



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

**AGENDA ITEM NO.:** 50  
**AGENDA DATE:** Thu 06/17/2004  
**PAGE:** 1 of 1

**SUBJECT:** Conduct a public hearing and consider action on an appeal by Richard Mathias of the Planning Commission's denial of a conditional use permit for a convenience storage facility at 1304 West 5th Street.

**AMOUNT & SOURCE OF FUNDING:** N/A

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING** Watershed Protection and **DIRECTOR'S**  
**DEPARTMENT:** Development Review **AUTHORIZATION:** Joe Pantalione

**FOR MORE INFORMATION CONTACT:** Kathy Haight, 974-2724; Martha Vincent, 974-3371.

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** Denied by the Planning Commission.

**PURCHASING:** N/A

**MBE / WBE:** N/A

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The applicant is requesting a conditional use permit to allow a convenience storage facility on a 0.639-acre tract zoned CS-MU-CO-NP. The project will include a four-floor self-storage facility, parking area, utility service lines, and an underground detention facility. Convenience storage is normally a permitted use in CS (General Commercial Services) zoning but is a conditional use in the neighborhood plan overlay, thereby requiring approval of the site plan by the Planning Commission.

Staff recommended the conditional use permit as complying with City regulations. The Planning Commission heard the case on March 23, 2004, and denied the conditional use permit 7-0. Richard Mathias believes the Planning Commission was provided inaccurate information by the Old West Austin Neighborhood Association (OWANA) who stated that the "vision of the neighborhood plan was to create a pedestrian oriented corridor along West 5th Street." Mr. Mathias believes there is no mention in the neighborhood plan of any "pedestrian oriented corridor along West 5th Street."



**City of Austin Watershed Protection and Development Review Dept.**  
505 Barton Springs Road • P.O. Box 1088 • Austin, Texas 78767-8835

**APPEAL OF THE PLANNING COMMISSION DECISION TO APPROVE A  
CONDITIONAL USE SITE PLAN, SECTION 25-5-149**

**CITY COUNCIL HEARING DATE:** May 13, 2004

**PROJECT NAME:** Shurgard Storage Center

**PROJECT LOCATION:** 1304 W. 5<sup>th</sup> St., Austin, Texas

**PROJECT OWNER/AGENT:** Cohn Buildings/Richard Mathias

**APPELLANT:** Richard Mathias

**EXISTING ZONING:** CS-MU-CO-NP

**CASE NUMBER:** SPC-03-0018C

**REQUEST:** To conduct public hearing to consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit for Convenience Storage.

*Convenience Storage use is storage services primarily for personal effects and household goods within enclosed storage areas having individual access. This use includes mini-warehouses, and excludes workshops, hobby shops, manufacturing, and commercial activity [LDC 25-2-4 (23)].*

The applicant is requesting a conditional use permit to allow a Convenience Storage facility on a 0.639 acre tract. The project will include construction of a four-floor self-storage facility, parking area, utility service lines and an underground detention facility. The vote to deny was 7-0. (See Attachment A).

**BACKGROUND:**

Convenience Storage is a permitted use in CS (General Commercial Services) zoning, and is allowed as a conditional use in the neighborhood plan overlay.

Staff recommended the proposed Conditional Use Plan which complies with LDC 25-5-145 and all other requirements.

Opposition to the plan was voiced by several members of the Old West Austin Neighborhood Association (OWANA).

The Planning Commission denied the Conditional Use Permit 7-0 for reasons cited in the minutes from the Planning Commission meeting held March 23, 2004.

