

**Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-5
AGENDA DATE: Thu 03/25/2004
RCA TYPE: Ordinance
PAGE: 1 of 1**

SUBJECT: C14-02-0181 - Champion Tract, City Park Road West - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 6100-6404 City Park Road and 6509-6909 F.M. 2222 (Bull Creek and West Bull Creek Watersheds) from development reserve (DR) district zoning and neighborhood commercial-conditional overlay (LR-CO) combining district zoning to neighborhood commercial-conditional overlay (LR-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant neighborhood commercial (LR) district zoning with conditions. Applicant: Champion Assets Ltd. (Josie Ellen Champion). Agent: Graves, Dougherty, Hearon (Michael J. Whellan). City Staff: Glenn Rhoades, 974-2775.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guemsey

ZONING CHANGE REVIEW SHEET

CASE: C14-02-0181

Z.A.P. DATE: January 7, 2003
January 14, 2003

C.C. DATE: February 13, 2003
August 28, 2003
February 26, 2004
March 25, 2004

ADDRESS: 6100-6404 City Park Road and 6509-6909 FM 2222

OWNER/APPLICANT: Champion Assets Ltd. (Josie Ellen Champion)

AGENT: Graves, Dougherty, Hearon and Moody (David Hartman)

ZONING FROM: LR-CO and DR

TO: LR-CO

AREA: 17.5

SUMMARY STAFF RECOMMENDATION:

Without a Traffic Impact Analysis (T.I.A.) amendment, staff recommends denial of the request for LR-CO, Neighborhood Commercial-Conditional Overlay combining district zoning. If the zoning is granted, an additional 43 feet of right of way should be dedicated to the City.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

January 7, 2003 – Postponed at the request of staff until the 1/14/03 hearing.

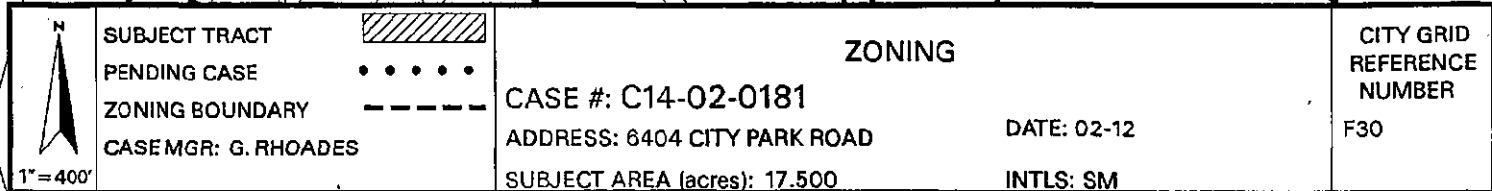
January 14, 2003 – Approved LR-CO, Neighborhood Commercial district zoning (Vote: 6-2, J. Cortez and C. Hammond – nay, J. Donisi – absent). The conditional overlay will limit vehicle trips to 2,000 per day. In addition, Commission recommended that 43 Feet of right of way be dedicated.

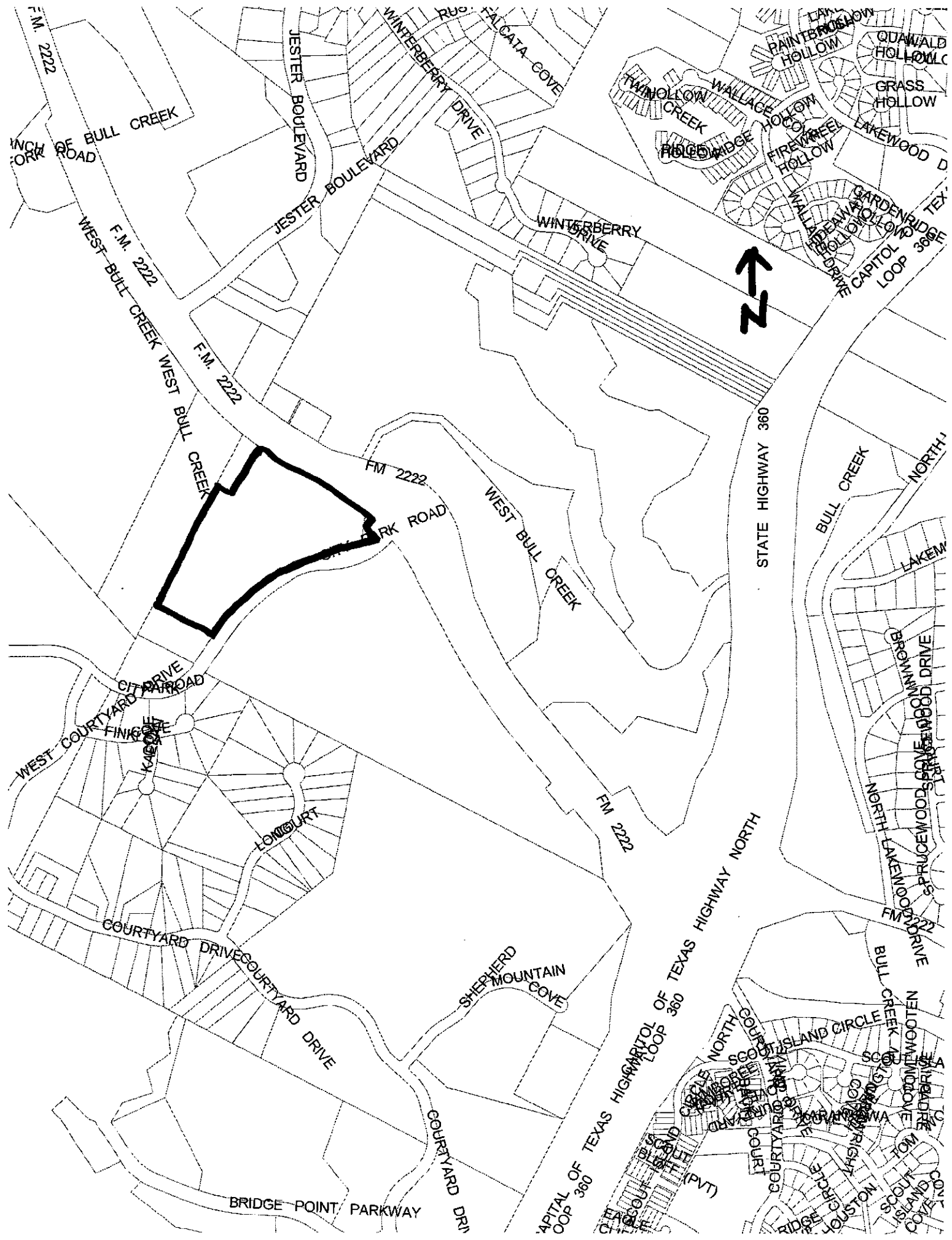
ISSUES:

On February 19, 2004, the applicants for this zoning case filed a lawsuit against the City. They claim, in part, that the application of City zoning ordinances enacted in 2000 violates a 1996 settlement agreement with the City because of the trip count limitation on this tract as well as three other tracts. They seek declarations consistent with their position, as well as damages for breach of contract and inverse condemnation. That case is styled *Josie Ellen Champion, Champion Assets, Ltd., A Texas Limited Partnership, Alma Juanita Champion Meier, Champion-Meier Assets, Ltd., a Texas Limited Partnership, Mary Margaret Champion Roberson, and Champion Legacy Partners, Ltd., a Texas Limited Partnership v. City of Austin*, Cause No. GN400513, in Travis County District Court.

There is another zoning case to the east, where the applicant is requesting the same change (C14-03-0140).

The majority of the subject tract was part of a zoning case considered and approved by City Council on March 9, 2000. As a condition of zoning, a conditional overlay was approved that limited the total number of vehicle trips generated by this property and three other properties to 6,500 vehicle trips per day. These four properties were approved with various use and site development restrictions (see attached zoning ordinances and map).





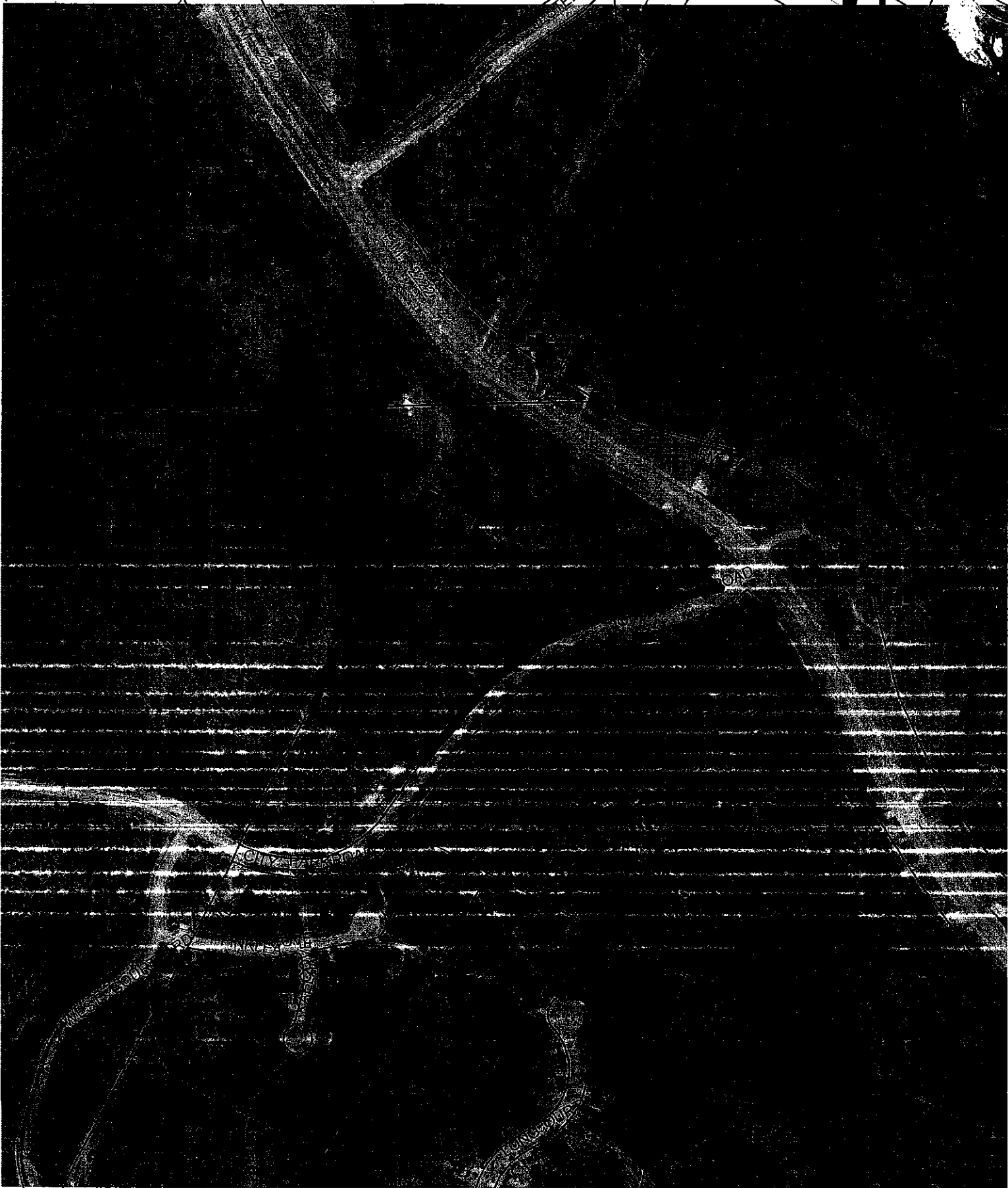
FO

UNDEVELOPED

SF-1

TER BOULEVARD

DR



STAFF RECOMMENDATION

With the absence of a Traffic Impact Analysis amendment, staff cannot recommend the proposed zoning change.

BACKGROUND

The majority of the subject tract was part of a zoning case considered and approved by City Council on March 9, 2000. As a condition of zoning, a conditional overlay was approved that limited the total number of vehicle trips generated by this property and three other properties to 6,500 vehicle trips per day. These four properties were approved with various use and site development restrictions (see attached zoning ordinances). Staff will have a large map at the hearing delineating the properties in relation to the present zoning case, in addition to a breakdown of existing site plan and subdivision applications being reviewed at this time.

The ordinance for the majority of the subject tract (case C14-99-0077) was approved in March of 2000 for LR-CO zoning on 13.5 acres of land (note: excluding the portion of the site currently zoned DR. The conditional overlay limited the property to 4,000 square feet of retail space and to a 6,500 trip limitation to be shared with three other properties. With this application the applicant has two requests: 1) they are requesting to rezone the DR portion of the site to LR-CO, and 2) to eliminate the shared 6,500-vehicle trip limitation. The applicant would then like to restrict the subject tract to a total of 2,000 trips per day. The request could potentially raise the number of shared vehicle trips on the other 3 tracts.

BASIS FOR RECOMMENDATION

It has been determined by the Watershed Protection and Development and Review Department that an amendment to the T.I.A, which was required and reviewed by the City with the four earlier cases, will need to be performed with the existing application. The applicant does not wish to amend the T.I.A. at this time. Therefore, staff recommends denial of the proposed zoning because of the lack of traffic information. Furthermore, should this case be approved by Council, rezonings for the other three properties affected by the shared 6,500 vehicle trip limit should be initiated. The subject tract should not go forward to final ordinance approval, unless the other 3 properties are heard concurrently considered with this case.

EXISTING CONDITIONS

Site Characteristics

The site is currently undeveloped.

Transportation

Without a TIA update, staff cannot recommend the proposed zoning change. The zoning application is intended to eliminate the existing conditional overlay that limits the subject tract, as well as 3 other Champion tracts, to a cumulative 6,500 vehicle trips per day.

The trip generation under the requested zoning is estimated to be an additional 2,000 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).

The other three Tracts (1A, 1B and 1D) have approved site plan permits and are currently approved for 6 Single Family lots, 63,492 square feet of Office and 459 Multi-Family Units. As approved, the uses cumulatively generate 3,900 trips per day. In addition, the Champions have submitted 3 subdivisions (Champion West, East and SR) for review. These 3 subdivisions propose 30,000 sf of Office, 4,000 sf of Retail and 40,000 sf of Retail. Those uses would generate 5,168 trips per day. Cumulatively, the total number of trips generated by the applications that have been submitted is 9,068 trips per day. **This would be an increase of 2,568 trips per day from the 6,500-trip limitation if the current CO limitation is removed.**

The Austin Metropolitan Area Transportation Plan calls for a total of 86 feet of right-of-way for City Park Road. If the requested zoning is granted, then 43 feet of right-of-way should be dedicated from the existing centerline of City Park Road in accordance with the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55)

A Traffic Impact Analysis (TIA) is required but has not been received. A zoning application is not complete until the required TIA has been received.

There are no existing sidewalks along City Park Road.

City Park Road is classified in the Bicycle Plan as a Priority 1bike route.

Capital Metro bus service is available R.M. 2222.

Impervious Cover

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

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

Development within a Water Quality Transition Zone may not exceed 18% impervious cover.

Environmental

According to flood plain maps, there is flood plain in, or within close proximity of, the project location. Based upon the close proximity of the flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone shall be limited to 18%.

The site is located within the endangered species survey area and must comply with the requirements of Chapter 25-8 Endangered Species in conjunction with subdivision and/or site plan process.

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

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

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

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

Right of Way

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

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

Water and Wastewater

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

The water and wastewater utility plan must be reviewed and approved by the City of Austin Water and Wastewater Utility. The plan must be in accordance with the City's utility design criteria.

