

RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-99-2061(RCT)
Springdale Farm

P.C. DATE: October 14, 2014
October 28, 2014

ADDRESS: 755 Springdale Road

AREA: 4.848 acres

OWNER/ AGENT: Glenn M. & Paula Foore

ZONING: CS-MU-CO-NP

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 family residence-neighborhood plan (SF-3) district zoning and limited industrial services (LI) zoning if the property ceased for ninety (90) days to contain one of the following land uses: construction sales and services, agricultural sales and services, building maintenance services, and plant nursery. Please refer to *Exhibit A (Restrictive Covenant)*.

PLANNING COMMISSION RECOMMENDATION:

October 14, 2014: PULLED – NO ACTION TAKEN; TO BE RE-NOTICED FOR OCTOBER 28, 2014

October 28, 2014: TO GRANT RESTRICTIVE COVENANT TERMINATION, (8-0) [J. Nortey- 1st, A. Hernandez- 2nd]

ISSUES:

A rezoning (C14-2014-0123) and a Neighborhood Plan Amendment (NPA-2014-0016.02) to the Govalle- Johnston Terrace Neighborhood Plan have been filed in conjunction with this rezoning request. Both the rezoning and NPA are recommended for approval by Staff. The neighborhood contact team has filed a petition against approval of all three proposed applications; currently the petition does not have enough signatures to meet Valid Petition requirements. Please refer to *Exhibit B (Neighborhood Petition)*.

DEPARTMENT COMMENTS:

The subject property is located between Springdale Road and Mansell Avenue, with frontage on both streets. It is a half-block north of Gonzalez Street and a half-block south of Glissman Road. The property is currently developed with an urban farm land use. Immediately to the north are single family residences and a church zoned SF-3-NP. To the east, across Mansell Avenue, is the former Allen Elementary, which is zoned P-NP, and is currently used as an AISD storage facility. Immediately south of the subject property are single family residences zoned SF-3-NP. Across Springdale Road to the west are single family residences zoned SF-3-NP and a police substation zoned P-NP. Please refer to *Exhibits C and D (Zoning Map and Aerial Exhibit)*.

ZONING HISTORY:

The subject tract was zoned LI and SF-3 upon annexation. The properties in the annexation area were zoned based on their existing land uses. In 1998, The Planning Commission initiated rezoning most of the industrial properties in the area to SF-3 zoning, but the case was withdrawn by Commission about two months later. Please refer to *Exhibit E (1998 Zoning Map)*.

In 1999, the property was rezoned from LI and SF-3 to CS-MU-CO-NP, and the above-referenced restrictive covenant (RC) was established. The land use at the time was landscaping and lawn maintenance. In addition to the RC, the conditional overlay attached to the zoning was significantly more restrictive than the previous LI zoning or the base CS zoning. The rezoning in 1999 granted general commercial services-mixed use (CS-MU) as the base zoning, but the conditional overlay prohibited the following land uses: Hospital Services (General), Maintenance and Service Facilities, Art and Craft Studio (General), Automotive Rental, Automotive Repair Services, Automotive Sales, Automotive Washing (Of Any Type), Business or Trade School, Business Support Services, Campground, Commercial Blood Plasma Center, Commercial Off-Street Parking, Consumer Convenience Services, Consumer Repair Services, Convenience Storage, Drop-Off Recycling Collection Facility, Electronic Prototype Assembly, Equipment Repair Services, Equipment Sales, Limited Warehousing & Distribution, Exterminating Services, Community Recreation (Public & Private), Financial Services, Food Sales, Funeral Services, General Retail Sales (Convenience), General Retail Sales (General), Kennels, Laundry Services, Monument Retail Sales, Off-Site Accessory Parking, Outdoor Sports and Recreation, Pawn Shop Services, Personal Improvement Services, Personal Services, Pet Services, Research Services, Restaurant (Drive-In, Fast Food), Restaurant (Limited, General), Service Station, Theater, Vehicle Storage, Veterinary Services, Custom Manufacturing, Club or Lounge, College and University Facilities, Congregate Living, Residential Treatment, Transitional Housing, Transportation Terminal, Hotel-Motel, Indoor Entertainment, and Indoor Sports and Recreation. Please refer to *Exhibit F (Zoning Ordinance)*.

