Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 57
AGENDA DATE: Thu 10/20/2005
PAGE: 1 of 1

SUBJECT: C14-05-0025 - 1706 & 1708 West 6th Street - Old West Austin Neighborhood Plan rezoning - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1706 & 1708 West 6th Street (Town Lake Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to neighborhood office-mixed use-conditional overlay-neighborhood plan (NO-MU-CO-NP) combining district zoning. First reading approved on September 1, 2005. Vote: 7-0. Applicant: City of Austin. Agent: Neighborhood Planning and Zoning Department. City Staff: Jorge Rousselin, 974-2975. Note: A valid petition has been filed in opposition to this zoning request.

REQUESTING DEPARTMENT: Neighborhood Planning and Zoning

DIRECTOR'S AUTHORIZATION: Greg Guernsey

RCA Serial#: 10169 Date: 10/20/05 Original: Yes
Published:
Disposition:
Adjusted version published:

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0025 **P.C. DATE:** April 26, 2005
May 24, 2005

ADDRESS: 1706 & 1708 W. 6th Street

OWNERS: 1706 - Sara & Jeffrey Leon
1708 - Don Henry

APPLICANT/AGENT: City of Austin, NPZD

ZONING FROM: SF-3-NP **TO:** NO-MU-CO-NP (CITY INITIATED) **AREA:**

CITY COUNCIL 1ST READING APPROVAL SEPTEMBER 1, 2005:

The first reading of the ordinance for neighborhood office-mixed use-conditional overlay-neighborhood plan (NO-MU-CO-NP) combining district zoning with conditions was approved with the following conditions:

1. All vehicular access for non-residential uses will be limited to a driveway to 6th street.
2. The 145 trip limitation would be allocated as 68 trips for 1706 West 6th and 77 trips for 1708 West 6th.
3. A masonry fence will be constructed along the north property lines.
4. Commercial trash dumpsters are prohibited.
5. A site plan will be submitted within 90 days after the final approval of the zoning and approval of the site plan will be diligently pursued or the nonresidential use will cease.
6. Construction of the driveway and masonry fence will commence within 120 days of approval of the site plan by the City and be diligently pursued by the City or any non-residential use will cease.
7. Direct City staff to explore the possibility of permitting the property to be legal non-complying/non-conforming.
8. If a non-residential use ceases pursuant to the site plan or construction requirements in 5 or 6 above, the non-residential use will not resume until a site plan is approved and the driveway and masonry wall are complete.

PLANNING COMMISSION RECOMMENDATION:

May 24, 2005:
MOTION: APPROVE STAFF RECOMMENDATION, INCLUDING ALL CONDITIONS, BUT REQUIRE INGRESS AND EGRESS ONLY FROM THE ALLEY AND DIRECT STAFF TO PREPARE A PLAN TO ALLOW ON-STREET PARKING ON WEST 6TH STREET TO ADDRESS THE PARKING CONCERNS FOR SITE.

VOTE: (JR-1st, MM-2nd; CM-OPPOSED, CG- ABSENT)

SUMMARY STAFF RECOMMENDATION:

Recommend rezoning from family residence - neighborhood plan combining district (SF-3-NP) zoning to neighborhood office – mixed use- conditional overlay - neighborhood combining plan (NO-MU-CO-NP) zoning. The Conditional Overlay limits the two properties to 145 trips per day combined, allows ingress only from W. 6th Street, egress only to the alley to the north, a minimum 10 foot vegetative buffer or 6' masonry fence separating the parking area for business use except where egress is located.

ISSUES:

The Old West Austin Neighborhood Plan approved in April 2000, included provisions that allowed rezoning of the property on the north side of 6th Street, from single family to neighborhood office. The plan states under Goal 3 – Land Use Policies: In the North 6th Street District (lots along the north side of 6th Street): No zoning to a more permissive category. Exceptions: If zoned SF-3, allow rezoning to NO-MU-CO where the CO is: fewer than 40 trips/day business access through alley is prohibited (though residential access is acceptable), business access through a street with a minimum width of 36' is required, and there shall be a 10' vegetative buffer or a 6' masonry fence that separates the business use (including parking) and adjacent residential property. Owner occupied structures are encouraged. The properties are currently used for offices. The trip limits indicated in the neighborhood plan recommendation would not allow the current structures to be used for offices. The existing floor areas in each house are greater than those that would allow a 40-tripper day limit for each property. The City of Austin Public Works Department and Transportation Reviewers have indicated a preference for alley access due to safety concerns with constructing a driveway onto W. 6th St. in this area in the attached memorandum (Exhibit A). There is support for the rezoning by commercial neighbors and for alley access. However, residential neighbors would want alley access to be prohibited.

A petition has been filed representing a little over 34% of the land area within 200 feet of the subject tracts.

DEPARTMENT COMMENTS:

The provisions of the Old West Neighborhood Plan provide conditions where the rezoning of the subject properties is recommended. Upon receipt of comments from other city departments, staff finds that the strict conditions for approval of support in the plan may be impractical or provide for a condition that may have safety issues. The existing structures were constructed as single-family dwellings that front on W. 6th Street near the entrance to Mopac. In this area and for most of the north side of W. 6th Street, conversion of single-family dwellings for office use has occurred. While staff supports the Old West Austin Neighborhood Plan as a whole, staff realizes that with each application and subsequent review of a request, may warrant some plan modification. In this case, the applicants are desirous of maintaining the structures, but allowing for commercial use. The intent of the neighborhood office-zoning district states a recommendation for conversion of the single-family structures for commercial use. With the existing structure square footage and office

use designation resulting a calculated trip generation of 145 trips per day combined, placing a 40-vehicle trip limit for each structure would reduce the amount of floor area each tenant could use within the structures. The traffic impact of the total floor area would be mitigated somewhat by the ingress from W. 6th St. and egress to the alley only to be included in the Conditional Overlay. Prohibiting access to the alley creates a safety hazard with regard to exiting these properties onto W. 6th Street with very limited sight distance. Copies of the City Council transcripts requesting staff to initiate rezoning are attached. At their regular meeting on April 26, 2005 the Planning Commission voted to keep the Public Hearing open and to send this item to the Neighborhood Planning subcommittee to develop a recommendation to be presented to the Commission at the May 24th, 2005 Planning Commission meeting. The Planning Commission subcommittee directed staff to investigate options, which included on street parking along W. 6th St.; maintenance of alleyways, dedication of private property to the city of Austin for alleyway construction behind 1708 W. 6th St. The recommendation did not include any provisions for access from W. 6th Street to the properties. Staff indicated that these options would be presented to the appropriate departments for comments. A copy of determinations of the transportation related issues is attached. The relocation of the utility pole adjacent to the alley behind 1708 W. 6ht St. would need to be initiated by the owners of the property affected. The property owner of 1708 W. 6th St. has offered to dedicate a portion of his property for alley to offset concerns of accessibility through the alley with increased traffic.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	SF-3-NP	OFFICE & RESIDENCE
North	ALLEY & SF-3-NP	SINGLE FAMILY RESIDENCES
South	6TH ST. & PUD	HARTLAND BANK PUD
East	LO-NP	OFFICE(S)
West	NO-NP	OFFICE

NEIGHBORHOOD PLAN AREA: Old West Austin Neighborhood Plan

TIA: N/A

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:
#018 Old West Austin Neighborhood Assn.
#511 Austin Neighborhoods Council
#742 Austin Independent School District
#998 West End Alliance

SCHOOLS:

- Mathews Elementary School
- Henry Middle School
- Austin High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
Ord. # 000629-105	Zonings associated with the Neighborhood Plan	Approved staffs recommendations	Approved Staffs recommendations 6/29/2000 3 readings.

RELATED CASES:

C14-98-0018 – Request for rezoning from SF-3 to LO-MU. Staff recommended the rezoning. A valid petition against the proposed zoning was submitted to council. There was a lack of a second on the motion to approve the LO-MU zoning. The City Council on 10/01/1998 voted to deny the rezoning.

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	NAME
West 6th Street	70'	40'	Arterial	West 6th Street

CITY COUNCIL DATE: July 28, 2005
August 25, 2005

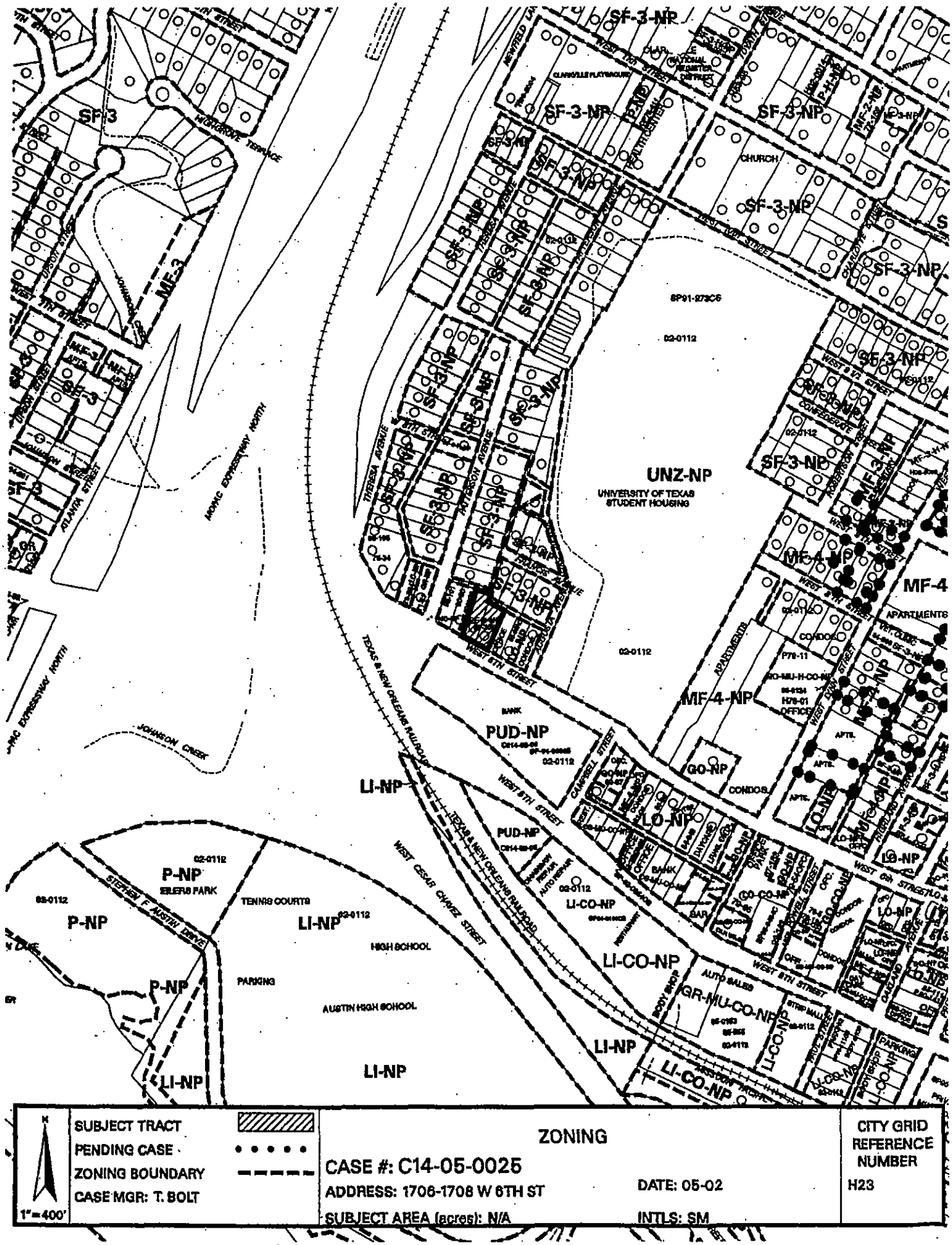
ACTION: Approved on 1st reading subject to conditions

