



**Zoning**  
**CITY OF AUSTIN**  
**RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: Z-10**  
**AGENDA DATE: Thu 07/28/2005**  
**PAGE: 1 of 1**

**SUBJECT:** C14-04-0186 - Helen, Ltd. - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as Anderson Mill Road at Swan Drive (Bull Creek Watershed) from townhouse and condominium residence (SF-6) district, neighborhood commercial (LR) district, and community commercial (GR) district zoning to community commercial-conditional overlay (GR-CO) district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) district zoning with conditions. Applicant: Helen, Ltd. (William B. Phol). Agent: Phol, Brown, and Associates (Lee Miks). City Staff: Sherri Sirwaitis, 974-3057.

**REQUESTING**      Neighborhood Planning  
**DEPARTMENT:**      and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-04-0186

**Z.A.P. DATE:** March 15, 2005  
March 29, 2005  
April 19, 2005  
May 17, 2005  
June 7, 2005

**ADDRESS:** Anderson Mill Road at Swan Drive

**OWNER/APPLICANT:** Helen, Ltd.  
(William B. Pohl)

**AGENT:** Pohl, Brown, & Associates  
(Lee Miks)

**ZONING FROM:** SF-6  
LR  
GR

**TO:** GR

**AREA:** 5.810 acres

### **SUMMARY STAFF RECOMMENDATION:**

The staff's alternate recommendation is for GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 (an area measured from the northern property line 315-feet to the south) and LO, Limited Office District, zoning for Tract 2 (an area measured from the southern boundary of Tract 1 250-feet to the south/or from the southern property line 250-feet to the north). The proposed Tract Map is included with this report as Attachment A. The conditional overlay would prohibit all automotive uses (Automotive Rentals, Automotive Repair Services, Automotive Sales, and Automotive Washing) on Tract 1.

The staff recommendation includes a public restrictive covenant that would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA [Alliance Texas Engineering (Brian Craig, P.E.) – November 2004]. The TIA recommendations are included as Attachment B to this report.

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

3/15/05: Zoning and Platting Commission meeting cancelled due to posting error. Meeting rescheduled for March 29, 2005.

3/29/05: Postponed to April 19, 2005 by the applicant (9-0); J. Martinez-1<sup>st</sup>, J. Gohil-2<sup>nd</sup>.

4/19/05: Postponed to May 3, 2005 by the applicant (7-0, K. Jackson/C. Hammond-absent); J. Martinez-1<sup>st</sup>, M. Whaley-2<sup>nd</sup>.

5/03/05: Pulled for re-notification.

5/17/05: Postponed to June 7, 2005 by the applicant (9-0); J. Martinez-1<sup>st</sup>, J. Gohil-2<sup>nd</sup>.

6/07/05: Approved GR-CO zoning; prohibiting the uses listed in Exhibit C of the private covenant agreement for Lot 1 and prohibiting the uses listed in Exhibit B of the private covenant agreement for Lot 2 of the proposed subdivision (ZAP Recommendation Map-Attachment D). In addition, prohibit Guidance Services use on the entire site and include the TIA recommendations in a public restrictive covenant (9-0); K. Jackson-1<sup>st</sup>, J. Martinez-2<sup>nd</sup>.

## **ISSUES:**

On April 11, 2005, the applicant submitted a letter to the staff requesting a second postponement of this case to June 7, 2005 (Attachment H). The applicant is making this request because there is a new president of the adjacent neighborhood, the Balcones Greenes Homeowners Association. The applicant would like to have additional time to work with the neighborhood association and to revise their preliminary site plan to aid in their presentation to the Commission.

The staff has received three letters of opposition from residents adjacent to the proposed zoning case (Attachment F). In addition, the staff recently received a response from a property owner located on Liriope Cove stating that he is in favor of the proposed zoning if conditions of the neighborhood's private agreement with the applicant are incorporated into the City's motion for the case.

The applicant is requesting a postponement from the March 29, 2005 Zoning and Platting Commission meeting to the April 19, 2005 meeting to request a meeting with the staff to discuss the rezoning case (Attachment G).

## **DEPARTMENT COMMENTS:**

The property in question is undeveloped and sparsely vegetated. The applicant plans to construct a retail shopping center on the site. A Transportation Impact Analysis (TIA) was conducted for the property and concluded that the proposed 40,000 square foot shopping center would generate approximately 3,743 average vehicle trips per day (TIA Memo-Attachment B). According to the TIA results, the additional traffic generated by this proposed development will not negatively impact the traffic capacity of Swan Drive or on Anderson Mill Road.

The applicant met with the Anderson Mill Neighborhood Association on several occasions to discuss the proposed rezoning case. He has agreed to a private restrictive covenant with the association to address the neighborhood's concerns (Attachment C). In addition, the applicant also submitted a letter of support from the neighborhood on March 7, 2005 (Attachment D).

The staff presents an alternate recommendation of GR-CO for Tract 1 and LO for Tract 2. The property in question was originally zoned GR, LR, and SF-6 through zoning case C14-85-157 (Zoning Map-Attachment E). The area currently shown as GR was planned to be located at the southwest corner of the continuation of Swallow Drive (described as Briar Creek Drive on the zoning map for case C14-85-157 - Attachment E). When this collector roadway was actually constructed it was aligned to the east with Swan Drive instead. This left a piece of GR zoning floating within the proposed site. Therefore, the staff recommends expanding the existing GR portion of this property to the west to align with the right-of-way of Swan Drive. The proposed GR-CO zoning for Tract 1 will allow for more intensive commercial uses to be developed at the intersection of Anderson Mill Road, a major arterial roadway, and Swan Drive, a collector street. In addition, the staff recommends LO zoning for Tract 2 to act as a transition from the more intensive commercial land use along Anderson Mill Road to the residential uses to the south. Tract 2 is located adjacent to existing single-family residential uses to the south, east, and west.

The applicant does not agree with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	GR, LR, SF-6	Undeveloped
<i>North</i>	County	Single-Family Residences, Church
<i>South</i>	SF-2, SF-6	Single-Family Residences
<i>East</i>	LR, SF-1	Office Building, Single-Family Residences
<i>West</i>	P, LR, SF-2	COA Fire Station, Single-Family Residences

**AREA STUDY:** N/A**TIA:** Yes**WATERSHED:** Bull Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:**

281 – Anderson Mill Neighborhood Association  
 426 – River Place Residential Community Association, Inc.  
 475 – Bull Creek Foundation

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-04-0112	I-RR to GR	9/7/04: Approved GR-CO zoning, w/ following conditions: 1) Prohibit all 'GR' district uses except: Business or Trade School (with a 3,000 sq. ft. size limit), Business Support Services, Communications Services, Food Preparation (as a conditional use up to 5,000 sq. ft.), General Retail Sales (General), Indoor Sports and Recreation, Personal Improvement Services, Restaurant (General); 2) Permit all 'LR' district uses and conditional uses; 3) Limit the property to 'LR' district development regulations; 4) Limit development to less than 2,000 vehicle trips per day above what currently exists on the site. Vote: 7-1, B. Baker-Nay	10/21/04: Approved GR-CO zoning (7-0); all 3 readings
C14-02-0180	RR to GR	1/7/03: Approved staff's recommendation of GO-CO zoning with conditions to limit development intensity to 2,000	2/6/03: Granted GO-CO on all 3 readings (7-0)

		vehicle trips per day; allow Religious Assembly as the only permitted GO use; and allow all other LO uses (9-0)	
C14-02-0134	LR-CO to SF-6	9/24/02: Approved staff's recommendation of SF-6 zoning, by consent (5-0, D. Castaneda, B. Baker- absent)	10/24/02: Granted SF-6- Staff to report back on flooding complaints: what has been done and what the applicant can do to help mitigate the situation (5-0, Garcia-off the dias, Dunkerley-absent); 1 <sup>st</sup> reading  2/27/03: Approved (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-01-0142	RR, SF-1	1/22/02: Approved staff's rec. on LR-CO zoning. (8-0, A. Adams-absent)	2/28/02: Approved LR-CO zoning by consent on first reading (6-0-1, Thomas-off dias)  3/21/02: Approved LR-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings.
C14-00-2071	RR to GR	6/6/00: Approved staff rec. of GR by consent (9-0)	8/3/00: Approved GR w/conditions (7-0); all 3 readings
C14-00-2255	RR to SF-6	1/23/01: Approved staff alternated rec. of SF-6-CO by consent (8-0)	3/1/01: Approved SF-6-CO w/ other conditions (7-0); 1 <sup>st</sup> reading  4/19/01: Approved SF-6-CO w/ conditions; 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-99-2033	RR to LO	10/5/99: Approved LO-CO allowing only 'NO' uses w/ 'LO' site regulations (8-0)	11/4/99: Approved PC rec. of LO-CO on 1 <sup>st</sup> reading (6-0); subject to current watershed regulations  3/30/00: Approved 2 <sup>nd</sup> / 3 <sup>rd</sup> readings (6-0)
C14-99-0122		8/24/99: Approved SF-2 (TR1), SF-6 (TR2), limited to 2,000 vehicle trips per day, prohibit access to Tahoe Trail, dedication of 50' of ROW from centerline of Anderson Mill Rd., applicant will attempt to provide pedestrian access to park and to provide affordable housing (5-2, RC/JM-Nay)	9/3/99: Approved SF-2-CO w/conditions (TR1), SF-6-CO w/conditions (TR2); (7-0); all 3 readings
C14-98-0196	SF to GO	12/8/98: Approved LO (8-0)	1/7/99: Approved PC rec. of LO w/ conditions (7-0); 1 <sup>st</sup> reading 2/4/99: Approved LO (7-0); 2 <sup>nd</sup> / 3 <sup>rd</sup> readings
C14-98-0154	RR to LR	12/8/98: Approved staff's alternate rec. of LR-CO by consent (8-0)	1/7/99: Approved PC rec. of LR-CO w/conditions (7-0); all 3 readings

C14-98-0011	DR to SF-1	3/3/98: Approved SF-1 by consent (7-0)	3/26/98: Approved PC rec. of SF-1 (6-0); all 3 readings
C14-98-0051	I-RR to SF-6	8/4/98: Approved staff rec. of SF-6 w/ conditions (9-0)	9/3/98: Approved PC rec. of SF-6-CO w/ conditions (7-0); 1 <sup>st</sup> reading  10/1/98: Approved SF-6-CO, w/ conditions (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-93-0026	LR, LO to SF-2	3/16/93: Approved SF-2	4/1/93: Approved SF-2 (6-0); all 3 readings

**RELATED CASES:** C14-85-0157 (Tracts 5, 6, and 7)

**ABUTTING STREETS:**

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Anderson Mill Road	Varies	-	Major Arterial	41,400 vpd
Swan Drive	42'	40'	Residential Collector	2,300 vpd

**CITY COUNCIL DATE:** July 28, 2005

**ACTION:**

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

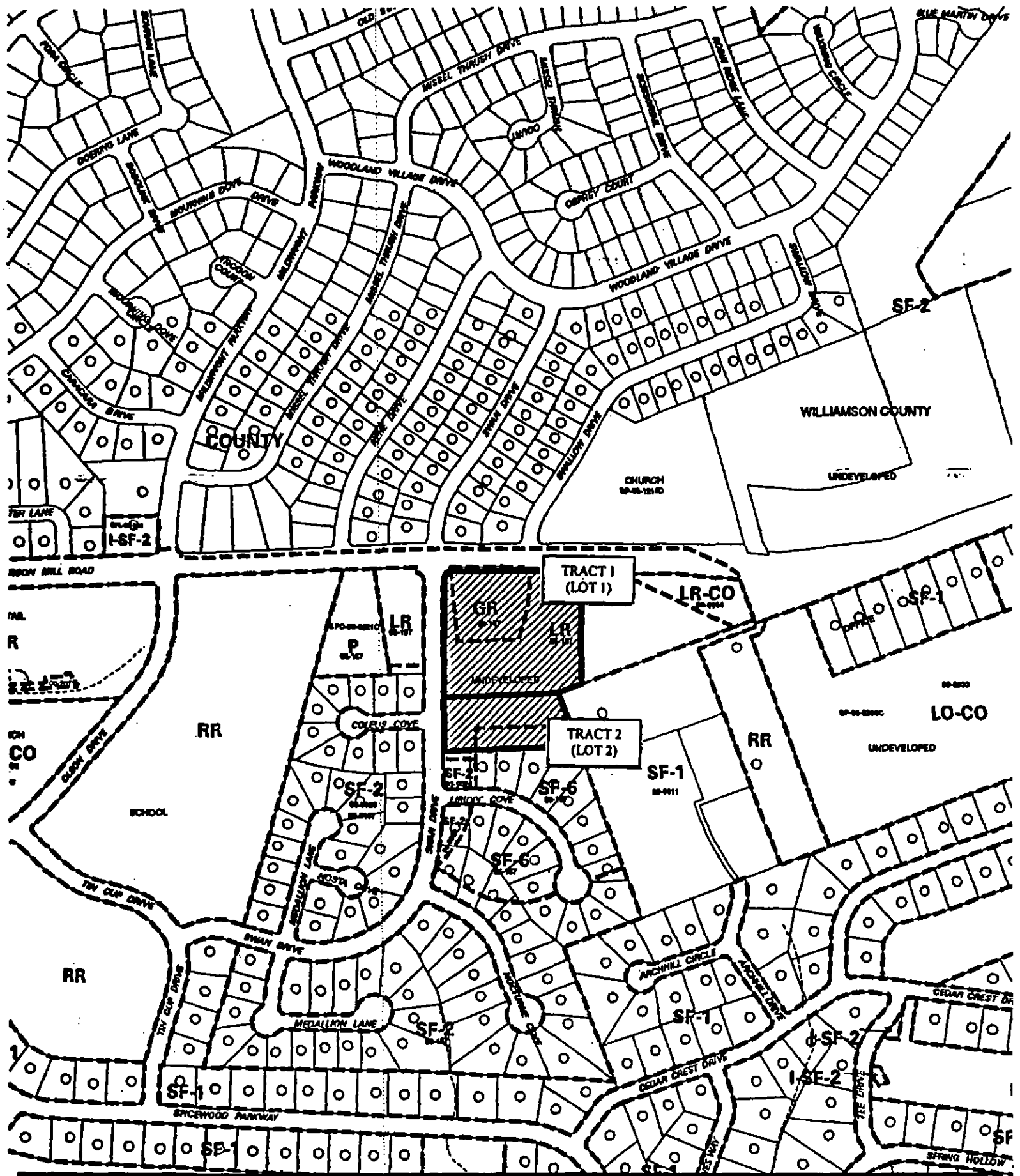
2<sup>nd</sup>





3<sup>rd</sup>

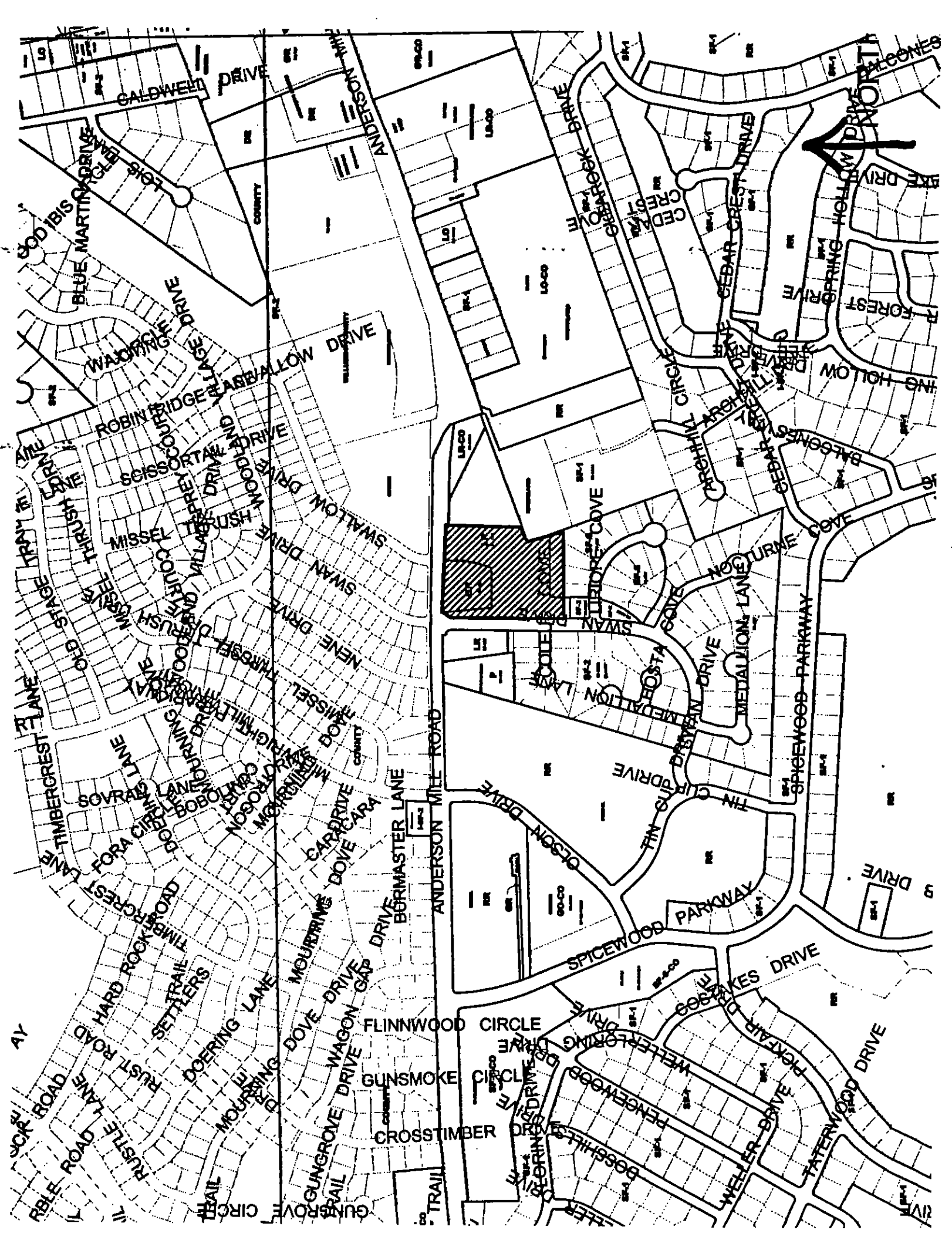
**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 974-3057,  
[sherri.sirwaitis@ci.austin.tx.us](mailto:sherri.sirwaitis@ci.austin.tx.us)



 1" = 400'	SUBJECT TRACT		<b>ZONING</b>  <b>CASE #:</b> C14-04-0186 <b>ADDRESS:</b> ANDERSON MILL RD @ SWAN DR <b>SUBJECT AREA (acres):</b> 8.810	<b>DATE:</b> 05-07  <b>INTLS:</b> SM	<b>CITY GRID REFERENCE NUMBER</b>  <b>F37</b>
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: S. GAGER				







## STAFF RECOMMENDATION

The staff's alternate recommendation is for GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 (an area measured from the northern property line 315-feet to the south) and LO, Limited Office District, zoning for Tract 2 (an area measured from the southern boundary of Tract 1 250-feet to the south/or from the southern property line 250-feet to the north). The proposed Tract Map is included with this report as Attachment A. The conditional overlay would prohibit all automotive uses (Automotive Rentals, Automotive Repair Services, Automotive Sales, and Automotive Washing) on Tract 1.

The staff recommendation includes a public restrictive covenant that would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA [Alliance Texas Engineering (Brian Craiq, P.E.) – November 2004]. The TIA recommendations are included as Attachment B to this report.

## BASIS FOR RECOMMENDATION

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

Tract 1: The Community Commercial (GR) district is the designation for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.

Tract 2: Limited office (LO) district is the designation for an office use that serves neighborhood or community needs and that is located in or adjacent to residential neighborhoods. An office in an LO district may contain one or more different uses. Site development regulations and performance standards applicable to an LO district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment.

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

The proposed GR-CO zoning for Tract 1 will allow for more intensive commercial uses to be developed at the intersection of Anderson Mill Road, a major arterial roadway, and Swan Drive, a collector street. The staff recommends the expansion of the existing GR portion of this property to the west adjacent to the right-of-way because of the realignment of Briar Creek Drive (now known as Swan Drive).

In addition, the staff proposes LO zoning for Tract 2 to create a transition in uses from the proposed commercial uses to the north along Anderson Mill Road to the established residential neighborhood to the south. Tract 2 is located adjacent to existing single-family residential uses to the south, east, and west. The original zoning case that included this property (Tract 4 in case C14-85-157 – Attachment E) zoned the land to the south of the City of Austin fire station to LO to act as a transition from the public and commercial uses on Anderson Mill Road to the residential neighborhood. This property was rezoned to SF-2 in 1993 through zoning case C14-93-0026.

3. *The proposed zoning should allow for a reasonable use of the property.*

The proposed zoning will allow the applicant to develop commercial uses to a depth of 315-feet on the site and office uses for the remainder of the property (approximately 250-feet) to the south.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The site is currently undeveloped. The property is a relatively flat and sparsely vegetated. There is a residential neighborhood and a church to the north of the site, across Anderson Mill Road. To the south there are single-family residential houses. Along the east side, across Swan Drive, there is a COA fire station and single-family homes. To the west there is an office building and two single-family houses.

### **Impervious Cover**

The maximum impervious cover allowed by the GR zoning district would be 90 %. However, because the Watershed impervious cover is more restrictive than the GR zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance.

Note: The most restrictive impervious cover limit applies.

Under the 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>% NSA with Transfers</i>
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

### **Environmental**

The site is located over the North Edward's Aquifer Recharge Zone. The site is in the Bull Creek Watershed of the Colorado River Basin, and is classified as a Water Supply Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is no flood plain in, or within close proximity of, the project location.

The site is located within the endangered species survey area and must comply with the requirements of Chapter 25-8 Endangered Species in conjunction with subdivision and/or site plan process.

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

At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any preexisting approvals, which would preempt current water quality or Code requirements.

### **Transportation**

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA. [LDC, Sec. 25-6-142]. Comments will be provided in a separate memo (Attachment B).

### **Right of Way**

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

### **Water and Wastewater**

The landowner intends to serve the site with City water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or utility adjustment are required, the landowner, at own expense, will be responsible for providing. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The utility construction must be inspected by the City. The landowner must pay the associated City fees.

The landowner must pay the tap and impact fee once the landowner makes an application for a City water and wastewater utility tap permit.

### **Stormwater Detention**

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

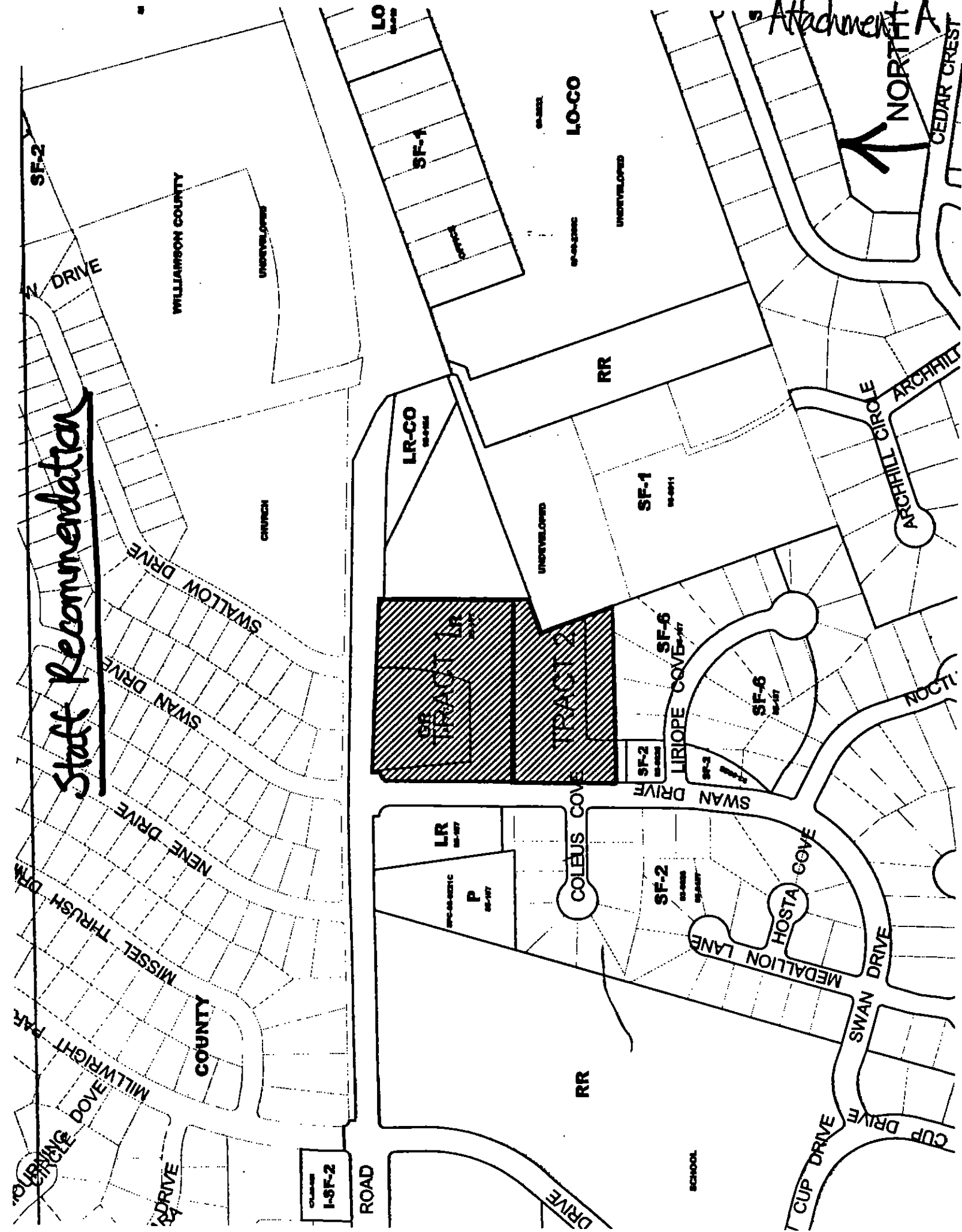
### **Compatibility Standards**

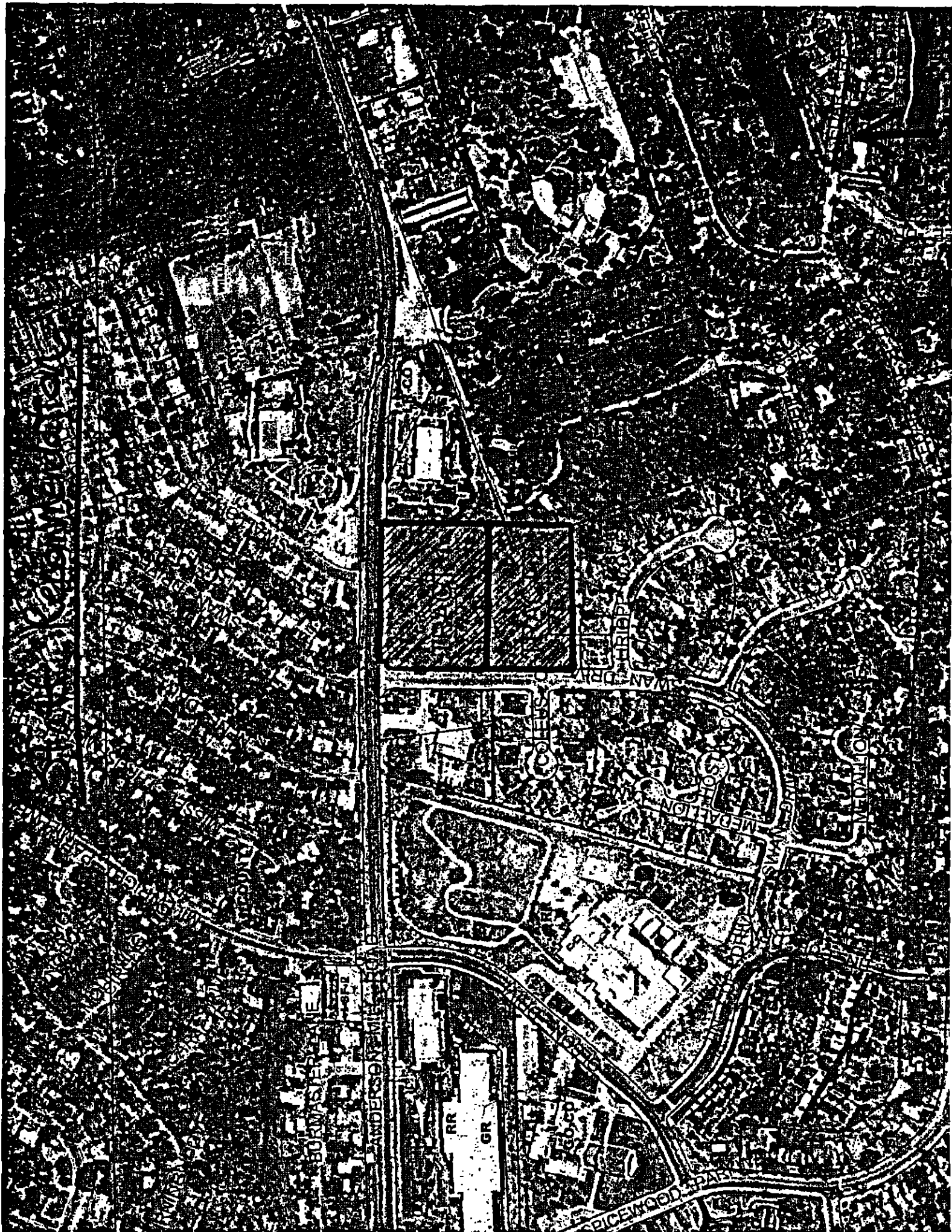
The site is subject to compatibility standards due to the existing single-family development to the south, west, and north of the site. Along the south property line the following standards apply:

- No structure may be built within 25-feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.

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

Attachment A







**Date:** February 28, 2005  
**To:** Sherri Sirwaltis, Case Manager  
**CC:** Brian Craig, P.E. Alliance Transportation Group  
**Reference:** Swan Drive Retail Center TIA, C14-04-0186

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Swan Drive Retail Center TIA, dated February 2005, prepared by Brian Craig, P.E., Alliance Transportation Group, and offers the following comments:

### **TRIP GENERATION**

The Swan Drive Retail Center tract is a 5.81-acre development located in north Austin at the southeast corner of Anderson Mill Road and Swan Drive.