In addition to the CS-MU-CO-NP zoning designation, a Restrictive Covenant was filed in conjunction with the zoning case. This Restrictive Covenant requires the property to rollback to SF-3 (now SF-3-NP) The RC stated that the owner of the property would not protest a "rollback" of the zoning of the property, which would return to family residence (SF-3) and limited industrial services (LI) zoning if the property ceased for ninety (90) consecutive days to contain one of the following land uses: construction sales and services, agricultural sales and services, building maintenance services, and plant nursery. The current land use is urban farm, which has prompted the Applicant's request.

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-3-NP rollback. Additionally, the rollback would result in approximately 1.14 acres of LI zoning along Springdale Road with no conditional overlays. This would be significantly more permissive than the existing CS-MU-CO-NP on the whole 4.848 acre property.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. *Zoning changes should promote an orderly and compatible relationship among land uses.* A zoning rollback would result in approximately 1.14 acres of LI zoning along

Springdale Road with no conditional overlays. This would be significantly more permissive than the existing CS-MU-CO-NP on the whole 4.848 acre property.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-MU-CO-NP	Urban Farm
<i>North</i>	SF-3-NP, LR-MU-NP, P-NP	Residences, Religious Assembly, Police substation
<i>South</i>	SF-3-NP, CS-MU-CO-NP	Residences
<i>East</i>	P-NP	AISD facility
<i>West</i>	SF-3-NP, LO-MU-CO-NP	Residences, Undeveloped

AREA STUDY: N / A

TIA: N/A

WATERSHED: Boggy Creek
Yes

DESIRED DEVELOPMENT ZONE:

CAPITOL VIEW CORRIDOR: No

AIRPORT OVERLAY: Yes

NEIGHBORHOOD ASSOCIATIONS:

PODER
Del Valle Community Coalition
El Concilio Mexican-American Neighborhoods
Cristo Rey Neighborhood Association
Friends of the Emma Barrientos MACC
Govalle/Johnston Terrace Neighborhood Planning Contact Team
African American Cultural Heritage District Business Association
Guadalupe Neighborhood Development Corporation

Austin Neighborhoods Council
East Austin Conservancy
United East Austin Coalition
AISD
Preservation Austin

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Mansell Avenue	50'	22'	Local	No	No	Yes
Springdale Road	64'	45'	Arterial	Yes	Bike Lane	Yes

CITY COUNCIL DATE & ACTION:

November 6, 2014: Postponed on consent to November 20, 2014 at the neighborhood's request on Council Member Morrison's motion, Council Member Martinez' second on a 6-0 vote. Council Member Spelman was absent.

November 20, 2014: Postponed on consent to December 11, 2014 at the staff's request on Council Member Morrison's motion, Mayor Pro Tem Cole's second on a 6-0 vote. Council Member Spelman was absent.

ORDINANCE READINGS:

ORDINANCE NUMBER:

CASE MANAGER: Heather Chaffin
e-mail: heather.chaffin@austintexas.gov

PHONE: 974-2122

EXHIBIT A

Zoning Case No. C14-99-2061

991216-100

RESTRICTIVE COVENANT

OWNER: Glenn M. and Paula Foore, dba Texas Trees and Landscape

ADDRESS: 755 Springdale Road, Austin, Texas 78702-4039

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

PROPERTY: Lots 6-8, Outlots 29-30, Division A, less the west 17.88 feet, J. Godwin Jones Subdivision, Original City of Austin, Travis County, according to the map or plat on file in the General Land Office of the State of Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

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 heirs, successors, and assigns.

1. If use of the Property as construction sales and services, agricultural sales and services, building maintenance services and plant nursery is discontinued for 90 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to Limited Industrial Services (LI) district and Family Residence (SF-3) district as defined in Chapter 25-2 of the City Code. Normal seasonal cessation of a use, or temporary discontinuance for purposes of maintenance or rebuilding of the Property after damage or destruction may not be used in calculation the period of discontinuance.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin 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.
3. If any part of this agreement or covenant is 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.
4. If at any time the City of Austin 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.
5. 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 of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

