

## ZONING CHANGE REVIEW SHEET

CASES: C14-82-185(RCT) – 4401 Gillis  
C14-2021-0177 – 4401 Gillis

DISTRICT: 5

RESTRICTIVE COVENANT REQUEST: To terminate a Restrictive Covenant

ZONING FROM: LO-NP

ZONING TO: SF-3-NP

ADDRESS: 4401 Gillis Street

SITE AREA: 0.242 acres  
(10,541.52 square feet)

PROPERTY OWNER: 4401 Gillis LLC (Jay Symcox)

AGENT: Drenner Group, P.C. (Charley Dorsaneo)

CASE MANAGER: Wendy Rhoades (512-974-7719, [wendy.rhoades@austintexas.gov](mailto:wendy.rhoades@austintexas.gov))

STAFF RECOMMENDATION:

**The Staff recommendations are to terminate the Restrictive Covenant and to grant family residence – neighborhood plan (SF-3-NP) combining district zoning.**

PLANNING COMMISSION ACTION / RECOMMENDATION:

**January 11, 2022: *APPROVED TERMINATION OF THE RESTRICTIVE COVENANT AND SF-3-NP DISTRICT ZONING, AS STAFF RECOMMENDED, BY CONSENT*  
[A. AZHAR; J. CONNOLLY – 2<sup>ND</sup>] (12-0) P. HOWARD – ABSENT**

CITY COUNCIL ACTION:

**February 3, 2022:**

ORDINANCE NUMBER:

ISSUES:

None at this time.

CASE MANAGER COMMENTS:

The subject rezoning area consists of a portion of a platted lot, is located at the southeast corner of Gillis Street and Casey Street, and contains a duplex. It is zoned limited office – neighborhood plan (LO-NP) district by way of a case filed in 1982 and is subject to a public Restrictive Covenant that allows for office and studio use, prescribes the number of parking spaces, and limits signage as shown on an attached site plan. There are residences, both single family and two-family, along and across Gillis and Casey Street in all directions, as

well as a church on the north side of Casey Street. ***Please refer to Exhibits A (Zoning Map) and A-1 (Aerial Exhibit).***

The Applicant has filed two requests for the subject property:

- 1) Terminate the 1983 Restrictive Covenant and remove the provisions for an office and studio use, including the 1982-1983 site plan from applying to the property, and
- 2) Rezone the property to the family residence – neighborhood plan (SF-3-NP) district in order to build a two-family residence on a portion of the property and a duplex on a portion of the remainder.

The proposed rezoning would allow for one single family residence, plus a second detached unit not to exceed 1,100 square feet or a floor-to-area ratio of 0.15, whichever is smaller (two-family residence). The detached unit is limited to 2 stories or 30 feet in height, and 550 square feet on the second story, if any. The Owner also intends to pursue a resubdivision involving a portion of the SF-3-NP zoned lot to the east, and SF-3-NP zoning would permit the construction of a duplex on the newly created lot. SF-3-NP zoning is consistent with that established to the east and west of the Property, including the to-be-subdivided tract.

#### BASIS OF RECOMMENDATION:

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

The family residence (SF-3) district is the designation for a moderate density single-family residential use and a duplex use on a lot that is a minimum of 5,750 square feet. An SF-3 district designation may be applied to a use in an existing single-family neighborhood with moderate sized lots or to new development of family housing on lots that are 5,750 square feet or more. A duplex use that is designated in an SF-3 district is subject to development standards that maintain single-family neighborhood characteristics. The neighborhood plan (NP) district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

2. *Zoning should allow for a reasonable use of the Property.*

Staff supports the Termination request. The Restrictive Covenant was created in 1983 and included a site plan for an office and studio use that is no longer operational. The requested SF-3-NP zoning would allow for up to four residences on the property. Staff recommends the Applicant's request because the tract meets the intent of the SF-3-NP district as it fronts on a residential section of Gillis and Casey Streets and is located within an existing residential neighborhood.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO-NP	Duplex
<i>North</i>	GR-NP; MF-2-NP; SF-3-NP	Apartments; A few single family residences; Church
<i>South</i>	SF-6-NP; SF-3-NP	Detached single family residences; Attached residences
<i>East</i>	SF-3-NP	Single family residences; Attached residences
<i>West</i>	SF-3-NP	Attached residences

NEIGHBORHOOD PLANNING AREA: South Austin Combined (South Manchaca)

TIA: Is not required

**WATERSHED:** Williamson Creek – Suburban

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS:

Joslin Elementary School

Covington Middle School

Crockett High School

COMMUNITY REGISTRY LIST:

511 – Austin Neighborhoods Council

627 – Onion Creek Homeowners Assoc.

742 – Austin Independent School District

950 – Southwood Neighborhood Association

1228 – Sierra Group, Austin Regional Group

1363 – SEL Texas

1424 – Preservation Austin

1429 – Go!Austin/Vamos!Austin (GAVA) – 78745

1530 – Friends of Austin Neighborhoods

1531 – South Austin Neighborhood Alliance (SANA)

1550 – Homeless Neighborhood Association

1590 – South Manchaca Neighborhood Plan Contact Team

1596 – TNR BCP - Travis County Natural Resources

1616 – Neighborhood Empowerment Foundation      1774 – Austin Lost and Found Pets

### CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2007-0216 – South Manchaca Vertical Mixed Use (VMU) Rezoning – W Ben White (north), S 1 <sup>st</sup> St (east), Stassney Ln (south), Manchaca Rd (west)	Apply -V to 20 tracts on 65.64 acres	To Grant VMU related standards to all Tracts except Tracts 10 and 12 (dimensional standards only), 60% MFI for VMU rental developments	Apvd (12-13-2007).
C14-06-0062 –	SF-3 to GR-MU.	To Grant LO-MU-CO	Apvd LO-MU-CO as

Malicoat – 4315 Gillis Street	as amended	w/CO to prohibit medical offices	Commission recommended (6-8-2006).
C14-84-255 – Patterson Barrett – 4405 Gillis St	SF-3 to SF-6	To Grant A-2 subject to r-o-w requirements	Apvd SF-6 (4-25-1985).

#### RELATED CASES:

The rezoning and restrictive covenant termination area is comprised of the west 112.8 feet of Lot 1, Block 5 of Banister Acres, a subdivision recorded in 1943 (C8-1943-1679).

The subject property is within the boundaries of the South Austin Combined (South Manchaca) Neighborhood Planning Area and is designated as a Residential Core District on the adopted Character District Map (NP-2014-0030). The –NP combining district was appended to the existing base districts on November 6, 2014 (C14-2014-0018 – Ordinance No. 20141106-087).

The property was zoned O-1, Office First Height and Area on April 7, 1983 and included a Restrictive Covenant regarding development standards for an office and studio use of the property (C14-82-185 – Austin Foreign Language Studios). At the time the zoning was approved, zoning was cumulative and allowed for residential uses to be developed in Office districts.

#### EXISTING STREET CHARACTERISTICS:

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Gillis Street	50 feet	30 feet	Level 1	No	No	Yes
Casey Street	60 feet	30 feet	Level 1	No	No	Yes

#### OTHER STAFF COMMENTS:

##### Comprehensive Planning

This property is located on the southeast corner of Gillis Street and Casey Street, on a property that has a duplex on it. The property is not located within an Activity Center or near an Activity Corridor but is located within the South Austin Combined NP (South Manchaca). Surrounding land uses include residential uses in all four directions.

**Request per the Agent:** The requested rezoning is from LO-NP to SF-3-NP (Family Residence – Neighborhood Plan). The purpose of this rezoning is to correct the nonconforming use status of the Property with current zoning and the current neighborhood

plan and FLUM designation. This correction will allow the Property to be redeveloped as one primary dwelling unit, and one accessory dwelling unit. Additionally, after a resubdivision involving a portion of the tract to the east, the rezoning will permit the construction of a duplex on such new lot. This rezoning request would match the zoning district to the east and west of the Property, including the to-be-subdivided tract.

**Connectivity**

The closest bus stop is located less than 500 linear feet from the subject property. There are no bike lanes in the area. Only a few lots in this neighborhood have a public sidewalk. Mobility and connectivity options in the area are fair. Most goods, services and civic uses require the use of a car to access them.

