

A U S T I N C I T Y C O U N C I L
AGENDA



Thursday, October 19, 2006

+ Back Print

**Zoning Ordinances / Restrictive Covenants
(HEARINGS CLOSED)
RECOMMENDATION FOR COUNCIL ACTION**

ITEM No. 57

Subject: C14-05-0085 - Powers 20 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 11520 North IH-35 Service Road Southbound (Walnut Creek Watershed) from general office (GO) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. First reading approved on March 2, 2006. Vote: 7-0. Applicant: Frank Alattar/Fred Powers. Agent: Fred Powers. City Staff: Jorge E. Rousselin, 974-2975.

Additional Backup Material

(click to open)

- ☐ Staff Report
- ☐ Ordinance

For More Information:

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-05-0085 – POWERS-20

REQUEST:

C14-05-0085 - POWERS 20 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 11520 North IH-35 Service Road Southbound (Walnut Creek Watershed) from general office (GO) district zoning to community commercial conditional overlay (GR-CO) combining district zoning. First reading approved on March 2, 2006 Vote 7-0. Applicant: Frank Alattar/Fred Powers Agent: Fred Powers. City Staff: Jorge E. Rousselin, 974-2975.

PROPERTY OWNER: Frank Alattar / Fred Powers

AGENT: Fred Powers

ISSUES:

The applicant has requested second ordinance reading at this time in order to address the Council regarding the use of the property. Please see attached correspondence. The applicant wishes to rezone the property to GR to allow the development of a hotel-motel or an automotive sales facility. The Zoning & Platting Commission has recommended LR-CO prohibiting certain uses including automotive sales and hotel-motel uses. The Staff has recommended GR-CO prohibiting certain uses including automotive sales and hotel-motel uses.

DATE OF FIRST READING/VOTE: March 2, 2006, Vote (7-0)

CITY COUNCIL DATE: October 19, 2006

CITY COUNCIL ACTION:

March 2, 2006

Approved 1st reading with the following conditions:

Staff recommendation of GR-CO including prohibited uses and vehicle trip limitation (7-0)

The conditional overlay will limit vehicle trips to 2,000 per day and prohibit the following uses

- | | |
|-------------------------------------|--|
| ▪ Automotive repair services | ▪ Outdoor sports and recreation |
| ▪ Automotive sales | ▪ Pawn shop services |
| ▪ Automotive washing (of any type) | ▪ Theater |
| ▪ Business or trade school | ▪ Community recreation (private) |
| ▪ Commercial off-street parking | ▪ Community recreation (public) |
| ▪ Consumer repair services | ▪ Congregate living |
| ▪ Exterminating services | ▪ Guidance services |
| ▪ Financial services | ▪ Hospital services (limited) |
| ▪ Funeral services | ▪ Private secondary educational facilities |
| ▪ General retail services (general) | ▪ Residential treatment |
| ▪ Hotel-motel | ▪ Bail bond services |
| ▪ Indoor entertainment | ▪ Printing and publishing |
| ▪ Indoor sports and recreation | ▪ College and university facilities |
| ▪ Off-site accessory parking | |

ASSIGNED STAFF: Jorge E. Rousselin, NPZD

PHONE: 974-2975

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

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 11520 NORTH IH-35 SERVICE ROAD
3 SOUTHBOUND FROM GENERAL OFFICE (GO) DISTRICT TO COMMUNITY
4 COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.
5

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

8 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
9 change the base district from general office (GO) district to community commercial-
10 conditional overlay (GR-CO) combining district on the property described in Zoning Case
11 No. C14-05-0085, on file at the Neighborhood Planning and Zoning Department, as
12 follows:
13

14 Lots 13, 14, 15, and 16, Walnut Forest Subdivision, a subdivision in the City of
15 Austin, Travis County, Texas, according to the map or plat of record in Plat Book
16 6, Page 127, of the Plat Records of Travis County, Texas (the "Property"),
17

18 locally known as 11520 North IH-35 Service Road Southbound, in the City of Austin,
19 Travis County, Texas, and generally identified in the map attached as Exhibit "A".
20

21 **PART 2.** The Property within the boundaries of the conditional overlay combining district
22 established by this ordinance is subject to the following conditions:
23

24 1. A site plan or building permit for the Property may not be approved, released, or
25 issued, if the completed development or uses of the Property, considered cumulatively
26 with all existing or previously authorized development and uses, generate traffic that
27 exceeds 2,000 trips per day.
28

29 2. The following uses are prohibited uses of the Property:
30

31 Automotive repair services
32 Automotive washing (of any type)
33 Commercial off-street parking
34 Financial services
35 General retail services (general)
36 Indoor entertainment
37 Off-site accessory parking

Automotive sales
Business or trade school
Consumer repair services
Funeral services
Hotel-motel
Indoor sports and recreation
Outdoor sports and recreation

1 Pawn shop services
2 Community recreation (private)
3 Congregate living
4 Hospital services (limited)
5 Residential treatment
6 Printing and publishing

Theater
Community recreation (public)
Guidance services
Private secondary educational facilities
Bail bond services
College and university facilities

7
8 Except as specifically restricted under this ordinance, the Property may be developed and
9 used in accordance with the regulations established for the community commercial (GR)
10 base district and other applicable requirements of the City Code.

11
12 **PART 3.** This ordinance takes effect on _____, 2006.

13
14
15 **PASSED AND APPROVED**

16
17
18
19 _____, 2006

Will Wynn.
Mayor

20
21
22
23
24 **APPROVED:**

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk

ZONING REVIEW SHEET**CASE:** C14-05-0085**Z.A.P. DATE:** November 15, 2005**ADDRESS:** 11520 North IH-35 Service Road South Bound**OWNER:** Frank Alattar / Fred Powers**AGENT:** Fred Powers**REZONING FROM:** GO (General Office) district**TO:** GR (Community Commercial) district**AREA:** 1 650 Acres**SUMMARY ZAP RECOMMENDATION:**

November 15, 2005

APPROVED LR-CO DISTRICT ZONING WITH CONDITIONS OF:

- 2000 VEHICLE TRIP LIMIT;
- PROHIBIT DRIVE-THRU USES,
- PROHIBIT SERVICE STATIONS;
- INCLUDE STAFF'S PROHIBITED USES LIST
[M H; J P 2ND] (7-0) J M, J.G – ABSENT

Prohibited uses

- | | |
|--|---|
| <ul style="list-style-type: none"> ▪ College and university facilities ▪ Community recreation (private) ▪ Community recreation (public) ▪ Congregate living ▪ Consumer repair services ▪ Financial services ▪ Guidance services | <ul style="list-style-type: none"> ▪ Hospital services (limited) ▪ Off-site accessory parking ▪ Printing and publishing ▪ Private secondary educational facilities ▪ Residential treatment |
|--|---|

SUMMARY STAFF RECOMMENDATION:

Staff recommends community commercial – conditional overlay (GR-CO) combining district zoning.

The conditional overlay will limit vehicle trips to 2,000 per day and prohibit the following uses:

- | | |
|---|---|
| <ul style="list-style-type: none"> ▪ Automotive repair services ▪ Automotive sales ▪ Automotive washing (of any type) ▪ Business or trade school ▪ Commercial off-street parking ▪ Consumer repair services ▪ Exterminating services ▪ Financial services ▪ Funeral services ▪ General retail services (general) ▪ Hotel-motel ▪ Indoor entertainment ▪ Indoor sports and recreation ▪ Off-site accessory parking | <ul style="list-style-type: none"> ▪ Outdoor sports and recreation ▪ Pawn shop services ▪ Theater ▪ Community recreation (private) ▪ Community recreation (public) ▪ Congregate living ▪ Guidance services ▪ Hospital services (limited) ▪ Private secondary educational facilities ▪ Residential treatment ▪ Bail bond services ▪ Printing and publishing ▪ College and university facilities |
|---|---|

The Staff recommendation is based on the following considerations:

- 1.) The proposed commercial zoning classification is compatible with existing commercial uses along the frontage of IH-35,
- 2.) The site will be accessed along the frontage road IH-35;
- 3.) Prohibition of adverse land uses incompatible with residential uses is recommended;
- 4.) The site will be subject to compatibility standards along the western property line abutting residential (SF-1) development, and
- 5.) Zoning consistency of GR-zoned properties abutting residential developments along IH-35

ISSUES:

The applicant wishes to rezone the property to GR for the purpose of constructing a hotel-motel or a vehicle sales facility. Although at a higher elevation, the site is abutting residential development to the west and next to an existing motel to the south.

DEPARTMENT COMMENTS:

The subject rezoning area is a 1.650 acre site fronting IH-35 Service Road zoned GO. The applicant proposes to rezone the property to community commercial (GR) district to allow for a hotel-motel or a vehicle sales facility. Access is proposed off the IH-35 Service Road. An existing driveway grants access to the service road. The site is abutting an existing motel to the south and a vacant car sales facility to the north.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO	Undeveloped land
<i>North</i>	LR	Vacant building
<i>South</i>	GO	Motel
<i>East</i>	N/A	Interstate 35
<i>West</i>	SF-1	Single family residences

AREA STUDY: N/A

TIA: Waived, See Transportation Comments

WATERSHED: Walnut Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

64--River Oaks Lakes Estates Neighborhood
 85--Walnut Creek Neighborhood Assn, Inc
 114--North Growth Corridor Alliance
 480--Scofield Farms Residents Assn
 511--Austin Neighborhoods Council
 742--Austin Independent School District
 937--Taking Action Inc

SCHOOLS:

Austin Independent School District

- Walnut Creek Elementary School
- Dobie Middle School
- Lanier High School

RELATED CASES:

The subject property along with 285.73 acres were annexed into the city limits on December 31, 2000 (C7A-00-003) under Ordinance 001107-51.

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-98-0149	LO to GR	Approved GR-CO The CO prohibited several uses and limited the property to LO development regulations (Vote 6-0). 10/27/98	Withdrawn before being considered by Council on 12/10/98
C14-02-0075	SF-1 to SF-3	Approved SF-3-CO The CO limits the property to one duplex (Vote 5-2). 7/23/02	Denied SF-3-CO (Vote 5-2). 1/16/03
C14-04-0174	LO to GR	Approved community commercial – conditional overlay (GR-CO) combining district zoning The conditional overlay limits trips to 2,000 per day and limits the site to automotive rentals only and all limited office (LO) district zoning uses 12/07/04 (Vote 8-0, C. Hammond – ineligible to vote)	Approved community commercial – conditional overlay (GR-CO) combining district zoning The conditional overlay limits trips to 2,000 per day and limits the site to automotive rentals only and prohibit the following uses: <ul style="list-style-type: none"> ▪ Automotive repair services ▪ Automotive sales ▪ Automotive washing (of any type) ▪ Business or trade school ▪ Commercial off-street parking ▪ Consumer repair services ▪ Exterminating services ▪ Financial services ▪ Funeral services ▪ General retail services (general) ▪ Hotel-motel ▪ Indoor entertainment ▪ Indoor sports and recreation ▪ Off-site accessory parking ▪ Outdoor sports and recreation ▪ Pawn shop services ▪ Theater

			<ul style="list-style-type: none"> ▪ Community recreation (private) ▪ Community recreation (public) ▪ Congregate living ▪ Guidance services ▪ Hospital services (limited) ▪ Private secondary educational facilities ▪ Residential treatment ▪ Bail bond services ▪ Printing and publishing ▪ College and university facilities <p>02/17/05</p>
--	--	--	---

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION
Covington Drive	60'	Varies	Collector
IH-35	Varies	Varies	Arterial

CITY COUNCIL DATE:**January 26, 2006****March 2, 2006****ACTION:**

Postponed to March 2, 2006 at the request of the applicant

Approved on 1st reading
 Staff recommendation of GR-CO including prohibited uses and vehicle trip limitation (7-0)
 The conditional overlay will limit vehicle trips to 2,000 per day and prohibit the following uses

- Automotive repair services
- Automotive sales
- Automotive washing (of any type)
- Business or trade school
- Commercial off-street parking
- Consumer repair services
- Exterminating services
- Financial services
- Funeral services
- General retail services (general)
- Hotel-motel
- Indoor entertainment
- Indoor sports and recreation
- Off-site accessory parking
- Outdoor sports and recreation
- Pawn shop services
- Theater
- Community recreation (private)

- Community recreation (public)
- Congregate living
- Guidance services
- Hospital services (limited)
- Private secondary educational facilities
- Residential treatment
- Bail bond services
- Printing and publishing
- College and university facilities

April 6, 2006

This item was postponed to April 20, 2006 at the applicant's request.

April 20, 2006

This item was postponed to July 27, 2006 at the applicant's request on Mayor Pro Tem Thomas' motion, Council Member Dunkerley's second on a 6-0 vote Council Member McCracken was off the dais.

July 27, 2006

This item was postponed to August 9, 2006 at 1:00 p m. at staff's request

August 9, 2006

This item was postponed to October 19, 2006 at the applicant's request

October 19, 2006

ORDINANCE READINGS:

1st – March 2, 2006

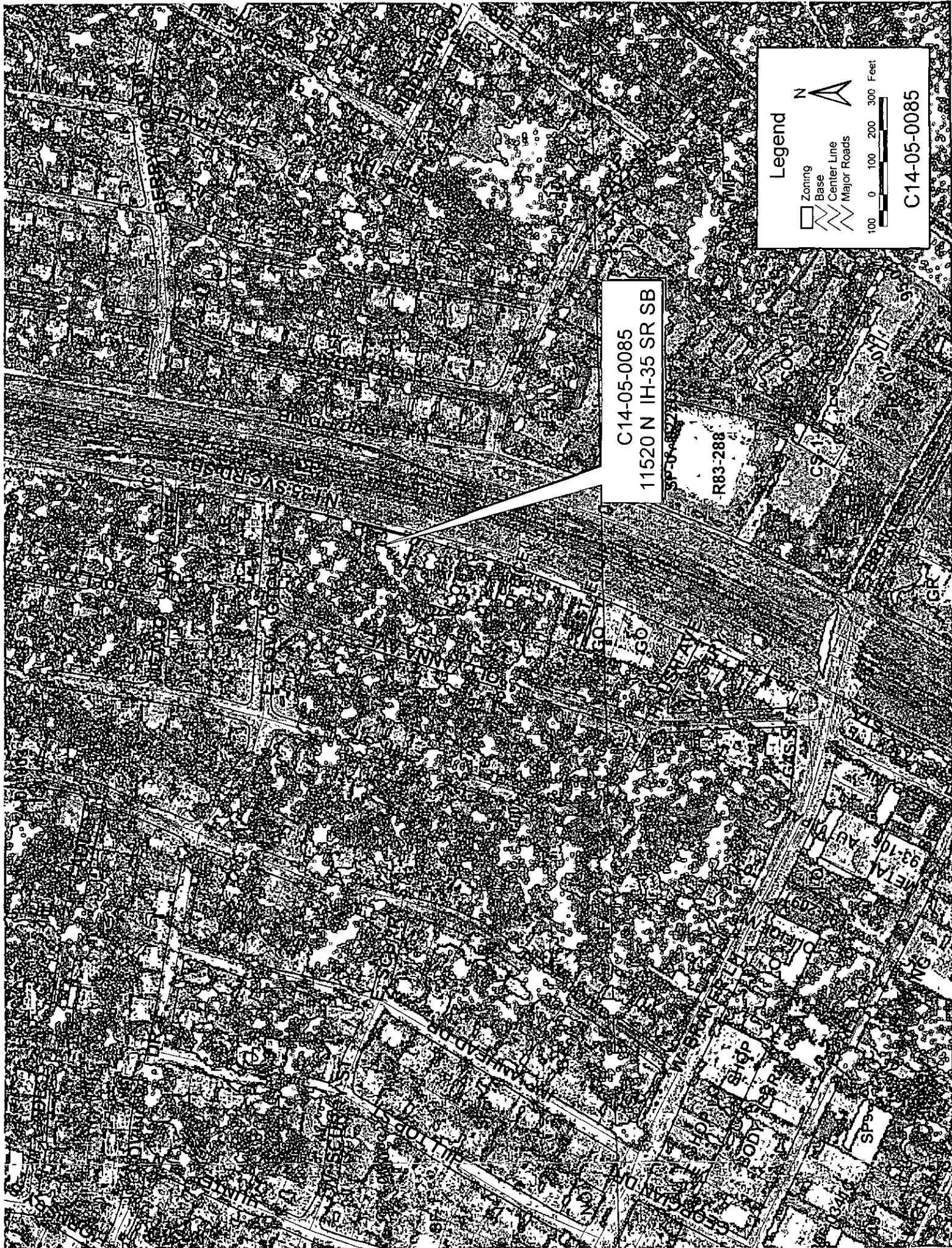
2nd and 3rd – October 19, 2006

ORDINANCE NUMBER:

CASE MANAGER: Jorge E Rousselin, NPZD

PHONE: 974-2975

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



C14-05-0085
11520 N IH-35 SR SB

R83-288

Legend

- Zoning
- Base
- Center Line
- Major Roads

100 0 100 200 300 Feet

C14-05-0085

STAFF RECOMMENDATION

Staff recommends community commercial – conditional overlay (GR-CO) combining district zoning. The conditional overlay will limit vehicle trips to 2,000 per day and prohibit the following uses

- Automotive repair services
- Automotive sales
- Automotive washing (of any type)
- Business or trade school
- Commercial off-street parking
- Consumer repair services
- Exterminating services
- Financial services
- Funeral services
- General retail services (general)
- Hotel-motel
- Indoor entertainment
- Indoor sports and recreation
- Off-site accessory parking
- Outdoor sports and recreation
- Pawn shop services
- Theater
- Community recreation (private)
- Community recreation (public)
- Congregate living
- Guidance services
- Hospital services (limited)
- Private secondary educational facilities
- Residential treatment
- Bail bond services
- Printing and publishing
- College and university facilities

The Staff recommendation is based on the following considerations

- 1) The proposed commercial zoning classification is compatible with existing commercial uses along the frontage of IH-35,
- 2) The site will be accessed along the frontage road IH-35,
- 3.) Prohibition of adverse land uses incompatible with residential uses is recommended,
- 4) The site will be subject to compatibility standards along the western property line abutting residential (SF-1) development, and
- 5) Zoning consistency of GR-zoned properties abutting residential developments along IH-35

BASIS FOR RECOMMENDATION

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

GR – Community Commercial zoning is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major traffic ways

Although the property meets the purpose statement set forth in the Land Development Code, it is located at the entrance to an established residential neighborhood and is abutting single family residential. Thus, Staff recommends prohibiting abutting land uses incompatible with existing residential development.

