

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2018-0080 – 5101 East Oltorf

**P.C. DATE:** December 11, 2018  
January 22, 2019  
March 12, 2019  
April 23, 2019  
May 14, 2019

**ADDRESS:** 5101 East Oltorf Street

**DISTRICT AREA:** 3

**OWNER:** Charitable Holdings, II  
(Michael Nellis)

**AGENT:** Armbrust & Brown, PLLC  
(Ferris Clements)

**ZONING FROM:** GR-CO-NP      **TO:** CS-MU-CO-NP      **AREA:** 2.116 acres

### **SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant general commercial services – conditional overlay – neighborhood plan (CS-CO-NP) combining district zoning. The Conditional Overlay prohibits the following uses: agricultural sales and services, building maintenance services, campground, commercial blood plasma center, construction sales and services, food sales, equipment repair services, equipment sales, maintenance and service facilities, restaurant (general), restaurant (limited), service station and vehicle storage.

### **PLANNING COMMISSION RECOMMENDATION:**

December 11, 2018: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO JANUARY 22, 2019*

*[K. MCGRAW; F. KAZI – 2<sup>ND</sup>] (11-0) Y. FLORES, C. KENNY – ABSENT*

January 22, 2019: *APPROVED A POSTPONEMENT REQUEST BY APPLICANT TO MARCH 12, 2019*

*[J. SCHISSLER; C. KENNY – 2<sup>ND</sup>] (11-0) A. DE HOYOS HART, P. SEEGER – ABSENT*

March 12, 2019: *APPROVED A POSTPONEMENT REQUEST BY STAFF to APRIL 23, 2019*

*[P. SEEGER; K. MCGRAW – 2<sup>ND</sup>] (12-0) A. DE HOYOS HART – ABSENT*

April 23, 2019: *APPROVED A POSTPONEMENT REQUEST BY STAFF AND APPLICANT TO MAY 14, 2019*

*[J. SCHISSLER; C. KENNY – 2<sup>ND</sup>] (11-0) P. SEEGER, J. SHIEH – ABSENT*

May 14, 2019:

**ISSUES:**

The Applicant would like to discuss the Staff recommendation.

A response from the EROC Contact Team on the subject rezoning request and related neighborhood plan amendment case is expected prior to Planning Commission.

**DEPARTMENT COMMENTS:**

The subject lot is located along East Oltorf Street, between Sunridge Drive on the west and Alvin Devane Boulevard on the east, and is presently undeveloped. Council approved community commercial – conditional overlay (GR-CO) district zoning in July 1997 and the Conditional Overlay requires a 10-foot wide buffer along the south and east property lines, a maximum of 2,000 vehicle trips per day and a list of prohibited uses. The Neighborhood Plan combining district was added in November 2006. There are apartments and undeveloped land to the north (MF-2-NP; GO-CO-NP), a semiconductor facility to the south (GR-NP; LI-CO-NP), and undeveloped land and a single family residential subdivision to the west (MF-2-NP; SF-2-NP). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant proposes to rezone the property to the general commercial services – mixed use – conditional overlay – neighborhood plan (CS-MU-CO-NP) district and develop it with up to 190 residential units. The Applicant is also contemplating commercial development on the site and has worked with the EROC Contact Team to continue the existing prohibited uses of food sales, restaurants and service station in response to concerns expressed about 24-hour operations on the property.

Based on input from the Emergency Prevention Division of the Austin Fire Department, Staff is unable to recommend the Applicant's request for residential development that could occur under the –MU component. AFD has performed a risk assessment of the adjacent LI zoned semiconductor facility and confirmed storage of a large quantity of hazardous materials. In accordance with a publication of the US Department of Transportation that accounts for the risk of exposure, a 1,056-foot separation distance (buffer) is required between the semiconductor facility and a residential occupancy. Because the separation distance from the semiconductor facility to a proposed residential occupancy cannot be met (it's approximately 110 feet), there is a serious risk of exposure to a residential occupancy use, and this is the basis for Staff to not recommend the –MU. It is worth noting that the separation distance identified above applies to other nearby undeveloped properties as well.