The property is currently undeveloped and zoned Neighborhood Commercial (LR). The applicant has requested a zoning change to Community Commercial (GR). The estimated completion of the project is expected in the year 2006.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 3,743 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

<b>Table 1. Trip Generation</b>						
			<b>AM Peak</b>		<b>PM Peak</b>	
<b>LAND USE</b>	<b>Size</b>	<b>ADT</b>	<b>Enter</b>	<b>Exit</b>	<b>Enter</b>	<b>Exit</b>
Shopping Center	40,000sf	3,510	56	36	109	117

### **ASSUMPTIONS**

1. Traffic growth rates provided by the City of Austin were as follows:

<b>Table 2. Growth Rates per Year</b>	
<b>Roadway Segment</b>	<b>%</b>
All Roads	9%

2. In addition to the growth rate, background traffic volumes for 2004 included estimated traffic volumes for the following projects:

Balcones Green Office	SP-00-2426C
Hope Presbyterian Church	SP-03-0488C
Bethany Two Subdivision	C8J-04-0085.0A



3. Reductions were taken for pass-by for the following uses:

Table 3. Summary of Pass-By		
Land Use	Pass-By Reductions %	
	AM	PM
Shopping Center	0%	34%

4. No reductions were taken for internal capture or transit use.

### **EXISTING AND PLANNED ROADWAYS**

**Anderson Mill Road** – Anderson Mill Road forms the northern boundary of the site. This roadway is classified as a four lane major arterial undivided. In 2025, the Austin Metropolitan Area Transportation Plan classifies this roadway as a divided four lane major arterial. The 2004 traffic volumes on Anderson Mill Road were approximately 41,400 vehicles per day (vpd).

**Swan Drive** – This roadway forms the western border of the site and is classified as a collector street with a forty-two foot cross section. The 2004 traffic volume for Swan Drive south of Anderson Mill Road is approximately 2,300 vpd.

**Olson Road (Millwright Parkway)** – This roadway is classified as a collector street and is located west of the site. The 2004 traffic volumes on Olson Road were 7,000 vpd south of Anderson Mill Road.

### **INTERSECTION LEVEL OF SERVICE (LOS)**

The TIA analyzed 4 intersections, 1 of which is signalized. Existing and projected levels of service are as follows, assuming that all improvements recommended in the TIA are built:

Table 4. Level of Service				
Intersection	2004 Existing		2006 Site + Forecasted	
	AM	PM	AM	PM
Anderson Mill Road and Olson Road*	E	E	F**	F**
Anderson Mill Road and Swan Drive	F	A	F	A
Anderson Mill and Driveway 1/Swallow Drive	A	A	A	A
Swan Drive and Driveway 2			A	A

\*= SIGNALIZED

\*\* = 2006 FORECASTED TRAFFIC WITHOUT SITE TRAFFIC WILL BE FAILING IN BOTH THE AM AND PM PEAKS AT THIS INTERSECTION. THE ADDITION OF SITE TRAFFIC WILL NOT SIGNIFICANTLY CONTRIBUTE TO THE FAILING LEVEL OF SERVICE. SITE TRAFFIC COMPRISES 1.7% AND 3.5% OF THE TOTAL TRAFFIC IN THE AM AND PM PEAKS RESPECTIVELY.

### **NEIGHBORHOOD IMPACT ANALYSIS**

A neighborhood traffic impact analysis was performed for the portion of Swan Drive between Anderson Mill Road and Tin Cup. This segment of Swan Drive is considered a residential collector because at least 50 % of the frontage located within 1500 feet or less from the proposed project's property line has an urban family residential district (SF-5) or more restrictive zoning designation. It is estimated that 4.8% of the site traffic will use the segment of Swan Drive between Anderson Mill Road

and Tin Cup. Below is a table depicting the proposed daily traffic along Swan Drive in comparison to the site traffic.

Table 5. Neighborhood Impact Analysis					
Roadway	Pavement Width	Max Desirable Volume (vpd)	Background Traffic Volume (vpd)	Site Traffic Volume (vpd)	Site plus Background Traffic (vpd)
Swan Drive	40'	4,000	2,640	180	2,820

Section 25-6-116 of the Land Development Code states that traffic on a residential collector street is operating at a desirable level if it does not exceed 4,000 vehicle trips per day for a collector with a pavement width of 40 feet. The additional traffic generated from this proposed development will not increase the traffic volume on Swan Drive beyond the desirable level.

### **RECOMMENDATIONS**

- 1) Prior to site plan approval, fiscal is required to be posted for the following improvements:

Roadway	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
Anderson Mill Road	Construct a center turn lane along site frontage	\$84,000	10.4%	\$8,750

- 2) Final approval from Travis County is required prior to 1<sup>st</sup> Reading at City Council.
- 3) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2628.



Amy Link  
Sr. Planner - Transportation Review Staff  
Watershed Protection and Development Review

DECLARATION OF RESTRICTIVE COVENANTS

This declaration of Restrictive Covenants ("Declaration") is made this 16 day of June, 2005, by Helen, Ltd., a Texas limited partnership (the Owner).

Recitals

**WHEREAS**, the Owner owns those certain tracts of land in Austin, Travis County, Texas (collectively the "Property") more specifically Lots 1 and 2 as described in Exhibit "A" (Field Notes) containing 5.801 Acres of land lying and situated in the W.M. Frampton survey, Abstract No. 230; the S.A. and M.G.R.R., Abstract No. 748; the J.V. Agee survey No. 81, Abstract No. 2530; and the James C. Irvine survey No. 122, Abstract No. 427, Travis County, Texas attached hereto and made a part of this Declaration; and

**WHEREAS**, residential subdivisions known as Balcones Greenes Subdivision (the "Benefited Property") have been developed adjacent to and in the vicinity of the Property; and

**WHEREAS**, the Property is presently zoned under the City of Austin Zoning Ordinance as SF-6 (Single Family Residential) and GR (General Retail) and LR (Limited Retail); and

**WHEREAS**, the Owner has filed an application with the City of Austin, Texas, for the purpose of rezoning the entire 5.801 Acres to GR (General Retail); and

**WHEREAS**, the Owner has requested the support of The Neighborhood Association of Balcones Greenes Homeowners Association, Inc. (the Association) on behalf of the owners of the Benefited Property (as hereinafter defined). For said rezoning application; and

**WHEREAS**, the Owner in consideration of the Association's support of its rezoning application, has agreed to adopt a uniform plan for the orderly development of the Property and insure the implementation of the plan to protect the value of the Property and the Benefited Property, and

**WHEREAS**, the Association has agreed to support the rezoning of the 5.8 Acres from SF-6 (Single Family Residential), LR (Limited Retail), and GR (General Retail) to all GR (General Retail) with a conditional overlay, on the condition that the Owner adopt and impose this Declaration on the Property; and

**WHEREAS**, the Owner and the Association desire to evidence their agreement in the form of restrictive covenants recorded in the Real Property Records of Travis County, Texas;

**NOW, THEREFORE,** for the sum of Ten and No/Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby adopts, and imposes the following restrictions, covenants and conditions upon the Property which shall constitute real covenants running with the land and shall be binding upon and inure to the benefit of and be a burden on the Owner, the Owner's successors and assigns, and each Owner of any portion of the Property and shall benefit each owner of any portion of the Benefited Property, and the Property shall be held, conveyed and occupied subject to the restrictions, covenants and conditions set forth herein.

### **Definitions**

"Owner" and "Owners" shall mean any current or future record owner, whether one or more persons or entities, to the fee simple title to any portion of the Property.

"Association" means The Neighborhood Association of Balcones Greener Homeowners Association, Inc., a Texas nonprofit corporation, or any successor organization.

"Benefited Property" means all property zoned or used as single family residential property and situated within 300 feet of the Property.

"Greenbelt Buffer" means an area Twenty five (25) feet wide to be established and maintained by the Owner as set forth below.

### **Property Use, Construction Standards and Restrictions**

1. **Uses.** The Property shall remain subject to the requirements and limitations of the Zoning District GR (General Retail) with a conditional overlay and shall remain subject to the requirements and limitations of the City of Austin Land Development Code. Future changes to such Code may be adopted, provided it allows for more compatible use of the land, which would benefit the surrounding neighborhood homes. The Property is also subject to the requirements of the Compatibility Standards set forth in Article 13-2-730 through 13-2-739 of the City of Austin Land Development Code, 1992. No uses of the Property are permitted other than those expressly permitted under the Zoning District applicable to each tract. **Moreover, no uses of Lot 2 are permitted that are set forth on Exhibit "B" (Recommended Exclusion) attached hereto and made a part of. Moreover, no uses of Lot 1 are permitted that are set forth on Exhibit "C" (Recommended Exclusion) attached hereto and made a part of.**
2. **Greenbelt, Setbacks and Screening Requirements.** The Owner shall, at commencement of any construction on the Southern Boundary of Lot 2, establish a landscaped Greenbelt Buffer twenty five (25) feet wide along the southern boundary of the Property. No buildings, parking facilities, any form

of impervious cover, containers, or dumpsters shall be permitted within the Greenbelt Buffer. The Owner shall maintain, landscape, mow, trim, water, fertilize and keep the Greenbelt Buffer free of litter. Landscaping shall as a minimum meet the City of Austin Compatibility Standards. Existing trees within the Greenbelt Buffer shall be preserved and maintained by the Owner. Additional trees, if required by the City, shall be planted to screen the adjacent single-family subdivision from view of structures on the Property. If additional trees are needed for open areas, they shall be a minimum of 3-3" caliper trees having a mature height of approximately 25 feet. If existing trees are removed from the Property during development of or construction, such trees shall be replaced according to the requirements of the City of Austin Land Development Code. The Owner shall keep up and maintain vegetative screening.

3. Building Height. Buildings shall be limited to a maximum of one (1) story and a maximum height of thirty (30) feet within seventy (70) feet from the southern boundary of Lot 2 and two (2) stories and a maximum height of forty-five (45) feet for the remainder of Lot 2.
4. Lighting and Noise Restrictions. All exterior lighting shall be hooded or shielded so that the light source is not directly visible from the adjacent single family subdivision. The noise level of equipment may not exceed 70 decibels on Lot 2 except during construction.
5. Signage Restrictions. No sign on the property within 260 feet of the southern boundary of Lot 2, either temporary or permanent, shall exceed a total height of seven (7) feet and a total square footage of sixty-four (64) square feet. Signage may be attached to the exterior of the building along the roof-line. Signage lighting shall be shielded and externally lit only on Lot 2.
6. Access. Access to the Property shall be limited to Swan Drive and Anderson Mill Road. City of Austin driveway spacing is every 200 feet on Swan Drive and every 200 feet on Anderson Mill Road. Access on Swan Drive to Lot 2 shall have no shared access with Lot 1. Access on Swan Drive to Lot 1 shall be located as close to Anderson Mill as City of Austin Code permits.
7. Flood Control and Drainage.
  - A. The Owner shall construct a detention pond to control the 2, 10, 25, and 100-year flood events. Control of storm water runoff and drainage is the responsibility of the Owner of the property and shall be controlled in the manner and at the rates established by the City of Austin, Travis County, and the Texas Natural Resources Conservation Commission.
  - B. Increase of surface or subsurface storm water drainage or septic drainage onto adjacent property is prohibited. Control of storm water runoff and drainage is the responsibility of the Owner of the Property and shall be controlled in the manner and at the rates established by the City of Austin,

Travis County, and the Texas Natural Resources Conservation  
Commission.

8. Building Materials. Building exterior walls shall consist of masonry products and non-reflective glass and shall be maintained in a professional manner by the Owner. The use of highly reflective surfaces, such as reflective glass and reflective metal roofs, is prohibited on Lot 2. Masonite siding is prohibitive.
9. Prohibited Uses. The Property may not be used for any use not permitted under the Zoning District GR. Moreover, no uses listed on the attached Exhibit "B" shall be allowed on Lot 2 and no uses listed on the attached Exhibit "C" shall be allowed on Lot 1.
10. Restaurant ( General ) shall be permitted in Lot 2 but be restricted to beer and wine sales only and shall be located with a 50 foot set back from Swan and a 70 foot set back from the southern boundary of Lot 2 and shall restrict Restaurant size to no more than 25% of the developed structures in Lot 2. If the Restaurant is within a larger structure, the Restaurant area shall be on the north side of said structure. If the Restaurant is freestanding, said structure shall be north of other structures located in Lot 2. Restaurant (General) shall be permitted in Lot 1 with the standard setbacks required by the City of Austin and no restrictions.
11. Service Station shall not be permitted within 260 feet of the southern boundary line of Lot 2.
12. Daycare Services shall not be permitted within 175 feet of the southern boundary line of Lot 2.
13. Dry Cleaning Services shall be limited to collection only within 175 feet of the southern boundary line of Lot 2.
14. Custom Manufacturing shall be limited to jewelry and contained within developed structure and shall contain a space no larger the 10% of the developed structures in Lot 2.
15. Balcones Greenes Monuments ("Monuments") shall remain within 175 feet of the southern boundary line of Lot 2 unless placement of access requires monument removal. The Association will be responsible for all upkeep and repair of the Monuments. If the Monuments must be moved, the Association will be responsible for all costs involved in the relocation of the Monuments. Any relocation of the Monuments within 175 feet of the southern boundary line of Lot 2 will be at the joint agreement of the Owner and the Association.

16. Existing Trees Along Swan Within The Landscape Easement (the "Swan Landscaping Area") shall remain unless placement of access or signage requires removal.
17. Balcones Greenes Sign will remain at the corner of Anderson Mill and Swan Drive unless the rights for signage to Lot 1 are limited by the City of Austin due to the Balcones Greenes Sign.

#### **General Provisions**

18. The Owner hereby stipulates, covenants and agrees that there is privity of estate between the Owner, the Association, and the owners of the Benefited Property and that the covenants, conditions, and restrictions herein are and shall be deemed and considered to be real covenants running with the land and shall be binding on the Owners, and shall benefit the Association, each owner of any portion of the Benefited Property and their respective heirs and assigns.
19. These covenants may be enforced by the Owner, the Association, or any owner of a portion of the Benefited Property and their respective successors, heirs and assigns. No failure to exercise, and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other further exercise thereof or the exercise of any other right.
20. If any party entitled to enforce these covenants undertakes procedures in law or in equity to prevent or terminate their violation, such party shall be entitled to seek injunctive relief, damages and such other relief as may be available at law or in equity. A prevailing party asserting such action shall be entitled to receive reasonable attorney's fees.
21. In the event any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or lack of enforceability shall not affect any other provision hereof.
22. The covenants and restrictions within these declarations shall run with and bind the Property. These covenants may not be amended or modified, or any of the terms hereof be waived, except by written instruments signed by the Owner and the Association, or, if the Association no longer exists, fifty-one percent (51%) of the owners with each lot being counted as one vote, by number of the Benefited Property.
23. These covenants shall be effective for a term of forty (40) years from the date hereof, after which time they shall be automatically extended for a successive ten-year periods, unless terminated or amended by a written instrument signed by the Owners and the Association, or, if the Association no longer exists,

fifty-one percent (51%) of the owners of the Benefited Property with each lot being counted as one vote, and recorded in the Real Property Records of Travis County, Texas.

24. By acceptance of a deed or by the acquiring of any ownership interest in any portion of the Property, each person or entity for himself or itself, his heirs, personal representatives, successors, and assigns binds himself, his heirs, personal representatives, successors, and assigns to all of the provisions, restrictions, covenants and conditions imposed by the Declaration, and any future amendments thereto.

#### **Exhibit B – Exclusions for Lot 2**

All Automotive  
Bail Bond  
Commercial Off Street Parking  
Drop-off Recycling  
Exterminating Service  
Funeral  
Guidance Services  
Hotel/motel  
Off site Accessory Parking  
Pawn  
Movie Theater with admission charge  
Residential Treatment  
Indoor/outdoor sports and recreation  
Dance Hall where the general public pays a cover charge to dance uninstructed at the facility.

The above exclusions will not exclude or preclude Lot 2, or any portion of Lot 2, from being used for a dance studio/stage/theatre where dance lessons or services associated with a dance studio or stage may be provided, or plays, recitals or cultural movies are performed or shown.

#### **Exhibit C – Exclusions for Lot 1**

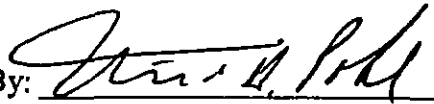
Automotive Repair and Automotive Washing  
Bail Bond  
Commercial Off Street Parking  
Drop-off Recycling  
Exterminating Service  
Funeral  
Guidance Services  
Hotel/Motel



Off site Accessory Parking  
Pawn  
Theater  
Residential Treatment


**Owner:**

Helen, Ltd.,  
A Texas limited partnership

By:   
William B. Pohl, General Partner

**Association:**

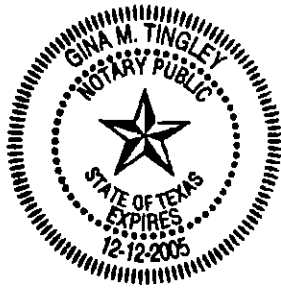
Balcones Greenes Homeowners  
Association, Inc.

By:   
Mike McGiffin, President

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on June 17, 2005 by  
William B. Pohl, General Partner of Helen, Ltd., on behalf of said limited partnership.

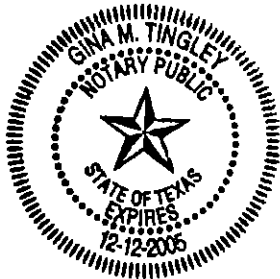


Gina M. Tingley  
Notary Public - State of Texas  
Printed Name: Gina M. Tingley  
Commission expires: 12-12-05

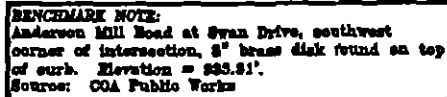
THE STATE OF TEXAS

COUNTY OF Travis

This instrument was acknowledged before me on June 17, 2005 by Mike McGiffin, President of Balcones Greenes Homeowners Association, Inc., a Texas nonprofit corporation, on behalf of said corporation.



Gina M. Tingley  
Notary Public - State of Texas  
Printed Name: Gina M. Tingley  
Commission expires: 12-12-05



1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

[illegible]

FOUND at a 1/2 acre lot found on the east right-of-way line of  
Spur Hwy (64) RTD at the northwest corner of Lot 68, Block 2,  
Baldwin Grange Subdivision, Section One as recorded in Book 64, Page  
570 of the Plat Records of Travis County, Texas, also being the  
northwest corner of said 6.1 acre remainder, for the southeast corner  
of the herein described 6.61 acre tract;

SECTION, N28°00'05"E with the common east right-of-way line of Green Drive, and the west line of said 6.1 acre remainder, and the west line of herein described tract a distance of 666.37 feet to a 1/2" iron rod found for the beginning of a curve to the right.

7000 ft. along the edge of a sand dune to the right a distance of 50.00 feet, said dune having a central angle 90°00'00", a radius of 35.00 feet, and a chord which bears N69°44'57" E for a distance of 35.00 feet to a 1/4" iron rod found in the 4th line of Anderson, MS. Road (B.O.V. variant) for a north easterly corner of said A.201 acre tract, also being the south line of a 6.641 acre tract bounded by the same line on the north and east, and by the line of the said Anderson, MS. Road on the west. Property Records of Travis County, Texas, and also a north easterly corner of said A.1 acre tract.

SECTION 207-05-10" along the common south right-of-way line of Anderson Hill Road, the south line of the 0.801 acre tract and the north line of both said 0.801 acre tract and said 2.1 acre remainder a distance 408.87 feet to a 1/4" iron rod found for the northeast corner of this tract.

21228. SHUTTERMAN leaving and south American M&E Road  
 went away, along the common west line of said S&O1 were traced,  
 the west line of Lot 27, Block 4, of Baltimore Grange Subdivision.  
 Phase 4, as recorded in document number 189000088 of the Central  
 Public Records Office, is a plat of a portion of the said lot 27, to a  
 N. 89° E. and red sand in the common north line of a S&O2 were traced  
 surveyed to Bureau 4 Marine Drive and as recorded in Volume 19048,  
 page 275 of the Real Property Records of Travis County, Texas, and  
 the west line of said lot 27, are remainder for the southeast  
 corner of this tract.

"HILL, STATE"Y continuing along the said common north line of said S.20N were tract, and the north of said S.1 cure remainder a distance of 72.00 feet to a 1/4" iron rod found for an interior oil corner of said S.1 cure remainder, also being the northwest corner of said S.20N cure tract, also being an interior oil corner of this tract;

XXXX, S14°10'01"E with the eastern east line of the said S.1 acre remainder, and the west line of said S.2024 acre tract, a distance of 100.01 feet to a 1/4" iron rod found for the southeast corner of said S.1 acre remainder, same being an angle point in northeast line of lot S1, Block 2, of said Delaney Greene Subdivision, Section One, for the southeast corner of this tract.

THURTON, NE 1/4 Sec 30, T 20 N, R 10 W with the common north line of lots 51, 52, 53, 54 and 55 of said Belmarne Grove Sub-Division, Section 29a, also being the north line of said 2.1-acre remainder, same being the north line of the hereto described tract a distance of 425.49 feet to the POINT OF BEGINNING and containing 5.501-acres (552,705 square feet) of land, more or less.

NUMBER	RADIUS	CHORD DIRECTION	ARC LENGTH	CHORD LENGTH	DELTA ANGLE
C1	25.00	N 47°34'47" E	39.32	35.39	90°06'19"
C2	25.00	N 47°31'12" E	39.27	35.36	90°00'54"

P.B.T.C.	REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
P.B.M.	WILLAMSON COUNTY, TEXAS DEED RECORDS
P.B.C.	DEED RECORDS OF TRAVIS COUNTY, TEXAS
P.B.T.C.	GENERAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
P.B.T.C.	PLAT RECORDS OF TRAVIS COUNTY, TEXAS

STATE OF TEXAS            ( )  
COUNTY OF TRAVIS        ( )       OWNER'S ACKNOWLEDGMENT

KNOW ALL MEN BY THESE PRESENTS: HELEN LYDIA, A TEXAS LIMITED PARTNERSHIP OF TRAVIS COUNTY, TEXAS, HANDED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, HAVING ITS HOME OFFICE IN ALBUQUERQUE, NEW MEXICO, BY ITS ATTORNEY-IN-FACT, CLAYTON W. GORDON, JR., OF THE FIRM OF GORDON, SWANSON & ASSOCIATES, P.C., A TEXAS LIMITED LIABILITY PARTNERSHIP, 1414 ACRES OF LAND LYING AND SITUATED IN THE S.E. AND N.E. 1/4 OF SECTION 30, 36, 37 AND 38, T.14N., R.10E., ABSTRACT NO. 744N, THE J.V. AGEE SURVEY NO. 122, ABSTRACT NO. 2830, AND THE JAMES D. IRVINE SURVEY NO. 122, ABSTRACT NO. 427, TRAVIS COUNTY, TEXAS SAME BEING A PORTION OF A 8.000 ACRE TRACT CONVEYED TO HELEN LYDIA, BY DEED RECORDED IN VOLUME 12586, PAGE 1710 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; DO HEREBY SUBDIVIDE SAID 1,414 ACRES IN ACCORDANCE TO THE PLAT ON MAPS SHOWN HERETO, TO BE KNOWN AS " " AND DEDICATE TO THE PUBLIC THE USE OF ALL STREETS AND ALLEYS THEREON, SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS HERETOFORE GRANTED AND NOT REVERSED.

WITNESSES MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

STATE OF TEXAS            (1)            KNOW ALL MEN BY THESE PRESENTS,  
COUNTY OF TRAVIS        (2)

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED SHARON SARGENT KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT. IT HAS BEEN ACKNOWLEDGED TO ME THAT HE EXECUTED THE FOREGOING INSTRUMENT AS OWNER OF THE PROPERTY DESCRIBED HEREIN.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

PRINTED NAME OF NOTARY AND NOTARY STAMP

**DATE NOTARY COMMISSION EXPIRES**

3/7/05

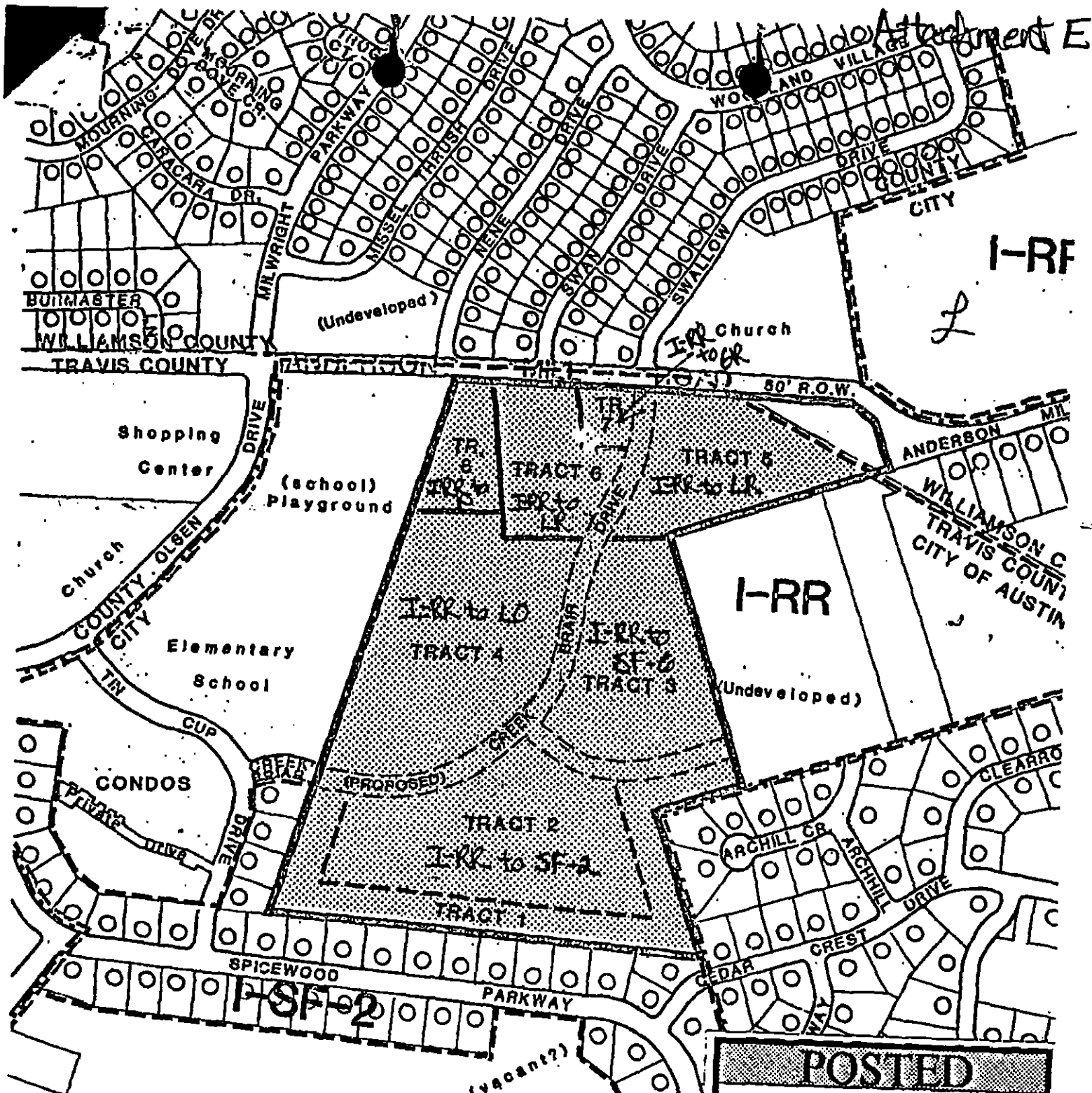
To: City of Austin Planning and Zoning Commission  
From: Balcones Greenes Neighborhood Association

RE: Letter of Support of Helen Ltd. Zoning case # KC 14040186

The purpose of this memo is to provide a written letter of support from the Neighborhood Association of the above referenced zoning case. Helen Ltd. has agreed to the attached restrictive covenants and the Neighborhood Association in recommending the approval of their zoning case.

Regards,

  
Chris Gardner, President  
Balcones Greenes Neighborhood Association



POSTED	
GRANTED ZONING:	<u>P</u> <u>OR</u> <u>LD</u> <u>LR</u> <u>SF-2</u> <u>SF-6</u>
STREET DEED:	<u>N/A</u>
RESTRICTIVE COVENANT:	<u>YES</u>
POSTED BY:	<u>RS</u> DATE: <u>6-5-86</u>
ORDINANCE #:	<u>85 1107-D</u>

	PENDING CASE .....
	ZONING LINE .....
	CYCLE <u>7/85</u> INTLS <u>RS</u>

SUBJECT TRACT .....
SUBJECT ACREAGE <u>43.516</u> AC
CASE NO: <u>C14-85-157</u>

GRID
<u>F</u>
<u>37</u>

# PETITION

Case Number:

**C14-04-0186**

Date:

June 15, 2005

Total Area within 200' of subject tract: (sq. ft.)

538,955.05

1	<u>01-7215-0105</u>	<u>IYYENGAR</u> <u>RANGASAMY &amp;</u>	<u>18,092.43</u>	<u>3.36%</u>
2	<u>01-7215-0116</u>	<u>JAMESON ROBERT M</u> <u>&amp; DIANA K</u>	<u>2,767.05</u>	<u>0.51%</u>
3	<u>01-7215-0416</u>	<u>LUO SHIGUO &amp;</u> <u>HUAIYING JIANG</u>	<u>479.64</u>	<u>0.09%</u>
4	<u>01-7215-0419</u>	<u>SLOCUM MICHAEL A &amp;</u> <u>BRIDGET A</u>	<u>14,625.84</u>	<u>2.71%</u>
5	<u>01-7215-0422</u>	<u>MACE WILLIAM T &amp;</u> <u>JEANETTE E</u>	<u>18,206.41</u>	<u>3.38%</u>
6				<u>0.00%</u>
7				<u>0.00%</u>
8				<u>0.00%</u>
9				<u>0.00%</u>
10				<u>0.00%</u>
11				<u>0.00%</u>
12				<u>0.00%</u>
13				<u>0.00%</u>
14				<u>0.00%</u>
15				<u>0.00%</u>
16				<u>0.00%</u>
17				<u>0.00%</u>
18				<u>0.00%</u>
19				<u>0.00%</u>
20				<u>0.00%</u>
21				<u>0.00%</u>
22				<u>0.00%</u>
23				<u>0.00%</u>
24				<u>0.00%</u>
25				<u>0.00%</u>
26				<u>0.00%</u>
27				<u>0.00%</u>
28				<u>0.00%</u>

Validated By:

Stacy Meeks

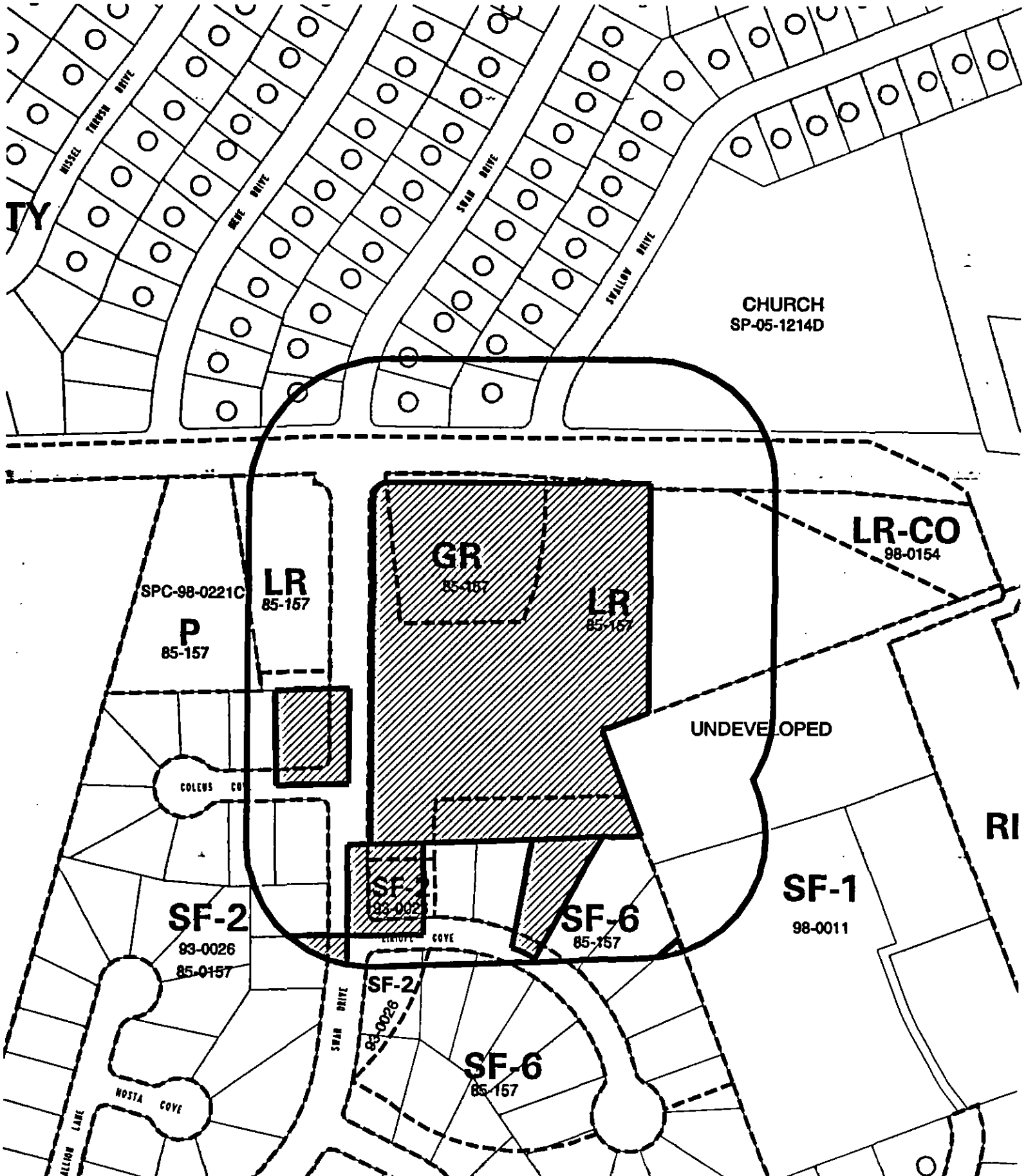
Total Area of Petitioner:

54,171.37

Total %

10.05%

TY



 1" = 200'	SUBJECT TRACT		PETITIONS		CITY GRID REFERENCE NUMBER F37
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: S. GAGER				
CASE #: C14-04-0186			DATE: 05-08		
ADDRESS: ANDERSON MILL RD @ SWAN					
SUBJECT AREA (acres): 5.810			INTLS: SM		

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: C14-04-0186

Contact: Sherri Gager, (512) 974-3057

Public Hearing:

March 15, 2005 Zoning and Platting Commission

WILLIAM T. MACE

Your Name (please print)

10016 LIRIOPE COVE

Your address(es) affected by this application

William T. Mace

Signature

3/9/05

Date

Comments: WE RESPECTFULLY REQUEST THAT  
SUBJECT ZONING NOT BE CHANGED TO "SR"  
BECAUSE: (1) INCREASED TRAFFIC ON SWAN DA-  
VE WILL DECREASE SAFETY AND INCREASE POLLUTION,  
(2) BUSINESSES COULD SELL ALCOHOLIC DRINKS  
WHICH WOULD ADVERSELY AFFECT OUR NEIGHBORHOOD.

(3) HOME VALUES WOULD LIKELY DECREASE

(4) PROBABLE LOSS OF LARGE OAK TREES -

(5) HOMES WERE BUILT AND PURCHASED BASED ON  
WHAT AREA REMAINING LR ZONING.

(6) FEW, IF ANY, RESTRICTIONS ON TYPES OF BUILDINGS  
OR COMMERCIAL BUSINESSES WHICH MIGHT BE  
BUILT UNDER SR.

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

City of Austin

Neighborhood Planning and Zoning Department

Sherri Gager

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: C14-04-0186

Contact: Sherri Gager, (512) 974-3057

Public Hearing:

May 17, 2005 Zoning and Platting Commission

WILLIAM T. MACE

Your Name (please print)

10016 LIRIOPE COVE

Your address(es) affected by this application

William T. Mace

Signature

5/11/05

Date

Comments: CHANGING ZONING FROM LR TO  
SR WOULD BE UNDESIRABLE BECAUSE:  
(1) TRAFFIC WOULD GREATLY INCREASE  
ON SWAN DRIVE, (2) NOISE LEVELS  
AND POLLUTION WOULD INCREASE,

(3) LIQUOR COULD BE SOLD AND CONSUMED  
WITHIN 100 FT. TO 200 FT. OF OUR  
RESIDENCE, AND OTHERS IN THE NEIGHBORHOOD.

(4) PROBABLE DECREASE IN PROPERTY VALUES.

(5) DECLINE IN APPEARANCE OF NEIGHBORHOOD.

(6) WOULD NOT HAVE PURCHASED IF ZONING HAD  
IF YOU USE THIS FORM TO COMMENT, IT MAY BE RETURNED TO: BEEN S-R  
INSTEAD OF

City of Austin

Neighborhood Planning and Zoning Department

Sherri Gager

P. O. Box 1088

Austin, TX 78767-8810

OF OUR

PROPERTY.

WTH



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: C14-04-0186

Contact: Sherri Gager, (512) 974-3057

Public Hearing:

March 29, 2005 Zoning and Platting Commission

Michael A Stocum

Your Name (please print)

10004 Liriope Cove 78750

Your address(es) affected by this application

Michael A Stocum 3/22/05

Signature

Date

Comments: Comments Attached Below.

IF the "DECLARATION OF RESTRICTIVE COVENANTS", made by "Helen, Ltd., a Texas limited partnership", and supported by the "Balcones Greengrass Homeowners Association, Inc" and signed by its president Chris Gardner, is accepted and incorporated as a restrictive covenant by the City of Austin on the property specified in those covenants and in case number C14-04-0186

THEN I am in favor of the rezoning as proposed by the owner, and as restricted by the agreed upon covenants.

HOWEVER, if the above covenants are not accepted and incorporated as a restrictive covenant by the City of Austin on the property specified, then I object to the rezoning.

Michael A Stocum 3/22/05

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: C14-04-0186

Contact: Sherri Gager, (512) 974-3057

Public Hearing:

March 15, 2005 Zoning and Platting Commission

Rangaswamy Tyengad

Your Name (please print)

10100 COLBUS COVE

Your address(es) affected by this application

KR 03/28/05

Signature

Date

Comments:

Low Cost Condominiums will drastically reduce the appreciation we had on our property. Also will

crowd the community and hence the traffic around.

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

City of Austin

Neighborhood Planning and Zoning Department

Sherri Gager

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: C14-04-0186

Contact: Sherri Gager, (512) 974-3057

Public Hearing:

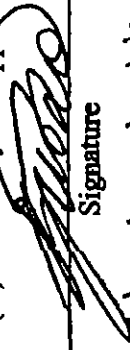
May 17, 2005 Zoning and Platting Commission

Shiguo Luo

Your Name (please print)

9916 Libiope Cv.

Your address(es) affected by this application



Signature

Date

5/15/05

Comments: We strongly object rezoning the land (Lot 1 and Lot 2.) to general retail or limited retail commercial district because:

1. There has been a very big commercial/shopping center there in the neighborhood areas that is close to the corner of Anderson Mill RD and HWY 183
2. There have been so many shopping stores and offices facilities along the Anderson Mill RD
3. Existing highly-dense commercial building make worse and worse traffic, especially the morning section LR-SF-b-GIR of the time, because of the traffic jam and accidents.

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

City of Austin

Neighborhood Planning and Zoning Department

Sherri Gager

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: C14-04-0186

Contact: Sherri Gager, (512) 974-3057

Public Hearing:

March 15, 2005 Zoning and Platting Commission

DIANA AND BOB JAMESON

Your Name (please print)

11610 SWAN DR. AUSTIN, TX 78750

Your address(es) affected by this application

Diana Jameson

Signature

Date

3-10-05

Comments: Swan Drive has become a cut thru street since we moved here. There is so much traffic it is hard to get out of the drive way sometimes. It isn't safe for our grandchildren to play in the front yard. It is already difficult for fire dept. to get their property at times. There have been many auto accidents at the intersection of Swan and Anderson Mill Rd.

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

City of Austin

Neighborhood Planning and Zoning Department

Sherri Gager

P. O. Box 1088

Austin, TX 78767-8810

Attachment G

March 9, 2005

Ms. Sherri Sirwaitis  
City of Austin  
505 Barton Springs Rd.  
Austin, TX 78767

Fax: 974-6054

RE: Helen, Ltd. Zoning Case # C14-04-0186

Per our phone conversation today we would like to request a postponement for the above referenced zoning case until April 5, 2005. If this is satisfactory please remove the zoning case from the Planning Commissions agenda on March 15, 2005 and add us to the agenda on April 5, 2005.

Regards,

Lee Miks  
Helen, Ltd.



**POHL, BROWN & ASSOCIATES, INC.**

13809 RESEARCH BLVD., SUITE 1000

AUSTIN, TEXAS 78750

(512) 335-5577 • Fax (512) 335-1309

**March 29, 2005**

**Ms. Sherri Sirwaitis  
City of Austin  
505 Barton Springs Rd.  
Austin, TX 78767**

**Fax: 974-6054**

**RE: Helen, Ltd. Zoning Case # C14-04-0186**

**Per our phone conversation today we would like to request a postponement  
for the above referenced zoning case until April 19, 2005.**

**Regards,**

**Lee Miks  
Helen, Ltd.**

Attachment H

**POHL, BROWN & ASSOCIATES, INC.**

13809 RESEARCH BLVD., SUITE 1000

AUSTIN, TEXAS 78780

(512) 335-5577 • Fax (512) 335-1309

4-11-05

Ms. Sherri Sirwaitis  
City of Austin  
505 Barton Springs Rd.  
Austin, TX 78767

Fax: 512-974-6054

**RE: Helen, Ltd. Zoning Case # C14-04-0186**

Per our phone conversation today we are requesting a postponement of the above referenced zoning case from the commissioners meeting on 4-19-05 to the commissioners meeting on 6-7-05. The reasons we need an additional extension are as follows:

1. The Neighborhood Association has a new president and we need time to bring him up to date.
2. We are continuing to revise a preliminary site plan that, we hope, when it is updated it will address more of the outstanding concerns.

Regards,

Lee Miks

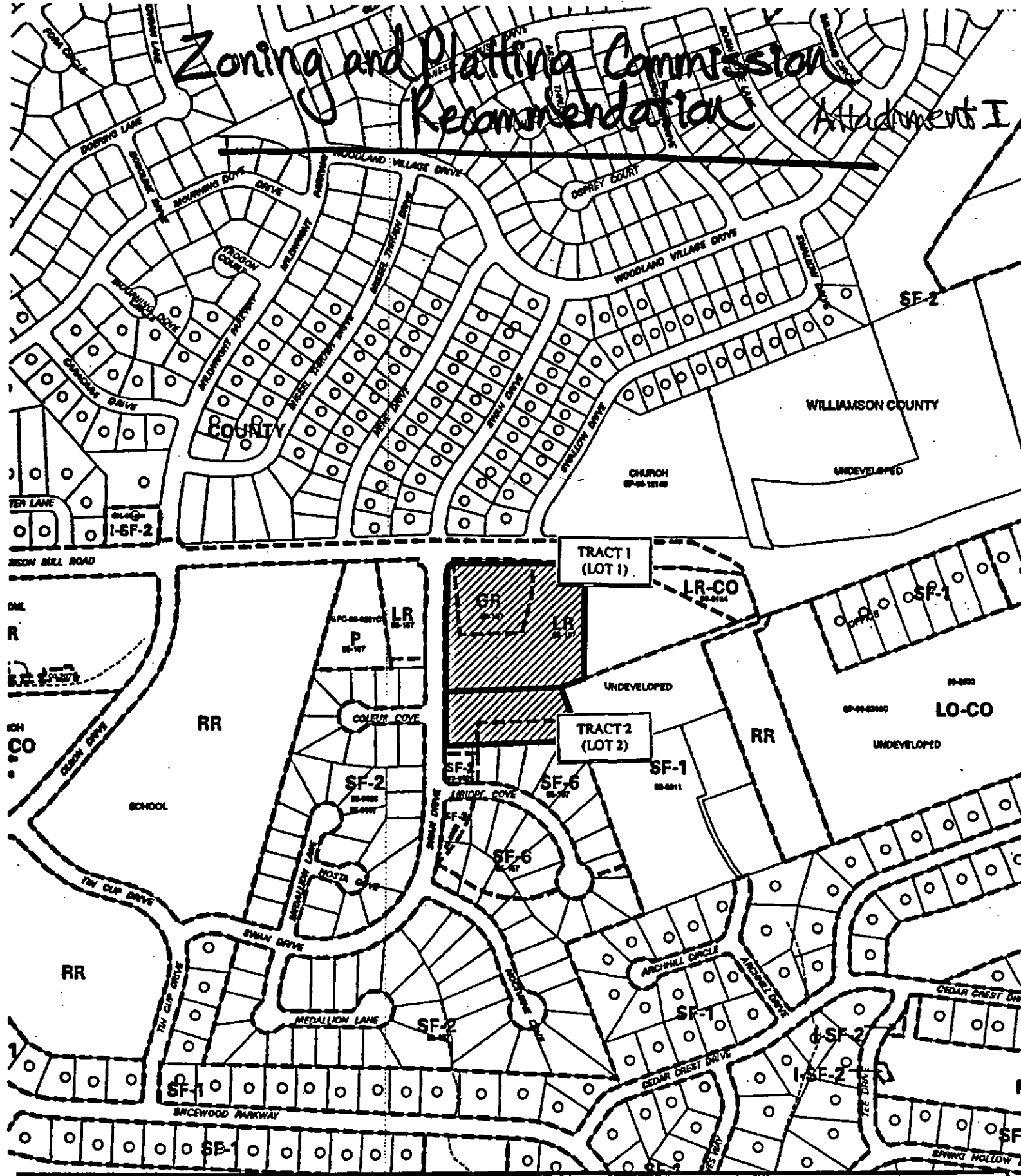
CORPORATE HEADQUARTERS: AUSTIN, TEXAS





USA AFFILIATE OFFICES: DALLAS, TEXAS; HOUSTON, TEXAS; SAN BERNADINO, CALIFORNIA; NAPLES, FLORIDA

EUROPEAN AFFILIATE OFFICES: BELGIUM, FRANCE, ITALY, THE NETHERLANDS, SWITZERLAND

# Zoning and Platting Commission Recommendation

Attachment I



 1" = 400'	SUBJECT TRACT		<b>ZONING</b>  CASE #: C14-04-0186 ADDRESS: ANDERSON MILL RD @ SWAN DR SUBJECT AREA (acres): 5.810	CITY GRID REFERENCE NUMBER  F37	
	PENDING CASE				DATE: 06-07
	ZONING BOUNDARY				INTLS: SM
	CASE MGR: S. GAGER				

- 12. Rezoning:** C14-04-0186 - Helen, Ltd.  
**Location:** 10700 Anderson Mill Road, Bull Creek Watershed  
**Owner/Applicant:** Helen, Ltd. (William B. Phol)  
**Agent:** Pohl, Brown, and Associates, Inc. (Lee Miks)  
**Prev.** Postponed from 3/29/05 (applicant); Postponed from 4/19/05  
**Postponement** (applicant); Posponed from 5/17/05 (applicant)  
**Request:** GR, LR, SF-6 to GR  
**Staff Rec.:** **ALTERNATE RECOMMENDATION: GR-CO FOR TRACT 1,  
LO FOR TRACT 2**  
**Staff:** Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us  
Neighborhood Planning and Zoning Department

***APPROVED GR-CO ZONING FOR BOTH TRACTS; THE CONDITIONS LIMITING THE  
USES ON LOT 1 TO THOSE LISTED AS EXHIBIT C IN THE PRIVATE COVENANT;  
THOSE USES WILL BE EXCLUDED. FOR LOT 2; EXCLUDE THE USES SHOWN ON  
EXHIBIT B; AND PROHIBIT GUIDANCE SERVICES FOR BOTH TRACT 1 & 2; ALSO  
INCLUDE THE T.I.A.  
[K.J; J.M 2<sup>ND</sup>] (9-0)***

- 13. Rezoning:** C14-05-0070 - T. Warren Investments  
**Location:** 3320 - 3404 South FM 973 Road, Colorado River Watershed  
**Owner/Applicant:** T. Warren Investments, Inc. (Thomas G. Warren)  
**Agent:** Chartwell Interests, Inc. (Timothy Merriweather)  
**Request:** I-RR to P-CO  
**Staff Rec.:** **RECOMMENDED**  
**Staff:** Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us  
Neighborhood Planning and Zoning Department

***APPROVED P-CO ZONING SUBJECT TO STAFF DETERMINATION OF RIGHT-OF-  
WAY REQUIREMENTS & RESERVATION REQUIREMENTS FOR 973, AND TO BE MET  
PRIOR TO 3<sup>RD</sup> READING AT CITY COUNCIL.  
[J.M; J.G 2<sup>ND</sup>] (9-0)***

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT ANDERSON MILL ROAD AT SWAN DRIVE FROM TOWNHOUSE AND CONDOMINIUM RESIDENCE (SF-6) DISTRICT, NEIGHBORHOOD COMMERCIAL (LR) DISTRICT AND COMMUNITY COMMERCIAL (GR) DISTRICT TO COMMUNITY COMMERCIAL DISTRICT-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.**

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

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base districts from townhouse and condominium residence (SF-6) district, neighborhood commercial (LR) district and community commercial (GR) district to community commercial district-conditional overlay (GR-CO) combining district on the property described in Zoning Case No. C14-04-0186, on file at the Neighborhood Planning and Zoning Department, as follows:

Tract One: A 4.181 acre tract of land, more or less (also identified as Lot 1), out of the W.M. Frampton Survey, the S.A. and M.G.R.R. Survey, the J.V. Agee Survey and the James C. Irvine Survey, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance; and,

Tract Two: A 1.621 acre tract of land, more or less (also identified as Lot 2), out of the S.A. and M.G.R.R. Abstract, the J.V. Agee Survey and the James C. Irvine Survey, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this ordinance (the "Property"),

locally known as the property at Anderson Mill Road at Swan Drive, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "C".

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

1. The following uses are prohibited uses of Tract One (Lot 1):

Automotive repair services  
Bail bond services

Automotive washing (of any type)  
Commercial off-street parking



1 Drop-off recycling collection facilities  
2 Funeral services  
3 Off-site accessory parking  
4 Theater  
5 Guidance services

Exterminating services  
Hotel/motel  
Pawn shop services  
Residential treatment

7 2. The following uses are prohibited uses of Tract Two (Lot 2):

9 Automotive rentals  
10 Automotive repair services  
11 Bail bond services  
12 Drop-off recycling collection facilities  
13 Funeral services  
14 Off-site accessory parking  
15 Residential treatment  
16 Guidance services

Automotive sales  
Automotive washing (of any type)  
Commercial off-street parking  
Exterminating services  
Hotel/motel  
Pawn shop services  
Indoor sports and recreation

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

22 PART 3. This ordinance takes effect on \_\_\_\_\_, 2005.

25 PASSED AND APPROVED

27 \_\_\_\_\_ 2005

§  
§  
§

Will Wynn  
Mayor

34 APPROVED: \_\_\_\_\_

David Allan Smith  
City Attorney

ATTEST: \_\_\_\_\_

Shirley A. Brown  
City Clerk

# TITLE SURVEY OF 4.181 ACRES

A DESCRIPTION OF 4.181 ACRES OF LAND LYING AND SITUATED IN THE W.M. FRAMPTON SURVEY, ABSTRACT NO. 230, THE S.A. AND M.O.R.R., ABSTRACT NO. 748, THE J.V. AGEE SURVEY NO. 81, ABSTRACT NO. 2530, AND THE JAMES C. IRVINE SURVEY NO. 122, ABSTRACT NO. 427, TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF A 8.1 ACRE REMAINDER OF THAT CERTAIN 43.818 ACRE TRACT OF LAND CONVEYED TO BETHANY UNITED METHODIST CHURCH FROM RESOLUTION TRUST CORPORATION BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN OF RECORD IN VOLUME 11728, PAGE 1073 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING for reference at a 1/2" iron rod found on the east right-of-way line of Swan Drive (64' ROW) at the northwest corner of Lot 85, Block B, Balcones Greens Subdivision, Section One as recorded in Book 84, Page 370 of the Plat Records of Travis County, Texas, also being the southwest corner of said 8.1 acre remainder;

THENCE, N02°30'25"E with the common east right-of-way line of Swan Drive, and the west line of said 8.1 acre remainder, a distance of 173.98 feet to a 1/2" iron rod set w/ cap marked "ATS" for the southwest corner of the herein described 4.181 acres tract and the POINT OF BEGINNING;

THENCE, continuing with said east right-of-way line of Swan Drive, and the west line of said 8.1 acre remainder, N02°30'25"E a distance of 382.31 feet to a 1/2" iron rod found for a point of curvature to the right;

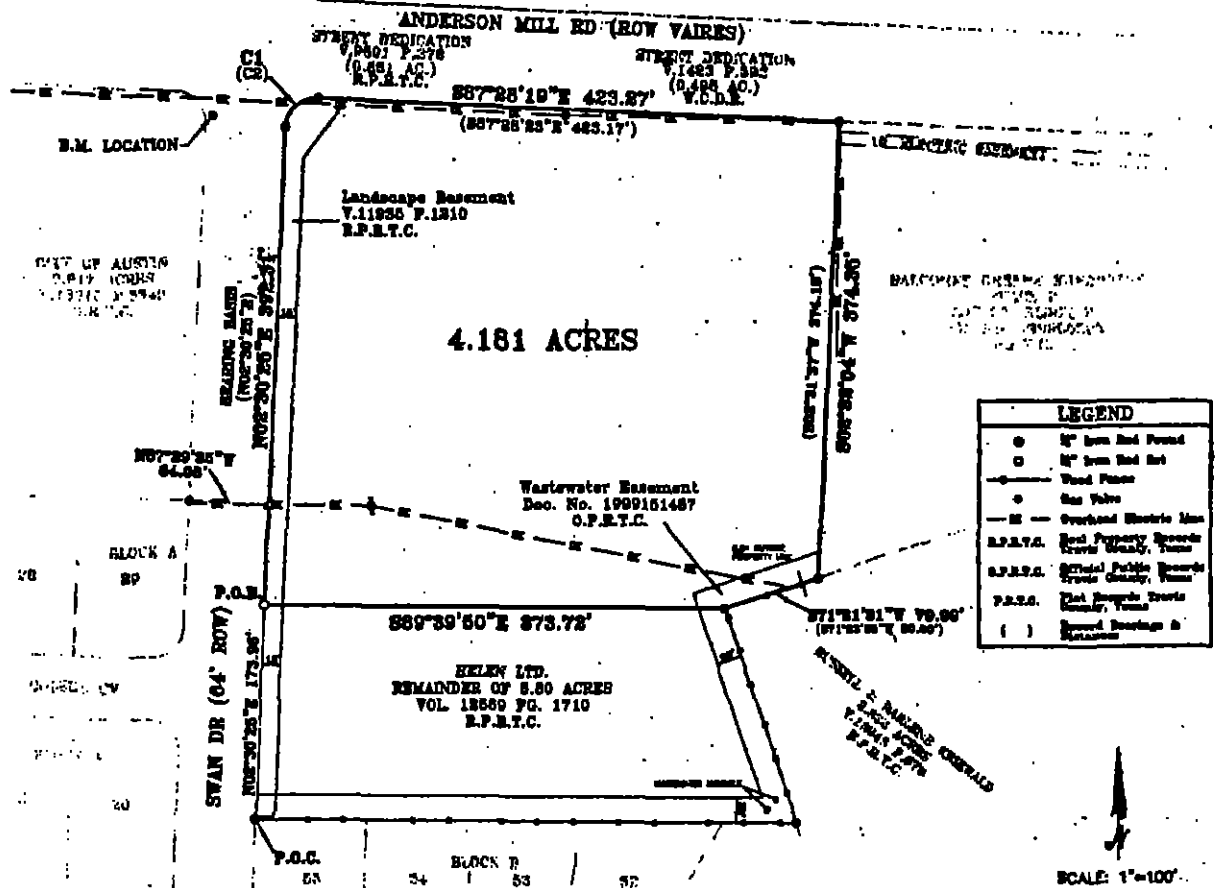
THENCE, along the arc of said curve to the right a distance of 39.32 feet, said curve having a central angle 90°06'18", a radius of 25.00 feet, and a chord which bears N47°34'47"E for a distance of 35.38 feet to a 1/2" iron rod found in the south line of Anderson Mill Road (R.O.W. varies) for a north easterly corner of said 8.801 acre tract, also being the south line of a 0.631 acre tract street dedication conveyed to the public by deed of record in Volume 8601, page 278 of the Real Property Records of Travis County, Texas, and also a north easterly corner of said 8.1 acre remainder;

THENCE, S87°28'18"E along the common south right-of-way line of Anderson Mill Road, the south line of the 0.631 acre tract and the north line of both said 4.181 acre tract and said 8.1 acre remainder a distance 423.27 feet to a 1/2" iron rod found for the northeast corner of this tract;

THENCE, S02°32'04"W leaving said south Anderson Mill Road right-of-way, along the common east line of said 8.801 acre tract, the west line of Lot 87, Block B, of Balcones Greens Subdivision, Phase 2, as recorded in document number 189800202 of the Official Public Records of Travis County, Texas, a distance of 374.35 feet to a 1/2" iron rod found in the common north line of a 2.832 acre tract conveyed to Russell & Darlene Kriwald as recorded in Volume 13048, page 878 of the Real Property Records of Travis County, Texas, and the east line of the said 8.1 acre remainder for the southeast corner of this tract;

THENCE, S71°31'31"W continuing along the said common north line of said 2.832 acre tract, and the east line of said 8.1 acre remainder a distance of 78.99 feet to a 1/2" iron rod found for an interior all corner of said 8.1 acre remainder, also being the northwest corner of said 2.832 acre tract, also being an interior all corner of this tract;

THENCE, leaving the east line of said 8.1 acre remainder and the north line of said 2.832 acre tract, over and across said 8.1 acre remainder tract, N86°36'50"W a distance of 373.72 feet to the POINT OF BEGINNING and containing 4.181-acres of land, more or less.



I, Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

NUMBER	RADIUS	CHORD DIRECTION	ARC LENGTH	CHORD LENGTH	DELTA ANGLE
C1	25.00	N 47°34'47" E	39.32	35.38	90°06'19"
C2	25.00	N 47°31'12" E	39.27	35.36	90°00'54"

## NOTES:

All easements referenced in GF No. 040788 as provided by Chicago Title Insurance Company and Heritage Title Company of Austin, Inc. are shown hereon.

*Paul Utterback*  
 Paul Utterback, RPLS No. 5738  
 Client: Pohl-Brown  
 Date of Field Work: 8/2/2004  
 Field: RW, JC, CT  
 Tech: DClark  
 Date Drawn: 07/06/2005  
 Path: Projects/4000/Pohl Brown/Helen.Ltd/plot/lot1.dwg



EXHIBIT A

allen morris  
**ATS**  
 Engineers  
 Inspectors  
 & Surveyors  
 www.allenmorris.com  
 4001 BLUE CROSS BLVD STE 200  
 AUSTIN, TEXAS 78704  
 512-452-0000  
 512-452-0001

# TITLE SURVEY OF 1.621 ACRES

ATS Job # 0407185.0

A DESCRIPTION OF 1.621 ACRES OF LAND LYING AND SITUATED IN THE S.A. AND M.G.R.R. SURVEY No. 800, ABSTRACT No. 748; THE J.V. AGEE SURVEY No. 122, ABSTRACT No. 2630; AND THE JAMES C. IRVINE SURVEY No. 122, ABSTRACT No. 427, TRAVIS COUNTY, TEXAS SAME BEING A PORTION OF 5.800 ACRE TRACT CONVEYED TO HELEN LTD., BY DEED RECORDED IN VOLUME 12569, PAGE 1710 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

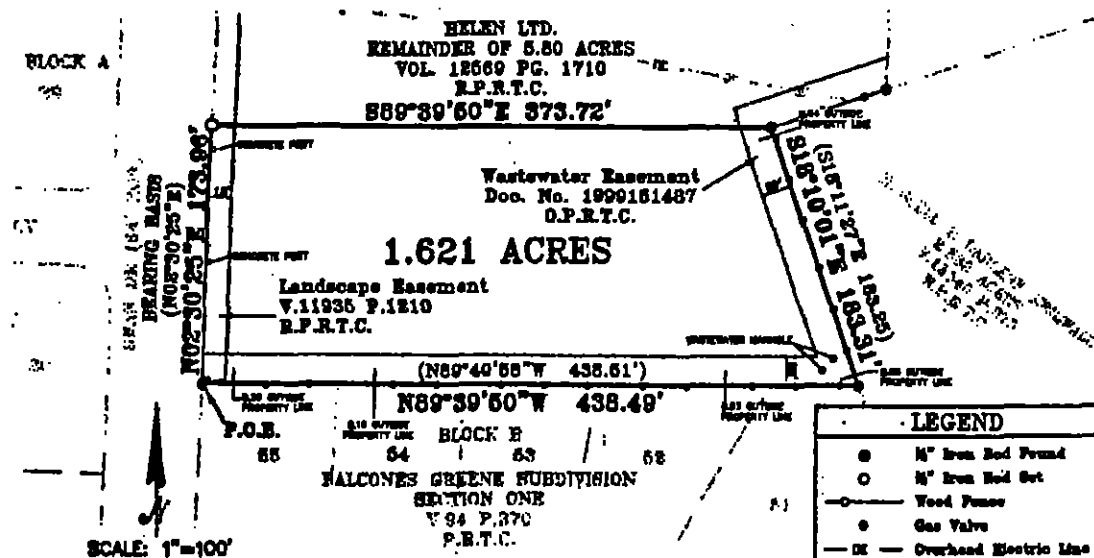
BEGINNING at a 1/2" iron rod found on the east right-of-way line of Swan Drive (64' ROW) at the northwest corner of Lot 55, Block B, Balcones Greene Subdivision, Section One as recorded in Book 84, Page 370 of the Plat Records of Travis County, Texas, also being the southwest corner of said 5.800 acre tract, for the southwest corner of the herein described 1.621 acre tract;

THENCE, continuing with east right-of-way line of Swan Drive, also being the west line of said 5.800 acre tract, N89°39'50"E a distance of 173.86 feet to a 1/2" iron rod with cap reading 'ATS-Engineers' set for the northwest corner of this tract;

THENCE, leaving said east right-of-way line and traveling across said 5.800 acre tract S89°39'50"E a distance of 373.72 feet to the east line of the said 5.800 acre tract also being in the west line of the Russell and Darlene Kriewald 2.832 acre tract, as recorded in Volume 13048, Page 878 of the Real Property Records of Travis County, Texas for a 1/2" iron rod with cap reading 'ATS-Engineers' set for the northeast corner of this tract;

THENCE, continuing on east line of said 5.800 acre tract, also being the west line of said 2.832 acre tract, S18°10'01"E a distance of 183.31 feet to a 1/2" iron rod found for the southeast corner of the said 5.800 acre tract and also on angle point in northeast line of lot 51, Block B, of said Balcones Greene Subdivision, Section One, for the southeast corner of this tract;

THENCE, with the north lines of lots 51, 52, 53, 54 and 55 of said Balcones Greene Subdivision, Section One, same being the south line of said 5.800 acre tract, N89°39'50"W a distance of 438.49 feet to the POINT OF BEGINNING and containing 1.621-acres (70,598 square feet) of land, more or less.



## NOTES:

All easements referenced in GF No. 040768 as provided by Chicago Title Insurance Company and Heritage Title Company of Austin, Inc. are shown hereon.

I, Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

EXHIBIT B

Paul Utterback, RPLS No. 5738

Client: Pohl-Brown

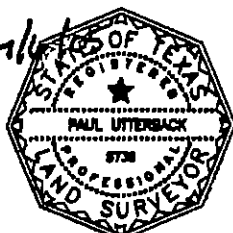
Date of Field Work: 9/2/2004

Field: RM, JC, CT

Tech: DClark

Date Drawn: 10/18/2004

Path: Projects/4000/Pohl Brown/HelenLtd/plat/lot2.dwg



allen martin's

**ATS**

www.ats-engineers.com

4071 ONE CHANDLER ROAD, SUITE 200

AUSTIN, TEXAS 78704

(512) 333-4000

FAX: (512) 333-4000

**Engineers  
Inspectors  
& Surveyors**

7000 W. LITTLE YORK, SUITE 400

HOUSTON, TEXAS 77060

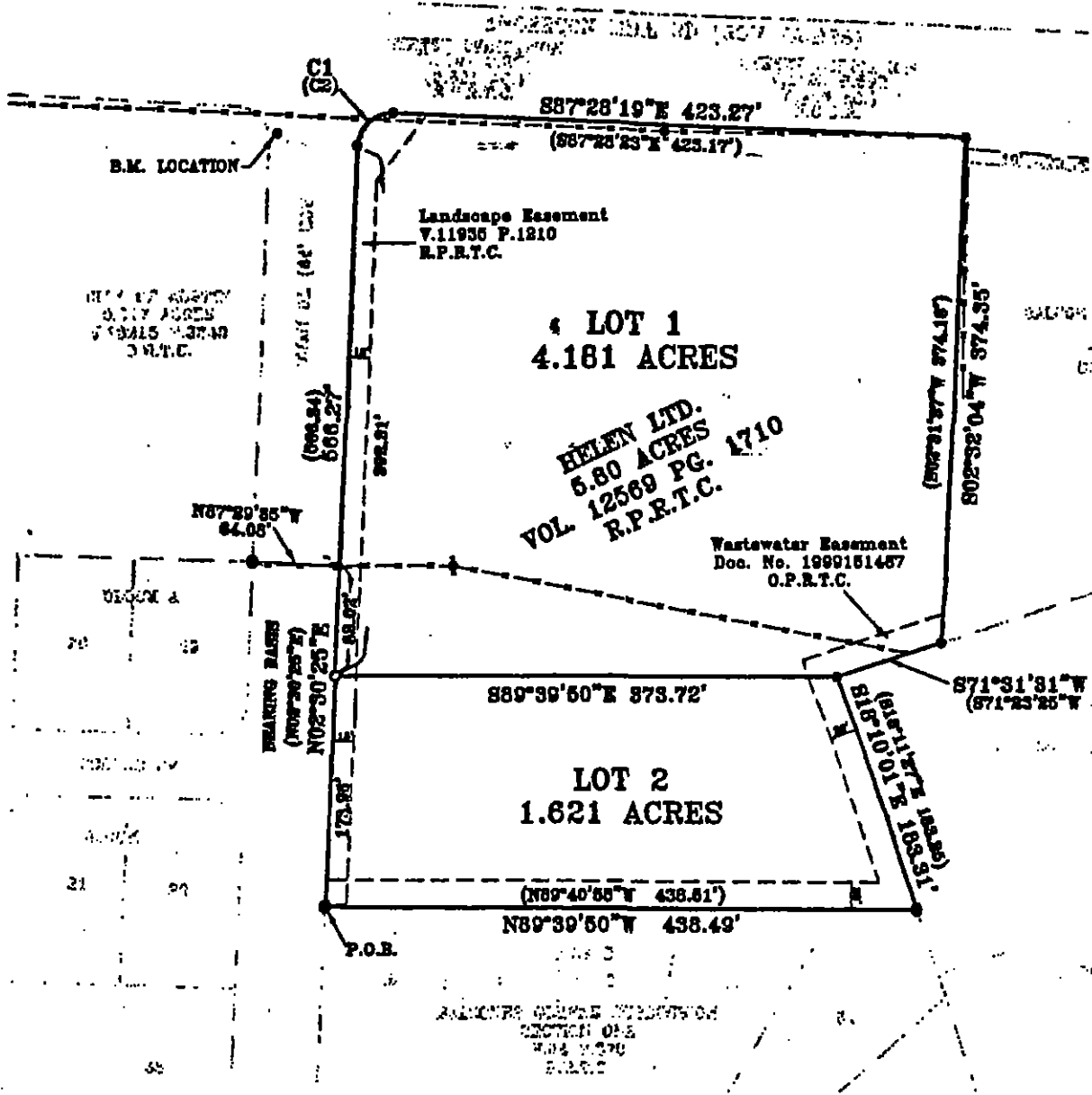
(281) 333-0000

FAX: (281) 333-0004



( IN FEET )  
1 inch = 100 ft.

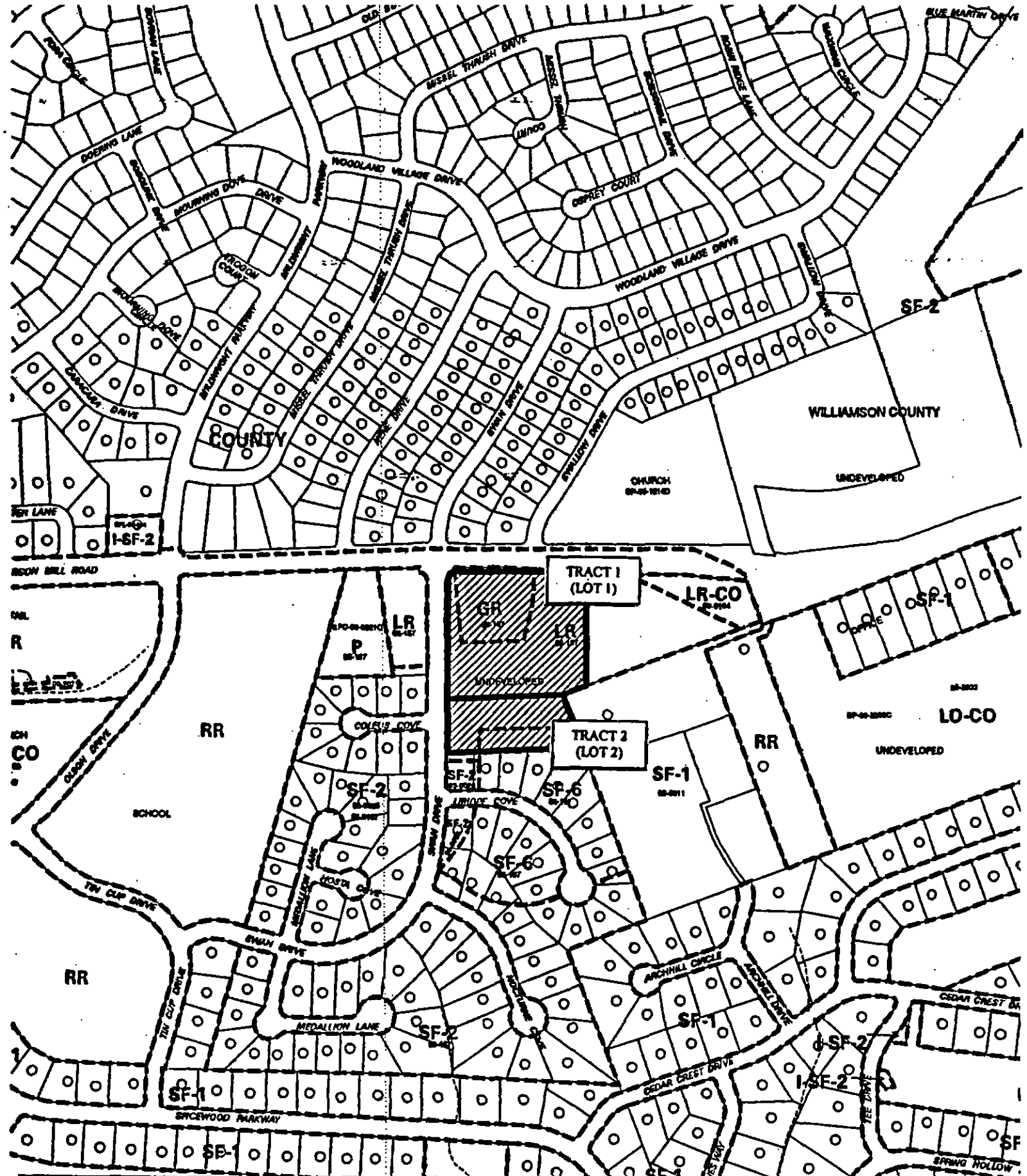
**BENCHMARK NOTE:**  
Anderson Mill Road at Swan Drive, sou  
corner of intersection, 3" brass disk  
of curb. Elevation = 933.31'.  
Source: COA Public Works







### SKETCH FOR EXHIBITS A + B

NUMBER	RADIUS	CHORD DIRECTION	ARC LENGTH	CHORD LENGTH	DELTA ANGLE
C1	25.00	N 47°34'47" E	39.32	35.39	90°06'19"
C2	25.00	N 47°31'12" E	39.27	35.36	90°00'54"

R.P.R.T.C.	REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
W.C.D.R.	WILLIAMSON COUNTY, TEXAS DEED RECORDS
D.R.T.C.	DEED RECORDS OF TRAVIS COUNTY, TEXAS
O.P.R.T.C.	OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
P.R.T.C.	PLAT RECORDS OF TRAVIS COUNTY, TEXAS



 1" = 400'	SUBJECT TRACT		<b>ZONING Exhibit C</b>  CASE #: C14-04-0186 ADDRESS: ANDERSON MILL RD @ SWAN SUBJECT AREA (acres): 5.810	DATE: 05-07  INTLS: SM	CITY GRID REFERENCE NUMBER F37
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: B. GAGER				

**RESTRICTIVE COVENANT**

**OWNER:** Helen, Ltd., a Texas limited partnership

**ADDRESS:** 13809 Research Boulevard #1000, Austin, Texas 78750

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** Two tracts of land consisting of a 4.181 acre tract (also identified as Lot 1), and a 1.621 acre tract (also identified as Lot 2), more or less, out of various surveys in Travis County, Texas, the tracts being more particularly described by metes and bounds in Exhibits "A" and "B" attached and incorporated into this covenant.

**WHEREAS**, the Owner, whether one or more, of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

**NOW, THEREFORE**, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Transportation Group, Inc., dated February 2005, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated February 28, 2005. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. In the event an admission charge is required for a movie theater, the Owner agrees to prohibit a theater use on the 1.621 acre tract (Lot 2).
3. In the event a cover charge is required for the general public to dance uninstructed at the facility, the Owner agrees to prohibit a personal improvement services use on the 1.621 acre tract (Lot 2).
4. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
5. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

6. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
7. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 21<sup>st</sup> day of July, 2005.

OWNER:

Helen, Ltd.,  
A Texas limited partnership

By:   
William B. Pohl,  
General Partner

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 21 day of July, 2005 by William B. Pohl, General Partner, on behalf of Helen, Ltd., a Texas limited partnership.



  
Notary Public, State of Texas

# TITLE SURVEY OF 4.181 ACRES

ATS Job # 0407185.0

A DESCRIPTION OF 4.181 ACRES OF LAND LYING AND SITUATED IN THE W.M. FRAMPTON SURVEY, ABSTRACT NO. 230, THE S.A. AND M.G.R.R., ABSTRACT NO. 748, THE J.V. AGE SURVEY NO. 81, ABSTRACT NO. 2530, AND THE JAMES C. IRVINE SURVEY NO. 122, ABSTRACT NO. 427, TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF A 8.1 ACRE REMAINDER OF THAT CERTAIN 43.818 ACRE TRACT OF LAND CONVEYED TO BETHANY UNITED METHODIST CHURCH FROM RESOLUTION TRUST CORPORATION BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN OF RECORD IN VOLUME 11728, PAGE 1073 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING for reference at a 1/2" Iron rod found on the east right-of-way line of Swan Drive (64' ROW) at the northwest corner of Lot 55, Block B, Balcones Greene Subdivision, Section One as recorded in Book 94, Page 370 of the Plat Records of Travis County, Texas, also being the southwest corner of said 8.1 acre remainder;

THENCE, N02°30'25"E with the common east right-of-way line of Swan Drive, and the west line of said 8.1 acre remainder, a distance of 173.86 feet to a 1/2" Iron rod set w/asp marked "ATS" for the southwest corner of the herein described 4.181 acres tract and the POINT OF BEGINNING;

THENCE, continuing with said east right-of-way line of Swan Drive, and the west line of said 8.1 acre remainder, N02°30'25"E a distance of 382.31 feet to a 1/2" Iron rod found for a point of curvature to the right;

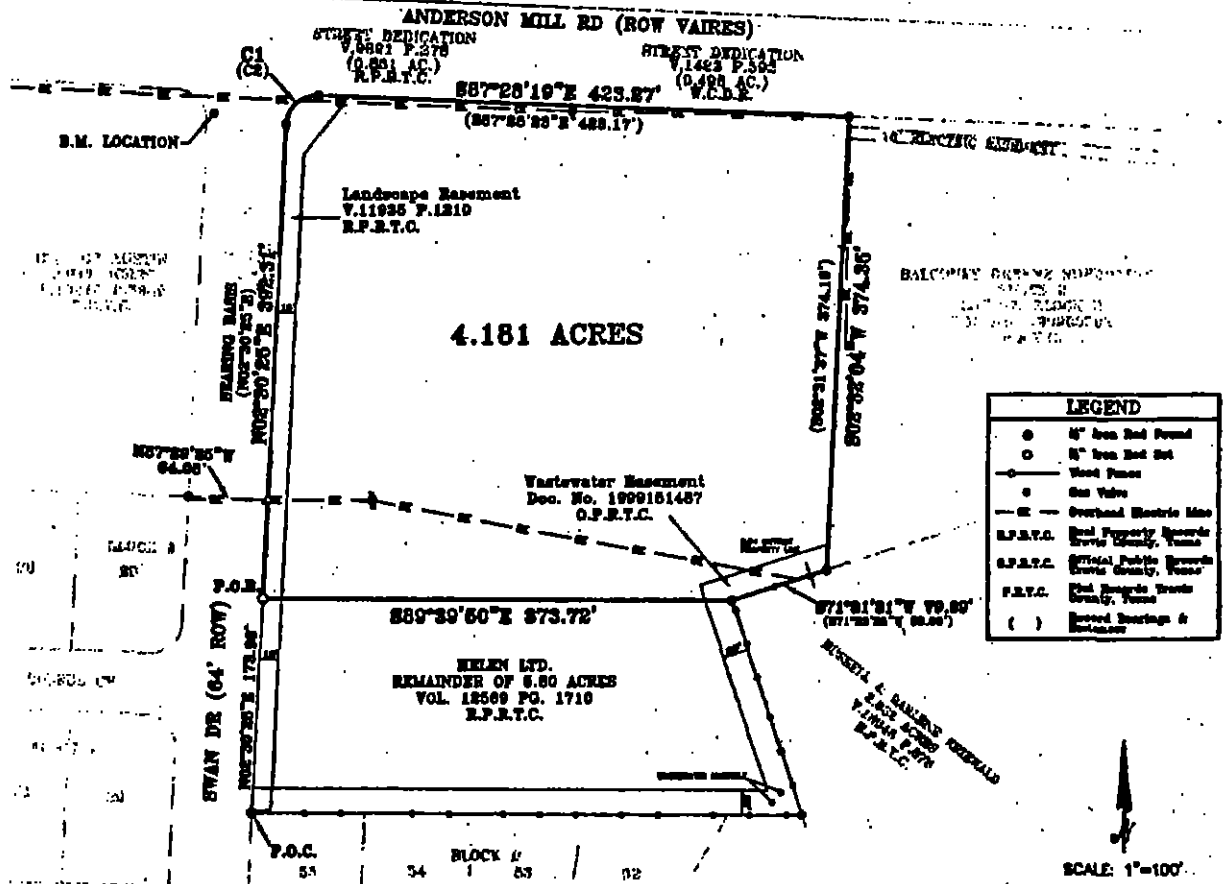
THENCE, along the arc of said curve to the right a distance of 35.32 feet, said curve having a central angle 90°06'19", a radius of 25.00 feet, and a chord which bears N47°34'47"E for a distance of 35.39 feet to a 1/2" Iron rod found in the south line of Anderson Mill Road (R.O.W. varies) for a north easterly corner of said 8.801 acre tract, also being the south line of a 0.631 acre tract street dedication conveyed to the public by deed of record in Volume 9891, page 278 of the Real Property Records of Travis County, Texas, and also a north easterly corner of said 8.1 acre remainder;

THENCE, S87°25'19"E along the common south right-of-way line of Anderson Mill Road, the south line of the 0.631 acre tract and the north line of both said 4.181 acre tract and said 8.1 acre remainder a distance 423.27 feet to a 1/2" Iron rod found for the northeast corner of this tract;

THENCE, S02°32'04"W leaving said south Anderson Mill Road right-of-way, along the common east line of said 8.801 acre tract, the west line of Lot 57, Block B, of Balcones Greene Subdivision, Phase 2, as recorded in document number 199800202 of the Official Public Records of Travis County, Texas, a distance of 374.35 feet to a 1/2" Iron rod found in the common north line of a 2.832 acre tract conveyed to Russell & Darlene Kriewald as recorded in Volume 13048, page 878 of the Real Property Records of Travis County, Texas, and the east line of the said 8.1 acre remainder for the southeast corner of this tract;

THENCE, S71°31'31"W continuing along the said common north line of said 2.832 acre tract, and the east line of said 8.1 acre remainder a distance of 78.99 feet to a 1/2" Iron rod found for an interior all corner of said 8.1 acre remainder, also being the northwest corner of said 2.832 acre tract, also being an interior all corner of this tract;

THENCE, leaving the east line of said 8.1 acre remainder and the north line of said 2.832 acre tract, over and across said 8.1 acre remainder tract, N89°38'50"W a distance of 373.72 feet to the POINT OF BEGINNING and containing 4.181-acres of land, more or less.



I, Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

NUMBER/RADIUS	CHORD DIRECTION	ARC LENGTH	CHORD LENGTH	DELTA ANGLE
C1	25.00 N 47°34'47" E	35.32	35.39	90°06'19"
C2	25.00 N 47°31'12" E	35.27	35.36	90°00'54"

**NOTES:**  
All easements referenced in GF No. 040788 as provided by Chicago Title Insurance Company and Heritage Title Company of Austin, Inc. are shown hereon.

**EXHIBIT A**

*Paul Utterback*  
Paul Utterback, RPLS No. 5738

Client: Pohl-Brown  
Date of Field Work: 8/2/2004  
Field: RW, JC, CT  
Tech: DClark  
Date Drawn: 07/06/2005  
Path: Projects/4000/Pohl Brown/HelenLtd/plot/lot1.dwg



**ATS** Alison Morris  
**Engineers Inspectors & Surveyors**  
www.ats-engineers.com  
4001 GULF COAST ROAD, SUITE 200  
AUSTIN, TEXAS 78746  
TEL: 512-452-0000  
FAX: 512-452-0001



# TITLE SURVEY OF 1.621 ACRES

ATS Job # 0407185.0

A DESCRIPTION OF 1.621 ACRES OF LAND LYING AND SITUATED IN THE S.A. AND M.G.R.R. SURVEY No. 800, ABSTRACT No. 748; THE J.V. AGEE SURVEY No. 122, ABSTRACT No. 2630; AND THE JAMES C. IRVINE SURVEY No. 122, ABSTRACT No. 427, TRAVIS COUNTY, TEXAS SAME BEING A PORTION OF 5.800 ACRE TRACT CONVEYED TO HELEN LTD., BY DEED RECORDED IN VOLUME 12569, PAGE 1710 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

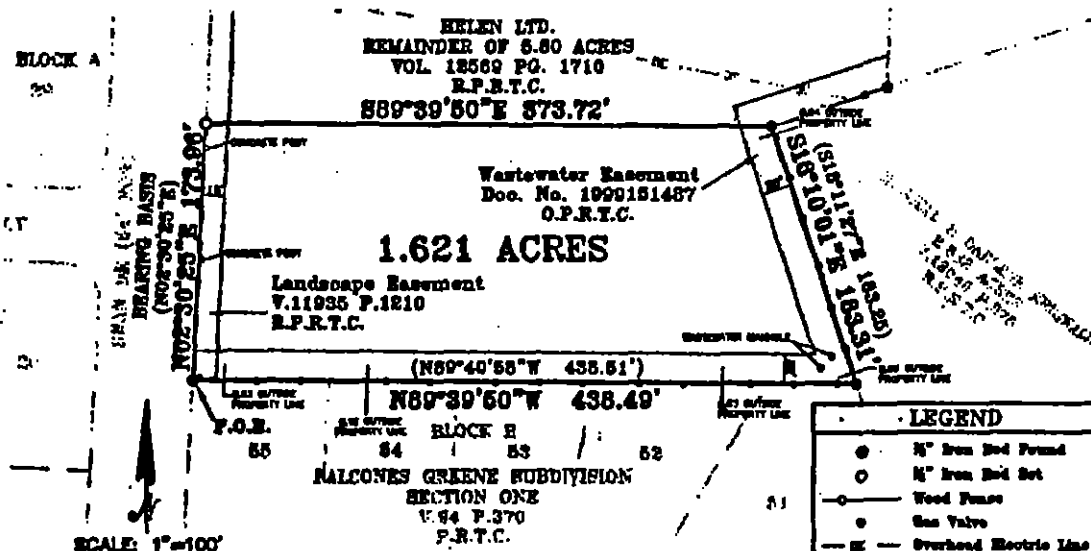
BEGINNING at a 1/2" iron rod found on the east right-of-way line of Swan Drive (64' ROW) at the northwest corner of Lot 55, Block B, Balcones Greene Subdivision, Section One as recorded in Book 64, Page 370 of the Plat Records of Travis County, Texas, also being the southwest corner of said 5.800 acre tract, for the southwest corner of the herein described 1.621 acre tract;

THENCE, continuing with east right-of-way line of Swan Drive, also being the west line of said 5.800 acre tract, N89°39'25"E a distance of 173.95 feet to a 1/2" iron rod with cap reading 'ATS-Engineers' set for the northwest corner of this tract;

THENCE, leaving said east right-of-way line and traveling across said 5.800 acre tract S89°39'50"E a distance of 373.72 feet to the east line of the said 5.800 acre tract also being in the west line of the Russell and Darlene Kriewald 2.832 acre tract, as recorded in Volume 13048, Page 878 of the Real Property Records of Travis County, Texas for a 1/2" iron rod with cap reading 'ATS-Engineers' set for the northeast corner of this tract;

THENCE, continuing on east line of said 5.800 acre tract, also being the west line of said 2.832 acre tract, S18°10'01"E a distance of 183.31 feet to a 1/2" iron rod found for the southeast corner of the said 5.800 acre tract and also an angle point in northeast line of lot 51, Block B, of said Balcones Greene Subdivision, Section One, for the southeast corner of this tract;

THENCE, with the north lines of lots 51, 52, 53, 54 and 55 of said Balcones Greene Subdivision, Section One, same being the south line of said 5.800 acre tract, N89°39'50"W a distance of 438.49 feet to the POINT OF BEGINNING and containing 1.621-acres (70,598 square feet) of land, more or less.



## NOTES:

All easements referenced in GF No. 040768 as provided by Chicago Title Insurance Company and Heritage Title Company of Austin, Inc. are shown hereon.

LEGEND	
●	1/2" Iron Rod Found
○	1/2" Iron Rod Set
—	Wood Fence
●	Gas Valve
—	Overhead Electric Line
R.P.R.T.C.	Real Property Records Travis County, Texas
O.P.R.T.C.	Official Public Records Travis County, Texas
P.R.T.C.	Plat Records Travis County, Texas
( )	Record Bearings & Distances

I, Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plot is an accurate representation of the property to the best of my knowledge.

EXHIBIT B

Paul Utterback, RPLS No. 5738

Client: Pohl-Brown

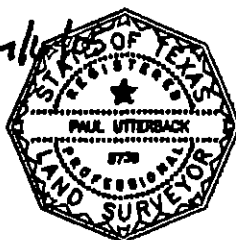
Date of Field Work: 9/2/2004

Field: RM, JC, CT

Tech: DClark

Date Drawn: 10/18/2004

Path: Projects/4000/Pohl Brown/HelenLtd/plat/lot2.dwg



ATSON MONTGOMERY  
**ATS**  
www.ats-engineers.com

4011 ONE DAVIS ROAD, SUITE 200  
AUSTIN, TEXAS 78748  
512 555-0000  
FAX: 512 555-0000

**Engineers  
Inspectors  
& Surveyors**

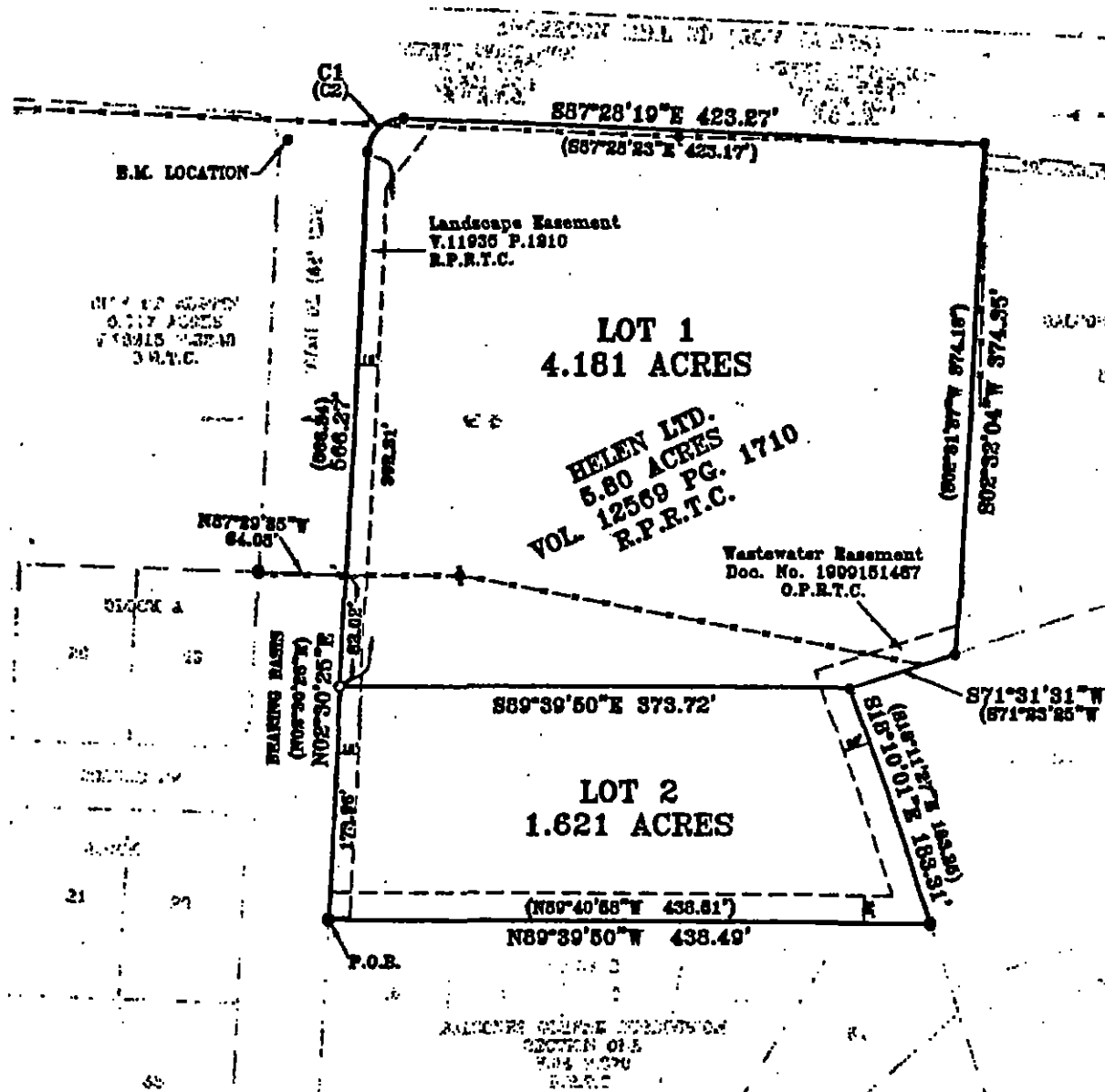
1000 W. LITTLE YORK, SUITE 200  
AUSTIN, TEXAS 78703  
512 555-0000  
FAX: 512 555-0000



(IN FEET)  
1 inch = 100 ft.

**BENCHMARK NOTE:**

Anderson Mill Road at Swan Drive, post corner of intersection, 3" brass disk of curb. Elevation = 933.31'. Source: COA Public Works



**SKETCH FOR EXHIBITS A+B**

NUMBER	RADIUS	CHORD DIRECTION	ARC LENGTH	CHORD LENGTH	DELTA ANGLE
C1	25.00	N 47°34'47" E	39.32	33.39	90°06'19"
C2	25.00	N 47°31'12" E	39.27	33.36	90°00'54"

R.P.R.T.C.	REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
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O.P.R.T.C.	OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
P.R.T.C.	PLAT RECORDS OF TRAVIS COUNTY, TEXAS

**After recording please return to:**

**City of Austin Law Department  
P.O. Box 1088  
Austin, Texas 78767-8828  
Attn: Diana Minter, Paralegal**