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ZONING CHANGE REVIEW SHEET

CASE: C14-2014-0095 (Pour House Pints and Pies)

Z.A.P. DATE: July 15, 2014

ADDRESS: 11835 Jollyville Road

OWNER/APPLICANT: Jollyville Holdings, LLC (Gregg Scott)

AGENT: McLean & Howard (Jeffrey S. Howard)

ZONING FROM: Tract 1: LO, SF-3 **TO:** GR-CO*
Tract 2: GR, LO

AREA: Tract 1: 0.2797 acres
Tract 2: 0.5796 acres
Total: 0.8593 acres

*As part of their request, the applicant is offering a conditional overlay to restrict the maximum height on the property to LO, Limited Office District, site development standards. Therefore, the maximum height permitted on the site would be 40 feet or 3 stories.

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant GR-CO, Community Commercial-Conditional Overlay Combining District, zoning for the footprint of the restaurant structure (Tract 2) and LO-CO, Limited Office-Conditional Overlay Combining District, zoning for the remainder of the property (Tract 1). This recommendation includes a conditional overlay that will limit the development intensity for the entire site to less than 2,000 vehicle trips per day.

ZONING AND PLATTING COMMISSION:

ISSUES:

A complaint was filed with the City of Austin concerning the vacant restaurant use on this property. The Code Compliance Department investigated the complaint and the owner of the property was cited on March 6, 2014 for the failure to discontinue a nonconforming use not later than 10 years after the use becomes nonconforming (Please see Notice of Violation-Attachment B). On June 18, 2014, Kenneth Nettle, with Code Compliance, contacted the zoning staff to verify that a re-zoning case had been filed for this property as this is an active violation.

DEPARTMENT COMMENTS:

The property in question is currently developed with a restaurant use and parking that fronts onto Jollyville Road. The applicant is requesting GR-CO, Community Commercial District, zoning for the entirety of the property for the existing restaurant and accompanying parking area (Please see Zoning Request Letter- Attachment A).

The staff's recommendation is to maintain the GR, Community Commercial District, zoning for the footprint of the restaurant structure (Tract 2) and for LO, Limited Office District, zoning for the remainder of the site, which includes the SF-3 zoned strip along the eastern boundary (Tract 1). The staff is aware that the current GR zoned footprint does not encompass all of the building and therefore we recommend extending the GR footprint out to contain the additional structure area that was expanded on this site in 1983.

CH/2

This recommendation is consistent with the staff's policy of upholding the 120-foot office zoning along the eastern portion of Jollyville Road that came out of the recommendations in the U.S. 183/Jollyville Road Area Study. The U.S. 183 Study was approved by the City Council in November of 1978. The Area Study recommended that a 120-foot deep strip of land along Jollyville Road be zoned "O" Office zoning (which was converted to LO, Limited Office, in 1985) and that a 200 foot strip of land along the west side of Jollyville Road be zoned "A" Residence (which was converted to SF-3, Family Residence, in 1985). The policy of a 120-foot strip buffer of LO zoning along the east side of Jollyville Road has been consistently applied to date. The policy of SF-3 on the west side of Jollyville Road was never approved or implemented, and today the west side of Jollyville Road is primarily zoned office and multi-family, with the majority of office zoning being LO zoning. The recommendation for a 120-foot strip of LO zoning along the eastern portion of Jollyville Road was incorporated into the Jollyville Road Study, which was adopted in 1984. A map from the area study that shows the GR zoning footprint and the remainder of the site as LO zoning for this property, along with the 120-foot zoned strip along the eastern portion of Jollyville Road, is included as Attachment C to this report.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO, GR, SF-3	Restaurant and parking area (Pour House Pints and Pies)
<i>North</i>	GR	Convalescent Services (The Pavilion at Great Hills Assisted Living)
<i>South</i>	LO	Vacant Office Structure
<i>East</i>	SF-2	Single-Family Residences
<i>West</i>	LO	Office (Jollyville Professional Building)

AREA STUDY: U.S. 183/Jollyville Road Area Study

TIA: Waived

WATERSHED: Walnut Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

REGISTERED NEIGHBORHOOD ORGANIZATIONS:

Austin Heritage Tree Foundation
 Austin Independent School District
 Austin Monorail Project
 Bike Austin
 Bull Creek Foundation
 Homeless Neighborhood Association
 Long Canyon Homeowners Association
 North Oaks Neighborhood Association
 Raintree Estates
 SELTEXAS
 Sierra Club, Austin Regional Group
 Super Duper Neighborhood Objectors and Appeals Organization
 The Real Estate Council of Austin

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CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2013-0011 (Restaurant: 11800 Arabian Trail)	SF-2 to GR , then GR-CO , then LO-MU- CO* *Applicant amended their request from GR-CO zoning to LO-MU-CO zoning at the podium at the ZAP meeting on 6/04/13.	6/04/13: Recommended denial of the request for LO-MU-CO zoning (6-0, G. Rojas-absent); J. Meeker-1 st , R. McDaniel-2 nd .	6/06/13 : Case withdrawn by applicant on June 5, 2013. Therefore, no action was required.
C14-2010-0146 (Jollyville Food Mart: 11794 Jollyville Road)	LR-CO, LO to LR	10/05/10: Approved staff's recommendation of LR-CO zoning on consent with the following conditions: 1) Limit the site to less than 2,000 vehicle trip per day, 2) prohibit Restaurant (Limited), Counseling Services, Guidance Services and Safety Services (7-0); P. Seeger-1 st , D. Tiemann-2 nd .	11/4/10: Approved LR-CO zoning on all 3 readings on consent (7-0); Cole-1 st , Spelman-2 nd .
C14-2010-0097 (11777 Jollyville Road Rezone)	SF-2 to LO	8/03/10: Postponed to September 7, 2010 at the neighborhood's request (5-1, S. Baldrige-No, T. Rabago- absent); P. Seeger-1 st , D. Tiemann- 2 nd . 9/07/10: Postponed to September 21, 2010 at the applicant's request (7-0); P. Seeger-1 st , D. Tiemann-2 nd . 9/21/10: Postponed indefinitely at the applicant's request (7-0); G. Bourgeois-1 st , P. Seeger-2 nd . 3/21/11: Case expired according to Land Development Code-Sec. 25-2- 246(A)(2).	N/A
C14-2008-0151 (Bary Chiropractic: 11777 Jollyville Road)	SF-2 to GR-MU* *Amended by the applicant to LO-MU at ZAP meeting	9/02/08: Recommended denial of LO-MU zoning (6-1, K. Jackson- No); T. Rabago-1 st , J. Gohil-2 nd .	12/08/08: Denied LO-MU zoning (6-1, W. Wynn-Nay)