Regarding the Applicant's request for the CS base zoning district and the –CO component, it is more intense than GR zoning, and is, in fact, the highest intensity commercial zoning district, yet still oriented towards service uses. CS has a 2 : 1 floor-to-area ratio which provides for greater development flexibility on the property given site constraints and location on an arterial roadway. Staff is of the opinion that CS-CO-NP zoning is compatible with the adjacent zoning and uses, and the Conditional Overlay will prohibit more intensive

CS uses and continue to prohibit a few uses that have been discussed between the Applicant and area stakeholders.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	GR-CO-NP	Undeveloped
<i>North</i>	MF-2-NP; GO-CO-NP	Apartments; Undeveloped
<i>South</i>	GR-NP; LI-CO-NP	Semiconductor facility
<i>East</i>	LI-CO-NP	Semiconductor facility
<i>West</i>	MF-2-NP; SF-2-NP	Undeveloped; Single family residences in the Sunridge Park Section One subdivision

**NEIGHBORHOOD PLANNING AREA:** East Oltorf / Riverside Combined (Parker Lane)

**TIA:** Is not required

**WATERSHED:** Country Club West – Suburban

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

189 – Southeast Austin Neighborhood Alliance  
 299 – The Crossing Garden Homeowners Association  
 481 – Sunridge Homeowners Association  
 511 – Austin Neighborhoods Council  
 774 – Del Valle Independent School District  
 934 – Riverside Farms Road Neighborhood Association  
 1228 – Sierra Club, Austin Regional Group  
 1258 – Del Valle Community Coalition  
 1255 – Pleasant Valley  
 1340 – Austin Heritage Tree Foundation  
 1363 – SEL Texas  
 1424 – Preservation Austin  
 1528 – Bike Austin  
 1530 – Friends of Austin Neighborhoods  
 1550 – Homeless Neighborhood Association  
 1605 – Tejana Bilingual Community  
 1607 – Austin Inncity Alliance  
 1616 – Neighborhood Empowerment Foundation

**SCHOOLS:**

The subject property is within the Del Valle Independent School District.

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-96-0056 – Sunridge Park Section One Subdivision Rollback	MF-2 to SF-2	To Grant	Apvd (4-24-1997).

C14-95-0008 – New First City Texas – 5000-5400 Blk of E Oltorf St	I-SF-2 to GR	Apvd RR-CO & GR- CO w/conds	Apvd RR-CO for Tract 1 w/CO for no access to Riverside Farms Dr and prohibit lodginghouse residential and community recreation (public), and GO-CO for Tract 2 w/CO for list of prohibited uses, max 35' height, 50% impervious cover. CO for whole tract for 10' vegetative buffer for perimeter of property (except for Oltorf) and max of 3,182 trips/day (7-24-1997).
C14-92-0094 – Advanced Mirco Devices Project – 5312-5606 E Ben White Blvd (Tract 1); 3201-3299 Alvin Devane Blvd (Tract 2); 5501- 5603 E Oltorf St and 2801-2917 Alvin Devane Blvd (Tract 3); 5303- 5413 E Oltorf St and 2800-2900 Alvine Devane Blvd (Tract 4)	SF-2; GR to LI	Apvd LI w/conds	Apvd LI-CO w/CO on Tract 4 (adjacent to east) for max 60' height and conds of the Traffic Impact Analysis (12-16-1992).

**RELATED CASES:**

The property was zoned from I-SF-2 to GR-CO by way of a 1995 case (C14-95-0007). The Conditional Overlay requires a 10-foot wide vegetative buffer along the west and south property lines, limits development to 2,000 vehicle trips per day and prohibits a list of uses. Please refer to Exhibit B.

The property is platted as Lot 1, Block B of Skyline Austin, a subdivision recorded on April 24, 2002 (C8-01-0208.0A). Please refer to Exhibit C. There are no site plan applications on the subject property.

The East Riverside / Oltorf Combined Neighborhood Plan Area rezonings were completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on November 16, 2006. The –NP combining district was appended to the existing base district (C14-05-0111 – Ordinance No. 20061116-056).

A FLUM Amendment from Commercial to Mixed Use is also in process (NPA-2018-0021.01 – 5101 East Oltorf).

**EXISTING STREET CHARACTERISTICS:**

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E Oltorf Street	92 feet	56 feet	MAD 4	Yes	Yes	Yes

FYI – The existing driveways and sidewalks along East Oltorf Street may be required to be removed and/or reconstructed at the time of the site plan application in accordance with the Land Development Code and Transportation Criteria Manual.

**CITY COUNCIL DATE:** February 7, 2019

**ACTION:** Approved a Postponement request by the Applicant to March 28, 2019. Vote: 11-0.

March 28, 2019

Approved a Postponement request by Staff to May 23, 2019. Vote: 11-0.

