

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



**AGENDA ITEM NO.: 76
AGENDA DATE: Thu 12/15/2005
PAGE: 1 of 1**

SUBJECT: NP-05-0020 - Pleasant Hill Subdistrict, Tract 30 - Approve third reading of an ordinance amending Ordinance No. 20050818-Z001, adopting the South Congress Combined Neighborhood Plan as an element of the Austin Tomorrow Comprehensive Plan, and establishing the land use designation on the future land use map for Tract 30, located at 103 Red Bird Lane and 0 Red Bird Lane (Pleasant Hill Addition south 68 feet average of lot 20 and east 50 feet of Lot 21, Block 1), in the Pleasant Hill Subdistrict of the West Congress Neighborhood Planning Area. The north boundary for the Pleasant Hill Subdistrict is the northern boundary of the Pleasant Hill Addition Subdivision, the eastern boundary is South Congress Avenue, the southern boundary is Stassney Lane, and the western boundary is Hummingbird Lane, which includes those lots with front and side yard frontages along Hummingbird Lane. The proposed change to the future land use map is from single-family to office mixed-use. On September 1, 2005, single-family land use designation was approved on First reading. Vote: 6-1, Mayor Wynn - Nay. On October 6, 2005, office mixed-use land use designation was approved on Second reading. Vote: 6-1, Thomas - Nay. On November 3, 2005 this item was postponed to December 15, 2005. The Council may consider single-family, high-density single-family, multi-family, office, office mixed-use, commercial, or commercial mixed-use land use designation. Applicant: City of Austin. Agent: Neighborhood Planning and Zoning Department. City Staff: Mark Walters, 974-7695.

**REQUESTING
DEPARTMENT:** Neighborhood Planning
and Zoning

**DIRECTOR'S
AUTHORIZATION:** Greg Guernsey

SUMMARY SHEET FOR TRACTS 30 AND 23A—SOUTH CONGRESS COMBINED NEIGHBORHOOD PLAN AND REZONINGS

CASE: NP-05-0020 (PART)

RELATED CASE: C14-05-0106 (PART)

BACKGROUND

On August 18, 2005 the City Council approved all of the elements of the South Congress Combined Neighborhood Plan except those relating to the Pleasant Hill Subdistrict (located to the northwest of the intersection of Stassney Ln. and South Congress Ave.). At the September 1, 2005 City Council meeting, the future land use map (FLUM) and the rezonings to implement the Pleasant Hill Subdistrict were approved on first reading. Second and third readings for the majority of the properties in the district occurred on October 6, 2005. Two tracts remained to be considered, Tracts 30 and 23A.

TRACT 30

Of these left over tracts, Tract 30 (103 Red Bird, T. F. Harper & Associates) remains the most contentious. On October 12, 2005 neighborhood residents, Neighborhood Planning and Zoning staff, and Mr. Harper met to determine if a compromise could be reached concerning the zoning of his property. The tone of the meeting remained cordial but no resolution could be reached and the neighbors and Mr. Harper agreed to disagree.

The current use, Construction Sales and Services has been determined to be a Group "A" non-conforming use—the greatest level of nonconformity. The office and indoor storage of materials in a warehouse are "grandfathered." However, a number of other activities and buildings are in violation of Section 25-21-947 of the City Code. These include:

- Loading and unloading of construction materials
- Outside storage of construction materials
- Outside storage of materials
- Overnight parking of work trucks
- Storage structures less than \$10,000 in value.

Section 25-2-947, "Nonconforming Use Regulation Groups", states that a Group "A" nonconforming use must cease any outside use not later than ten years after becoming nonconforming, in this case tens expired in the late 1970s.

Scenarios

- In order to continue the outside storage of construction materials, the property must be zoned Commercial Services (CS).
- If the property owner wants to build a new structure to store the materials, the zoning must be changed to CS because a Group "A" nonconforming use may not be expanded.
- If not rezoned to CS, the property owner must remove the materials or store them in existing structures valued at \$10,000 or greater.

Recommendations/ Past Actions

- The Planning Commission and NPZD staff recommended LO-MU-CO-NP (CO—requires a 30' vegetative buffer adjacent to the single-family to the west).
- The neighborhood recommended leaving the zoning as it is (SF-3/SF-6) or would be willing to support the Planning Commission recommendation.
- Mr. Harper supports changing the zoning to CS-MU-CO-NP. The proposed CO would limit commercial uses to those allowed in Limited Office (LO) zoning with the addition of Construction Sales and Services.
- On first reading City Council approved SF-3-NP and Single-Family land use for the tract. At second reading Council approved LO-MU-CO-NP (CO—requires a 30' vegetative buffer) and Office Mixed-Use land use designation.

Neighborhood Requested Conditions If CS-MU-CO-NP Is adopted (as of 12-7-05)

The neighborhood continues to recommend no change to the current zoning on the property (SF-3 and SF-6). They would support, however, an alternate recommendation of LO-MU-CO-NP (CO requiring 30' vegetative buffer on western property line) as recommended by Planning Commission.

In the case that CS-MU-CO-NP (or some variation thereof) is elected by City Council, the neighborhood would remain opposed. However, since the November 3, 2005 City Council meeting (case postponed), a representative of the neighborhood has contacted staff and presented an alternate list requesting certain conditions if Council elects commercial zoning:

1. 30' vegetative buffer along the western property line,
2. Limit the uses to those allowed under LO-MU zoning with the addition of construction sales and services,
3. A solid fence across the front of the property,
4. No delivery or company trucks parked on the street,
5. All loading and unloading of trucks must be onsite and screened from view,

6. No forklifts on the street,
7. Correct the drainage problems and associated nearby flooding created when Mr. Harper backfilled the existing ditch and culverts adjacent to his property,
8. Mr. Harper agree to a voluntary zoning rollback to LO-MU-CO-NP (the CO would be a 30' vegetative buffer) and a land use designation of Office Mixed-Use on the plan's future land use map (FLUM) if the current use ceases for more than 90 days.

