

## RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

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**CASE:** C14-02-0183(RCT)  
Restrictive Covenant Termination

**P.C. DATE:** December 10, 2013  
November 12, 2013

**OWNER:** Paul Saustrup

**ADDRESS:** 1120 Tillery Street

**AGENT:** Hector Avila

**ZONING:** CS-MU-CO-NP

**AREA:** 3.36 Acres

### **SUMMARY STAFF RECOMMENDATION:**

Staff supports the proposed Restrictive Covenant Termination (RCT). The RCT would remove a requirement that the property rollback zoning from general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning to single family residence small lot-neighborhood plan (SF-4a-NP) combining district zoning if the plant nursery land use was discontinued.

### **PLANNING COMMISSION RECOMMENDATION:**

December 10, 2013:

November 12, 2013: *GRANTED POSTPONEMENT REQUEST TO DECEMBER 10, 2013, BY NEIGHBORHOOD ASSOCIATION, ON CONSENT, (7-0). [NORTEY- 1<sup>ST</sup>, ROARK - 2<sup>ND</sup>]*

### **DEPARTMENT COMMENTS:**

The subject property is located on the west side of Tillery Street between Govalle Avenue and Goodwin Avenue. It is formerly part of the Ted's Trees plant nursery site; the property to the south is also zoned CS-MU-CO-NP and is still used a plant nursery. North of the subject property is a small subdivision zoned SF-3-NP that is currently undeveloped. East of the property, across Tillery Street, is a residential area zoned SF-3-NP. West of the property is part of Austin Community College Eastview Campus, which is zoned P-NP. Other land uses and zoning categories in the area include undeveloped, religious assembly and nursing home (zoned MF-3-NP, SF-3-NP and MF-3-NP, respectively). Please see attached zoning map and aerial map (Exhibits A & B).

All properties in the vicinity were zoned in conjunction with the Govalle Neighborhood Plan, which was adopted in 2003. No changes to this zoning are currently proposed. The zoning case, C14-02-0183.001, was adopted as Zoning Ordinance No. 030327-11a in April 2003. The subject tract was identified as Tract 161 in the ordinance, designated CS-MU-CO-NP, and is subject to the following conditions:

1. The following uses of Tract 161 may not exceed 5,000 square feet of gross floor area: Administrative and business office, Professional office.
2. The following uses are prohibited uses of Tract 161: Agricultural sales and services, Art and craft studio (general), Automotive repair services, Automotive washing (of any type), Automotive rentals, Automotive sales, Business or trade school, Campground, College and university facilities, Commercial off-street parking, Communication service facilities, Community recreation (public), Construction sales and services, Consumer repair services, Counseling services, Custom manufacturing, Day care services (general), Day care services (commercial), Day care services (limited), Drop-off recycling collection facility, Equipment repair services, Exterminating services, Food sales, General retail sales (convenience), Hotel-motel, Hospital services (general), Indoor entertainment, Kennels, Art and craft studio (limited), Building maintenance services, Business support services, Club or lodge, Commercial blood plasma center, Communications services, Community recreation (private), Congregate living, Consumer convenience services, Convenience storage, Cultural services, Electronic prototype assembly, Equipment sales, Financial services, Funeral services, General retail sales (general), Guidance services, Hospital services (limited), Indoor sports and recreation Laundry services, Limited warehousing and distribution, Maintenance and service facilities, Medical offices (not exceeding 5000 sq. ft. gross floor area), Medical offices (exceeding 5000 sq. ft. gross floor area), Monument retail sales, Off-site accessory parking, Outdoor sports and recreation, Personal improvement

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services, Pet services, Private secondary educational facilities, Public secondary educational facilities, Residential treatment, Restaurant (general), Safety services, Software development, Transportation terminal, Veterinary services, Multifamily residential, Outdoor entertainment, Pawn shop services, Personal services, Private primary educational facilities, Public primary educational facilities, Research services, Restaurant (drive-in, fast food), Restaurant (limited), Service station, Theater, and Vehicle storage.

