



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: Z-4

Date: June 13, 2007

Subject: APPLICATION Z04-07-038B S.R. PROPERTIES L.L.C
Request that the City Council consider a request to change the zoning from “R-1A” Single-Family Residential District to “C-1” Light Commercial District on a portion of Lot 15B of NCB 1092 in the Exums Center Addition (Cabinet D, Slide 368-B) totaling approximately 0.56 acres located one lot west of the intersection of Troup Hwy. and Colston Drive, on the north side of Colston Drive (3707 Colston Drive).

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Item Reference:

The applicant is requesting a zoning change to allow for the construction of a restaurant and retail development.

Section 10-225, "C-1" Light Commercial District, allows as permitted uses restaurants, private clubs, antique shops, banks, service stations, offices and retail stores with no outdoor display or storage of merchandise or goods allowed. The maximum building height allowed within this district is two and one-half stories or 42 feet in height. Off-street parking is determined by the specific use proposed. Properties with a commercial designation are subject to the requirements of the Subdivision and Landscape Ordinances.

The adjacent properties to the north and east are currently zoned “C-2” General Commercial District, and properties to the south and west are currently zoned “R-1A” Single-Family Residential District. The adjoining lands are primarily developed as commercial with Exum’s located to the north and retail stores and offices located to the west. The adjacent property to the west is currently under consideration for a rezoning change to a “C-1” Light Commercial District. Generally, this area is transitioning to a commercial use.

The applicant is requesting a zoning change to allow for the construction of a restaurant and retail development. The applicant originally requested to change the zoning to “C-2” General Commercial District but amended the request to C-1 at staff’s suggestion. Staff recommends that the property be rezoned to “C-1” Light Commercial District which is a less intense use than the “C-2” General Commercial District.

The applicant is in agreement with this recommendation. Rezoning to a “C-1” Light Commercial District rather than a “C-2” General Commercial District would provide more protection to the few remaining residents on Colston Drive. This request is consistent with the development pattern in the area and the recommended future commercial land use.

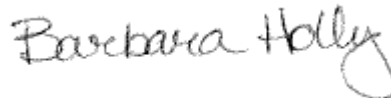
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On April 17, 2007, the Planning and Zoning Commission held a public hearing on this request. Of the 22 notices mailed, two notices were returned in favor to the request and one notice was returned in opposition, equaling .56 percent protest.

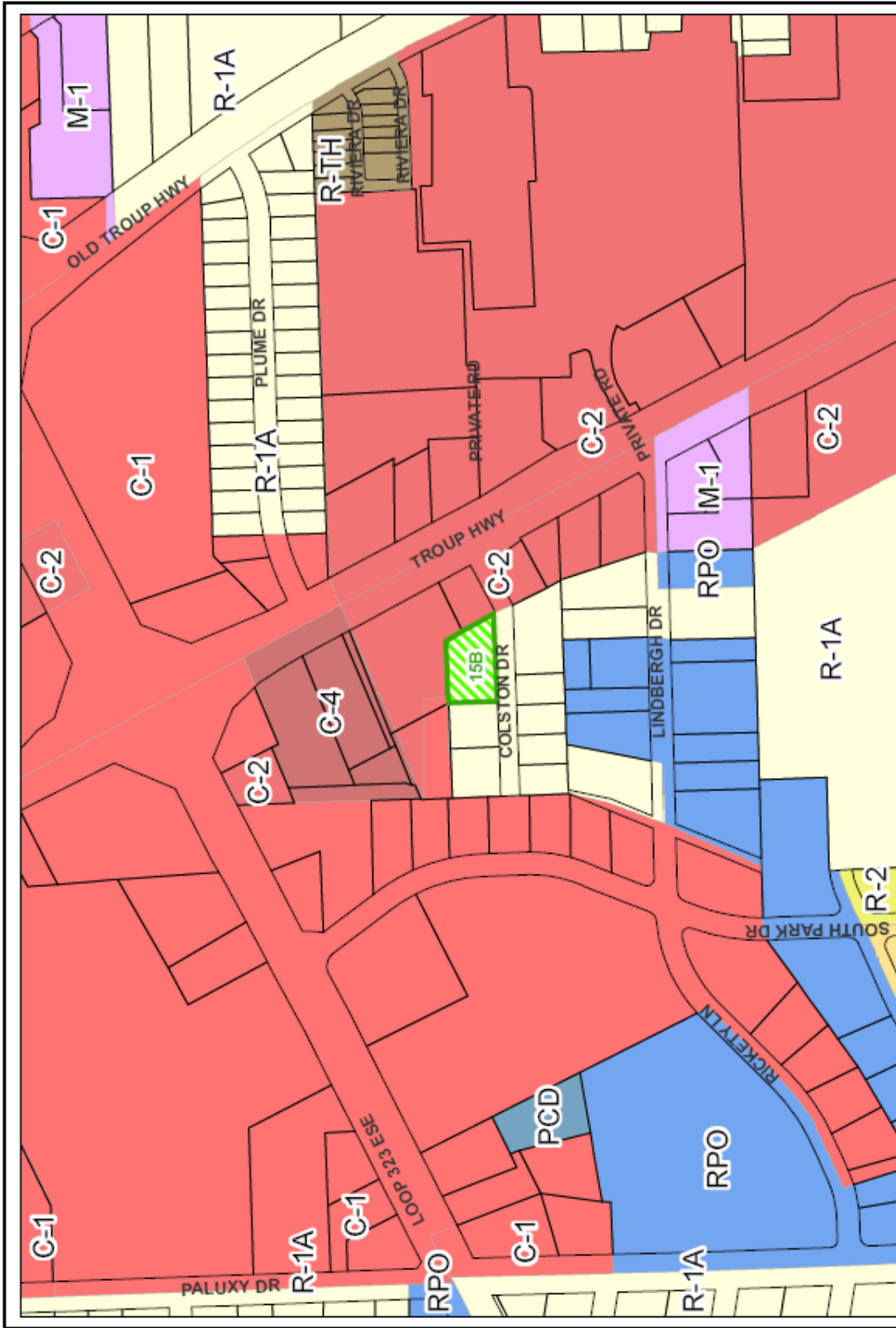
RECOMMENDATION:

The Planning and Zoning Commission, by a vote of 7-0, recommends approval of the request to change the zoning from "R-1A" Single-Family Residential District to "C-1" Light Commercial District.

A handwritten signature in cursive script that reads "Barbara Holly".

Drafted/Recommended By: Barbara Holly
Department Leader Director of Planning

Edited/Submitted By:
City Manager



30' 0 200 Feet

ZONING CASE

Zoning Cases #: Z04-07-038B
 Existing Zoning: R-1A Proposed Zoning: C-1
 Applicant: S.R. PROPERTIES, LLC.



Subject Property

ORDINANCE NO. O-2007-57

AN ORDINANCE AMENDING THE CITY OF TYLER ZONING ORDINANCE OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; DIRECTING THE AMENDMENT OF THE ZONING MAP; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Tyler, Texas, and the City Council of the City of Tyler, Texas, in compliance with the Charter and the State law with reference to the zoning ordinance of the City of Tyler, Texas, and zoning map, have given requisite notices by publication and otherwise and after holding a due hearing and affording a full and fair hearing to all the property owners, generally and to the persons interested, situated in the affected area and in the vicinity thereof, the City Council is of the opinion that the zoning change should be made as set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That the following zone change is hereby approved as follows:

I. APPLICATION Z04-07-038B

That the following described property, which has heretofore been zoned "R-1A" Single-Family Residential District, shall hereafter bear the zoning classification of "C-1" Light Commercial District to-wit:

A portion of Lot 15B of NCB 1092 in the Exums Center Addition (Cabinet D, Slide 368-B) totaling approximately 0.56 acres located one lot west of the intersection of Troup Hwy. and Colston Drive, on the north side of Colston Drive, and more particularly described by Exhibit "A" and as shown in Exhibit "B".

PART 2: That the City Manager is hereby ordered and directed to cause the zoning map to be amended to reflect the above described zoning change.

PART 3: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause or phrase of this ordinance and same are deemed severable for this purpose.

PART 4: That this ordinance shall be effective on and after its date of passage and approval by the City Council.

PASSED AND APPROVED this the 13th day of June, A.D., 2007.

JOSEPH O. SEEBER, MAYOR
OF THE CITY OF TYLER, TEXAS

A T T E S T:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY

Exhibit "A" to Ordinance 0-2007-57

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have Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey, unto the said

J. ARTHUR R. EXUM

of the County of Smith State of TEXAS all that certain

TRACT ONE:

All that certain lot, tract or parcel of land, situated in the County of Smith, State of Texas, a part of the William Keys Survey, Abstract No. 469 and being also a part of that certain called 58.01 acre tract conveyed to A. B. Colston by H. F. Parish, dated September 15, 1945 and recorded in Vol. 518 page 114 of the Deed Records of Smith County, Texas and being more completely described as follows, to-wit:

BEGINNING at a point for corner in the North Line of a proposed street, said corner being N 0 deg. 47 min. E, - 179.0 feet and S 89 deg. 29 min. E - 325.0 feet from the Southwest corner of the above mentioned called 58.01 acre tract.

