

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



**AGENDA ITEM NO.: 39  
AGENDA DATE: Thu 11/04/2004  
PAGE: 1 of 1**

**SUBJECT:** C14-04-0122 - Tuttle - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1111 West 7<sup>th</sup> Street (Town Lake Watershed) from multifamily residence moderate-high density-neighborhood plan (MF-4-NP) combining district zoning to family residence-neighborhood plan (SF-3-NP) combining district zoning for Tract 1 and urban family residence-neighborhood plan (SF-5-NP) combining district zoning for tract 2. First reading on October 21, 2004. Vote: 7-0. Conditions met as follows: No conditions were imposed on first reading. Applicant: Tyson Tuttle. Agent: Crocker Consultants (Sarah Crocker). City Staff: Glenn Rhoades, 974-2775.

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

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

## **SECOND/THIRD READING SUMMARY SHEET**

**ZONING CASE NUMBER:** C14-04-0122

**REQUEST:**

Approve second and third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1111 West 7<sup>th</sup> Street (Town Lake Watershed) from multifamily residence moderate to high density-neighborhood plan (MF-4-NP) combining district zoning to family residence-neighborhood plan (SF-3-NP) combining district zoning and urban family residence-neighborhood plan (SF-5-NP) combining district zoning. First Reading on October 21, 2004. Vote: 7-0. Conditions met as follows: No conditions were imposed at first reading. Applicant: Tyson Tuttle. Agent: Crocker Consultants (Sarah Crocker). City Staff: Glenn Rhoades, 974-2775.

**DEPARTMENT COMMENTS:**

Tract 1 is occupied with an existing single-family home, that will remain and tract 2 is undeveloped. The applicant has not determined what will be constructed on tract 2 at this time.

**APPLICANT:** Tyson Tuttle

**AGENT:** Crocker Consultants (Sarah Crocker)

**DATE OF FIRST READING/VOTE:**

October 21, 2004 – Approved SF-3 for tract 1 and SF-5 for tract 2 (Vote:7-0).

**CITY COUNCIL DATE:**

October 21, 2004 – Approved on first reading.

November 4, 2004

**ASSIGNED STAFF:** Glenn Rhoades

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

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

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE  
2 PROPERTY LOCATED AT 1111 WEST 7<sup>TH</sup> STREET IN THE OLD WEST  
3 AUSTIN NEIGHBORHOOD PLAN AREA FROM MULTIFAMILY RESIDENCE  
4 MODERATE HIGH DENSITY-NEIGHBORHOOD PLAN (MF-4-NP)  
5 COMBINING DISTRICT TO FAMILY RESIDENCE-NEIGHBORHOOD PLAN  
6 (SF-3-NP) COMBINING DISTRICT FOR TRACT ONE AND URBAN FAMILY  
7 RESIDENCE-NEIGHBORHOOD PLAN (SF-5-NP) COMBINING DISTRICT FOR  
8 TRACT TWO.

9  
10 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

11  
12 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to  
13 change the base districts on the property described in Zoning Case No. C14-04-0122, on  
14 file at the Neighborhood Planning and Zoning Department, as follows:

15  
16 Tract One: From multifamily residence moderate high density-neighborhood plan  
17 (MF-4-NP) combining district to family residence-neighborhood plan (SF-3-NP)  
combining district.

18  
19  
20 A 0.173 acre tract of land, more or less, out of Lots 7 and 8, Block B, Raymond  
21 Subdivision, in the City of Austin, Travis County, the tract of land being more  
22 particularly described by metes and bounds in Exhibit "A" incorporated into this  
23 ordinance; and

24  
25 Tract Two: From multifamily residence moderate high density-neighborhood plan  
26 (MF-4-NP) combining district to urban family residence-neighborhood plan (SF-5-  
27 NP) combining district.

28  
29 A 0.172 acre tract of land, more or less, out of Lots 7 and 8, Block B, Raymond  
30 Subdivision, in the City of Austin, Travis County, the tract of land being more  
31 particularly described by metes and bounds in Exhibit "B" incorporated into this  
32 ordinance, (the "Property")

33  
34 locally known as 1111 West 7<sup>th</sup> Street, in the Old West Austin neighborhood plan area, in  
35 the City of Austin, Travis County, Texas, and generally identified in the map attached as  
36 Exhibit "C".