Of these items, only 1 and 2 can be addressed through zoning. The remaining items can be addressed through a restrictive covenant, remedial actions by Mr. Harper, and by the neighborhood notifying City inspectors when violations of regulations occur. Mr. Harper has been forwarded these conditions.

TRACT 23A (REZONING ONLY)

Due to errors in the addressing data, some confusion arose concerning Tract 23A (116 Red Bird).

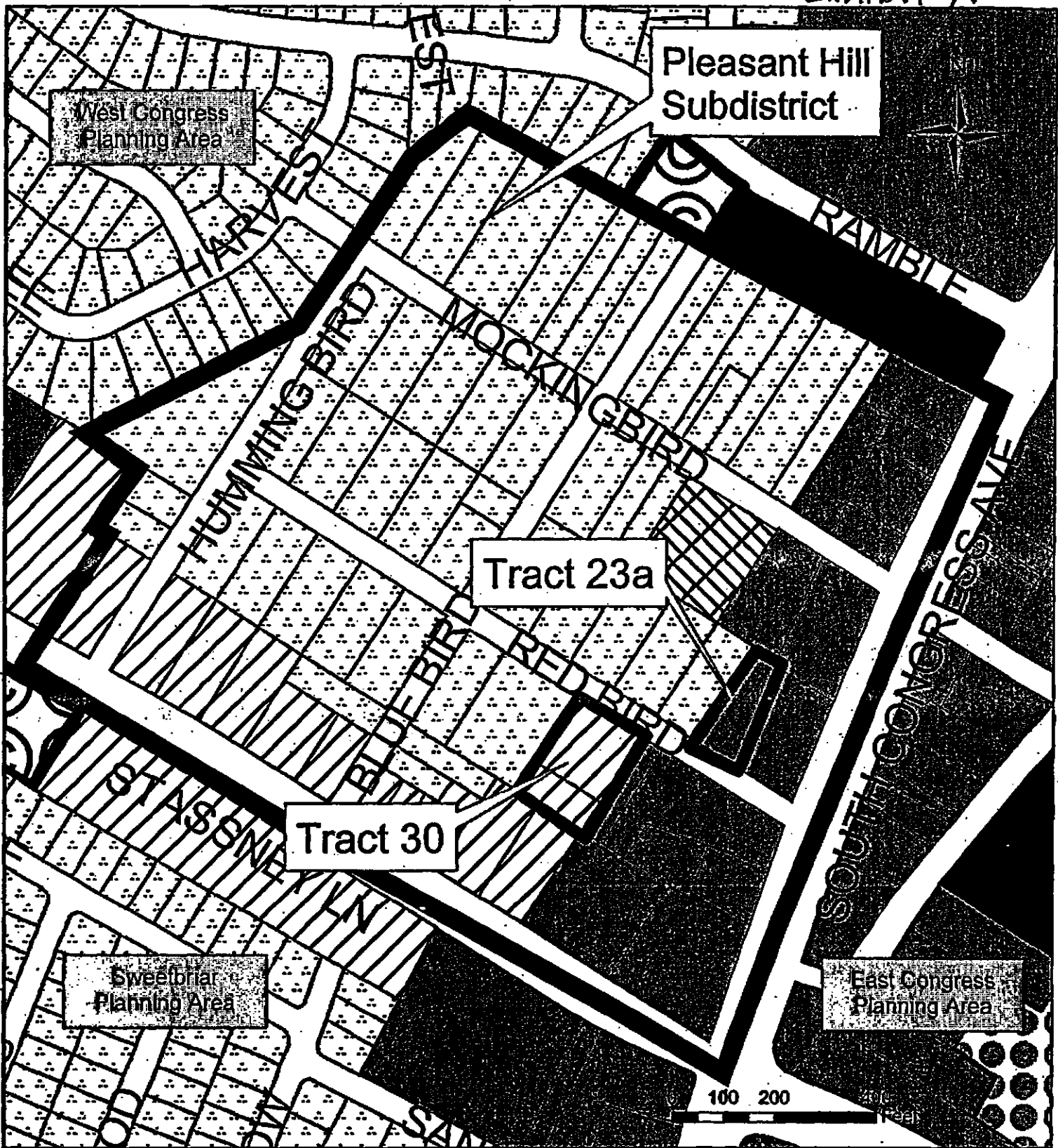
History

- On first reading Council approved CS-MU-CO-NP and a Mixed-Use land designation for 116 Red Bird Lane.
- On second and third reading on October 6, no action was taken regarding 116 Red Bird Lane. At that meeting, a motion was made to remove consideration of a zoning change for part of Tract 23A (106 Red Bird Lane) due to a notification error. However, 116 Red Bird was sufficiently noticed for a zoning change. A land use designation of Mixed-Use was approved for 116 Red Bird on second and third readings as part of the non-contested properties in the Pleasant Hill Subdistrict.
- At the November 3 Council meeting, 116 Red Bird Lane will be considered for second and third reading to change the zoning to CS-MU-CO-NP. The CO would require a 30' vegetative buffer adjacent to single-family uses. It will be referred to as 23A.