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

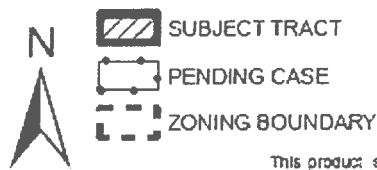
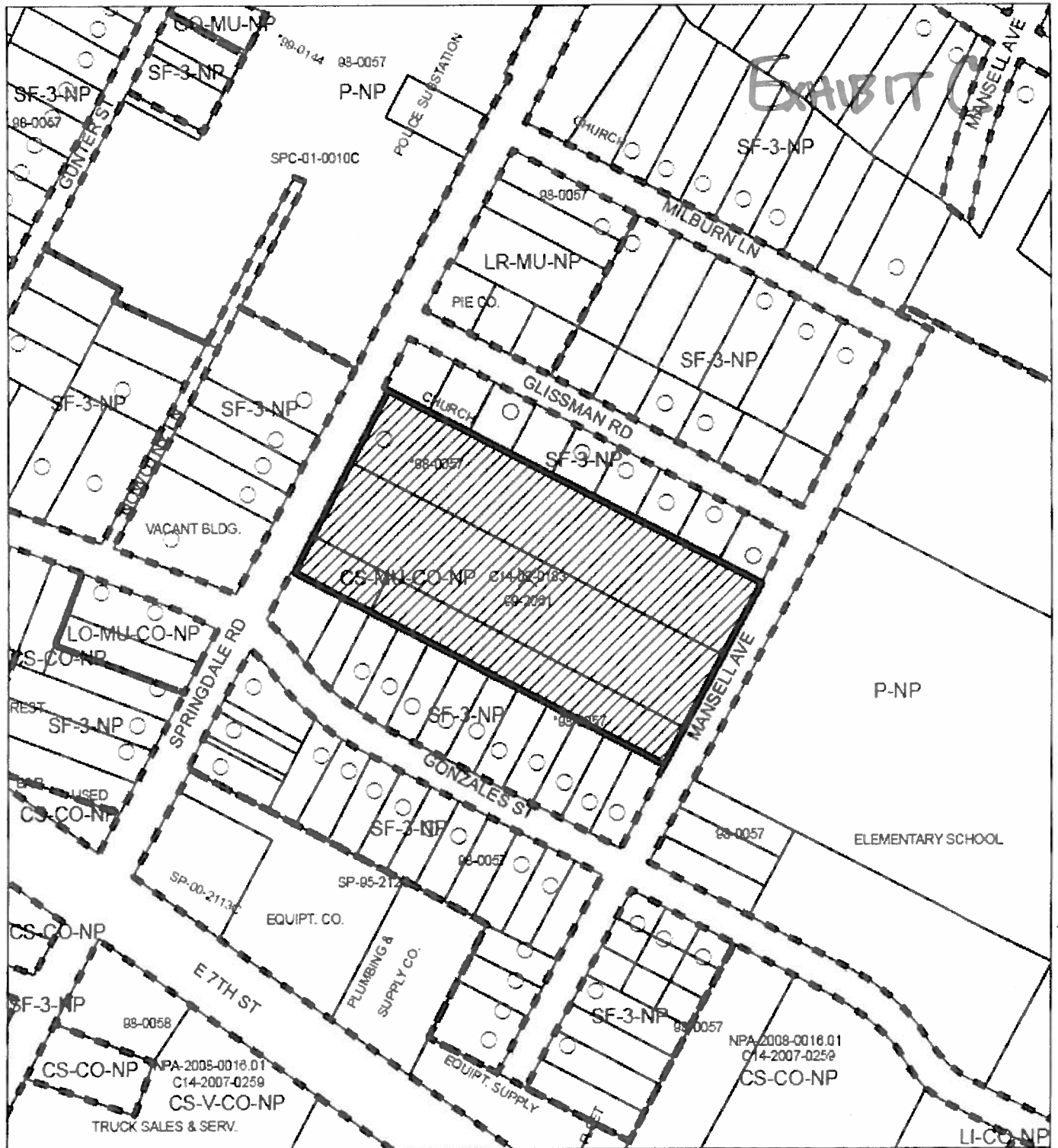
COUNTY OF TRAVIS



MARGARET ANN MONEK
NOTARY PUBLIC
 State of Texas
 Comm. Exp. 03-25-2000

3

EXHIBIT C



1" = 200'

ZONING
ZONING CASE#: C14-99-2061(RCT)

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.



