

Second, the Zoning Change Review Sheet of August 15, 2017 still provides the following recommendation: "In addition, if the requested zoning change is granted, then 57 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive to accommodate the required ROW for a Major Arterial Divided 4-lane roadway at 114 feet." This was included despite assurances by staff that this provision was superseded by the ATD Memorandum of July 26, 2017, that provided in part: ". . .the Director has determined that the right of-way dedication is deferred site plan." Third, even with this modification, significant problems remain in the event that a new site plan must be submitted due to zoning changes or environmental issues. Finally, this issue in long run will cause the following issue for me which I need more time to resolve them with ATD:

1. The extensive concrete drainage/flood control system adjacent to Blackfoot required by FEMA and the City of Austin in the original site plan was designed to use the existing square footage of the entire parking area for overflow. The drainage/flood control system can only drain water at a fixed rate. Reducing the square footage of the parking area would require move to move the existing building back at least another 7 feet at a cost approaching \$1,000,000.00.
2. This drainage/flood control system (and parking lot overflow) was required as a part of his site plan. In 2002, Birgani built this system, costing approximately \$300,000.00. Please refer to the approved site plan permit number: SP-99-2171C, dated, 11/10/99.
3. ROW requirement would encroach 7 feet into the parking lot. This would eliminate one entire row of parking.
4. The compatibility standards also provide in part, "No structure may be built within 25 feet of the property line." Because the approved, existing drainage/flood containment structures are within 25 feet of the property line, which was approved by the city in 1999, this requirement must be removed or waived.

5. The compatibility standards also provide in part, "No parking or driveways are allowed within 25 feet of the property line." Please note that these standards apply *only* to driveways along the north, of the property, the existing driveway off McNeil is on the *south* of the property, therefore this standard does not apply. Even if it did, the original site plan allowed the placement of the existing driveway off McNeil within 25 feet of the property line, presumably as a part of the engineered drainage system, the imposition of this standard would also create similar problems to those addressed above.

I proposed a compromise: a ROW agreement of 50 feet from the center of McNeil Drive to the existing McNeil curb of his property, thus allowing me to preserve my existing parking and drainage/overflow and allowing the city and state to expand McNeil by another lane. Despite numerous phone calls and emails, there has been no response to proposal form ATD.

In short, it is my opinion that the imposition of these conditions is not only unreasonable, but constitute a regulatory taking of my property. I need some time to work with Austin transportation department to resolve this issue too.

Accordingly, I am respectfully request just one postponement for the first reading from August 31st, 2017 to October 5th, 2017. I look forward to your response. Also, please confirm that you receive my request and is accepted by you. Thank you!

Respectfully submitted,

Abraham Birgani

Abraham Birgani
08/23/2017

ON ALL SITE PLANS

Conformance with the released site plan shall require a site plan amendment and Development Department; minor Building Plan Review Section at the

Include Building Code and Fire Code

of relocation, or damage to,

required at a later date.

and prior to an application for and or Planning Commission approved

asphalt or concrete pavement prior driving surface.

center of the four-inch opening at The four-inch opening must face to six-foot setbacks from the within three feet of any must be totally unobstructed from the

fire protection facilities are installed shall include all surface access made serviceable prior to and during alternative methods of protection, as provided, the above may be modified or

shall be engineered and installed for various/decorative paving within approved by the Fire Department.

with an individual capacity of 1.5 stored or placed within ten feet of visible eave lines.

shall be registered with City of and for final approval.

apparatus is 13 feet, 6 inches for

PROPERTY OWNER

Abraham Birganl
12602 Blackfoot Trail
Austin, Texas 78729
(512)331-5666

LEGAL DESCRIPTION

Lot 2, Indian Oaks 2, part of the Wm. J. Baker Survey #10, Recorded in Plat Records, Cabinet J, Slide 264, of Williamson County, Texas.

SITE PLAN NOTES:

1. Total site is 25,039 or 0.5748 acres.
2. Total area being developed is 17,289 S.F. = 0.397 acres.
3. Existing Impervious Cover
 - a. 1-Story Bldg.- 3888 s.f. 15.53%
 - b. Concrete flat work- 1073 s.f. 4.29%
 - Total Impervious Cover 4,961 s.f. 19.81%
4. Impervious Cover to Remain and New Concrete Pavement
 - a. 1 Story Bldg.- 3888 s.f. 15.53%
 - b. Existing Conc. flat work- 982 s.f. 3.92%
 - c. New Pavement- 7851 s.f. 31.36%
 - d. New Conc. flat work- 91 s.f. 0.36%
 - Total Impervious Cover 12,812 s.f. 51.17%
5. Increase in Impervious Cover: 7851 s.f. 31.36 %
6. Limits of Construction (within property lines) - 13,130 s.f.

GARBAGE PICKUP: At Curb Side

RELATED CASES: NONE

GENERAL CONSTRUCTION NOTES:

1. All new concrete work shall be constructed with 3000 p.s.i. concrete.
2. All excavated surplus material shall be hauled off by Contractor to approved Landfill.
3. All disturbed and regraded permeable areas shall be finished with 3' of approved fertile topsoil. Same areas shall be hydromulched. Watering will be done by Contractor. See re-vegetation notes on Sht. C5.
4. All pavement & sidewalk surfaces shall be hard-trowelled & finished with a medium coarse brush. Other exposed surfaces, i.e., vertical surfaces & curbs shall be grouted with a sand/cement mix & finished with a rubber float.
5. All finished concrete work shall be immediately sealed with a curing compound.
6. Following completion of concrete drive, the contractor shall barricade drive to assure that vehicular traffic does not enter drive. Barricades shall be maintained for 7 days.
7. Upon completion of the proposed site improvements and prior to the release of the certificate of occupancy or final inspection release by the city, the design engineer shall certify in writing that the proposed drainage and detention facilities were constructed in conformance with the approved plans.

BACK OF CURB

AT BOW LINE

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

Case Number: C14-2017-0042

Contact: Sherri Sirwaitis, 512-974-3057

**Public Hearing: June 6, 2017, Zoning and Platting Commission
August 3, 2017, City Council**

Trudy Ross

Your Name (please print)

☐ I am in favor
☒ I object

7001 S Sioux Trl

Your address(es) affected by this application

Trudy Ross

Signature

6-2-17

Date

Daytime Telephone:

512 335-7227

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning & Zoning Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

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

Case Number: C14-2017-0042

Contact: Sherri Sirwaitis, 512-974-3057

**Public Hearing: June 6, 2017, Zoning and Platting Commission
August 3, 2017, City Council**

CAROL E. BUTIERREZ

Your Name (please print)

☐ I am in favor
☒ I object

7004 S. SIOUX TRAIL

Your address(es) affected by this application

Carol E. Butierrez

Signature

5-30-2017

Date

Daytime Telephone: 512-554-6836

Comments: WILL BRING TOO MUCH TRAFFIC
TO THIS AREA. IT'S A BAD
INTERSECTION TO BEGIN WITH.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Zoning Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

Rezoning Application of Abraham Birgani

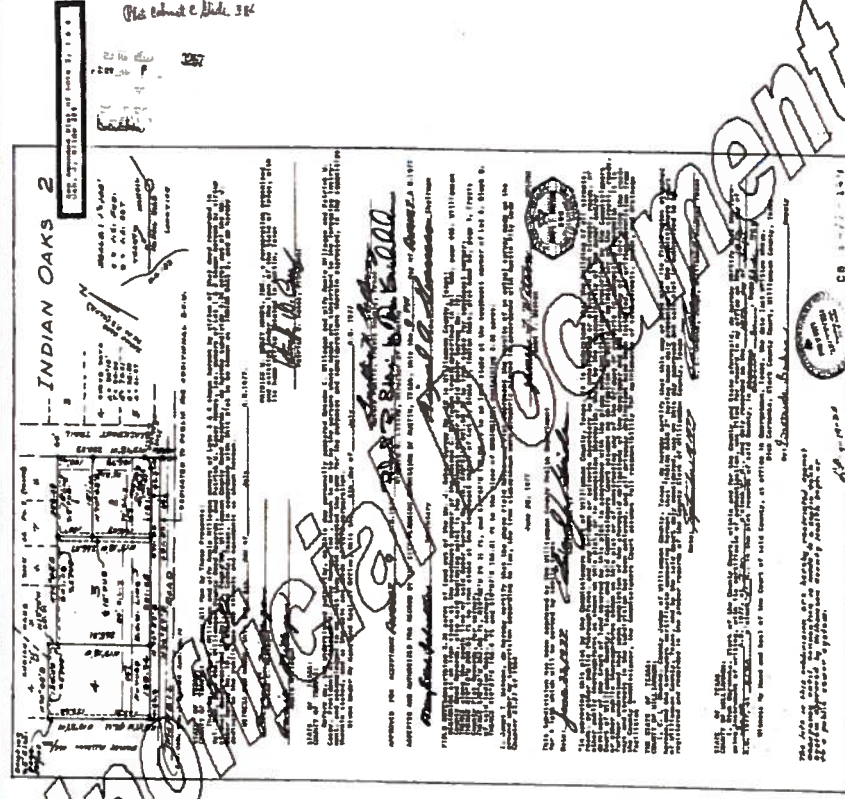
**Case No.: C14-2017-0042
6610 McNeil Road/
12602 Blackfoot Trail**

**LEGAL DESCRIPTION:
LOT 2 OF INDIAN OAKS 2 SUBDIVISION**

- Property consists of **one building**, the front part facing McNeil and side extending onto Blackfoot Trail located in Williamson County and has been **commercialized since 1985**
- When purchased in **December 1989**, it was zoned entirely commercial
- until the City of Austin **annexed it early January 1998**
- **Prior to annexation**, Mr. Birgani had all the permits and Austin city approved site plan, consisting of elaborate drainage structure and parking lot– **Site plan permit #SP-97-0439D**

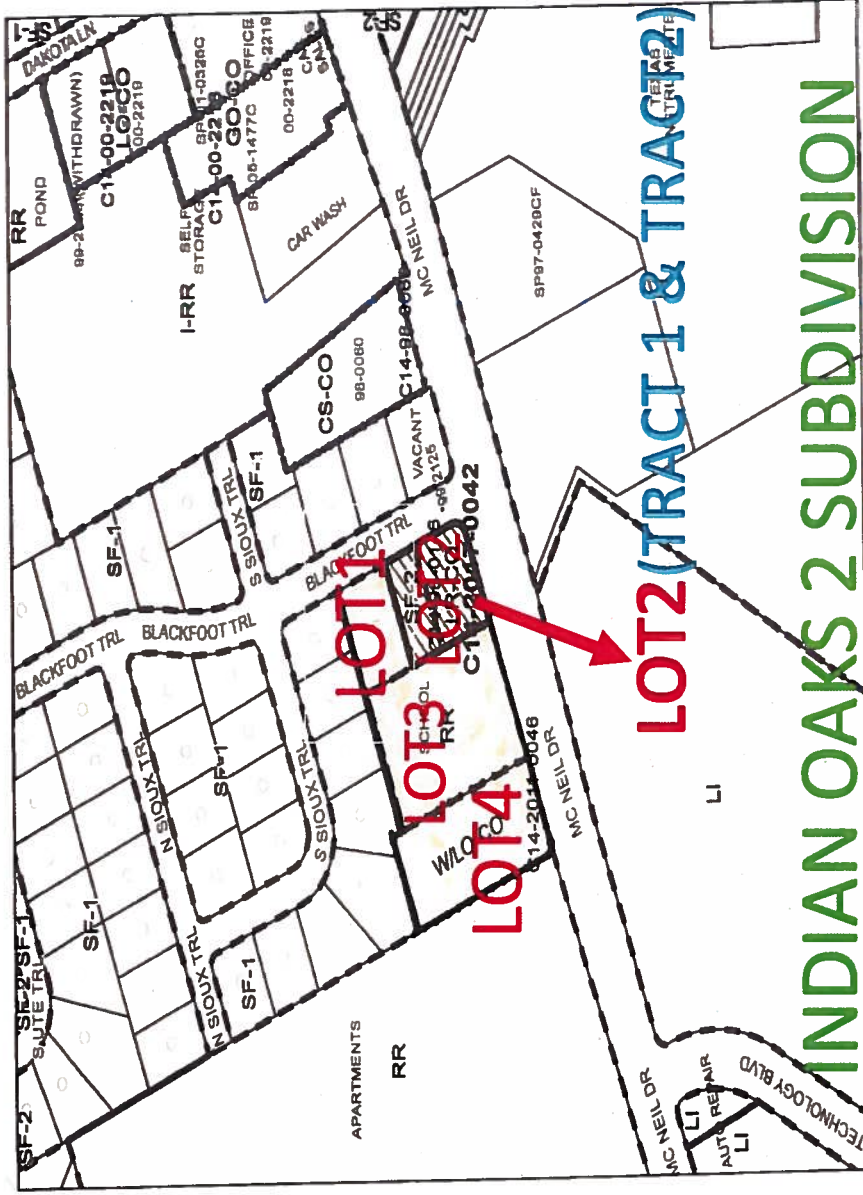
INDIAN OAKS 2
SUBDIVISION CREATED
IN 1977 & IT has 4 LOTS
(LOT1, LOT2, LOT3, &
LOT4)

- COMMERCIAL
ZONED SINCE 1985
- MR. BIRGANI OWNS
LOTS 1 & LOT 2



INDIAN OAKS 2 SUBDIVISION IS CREATED IN 1977 AND CONSIST OF 4 LOTS (LOT1, LOT2, LOT3 AND LOT4)

- SINCE 1985 ALL 4 LOTS
COMMERCIALIZED
- MR. BIRGANI OWNS LOT1 &
LOT2
- AUGUST, 2000 LOT 2 WAS
DIVIDED BY CITY OF AUSTIN IN
TWO TRACTS (TRACT1 &
TRACT2)



ZONING

Case #: C14-2017-0042



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.
This product has been produced by the Planning and Zoning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Created: 4/19/2017

1985- The undersigned agree that the restriction imposed upon the property are hereby amended and modified to provide that the property is no longer restricted to use for residential purpose only and may be used for any lawful purpose

AMENDMENT OF INSTRUMENTS

Vol 1126

18833

KNOW ALL MEN BY THESE PRESENTS:

STATE OF TEXAS
COUNTY OF WILLIAMSON

WHEREAS, by Deed recorded in Volume 500, Page 496, of the Deed Records of Williamson County, Texas, a copy of which is attached hereto as Exhibit "A", RAYMOND FLOYD DAVIS and wife, ALINE DAVIS, and BEULAH DAVIS, as Grantors, did convey to ROSCOE B. MILLEGAN and wife, ANNIE MILLEGAN, as Grantees, those six (6) tracts of land situated in Williamson County, Texas, as are more fully described on Exhibit "A"; and

WHEREAS, BEULAH DAVIS is now deceased and DYANA EICHENWATZ, joined herein by her husband, DONALD L. EICHENWATZ, is her only heir; and

WHEREAS, ELAINE BARNES, wife of DALE BARNES, is now deceased; and

WHEREAS, RICHARD BOUTON and wife, DIANE BOUTON, CRAIG H. SHIMPERT and wife, BARBARA SHIMPERT, DALE BARNES and FRANK C. WOLCHICK, JR., are successors in title to portions of the hereinabove referenced property; and

WHEREAS, the above named MILLEGANS, BOUTONS, DAVNES, SHIMPERTS and WOLCHICK constitute all of the parties with any interest in and to the property described on Exhibit "A"; and

WHEREAS, the Deed attached as Exhibit "A" contains certain restrictions restricting the use of the property for residential purposes only, and the parties hereto now desire to amend said restrictions to permit any lawful use;

IT IS THEREFORE, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree that the restrictions imposed upon the property are hereby amended and modified to provide that the property is no longer restricted to use for residential purposes only and may be used for any lawful purpose.

EXECUTED this 24th day of April, 1985.

FRANK C. MILLEGAN
ANNIE MILLEGAN
DONALD L. EICHENWATZ
DYANA EICHENWATZ
RICHARD BOUTON
DIANE BOUTON
CRAIG H. SHIMPERT
BARBARA SHIMPERT
DALE BARNES
FRANK C. WOLCHICK, JR.

STATE OF TEXAS
COUNTY OF WILLIAMSON

This instrument was acknowledged before me on April 24, 1985, by

INDIAN
OAKS-2-
SUBDIVISION

LI

LI

LOT4
w/LCO
6702 McNeil Dr

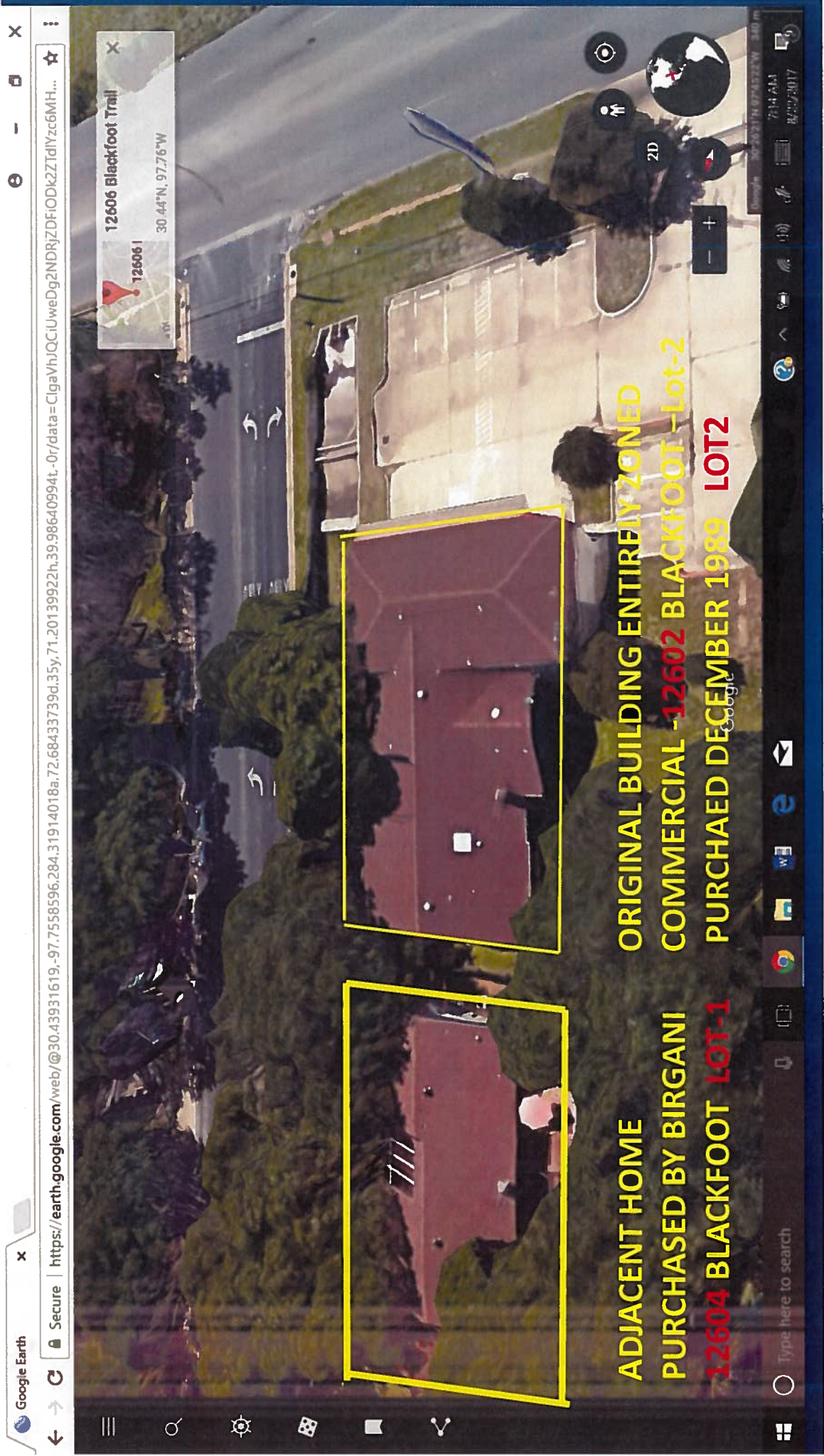
LOT3
6616 McNeil Dr

LOT2
12602
BLACKFOOT

LOT1
12604
BLACKFOOT

McNeil Dr & BLACKFOOT TRAIL

Google Earth



ADJACENT HOME
PURCHASED BY BIRGANI
12604 BLACKFOOT LOT-1

ORIGINAL BUILDING ENTIRELY ZONED
COMMERCIAL -**12602 BLACKFOOT -Lot-2**
PURCHASED DECEMBER 1989 **LOT2**

12606 Blackfoot Trail
126061
30.44°N, 97.76°W

Google Earth x
Secure | <https://earth.google.com/web/@30.43931619,-97.7558596,284.31914018a,72.68433739d,35y,71.20139922h,39.98640994t,-0r/data=CigaVhJQCiuweDg2NDRjZDFiODk2ZTdlYzc6MH...> ☆

Type here to search

March, 1998, Unbeknownst to Mr. Birgani, city zoned entire property SF-1 (residential), and red-tagged his entire business, stopped construction, **revoked** all his permits and approved **site plan #SP-97-0439D**

Faced with **tremendous financial loss**, Mr. Birgani was **compelled** to enter an onerous zoning agreement with city:

1. City drew artificial property line through part of building and forced him to submit another site plan which was approved **3** years later - **(The site plan # SP-99-2171C)**
2. Zoned front portion (1416 SF) as **LR-CO** and back portion (2380 SF), **64 feet** from north of property line as **SF2**. Also imposed with impossible conditions in **restrictive covenant** and in Ordinance No. 9907722-46), **PROHIBITING**



ORIGINAL BUILDING ENTIRELY ZONED
COMMERCIAL FORCED BY CITY TO BE
DIVIDED INTO TWO TRACTS ZONED AS LR-CO
WITH IMPOSSIBLE CONDITIONS **LOT2**

ADJACENT LOT
PURCHASED BY BIRGANI
12604 BLACKFOOT
(LOT-1)

17 restrictions imposed on LR-CO

1. Consumer Convenience Services
2. Food Sales
3. General Retail Sales
4. Bed and Breakfast
5. Restaurant
6. Congregate Living
7. Community Recreation
8. Guidance Services
9. Residential Treatment
10. Consumer Repair Services
11. General Retail Sales (Convenience)
12. Pet Services
13. Restaurant (Drive-In, Fast Food)
14. Service Station
15. Community Recreation (Private)
16. Counseling Services
17. Hospital Services

ADDITIONALLY, RESTRICTIVE COVENANTS WERE IMPOSED ON JULY 22, 1999

The most onerous restriction imposed
“hours-of-operation restriction:

- ❖ Monday through Friday 8:00 a.m. until 8:00 p.m.
- ❖ Saturdays – 8:00 a.m. until 12:00 noon
- ❖ Sunday- CLOSED
- ❖ Due to such extreme restrictions, it remained vacant for 14 of 20 past years.

MR. BIRGANI FILED AN APPLICATION FOR TERMINATION
OF THESE RESTRICTIVE COVENANTS ON JULY 26, 2017,
WHICH IS STILL PENDING

REGARDING ORDINANCE RESTRICTIONS (No.
9907722-46), MR. BRIGANI OBJECTS TO ALL OF THE
RESTRICTIONS EXCEPT THE PROHIBITION ON ACCESS
FROM BLACKFOOT FOR COMMERCIAL USE.

PLANNING AND ZONING RECOMMEDATION – AUGUST 15TH *LEFT BUILDING DIVIDED WITH TWO DIFFERENT ZONING CLASSIFICATIONS*

- ❖ MAINTAINED ARTIFICIAL DIVISION OF BUILDING AND REZONED BACK HALF OF BUILDING AS SF-2 (RESIDENTIAL)
- ❖ REZONED FRONT PORTION OF BUILDING FACING McNeill (1416 SQAURE FEET) AS GR-MU-CO WITH OVERLAY CONDITIONS PROHIBITING:

1. Prohibit Alternative Financial Services
2. Automotive Washing (of any type)
3. Bail Bond Services
4. Drop-Off Recycling Collection Facility,
5. Medical Office-exceeding 5,000 sq. ft. gross floor area
6. Medical Offices-not exceeding 5,000 sq. ft. gross floor area,
7. Outdoor Entertainment
8. Pawn Shop Services

9. Service Station,
10. Congregate Living
11. Guidance Services
12. Hospital Services (General),
13. Hospital Services (Limited),
14. Residential Treatment and Drive-In Services
15. maintain the condition from Ordinance No. 9907722-46 that,
“Pedestrian and vehicular traffic associated with a non-residential use
on the Property may not access Blackfoot Trail.”

(7-0, D. Breithaupt, B. Evans, S. Lavani and S. Trinh-absent); J. Duncan-
1st, A. Aguirre-2nd.

ZAP RECOMMENDATION LEAVES PROPERTY COMPLETELY INACCESSIBLE

ITEM 15 ABOVE STATES:

“maintain the condition from Ordinance No. 9907722-46 that, “Pedestrian and vehicular traffic associated with a non-residential use on the Property may not access Blackfoot Trail.”

HOWEVER

ON PAGE 11 OF AGENDA BACKUP: STAFF REPORT

– 20171005-045, IT STATES:

“If requested zoning is granted, it is recommended that access to McNeil Drive be *prohibited* as a condition of zoning because 200 feet of frontage is required for site to have access to a major arterial.”

***** ADDITIONAL RIGHT-OF-WAY REQUIRED
FOR ZONING CHANGE --
7 MORE FEET FROM FRONT CURB LINE*****

- Zoning Change Review Sheet - August 15, 2017 provides: "In addition, **if the requested zoning change is granted**, then 57 feet of right-of-way should be dedicated from the existing centerline of McNeil Drive to accommodate the required ROW for a Major Arterial Divided 4-lane roadway at 114 feet."
- This provision was superseded by the ATD Memorandum of July 26, 2017, that provided in part: " . . the Director has determined that the right-of-way dedication is deferred site plan."

**ZAP RECOMMENDATION DESTROYS COMMERCIAL FEASIBILITY OF PROPERTY BECAUSE 1-
MAINTAINING DIVISION OF LOT 2, 2-ADDITIONAL R.O.W. AND COMPATIBILITY STANDARDS
LANDSCAPE AREA AT LEAST 25 FEET WIDE REQUIRMENT FOR LR, GO, GR, L, CS, CS1 OR CH
ELIMINATES ALL BUT 5 PARKING SPACES, REDUCES FILTERATION PONDS AND REDUCES
EXISTING BUILDING**

- Property is located in Rattan Creek Watershed – 65% impervious restriction applies
- When building was constructed, Lot 2 was undivided and property fell within 65% restriction
- Forced division of Lot 2 rendered Tract 2 - 92% developed because it contains the building, parking lot, and water drainage system
- If division of Lot 2 is maintained, submission of new site plan will require Mr. Birgani to reduce his impervious area by 27%, eliminating all but 5 parking spaces (including 1 handicapped) and would require him to reduce building from 1416 to 882 square feet
- This will cost Mr. Birgani more than \$400,000.00 to comply

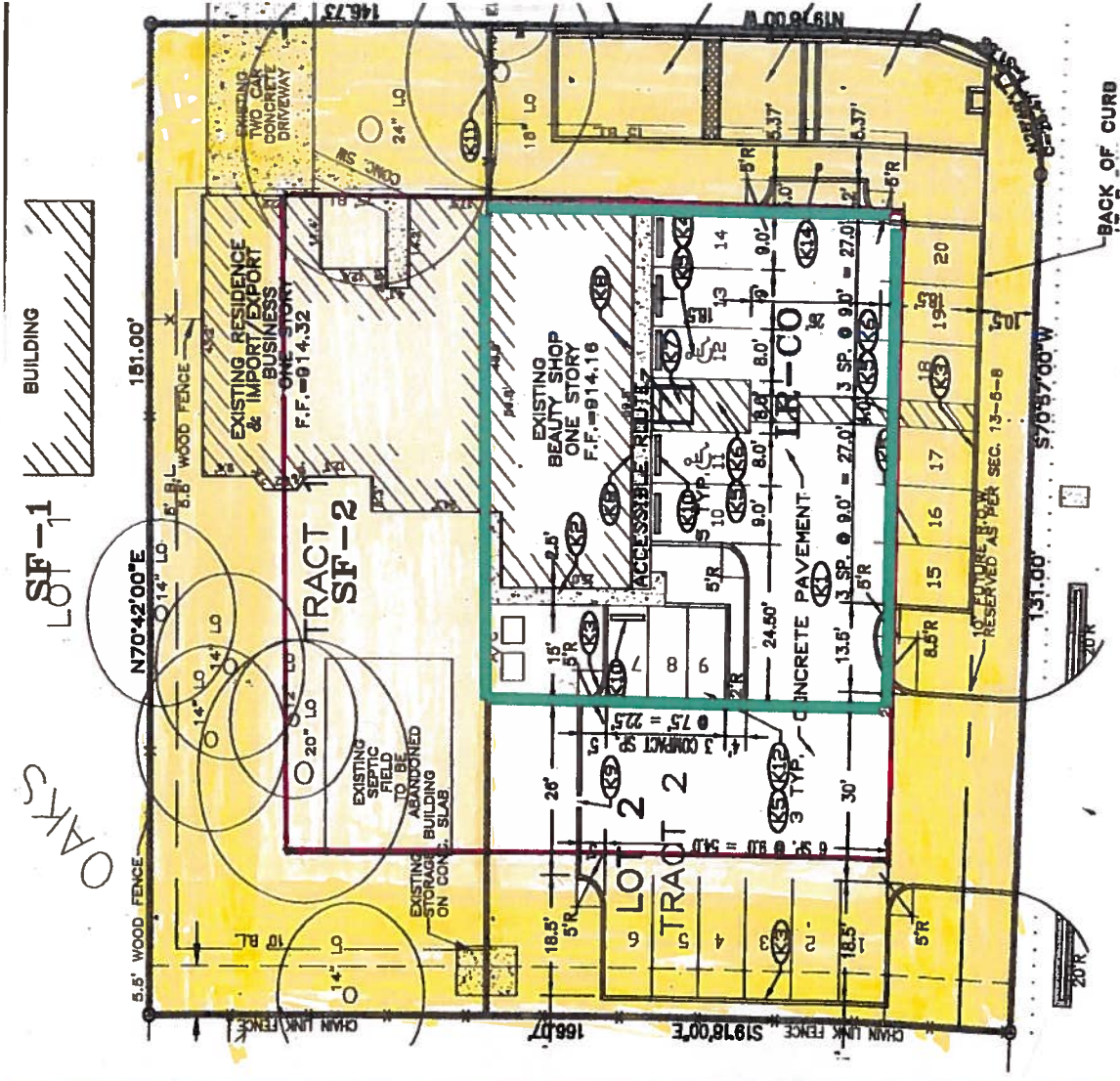
❖ MR. BIRGANI ABSOLUTLEY AGREES THAT THERE WILL BE NO ACCESS FROM BLACKFOOT BECAUSE as long as property access from McNeil not blocked by transportation in future:

1. IT WOULD IMPEDE TRAFFIC FLOW ON BLACKFOOT AND IS NOT CONSISTANT WITH NEIGHBORHOOD
2. IT IS PHYSICALL IMPOSSIBLE DUE TO DRAINAGE SYSTEM

CURRENT RECOMMENDATION STILL MAKES PROPERTY COMMERICALLY INVIABLE

- RESTRICTIONS ON MEDICAL OFFICES, PAWN SHOPS, AND
ALTERNATIVE FINANCIAL SERVICES
- LIMITING COMMERCIAL ENTERPRISE TO 1416 SQUARE FEET MAKES
PROPERTY UNPROFITABLE AND RENDERS VALUE OF PROPERTY
PRACTICALLY WORTHLESS AS COMMERCIAL PROPERTY

- TOTAL AREA OF LOT2= 24,829 SF
- AREA OF TRACT 1 = 9,664 SF
- AREA OF TRACT 2 = 15,164
- AREA OF R.O.W, FILTERATION PONDS AND LANDSCAPING = 7,388 SF
- AREA OF TRACT 2 = 7,777 SF
- AREA OF 27% REDUCTION = 2,100 SF
- SQUARE FEET AREA FOR BUILDING, PONDS AND PARKING LOTS=5,677 SF
- SMALL BUILDING, 5 PARKING SPACES AND ADDITIONAL COST OF \$400,000



MR. BIRGANI SUFFERS A PROFIT LOSS UNDER CURRENT RECOMMENDATION WITH IMPOSITION OF ADDITIONAL RIGHT-OF-WAY

GROSS RENTAL INCOME ON NOW 882 SQUARE FEET (at \$1.75 per square foot per month based upon data from commercial realtor)
\$18,522.00

GROSS EXPENSES:
\$19,729.00

PROFIT
MINUS -\$1,207.00

**UNDER CURRENT RECOMMENDATION
(WITHOUT RIGHT-OF-WAY) --- MR. BRIGANI'S MINIMAL
PROFIT RENDERS PROPERTY COMMERCIALLY INVIABLE**

GROSS RENTAL INCOME ON 1416 SQUARE FEET (at \$1.75 per square foot based upon data from commercial realtor)

GROSS EXPENSES:

\$19,729.00

PROFIT

\$10,007.00

(If the property was rented every day of year with no major repair and no increase in taxes and insurance)

**BY EXTENDING THE GR-MU-CO INTO ALL BUT THE BACK 30
FEET OF THE PORTION OF THE BUILDING ZONED SF-2, MR.
BRIGANI BEGINS TO MAKE PROPERTY PROFITABLE**

GROSS RENTAL INCOME ON WITH EXTENDING GR-MU-CO 2,580 SQUARE FEET (at \$1.75
per square foot based upon data from commercial realtor)

\$54,180.00

GROSS EXPENSES:

\$22,000.00

PROFIT

\$32,180.00

BY EXTENDING THE GR/CS-MU-CO INTO ALL OF THE
PORTION OF THE BUILDING ZONED SF-2, MR. BRIGANI
PROPERTY WOULD BE PROFITABLE

GROSS RENTAL INCOME ON 3526 SQUARE FEET (at \$1.75 per square foot
based upon data from commercial realtor)

\$74,046.00

GROSS EXPENSES:

\$20,000.00

PROFIT

\$43,760.00

IN THE EVENT THAT CITY EXTENDS GR-MU-CO OR CS-MU-CO INTO SOME OR ALL OF BACK PORTION OF BUILDING FACING BLACKFOOT

- 1) MR. BIRGANI WOULD ENSURE THAT SIDE OF BUILDING FACING BLACKFOOT IS AESTHETICALLY CONSISTANT WITH RESIDENTIAL CHARACTER OF NEIGHBORHOOD
- 2) ALL VEHICULAR OR PEDESTRIAN TRAFFIC FOR COMMERCIAL WILL BE CONDUCTED SOLEY IN THE FRONT OF THE BUILDING FACING McNeill
- 3) THE COMMERCIAL USE OF ALL OF OF THE BUILDING WILL HAVE NO IMPACT ON NEIGHBORS

MR. BIRGANI'S PERSONAL RESIDENCE IS IMMEDIATELY NEXT DOOR ON THE NORTH SIDE OF THE BUILDING. ALL ADJACENT PROPERTY OWNERS ARE IN FAVOR OR NOT OPPOSING THE CS-MU REZONING

PLEASE SEE IN FOLLOWING FEW SLIDES
OTHER PROPERTIES AROUND THE
PROPERTY



12606 Blackfoot Trail
30.44°N, 97.76°W

12605
BLACKFOOT
IN FAVOR

12603
BLACKFOOT
IN FAVOR

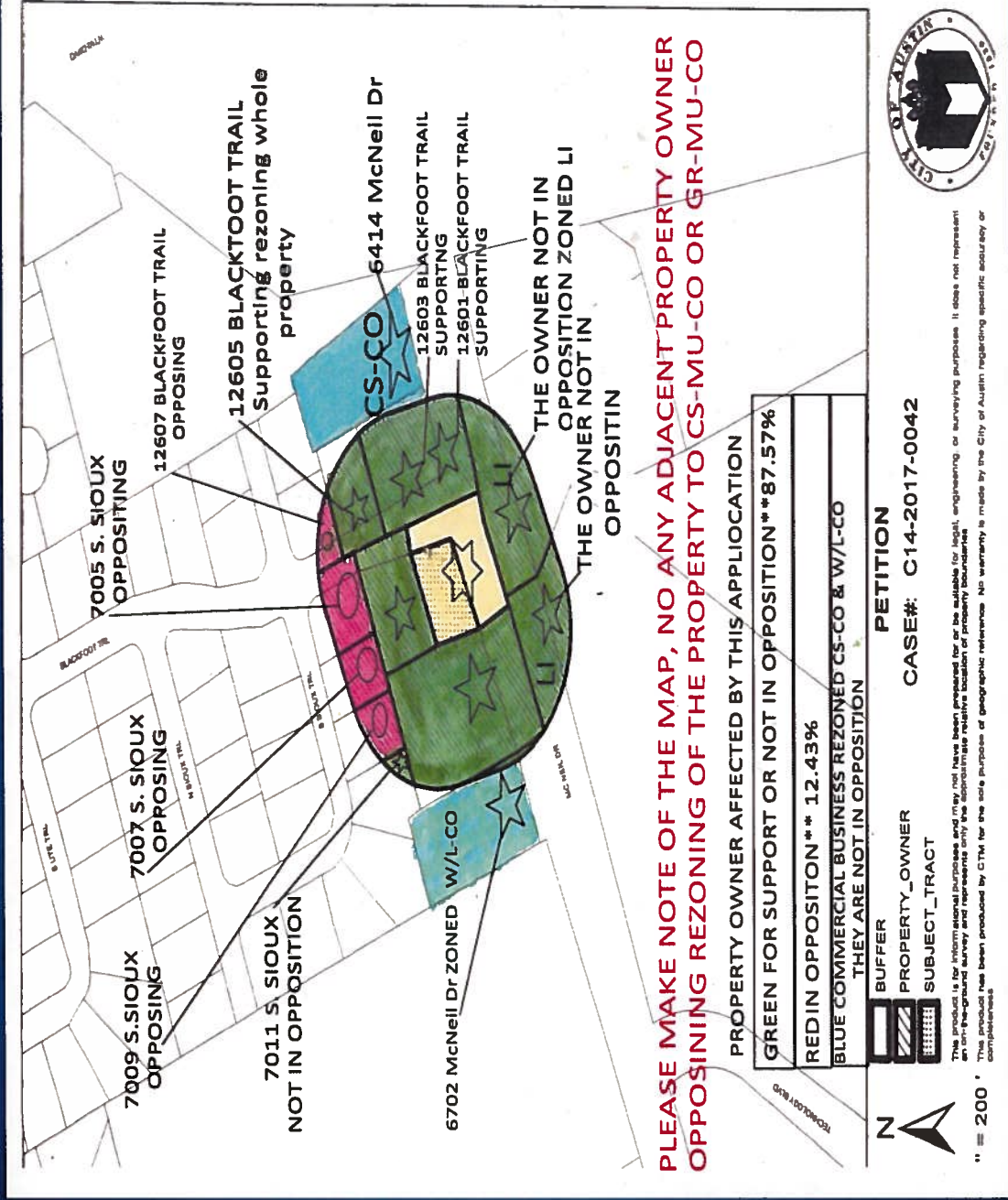
MCNEIL

BLACKFOOT TRAIL

BIRGANI
PERSONAL
RESIDENCE
12604
BLACKFOOT
IN FAVOR

12602
BLACKFOOT

PLEASE MAKE NOTE
 THAT ALL ADJACENT
 PROPERTY OWNERS TO
 THE SUBJECT
 PROPERTY (CASE# C14-
 2017-0042) ARE IN
 FAVOR OR NOT
 OPPOSING TO REZONE
 WHOLE PROPERTY TO
CS-MU-CO



*THE CITY CANNOT JUSTIFY
DISPARATE
ZONING RECOMMENDATION
BASED UPON THE FOLLOWING
PROPERTIES*

1. FOUNDATION AUTO REPAIR - 6750 Corpus Christi Drive/McNeil **GR-CO** **Adjacent to 4 residence**
2. NEWIMAGE HAIR SALON - 6410 McNeil Drive/Dakota **GR-CO** – **Adjacent to one residence**
3. JOHNSON CUSTOM POOLS - 6514 McNeil Drive **CS-CO** – adjacent to **5 residence**
4. DAC INTERNATIONAL-AEROSPACE ENGINEERING - 6702 McNeil Drive **W/L-CO** – adjacent to **2 residence**
5. NOT YET DEVELOPED - 6810 McNeil Drive – **GR-CO** – Recently zoned **and across from apartment homes**

6. 6914 McNeil Drive - Recently zoned as GR-CO – adjacent to apartment home and retirement home
7. VIDA MOTOR (auto sales) -7224 McNeil Drive - Zoned as CS-CO – adjacent to a residence
8. ADVANCED AUTO PARTS - 7308 McNeil Drive/San Filipe - Zoned as GR-CO- adjacent to a residence
9. MULTIPLE RESTAURANTS ETC. - 7318 McNeil Drive/San Filipe - Zoned as GR-CO and CS-CO – adjacent to apartment and retired homes

PLEASE SEE OTHER REZONED
PROPERTIES AT OTHER ENTRANCE'S
TO NEIGHBORHOODS FROM McNeil
DRIVE

❖ THERE ARE 5 ENTRANCES FROM McNeil Dr to NEIGHBORHOODS, EACH ONE THEM HAS ONE OR MORE PROPERTIES THAT REZONED BY CITY OF AUSTIN TO GR-CO, CS-CO AND LI EXCEPT MR. BIRGANI PROPERTY

1. CORPUSE CHRISTI DRIVE

2. DAKOTA LN

3. BLACKFOOT TRAIL, WHERE THE PROPERTY MR. BIRGANI PROPERTY IS LOCATED

4. LOS INDIOS TRAIL

5. SAN FELIPE BLVD

❖ WHY MR. BIRGANI PROPERTY HAS BEEN SINGLE OUT AND TREATED UNFAIRLY FOR LAST 20 YEARS?

❖ WHY MR. BIRGANI SMALL PROPERTY MUST BE DIVIDED BUT OTHER LARGER PROPERTIES HAVE NOT BEEN DIVIDED WHEN THEY REZONED?



GR-CO

6750

GAS

STATION

CORPUS CHRISTI DR

McNeill Dr & CORPUS CHRISTI Dr

Google Earth

An aerial photograph of a medical office complex. The image is divided into three main sections by yellow rectangular outlines. The top section, labeled 'MEDICAL OFFICES', shows a large building with a parking lot and a road. The middle section, labeled 'GR-CO 6410 McNeil Dr', shows a smaller building with a parking lot. The bottom section, labeled 'OFFICES', shows a building with a parking lot. The text 'McNeil Dr & DAKOTA LN' is written vertically along the right side of the image.

MEDICAL OFFICES

McNeil Dr & DAKOTA LN

GR-CO

6410

McNeil Dr

OFFICES

12602 Blackfoot

McNeil & Blackfoot

GATE

CS-CO

6514 McNeil DR

STORAGE

CAR WASH

© 2017 Google

Google Earth





GR CO

6818 McNeil Dr

SONIC

RESTUARANT

Google Earth

GR-CO

6914

McNeil Dr

McNeil Dr & LOS INDIQ'S TRAIL

Google Earth

©2017 Google





CS-CO & GR-CO
& MEDICAL OFFICES

7318 McNeil Dr.

McNeil Dr & SAN FELIPE BLVD

GR-CO

7308 McNeil Dr

Google Earth

© 2017 Google

❖ WHY MR. BIRGANI PROPERTY HAS BEEN
SINGLE OUT AND TREATED UNFAIRLY FOR LAST
20 YEARS?

❖ WHY MR. BIRGANI SMALL PROPERTY MUST
BE DIVIDED BUT OTHER LARGER PROPERTIES HAVE
NOT BEEN DIVIDED WHEN THEY REZONED?

SINCE 1985, ENTIRE INDIAN OAKS 2 SUBDIVISION IN WHICH
PROPERTY IS SITUATED WAS ZONED ENTIRELY COMMERCIAL
UNTIL PRESENT TIME

Neighbors purchasing property in Indian Oaks
between 1985 to present time had notice of the
commercial nature of Indian Oaks 2 Subdivision and
specially Mr. Birgani's commercial properties.
should not expect the city council shut down and
destroy my commercial property

LEGAL DESCRIPTION:

LOT 2 OF INDIAN OAKS 2 SUBDIVISION, A
SUBDIVISION OF WILLIAMSON COUNTY. J. BAKER
SURWAY #10 RECORDED IN PLAT RECORDS,
CABINET J, SLIDE 264, OF WILLIAMSON COUNTY
TEXAS

CURRENTLY THE SITE WAS DEVELOPED BASED ON CITY APPROVED SITE PLAN SP-99-2171C. FOR WHOLE PROPERTY NOT BEING DIVIDED.

1. TOTAL SITE 25,039 SF = 0.574 ACRES
2. TOTAL AREA BEING DEVELOPED = 17,287 SF = 0.397 ACRES = 69%
3. IMPERVIOUS COVER LIMIT UNDER RATTAN CREEK WATERSHED IS 65% TO 70%
4. 250 SF = 1% LEFT TO BE DEVELOPED AND NO LAND TO ADD BUILDING OR PARKING LOT

CURRENTLY THE SITE WAS DEVELOPED BASED ON CITY APPROVED SITE PLAN SP-99-2171C. FOR WHOLE PROPERTY NOT BEING DIVIDED.

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CURRENTLY THE SITE WAS DEVELOPED BASED ON CITY APPROVED SITE PLAN SP-99-2171C. FOR WHOLE PROPERTY NOT BEING DIVIDED.

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CURRENTLY THE SITE WAS DEVELOPED BASED ON CITY APPROVED SITE PLAN SP-99-2171C. FOR WHOLE PROPERTY NOT BEING DIVIDED.

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2. TOTAL AREA BEING DEVELOPED = 17,287 SF = 0.397 ACRES = 69%
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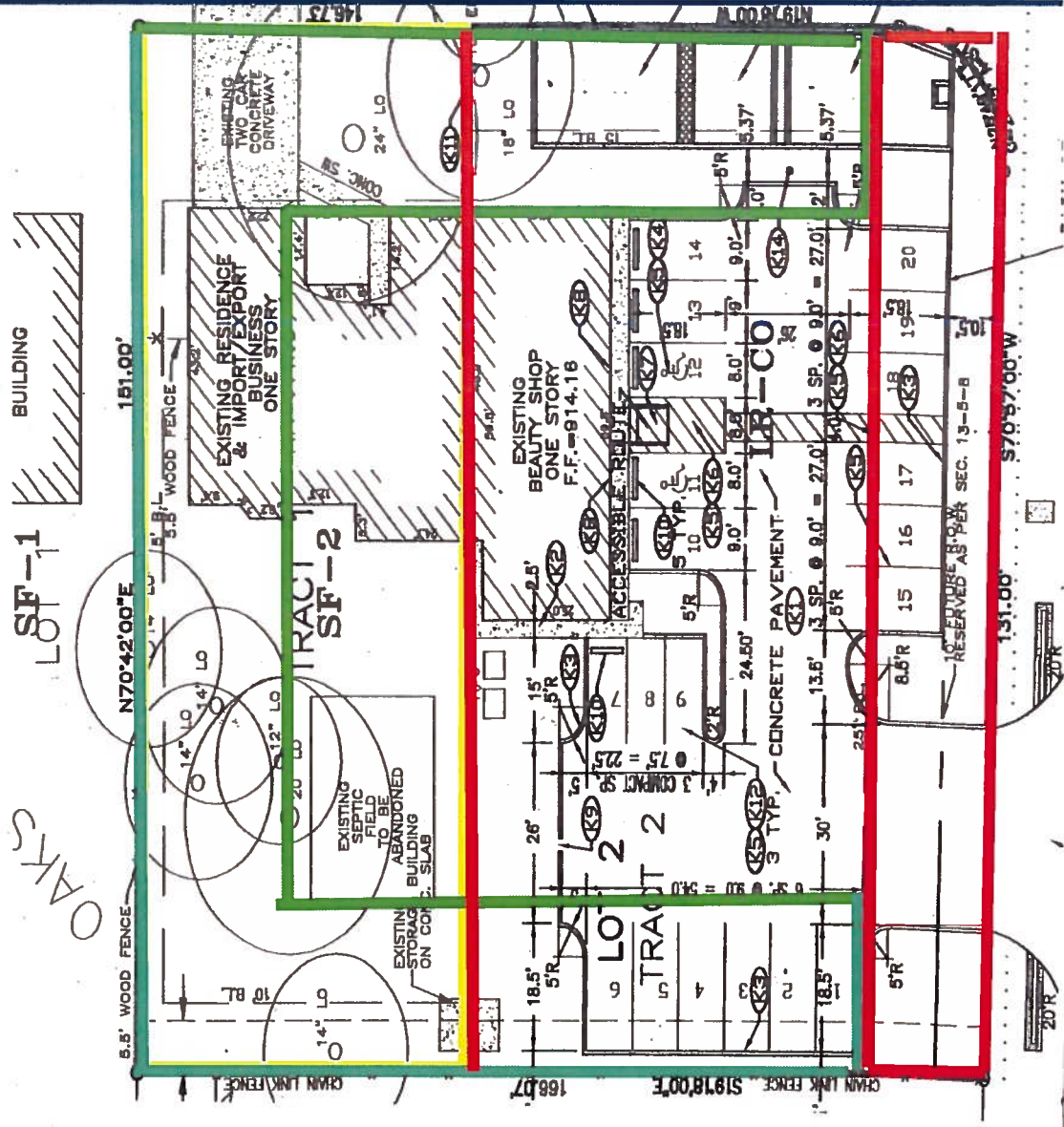
CURRENTLY THE SITE WAS DEVELOPED BASED ON CITY APPROVED SITE PLAN SP-99-2171C. FOR WHOLE PROPERTY NOT BEING DIVIDED.

1. TOTAL SITE 25,039 SF = 0.574 ACRES
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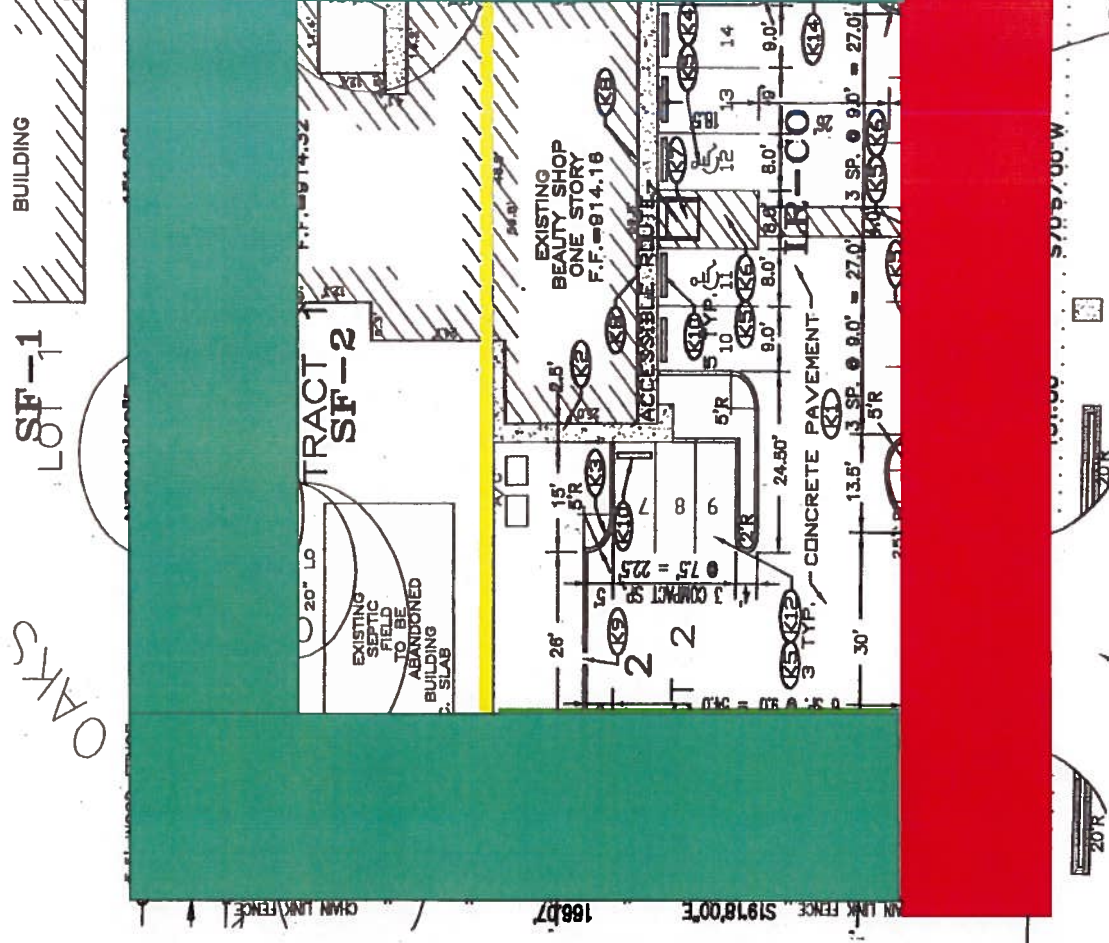
BASED ON ZAP RECOMMENDATION OF
DIVIDING THE PROPERTY IN TWO TRACTS:

1. TRACT1= SF2= 9,664 S.F. =0.222 ACRES
 - IMPREVIOUS COVER= 2,792= 29%
2. TRACT2= 15,375 S.F. =0.352ACRES
 - 15,375-3,937= 11,438 S.F.
 - IMPEVIOUS COVER = 11,439 S.F. = 75%
 - 10% over the impervious limit for Rattan Creek Watershed
 - ON THE SOUTH SIDE (RED AREA):
 - ADDITIONAL R.O.W AND REMOVAL OF 10 % IMPREVIOUS COVER OR 25 FEET LANDSCAPE AREA FOR COMMERCIAL ZONING –PLEASE SEE PAGE S 1 AND 10 OF STAFF REPORT



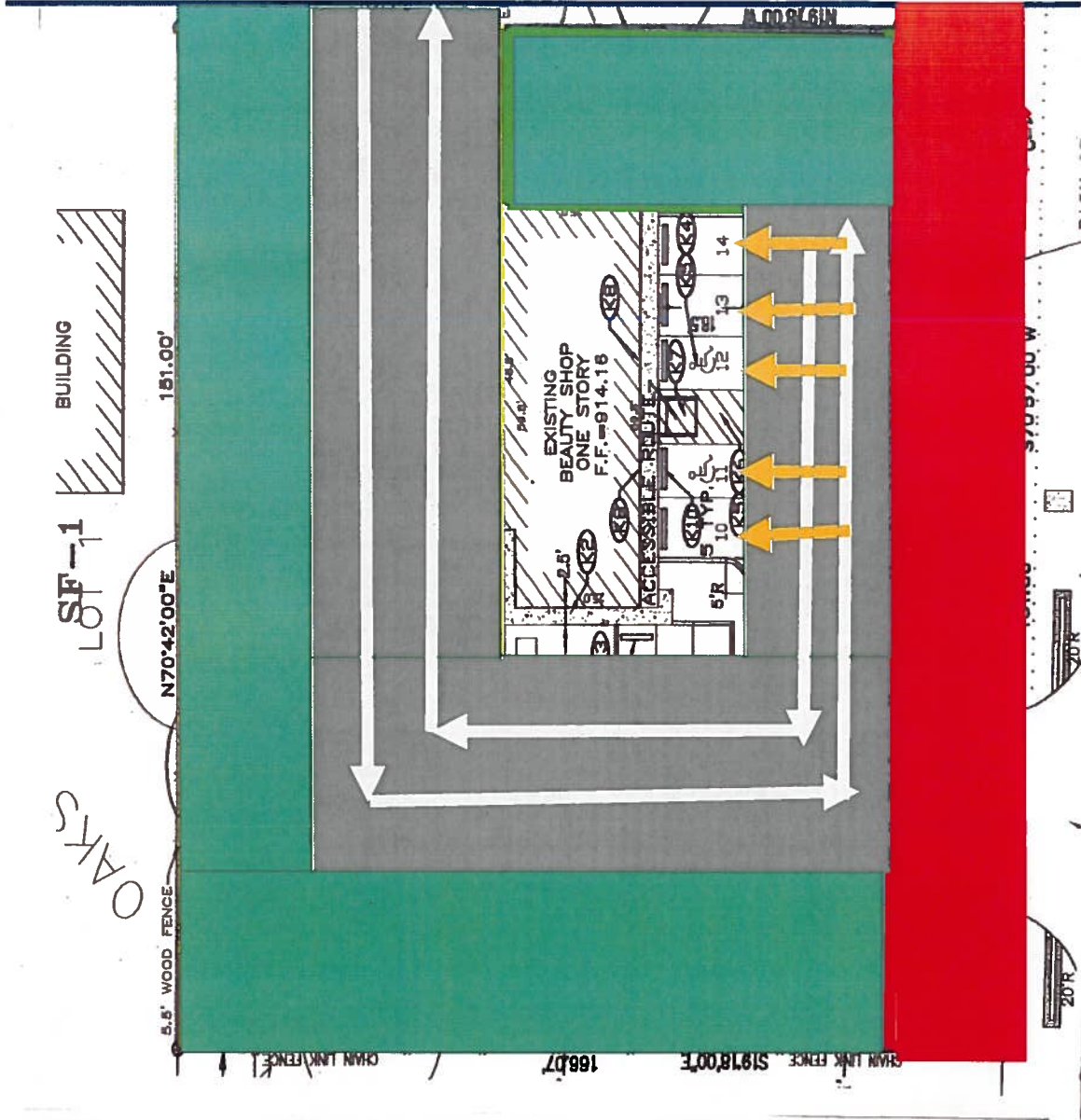
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2. TRACT2= 15,375 S.F. =0.352ACRES
 - 15,375-3,937= 11,438 S.F.
 - IMPEVIOUS COVER = 11,439 S.F. = **75%**
 - 10% over the impervious limit for Rattan Creek Watershed
 - ON THE SOUTH SIDE (RED AREA): ADDITIONAL R.O.W AND REMOVAL OF 10 % IMPREVIOUS COVER OR 25 FEET LANDSCAPE AREA FOR COMMERCIAL ZONING –PLEASE SEE PAGE S 1 AND 10 OF STAFF REPORT
 - GREEN AREA ON EAST AND WEST OF PROPERTY . 25 FEET LANDSCAPE REQUIREMENT FOR COMMERCIAL PROPERTIES
 - ABOUT 7,777 SF REMAIN FOR COMMERCIAL BUILDING, PARKING LOTS AND WATER FILTRATION AND RETENTION PONDS



**BASED ON ZAP RECOMMENDATION OF
DIVIDING THE PROPERTY IN TWO TRACTS:**

1. TRACT1= SF2= 9,664 S.F. =0.222 ACRES
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COLOR CODE:

GRAY = NEW ROAD FROM

BLACKFOOT TRAIL

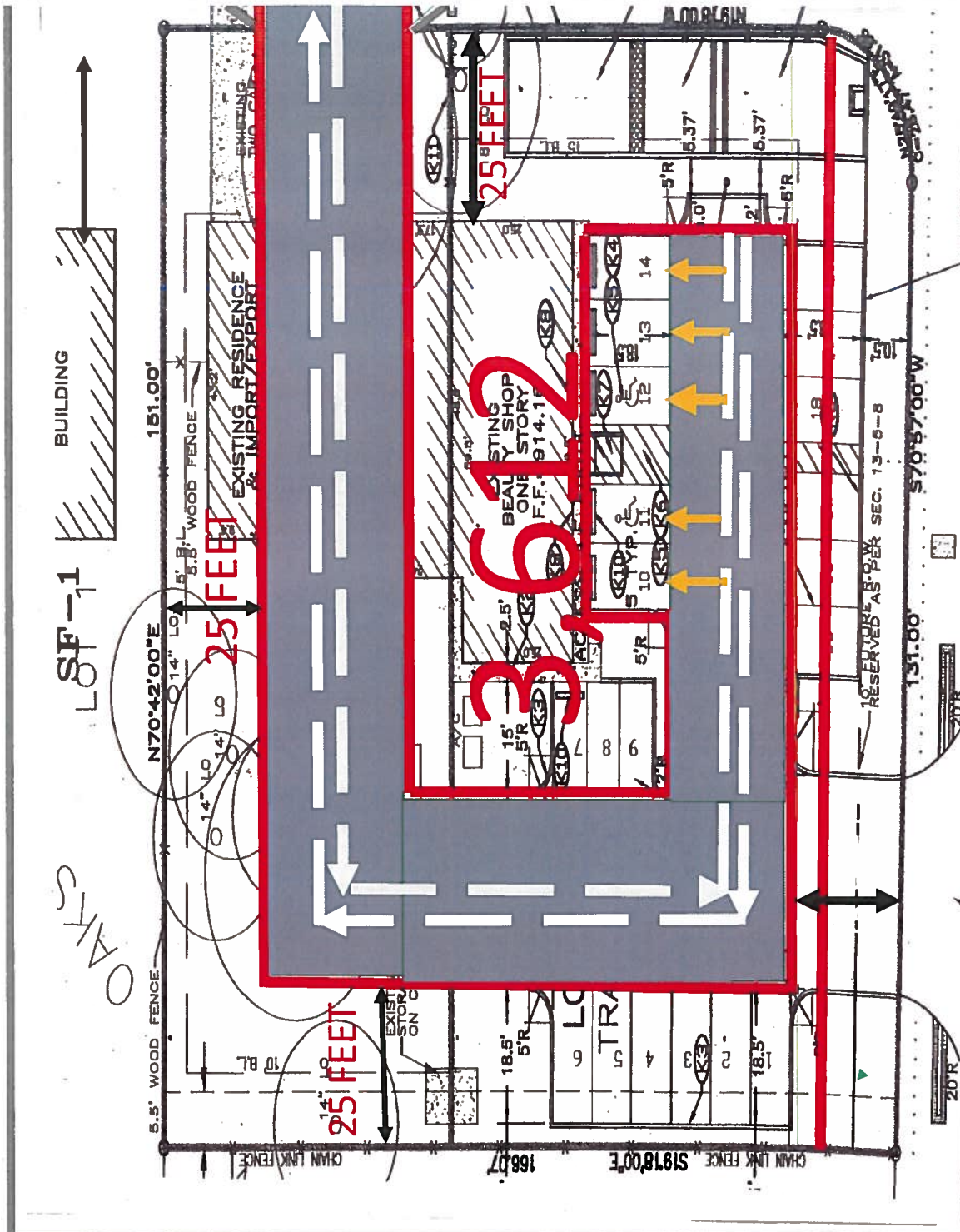
GREEN = 25 FEET LANDSCAPE

WHITE = 3,612 SQUARE FEET

LEFT OVER FROM 24,880 SF
LAND FOR BUILDING, PONDS
AND PARKING AREA

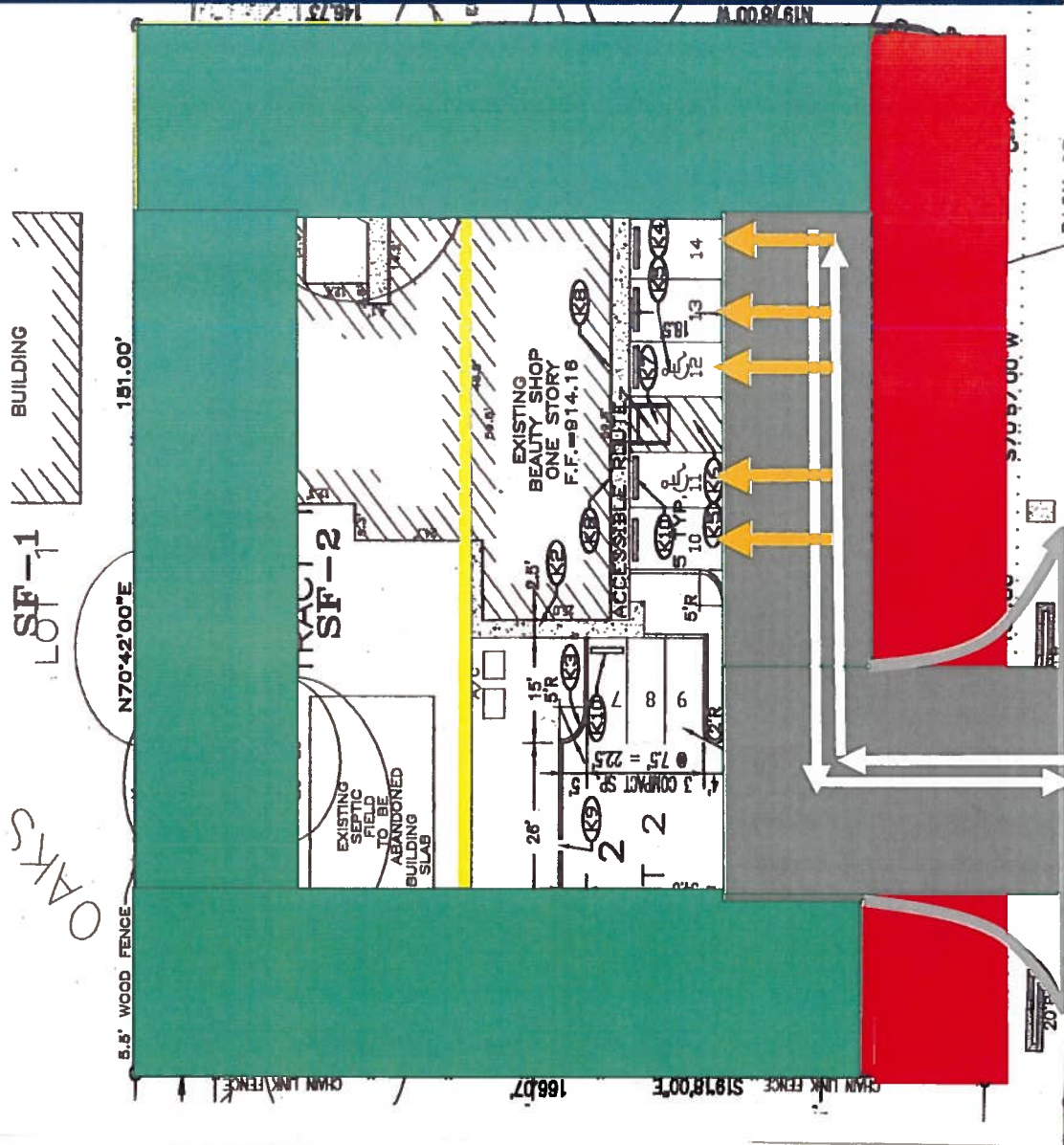
1. DESTROY 2,300 SF OF COMMERCIAL BUILDING WORTH \$460,000
2. COST OF RECONSTRUCTION OF PONDS AND ROAD= \$500,000
3. TOTAL COST \$946,000

RESULT: THE PROPERTY WILL BE
DESTROY

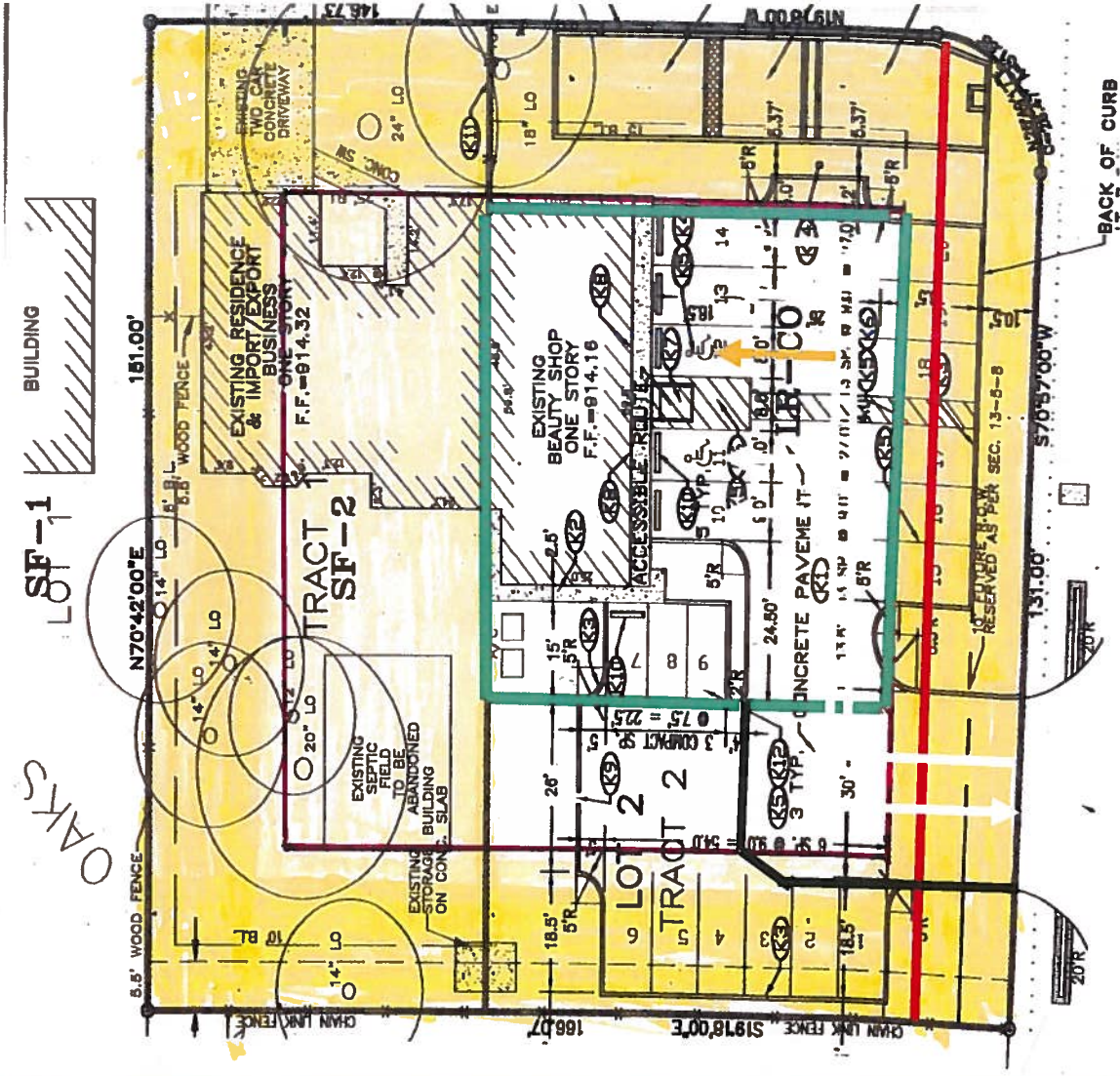


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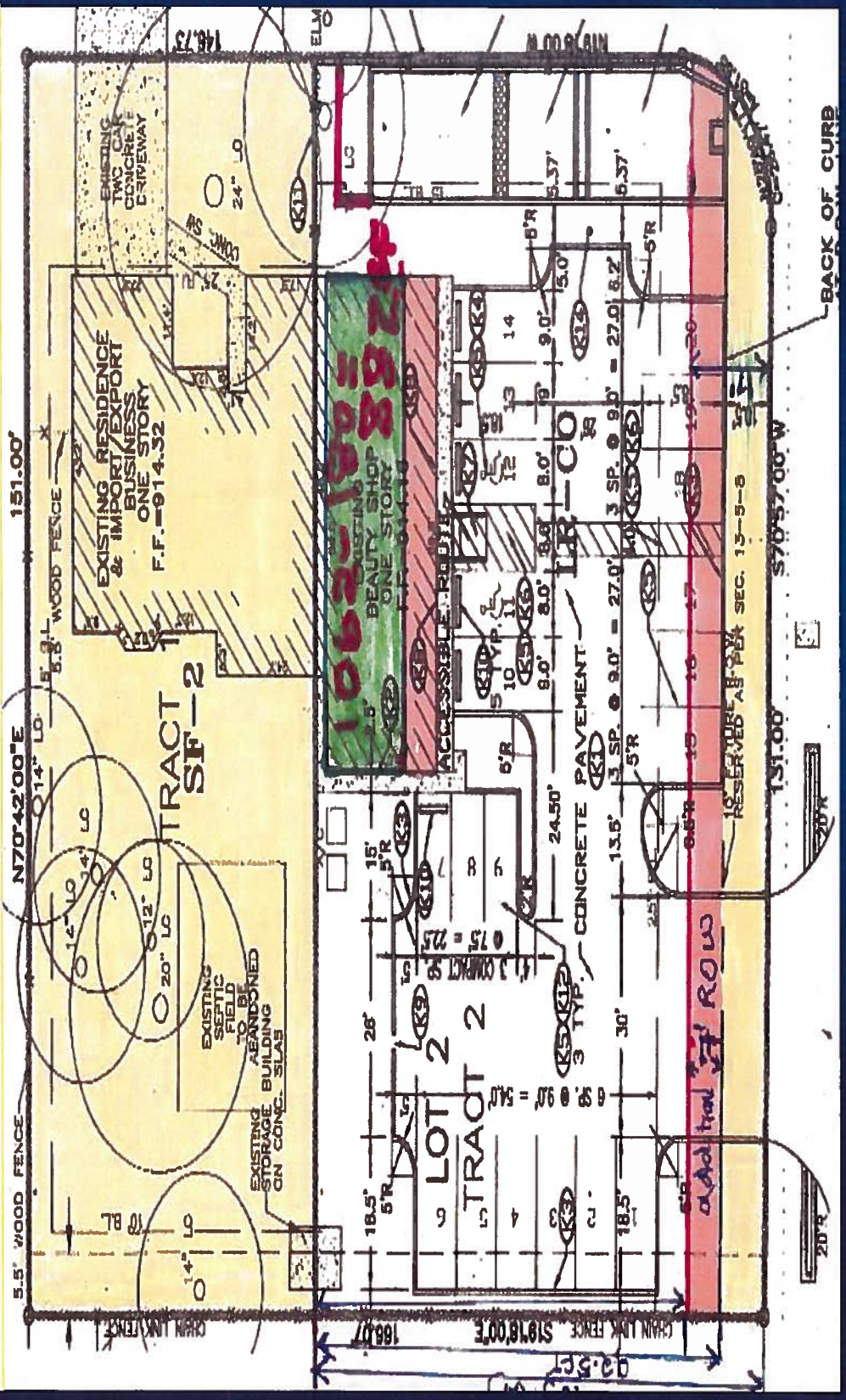
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- TOTAL AREA OF LOT2= 24,880 SF
- AREA OF TRACT 1 = 9,664 SF
- AREA OF TRACT 2 = 15,164 SF
- AREA OF R.O.W, FILTRATION PONDS AND LANDSCAPING = 7,388 SF
- AREA OF TRACT 2 = 7,777 SF WITH 92% IMPERVIOUS COVERAGE BUT DUE TO RATTAN CREEK WATERSHED LIMITS IS 65% WHICH 27% OVER BUILT AS RESULT OF DIVIDING THE PROPERTY IN TWO TRACTS AGAIN
- %27 REDUCTION FROM IMPREVIOUS COVERAGE = 2,100 SF
- SQUARE FEET AREA FOR BUILDING, PONDS AND 5 PARKING SPACES=5,677 SF
- AT RESULT: WORTHLESS SMALL BUILDING, 5 PARKING SPACES AND ADDITIONAL COST OF \$400,000.



UNDER CURRENT RECOMMENDATION COMMERCIAL BUILDING IS REDUCED TO 930 SF
WITH NO ADDITIONAL SPACE TO ADD TO THE BUILDING



To: Honorable Mayor Steve Adler and distinguish Council member Member

Zoning case# C14-2017-0042

Case manager: Sherri Sirwaitis

Phone# (512) 974-3057

Sherri.sirwaitis@Austintexas.gov

From: The Property Owner

Abraham Birgani

Phone# (512) 998-2525

Cyrus_birgani@yahoo.com

Subject: Rezoning of lot2 of Indian oaks 2 subdivision from LR-CO/SF2 to CS-MU

The Lot2 of Indian Oakes 2 Subdivision has two addresses:

1. Address from McNeil Drive: 6610 McNeil Dr. Austin TX. 78729 and Address
2. from Blackfoot Trail: 12602 Blackfoot Trial Austin TX. 78729

Please see the following important documentation about the property(lot2):

- 1 Indian Oakes 2 Subdivision is in Williamson County Texas and is comprised of 4 properties or 4 lots (Lots 1, 2, 3 & 4). Dated September 19th, 1977. [See page 12 for this legal document](#)
- 2 On **April 29th, 1985**, all four lots of Indian Oakes 2 Subdivision per Amendment of Restriction #18833 are no longer restricted to be used for residential purposes only and may be used for any lawful purpose. [See page 13 for this legal document](#)
- 3 Over 27 years ago in December of 1989, I purchased Lot2 for developing it for commercial use. Prior to purchasing the property from the previous owners, Mr. Richard A. Bouton and Mrs. Diane C. Bouton, I required them to correct the error on the property's (lot2) building line to allow me with enough space for a commercial building and parking lot. Document dated September 23rd, 1989. [See page 14 for this legal document.](#)

4 Please See History of the property prior to annexation:

- a) 1990 - **prior to annexation**, I received a site plan exemption from the City of Austin because my property (lot2) was in Williamson County. I also received electrical and plumbing permits from the City of Austin as well.
- b) 1990 to 1991 - **prior to annexation**, I hired a contractor, Charles E. Salisbury, and started construction on 25 feet by 60 feet additional commercial building on lot2 for commercial use.
- c) 1992 to 1995 – **prior to annexation**, Mr. Salisbury abandoned the commercial building project before completion. Unfortunately, this caused major delays in completing the project. I was forced to take the contractor to court for my losses, which I won, but the contractor filed bankruptcy before I could collect on the ruling. [Please see page 15 document. Reason for building project completion delay.](#)
- d) 1993, **Prior to annexation**, I managed to complete the commercial building project by myself. [Please see page 16 picture of the building.](#)
- e) 1995 to 1996 – **Prior to annexation**, I met with Mr. Carl McClendon, Mr. Shaw Hamilton from City of Austin and Mr. Joe England from Williamson County to obtain a permit for constructing a commercial parking lot for my commercial building.
- f) 1997 (first quarter) – **Prior to annexation**, merchandise Persian rugs, and computers) received and beauty salon license issued.
- g) May 1st, 1997 – **Prior to annexation**, sales tax permit issued for my company A-Mart Enterprises at 12602 Blackfoot Trail, Austin TX 78729. [Please see page 17.](#)
- h) 1996 to early 1997 – **Prior to annexation**, searched and hired IT Gonzales Civil Engineer to draw site plan for commercial parking lot and water quality filtration/retention system per City of Austin and Texas Natural resource conservation requirement.

- i) July 1997 – **Prior to annexation**, permit for waste water line and connection point approved and installed on the property by City of Austin.
 - j) December 1st, 1997 – **Prior to annexation**, the site plan approved by the Texas Natural Resource Conservation Commission was received.
 - k) December 31st, 1997 – **Prior to annexation**, the City of Austin approved site plan/development permit **No. SP-97-0439D** for parking lot and water filtration/retention system on Lot2 in the Indian Oakes 2 Subdivision. **Please see page 18**
 - l) **Prior to annexation**, please notice on approved site plan by City of Austin permit No. SP-97-0439D), name of my businesses (**Import/export business** and beauty salon. **Please see pages 18.**
 - m) December 1997 – **Prior to annexation**, I hired a contractor for construction of parking lot and water quality filtration/retention system on my property (lot2) per the approved site plan No. SP-97-0439D by the City of Austin.
- 5 On December 31st, 1997 or January 1st, 1998 - City of Austin annexed Indian Oakes 2 Subdivision and other properties in Indian Oakes Subdivision. **Please see after annexation** the following history on the property:
- a) March 20th, 1998, after annexation - Although my commercial building project was 100% completed a few years prior to annexation, while I was more than 40% completed with the parking lot and the water filtration/retention system, the project was stopped by City of Austin code enforcer, Mr. **Paul Tomasovic** due to neighborhood complaints.
 - b) Unfortunately, in the following weeks of stopping my project by the code enforcer Mr. Paul Tomasovic from the City of Austin, the city of Austin **revoked** all my approved permits including the approved site plan No. SP-97-0439D (dated December 31th, 1997) and forcing me to rezone my property.

- c) In 1998, I was forced to apply for CS/GR land development code for all of Lot 2. My application was assigned to case manager, Mr. Christopher Johnson, and the City of Austin staff, which recommended a LR-CO designation on my property, failing to communicate with me during the process. Mr. David Sullivan from the zoning and planning commission worked with several of my neighbors, notably Mr. Pendleton (the man whose wife wanted to destroy my commercial building), and unfairly recommended the division of my small property into two smaller tracts (tract 1 and tract 2) against my wishes, which made my property worthless. Upon conclusion of several city council meetings, Mayor of Austin Mr. Kirk Watson sided with the neighborhood and my CS/GR land development codes were denied and I was instead given a SF2 for tract 1 and the highly restricted LR-CO for tract 2 with very few options. Additional restrictions including building height and hours of operation were also imposed. I believe my case manager, Mr. Christopher Johnson, and staff did not bother to review the legal documents that I submitted to them on many occasions, outlining my legal rights for developing my commercial property and instead of recommending a CS/GR code or exemption the property from rezoning, they recommended a highly restrictive LR-CO code for my property. The City of Austin staff and zoning and planning commission's recommendation of LR-CO was THE key decision that prevented me from getting a fair zoning (CS/GR) based on my legal rights to develop the property. CS/GR is compatible with other businesses in the surrounding area and along McNeil Dr.
- d) On November 10th, 1999, I was forced again by City of Austin to submit another site plan for approval which I had no other choice. Finally, after two 2.5 years delay, I received a new approved site plan permit number [SP-99-2171C](#), dated April 5th, 2000. [Please see page 19](#)
- e) In May 2002, I had developed the parking lot, water filtration and retention system based on new site plan specification and requirement and finally my parking lot project and water quality system were completed.

- f) The outcome of these heavy restrictions made my property worthless. Losing two businesses caused great monetary loss and emotional stress, rendering my property useless to me and my purpose for owning and purchasing this property during the last 27 years.
- g) During the past 27 years, I was able to lease the property for a total of six years. From 2002 to 2005 it was leased to Salon for Kids, from 2008 to 2011 it was leased to Thrifty Nifty (sales of second hand household items), I could not open my business neither. For more than 21 years, the building has been vacant. The money I have made off the property has barely been enough to cover the taxes and some of the building repair and property taxes has increased more than 400%.
- h) **Important Notice:** Prior to annexation, based on my legal right to develop my commercial property, City of Austin and the neighborhood did not have the legal right to oppose me. **It appears to me after annexation the City of Austin took my legal rights away to develop and use my commercial property as I see fit and gave it to the neighborhood.**

- 6 Now, 20 years later after the annexation, having seen so many nearby properties on McNeil Dr. zoned for LI, CS, W/LO and GR; In April 2017, I submitted an application for rezoning of my property (Lot 2), Case# C14-2017-0042, from LR-CO & SF2 to CS1-MU
- 7 On May 4th, 2017, **I met with the neighborhood** to discuss my previous intent to rezone my property to CS1-MU. One of the allowed business options under CS1 zoning-code is alcohol sales, which was their primary concern and focus of discussion. I stated to the neighborhood association during that meeting that I would reconsider CS1-MU zoning and would **accept CS-MU** zoning instead, which does not allow alcohol sales.
- 8 On May 16th, 17- The CS-MU zoning code change has been submitted to the City of Austin case manager, Ms. Sirwaitis, informing everyone about our agreement to this change.

- a) Stepping Stone school owner Rhonda Paver's attorney Kenneth Richey has been waiting on this written notice from the case manager regarding this change to CS-MU, in which they have agreed to then remove their opposition from the valid petition.
 - b) However, there is positive information, on June 1st, 2017 Ms. Rhonda Paver's Attorney, Kenneth Richey, sent case manager Sherri Sirwaitis a signed PDF document stating her intentions to withdraw her formal petition. Please see page 20 for Ms. Paver letter of withdrawing.
 - c) **There is no adjacent property owner that opposes the rezoning of my property. Please see page 21.**
 - d) **There is no valid petition opposed to rezoning Please see page 22.**
- 9 Although I am in the Indian Oakes 2 subdivision, since 1997 I have been trying very hard to work with the Indian Oakes neighborhood, which is a separate subdivision, to address their concerns regarding the zoning of my property. What I have presented in this documentation is based in fact and reality. Although there has been push back and opposition from some neighbors, it is time to put an end to the unreasonable and illogical neighborhood opposition. **City officials need to ask the neighborhood, why do they have this negative opposition toward me but have supported other property owners in their rezoning efforts based on their business needs.**
- 10 Since my property was annexed by the City of Austin, the same neighborhood has used the City of Austin and hindered my efforts to rezone my property into something viable. Please see the following few examples of opposition toward me, but support for others, from the Indian Oakes Neighborhood Association:

- a) The property, Case# C14-98-0060, in Indian Oakes subdivision, the size of this property is also twice the size of mine. This undivided property, which all of this property has been rezoned with CS-CO, is fully supported by the same neighborhood association and city staff recommendation that has opposed the rezoning of my property. **What is the logical reasoning behind this bias and unfair opposition and why are the city officials supporting them?** Please see page 23 for location of this property relative to my property.
- b) Lot 4 of Indian Oakes 2 subdivision, Case# C14-2011-0046, the size of this property is about 1½ times the size of mine. This undivided property, which all of this property has been rezoned with W/LO-CO, is fully supported by the same neighborhood association and city staff recommendation that has opposed the rezoning of my property. Again, **what is the logical reasoning behind this bias and unfair opposition and why are the city officials supporting them?** Please see page 24 for location of this property relative to my property.
- c) The vacant lot, 12601 Blackfoot trail belong to Mehdi Zarchi and Elham Tarkashvand. There is a building on this lot which they have used for storing their air condition business parts for many years. Worth mentioning, this is also another example of this neighborhood bias against people like me. The neighborhood used the City of Austin to prevent these honorable and hardworking people from rezoning their property to CS based on their business need, then turned around and supported rezoning a big property next to theirs for CS-CO. **What is the logical reasoning behind this bias and unfair opposition and why are the city officials supporting them?**
- 11 During the last few months, I have submitted many legal documents to City staff and case manager Ms. Sherri Sirwaitis, to support my rezoning case # C14-2017-0042 and I ask that they now recommend my property be zoned for CS-MU with no restrictions which is very compatible with properties rezoned around my property along McNeil Drive, **but unfortunately, I am seeing history repeat itself.**

- 12 On Tuesday, May 30th, 2017, I had the chance to meet with case manager Ms. Sherri Sirwaitis, where she presented me with a zoning change review sheet which has been sent to Planning commission, Case# C14-2017-0042 Z.A.P. Date: June 6th, 2017.
- a) To my surprise June 6th, 2017 review sheet did not include or mention any of the documentation which presented my legal rights of the property. Yet again, they recommended the same LR-CO-MU land development code, which I am strongly opposed to.
 - b) Worth mentioning that finally, some of the document have been included in review zoning sheet, dated July 18th, 2017 by Ms. Sirwaitis (I appreciate that), for zoning and planning commission hearing.
 - c) On July 26th, 2017, I submitted more than 42 pages of documents to the case manager and requested to be included in zoning review sheet for August 15th, 2017 hearing, but she did not include any of them.
My question is, how can I get a fair hearing from the commissioners or City Council members without my documents to review? I hope those documents be included in Change review sheet for cit council hearing.
- 13 In addition to the above recommendation by staff, which I am opposed to, the city transportation department has put new restrictions such as blocking access to McNeil Drive and taking additional ROW. This would place an undue financial hardship of more than \$1,000,000 in the long run on me and render the property unsuitable for any economically feasible use. I proposed a compromise to the ROW agreement of 50 feet from the center of McNeil Drive to the existing McNeil curb of the property, thus allowing me to preserve my existing city approved parking and drainage/overflow and allow the city and state to expand McNeil by another lane. (Worth mentioning that the city has already taken 10.5 feet ROW from my property). Despite numerous phone calls and emails and official mailings, there has not been a final resolution to my proposal. I am asking the city council for another postponement until I will be able to resolve these issues.

14 I have tried several times to correspond with the city staff and request a time to present my case to all staff, unfortunately my requests have been denied meeting all staff. **Per case manager Ms. Sherri Sirwaitis with her staff, their decision has been made based on my property is on an entrance street to the neighborhood.** However, there are many other properties along McNeil drive that are on entrances to a neighborhood that have been rezoned with a CS, GR or LI designation. Again, why have I been singled out with a LR-CO-MU recommendation? Which does not align with my business needs or compatible with facts on McNeil drive and make my make property viable for lease while others have CS, GR, LI. Again, I would like the same fair rules applied to me and be shown equal opportunity on my legal right to my commercial property. Please see the following examples proving my point that there are multiple properties along McNeil Dr. rezoned with a CS, GR, LI some of them located at the entrance of a neighborhoods:

- a) Corpus Christi Drive: 6748 or 6750 Corpus Christi Drive at the intersection of McNeil - This property was recently zoned as GR-CO at entrance of neighborhood, along with following streets.
- b) Dakota Ln.: 6410 McNeil Drive at the intersection of Dakota - This property was recently zoned as GR-CO.
- c) Within 200 feet of Blackfoot Trail: 6514 McNeil Drive- This property was zoned as CS-CO.
- d) Within 200 feet of my property and Blackfoot Trail: 6702 McNeil Drive - This property was zoned as W/L-CO
- e) 6810 McNeil Drive - This property was recently zoned as GR-CO.
- f) 6914 or McNeil Drive - of Los Indio's -This property is zoned as CS-CO.
- g) 7224 or 7308 McNeil Drive at the intersection of San Filipe - This property was recently zoned as GR-CO.
- h) 7701or 7318 McNeil Drive at the intersection of San Filipe - This property was zoned as GR-CO and CS-CO

- i) Along McNeil Drive and opposite side of my property, there are many properties which have been rezoned to LI, CS: BMW of Austin (CS zone), Building-A Taurus Academy CS-CO zone, Building-B Insurance CS-CO zone, Balcones Animal Hospital (LI-CO), Car Caliber Collision (Industrial), Foundation auto repair (Industrial), Lamb Auto (Industrial), Fashion Forms factory (LI zone), Ubox (LI zone), Glover Logistics (LI zone), SabRex (LI zone), Megladon (LI zone), and Research park including many companies that are all (LI zone).
- j) 6813 McNeil Drive was zoned LI
- k) 6819 McNeil Drive was zoned LI
- l) 6909 McNeil was zoned CS
- m) 7111 McNeil Drive was zoned CS
- n) 7113 McNeil Drive was zoned CS
- o) Finally, there are many properties zoned LI, LI-CO, CS or CS-CO, GR and GR-CO along and down McNeil Drive. Please see page 25 zoning map of Austin.
- p) **Note: Please as you see, City of Austin Staff's recommendation is NOT based with facts on the ground. If there is any exception to the rule, I want it applied to me as well based on equal opportunity and my legal right to my commercial property.**
- q) On August 15th, 2017, during Planning commission hearing, the planning commissioners has recommended GR_MU_CO for portion of the Lot2, although this is a step in right direction and I appreciate that, but unfortunately, again my small lot has been divided in two separate tracts by planning commission recommendation and tract1 stayed as SF2. This creates a major issue to operate any valuable business at this location due to lack of space.
- r) There is another main issue here, based on the city staff recommendation, if rezoning granted, then new ROW of 57 feet from

center McNeil drive will apply to the property. As a result, I will lose half of my parking space, part of my filtration-sedimentation-detention ponds and must move my existing commercial building back 7 more feet to comply with this condition. This makes my existing commercial building too small to operate any valuable business.

- s) I am asking the honorable city council members to be fair and support the rezoning of the entirety of Lot 2 in Indian Oakes 2 subdivision to GR/CS. I do have adjacent property 12604 Blackfoot on North side the property. This property can be used as barrier between commercial lot and the neighborhood.
- 15 I am a Mechanical engineer with many years of experience in equipment repair, modify, maintenance and sales. The machines that I have experienced on are like appliances that you will find in any home, just a little more precise and smaller. Although I am 69 years old now, I would like to use my equipment background and run a small business on part of my property offering those types of services, but the LR-CO-MU staff recommendation **does not** allow me to open anything in my field. This would include repair and services, such as AC, Auto, electronic prototype assembly, equipment testing, equipment repair, service, training and equipment sales all prohibited under the LR-CO code. **The CS-MU land development codes would allow me to run my business from my property**
- 16 Please see following Austin zoning maps, legal documents and pictures of properties along McNeil Dr. for support of CS-MU or CS/GR-MU zoning of my property. Please see page 25 zoning Map.

Sincerely,

Abraham Birgani
Phone # 512-998-2525

Legal document dated April 29th 1985-Lawfully property is commercialAMENDMENT OF RESTRICTIONS

Vol 1186

18833

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, by Deed recorded in Volume 500, Page 496, of the Deed Records of Williamson County, Texas, a copy of which is attached hereto as Exhibit "A", RAYMOND FLOYD DAVIS and wife, ALINE DAVIS, and BEULAH DAVIS, as Grantors, did convey to ROSCOE E. MILLEGAN and wife, ANNIE MILLEGAN, as Grantees, those six (6) tracts of land situated in Williamson County, Texas, as are more fully descibed on Exhibit "A"; and

WHEREAS, BEULAH DAVIS is now deceased and DIANA EICHSTATDT, joined herein by her husband, DONALD L. EICHSTATDT, is her only heir; and

WHEREAS, ELAINE BARNES, wife of DALE BARNES, is now deceased; and

WHEREAS, RICHARD BOUTON and wife, DIANE BOUTON, CRAIG H. SIEMPERT and wife, BARBARA SIEMPERT, DALE BARNES and FRANK C. WOLCHICK, JR., are successors in title to portions of the hereinabove referenced property; and

WHEREAS, the above named MILLEGANS, BOUTONS, BARNES, SIEMPERTS and WOLCHICK constitute all of the parties with any interest in and to the property described on Exhibit "A"; and

WHEREAS, the Deed attached as Exhibit "A" contains certain restrictions restricting the use of the property for residential purposes only, and the parties hereto now desire to amend said restrictions to permit any lawful use;

NOW THEREFORE, for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree that the restrictions imposed upon the property are hereby amended and modified to provide that the property is no longer restricted to use for residential purposes only and may be used for any lawful purpose.

EXECUTED this 29th day of April, 1985.

Roscoe E. Millegan
ROSCOE E. MILLEGAN

Annie Millegan
ANNIE MILLEGAN

Diana Eichstatdt
DIANA EICHSTATDT

Donald L. Eichstatdt
DONALD L. EICHSTATDT

Richard Bouton
RICHARD BOUTON

Diane Bouton
DIANE BOUTON

Craig H. Siempert
CRAIG H. SIEMPERT

Barbara J. Siempert
BARBARA J. SIEMPERT

Frank C. Wolchick, Jr.
FRANK C. WOLCHICK, JR.

Dale Barnes
DALE BARNES

STATE OF TEXAS §
 §
COUNTY OF TEXAS §

This instrument was acknowledged before me on APRIL 29, 1985, by

Legal document dated: September 29th 1989-Removal of Building line

On 10-23-1989, building lines on Lots 2, 3, and 4 of Indian Oakes 2 Subdivision was corrected and after this correction, I purchased the lot2 for developing it for commercial use.

[illegible]

dated: May 6th 1992-Reason for delay to complete building project

Birgami file

MISC FILM CODE

00009217042

6.00
20

THE STATE OF TEXAS
County of Travis

ABSTRACT OF JUDGMENT

I, AMALIA RODRIGUEZ-MENDOZA, Clerk of the District Court of TRAVIS County, Texas, do hereby certify that in the District Court of TRAVIS County, Texas, in a certain suit pending in the 200TH Judicial District Court, No. 9203107, wherein
ABRAHAM BIRGAMI
and
CHARLES SALISBURY, WHOSE BIRTHDATE AND DRIVER'S LICENSE NUMBER ARE
NOT AVAILABLE TO THE CLERK,
IS
IS
, Plaintiff(s)
, Defendant(s)

the said
PLAINTIFF, ABRAHAM BIRGAMI
recovered judgment against the said
DEFENDANT, CHARLES SALISBURY, WHOSE ADDRESS APPEARS AS:
1400 GLEN WILLOW COVE
ROUND ROCK, WILLIAMSON COUNTY, TEXAS 78682

on the 6TH day of MAY, 1992, for the sum of
EIGHTY-NINE THOUSAND SEVEN HUNDRED THIRTY-TWO AND 44/100 (\$89,732.44) Dollars,
with interest on said amount from the 6TH day of MAY, 1992, at the rate of 10 per cent per annum,
until paid, and \$142.00 costs of suit.

Said judgment is of record in Vol. 2403 Page 007 Records of Said Court. Said judgment is entitled
to following credits, to-wit: None.

There is now still due on said judgment \$89,732.44, with interest as hereinabove set out,
and \$142.00 cost of suit.

Given under my hand and seal of office at Austin, Texas, this the 11TH day of MAY, 1992.

AMALIA RODRIGUEZ-MENDOZA
District Clerk
Travis County, Texas

By [Signature]
BANDRA STEWART, Deputy
9203107-

(COURT SEAL)

Original Copy

AFTER RECORDING, PLEASE RETURN TO:
Clint Parsley
812 San Antonio #500
Austin, Texas 78701

FILED

1992 JUN -3 PM 12:42

DANA DE BEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

A.J. STATE/FED. TAX LIENS
TRAVIS COUNTY, TEXAS

00686 0247

STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the day and at the time stamped hereon by me and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas, on

JUN 3 1992



[Signature]
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Picture of Commercial Building which built during-1990-1993



Below Tax ID for A-Mart Enterprises

ABRAHAM A. BIRGANI
A-MART ENTERPRISES
12602 BLACKFOOT TRL
AUSTIN TX 78729

SIC CODE: 5713 **DESCRIPTION ON NEXT LINE:**
PIPER COVERING STORES
WE SHOW THIS BUSINESS IN THE FOLLOWING LOCAL SALES TAX
TRANSIT: AUSTIN MTA **EFF: 08/01/1997**

YOU MAY NEED TO COLLECT SALES AND/OR USE TAX FOR OTHER LOCAL TAXING AUTHORITIES DEPENDING ON YOUR TYPE OF BUSINESS.
If you have any questions, call the Texas Department of Taxation at 1-800-368-6222, toll free, or visit our website at www.texas.gov. The Austin
number is 512-465-4500. If you are calling from a Texas communications device for the first time, the toll free number is 1-800-368-6222 or 512-465-4500.

SALES AND USE TAX
Exempt number: 2-664-43-4820-3
Exempt number: 00002
Tax business date: 05/01/1997

JOHN SHARP
Comptroller of Public Accounts

John Sharp

5#119181X3

[illegible]