Exhibits

- A. Future Land Use Map
- B. Aerial Map
- C. West Congress NPA Boundary Map
- D. Stakeholder Meeting Summary
- E. Meeting Sign-In Sheet
- F. Property Owner (Mr. Harper) Proposed Zoning and Conditional Overlay
- G. Neighborhood Letter of Opposition
- H. Resident Letter of Opposition #1

- I. Resident Letter of Opposition #2**
- J. Neighborhood Valid Petition**



**Pleasant Hill Subdistrict of the
West Congress Neighborhood Planning Area:
Future Land Use Map
NP-05-0020 (PART)**



City of Austin
Neighborhood Planning and Zoning Department
November 3, 2005

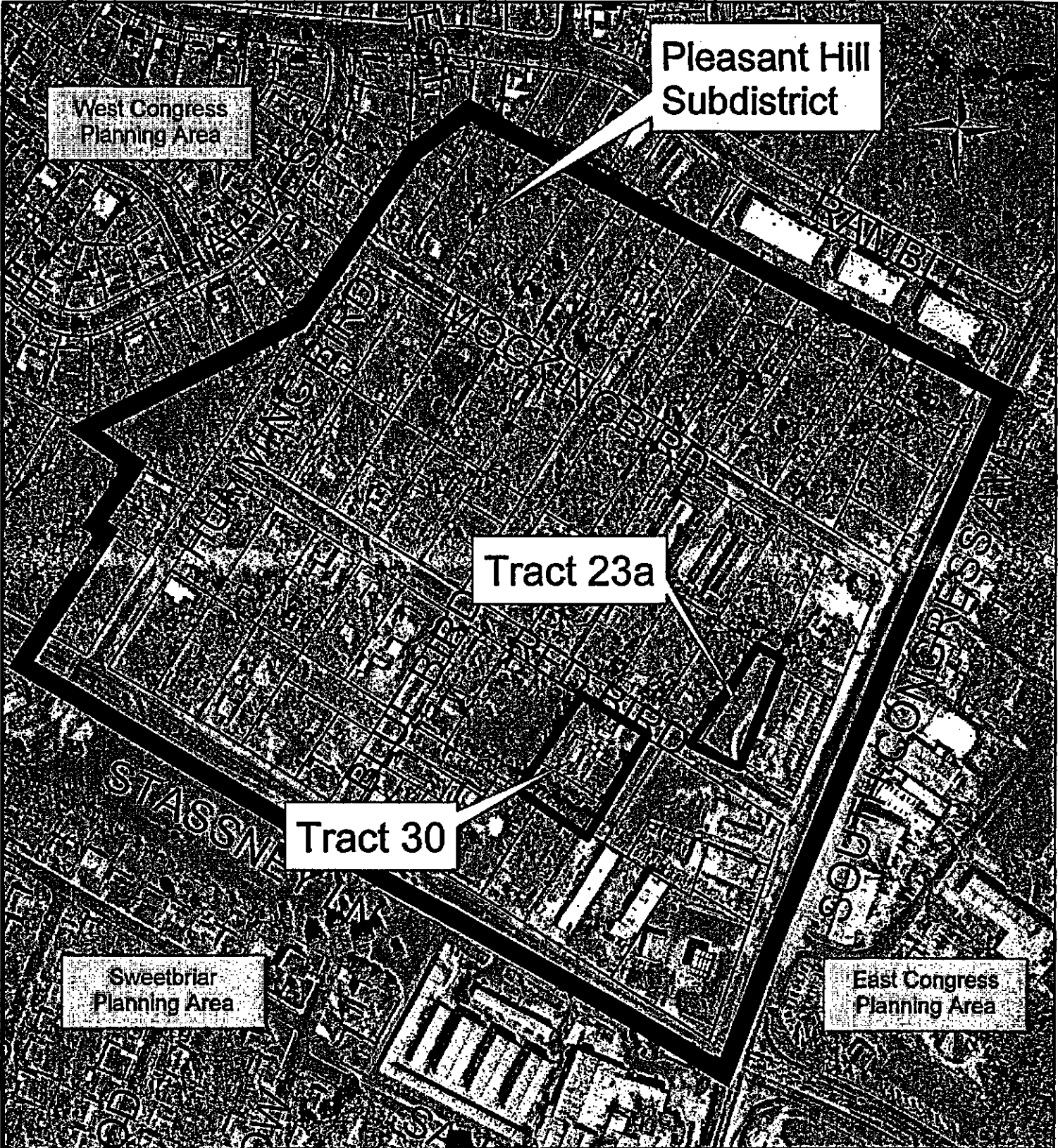
A comprehensive plan does not constitute zoning.

