FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
Dyana Limon-Mercado, County Clerk
Travis County, Texas
Aug 21, 2025 08:08 AM Fee: $81.00
2025092605
Electronically Recorded

DECLARATION OF RESTRICTIVE COVENANTS REGARDING ZONING CASES

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "**Declaration**") is executed to be effective as of August 20, 2025, by and between West 34th Street Neighborhood Improvement Company LLC, a Texas limited liability company ("**Declarant**") and Heritage Neighborhood Association, a Texas nonprofit corporation ("**Heritage**").

RECITALS:

A. Declarant is the current owner of that certain property more particularly described in **Exhibit A** attached hereto (the "**Property**").

B. Declarant has filed an application with the City of Austin to rezone the Property from LO-ETOD-DBETOD-NP and LO-CO-ETOD-DBETOD-NP to GR-MU-V-CO-ETOD-DBETOD-NP , and from CS-CO-ETOD-DBETOD-NP to CS-MU-V-CO-ETOD-DBETOD-NP , pursuant to the following City of Austin Zoning Case Nos. (collectively, the "**Zoning Cases**"):

NPA-2024-0019.02, to change the Future Land Use Map designation for a portion of the Property from Mixed-Use/Office and Single-Family to Mixed-Use;

C14-2025-0006, to rezone a portion of the Property from LO-ETOD-DBETOD-NP to GR-MU-V-CO-ETOD-DBETOD-NP ;

C14-2025-0007, to rezone a portion of the Property from CS-CO-ETOD-DBETOD-NP to CS-MU-V-CO-ETOD-DBETOD-NP , and from LO-ETOD-DBETOD-NP to GR-MU-V-CO-ETOD-DBETOD-NP ;

C14-2025-0008, to rezone a portion of the Property from LO-ETOD-DBETOD-NP and LO-CO-ETOD-DBETOD-NP to GR-MU-V-CO-ETOD-DBETOD-NP ; and

C14-2025-0009, to rezone a portion of the Property from LO-ETOD-DBETOD-NP to GR-MU-V-CO-ETOD-DBETOD-NP .

C. Upon timely approval by Austin City Council of all of the Zoning Cases, Declarant is willing to impose certain restrictions on the Property, as more particularly set forth below.

AGREEMENT:

NOW THEREFORE, for good and valuable consideration, Declarant declares that the Property is and shall be held, transferred, sold, conveyed, occupied, used, and enjoyed subject to the covenants, conditions, and restrictions hereinafter set forth:

1. **Definitions**. The following terms shall have the following meanings:

   a. "Hospital Services (General)" shall mean the use of a site for the provision of medical, psychiatric, or surgical services on an in-patient basis, and includes ancillary facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, and visitors.

   b. "Hospital Services (Limited)" shall mean the use of a site for the provision of medical, psychiatric, or surgical services on an out-patient basis, and includes emergency treatment, diagnostic services, training, administration, and services to out-patients, employees, and visitors.

   c. "Large Retail Use" shall mean one of the following principal uses, including its accessory uses, with 50,000 square feet or more of gross floor area in an individual commercial space: agricultural sales and services use; art gallery use; art workshop use; automotive repair services use; automotive sales use; construction sales and services use; equipment sales use; food sales use; general retail services (convenience) use; general retail sales (general) use; liquor sales use; monument retail sales use; pawn shop services use; personal improvement services; pet services use; plant nursery use; recreational equipment sales use; restaurant (general) use; restaurant (limited) use; service station use; special use historic use; or veterinary services use.

   d. "Medical Office" shall mean the use of a site for the consultation, diagnosis, therapeutic, preventative, or corrective personal treatment by doctors, dentists, medical or dental laboratories, or similar practitioners of medical and healing arts for humans, licensed for practice by the state. The use includes a compounding pharmacy that does not exceed 3,000 square feet of gross floor area. A compounding pharmacy may prepare and sell prescription drugs and also sell non-prescription drugs, medical supplies, and other health products. The sale of other merchandise is permitted only as an accessory use.

   e. "Short-Term Rental" shall mean the rental of a housing unit or a portion of a housing unit for a period of less than 30 consecutive days. The use does not include an extension for less than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more or a rental between the parties to the sale of that housing unit.

2. **Restrictions Applicable to Entire Property**. The Property shall be subject to the following restrictions:

a. Short-Term Rentals are prohibited.

b. The hours of operation of any restaurants or retail establishments on the Property shall be limited to 7:00AM to 11:00PM.

c. No more than 100,000 square feet of gross floor area on the Property shall be used for commercial purposes, until at least 100 residential multifamily units have been constructed and issued a temporary certificate of occupancy on the Property.

d. Not more than 100,000 square feet of gross floor area on the Property shall be used for Medical Office (of any size), Hospital Services (Limited), or Hospital Services (General).

e. A Large Retail Use is prohibited on the Property. For clarity, this provision shall prohibit 50,000 square feet or more of gross floor area in an individual commercial space and shall not be construed to limit the cumulative gross floor area of multiple different commercial spaces that do not individually exceed this limit.

