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Hello Zilker Neighbors

Just to set the record straight on the TREES at Barton Place Condos on Barton Springs road behind Austin Java and Uncle Billy's Brew and Que.

1. Please remember that the property in question already had CS (Commercial Services) zoning and could have been build out with 95% building or impervious cover.
2. However, in our negotiations with the developers of the Barton Place Condo project the trees were a major issue. But because our tree protection ordinance is not very strong, they could have cut down all the trees (a total of 40 trees were on the site) and would have only needed to mitigate the loss by either planting new trees (which could have been much smaller) or they could have paid into a fund (fee in lieu) .
3. Fortunately, because the owner of Austin Java and Uncle Billy's (Rick Engel) wanted to continue to have those restaurants there, we were able to work with them to allow them to transfer some development rights from the Barton Springs side of the site to the rear of the site for the condo's. That part of the agreement did not increase the total amount of entitlements that the property had, but allowed it to be shifted around a bit.
4. In our negotiations we were also able to secure some additional tree preservation. They had always intended to keep the trees around the restaurants (8) and the largest tree (1) on the site, a 54" pecan about 2/3rds of the way back into the site. Originally they wanted to build within the set back on Toomey which would have meant that 3 more trees would be removed. ZNA opposed relaxing of the set back on Toomey and they relented on that request which allowed us to save (3) more trees. That left 28 trees that were to be removed. However we felt that more of the trees should be preserved and convinced them to move the five most likely to survive trees to parkland across Toomey road.

5. It is important to remember that moving mature pecan trees is more problematic than moving an oak tree. Pecans have long tap roots so just balling them up is no guarantee that they will survive the move. And we also has to deal with several arborists opinions about the condition of the tree. The previous owner, Susan Toomey Frost, grandfather had planted those trees and she suggested that they were old and of a variety with limited useful life left. Others felt that the trees had not been maintained well over the years, with much decay that presented a safety problem from falling limbs. But we felt that several of the younger native pecans were in good shape to be saved. In the end the developers did agree to move five (5) of the best remaining trees to parkland and take care of them until they were well established.

6. So of the 40 original trees, we knew we were going to lose 23 and they had been already removed from the site. The 5 that were to be moved had been prepared for transplanting. These five had been pruned, feed, and a trench dug around them in preparation for the move. Then about a month ago a wind storm came through Austin and four of the five were blown over. At that point the developer contacted the city arborist and had their own arborist look at the damage and they determined that all four were damages to such an extent that they could not be salvaged and so the developer, with the approval of the city, removed them as well.

7. It is unfortunate that the developers did not contact the ZNA EX. Com. until last week to inform us of the what the situation was with the trees. At that meeting we indicated that while the city arborist had made a suggestion on how to mitigate the loss, (ten 10" oak trees to be planted on parkland) the developer's agreement was with ZNA and not the city and that we needed to review the situation and make our own recommendation on what the appropriate mitigation would be acceptable. The ZNA Ex. will be meeting with the developers on July 10th to see the documentation on the damage to the trees, see what the city is proposing and get an financial analysis of what the options are to mitigate this loss.

So to be clear, the developers did not remove any of the trees that we supposed to be saved on site and they had only removed the trees as originally planned with a city permit. As for the five trees that were to be moved, the city arborist was consulted about the damage done in the wind storm and based on his

assessment four of those trees were deemed to be lost and they were removed from the site. Now the remaining issue is what mitigation should the developer provide for these trees and that will be discussed on the 10th.

I have been getting calls about this situation since the daily paper ran a story about this several weeks ago. But this has come up again due to Marcia Ball's comments that have gotten many folks alarmed. Yesterday alone we had calls from several radio and TV folks wanting to understand what happened. And yes the boycott suggestion has gotten a lot of play. However I do think it has been blown out of proportion and may be confused with the story about the builder in Oak Hill who cut down over a 100 oak trees illegally. But at this point I do not think the developers did anything illegal or were trying to get out of our agreement. The storm could not have come a worse time for these trees and it is unfortunate that they were lost. I do think they should have informed us sooner and we have let them know that waiting until they had worked out something with the city was a mistake, since it is not up to the city on what should be done at this point. The developers understand this now and have indicated that they intend to make it right by our association.

So while this situation is unfortunate, I do not see that the developer have down anything illegal, have violated our agreement, or have acted to circumvent our understanding so do not think a boycott of Austin Java or Uncle Billy's is appropriate. In fact such a boycott will only hurt the restaurant owner and not the condo developers and it is preserving the restaurants that was a major objective in our negotiations with these folks. So it would appear that such a boycott is counter productive to helping to keep restaurant row a viable part of our neighborhood.

One last note. While we did get some significant community benefits from our agreement with Barton Place, it was all due to the fact that they need a code change to do their project. If they had chosen to do a project that strictly conformed to the land development code and did not need a code change or variance, then our association or anyone else would not have had an opportunity to ask for changes in the project, it simply would have only needed city staff approval.

And that is exactly what is happening right down the street from the Barton

Place project at one of the other trailer parks on Barton Springs Road. The Mobile Manor site has been acquired by a different developer. It is just east of Chuy's and they have submitted a site plan for city review that will result in an apartment complex that will be very similar to the Barton Place condo project and we have absolutely no say in the matter. That developer has not contacted us, we can only review the city staff comments on the plan review, but have no leverage to ask for any additional community benefits as we did with Barton Place. And like Barton Place they can remove, and will remove most of the trees on that site as well, all according to city code.

Hopefully with the two new City Council members now at the dais, we can begin to see what changes in the code can be put forward to provide more protection for our trees.

Thanks

Jeff Jack – President

Zilker Neighborhood Association