Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 41
AGENDA DATE: Thu 02/16/2006
PAGE: 1 of 1

SUBJECT: NP-05-0020 - Pleasant Hill Subdistrict, Tract 30 - Approve third reading of an ordinance amending Ordinance No. 20050818-Z001, adopting the South Congress Combined Neighborhood Plan as an element of the Austin Tomorrow Comprehensive Plan, and establishing the land use designation on the future land use map for Tract 30, located at 103 Red Bird Lane and 0 Red Bird Lane (Pleasant Hill Addition south 68 feet average of lot 20 and east 50 feet of Lot 21, Block 1), in the Pleasant Hill Subdistrict of the West Congress Neighborhood Planning Area. The north boundary for the Pleasant Hill Subdistrict is the northern boundary of the Pleasant Hill Addition Subdivision, the eastern boundary is South Congress Avenue, the southern boundary is Stassney Lane, and the western boundary is Hummingbird Lane, which includes those lots with front and side yard frontages along Hummingbird Lane. The proposed change to the future land use map is from single-family to office mixed-use. On September 1, 2005, single-family land use designation was approved on First reading. Vote: 6-1, Mayor Wynn - Nay. On October 6, 2005, office mixed-use land use designation was approved on Second reading. Vote: 6-1, Thomas - Nay. On December 15, 2005, the Council postponed action on this item until January 12, 2006 with direction from Council to provide an alternate ordinance changing the land use designation from single-family to commercial mixed-use. The Council may consider single-family, high-density single-family, multi-family, office, office mixed-use, commercial, or commercial mixed-use land use designation. Applicant: City of Austin. Agent: Neighborhood Planning and Zoning Department. City Staff: Mark Walters, 974-7695.

REQUESTING DEPARTMENT: Neighborhood Planning and Zoning

DIRECTOR'S AUTHORIZATION: Greg Guernsey

RCA Serial#: 10851 Date: 02/16/06 Original: Yes
Disposition: Postponed~THU 02/16/2006

Published: Fri 01/06/2006
Adjusted version published:

SUMMARY SHEET FOR TRACTS 30 AND 23A—SOUTH CONGRESS COMBINED NEIGHBORHOOD PLAN AND REZONINGS

CASE: NP-05-0020 (PART)
RELATED CASE: C14-05-0106 (PART)
SUBJECT PROPERTY: TRACT 30 (103 Red Bird and 0 Red Bird Lane (Pleasant Hill Addition south 68 feet average of lot 20 and east 50 feet of Lot 21, Block 1)
PROPERTY OWNER: Mr. Tommy Harper
CURRENT USE: Construction Sales and Services (T. F. Harper & Associates)

PROPOSED LAND USE CHANGE
FROM: Single-family land use **TO:** Limited-office mixed use

RELATED PROPOSED ZONING CHANGE
FROM: SF-3/SF-6 **TO:** LO-MU-CO-NP

CITY COUNCIL PAST ACTIONS

- August 18, 2005: Adopted on three readings the South Congress Combined Neighborhood Plan future land use map (FLUM) and rezonings except for those properties in Pleasant Hill Subdistrict (located to the northwest of the intersection of Stassney Ln. and South Congress Ave.).

- September 1, 2005: Approved on first reading the future land use map (FLUM) and rezonings for all properties (including Tract 30) in the Pleasant Hill Subdistrict. The public hearing was closed.

- October 6, 2005: Adopted on second and third reading the future land use map (FLUM) and rezonings for the majority of properties in the Pleasant Hill Subdistrict. Approved on second reading only limited-office mixed use and LO-MU-CO-NP zoning for Tract 30.

- November 3, 2005: Postponed third reading for Tract 30 to December 15, 2005 at staff's request.

- December 15, 2005: Postponed third reading for Tract 30 to January 12, 2006, with direction from Council to prepare an alternate ordinance that would change the land use designation from single-family to commercial mixed-use. (direction for related zoning case: prepare a rezoning ordinance from SF-3/SF-6 to CS-MU-CO-NP zoning and a restrictive covenant)

- January 12, 2006: Postponed third reading for Tract 30 to February 16, 2006, when a full Council was anticipated to attend (only six of seven were present on January 12). Rezoning for this tract has a valid petition submitted by the neighborhood.

Background

On October 12, 2005 the residents, property owner, and staff met to discuss the proposed land use and zoning changes to Tract 30. The residents and property owner could not agree upon a shared recommendation and agreed to disagree.

The current business (construction sales and services) is a nonconforming use because it began operation before the property was annexed and zoned single-family residential. However, the nonconforming status of the outdoor elements of the business has expired. Although the business, the office, and the warehouse can continue as nonconforming uses, the outdoor activities listed below are in violation of the Land Development Code (LDC).

The business is a Group "A" nonconforming use. Group "A" designates uses that are considerably more intense than their current zoning allows. An example is an industrial use on single-family zoned property. The LDC requires Group "A" activities that occur outdoors to cease ten years after the use becomes nonconforming. In this case, the ten years ended in the late 1970s. The outdo

The following outdoor activities for a Group "A" nonconforming use are in violation of Section 25-21-947 of the LDC. These include:

- Loading and unloading of construction materials
- Outside storage of construction materials
- Outside storage of materials
- Overnight parking of work trucks
- Storage structures less than $10,000 in value.

Scenarios

- In order to continue the outside storage of construction materials, the property must be zoned Commercial Services (CS).
- If the property owner wants to build a new structure to store the materials, the zoning must be changed to CS because a Group "A" nonconforming use may not be expanded.
- If not rezoned to CS, the property owner must remove the materials or store them in existing structures valued at $10,000 or greater.

Stakeholder Recommendations

- The Planning Commission and NPZD staff recommended LO-MU-CO-NP (CO—requires a 30' vegetative buffer adjacent to the single-family to the west).

- The neighborhood's recommendation is to leaving the zoning as it is (SF-3/SF-6). Their alternate recommendation is to support the Planning Commission recommendation.

- Mr. Harper supports changing the zoning to CS-MU-CO-NP. The proposed CO would limit commercial uses to those allowed in Limited Office (LO) zoning with the addition of Construction Sales and Services. Mr. Harper opposes the condition recommended by the Planning Commission that would require a 30' vegetative buffer.

- On first reading City Council approved SF-3-NP and Single-Family land use for the tract. At second reading Council approved LO-MU-CO-NP (CO—requires a 30' vegetative buffer) and Office Mixed-Use land use designation.

Neighborhood Requested Conditions If CS-MU-CO-NP Is adopted (as of 12-7-05)

The neighborhood continues to recommend no change to the current zoning on the property (SF-3 and SF-6). They would support, however, an alternate recommendation of LO-MU-CO-NP (CO requiring 30' vegetative buffer on western property line) as recommended by Planning Commission.

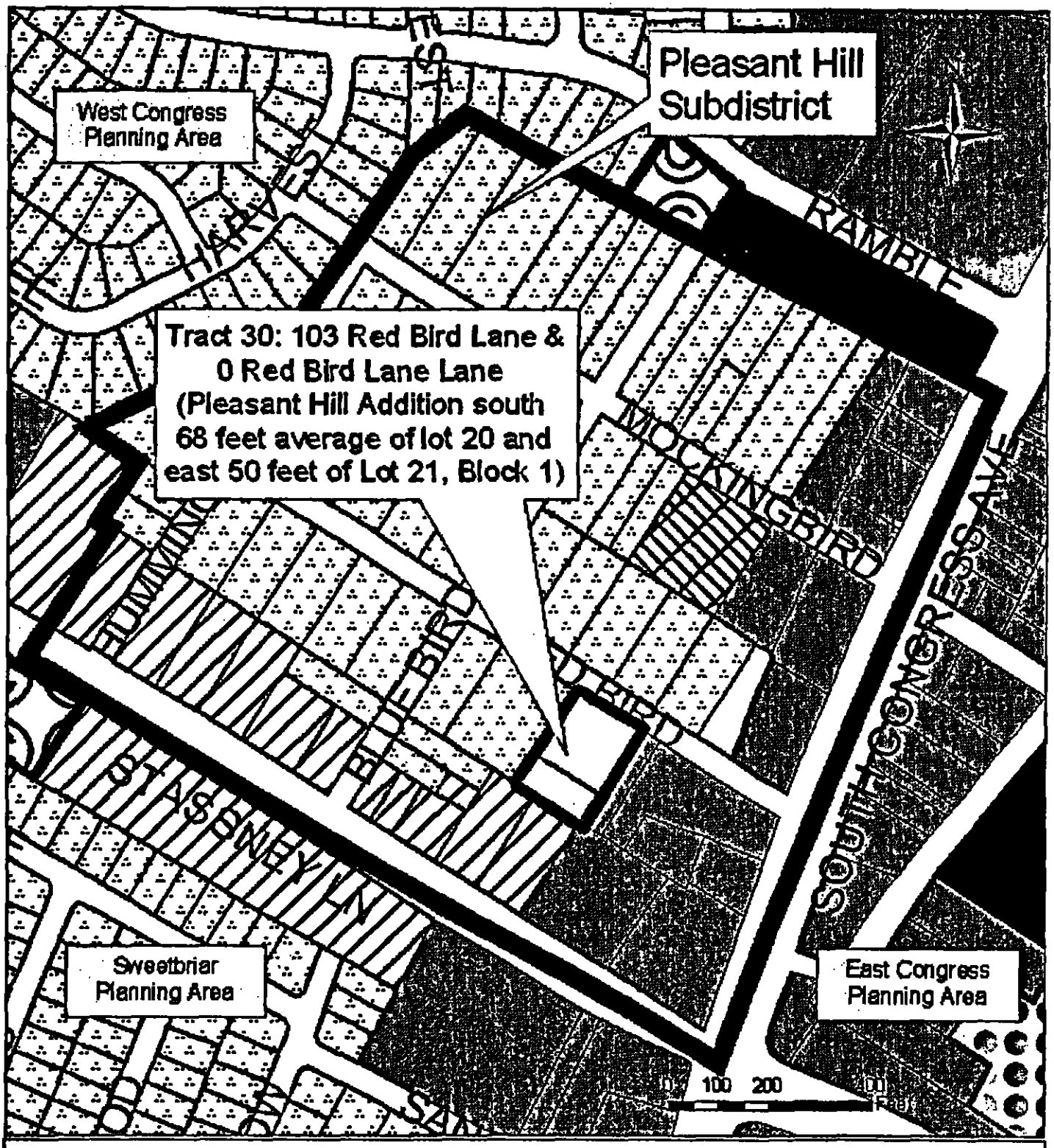
If CS-MU-CO-NP is elected by City Council, the neighborhood would remain opposed. However, a representative of the neighborhood submitted a list of requests to be addresses if CS-MU-CO-NP is considered. **The following conditions have been captured in an alternate zoning ordinance and restrictive covenant:**