THENCE N 0 deg. 47 min. E, parallel to the West line of the said 58.01 acre tract, a distance of 129.0 feet to a point for corner.

THENCE S 89 deg. 29 min. E, parallel to the South Line of the said 58.01 acre tract, a distance of 44.85 feet to a point for corner.

THENCE S 12 deg. 23 min. E, a distance of 132.35 feet to a point for corner in the North Line of the above mentioned proposed street.

THENCE N 89 deg. 29 min. W, with the North Line of the said street, a distance of 75.0 feet to the place of beginning, containing 0.177 of an acre of land.

TRACT TWO:

All that certain lot, tract or parcel of land, situated in the County of Smith, State of Texas, a part of the William Keys Survey Abstract No. 469 and being also a part of that certain called 58.01 acre tract conveyed to A. B. Colston by H. F. Parish, dated September 15, 1945 and recorded in Vol. 518 page 114 of the Deed Records of Smith County, Texas, and being more completely described as follows, to-wit:

BEGINNING at a point for corner in the North Line of a proposed street, said corner being N 0 deg. 47 min. E - 179.0 feet and S 89 deg. 29 min. E - 400.0 feet from the Southwest corner of the above mentioned called 58.01 acre tract.

THENCE N 12 deg. 33 min. W, a distance of 132.35 feet to a point for corner.

THENCE S 89 deg. 29 min. E, parallel to the South Line of the said 58.01 acre tract, a distance of 44.85 feet to a point for corner.

THENCE S 25 deg. 32 min. E, parallel to the West R.O.W. Line of State Highway No. 110, a distance of 142.33 feet to a point for corner in the North Line of the above mentioned proposed street.

THENCE N 89 deg. 29 min. W, with the North Line of the said proposed street, a distance of 78.35 feet to the place of beginning, containing 0.180 of an acre of land.

TRACT THREE:

All that certain lot, tract or parcel of land, situated in the County of Smith, State of Texas, a part of the William Keys Survey Abstract No. 469 and being also a part of that certain called 58.01 acre tract conveyed to A. B. Colston by H. F. Parish, dated September 15, 1945 and recorded in Vol. 518 page 114 of the Deed Records of Smith County, Texas, and being more completely described as follows, to-wit:

BEGINNING at a point for corner in the North Line of a proposed street, said corner being N 0 deg. 47 min. E - 179.0 feet and S 89 deg. 29 min. E - 250.0 feet from the Southwest corner of the above mentioned called 58.01 acre tract.

Exhibit "A" to Ordinance 0-2007-57

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THENCE N 0 deg. 47 min. E, parallel to the West Line of the said 58.01 acre tract a distance of 129.0 feet to a point for corner.

THENCE S 89 deg. 29 min. E, parallel to the South Line of the said 58.01 acre tract, a distance of 75.0 feet to a point for corner.

THENCE S 0 deg. 47 min. W, parallel to the West Line of the said 58.01 acre tract, a distance of 129.0 feet to a point for corner in the North Line of the above mentioned proposed street.

THENCE N 89 deg. 29 min. W, with the North Line of the said proposed street, a distance of 75.0 feet to the place of beginning, containing 0.222 of an acre of land.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said J. ARTHUR E. EXUM, his

heirs and assigns forever and we do hereby bind ourselves, our heirs, executors and administrators, to Warrant and Forever Defend, all and singular the said premises unto the said J. ARTHUR E. EXUM, his heirs and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

WITNESS our hand at this 18th day of September, 1972.

