Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 67
AGENDA DATE: Thu 05/26/2005
PAGE: 1 of 1

SUBJECT: C14-04-0012.003 - Brentwood/Highland Combined Neighborhood Plan rezoning (Part) - Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 6208 Burns Street (Waller Creek Watershed) from multi-family residence medium density-neighborhood plan (MF-3-NP) combining district zoning to community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning with conditions. First reading on November 4, 2004. Vote: 7-0. Second reading on May 26, 2005. Vote: 7-0. Conditions met as follows: Conditional overlay and restrictive covenant incorporates the conditions imposed or accepted at first ordinance reading. Applicant: City of Austin. Agent: Neighborhood Planning & Zoning Department. City Staff: Greg Guernsey, 974-2387. Note: A valid petition has been filed in opposition to this rezoning request.

REQUESTING DEPARTMENT:	Neighborhood Planning and Zoning	**DIRECTOR'S AUTHORIZATION:**	Greg Guernsey

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RCA Serial#: 8601 Date: 06/09/05 Original: Yes
Disposition: Approved the second reading only

Published: Fri 04/22/2005
Adjusted version published: Fri 05/20/2005

THIRD READINGS SHEET

ZONING CASE NUMBER: *C14-04-0012.003*

REQUEST:

Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code for the property locally known as 6208 Burns Street from multifamily residence medium density-neighborhood plan (MF-3-NP) combining district zoning to community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) conditional overlay district zoning with conditions. The conditional overlay and restrictive covenant address the following limitations:

1) to prohibit the following uses: automotive rental, automotive repair services, automotive sales, automotive sales, automotive washing (any type), commercial off-street parking, drop off recycling facility, exterminating services, off-site accessory parking, outdoor entertainment, outdoor sports and recreation, pawnshop services, plant nursery, service station, a drive-in services as an accessory use, restaurant (general), restaurant (limited), indoor sports and recreation, indoor entertainment, and research services;
2) when redevelopment of the property occurs, vehicle access to Burns Street would be limited to an (single) emergency access driveway (for fire, E.M.S. and other emergency service access only) from the adjoining property to the north property owned by the applicant (direct vehicle access to and from the property being rezoning would be prohibited);
3) when redevelopment of the property occurs, a five foot landscaped berm would be installed along the eastern property line of the property being rezoned and on the abutting GR-MU-CO-NP zoned property to the north; and
4) when redevelopment of the property occurs, a solid fence would be installed five feet west and parallel to the Burns Street right-of-way.

CONDITIONS MET AS FOLLOWS: *Conditional overlay and restrictive covenant* incorporates the conditions imposed by Council on first ordinance reading.

APPLICANT: City of Austin

AGENT: Neighborhood Planning and Zoning Department

DEPARTMENTAL COMMENTS:

Adjacent property owners within 200 feet of the property have filed a valid petition of 24.47% in opposition to this rezoning request.

Earlier this year Staff discussed the action taken by Council at first ordinance reading with an adjoining residential property owner and a neighborhood representative. Both understand the action taken by Council at first ordinance reading and respectively disagree with the action taken. Staff understands the adjoining property owner and the neighborhood would like to see: 1) the proposed rezoning requested denied; 2) the adopted neighborhood plan future land use map be amended to designate the subject property and the abutting property to the north (that both face Burns Street) be designated as multifamily (as recommended by the Planning Commission), instead of the mixed use designation approved by Council; and 3) to rezone the property to the north from a GR-MU-CO-NP district to a MF-3-NP district. The neighborhood representatives have stated that they compromised with the owners of property on the west side of Burns Street during the neighborhood planning process, because they desired single family land use category instead of the multi-family land use designation that was eventually recommended by the Planning Commission.

DATE OF FIRST READING/VOTE:

11/4/04: Approved on first ordinance reading of the Planning Commission's recommendation of GR-MU-CO-NP zoning with: 1) the agreement to prohibit these additional uses: restaurant (general), restaurant (limited), indoor sports and recreation, indoor entertainment, research services, 2) the restriction to limit vehicle access to Burns Street via a (single) emergency access driveway (for fire, E.M.S. and other emergency service access only) from the adjoining property to the north property owned by the applicant (direct vehicle access to and from the property being rezoning would be prohibited); 3) the requirement to provide a five foot landscaped berm along the eastern property line of the property being rezoned and the GR-MU-CO-NP property to the north; and 4) the requirement to a install (solid) fence five feet west and parallel to the Burns Street right-of-way, with the understanding the that the limited access, landscape berm and fence would be installed at such time as redevelopment of the property occurs. Vote: 7-0.

DATE OF SECOND READING/VOTE:

5/26/05: Approved on second ordinance reading of the Planning Commission's recommendation of GR-MU-CO-NP zoning with: 1) the agreement to prohibit these additional uses: restaurant (general), restaurant (limited), indoor sports and recreation, indoor entertainment, research services, 2) the restriction to limit vehicle access to Burns Street via a (single) emergency access driveway (for fire, E.M.S. and other emergency service access only) from the adjoining property to the north property owned by the applicant (direct vehicle access to and from the property being rezoning would be prohibited); 3) the requirement to provide a five foot landscaped berm along the eastern property line of the property being rezoned and the GR-MU-CO-NP property to the north; and 4) the requirement to a install (solid) fence five feet west and parallel to the Burns Street right-of-way, with the understanding the that the limited access, landscape berm and fence would be installed at such time as redevelopment of the property occurs. *(In addition, the City Council requested Staff to invite the neighborhood people to be in attendance at the next Council meeting.)* Vote: 7-0.

CITY COUNCIL DATE & ACTION:

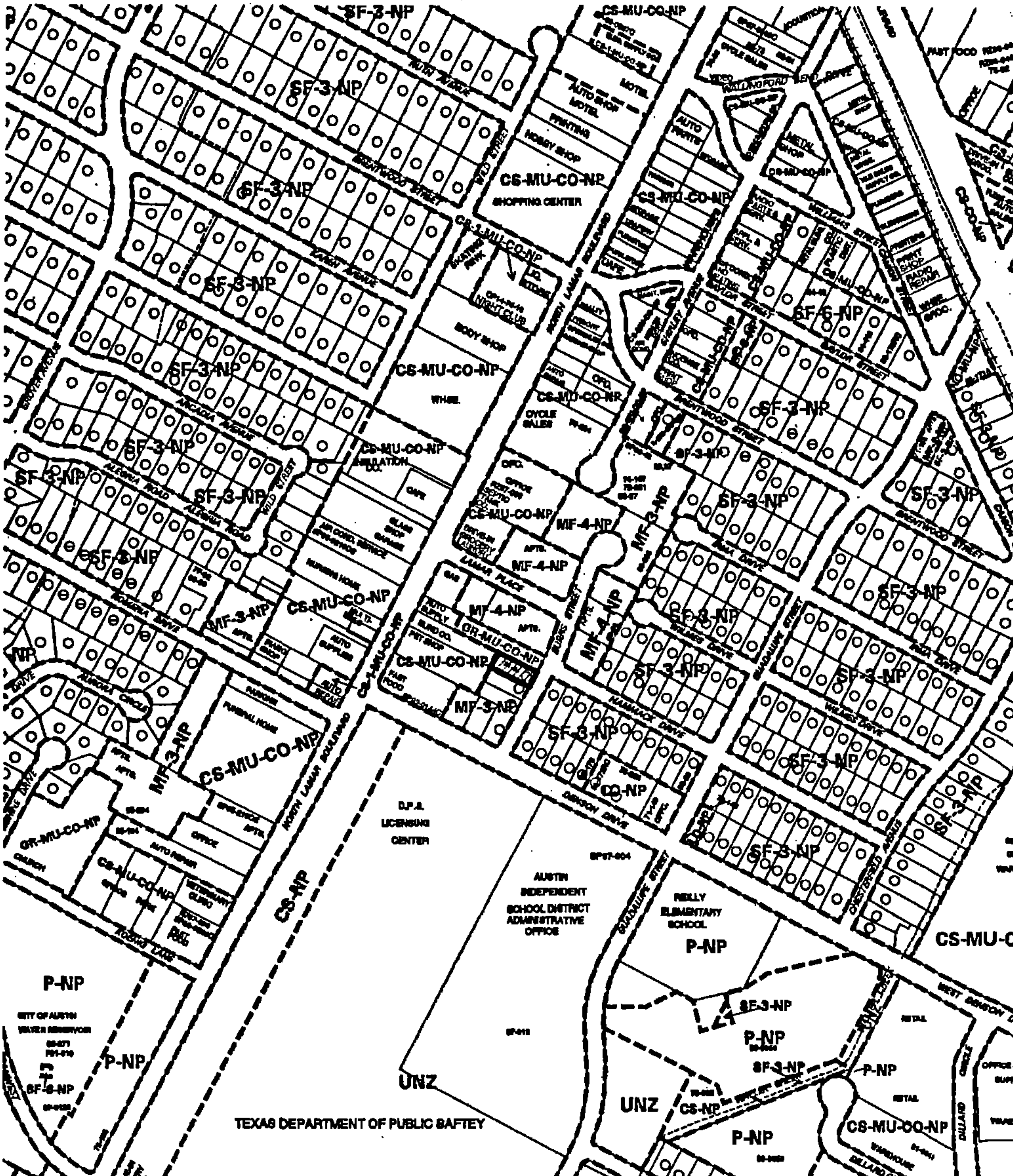
June 9, 2005:

ORDINANCE READINGS: 1st 11/04/04 2nd 5/26/05 3rd

ORDINANCE NUMBER:

CASE MANAGER: Greg Guernsey **PHONE:** 974-2387

E-MAIL: greg.guernsey@ci.austin.tx.us



1" = 400'

SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MGR: A. BEAUDET

ZONING

EXHIBIT "A"

CASE #: C14-04-0012.003

ADDRESS: 6208 BURNS ST

SUBJECT AREA (acres): 0.174

DATE: 05-04

INTLS: SM

CITY GRID REFERENCE NUMBER

K27

ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 6208 BURNS STREET IN THE HIGHLAND NEIGHBORHOOD PLAN AREA FROM MULTIFAMILY RESIDENCE MEDIUM DENSITY-NEIGHBORHOOD PLAN (MF-3-NP) COMBINING DISTRICT TO COMMUNITY COMMERCIAL-MIXED USE-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (GR-MU-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-neighborhood plan (MF-3-NP) combining district to community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district on the property described in Zoning Case No. C14-04-0012.003, on file at the Neighborhood Planning and Zoning Department, as follows:

> Lot 2, Edgar S. Daugherty Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 53, Page 38, of the Plat Records of Travis County, Texas, (the "Property")

locally known as 6208 Burns Street, located in the Highland neighborhood plan area, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

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

1. Drive-in service is prohibited as an accessory use to a commercial use.

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

Automotive rentals	Automotive sales
Automotive repair services	Automotive washing (of any type)
Commercial off-street parking	Drop off recycling collection facility
Exterminating services	Off-site accessory parking
Outdoor entertainment	Outdoor sports and recreation
Pawn shop services	Plant nursery

Service station
Restaurant (limited)
Research services
Restaurant (general)
Indoor sales and recreation

3. Vehicular access from the Property to Burns Street is prohibited. All vehicular access to the Property shall be from other adjacent public streets or through other adjacent property.

PART 3. Except as otherwise provided in this ordinance, the Property is subject to Ordinance No. 040513-33B that established the Highland neighborhood plan combining district.

PART 4. This ordinance takes effect on _____, 2005.

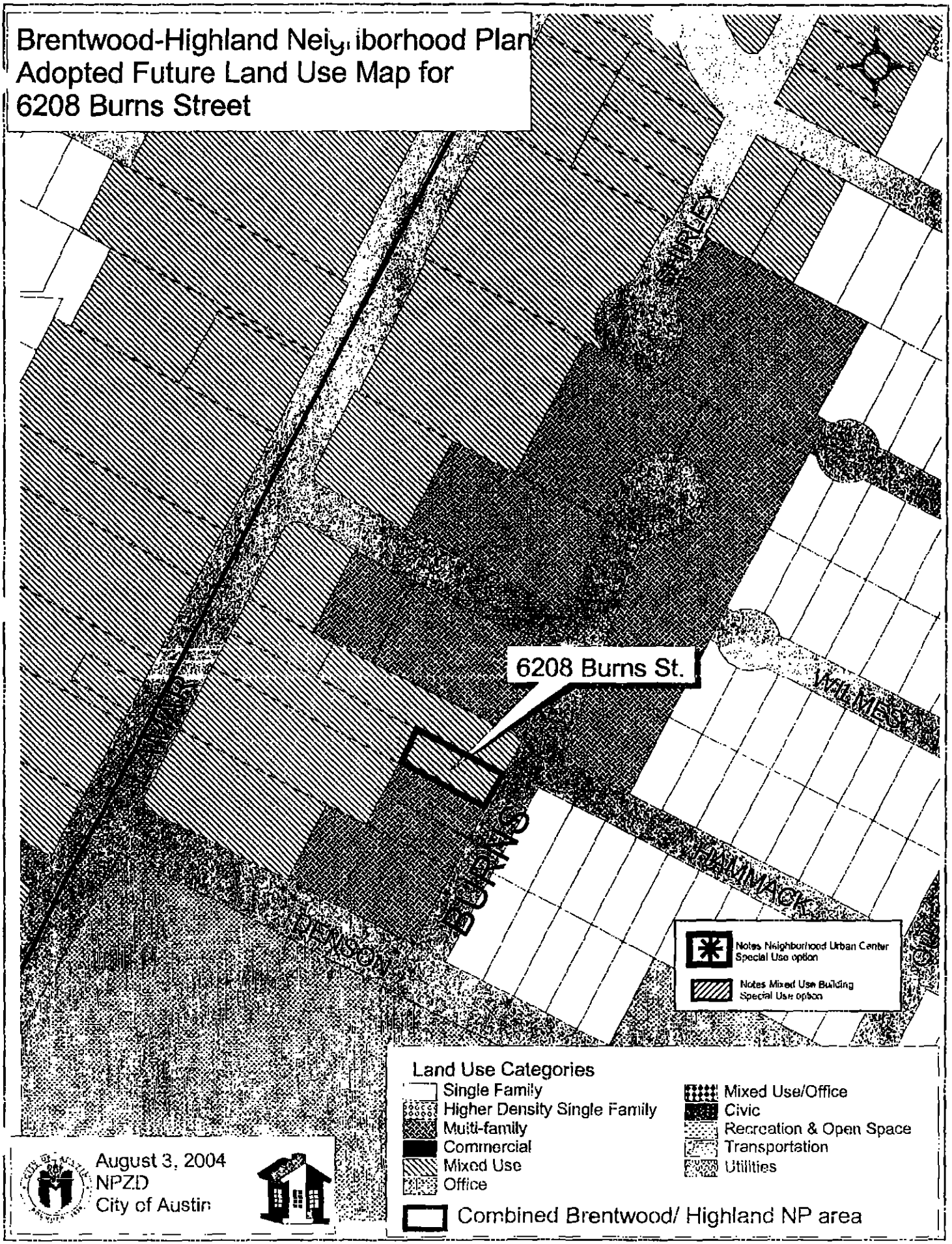
PASSED AND APPROVED

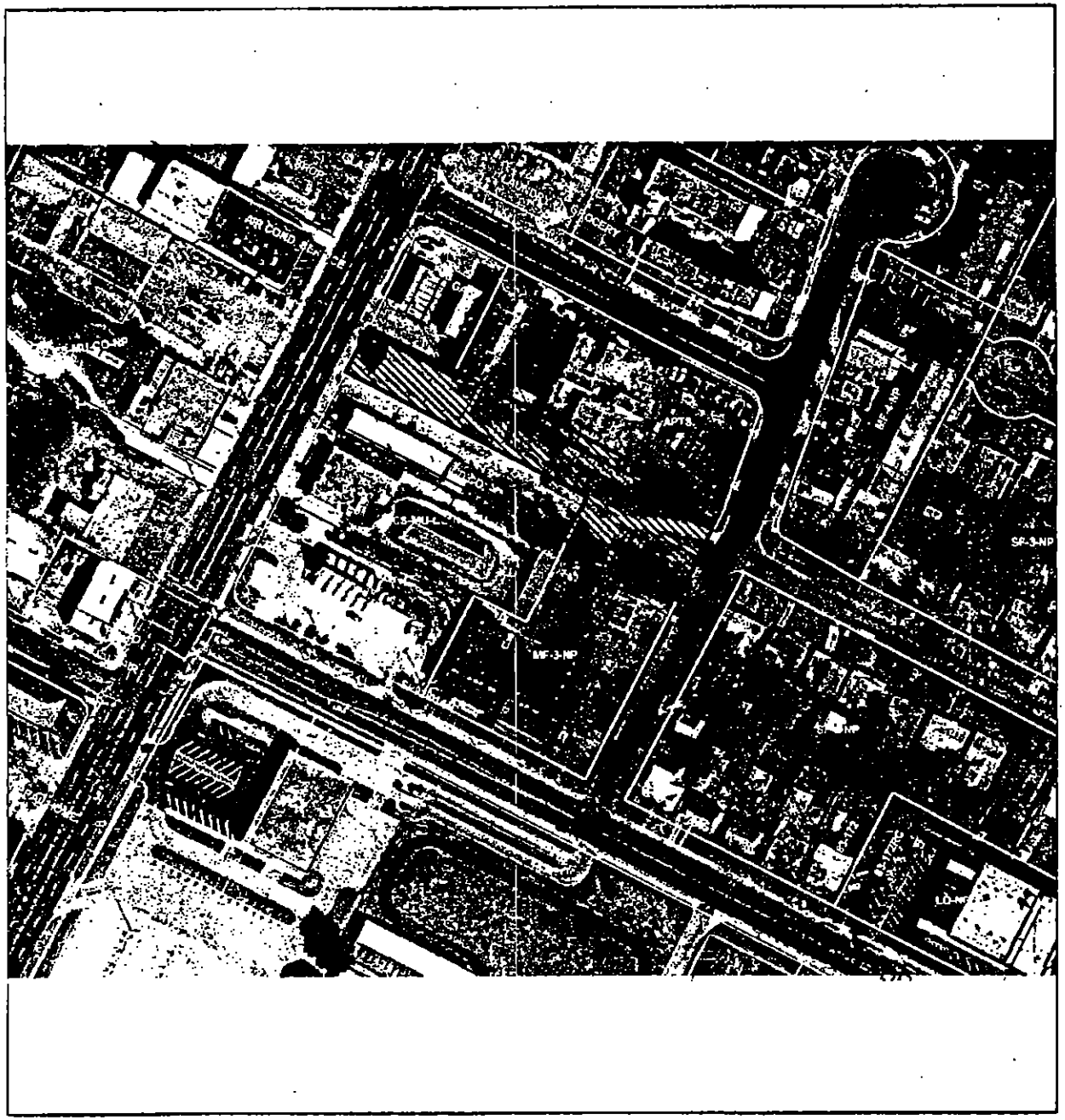
§
§
§

_____, 2005 § _____
Will Wynn
Mayor

APPROVED: _____ **ATTEST:** _____
David Allan Smith
City Attorney

Shirley A. Brown
City Clerk


Brentwood-Highland Neighborhood Plan
Adopted Future Land Use Map for
6208 Burns Street
6208 Burns St.
BURNET
WILLIAMSON
BURNET
WILLIAMSON
Notes Neighborhood Urban Center Special Use option
Notes Mixed Use Building Special Use option
Land Use Categories
Single Family
Higher Density Single Family
Multi-family
Commercial
Mixed Use
Office
Mixed Use/Office
Civic
Recreation & Open Space
Transportation
Utilities
Combined Brentwood/ Highland NP area
August 3, 2004
NPZD
City of Austin



City of Austin

Area of public restrictive covenant associated with oning case number C14-04-0012.003

Text A200
Zoning
Base

N

Wed Apr 20 20:49:05 2005

Zoning Case No. C14-04-0012.003

RESTRICTIVE COVENANT

OWNER: Ken McWilliams

ADDRESS: 6221 North Lamar Blvd., Austin, Texas 78752

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: Tract One: Lot 2, Edgar S. Daugherty Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 53, Page 38, of the Plat Records of Travis County, Texas; and

Tract Two: A tract of land in the J. P. Wallace Survey, Abstract No. 789, Travis County, the tract being more particularly described by metes and bounds in Exhibit "A" and incorporated into this covenant.

