right-of-way. Final design of the auxiliary lane will require TXDOT approval.
- 4) Three driveways are permitted to access the IH-35 frontage roads with the following conditions. All three driveways must be placed outside the control of access points along the frontage roads as set by TXDOT plans for ramp relocation. The northern most driveway, as proposed, is permitted as a right-in only driveway until the ramps along IH-35 have been relocated and the driveway then may be permitted to provide for right-in/right-out maneuvers. Final driveway location and geometries require approval from TXDOT prior to approval of the site development permit.
- 5) For information: Three copies of the final version of the TIA incorporating all corrections and additions must be submitted prior to final reading of the zoning case.
- 6) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2788.



Emily M. Barron
 Transportation Review Staff
 Watershed Protection and Development Review

Gager, Sherri

From: Carol Stewart [Carol.Stewart@doucet-austin.com]
Sent: Friday, May 28, 2004 11:40 AM
To: Janis Pinnelli (E-mail); Melissa Whaley (E-mail); Betty Baker (E-mail); Keith Jackson (E-mail); Joseph Martinez (E-mail); Clarke Hammond (E-mail); Jay Gohl (E-mail); John Donisi (E-mail)
Cc: Janet Klotz (E-mail); Gager, Sherri; Terry Anderson (E-mail)
Subject: ZAPCO 06/01 Agenda Item C14-03-0125

Dear Commissioners -

I wanted to let you know that I met with the North Growth Corridor Alliance on 05/20 and they are in support of the proposed zoning change from SF-2 to CS-CO with the following conditions:

Prohibited uses:
Art & Craft Studio (General)
Building Maintenance Services
Campground
Commercial Blood Plasma Center
Drop-off Recycling Collection Facility
Equipment Repair Services
Equipment Sales
Kennels
Laundry Service
Pawn Shop Services
Vehicle Storage
Veterinary Services
Maintenance and Service Facilities
Adult-Oriented Businesses

Conditional Uses:
Automotive Repair Services
Convenience Storage
Limited Warehousing and Distribution

Additional Restrictions:
Any proposed Automotive Repair Service use will be located a minimum of 400 feet from the common property lines with the cemeteries located to the north and south of this 73.465 acre tract.

I hope this resolves any issues you might have with the zoning change request and will allow you to recommend the change on the consent agenda. If you have any questions please do not hesitate to contact me.

Thanks,
Carol

Carol M. Koenig Stewart
Doucet & Associates, Inc.
7401 B Hwy 71 W., Suite 160
Austin, TX 78735
512-583-2600 Phone
512-583-2601 Fax
www.doucetandassociates.com
carol.stewart@doucet-austin.com

Gager, Sherri

Subject: FW: Zoning Case No. C14-03-0125

-----Original Message-----

From: Harvey Klotz [mailto:hjklotz@hotrodgames.com]

Sent: Wednesday, June 16, 2004 1:49 PM

To: Wynn, Will; Goodman, Jackle; Slusher, Daryl; Alvarez, Raul; Thomas, Danny; Dunkerley, Betty; McCracken, Brewster

Cc: Gager, Sherri; carol.stewart@doucet-austin.com

Subject: Zoning Case No. C14-03-0125

Dear Mayor and Council Members,

After a meeting with Ms. Carol Stewart on May 20th, 2004, the North Growth Corridor Alliance voted to approve CS-CO for the 73.465 acres located at 13801-14409 North I-35 Svc. Rd. NB. Even though the Alliance members had reservations about rezoning this large tract to CS, they voted approval because it is in a commercial and industrial area, is located on I-35, and the CS uses that concerned them would not be permitted.

Regarding the GR zoning recommended by ZAP for the site, there are two questions. Is the site too large to be retail only, and if the entire site is zoned GR, how much flexibility will there be for mixed uses?

The following uses are to be prohibited:

- Adult-Oriented Businesses
- Art & Craft Studio (General)
- Building Maintenance Services
- Campground
- Commercial Blood Plasma Center
- Drop-off Recycling Collection Facility
- Equipment Repair Services
- Equipment Sales
- Kennels
- Laundry Service
- Pawn Shop Services
- Vehicle Storage
- Veterinary Services
- Maintenance & Service Facilities

The following uses are to be conditional:

- Automotive Repair Services (400' separation from cemeteries)
- Convenience Storage
- Limited Warehousing & Distribution

If there are any questions, please feel free to call me at 837-5600.

Janet Klotz
President
North Growth Corridor Alliance

6/30/2004



City of Austin, Neighborhood Planning & Zoning Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

NOTICE OF ZONING & PLATTING COMMISSION PUBLIC HEARING FOR A PROPOSED ZONING CHANGE

Este aviso es para informarles de una junta pública tocante a un cambio en el uso de la propiedad indicada así abajo. Si quiere una copia de este aviso en español, hable al teléfono (512) 974-2680.

Mailing Date of this Notice: May 7, 2004
Mailing Date of First Notice: August 12, 2003

File Number: C14-03-0125

ADDRESS OF PROPOSED ZONING CHANGE: (See map) 13801-14409 North I-35 Svc Rd. NB

PROPOSED ZONING CHANGE:

FROM: SF-2--Single-Family Residence (Standard Lot) district is intended as an area for moderate density single-family residential use, with a minimum lot size of 5,750 square feet. This district is appropriate for existing single-family neighborhoods having moderate sized lot patterns, as well as for development of additional single-family housing areas with minimum land requirements.

TO: CS--General Commercial Services district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic/service requirements generally incompatible with residential environments.

OWNER: Karl B. Wagner, Jr.
Mary Ella Wagner Jones
JP Morgan Chase Bank (Terry Anderson, Trust Officer)

PHONE: (804) 282-2010
PHONE: (843) 671-7380
PHONE: (214) 965-2843

AGENT: Doucet & Associates, Inc. (Carol M. Stewart)

PHONE: (512) 583-2600

ZONING & PLATTING COMMISSION HEARING DATE: May 18, 2004 **TIME:** 6:00 PM

LOCATION: 505 Barton Springs Road, One Texas Center 3rd Floor, Training Room #325, Austin

If you have any questions concerning this notice, please contact Sherri Gager at the City of Austin, Neighborhood Planning & Zoning Department, (512) 974-3057. Office hours are 7:45 a.m. to 4:45 p.m. Please be sure to refer to the File Number at the top of the page when you call. See enclosed sheet for more information on public hearings.

You may send your written comments to the Zoning & Platting Commission Assistant, Neighborhood Planning & Zoning Department, P. O. Box 1088, Austin, TX 78767-8835.

File # C14-03-0125 SG Zoning & Platting Commission Hearing Date: May 18, 2004

Name (please print) James + Martin Grant owners

I am in favor
(Estoy de acuerdo)

Address 14465 Owen Tech Blvd

I object
(No estoy de acuerdo)

Austin, TX 78728



Texas Department of Transportation

P.O. DRAWER 16428 • AUSTIN, TEXAS 78761-6428 • (512) 832-7000

File Copy
Attachment C

February 22, 2005

Ms. Emily Barron
Transportation Planner
City of Austin
Watershed Protection and Development Review Department
P.O. Box 1088
Austin, Texas 78767

Re: Wagner Tract Zoning
City of Austin Case Number (C14-03-0125)
13801-14409 North IH 35 (NBFR)

Dear Ms. Barron:

The Texas Department of Transportation (TxDOT) received a letter dated February 4, 2005 from Ms. Carol Stewart of Doucet & Associates, Inc. requesting that the fifteen foot (15') wide drainage easement dedication requirement recommended as a condition of the proposed zoning change be removed. (Please refer to your City of Austin memorandum dated May 11, 2004, Wagner Tract TIA, C14-03-0157, Recommendation-3)

TxDOT will accede to this request with the clear understanding that: (1) The required right-of-way and control-of-access needed to construct and maintain the proposed auxiliary lane along the property frontage is dedicated to TxDOT at the time of application for, and prior to issuance of, a site development permit. (2) Any modifications that may be needed to the proposed TxDOT storm drain system (currently being developed by TxDOT) to accommodate the proposed auxiliary lane shall be made at the sole discretion of TxDOT, and (3.) Any future drainage modifications needed to accommodate the proposed auxiliary lane shall be as approved by TxDOT and at no expense to the State.

Please revise your May 11, 2004, "Recommendation-3" to read: "At the time of site plan for this property and prior to approval of the site development permit, right-of-way and control-of-access shall be dedicated to the Texas Department of Transportation (TxDOT) in order to allow for the installation and maintenance of the auxiliary lane along the property frontage and to accommodate future improvements associated with this application. Required right-of-way shall be in compliance with the most current edition of the TxDOT *Roadway Design Manual* and other applicable TxDOT regulations. Any public utilities should be placed in a dedicated public utility easement outside of the future right-of-way. Final design of the auxiliary lane will require TxDOT approval."

Our office concurs with the remaining recommendations listed in your May 11, 2004 memorandum.

If you have any additional questions, please contact this office at 997-2220.

Sincerely,


Terry G. McCoy, P.E.
North Austin Area Engineer

WGB:

Attachment: "City of Austin memorandum dated May 11, 2004, Wagner Tract TIA, C14-03-0157"

c: Carol M. Stewart, Doucet & Associates, Inc.

Walter G. Barfield, P.E., TxDOT

Robert Harwood, TxDOT

Gary Morris, TxDOT



Date: March 7, 2005
To: Sherri Gager, Case Manager
CC: Members of the Zoning and Platting Commission
 Brian Craig, P.E. Alliance Texas Engineering Co.
 Carol Stewart, Doucet and Associates
 Terry G. McCoy, P.E., TXDOT
 Walter Barfield, P.E., TXDOT
 Carol Kaml, COA Fiscal Officer
Reference: Wagner Tract TIA, C14-03-0125

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Wagner Tract, dated December 2003, prepared by Brian Craig, P.E., Alliance Texas Engineering, and offers the following comments:

TRIP GENERATION

Wagner Tract is 73.465-acre development located in north Austin on IH-35 between Howard Lane and Wells Branch Parkway.

The property is currently undeveloped and zoned Single Family Residence (SF-2). The applicant has requested a zoning change to Commercial Services (CS). The estimated completion of the project is expected in the year 2004.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 29,546 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

LAND USE	Size	ADT	AM Peak		PM Peak	
			Enter	Exit	Enter	Exit
Shopping Center	448,500sf	16,586	238	152	444	479
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Fast Food Restaurant w/ Drive Through	18,500sf	7,589	240	231	51	123
Total		26,449	570	468	550	645

ASSUMPTIONS

1. Traffic growth rates provided by the City of Austin were as follows:

Roadway Segment	%
All Roads	4.3 %

2. In addition to these growth rates, background traffic volumes for 2003 included estimated traffic volumes for the following projects:

Shops at Howard Lane	C14-02-0011
Village at Northtown	C8-02-0144
Three Points Retail Center	SP-00-2477C

Wendy's Restaurant	SP-00-2600C
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Parmer Center South	SP-02-0246C
Howard Lane Retail Center	SP-02-0278C
Wells Branch Jiffy Lube	SP-02-0378C

3. Reductions were taken for pass-by:

Land Use	Pass-By Reductions %	
	AM	PM
Shopping Center	0%	34%
High Turnover Restaurant	0%	43%
Fast Food Restaurant w/ Drive Through	49%	50%

4. A 10% reduction was taken for Internal capture.

5. No reductions were taken for transit use.

EXISTING AND PLANNED ROADWAYS

NAME	ROW	PAVEMENT	CLASSIFICATION	Capital Metro Route	BICYCLE PLAN
IH-35	300'	Varies	Arterial	Route #75	N/A
FM 1825	120'	Varies	Arterial	Route #75	N/A
Howard Lane	120'	Varies	Arterial	N/A	Route #1234
Wells Branch Parkway	120'	Varies	Arterial	N/A	N/A

INTERSECTION LEVEL OF SERVICE (LOS)

The TIA analyzed 8 intersections, 5 of which are signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

Intersection	2003		2004	
	AM	PM	AM	PM
IH-35 SB FR @ Wells Branch Parkway*	F	D	D	E
IH 35 NB FR @ Wells Branch Parkway*	D	F	E	E
FM 1825 @ Wells Branch Parkway*	F	F	F	F
IH-35 SB FR @ Howard Lane*	F	D	C	E
IH-35 NB FR @ Howard Lane*	F	E	D	D
IH-35 SB FR @ Driveway One			A	A
IH-35 SB FR @ Driveway Two			A	A
IH-35 SB FR @ Driveway Three**			A	A

