

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

**AGENDA ITEM NO.: 64  
AGENDA DATE: Thu 08/26/2004  
PAGE: 1 of 1**

**SUBJECT:** C814-04-0024 - Brodie 31 c/o Walters Southwest - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 9000-9600 Block of Brodie Lane (Williamson Creek Watershed-Barton Springs Zone) from development reserve (DR) district zoning to planned unit development (PUD) district zoning. First reading on August 12, 2004. Vote: 6-0. Goodman off the dais. Conditions met as follows: Restrictive covenant incorporates the conditions accepted by City Council at first ordinance reading. Applicant: 31 Deerfield Ltd. c/o William S. Walters, III (William S. Walters, III). Agent: Land Strategies, Inc. (Paul W. Linehan). City Staff: Wendy Walsh, 974-7719.

**REQUESTING** Neighborhood Planning  
**DEPARTMENT:** and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guemsey

## SECOND / THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C814-04-0024

REQUEST:

Approve second / third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 9000 – 9600 Block of Brodie Lane (Williamson Creek Watershed-Barton Springs Zone) from development reserve (DR) district zoning to planned unit development (PUD) district zoning. The applicant has entered into a Restrictive Covenant with the City that provides for the following: 1) at the time a site plan is submitted, it will include an Integrated Pest Management (IPM) Plan and a landscape plan for the use of native and adapted plant materials; 2) prohibits the use of coal tar based sealants for the construction or repair of asphaltic concrete paving on the property; 3) directs off-site conveyance of storm water runoff toward Brodie Lane; 4) requires the construction of a six foot high 9-gauge light industrial, black vinyl coated fence along the entire west property line; and 5) identifies additional operational and development requirements for Tract 3, should an automotive repair business locate there.

DEPARTMENT COMMENTS:

On Saturday, August 14<sup>th</sup>, 2004, the Cherry Creek on Brodie Neighborhood Association hosted a planning charette at the ACC Pinnacle campus that focused on proposed land uses and site development standards for rezoning cases in process on Brodie and Davis Lanes. Architects Gerard Kinney and Linda Johnston organized discussion groups and facilitated the meeting. The meeting was attended by representatives of Cherry Creek on Brodie, the Austin Neighborhoods Council, the Sierra Club, the Oak Hill Association of Neighborhoods (OHAN), Deer Park at Maple Run and Tanglewood Oaks Owners Association, as well as Mr. Bill Walters (the property owner), and City zoning staff.

The Restrictive Covenant incorporates the conditions imposed by the City Council at First Reading.

OWNERS/APPLICANTS: 31 Deerfield Ltd. c/o William S. Walters, III (William S. Walters, III)

AGENT: Land Strategies, Inc. (Paul W. Linehan)

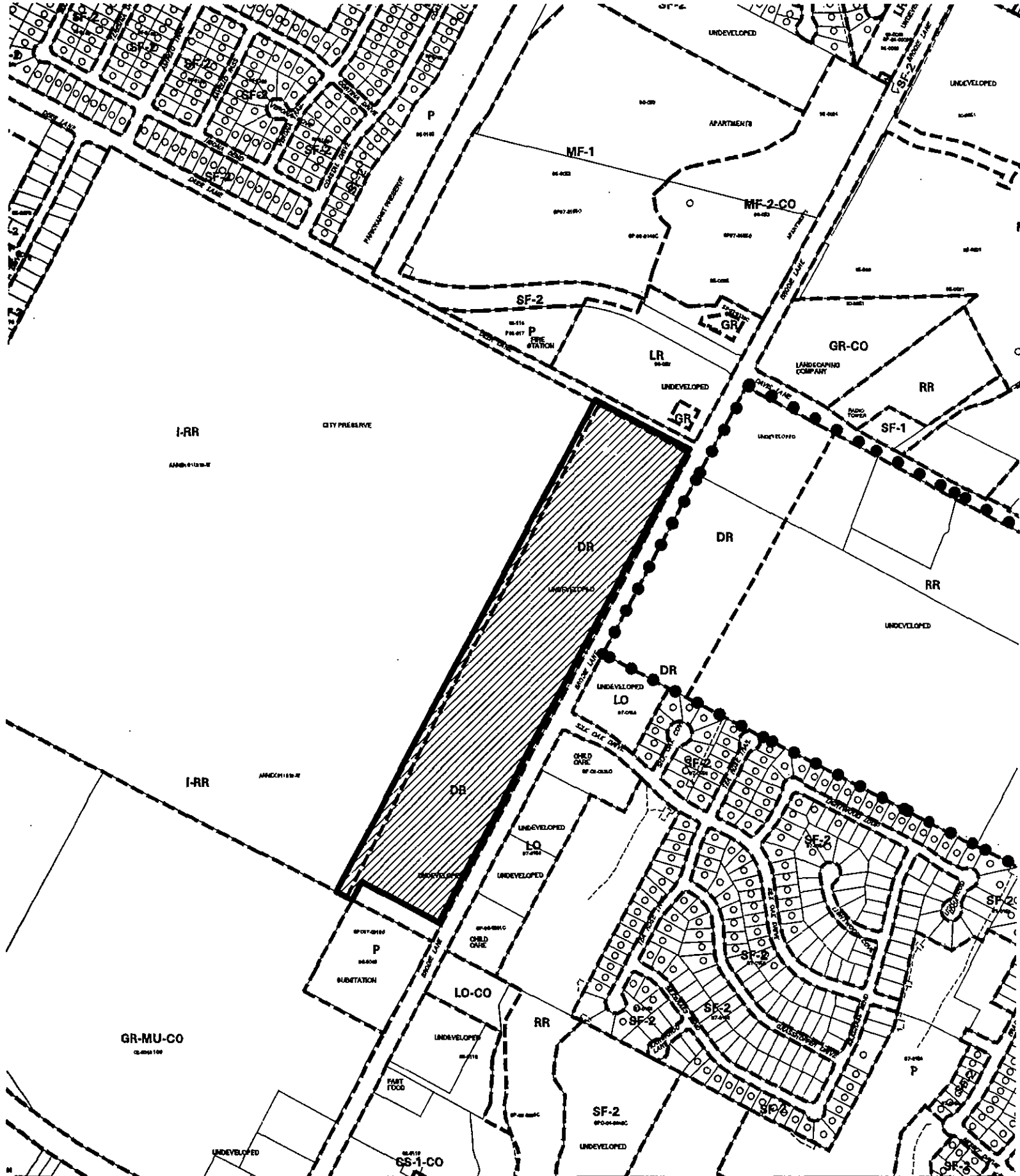
DATE OF FIRST READING: August 12, 2004, approved PUD district zoning, on 1<sup>st</sup> Reading (6-0, Goodman off the dais).

CITY COUNCIL HEARING DATE: August 26, 2004

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ASSIGNED STAFF: Wendy Walsh, e-mail: wendy.walsh@ci.austin.tx.us



 1" = 600'	SUBJECT TRACT		PLANNED UNIT DEVELOPMENT		CITY GRID REFERENCE NUMBER  D15-16
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: W. WALSH				
	CASE #: C814-04-0024				
ADDRESS: 9000-9600 BLK BRODIE			DATE: 04-07		
SUBJECT AREA (acres): 31			INTLS: SM		

**Questions: Please provide a map showing land that is zoned for retail use along Brodie Lane from Alexandria Dr. to Slaughter Ln. Please indicate on this map which tracts are undeveloped. For tracts that are developed, please describe the type of use and its size (in terms of square footage).**

**Answer:** *Please see attached Tract Maps (2 sheets), and project use and square footage table.*

**What is the current level of traffic on Brodie Lane between William Cannon and Slaughter Lane?**

**Answer:** *The 2002 volumes for Brodie estimate approximately 19,260 vehicles per day on Brodie Lane between William Cannon and Slaughter Lane.*

**What level of traffic is projected for Brodie Lane in 10 years? 20 years? What is the capacity for this stretch of Brodie Lane?**

**Answer:** *2017 volume 42,500 Average Daily Trips (ADT), capacity 37,000 ADT  
2025 volume 36,000 ADT, capacity 37,000 ADT*

*By 2025 it is expected that traffic on Brodie will improve as several other improvements in roadway network are included and would divert traffic off of Brodie*

**How much additional traffic will be produced on Brodie Lane if the undeveloped retail tracts are developed to their full potential (excluding the Brodie 31 tract)?**

**Answer:** *Approximately 10,000 vehicles per day. This number is an estimate of the retail projects that have been submitted for review that have provided an exact square footage for a proposed use(s).*

**How much additional traffic on Brodie Lane would the Brodie 31 project create if developed as proposed?**

**Answer:** *3,231 vehicles per day*

**As approved on first reading, how much additional traffic on Brodie Lane would the Harris Ranch project create (from both commercial and residential uses)?**

**Answer:** *approximately 3,664 vehicles per day*

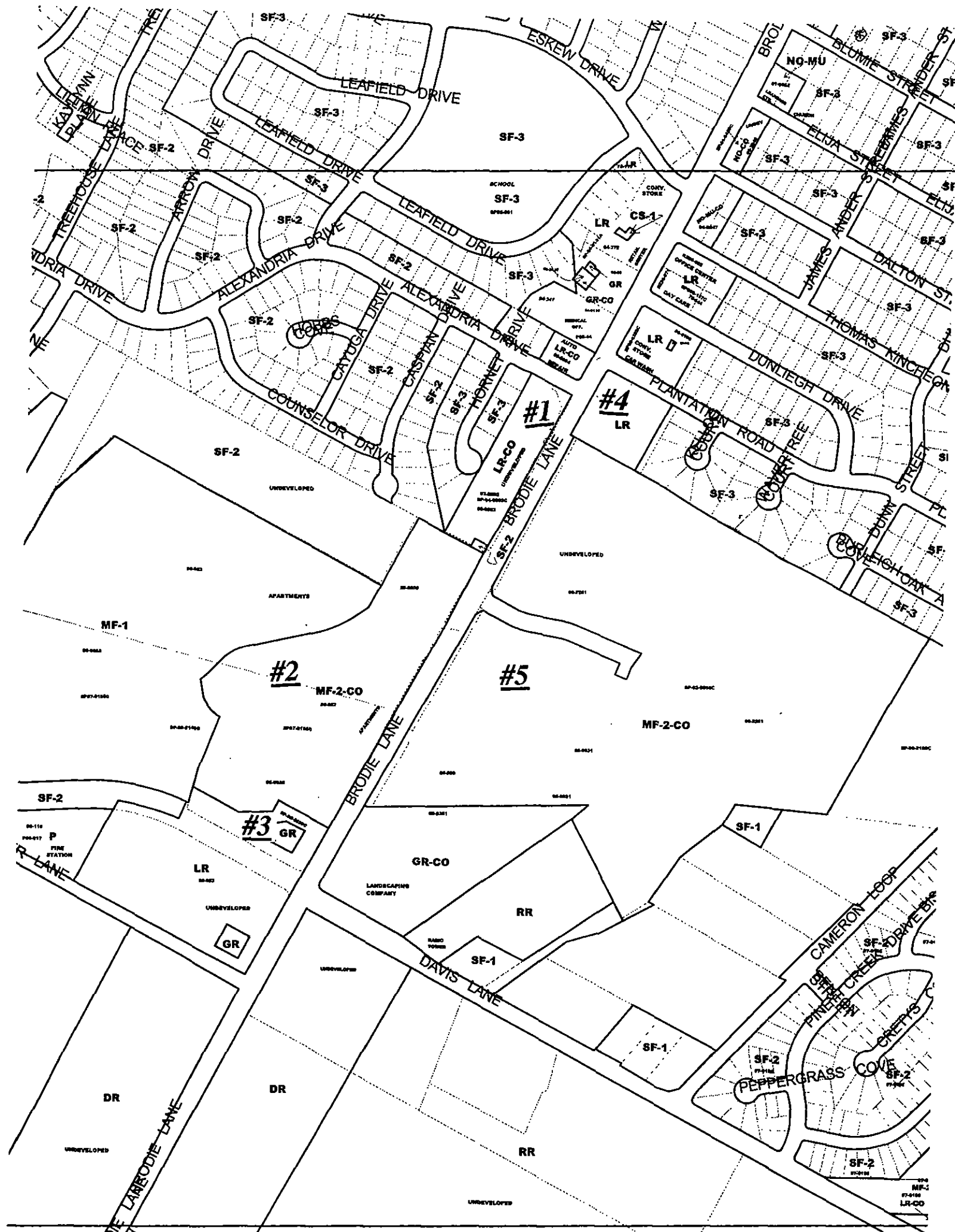
**An apartment complex is schedule to be built on the East side of Brodie Lane in the vicinity of Robert Morrison Dr. How much additional traffic on Brodie Lane would this project create?**

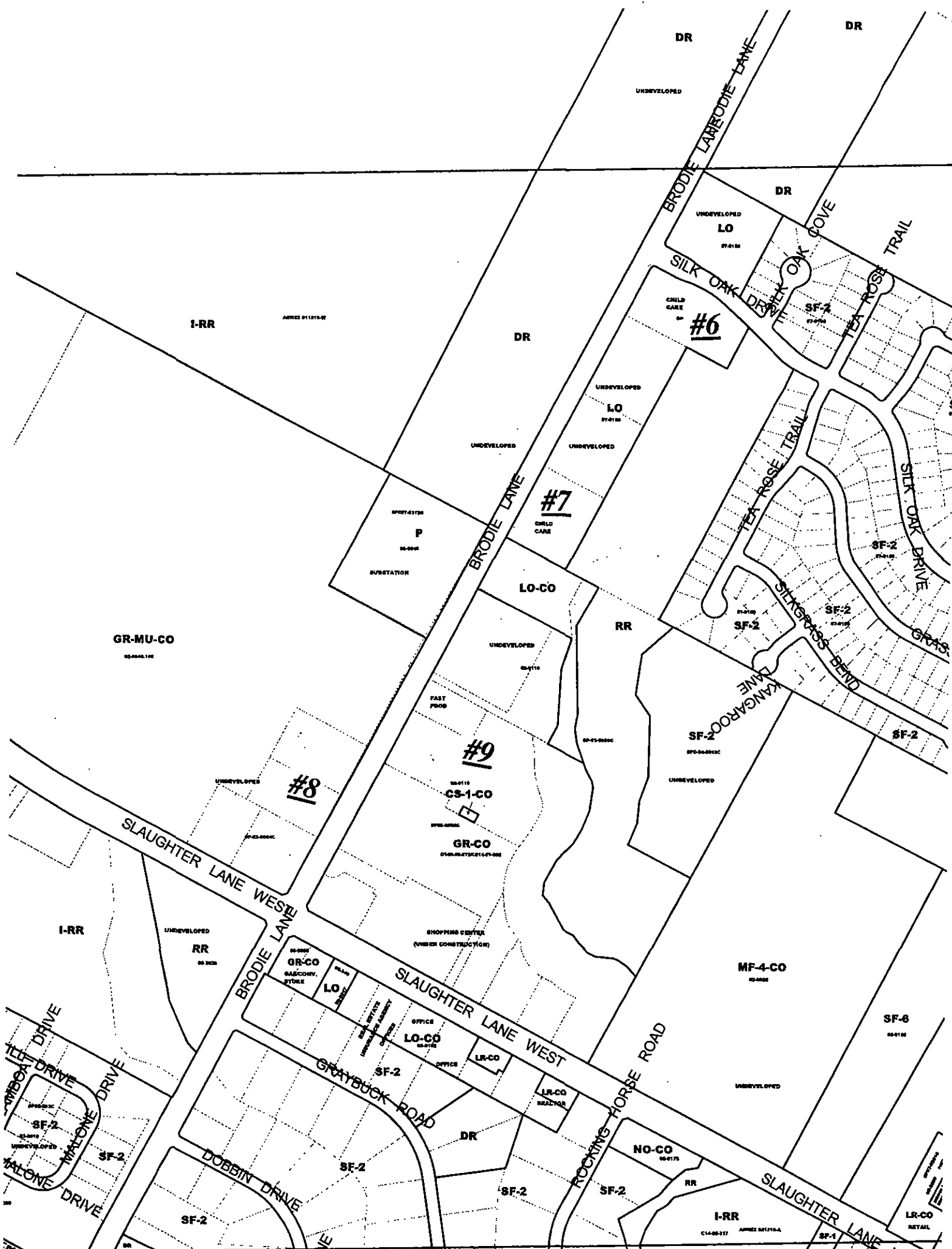
**Answer:** *This tract is estimated to generate approximately 2,566 trips per day onto Brodie with the 402 multi family dwelling units proposed.*

**Don Grass is currently developing the site located at the Northeast corner of Brodie Lane and Davis Lane. How much additional traffic on Brodie Lane would this project create?**

**Answer:** *The Deerfield Commercial project located on this corner is expected to generate approximately 1,362 vehicle trips per day. This number is reflected in the response for total trips on undeveloped retail tracts along Brodie.*

Tract #	Project Name	Address	Zoning	Land Use	Sq. Ft.	# units
1	Brodie Lane Commercial (approved, not built)	8300-8500 Brodie Lane	LR-CO	Retail Office <u>Total</u>	4,178 5,542 9,720	
2	Deerfield Multi-Family (built)	8600-8700 Brodie Lane	MF-1, MF-2-CO	Apartments	316,112	324
3	Deerfield Commercial (approved, not built)	8800 Brodie Lane	GR, LR	Conv. Store	5,000	
4	Heart of Texas Center (built)	8213 Brodie Lane	LR	Office/Retail	20,410* *estimated	
5	VW Brodie Multi-Family (under construction)	8515 Brodie Lane	MF-2-CO	Apartments	399,960	402
6	Stepping Stone School (built)	9417 Brodie Lane	LO	Child Care	12,726	
7	Kid's Network Learning Ctr (built)	9607 Brodie lane	LO	Child Care	7,750	
8	CCR 108 (Stratus Tr 108) (only retail pharmacy built) (bank under construction)	9908-9916 Brodie 3500-3520 Slaughter Ln	GR-MU-CO	Retail/Pharmacy Bank Restaurants <u>Total</u>	14,495 4,275 7,910 26,680	
9	Randalls Cherry Creek (built)	9901-9911 Brodie lane	GR-CO, LO-CO CS-1-CO & RR	Food Sales Financial Service Retail Thrift Store Restaurants <u>Total</u>	65,680 4,059 42,271 15,757 11,905 138,672	
				Comm. Total**	220,958	726
				**excludes apts.		





I-RR

AMRZ P11215-W

DR

GR-MU-CO

02-000-110

SP07-0370

P

02-000

SUBSTATION

LO-CO

UNDEVELOPED

FAST FOOD

#9

CS-1-CO

SP-000-000

GR-CO

01-00-000-000-000-000

SHOPPING CENTER  
(UNDER CONSTRUCTION)

#8

UNDEVELOPED

SP-000-000

SLAUGHTER LANE WEST

I-RR

UNDEVELOPED

RR

02-000

GR-CO

BASE CONV. STORE

LO

02-000

PLAN

02-000

OFFICE

LO-CO

02-000

OFFICE

LR-CO

02-000

LR-CO

02-000

REACTOR

DR

SF-2

SF-2

SF-2

I-RR

C14-00-017

AMRZ P11215-A

SF-1

LR-CO

RETAIL

MF-4-CO

02-000

SF-6

02-010

DR

DR

UNDEVELOPED

DR

UNDEVELOPED

LO

07-010

CHILD CARE

07-010

#6

UNDEVELOPED

LO

07-010

UNDEVELOPED

#7

CHILD CARE

07-010

RR

TEA ROSE TRAIL

SILK OAK DRIVE

KANGAROO LANE

SILK OAK DRIVE

SLAUGHTER LANE WEST

GRAYBUCK ROAD

ROCKING HORSE ROAD

SLAUGHTER LANE WEST

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP TO  
2 ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) DISTRICT ON  
3 APPROXIMATELY 31 ACRES OF LAND FOR THE PROPERTY GENERALLY  
4 KNOWN AS BRODIE 31 C/O WALTERS SOUTHWEST PROJECT LOCATED  
5 AT THE 9000-9600 BLOCK OF BRODIE LANE IN THE CITY OF AUSTIN.  
6

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

9 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to  
10 change the base zoning district from development reserve (DR) district to planned unit  
11 development (PUD) district on the property described in File C814-04-0024 as seven tracts  
12 of land consisting of approximately 31 acres of land being more particularly described by  
13 metes and bounds in Exhibit "A" incorporated into this ordinance, (the "Property")  
14 generally known as the Brodie 31 c/o Walters Southwest planned unit development, locally  
15 known as the property located at the 9000-9600 block of Brodie Lane, in the City of  
16 Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".  
17

18 PART 2. This ordinance and the attached Exhibits "A" through "C" are the land use plan  
19 for the Brodie 31 c/o Walters Southwest planned unit development district (the "PUD")  
20 created by this ordinance. The PUD shall conform to the limitations and conditions set  
21 forth in this ordinance and in the Brodie 31 c/o Walters Southwest planned unit  
22 development land use plan (the "PUD land use plan") on record at the Neighborhood  
23 Planning and Zoning Department in File No. C814-04-0024. If this ordinance and the  
24 attached exhibits conflict, the ordinance applies. Except as otherwise specifically provided  
25 by this ordinance, all other rules, regulations and ordinances of the City apply to the Brodie  
26 31 c/o Walters Southwest PUD.  
27

28 PART 3. The attached exhibits or copies of originals on file with the City of Austin  
29 Neighborhood Planning and Zoning Department in File No. C814-04-0024 are  
30 incorporated into this ordinance in their entirety as though set forth fully in the text of this  
31 ordinance. The attached exhibits are as follows:  
32

33 Exhibit A: Description of Property

34 Exhibit B: Zoning map

35 Exhibit C: Brodie 31 c/o Walters Southwest PUD land use plan  
36  
37



1 **PART 4.** Development of the Property shall comply with the following use regulations.

