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ZONING CHANGE REVIEW SHEET

CASE: C14-2011-0088 (Tillery Street)

P.C. DATE: January 10, 2012
January 24, 2012
February 28, 2012

ADDRESS: 2200 Tillery Street

OWNER/APPLICANT: DCR III Mortgage, Sub I, LLC (Lance B. Amano)

AGENT: Richard H. Crank

ZONING FROM: LO-MU-NP **TO:** W/LO-CO-NP* **AREA:** 1.217 acres

*On December 12, 2011, the applicant sent the staff a letter asking to amend their rezoning request to CS-MU-NP (Please see Amendment Request Letter –Attachment B).

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant CS-MU-CO-NP, Community Commercial-Mixed Use-Conditional Overlay-Neighborhood Plan District, zoning. The conditional overlay will limit development on the site to less than 2,000 vehicle trips per day, will permit Limited Warehousing and Distribution use as the only 'CS' district use, and limit the site to 'GR' district and 'MU' combining district uses with the exception of the following specific uses:

Automotive Rentals
Automotive Repair Services
Automotive Sales
Automotive Washing (of any type)
Commercial Off-Street Parking
Exterminating Services
Funeral Services
Off-site Accessory Parking
Outdoor Entertainment
Outdoor Sports and Recreation
Pawn Shop Services
Service Station

In addition, the condition overlay will require that a minimum of 10% of the gross floor area of the building on the Property be utilized for office uses.

PLANNING COMMISSION RECOMMENDATION:

01/17/12: Postponed to January 24, 2012 at the staff's request (8-0, M. Dealey-absent);
R. Hatfield-1st, S. Kirk-2nd.

01/24/12: Postponed to February 28, 2012 at the neighborhood's request (8-0, S. Kirk-absent);
D. Chimenti-1st, J. Stevens-2nd.

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ISSUES:

The East MLK Contact Team provided a letter that states their opposition to the proposed land use change and zoning change to the W/LO-NP district (Please see Letter from East MLK Contact Team Chair - Attachment E).

DEPARTMENT COMMENTS:

The property in question is currently developed with an approximately 20,000 square foot office/warehouse structure, with two loading docks. The applicant is seeking CS-MU-NP zoning to bring the existing Limited Warehousing and Distribution use on the site into conformance with City of Austin Land Development Code use regulations. The property was rezoned from the MF-2 district to the LO district in 1985 through zoning case C14-84-361. Along with the rezoning case, the applicant entered into a public restrictive covenant with the City of Austin that limited uses on the site, stated that businesses be conducted within a building, required a lighted parking area, and designated a six foot privacy fence adjacent to the residential neighborhood. In 1986, this public restrictive covenant was amended to permit the State Bar of Texas to develop a print shop facility on the site. The property was consequently developed with an office/warehouse structure. On November 7, 2002, the property was rezoned again through the East MLK Combined Neighborhood Plan to the LO-MU-NP district designation.

On January 13, 2012, the applicant sent the staff an e-mail stating that they would be willing to restrict the property through the following through a conditional overlay for this case (Please see Proposed Conditional Overlay for C14-2011-0088 –Attachment C):

- A. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.
- B. All permitted uses and conditional uses which are allowed only in the general commercial services (CS) base district or less restrictive base districts are prohibited uses of the Property, except for the one following use which is permitted:

Limited Warehousing and Distribution

- C. In addition, the following uses are prohibited uses of the Property:
 - Automotive Rentals
 - Automotive Repair Services
 - Automotive Sales
 - Automotive Washing (any type)
 - Commercial Off-street Parking
 - Exterminating Services
 - Funeral Services
 - Off-site Accessory Parking
 - Outdoor Entertainment
 - Outdoor Sports and Recreation
 - Pawn Shop Services
 - Service Station
- D. The minimum interior side yard setback from the south line of the Property shall be 5 feet.
- E. The maximum height on the site will be limited to 40 feet or 3 stories.

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In addition, the applicant is proposing a public restrictive covenant to limit the following on the property (Please see Proposed Restrictive Covenant –Attachment D):

1. A minimum of 10 percent of the gross floor area of the building on the Property shall be used for office uses. The term “gross floor area” shall have the meaning given to it by the City Code as of the date hereof.
2. Deliveries to and from the Property by large trucks (meaning 18-wheel trucks) shall be restricted to the hours between 8:00 a.m. and 6:00 p.m. Outdoor loading and unloading with the use of mechanized equipment shall also be restricted to the hours between 8:00 a.m. and 6:00 p.m.
3. Traffic signage shall be erected and maintained on the Property which directs large trucks (meaning 18-wheel trucks) exiting the Property to proceed toward Manor Road rather than toward Martin Luther King Boulevard.
4. Visual screening shall be installed and maintained between the existing parking area on the Property and Tillery Street, except within the permitted driveway onto the Property. Visual screening may consist of vegetation, a privacy fence or decorative wall, any of which shall be a minimum of 4 feet in height.
5. A privacy fence of 6 feet in height shall be installed and maintained along any Property line which is adjacent to other property zoned or used for residentially.

The staff recommends CS-MU-CO-NP zoning for this site, permitting Limited Warehousing and Distribution use as the only ‘CS’ district use, limiting the site to ‘GR’ district and ‘MU’ combining district uses with the exception of the following specific uses:

Automotive Rentals
Automotive Repair Services
Automotive Sales
Automotive Washing (of any type)
Commercial Off-Street Parking
Exterminating Services
Funeral Services
Off-site Accessory Parking
Outdoor Entertainment
Outdoor Sports and Recreation
Pawn Shop Services
Service Station

The staff is supportive of a limited CS-MU-CO-NP zoning at this location because the proposed zoning is consistent with the CS-MU-V-NP zoning to the north and the GR-V-NP zoning to the west of this site. The proposed zoning will permit the applicant to continue the existing Limited Warehousing and Distribution use on the site while limiting the property to GR-MU district uses. The property is located adjacent to existing commercial uses to the north and west and will take access to Tillery Street a collector roadway, a block off of Manor Road, a major arterial roadway. The property in question will be subject to Compatibility Standards along the eastern property line for any new redevelopment on the site.

The applicant agrees with the staff’s recommendation.

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EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO-MU-NP	Office/Warehouse Structure
<i>North</i>	CS-V-CO-NP	Construction Sales and Services / Landscaping Company (TexaScapes)
<i>South</i>	MF-2-NP	Single-Family Residence
<i>East</i>	CS-CO-NP, SF-3-NP	Undeveloped Lot, Single-Family Residence
<i>West</i>	GR-V-NP	Automotive Repair and Outdoor Storage (Truck and Equipment Tire Sales and Storage)

AREA STUDY: East MLK Combined Neighborhood Plan – The property lies within the MLK neighborhood plan area. The future land use map calls for mixed use land use for this property. The requested CS-MU-NP zoning is in compliance with the adopted neighborhood plan.

TIA: Not Required

WATERSHED: Boggy Creek, Tannehill Branch

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

Anberly Airport Association
 Austin Independent School District
 Austin Monorail Project
 Austin Neighborhoods Council
 Austin Parks Foundation
 Del Valle Community Coalition
 East MLK Combined Neighborhood Association
 East MLK Combined Neighborhood Contact Team
 East MLK Neighborhood Combined COA Liaison
 Home Builders Association of Greater Austin
 Homeless Neighborhood Association
 J. J. Seabrook Neighborhood Association
 League of Bicycling Voters
 MLK JR. Boulevard TOD Staff Liaison
 Mueller Master Community Inc.
 Mueller Property Owners Association
 PODER
 Sierra Club, Austin Regional Group
 Super Duper Neighborhood Objectors and Appealers Organization
 The Real Estate Council of Austin, Inc.

SCHOOLS:

Maplewood Elementary School
 Kealing Middle School
 McCallum High School

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CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2007-0076 (Smart Mail Building), C14-84-361(RCT): 2200 Tillery Street	LO-MU-NP to CS-MU-CO-NP and termination of the public restrictive covenant from zoning case C14-84-361	8/28/07: Approved staff's rec. for the termination of the public RC and approved staff's rec. for GR-MU-CO-NP district zoning (6-2, M. Dealey, P. Hui-Nay); J. Reddy-1 st , T. Atkins-2 nd .	11/08/07: Postponed indefinitely and removed from the agenda at the applicant's request (7-0) 5/08/08: Case expired administratively per LDC 25-2-246(A(2))
C14-02-0057 (Airport Boulevard)	Upper Boggy Creek Neighborhood Plan Combining District Rezoning	6/12/02: Approved LO-MU-CO-NP, LO-H-MU-CO-NP, LO-CO-NP, LR-MU-CO-NP, LR-CO-NP, GR-CO-NP, GR-MU-CO-NP, CS-CO-NP, CS-MU-NP, CS-MU-CO-NP, CS-1-MU-CO-NP, LI-CO-NP and Lots 16 and 17 with conditions (8-0)	8/01/02: Approved SF-3-NP, MF-3-NP, MF-4-NP, LO-MU-CO-NP, LO-H-MU-CO-NP, LO-CO-NP, GO-CO-NP, LR-CO-NP, LR-MU-CO-NP, GR-CO-NP, GR-MU-CO-NP, CS-MU-NP, CS-MU-CO-NP, CS-1-MU-CO-NP, LI-CO-NP, Tract 3 zoned LO-NP, Tract 16 & 17 postponed to 8/22/02 (7-0); all 3 readings 8/22/02: Approved LR-MU-CO-NP for Tract 16 and SF-3-NP for Tract 17 on 1 st reading (6-0) 10/24/02: Approved LR-MU-CO-NP for part of Tract 16: 2917 Cherrywood Road (6-0); 2 nd /3 rd readings
C14-02-0142	East MLK Neighborhood Plan Combining District Rezoning	10/09/02: Approved staff rec. for rezonings plus the following changes: 1) Add visual screening and 25 foot vegetative buffer along eastern boundary of Tracts 154 and 159. 2) Rezone Tract 208 to GR-MU-CO-NP with the "B" conditional overlay. 3) Revise conditional "B" to prohibit Pawn Shop Services. 4) Add conditional overlay "B" to	11/07/02: Approved SF-3-NP, SF-4A-NP, SF-6-NP, MF-2-NP, MF-3-NP, MF-3-CO-NP, NO-MU-NP, LO-MU-NP, GO-NP, LR-NP, LR-CO-NP, LR-MU-NP, GR-NP, GR-CO-NP, GR-MU-NP, GR-MU-CO-NP, CS-NP, CS-CO-NP, CS-MU-NP, CS-1-MU-NP, IP-NP, LI-NP, LI-PDA-NP, PUD-NP, P-NP, w/ conditions on

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		Tracts 22 and 29. 5) Add conditional overlays "H", "I" and "J". 6) Add General Warehouse and Distribution use to Tracts 154 and 159. VOTE: 5-3-1 (MC-1st, MM-2nd); MA, RP and CR- opposed, DS- left early)	Tracts 5/6/8/15-17/20/22/26-7/28B/29/110/145B/146/208-209/235 (7-0); all 3 readings
C14-01-0150 (Airport Boulevard at Manor Road)	Rosewood Neighborhood Plan Combining District Rezonings	11/14/01: Approved neighborhood plan with Tract 53 rezoned to CS-MU-CO-NP and staff rec. on Tract 56 (8-0)	11/29/01: Approved CS-CO-NP, CS-MU-NP, CS-MU-CO-NP, LR-MU-NP-LR-MU-CO-NP, GR-MU-CO-NP, MF-3-NP, P-NP, SF-3-NP, CS-1-CO-NP, GO-MU-NP, LI-CO-NP, LO-MU-NP, P-H-NP (7-0); 1 st reading 1/10/02: Approved 2 nd /3 rd readings (7-0)
C14-01-0033 (1994 Land Fund II, Dallas I, LP: 3300 Block of Manor Road)	GR to CS-CO	4/17/01: Approved CS-CO, with conditions: 2,000 vehicle trip per day limit, 15-foot vegetative buffer along west property line along Tillery Street and along south property line adjacent to single-family residences, permit construction sales and services as the only CS district use and permit all other GR district uses, prohibit the following uses: agricultural sales and services, automotive rentals, automotive repair services, automotive sales, automotive washing, campground, convenience storage, drop-off recycling collection facility, equipment repair services, exterminating services, funeral services, kennels, outdoor entertainment, outdoor sports and recreation, pawn shop services and scrap and	5/17/01: Approved CS-CO, with other conditions: 1) Limit the site to 2,000 vehicle trips per day; 2) require a 15-foot vegetative buffer along west property line along Tillery Street and along south property line adjacent to single-family residences, 3) prohibit the following uses: agricultural sales and services, art and craft studio (general), automotive rentals, automotive repair services, automotive sales, automotive washing, business maintenance services, campground, convenience storage, drop-off recycling collection facility, electronic prototype assembly, equipment repair services, equipment sales,

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		salvage uses (8-0-1, SG-abstain)	exterminating services, funeral services, kennels, laundry service, monument retail sales, outdoor entertainment, outdoor sports and recreation, pawn shop services, vehicle storage, veterinary services, limited warehousing and distribution, maintenance and service facilities, transitional housing and transportation terminal (6-0); all 3 readings
C14-00-2083 (Texascapes, Inc.- Office: 3219 Manor Road)	GR to CS-CO	5/23/00: Approved staff rec. of CS-CO zoning (8-0, SA-absent), with the following conditions: limit development of the property to uses that generate less than 2,000 vehicle trips per day, prohibit vehicular access from Tillery Street, require a 15-foot wide vegetative buffer along the property line adjacent to Tillery Street, and prohibit the following uses: Agricultural Sales and Service, Automotive Sales, Campground, Convenience Storage, Drop off Recycling Collection Facility, Equipment Repair Services, Exterminating Services, Funeral Services and Kennels	6/22/00: Approved CS-CO, with the following conditions: limit development of the property to uses that generate less than 2,000 vehicle trips per day, prohibit vehicular access from Tillery Street, require a 15-foot wide vegetative buffer along the property line adjacent to Tillery Street, and prohibit the following uses: Agricultural Sales and Service, Automotive Sales, Campground, Convenience Storage, Drop off Recycling Collection Facility, Equipment Repair Services, Exterminating Services, Funeral Services, Kennels, Outdoor Entertainment, Outdoor Sports and Recreation, Pawn Shop Services, Scrap and Salvage (7-0); all 3 readings

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RELATED CASES: Current Restrictive Covenant Termination Case: C14-84-361(RCT)
Zoning Case: C14-2007-0076 (Smart Mail Building: 2200 Tillery Street)
Neighborhood Plan: C14-02-0142 (East MLK Combined Neighborhood Plan
Rezoning)
Zoning Case: C14-84-361 (Jimmy Youngquist: 2200 Tillery Street)

ABUTTING STREETS:

Name	ROW	Pavement	Classification	ADT
Manor Road	88'	MAU4	Major Arterial	6,450
Tillery Street	Varies	33'	Collector Street	1,091

CITY COUNCIL DATE: February 9, 2012

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:





CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057

sherri.sirwaitis@ci.austin.tx.us



ZONING

-  N
-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

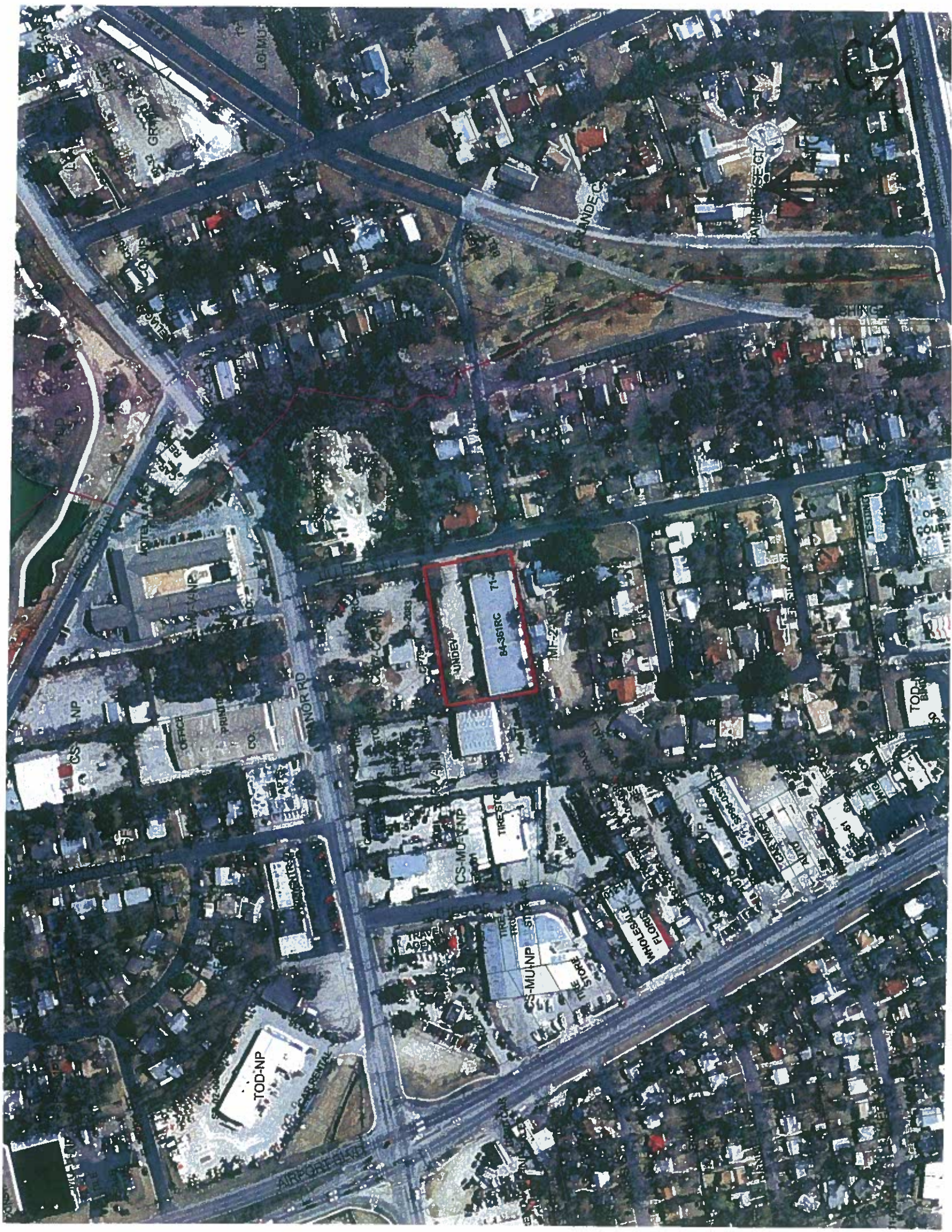
ZONING CASE#: C14-2011-0088
 LOCATION: 2200 TILLERY STREET
 SUBJECT AREA: 1.217 ACRES
 GRID: L24
 MANAGER: JERRY RUSTHOVEN



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1"= 400'





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STAFF RECOMMENDATION

The staff's recommendation is to grant CS-MU-CO-NP, Community Commercial-Mixed Use-Conditional Overlay-Neighborhood Plan District, zoning. The conditional overlay will limit development on the site to less than 2,000 vehicle trips per day, will permit Limited Warehousing and Distribution use as the only 'CS' district use, and limit the site to 'GR' district and 'MU' combining district uses with the exception of the following specific uses:

- Automotive Rentals
- Automotive Repair Services
- Automotive Sales
- Automotive Washing (of any type)
- Commercial Off-Street Parking
- Exterminating Services
- Funeral Services
- Off-site Accessory Parking
- Outdoor Entertainment
- Outdoor Sports and Recreation
- Pawn Shop Services
- Service Station

In addition, the condition overlay will require that a minimum of 10% of the gross floor area of the building on the Property be utilized for office uses.

BASIS FOR RECOMMENDATION

- 1 *The proposed zoning should promote consistency and orderly planning.*

The proposed zoning will be consistent with the current zoning trends in the area as there is CS-MU-V-NP zoning to the north and the GR-V-NP zoning to the west of this site.

- 2 *Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or the intersections of arterials and major collectors.*

The property in question is located adjacent to existing commercial uses to the north and west and will take access to Tillery Street a collector roadway, a block to the south of Manor Road, a major arterial roadway.

- 3 *Zoning should allow for reasonable use of the property.*

The proposed zoning will permit the applicant the applicant to utilize the existing office/warehouse structure for as a Limited Warehousing and Distribution use while limiting the property to GR-MU district uses. CS-MU-CO-NP district zoning will bring the current use on the site into conformance with City of Austin Land Development Code regulations.

EXISTING CONDITIONS

Site Characteristics

The site under consideration is currently developed with an office/warehouse structure that has two loading docks and a small parking area.

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Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy Creek and Tannehill Branch Watersheds of the Colorado River Basin, which are classified as Urban Watersheds by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

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 sq. ft. 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.

According to flood plain maps, there is no flood plain within the project area.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

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

Impervious Cover

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

Site Plan

Please clarify if the restrictive covenant associated with this property will be terminated.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The site is subject to compatibility standards. Along the south and east property line, the following standards apply:

- No structure may be built within 25 feet of the property line zoned or used as single family..
- 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 zoned or used as single family.
- 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.

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Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Transportation

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

- 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 vehicle trips per day. [LDC, 25-6-113]

Manor Road is classified in the Bicycle Plan as Bike Route No. 42. Tillery Street is classified in the Bicycle Plan as Bike Route No 346.

Capital Metro bus service (Route No. 20) is available along Manor Road.

There are existing sidewalks along Manor Road and Tillery Street

Existing Street Characteristics:

<u>Name</u>	<u>ROW</u>	<u>Pavement</u>	<u>Classification</u>	<u>ADT</u>
Manor Road	88'	MAU4	Major Arterial	6,450
Tillery Street	Varies	33'	Collector Street	1,091

Water and Wastewater

FYI: The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the proposed land use. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

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15**2200 TILLERY ST.****NEIGHBORHOOD PLAN/ZONING INFORMATION SUMMARY**

July 25, 2011

Background

The property to be rezoned is located on the west side of Tillery St., just south of Manor Rd. It is a 1.217 acre parcel that has not been formally subdivided, but received a Land Status Determination on May 24, 2007, stating that platting was not required. The property is located within the boundary of the East MLK Combined Neighborhood Planning Area, and is currently designated as Mixed Use on the Future Land Use Map and zoned LO-MU-NP. It is currently improved as a 20,000 SF office/warehouse building with two loading docks and related parking.

The property is located within a transition area that ranges from single family use and zoning to the south and east, to commercial use and zoning to the north and west. The property across Tillery St. to the east is zoned SF-3-NP and CS-CO-NP. The adjacent property to the south is zoned MF-2-NP and appears to be used as a single family residence and possibly a business. The adjacent property to the west is zoned GR-V-NP and is used as a truck and equipment tire business; while the adjacent property to the north is zoned CS-V-CO-NP and is used as a large scale landscape business.

The property was zoned from MF-2 to LO in 1985 (C14-84-361), and a restrictive covenant was also entered into with the City of Austin. The restrictive covenant was amended in 1986 to allow for the State Bar of Texas to use it for its purposes, including a print shop facility. The property was then developed as currently improved, presumably by or for the State Bar of Texas, and used by the State Bar of Texas as an office/warehouse including a print shop facility. The East MLK Combined Neighborhood Plan was adopted on November 7, 2002, which changed the zoning from LO to LO-MU-NP.

The State Bar of Texas sold the property to an individual in 2000, who in turn requested a change in zoning from LO-MU-NP to CS-MU-CO-NP (C14-2007-0076), and termination of the restrictive covenant. Zoning review staff proposed an alternate recommendation of GR-MU-CO-NP and also recommended the termination of the restrictive covenant, both of which were later recommended by the Planning Commission, and scheduled for City Council in November 2007. The applicant requested a postponement, it appears that the City Council never voted on the request, and the applications for rezoning and termination of the restrictive covenant appear to have expired. The property was recently foreclosed in February 2011, is vacant, and currently owned by a mortgage company that has it listed for sale.

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Proposed Plan Amendment And Zoning

The property as currently improved cannot be fully utilized under LO zoning, which does not allow for warehouse use. It also has a substantial parking deficiency for office or retail use. The 20,000 SF building is served by approximately 32 parking spaces, or 1 space per 625SF of building area. Office use allowed under the current LO zoning, and many uses allowed under the previously recommended GR zoning, require 1 parking space per 275SF of building area or about 73 spaces. The required parking can be reduced to 80% or 58 spaces as allowed within the Urban Core, which still leaves much of the building area without parking. Therefore, the applicant is requesting a change in zoning to WLO-CO-NP, to allow for the building to be used as an office/warehouse, which will also allow for uses that have a required parking ratio based on the actual uses of the building area as per Appendix A, Tables Of Off-street Parking and Loading Requirements, Schedule A.

Since the WLO zoning district is not considered to be typically located within the Mixed Use designation on the FLUM, as per the Land Use And Zoning Matrix, the rezoning will require a Plan Amendment to change the FLUM from Mixed Use to Commercial. The property is adjacent to commercial zoning and uses on two sides, and it is unlikely that the current improvements are suitable for residential use in the foreseeable future. The applicant believes that the WLO zoning is suitable for the property since it allows for it to be used as an office/warehouse which serves as a suitable transition from the single family uses to the construction and automotive uses within the immediate area. The definition for WLO allows for it to be permitted adjacent to some residential uses, and the adjacent residential use is zoned MF-2. The applicant is willing to prohibit some allowable uses within the WLO district that are less compatible with the nearby single family residential use, which will be identified after further discussion with the area residents. The applicant has met with the Contact Team to preliminarily review the requested Plan Amendment and rezoning, and has scheduled a meeting with the JJ SEABROOK NEIGHBORHOOD ASSOCIATION to discuss the request prior to the formal Plan Amendment meeting to be scheduled by COA staff.

The applicant is also submitting an application requesting the termination of the existing restrictive covenant since it does not allow for office/warehouse use, and a Neighborhood Plan has been adopted since the restrictive covenant was put in place over 25 years ago. Termination of the restrictive covenant was previously recommended by COA staff and the Planning Commission.

Conclusion

The proposed Plan Amendment to Commercial Land Use, rezoning to WLO-CO-NP and termination of the restrictive covenant are reasonable and appropriate for this property for the following reasons:

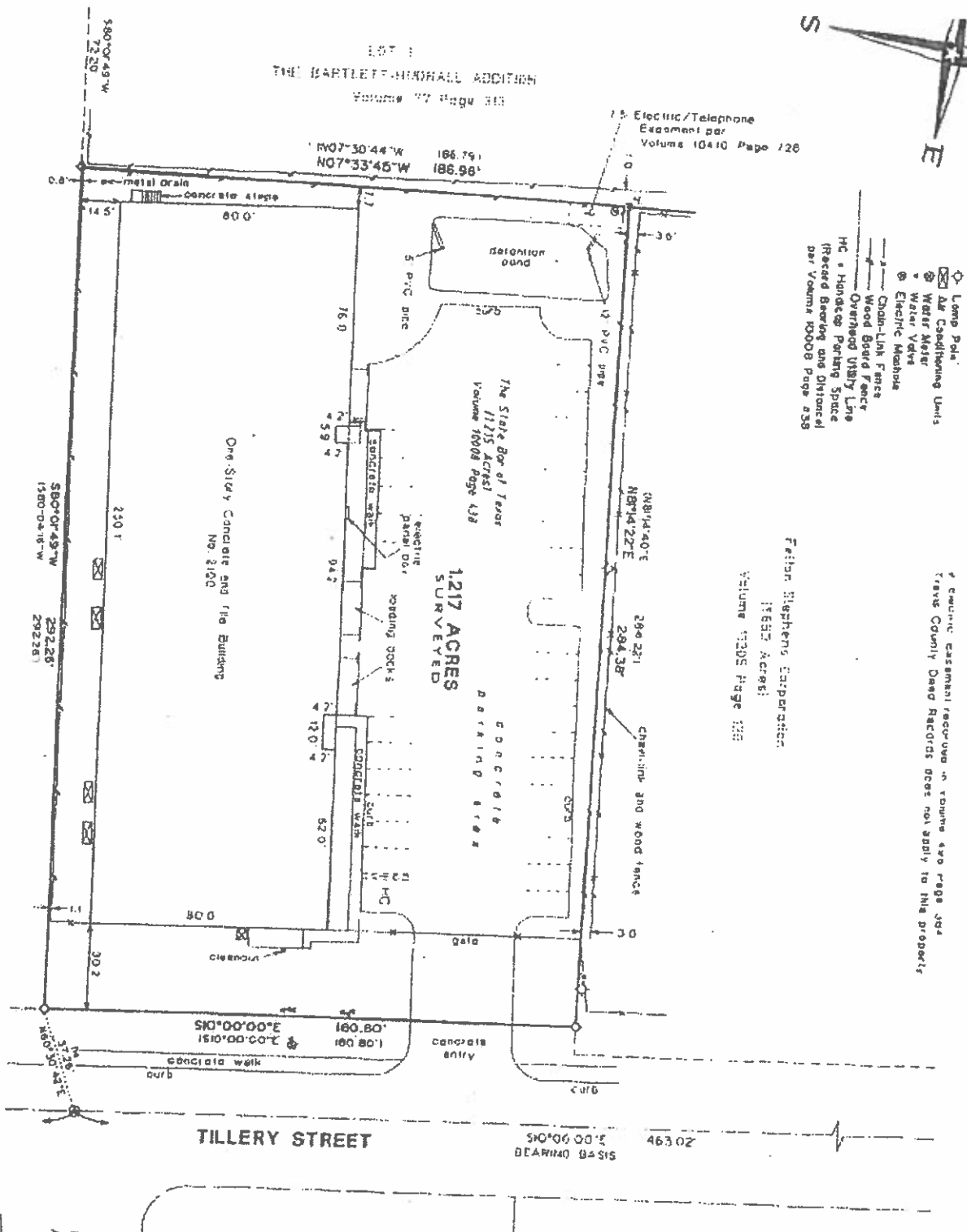
- The property is already developed with office/warehouse use, and has been used as such for many years

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- The proposed zoning is an appropriate transition zoning given the existing zoning and uses surrounding the property.
- The Commercial Land Use designation is only needed because the WLO does not combine with Mixed Use, and it is unlikely that the property will be used for residential purposes in the foreseeable future
- Some allowable WLO uses will be prohibited in the Conditional Overlay
- The site generated traffic for office/warehouse use is very low
- WLO only allows for indoor storage use
- The restrictive covenant is cumbersome to modify, was put in place before the adoption of the Neighborhood Plan, and was recommended to be terminated in 2007

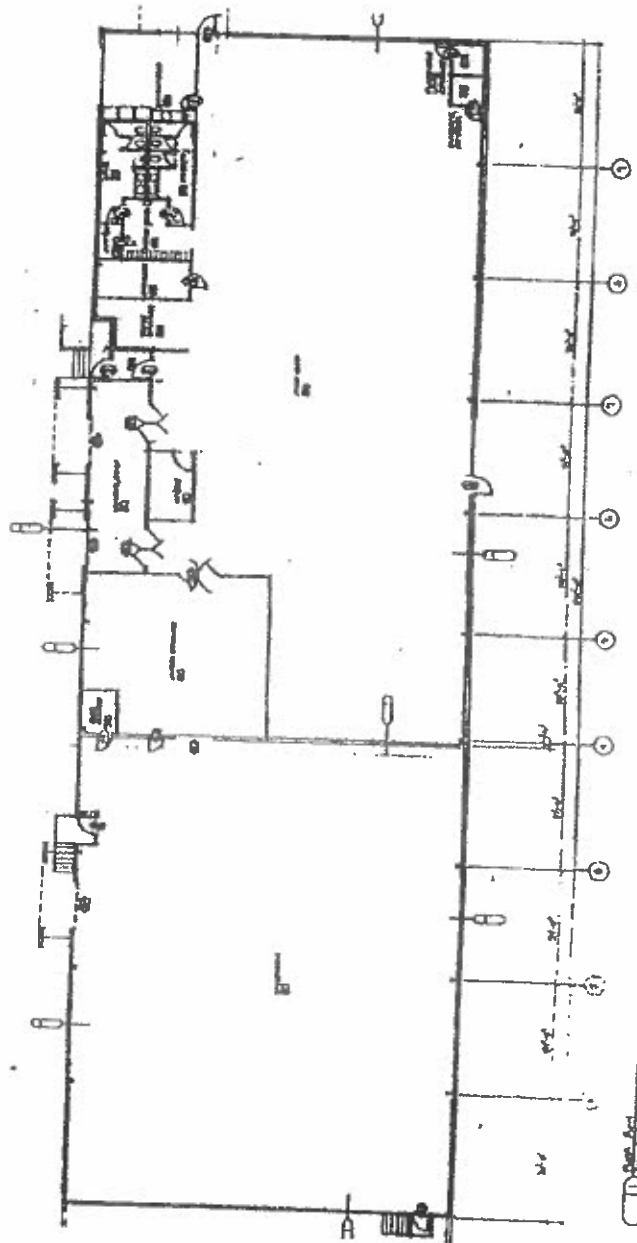
SURVEY

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FLOOR PLAN (TAKEN FROM 2006 APPRAISAL)

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RICHARD H. CRANK, ASLA



CS
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December 12, 2011

Ms. Sherri Sirwaitis
Planning and Development Review Department
City of Austin
One Texas Center-Suite #525
505 Barton Springs Road
Austin, Texas 78704

RE: 2200 Tillery St.; Zoning Case No. C14-2011-0088

Dear Ms. Sirwaitis:

As agent for the above referenced application for rezoning, I am respectfully requesting an amendment from the previously requested zoning of Warehouse/Limited Office-Neighborhood Plan (WLO-NP), to General Commercial Services-Mixed Use-Neighborhood Plan (CS-MU-NP). The purpose of the requested CS zoning is to allow for Limited Warehousing and Distribution use in order for the existing office-warehouse improvements to continue to be utilized. Please let me know if you have any questions or need additional information.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "Richard H. Crank". The signature is fluid and cursive, written in a professional style.

Richard H. Crank, ASLA

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**PROPOSED ORDINANCE PROVISION CREATING
CONDITIONAL OVERLAY FOR C14-2011-0088 (2200 TILLERY STREET)**

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

- A. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.
- B. All permitted uses and conditional uses which are allowed only in the general commercial services (CS) base district or less restrictive base districts are prohibited uses of the Property, except for the one following use which is permitted:

Limited warehousing and distribution

- C. In addition, the following uses are prohibited uses of the Property:

Automotive rentals
Automotive repair services
Automotive sales
Automotive washing (any type)
Bail bond services
Commercial off-street parking
Consumer convenience services
Drop-off recycling collection facility
Exterminating services
Funeral services
Hotel-motel
Indoor entertainment
Off-site accessory parking
Outdoor entertainment
Outdoor sports and recreation
Pawn shop services
Pet services
Restaurant (general)
Service station

- D. The minimum interior side yard setback from the south line of the Property is 5 feet.
- E. The maximum height is 40 feet or 3 stories.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the general commercial services (CS) base district, and other applicable requirements of the City Code.

Attachment D

C5/22

RESTRICTIVE COVENANT

OWNER: DRC III Mortgage SUB I, LLC

OWNER'S ADDRESS: 12396 World Trade Drive, Suite 114, San Diego, CA 92128

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin (hereinafter the "City") to the Owner, the receipt and sufficiency of which are acknowledged.

PROPERTY: That certain 1.217 acres of land more particularly described by metes and bounds in **Exhibit "A"** which is attached hereto and made a part hereof, and locally known as 2200 Tillery Street in the City of Austin, Travis County, Texas.

WHEREAS, the Owner of the Property and the City have agreed that the Property should be impressed with certain covenants and restrictions in connection with the rezoning of the Property in City of Austin Zoning Case No. C14-2011-0088;

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 successors and assigns.

1. All principal business uses of the Property shall be conducted within a building. Accessory uses such as parking, loading and unloading, signage, and placement of dumpsters may occur outside of a building. Nothing herein shall be construed to prohibit typical outdoor activities by residential or civic uses, as such uses are defined by the City Code. Business activities conducted on the Property shall not be allowed to create a nuisance, such as continuous and excessively loud noise, foul odors, or noxious fumes to the degree that such things would be offensive to a person of normal sensibilities.
2. A minimum of 10 percent of the gross floor area of any building or portion of a building on the Property which is used for "limited warehousing and distribution" shall be office space for the limited warehousing and distribution use. The terms "gross floor area" and "limited warehousing and distribution" shall have the meanings given to them by the City Code as of the date hereof.
3. Deliveries to and from the Property by large trucks (meaning 18-wheel trucks) shall be restricted to the hours between 8:00 a.m. and 6:00 p.m. Outdoor loading and unloading with the use of mechanized equipment shall also be restricted to the hours between 8:00 a.m. and 6:00 p.m.
4. Traffic signage shall be erected and maintained on the Property which directs large trucks (meaning 18-wheel trucks) exiting the Property to proceed toward Manor Road rather than toward Martin Luther King Blvd.

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5. Visual screening shall be installed and maintained between the existing parking area on the Property and Tillery Street, except within the permitted driveway onto the Property, which visual screening may be vegetation, a privacy fence or a decorative wall, any of which shall be a minimum of 4 feet in height.
6. A privacy fence of 6 feet in height shall be installed and maintained along any Property line which is adjacent to other property zoned or used residentially.
7. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City 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.
8. If any part of this agreement or covenant shall be 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.
9. If at any time the City 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.
10. 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, and (b) the owner(s) of the Property at the time of such modification, amendment or termination.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this _____ day of _____, 2012.

DRC III Mortgage SUB I, LLC

By: _____
Name: _____
Title: _____

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STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me this _____, 2012
by _____, the _____ of DRC III
Mortgage SUB I, LLC, a _____ limited liability company, on behalf of said limited
liability company.

Notary Public - State of _____

Exhibit A

C5
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HOLT CARSON, INC. PROFESSIONAL LAND SURVEYORS

1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

FIELD NOTE DESCRIPTION OF 1.217 ACRES OF LAND OUT OF OUTLOT 50 DIVISION "B" OF THE GOVERNMENT OUTLOTS ADJOINING THE CITY OF AUSTIN ACCORDING TO THE MAP OR PLAT THEREOF FILED IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, BEING ALL OF THAT CERTAIN (1.217 ACRE) TRACT OF LAND AS CONVEYED TO LAWRENCE C. MATHIS BY SPECIAL WARRANTY DEED RECORDED IN 2000050461 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/4" iron rod found with a plastic cap imprinted with "Carson and Bush Professional Surveyors" in the present West right-of-way line of Tillery Street for the Southeast corner of that certain (1.217 acre) tract of land as conveyed to Lawrence C Mathis by Special Warranty Deed recorded in Document No. 2000050461 of the Official Public Records of Travis County, Texas, and for the Northeast corner of that certain (0.966 acre) tract of land as conveyed to Malik Khurshid by Warranty Deed recorded in Document No. 2002188636 of the Official Public Records of Travis County, Texas, and being the Southeast corner and PLACE OF BEGINNING of the herein described tract, and from which a 3/4" iron pipe found for the Northeast corner of Lot 20, Encino Terrace, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 30 Page 22 of the Plat Records of Travis County, Texas, bears S 14 deg. 50' 55" E 121.69 ft. (direct tie);

THENCE leaving the West right-of-way line of Tillery Street with the common line of said Mathis (1.217 acre) tract and said Khurshid (0.966 acre) tract, S 80 deg. 01' 49" W 292.26 ft. to a 1/4" iron rod found with a plastic cap imprinted with "Carson and Bush Professional Surveyors" for the Southwest corner of said Mathis (1.217 acre) tract and for the Southeast corner of Lot 1, The Bartlett-Hudnall Addition, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 77 Page 313 of the Plat Records of Travis County, Texas, and being the Southwest corner of this tract, and from which a 1/4" iron rod found for the Northwest corner of said Khurshid (0.966 acre) tract bears S 80 deg. 01' 49" W 72.20 ft.,

THENCE with the West line of said Mathis (1.217 acre) tract, N 07 deg. 33' 45" W 186.96 ft. to a 2" iron pipe found for the Northwest corner of said Mathis (1.217 acre) tract and for the Southwest corner of that certain (1.658 acre) tract of land as conveyed to 3219 Manor Road L L C by deed recorded in Document No. 2000132086 of the Official Public Records of Travis County, Texas, and being the Northwest corner of this tract,

end of Page 1

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Page 2 of 2
1.217 ACRES

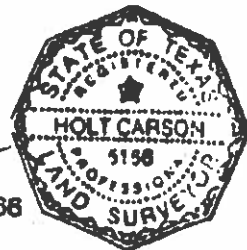
THENCE with the common line of said Mathis (1.217 acre) tract and said 3219 Manor Road L.L.C. (1.658 acre) tract, N 81 deg. 14' 22" E 284.38 ft. to a 1/2" iron rod found with a plastic cap imprinted with "Carson and Bush Professional Surveyors" in the present West right-of-way line of Tillery Street for the Northeast corner of said Mathis (1.217 acre) tract and being the Northeast corner of this tract,

THENCE with the West right-of-way line of Tillery Street and with the East line of said Mathis (1.217 acre) tract, S 10 deg. 00' 00" E 180.80 ft. to the **PLACE OF BEGINNING**, containing 1.217 acres of land

SURVEYED: May 3, 2007.



Holt Carson
Registered Professional Land Surveyor No. 5168



To: City of Austin Planning Commission
Re: Case Number NPA-2011-0015.02
Date: November 6, 2011

C5/27

On October 17, 2011 the East MLK Combined Neighborhood Contact Team held a meeting in which Ben Heimsath of the JJ Seabrook Neighborhood Association presented the NA Subcommittee position regarding the 2200 Tillery Case. This meeting followed the City-arranged meeting on September 17, 2011 in which Richard Crank presented his case to the Neighborhood. Richard Crank's client owns the property at 2200 Tillery. It is currently zoned as LO-MU-NP, but Mr. Crank's client wishes to change the land use from Mixed Use to Commercial and also change the zoning to W/LO-NP. The JJ Seabrook Subcommittee opposes the proposed land use and zoning changes.

The East MLK Combined Neighborhood Contact Team voted to oppose the proposed land use and zoning change because it would entail the loss of the Mixed Use land use for 2200 Tillery. JJ Seabrook Neighborhood has witnessed tremendous change since the old Austin airport closed. What was once a very commercial and industrial area has changed into a much more residential-friendly neighborhood (even though the neighborhood existed all along). The Mixed Use appropriation for the property at 2200 Tillery is appropriate as Mixed Use allows for various development, including that of a live/work type of structure in which the neighborhood would most like to see at the aforementioned property. By changing the land use to commercial, the live/work development model would be prohibited. Additionally, the buffer zone that Mixed Use currently lends to the primarily residential properties that surround 2200 Tillery would be lost.

The Contact Team believes that such a change in the land use and zoning is a step back in time. The JJ Seabrook Neighborhood Plan states that "many of the commercial uses that [currently] exist in the area were related to the former airport and may no longer be appropriate." Therefore, the fact that the property at 2200 Tillery could be converted into commercial does not reflect the current needs and character of the neighborhood. Furthermore, the Plan goes on to say that while development will occur due to the conversion of Mueller, "existing commercial properties should be encouraged to redevelop with mixed use." To re-iterate—changing the property to commercial would completely contradict what the Neighborhood Plan envisions for the area.

Please contact us if you have any questions or concerns.

Respectfully submitted,

Joy Casnovsky, East MLK Combined Neighborhood Contact Team Chair
512.589.1090
soyjoyc@gmail.com

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

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: C14-2011-0088

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Jan 10, 2012, Planning Commission

Feb 9, 2012, City Council

Kindle, Eliza Mae
Your Name (please print)

☐ I am in favor
☒ I object

2005 Encino Circle, Austin, 78733
Your address(es) affected by this application

Eliza Mae Kindle Wilburn 12/24/11
Signature Date

Daytime Telephone: 512-472-3625

Comments: I think the re-zoning would increase traffic for this area. The majority of the people in this area are senior citizens. It is very difficult to find areas to walk and get exercise. If the traffic is increased it will be impossible for seniors like myself and my neighbors to get exercise.

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

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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.

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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: C14-2011-0088

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Jan 10, 2012, Planning Commission

Feb 9, 2012, City Council

Wilborn Alexander
Your Name (please print)

☐ I am in favor
☒ I object

2005 Gincine Circle, Austin 78723
Your address(es) affected by this application

Alexander Wilborn 12/54/11
Signature Date

Daytime Telephone: (512) 472-3665

Comments: The traffic will be increased parking will be a problem with the outlet either to the North at Manors Rd and Wilborn to the South at MK Blvd will be impacted with a heavy flow of traffic. East and West MK Blvd and Manors Rd. Safety on both outlet of Wilborn are going to be a huge problem. I personally believe have been going on suppose to be traffic studies everything OK. Why not get it from behind your desk, get lawn chair and observe.

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

Thank you
CS
29

PUBLIC HEARING INFORMATION

The proposed amendment will be reviewed and acted upon at two public hearings: first, before the Planning Commission and then before 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 amendment. You may also contact a registered neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a 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 plan amendment request, or approve an alternative to the amendment requested.

If you have any questions concerning this notice, please contact the City of Austin Planning and Development Review Department at the number shown on the first page. If you would like to express your support or opposition to this request, you may do so in several ways:

- by attending the Public Hearing and conveying your concerns at that meeting
- by submitting the Public Hearing Comment Form
- by writing to the city contact listed on the previous page

For additional information on Neighborhood Plans, visit the website: <http://www.ci.austin.tx.us/planning/planning.htm>.

PUBLIC HEARING COMMENT FORM

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

City of Austin
Planning and Development Review Department
Maureen Meredith
P. O. Box 1088
Austin, TX 78767-8810

If you do not use this form to submit your comments, you must include the name of the body conducting the public hearing, its scheduled date, the Case Number and the contact person listed on the notice in your submission.

Case Number: NPA-2011-0015.02

Contact: Maureen Meredith

Public Hearings -

Planning Commission: Jan. 10, 2012

City Council: Feb. 9, 2012

☐ I am in favor
☒ I object

Wilborn Alexander
Your Name (please print)

2005 Encino Circle, Austin 78723

Your address(es) affected by this application

Alexander Wilborn

Signature

Date

12/24/11

Comments: The traffic will be increased, parking will be a problem. The outlet to the North at Manor Rd and South at MLK will be impacted with a heavy flow of traffic East and West on MLK and Manor Rd. Safety on both outlets of Dillery are going to be a very huge problem. Many Dallas have been spent for streetlights. Some one should get out from the desk, get a lawn chair and observe.

CS
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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

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: C14-2011-0088

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Jan 10, 2012, Planning Commission

Feb 9, 2012, City Council

Centruide Truitt-Green

Your Name (please print)

2034 E. E. J. Cir. Austin, TX 78723

Your address(es) affected by this application

Centruide Truitt-Green 12/20/11

Signature

Date

Daytime Telephone: 512-477-7756

Comments:

I am against changing the zoning, when it was purchased the city or new to zoning. Allowing is too risky for all the traffic. There are no sidewalks. The red line address is a street front building can not get in/out. If the driveway garage is it is. I am against removing the street view consent.

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

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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.

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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: C14-2011-0088

Contact: Sherri Sirwaitis, (512) 974-3057

Public Hearing: Jan 10, 2012, Planning Commission
Feb 9, 2012, City Council

Brian Murphy

Your Name (please print)

2036 Encino Circle, Austin, TX

Your Address(es) affected by this application

Brian Murphy

Signature

1/21/2012

Date

Daytime Telephone: 512-228-6705

Comments: Tillery is a residential street in a well-established subdivision. The lot requesting re-zoning does not face any commercial road such as Mahory, MLK, or Airport. Also, the existing zoning is already permissive.

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

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

C5
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NOTICE OF PUBLIC HEARING FOR REZONING

C5/33

Mailing Date: 12/15/2011

Case Number: C14-2011-0088

Este aviso le informa de una audiencia pública tratando de un cambio de zonificación dentro de una distancia de 500 pies de su propiedad. Si usted desea recibir información en español, por favor llame al (512) 974-7668.

The City of Austin has sent this letter to inform you that we have received an application for rezoning of a property. We are notifying you because City Ordinance requires that all property owners within 500 feet, residents who have a City utility account address within 500 feet, and registered environmental or neighborhood organizations whose declared boundaries are within 500 feet be notified when the City receives an application.

Project Location:	2200 Tillery Street
Owner:	DCR III Mortgage, Sub I LLC, Lance B. Amano, (727) 341-8382
Applicant:	Richard H. Crank, ASLA, (512) 474-1220

Proposed Zoning Change:

From: LO-MU-NP-Limited Office district is intended for offices predominately serving neighborhood or community needs, which may be located within or adjacent to residential neighborhoods. MU – Mixed Use combining district is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development NP – Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

To: CS-MU-NP– General Commercial Services district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments. MU – Mixed Use combining district is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development NP – Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

This application is scheduled to be heard by the **Planning Commission** on **January 10, 2012**. The meeting will be held at City Hall Council Chambers, 301 West 2nd Street beginning at 6:00 p.m.

This application is scheduled to be heard by the **City Council** on **February 9, 2012** at City Hall Council Chambers, 301 West 2nd street beginning at 2:00 p.m.

You can find more information on this application by inserting the case number at the following Web site: https://www.ci.austin.tx.us/devreview/a_queryfolder_permits.jsp. If you have any questions concerning the zoning change application please contact, Sherri Sirwaitis of the Planning and Development Review Department at (512) 974-3057 or via email at sherri.sirwaitis@austintexas.gov and refer to the Case Number at the top right of this notice. The case manager's office is located at One Texas Center, 5th Floor, 505 Barton Springs Road, Austin, Texas. You may examine the file at One Texas Center between the hours of 7:45 a.m. and 4:45 p.m., Monday through Friday.

For additional information on the City of Austin's land development process, please visit our web site at: www.ci.austin.tx.us/development.

Sirwaitis, Sherri

From: MARY ARNETT (~~mary.arnett@cityofaustin.org~~)
Sent: Friday, February 17, 2012 12:01 AM
To: Anguiano, Dora; Sirwaitis, Sherri
Subject: Case #C14-2011-0167 8100 Burnet Rd IN FAVOR OF ZONING REQUEST

A794
101
C5
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Dora and Sherri: Please forward this to all Zoning and Platting Commissioners

Dear Zoning and Platting Commissioners

I am an 11 year resident of North Shoal Creek Neighborhood and have lived in Austin since Jan '74. I am writing in favor of the above case number, zoning request by Alliance for the MF6 designation for 8100 Burnet Rd. We have not had any residential additions to our neighborhood since 1998.