**South Austin Combined Neighborhood Planning Area**

This property is located within the South Manchaca Neighborhood Planning Area, which is part of the South Austin Combined Neighborhood Planning area. The SACNP Character District Map classifies this area of the plan as ‘**Residential Core**’ and Zone SF-3 is allowed in this character district.

The following SACNP text and policies are relevant to this case:

**The Residential Core** character districts consist of contiguous areas within the interior of the neighborhood made up of one- and two-story single-family homes and some duplexes. This is where most people in the neighborhood live. Most homes date from the 1950s to the 1980s, although some areas developed more recently (such as Independence in the mid-2000s). Streets and homes within the district are shaded by mature trees, which contribute to the sense of place distinguishing this district from others. The intent of this district is to maintain the character of the neighborhood. The community would like to preserve the residential character of this district, while improving its walkability. The Residential Core also presents the opportunity to incorporate some “missing middle” housing types into the neighborhood fabric, which aids affordability and can contribute to walkability. (p. 47)

**Vision:** Well-maintained homes, an abundance of trees, and a complete sidewalk system create a safe and inviting place to walk, bike, and meet neighbors. (p. 48)

**Policies for the Residential Core:**

**RC P1:** Maintain the residential character of the Residential Core, ensuring that future development or redevelopment is appropriate to the district and is compatible with the existing neighborhood.

**RC P2:** The following residential building types fit the character of the district and are appropriate as infill or redevelopment options (see page 49 thru 50 for details):

- Single family houses
- Duplexes
- Small houses on small lots
- Cottage clusters/bungalow courts

**RC P6:** Garages or carports should be constructed flush with or behind the front façade of the house for new single-family residential housing. (p. 52)

**RC P7:** Maintain residential character while encouraging missing middle housing types that are compatible with the neighborhood character. In the interim between the adoption of this neighborhood plan and the adoption of the revised Land Development Code being developed through CodeNEXT, the following zoning districts should be generally considered appropriate to the Residential Core character district:

MH: Mobile home residence

SF-2: Standard lot single family

SF-3: Family residence

SF-4A: Small lot single family

SF-4B: Single family condo

SF-5\*: Urban family residence

SF-6\*: Townhouse & condo residence

MF-1: Limited density multi-family

\* Uses should be conditional and may be appropriate when located next to more permissive districts or intensive uses, depending on context.

SACNP policies and text supports single family and duplexes in the Residential Core.

### **Imagine Austin**

This property is **not located** along an Activity Corridor or by an Activity Center. The following IACP policies are applicable to this project:

- **LUT P5.** Create healthy and family-friendly communities through development that includes a mix of land uses and housing types and affords realistic opportunities for transit, bicycle, and pedestrian travel and provides both community gathering spaces, parks and safe outdoor play areas for children.
- **LUT P7.** Encourage infill and redevelopment opportunities that place residential, work, and retail land uses in proximity to each other to maximize walking, bicycling, and transit opportunities.
- **HN P10.** Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to healthy food, schools, retail, employment, community services, and parks and recreation options.

This residential project supports policies in both the SACNP and Imagine Austin, and will provide additional housing units in the area.

### **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.

#### Impervious Cover

The maximum impervious cover allowed by the *SF-3-NP* zoning district would be 45%, which is based on the more restrictive zoning 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 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.

#### PARD – Planning & Design Review

If applicable, parkland dedication fees would be required for any new residential units proposed by this development, SF-3 zoning, at the time of subdivision or site plan, per City Code § 25-1-601.

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov).

### Site Plan and Compatibility Standards

This project will be subject to Subchapter F and will be reviewed by the Residential Review division.

Rezoning from LO-NP to SF-3-NP does not trigger the application of compatibility standards.

For duplex residential site plans, the applicable building standards are outlined below:  
Breakdown by square footage for living area/garage/patio/porch is required on duplex.

Setbacks for duplex residential:

- Anything that juts more than 5 feet into a setback must be fireproofed. Standard side setback is 5 feet with a maximum allowable 2-foot overhang. The overhang cannot have any openings, soffit vents, windows, etc.
- Setbacks between buildings is 10 feet (5 feet on each side). Any encroachment into this setback must be fireproofed.
- Nothing can encroach into a 2-foot setback.

### Austin Transportation Department

*ASMP Assessment* – ASMP requirements have been met.

*Transportation Assessment* – The proposed development does not require a TIA.

### Austin Water Utility

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, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

Depending on the development plans submitted, water and or wastewater service extension requests may be required. 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.



INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

Exhibit A: Zoning Map

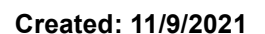
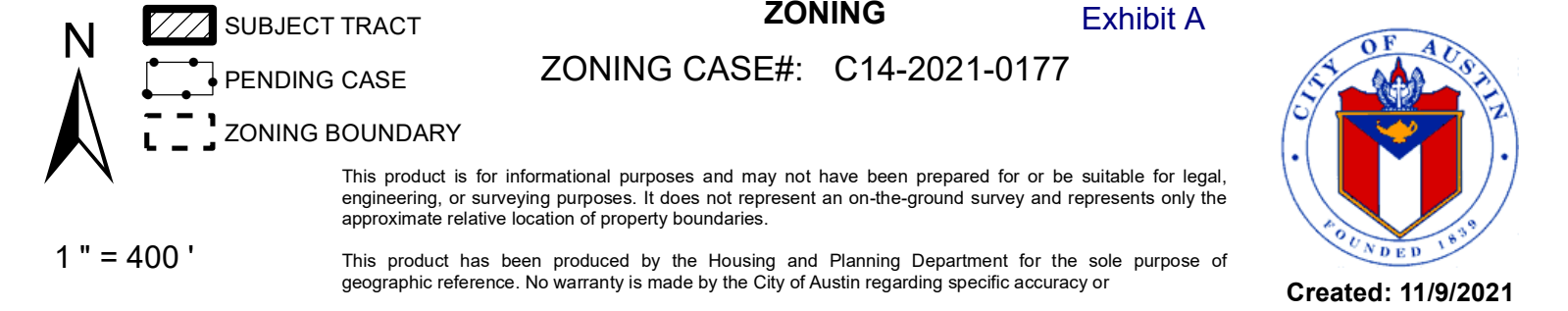
Exhibit A-1: Aerial Map

Exhibit B: Restrictive Covenant Termination map

Exhibit C: Redlined Restrictive Covenant

Applicant's Summary Letter

Correspondence Received







N



1" = 100'



SUBJECT TRACT



ZONING BOUNDARY



PENDING CASE



CREEK BUFFER

4401 Gillis

Exhibit A - 1

ZONING CASE#: C14-2021-0177

LOCATION: 4401 Gillis St.