Case Number:
C14-2014-0123

PETITION

Date: 10/29/2014
Total Square Footage of Buffer: 516916.341
Percentage of Square Footage Owned by Petitioners Within Buffer: 20.08%

Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

TCAD ID	Address	Owner	Signature	Petition Area	Percent
0202160220	4709 GONZALES ST 78702	ALEXANDER JAMES B	no	3298.35	0.00%
0202160113	4704 GONZALES ST 78702	ARELLANO PETRA FLORES	yes	8859.19	1.71%
0202160125	4607 GLISSMAN RD 78702	ARPERO DOROTEO & IRMA N	no	8290.37	0.00%
0202160126	4609 GLISSMAN RD 78702	ARPERO DOROTEO & IRMA N	no	8300.31	0.00%
0202160103	4900 GONZALES ST 78702	AUSTIN PUBLIC SCHOOLS	no	107842.12	0.00%
0202160115	4700 GONZALES ST 78702	BALADEZ ALEX & ROSEANN VILLANUEVA BALADEZ	yes	8895.54	1.72%
0202160119	4604 GONZALES ST 78702	BALADEZ DANIEL & ROSA	yes	8445.30	1.63%
0202160117	4608 GONZALES ST 78702	BALADEZ DANIEL JR & CYNTHIA	no	9213.58	0.00%
0202160124	4605 GLISSMAN RD 78702	BROWN CORALINE	yes	8395.88	1.62%
0202160111	4708 GONZALES ST 78702	CASTRO MARTHA LEDESMA	no	8695.03	0.00%
0204140338	842 SPRINGDALE RD	CITY OF AUSTIN	no	22977.77	0.00%
0204140309	758 SPRINGDALE RD AUSTIN 78702	CUELLAR OLGA EXECUTIVE DIRECTOR	yes	20146.00	3.90%
0202160217	4703 GONZALES ST 78702	DAM-ERICKSON SHAY	no	2706.08	0.00%
0202160214	4609 GONZALES ST 78702	DAVENPORT GREG	no	1330.35	0.00%
0202160116	4610 GONZALES ST 78702	DIAZ RAYMOND M & MARY	yes	9242.87	1.79%
0202160219	4707 GONZALES ST 78702	DURANTE DAVID LEE & LINDA L	yes	1383.48	0.27%
0204140313	732 SPRINGDALE RD 78702	FIELDING TIM & JESUS HERRERA SR	no	25165.81	0.00%
0202160120	4602 GONZALES ST 78702	GARCIA FRANCISCO MARTINEZ	no	8339.08	0.00%
0202160114	4702 GONZALES ST 78702	GARCIA LOUIS C	yes	9119.24	1.76%
0204140312	742 SPRINGDALE RD 78702	JONES CHRISTINE & JARED C FAULKNER	no	8096.59	0.00%
0202160211	723 SPRINGDALE RD 78702	LOPEZ ROSIE	no	11470.46	0.00%
0202160215	4611 GONZALES ST 78702	MOJICA INEZ MARIE	no	1367.60	0.00%
0202141108	3523 GONZALES ST 78702	MUNIZ JOSE J	no	7956.70	0.00%
0202160112	4706 GONZALES ST 78702	PERALES JOE LOUIS	no	8864.08	0.00%
0202160121	731 SPRINGDALE RD 78702	PEREZ ROBERT E	no	14697.60	0.00%
0202160213	4607 GONZALES ST 78702	PIZZOLATO KATIE & RYAN P DESCHNER	yes	1434.28	0.28%
0202160110	4710 GONZALES ST 78702	PRIESMEYER JAMI	no	13884.31	0.00%
0204140310	750 SPRINGDALE RD	RAMOS TOMAS V & ANTONIA PEREZ LIFE ESTATE	no	8605.91	0.00%
0202160134	4612 GLISSMAN RD AUSTIN 78702	RODENBECK MICHELLE	no	6406.70	0.00%
0202160118	4606 GONZALES ST 78702	RODRIGUEZ DANIEL	no	9201.08	0.00%
0202160127	4611 GLISSMAN RD 78702	SANTIS ROSA	yes	8367.00	1.62%
0202160212	4605 GONZALES ST 78702	SANTIS ROSA E	yes	1726.63	0.33%
0202160123	769 SPRINGDALE RD 78702	SPRINGDALE CHURCH OF GOD IN CH GOD IN CHRIST	no	20082.71	0.00%
0202160130	4707 GLISSMAN RD 78702	VALDEZ ARNULFO B	no	11206.53	0.00%
0204140311	746 SPRINGDALE RD	VAN ZANDT JOHN T	no	8194.05	0.00%
0202160216	4701 GONZALES ST 78702	VASQUEZ DOLORES	yes	1245.20	0.24%
0202160128	4613 GLISSMAN RD 78702	VILLERIAL CARMEL & GLORIA VILL GLORIA VILLERIAL	yes	8223.97	1.59%
0202160159	801 SPRINGDALE RD 78702	WAUGHTAL JEFF	no	21474.98	0.00%
0202160136	GLISSMAN RD 78702	WAUGHTAL JEFF	no	6365.13	0.00%
0202160135	GLISSMAN RD 78702	WAUGHTAL JEFF	no	6371.01	0.00%
0202160129	4705 GLISSMAN RD 78702	ZUNIGA MARIO J & SANDRA T	yes	8319.92	1.61%
0202160133	4614 GLISSMAN RD 78702	ZUNIGA SALVADOR F & ANGELITA H ANGELITA H ZUNIGA	no	21552.07	0.00%
Total				495760.87	20.08%