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C14-2007-0148 (Beaver Brook Children Center; 11726 Jollyville Road)	SF-2, LO to LO	10/02/07: Approved staff's recommendation for LO-CO zoning with 35' height limit (6-0, C. Hammond, B. Baker-absent); J. Shieh-1 st , K. Jackson-2 nd .	11/08/07: Approved LO-CO zoning (7-0); all 3 readings
C14-2007-0123 (11701 Jollyville Road)	SF-2 to GR-MU* The applicant amended their rezoning request to LR-MU-CO	10/02/07: Approved staff's recommendation for LO-MU-CO zoning (6-0, B. Baker, C. Hammond-absent); K. Jackson-1 st , T. Rabago-2 nd .	11/08/07: Approved ZAP recommendation of LO-MU-CO zoning (6-1, J. Kim-No) 11/29/07: Approved LO-MU-CO zoning by consent (5-0, J. Kim, M. Martinez-off dais)
C14-2007-0082 (11603 Jollyville Road)	LO, LR to GR-MU	7/17/07: Approved staff's recommendation of GR-MU-CO zoning with added prohibition of Automotive Sales, Automotive Rentals, Automotive Repair, Automotive Washing (of any type) and Pawn Shops uses (8-0)	8/23/07: Approved GR-MU-CO zoning on all 3 readings (7-0)
C14-2007-0081 (11625 Jollyville Road)	LR-CO to Tract 1: LO, Tract 2: GR-MU	7/17/07: Approved staff's recommendation of LO-CO zoning for Tract 1 and GR-MU-CO zoning for Tract 2 with added prohibition of Automotive Sales, Automotive Rentals, Automotive Repair, Automotive Washing (of any type) and Pawn Shops uses (8-0)	8/23/07: Approved LO-CO and GR-MU-CO zoning on all 3 readings (7-0)
C14-06-0172 (Arboretum Retirement Community; 11601 Jollyville Road)	LO to Tract 1(1.570 acres): GR-MU (for 866 to 896 ft above sea level) and MF-6 (for 896 to 986 ft above sea level) Tract 2 (0.424 acres): LO-MU (an area 120 ft in depth on the site from the property line along Jollyville Road)	10/17/06: Approved GR-MU-CO zoning on Tract 1 for an area 866 to 896 ft above sea level and MF-6-CO zoning for an area 896 to 926 ft above sea level; with conditions of a 60-foot height limit and 2,000 vehicle trip limit and approved LO-MU-CO zoning on Tract 2; with conditions of 2,000 vehicle trip limit, limit site to 'LO' district uses and residential accessory uses (prohibiting dwelling units). Vote: 9-0; K. Jackson-1 st , J. Martinez-2 nd . 1/09/07: Approved staff rec. of GR-MU-CO zoning for Tract 1 and LO-CO zoning for Tract 2, with a 2,000 vehicle trip limit per tract (6-0, B. Baker, S. Hale, J. Martinez-absent); J. Pinnelli-1 st , C. Hammond-2 nd .	1/25/07: Approved GR-MU-CO for Tract 1 and LO-CO for Tract 2 (6-0); all 3 readings

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C14-06-0013 (Pavilion Condominiums: 11819 Pavilion Boulevard)	GR, SF-2 to MF-6* *On 4/27/06, the agent requested to amend the case to allow for a 65 foot strip of SF-3 zoning along the southeast property line.	5/02/06: Motion to approve MF-6-CO zoning, with a 60 foot height limit, and SF-3 zoning for an area 65 feet from the southeastern property line (5-3, B. Baker, M. Hawthorne, C. Hammond-No, J. Martinez-absent); K. Jackson-1 st , B. Baker-2 nd . Motion made to rescind and reconsider previous action (8-0, J. Martinez-absent); K. Jackson-1 st , B. Baker-2 nd . Motion to deny the applicant's request for MF-6 zoning (6-2, J. Gohil, S. Hale-No, J. Martinez-absent); K. Jackson-1 st , J. Pinnelli-2 nd .	6/22/06: Case withdrawn by applicant
C14-02-0088 (Ghodsi Tract: 11820 Jollyville Road)	LO to LR-CO	6/18/02: Approved staff's recommendation of LR-CO zoning, by consent (8-0, A. Adams-absent)	7/18/02: Approved LR-CO, prohibiting the following uses as offered by the applicant: Restaurant (Drive-in, Fast Food), Service Station, Counseling Services, Guidance Services, and Safety Services(7-0); all 3 readings
C14-01-0160 (11851 Jollyville Road)	LO to GO	Withdrawn by applicant on 12/14/01	N/A
C14-99-0040	SF-2 to GO	4/06/99: Approved staff rec. of LO (9-0)	5/06/99: Approved PC rec. of LO (6-0); all 3 readings
C14-97-0118	SF-2 to SF-3	10/07/97: Approved staff's rec. of SF-3 (8-0)	11/06/97: Approved PC rec. of SF-3 (7-0); all 3 readings
C14-97-0067	LO, SF-2 to LO	7/22/97: Approved staff rec. of LO by consent (8-0)	8/21/97: Approved LO (5-0); all 3 readings

RELATED CASES: C14-77-0058 (Previous Zoning Case:
Ordinance No. 770721-D is Attachment D)

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Jollyville Road	100'	60'	Arterial	No	392, 982, 983	Priority 1

CITY COUNCIL DATE: August 7, 2014

ORDINANCE READINGS: 1st

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

ACTION:

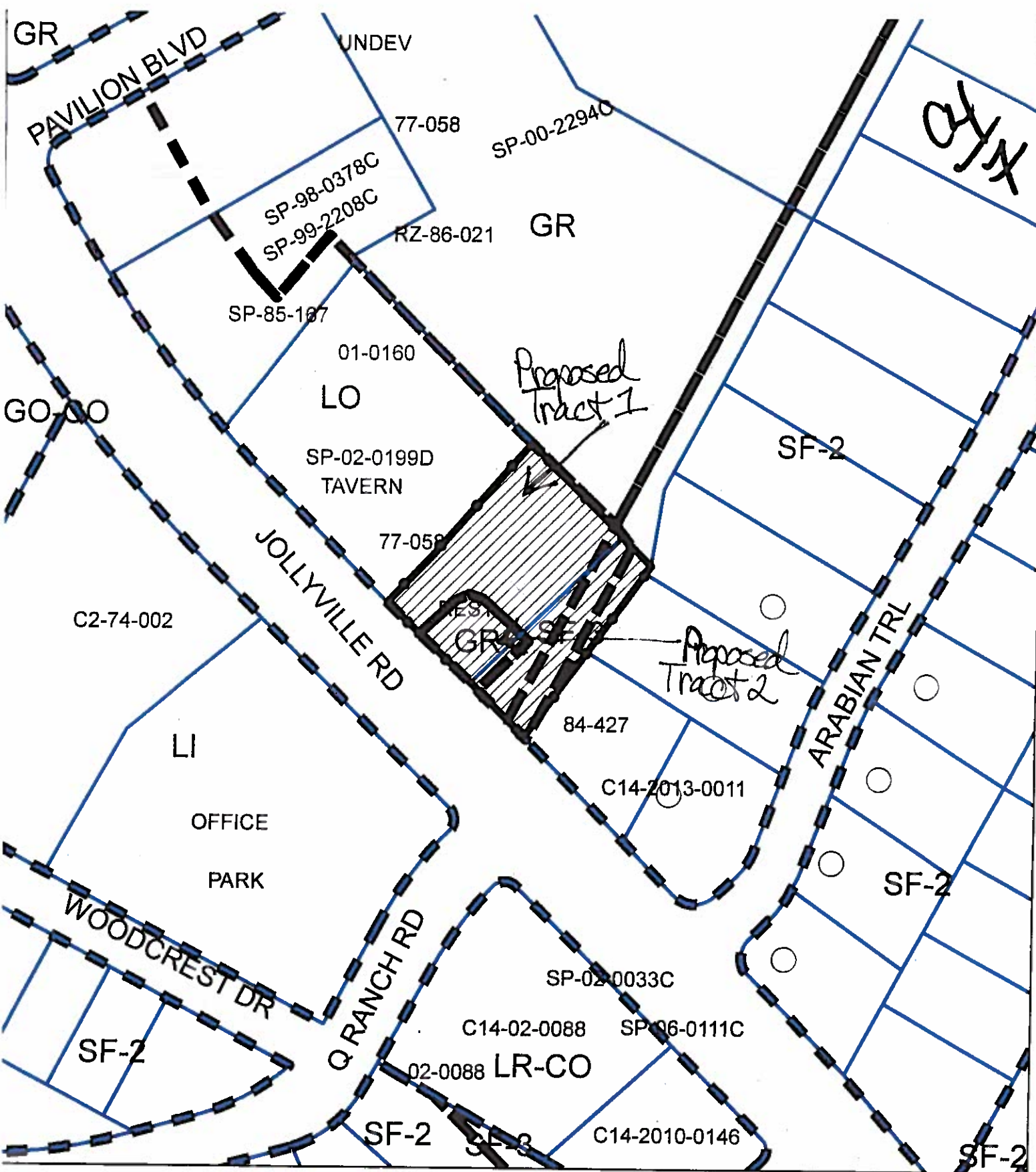
2nd

3rd

PHONE: 974-3057.

sherri.sirwaitis@ci.austin.tx.us

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SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

ZONING

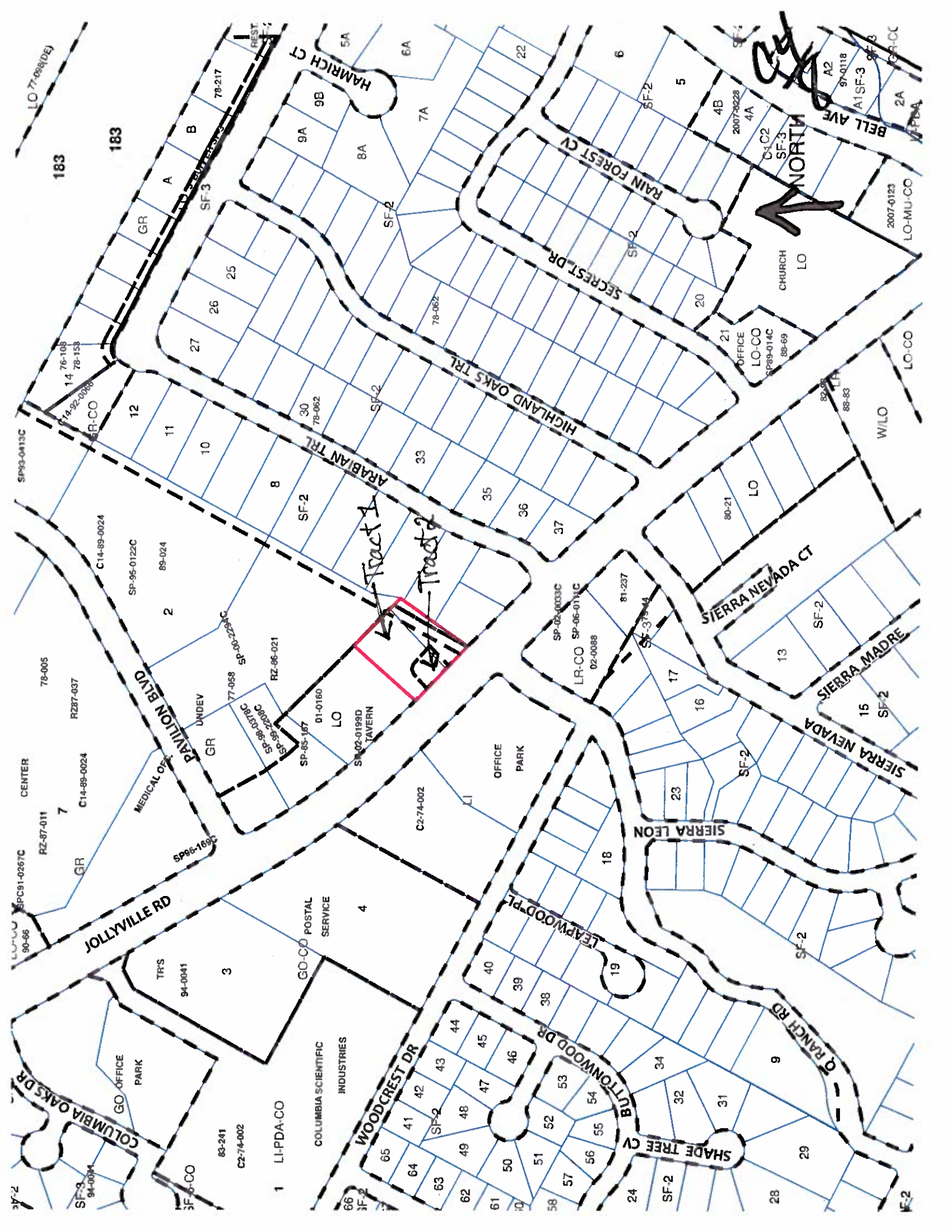
ZONING CASE#: C14-2014-0095

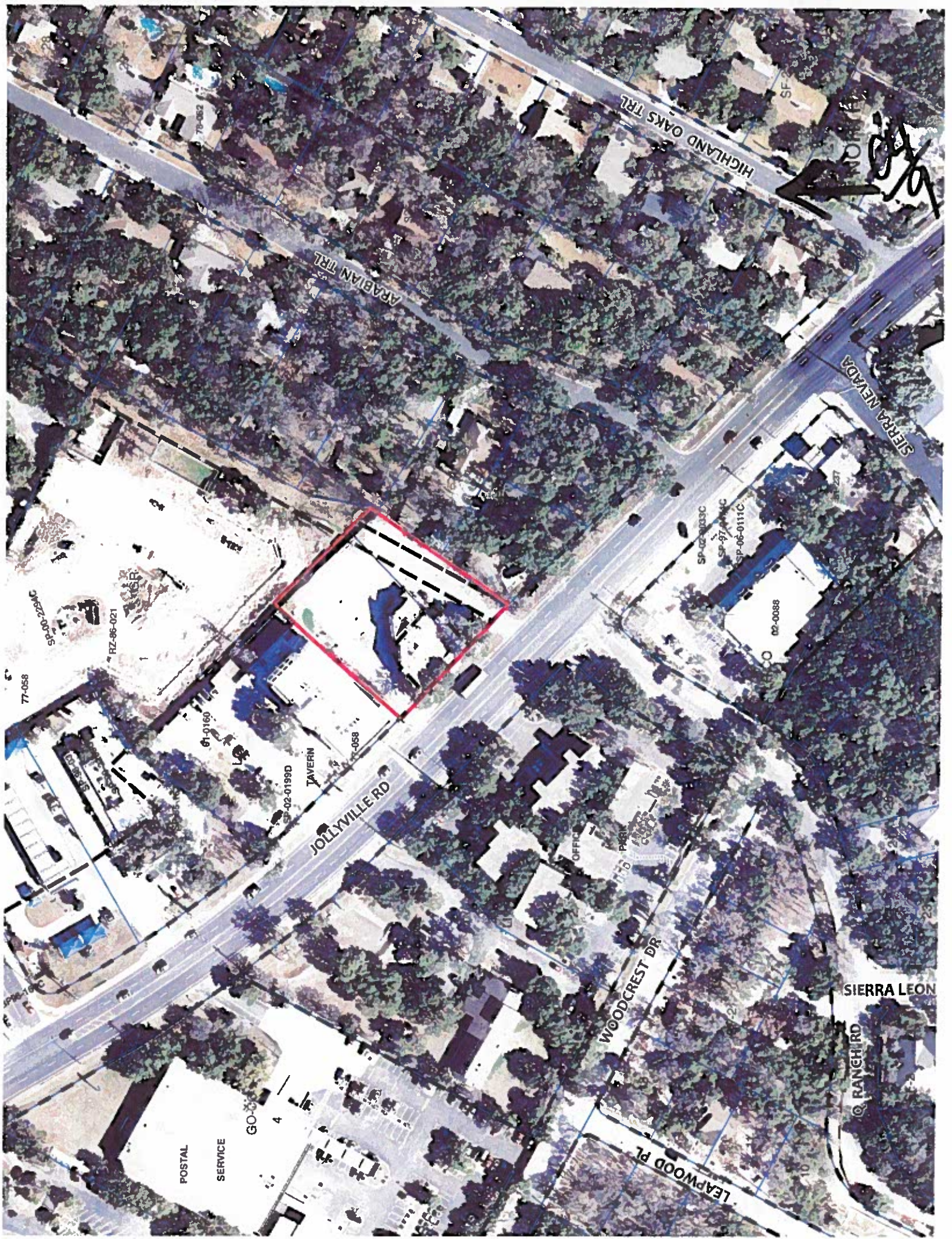
1" = 125'

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.







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STAFF RECOMMENDATION

The staff's recommendation is to grant GR-CO, Community Commercial-Conditional Overlay Combining District, zoning for the footprint of the restaurant structure (Tract 2) and LO-CO, Limited Office-Conditional Overlay Combining District, zoning for the remainder of the property (Tract 1). This recommendation includes a conditional overlay that will limit the development intensity for the entire site to less than 2,000 vehicle trips per day.

BASIS FOR RECOMMENDATION

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

The staff's recommendation for LO-CO zoning for Tract 1 and GR-CO zoning for Tract 2 will bring the existing use into conformance with land use regulations in the Land Development Code. It will permit the applicant to utilize the expanded structure on the site for future restaurant/commercial uses, while upholding the intent of the Jollyville Area Study.

2. *The proposed zoning should promote consistency and orderly planning.*

The applicant's proposal GR zoning for the entire site does not promote consistent and orderly planning because it is not in accordance with the Jollyville Area Road Study. This study recommends that a 120-foot strip buffer of office zoning be maintained along the east side of Jollyville Road to provide a transition from the commercial zoning/uses along U.S. Highway 183 to the office and residential uses along Jollyville Road.

There is currently office/LO zoning along Jollyville Road to the west and residential/SF-2 zoning to the west of the proposed site. There are existing office uses to the east (Jollyville Professional Building) and south (Cornerstones Office Park) of this site.

EXISTING CONDITIONS

Site Characteristics

The site under consideration is currently developed with restaurant use with a large parking area to the rear. To the north of the property, there is a convalescent facility (The Pavilion at Great Hills Assisted Living Center). The property to the south, across Jollyville Road, is developed with office uses (Cornerstones Office Park). To the east, there is a single-family residential neighborhood. The lot to the west is developed with office uses, Jollyville Professional Building.

Comprehensive Planning

GR, LO, SF-3 to GR-CO

This zoning case is located on the north side of Jollyville Road on a .86 acre parcel, which includes an existing restaurant. This case is not located within the boundaries of an area that has a neighborhood plan. Surrounding land uses includes an assisted living facility to the north, multi-tenant office buildings to the north and west, and a single family house to the east. The proposal is to amend the zoning of this parcel to remove the residential and office zoning that exists on a portion of this parcel so that the use (a restaurant) that has existed here since 1977, has the correct zoning.

Imagine Austin

The property is located along an 'Activity Corridor', (Jollyville Road) as identified on the Imagine Austin's Growth Concept Map. Activity Corridors are characterized by a variety of activities and types of buildings located along the roadway — shopping, **restaurants and cafés**, parks, schools, single-family houses, apartments, public buildings, houses of worship, mixed-use buildings, and offices. The property is also located over the Edwards Aquifer Recharge Zone, an environmentally sensitive area. The following Imagine Austin policies are applicable to this case:

- **LUT P3.** Promote development in compact centers, communities, or **along corridors** that are connected by roads and transit that are designed to encourage walking and bicycling, and reduce health care, housing and transportation costs.
- **CE P2.** Conserve Austin's natural resources systems by limiting development in sensitive environmental areas, including the Edwards Aquifer, its contributing and recharge zones, and endangered species habitat.

Based upon this property: (1) being located along an Activity Corridor that supports restaurants and other commercial uses; and (2) the Imagine Austin policies above that supports commercial uses along corridors, staff believes that this existing commercial use is supported by the Imagine Austin Comprehensive Plan. However, due to the site's location in an environmentally sensitive area, there will be at the site planning stage (if any) an environmental review to determine if any critical environmental features are located on the site. If any are located on the site, mitigation and setbacks necessitated by the land development code will be required.

Hill Country Roadway

The site is not within a Hill Country Roadway Corridor.

Environmental

The site is located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.

According to floodplain maps there is no floodplain within or adjacent to the project location.

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

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 512-974-1876. 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.

Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

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Impervious Cover

The maximum impervious cover allowed by the GR zoning district would be 90%. However, if the Watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

Site Plan

Any new development is subject to Subchapter E. Design Standards and Mixed Use. The principal roadway is Jollyville Road, which is classified as a suburban roadway under this subchapter. Additional comments will be made when the site plan is submitted.

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.
 - 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.

If a late hour's permit is requested with the restaurant, it will require a conditional use site plan and approval by the Zoning and Platting Commission.

Any parking associated with a late hours permit is required to be at least 200 feet from the single family property.

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.

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Transportation

Additional right-of-way may be required at the time of subdivision and/or site plan.

If the requested zoning is granted, it is recommended that joint access be provided for the 2 lots along Jollyville Rd.

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on review of the TIA. [LDC, Sec. 25-6-142]. Comments will be provided in a separate memo. The applicant may waive the TIA if a CO limiting the trips to 2,000 per day is agreed upon.

According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, bicycle facilities are existing and/or recommended along the adjoining streets as follows: a dedicated bike lane for Jollyville Road is existing and is recommended by the Bicycle Plan Update.

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro
Jollyville Rd	100'	56'	Arterial	No	Yes	No

Water and Wastewater

FYI: The site is currently served with City of Austin water and wastewater utilities (existing restaurant). If the site is redeveloped the landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, water or wastewater easements, utility relocations and or abandonments required by the proposed land use. Depending on the development plans submitted, water and or wastewater service extension requests may be required. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. 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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June 4, 2014

Greg Guernsey, Director, PDRD
City of Austin
505 Barton Springs Road, 4th Floor
Austin, Texas 78704

via hand delivery

RE: Application for Rezoning ("Application") of the Property legally described as Lots 1 and 2, L.E. Tounge Lot No. 1 & 2, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Vol. 21, Pg. 23, of the Plat Records of Travis County, Texas, (the "Property") from GR-LO-SF-3 to GR-CO

Dear Mr. Guernsey:

Our client, Jollyville Holdings, LLC ("Applicant"), the owner of the Property, is submitting the enclosed Application in order to request that the Property be rezoned from GR-LO-SF-3 to GR-CO, with a conditional overlay that restricts all available height on the Property to the maximum height permitted under the LO zoning district. The zoning history of the Property is quite complex, thus, the Applicant seeks to establish certainty about the zoning and conform the zoning to the existing restaurant use that has been actively operated on the Property since 1977.

A restaurant was erected on Lot 2 of the Property in 1977, and was apparently subsequently expanded onto Lot 1 in 1983. As a result of extensive rezoning on and around the Jollyville Road area, there have been some discrepancies in the interpretation of the zoning ordinances for the Property. After researching Ordinance No. 77 0721-D (which zoned Lot 2 to "O" office and the restaurant area to "GR" general retail) and Ordinance No. 79 0419-E (which zoned the easternmost 20 feet of Lot 1 to "A" single family residential, and the remainder of Lot 1 to "O" office), we determined that the current zoning of the Property is as follows: Lot 2 is zoned LO with GR zoning on the restaurant area, and Lot 1 is zoned LO with a twenty foot (20') strip of SF-3 on the eastern boundary of the Property. The Applicant seeks GR for the entirety of the Property for the existing restaurant uses and parking that has been at this location approximately 30 years.