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

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

1. At the time of redevelopment of the Property, a site plan or building permit for the Property may not be approved until the following requirements have been met:

   (a) Vehicular access from Tract Two to Burns Street shall be prohibited except for emergency vehicle use. All vehicular access to the Property shall be from other adjacent public streets or through other adjacent property; and

   (b) Except as restricted by an emergency access point on Tract Two, a five foot wide landscaped berm shall be provided and maintained on Tracts One and Two along the east property line at the Burns Street right of way. Improvements permitted within the berm area are limited to drainage, underground utility improvements or those improvements that may be otherwise required by the City of Austin or specifically authorized in this covenant; and

(c) Except as restricted by an emergency access point on Tract Two, a solid fence shall be constructed five feet west of the east property line and located approximately along the west edge of the landscaped berm area on Tracts One and Two.

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:

_____
Ken McWilliams

APPROVED AS TO FORM:

_____
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ___ day of _____, 2005, by Ken McWilliams.

_____
Notary Public, State of Texas

PETITION

Case Number: **C14-04-0012.003** Date: Sept. 21, 2004

Total Area within 200' of subject tract: (sq. ft.) 202,603.72

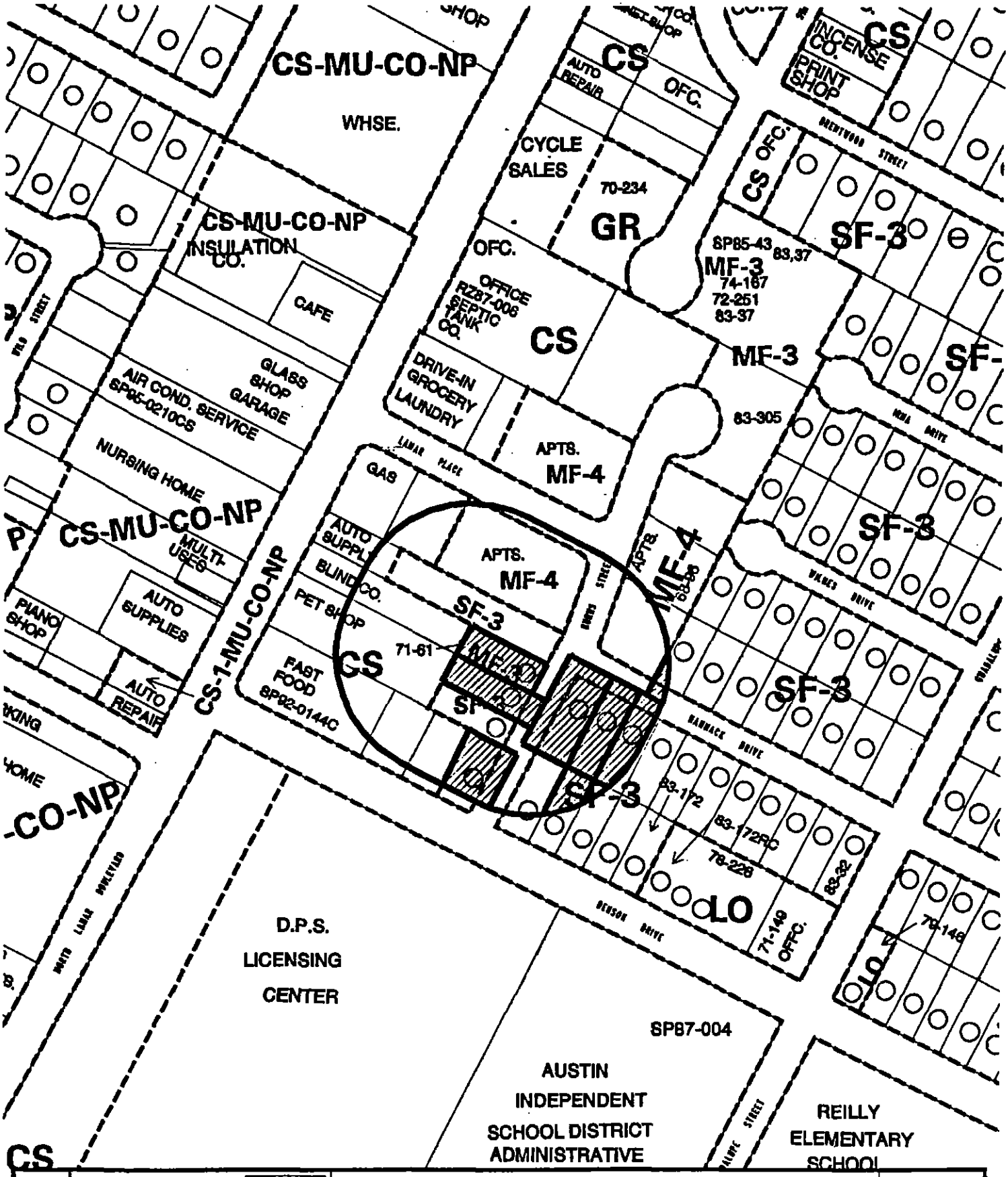
1	02-2908-0462	HEMINGSON DAN T	1,349.02	0.67%
2	02-2908-0501	CASTILLO ROSS & CHRISTINE A	13,127.99	6.48%
3	02-2908-0502	LINDSEY MARK H	8,311.45	4.10%
4	02-2908-0503	HEMINGSON DAN THOMAS	6,471.40	3.19%
5	02-2908-0521	SCHKADE FLOYD W	3,392.16	1.67%
6	02-2908-0608	MITCHELL HUGH T	8,293.70	4.09%
7	02-2908-0610	CHAPMAN WILBUR K	8,635.71	4.26%
8				0.00%
9				0.00%
10				0.00%
11				0.00%
12				0.00%
13				0.00%
14				0.00%
15				0.00%
16				0.00%
17				0.00%
18				0.00%
19				0.00%
20				0.00%
21				0.00%
22				0.00%
23				0.00%
24				0.00%
25				0.00%
26				0.00%
27				0.00%
28				0.00%

Validated By: Stacy Meeks

Total Area of Petitioner: 49,581.43

Total %: 24.47%

Exhibit A (1 of 3)



N 1" = 200'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: A. BEAUDET	PETITIONS CASE #: C14-04-0012.003 ADDRESS: 6208 BURNS ST SUBJECT AREA (acres): 0.174	DATE: 04-09 INTLS: SM	CITY GRID REFERENCE NUMBER K27 (2 of 3)

A7

PETITION

Date: Monday, August 09, 2004

File Number: C14-04-0012.003

Address of Rezoning Request:
6208 Burns St.
Austin, TX 78752

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than MF-3 that would allow commercial access to Burns St.

Commercial access to Burns will negatively affect the residential character and safety of Burns and Hammack neighborhood. This will also set a precedence that could damage the residential fabric of the city of Austin.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
[illegible]	Gary Grayson	612 Hammack Dr } not owners
[illegible]	Elmer Robinson	6208 Burns } DNS
[illegible]	H.T. Mitchell III	6206 Burns
[illegible]	Dan Hemingson	614/617 Hammack Dr
[illegible]	Mark Lindsey	619 Hammack Dr.
[illegible]	Wilbur R. CHAPMAN	700 Dawson Dr
[illegible]	Tom Sansing	610, 612 Hammack
[illegible]	Ted O'Beirne	613 Hammack
[illegible]	Ross Cahill	621 Hammack Dr. Garden Apts Ownership
Elida Herrera	Elida Herrera	Representative of Chelsea
		6405 Burns St
		6309 Burns St
		902 Lamar Pl
		6505 Shirley Pl
		709 Lamar Pl
[illegible]	David Ackerman	615 Hammack
[illegible]	FLOYD W. SARKARE	618 DENSON
[illegible]	DEAN LUCAS	620 DENSON

Date: Monday, August 09, 2004

Contact Name: Hugh T. Mitchell, III
Phone Number: (512) 407-8324

(3 of 3)

PETITION

To: Austin City Council
Date: Monday, August 23, 2004

We, the undersigned owners and residents of property affected by the zoning changes applied and proposed to the 6208 and 6210 Burns lots, do hereby protest against changes of the Land Development Code which would zone the property to allow commercial access to our neighborhood streets.

The Burns and Hammack area of the Highland neighborhood is already suffering from uncontrolled cut through traffic. The 'no trucks' and 'stop' signs posted to help control traffic are routinely ignored by commercial trucks and cut-through traffic that is usually speeding. These small residential streets have no sidewalks and are routinely used by mothers with strollers and unescorted children to and from the elementary school one block away.

Commercial access on Burns will negatively affect the residential character and safety of the Burns and Hammack area of the Highland neighborhood. This also sets a precendent that could damage the residential fabric of the city of Austin. We need more traffic control, not more traffic.

We ask that you deny the zoning change for 6208 Burns and direct staff to initiate action that will allow you to reconsider 6208 and 6210 Burns together.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
	JOE HELLINGSHEAD	609 HAMMACK
	Kristen Schmidt	604 Hammack
	Johnny B Cuellar	605 Hammack
	BRYAN SHEPHERD	6208 GUADALUPE
	RALPH AREVALO	612 DENSON DR.
	Anna Yost	614 Denson DR.
	Michael Yost	614 Denson DR.
	Gary Gradon	612 Hammack Dr.
	Mary Burnett	617 HAMMACK Dr
	Robert Burnett	617 Hammack Dr
	DAVID RAY	611 HAMMACK DR.
	Dan Hemingson	614 Hammack Dr.

Exhibit B (1 of 3)

PETITION

To: Austin City Council
Date: Monday, August 23, 2004

We, the undersigned owners and residents of property affected by the zoning changes applied and proposed to the 6208 and 6210 Burns lots, do hereby protest against changes of the Land Development Code which would zone the property to allow commercial access to our neighborhood streets.

The Burns and Hammack area of the Highland neighborhood is already suffering from uncontrolled cut through traffic. The 'no trucks' and 'stop' signs posted to help control traffic are routinely ignored by commercial trucks and cut-through traffic that is usually speeding. These small residential streets have no sidewalks and are routinely used by mothers with strollers and unescorted children to and from the elementary school one block away.

Commercial access on Burns will negatively affect the residential character and safety of the Burns and Hammack area of the Highland neighborhood. This also sets a precendent that could damage the residential fabric of the city of Austin. We need more traffic control, not more traffic.

We ask that you deny the zoning change for 6208 Burns and direct staff to initiate action that will allow you to reconsider 6208 and 6210 Burns together.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
[illegible]	Tyrese Robuttie	6309 Burns #316
[illegible]	ALBA VILLARREAL	6309 GUADALUPE
[illegible]	Brian Jacobsen	709 Lamar #102
[illegible]	Marcus Weinbrecht	709 Lamar PL. 204
[illegible]	Curt Anderson	709 Lamar PL #215
[illegible]	Julie Weinbrecht	709 Lamar PL #204
[illegible]	Oscar S. Cadena	713 Lamar Pl #203
[illegible]	Melanie Budden	721 Lamar Place #106
[illegible]	Mona Hoffmanswell	721 Lamar Place #202
[illegible]	Harold Thompson	721 Lamar Place #202
[illegible]	Julia B. Head	6206 Burnet St
[illegible]	Shane Bygrave	6204 Burns
[illegible]	Ramon Castillo	621 Hammack Dr

(2 of 3)

PETITION

To: Austin City Council
Date: Monday, August 23, 2004

We, the undersigned owners and residents of property affected by the zoning changes applied and proposed to the 6208 and 6210 Burns lots, do hereby protest against changes of the Land Development Code which would zone the property to allow commercial access to our neighborhood streets.

The Burns and Hammack area of the Highland neighborhood is already suffering from uncontrolled cut through traffic. The 'no trucks' and 'stop' signs posted to help control traffic are routinely ignored by commercial trucks and cut-through traffic that is usually speeding. These small residential streets have no sidewalks and are routinely used by mothers with strollers and unescorted children to and from the elementary school one block away.

Commercial access on Burns will negatively affect the residential character and safety of the Burns and Hammack area of the Highland neighborhood. This also sets a precendent that could damage the residential fabric of the city of Austin. We need more traffic control, not more traffic.

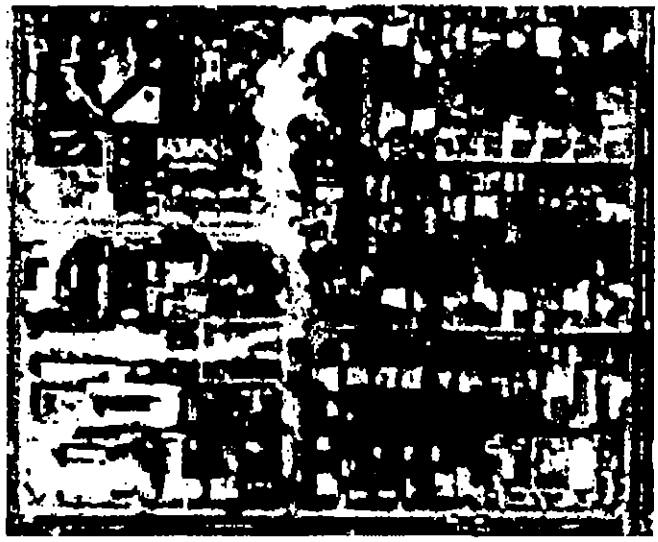
We ask that you deny the zoning change for 6208 Burns and direct staff to initiate action that will allow you to reconsider 6208 and 6210 Burns together.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

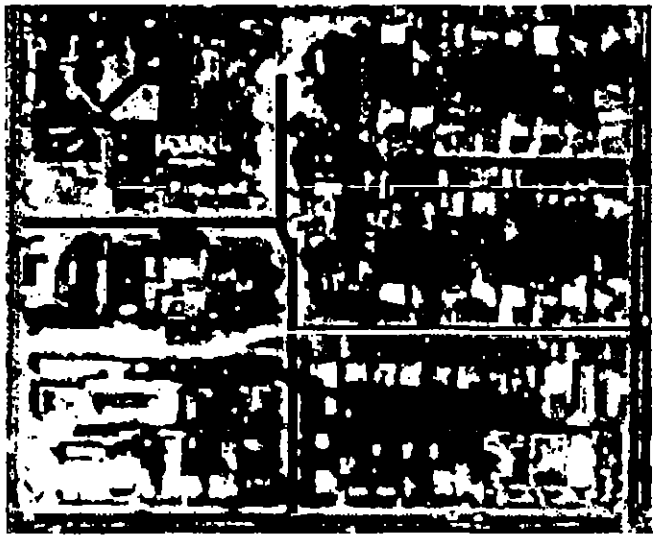
Signature	Printed Name	Address
	Ted O'Baker	615 Hammeck
	Tex Mitchell	6206 Burns (Owner)
	Delia De La Garza	6309 Burns 301
	Alfredo C. Romero	6309 Burns st #108
	Olivia Ortiz	6309 Burns ST. #110
	Erika Nodos N.	6309 Burns ST #204
	Yesenia Contreras	6309 Burns St. #113
	Rudy Constante	6309 Burns ST #214
	Gerardo Perez R.	6309 Burnsst #212
	Luis A. Torres	6309 Burns #212
		6309 Burns #213
	Ruby J. Smith	6309 Burns St. #203
	Clayton Wilusch	6309 Burns St. #303
	Marcos Estrada	6309 Burns #307
		6309 Burns #205
	Judy Crawford	6309 Burns Apt #306
		6309 Burns St #115
		6309 Burns St #216
	Rose Lazdowski	6309 Burns St #215

(3 of 3)

6208 – 6210 Burns

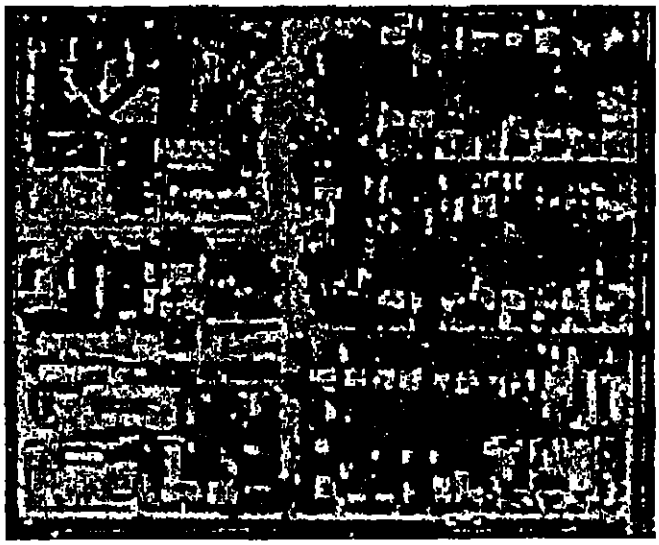


Anticipated Commercial Traffic Route



PLEASE VOTE NO TO COMMERCIAL ZONING ON BURNS!

We are asking that Austin City Council deny the GR zoning of 6208 Burns and direct Staff to initiate a zoning change for 6210 Burns back to the MF3 zoning that was in the original version of the staff recomended and neighborhood approved neighborhood plan and future land use map.



There are several reasons we are asking for this.

- We are asking for MF3 because that is what was decided during neighborhood planning. The neighborhood would have preferred SF, but compromised with Staff for a higher density buffer between the commercial on Lamar and the SF of the neighborhood. This decision was not made lightly. This decision was made over the course of the year long neighborhood planning process. -No spot zoning- and -placing buffers between incompatible zoning- were basic tenants of that process. This zoning violates both.
- We are asking for MF3 because this not a border issue. This is a lot that has residential on either side and across the street. We're not concerned about increased traffic at an entrance to our neighborhood. We are concerned about increased traffic through our neighborhood.
- We are asking for MF3 because this is a neighborhood. What are we going to be looking at from our doorsteps? Are we going to be looking at the back of a strip mall with ugly metal doors and dumpsters? This is a neighborhood with its own character and charm like any other. I can't imagine how this is going to be attractive. My home was awarded "Highland Neighbor of the Month" last year for the renovations and improvements we made to our property. With GR zoning, it will be next door to a commercial building.
- We are asking for MF3 because staff has stated this commercial zoning on a residential street sets a precedent that could, in their words: "damage the residential fabric" of the city of Austin as a whole. This is a case of commercial zoning in the middle of a neighborhood street. This is exactly the situation that the neighborhood planning process seeks to fix.

Why are we even considering a zoning change. There is no condition that exist that makes this property require rezoning for development. This property is prime for residential development, as

shown by several rental property rehabs in the neighborhood and a new build two doors down. There is also no shortage of commercial property available in Austin for development.

Zoning this GR would leave us with no buffer from commercial and a land owner that plans to funnel their exiting commercial traffic through our narrow residential streets. Streets with no sidewalks. Streets where children play and walk to school. Streets that already have problems with cut thru traffic.

We have tried to compromise.

The landowner has agreed to 5 prohibited uses.

- General Restaurant
- Limited Restaurant
- Indoor Sports and Recreation
- Indoor Entertainment
- Research Service

This is inadequate for compromise. It does nothing to keep our neighborhood safe or attractive.

