

ZONING CHANGE REVIEW SHEET

CASE: C14-2022-0066 (12195 Metric)

DISTRICT: 7

ADDRESS: 12195 Metric Boulevard

ZONING FROM: Tract 1: LR

TO: ~~GR-MU-CO~~ LR-MU*

Tract 2: GR-CO

*On July 15, 2022, the applicant amended the rezoning request to LR-MU zoning (*Please see Applicant's Amendment Request Letter – Exhibit C*).

SITE AREA: Tract 1: 4.62 acres

Tract 2: 0.13 acres

4.75 acres

PROPERTY OWNER: Unity Five Investments LLC (Nasruddin Mahensia)

AGENT: Mathias Company (Richard Mathias)

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMEDATION:

Staff recommends LR-MU, Neighborhood Commercial-Mixed Use Combining District, zoning.

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

August 16, 2022

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is a 4.75 acre tract of land located at the southeast corner of Metric Boulevard and Cedar Bend Drive. The site is developed with a convenience store use, with gas pumps and a car wash facility. To the north, across Cedar Bend Drive, there is a multifamily use. The lots to the east are developed with duplex residences. To the west, across Metric Boulevard there is a retail strip center, with a convenience store and a service station. The land to the south contains transmission lines and undeveloped area/floodplain for Walnut Creek. The applicant is requesting to rezone the property from LR and GR-CO to LR-MU to redevelop the site with retail/mixed use (*please see Applicant's Amendment Request Letter – Exhibit C*).

The staff is recommending Neighborhood Commercial-Mixed Use Combining District, zoning for the property under consideration. The proposed LR-MU zoning will allow for a mixture of residential, office and commercial uses on a platted lot that is located at the intersection of a minor arterial roadway, Metric Boulevard, and a collector street, Cedar Bend Drive. LR-MU zoning will permit the applicant to redevelop the site with limited commercial uses to provide additional services the residential areas to the north, east and west.

The applicant agrees with the staff's recommendation.

BASIS OF RECOMMENDATION:

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

Neighborhood Commercial district is intended for neighborhood shopping facilities which provide limited business service and office facilities predominately for the convenience of residents of the neighborhood.

Mixed Use combining district is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development.

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

LR-MU zoning will promote consistency and orderly planning as it will allow for residential, office and commercial uses that will provide additional services to the surrounding residential developments to the north, east and west. There is existing LR and GR-CO zoning to the west, across Metric Boulevard, and multifamily (MF-3-CO) zoning to the north and west of this site.

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

The LR-MU zoning district would allow for a fair and reasonable use of the site as it will permit the applicant to develop a mixture of multifamily residential, office commercial uses on a property that is located adjacent to the North Burnet/Gateway Station Regional Center, as designated by the Imagine Austin Comprehensive Plan. The site under consideration is located within 0.25 miles of public transit stop and/or light rail station. In addition, the proposed zoning is consistent with the North Lamar Area Study that designated this tract of land for commercial uses.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LR, GR-CO	Food Sales (Food Basket Convenience Store), Service Station (Shell), Car Wash (The Pits Hand Car Wash)
<i>North</i>	MF-3-CO	Multifamily (Camden Huntingdon Apartment Homes)
<i>South</i>	P	Transmission Lines, Undeveloped, Floodplain (Walnut Creek)
<i>East</i>	SF-3	Duplex Residences
<i>West</i>	LR, GR-CO, MF-3-CO	Convenience Store (JJ's Market and Deli), Service Station (Exxon), Retail Center (Metric Place: Little China Restaurant, Big Tex Gym, New Way Church, Black Sheep Boxing, Coinless Laundry, River City Chiropractic, Nonye Hair Braiding Salon, Hunger Rush Restaurant, Drip N Rips Vapes), Multifamily (Edge Creek Condominiums)

NEIGHBORHOOD PLANNING AREA: North Lamar Area Study

TIA: Deferred to the time of Site Plan

WATERSHED: Walnut Creek

SCHOOLS: Austin I.S.D.
Pillow Elementary School
Burnet Middle School
Anderson High School

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
Austin Lost and Found Pets
Austin Neighborhoods Council
Friends of Austin Neighborhoods
Homeless Neighborhood Association
Gracywoods and North Park Estates Neighborhood Association

Neighborhood Empowerment Foundation
 North Burnet/ Gateway Neighborhood Plan Staff Liaison
 North Growth Corridor Alliance
 SELTEXAS
 Sierra Club, Austin Regional Group

