

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



**AGENDA ITEM NO.: Z-14  
AGENDA DATE: Thu 12/01/2005  
PAGE: 1 of 1**

**SUBJECT:** C14-05-0117.SII - Arbor Ridge S.M.A.R.T. Housing - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5503-5507 Nuckols Crossing Road (Williamson Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning. Planning Commission Recommendation: To grant condominium residence-neighborhood plan (SF-6-NP) combining district zoning with conditions. Applicant: CG Development, L.L.C. (Donald J. Cunningham). Agent: Cunningham-Allen, Inc. (Jana Rice). City Staff: Wendy Walsh, 974-7719.

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

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

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-05-0117.SH

**P.C. DATE:** October 25, 2005  
November 8, 2005

**ADDRESS:** 5503 – 5507 Nuckols Crossing Road

**OWNER:** CG Development, L.L.C.  
(Donald J. Cunningham)

**AGENT:** Cunningham-Allen, Inc.  
(Jana Rice)

**ZONING FROM:** SF-3-NP

**TO:** SF-6-NP

**AREA:** 6.380 acres

### **SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant townhouse and condominium residence – neighborhood plan (SF-6-NP) combining district zoning.

If the requested zoning is recommended for this site, then Staff recommends a Restrictive Covenant to include all recommendations listed in the Neighborhood Traffic Analysis memorandum, dated October 18, 2005 and provided as Attachment A.

### **PLANNING COMMISSION RECOMMENDATION:**

October 25, 2005: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO NOVEMBER 8, 2005; BY CONSENT.*

*[D. SULLIVAN – 1<sup>ST</sup>; J. REDDY – 2<sup>ND</sup>]*

*Vote: 8-0. M. MOORE – ABSENT.*

November 8, 2005: *APPROVED SF-6-NP DISTRICT ZONING WITH THE CONDITIONS OF THE NEIGHBORHOOD TRAFFIC ANALYSIS, AS STAFF RECOMMENDED.*

*[D. SULLIVAN – 1<sup>ST</sup>; J. M. CORTEZ – 2<sup>ND</sup>]*

*Vote: 8-0. M. DEALEY – ABSENT.*

### **ISSUES:**

As directed by Staff, the Applicant submitted a Neighborhood Plan Amendment to change the Future Land Use Map (FLUM) from Single Family to Higher Density Single Family in July 2005. On August 3, 2005, the Staff held a meeting with members of the Southeast Neighborhood Planning Contact Team to discuss the proposed change to the FLUM. Since that time, the Law Department determined that a plan amendment is not necessary since there was not a High Density Single Family land use designation when the Southeast Neighborhood Plan was developed. The plan amendment case will be withdrawn. Staff may pursue a plan amendment on its own for High Density Single Family if SF-6-NP zoning is approved by City Council. However, this would be Staff-initiated and processed separately from the zoning case.

The Director of Planning Services of AISD has provided a memo identifying insufficient school capacities in this area, but also supports the zoning change due to planned homeownership of this residential community. Please refer to Attachment B.

This rezoning case has been approved to participate in the City's S.M.A.R.T. (Safe, Mixed-Income, Accessible, Reasonably-priced, Transit-Oriented) Housing expedited review program. Please refer to Attachment C.

**DEPARTMENT COMMENTS:**

The subject rezoning area consists of two lots and a portion of a third lot, contains three single family residences and is zoned family residence – neighborhood plan (SF-3-NP) district zoning through the McKinney Neighborhood Plan rezonings in 2002. The site takes its primary access to Nuckols Crossing Road, an arterial, as well as Palo Blanco Lane, a local street that provides access to AISD's Widen Elementary School and Dove Springs District Park. The rezoning area is surrounded on the north by undeveloped property (zoned SF-6-NP); on the east by the park (P-NP); on the south by the school (P-NP) and on the west by an AISD junior high school, single family residences and duplexes and (P-NP; SF-3-NP). Please refer to Exhibits A (Zoning Map), A-1 (Aerial View) and A-2 (Boundaries of the McKinney Neighborhood Planning Area), A-3 (Future Land Use Map of the McKinney Neighborhood Planning Area) and B (Recorded Plat).

The Applicant proposes to rezone the property to the townhouse and condominium residence – neighborhood plan (SF-6-NP) combining district for 84 townhouse units and in conjunction with the adjacent property to the north for a 150-unit townhouse development. Please refer to Exhibit C (Conceptual Site Plan).

Staff supports the applicant's rezoning request to SF-6-NP on the basis of the following considerations of the property: 1) The surrounding area includes single family residences, duplexes and townhouses, and SF-6-NP zoning would be compatible with the established character while further diversifying the housing options available; 2) consistency with the expressed stakeholder goals of providing for additional homeownership opportunities; 3) located in proximity to supporting civic and commercial uses; and 4) it is consistent with the Council's policy of providing opportunities for S.M.A.R.T. Housing to occur.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NP	Undeveloped
<i>North</i>	SF-6-NP; LR-NP; SF-3-NP	Undeveloped; Service station; Retail sales (general)
<i>South</i>	SF-3-NP; P-NP	Undeveloped (owned by AISD); AISD elementary school; City of Austin library and fire station
<i>East</i>	P-NP	City park and recreation facility
<i>West</i>	GR-NP; LR-NP; SF-3-NP; P-NP; PUD-NP	Restaurant (general); Undeveloped; Duplexes, Single family residences; AISD - junior high school; Townhouses

**NEIGHBORHOOD PLANNING AREA:** Southeast  
Combined NPA (McKinney)

**NTA:** Is required; Please refer to  
Attachment A

**WATERSHED:** Williamson Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

27 – Franklin Park Neighborhood Association  
 96 – Southeast Corner Alliance of Neighborhoods (SCAN)  
 300 – Terrell Lane Interceptor Association  
 428 – Barton Springs / Edwards Aquifer Conservation District  
 437 – Dove Springs Neighborhood Association  
 511 – Austin Neighborhoods Council  
 627 – Onion Creek Homeowners Association  
 688 – Southeast Neighborhood Planning Contact Team  
 742 -- Austin Independent School District  
 743 – Southeast Austin Trails & Greenbelt Alliance

**SCHOOLS:**

Widen Elementary School      Mendez Middle School      Charles Akins High School

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-02-0043	SF-3 to P	To Grant P district zoning	Approved P district zoning (6-27-02).

**RELATED CASES:**

The Southeast Combined Neighborhood Plan was completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on October 10, 2002 (C14-02-0128.02).

The subject property consists of Lots 1 and 2, and a portion of Lot 3 of the Cooper Addition, a subdivision recorded in August 1963. Please refer to Exhibit B.

**ABUTTING STREETS:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification and Traffic Count</b>	<b>Sidewalks</b>	<b>Bus Route</b>	<b>Bike Route</b>
Nuckols Crossing Road	Varies	27 – 33 feet	Residential collector – (9,306 – September 2005)	No	Yes, along Nuckols Crossing Road with Stassney Crosstown (#311), Dove Springs Flyer (#127) and Dove Springs / Duval Local (#27)	In Bicycle Plan as Priority 1 bike route
Palo Blanco Lane	64 feet	44 feet	Non-residential collector (1,959 – September 2005)	Yes	No	No

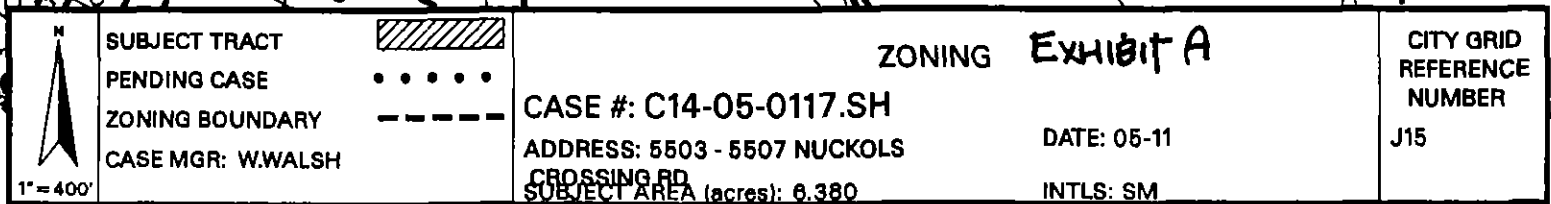
**CITY COUNCIL DATE:** December 1, 2005      **ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>                      2<sup>nd</sup>                      3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Walsh  
e-mail: wendy.walsh@ci.austin.tx.us

**PHONE:** 974-7719







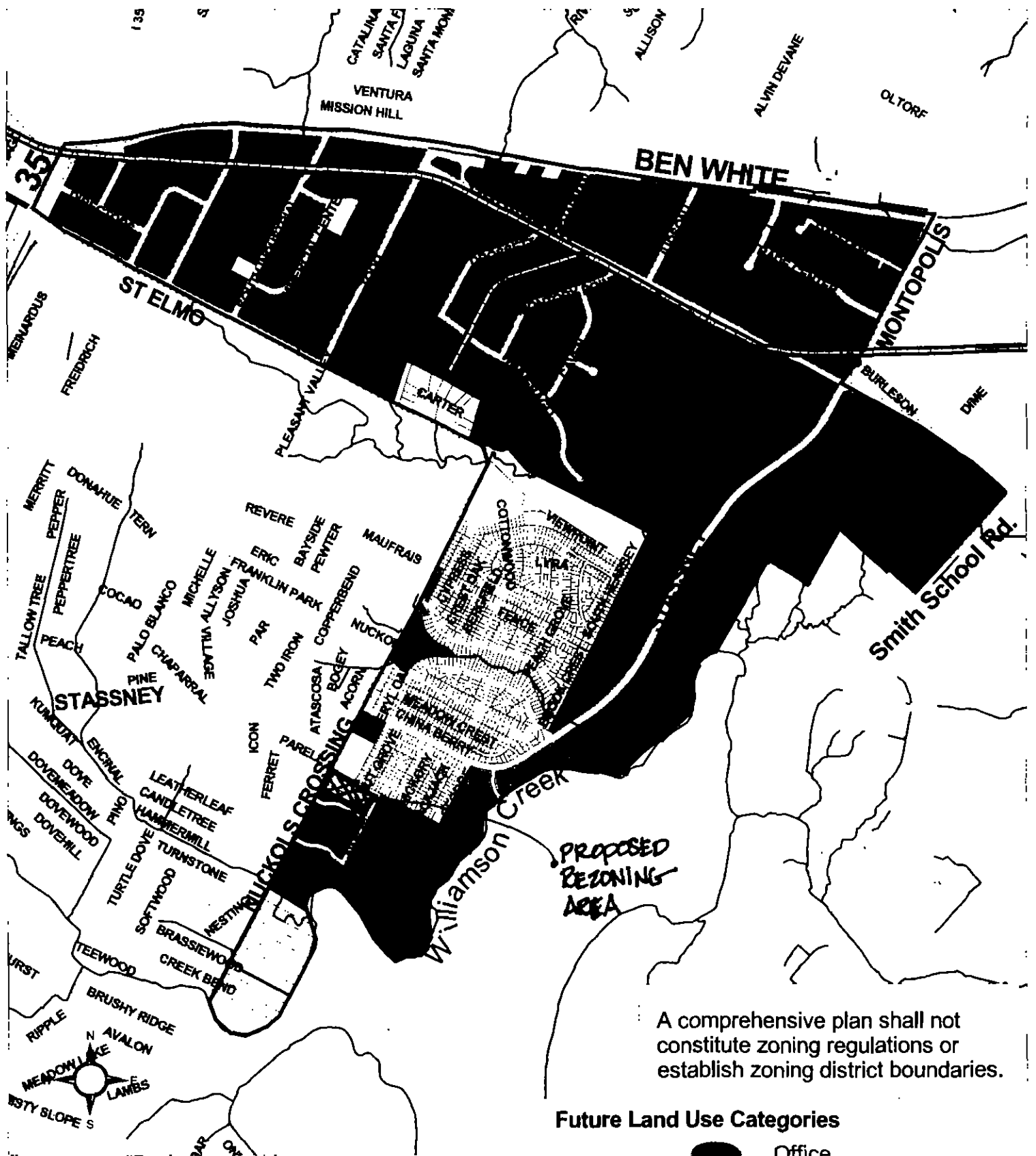
## McKinney Neighborhood Planning Area

0.5 0 0.5 Miles

 Parks

EXHIBIT A-2





# McKinney Neighborhood Planning Area- Future Land Use Map

City of Austin; NPZD  
Adopted: October 10, 2002

## Future Land Use Categories

Single-family  
Mobile Homes  
Multi-family  
Commercial  
Mixed-Use



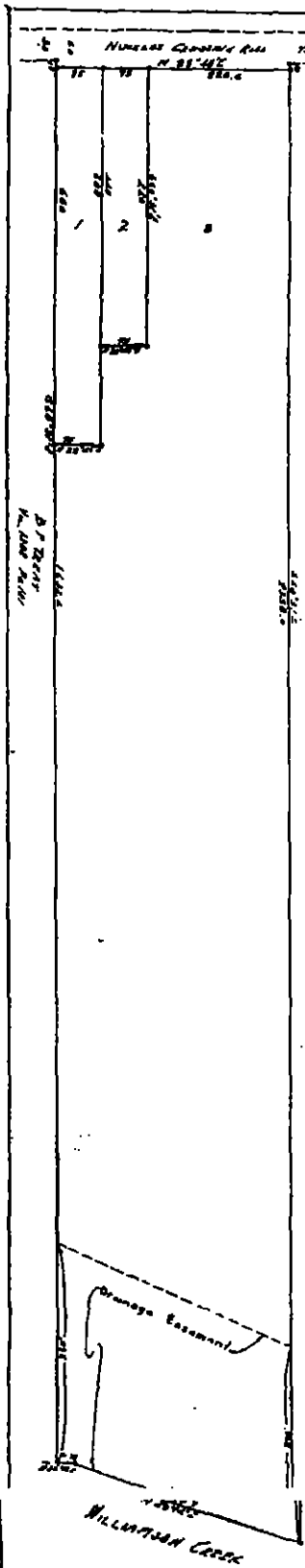
Office  
Warehouse/Limited Office  
Industry  
Mining  
Civic  
Open Space

EXHIBIT A-3

Aug 5-63 RECHA

1574

1575



STATE OF TEXAS:

COUNTY OF TRAVIS: KNOW ALL MEN BY THESE PRESENTS:

THAT WE, CLAUDE L. COOPER, and WIFE, CLARA COOPER, owners of THAT 80 ACRES OF LAND OUT OF THE EASTLAND DEL VALLE GRANT, IN TRAVIS COUNTY, TEXAS, COMPELLED TO BE BY DEED RECORDED IN VOL. 1574, PAGE 516, OF THE JUDICIAL RECORDS OF TRAVIS COUNTY, TEXAS, JUDGES OF THE FIRST FEDERAL DISTRICT AND LOAN ASSOCIATION OF JUDGES, a voluntary association under the laws of the United States, a partnership organized under the laws of the State of TEXAS, do hereby certify that this our subdivision thereof to be known as

**COOPER ADDITION**

AND DO HEREBY dedicate to the public all streets, roads and easements shown hereon.

WITNESSE OUR HANDS ON THIS THE 27th DAY OF JULY

A. D. 1963

*[Signature]*

CLARA COOPER

FIRST FEDERAL DISTRICT AND LOAN ASSOCIATION OF JUDGES,

BY *[Signature]* CLAUDE A. PRADIER, VICE PRESIDENT.

THE APPROVAL OF THIS PLAT BY THE COMMISSIONER'S COURT OF TRAVIS COUNTY, TEXAS, IN NO WISE OBLIGATES THE COUNTY OF TRAVIS AND THE COMMISSIONER'S COURT TO BUILD ANY EASEMENT, BRIDGE, ROAD OR ANY OTHER STRUCTURE IN CONNECTION THEREWITH. ALL SUCH CONSTRUCTION SHALL BE THE RESPONSIBILITY OF THE OWNER AND THE DEVELOPER OF THE SUBDIVISION AND ALL CONSTRUCTION SHALL BE DONE IN ACCORD WITH SPECIFICATIONS APPROVED BY THE COMMISSIONER'S COURT AND SHALL BE IN ACCORDANCE WITH THE SUBDIVISION.

APPROVED FOR ACCEPTANCE JULY 30, 1963.

*[Signature]* HENRY M. DUBOIS, DIRECTOR OF PLANNING.

ACCEPTED AND AUTHORIZED FOR RECORD BY THE PLANNING COMMISSION OF THE CITY OF JUDITH JULY 30, 1963.

*[Signature]* SECRETARY

FILED FOR RECORD THIS THE 5 DAY OF

Aug. A. D. 1963

EMILIE LINDBERGH, COUNTY CLERK, TRAVIS COUNTY, TEXAS.

BY *[Signature]* DEPUTY.

STATE OF TEXAS:

COUNTY OF TRAVIS: I, EMILIE LINDBERGH, CLERK OF THE COUNTY COURT OF THE COUNTY AND TEXAS, DO HEREBY CERTIFY THAT THE COMMISSIONER'S COURT OF TRAVIS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING FOR RECORD OF THIS PLAT BY THE CITY OF JUDITH A. D. 1963, AND THAT THE SAID ORDER HAS BEEN ONLY RECORDED IN BOOK 3, PAGE 384, OF THE JUDICIAL RECORDS OF SAID COUNTY.

WITNESSE MY HAND AND THE SEAL OF THE COUNTY COURT ON THIS THE 5th DAY OF

August A. D. 1963.

EMILIE LINDBERGH, CLERK OF THE COUNTY COURT, TRAVIS COUNTY, TEXAS.

BY *[Signature]* DEPUTY.

STATE OF TEXAS:

COUNTY OF TRAVIS: I, EMILIE LINDBERGH, CLERK OF THE COUNTY COURT OF TRAVIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION, WAS FILED FOR RECORD IN MY OFFICE ON THE 5th DAY OF August A. D. 1963, AT 10:00 A. M., AND ONLY RECORDED ON THE 5th DAY OF August A. D. 1963, AT 10:00 A. M., IN BOOK 18

PAGE 20, OF THE PLAT RECORDS OF SAID COUNTY.

WITNESSE MY HAND AND THE SEAL OF THE COUNTY COURT ON THE DAY LAST WRITTEN ABOVE.

EMILIE LINDBERGH, CLERK OF THE COUNTY COURT, TRAVIS COUNTY, TEXAS.

BY *[Signature]* DEPUTY.

STATE OF TEXAS:

COUNTY OF TRAVIS: I, CLAUDE L. COOPER, known to me to be the

author, on this day, personally appeared CLAUDE L. COOPER, known to me to be the person whose name is signed to the foregoing and he acknowledged to me that he signed it for the purpose and consideration therein expressed; and also personally appeared CLARA COOPER, wife of CLAUDE L. COOPER, known to me to be the person whose name is signed to the foregoing and she being questioned separately and apart from me declared and having the same fully explained to her acknowledged that she signed it for the purpose and consideration therein expressed and that she did not sign to attract my attention and also personally appeared CLAUDE A. PRADIER, Vice-President of the First Federal District and Loan Association of Judges, known to me to be the person and officer of the said corporation, and he acknowledged that he signed it as the act and deed of the said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON

THIS THE 27th DAY OF JULY

A. D. 1963.

*[Signature]* NOTARY PUBLIC, TRAVIS COUNTY, TEXAS.

NO HOUSE IN THIS SUBDIVISION HAS BEEN BUILT FOR MORE THAN 100 FEET FROM THE CENTER LINE OF THE SUBDIVISION. IF A HOUSE IS BUILT IN THIS SUBDIVISION IT SHALL BE AT LEAST 100 FEET FROM THE CENTER LINE OF THE SUBDIVISION. IF A HOUSE IS BUILT IN THIS SUBDIVISION IT SHALL BE AT LEAST 100 FEET FROM THE CENTER LINE OF THE SUBDIVISION. IF A HOUSE IS BUILT IN THIS SUBDIVISION IT SHALL BE AT LEAST 100 FEET FROM THE CENTER LINE OF THE SUBDIVISION.

THIS IS TO CERTIFY THAT I HAVE SURVEYED THIS PROPERTY AND SUBDIVISION IT IN ACCORD WITH THE SUBDIVISION ORDER OF THE CITY OF JUDITH, TEXAS.

*[Signature]* JUNE 7, 1963

COOPER ADDITION

SCALE 1" = 100'

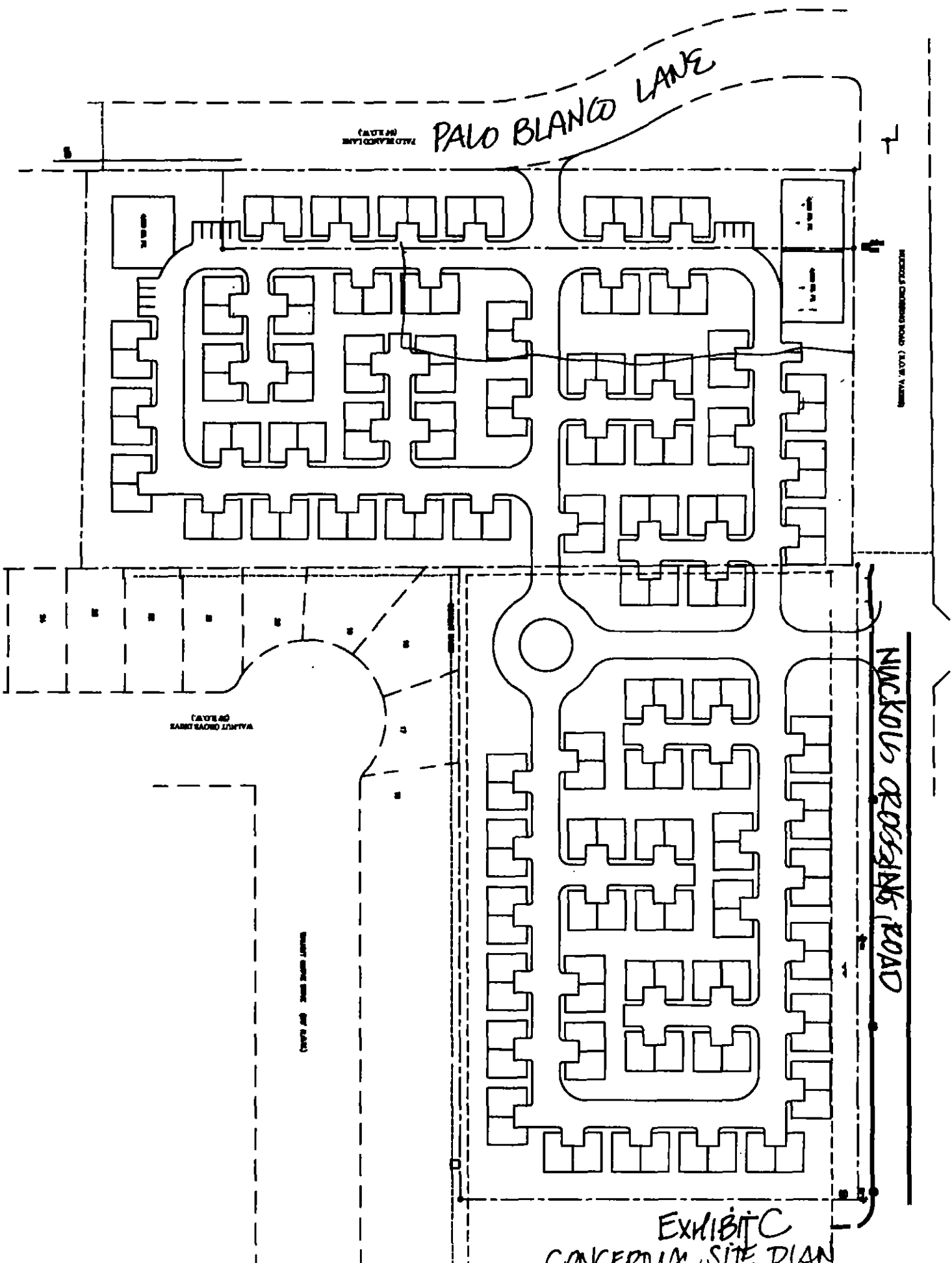
• 1000 STAKE FORM

• 1000 STAKE SET

EXHIBIT B



CBs-63-71



PALO BLANCO LANE

NICKOLAS CROSSING ROAD

EXHIBIT C  
CONCRETE SITE PLAN



## MEMORANDUM

**TO:** Wendy Walsh, Case Manager  
**CC:** Members of the Planning Commission  
Jana Hevelka Rice, Cunningham/Allen, Inc.  
**FROM:** Joe Almazan, Transportation Reviewer  
**DATE:** October 18, 2005  
**SUBJECT:** Neighborhood Traffic Analysis for Arbor Ridge  
Zoning Case No. C14-05-0117.SH

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Section 25-6-114 of the Land Development Code requires that a neighborhood traffic analysis be conducted for a project proposed with a zoning application if:

- (1) the project has access to a residential local or collector street; *and*
- (2) the projected number of vehicle trips generated by the project exceeds the vehicle trips per day generated by existing uses by at least 300 vehicle trips per day.

The 6.383 acre tract is located in southeast Austin on Nuckols Crossing Road south of East Stassney Lane and just south of Palo Blanco Lane. The site is zoned primarily for single-family residential and duplex uses with SF-3 single-family residential zoning. Surrounding development includes single-family residential and duplex properties to the east and south; a city park and community recreational center; a city library and fire station and an AISD elementary school. To the north and west, there are single-family residential properties, town homes, an AISD junior high school, and retail sales (general). The applicant's zoning request is for SF-6 town home and condominium residential zoning. If the acres to be rezoned would be allowed to develop to the maximum permitted density under the zoning request, the trip generation for the project is estimated will generate approximately 555 vehicle trips per day. However, the applicant is proposing to construct 150 dwelling units under the S.M.A.R.T. Housing Program on the subject tract (6.383 acres) and the remainder portion on the adjacent tract (6.777 acres), which is already zoned SF-6-NP. Based on the proposed 150 town home residential dwelling units, the trip generation is estimated will generate approximately 906 trips per day. Completion of the project is planned for 2008.

### Roadways

The site proposes access to Nuckols Crossing Road via one access driveway and to Palo Blanco Lane via one access driveway based on the preliminary plan. The proposed residential development will be served by collector streets. Collector streets collect traffic from other streets, serving as the most direct route to an arterial or other collector street. Some types of collector streets include residential, neighborhood, commercial, industrial, and primary.

Nuckols Crossing Road is classified as a residential collector with right-of-way that varies between 70 and 80 feet. The pavement width varies between 27 feet, just north of Palo Blanco Lane to 33 feet, just south of Stassney Lane. Nuckols Crossing Road is designed with two lanes of travel. Under

Section 25-6-114 of the Land Development Code, this portion of Nuckols Crossing Road is considered a residential collector street because at least 50 percent of its frontage is zoned for SF-5 or more restrictive uses. In September 2005, the traffic volume on Nuckols Crossing Road was 9,306 vehicles per day (north of Palo Blanco Lane).

Palo Blanco Lane is classified as a non-residential collector for this segment with a right-of-way of 70 feet. Although Palo Blanco Lane is not subject to Section 25-6-114 of the Land Development Code, it will serve as a major access point for this residential development and therefore is included as part of this analysis. The pavement width is 44 feet adjacent to the site. In September 2005, the traffic volume on Palo Blanco Lane was 1,959 vehicles per day.

### **Trip Generation and Traffic Analysis**

Based on the Institute of Transportation Engineer's publication Trip Generation, 7<sup>th</sup> Edition, the 150 town home residential dwelling units proposed with this S.M.A.R.T. Housing development will generate 906 vehicle trips per day (vpd). Site traffic is expected to use Nuckols Crossing Road, a two-lane residential collector street with predominately single-family residential usage and civic uses. Approximately 50% of the site traffic will be directed to Nuckols Crossing Road en route to East Stassney Lane (north), while the remaining 50% of the site traffic will be directed to Palo Blanco Lane en route towards South Pleasant Valley Road or Stassney Lane (east). A small percentage of site traffic may be expected to use the surrounding streets (e.g. Village Square Drive) for access to the junior high school or as an alternate travel route. Trip generation for the 150 dwelling units is summarized in Table 1.

<b>Table 1.</b>		
<b>Land Use</b>	<b>Size</b>	<b>Trip Generation</b>
Townhome	150 d.u.	906

Table 2 represents the expected distribution of the 906 trips:

<b>Table 2.</b>	
<b>Street</b>	<b>Traffic Distribution by Percent</b>
Nuckols Crossing Road	50%
Palo Blanco Lane	50%

According to Section 25-6-116 of the Land Development Code, streets which are less than 30 feet in width are considered to be operating at an undesirable traffic level if the average daily traffic volume for such roadways is less than 1,200 vehicle trips per day. Streets which are 30 feet in width but less than 40 feet in width have a desirable operating level of 1,800 vehicle trips per day or less. In 2005, the existing daily traffic volume on Nuckols Crossing Road was 9,306 vehicles per day, which exceeds the threshold of the undesirable operating level by 775% and will continue to operate at an unacceptable level with the addition of this proposed site traffic.

Many travelers associated with south Austin are using Nuckols Crossing Road as an alternative travel route instead of the IH-35 interstate freeway because of the heavy traffic congestion drivers experience during peak hour travel periods at IH-35 and Ben White Blvd. As a result, this situation will not be corrected until other major roadways within the neighborhood have been constructed, extended, or upgraded, for example Pleasant Valley Road. At this time, there is a proposed Capital Improvement Project (CIP) for Pleasant Valley Road to construct approximately 2,200 feet beginning

at the intersection of Todd Lane and St. Elmo Road and extending south to connect to a stub-out for existing Pleasant Valley Road at Button Bend Road. This future roadway will be built as a four-lane, divided arterial with bike lanes. The schedule for the Pleasant Valley Road CIP includes the design phase to begin January 2007, followed with the bidding phase in May 2007, and construction to be completed in May 2008. Of course, the proposed CIP is dependent on available funds, but given the public awareness and interest in this project, it seems likely that funding will be approved.

Because this residential street segment carries more traffic than the undesirable level defined in the Code, Section 25-6-116 states that a project shall be disapproved unless the City Council determines that the project will not result in a significant deterioration of the undesirable operating level. If the site is developed with 150 dwelling units, then the anticipated traffic volumes on Nuckols Crossing Road will total 9,759 vehicles per day. Anticipated site traffic will be only 5 percent (453 trips per day) of the total daily volumes on Nuckols Crossing Road. Consequently, the proposed development is not anticipated will result in a significant deterioration of the undesirable operating level.

Table 3 represents a breakdown of existing traffic, proposed site traffic, total traffic after development and percentage increase in traffic on Nuckols Crossing Road and Palo Blanco Lane.

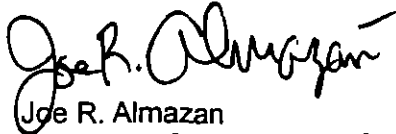
<b>Table 3.</b>						
<b>Street</b>	<b>Pavement Width (ft)</b>	<b>Maximum Desirable Volume (vpd)</b>	<b>Existing Traffic (vpd)</b>	<b>Proposed New Site Traffic</b>	<b>Overall Traffic</b>	<b>Percentage Increase in Traffic</b>
Nuckols Crossing Road	27'-33'	1,200	9,306	453	9,759	5%
Palo Blanco Lane	44'	*	1,959	453	2,412	23%

### **Recommendations/Conclusions**

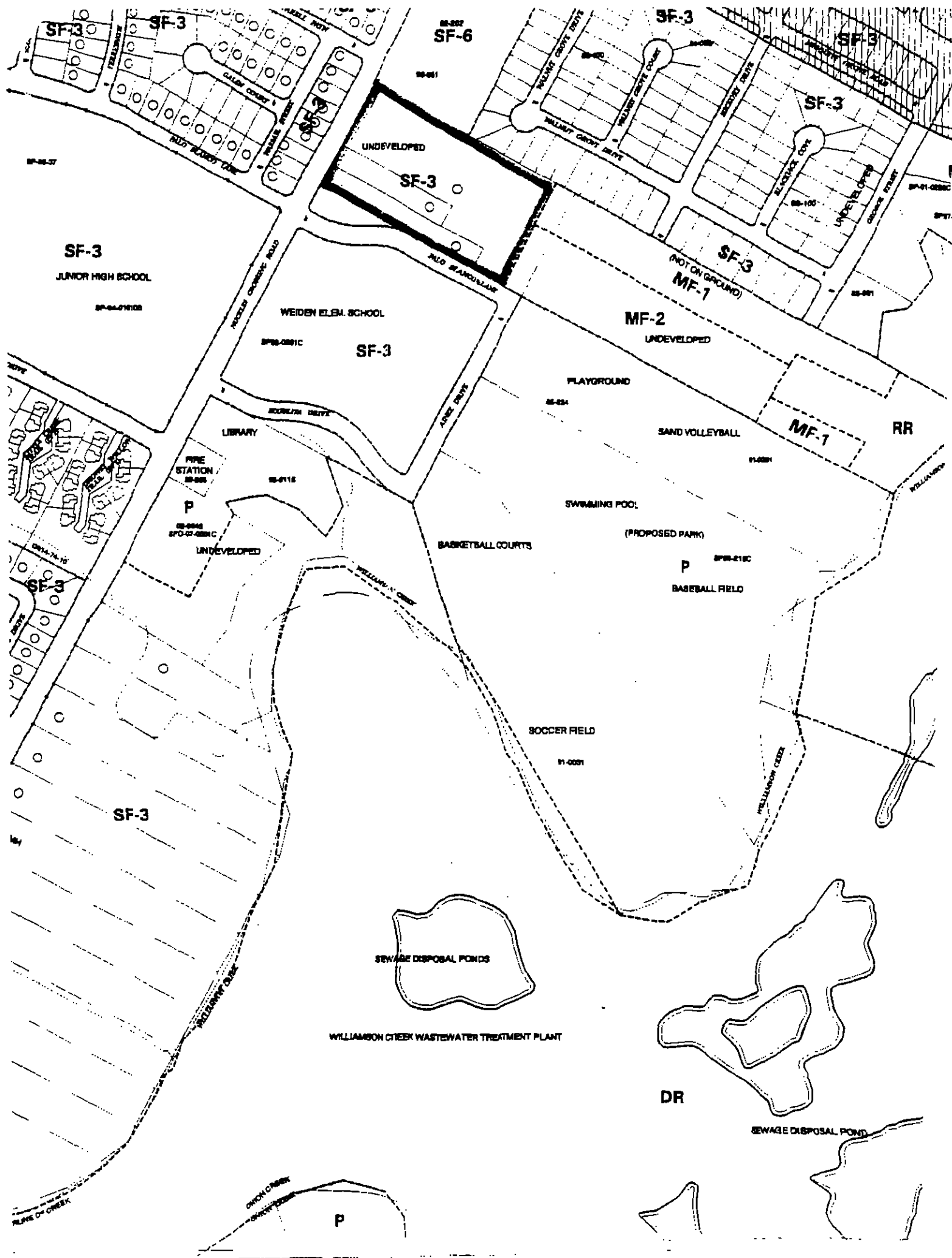
1. No additional right-of-way will be required at this time.
2. On-street parking along the east curb side of Nuckols Crossing Road should be prohibited to ensure that adequate operational space is provided for two-way traffic flow. The present pavement width is inadequate to accommodate the daily traffic volumes. The recommended "no on-street parking" restriction however, will require approval from the Public Works Department. At present, on-street parking is only prohibited along the 5800 and 5900 blocks of Nuckols Crossing Road.
3. Traffic on Nuckols Crossing Road will continue to operate at an unacceptable level with the addition of the proposed site traffic. At the time of subdivision application, the applicant may be required to post fiscal for improving the roadway width up to 48 feet of pavement for the entire street frontage as a condition of subdivision approval. As part of boundary street fiscal surety requirements, the applicant may be responsible for one-half (50%) of the future roadway improvements, which will be determined during the subdivision review process. The applicant must submit a construction cost estimate signed and sealed by an engineer to verify the amount required for posting.
4. Development of the Arbor Ridge tracts should be limited to the land uses and intensity, which will not exceed or significantly vary from the projected traffic assumed based on 906 vehicle trips per day. Such assumptions include daily trip generation, peak hour generation, trip distribution, and other related traffic characteristics.

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If you have any questions or require additional information, please contact me at 974-2674.

A handwritten signature in black ink, appearing to read "Joe R. Almazan". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

Joe R. Almazan  
Development Services Process Coordinator  
Land Use Review/S.M.A.R.T. Housing Program  
Watershed Protection and Development Review Department





# Austin ISD

**Date:** 8/30/05

**To:** Wendy Walsh City of Austin, Development Review and Inspection

**Cc:** Curt Shaw, Director of Construction Management

**From:** Dan Robertson, Director of Planning Services

**RE:** Development Review of C14-05-0117.SH

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The assigned schools do not have sufficient capacity for the requested zoning change, especially the group of elementary schools north of William Cannon; Houston, Rodriguez and Widen. Those schools are at 124% of permanent capacity. The currently planned relief south of William Cannon is badly needed for relief of Langford and Palm and will not help the schools north of William Cannon.

Nevertheless after talking with Stuart Hersch and meeting with the applicant, AISD is in support of the zoning change because the 100% ownership community will have about the same number of students despite more units (150 vs. 120 as the current zoning allows). It seems likely after reviewing the plans that the additional stability of ownership should contribute to less student mobility and therefore help student productivity.

DR



## City of Austin

P.O. Box 1088, Austin, TX 78767  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

### Neighborhood Housing and Community Development Office

Gina Copic, S.M.A.R.T. Housing Manager  
(512) 974-3180, Fax (512) 974-3112, [gina.copic@ci.austin.tx.us](mailto:gina.copic@ci.austin.tx.us)

November 10, 2003

**S.M.A.R.T. Housing Certification**  
**Cunningham Custom Homes**  
Donald Cunningham 512-259-7797

#### TO WHOM IT MAY CONCERN:

Cunningham Custom Homes is proposing to construct 150 townhomes for home ownership at 5401, 5307, 5305 and 5303 Nichols Crossing. The Neighborhood Housing and Community Development Department (NHCD) certifies that the proposed construction meets the S.M.A.R.T. Housing™ standards at the pre-submittal stage. Since 40% of the homes will serve families at 80% Median Family Income (MFI) or below, the development will be eligible for 100% waiver of the fees listed in Exhibit A of the S.M.A.R.T. Housing Resolution adopted by the City Council. The expected fee waivers include, but are not limited to, the following:

Zoning Fees	Building Permit
Subdivision Fees	Concrete Permit
Site Plan Fees	Electrical Permit
Construction Inspection Fee	Mechanical Permit
Building Plan Review Fees	Plumbing Permit
Capital Recovery Fees	

#### Prior to commencement of construction, the developer must:

- ♦ Obtain a signed Conditional Approval from the Austin Energy Green Building Program stating that the plans and specifications for the proposed development meet the criteria for a Green Building Rating. (Shirley Mims, Austin Energy, 322-6453).

#### Before a Certificate of Occupancy will be granted, the development must:

- ♦ Pass a final inspection and obtain a signed Final Approval from the Green Building Program. (Note: this inspection is separate from any other inspections required by the City of Austin or Austin Energy).
- ♦ Pass a final inspection by NHCD to certify that Visitation standards have been met.

Please call me at 974-3180 if you need additional information.

Gina Copic, S.M.A.R.T. Housing™ Manager  
Neighborhood Housing and Community Development Office

Cc:	Javier Delgado, WPDR	Jasot Gallagher, WPDR	Smart Home, NHCD
	Robby McArthur, WWW Taps	Tim Langan, WPDR	Steve Barney, NHCD
	Jim Lund, FW	Maria Volpe, WPDR	Ricardo Soliz, NPZO
	Shirley Mims, AE	Marisol Claudio-Rhakt, WPDR	Steve Rossiter, NPZO
	Nathan Dorsey, AE	Anthony Fryer, WPDR	Richard Finner, AHFC

The City of Austin is committed to compliance with the Americans with Disabilities Act.

ATTACHMENT C

**SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to grant townhouse and condominium residence – neighborhood plan (SF-6-NP) combining district zoning.

If the requested zoning is recommended for this site, then Staff recommends a Restrictive Covenant to include all recommendations listed in the Neighborhood Traffic Analysis memorandum, dated October 18, 2005 and provided as Attachment A.

**BACKGROUND**

The subject rezoning area consists of two lots and a portion of a third lot, contains three single family residences and is zoned family residence – neighborhood plan (SF-3-NP) district zoning through the McKinney Neighborhood Plan rezonings in 2002. The site takes its primary access to Nuckols Crossing Road, an arterial, as well as Palo Blanco Lane, a local street that provides access to AISD's Widen Elementary School and Dove Springs District Park. The rezoning area is surrounded on the north by undeveloped property (zoned SF-6-NP); on the east by the park (P-NP); on the south by the school (P-NP) and on the west by an AISD junior high school, single family residences and duplexes and (P-NP; SF-3-NP).

The Applicant proposes to rezone the property to the townhouse and condominium residence – neighborhood plan (SF-6-NP) combining district for 116 townhouse units and in conjunction with the adjacent property to the north for a 180-unit townhouse development.

Staff supports the applicant's rezoning request to SF-6-NP on the basis of the following considerations of the property: 1) The surrounding area includes single family residences, duplexes and townhouses, and SF-6-NP zoning would be compatible with the established character while further diversifying the housing options available; 2) consistency with the expressed stakeholder goals of providing for additional homeownership opportunities; 3) located in proximity to supporting civic and commercial uses; and 4) it is consistent with the Council's policy of providing opportunities for S.M.A.R.T. Housing to occur.

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

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

The SF-6, Townhouse and Condominium Residence District, is intended as an area for moderate density single family, duplex, two-family, townhouse and condominium use. The applicant intends to develop the property with a condominium project consisting of two attached condominium units per structure.

*2. Zoning changes should promote an orderly and compatible relationship among land uses.*

Staff supports the applicant's rezoning request to SF-6-NP on the basis of the following considerations of the property: 1) The surrounding area includes single family

residences, duplexes and townhouses, and SF-6-NP zoning would be compatible with the established character while further diversifying the housing options available; 2) consistency with the expressed stakeholder goals of providing for additional homeownership opportunities; 3) located in proximity to supporting civic and commercial uses; and 4) it is consistent with the Council's policy of providing opportunities for S.M.A.R.T. Housing to occur.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The property is developed with three single family residences, is relatively flat and drains to the southeast. There appear to be no significant topographical constraints on the site.

### **Impervious Cover**

The maximum impervious cover allowed by the SF-6-NP zoning district would be 55%, which is a consistent figure between the zoning and watershed regulations.

### **Environmental**

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Williamson 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. 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.)	45%	50%
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%.

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

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

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.

### **Transportation**

A Neighborhood Traffic Analysis is required and will be performed for this project by the Transportation Review staff. Results will be provided in a separate memo. LDC, Sec. 25-6-114.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicles per day. [LDC, 25-6-113]

The trip generation under the requested zoning is estimated to be 555 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). The maximum number of dwelling units allowed will be 79 dwelling units (12.44 units per acre).

- a.) The applicant is proposing to construct 150 townhomes on a portion of the subject tract (6.383 acres) and the remainder on the adjoining tract (6.777 acres), which is already zoned SF-6-NP. Based on the proposed 150 dwelling units, the trip generation is estimated to be 906 trips per day.

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or adjustments are required, the landowner, at own expense, will be responsible for providing. Also, 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.

### **Compatibility Standards**

Site plans will be required for any new development other than single-family or duplex residential. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

The site is subject to compatibility standards. Along the northeast 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
- A landscape area is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

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

- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- A landscape area at least 15 feet in width is required along the property line if tract is zoned MF-3, MF-4, MF-5, MH, NO, or LO.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

## PUBLIC HEARING INFORMATION

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

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

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

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

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

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:** C14-05-0117.SH

**Contact:** Wendy Walsh, (512) 974-7719

**Public Hearing:**

October 25, 2005 Planning Commission

<input checked="" type="checkbox"/> I am in favor <input type="checkbox"/> I object
--

Juan Ruiz  
Your Name (please print)

5765 Palo Blanco Ln Austin Tx 78744

Your address(es) affected by this application

[Signature] 10-29-05  
Signature Date

Comments:

I am in favor this  
building.

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

City of Austin  
Neighborhood Planning and Zoning Department  
Wendy Walsh  
P. O. Box 1088  
Austin, TX 78767-8810

## PUBLIC HEARING INFORMATION

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**Case Number:** C14-05-0117.SH

**Contact:** Wendy Walsh, (512) 974-7719

**Public Hearing:**

October 25, 2005 Planning Commission

<input type="checkbox"/> I am in favor <input checked="" type="checkbox"/> I object
--

Arturo Rodriguez  
Your Name (please print)

5501 Wessell, Austin TX

Your address(es) affected by this application

Arturo Rodriguez 11-1-05  
Signature Date

Comments:

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

City of Austin  
Neighborhood Planning and Zoning Department  
Wendy Walsh  
P. O. Box 1088  
Austin, TX 78767-8810



## PUBLIC HEARING INFORMATION

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

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

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

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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:** C14-05-0117.SH

**Contact:** Wendy Walsh, (512) 974-7719

**Public Hearing:**

October 25, 2005 Planning Commission

*Joe Munoz (SCAN)*

Your Name (please print)

*4901 Twenstone Dr, Austin TX 78744*

Your address(es) affected by this application

*[Signature]*

Signature

Date

Comments:

*We favor the Beebeer DOD Springs  
HSA, do not wish to have  
any more apartments, townhouses  
duplexes, or condominiums in  
our area.*

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

City of Austin

Neighborhood Planning and Zoning Department

Wendy Walsh

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor  
☒ I object

## **M E M O R A N D U M**

**TO:** Chris Riley, Chair and Members of the Planning Commission

**FROM:** Dora Anguiano, PC Commission Coordinator  
Neighborhood Planning and Zoning Department

**DATE:** November 10, 2005

**SUBJECT:** PC Commission Summary

Attached is a Planning Commission summary, which will be forwarded to the City Council.

**CASE # C14-05-0117.SH**

**6. Zoning:** **C14-05-0117.SH – Arbor Ridge – S.M.A.R.T. Housing**  
**Location:** 5503 – 5507 Nuckols Crossing Road, Williamson Creek Watershed  
**Owner/Applicant:** Arbor Ridge Venture, L.P. (Scott Cunningham)  
**Agent:** Cunningham-Allen, Inc. (Jana Rice)  
**Postponements:** Postponed to 11/8/05 (Neighborhood)  
**Request:** **SF-3-NP to SF-6-NP**  
**Staff Rec.:** **RECOMMENDED, WITH CONDITIONS**  
**Staff:** Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us  
Neighborhood Planning and Zoning Department

### **SUMMARY**

Ms. Wendy Walsh, Staff, gave the presentation and recommendation.

Mr. Jeff Howard, representative for the Applicant, outlined the rezoning request, noting support from AISD, creating homeownership opportunities, providing affordable housing and that the proposed townhouse development would not generate any more traffic than the existing SF-3 zoning. He also outlined potential neighborhood opposition to the proposed development.

### **FAVOR:**

There were no speakers.

### **OPPOSITION:**

Mr. Keith Grossman, a longtime Austin resident, noted the historical significance of the McKinney area, the existing density of Southeast Austin, and that S.M.A.R.T. Housing should be limited to single family houses. He also mentioned that Nuckols Crossing Road consisted of two lanes, and multi-family development should be located on arterial roadways. He described the mature trees on site and his concern that they would be removed by the proposed development. He noted that the existing townhouses to the south were built 30-plus years ago. He expressed concern about the current overcrowding of schools in the immediate area. He also hoped that the City would purchase the property for its historical significance, as outlined above. He noted the deteriorating condition of the duplexes to the west and hoped that if any development were to occur, it would be single family residential.

### **REBUTTAL:**

Mr. Howard gave the rebuttal. He described that the request would be higher density single family than what could be developed under the existing SF-3-NP zoning on the property. He also noted that under the existing zoning, the property could be developed with duplexes which would likely be rental units. However, under the proposed townhouse development, the opportunity for homeownership would be provided.

**DISCUSSION:**

Commissioner Reddy asked about the possibility of mixed-use zoning and trees. Mr. Howard stated that the Applicant would have to protect trees of a certain caliper and would have to mitigate for tree removal. Ms. Walsh noted that mixed-use zoning, for example, LO-MU or LR-MU, would require re-notification and return to the Planning Commission for consideration. Mr. Howard confirmed for the Commission that there are two existing bus stops within 100 feet of the property.

Commissioner Stegeman asked about the projected number of S.M.A.R.T. Housing units and Mr. Howard stated that he hoped it would be 100 percent, but at a minimum, 40 percent of the units were required to meet S.M.A.R.T. Housing affordability criteria.

**MOTION**

Commissioner Sullivan – Made a motion for SF-6-NP district zoning with the conditions of the Neighborhood Traffic Analysis. He supported the rezoning request because it would provide opportunities for homeownership and the resident children could live in close proximity to schools.

Commissioner Cortez – Seconded the motion.

Motion carried.

**COMMISSION ACTION:  
MOTION:**

**SULLIVAN, CORTEZ  
APPROVED SF-6-NP DISTRICT  
ZONING WITH THE CONDITIONS OF  
THE NEIGHBORHOOD TRAFFIC  
ANALYSIS.**

**AYES:**

**SULLIVAN, CORTEZ, GALINDO,  
JACKSON, MOORE, REDDY, RILEY,  
STEGEMAN.**

**NAYS:**

**NONE.**

**ABSENT:**

**DEALEY**

**MOTION CARRIED WITH VOTE: 8-0.**

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

AN ORDINANCE REZONING AND CHANGING THE ZONE MAP FOR THE PROPERTY LOCATED AT 5503-5507 NUCKOLS CROSSING ROAD FROM FAMILY RESIDENCE-NEIGHBORHOOD PLAN (SF-3-NP) COMBINING DISTRICT TO TOWNHOUSE AND CONDOMINIUM RESIDENCE-NEIGHBORHOOD PLAN (SF-6-NP) 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 family residence-neighborhood plan (SF-3-NP) combining district to townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district on the property described in Zoning Ordinance No. C14-05-0117.SH, on file at the Neighborhood Planning and Zoning Department, as follows:

A 5.350 acre tract of land, more or less, out of the Santiago Del Valle Grant, Abstract 24, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance; and

Lot 1, Cooper Addition, a subdivision in the City of Austin, Travis County, Texas, according to the map of record in Plat Book 18, Page 20, of the Plat Records of Travis County, Texas, the "Property"),

locally known as 5503-5507 Nuckols Crossing Road, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

**PART 2.** The Property is subject to Ordinance No. 021010-12b that established the McKinney neighborhood plan combining district.

1 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2005.  
2  
3

4 **PASSED AND APPROVED**  
5

6 \_\_\_\_\_, 2005  
7  
8

§  
§  
§

Wynn

or

10  
11  
12  
13 **APPROVED:**

**ATTEST**

14 David Allan Smith  
15 City Attorney

Shirley A. Brown  
City Clerk

DESCRIPTION

DESCRIPTION OF 5.350 ACRES OF LAND SITUATED IN THE SANTIAGO DEL VALLE GRANT, ABSTRACT 24, TRAVIS COUNTY, TEXAS, BEING A ALL OF LOT 2 AND A PORTION OF LOT 3 OF THE COOPER ADDITION ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 18, PAGE 20, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THAT PORTION OF LOT 3 DESCRIBED IN DEED TO THE CITY OF AUSTIN OF RECORD IN VOLUME 11968, PAGE 1940, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAME BEING THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO AMY L. COOPER ROGANS OF RECORD IN DOCUMENT NUMBER 2001029930, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 5.350 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod found in the south right-of-way of NUCKOLS CROSSING ROAD (R.O.W. varies), the south line of Lot 3 of WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION according to the map or plat thereof recorded in Book 86, Page 72C, Plat Records of Travis County, Texas, for the the northwest corner of Lot 3 of said COOPER ADDITION, the northwest corner of said Rogans tract, and the northwest corner of the herein described tract, from which a 1/2 inch iron rod with aluminum cap set in the south right-of-way of said NUCKOLS CROSSING ROAD for the southwest corner of Lot 3 of said WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION bears N56°18'03"W a distance of 4.61 feet ;