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

Other properties in the immediate vicinity are zoned commercial or used for commercial businesses. The property to the north is zoned LR and is a vacant building. The property to the south is zoned GO and is used as a motel. Given the uses in the immediate vicinity, staff believes the request to be consistent and compatible with the area while recommending prohibiting adverse uses abutting residential development. The recommendation is in accordance to City Council approval of similar GR properties in the area.

EXISTING CONDITIONS

Site Characteristics

The subject rezoning area is a 1.650 acre site fronting IH-35 Service Road zoned GO. The applicant proposes to rezone the property to community commercial (GR) district to allow for a hotel-motel or a vehicle sales facility. Access is proposed off the IH-35 Service Road. An existing driveway grants access to the service road. The site is abutting an existing motel to the south and a vacant car sales facility to the north.

Transportation

1. Additional right-of-way will be required at the time of subdivision and/or site plan.
2. The trip generation under the requested zoning is estimated to be 8,598 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).
3. A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day [LDC, 25-6-117].
4. Capital Metro bus service is available along IH-35.

Environmental and Impervious Cover

1. The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

2. According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.
3. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
4. 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.

5. Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:
 - Structural controls Sedimentation and filtration basins with increased capture volume and 2 year detention.
- 6 At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

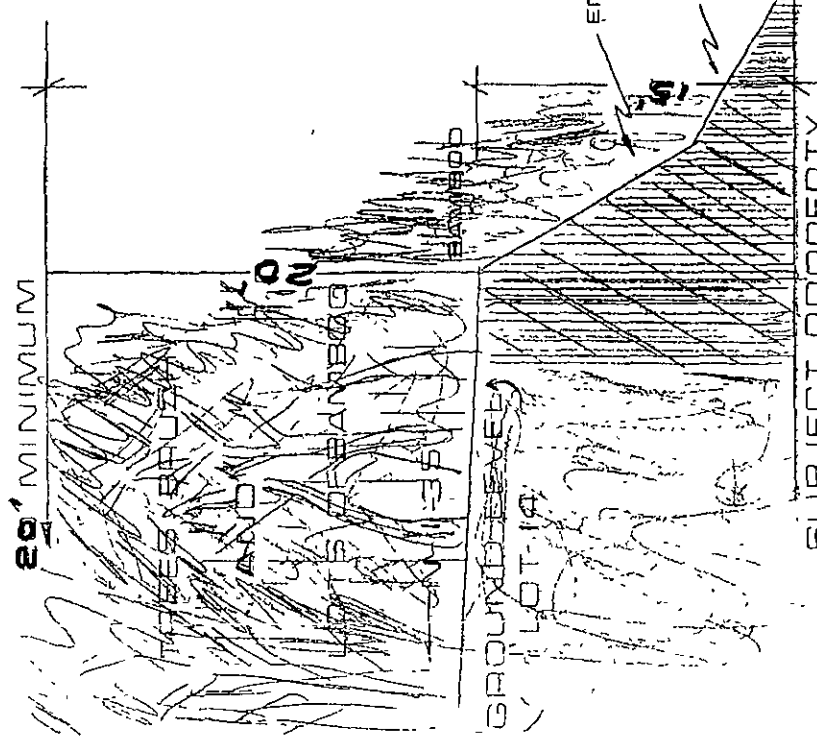
Water and Wastewater

1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades to serve the site and land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria.. The water and wastewater utility construction must be inspected by the City. The landowner must pay the associated City fees

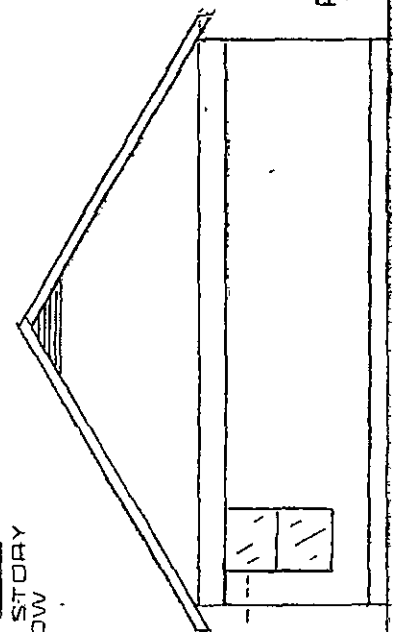
Site Plan and Compatibility Standards

1. The site is subject to compatibility standards. Along the west property line, the following standards apply.
 - No structure may be built within 25 feet of the property line
 - No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line
 - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line
 - No parking or driveways are allowed within 25 feet of the property line.
 - In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection
 - Additional design regulations will be enforced at the time a site plan is submitted

20' MINIMUM



TOP OF 2 STORY WINDOW



POLLYANNA

SUBJECT PROPERTY TYPICAL

PRIVACY ISSUE

GR ZONING REQUEST	
DATE	APPROVED BY
1-35 LOTS 13, 14 & 15	FILED
WALNUT FOREST	

C14-05-0085

BIG MFG.
Facilities by
Samsung & >>
Dell on east
Parmer

Extensive Malls
At Parmer and N.
I 35 extending
All the way to
Pflugerville

2002/2003
Two new very
Large multi level
Motels between
Lamar & I-35
At Parmer

LOOP
275

DILLINGHAM
LN
8 IN

From Yager Ln.
to walnutCreek
eight tenths of A
mile of offices,
Some multi Story
and 3 deep From
N. I 35

Walnut Creek
Church
Cemetery

2003
12007 N Lamar
212 - New 1 & 2
BR Apartments
Est. 400 Pop.

2000
260 New 1, 2,
& 3 bedroom
Apartments
Est. 650 Pop.

EXTENSIVE UTILITIES
INSTALLED (SEWER)
ABOUT 2001/2004 IN

TRACT 18.24

130000+
COMMERCIAL
BLDG. 2003
11400 N LAMAR

ALBERTSON'S
GRO. 1995
11331 N LAMAR

ECKERD DRUG
1997 11300 N
LAMAR

CHINA TOWN
ONE BLOCK SOUTH
OF BRAKER LANE
NOW UNDERWAY

BRAKER LANE FROM
2 LANES TO MAJOR 4
LANES INCE 1985

EXTENSIVE SHOPPING
CTR. MOTOR CYCLES
GALORE - BRAKER &
N. I 35

Apartments

C14-05-0085

POWERS
CASE FOR MOTOR HOTEL AT SITE

QUESTION - FREE ENTERPRISE AND OFFICES. THE ASSOC WANTS.

I BELIEVE THERE ARE SEVERAL GOOD REASONS TO SUPPORT THE PRESENCE OF A MOTEL ON OUR PROPERTIES. THERE ARE CLUSTERS OF MOTELS AT ABOUT EVERY MAJOR I-35 INTERSECTION. BRAKER AND NEARBY PARMER AREAS ALONG I-35 SURELY REPRESENTS ONE THE BIGGEST CONCENTRATIONS OF EMPLOYERS IN AUSTIN. THIS MUST RESULT IN NUMEROUS OUT OF TOWN PROFESSIONAL TRAVELERS. ALSO, THERE ARE MANY NEARBY APARTMENT COMPLEXES THAT DO NOT HAVE GUEST ROOMS FOR VISITING OUT OF TOWN RELATIVES OR VISITORS REF: DELL, SAMSUNG, SHOPPING CENTERS FROM PARMER TO MOPAC AND PARMER TO PFLUGERVILLE.

BETWEEN 290 & 183 AT I-35 THERE ARE APPROXIMATELY 16 HOTEL/MOTELS. IMMEDIATELY NORTH OF AND ADJACENT TO 183 ARE ABOUT 7 MORE.

AT RUNDBERG I-35 (NOT A MAJOR TRAFFIC ARTERY) THERE ARE 4 OLD STYLE MOTELS IN EARLY OR MID LIFE STAGES OF OBSOLESCENCE - (WEST SIDE OF I-35) AND ONE MODERN MOTEL ON THE EAST SIDE.

THERE IS ONE MODERN MOTEL (HOLIDAY INN EXPRESS) AT WELLS BRANCH PARKWAY - SERVING PFLUGERVILLE - PRICE PER SINGLE PER NIGHT ABOUT \$100.00 WITH ROOM TAXES.

YES - THERE IS A MARRIOTT COMPLEX AT I-35 AND PARMER. PROBLEM: YOU CANNOT A RENT ROOM THERE. THIS COMPLEX HAS ONLY SUITES FOR EXTENDED STAYS AT ONE HUNDRED AND NINETEEN DOLLARS PLUS TAXES PER NIGHT. THE PRESENCE OF THIS COMPLEX POINTS TO AN UN FULLFILLED NICHE FOR MODERN MODEST PRICED ROOMS IN THE \$59.00 TO \$69.00 PRICE RANGE.

THERE ARE TWO SMALL MOTELS TOTALING 60 ROOMS AT OR NEAR BRAKER. THESE RENT IN THE TWENTY NINE DOLLAR A NIGHT RANGE SERVING THE MANY BLUE COLLAR WORKERS DRAWN TO ALL OF THE COMMERCIAL AND CONSTRUCTION ACTIVITY IN THE IMMEDIATE AREA. THIS TOO SHALL PASS.

YOU COULD SAY THERE'S LIMITED MOTEL FACILITIES FOR THOSE WITH TOO LITTLE MONEY AND WITH CERTAIN RESTRICTIONS, THOSE WITH TOO MUCH MONEY AND THEN THERE IS THE REST OF US. THE VAST MAJORITY WHO ARE NOT ON AN EXPENSE ACCOUNT. THERE IS A DEFINITE NEED FOR MODEST PRICED MODERN FACILITIES IN THE AREA WITH ROOMS IN THE \$49.00 TO \$69.00 PRICE RANGE.

**FAX TRANSMISSION FROM
FRED W. POWERS
2400 HARROWDEN DRIVE, AUSTIN, TEXAS 78727
PHONES 512 246 1057 FAX 512 246 8786
powers.fred@sbcglobal.net**

**JORGE ROUSSELIN
CITY OF AUSTIN**

FAX # 974 6054

SUBJECT : POSTPONEMENT OF ZONING CASE C14-05-0085


**I AM CURRENTLY SCHEDULED TO MEET CITY COUNCIL MEMBERS
ON JAN. 26TH 2006 CONCERNING REZONING OF PROPERTIES AT 11520
NORTH INTERSTATE 35 IN AUSTIN. PLEASE RESCHEDULE TO CITY
COUNCIL'S MARCH 02, 2006 MEETING. THANK YOU.**


FRED W. POWERS

MR. GREGG GUERNSEY
AND OR MR. JORGE ROUSSELIN
CITY OF AUSTIN ZONING

MARCH 15TH 2006 JORGE

I APOLOGIZE FOR TAKING YOUR TIME. I WILL KEEP IT AS BRIEF AS POSSIBLE. I AM GRATEFUL FOR THE GREATER OPTIONS THE STAFF AND COUNCIL HAVE GRANTED TO DATE. IF THERE IS NO PERMITTED ACTIVITY ON MY PROPERTIES IN 18 MONTHS, I MAY BE BACK WITH ANOTHER REQUEST. NOT NECESSARILY MOTEL.- MAYBE MULTI FAMILY.

~~JORGE REFERRED TO A MOTEL AS AN "ADULT BUSINESS". WHY?~~ 

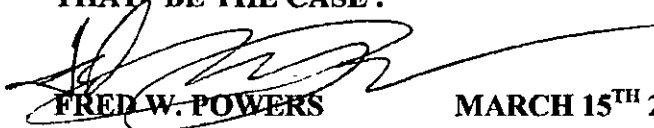
TWO ITEMS I WOULD MENTION ON THE EARLY STAFF RECOMMENDATIONS REPORT.

FIRST - THE RIGHT OF WAY FOR POLLYANNA WAS SHOWN AS 60' WHICH MAY BE CORRECT BUT THERE IS ONLY A 22' STRIP OF NEW PAVING. TRAFFIC IS A SERIOUS ISSUE IN THIS CASE.

SECOND - ZONING CONSISTENCY OF GR-ZONED PROPERTIES (ESPECIALLY MOTELS- MY COMMENT) ABUTTING RESIDENTIAL AREAS ALONG I H 35. I HAVE STRONG EVIDENCE TO THE CONTRARY AND OBSERVED NO BLIGHTED VACANT AREAS.

AS NEWCOMER TO THE ZONING PROCESS, I HAVE WASTED A LOT OF MY TIME AND THAT OF AUSTIN ZONING PERSONNEL. I HAVE LEARNED A LOT AND STILL HAVE MUCH TO LEARN. I WOULD LIKE TO ENTER IN THE RECORDS OF THIS CASE, A RESPONSE TO MR. TOBIAS'S REMARKS WHICH I COULD NOT HERE AT COUNCIL MEETING.

MORE IMPORTANTLY, I WOULD LIKE TO POSE SOME QUESTIONS TO YOU THAT WILL SAVE TIME FOR ALL CONCERNED. I ACCEPT THAT FURTHER EFFORTS BY ME IN THIS PARTICULAR CASE ARE PROBABLY NOT FEASIBLE. YOU COUNSELING WILL BE HELP ME DETERMINE IF THAT BE THE CASE.


FRED W. POWERS

MARCH 15TH 2006

RECEIVED

MAR 15 2006

Neighborhood Planning & Zoning

RECEIVED

MAR 15 2006

Neighborhood Planning & Zoning

- 01 - IN MY CASE, HOW DO THE FOLLOWING ITEMS RANK IN IMPORTANCE?
- 02 - NEIGHBORHOOD ASSC. OPINIONS *return*
- 03 - CRIME —
- 04 - TRAFFIC +
- 05 - NOISE +
- 06 - PRIVACY
- 07 - COMPATIBILITY, I KNOW THIS IS COMING, WHO DECIDES & HOW?
- 08 - CHOICE OF NEIGHBORS IN 300' FOOT ZONE (SAY 2/3 +)
IF THEY FAVOR MOTEL OR AUTO SALE OVER OFFICES ARE THEY
BEING TRULY REPRESENTED BY THE ASSOCIATION OR CITY
ZONING PERSONNEL WHO RULE TO THE CONTRARY ????
- 09 - WOULD THE ZONING STAFF BE LIKELY TO APPROVE A LOWER ZONING SUCH AS MF-3 OR MF - 4 APARTMENTS OR CONDOS??
- 10 - IS AN EXTENDED DAY FACILITY AN APARTMENT, MOTEL OR OTHER?
- 11 - ZONING REQUEST BY WELL KNOW APPLICANTS (COMFORT INN ETC) DO THEY CARRY MORE CLOUT?

RECEIVED

MAR 15 2006

**TO AUSTIN ZONING PERSONNEL
FOR THE RECORD (CASE C14-05- 85)**

Neighborhood Planning & Zoning

SINCE I AM HEARING IMPAIRED, I WAS UNABLE TO RESPOND TO MR. TOBIAS STATEMENTS. IF POSSIBLE I WOULD LIKE THIS TO BE A PART OF THE RECORDS.

ON MARCH 02 AUSTIN CITY COUNCIL MEETING, MR. TOBIAS STATED THAT MR. DEAN HARRIS WHO SIGNED AS ONE OF OUR SUPPORTERS IS OPERATING AN ILLEGAL AUTO SALES BUSINESS. MR. DEAN TOLD ME, HE LEASED THIS PROPERTY TO A SECOND PARTY AND IS NOT THE OPERATOR OF ANY ILLEGAL BUSINESS.

AKIN TO THIS STATEMENT, MR. TOBIAS STATED THAT HERTZ AUTO RENTAL IS MOSTLY AN OFFICE AND THAT TRAFFIC IS MINIMAL BECAUSE THE HERTZ PEOPLE TAKE THE CAR TO THE USER. GOLLY GEE, MR. TOBIAS HAS A WAY WITH WORDS BUT HIS MATH IS FLAWED. I CHECKED WITH HERTZ AND THEY OFTEN HAVE AS MANY AS TWENTY CAR RENTALS A DAY. NO BIG DEAL BUT>>>>?????

I THINK I WILL RENT A CAR SO I CALL HERTZ. THEY COME AND GET ME (ONE TRIP), THEY TAKE ME TO THEIR OFFICE TO RETURN THE HERTZ PERSON AND SIGNUP FOR THE CAR (TRIP TWO), I GET IN THE CAR AND OFF I GO (TRIP THREE). I'M RETURNING THE CAR (TRIP FOUR), THE HERTZ GUY TAKES ME HOME OR WHEREVER (TRIP FIVE), HE RETURNS TO HIS OFFICE (TRIP SIX). THIS GOES ON 20 TIMES A DAY TIMES SIX PLUS TRAVEL BY HERTZ PERSONNEL. THAT'S OVER 120 TRIPS A DAY. EVERY TRANSACTION INVOLVES SIX TRIPS PER RENTAL. NO PROBLEM BUT>>

NO SMALL LOT AUTO SALES WILL GENERATE THAT MUCH TRAFFIC. I'M CONFUSED, IF I WANT TO RENT A CAR, NO PROBLEM. IF I WANT TO BUY A CAR FROM A DEALER ON MY LOTS, I AM SOMEHOW INFLECTING IRREVERSIBLE HARM TO MY NEIGHBORHOOD. TO USE TOBIAS'S WORDS, (HERTZ OPERATION) AUTO SALES WOULD BE MOSTLY AN OFFICE OPERATION THAT HAPPENS TO SELL CARS. ??????

AT ONE OF OUR MEETINGS MR. TOBIAS SAID, THE USED CAR BUYER WOULD WANT TO TEST DRIVE THE VEHICLE AND WOULD RACE UP AND DOWN COVINGTON DR. AT HIGH SPEEDS. FIRST, OUR LOTS WONT HAVE ACCESS TO COVINGTON. FOR HERTZ, ON THE OTHER HAND, IT'S QUITE ACCESSIBLE. THE RENTERS PROBABLY RECEIVE A LITTLE MAP OF THE LOCALITY THAT WILL EVEN SHOW THEM THE WAY.