Exhibit A

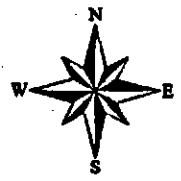
Future Land Uses

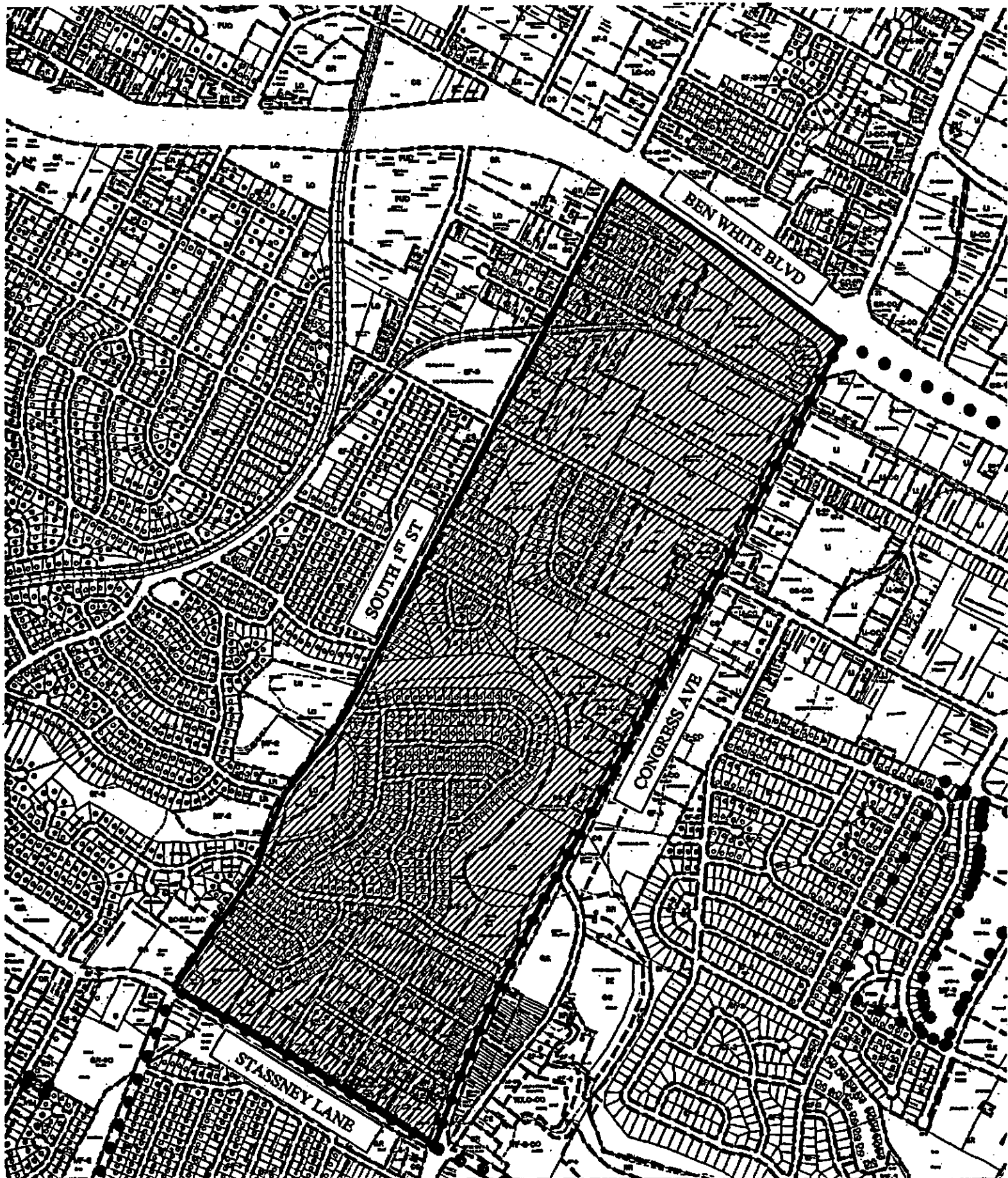
- | | |
|----------------------------|------------------|
| Single-family | Office |
| High Density Single-family | Mixed Use/Office |
| Multi-family | Industry |
| Commercial | Civic |
| Mixed Use | Open Space |



Pleasant Hill Subdistrict



Pleasant Hill Subdistrict of the
West Congress Neighborhood Planning Area:
Aerial 2003
NP-05-0020 (PART)





 1" = 1000'	SUBJECT TRACT		ZONING EXHIBIT B	CITY GRID REFERENCE NUMBER G & H17-18
	PENDING CASE		
	ZONING BOUNDARY	-----		
	CASE MGR: W. WALSH			
	CASE #: C14-05-0106		DATE: 05-07	
	ADDRESS: WEST CONGRESS			
	NEIGHBORHOOD PLANING AREA			
	SUBJECT AREA (acres): N/A		INTLS: SM	

Stakeholder Meeting: Tract 30 (103 and 0 Red Bird Lane)
Date: October 12, 2005

Subject property: Tract 30 (103 and 0 Red Bird Lane), located in the Pleasant Hill Subdistrict of the South Congress Neighborhood Planning Area

Discussion: Conflict over current construction sales and services use on Tract 30 and proposed rezonings/future land use designations

Number in attendance: Twelve (12) including the property owner, the property owner's administrative assistant, eight residents, and two City staff members

Meeting Location: T.F. Harper and Associates office, located at the subject property

Summary

The property owner and residents in the Pleasant Hill Neighborhood discussed the current construction sales and services use (T.F. Harper and Associates: General Contractor, Construction Management, Parks & Playground). The neighbors expressed distress about certain aspects of the business operation, while the property owner offered suggestions and current plans to mitigate some of the neighbors' complaints. He also offered reasons why the business should be allowed to remain. Staff moderated the discussion.

Neighborhood Concerns:

- Traffic from semi-trucks
- Significant expansion of business over past five years results in more truck traffic through the neighborhood, more employee vehicles (30-40), and more trafficking in and out of increased construction materials
- Idling trucks
- No fencing shields the business and construction materials out-of-doors
- The use itself is inappropriate in a neighborhood
- Lack of water detention exacerbates flooding in the area. Resident across street stated that his yard has been repeatedly flooded by run-off from the business site and is unable to support landscaping. Resident also stated that during the next severe rainstorm, he believes the front half of his house will be flooded
- Concern that drainage ditch on the west side of the property has been filled
- Unshielded, bright lights on the business site

Neighborhood Suggestion:

- Majority of neighbors would be willing to support the continued operation of the office and suggested the storage, transport, and incidental assembly of materials be performed at a more accessible commercial site

Property Owner Concerns and Statements:

- He cannot afford to move; his business would be forced to cease
- The family business has been operating there for more than thirty years
- He is currently working on a site plan that would allow trucks to park, deliver, and load at the rear of the property. He also plans to provide buffering, either landscaping, fencing, or other, to partially shield the business from the street and neighboring residence
- He stated that his business is grandfathered, but that if he does not receive commercial services (CS) zoning, he may not be able to build or alter the site in order to make the business more compatible
- He expressed willingness to work with the neighborhood to mitigate effects of the business
- He offered a CS-MU-CO-NP zoning proposal that allows construction sales and services but limits all remaining non-residential uses to those in the limited office (LO) district

Conclusion

No consensus was reached. Both the neighbors and the property owner stated they would maintain their respective recommendations at the next Council hearing.

- ◇ The neighbors recommend retaining SF-3 and SF-6 zoning as their first choice, and LO-MU-CO-NP (Planning Commission recommendation) as their second choice.
- ◇ The property owner requests CS-MU-CO-NP with a conditional overlay prohibiting intense commercial uses minus his current construction sales and services use.