1. 30' vegetative buffer along the western property line (Councilmember Leffingwell instructed staff to limit this to 25').
2. Limit the uses to those allowed under LO-MU zoning with the addition of construction sales and services,
3. A solid fence across the front of the property,
4. No delivery or company trucks parked on the street,
5. All loading and unloading of trucks must be onsite and screened from view,
6. No forklifts on the street,
7. Correct the drainage problems and associated nearby flooding created when Mr. Harper backfilled the existing ditch and culverts adjacent to his property,
8. Mr. Harper agree to a voluntary zoning rollback to LO-MU-CO-NP and a land use designation of Office Mixed-Use on the plan's future land use map (FLUM) if the current use ceases for more than 90 days.

Items 6, 7, and part of item 5 (on-street loading and unloading of trucks) must be addressed by City Code Enforcement or Austin Police Department.

Exhibits

A. Future Land Use Map
B. Aerial Map
C. West Congress NPA Boundary Map
D. Stakeholder Meeting Summary
E. Meeting Sign-In Sheet
F. Property Owner (Mr. Harper) Proposed Zoning and Conditional Overlay
G. Neighborhood Letter of Opposition
H. Resident Letter of Opposition #1
I. Resident Letter of Opposition #2
J. Neighborhood Valid Petition
K. Property Owner (Mr. Harper) Letter of Recommendation, December 7, 2005
L. Neighborhood Letter of Recommendations, December 11, 2005
M. Resident Letter of Opposition (including illustrative materials) #3



Pleasant Hill Subdistrict of the West Congress Neighborhood Planning Area: Future Land Use Map
NP-05-0020 (PART)

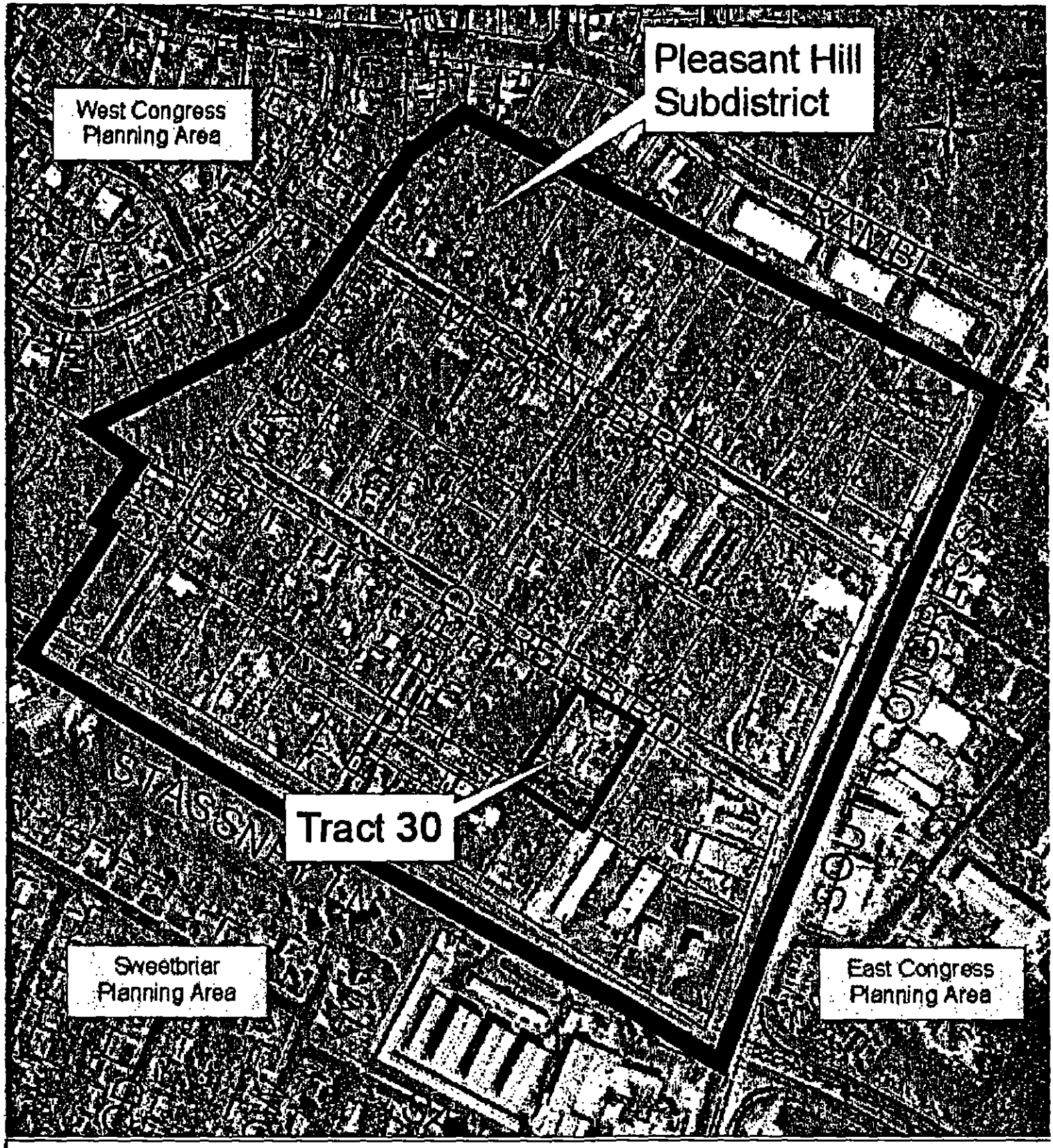
City of Austin
Neighborhood Planning and Zoning Department
January 12, 2005

A comprehensive plan does not constitute zoning.

Exhibit A

Future Land Uses

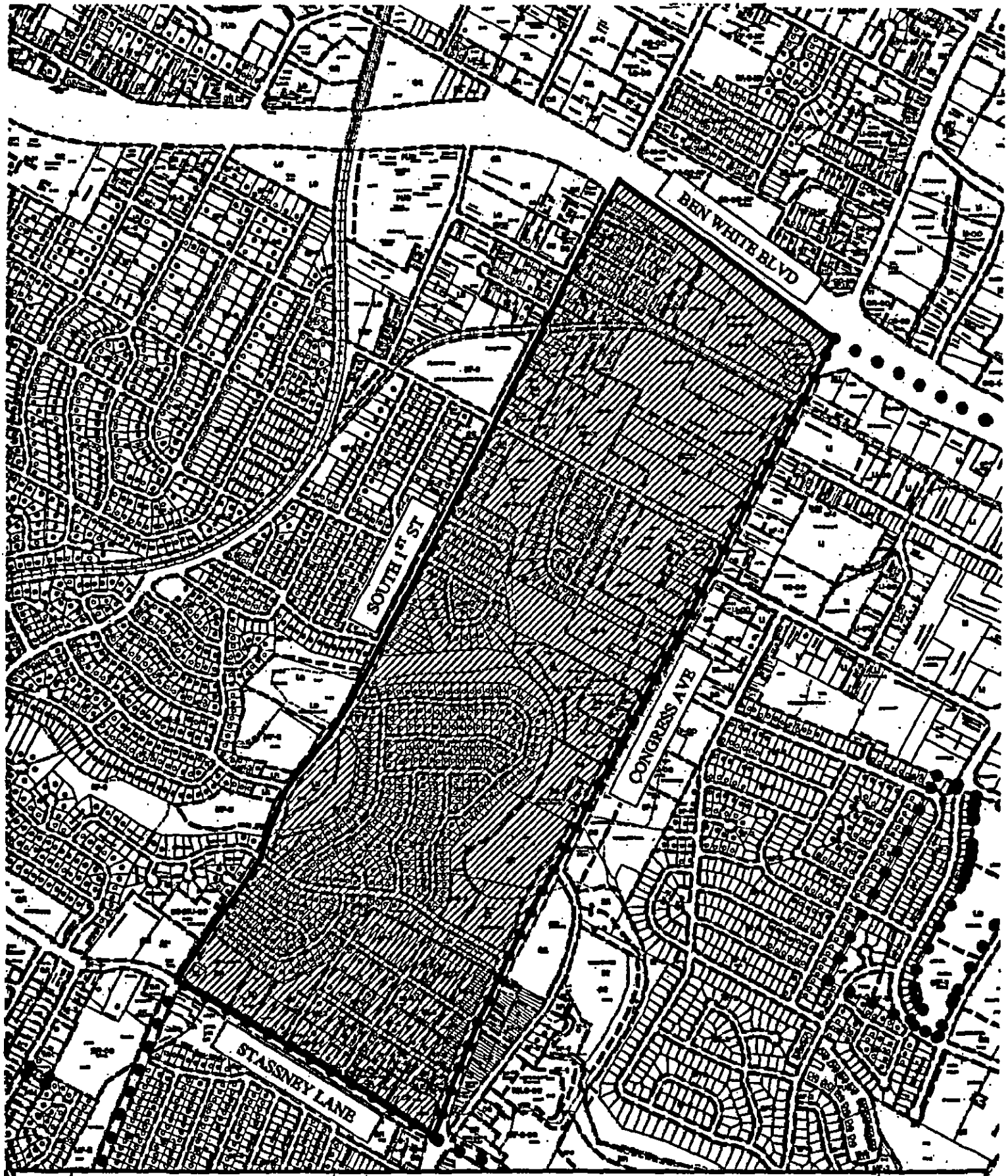
- Single-family
- High Density Single-family
- Multi-family
- Commercial
- Mixed Use
- Office
- Mixed Use/Office
- Industry
- Civic
- Open Space
- Pleasant Hill Subdistrict