Stormwater Detention

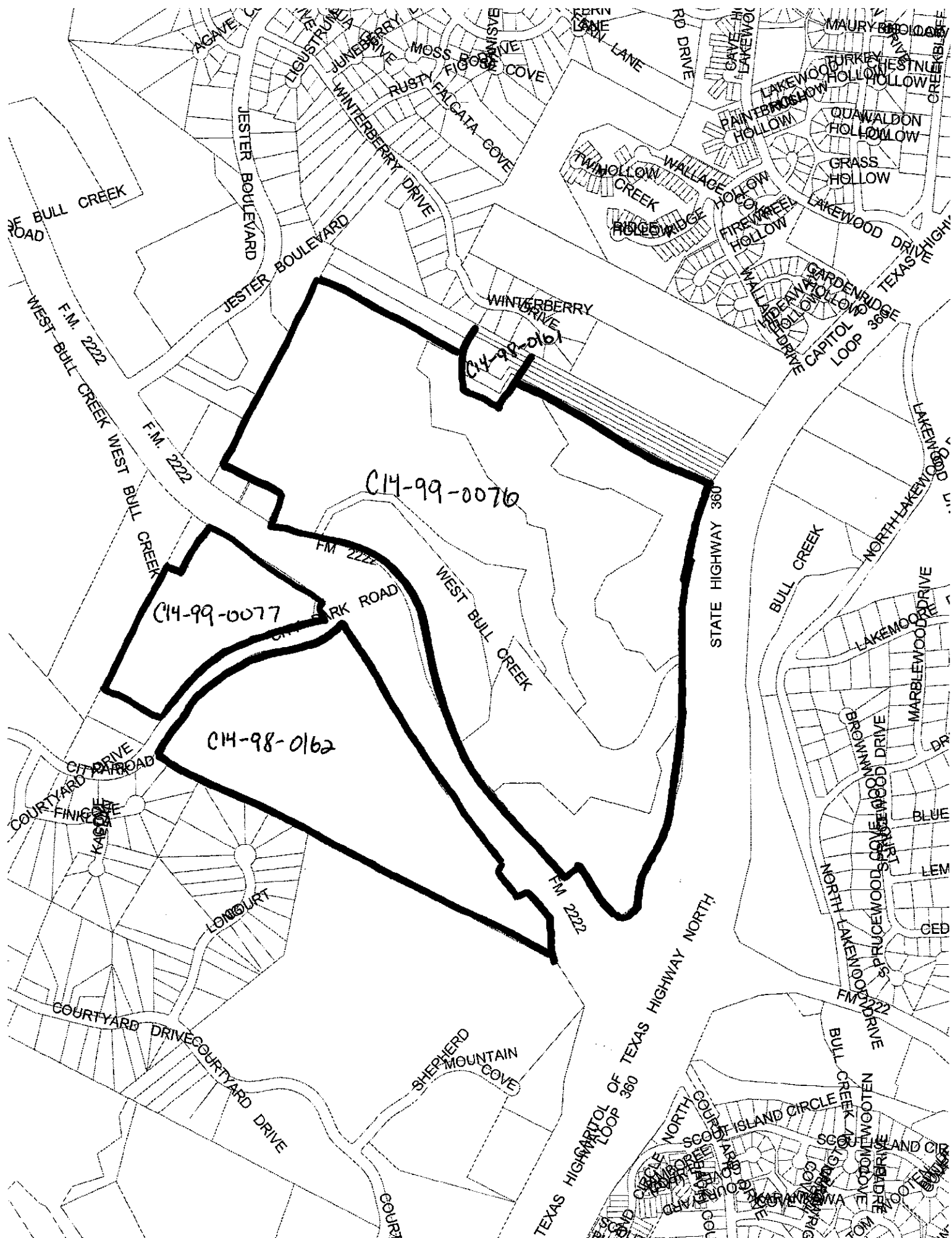
At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater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

Compatibility Standards

The site is subject to compatibility standards. Along the southernmost property line, 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.



original LR-to zoning ord.

ORDINANCE NO. 000309-81

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 25-2 OF THE CITY CODE AS FOLLOWS:

A 13.499 ACRE TRACT OF LAND OUT OF THE JAMES JETT SURVEY NO. 1, FROM DEVELOPMENT RESERVE (DR) DISTRICT TO NEIGHBORHOOD COMMERCIAL-CONDITIONAL OVERLAY (LR-CO) COMBINING DISTRICT, LOCALLY KNOWN AS 6100-6404 CITY PARK ROAD AND 6509-6909 F.M. 2222 ROAD, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

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 Development Reserve (DR) district to Neighborhood Commercial-Conditional Overlay (LR-CO) combining district on the property described in File C14-99-0077, as follows:

A 13.499 acre tract of land out of the James Jett Survey No. 1, in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance, (the "Property")

commonly known as Tract 2, locally known as 6100-6404 City Park Road and 6504-6909 F.M. 2222 Road, in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "B".

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

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property and the property described in Exhibits C, D, E, F, and G, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 6,500 adjusted trips per day.
2. Retail development may not exceed 4,000 square feet of gross floor area.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the Neighborhood Commercial (LR) base district and other applicable requirements.

PART 3. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 4. This ordinance takes effect on March 20, 2000.

PASSED AND APPROVED

March 9, 2000

§
§
§
§

Kirk Watson

Kirk Watson
Mayor

APPROVED:

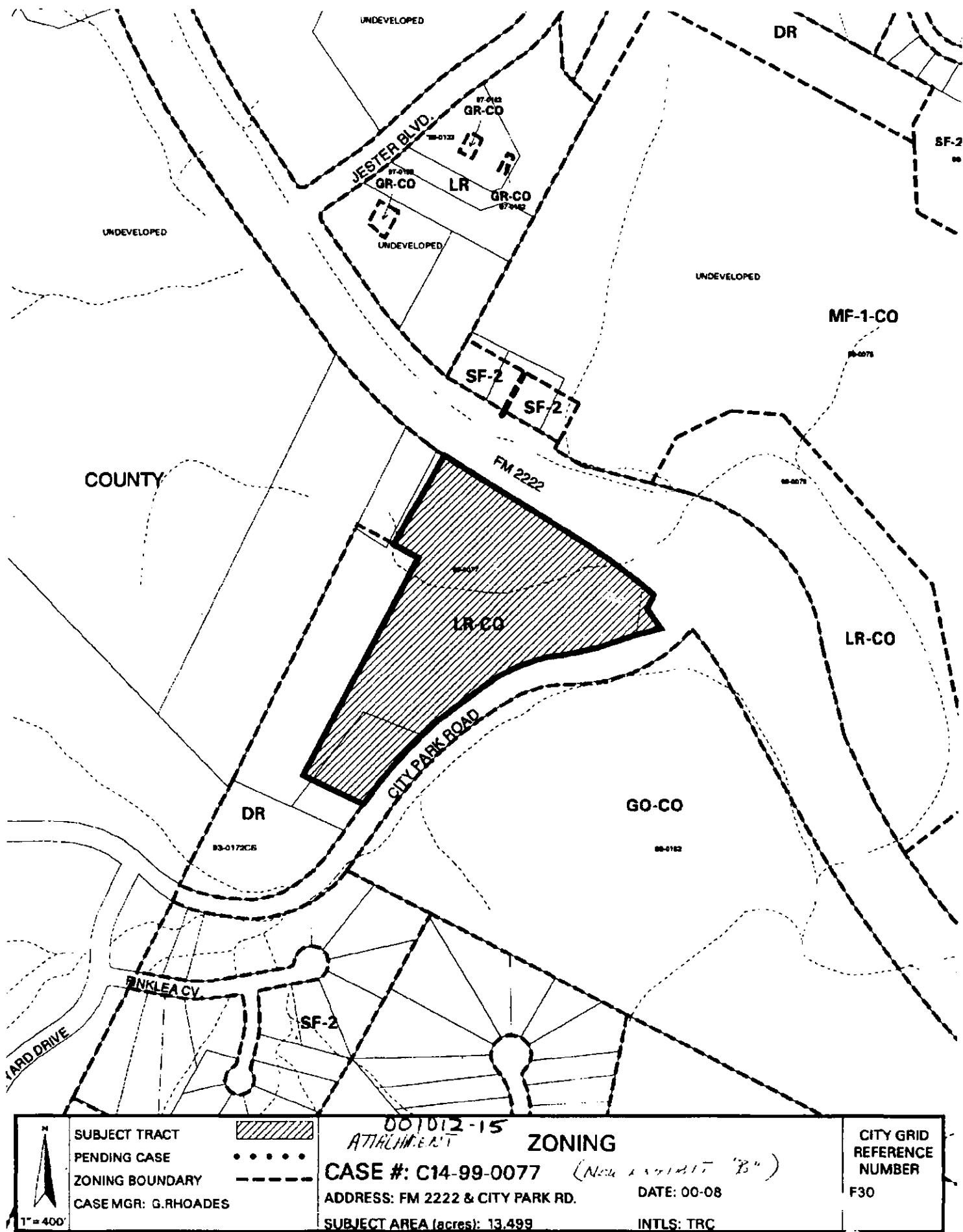
Andrew Martin

Andrew Martin
City Attorney

ATTEST:

Shirley A. Brown

Shirley A. Brown
City Clerk



ORDINANCE NO. 000309-77

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 25-2 OF THE CITY CODE AS FOLLOWS:

A 3.157 ACRE TRACT OF LAND OUT OF THE JAMES JETT SURVEY NO. 1, FROM DEVELOPMENT RESERVE (DR) DISTRICT TO SINGLE FAMILY RESIDENCE STANDARD LOT-CONDITIONAL OVERLAY (SF-2-CO) COMBINING DISTRICT, LOCALLY KNOWN AS 6507 WINTERBERRY DRIVE, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

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 Development Reserve (DR) district to Single Family Residence Standard Lot-Conditional Overlay (SF-2-CO) combining district on the property described in File C14-98-0161, as follows:

A 3.157 acre tract of land out of the James Jett Survey No. 1, in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance, (the "Property")

commonly known as Tract 1A, locally known as 6507 Winterberry Drive, in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "B".

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

A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property and the property described in Exhibits C, D, E, F, and G, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 6,500 adjusted trips per day.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the Single Family Residence Standard Lot (SF-2) base district and other applicable requirements.

PART 3. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 4. This ordinance takes effect on March 20, 2000.

PASSED AND APPROVED

March 9, 2000

§
§
§

Kirk Watson

Kirk Watson
Mayor

APPROVED:

Andrew Martin

Andrew Martin
City Attorney

ATTEST:

Shirley A. Brown

Shirley A. Brown
City Clerk

ORDINANCE NO. 000309-78

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 25-2 OF THE CITY CODE AS FOLLOWS:

A 45.208 ACRE TRACT OF LAND OUT OF THE JAMES JETT SURVEY NO. 1, FROM SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT TO GENERAL OFFICE-CONDITIONAL OVERLAY (GO-CO) COMBINING DISTRICT, LOCALLY KNOWN AS 6011-6411 CITY PARK ROAD AND 5801-6507 F.M. 2222 ROAD, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

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 Single Family Residence Standard Lot (SF-2) district to General Office-Conditional Overlay (GO-CO) combining district on the property described in File C14-98-0162, as follows:

A 45.208 acre tract of land out of the James Jett Survey No. 1, in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance, (the "Property")

commonly known as Tract 3, locally known as 6011-6411 City Park Road and 5801-6507 F.M. 2222 Road, in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "B".

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

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property and the property described in Exhibits C, D, E, F, and G, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 6,500 adjusted trips per day.
2. Office development may not exceed 30,000 square feet of gross floor area.
3. A building or structure may not be constructed or maintained within 100 feet of the southern property line.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the General Office (GO) base district and other applicable requirements.

PART 3. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 4. This ordinance takes effect on March 20, 2000.

PASSED AND APPROVED

March 9, 2000

§
§
§

Kirk Watson

Kirk Watson
Mayor

APPROVED:

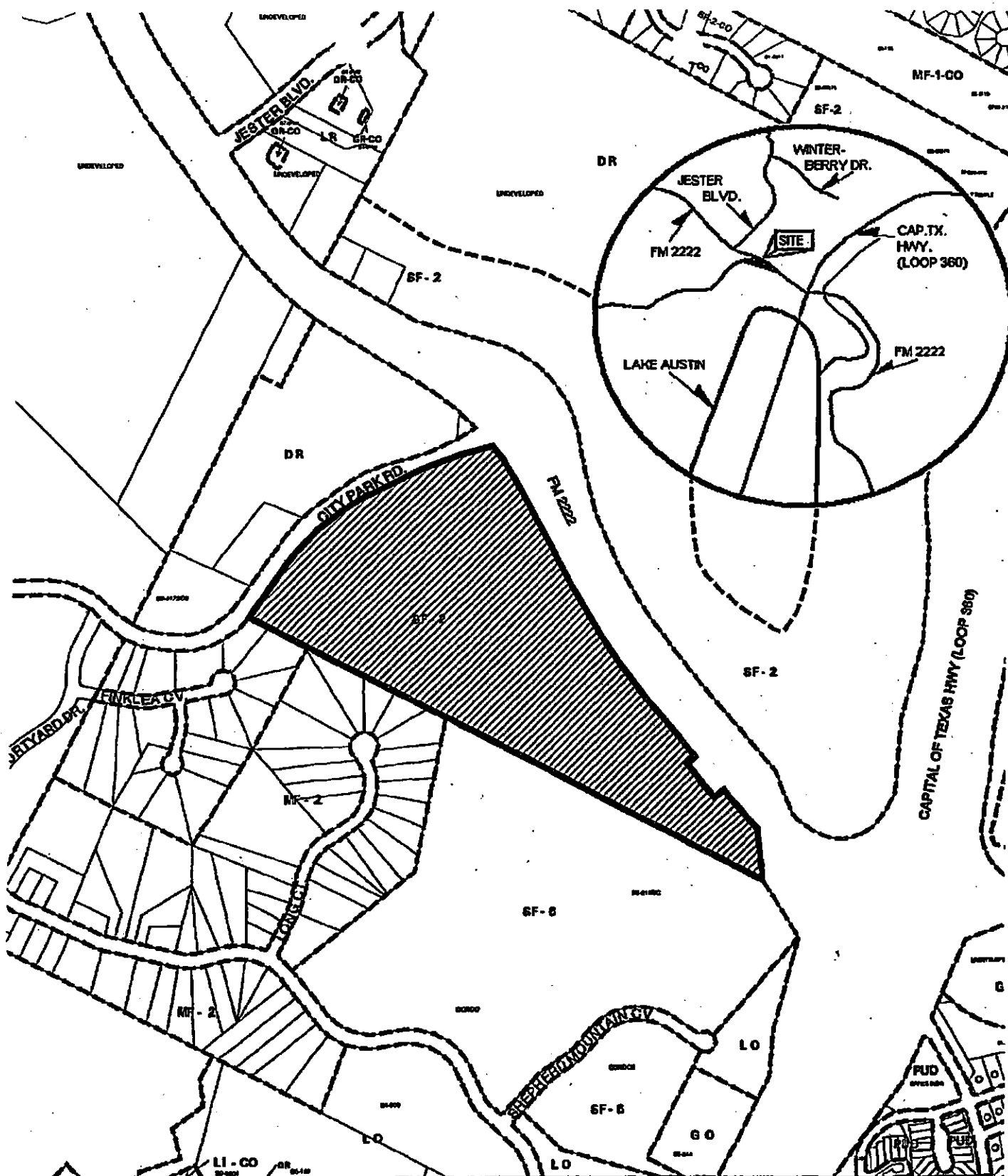
Andrew Martin

Andrew Martin
City Attorney

ATTEST:

Shirley A. Brown

Shirley A. Brown
City Clerk



 1" = 600'	SUBJECT TRACT 	ZONING EXHIBIT B		CITY GRID REFERENCE NUMBER F30
	PENDING CASE 			
	ZONING BOUNDARY 	CASE #: C14-98-0162	DATE: 88-10	
	CASE MGR: D. PERRYMAN 000309-18	ADDRESS: CITY PARK RD. & FM 2222	INTLS: TRC	
SUBJECT AREA (acres): 44.900				

ORDINANCE NO. 000309-80

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 25-2 OF THE CITY CODE AS FOLLOWS:

THREE TRACTS OF LAND OUT OF THE JAMES JETT SURVEY NO. 1, FROM DEVELOPMENT RESERVE (DR) DISTRICT AND SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT TO MULTI-FAMILY RESIDENCE LIMITED DENSITY-CONDITIONAL OVERLAY (MF-1-CO) COMBINING DISTRICT FOR TRACT ONE, NEIGHBORHOOD COMMERCIAL-CONDITIONAL OVERLAY (LR-CO) COMBINING DISTRICT FOR TRACT TWO AND GENERAL OFFICE-CONDITIONAL OVERLAY (GO-CO) COMBINING DISTRICT FOR TRACT THREE, LOCALLY KNOWN AS 5800-6802 F.M. 2222 ROAD AND 6100-6712 CAPITAL OF TEXAS HIGHWAY NORTH (LOOP 360), IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

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 districts on the property described in File C14-99-0076, as follows:

Tract 1: From Development Reserve (DR) district and Single Family Residence Standard Lot (SF-2) district to Multi-Family Residence Limited Density-Conditional Overlay (MF-1-CO) combining district.

A 98.467 acre tract of land out of the James Jett Survey No. 1 in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance;

Tract 2: From Single Family Residence Standard Lot (SF-2) district to Neighborhood Commercial-Conditional Overlay (LR-CO) combining district.

A 13.93 acre tract of land out of the James Jett Survey No. 1 in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this ordinance;

Tract 3: From Development Reserve (DR) district and Single Family Residence Standard Lot (SF-2) district to General Office-Conditional Overlay (GO-CO) combining district.

A 28.794 acre tract of land out of the James Jett Survey No. 1 in Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibit "C" incorporated into this ordinance, (the "Property")

commonly known as Tracts 1B, 1C and 1D, locally known as 5800-6802 F.M 2222 Road and 6100-6712 Capital of Texas Highway North, (Loop 360), in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "D".

PART 2. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property and the property described in Exhibits E, F, and G, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 6,500 adjusted trips per day.

PART 3. The property identified as Tract 1 within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. Development shall comply with the Townhouse and Condominium Residence (SF-6) site development regulations and performance standards, except as provided for in Subpart 2.
2. A building or structure may not exceed a height of 40 feet above ground level.

PART 4. The property identified as Tract 2 within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. Retail development may not exceed 40,000 square feet of gross floor area.
2. Prior to site plan approval, clean-up of lead deposits on the property must be completed.