Sign-In List

Name / Email / Phone (optional)

Rex Burns REXFORDJHAADVERTISING.COM 512.228.4040
 Andrea Thomas athomas57@austin.rr.com 425-5214
 BRAD MASSINGILL 110 RED BIRD 462-9834
 Mary Rocamora 305 W. Mockingbird maryhln@earthlink.net
 Mary Kay Hendrix 304 Red Bird Ln. marykay@austin.rr.com
 Deral Hendrix 304 Red Bird Ln. deral@austin.rr.com
 Bob Heise 5501 Blue Bird Ln A rtheise19@aol.com
 Hilda Avila 103 Red Bird W. HildaA@tfharper.com
 Emmy Harper 103 Red Bird W. tfh@tfharper.com
 bn Donaldson 305 W Mockingbird jdonalds@austinsd.org



103 Red Bird Lane, Austin, Texas 78745-3122

December 7, 2005

City of Austin
Mr. Mark Walters
Neighborhood Planning & Zoning
One Texas Center, Suite 525

Mr. Mark Walters,

I would like you to include the conditions that I have supplied to staff as well as the council. I not sure why the information you are providing for the council meeting only includes "Neighborhood Conditions for Support of CS-MU-CO-NP" and not my concerns.

Items supplied to staff and Council:

1. Our conditional overlay for 103 Red Bird Lane supplied 10/25/05.
2. Our letter why we are requesting this overlay supplied 10/25/05.
3. I think it would be beneficial for the council to know that we have submitted affidavit from 22 residence of the City of Austin that this decision will directly affect.

My answer to the conditions provided to me today from the neighbor is as follows.

1. As stated in my conditional overlay we are willing to meet the 25' setback a 30' setback will not allow us to continue the business we have been performing for the past 30 years.
2. These limits will not allow our business to continue.
3. A solid fence in front of our location will not allow access for our services.
4. We currently do not park company trucks on the street and only park delivery truck as they are waiting unloading.
5. This can be done to some extent if the city of Austin approves our building plan.
6. We currently have forklifts on the street because we are awaiting this decision before moving forward with our building program.
7. This is a city of Austin issue that we will be more than happy to work within their guidelines. We disagree and can provide grades that will show this issue is no worse than before we leveled the side of the roadway.

General Contractors, Construction Management
Plumbing & Electrical Service
Parks & Playgrounds

512-440-0707

512-440-0736 Fax



103 Red Bird Lane, Austin, Texas 78745-3122

8. We are not willing to rollback any item that could cause the lowering of the value of this property.

I would like to add one more item for the council's consideration. We have been here doing the same type of work since 1969 and no one has questioned this. We have grown and changed part of the way we do business and I hope the City supports growth in small businesses. We have a plan to help many of the issues the neighborhood has but many of them require us to do most of our work off site and this is not economical.

Last there is no neighbor, that I have met, that has been here as long as we have. That means they all bought knowing what and how we do business. My closes neighbors have been less than 6 years and even at that not once have we ever had a written complaint to the City of Austin or any other entity. The main reason for this is we do our best to work with the neighborhood (will continue to do so) and everyone knows what we do.

Respectfully,

Thomas F. Harper
Owner
T. F. Harper & Associates

General Contractors, Construction Management
Plumbing & Electrical Service
Parks & Playgrounds

512-440-0707

512-440-0736 Fax

Proposed Conditional overlay for Tract 30 (PROPERTY OWNER'S)

Rezone from SF-3 and SF-6 to CS-MU-CO-NP

Conditional Overlay limits uses to

A) All residential uses

B) The following commercial use:

Construction Sales and Services

C) All Limited Office (LO) uses:

Residential

Bed and Breakfast (Group 1)

Bed and Breakfast (Group 2)

Civic

Club or Lodge (c)
College and University Facilities (c)
Communication Service Facilities
Community Events (1)
Community Recreation—Private (c)
Community Recreation—Public
Congregate Living (c)
Convalescent Services
Counseling Services
Cultural Services
Day Care Services—Commercial
Day Care Services—General
Day Care Services—Limited

Family Home
Group Home Class I—General
Group Home Class I—Limited
Group Home Class II (c)
Hospital Services—Limited (c)
Local Utility Services
Private Primary Educational Services
Private Secondary Educational Services (c)
Public Primary Educational Services
Public Secondary Educational Services
Religious Assembly
Residential Treatment (c)
Safety Services

Commercial

Administrative and Business Offices
Art Gallery
Art Workshop
Communication Services
Medical Offices—not exceeding
5,000 sq/ft of gross floor space

Medical Offices—exceeding
5,000 sq/ft of gross floor space
Professional Offices
Software Development
Special Use—Historic (c)

Agricultural

Urban Farm

D) Prohibit drive-through as an accessory use

October 4, 2005

Reference: C 14-05-0106

Reference: C 14-05-0106.02

Honorable Mayor Will Wynn and City of Austin Council Members,

As residents of the Pleasant Hill Addition sub-district located in the West Congress Avenue Neighborhood Planning Area, we are concerned about upcoming zoning decisions and their impact on our community. We are proud to live in a neighborhood that offers such a unique glimpse into Austin's historical, cultural and architectural heritage - a heritage we believe is worth protecting. Our neighborhood is in transition with restored turn-of-the-century homes and new homes being built. Additionally, the remaining natural areas in our community provide dwindling urban wildlife with critical travel routes, food, water, and shelter.

It is our sincere belief that the following zoning recommendations will safeguard current residents while preserving the area's unique flavor and resources for future generations to enjoy.