October 28, 2014

Postponement Request to after Nov. 8th: Springdale Farm

Planning Commissioners,

There is a valid petition opposing the FLUM change and the prohibited use change for Springdale Farm, which has been signed by 22 of the 33 households surrounding Springdale Farm. This petition was submitted at the Sept. 14th meeting convened at Willie Mea Kirk Library by City staff person Maureen Meredith.

At that meeting there were no details or specifics given on the City's governing criteria for an outdoor event center, what the rules for an outdoor event center look like or what specifically the applicant was proposing.

It wasn't until I got an email from City staff person Heather Chaffin on Oct. 7 outlining staff recommendations. This was the first time any of us saw any detail or specific criteria for what is being proposed. The Contact Team and the immediate neighbors did not have this information on or prior to Sept. 14th, and we have not had the opportunity to discuss this as a group.

This is why today we are opposed to any proposed changes.

As I communicated to you all in a previous email, the Govalle/Johnston Terrace Neighborhood Contact Team meets next on November 8th.

We are asking for a postponement so that the affected stakeholders have the opportunity to see what a specific proposal for operation, and what the City's governing criteria for such an operation look like, and to see if we can come to a mutually beneficial agreement.

I will say that we are categorically opposed and will continue to oppose any change to the FLUM and termination of conditional use overlay, but we are willing to consider the prohibited use change if we can find common ground.



Daniel Llanes, Chair
Govalle/Johnston Terrace Neighborhood Contact Team
Representing the 22 homeowners who signed the Valid Petition

EXHIBIT F

ORDINANCE NO. 991216-100

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 25-2 OF THE CITY CODE AS FOLLOWS:

LOTS 6-8, OUTLOTS 29-30, J. GODWIN JONES SUBDIVISION, FROM LIMITED INDUSTRIAL SERVICES (LI) DISTRICT AND FAMILY RESIDENCE (SF-3) DISTRICT TO GENERAL COMMERCIAL SERVICES-MIXED USE-CONDITIONAL OVERLAY (CS-MU-CO) COMBINING DISTRICT, LOCALLY KNOWN AS 755 SPRINGDALE ROAD, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

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

PART 1. The Zoning Map established by Section 25-2-191 of the City Code is amended to change the base district from Limited Industrial Services (LI) district and Family Residence (SF-3) district to General Commercial Services-Mixed Use-Conditional Overlay (CS-MU-CO) combining district on the property described in File C14-99-2061, as follows:

Lots 6-8, Outlots 29-30, Division A, less the west 17.88 feet, J. Godwin Jones Subdivision, Original City of Austin, Travis County, Texas, according to the map or plat on file in the General Land Office of the State of Texas, (the "Property")

locally known as 755 Springdale Road, in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "A".