2  
3 A. Except as provided in Subsection C, all permitted and conditional community  
4 commercial (GR) uses are permitted and conditional uses of the Property.

5  
6 B. Convenience storage use is an additional permitted use of the Property.

7  
8 C. The following uses are prohibited uses of the Property:

9  
10 Plant nursery

Service station

11 Bed & breakfast residential (Group 1)

Bed & breakfast residential (Group 2)

12 Automotive rentals

Automotive sales

13 Automotive washing (of any kind)

Carriage stables

14 Commercial off-street parking

Drop-off recycling collection facility

15 Pawn shop services

Bail bond services

16 Agricultural sales and services

17  
18 D. Only one restaurant use (general or limited) may have a drive-in service use as an  
19 accessory use.

20  
21 **PART 5.** Development of the Property shall comply with the following site development  
22 regulations.

23  
24 A. Except as otherwise provided in this part, development of the Property shall comply  
25 with neighborhood commercial (LR) district site development regulations.

26  
27 B. If Tract 3, identified on Exhibit "C", is developed with an automotive repair use then  
28 the following regulations apply.

29  
30 1. A 100 foot building and parking setback from the west property line.

31  
32 2. A maximum building size of 5,500 gross square feet.

1  
2 **PART 6.** This ordinance takes effect on \_\_\_\_\_, 2004.

3  
4  
5 **PASSED AND APPROVED**

6  
7  
8  
9 \_\_\_\_\_, 2004

§  
§  
§

Will Wynn  
Mayor

10  
11  
12  
13  
14 **APPROVED:** \_\_\_\_\_

David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_

Shirley A. Brown  
City Clerk

## FIELD NOTES

BEING A 31.00 ACRE TRACT OF LAND LOCATED IN THE SAMUEL W. HAMILTON SURVEY NO.16 IN TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THAT CERTAIN 196.27 ACRE REMAINDER OF A 200 ACRE TRACT OF LAND CONVEYED TO JEANETTE DAWSON CARROL, ET AL BY INSTRUMENT RECORDED IN VOLUME 2522, PAGE 442 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 31.00 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron found for the intersection of the north line of Deer Lane (ROW Varies) with the west line of Brodie Lane (100 ROW), same being the northeast corner of the herein described 31.00 acre tract;

THENCE southerly along the common line between said west line of Brodie Lane and the east line of the herein described 31.00 acre tract the following two (2) courses:

1. S 30°40'34" W a distance of 71.91 feet to a 1/2-inch iron rod found for angle point;

2. S 29°58'49" W a distance of 2,541.27 feet to a 1/2-inch iron rod set for the northeast corner of that certain 0.987 acre tract of land conveyed to the City of Austin by instrument recorded in Volume 12817, Page 575 of the Real Property Records of Travis County, Texas;

THENCE westerly and southerly along the common line between said 0.987 acre tract and the herein described 31.00 acre tract the following two (2) courses:

1. N 59°53'05" W a distance of 429.72 feet to a 1/2-inch iron rod set for corner;

2. S 30°16'22" W a distance of 100.00 feet to a 1/2-inch iron rod found for the southwest corner of said 0.987 acre tract, same being the northeast corner of that certain 214.875 acre tract conveyed to Circle C Development Joint Venture by deed recorded in Volume 11620, Page 1126 of the Real Property Records of Travis County, Texas;

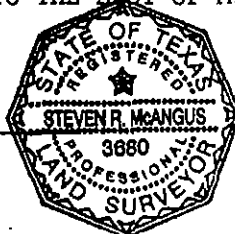
THENCE N 59°53'27" W along the common line between said 214.875 acre tract and the herein described 31.00 acre tract a distance of 86.46 feet to a 1/2-inch iron rod set for corner;

THENCE N 30°06'33" E crossing said 196.27 acre tract a distance of 2,712.15 feet to a 1/2-inch iron rod set for corner in the aforementioned south line of Deer Lane;

THENCE S 60°00'00" E along said south line of Deer Lane a distance of 511.46 feet to the POINT OF BEGINNING of the herein described tract and containing 31.00 acres of land.

I HEREBY CERTIFY THAT THIS METES AND BOUNDS DESCRIPTION WAS PREPARED FROM A SURVEY PERFORMED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

STEVEN R. MCANGUS, R.P.L.S. NO. 3680



January 12, 1999  
Job No. 98-213  
31.00 Acre Tract  
Page 2 of 2

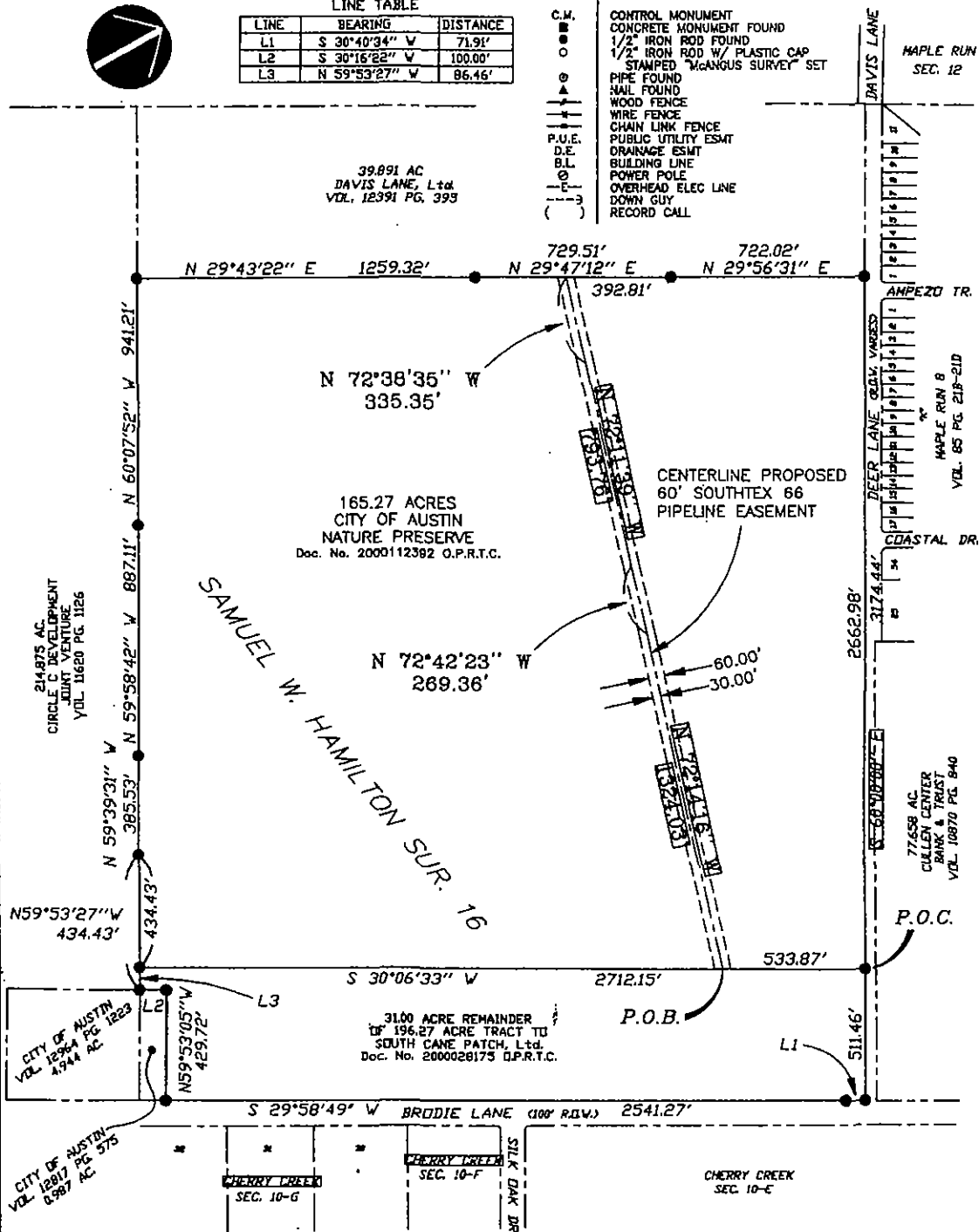
(The bearings shown hereon are referenced to deed recorded in  
Volume 2522, Page 442 of the Deed Records of Travis County,  
Texas.)

LINE	BEARING	DISTANCE
L1	S 30°40'34" W	71.91'
L2	S 30°16'22" W	100.00'
L3	N 59°53'27" W	86.46'

C.W.  
●  
●  
○  
  
①  
▲  
—+—  
—+—  
—+—  
—+—  
P.U.E.  
D.E.  
B.L.  
Ø  
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—3—  
( )

CONTROL MONUMENT  
CONCRETE MONUMENT FOUND  
1/2" IRON ROD FOUND  
1 1/2" IRON ROD W/ PLASTIC CAP  
STAMPED "ANGUS SURVEY" SET  
PIPE FOUND  
NAIL FOUND  
WOOD FENCE  
WIRE FENCE  
CHAIN LINK FENCE  
PUBLIC UTILITY ESMT  
ORANGE ESMT  
BUILDING LINE  
POWER POLE  
OVERHEAD ELEC LINE  
DOWN GUY  
RECORD CALL

— — —

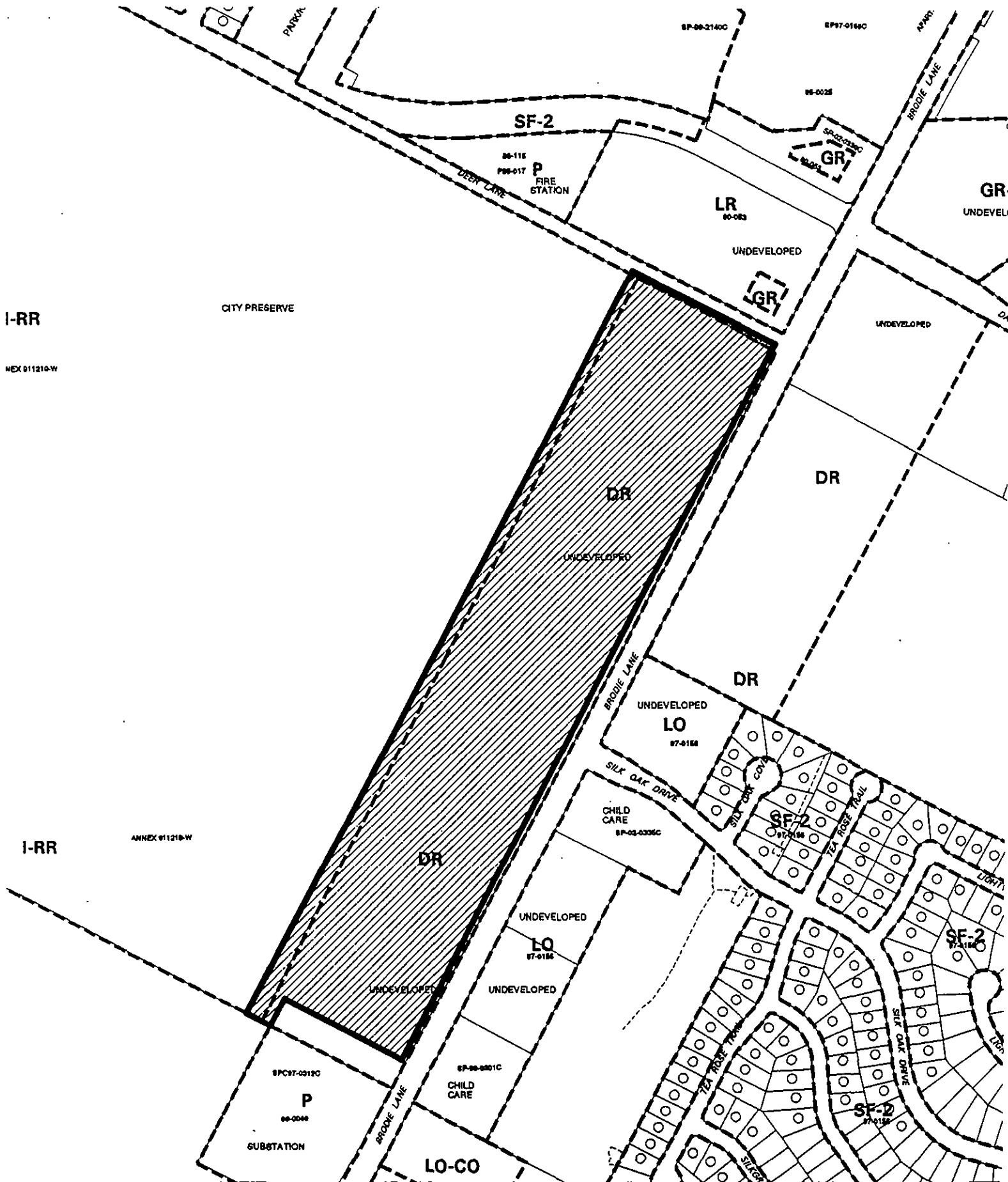


STEVEN R. McANGUS, R.P.L.S. No. 3680 D. 1/12/89



1101 HWY. 360, SOUTH, H-100  
AUSTIN, TEXAS 78746  
(512) 328-9302

LEGAL DESCRIPTION Centerline Description of a 60' Strip of Land  
Being a Portion of a 165.27 Acre Tract as described in  
Document No. 2000112392, Official Records, Travis County, Texas  
JOB NO. 98-213-AE1 FIELD BOOK n/a



 1" = 400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: W. WALSH	PLANNED UNIT DEVELOPMENT CASE #: C814-04-0024 ADDRESS: 9000-9600 BLK BRODIE SUBJECT AREA (acres): 31	DATE: 04-03 INTLS: SM	CITY GRID REFERENCE NUMBER D15-16

AND STRATEGIES INC.

SCALE: 1" = 200'  
—C814-04-0024—

June 10, 2004

NOT FOR RECORDATION - FOR REVIEW PURPOSES ONLY

[illegible][illegible][illegible][illegible]

14. The exact location of property shall be known to present City of Austin personnel. Property must be left on site upon the day of an inspection of hazardous materials by the developer and the City of Austin and must be readily identifiable and undisturbed by the relocation property manager.

15. All hazardous waste must meet every aspect of federal requirements as to their storage until they are either transported to a permitted facility or are placed in a permitted landfill.

16. All hazardous waste must be properly labeled and marked in accordance with the following:

RECEIVED  
JUN 15 2004

Neighborhood Planning & Zoning

[illegible]

was probably along the same line between mid and late 1940s and the following year 1947, when the same line turned and following the 1947 summer.

[illegible][illegible][illegible]


 COMMONWEALTH OF MASSACHUSETTS  
 DEPARTMENT OF REVENUE  
 RECEIVED  
 JAN 10 1964  
 TAX COLLECTOR

Doc. No. 20000112392 O.P.R.T.C.

EXHIBIT C

**RESTRICTIVE COVENANT**

OWNER: 31 Deerfield Ltd., a Texas limited partnership

ADDRESS: 1100 Nueces Street, Austin, Texas 78701

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 31.0 acre tract of land, more or less, out of the Samuel W. Hamilton Survey No. 16, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant, and

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

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

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by WHM Transportation Engineering, dated May 2004, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated May 26, 2004. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, an Integrated Pest Management (IPM) plan shall be submitted to the Watershed Protection and Development Review Department for review and approval.
3. The IPM plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of the Environmental Criteria Manual that are in effect on the date of this covenant.





4. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, a landscape plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. Ninety percent of the total plant material used, exclusive of turf, shall be native to Central Texas, or, on the Grow Green Native and Adapted Landscape Plants list attached as Exhibit "B". Plants on the Invasive Species/Problem Plants list, attached as Exhibit "C", may not be included.
5. The use of coal tar based sealants for the construction or repair of asphaltic concrete paving on the Property is prohibited.
6. Off-site conveyance of storm water runoff shall be directed toward Brodie Lane and away from the City of Austin nature preserve to the west of the Property.
7. Prior to any development of the Property, a six-foot high 9-gauge light industrial black vinyl-coated chain link fence fabric shall be constructed along the west property line. The fence and all gates including gates at pipeline access points shall be constructed and maintained according to fencing specifications as set forth in Sections 1 through 8 of the Balcones Canyonlands Preserve Program Criteria Manual. It will include a three stranded barbed wire on one piece arms at 45 degree angles along the entire length of the fence. The gates and fencing shall be constructed so that there are no gaps that might permit access.

Additional requirements:

- a. The fence shall be in a straight line except where a large tree restricts a straight line. In this case the fence shall be extended around the tree into the subject Property. Care shall be taken so as not to damage the tree.
  - b. Heavy equipment and vehicles are not allowed on Preserve property.
  - c. Two manned operated augers are allowed as necessary.
  - d. Minor trimming and removal of small junipers and underbrush are allowed as needed.
  - e. Oak trees should not be trimmed. If damage occurs all tree wounds shall be painted immediately.
  - f. Construction crews are responsible for clean up and removal of any construction related materials that are wind blown into the Preserve.
  - g. Sanitary facilities for construction crew (i.e. porta-cans) shall be provided at designated locations.
  - h. Except as provided in this agreement, access into the Preserve is prohibited.
8. The following applies to Tract 3, identified on Exhibit "D".
    - A. The owner of an automotive repair business must be an on-site business owner.
    - B. The interior floors of an auto service bay shall be covered with epoxy that is impervious to fluids.

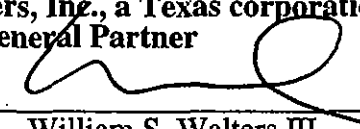
- C. An additional bay shall be provided as a separate back-up containment area for all fluids. To ensure safety from spillage inside the building, the bay must be constructed with a floor sealed with epoxy and with sealed protective sidewalls. Floor drains with grease traps must be of a type approved by the City of Austin.
- D. Containers for capturing and storing oils, transmission and radiator fluids shall be confined to the additional bay. All oils shall be stored in 250-300 gallon above-ground containers. Transmission and radiator fluids shall be stored in 55 gallon drums.
- E. Cleaning fluids used on-site must be biodegradable.
9. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
10. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
11. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
12. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 29<sup>th</sup> day of July, 2004.

**OWNER:**

**31 Deerfield Ltd.,  
A Texas limited partnership**

**By: Lukers, Inc., a Texas corporation  
its General Partner**

By:   
William S. Walters III,  
Secretary

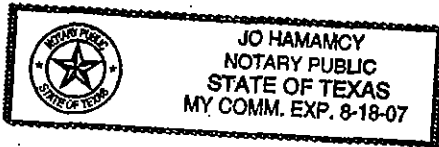
APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29 day of July, 2004 by William S. Walters III, Secretary of Lukers, Inc., a Texas corporation, and the Corporation acknowledged this instrument as General Partner on behalf of 31 Deerfield, Ltd., a Texas limited partnership.