PART 5. The property identified as Tract 3 within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. Office development may not exceed 230,000 square feet of gross floor area.
2. Prior to site plan approval, clean-up of lead deposits on the property must be completed.

PART 6. Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the respective base districts and other applicable requirements.

PART 7. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 8. This ordinance takes effect on March 20, 2000.

PASSED AND APPROVED

March 9, 2000

§
§
§

Kirk Watson

Kirk Watson
Mayor

APPROVED:

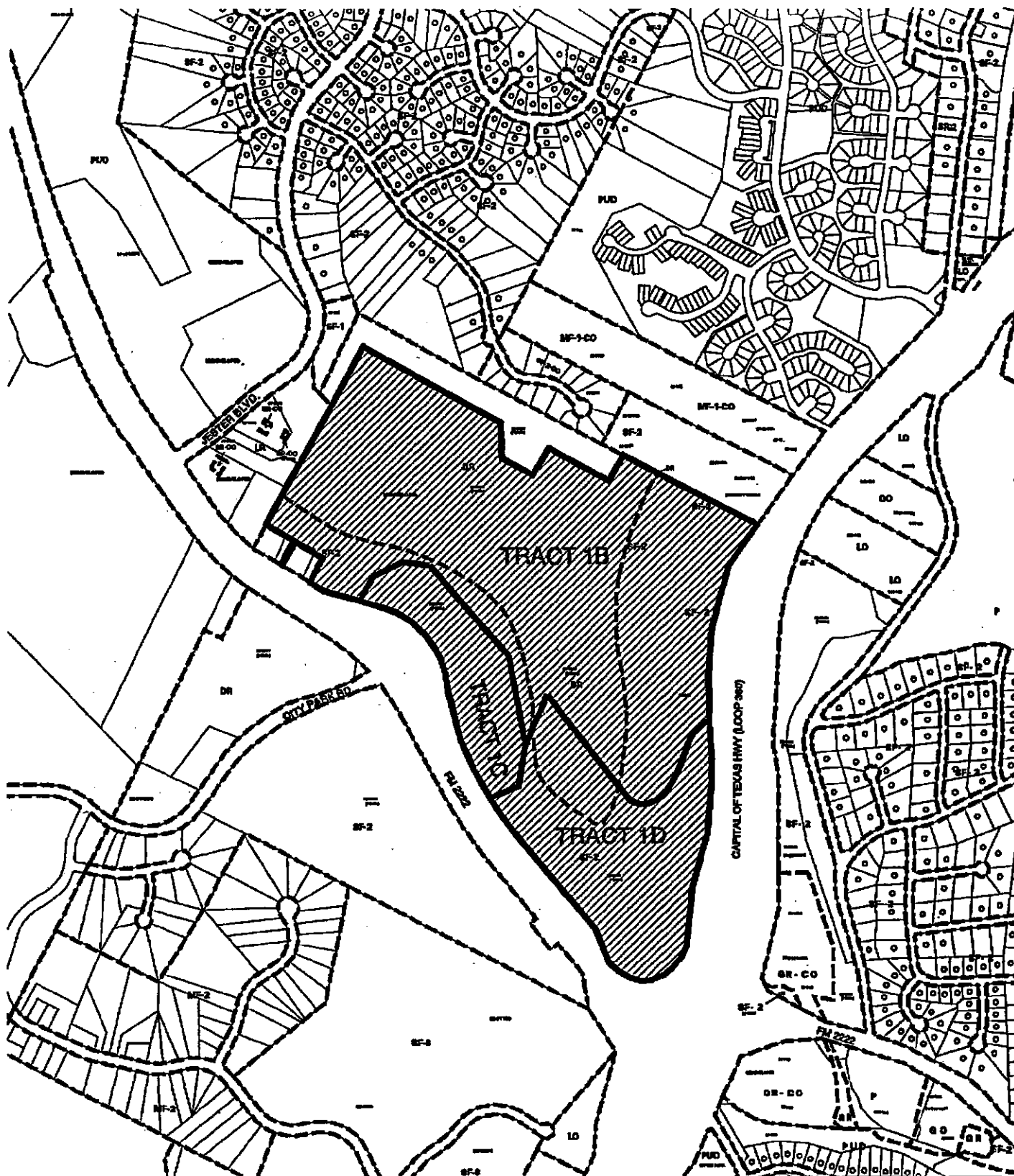
Andrew Martin





Andrew Martin
City Attorney

ATTEST:

Shirley A. Brown

Shirley A. Brown
City Clerk



 1" = 800'	SUBJECT TRACT 	ZONING EXHIBIT D	CITY GRID REFERENCE NUMBER F30, F31
	PENDING CASE 		
	ZONING BOUNDARY 		
	CASE MGR: JRUSTHOVEN 000309-80		
CASE #: C14-99-0076		DATE: 00-03	
ADDRESS: CHAMPION TRACT		INTLS: TRC	
SUBJECT AREA (acres): 141.181			

NO. 94-07160

JOSIE ELLEN CHAMPION,
JUANITA CHAMPION MEIER,
AND MARY MARGARET CHAMPION
ROBERSON,

PLAINTIFFS

VS.

CITY OF AUSTIN,

DEFENDANT

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

353RD JUDICIAL DISTRICT

COMPROMISE SETTLEMENT AGREEMENT

This Compromise Settlement Agreement (Agreement) is made effective on the 13th day of June, 1996, by and between Josie Ellen Champion, Juanita Champion Meier and, Mary Margaret Champion Roberson (the Champions) and the City of Austin (the City).

In consideration of the mutual promises and obligations set forth herein and for other good and valuable consideration, the sufficiency of which is acknowledged by the Champions and the City, the parties agree as follows:

1. For purposes of this Agreement, "the Subject Property" will be the real estate contained in Tracts 1, 2, 3, 4 and 5, such tracts being the following:

Tract 1: 153.75 acres, more or less, out of the James Jett Survey No. 1, Travis County, Texas, Travis County Plat No. 1 4218 08 18, referred to in the Application for Land Status Determination bearing City of Austin filing No. C81-87-020, the legal description of such tract contained in such application being adopted herein as if fully restated.

- Tract 2: 20.59 acres, more or less, out of the James Jett Survey No. 1, Travis County, Texas, Travis County Tax Plat No. 1 4218 08 18, referred to in Application for Land Status Determination No. C81-87-021, the legal description of such tract contained in such application being adopted herein as if fully restated.
- Tract 3: 49.70 acres, more or less, out of the James Jett Survey No. 1, Travis County, Texas, Travis County Tax Plat No. 1 4218 08 18, referred to in Application for Land Status Determination bearing City of Austin filing No. C81-87-022, the legal description of such tract contained in such application being adopted herein as if fully restated.
- Tract 4: 9 acres, more or less, out of the T. J. Chambers Survey, Travis County, Travis County Tax Plat No. 1 3912 06 01, referred to in Application for Land Status Determination bearing City of Austin filing No. C81-87-023, the legal description of such tract contained in such application being adopted herein as if fully restated.
- Tract 5: 26 acres, more or less, out of the James Jett Survey No. 1 and the Thomas Jefferson Chambers Grant, Travis County, Texas, Travis County Tax Plat No. 1 4211 04 08 (pieces being located on 13418, 14218, 14312) referred to in Application for Land Status Determination bearing City of Austin filing No. C81-87-024, the legal description of such tract contained in such application being adopted herein as if fully restated.

2. Future development of the Subject Property, insofar as such development is within the regulatory and permitting authority of the City, will be governed by the following:

a. Unless otherwise specifically provided in this Agreement, during the term of this agreement all applications relating to development of the Subject Property will be governed solely by the applicable ordinances, rules or other regulations in effect for the subject property on December 8, 1993 immediately prior to the enactment of City of Austin Ordinance No. 931209-H, (the "Bull Creek Ordinance") , including the Lake Austin Watershed Ordinances by virtue of the fact that the tracts were "legal tracts." Such development applications shall include, but not be limited to, all applications for subdivision preliminary plans and final plats, resubdivision or replats, site plans, site development permits, zoning and rezoning (only to the extent that zoning and rezoning ordinances affect lot size, lot dimensions, lot coverage or building size), and all other permits and approvals required for the development of the Subject Property, and all revisions and amendments thereto (other than applications for building or construction permits for structures intended for human occupancy or habitation, which applications will be governed by the laws, ordinances, rules or regulations adopting solely the provisions of uniform building, fire, plumbing or mechanical codes promulgated by a nationally recognized code organization or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons in effect as of the date of the application for the applicable building or construction permit).

b. During the term of this Agreement, it is expressly agreed that the Subject Property may be subdivided and resubdivided so that each Tract may be comprised of one or more separate tracts or lots, under the requirements of the Lake Austin Watershed Ordinance without compliance with any ordinance, rule, regulation or other permitting or approval

requirement adopted after December 8, 1993, including specifically, but without limitation, the Comprehensive Watersheds Ordinance (Ordinance No. 860508-V) as the same has been codified and amended, which ordinance was not applicable by exemption to the Subject Property on December 8, 1993, and that further resubdivisions or replatting of the Subject Property will not trigger the necessity of compliance with the Comprehensive Watersheds Ordinance or any other ordinance, regulation or rule not in effect on December 8, 1993, (except with respect to all applications for building or construction permits for structures intended for human occupancy or habitation, which applications will be governed by the laws, ordinances, rules or regulations adopting solely the provisions of uniform building, fire, plumbing or mechanical codes promulgated by a nationally recognized code organization or local amendments to such codes enacted solely to address imminent threats of destruction of property or injury to persons in effect as of the date of the application for the applicable building or construction permit).

c. During the term of this Agreement, the total amount of impervious cover that may be constructed within Tracts 1, 2 and 3, and that portion of Tract 5 not made subject to Ordinance No. 930513-R will be the maximum impervious cover permitted by the Lake Austin Watershed Ordinance and other ordinances governing such tracts prior to the enactment of the Bull Creek Ordinance, and the amount of impervious cover will not be restricted to an amount less than that permitted by those ordinances.

d. The City will not require a new boundary survey as a condition for rezoning of Tracts 1, 2 and 3.

e. During the term of this Agreement, Tracts 4 and 5 will be permitted to be developed to the maximum extent of impervious cover and building square footage permitted by the Lake Austin Watershed Ordinance and other ordinances in effect on December 8, 1993, and by zoning ordinance No. 920507-B relating to such Tract 4 and zoning ordinance No. 930513-R relating to Tract 5. The restrictive covenant entered into in connection with the enactment of Ordinance 920507-B will be and is hereby amended to delete the following provisions thereof:

"12. Owners shall construct and maintain a detention pond with a minimum volume of two acre feet on the Property. The detention pond will be lined with grasses such (as) Switchgrass and Bushy Bluestem and other appropriate native vegetation for the purpose of reducing the rate of stormwater discharge to the rate of discharge without improvements constructed on the Property"; and

"5. Disturbance of the native vegetation on hillrock and rock outcropping in and along the southern portion of the Property shall be prohibited."

The Champions or their successors in interest shall be permitted to grade the said "hill rock and rock outcropping" to the surrounding natural level.

The aforementioned restrictive covenants will be removed in exchange for the following Agreements as set forth in the Special Exceptions Ordinance, to-wit:

A. For any development on the Property, applicant shall construct property engineered water-quality controls, including at minimum, water quality filtration ponds with full sedimentation chambers as described in the City of Austin Environmental Criteria Manual. The ponds shall be sized to capture the first one-half (.50) inch of stormwater plus one-tenth (.10) of an inch for each additional 10% of impervious cover above 20% from the contributing drainage areas of the project which include impervious

cover. In the event that any cut and fill variances necessary for the construction of these ponds are not granted, the Applicant shall not be required to comply with this subparagraph 2. e. A. Detention of the 2-year storm will not be required.

B. Any agreements, restrictions, covenants, or other legal documentation necessary to construct and maintain the water quality controls required hereby shall be reviewed by the City Law Department prior to execution, and shall include a provision requiring written City approval prior to termination or assignment.

C. Prior to the issuance of a certificate of occupancy or return of fiscal security for development on all or part of the Property, construction of the water-quality controls required hereby shall be completed, as determined by City of Austin inspection, for the portion of the subject property for which a Certificate of Occupancy or return of fiscal is requested.

f. During the term of this Agreement approvals of site plans for the Subject Property will be approved with necessary variances or other provisions reducing the set backs from Loop 360 and RR 2222 required by the Hill Country Roadways Ordinance (No. 860116-J) to twenty-five feet.

3. The provisions of this Agreement will not be affected by any transfer or ownership of all or any part of the Subject Property. The rights and duties expressed herein will run with the land, and shall be binding upon, will be for the benefit of, will be assigned by, and will be enforceable by, the Champions and the subsequent owner(s) of the Subject Property, or any part thereof, and their respective successors and assigns.

4. In consideration for the dismissal of the claims in the lawsuit described below, during the term of this Agreement the City will not impose or require any filing, review, inspection, construction or notification fees with respect to any application for the processing or

approval of any subdivision preliminary plans and final plats, resubdivisions or replats, site plans or site development permits, zoning or rezoning for the development of the Subject Property, and all such fees are hereby expressly waived by the City.

5. During the term of this Agreement, the City will follow established regulations and procedures for any legislative actions (including, but not limited to, zoning or rezoning) related to the Subject Property to the extent that such regulations are not inconsistent with the Lake Austin Watershed Ordinance and this Agreement; provided, however, in the event any such legislative action results in requirements or conditions that are contrary to, in addition to, or in any manner inconsistent with, the provisions hereof, the owner(s) of the Subject Property, or any part thereof, may elect any one or more of the following with respect to any such ordinances, rules, regulations or other requirements sought to be imposed on the development or use of the Subject Property: (i) enforcement of any state law applicable to the development of the subject property, including without limitation, Sections 481.142, et seq., TEX. GOV'T CODE; (ii) assertion of all claims for attorneys' fees, court costs, temporary taking damages, permanent taking damages or other damages that were asserted or could have been asserted in the lawsuit described below and any such claims that may arise hereafter; and (iii) assertion of any other legal or equitable rights or claims that might exist with respect to the City's actions regarding the Subject Property.

6. Tracts 4 and 5 (excluding that portion of Tract 5 not made subject to zoning ordinance No. 930513-R). The exception granted herein shall apply to any "project" as that term is defined in Section 481.142, Texas Government Code, commenced on Tracts 4 and 5

within ten years by the filing of an application for preliminary subdivision (if applicable) and by the filing and approval of a site plan. In the event that said subdivision and site plan approval are not obtained within the ten year period, all subsequent permits for a "project" shall be governed by the Austin City Code in effect at the time of the filing of the development application.

Tracts 1, 2 and 3 and the portion of Tract 5 not made subject to zoning ordinance No. 930513-R. The exceptions granted herein shall apply to any "project" as that term is defined in Section 481.142, Texas Government Code, commenced on Tracts 1, 2 3, or that portion of Tract 5 not made subject to zoning ordinance No. 930513-R within six years by the filing of an application for preliminary subdivision plan or any other development permit. Provided, however, that any application filed within six years will be subject to expirations contained in the Austin City Code in effect as of December 8, 1993. In the event that said development permit is not filed within the six year period, all subsequent permits for a "project" shall be governed by the Austin City Code in effect at the time of the filing of the development application.

Notwithstanding the foregoing, should the owners elect, applications filed during the first six years from the effective date of this Ordinance may be governed by the provisions of state law and the Austin City Code in effect at the time of the filing of said applications.

7. Nothing in this Agreement will prevent the City and the owner(s) of the Subject Property, or any part thereof, from making agreements regarding the development or use of the Subject Property, or any part thereof owned by such party, in addition or contrary to the

provisions hereof by agreement; provided, any such agreement must be in writing and executed by the City and the owners of the portions of the Subject Property affected thereby, and further provided that any such agreement shall expressly reference this Agreement.

8. The Champions and the City agree to submit to the Court in Cause No. 94-07160, in the 353rd District Court of Travis County, Texas, a proposed Agreed Order in the form attached hereto as Exhibit A and to request the Court to enter the Agreed Order in accordance with the settlement set forth in this Agreement.

9. Notwithstanding anything herein to the contrary, in the event of any conflict between any provision of this Compromise Settlement Agreement and the Special Exceptions Ordinance, the parties hereto agree that the Special Exceptions Ordinance shall control.

10. The City and the Champions warrant that the parties executing this Agreement have the all requisite authority to bind the parties and are executing the Agreement within the scope of and in accordance with such authority.

11. Unless expressly stated otherwise in this Agreement, the provisions hereof are binding on all successors, agents, employees, representatives and assigns of the City and the Champions.

12. This Agreement is made in settlement of disputed claims and causes of action, and the provisions hereof are not to be construed as an admission of liability by any party, which liability is hereby denied; nor is this Agreement or any proceeding in the lawsuit between the parties to be considered as res judicata, collateral estoppel or binding in any manner on persons or entities not parties hereto or otherwise entitled to the benefits by the express provisions

hereof.

EXECUTED to be effective the 11th day of July, 1996.