In addition to these limits on the CS-MU-CO-NP zoning, a Restrictive Covenant was filed in conjunction with the zoning case. This Restrictive Covenant requires the property to rollback to SF-4a-NP zoning if the plant nursery land use ceases operation on the property (Please see Exhibit C- Restrictive Covenant). Correspondence regarding the Restrictive Covenant Termination is attached as Exhibit D- Correspondence. The Applicant has stated their intent to develop Townhouse/condominium land use on the property that would not be possible under SF-4-a-NP zoning, but would be possible under the existing CS-MU-CO-NP zoning. Due to the significant number of limitations attached to the current zoning, Staff supports termination of the Restrictive Covenant that would require the SF-4a-NP rollback.

#### **SUMMARY STAFF RECOMMENDATION:**

Due to the significant number of limitations attached to the current zoning, Staff supports termination of the Restrictive Covenant that would require the SF-4a-NP rollback.

#### **BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

1. . *Zoning changes should promote an orderly and compatible relationship among land uses.*

By terminating the restrictive covenant, the property will be well suited for development that fits the character and intensity of the area.

#### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CS-MU-CO-NP	Undeveloped
<i>North</i>	SF-3-NP	Undeveloped, Residences, Religious Assembly
<i>South</i>	CS-MU-CO-NP, SF-3-NP	Plant nursery, Residences
<i>East</i>	SF-3-NP	Residences, Religious Assembly
<i>West</i>	P, SF-3-NP, MF-3-NP	ACC Campus, Residences, Undeveloped

**AREA STUDY:** N / A

**TIA:** N/A

**WATERSHED:** Boggy Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

**SCHOOLS:** Oak Springs Elementary    Kealing Middle School    Eastside Memorial HS at Johnston

#### **NEIGHBORHOOD ASSOCIATIONS:**

PODER

Austin Neighborhoods Council

Del Valle Community Coalition

Govalle Neighbors

Preservation Austin

United East Austin Coalition

Guadalupe Neighborhood Development Corporation

African American Cultural Heritage District Business Association

Govalle/Johnston Terrace Neighborhood Planning Contact Team

#### **ABUTTING STREETS:**

<b>Name</b>	<b>ROW</b>	<b>Class</b>	<b>Sidewalk?</b>	<b>Bus Route?</b>	<b>Bike Route?</b>
Tillery Street	Varies	Collector	Yes, one side	N/A	Yes- both sides