May 23, 2019

**ORDINANCE READINGS:** 1<sup>st</sup>

2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Rhoades  
e-mail: wendy.rhoades@austintexas.gov

**PHONE:** 512-974-7719

**SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant general commercial services – conditional overlay – neighborhood plan (CS-CO-NP) combining district zoning. The Conditional Overlay prohibits the following uses: agricultural sales and services, building maintenance services, campground, commercial blood plasma center, construction sales and services, food sales, equipment repair services, equipment sales, maintenance and service facilities, restaurant (general), restaurant (limited), service station and vehicle storage.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

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

The proposed general commercial services (CS) district zoning is intended for commercial or industrial uses that typically have operating characteristics or traffic service requirements generally incompatible with residential environments. The mixed use (MU) district is intended to allow for office, retail, commercial and residential uses to be combined in a single development. The NP, neighborhood plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

- 2. Zoning changes should promote the health, welfare, and safety, and otherwise fulfill the purposes of zoning as set forth in the Texas Local Government Code or the zoning ordinance.*

Based on input from the Emergency Prevention Division of the Austin Fire Department, Staff is unable to recommend the Applicant's request for residential development that could occur under the –MU component. AFD has performed a risk assessment of the adjacent LI zoned semiconductor facility and confirmed storage of a large quantity of hazardous materials. In accordance with a publication of the US Department of Transportation that accounts for the risk of exposure, a 1,056-foot separation distance (buffer) is required between the semiconductor facility and a residential occupancy. Because the separation distance from the semiconductor facility to a proposed residential occupancy cannot be met (it's approximately 110 feet), there is a serious risk of exposure to a residential occupancy use, and this is the basis for Staff to not recommend the –MU. It is worth noting that the separation distance identified above applies to other nearby undeveloped properties as well.

- 3. Intensive zoning should be located on major arterial roadways and highways.*

Regarding the Applicant's request for the CS base zoning district and the –CO component, it is more intense than GR zoning, and is, in fact, the highest intensity commercial zoning district, yet still oriented towards service uses. CS has a 2 : 1 floor-to-area ratio which provides for greater development flexibility on the property given site constraints and location on an arterial roadway. Staff is of the opinion that CS-CO-NP zoning is compatible with the adjacent zoning and uses, and the Conditional Overlay will

prohibit more intensive CS uses and continue to prohibit a few uses that have been discussed between the Applicant and area stakeholders.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The site is undeveloped, heavily treed and slopes gently to the south. The recorded plat indicates a 50-foot wide gas pipe line easement along the south property line.

### **Impervious Cover**

The maximum impervious cover allowed by CS zoning district would be 80%, which is based on the more restrictive watershed regulations described below. A Transfer of Development Rights (TDR) Table on the recorded plat shows that up to 0.17 acres of impervious cover is transferred to the subject lot.

### **Drainage**

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City's Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

### **Environmental**

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

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

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.>

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

### **Fire Department Comments**

AFD has the authority to evaluate the risk of an unauthorized hazardous material discharge and establish minimum requirements that are essential for the public safety of a proposed building in accordance with 2015 IFC Sections 102.9 and 5001.1.1.

AFD has performed a risk assessment for the zoning change at 5101 E Oltorf Street. The Applicant is proposing to rezone the 1.63 acre site from GR-CO-NP to CS-MU-CO-NP which would allow residential occupancies to be located in close proximity to an LI zoned site (the Cypress Semiconductor site) to the south. Based on the risk assessment which confirmed a large quantity of hazardous materials at the LI zoned site and exposure and evacuation to an adjacent site being used for residential occupancy, a 1,056 foot separation distance (buffer) will be required from the nearest property lines of the parcels located at 5204 E Ben White Blvd and 5305 E Oltorf, to residential occupancies. The buffer distance is based on the Protective Action Distances for a particular chemical in the 2016 *Emergency Response Guidebook* published by the US Department of Transportation.

The semiconductor facility is located approximately 110 feet to the South and because the separation distance cannot be met, the Fire Department has determined that the proposed rezoning area is not compatible for residential development.

### **Site Plan and Compatibility Standards**

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.



The site is subject to compatibility standards. Along the south and west property lines, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property line.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

Additional design regulations will be enforced at the time a site plan is submitted.

### **Transportation**

Additional right-of-way may be required at the time of subdivision and/or site plan.