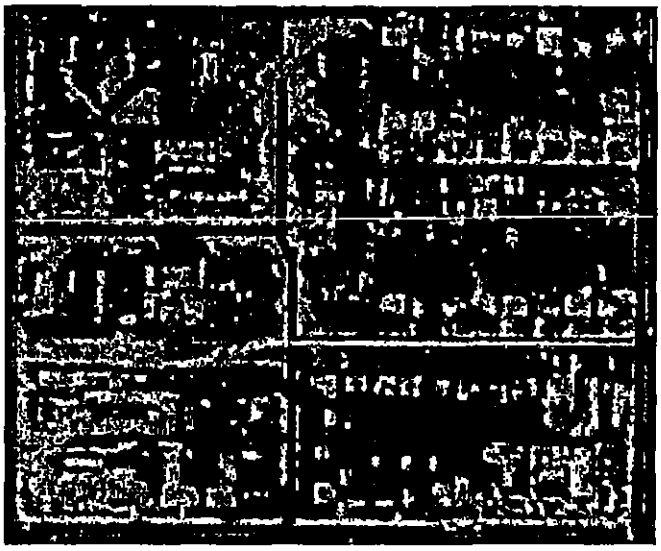
MF3 was a compromise to begin with. - Regardless of this, we have repeatedly offered a further compromise to reverse our stance against GR zoning for a restriction against commercial access to our residential street. The land owner has repeatedly refused this compromise.

Why? The land owner has declared no hardship other than -the design and options for building placement- will be more difficult with no access to Burns.

******* Addendum *******

September 1st, Ken McWilliams and his agent proposed a gated exit that would serve as a ***secondary*** exit for customers to exit with a rotating code.

After meeting the following evening with affected members of the neighborhood, we are concerned this proposal by Ken McWilliams and his agent will allow and promote the use of our neighborhood streets as the ***primary*** exit for delivery trucks, as shown in the following diagram.



At this meeting, neighbors informed me of a much higher level of use currently by delivery trucks than I had previously been aware (despite signage prohibiting it). One neighbor mentioned witnessing multiple delivery trucks simultaneously exiting the property illegally via Hammack just this week. Developing this property into the owners proposed interior design center concept would demand more and larger deliveries requiring more and larger trucks.

While we will continue to entertain suggestions to remedy this, we feel the most appropriate solution is limiting commercial access to Burns entirely. Previous attempts to control this by posting signage have been entirely ineffective. The property owner's proposal does not promise to control this either.

It is important to repeat that commercial zoning on these lots fronting onto the residential Burns Street is not what was originally proposed by staff, never discussed during neighborhood planning, is out of place and we feel inappropriate in the middle of our neighborhood. MF-3 zoning was originally proposed by staff and supported through neighborhood planning.

We are still willing to compromise.

While we are here asking for you to deny this zoning of GR on our neighborhood street, we acknowledge that the most we may be able to achieve here is a heavily weighted compromise. A compromise not favoring what is desirable to the majority. A compromise that favors this single land owner but at least offers some protection to the community. We regrettably, again feel forced to offer the compromise of GR on our neighborhood street in exchange for no vehicular access. We feel this compromise is extremely generous.

We deserve to be safe in our neighborhoods

- We deserve to be protected from dangerous traffic, just as we are protected from dangerous criminals.
- We deserve to be able to safely walk down our residential streets.
- We deserve a safe route for our children to take to school.

- Our children deserve a safe, attractive neighborhood to call home.

We are asking for MF3 on this property as was **-suggested by Staff-** and agreed to during the neighborhood planning process. Staff is now recommending the GR zoning, but has informed us that they are bound to change their recommendation to match what is in the future land use map, regardless of their educated opinion. This land was changed to commercial during the ratification of the neighborhood plan. No one opposed it, we think because the Lamar addresses were used instead of the Burns address. Ken McWilliams' attorney will tell you everyone clearly understood, but the fact is: The neighborhood missed it, Staff missed it and ultimately, this piece of property was zoned commercial with no opposition. We think it needs to be re-addressed.

We are asking that Austin City Council deny the GR zoning of 6208 Burns and direct Staff to initiate a zoning change for 6210 Burns back to the MF3 zoning that was in the original version of the staff recomended and neighborhood approved neighborhood plan and future land use map.

If, however, you choose to grant GR, we beg that you at least give us the protection of the 5, mutually agreed upon, prohibited uses and, most importantly, no commercial access to Burns St. from any commercial property that should plop down in the middle of our neighborhood.

C14-04-0012.00 Supporting Documentation
November 4th City Council Agenda (Agenda Item 45) C14-04-0012.003
Transcript from October 21st City Council Meeting (Agenda Item Z-22)
Transcript from September 30th City Council Meeting (Agenda Item Z-7)
City Council contact information
City Staff Case Worker - Greg Guernsey, 974-2387, greg.guernsey@ci.austin.tx.us

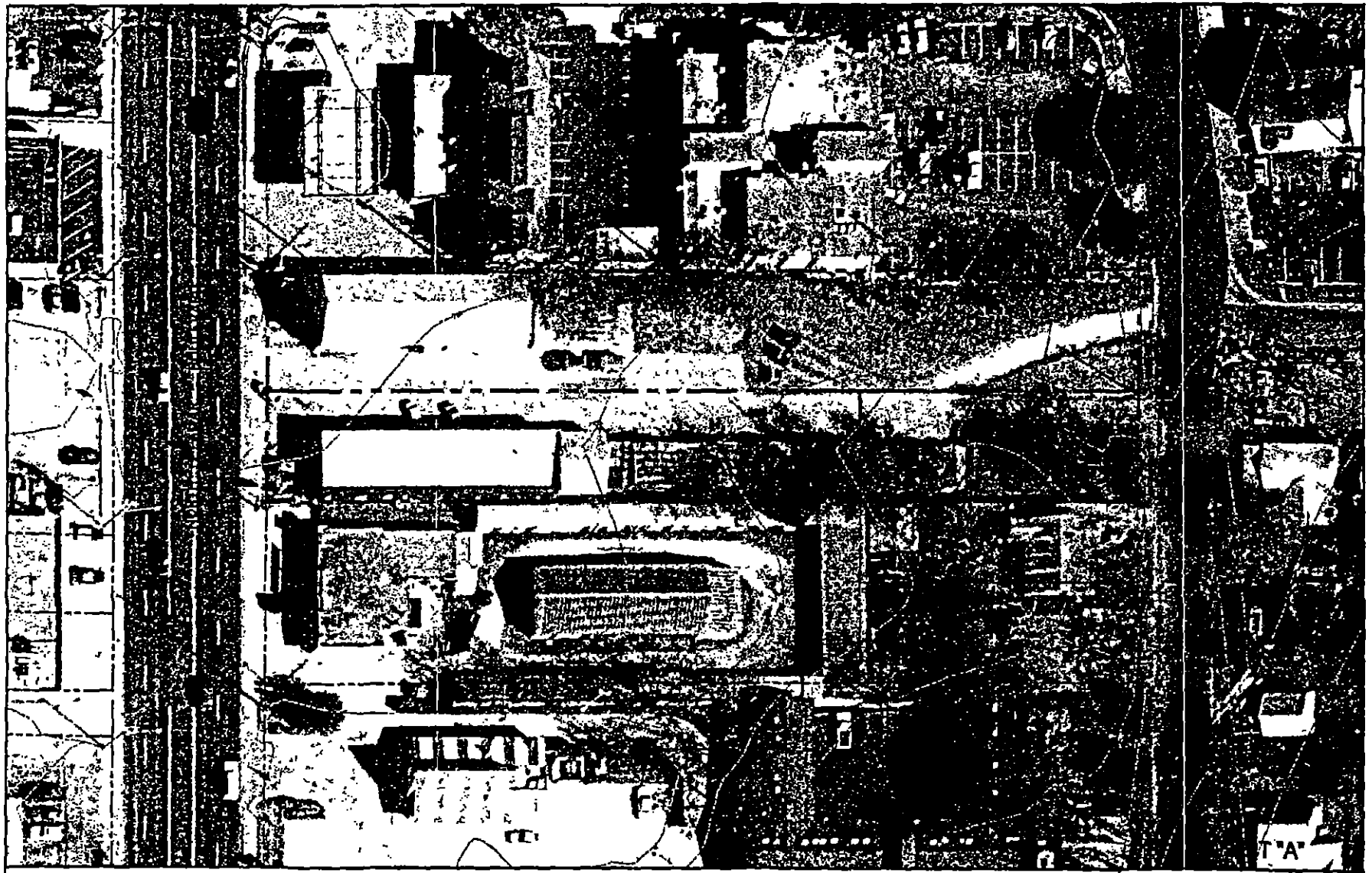
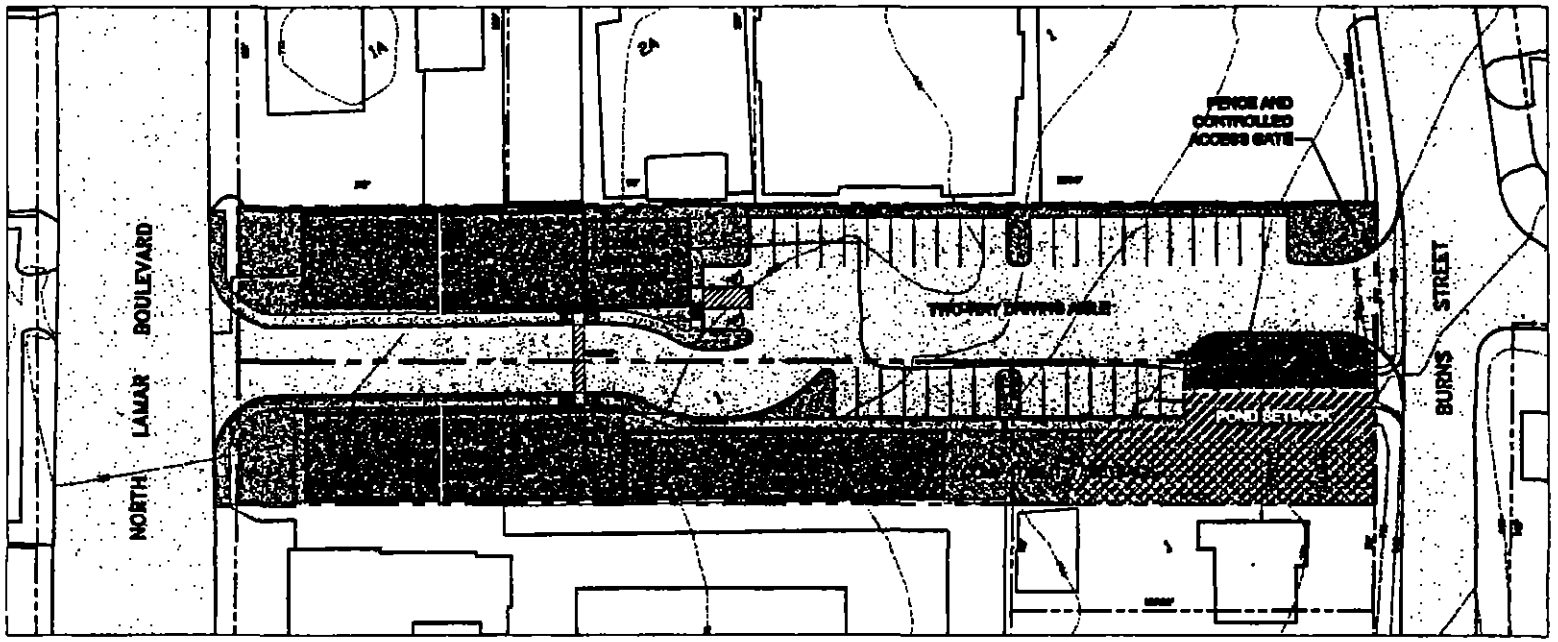


EXHIBIT "A"

C14-04-0012 003
AUSTIN, TX

Thrower Design
LAND PLANNERS



TABULATION

USES

RETAIL	11,[illegible] S.F.	[illegible] SPACES
WAREHOUSE	1,274 S.F.	1 SPACES

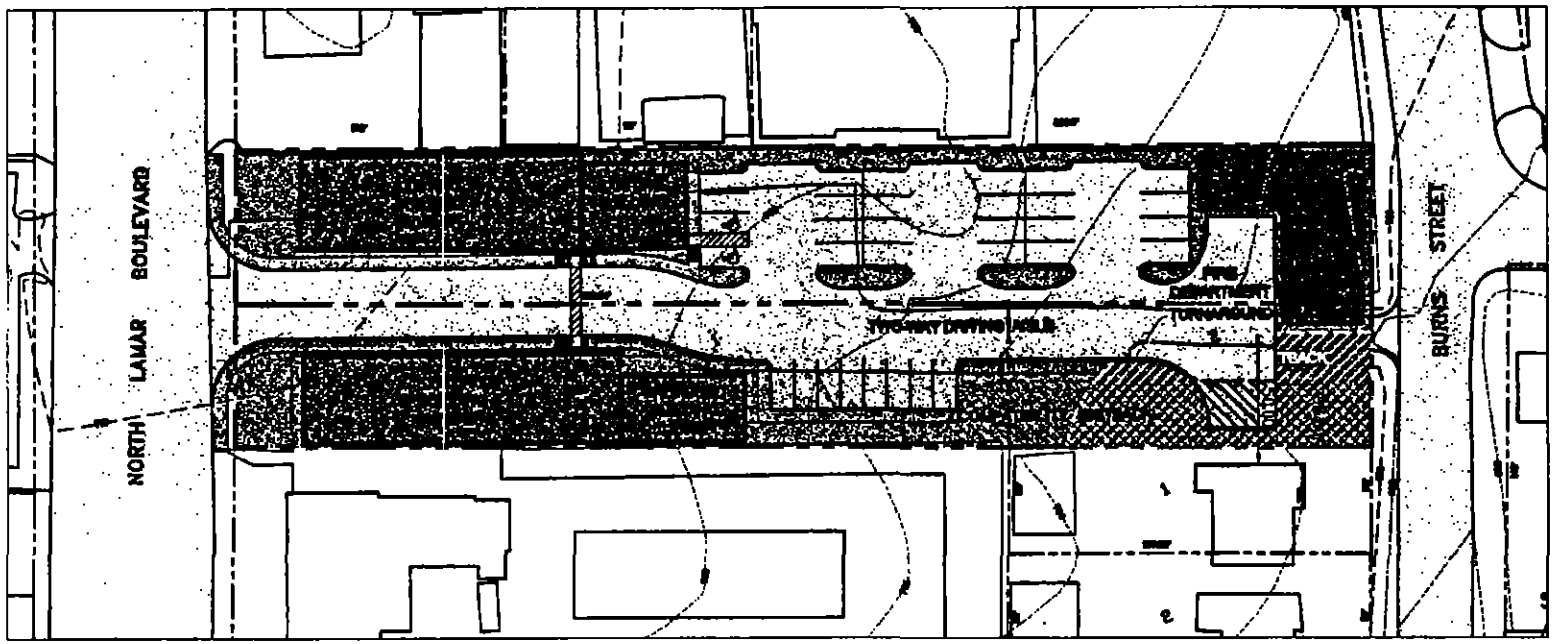
PARKING

REQUIRED:	47
REDUCTION ALLOWED @ 60% SY CODE	[illegible]
TOTAL REQUIRED	[illegible]
PROVIDED:	
REGULAR SPACES	[illegible] SPACES
HANDICAP SPACES	2 SPACES
TOTAL	[illegible] SPACES

EXHIBIT "B"

C14-04-0012.003
AUSTIN, TX

Thrower Design
LAND PLANNERS



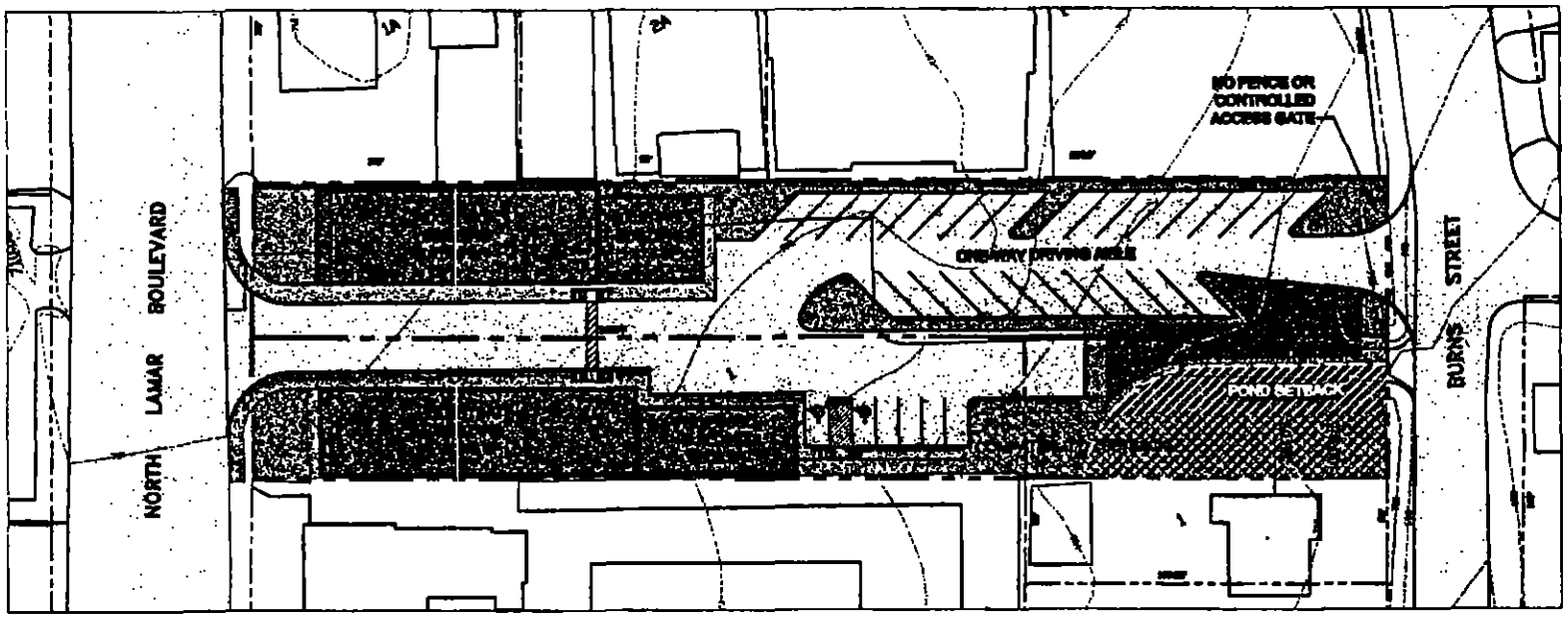
TABULATION

USES		
RETAIL	9,842 S.F.	30 SPACES
WAREHOUSE	1,374 S.F.	1 SPACES
PARKING		
REQUIRED:		30
REDUCTION ALLOWED @ 50% BY CODE		0.5
TOTAL REQUIRED		31
PROVIDED:		
REGULAR SPACES		30 SPACES
HANDICAP SPACES		2 SPACES
TOTAL		32 SPACES

EXHIBIT "C"

C14-04-0012.003
AUSTIN, TX

Thrower Design
LAND PLANNERS



TABULATION

USES

RETAIL	9,896 S.F.	40 SPACES
WAREHOUSE	1,374 S.F.	1 SPACES

PARKING

REQUIRED:	41
REDUCTION ALLOWED @ 80% BY CODE	8.8
TOTAL REQUIRED	33

PROVIDED:

REGULAR SPACES	31 SPACES
HANDICAP SPACES	2 SPACES
TOTAL	33 SPACES

EXHIBIT "D"

C14-04-0012.003
AUSTIN, TX

Thrower Design
LAND PLANNERS

ZONING CHANGE REVIEW SHEET

CASE: C14-04-0012.003 **PC DATE:** August 10, 2004

ADDRESS: 6208 Burns Street

OWNER: Ken McWilliams **AGENT:** Jim Bennett

APPLICANT: City of Austin, NPZD (Annick Beaudet)

ZONING FROM: MF-3-NP **TO:** GR-MU-CO-NP **AREA:** .174 acres/7, 580 sq.ft.

