

ZONING CHANGE REVIEW SHEET**CASE:** C14-2017-0002 – Strub Residential**Z.A.P. DATE:** May 16, 2017**ADDRESS:** 2401 Hancock Drive**DISTRICT:** 7**OWNER / APPLICANT:** Moose and Pony Property,
LLC-Series Hancock (Mark Strub)**AGENT:** Drenner Group
(Jewels Nickells)**ZONING FROM:** SF-3 **TO:** NO-MU**AREA:** 0.1659 acres
(approximately 7,226.60 square feet)**SUMMARY STAFF RECOMMENDATION:**

The Staff's recommendation is to deny the Applicant's request for neighborhood office – mixed use (NO-MU) combining district zoning, and recommends maintaining the existing family residence (SF-3) district zoning.

However, if the requested NO-MU zoning is granted, it is recommended that a Conditional Overlay be added to prohibit motor vehicle access to Hancock Drive because it is classified as an arterial street and alternative access is available to Woodview Avenue.

ZONING & PLATTING COMMISSION RECOMMENDATION:

May 16, 2017:

ISSUES:

The Applicant has requested a postponement to June 20, 2017. Correspondence in support and in opposition to the proposed zoning change are attached at the back of this report.

DEPARTMENT COMMENTS:

The subject platted lot situated at the southwest corner of Hancock Drive and Woodview Street contains a one-story, single family residence and is zoned family residence (SF-3) district zoning. Driveway access is taken to Woodview Street, a local street. There are single family residences to the north, south and west (SF-2, SF-3), and a commercial, office and civic uses across Woodview Street to the east which have frontage on Hancock Drive (GR). North Loop Boulevard terminates at the Hancock / Woodview intersection and contains a restaurant (general) and service station / food sales uses (GR). Please refer to Exhibits A (Zoning Map), A-1 (Aerial View) and A-2 (Survey of Property).

The Applicant proposes neighborhood office – mixed use (NO-MU) district zoning to convert the residence into a Realtor's office which is classified as an administrative and

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business office use. An –MU combining district is proposed and would continue to allow the existing single family residence use of the property.

There is a deed restriction on the property and also applies to all lots in the Shoalmont Addition Section Two plat which states: "All lots in the tract shall be known as residential lots." In accordance with a long-standing Council resolution dated December 1987, it is the policy of the City of Austin to not recommend zoning which would contradict a current deed restriction or restrictive covenant. Please refer to Exhibits C and D.

However, after reviewing the zoning map and field checking the area, Staff would not have recommended the zoning change regardless of the deed restriction. There are commercial and office uses to the east of the tract, however, to the south and west is a single family residential neighborhood. Woodview Street functions as a division between the residential and non-residential areas. Between Woodview Street and Finley Street (approximately 1,390 feet to the west) there are no commercial or office zonings. Since this area is an established single family residential neighborhood, Staff cannot recommend the proposed change.

There is an adequate amount of commercial zoning in the vicinity to service the neighborhood as evidenced by the commercial zoning across Woodview to the east and Finley to the west.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-3	Single family residence
<i>North</i>	SF-2	Single family residences in the Shoalmont Addition Resubdivision
<i>South</i>	SF-3	Single family residences in the Shoalmont Addition Section 2 subdivision
<i>East</i>	GR	Restaurant / food sales; Private primary educational facility
<i>West</i>	SF-3	Single family residences in the Shoalmont Addition Section 2 subdivision

AREA STUDY: N / A

TIA: Is not required

WATERSHED: Shoal Creek – Urban

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

3 – Allandale Neighborhood Association	283 – North Austin Neighborhood Alliance
511 – Austin Neighborhoods Council	725 – North Loop Neighborhood Association
742 – Austin Independent School District	769 – 5702 Wynona Neighbors
1150 – Austinramp	1228 – Sierra Club, Austin Regional Group
1340 – Austin Heritage Tree Foundation	1363 – SELTexas
1391 – Central Austin Community Development	1396 – Sustainable Neighborhoods

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1424 – Preservation Austin
 1504 – Lower District 7 Green
 1528 – Bike Austin
 1550 – Homeless Neighborhood Association

1497 – Shoal Creek Conservancy
 1507 – NW Austin Neighbors
 1530 – Friends of Austin Neighborhoods

SCHOOLS:

Highland Park Elementary School Lamar Middle School McCallum High School

CASE HISTORIES:

There are no recent case histories in the vicinity of this property.

RELATED CASES:

The rezoning area is platted as Lot 42, Shoalmont Addition Section 2, recorded in February 1939 (C8-1939-1558). Please refer to Exhibit B.

Two previous rezoning cases proposing office zoning were filed on the property. In June 2002, an application for NO district zoning was filed and expired due to lack of timely scheduling for consideration by the Zoning and Platting Commission (C14-02-0104 – Rezoning of 2401 Hancock Drive). In October 2006, an application for NO zoning case filed and was withdrawn before Zoning and Platting Commission action was taken (C14-06-0206 – Meyers Neighborhood Real Estate Office).

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Hancock Drive	70 feet	40 feet	Minor arterial	Yes	Bike lane	Route 491
Woodview Avenue	50 feet	25 feet	Local	No	No	Route 491

CITY COUNCIL DATE: June 15, 2017

ACTION:

ORDINANCE READINGS: 1st

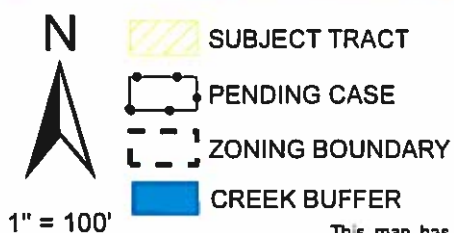
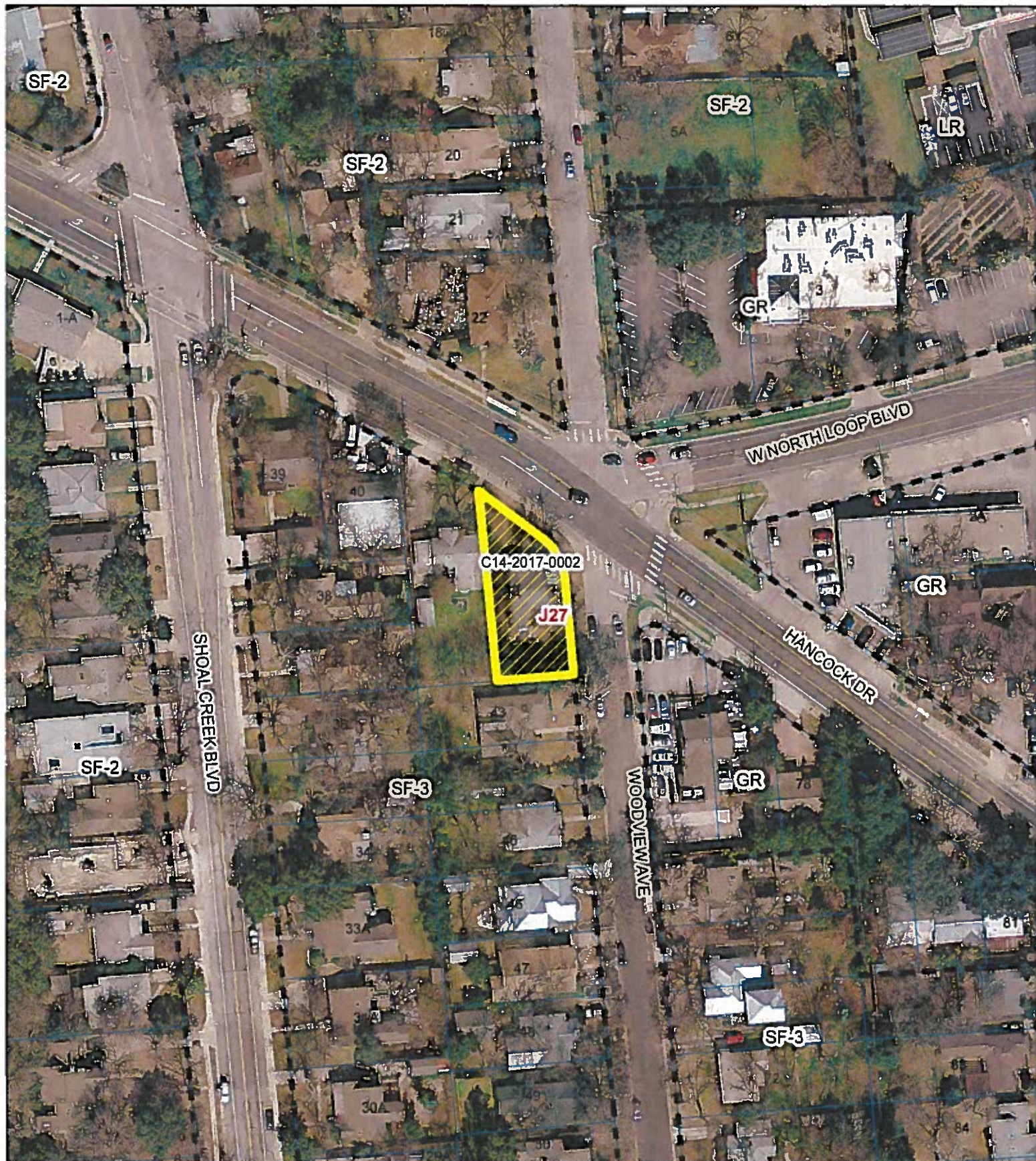
2nd

3rd

ORDINANCE NUMBER:

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

PHONE: 512-974-7719



ZONING - STRUB RESIDENTIAL *EXHIBIT A-1*

ZONING CASE#: C14-2017-0002
 LOCATION: 2401 HANCOCK DR
 SUBJECT AREA: 0.1659 ACRES (7,226 s.f.)
 GRID: J27
 MANAGER: WENDY RHOADES



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

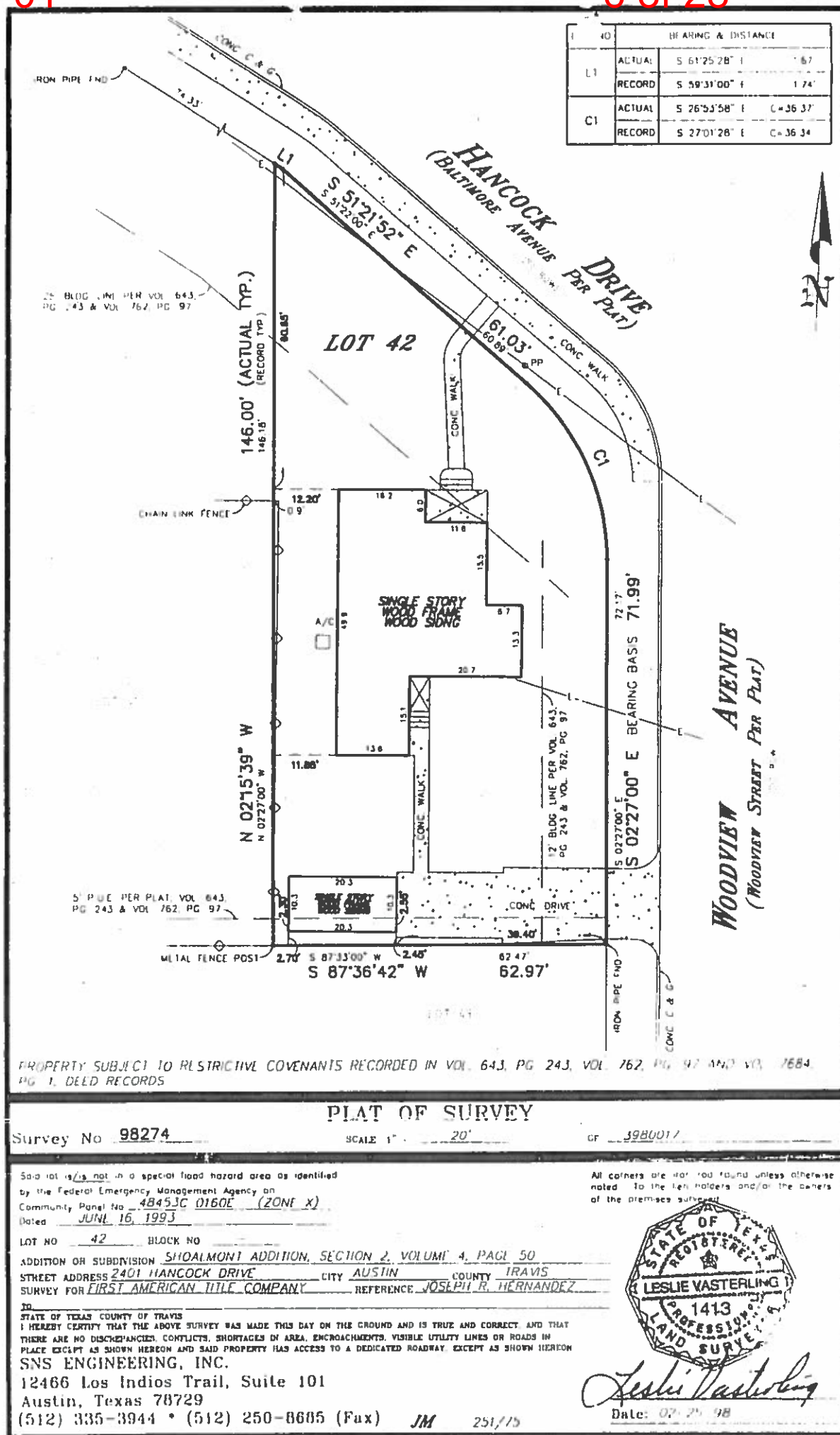
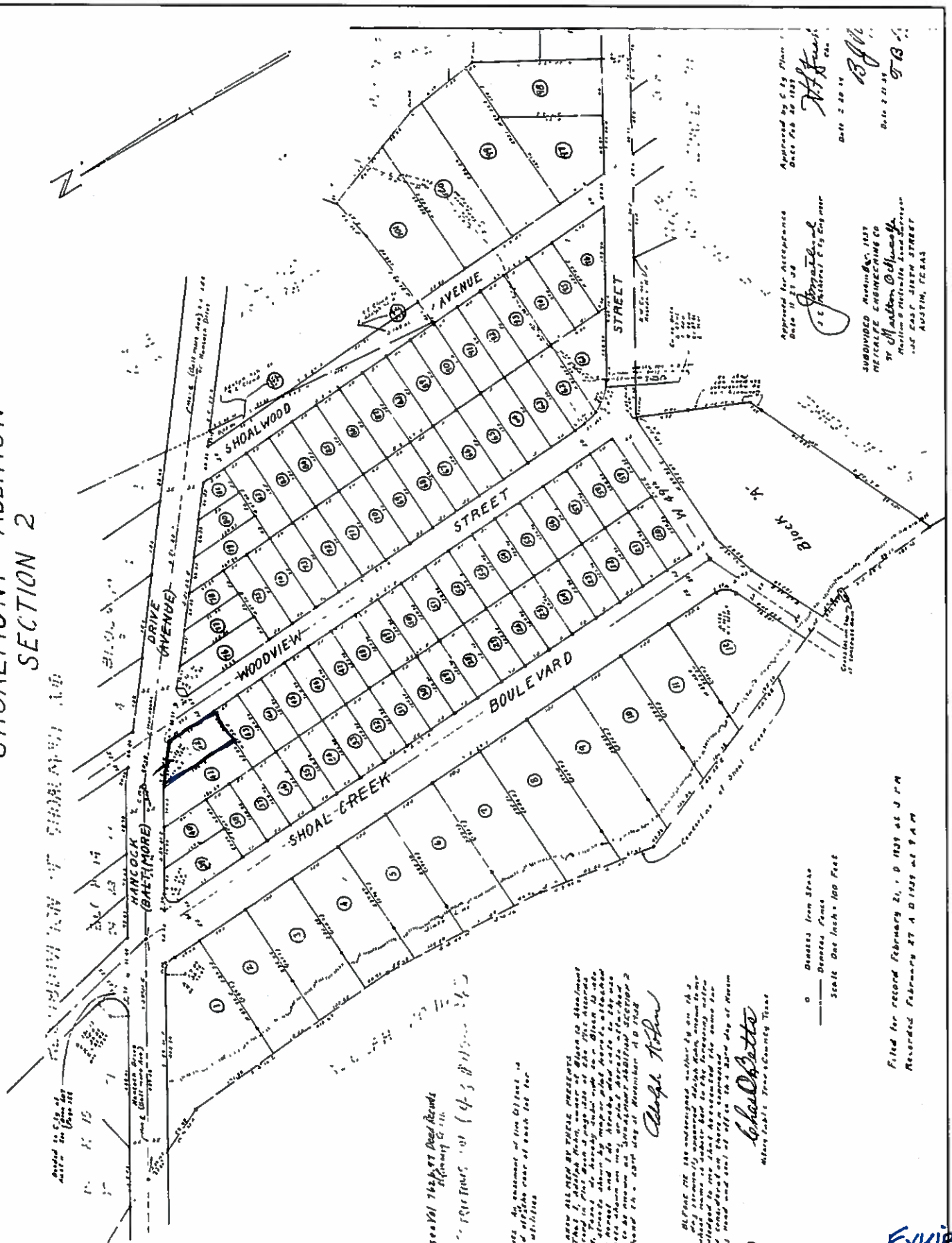


EXHIBIT A-2

SHOALMONT ADDITION SECTION 2



Note for restrictions on Val Tazewell Deed Records
February 2, 1939

Facsimile by agreement of (in 10) feet, as
received after the rear of each lot for
public utilities

STATE OF TEXAS }
COUNTY OF TRAVIS }
I, Charles H. Hester, of the County of Travis, State of Texas, do hereby certify that the above described land is the same as that shown on the plat of the Shoalmont Addition, Section 2, Township 33 North, Range 12 East, 6th Meridian, and that the same has been surveyed and platted in accordance with the laws of the State of Texas, and that the same is now being offered for sale to the public by the undersigned.

Charles H. Hester

STATE OF TEXAS }
COUNTY OF TRAVIS }
I, Charles H. Hester, of the County of Travis, State of Texas, do hereby certify that the above described land is the same as that shown on the plat of the Shoalmont Addition, Section 2, Township 33 North, Range 12 East, 6th Meridian, and that the same has been surveyed and platted in accordance with the laws of the State of Texas, and that the same is now being offered for sale to the public by the undersigned.

Charles H. Hester

(Notary Seal)

0 Denotes Iron Stake
— Denotes Fence
Scale One Inch = 100 Feet

Plat 121
Page 50

EXHIBIT B
RECORDED
PLAT

Filed for record February 21, 1939 at 3 P.M.
Recorded February 27 A.D. 1939 at 9 A.M.

Approved for Acceptance
Date Feb 27, 1939
J. E. Hester
J. E. Hester & Co. Eng'rs

SUBDIVIDED ACCORDING TO
RECALCULATED ENGINEERING CO.
BY J. E. Hester & Co. Eng'rs
HARRISBURG, PENNSYLVANIA
JAN. 2, 1939

C8-1939-1558

1-1-87
REST COV.RESOLUTION

WHEREAS, in considering requests for zoning and rezoning, the City Council applies its legislative discretion to protect and advance the public interest; and

WHEREAS, where property is subject to a private restriction prohibiting non-residential uses, zoning or rezoning the property to a zoning district where non-residential uses are allowed may result in litigation brought by citizens entitled to the benefits of the restriction; and

WHEREAS, the City Council believes the public interest is better served, in such instances, by deferring any change of zoning which might be inconsistent with such private restrictions until the private restrictions are removed or declared invalid by a court of competent jurisdiction; Now, Therefore,

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

That the City Council hereby expresses its general policy and intention to deny any requests to zone or rezone property to allow uses which may conflict with existing private restrictions prohibiting non-residential uses on the property; and

BE IT FURTHER RESOLVED:

That the City Council will assume a private restriction prohibiting non-residential uses on property is valid, notwithstanding any other facts, until the restriction is removed or declared invalid by a court of competent jurisdiction.

ADOPTED: December 3, 1987

ATTEST:

James E. Aldridge
James E. Aldridge
City Clerk

EXHIBIT C

JUN-18-02 TUE 08:25 AM GRAC

FAX NO. 512-786038

P. 05

ADOLPH KOHN ET AL

TO

THE PUBLIC

RESTRICTIONS: SHOALMONT - SECTION 2
 DATED JANUARY 14, 1946
 FILED JANUARY 23, 1946
 RECORDED IN VOL. 762, PAGES 97-99
 RECORDS OF TRAVIS COUNTY, TEXAS.

THE STATE OF TEXAS #
 COUNTY OF TRAVIS #

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, owners of property in the subdivision below, in order to assure insofar as possible the best development of said property hereinafter described, and for the purpose of protecting purchasers and owners of property in said sub-division, and for our own benefit and the benefit of each and every other person who may own property in such subdivision in the future we, Adolph Kohn and wife, Mollie Kohn, together with the other undersigned owners of property included in the below description, do here now and hereby make and place the following restrictions upon the following described property, to-wit:

All the property comprising what is known as "Shoalmont Addition, Section 2", in Travis County, Texas, as recorded and shown in the plat of Travis County, Texas, Plat Book No. 4, page 50.

All of said above described property shall be subject to the following restrictions and/or covenants, forever, except as hereinafter provided:

(A) All lots in the tract shall be known and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single-family dwelling and a private garage and other out-buildings incidental to residential use of the plot.

(B) No building shall be located on any residential building plot nearer than twenty-five (25) ft. to the front line, nor nearer than twelve (12) feet to any side street line.

(C) No residential structure shall be erected or placed on any building plot, which plot has an area of less than six thousand (6,000) square feet or a width of less than fifty (50) feet at the front building setback line.

(D) No noxious or offensive trade or occupation shall be carried on upon any lot, nor shall anything be done thereon which may be or become a nuisance or annoyance to the neighborhood.

(E) No person of any race other than the Caucasian race shall use or occupy any building or lot, nor shall any covenant shall not prevent occupancy by domestic servants of a different race domiciled with an owner or tenant.

(F) No trailer, basement, tent, shack, garage, barn or other out-building erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

(G) No dwelling costing less than Six Thousand & No/100 (\$6,000.00) Dollars, including cost of material and labor only, shall be permitted on Lots Numbered One (1) to Twelve (12) inclusive, and that part of Block "A" lying west of Shoal Creek Blvd, in said tract. The ground floor area of main structure, exclusive of one-story open porches and garages, shall be no less than one thousand and fifty (1050) sq. ft.

No dwelling costing less than Four Thousand & No/100 (\$4,000.00) Dollars, including cost of material and labor only, shall be permitted on any other part or plot of this tract; and the ground floor area of the main structure in such case, exclusive of one story open porches and garages, shall be no less than eight hundred and fifty (850) sq. ft.

(H) An easement is reserved over the rear five (5) feet of every lot for utility installation and maintenance.

(I) These covenants are to run with the land and shall be binding on all the parties and all persons claiming under them until January 1, 1996 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by a vote of the majority of the then owners it is agreed to change the said covenants in whole or in part.

(J) If the parties hereto, or any of them, or their heirs or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said development or sub-division, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

(K) Invalidity of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in force and effect.

(L) The failure at any time to enforce these restrictions or covenants by the undersigned, their heirs or assigns, or by any other person having

EXHIBIT D

JUN-18-02 TUE 08:25 AM GRACY

FAX NO. 5124780038

P. 00

-2- 762/97-99

right to do so, whether such violation is of knowledge or not, shall not constitute a waiver or estoppel of their right to do so at any time.

In Testimony Whereof, We have placed our signatures hereto, this the 14th day of January, A. D., 1946.

Adolph Kohn
Billie Kohn
Guy R. Hester
Clifford E. Wolff
Leroy T. Clark

STATUTORY ACKNOWLEDGMENT

AMENDED RESTRICTIVE COVENANTS

THE STATE OF TEXAS

COUNTY OF TRAVIS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

2-79-1439

RECITALS

The individual owners ("Owners") executing this document own the lots identified on the Affidavit of Consent to Amended Restrictive Covenants and Acknowledgment annexed hereto and made a part hereof. All of such lots are located within the area (hereinafter, the "Subdivisions") described as follows:

Shoalmont Addition, a subdivision of a part of the George W. Spear League No. 7 and a part of the James P. Davis Survey No. 14, according to the map or plat thereof of record in Plat Book 3, Page 230, of the Plat Records of Travis County, Texas (hereinafter, "Shoalmont Addition"); the Resubdivision of Shoalmont Addition according to the map or plat thereof of record in Plat Book 4, Page 9, of the Plat Records of Travis County, Texas (hereinafter, the "Resubdivision of Shoalmont Addition"); and Shoalmont Addition Section #2, according to the map or plat thereof of record in Book 4, Page 50, of the Plat Records of Travis County, Texas (hereinafter, "Shoalmont Addition Section #2"). Some of the lots owned by Owners are located in subdivisions which are in fact resubdivisions of portions of said Shoalmont Addition, the Resubdivision of Shoalmont Addition, and Shoalmont Addition Section #2.

By instrument dated the 26th day of March, 1940, executed by Adolph Kahn, et al., of record in Volume 643, Page 243, of the Deed Records of Travis County, Texas, certain restrictions (hereinafter, the "Restrictions") were placed upon the following described property, to-wit:

"All the property comprising the 'Re-Subdivision of Shoalmont Addition', in Travis County, Texas, as the same is set out in plat recorded in Plat Book #4, Page #9, of the plat records of Travis County, Texas; together with all of the property shown and designated as 'Shoalmont Addition Section #2', on plat recorded in Plat Book #4, Page #50, of the Plat Records of Travis County, Texas."

DEED RECORDS
Travis County, Texas

7684 1

Private

Amended
Deed Restrictions

The Restrictions further provided as follows:

"All of said above described property shall be subject to the following restrictions and/or covenants, forever, except as hereinafter provided:

2-79-1440

- "(A) All lots in the tract shall be known and described as residential lots, except Lots No.s One (1), Two (2), Three (3), Four (4), Five (5), Six (6), and Seven (7), in Block One (1), of the Re-Subdivision of Shoalmont Addition, and Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), and Seven (7), in Block No. Two (2), of the Re-Subdivision of Shoalmont Addition. ..."

The Restrictions contain the following covenant:

- "(I) These covenants are to run with the land and shall be binding on all of the parties and all persons claiming under them until January 1, 1965, at which time said covenants shall be automatically extended for successive periods of ten years unless by vote of a majority of the then owners it is agreed to change the said covenants in whole or in part."

The Owners signing this document (which may be signed in more than one counterpart) comprise more than fifty percent (50%) of the present owners of lots in the Subdivisions and desire to amend the Restrictions pursuant to the above quoted provision permitting amendment thereof by majority of the Owners.

Accordingly, it is agreed by the undersigned as follows:

The Restrictions of record in Volume 643, Page 243, of the Deed Records of Travis County, Texas, are amended as follows:

Paragraph "(I)" of the Restrictions is hereby amended to read as follows:

- "(I) These covenants, conditions and restrictions shall run with the land and shall be binding upon and inure to the benefit of all persons, who now or hereafter own property in the Shoalmont Addition, a subdivision of a part of the George W. Spear League No. 7 and a part of the James P. Davis Survey No. 14, according to the map or plat thereof of record in Plat Book 3, Page 230, of the Plat Records of Travis County, Texas; the Resubdivision of Shoalmont Addition according to the map or plat thereof of record in Plat Book 4, Page 9, of the Plat Records of Travis County, Texas; and Shoalmont Addition Section #2, according to the map or plat thereof of record in Book 4, Page 50, of the Plat Records of Travis County, Texas, and any resubdivisions of portions of said

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Shoalmont Addition, Resubdivision of Shoalmont Addition and Shoalmont Addition Section 12, for a period of twenty-five (25) years from January 1, 1981, and thereafter shall be automatically renewed for successive periods of ten (10) years unless amended or revoked by a recordable instrument executed by the owners of at least sixty-six and two-thirds percent (66-2/3%) of the lots in said subdivisions, (hereinafter, the "Subdivisions"), with the owners, in the aggregate, of each lot being entitled to but one vote.

The Restrictions are further amended to include the following paragraphs:

- "(M) Except as set forth in Paragraph "(O)(i)" below, there shall be no resubdivision of any lot shown on the plat entitled 'Resubdivision of Shoalmont Addition' of record in Plat Book 4, Page 9, of the Plat Records of Travis County, Texas, or the plat entitled 'Shoalmont Addition Section 12', of record in Plat Book 4, Page 50, of the Plat Records of Travis County, Texas, without the advance written approval of the Owners of at least sixty-six and two-thirds percent (66-2/3%) of all lots in the Subdivisions, with the owners in the aggregate of each lot being entitled to but one vote.
- "(N) In the event that legal action is required to be taken by any person now or hereafter owning an interest in any land within the Subdivisions to enforce these Restrictions, and such action is successful, the attorney's fees and costs of the prevailing party shall be paid by the violator.
- "(O) The following covenants shall apply to Lots 10 and 11 in Block 12, Shoalmont Addition, as shown by the plat of Shoalmont Addition recorded in Plat Book 3, Page 230, of the Plat Records of Travis County, Texas, and the plat of the Resubdivision of Shoalmont Addition recorded in Plat Book 4, Page 9, of the Plat Records of Travis County, Texas:
- (i) Notwithstanding any other provision of these Restrictions, such Lots 10 and 11 may be resubdivided into one lot, without further approval of the owners of any of the lots in the Subdivisions herein described, provided that all Restrictions as amended herein shall continue to apply to any resubdivided lot consisting of Lots 10 and 11 or any portion thereof.
- (ii) Notwithstanding any other provision of these Restrictions, provided that the owner(s) have complied with the ordinances of the City of Austin regarding construction across lot lines, there may be constructed and erected on such Lots 10 and 11 a condominium project complying with the applicable laws of the State of Texas pertaining to condominiums (the "Condominium Project"). The Condominium Project shall contain

2-79-1442

a total of not more than 21,000 square feet of enclosed indoor space, shall contain no more than 20 units and shall not be more than 33 feet in height, nor more than two stories in height including the basement, if any. The exterior of the Condominium Project, (excluding the roof) shall be constructed with a minimum of sixty-five percent (65%) masonry finish. For purposes of this subparagraph, the term "enclosed indoor space" shall mean the total area on all levels within the outermost perimeter of the walls of any structure comprising the Condominium Project.

- (iii) No balconies shall be constructed, placed or permitted to remain on the west side of any building constituting a part of the Condominium Project.
- (iv) All exterior lighting installed on Lots 10 and 11 shall be hooded, diffused, or otherwise designed and arranged to prevent the physical light source (e.g., the bulb) from being visible from adjacent properties and public streets.
- (v) Along the West line of Lot 11 and the South Line of Lots 10 and 11 as same presently exist, there shall be erected and at all times maintained in good condition, a solid wood fence, six feet (6') in height, presenting a continuous and unbroken screen of privacy between said Lots 10 and 11 and adjacent lots. The fence will be so constructed as to present the relatively smooth exterior surface to the adjoining property, and any vertical or horizontal braces or posts will be on the inside of the fence facing the Condominium Project.
- (vi) That portion of Lots 10 and 11 lying to the north of the front (north) exterior of the Condominium Project outlined as Section One on the Plot Plan attached hereto as Exhibit "A" not needed for sidewalks, or not needed for drainage improvements required by the City of Austin shall be retained as open space and landscaped by planting grass, shrubs, trees or other form of vegetative cover, and so maintained so long as these restrictions are in force.
- (vii) The right to build such Condominium Project on such Lots 10 and 11 shall expire if substantial construction is not commenced within five (5) years from the date these amendments are recorded.
- (viii) The Owners hereby approve the plot plan of such Condominium Project attached hereto as Exhibit "A" and made a part hereof, and agree that a Condominium Project built in accordance with such plot plan and the other requirements hereof shall comply with these restrictions.
- (ix) There is hereby appointed a three (3) member Architectural Control Committee consisting of the following persons: Charles Watkins, Douglas Tabony and Olivia Adams. In the event any member of such Architectural Control Committee shall die, resign, or be unwilling or unable to serve for any reason, the remaining

2-79-1443

member or members shall appoint a successor or successors. The Architectural Control Committee, acting by and through a majority of its members, shall have the responsibility and authority to (a) certify to any lender, purchaser or third person that the plans and specifications for the Condominium Project comply with the terms hereof, or identify the respects in which they fail to comply, (b) certify that the Condominium Project, as constructed, complies with the provisions hereof, or identify the respects in which it fails to comply, (c) approve changes in the plot plan attached hereto as Exhibit "A" provided such changes do not violate any other provision hereof, (d) approve plans, specifications and actual construction of any remodeling or modifications to the Condominium Project which do not violate the provisions hereof, and (e) interpret any inconsistent or ambiguous provisions hereof. The Architectural Control Committee shall upon reasonable request by the Owners of said Lots 10 and 11 provide such certifications, approvals and interpretations (if the Owners of such lots are entitled to same) within a reasonable time after written request therefor. Any lender, purchaser or third party shall be entitled to rely upon such certification, approval or interpretation without further investigation and any such certification, approval or interpretation shall be binding on the owners of all lots in the subdivisions. In the event such Architectural Control Committee shall not give any certification, approval or interpretation to which the Owners of said Lots 10 and 11 shall be entitled hereunder or otherwise respond to a request for certification, approval or interpretation as provided hereinabove, within twenty (20) days after receiving written request therefor, then it shall be conclusively presumed that such approval, certification or interpretation was granted and an affidavit to such effect filed by the Owners of Lots 10 and 11, or their duly authorized representatives, filed in the Deed Records of Travis County, Texas, shall conclusively establish such approval, certification or interpretation as to any lender or third party relying upon such affidavit.

- (x) In the event all of the members of the Architectural Control Committee shall die, resign or be unwilling or unable to serve for any reason without having appointed successors, then, and only in that event, the Owners of said Lots 10 and 11 (who may act by and through any association of condominium owners formed in accordance with the rules or bylaws of the Condominium Project) shall have the responsibility and authority to select a nominating committee composed of three (3) owners of residential lots within the Subdivisions, one of whom shall be an owner of a lot in Block 12, one of whom shall be an owner of a lot in Block 14, and one of whom shall be an owner of a lot in Block 6, as such blocks are shown on the plat of the Resubdivision of Shoalmont Addition of record in Book 4, Page 9, of the Plat Records of Travis County, Texas. The Nominating

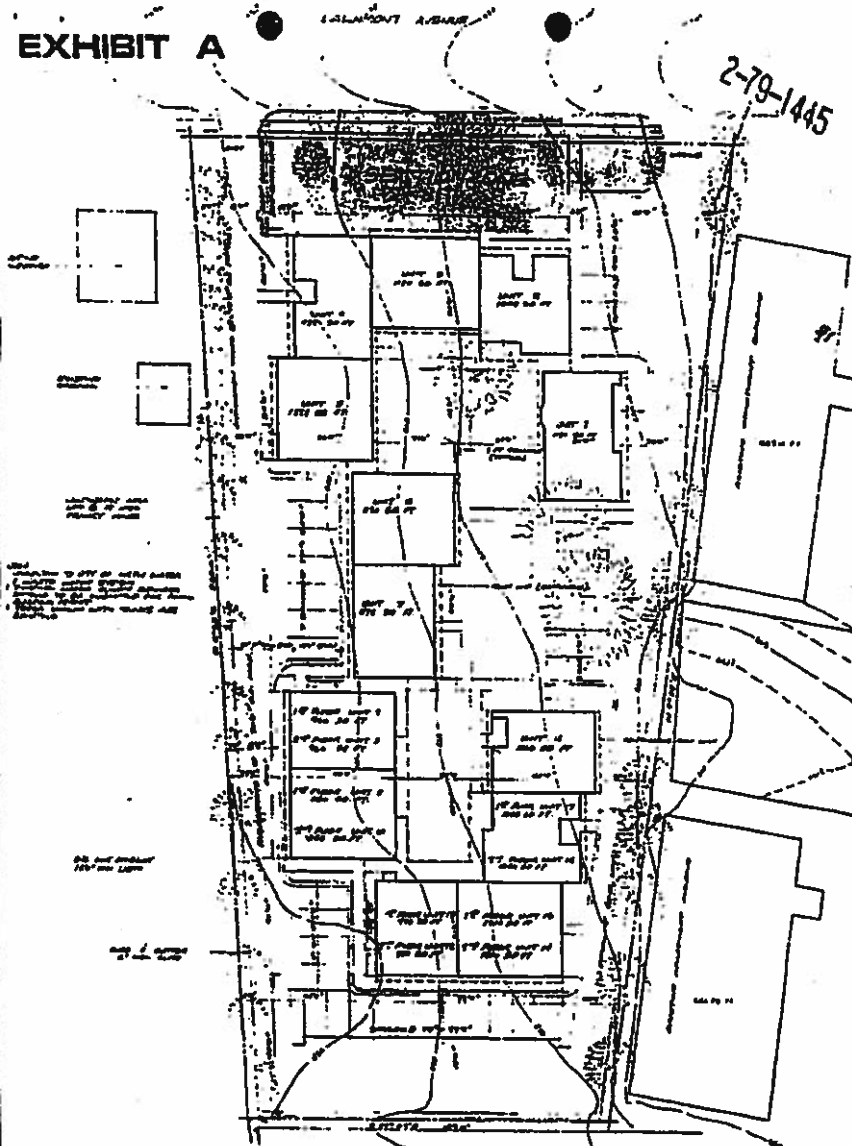
2-79-1444

Committee shall, within forty (40) days thereafter, appoint three (3) willing individuals to serve as the Architectural Control Committee, which Committee shall have all of the rights, duties, and authority conferred upon such Committee hereunder. The members of the Architectural Control Committee shall not include among their number any member of the Nominating Committee, and shall be composed solely of owners of lots within the Subdivisions. The failure of the Nominating Committee to appoint three (3) willing individuals to serve within such 40 day period shall entitle the Owner or Owners of Lots 10 and 11 to appoint such three members.

- (xi) The Architectural Control Committee shall not unreasonably withhold any approval, certification or interpretation which it is authorized to grant hereunder, and the owners of said Lots 10 and 11 shall have the right to enforce this provision by any available legal or equitable remedy. In the event litigation is necessary to enforce or defend any provisions of subparagraph (viii) through (x), the prevailing party shall be entitled to recover reasonable attorney's fees. However, no member of the Architectural Control Committee shall be personally liable for a money judgment for any action or refusal to act if undertaken in good faith. A member shall not be deemed to be acting in good faith if such member fails or refuses to timely consider all relevant material and documents submitted to such member in connection with any request, provided that each such member shall be afforded sufficient time to consider the materials and documents so submitted. No legal action shall be commenced pursuant to this subparagraph without giving to each member of the Architectural Control Committee ten (10) days prior written notice of the intention to institute such action, together with a copy of this subparagraph and specifying the grounds which will constitute the basis of the claim.
- "(P) The Owner of any lot in the Subdivisions may enforce the provisions hereof by any available legal or equitable remedy, including, but not limited to, an injunction, declaratory judgment or action for damages. Nothing herein contained shall be deemed or construed to place any lien, mortgage or similar encumbrance on said Lots 10 and 11, provided, however, that this provision shall not impair the attachment of any judgment lien which is otherwise valid. Any lien of judgment hereinafter imposed upon said Lots 10 and 11 shall be subordinate and inferior to any valid lien or mortgage which has been lawfully placed against said lots and duly recorded at the time that such judgment lien is abstracted.
- "(Q) The invalidity of any provision of these Restrictions as amended shall not affect the validity of the remaining provisions hereof."

EXHIBIT A

2-79-1445



**SITE PLAN
HERITAGE SQUARE :
A CONDOMINIUM PROJECT**



TOTAL NUMBER OF UNITS	18
1 BR/STUDY UNITS	13
2 BR UNITS	5
BUILDING AREA	20,171 SQ. FT.
SITE AREA	56,144 SQ. FT. (1.28 ACRES)
FLOOR AREA RATIO	35.9%
COVERAGE	26.5%
PARKING SPACES	30

7684

7

RECORDS DEPARTMENT
ALL OF PARTS OF THE CITY OF NEW YORK
DID NOT CLEARLY IDENTIFY FOR SHIPMENT RECORDATION

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to deny the Applicant's request for neighborhood office – mixed use (NO-MU) combining district zoning, and recommends maintaining the existing family residence (SF-3) district zoning.

However, if the requested zoning is granted, it is recommended that motor vehicle access to Hancock Drive be prohibited as a condition of zoning because Hancock Drive is classified as an arterial street and alternative access is available.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

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

The neighborhood office (NO) district is intended for offices predominantly serving neighborhood or community needs, which may be located within or adjacent to residential neighborhoods. Offices in the NO district would typically locate on collector streets with a minimum of 40 feet of pavement width, and would not unduly affect traffic in the area. The NO district is designed to accommodate small, single-use offices and to encourage and preserve compatibility with existing neighborhoods through renovation and modernization of existing structures. The mixed use (MU) district is intended to allow for office, retail, commercial and residential uses to be combined in a single development.

2. The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.

3. No change in conditions has occurred within the area indicating that there is a basis for changing the originally established zoning and / or development restrictions for the property.

There is a deed restriction on the property and also applies to all lots in the Shoalmont Addition Section Two plat which states: "All lots in the tract shall be known as residential lots." In accordance with a long-standing Council resolution dated December 1987, it is the policy of the City of Austin to not recommend zoning which would contradict a current deed restriction or restrictive covenant. Please refer to Exhibits C and D.

However, after reviewing the zoning map and field checking the area, Staff would not have recommended the zoning change regardless of the deed restriction. There are commercial and office uses to the east of the tract, however, to the south and west is a single family residential neighborhood. Woodview Street functions as a division between the residential and non-residential areas. Between Woodview Street and Finley Street (approximately 1,390 feet to the west) there are no commercial or office zonings. Since this area is an established single family residential neighborhood, Staff cannot recommend the proposed change.

There is an adequate amount of commercial zoning in the vicinity to service the neighborhood as evidenced by the commercial zoning across Woodview to the east and Finley to the west.

EXISTING CONDITIONS

Site Characteristics

The subject property contains a one-story, single family residence. There appear to be no significant topographical constraints on the site.

Impervious Cover

The maximum impervious cover allowed by the NO-MU zoning district would be 60%, which is based on the zoning regulations.

Comprehensive Planning

The rezoning case is located on the southwest corner of Hancock Drive and Woodview Avenue on a 0.16 acre tract of land, which contains single family house. The subject property is located within the boundaries of the Rosedale NPA, which does not have an adopted neighborhood plan. Surrounding land uses includes single family housing to the north, south and west, and retail and a restaurant to the east. The proposed use is an office.

Connectivity: A CapMetro stop is located within a quarter-mile of this property, while public sidewalks are located across the street, and partially abutting this property. The Walkscore for this site is 23/100, meaning almost all errands are dependent on a car.

Imagine Austin

While there is an Activity Corridor located across the street on North Loop Blvd., based on the comparative scale of this site relative to other commercial uses in this area, this case falls below the scope of Imagine Austin, which is broad in scope, and consequently the plan is neutral on this proposed rezoning.

Drainage

The developer is required to submit a pre and post development drainage analysis at the subdivision and site plan stage of the development process. The City's Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban

C14-2017-0002

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Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Zoning district impervious cover limits apply in the Urban Watershed classification.

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 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.

This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

Site Plan and Compatibility Standards

The site is subject to compatibility standards. Along the south and west property lines, 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 triggering property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the triggering property line.
- No parking or driveways are allowed within 25 feet of the property line.
- A landscape area at least 15 feet in width is required along the property line if the lot is zoned NO.
- A fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed within 50 feet of adjoining SF-4A or SF-2 zoned property.

Additional design regulations will be enforced at the time a site plan is submitted.

Transportation

If the requested zoning is granted, it is recommended that motor vehicle access to Hancock Drive be prohibited as a condition of zoning because Hancock Drive is classified as an arterial street and alternative access is available. Additionally, the limited frontage on Hancock Drive would create safety concerns regarding the proximity of the driveway to the intersection.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

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 Austin Water 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 fees once the landowner makes an application for Austin Water utility tap permits.

Rhoades, Wendy

From: mark strüb | strüb residential <mark@strubresidential.com>
Sent: Wednesday, March 15, 2017 3:58 PM
To: Jewels Nickells; Amanda W. Swor
Cc: christy strüb | strüb residential
Subject: Fw: mark + christy requesting your support

From: Tom Gilliland <thomasgilliland@gmail.com>
Sent: Wednesday, March 15, 2017 3:53 PM
To: mark strüb | strüb residential; Janice Harris; Charles DeAses
Subject: Re: mark + christy requesting your support

To Whom It May Concern:

I support Strub's application to rezone 2401 Hancock Rd. to NO-MU. We are owners of property at 2330 W. North Loop Blvd. directly across the street from the above referenced property. This proposed change will benefit the entire neighborhood. The corridor from this property east on Hancock Rd. to Burnet Rd. and across the street at the corner of Hancock Rd. east on W. North Loop Blvd. is light commercial and there should not be any objection to this rezoning.

If you have any questions concerning this matter, please do not hesitate in contacting me.

Yours truly,

Thomas Gilliland
co-owner of FondaSanMiguel Restaurant, established 1975
2330 W. North Loop Blvd.
Austin 78756
512-459-3401 (ofc.)

Rhoades, Wendy

From: mark strüb | strüb residential <mark@strubresidential.com>
Sent: Saturday, March 18, 2017 10:31 AM
To: Jewels Nickells; Amanda W. Swor
Cc: christy strüb | strüb residential
Subject: Fw: zoning support

From: George Liebes
Sent: Saturday, March 18, 2017 10:23 AM
To: mark strüb | strüb residential
Subject: zoning support

I support Strüb's application to re-zone 2401 Hancock Dr to NO-MU

George Liebes
The Caldwell Company
4112 Marathon Blvd.
Austin, Tx 78756
512-458-4449
[REDACTED]

<http://www.trec.state.tx.us/pdf/contracts/OP-K.pdf>

Texas Law requires all real estate licensees to give the above information about brokerage services.

To Whom It May Concern:

I support Strüb's application to re-zone 2401 Hancock Dr to NO-MU.

Sincerely,
Jen Hill
Neighbor at 5011 Shoal Creek Blvd.

Jen Hill, AIA, LEED AP
Principal
CDK Architects
www.cdkarchitects.com
512-422-0440

March 30, 2017

To Whom it May Concern,

My name is Melissa Rios and I live at 4115 Marathon Blvd. I would like to take a moment to lend my support to Strüb Residential. I have lived at this residence for five years and noticed when Strüb Residential set-up shop directly across the street from me. There has never been an issue with his office being situated there. I support Strüb's application to re-zone 2401 Hancock Dr to NO-MU.

Thank you and feel free to contact me if you have any questions.

Sincerely,

Melissa Rios

512-961-9983

To Whom it May Concern:

I own the office building next door to the current applicants office. They are outstanding people and operate a great neighborhood business. The Hancock neighborhood will be well served with them as neighbors and business owners. Their gain will be our loss.

Again, please be sure to mark my support for this zoning change for 2401 Hancock.

Please feel free to call me if I can be of any further assistance,

Sincerely,

Thad Avery

4117 Guadalupe St

Austin, TX 78751

(512) 374-0300

From: Kurt Soster <[REDACTED]>

Date: Wednesday, March 29, 2017 at 5:37 PM

To: Mark Strüb <[REDACTED]>

Subject: Re: mark + christy requesting your support

Hi Mark and Christy,

Let this email serve as my full support for the change of zoning to NO-MU for your property located at 2401 Hancock Dr. Good luck on your real estate office, I hope the city supports you.

Kurt Soster

Jewels Nickells
direct dial: (512) 807-2906
jnickells@drennergroupp.com

DRENNER GROUP

May 8, 2017

Mr. Greg Guernsey
Planning and Zoning Department
City of Austin
505 Barton Springs Road
Austin, TX 78704

Via Hand Delivery

Re: Strüb Residential (C14-2017-0002) – Rezoning application for the 0.1659 acre piece of property located at 2401 Hancock Drive in Austin, Travis County, Texas (the “Property”)

Dear Mr. Guernsey:

As representatives of the owner of the Property, we respectfully submit a request for postponement of case C14-2017-0002 from the May 16, 2017 Zoning and Platting Commission agenda to the June 20, 2017 Zoning and Platting Commission agenda. This is our first request for postponement.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very truly yours,



Jewels Nickells
Drenner Group

cc: Jerry Rusthoven, Planning and Zoning Review Department (*via electronic delivery*)
Wendy Rhoades, Planning and Zoning Review Department (*via electronic delivery*)

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/planning.

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: C14-2017-0002

Contact: Wendy Rhoades, 512-974-7719

**Public Hearings: May 16, 2017, Zoning and Planning Commission
 June 15, 2017, City Council**

Debra K. Day
 Your Name (please print)

5007 Woodview Ave.

☐ I am in favor
☒ I object

Your address(es) affected by this application

Debra K. Day

Signature

Date

5/8/2017

Daytime Telephone:

Comments:

Our street is already overwhelmed with cars parking from other businesses along Hancock. This is a residential (Woodview) lot's keep it that way.

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

City of Austin
 Planning & Zoning Department
 Wendy Rhoades
 P. O. Box 1088
 Austin, TX 78767-8810

PUBLIC HEARING INFORMATION

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Case Number: C14-2017-0002

Contact: Wendy Rhoades, 512-974-7719

Public Hearings: May 16, 2017, Zoning and Platting Commission
June 15, 2017, City Council

Your Name (please print)

KWEE LAN TEO

☐ I am in favor
☒ I object

2304 Hancock Drive, #6,

Your address(es) affected by this application

Austin, TX 78756

Signature

Date

Daytime Telephone:

(512) 468-1278

Comments:

There does not seem to be space set aside to accommodate parking, which is already an issue on this street.

Owner: KWEE LAN TEO

Mailing: 2500 Steck Ave

Apt-48

Austin, TX 78757

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

City of Austin

Planning & Zoning Department

Wendy Rhoades

P. O. Box 1088

Austin, TX 78767-8810

Wendy,

→ Please note that this address, 602 Harris Ave, should no longer be the mailing address.