ORDINANCE READINGS: **1st -- September 1, 2005** **2nd** **3rd**

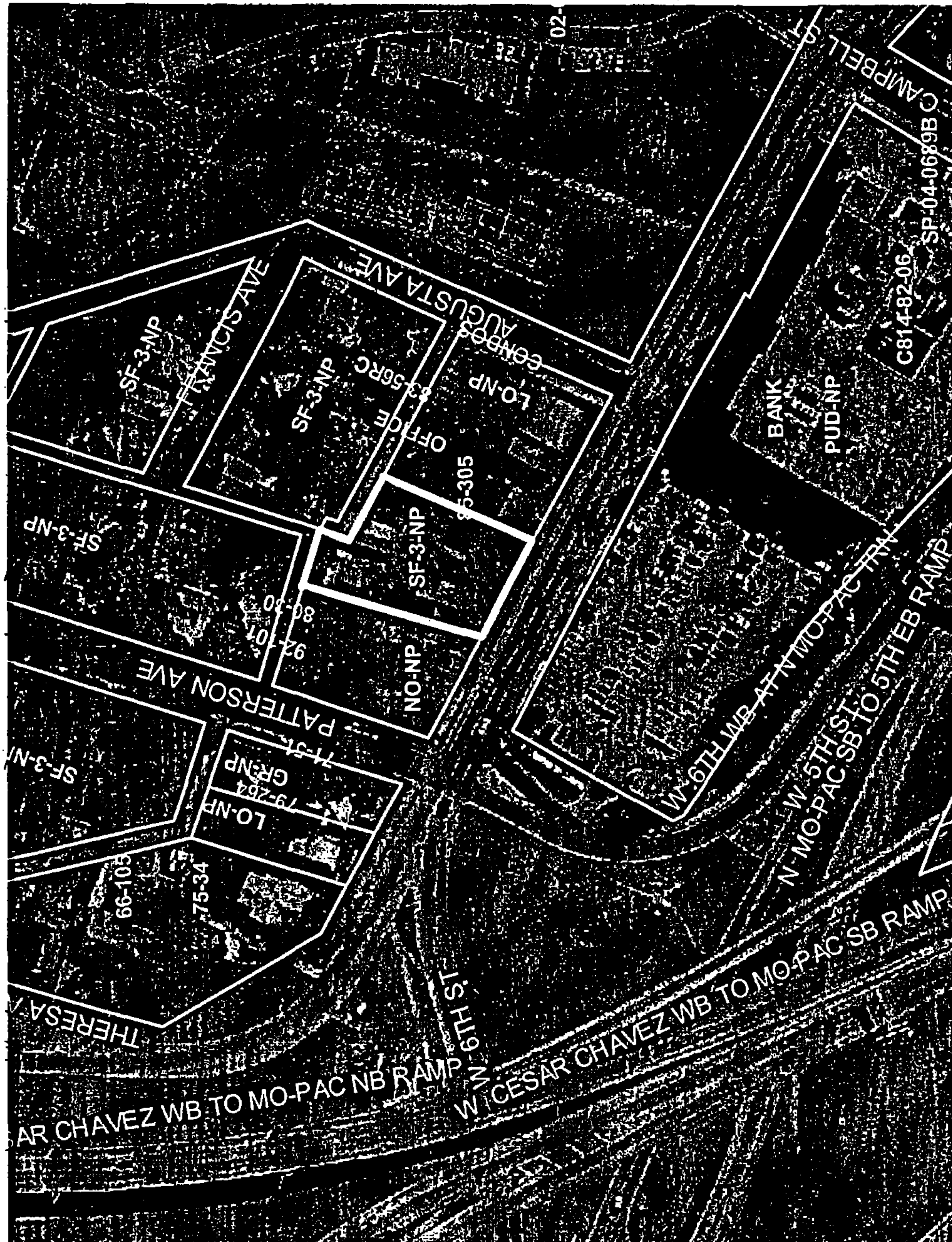
ORDINANCE NUMBER:

CASE MANAGER: Jorge E. Rousselin, NPZD **PHONE:** 974-2975

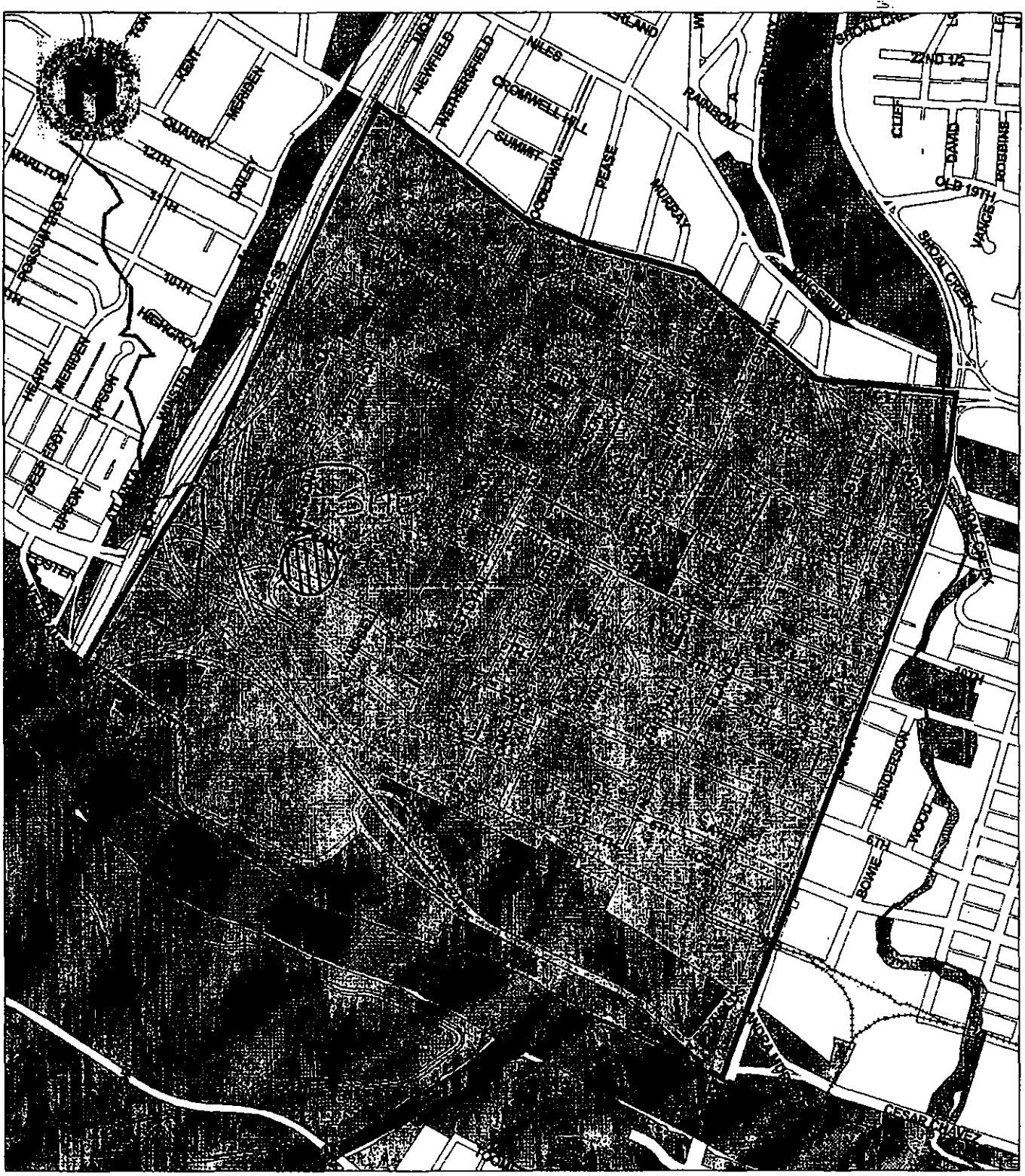
E-MAIL: jorge.rousselin@ci.austin.tx.us



N 1" = 400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: T. BOLT	ZONING CASE #: C14-05-0025 ADDRESS: 1706-1708 W 6TH ST SUBJECT AREA (acres): N/A	DATE: 05-02 INTLS: SM	CITY GRID REFERENCE NUMBER H23



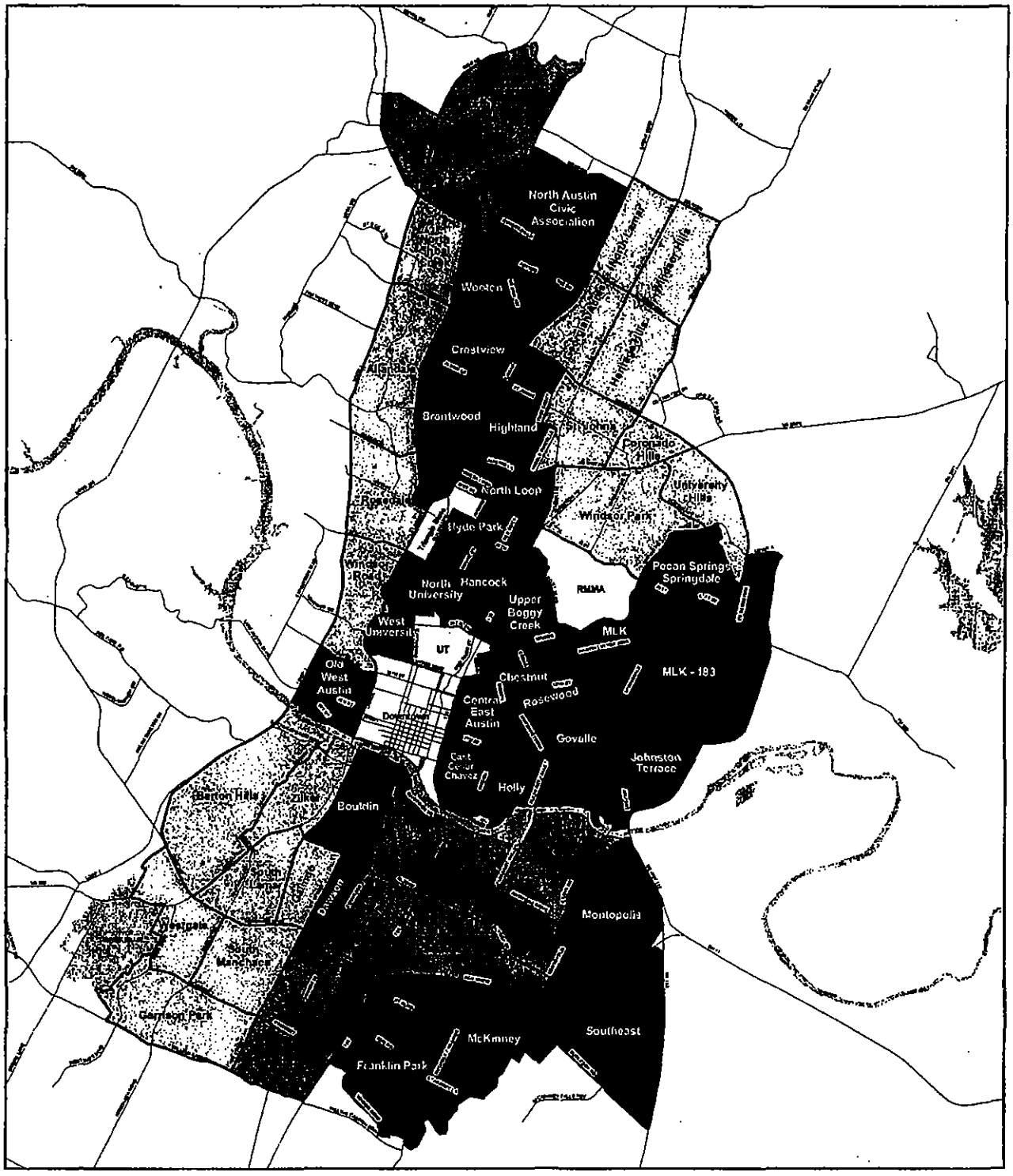
CAMPBELL S
SP-04-0689B
C814-82-06
BANK
PUD-NP
AUGUSTA AVE
CONDOS AUGUSTA
LO-NP
OFFICE
83-56RC
SF-3-NP
FRANCIS AVE
SF-3-NP
SF-3-NP
85-305
SF-3-NP
80-30
92-101
NO-NP
PATTERSON AVE
71-51
GR-NP
79-264
LO-NP
SF-3-N
66-105
75-34
THERESA A
W 6TH WB AT N MO-PAC TRN
W 5TH ST
N MO-PAC SB TO 5TH EB RAMP
W 6TH ST
W CESAR CHAVEZ WB TO MO-PAC SB RAMP
AR CHAVEZ WB TO MO-PAC NB RAMP



Old West Austin Neighborhood Planning Area

Parks

0.5 0 0.5 Miles



City of Austin
Neighborhood Planning Areas

- Adopted Neighborhood Plan & Zoning
- Neighborhood Plan Underway
- Future Neighborhood Planning Area
- Non-Neighborhood Planning Area

N

EXHIBIT A

MEMORANDUM

TO:	Members of the Planning Commission
CC:	Tom Bolt, COA Neighborhood Planning and Zoning Department Kris Kasper, Armbrust & Brown, LLP
FROM:	Emily Barron, COA Watershed Protection and Development Review Department
DATE:	May 18, 2005
SUBJECT:	Sub-Committee Follow Up for 1706 and 1708 W. 6th Street ~ C14-05-0025 On Street Parking and Alley Maintenance

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At the request of the Planning Commission's Neighborhood Planning Sub-Committee, staff is providing the following information regarding parallel on street parking on 6th Street and alley maintenance between Augusta Avenue and Patterson Avenue.

On Street Parking:

The neighborhood requested that parallel on street parking be provided along 6th Street. After discussions with the COA Public Works Department it has been determined that due to a vertical curve in the road, as well as the volume and high speed of traffic along 6th Street, on street parking can not be located here.

Maintenance of the Alley:

The alley located behind the subject tract is maintained by the COA's Public Works Street and Bridge South District office. Because there is no regularly scheduled maintenance program for alleys, alley maintenance is scheduled as Public Works receives calls from citizens. Staff will be coordinating with the applicant in the effort to realign the alley behind the subject tracts and provide maintenance of the alley between Augusta Avenue and Patterson Avenue.

If you have any questions please feel free to contact me at 974-2788.

Emily M. Barron

Emily M. Barron
Sr. Planner ~ Transportation Review
Watershed Protection and Development Review Department

STAFF RECOMMENDATION

Recommend rezoning from family residence - neighborhood plan combining district (SF-3-NP) zoning to neighborhood office – mixed use- conditional overlay - neighborhood combining plan (NO-MU-CO-NP) zoning. The Conditional Overlay limits the two properties to 145 trips per day combined, allows ingress only from W. 6th Street, egress only to the alley to the north, a minimum 10 foot vegetative buffer or 6' masonry fence separating the parking area for business use except where egress is located.