SUMMARY STAFF RECOMMENDATION:

Staff recommends community commercial-mixed use-conditional overlay-neighborhood plan combining district zoning (GR-MU-CO-NP). The CO would prohibit automotive rental, automotive repair services, automotive sales, automotive washing of any type, commercial off street parking, drop off recycling collection facility, exterminating services, off site accessory parking, outdoor entertainment, outdoor sports and recreation, pawn shop services, plant nursery, service station, and drive in services as an accessory use.

PLANNING COMMISSION RECOMMENDATION:

7-13-04: Postponement to August 10, 2004 at the request of the neighborhood and staff.
8-10-04: Approve staff recommendation of GR-MU-CO-NP. Vote: 5-3 (CM, JMC, MH-No)

ISSUES:

There is a valid petition (24.47%), submitted by the neighborhood, against any other zoning district other than MF-3-NP. (Exhibit A)

The property owner of the apartment complexes that are partly within the 200-foot petition rights radius did sign the petition in opposition to this rezoning request. However, staff is waiting for a Power of Attorney document before including that property within the petition tally. If that is received the validity of the petition will increase.

In addition, the neighbors in direct proximity to this property obtained signatures of neighbors both within the 200 foot radius, and beyond, in opposition to this rezoning request. (See Exhibit B)

DEPARTMENT COMMENTS:

City staff facilitated a meeting on July 21, 2004 for the property owner and neighbors. At that meeting all parties shared their issues concerning the development of the property. The limiting issue is commercial access to Burns Street. While the owner was willing to prohibit additional uses (general restaurant, limited restaurant, indoor sports and recreation, indoor entertainment, and research services) per the neighborhoods request, it was contingent on retaining commercial access to Burns Street.

In addition the property owner agreed to also prohibit those uses on the back portion of the adjacent lot to the north (which is currently zoned GR-MU-CO-NP). However, again, contingent upon retaining access to Burns Street from both properties.

Per conversations with the property owner, it is staff's understanding that the owner wishes to develop a Interior Design Center on this property combined with the lot to the north and the lots directly to the west of the property. Currently there exists a window covering business, he wishes to expand to include new buildings with uses such as carpet sales, framing shops, and accent furniture type retail.

Lastly, the owner suggests that without commercial access to Burns Street the building and parking placement for the Design Center would be limited and more costly.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	MF-3	Undeveloped
North	GR-MU-CO-NP	Undeveloped
South	MF-3-NP	Single family home
East	SF-3-NP	Single family home
West	CS-MU-CO-NP	Window covering retail showroom

AREA STUDY: Brentwood/Highland Combined Neighborhood Planning Area

TIA/NTA: Waived and Not Required.

WATERSHED: Waller Creek **DESIRED DEVELOPMENT ZONE:** Yes.

CAPITOL VIEW CORRIDOR: No. **HILL COUNTRY ROADWAY:** No.

NEIGHBORHOOD ORGANIZATIONS:

Highland Neighborhood Assoication
North Austin Neighborhood Alliance
Austin Neighborhoods Council
Skyview Neighborhood Assn.
Taking Action Inc.

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-04-0012.003	Brentwood/Highland Neighborhood Plan Rezonings.	To recommend retaining MF-3 zoning for this property and to **recommended multifamily zoning uniformly along Burns Street from Denson Drive to Lamar Place.**	This specific property was not notified for a rezoning during the neighborhood plan rezonings because it was already designated with MF-3 zoning. City Council directed staff to initiate a rezoning on the property to GR-MU-CO-NP per the property owners request.

RELATED CASES:

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

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION
Burns Street	60'	35'	Local

CITY COUNCIL DATE:	ACTION:
September 30, 2004	Postponed case to 10/21/04 Vote: 7-0. Staff to review technicalities of restricting access, except emergency to Burns Street. Applicant asked to do a simple site plan to see how realistic a 100 wide piece of commercial property, 400 feet long could be developed. (Public Hearing Closed)
October 21, 2004	Postponed case to 11/04/04 Vote: 7-0. Council postponed the case to allow the neighbors, Mr. Bennett (the agent) and the applicant time to look over the (driveway/parking lot) proposals and maybe make some counter offers to the Mr. Bennett. Staff was asked to clarify the Fire Department's recommendations on vehicle access being limited or prohibited to Burns Street.
November 4, 2004	Approved first reading of the Planning Commission recommendation of GR-MU-CO-NP zoning with: 1) the agreement to prohibit the following additional uses: restaurant (general), restaurant (limited), indoor sports and recreation, indoor entertainment, research services, 2) the restriction to limit vehicle access to Burns Street via a (single) emergency access driveway (for fire, E.M.S. and other emergency service access only) from the adjoining property to the north property owned by the applicant (direct vehicle access to and from the property being rezoning would be prohibited); 3) the requirement to provide a five foot landscaped berm (along the eastern property line of the property being rezoned and the GR-MU-CO-NP property to the north); 4) the requirement to a install fence five feet west and parallel to the Burns Street right-of-way, with the understanding the that the limited access, landscape berm and fence would be installed at such time as redevelopment of the property occurs. Vote: 7-0
April 28, 2005	Approved the property owner's request to postpone this case to May 26, 2005. Vote: 5-0, Mayor Wynn & Council Member McCracken off the dais.
May 26, 2005	Approved on second ordinance reading of the Planning Commission's recommendation of GR-MU-CO-NP zoning with: 1) the agreement to prohibit these additional uses: restaurant (general), restaurant (limited), indoor sports and recreation, indoor entertainment, research services, 2) the

restriction to limit vehicle access to Burns Street via a (single) emergency access driveway (for fire, E.M.S. and other emergency service access only) from the adjoining property to the north property owned by the applicant (direct vehicle access to and from the property being rezoning would be prohibited); 3) the requirement to provide a five foot landscaped berm along the eastern property line of the property being rezoned and the GR-MU-CO-NP property to the north; and 4) the requirement to a install (solid) fence five feet west and parallel to the Burns Street right-of-way, with the understanding the that the limited access, landscape berm and fence would be installed at such time as redevelopment of the property occurs. (In addition, the City Council requested Staff to invite the neighborhood people to be in attendance at the next Council meeting.) Vote: 7-0.

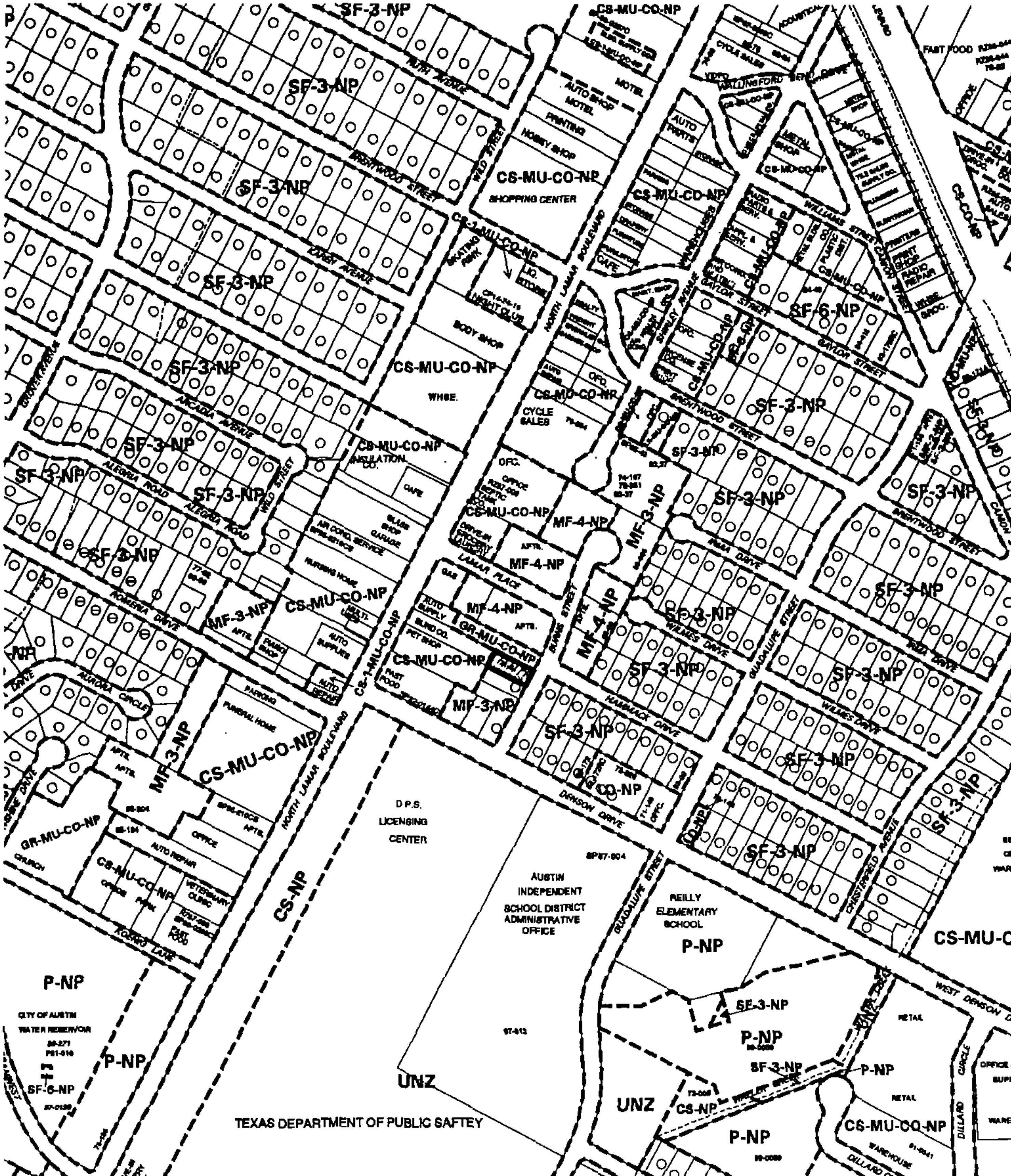
June 9, 2005:

ORDINANCE READINGS: 1st 11/04/04 2nd 5/26/05 3rd

ORDINANCE NUMBER:

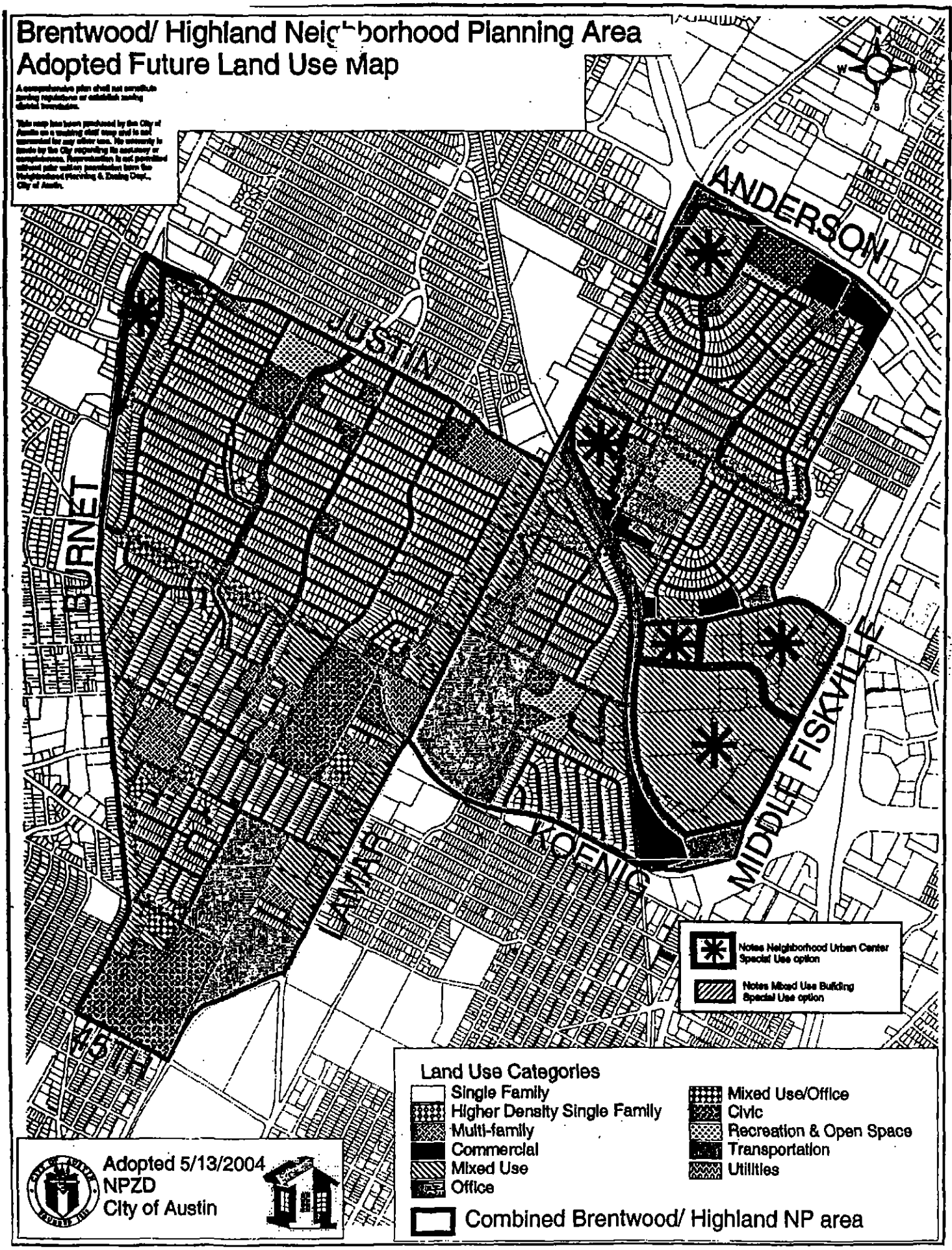
CASE MANAGER: Greg Guernsey **PHONE:** 974-2387

E-MAIL: greg.guernsey@ci.austin.tx.us



N 1" = 400'	SUBJECT TRACT PENDING CASE • • • • • ZONING BOUNDARY — — — — CASE MGR: A. BEAUDET	ZONING CASE #: C14-04-0012.003 ADDRESS: 6208 BURNS ST DATE: 05-04 SUBJECT AREA (acres): 0.174 INTLS: SM	CITY GRID REFERENCE NUMBER K27

Brentwood/ Highland Neighborhood Planning Area
Adopted Future Land Use Map



MF-4-NP
GR-MU-CO-NP
CS-MU-CO-NP
ARTS
SUPPLY
BLIND CO.
71-61

STAFF RECOMMENDATION **C14-04-0012.003**

Staff recommends community commercial-mixed use-conditional overlay-neighborhood plan combining district zoning (GR-MU-CO-NP). The CO would prohibit automotive rental, automotive repair services, automotive sales, automotive washing of any type, commercial off street parking, drop off recycling collection facility, exterminating services, off site accessory parking, outdoor entertainment, outdoor sports and recreation, pawn shop services, plant nursery, service station, and drive in services as an accessory use.

BACKGROUND

The property owner for this property did not participate in the planning process. During the Brentwood/Highland combined neighborhood planning process consensus was reached to designate the entirety of Burns Street (from Denson Drive to Lamar Place) for multifamily land use. The purpose of this land use designation and subsequent rezonings was to provide a transition of zoning and development intensities between North Lamar Boulevard and the residential area to the east.

At first ordinance reading at City Council, for the Neighborhood Plan adoption and rezonings, the property owner addressed City Council with a request for commercial zoning or 6225 North Lamar (the adjacent property to the north of the subject property) and for the subject property. At second ordinance reading the Council changed the future land use map to reflect the commercial mixed-use request for both properties and directed Staff to initiate a rezoning 6208 Burns (since it was not currently part of the neighborhood plan rezoning application). On third ordinance reading the commercial mixed use land designation was adopted with the neighborhood plan for 6225 North Lamar and 6208 Burns Street and staff proceed one month later with initiating this rezoning request for 6208 Burns Street.

BASIS FOR RECOMMENDATION

1. Zoning should be consistent with and adopted neighborhood plan. The future land use designation for this property is commercial mixed use.

EXISTING CONDITIONS

Site Characteristics

The site is largely undeveloped. It contains three metal storage sheds that serve the retail business existing on the adjacent lot to the west. There is also a unofficial, unpaved, driveway providing access from the retail business on the adjacent lot to the west to Burns and Hammock Streets.

Impervious Cover

The maximum impervious cover allowed by the GR zoning district would be 90%. The site is located in the Waller Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. Impervious cover is not limited in this watershed class. Therefore, the zoning impervious cover regulation applies.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm.

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

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.

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

Transportation

The traffic impact analysis for this site was waived because city initiated case.

The trip generation under the requested zoning is estimated to be 1996 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).

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

There are existing sidewalks along portions of Burns Street; not existing in the block of the subject property.

Burns Street is not classified in the Bicycle Plan.

Capital Metro bus service is available one block west of Burns Street along Lamar Boulevard.

Existing Street Characteristics:

Name	ROW	Pavement	Classification
Burns Street	60'	35'	Local

Water and Wastewater

The area is served with City water and wastewater utilities. If water or wastewater utility improvements, or system upgrades, or offsite main extension, or utility adjustment, or utility relocation are required for a site, or development, or subdivision, or land use, the landowner will be responsible for all costs and providing. Also, the 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 and specifications.

Stormwater Detention

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

Compatibility Standards

The site is subject to compatibility standards on the east and south. Along the south property lines, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

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

DEPARTMENT COMMENTS

City staff facilitated a meeting on July 21, 2004 for the property owner and neighbors. At that meeting all parties shared their issues concerning the development of the property. The limiting issue is commercial access to Burns Street. While the owner was willing to prohibit additional uses (general restaurant, limited restaurant, indoor sports and recreation, indoor entertainment, and research services) per the neighborhoods request, contingent on retaining commercial access to Burns Street.

In addition the property owner agreed to also prohibit those uses on the back portion of the adjacent lot to the north (which is currently zoned GR-MU-CO-NP). However, again, contingent upon retaining access to Burns Street from both properties.

Per conversations with the property owner, it is staff's understanding that the owner wishes to develop a Interior Design Center on this property combined with the lot to the north and the lots directly to the west of the property. Currently there exists and window covering business, he wishes to expand to include new buildings with uses such as carpet sales, framing shops, and accent furniture type retail.

Lastly, the owner suggests that without commercial access to Burns Street the building and parking placement for the Design Center would be limited and more costly.

Guernsey, Greg

From: Tex Mitchell [tex@techmergency.com]
Sent: Wednesday, November 03, 2004 11:42 AM
To: Wynn, Will; Goodman, Jackie; Alvarez, Raul; Dunkerley, Betty; McCracken, Brewster; Slusher, Daryl; Thomas, Danny
Cc: Guernsey, Greg
Subject: Burns Street Zoning (Agenda Item 45) C14-04-0012.003

Monday evening, Ken McWilliams and his agent proposed a gated exit that would serve as a *secondary* exit for customers to exit with a rotating code.

After meeting with affected members of the neighborhood this evening, we are concerned this proposal by Ken McWilliams and his agent will allow and promote the use of our neighborhood streets as the *primary* exit for delivery trucks.

At this meeting, neighbors informed me of a much higher level of use currently by delivery trucks than I had previously been aware (despite signage prohibiting it). One neighbor mentioned witnessing multiple delivery trucks simultaneously exiting the property illegally via Hammack just this week. Developing this property into the owners proposed interior design center concept would demand more and larger deliveries requiring more and larger trucks.

While we will continue to entertain suggestions to remedy this, we feel the most appropriate solution is limiting commercial access to Burns entirely. Previous attempts to control this by posting signage have been entirely ineffective. The property owner's proposal does not promise to control this either.

It is important to repeat that commercial zoning on these lots fronting onto the residential Burns Street is not what was originally proposed by staff, never discussed during neighborhood planning, is out of place and we feel inappropriate in the middle of our neighborhood. It was originally proposed by staff and supported through neighborhood planning to be zoned MF-3.

Questions and comments are appreciated! Links to supporting documentation can be found at http://techmergency.com/burns

Thanks,
Tex Mitchell
tex@techmergency.com
http://techmergency.com

TECHMERGENCY, Inc
3915 Guadalupe St
Austin, TX 78751
ph:(866)NEED-TECH
fax:(877)708-0970

Austin Neighborhoods Council

Established 1973 • Strength Through Unity
Post Office Box 176 • Austin, Texas 78767

September 22, 2004

To: Mayor and Council
City of Austin

From: Susan Pascoe
President

Subject: Highland Park

During the September 22, 2004 Austin Neighborhoods Council (ANC) meeting, a representative of the Highland Park Neighborhood Association presented their opposition to a planned commercial development in the Denson Drive area of North Lamar. The development would have access off Lamar, with traffic through the strip center, allowing traffic to exit into the neighborhood on Burns Street. This would increase traffic on residential streets, threatening resident safety.

The ANC membership unanimously approved the following motion to forward to City Council in support of the neighborhood:

> The Austin Neighborhoods Council supports the position of the Highland Park Neighborhood Association in their opposition to planned development that would allow commercial traffic into the surrounding neighborhoods.

The Austin Neighborhoods Council opposes actions such as this, which is similar to the approval of Walgreen's zoning change on South Lamar, which allows commercial traffic into surrounding neighborhoods. Austin's neighborhoods and residents must not be sacrificed to placate commercial developers.

Beaudet, Annick

From: Tex Mitchell [tex@techmergency.com]
Sent: Monday, July 26, 2004 12:13 PM
To: JeffH@austin.rr.com; danh@grandecom.net; tedobrien@grandecom.net; pyds@grandecom.net; mhlindsey@earthlink.net; soccer606@grandecom.net; bugzfreak@yahoo.com; dawn@marketingcreativesolutions.com; Kim Mitchell
Cc: Beaudet, Annick
Subject: update

Thanks to everyone that came to the Hammock/Burns neighborhood zoning meeting Saturday before last and the city planning meeting this last Wednesday. At the city planning meeting we discussed remedies to our concerns regarding the rezoning of 6208 and 6210 Burns and the property owner agreed to an overlay that would apply several zoning restrictions to those properties in the interest of protecting our neighborhood in the future.

Regarding the traffic problem, city planning has informed us that its recommendation is going to be no access to burns for both of those properties, regardless of any deals the property owner may offer us. They feel that it sets a bad precedence for city planning as a whole and could deteriorate the residential fabric. We have therefore decided to just support the experience and expertise of city planning and their recommendation at council.

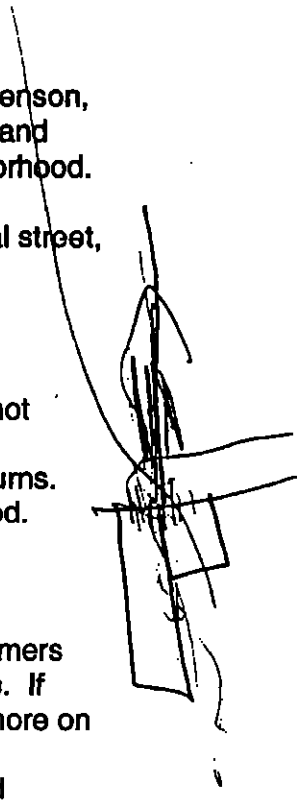
Thanks again for everyone's support. Feel free to contact me with any questions. I will try to notify interested parties of related news that may come to my attention, as it develops.

Thanks,
Tex Mitchell
tex@techmergency.com
http://techmergency.com

TECHMERGENCY, Inc
3915 Guadalupe St
Austin, TX 78751
ph:(866)NEED-TECH
fax:(877)708-0970

July 22, 2004

6208 Burns – Zoning Meeting Notes – Wednesday, July 21, 2004.



Neighborhood concerns:

1. Traffic on Burns- speeding, cut-thru to avoid light at Lamar and Denson, delivery truck and large truck traffic, commercial traffic on Burns, and added congestion. These lead to safety concerns for the neighborhood. No commercial access to Burns.
2. Changes the character of the neighborhood, Burns is a residential street, want to maintain residential interior streets and leave commercial development for major roads like Lamar.
3. Spot zoning
4. Transient population problem
5. Some uses not included in the proposed conditional overlay are not desirable such as a restaurant – Look at adding more uses to the prohibited list for the rear portions of the properties adjacent to Burns.
6. An upscale development is a positive change for the neighborhood.
7. Small scale mixed use development is okay.

Property Owner concerns:

1. ABC Blind has been at the location since 1950, most of the customers enter/exit on Lamar. Business was there first; prior to apartments. If apartments developed on properties traffic would most likely be more on Burns than what the commercial development would generate.
2. The plan for the property is to create an interior design center and showrooms where Austin can come to buy items to decorate their homes. It will be mainly showrooms, no manufacturing on site.
3. Initially, over the next 3-4 months, will be removing the warehouses and adding a showroom and drapery work room (approx. 3,000 sqft.).
4. Then would like to add another business like a furniture store, frame shop, etc. on the rear of either 6225 Lamar or 6208 Burns.
5. Fully developed within the next 2-4 years.
6. Main entrance will be on Lamar.
7. There will be a gate at the rear of the property that will be locked during non-business hours.
8. Benefit of having access to Burns:
    a. Emergency access (mandated by code)
    b. Flexibility for design of development of the site.

Recommendations:

1. Prohibit the following additional uses for the back portions for the property:
    - General Restaurant
    - Limited Restaurant
    - Indoor Sports and Recreation
    - Indoor Entertainment
    - Research Services
2. Staff will recommend commercial access be prohibited to Burns.

3. Staff will recommend that what conditions are placed on 6208 Burns also be initiated for the rear portion of 6225 N. Lamar and that no commercial access be permitted to Burns from 6225 N Lamar as well.

Additional Recommendations to Consider:

1. Remove secondary access (gravel road) to property. There is a paved alley accessible from Burns but there is also a gravel road that is inline with Hammack. Delivery trucks and other large trucks are using the gravel road to connect to the paved alley. By removing the gravel road (direct access to Hammack), vehicles would at least be forced to slow down to turn onto Burns and then onto the paved alley.
2. Place a No Entrance, Exit only sign, If there is access to Burns from the property.
3. Place speed humps on the driveway into the property.
4. 3 way stop?

MEETING SUMMARY

6.	**Amended Plat:**	**C8-04-0105.0A - Austin Heights Lots 15 & 16, Block 2; Amended Plat**
	Location:	2807 E. 22nd St., Boggy Creek Watershed, Rosewood NPA
	Owner/Applicant:	Albert M. Martinez
	Agent:	Albert M. Martinez
	Request:	Approval of the Austin Heights Lot 15 & 16, Block 2; Amended Plat
	Staff Rec.:	**DISAPPROVAL**
	Staff:	Don Perryman, 974-2786, don.perryman@ci.austin.tx.us Watershed Protection and Development Review

MOTION: APPROVE BY CONSENT.
VOTE: 8-0 (DS-1st, JMC-2nd)

7.	**Zoning:**	**C14-04-0012.003 - Brentwood/Highland Neighborhood Plan (PART)**
	Location:	6208 Burns Street, Waller Creek Watershed, Brentwood/Highland NPA
	Owner/Applicant:	Applicant: City of Austin Owner: Ken McWilliams
	Agent:	City of Austin Neighborhood Planning & Zoning Department
	Request:	MF-3-NP to GR-MU-CO-NP
	Staff Rec.:	**RECOMMENDED**
	Staff:	Annick Beaudet, 974-2975, annick.beaudet@ci.austin.tx.us Neighborhood Planning and Zoning

Annick Beaudet, Neighborhood Planning and Zoning Department, presented the zoning case. The zoning request is from MF-3-NP to GR-MU-CO-NP. The Conditional Overlay includes the following prohibited uses – auto repair, auto rental, sales and washing, commercial off-street parking, drop-off recycling, exterminating services, off-site accessory parking, outdoor entertainment, outdoor sports and recreation, pawn shop services, plant nursery, service station and drive-in services as an accessory use.

During the Neighborhood Planning process the neighborhood and staff recommended multi-family zoning for the entirety of the street from Denson to Lamar Place. The property owner did not participate in the neighborhood planning process and at first reading at Council the property owner requested that the subject tract and property to the north be rezoned GR-MU to allow an existing business to expand. At final reading the Council changed the FLUM for both the adjacent property and the subject property to show commercial use and changed zoning on the adjacent lot to the north to GR-MU. Zoning on the subject tract was not changed because it was not notified and the MF-3 zoning remained. The basis for the staff recommendation is the revised FLUM approved by the Council.

Commissioner Sullivan asked if the property to the north was zoned GR-MU-CO prior to the neighborhood plan.

Ms. Beaudet replied that the property to the north was zoned SF-3 and the recommendation of the NP was to rezone to MF-3 but Council approved GR-MU-CO-NP.

MEETING SUMMARY

Speaking in Favor

Jim Bennett, on behalf of the owner Ken McWilliams, stated that the owner requested rezoning for a design center at Council during the NP process, Council recommended GR-MU for the northern property and directed staff to initiate zoning for the subject tract. He requested that the Commission recommend the GR zoning consistent with the Council adopted FLUM.

Commissioner Sullivan asked whether the owner has to have access to Burns Street.

Mr. Bennett replied that due to the configuration of the lot (54'x 425') and the compatibility standards access is needed to permit flexibility in designing the proposed improvements. He stated that they are willing to try to consolidate the current two driveways into one and close access when the business in not open.

Speaking Against

Jeffrey Hitt recapped the zoning history for the site. The site and property to the north was originally zoned SF-3, staff recommended MF-3 and through a lot of discussion the neighborhood eventually agreed with MF-3. During the NP process there was no discussion of commercial zoning for the properties and the GR zoning was applied to 6210 Burns at the City Council. The neighborhood was not aware of the rezoning because it was notified as 6225 N. Lamar Blvd and the neighborhood did not oppose the zoning because they accepted commercial zoning on N. Lamar. The neighborhood could accept the zoning if access to Burns is prohibited and additional uses are prohibited:

General Restaurant
Limited Restaurant
Indoor sports and recreation
Indoor entertainment
Research Services

He also asked the Commission to direct staff to initiate a zoning change to apply the same conditions to 6210 Burns/6225 N. Lamar.

Commissioner Reddy asked whether the neighborhood had discussed the access issue with the applicant.

Mr. Hitt replied they had and could not come to agreement.

Other Speakers Against

Dan Hemingson
Tex Mitchell

MEETING SUMMARY

Rebuttal

Jim Bennett stated that it use of the property for cut through traffic is unlikely unless you live in the neighborhood and truck traffic to the site will be minimal. The owner is willing to work to minimize impacts and they are willing to try to reduce two access points on Burns to one if possible.

MOTION: CLOSE PUBLIC HEARING
VOTE: 8-0 (MH-1st, JMC-2nd)

Commissioner Moore made a motion to approve staff recommendation and Commissioner Reddy seconded the motion.

Commissioner Moore stated that the opposition is almost solely based on perceived traffic impacts and that he does not believe these are significant.

Commissioner Reddy stated that limiting access to the site will not effectively address traffic issues in the area.

Commissioner Medlin stated she would not support the motion and believes that the Council should hear the new evidence in this case.

Commissioners Cortez and Hollon both indicated they would not support the motion.

Commissioner Sullivan stated that the original recommendation was MF-3 but given the Council decision and the potential to improve the site he could support the motion.

Commissioner Riley stated that he would respect the Council's decision and support the motion.

MOTION: APPROVE THE STAFF RECOMMENDATION
VOTE: 5-3 (MM-1st, JR-2nd, AGAINST-CM, JMC, MH)

Commissioner Cortez requested staff to place an item on the next Commission agenda to consider initiating zoning for the property to the north of the subject tract.

After extended discussion Commissioner Hollon respectfully objected to this request and the request did not move forward.

C14-04-0012.003 6208 Burns Street

Closed Caption Log, Council Meeting, 10/21/04

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Guernsey: MAYOR AND COUNCIL, GREG GUERNSEY, NEIGHBORHOOD ZONING AND PLANNING DEPARTMENT. 22,, HIGHLAND COMBINED NEIGHBORHOOD PLAN REZONING REQUEST LOCATED AT 6208 BURN STREET. THIS IS A REZONING FROM M.F. 3-NP TO GR-MU-CO-NP RECOMMENDED BY THE PLANNING COMMISSION FOR GR-MU-CO-NP AND STAFF. IT WOULD BE IN ACCORDANCE WITH THE ADOPTED FUTURE LAND USE MAP FOR THIS AREA. AT THE LAST MEETING THE PUBLIC HEARING WAS CLOSED BUT COUNCIL DID ASK SOME SPECIFIC QUESTIONS REGARDING THIS PROPERTY. I WOULD LIKE TO GO THROUGH JUST A COUPLE OF QUICK THINGS. THE PROPERTY ITSELF IS LOCATED ON BURN STREET AND IS BEHIND A TRACT THAT IS CURRENTLY ZONED C.S.-MU-CO-NP. THE PROPERTY ADJOINING THIS TRACT TO THE NORTH IS EXISTING GR-MU-CO-NP. A QUESTION AROSE AT THE LAST HEARING ABOUT WHAT WAS THE – THE PROPOSED FUTURE LAND USE MAP FOR THIS TRACT AND THE ADJACENT TRACT AT THE TIME THE ZONING WAS GRANTED TO THE NORTH. AND THE PLAN WAS ADOPTED. THIS IS A COPY OF THE DRAFT PLAN THAT WAS BROUGHT BEFORE YOU ORIGINALLY. WHERE IT WAS RECOMMENDED BY THE COMMISSION, NEIGHBORHOOD PLANNING TEAM, STAFF, THAT THIS PARTICULAR TRACT AND THE TRACT TO THE NORTH AS IT WAS ZONED GR-MU-CO-NP ACTUALLY BE DESIGNATED AS MULTI-FAMILY. HOWEVER, THE ACTUAL PLAN THAT WAS ADOPTED BY COUNCIL, AFTER DISCUSSING WITH THE PROPERTY OWNER'S AGENT, AMENDED THE MAP FROM WHAT WAS PROPOSED AS MULTI-FAMILY AND ADOPTED MIXED USE FOR THIS TRACT. AND THE BROWN TRACT JUST BELOW THE SMALL ARROW, WHICH I'M POINTING TO, AND THIS SUBJECT PROPERTY WERE BOTH DESIGNATED AT THE NEIGHBORHOOD PLANNING PROCESS TIME AS MIXED USE, COMMERCIAL MIXED USE. AT THEIR LAST MEETING, COUNCIL ASKED COULD THIS PROPERTY BE DEVELOPED, WHERE THERE WERE TECHNICAL DIFFICULT TEES DEVELOPING THE PROPERTY, IF ACCESS WERE LIMITED TO BURNS STREET TO ONLY EMERGENCY ACCESS AFTER CONFERRING WITH GEORGE ZAPALAC AND TAKING IN – INTO CONSIDERATION THAT THE PROPERTY DIRECTLY TO THE SOUTH OF THE SUBJECT TRACT IS DEVELOPED WITH A SINGLE FAMILY HOME AND COMPATIBILITY STANDARDS. THERE IS AN AREA IN WHICH – IN WHICH WE CALCULATED GETTING AN EMERGENCY IN SUCH AS A FIRE TRUCK, GET ALL THE WAY TO THE REAR OF THE PROPERTY, STILL BE ABLE TO TURN AROUND AND EXIT THE PROPERTY THROUGH THE FRONT, WITHOUT NEEDING TO EXIT TO ON TO BURNS IN CASE OF A FIRE. AND STILL RESPECTING THE 25-FOOT COMPATIBILITY SETBACK. THIS ALSO COULD BE SAID OF A LARGER TRUCK IF IT NEEDS TO COME IN, MAKE

DELIVERIES OF SOME KIND ON TO THE PROPERTY. THE APPLICANT'S AGENT, MR. JIM BENNETT, WAS ASKED ALSO TO BRING YOU DIFFERENT SCENARIOS FOR DEVELOPMENT OF THE PROPERTY, THE SCENARIOS THAT I THINK THAT HE WOULD LIKE TO PRESENT TO YOU ILLUSTRATES SOME REDEVELOPMENT, STAFF WHEN WE MADE OUR -- OUR REVIEW OF THE TECHNICAL I GUESS CIRCUMSTANCES THAT WOULD BE INVOLVED TO GET A LARGE TRUCK IN AND OUT, FIRE TRUCK IN AND OUT, DEALT WITH THE BUILDINGS AS THEY EXIST TODAY ON THE PROPERTY. IF COUNCIL WISHES TO GO FORWARD AND APPROVE THE ZONING IT WOULD BE IN CONFORMANCE WITH THE PLAN. IF IT WAS TO REMAIN M.F. 3 ACTUALLY IT WOULD BE IN CONFLICT WITH THE ADOPTED FUTURE LAND USE MAP FOR THIS PROPERTY. STAFF WOULD ASK THAT STAFF BE DIRECTED TO AMEND THE PLAN IF THAT IS YOUR DECISION. THERE ARE REPRESENTING FROM THE NEIGHBORHOOD HERE AND THE EXHIBITS THAT YOU HAVE BEFORE YOU THAT HAS A SMALL AERIAL AND SOME OF THE ALTERNATIVES, STAFF RECEIVED THOSE TODAY, MR. JIM BENNETT IT PREPARED TO GO THROUGH THOSE. I BELIEVE THERE ARE REPRESENTATIVES, I BELIEVE TWO OR THREE HERE THAT ARE PREPARED TO – TO SPEAK TO THOSE DIFFERENT ALTERNATIVES AND THEIR FEELINGS ABOUT THOSE. IF YOU HAVE ANY QUESTIONS, I WILL BE MORE THAN HAPPY TO ANSWER THEM AT THIS TIME. WITH THAT I'LL PAUSE.

Mayor Wynn: MR. GUERNSEY, I SUSPECT COUNCIL WILL IN FACT HAVE AT LEAST QUESTIONS, BUT -- OF SEVERAL PEOPLE IN THIS CASE. TECHNICAL QUESTION IS DIDN'T WE HAVE A PUBLIC HEARING ON THIS CASE EARLIER TECHNICALLY.

YES, WE HAD A PUBLIC HEARING. THE WESTBOUND HEARING WAS CLOSED – THE PUBLIC HEARING WAS CLOSED BUT YOU ASKED THE APPLICANT TO COME FORWARD AND BRING FORWARD ALTERNATIVES AND ASKED STAFF TECHNICAL QUESTIONS. THIS WAS INADVERTENTLY PROBABLY PLACED UNDER THE Z ITEMS EVEN THOUGH THE PUBLIC HEARING HAS BEEN CLOSED YOUR BACKUP DOES REFLECT THAT.

Mayor Wynn: MY TECHNICAL LEGAL QUESTION THEN OF THE CITY ATTORNEY'S OFFICE IS THAT THE AGENDA POSTING SAID TO CONDUCT A PUBLIC HEARING AND APPROVE AN ORDINANCE.