SUBJECT AREA: 0.2428 Acres

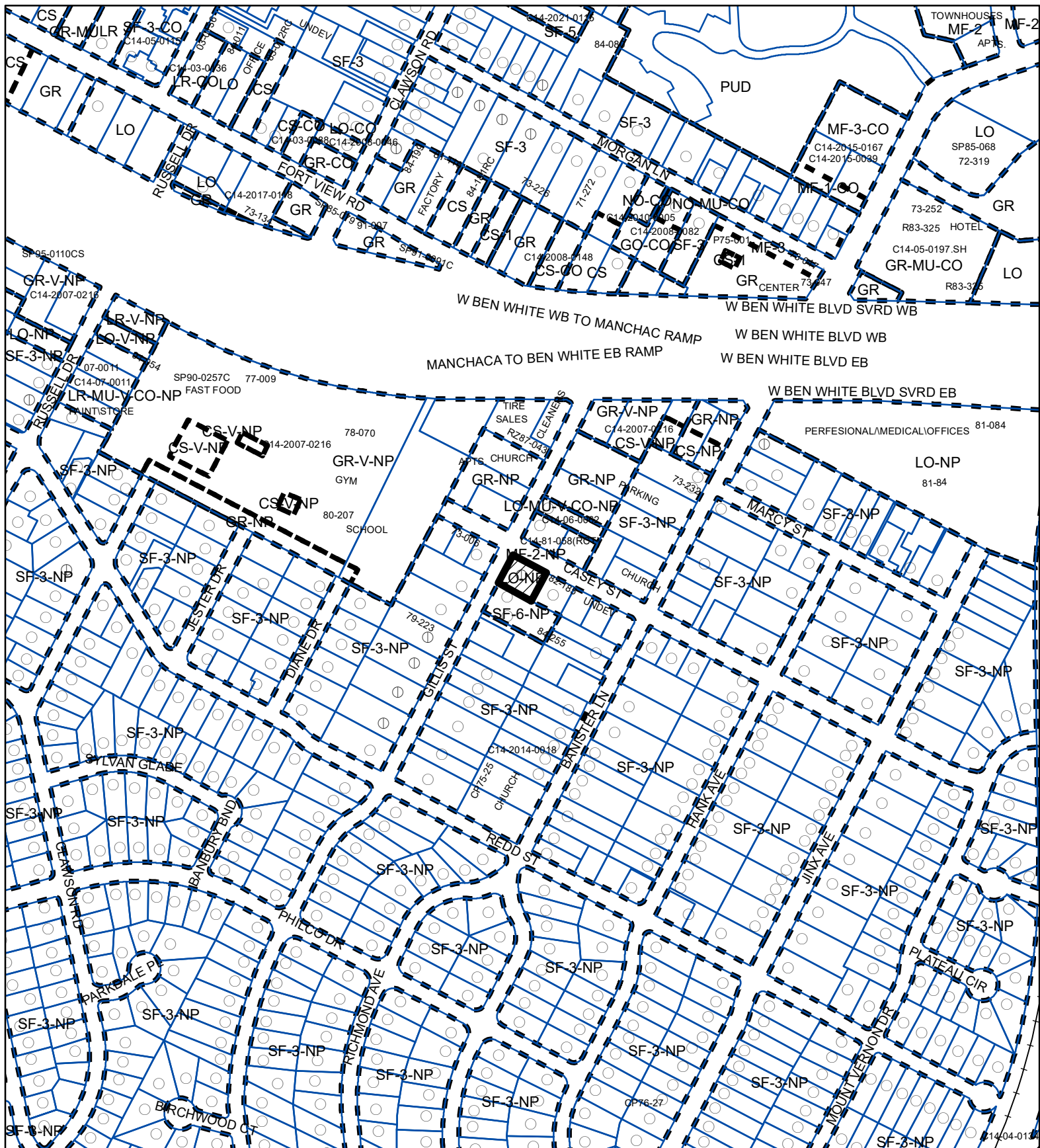
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

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.







-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

## Restrictive Covenant Termination

Exhibit B

ZONING CASE#: C14-82-185(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 the Housing and Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or



Created: 11/9/2021

1" = 400'

RESTRICTIVE COVENANT

MAY -2-83 6510 \* 13.00

THE STATE OF TEXAS

CASE # C14 - 82-185

COUNTY OF TRAVIS

3-18-5270

WHEREAS, LEON McMORROW of TRAVIS County, Texas is the owner of the following described property, to-wit

Lot One(1), Block Five(5), Bannister Acres, a subdivision of the City of Austin, Travis County, Texas, according to the map or plat of said subdivision of record in Volume 4, Page 178, Plat Records, Travis Cpunty, Texas; LESS that portion conveyed to Hoyt D. Frierson by Warranty Deed from Chester H. Dorman and wife, recorded in Volume 1742, Page 507, Deed Records, Travis County, Texas;

WHEREAS, the City of Austin has agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing:

NOW, THEREFORE, LEON McMORROW for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on him, his successors and assigns, as follows, to-wit:

1. As indicated on the site plan, a copy of which is attached hereto and made a part thereof, there shall be constructed and thereafter properly maintained by the owners, their heirs and assigns, a six foot privacy fence along the east and south property lines, and along the north property line for a distance of twenty seven (27) feet of the above described tract of land.

DEED RECORDS  
Travis County, Texas

8074 . 836

2. As indicated on the site plan, a copy of which is attached hereto and made part herof, sufficient parking space for five(5) vehicles will be provided on the tract of land, in accordance with the conditions laid down by the City of Austin for commercial parking.
3. An advertising sign attached to the building will be no larger than twenty-four inches by twelve inches.
4. The building will not be altered beyond reasonable repairs. 3-18-5271
5. In the event that said property is sold or is not at any time in the future used for office and studio purposes, the then owner of the property will not object to the filing of an application for the rezoning of the said property to "A" 1st H & A by the City of Austin.
5. In the event that the City of Austin rezones the adjoining area to "O-1" or greater intensity, the property will retain its "O-1" zoning.
6. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant, and to prevent such person or entity from violating or attempting to violate such agreement or covenant.
7. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.
8. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute

3-18-5272

a waiver or estoppel of the right to do so.