BACKGROUND

Staff did not immediately move forward with rezoning of these properties, as there were issues with regard to the possibility of access to W. 6th Street in this location. Without any confirmation that a driveway permit could be issued staff was hesitant to move forward with any recommendation. The applicant was successful in obtaining a driveway permit in the past year. With the granting of an driveway permit staff felt comfortable moving forward with the request for rezoning and with the provisions for approval as outlined in the Neighborhood Plan. As staff received department review comments there was a realization that the prohibition and limitations to be placed in a Conditional Overlay might present practical difficulties and some safety issues; therefore staff recommends modification of the Conditional Overlay as mentioned in our recommendation.

BASIS FOR RECOMMENDATION

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

> Neighborhood office (NO) district is the designation for a small office use that serves neighborhood or community needs, is located in or adjacent to a residential neighborhood and on a collector street that has a width of 40 feet or more, and does not unreasonably affect traffic. An office in an NO district may contain not more than one use. Site development regulations applicable to an NO district use are designed to preserve compatibility with existing neighborhoods through renovation and modernization of existing structures.

Zoning should not constitute a grant of special privilege to an individual owner; Granting of the request should result in an equal treatment of similarly situated properties

> The streetscape along the north side of W. 6th Street is dominated with former single-family structures converted for office use.

Zoning changes should promote compatibility with adjacent and nearby uses.

> The properties to the east and west in addition to properties to the south are developed with office occupancies

EXISTING CONDITIONS

The subject properties are former single-family structures converted for office use without the proper building permits from the City of Austin. Currently the property at 1706 W. 6th St. is the subject of a zoning violation in which enforcement action is on hold pending the outcome of this zoning case. The structures are typical of the style housing in the neighborhood. The properties are elevated above W. 6th Street in this area with the only vehicular access being located on the alley to the rear (north) of the properties.

Site Characteristics

Relatively flat, but elevated 4-6 feet above the curb on W. 6th St.

Environmental

The site is located over the northern Edwards Aquifer Recharge Zone. The site is located in the Johnson Creek 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 Desired Development Zone.

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.

Impervious Cover

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

Water Quality Control Requirements

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.

Transportation

Right-of-way for the portion of the alley that is currently existing but not dedicated should be dedicated as public right-of-way. .

Per the Neighborhood Plan each property is recommended to be limited to 40 vehicle trips per day. However, the current structures could generate (as office use) greater than 40 vehicle trips per day on each lot. Staff recommends that the *combined* trip generation for both lots be limited to 145 trips per day. This allows for the existing 2,070s.f. and 2,488s.f. structures to be developed for office use.

The Neighborhood Plan recommends no access to the alley; however, considering the difference in elevation of the property and W. 6th St at the front property line, the amount of traffic on W. 6th Street, and the site constraints disallowing for a driveway of adequate width to accommodate both ingress and egress from W. 6th Street, staff recommends that a joint access entry driveway be permitted along W. 6th Street and the exit from the properties be allowed on the alley.

There are existing sidewalks along 6th Street.

6th Street is classified in the Bicycle Plan as a Priority 1 bike route.

Capital Metro bus service is available along 6th Street.

Water and Wastewater

The landowner intends to serve the tract with City of Austin water and wastewater utility service. If water or wastewater utility improvements are required, the landowner will be responsible for all cost and for providing the utility improvements.

Stormwater Detention

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

Compatibility Standards

The site is subject to compatibility standards. Along the north property line, the following standards apply:

- No structure may be built within 15 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 is allowed 5' of the property line.
- There is a 0' setback for driveways on both lots.

- 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.

8th
$1.

CITY OF AUSTIN
RESIDENTIAL PERMIT APPLICATION

BP Number BP-04-9804 RA
Building Permit No.
Plat No. 8218 Date 12/14/04
Reviewer

PRIMARY PROJECT DATA

Service Address 1706 West 6th Street Tax Parcel No 0109040213 0000
Legal Description
Lot 9 Block A Subdivision Eck's Heights Section Phase
If in a Planned Unit Development, provide Name and Case No.
(attach final approved copies of subdivision and site plan)

If this site is not a legally subdivided lot, you must contact the Development Assistance Center for a Land Status Determination.

Description of Work
___New Residence
___Duplex
___Garage ___attached ___detached
___Carport ___attached ___detached
___Pool
___Remodel *(specify)*
___Addition *(specify)*
X Other *(specify)* Driveway Permit

Zoning (e.g. SF-1, SF-2...) SF-3 N/P Height of building ft. # of floors

On lots with LA zoning, the approved septic permit must be submitted with the Residential Permit application for zoning approval. {LDC 25-2-551(E)(6)}

Does this site have a Board of Adjustment ruling? ___Yes ___No If yes, attach the B.O.A. documentation

Will this development require a cut and fill in excess of 4 feet? X Yes ___No

Does this site front a paved street? X Yes ___No A paved alley? X Yes ___No

VALUATIONS FOR REMODELS ONLY

Building $
Electrical $
Mechanical $
Plumbing $
Driveway & Sidewalk $
TOTAL $
(labor and materials)

DATA FOR NEW CONSTRUCTION OR ADDITIONS ONLY

Lot Size sq.ft.
Job Valuation $
(Labor and materials)

Total Job Valuation (remodels and additions)
$
(Labor and materials)

PERMIT FEES *(For office use only)*

	NEW/ADDITIONS	REMODELS
Building	$	$
Electrical	$	$
Mechanical	$	$
Plumbing	$	$
Driveway & Sidewalk	$ 22.00	$
TOTAL	$	$

OWNER / BUILDER INFORMATION

OWNER — Name Jeffrey C. & Sarah H. Leon — Telephone (h) 732-2501 (w)

BUILDER — Company Name — Telephone — Pager — FAX

DRIVEWAY /SIDEWALK — Contact/Applicant's Name — Contractor — Telephone

CERTIFICATE OF OCCUPANCY — Name — Telephone — Address — City — ST — ZIP

If you would like to be notified when your application is approved, please select the method:

___ telephone ___ e-mail:

You may check the status of this application at www.ci.austin.tx.us/development/picrivr.htm

Service Address 1706 West 6th Street

Applicant's Signature _____ Date _____

BUILDING COVERAGE

The area of a lot covered by buildings or roofed areas, but not including (i) incidental projecting eaves and similar features, or (ii) ground level paving, landscaping, or open recreational facilities.

		Lot 1 Existing		Lot 9 Existing	
a.	1st floor conditioned area	1275	sq.ft.	1450	sq.ft.
b.	2nd floor conditioned area		sq.ft.		sq.ft.
c.	3rd floor conditioned area		sq.ft.		sq.ft.
d.	Basement	0	sq.ft.	0	sq.ft.
e.	Garage / Carport				
	___attached	0	sq.ft.	0	sq.ft.
	___detached	378	sq.ft.	746	sq.ft.
f.	Wood decks *(must be counted at 100%)*	100	sq.ft.	517	sq.ft.
g.	Breezeways	0	sq.ft.	0	sq.ft.
h.	Conc/Asphalt	1186	sq.ft.	557	sq.ft.
i.	Covered porches	0	sq.ft.	95	sq.ft.
j.	Balconies	0	sq.ft.	0	sq.ft.
k.	Swimming pool(s) *(pool surface area(s))*	0	sq.ft.	0	sq.ft.
l.	Other building or covered area(s)	150	sq.ft.	1075	sq.ft.
	Specify WoodShed(lot1) CarportGravel (lot 9)				
	TOTAL BUILDING AREA *(add a. through l.)*	3089	sq.ft.	4440	sq.ft.

TOTAL BUILDING COVERAGE ON LOT *(subtract b., c., d., and k. if applicable)* 3089/4440 sq.ft.
35.3%/ 50% % of lot

IMPERVIOUS COVERAGE

Include building cover and sidewalks, driveways, uncovered patios, decks, air conditioning equipment pad, and other improvements in calculating impervious cover. Roof overhangs which do not exceed two feet or which are used for solar screening are not included in building coverage or impervious coverage. All water must drain away from buildings on this site and buildings on adjacent lots.

a.	Total building coverage on lot *(see above)*	_____ sq.ft.
b.	Driveway area on private property	_____ sq.ft.
c.	Sidewalk / walkways on private property	_____ sq.ft.
d.	Uncovered patios	_____ sq.ft.
e.	Uncovered wood decks *(may be counted at 50%)*	_____ sq.ft.
f.	Air conditioner pads	_____ sq.ft.
g.	Concrete decks	_____ sq.ft.
h.	Other (specify)_____	_____ sq.ft.

TOTAL IMPERVIOUS COVERAGE *(add a. through h.)* _____ sq.ft.
_____ % of lot

CITY OF AUSTIN

RESIDENTIAL PERMIT APPLICATION

I understand that in accordance with Sections 25-1-411 and 25-11-66 of the Land Development Code (LDC), non-compliance with the LDC may be cause for the Building Official to suspend or revoke a permit and/or license. I understand that I am responsible for complying with any subdivision notes, deed restrictions, restrictive covenants and/or zoning conditional overlays prohibiting certain uses and/or requiring certain development restrictions (i.e., height, access, screening, etc.) on this property. If a conflict should result with any of these restrictions, it will be my responsibility to resolve it. I understand that, if requested, I must provide copies of all subdivision plat notes, deed restrictions, restrictive covenants, and/or zoning conditional overlay information that may apply to this property.

I acknowledge that this project qualifies for the Site Plan Exemption as listed in Section 25-5-2 of the LDC.

I also understand that if there are any trees greater that 19 inches in diameter located on the property and immediately adjacent to the proposed construction, I am to schedule a Tree Ordinance review by contacting (512) 974-1876 and receive approval to proceed.

APPLICANT'S SIGNATURE _____

Sarah Leon

DATE _____

Rejection Notes/Additional Comments *(for office use only)*:

JOINT USE ACCESS EASEMENT

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

This Joint Use Access Easement is made by and between **SARA HARDNER LEON** and **JEFFREY C. LEON**, individuals residing in Travis County, Texas (collectively, "Leon") and **DONALD E HENRY, Jr.** and **PATRICIA A. ALVEY**, individuals residing in Travis County, Texas (collectively, "Henry")(both Leon and Henry shall be referred to as an "Owner") and is as follows:

RECITALS:

A. Leon is the owner of that certain property more particularly described as Lot 9, Block A, Eck's Heights, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 3, Page 16, of the Real Property Records of Travis County, Texas (the "Leon Property").

B. Henry is the owner of that certain property more particularly described as Lot 1, West End Heights, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 3, Page 20 of the Real Property Records of Travis County, Texas (the "Henry Property")(Leon Property and Henry Property shall be collectively referred to as the "Property").

C. Leon desires to impress the Leon Property with a joint access easement for the benefit of the Henry Property, and Henry desires to impress the Henry Property with a joint access easement for the benefit of the Leon Property.

NOW, THEREFORE, it is hereby declared: (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, liens and charges, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns; and (ii) that each contract or deed which may be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions, restrictions, easements, liens and charges, regardless of whether the same are set out or referred to in said contract or deed:

1. Joint Use Access Easement. Leon has granted, sold and conveyed and by these presents does hereby grant, sell and convey unto Henry a non-exclusive, perpetual easement appurtenant to the Henry Property. Henry has granted, sold and conveyed and by these presents does hereby grant, sell and convey unto Leon a non-exclusive, perpetual easement appurtenant to the Leon Property. Based upon those grants, each Owner shall have an easement over and across a portion of the Property, more particularly described on the attached Exhibit "A" (the "Easement Tract"), for the purpose of providing a free flow of vehicular and pedestrian ingress and egress over and across the driveway which is to be constructed upon the Easement Tract (the "Driveway") from such Owner's property to a private or public thoroughfare. The agreed diagram for construction of improvements constituting the Driveway is attached hereto as Exhibit "B" and is hereby approved by Leon and Henry (the "Approved Driveway"). Any additional improvements on the Easement Tract necessary or desirable for the Driveway will be constructed of material and in the location mutually agreed upon by Leon and Henry. The easement, rights and privileges granted hereunder shall be perpetual.

2. Construction and Maintenance Obligations. Except for the Approved Driveway, no building, structure, or other improvement shall be placed upon any portion of the Easement Tract without the advanced written approval of Leon and Henry, their successors and assigns.

No construction on the Easement Tract shall commence without prior approval of both Leon and Henry. The cost and expense associated with the construction, repair and maintenance of any paving and roadway improvements upon the Easement Tract associated with the Approved Driveway shall be borne fifty percent (50%) by Leon and fifty percent (50%) by Henry. Leon will construct, maintain and repair the paving and roadway improvements necessary for the Approved Driveway. Any reimbursement for a cost or expense incurred by Leon to construct, repair or maintain any paving and roadway improvements constructed upon the Easement Tract shall be considered due to Leon within fifteen (15) days of the Henry's receipt of an appropriate invoice for such work.

3. **Exclusivity.** The easements, rights and privileges herein granted are non-exclusive, and the Owners will have the right to enter upon and use that portion of the Easement Tract belonging to such Owner for any purpose which is not inconsistent with the easements, rights and privileges granted hereunder. Owners will also be entitled to grant such other easements on or across the Easement Tract not otherwise inconsistent with the easements, rights and privileges granted hereunder.

4. **Restoration Obligations.** Each Owner hereby agrees that it shall bear its costs and expenses including those incurred by their agents, employees and contractors for property damage to the Easement Tract, including the restoration to its previous physical condition of any sidewalk, curb and gutter, roadway or similar improvements or other facilities located upon, within or adjacent to the Easement Tract.

5. **Obligations To Run With The Land.** The obligations of each Owner created with this Joint Access Easement shall run with the land and shall be binding upon future owners of the Property and such owners' heirs, representatives, successors and assigns.

6. **Sale of Lots.** If either Leon or Henry sells all or any portion of either the Leon Property or the Henry Property, such Owner will be released and discharged from any all obligations as an Owner arising under this Joint Use Access Easement after the date of the conveyance of title to such property, but shall remain liable for all obligations arising under this Joint Use Access Easement prior to the date of conveyance of title. The new owner will be liable for all obligations arising under this Joint Use Access Easement with respect to such property after the date of conveyance of title to such property.

7. **Severability and Construction.** The provisions contained herein shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular. All captions and titles used in this instrument are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs hereof.

8. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting in a subsequent modification in writing, signed by the party to be charged.

9. **Attorney's Fees.** In the event of any controversy, claim or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the non-prevailing party reasonable expenses, attorney's fees and costs.

10. **Indemnity.** The Owners hereby agree to and shall indemnify and hold harmless each other from any and all liability, damage, expense, cause of action, suits, claims (including attorney's fees), or judgments arising out of or connected to the use of the Easement Tract, except if such liability, etc., is caused by the sole act, failure to act, or negligence of the other party, its agents, employees, invitees or guests.

11. **Binding Effect.** This instrument shall bind and inure to the benefit of the respective parties, their personal representatives, successors and assigns.

Executed to be effective on this 1 *day of* October, 2002.

LEON:

Sara Hardner Leon

Jeffrey C. Leon

HENRY:

Donald E. Henry, Jr.

Patricia A. Alvey

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 1st day of Oct., 2002, by Sara Hardner Leon, an individual residing in Travis County, Texas.

MAGDALENA G. POWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
AUGUST 18, 2007

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 1st day of Oct., 2002, by Jeffrey C. Leon, an individual residing in Travis County, Texas.

MAGDALENA G. POWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
AUGUST 18, 2007

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ___ day of _____, 2002, by Donald E Henry, Jr., an individual residing in Travis County, Texas.

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 16 day of July, 2002, by Patricia A. Alvey, an individual residing in Travis County, Texas.

Magdalena G. Barnard
Notary Public, State of Texas

AFTER RECORDING RETURN TO:

Kristofer Kasper
ARMBRUST & BROWN, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701

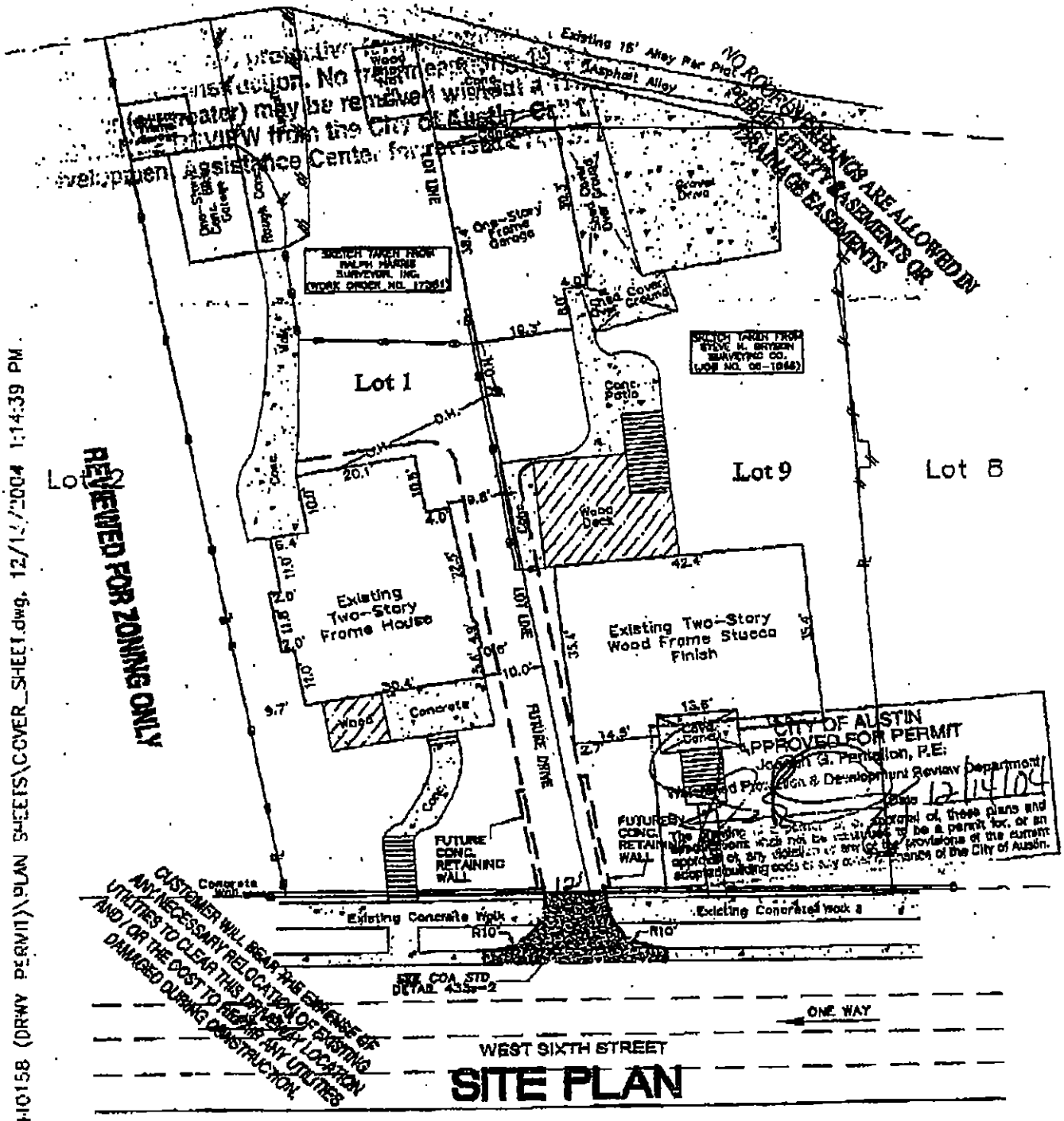
MAGDALENA G BARNARD
NOTARY PUBLIC
State of Texas
Comm. Exp.08-10-2003

EXHIBIT "A"

Easement Tract

EXHIBIT "B"

Approved Driveway



Closed Caption Log, Council Meeting, 9/26/02

Note: Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. **These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes.** For official records or transcripts, please contact the City Clerk at 974-2210.

Mayor Garcia: THANK YOU, MR. LARKIN. OKAY. SARAH LEE YOUNG AND MELISSA GONZALES ARE BOTH REGISTERED ON ITEM NUMBER 26. THAT'S A CONSENT ITEM. WELCOME.

#26

GOOD AFTERNOON MEMBERS OF THE COUNCIL. THANK YOU SO MUCH FOR ALLOWING ME TO ADDRESS YOU TODAY. I OWN A PIECE OF PROPERTY AT 17067 WEST SIXTH STREET. I FILED LETTERS WITH YOUR STAFF IN REGARDS TO THAT PROPERTY. AND I'M ALSO HERE ON BEHALF OF OUR NEXT DOOR NEIGHBORHOOD, ADJACENT PROPERTY OWNER, 1706 WEST SIXTH STREET. THESE PROPERTIES ARE THE ONLY REMAINING SF-3 PROPERTIES ON THAT ENTIRE STRETCH OF SIXTH STREET. IT HAS -- WE HAVE COMMERCIAL USE ALL AROUND US AND WE WOULD LIKE TO BE INCLUDED IN THE UPGRADED ZONING THAT YOU ARE DOING IN ACCORDANCE WITH THE NEIGHBORHOOD PLANS. AND ESSENTIALLY WE WANT TO BE TREATED LIKE THE OTHER PROPERTIES ON SIXTH STREET IN ACCORDANCE WITH THE NEIGHBORHOOD PLAN, WHICH WOULD BE TO UPGRADE THOSE TWO PROPERTIES TO AN N.O. WITH A CONDITIONAL OVERLAY. I WOULD SPECIFICALLY ASKED -- I SIGNED IN FAVOR, BUT I WOULD OBJECT TO BEING EXCLUDE FROM THE UPGRADE OF THE SURROUNDING AREAS UNLESS WE COULD ALSO BE INCLUDED SIMILARLY. AND I WOULD ASK THE COUNCIL TO DIRECT STAFF TO INITIATE A ZONING CHANGE AT 17 OF AND 1708 WEST SIXTH STREET IN ACCORDANCE WITH THE EXISTING NEIGHBORHOOD PLANS. THANK YOU VERY MUCH.

Mayor Garcia: ALICE RAILROAD GREG, CAN YOU ADDRESS THAT ISSUE? ALICE OR GREG.

I'M GREG GURN GURNSEY, PLANNING AND ZONING DEPARTMENT. WE DID RECEIVE TWO LETTERS ABOUT THESE TWO PROPERTIES, 1706 AND 1708 WEST SIXTH STREET. THE PETITIONS WOULD BE AGAINST -- SINCE THERE'S NO BASE DISTRICT ZONING CHANGE IN THE PROPERTY, FROM THE SF-3 THAT EXISTS, IT WOULD BE A COMBINING DISTRICT. IN ORDER TO OPPOSE THAT TO HAVE A VALID PETITION, WE WOULD NEED 20% OF THE LAND OTHER NEIGHBORHOOD TO OPPOSE IT. IT'S MY UNDERSTANDING TALKING WITH SARAH THAT SHE'S NOT NECESSARILY OPPOSED TO THE NP, BUT SHILD LIKE THOSE TWO PROPERTIES TO BE UP ZONED IN ACCORDANCE WITH THE ADOPTED PLAN AND HER AND HER NEIGHBOR WOULD BE AGREEABLE TO THE CONDITIONAL OVERLAY THAT WOULD BE PLACED ON THE PROPERTY THROUGH A ZONING CHANGE.

THAT WOULD MAKE IT IMPORTANT TO THE PLAN. SO I GUESS WHAT SHE HAS ASKING FROM YOU IS THAT COUNCIL DIRECT STAFF TO INITIATE A ZONING CHANGE ON ON THESE TWO PROPERTIES TO BE SIMILAR TO THE ZONING ON EITHER SIDE OF HER PROPERTY, WHICH IS CURRENTLY LIKE AN LO AND NO. THAT IS YOUR PREROGATIVE. YOU CAN CERTAINLY DIRECT US TO GO DO THAT. IT WOULD BE AT NO EXPENSE TO HER AND HER NEIGHBOR. I THINK EARLIER ON THEY WERE INVOLVED WITH THE PROCESS STAFF THAT COULD HAVE INCLUDED THAT CHANGE EARLIER ON IN THE PROCESS AND PROVIDED FOR THE NECESSARY NOTICE. TODAY WITHOUT HAVING THE PROPER POSTING, THE PROPER NOTIFICATION, WE COULD NOT UP ZONE THESE TWO TRACTS TODAY.

Mayor Garcia: SO WE CAN DO TODAY WHAT'S ON THE AGENDA AND THEN LATER ON BRING THAT ITEM?

THAT'S CORRECT [redacted] ZONING CHANGE ON THESE TWO PROPERTIES AND BRING THIS BACK FOR OFFICE ZONING.

Mayor Garcia: DOES IT HAVE TO GO BACK TO THE NEIGHBORHOOD GROUPS?

IT WOULD HAVE TO GO BACK TO THE PLANNING COMMISSION FOR THEIR RECOMMENDATION. IT WOULD BE TREATED AS ANOTHER APPLICATION.

Mayor Garcia: QUESTIONS FOR MR. GURNSEY?

Thomas: > Wynn. MAYOR? BRIEFLY, IT SEEMS TO ME THAT PART OF THE WHOLE NEIGHBORHOOD PLANNING PROCESS, THESE TRACTS WOULD HAVE BEEN IDENTIFIED AS A DIFFERENT – BASE ZONING CATEGORY THAN OTHER PROPERTIES UP AND DOWN THE STREET THERE AND THE NEIGHBORHOOD PLANNING PROCESS WOULD HAVE LIKELY RECOMMENDED AT LEAST A MIXED USE RECOMMENDATION. WHY DIDN'T THAT HAPPEN AS PART OF THE OVERALL PLAN?

I READ THE PLAN BRIEFLY WHEN WE WERE OUTSIDE [redacted] THAT THE OWNER WOULD HAVE TO AGREE TO ABOUT LIMITING ACCESS AND PROVIDING SOME BUFFERS. THE PLAN ACTUALLY SAID IT COULD BE USED FOR RESIDENTIAL, BUT IT IS NOT USED FOR RESIDENTIAL FOR A BUSINESS PURPOSE, THERE'S SOME LIMITATIONS ON ACCESS, THERE'S CONDITIONS FOR A BUFFER, AND SINCE [redacted] – SINCE THE PROPERTY OWNERS WERE NOT AWARE OF THIS GOING ON AND DID NOT ALERT STAFF, WE DID NOT PLAN FOR THE UP ZONE OF THIS PARCEL. IN THE PAST THE PROPERTIES ON EITHER SIDE HAVE PAID THEIR OWN FEES AND ASKED FOR REZONING. THEY COULD BE MADE A PART OF THIS PROCESS AND I THINK THE PROPERTY OWNERS AND THE STAFF HAD A DESIRE TO CHANGE THE ZONING.

Wynn: IS SEEMS LIKE PART OF THE PROCESS, WE TRY TO IDENTIFY PERHAPS A COUPLE -- IF THERE'S AN INDIVIDUAL TRACT OR TWO THAT'S OUT OF PLACE HAVE A ZONING CATEGORY ALONG A COMMERCIAL EAST NEIGHBORHOOD PLAN, WE IDENTIFY THAT AND WE DON'T -- I DIDN'T THINK WE HAD TO RELAY ON THE PROPERTY OWNER TO RECOGNIZE THAT PERHAPS THEIR PROPERTY WAS UNDERZONED.

I THINK IN THIS PARTICULAR INSTANCE IF THOSE PARCELS THAT IT COULD HAVE BEEN USED EITHER WAY AS A RESIDENT STILL TAKING ACCESS TO THE ALLEY. OR IF THERE'S A CHOICE OF GOING TO COMMERCIAL THAT THE ALLEY ACCESS IN THIS CASE WOULD BE LIMITED AND BUFFERS PROVIDED. I THINK WHAT I SAW IN THE NEIGHBORHOOD PLAN WAS PEOPLE COMING IN AND TALKING TO THE LADY AND THE NEIGHBORHOOD PLANNER, IT COULD GO EITHER WAY ON THIS PARTICULAR TRACK.

Wynn: THANK YOU, MAYOR.

Mayor Garcia: MAYOR PRO TEM?

Goodman: I WAS GOING TO ASK IF THERE HAS TO BE A SPECIFIC MOTION TO -- WHAT IS THE WORD WE USE FOR PLUCKING OUT? WE PASS THE NEIGHBORHOOD PLAN ON SECOND AND THIRD READING, BUT WITHOUT?

THIS IS JUST THE ZONING CASE BEFORE YOU. SO IF COUNCIL WOULD LIKE, YOU COULD GO AHEAD WITH YOUR MOTION TO DIRECT STAFF TO INITIATE A REZONING OF THESE PARCELS. IT'S MY UNDERSTANDING TALKING TO SARAH AND SHE DID NOT OBJECT TO HAVING THE NP, SHE WOULD LIKE THE OTHER OFFICE OPTION. SO WE COULD GO FORWARD WITH THE ZONING CASE TODAY TO APPLY THE NP, AND THEN WHAT SHE WOULD CERTAINLY LIKE WOULD BE FOR COUNCIL TO INITIATE STAFF TO REZONE THESE PARCELS TO BE PART OF THE COMMERCIAL PROPOSAL THAT'S ALLOWED UNDER THE NEIGHBORHOOD PLAN.

Goodman: BUT THEN HAVEN'T WE DE FACTO IN THE FUTURE WHEN IT COMES BACK, AMENDED THE NEIGHBORHOOD PLAN? IRK THE NEIGHBORHOOD PLAN WOULD NOT HAVE TO BE AMENDED IF THE DIFFERENT RESTRICTIONS THAT ARE OUTLINED IN THE PLAN, WHICH I'VE BEEN TOLD SHE IS IN AGREEMENT WITH, THOSE COULD BE INCORPORATED WITH THE CO, SO THIS WOULD BE GOING FROM SF-3 NP TO, I GUESS, N.O.-CO-NP WITH THOSE RESTRICTIONS WITHOUT A CHANGE TO THE NEIGHBORHOOD PLAN. AND THAT COULD BE DONE AT A LATER DATE.

Goodman: IT DOESN'T AMEND THE LETTERS, THE LAND USE THAT WAS LAID OUT BY THE NEIGHBORHOOD PLANS. THEY DIDN'T CHANGE -- DO YOU KNOW WHAT I MEAN? MAYBE WE'RE NOT DOING ANYTHING, BUT I'M NOT COMFORTABLE WITH ANYTHING THAT FEELS LIKE THAT.

I THINK THE EASIEST WAY WOULD BE IF YOU DEREK STAFF TO INITIATE -- DIRECT STAFF TO INITIATE THIS CASE WHERE THE PROPERTY OWNER WOULD NOT HAVE TO PAY A FEE AND THEN WE COULD BRING FORWARD THE N.O., MU,-CO IN ACCORDANCE WITH THE PLAN WITH THOSE RESTRICTIONS. AND THE PLAN BASICALLY, AS IT CALLS OUT, IT SAYS THAT THERE ARE NO ZONING CHANGES TO A MORE PERMISSIVE CATEGORY WITH SOME EXCEPTIONS. THE NORTH SIDE OF THE SIXTH STREET DISTRICT IF THE PROPERTY IS OWNED SF-3, WHICH THIS PROPERTY IS, BUT THERE'S A LIMITATION ON THE NUMBER OF TRIPS. AND THAT BUSINESS ACCESS TO THE REAR ALLEY, WHICH IS USED BY THE RESIDENTS, IS PROHIBITED. AND THAT THERE IS ALSO A BUFFER STRIP PROVIDED FOR ON THE PROPERTY. AND WITH THOSE CONDITIONS THE PLAN WOULD RECOGNIZE THAT THAT PROPERTY COULD BE USED FOR COMMERCIAL. SO WHETHER IT'S USED FOR RESIDENTIAL OR COMMERCIAL USE AS PART OF THE PLAN, EITHER WAY IT WOULD BE AN IMPORTANT PART OF THE PLAN.

Goodman: JUST AS A HISTORICAL CONCEPT, WHEN THIS STREET STARTED GOING TOTALLY OFFICE, I DON'T THINK I WAS ALL THAT SUPPORTIVE AND IT WAS KIND OF LATE IN THE DAY WHEN IT HAPPENED. SO THAT'S THE REASON THAT I THINK IT'S VERY DIFFICULT TO TREAT THE -- [INAUDIBLE]

Mayor Garcia: DID YOU HEAR WHAT THE MAYOR PRO TEM?

I DIDN'T CATCH THE LAST PART.

IT WAS HISTORY, BUT GREG WAS AROUND BACK THEN. WHEN THEY FIRST STARTED CHANGING TO OFFICE OR BUSINESS USE AND TAKING ACCESS OFF THE ALLEY, I WASN'T REALLY SUPPORTIVE OF THAT TREND. I THOUGHT IT WAS A DOMINO AND SURE ENOUGH IT WAS A DOMINO FACTOR, WHICH IS WHY I STILL DON'T THINK THAT EVER SHOULD HAVE STARTED, BUT SINCE THERE'S ONLY A LITTLE BIT LEFT THAT ISN'T TREATED THE SAME, THEN MY GOAL HERE IS THAT NO ONE BE PENALIZED BECAUSE OF THAT BUT BUT I NOTICED YOU WERE TALKING TO MARTY ABOUT MAYBE THE AMENDMENT PROCESS. BECAUSE THAT DOES BOTHER ME.

THERE IS NO PLAN AMENDMENT THAT WOULD BE REQUIRED TO -- LEAVE THESE EITHER SINGLE-FAMILY NP OR TO DO N.O.-CO-NP IN THE FUTURE WITH OTHER REQUIREMENTS OR OTHER CONDITIONS THAT ARE APPLIED. SO BY YOUR ACTION TODAY, YOU COULD APPROVE THE NEIGHBORHOOD PLAN FOR THE ZONING ON ALL THREE READINGS TODAY. THE [redacted] AND THE ADJACENT PROPERTY OWNER WOULD NOT INCUR A FEE. SO IF YOU'RE AGREEABLE TO THOSE CONDITIONS THAT ARE ALREADY LAID OUT IN THE PLAN A THA ALLOWS THAT COMMERCIAL USE, THEN IT WOULD BE BACK BEFORE YOU LATER.

Slusher: MAYOR, CAN I FOLLOW UP?

Mayor Garcia: COUNCILMEMBER SLUSHER.

Slusher: SO I'M NOT CLEAR ON, ONE, WAS THIS DISCUSSED BY THE PLANNING TEAM, THE NEIGHBORHOOD PLANNING TEAM, THIS PARTICULAR ISSUE?

LET ME LET ONE OF THE NEIGHBORHOOD PLANNERS DISCUSS ABOUT THOSE MEETINGS.

THE NEIGHBORHOOD ZONING NOTED THAT THERE WERE A SMALL HANDFUL OF PROPERTIES ON SIXTH STREET THAT STILL HAD SF-3 ZONING IN THAT AREA. AND WROTE A SPECIFIC PROVISION INTO THE PLAN LAYING OUT THE CONDITIONS THAT THEY WOULD FIND ACCEPTABLE IF SOMEONE WERE TO COME IN AND REZONE THAT PROPERTY TO A NEIGHBORHOOD OFFICE CATEGORY. BUT THEY OPTED NOT DO THAT REZONING, BUT LEAVE THE DOOR FOR SOMEBODY TO COME IF THEY COULD MEET THESE SPECIFIC CONDITIONS.

Slusher: IS THAT WHAT WE'RE TALKING ABOUT HERE? MEETING THESE CONDITIONS THAT ARE LAID OUT?

SHE SAID SHE WOULD BE AGREEABLE TO THE CONDITIONS LAID OUT IN THE PLAN?

Slusher: AND THAT'S WHAT Y'ALL DETERMINED BEFORE YOU BRING IT BACK TO US. WOULD BE TO BRING IT BACK TO US. YOU SAID NO AND THEY SHOOK THEIR HEAD YES. MAYBE WE OUGHT TO GET A VERBAL.

AS I UNDERSTAND, SHE IS AGREEABLE TO THE DIFFERENT CONDITIONS THAT ARE LAID OUT IN THE NEIGHBORHOOD PLAN. WE COULD NOT TAKE ACTION ON THOSE TODAY. IF COUNCIL INSTRUCTED US TO INITIATE A NEW CASE, WE COULD BRING BACK A NEW ZONING CASE THAT HAS THOSE CONDITIONS THAT ARE IN THE NEIGHBORHOOD PLAN AN MAKE THAT A PART OF THE ZONING ORDINANCE IN THE FUTURE.

Slusher: OKAY. WHAT YOU'RE SAYING IS THE PROCESS IS LAID OUT BY THE NEIGHBORHOOD PLANNING TEAM.

THAT'S CORRECT.

Goodman: THE ZONING TODAY ALL HAS NP ON IT, RIGHT?

THAT'S CORRECT.

Goodman: SO THE ZONING AT THIS MOMENT IS NP, AND THE NEW PROCESS, THE REZONING PROCESS WILL BE REZONING SF-3-NP TO N.O.-CO-NP?

THAT'S CORRECT.

Goodman: SO THE NP WE DO TODAY. AND THE SPECIFIC ZONING USE WITHIN THE LIMITATIONS OF THE MP ARE WHAT WE'LL BE LOOKING AT IN THE FUTURE.

Mayor Garcia: SO EVERYBODY IDEAS, WE'RE GOING TO APPROVE THIS AND THEN *YOU'RE GOING TO RUN THIS PROCESS SO IT WILL STAY CONSISTENT WITH THE PLAN?*

[redacted] ADDRESSED IN THE NEIGHBORHOOD PLAN, AMENDING THE NEIGHBORHOOD PLAN, BUT WITH CONDITIONS AND DIRECT STAFF TO BRING THAT BACK AT A LATER DATE, AND WE WILL BEGIN THAT PROCESS AND JUST MAKE THAT PART OF YOUR MOTION FOR THE APPROVAL OF THE WEST AUSTIN NEIGHBORHOOD PLAN REZONING CASES AND THE NP.

Mayor Garcia: EVERYBODY UNDERSTAND IT?

AND COUNCIL, I -- IT SHOULD BE N.O.-MU AND NOT C.O.-NP ON THOSE TWO PROPERTIES. SO NEIGHBORHOOD OFFICE MIXED USE COMBINING DISTRICT NEIGHBORHOOD PLAN.

AND JUST FOR THE RECORD, IF IT PLEASE THE COUNCIL, [redacted]

I'M WITH THE WESTERN AUSTIN ALLIANCE. AND ALSO WHEN THIS STARTED WITH THE *WEST END ASSOCIATION AND WE JUST REPRESENTED THE BUSINESS INTERESTS* THAT WERE INVOLVED IN THE FORMATION OF THIS PLAN. I WAS ONE OF THE PEOPLE WHO WALKED THE NEIGHBORHOOD AND GAVE NOTICE, AND I JUST WANT TO SAY THAT THE CITY STAFF DID AN EXTRAORDINARY JOB TRYING TO GET EVERYBODY INVOLVED AND WORKING OUT THE DETAILS AND HAVING SIX MEETINGS, WHICH WE WROTE YOU IN A LETTER ABOUT. SO THEY WORKED REALLY HARD. I THINK TO THE BEST OF THEIR ABILITY THE CITY STAFF HAS TRIED TO DEAL WITH EVERYONE'S CONCERNS. AND IF THERE ARE ANY OTHER QUESTIONS, I'D BE HAPPY TO ANSWER THEM.

Mayor Garcia: OKAY.

I'M GLAD TO HAVE A CHANCE TO SME WITH YOU. I'M WITH THUNDER CLOUD AND RUN TEXT AND CARE TOSS, ALL OF THEM ABOUT. AND I JUST WANT TO SHOW OUR APPRECIATION FOR WAIVING SOME OF THE FEES THAT WILL HELP MUCH MORE OF THE MONEY TO GET TO THE CHARITY. THANK YOU.

Mayor Garcia: THANK YOU, MS. ENGLAND. COUNCIL, THAT'S ALL THE SPEAKERS THAT WE HAVE ON THE CONSENT AGENDA. LET ME READ THE CONSENT AGENDA --

Slusher: MAYOR, BEFORE YOU START, I'D LIKE TO PUT 73 BACK ON.

Mayor Garcia: 73. OKAY.

Slusher: AND ALSO, WE HAD AN E-MAIL -- I THINK IT JUST CAME TODAY. NO, IT ACTUALLY CAME YESTERDAY. ON NUMBER 50, THE TREE PLANTING PROGRAM. AND IT'S FROM ONE OF OUR URBAN FORESTRY MEMBERS. AND SHE RAISED A POINT THAT I WOULD LIKE TO HAVE THE STAFF ADDRESS. SO IF NO ONE HAS CHECKED, I WOULD LIKE TO POSTPONE THAT FOR A WEEK AND HAVE THE STAFF ADDRESS THE POINTS THAT WERE BROUGHT UP.

Bolt, Thomas

From: Kris Kasper [KKasper@abaustin.com]
Sent: Tuesday, April 19, 2005 2:55 PM
To: Bolt, Thomas
Subject: FW: support letters

Don't know if you have this. Thanks.

Dear Mr Bolt,

I live at 1825 Waterston, just block from the properties applying for NO zoning. Â I support that NO zoning for Â 1706 (Sara and Jeffrey Leon) and 1708 (Don Henry and Patty Alvey West 6th Street which is scheduled to go before the Planning and Zoning Commission on April 26, 2005. These properties would be changed to NO zoning with additional limitations (such as limitations on traffic and requirements for a visual barrier at the alleyway), as specified by the Old West Austin Neighborhood Plan -- approved by the Planning and Zoning Commission.

At the direction of the City Council, their staff has filed an application to modify the current SF-3 to NO zoning, in conformance with the Neighborhood plan. The property at 1706 is currently being used as a small law firm, and the property at 1708 is currently owned by Don Henry and until recently ws used as their home. Â Â I am expressing support for the proposed rezoning.

Â

Feel free to email or call me.

Â

Aralyn Hughes

Clarksville resident for 25 years

Former Neighborhood (OWANA) Board Member

512-476-0682

Â

Â

Barley & Pfeiffer Architects
Comprehensive Sustainable Architecture, Interiors, and Consulting

Thomas Bolt
City of Austin Neighborhood Planning and Zoning
Via fax: 974-6054

April 7, 2005

Re: Case number C14-05-0025 Sarah and Jeffrey Leon's request for 1706 and 1708 NO zoning

Dear Thomas:

I expressed my support for this zoning change on the phone with you a few weeks ago and I wanted to follow up with a letter of support. I hope it is still timely to do so.

This case is of particular interest to those of us concerned about the long term viability of this neighborhood. Presently it serves as a positive example of Jane Jacobs' book on living and working environments successfully co-existing. I am afraid that if this zoning change is not granted than the best use for these properties, given their location on busy West 6th Street, would revert to transient residential housing. We had that in this area fifteen years ago when I first purchased my property and I would hate to see a reversion to this. The neighbor hood is cleaner, healthier, and more vibrant now.

The two properties referenced in this case have had businesses running out of them for quite a while and there have no problems with such. These properties have been accessed from the public alley behind them and that seems to work very well – and seems to keep the traffic situation safer than if access would be attempted from 6th Street.

I know this is a sensitive issue to some of those living nearby, but am speaking from my heart. We all must do our part to diminish the pressures that encourage suburban sprawl.

Should you have any further questions about this, please do not hesitate to contact me

Warmest Regards,

Peter L. Pfeiffer FAIA

Peter L. Pfeiffer FAIA
VAIRBA PROPERTIES and BARLEY + PFEIFFER ARCHITECTS
property owners of 1800, 1802, 1804 West 6th Street and 604 Patterson Street

Barkley & Associates
Certified Public Accountants

March 21, 2005

Mr. Thomas Bolt
City of Austin
Neighborhood Planning and Zoning Department
P. O. Box 1088
Austin, Texas 78767

Case Number: C14-05-0025-1706-1708 West 6th Street

Dear Mr. Bolt:

I am the owner of the property located at 1704 West 6th Street. I am completely in support of the application to change the zoning on the properties located at 1706 and 1708 West 6th Street.

All of the other property on the south side of the block is already zoned for commercial use as is, so far as I know, virtually all of the property on 6th Street between Lamar and Mopac. I do not feel that a change in zoning would have any adverse impact on surrounding properties from either an esthetic point of view or from traffic flow changes.

Should you have any questions regarding my support, please give me a call.

Sincerely,

Clifton W. Barkley

1704 West Sixth Street, Austin, Texas 78703 Phone 512-472-4095 Fax 512-472-9001

Bolt, Thomas

From: Chris John [chris@unitedbenefitadvisors.com]

Subject: Case Number C14-05-0025-1706-1708 West 6th Street

Mr. Bolt

I am the owner of the property located at 1700 West 6th Street, and I am firmly in support of the application to change the zoning of the properties located at 1706 and 1708 West 6th Street.

As far as I know (with the exception of these two parcels) the all of the properties on both sides of this block are zoned for commercial use. The properties at 1706 and 1708 are not suitable for single family use (especially families with small children). Traffic on 6th street can be heavy and noisy, as drivers prepare to ramp onto MoPac. The only use these properties are suited for is small office use. I do not feel that a change in zoning would have any adverse impact on any of the surrounding properties from either a financial, esthetic or traffic point of view. In fact it seems to me that the small offices along the north side of this block act as an important noise buffer for the neighborhood to the north of us.

Please approve this zoning change. Feel fee to call me regarding my support if you have any questions.

Chris John,

Chief Executive Officer and Co-Founder,
United Benefit Advisors (UBA),
"An Alliance of The Nation's Premier Independent Benefit Advisory Firms"
1700 West 6th Street, Suite "A"
Austin, TX 78703
Email: (chris@unitedbenefitadvisors.com) (***Please note new address***)
Office: 512-617-8713
Fax: 512-478-8786
Corporate Website: (http://unitedbenefitadvisors.com)
Employer Website: (http://benefits.com)

Bolt, Thomas

From: Blake Buffington [bbuffington@buffingtonlaw.com]
Sent: Thursday, April 21, 2005 3:59 PM
To: Bolt, Thomas; greg.gurnsey@ci.austin.tx.us

Messrs. Bolt and Gurnsey,

This email is being sent in support of the above referenced application.

I am writing to you as the owner of a small business on the adjacent NO zoned property which is located at 1710 West Sixth Street. Following my review of the Old West Austin Neighborhood Plan and in light of the predominant use of property along 6th Street, it is my opinion that the City should approve a zoning change on the subject property from SF-3 to NO.

Please feel free to contact me if you have any questions.

Blake Buffington
The Buffington Law Firm, P.C.
1710 West Sixth Street
Austin, Texas 78703
(512) 472-8070
(512) 472-0180 (facsimile)
bbuffington@buffingtonlaw.com

STATEMENT
RE: C14-05-0025 – 1706 & 1708 W. 6TH ST.
CITY OF AUSTIN – PLANNING COMMISSION

My name is Paul Seals. My wife and I are opposed to the proposed zoning change. We are the owners of 1709 Francis Avenue, a property that is affected adversely by the recommendation of the staff in this zoning case. We have lived there for the past 18 years. I am also a member of Old West Austin Neighborhood Association Steering Committee. This is my second tour of duty on the Steering Committee, having served in the late 90's. I was also a member of the Neighborhood Planning Team, with responsibility for the land use policies incorporated into the Neighborhood Plan that was approved in 2000.

This is not my first appearance before this Commission regarding 1706 West 6th Street. The previous owner, filed a zoning request in 1998, which was denied by the City Council. The rationale for the denial of both that 1998 case and an earlier case involving 1804 West 6th formed the basis for the specific language in the Neighborhood Plan, which is applicable to this case. Dave Sullivan, who was also a member of the Planning Team took the lead in crafting this language.

The staff recommendation is contrary to the City Council instructions relating to this case.

The fundamental question before you tonight should be: why in the world are we here considering this zoning request? I hope that you have reviewed the transcript from the City Council Meeting of September 26, 2002. It is clear that the Council directed the staff to initiate rezoning after being assured by the owners of 1706 West 6th that they were aware of and would comply with the limitations in the Neighborhood Plan. For two and half years, the staff has pondered this case. Instead of going back to the Council for reconsideration and further instructions, the staff has recommended approval of the rezoning in violation of the Neighborhood Plan. If there is a problem with the Plan, the appropriate procedure should be to consider revisions to the Plan instead of what you have before you which is a recommendation to disregard the Plan. This Commission should not be considering a recommendation from the staff that is not in conformance with the Neighborhood Plan.

The land use provisions for the North 6th Street District are fundamental provision of Neighborhood Plan.

The provisions are designed to accomplish one of the overarching goals of the Neighborhood Plan's Land Use Policies – preservation of the residential core of the neighborhood by protecting against erosion from the edges. The provisions for the North 6th Street District are designed to establish a defined barrier between commercial and residential properties. The Plan specifically prohibits alley access, which would impact residential properties. The staff proposal eviscerates the Neighborhood Plan.

The staff recommends that the rezoning include access through the existing narrow alley and a privately-owned driveway in clear violation of the Neighborhood Plan, which prohibits business

access through the alley and requires access through a street with minimum width of 36 feet. Although properties at either end of the 1700 Block of West 6th are zoned commercial, each rezoning required direct access off of either Augusta St. or Patterson Ave. both of which had to

The staff recommendation is not enforceable.

The staff has recommended site ingress off West 6th with egress through the alley. How will these restrictions be enforced, particularly in light of the on-going willful violations of existing zoning? There are no practical methods to enforce the restriction short of stationing a policemen in the alley or constructing one-of those one-directional metal-barbed strips that you find at car rental locations.

The staff recommendation results in the condemnation of residential property.

Under Transportation on page 5 of the review sheet, the staff recommends that the currently existing pavement north of the dedicated alley should be dedicated as a public right-of-way. I assume this means that the City would condemn a portion of my property as well as at 1707 Francis to accommodate the rezoning. Please note the aerial photo in your back-up materials, which has been marked to show the dedicated alley. The alley dead-ends behind 1706 West 6th and my property. Previous residential owners paved a driveway across the southern portion of my property to connect to another alley to the west. The City proposes that access be through my property.

If the City wants to exercise this power of eminent domain, at least it should be done consistent with the Neighborhood Plan. The City could acquire a strip of land south and parallel to the existing alley to provide direct commercial access off of Augusta Street. This would not only be consistent with the Neighborhood Plan by providing for the construction of a barrier between the commercial and residential properties it would also correct fence that was constructed contrary to the City's approval of the rezoning of 1700-04 West 6th in the early 80's.

The City should not reward willful violation of the existing zoning.

Since 1997, shortly after the previous owner purchased the house from long-time residents and converted the house to an office, the residential neighbors have been complaining to the City about the illegal commercial use. Even after the rezoning was denied in 1998, the City did nothing in response to our complaints for the continued illegal use.

Shortly after the Leons acquired 1706 West 6th from the previous owner, I happened to meet them in the alley between our houses. I noticed their young child. I introduced myself and welcomed them to the neighborhood and started to praise our neighborhood elementary school. They looked at me with disbelief and told me that Sarah Leon was going to open her law office in the house and they had no intention of living there. I advised them of the residential zoning of the property and the past denial of the attempt at rezoning. With full knowledge of the zoning, Sarah Leon opened her office. We continued filing our complaints. The Leons continue their illegal use. What started out as one or two cars parked off the alley is now 6 to 8 cars double-

parked. Their backyard is now a parking lot. The parking has spilled over into the dedicated alley.

they ask the City to help them out. One of the fundamental principles of equity is clean hands. You do not seek equity unless you have clean hands. Neither this Commission nor the City should feel any compunction to grant the relief sought by the Leons.

As a resident of Austin , I find it unconscionable that the City staff appears to go to any length to force fit a rezoning to solve a problem of the Leon's own creation to the detriment of our neighborhood. That is surely not what the Council intended when they directed the staff to initiate this case.

Finally, I would ask you to consider what has been going on in our immediate neighborhood. In the past 5-10 years there has been a tremendous investment and growth in the owner-occupied residential properties along Francis, Patterson and Theresa. Because of the location, people want to live here. Just because the Leons were never interested in 1706 as a residence does not mean others would not be.

Our neighborhood is a real special place – something worth fighting for!!!

My family urges this Commission to reject the staff's recommendation to rezone these properties.

Paul Seals
1709 Francis Ave.
499.6203 (o)
474.0904 (h)
pseals@akingump.com

512-441-5212
mreed4@aol.com

Bolt, Thomas

From: Kris Kasper [KKasper@abaustin.com]
Sent: Tuesday, April 26, 2005 3:11 PM
To: Bolt, Thomas
Subject: FW: CCDC re rezoning

fyi
-----Original Message-----
From: Sara Leon [mailto:sleon@powell-leon.com]
Sent: Tuesday, April 26, 2005 3:09 PM
To: MReed4@aol.com
Subject: FW: CCDC re rezoning

Thanks so much for checking on this! We'll keep you up to date on our progress.

Sara Leon

From: MReed4@aol.com [mailto:MReed4@aol.com]
Sent: Tuesday, April 26, 2005 2:58 PM
To: sleon@powell-leon.com
Subject: CCDC re rezoning

I was finally able to track down 5 CCDC board members (representing a quorum of our board) and all 5 have no problem with the rezoning given that the houses are on 6th Street and the businesses located in those houses will not generate a lot of traffic through the neighborhood. So, you can say that you have the support of the CCDC board.
Mary

Mary Reed
MR•PR
1101 Charlotte Street
Austin, TX 78703
512-441-5212
mreed4@aol.com

Bolt, Thomas

From: Jody Bickel [JBickel@abaustin.com]
Sent: Tuesday, April 26, 2005 12:45 PM
To: jmvcortez@hotmail.com; ksource@hotmail.com; cidg@galindogroup.com; Riley, Chris; matt.pc@newurban.com; jay_reddy@dell.com; Cynthia.medlin@sbcglobal.net; sully.jumpnet@sbcglobal.net; Bolt, Thomas
Cc: Kris Kasper
Subject: 1706 & 1708 W. 6th Street (C14-05-0025 - Agenda Item 5)

Kris Kasper asked me to forward this message to you all regarding tonight's Agenda Item 5.

Dear Commissioners:

I represent Sara Leon and Don Henry, as owners of the property located at 1706 and 1708 W. 6th Street, in the zoning case before you tonight (C14-05-0025 - Agenda Item 5). I wanted to provide you all with some history of this case.

Based on the character of 6th street, the numbers of office and retail properties up and down 6th street, and the heavy traffic associated with 6th street, most people agree that these two properties are no longer appropriate for residential use. Your backup packet should contain some support letters from adjacent property owners. Also, the Old West Austin Neighborhood Plan's future land use map recognizes that both of these properties should be changed to office use. In order to be re-zoned to office, though, the plan recommended that a CO be placed on the properties that would : (i) limit each property to 40 trips/day; (ii) prohibit business access through the alley; (iii) require business access from a street with a minimum width of 36'and (iv) install a 10' vegetative buffer or 6' high masonry fence to separate the business use from the adjacent residential properties.

Both Sara and Don became involved with the Old West Austin Neighborhood Plan at the end of the process. Both owners attended the City Council meeting in Sept. of 2002. At that time, City Council directed staff to initiate a zoning case on the properties to re-zone the property NO-MU-CO-NP. At that meeting, staff stated that "staff will look at the conditional overlays that will be addressed in the neighborhood plan, amending the neighborhood plan with conditions, and direct staff to bring that back at a later date." Essentially, staff agreed to revisit both the zoning and conditional overlay recommended for the properties.

In accordance with Council's request that the overlay and zoning be evaluated, staff has now reviewed and modified the recommendation originally proposed by the neighborhood plan. Staff now recommends the NO-MU-CO-NP zoning, but the overlay that is different from the neighborhood plan. This overlay recommends that: (i) combined trips for both properties be limited to 145/day; (ii) ingress to the property be from 6th Street with egress to the alley; and (iii) a 10' buffer or 6' masonry fence be installed, except where egress is located. The owners are happy to comply with staff's current recommendation, if that is the Commission's intent. The owners have been able to obtain a curb cut on to 6th Street. However, we recognize that a driveway entrance on 6th street is extremely dangerous in this location. At the bottom of this email, I have attached an email from Emily Barron, Sr. Planner with Transportation Review. Ms. Barron recognizes that staff's "initial preference was to have all of the access off of the alley," but to satisfy some neighbor concerns about traffic on the alley, staff modified its original recommendation. In accordance with staff's initial preference, the owners respectfully request that the overlay be revised so that all ingress and egress off of the alley be considered

for safety reasons.

Thank you for your time. Please feel free to call or email me with any questions.

Kris Kasper

Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701
512-435-2325 (ph)
512-435-2360 (fax)

-----Original Message-----
From: emily.barron@ci.austin.tx.us [mailto:emily.barron@ci.austin.tx.us]

Sent: Thursday, April 21, 2005 2:35 PM
To: Kris Kasper
Cc: Thomas.Bolt@ci.austin.tx.us
Subject: Alley Access

Kris ~

HI! To follow up on our conversation regarding access to the alley for 1706 and 1708 W 6th Street, there were many considerations when looking at access for this site. When considering the topography of the site, the traffic volumes on 6th Street and existing access to the buildings our initial preference was to have all of the access off of the alley. In order to take into account the neighborhood plans requests to have no access off the alley we came to the recommendation to allow a driveway cut to serve only as an entry point for the site off of 6th Street and allow vehicles to exit off of the alley. Please let me know if you have any other questions. Thanks!

~ Emily

Emily M. Barron
Sr. Planner ~ Transportation Review
City of Austin Watershed Protection & Development Review Department One Texas Center ~ 4th Floor P.O. Box 1088
Austin, Texas 78767-1088
Phone: (512) 974-2788 Fax: (512) 974-2423
E-Mail: emily.barron@ci.austin.tx.us

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-05-0025
Contact: Thomas Bolt, (512) 974-2755
Public Hearing:
April 26, 2005 Planning Commission

John and Lisa Tully
Your Name *(please print)*

I am in favor

I object

1604 Patterson Ave 78703
Your address(es) affected by this application

Lisa Tully 4-25-05
Signature Date

Comments:

If you use this form to comment, it may be returned to:
City of Austin
Neighborhood Planning and Zoning Department
Thomas Bolt
P. O. Box 1088
Austin, TX 78767-8810

Written comments must be submitted to the boar
contact person listed on the notice) before or at a
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date of the public hearing, and the Case Number
listed on the notice.

Case Number: C14-05-0025
Contact: Thomas Bolt, (512) 974-2755
Public Hearing:
April 26, 2005 Planning Commission

David Appleshite
Your Name *(please print)*

608 Patterson Ave
Your address(es) affected by this application

David Ay 24/05
Signature Date

Comments:

If you use this form to comment, it may be return
City of Austin
Neighborhood Planning and Zoning Departm
Thomas Bolt
P. O. Box 1088
Austin, TX 78767-8810

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uring. Your
the scheduled
ntact person

MEMORANDUM

TO: Chris Riley, Chair and Members of the Planning Commission

FROM: Thomas Bolt, Senior Planner
Neighborhood Planning and Zoning Department

DATE: July 20, 2005

SUBJECT: Planning Commission Summary

Attached is a Planning Commission summary, which will be forwarded to the City Council.

CASE # C14-05-0025

Rezoning:	**C14-05-0025 - 1706 & 1708 W. 6th St. - City Initiated**
Location:	1706 & 1708 W. 6th Street, Town Lake Watershed, Old West Austin NPA
Owner/Applicant:	1706-Jeffrey & Sarah Leon 1708-Don Henry
Agent:	City of Austin
Request:	**SF-3-NP to NO-MU-CO-NP**
Staff Rec.:	**RECOMMENDED**
Staff:	Thomas Bolt, 974-2755, Thomas.bolt@ci.austin.tx.us Neighborhood Planning & Zoning Department

Tom Bolt presented the staff recommendation and explained that staff looked into the alley and on-street parking issues. In regards to parking on West 6th Street, Public Works did not recommend parallel parking on that street.

Commissioner Sullivan said that the speed limit along West 6th Street is 35mph and Mr. Bolt said that in reality it is much higher. Commissioner Sullivan said staff should consider the effect of on street parking on calming the speeds along that street. Emily Barron, the transportation reviewer, said she discussed the on-street parking issue with Public Works and they said the vertical curve and the higher speed are the reasons they did not recommend on-street parking. Commissioner Reddy asked if there is even space to have on-street parking and Ms. Barron said the way it is currently striped, no.

Commissioner Moore asked Commissioner Sullivan if he thought on-street parking would be in front of the house or along more parts of West 6th Street.

FOR

Richard Suttle, substituting for Chris Casper the representative for the case, said the house is in a commercial area. Commissioner Sullivan asked him if he had discussed the idea of on street parking with Public Works. Mr. Suttle said that he does not know if Chris Casper spoke with staff.

FOR, Did not speak
Patty Alvey
Don Henry
Sara Leon
Jeff Leon

AGAINST

Paul Seals, owner of the property immediately north of the subject properties, said that the committee and neighborhood have spent time on this case. At this point, the neighborhood is not in agreement with the zoning. Parking is being provided on-site on other sites. Traffic calming is important. Providing parking on West 6th Street would move in that direction of calming the traffic. The bottom line on the alley realignment is that there were conditions in the neighborhood plan for these properties. He told Sara

Leon that even if an agreement was reached, he said at some point the neighborhood plan would have to be amended.

Beverly Dunn, said she lives on Patterson Avenue and said she did meet with the neighbors and lawyers. The neighborhood agrees with the proposed egress and the on-street parking. She is concerned about the amount of parking for the clients though. There are cars parked illegally on the adjacent streets as a result of spillover from the businesses. Ignoring the details of the neighborhood plan means ignoring the thought and work put into working out conditions for the property.

Laura Morrison said she looked at the September 2002 Council transcript and said it was foreseen that it might stay residential. Only if the conditions in the neighborhood plan were incorporated would the plan go forward. The recent neighborhood-planning ordinance said that substantive changes to the text, not just changes to land use, require neighborhood plan amendments.

Against, Did not speak
Thomas Dunn
Rob Miller
Thomas Barbour

REBUTTAL
Mr. Suttle said that the requested zoning is in conformance with the adopted future land use map.

Commissioner Sullivan asked Mr. Suttle if he would support a rezoning that would prohibit access to the alley. The argument is how strict to make the conditional overlay.

Commissioner Riley asked Mr. Suttle about the Council transcript and how it clearly states that if the property is to be commercial, there should not be access to the alley. Mr. Suttle said that the conditions, such as limiting access to the alley, may not allow a reasonable use of the property.

MOTION: CLOSE PUBLIC HEARING
VOTE: 7-0 (JR-1st, DS-2nd; CG-ABSENT)

Commissioner Reddy asked Ms. Leon about the nature of the business. Ms. Leon said that the employees are not present at the office all the time. They represent school districts throughout the state and so some travel and are not in the office.

Commissioner Medlin asked about the idea of a driveway to the parking adjacent to the site. Mr. Bolt said that was not considered because of the dangers of egress onto West 6th Street. Commissioner Medlin said that it seems it would be dangerous to have on-street parking. Mr. Bolt explained that staff did not recommend egress; they only recommend ingress only for the driveway. The visibility is a problem because the sites are 6 feet above the street. The access to the parking lot in the rear of the parking lot would be a

problem. Commissioner Medlin sought clarification that the neighborhood has rejected egress in the alley. Mr. Bolt said that the neighborhood plan does not recommend any access onto the alley.

Commissioner Medlin asked about the concerns that this request does not require a neighborhood plan amendment. She said it does not appear reasonable that the property cannot be used for commercial unless the restrictive conditions are met, and with those conditions wondered why a neighborhood plan amendment would not be needed. Mr. Bolt said the text in the plan are considered guidelines, and that to enact them requires Council action. Mr. Bolt read the plan statement that Council approval of the plan is not the implementation of the plan. Council action is required to implement the plan. Mr. Bolt said that the entire neighborhood planning staff and the Director discussed this issue and decided that the conditions are guidelines, and considered them in developing the conditional overlay recommendation.

MOTION: APPROVE STAFF RECOMMENDATION, INCLUDING ALL CONDITIONS, BUT REQUIRE INGRESS AND EGRESS ONLY FROM THE ALLEY AND DIRECT STAFF TO PREPARE A PLAN TO ALLOW ON-STREET PARKING ON WEST 6TH STREET TO ADDRESS THE PARKING CONCERNS FOR SITE.
VOTE: (JR-1st, MM-2nd; CM-OPPOSED, CG- ABSENT)

Commissioner Reddy said that the staff recommendation may not include the words of the plan but it meets the spirit of the plan.

Commissioner Moore said he supports having commercial on West 6th Street and he does not believe the neighborhood plan should lock in certain conditions that might need to change over time.

Commissioner Cortez asked if the staff recommendation specifies ingress only. Mr. Bolt said yes, as well as alley dedication and straightening out alley and egress to the alley. The subcommittee's recommendation did not include access to the alley.

Commissioner Cortez said that he does not want to see a curb cut on West 6th Street and the purpose of having an alley is to provide access.

Commissioner Moore asked for reasons why access would be restricted to the alley and Commissioner Cortez said that the purpose of an alley is to provide access and that there are no other curb cuts on that block.

Commissioner Sullivan said he has to contest assumption that the purpose of alley is to provide access because that alley was constructed for a single-family use that generates 20 trips a day, not 40 trips a day, as this use would. Commissioner Sullivan pointed out that the other properties on the block are next to other streets, so access is taken to the side streets, rather than to the parking lot.

Commissioner Sullivan offered that parking should be provided on West 6th Street, some on Augusta and some on the rear of the property. This would spread the commercial parking out, instead of having it all on the rear of the property, which the neighborhood does not want.

Commissioner Moore commented on the trips per day being too high. It seems it is based on suburban development.

Commissioner Medlin said that the issues of parking and traffic should have been dealt with at the time of neighborhood planning because it seems the conditions in the plan are unrealistic. She does not want to totally negate a valid conditional overlay simply because now it is recognized that the conditions in the plan are bad. However, she does not want to set a precedent of not considering conditions in a plan, and so would prefer that a neighborhood plan amendment be done.

Commissioner Riley said that he will support the motion. He said that the Council transcript makes it clear that people would expect at the time that this would still be in the works. He prefers access to the alleyway. He would encourage the neighborhood residents to revisit the neighborhood plan, for instance there have been design tools adopted since plan adopted.

Commissioner Sullivan stressed that he only supports the motion because the on-street parking provision was added to the motion.

Bolt, Thomas

From: Dave Sullivan [sully.jumpnet@sbcglobal.net]
Sent: Tuesday, May 03, 2005 9:33 PM
To: Jody Bickel; Kris Kasper; Bolt, Thomas; cynthia.medlin@sbcglobal.net
Subject: Re: 1706 & 1708 W. 6th Street (C14-05-0025)

Kris and Tom

I have been scouting these addresses over the past week. Here is what I think:

1. Regarding alley use, limit it to the same level of activity (parking spaces and trips per day) as would be generated in by typical residential development.

2. Have the owners pay the city to secure dedicated parking places on Augusta.

3. CoA to paint parallel parking spaces on W. 6th between Augusta and Patterson. Owners to pay the city to secure these as dedicated parking places.

4. Point out to neighbors the advantage of a.) having a little activity on the alley during the day to deter burglars and vandals, and b.) having no activity after hours and on weekend, providing peace and quiet that a crammed college-student house would not.

I am not sure what it takes to "rent" public parking spaces to a private business, but we allow valet parking folks to do it. Also, I recognize off-site parking may require a BoA variance, but if that's what it takes, so be it. If the access is permitted through the parking lot on Augusta instead of the alley, then drop above requirements and go with NO-CO (no alley access). If access is permitted through the parking lot on Patterson, then applicant must pay to construct a sidewalk on Patterson to offset the increased risk to pedestrians there. I believe the dollar value of the risk added by office traffic exceeds the dollar cost of the sidewalk construction.

Dave

At 12:44 PM 4/26/2005, you wrote:
>Kris Kasper asked me to forward this message to you all regarding
>tonight's Agenda Item 5.
>
>Dear Commissioners:
>
>I represent Sara Leon and Don Henry, as owners of the property located
>at 1706 and 1708 W. 6th Street, in the zoning case before you tonight
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>meeting in Sept. of 2002. At that time, City Council directed staff to
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>revised so that all ingress and egress off of the alley be considered
>for safety reasons.
>
>Thank you for your time. Please feel free to call or email me with any
>questions.
>
>Kris Kasper
>
>Armbrust & Brown, L.L.P.
>100 Congress Ave., Suite 1300
>Austin, Texas 78701
>512-435-2325 (ph)
>512-435-2360 (fax)
>
>
>-----Original Message-----
>From: emily.barron@ci.austin.tx.us [mailto:emily.barron@ci.austin.tx.us]
>
>Sent: Thursday, April 21, 2005 2:35 PM
>To: Kris Kasper
>Cc: Thomas.Bolt@ci.austin.tx.us
>Subject: Alley Access
>
>
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>~ Emily
>
>Emily M. Barron
>Sr. Planner ~ Transportation Review
>City of Austin Watershed Protection & Development Review Department One
>Texas Center ~ 4th Floor P.O. Box 1088
>Austin, Texas 78767-1088
>Phone: (512) 974-2788 Fax: (512) 974-2423
>E-Mail: emily.barron@ci.austin.tx.us

ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 1706 AND 1708 WEST 6TH STREET IN THE OLD WEST AUSTIN NEIGHBORHOOD PLAN AREA FROM FAMILY RESIDENCE-NEIGHBORHOOD PLAN (SF-3-NP) COMBINING DISTRICT TO NEIGHBORHOOD OFFICE-MIXED USE-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (NO-MU-CO-NP) COMBINING DISTRICT.

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from family residence-neighborhood plan (SF-3-NP) combining district to neighborhood office-mixed use-conditional overlay-neighborhood plan (NO-MU-CO-NP) combining district on the property described in Zoning Case No. C14-05-0025, on file at the Neighborhood Planning and Zoning Department, as follows:

> Lot 9, Block A (1706 W. 6th), Ecks Heights Subdivision, and Lot 1 (1708 W. 6th), West End Heights Subdivision, subdivisions in the City of Austin, Travis County, Texas, according to the map or plat of record, respectively, in Plat Book 3, Page 16, and Plat Book 3, Page 20, of the Plat Records of Travis County, Texas (the "Property"),

locally known as 1706 and 1708 West 6th Street, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

PART 2. Except as specifically provided in Part 3 and Part 4, the Property may be developed and used in accordance with the regulations established for the neighborhood office (NO) base district and other applicable requirements of the City Code.

PART 3. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 145 trips per day.

2. Vehicular access from the Property to West 6th Street is prohibited. All vehicular access shall be by way of the adjacent alley along the north boundary of the property.

3. A ten foot-wide vegetative buffer or a six foot solid fence shall be provided and maintained to screen the business use and parking area from the adjacent residential properties. Improvements permitted within the buffer/fence zone are limited to vehicular access to the alley, drainage, underground utility improvements or those improvements that may be otherwise required by the City of Austin or specifically authorized in this ordinance

PART 4. The Property is subject to Ordinance No. 020926-26 that established the Old West Austin neighborhood plan combining district.

PART 5. This ordinance takes effect on _____, 2005.

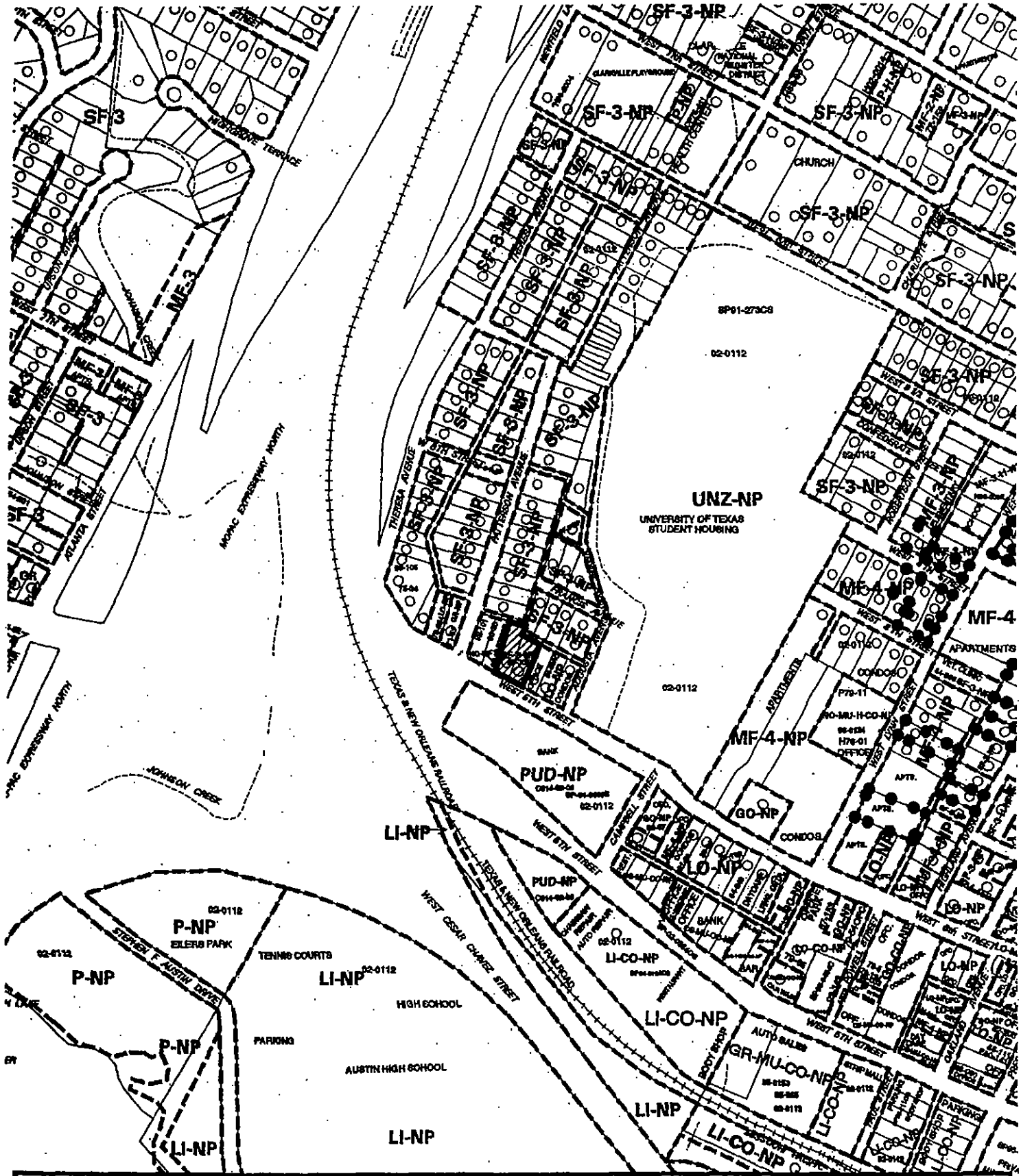
PASSED AND APPROVED

§
§
§

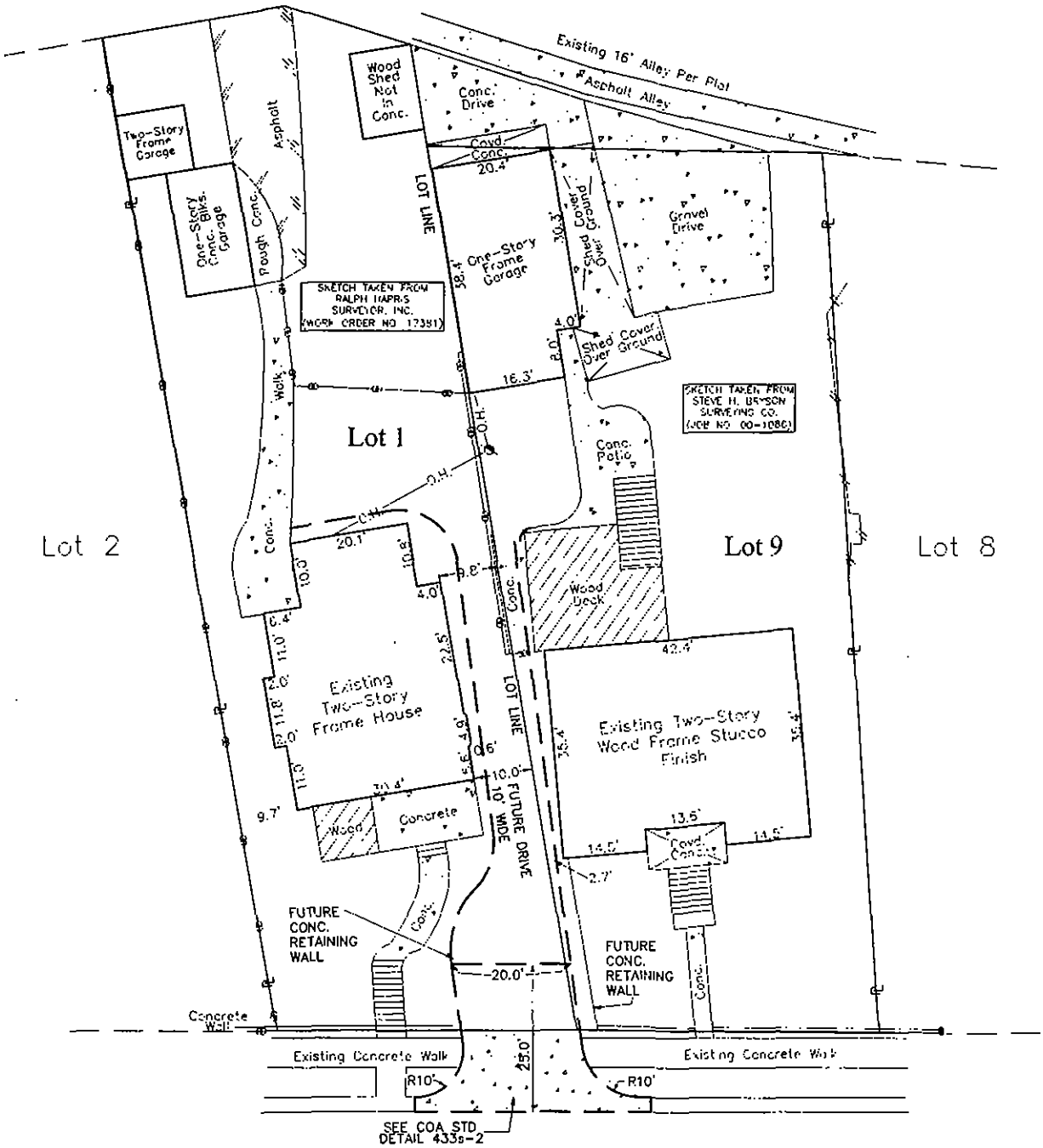
_____, 2005 _____
Will Wynn
Mayor

APPROVED: _____ **ATTEST:** _____
David Allan Smith
City Attorney

Shirley A. Brown
City Clerk



N 1"=400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: T. BOLT	ZONING CASE #: C14-05-0025 ADDRESS: 1706-1708 W 6TH ST SUBJECT AREA (acres): N/A	DATE: 05-02 INTLS: SM	CITY GRID REFERENCE NUMBER H23


Existing 16' Alley Per Plat
Asphalt Alley
Wood Shed Not In Conc.
Conc. Drive
Two-Story Frame Garage
One-Story Conc. Blks. Garage
Asphalt
Rough Conc.
Cov'd Conc.
20.4'
LOT LINE
One-Story Frame Garage
Shed Cover Ground
Gravel Drive
SKETCH TAKEN FROM RALPH HARRIS SURVEYOR, INC. (WORK ORDER NO 17381)
Shed Cover Over Ground
Walk
16.3'
Lot 1
O.H.
SKETCH TAKEN FROM STEVE H. BRYSON SURVEYING CO. (JOB NO 00-1086)
Conc. Patio
Lot 2
Lot 9
Lot 8
Conc.
Wood Deck
Existing Two-Story Frame House
Existing Two-Story Wood Frame Stucco Finish
42.4'
LOT LINE
10.0' FUTURE DRIVE 10' WIDE
Wood
Concrete
Cov'd Conc.
13.5'
14.5'
FUTURE CONC. RETAINING WALL
20.0'
Concrete Wall
Existing Concrete Walk
Existing Concrete Walk
R10'
R10'
25.0'
SEE COA STD DETAIL 433s-2
ONE WAY
ONE WAY
WEST SIXTH STREET

SITE PLAN