Witness at request of Grantor: L. D. BYRD LOUELLA BYRD

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS, COUNTY OF SMITH

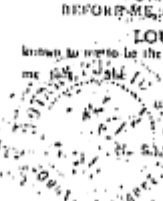


BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared D. BYRD known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21st day of September, A. D. 1972

Notary Public in and for Smith County, Texas

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS, COUNTY OF ORANGE



BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared LOUELLA BYRD known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed. GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 13 day of Sept A. D. 1972

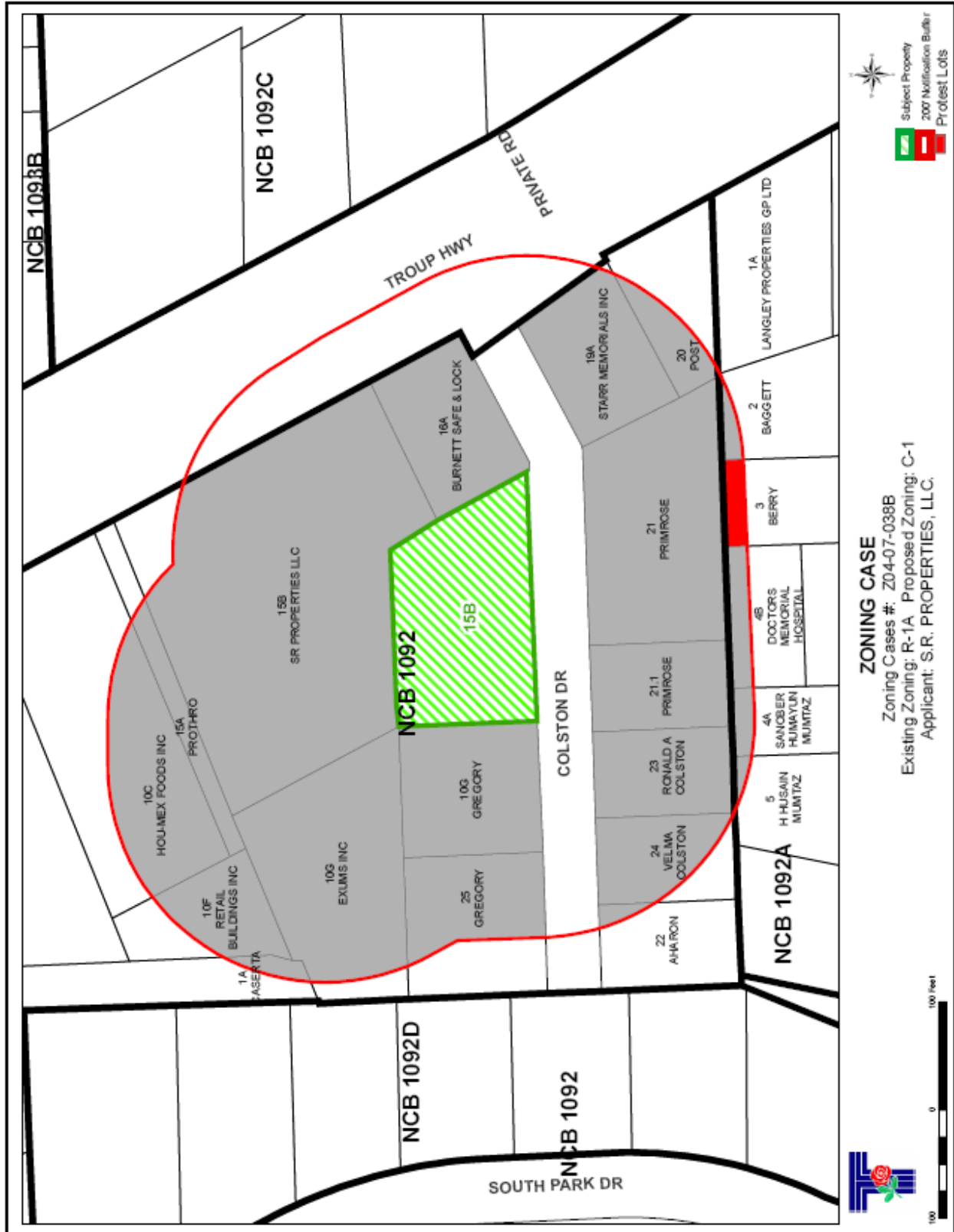
Notary Public in and for Orange County, Texas

FILED AT 9:54 O'CLOCK A.M. ON THE 21 DAY OF Sept - 1972

RECORDED AT 9:47 O'CLOCK A.M. ON THE 4 DAY OF Oct - 1972

ERNEST CHRISTIAN, COUNTY CLERK, BY [Signature] DEPUTY

EXHIBIT "B" TO ORDINANCE 0-2007-57



ZONING CASE
 Zoning Cases #: Z04-07-038B
 Existing Zoning: R-1A Proposed Zoning: C-1
 Applicant: S.R. PROPERTIES, LLC.