**PART 2.** Except as otherwise provided in this ordinance, the Property is subject to Ordinance No. 020926-26 that established the Old West Austin neighborhood plan combining district.

**PART 3.** This ordinance takes effect on \_\_\_\_\_, 2004.

**PASSED AND APPROVED**

\_\_\_\_\_, 2004

§  
§  
§

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
David Allan Smith Shirley A. Brown  
City Attorney City Clerk

FIELD NOTES  
FOR

0.173 ACRE OF LAND

EXHIBIT A

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND BEING A PORTION OF LOTS 7 AND 8, BLOCK B, RAYMOND SUBDIVISION OF OUTLOT 2, DIVISION Z IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AS RECORDED IN VOLUME 2, PAGE 129 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING PROPOSED LOT 2, BLOCK A, TUTTLE ADDITION, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a hilti-nail found at the Northeast corner of said Lot 8, being in the South r.o.w. line of West 7<sup>th</sup> Street, for the Northeast corner and PLACE OF BEGINNING hereof;

THENCE along the East line of said Lot 8, S 28°34'46" W for a distance of 100.48 feet to a ½ inch capped iron pin set for the Southeast corner hereof;

THENCE N 61°28'24" W for a distance of 74.80 feet to a ½ inch capped iron pin set for the Southwest corner hereof;

THENCE N 28°34'17" E for a distance of 100.46 feet to a ½ inch iron pin found in the North line of said Lot 7, being in the South r.o.w. line of West 7<sup>th</sup> Street for the Northwest corner hereof;

THENCE along the North lines of said Lots 7 and 8, being along the South r.o.w. line of West 7<sup>th</sup> Street, S 61°29'13" E for a distance of 74.82 feet to the PLACE OF BEGINNING and containing 0.173 acre of land, more or less.

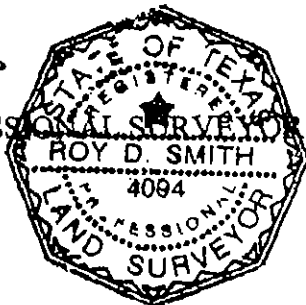
SURVEYED BY:

Roy D. Smith Surveyors, P.C.

*Roy D. Smith*  
ROY D. SMITH

REGISTERED PROFESSIONAL SURVEYOR NO. 4094  
July 8, 2004

Lots 7 & 8, Tuttle Add'n



back

FIELD NOTES  
FOR

0.172 ACRE OF LAND

EXHIBIT B

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND BEING A PORTION OF LOTS 7 AND 8, BLOCK B, RAYMOND SUBDIVISION OF OUTLOT 2, DIVISION Z IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AS RECORDED IN VOLUME 2, PAGE 129 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING PROPOSED LOT 1, BLOCK A, TUTTLE ADDITION, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½ inch iron pin found at the Southeast corner of said Lot 8, being in the North line of a 20 foot wide alley for the Southeast corner and PLACE OF BEGINNING hereof;

THENCE along the South lines of said Lots 7 and 8, being along the North line of said alley, N 61°28'24" W for a distance of 74.79 feet to a ½ inch iron pin found in the South line of said Lot 7, for the Southwest corner hereof;

THENCE N 28°34'17" E for a distance of 100.45 feet to a ½ inch capped iron pin set for the Northwest corner hereof;

THENCE S 61°28'24" E for a distance of 74.80 feet to a ½ inch capped iron pin set in the East line of said Lot 8 for the Northeast corner hereof;

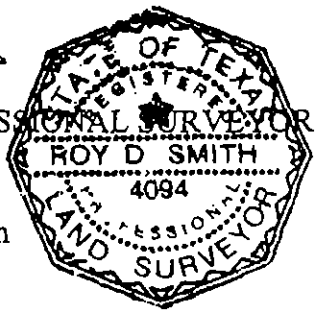
THENCE along the East line of said Lot 8, S 28°34'46" W for a distance of 100.45 feet to the PLACE OF BEGINNING and containing 0.172 acre of land, more or less.

