

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



**AGENDA ITEM NO.: Z-6
AGENDA DATE: Thu 08/25/2005
PAGE: 1 of 1**

SUBJECT: C14-05-0048 - Palm Harbor Round Rock Sales Office - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 15996 N. IH-35 Service Road-Southbound (Walnut Creek Watershed) from single family residence standard lot (SF-2) district zoning to general commercial services (CS) district zoning. Zoning and Platting Commission Recommendation: To grant general commercial services-conditional overlay (CS-CO) combining district zoning with conditions. Applicant: Palm Harbor Homes (Greg Vaughn). Agent: The Moore Group Inc. (Ed Moore). City Staff: Sherri Sirwaitis, 974-3057.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0048

Z.A.P. DATE: May 3, 2005
May 17, 2005
June 7, 2005

ADDRESS: 15996 N. Interstate-35 Service Road South Bound

OWNER/APPLICANT: Palm Harbor Homes (Greg Vaughn)

AGENT: The Moore Group, Inc. (Ed Moore)

ZONING FROM: SF-2

TO: CS

AREA: 3.068 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant CS-CO (General Commercial Services-Conditional Overlay) zoning district. The conditional overlay would limit the development intensity for the entire site to less than 2,000 vehicle trips per day. In addition, the staff recommends that the applicant dedicate 35-feet of right-of-way from the centerline of Three Points Road in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

5/03/05: Postponed to May 17, 2005 by Applicant/Neighborhood (8-0, J. Martinez-absent, K. Jackson-absained); J. Donisi-1st, J. Gohil-2nd.

5/17/05: Postponed to June 7, 2005 by Applicant (8-0-1, K. Jackson-absained); J. Martinez-1st, J. Donisi-2nd.

6/07/05: Approved staff's recommendation of CS-CO zoning with additional condition to prohibit the following uses:

- Commercial Blood Plasma Center;
- Pawn Shop Services;
- Adult Oriented Businesses;

With a public restrictive covenant stating that, "If the Mobile Home (Equipment Sales) use ceases on the site for 180-days or more the applicant will not object to a rezoning of the site to CS-CO to prohibit the Equipment Sales use."

Vote: (8-0-1, K. Jackson-absained); M. Hawthorne-1st, J. Martinez-2nd.

DEPARTMENT COMMENTS:

The property in question currently developed with a mobile home sales business (Equipment Sales use). This tract of land was annexed under the city's limited purpose jurisdiction on September 13, 1984 (case C7a-83-011). Palm Harbor Homes has operated a manufactured home sales business at this site since 1986. The applicant is requesting a rezoning of the property to bring the existing development on the site into conformance with the Land Development Code regulations.

The staff recommends CS-CO, General Commercial Services-Conditional Overlay District, zoning for the property because it fronts onto a major arterial roadway and meets the purpose statement for the CS district. The site is located adjacent to existing commercial and industrial uses to the south, east and west. There is CS-CO zoning to the north and east (across IH-35) and CS zoning to the south of the property.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-2	Manufactured Home Sales
<i>North</i>	CS-CO	Undeveloped
<i>South</i>	CS	Service Station (Chevron), Restaurant-Limited (McDonald's)
<i>East</i>	CS-CO, County	Construction Sales and Services, Undeveloped
<i>West</i>	CS-CO, County	Undeveloped

AREA STUDY: N/A

TIA: Waived

WATERSHED: Gilleland Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS: N/A

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-00-2042	SF-2 to CS	4/18/00: Approved staff rec. of CS-CO, w/ a 2,000 vtpd limit, by consent (7-1, JM-Nay)	5/18/00: Approved PC rec. of CS-CO on all 3 readings (6-0, Lewis-absent)
C14-97-0116	SF-2 to CS	9/23/97: Approved CS-CO, w/ a 2,000 vtpd limit (7-0)	10/16/97: Approved CS-CO (6-0); all 3 readings
C14-94-0027	SF-2 to CS	3/22/94: Approved CS-CO (9-0), subject to I.P.M. by restrictive covenant and the following conditions: 1) Administrative and Business Office uses shall be restricted to a max of 159,804 sq. ft. of gross floor area 2) Medical Office uses shall be restricted to a max of 58,530 sq. ft. of gross floor area 3) General Retail Sales uses shall be restricted to a max of 13,269 sq. ft. of gross floor area 4) Restaurant (General) uses shall be restricted to a max of 9,738 sq. ft. of gross floor area 5) Restaurant (Drive-in, Fast Food)	4/21/94: Approved CS-CO, with conditions (5-0); all 3 readings