* = SIGNALIZED **=SEE RECOMENDATIONS

RECOMMENDATIONS

1) Prior to 3rd reading at City Council, fiscal ls required to be posted for the following improvements:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
Howard Lane @ IH-35	Signal Modifications	\$25,944	6.9%	\$1,790
Howard Lane @ IH-35 NB	Lane Addition	\$93,641	6.9%	\$6,461
Howard Lane @ IH-35 SB	Lane Addition	\$54,934	6.9%	\$3,790
Howard Lane @ IH-35 WB	Lane Addition	\$54,934	6.9%	\$3,790
Total		\$229,453		\$15,831

2) Prior to approval of the site development permit on any portion of the site, fiscal ls required to be posted for the following improvements:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
Wells Branch Parkway @ IH-35 Frontage Roads	SB ~ Add 1 Lane	\$29,509	6%	\$1,771
	WB ~ Add 1 Lane	\$253,169	6%	\$15,190
	Signal Modification	\$25,944	6%	\$1,557
Wells Branch Parkway @ FM 1825	Signal Retiming	\$2,500	4.1%	\$103
IH-35 Frontage Road	Auxiliary Lane	\$199,281	100%	\$199,281
Total		\$510,403		\$217,902*

*A NEW COST ESTIMATE IS REQUIRED TO BE PROVIDED AT THE TIME OF SITE PLAN TO ENSURE THAT THE COST ESTIMATE IS ACCURATE AT THE TIME OF FISCAL POSTING

- 3) At the time of the first site plan for this property and prior to approval of any site development permit, right-of-way and control-of-access shall be dedicated to the Texas Department of Transportation (TXDOT) in order to allow for the installation and maintenance of the auxiliary lane along the property frontage and to accommodate future improvements associated with this application. Required right-of-way shall be in compliance with the most current edition of the TXDOT *Roadway Design Manual* and other applicable TXDOT regulations. Any public utilities should be placed in a dedicated public utility easement outside of the future right-of-way. Final design of the auxiliary lane will require TXDOT approval.
- 4) Three driveways are permitted to access the IH-35 frontage roads with the following conditions. All three driveways must be placed outside the control of access points along the frontage roads as set by TXDOT plans for ramp relocation. The northern most driveway, as proposed, is permitted as a right-in only driveway until the ramps along IH-35 have been relocated and the driveway then may be permitted to provide for right-in/right-out maneuvers. Final driveway location and geometries require approval from TXDOT prior to approval of the site development permit.
- 5) For information: Three copies of the final version of the TIA incorporating all corrections and additions must be submitted prior to final reading of the zoning case.
- 6) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2788.

Emily M. Barron
 Sr. Planner, Transportation Review Staff
 Watershed Protection and Development Review

RESTRICTIVE COVENANT

OWNER: JPMorgan Chase Bank, N.A., a national banking association,
Co-Trustee of The Karl B. Wagner Testamentary Trust for the benefit of
Karl B. Wagner, Jr., and
The Karl B. Wagner Testamentary Trust for the benefit of
Mary Ella Wagner Jones

ADDRESS: 2200 Ross Avenue, 7th Floor, Dallas, Texas 75201

OWNER: Karl B. Wagner, Jr., Individually and as Co-Trustee of The Karl B.
Wagner Testamentary Trust for the benefit of Mary Ella Wagner Jones

ADDRESS: 7 Berkshire Drive, Richmond, Texas 23229-8218

OWNER: Mary Ella Wagner Jones, Individually and as Co-Trustee of
The Karl B. Wagner Testamentary Trust for the benefit of Karl B. Wagner

ADDRESS: 33 Pine Island Road, Hilton Head Island, South Carolina 29928

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 73.465 acre tract of land, more or less, out of the L.C. Cunningham
Survey No. 68, Abstract No. 163, in Travis County, the tracts 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. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Texas Engineering Company, dated June 2004, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated March 7, 2005. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. 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.

3. 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.
4. 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.
5. 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 14th day of March, 2005.