I represent the Neighborhood Association Friends of North Shoal Creek. This NA is free and has been registered with the city for 2.5 years. Mostly we focus on safety and neighborhood watch issues, but traffic also being an important safety issue, I have taken an interest in this project. I also paid immediate attention when I saw that certain Stakeholder groups were being bypassed during the initial round of talks with the developers. I have worked to disseminate information and make certain that all have a voice: The HOA's beside the property, the business owners in our perimeter, the many people who live in the feeder streets to Ashdale and beyond.

My reasons for supporting the zoning change request from CS to MF6 is as follows:

- As one of the roughly 55% of Austinites who rent, I would like to keep my own rental rate affordable by making sure that there are ample rental units available on the market. The last time the market was this tight was when I moved to North Shoal Creek 11 years ago and had to rent my little duplex SIGHT UNSEEN because in 2000, everyone was moving here. If I did not put money down to reserve it, I would have lost the opportunity to rent it within an hour. That's getting close to where we are right now. We need more units to come online. This is part of the bigger picture of KEEPING AUSTIN AFFORDABLE for the majority of Austinites.
- Working on crime and safety issues since 2005 over here in North Shoal Creek, this 8100 Burnet Rd property has been an eyesore for some time now. We have been fully aware that the owner, a physician in Houston, was waiting for the right time to sell. I have cleaned up too much graffiti, chased off drug dealers and fished shopping carts out of the drainage culvert, turned in metal thieves and seen robberies committed on the current property over the last few years. The time is right for this development and the time is now!!
- I have researched online through the APD Crimeviewer and also krimelabb.com and found that the existing Alliance Properties are very safe and have very few car breakin's, or other nuisance crimes.
- I love this area of Anderson Ln/Burnet Rd but I am seeing that retail is not flourishing out here quite as expected. We need this influx of residents to fuel our local businesses that have taken some risks in setting up shop out here. Those businesses could use the traffic. It will be an economic boost all around. Businesses came out here expecting that VMU would be driving customers to their stores and restaurants. The economy has taken it's toll but we can all see the glimmer of better days. . . .they need the foot traffic.

I am well aware that some residents are fearful that this project will bring too much traffic and will not 'fit in' with our neighborhood. As a long time neighborhood activist, I have been around the block a few times with these

2/17/2012

issues out here. I will attempt to address some of them:

- There is a chorus of people who claim that this will be the ruination of their street, particularly Ashdale residents. There is no Traffic Impact Analysis required simply because the current zoning allows for virtually the same number of daily car trips as forecasted for the apartments.
- I have studied the traffic counts undertaken by Campo and COA for our area over the years. The current property is probably at it's all time lowest trips per day and so the residents have enjoyed a period of relative tranquility compared to days gone by when there were two businesses with much traffic on that same property, Ross Dress for Less and Chucky Cheese Pizza Parlour. Some catastrophize what will happen with 300 apartments possibly coming on board. I defer to our COA traffic engineers who have proven me wrong in the past when I feared the worst over the Walmart development. I believe that the estimated trips per day will not significantly effect this street, Ashdale. I do understand how people become very alarmist over the issue, but I believe that it is perception. and not reality.
- I have pointed out to our residents that we have one short street, Penny Lane, with over 1000 apartments and condos. All of those four multifamily properties have driveways that empty onto the feeder roads Rockwood to Steck to Mopac. In all my years of studying zoning and planning and traffic issues out here, there has never been one SQUEEK about the traffic that is generated from rental property on Penny Ln to Rockwood and beyond. Most of those Penny Lane residents head out to Burnet Rd. I anticipate that the traffic pattern of this new apartment development will happen the same way. I have seen the general layout of the parking garage and anticipate that Burnet will be the preferred route to exit the property.
- Concerns about the scale and design of the project are being addressed in the ongoing talks with the developers. Knowing that their goal is to have a successful property that will last a long time - they own, build and manage-- I know that this developer will find the best balance to fit in with the surrounding area. Change is always hard, but I am so looking forward to something attractive and nice on that piece of land.

Now I want to address one issue that has bothered me a great deal: Usually it's the developer that gets demonized and beat up during these zoning cases. In this instance, we have a neighborhood association, North Shoal Creek NA, who has behaved in bad faith with the neighborhood itself.

North Shoal Creek NA invited representatives from Wooten and Allandale to attend their initial talks with the developer in December of 2011 about the project. I was not invited, but more importantly, the two Home Owners Associations for the two condo buildings on either side of Ashdale, not more than 50 feet away from the property were not invited by North Shoal Creek to join in these initial important discussions. That represented 200-300 people who are very close to the project completely left out for about a month and a half. It was brought to their attention by me when I saw what the other NA was doing.

What they missed out on was hearing NSCNA attempt to extort \$50K from the developer for their approval of the zoning case. NSCNA wanted that money for traffic calming, but again, the Ashdale Garden Condos nor the Summit Condos have never been invited to the Traffic Committee meetings about traffic calming. When they heard about this, they were left scrambling to make sense of what was happening and to organize their residents.

Then I discovered that NSCNA had actually submitted an ultimatum on Friday Feb 10th to force the developers hand and 'beat' everyone else to the punch. They wanted the developer to draw up a covenant outlining certain development design ideas that they had, but they also wanted the developer to commit in writing that the \$50K would go to NSCNA.

NSCNA has had \$25K from 1998 that they were supposed to use for traffic calming, but they have never used the money for it's original purpose. It has now grown to almost \$40K and here they are asking for \$50K more - - 14 years later. They have never done one single thing with their money even though neighbors have voted to use the money on several occasions, there are certain people over here who block it from happening.

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I am calling on NSCNA to learn more about the Stakeholder process as a model for collaboration over here. And I have encouraged the developer to NOT give the money to NSCNA. Instead, over time and with the Site Plan approval hopefully being the next step, perhaps we can come to agreement about what our goals are and how to reach them using available cash and resources. Many over here feel that NSCNA will not be accountable for which streets they use the money for and what point in history they will allow it to be used.

- I want to compliment the developer, Alliance Residential, for their engagement with our community since last December. They have gone far and above the call of duty in answering our questions and concerns. I recognize them as being a company with integrity and I especially like the fact that they will be the same company managing the property once it is built. They know the value of working with the surrounding Stakeholders in making their project successful.

AS for NSCNA, if they do not voice approval for the project, know that it is mostly due to shortsightedness on their part. And greed.

They like the idea of money in their bank account, but the time is drawing near for them to use that money for some of their stated goals. They charge \$15 per head in dues. And they have been posting very exclusionary rules about who can speak at their neighborhood meeting and who can vote. This should serve as a wake up call to NSCNA that if they purport to represent the whole of this neighborhood, they should start acting like it.

I have encouraged businesses and residents to make their voices known to you about this project directly. Here is the recent e-newsletter that went out to my constituents for Friends of North Shoal Creek:
<http://tinyurl.com/7nukyoj>

Please grant this zoning request so the developer can move forward.

Best Regards,

Mary Arnett

Friends of North Shoal Creek

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