

"Attachment B"

Sirwaitis, Sherri

**From:** Teresa Wood [REDACTED]

**Sent:** Tuesday, October 24, 2006 12:56 PM

**To:** [REDACTED]  
Moore, Andrew, Mormon, Andy; Dunkerley, Betty; Robbins, Beverly, McCracken, Brewster, Haines, Dina, Aguilera, Gloria, Corpus, Grace; Kim, Jennifer; Thompson, Kenny; Leffingwell, Lee, [REDACTED] Martinez, Mike [Council Member]; May, Rachel; Bailey, Rich; [REDACTED] Levinski, Robert, Sirwaitis, Sherri; Cole, Sheryl, Futrell, Toby, Wynn, Will; [REDACTED]  
[REDACTED]  
[REDACTED]

**Subject:** Case # C14-06-0172

I am against even a 6 story building in NW Austin. Have you seen the traffic on 183? Try driving it. Try Duval. People try to run over our childer crossing Duval.

What about Parmer? That used to be a decent street. I spent 30 minutes going from Metric to Lamar this morning and there wasn't an accident. Stop this over building now before things become completely unlivable.

10/25/2006

**Sirwaitis, Sherri**

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**From:** J Canady [REDACTED]  
**Sent:** Saturday, October 21, 2006 11 23 AM

**To:** [REDACTED]  
 [REDACTED] Martinez, Mike [Council Member]; Cole, Sheryl; Wynn, Will, Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer; Leffingwell, Lee; Haines, Dina, [REDACTED] Aguilera, Gloria; Bailey, Rich, [REDACTED] Levinski, Robert; Corpus, Grace; Futrell, Toby; Mormon, Andy, May, Rachel; [REDACTED] Moore, Andrew; Robbins, Beverly, Thompson, Kenny; Sirwaitis, Sherri; [REDACTED]

**Subject:** Case # C14-06-0172

I am **outraged** to hear about zoning changes in NW Austin to accommodate a 12-story condominium, or even a 6-story structure!

Has anyone in the City Council ever driven through the Arboretum/Duval/183 area during morning or evening rush hour? It's a total mess. Duval is a shortcut around the Arboretum nightmare that was created by the 360 and Mopac intersection with 183, and the constant retail/commercial development. We cannot enter or exit our neighborhood without dangerous traffic risk. This situation has been aggravated by the commercial development at Duval and Mopac, the apartment complex on Duval at Amherst, the restaurant row on 183 at Duval, and the most recent entry/exit created for National Instruments. **Duval has become a freeway**, and yet a long-standing blue-ribbon elementary school is situated on Duval, along with a fire station. Small children ride their bicycles or attempt to cross Duval to attend school. The posted speed limit of 35 MPH is constantly violated with speeds up to 60 MPH. It takes 2-3 signal changes to move from Duval to 183 or Duval to Mopac.

To complicate matters, the overdevelopment of the area at 183 and 620 has created a traffic snarl that extends for miles, impassable except through residential areas. No one wants to sit in traffic - life is short, so shortcuts will be found through previous pristine areas where the deer and the children play.

Developers are ruining my fair city, which I have enjoyed for over 30 years, profiting without paying their share of the tax base. They've run off the wildlife in favor of shopping malls that are soon to be abandoned as an unfavorable passe trend. Environmentalists fought hard to retain the area now known as Lakeline Mall and lost, only to watch the entire surrounding area covered in concrete. Doesn't Austin have enough places to shop without having another store with the same stuff just 5 miles away? Don't people have anything better to do than buy crap they don't need?

Does the City Council really understand what is meant by the Austin quality of life that is advertised across the nation, bringing millions into this city already bulging at the seams, suffering from air pollution previously only experienced in places like Los Angeles and Houston? I don't think so.

Get off your duffs and do what you were elected to do - protect our quality of life before it's totally gone.

I could go on. It's so disgusting, I feel sick and want to take my taxes elsewhere!

Jennifer Canady

10/23/2006

**Sirwaitis, Sherri**

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**From:** Doug Brooks [REDACTED]

**Sent:** Saturday, October 21, 2006 11:18 AM

**To:** [REDACTED]  
[REDACTED]  
[REDACTED] Martinez, Mike [Council Member]; [REDACTED] Cole, Sheryl; Wynn, Will, Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer; Leffingwell, Lee, Haines, Dina; [REDACTED]; Aguilera, Gloria, Bailey, Rich; [REDACTED] Levinski, Robert; Corpus, Grace, Futrell, Toby; [REDACTED] Haines, Dina, Mormon, Andy, May, Rachel, [REDACTED] Moore, Andrew; Robbins, Beverly; Thompson, Kenny; Sirwaitis, Sherri

**Subject:** Case # C14-06-0172

I would like to register my opinion concerning the Pavilion Tower / Arboretum Tower project. There are some who might agree with a scaled down six story version of the development but I believe even that is too much for our residential area.

I am a resident of Champions Forest subdivision off Duval Road between US Hwy 183 and Mopac. The infrastructure in our area has been pushed to the breaking point. The encroachment of higher density development and the resulting increased traffic on Duval Road in particular, and the surrounding residential neighborhoods in general, must be stopped.

This is not a case of "anywhere but here." Regarding this type of development, the concepts of homogeneity and property value protection mean nothing if developers are not held to reasonable standards. What are deed restrictions and zoning regulations for if homeowners cannot rely on our city's planners to stand up for us when push comes to shove?

If our residential neighborhoods are not deserving of protection from this kind of development, then which neighborhoods are and why are they deserving and not us?

Doug C. Brooks

10/23/2006

**Sirwaitis, Sherri**

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**From:** Kathleen S Yancy [REDACTED] on behalf of [REDACTED]  
**Sent:** Friday, October 20, 2006 8:48 AM  
**To:** [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED] Cole, Sheryl; Wynn, Will; Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer; Leffingwell, Lee; Haines, Dina; [REDACTED] Aguilera, Gloria; Bailey, Rich [REDACTED] Levinski, Robert, Corpus, Grace; Futrell, Toby, [REDACTED] Haines, Dina, Mormon, Andy, May, Rachel; [REDACTED] Moore, Andrew, Robbins, Beverly, Thompson, Kenny, Sirwaitis, Sherri  
**Subject:** Case# C14-06-0172  
**Importance:** High

Good morning, everyone! I'm writing in regard to the Rezoning Request of Developer Paul DeNucci for a small lot on Jollyville Road near Duval Road in NW Austin. I live in one of the single family neighborhoods nearby. I am a homeowner and a member of my homeowners association, and a registered voter and taxpayer

Mr. DeNucci has already tried to persuade you to rezone another piece of property where he wanted to build a 12 story condo tower (near Research Blvd and Hunters Chase, a little farther north of the current site) The homeowners in that neighborhood were rightfully horrified, and they successfully convinced you not to grant that rezoning request Now Mr. DeNucci is back, trying to ruin another single family neighborhood

Although this piece of property is bounded by commercial (business or restaurant) and multi-family uses, the single family homes are only ONE BLOCK away It is absolutely inappropriate to consider allowing the construction of a 12 story condo tower! Would you permit that in your neighborhood? I doubt it

With the influx of new businesses [many of them retail establishments] in recent years in this area, we have seen an accompanying increase in property crimes. Vehicle break-ins and theft are now routine in this neighborhood on the weekends, and the police tell us that when they increase enforcement in one neighborhood, the thieves just move a few blocks away and keep breaking into or stealing cars Who among you believes that allowing 12 story buildings in this area will improve this situation?

Please help us to preserve our homes!

Thank you for your attention

Kathy Yancy, Secretary  
 Champions Forest HOA

10/23/2006

**Sirwaitis, Sherri**

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**From:** caradocs [REDACTED]  
**Sent:** Thursday, October 19, 2006 10:02 PM

**To:** [REDACTED]  
[REDACTED]  
[REDACTED] Martinez, Mike [Council Member], [REDACTED] Cole, Sheryl; Wynn, Will, Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer, Leffingwell, Lee, Haines, Dina; [REDACTED] Aguilera, Gloria; Bailey, Rich; [REDACTED] Levinski, Robert, Corpus, Grace; Futrell, Toby, [REDACTED] Mormon, Andy; May, Rachel; [REDACTED] Moore, Andrew; Robbins, Beverly, Thompson, Kenny; Sirwaitis, Sherri

**Cc:** [REDACTED]

**Subject:** CaseC14-06-0172 - The Arboretum Tower Project

I live in Mesa Park - just the other side of 183 from the proposed 12 story tower I am vehemently opposed to this construction It will "Houstonize" an area that is surrounded by neighborhoods and totally change the character of this area

Traffic is already congested on Jollyville and adding a highly concentrated 12 story apartment complex will overtax our already overburdened traffic system

Sandra McCutcheon  
[REDACTED]  
11604 Santa Cruz Drive  
Austin, Texas 78759

10/23/2006

**Sirwaitis, Sherri**

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**From:** Pamela Villars [REDACTED]  
**Sent:** Wednesday, October 18, 2006 7:26 PM  
**To:** [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED], Cole, Sheryl, Wynn, Will; Dunkerley, Betty, McCracken, Brewster, Kim, Jennifer;  
Leffingwell, Lee; Haines, Dina, [REDACTED], Aguilera, Gloria; Bailey, Rich,  
[REDACTED], Levinski, Robert, Corpus, Grace, Futrell, Toby; Haines, Dina,  
Mormon, Andy; May, Rachel, [REDACTED], Moore, Andrew; Robbins,  
Beverly, Thompson, Kenny; Sirwaitis, Sherri; [REDACTED]  
**Subject:** Fw: Please vote no on Case # C14-06-0172

>  
>Please do not allow the building of this tower in our neighborhood. As a Meas Park  
resident, I am completely opposed. We are already surrounded by shopping development and  
the soon to be traffic will dramatically impact our quality of life. This does not include  
the recent development of the Quarries and that traffic  
>  
>This will continue to erode this small community which provides an affordable and quality  
neighborhood in North Austin.  
>  
>Pamela Villars  
>4207 Red Cloud Dr  
>512 418-8219

**Sirwaitis, Sherri**

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**From:** Robert Durch [REDACTED]

**Sent:** Wednesday, October 18, 2006 11:10 PM

**To:** [REDACTED]  
[REDACTED]  
[REDACTED] Martinez, Mike [Council Member]; [REDACTED] Cole, Sheryl, Wynn, Will; Dunkerley, Betty; McCracken, Brewster, Kim, Jennifer; Leffingwell, Lee; Haines, Dina; [REDACTED] Aguilera, Gloria; Bailey, [REDACTED] Levinski, Robert, Corpus, Grace, Futrell, Toby; [REDACTED] Mormon, Andy; May, Rachel; [REDACTED] Moore, Andrew; Robbins, Beverly; Thompson, Kenny; Sirwaitis, Sherri

**Subject:** Case # C14-06-0172

Thank you for listening, but please continue your support for the neighborhood.  
Don't allow developers this inroad into disingenuous compromises  
Please support what makes Austin special, and different from Houston.  
For great neighborhoods we need to continue to restrict to a maximum height of the current zoning

THANK YOU!

10/19/2006

**Sirwaitis, Sherri**

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**From:** Betty Malmstad [REDACTED]

**Sent:** Thursday, October 19, 2006 8:07 AM

**To:** [REDACTED]  
[REDACTED]  
[REDACTED] Martinez, Mike [Council Member]; [REDACTED] Cole, Sheryl; Wynn, Will; Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer, Leffingwell, Lee; Haines, Dina; [REDACTED] Aguilera, Gloria; Bailey, Rich [REDACTED] Levinski, Robert, Corpus, Grace, Futrell, Toby, [REDACTED] Mormon, Andy, May, Rachel, [REDACTED] Moore, Andrew, Robbins, Beverly, Thompson, Kenny; Sirwaitis, Sherri

**Subject:** Case # C14-06-0172

October 18, 2006

Please - no high-rise development in this area! Thank you. Dr. Betty J. Malmstad

10/19/2006



Sirwaitis, Sherri

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From: Bill Kleinebecker [REDACTED]  
Sent: Thursday, October 19, 2006 10:13 AM  
To: [REDACTED];  
[REDACTED];  
[REDACTED] Martinez, Mike [Council Member] [REDACTED];  
[REDACTED] Cole, Sheryl; Wynn, Will; Dunkerley, Betty, McCracken, Brewster; Kim, Jennifer,  
Leffingwell, Lee; Haines, Dina; [REDACTED] Aguilera, Gloria; Bailey, Rich;  
[REDACTED] Levinski, Robert, Corpus, Grace, Futrell, Toby; [REDACTED]  
[REDACTED] Haines, Dina, Mormon, Andy, May, Rachel, [REDACTED]  
Moore, Andrew; Robbins, Beverly; Thompson, Kenny; Sirwaitis, Sherri  
Cc: [REDACTED]  
Subject: Case # C14-06-0172

Folks,

I do not favor ANY change in the current limit of 40' of building height in the 183 corridor from Braker to Lakecreek.

The MF-6 "compromise" is only a smoke screen for getting a 12 story plus building finally erected at the site. It will be the precursor to more such aberrations on the plateau.

Is Austin to have a new round of urban sprawl only this time with spikes of buildings here and there? Why not do something much more sensible and encourage the development of distributed urban centers at major crossroads such as La Fronterra, the Arboretum and Lakeline. The amenities of those nodes would be much more attractive to home buyers, future mass transit would be much more economically viable by having true population centers using the highway ROWs of SH-43, 183, and Mopac (as well cutting down on commutes to nearby large companies for some), housing would be much more affordable for a number of reasons, they are in mature school districts, and the tax base would stay in Austin.

EJT was enacted decades ago to control just the kind of development this "compromise" allows. If you do pass the compromise and don't prefer the clustering I advocate below in the VMU for Jollyville My next action would be to petition the state legislature to rescind the EJT law because it has become ineffective

Since becoming a resident of Austin, I have voted in each city election I live on the Jollyville plateau

Thank you

. . Bill Kleinebecker

**Sirwaitis, Sherri**

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**From:** No Tower [REDACTED]  
**Sent:** Wednesday, October 18, 2006 5:34 PM  
**Subject:** ARBORETUM TOWERS ZAP HEARING RESULTS

The Zoning and Platting Commission voted yesterday on the Arboretum Towers case. As an attempt at a compromise, the recommendation was MF-6 with a CO of 60 foot height limit. Neighborhoods are **not** in agreement as the CO could be lifted which would allow 90' height or even taller in this location and setting a precedent for other high-rises in other locations in our neighborhoods

Check out [REDACTED] on the left side for the latest news. The council hearing is currently scheduled for tomorrow, however there will most likely be a 2 week postponement. More updates to come

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The Zoning and Platting Commission voted on the case. We are confirming the vote, but we believe the motion acted upon by all nine commissioners was GR-MU-MF6 for Tract 1; LO-MU for Tract 2; and a CO limiting 60 feet in height for both tracts. This means high density development without the outrageous height requested by the developer.

There was debate over the propriety of an MF-6 on this property. Commissioner Hammond and Chairman Baker clearly did not support MF-6 in this area. Chairman Baker noted that she thought MF-6 is spot zoning and that it is precedential. Commissioner Shieh indicated support for zoning that would be compatible with the upcoming VMU standards for the Jollyville corridor. However, all of the commissioners appeared to be very supportive of the neighbors overwhelming concerns over building height; hence the 60 foot height limit. Next stop: City Council this Thursday, October 19th.

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**Arboretum Tower Project** 

**Not Right for Austin**

[REDACTED]

Email [REDACTED] with the subject line "unsubscribe" to remove your name from this email list.

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10/19/2006

## Sirwaitis, Sherri

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**From:** Skip Cameron [REDACTED]  
**Sent:** Wednesday, October 18, 2006 5:02 PM  
**To:** Wynn, Will; Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer, Leffingwell, Lee; Martinez, Mike [Council Member]; Cole, Sheryl; Aguilera, Gloria, May, Rachel, Bailey, Rich; Mormon, Andy, Brault, Kelley, Levinski, Robert, Corpus, Grace, Robert A Garza, Moore, Andrew, Robbins, Beverly; Thompson, Kenny, Yontz, Cary; Watson, Matt; Barraza, Thelma, Berghammer, Darlene, Coleman, Barbara; Garza, Julian; Aguilera, Alison, Ruiz, Viola, McDonald, Stephanie, Sirwaitis, Sherri, Rusthoven, Jerry, Guernsey, Greg, Futrell, Toby  
**Subject:** Case # C14-06-0172 Item #PH66 October 19, 2006

Mayor and Council:

Please deny this applicant's request.  
This case for MF-6 zoning, which exists nowhere in this area of Austin.  
It is not only code busting, it is spot zoning which is illegal.  
It violates the 1970's Jollyville Corridor Study adopted by a prior City Council and updated in 1984 and 1985, which has been followed by every development so far.  
This area has two adjacent tracts, when combined onto a 4.5 acre PUD would make a zoning and land use compatible mixed use development desirable by everyone in the area.  
There are at least 3 respectable developers who want a chance to work on this and the landowners are agreeable to their proposals.  
Let's let the process evolve to a win-win and not to a huge precedent setting, code busting, incompatible nightmare that we will all regret.  
I am counting on all of you to do right by Austin on this case and turn it down.

Skip Cameron, President  
Bull Creek Foundation  
8711 Bluegrass Drive  
Austin, TX 78759-7801  
(512) 794-0531

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for more information [www.bullcreek.net](http://www.bullcreek.net)

For better people mobility solutions see [www.acprt.org](http://www.acprt.org)

Sirwaitis, Sherri

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**From:** Betty Malmstad [REDACTED]

**Sent:** Wednesday, October 18, 2006 7:09 AM

**To:**

[REDACTED]  
[REDACTED], Mike [Council Member], [REDACTED] Cole, Sheryl, Wynn,  
Will; Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer; Leffingwell, Lee; Haines, Dina,  
richard.arellano@ci.austin.tx.us; Aguilera, Gloria; Bailey, Rich, [REDACTED] Levinski,  
Robert; Corpus, Grace; Futrell, Toby, [REDACTED] Mormon, Andy, May, Rachel,  
[REDACTED] Moore, Andrew; Robbins, Beverly; Thompson, Kenny; Sirwaitis,  
Sherri

**Subject:** Case # C14-06-0172

October 18, 2006

I am against adding highrises to the area under discussion Thank you. Dr. Betty J. Malmstad

10/18/2006

**Sirwaitis, Sherri**

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**From:** Jody [REDACTED]  
**Sent:** Tuesday, October 17, 2006 9:01 PM  
**To:** [REDACTED]

[REDACTED] Martinez, Mike [Council Member], [REDACTED] Cole, Sheryl, Wynn, Will, Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer, Leffingwell, Lee; Haines, Dina; [REDACTED] Aguilera, Gloria; Bailey, Rich; [REDACTED] Levinski, Robert, Corpus, Grace, Futrell, Toby, No Tower, Mormon, Andy, May, Rachel, [REDACTED]; Moore, Andrew; Robbins, Beverly, Thompson, Kenny; Sirwaitis, Sherri

**Subject:** Case # C14-06-0172

No Towers on Jollyville Nothing over 3-4 stories!

PLEASE HEAR THE NEIGHBORHOODS!

Thank you.

10/18/2006

**Sirwaitis, Sherri**

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**From:** Larry C [REDACTED]  
**Sent:** Tuesday, October 17, 2006 9:44 AM  
**To:** [REDACTED]

[REDACTED] Martinez, Mike [Council Member]; Cole, Sheryl; Wynn, Wm, Dunkerley, Betty; McCracken, Brewster, Kim, Jennifer, Leffingwell, Lee; Haines, Dina, [REDACTED] Aguilera, Gloria, Bailey, Rich [REDACTED] Levinski, Robert, Corpus, Grace; Futrell, Toby, Haines, Dina, Mormon, Andy; May, Rachel; [REDACTED]; Moore, Andrew; Robbins, Beverly; Thompson, Kenny, Sirwaitis, Sherri

**Subject:** Case # C14-06-0172 Northwest Austin Tower

Guys,

I apologise for interrupting your busy work day, but I just wanted to let you know that I do not think this project is a good idea for Northwest Austin. I live in a house on Oak Knoll Drive, and do not want to see this 12 story residential building built. Besides being what I consider an eyesore in our mostly residential area, I think that it will only add to congestion along 183, and on Jolleyville Road. Please consider rejecting this proposal, and keeping high density projects closer to downtown, where cars are a less an essential part of everyday life.

Thank you for your consideration,

Larry Childs

10/17/2006

Sirwaitis, Sherri

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**From:** tracie dolezal [REDACTED]

**Sent:** Monday, October 16, 2006 11:25 PM

**To:** [REDACTED]  
[REDACTED]  
[REDACTED] Martinez, Mike [Council Member], Cole, Sheryl; Wynn, Will, Dunkerley, Betty; McCracken, Brewster; Kim, Jennifer; Leffingwell, Lee, Haines, Dina, [REDACTED] Aguilera, Gloria; Bailey, Rich; [REDACTED] Levinski, Robert; Corpus, Grace, Futrell, Toby; Mormon, Andy; May, Rachel, [REDACTED]; Moore, Andrew; Robbins, Beverly; Thompson, Kenny, Sirwaitis, Sherri; [REDACTED]

**Subject:** Arboretum Tower Project -Case #: C14-06-0172

Regarding the Arboretum Tower Project, I would encourage each of you to vote **AGAINST** any variance that would allow a building to be built above the current maximum allowable height of 40 feet

As a nearby resident, I can attest to the fact that the proposed tower of 120 ft (or even 60 ft) does not fit in this location. There are no buildings this tall for at least 3 miles in either direction along 183. All other zoning in the area is limited to 40 ft in height.

This building, if built, would be the eyesore of Northwest Austin.

One only has to look to the Pinnacle building (10 stories) in Southwest Austin, to see how out of place a lone sky scraper looks in suburban Austin.

I have nothing against building condominiums in the area, as long as they conform to existing zoning restrictions so as to match other buildings in the area. At 120 feet, this tower would stick out like a sore thumb.

Ten years ago, my wife and I had a decision between living in Austin and Houston. We choose Austin because it is a beautiful city. This tower will not make Austin more beautiful, it will make it look more like Houston.

Again, please vote **AGAINST** any variance that would allow this tower to be above the current maximum height of 40 ft.

David Dolezal  
6216 Harrogate  
Austin, TX 78759

10/17/2006

**Sirwaitis, Sherri**

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**From:** No Tower [REDACTED]  
**Sent:** Monday, October 16, 2006 10:07 PM  
**Subject:** REMINDER: Arboertum Towers ZAP Hearing Tomorrow

**Reminder! Arboretum Towers ZAP Hearing Tomorrow, 6pm @ City Hall**

It is critical that we have a large turnout at the ZAP hearing tomorrow to show the zoning board that we are serious. Even if you do not wish to speak, your attendance still matters!

Please join us at City Hall at 6pm and sign in against the Arboretum Towers project. Protect our neighborhoods from a trend of poorly planned towers!

Thank you!

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**Arboretum Tower Project** 

**Not Right for Austin**

[REDACTED]  
[REDACTED]  
Email [REDACTED] with the subject line "unsubscribe" to remove your name from this email list.

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10/17/2006



**Sirwaitis, Sherri**

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**From:** Nancy Costa [REDACTED]  
**Sent:** Monday, October 16, 2006 4:33 PM  
**To:** Sirwaitis, Sherri  
**Cc:** 'Amelia Lopez-Phelps'; Rusthoven, Jerry  
**Subject:** C14-06-0172 - Arboretum Retirement Community

Hi Sherri,

Attached is a letter addressed to you from Paul DeNucci. He has sent you this letter in response to Leslie Dolliver's letter dated 10/5/06. Please review

I have also attached a zip file that contains all the letters that Paul DeNucci sent to Mr Henges as support for his letter to you

Please feel free to let me know if you have any questions.

Thanks

**Nancy Costa**  
**Project Manager**  
Lopez-Phelps & Associates, LLC  
611 S Congress, Ste 340  
Austin, TX 78704  
P: 512-236-8707  
F: 512-236-8722

10/17/2006

TO: Sherril Sirwaitis

Page 1 of 3

FR: Paul DeNucci

DATE: 10/11/2006

RE: Case # C14-06-0172 Arboretum Retirement Community  
Letter From Leslie Henges Dolliver dated 10/5/2006

I am in receipt of the above letter which is now part of the file on the above case. With all due respect to Ms. Dolliver, as the developer of this proposed project, I would like to comment on some of the items contained in her letter.

Everyone should be aware that no one on my development team knew Ms. Dolliver or had ever met her prior to the ZAP meeting that she attended on 10/3/2006. We have been in contact with David and Judith Henges (her parents - the owners of record of the 2 acre site that she refers to) since December of 2005. I met her for the first time after the meeting when she introduced herself to me. I gave her my card and she e-mailed me later that week to inform me that from that point forward, all communication concerning her parents' land should go through her and not to contact her father again. I was happy to oblige, because we had recently been largely unsuccessful in getting her parents to respond to our communications dating back to December of 2005 even though we had numerous conversations concerning our desire to purchase the land.

Obviously, had we known that Ms. Dolliver would be involved with our discussions and negotiations with her parents, we would have copied her on all correspondence and, had we known earlier, only dealt with her. I have been working on this project for 3 years this fall and have been in contact with her parents since December 1<sup>st</sup> 2005. (10 months). I spoke to her parents numerous times and made multiple offers to purchase their 2 acre tract. We were not successful in our offers and we settled on the Pavilion Blvd. tract and worked on that project until June of this year. We ultimately withdrew our application and made another offer to the Henges' later that month. Again, they did not respond, so we proceeded with developing the adjacent 2 acre tract. **Please see the attached 4 letters that were mailed to her parents.** I have always shared with them that we were proposing a multi-story condominium building. He did call me in May to tell me that one of the opposing parties had knocked on his door and asked him to sign a petition against the Pavilion site. He said he did not sign and wanted to know "if he could help solve this whole problem by selling me his land" and if I was still interested in moving the project there. I told him I would consider it, and he said he had some land out in the country that he wanted to buy and exercise an IRS Section 1031 like-kind exchange if I would purchase his land. He said he would get back with me with a counter offer. He never did counter me.

Ms. Dolliver arrived the night of the ZAP hearing and introduced herself after the meeting. Her letter contains some things that need to be addressed

1. This project is not new to her parents, I have been in contact with them since December of 2005, repeatedly asking them to meet with me so I could share with them what is being proposed and answer any of their questions (see attached letters dated 12/9/2005, 12/21/2005, 6/19/2006, and 6/29/2006. Please note the last paragraph in the 6/29/2006 letter 'I would appreciate the opportunity to discuss the project with you even if you are not interested in selling. We sincerely want to be a good neighbor and would like to address any concerns you may have about our proposed project'
2. In fact, in another attempt to try and meet with Dr. Henges, I spoke with my attorney to see if he had any ideas. Earlier, Dr Henges told me who his attorney was and that if we had a deal, he would be representing him. My attorney called his attorney and asked him to inquire if Dr Henges would please meet with us. His attorney reported back in September that Dr Henges did not want to meet or discuss the project and preferred to stay out of it altogether
3. We do indeed have issue with the lender on this project due to the fact that we are in our second 6 month forward commitment and nearing the end of the calendar year. We do have business going forward with this proposed project and are again nearing the end of the commitment. As I said this process has been right at 3 years now and the funds have been in the pipeline for nearly 12 months. Again, with all due respect, I am not sure Ms Dolliver really know how all this works. There are many factors that effect projects like this and my lender(s) have monitored our progress very closely especially after the Pavilion site withdrawal. We have many milestones to reach for the funding to take place and this is one of them.
4. Ms. Dolliver states that her father is for a postponement *so that he may have an opportunity to learn more about the project.* Why, then, did he not respond to my requests to share this with him prior to our 10/3/2006 meeting? If she was going to take over the project discussions, why did this transition not take place earlier?
5. Ms Phelps did not lie about what Dr Henges stated. He made it clear to her and through his attorney to my attorney that he would not be opposing or supporting the project. Ms Phelps spoke to Dr Henges in the evening on 10/2/2006

6. Ms Dolliver was not present on the evening of our ZAP meeting for the Pavilion hearing. I do not think she is aware that we initially received a favorable vote for our requested zoning and then, after we left the chambers, had the vote rescinded and received no recommendation. We were not allowed to speak before the re-vote and were told the public hearing was closed. Mr. Shafer, on the other hand, was allowed to address the commission under the same circumstances. In other words, the same process (vote, rescind, revote) happened to us. I reminded Mr. Shafer of that later and he acknowledged that was the case. He, apparently, also forgot what transpired at that earlier hearing.
7. Ms Dolliver again asks for 10 more weeks to discuss the proposed development. I again ask why did I not receive any response to my requests to discuss the project? The last being a full 15 weeks prior to the ZAP meeting. This would have given us 5 more weeks than her current request.
8. Mr. Young supports our development and is not interested in discussing alternate plans or other uses at this time.

In summary, I believe Ms Dolliver is just mis-informed about the history of this project. We have repeatedly tried to meet with her parents to no avail. They have not responded to any of our written requests and stated that they will not oppose or support the proposed project. We have proceeded on that basis.

As Ms. Dolliver stated, I will be meeting with her in the morning to answer any of her questions and share with her our proposed development.

Thank you

Very truly yours,  
Paul DeNucci

TO: Mr and Mrs. Dr David Henges

Personal and confidential

FR. Paul DeNucci 658-3986

DATE. 6/19/2006

RE: Pavilion Condominiums

Thank you for speaking with me again this past Friday about your land and office on Jollyville Rd. I know you have many things on your plate at this time and do not want to upset you. I am very sincere in writing this letter and trust you will keep this confidential.

As you may recall, we have had many conversations regarding your property and the potential purchase of it for our development. After 7 months, we are scheduled for our first public hearing on our development at Jollyville Rd and Pavilion Blvd. this Thursday. I know you stated that you would rather wait until after our hearing to talk further. That is why I called you Friday.

We have a small window of opportunity at this time to offer you \$2,000,000.00 for your land. Myself and the owner's of the Chuy's Restaurant have agreed in principle on how we would work together to construct our building and their new parking. As you are aware, they have purchased the adjoining 2 acres from the Montez family and we will be removing the home and other structures soon. Clearly, the best opportunity is *before* the public hearing on Thursday. There are many reasons why this has come about and why we can now make this offer. Things will be very different after Thursday. Whatever the outcome, we will be in a very different situation after the vote – either way. I would be happy to share this scenario with you in person and explain why we have this opportunity this week. I am not bluffing or trying to be pushy. This is just where we are at and have come a long way on this project with the City Council.

We are also ready to immediately pay your 2006 property taxes for you as we work out any details. You should be able to stay in your buildings and have business as usual until at least the end of the year. We will have time to make sure you have a smooth transition into a new office and address any other concerns you may have.

We really do care about this being a win-win for all of us. You receive a premium for your land, Chuy's gets their parking and we build our building. The opportunity is here now and I really would appreciate your consideration.

As always, Thank You

Paul DeNucci 658-3986

**SDN, Inc.**

5114 Balcones Woods Dr.  
PMB 307-430  
Austin, Texas 78759

Phone 512-418-0279  
Fax 512-418-0528

[SDNINC@AUSTIN.RR.COM](mailto:SDNINC@AUSTIN.RR.COM)

December 21, 2005

Dr. David Henges  
11603 Jollyville Rd.  
Austin, Texas 78759

Dear Dr. Henges:

Just a follow-up to my letter dated 12/9/05 regarding our offer to purchase your land on Jollyville Road. The last time we spoke, you mentioned that one of the issues was that you had planned to operate your practice at that location for another 5 years or so. If required, we would purchase or lease a nearby office or office/ condominium for you to relocate your practice to for this period of time. You would then operate at this new location rent-free for the 5 year period.

Please feel free to call me with any questions. 512-658-3986

Very Truly Yours,  
SDN, INC.,

Paul DeNucci  
President

**SDN, Inc.**

5114 Balcones Woods Dr.  
PMB 307-430  
Austin, Texas 78759

Phone 512-418-0279  
Fax 512-418-0528

SDNINC@AUSTIN.RR.COM

December 9, 2005

Dr. David Henges  
11603 Jollyville Rd.  
Austin, Texas 78759

Dear Dr Henges:

I had written to you recently and we also previously discussed your land on Jollyville Rd. Our offer on another tract off Jollyville Rd. has been accepted and we are preparing to go forward with city and neighborhood approval.

I still believe your land is highly suitable for this project and as I stated in my previous letter, we are building a high rise condominium and believe we can pay you a premium for your land.

I am extending an offer of One Million Two Hundred Ten Thousand (\$1,210,000.00). My company will pay all real estate commissions. This offer is good until 12/29/2005 at 5:00 PM.

Please feel free to call me with any questions. 512-658-3986

Very Truly Yours,  
SDN, INC.,

Paul DeNucci  
President

**SDN LTD.**

5114 Balcones Woods Drive

PMB 307-430

Austin, TX 78759

Phone 512-418-0279

SDNINC@AUSTIN.RR.COM

Fax 512-418-0528

June 29, 2006

Dr. David and Judith Henges

Via Certified Mail

11603 Jollyville Rd

Austin, Texas 78759

Dear Mr. and Mrs. Henges:

I am writing to you regarding your property on Jollyville Rd. On the 2 acre tract next to your property, we are preparing to make our zoning application for the construction of a multi-level condominium building and parking garage to be shared with the adjacent restaurants.

Our offer of \$2,000,000.00 still stands for your property. However, would you consider subdividing and selling the back portion only (approximately 150') to better accommodate the parking portion of the project? The parking garage would extend across the back of both lots and serve the restaurants and residential community. You would retain all of the Jollyville frontage of your property, your existing buildings, and the majority of the lot.

I would appreciate the opportunity to discuss the project with you even if you are not interested in selling. We sincerely want to be a good neighbor and would like to address any concerns you may have about our proposed project.

Very truly yours,  
SDN, INC.,

Paul T. DeNucci 658-3986



**Sirwaitis, Sherri**

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**From:** Julian Hang [REDACTED]  
**Sent:** Monday, October 16, 2006 10:28 AM  
**To:** Anguiano, Dora, Sirwaitis, Sherri  
**Subject:** FW: Case # C14-06-0172, Item # 5 October 17, 2006

Dear ZAP Staff Liaison and Case Manager

I am a homeowner in NW Austin along Jollyville and US 183. I am writing you today because there will be a hearing tomorrow by an applicant to consider rezoning so they can build a 12 story condo. I am asking you to please deny the applicant's proposal. I have lived in the area the last 8 years and like how development in NW Austin has progressed. I know in the past, such requests have always been denied because there are alternatives to such developments that do not require such zoning variances. I recommend additional work be done to develop a compatible plan that would be acceptable to adjacent landowners and area neighborhoods.

Thank you for your time and work in this matter

Regards,

Julian Hang  
11919 Arabian Trl  
Austin, TX 78759

**Sirwaitis, Sherri**

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**From:** Rebecca Powers [REDACTED]

**Sent:** Saturday, October 14, 2006 3:04 PM

**To:** [REDACTED]  
[REDACTED]  
[REDACTED] Martinez, Mike [Council Member]; Cole, Sheryl, Wynn, Will; Dunkerley, Betty; McCracken, Brewster, Kim, Jennifer, Leffingwell, Lee, Haines, Dina; Arellano, Richard; Aguilera, Gloria, Bailey, Rich, Curtis, Matt; Levinski, Robert, Corpus, Grace; Futrell, Toby; Haines, Dina; Mormon, Andy; May, Rachel; [REDACTED] Moore, Andrew; Robbins, Beverly, Thompson, Kenny, Sirwaitis, Sherri

**Subject:** Case # C14-06-0172 Arboretum Retirement Community

**RE Case # C14-06-0172 Arboretum Retirement Community**

I support this proposed condo development for NW Austin. Being able to 'age in place' makes for a healthier aging population. The developers have worked long and hard to make this project affordable for prospective owners and environmentally responsible.

Rebecca Powers  
NW Austin Homeowner

10/16/2006

**Sirwaitis, Sherri**

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**From:** Lisa Maxwell [REDACTED]  
**Sent:** Friday, October 13, 2006 3:38 PM  
**To:** Naja Barrett  
**Cc:** [REDACTED]

[REDACTED] Martinez, Mike [Council Member]; Cole, Sheryl; Wynn, Will, Dunkerley, Betty; McCracken, Brewster, Kim, Jennifer; Leffingwell, Lee, Haines, Dina, Arellano, Richard; Aguilera, Gloria; Bailey, Rich; Curtis, Matt; Levinski, Robert; Corpus, Grace; Futrell, Toby; Haines, Dina; Mormon, Andy, May, Rachel; [REDACTED] Moore, Andrew, Thompson, Kenny, Sirwaitis, Sherri; Robbins, Beverly

**Subject:** Case # C14-06-0172 Arboretum Retirement Community - Please vote in Favor

I am writing as a business owner and 30+ year resident of Northwest Austin  
Please vote in support of this project, as it is much needed and serves a rapidly growing segment of the population in this part of town  
Recently, we relocated my mother-in-law to a small duplex off Jollyville Road, and would have welcomed the option of a development such as this.

Thank you in advance for your support  
Naja Barrett Larsen  
6800 Ladera Norte



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10/16/2006

## Sirwaitis, Sherri

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**From:** Skip Cameron [REDACTED]  
**Sent:** Friday, October 13, 2006 3 14 PM  
**To:** Guernsey, Greg; Rusthoven, Jerry  
**Cc:** Sirwaitis, Sherri  
**Subject:** Letter



letter pdf (143 KB)

Greg/Jerry:

See attached letter I received today, scanned into .pdf format.  
Since you are named in the letter, I thought you should be aware of it.  
You might want to forward it to the City Attorney too.  
Sherri should add it to the case backup material, since it pertains to this case.

Skip Cameron, President  
Bull Creek Foundation  
8711 Bluegrass Drive  
Austin, TX 78759-7801  
(512) 794-0531

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for more information [www.bullcreek.net](http://www.bullcreek.net)

For better people mobility solutions see [www.acprt.org](http://www.acprt.org)

Anthony P. Romano, P.C.  
A Professional Corporation

(512) 918-0337  
(512) 918-0552

Thursday, October 12, 2006

L. G. "Skip" Cameron  
8711 Bluegrass Drive  
Austin, Texas 78759

BY OVERNIGHT CMRRR: *Handwritten signature*

RE: Our Client: Paul DeNucci  
Your Client: NA  
DOI: 09-10-06/10-02-06  
Your file No.: N/A  
Our File No: PD091006LCtmf100206

Dear Mr. Cameron,

Please be informed that this office will be filing a lawsuit against you, and possibly others, for libel and slander and slander per se. Such action is the result of your reckless, malicious and false statements that you made to Greg Guernsey, Jerry Rusthoven and others regarding Mr. DeNucci's credibility and voracity as a professional. The letter you wrote is attached herein for your review as an example of your conduct.

In conjunction with this notice we request that you immediately **CEASE AND DESIST** from any and all activity that slanders, maligns, or denigrates the integrity or credibility of Mr. DeNucci or his Arboretum Condominium project in Austin, Texas.

This letter is to inform you and, prior to our filing our lawsuit, to provide you with notice not to do the following: destroy, conceal or alter any paper or electronic files and other data generated by and/or stored on your computers and storage media (e.g., hard disks, floppy disks, backup tapes), or any other electronic data, such as voice mail pertaining, text messaging, directly/indirectly to the above regarded matter generated from the calls and or text messaging to and from you or any other entity or person, or any member of the Bull Creek Foundation, potential member, witness or acquaintance that you, Jeff Jack, Brad Schafer, and or Jenny Schafer has been in contact with since October 2005 while using this form of medium. As you know, your failure to comply with this notice can result in severe sanctions being imposed by the court for spoliation of evidence or potential evidence. Through discovery, which shall be served on you in the short term, we expect to obtain from you a number of documents and things, including files stored on your computer storage media

In order to avoid spoliation, you will need to provide the data requested on the original media when the time is appropriate. Do not reuse any media to provide this data.

Although we may bring a motion for an order preserving documents and things from destruction or alteration, your obligation to preserve documents and things for

discovery in this case arise in law and equity independently from any order on such motion.

Electronic documents and the storage media on which they reside contain relevant, discoverable information beyond that which may be found in printed documents. Therefore, even where a paper copy exists, we may seek all documents in their electronic form along with information about those documents contained on the media. We also may seek paper printouts of only those documents that contained unique information after they were printed out (such as paper documents containing handwriting, signatures, marginalia, drawings, annotations, highlighting and redactions) along with any paper documents for which no corresponding electronic files exist.

Our discovery requests may also include a request for certain data on the hard disks, floppy disks and backup media used in your computers, some of which data are not readily available to an ordinary computer user, such as "deleted" files and "file fragments." As you may know, although a user may "erase" or "delete" a file all that is really erased is a reference to that file in a table on the hard disk; unless over written with new data, a "deleted" file can be as intact on the disk as any "active" file you would see in a directory listing.

Accordingly, electronic data and storage media that may be subject to our discovery request and that you are obligated to maintain and not alter or destroy, include but are not limited to the following:

All digital or analog electronic files, including "deleted files and file fragments, stored in machine-readable format on magnetic, optical or other storage media, including the hard drives or floppy disks used by your computers and their backup media (e.g., other hard drives, backup tapes, floppies, Jaz cartridges, CD-ROMs) or otherwise, whether such files have been reduced to paper printouts or not. More specifically, you are to preserve all of your e-mails, both sent and received, whether internally or externally; all word-processed files, including drafts and revisions; all spreadsheets, including drafts and revisions, all databases; all CAD (computer aided design) files, including drafts and revisions, all presentation data or slide shows produced by presentation software (such as Microsoft PowerPoint [TM]), all graphs, charts and other data produced by project management software (such as Microsoft Project [TM]); all data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook [TM] or Lotus Notes [TM]) all data created with the use of personal data assistants (PDAs), such as Palm Pilot, Blackberry, or other Windows CE-based or Pocket PC devices; all data created with the use of document management software or Customer Relationship Management (CRM) software, all data created with the use of paper and electronic mail logging and routing software; all Internet and Web-browser-generated history files, caches and "cookies" files generated at the workstation of each employee and/or agent in your employ and on any and all backup storage media, and any and all other files generated by users through the use of computers and or telecommunications, including but not limited to voice mail. Further, you are to preserve all copies of your backup tapes and the software necessary to reconstruct the data and those tapes, so that

there can be made completed bit-by bit "mirror" evidentiary image copy of the storage media of each and every personal computer (and/or workstation) and network server in your control and custody, as well as image copies of all hard drives retained by you and no longer in service, but in use at any time from October 1", 2005 to present which you, Jeff Jacks, Brad Schafer, Jenny Schafer, the Bull Creek Foundation and or its affiliates, associates, members and or assigns or any other person relevant to your slanderous remarks made or ones yet to be discovered. You are also not to pack, compress, purge or otherwise dispose of files and parts of files unless a true and correct copy of such files is made

You are to preserve and not destroy all passwords, decryption procedures (including, if necessary, the software to decrypt the files); network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software, and any and all other information and things necessary to access, view and (if necessary) reconstruct the electronic data we may request through discovery.

By this letter, we hereby demand that you take all necessary and appropriate steps to preserve and protect any and all evidence that may be in any way relevant to this matter, including, without limitation, all documents and /or electronic data in your possession, custody or control. Your failure to preserve such evidence may subject you to additional claims for spoliation of evidence under state and federal law.

PLEASE GOVERN YOURSELVES ACCORDINGLY

With Kindest Regards,

ANTHONY P. ROMANO, P.C.

BY  Anthony P. Romano

12325 Hymecrow Dr., Bldg 1, Suite 102

Austin, Texas 78750

(512) 918-0337 PH

(512) 918-0552 Fax

APR/cah/lmf