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2014-0193 (MMK Ventures, LLC: 1601 Cedar Bend Drive)	RR to SF-4A	8/18/15: Approved staff's recommendation for SF-4A zoning, with the NTA conditions, adding a conditional overlay to prohibit vehicular access from Old Cedar Lane to Cearly except for emergency (crash gates), pedestrian and bicycle access (6-5, S. Harris, G. Rojas, B. Evans, Y. Flores, D. Breithaupt-No); A. Denkler-1 st , J. Kiolbassa-2 nd .	11/15/15: Approved staff's rec. of SF-4-A-CO zoning, with NTA conditions. Keep public hearing open and bring back for 2 nd /3 rd readings on November 12, 2015 (10-0, A. Kitchen-off dais); L. Pool-1 st , D. Zimmerman-2 nd . 11/12/15: Approved the draft ordinance based on the conditions recommended by the Zoning and Platting Commission on 2 nd reading (9-3, P. Renteria, E. Troxclair and O. Houston-No); L. Pool-1 st , D. Zimmerman-2 nd . 12/17/15: Approved as amended for SF-4A-CO combining district zoning on Mayor Pro Tem Tovo's motion, Council Member Pool's second on an 11-0 vote. The amendment was to strike Part 3 B from the ordinance.
C14-2011-0069 (Scofield Montessori School: 1701 Scofield Lane)	NO to GO	8/16/11: Approved staff's recommendation of GO-CO zoning by consent (6-0, G. Rojas-absent); D. Tiemann-I 51, G. Bourgeois-2 nd .	9/22/11: Approved GO-CO zoning on consent (7-0). B. Spelman-1 st , L. Morrison-2 nd .
C14-2011-0023 (1601 Cedar Bend Drive)	RR to LR	9/06/11: Approved the staff's recommendation of LO-MU-CO district zoning on consent (5-0, S. Baldrige-absent); P. Seager-1 st , C. Banks-2 nd .	9/22/11: Approved LO-MU-CO zoning on consent on all 3 readings (7-0); B. Spelman-1 st , L. Morrison-2 nd .
C14-2008-0210	NO to GO	11/04/08: Approved staff's rec. of GO-CO zoning on consent (5-0, C. Hammond and R. Evans-absent); K. Jackson-15', D. Tiemann-2 nd .	1/15/09: Approved GO-CO zoning, with a height of 40 feet, on all 3 readings (6-0)
C14-05-0199 (12195 Metric Boulevard-Texan	LR to GR	1/31/06: Approved GR-CO zoning for the area of 5,750 sq. ft. with car wash as the	3/02/06: Approved GR-CO with conditions (7-0); all 3 readings

Market Store Car Wash)		only GR district use, all other LR uses; 8-feet masonry wall to be constructed from the existing pavement south past the new improvements; public RC to limit the hours of the car wash from 6:00 a.m. to 10:00 p.m. (8-0, J. Gohil-absent)	
C14-05-0016 (12251 Running Bird Lane)	SF-6 to SF-6 (Tracts A & B) and LO (Tract C)	10/18/05: Approved RR zoning for floodplain, SF-6 zoning for Tracts A & B, and LO-CO zoning for Tract C, with the following conditions: prohibit Communications Services, Medical Offices, Club or Lodge, Convalescent Services, Cultural Services, and Hospital Services (Limited). In addition, Tracts A, B, and C shall have a 450 trip limit per day. Vote: 9-0; JM-1 st , MH-2 nd .	11/17/05: Approved SF-6 (Tracts A& B), LO-CO (Tract C), and Tract D to remain RR (7-0); all 3 readings
C14-04-0106 12100 block of Metric Boulevard- Walnut Creek Greenbelt at Metric)	MF-2 to P	8/03/04: Approved P zoning by consent (8-0, J. Pinnelli- absent)	9/02/04: Approved P zoning (7-0); all 3 readings
C14-03-0183 (12041 Bittern Hollow-St. Albert The Great Catholic Church)	SF-2 to LO-CO	2/03/04: Approved LO-CO zoning with 2,000 vtpd limit and prohibiting the following uses: Art and Craft Studio (Limited), Communications Services, Medical Offices, Convalescent Services, Cultural Services (9-0)	3/04/04: Approved LO-CO zoning (6-0); all 3 readings
C14-02-0048 (1709 W. Parmer Lane-Boston Market)	LR to GR	5/21/02: Approved staff's recommendation of GR-CO zoning, with a CO for a 2,000 vtpd, by consent (8-0, A. Adams-Not yet arrived); J. Matinez-1 st , N. Spelman-2 nd .	6/27/02: Approved GR-CO (7-0); all 3 readings
C14-01-0044 (1700 W. Parmer Lane-Scofield Farms Market Shopping Center)	GR to CS	5/8/01: Approved staff rec. of CS-CO by consent (8-0)	7/19/01: Approved CS-CO w/ addition of prohibiting pawn shops (6-0); all 3 readings