SURVEYED BY:  
Roy D. Smith Surveyors, P.C.




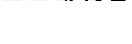
  
ROY D. SMITH

REGISTERED PROFESSIONAL SURVEYOR NO. 4094  
July 8, 2004

Lots 7 & 8 -Tuttle Add'n





 1" = 400'	SUBJECT TRACT		ZONING <i>EXM B I T C</i>  CASE #: C14-04-0122 ADDRESS: 1111 W 7TH ST SUBJECT AREA (acres): 0.345	DATE: 04-08  INTLS: SM	CITY GRID REFERENCE NUMBER  H22
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: G. RHOADES				

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-04-0122

**P.C. DATE:** September 28, 2004

**C.C. DATE:** October 21, 2004  
November 4, 2004

**ADDRESS:** 1111 West 7<sup>th</sup> Street

**OWNERS:** Tyson Tuttle

**AGENT:** Crocker Consultants  
(Sarah Crocker)

**ZONING FROM:** MF-4-NP

**TO:** SF-3-NP (tract 1)  
SF-5-NP (tract 2)

**AREA:** .345 acres

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends the proposed change to family residence neighborhood plan (SF-3-NP) district zoning for tract 1 and urban family residence neighborhood plan (SF-5-NP) district zoning for tract 2.

### **PLANNING COMMISSION RECOMMENDATION:**

Approved family residence (SF-3-NP) district zoning for tract 1 and urban family residence (SF-5-NP) for tract 2. (Vote: 7-0, C. Riley – absent).

### **DEPARTMENT COMMENTS:**

Tract 1 is occupied with an existing single-family home, that will remain and tract 2 is undeveloped. The applicant has not determined what will be constructed on tract 2 at this time.

### **ISSUES:**

The proposed change is a part of the Old West Austin Neighborhood Planning Area (case #C14-02-0112). The plan recommends single-family uses for the subject tract and will not need a plan amendment (see attached map).

The Old West Austin Neighborhood Association and the property owner have agreed to enter into a private restrictive covenant limiting development on the property (see attached restrictive covenant).

### **EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
<i>Site</i>	MF-4-NP	Single Family and Undeveloped
<i>North</i>	SF-3-NP and MF-4-NP	Single Family and Multifamily
<i>South</i>	CS-MU-CO-NP	Commercial
<i>East</i>	MF-4-NP and SF-3-H-NP	Multifamily Single family
<i>West</i>	MF-4-NP	Multifamily



**AREA STUDY:** Old West Austin N.P.

**TIA:** N/A

**WATERSHED:** Town Lake

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

#018 – Old West Austin Neighborhood Association

#511 – Austin Neighborhoods Council

#998 – West End Austin Alliance

**CASE HISTORIES:**

There have been no recent zoning cases in the immediate vicinity.

**ABUTTING STREETS:**

NAME	ROW	PAVEMENT	CLASSIFICATION
West 7 <sup>th</sup> Street	70'	30'	Collector

**CITY COUNCIL DATE:** 10/2/04

**ACTION:** Approved SF-3 and SF-5 (Vote: 7-0).

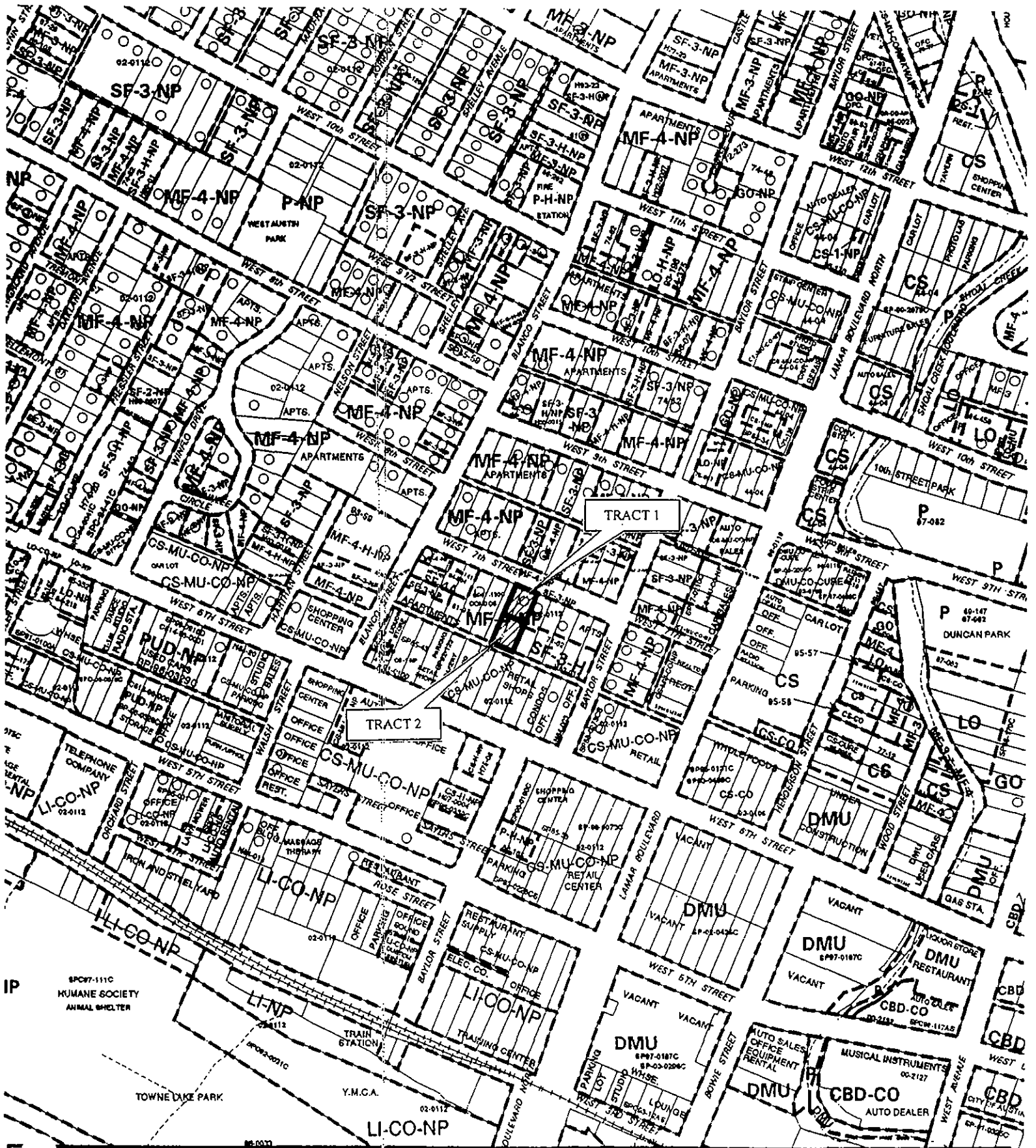
11/4/04

**ORDINANCE READINGS:** 1st 10/21/04 2<sup>nd</sup> 3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Glenn Rhoades

**PHONE:** 974-2775

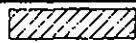


SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

CASE MGR: G. RHOADES



CASE #: C14-04-0122

ADDRESS: 1111 W 7TH ST

SUBJECT AREA (acres): 0.345

ZONING

DATE: 04-08

INTLS: SM

CITY GRID  
REFERENCE  
NUMBER

H22

1" = 400'



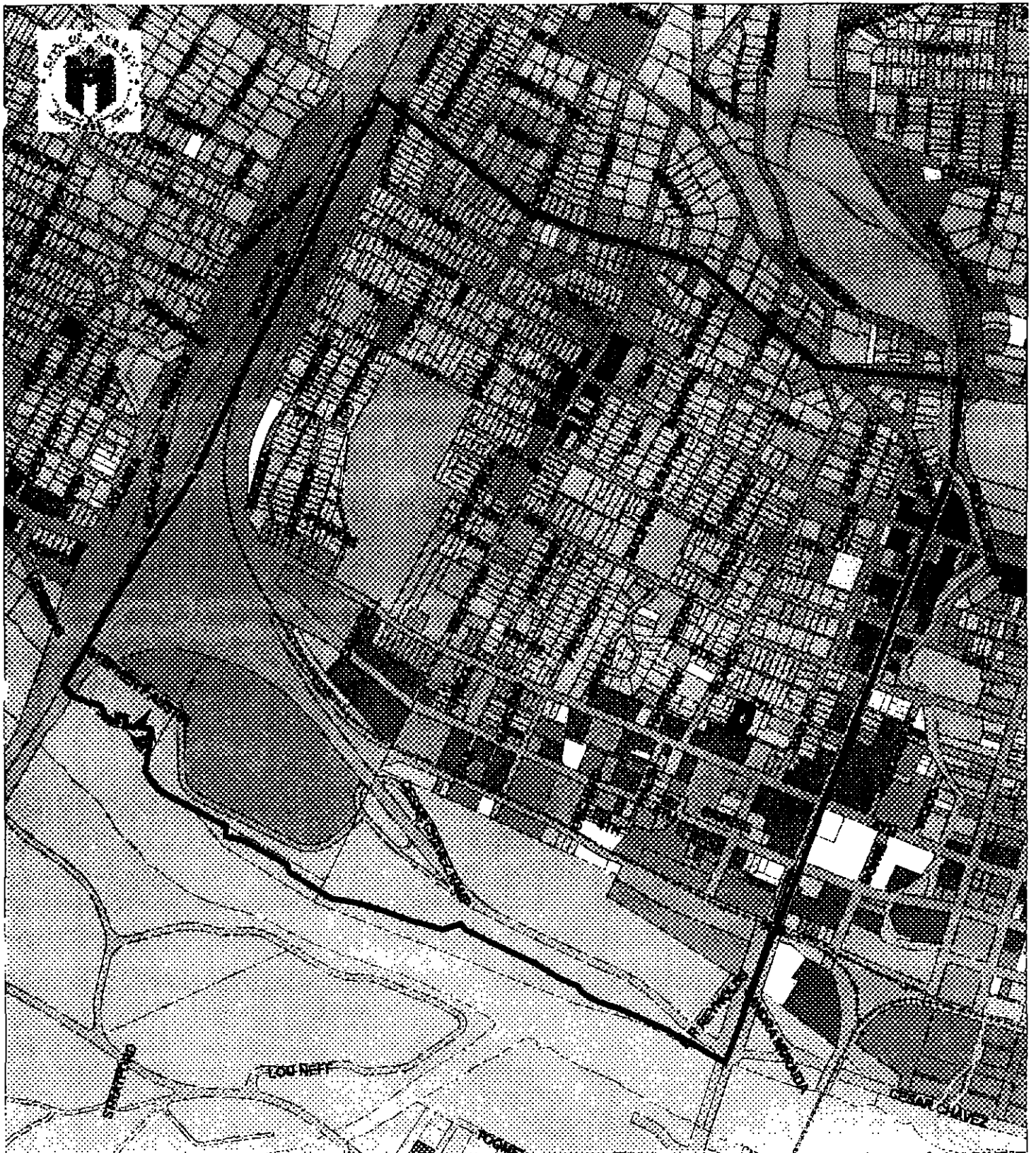
# City of Austin

Case C14-04-0122

Subdivider  
Baseonly  
Centerline



THE CITY OF AUSTIN, TEXAS, HEREBY CERTIFIES THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF ITS KNOWLEDGE AND BELIEF.



# Old West Austin Neighborhood Planning Area

## **STAFF RECOMMENDATION**

Staff recommends the proposed change to family residence neighborhood plan (SF-3-NP) district zoning for tract 1 and urban family residence neighborhood plan (SF-5-NP) district zoning for tract 2.

## **BASIS FOR RECOMMENDATION**

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

SF-3 – Family Residence district zoning is intended for a moderate density single-family and duplex uses.

SF-5 – Urban Family Residence district zoning is intended for moderate density single-family, duplex, two family, townhouse or condominium use. An SF-5 district may be used as a transition between single-family and multifamily uses.

The surrounding area is mixture of single-family and multifamily uses. The proposed change meets the purpose statement set forth in the Land Development Code and will compliment the residential character of this portion of 7<sup>th</sup> Street.

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

SF-5 allows single-family, duplexes, townhouses and condominiums. The proposed change will provide the opportunity for a mixture of housing and is consistent and compatible with the neighborhood.

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

Given the mixed residential character of the street, SF-3 and SF-5 zoning will give the owner a fair and reasonable use of the site.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The site is currently developed with a single-family home.

### **Transportation**

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

The trip generation under the requested zoning is estimated to be 300 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

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

### **Impervious Cover**

The maximum impervious cover for SF-3 and SF-5 zoning is 45% and 55% respectively.

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Town Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone/ Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

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

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

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

### **Right of Way**

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

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

### **Water and Wastewater**

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

utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City of Austin utility design criteria and specifications.

**Compatibility Standards**

The site is not subject to compatibility standards.

impervious cover on the site. Commissioner Sullivan said that the problem with that is that the neighborhood wants LO zoning – limiting the impervious cover may not allow the LO development. In addition, it might not be appropriate for auto repair to operate on the grass-allowing additional impervious cover will allow the auto repair to occur on pavement.

Mr. Bennett said that the LO standards may not be enough for the all the development requirements. For instance with impervious cover limited, may not be able to provide the minimum required amount of parking spaces.

Commissioner Hollon said that if there are no plans for changing the site, does the owner need to upgrade the site. He clarified that a site plan will have to be submitted if the owner wants to add on.

Commissioner Medlin pointed out that she asked the president of the neighborhood association at the last Commission meeting what his preference was, and he said single-family. She does not think the neighborhood understands what GR development would look like.

***MOTION: APPROVE GR-MU-CO WITH THE FOLLOWING CONDITIONS:***

- 1. LO SITE STANDARDS AND USES***
- 2. AUTO REPAIR AND SALES ONLY PERMITTED GR USES***
- 3. RESTRICTIVE COVENANT STATING OWNER WILL NOT OPPOSE REZONING TO LO WHEN USE CEASES FOR MORE THAN 90 DAYS.***
- 4. 2000 TRIP LIMITATION.***

***VOTE: 7-0 (MH-1<sup>st</sup>, DS-2<sup>nd</sup>; CR-ABSENT)***

- 4. Zoning:** **C14-04-0122 - Tuttle**
- Location: 1111 West 7th Street, Town lake Watershed, Old West Austin NPA
- Owner/Applicant: Tyson Tuttle
- Agent: Crocker Consultants (Sarah Crocker)
- Request: MF-4 to SF-3 and SF-5
- Staff Rec.: **RECOMMENDED**
- Staff: Glenn Rhoades, 974-2775, glenn.rhoades@ci.austin.tx.us  
Neighborhood Planning and Zoning

Commissioner Hollon asked about Ms. Schwitters' concerns about alley access that she raised in her email. Glenn Rhoades said that the site plan stage they will look at the alley access issues, but generally a developer does not have to upgrade the alley if taking access to it.

Commissioner Hollon asked how many units are permitted on the site. **Sarah Crocker** presented the applicant's case and said that at the back of the lot they could not really fit more than 3 units. She explained that the applicant is requesting SF-5 because SF-6 triggers compatibility standards.

Commissioner Sullivan asked why there is a 30 foot height limit. Ms. Crocker said a nearby condo owner expressed concerns about the height and affect on the views and so Mr. Tuttle agreed to limit the height.



**Laura Morrison**, a neighbor down the street, said she supports the zoning change. The zoning will help preserve the single-family home on 7<sup>th</sup> Street. She appreciates that Ms. Schwitters raised the alley issue, because it is a concern, and was identified as such in the neighborhood plan, but the zoning should not be affected.

Commissioner Sullivan asked Ms. Morrison whose idea was it to limit the height. Ms. Morrison said it was Karen Schwitters idea. Commissioner Sullivan said by limiting the height, taking away the MF-4 density. Ms. Morrison pointed out though that under compatibility standards, the MF-4 height could not exceed 30 feet anyways.

***MOTION: CLOSE THE PUBLIC HEARING***

***VOTE: 7-0 (JMC-1<sup>st</sup>, DS-2<sup>nd</sup>; CR-ABSENT)***

***MOTION: APPROVE STAFF RECOMMENDATION***

***VOTE: 7-0 (JMC-1<sup>st</sup>, DS-2<sup>nd</sup>; CR-ABSENT)***

Commissioner Cortez said that he appreciates the preservation of the historic home. Commissioner Sullivan said that MF-4 cannot be built on a small lot because of setbacks, etc. SF-5 is the closest thing to the urban apartment building that the Codes and Ordinances Committee has considered.

- 5. Zoning: C14-04-0135 - 300 N. Lamar**
- |                  |  |
|------------------|--|
| Location:        | 300 North Lamar Blvd., Town lake Watershed, Old West Austin NPA                            |
| Owner/Applicant: | Goodwill Industries of Central Texas (Cathy Rudzinski)                                     |
| Agent:           | Drenner Stuart Wolf Metcalf von Kreisler (Michele Allen)                                   |
| Request:         | LI-CO to LI-PDA  |
| Staff Rec.:      | <b>RECOMMENDED</b>   |
| Staff:           | Glenn Rhoades, 974-2775, glenn.rhoades@ci.austin.tx.us<br>Neighborhood Planning and Zoning |

Commissioner Cortez asked about the affordable housing requirement mentioned in the letter from OWANA. Steve Drenner said they intend to meet the spirit of that- there are on-going discussions.

***MOTION: APPROVED LI-PDA-NP BY CONSENT***

***VOTE: 7-0 (DS-1<sup>st</sup>, JMC-2<sup>nd</sup>; CR-ABSENT)***

Commissioner Sullivan commented that when a property is down deep in the watershed, impervious cover not as much as an issue for flooding.

## RESTRICTIVE COVENANT

**OWNER:** Tyson Tuttle

**ADDRESS:** 1111 West 7<sup>th</sup> Street, Austin Texas 78701

**PROPERTY:** Lot 2, Block A, Tuttle Addition

WHEREAS, the Owner of the Property and the Old West Austin Neighborhood Group ("OWANA"), a registered Texas Nonprofit Association, have agreed that the Property should be impressed with certain covenants and restrictions.

WHEREAS, the Owner of the Property has requested a zoning change from the City of Austin, (C14-04-0122) the zoning change is from MF-4 to SF-5.

WHEREAS, the Owner of the Property and OWANA have agreed that the Property shall be developed for residential purposes only and that the maximum height of any structure shall not exceed 30 feet.

WHEREAS, provided the Owner agrees to this Restrictive Covenant, one or more neighbors contiguous to the Property and OWANA have agreed not to oppose the Owner's request for a zoning change.

NOW, THEREFORE, it is declared that the Owner of the Property, for good and valuable consideration, shall be bound by and 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 and his heirs, successors, and assigns.

1. The Property shall be used for residential purposes only.
2. The height of any structure shall not exceed 30 feet.
3. If any person or entity shall violate or attempt to violate this restrictive covenant, any person whose property is contiguous to the Property, any person who owns property within 300 feet of the Property, OWANA, or the City of Austin, may prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such restrictive covenant, to prevent the person or entity from such actions
4. Any person or entity, ~~including the City of Austin~~, who brings action to enforce the provisions of this restrictive covenant shall be entitled to collect damages for

such actions, including reasonable attorney's fees and costs of court incurred in connection with such proceedings.

5. If any part or provision of this Restrictive Covenant shall be declared invalid or unenforceable by judgment or court order, the remaining provisions shall continue to be valid and enforceable and the same shall in no way affect any of the other provisions of this agreement which shall remain in full force and effect.
6. If at any time the City of Austin, OWANA, or any affected property owner fails to enforce this agreement, whether or not the alleged violations were known or not, such failure shall not constitute a waiver or estoppels of such person or entities' right to enforce this restrictive covenant.
7. This agreement may be modified, amended or terminated only in writing, subject to the joint agreement the owner of the Property and OWANA.

EXECUTED on this the \_\_\_\_ day of \_\_\_\_\_, 2004.

OWNER:

\_\_\_\_\_  
Tyson Tuttle

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF TRAVIS    §

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_  
2004, by Tyson Tuttle.

\_\_\_\_\_  
Notary Public, State of Texas

OLD WEST AUSTIN  
NEIGHBORHOOD  
GROUP ("OWANA"):

By: \_\_\_\_\_  
President

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_  
2004, by the said \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas