

ZONING CHANGE REVIEW SHEET

C8/1

CASE: C14-2010-0101 Shoal Creek Blvd.

P. C. DATE: 08-24-2010

ADDRESS: 1808 Vance Circle

AREA: .418 acres

APPLICANT: Reynaldo Ortiz

AGENT: J Valera Engineering (Juan Valera)

NEIGHBORHOOD PLAN AREA: Downtown

CAPITOL VIEW: No

T.I.A.: No

HILL COUNTRY ROADWAY: No

WATERSHED: Shoal Creek

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: SF-3 – Single Family

ZONING TO: GO – General Office

SUMMARY STAFF RECOMMENDATION:

Staff recommends denial of GO, General Office zoning.

PLANNING COMMISSION RECOMMENDATION:

DEPARTMENT COMMENTS:

The City Council passed a resolution in 1987 (see attached) that states “the City Council hereby expresses its general policy and intention to deny any requests to zone or rezone property to allow uses which may conflict with existing private restrictions prohibiting non-residential uses on the property.” This zone change request is to change the zoning on a residential lot from the existing SF-3, Family Residence to GO, General Office. Some of the adjacent neighbors who oppose the zone change request presented the city with a copy of the deed restrictions for this lot (see attached). The deed restrictions state “all lots in Vance Park, Section One, shall be know and described as residential lots and shall be used for residential purposes only.” Knowing this information and in keeping with the above state City Council resolution, the staff is recommending denial of this zone change request.

BASIS FOR RECOMMENDATION:

The proposed zoning should be consistent with the goals and objectives of the City Council.

Granting the zoning would not be consistent with the City Council resolution against rezoning property for non-residential uses when the property has a deed restriction that states that the property should remain residential.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	SF-3	Single Family Residential
NORTH	GO	Office Building
SOUTH	SF-3	Single Family Residential
EAST	SF-3	Single Family Residential
WEST	GO	Office Building

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-97-0102	From LO to LR-CO	Approved LR-CO [Vote: 7-0]	Approved LR-CO [Vote: 5-0]

NEIGHBORHOOD ORGANIZATION:

- Homeless Neighborhood Assn.
- Downtown Austin Neighborhood Coalition
- Pecan Street Owner's Association
- Downtown Austin Alliance
- Austin Warehouse District Association
- Old Pecan Street Association
- Sentral Plus East Austin Koalition
- Austin Neighborhood Council
- Downtown Austin Neighborhood Association
- Judges Hill Neighborhood Assoc.

SCHOOLS:

Matthews Elementary School
O' Henry Middle School
Austin High School

ENVIRONMENTAL:

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

C8/3³

4. According to flood plain maps, there is no flood plain within the project area.
5. 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.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

SITE PLAN:

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.

Compatibility Standards

The site is subject to compatibility standards. Along the East 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 at least 25 feet wide 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.

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.

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

TRANSPORTATION:

No additional right-of-way is needed at this time.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

C8/A 4

Name	ROW	Pavement	Classification	Sidewalks	Bike Plan	Bus Routes
Vance Circle	53'	20'	Local	No	None Exist/ Recommended	Yes

CITY COUNCIL DATE: September 23rd, 2010

ACTION:

ORDINANCE READINGS:

1ST

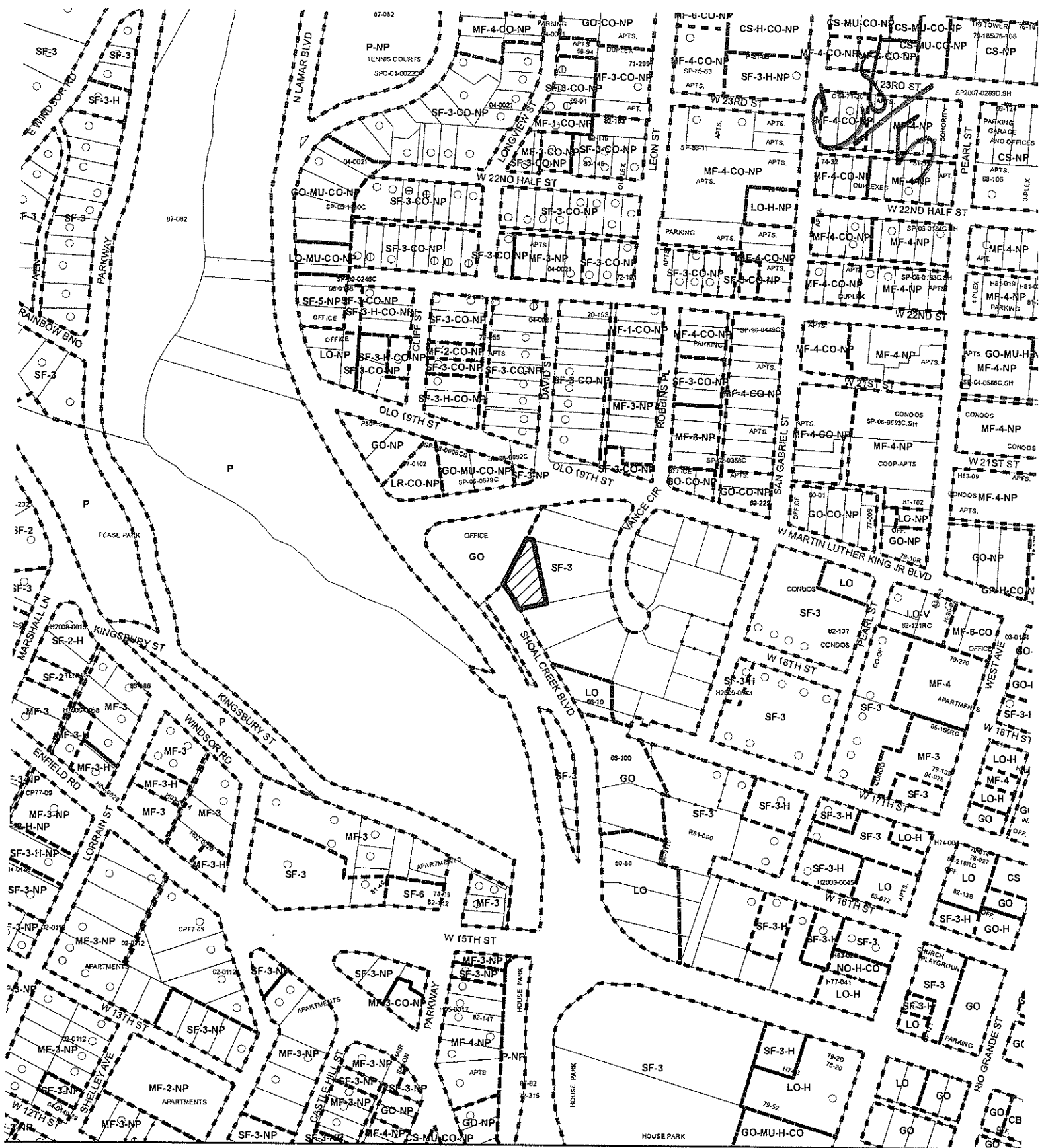
2ND

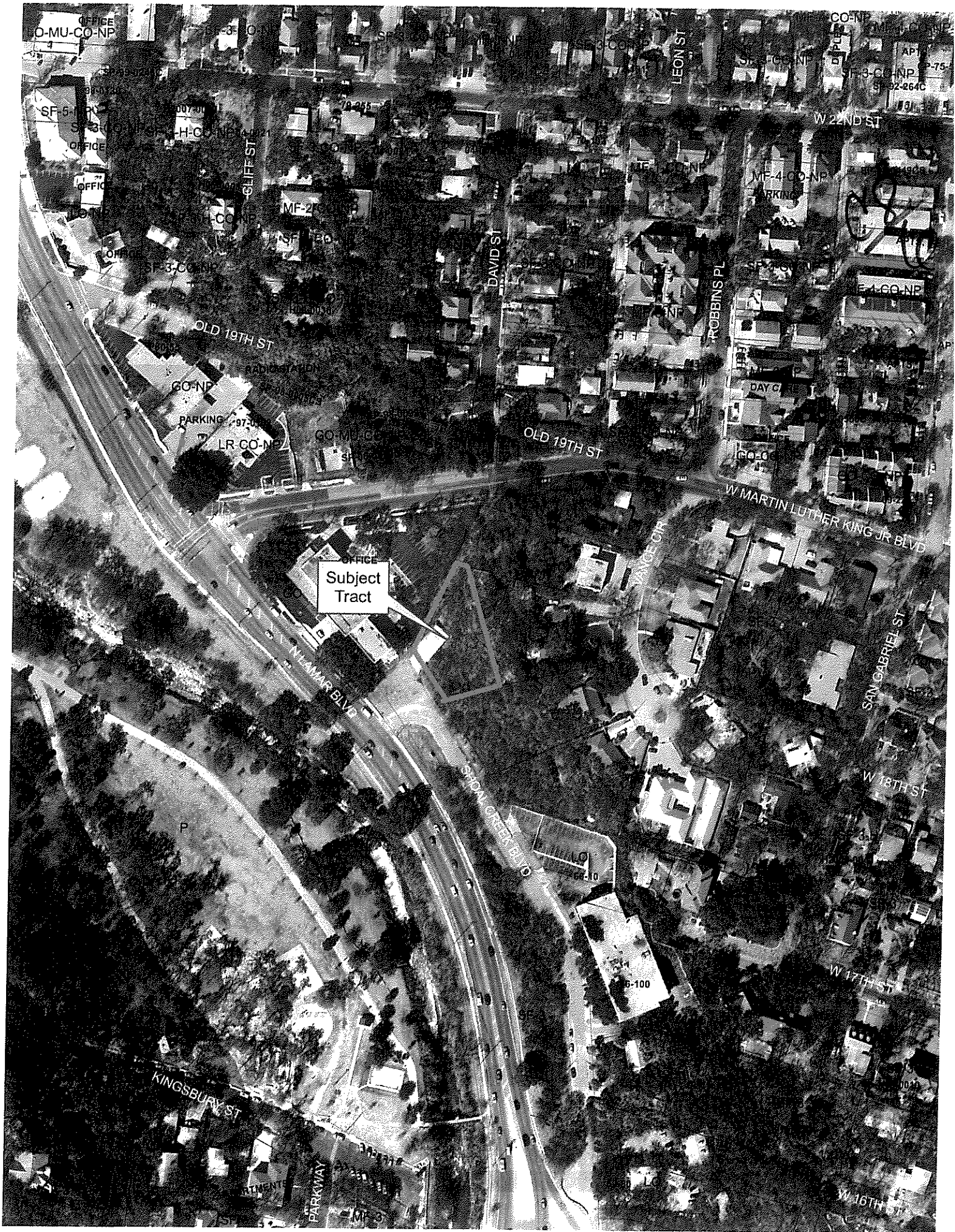
3RD

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson
Clark.patterson@ci.austin.tx.us

PHONE: 974-7691





Dead, it's done

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RESOLUTION

WHEREAS, in considering requests for zoning and rezoning, the City Council applies its legislative discretion to protect and advance the public interest; and

WHEREAS, where property is subject to a private restriction prohibiting non-residential uses, zoning or rezoning the property to a zoning district where non-residential uses are allowed may result in litigation brought by citizens entitled to the benefits of the restriction; and

WHEREAS, the City Council believes the public interest is better served, in such instances, by deferring any change of zoning which might be inconsistent with such private restrictions until the private restrictions are removed or declared invalid by a court of competent jurisdiction; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
That the City Council hereby expresses its general policy and intention to deny any requests to zone or rezone property to allow uses which may conflict with existing private restrictions prohibiting non-residential uses on the property; and

BE IT FURTHER RESOLVED:
That the City Council will assume a private restriction prohibiting non-residential uses on property is valid, notwithstanding any other facts, until the restriction is removed or declared invalid by a court of competent jurisdiction.

ADOPTED: December 3, 1987 ATTEST: James E. Aldridge
James E. Aldridge
City Clerk

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C8/8
unto the said L. W. Benson, of the County of Travis, State of Texas, all that certain All that certain tract or parcel of land known as Lot #43, Okie Heights in the city of Austin, Travis County, Texas

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 L. W. Benson, 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 L. W. Benson, heirs and assigns, against every person whosoever lawfully claiming or to claim the same, or any part thereof.

Witness hand at x this 6th day of August, 1947.

N. A. Giblin
Maye Giblin

(\$.55 U S Int Rev Stamps Can.)
The State of Texas,
County of Travis

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared N. A. Giblin and Maye Giblin, his wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they each executed the same for the purposes and consideration therein expressed, and the said Maye Giblin, wife of the said N. A. Giblin, having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Maye Giblin, acknowledged such instrument to be her act and deed and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this the 6th day of August, A. D. 1947.
Louis Shaffman, Jr.

Notary Public in and for Travis County, Texas.

(Notary Seal)

Filed for Record August 8, 1947 at 2:00 P.M. --- Recorded August 8, 1947 at 2:40 P.M. ---

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THE STATE OF TEXAS, #
COUNTY OF TRAVIS. # # KNOW ALL MEN BY THESE PRESENTS:

That I, Julia E. Vance, a feme sole, of Travis County, Texas, owner of Vance Park, Section One, as shown on the Plat thereof recorded in Book 4, page 336, of the Plat Records of Travis County, Texas, do hereby impress all of the property included in said Vance Park, Section One, with the following restrictions and covenants:

1. Designation of Use.

RESIDENTIAL
USE
All lots in Vance Park, Section One, shall be known and described as residential lots and shall be used for residential purposes only. For the purposes of these restrictions and covenants, a "plot" shall consist of a lot or a part of a lot or lots having a continuous frontage.

2. Retention of Easements:

Easements are reserved as indicated on the recorded plat.

3. Restrictions against Nuisance Use.

No trade or profession of any character shall be carried on upon any lot; nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.