Jo Hamamcy  
Notary Public, State of Texas

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

## FIELD NOTES

BEING A 31.00 ACRE TRACT OF LAND LOCATED IN THE SAMUEL W. HAMILTON SURVEY NO.16 IN TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THAT CERTAIN 196.27 ACRE REMAINDER OF A 200 ACRE TRACT OF LAND CONVEYED TO JEANETTE DAWSON CARROL, ET AL BY INSTRUMENT RECORDED IN VOLUME 2522, PAGE 442 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 31.00 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2-inch iron found for the intersection of the north line of Deer Lane (ROW Varies) with the west line of Brodie Lane (100 ROW), same being the northeast corner of the herein described 31.00 acre tract;

THENCE southerly along the common line between said west line of Brodie Lane and the east line of the herein described 31.00 acre tract the following two (2) courses:

1. S 30°40'34" W a distance of 71.91 feet to a 1/2-inch iron rod found for angle point;

2. S 29°58'49" W a distance of 2,541.27 feet to a 1/2-inch iron rod set for the northeast corner of that certain 0.987 acre tract of land conveyed to the City of Austin by instrument recorded in Volume 12817, Page 575 of the Real Property Records of Travis County, Texas;

THENCE westerly and southerly along the common line between said 0.987 acre tract and the herein described 31.00 acre tract the following two (2) courses:

1. N 59°53'05" W a distance of 429.72 feet to a 1/2-inch iron rod set for corner;
2. S 30°16'22" W a distance of 100.00 feet to a 1/2-inch iron rod found for the southwest corner of said 0.987 acre tract, same being the northeast corner of that certain 214.875 acre tract conveyed to Circle C Development Joint Venture by deed recorded in Volume 11620, Page 1126 of the Real Property Records of Travis County, Texas;

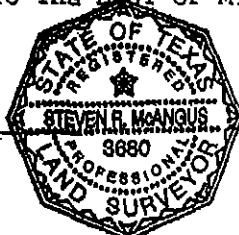
THENCE N 59°53'27" W along the common line between said 214.875 acre tract and the herein described 31.00 acre tract a distance of 86.46 feet to a 1/2-inch iron rod set for corner;

THENCE N 30°06'33" E crossing said 196.27 acre tract a distance of 2,712.15 feet to a 1/2-inch iron rod set for corner in the aforementioned south line of Deer Lane;

THENCE S 60°00'00" E along said south line of Deer Lane a distance of 511.46 feet to the POINT OF BEGINNING of the herein described tract and containing 31.00 acres of land.

I HEREBY CERTIFY THAT THIS METES AND BOUNDS DESCRIPTION WAS PREPARED FROM A SURVEY PERFORMED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

STEVEN R. MCANGUS, R.P.L.S. NO. 3680



January 12, 1999  
Job No. 98-213  
31.00 Acre Tract  
Page 2 of 2

(The bearings shown hereon are referenced to deed recorded in  
Volume 2522, Page 442 of the Deed Records of Travis County,  
Texas.)

SCALE: 1" = 500'



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 30°40'34" W	71.91'
L2	S 30°16'22" W	100.00'
L3	N 59°53'27" W	86.46'

LEGEND

- C.M. CONTROL MONUMENT
- CONCRETE MONUMENT FOUND
- 1/2" IRON ROD FOUND
- 1/2" IRON ROD W/ PLASTIC CAP
- STAMPED "McANGUS SURVEY" SET
- PIPE FOUND
- NAIL FOUND
- WOOD FENCE
- WIRE FENCE
- CHAIN LINK FENCE
- PUBLIC UTILITY ESMT
- DRAINAGE ESMT
- BUILDING LINE
- POWER POLE
- OVERHEAD ELEC LINE
- DOWN GUY
- RECORD CALL

MAPLE RUN  
SEC. 12

AMPEZO TR.

MAPLE RUN B  
VOL. 85 PG. 218-219

COASTAL DR.

P.O.C.

P.O.B.

39.891 AC  
DAVIS LANE, Ltd.  
VOL. 12391 PG. 395

165.27 ACRES  
CITY OF AUSTIN  
NATURE PRESERVE  
Doc. No. 2000112392 O.P.R.T.C.

SAMUEL W. HAMILTON SUR. 16

31.00 ACRES REMAINDER  
OF 196.87 ACRE TRACT TO  
SOUTH CANE PATCH, Ltd.  
Doc. No. 2000026175 O.P.R.T.C.

24.875 AC  
CIRCLE C DEVELOPMENT  
JOINT VENTURE  
VOL. 11620 PG. 1126

N59°53'27"W  
434.43'

CITY OF AUSTIN  
VOL. 12394 PG. 1223  
4.744 AC

CITY OF AUSTIN  
VOL. 12817 PG. 575  
0.987 AC

CHERRY CREEK  
SEC. 10-G

CHERRY CREEK  
SEC. 10-F

CHERRY CREEK  
SEC. 10-E

I HEREBY CERTIFY THAT THIS MAP OR PLAT WAS PREPARED FROM A SURVEY PERFORMED ON THE GROUND UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

*Steven R. McAngus*  
STEVEN R. McANGUS, R.P.L.S. No. 3680 DATE 1/12/09



McAngus Surveying  
Company, Inc.

1101 HWY. 360, SOUTH, H-100  
AUSTIN, TEXAS 78746  
(512) 328-9302

LEGAL DESCRIPTION Centerline Description of a 60' Strip of Land  
Being a Portion of a 165.27 Acre Tract as described in  
Document No. 2000112392, Official Records, Travis County, Texas  
JOB NO. 98-213-AE1 FIELD BOOK n/a

# EXHIBIT B

## Grow Green Native and Adapted Landscape Plants

### Trees

Ash, Texas <i>Fraxinus texensis</i>	Oak, Escarpment Live <i>Quercus fusiformis</i>
Arizona Cypress <i>Cupressus arizonica</i>	Oak, Lacey <i>Quercus glaucoides</i>
Big Tooth Maple <i>Acer grandidentatum</i>	Oak, Monterey (Mexican White) <i>Quercus polymorpha</i>
Cypress, Bald <i>Taxodium distichum</i>	Oak, Shumard <i>Quercus shumardii</i>
Cypress, Montezuma <i>Taxodium mucronatum</i>	Oak, Texas Red <i>Quercus texana</i> ( <i>Quercus buckleyi</i> )
Elm, Cedar <i>Ulmus crassifolia</i>	Pecan <i>Carya illinoensis</i>
Elm, Lacebark <i>Ulmus parvifolia</i>	Soapberry <i>Sapindus drummondii</i>
Honey Mesquite <i>Prosopis glandulosa</i>	
Oak, Bur <i>Quercus macrocarpa</i>	
Oak, Chinquapin <i>Quercus muhlenbergii</i>	
Oak, Southern Live <i>Quercus virginiana</i>	

### Small Trees/Large Shrubs

Anacacho Orchid Tree <i>Bauhinia congesta</i>	Persimmon, Texas <i>Diospyros texana</i>
Buckeye, Mexican <i>Ungnadia speciosa</i>	Pistachio, Texas <i>Pistacia texana</i>
Buckeye, Rec <i>Aesculus pavia</i>	Plum, Mexican <i>Prunus mexicana</i>
Caolina Buckthorn <i>Rhamnus caroliniana</i>	Pomegranate <i>Punica granatum</i>
Cherry Laurel <i>Prunus caroliniana</i>	Redbud, Mexican <i>Cercis canadensis</i> 'mexicana'
Crape Myrtle <i>Lagerstroemia indica</i>	Redbud, Texas <i>Cercis canadensis</i> var. 'texensis'
Desert Willow <i>Chilopsis linearis</i>	Retama Jerusalem Thorn <i>Parkinsonia aculeata</i>
Dogwood, Roughleaf <i>Cornus drummondii</i>	Senna, Flowering <i>Cassia corymbosa</i>
Escarpment Black Cherry <i>Prunus serotina</i> var. <i>eximia</i>	Smoke Tree, American <i>Cotinus obovatus</i>
Eve's Necklace <i>Sophora affinis</i>	Sumac, Flameleaf <i>Rhus lanceolata</i>
Goldenball Leadtree <i>Leucaena retusa</i>	Viburnum, Rusty Blackhaw <i>Viburnum rufidulum</i>
Holly, Possumhaw <i>Ilex decidua</i>	Viburnum, Sandankwa <i>Viburnum suspensum</i>
Holly, Yaupon <i>Ilex vomitoria</i>	
Mountain Laurel, Texas <i>Sophora secundiflora</i>	

## Shrubs

Abelia, Glossy <i>Abelia grandiflora</i>	Nandina <i>Nandina domestica</i> 'Compacta nana' 'Gulf Stream'
Agarita <i>Berberis trifoliata</i>	Oleander <i>Nerium oleander</i>
Agave (Century Plant) <i>Agave sp.</i>	Palmetto <i>Sabal minor</i>
American Beautyberry <i>Callicarpa americana</i>	Prickly Pear <i>Opuntia engelmannii</i> var. <i>lindheimeri</i>
Artemisia <i>Artemisia</i> 'Powis Castle'	Rose, Belinda's Dream <i>Rosa</i> 'Belinda's Dream'
Barbados Cherry <i>Malpighia glabra</i>	Rose, Lamarne <i>Rosa</i> 'Lamarne'
Barberry, Japanese <i>Berberis thunbergii</i>	Rose, Livin' Easy <i>Rosa</i> 'Livin' Easy'
'Atropurpurea'	Rose, Marie Pavie <i>Rosa</i> 'Marie Pavie'
Basket Grass (Sacahuista) <i>Nolina texana</i>	Rose, Martha Gonzales <i>Rosa</i> 'Martha Gonzales'
Black Dalea <i>Dalea frutescens</i>	Rose, Mutabilis <i>Rosa</i> 'Mutabilis'
Bush Germander <i>Teucrium fruticans</i>	Rose, Nearly Wild <i>Rosa</i> 'Nearly Wild'
Butterfly Bush <i>Buddleja davidii</i>	Rose, Old Blush <i>Rosa</i> 'Old Blush'
Butterfly Bush, Woolly <i>Buddleja marrubiiifolia</i>	Rose, Perle d'or <i>Rosa</i> 'Perle d'or'
Coralberry <i>Symphoricarpos orbiculatus</i>	Rock Rose <i>Pavonia lasiopetala</i>
Cotoneaster <i>Cotoneaster sp.</i>	Rosemary <i>Rosmarinus officinalis</i>
Eleagnus <i>Eleagnus pungens</i>	Sage, Mountain <i>Salvia regia</i>
Esperanza/Yellow Bells <i>Tecoma stans</i>	Sage, Texas (Cenizo) <i>Leucophyllum frutescens</i>
Flame Acanthus <i>Anisacanthus quadrifidus</i> var. <i>wrightii</i>	Senna, Lindheimer <i>Cassia lindheimeriana</i>
Fragrant Mimosa <i>Mimosa borealis</i>	Southern Wax Myrtle <i>Myrica cerifera</i>
Holly, Burford <i>Ilex cornuta</i> 'Burfordii'	Sumac, Evergreen <i>Rhus virens</i>
Holly, Dwarf Chinese <i>Ilex cornuta</i> 'Rotunda nana'	Sumac, Fragrant (Aromatic) <i>Rhus aromatica</i>
Holly, Dwarf Yaupon <i>Ilex vomitoria</i> 'Nana'	Texas Sotol <i>Dasylirion texanum</i>
Jasmine, Primrose <i>Jasminum mesnyi</i>	Turk's Cap <i>Malvaviscus arboreus</i>
Kidneywood <i>Eysenhardtia texana</i>	Yucca, Paleleaf <i>Yucca pallida</i>
Lantana, Native <i>Lantana horrida</i>	Yucca, Red <i>Hesperaloe parviflora</i>
Mistflower, Blue (Blue Boneset) <i>Eupatorium coelestinum</i>	Yucca, softleaf <i>Yucca recurvifolia</i>
Mistflower, White (Shrubby White Boneset) <i>Ageratina havanense</i>	Yucca, Twistleaf <i>Yucca rupicola</i>
Mock Orange <i>Philadelphus coronarius</i>	



## Perennials

Black-eyed Susan <i>Rudbeckia hirta</i>	Lantana, Trailing <i>Lantana montevidensis</i>
Bulbine <i>B. frutescens</i> or <i>caulescens</i>	Marigold, Mexican Mint <i>Tagetes lucida</i>
Bush Morning Glory <i>Ipomoea fistulosa</i>	Obedient Plant, Fall <i>Physostegia virginiana</i>
Butterfly Weed <i>Asclepias tuberosa</i>	Oregano, Mexican <i>Poliomintha longiflora</i>
Butterfly Weed 'Mexican' <i>Asclepias curassivica</i>	Penstemon <i>Penstemon</i> sp.
Cast Iron Plant <i>Aspidistra elatior</i>	Phlox, Fragrant <i>Phlox pilosa</i>
Chile Pequin <i>Capsicum annuum</i>	Pink Skullcap <i>Scutellaria suffrutescens</i>
Cigar Plant <i>Cuphea micropetala</i>	Plumbago <i>Plumbago auriculata</i>
Columbine, Red <i>Aquilegia canadensis</i>	Poinciana, Red Bird of Paradise, Pride of Barbados
Columbine, Yellow <i>Aquilegia chrysantha</i> 'Texas Gold'	<i>Caesalpinia pulcherrima</i>
Coreopsis <i>Coreopsis lanceolata</i>	Primrose, Missouri <i>Oenothera macrocarpa</i>
Daisy, Blackfoot <i>Melampodium leucanthum</i>	Purple Coneflower <i>Echinacea purpurea</i>
Daisy, Copper Canyon <i>Tagetes lemmonii</i>	Ruellia <i>Ruellia brittoniana</i>
Damiantia <i>Crysactina mexicana</i>	Sage, Cedar <i>Salvia roemeriana</i>
Fall Aster <i>Aster oblongifolius</i>	Sage, Jerusalem <i>Phlomis fruticosa</i>
Fern, River <i>Thelypteris kunthii</i>	Sage, Majestic <i>Salvia guaranitica</i>
Firebush <i>Hamelia patens</i>	Sage, Mealy Blue <i>Salvia farinacea</i>
Gaura <i>Gaura lindeheimeri</i>	Sage, Mexican Bush <i>Salvia leucantha</i>
Gayfeather <i>Liatris mucronata</i>	Sage, Penstemon, Big Red Sage <i>Salvia penstemonoides</i>
Gregg Dalea <i>Dalea greggii</i>	Sage, Russian <i>Perovskia atricplifolia</i>
Hibiscus, Perennial <i>Hibiscus moscheutos</i> , <i>Hibiscus coccineus</i>	Sage, Scarlet or 'Tropical' <i>Salvia coccinea</i>
Honeysuckle, Mexican <i>Justicia spicigera</i>	Salvia, Gregg (Cherry Sage) <i>Salvia greggii</i>
Hymenoxys (Four Nerve Daisy) <i>Tetraneris scaposa</i>	Shrimp Plant <i>Justicia brandegeana</i>
Indigo Spires <i>Salvia 'Indigo Spires'</i>	Texas Betony <i>Stachys coccinea</i>
Iris, Bearded <i>Iris albicans</i>	Verbena, Prairie <i>Verbena bipinnatifida</i>
Iris, Butterfly/Bicolor (African) <i>Dietes</i> sp.	Yarrow <i>Achillea millefolium</i>
Lamb's Ear <i>Stachys byzantina</i>	Zexmenia <i>Wedelia texana</i>
Lantana <i>Lantana x hybrida</i> (many varieties)	

## Ornamental Grasses

Bluestem, Big *Andropogon gerardii*  
 Bluestem, Bushy *Andropogon glomeratus*  
 Bluestem, Little *Schizachyrium scoparium*  
 Fountain Grass, Dwarf *Pennisetum alopecuroides*  
 Indian Grass *Sorghastrum nutans*  
 Inland Sea Oats *Chasmanthium latifolium*

Mexican Feathergrass (Wiregrass) *Stipa tenuissima*  
 Muhly, Bamboo *Muhlenbergia dumosa*  
 Muhly, Big *Muhlenbergia lindheimeri*  
 Muhly, Deer *Muhlenbergia rigens*  
 Muhly, Gulf *Muhlenbergia capillaris*  
 Muhly, Seep *Muhlenbergia reverchonii*  
 Sideoats Grama *Bouteloua curtipendula*  
 Wild Rye *Elymus canadensis*

## Vines

Asian Jasmine *Trachelospermum asiaticum*  
 Carolina Jessamine *Gelsemium sempervirens*  
 Coral Vine *Antigonon leptopus*  
 Crossvine *Bignonia capreolata*  
 Fig Vine *Ficus pumila*

Honeysuckle, Coral *Lonicera sempervirens*  
 Lady Banksia Rose *Rosa banksiae*  
 Passion Vine *Passiflora incarnata*  
 Trumpet Vine *Campsis radicans*  
 Virginia Creeper *Parthenocissus quinquefolia*

## Groundcover

Aztec Grass *Ophiopogon japonicus*  
 Frogfruit *Phyla incisa*  
 Horseherb *Calypocarpus vialis*  
 Leadwort *Plumbago Ceratostigma plumbaginoides*  
 Liriope *Liriope muscari*  
 Monkey Grass (Mondo Grass) *Ophiopogon japonicus*  
 Oregano *Origanum vulgare*  
 Periwinkle, Littleleaf *Vinca minor*  
 Pigeonberry *Rivina humilis*

Purple Heart *Secreasea pallida*  
 Santolina (Lavender Cotton) *Santolina chamaecyparissus*  
 Sedge, Berkeley *Carex tumulicola*  
 Sedge, Meadow *Carex perdentata*  
 Sedge, Texas *Carex texensis*  
 Sedum (Stonedrop) *Sedum nuttallianum*  
 Silver Ponyfoot *Dichondra argentea*  
 Woolly Stemodia *Stemodia lanata*  
 (*Stemodia tomentosa*)

## Turf Grasses

Bermuda 'Tif 419', 'Sahara', 'Baby', 'Common'  
 Buffalo '609', 'Stampede', 'Prairie'  
 St. Augustine 'Baby', 'Common', 'Raleigh', 'Delmar'

Zoysia, Fine Leaf 'Matrella', 'Emerald', 'Zorro'  
 Zoysia, Coarse Leaf 'Japonica', 'Jamur', 'El Toro', 'Palis'

## EXHIBIT C

### Invasive Species/Problem Plants

#### PLANTS TO AVOID

##### **INVASIVES**

(Plants that are non-native to the Central Texas ecosystem and tend to out-compete native species)

##### **Do Not Plant**

(Travel by seeds, berries, and spores so can be transported long distances. They have already invaded preserves and greenbelts):

- Arizona Ash
- Chinaberry
- Chinese Pistache
- Chinese Tallow
- Chinese Privet
- Elephant Ear
- Holly Fern
- Japanese Honeysuckle
- Ligustrum, Wax Leaf
- Mimosa
- Mulberry, Paper
- Nandina (large, berrying varieties)
- Photinia, Chinese
- Pyracantha
- Tamarisk
- Tree of Heaven

##### **Do Not Plant Near**

##### **Parks/Preserves/Greenbelts**

(travel by runners, rhizomes, and stems so only invade neighboring areas):

- Bamboo
- English Ivy
- Vinca (Periwinkle)

##### **PROBLEM TREES AND SHRUBS**

(Typically fast-growing, highly adaptable, but often have weak wood and are short-lived. Most are susceptible to insect and disease problems.)

- Arizona Ash
- Azalea (not adapted to Austin soils)
- Boxelder
- Camellia
- Chinaberry
- Chinese Privet
- Chinese Tallow
- Cottonwood
- Ligustrum
- Lombardy Poplar
- Mimosa
- Mulberry, Paper
- Photinia, Chinese
- Siberian Elm
- Silver Maple
- Sweetgum
- Sycamore
- Tree of Heaven



**After Recording, Please Return to:**

**City of Austin**

**Department of Law**

**P. O. Box 1088**

**Austin, Texas 78767**

**Attention: Diana Minter, Legal Assistant**

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C814-04-0024

**Z.P.C. DATE:** June 1, 2004

**ADDRESS:** 9000 – 9600 Block of Brodie Lane

**OWNER & APPLICANT:** 31 Deerfield Ltd.  
c/o William S. Walters, III  
(William S. Walters, III)

**AGENT:** Land Strategies, Inc.  
(Paul W. Linehan)

**ZONING FROM:** DR

**TO:** PUD

**AREA:** 31 acres

**SUMMARY STAFF RECOMMENDATION:** The staff's recommendation is to grant planned unit development (PUD) district zoning, as further illustrated in Exhibit B.

The Restrictive Covenant over the entire property would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA memorandum provided as Attachment A (May 26, 2004).

