

Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION



AGENDA ITEM NO.: 52
AGENDA DATE: Thu 03/25/2004
PAGE: 1 of 1

SUBJECT: C14-02-0154 - McDougal 620 Property - Approve second reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as Windy Ridge Road at North F.M. 620 (Lake Travis Watershed) from development reserve (DR) district zoning to general commercial services (CS) district zoning. City Council approved community commercial-conditional overlay (GR-CO) combining district zoning and rural residence (RR) district zoning at first ordinance reading. First reading on March 20, 2003. Vote: 7-0. Conditions met as follows: Conditional Overlay incorporates the conditions imposed by Council on first ordinance reading. Applicant: Gerald McDougal. Agent: Brad Greenblum. City Staff: Glenn Rhoades, 974-2775. Note: A valid petition has been filed in opposition to this rezoning request.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

SECOND READING SUMMARY SHEET

ZONING CASE NUMBER: C14-02-0154

REQUEST:

Approve second reading of an ordinance amending Chapter 25-2 of the Austin City Code, rezoning the property locally known as Windy Ridge Road at F.M. 620 from single family standard lot (SF-2) district zoning and development reserve (DR) district zoning to general commercial-conditional overlay (CS-CO) district zoning. Council approved staff's recommendation of community commercial-conditional overlay (GR-CO) district zoning for the first 700 feet from F.M. 620 and rural residence (RR) district zoning for the remainder of the property.

DEPARTMENT COMMENTS

The applicant is requesting second reading only in order to request a change of what was previously approved by Council. The applicant still wishes to pursue general commercial-conditional overlay (CS-CO) district zoning.

Staff has received a petition and it has been validated at 22.43% (see attached). In addition, several letters in opposition to the proposed zoning change have been submitted to staff (see attached).

PROPERTY OWNER: Gerald McDougal

AGENT: Brad Greenblum

DATE OF FIRST READING/VOTE:

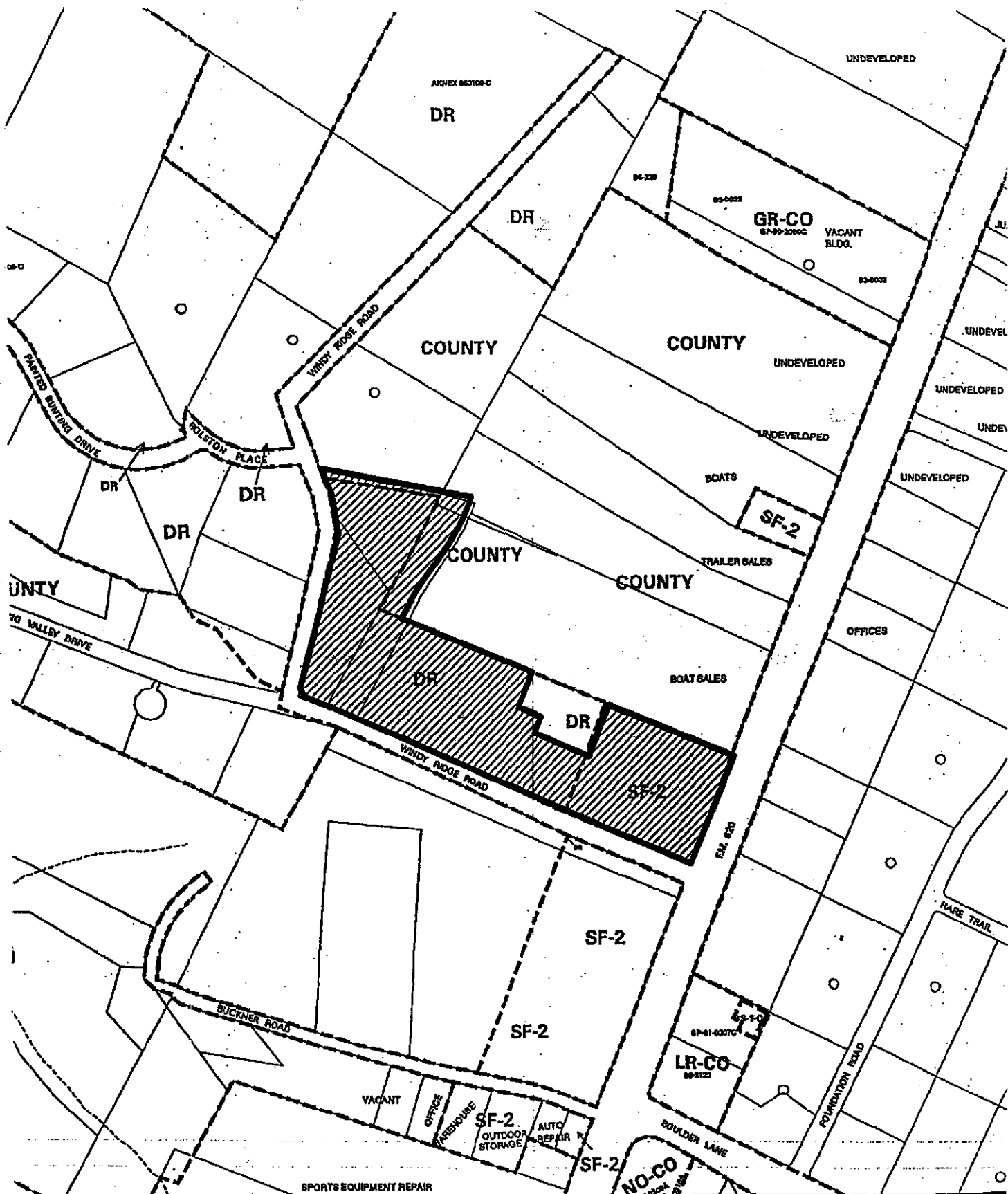
Council approved staff recommendation on March 20, 2003 (Vote: 7-0).

CITY COUNCIL DATE:

March 20, 2003 – Approved staff recommendation of community commercial-conditional overlay (GR-CO) district zoning for the first 700 feet from F.M. 620 and rural residence (RR) district zoning for the remainder of the property (Vote: 7-0).

ASSIGNED STAFF: Glenn Rhoades

PHONE: 974-2775
glenn.rhoades@ci.austin.tx.us



SUBJECT TRACT
 PENDING CASE
 ZONING BOUNDARY
 CASE MGR: G. RHOADES

ZONING
 CASE #: C14-02-0154
 ADDRESS: WINDY RIDGE RD @ N FM
 620 RD
 SUBJECT AREA (acres): 13.800

DATE: 02-10
 INTLS: SM

CITY GRID
 REFERENCE
 NUMBER
 D37

ZONING CHANGE REVIEW SHEET

CASE: C14-02-0154

Z.A.P. DATE: October 29, 2002
November 12, 2002
December 10, 2002
January 7, 2003
January 28, 2003

C.C. DATE: February 27, 2003
March 6, 2003
March 20, 2003
March 25, 2004

ADDRESS: Windy Ridge Road at North F.M. 620

OWNER/APPLICANT: Gerald McDougal

AGENT: Brad Greenblum

ZONING FROM: SF-2 and DR

TO: CS-CO

AREA: 13.8 acres

SUMMARY STAFF RECOMMENDATION:

Staff's alternate recommendation is GR-CO, Community Commercial district zoning, 700 feet from F.M. 620 and RR, Rural Residential district zoning for the balance of the property (please see attached staff map). The conditional overlay will limit vehicle trips to 2,000 per day.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

October 29, 2002 – Postponed at the request of staff to 11/12/02 (Vote: 7-0, A. Adams – absent).

November 12, 2002 – Postponed at the request of the applicant to 12/10/02 (Vote: 6-0, A. Adams and J. Gohil – absent).

December 10, 2002 – Postponed at the request of staff to 1/07/03 (Vote: 9-0)

January 7, 2002 – Postponed at the request of ZAP to 1/28/03 (Vote: 9-0).

January 28, 2003 –

APPROVED W/LO-CO ZONING WITH CONDITIONS OF:

- LIMITING TRIPS TO 2,000 PER DAY;
 - 50' VEGETATIVE BUFFER ALONG THE WESTERN PROPERTY LINE;
 - 20' BUFFER ALONG THE SOUTHERN PROPERTY LINE;
 - PROHIBIT ACCESS ON THE WESTERN PROPERTY LINE, WITH THE EXCEPTION OF EMERGENCY ACCESS;
 - ONLY 2 ACCESS POINTS ON THE SOUTHERN PROPERTY LINE;
 - RESTRICT SEMI-TRUCKS, 3 AXLES OR MORE, TO WINDY RIDGE ENTRANCE.
- [K.J, M.W 2ND] (7-1) J.P – NAY; J.D – ABSENT

ISSUES:

The applicant is requesting second reading only in order to request a change of what was previously approved by Council. The applicant still wishes to pursue general commercial-conditional overlay (CS-CO) district zoning.