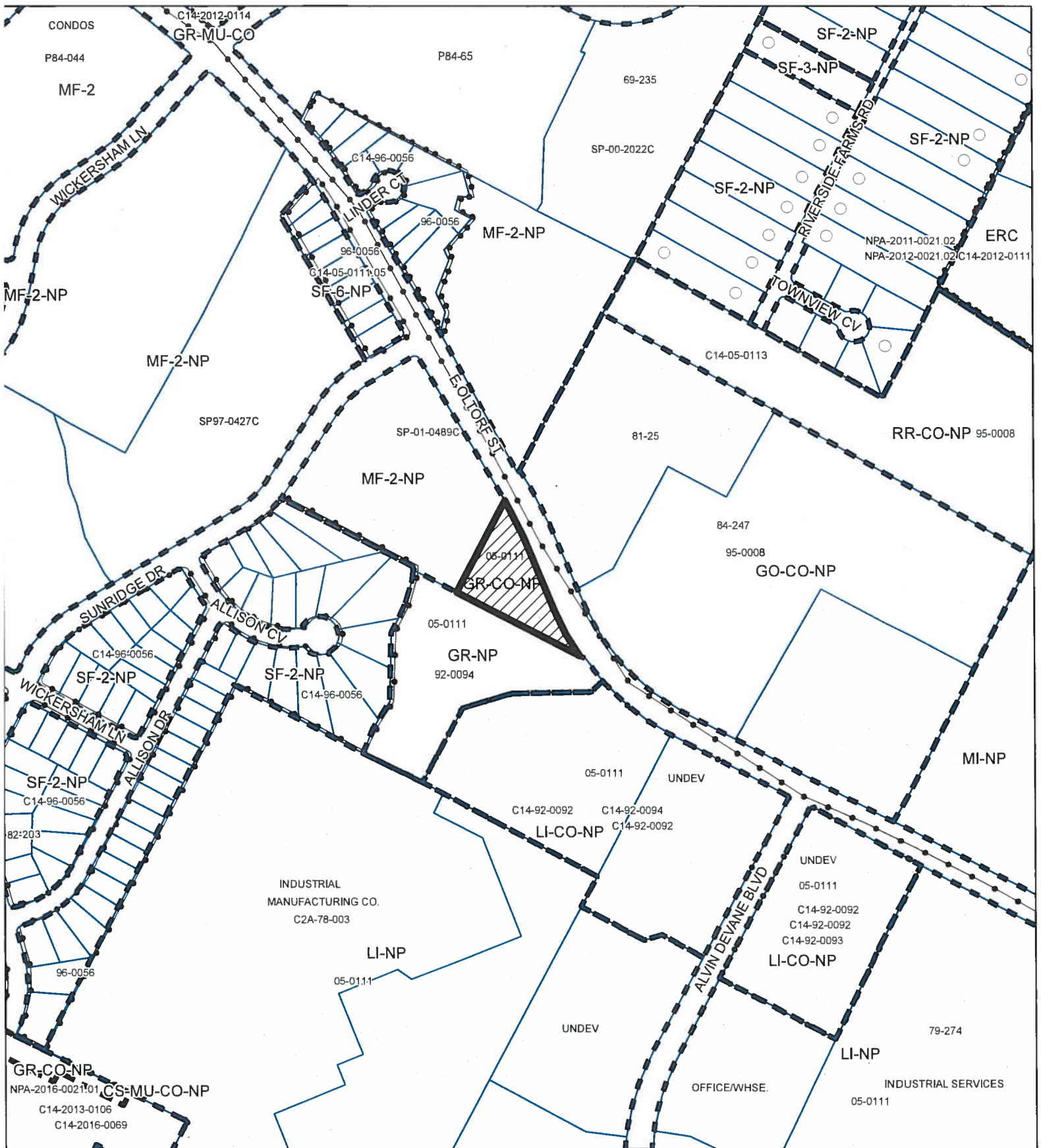
A Traffic Impact Analysis shall be required at the time of site plan if triggered per LDC 25-6-113.

According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a Protected bike lane is recommended for E Oltorf St. Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments and requirements for right-of-way dedication and bicycle facility construction in accordance with LDC 25-6-55 and LDC 25-6-101. Please review the [Bicycle Master Plan](#) for more information.

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be




inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



## ZONING CASE: C14-2018-0080

*EXHIBIT A*



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 400'

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 CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







## 5101 EAST OLTORF





*EXHIBIT A-1*

ZONING CASE#: C14-2018-0080  
 LOCATION: 5101 EAST OLTORF ST.  
 SUBJECT AREA: 1.63 ACRES  
 GRID: K18  
 MANAGER: WENDY RHOADES

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



1" = 400'

-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY
-  CREEK BUFFER



**ORDINANCE NO. 970724-A**

**AN ORDINANCE ESTABLISHING INITIAL PERMANENT ZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE CITY CODE AS FOLLOWS:**