We respectfully request your support for the following zoning recommendations:

- SF-2 for Tract 18 (106-200 W. Mockingbird Lane)
- SF-2 for Tract 23A (106 Red Bird Lane, alternately shown as 116 Red Bird on the proposed zoning change sheets). Alternate request: LO-MU-CO-NP.
- SF-3 and SF-6 for Tract 30 (103 Red Bird). The property owner plans to request CS-MU-CO-NP zoning. However, according to the City's own Neighborhood Planning and Zoning Guidelines, "CS is generally incompatible with residential environments." (Neighborhood Planning Guide to Zoning, page 23, April 2005). We oppose the CS designation because a construction business on 3/4 acre with 30+ employees, service trucks and semi-truck deliveries is not compatible with a residential neighborhood with children and hearing-impaired adults. Mr. Harper's business has evolved over recent years and outgrown its location. We request to be heard regarding this parcel at the council meeting scheduled for October 6th. Alternate request: LO-MU-CO-NP.
- LO-MU-NP for Tract 35 (306-314 Stassney). LO is noted by city staff on the Future Land Use Map of August 18. The new GO recommendation is undesirable because it would allow a 60' building to be erected next to residences.
- LO-MU-NP for 400-414 Stassney. (Corner of Hummingbird; (See reference C14-05-0106.02.)). Most of this property is in the flood plain, which limits its desirability for development. The city staff's GO recommendation is undesirable because it would allow a 60' building to be erected next to a residence. LO is listed on the Future Land Use Map of August 18.

Thank you for your consideration.

Sincerely,

Andrea Thomas

Andrea Thomas
309 Red Bird Lane
days: 512-445-5915
cell: 512-925-5214
athomas57@austin.rr.com

October 4, 2005

Page 1 of 2

Reference: C 14-05-0106
Reference: C 14-05-0106.02

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Thank you for your consideration.

Sincerely,

1 REXFORD BURNS ~~Tract 205~~ 205 RED BIRD
2 Andrea Thomas Andrea Thomas 309 Red Bird
3 Opal Keeling Opal Keeling 5502 Hummingbird La
4 Felix McCloud ~~Tract 5507~~ 5507 - 5507 Bluebird Ln
209-206 8th St

Reference: C 14-05-0106

Reference: C 14-05-0106.02

- 1) SPEEDY N. PHILLIPS *Speedy N. Phillips* 5500 BLUEBIRD LN.
 2) Chuck GRIMES *Chuck Grimes* 312 W Stassney LN
 3) Luis PINHEIRO *Luis Pinheiro* 312 W. Stassney LN
 Adam Hudson *Adam Hudson* 312 W. Stassney LN
 4) EVAN A. HENDRIX *Evan A. Hendrix* 306 RED BIRD LN
 5) William R. Hendrix *William R. Hendrix* 300 Red Bird Ln
 6) H. B. MASSINGILL III *H. B. Massingill III* 110 REDBIRD LN
 7) DOUGLAS J. FIELDS *Douglas J. Fields* 310 RED BIRD LN
 Rachael Turner *Rachael Turner* 314 Redbird Ln.
 8) Ann E. Harris *Ann E. Harris* 307 Redbird Ln
 9) ALEJANDRO LOREDO *Alejandro Lored* 204 Red Bird LN
 Liz Kempf *Liz Kempf* director of Day care ctr
 200 W. Stassney
 306 W. Stassney
 10) Ernest LEONARD *Ernest Leonard* 5501 Blue Bird Ln A
 11) Robert L. Heise *Robert L. Heise*
 12) Shirley HITCHCOCK *Shirley Hitchcock* 313 Red Bird
 13) DERRA HENDRIX *Derra Hendrix* 304 Red Bird Ln.
 14) Michelle C. WALDRON *Michelle C. Waldron* 5505 Hummingbird Lane
 RAYMOND CARLTON *Raymond Carlton* 309 B Red Bird Ln
 (renter of 10 yrs)

(18 homeowners + 2 renters)

October 4, 2005

Page 1 of 2

Reference: C 14-05-0106
Reference: C 14-05-0106.02

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Thank you for your consideration.

Sincerely,

Mary Rocamora
Aldo Guevara
Jon M Donaldson
Rob H Gary
John Van Strien
TAMU HAESE

305 W. Mockingbird Ln
311 W Mockingbird Ln
305 W Mockingbird Ln
300 W. Mockingbird Ln
207 W. Mockingbird Ln.
110 W Mockingbird Ln.

October 4, 2005

Page 2 of 2

Reference: C 14-05-0106

Reference: C 14-05-0106.02

~~Elizabeth Wallerstein~~ 109 W. Mockingbird Ln.
Julie Jacobs 312 W. Mockingbird Ln.
Dennis J. Jacobs 312 W. Mockingbird Ln.
Audrey Powers 106 W. Mockingbird Ln.
Kevin Mackie 306 W. Mockingbird Ln.
Chris Reno 128 W. Mockingbird Ln.
Katya Reno 128 W. Mockingbird Ln.
~~Pedro Jaramillo~~ 301 W. Mockingbird Ln.
Pedro Jaramillo 301 W. Mockingbird Ln.
Christa M. Riddington 314 W. Mockingbird Ln.
Ian Riddington 314 W. Mockingbird Ln.

12 properties represented:
(11 homeowners + 1 renter)

12 properties, (2nd letter) represented
18 properties, (1st letter) represented

29 homeowners/ signed letters
properties

3 renters signed letters
(plus additional spouses)

October 3, 2005

Deral Hendrix
304 Red Bird Lane
Austin, Texas 78745
512.447.4289
deral@austin.rr.com

Re: C14-05-0106, Tract 30

Dear City Council:

I am one of 32 owner/occupants of property on the 'Bird' streets within the Pleasant Hill Subdistrict - West Congress Neighborhood Planning Area Rezoning. In this area there are also 5 lots, 2 unoccupied houses recently relinquished by elderly owner/occupants, 11 renters (7 of whom live in one condo unit), and then there is Tract 30, a business incompatible not only within this neighborhood but within any neighborhood. The obvious mathematical translation here is that 73% of our little enclave is owner/occupied. The business (Tract 30) comparison is somewhat less than 1%.