THENCE with the south line of Lot 3 of said WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION, the north line of Lot 3 of said COOPER ADDITION, the north line of said Rogans tract, and the north line of the herein described tract S59°56'29"E a distance of 373.84 feet to a 1/2 inch iron rod found for the southeast corner of Lot 3 of said WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION and the southwest corner of Lot 18 of FAIRWAY RIDGE AMENDED SUBDIVISION according to the map or plat thereof recorded in Volume 91, Page 87, Plat Records of Travis County, Texas, from which a 1/2 inch iron rod found for the northwest corner of Lot 18 of said FAIRWAY RIDGE AMENDED SUBDIVISION bears N30°27'07"E a distance of 98.69 feet;

THENCE with the south line of said FAIRWAY RIDGE AMENDED SUBDIVISION, the north line of Lot 3 of said COOPER ADDITION, the north line of said Rogans tract, and the north line of the herein described tract S59°41'05"E passing at a distance of 31.77 feet, 0.28 feet left, a 1/2 inch iron rod found for the southeast corner of Lot 18 and the southwest corner of Lot 19 of said FAIRWAY RIDGE AMENDED SUBDIVISION, passing at a distance of 206.58 feet the southeast corner of Lot 20 of said FAIRWAY RIDGE AMENDED SUBDIVISION and the

southwest corner of Lot 21 of SECOND AMENDED PLAT OF FAIRWAY RIDGE SUBDIVISION according to the map or plat thereof recorded in Volume 94, Page 49, Plat Records of Travis County, Texas, in all a total distance of 360.81 feet to 1"X1" bolt found for the northeast corner of said Rogans tract and the northwest corner of said City of Austin tract, from which a 1/2 inch iron rod found in the north line of Lot 3 of said COOPER ADDITION for the southeast corner of Lot 24 of said SECOND AMENDED PLAT OF FAIRWAY RIDGE SUBDIVISION bears S59°51'40"E a distance of 69.50 feet;

THENCE over and across Lot 3 of said COOPER ADDITION with the west line of said City of Austin tract and the east line of said Rogans tract, S31°19'03"W a distance of 380.14 feet to a 1/2 inch iron rod found in the north right-of-way of PALO BLANCO LANE (64' R.O.W.) as recorded in PALO BLANCO ELEMENTARY SCHOOL SUBDIVISION, Volume 85, Page 93A, Plat Records of Travis County, Texas, and the south line of Lot 3 of said COOPER ADDITION for the southwest corner of said City of Austin tract and the southeast corner of said Rogans tract, from which a 1/2 inch iron rod found bears S59°30'17"E a distance of 64.20 feet;

THENCE with the north right-of-way of said PALO BLANCO LANE, the south line of Lot 3 of said COOPER ADDITION, and a south line of said Rogans tract N59°44'40"W a distance of 129.95 feet to a 1/2 inch iron rod found for the southeast corner of Lot 1 of said COOPER ADDITION, same being that certain tract of land described in deed to Marvin J. Cooper of record in Document Number 2001000689, Official Public Record of Travis County, Texas, from which a 1/2 inch iron rod found in concrete in the south right-of-way of said NUCKOLS CROSSING ROAD for the northwest corner of Lot 1, Block 2 of said PALO BLANCO ELEMENTARY SCHOOL SUBDIVISION bears N59°39'46"W a distance of 605.34 feet ;

THENCE with the east line of Lot 1 of said COOPER ADDITION, a west line of Lot 3 of said COOPER ADDITION, and a west line of said Rogans tract N30°36'19"E a distance of 75.00 feet to a 1/2 inch iron rod with aluminum cap set for the northeast corner of Lot 1 of said COOPER ADDITION, an interior ell corner of Lot 3 of said COOPER ADDITION, and an interior ell corner of said Rogans tract;

THENCE with the north line of Lot 1 of said COOPER ADDITION, a south line of Lot 3 of said COOPER ADDITION, and a south line of said Rogans tract N59°39'46"W passing at a distance of 159.95 feet, 0.13 feet left, a 1/2 inch iron rod found, in all a total distance of 600.03 feet to a 1/2 inch iron rod with aluminum cap set in the south right-of-way of said NUCKOLS CROSSING ROAD for the northwest corner of Lot 1 and the southwest corner of Lot 2 of said COOPER ADDITION, the southwest corner of said Rogans tract, and the northwest corner of said Marvin J. Cooper tract;

THENCE with the south right-of-way of said NUCKOLS CROSSING ROAD and a west line of Lots 2 and 3 of said COOPER ADDITION, N30°37'01"E a distance of 303.32 feet to the POINT



5.350 Acres of Land  
Santiago del Valle Grant  
Lot 2 and a Portion  
of Lot 3, Cooper Addition  
Amy L. Cooper Rogans  
Travis County, Texas

OF BEGINNING containing 5.350 acres of land within these metes and bounds.

Reference is herein made to the sketch accompanying this metes and bounds description

Bearing basis: The south line of Lots 2 and 3, WILLIAMSON CREEK COMMERCIAL 2A, according to the map or plat thereof recorded in Book 86, Page 72C of the Plat Records of Travis County, Texas.  
(S30°29'00"W)

I hereby certify that this description was prepared from a survey made on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.

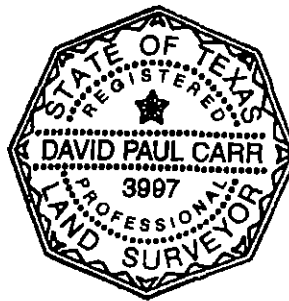


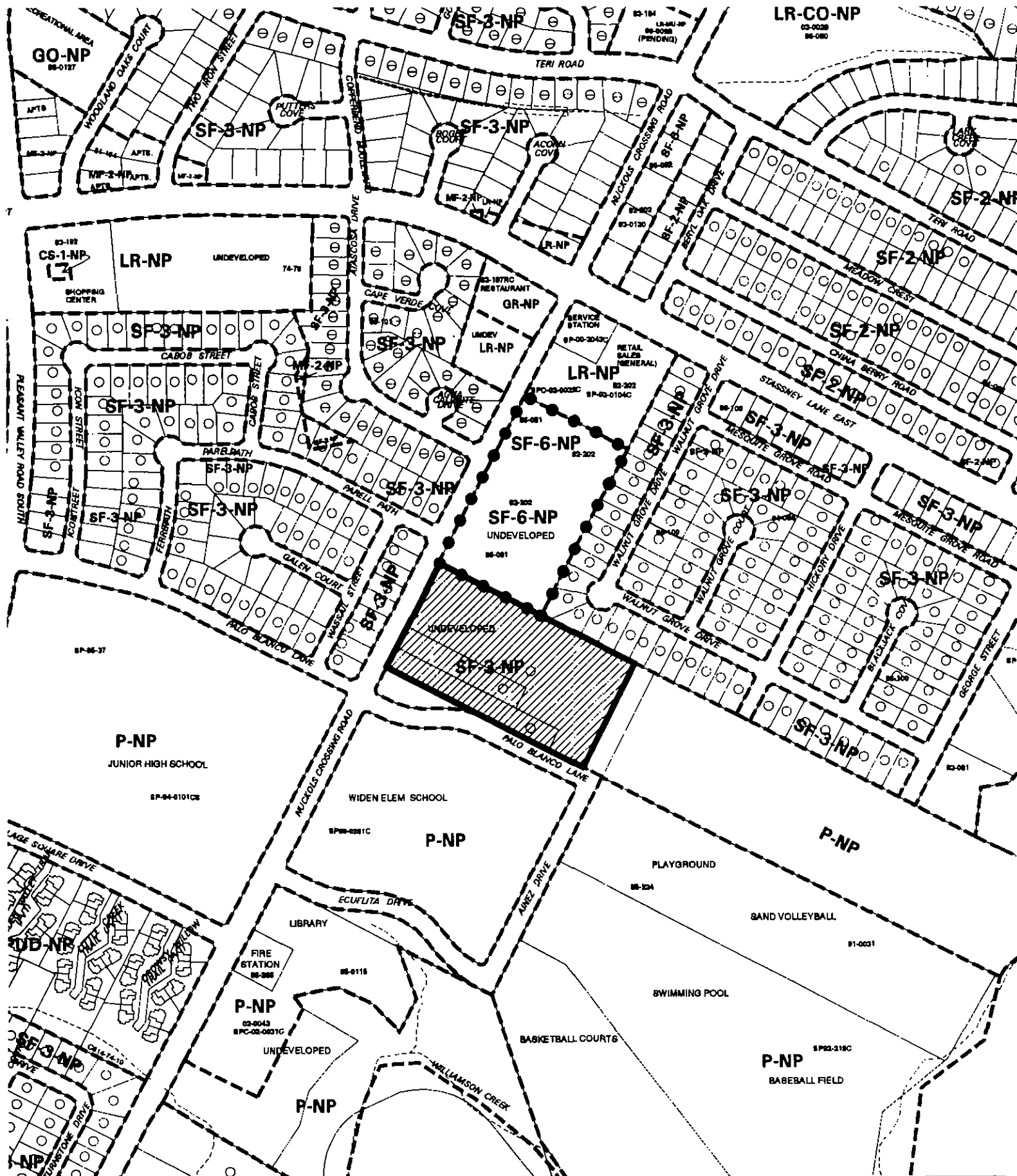
David Paul Carr





Registered Professional Land Surveyor

No. 3997

Date: *April 29, 2005*





 1" = 400'	SUBJECT TRACT		<b>ZONING EXHIBIT B</b>  <b>CASE #: C14-05-0117.SH</b> <b>ADDRESS: 5503 - 5507 NUCKOLS CROSSING RD</b> <b>SUBJECT AREA (acres): 6.380</b>	<b>DATE: 05-11</b>  <b>INTLS: SM</b>	<b>CITY GRID REFERENCE NUMBER</b>  <b>J15</b>
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: W.WALSH				

**RESTRICTIVE COVENANT**

**OWNER:** Arbor Ridge Venture, LP, a Texas limited partnership

**ADDRESS:** P.O. Box 201358, 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:** A 5.350 acre tract of land, more or less, out of the Santiago Del Valle Grant, Abstract 24, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant; and

Lot 1, Cooper Addition, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 18, Page 20, of the Plat Records of Travis County, Texas.