At this time, the subject tract is currently under an environmental red tag and any further development of this property is prohibited until the proper permits are obtained from the City of Austin. Please see memo titled State of Texas vs. Gerald McDougal, which delineates the issues for which a red tag was issued.

The applicant's agent has requested a postponement of the City Council public hearing to March 6, 2003. A postponement request was submitted in accordance with Council's postponement policy. Staff has received a letter from the applicant amending the application to CS-CO, General Commercial Services-Conditional Overlay district zoning (see attached). The applicant agrees to limit the uses to construction sales and services as the only CS district use and all GR district uses. Staff recommendation remains the same.

Staff has received a petition and it has been validated at 22.43% (see attached). In addition, several letters in opposition to the proposed zoning change have been submitted to staff (see attached).

DEPARTMENT COMMENTS:

At this time, the property is currently developed with various CS district uses that are best described as construction sales and services. The applicant is requesting CS zoning in order to bring the current uses into compliance with the Land Development Code. The City deems some of these uses to be illegal as they came into existence after annexation of the subject tract.

Staff recommended of GR-CO zoning, 700 feet from the right of way of F.M. 620, because aerial photos of the area indicate commercial uses extended this distance back from FM 620, on other properties in the immediate vicinity. In addition, the property is subject to the Hill Country Roadway Ordinance, which will require a 100-foot setback from F.M. 620 and require that the owner leave a 40% natural area over the entire site if the property is ever redeveloped. Staff is recommending RR, Rural Residential district zoning for the balance of the property because the site is adjacent to a large lot residential neighborhood, where the lots average between 3 to 5 acres. One acre single-family homes would be compatible with the existing large lot neighborhood.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-2, DR	Pool Supplies and Construction Sales and Services
<i>North</i>	Not Zoned (County)	Boat Sales
<i>South</i>	SF-2 Not Zoned	Undeveloped Single Family Home
<i>East</i>	Not Zoned	Church Office Auto Repair
<i>West</i>	DR Not Zoned	Single Family Single Family

AREA STUDY: N/A

TIA: N/A

WATERSHED: Lake Travis

DESIRED DEVELOPMENT ZONE: No

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: Yes

NEIGHBORHOOD ORGANIZATIONS:

#275 – Volente Neighborhood Association
#370 – Protect Lake Travis Association
#426 – River Place Residential Community Association
#448 – Canyon Creek Homeowners Association
#475 – Bull Creek Foundation
#654 – The Parke Homeowners Association

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-93-0032	SF-2 and DR to GR	Approved GR-CO. The CO prohibited all restaurants and fast food. Limited F.A.R's to .02 to 1 for retail, .021 to 1 for office and .03 to 1 for financial services (Vote: consent). 4/20/93.	Approved GR-CO (Vote: 7-0). 11/17/94.
C14-00-2122	RR to CS-1	Approved LR-CO. The CO limits trips to 2,000 per day, requires a 10 foot set back and vegetative buffer along east side and lighting should be hooded (Vote: 7-0). 9/12/02	Approved CS-1-CO for tract 1 and LR-CO for tract 2. The CO limits trips to 2,000 per day, requires a 10 foot set back and vegetative buffer along east side, lighting should be hooded and to prohibit a cocktail lounge on tract 1 (Vote: 5-2). 1/25/01

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Windy Ridge	55'-70'	20'	Collector	240
R.M. 620	130'	4 @ 24 (divided)	Highway	26,000

CITY COUNCIL DATE: February 27, 2003

ACTION: Postponed to March 6, 2003 by applicant (Vote: 6-0, J. Goodman-off dais).

March 6, 2003

postponed to March 20, 2003 at the request of the neighborhood (Vote: 6-0, B. Dunkerly absent).

March 20, 2003

Approved staff recommendation of GR-CO for 1st 700 feet off 620 and RR for balance (Vote: 7-0).

ORDINANCE READINGS: 1st

2nd

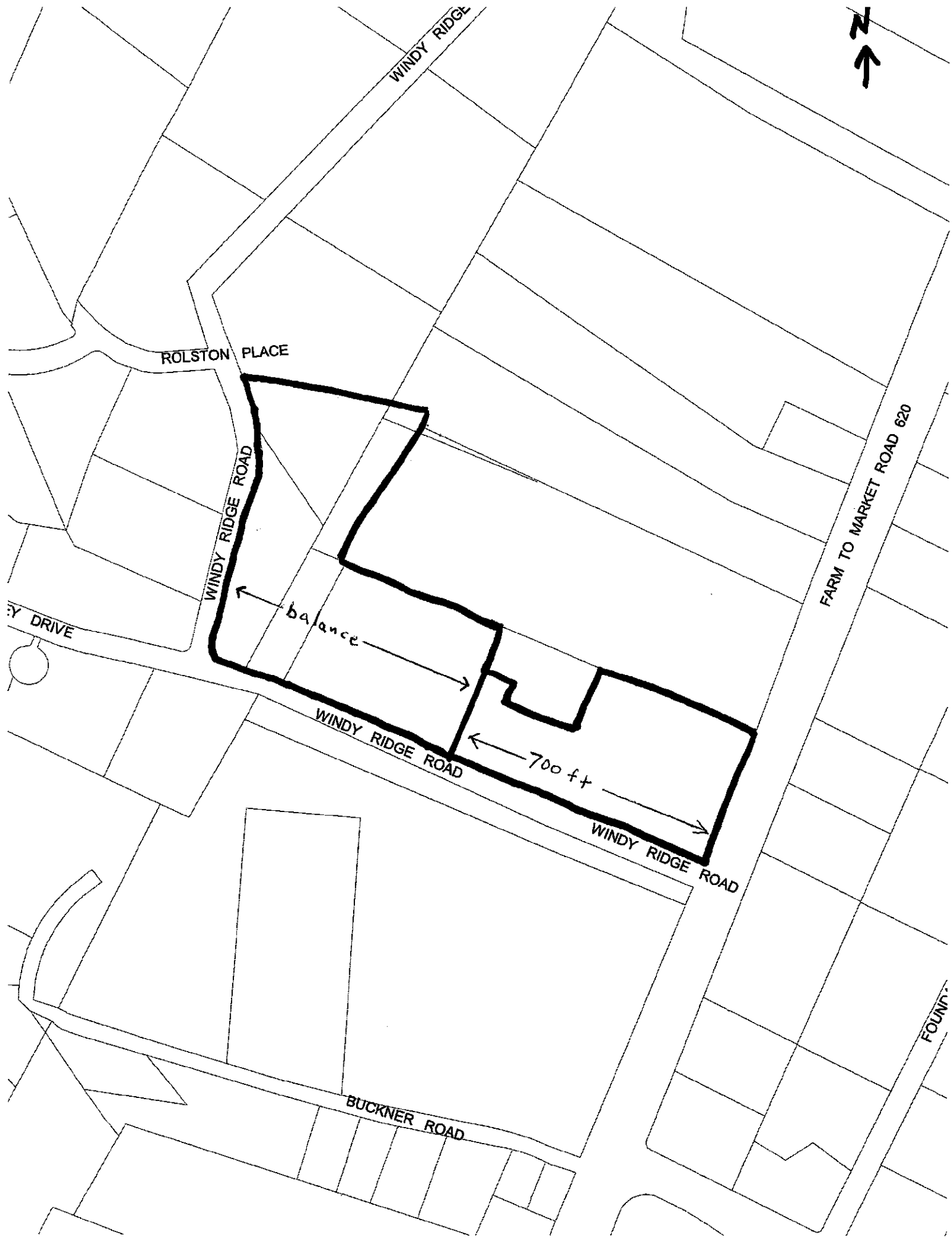
3rd

ORDINANCE NUMBER:

CASE MANAGER: Glenn Rhoades

PHONE: 974-2775

E-MAIL: glenn.rhoades@ci.austin.tx.us



WINDY RIDGE

ROLSTON PLACE

FARM TO MARKET ROAD 620

Y DRIVE

WINDY RIDGE ROAD

balance

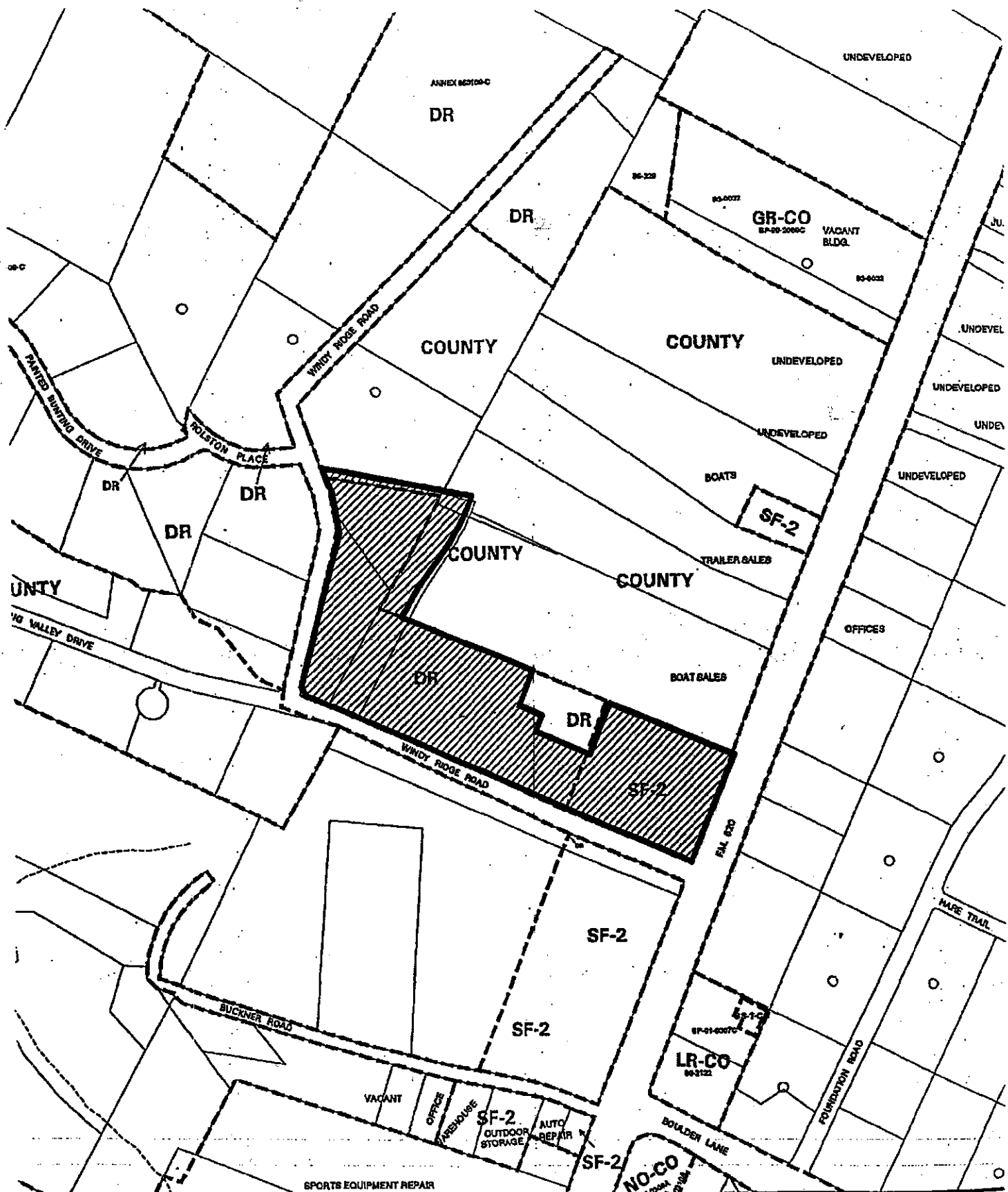
WINDY RIDGE ROAD

700 ft

WINDY RIDGE ROAD

BUCKNER ROAD

FOUNN



 1" = 400'	SUBJECT TRACT		ZONING CASE #: C14-02-0154 ADDRESS: WINDY RIDGE RD @ N FM 820 RD SUBJECT AREA (acres): 13.800	DATE: 02-10 INTLS: SM	CITY GRID REFERENCE NUMBER D37
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: G. RHOADES				



STAFF RECOMMENDATION

Staff's alternate recommendation is GR-CO, Community Commercial district zoning, 700 feet from F.M. 620 and RR, Rural Residential district zoning for the balance of the property (please see attached staff map). The conditional overlay will limit vehicle trips to 2,000 per day. In addition, If the requested zoning is granted, then 200 feet of right-of-way should be reserved from the existing centerline of R.M. 620 in accordance with the Transportation Plan

BACKGROUND

At this time, the property is currently developed with various CS district uses that are best described as construction sales and services. The applicant is requesting CS zoning in order to bring the current uses into compliance with the Land Development Code. The City deems some of these uses to be illegal as they came into existence after annexation of the subject tract.

Staff recommended of GR-CO zoning, 700 feet from the right of way of F.M. 620, because aerial photos of the area indicate commercial uses extended this distance back from FM 620, on other properties in the immediate vicinity. In addition, the property is subject to the Hill Country Roadway Ordinance, which will require a 100-foot setback from F.M. 620 and require that the owner leave a 40% natural area over the entire site if the property is ever redeveloped. Staff is recommending RR, Rural Residential district zoning for the balance of the property because the site is adjacent to a large lot residential neighborhood, where the lots average between 3 to 5 acres. One acre single-family homes would be compatible with the existing large lot neighborhood.

BASIS FOR RECOMMENDATION

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

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

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

The applicant's request does not meet the purpose statement set forth in the Land Development Code. The subject tract is adjacent to a large lot single-family neighborhood that shares access to Windy Ridge Road. The current construction sales and services uses require traffic service incompatible with a 20-foot collector street or with a roadway shared with a single-family neighborhood.

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

Staff's alternate recommendation of GR-CO is reasonable and compatible with the surrounding area. There is a church, day care and offices across the street and trailer, boat and jet-ski sales in the county to the north. Staff does not think that commercial property fronting a major roadway is unreasonable. However, the amount and intensity of the request cannot be recommended by staff.

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

While the subject tract does front on a major roadway, it shares access with a residential street and is not located at the intersection of an arterial and a major collector.

EXISTING CONDITIONS

Site Characteristics

The site is currently developed with a variety of construction sales and service type uses. Such as iron works, roofing supplies etc.

Hill Country Roadway

The site is located within 1,000 feet of FM 620 and within a Hill Country Roadway Corridor. The site is located within the moderate intensity zone of. The site may be developed with the following maximum floor-to-area ratio (FAR):

<u>Slope</u>	<u>Maximum FAR</u>
0-15%	.25 to 1
15-25%	.10 to 1
25-35%	.05 to 1

Except for clearing necessary to provide utilities or site access, a 100 foot vegetative buffer will be required along F.M. 620. At least 40% of the site (excluding dedicated right-of-way) must be left in a natural state. The allowable height is as follows: Within 200 feet of F.M. 620 the maximum height is 28 feet, and beyond 200 feet the maximum height is 40 feet.

Prior to the issuance of a building permit for the proposed use, a site plan must be approved by the Zoning and Platting Commission

Transportation

The Austin Metropolitan Area Transportation Plan calls for a total of 400 feet of right-of-way for R.M. 620. If the requested zoning is granted, then 200 feet of right-of-way should be reserved from the existing centerline of R.M. 620 in accordance with the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55).

The trip generation under the requested zoning is estimated to be 845 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

There are no existing sidewalks along Windy Ridge or R.M. 620.

R.M. 620 is classified in the Bicycle Plan as a Priority 2 bike route.

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

Impervious Cover

The site is located over the Northern Edward's Aquifer Recharge Zone. The site is in the Lake Travis Watershed of the Colorado River Basin, and is classified as a Water Supply Rural Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone. 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>	<i>Allowable Density</i>
One or Two Family Residential	n/a	n/a	1 unit/2 acres net site area
Multifamily Residential	20%	25%	n/a
Commercial	20%	25%	n/a

Environmental

Single family or duplex development within a Water Quality Transition Zone may not exceed a density of one unit per three acres, exclusive of land within a 100-year floodplain, and must have a minimum lot size of 2 acres.

According to flood plain maps, there is no flood plain in, or within close proximity of, the project location.

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.

Water and Wastewater

Currently, there is no City water or wastewater main at the site. If the landowner intends to serve the site with City water and/or wastewater utility service, offsite main extension and system upgrades are required. In order to obtain City utility service, the landowner must obtain City of a Service Extension Request.

If the landowner intends to serve the site with City utility service, the landowner will be responsible for all costs and for providing the utility improvements, offsite main extension, and system upgrades.

Also, the utility plan must be reviewed and approved by the City of Austin Water and Wastewater Utility.

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 west, south property lines as well as all the sides pertaining to the center parcel that is not part of the rezoning, the following standards apply:

- No structure may be built within 25 feet of the property line from all sides except the north side triggered by the center piece.
- 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 from all sides except the north side for the center parcel.
- 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.

LAW OFFICES OF
MINTER, JOSEPH & THORNHILL, P.C.
811 BARTON SPRINGS ROAD
SUITE 800

ALAN H. MINTER
JOHN M. JOSEPH
W. ROYTT THORNHILL JR.
WILLIAM C. DAVIDSON
JEFFREY S. HOWARD
WILLIAM P. MCLEAN

DOWE D. GULLATT
Of Counsel

AUSTIN, TEXAS 78704-1196

TELEPHONE 512/478-1075

TELECOPIER 512/478-5838

December 7, 2002

VERONICA RIVERA
ERIK E. CARY
MICHAEL CHOCK

JOHN M. JOSEPH, JR.
Legislative Liaison
(not licensed to practice law)
JAVIER V. DELGADO
Project Coordinator
(not licensed to practice law)

Mr. David Smith
12111 Hanging Valley Drive
Austin, Texas 78726-1758

Mr. Randy Slagle
12202 Rolston Place
Austin, Texas 78726-1744

Re: Gerald McDougal Zoning Case (Case # C14-02-0154)

Dear Mr. Smith and Mr. Slagle:

Thank you for attending the meeting yesterday regarding the above-referenced zoning case. Dr. McDougal and I appreciate your willingness to consider working with us to find an amicable resolution to this matter.

As I mentioned yesterday, Dr. McDougal is willing to agree to a number of items to alleviate some of the concerns about the use of his property. Specifically, the following items would be agreeable in return for the support of your neighborhood groups of the zoning case:

1. Dr. McDougal would agree to a Conditional Overlay eliminating all uses permitted in CS except for "construction, sales & services" and those permitted by GR. Dr. McDougal will also consider eliminating other possibly offensive uses such as Automotive Repair, Pawn Shop or other undesirable uses that may remain under GR Zoning.

2. Dr. McDougal would agree to the screening and/or buffering of the property along Windy Ridge Road through the use of fencing and/or trees, shrubbery or other appropriate means to obscure the operations inside the property from view from Windy Ridge Road. Dr. McDougal would also be agreeable to preserving the natural vegetative buffering which is already in place at the rear of the property.

3. Dr. McDougal would agree to limit the number of driveways onto Windy Ridge Road as much as possible so that more tenants take their access via Hwy. 620. As of now it appears that 2 driveways that currently take access via Windy Ridge could be redirected to take access via Hwy. 620.

Mr. David Smith and Mr. Randy Slagle
December 7, 2002
Page 2

4. I believe Dr. McDougal would be agreeable to imposing certain requirements in his lease agreements to prohibit certain offensive activities such as eliminating certain types of dangerous dogs from the property, prohibiting parties, etc.

As I told you yesterday, Utz Environmental has been evicted from the property effective November 1, 2002. Hopefully, this is a step in the right direction since they appear to have been a tenant that was causing many of the problems with the neighborhood.

Please present this letter to your respective homeowner's groups and then contact me to let me know whether we can work out an agreement. As I stated yesterday, staff has informed me that the Zoning and Platting Commission ("ZAP") meeting scheduled for this Tuesday, December 10th will likely be postponed, however, the ZAP will have to vote that night on the postponement.

Very truly yours,



William P. McLean

cc: Gerald W. McDougal
Greg Guernsey (City of Austin)
Glenn Rhodes (City of Austin)

WPM: #12550
f:\mcdougal, gw\mcdougal subdiv\neighborhood agmt ltr

CAUSE Nos: 5049305, 5049311, 5049315, 5049358, 5049361, 5049363

STATE OF TEXAS

IN THE MUNICIPAL COURT

VS.

CITY OF AUSTIN

GERALD W MC DOUGAL

TRAVIS COUNTY, TEXAS

Disposition of this case is deferred from August 28, 2002 until February 28, 2003. During the deferral period, the defendant is ordered to:

1. A bond in the amount of \$1,000.00 has been posted. This single bond will apply to all the above listed causes.
2. There shall be no further development on the property at 10624 RR 620 North without first obtaining the required permits from the City of Austin.
3. Complete installation of temporary erosion and sedimentation controls to the specifications of the City of Austin Environmental Criteria Manual (if assistance is needed, contact Bruce Beckett, Environmental Inspector, Watershed Protection Department at 974-1873)
4. No later than thirty (30) days after this order has been signed, submit a rezoning application to the City of Austin for the current development of the property. This order does not constitute support for the rezoning application.
5. No later than ninety (90) days after this order is signed, submit a site plan application to the City of Austin for the current development of the property. The application will be reviewed under all applicable rules of the Land Development Code. An estimate for fiscal security in accordance with Section 25-7-61 must be submitted at the time of site plan application (Environmental Criteria Manual Section 1.2.1).
6. Within fifteen (15) days of City of Austin approval of the estimate, post fiscal security with the City in a manner acceptable to the City.
7. Respond to any comments received from City staff on the site plan application within fifteen (15) days of receipt. Take all necessary steps to obtain an approved/released site plan within the period of the deferral.
8. Contact Susan Scroggins at 974-2677 to obtain documentation at the end of the deferral period verifying that the above conditions have been met.
9. The State will not oppose a six-month extension to the deferral if requested by the defendant.
10. Remain in compliance with the Land Development Code during the period of the deferral.

RETURN TO COURT ON February 28, 2003, with documentation verifying that the above conditions have been met.

If the above conditions are met the cases will be dismissed.

If the above conditions are not met, a conviction will be entered in each case and a fine of \$2,000.00 will be assessed per cause.

If the case is dismissed at the end of the deferral period, a special expense is imposed in the amount of \$100.00 per cause.

Prosecutor/Date

Municipal Court Judge, City of Austin
Travis County, Texas

PLEA OF NO CONTEST: I hereby plead no contest to the offenses charged, waive my right to trial by judge or jury, and agree to the conditions stated in the Order above. I understand that my failure to comply with any of the above terms will constitute grounds for the Court to impose the fine assessed and will result in a final conviction on the above listed causes.

Defendant/Attorney

2a
1

PETITION

Case Number:

C14-02-0154

Date:

Jan. 07, 2003

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

1,072,460.18

1	01-7225-0301	STOKES ROBERT H ET AL	207,015.45	19.30%
2	01-7228-0106	IBSEN KENT & ADELEA FUSSELL	20,824.60	1.94%
3	01-7228-0201	JIRASEK VIRGINIA	12,682.84	1.18%
4				0.00%
5				0.00%
6				0.00%
7				0.00%
8				0.00%
9				0.00%
10				0.00%
11				0.00%
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30				0.00%
31				0.00%

Validated By:

Stacy Meeks

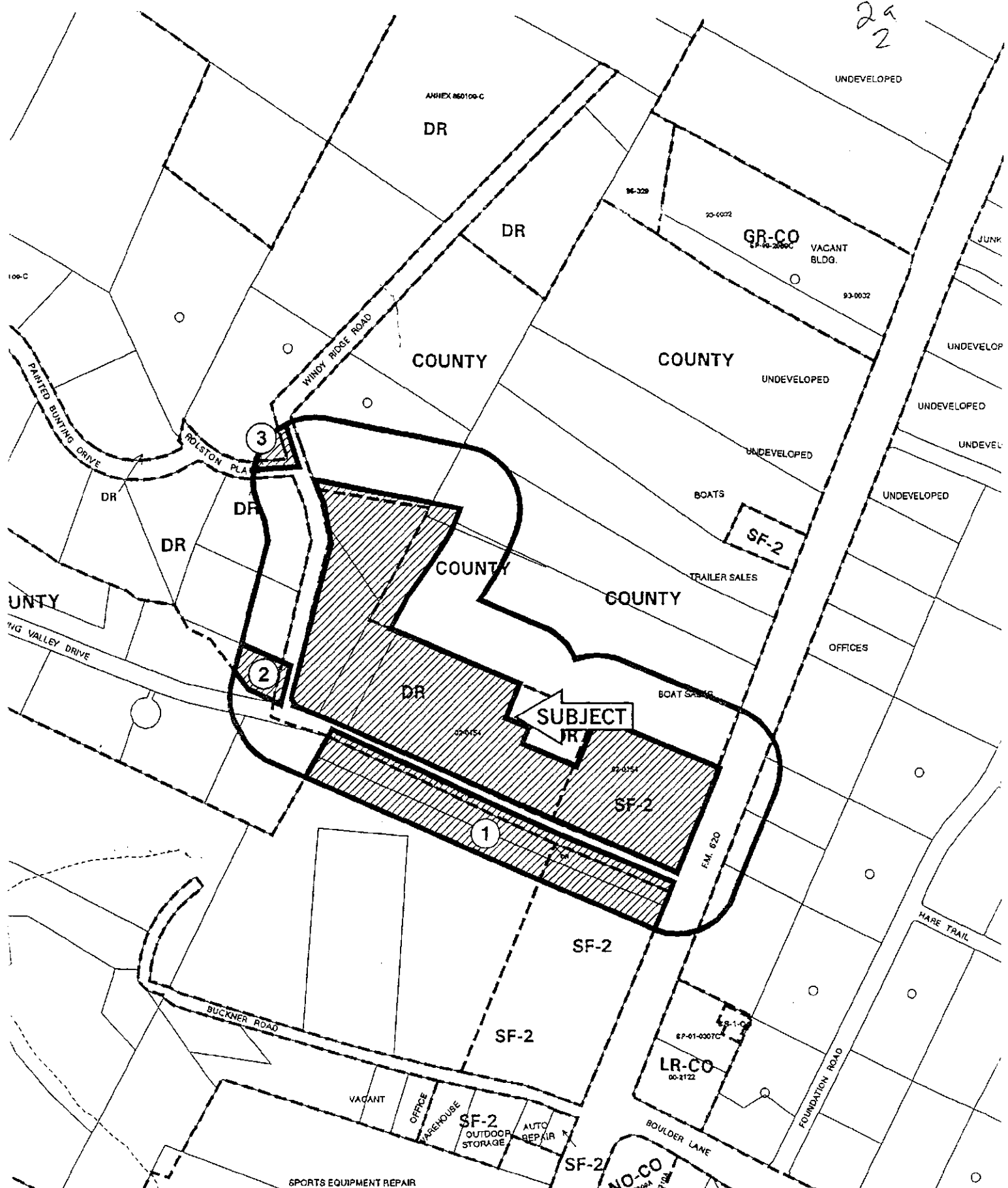
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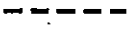
240,522.88

Total %

22.43%

29
2



	 SUBJECT TRACT	PETITIONS	CITY GRID REFERENCE NUMBER D37
	 PENDING CASE		
	 ZONING BOUNDARY		
	CASE MGR: G. RHOADES		
CASE #: C14-02-0154		DATE: 03-01	
ADDRESS: WINDY RIDGE RD @ N FM 620 RD			

To: Austin City Counsel

From: Mark Richmond

As a resident of the community serviced by Windy Ridge Road in Travis county, I would like to state to the Austin City Counsel my concern and dissatisfaction of the deteriorated condition of Windy Ridge Road and its adjacent properties. Below is a list of my concerns:

- Substandard drainage channels and improperly constructed driveways along Windy Ridge force runoff water onto the roadway, bringing with it gravel, wood and swift water creating very dangerous conditions for drivers and pedestrians. When the water recedes debris remains on the roadway for sever weeks until flow from traffic slings the gravel and sticks back to the side of the road creating a long term safety concern for drivers and especially pedestrians. I filed a formal complaint with Travis County regarding road drainage in July, 2002.
- A very dangerous, blind corner is made even more dangerous with the presence of large tractor-trailers that periodically park on Windy Ridge to service a business that resides there. The tractor trailers park directly on the roadway (Windy Ridge) while unloading their cargo with a fork truck, blocking traffic the entire time. Westbound traffic is forced to drive in the eastbound lane and then into a blind corner to go around the truck.
- Several construction businesses that use Windy Ridge often park pickup's with trailers on or very near the roadway, despite several "do not park" signs. It is common to see a vehicle from one of these businesses blocking the road while opening or closing gates, planning their day or even having a beer bust. Often this sort of activity happens early in the morning or late in the evening when it is dark or dusky out and vision is limited.
- Many of the businesses along Windy Ridge have access to their facilities from either Windy Ridge or RR620. It is common for occupants to use short cuts to make quick access to both sides of their facilities by negating a left turn onto 620 and turning left prior to the stop sign at 620 and then driving along 620 in the ditch. This activity is an illegal use of the roadway and has created a mud hole in the ditch along 620 that further exasperates the debris problem.
- The use of the property along the north side of Windy Ridge is incompatible with the surrounding property. The owner of the property is currently in violation of regulatory standards creating an unsafe condition for residents around this property as well as the environment. In addition, the incompatibility of this property has created unsafe conditions for the business owners that reside on the property. At one point a tragic accident took the life of a young child who was crushed by the wheels of a dump truck. This tragic loss of life may have been avoided if proper city safety and zoning regulations would have been enforced on the property.
- Businesses along Windy Ridge have caused a severe impact on the environment as well. It appears that some of the business occupants along Windy Ridge feel that it is their right to dispose of trash, urinate or even defecate in a wooded area along Windy Ridge. Some of these violations sound unbelievable but they are occurrences that many of the residents have witnessed either first hand or evidenced by the remains of human feces and soiled towels on their property.
- There are no wastewater facilities such as sewer or septic available at the businesses along Windy Ridge yet several people live in portable or small houses. I have seen large waste containers under these residences and assume that waste is collected there and then disposed of somewhere? I was not aware that this is a legal way to collect or dispose waste. Is it possible for me to have avoided the \$8000 expense of a septic system at my house by using a large container or just using the surrounding woods as a bathroom?
- Physical impact on the environment is a huge concern. Improper drainage is a big problem in that several tons of gravel are washed down stream from the Windy Ridge area each year, filling properly constructed drainage systems and rendering them useless for future use. In addition, one business that once resided along Windy Ridge was guilty of dumping left over "hydro-mulch" on and around their property. This improper disposal of a chemical substance has transferred non-native seed, fertilizer and green dye onto the watershed from that point all the way to Lake Travis and beyond. This activity has direct, negative impact on natural vegetation and fauna down stream.
- Because of the physical safety, environmental and land incompatibility issues surrounding this property along Windy Ridge, I request that the Austin City Counsel approve the Zoning Commission's recommendation of rezoning this property to "GR" for the first 700 feet from RR620 and "RR" for the remainder of the property. Furthermore I request that the Counsel take immediate action to resolve the non-compliance issues that threaten our environment and personal safety.

Thank you for providing the opportunity for us to voice our concerns.

Best Regards,

Mark Richmond

President, Painted Bunting Neighborhood Association

P E T I T I O N

Date: 10/29/02

File Number: C14020154

Address of
Rezoning Request: WINDY RIDGE AT FM 620

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than DR & SF2.

(STATE REASONS FOR YOUR PROTEST)

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature

Printed Name

Address

Kit B. 15m (3)

KENT B. IBSEN

1200 HANGING VALLEY DRIVE
AUSTIN TX 78726

Robert M. Stone

CHARLES M. WENDLER

AUSTIN TX 78726
12/50 WINDY RIVER
AUSTIN, TEXAS

Nancy McDemore

VANGIE McLEMORE

10806 Humble 20 Austin, TX 78726

Wm. L. Richard

Carl Richard

13207 Mansfield Dr. Austin, TX 78732

2960 Ml

Toss McEMORE

12164 WINDY RIDGE Austin 78726

July 27, 1954

Jay Moore

12101 Hanging Valley Dr. Austin TX 78742

Kelly Staples

Betty Stokes

11900 Buckner Austin, TX 78726

Inggris Jarak

VLK GYMNA - D I F A S E K

12157 WINDY RIDGE RD
AUSTIN TEXAS 78726

Date: _____

Contact Name: BARBARA TRAINOR

Phone Number: 401-9758
838-9274

Case #: C14-02-0154**Reasons for Zoning Change Protest:**

- **High / Dangerous traffic patterns:**
 - Trucks, trailers, and commercial equipment creating backups entering HWY 620. Only one way in / out of the neighborhood. Change in zoning will make it more hazardous for residents to enter HWY 620.
 - Trucks and trailers turning onto HWY 620 with no regard for safety of on-coming traffic
 - Trucks creating second entrance onto HWY 620 in front of property (i.e. driving into on-coming traffic on Windy Ridge to pass other motorists)
 - Trucks parked on both sides of Windy Ridge although no-parking signs are prominently posted
 - Tractor trailers on Windy Ridge for deliveries
 - Trucks arriving early in the morning (before 5 AM) and waiting for site to open so that deliveries can be made (Drivers sleeping in trucks while waiting for business to open)
 - Delayed exit in case of emergency since there is only one entrance into community
 - Increased traffic on Windy Ridge (Workers are parking cars on site property and then using commercial vehicles to get to job sites)
 - Workers speeding on Windy Ridge when arriving and departing work
 - Workers walking in the middle of road with no regard for on-coming traffic
 - Tractor trailers driving onto Painted Bunting and Hanging Valley when there is no room to turn on Windy Ridge (children playing on these streets)
 - Workers congregating on Windy Ridge, drinking after work and then driving vehicles
- Storage tanks on property (may contain hazardous material)
- Unattended fires on property
- Workers using site across the street as a bathroom (Significant health concern)
- Littering by workers and company debris (garbage, junked vehicles and trailers, wood piles)
- Raw sewage flowing from trailers that do not have proper septic systems and permits
- The community is on wells and we are concerned that our drinking water is being contaminated by the high commercial use of this property in a residential neighborhood
- Concern of potential fire in the area with heavy commercial usage. There are no fire hydrants in the area and Volente fire department would have to use foam to put out fires.
- Runoff from storage tanks or poorly maintained vehicles drain down hill into homeowners wells
- Abandoned trailers on property attracting rodents
- Workers living in temporary trailers on property
- History of violations by Mr McDougal
 - The city Red tagged this property 3 years ago but the city has not taken any action to make Mr. McDougal comply with city requirements
- Mr McDougal was aware of the property restrictions when property purchased (no mobile homes, residential)

October 17, 2002
City of Austin
Neighborhood Planning & Zoning Dept.
Reference: Case #C14-02-0154

*In Protest to Case #C14-02-0154

I Penny Leppin hereby oppose the application for the Proposed Zoning change of Intersection of Ranch Road 620 North and Windy Ridge Road.

I furthermore deny any participation or cooperation in change of this zoning brought Herein.

Thank You,

Penny Leppin

12411 Painted Bunting
Austin, TX 78726

October 17, 2002
City of Austin
Neighborhood Planning & Zoning Dept.
Reference: Case #C14-02-0154

*In Protest to Case #C14-02-0154

I Diane Webb hereby oppose the application for the Proposed Zoning change of Intersection of Ranch Road 620 North and Windy Ridge Road.

I furthermore deny any participation or cooperation in change of this zoning brought Herein.

Thank You,

Diane Webb
12171 Windy Ridge
Austin, TX 78726

October 17, 2002
City of Austin
Neighborhood Planning & Zoning Dept.
Reference: Case #C14-02-0154

*In Protest to Case #C14-02-0154

I Gail Withrow hereby oppose the application for the Proposed Zoning change of Intersection of Ranch Road 620 North and Windy Ridge Road.

I furthermore deny any participation or cooperation in change of this zoning brought Herein.

12300 Painted Bunting Dr.
Austin, TX 78726

Thank You,

Gail Withrow

MEMORANDUM

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

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

DATE: February 19, 2003

SUBJECT: Zoning and Platting Commission Summary

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

CASE # C14-02-0154

9. C14-02-0154 – GERALD W. MCDOUGAL D.D.S. INC. PENSION PLAN (Dr. Gerald W. McDougal), By: Minter, Joseph & Thornhill, P.C. (William McLean), Intersection of Ranch Road 620 North & Windy Ridge Road. (Lake Travis). **FROM DR; SF-2 TO CS-CO. ALTERNATE RECOMMENDATION: GR AND RR. City Staff: Glenn Rhoades, 974-2775. CONTINUED FROM 10-29 (STAFF), 11-12 (APPLICANT), 12-10 (STAFF), 01-07(ZAP).**

SUMMARY

Glenn Rhoades, staff – “The applicant is requesting a zoning change from SF-2, DR to CS-CO; the conditional overlay would limit the uses to construction sales and services and all GR uses to screening of Windy Ridge Road and to a 2000 trip limit. Staff’s alternate recommendation is GR-CO for 700-feet from 620 and RR for the balance of the property. The applicant is requesting a change in order to bring current construction sales and service uses into compliance with the Land Development Code. In addition, at this time there are pending legal action between the city and applicant in regards to building without site plan applications. The reasons behind staff’s alternate recommendation is that we realize the appropriateness of commercial zoning on 620; however, the intensity and the amount requested is not. We are recommending RR for the balance of the tract because that was the most appropriate for the single-family neighborhood to the west. The homes back there run between 3 to 5 acres. We went with GR instead of CS because when we looked at the area, generally, most of the uses along 620 were either GR or less intense. There is a trailer manufacturing to the north of the county, however that’s usually the exception rather than the norm. Finally, staff could not recommend CS for the property because we believe that the current construction sales and service use is require traffic services incompatible with Windy Ridge, which is a roadway shared with the single-family neighborhood to the west; and that is the only way, in and out, for those residents”.

Commissioner Gohil – “You’re saying that RR would stay on what portion; and how many acres is it?”

Mr. Rhoades – “The rear portion; we’re recommending GR; for all of the rest of it, we are recommending the RR”.

Commissioner Baker – “What is the current right-of-way on 620?”

Mr. Rhoades – “The current right-of-way is 240-feet”.

Commissioner Baker – “It’s 200 and the transportation plans call for 400?”

Mr. Rhoades – “Yes”.

Commissioner Baker – Asked for clarification as to where the recommendation for RR zoning was located.

Mr. Rhoades – Showed the commission using the GIS screen.

Commissioner Baker – “So more than half of the tract?”

Mr. Rhoades – “Yes”.

Commissioner Hammond – “Has the property owner been cited for any....”

Commissioner Baker – “Oh yes”.

Mr. Rhoades – “I created a map from 1997, which shows all of the property to the rear, as undeveloped. As you can now, this is an Arial from 2000; and it is all developed”.

Commissioner Baker – “This property was annexed in '84, it's been red tagged for more than 3-years?”

Mr. Rhoades – “I do not have the date that it was filed. However, I do have the dates that it went to court. It went to court on August 20, 2002; and was deferred until February 28, 2003”.

Commissioner Baker – “Okay, thank you”.

Bill McLane, applicant – “I'm with McLane and Howard.....”

Commissioner Baker – “Mr. McLane, I'm going to do something very unusual, but it's not unusual for me. We're minus two commissioners, they probably are due back in about 30 minutes. If you want action tonight, we need to table this until we get the other two commissioners”.

Mr. McLane – “I have no problem with that”.

Commissioner Whaley – “I move to table this item”.

Commissioner Gohil – “Second”.

Commissioner Baker – “I want staff to give another presentation”.

Glenn Rhoades, staff – Repeated the presentation given earlier.

Commissioner Baker – “I visited the tract; and if I can remember correctly we went beyond this tract on 620 and there were a lot of CS and even industrial uses”.

Mr. Rhoades – “I would say that in the general vicinity, there are some, but they are not necessarily the norm. Across the street there’s a church, you have office complexes; there are boat sales, which are GR uses as well”.

Commissioner Baker – “Well, there’s some outdoor storage right across Buckner Road; there’s a large warehouse back there; sports equipment repair; I’m not sure if that’s CS or GR. Number one, I guess if anything upsets me about this tract, it’s that it appears to be a very flagrant disregard of rules and regulations, and I’m never inclined to vote for zoning to forgive someone. I like for them to come in and ask permission, rather than to ask for forgiveness”. “I would like for you to tell us about the annexation, when the date of violations began”.

Mr. Rhoades – “Well, this is almost annexed, but I believe there have been various....”

Commissioner Baker – “We had two commissioners who we’re waiting for who were not here...that’s why I’m asking that question again”.

Mr. Rhoades – “As far as the present action, building without site plans, I couldn’t give you an exact date as to when they were actually flagged; however, it did go to court in August, and it was postponed in court until February 28, 2003, to give the applicant time to request a zoning change. There have been environmental violations in the past, they did not have sanitation control and those kinds of things”.

Commissioner Baker – “I wrote down a date of 8/8/2002, was that a date of a violation?”

Mr. Rhoades – “That was the date of a court, when the City of Austin took the owner to court and it was postponed to February, 2003”.

Bill McLane, applicant – Gave a description of the property. “It’s a boot shaped piece of property. The annexation actually occurred in 1986, it was a limited purpose annexation. In 1985 through 1989 the Legislature passed laws related to limited purpose annexations; that basically gave property owners the right to opt out of limited purpose annexation areas if they hadn’t been full purpose annex within a certain period of time or hadn’t been extended services within a certain period of time. As far as the profile of this area, it does have a high degree of commercial and intense uses”. Mr. McLane continued with his presentation; explaining what uses are on the property. “There have been red tags, I’d like to explain them, I’d like to explain the problems with the neighborhood. You’ll hear a lot about the problems and it’s not going to sound good to you, but I would like to explain in my rebuttal. Right now I want to focus on what we feel is proper with regard to zoning. I have mentioned in the past that we are very amendable to assigning a CO to this zoning case that addresses any number of the problems and issues and concerns that have been brought up by the neighborhood. We met with them and we tried to come up with a resolution, but we weren’t able to. We’re willing to address limitation and restrictions on uses; limitation on the number of drive-ways; screening and buffering; vegetative buffering or fences; we would just ask that you consider those”.

"With regard to the CO and the limitations that we're agreeable to, what we are looking for is a situation that allows this man to address the concerns, but not be zoned out of existence. We don't think that GR is compatible because the uses aren't there yet. RR I have not seen the justification for that, there's none on the map. This property does not have floodplain".

FAVOR

No Speakers.

OPPOSITION

Penny Leppin, representing a Homeowners Association – "The second time that Mr. McDougal was red tagged was August of 1999. I was there at that time, prior to that he was red tagged with the Environmental Protection and Watershed Department with regards to landfill violations. I just wanted to clear that up in regards to how many issues of violations this man has had. Nothing has been done in Mr. McDougal's part to bring it into compliance. I personally asked in a number of occasions to have Mr. McDougal to come to homeowners and try to meet with us, to try to clean up some of these lots. Only after Madam Chair mentioned that she was going out to the property, did Mr. McDougal do anything to try cleaning up his property. I'm talking about little worker bees out there". Ms. Leppin showed a slide presentation showing pictures of oil spills; an out-house; a septic system; and various violations. "These people are not environmental friendly. I have been threatened by Mr. McDougal's tenants. There is not a proper septic system. We do not have any type of water service, we have had to call the fire department for fires that were started. There is only one way in and one way out and 18-wheelers coming down a residential street is just very hard when you're trying to maneuver around".

Mark Richmond, President of Panted Bunting Neighborhood Association – Spoke in opposition.

Commissioner Jackson – "You're here opposing the zoning request, is there a request that the neighborhood could work with here, recognizing that the property needs to be zoned something. It is inconceivable to me, that it be all residential, because residential is equally incompatible in my opinion; along 620".

Mr. Richmond – "Sure, we understand. We understand that Mr. Rhoades recommendation is similar to the rest of 620 for the first 700-feet; and then behind that to be RR, which puts a limitation of 1-acre per lot, I believe. That is something that we're comfortable with, we don't want to do anything different than what's going on in other parts of 620".

Commissioner Baker – "Would your opinion of this case be changed at all if all access to Windy Ridge was excluded, so that the only access to this tract was off of 620?"

Mr. Richmond – “I don’t know if I’m at liberty to make that decision...”

Commissioner Baker – “Would your personal opinion change, if that were the case?”

Mr. Richmond – “My personal opinion is that someday this property is going to obtain.... No, my opinion would not change”.

Ronald Clapp, resident – Spoke in opposition and about the safety issues. “In June of 1999, a 4-year girl died here as a direct result of a lot of heavy equipment usage in that area. She was killed on this lot. The amount of construction and hazardous material stored on this area is outstanding. A fire in this area would be very devastating for all of us because it would take about 20 minutes for the volunteer fire department to get out there”. Mr. Clapp spoke about traffic problems.

John McKinn, resident – “Is there any CS property that’s serviced by a 2-lane unmarked road anywhere? That goes straight into a residents”.

Commissioner Baker – “Thanks, we appreciate the question”.

Commissioner Baker – “The answer is yes, but unfortunately”.

REBUTAL

Bill McLane, applicant – “My client has owned the property for 30-years, he’s operated or has leased to people that have operated businesses during that time period. In that time frame, he has been cited twice that I know of, by the City of Austin. In 1997, he was cited for adding fill without a permit from the City of Austin. He had received a permit from Travis County. I don’t think it’s uncommon to sometimes get confused by the multi-layered jurisdictional requirements of permitting. The fact that he got a permit from Travis County, I think shows that there wasn’t a malicious attempt to circumvent the regulations, but it was a mistake on his part. The recent red tag, we have entered a deferral order requiring us to pursue this zoning case, file a site plan, build a detention pond; and erect erosion sedimentation controls. Those are all activities that are going to make this situation better; and all activities that we agreed to and settle with the City of Austin. Regarding the concerns, I did not hear any that could not be addressed through the use of a CO and through limitations on this development that you could impose to make it safer; to make it more compatible. The last thing is, the death of the girl occurred when she was ran over by her father driving a truck. I don’t see that as a result of callus and difference to the rules. I see that as a tragedy, a mistake and a accident; and it could happen to anybody”.

Commissioner Hammond – “In looking at the pictures, I don’t think the conditions on this site are new to your client. What has your client done to try to get rid of these problems that the neighborhood has so well identified; environmental problems, zoning problems, the whole thing? Is he going to wait until a judge orders him to do it, why hasn’t he taken care of the problem now?”

Mr. McLane – “I will submit to you that he is and he has; the environmental citation, I don’t know of...I have not heard anything about that, I certainly don’t know the disposition of that case that resulted in enforcement action being taken. It was my understanding that there was some diesel barrels that did not have the proper reservoirs. The site today, looks a lot better than in those pictures. I will admit that, that is due in part to him being before this body. It is better than not getting cleaned up at all, he is taking efforts to clean up, he is taking efforts to address issues with his tenants; getting tougher with his tenants. This body, if zoning is of the type that I’m suggesting, would be amenable to us as passed, we’re gonna see it again. We would hope that it’s even better than it looks today”.

Commissioner Cortez – “How many businesses are on that tract now? And I know that most of them are in the construction related areas. Give me some examples of what they are”.

Mr. McLane – “I would say that there have been two tenants who have been the source of a lot of the problems in the past and have been evicted recently. I would say about 18 different users and they are all in construction services or some type of material supply”.

Commissioner Cortez – “If you guys don’t get the zoning that you’re looking for, I would image that it’s going to have a pretty detrimental affect on those folks ability to do business”.

Mr. McLane – “It would have a detrimental affect on them. The good thing for them is that they could pick up and go somewhere else. It would pretty much zone my client out of existence. I wish it was ready for office, I wish it was ready for GR; due in part to the fact that utilities have not been extended to this area. So we kind of in a cache 22 situation. We’re in the limited purpose jurisdiction of the City of Austin, we’re subject to zoning, but we don’t have utilities; we don’t have the benefits of that; and it’s been 16-years that that’s been the situation”.

Commissioner Gohil – “Is this a hazardous site?”

Mr. McLane – “I’ve been out there countless times, I have not seen any storage of chemicals; building supplies and building materials, yes. I’ve seen very little storage of chemicals. I don’t know of any environmental violation, other than we needed to erect erosion of EMS controls and build a pond. I don’t know of any violation ever cited by the City of Austin where they mentioned chemical spills and I don’t know of any disposition of a County case where it resulted in enforcement action for a chemical or environmental violations”.

Commissioner Jackson – “I’d like to follow up with that...staff, so you have any records of any; other than the environmental violation we heard about of sedimentation erosion control and the diesel tanks; do you know of any violations for hazardous material storage or chemical storage?”

Mr. Rhoades – “I do know that there have been environmental inspections and they have gone out there in the past; and they have reported that there have been some violations, however, I don’t think that there has been anything actually filed as far formally...so, I would just be speculating”.

Commissioner Jackson – “Thank you”.

Commissioner Baker – “Is the storage of the outside diesel fuel tanks, is that considered hazardous material?”

Mr. Rhoades – “I would say yes”.

Commissioner Whaley – “I can answer that question. It’s actually a Class 2 combustible, but if it were less than 140 gallons, I don’t believe that it would require hazardous materials permit; but I was actually interested in the neighbor...I want to ask her the same question”.

Penny Leppin, resident – “The back section of that property that was used, there was a large construction site that was out there. A large spill happened, there was diesel fuel; there were large tanks. Oscar Garza with the Environmental Compliance had to go out there and do the clean up”.

Commissioner Jackson – “I don’t doubt that there was a spill; was anyone cited for having diesel fuel there or improperly storing it; because spills occur and they get cleaned up; I’m interested in whether there was a violation of some regulation?”

Ms. Leppin – “There are three different site that have different diesel stored on those due to the heavy truck use, so those three different ones. I personally don’t know”.

Commissioner Jackson – “Thank you”.

Commissioner Jackson – “Mr. McLane, there’s been a lot of conversation about workers occupying trailers; lack of water and sewer facilities, we’ve seen some pictures of the facilities that they have; how are the 18 businesses that are there served with sanitary facilities? Are they on septic or are they...?”

Mr. McLane – “I believe there is septic on at least 2 septic facilities”.

Gerald McDougal, owner – “There are two septic systems approved, Travis County septic systems. There are only two businesses on the entire property where people are there during the daytime. All other businesses, the people go out, get their materials and depart and go to their job sites to perform their work”.

Commissioner Hammond – “Mr. McDougal, would you live across the street from your own property?”

Mr. McDougal – “Yes I would and so would all of these people because most of these people bought or built their homes after they knew of the long term usage of commercial industrial on this property”.

Commissioner Baker – “Mr. McDougal, very respectfully, do you realize how difficult you make our job?”

Mr. McDougal – “No, I’m sorry”.