**1.63 ACRE TRACT OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT, ABSTRACT NO. 24, FROM "I-SF-2" INTERIM SINGLE FAMILY RESIDENCE (STANDARD LOT) DISTRICT TO "GR-CO" COMMUNITY COMMERCIAL DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT, LOCALLY KNOWN AS 5101-5201 EAST OLTORF STREET (ODD NUMBERS ONLY), IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The Zoning Map established by Chapter 13-2-22 of the City Code is amended to change the base zoning district from I-SF-2" Interim Single Family Residence (Standard Lot) district to "GR-CO" Community Commercial district-Conditional Overlay combining district on the property (the "Property") described in **File C14-95-0007**, as follows:

1.63 acre tract of land out of the Santiago Del Valle Grant, Abstract No. 24, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance,

locally known as 5101-5201 East Oltorf Street (Odd Numbers Only), in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "B".

**PART 2.** The Property within the boundaries of the Conditional Overlay combining district established by this ordinance is subject to the following conditions:

1. A vegetative buffer with a minimum width of ten feet shall be constructed and maintained along the perimeter of the Property which does not front Oltorf Street. The vegetative buffer shall meet the requirements set forth in Section 2.9.1 of the Environmental Criteria Manual.

**EXHIBIT B**  
**1997 ZONING ORDINANCE**

2. Notwithstanding any other provision of the Land Development Code applicable to the Property on the effective date of this ordinance or at the time an application for approval of a site plan or building permit is submitted, no site plan for development of the Property, or any portion of the Property, may be approved or released, and no building permit for construction of a building on the Property, may be issued if the completed development or uses authorized by the proposed site plan or building permit, considered cumulatively with all existing or previously authorized development and uses of the Property, generates traffic exceeding the total traffic generation of 2,000 vehicle trips per day.

3. The following uses of the Property are prohibited:

- |  |  |
|--|--|
| a) Lodginghouse Residential,               | n) Hotel-Motel,                                  |
| b) Automotive Rental,                      | o) Indoor Entertainment,                         |
| c) Automotive Repair Service,              | p) Indoor Sports and Recreation,                 |
| d) Automotive Sales,                       | q) Outdoor Entertainment,                        |
| e) Automotive Washing (of any type),       | r) Outdoor Sports and Recreation,                |
| f) Commercial Off-Street Parking,          | s) Pawn Shop Services,                           |
| g) Consumer Convenience Services,          | t) Pet Services,                                 |
| h) Consumer Repair Services,               | u) Restaurant(Drive-In, Fast food),              |
| i) Drop-Off Recycling Collection Facility, | v) Restaurant (Limited),                         |
| j) Food Sales,                             | w) Restaurant (General),                         |
| k) Funeral Services,                       | x) Service Station,                              |
| l) General Retail Sales (Convenience),     | y) Theater, and                                  |
| m) General Retail Sales (General),         | z) Community Recreation<br>(Private and Public). |

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the "GR" Community Commercial base district and other applicable requirements of the Land Development Code.

**PART 3.** The Council waives the requirements of Sections 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

**PART 4.** This ordinance takes effect on August 4, 1997.

**PASSED AND APPROVED**

July 24

, 1997.

§  
§  
§

*Kirk Watson*

Kirk Watson  
Mayor

APPROVED:

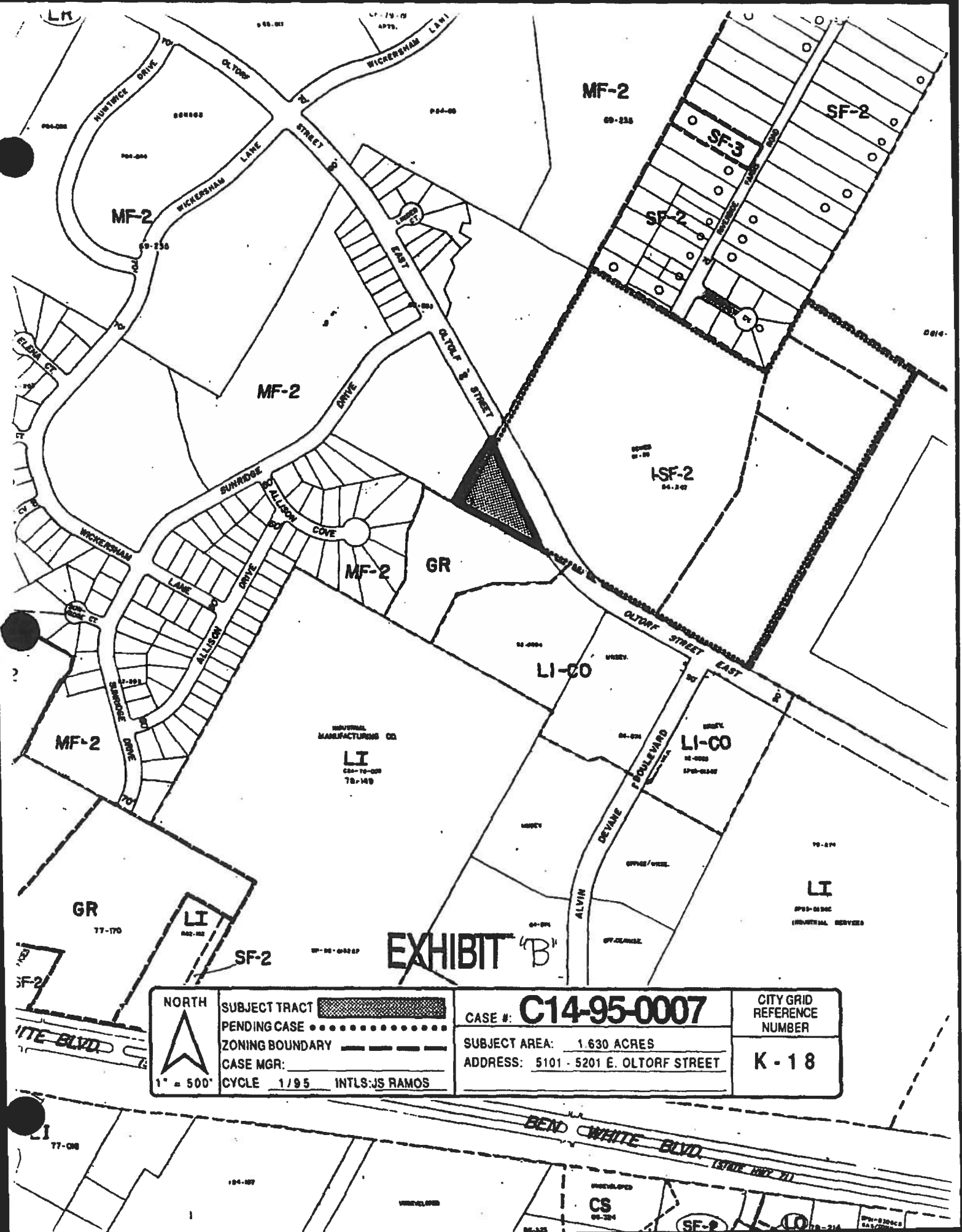
*Andrew Martin*

Andrew Martin  
City Attorney

ATTEST:

*James E. Aldridge*

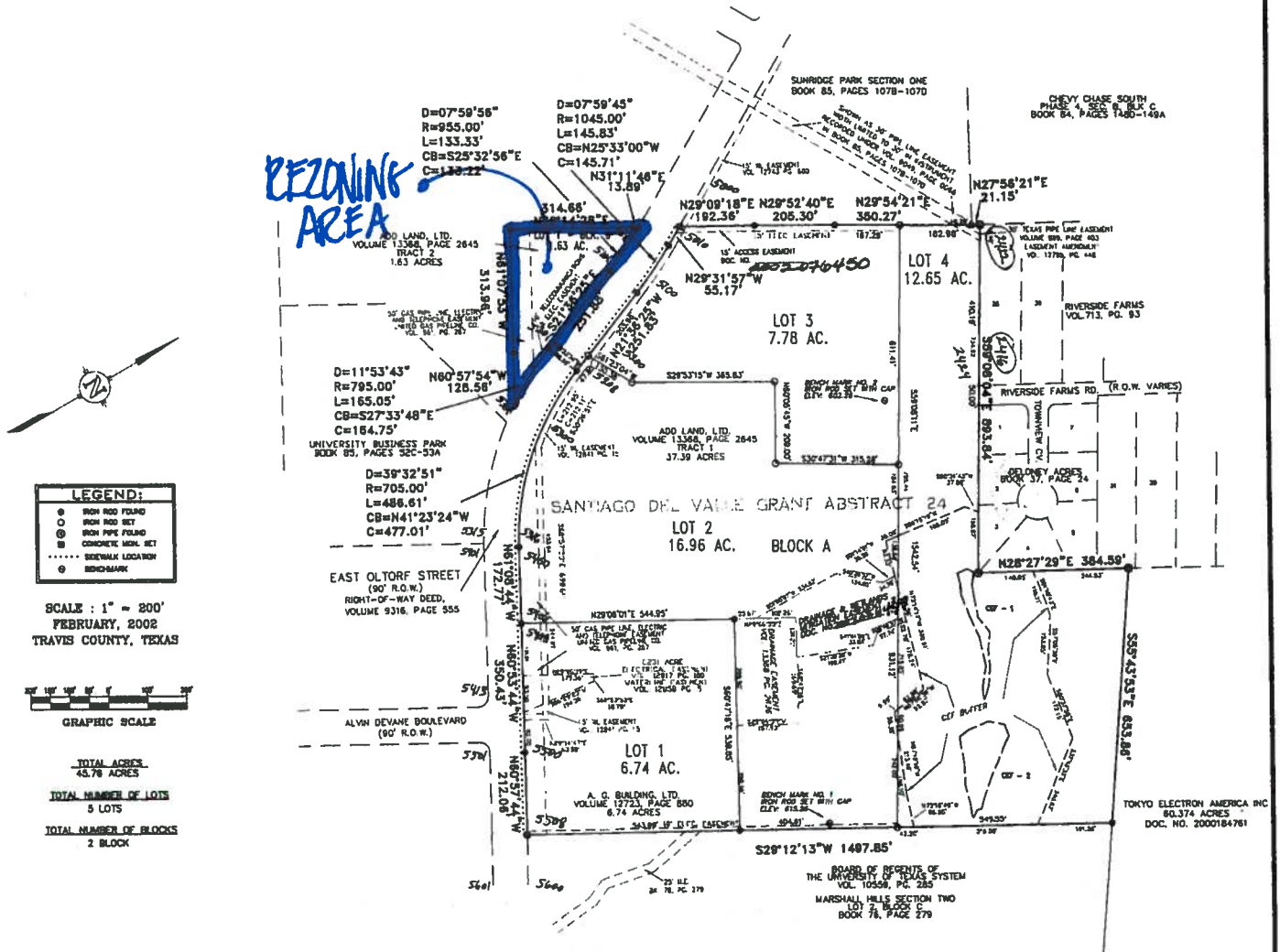
James E. Aldridge  
City Clerk



**EXHIBIT 'B'**

 1" = 500'	SUBJECT TRACT	CASE #: <b>C14-95-0007</b>	CITY GRID REFERENCE NUMBER
	PENDING CASE .....	SUBJECT AREA: 1.630 ACRES	<b>K - 18</b>
	ZONING BOUNDARY - - - - -	ADDRESS: 5101 - 5201 E. OLTORF STREET	
	CASE MGR: _____		
	CYCLE 1/95 INTLS:JS RAMOS		





**PROJECT:** BROCK CONSULTING  
Austin Skyline Final Plat  
**PROJECT NO:** 050109.001.1.4052  
**DATE:** February, 2002  
**SCALE:** 1" = 200'  
**SURVEYOR:** John Strawbridge  
**TECHNICIAN:** RLM  
**DRAWING DATE:** 02/01/2002  
**PARTY/CHIEF:** C.S.  
**FIELDBOOKS:** 100

**Carter & Burgess**  
Consultants in Engineering, Surveying, Architecture,  
Construction Management and Related Services  
Carter and Burgess, Inc.  
Barton Oaks Plaza V  
901 South MoPac Expressway, Suite 200  
Austin, Texas 78746  
(512)314-3100 Fax (512)314-3135  
© COPYRIGHT 2002 Carter and Burgess, Inc.

**SKYLINE AUSTIN**

**SHEET**  
2  
OF  
2

**C&B DWG No.**  
050109.001

**EXHIBIT C**

**SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant general commercial services – conditional overlay – neighborhood plan (CS-CO-NP) combining district zoning. The Conditional Overlay prohibits the following uses: agricultural sales and services, building maintenance services, campground, commercial blood plasma center, construction sales and services, food sales, equipment repair services, equipment sales, maintenance and service facilities, restaurant (general), restaurant (limited), service station and vehicle storage.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

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

The proposed general commercial services (CS) district zoning is intended for commercial or industrial uses that typically have operating characteristics or traffic service requirements generally incompatible with residential environments. The mixed use (MU) district is intended to allow for office, retail, commercial and residential uses to be combined in a single development. The NP, neighborhood plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

- 2. Zoning changes should promote the health, welfare, and safety, and otherwise fulfill the purposes of zoning as set forth in the Texas Local Government Code or the zoning ordinance.*

Based on input from the Emergency Prevention Division of the Austin Fire Department, Staff is unable to recommend the Applicant's request for residential development that could occur under the –MU component. AFD has performed a risk assessment of the adjacent LI zoned semiconductor facility and confirmed storage of a large quantity of hazardous materials. In accordance with a publication of the US Department of Transportation that accounts for the risk of exposure, a 1,056-foot separation distance (buffer) is required between the semiconductor facility and a residential occupancy. Because the separation distance from the semiconductor facility to a proposed residential occupancy cannot be met (it's approximately 110 feet), there is a serious risk of exposure to a residential occupancy use, and this is the basis for Staff to not recommend the –MU. It is worth noting that the separation distance identified above applies to other nearby undeveloped properties as well.

- 3. Intensive zoning should be located on major arterial roadways and highways.*

Regarding the Applicant's request for the CS base zoning district and the –CO component, it is more intense than GR zoning, and is, in fact, the highest intensity commercial zoning district, yet still oriented towards service uses. CS has a 2 : 1 floor-to-area ratio which provides for greater development flexibility on the property given site constraints and location on an arterial roadway. Staff is of the opinion that CS-CO-NP zoning is compatible with the adjacent zoning and uses, and the Conditional Overlay will

prohibit more intensive CS uses and continue to prohibit a few uses that have been discussed between the Applicant and area stakeholders.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The site is undeveloped, heavily treed and slopes gently to the south. The recorded plat indicates a 50-foot wide gas pipe line easement along the south property line.

### **Impervious Cover**

The maximum impervious cover allowed by CS zoning district would be 80%, which is based on the more restrictive watershed regulations described below. A Transfer of Development Rights (TDR) Table on the recorded plat shows that up to 0.17 acres of impervious cover is transferred to the subject lot.

### **Drainage**

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City's Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

### **Environmental**

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

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

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.>

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

### **Fire Department Comments**

AFD has the authority to evaluate the risk of an unauthorized hazardous material discharge and establish minimum requirements that are essential for the public safety of a proposed building in accordance with 2015 IFC Sections 102.9 and 5001.1.1.

AFD has performed a risk assessment for the zoning change at 5101 E Oltorf Street. The Applicant is proposing to rezone the 1.63 acre site from GR-CO-NP to CS-MU-CO-NP which would allow residential occupancies to be located in close proximity to an LI zoned site (the Cypress Semiconductor site) to the south. Based on the risk assessment which confirmed a large quantity of hazardous materials at the LI zoned site and exposure and evacuation to an adjacent site being used for residential occupancy, a 1,056 foot separation distance (buffer) will be required from the nearest property lines of the parcels located at 5204 E Ben White Blvd and 5305 E Oltorf, to residential occupancies. The buffer distance is based on the Protective Action Distances for a particular chemical in the 2016 *Emergency Response Guidebook* published by the US Department of Transportation.

The semiconductor facility is located approximately 110 feet to the South and because the separation distance cannot be met, the Fire Department has determined that the proposed rezoning area is not compatible for residential development.

### **Site Plan and Compatibility Standards**

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The site is subject to compatibility standards. Along the south and west property lines, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property line.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

Additional design regulations will be enforced at the time a site plan is submitted.

### **Transportation**

Additional right-of-way may be required at the time of subdivision and/or site plan.

A Traffic Impact Analysis shall be required at the time of site plan if triggered per LDC 25-6-113.

According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a Protected bike lane is recommended for E Oltorf St. Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments and requirements for right-of-way dedication and bicycle facility construction in accordance with LDC 25-6-55 and LDC 25-6-101. Please review the Bicycle Master Plan for more information.

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be

inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website: [www.austintexas.gov/planning](http://www.austintexas.gov/planning).

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: C14-2018-0080**

**Contact: Wendy Rhoades, 512-974-7719**

**Public Hearings: December 11, 2018, Planning Commission;  
February 7, 2019, City Council**

R. Stephen Harnsberger

*Your Name (please print)*

4906 Allison Cove, Austin, TX, 78741-7319

☐ I am in favor  
☒ I object

*Your address(es) affected by this application*

17 April 2019

*Date*

*Signature*

Daytime Telephone: (512) - 385 - 1891

Comments: I bought my house in the Sunridge Park subdivision in 1992. Of all the properties in Sunridge Park, mine is the closest to the property under consideration at 5101 East Oltorf Street and hence the one that will be the most affected. I believe that property should be developed in strict accordance with the 26 prohibited uses agreed upon in the ordinance dated 04 August 1997. Those conditional overlays are essential for maintaining the residential character and property values of our neighborhood. Thank you for your time.

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

City of Austin

Planning & Zoning Department

**Wendy Rhoades**

P. O. Box 1088

Austin, TX 78767-8810