Pleasant Hill Subdistrict of the West Congress Neighborhood Planning Area: Aerial 2003 NP-05-0020 (PART)

City of Austin
Neighborhood Planning and Zoning Department
January 12, 2005

0 100 200 400 Feet



SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MGR: W. WALSH

1" = 1000'

ZONING Exhibit B

CASE #: C14-05-0106

ADDRESS: WEST CONGRESS

DATE: 05-07

NEIGHBORHOOD PLANING AREA

SUBJECT AREA (acres): N/A

MTLS: 6M

CITY GRID REFERENCE NUMBER

G & H17-18

Exhibit D

Stakeholder Meeting: Tract 30 (103 and 0 Red Bird Lane)
Date: October 12, 2005

Subject property: Tract 30 (103 and 0 Red Bird Lane), located in the Pleasant Hill Subdistrict of the South Congress Neighborhood Planning Area

Discussion: Conflict over current construction sales and services use on Tract 30 and proposed rezonings/future land use designations

Number in attendance: Twelve (12) including the property owner, the property owner's administrative assistant, eight residents, and two City staff members

Meeting Location: T.F. Harper and Associates office, located at the subject property

Summary

The property owner and residents in the Pleasant Hill Neighborhood discussed the current construction sales and services use (T.F. Harper and Associates: General Contractor, Construction Management, Parks & Playground). The neighbors expressed distress about certain aspects of the business operation, while the property owner offered suggestions and current plans to mitigate some of the neighbors' complaints. He also offered reasons why the business should be allowed to remain. Staff moderated the discussion.

Neighborhood Concerns:

- Traffic from semi-trucks
- Significant expansion of business over past five years results in more truck traffic through the neighborhood, more employee vehicles (30-40), and more trafficking in and out of increased construction materials
- Idling trucks
- No fencing shields the business and construction materials out-of-doors
- The use itself is inappropriate in a neighborhood
- Lack of water detention exacerbates flooding in the area. Resident across street stated that his yard has been repeatedly flooded by run-off from the business site and is unable to support landscaping. Resident also stated that during the next severe rainstorm, he believes the front half of his house will be flooded
- Concern that drainage ditch on the west side of the property has been filled
- Unshielded, bright lights on the business site

Neighborhood Suggestion:

- Majority of neighbors would be willing to support the continued operation of the office and suggested the storage, transport, and incidental assembly of materials be performed at a more accessible commercial site

Property Owner Concerns and Statements:

- He cannot afford to move; his business would be forced to cease
- The family business has been operating there for more than thirty years
- He is currently working on a site plan that would allow trucks to park, deliver, and load at the rear of the property. He also plans to provide buffering, either landscaping, fencing, or other, to partially shield the business from the street and neighboring residence
- He stated that his business is grandfathered, but that if he does not receive commercial services (CS) zoning, he may not be able to build or alter the site in order to make the business more compatible
- He expressed willingness to work with the neighborhood to mitigate effects of the business
- He offered a CS-MU-CO-NP zoning proposal that allows construction sales and services but limits all remaining non-residential uses to those in the limited office (LO) district

Conclusion

No consensus was reached. Both the neighbors and the property owner stated they would maintain their respective recommendations at the next Council hearing.

- ◊ The neighbors recommend retaining SF-3 and SF-6 zoning as their first choice, and LO-MU-CO-NP (Planning Commission recommendation) as their second choice.
- ◊ The property owner requests CS-MU-CO-NP with a conditional overlay prohibiting intense commercial uses minus his current construction sales and services use.

Stakeholder Meeting: Tract 30 Tract 30: Oct. 12, 2005 Exhibit E

Sign-In List

Name / Email / Phone (optional)

REX BURNS REXFORDONHAARVERTISING.COM 512.228.4040
Andrea Thomas athomas57@austin.rr.com 925-5214
BRAD MASSINGILL 110 REDBIRD 462-9834
Mary Locamora 305 W. Mockingbird lrocamary1/n@earthlink.net
Mary Kay Hendrix 304 Red Bird Ln. marykay@austin.rr.com
Deral Hendrix 304 Red Bird Ln. deral@austin.rr.com
Bob Heise 5501 Blue Bird Ln A rlheise19@aol.com
Hilda Avila 103 Red Bird Cv. HildaA@tfharper.com
Tommy Harper 103 Red Bird Cv. tfh@tfharper.com
Jon Donaldson 305 W Mockingbird jdonalds@austinisd.org

Exhibit F

Proposed Conditional overlay for Tract 30 (PROPERTY OWNER'S)

Rezone from SF-3 and SF-6 to CS-MU-CO-NP
Conditional Overlay limits uses to

A) All residential uses

B) The following commercial use:

Construction Sales and Services

C) All Limited Office (LO) uses:

Residential
Bed and Breakfast (Group I)
Bed and Breakfast (Group 2)

Civic
Club or Lodge (c)
College and University Facilities (c)
Communication Service Facilities
Community Events (1)
Community Recreation—Private (c)
Community Recreation—Public
Congregate Living (c)
Convalescent Services
Counseling Services
Cultural Services
Day Care Services—Commercial
Day Care Services—General
Day Care Services—Limited
Family Home
Group Home Class I—General
Group Home Class I—Limited
Group Home Class II (c)
Hospital Services—Limited (c)
Local Utility Services
Private Primary Educational Services
Private Secondary Educational Services (c)
Public Primary Educational Services
Public Secondary Educational Services
Religious Assembly
Residential Treatment (c)
Safety Services

Commercial
Administrative and Business Offices
Art Gallery
Art Workshop
Communication Services
Medical Offices—not exceeding 5,000 sq/ft of gross floor space
Medical Offices—exceeding 5,000 sq/ft of gross floor space
Professional Offices
Software Development
Special Use—Historic (c)

Agricultural
Urban Farm

D) Prohibit drive-through as an accessory use

Exhibit G

October 4, 2005

Reference: C 14-05-0106
Reference: C 14-05-0106.02

Honorable Mayor Will Wynn and City of Austin Council Members,

As residents of the Pleasant Hill Addition sub-district located in the West Congress Avenue Neighborhood Planning Area, we are concerned about upcoming zoning decisions and their impact on our community. We are proud to live in a neighborhood that offers such a unique glimpse into Austin's historical, cultural and architectural heritage - a heritage we believe is worth protecting. Our neighborhood is in transition with restored turn-of-the-century homes and new homes being built. Additionally, the remaining natural areas in our community provide dwindling urban wildlife with critical travel routes, food, water, and shelter.

It is our sincere belief that the following zoning recommendations will safeguard current residents while preserving the area's unique flavor and resources for future generations to enjoy.

We respectfully request your support for the following zoning recommendations:

- SF-2 for Tract 18 (106-200 W. Mockingbird Lane)
- SF-2 for Tract 23A (106 Red Bird Lane, alternately shown as 116 Red Bird on the proposed zoning change sheets). Alternate request: LO-MU-CO-NP.
- SF-3 and SF-6 for Tract 30 (103 Red Bird). The property owner plans to request CS-MU-CO-NP zoning. However, according to the City's own Neighborhood Planning and Zoning Guidelines, "CS is generally incompatible with residential environments." (Neighborhood Planning Guide to Zoning, page 23, April 2005). We oppose the CS designation because a construction business on 3/4 acre with 30+ employees, service trucks and semi-truck deliveries is not compatible with a residential neighborhood with children and hearing-impaired adults. Mr. Harper's business has evolved over recent years and outgrown its location. We request to be heard regarding this parcel at the council meeting scheduled for October 6th. Alternate request: LO-MU-CO-NP.
- LO-MU-NP for Tract 35 (306-314 Stassney). LO is noted by city staff on the Future Land Use Map of August 18. The new GO recommendation is undesirable because it would allow a 60' building to be erected next to residences.
- LO-MU-NP for 400-414 Stassney. (Corner of Hummingbird; (See reference C14-05-0106.02.). Most of this property is in the flood plain, which limits its desirability for development. The city staff's GO recommendation is undesirable because it would allow a 60' building to be erected next to a residence. LO is listed on the Future Land Use Map of August 18.

Thank you for your consideration.