9. This agreement may be modified, amended or terminated only by joint action of both (a) majority of the members of the City Council of the City of Austin, or such governing body as may succeed the City Council of the City of Austin, , and by (b) the owners of the above described property at the time of such modification, amendment or termination.

EXECUTED THIS the 16<sup>th</sup> day of March 1983

Leon McMorrow

Leon McMorrow

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Leon McMorrow known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16 day of March, 1983

NOTARY SEAL

Michelle Seal

Notary Public in and for Travis  
County, Texas Exp 4-28-85

Date

Initials

8074 838

RECORDERS MEMORANDUM  
ALL OR PARTS OF THE TEXT ON THIS PAGE WAS NOT  
CLEARLY LEGIBLE FOR SATISFACTORY RECORDATION



3-18-5274

FILED

MAY 2 8 44 AM '83

*Doris Hargrave*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS

COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the  
state and at the time stamped hereon by me and was duly  
RECORDED, in the Volume and Page of the named RECORDS  
of Travis County, Texas, as stamp hereon by me, on

MAY 2 1983



*Doris Hargrave*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

8074

840

# DRENNER GROUP

October 19, 2021

Rosie Truelove  
Housing and Planning Department – City of Austin  
1000 E 11<sup>th</sup> Street  
Austin, TX 78702

Via Electronic Delivery

Re: 4401 Gillis Street – Rezoning and Restrictive Covenant Termination applications for the approximately .2428-acre piece of property located at 4401 Gillis Street, Austin, Travis County, Texas (the “Property”)

Dear Ms. Truelove:

As representatives of the owner of the Property, we respectfully submit the enclosed rezoning and public restrictive covenant termination application packages. The project is titled 4401 Gillis Street, consists of approximately 0.2428 acres (0.2707 acres on TCAD but affected by a street dedication recorded under volume 8074, Page 836 – survey shows 10,580 sf), and is located at 4401 Gillis Street, in the full purpose jurisdiction of the City of Austin. The currently existing structure on the site is an uninhabited 1,392 square foot duplex.

The Property is zoned LO-NP (Limited Office – Neighborhood Plan). The requested rezoning is from LO-NP to SF-3 (Family Residence – Neighborhood Plan). This is consistent with the South Austin Combined Neighborhood Plan and Future Land Use Map (FLUM) designation, whereas the current LO zoning is not. The purpose of this rezoning is to correct the nonconforming use status of the Property with current zoning and the with the current neighborhood plan and FLUM designation. This correction will allow the Property to be redeveloped as one primary dwelling unit, and one accessory dwelling unit. Additionally, after a resubdivision involving a portion of the tract to the east, the rezoning will permit the construction of a duplex on such new lot. This rezoning request would match the zoning district to the east and west of the Property, including the to-be-subdivided tract.

In conjunction with the rezoning, we are also requesting that a public restrictive covenant dated March 16, 1983 (Case No. C14-82-185) be terminated (the “Covenant”). The Covenant currently restricts the Property, among other things, to a site plan from that era, including a six-foot privacy fence and five required onsite parking spaces. The Covenant includes a rollback provision stating that the owner will not object to “A” 1<sup>st</sup> H & A zoning, a zoning category that is no longer in use but which corresponds to SF-3 under the 1984 Conversion Ordinance. In other words, to the extent the use at the Property ever changed, terminating the Covenant and rezoning to SF-3 appears to have been in line with City Council’s original intent for the Property. As with the Property’s zoning, the Covenant as is violates the neighborhood plan and FLUM designation.

Accordingly, we request that the Covenant be terminated. Per the terms of the Covenant, a City Council vote is required for any amendment to the Covenant.

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.

Sincerely,



Charley Dorsaneo  
Land Use Attorney  
Drenner Group, P.C.

cc: Joi Harden, Housing and Planning Department (*via electronic delivery*)  
Wendy Rhoades, Housing and Planning Department (*via electronic delivery*)