WE NEED TO GO THROUGH THE FORMAL PROCESS OF CONDUCTING A HEARING KNOWING THAT THERE'S FOUR FOLKS HERE SIGNED UP WHO -- WHO LIKELY WILL ANSWER A BUNCH OF QUESTIONS OF COUNCIL. BUT I WANT TO MAKE SURE THAT I DO THIS CORRECTLY.

COUNCIL, YOU HAVE DISCRETION UNDER YOUR RULES TO -- TO CONTINUE A PUBLIC HEARING THAT IS TO GO ON AHEAD AND ACCEPT TESTIMONY, YOU ALSO HAVE DISCRETION UNDER YOUR RULES TO – TO RECOGNIZING THAT YOU HAD CLOSED THE PUBLIC HEARING IN THE PREVIOUS – PREVIOUS -- THE MEETING AND YOU HAVE DISCRETION UNDER YOUR RULES NOT TO ALLOW TESTIMONY, YOU CAN RECOGNIZE

THAT THAT PUBLIC HEARING WAS CLOSED AND IN FACT AT THIS POINT YOU COULD ACTUALLY CONSIDER THIS A CHANGE IN CORRECTION TO THIS PORTION OF YOUR AGENDA TO REFLECT THAT THE PUBLIC HEARING HAD BEEN CLOSED. YOU ARE NOT OBLIGATED TO REOPEN THIS PUBLIC HEARING WITH THIS -- WITH THE POSTING. HOWEVER, YOU CAN ENTERTAIN COMMENTS FROM THE PUBLIC IF YOU WISH.

THANK YOU, MS. TERRY, COUNCIL, WITHOUT OBJECTION, KNOWING THAT WE HAVE TWO NEBRASKAS, TEX MITCHELL AND DAN HEMMINGSON WHO ARE HERE, I EXPECT WE WILL ASK QUESTIONS OF THEM IN A FEW MINUTES, MR. JIM BENNETT IS HERE REPRESENTING THE PROPERTY OWNERS, WITHOUT OBJECTION LET'S CONSIDER A PUBLIC HEARING TO HAVE BEEN CLOSED IN OUR LAST HEARING, I WILL JUST ENTERTAIN QUESTIONS AND COMMENTS FROM COUNCIL NOW. I WOULD I GUESS LIKE TO HAVE -- EITHER MR. BENNETT OR THE LAND PLANNER JUST -- JUST BRIEFLY THE -- THE SCENARIOS THAT WE HAVE HERE FROM N FRONT OF US.

MAYOR AND COUNCIL, I'M JIM BENNETT, HERE TONIGHT ON BEHALF OF MR. McWILLIAMS, AT LAST MEETING AS MR. GUERNSEY INDICATED COUNCIL HAD A DESIRE TO SEE SOME OF THE BUILDING CONSTRAINTS OR DEVELOPMENT CONSTRAINTS *THAT WOULD EXIST ON THIS SITE. THIS IS THE AREA THAT SHOWS* APARTMENTS HERE, APARTMENTS HERE, APARTMENTS HERE. THIS -- THIS PROPERTY ADJACENT TO THE SOUTH OF THE TRACT IN QUESTION IS ZONED M.F. 3 I BELIEVE, BUT IS DEVELOPED SINGLE FAMILY. JUST BRIEFLY, AND -- IF YOU CAN SEE HERE, COUNCIL, THESE ARE SOME OLD WAREHOUSE BUILDINGS THAT WE ARE PROPOSING TO TEAR DOWN, WHICH IS APPROXIMATELY 4400 SQUARE FEET OF EXISTING WAREHOUSE. AND IN ITS STEAD, UNDER THIS PLAN, WHICH IS A PLAN THAT WE WOULD PROPOSE, WOULD BUILD 3213 SQUARE FEET AND INSTEAD OF THE 45 THAT WAS CURRENTLY THERE. THAT PLAN ALSO SHOWS YOU THE COMPATIBILITY SETBACKS HERE AS WELL AS A SETBACK FOR THE DETENTION AND WATER QUALITY PONDS THAT WOULD HAVE TO OCCUR HERE. IT SHOWS YOU A -- A CONTROLLED ACCESS, WHICH WILL BE ONE OF THOSE PUNCH NUMBERS WHEN YOU LEAVE. SO -- SO A LOT OF THE TRAFFIC WILL BE GOING BACK ON TO LAMAR, SOME OF THE TRAFFIC COULD EXIT HERE. EITHER GO UP TO LAMAR PLACE OR DOWN TO DENSON STREET. THIS PLAN MEETS THE PARKING REQUIREMENT FOR THE PROPOSED DEVELOPMENT AS WELL AS THE OTHER ORDINANCE REQUIREMENTS AND KEEP IN MIND THIS IS A 3200 SQUARE FOOT BUILDING, ECONOMICALLY TO BUILD ALL OF THIS WE HAVE TO HAVE A FEASIBLE PROJECT. ANOTHER SCENARIO TO THE DEVELOPMENT CONSTRAINTS, BECAUSE THESE LOTS ARE 50 FEET WIDE BY ABOUT 45 FEET 45 -- BY ABOUT 450 FEET DEEP. THIS PLAN AFFORDS YOU DETENTION POND, COMPATIBILITY SETBACKS. HOWEVER THIS PARKING DOES REQUIRE A WAY IN AND A SEPARATE WAY OUT. THAT WOULD MEAN THAT 100% OF THE PARKING WOULD HAVE TO EXIT ON TO BURNS STREET, WHICH IS NOT A PLAN THAT WE WOULD PROPOSE. THIS BUILDING NOW IS REDUCED UNDER THIS SCENARIO TO 1600 SQUARE FEET, ROUND NUMBERS, INSTEAD OF THE 3200 THAT ARE ORIGINALLY PROPOSED. THIS IS ANOTHER PLAN AND -- IN LOOKING AT

WHICH BASICALLY NOW THE BUILDING IS REDUCED TO 1250 SQUARE FEET AND THE PARKING IS IN COMPLIANCE WITH THE ORDINANCE REQUIREMENTS. IT DOESN'T PROVIDE ANY ACCESS TO BURNS STREET. HOWEVER, IT DOES REQUIRE THIS TURN AROUND FOR THE FIRE DEPARTMENT AND THAT WAS SOME OF THE QUESTIONS THAT WE ASKED BEFORE, THE LAST HEARING, ABOUT THE -- ABOUT THE COMMERCIAL ACCESS AND EMERGENCY ACCESS. THIS DOES NOT AFFORD ANY PLAN, ANY ACCESS TO BURNS STREET. HOWEVER, NOW OUR PROJECT HAS BEEN REDUCED BY TWO-THIRDS. ADDITIONALLY, THIS TURN AROUND WOULD HAVE TO BE LOCATED SO THAT A PORTION OF IT WOULD COME INTO THE COMPATIBILITY SETBACK, WHICH THE ORDINANCE DOESN'T ALLOW. AND IN REFERENCE TO A COMMENT THAT MR. GUERNSEY MADE TO YOU ABOUT HAVING THIS TURN AROUND IN ORDER TO GET AWAY FROM THIS COMPATIBILITY SETBACK, THE TURN AROUND WOULD HAVE TO BE UP HERE. IF YOU MADE THE TURN AROUND UP HERE TOWARD THE CENTER OF THE LOT, IF YOU WILL. UP HERE, THEN THIS DOESN'T HAPPEN. SO WE LOSE THESE PARKING SPACES AS WELL. THE PHYSICAL CONSTRAINT ON THE SITE IS THE -- IS THE NARROW 50-FOOT DEPTHS OF THESE LOTS AND THE 430 AND TRIED TO MAKE AN ECONOMICALLY VIABLE PROJECT AND CERTAINLY TO GO THROUGH ALL OF THESE IMPROVEMENTS FOR 1200 SQUARE FEET, THE NUMBERS JUST DON'T WORK. QUITE FRANKLY. WITH THE PLAN THAT -- THAT I PRESENTED TO YOU FIRST WITH THE REPLACEMENT OF 3200 SQUARE FEET. THE CONTROLLED ACCESS HERE. IF YOU VISIT ONE OF THESE SHOPS, IT'S KIND OF LIKE WHEN YOU GET THE SERVICE STATION, YOU GET A WAR CASH, THEY GIVE YOU A CODE NUMBER, YOU PUT THE CODE NUMBER IN. THEN YOU COULD LEAVE THIS WAY. MORE THAN LIKELY, THE MAJORITY OF THE TRAFFIC WILL HEAD BACK OUT TOWARD LAMAR. THIS WILL PREVENT THE CUT THROUGH TRAFFIC THAT SEEMS TO BE OF CONCERN. I WILL BE AVAILABLE SHOULD YOU HAVE ANY ADDITIONAL QUESTIONS.

WHAT ABOUT EMERGENCY VEHICLE ACCESS UNDER THIS PLAN.

THEY WOULD HAVE THE LOCK BOX TO GET IN FROM EITHER SIDE IF HE WANTED TO. IF THERE WAS A FIRE HERE, THEY NEEDED TO HAVE EMERGENCY ACCESS ENTRY AS WELL AS INTERESTING THROUGH LAMAR.

WALKING THROUGH THE SPECIFICS, SO HOW -- LET ME TELL YOU A LOCK BOX, THE GET OUT OF THE VEHICLE, GO FIND A KEY AND --

EITHER --

THERE'S A COUPLE OF METHODS FOR THAT, MAYOR. AS I UNDERSTAND IT. THEY WOULD EITHER HAVE A KEY TO IT, THEY WOULD HAVE A COMBINATION TO THE PAD THAT WOULD OPEN THE GATES UP FROM THE ENTRY, FROM THE EXIT SITE. THE -- THE PAD WILL ONLY WORK FOR THE CUSTOMERS AS THEY LEAVE THIS SIDE. NOT COMING IN THIS WAY.

BUT – BUT ESSENTIALLY ANY DRIVER, I MEAN, AUSTIN TRAVIS COUNTY E.M.S. PARAMEDIC DRIVING AN AMBULANCE –

THEY WILL BE ABLE TO HAVE OPTIONS TO GO EITHER WAY THEY NEED TO.

BECAUSE THEY ARE GOING TO KNOW THE COMBINATION? HOW PRACTICAL IS THAT, THAT THEY –

IT'S SIMILAR TO YOUR FIRE ALARM SYSTEMS. THAT YOU HAVE THAT NOTIFIES THE FIRE DEPARTMENT IN TALLER BUILDINGS THAT THERE'S SOMETHING HERE AND THEY NEED TO GET THERE. THIS IS AN ALARM – THIS ENTRY SYSTEM TO THE SITE PLAN PROCESS WOULD HAVE TO GUARANTEE THEM ACCESS TO THIS SITE AS WELL.

OKAY.

THIS MIGHT BE A QUESTION FOR MR. GUERNSEY. THE – THE COMPATIBILITY STANDARDS, ARE THEY TRIGGERED BY THE ZONING, THE M.F. ZONING ON THE TRACT NEXT DOOR OR IS IT TRIGGERED BY THE ACTUAL STRUCTURE WHICH APPEARS TO BE A SINGLE FAMILY –

THE LATTER. THERE'S AN EXISTING SINGLE FAMILY HOME ON THE PROPERTY, THAT'S CURRENTLY ZONED MULTI-FAMILY. AND THAT WOULD TRIGGER COMPATIBILITY ON THIS SUBJECT PARCEL.

Mayor Wynn: SO EVEN THOUGH IT EXISTS ON MULTI-FAMILY 3, THE ACTUAL USE ON THE GROUND TRIGGERS THE COMPATIBILITY.

THAT'S CORRECT.

Mayor Wynn: OKAY. THANK YOU.

MAYOR, IF I CAN, JUST WRAPPING UP ON THAT, IF THIS TRACT WERE ZONED M.F., THE LOWER TRACT ITSELF IS NOT BIG ENOUGH. IT'S 6900 SQUARE FEET. I BELIEVE. 6950 SQUARE FEET FOR THAT 50 BY 135 TRACT. RIGHT HERE. IF THAT WERE ZONED M.F., THEN WE COULDN'T USE IT FOR PARKING. VIRTUALLY WOULD JUST BE SITTING THERE AS NON-USABLE COMMERCIAL TYPE OF PROPERTY. YOU COULDN'T – ON THAT SIZE TRACT YOU COULD BUILD A SINGLE FAMILY HOUSE. I BELIEVE A DUPLEX WOULD REQUIRE 7,000 SQUARE FEET.

Mayor Wynn: THANK YOU, FURTHER QUESTIONS, COMMENTS? MR. GUERNSEY, CAN YOU WALK ME THROUGH ONE MORE TIME, SO THE COMBINED 100 FEET FRONTAGE ON BURNS, ALL OWNED BY THE SAME PROPERTY OWNER, WHAT ACTION DID WE TAKE

FROM LAND USE PERSPECTIVE, WHAT DID WE DESIGNATE THE FUTURE LAND USE PLAN?

THE SUBJECT PROPERTY THAT'S BEFORE YOU TODAY, CURRENTLY ZONED MULTI-FAMILY, THAT WAS -- THAT WAS APPROVED FOR MIXED USE, IN THE FUTURE LAND USE MAP, PROPERTY TO THE NORTH, GR, MU, CO-NP WAS ALSO DESIGNATED AS -- AS COMMERCIAL MIXED USE IN THE FUTURE LAND USE MAP. AT THE TIME WHEN WE ADOPTED THE NEIGHBORHOOD PLAN FOR THIS AREA, THE PROPERTY TO THE NORTH WAS REZONED TO GR-MU-CO-NP. HOWEVER THIS PROPERTY WAS NOT IDENTIFIED, THE SUBJECT TRACT WASN'T IDENTIFIED FOR UPZONING AT THAT TIME. AFTER THE PLAN WAS ADOPTED, STAFF INITIATED A REZONING REQUEST TO MATCH THE PLAN. THAT'S WHAT YOU HAVE BEFORE YOU. THE MAJORITY OF THE PROPERTY THAT MR. BENNETT WAS ACTUALLY SHOWING YOU IS NOT SUBJECT TO THE REZONING REQUESTS TODAY. THAT'S ONLY VERY SMALL PORTION WHICH IS M.F. 3 PORTION OF THE PROPERTY. THE EXHIBIT TO MY RIGHT, INDICATES JUST THE AREA THAT -- THAT IS BEING PROPOSED FOR REZONING AND THE EXHIBITS THAT YOU HAVE BEEN SEEING HAVE TAKEN IN THE PROPERTY TO THE NORTH, ZONED GR-MU-CO, THEN TAKE THAT'S WHOLE AREA WHICH IS -- WHICH IS APPROXIMATELY THE TWO LOTS THAT ARE 54 FEET WIDE, APPROXIMATELY, AND THEN GOING THE DISTANCE ALL THE WAY TO LAMAR ABOUT 439 FEET. BUT IT'S A VERY SMALL AREA THAT'S -- THAT YOU ARE CONSIDERING TODAY F. THERE WERE AGREEMENTS THAT MR. BENNETT WOULD LIKE TO OFFER REGARDING JOINT ACCESS AGREEMENTS OR LIMITING ACCESS TO THE PROPERTY IN GENERAL, WE PROBABLY WOULD HAVE TO WORK WITH HIM REGARDING A RESTRICTIVE COVENANT, WE CANNOT PLACE CONDITIONS ON THE PROPERTY THAT'S NOT BEFORE YOU TODAY AS FAR AS ZONING CONDITIONS, RESTRICTING ACCESS, BECAUSE THOSE ARE NOT THE SUBJECT OF THIS PUBLIC HEARING OR THE PUBLIC HEARING THAT WE HAD IN THE REQUEST BEFORE YOU.

Mayor Wynn: THANK YOU. QUESTIONS, COUNCIL? COUNCILMEMBER SLUSHER?

Slusher: WHAT'S THE NEIGHBOR'S COMMENTS ON THE PROPOSALS MR. BENNETT LAID OUT THERE?

Mayor Wynn: MR. MITCHELL, WELCOME.

THANK YOU. SORRY WE KIND OF CAME PREPARED TO SPEAK. I THINK YOU REMEMBER I CAME TO YOUR OFFICE TO FIND OUT IF IT WAS OPEN, THEY TOLD US IT WAS. HOWEVER, WE JUST RECEIVED THESE TODAY, SO WE'VE HAD NO OPPORTUNITY TO TAKE THIS TO THE NEIGHBORS, I MEAN, WE'RE NEIGHBORS, BUT WE'RE MERELY REPRESENTATIVES OF THE REST OF THE NEIGHBORS. SO IN FACT THESE WERE NOT EVEN GIVEN TO US. THEY WERE GIVEN TO THE CITY AND THE CITY GAVE THEM TO US TODAY, THEY SAID THEY JUST RECEIVED THEM TODAY, TOO. WE HAVEN'T REALLY HAD

TIME TO DIGEST THEM. WE DON'T NECESSARILY – THE EXHIBITS ESPECIALLY THE EXHIBIT D, I THINK, YEAH, EXHIBIT D IS -- IS -- IS OUR WORST FEAR.

OUR MAIN ISSUE WITH THIS IS THAT THROUGH A YEAR-LONG NEIGHBORHOOD PLANNING PROCESS, THIS WAS PROPOSED BY -- BY CITY PLANNING AND ACCEPTED BY THE NEIGHBORHOOD TO BE M.F. THE PROPERTY NORTH THAT IS NOW GR WAS SF-AND INTENDED TO BE MOVED UP TO M.F. ALL OF THE PROPERTIES ALONG THAT -- ALONG THAT EAST SIDE OF -- OR WEST SIDE OF BURNS WERE BUMPED UP FROM SF TO M.F. WITH THE EXCEPTION OF ONES THAT WERE ALREADY MF SO IT WAS NOT SPOT ZONING, IT WAS DONE THE WAY CITY PLANNING PREFERRED. NO SPOT ZONING. THEN – I – WE DID NOT OPPOSE IT WHEN IT CAME FOR RATIFICATION OF THE NEIGHBORHOOD PLAN BECAUSE WE DID NOT UNDERSTAND WHAT WAS BEING PRESENTED AND WE DIDN'T CATCH IT AND CITY STAFF APPARENTLY DIDN'T CATCH IT BECAUSE IN CITY STAFF'S OWN WORDS, THEY DESCRIBE THIS AS -- AS A – AS COMMERCIAL ZONING ON A RESIDENTIAL STREET THAT SETS A PRECEDENCE THAT COULD DAMAGE THE RESIDENTIAL FABRIC, I LIKE SAYING THAT, IT SOUND VERY TECHNICAL, DAMAGE THE RESIDENTIAL FABRIC OF THE CITY OF AUSTIN AS A WHOLE AND THAT THIS IS – THIS CASE OF COMMERCIAL ZONING IN THE MIDDLE OF A NEIGHBORHOOD STREET IS EXACTLY THE SITUATION THAT THE NEIGHBORHOOD PLANNING PROCESS SEEKS TO FIX. I THINK -- I THINK THE NEIGHBORHOOD FELL DOWN ON THE JOB. WE SHOULD HAVE CAUGHT ON TO WHAT WAS GOING ON BUT, YOU KNOW, WE'RE NOT -- WE DON'T KNOW HOW THESE PROCESSES WORK, SO WE ARE JUST DOING THE BEST WE CAN KEEPING UP. THIS WAS PROPOSED UPZONING TO M.F. BY CITY PLANNING. WE -- WE WITH SOME CONCERNS WENT AHEAD AND□□AID, YEAH, OKAY, WE THINK THAT MAKES SENSE TO GO AHEAD AND UPZONE IT TO M.F. TO ACT AS A BUFFER BETWEEN THE COMMERCIAL AND SINGLE FAMILY RESIDENCE. THEN WHILE OUR BACK IS TURNED, IT GETS UPZONED ALL THE WAY TO GR. NOW THEY ARE SAYING HEY WE NEED TO FIX THIS, WE NEED TO FIX IT BECAUSE IT'S ALL OUT OF SYNC, OUT OF KILL THE KILTER, THE REASON IT IS IS BECAUSE THAT WASN'T SUPPOSED TO BE GR. THAT'S WHY IT DOESN'T FIT.