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

June 1, 2004: *APPROVED STAFF'S RECOMMENDATION FOR PUD DISTRICT ZONING; INCLUDING THE CONDITIONS OF THE T.I.A.*

*[K.J; M.W 2<sup>ND</sup>] (5-3) J.M: B.B, J.D – NAY; J.P – ABSENT*

### **ISSUES:**

On Saturday, August 14<sup>th</sup>, 2004, the Cherry Creek on Brodie Neighborhood Association hosted a planning charrette at the ACC Pinnacle campus that focused on proposed land uses and site development standards for rezoning cases in process on Brodie and Davis Lanes. Architects Gerard Kinney and Linda Johnston organized discussion groups and facilitated the meeting. The meeting was attended by representatives of Cherry Creek on Brodie, the Austin Neighborhoods Council, the Sierra Club, the Oak Hill Association of Neighborhoods (OHAN), Deer Park at Maple Run and Tanglewood Oaks Owners Association, as well as Mr. Bill Walters (the property owner), and City zoning staff.

At their meeting on June 2, 2004, the Environmental Board voted 7-0 to recommend the proposed PUD consistent with the staff recommendation. Please refer to Attachment D.

The applicant has entered into a Restrictive Covenant with the City that provides that at the time a site plan is submitted, it will include an Integrated Pest Management (IPM) Plan and a landscape plan for the use of native and adapted plant materials.

The Cherry Creek on Brodie Neighborhood Association has provided an e-mail stating that they are unable to endorse the proposed project. Please refer to attachment at the back of the staff report.

### **DEPARTMENT COMMENTS:**

#### *Project Overview*

The subject property is undeveloped, located on Brodie Lane and zoned development reserve (DR) district. See Exhibits A (Zoning Map) and A-1 (Aerial View). The applicant has requested rezoning

to the planned unit development (PUD) district so that the property may be developed with commercial uses, including retail, automotive repair, convenience storage and restaurants, as well as open space. The applicant has provided four driveways along Brodie Lane, one of which will be shared. Please refer to Exhibit B (PUD Plan) and C (letter from the applicant outlining PUD uses, site development standards, layout and drainage).

The Brodie 31 c/o Walters Southwest PUD, as proposed by the applicant and supported by staff: 1) allows for convenience storage as the only general commercial services (CS) use; 2) prohibits all auto-related uses (with the exception of a single automotive repair), in addition to plant nursery, drop-off recycling collection, agricultural sales and services, pawn shops, bed and breakfast, carriage stable and bail bond services; and 3) establishes neighborhood commercial (LR) development standards (with the exception of impervious cover in which the more restrictive watershed regulations of 25% apply).

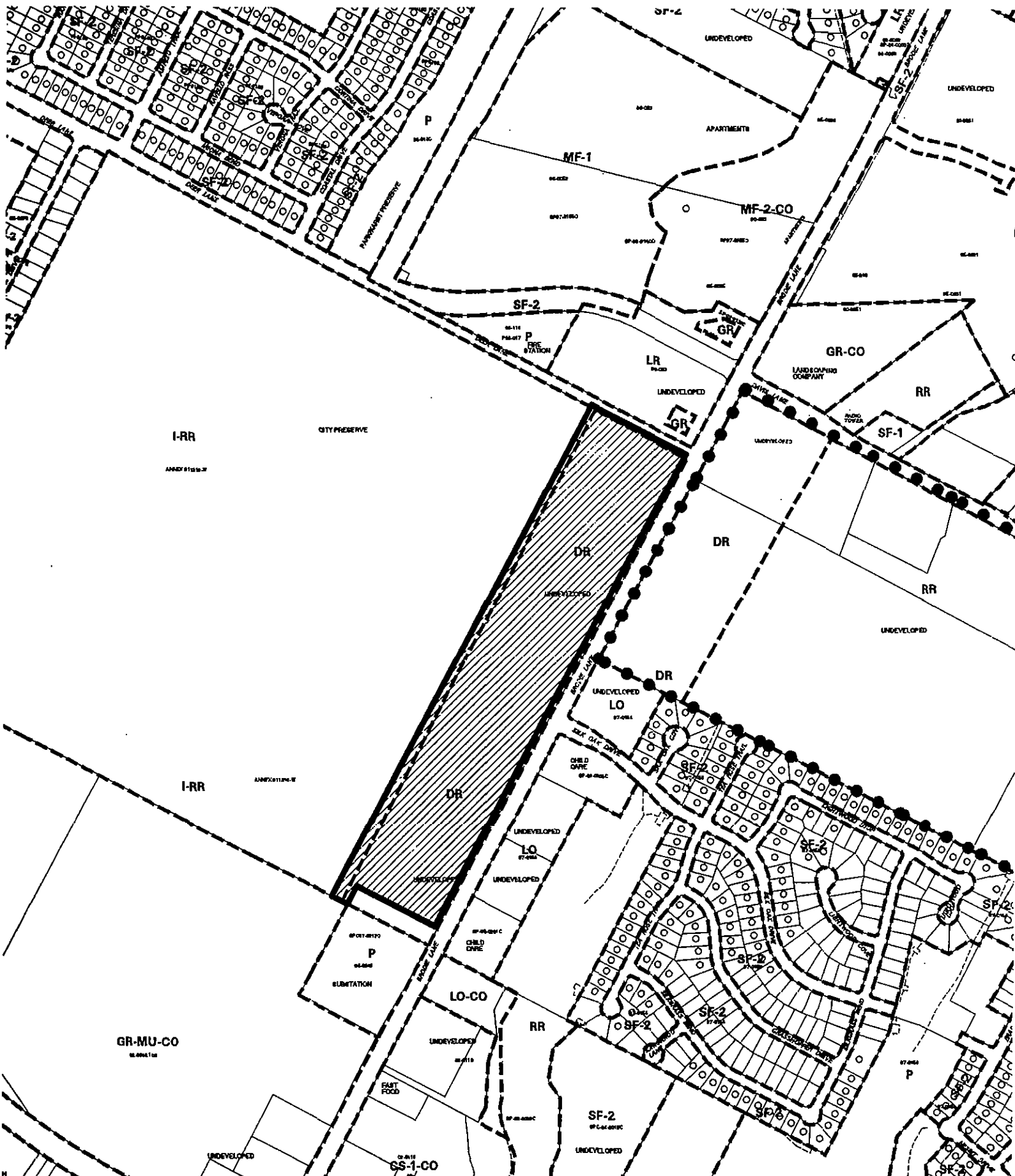
Specifically, the PUD consists of the following uses, from north to south:


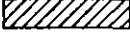


- a 4.5 acre future commercial parcel to be developed in conjunction with property north of the site. Deer Lane is planned for realignment with Davis Lane to the north that would enable development to occur in this manner.
- a 4.2 acre conservation easement which includes two hazardous pipelines, as recognized by City Code, which traverse the property in a southwest to northeast direction. New development must be set back 200 feet from hazardous pipelines, unless approval is obtained from the Fire Chief or development complies with standards for construction near a pipeline as prescribed by the Fire Criteria Manual.
- a 1.7 acre single facility automotive repair use which includes operational restrictions, a setback that prohibits building and parking within 100 feet of the west property line, and a maximum building size of 5,500 square feet.
- a 4.1 acre convenience storage use
- one restaurant with fast food, drive-in service
- a sit-down restaurant
- a 10.7 acre conservation easement at south side of the property.

#### *Environmental Overview*

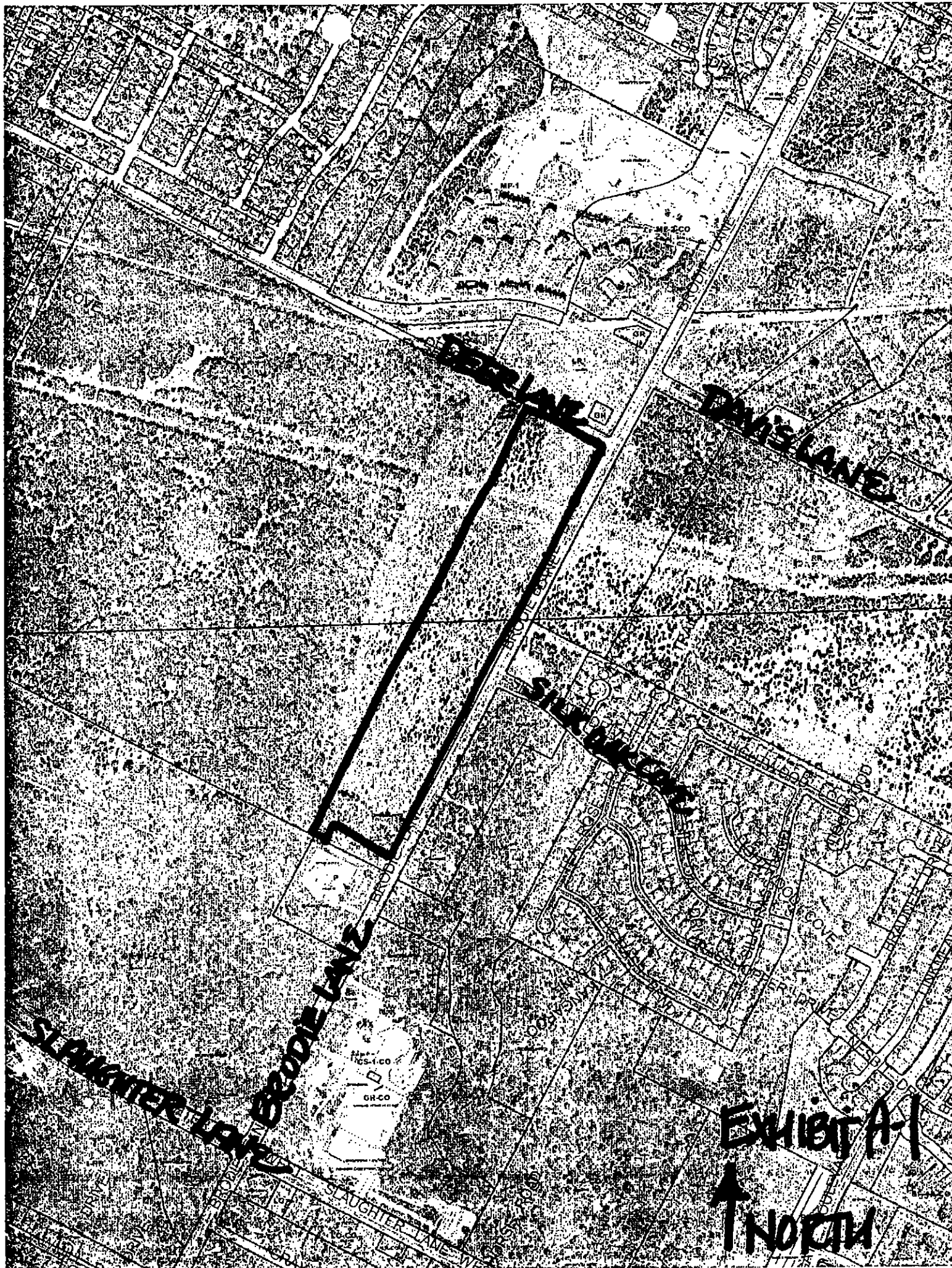
Given the property's location within the Barton Springs Zone, the Brodie 31 PUD will comply with the Save Our Springs (SOS) Ordinance as outlined in Chapter 25-8, Article 12 of the Land Development Code. The applicant is willing to enter into a Restrictive Covenant with the City to incorporate native and adaptive planting techniques in order to further assist in erosion control and an Integrated Pest Management Plan, secure the Preserve area adjacent to the west property line with fencing, cluster detention and filtration facilities as far as possible from the Conservation Easement; and minimize irrigation and re-irrigation in the area of the Easement.

As further described in Attachment B, City Environmental staff supported the applicant's plans to cluster development away from several critical environmental features (CEFs) located within the City's Nature Preserve adjacent to the west, enter into a Restrictive Covenant with the City to minimize pollutant risks, including prohibiting the use of coal-tar based asphalt sealants, and assurances that off-site conveyance of stormwater runoff will be directed away from the City's Nature Preserve to Brodie Lane. The applicant details the operation and practices of the end user of the automotive repair facility, as provided in Attachment C. The Conservation Easement document is provided as Attachment D.



 1" = 600'	SUBJECT TRACT 	<b>PLANNED UNIT DEVELOPMENT Exhibit A</b>		CITY GRID REFERENCE NUMBER D15-16
	PENDING CASE 			
	ZONING BOUNDARY 	CASE #: C814-04-0024	DATE: 04-07	
	CASE MGR: W. WALSH	ADDRESS: 9000-9800 BLK BRODIE LANE	INTLS: SM	
	SUBJECT AREA (acres): 31			







# LAND STRATEGIES INC.



PAUL LINEHAN & ASSOCIATES

January 7, 2004

Attn: Wendy Walsh  
City of Austin  
Zoning Review Department  
505 Barton Springs, 5<sup>th</sup> Floor  
Austin, Texas 78701

Re: W.W. Deerfield - Applicant (LSI #1146.01)  
Brodie 31 c/o Walters Southwest

Dear Wendy:

Land Strategies, Inc. (LSI) respectfully submits this letter describing the proposed 31-acre PUD development located at the southwest corner of Brodie Lane and Deer Lane. It is my understanding that there will be a meeting regarding this proposed development this week to discuss the Development Assessment submitted to the City of Austin on August 29, 2003. You will find below information regarding zoning uses, site standards, and user information. We look forward to bringing the project assessment to a conclusion so that we may expeditiously move forward with the PUD zoning case.

## Zoning

The proposed Brodie 31 Walters Southwest development will be zoned as a PUD. However, LSI will refer to the General Commercial (CS) zoning standards as the base district for general site information. Although many uses are allowed under CS zoning, a majority of them will not apply to the proposed development. Through zoning, the applicant will eliminate the following uses:

Bed & Breakfast  
Automotive Rentals  
Automotive Washing (of any kind)  
Carriage Stable  
Drop-Off Recycling Collection  
Pawn Shop

Agricultural Sales & Services  
Automotive Sales  
Bail Bond  
Cocktail Lounge  
Kennels  
Scrap & Salvage

DEVELOPMENT, DESIGN AND PLANNING CONSULTANTS

1010 LAND CREEK COVE, SUITE 100 • AUSTIN, TEXAS 78746 • (512) 328-6050 • FAX: (512) 328-6172

EXHIBIT C

**Site Standards**

Under General Commercial (CS) zoning, the following site standards will be followed:

Minimum Lot Size	5,750 s.f.
Minimum Lot Width	50 ft
Maximum Height	60 ft
Minimum Setbacks	
Front Yard	10 ft
Street Side Yard	10 ft

The applicant will also volunteer the following additional restrictions to the site:

Maximum Building Footprint Square Footage of 40,000 square feet  
IPM using Native Texas plants (refer to Section 609S list)  
Landscape buffer along Brodie Lane  
Signage for individual users will be on berms  
Neither conservation easement will contain any applicant development, water quality, or detention facilities

**User Information**

One issue of concern with City staff is the automotive service facility. I have attached for your review a letter from Christian Brother Automotive Corporation that details their operating practices, as well as their general site description. You will see that Christian Brothers Automotive differs from other typical automotive service facilities in appearance and business practice. Their services do not include; internal engine parts: cam shafts, bearings, engine blocks, piston, rings, valves, lifters, etc., internal transmission: dive gears, plenum gears, valve body, bearing seals, shafts, etc., paint and body repair of any kind.

Other users include a convenience storage facility, two sit-down restaurants, and a small retail development (in conjunction with the proposed Deer Lane realignment), and will be coupled with W.W. Deerfield to the north.

**Site Layout (refer to attached site drawing for orientation)**

The proposed development encompasses 31 acres at the southwest intersection of Brodie Lane and Deer Lane. Soil borings have been completed verifying that the site is in the Contributing Zone with an impervious cover limitation of twenty-five percent (25%). At the extreme southern portion, LSI has allotted  $\pm 10.7$  acres of land as a Conservation Easement, as well as an additional  $\pm 4.2$  acres to the north. This easement may provide access to the existing City of Austin parkland (165.27 acres) behind the proposed development in the future, if the City deems it necessary. This City of Austin parkland contains several environmental features, including several sink holes (Blowing Sink, Sinky Dinky, Winterwoods Sink, Flat Sink, Sink in the Woods, and Wyoaka Sink), as well as Brownlee Cave (see attached Balcones Canyonlands Preserve Resources exhibit). The proposed Conservation

Easement, as well as heavy landscape buffering and fencing, when necessary, will protect these features.

The detention ponds will be fenced appropriately, and buffered with landscaping to act as a visual barrier from Brodie Lane and the existing neighborhoods.

North of the Conservation Easement are the two restaurant tracts ( $\pm 2.7$  acres and  $\pm 3.1$  acres, respectively). These restaurants will also be fenced and heavily buffered with landscaping. Following these tracts northerly are the  $\pm 4.1$ -acre convenience storage facility, and the  $\pm 1.7$ -acre automotive service facility.

To the north of these tracts is a  $\pm 4.2$ -acre Conservation Easement, which includes a buffer for the pipeline running through the site (land allotted for the buffer area is more than the required fifty (50) feet). Finally, future retail development (similarly buffered and fenced) will be located at the extreme north of the site, encompassing the remaining  $\pm 4.5$  acres. This retail development is desired to work with the future realignment of Deer Lane with Davis Lane.

A shared frontage driveway will run along Brodie Lane, connecting the restaurant tracts, convenience storage, and automotive tracts. This drive will be buffered with landscaping to shield the collective development from Brodie Lane and the neighboring development at Brodie Lane and Silk Oak Lane.

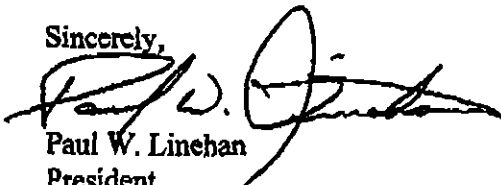
#### Site Drainage

Preliminary drainage analysis from Bury & Partners clearly shows that drainage patterns on the site will follow parallel to Brodie Lane in a naturally southward condition. All storm water runoff will be directed back to Brodie Lane into an existing drain. Along with natural drainage patterns and on-site water quality ponds, we will ensure that water runoff will be directed away from the sinks to the west of the site, and therefore will not be adversely affected.

I believe this information is above and beyond normal development standards and will be a positive asset to the area. We look forward to your review and determination of the Development Assessment. If you need more information or have any questions, please do not hesitate to contact me.

Thank you for your time and assistance.

Sincerely,



Paul W. Linehan  
President  
Land Strategies, Inc.

PWL:enw



**Date:** May 26, 2004  
**To:** Wendy Walsh, Case Manager  
**CC:** Members of the Zoning and Platting Commission  
Rashed Islam, P.E. WHM Transportation Engineering  
**Reference:** Deerfield 31 Tract TIA, C814-04-0024

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Deerfield 31 Tract, dated May 2004, prepared by Rashed Islam, P.E., WHM Transportation Engineering, and offers the following comments:

### **TRIP GENERATION**

Deerfield 31 Tract is a 31-acre development located in south Austin at the southwest corner of Brodie Lane and Deer Lane.

The property is currently undeveloped and zoned Development Reserve (DR). The applicant has requested a zoning change to Planned Unit Development (PUD). The estimated completion of the project is expected in the year 2006.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 5,464 unadjusted average daily trips (ADT).