C14-01-0043 (1700 W. Parmer Lane-Scofield Farms Market Shopping Center)	GR to CS-1	5/8/01: Approved staff rec. of CS-1-CO w/ conditions, prohibit free standing CS-1 use (8-0)	7/19/01: Approved CS-1-CO w. addition of prohibiting pawn shops (6-0); all 3 readings
C14-00-2033 (W. Parmer Lane-Little Steps Child Care Center)	SF-3 to GR	3/28/00: Approved staff's rec. of LR-MU-CO by consent (5-0); limit vehicle trips to 315 per day	5/11/00: Approved PC rec. of LR-MU-CO by consent (7-0); all 3 readings
C14-00-2023 (1418 Cardinal Hill Road)	SF-1 to LO	4/18/00: Deny LO zoning (8-0)	6/01/00: Denied rezoning request (4-3, KW/BS/DS-Nay)
C14-99-2067 (W. Parmer Lane)	GR, GO to GR	1/18/00: Approved GR-CO by consent (9-0)	2/17/00: Approved GR-CO (7-0); all 3 readings
C14-98-0021 (12424 Scofield Farms Drive)	MF-2 to GR	4/14/98: Approved GR-CO w/ conditions (8-0)	5/14/98: Approved GR-CO w/ conditions (5-0); all 3 readings
C14-96-0062 (E. Parmer Lane-Brake Specialists)	LR to GR	6/4/96: Approved GR (8-0)	7/11/96: Approved GR-CO w/ conditions (6-1); 1 st reading 8/22/96: Approved GR-CO w/ conditions (5-2); 2 nd / 3 rd readings

RELATED CASES:

C14-05-0199 - Previous Rezoning Case
SP-95-0500C – Site Plan Case

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Metric Boulevard	3	104	100	73	Yes	Yes	Yes
Cedar Bend Drive	2	78	68	41	Yes	Yes	Yes

OTHER STAFF COMMENTS:Comprehensive Planning

Project Name and Proposed Use: 12195 METRIC BLVD. C14-2022-0066. 4.75 acre tract from LR; GR-CO to LR-MU; GR-CO. Convenience Store/Self Carwash to 2,800 sq. ft. of Retail, 34 Multifamily Condos, and Self Carwash.

Yes	Imagine Austin Decision Guidelines
	Compact and Connected Measures
Y	Imagine Austin Growth Concept Map: Located close to, within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified on the Growth Concept Map. Name(s) of Activity Center/Activity Corridor/Job Center: Adjoins North Burnet/Gateway Station Regional Center
Y	Mobility and Public Transit: Located within 0.25 miles of public transit stop and/or light rail station.
Y	Mobility and Bike/Ped Access: Adjoins a public sidewalk, shared path, and/or bike lane.
Y	Connectivity, Good and Services, Employment: Provides or is located within 0.50 miles to goods and services, and/or employment center.
	Connectivity and Food Access: Provides or is located within 0.50 miles of a grocery store/farmers market.
Y	Connectivity and Education: Is located within 0.50 miles from a public school or university.
Y	Connectivity and Healthy Living: Provides or is located within 0.50 miles from a recreational area, park or walking trail.
Y	Connectivity and Health: Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, specialized outpatient care.)
	Housing Affordability: Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
Y	Housing Choice: Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
Y	Mixed Use: Provides mixed use development (minimum 10% residential and 10% non-residential floor area).
	Culture and Creative Economy: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
9	Total Number of "Yes's"

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.

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 a floodplain within or adjacent to the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Critical Water Quality Zone exists within 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.

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

Fire

No comments.

Site Plan

Site plans will be required for any new development other than single-family, two-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations. The site is subject to compatibility standards due to the adjacent SF-3 district to the east.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

This tract is already developed and the proposed zoning change is a footprint within the existing development. The applicant is responsible for requesting relocation and demolition

permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

Transportation

The Austin Strategic Mobility Plan (ASMP) calls for 78 feet of right-of-way for Cedar Bend Drive. It is recommended that 10 feet of right-of-way from the existing centerline should be dedicated for Cedar Bend Drive according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

Water Utility

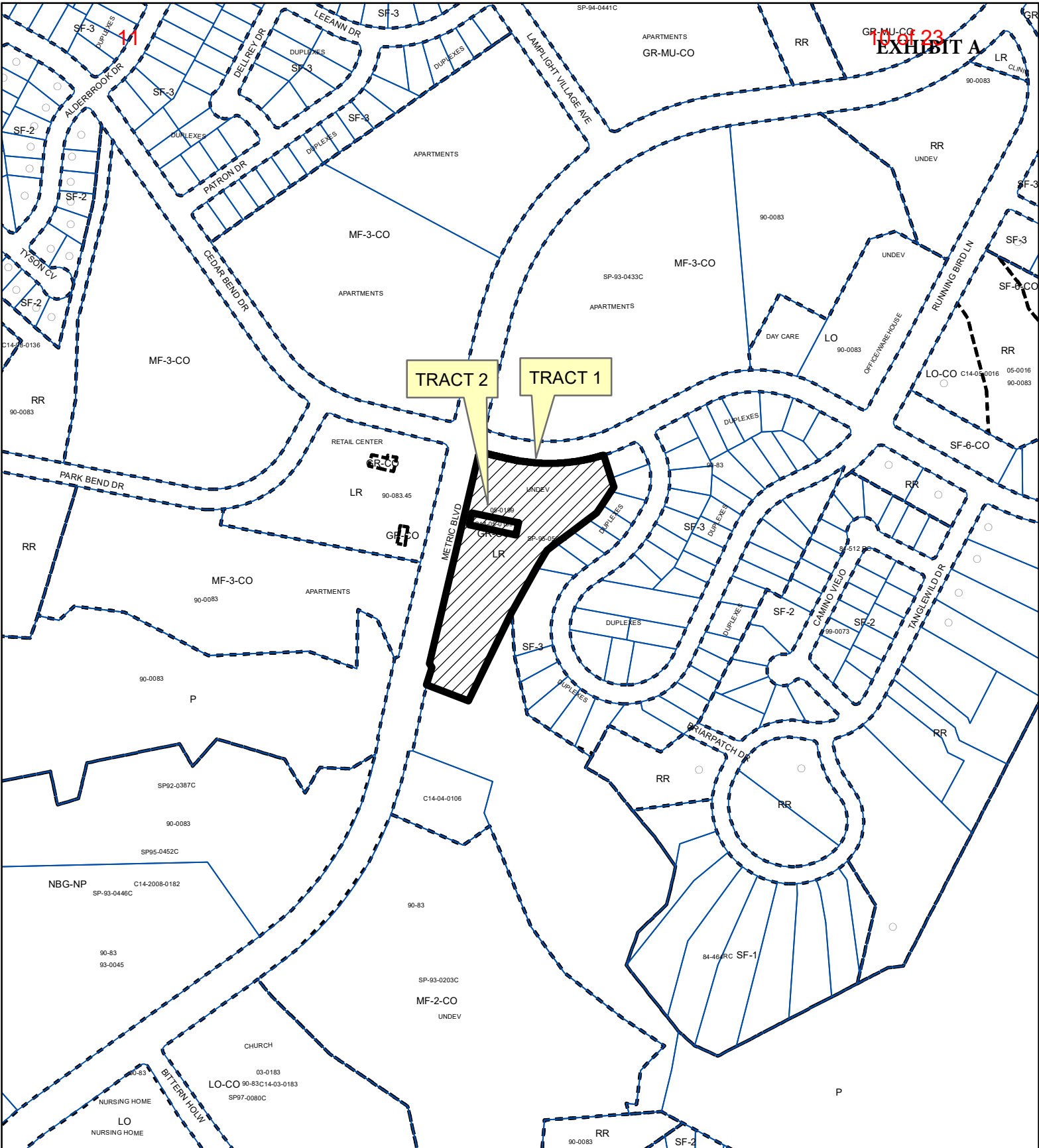
The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water 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 TO FOLLOW




- A: Zoning Map
- B. Aerial Map
- C. Applicant's Amendment Request Letter
- D. Current Zoning Ordinance
- E. Existing Public Restrictive Covenant