In the 8-30-05 neighborhood letter to you preceding the 9-1-05 council meeting, a description of the Tract 30 business from a neighborhood perspective was given. At that council meeting, the neighborhood recommended zoning of SF-3-NP was presented by city staff and noted that "staff does not object to the neighborhood's recommendations". Mr. Tommy Harper, owner-operator of Tract 30, appeared and spoke of a "grandfather clause" and the hardship and detrimental effect the SF-3-NP zoning would have on his business, should he have to move.

My understanding is that since that meeting the council-requested research by city staff reveals no "grandfather clause" for use of this lot, which means that Mr. Harper has not been compliant with zoning for over 20 years. He is now requesting that the council approve his request for zoning the property CS....., not the neighborhood-requested SF-3-NP nor the Planning Commission/city staff-requested LO-MU-CO-NP. I further understand that this CS..... zoning, which is totally incompatible within a residential neighborhood, "will not be objected to by staff". The only explanation I have garnered for this bizarre 180 degree sudden flip-flop by staff is that "Mr. Harper needs that zoning to be compliant", a truism of the first order.

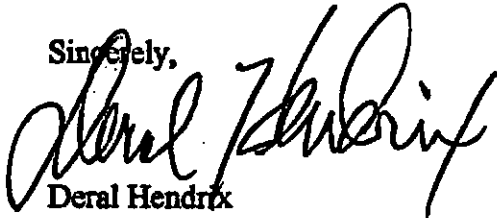
As for the detrimental effect spoken of by Mr. Harper, which he says means he will be forced out of business, thereby depriving 30+ people of their jobs and he and his family of its business income, this should be viewed with clear and open eyes. First of all, this business is on a lot less than twice the size of mine. Picture, if you will, seven or eight service trucks, two or three forklifts, three or four buildings, the usual multitude of stacks of construction and manufacturing materials, and the vehicles of that many employees all

on that size lot at least part of the day and the activity and neighborhood traffic resulting thereof. Add to that 18 wheelers making deliveries to Mr. Harper's property and maneuvering through the neighborhood and you have a fair picture of a neighborhood problem. Requiring that this business move to an appropriately -sized and -located property for its operation should not mean that it would "go out of business"; maintaining the status quo by legalizing something patently illegal will most certainly mean that our neighborhood will be put on the road to being "out of business".

I have lived in this neighborhood for 27 years. My three children grew up here and now two have bought houses here because of the improvements made within the neighborhood over the years. And I have my own 'grandfather clause'—my two-year-old grandson lives next door. There are other children of various ages in the neighborhood, as well as elderly and handicapped adults, young couples and college students. We in this neighborhood have always realized that we have to bend and remain flexible to absorb the increased development and population of Congress Ave. and Stassney Lane and the impact on us.

What we should not have to absorb is the geometric and monumental growth of Mr. Harper's business over these years. When I moved here and when we agonized over the rezoning that occurred during the early 1980s, Mr. Harper's business was a small electrical business with 2 trucks and 2 employees, no stack lot, no forklifts, and no 18 wheelers making deliveries. Thus, the neighborhood took a live and let live attitude. It is obvious that what we thought was a cute little bull snake has grown up into a rattlesnake that is bent on our destruction.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deral Hendrix".

Deral Hendrix

October 6, 2005

H. B. Massingill
110 Red Bird Lane
Austin, TX 78745

Re: c14-05-0106, Tract 30

Dear City Council,

Since moving into my house at 110 Red Bird Lane in 1998, I've watched Harper Construction Company (across the street from me) grow from a small contracting business into a large ongoing concern, with activity on the premise impacting me (and my neighbors) at every step of it's growth. Some of the problems I've had to deal with are:

- Semi-trucks parking in front of my house with their motor running, filling my 600 square foot house with carbon monoxide. Some mornings I'll wake up anxious with my heart racing, only to find a truck has been idling in front of my house waiting for someone to come accept delivery.
- Trucks have run over my mailbox 20 times. As a result I've missed checks, bills and business.
- Forklifts have disconnected my phone line twice, again causing much inconvenience and lost income do to lost jobs/missed calls.
- Noisy and bothersome activity, very disruptive and very early in the day:
 - Dumpster being picked up at 5:30-6:00 AM.
 - 3-4 semi-trucks daily being idled and unloaded 30 - 40 feet from my door.
 - Semi-trucks blocked me in on numerous occasions. I've missed work and appointments due to this.
 - Bobcat and other equipment being loaded on and off of trailers.
 - Work crew and trucks hanging out in front of my house (including litter).
- Mr. Harper filled in the drainage ditch on the front of his property (with no culvert) in such a way that all the rainwater from his property flows though my lot (sometimes up against my house) at a depth of 18" up to 3 feet wide, a veritable river.
- High wattage security lights shine right into my house.
- Until recently the building material was in piles up to the front of the property.
- Work crews "cat-calling" my daughter and ogling my female friends.

- Pallets brought in from warehouses and industrial areas bringing with them rat nest, mice, possums, hornets.
- There is a dumpster with garbage & food in it, attracting animals.
- Piles of material and equipment have lured thieves onto the lot. I've scared off more than one trespasser.
- I have a 100 square foot organic garden on the back of my lot and I worry about the runoff from all the machines and chemicals stored, seeping into the ground.
- Earlier this week a surveyor was in my yard painting marks on my grass. When I asked him what he was doing, he said he was hired by Mr. Harper. No one ever asked if they could come on my property.
- I also wonder what impact all the semi-truck traffic is having on my street and the infrastructure underneath it.

The final thing I'd like to point out is many contractors competed for the playground contract with the city that Mr. Harper is now fulfilling. How would other contractors feel if they knew the winning bid went to some one in an illegal business space? People playing by the rules didn't get the contract.