WHEREAS, the Owner 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. Development on the Property is subject to the recommendations contained in the Neighborhood Traffic Analysis memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated October 18, 2005.
2. 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.
3. 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.
4. 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.

5. 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 to be effective the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**OWNER:**

Arbor Ridge Venture, LP,  
a Texas limited partnership

By: CG Development, LLC,  
a Texas limited liability company,  
General Partner

By: \_\_\_\_\_  
Donald J. Cunningham,  
Secretary and Member

**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 \_\_\_\_ day of \_\_\_\_\_, 2005, by Donald J. Cunningham, Secretary and Member of CG Development, LLC, a Texas limited liability company, on behalf of the company, and the company acknowledged this covenant as General Partner, on behalf of Arbor Ridge Venture, LP, a Texas limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas

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

**DESCRIPTION**

DESCRIPTION OF 5.350 ACRES OF LAND SITUATED IN THE SANTIAGO DEL VALLE GRANT, ABSTRACT 24, TRAVIS COUNTY, TEXAS, BEING A ALL OF LOT 2 AND A PORTION OF LOT 3 OF THE COOPER ADDITION ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 18, PAGE 20, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THAT PORTION OF LOT 3 DESCRIBED IN DEED TO THE CITY OF AUSTIN OF RECORD IN VOLUME 11968, PAGE 1940, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAME BEING THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO AMY L. COOPER ROGANS OF RECORD IN DOCUMENT NUMBER 2001029930, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 5.350 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod found in the south right-of-way of NUCKOLS CROSSING ROAD (R.O.W. varies), the south line of Lot 3 of WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION according to the map or plat thereof recorded in Book 86, Page 72C, Plat Records of Travis County, Texas, for the the northwest corner of Lot 3 of said COOPER ADDITION, the northwest corner of said Rogans tract, and the northwest corner of the herein described tract, from which a 1/2 inch iron rod with aluminum cap set in the south right-of-way of said NUCKOLS CROSSING ROAD for the southwest corner of Lot 3 of said WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION bears N56°18'03"W a distance of 4.61 feet ;

THENCE with the south line of Lot 3 of said WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION, the north line of Lot 3 of said COOPER ADDITION, the north line of said Rogans tract, and the north line of the herein described tract S59°56'29"E a distance of 373.84 feet to a 1/2 inch iron rod found for the southeast corner of Lot 3 of said WILLIAMSON CREEK COMMERCIAL 2A SUBDIVISION and the southwest corner of Lot 18 of FAIRWAY RIDGE AMENDED SUBDIVISION according to the map or plat thereof recorded in Volume 91, Page 87, Plat Records of Travis County, Texas, from which a 1/2 inch iron rod found for the northwest corner of Lot 18 of said FAIRWAY RIDGE AMENDED SUBDIVISION bears N30°27'07"E a distance of 98.69 feet;

THENCE with the south line of said FAIRWAY RIDGE AMENDED SUBDIVISION, the north line of Lot 3 of said COOPER ADDITION, the north line of said Rogans tract, and the north line of the herein described tract S59°41'05"E passing at a distance of 31.77 feet, 0.28 feet left, a 1/2 inch iron rod found for the southeast corner of Lot 18 and the southwest corner of Lot 19 of said FAIRWAY RIDGE AMENDED SUBDIVISION, passing at a distance of 206.58 feet the southeast corner of Lot 20 of said FAIRWAY RIDGE AMENDED SUBDIVISION and the

southwest corner of Lot 21 of SECOND AMENDED PLAT OF FAIRWAY RIDGE SUBDIVISION according to the map or plat thereof recorded in Volume 94, Page 49, Plat Records of Travis County, Texas, in all a total distance of 360.81 feet to 1"X1" bolt found for the northeast corner of said Rogans tract and the northwest corner of said City of Austin tract, from which a 1/2 inch iron rod found in the north line of Lot 3 of said COOPER ADDITION for the southeast corner of Lot 24 of said SECOND AMENDED PLAT OF FAIRWAY RIDGE SUBDIVISION bears S59°51'40"E a distance of 69.50 feet;

THENCE over and across Lot 3 of said COOPER ADDITION with the west line of said City of Austin tract and the east line of said Rogans tract, S31°19'03"W a distance of 380.14 feet to a 1/2 inch iron rod found in the north right-of-way of PALO BLANCO LANE (64' R.O.W.) as recorded in PALO BLANCO ELEMENTARY SCHOOL SUBDIVISION, Volume 85, Page 93A, Plat Records of Travis County, Texas, and the south line of Lot 3 of said COOPER ADDITION for the southwest corner of said City of Austin tract and the southeast corner of said Rogans tract, from which a 1/2 inch iron rod found bears S59°30'17"E a distance of 64.20 feet;

THENCE with the north right-of-way of said PALO BLANCO LANE, the south line of Lot 3 of said COOPER ADDITION, and a south line of said Rogans tract N59°44'40"W a distance of 129.95 feet to a 1/2 inch iron rod found for the southeast corner of Lot 1 of said COOPER ADDITION, same being that certain tract of land described in deed to Marvin J. Cooper of record in Document Number 2001000689, Official Public Record of Travis County, Texas, from which a 1/2 inch iron rod found in concrete in the south right-of-way of said NUCKOLS CROSSING ROAD for the northwest corner of Lot 1, Block 2 of said PALO BLANCO ELEMENTARY SCHOOL SUBDIVISION bears N59°39'46"W a distance of 605.34 feet ;

THENCE with the east line of Lot 1 of said COOPER ADDITION, a west line of Lot 3 of said COOPER ADDITION, and a west line of said Rogans tract N30°36'19"E a distance of 75.00 feet to a 1/2 inch iron rod with aluminum cap set for the northeast corner of Lot 1 of said COOPER ADDITION, an interior ell corner of Lot 3 of said COOPER ADDITION, and an interior ell corner of said Rogans tract;

THENCE with the north line of Lot 1 of said COOPER ADDITION, a south line of Lot 3 of said COOPER ADDITION, and a south line of said Rogans tract N59°39'46"W passing at a distance of 159.95 feet, 0.13 feet left, a 1/2 inch iron rod found, in all a total distance of 600.03 feet to a 1/2 inch iron rod with aluminum cap set in the south right-of-way of said NUCKOLS CROSSING ROAD for the northwest corner of Lot 1 and the southwest corner of Lot 2 of said COOPER ADDITION, the southwest corner of said Rogans tract, and the northwest corner of said Marvin J. Cooper tract;

THENCE with the south right-of-way of said NUCKOLS CROSSING ROAD and a west line of Lots 2 and 3 of said COOPER ADDITION, N30°37'01"E a distance of 303.32 feet to the POINT

5.350 Acres of Land  
Santiago del Valle Grant  
Lot 2 and a Portion  
of Lot 3, Cooper Addition  
Amy L. Cooper Rogans  
Travis County, Texas

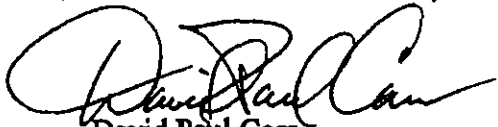
OF BEGINNING containing 5.350 acres of land of land within these metes and bounds.

Reference is herein made to the sketch accompanying this metes and bounds description

Bearing basis: The south line of Lots 2 and 3, WILLIAMSON CREEK COMMERCIAL 2A,  
according to the map or plat thereof recorded in Book 86, Page 72C of the Plat Records of Travis  
County, Texas.  
(S30°29'00"W)

I hereby certify that this description was prepared from a survey made on the ground under my  
supervision.

CUNNINGHAM-ALLEN, INC.



David Paul Carr

Registered Professional Land Surveyor  
No. 3997

Date: *April 29, 2005*