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

1. Notwithstanding any other provision of the City Code applicable to the Property on the effective date of this ordinance or at the time an application for approval of a site plan or building permit is submitted, no site plan for development of the Property, or any portion of the Property, may be approved or released, and no building permit for construction of a building on the Property, may be issued if the completed development or uses authorized by the proposed site plan or building permit, considered cumulatively with all existing or previously authorized development and uses of the Property, generates traffic exceeding the total traffic generation of 2,000 trips per day.

2. The following uses are prohibited on the Property

Hospital Services (General)	Kennels
Maintenance and Service Facilities	Laundry Services
Art and Craft Studio (General)	Monument Retail Sales
Automotive Rental	Off-Site Accessory Parking
Automotive Repair Services	Outdoor Entertainment
Automotive Sales	Outdoor Sports and Recreation
Automotive Washing (Of Any Type)	Pawn Shop Services
Business or Trade School	Personal Improvement Services
Business Support Services	Personal Services
Campground	Pet Services
Commercial Blood Plasma Center	Research Services
Commercial Off-Street Parking	Restaurant (Drive-In, Fast Food)
Consumer Convenience Services	Restaurant (Limited, General)
Consumer Repair Services	Service Station
Convenience Storage	Theater
Drop-Off Recycling Collection Facility	Vehicle Storage
Electronic Prototype Assembly	Veterinary Services
Equipment Repair Services	Custom Manufacturing
Equipment Sales	Club or Lounge
Limited Warehousing & Distribution	College and University Facilities
Exterminating Services	Congregate Living
Community Recreation (Public & Private)	Residential Treatment
Financial Services	Transitional Housing
Food Sales	Transportation Terminal
Funeral Services	Hotel-Motel
General Retail Sales (Convenience)	Indoor Entertainment
General Retail Sales (General)	Indoor Sports and Recreation

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.

PART 3. The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 4. This ordinance takes effect on December 27, 1999.

PASSED AND APPROVED

December 16, 1999

§
§
§

Kirk Watson

Kirk Watson
Mayor

APPROVED:

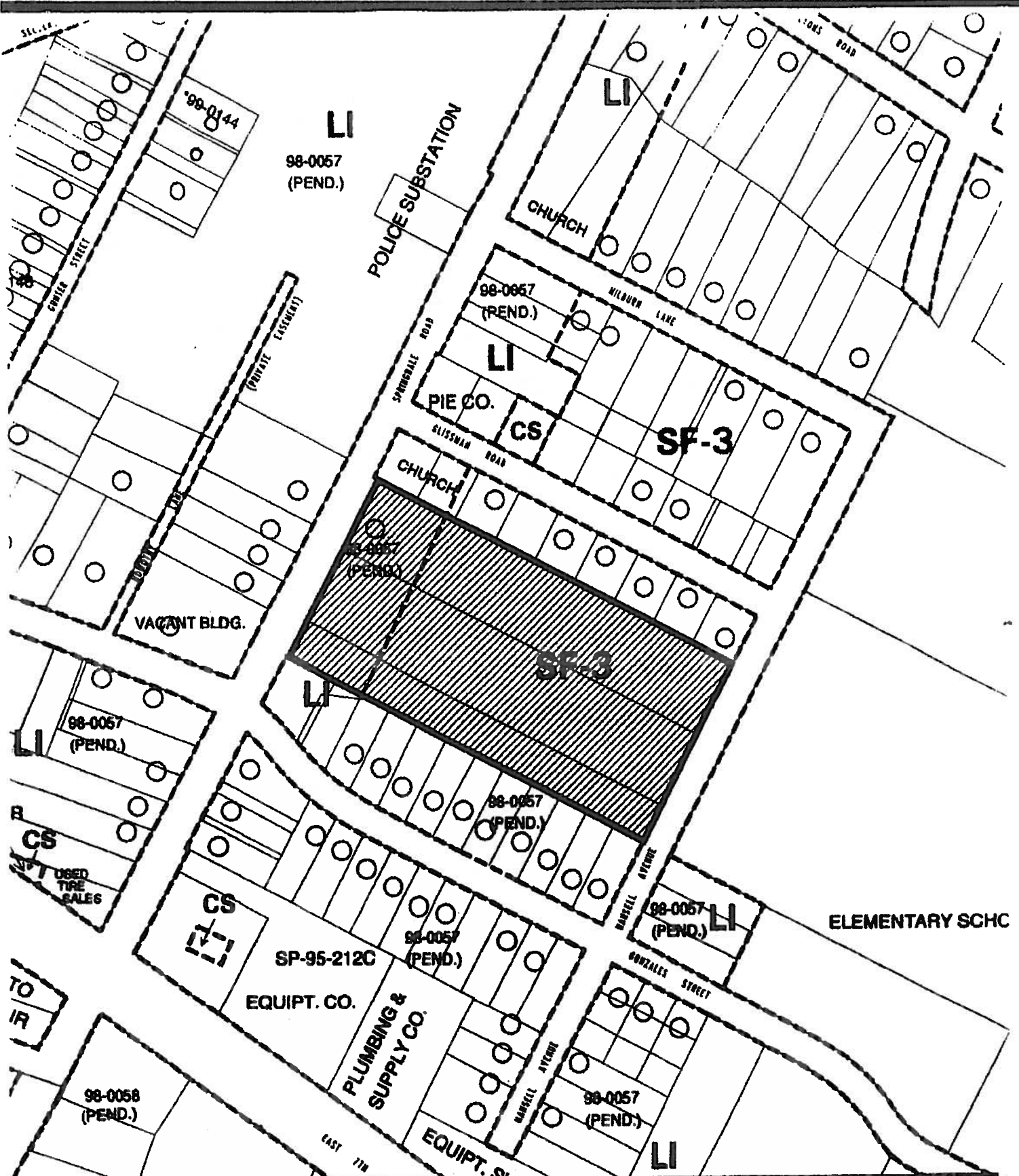
Andrew Martin

Andrew Martin
City Attorney

ATTEST:

Shirley A. Brown

Shirley A. Brown
City Clerk



 1" = 200'	SUBJECT TRACT	 	ZONING EXHIBIT A		CITY GRID REFERENCE NUMBER L21
	PENDING CASE				
	ZONING BOUNDARY		CASE #: C14-99-2061	DATE: 99-10	
	CASE MGR: A.SMITH		ADDRESS: 755 SPRINGDALE RD. SUBJECT AREA (acres): 4.850	INTLS: TRC	

991216-100

Austin American-Statesman

PO#: 991216100
Ad ID#: 1AM401000
Acct#: 5124992499
Account Name: CITY CLERKS OFFICE

CITY CLERKS OFFICE
PO BOX 1088
AUSTIN, TX 78767

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis,
State of Texas, on this day personally appeared:

Debi J Delk

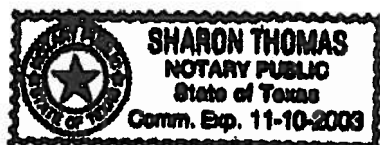
Classified Advertising Agent of the Austin American-Statesman, a daily newspaper
published in said County and State that is generally circulated in Travis, Hays, Burnet
and Williamson Counties, who being duly sworn by me, states that the attached
advertisement was published in said newspaper on the following dates, to wit:

First Published:	1/13/00	Last Published:	1/13/00
Times Published:	1	Classification:	9980
Lines:	17	Cost:	\$50.32

and that the attached is a true copy of said advertisement.

Debi J Delk

SWORN AND SUBSCRIBED TO BEFORE ME, this the 13th day of Jan 2000



Sharon Thomas
Notary Public in and for
TRAVIS COUNTY, TEXAS

305 South Congress Ave., P.O. Box 670, Austin, Texas 78767-0670 512-445-3541

ORDINANCE NO. 991216-100
AN ORDINANCE REZONING AND
CHANGING THE ZONING MAP AC-
COMPANYING CHAPTER 250 OF
THE CITY CODE AS FOLLOWS:
TO REZONE THE PROPERTY LOCATED
AT THE INTERSECTION OF
JANUARY STREET AND (U)
AND FAMILY RESIDENCE
TO BE USED FOR THE
CONDITIONAL OVERLAY (C-01)
COMBINING DISTRICT LOCAL-
ITY KNOWN AS THE SPRINGDALE
ROAD AND THE CITY OF AUSTIN, TRAV-
IS COUNTY, TEXAS.