

**Z-7****Guernsey, Greg**

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**From:** Rich or Carole Gottlieb [crgottlieb@sbcglobal.net]  
**Sent:** Wednesday, January 12, 2005 4:09 PM  
**To:** Heil, Robert  
**Cc:** Javier Gonzalez; Guernsey, Greg; Jana Rice  
**Subject:** Case Number: C14-04-0171

Robert,

I just spoke to Jana Rice and we have not been able to reach an agreement. The Barrs will not agree to a fence restriction and we do not understand what good the setback does if we do not have this buffer. I do not remember if the word "fence" was used during our negotiations, but neither was every possible thing that could be built in the 15 foot strip. We thought that the phrase "or other improvement" covered everything.

Please re-instate our petition and note that this will not be a consent item. Given that the council meeting is now less than 24 hours away, we will not turn out the homeowners at this meeting. I will probably be the only one speaking on our side. I would advise that more time be allowed for discussion of this issue for the next meeting.

I would appreciate your guess as to what time I need to be there to address this issue. Is there anything else that you need from us at this time?

Rich Gottlieb  
347-1082  
crgottlieb@sbcglobal.net

1/12/2005

**Guernsey, Greg**

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**From:** Jana Rice [jhrice@cunningham-allen.com]  
**Sent:** Wednesday, January 12, 2005 4:03 PM  
**To:** Rich or Carole Gottlieb; Heil, Robert  
**Cc:** javier@bluemoon.com; Guernsey, Greg; Gary Barr; Freddie Dippel  
**Subject:** RE: Barr Zoning - Staff Recommendation

Everyone,

Mr. Gottlieb and I have discussed this issue at length. He and I have a difference of opinion on the definition of "other improvement". My understanding and my client's understanding was that "other improvement" meant no buildings, sheds, pools, tennis courts, things like this. It did not include fences or landscaping or utilities. My client did not mean to give a buffer or conservation easement. They were providing a 15' building setback from the north and west property lines in the manner that all residential lots within the Austin city limits have a building setback line.

I have confirmed the above stated information with Mr. and Mrs. Barr. They are not willing to give a buffer, so we will see everyone at the council meeting tomorrow.

Thank you,

Jana Rice

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**From:** Rich or Carole Gottlieb [mailto:crgottlieb@sbcglobal.net]  
**Sent:** Wednesday, January 12, 2005 2:22 PM  
**To:** Robert.Heil@ci.austin.tx.us; Jana Rice  
**Cc:** javier@bluemoon.com; greg.guernsey@ci.austin.tx.us  
**Subject:** Re: Barr Zoning - Staff Recommendation

Robert,

We are in disagreement with Ms. Rice regarding the language. She is in the process of contacting her clients to see if they will agree to a true buffer as was our understanding. If not, we intend to reinstitute our original petition and to lobby City Council to reject this zoning change.

Javier and I would agree to language that says "No building or other **MAN MADE** improvement....." This would allow for landscaping. However, Ms. Rice said that you told her the code does not allow for this type of language.

We will reach a decision as soon as Ms. Rice contacts her clients and gets back to me. I realize that we are running out of time and will keep you informed.

Rich Gottlieb

----- Original Message -----

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**From:** Robert.Heil@ci.austin.tx.us  
**To:** jhrice@cunningham-allen.com  
**Cc:** javier@bluemoon.com ; greg.guernsey@ci.austin.tx.us ; crgottlieb@sbcglobal.net  
**Sent:** Wednesday, January 12, 2005 2:01 PM  
**Subject:** RE: Barr Zoning - Staff Recommendation

1/12/2005

Ms. Rice,

This email is to confirm our phone conversation earlier this afternoon.

Based on our phone conversation, your interpretation of the term "improvement" in the discussions on this property and in agreement signed with Mr. Gottlieb, Mr. Gonzalez, and others referred to buildings and other structures. You did not use the term "improvement" to include driveways, walkways, fences, landscaping or other similar activities.