**CITY COUNCIL DATE:** December 12, 2013:

**ACTION:**

**ORDINANCE READINGS:**

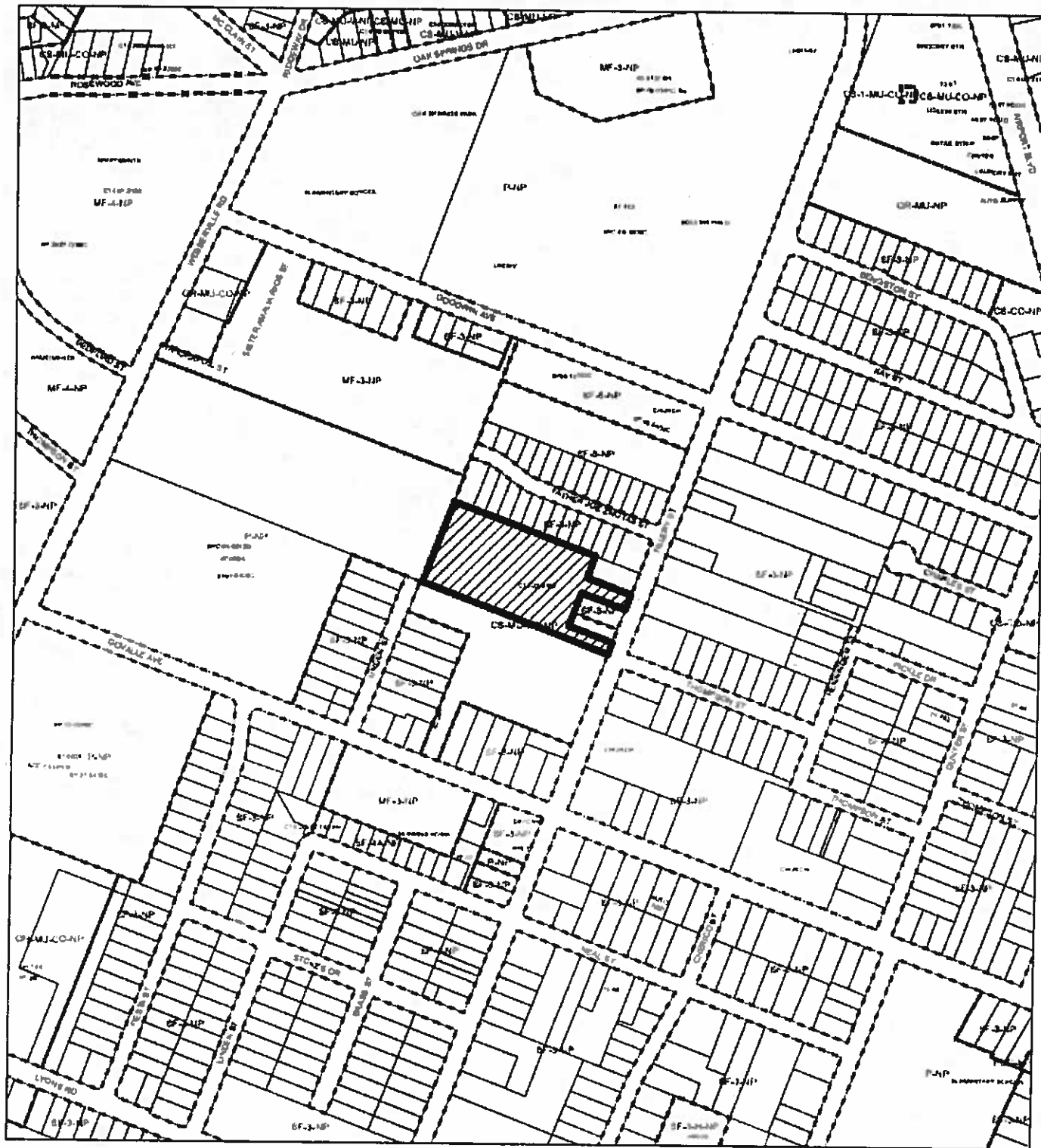
**ORDINANCE NUMBER:**




**CASE MANAGER:** Heather Chaffin

**PHONE:** 974-2122

e-mail: heather.chaffin@austintexas.gov





-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

## ZONING

ZONING CASE#: C14-02-0183(RCT)

1" = 400'

