

ZONING CHANGE REVIEW SHEET

CASE: C14-2016-0024 – 440 E. St. Elmo Road **P.C. DATE:** May 24, 2016

ADDRESS: 440 East St. Elmo Road, Building F

DISTRICT AREA: 3

OWNER: The Elmo Yard, LLC
(Adam Zimmerman)

APPLICANT: Thrower Design
(Ron Thrower)

ZONING FROM: LI-NP **TO:** CS-1-CO-NP **AREA:** 0.167 acres
(7,289 square feet)

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to grant commercial-liquor sales – conditional overlay – neighborhood plan (CS-1-CO-NP) combining district zoning. The Conditional Overlay prohibits adult-oriented businesses and limits the size of a cocktail lounge to 2,049 square feet. The Restrictive Covenant 1) limits the cocktail lounge use to a tasting room associated with the distillery, and 2) permits wholesale and retail sale of alcoholic beverages, limited to that manufactured or produced by or for the distillery.

PLANNING COMMISSION RECOMMENDATION:

May 24, 2016: *APPROVED CS-1-CO-NP DISTRICT ZONING WITH A PUBLIC RESTRICTIVE COVENANT AS STAFF RECOMMENDED, BY CONSENT*
[P. SEEGER; J. VELA – 2ND] (9-0) S. OLIVER – RECUSE; F. KAZI – ARRIVED LATE; A. PINYERODEHOYOS; J. THOMPSON – ABSENT

ISSUES:

City staff held the required neighborhood plan amendment meeting on Wednesday, April 13, 2016. The Applicant has also met with the Neighborhood Planning Contact Team since the Contact Team meeting. A letter of support with conditions from the Neighborhood Contact Team is attached and the Conditional Overlay and public Restrictive Covenant items have been incorporated into the Staff recommendation. The Applicant and Contact Team are also entering into a private Restrictive Covenant.

DEPARTMENT COMMENTS:

The subject property is located within an industrial business park and contains a portion of an industrial warehouse building and an adjoining unpaved area. Access is provided by a 40-foot wide driveway that extends between East St. Elmo Road and Industrial Boulevard. The industrial business park, which includes the proposed rezoning area, contains 13 buildings and is zoned limited industrial services – neighborhood plan (LI-NP). Development of the

surrounding properties on Industrial Boulevard, Willow Springs Road and East St. Elmo Road is generally characterized by warehouses containing distribution and supply companies, fabrication companies, construction sales and service businesses, and outside storage uses (LI-NP; LI-CO-NP). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant purchased the property in September 2015 and proposes to rezone a 7,289 square foot area along the west side of the park to the commercial-liquor sales – conditional overlay – neighborhood plan (CS-1-CO-NP) district in order to locate a 2,049 square foot cocktail lounge within the larger footprint area. The proposed cocktail lounge includes both indoor and outdoor seating areas and would adjoin a distillery, which is a light manufacturing use and permitted under the existing LI-NP zoning. A conditional use permit for the cocktail lounge will be required prior to establishing the use. The approved site plan indicates that incorporating shared parking facilities into the overall site design, the parking requirements for the proposed size of the cocktail lounge can be met. The Applicant has worked with the Contact Team on a Conditional Overlay that limits the square footage as described above and prohibit adult-oriented businesses, and a public Restrictive Covenant that relate to the distillery's operations.

Within the past year, several of the building occupancies along the west side of the industrial business park have changed from general manufacturing to two breweries (which also falls under the light manufacturing classification) and office and commercial uses which are permitted in the LI base district. Staff recommends the Applicant's request for the following reasons: 1) the cocktail lounge would be associated with the principal light manufacturing (distillery) use; and 2) the area is experiencing a degree of transition from stand-alone manufacturing uses to a mix of uses that include manufacturing, commercial and office uses and planned residential development.

EXISTING ZONING AND LAND USES:

| | ZONING | LAND USES |
|--------------|-----------------|---|
| <i>Site</i> | LI-NP | Portion of a warehouse and an unpaved area within an industrial business park |
| <i>North</i> | LI-NP; LI-CO-NP | Office/warehouses; Supply company; Light manufacturing |
| <i>South</i> | LI-NP | Two breweries with on-site consumption areas; Gym; Office; Manufacturing |
| <i>East</i> | LI-NP | Driveway; Manufacturing; Music recording/rehearsal studio |
| <i>West</i> | LI-CO-NP | Office/warehouses; Supply company |

NEIGHBORHOOD PLANNING AREA: South Congress **TIA:** Is not required
Combined (East Congress)

WATERSHED: Williamson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

SCENIC/HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

26 – Far South Austin Community Association
 96 – Southeast Corner Alliance of Neighborhoods (SCAN)
 511 – Austin Neighborhoods Council 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District 1108 – Perry Grid 644
 1173 – South Congress Combined Neighborhood Plan Contact Team
 1228 – Sierra Club, Austin Regional Group 1340 – Austin Heritage Tree Foundation
 1363 – SEL Texas 1424 – Preservation Austin
 1429 – Go!Austin/Vamos!/Austin (GAVA)-78745
 1447 – Friends of the Emma Barrientos MACC 1528 – Bike Austin
 1530 – Friends of Austin Neighborhoods

SCHOOLS:

Galindo Elementary School Bedichek Middle School Travis High School

CASE HISTORIES:

| NUMBER | REQUEST | COMMISSION | CITY COUNCIL |
|---|---|---|--|
| C14-2014-0034 – St. Elmo's Market and Lofts – 113 Industrial Blvd; 4323 S Congress Ave; 4300 Blk of Willow Springs Rd | CS-MU-NP; LI- NP; LI-CO-NP to LI-PDA-NP | To Grant LI-PDA-NP w/conditions for a Traffic Impact Analysis, and add'l conditions | Apvd LI-PDA-NP w/ PDA for dev't stds, permitted, cond'l, prohibited uses, and max. of 400 residential units, and RC for the TIA and require a shared walkway/bike path from S Congress Ave to the food sales use (11-20-2014). |
| C14-01-0158 – 4200 Block of Willow Springs Rd | SF-3 to LI-CO | To Grant LI-CO w/CO for 2,000 trips per day | Apvd as Commission rec (02-14-2002). |
| C14-01-0140 – 4306 & 4308 Willow Springs Rd | SF-3 to LI-CO | To Grant LI-CO w/CO for 2,000 trips per day | Apvd as Commission rec (01-10-2002). |
| C14-01-0139 – 4305 & 4307 Willow Springs Rd | SF-3 to LI-CO | To Grant LI-CO w/CO for 2,000 trips per day | Apvd as Commission rec (01-10-2002). |

RELATED CASES:

There is a corresponding neighborhood plan amendment case to change the land use designation on the Future Land Use Map (FLUM) from Industrial to Commercial (NPA-2016-0020.01).

The subject property is within the boundaries of the South Congress Combined (East Congress) Neighborhood Planning Area and the –NP combining district was appended to the existing LI base district with the corresponding rezoning (NP-05-0020; C14-05-0107).

The City approved a site plan for on-site shared parking and construction on March 28, 2016 (SP-2015-0391DT – The Yard). The site plan also includes several changes of use. Please refer to Exhibit C.

The rezoning area is platted as a portion of Lot 1 of the St. Elmo Warehouse Addition recorded in March 1972 (C8S-72-026). Please refer to Exhibit B.

The property was annexed into the City limits in November 1969.

ABUTTING STREETS:

| Name | ROW | Pavement | Classification | Sidewalks | Bike Route | Capital Metro |
|-----------------------|----------|----------|-----------------------------------|-----------|----------------|--|
| South Congress Avenue | 114 feet | 78 feet | Major Arterial – 4 lanes, divided | Yes | Yes, Route 47 | Yes, Rtes 1L, 1M, 101 and MetroRapid Rte 801 |
| Industrial Boulevard | 80 feet | 34 feet | Local – 2 lanes | No | Yes, Route 374 | No |
| Willow Springs Road | 62 feet | 27 feet | Local – 2 lanes | No | No | No |
| East St. Elmo Road | 62 feet | 38 feet | Collector – 2 lanes | No | Yes, Route 47 | No |

CITY COUNCIL DATE: June 16, 2016

ACTION:

ORDINANCE READINGS: 1st

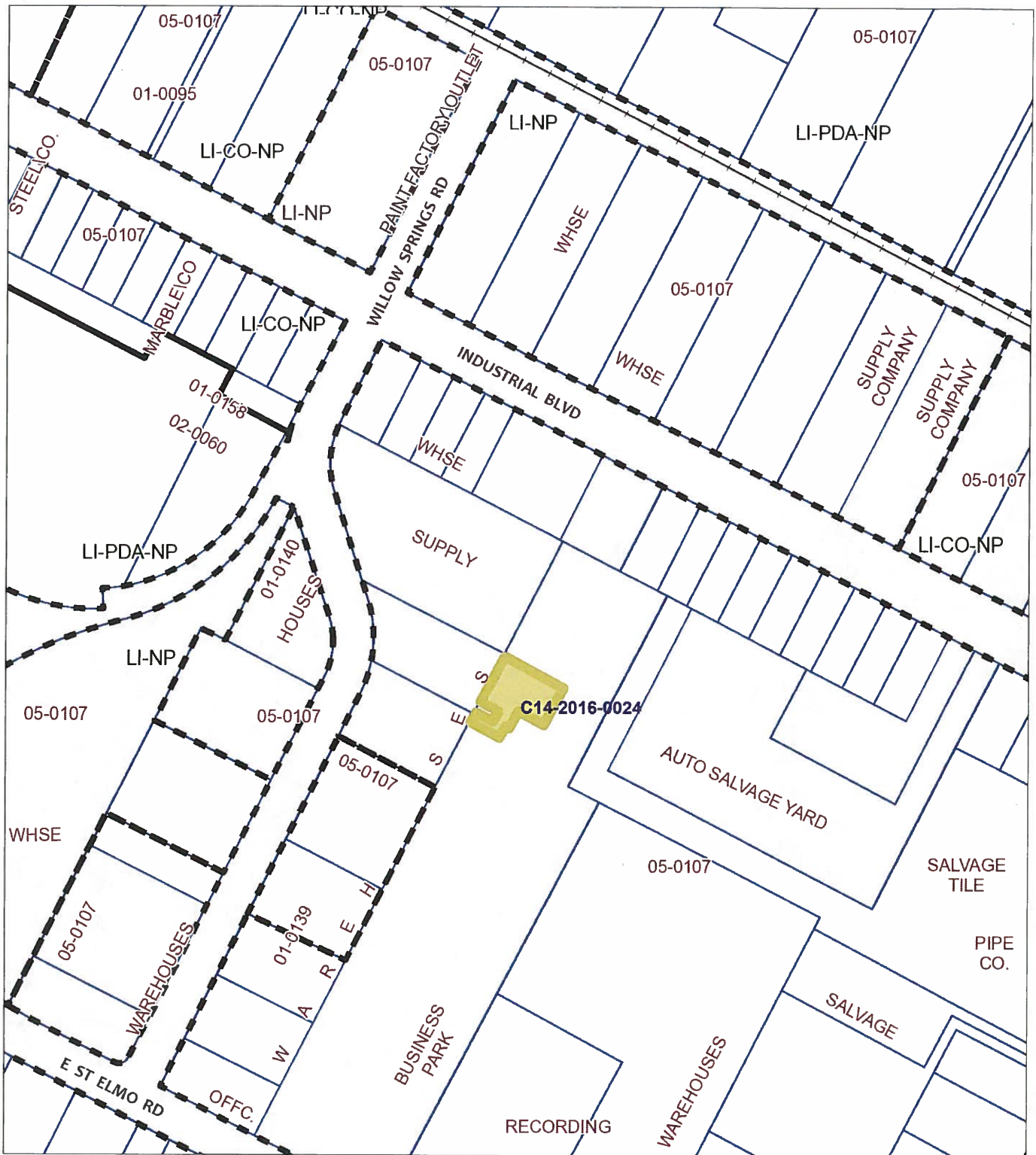
2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Wendy Rhoades
e-mail: wendy.rhoades@austintexas.gov

PHONE: 512-974-7719



- Subject Tract
- Pending Case
- Zoning Boundary
- Railroads

100 200
Feet

1" = 200'

ZONING

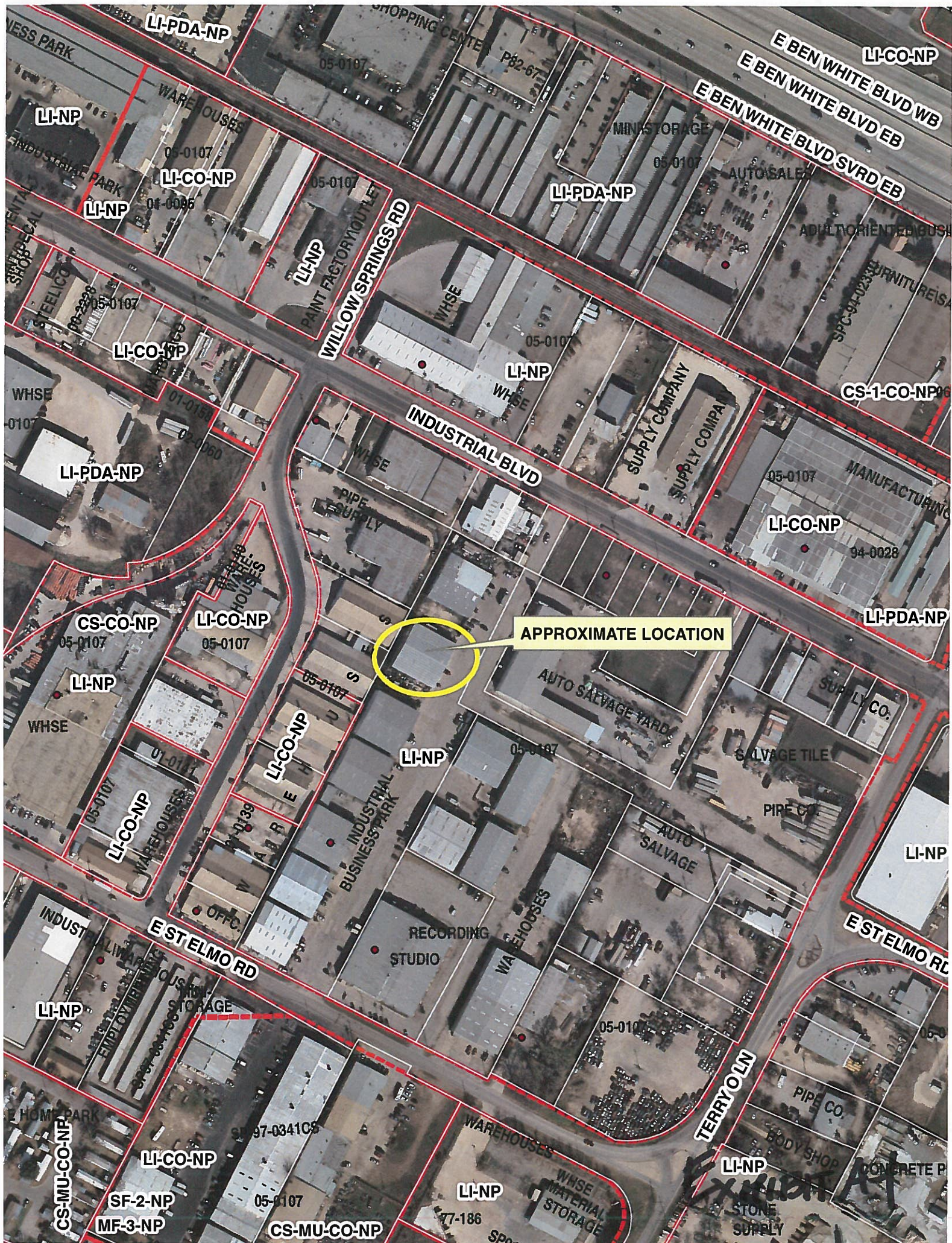
ZONING CASE#: C14-2016-0024

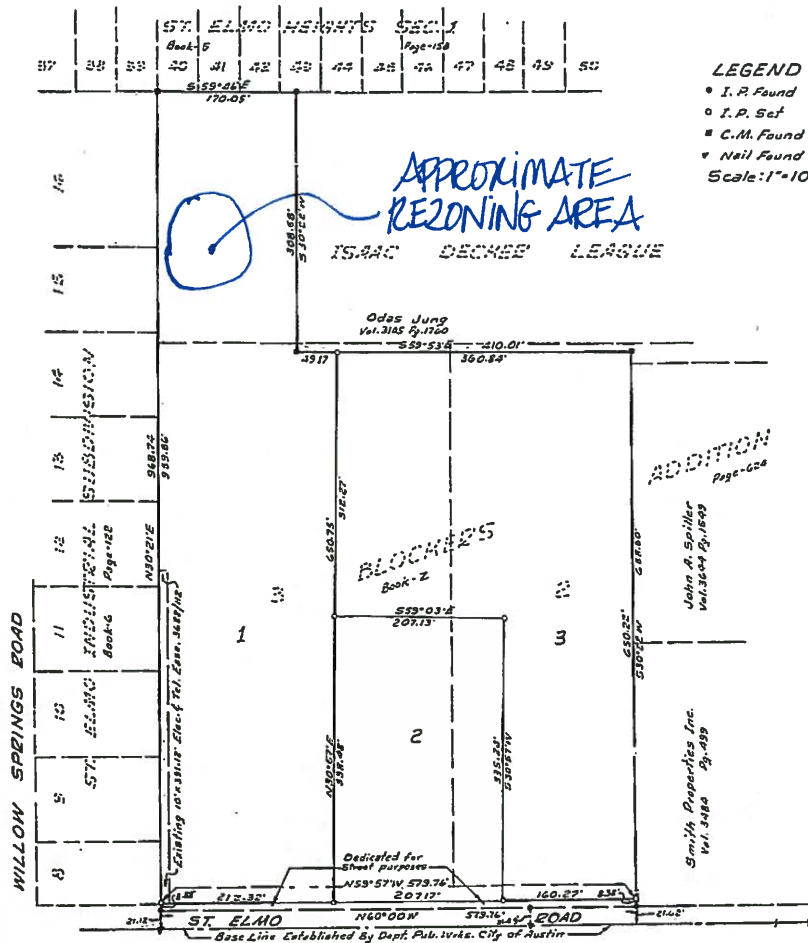
EXHIBIT A



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.





STATE OF TEXAS
COUNTY OF TRAVIS

Before me, the undersigned authority, on this day personally appeared J. E. Motheral, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and considerations therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE, this the 19th day of February AD 1972.

Bonnie L. Hunter
Notary Public in and for Travis County, Texas

STATE OF TEXAS
COUNTY OF TRAVIS

Before me, the undersigned authority, on this day personally appeared Fred Adams, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and considerations therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE, this the 19th day of February AD 1972.

Bonnie L. Hunter
Notary Public in and for Travis County, Texas

STATE OF TEXAS
COUNTY OF TRAVIS

I, Doris Shropshire, Clerk of the County Court within and for the County and State aforesaid, do hereby certify that the within and foregoing instrument of writing with its certificate of authentication was filed for record in my office on the 13 day of March AD 1972 at 10:35 o'clock A.M. and duly recorded on the 13 day of March AD 1972 at 10:40 o'clock A.M. in the Plat Records of said County in Book 58 at Page 18.

WITNESS MY HAND AND SEAL OF THE COURT of said County, the date last written above.

Doris Shropshire, Clerk County Court, Travis County, Texas.

BY Bonnie L. Hunter
Deputy

FILED FOR RECORD, this the 13 day of March AD 1972 at 10:35 o'clock A.M.

Doris Shropshire, Clerk County Court, Travis County, Texas.

BY Bonnie L. Hunter
Deputy

APPROVED FOR ACCEPTANCE:

Richard R. Lillie DATE 13 March 1972
Richard R. Lillie, Director of Planning

ACCEPTED AND AUTHORIZED FOR RECORD by the Planning Commission of the City of Austin, Texas, on the 13th day of March AD 1972.

John Allen Mother
Chairman Secretary

SURVEYED BY B. P. Priest DATE 2-3-72
B. P. Priest, Reg. Public Surveyor

EXHIBIT B
RECORDED
C85-72-26

STATE OF TEXAS
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS

That I, John Felter, administrator of the Estate of Rosalia R. Felter, Decedent, owner of that certain tract of land out of Lots 2 & 3 of Blockers Addition, a subdivision of a part of the Isaac Decker League in the City of Austin, Travis County, Texas, according to a plat of record in Book 2, Page 624, Deed Records of Travis County, Texas, conveyed to Rosalia R. Felter by deed of record in Volume 1563 at Page 89 Deed Records of Travis County, Texas; and we, J. E. Motheral and Fred Adams, owners of that certain tract of land out of said Lots 2 and 3 of said Blockers Addition, shown hereon as Lot No. 2, conveyed to us by deed of record in Volume 4227 at Page 1345 Deed Records of Travis County, Texas, do hereby subdivide said tracts in accordance with the attached plat, said subdivision to be known as "ST. ELMO WAREHOUSE ADDITION" and we do hereby dedicate to the public the streets and easements shown hereon.

WITNESS OUR HANDS, THIS THE 5 DAY OF FEB

A.D. 1972

John Felter
John Felter

J. E. Motheral

Fred Adams, Sr.
Fred Adams

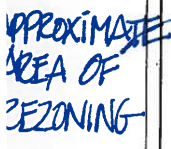
STATE OF TEXAS
COUNTY OF TRAVIS

Before me, the undersigned authority, on this day personally appeared John Felter, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and considerations therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE, this the 5 day of FEB AD 1972.

John Felter
Notary Public in and for Travis County, Texas

EXHIBIT C
APPROVED
SITE
PLAN

[illegible][illegible]

| | | | |
|---|--|---|--|
| THE DIVISION OF AIRPORTS AIRPORTS SECTION 1000 UNIVERSITY AVENUE SUITE 100 SEATTLE, WASHINGTON 98101 TEL: 206-462-3000 FAX: 206-462-3001 TOLL FREE: 1-800-462-3001 | | THE YARD 404, 444, 504 & ST. BLVD. ST. AUSTIN, TX 78746 | |
| CIVILITE ENGINEERS & PLANNERS 1310 HUNTERDOWNS AVE SUITE 200 FORT WORTH, TEXAS 76107 TEL: 817-761-0861 FAX: 817-761-0861 | | SHARED-PARKING SITE PLAN | |
| SCALE: JOB NO.: AL75-001 DON BY: ANKI DWN BY: GAK PWN BY: TBE | | AERIAL PHOTOGRAPH DATE: 12/11/85 SCALE: 1"=100' | |
| APPROVED FOR THE DIVISION OF AIRPORTS DATE: 12/11/85 BY: [Signature] PROJECT INFORMATION (See Appendix C) SHEET NO. 5 | | APPROVED FOR THE CLIENT DATE: 12/11/85 BY: [Signature] PROJECT INFORMATION (See Appendix C) SHEET NO. 5 | |

STAFF RECOMMENDATION

The Staff's recommendation is to grant the Applicant's request for commercial – liquor sales – conditional overlay – neighborhood plan (CS-1-CO-NP) combining district zoning. The Conditional Overlay prohibits adult-oriented businesses and limits the size of a cocktail lounge to 2,049 square feet. The Restrictive Covenant 1) limits the cocktail lounge use to a tasting room associated with the distillery, and 2) permits wholesale and retail sale of alcoholic beverages, limited to that manufactured or produced by or for the distillery.

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

Existing Zoning: The LI, limited industrial services district designation is for a commercial service use or limited manufacturing use generally located on a medium or large sized site. The NP, neighborhood plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

Proposed Zoning: The commercial – liquor sales (CS-1) zoning district is intended for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use. The NP, neighborhood plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

2. *The proposed zoning should allow for a reasonable use of the property.*

Within the past year, several of the building occupancies along the west side of the industrial business park have changed from general manufacturing to two breweries (which still falls under the light manufacturing classification) and office and commercial uses which are permitted in the LI base district. Staff recommends the Applicant's request for the following reasons: 1) the cocktail lounge would be associated with the principal light manufacturing (distillery) use; and 2) the area is experiencing a degree of transition from stand-alone manufacturing uses to a mix of uses that include manufacturing, commercial and office uses and planned residential development.

EXISTING CONDITIONS

Site Characteristics

The overall site contains 13 industrial warehouse buildings and a common driveway, and there appear to be no significant topographical constraints on the site.

Impervious Cover

Within the Williamson Creek watershed, the maximum impervious cover allowed by the CS-1-NP zoning district would be 80%, which is based on the more restrictive watershed regulations.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Williamson 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.

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% |

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.

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.

Site Plan and Compatibility Standards

No site plan comments at this time. Comments will be provided upon submittal of an application for site development permit.

Transportation

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

A conditional overlay of a trip limitation is ***not*** recommended at this time. A Traffic Impact Analysis may be required at the time of site plan if triggered per LDC 25-6-113.

According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a separated bike lane bicycle facility is recommended for St. Elmo Road.

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, 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.

Thrower Design

510 S. Congress Avenue, Ste. 207
P. O. Box 41957
Austin, Texas 78704
(512) 476-4456

November 4, 2015

Mr. Greg Guernsey, Director
Planning & Zoning Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: 444 E. St. Elmo Road Rezoning

Dear Mr. Guernsey,

This firm is representing The Elmo Yard, LLC related to the above referenced rezoning case filed concurrently with this letter. The Elmo Tard, LLC is a large parcel of land that contains multiple buildings stretched between St. Elmo Road and Industrial Blvd in south Austin. The entire property is zoned as "LI-NP", Limited Industrial – Neighborhood Plan.

The purpose of this rezoning application is to rezone a small portion of the property to "CS-1-NP" to allow for a Cocktail Lounge use associated with a Food Preparation use. The area of rezoning amounts to 7,289 s.f., or 0.167 acres, and contains an indoor area and an outdoor area. The design of the facility is not finalized and will not be any larger than the amount requested. In fact, the area will be smaller due to parking constraints. We are willing to place a Conditional Overlay with the rezoning that a Cocktail Lounge use is limited to 2,049 s.f. inside the 7,289 s.f. area that is proposed for rezoning.

Thank you for your consideration for this request. Please let me know if you have any questions.

Sincerely,



A. Ron Thrower

L A N D P L A N N E R S

440 St. Elmo, Building F

NPA-2016-0020.01 and C14-2016-24

Case Summary

The applicant has requested a change in the Future Land Use Map (FLUM) from INDUSTRY to COMMERCIAL for a portion of the premises located at Building F, 440 St. Elmo, Austin, TX, as filed with City of Austin Case # NPA-2016-0020.01.

The applicant has requested a zoning change from LI-NP (Limited Industrial Service-District-Neighborhood Plan) to CS-1-NP (Commercial-Liquor Sales-Neighborhood Plan) for a cocktail lounge use for a portion of the premises located at Building F, 440 St. Elmo, as filed with City of Austin Case # C14-2016-0024.

The following shall apply only to the rezoning area and Future Land Use Map changes are requested, hereinafter referred to as "the Premises."

Conditional Overlay:

1. The following are prohibited uses: Adult oriented business
2. Cocktail lounge use is limited on the Premises to 2049 sq. ft.

Public Restrictive Covenant to be filed with Travis County Public Records with the City and the landowner as a party as agreed upon by the landowner, business owner and South Congress Combined Neighborhood Contact team:

1. Cocktail lounge use is permitted on the Premises, but is limited to a tasting room associated with the distillery located on the Premises.
2. Wholesale and retail sale of alcoholic beverages is permitted on the Premises, but shall be limited to the sale of alcoholic beverages manufactured or produced by or for the distillery located on the Premises.

Private Restrictive Covenant to be filed with Travis County Public Records with the landowner and the South Congress Combined Neighborhood Contact Team as parties as agreed upon by landowner, business owner, and South Congress Combined Neighborhood Contact team:

1. Bottles of packaged alcohol products can be purchased on the Premises, but shall not be consumed on the Premises.
2. Amplified outdoor music is prohibited on the Premises before 10 a.m. any day of the week, after 10:30 p.m. Sunday through Thursday, and after 12:00 a.m. Friday or Saturday.
3. The Premises shall be limited to no more than twenty-four (24) events that require a City of Austin Temporary Sound Permit for the Premises per 12-month period.
4. Security personnel or devices shall be provided by the business for the Premises during the hours that the distillery on the Premises is open to the public.

Approved as to Form and Content:

By the South Congress Combined Contact Team on 4/27/16, 8-0 in favor votes.

Michael E. Fossun

MICHAEL FOSSUN 5/17/16

Richard M. Mawes

Richard Mawes 5/17/2016

By: _____

Authorized Representative of South Congress
Combined Contact Team

George Kreber

GEORGE KREBER 5/17/16

Mario Cantu

Mario Cantu 5/17/16

Adam Zimmerman

By: Adam Zimmerman, Manager
Authorized Representative of Landowner
ATLAS/ZIMMERMAN FAMILY LLC,
THE YARD HOLDINGS LLC,
as tenants-in-common

Christopher Seals

By: Christopher Seals, CEO

Authorized Representative of Tenant
Still Austin Distillery, LLC