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

<b>Table 1. Trip Generation</b>						
			<b>AM Peak</b>		<b>PM Peak</b>	
<b>LAND USE</b>	<b>Size</b>	<b>ADT</b>	<b>Enter</b>	<b>Exit</b>	<b>Enter</b>	<b>Exit</b>
Shopping Center	20,000	1,439	22	14	62	67
Auto Care Center	4,990	160	10	5	8	8
Mini-Warehouse	92,000	230	8	6	12	12
High Turnover Restaurant	7,500	557	21	19	28	19
Fast Food Restaurant w/ Drive Thru	3,375	845	44	42	30	27
<b>Total</b>		<b>3,231</b>	<b>105</b>	<b>86</b>	<b>140</b>	<b>133</b>

### **ASSUMPTIONS**

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

<b>Table 2. Growth Rates per Year</b>	
<b>Roadway Segment</b>	<b>%</b>
All Roads	4%

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

SP-01-0157C  
SP-02-0055C

Ridgeview Apartments Phase Two  
WW Brodie Multi Family Development

**ATTACHMENT**  
**A**

SP-02-0339C	Deerfield Commercial
SP-02-0335C	Stepping Stone School
SP-00-2385C	Shady Hollow AKA Randall's Cherry Creek (Rev. 0, 1, & 2)
SP-03-0064C	CCR108 Development
SP-03-0099C	Shady Hollow Office
C14-02-0173	Tristan
C8-02-0225	Brodie Springs II Preliminary Plan

3. Reductions were taken for pass-by for the following uses:

<b>Table 3. Summary of Pass-By and Internal Capture Reductions</b>		
<b>Land Use</b>	<b>Pass-By Reductions %</b>	
	<b>AM</b>	<b>PM</b>
Shopping Center	34%	34%
High Turnover Restaurant	43%	43%
Fast Food Restaurant w/ Drive Through	49%	50%

4. A 10% reduction was taken for internal capture for the shopping center.

5. No reductions were taken for transit use.

#### **EXISTING AND PLANNED ROADWAYS**

<b>Table 4. Roadway Information</b>						
<b>NAME</b>	<b>ROW</b>	<b>PAVEMENT</b>	<b>CLASSIFICATION</b>	<b>Capital Metro Route</b>	<b>DAILY TRAFFIC</b>	<b>BICYCLE PLAN</b>
Brodie Lane	90'	2@24'	MAD4	No	19,260	Priority 1 Route #17
Slaughter Lane	120'	Varies	MAD4	No	21,365	Priority 1 Route #86
Deer Lane	60'	24'	Collector	No	1,910	Priority 1 Route #84
Davis Lane	90'	30'	MNR2	No	4,460	Priority 1 Route #84
Silk Oak Drive	60'	Varies	Collector	No	N/A	No

#### **INTERSECTION LEVEL OF SERVICE (LOS)**

The TIA analyzed 7 intersections, 3 of which are signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

<b>Table 4. Level of Service</b>				
<b>Intersection</b>	<b>2003</b>		<b>2006</b>	
	<b>AM</b>	<b>PM</b>	<b>AM</b>	<b>PM</b>
Slaughter Lane @ Brodie Lane*	F	E	D	D
Davis Lane @ Brodie Lane*	C	B	C	C
Deer Lane @ Brodie Lane*	B	B	C	C

Driveway D/Silk Oak Drive @ Brodie Lane**	F	F	F	F
Driveway A @ Brodie Lane			A	A
Driveway B @ Brodie Lane			A	A
Driveway C @ Brodie Lane			A	A

\* = SIGNALIZED \*\* SEE RECOMMENDATIONS

## **RECOMMENDATIONS**

- 1) Prior to 3<sup>rd</sup> reading at City Council, fiscal is required to be posted for the following improvements:

Intersection	Improvements
Brodie Lane and Slaughter Lane	Signal Timing Optimization; WB Right Turn Bay; Changeable Lane assignment sign
Driveway D/Silk Oak and Brodie Lane	Traffic Signal*; Striping
Davis Lane and Brodie Lane	WB Right Turn Lane

\* A traffic signal will not be installed at this intersection until traffic warrants are met per COA ~ TPSD

- 2) The proposed turn lane at the intersection of Driveway D/Silk Oak Drive and Brodie Lane is subject to review and approval by the Transportation Planning and Sustainability Department at the time of site plan. The turn lane should be included within the limits of construction of the site plan.
- 3) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

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



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





## MEMORANDUM

**To:** Wendy Walsh, Senior Planner  
Neighborhood Planning and Zoning

**From:** Patrick Murphy, Environmental Officer  
Watershed Protection and Development Review

**Date:** January 12, 2004

**Subject:** Recommendation W.W. Deerfield (Brodie 31) PUD Application

I have completed my review of the proposed Planned Unit Development zoning for the WW Deerfield tract located at the intersection of Brodie Lane and Deer Lane. The tract is located over the Edwards aquifer contributing zone within the Barton Springs Zone. The site is immediately west of the recharge zone, which is roughly the property boundary of the Blowing Sink Nature Preserve on the west. The development would be required to comply with the SOS impervious cover and water quality control requirements. Site impervious cover is limited to a maximum net site area impervious cover of 25%.

The site is immediately adjacent to the Blowing Sink Cave preserve that contains what is generally agreed to contain the most sensitive recharge features in the Barton Springs segment of the aquifer. I support the applicant's agreement to cluster the proposed development pads and to provide a 10.7 acre conservation easement on the lower portion of the tract to provide additional buffering for Blowing Sink Cave and associated features.

As you know, I have been concerned about the proposed automotive use on this tract due to the sensitivity of the tract and the adjacent cave preserve to potential hazardous pollutants. In order to address my concerns the applicant has provided extensive information regarding the proposed Christian Brothers Automotive use on the site. The information provided demonstrates that Christian Brothers runs a responsible, clean operation that would serve to reduce potential spills or discharges of hazardous materials that are commonly associated with automotive uses. I have also confirmed with the WPDR staff that enforce the Stormwater Discharge Permit requirements that the existing Christian Brothers Automotive located at 12,014 North FM 620 has not had any violations.

The applicant has provided site drainage "investigation" by Bury and Partners in order to address my concern about potential discharge of hazardous materials to the Blowing Sink preserve. The

*ATTACHMENT B*

investigation concludes that the stormwater runoff from the tract flows southward parallel to Brodie Lane and is discharged into the Brodie Lane drainage system. The applicant has agreed to provide whatever additional measures would be necessary when engineering construction plans are available to insure that the stormwater bypass from the water quality and detention controls will not be discharged into the preserve.

I am impressed with what I have learned about Christian Brothers Automotive, but I have been uncomfortable recommending the automotive use based on a specific end user. There is no assurance that Christian Brothers will remain the automotive user in the future. I appreciate that the applicant has agreed to address my concern by adopting restrictive covenants to ensure that a future user would be required to comply with the same operational procedures as Christian Brothers.

In summary, I am recommending the proposed PUD zoning because it provides: clustering of development away from Blowing Sink and locating the automotive use on the portion of the tract abutting the petroleum pipeline easement; dedication of a 10.7 acre conservation easement adjacent to Blowing Sink; adoption of restrictive covenants (included in attached December 3, 2003 letter from Land Strategies Inc. to Wendy Walsh) to minimize pollutant risks associated with the automotive use; assurance that offsite conveyance of stormwater runoff will be directed away from the preserve to Brodie Lane; and, development if full compliance with SOS requirements.

Please let me know if you have any questions or require further assistance.

A handwritten signature in black ink, appearing to read 'P. Murphy', with a stylized flourish at the end.

Patrick Murphy, Environmental Officer  
Watershed Protection and Development Review

JPM/jpm

cc: Joseph G. Pantalion, P.E., Acting Director, WPDR  
Greg Guernsey, NPZ

# LAND STRATEGIES INC.

PAUL LINEHAN & ASSOCIATES

November 14, 2003

## **DRAFT**

Attn: Wendy Walsh & Greg Guernsey  
City of Austin  
505 Barton Springs Road, 5<sup>th</sup> Floor  
Austin, Texas 78701

Re: W.W. Deerfield (Brodie 31 c/o Walters Southwest)  
Christian Brothers summary

Dear Wendy:

Per your request in our November 10<sup>th</sup> meeting, the following is an operations and practices summary for Christian Brothers Automotive, a proposed tenant for the W.W. Deerfield project located at the southwest intersection of Brodie Lane and Deer Lane in Austin, Travis County, Texas. Please refer to the drawings and pictures from Lewis Ten Have at that November 10<sup>th</sup> meeting for specifics on any of the following information.

### **Historical Data**

Christian Brothers has been in operation since 1982. Since that time, they have opened 23 locations, none of which have closed or changed business ownership to-date. Each location has an attractive waiting area, like no other automotive service facility, with hardwood floors and comfortable furniture. The exterior of the building is a mixture of native limestone and brick, with architectural interest in design. There are no automotive service facilities similar to Christian Brothers in design, personnel or safety practices. At each location, the owner is required to be on-site. This allows the company to ensure honesty and integrity in their operations and practices, which is of the highest importance to Christian Brothers.

During the first few months, the location will be open Monday through Saturday. After the first three to four months of operation, the location will be open only five (5) days each week, to allow all personnel to be with their families on the weekends.

### **Building Interior and Safety Precautions**

The interior floors of the nine (9) auto service bays are covered with epoxy similar to that of airplane hangars. This epoxy is impervious to fluids, ensuring that no contaminants may seep through to the ground. All oils are captured and stored in 250-300 gallon above-ground containers. Transmission and radiator fluids are captured and stored in 55-gallon drums. (Christian Brothers is willing to

*attachment C*

reduce the number of containers on-site by increasing the frequency of deliveries (oils, fluids, etc.) to the site.) As an extra safeguard, all containers will be concentrated in Bay 10, which will have sealed walls and floor with City-approved drains with grease traps, to prevent spillage. All cleaning fluids used at Christian Brothers are biodegradable. Christian Brothers is devoted to using environmentally safer products and practices.

In addition to the nine auto service bays, a tenth bay is proposed to act as a secondary safeguard. All captured fluids will be stored in this bay. Please see information below for details.

Oil changes can be done at the location, but are not the "bread-and-butter" of the company. Christian Brothers is devoted to automotive service and repair. (No body work will be done at the location.) The proposed location will have nine (9) bays for auto service. At night, up to eighteen (18) automobiles will fit inside the building, ensuring that few cars, if any, will remain outside over night.


### **Operating Commitments**

Christian Brothers and Land Strategies would like to create a Restrictive Covenant to address the concerns of City staff. The following can be discussed as part of this covenant:

- Location owner must be on-site. This will help to promote the honesty and integrity that is of utmost importance to Christian Brothers.
- A building setback of one hundred feet (100') from the adjacent City of Austin property line can be incorporated into the Restrictive Covenant.
- Christian Brothers will maintain the proposed site in every way to ensure that safeguards established up-front will be there for the duration of the business.
- A size restriction for the location can be set at 1.7 acres (single facility only on-site) and between 5,200-5,500 square feet for the building itself. A height limitation of forty feet can be incorporated as well.
- A tenth bay will be included in the building to act as a separate backup containment area for all fluids. This bay will have the epoxy floor, and may have epoxy sidewalls, to ensure safety from spillage inside the building. In this bay, all fluids will be stored in containers as described under Building Interior and Safety Precautions.
- Only biodegradable cleaning fluids will be used on-site.

I hope the foregoing information gives you an idea of Christian Brothers' dedication to honest service, personal integrity, and quality in design and operation. If you have any questions regarding any of the information above, please do not hesitate to call me.

Sincerely,

  
Paul W. Linehan  
President  
Land Strategies, Inc.

PWL:enw



## ENVIRONMENTAL BOARD MOTION 0060204-B1

Date: June 2, 2004

Subject: Brodie 31/Walters Southwest PUD

Motioned By: Phil Moncada

Seconded By: Lee Leffingwell

### Recommendation

The Environmental Board recommends **conditional approval** of the Brodie 31/Walters Southwest PUD with staff conditions:

### Staff conditions:

1. Development will be clustered, and drainage will be directed away from the preserve containing Blowing Sink and other important geologic features by means including, but not limited to, stormwater pipes, swales, and berms as appropriate.
2. Tracts 2 and 7 will be dedicated as conservation easements, and all development on these tracts is prohibited including water quality and detention facilities (except re-irrigation).
3. Provision will be made for an approved IPM plan.
4. Landscaping will be native and adapted plants selected from the Grow Green specification.
5. Coal-tar based parking lot sealants will be prohibited.
6. A Restrictive Covenant that ensures that any future automotive user on the Christian Brothers site will comply with standards specified by staff will be adopted. These standards will include but are not limited to the following:
  - a) Location owner must be "on-site".
  - b) Building(s) will be set back at least 100 ft. from the adjacent City of Austin property line.
  - c) A tenth bay will be included in the building to act as a separate backup containment area for all fluids. This bay will have an epoxy floor and protective sidewalls to ensure safety from spillage inside the building. In this bay, all fluids will be stored in containers as described under Building Interior and Safety precautions in the letter of November 14, 2003.
  - d) Only biodegradable cleaning fluids will be used on site.

## **Rationale**

The Board recommends PUD zoning for the site based upon staff's conditions as agreed upon by the applicant. The PUD zoning will provide additional buffering of Blowing Sink Cave and the other important geologic features on the adjacent City preserve by clustering development away from these features and by dedicating a 10.7 acre conservation easement between the proposed development and the portion of the City preserve that contains these features. Moreover there is a nearby fire station to significantly shorten response time in the event a spill occurs. In addition, staff informed Board Members that the applicant has satisfactorily addressed pollution risks associated with the proposed automotive use, and all development will be in full compliance with SOS regulations.

Vote        7-0-0-1

For:        Ascot, Anderson, Leffingwell, Holder, Maxwell, Moncada, Riley

Against:   None

Abstain:   None

Absent:    Curra

Approved By:

Lee Leffingwell, Chair

## CONSERVATION EASEMENT AGREEMENT

This Conservation Easement Agreement (this "Conservation Easement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between 31 DEERFIELD, LTD., a Texas limited partnership ("Grantor") and the CITY OF AUSTIN ("Grantee").

### WITNESSETH

- A. Grantor is sole owner in fee simple of a certain tract of real property in Travis County, Texas, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Protected Property"). The Protected Property is located within the contributing zone for Barton Springs in the Williamson Creek watershed.
- B. The Protected Property is a significant natural area that qualifies as a "relatively natural habitat of fish, wildlife, or plants, or similar ecosystems," as that phrase is used in P.L. 96-541, 26 USC 170 (h)(4)(A) (ii), as amended, and in regulations promulgated thereunder. In particular, the Protected Property is contiguous to a nature preserve currently owned by Grantee, which among other things, includes several sink holes (Blowing Sink, Sinky Dinky, Winterwoods Sink, Flat Sink, Sink in the Woods and Wyoaka Sink), as well as the Brownlee Cave. The Protected Property (in conjunction with the adjoining nature preserve) contains outstanding open space and scenic qualities, a variety of wildlife and represents a portion of an undisturbed natural watershed that provides a significant quantity of high quality run-off recharge to the Barton Springs segment of the Edwards Aquifer (collectively, the "conservation values").
- C. Grantor intends that the conservation values of the Protected Property be preserved and maintained by permitting only those land uses on the Protected Property that do not significantly impair or interfere with such values, including, without limitation, those land uses relating to water quality controls, agriculture and to open space and wildlife management as described herein.
- D. Grantee has a clearly delineated policy to provide for the conservation and maintenance of the quality and quantity of the City's water supply and to protect the Barton Springs segment of the Edwards Aquifer and has determined that the acquisition of this Conservation Easement will promote and advance such policy.
- E. This Conservation Easement is being executed in connection with the PUD Zoning Case No. C814-04-0024 (the "PUD"), which case includes certain adjoining property owned by Grantor as more particularly described on Exhibit "C" attached hereto ("Grantor's Adjoining Property").

NOW, THEREFORE, for and in consideration of the facts recited above and the mutual covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby voluntarily sells, grants and conveys unto the Grantee a Conservation Easement in perpetuity over the Protected Property, together with all development rights associated with the Protected Property not expressly reserved by Grantor, of the nature and character and to the extent hereinafter set forth.

1. Purpose. The purpose of this Conservation Easement is to (a) ensure that the Protected Property will be retained forever predominantly in its natural and open space condition; (b) maintain or improve the natural hydrological processes and land health that currently exist on the Protected Property, (c) allow for the wildlife management operations that are taking place which contribute to such hydrological processes; (d) provide for the conservation,

*Attachment E  
Conservation Easement  
document*

maintenance and enhancement of the quality and quantity of the Barton Springs segment of the Edwards Aquifer and Grantee's water supply, including, without limitation, pollution avoidance, watershed protection and preservation and enhancement of base flow or recharge; (e) prevent any use of the Protected Property that will impair or interfere with the conservation values of the Protected Property described above; and (f) otherwise implement the mutual intentions of the parties as expressed by the facts recited above, which are incorporated herein by reference. The Grantor intends that this Conservation Easement will restrict the use of the Protected Property as provided in this Conservation Easement.

2. Prohibited Uses. Any activity on or use of the Protected Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
  - 2.1 No Surface Alteration. Except for activities permitted under Paragraph 2.10 and Paragraph 3.4 hereof, there shall be no ditching, draining, diking, filling, excavating, dredging, mining, drilling or other alteration of the surface of the Protected Property, no disturbance of the subsoils (including, but not limited to, the excavation or removal of soil, sand, gravel, rock, peat, or sod, or the placing of soil or other substances and materials such as land fill or dredging spoils), and no other activities on the Protected Property that could cause erosion or siltation thereof, except as may be necessary to restore, maintain or enhance the natural hydrologic regime of the watershed; provided, however, construction materials, such as rock, dirt, sand and gravel, may be taken for use in connection with permitted activities on the Property, but only to the extent and from locations approved by Grantee, which approval shall not be unreasonably withheld.
  - 2.2 Soil or Water Degradation. Except for activities permitted under Paragraph 2.10 and Paragraph 3.4 hereof, there shall be no change in the topography or surface or subsurface hydrology of the Protected Property in any manner. Any use or activity that causes or is likely to cause soil degradation, erosion or siltation or depletion or pollution of any surface or subsurface waters shall be prohibited.
  - 2.3 Cutting. Except for activities permitted under Paragraph 2.10 and Paragraph 3.4 hereof, there shall be no removal, harvesting, destruction or cutting of trees, shrubs, brush or other plants, except incidental select cutting or removal of vegetation as reasonably necessary for appropriate management of the Protected Property (including maintenance and enhancement of the rangeland consistent with the conservation purposes and fire containment).
  - 2.4 Biocides. There shall be no use of pesticides or biocides, including, but not limited to insecticides, fungicides, rodenticides, and herbicides, except as permitted in the Management Plan.
  - 2.5 Dumping. There shall be no storage or dumping of ashes, trash, garbage, Hazardous Materials (defined in Paragraph 10 hereof) or any other materials that may negatively impact or be detrimental to surface or subsurface waters.
  - 2.6 Storage Tanks. There shall be no placement or use of any underground storage tanks on the Protected Property. There shall also be no use or placement of other storage



tanks on the Protected Property.

- 2.7 Water Use. There shall be no pollution, alteration, manipulation, depletion or extraction of surface or subsurface water (including, but not limited to, ponds, creeks or other water courses) or any other water bodies, nor shall activities be conducted on the Protected Property that would be detrimental to water purity or that could alter the natural water level or flow in or over the Protected Property, except for activities permitted under Paragraph 2.10 and Paragraph 3.4 hereof. In addition, Grantor shall not be permitted to transfer, encumber, sell, lease or otherwise separate any water rights from the Protected Property, except as provided in Paragraph 4.6 hereof.
  - 2.8 Construction. There shall be no placement or construction of structures or other improvements on the Protected Property, except as expressly permitted or contemplated herein.
  - 2.9 Commercial Activities. There shall be no commercial or industrial use of or activity on the Protected Property.
  - 2.10 Agricultural Activities. With the exception of grazing of cattle, the cultivation of food plots for personal and wildlife consumption (but not commercial purposes), there shall be no other farming or agricultural activities on the Protected Property, including planting, raising, harvesting, or producing agricultural products, without the consent of Grantee pursuant to Paragraph 4.4 hereof.
  - 2.11 No Vehicles. There shall be no operation of any motorized vehicles (including, but not limited to, dune buggies, motorcycles and all-terrain vehicles), except as reasonably necessary in connection with the uses described in Paragraphs 2.10 and 3.4 hereof. and maintenance of the Protected Property. There shall also be no use of other vehicles to the extent such use violates Paragraph 2.2 above.
  - 2.12 No Subdivision. The Protected Property may not be divided, partitioned, or subdivided, nor conveyed except in either its current configuration or in its entirety.
  - 2.13 No Easements. Grantor shall not grant or convey any easements under or across the Protected Property, including, but not limited to, access easements and utility easements, without Grantee's prior written consent, except as otherwise expressly permitted or contemplated herein.
3. Grantor's Reserved Rights. Grantor reserves to himself, and to his successors and assigns, all rights accruing from Grantor's ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, all uses of the Protected Property that are not prohibited herein and are not inconsistent with the purpose of this Conservation Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:
- 3.1 Existing Uses. The right to continue any activity or use of the Protected Property in effect at the time of this grant, including residential use, ranching and wildlife management operations, but only to the extent such uses are compatible with the purposes of this Conservation Easement.
  - 3.2 Transfer. The right to sell, gift, mortgage, lease, or otherwise convey the Protected Property,

provided such conveyance is subject to the terms of this Conservation Easement and written notice thereof is provided to the Grantee in accordance with Paragraph 20.6 below.