Please consider the Applicant's request for rezoning of the Property, and do not hesitate to contact our office if you have any questions.

Sincerely,


Jeffrey S. Howard



City of Austin

Founded By Congress, Republic of Texas 1839

Code Compliance Department

P.O. Box 1088, Austin, Texas 78767 - 1088

Attachment B

04/15

March 6, 2014

NOTICE OF VIOLATION

via Certified Mail #7013 2630 0001 7086 1007

Jollyville Holdings LLC
1908 Justin Lane Suite 100
Austin, Texas 78757-2411

RE: 11835 JOLLYVILLE RD 78759

Legally described as LOT 2 TOUNGATE L E ADDN

Zoned as GR

Parcel Number 0164030112

Dear Jollyville Holdings LLC:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

After receipt of this notice, you may not sell, lease, or give away this property unless you have provided the buyer, lessee, or other transferee a copy of this notice, and provided the name and address of the buyer to the Code Official. Also, it is a misdemeanor to rent this property if the code violation(s) on this property pose a danger to the health, safety and welfare of the tenants.

If you have any questions, please contact me by telephone at 512-974-2596 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Ownership Information

According to the applicable records of the County, you own the real property described in this notice. If you no longer own this property, you must execute an affidavit stating that you no longer own the property and stating the name with the last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to our office not later than the 20th day after the date you receive this notice. If you do not submit an affidavit, it will be presumed that you own the property described in this notice, even if you do not.

An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit may be mailed to:

City of Austin
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767

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Additionally, if this property has other owner(s), please provide me with this information.

Failure to Correct

If a violation is not corrected, any existing site plan, permit, or certificate of occupancy may be suspended or revoked by the City. If the site plan, permit or certificate of occupancy is suspended or revoked, the utility service to this property may be disconnected.

If the violation continues, the City may take further legal action to prevent the unlawful action as authorized by State law and may seek civil injunctions or penalties in State court.

For dangerous or substandard buildings, the City may also take further action to require the vacation, relocation of occupants, securing, repair, removal or demolition of a building.

If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767

Sincerely,



Kenneth Nettle, Code Compliance Inspector
Code Compliance Department
Case CV-2014-005451

CH
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INVESTIGATION REPORT

Investigator: Kenneth Nettle
Case: CV-2014-005451
Address: 11835 JOLLYVILLE RD 78759
Zoned as GR

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the **Required Remedy Summary** will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 978-4000. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

LAND USE

Code Section: Zoning (§25-2)

Description of Violation: A person shall discontinue a nonconforming use not later than 10 years after the date the use becomes nonconforming, if the use occurs:

- (a) Outside a structure; or
- (b) In a structure valued at less than \$10,000.

Date Observed: March 4, 2014

Status: Not Cleared

Required Remedy: Obtain proper zoning authorization or discontinue use.

Required Remedy Summary

Discontinue prohibited use in 14 days.

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

Appeal

A person may appeal a Stop Work Order to the City of Austin's Code Official. A written appeal must be filed no later than 3 days after the posting of the Order and contain:

- the name and address of the appellant;
- a statement of facts;
- the decision being appealed; and
- the reasons the decision should be set aside.

An appeal may be delivered in person to Code Compliance Department located at 1520 Rutherford Lane, Building 1-Security Desk or mailed to:

**Code Official
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767**

Sirwaitis, Sherri

From: Jeff Howard [mailto:jhoward@mcleanhowardlaw.com]
Sent: Tuesday, November 26, 2013 12:08 PM
To: Tomasovic, Paul
Cc: marcos canchola; Theresa Canchola; Nettle, Kenneth; Guernsey, Greg
Subject: RE: Old Jollyville Road

CH/18

Paul,

As a follow up to the email below. I have been doing extensive research on the property and working closely with Greg Guernsey on determining the correct current zoning for Lot 2. This issue is fundamental, since we cannot know if there is even a violation or how to correct the violation (if any) until we know how Lot 2 is actually zoned. Greg and I recently met and I went over all of the history we could find on this issue. It appears from that history that the strip of "SF-3" zoning that appears on the zoning map for Lot 2 is incorrect. There appears to be a mapping error that wrongly extended the SF-3 zoning from the adjacent tract onto Lot 2. In addition, the SF-3 has been sliding west on the maps over time. The SF-3 zoning appears to be wrong and I don't think the City can use that as a basis to claim a violation has occurred. The question is whether Lot 2 is zoned "LO" as a result of the Jollyville Road Study which contemplated and intended that all such property be zoned LO or whether it had never been zoned after annexation except by a 1998 ordinance that would have converted interim classified properties to "SF-2". Of course that conversion occurred long after Lot 2 was being used as parking for Lot 1 (which has been going on for over 30 years). So the zoning status of this small Lot that has been used for over 30 years as parking for a restaurant is not at all clear. I don't think the City can even say there is a violation at this point.

Where we are now is that Greg is going to do some of his own research since he has access to better historical information than I do online. If Greg confirms the property is zoned LO then our parking use is permitted and there is no violation. If Greg confirms that the property is zoned SF-2, we are prepared to submit a zoning application. Thanks.

Jeffrey S. Howard
PARTNER
[Redacted]

Barton Oaks Plaza, Building 11
901 South MoPac Expy | Ste 225
Austin, Texas 78746
512.328.2008 phone
512.328.2409 fax
www.mcleanhowardlaw.com



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From: Tomasovic, Paul [mailto:Paul.Tomasovic@austintexas.gov]
Sent: Thursday, September 26, 2013 11:04 AM
To: Jeff Howard
Cc: marcos canchola; Theresa Canchola; Nettle, Kenneth; Josephson, Jonathan
Subject: RE: Old Jollyville Road

Jeff,

Thanks for keeping us in the loop and we'll wait to hear back from you.