TRACT 2

TRACT 1



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

ZONING

ZONING CASE#: C14-2022-0066

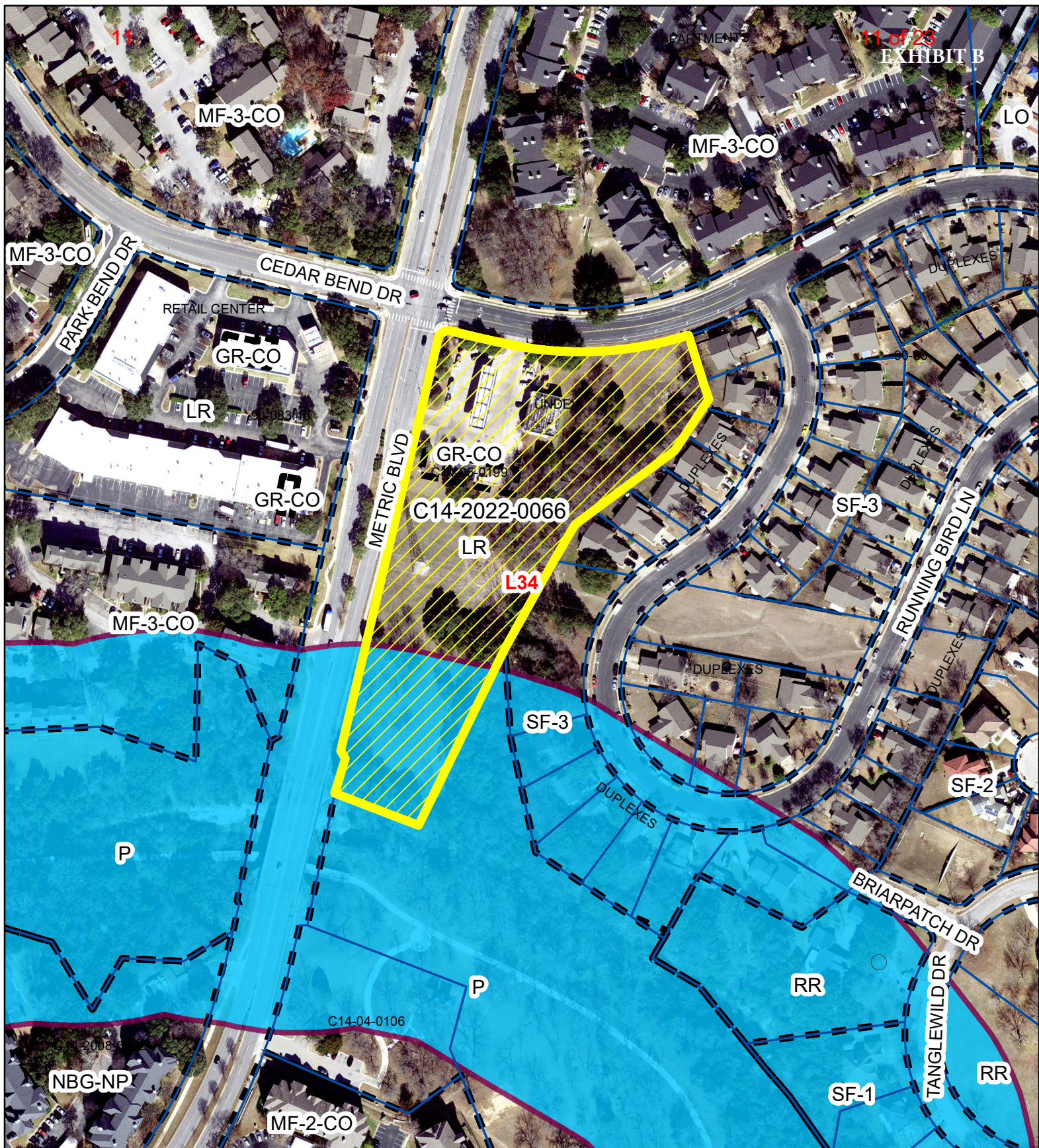
1" = 400'

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.





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Created: 5/24/2022



12195 Metric

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

ZONING CASE#: C14-2022-0066
 LOCATION: 12195 Metric Blvd
 SUBJECT AREA: 4.75 Acres
 GRID: L34
 MANAGER: Sherri Sirwaitis



1" = 200'

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 completeness.

Created: 5/31/2022



July 15, 2022

Sherri Sirwaitis, Case Manager
Development Services Department
CITY OF AUSTIN
505 Barton Springs Road
Austin, TX 78704

**RE: Zoning Change application
Revised Request for 12195 Metric Blvd
Case C14-2022-0066**

Dear Ms. Sirwaitis:

As the agent and applicant for the above referenced zoning change application, we wish to amend our request from LR zoning and GR-CO zoning to LR-MU zoning for the entire property.

Please feel free to contact me if you have any questions or need any additional information.

Respectfully,

A handwritten signature in cursive script, appearing to read "Richard Mathias".

Richard Mathias

ORDINANCE NO. 20060302-Z003

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 12195 METRIC BOULEVARD FROM NEIGHBORHOOD COMMERCIAL (LR) DISTRICT TO COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from neighborhood commercial (LR) district to community commercial-conditional overlay (GR-CO) combining district on the property described in Zoning Case No. C14-05-0199, on file at the Neighborhood Planning and Zoning Department, as follows:

A 0.13 acre tract of land (5,850 square feet), more or less, out of Lot 1, Block A of the Village at Walnut Creek Phase 2 Section 11 Subdivision, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as 12195 Metric Boulevard, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

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

The following uses are prohibited uses of the Property:

Automotive rentals	Automotive repair services
Automotive sales	Bail bond services
Business or trade school	Business support services
Commercial off-street parking	Communications services
Drop-off recycling collection facility	Exterminating services
Food preparation	Funeral services
General retail sales (general)	Hospital services (general)
Hotel-motel	Indoor entertainment
Indoor sports and recreation	Outdoor entertainment
Outdoor sports and recreation	Pawn shop services
Personal improvement services	Research services
Residential treatment	Restaurant (general)
Theater	

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the community commercial (GR) base district and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on March 13, 2006.

PASSED AND APPROVED

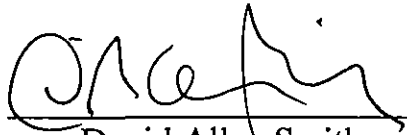
March 2, 2006

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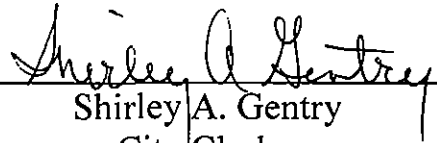
Will Wynn
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



Shirley A. Gentry
City Clerk

FIELD NOTES

EXHIBIT 4

JOB NO: Z:\Projects_Eng\2005_PROJECTS\50309_VILLAGE_AT_WALNUT_CREEK_2-11\DOCUMENTS\METES&BOUNDS\50309_REZONING_021006.doc

DATE: February 10, 2006

PAGE: 1 OF 2 (Exhibit Attached)

0.13 ACRE (5850 sq. ft)

All that certain tract or parcel of land situated in Travis County, Texas and being a portion of Lot 1, Block "A" of the Village at Walnut Creek Phase 2, Section 11, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 83, Pages 217D-218A, Plat Records of Travis County, Texas, and further described in metes and bounds as follows:

BEGINNING at a calculated point in the interior of said Lot 1 for the northwest corner of this tract, from which an $\frac{1}{8}$ " iron pin found in the west line of Metric Boulevard, a public road of varying right-of-way width, for the most westerly northwest corner of said Lot 1 bears N 07°55'58" E 181.27 feet;

THENCE: S 77°56'23" E 150.00 feet with the north line of this tract to a calculated point, for the northeast corner of this tract;

THENCE: S 12°03'37" W 39.00 feet with the east line of this tract to a calculated point, for the southeast corner of this tract;

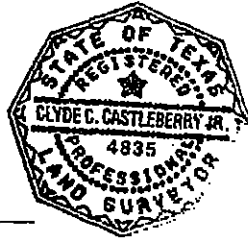
THENCE: N 77°56'23" W 150.00 feet with the south line of this tract to a calculated point, for the southwest corner of this tract;

THENCE: N 12°03'37" E 39.00 feet with the west line of this tract to the Point of Beginning and containing 0.13 acre (5850 sq. ft).

Bearings based on site plan information provided by the City of Austin, Texas, File No. SP-95-0500S, Date of Release -- February 23, 1996.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

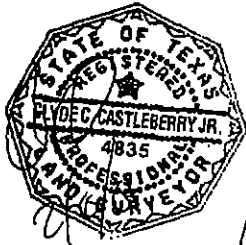
Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628



C. Castleberry Jr.
Clyde C. Castleberry, Jr.
Registered Professional Land Surveyor No. 4835

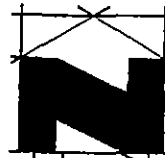
CCC/adm/jto

"EXHIBIT"
0.13 ACRE (5850 SQ. FT.) OUT OF LOT 1, BLOCK A, VILLAGE OF WALNUT CREEK PHASE TWO, SECTION ELEVEN, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 83, PAGES 217D-218A, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.



CEDAR BEND DRIVE
(PAVED - 70' R.O.W.)

N 53°55'06" E
22.94' TIE



SCALE: 1"=30'

BEARINGS BASED ON SITE PLAN
INFORMATION PROVIDED BY THE CITY OF
AUSTIN, TEXAS, FILE NO. SP-95-0500C.
DATE OF RELEASE - 02/23/96

METRIC BLVD.
(PAVED - R.O.W. VARIES)

N 07°55'58" E 181.27' TIE

CONCRETE PARKING

0.13 ACRE
5850 SQ. FT.

N 12°03'37" E
39.00'

S 77°56'23" E
150.00'

N 77°56'23" W
150.00'

S 12°03'37" W
39.00'

LEGEND	
●	1/2" IRON PIN FOUND
+	CALCULATED POINT
P.R.T.C.	PLAT RECORDS TRAVIS CO., TX

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

FIELD NOTES ATTACHED



Castleberry Surveying Ltd.
3613 Williams Drive, Suite 903 - Georgetown, Texas 78628
(512) 930-1600/(512) 930-9389 fax
www.castleberrysurveying.com

SHEET

2

OF

2



Zoning Case No. C14-05-0199

RESTRICTIVE COVENANT

OWNER: Texan Markets, Inc., a Texas corporation

ADDRESS: 1100 Gattis School Rd., Suite 300-C, Round Rock, Texas 78664

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

PROPERTY: A 0.13 acre tract of land (5850 square feet), more or less, out of Lot 1, Block A, Village at Walnut Creek Phase 2, Section 11 Subdivision, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

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

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Hours of operation for a business located on the Property are limited to the hours of 6:00 a.m. to 10:00 p.m.
2. An eight-foot high masonry wall shall be provided and maintained east of the improvements in a location beginning at the pavement area and continuing approximately 49 feet in a southerly direction as shown on the attached Exhibit "B".
3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
5. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
6. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

3-2-06
#2-3

EXECUTED this the 27th day of FEBRUARY, 2006.

OWNER:

Texan Markets, Inc.,
a Texas corporation

By: William Longshore
William Longshore,
President

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 27th day of FEBRUARY, 2006, by William Longshore, President of Texan Markets, Inc., a Texas corporation, on behalf of the corporation.



Joe A Flores
Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant

FIELD NOTES

EXHIBIT A

JOB NO: Z:\Projects_Eng\2005_PROJECTS\50309_VILLAGE_AT_WALNUT_CREEK_2-11\DOCUMENTS\METES&BOUNDS\50309_REZONING_021006.doc

DATE: February 10, 2006

PAGE: 1 OF 2 (Exhibit Attached)

0.13 ACRE (5850 sq. ft)

All that certain tract or parcel of land situated in Travis County, Texas and being a portion of Lot 1, Block "A" of the Village at Walnut Creek Phase 2, Section 11, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 83, Pages 217D-218A, Plat Records of Travis County, Texas, and further described in metes and bounds as follows:

BEGINNING at a calculated point in the interior of said Lot 1 for the northwest corner of this tract, from which an $\frac{1}{8}$ " iron pin found in the west line of Metric Boulevard, a public road of varying right-of-way width, for the most westerly northwest corner of said Lot 1 bears N 07°55'58" E 181.27 feet;

THENCE: S 77°56'23" E 160.00 feet with the north line of this tract to a calculated point, for the northeast corner of this tract;

THENCE: S 12°03'37" W 39.00 feet with the east line of this tract to a calculated point, for the southeast corner of this tract;

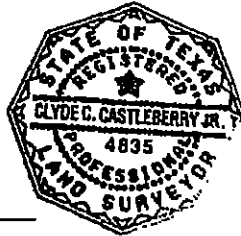
THENCE: N 77°56'23" W 150.00 feet with the south line of this tract to a calculated point, for the southwest corner of this tract;

THENCE: N 12°03'37" E 39.00 feet with the west line of this tract to the Point of Beginning and containing 0.13 acre (5850 sq. ft).

Bearings based on site plan information provided by the City of Austin, Texas, File No. SP-95-0600S, Date of Release - February 23, 1996.

This document was prepared under 22 TAC §883.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

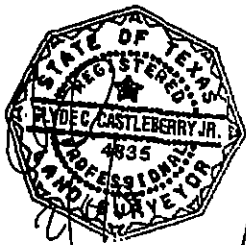
Castleberry Surveying, Ltd.
3613 Williams Drive, Suite 903
Georgetown, Texas 78628



C. Castleberry, Jr.
Clyde C. Castleberry, Jr.
Registered Professional Land Surveyor No. 4835

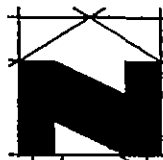
CCC/adm/fto

"EXHIBIT"
0.13 ACRE (5850 SQ.FT.) OUT OF LOT 1, BLOCK A, VILLAGE OF WALNUT CREEK PHASE TWO, SECTION ELEVEN, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 83, PAGES 217D-218A, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.



CEDAR BEND DRIVE
(PAVED - 70' R.O.W.)