Sincerely,

Andrea Thomas

Andrea Thomas
309 Red Bird Lane
days: 512-445-5915
cell: 512-925-5214
athomas57@austin.rr.com

Reference: C 14-05-0106
Reference: C 14-05-0106.02

Honorable Mayor Will Wynn and City of Austin Council Members,

As residents of the Pleasant Hill Addition sub-district located in the West Congress Avenue Neighborhood Planning Area, we are concerned about upcoming zoning decisions and their impact on our community. We are proud to live in a neighborhood that offers such a unique glimpse into Austin's historical, cultural and architectural heritage - a heritage we believe is worth protecting. Our neighborhood is in transition with restored turn-of-the-century homes and new homes being built. Additionally, the remaining natural areas in our community provide dwindling urban wildlife with critical travel routes, food, water, and shelter.

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Thank you for your consideration.

Sincerely,

1 Rexford Burns 205 RedBird
2 Andrea Thomas Andrea Thomas 309 RedBird
3 Opal Keeling Opal Keeling 5502 Hummingbird La
4 Felix Michael Estrada 5509 - 5507 Blue Bird Ln
209 - 206 Stassney

Reference: C 14-05-0106
Reference: C 14-05-0106.02

5) SPEEDY N. PHILLIPS — 1500 BLUEBIRD LN.

6) Chuck Grimes — 312 W Stassney LN

7) Luis Pinheiro — 312 W. Stassney LN

Adam Hudson — 312 W. Stassney Ln

7) Evan A. Hendrix — 306 Red Bird Ln

8) William R. Hendrix — 300 Red Bird Ln

9) H. B. Massingill III — 110 Redbird Ln

10) Douglas J. Fields — 310 Redbird Ln

11) Rachael Horner — 314 Redbird Ln.

12) Ann E. Harris — 307 Redbird Ln

13) Neiandro Loredo — 204 Red Bird Ln

Lic Kempf — director of Day care ctr 200 W. Stassney

14) Ernest Leonard — 306 W. Stassney

15) Robert L. Hesse — 5501 Blue Bird Ln A

16) Shirley Hitchcock — 313 Red Bird

17) Deral Hendrix — 304 Red Bird Ln.

18) Michelle C Waldron — 5505 Hummingbird Lane

Raymond Carlton (Renter of 10yrs) — 309B Red Bird Ln

(18 homeowners + 2 renters)

Reference: C 14-05-0106
Reference: C 14-05-0106.02

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As residents of the Pleasant Hill Addition sub-district located in the West Congress Avenue Neighborhood Planning Area, we are concerned about upcoming zoning decisions and their impact on our community. We are proud to live in a neighborhood that offers such a unique glimpse into Austin's historical, cultural and architectural heritage - a heritage we believe is worth protecting. Our neighborhood is in transition with restored turn-of-the-century homes and new homes being built. Additionally, the remaining natural areas in our community provide dwindling urban wildlife with critical travel routes, food, water, and shelter.

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Thank you for your consideration.

Sincerely,

Mary Rocanora	Mary Rocanora	305 W. Mockingbird Ln
Aldo Guevara	Aldo Guevara	311 W Mockingbird Ln
Jon M Donaldson	Jon M Donaldson	305 W Mockingbird La
Robin H Gary	Robin H. Gary	800 W. Mockingbird Ln
John Van Strien	John Van Strien	207 W. Mockingbird Ln.
[illegible]	[illegible]	110 W Mockingbird Ln.

Reference: C 14-05-0106
Reference: C 14-05-0106.02

Elizabeth Wallerstein 109 W. Mockingbird Ln
Julie Jacobs 312 W. Mockingbird Ln.
Dennis J. Jacobs 312 W Mockingbird Ln
Audrey Powers Audrey Powers 106 W. Mockingbird Ln.
Kevin Mackie 306 W. Mockingbird Ln.
Chris Reno 128 W Mockingbird Ln.
Katya Reno Katya Reno 128 W. Mockingbird Ln.
~~Pedro Jaramillo~~ ~~Pedro Jaramillo~~
Pedro Jaramillo 301 W. Mockingbird Ln.
Christa M. Biddington CHRISTA M. RIDDINGTON 314 W. MOCKINGBIRD
Ian Riddington Ian Riddington 314 W. Mockingbird Ln

12 properties represented:
(11 homeowners + 1 renter)

1 properties, (2nd letter) represented
18 properties. (1st letter) represented

~~29~~ homeowners/ properties signed letters

3 renters signed letters
(plus additional spouses)

Exhibit H

October 3, 2005

Deral Hendrix
304 Red Bird Lane
Austin, Texas 78745
512.447.4289
deral@austin.rr.com

Re: C14-05-0106, Tract 30

Dear City Council:

I am one of 32 owner/occupants of property on the 'Bird' streets within the Pleasant Hill Subdistrict – West Congress Neighborhood Planning Area Rezonings. In this area there are also 5 lots, 2 unoccupied houses recently relinquished by elderly owner/occupants, 11 renters (7 of whom live in one condo unit), and then there is Tract 30, a business incompatible not only within this neighborhood but within any neighborhood. The obvious mathematical translation here is that 73% of our little enclave is owner/occupied. The business (Tract 30) comparison is somewhat less than 1%.

In the 8-30-05 neighborhood letter to you preceding the 9-1-05 council meeting, a description of the Tract 30 business from a neighborhood perspective was given. At that council meeting, the neighborhood recommended zoning of SF-3-NP was presented by city staff and noted that "staff does not object to the neighborhood's recommendations". Mr. Tommy Harper, owner-operator of Tract 30, appeared and spoke of a "grandfather clause" and the hardship and detrimental effect the SF-3-NP zoning would have on his business, should he have to move.

My understanding is that since that meeting the council-requested research by city staff reveals no "grandfather clause" for use of this lot, which means that Mr. Harper has not been compliant with zoning for over 20 years. He is now requesting that the council approve his request for zoning the property CS……, not the neighborhood-requested SF-3-NP nor the Planning Commission/city staff-requested LO-MU-CO-NP. I further understand that this CS…… zoning, which is totally incompatible within a residential neighborhood, "will not be objected to by staff". The only explanation I have garnered for this bizarre 180 degree sudden flip-flop by staff is that "Mr. Harper needs that zoning to be compliant", a truism of the first order.

As for the detrimental effect spoken of by Mr. Harper, which he says means he will be forced out of business, thereby depriving 30+ people of their jobs and he and his family of its business income, this should be viewed with clear and open eyes. First of all, this business is on a lot less than twice the size of mine. Picture, if you will, seven or eight service trucks, two or three forklifts, three or four buildings, the usual multitude of stacks of construction and manufacturing materials, and the vehicles of that many employees all

on that size lot at least part of the day and the activity and neighborhood traffic resulting thereof. Add to that 18 wheelers making deliveries to Mr. Harper's property and maneuvering through the neighborhood and you have a fair picture of a neighborhood problem. Requiring that this business move to an appropriately -sized and -located property for its operation should not mean that it would "go out of business"; maintaining the status quo by legalizing something patently illegal will most certainly mean that our neighborhood will be put on the road to being "out of business".

I have lived in this neighborhood for 27 years. My three children grew up here and now two have bought houses here because of the improvements made within the neighborhood over the years. And I have my own 'grandfather clause'---my two-year-old grandson lives next door. There are other children of various ages in the neighborhood, as well as elderly and handicapped adults, young couples and college students. We in this neighborhood have always realized that we have to bend and remain flexible to absorb the increased development and population of Congress Ave. and Stassney Lane and the impact on us.

What we should not have to absorb is the geometric and monumental growth of Mr. Harper's business over these years. When I moved here and when we agonized over the rezoning that occurred during the early 1980s, Mr. Harper's business was a small electrical business with 2 trucks and 2 employees, no stack lot, no forklifts, and no 18 wheelers making deliveries. Thus, the neighborhood took a live and let live attitude. It is obvious that what we thought was a cute little bull snake has grown up into a rattlesnake that is bent on our destruction.

Sincerely,

Deral Hendrix

Exhibit I

October 6, 2005

H. B. Massingill
110 Red Bird Lane
Austin, TX 78745

Re: c14-05-0106, Tract 30

Dear City Council,

Since moving into my house at 110 Red Bird Lane in 1998, I've watched Harper Construction Company (across the street from me) grow from a small contracting business into a large ongoing concern, with activity on the premise impacting me (and my neighbors) at every step of it's growth. Some of the problems I've had to deal with are:

- Semi-trucks parking in front of my house with their motor running, filling my 600 square foot house with carbon monoxide. Some mornings I'll wake up anxious with my heart racing, only to find a truck has been idling in front of my house waiting for someone to come accept delivery.

- Trucks have run over my mailbox 20 times. As a result I've missed checks, bills and business.

- Forklifts have disconnected my phone line twice, again causing much inconvenience and lost income do to lost jobs/missed calls.

- Noisy and bothersome activity, very disruptive and very early in the day:

    - Dumpster being picked up at 5:30-6:00 AM.
    - 3-4 semi-trucks daily being idled and unloaded 30 – 40 feet from my door.
    - Semi-trucks blocked me in on numerous occasions. I've missed work and appointments due to this.
    - Bobcat and other equipment being loaded on and off of trailers.
    - Work crew and trucks hanging out in front of my house (including litter).

- Mr. Harper filled in the drainage ditch on the front of his property (with no culvert) in such a way that all the rainwater from his property flows though my lot (sometimes up against my house) at a depth of 18" up to 3 feet wide, a veritable river.

- High wattage security lights shine right into my house.

- Until recently the building material was in piles up to the front of the property.

- Work crews "cat-calling" my daughter and ogling my female friends.

- Pallets brought in from warehouses and industrial areas bringing with them rat nest, mice, possums, hornets.

- There is a dumpster with garbage & food in it, attracting animals.

- Piles of material and equipment have lured thieves onto the lot. I've scared off more than one trespasser.