Josie Ellen Champion
JOSIE ELLEN CHAMPION

Janita Champion Meier
JANITA CHAMPION MEIER

MARY MARGARET CHAMPION ROBERSON

CITY OF AUSTIN

By: Alice Glasco
Printed Name: ALICE GLASCO
Its: _____

STATE OF TEXAS

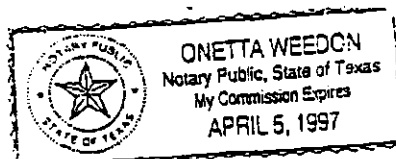
§
§
§

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, appeared JOSIE ELLEN CHAMPION, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on the 11th day of July, 1996, to certify which witness my hand and official seal.

Onetta Weedon
Notary Public, State of Texas
My Commission Expires: _____
Printed Name: _____



STATE OF TEXAS

§

COUNTY OF TRAVIS

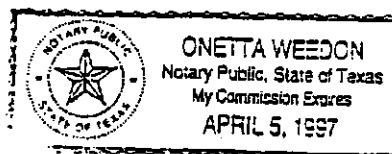
§

§

BEFORE ME, the undersigned authority, appeared JUANITA CHAMPION MEIER, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on the 11th day of July, 1996, to certify which witness my hand and official seal.

Onetta Weedon
Notary Public, State of Texas
My Commission Expires: _____
Printed Name: _____



STATE OF TEXAS

§

COUNTY OF DALLAS

§

§

BEFORE ME, the undersigned authority, appeared MARY MARGARET CHAMPION ROBERSON, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on the _____ day of _____, 1996, to certify which witness my hand and official seal.

Notary Public, State of Texas
My Commission Expires: _____
Printed Name: _____

STATE OF TEXAS

COUNTY OF TRAVIS

§
§
§

BEFORE ME, the undersigned authority, appeared Nice Glesco,
_____, for the City of Austin, known to me to be the person whose name
is subscribed to the foregoing instrument and acknowledged to me that he executed the same for
the purposes and consideration therein expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on the 27th day of
June, 1996, to certify which witness my hand and official seal.



Carol Kaml
Notary Public, State of Texas
My Commission Expires: _____
Printed Name: _____

**City Council transcript from March 9, 2000, referencing original
Champion zoning cases limiting trips to 6,500 per day on third reading.**

>>MAYOR WATSON: FOLKS, HEY, EVERYBODY, IF I COULD GET YOU TO QUIETLY LEAVE, THEN WE COULD GO ON TO OTHER ITEMS. THANK YOU. ITEM NUMBER 67. COUNCIL, WE TOOK UP ITEM 67 EARLIER TODAY AND PASSED ON -- PASD THE ITEM ON SECOND READING. IT HAS BEEN CALLED ON OUR ATTENTION THAT WHEN WE PASSED THIS ITEM ON FIRST READING, IT WAS NOT POSTED IN ITS ENTIRETY IN THE APPROPRIATE WAY TO MEET THE PROVISIONS OF THE CITY CHARTER. SO WHAT I WOULD LIKE TO DO IS I WOULD LIKE TO ASK FOR A MOTION TO RECONSIDER ITEM NUMBER 67. MOTION IS MADE BY COUNCILMEMBER GARCIA. SECONDED BY COUNCILMEMBER SPELMAN. THERE DISCUSSION? HEARING NONE, ALL THOSE IN FAVOR SAY AYE. OPPOSED SAY NO. MOTION CARRIES. ITEM NUMBER 67. COUNCILMEMBER SPELMAN?

>>SPELMAN: MOVE APPROVAL OF ITEM 67 ON FIRST READING.

>>MAYOR WATSON: MOTION IS TO APPROVE ITEM 67 ON FIRST READING. IS THERE A SECOND? SECONDED BY COUNCILMEMBER GARCIA. IS THERE A DISCUSSION? HEARING NONE, ALL THOSE IN FAVOR SAY AYE. OPPOSED SAY NO. THE MOTION CARRIES ON ITEM NUMBER 67 WITH THE -- WITH COUNCILMEMBER SLUSHER OFF THE DIAS. ITEM NUMBER -- LET'S GO TO ZONING. I TELL YOU WHAT, BEFORE WE DO THAT, LET'S GO TO THE CHAMPION PROPERTIES. ITEMS 67, 78, 79, 80 AND 81. WHO'S GOING TO MAKE THE PRESENTATION? MS. THOMAS?

>> MAYOR, COUNCILMEMBERS, IN FRONT OF YOU YOU HAVE ORDINANCES THAT WERE PASSED ON SECOND READING. THE OWNERS OF THE PROPERTY HAVE MADE SEVERAL RECOMMENDATIONS. THE LAW DEPARTMENT RECOMMENDS THAT YOU ADOPT TWO OF THE RECOMMENDATIONS IN ORDER TO COMPLY WITH THE SETTLEMENT AGREEMENT. I THOUGHT IT WOULD BE EASIER JUST TO GO THROUGH THE ITEMS BY CASE. ITEM NUMBER 77, WHICH IS COMMONLY KNOWN AS TRACT 1-A, THERE WOULD BE NO CHANGES TO THAT ORDINANCE. ITEM NUMBER 78, COMMONLY REFERRED TO AS TRACT 3, IN PART 2, SUBPART B, A BUILDING OR STRUCTURE MAY NOT BE CONSTRUCTED OR MAINTAINED WITHIN 200 FEET OF BULL CREEK, THAT ITEM WOULD BE DELETED. PUT 2, SUBPART 5, A BUILDING OR STRUCTURE MAY NOT EXCEED A HEIGHT OF 25 FEET ABOVE GROUND. THAT ITEM WOULD BE DELETED. ITEM NUMBER 79, THERE WOULD -- THAT'S THE TRACT 5 ON WHICH THE NEIGHBORHOOD AND THE OWNERS HAVE COME TO AN AGREEMENT. THERE WOULD BE NO CHANGES TO THAT ORDINANCE. ITEM NUMBER 80, COMMONLY KNOWN AS TRACTS 1-B, 1-C AND 1-D, PART 4, SUBPART 2 A BUILDING OR STRUCTURE MAY NOT BE CONSTRUCTED OR MAINTAINED WITHIN 200 FEET OF BULL CREEK WOULD BE DELETED. PART 5, SUBPART 2, A BUILDING OR STRUCTURE MAY NOT BE CONSTRUCTED OR MAINTAINED WITHIN 200 FEET OF BULL CREEK WOULD BE DELETED. ON ITEM 81, COMMONLY REFERRED TO AS TRACT 2, PART 2, SUBPART 3, A BUILDING OR STRUCTURE MAY NOT BE CONSTRUCTED OR MAINTAINED WITHIN 200 FEET OF BULL CREEK, THAT ITEM WOULD BE DELETED. AND WITH THOSE CORRECTIONS, THE ITEMS WOULD BE -- WOULD COMPLY WITH THE SETTLEMENT AGREEMENT

>>SPELMAN: CLARIFICATION, MAYOR? ON ITEM 79, THAT'S TRACT 5, PART 2, ITEM NUMBER 9 THERE IS A LINE HERE SAYING THAT A BUILDING OR STRUCTURE MAY NOT EXCEED A HEIGHT OF 28 FEET ABOVE GROUND LEVEL.

>> THE OWNERS HAVE AGREED TO THAT PROVISION.

>>SPELMAN: TERRIFIC. THANK YOU.

>>MAYOR WATSON: IS THERE A METION ON THOSE ITEMS?

>>GRIFFITH: I MOVE APPROVAL.

>>MAYOR WATSON: MOTION IS MADE TO APPROVE BY COUNCILMEMBER LEWIS. SECONDED BY COUNCILMEMBER SPELMAN. COUNCILMEMBER SLUSHER?

>>SLUSHER: I HAVE AN AMENDMENT. WE HAD DISCUSSED POSSIBLY DOING SOME PORTABLE HOUSING ON THIS, -- SOME AFFORDABLE HOUSEOGTHIS, BUT THE APPLICANT WANTED TO DO MORE TRAFFIC IN EXCHANGE FOR THAT. AND IN MY VIEW THAT'S NOT GOING TO WORK OUT, SO I WOULD LIKE TO MAKE AN AMENDMENT TO -- ON PART 1, WOULD CHANGE THAT FROM -- PART 1 CHANGED TO READ FROM DEVELOPMENT DISTRICT, SINGLE-FAMILY RESIDENT, STANDARD LOT -- FROM DEVELOPMENT RESERVE AND SINGLE-FAMILY RESIDENTS, SF-2 DISTRICT TO SINGLE-FAMILY RESIDENT, SINGLE LOT CONDITIONAL OVERLAY SF-CO 2 COMBINING DISTRICT. THAT WOULD BE MY AMENDMENT.

>>SPELMAN: WHICH ITEM WOULD THAT BE, COUNCILMEMBER?

>>SLUSHER: THAT'S PART 1, TRACT ONE.

>> ITEM 80.

>>SLUSHER: SORRY. AND THEN PART 3 WOULD NOT BE NECESSARY, SO WE WOULD DELETE PART 3. GRIF GRAVE AND THAT WOULD FRIENDLY, MAYOR.

>>GRIFFITH: AND THAT WOULD BE FRIENDLY, MAYOR.

>>MAYOR WATSON: WHO WAS THE MAKER OF THE SECOND?

>>SPELMAN: I WAS AND I DON'T CONSIDER IT FRIENDLY. YOU'LL HAVE TO FIND ANOTHER SECOND, I'M AFRAID.

>>SLUSHER: I'LL SECOND IT.

>>MAYOR WATSON: THAT WON'T WORK. YOU CAN'T MAKE IT AND SECOND IT. HANG ON. LET'S DO IT THIS WAY. IS THERE -- THAT WOULD HAVE TO BE CONSIDERED A SUBSTITUTE MOTION. IS THERE ANYONE WISHING TO SECOND THE MOTION MADE BY COUNCILMEMBER SLUSHER?

>>GRIFFITH: I DO. BUT I'VE GOT THE MAIN MOTION.

>>MAYOR WATSON: YOU'VE GOT THE MAIN MOTION, SO IS THERE ANYONE WISHING TO SECOND THE MOTION. COUNCILMEMBER GARCIA SECONDS IS FOR PURPOSES OF DISCUSSION.

>>SPELMAN: I'LL DEFER TO COUNCILMEMBER. IT'S HIS MOTION.

>>SPELLMAN: WHAT'S THE ADVANTAGE OF DOING IT THIS WAY?

>>SLUSHER: ORIGINALLY WE HAD GONE WITH THE NEIGHBORHOOD PROPOSAL TO DO SINGLE-FAMILY. WELL, WE HAD GONE WITH THE NEIGHBORHOOD PROPOSAL THAT WAS PUT TOGETHER. AND ON THIS ONE, SINCE THIS DEVELOPMENT IS NOT -- IS FROM THE WATERSHED ORDINANCES AND WE'VE HEARD A LOT OF TALK ABOUT THOSE

ORDINANCES DRIVE UP THE COST OF HOUSING, THEN I WOULD HOPED SINCE THEY DID NOT HAVE TO COMPLY WITH THAT, THEN THEY WOULD BE ABLE TO DO A PERCENTAGE OF AFFORDABLE HOUSING, BUT THE DEVELOPMENT -- BUT WE ALSO HAVE AN OVERRIDING CONCERN IN THIS AREA WHERE THERE ARE FAILING INTERSECTIONS WITH TRAFFIC. HE WANTED TO EXCHANGE THAT FOR MORE TRAFFIC NUMBERS AND THAT'S NOT ACCEPTABLE TO ME, SO I WENT BACK TO THE ORIGINAL NEIGHBORHOOD PLAN.

>>MAYOR WATSON: COUNCILMEMBER LEWIS?

>>LEWIS: WHERE IN HERE DOES IT TALK ABOUT THE AMOUNT OF TRAFFIC?

>>SLUSHER: IT'S ON PART 2.

>>LEWIS: PART 2.

>>LEWIS: 6500 SUGGESTED TRIPS. WHAT DO THEY WANT TO GO TO?

>>SLUSHER: HE SAID 95 HUNDRED YESTERDAY.

>>LEWIS: AND THEY'RE SAYING ADJUSTED TRIPS. 6500 ADJUSTED TRIPS?

>>SLUSHER: IT WAS MY UNDERSTANDING HE JUST WANTED TO CHANGE THE NUMBER, NOT ANY DEFINITIONS OR ANYTHING LIKE THAT.

>> YES, THE CORRECT NUMBER IS 6500 ADJUSTED TRIPS. THE APPLICANT'S PROPOSAL WAS 95 HUNDRED ADJUSTED TRIPS.

>>LEWIS: OKAY. SO WOULD THAT GIVE HIM 3,000 MORE TRIPS OR WOULD IT GIVE HIM 95 HUNDRED ADJUSTED. AND IF YOU ADJUSTED, THE 6500 HAS TO BE ADJUSTED TO SOMETHING.

>> BECAUSE BOTH TRIP NUMBERS ARE REFERRING TO THE ADJUSTED NUMBER, IT WOULD HAVE THE EFFECT OF RAISE TING BY 3,000 TRIPS.

>>LEWIS: WHAT IS THE 6500 ADJUSTED TO?

>> WHAT THE ADJUSTS MEANS IS THAT IS AFTER REDUCTIONS ARE FOR PASS BY. THEN WHAT WE WOULD DO IS WHEN HE CAME IN FOR A SITE PLAN APPLICATION, WE WOULD MAKE SURE THAT THE NUMBER IS NOT GREATER THAN 6500. THE APPLICANT IS SUGGESTING THE SAME THING, BUT HE WOULD LIKE THE NUMBER UP FROM 6500 TO 95 HUNDRED.

>>LEWIS: IS THIS SOMETHING THAT WE CAN ENFORCE?

>> YES. IT IS. AT THE TIME THAT THE SITE PLANS ARE SUBMITTED, WE WILL HAVE -- BE ABLE TO CALCULATE THE TRAFFIC GENERATION.

>>LEWIS: I'M SAYING CAN WE ENFORCE IT?

>> WE WOULD ENFORCE IT BY NOT APPROVING A SITE PLAN THAT GENERATED THE AMOUNT OF TRAFFIC THAT EXCEEDED THE NUMBER IN THE ORDINANCE.

>>LEWIS: WE DON'T HAVE THE TRAFFIC BEFORE WE BUILD ANYTHING? SO HOW DO WE KNOW AFTER ITS BUILT WHETHER OR NOT IT'S ENFORCEABLE?

>> WE DO NOT KNOW AFTER IT IS BUILT WHETHER IT MATCHES OUR ESTIMATES. WE USE NUMBERS THAT ARE CALCULATED FROM THE INSTITUTE OF TRANSPORTATION ENGINEERS. THEY HAVE A BOOK CALLED TRIP GENERATION. AND THAT HAS NATIONAL AVERAGES FOR THE AMOUNT OF TRAFFIC GENERATED BY RETAIL, SINGLE-FAMILY, MULTI-FAMILY, ETCETERA.

>>LEWIS: I GO BACK TO MY ORIGINAL QUESTION. CAN IT BE ENFORCED? WE SET IT, NOW, CAN WE ENFORCE IT?

>> WE CAN ENFORCE IT, LIKE I SAID, BY DETERMINING BEFOREHAND THAT THEY DO NOT --

>>LEWIS: I MEAN THE ACTUAL TRIPS. CAN WE ENFORCE THE ACTUAL TRIPS? I KNOW WE CAN ENFORCE THE NUMBERS. CAN WE REINFORCE THE TRIPS?

>> WE CAN TAKE DOUNTS AFTER THE DEVELOPMENT IS BUILT AND MAKE SURE THAT THEY'RE NOT EXCEEDING THE AMOUNT THAT IS IN THE ORDINANCE.

>>LEWIS: SO WE WOULD -- WE WOULD TAKE -- WE WOULD TAKE THESE NUMBERS, THE TOTAL NUMBER, AND DO THE ADJUSTMENTS TO DO THE CALCULATION AFTER IT'S ENFORCED. HAVE WE DID THAT AT ANYPLACE IN THE LAST THREE YEARS?

>> WE HAVE HAD SEVERAL CASES WHERE WE DID HAVE PROVISIONS FOR GOING OUT AND LOOKING AT THE TRAFFIC AFTER A DEVELOPMENT IS BUILT TO SMIK MAIK SURE IS MATCHES THE ESTIMATES WE HAD BEFORE IT WAS BUILT?

>>LEWIS: HAVE WE DID IT IN THE LAST THREE YEARS?

>> TO MY KNOWLEDGE WE HAVE NOT FOLLOWED THROUGH AND ACTUALLY GONE BACK AND COUNTED THE TRAFFIC AFTER A PROJECT HAS BEEN BUILT, BUT WE DO HAVE A COUPLE OF PRONLZ WHERE WE HAVE A TIME LINE TO DO THAT,ND THAT TIME LINE WE HAVE NOT REACHED YET.