OWNER:

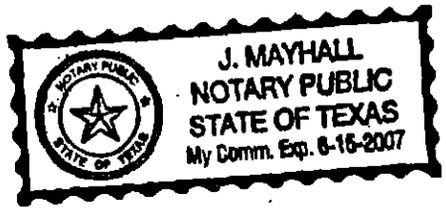
JPMorgan Chase Bank, N.A.,
 a national banking association
 Co-Trustee of The Karl B. Wagner Testamentary
 Trust, fbo Karl B. Wagner, Jr., and
 The Karl B. Wagner Testamentary Trust
 Fbo Mary Ella Wagner Jones

By: Terry W. Anderson
 Terry W. Anderson,
 Vice President

Date: 3/14/05

THE STATE OF TEXAS §
 COUNTY OF DALLAS §

This instrument was acknowledged before me on this the 14th day of March, 2005, by Terry Anderson, Vice President of JPMorgan Chase Bank, N.A., a national banking association, on behalf of the association, and the association acknowledged this instrument as Co-Trustee of the Karl B. Wagner Testamentary Trust fbo Karl B. Wagner, Jr., and The Karl B. Wagner Testamentary Trust fbo Mary Ella Wagner Jones.



J. Mayhall
 Notary Public, State of Texas

EXECUTED this the 14th day of March, 2005.

OWNER:

Karl B. Wagner, Jr.

Individually and as
Co-Trustee of the Karl B. Wagner Testamentary
Trust for Mary Ella Wagner Jones

Date: _____

THE STATE OF Virginia §
COUNTY OF Richmond §
City

This instrument was acknowledged before me on this the 14th day of March, 2005, by Karl B. Wagner, Jr., Individually and as Co-Trustee of the Karl B. Wagner Testamentary Trust for Mary Ella Wagner Jones.

Debra A. Stoss

Notary Public, State of Virginia

My commission expires
March 31, 2005

EXECUTED this the 14th day of March, 2005.

OWNER:

Mary Ella Wagner Jones
Mary Ella Wagner Jones
Individually, and as
Co-Trustee of the Karl B. Wagner Testamentary
Trust for Karl B. Wagner, Jr.

Date: 3.14.05

THE STATE OF South Carolina §
COUNTY OF Beaufort §

This instrument was acknowledged before me on this the 14 day of March
2005, by Mary Ella Wagner Jones, individually and as Co-Trustee of the Karl B. Wagner
Testamentary Trust for Karl B. Wagner, Jr.

[Signature]
Notary Public Signature, State of South Carolina

APPROVED AS TO FORM:

My Commission Expires
July 24, 2012

Assistant City Attorney
City of Austin

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

FIELD NOTES
FOR
KARL WAGNER, JR.

EXHIBIT A

73.465 ACRE TRACT

PAGE 1 OF 2

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND, BEING A PORTION OF THE L.C. CUNNINGHAM SURVEY NO. 68, ABSTRACT NO. 163, TRAVIS COUNTY, TEXAS, BEING A PORTION OF TRACT ONE AND ALL OF TRACT TWO CONVEYED TO KARL B. WAGNER BY DEED RECORDED IN VOLUME 2249, PAGE 409 AND VOLUME 2249, PAGE 413, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pipe found at the Northeast corner of the said Tract 1 as conveyed to Karl B. Wagner by deed recorded in Volume 2249, Page 409, Deed Records, Travis County, Texas, being the Northwest corner of a 31.192 acre tract of land as conveyed to Capital Parks Land Investments, Inc. by deed recorded in Volume 9555, Page 325, Real Property Records, Travis County, Texas, being in the South line of that tract of land conveyed to Capital Parks Land Investments, Inc., by deed recorded in Volume 9511, Page 261, Real Property Records, Travis County, Texas, for the Northeast corner hereof;

THENCE with the East line of the said Wagner tract, being the West line of the said 31.192 acre Capital Parks Land Investments, Inc. tract, S 29°29'00" W for a distance of 2740.08 feet to an iron pipe found at the Southeast corner of the said Tract 2, for the Southeast corner hereof, and from which iron pipe found, an iron pipe found at the Northeast corner of that tract of land conveyed to Memorial Hill Cemetery by deed recorded in Volume 1116, Page 63, Deed Records, Travis County, Texas, bears S 29°25' W at a distance of 16.88 feet;

THENCE, with the South line of the said Wagner Tract 2, N 60°06'55" W for a distance of 455.02 feet to an iron rod set, being in the East line of a 0.731 acre tract of land conveyed to Memorial Hill Cemetery by deed recorded in Volume 1561, Page 371 Deed Records, Travis County, Texas, for an inside corner hereof;

THENCE N 09°58'00" E for a distance of 139.06 feet to a 60-d nail found at an inside corner of the said Wagner Tract 2, being the Northeast corner of the said 0.731 acre Memorial Hill Cemetery tract, for an inside corner hereof;

THENCE N 79°57'26" W for a distance of 320.11 feet to an aluminum capped iron found, stamped Prejean & Co. Inc. #1820, being the Southwest corner of the said Wagner Tract 2, being the Northwest corner of the said 0.731 acre Memorial Hill Cemetery tract, being in the East r.o.w. line of Interstate Highway 35, for the Southwest corner hereof;

THENCE with the West line of the said Wagner tract, being the East r.o.w. line of Interstate Highway 35, N 09°56'18" E for a distance of 2493.54 feet to an iron rod found, being the Southwest corner of a 2.521 acre tract of land as conveyed to SCI Ohio Funeral Services, Inc. by deed recorded in Volume 12709, Page 1344, Deed Records, Travis County, Texas, being the Southwest corner of Lot 1, Block A, Cook-Walden Subdivision, recorded in Plat Book 98, Pages 78-79, Plat Records, Travis County, Texas, for the most Westerly Northwest corner hereof;

THENCE S 60°22'00" E for a distance of 705.55 feet to an iron rod found at the Southeast corner of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Southeast corner of the said 2.521 acre SCI Ohio Funeral Services, Inc. tract, for an inside corner hereof;

THENCE N 29°37'49" E for a distance of 149.90 to an iron pipe found in the East line of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Northeast corner of the said 2.521 acre SCI Ohio Funeral Services, Inc. tract, being the Southeast corner of a 3.994-acre tract of land conveyed to Capital Parks Land Investments, Inc. as described in Volume 11697, Page 1032, Real Property Records, Travis County, Texas;

FIELD NOTES
FOR
KARL WAGNER, JR.

73.465 ACRE TRACT

PAGE 2 OF 2

THENCE continuing with the East line of Lot 1, Block A, Cook-Walden Subdivision, N 29°43'49" E for a distance of 123.18 feet, passing an iron rod found at the Southeast corner of Hill Country Garden at Cook-Walden/Capital Parks, as recorded in Plat Book 102, Pages 216-234, Plat Records, Travis County, Texas, and continuing on for a total distance of 217.46 feet to an iron rod found, being the Northeast corner of the said Hill Country Garden at Cook-Walden/Capital Parks, being the Northeast corner of the said Lot 1, Block A, Cook-Walden Subdivision, also being the Northeast corner of the said 3.994 acre Capital Parks Land Investments, Inc. tract, being in the South line of that certain 0.745 acre tract of land as conveyed to Capital Parks, Inc. by deed recorded in Volume 11683, Page 851, Real Property Records, Travis County, Texas for a Northeasterly Northwest corner hereof, and from which corner an iron rod found, bears N 00°06' W for a distance of 0.09 feet, and an iron pipe found bears N 33°48' E for a distance of 0.51 feet;

THENCE with the North line of the said Wagner Tract 1, being the South line of the said 0.745 acre Capital Parks, Inc. tract, S 60°19'53" E at a distance of approximately 479.7 feet pass the Southeast corner of the said 0.745 acre Capital Parks, Inc. tract, and continue on for a total distance of 930.67 feet to the PLACE OF BEGINNING, and containing 73.465 acres of land, more or less.

AS SURVEYED BY
DOUG-SEELIG LAND SURVEYORS P.C.

Douglas A. Seelig
DOUGLAS A. SEELIG

Registered Professional Land Surveyor No. 1908
3802 Manchaca Road
Austin, Texas 78704
November 29, 1999

Work Order No. 16896