N 53°55'06" E
22.94' TIE



SCALE: 1"=30'

BEARINGS BASED ON SITE PLAN
INFORMATION PROVIDED BY THE CITY OF
AUSTIN, TEXAS, FILE No. SP-95-0500C.
DATE OF RELEASE - 02/23/98

METRIC BLVD.
(PAVED - R.O.W. VARIES)

N 07°55'58" E 181.27' TIE

CONCRETE PARKING

0.13 ACRE
5850 SQ. FT.

N 12°03'37" E
39.00'

S 77°56'23" E
150.00'

N 77°56'23" W
150.00'

S 12°03'37" W
39.00'

LEGEND	
●	1/2" IRON PIN FOUND
+	CALCULATED POINT
P.R.T.C.	PLAT RECORDS TRAVIS CO., TX

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

FIELD NOTES ATTACHED

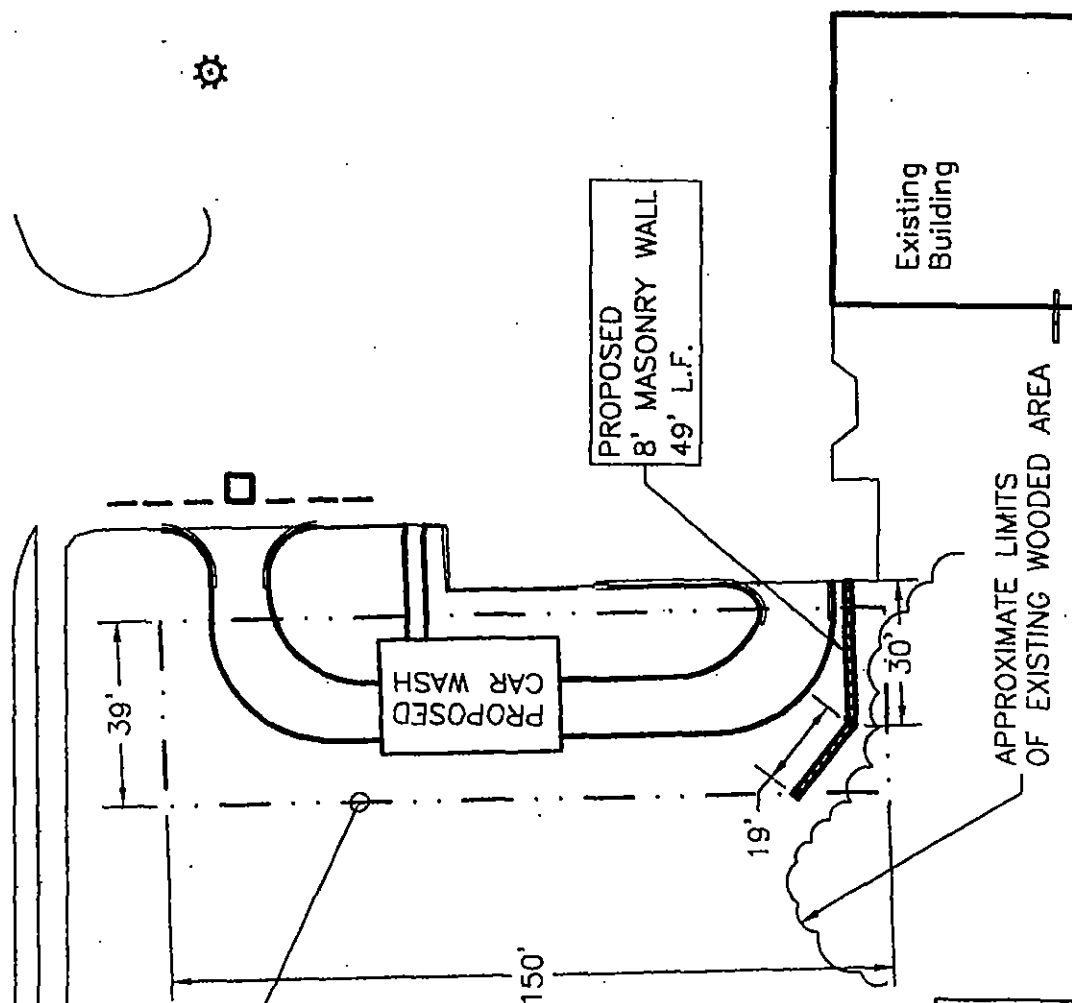


Castleberry Surveying Ltd.
3613 Williams Drive, Suite 903 - Georgetown, Texas 78626
(512) 930-1600/(512) 930-9389 fax
www.castleberryurveying.com

SHEET

2 OF 2

Metric Blvd.



AREA TO BE RE-ZONED
FROM LR TO GR
150'x39' (5,850 S.F.)



EXHIBIT B

Smith-Western Engineering, Inc.

3613 Williams Drive, Suite 901 Georgetown, Texas 78628
Phone 512.869.1168 info@smithwestern.com Fax 512.819.4677

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2008 Mar 03 03:25 PM 2006038500

HERRERAM \$38.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS