

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



**AGENDA ITEM NO.: 71
AGENDA DATE: Thu 09/29/2005
PAGE: 1 of 1**

SUBJECT: C14-05-0048 - Palm Harbor Round Rock Sales Office - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 15996 North IH-35 Service Road Southbound (Gilleland Creek Watershed) from single-family residence-standard lot (SF-2) district zoning to general commercial services-conditional overlay (CS-CO) combining district zoning. Conditions met as follow: Conditional overlay incorporates the conditions imposed by Council at first ordinance reading. First reading approved August 25, 2005. Vote: 7-0. 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

SECOND / THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-05-0048

REQUEST:

Approve second / third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 15996 East IH-35 Service Road Southbound (Gilleland Creek Watershed) from single family residence standard lot (SF-2) district zoning to general commercial services-conditional overlay (CS-CO) combining district.

DEPARTMENT COMMENTS:

The Conditional Overlay limits trips to no more than 2000 per day and prohibits the following uses:

- Commercial blood plasma center
- Pawn shop services
- Adult oriented businesses

The applicant agrees with the conditional overlay.

OWNER/APPLICANT: Palm Harbor Homes (Greg Vaughn)

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

DATE OF FIRST READING: August 25, 2005 (7-0)

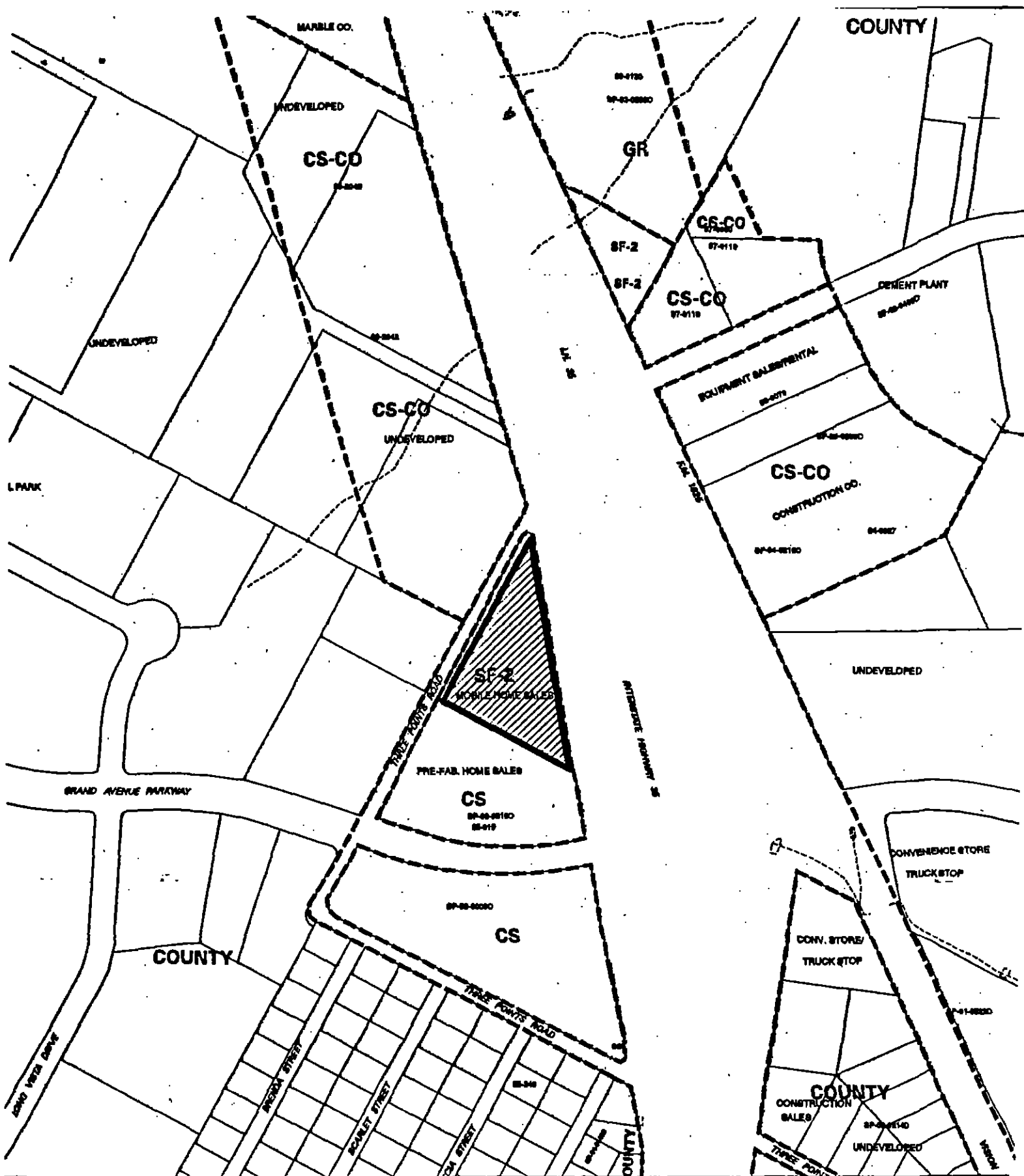
CITY COUNCIL HEARING DATE: September 29, 2005.





PREVIOUS CITY COUNCIL ACTIONS:

- Aug 4, 2005 - Postponed to Aug 25 at the request of applicant (6-0, McCracken off the dais).
- Aug 25, 2005 - Approved CS-CO on first reading. (7-0).

ORDINANCE NUMBER:

ASSIGNED STAFF: Sherri Sirwaitis Phone: 974-3057 E-mail:
sherri.sirwaitis@ci.austin.tx.us



 1" = 400'	SUBJECT TRACT 	ZONING CASE #: C14-05-0048 ADDRESS: 15996 N135 SVC RD SE SUBJECT AREA (acres): 3.068		DATE: 08-04 INTLS: SM	CITY GRID REFERENCE NUMBER M38
	PENDING CASE 				
	ZONING BOUNDARY 				
	CASE MGR: S. GAGER				

ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 15996 NORTH IH-35 SERVICE ROAD SOUTHBOUND FROM SINGLE FAMILY RESIDENCE STANDARD LOT (SF-2) DISTRICT TO GENERAL COMMERCIAL SERVICES-CONDITIONAL OVERLAY (CS-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 district from single family residence standard lot (SF-2) district to general commercial services-conditional overlay (CS-CO) combining district on the property described in Zoning Case No. C14-05-0048 on file at the Neighborhood Planning and Zoning Department, as follows:

A 3.068 acre tract of land, more or less, out of the S. McMillan Survey No. 110, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as 15996 North IH-35 Service Road Southbound, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

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

1. The following uses are prohibited uses of the Property:

Commercial blood plasma center
Pawn shop services
Adult oriented businesses

2. 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, generate traffic that exceeds 2,000 trips per day.