Commissioner Baker – “I am too, because I feel that you are probably are a very honorable gentlemen, but we’re facing a problem here tonight, that even if we take action, you may not even succeed at Council because of the valid petition. I personally would not want to live across the street from Windy Ridge; across from those 12 gates or 12 driveways. I would not want to live there. I hope that we could come to something fair in our recommendation tonight, but it would have helped us so much and made our lives much easier had you followed some of the city’s regulations”.

Commissioner Jackson – “I got to say before we start a motion; Mr. McDougal, I would suggest that you talk to your tenants and even if they don’t believe they have tenant people there all day, that they invest in the 40 or 50 dollars a week or month it takes to have portalettes put adjacent to their buildings. Some of the conditions that these people are enduring are ridiculous and I’m surprised you didn’t do that before we all went and looked at the site. At least out of respect for the neighbors that are adjacent to you”.

Mr. McLane – “I agree with you; and we offered to put that in the form of a deed restriction. It’s one of the things we talked about. We talked about, “tell us what you want in form of a deed restriction”, and we didn’t get there. I’m not blaming that on them or us...”

Commissioner Jackson – “I understand that Mr. McLane, but what I’m saying here is whether they agree to it or not, this gentleman owes it to his neighbors to at least provide some attempt of a sanitary facility”.

Mr. McLane – “I agree”.

Commissioner Martinez and Whaley moved to close the public hearing.

Commissioner Jackson – “I’ll try a motion. I move for W/LO-CO; with a conditional overlay limiting it to less than 2000 trips a day; a unified site plan that limits access only off of 620. I don’t know if we can require sanitary facilities, but I’m willing to throw that out there. I don’t think we could. Also, that there be no occupied trailers other than business hours on the site. There should be no residences or tenant housing”.

Commissioner Cortez – “The W/LO, would that allow the current uses?”

Commissioner Baker – “Some of them, yes”.

Commissioner Whaley – “I’ll second the motion. Some of them it would not automatically allow them, but it would require a conditional use permit, which would have to be approved by this body”.

Mr. McLane – “If we’re talking about CS zoning with a CO that limits us to W/LO...”

Commissioner Jackson – “I’m saying only W/LO zoning”.

Commissioner Baker – “Mr. Jackson, would you amend your motion or consider amending your motion. On the long side of the tract, on the Windy Ridge side of the tract, south. That you allow only two curb cuts; and that there be no curb cuts allowed on the bottom of the tract; unless emergency access is required by any emergency services on the bottom of the boot. Could you accept that as an amendment?”

Commissioner Jackson – “I can accept that”.

Commissioner Whaley – “I would like to entertain a creative buffer somewhere in here. I would like to see it along the Windy Ridge side on the whole side. But, I’m looking for a creative add on; I realize the detention would likely go into the bottom of the boot and that would create a area of non-construction where it would be not a lot going on there, but I still would like to see some kind of vegetative buffer established between this tract and the neighbors”.

Commissioner Jackson – “So you’re talking along Windy Ridge?”

Commissioner Baker – “What you’re coming up with, I think is going to be some site plan issues”.

Commissioner Whaley – “Or it could be part of the conditional use permit”.

Commissioner Baker – “In our zoning we can require; we can put RR zoning for a 50-foot depth; there’s 75-foot depth at the base”.

Commissioner Whaley – “They can’t put a pond on the RR, so I’m hesitant to do that, but I am looking for some vegetation, but I like the direction and the conditional use permit requirement and I don’t want to appear to be overly picking at it, but that’s where I’m at”.

Commissioner Jackson – “What kind of buffer, give me a dimension”.

Commissioner Whaley – “On the boot, 50-feet; and at least 20-feet up Windy Ridge. I want to buffer the neighbors. If we’re going to limit their access and we’re going to limit their driveways, I want to try to put some kind of vegetation between them”.

Commissioner Baker – “To limit it on the southside, you’re limiting it against nothing. There’s not residential uses there, there’s residential zoning because of the annexation”.

Commissioner Jackson – “I’m willing to accept that just to create a visual buffer for the folks that ingress and egress along...”

Commissioner Baker – “When you say a 20-foot buffer, is that a 20-foot setback?”

Commissioner Jackson – “Landscape buffer”.

Commissioner Whaley – “I don’t want to create undisturbed buffer because some of it has been ripped up”.

Commissioner Baker – “This would allow the following types of uses; it would allow administrative and business offices; arts and crafts studios; it would allow automotive washing; business support services; construction sales and services; electronic prototype assembly; the permitted uses would also include, custom manufacturing and light manufacturing and distribution. In addition to the permitted uses, they would have to come before this commission if they wanted one of these uses such as, convenient storage; equipment repair services; construction sales and services; exterminating services; and that basically is our motion”.

Commissioner Cortez – “Because of the zoning, they wouldn’t be able to do construction sales and services until they get a conditional use permit?”

Commissioner Baker – “That is correct”.

Commissioner Cortez – “Does that mean that the businesses that are there currently operating there in that category, would have to cease and desist or ...”

Commissioner Baker – “Since the zoning case is in process and they would have a conditional use permit application following also immediately, they would be allowed a reasonable time for the cases to get through. We can’t shut them down”.

Commissioner Baker – “I forgot religious assembly, it’s allowed in any zoning district”.

Commissioner Cortez – “Obviously there’s some concern; I felt unsafe driving down that road, and there wasn’t any traffic on it. I’m in the construction sales and services business, I know what’s going on in that business. I wouldn’t feel right about driving trucks loaded with materials down that road; that’s why I’m wondering in our motion if we can include not allowing any kind of heavy vehicle traffic on that road?”

Commissioner Baker – “Mr. Rhoades, what’s the frontage on 620 for this property?”

Mr. Rhoades – “According to the tax maps, it is 367-feet”.

Commissioner Baker – “So they are only going to get one curb cut; that’s all they can have on 620 because of the Hill Country Roadway. That’s one of the reasons I knew you had to have some access on Windy Ridge”.

Commissioner Jackson – “I agree that you have to have some access on Windy Ridge. In an effort to try address that, can I amend my own motion to limit tractor truck traffic to access only through 620?”

Commissioner Baker – “It would have to be through a restrictive covenant. It would have to be agreed to by the applicant”.

Commissioner Jackson – “Would the applicant agree to that?”

Mr. McLane – “There is a road on the other side...”

Commissioner Baker – “That’s an easement, it is not a road”.

Mr. McLane – “If you’re talking about semi’s, yes we’re agreeable to that”.

Commissioner Baker – “Anything with more than 4 wheels”.

Sherri Gager, staff – “I’ll get the code”.

Commissioner Baker – “I want to commend the neighborhood, you’ve done a great job in making your presentation and defending your case”.

Sherri Gager, staff – “Under equipment sales and services, it says “the use for a site for the sale or rental of trucks for 1 ton or greater in capacity. One ton in capacity, tractors, construction equipment, agricultural implements etc....heavy equipment, but it’s one tonnage in capacity”.

Commissioner Jackson – “Let’s try it with semi-tractor trailers as defined as having a total of 3 axles or more”.

Commissioner Baker – “I would say to the applicant and his agent; you have a tract of land that could have been absolutely beautiful and it still could be. There are industrial park warehouse and limited office zoning cases throughout this city that have very attractive layouts and access and landscaping. I hope you accomplish it, because I know you can”.

Commissioner Jackson – “Okay, the motion as it stands is W/LO-CO; limiting the number of trips to less than 2000 a day; access drive from 620; two access points on the southern leg of Windy Ridge; 50-foot vegetative buffer along the western property line and 20-foot vegetative buffer along the southern property line; limiting any access along the western property line to emergency access, as and if required by the city or county;

limiting semi-tractor trailer access being defined as a combination of 3 axles or more from using Windy Ridge”.

Motion carried.

**COMMISSION ACTION:
MOTION:**

**JACKSON, WHALEY
APPROVED W/LO-CO ZONING WITH
CONDITIONS OF:**

- **LIMITING TRIPS TO 2,000 PER DAY;**
- **50' VEGETATIVE BUFFER ALONG THE WESTERN PROPERTY LINE;**
- **20' BUFFER ALONG THE SOUTHERN PROPERTY LINE;**
- **PROHIBIT ACCESS ON THE WESTERN PROPERTY LINE, WITH THE EXCEPTION OF EMERGENCY ACCESS;**
- **ONLY 2 ACCESS POINTS ON THE SOUTHERN PROPERTY LINE;**
- **RESTRICT SEMI-TRUCKS, 3 AXLES OR MORE, TO WINDY RIDGE ENTRANCE.**

AYES:

**CORTEZ, GOHIL, MARTINEZ,
BAKER, JACKSON, WHALEY,
HAMMOND**

NAY:

PINNELLI

ABSENT:

DONISI

MOTION CARRIED WITH VOTE: 7-1.