>>LEWIS: WELL, YOU KNOW, AND I DON'T KNOW WHAT THE -- WHAT THE NUMBER OF AFFORDABLE HOUSING WAS IN THE PROPOSAL, BUT IT SIEMZ LIKE TO ME THAT IF IT'S SOMETHING THAT -- IT SEEMS LIKE TO ME THAT IF IT'S SOMETHING THAT WE'VE NEVER ENFORCED, I DON'T KNOW HOW WE WOULD KNOW THE DIFFERENCE BETWEEN 6500 ADJUSTED TRIPS OR 95 HUNDRED ADJUSTED TRIPS.

>> WELL, COUNCILMEMBER, WHEN -- WE HAVE SET NUMBERS FOR THE AMOUNT OF STRAIRJ AND IT GENERATES A CERTAIN AMOUNT OF TRAFFIC AND WE WOULD NOT APPROVE A PROJECT THAT EXCEEDED THAT. LEWIS I UNDERSTAND THAT THAT'S THE -- THAT'S -- TECHNICALLY THAT'S WHAT IT GENERATES, BUT I'M SAYING -- AND ALL WE GO ON IS TECHNICALLY NUMBERS, RIGHT? WE DON'T -- WE HAVEN'T DID ANY TRAFFIC COUNTS IS WHAT YOU'RE TELLING ME.

>> CORRECT. WE USUALLY TRY -- THE WAY WE ENFORCE IT IS NOT APPROVING PROJECTS THAT EXCEED THE SIZE OF THE ESTIMATE. BUT IF THERE WERE A CITIZEN COMPLAINT THAT THOUGHT OUR ESTIMATES WERE LOW AND THEY WERE GENERATING MORE TRAFFIC THAN WHAT OUR ORIGINAL ESTIMATES WERE, WE

COULD LAY A TUBE OUT, COUNT THE TRAFFIC ON A DAILY BASIS AND SEE IF THEY WERE EXCEEDING WHAT OUR ESTIMATES WERE. IF THEY WERE, I IMAGINE WE COULD FOLLOW THROUGH WITH SOME TRAFFIC ENFORCEMENT.

>>LEWIS: BUT -- OKAY. NOW YOU'RE GETTING TO THE -- TO MY QUESTION. IF WE ADJUST -- IF WE APPROVE THIS BASED ON THE TECHNICAL AND THE PROJECTED NUMBER OF -- AMOUNT OF TRAFFIC AND WE BUILD THE SQUARE FOOTAGE FOR THAT AND WE GO OUT AND DO A COUNT AND IT'S MORE, THEN WHAT HAPPENS?

>> WELL, THEN WE'D HAVE A PROBLEM BECAUSE THE PROJECT IS ALREADY BUILT, OF COURSE, AND IT'S THE BUILT PROJECT THAT IS GENERATING THE TRAFFIC.

>>LEWIS: THAT LEADS TO THE ORIGINAL QUESTION. CAN WE ENFORCE IT?

>> I BELIEVE WE CAN ENFORCE IT. WE COULD TAKE ACTION BECAUSE THEY WOULD BE EXCEEDING THAT WHICH IS ALLOWED IN THE ORDINANCE. THE MEANS THAT WE WOULD TAKE TO GET THEM TO REDUCE THEIR TRAFFIC I THINK WOULD PROBABLY BE OPEN FOR DISCUSSION AT THE TIME WE DISCOVERED IT WAS OVER BECAUSE OF COURSE WHAT GENERATES THE TRAFFIC IS THE BUILDING SIZE OR THE NUMBER OF UNITS. AND ONCE THOSE UNITS ARE ALREADY BUILT, IF THEY'RE EXCEEDING WHAT THE NATIONALLY ACCEPTED ESTIMATE IS, I THINK THAT WE WOULD --

>>LEWIS: YOU UNDERSTAND WHERE I'M COMING FROM. I'M SAYING HE BUILT IT TO OUR SPECIFICATIONS AND THEN WE FIND OUT THAT IT'S MORE TRAFFIC THERE THAN WE PROJECTED. ARE WE GOING TO TELL THEM HE HAS TO TAKE DOWN SOME OF THE BUILDINGS OR WHAT ARE WE GOING TO SAY?

>> COUNCILMEMBER, I'M GOING TO ATTEMPT TO RESPOND TO YOUR QUESTION JUST TO ADD ON TO WHAT MR. RUST HOVEN INDICATED. IF WE HAVE A VIOLATION, ONCE WE HAVE AN AGREEMENT THROUGH THE ZONING PROCESS AND A CERTAIN AMOUNT OF DEVELOPMENT IS CONTEMPLATED AND WE FIND OUT LATER ON AFTER ITS BUILT THAT GIVEN THE MIX OF USES THAT HAVE BEEN PUT ON THE SITE ARE GENERATING MORE TRAFFIC THAN WHAT'S CONTEMPLATED, THEN YOU LOOK AT THE USES THAT ARE EXISTING ON THAT SITE, YOU WOULD OBVIOUSLY NOT DEMOLISH THE BUILDING, BUT ELIMINATE SOME OF THE USES THAT ARE CREATING THE EXCESSIVE TRAFFIC. THAT'S HOW YOU WOULD ADDRESS THAT KIND OF ENFORCEMENT. IT'S THROUGH THE ADJUSTMENT OF THE USES THAT ARE ON THE SITE. IF THE USES ARE TRIGGERING MORE TRAFFIC THAN WAS CONTEMPLATED, THEN THE ENFORCEABLE OPTION IS TO ELIMINATE THOSE USES THAT ARE TRIGGERING THE ADDITIONAL TRAFFIC THROUGH OUR ENFORCEMENT PROCESS.

>>LEWIS: OKAY. I HEAR WHAT YOU'RE SAYING, BUT I'M SAYING YOU BUILD 10 SINGLE-FAMILY HOUSES, IT HAS A PROJECTED NUMBER OF -- X NUMBER OF TRIPS, RIGHT?

>> CORRECT.

>>LEWIS: OKAY. BUT IF THOSE 10 HOUSES ALL HAVE TEENAGERS WITH CARS, IT INCREASES THE NUMBER OF TRIPS.

>> THAT IS TRUE.

>>LEWIS: SO WHAT DO YOU DO IN THAT CASE? YOU DON'T SAY, WELL, SOMEBODY HAVE TO MOVE. I MEAN, SEE WHERE I'M GOING? I UNDERSTAND WHAT YOU'RE

SAYING, BUT SINGLE-FAMILY USES, THE DENSITY AND THE NUMBER OF TRAFFIC, THE TRAFFIC IMPACT ANALYSIS TYPICALLY THAT IS SUBMITTED THROUGH A ZONING PROCESS WOULD ADDRESS THE EXCESSIVE TRAFFIC ISSUE AND HOPEFULLY AT THE ZONING PROCESS THAT A DENSITY LIMITATION WOULD BE IMPOSED TO REDUCE THE NUMBER OF UNITS THAT ARE ULTIMATELY BUILT, THE NUMBER OF HOMES, THUS REDUCE THE NUMBER OF TRIPS.

>>LEWIS: OKAY. BUT WHERE I'M GOING IS IF YOU BUILD X NUMBER OF UNITS AND ALL THE PEOPLE HAVE CHILDREN THAT'S UNDER 15 YEARS OF AGE, THEN YOU DON'T HAVE AN INCREASE OF TRAFFIC. BUT AS SOON AS THEY ALL GET CARS, YOU KNOW, IF IT'S FIVE CHILDREN IN THE FAMILY, AND THEY ALL GET CARS AND THE TWO ADULTS HAVE CARS, THEN THAT'S -- GENERALLY THAT'S GOING TO INCREASE THE NUMBER OF TRIPS. AND I'M SAYING, CAN WE ENFORCE THAT ONCE IT HAPPENS? THAT'S MY QUESTION. AND I ASKED LEGAL, WHAT WOULD WE DO IN A CASE LIKE THAT?

>> WELL, AS MS. GLASCO EXPLAINED, WE'D DISCUSS IT WITH THE OWNER AND DISCUSS THE MIX OF USES. THERE WOULD ALSO BE THE POSSIBILITY OF BRINGING THE CASE BACK TO ADJUST THE ZONING AND ADJUST THE TRIPS THAT ARE PERMITTED.

>>LEWIS: OKAY. SO BASICALLY YOU'RE SAYING WE CAN'T ENFORCE IT.

>> PERSONNEL MATTERS, SECTION

>>

>> THE DIFFICULTY WE'RE HAVING IS IF YOU COMPARE SINGLE-FAMILY AND MULTI-FAMILY OR COMMERCIAL DEVELOPMENT, YOU HAVE TWO DIFFERENT SCENARIOS. THE SINGLE-FAMILY ONE WOULD COME BEFORE YOU AND GIVE YOU A SCENARIO OF HOW MANY TRIPS WHEN YOU'RE ZONING SINGLE-FAMILY DEVELOPMENT, WE ASSUME A CERTAIN RATIO, A PERCENTAGE OF NUMBER OF TRIPS THAT ARE GIVEN BASED ON STUDIES NATIONALLY OF HOW MUCH EACH SINGLE-FAMILY HOUSE GENERATES. AND THE ASSUMPTION ASSUMES THAT YOU'RE GOING TO HAVE TEENAGERS AND SO MANY VEHICLES, HENCE THE NATIONAL STANDARD THAT IS USED. THEREFORE THAT TELLS YOU IF YOU ARE GOING TO ZONE A PIECE OF PROPERTY, AND THAT PIECE IS GOING TO YIELD SO MANY HOMES, YOU EXPECT TO HAVE AN X NUMBER OF TRIPS PER DAY BASED ON THE STANDARD THAT HAS BEEN ESTABLISHED NATIONALLY TO BE USED. SO YOU KNOW GOING INTO IT EVERY THURSDAY WHEN YOU'RE ZONING A PIECE OF PROPERTY FOR SINGLE-FAMILY AND YOU'VE HAD THAT ANALYSIS RUN SEVERAL TIMES, THAT IF YOU COMPARE A MOBILE HOME CASE VERSUS A STANDARD SINGLE-FAMILY, YOU CAN SEE THE DIFFERENCES IN HOW MANY TRIPS GENERATE. ON THE OTHER HAND, YOU CAN RUN THE SAME NUMBERS FOR MULTI-FAMILY AND REALIZE EXACTLY WHAT YOUR IMPACT IS AND THEN REDUCE THE DENSITY ACCORDINGLY. SO A TRAFFIC COUNTS BASED ON THE STANDARD -- NATIONAL STANDARDS DO LET YOU KNOW EXACTLY WHAT YOU'RE DOING, SO GOING INTO IT YOU'RE APPROVING A DENSITY THAT YIELDS THE KIND OF TRAFFIC THAT YOU'RE AWARE OF INITIALLY FROM THE BEGINNING, SO IF YOU INTEND TO REDUCE IT, YOU DO IT BY REDUCING THE NUMBER OF DENSITY FROM DAY ONE SO THAT YOU -- YOUR YIELD IS EXACTLY WHAT YOU CONTEMPLATED FOR RESIDENTIAL. NOW, FOR COMMERCIAL OBVIOUSLY YOUR ENFORCEMENT HAS TO DO SIMPLY WITH THE USES, PARKING USES. WHEN USES COME INTO US AND THERE IS AN EXCESS OF PARKING REQUIREMENTS, IF SOMEONE COMES IN AND INDICATES THAT I WANT TO CHANGE MY MIX OF USES, WHAT TYPICALLY HAPPENS IS EITHER YOU EXCEED THE NUMBER OF PARKING SPACES THAT ARE NEEDED OR YOU DON'T HAVE SUFFICIENT PARKING SPACES AND WHAT WE WOULD TELL THEM IS YOUR OPTIONS ARE TO ELIMINATE YOUR USES SO THAT YOU

HAVE THE NUMBER OF PARKING SPACES THAT CAN ACCOMMODATE YOUR USE. WE USE THE SAME ANALYSIS FOR TRAFFIC IMPACT. [ONE MOMENT, PLEASE, WHILE CAPTIONERS CHANGE]

>>SPELMAN: LIPS LIPS WE'VE GOT T WHICH IS GOING TO DO I THINK THE VAST MAJORITY OF WHAT THE NEIGHBORHOOD NEEDS DONE THIS THIS TRACT. MY QUESTION TO MR. WHA LAN AND THE SAME QUESTION OF MR. CAUSER IS TO GET A REALITY CHECK. FROM YOUR POINT OF VIEW, DOES IT MATTER TO YOU AND YOUR CLIENT WHETHER THIS IS MULTI-FAMILY OR SINGLE-FAMILY AND IF SO WHY?

>> MICHAEL WHEN HE LAN ON BEHALF OF THE APPLICANT. THE NUMBER OF HOUSING UNITS YOU WOULD BE ABLE TO GET ON THAT TRACT WOULD BE QUITE LIMITED. IT IS, AS YOU ALL KNOW FROM THE TOP POSE THAT I'VE SHOWN EVERYBODY, VERY, VERY STEEP, CLUSTERED HOUSING IS THE MOST APPROPRIATE USE AT THIS TRACT. THE STAFF RECOMMENDATION INDICATED SUCH. THE CITY'S OWN EXPERT IN LITIGATION INDICATED AS SUCH. ALSO, THE TRACT IS -- IS IDEALLY SUITED FOR MULTI-FAMILY AT THE CROSS-SECTION OF TWO MAJOR HIGHWAYS. IT WILL ACTUALLY SERVE AS A BUFFER. YOU KNOW, AS WE'VE ALL SEEN ON PLANNING, MULTI-FAMILY AND THEN SINGLE-FAMILY FIND IT. THE SINGLE-FAMILY BEING THE JESTER RESIDENCE ON WINTERBARRY. THE VALUE OF THE PROPERTY OVERALL HAS ALREADY BEEN CUT BY ONE-HALF DUE TO THE TRAFFIC CAP. I THINK BY CUTTING THE CHAMPIONS FURTHER WITH MULTI-FAMILY WOULD BE DEVASTATING. IN REGARD TO THE MULTI-FAMILY, ONE THING THAT I HAVE PROPOSED TO COUNCILMEMBER SLUSHER WAS TO DO 10% SMART HOUSING UNITS UNDER THE CITY OF AUSTIN PRO POEM IF THERE WOULD BE AN INCREASE IN TRAFFIC AND MY LAST PROPOSAL MOMENTS AGO WHICH IS 8,750 AS A CAP WITH THE 10% SMART HOUSING UNITS. IN ADDITION MY CLIENT WOULD AGREE TO MAKE THE REVISIONS NECESSARY TO THE SETTLEMENT AGREEMENT THAT INCORPORATE THESE CHANGES. IF WE WOULD DO ON THE BOTTOM FROM LO TO GO AND THE ONLY OTHER ELEMENT IS THE TRACT 3, THE SHEPERD MOUNTAIN 300 FOOT SET BACK WHICH I NOTICED WAS NOT MENTIONED BY MS. THOMAS, WE WOULD ASK THAT THAT -- WE UNDERSTAND THAT THE SHEPERD MOUNTAIN PEOPLE NEED RESPECT INSTEAD OF DELETING IT, MAKE IT 100 FEET AND THAT WOULD BE THE PACKAGE THAT WE WOULD PROPOSE TO BE FINALLY AND FOREVER RESOLVED, FINALLY AND FOREVER RESOLVED WITH THE CHAMPION TRACT.

>>SPELMAN: DO I UNDERSTAND CORRECTLY THAT JERRY RUSTHOVEN WILL SHAVE OFF THAT GOTEE.

>> HE HAS AGREED TO SHAVE THAT OFF WHICH ADDS THAT MUCH MORE INCENTIVE TO BE DONE TODAY.

>>SPELMAN: TREMENDOUS INCENTIVE, IT WILL BE DIFFICULT FOR US TO RESIST THAT. SAME QUESTION. DOES IT MATTER FROM THE NEIGHBORHOOD PINT POINT OF VIEW IF THIS IS SINGLE-FAMILY OR FIVE-DAY FORECAST.

>> DO YOU WANT ME TO ANSWER ALL THE OTHER QUESTIONS HE ANSWERED TOO?

>>SPELMAN: ANSWER MY QUESTION FIRST AND THEN ANSWER HIS QUESTION. I WOULD LIKE TO HEAR THAT TOO.