1 Except as specifically restricted under this ordinance, the Property may be developed and
2 used in accordance with the regulations established for the general commercial services
3 (CS) base district and other applicable requirements of the City Code.

4
5 **PART 3.** This ordinance takes effect on _____, 2005.

6
7
8 **PASSED AND APPROVED**

9
10 _____, 2005

§
§
§

Will Wynn
Mayor

11
12
13
14
15
16
17 **APPROVED:**

David Allan Smith
City Attorney

ATTEST:

Shirley A. Brown
City Clerk

3.068 ACRES

These notes describe that certain tract of land located in the S. MCMILLAN SURVEY NO. 110 in Travis County, Texas; subject tract being all of a called "3.0687 Acres" conveyed in a General Warranty Deed from Marvin Krueger, et ux, to Palm Harbor Homes, Inc., dated 5-25-00 and recorded in Document No. 2000089452, of the Official Public Records of Travis County, Texas, (OPRTC); being surveyed on the ground under the direct supervision of Bruce Lane Bryan, Registered Professional Land Surveyor No. 4249, on March 11, 2005; subject tract being more fully described as follows:

BEGINNING at a 1" Iron Pipe found, being the Southeast corner of said "3.0687 Acres", same being in the West Right-of-Way of State Highway No. 35, same being the Northeast corner of a called "5.1142 Acres" conveyed in a General Warranty Deed from Larry Niemann to Coshena III, LTD., dated 12-30-98 and recorded in Volume 13339, Page 187, of the Real Property Records of Travis County, Texas, (RPRTC); same being the Southeast corner of subject tract; "X" Chiseled in Concrete found, bearing South 10°25'11" East, a distance of 246.51 feet, being an exterior corner of said "5.1142 Acres", same being in the West Right-of-Way of State Highway No. 35;

THENCE North 61°34'20" West, with a line for the common line of said "3.0687 Acres" and said "5.1142 Acres", a distance of 457.56 feet, to a ½" Iron Rod found, being the Southwest corner of said "3.0687 Acres", same being the Northwest corner of said "5.1142 Acres", same being in the East Right-of-Way of Three Point Road, same being the Southwest corner of subject tract; "X" Chiseled in Concrete found, bearing South 27°38'39" West, a distance of 477.82 feet, being an exterior corner of said "5.1142 Acres", same being in the East Right-of-Way of Three Point Road;

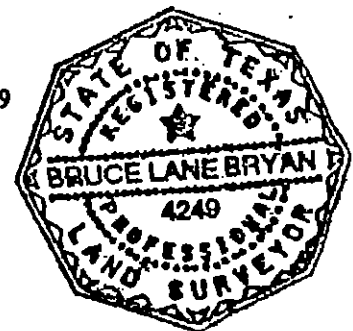
THENCE North 27°39'13" East, with a line for the common line of said "3.0687 Acres" and Three Point Road, a distance of 584.23 feet, to a Concrete Monument found, being in the Northernmost corner of said "3.0687 Acres", same being in the East Right-of-Way of Three Point Road, same being in the West Right-of-Way of State Highway No. 35, same being the Northernmost corner of subject tract;

THENCE South 10°07'08" East, with a line for the common line of said "3.0687 Acres" and State Highway No. 35, a distance of 746.93 feet, to the PLACE OF BEGINNING, containing according to the dimensions herein stated, an area of 3.068 Acres.

Surveyor's Note: Attention is invited to accompanying plat for location of improvements, adjoiners, visible utilities and roadways.


Bruce Lane Bryan

Registered Professional Land Surveyor No. 4249



RESTRICTIVE COVENANT

OWNER: Palm Harbor Homes, Inc., a Nevada corporation

ADDRESS: 15946 North IH-35, Austin, Texas 78728

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: A 3.068 acre tract of land, more or less, out of the S. McMillan Survey No. 110, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" 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. If use of the Property as a mobile home sales use (equipment sales use) is discontinued for 180 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to general commercial services (CS) district as defined in Chapter 25-2 of the City Code. Normal seasonal cessation of a use, or temporary discontinuance for purposes of maintenance or rebuilding of the Property after damage or destruction may not be used in calculating of the period of discontinuance.
2. At the time of rezoning the Property to general commercial services (CS) district, uses of the Property shall be limited by a conditional overlay to prohibit equipment sales use.
3. 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.
4. 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.
5. 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.
6. 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 _____ day of _____, 2005.

OWNER:

**Palm Harbor Homes, Inc.,
a Nevada corporation**

By: _____
W. Richard Deck,
Vice President/Assistant Secretary

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on this the ____ day of _____, 2005, by W. Richard Deck, Vice President and Assistant Secretary, of Palm Harbor Homes, Inc., a Nevada corporation, on behalf of the corporation.

Notary Public, State of _____

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-8828
Attention: Diana Minter, Legal Assistant

STATE OF TEXAS
COUNTY OF TRAVIS

March 11, 2005

3.068 ACRES

These notes describe that certain tract of land located in the S. MCMILLAN SURVEY NO. 110 in Travis County, Texas; subject tract being all of a called "3.0687 Acres" conveyed in a General Warranty Deed from Marvin Krueger, et ux, to Palm Harbor Homes, Inc., dated 5-25-00 and recorded in Document No. 2000089452, of the Official Public Records of Travis County, Texas, (OPRTC); being surveyed on the ground under the direct supervision of Bruce Lane Bryan, Registered Professional Land Surveyor No. 4249, on March 11, 2005; subject tract being more fully described as follows:

BEGINNING at a 1" Iron Pipe found, being the Southeast corner of said "3.0687 Acres", same being in the West Right-of-Way of State Highway No. 35, same being the Northeast corner of a called "5.1142 Acres" conveyed in a General Warranty Deed from Larry Nicmann to Coshena III, LTD., dated 12-30-98 and recorded in Volume 13339, Page 187, of the Real Property Records of Travis County, Texas, (RPRTC); same being the Southeast corner of subject tract; "X" Chiseled in Concrete found, bearing South 10°25'11" East, a distance of 246.51 feet, being an exterior corner of said "5.1142 Acres", same being in the West Right-of-Way of State Highway No. 35;

THENCE North 61°34'20" West, with a line for the common line of said "3.0687 Acres" and said "5.1142 Acres", a distance of 457.56 feet, to a 1/2" Iron Rod found, being the Southwest corner of said "3.0687 Acres", same being the Northwest corner of said "5.1142 Acres", same being in the East Right-of-Way of Three Point Road, same being the Southwest corner of subject tract; "X" Chiseled in Concrete found, bearing South 27°38'39" West, a distance of 477.82 feet, being an exterior corner of said "5.1142 Acres", same being in the East Right-of-Way of Three Point Road;

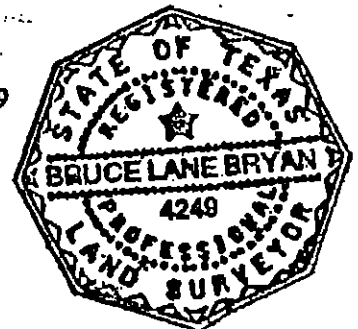
THENCE North 27°39'13" East, with a line for the common line of said "3.0687 Acres" and Three Point Road, a distance of 584.23 feet, to a Concrete Monument found, being in the Northernmost corner of said "3.0687 Acres", same being in the East Right-of-Way of Three Point Road, same being in the West Right-of-Way of State Highway No. 35, same being the Northernmost corner of subject tract;

THENCE South 10°07'08" East, with a line for the common line of said "3.0687 Acres" and State Highway No. 35, a distance of 746.93 feet, to the PLACE OF BEGINNING, containing according to the dimensions herein stated, an area of 3.068 Acres.

Surveyor's Note: Attention is invited to accompanying plat for location of improvements, adjoiners, visible utilities and roadways.


Bruce Lane Bryan

Registered Professional Land Surveyor No. 4249



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-abstained); J. Donisi-1st, J. Gohil-2nd.

5/17/05: Postponed to June 7, 2005 by Applicant (8-0-1, K. Jackson-abstained); 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-abstained); 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	
--	--	---	--

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: Approved CS-CO (7-0); 1st reading

September 29, 2005

ACTION:

ORDINANCE READINGS: 1st

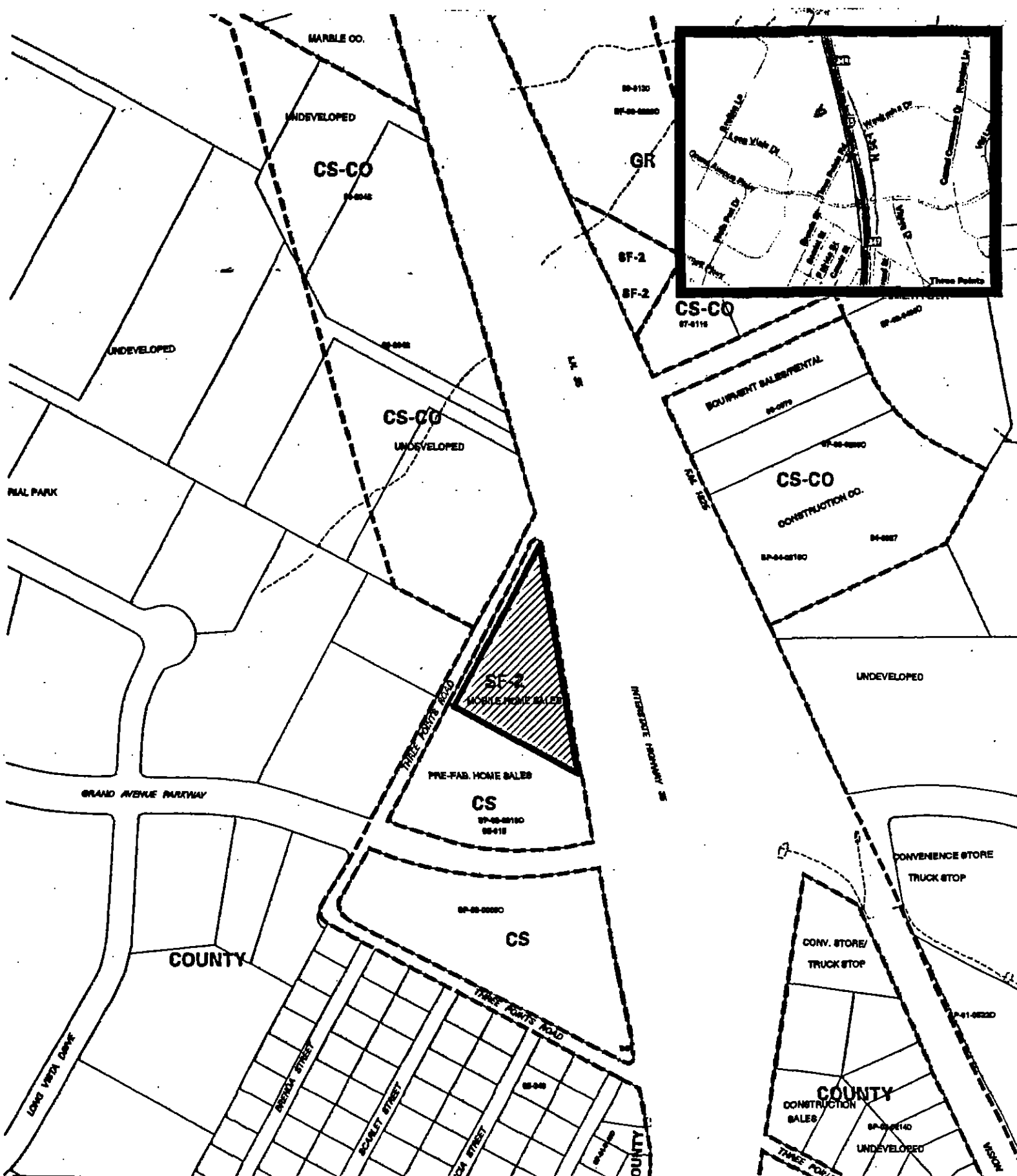
2nd

3rd

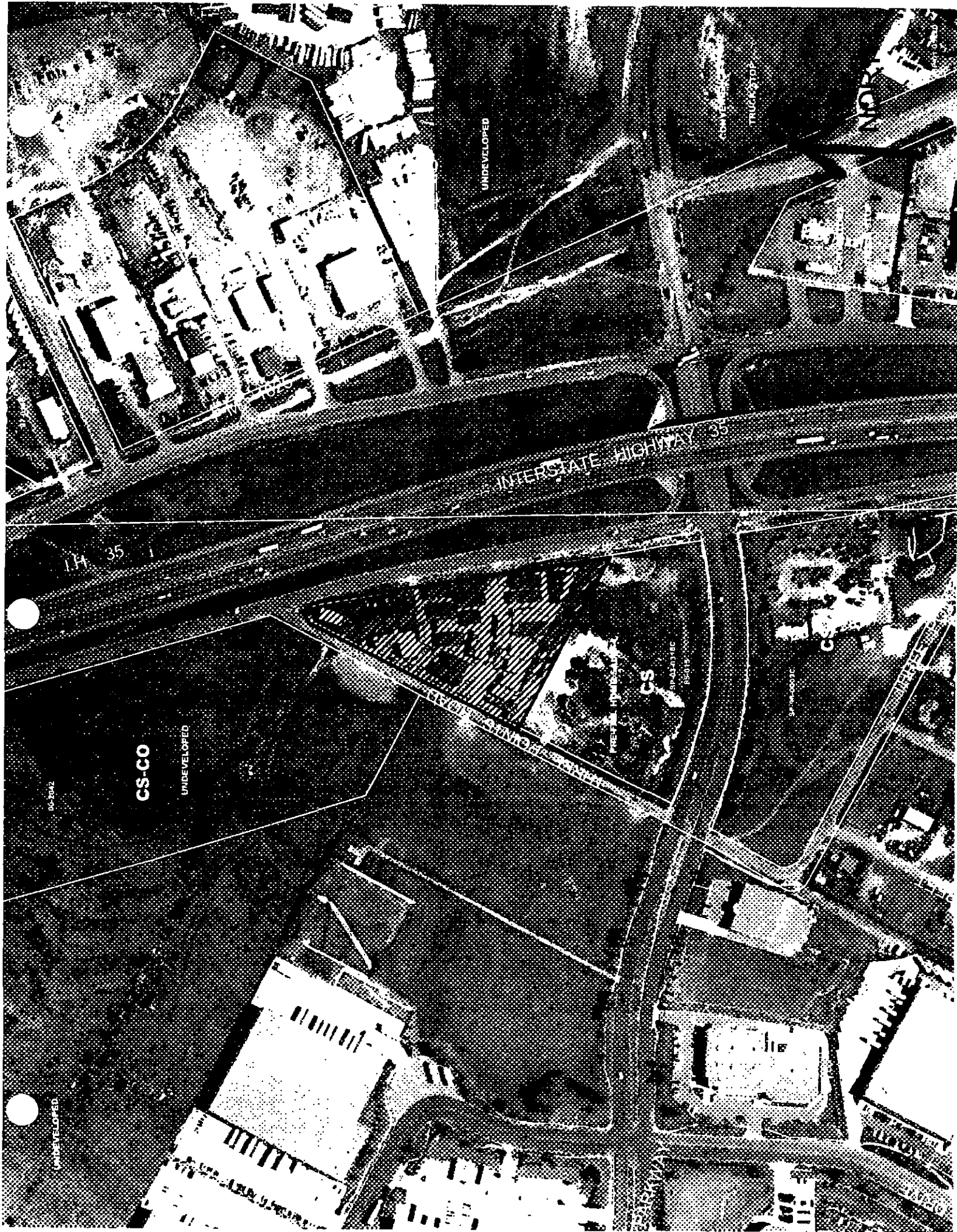
ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

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



	<p>SUBJECT TRACT </p> <p>PENDING CASE </p> <p>ZONING BOUNDARY </p> <p>CASE MGR: S. GAGER</p>	<p>ZONING</p> <p>CASE #: C14-05-0048</p> <p>ADDRESS: 15996 N 135 SVC RD SB</p> <p>SUBJECT AREA (acres): 3.068</p>	<p>DATE: 05-04</p> <p>INTLS: SM</p>	<p>CITY GRID REFERENCE NUMBER</p> <p>M38</p>
--	--	---	---	--



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.

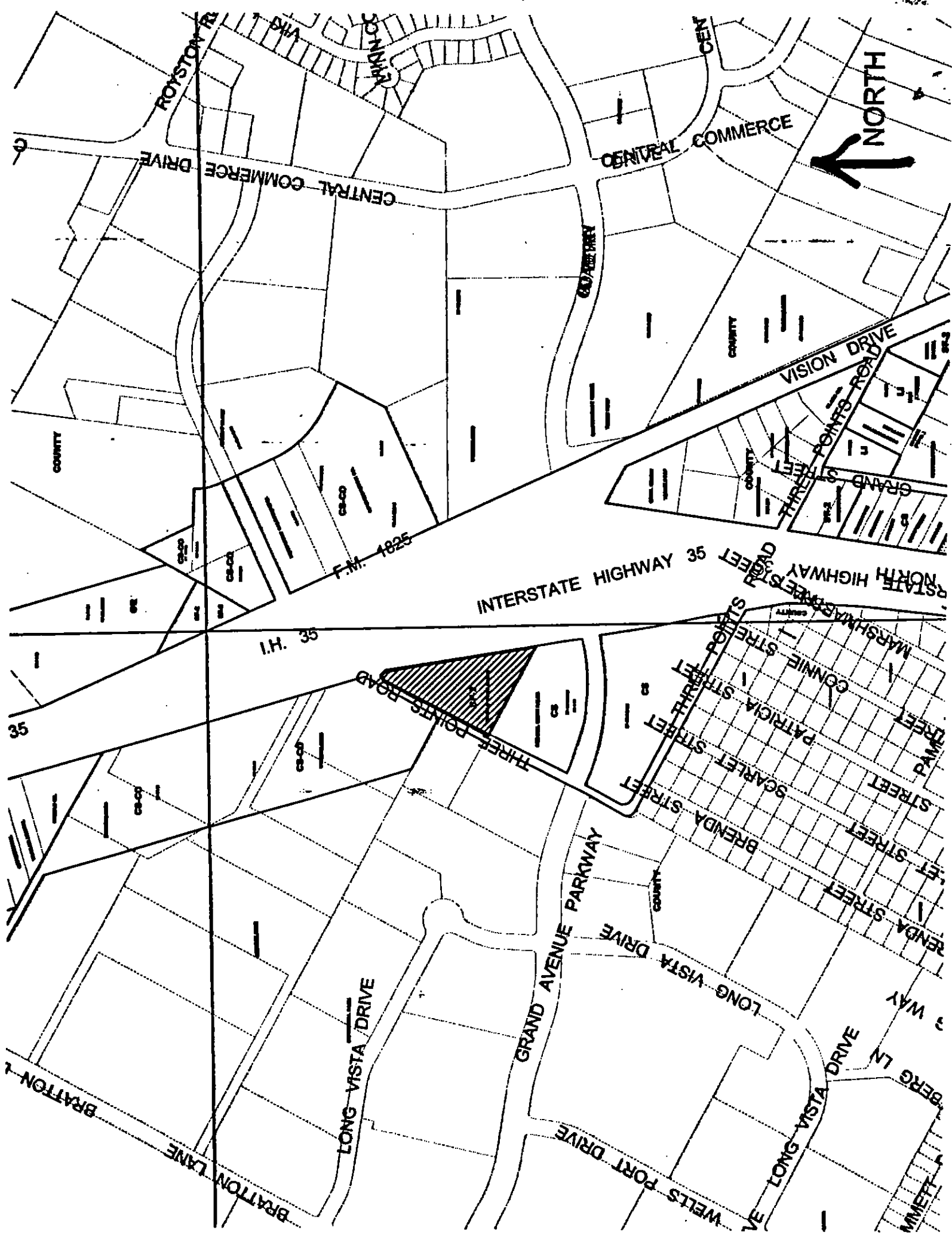
Stormwater Detention

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
WESTGATE 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.

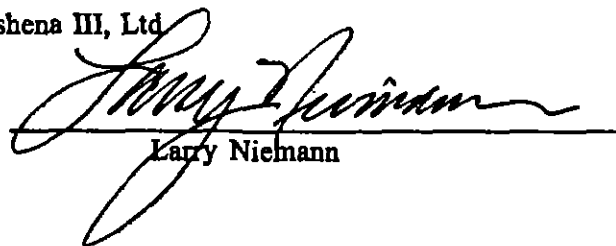
What is doubly disturbing about Palm Harbor's gross disregard of city requirements is that MacDonald's and Chevron, who are the ground-lease tenants on Coshena's land next to Palm Harbor, have spent immense amount of time, effort, and money to comply with all City of Austin requirements; and it is a 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



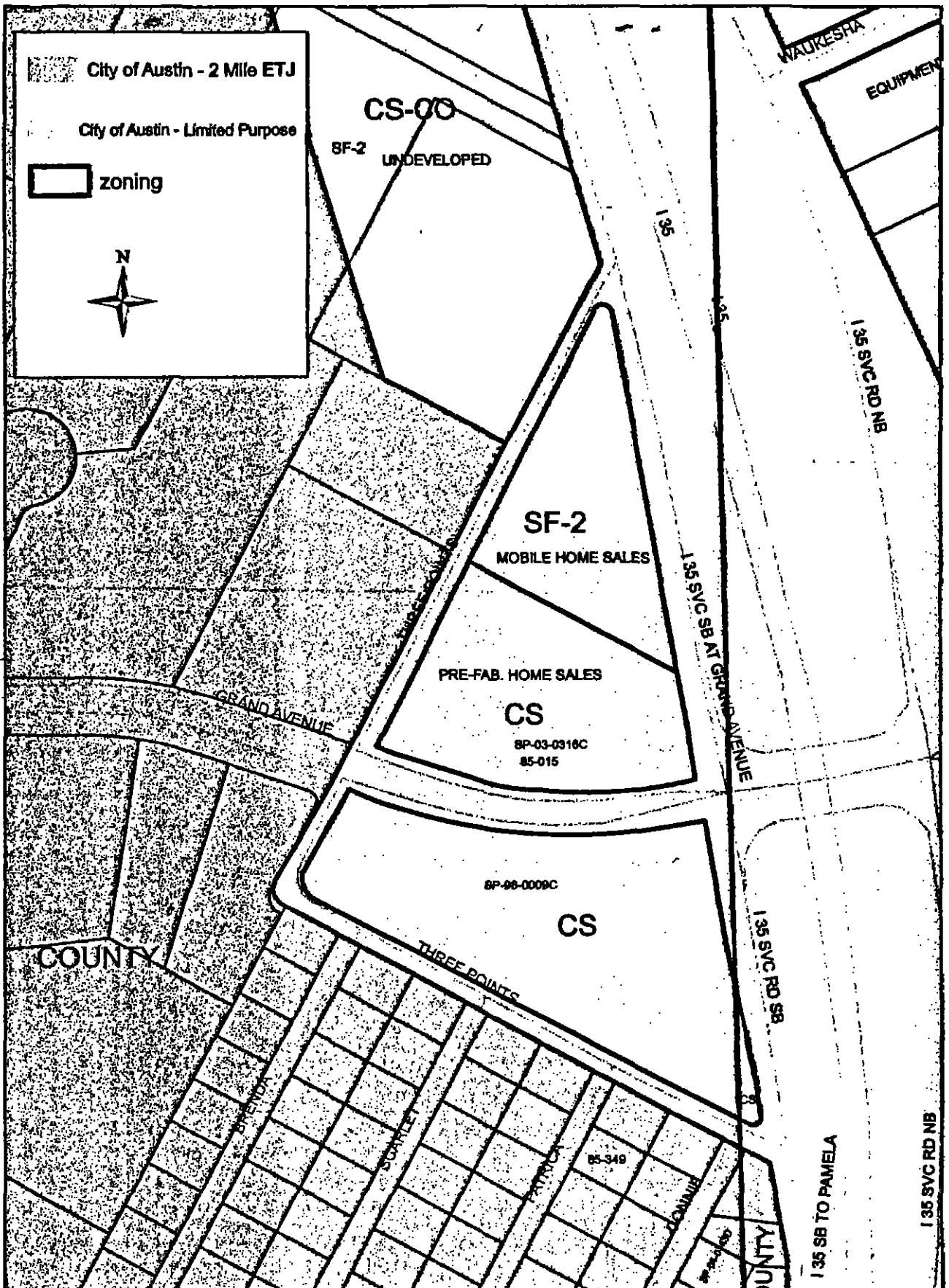
Larry Niemann

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

PHHCOAltr4-26-03.doc



UNDEVELOPED

1997
Photo

THREE POINTS ROAD

SF-2

MOBILE HOME SALES

PRE-FAB. HOME SALES

CS

SP-03-0316C

B5-D15

20042002

SP-98-0009C

CS

THREE POINTS ROAD

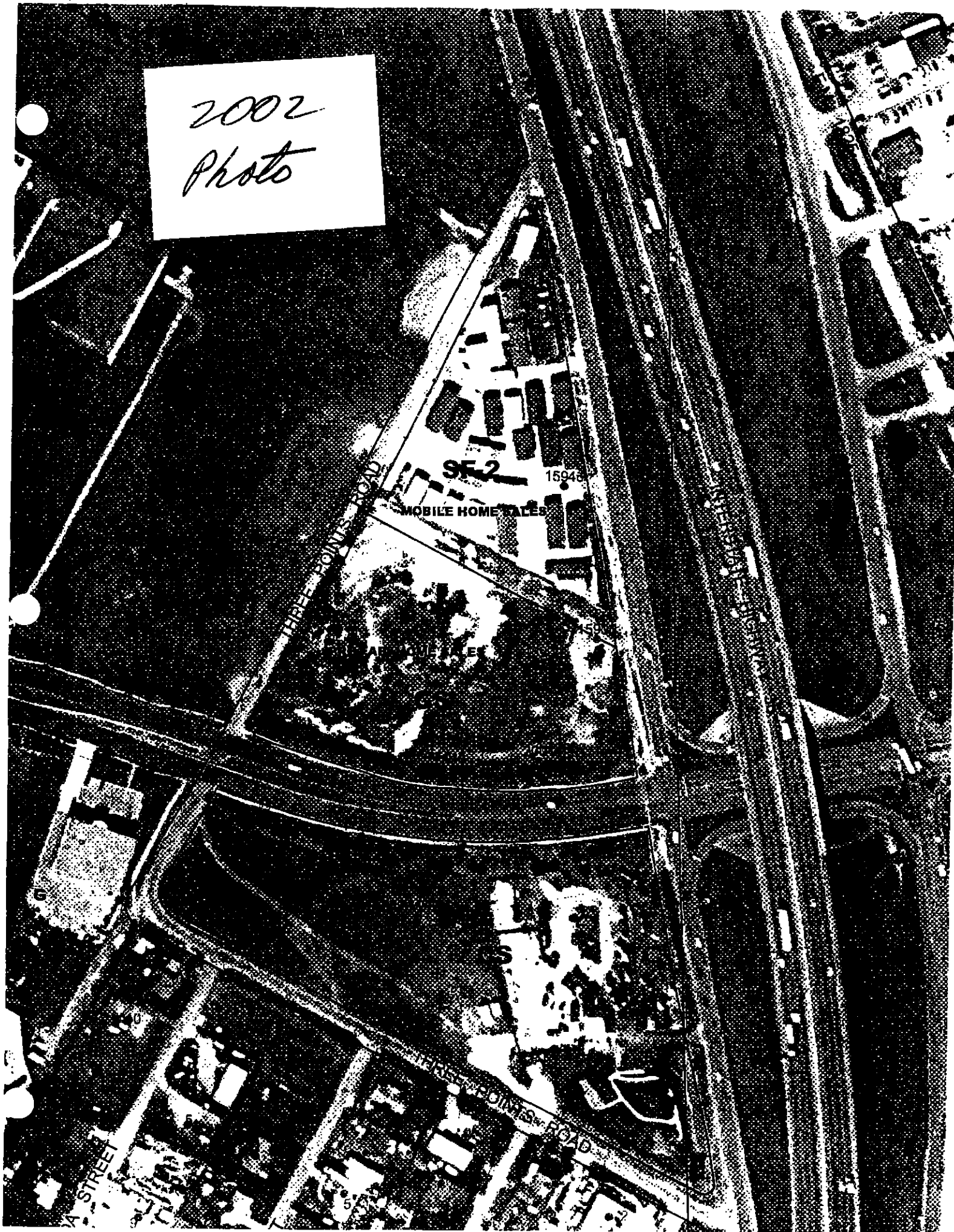
INTERSTATE HIGHWAY 35

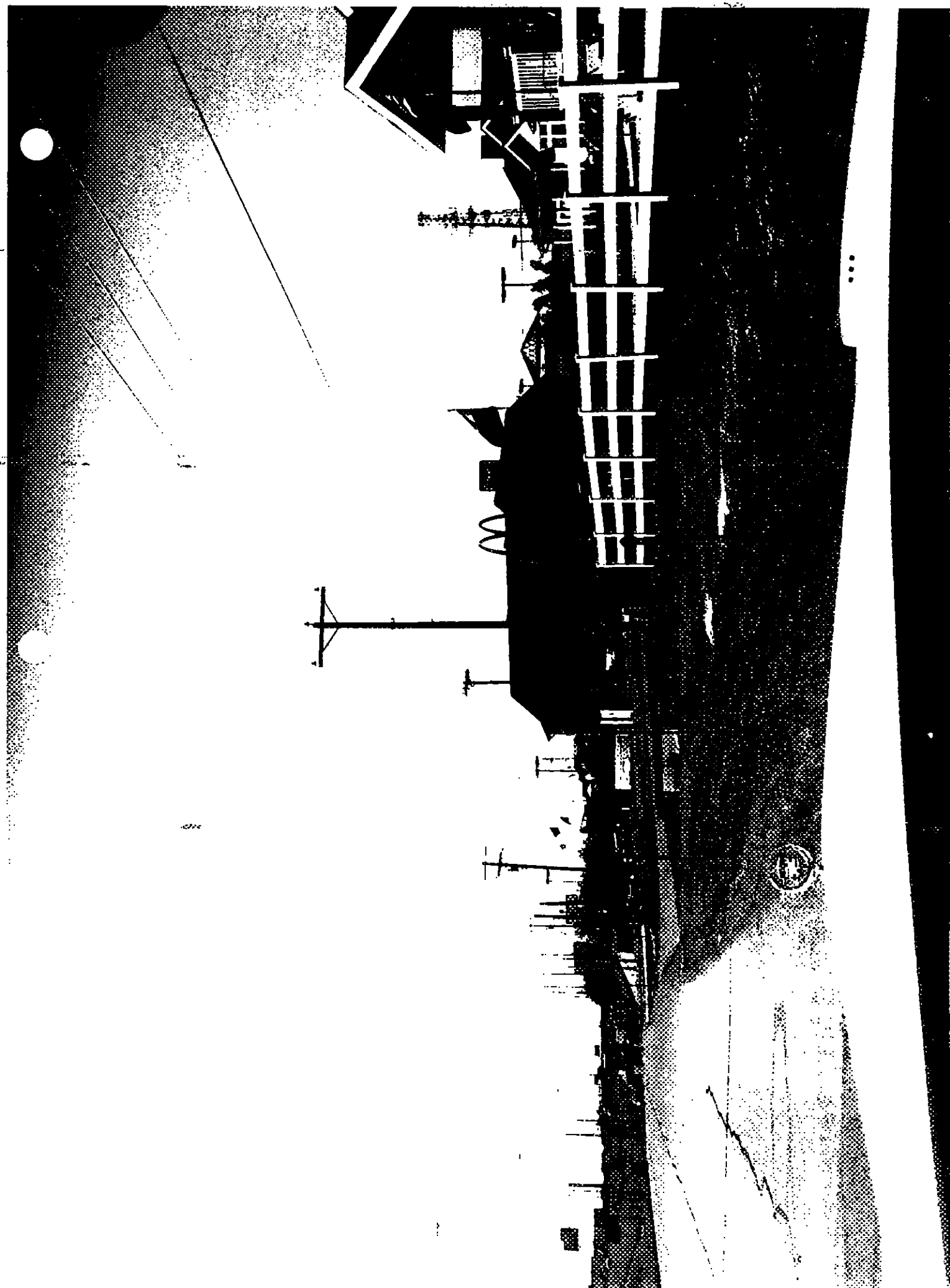
FM 1825

G

DA STREET

2002
Photo





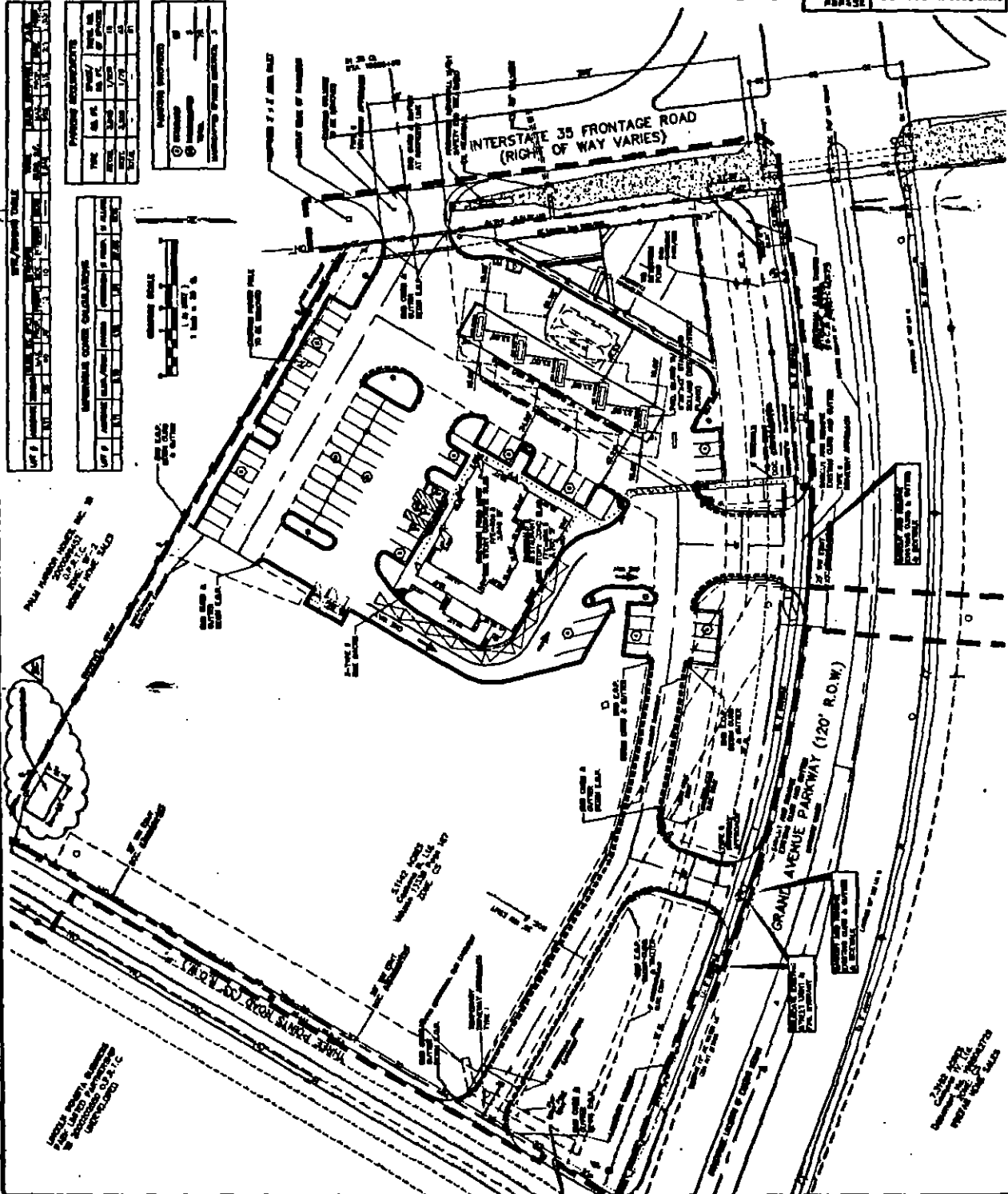
[illegible][illegible][illegible]