Thanks
Paul

CA
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From: Jeff Howard [mailto:jhoward@mcleanhowardlaw.com]
Sent: Thursday, September 26, 2013 10:58 AM
To: Tomasovic, Paul
Cc: marcos canchola; Theresa Canchola
Subject: Old Jollyville Road
Importance: High

Paul,

Can you call me as soon as possible? In the last couple of weeks I have been working with Greg Guernsey regarding the non-conforming use issue for the restaurant. Greg and I talked yesterday and it is my understand that Greg believes that if we can show these 2 lots were historically essentially used as one property, then the parking area and driveway will remain as non-conforming uses associated with the restaurant, EXCEPT that the portion of the SF-3 area where the house was previously located does not have non-conforming status. As a result, we could use the driveway and parking area in the SF-3 area except that portion where the house was.

We are getting together the evidence that shows this has been used as one property. The Antonio family had owned both lots for many, many years and the area behind the house had always been used as parking for the restaurant. We hope to have that tomorrow or Monday. We wanted to keep you informed as we expect to open the restaurant next week and we would like to use these areas. Thanks.

Jeffrey S. Howard

PARTNER

jhoward@mcleanhowardlaw.com

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M&H
McLEAN & HOWARD, L.L.P.
Real Property Lawyers

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C4/20



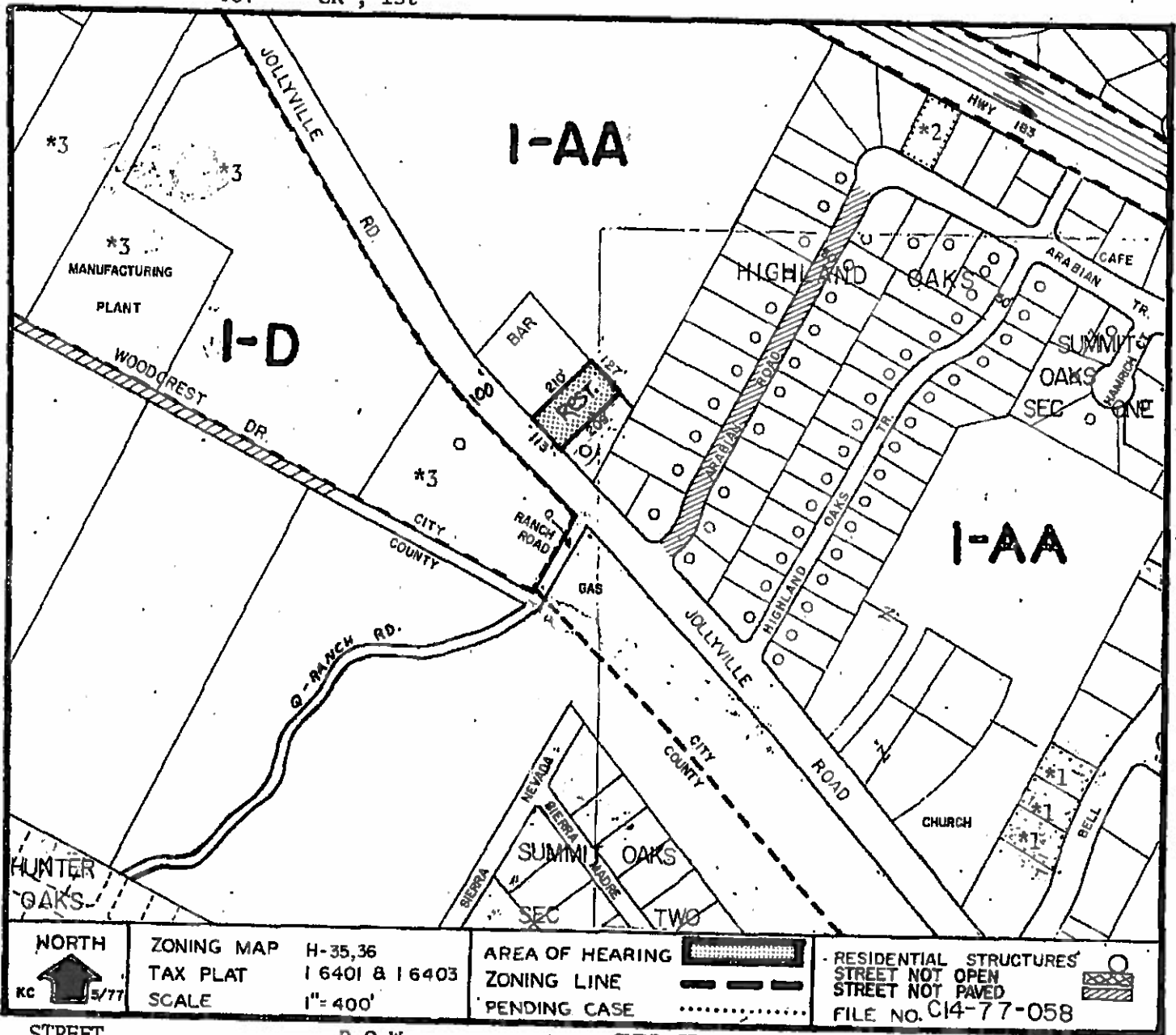
Attachment D *CH 21*

APPLICANT: NELL WALLACE IRWIN

LOCATION: Locally known as 11835-11837 Old U. S. Highway 183 (Jollyville Road) (0.56 acre)

REQUEST: From: Interim "AA", 1st
To: "GR", 1st

PLANNING DEPARTMENT
STAFF MAP
FILE NO. C14-77-058



STREET
Jollyville Road

R.O.W.
100 feet

SURFACING
27 feet

CLASSIFICATION
Neighborhood Collector

HISTORY
*1 C14-77-048
*2 C14-76-108
*3 C2-74-2

REQUEST
IAA to A
IAA to GR
Semi-industrial/commercial
to PDA

PLANNING COMMISSION
Pending
Deny, grant GR & A (F)
Grant

CITY COUNCIL
--
Granted. O & A (F)
Granted

Conditions: f = privacy fence.