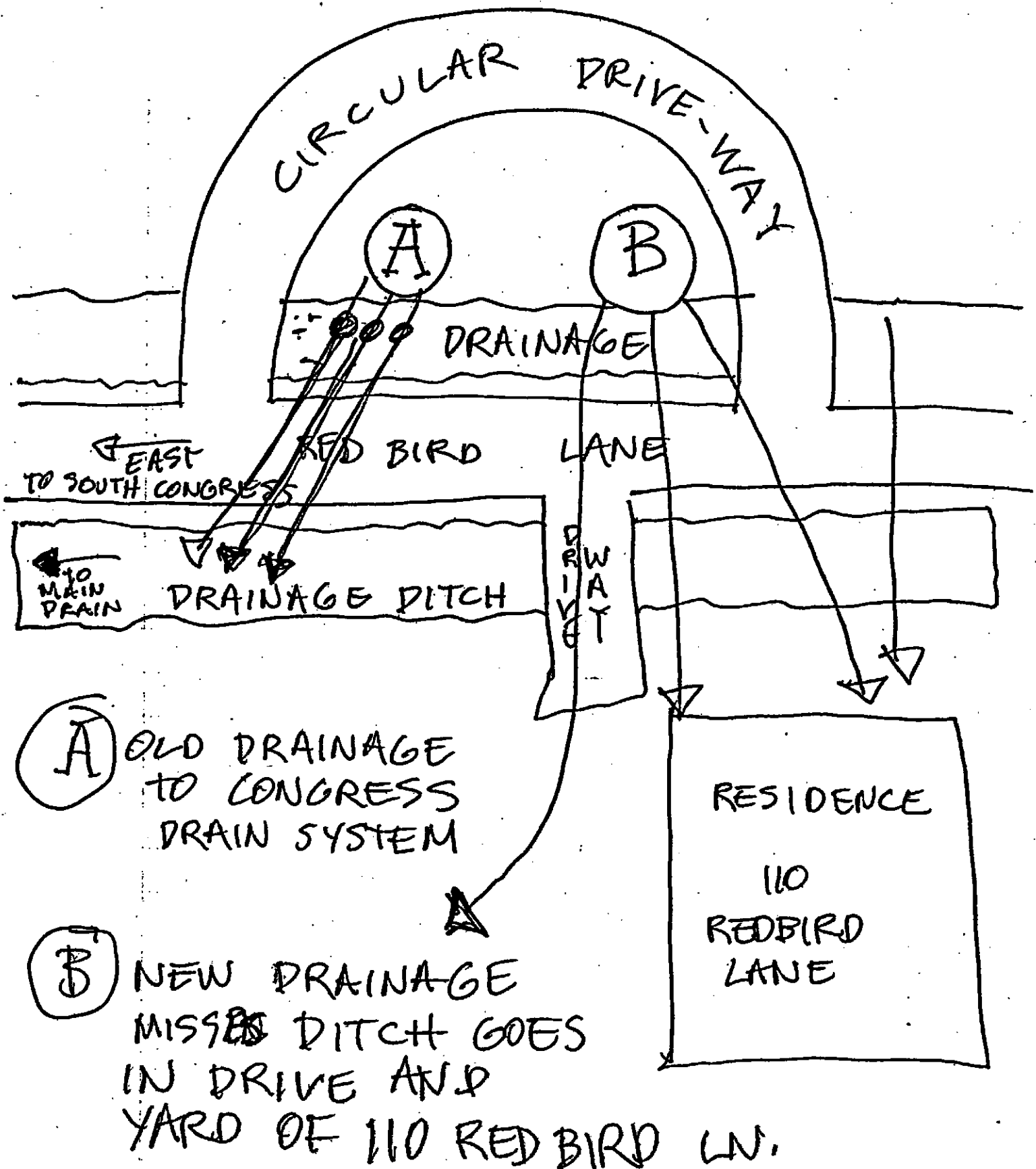
I urge you to zone Tract 30 LO-MU-CO-NP.

Sincerely,



Brad Massingill
110.Red Bird La.
462-9834

HARPER CONSTRUCTION 208 REDBIRD



CONTACT: Rexford Burns 512.228.4040

PETITION

Date: 10-04-2005

File Number: C 14-05-0106

103 Red Bird Lane Austin, Texas 78745

Rezoning Request: LO-MU-CO-NP

To: Austin City Council

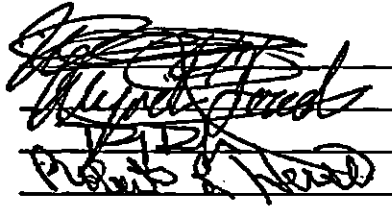
We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than LO-MU-CO-NP

The property owner plans to request CS-MU-CO-NP zoning. However, according to the City's own Neighborhood Planning and Zoning Guidelines, "CS is generally incompatible with residential environments." (Neighborhood Planning Guide to Zoning, page 23, April 2005). We oppose the CS designation because a construction business on 3/4 acre with 30+ employees, service trucks and semi-truck deliveries is not compatible with a residential neighborhood with children and hearing-impaired adults. Mr. Harper's business has evolved over recent years and has outgrown its location.

Signature

Printed Name

Address



H.B. MASSINGILL
Alejandro Lopez
REXFORD BURNS
Robert L. Heise

110 REDBIRD LN
204 RED BIRD LN
205 RED BIRD
5501 Blue Bird LN A

Contact number : Rex Burns : cell 228-4040 wk 444-0716

PETITION

Case Number:

C14-05-0106

Date:

Oct. 5, 2005

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

271,314.05

1	04-1508-0411	MASSINGILL BRADFORD III	17,411.27	6.42%
2	04-1508-0413	LOREDO ALEJANDRO & SERAFIN LOR	14,258.30	5.26%
3	04-1609-0302	BURNS REXFORD J JR	41,300.32	15.22%
4	04-1609-0301	HEISE ROBERT LEE	7,443.76	2.74%
5				0.00%
6				0.00%
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28				0.00%

Validated By:

Stacy Meeks

Total Area of Petitioner:

80,413.66

Total %

29.64%