ONE MUST ASSUME MR. TOBIAS WOULD ILLEGALLY TEST DRIVE AT 65 MPH ON 22' WIDE COVINGTON WITH IT'S SHARP TURNS FOR HIS TEST DRIVE, BUT WHO ELSE WOULD CHOOSE A SKINNY RESIDENTIAL STREET WHEN HE EASILY HAS BRAKER LANE AND THE I H 35 AT HIS DISPOSAL TO LEGALLY TRAVEL AT HIGH SPEEDS.

FOR THE RECORD -PAGE 2 CASE # C14-05-85

I HAVE ABSOLUTELY NO PROBLEM WITH HERTZ. BUT, USED AUTO SALES ON OUR LOTS WOULD GENERATE LESS TRAFFIC, HAVE SIMILAR NIGHT TIME LIGHTING AND HAVE NO EASY ACCESS TO COVINGTON DRIVE. TYPICAL TEST ROUTE - SERVICE ROAD TO BRAKER, LEFT TO I H. 35 TO PARMER OR HOWARD LANE AND BACK TO OUR LOTS ON THE SERVICE ROAD. NO NEED TO TOUCH POLLYANNA OR COVINGTON

MR. TOBIAS POINTS PROUDLY TO CRIME RECORDS FOR TRACT 18,24 (WALNUT FOREST AREA). POLICE RECORDS AND PUBLIC INFORMATION FOR THE AREA OVER THE PAST FOUR YEARS DO NOT SUPPORT HIS CLAIMS. I HAVE RECORDS FOR THOSE YEARS FROM PUBLIC INFORMATION AND PROSTITUTION DOES NOT APPEAR TO BE A PROBLEM ALTHOUGH MR. TOBIAS CONTINUES TO DWELL ON THE SUBJECT, PERHAPS, FOR MAXIMUM IMPACT ON ZONING PERSONNEL .

OTHER CRIME IN THE WALNUT FOREST NEIGHBORHOOD HAS SEEN A CONSIDERABLE INCREASE ABOUT EVERY YEAR BUT IT IS NOT UNIQUE TO THE AREA. HE SEEMS UNAWARE OF THE EXPLOSION OF COMMERCIAL AND RESIDENTIAL DEVELOPMENTS IN THE IMMEDIATE AREA.

HE CHOOSES TO SINGLE OUT TWO MOTELS WITH A TOTAL OF ABOUT 67 ROOMS. THE MAJORITY OF THESE ROOMS ARE RENTED OUT FOR EXTENDED STAY (MORE LIKE APARTMENTS). CRIME ON LAMAR PARALLEL TO MR. TOBIAS TEDFORD RESIDENCE HAS EXCEEDED CRIMES ON THE I H 35 SERVICE ROAD. THIS INFORMATION IS NOT MINE OR TOBIAS'S, IT'S AUSTIN POLICE RECORDS. CRIME REPORTS FOR ALBERTSON'S GROCERY STORE ADDRESS ARE AMONG THE HIGHEST, YET, WHO WOULD ACCUSE THEM OF PARTICIPATION.

TOBIAS REFERS TO POLICE CANVASSING THE TWO MOTELS AS MUCH S TWICE A WEEK. THERE IS NO INDICATION THAT ANY OF THAT ANY OF THE CRIMINAL ARRESTS REFERRED AT THESE MOTELS OCCURRED IN THE NEIGHBORHOOD. THE LOW \$26.00 RATES MAY BE ATTRACTIVE TO CERTAIN CRIMINAL TYPES BUT HOW CAN YOU SAY THE MOTELS INTENTIONALLY SOLICIT THIS BUSINESS. THE RECORDS SEEM TO INDICATE SUCCESS BY POLICE IN CORRALLING MANY UNDESIRABLES. FOR A VARIETY OF CRIMES. SO WHAT'S THE PROBLEM ?

ACCORDING TO POLICE INFORMATION THE WALNUT FOREST MOTEL APPEARS TO HAVE AN EXCELLENT RECORD BUT MR. TOBIAS MAKES NO MENTION OF THIS.

MR. TOBIAS STATED THAT ACCESS TO A MOTEL WOULD BE A PROBLEM. THE CLIENTS WOULD USE POLLYANNA AVE.. THIS ASSUMES PROSPECTS TRAVELING NORTH BE FREQUENT USERS. THIS IS UNLIKELY AS THIS IS A SOUTH BOUND SITUATION. THE MAJORITY OF THE PROSPECTS COULD VERY WELL BE TRAVELING PROFESSIONALS SERVING THE MEGA SHOPPING CENTERS JUST TO THE NORTH AS WELL AS SAMSUNG AND DELL. ONCE FAMILIAR WITH THE AREA THEY WOULD USE THE SERVICE ROAD FOR THE ACCESS. BUTTTT - LET'S EMBRACE MR. TOBIAS'S FLAWED SPECULATION AND HAVE ALL THE MOTEL GUESTS (EVERY ONE OF AN AVERAGE 40 PER DAY) USING POLLYANNA. THEIR NUMBERS WOULD SURELY BE LESS THAN OFFICE PERSONNEL AND THEIR BUSINESS CLIENTS. MOTEL TRAFFIC IS NOT RUSH HOUR TRAFFIC. TRAFFIC DEPARTING THE MOTEL WOULD CERTAINLY DEPART ON THE SERVICE ROAD WHETHER BOUND FOR DOWN TOWN OR BUSINESS LOCATIONS TO THE NORTH. A 24 HOUR PRESENCE OF A "CORRIDOR" TYPE MOTEL WOULD BE A PLUS ELIMINATING LATE NIGHT ACTIVITIES THAT OCCUR ON THE VACANT LOTS. NIGHT TIME LIGHTING IS NOT LIMITED MOTELS. MOST OFFICES ARE LIGHTED AT NIGHT. THIS WOULDN'T BE MUCH OF A PROBLEM IN EITHER CASE SINCE THE NEIGHBORS ARE WELL SHIELDED BY THE GREENBELT AT THE REAR OF THE LOTS.


FRED W POWERS MARCH 14TH 2006

FAX TRANSMISSION

**FROM - FRED W. POWERS 246 1057 FAX 246 8786 SUBJECT CASE C14-5-85
SECOND COUNCIL MEETING SCHEDULED APRIL 20TH 2006**

TO- JORGE ROUSSELIN (SAME MSG TO ALL COUNCIL MEMBERS)

I HAVE BEEN INFORMED BY STAFF THAT MR. TOBIAS HAS SENT A LETTER TO COUNCILMAN McCRACKEN STATING THAT MR. McCRACKEN MADE THE MOTION FOR STAFF RECOMMENDATION FOR GR-CO WHEN WHAT HE REALLY MEANT TO SAY WAS LR PER COMMISSIONERS' RECOMMENDATIONS. HE SEEMS TO BE IMPLYING AN AGREEMENT PRIOR TO COUNCIL HEARING. I DO NOT ACCEPT THIS TO BE THE CASE BUT I DO SEE IT AS DESPERATION BY MR. TOBIAS TO PREVAIL EVEN AT THE COST OF INTEGRITY.

BASED ON HIS APPROACH, IT WOULD SEEM ONLY FAIR THAT I ASSUME COUNCILMAN McCRACKEN MEANT TO SAY GR WITHOUT CONDITION. HOWEVER, I BELIEVE MR. McCRACKEN MEANT GR-CO AND COUNCIL MEMBERS CLEARLY UNDERSTOOD AND AGREED.

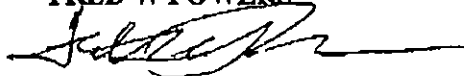
I BEG THAT THE COUNCIL READ AND FACTOR IN THE SITUATION AT MY COMMISSIONERS MEETING:

ON MY WAY TO THE COMMISSIONERS MEETING, IN THE DARK, I STEPPED DOWN FROM ONE OF THE BIG STEPS TRYING TO FIND MY WAY TO THE REAR ENTRANCE. I INJURED MY FOOT, FELL DOWN AND HAD A BLOODY ELBOW AS I APPEARED BEFORE THE COMMISSION. I REPRESENTED MYSELF WHICH REMINDS ME OF THE SAYING THAT AN ATTORNEY WHO REPRESENTS HIMSELF HAS A FOOL FOR A CLIENT. MY PRESENTATION WAS ALMOST NON-EXISTENT COMPARED TO THAT OF THE SEASONED ASSOCIATION WARRIOR, MR. TOBIAS. MY HEARING IS BAD AND THUS, I WAS NOT EVEN ABLE TO HEAR MR. TOBIAS, OFTEN EXAGGERATED CLAIMS, LITTLE OWN RESPOND.

AT THE FIRST COUNCIL MEETING I HAD ACQUIRED HEARING AIDS AND MR. ED MOORE FROM THE MOORE GROUP TO REPRESENT AND GUIDE ME. EVEN WITH HEARING AIDS THE COUNCIL MEETING ENVIRONMENT MAKES IT VERY DIFFICULT TO HEAR EVERYTHING BUT THAT'S MY PROBLEM. AT OUR FIRST COUNCIL MEETING, WE WERE BETTER ABLE TO MAKE A PROPER PRESENTATION AS BEST ONE CAN IN THE LIMITED TIME SPAN.

I WOULD REMIND THE COUNCIL THAT ABOUT A BLOCK NORTH, A RECENT CITY COUNCIL APPROVED GR FOR HERTZ RENTAL CARS. HERTZ LOCATION PERMITS EASY ACCESS TO COVINGTON WHICH MEASURES AS LITTLE AS 16' WITH ZERO SHOULDERS IN ONE PLACE. WITH DIRECT ACCESS TO COVINGTON DENIED IN OUR CASE THAT WOULD BE AN IMPROVEMENT. ACTUALLY, IN THE CASE OF HERTZ, RENTAL CAR BUSINESS, THE IMPACT ON THE NEIGHBORHOOD TRAFFIC IS MINIMAL. I AM PREPARED TO ACCEPT THE COUNCILS' GR-CO AS A BIG IMPROVEMENT FOR OUR SITE. I DO HOPE TO PRESENT ADDITIONAL AND IMPORTANT INFORMATION AT MY THIRD HEARING.

FRED W POWERS



RECEIVED

APR 19 2006

Neighborhood Planning & Zoning-

C14-05-0085

FAX TRANSMISSION
FRED W. POWERS
2400 HARROWDEN DRIVE, AUSTIN, TEXAS 78727
PHONES 512 246 1057 FAX 512 246 8786
powers.fred@sbcglobal.net

April 5th 2006

RECEIVED

TO- Jorge Rousselin
City of Austin zoning

APR 14 2006

FAX # 974 6054

Neighborhood Planning & Zoning

SUBJECT - CASE # C14-05-85 at 11520 N. IH 35, Austin

Jorge, I had been told by earlier zoning personnel that no one on the east side of I - 35 would be involved. I have no problem with that as I originally assumed there might be some from that side. It's a borderline call but I have no reason to fuss about it. I do need more time because of this situation and the information you gave me on the LR business with Tobias so I am as of this date April 14th 2006 requesting a delay of my next hearing to the first Council meeting date after June 25, 2006.


Fred W. Powers

FAX TRANSMISSION
FRED W. POWERS
2400 HARROWDEN DRIVE, AUSTIN, TEXAS 78727
PHONES 512 246 1057 FAX 512 246 8786
powers.fred@sbcglobal.net

July 15th, 2006

RECEIVED

JUL 31 2006

TO - Jorge Rousselin
City Planning & Zoning

Neighborhood Planning & Zoning

FAX - 974-6054

SUBJECT - CASE \$ C14-05-85 Project location - 11520 N. I H 35 Service Rd

Jorge

I have an appointment for some minor surgery at the VA Hospital in Temple on Aug. 9th. In addition, I have a serious purchaser for the property that could be acceptable to the Neighborhood Association and the City Council. This would not involve a motel operation. Since we must re-schedule, I would like time to work with my prospect and the Association. Please set us a date for late Sept. or October. Thank You.


Fred W. Powers