SEE SHEET 14 AND 15 FOR
WASTEWATER LINE A

STUDY/ JACHTS ARE BEING RUN
IN THE AREA OF THE TOWNSHIP
ALONG IN CAPITAL EXPENSES

III CONCLUSIONS

1. Name: _____
 2. Address: _____
 3. City: _____
 4. State: _____
 5. Zip: _____
 6. Phone: _____
 7. E-mail: _____
 8. Date: _____
 9. Signature: _____
 10. Printed Name: _____
 11. Title: _____
 12. Company: _____
 13. Department: _____
 14. Position: _____
 15. Date: _____
 16. Signature: _____
 17. Printed Name: _____
 18. Title: _____
 19. Company: _____
 20. Department: _____
 21. Position: _____
 22. Date: _____
 23. Signature: _____
 24. Printed Name: _____
 25. Title: _____
 26. Company: _____
 27. Department: _____
 28. Position: _____
 29. Date: _____
 30. Signature: _____
 31. Printed Name: _____
 32. Title: _____
 33. Company: _____
 34. Department: _____
 35. Position: _____
 36. Date: _____
 37. Signature: _____
 38. Printed Name: _____
 39. Title: _____
 40. Company: _____
 41. Department: _____
 42. Position: _____
 43. Date: _____
 44. Signature: _____
 45. Printed Name: _____
 46. Title: _____
 47. Company: _____
 48. Department: _____
 49. Position: _____
 50. Date: _____
 51. Signature: _____
 52. Printed Name: _____
 53. Title: _____
 54. Company: _____
 55. Department: _____
 56. Position: _____
 57. Date: _____
 58. Signature: _____
 59. Printed Name: _____
 60. Title: _____
 61. Company: _____
 62. Department: _____
 63. Position: _____
 64. Date: _____
 65. Signature: _____
 66. Printed Name: _____
 67. Title: _____
 68. Company: _____
 69. Department: _____
 70. Position: _____
 71. Date: _____
 72. Signature: _____
 73. Printed Name: _____
 74. Title: _____
 75. Company: _____
 76. Department: _____
 77. Position: _____
 78. Date: _____
 79. Signature: _____
 80. Printed Name: _____
 81. Title: _____
 82. Company: _____
 83. Department: _____
 84. Position: _____
 85. Date: _____
 86. Signature: _____
 87. Printed Name: _____
 88. Title: _____
 89. Company: _____
 90. Department: _____
 91. Position: _____
 92. Date: _____
 93. Signature: _____
 94. Printed Name: _____
 95. Title: _____
 96. Company: _____
 97. Department: _____
 98. Position: _____
 99. Date: _____
 100. Signature: _____
 101. Printed Name: _____
 102. Title: _____
 103. Company: _____
 104. Department: _____
 105. Position: _____
 106. Date: _____
 107. Signature: _____
 108. Printed Name: _____
 109. Title: _____
 110. Company: _____
 111. Department: _____
 112. Position: _____
 113. Date: _____
 114. Signature: _____
 115. Printed Name: _____
 116. Title: _____
 117. Company: _____
 118. Department: _____
 119. Position: _____
 120. Date: _____
 121. Signature: _____
 122. Printed Name: _____
 123. Title: _____
 124. Company: _____
 125. Department: _____
 126. Position: _____
 127. Date: _____
 128. Signature: _____
 129. Printed Name: _____
 130. Title: _____
 131. Company: _____
 132. Department: _____
 133. Position: _____
 134. Date: _____
 135. Signature: _____
 136. Printed Name: _____
 137. Title: _____
 138. Company: _____
 139. Department: _____
 140. Position: _____
 141. Date: _____
 142. Signature: _____
 143. Printed Name: _____
 144. Title: _____
 145. Company: _____
 146. Department: _____
 147. Position: _____
 148. Date: _____
 149. Signature: _____
 150. Printed Name: _____
 151. Title: _____
 152. Company: _____
 153. Department: _____
 154. Position: _____
 155. Date: _____
 156. Signature: _____
 157. Printed Name: _____
 158. Title: _____
 159. Company: _____
 160. Department: _____
 161. Position: _____
 162. Date: _____
 163. Signature: _____
 164. Printed Name: _____
 165. Title: _____
 166. Company: _____
 167. Department: _____
 168. Position: _____
 169. Date: _____
 170. Signature: _____
 171. Printed Name: _____
 172. Title: _____
 173. Company: _____
 174. Department: _____
 175. Position: _____
 176. Date: _____
 177. Signature: _____
 178. Printed Name: _____
 179. Title: _____
 180. Company: _____
 181. Department: _____
 182. Position: _____
 183. Date: _____
 184. Signature: _____
 185. Printed Name: _____
 186. Title: _____
 187. Company: _____
 188. Department: _____
 189. Position: _____
 190. Date: _____
 191. Signature: _____
 192. Printed Name: _____
 193. Title: _____
 194. Company: _____
 195. Department: _____
 196. Position: _____
 197. Date: _____
 198. Signature: _____
 199. Printed Name: _____
 200. Title: _____
 201. Company: _____
 202. Department: _____
 203. Position: _____
 204. Date: _____
 205. Signature: _____
 206. Printed Name: _____
 207. Title: _____
 208. Company: _____
 209. Department: _____
 210. Position: _____
 211. Date: _____
 212. Signature: _____
 213. Printed Name: _____
 214. Title: _____
 215. Company: _____
 216. Department: _____
 217. Position: _____
 218. Date: _____
 219. Signature: _____
 220. Printed Name: _____
 221. Title: _____
 222. Company: _____
 223. Department: _____
 224. Position: _____
 225. Date: _____
 226. Signature: _____
 227. Printed Name: _____
 228. Title: _____
 229. Company: _____
 230. Department: _____
 231. Position: _____
 232. Date: _____
 233. Signature: _____
 234. Printed Name: _____
 235. Title: _____
 236. Company: _____
 237. Department: _____
 238. Position: _____
 239. Date: _____
 240. Signature: _____
 241. Printed Name: _____
 242. Title: _____
 243. Company: _____
 244. Department: _____
 245. Position: _____
 246. Date: _____
 247. Signature: _____
 248. Printed Name: _____
 249. Title: _____
 250. Company: _____
 251. Department: _____
 252. Position: _____
 253. Date: _____
 254. Signature: _____
 255. Printed Name: _____
 256. Title: _____
 257. Company: _____
 258. Department: _____
 259. Position: _____
 260. Date: _____
 261. Signature: _____
 262. Printed Name: _____
 263. Title: _____
 264. Company: _____
 265. Department: _____
 266. Position: _____
 267. Date: _____
 268. Signature: _____
 269. Printed Name: _____
 270. Title: _____
 271. Company: _____
 272. Department: _____
 273. Position: _____
 274. Date: _____
 275. Signature: _____
 276. Printed Name: _____
 277. Title: _____
 278. Company: _____
 279. Department: _____
 280. Position: _____
 281. Date: _____
 282. Signature: _____
 283. Printed Name: _____
 284. Title: _____
 285. Company: _____
 286. Department: _____
 287. Position: _____
 288. Date: _____
 289. Signature: _____
 290. Printed Name: _____
 291. Title: _____
 292. Company: _____
 293. Department: _____
 294. Position: _____
 295. Date: _____
 296. Signature: _____
 297. Printed Name: _____
 298. Title: _____
 299. Company: _____
 300. Department: _____
 301. Position: _____
 302. Date: _____
 303. Signature: _____
 304. Printed Name: _____
 305. Title: _____
 306. Company: _____
 307. Department: _____
 308. Position: _____
 309. Date: _____
 310. Signature: _____
 311. Printed Name: _____
 312. Title: _____
 313. Company: _____
 314. Department: _____
 315. Position: _____
 316. Date: _____
 317. Signature: _____
 318. Printed Name: _____
 319. Title: _____
 320. Company:



**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