I understand that you are continuing discussions with your client and Mr. Gottlieb. I appreciate you keeping me informed of the results of those conversations.

**Robert Heil, AICP**  
Senior Planner  
City of Austin  
Neighborhood Planning and Zoning Department

(512) 974-2330  
(512) 974-7757 (fax)

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-----Original Message-----

**From:** Heil, Robert  
**Sent:** Tuesday, January 11, 2005 10:45 PM  
**To:** 'Rich or Carole Gottlieb'  
**Cc:** Javier Gonzalez; 'Jana Rice'; Guernsey, Greg  
**Subject:** RE: Barr Zoning - Staff Recommendation

Mr. Gottlieb,

It was my understanding, based on discussions with you and Ms. Rice, that the intent by both parties of the agreement was to limit buildings and other structures within 15 feet of the north and west property lines. Based on those discussions, I understood term "improvement", as used by you and the property owner in your agreement with the developer, referred to permanent structures such as garages, carports and similar outbuildings. The staff recommendation was drafted based on that understanding, and calls for a building setback of 15 feet.

If it was the intent of the agreement to limit all activity in the setback, including, but not limited to, driveways, walkways, fences and landscaping, then the Conditional Overlay can be amended. The term "improvement" is not defined in the City of Austin Land Development Code, however, a natural vegetated buffer would achieve this result. This would not delay the hearing of the case at City Council this Thursday.

The next step will be to clarify with Ms. Rice and the other signatories what their intent was in the agreement. To that end I have copied Ms Rice on this message, and left her a phone message as well.

The negotiations that resulted in the agreement were all carried on in good faith. I believe it will not be difficult to clarify the intent of all parties, and resolve this issue quickly.

The calculation of trip generation is based on the original request, which was SF-2, not on the recommend zoning change of SF-2-CO. This could account for the seemingly high number of trips generated.

**Robert Heil, AICP**  
Senior Planner  
City of Austin  
Neighborhood Planning and Zoning Department

(512) 974-2330  
(512) 974-7757 (fax)

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-----Original Message-----

**From:** Rich or Carole Gottlieb [mailto:crgottlieb@sbcglobal.net]  
**Sent:** Tuesday, January 11, 2005 8:09 PM  
**To:** Heil, Robert  
**Cc:** Javier Gonzalez  
**Subject:** Barr Zoning - Staff Recommendation

Robert,

This is a follow up to the phone message that I left this afternoon. There are two items in the staff recommendation that concern me

1) The compromise agreement that we signed says "No building **or other improvement** shall be located closer than fifteen feet (15') to the north and west property lines of the subject property." Your language says "**Require building setbacks** along the north and west property lines of 15 feet."

It may be that I do not understand your department's terminology. However, I am very, very concerned that your language would allow such things as fences, driveways, etc. closer than 15 feet. This is **NOT** what we agreed to nor is it what the language or intent of the compromise agreement says. Please explain or change the staff recommendation to the language in our compromise agreement.

2) I am confused by 382 trips per day that you say will be generated by the requested zoning. I calculate that the maximum number of dwelling units is 13 (5.301 acres x 2.5 units/acre = 13.25 units). 382 divided by 13 equals 29 trips per day per unit. The 382 may be a meaningless number, but 29 trips per unit per day seems exceedingly high. That is, unless I do not fully comprehend the density allowed by this language. Please explain where this 382 number comes from.

I will be home on Wednesday until 9:45AM and will return by 1:30PM. Please e-mail or call with responses to the above.

Thank you.  
Rich Gottlieb  
347-1082  
crgottlieb@sbcglobal.net

NOT SUBMITTED DUE TO COMPROMISE  
AGREEMENT DATED DECEMBER 1, 2004

### PETITION

Date: 11/26/04

File Number:

C14-01-0171

Address of

Rezoning Request:

1590-1602 Barclay Dr.

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than SF-1-CO. We further request that the Conditional Overlay contain the following restrictions:

1. Residential development on the Property shall be constructed at a density of 2 dwelling units per acre or less.
2. No building or other improvement shall be located closer than fifteen feet (15') to any side lot line.
3. The thirty foot (30') road easement on the north boundary be eliminated.

The current owners of the property require a zoning change to SF to enable them to connect to city services. We have no desire to prevent them from obtaining these services. However, the requested change to SF-2 without any Conditional Overlay is unacceptable. This type of dense development would adversely affect our neighborhood with increased traffic and would not be compatible with the current character of our residences and lots.

We request that you use the development at 1402 Barclay Drive as a guideline. This new development, known as Barclay Woods, contains six residential lots ranging in size from .50 to .964 acres. It is adjacent to the tracts that proposed zoning change covers. It is also the most recent development in the area.

Signature

Printed Name

Address

<u>[Signature]</u>	<u>Robert E. Davathan</u>	<u>1402 Barclay Dr. Austin TX 78746</u>
<u>[Signature]</u>	<u>Shirley Ruth Sauer</u>	<u>1402 Barclay Dr. Austin TX 78746</u>
<u>[Signature]</u>	<u>ROBERT E. DAVATHAN</u>	<u>1701 BARCLAY, AUSTIN, TX 78746</u>
<u>[Signature]</u>	<u>JAVIER GARCIA</u>	<u>1402 A BARCLAY DR AUSTIN TX 78746</u>

Signature

Printed Name

Address

<del>Will A Daily</del>	NEWALL A DAILY	4802 WILD PRINCE PASS
<del>Sharon Waldman</del>	SARCA RUTH WALDMAN	1401 BARCLAY DR
<del>de Lardave</del>	de Lardave	723 Peach Dr
<del>Debbie Wade</del>	JULIE T. WADE	1505 BRIDGEWAY
<del>Will M. ...</del>	William M. ...	1601 Barclay Dr
<del>David H. ...</del>	DAVID H. LINCOLN	1604 BARCLAY DR
<del>Ramon Mitre</del>	RAMON MITRE	1610 BARCLAY DR
<del>Lesley I. ...</del>	LESLEY I. WILKES	1511 BARCLAY DR
<del>Farrin ...</del>	FARRIN NEVILL	1504 SHANNON OAKS TRAIL
<del>David W. ...</del>	DAVID W. TURPIN	1600 SHANNON OAKS TRAIL
<del>Stacy ...</del>	Stacy ...	1502 Shannon Oaks Trail
<del>Gary A. ...</del>	GARY A. ...	1404 Shannon Oaks Trail, Austin
<del>Xinyue ...</del>	XINYUE ...	1402 D. Barclay Dr.
<del>Stanford P. Douglas</del>	Stanford P. Douglas	1500 Wilson Hts DR.
<del>Roger Waak</del>	ROGER WAAK	1502 WILSON HEIGHTS DR
<del>Kathleen R. ...</del>	KATHLEEN R. ...	1513 Wilson Heights
<del>William K. ...</del>	William K. ...	1511 Wilson Hts
<del>John W. Dalton</del>	John W. Dalton	1507 Wilson Hts.
<del>Louanna Torres</del>	Louanna Torres	1503 Wilson Heights
<del>Jim Adams</del>	Jim Adams	1501 Wilson Heights DR. 78746
<del>Mark S. Brown</del>	Mark S. Brown	1405 Wilson Heights DR. 78746
<del>Donald I. ...</del>	Donald I. ...	1601 Shannon Oaks Trail 78746
<del>Susan Revelle</del>	Susan Revelle	1604 Shannon Oaks 78746
<del>Darrell Hamrick</del>	Darrell Hamrick	1410 Thaddeus C. 78746

Date: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Richard L. Gottschalk or Janice Gottschalk

Phone Number: \_\_\_\_\_

(512) 397-1032 or (512) 732-2711