>> TWO MAIN POINTS ON SINGLE-FAMILY BEING PREFERRED ON THE UPLAND STRABTS. WE FEEL THAT IT IS -- IN TERMS OF ZONING AND LAND USE IT IS A MORE COMPATIBLE LAND USE FOR THE ADJACENT SINGLE-FAMILY HOUSING IN THE JESTER AREA, AND FOR THIS, YOU KNOW, PREVIOUSLY UNDEVELOPED REMOTE BUT VERY

VISIBLE HILLSIDE TRACT WE THINK IT IS A BETTER PRESENTED DEVELOPMENT FOR ALL THE SURROUNDING COMMUNITY AND FOR THE VIEWS FROM SURROUNDING TRACTS AND FROM THE ROAD. THAT'S IN COMPATIBILITY TERMS. IN TRAFFIC TERMS, YES, WE UNDERSTAND THERE WOULD BE A 6500 TRIP PER DAY CAP. WHETHER THIS IS SINGLE-FAMILY OR MULTI-FAMILY. ON AN ACTUAL TRIP IMPACT ON THE NEIGHBORHOOD, EVERY RESIDENTIAL TRIP, WHETHER IT'S A SINGLE-FAMILY RESIDENCE OR A MULTI-FAMILY TRIP, IS A TRIP THAT IS MOST LIKELY TO OVERLAP WITH AND CONFLICT WITH THE TRIPS FROM THE JESTER NEIGHBORHOOD AND THE ADJACENT NEIGHBORHOODS. SO IF THERE IS GOING TO BE 6500 TRIPS PER DAY ADJUSTED, OUR PREFERENCE WOULD BE THAT THAT BE MORE DEVELOPMENT IN THE RETAIL AND COMMERCIAL AREA AND LESS DEVELOPMENT IN THE RESIDENTIAL AND UPLAND ADJACENT TO THE NEIGHBORHOOD AREA. I GUESS THE SHORT ANSWER ON THE SECOND PART IS WE DON'T THINK ALL TRIPS ARE CREATED EQUAL. WE THINK FEWER RESIDENTIAL TRIPS TIED TO SINGLE-FAMILY WILL HAVE LESS IMPACT ON THE QUALITY OF LIFE IN THE NEIGHBORHOOD THAN THE SAME NUMBER OF TRIPS GENERATED BY RETAIL.

>>SPELMAN: BECAUSE WHAT DEVELOPERS ARE GOING TO HAVE TO DO TO STAY UNDER THAT 6500 IS SHIFT THOSE TRIPS FROM RESIDENTIAL TOWARDS RETAIL AND OFFICE. AND THAT'S GOING TO BE REVERSE COMMUTING.

>> WE THINK THE NEIGHBORHOOD WILL USE THAT RETAIL. WE THINK RETAIL THERE WOULD BE A BENEFIT TO THE NEIGHBORHOOD, WHEREAS RESIDENTIAL UP AGAINST THE NEIGHBORHOOD ON THE UPLAND TRACT WILL JUST BE MORE PEOPLE DRIVING AT THE SAME TIME. WE CAN BE PART OF THAT RETAIL, WE CAN'T BE PART OF THAT MULTI-FAMILY. THANKS.

>>SPELMAN: THANK YOU.

>>MAYOR WATSON: COUNCIL, WHAT I'M GOING TO DO IS RECESS THIS SO WE CAN TAKE CARE OF PROCLAMATIONS AND THINGS WE NEED TO TAKE CARE OF THAT WE HAD SET FOR THIS POINT IN TIME. AS SOON AS WE BLOW THROUGH THAT, I'LL BRING BACK UP THE CHAMPION MATTER.

>>GARCIA: MAYOR?

>>MAYOR WATSON: YES.

>>GARCIA: THE FOLKS FROM THE GUADALUPE ARE HERE SO ANY TIME YOU ARE READY.

>>MAYOR WATSON: I'LL ENTERTAIN A MOTION TO RECESS THIS HORG. MOTION MADE AND SECONDED. ANY DISCUSSION? HEARING NONE, ALL THOSE IN FAVOR SAY AYE. OPPOSED SAY NO. MOTION CARRIES. WE'LL RECESS THIS HEARING AND WE'LL GO TO PROCLAMATIONS.

>>GOODMAN: THANK YOU. OKAY. BACK TO THE CHAMPION TRACT. WHO IS INTERESTED IN COMING TO RESOLUTION ON THE CHAMPION TRACT? TRACTS. [LAUGHTER] OY, WELL, COUNCIL, HAD WE DECIDED WE WERE GOING TO HEAR FROM ANYBODY? WE HAD NOT, I DON'T BELIEVE.

>>SPELMAN: WE'VE HEARD FROM PEOPLE SO MANY TIMES ON THIS ISSUE I'M NOT SURE WE NEED TO HEAR FROM ANYBODY BUT OURSELVES FOR A LITTLE WHILE. DO WE HAVE -- I BELIEVE WE HAVE A MOTION ON THE FLOOR, DO WE NOT?

>>GOODMAN: WE HAD -- THAT'S RIGHT. DO WE HAVE A SUBSTITUTE MOTION AS WELL?

>> WORKING ON AN AMENDMENT.

>>SPELMAN: I HAVE SOME AMENDMENTS HERE WHICH I BELIEVE COUNCILMEMBER SLUSHER AND I WOULD BROT AGREE ON ON CHAMPION, YEAH. BUT IF THE CITY ATTORNEY OR SOMEONE ELSE HAS BEEN PAYING CLOSE ATTENTION COULD REMIND US OF WHAT MOTION IS ON THE FLOOR THAT MIGHT BE HELPFUL. I HAVE SOME AMENDMENTS AT THAT POINT. CITY CLERK PAYS CLOSE ATTENTION AT ALL TIMES. WHERE ARE WE, SHIRLEY?

>> WE HAVE A SUBSTITUTE MOTION MADE BY COUNCILMEMBER SLUSHER AND SECONDED BY COUNCILMEMBER GARCIA. [INAUDIBLE].

>>SPELMAN: OKAY. THANKS.

>>GOODMAN: CAN YOU BE MORE CLEAR? THE SUBSTITUTE MOTION WAS TO TAKE OUT THE SMART HOUSING, THE 10%; IS THAT CORRECT? AND TAKE IT BACK TO SF INSTEAD OF MF?

>>SLUSHER: MAYOR PRO TEM, IF COUNCILMEMBER SPELMAN [INAUDIBLE] I'LL WITHDRAW THAT AND SEE WHAT HE'S GOT TO PUT ON HERE. WILL THAT WORK FOR YOU? SPELL WORKS FINE FOR ME.

>>SLUSHER: OKAY. THEN GO AHEAD AND TRY.

>>GOODMAN: WELL, THAT WAS A SUBSTITUTE MOTION. WHAT WAS THE MAIN MOTION? WAS IT JUST SECOND READING? OKAY.

>> THE MAIN MOTION WAS [INAUDIBLE] ITEM BY ITEM THE -- [INAUDIBLE] COUNCILMEMBER GRIFFITH WAS THE MOTION ON THE -- MAKER OF THE MOTION AND MISWAS THE SECOND.

>>SLUSHER: SO IN THIS ROUND THE MAIN MOTION THEN WAS WHAT PASSED ON SECOND READING WITH THE CHANGES READ IN BY ASSISTANT CITY ATTORNEY THOMAS; IS THAT CORRECT?

>>GRIFFITH: IN ORDER TO BRING THE ORDINANCE INTO COMPLIANCE WITH THE AMENDMENT THAT WE'RE WORKING WITH.

>> [INAUDIBLE].

>>GRIFFITH: IS THAT CORRECT, MS. THOMAS?

>> YES, MA'AM.

>>SPELMAN: OKAY. MAYOR PRO TEM?

>>GOODMAN: YES.

>>SPELMAN: WE -- SEVERAL OF US HAVE BEEN TALKING ABOUT THINGS WE COULD DO TO IMPROVE THIS. AND AGAIN BASED ON THE GENERAL IDEA THAT THE MOST IMPORTANT THING FOR THE NEIGHBORHOOD'S POINT OF VIEW WAS VEHICLE TRIPS PER DAY, BUT THAT AS MR. KOUSER MENTIONED SOME TRIPS COUNT MORE THAN OTHER TRIPS AND THE MORE RETAIL AND COMMERCIAL STUFF THAT HAPPENS ON THIS SITE AND THE LESS RESIDENTIAL THE BETTER THE TRAFFIC IS GOING TO BE RELATIVELY SPEAKING WITHIN A PARTICULAR CAP OF TRIPS PER DAY. IT SEEMS TO ME THAT IT MAKES MORE SENSE TO ALLOW THE APPLICANTS MAXIMUM OPPORTUNITY TO BUILD THAT RETAIL, BUILD THAT OFFICE SPACE TO GET AS MANY OF THOSE TRIPS GOING IN IN THE REVERSE DIRECTION AS POSSIBLE. WITH THAT IN MIND, LET ME FIRST SUGGEST THAT WE CHANGE TRACT 3, THAT'S NO. 78, ITEM NO. 78, CURRENTLY THERE IS A SETBACK, THIS IS ON PAGE 2 OF THE ITEM, THIS IS PARTS 2, NUMBER 4, THERE IS A 300 FOOT SET BACK FROM THE SOUTHERN BOUNDARY LINE, THE SHEPERD MOUNTAIN BOUNDARY LINE. THAT REDUCES THE AMOUNT OF SPACE AVAILABLE TO BUILD ON THAT SITE DRAMATICALLY AND I DON'T THINK IT'S NECESSARILY GOING TO BE HELPFUL FOR SHEPHERDS MOUNTAIN GIVEN THEY ARE 150 FEET ABOVE THE FLAT SPOT OF THIS SITE, THEY ARE ON A BLUFF. SO I WOULD SUGGEST THAT WE CHANGE THAT 300 FEET TO 100 FEET. THAT WOULD BE MY FIRST SUGGESTED AMENDMENT. THE SECOND IS ALSO ON ITEM NO. 78. THAT IS IN PART 1 OF THE ITEM. WE ARE SUGGESTING THAT THE ZONING MAP BE CHANGED FROM SINGLE-FAMILY 2 TO LIMITED OFFICE CONDITIONAL OVERLAY. I WOULD SUGGEST WE MOVE THAT FROM -- MOVE THAT TO GOCO. THAT WOULD BE THE FIRST OF MY SUGGESTED AMENDMENTS. THE SECOND ONE IS IN ITEM NO. 80, THIS IS WITH RESPECT TO TRACT 1-D, WHICH IS REFERRED TO IN THE SUBSTANCE OF ITEM 80 AS TRACT 3. AND MY SUGGESTION HERE IS, AGAIN WE'RE LIMITING THE AMOUNT OF INTENSITY OF THAT OFFICE SPACE TO LO, WE'RE TRYING TO CREATE AS MUCH OPPORTUNITY FOR RETAIL AND COMMERCIAL WITHIN THAT LIMIT OF 6500 WE MOVE TO LIMIT TO GENERAL OFFICE CONDITIONAL OVERLAY OR GOCO. THE THIRD AMENDMENT HAS TO DO WITH SETTLEMENT AGREEMENT AND I'M GOING TO LOOK FOR THE ASSISTANT CITY ATTORNEY FOR GUIDANCE ON THIS. AT THIS POINT WE HAVE A SETTLEMENT AGREEMENT WITH THE CHAMPION SISTERS, THE OWNERS OF THIS TRACT, WHICH ALLOWS THEM UNTIL -- NOW, MICHAEL HELP ME ON THE DATES ON THIS, IS IT 2002 AND 2004?

>> MICHAEL WHELAN ON BEHALF OF THE APPLICANT. I THINK IT'S 2003 AND 2006.

>>SPELMAN: BECAUSE WE'RE NOT POSTED TO CHANGE THE SETTLEMENT AGREEMENT I THINK WE'LL HAVE TO DO THAT BY SEPARATE MOTION. BUT -- HELP ME AGAIN WITH THIS ASSISTANT CITY ATTORNEY, IF YOU COULD. IT WOULD BE MY INTENTION WE CHANGE THOSE DATES TO 2005 AND 2008. THAT WOULD GIVE THE APPLICANTS A COUPLE MORE YEARS TO -- A LITTLE BIT MORE LEEWAY TO BEGIN BUILDING AND ACTUALLY GET THAT BUILDING OUT ON THE GROUND. AND ALSO THAT WE SHOULD -- I BELIEVE REVISE THE SETTLEMENT AGREEMENT TO REFLECT THE CHANGES IN ORDINANCES THAT WE'RE GOING TO BE PASSING HERE.

>> [INAUDIBLE].

>>SPELMAN: THOSE ARE MY AMENDMENTS. HOW SHOULD WE PROCEED ON THE CHANGE OF THE SETTLEMENT AGREEMENT? SHOULD THAT BE A SEPARATE ACTION AT SOME FUTURE DATE?

>> YES, WE COULD PROPOSE THAT AND THE ATTORNEY FOR THE CHAMPIONS AND I COULD WORK ON THAT AND BRING THAT BACK.

>>SPELMAN: OKAY. THAT WOULD BE GREAT. THANKS.

>>GOODMAN: OKAY. THE ORIGINAL MOTION WAS MADE BY COUNCILMEMBER GRIFFITH AND SECONDED BY COUNCILMEMBER SPELMAN, AND THE AMENDMENTS THEN PROVIDED TO THE MAIN MOTION ARE FROM COUNCILMEMBER SPELMAN, SO I GUESS IT CAN'T HELP BUT BE A FRIENDLY AMENDMENT. COUNCILMEMBER GRIFFITH?

>>SPELMAN: MY APOLOGIES, I DIDN'T REALIZE YOU WERE TALKING TO ME.

>>GOODMAN: THAT'S OKAY. I WAS JUST SORT OF MUSING ABOUT THIS MOTION. SINCE YOU SECONDED THE MAIN MOTION, THAT WOULD BE A FRIENDLY AMENDMENT TO YOUR OWN SECOND, SO I JUST NEED TO ASK COUNCILMEMBER GRIFFITH IF THOSE ARE CONSIDERED FRIENDLY AMENDMENTS TO HER MOTION.

>>SPELMAN: I'M SURE THEY WILL, BUT --.

>>GOODMAN: THE AMENDMENT JUST GIVEN US BY COUNCILMEMBER SPELMAN ARE TO THE MOTION WHICH YOU MADE AND HE SECONDED. WOULD YOU CONSIDER THOSE FRIENDLY.

>>GRIFFITH: YES, I DO.

>>GOODMAN: OKAY.

>>LEWIS: ONE QUESTION. AFTER THE TRACT 3, THE LOGO, I MEAN GLCO, WHAT OTHER CHANGES DID HE MAKE?

>>GOODMAN: BUFFER TO 100 FOOT AWAY. INSTEAD OF 300. DECREASE THE SETBACK FROM 300 FEET TO 100 FEET.

>>LEWIS: YEAH, I KNOW, I'M SAYING THE LAST ONE I HAD WAS ON TRACT 3 ON ITEM 80. CHANGES FROM LO TO GO. DID HE MAKE -- WAS THERE ANY OTHER CHANGES?

>> I THINK THE THIRD -- THE THIRD CHANGE WAS THE TIME PERIOD IN ORDER FOR THE DEVELOPMENT TO OCCUR FROM 2003, 2006 TO 2005, 2008.

>>LEWIS: WHERE IS --

>> IT'S UNDER ITEM 80.

>>LEWIS: UNDER ITEM 80?

>> UH-HUH.

>>LEWIS: THAT'S WHAT I'M LOOKING FOR.

>> IT'S CALLED TRACT 3.

>>GLASGO: COUNCILMEMBER LEWIS, THAT IS IN THE SETTLEMENT AGREEMENT AND NOT IN THE ZONING CASE. THAT'S PROBABLY WHY YOU CAN'T FIND IT.

>>LEWIS: OKAY. OKAY. I WAS GOING TO SAY I'M LOOKING AT THIS AND I DIDN'T SEE IT.

>>GLASGO: IT'S WITHIN THE SETTLEMENT AGREEMENT. THE EXPIRATION DATE OF THE AGREEMENT WERE THE DATES COUNCILMEMBER SPELMAN ASKED TO CHANGE 2005 TO 2008 IN ORDER TO ALLOW FOR DEVELOPMENT TO COMMENCE. BUT IT'S IN THE SETTLEMENT AGREEMENT AND NOT WITHIN THE PROPOSED ZONING LANGUAGE AND THAT'S WHY YOU ARE NOT SEEING THAT IN THE POSTING AND IN THE ORDINANCE THAT IS DRAFTED.

>>LEWIS: IS THERE ANY PARTICULAR REASON WHY THE -- WHY THE CHANGE IN THE TIME? I MEAN 2008, I MEAN WHY WOULD YOU PUT A TIME IN IF IT'S GOING TO BE EIGHT YEARS?

>>GOODMAN: I THINK IT JUST GIVES THEM MORE TIME -- NOW THAT THE LAND USES ARE A LITTLE DIFFERENT FROM WHAT HAS BEEN CONTEMPLATED ALL THIS TIME IT GIVES THEM AN EXTRA EDGE, A LITTLE EXTRA TIME TO FIND FOLKS WHO WILL COME IN AND MAKE OFFERS FOR THE DEVELOPMENT OF SUCH LAND USE.

>>LEWIS: WELL, MY QUESTION IS IS WHY -- WHY LIMIT THE TIME AT ALL IF YOU ARE GOING TO GIVE THEM EIGHT YEARS, WHY EVEN LIMIT -- WHY EVEN PUT A LIMIT ON THE TIME? YOU KNOW, I MEAN ONCE WE ZONE IT, IT'S --.