- I have a 100 square foot organic garden on the back of my lot and I worry about the runoff from all the machines and chemicals stored, seeping into the ground.

- Earlier this week a surveyor was in my yard painting marks on my grass. When I asked him what he was doing, he said he was hired by Mr. Harper. No one ever asked if they could come on my property.

- I also wonder what impact all the semi-truck traffic is having on my street and the infrastructure underneath it.

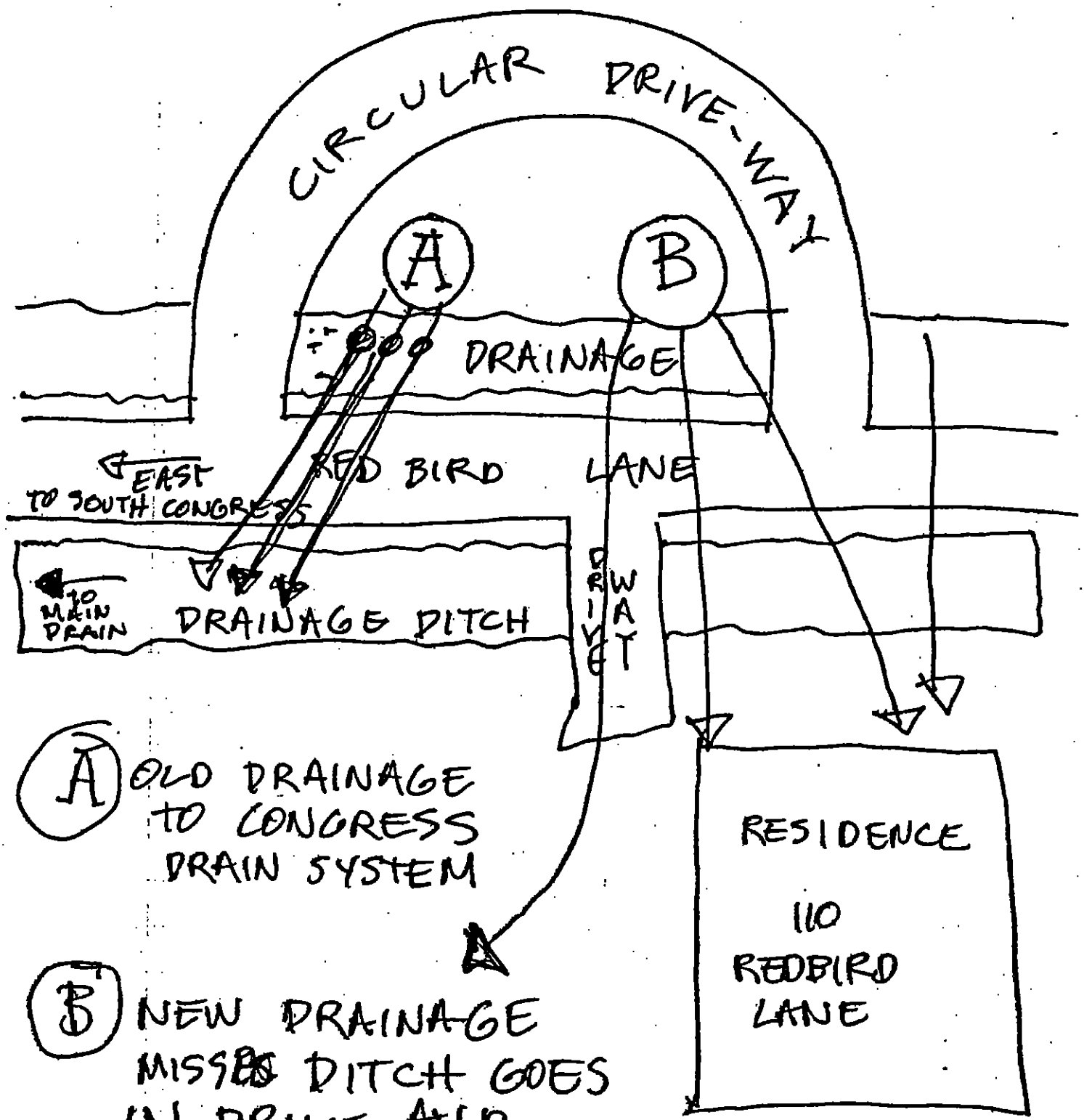
The final thing I'd like to point out is many contractors competed for the playground contract with the city that Mr. Harper is now fulfilling. How would other contractors feel if they knew the winning bid went to some one in an illegal business space? People playing by the rules didn't get the contract.

I urge you to zone Tract 30 LO-MU-CO-NP.

Sincerely,

Brad Massingill
110 Red Bird La.
462-9834

HARPER CONSTRUCTION
207 REDBIRD



(A) OLD DRAINAGE TO CONGRESS DRAIN SYSTEM

(B) NEW DRAINAGE MISSES DITCH GOES IN DRIVE AND YARD OF 110 RED BIRD LN.

Exhibit J

CONTACT: Rexford Burns 512.228.4040

PETITION

Date: 10-04-2005

File Number: C 14-05-0106

103 Red Bird Lane Austin, Texas 78745

Rezoning Request: LO-MU-CO-NP

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than LO-MU-CO-NP

The property owner plans to request CS-MU-CO-NP zoning. However, according to the City's own Neighborhood Planning and Zoning Guidelines, "CS is generally incompatible with residential environments." (Neighborhood Planning Guide to Zoning, page 23, April 2005). We oppose the CS designation because a construction business on 3/4 acre with 30+ employees, service trucks and semi-truck deliveries is not compatible with a residential neighborhood with children and hearing-impaired adults. Mr. Harper's business has evolved over recent years and has outgrown its location.

Signature	Printed Name	Address
	H.B. MASSINGILL III	112 REDBIRD LN
	Alejandra Lorido	204 Red Bird Ln
	Rexford Burns	205 Red Bird
	Robert L. Heise	551 Bluebird Ln
Contact number: Rex Burns: cell 228-4040 wk 444-0716		

PETITION

Case Number: **C14-05-0106** Date: Oct. 5, 2005

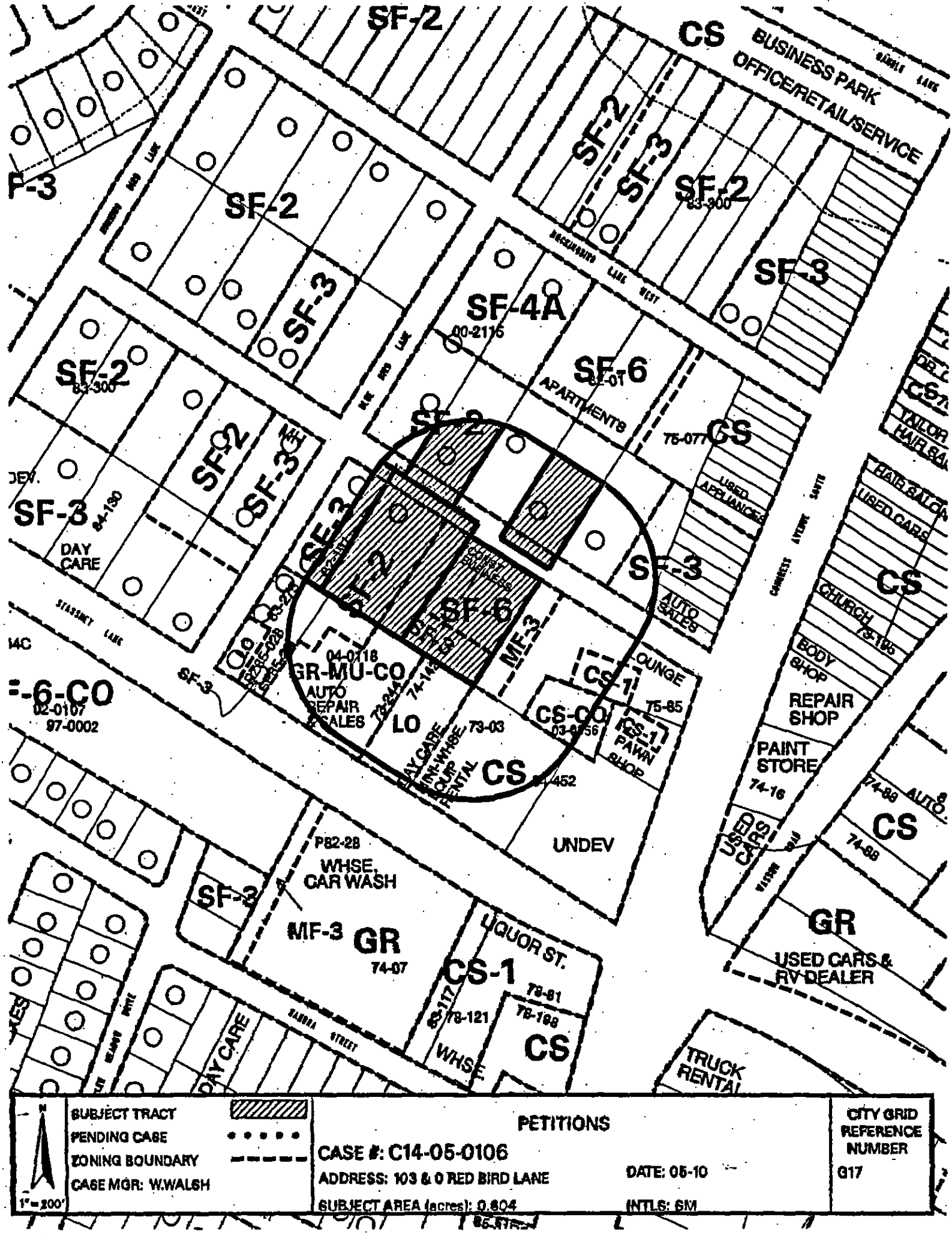
Total Area within 200' of subject tract: (sq. ft.) 271,314.05