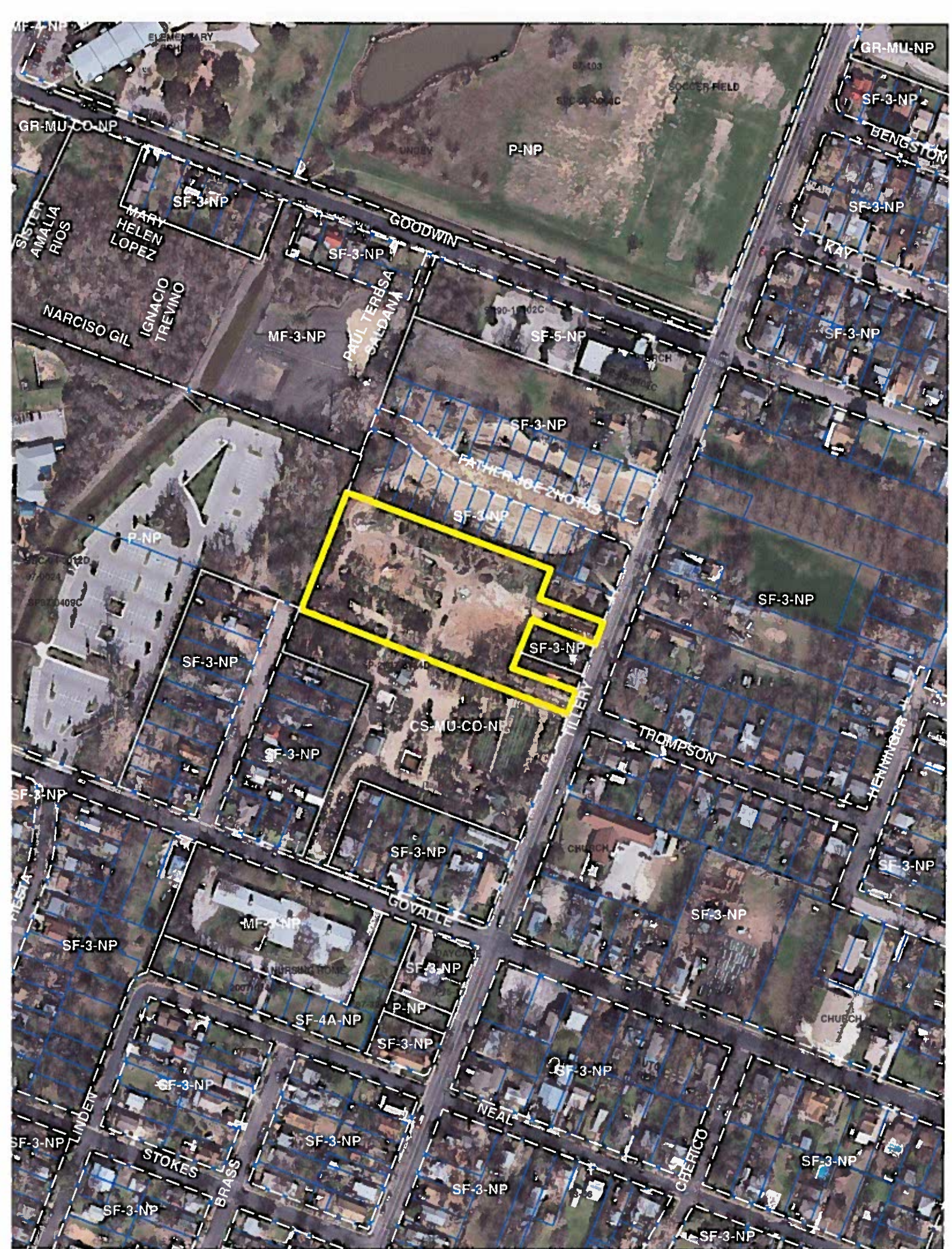
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.















November 5, 2013

Ms. Heather Chaffin  
City of Austin  
Planning & Development Review Department  
P.O. Box 1088  
Austin, TX 78767-8810

Re: Case Number: C14-02-0183(RCT)

Dear Ms. Chaffin:

Thank you for the "Notice of Request to Terminate Covenant".

I AM 100% OPPOSED TO THIS APPLICATION.

In my opinion, the owner should abide by his agreement and leave the current Restriction AS IS.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tim Welbes", with a long horizontal flourish extending to the right.

Tim Welbes  
1122 Tillery  
Austin, texas 78702



## 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.austintexas.gov](http://www.austintexas.gov)

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: C14-02-0183(RCT)

Contact: Heather Chaffin, 512-974-2122

Public Hearing: Nov 12, 2013, Planning Commission

Dec 12, 2013, City Council

Heather J. Webb  
Your Name (please print)

1122 TILLEY AVE  
Your address(es) affected by this application

☐ I am in favor  
☒ I object

Signature

Date

Daytime Telephone: 281.844.7087

Comments: PLEASE DO NOT

TERMINATE THE EXISTING

RESTRICTIVE COVENANT.

THE PURSERY IS A

Good Neighbor.

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

City of Austin

Planning & Development Review Department

Heather Chaffin

P. O. Box 1088

Austin, TX 78767-8810



