

**Agenda Questions/Responses  
November 17, 2005**

**25. Did this project go through the process for large CIP projects? (Council Member Raul Alvarez)**

This project did not go through the process for large CIP projects. It was bid prior to implementation of our revised procedure for large CIP projects. "Large" projects are now defined as those with estimated construction costs within 20% of \$2 million.

Escalating materials costs combined with the existence of a lot of projects currently under construction together pushed this bid significantly higher than the engineer's estimate.

**41. Has Council conducted a public hearing on this item since it was approved on second reading? Are there any changes to this ordinance since it was approved on second reading? (Council Member Raul Alvarez)**

No, there was not a public hearing on this item since it was approved on second reading.

The draft ordinance attached to this item is the ordinance approved by Council on second reading on September 29, 2005. The changes made to the draft ordinance since second reading include the following:

An additional area eligible for a sign to be removed was added to the list of locations of the original sign. This change in the draft ordinance allows the original location of a sign to be from the boundaries of registered neighborhood association that has requested the removal of a sign.

A correction was made to the section that puts conditions on the height of the relocated sign. The correction states that the new sign may not exceed 42 feet above ground level street pavement. The previous version approved on second reading required a height not to exceed 42 feet above street grade. This correction is to ensure that such signs do not tower over elevated freeways.

**Z-1. Please provide information on the closest residential use and the closest residentially-zoned tract to this tract. (Council Member Raul Alvarez)**

The nearest residential use is an existing house located 2000 feet away.

The nearest residential zoning is 1500 ft away not including interim zoned (I-RR after annexation) property.

These uses and zoning are in the residential neighborhood surrounding LBJ High.

**Z-12. Please provide a summary of the history of Council action on the tracts subject to the 6500 per day trip limitation. (Council Member Raul Alvarez)**

In 2000 the City Council approved the rezoning of the Champion properties. This included a trip limit of 6,500 trips for all 4 tracts as well as other conditions.

The Champions sold Tract 1B to Gables Residential who built an apartment complex. On the portion of Tract 1 zoned GO a site plan for the apartments included an office building.

In 2003-04 the Champions filed four zoning cases with the intent to remove the trip limitation, square footage limitations and setbacks as well as add MU to the one of the office and two retail tracts and change the base district zoning from LR to GR for the retail tracts.

The City Council denied three of the cases but approved a rezoning of Tract 4 after agreement was reached with the neighborhood.

On February 19, 2004, the applicants for this zoning case filed a lawsuit against the City. They claim, in part, that the application of City zoning ordinances enacted in 2000 violates a 1996 settlement agreement with the City because of the trip count limitation, setbacks and square footage limitations on the three tracts. They seek declarations consistent with their position, as well as damages for breach of contract and inverse condemnation. That case is styled Josie Ellen Champion, Champion Assets, Ltd., A Texas Limited Partnership, Alma Juanita Champion Meier, Champion-Meier Assets, Ltd., a Texas Limited Partnership, Mary Margaret Champion Roberson, and Champion Legacy Partners, Ltd., a Texas Limited Partnership v. City of Austin, Cause No. GN400513, in Travis County District Court

On August 18, 2005 the City Council approved the Champion Mediation Agreement which abated the above referenced lawsuit while new zoning cases were filed which contained the conditions agreed upon in the recommended conditional overlay. If the zoning cases are approved by the City Council the Champions will dismiss the lawsuit against the City with each party bearing their own costs and attorney fees.

The Mediation Settlement Agreement contains a provision that either party may walk away from the agreement if the zoning cases are not approved by December 1st. The 2222 Coalition of Neighborhoods has requested a postponement until December 15th.

**Z-18. What is the approved height for the proposed project at 5th and West? (Council Member Raul Alvarez)**

The approved height for the proposed project is 24 stories/272 feet.

**70. What are the alternative coal tar products? How does pollution from those sources compare to the pollution of coal tar products? What are the greatest pollution sources of PAHs generally on our local creeks? (Council Member Raul Alvarez)**

Asphalt based sealant is currently the alternative to coal tar based sealant. It is available locally, both commercially and retail and we even have a local manufacturer, Neyra Industries in Hutto, Texas. For new construction concrete and pervious pavement may be used for parking lots and these surfaces do not use sealants.

Coal tar sealant product (out of the can) has PAH concentrations 1000 times higher than asphalt-based sealant. Scrapings from parking lots after this product has been applied show coal tar sealed lots with approximately 30 times higher PAHs than asphalt lot scrapings. Based on work done by the USGS and city of Austin staff (Mahler et al. 2005), the concentration of PAH's in run-off from coal tar sealed parking lots is 6 times higher than runoff from asphalt sealed parking lots. The load or amount of PAHs coming off the coal tar sealed lots is approximately twice as high as the asphalt sealed lots.

In addition to these chemical comparisons, laboratory toxicity tests showed that the same amount of coal tar sealant is much more toxic to aquatic life than that amount of asphalt sealant. On many levels, the coal tar sealant is a much larger pollutant source than the asphalt sealant.

Again, according to work done by USGS and City of Austin staff, sealant from parking lots was probably the dominant source of PAHs in the urban streams studied in Austin and Fort Worth (Mahler et al 2005). In a stormwater load study done in Michigan (Steuer et al. 1997), USGS researchers found that commercial parking lots represented 64% of the PAH load among sources studied, by far the dominant urban source.

In addition, City of Austin staff has found a strong relationship between local PAH hotspots in our streams and adjacent sealed parking lots (unpublished data). There are undoubtedly other sources of PAHs in the Austin area (roadway and roof run-off probably being a distant second and third) but our work has identified sealants as a previously unrecognized, and major PAH source.