1	04-1508-0411	MASSINGILL BRADFORD III	17,411.27	6.42%
2	04-1508-0413	LOREDO ALEJANDRO & SERAFIN LOR	14,258.30	5.26%
3	04-1609-0302	BURNS REXFORD J JR	41,300.32	15.22%
4	04-1609-0301	HEISE ROBERT LEE	7,443.76	2.74%
5				0.00%
6				0.00%
7				0.00%
8				0.00%
9				0.00%
10				0.00%
11				0.00%
12				0.00%
13				0.00%
14				0.00%
15				0.00%
16				0.00%
17				0.00%
18				0.00%
19				0.00%
20				0.00%
21				0.00%
22				0.00%
23				0.00%
24				0.00%
25				0.00%
26				0.00%
27				0.00%
28				0.00%

Validated By: Stacy Meeks

Total Area of Petitioner: 80,413.66

Total %: 29.64%


SF-2
CS
BUSINESS PARK
OFFICE/RETAIL/SERVICE
SF-3
SF-4A
00-2116
SF-6
APARTMENTS
CS
76-077
USED APPLIANCES
AUTO SALES
DAY CARE
84-130
04-0118
GR-MU-CO
AUTO REPAIR & SALES
LO
73-03
CS-1
LOUNGE
75-85
CS-CO
03-0056
PAWN SHOP
CS
01-452
UNDEV
REPAIR SHOP
PAINT STORE
74-16
USED CARS
74-89
74-88
GR
USED CARS & RV DEALER
PB82-28
WHSE. CAR WASH
MF-3
GR
74-07
LIQUOR ST.
CS-1
78-81
78-198
78-121
WHSE.
DAY CARE
TRUCK RENTAL
CHURCH
79-195
HAIR SALON
USED CARS
02-0107
97-0002
SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MGR: W.WALSH
1" = 200'
PETITIONS
CASE #: C14-05-0106
ADDRESS: 103 & 0 RED BIRD LANE
DATE: 05-10
SUBJECT AREA (acres): 0.604
INTLS: 6M
CITY GRID REFERENCE NUMBER
G17

Ex. K

T. F. Harper & Associates

103 Red Bird Lane, Austin, Texas 78745-3122

December 7, 2005

City of Austin
Mr. Mark Walters
Neighborhood Planning & Zoning
One Texas Center, Suite 525

Mr. Mark Walters,

I would like you to include the conditions that I have supplied to staff as well as the council. I not sure why the information you are providing for the council meeting only includes "Neighborhood Conditions for Support of CS-MU-CO-NP" and not my concerns.

Items supplied to staff and Council:

1. Our conditional overlay for 103 Red Bird Lane supplied 10/25/05.
2. Our letter why we are requesting this overlay supplied 10/25/05.
3. I think it would be beneficial for the council to know that we have submitted affidavit from 22 residence of the City of Austin that this decision will directly affect.

My answer to the conditions provided to me today from the neighbor is as follows.

1. As stated in my conditional overlay we are willing to meet the 25' setback a 30' setback will not allow us to continue the business we have been performing for the past 30 years.
2. These limits will not allow our business to continue.
3. A solid fence in front of our location will not allow access for our services.
4. We currently do not park company trucks on the street and only park delivery truck as they are waiting unloading.
5. This can be done to some extent if the city of Austin approves our building plan.
6. We currently have forklifts on the street because we are awaiting this decision before moving forward with our building program.
7. This is a city of Austin issue that we will be more than happy to work within their guidelines. We disagree and can provide grades that will show this issue is no worse than before we leveled the side of the roadway.

T. F. Harper & Associates

103 Red Bird Lane, Austin, Texas 78745-3122

8. We are not willing to rollback any item that could cause the lowering of the value of this property.

I would like to add one more item for the council's consideration. We have been here doing the same type of work since 1969 and no one has questioned this. We have grown and changed part of the way we do business and I hope the City supports growth in small businesses. We have a plan to help many of the issues the neighborhood has but many of them require us to do most of our work off site and this is not economical.

Last there is no neighbor, that I have met, that has been here as long as we have. That means they all bought knowing what and how we do business. My closes neighbors have been less than 6 years and even at that not once have we ever had a written complaint to the City of Austin or any other entity. The main reason for this is we do our best to work with the neighborhood (will continue to do so) and everyone knows what we do.

Respectfully,

Thomas F Harper

Thomas F. Harper
Owner
T. F. Harper & Associates

Ex. L

December 11, 2005

Reference: C 14-05-0106
Tract 30 Pleasant Hill Addition

Honorable Mayor Will Wynn and City of Austin Council Members,

I am a resident of 20 years at 309 Red Bird Lane. I request your support to follow the neighborhood recommendations for Tract 30: keep the current zoning of SF-3 and SF-6 or, as an alternate, LO-MU-CO-NP (with CO being a 30' vegetative buffer).

A commercial business is not compatible in a residential neighborhood. When Mr. Harper's father lived in a trailer at 103 Red Bird and operated his business, he kept the place tidy. Enclosed are aerial photos from 1969, 1976, 1984 and a current photo. 1969 shows one building and 1976 & 1984 show one building and a trailer on the property. The elder Mr. Harper did not have 30+ employees with lean-to sheds, dump trucks, fork lifts etc., as the current photo shows, or semi trucks unloading. Recently the situation has gotten intolerable since Tommy Harper had to quit getting his playscape materials delivered to job sites because of theft. Instead, these materials come to 103 Red Bird via semi trucks and are stacked by the street. Often the road is blocked and it is difficult to drive from Congress on Red Bird to my house. We are concerned about the noise, the safety issues (there are kids and deaf people on this street), the poor drainage and the unsightly mess. This business is a detriment to our neighborhood. I am certain that no council member would want to live near this business. Businesses often have to relocate as they grow and while it is inconvenient, in the long run they're usually happier with more space.

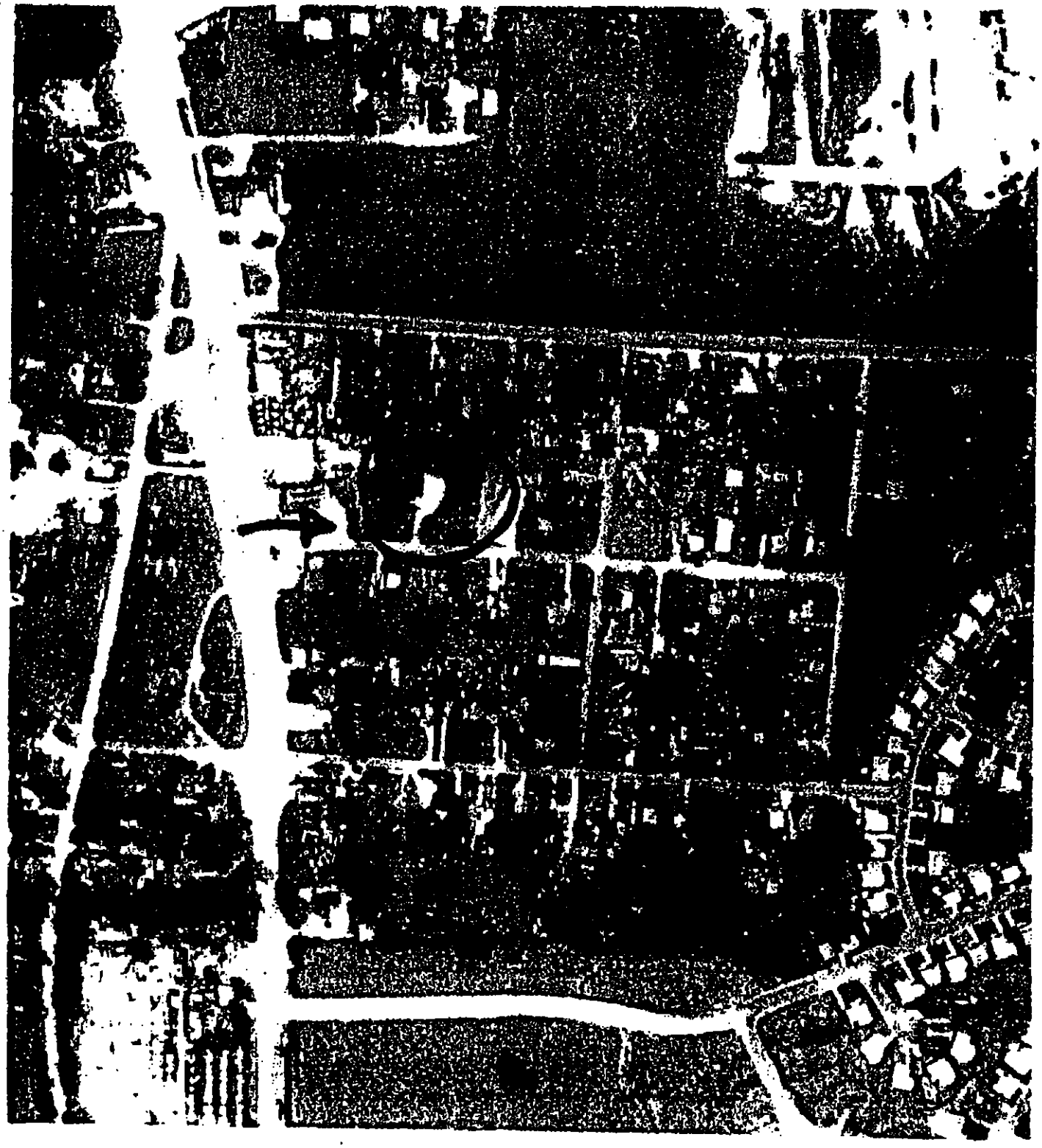
Another concern for zoning Mr. Harper's property commercial is that when he retires and decides to sell the property, who knows what kind of commercial business would locate there?

Our neighborhood is worth preserving. We accept that Congress and Stassney are becoming more commercial, but we don't want the commercial aspect encroaching into our neighborhood. We are a diverse group of home-owners with young singles, families with children, retired people, middle-aged, African Americans, Hispanics and Whites. There are new homes being built and older homes being renovated. My house is 88 years old and was moved from East Avenue when the upper level of I-35 was built.

Please keep commercial business out of our neighborhood and support the neighborhood recommendations.

Sincerely,
Andrea Thomas

Andrea Thomas
309 Red Bird Lane
(512)445-5915



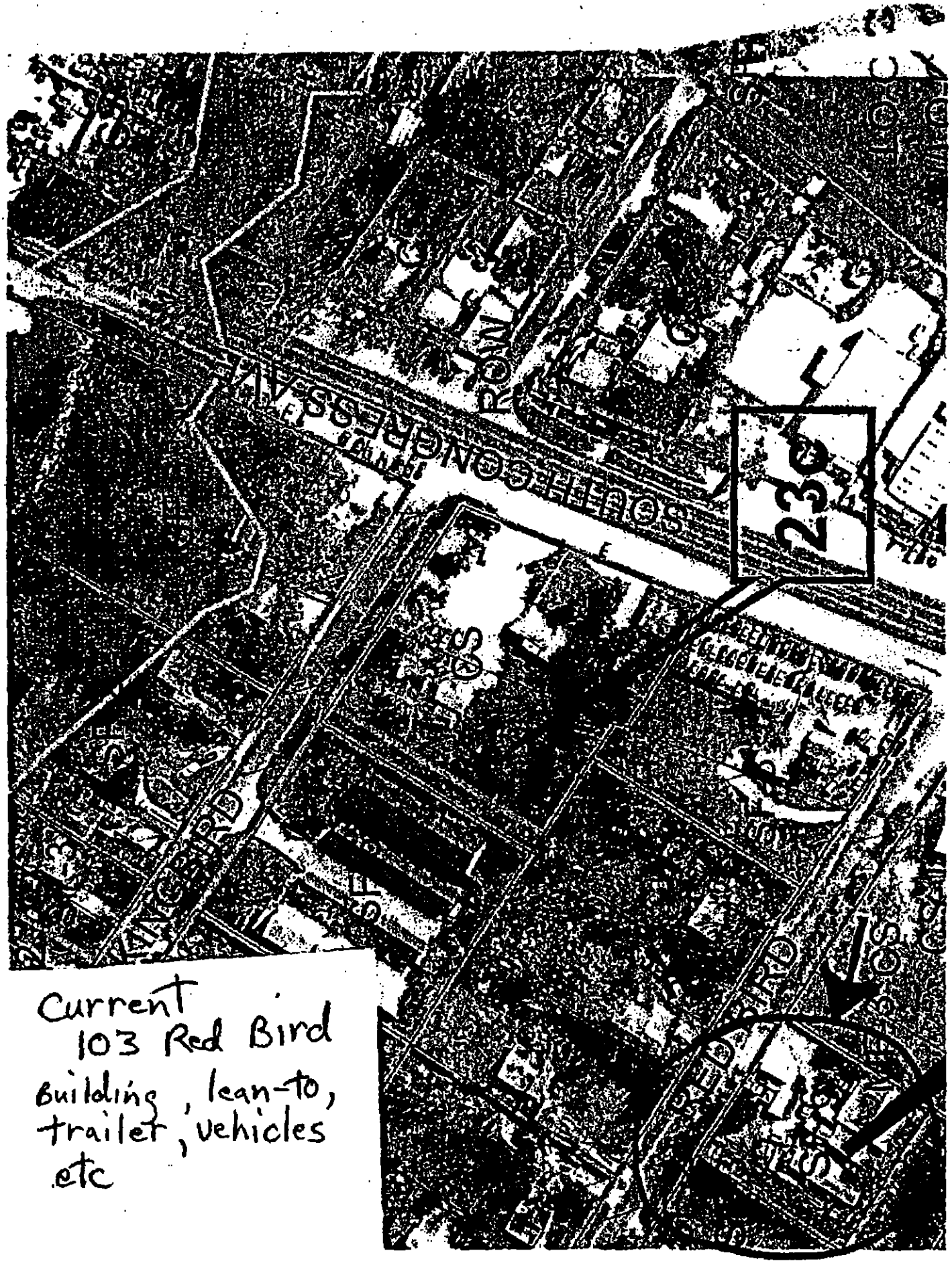
103 Red Bird 4-28-69 single building single drive

circle drive
(ditch not filled in)
1 trailer
1 building

1976

1984
circle drive (drainage ditch not filled in)
1 trailer
1 building

1984



Current
103 Red Bird
Building, lean-to, trailer, vehicles etc

December 11, 2005

Reference: C 14-05-0106

If City Council does not follow the neighborhood recommendations and zones Tract 30 CS, these are the neighborhood's conditions:

30' vegetative buffer along western property line

A solid fence with solid gate across the front of the property

No delivery or company trucks parked on the street, even while waiting to unload

All loading and unloading of trucks must be onsite and screened from view

No forklifts on the street

Correct drainage problems and associated nearby flooding created when Mr. Harper backfilled the existing ditch and culverts adjacent to his property

Mr. Harper must agree to a voluntary zoning rollback to LO-MU-CO-NP (the CO would be a 30' vegetative buffer) and a land use designation of Office Mixed-use on the plan's future land use map (FLUM)

No future use of auto sales, auto washing or pawn shops and limit business traffic to exit right towards Congress and not through the neighborhood

Exhibit M

SORRY MY PRINTER IS ACTING UP, SO SOME OF THIS IS STILL IN HANDWRITTEN NOTES . . . -

THANKS FOR YOU'RE PATIENCE TRYING TO DECYPHER IT . . .

BRAD MASSINGILL
110 RED BIRD LN
AUSTIN, TX 78745
(512) 462-9834

15
PAGES

Brad Massingill
110 Redbird Lane
Austin,Tx 78745
(512)462-9834

Points I would like to make concerning the proposed zoning change for Lot 30 in the Pleasant Hill Neighborhood (103 or 203 Redbird Lane)

#1 Why I was inadvertantly left out of the Neighborhood Planning Process and why I am now trying to play "catch up" by the rules.

#2 Point out Mr. Harper's change of use in 1999-2000 from a small shop operation to the present usage as a construction delivery facilty with semi truck traffic and storage of industrial materials. These uses would have been impossible before Mr. Harper filled in the drainage easement on the front of of his property at that time.

#3 Demonstrate continued impact these new activities have had on me and my property at 110 Redbird Lane, directly across the street from Harper Construction /Tract 30 at 103 or 203 Redbird Lane (depending on which record you check).

#4 Recommend LO-MU-CO-NP with a roll back to some type of SF zoning (as are the rest of the lots in our neighborhood) In addition I would propose Conditional Overlay restrictions on any use except as a business office or for activities performed on site before the non-reported change of use in 1999-2000.

How I was inadvertantly left out of the FLUM process and denied input on proposed changes to Tract 30 of the Pleasant hill Neighborhood

#1 A) I was invloved in the South Congress Combined Neighborhood Plan as much as was possible, I've been working on my sisister's house in Georgia since Fall of2001. I was only in town for a week or two at a time back then, so my participation was primarily by phone with a zoning employee; Alex Koenig. I had contacted Alex when the meeting at Bedicheck was approaching with several ideas and concerns for my neighborhood. Alex told me at that time the response from the Pleasant Hill Neighborhood was overwhelming. He instructed me to hold onto my comments because the meeting was to be rescheduled to accomodate the extra interest. I reminded him at that time that I had re-arranged my travel plans to attend the Bedicheck Meeting and I would require at least a week notification to assure my attendance. He told me he would contact me in person (by phone) as soon as he knew something more concrete (at this time Tract 30 was not even listed in any documents concerning zone changes). Shortly thereafter, un-beknownst to me, Alex Koenig got transfered to another department and forgot to call me or tell anynoe in Zoning about me...

#1 B) As a result, I never heard about the time of the Bedicheck Meeting, where I assume my neighbors learned about the proposed changes to Tract 30.
Since I wasn't able to sign up for future mailings, updates and most importantly the times and locations for crucial votes at Planning and Zoning or the City Council's votes changing my neighborhood or the (FLUM) I have recieved nothing by phone or mail concerning any of the proposals or changes during any part of this process.

#1 C) My first knowledge of the proposed Zoning Change for Tract 30 came when my neighbor brought me a petetion opposing the change; the monday or Tuesday before the October 6th, 2005 City Council Meeting. At that point it was already Second Reading with no comments from the public allowed.