		uses shall be restricted to a max of 3,163 sq. ft. of gross floor area 6) Financial Services uses shall be restricted to a max of 12,500 sq. ft. of gross floor area 7) Food Sales uses shall be restricted to a max of 2,730 sq. ft. of gross floor area	
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RELATED CASES: C7A-83-011 (Annexation September 13, 1984)

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION
IH-35	Varies	Varies	Major Arterial
Three Points Road	60'	Varies	Collector

CITY COUNCIL DATE: August 4, 2005

ACTION: Postponed to August 25, 2005 at the applicant's request (6-0, McCracken-off the dias)

August 25, 2005

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057,
sherri.sirwaitis@ci.austin.tx.us



STAFF RECOMMENDATION

The staff's recommendation is to grant CS-CO (General Commercial Services-Conditional Overlay) zoning district. The conditional overlay would limit the development intensity for the entire site to less than 2,000 vehicle trips per day. In addition, the staff recommends that the applicant dedicate 35-feet of right-of-way from the centerline of Three Points Road in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site.

BASIS FOR RECOMMENDATION

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

The CS zoning district is intended for commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments.

The property in question fronts and takes access to the Interstate Highway-35 Southbound Service Road.

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

The property is located adjacent to existing commercial uses to the south and east. An industrial park has been developed to the west along Grand Avenue Parkway and Long Vista Drive within the County. There is CS-CO zoning to the north and east (across IH-35) and CS zoning to the south of the property.

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

The CS zoning district would allow for a fair and reasonable use of the site. The proposed zoning would bring the current use into compliance with the City of Austin Land Development Code regulations.

CS zoning is appropriate for this location because of the commercial and industrial character of the area. The property in question fronts onto a major arterial roadway, Interstate Highway-35 North, and currently takes access to the IH-35 Southbound Service Road.

EXISTING CONDITIONS

Site Characteristics

The site is developed with a mobile home sales business. There is a permanent office structure (stick built with brick facing) at the entrance to the site with landscaping along the front. The property contains a paved driveway and is surrounded by a white picket fence.

Hill Country Roadway

The site is not within a Hill Country Roadway Corridor.

Impervious Cover

The maximum impervious cover allowed by the CS zoning district would be 95%. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

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

In the Water Quality Transition Zones, impervious cover is limited to 30%.

Note: The most restrictive impervious cover limit applies.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Gilleland Creek Watershed of the Colorado River Basin, which is classified as a 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.

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 the following water quality control requirements:

Structural controls: 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 pre-existing approvals, which preempt current water quality or Code requirements.

Transportation

If the requested zoning is recommended for this site, 35-feet of right-of-way should be dedicated from the centerline of Three Points Road in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site. LDC, 25-6-55; TCM, Tables 1-7, 1-12.

The trip generation under the requested zoning is estimated to be 12,867 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Capital Metro bus service is not available within 1/4 mile of this property.

Existing Street Characteristics:

NAME	ROW	PAVEMENT	CLASSIFICATION
IH-35	Varies	Varies	Major Arterial
Three Points Road	60'	Varies	Collector

Right of Way

No comment.

Water and Wastewater

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

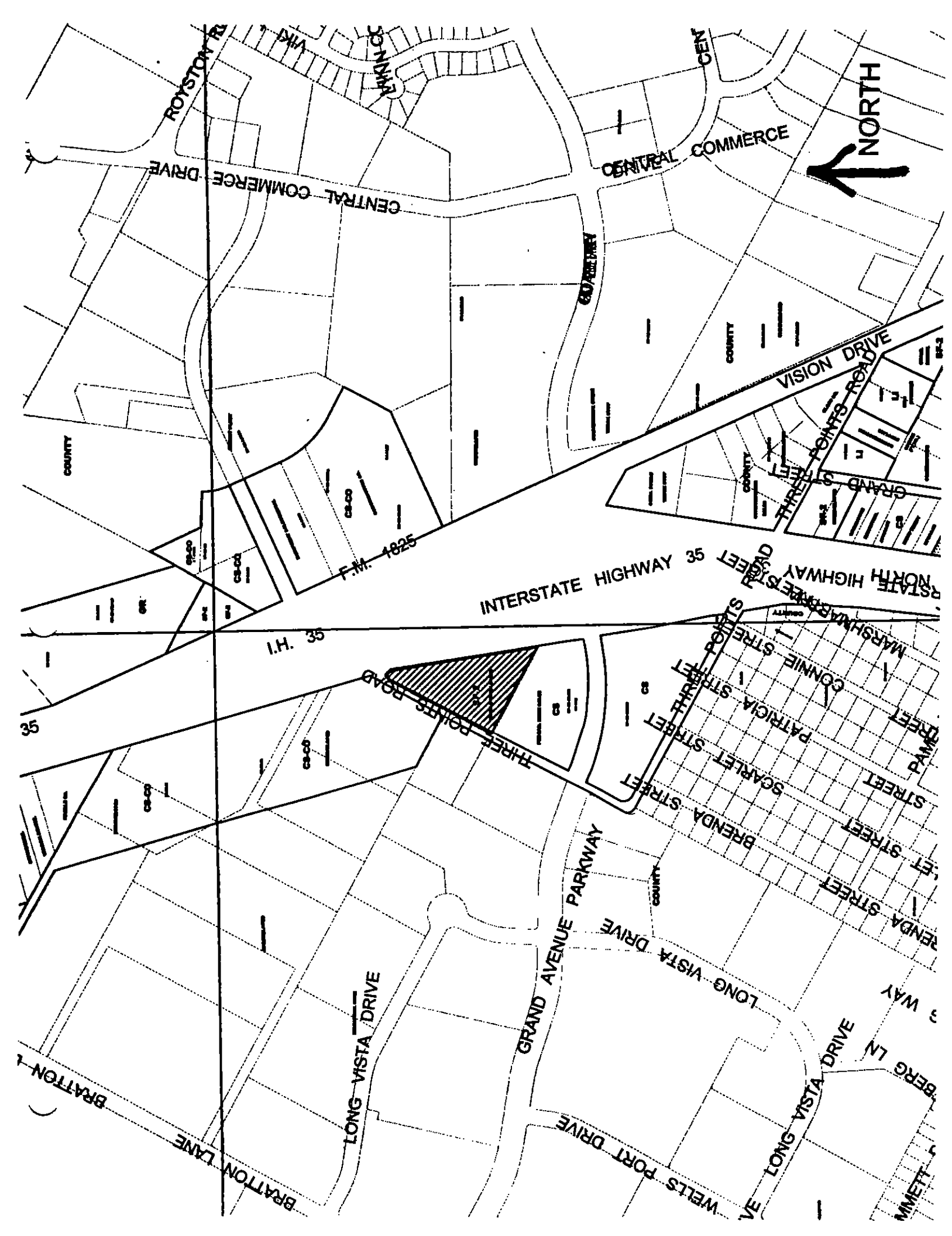
Stormwater Detention

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 stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Compatibility Standards

This tract is already developed. A change of use within the existing structure would not trigger compatibility development regulations. Commercial zoning & the county surround the site.

The site does not fall in any of the corridors, has commercial zoning surrounding the site, county designation on one side and the highway designation on the side.



- 10. Rezoning:** C14-05-0043 - Warren Broz
Location: Northwest Corner of Research Boulevard and Caldwell Drive, Lake Creek Watershed
Owner/Applicant: Warren Broz
Agent: Thrower Design (Ron Thrower)
Prev. Postponed from 4/19/05 (applicant/neighborhood); Postponed from 5/17/05 (applicant)
Postponement
Request: SF-2 to GR
Staff Rec.: **ALTERNATE RECOMMENDATION: GR-CO**
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

APPROVE STAFF'S RECOMMENDATION FOR GR-CO ZONING WITH CONDITIONS TO PROHIBIT:

- **DROP-OFF RECYCLING;**
- **EXTERMINATING SERVICES;**
- **ALL AUTO RELATED SERVICES;**
- **DAYCARE;**
- **DRIVE-THRU SERVICES;**

INCLUDE ALL CONDITIONS ALREADY SET OUT BY STAFF & APPLICANT.

[K.J; J.M 2ND] (9-0)

- 11. Rezoning:** C14-05-0048 - Palm Harbour Round Rock Sales Office
Location: 15946 N. IH-35 Service Road South Bound, Gilleland Creek Watershed
Owner/Applicant: Palm Harbor Homes (Greg Vaughn)
Agent: The Moore Group, Inc. (Ed Moore)
Prev. Postponed from 5/3/05 (applicant); Postponed from 5/17/05 (applicant)
Postponement
Request: SF-2 to CS
Staff Rec.: **ALTERNATE RECOMMENDATION: CS-CO**
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

APPROVED STAFF'S RECOMMENDATION FOR CS-CO ZONING WITH 2000 VEHICLE TRIP LIMIT; PROHIBIT:

- **COMMERCIAL BLOOD/PLASMA CENTERS;**
- **PAWNSHOP SERVICES ;**
- **ADULT ORIENTED BUSINESSES; AND**
- **IF MOBILE HOME USE CEASES FOR 180-DAYS OR MORE; THE APPLICANT WILL NOT OBJECT TO A ROLLBACK OF THE PROPERTY TO CS-CO ZONING TO PROHIBIT THE EQUIPMENT SALES USE .**

[M.W; J.M 2ND] (8-0-1) K.J - ABSTAINED

NIEMANN & NIEMANN, L.L.P.

ATTORNEYS AT LAW
WESTOATE BUILDING, SUITE 313
1122 COLORADO STREET
AUSTIN, TEXAS 78701-2101

Attachment A

LARRY NIEMANN

TELEPHONE (512) 474-6901
FAX (512) 474-0717

WRITER'S EMAIL: LARRYNIEMANN@NIEMANNLAW.COM

April 26, 2005

Neighborhood Planning and Zoning Department
City of Austin
Attn: Ms. Sherri Sirwaitis
One Texas Center Building
505 Barton Springs Road
Austin, Texas 78704

Hand delivered

Code Enforcement Department
City of Austin
Attn: Dan Garcia
One Texas Center Building
505 Barton Springs Road
Austin, Texas 78704

Hand delivered

Re: Modular home sales facility on Palm Harbor
Homes' North IH 35 in Austin, Texas
Case No. C14-05-0048

Gentlemen:

Coshena III, Ltd. ("Coshena") is the owner of the land immediately south of the tract for which Palm Harbor Homes ("Palm Harbor") has requested CS general commercial district zoning. On behalf of Coshena, I want to express Coshena's strong objection to allowing Palm Harbor's to rezone until Palm Harbor makes a good faith effort to comply with all City of Austin ordinances regarding Palm Harbor's recent illegal construction of three buildings and a parking lot on their property in total disregard of applicable city ordinances and without any city permits whatsoever. At the very minimum, such good faith effort should be the filing of a site plan in compliance with city requirements.

Yesterday I attempted through our consultant, Rick Vaughn, to set up a meeting with Palm Harbor's agent, who was listed on the zoning application, to discuss the zoning case, as a neighbor. The agent refused to meet with Mr. Vaughn or me on instructions from Palm Harbor.

My family limited partnership, Coshena III, Ltd., is the owner of the 5 acres of land immediately south of and abutting the Palm Harbor tract. Coshena has groundleased the front two acres of its 5 acres for a McDonald's restaurant and Chevron fueling station. At the southern end of Palm Harbor's tract are three modular homes and a parking lot that have been built in the past 12 months in violation of multiple City of Austin ordinances and without any city permits whatsoever.

Palm Harbor's entire 3.067 acre tract is inside the "limited purpose annexation" area of the City of Austin and is currently zoned SF-2 (single family use). It was annexed on September 13, 1984. A copy of the annexation ordinance and map are attached. I have also enclosed 1997 and 2002 aerial photos showing that the three modular display homes and parking lot were not there until recently. The photos also show that Palm Harbor has since 1984 placed caliche paving on considerable areas that were grass in 1984. As soon as they can be acquired, I will be providing the

city with aerial photos in 1984 and 2004. I've also enclosed a photograph that shows two of the three illegally constructed modular homes.

The modular homes are permanent structures built on concrete beam foundations. The new parking lot is paved with asphalt. I believe that the three modular homes constructed on Palm Harbor's tract this past year were constructed in violation of countless City of Austin ordinances relating to zoning, use, set backs, impervious cover, landscaping, fire truck access, and erosion controls during construction. There is no water detention pond, no water quality pond, no site plan, no site permit, no building permit, no sign permit, and no fire hydrants.

I request that the city take immediate action to investigate the three illegally-built modular homes and parking lot and take the necessary steps to prohibit their use until Palm Harbor does what they should have done before building them. I request that the city require Palm Harbor to make all improvements required by city ordinances for their site in order for the modular homes to remain.

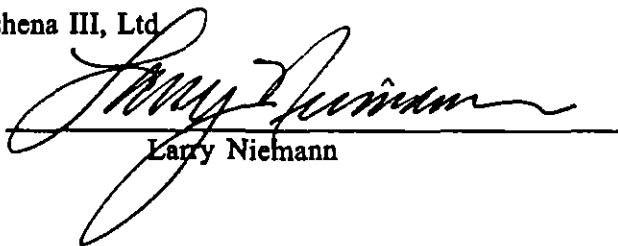
What is doubly disturbing about Palm Harbor's gross disregard of city requirements is that MacDonald's and Chevron, who are the ground-lease tenants on Coshena's land next to Palm Harbor, have spent immense amount of time, effort, and money to comply with all City of Austin requirements; and it is a downright shame to let anyone with the callous attitude toward ordinance compliance get away with what Palm Harbor has done. Because of their cavalier and illegal actions, I request that the City move with utmost haste in their investigation and actions to prohibit use of the improvements that Palm Harbor illegally constructed until there is full compliance by Palm Harbor. The prohibition should continue until Palm Harbor fully complies. Palm Harbor should be heavily fined for their actions. If Palm Harbor gets off light, it will be an open invitation for others to grossly ignore the city permitting process and to avoid compliance with city ordinances and then wait to see if they get caught.

I also respectfully request that the Planning and Zoning Department and the Code Enforcement Department of the city take immediate steps to investigate and require Palm Harbor to comply with all applicable ordinances and to prohibit use of the illegally built structures until there is full compliance with all applicable ordinances.

Sincerely,

Coshena III, Ltd

By

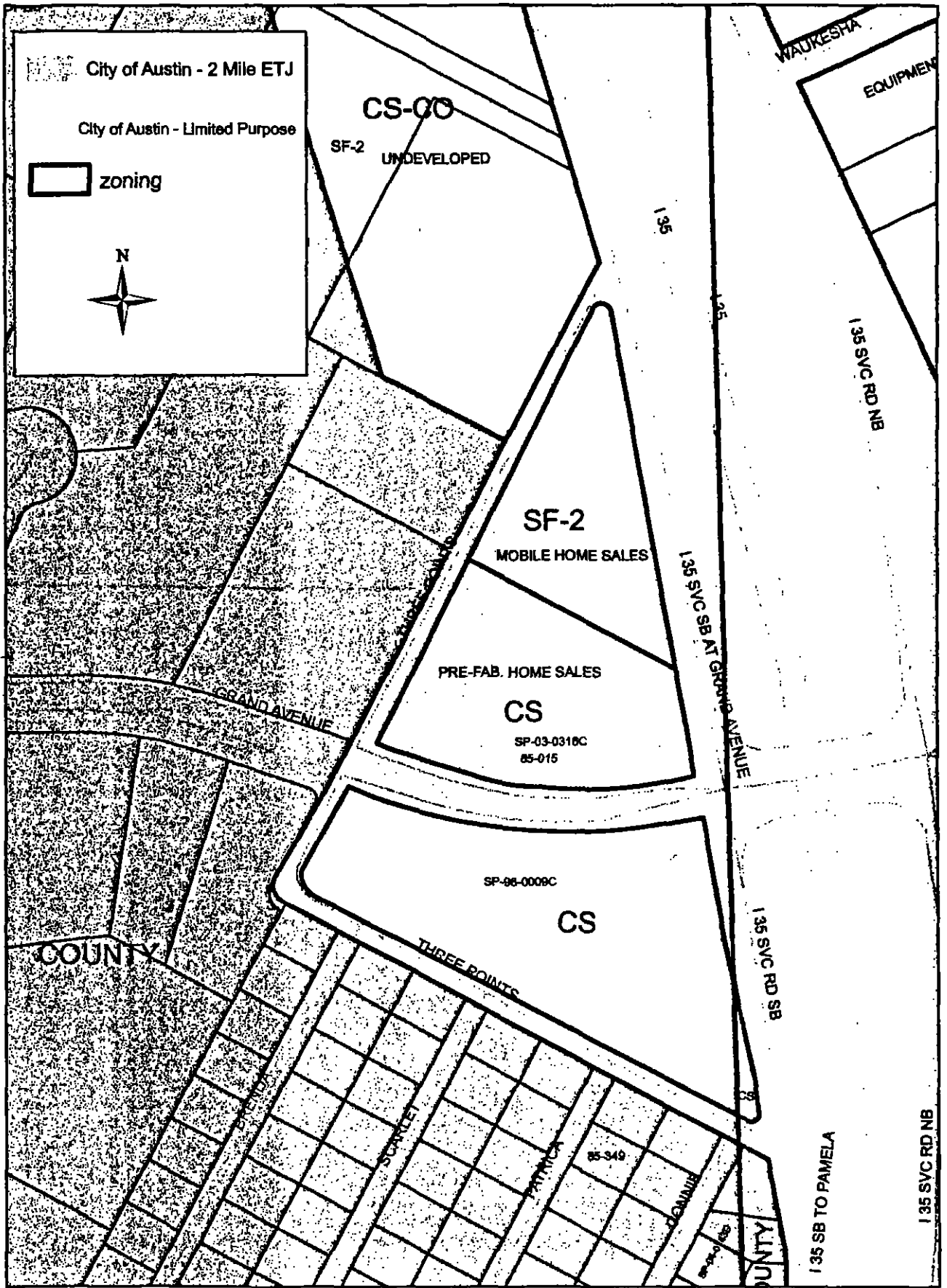


Larry Niemann

Enc: Ed Moore via hand delivery
Rick Vaughn via hand delivery
Dick Demel via mail
Jimmy Ferguson via mail

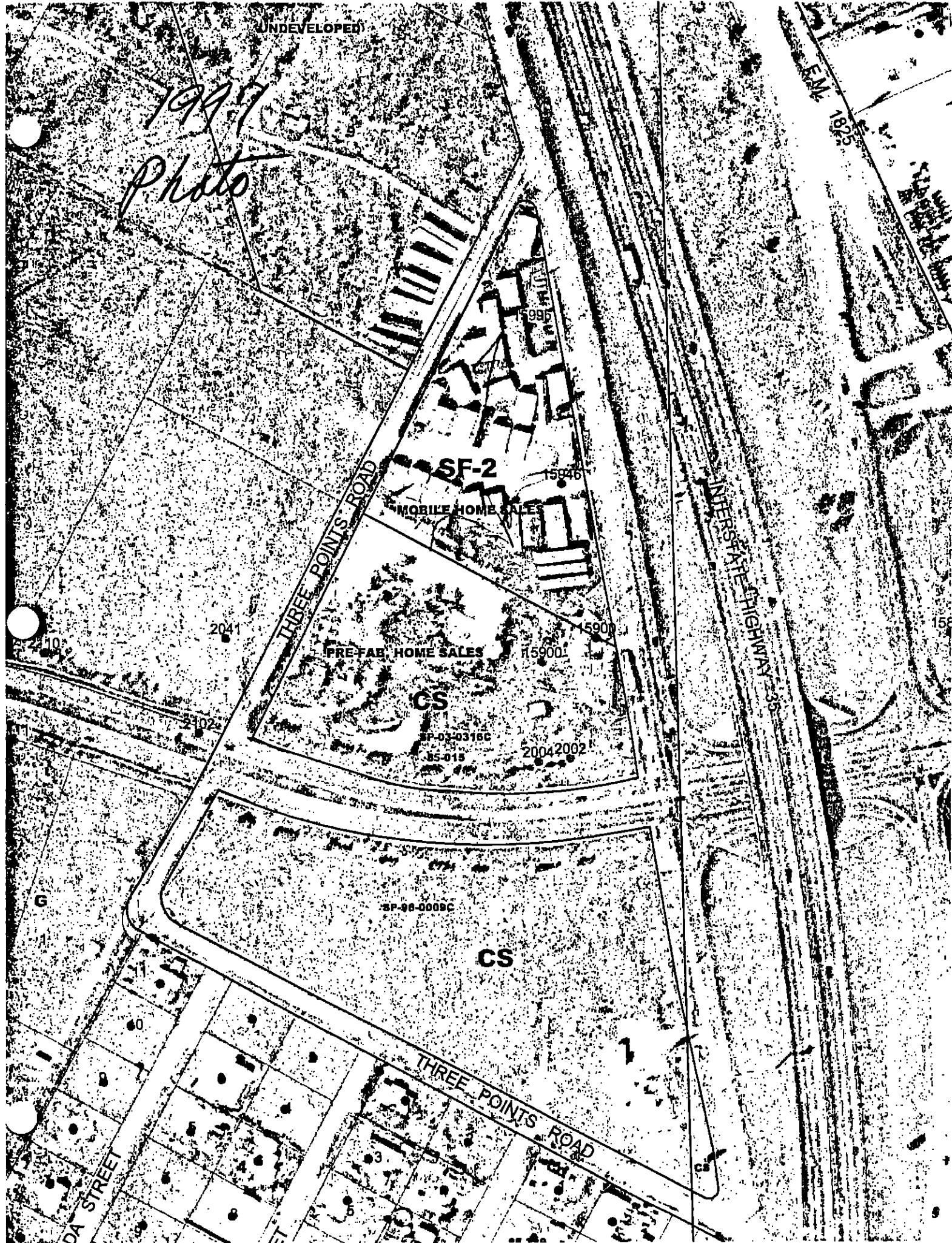
Attachments:

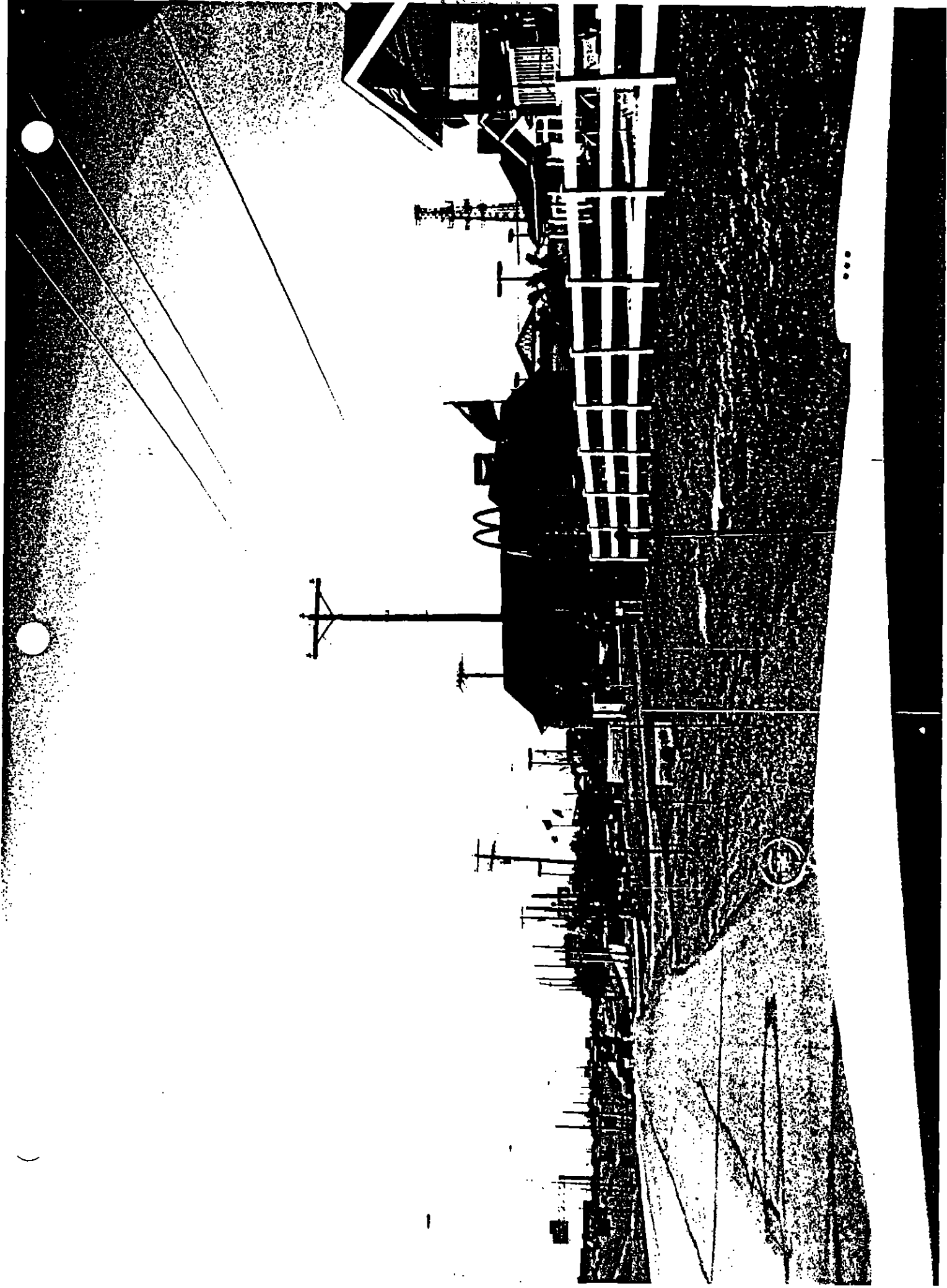
Annexation map from the City of Austin
Current zoning map
1997 aerial photo
2002 aerial photo
Photo of 2 of 3 illegally built modular homes
Annexation ordinance from the City of Austin



UNDEVELOPED

1997
Photo





**PALM HARBOR HOMES'
INDIFFERENCE TO CITY ZONING AND
CONSTRUCTION AND ENVIRONMENTAL ORDINANCES**

1. PHH's tract was annexed into City of Austin in September, 1984 (limited purpose annexation).
2. PHH has added considerable impervious cover for mobile homes and parking areas since 1984, as shown by aerial photos. These additions were done without any city permits and without required environmental protections.
3. In the spring of 2004, PHH constructed three modular homes on concrete foundations, plus a parking lot, on the south end of PHH's 3-acre tract.
4. Before building the modular homes, PHH for sure knew about their SF-3 zoning. This is because Niemann met with PHH's real estate and construction man in July, 2003 to discuss Niemann's request for a compatibility-approval letter from PHH because of PHH's SF-3 zoning. PHH refused to sign letter. Niemann later discovered that the letter was not needed in order to construct the McDonald's/Chevron facility next door to the south.
5. PHH built the three modular homes and the parking lot in violation of numerous city ordinances:
 - * No site plan
 - * No building permits
 - * No erosion controls
 - * No water detention pond
 - * No water quality pond
 - * No sign permit
 - * No landscaping compliance
 - * No fire hydrants
 - * Insufficient fire truck access
 - * Excessive impervious cover