COUNCILMEMBER SLUSHER?

ACTUALLY, I THINK MR. MITCHELL HAS A POINT THERE. BECAUSE MY UNDERSTANDING OF IT IS THAT IT WAS SF-3 BEFORE THE NEIGHBORHOOD PLAN AND MR. BENNETT CONVINCED THE COUNCIL TO GO UP TO GR ON THAT ONE TRACT AND I THINK IT WAS M.F. 3 -- IT WAS M.F. 3 ALREADY ON THE ADJACENT TRACT, CORRECT, THE ONE TRYING TO GET CHANGED TO GR NOW.

THAT'S CORRECT. THE PROPERTY BEFORE THE NEIGHBORHOOD PLANNING PROCESS, THIS PROPERTY WAS ZONED zonedONE M.F. 3 AND DID NOT CHANGE. THE TRACT TO THE NORTH THAT IS NOW GR MU CO-NP WAS PREVIOUSLY previously SF-3.

I HAVE GIVE MR. BENNETT A CHANCE TO COMMENT ON THIS. SEEMS TO ME IF HE'S SAYING WE HAVE THE M.F. 3 WE WON'T BE ABLE TO DO ANYTHING. BUT IT WAS THERE BEFORE SO THAT'S NOT A CHANGE AND THEN ACTUALLY SEEKING AN UPZONING ON THAT AND THEN HE ALREADY GOT AN UPZONING FROM SF-3 BEYOND WHAT THE NEIGHBORHOOD WAS PLANNING WHICH WAS M.F. 3 UP TO GR-MU.

IF IT WENT TO M.F. LIKE IT WAS SUPPOSED TO THEN THEY WOULD HAVE PLENTY OF M.F. SPACE TO DO M.F. PROPERTY ON IT. ALSO KEEP IN MIND THIS IS A 25 YEAR PLAN OR SOMETHING. I MEAN, WE HAVE NO INTENT OF TEARING DOWN OUR, YOU KNOW, FAMILY HOMES TO BUILD SOMETHING HIGHER DENSITY RIGHT NOW. THE ONLY REASON WE WENT ALONG WITH CITY PLANNING'S PROPOSAL TO STRIP THAT MULTI-FAMILY HIGHER DENSITY WAS LOOKING TO THE FUTURE. THAT IN THE FUTURE IT WAS GOING TO BE HIGHER DENSITY RESIDENTIAL.

OKAY. WOULD YOU SHOW ME, YOU SAID SCENARIO D WAS YOUR WORST NIGHTMARE. I DON'T THINK MR. BENNETT WOULD MIND IF HE COULD PUT THAT MAP UP THERE SO I CAN LOOK AT THAT. HERE HE COMES.

YOU CAN GRAB THIS MICROPHONE HERE. EITHER ONE.

I THINK SO, YEAH. SOUNDS LIKE THAT WORKS.

TESTING.

THE -- THIS ONE IS OUR -- OUR WORST FEAR BECAUSE THIS ONE EXHIBITS EXACTLY WHAT WE MENTIONED LAST TIME IN OUR -- IN OUR PRESENTATIONS. THAT WE DID NOT KNOW WHAT THEIR PLAN WAS, BUT OUR WORST FEAR WAS THAT THEY WERE PLANNING TO PUT PARKING, THAT DIRECTED TRAFFIC SO THAT THEY COULD NOT GO BACK OUT LAMAR, THAT EVERYBODY EXITING CAME OUT BURNET. THE PROBLEM WITH THIS IS THIS IS NOT A CASE WHERE THIS IS ON THE EDGE OF A NEIGHBORHOOD. THIS IS NOT THE ENTRANCE TO A NEIGHBORHOOD. THIS IS NOT A MAJOR ARTERIAL RIGHT UP HERE AGAINST IT WHERE THEY TURN OUT AND HIT IT. THERE'S RESIDENTIAL HERE, HERE, HERE, ACROSS THE STREET, THIS IS TRAFFIC COMING OUT RIGHT SMACK IN THE MIDDLE OF OUR NEIGHBORHOOD.

Slusher: LET ME ASK YOU THIS. SUPPOSE THE TRAFFIC DOESN'T COME OUT ON TO BURNS, BUT IT WENT -- IT WENT BACK THAT FAR OR ALMOST THAT FAR. PARKING -- [MULTIPLE VOICES]

I THINK WHAT YOU ARE MENTIONING IS -- THIS IS ANOTHER ONE WHERE WE ARE CONCERNED ABOUT THAT DRIVEWAY ACCESS. TO THE MIDDLE. YOU MEAN SOMETHING LIKE THIS? WHERE IT STOPS IT.

Slusher: YES.

IF THAT'S THE BEST THAT WE CAN GET, THEN WE'LL TAKE THAT. WE REALLY HONESTLY IF YOU LOOK AT THE – THEY HAVE THIS. ALL THIS RESIDENTIAL HERE, ALL OF THIS RESIDENTIAL HERE, WHERE THIS TRAFFIC IS GOING TO EXIT TO, YOU CAN SORT OF TELL, YOU SEE THIS STREET HERE WHERE IT HAS THE HIGHER DENSITY RESIDENTIAL, SEE HOW IT'S WIDER THAN RIGHT HERE, ALMOST BY 25%. THIS UNFORTUNATELY WITH NO SIDEWALKS, IS A MAJOR ARTERIAL FOR PEDESTRIAN TRAFFIC WITH NO SIDEWALKS AND PARKING, PARKED CARS ON THE SIDE OF THE STREET FOR CHILDREN TO GET TO SCHOOL, WHICH IS JUST DOWN THE BLOCK THIS WAY. AN ELEMENTARY SCHOOL, THEY WALKED THAT WAY. ALSO TO GET TO THE BUS STOP. UP HERE AT THIS CORNER. THE BUS STOP RIGHT HERE. AND – AND THIS IS A – A MAJOR – THERE'S CONSTANTLY FOOT TRAFFIC ON THE STREET. WITH THE ADDITION OF THE PARKED CARS ON THE SIDE, WHEN A CAR IS PARKED ON EITHER SIDE, THERE'S BARELY ENOUGH ROOM TO DRIVE DOWN THE CENTER AND – AND SO WE THINK THIS TRAFFIC IS JUST A HORRIBLE IDEA. WE ALSO, THOUGH, THINK THAT THIS REALLY SHOULD BE, THIS SHOULD BE THE RESIDENT RESIDENTIAL THAT WAS ORIGINAL INTENDED BECAUSE ANOTHER CONCERN THAT WE HAVE, OBVIOUSLY NOT AS –, YOU KNOW, FEROCIOUS AND FEAR SOME AS THE TRAFFIC IS THAT WE HAVE ALL OF THESE RESIDENCES HERE WHEN WE GO YOUOUT OUR FRONT DOOR, ARE WE GOING TO BE LOOKING AT SOMETHING UNATTRACTIVE. NOW, THIS – THIS PROPOSAL THAT DOES BLOCK THE TRAFFIC, IT HAS A POND THINGS LIKE THAT, THAT SOUNDS GOOD IN THEORY. BUT I JUST AM NOT SURE ABOUT THE – I'M NOT SURE IF THAT'S WHAT WE ARE GOING TO END UP IT.

THANK YOU.

LET ME GET MR. BENNETT BACK UP HERE FOR A SECOND. GO AHEAD.

ONE LAST THING IF YOU ASKED CITY PLANNING THEY ALREADY CHECKED WITH THE FIRE DEPARTMENT, THEY DON'T NEED ACCESS TO BURNS.

IS THAT ACCURATE?

WHAT I SAID EARLIER IS THAT THEY SHOULD NEGOTIATE WITHIN THE EXISTING PROPERTY, RESPECT THE COMPATIBILITY SETBACK AND ACCESS WOULD NOT BE REQUIRED TO BURNS IN ORDER TO TURN A FIRE TRUCK AROUND IF THERE WERE OTHER PROPERTY AND STILL GET OUT BASED ON THE EXISTING CONDITIONS THAT EXIST ON THE SITE. THE OWNER HAS A DESIRE TO REMODEL, ADD SOME BUILDINGS, CHANGE USES WHICH MAY REQUIRE MORE PARKING AND I THINK THESE DRAWINGS THAT MR. BENNETT REPRESENTED AND SHOWED REQUIRE MORE PARKING THAN THAT WOULD EXIST TODAY.

OKAY.

MR. BENNETT, SO -- SO I FIRST OF ALL WANT TO MAKE SURE THAT -- THAT CERTAINLY WANT THIS EXISTING LOCAL BUSINESS TO HAVE ENOUGH PARKING AND WOULDN'T WANT TO DAMAGE THAT THROUGH ANY ACTION WE WOULD TAKE. BUT AT THE SAME TIME, IT APPEARS TO ME, I WAS JUST OUT THERE LOOKING AT THE PROPERTY DURING THE 3:00 BREAK, THAT WE MANAGED TO GET, IT DOES SEEM LIKE THIS GR WOULD BE TOO FAR BACK IN THE NEIGHBORHOOD TO ME. SO -- SO WHAT -- I GUESS FIRST OF ALL, THIS IS -- YOU ARE TALKING ABOUT A NEW PROPOSAL, NOT -- NOT FOR THE EXISTING BUSINESS. RIGHT? YOU ARE TALKING ABOUT DOING SOMETHING DIFFERENT HERE?

COUNCILMEMBER SLUSHER, WHAT WE ARE PROPOSING TO DO HERE IS WE INDICATED TO YOU DURING THE PUBLIC HEARINGS FOR THE NEIGHBORHOOD PLAN IS THAT MR. McWILLIAMS IS PROPOSING AN INTERIOR DESIGN CENTER, HIS BUSINESS HERE OF A.B.C. BLIND AND DRAPERY WE EXPECT THAT THE PROPOSED ADDITION WILL BE USED BY THOSE KINDS OF BUSINESS THAT WILL COMPLIMENT IT. IF YOU NEED YOUR KITCHEN REDESIGNED THERE WILL BE AN INTERIORD DESIGNER TO DESIGN A KITCHEN. IF YOU NEED SOME NEW SELECTION OF WATER FIXTURES FOR YOUR KITCHEN, THAT MIGHT OCCUR OVER HERE. OR ADDITIONALLY INTO THIS BUILDING. THERE IS THE 4 -- 4400 SQUARE FOOT OF WAREHOUSING THERE NOW THAT WILL BE DISPLACED BY THE PROPOSED 3300 SQUARE FEET ROUND NUMBERS. WHICH WILL BE OCCUPIED BY THOSE INTERIOR DESIGN KIND OF BUSINESSES. IN ADDITION TO KEEPING HIS EXISTING BUSINESS. I WOULD POINT OUT TO YOU, IF YOU ALLOW ME, COUNCIL.

Slusher: SURE.

TEX INDICATED TO YOU THAT SOMEHOW I BACK DOORED THIS THROUGH TO COUNCIL. WE HAD THREE PUBLIC HEARINGS ON THIS, THIS WAS ON THE OVERHEAD PROJECTOR DURING MY PRESENTATION FOR I THINK ABOUT 45 MINUTES OR LONGER THAT WE DISCUSSED MY CLIENTS PLAN TO DO THIS INTERIOR DESIGN CENTER. SO I WOULD LIKE TO OFFER TO YOU THAT THAT THERE WAS NO COVERT ACTION ON MY PART, CERTAINLY NOT COUNCIL'S IN THIS PUBLIC HEARING THAT WE DAKOTABACK DOORED OR SLID THIS THROUGH. WE HAD AN EXTENSIVE --

I THINK IT WAS THE OVERALL NEIGHBORHOOD PLAN WHERE YOU MANAGED TO GET THE UPZONING RATHER THAN BRINGING IN A SEPARATE CASE. I'M NOT SAYING THAT YOU BACK DOORED ANYTHING. BUT THAT DESCRIPTION I JUST GAVE IS CORRECT, ISN'T IT?

THIS CASE ORIGINALLY WAS SHOWN TO BE AT THAT TIME AS MR. GUERNSEY INDICATED TO YOU TO BE M.F. ZONINGS. AT THOSE PUBLIC HEARINGS WE DISCUSSED

IT, OUR PLANS AS WELL AS ACCESS TO COUNCIL. COUNCIL ELECTED TO ZONE THIS NORTHERN TRACT. NOT WHERE YOU TONIGHT, THIS NORTHERN PART TO GR AND DIRECTED STAFF BECAUSE MR. BLOCK TOLD YOU THAT THIS WASN'T POSTED PROPERLY, AND COUNCIL WOULD HAVE TO INITIATE A CASE, ZONING CHANGE CASE WHICH COUNCIL DID, TO REZONE THIS TO GR, ADOPTED THE FUTURE LAND USE MAP SHOWING AT GR AND SO WHEN THIS NOTICE WENT OUT TO REZONE THIS PORTION TO GR, IS WHEN --

Slusher: RIGHT.

WHEN WE MET WITH THE NEIGHBORHOODS TO TRY TO MITIGATE SOME OF THEIR CONCERNS.

Slusher: YOU'RE RIGHT. I REMEMBER THAT. I'M AFRAID WE MIGHT HAVE MADE A MISTAKE. IT WAS AN UP ZONING DURING THE NEIGHBORHOOD PLAN.

CHECK WITH MR. SLAP LACK. ZAPALAC. 450 FEET DEEP THE FIRE DEPARTMENT HAS TO HAVE ACCESS OR THE COMAIBILITYS TO TURN THAT TRUCK AROUND. EITHER THEY GO THROUGH OR COME THROUGH OR THERE HAS TO BE A TURN AROUND. BECAUSE OF M.F. ZONING HERE YOU ARE NOT ABLE TO PUT THE TURN AROUND UNTIL YOU GET TO THE CENTER OF THE SITE. IF YOU PUT IT HERE IN THE CENTER OF THE SITE THAT MEANS THE PROJECT IS GOING TO BE REDUCED DOWN TO 1200 SQUARE FEET. THIS PLAN RIGHT HERE. I CAN CERTAINLY TELL YOU ECONOMICALLY YOU CAN'T GO IN AND PAVE ALL OF THIS PARKING LOT AND EVERYTHING AND MEET THE CODE REQUIREMENTS FOR RETENTION AND WATER QUALITY FOR 1200 SQUARE FEET OF BUILDING. MR. McWILLIAMS IS NOT IN THE MULTI-FAMILY BUSINESS, HE'S IN THE BLIND AND DRAPERY BUSINESS FOR 50 YEARS.

Slusher: I'M SYMPATHETIC TO THAT. AT THE SAME TIME THERE'S A NEIGHBORHOOD BACK THERE THAT JUST SEEMS LIKE THIS GR IS GOING TO BE TOO DEEP INTO THAT NEIGHBORHOOD. IT'S A NEIGHBORHOOD THAT'S NOT JUST BEING A NIMBY, THEY SUPPORTED EVEN BROUGHT TO US MULTI-FAMILY ZONING ALL ALONG BURNS STREET.

COUNCILMEMBER IF YOU PUT MULTI-FAMILY HERE, SAY THIS WHOLE BACK SIDE IS MULTI-FAMILY, GUESS WHAT STREET THEY ARE GOING TO EXIT ON TO?

Slusher: I UNDERSTAND. THAT'S WHAT I AM SAYING --

100% ON BURNS STREET. ALL THE TRAFFIC IS GOING TO COME TO HERE. BECAUSE THE COMMERCIAL TRAFFIC IS GOING TO HAVE TO BE DEVELOPED UP HERE. SO ALL OF THE MULTI-FAMILY THAT YOU COULD GET IN HERE IS GOING TO EXIT ON TO BURPS, IF SOMEONE WERE -- ON TO BURNS IF SOMEONE WERE WANTING TO BUILD MULTI-

FAMILIES. THESE TWO ADJOINING MULTI-FAMILIES ARE NOT CLASS A PROPERTIES EITHER SO YOU ARE NOT GOING TO GET PERHAPS CLASS A APARTMENTS HERE EITHER.

Slusher: I UNDERSTAND WHAT YOU ARE SAYING. BUT THEY DID -- THAT IS FAIRLY UNUSUAL FOR A NEIGHBORHOOD TO RECOMMEND THAT SORT OF A MULTI-FAMILY IN THAT SORT OF A LOCATION. ALL RIGHT. WELL, I'M NOT SURE QUITE WHAT TO DO ON THIS ONE. I DO -- IT DOES BOTHER ME THAT THE NEIGHBORHOOD HASN'T HAD ANY OPPORTUNITY TO LOOK OVER THOSE PROPOSALS IF WE ARE SUPPOSED TO VOTE ON ONE OF THOSE TONIGHT. FURTHER COMMENTS, QUESTIONS? COUNCILMEMBER ALVAREZ? THANKS, MAYOR? I -- I APPRECIATE ALL OF THE ADDITIONAL ATTENTION ON THIS. I DO REMEMBER THE DISCUSSION ABOUT THIS DURING THE -- DURING THE NEIGHBORHOOD PLANNING PROCESS. BUT -- BUT I THINK TO RESPECT AT LEAST WHAT WAS DONE INITIALLY BY THE COUNCIL IS TO SUPPORT THIS ZONING CHANGE BUT PROHIBITING ACCESS TO BURNS. SO THAT'S NOT PART OF THIS CASE SO I GUESS THAT WOULD BE SOMETHING THAT -- THAT THE -- THAT WOULD HAVE TO BE WORKED OUT BETWEEN THE PROPERTY OWNER AND THE NEIGHBORHOOD. SO AT LEAST FROM MY POINT OF VIEW BARRING THAT, I PROBABLY CAN'T SUPPORT THIS PARTICULAR CHANGE. BUT I DON'T KNOW IF THAT'S SOMETHING THAT'S EVEN -- EVEN SOMETHING THAT THE PROPERTY OWNER WOULD CONSIDER. I DON'T KNOW IF THEY WANT TO SPEAK TO THAT, BUT THAT'S WHERE I'M FALLING ON THIS IN ORDER TO -- IN ORDER TO AT LEAST, YOU KNOW, ADDRESS SOME OF THE NEIGHBORHOOD CONCERNS ABOUT TRAFFIC AND ACCESS ON BURNS STREET, BUT ALSO TO TRY TO PROVIDE A LITTLE MORE COMMERCIAL SPACE, YOU KNOW, FOR -- FOR THIS PARTICULAR BUSINESS, THAT IS SMALL BUSINESS THAT'S TRYING TO EXPAND SOMEWHAT. MR. BENNETT? >>

COUNCILMEMBER ALVAREZ, WE HAVE MET WITH THE NEIGHBORHOOD FOLKS, DAN AND TEX AND ONE OTHER, WE HAD A DIALOGUE, WE DID AGREE TO DO SOME THINGS TO TRY TO MITIGATE THEIR CONCERNS SUCH AS PUTTING SOME INTERNAL SPEED HUMPS ON OUR PARKING AREA TO DISCOURAGE ANYBODY WITH THE -- WITH THE PUNCH ACCESS WHERE YOU HAVE TO -- ACTUALLY STOP AND PUNCH IT, GET A CODE TO PUT IN ONCE YOU VISIT OUR SITE TO LEAVE THAT WAY. PROBABLY MOST PEOPLE ARE GOING TO TURN AND COME OUT LAMAR RATHER THAN GO THROUGH HAS PROCESS OF DO -- THAT PROCESS OF DOING THAT. WE CAN CONTINUE TO TRY TO WORK WITH THEM TO SEE WHAT WE CAN DO TO ELIMINATE AS MUCH AS OF THEIR CONCERNS AS POSSIBLE AND STILL TO GET US AN ECONOMICALLY VIABLE PROJECT. WE DON'T HAVE ANY PROBLEMS IN CONTINUING TO TRY TO DO THAT WITH THEM.