- 3.3 Structures. The right to maintain such structures and other improvements as they exist on the Protected Property at the time of this grant (including the right to replace on the same site, with like or similar structures used for the same or similar purposes), but not the right to expand such structures.
  - 3.4 Water Quality Controls. Grantor shall have the right to construct and maintain sprinkler and re-irrigation systems and related facilities on the Property, in order to re-irrigate water from water quality ponds on Grantor's Adjoining Property.
  - 3.5 Mineral Rights. The rights and interests in all oil, gas and other minerals in and under the Protected Property; provided, however, it is understood and agreed by Grantor and Grantee and on behalf of their respective heirs, legal representatives, successors and assigns, that Grantor and Grantor's heirs, legal representatives, successors and assigns, in conducting operations with respect to the exploration for or production from, processing, transporting and marketing of oil, gas and other minerals from the Protected Property, Grantor shall not use or occupy any portion of the surface estate of the Protected Property and shall not place any fixtures, equipment, building, structures, pipelines, rights of way or personal property of any kind or nature whatsoever on the surface or within the depth of 1000 feet from the surface of the Protected Property or any portion thereof. Grantor, for itself and on behalf of Grantor's heirs, legal representatives and assigns, hereby waives any rights whatsoever to the use of the surface of the Protected Property in connection with the ownership and exploitation of the oil, gas, and other minerals. Notwithstanding anything above to the contrary, Grantor shall not be prohibited to conduct exploratory activities that are non-invasive and do not otherwise damage or negatively impact the watersheds or aquifer. To the extent Grantor elects to explore for or otherwise extract or exploit any oil, gas or other minerals under the Protected Property from the surface of another property, Grantor shall to use its best efforts to minimize any damage or other negative impact on the watersheds or aquifer by such activity.
4. Grantee's Rights. To accomplish the purposes of this Conservation Easement, the following rights are hereby conveyed to Grantee:
- 4.1 Right to Protect. The right to preserve and protect the herein described conservation values of the Protected Property.
  - 4.2 Right of Entry. With prior notice to and appointment with Grantor, the right to enter the Protected Property as follows: (a) one (1) time each calendar year for the purposes of inspecting the Protected Property to determine if the Grantor is complying with the terms, covenants and purposes of this Conservation Easement and (b) two (2) times each calendar year for the purposes of monitoring watershed characteristics and conditions and the condition of the surface and subsurface waters on or adjacent to the Protected Property. Grantee may also enter the Protected Property at such other times as permitted by Grantor to conduct research on watershed and range management techniques or such other purposes as agreed to by Grantor and Grantee.
  - 4.3 Enforcement. The right to prevent any activity on or use of the Protected Property that is in violation with this Conservation Easement and to require the restoration of such areas or features of the Protected Property that may be damaged by any activity or use in violation of

this Conservation Easement, pursuant to Paragraph 12 hereof.

- 4.4 Discretionary Consent. Grantee may consent to activities otherwise prohibited under Paragraph 2 above, or activities requiring Grantee's consent under Paragraph 3 above, under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the activities listed in Paragraph 2 are reasonably determined by both Grantor and Grantee to be desirable, Grantee may, in its sole discretion, give permission for such activities, provided such activities (a) do not violate the purposes of the Conservation Easement and (b) either enhance or do not impair any significant conservation values associated with the Protected Property. Notwithstanding the foregoing, Grantee and Grantor have no right or power to agree to any activities that would result in the termination of this Conservation Easement or to allow any residential, commercial or industrial structures not otherwise expressly provided for in this Conservation Easement. In the event Grantor wishes to engage in any activity or use of the Protected Property requiring Grantee's consent, Grantor shall send written notice to Grantee describing in detail such request.
- 4.5 Water Rights. All surface and subsurface water rights associated with the Protected Property, except as expressly reserved by Grantor in Article 3 hereof, are conveyed to Grantee.
- 4.6 Development Rights. A portion of the development rights on the Protected Property are allocated to Grantor's Adjoining Property (as set forth in the PUD). The remainder of the development rights are extinguished, except those necessary for activities permitted under Paragraph 2.10 and Paragraph 3.4 hereof.
5. Intentionally Omitted.
6. Public Access. Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or use the Protected Property or any portion thereof.
7. Costs and Liabilities; Indemnity. Except as otherwise provided herein, Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property. Grantor shall keep Grantee's interest in the Protected Property free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantor. To the extent permitted by law, each party agrees to release, hold harmless, defend and indemnify the other from any and all liabilities, including, but not limited to, injury, losses, damages, judgments, costs, expenses, and fees, that the indemnified party may suffer or incur as a result of or arising out of the activities of the other party on the Protected Property.
8. Taxes. Grantor agrees to pay any real estate taxes or other assessments levied on the Protected Property. If Grantor becomes delinquent in payment of taxes or assessments, so that a lien is created against the Protected Property, Grantee, at its option, shall, after written notice to Grantor, have the right to purchase and acquire Grantor's interest in the Protected Property by paying funds to discharge the lien or delinquent taxes or assessments, or to take such other actions as may be necessary to protect Grantee's interest in the Protected Property and to assure the continued enforceability of this Conservation Easement.
9. Title. Grantor covenants and represents and warrants to Grantee as follows: (a) Grantor is the sole

owner and is seized of the Protected Property in fee simple and has good right to grant and convey this Conservation Easement; (b) the Protected Property is free and clear of any and all encumbrances, except those identified on Exhibit "B" attached hereto; and (c) Grantee shall have the use of and enjoyment of all the benefits derived from and arising out of this Conservation Easement.

10. Hazardous Materials. Grantor warrants and, to the best of Grantor's knowledge, covenants and represents to Grantee that no Hazardous Materials exist or have been generated, treated, stored, used, disposed of, or deposited in or on the Protected Property, and that there are not now any underground storage tanks located on the Protected Property. As used herein, the term "Hazardous Materials" shall mean (i) any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (ii) any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 *et seq.*), as amended from time to time, and regulations promulgated thereunder (including petroleum-based products as described therein); (iii) other petroleum and petroleum-based products; (iv) asbestos in any quantity or form which would subject it to regulation under any applicable Governmental Requirements; (v) polychlorinated biphenyls; (vi) any substance, the presence of which on the Protected Property is prohibited by any Governmental Requirements; and (vii) any other substance which, by any Governmental Requirements, requires special handling in its collection, storage, treatment or disposal. The term "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of any governmental authorities having jurisdiction over the Protected Property.
11. Grantee's Remedies. If Grantee becomes aware of a violation of the terms of this Conservation Easement, Grantee may notify Grantor of such violation and request corrective action sufficient to abate such violation and restore the Protected Property to its previous condition prior to the violation. Failure by Grantor to abate the violation and take such other corrective action as may be requested by Grantee within thirty (30) days after receipt of such notice shall entitle Grantee to exercise any one or more of the following remedies: (a) bring an action at law or equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement; (b) require the restoration of the Protected Property to its previous condition; (c) enjoin the non-compliance by temporary or permanent injunction in a court of competent jurisdiction; and/or (d) recover any damages arising from the noncompliance. Such damages, when recovered, may be applied by Grantee, in sole discretion, to corrective action on the Protected Property. If the court determines that Grantor has failed to comply with this Conservation Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and reasonable legal expenses, in addition to any other payments ordered by such court.
  - 11.1 Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Protected Property, Grantee may pursue its remedies under this Paragraph without prior notice to Grantor or without waiting for the period for cure to expire. However, Grantee agrees to use its best efforts to notify Grantor of such circumstances as soon as reasonably practicable.
  - 11.2 Failure to Act or Delay. No covenant, term, condition or restriction of this Conservation Easement or the breach thereof by Grantor will be deemed waived, except by written consent of Grantee and any waiver of the breach of any such covenant, term, condition or restriction

will not be deemed or construed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, condition or restriction. Grantee shall retain the right to take any action as may be necessary to ensure compliance with this Conservation Easement notwithstanding any prior failure to act.

- 11.3 Violations Due to Causes Beyond Grantor's Control. Nothing herein shall be construed to entitle Grantee to institute any enforcement proceedings against Grantor for any changes to the Protected Property due to causes beyond Grantor's control, such as changes caused by fire, flood, storm, earthquake or the unauthorized wrongful acts of third persons. In the event of violations of this Conservation Easement caused by wrongful acts of third persons, Grantor agrees, upon request by Grantee, to assign its right to action to Grantee, to join in any suit, or to appoint Grantee its attorney-in-fact for the purposes of pursuing enforcement action, all at the election of Grantee.
12. Parties Subject to Easement. The rights, covenants agreed to and the terms, conditions, and restrictions imposed by this grant shall not only be binding upon, and inure to the benefit of, Grantor but also its lessees, agents, personal representatives, successors and assigns, and all other successors in interest to Grantor and shall continue as a servitude running in perpetuity with the Protected Property.
13. Subsequent Transfers. Grantor agrees that the terms, conditions, restrictions and purposes of this grant or reference thereto will be inserted by Grantor in any subsequent deed or other legal instrument by which Grantor divests either the fee simple title or possessory interest in the Protected Property; and Grantor further agrees to notify Grantee of any pending transfer of any interest in the Protected Property at least thirty (30) days in advance of such transfer.
14. Merger. Grantor and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee estate and easement interest in the Protected Property.
15. Assignment. The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable, and Grantee hereby covenants and agrees that if it transfers or assigns this Conservation Easement, the organization receiving the interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, or that is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, and Grantee further covenants and agrees that the terms of the transfer or assignment will be such that the transferee or assignee will be required to continue to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance.
16. Miscellaneous Provisions.
- 16.1 Severability. If any provision of the Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.
- 16.2 Successors and Assigns. The term "Grantor" shall include Grantor and Grantor's heirs,

executors, administrators, successors and assigns and shall also mean the masculine, feminine, corporate, singular or plural form of the word as needed in the context of its use. The term "Grantee" shall include the City of Austin and its successors and assigns.

- 16.3 Applicable Laws. Grantor and Grantee shall comply with all Governmental Requirements in connection with any of their activities on the Protected Property or in connection with this Conservation Easement.
- 16.4 Recording. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Easement; for such purpose, Grantor appoints Grantee its attorney-in-fact to execute, acknowledge and deliver any necessary instrument on its behalf. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request.
- 16.5 Captions. The captions herein have been inserted solely for convenience or reference and are not part of this Conservation Easement and shall have no effect upon construction or interpretation.
- 16.6 Notices. Any notice, communication, request, reply or advice (severally and collectively referred to as "Notice") in this Conservation Easement provided or permitted to be given, made or accepted by either party to the other must be in writing. Notice may, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified mail, and addressed to the party to be notified at the last address for which that the sender has at the time of mailing, with return receipt requested, (b) by delivering the same to such party, or an agent of such party, or (c) when appropriate, by sending a telegram or wire addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be effective from and after such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as provided below, be as follows:

Grantor: 31 Deerfield, Ltd.  
c/o Walters Southwest  
1100 Nueces  
Austin, Texas 78701  
Telephone: (512) 481-0404  
Fax: (512) 481-0444

Grantee: Watershed Protection  
Utility Department  
P.O. Box 1088  
Austin, Texas 78767-8839  
Attention: Ms. Nancy McClintock  
Telephone: (512) 499-7085  
Fax: (512) 499-2846

- 16.7 Effective Date. This Agreement shall not become effective and binding until fully executed by both Grantor and Grantee.
- 16.8 Multiple Counterparts. For convenience of the parties hereto, this Conservation Easement may be executed in multiple counterparts to the same effect as if all parties hereto had signed

the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

TO HAVE AND TO HOLD this Conservation Easement unto Grantee in perpetuity, together with all and singular the appurtenances and privileges belonging or any way pertaining thereto, either at law or in equity, either in possession or expectancy, for the proper use and benefit of Grantee, its successors and assigns, forever; and Grantor does hereby bind Grantor to WARRANT and DEFEND the interest in the Protected Property granted and conveyed to Grantee under this Conservation Easement, unto Grantee and its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

GRANTOR:

31 DEERFIELD, LTD.

By: Lukers, Inc.,  
its general partner

By: \_\_\_\_\_  
William S. Walters, III, President

GRANTEE:

CITY OF AUSTIN

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2004, by William S. Walters, III, as President of Lukers, Inc., general partner of 31 Deerfield, Ltd., a Texas limited partnership, on behalf of said limited partnership.

\_\_\_\_\_  
Notary Public in and for the State of Texas

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_,  
2004, by \_\_\_\_\_, as \_\_\_\_\_ on behalf of the City of Austin.

\_\_\_\_\_  
Notary Public in and for the State of Texas





**Exhibit B**

- a. Pipe lines right of way and easement granted to Shell Pipe Line Corporation, by instrument dated January 7, 1929, recorded in Volume 433, Page 61 of the Deed Records of Travis County, Texas. Said easement assigned to Rancho Pipeline Holdings, L.P. by instrument recorded under Document No. 2002146654 of the Official Public Records of Travis County, Texas, and further assigned to Kinder Morgan Texas Pipeline, L.P. by instrument recorded under Document No. 2003153649 and further affected by instrument recorded under Document No. 2003219097 of the Official Public Records of Travis County, Texas.
- b. Telephone and telegraph easement granted to Shell Pipe Line Corporation, by instrument dated January 7, 1929, recorded in Volume 433, Page 253 of the Deed Records of Travis County, Texas.
- c. Pipe lines right of way and easement granted to Humble Pipe Line Company, by instrument dated December 5, 1949, recorded in Volume 994, Page 391 of the Deed Records of Travis County, Texas. Said easement assigned to Longhorn Partners Pipeline, L.P. by instruments recorded in Volume 13051, Page 141 and Volume 13202, Page 76 of the Real Property Records of Travis County, Texas.
- d. Electric, telephone and cable television easement granted to the City of Austin, by instrument dated December 24, 1992, recorded in Volume 11856, Page 884 of the Real Property Records of Travis County, Texas.
- e. Electric and telecommunications easement granted to the City of Austin, by instrument dated November 13, 1996, recorded in Volume 12817, Page 566 of the Real Property Records of Travis County, Texas.

<sup>24</sup> A listed lot opening permit will be required for this project. (TAC, 25-8-023)

**Crane Operators - Operating Commitments**

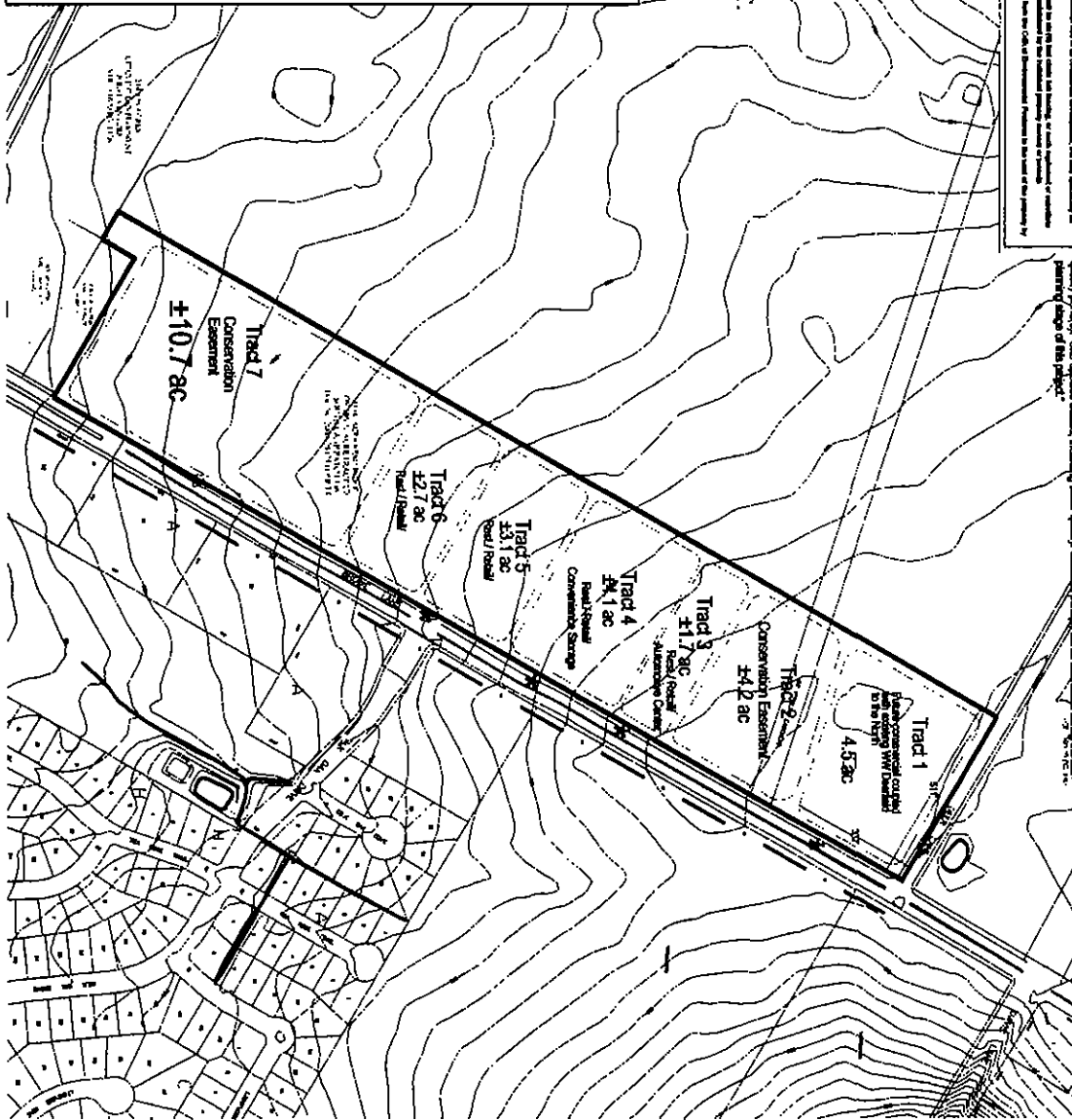
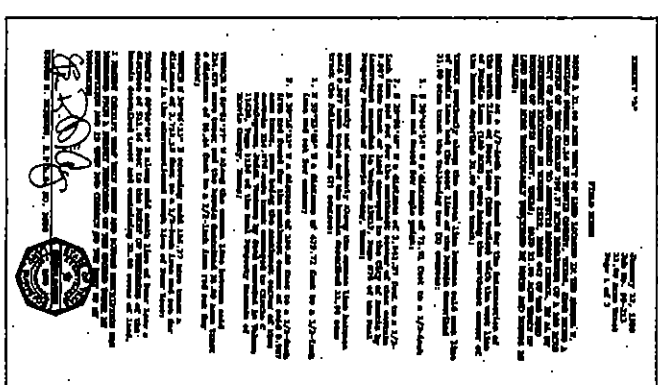
- A hoist bay will be isolated in the building to act as a separate hoisting containment area for all hoists. This bay will have the epoxy floor, and may have epoxy sidewalks, to ensure safety from spillages inside the building. In this bay, all hoists will be stored in containers as described under Building Interior and Safety Protocols.

[illegible]

NO|DATE|EMPL|COMMENTS

[illegible]

165.27 ACRES  
CITY OF AUSTIN  
NATURE PRESERVE  
S. No. 20000112392 O.P.R.T.C.



**SCALE: 1" = 500'**

**Brodie 31 c/o  
Walters Southwest  
P.U.D. Land Use Plan**

**June 10, 2004**

0814-04-0024

1

LAND STRATEGIES NC.  
  
PAUL LINEHAN & ASSOCIATES

**1010 LAND CREEK COVE  
SUITE 100  
AUSTIN, TX 78746  
PH: (512) 328-6050  
FX: (512) 328-6172  
www.LandSnail.com  
lali@LandSnail.com**

**Brodie 31 c/o Walters Southwest**

### ADDITIONAL INFORMATION

REVISION BLOCK:			
NO	DATE	EMPL	COMMENTS

## STAFF RECOMMENDATION

The staff's recommendation is to grant planned unit development (PUD) district zoning, as further illustrated in Exhibit B.

The Restrictive Covenant over the entire property would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA memorandum provided as Attachment A (May 26, 2004).

## BACKGROUND

### *Project Overview*

The subject property is undeveloped, located on Brodie Lane and zoned development reserve (DR) district. See Exhibits A (Zoning Map) and A-1 (Aerial View). The applicant has requested rezoning to the planned unit development (PUD) district so that the property may be developed with commercial uses, including retail, automotive repair, convenience storage and restaurants, as well as open space. The applicant has provided four driveways along Brodie Lane, one of which will be shared. Please refer to Exhibit B (PUD Plan) and C (letter from the applicant outlining PUD uses, site development standards, layout and drainage).

The Brodie 31 c/o Walters Southwest PUD, as proposed by the applicant and supported by staff: 1) allows for convenience storage as the only commercial services (CS) use; 2) prohibits all auto-related uses (with the exception of automotive repair), in addition to plant nursery, drop-off recycling collection, agricultural sales and services, pawn shops and other land use classifications; and 3) establishes neighborhood commercial (LR) development standards (with the exception of impervious cover in which the more restrictive watershed regulations of 25% apply).

Specifically, the PUD consists of the following uses, from north to south:

- a 4.5 acre future commercial parcel to be developed in conjunction with property north of the site. Deer Lane is planned for realignment with Davis Lane to the north that would enable development to occur in this manner.
- a 4.2 acre conservation easement which includes two hazardous pipelines, as recognized by City Code, which traverse the property in a southwest to northeast direction. New development must be set back 200 feet from hazardous pipelines, unless approval is obtained from the Fire Chief or development complies with standards for construction near a pipeline as prescribed by the Fire Criteria Manual.
- a 1.7 acre single facility automotive repair use which includes operational restrictions, a setback that prohibits building and parking within 100 feet of the west property line, and a maximum building size of 5,500 square feet.
- a 4.1 acre convenience storage use
- one restaurant with fast food, drive-in service
- a sit-down restaurant
- a 10.7 acre conservation easement at south side of the property.

### *Environmental Overview*

Given the property's location within the Barton Springs Zone, the Brodie 31 PUD will comply with the Save Our Springs (SOS) Ordinance as outlined in Chapter 25-8, Article 12 of the Land Development Code. The applicant is willing to enter into a Restrictive Covenant with the City to incorporate native and adaptive planting techniques in order to further assist in erosion control and an Integrated Pest Management Plan, secure the Preserve area adjacent to the west property line with

fencing, cluster detention and filtration facilities as far as possible from the Conservation Easement; and minimize irrigation and re-irrigation in the area of the Easement.

As further described in Attachment B, City Environmental staff supported the applicant's plans to cluster development away from several critical environmental features (CEFs) located within the City's Nature Preserve adjacent to the west, enter into a Restrictive Covenant with the City to minimize pollutant risks, including prohibiting the use of coal-tar based asphalt sealants, and assurances that off-site conveyance of stormwater runoff will be directed away from the City's Nature Preserve to Brodie Lane. The applicant details the operation and practices of the end user of the automotive repair facility, as provided in Attachment C.

Staff supports the applicant's proposed PUD based on: 1) clustering commercial services in combination with providing additional environmental-related protections from nearby CEFs and providing a significant amount of open space, and 2) location on an arterial roadway and providing commercial services in proximity to nearby residential neighborhoods and multi-family developments.

### **BASIS FOR RECOMMENDATION**

*1. Zoning changes should promote an orderly and compatible relationship among land uses.*

Staff supports the applicant's proposed PUD based on: 1) clustering commercial services in combination with providing additional environmental-related protections from nearby CEFs and providing a significant amount of open space, and 2) location on an arterial roadway and providing commercial services in proximity to nearby residential neighborhoods and multi-family developments.

*2. Public facilities and services should be adequate to serve the set of uses allowed by a rezoning.*

The conditions outlined in the Traffic Impact Analysis memo will address the traffic impact of this development.

### **EXISTING CONDITIONS**

#### **Site Characteristics**

The property is undeveloped and may be characterized as generally flat and gently sloping to the south. The property is adjacent to a 165.27 acre City of Austin Nature Preserve which contains several significant Critical Environmental Features (CEFs) and the applicant has provided a 10.7 acre conservation easement on the south side of the PUD.

#### **Impervious Cover**

The entire P.U.D. development will comply with Chapter 25-8, Article 12 of the Land Development Code (Save Our Springs Ordinance). Impervious cover is limited to a maximum of 25% in the Contributing Zone.

#### **Environmental**

The Brodie 31 c / o Walters Southwest P.U.D. project was forwarded to the Environmental Board on June 2, 2004 for a courtesy review. Please refer to the Issues section on Page 1.

**Transportation**

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

**Water and Wastewater**

The landowner intends to serve the site with City water and wastewater lines. Water and wastewater utility improvements are required. The landowner will be responsible for providing all required water and wastewater utility improvements to serve the site, land use and each lot.

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

**Compatibility Standards**

The site is subject to compatibility standards. Along the west property lines, the following standards apply:

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

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

**Zoning - Planned Unit Development**

- Neighborhood Commercial (LR) zoning standards will be the base district for general site information, excluding land uses.
- Convenience storage will be the only commercial services (CS) use.
- All other land uses will comply with those allowed under Community Commercial (GR).
- The following uses are prohibited: auto-related uses (excluding auto repair), plant nursery, drop-off recycling collection, agricultural sales/services, pawn shops, service station, bed and breakfast, carriage stables, bail bond services.

**Site Standards**

Under Neighborhood Commercial (LR) zoning, the following site standards will be followed:

- Maximum Height 40 ft
- Minimum Setbacks
  - Front Yard 25 ft
  - Street Side Yard 15 ft
  - Rear Yard (Tract 3 only) 100 ft

**Additional Restrictions**

- Maximum Building Footprint Square Footage of 40,000 square feet
- IPM using Native Texas plants (refer to Section 609S list)
- Landscape buffer along Brodie Lane
- Signage for individual users will be on berms
- Neither conservation easement will contain any applicant development, water quality, or detention facilities. However, re-irrigation may be used on these tracts (2 and 7).

**Operating Commitments - Automotive User (Restrictive Covenant to go with land)**

Christian Brothers Automotive and Land Strategies, Inc. may enter into a Restrictive Covenant (RC) to address the concerns of City staff and neighborhood members. The following may be included:

- Location owner must be on-site. This will help to promote the honesty and integrity that is of utmost importance to Christian Brothers.
- A building setback of one hundred feet (100') from the adjacent City of Austin property line can be incorporated into the RC.
- Christian Brothers will maintain the proposed site in every way to ensure that safeguards established up-front will be there for the duration of the business.
- A size restriction for the location can be set at 1.7 acres (single facility only on-site) and between 5,200-5,500 square feet for the building itself. A height limitation of forty feet (40') can be incorporated as well.
- A tenth bay will be included in the building to act as a separate backup containment area for all fluids. This bay will have the epoxy floor, and may have epoxy sidewalls, to ensure safety from spillage inside the building. In this bay, all fluids will be stored in containers as described under Building Interior and Safety Precautions in the letter of November 14, 2003.
- Only biodegradable cleaning fluids will be used on-site.

**Walsh, Wendy**

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**From:** John Larkin [jklarkin@austin.rr.com]  
**Sent:** Wednesday, May 19, 2004 5:13 PM  
**To:** Bill Walters; lsi@landstrat.com; ewelch@landstrat.com  
**Cc:** Steven Metcalfe; Wendy.Walsh@ci.austin.tx.us; MaggieArmstrong@hotmail.com  
**Subject:** Brodie 31 PUD

Greetings Bill, Paul, and Erin,

I am writing to inform you that the CCOBNA will be unable to endorse your project as currently proposed.

As you know, we have been analyzing the results of our recent neighborhood survey regarding the Brodie 31 PUD in conjunction with an ongoing dialogue with the local community. The findings of the survey indicate our immediate population approves of only one of the proposed uses, the sit-down restaurant.

Our conversation with the local community indicates that folks prefer to engage in the Comprehensive Neighborhood Planning process rather than continuing to address development projects without the guidance of a framework adopted and supported by all the stakeholders within the local community. Last night at ZAPCO, the commissioners unanimously endorsed a formal recommendation to the Austin City Council to focus the necessary resources to initiate the planning process for our local community.

I would like to note the appreciation of the Cherry Creek on Brodie Development Committee for your willingness to meet and discuss the Brodie 31 PUD, and we are hopeful that we will be able to continue the positive dialogue we have enjoyed to this point within the framework of the planning process.

Our aim is to build and implement a consensus vision that will lead to the desired beneficial and sustainable development of our local community.

Please feel free to contact me at anytime at 970-8157 or [jklarkin@austin.rr.com](mailto:jklarkin@austin.rr.com) to discuss our position and our options addressing the planning process. We look forward to continuing the good work we've begun.

Sincerely,

John K. Larkin  
Vice President Cherry Creek on Brodie Lane NA  
CCOBNA Development Committee Chair and Community Planning Liaison

5/19/2004





"Where all  
children belong."

**ADMINISTRATIVE OFFICES:**

1910 Justin Lane  
Austin, Tx 78757  
(512) 459-0258  
Fax: 467-1824

info@steppingstoneschool.com  
www.steppingstoneschool.com

★ ▲ 1710 Richcreek  
NAEYC Accredited Site  
Austin, Texas 78757  
(512) 459-0247

★ ● ▲ 8419 Bowling Green  
Austin, Texas 78757  
(512) 453-2551

▲ 6616 McNeil Drive  
Austin, Texas 78729  
(512) 258-9141

● 9914 Woodland Village  
Austin, Texas 78750  
(512) 259-4800

▲ 2001 Wells Branch Parkway  
Austin, Texas 78723  
(512) 990-0044

★ ● ▲ 12301 Hymeadow Drive  
Austin, Texas 78750  
(512) 331-4301

● 900 University Oaks Boulevard  
College Station, Texas 77840  
(777) 513-0074

▲ 7601 O'Connor Drive  
Round Rock, Texas 78681  
(512) 246-8344

★ ● ▲ 8121 Shoal Creek Boulevard  
Austin, Texas 78757  
(512) 371-1777

▲ 225 Birchhouse Drive  
Cedar Park, Texas 78613  
(512) 259-3459

● Stepping Stone School at  
Seton Brackenridge  
& The Children's Hospital  
1313 Red River Street  
Austin, Texas 78701  
(512) 479-8660

● ▲ 7700 West Parmer Lane  
Austin, Texas 78729  
(512) 336-5237

▲ 2405 Brodie Lane  
Austin, Texas 78748  
(512) 459-0258

● Infant Care Available  
★ Texas Rising Star

▲ After School Enrichment/Summer Camp

After School Enrichment Programs:  
St. Gabriel's School  
Holy Family School

July 22, 2004

Wendy Walsh  
City of Austin  
Neighborhood Planning  
& Zoning Dept.  
505 Barton Springs Rd  
P.O. Box 1088  
Austin, TX 78767-8835

RE: File Number C814-04-0024

Dear Ms. Walsh:

We are in receipt of the notice of public hearing for the proposed zoning change at 9000-9600 Brodie Lane. Stepping Stone School and Paver Family Investments endorses the zoning change as proposed from DR to PUD.

As part of this zoning change, we would like to petition the Planning & Zoning Department and the City Council to place a traffic light at the intersection of Silk Oak Drive and Brodie Lane. There is already a great deal of traffic on Brodie Lane and it is extremely difficult for those making a turn out of Silk Oak Drive onto Brodie Lane in either direction to do so in a safe manner. With the addition of more traffic from this proposed project and the fact that a driveway from this project is planned to come out at the Brodie Lane and Silk Oak Drive intersection, we feel it is absolutely necessary to have a traffic light.

If you have any questions regarding this petition, please call my executive assistant, Susan Watson at 750-1981.

We look forward to hearing the status of a traffic light for this intersection.

Sincerely,

Rhonda Paver  
Founder & Executive Director

**VOTED**

"2002 Best Child Care"

Austin Family Magazine

Reader's Poll

(& '01, '99, '98, '97)

"Best Child Care"

West Austin News 2002

"Best of the West Reader's Poll"

(& 2001)

## Walsh, Wendy

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**From:** Erin Welch [ewelch@landstrat.com]  
**Sent:** Thursday, June 17, 2004 8:00 AM  
**To:** Walsh, Wendy  
**Cc:** Bill Walters (E-mail); Paul Linehan (E-mail); Steve Metcalfe (E-mail)  
**Subject:** Brodie 31 PUD; C814-04-0024

Wendy:

Per the voicemail I left you this morning: In light of yesterday's e-mail from John Larkin with CCOBNA, and per a telephone conversation with Bill Walters regarding the same, we would prefer to postpone our City Council hearing from June 24th to the July 29th agenda for all three readings. We do not wish to be in the same category as the Harris Ranch development, which has great opposition, especially since we have enjoyed Staff recommendation and good communication with the neighborhood. It appears that CCOBNA wishes to use our case in conjunction with Harris Ranch as a sounding board for their own motive of a neighborhood plan which, as you know, is a lengthy process, and would negate the work done to-date with the neighborhood as well as City staff. We would rather have extra time to work with the neighborhood and reach an agreement prior to the three readings of the case so that most, if not all, loose ends may be tied up. By the June 29th hearing, we expect to be able to go in on consent (we have Staff recommendation of the PUD zoning and unanimous Environmental Board approval of the overall plan).

I will prepare a formal postponement request letter as soon as possible. Bill Walters will be out of the country as of June 24th, so should you have any questions or need more information to make a postponement determination, please do not hesitate to contact me.

Best regards,

Erin Welch  
Project Coordinator  
Land Strategies, Inc.  
1010 Land Creek Cove, Suite 100  
Austin, Texas 78746  
512/328-6050 (tel)  
512/328-6172 (fax)  
www.landstrat.com

# LAND STRATEGIES INC.

PAUL LINEHAN & ASSOCIATES

June 21, 2004

Attn: Wendy Walsh  
City of Austin  
Neighborhood Zoning & Platting Dept.  
505 Barton Springs Road, 5<sup>th</sup> Floor  
Austin, Texas 78704

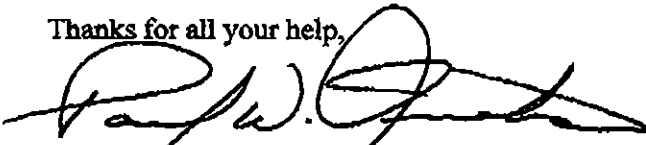
Re: Brodie 31 PUD  
C814-04-0024  
Request for Postponement

Dear Wendy:

By this letter, Land Strategies, Inc. (LSI) respectfully requests postponement of the City Council hearing on the above referenced zoning case from June 24<sup>th</sup> to July 29<sup>th</sup>, **for all three readings**. As stated in the e-mail from LSI office staff of June 17<sup>th</sup>, I feel that the Cherry Creek on Brodie Neighborhood Association (CCOBNA) is using the combination of the Brodie 31 and Harris Ranch projects to act as a sounding board for their own motive of working on a comprehensive neighborhood plan to encompass all property in the immediate vicinity of their neighborhood. As you know, this is a lengthy process, and one which neither Land Strategies or the owner, Bill Walters, of 31 Deerfield LTD wishes to enter. The Harris Ranch development has had, and continues to have, major opposition from CCOBNA, whereas the Brodie 31 PUD development enjoys Staff recommendation, unanimous Environmental Board approval, and strong communication with CCOBNA since the beginning of 2004.

LSI would like to have further time to communicate and negotiate the PUD development with the neighborhood, and go into the City Council hearing of July 29<sup>th</sup> on consent. Should you need further information in this regard for the postponement, please do not hesitate to contact me, as Bill Walters will be out of the country starting June 24<sup>th</sup>.

Thanks for all your help,



Paul W. Linehan, ASLA  
President  
Land Strategies, Inc.

PWL:enw

## Walsh, Wendy

---

**From:** Phil Brown [pgbrown@mac.com]  
**Sent:** Wednesday, July 28, 2004 3:09 PM  
**To:** Walsh, Wendy; Guernsey, Greg  
**Cc:** Phil Brown  
**Subject:** Cherry Creek on Brodie requests postponement of Brodie 31 case

July 28, 2004

Dear Mr. Guernsey and Ms. Walsh:

On behalf of Cherry Creek on Brodie Neighborhood Association, I am hereby requesting a four-week postponement of Item No. Z- 12 C814-04-0024 - Brodie 31 c/o Walters Southwest, scheduled for the Austin City Council's regular meeting of July 29, 2004.

Our reasons for requesting the postponement are as follows:

1. We are in the process of surveying the local community for land-use preferences and concerns, have contacted our desired land-use and design architect, and will need approximately four weeks to complete our work. We feel we have to take these steps now while the zoning application is before the Council, or else all the hard work of Council Member McCracken will not be realized for the roughly 150 acres currently up for zoning approval (Harris Ranch and Brodie 31). (Please reference [http://www.ci.austin.tx.us/development/commercial\\_design.htm](http://www.ci.austin.tx.us/development/commercial_design.htm) for more information.)

Our association, working with other entities in Southwest Austin, is pursuing a planning charette that would resolve longstanding concerns over the Brodie 31 tract and the future four corners of Brodie and Davis Lanes. We hope to propose solutions for this area that will:

- \* Draw on the community values indicated in the "Raising Design Standards for Commercial Development in Austin, TX" City Council initiative and survey;
  - \* Take into account property owners' and developers' rights to make a fair return on the use of their land;
  - \* Provide neighborhood services that will reduce or eliminate the need to drive long distances and allow for easy pedestrian access between businesses and homes;
  - \* Avoid those kinds of businesses or services that would become regional magnets;
  - \* Promote architecture and building standards of enduring quality and a non-branded nature;
  - \* Propose creative, "outside-the-box" solutions;
- and
- \* Promote awareness of environmental impact, including traffic, to the Brodie-Davis-Cherry Creek-Blowing Sink region.

We must complete and present our charette for the Council to make an informed decision regarding Brodie 31.

2. We oppose the proposed automotive, fast-food and storage uses for the Brodie 31 PUD. The tract abuts one of the most environmentally sensitive areas in the county, home of Blowing Sink and other geologic features.

3. We do not believe the proposed uses are suitable to a midblock section of Brodie Lane in an area that is dominated by single-family homes, a park, a private school and a child-care facility, with existing undeveloped lots zoned LO.

4. We believe we have a solid working relationship with the developers

and look forward to engaging with them during this process.

Sincerely,

Phil Brown, President  
Cherry Creek on Brodie Neighborhood Association  
CCOBNA \_ PMB 207 \_ 9901 Brodie Lane \_ Austin, TX 78748

cc Austin City Council via Web e-mail submission form

## Walsh, Wendy

---

**From:** Erin Welch [ewelch@landstrat.com]  
**Sent:** Wednesday, July 28, 2004 5:28 PM  
**To:** Walsh, Wendy; Guernsey, Greg  
**Cc:** Bill Walters (E-mail 2)  
**Subject:** FW: Brodie 31; C814-04-0024

Wendy/Greg:

This is the e-mail that we will be sending the Council aides this afternoon.

Erin

\*\*\*\*\*

Dear Councilmembers:

It is twenty-four hours before our scheduled City Council hearing on the Brodie 31 (Walters Southwest) case, and Wendy Walsh has forwarded me a postponement request from the Cherry Creek on Brodie Neighborhood Association (CCOBNA). They are requesting a four-week postponement, which would put us on the August 26th agenda. We will be requesting to be heard tomorrow night as previously scheduled.

The Development Assessment for this project was submitted to City staff on August 29, 2003, from which we received total Staff support after months of discussion. The original submittal date of the PUD was February 11, 2004. As you can see, this case has been in discussion with City staff, applicant staff, and the neighborhood association for nearly one year.

We have worked with the CCOBNA throughout the course of the last several months (and at least five separate meetings). From the beginning of our dealings with them back in March of this year, we have enjoyed open communication with the representatives, until recently. We have not heard from the CCOBNA since June 24th (ZAPCO hearing). It was understood, we believed, that the Brodie 31 project would be the solution to the neighborhood's pre-existing traffic problems. We are also offering the neighborhood a good mix of uses which are not readily available in the neighborhood today. In addition, the architectural standards we are employing for the project are above and beyond normal City requirements. Finally, we are offering several options to protect the sensitive environmental features to the west of the property (including water quality ponds, fencing along the entire western boundary of the project site, and designating nearly half of the 31-acre development as Conservation Easements which will not be developed). We believe these measures are more than adequate to provide protection for the off-site recharge area. In addition, we presented the case to the Environmental Board and received unanimous approval. There are no variances, and the development meets SOS Ordinance, which limits the development to 25% impervious cover overall.

As you are aware from my meetings with you on this case, we have ZAPCO approval. The neighborhood has not responded to a recommended Restrictive Covenant submitted to them in March of this year, and therefore, we have a Restrictive Covenant agreement with the City of Austin, as well as a Conservation Easement agreement. We believe this is an attempt by the CCOBNA to initiate a comprehensive neighborhood plan for the area around the Cherry Creek subdivision, which the Council has not authorized at this time.

I hope that you will work with me tomorrow night to allow for the readings of the case, and not allow the CCOBNA to postpone what has already been determined to be a sound development.

I appreciate all the help we've received from you regarding this case.

Please contact me if you would like to discuss this further.

Best regards,

Paul W. Linehan  
President  
Land Strategies, Inc.

**Walsh, Wendy**

---

**From:** Guernsey, Greg  
**Sent:** Monday, August 09, 2004 3:30 PM  
**To:** Walsh, Wendy; Glasco, Alice  
**Subject:** FW: Zoning case C814-04-0024 +\*\*\*+

FYI

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

**From:** Tom Wiggins, Deer Park HOA [mailto:deerparkacc@yahoo.com]  
**Sent:** Monday, August 09, 2004 3:29 PM  
**To:** Guernsey, Greg  
**Cc:** president@deerparkhoa.org  
**Subject:** Zoning case C814-04-0024 +\*\*\*+

Mr. Guernsey,

I would like to request a two week postponement of case C814-04-0024, commonly referred to as the Brodie 31 PUD. I understand that the case is scheduled to be discussed at the August 12, 2004 City Council hearing and I just learned of the zoning application today.

The developers and/or their agents have not contacted my neighborhood to discuss the pending application and the proposed land uses, and my association would like to have the opportunity to meet with them to discuss their plans so that our neighborhood can better understand the merits of the application and its potential impact upon our local community. The development will directly impact us and our quality of life and we respectfully request the opportunity to meet with all concerned parties and city staff before the case is heard, so that we may make an informed decision regarding the pending zoning changes. I am not able to attend the Council meeting in person due to work schedule so I am asking your help in this matter. Thank you for your support. Please contact me at 282-3377 if you have any questions.

Tom Wiggins

President

Deer Park at Maple Run HOA

**Tom Wiggins**

**Deer Park Homeowners Assoc. President**

**Member of OHAN**

**Continuing the fight against big box development over the aquifer in Austin!**

**"One victory does not make a champion".**

**[www.deerparkhoa.org](http://www.deerparkhoa.org)**

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8/9/2004



## Walsh, Wendy

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**From:** Phil Brown [pgbrown@mac.com]  
**Sent:** Tuesday, August 10, 2004 9:25 PM  
**To:** Slusher, Daryl; Wynn, Will; McCracken, Brewster; Thomas, Danny; Dunkerley, Betty; Goodman, Jackie; Alvarez, Raul  
**Cc:** Phil Brown; Guernsey, Greg; John Larkin - home; Glasco, Alice; John Larkin - work; Walsh, Wendy  
**Subject:** Brodie - Davis Planning Charette update

Ref: Brodie 31 PUD (C814-04-0024)

Dear Mayor Wynn, Mayor Pro Tem Goodman and Council Members:

I would like to give you an update on the status of the self-funded planning charette that Cherry Creek on Brodie Neighborhood Association is coordinating. As you know from their public statements, its developers would like to have their Brodie 31 project heard on all three readings on Aug. 12. We have worked very hard in the past several weeks to put together our charette for Aug. 14 at our own expense and initiative, working with several neighborhood and homeowners associations, Oak Hill Association of Neighborhoods, Save Barton Creek, SOS Alliance and a team of architects lead by Linda Johnston. We expect dozens of participants to attend when we meet this Saturday, which is the earliest date we could get everything and everyone together given the task we face.

We have, of course, invited area developers and landowners to be involved as well. Much of our effort will have been wasted, however, if the Brodie 31 case passes on all three readings before we have even sat down at the table to craft our vision for the critical intersection of Brodie and Davis/Deer Lanes. We ask you to take this into consideration and not hear this case on all three readings Thursday night. We ask that you -- at most -- approve it on first reading only. We ask, in fact, that you scrutinize this PUD very closely and not approve it until the developer is forthcoming with changes that reflect the needs of our area.

This is our last chance to shape the Brodie corridor. Almost everything else has been built, planned or spoken for. Much of it represents the worst vision of a suburban landscape. We have tacky convenience stores, massive three-story apartments crowding the street, dilapidated housing, suburban decay, high-turnover strip centers with poorly maintained parking lots and vacant storefronts, and a thoroughfare that is horribly overburdened as it stands. Even up in tony Sunset Valley, we have unimaginative, massive, monolithic slabs of chain stores fronted by acres of unbroken parking lots -- including the lovely former site of Home Depot, hollow now these many months. Only a few trees and channels of curbing differentiate these bland, treeless, uninviting, sun-soaked stretches of see-America-by-car commercial overkill from the K mart and Gibson's strip-center images of my youth in dry West Texas.

What the developers are proposing for Brodie 31 -- what little they actually have told us for certain of their plans -- is just more of the last three decades of what passes for suburban thought, albeit with a little bit of 21st-century window dressing. On their tracts 5 and 6, those might be restaurants or maybe a bank -- or something. On tract 4, commercial storage but they don't know who for sure yet. And some rent-an-office space, maybe. On tract 3, the merit of a nine-bay automotive-repair facility over the aquifer and near arguably the most sensitive recharge features in the Barton Springs Zone escapes our coalition.

On their northernmost Tract 1, we have a black box of virtually unknown contents that Mr. Walters has said will allow him to create a 100,000-square-foot retail center featuring a 50,000-square-foot anchor, once he combines it with his WW Deerfield property (the one that allows 60 percent impervious cover due to settlement of Mr. Walters' lawsuit against the city) and Deer Lane right of way is vacated. He is willing to take suggestions, but his real intent remains a PUD-enabled mystery. On Mr. Walters' other corners of Brodie @ Davis, even more mystery awaits. They don't want to talk about their part of that either, even though they reference it themselves in their materials on the PUD. And the Harris Ranch developers are not talking to us about neighborhood services for their corner. High-turnover restaurants, or a bank, or something, is all we know about those 8 acres.

We want to replace the mystery with a little magic for a change.

We truly want to be creative with this last untouched Brodie Lane intersection and work with the city, developers, residents and other stakeholders so we can incorporate the best ideals and visions for what we all want Austin to look like, not just now, but 20 and 50 years from now. We welcome your input and need your support to succeed.

Phil Brown, President  
Cherry Creek on Brodie Neighborhood Association  
CCOBNA \_ PMB 207 \_ 9901 Brodie Lane \_ Austin, TX 78748

cc: Alice Glasco, Greg Guernsey, Wendy Walsh

**Walsh, Wendy**

---

**From:** Guernsey, Greg  
**Sent:** Wednesday, August 11, 2004 11:06 PM  
**To:** Aguilera, Gloria; Alvarez, Raul; Briseno, Veronica; Bui, Tina; Dunkerley, Betty; Goodman, Jackie; McCracken, Brewster; Office of the Mayor; Rusthoven, Jerry; Slusher, Daryl; Thomas, Danny; Wynn, Will; Bailey, Rich; Frazier, Sandra; Kinchion, Janice  
**Cc:** Glasco, Alice; Walsh, Wendy; Zapalac, George; Hartley, Sara  
**Subject:** Item #Z-5, Case No. C814-04-0024 (Brodie 31)  
**Importance:** High

New Postponement Request.

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

**From:** D.E. DuBois, Jr. [mailto:dedhm1@ev1.net]  
**Sent:** Wednesday, August 11, 2004 5:46 PM  
**To:** Guernsey, Greg  
**Subject:** Case No. 814-04-0024  
**Importance:** High

Mr. Guernsey,

As the president of a neighborhood association which would be impacted by the proposed Brodie 31 PUD, I would like to request a two week postponement of case C814-04-0024. Although I understand the case is scheduled to be discussed before City Council tomorrow, I just learned of the zoning application today.

The developers and/or their agents have not contacted my neighborhood to discuss the pending application and the proposed land uses, I would like to have the opportunity to meet with them to discuss their plans so our neighborhood can better understand the the application and its potential impact upon our local community. The development will indirectly impact us with the development on Brodie Lane impacting traffic, and we respectfully request the opportunity to meet with all concerned parties and city staff before the case is heard, so that we may make an informed decision regarding the pending zoning changes.

Thank you for your support. Please contact me at 512-826-2472 if you have any questions.

Doug DuBois

President, Castlewood Oak Valley Neighborhood Association

8/17/2004

**Walsh, Wendy**

**From:** Paul Linehan [lsi@landstrat.com]  
**Sent:** Wednesday, August 11, 2004 5:11 PM  
**To:** Slusher, Daryl; Wynn, Will; McCracken, Brewster; Thomas, Danny; Dunkerley, Betty; Goodman, Jackie; Alvarez, Raul; Guernsey, Greg; Walsh, Wendy; Glasco, Alice  
**Cc:** bwalters@waltersw.com; kslack@waltersw.com; scm@lawdsw.com; lsi@landstrat.com  
**Subject:** Brodie 31

Dear Mayor Wynn, Mayor Pro Tem Goodman, Council Members and Staff:

This letter is in response to the e-mail sent by Phil Brown with the Cherry Creek on Brodie Neighborhood Association (CCOBNA) on August 11th.

Mr. Brown and the CCOBNA take major issue with the fact that we (applicant, developer, planner) have not given them specific information about the users for the proposed PUD project site. This is because we simply do not know each individual user for the entire development. Mr. Brown states that we "do not want to talk about" much of the development. We are merely unwilling and unable to offer exact details on users when we do not know for sure who those users will be. As you are aware, this is strictly a zoning case. The neighborhood wants to know site development permit issue details which we will not know until the detailed site plan is prepared.

Land Strategies, Inc. (LSI) and Bill Walters (applicant, developer) have made every attempt to work with the CCOBNA. We have met with representatives of the CCOBNA Board on at least 5 occasions to discuss what we know about the users and PUD zoning process, including utilizing the PUD to require improved development standards for the project. LSI's most recent meeting was Friday, August 6th with a CCOBNA representative and one of their land use architects. This meeting was in response to the CCOBNA's postponement request. At this meeting, we provided an aerial map showing that most of the surrounding area has been zoned and designed. The map delineated surrounding zoning ordinances (also provided) to show the compatibility of our proposed PUD with the area. These zoning cases included the 1992 Ordinance (8500-3900 Brodie Lane) zoning to GR, LR, SF-2, MF-2-CO; 1995 Ordinance (8600-3700 Brodie Lane) zoning to MF-2-CO; 1996 Ordinance (8700 Brodie Lane) zoning to MF-1; and 2001 Ordinance (3416-3424 Davis Lane) zoning to MF-2-CO. In this meeting we also provided copies of the Restrictive Covenant between the City of Austin and the Applicant, which included among other items, substantial operating restrictions for the automotive use; and the Conservation Easement Agreement with the City of Austin for Tracts 2 and 7 of the proposed PUD, which prohibits building development of any kind in these tracts and allowing only re-irrigation. We have also provided the most recent PUD document for review by the group. As you can see, we have tried to keep the CCOBNA up-to-date on all processes with the City of Austin.

We feel that the proposed PUD is a solid development, offering the neighborhood (and surrounding neighborhoods) services that are not readily available in the area. Additionally, the Environmental Board unanimously approved the plan at a courtesy hearing of the case. They were satisfied with the provisions and precautions taken specifically regarding the automotive use. We also have Planning Commission recommendation.

We understand that the Deer Park at Maple Run HOA is requesting a postponement (the second request by an HOA to-date). The Brodie 31 PUD has been an on-going case with the City of Austin since August 29, 2003 (nearly one year). Yet another postponement of the case will simply delay what has already been a long-overdue hearing at Council. Similarly, we request that the case go on the agenda for all three (3) readings on the August 12th City Council agenda.

Please feel free to contact me with any questions or concerns prior to Council.

Best regards,

Paul W. Linehan, ASLA  
 President  
 Land Strategies, Inc.

8/17/2004

## **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:** July 14, 2004

**SUBJECT:** Zoning and Platting Commission Summary

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

**CASE # C814-04-0024**

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

### SUMMARY

Wendy Walsh, staff – “This property is undeveloped and zoned Development Reserve and the applicant is requesting Planned Unit Development zoning, so that the property could be developed with commercial uses including retail, auto repair, convenience storage and restaurant; as well as open space. Specifically, the Planned Unit Development consists of a 4 ½ acre commercial parcel (beginning from Deer Lane and going south); the 4 ½ acre commercial parcel is intended to be combined with property to the north. It is intended or planned that Deer Lane would be realigned with Davis Lane on the north side. So specific uses are not known at this time, other than retail development. This is also shown in Exhibit B, the PUD Plan. There is a 4.2 acre conservation easement that includes two hazardous pipelines. Further south from that there’s a 1.7 acre auto repair use and staff worked with the applicant to come up with some operational restrictions on that, given its proximity to a City nature preserve, just to the west. Further to the south is a 4.1 acre convenience storage use and proceeding south would be a restaurant with fast-food, drive-in service and a sit down restaurant. Last, a 10.7 acre conservation easement on the south side of the property. Staff is supporting the applicant’s proposal for PUD zoning based on clustering commercial services, providing additional environmental protections from nearby critical environmental features, providing a significant amount of open space and recognizing its location on an arterial roadway and providing commercial services in proximity to the residential neighborhoods to the east and north”.

“The applicant is also willing to enter into a restrictive covenant for the use of native and adaptive plants and integrated pest management program”.

Commissioner Baker – “As well as design standards for the auto repair?”

Ms. Walsh – “Operational restrictions, yes”.

Paul Linehan, applicant – “This is the extension of Deer Lane that goes to the property right now; Davis Lane goes off the page (pointing to a map); Deer Lane will be closed down and realigned. There is a fire station and the right-of-way has already been given by Mr. Walters for the right-of-way along Davis Lane. The tract is 31-acres. We started back in August of last year working with staff, working on a development assessment for this site and there’s a pipeline that runs through the property, so we dedicated 4.2 acres buffer around that pipeline. At the end of the project we’ve dedicated 10.6 acres for (a total of) approximately 15-acres out of the 31. Even though this is in the Williamson watershed, it is 25% impervious cover and drainage goes away from the land in the back. This is a preserve and has features in it, so we worked very closely with the environmental staff in trying to make sure that whatever we did on this property would be

contained and treated according to SOS standards". "We have also met with the neighborhood many times; we met with traffic engineers with the City with the neighborhood to talk about a problem that exists right now. By doing this project and clustering towards the center of the project, it will help get the warrants for a traffic light that's needed. Once the light can be moved down to this location, we will help solve the neighborhood's problem on traffic conditions that exists right now in the area. Mainly, getting in and out of Silk Oak and the Cherry Creek Neighborhood, without a traffic light right now. We are asking for convenience storage, automotive that's highly restricted and we're asking for a sit down restaurant and a made-to-order restaurant with a window. We have increased setbacks, it is a PUD, so it's given us the ability to concentrate on our development towards the center and transfer all of our impervious cover to that one zone. We've done maximum building footprints, we're doing an IPM Plan, we're doing additional landscaping; and we have operational commitments that will run with the land, not with the owner. The Christian Brothers have agreed to do 10 bays; one of those is set up strictly to hold any containment of fluids. We do have the support of staff and we're here to get a positive support from you tonight".

### **FAVOR**

No Speakers.

### **OPPOSITION**

John Larkin – Spoke in opposition.

Commissioner Baker – "All we have on the agenda tonight is the 31-acres; that's what we're going to vote on; what is your position on the 31-acres?"

Mr. Larkin – "The 31-acres we would like to work more closely with a focus group from City staff to get a comfort level with what's going in; so as it stands right now, my directive is to say we are against it".

Commissioner Baker – "Okay. I guess I'm just disappointed because I heard Mr. Linehan state that he had met with the neighborhood several times and I know that at our meeting 2-weeks ago, there was a motion to recommend to Council that a neighborhood plan be considered for this area, that's not our call and it's certainly Council's call, we have no idea that it would come to pass. The fact that we were thoughtful enough and cared enough to make that motion and support it, does not mean that we would hold other cases in abeyance until such a thing happens. We can't do that".

Mr. Larkin – "We would like to see this go to Council; so it's our estimation that you will end up moving to approving this because given what we know the City staff recommendation, I just needed to be on record and that's why I'm here".

Commissioner Baker – "Thank you".

## **REBUTAL**

Mr. Linehan – “I would just like to say that we met with John and the staff a lot and we felt like we were extremely close to tying down all the details and trying to get the facts of the restrictive covenant so that we could meet those intangible concerns that he’s had; and he has gone and looked at Bill Walter’s projects and has been quite impressed. We think that we’ve gone the extra mile, we feel like the PUD is the way to go with this case because it does give us a little bit of design flexibility as we cluster it, but it also protects the environment around it; it also expedites the traffic warrants to help the neighborhood. So we think it’s a very positive thing”.

Bill Walters – “I just wanted to add that transportation staff is looking closely at the current situation here; I did dedicate 100% of the right-of-way for Davis Lane back in 1999. It’s been a 5-year period here and the City has put in a full signal at both Deer Lane and Davis Lane, very unusual spacing. And I think it would be in the best interest of the community if Deer Lane were closed and Davis were connected to Mopac. This is the final very small piece north of the existing fire station facility. In doing so, it would allow the Cherry Creek Owner’s Association, as well as the Stepping Stone School to access the light, which would be moved from Deer Lane down. It is my full intention to combine the acreage that is part of this case, south of Deer Lane”. “I will like to say for the record that I have never done a fast food in my career. I have never done an automotive in my career and I’ve never done a storage facility in my career. I am extremely intense when it comes to water quality and architectural design of these types of uses as many in the room and throughout the community know. I’m going the extra mile to accommodate uses that are very much needed in the area”.

Commissioner Baker – “In looking at Brodie Lane, up and down to GR zoning; except for your convenience storage, your uses are GR in this PUD; I have a real problem with convenience storage on the tract that backs up to a preserve, on a tract that you can’t control what I put in my storage unit”.

Mr. Linehan – “It can be controlled what you put in it....”

Commissioner Baker – “How do you know what I put in my storage unit?”

Mr. Linehan – “We’ll make sure that nothing hazardous goes in those storage units; I’ll promise you that. The idea was that there will even be office use in some of that storage facility, it will be built like a modern apartment looking building with windows, masonry and not a flat or pitched roof. We’re looking at trying to upscale the type of development in that area, so we will make sure that it does not happen. There will be water quality, there will be detention and there will be spray irrigation on the site”.

Mr. Walters – “There is significant vegetation difference between the 500-feet of frontage within the tract outlined in yellow, as you move further to the rear. I went to



extraordinary lengths to do sampling and worked with Pat Murphy and other staff regarding water quality here. This site drains to the south and to the east”.

Commissioner Martinez and Gohil moved to close the public hearing.

Commissioner Baker – “Commissioners, I have voiced my concern. Looking at the map and realizing that we’ve had our share of PUDs, CS use just sort of slapped me in the face; otherwise, this basically could be done with GR zoning. I appreciate all the considerations given and the setbacks and everything. I trust you Mr. Linehan, but convenience storage is very permissive and it really bothers me. But Commission what is your pleasure?”

Commissioner Jackson – “I make a motion to approve the Planned Unit Development”.

Commissioner Whaley – “I’ll second it for discussion”.

Commissioner Jackson – “Overall, I think the PUD makes a lot of sense in this area; I appreciate the concern with the convenience storage. I don’t know if there’s a way to limit it further; but I think from a need use stand point, I don’t know if any of you have tried to go out and lease a little mini warehouse storage facility, but they are exceedingly difficult to come by. This is a growing residential area that has that need. I think environmentally, it doesn’t drain back towards the environmental features. I am probably more concerned about the automotive than I do about the convenience storage, but the environmental staff seems to be okay with the automotive, so given that there will probably be more retail development, GR uses, as you go into the next tract that goes into Tract 1, I think it makes sense. That’s why I’m making the motion that I am”.

Commissioner Whaley – “There are parts that make a lot of sense to me and there are parts that don’t. I can see where it serves the neighborhood with some conservation easements and that it does drain forward and has gone through an extensive conversation with the neighborhood; I can appreciate that effort. I appreciate the planning effort that went into it”.

Commissioner Baker – “I’m going to vote no”.

Commissioner Martinez – “I’m opposed also”.

Commissioner Donisi – “I’d like to be shown voting no”.

Commissioner Baker – “Let’s try again, everyone in favor raise your hand; 5 votes”.

Motion carried.

**COMMISSION ACTION:  
MOTION:**

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

**AYES:**

**GOHIL, HAMMOND, WHALEY,  
JACKSON, RABAGO.**

**NAY:**

**MARTINEZ, BAKER, DONISI**

**ABSENT:**

**PINNELLI**

**MOTION CARRIED WITH VOTE: 5-3.**