#1 D) As a result of all these events ,I at no point have had any direct inputint the process,

Neighborhood Planning & Zoning Department

505 Barton Springs Road
P.O. Box 1088
Austin, TX 78767

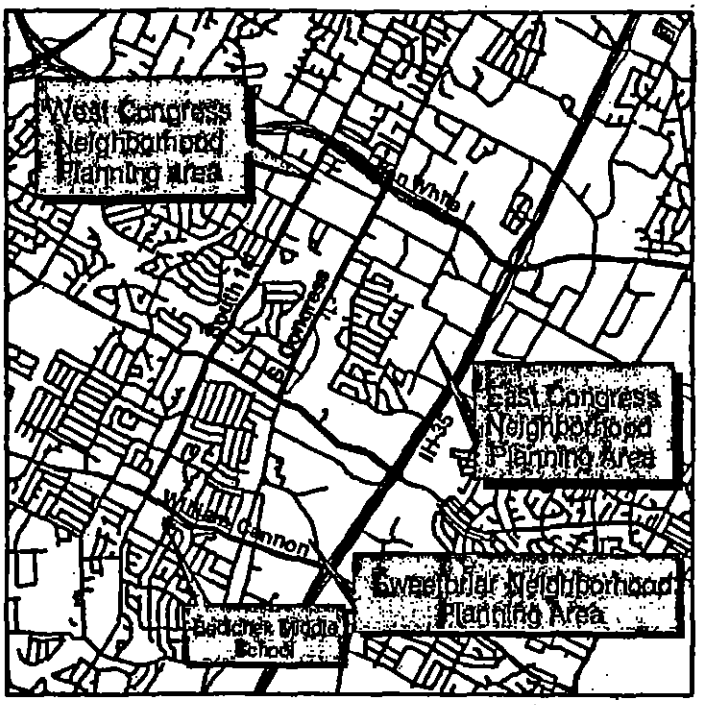
NEIGHBORHOODS FIRST

April 12, 2005

Dear Property Owner,

The City of Austin Neighborhood Planning staff has been working with community stakeholders in the South Congress Combined Neighborhood Planning Area since June of last year. This process will result in a neighborhood plan that will be adopted by the Austin City Council.

The planning process has produced a Future Land Use Map and proposed zoning recommendations that could affect your property.



South Congress Combined Neighborhood Planning Area

Enclosed in this mailing are informational materials to help explain the proposed changes:

- A chart and map indicating where the properties with proposed zoning changes are located and the proposed changes
- An information sheet that explains the proposed infill options for the area
- An information sheet explaining the zoning terms.

We will be holding a public meeting to discuss these proposed zoning change recommendations on:

Wednesday, April 27, 2004,
6:00 PM to 8:00 PM
Bedichek Middle School
6800 Bill Hughes Rd

DRAFT Rezoning Tract Table

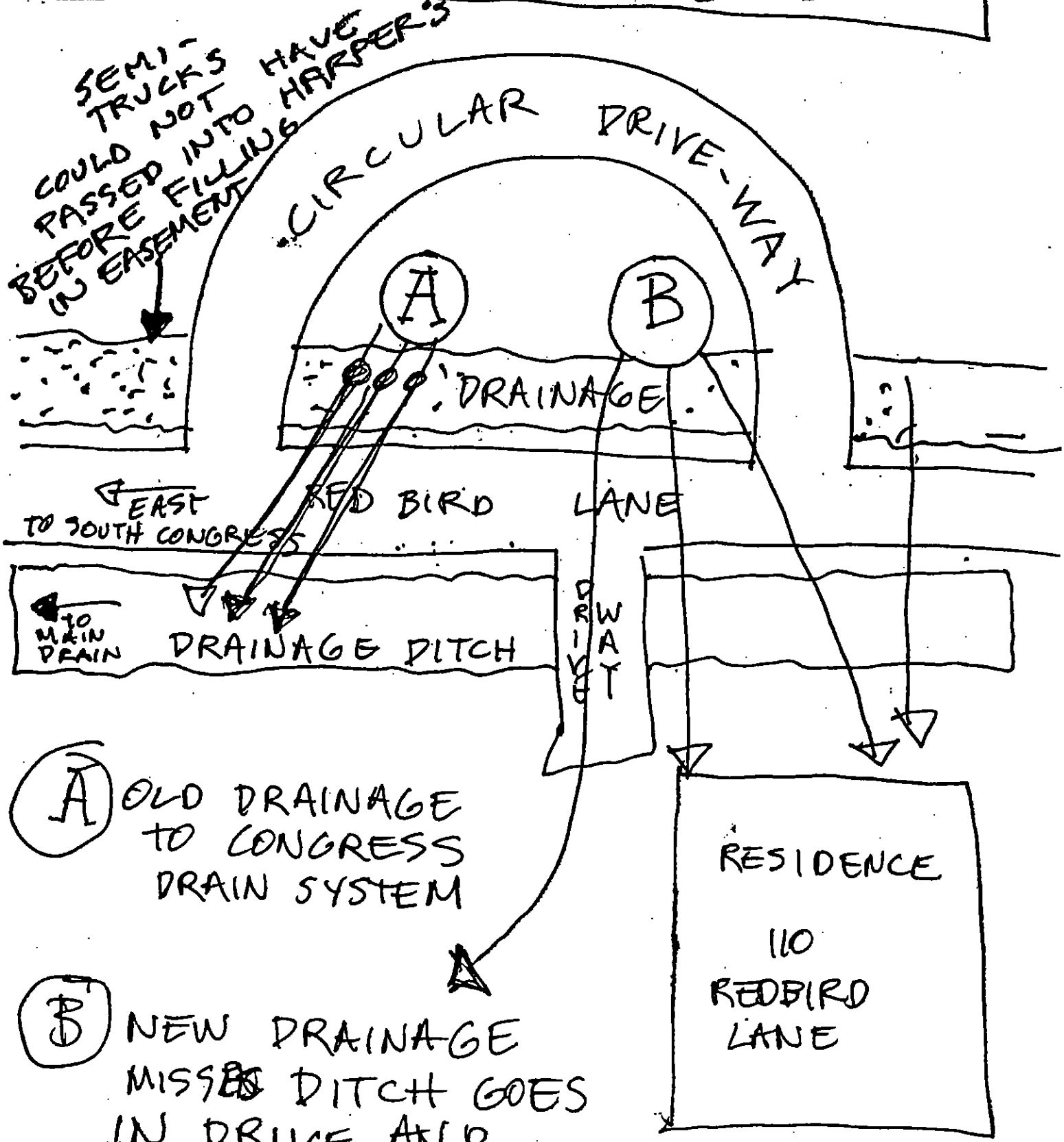
South Congress Combined Planning Area

Printed April 8, 2005
Created by NPZD, City of Austin

NOTE TRACT 30 IS NOT MENTIONED.

	Tract	FROM	TO	Neighborhood Urban Center	Mixed Use Building	Residential Infill
West Congress Planning Area (cont.)	25	CS-1, SF-6, SF-3, LO	LO-MU-CO-NP	yes	yes	
	26	CS-1	CS-1-MU-CO-NP	yes	yes	
	27	CS, MF-3	CS-MU-CO-NP	yes	yes	
	28	CS-CO	CS-MU-CO-NP	yes	yes	
	32	GR-MU-CO, LO, SF-3	LO-MU-CO-NP	yes	yes	
	35	SF-3	LO-MU-CO-NP		yes	
	39	GR	GR-MU-CO-NP	yes	yes	
East Congress Neighborhood Planning Area	100	LI, SF-3	CS-MU-NP		yes	
	101	LI	CH-CO-NP			
	102	LI, CS-1, CS-1-CO	CH-CO-NP			
	103	LI	CH-NP			
	104	LI	CH-NP			
	105	LI	LI-NP	yes	yes	
	107	SF-3	LI-NP			
	108	LI, CS, SF-3	CS-MU-CO-NP	yes	yes	
	110	LI, CS, GR-CO, SF-3	CS-MU-CO-NP	yes	yes	
	111	LI-CO	LI-CO-NP	yes	yes	
	112	LI, CS, SF-3	CS-MU-CO-NP	yes	yes	
	113	CS	CS-MU-CO-NP	yes	yes	
	114	CS	CS-MU-CO-NP	yes	yes	
	115	SF-3	LI-NP			
	116	SF-3	LI-NP			
	117	SF-3	CS-MU-NP	yes	yes	
	118	LI, SF-3	CS-MU-NP			
	119	LI	LI-CO-NP			
	120	LI	CS-MU-CO-NP	yes	yes	
	121	LI	LI-CO-NP	yes	yes	
	123	I-SF-3	LI-NP			

HARPER CONSTRUCTION
207 REDBIRD



(A) OLD DRAINAGE TO CONGRESS DRAIN SYSTEM

(B) NEW DRAINAGE MISSES DITCH GOES IN DRIVE AND YARD OF 110 REDBIRD LN.

#

CONTINUED

IMPACT ON

ME AT (B. MASSINGILL)

110 REDBIRD

- Pallets brought in from warehouses and industrial areas bringing with them rat nest, mice, possums, hornets.
- There is a dumpster with garbage & food in it, attracting animals.
- Piles of material and equipment have lured thieves onto the lot. I've scared off more than one trespasser.
- I have a 100 square foot organic garden on the back of my lot and I worry about the runoff from all the machines and chemicals stored, seeping into the ground.
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The final thing I'd like to point out is many contractors competed for the playground contract with the city that Mr. Harper is now fulfilling. How would other contractors feel if they knew the winning bid went to some one in an illegal business space? People playing by the rules didn't get the contract.

I urge you to zone Tract 30 LO-MU-CO-NP. WITH ROLL BACK TO ~~SF-3-CO~~ OR LO W/ ALL USES PROHIBITED WITH THE ~~EXCEPTION~~ OF OFFICE USE AND OF USES PRIOR TO FILLING IN OF RIGHT OF WAY / DRAINAGE DITCH IN FRONT OF PROPERTY (CIRCA 1998)

Sincerely,

Brad Massingill
110 Red Bird La.
462-9834