Slusher: GIVE THEM THREE OR FOUR MORE WEEKS [LAUGHTER]

Alvarez: I DON'T KNOW. IF THIS IS SOMETHING THAT MAYBE -- PLM TEX, I CAN'T THINK OF YOUR LAST NAME. MR. MITCHELL. [LAUGHTER] IS THIS SOMETHING THAT -- THAT -- OBVIOUSLY SEEMS TO ME THAT -- THAT, YOU KNOW, OTHER THAN JUST LEAVING IT MF

3 AND THE NEIGHBORHOOD WOULD BE SATISFIED BY LIMITING ACCESS ALTOGETHER ON BURNS, I THINK THAT WHAT MR. BURNET WAS SUGGESTING -- MR. BENNETT WAS SUGGESTING IF THERE'S KIND OF CONTROLLED ACCESS IS THERE A POSSIBILITY THAT THE NEIGHBORHOOD MIGHT AGREE TO SOME KIND OF CONTROLLED ACCESS. I DON'T KNOW, AGAIN, THAT'S SOMETHING THAT YOU HAVE CONSIDERED IN THE LAST FEW WEEKS THAT WE'VE HAD BETWEEN -- BETWEEN MEETINGS AND -- WHETHER IT'S WORTH DELAYING OR MAYBE DOING JUST ONE READING AND THEN SEEING IF THERE IS AN AGREEMENT ON ACCESS THAT CAN BE REACHED BETWEEN THE NEIGHBORHOOD AND THE PROPERTY OWNER.

IT'S HARD TO SAY. THE -- I REALLY WOULD HAVE TO TALK TO THE -- TO GO BACK TO THE NEIGHBORS. WE -- IN FACT WE HAD MORE PEOPLE THAT WERE COMING TO SPEAK BECAUSE WE WERE TOLD THAT IT WAS -- IT WAS STILL PUBLIC AND -- AND WE THOUGHT 20, 22 CAME AFTER ONE THROUGH 21. SO -- SO WE WERE ALL PRETTY SURPRISED WHEN WE WERE UP SECOND.

Mayor Wynn: BE CAREFUL WHAT YOU WISH FOR.

WANTED TO GET OUT EARLY, HUH? I REALLY -- IT'S HARD TO SAY WITHOUT GOING AND TALKING TO THE NEIGHBORS BECAUSE WE REALLY STRONGLY FEEL THAT THIS -- THAT WE DID GIVE A LOT DURING -- YOU KNOW, THEY TALK ABOUT THREE MEETINGS. WELL, WE WENT TO I DON'T KNOW HOW MANY MEETINGS OVER THE COURSE OF A YEAR. AND THIS -- IT WAS NOT AN EASY PROCESS. THE NEIGHBORHOOD PLANNING PROCESS I'M SURE YOU'RE AS MUCH FAMILIAR WITH IT AS I AM.

Slusher: I AGREE IT'S NOT EASY.

WE AGREED TO UPZONING A LOT OF -- A LOT OF PROPERTY IN OUR NEIGHBORHOOD DOING IT WITHOUT SPOT ZONING AND THIS BASICALLY GOES AGAINST EVERYTHING THAT THE CITY PLANNING TOLD US THAT WE DON'T WANT TO DO. THERE WERE SEVERAL CASES WE THOUGHT SPOT ZONING MIGHT WORK HERE OR THERE, THEY SAID ABSOLUTELY NOT, THIS IS NOT THE WAY WE DO CITY, DO NEIGHBORHOOD PLANNING. THEN IT ENDED UP GETTING TURNED SIDEWAYS THERE AT THE END.

Slusher: MAYOR, GO AHEAD COUNCILMEMBER.

Alvarez: I WAS GOING TO ASK MR. GUERNSEY. BUT --

Slusher: GO AHEAD. I'LL WAIT.

Alvarez: YOU HAD MENTIONED EARLIER IN TERM OF THE ACCESS ISSUE ON BURNS, IS THAT SOMETHING -- EVEN THOUGH THAT'S NOT PART OF THIS PARTICULAR CASE, YOU KNOW THAT THE CITY COULD -- COULD -- WE COULD MOVE FORWARD AND HAVE

SOME KIND OF AGREEMENT ON ACCESS WITH – WITH PROPERTY OWNER THAT – THAT COULD BE DONE WITH A RESTRICTIVE COVENANT OR IS THAT THE KIND OF RESTRICTIVE COVENANT THAT NEEDS TO BE DONE THROUGH A NEIGHBORHOOD ASSOCIATION OR HOMEOWNERS ASSOCIATION?

THE PROPERTY OWNER COULD OFFER WITH THEIR OWN FREE WILL, A RESTRICTIVE COVENANT THAT WOULD PROHIBIT ACCESS TO BURNS OR LIMITED ACCESS, OFFER THAT TO THE CITY. IT WOULD BE A GESTURE FROM THEM. NOT SOMETHING THAT WE COULD REQUEST. WE COULD CERTAINLY PROHIBIT ACCESS ON THE SUBJECT TRACT TO BURNS. BUT I WOULD HAVE TO ASK – ASK MR. BENEFIT IF HE WOULD BE WILLING TO AFTER SPEAKING WITH HIS CLIENT TO SEE IF THERE'S SUCH AN OFFER THAT THEY WOULD LIKE TO MAKE. THAT'S SOMETHING CERTAINLY TO SOMETHING. I ALSO WANT TO REMIND COUNCIL THAT THERE IS A VALID PETITION ON THE PROPERTY AGAINST THE REZONING FROM OR TO THE GR-MU CO-NP SO IF YOU WOULD CONSIDER THREE READINGS TODAY IT WOULD REQUIRE SIX OUT OF SEVEN VOTES.

THANK YOU. I WAS HOPING TO FIND SOMETHING TO MAKE THIS DECISION EASIER.

THANK YOU, COUNCILMEMBER. FURTHER COMMENTS, MAYOR PRO TEM?

Goodman: NOT KNOWING WHAT EXACTLY WE ARE GOING TO DO, I WOULD STILL AT SOME TIME OR ANOTHER LIKE TO KNOW WHAT THE NEIGHBORHOOD HAD CONSIDERED AND WHAT STAFF THEN DEEP SIXED BY SAYING THAT IT WAS SPOT ZONING AND NO, NO, NO, WE DON'T DO THAT. BECAUSE NEIGHBORHOOD PLANNING WAS SUPPOSED TO TAILOR MAKE WHAT A NEIGHBORHOOD WANTED TO BE. TRADITIONAL SPOT ZONING WASN'T NECESSARILY PROHIBITED. IF IT ACTUALLY WORKED WITH WHAT THE NEIGHBORHOOD SAW AS VIABLE.

Guernsey: I'M NOT AWARE OF THE PARTICULAR ISSUES AS FAR AS ZONING. I BELIEVE WHEN THIS WAS BROUGHT ORIGINALLY THERE WAS CONSENSUS REGARDING THIS PROPERTY AND THE PROPERTY NEXT DOOR TO BE MULTI-FAMILY AND THEN THROUGH THE PUBLIC HEARING PROCESS AT COUNCIL THAT DECISION WAS CHANGED, THE FUTURE LAND USE MAP FROM THE ORIGINAL RECOMMENDATION. OF A MULTI-FAMILY.

I WOULDN'T MIND HEARING THE DETAILS FROM THE PLANNERS INVOLVED. NOT AT THIS TIME HOWEVER.

Mayor Wynn: THANK YOU. COUNCILMEMBER SLUSHER I SENSED THAT YOU WERE ABOUT TO MAKE A MOTION EARLIER.

Slusher: PRETTY GOOD, MAYOR, I WASN'T EVEN SURE IF I WAS MYSELF. [LAUGHTER] ALL RIGHT. LET'S POSTPONE THIS TO NOVEMBER 4th AND GIVE THE NEIGHBORS AND

MR. BENNETT AND THE APPLICANT TIME TO LOOK OVER THOSE – GIVE THE NEIGHBORS TIME TO LOOK OVER THOSE PROPOSALS AND MAYBE MAKE SOME COUNTER OFFERS TO MR. BENNETT. I JUST ASKED EVERYBODY TO KEEP IN MIND THE SITUATION HERE WE HAVE I GUESS A FAIRLY UNUSUAL SITUATION WITH THESE NARROW LOTS GOING ALL THE WAY BACK TO THE RESIDENTIAL STREET. PROBABLY WOULD LIKE TO GO SUPPORT THE LOCAL SMALL BUSINESS HERE. AT THE SAME TIME WE HAVE A NEIGHBORHOOD THAT WHERE I WOULD THINK THIS GR IS TOO DEEP. I WOULD JUST THINK IT WAS TOO DEEP INTO THE NEIGHBORHOOD WITHOUT SOME SORT OF A – OF A MITIGATING AGREEMENT. SO I WOULD JUST ASK YOU TO TRY TO COME UP WITH SOME SORT OF AN AGREEMENT WHERE EVERYBODY CAN – CAN LIVE WITH IT. IN THE NEXT COUPLE OF WEEKS. THAT WOULD BE MY MOTION.

Mayor Wynn: MOTION MADE BY COUNCILMEMBER SLUSHER.

Thomas: SECOND.

Mayor Wynn: SECONDED BY COUNCILMEMBER THOMAS TO POSTPONE TO CLOSE THE PUBLIC HEARING AND POSTPONE ACTION ON ZONING CASE Z-22 TO NOVEMBER 4th, 2004.

Thomas: MAYOR, IF YOU DON'T MIND, IF WE CAN GET STAFF, MR. GUERNSEY, TO VERIFY WHAT THE FIRE DEPARTMENT SAID. BECAUSE I DON'T KNOW – I DIDN'T – WHEN YOU – WHEN THE QUESTION WAS ASKED ABOUT THAT NEEDING TO GO OUT ON BURNS, I DIDN'T GET A CLARIFICATION OF THAT.

WE CAN CLARIFY THAT WITH THE FIRE DEPARTMENT AS WELL.

Thomas: THANK YOU.

Guernsey: STAFF WILL COMMIT TO PUTTING THIS AS A NUMBERED ITEM, NOT UNDER THE Z ITEM WHEN IT COMES BACK.

THANK YOU, MR. GUERNSEY. MOTION AND SECOND ON THE TABLE TO POSTPONE Z-22 TO NOVEMBER 4th, 2004. FURTHER COMMENTS? HEARING NONE, ALL THOSE IN FAVOR PLEASE SAY AYE.

AYE.

Wynn: OPPOSED? MOTION PASSES ON A VOTE OF 7-0. COUNCIL, THAT TAKES US TO OUR 5:30 BREAK FOR LIVE MUSIC AND PROCLAMATIONS, AT THIS TIME WE WILL RECESS THE AUSTIN CITY COUNCIL. THANK YOU. [ONE MOMENT PLEASE FOR CHANGE IN CAPTIONERS] . >> >>

C14-04-0012.003 6208 Burns Street

Closed Caption Log, Council Meeting, 11/04/04

Note: Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes. For official records or transcripts, please contact the City Clerk at (512) 974-2210.

ITEM NUMBER 45 IS THE CASE ON BURNS STREET AND THAT THE NEIGHBORHOOD HAS THE APPLICANT OF RECENT AGREEMENT AND WE'RE GOING TO GO AHEAD AND READ THE AGREEMENT FOR THE RECORD.

Mayor Wynn: THANK YOU.

MAYOR AND COUNCIL, GREG GUERNSEY WITH THE NEIGHBORHOOD PLANNING AND ZONING DEPARTMENT. RIGHT NOW IT'S A PENSIVE AGREEMENT, IT'S NOT AN AGREEMENT AS SUCH THAT BOTH PARTIES AGREE, BUT THEY FIRST AGREE WE CAN GO ON FIRST READING THIS EVENING WITH SOME CONDITIONS AND THOSE ARE BASICALLY TO GO WITH THE PLANNING COMMISSION RECOMMENDATION WHICH WAS FOR GR-MU-CM-NP AND THAT BASICALLY THE COMMISSION ADOPTED THE STAFF RECOMMENDATION WHICH LISTED MANY PROHIBITIVE USES BUT IN ADDITION THERE WOULD BE AN AGREEMENT TO PROHIBIT RESTAURANT GENERAL, RESTAURANT LIMITED, INDOOR SPORTS AND RECREATION, INDOOR ENTERTAINMENT AND RESEARCH SERVICES AS ADDITIONAL PROHIBITED USES THAT ACCESS THE PROPERTY OWNER WHICH OWNS THIS PROPERTY AND THE PROPERTY TO THE NORTH WHICH HAS BEEN PART OF MUCH DISCUSSION WOULD BE LIMITED TO AN EMERGENCY ACCESS TO BURNS STREET ONLY, ONLY FIRE, E.M.S. VEHICLES COULD GO BACK AND FORTH ON TO BURNS STREET, ALSO THE APPLICANT HAS AGREED TO PROVIDE A FIVE FOOT LANDSCAPE BURM ADJACENT TO BURNS STREET, THIS WOULD BE THE RIGHT OF WAY GOING BACK FIVE FEET AND THEN THERE WOULD BE A FENCE THAT WOULD BE LOCATED ALONG AND PARALLEL TO BURNS STREET. NOT ONLY ON THIS PROPERTY BUT AS OFFERED IN THE FORM OF A COVENANT THAT WOULD HAVE TO BE DRAFTED, THE ADJOINING PROPERTY TO THE NORTH, SO THIS COULD ONLY BE TAKEN AT FIRST READING. WE WOULD HAVE TO WORK WITH OUR LAW DEPARTMENT TO CREATE THE LANGUAGE AND THESE ITEMS I UNDERSTAND IT THAT THE APPLICANT HAS AGREED TO, FOR LIMITING ACCESS, WOULD BE AT SUCH TIME I GUESS THAT REDEVELOPMENT WOULD OCCUR. THEY COULD NOT – THE APPLICANT HAS A PLAN TO DEMOLISH SOME OF THE OTHER OLDER METAL BUILDINGS ON THE PROPERTY, CONSTRUCTION NEW BUILDINGS AND A PARKING LOT, DO ALL THE LANDSCAPING AND AT THAT TIME THEY WOULD PROHIBIT THE ACCESS WHICH WOULD HAVE THE CONFINED GATE THAT ONLY THE POLICE AND E.M.S. AND FIRE -- EMERGENCY SERVICES COULD ACCESS. SO IF COUNCIL WOULD LIKE TO INDULGE THAT, THEN WE

COULD MOVE FORWARD, PREPARE THOSE DOCKS. THE NEIGHBORHOOD WOULD LIKE TO GO BACK BECAUSE THE PROPOSAL TO LIMIT ACCESS TO BURNS WAS ONLY RAISED JUST MOMENTS BEFORE THE MEETING AND THEY WOULD LIKE TO TALK TO THEIR MEMBERSHIP AGAIN AND THIS WOULD GIVE THEM AN OPPORTUNITY TO LOOK AT THAT AND STILL MOVE FORWARD WITH BOTH PARTIES MOVING FORWARD TOWARD SOME AGREEMENT POSSIBLY. SO WITH THAT, THEY WOULD ALLOW IT TO GO ON CONSENT BOTH SIDES.

I – WE TALKED TO – MESS HN MS. MEADE. I THINK THIS IS A PROPERTY PARTLY IN THE BARTON SPRINGS ZONE, PARTLY NOT ON SOUTH LAMAR. THE NEIGHBORHOOD HAS BEEN VERY COOPERATIVE. IF IT APPLIES TO S.O.S., I WANTED TO MAKE SURE, I WANTED TO MAKE SURE THAT IT'S NOT VISIBLE, MR. MURPHY RECOMMENDED NOT LIMITING THE DEVELOPMENT TO THE PART THAT'S IN THE BARTON SPRINGS ZONE BEYOND WHAT IT WOULD ALREADY BE LIMITED BY THE – BY THE SAVE OUR SPRINGS ORDINANCE. THAT WOULD PROTECT THE WATER QUALITY. WHAT I WOULD LIKE TO DO IS I JUST ASKED YOU ABOUT THIS, PERHAPS I SHOULD HAVE DONE THAT EARLIER. I DON'T KNOW IF YOU HAVE BEEN ABLE TO GET AGREEMENT, BUT WHAT I WOULD LIKE TO DO IS MAKE THIS ON SECOND READING WITH THAT ADDITION AND THEN ASK OUR STAFF TO DID A LOOK AT THAT AND SEE IF THAT WOULD BE VISIBLE FROM THE GREENBELT.

COUNCILMEMBER, MICHAEL MEADE – MIKHAIL MEADE, WE WERE JUST DISCUSSING THAT. WE THINK THAT MAY WORK. WE STILL HAVE THE ISSUE OF TRYING TO MEANDER AROUND TREES AND FIGURE OUT HOW THAT WOULD AFFECT THE DEVELOPMENT. I DON'T HAVE THE ANSWER FOR YOU TODAY ABOUT WHETHER WE COULD AGREE TO ALL OF THE CONTRIBUTING ZONE, BUT IT DOES SOUND LIKE THERE IS SOMETHING THAT WE COULD DO, WE CAN PROBABLY GET THERE. WE ARE ALSO TALKING ABOUT LOOKING AT, WE ALL REALIZED WE DON'T HAVE TIME TO DO THAT TODAY, BUT LOOKING AT HOW THE COMPATIBILITY STANDARDS ALREADY AFFECT US, SF 2 TO THE REAR OF US, WE WILL LOOK AT ALL OF THOSE ISSUES. WE THINK IT PROBABLY IS APPROPRIATE FOR THIS TO I GUESS COME BACK FOR FINAL READING HOPEFULLY IN TWO WEEKS.

Slusher: I WAS GOING TO SAY THAT MYSELF, MS. GLASGO, IF WE COULD GET IT BACK IN TWO WEEKS BECAUSE THEY HAVE BEEN PATIENT. I WOULD LEAVE IT AT WHAT WE PASSED ON FIRST READING, KEEPING THE DISCUSSION IN MIND THAT WE ARE GOING TO TRY TO WORK SOMETHING OUT. THAT WOULD BE WONDERFUL. THAT WOULD BE SECOND READING ON 43 MAYOR.

Mayor Wynn: ITEM 43 WILL BE SECOND READING ONLY AND TECHNICALLY ITEM 45 FIRST READING ONLY WITH ADDITIONAL CONDITIONS.

Slusher: I WANTED TO SAY ON 45, I'M NOT THERE YET ON THAT. BUT THE WAY THAT THE NEIGHBORHOOD AND APPLICANT OR THE OWNER ARE GOING TO KEEP TALKING, I CAN SUPPORT THAT ON FIRST READING.

MAYOR WYNN: I WILL SECOND THE MOTION TO APPROVE THE CONSENT AGENDA AS READ, FURTHER COMMENTS? HEARING NONE, ALL THOSE IN FAVOR PLEASE SAY AYE.

AYE.

Wynn: OPPOSED? MOTION PASSES ON A VOTE OF 7-0.

Slusher: WHO MADE THAT MOTION?

Mayor Wynn: YOU DID.

Slusher: OKAY. I DIDN'T QUITE DO THAT, BUT I GUESS I'LL LET THAT STAND.

Collier, Virginia

From: Collier, Virginia
Sent: Thursday, May 19, 2005 2:24 PM
To: Glasco, Alice
Cc: Frank, Paul
Subject: Lake Austin Properties Annexation Issue

Paul has done a really nice job pulling the data together. I will try to get together with him tomorrow so that we have this summarized neatly for the meeting.

For Monday we will have:
1. an updated list of the properties that fall within the area exempted under the 1986 ordinance
2. a map showing those properties and identifying those that are current utility customers
3. options/suggestions for future annexation analysis