ORDINANCE NO. 77 0721-D

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

TRACT 1: A 4,981 SQUARE FOOT TRACT OF LAND, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "GR" GENERAL RETAIL, FIRST HEIGHT AND AREA DISTRICT; AND,

TRACT 2(a): AN 18,916 SQUARE FOOT TRACT OF LAND, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "O" OFFICE, FIRST HEIGHT AND AREA DISTRICT; AND,

TRACT 2(b): AN 831 SQUARE FOOT TRACT OF LAND, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "O" OFFICE, FIRST HEIGHT AND AREA DISTRICT;

ALL OF SAID PROPERTY BEING LOCALLY KNOWN AS 11835-11837 OLD U. S. HIGHWAY 183 (JOLLYVILLE ROAD), IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 45 of the Austin City Code of 1967 is hereby amended to change the USE and HEIGHT and AREA designations on the property described in File C14-77-058, to-wit:

TRACT 1: From Interim "AA" Residence, Interim First Height and Area District to "GR" General Retail, First Height and Area District.

A 4,981 square foot tract of land, being out of and a part of Lot 2, L. E. Tounge Subdivision, a subdivision in the City of Austin, Travis County, Texas, found of record in Book 21, at Page 23, of the Plat Records of Travis County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a steel pin found at the southwest corner of said Lot 2, in the east line of Old U. S. Highway No. 183, for the southwest corner of the parcel herein described;

THENCE, leaving said highway and with the south line of said Lot 2, N 48° 50' E 84.73 feet to a point for the southeast corner of the parcel herein described;

THENCE, leaving said south line, N 42° 19' W 56.67 feet to a point for the most easterly northeast corner of the parcel herein described;

THENCE, S 47° 41' W 26.0 feet to a point for an interior corner of the parcel herein described;

C4/23

THENCE, N 42° 19' W 22.77 feet to a point for the most northerly north-east corner of the parcel herein described;

THENCE, S 47° 11' W 53.68 feet to a point for a northwest corner of the parcel herein described;

THENCE, S 42° 49' E 12.73 feet to a point for a corner of the parcel herein described;

THENCE, N 47° 11' E 14.03 feet to a point for an interior corner of the parcel herein described;

THENCE, S 45° 04' E 12.0 feet to a point for an interior corner of the parcel herein described;

THENCE, S 47° 11' W 18.66 feet to a point in the east line of said highway for a northwest corner of the parcel herein described;

THENCE, with the east line of said highway, S 43° 18' E 4.0 feet to a point for a corner of the parcel herein described;

THENCE, leaving said highway, N 47° 11' E 18.79 feet to a point for an interior corner of the parcel herein described;

THENCE, S 45° 04' E 43.05 feet to a point for an interior corner of the parcel herein described;

THENCE, S 48° 50' W 20.13 feet to a point in the east line of said highway for a corner of the parcel herein described;

THENCE, with the east line of said highway, S 43° 18' E 6.0 feet to the PLACE OF BEGINNING; and,

TRACT 2(a): From Interim "AA" Residence, Interim First Height and Area District to "O" Office, First Height and Area District.

An 18,916 square foot tract of land, being out of and a part of Lot 2, L. E. Toumgate Subdivision, a subdivision in the City of Austin, Travis County, Texas, of record in Book 21, at Page 23, of the Plat Records of Travis County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the south line of said Lot 2 for the most southerly southwest corner of the parcel herein described, and from which point the southwest corner of said Lot 2, bears S 48° 50' W 84.73 feet;

THENCE, with the south line of said Lot 2, N 48° 50' E 123.56 feet to a steel pin found at the southeast corner of said Lot 2, for the northeast corner of the parcel herein described;

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THENCE, with the east line of said Lot 2, N 48° 59' W 127.13 feet to a steel pin found at the northeast corner of said Lot 2 for the northeast corner of the parcel herein described;

THENCE, with the north line of said Lot 2, the following two (2) courses:

(1) S 43° 51' W 145.50 feet;

(2) S 47° 07' W 63.51 feet to a steel pin found at the northwest corner of said Lot 2, in the east line of Old U. S. Highway No. 183, for the northwest corner of the parcel herein described;

THENCE, with the east line of said highway, S 43° 18' E 60.16 feet to a point for the most westerly southwest corner of the parcel herein described;

THENCE, leaving said highway, N 47° 11' E 18.66 feet to a point for a corner of the parcel herein described;

THENCE, N 45° 04' W 12.0 feet to a point for a corner of the parcel herein described;

THENCE, S 47° 11' W 14.03 feet to a point for an interior corner of the parcel herein described;

THENCE, N 42° 19' W 12.73 feet to a point for an interior corner of the parcel herein described;

THENCE, N 47° 11' E 53.68 feet to a point for an interior corner of the parcel herein described;

THENCE, S 42° 19' E 22.77 feet to a point for a corner of the parcel herein described;

THENCE, N 47° 41' 26.0 feet to a point for an interior corner of the parcel herein described;

THENCE, S 42° 19' E 56.67 feet to the PLACE OF BEGINNING,

TRACT 2(b): From Interim "AA" Residence, Interim First Height and Area District to "O" Office, First Height and Area District.

An 831 square foot tract of land, being out of and a part of Lot 2, L. E. Youngate Subdivision, a subdivision in the City of Austin, Travis County, Texas, found of record in Book 21, at Page 23, of the Plat Records of Travis County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the east line of Old U. S. Highway No. 183, same being the west line of said Lot 2, for the southwest corner of the parcel

CH
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herein described, and from which point the southwest corner of said lot bears S 43° 18' E 6.0 feet;

THENCE, leaving said highway, N 48° 50' E 20.13 feet to a point for the southeast corner of the parcel herein described;

THENCE, N 45° 04' W 43.05 feet to a point for the northeast corner of the parcel herein described;

THENCE, S 47° 11' W 18.79 feet to a point in the east line of said highway for the northwest corner of the parcel herein described;

THENCE, with the east line of said highway, S 43° 18' E 42.44 feet to the PLACE OF BEGINNING,

locally known as 11835-11837 Old U. S. Highway 183 (Jollyville Road), in the City of Austin, Travis County, Texas.

PART 2. It is hereby ordered that the USE and HEIGHT and AREA maps accompanying Chapter 45 of the Austin City Code of 1967 and made a part thereof shall be changed so as to record the change ordered in this ordinance.

PART 3. The rule requiring that ordinances shall be read on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

July 21, 1977

X
X
X
X

Cecile Keeton McClellan
Mayor

APPROVED:

Jerry J. Harris
City Attorney

ATTEST:

Grace Monroe
City Clerk

21JUL77
JM:vs