**CITY COUNCIL ACTION:**

**CITY STAFF:** Kathy Haught, Case Manager 974-2724 (email: Kathy.haught@ci.austin.tx.us)

**PLANNING COMMISSION SITE PLAN  
CONDITIONAL USE PERMIT REVIEW SHEET**

**CASE NUMBER:** SPC-03-0018C **PLANNING COMMISSION DATE:** 03-23-2004

**ADDRESS:** 1304 W. 5<sup>TH</sup> STREET

**WATERSHED:** Town Lake (Urban)

**AREA:** 0.693 Acres

**PROJECT NAME:** Shurgard Storage Center

**SUMMARY STAFF RECOMMENDATION:** Staff recommends approval of the conditional use permit. The site plan complies with all requirements of the Land Development Code.

**PROPOSED DEVELOPMENT:** The applicant is requesting a conditional use permit to allow a Convenience Storage facility on a 0.639 acre tract. The project will include construction of a four floor self storage facility, parking area, utility service lines and an underground detention facility. Convenience Storage is a permitted use in CS (General Commercial Services) zoning, and is allowed as a conditional use in the neighborhood plan overlay.

**EXISTING ZONING:** CS-MU-CO-NP. The conditional overlay allows Convenience Storage as a conditional use.

The conditional overlay prohibits the following uses on the property: drop-off recycling collection facilities; kennels, limited warehousing and distribution; exterminating services; adult oriented businesses; and vehicle storage.

**APPLICANT:** Cohn Buildings (Etta Cohn Lipson)  
1135 W. 6<sup>th</sup> Street, Suite 115  
Austin, TX 78703  
(512) 472-5606

**AGENT:** Mathias Company (Richard Mathias)  
1007 Robert E. Lee Rd.  
Austin, TX 78704  
(512) 326-9989

**NEIGHBORHOOD ORGANIZATIONS:**  
Old West Austin Neighborhood Association  
Austin Neighborhoods Council  
West End Austin Alliance

**NEIGHBORHOOD PLAN:**  
Old West Austin

**APPLICABLE WATERSHED ORDINANCE:** Current/ Comprehensive Watershed Ordinance

**CAPITOL VIEW:** Not Applicable

**T.L.A.:** Not Required

**C.I.P. STATUS:** Not Applicable  
**WATERSHED:** Town Lake Creek Watershed

**PLANNING COMMISSION ACTION:**

- January 27, 2004 – Unanimously approved by consent (Vote 7-0).
- February 10, 2004 – Due to a notification error by City staff, Commissioners Riley and Sullivan requested to have the case brought back to PC for “Rescind, reconsideration, and for action”.
- March 23, 2004: Denied 7-0.

**CASE MANAGER:** Kathy Haught Telephone: 512-974-2724  
kathy.haught@ci.austin.tx.us

**PROJECT INFORMATION:**

<b>EXIST. ZONING:</b> CS-MU-CO-NP	<b>ACREAGE:</b> 0.693 ACRES
<b>ALLOWED F.A.R.:</b> 2:1	<b>PROPOSED F.A.R.:</b> 2:1
<b>MAX. BLDG. COVERAGE:</b> 95%	<b>PROPOSED BUILDING CVRG:</b> 46.8%
<b>MAX. IMPERV. CVRG.:</b> 95%	<b>PROPOSED IMPERVIOUS CVRG:</b> 87.12%
<b>REQUIRED PARKING:</b> 12	<b>PROVIDED PARKING:</b> 12

**PROPOSED USE:** Convenience Storage

**SUMMARY COMMENTS ON SITE PLAN:**

**Land Use:** Convenience Storage is a permitted use in CS (General Commercial Services) zoning, and is allowed as a conditional use in the neighborhood plan overlay. The applicant is requesting approval of a CUP for a 60,783 gross square foot convenience storage business. The project will include construction of a four-story self-storage facility, parking area, utility service lines and an underground detention facility.

The site plan complies with the Old West Austin Neighborhood Plan goals to promote commercial use that supports the neighborhood and meets the Plan’s preference for “modest parking requirements”. This plan will enhance the existing neighborhood by providing pedestrian oriented requirements and landscape requirements. Compatibility requirements are not triggered by this proposed plan. The site plan will comply with all requirements of the Land Development Code prior to its release. Staff recommends approval of the conditional use permit.

**Environmental:** This site is located in the Town Lake Creek Watershed and subject to Urban Watershed regulations. There are no critical environmental features associated with this project. The proposed development is in the Desired Development Zone (DDZ).

**Transportation:** Primary access to the project will be taken from W. 5<sup>th</sup> Street, with an exit to the rear (north) alley between W. 5<sup>th</sup> Street and W. 6<sup>th</sup> Street. The proposed development is not expected to generate traffic that exceeds 143 trips per day. Sidewalks will be built along W. 5<sup>th</sup> Street.

**SURROUNDING CONDITIONS:****Zoning/ Land Use****North:** CS-MU-CO-NP (Salon)**East:** PUD-NP (Convenience Storage)**South:** West 5<sup>th</sup> Street, then property zoned LI-CO-NP (Telephone Repair Equipment Yard and Convenience Storage)**West:** CS-MU-CO-NP (Auto Repair)

<u>Street</u>	<u>R.O.W.</u>	<u>Surfacing</u>	<u>Classification</u>
W. 5 <sup>th</sup> Street	65'	44'(4 lanes)	Arterial
Rear Alley Between W. 5 <sup>th</sup> St. and W. 6 <sup>th</sup> St.	20'	12'-18'(varies)	Alley

**CONDITIONAL USE PERMIT REVIEW AND EVALUATION CRITERIA**

The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states: "The Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section":

**B. A conditional use site plan must:**

- 1. Comply with the requirements of this title;** Staff response: This application complies with the requirements of this title.
- 2. Comply with the objectives and purposes of the zoning district;** Staff response: This application complies with the objectives and purposes of the zoning district, which is CS-MU (General Commercial Services-Mixed Use). General Commercial Services (CS) district is the designation for a commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments. The purpose of a mixed use (MU) combining district is to allow, (but not require) office, retail, commercial, and residential uses to be combined in a single development.

Convenience Storage is a permitted use in CS (General Commercial Services) zoning, and is permitted as a conditional use in the neighborhood plan overlay.

- 3. Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;** Staff response: The use is compatible to the adjacent/surrounding zoning and uses. The site plan does comply with building setback, height, impervious cover, building cover, etc. Access to the facility is from W. 5<sup>th</sup> Street, which is an arterial street.

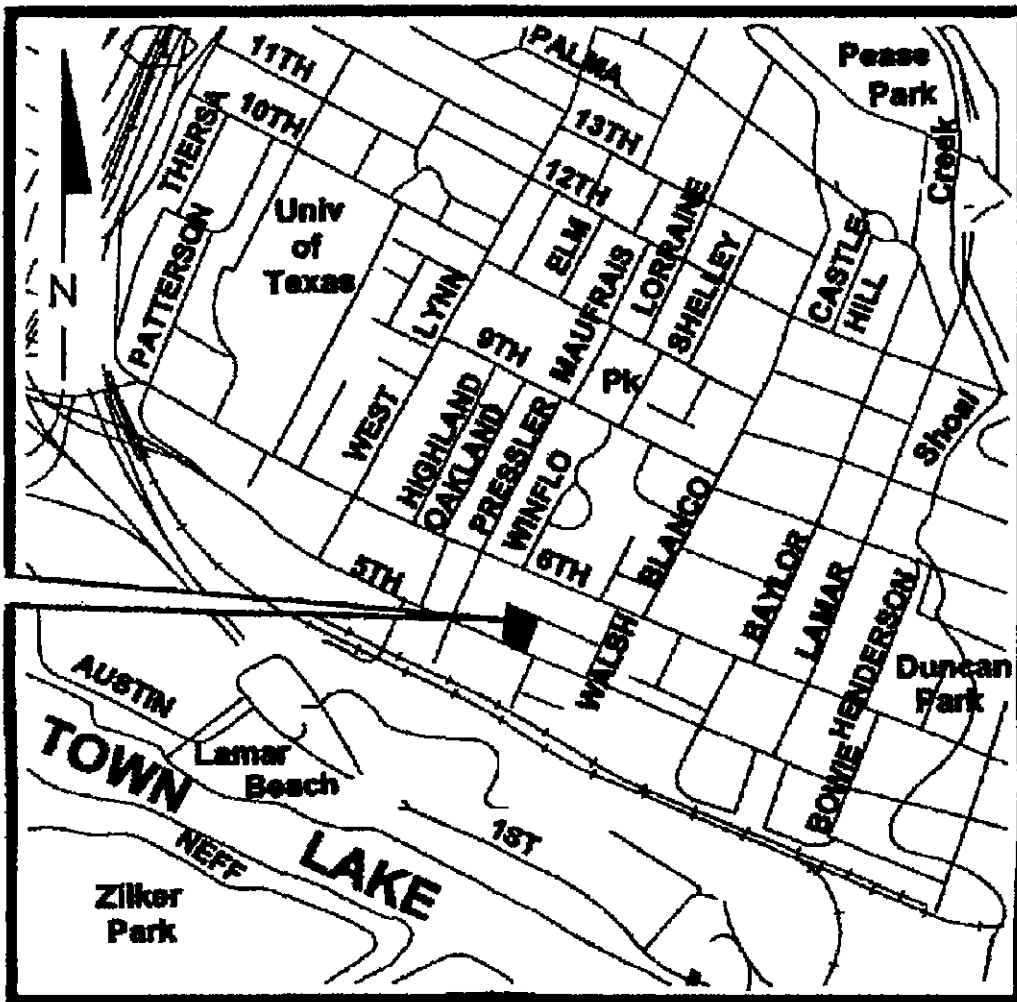
4. **Provide adequate and convenient off-street parking and loading facilities; Staff response:** Adequate and convenient, existing off-street parking and loading is provided at or above the standards of the Land Development Code.
5. **Reasonably protect persons and property from erosion, flood, fire, noises, glare, and similar adverse effects; The plan complies with all requirements of the Land Development Code.**

**C. A Conditional Use Site Plan May Not:**

1. **More adversely affect an adjoining site than would a permitted use; Staff response:** Prior to release the site plan will conform with all regulations and standards established by the Land Development Code for its proposed use and zoning. Uses that are permitted in this district such as food sales and general retail sales would have a greater adverse impact on the surrounding area to due more traffic being generated during all hours of operation. This site plan does not more adversely affect an adjoining site than would a regularly permitted use.
2. **Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area; Staff response:** This plan will comply with parking and circulation standards of the Land Development Code. The plan proposes low traffic generation (143 trips per day) and the construction of a 6' sidewalk for pedestrian use. The site plan is not anticipated to pose any detriment to safety or convenience of vehicular circulation and the construction of a new 6' sidewalk will actually increase the safety of pedestrians.
3. **Adversely affect an adjacent property or traffic control through the location, lighting, or type of signs; Staff response:** No signage or lighting is proposed that would adversely affect adjacent properties or traffic control. All signs will comply with the Land Development Code.

SPC-03-0018C

**SHURGARD STORAGE CENTER**  
**1304 W. 5<sup>TH</sup> STREET**



**Project Location Map**  
N.T.S.







**City of Austin Watershed Protection and Development Review Department**  
**505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835**

**SITE PLAN APPEAL**

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Watershed Protection and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Planning Commission, or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2680.

CASE NO. SPC-03-0018C

DATE APPEAL FILED 4/5/04

PROJECT NAME \_\_\_\_\_

YOUR NAME Richard Mathias

SHUAGAO STORAGE

SIGNATURE [Signature]

PROJECT ADDRESS 1304 W. 5th

YOUR ADDRESS 1007 Robert E. Lee

Austin, TX

Austin, TX 78704

APPLICANT'S NAME Cohn Buildings

YOUR PHONE NO. 512 326-9889 WORK

CITY CONTACT Kathy Haught

( ) HOME

**INTERESTED PARTY STATUS:** Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ☐ I am the record property owner of the subject property  
☒ I am the applicant or agent representing the applicant  
☐ I communicated my interest by speaking at the Planning Commission public hearing on (date) \_\_\_\_\_  
☐ I communicated my interest in writing to the Director or Planning Commission prior to the decision (attach copy of dated correspondence).

**In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)**

- ☐ I occupy as my primary residence a dwelling located within 500 feet of the subject site.  
☐ I am the record owner of property within 500 feet of the subject site.  
☐ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

**DECISION TO BE APPEALED\*:** (Check one)

- ☐ Administrative Disapproval/Interpretation of a Site Plan  
☐ Replacement site plan  
☒ Planning Commission Approval/Disapproval of a Site Plan  
☐ Waiver or Extension  
☐ Planned Unit Development (PUD) Revision  
☐ Other: \_\_\_\_\_

Date of Decision: \_\_\_\_\_  
 Date of Decision: \_\_\_\_\_  
 Date of Decision: 3/23/04  
 Date of Decision: \_\_\_\_\_  
 Date of Decision: \_\_\_\_\_  
 Date of Decision: \_\_\_\_\_

\*Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.

**STATEMENT:** Please provide a statement specifying the reason(s) you believe the decision under appeal does not comply with applicable requirements of the Land Development Code:

The Planning Commission was attempted to interpret the interpretation of which they based their decision that the applicable high-density city requires a pedestrian corridor along W. 5th Street.  
 (Attach additional page if necessary.)

Applicable Code Section: 25-5-145

Supplemental to Appeal of Planning Commission Site Plan  
Shurgard Storage Centers  
1304 W. 5<sup>th</sup> Street  
City Case #SPC-03-0018C

1. Commissioner Riley cited criteria (C) (2) in LDC 25-5-145 which states that the conditional use site plan may not adversely affect the safety or convenience of pedestrian circulation as being applicable to this CUP. Commissioner Riley stated that the impacts on pedestrian circulation, especially in light of the vision articulated in the neighborhood plan for a pedestrian-oriented corridor along W. 5<sup>th</sup> Street. Commissioner Riley based this decision on the representations made by an OWANA representative that the Neighborhood Plan "envisioned" a pedestrian-oriented corridor along W. 5<sup>th</sup> Street.

We believe Commissioner Riley has misinterpreted this provision of the CUP evaluation criteria by stating that the "lack" of pedestrian traffic generated by the proposed project will have an adverse affect on the safety or convenience of pedestrian circulation. We believe this provision of the LDC is intended to address the negative impacts that vehicular traffic generated by the proposed project will have on both pedestrians and other vehicular traffic in the vicinity. The proposed project will generate the least amount of traffic than any other permissible use, and therefore will have no negative impact on pedestrian traffic.

2. Commissioner Sullivan cited criteria (C) (1) in LDC 25-5-145 and stated that the proposed conditional use will more adversely affect adjoining sites than a permitted use because this use would not generate pedestrian traffic in the area. This would represent another unattended use and would contribute to existing problems of graffiti, dumping of trash and safety.

Commissioner Sullivan based his decision on what he believed the NP recommended for development along W. 5<sup>th</sup> Street. The proposed use is consistent with development of the adjoining sites and we find no evidence of graffiti or dumping in the area. None of the adjoining uses are pedestrian-oriented and there is no reference in the NP that states development along W. 5<sup>th</sup> Street should be pedestrian-oriented.

In summary, it appears that the Planning Commission based their denial solely on the premise that the OWANA Neighborhood Plan called for uses along W. 5<sup>th</sup> Street to be pedestrian-oriented when in fact it makes no mention of this at all. We relied in good faith on the OWANA Neighborhood Plan to provide the level of certainty that it was intended to provide when it was adopted, and we find that the proposed project is consistent with the plan.

**11. Site Plan Conditional Use Permit:** **SPC-03-0018C - Shurgard Storage Center**  
**Location:** 1304 W. 5th Street, Town Lake Watershed, OLD WEST AUSTIN NPA  
**Owner/Applicant:** COHN BUILDINGS (ETTA COHN LIPSON AND SIMON COHN)  
**Agent:** Mathias Company (Richard Mathias)  
**Request:** Approval of Conditional Use Permit  
**Staff Rec.:** **RECOMMENDED**  
**Staff:** Kathy Haught, 974-2724, kathy.haught@ci.austin.tx.us  
 Watershed Protection & Development Review

Kathy Haught, NPZ, presented the staff recommendation for the Conditional Use Permit.

#### PUBLIC HEARING

#### IN FAVOR

**Richard Mathias** with the Mathias Company stated that the proposed facility was designed to be consistent with the goals of the Old West Austin Neighborhood Plan recommendations and was consistent with the plan.

#### AGAINST

**Laura Morrison**, with the Old West Austin Neighborhood Association (OWANA) stated that the OWANA Steering Committee voted unanimously against the proposed use.

**Steve Colburn**, OWANA, stated that the OWANA Zoning and Land Use Committee also voted unanimously against the proposed use.

**Evan Williams** representing a partnership owning property at 1221 W. 6<sup>th</sup> Street across the alley from the site described concerns over potential unauthorized vehicular access from the Shurgard site to W. 6<sup>th</sup> Street.

**Linda MacNeilage**, Chair of the Old West Austin Neighborhood Association spoke against the proposed use and stated that this project was not consistent with the neighborhood vision for a pedestrian-oriented corridor along W. 5<sup>th</sup> Street or the West End Austin Alliance Corridor Plan.

#### REBUTTAL

**Richard Mathias** described aspects of the project that were consistent with the neighborhood plan.

#### **MOTION: CLOSE PUBLIC HEARING**

**VOTE: 7-0 (DS-1<sup>st</sup>, NS-2<sup>nd</sup>)**

## DISCUSSION

Commissioner Riley questioned whether the vision of the neighborhood plan was to create a pedestrian-oriented corridor along W. 5<sup>th</sup> Street.

Linda Morrison replied that was correct.

Commissioner Riley cited criteria (C) (2) in LDC 25-5-145 which states that the conditional use site plan may not adversely affect the safety or convenience of pedestrian circulation as being applicable to this CUP.

Commissioner Sullivan made a motion to deny the CUP. Commissioner Riley seconded the motion.

Commissioner Sullivan stated that he worked on the development of the neighborhood plan and helped construct the vision for the corridor. West 5<sup>th</sup> Street is becoming a no-man's land with the telephone service center, the Public Storage project and the proposed project. He cited criteria (C) (1) in LDC 25-5-145 and stated that the proposed conditional use will more adversely affect adjoining sites than a permitted use because this use would not generate pedestrian traffic in the area. This would represent another unattended use and would contribute to existing problems of graffiti, dumping of trash and safety.

Commissioner Sullivan said that the neighborhood plan maintained Convenience Storage as a conditional use (not prohibited) because there are sites within the area where the use is acceptable. However, the concentration of this use in a one area has the potential to adversely impact adjoining sites more than many permitted uses.

Commissioner Riley again cited LDC 25-5-145 (C) (2) and the impacts on pedestrian circulation, especially in light of the vision articulated in the neighborhood plan for a pedestrian-oriented corridor along W. 5<sup>th</sup> Street.

**MOTION: DENY THE CONDITIONAL USE PERMIT BASED ON CRITERIA (C)(1) AND (C)(2) OF LDC 25-2-145. VOTE: 7-0 (DS-1<sup>st</sup>, CR-2<sup>nd</sup>)**