>>SLUSHER: CAN I JUMP IN ON THAT? I'M NOT GOING TO ANSWER YOUR QUESTION, BUT IN THE -- THE APPLICANT'S ATTORNEY SAID THAT THEY WOULDN'T AGREE TO AMEND THE SETTLEMENT AGREEMENT UNDER THE TERMS LAID OUT IN COUNCILMEMBER SPELMAN'S MOTION, AND IF THAT'S THE CASE, I DON'T BELIEVE WE SHOULD UNILATERALLY EXTEND THOSE YEARS. SO I WOULD TOSS THAT OUT FOR COUNCILMEMBER SPELMAN'S CONSIDERATION.

>>SPELMAN: IS THERE A PARTICULAR REASON WHY THIS PARTICULAR PROVISION IS AT ISSUE IF THERE -- I FIGURE THEY ARE GOING TO SUE US EITHER WAY. IS THERE A PARTICULAR REASON WHY WE SHOULDN'T DO THIS?

>>SLUSHER: WELL, WHY EXTEND THE DEVELOPMENT TIME. WE TALKED A LOT OVER THE YEARS ABOUT THE TIME LIMITS AND [INAUDIBLE] NECESSARILY GRANDFATHER THIS BECAUSE THIS ONE IS ALREADY GRANDFATHERED ON WATER QUALITY BY THE SETTLEMENT SO I JUST DON'T -- I DON'T SEE THE REASON TO EXTEND THESE YEARS. IF IT WAS PART OF AN OVERALL SETTLEMENT WHERE WE AGREED TO UNILATERALLY EXTEND THE AGREEMENT THAT WOULD MAKE SOME SENSE, BUT IT DOESN'T APPEAR WE'VE REACHED THAT POINT SO BEYOND WHY WE WOULD ADD THOSE YEARS ON.

>>SPELMAN: I'M AFRAID I PROBABLY MISS SPOKE. WHAT I SHOULD HAVE SAID THIS WOULD BE AN INVITATION TO MAKE A CHANGE IN THAT SETTLEMENT AGREEMENT. UNILATERALLY WE CANNOT CHANGE ANY SETTLEMENT AGREEMENT BECAUSE BOTH SIDES HAVE TO SEE IT BEFORE IT'S GOING TO BE EFFECTIVE.

>>SLUSHER: I WOULD ASK THE CITY ATTORNEY THEN ARE WE UNILATERALLY EXTENDING THOSE YEARS OR ARE WE OFFERING THAT AS A SETTLEMENT?

>> IT WAS AN OFFER. I INTENDED THAT TO BE AN OFFER.

>>SLUSHER: CAN WE DO THAT -- BUT WE'RE PASSING AN ORDINANCE.

>> YOU ARE PASSING AN ORDINANCE AND YOU ARE GIVING AN INDICATION THAT THIS IS THE MANNER IN WHICH YOU WOULD AMEND THE SETTLEMENT AGREEMENT.

>>SLUSHER: SO IF THERE WAS NOT AGREEMENT BY THE OTHER PARTY TO AMEND THE SETTLEMENT AGREEMENT, THEN THE DATES WOULD STAY THE SAME AS THEY CURRENTLY ARE?

>> YES.

>>SLUSHER: CURRENTLY BEING PRIOR BEFORE THIS MOTION IS PASSED IF IT IS.

>> YES.

>>SLUSHER: OKAY. WELL, THAT MAKES IT MORE CLEAR TO ME.

>>GOODMAN: COUNCILMEMBER LEWIS HAD ASKED EARLIER A QUESTION ABOUT WHY -- WHY HAVE ANY DATES AT ALL.

>>SPELMAN: THE DATES ARE ONLY AN OFFER. IN MY MOTION THE DATES WERE ONLY AN OFFER TO BE EXTEND TO DO THE APPLICANT AND IF THOSE DATES ARE NOT ACCEPTED BY THE APPLICANT, NO CHANGE WILL BE MADE IN THE SETTLEMENT AGREEMENT AT ALL WHICH MEANS THE DATES STAY THE SAME AT 2003 AND 2006.

>>GOODMAN: FURTHER COMMENTS, QUESTIONS OR AMENDMENTS? I THINK IT WOULD BE FAIR IF COUNCIL AGREES TO -- TO ASK THE CHAMPIONS ATTORNEY IF HE WOULD CARE TO MAKE A BRIEF COMMENT ON WHAT HE JUST HEARD.

>> THANK YOU, COUNCILMEMBER GOODMAN. DURING THE RECESS I HAD AN OPPORTUNITY TO TALK TO SEVERAL COUNCILMEMBERS AND WHAT I HAVE DONE AND WHAT I THOUGHT -- WHERE I THOUGHT WE WERE GOING WAS A REVISED AGREEMENT. I WANT TO BE REAL CLEAR, WE ARE NOT GOING TO AGREE TO REVISE A SETTLEMENT AGREEMENT; HOWEVER, WE WILL AGREE UNDER THE TERMS THAT ARE OUTLINED RIGHT NOW. HOWEVER, WE WILL AGREE TO REVISE THE SETTLEMENT AGREEMENT IF WE HAVE 8,000 ADJUSTED TRIPS PER DAY, WE WILL DO 10,000 SMART HOUSING UNITS AND THOSE UNITS WILL COUNT AGAINST THE TRIPS PER DAY. TRACT 1-D WOULD TWO FROM LO TO GO AS MR. SPELMAN, ONE OF HIS AMENDMENTS THAT HE OFFERED, WE WOULD AGREE TO READWISE THE SEJTSMENT AGREEMENT. TRACT 3 WOULD GO FROM LOO TO AND WE WOULD ADD TWO YEARS TO THE SETTLEMENT DATES BECAUSE THE PRO STES HAS TAKEN TWO AND A HALF YEARS AND IT WOULD GIVE US EXTRA TIME TO CLEAN UP THE LEAD AND GET A CERTIFICATE OF COMPLIANCE. THOSE ARE THE TERMS IN ADDITION TO MS. 'S DELETIONS THAT WE WOULD ACCEPT. WE ARE NOT GOING TO ACCEPT TO REVISE A SETTLEMENT AGREEMENT WITH SINGLE-FAMILY. WE'LL AGREE TO DO IT MF-1 WITH SF-6 SITE DEVELOPMENT EXCEPT FOR HEIGHT WHICH WOULD NOT EXCEED 40 FEET. THEN WE WILL AGREE RIGHT NOW TO READWISE THE SEJTSMENT AGREEMENT AND FOREVER BE DONE WITH THE CHAMPION SETTLEMENT MATTER..

>>SPELMAN: MAYOR PRO TEM, CAN I ASK A QUESTION?

>>GOODMAN: PLEASE.

>>SPELMAN: BASICALLY THE TEXT OF THE MOTION AS IT CURRENTLY STANDS IS FINE WITH YOU WITH THE EXCEPTION THAT YOU WOULD LIKE -- HOW MANY VEHICLE TRIPS PER DAY DID YOU SAY?

>> 8,000 ADJUSTED TRIPS PER DAY.

>>SPELMAN: 8,000 ADJUSTED VEHICLE TRIPS PER DAY AND --

>> 10,000 SMART --

>> 10,000 OR 10%.

>>SPELMAN: WHAT A DEAL. I SAW DARYL LET OCCUPY THAT ONE AND THE NEIGHBORS JUST HAD A HEART ATTACK.

>>SPELMAN: NOT TO MENTION YOUR CLIENTS.

>> 10% SMART HOUSING UNITS. TRACT 1 D WOULD GO FROM LO TO GO. I THINK YOU DID THE TRACT 3100 FEET. WE WOULD READVICE THE SETTLEMENT AGREEMENT TO REFLECT ALL THESE CHANGES, BUT IT HAS TO BE MF.

>>SPELMAN: TO SO THE DIFFERENCE FROM WHERE WE ARE ON IF DAIS AND WHERE YOU ARE IS 1500 MORE VEHICLE TRIPS PER DAY ADJUSTED AND IN EXCHANGE FOR GIVING YOU 1500 ADJUSTED VEHICLE TRIPS PER DAY WE GET BACK -- YOU AGREE TO REVISE THE SETTLEMENT AGREEMENT AND AGREE TO BUILD 10% OF THE RESIDENTIAL HOUSING YOU BUILD WOULD BE SMART HOUSING AS DEFINED BY THE CITY WHEN WE DEFINE SOME SMART HOUSING.

>> AND IT WOULD BE MF RATHER THAN --.

>>SPELMAN: REAR ALREADY THERE. THAT'S WHERE THE CREPT STATUS OF THE MOTION IS.

>> THE CURRENT STATUS IS SINGLE-FAMILY IS MY UNDERSTANDING.

>>SPELMAN: NO, IT'S NOT. SO IN EXCHANGE FOR 1500 VEHICLE TRIPS WE GET NO LAWSUIT PLUS 10% SMART HOUSING.

>> THAT IS CORRECT.

>>SPELMAN: OKAY. LET ME -- I THINK WE NEED TO DISCUSS THAT. DO WE NEED TO PUT A MOTION ON THE TABLE IN ORDER TO DISCUSS THAT OR CAN WE DISCUSS THAT WITHOUT THE MOTION?

>>GRIFFITH: WE HAVE -- DON'T WE HAVE -- WE HAVE HIS MOTION.

>>GOODMAN: YEAH, WE HAVE A MOTION.

>>SPELMAN: POSSIBILITY OF PUTTING IT ON THE TABLE. I WOULD LIKE TO ASK MR. KOUSER A QUESTION AS REPRESENTATIVE FROM THE NEIGHBORHOOD. JIM, YOU'VE

BEEN VERY UP FRONT WITH ALL OF US AND I KNOW ALL OF US HAVE GONE TO TALK TO YOU AND MANY OF US HAVE SHUTTLED BACK AND FORTH BETWEEN YOU AND MR. WHELLAN. I DON'T WANT TO PUT WORDS IN YOUR MISCELLANEOUS, BUT THERE IS SOME INCREASE IN VEHICLE TRIPS PER DAY WHICH THE NEIGHBORHOOD WOULD BE WILLING TO ACCEPT IN ORDER TO AVOID THE RISK OF A LAWSUIT THROWS ALL THIS OUT. AM I RIGHT ABOUT THAT?

>> COUNCILMEMBER, OBVIOUSLY WE'RE NOT HERE IN A LITIGATION POSTURE AND WE'RE NOT TRYING TO TELL THE CITY HOW TO DO ITS LITIGATION MUCH WE THINK THIS IS A PLANNING ISSUE AND WE'VE COME DOWN HERE WITH PLANNING PRINCIPLES, LAND USE PRINCIPLES AND ON BEHALF OF THE 2222 COALITION WE TOLD YOU WHAT WE THINK ALL UP AND DOWN THAT CORRIDOR THE NEIGHBORHOODS CAN BEAR. SO WE ARE CONFIDENT THAT THE CITY IS WITHIN ITS LEGAL PROGRESS ACTIVE IN RESTRICTING TRIPS PER DAY AND WE ARE ASKING YOU TO STICK WITH THE 6500. AND I THINK THAT IS -- EXCUSE ME. THAT IS THE COALITION POSITION AS WELL AS MY OWN CLIENTS.

>>SPELMAN: OKAY. SO YOUR POSITION IS 6500 OR BUST BASICALLY?

>> WE THINK THAT 6500 IS A SOLID PLANNING PRINCIPLE AND ABOVE THAT WE THINK WE'RE GETTING INTO A THRESHOLD OF PAIN WHERE THE IMPACT NOT JUST ON JESTER BUT ON ALL THE NEIGHBORHOODS UP AND DOWN 2222 IS EXCESSIVE.

>>SPELMAN: HELP ME UNDERSTAND THIS IF YOU COULD. WHERE DID THAT 6500 NUMBER COME FROM?

>> THE 6500 WAS A COMPROMISE NUMBER. IT ESSENTIALLY REACHED EARLY ON IN THE PROCESS AN ADJUSTED NUMBER BETWEEN PEOPLE WHO THOUGHT THE ENTIRE PROCESS, THE ENTIRE AREA SHOULD BASICALLY BE DEVELOPED IN LOW DENSITY SINGLE-FAMILY HOUSING OR MAYBE NEIGHBORHOOD OFFICE, AND THE PEOPLE WHO WANTED TO BASICALLY REACH A COMPROMISE WITH THE APPLICANTS. IT'S -- IT IS A POSITION THE NEIGHBORHOODS ADJACENT TO JESTER AND THE NEIGHBORHOODS ADJACENT TO CHAMPION TRACT, THE NEIGHBORHOODS UP AND DOWN 2222, ALL THE COALITION NEIGHBORHOODS REACHED AFTER A GREAT DEAL OF DEBATE AND BACK AND FORTH IN ATTEMPTED SETTLEMENTS WITH THE APPLICANTS.

>>SPELMAN: SO YOU HAVE A BUNCH OF NEIGHBORHOODS WHO GOT TOGETHER, STARTED KICKING AROUND NUMBERS AND ENDED UP WITH 6500?

>> THERE WERE PLENTY OF NEIGHBORHOODS OUT THERE THAT DID NOT LIKE THAT, BUT IT'S A FIGURE THAT ALL THE NEIGHBORHOODS EVENTUALLY AGREED ON AND IT WAS A -- BASICALLY A COMPROMISE AND IT IS HIGHER THAN WHERE THE NEIGHBORHOODS STARTED THEIR DISCUSSIONS WITH THE APPLICANTS.

>>SPELMAN: A QUICK QUESTION FOR MR. WHELLAN, IF I COULD. MICHAEL, THIS HAS BEEN SO LONG, I'VE FORGOT ALL THE DETAILS. COULD YOU REMIND US FOR HOW MANY ADJUSTED TRIPS PER DAY YOUR ORIGINAL APPLICATION WAS FOR?

>> THE ORIGINAL APPLICATION HAD 14,000 UNADJUSTED -- OH, HERE IT IS. ADJUSTED IT HAD 11,224 ADJUSTED TRIPS PER DAY.

>>SPELMAN: SO YOU STARTED AT 11224.

>> THAT'S CORRECT.

>>SPELMAN: AND RIGHT NOW WE'RE SITTING AT 6500.

>> THAT'S CORRECT. 8,000 IS ABOUT THE MID -- IS LOWER THAN THE MID POINT ACTUALLY.

>>SPELMAN: OKAY. AT ONE POINT YOU SUBMITTED ANOTHER PROPOSAL WHICH WAS A MALL SMALLER NUMBER OF ADJUSTED TRIPS AM I RIGHT?

>> IT WAS AT 10,000.

>>SPELMAN: 10,000.

>> WE HAVE CONTINUED TO COME DOWN. MR. KOUSER IS CORRECT THE NEIGHBORHOOD HAS BEEN AT 6500 SINCE I GUESS A YEAR AGO AT LEAST.

>>SPELMAN: OKAY. DO YOU AGREE WITH THAT, JIM, THAT'S ABOUT WHERE YOU HAVE BEEN?

>> I WOULD HAVE A HARD TIME DATING IT, BUT OF COURSE WE HAVE AGREED THIS EVENING TO A NUMBER OF OTHER CONCESSIONS, BUT TRAFFIC IS WHAT IS GOING TO AFFECT THE NEIGHBORHOOD MOST.

>>SPELMAN: TRAFFIC IS REALLY WHAT IS GOING ON HERE.

>> TRAFFIC IS THE BOTTOM LINE ISSUE FOR THE NEIGHBORHOODS.

>>SPELMAN: THANK YOU. GOODMAN: COUNCILMEMBER GRIFFITH.

>>GRIFFITH: YES, THANK YOU. I WOULD LIKE TO HELP RESPOND TO COUNCILMEMBER SPELMAN'S QUESTION ABOUT WHERE DID THE 6500 COME FROM. I SEE IN THE AUDIENCE SOMEONE, BILL TRACY, WHO HAS BEEN AROUND THIS PROCESS FOR A VERY LONG TIME AND I SPOKE WITH HIM EARLIER AND ASKED HIM THE SAME QUESTION. AND GOT A SLIGHTLY DIFFERENT ANSWER. MR. TRACY, WOULD YOU PLEASE SHARE WITH EVERYONE WHAT YOUR RECOLLECTION IS OF HOW WE GOT TO 6500 AND WHY IT'S IMPORTANT.

>> THANK YOU. MY NAME IS BILL TRACY, I LIVE ON JESTER BOULEVARD AND THREE YEARS AGO WHEN THIS PROCESS STARTED WE GOT SOME NUMBERS FROM THE HIGHWAY DEPARTMENT, AND THE HIGHWAY DEPARTMENT, TXDOT, TOLD US THAT THE CAPACITY OF THE HIGHWAY, OF 2222, IS 39 FIVE VEHICLE TRIPS PER DAY. WHEN I GOT INVOLVED TWO YEARS AGO, THE CAPACITY OF THE HIGHWAY WAS ALREADY AT 33 -- EXCUSE ME, 33,000 VEHICLE TRIPS PER DAY. LEAVING ONLY 6500 VEHICLE TRIPS PER DAY BEFORE THE HIGHWAY BECAME OBSOLETE. BUT I CAN ASSURE YOU THE HIGHWAY IS ALREADY OBSOLETE AND HAS EXCEED TD ESTIMATES THAT TXDOT CAME UP WITH THREE YEARS AGO. SO THAT IS WHERE THE 6500 CAME FROM AS A COMES COMPROMISE MEASURE: WHEN -- ON THE FIRST HEARING, WHICH WAS BACK IN DECEMBER, JUST TO CORRECT THE POINTED THAT MR. WHELLAN MADE, THE NEIGHBORHOOD COMPROMISED AT 6500 FOR THE FIRST TIME IN -- AT THE DECEMBER HEARING AND UTILIZING THE LOGIC, THE ONLY LOGIC THAT MADE ANY SENSE WAS TO USE THE DIFFERENCE BETWEEN THE HIGHWAY DEPARTMENT, TXDOT'S MAXIMUM

CAPACITY FOR THAT ROADWAY AND WHERE WE WERE AT THAT POINT IN TIME. THANK YOU, MA'AM.

>>GRIFFITH: YES. MAY I MAKE A COMMENT? I'VE BEEN FOLLOWING THE BUILDUP ON 2222 MYSELF FOR I GUESS EIGHT OR TEN YEARS, AND WHEN YOU ADD UP WHAT IS ALREADY PERMITTED AND WHEN YOU ADD UP WHAT IS ALREADY THERE, THEN YOU ARE NOW OVER CAPACITY. THEN YOU HAVE TO FIGURE THAT THERE IS LAKEWAY, THERE ARE PROBABLY -- THERE'S BEE CAVES, THERE ARE -- OH, I COULD NAME PROBABLY EIGHT SMALL TOWNS THAT ARE FEEDING 2222 NOW ON A DAILY BASIS, AND WE HAVE ABSOLUTELY NO INFLUENCE WHATSOEVER ON WHAT THEIR -- WHAT THEIR TRIPS PER DAY. SO YOU ADD THOSE IN AND YOU ARE APPROACHING CRISIS PROPORTIONS, WHICH IS WHY I BELIEVE THE NEIGHBORHOOD IS SO FIRM ON THE 6500. BESIDES THE FACT THAT IT'S A COMPROMISE NUMBER AS IT IS NOW. THANK YOU.

>>GOODMAN: IS THERE ANY FURTHER COMMENT? QUESTIONS?

>>GRIFFITH: ARE WE READY?

>>GOODMAN: ARE WE READY TO GO FOR THIS? THIS OF THERE IS A MOTION ON THE TABLE. AND A SECOND. WHICH IS, IF I'M NOT INCORRECT, TAKES NO. 78, TRACT 3 FROM 300 BUFFER TO 100 ON SHEPERD MOUNTAIN, PART 1 TAKES THE SF-2 AND LOCO TO GOCO. ON 80, TRACT 1-D -- OR TRACT 3 AS IT'S REFERRED TO THERE, WAS LO USES AND INTENSITY GOES TO GOCO. AND AN INVITATION TO CHANGE THE SEMGTSMENT FINAL STARTING CONSTRUCTION DATE FROM 20 ON 3 TO 2005 AND 2008. IS THAT RIGHT? ALL THOSE IN FAVOR PLEASE SAY AYE. OPPOSED? OH, COUNCILMEMBER LEWIS.

>>LEWIS: DID YOU CHANGE THE TRIPS PER DAY?

>>SPELMAN: NO, WE HAVEN'T DONE THAT YET.

>>LEWIS: OH, OKAY. YEAH, I'LL GO ALONG WITH THAT.

>>GRIFFITH: THAT'S FINE.

>>GOODMAN: ALL IN FAVOR SAY AYE OPPOSED? ABSTAINING WITH COUNCILMEMBER GARCIA AND THE MAYOR TEMPORARILY ABSENT. THAT WAS THIRD READING AND WE HAVE FIVE.

>>SPELMAN: WE HAD FIVE.

>>GOODMAN: WELL, LIKE IT OR NOT, WE FINALLY CAME TO RESOLUTION. SO I GUESS WE'LL SEE WHAT THE FUTURE BRINGS. THANK YOU FOR THE PATIENCE OF ALL CONCERNED IN COMING BACK SO MANY TIMES, IN FACT OVER A SPAN OF MANY YEARS. OKAY. NEXT IS THE BRADLEY AGREEMENT. AND DEBORAH, WHAT ITEM WOULD WE BEGIN WITH FOR THAT? IS IT 54 OR -- -- LET'S TAKE A FEW MINUTES BREAK WHILE WE GATHER UP MR. MARTIN AND ALLOW ALL THE SUPPORT FOLKS TO GET IN PLACE.

MEMORANDUM

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

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

DATE: February 10, 2003

SUBJECT: Zoning and Platting Commission Summary

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

CASE #C14-02-0181

6. C14-02-0181 – CHAMPION ASSETS, LTD. (Josie Ellen Champion), By: Graves, Dougherty, Hearon (David A. Hartman), 6100-6404 City Park Road and 6509-6909 FM 2222. (West Bull). **FROM DR; LR-CO TO LR-CO. NOT RECOMMENDED. City Staff: Glenn Rhoades, 974-2775. CONTINUED FROM 01-07 (STAFF).**

SUMMARY

Glenn Rhoades, staff – “The applicant is requesting a zoning change from DR and LR-CO to LR-CO. The subject tract is one of four cases that were tied together by a 6500 trip limitation”. Staff continued with his presentation regarding this tract and various tracts that surround the proposed location. “The applicant is requesting two things; to add in the GR portion into the rest of the tract; they want to rezone DR to LR-CO; and they would like to eliminate the shared 6500 trip limitation that is shared by the other tracts. They would like LR-CO for the entire portion and then to limit all of tract 2 to a trip limitation of 2000 a day. It has been determined by staff that we will need a traffic impact analysis amendment. At this time, since the applicant does not wish to do the amendment to the old TIA, we cannot recommend the proposed zoning change. If the zoning is approved, the applicant will be required to dedicate 43’ of right-of-way from the centerline of a City Park road. In addition, it is in a Hill Country Roadway, therefore, a Hill Country site plan will be required when the site plans come in”.

Commissioner Whaley – “Are they required to dedicate the right-of-way or reserve the right-of-way at this time?”

Mr. Rhoades – “They are required to dedicate the right-of-way”.

Commissioner Whaley – “By what criteria?”

Mr. Rhoades – “I would have to give that to Transportation Review, but according to the Austin Metropolitan Plan, they do call for expansion of this road”.

Commissioner Whaley – “So if they reserved it for future dedication, the zoning is appropriate or...”

Mr. Rhoades – “The dedication is at zoning. If it was to be reserved, that would be something that could be in the site plan in the future, however, dedication would have to be done with the zoning”. “City Council could say that the dedication is not necessary, but that’s something we have to...”

Commissioner Whaley – “Okay, thank you”.

Commissioner Jackson – “In the original zoning case, this 3-acre tract was not part of that zoning?”

Mr. Rhoades – “It was not”.

Commissioner Jackson – “So it was never part of the zoning, wasn’t contemplated to be developed, wasn’t part of the 6500 trips per day?”

Mr. Rhoades – “Correct”.

Commissioner Jackson – “So they can conceivable zone that LO or LR and limit it to 2000 trips a day and then be like 99% of the other LR, LO cases that we see?”

Mr. Rhoades – “That’s correct, they could come in and...since that little parcel was not part of the original case, they could come in and request LR-CO with a 2000 trip limit on that piece of land”.

Commissioner Jackson – “Thank you”.

Commissioner Baker – “It’s my understanding that one time there was an opinion that there was a valid petition. It was the property owner to the west, that land is within the county, which could not be a valid petition. Is that correct?”

Mr. Rhoades – “That’s correct”.

David Hartman, Graves, Dougherty Law Firm, applicant – “This whole property is subject to a settlement agreement dated back to 1996. Which required the Champions and their agents to submit applications on the project within 6-years, or basically by mid-summer, which we did. That’s why we winded up before you tonight. There was a rezoning that occurred in March of 2000, when City Council rezoned all of these tracts. We went through this whole TIA process and put together this TIA that showed 11,224 trips coming off the property, it was okay. At the very last of the rezoning on 3rd reading, Council opposed the 6500 trip limit that’s being discussed. As part of this subdivision application, an issue has come up on this DR portion. A comment saying that we need to rezone that consistent with the balance of the tract. That’s basically the application that we filed in November of 2002, which is basically to clean up the rezoning by making it LR, consistent with the balance of the tract; and to modify the CO trips by allowing 2000 trips coming off this property. It’s clear to us by looking at the code. We don’t think a TIA is appropriate or required”.

Commissioner Jackson – “Why are you asking to amend...I’m not sure if I understand why this case got so complicated. It seems to me that you could just ask for this 3-acres to be zoned LR-CO that has a 2000 trips; and you have 6500 trips for the rest of the tract”. “Zone the DR tract, that was never involved in the original zoning, LR-CO and put 2000 trips on that. You’re zoning is consistent for the rest of the tract. I’m lost as to why you want to go change the CO on the rest of the property”.

Mr. Hartman – “What our goal is, with respect to that 3-acre tract, it’s pretty unusable and we’re willing to state on the subdivision plat, if we don’t obtain the zoning that we’re seeking today, we’re working with staff to talk about adding a plat note that says “we won’t develop on that 3-acre tract”, if it maintains DR for example. That’s one of the

issues with respect to that 3-acres, it's pretty much undevelopable. The 2000 trip limit that we're talking about is with respect to that 17-acre. In my mind, we're not really impacting the trip limit".

Commissioner Baker – "You're talking about a 17-acre tract and about 3-acre. I assume that the 3-acres is in the hatch mark? This application is for 3-acres, is that correct?"

Mr. Hartman – "This application is for 17-acres of which approximately 13.5-acres is currently zoned LR-CO and the additional 3-acres is in the hatch mark that's zoned DR".

Commissioner Baker – "I understand what you've done, you've combined them and you shouldn't have. You should have let it stand alone".

FAVOR

No Speakers.

OPPOSITION

Lizette Schmidley, resident – Spoke in opposition.

Commissioner Baker – "If the 14-acres or whatever, that's already zoned LR-CO were not included in this zoning request, and this was a request for 3-acres with a conditional overlay agreeable to by the applicant, to limit the trips to 2000 per day. What would have been your recommendation?"

Greg Montes, Transportation Staff – "On the zoning itself, I wouldn't be involved in the recommendation part of it. I would be working on the traffic end of it, but if it generated less than 2000 trips and didn't trigger a TIA, staff would normally state that in the comments and zoning would take it from there; whether to recommend it or not to recommend it....uh".

George Zapalac, staff – "To respond further to your question, that would normally be the case, if someone agreed to put a limitation of 2000 trips per day on their application, then that would be the cap. However, in 1998 and previously in 1993, the city conducted some extensive studies of the 2222 Corridor and determined that there were some serious capacity problems in this area. There are no other outlets for traffic between 620 and 360, so this is a very constrained corridor. City Council has limited some sites along this corridor to less than 1000 trips per day, or less than 700 trips per day. In this situation, just because it was less than 2000 trips, it wouldn't necessarily make that the limit. The 3-acres is not really developable, so those 2000 trips could not be transferred over to the other remaining portion of the tract".

Commissioner Baker – "For the land area owned by the Champions at these two State maintained highways. Do you remember the gross acreage?"

Mr. Zapalac – "I'm sorry, I don't remember that".

Mr. Hartman – “It’s my understanding that it’s around 220-acres”.

Commissioner Baker – “To your knowledge, other tracts along 2222, even at 620; with acreage of this size that had been this constrained with vehicle trips per day?”

Mr. Zapalac – “Not to my knowledge”.

Commissioner Baker – “So basically, 620 and 2222 with less acreage they’re allowed more trips?”

Mr. Zapalac – “That was a Council Policy decision in this case”.

Commissioner Jackson – “If they zoned the 3-acres and got a 2000 trip restriction and then developed something on the 14-acres, but they couldn’t shift that 2000 trips. But if they zone the 3-acres and then they developed a site that consisted of all 17-acres; how would you understand where the 2000 trips came from?”

Mr. Zapalac – “If there were two separate cases on this property, they are required to show the zoning lines on their site plan and they have to comply with the conditions of zoning on each tract individually”.

Commissioner Jackson – “Help me from the traffic stand point, how if you did a unified site...if you did a development on there that had three office buildings and they encroached into the 3-acres, how you would tell which trip came from which site?”

Mr. Zapalac – “We have the same sort of problem with all the site development regulations, the floor to area ration, the building coverage, the impervious coverage and all those are calculated for each zoning. When you have more than one zoning category on the site, you have to calculate each separately. What we would have to do on that case, if part of the building encroached into that area, we would have to allocate the trips proportionally to the square footage. That’s the only way I could image we would do it”.

Commissioner Jackson – “Even if you did that, then that result for the impact on 2222 and 360 would be an increase of 2000 trips a day. The very thing that staff says they shouldn’t be allowed to do”.

Mr. Zapalac – “What I said was, we might not recommend the cap of 2000 trips, we might recommend a cap somewhere less than 2000 on that parcel”.

Commissioner Jackson – “I’ve never seen a recommendation of less than 2000 trips a day”.

Commissioner Whaley – “With all of the tracts, how have you accounted the accumulation of trips that are already there?”

Mr. Zapalac – “It’s under the transportation comments in your support material”.

Commissioner Cortez – “There’s no way we could allow the zoning request and just add it to the 6500, so that the entire 6500 covers the tracts that are zoned that existing way and this new tract?”

Commissioner Baker – “Based on the information and the way it’s being presented, the conditional overlay would have to be amended by Council”.

Commissioner Jackson – “What’s the level of service at the intersection of 2222 and 360 today?”

Mr. Montes – “It has a level of service at Level D in the a.m.; and Level D in the p.m.”

Commissioner Jackson – “But that’s based on 1997 traffic information”.

Mr. Montes – “It was done in 1999”.

Commissioner Cortez – “I haven’t heard of any plans to upgrade 2222, given the financial situation there probably isn’t going to be any upgrades to that intersection or highway. Is that correct?”

Mr. Montes – “I think the state will be willing accept fiscal for improvements for any of their roadways.

Commissioner Baker – “What type of right-of-way are you looking for this tract?”

Mr. Montes – “On City Park Road we are requiring 43 feet from the centerline; the roadway plan requires 86-feet total from the centerline. For 2222, the requirement is for 114-feet, that for the entire portion of the right-of-way; so it would be half of that for 2222”.

REBUTAL

Mr. Hartman – “I think it’s important to think about what site generated traffic may come off of this tract and if the CO is modified to allow 2000 trips coming off this tract, then I think it would be more appropriate that the right-of-way on City Park Road be dedicated as requested by staff”.

Commissioner Martinez and Gohil moved to close the public hearing.

Commissioner Baker – “Mr. Martinez, would you please take the chair?”

Commissioner Martinez – “Is there a motion?”

Commissioner Baker – “I make a motion to approve the zoning as requested; a requirement for dedication of right-of-way on City Park Road; no other conditions in the overlay”.

Commissioner Whaley – “I’ll second it”.

Mr. Rhoades – “I would like to state that right-of-way can be deferred to subdivision if you so desire”.

Commissioner Baker – “Let’s do it all at once. When I first came on to the Planning Commission around 6 or 7 years ago, this case was before us. As I heard the case, watched it, you have 64% coming in from 620; you have 68% increase to 98. There was 68% coming in at 360 and 2222. This property has been in the ownership of one family for more than 100-years; this family is currently paying, to my knowledge, probably an excessive of 1 million dollars annually. This property did not create the traffic dilemma and the congestion at 2222 and 360. Probably more than 60 to 70% of the property remains undeveloped today, development plans are underway and there’s construction going on; but the traffic and the situation at the intersection of 360 and 2222 was not caused by these property owners and by these tracts of land. That’s why I made the motion to approve the zoning to LR and with no conditions other than the dedication of right-of-way on City Park Road”.

Commissioner Jackson – “Just for clarity, you are removing the cap for any trip limitation on the 17-acres?”

Commissioner Baker – “Yes, that was my motion”.

Commissioner Jackson – “I’d like to offer a friendly amendment...”

Commissioner Baker – “The limitations that was placed on these tracts by Council, has probably already exceeded”.

Commissioner Jackson – “It probably has already exceeded and it probably was arbitrary when it was placed”.

Commissioner Baker – “You said that”.

Commissioner Jackson – “I did say that”.

Mr. Montes – “The site plans that were approved by the city, did not exceed the 6500 trips. So the applicant still has some room to play with and they could allocate those trips on other lots that are shown on the map”.

Commissioner Cortez – “Although the traffic wasn’t caused by the property owners or these tracts; even though it’s just background noise, it’s going to exasperate the situation even if it is small”.

Motion carried.

**COMMISSION ACTION:
MOTION:**

**BAKER, WHALEY
APPROVED LR-CO ZONING WITH
CONDITIONS; DEDICATION OF
RIGHT-OF-WAY; AND THERE BE NO
OTHER CONDITIONS IN THE
OVERLAY.**

AYES:

**PINNELLI, GOHIL, MARTINEZ,
BAKER, JACKSON, WHALEY**

NAY:

CORTEZ, HAMMOND

ABSENT:

DONISI

MOTION CARRIED WITH VOTE: 6-2.