3. **Restrictions Applicable to Tract 3**. Tract 3 of the Property shall be subject to the following restrictions:

a. No vertical structure shall be constructed within 25 feet of Tract 3's southerly boundary lines (i.e., the three boundary line segments outlined in Exhibit B).

b. No vertical structure in excess of 60 feet of height shall be constructed between 25 and 50 feet of Tract 3's southerly boundary lines (i.e., the three boundary line segments outlined in Exhibit B). For purposes of determining a vertical structure's height, "height" means the vertical distance from the average of the highest and lowest grades adjacent to the vertical structure to:

i. for a flat roof, the highest point of the coping;
ii. for a mansard roof, the deck line;
iii. for a pitched or hip roof, the average height of the highest gable; or
iv. for other roof styles, the highest point of the building.

c. For clarity, the restrictions above do not prohibit the following within 10 feet of Tract 3's southerly boundary lines (i.e., the three boundary line segments outlined in Exhibit B):

i. landscaping or gardens;
ii. fences, walls, or berms;
iii. paths, walkways, or public use trails, including associated lighting and gates;

iv. utility infrastructure if a utility provider determines that it is necessary;
v. bike racks, benches, and water fountains; and
vi. ground-floor private common and private personal open space.

d. For additional clarity, the restrictions above do not prohibit the following between 10 and 25 feet of Tract 3's southerly boundary lines (i.e., the three boundary line segments outlined in Exhibit B):

i. landscaping or gardens;
ii. fences, walls, or berms;
iii. surface parking lots, driveways, alleys, or fire lanes;
iv. paths, walkways, or public use trails, including associated lighting and gates;
v. utility infrastructure;
vi. refuse receptacles;
vii. bike racks, benches, and water fountains;
viii. ground-floor private common and private personal open space; and
ix. mechanical equipment.

4. **Heritage Support**. Heritage shall submit a letter of support to the City of Austin Planning Commission and Austin City Council supporting the rezoning of the Property pursuant to the Zoning Cases. The support letters will be in the form attached to this Agreement as **Exhibit C**. So long as Owner is not in default under this Agreement, Heritage shall not withdraw or modify the support letters and shall continue to support (and not oppose) the rezoning of the Property pursuant to the Zoning Cases.

5. **Term**. Unless earlier terminated as provided herein, this Agreement shall be in effect for a period of thirty (30) years from the date hereof, i.e. this Agreement shall expire on the 30th anniversary of the date of this Agreement set forth above. Upon expiration of the thirty (30) year term, this Agreement shall automatically expire and be of no further force or effect.

6. **Sole Beneficiary**. Heritage is the sole beneficiary of this Declaration and the sole party entitled to enforce this Declaration. There are no other beneficiaries of this Declaration. Heritage's rights, title and interest in and to this Declaration shall not be assigned, without Declarant's prior written consent, unless it is solely a name change to the existing entity. In the event Heritage is dissolved, this Declaration will automatically terminate. Upon such termination, Declarant will have the unilateral right to record a termination of this Declaration in the Official Public Records of Travis County, Texas, and thereafter, the Declaration will no longer encumber the Property.

7. **Construction**. The provisions of this Agreement will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof will not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular will include the plural and the plural the singular. All captions and titles used in this Agreement are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs or sections hereof.

8. **Runs With The Land**. This Agreement and the covenants set forth herein run with the Property. Any subsequent purchaser of all or any portion of the Property by acceptance of delivery of a deed and/or conveyance regardless of form, shall be deemed to have consented to and become bound by these presents.

9. **Governing Law**. This Agreement and all rights and obligations created hereby shall be governed by and interpreted under the laws of the State of Texas. Venue for all purposes shall be exclusively in Travis County, Texas

10. **Condition Precedent**. It is a condition precedent to the effectiveness of this Agreement that the rezoning of the Property pursuant to all of the Zoning Cases has been approved on third and final reading by the Austin City Council on or before November 15, 2025. If such rezoning is not approved on third and final reading for all of the Zoning Cases by the Austin City Council by such date for any reason, then this Agreement shall expire on such date, shall not be recorded and thereafter shall be of no force or effect. An affidavit from Owner certifying that the Zoning Cases were not approved by such date shall be sufficient to remove this Declaration as an encumbrance on title to the Property.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Declarant has executed this Declaration, to be effective as of the date first written above.

DECLARANT:

WEST 34TH STREET NEIGHBORHOOD
IMPROVEMENT COMPANY LLC
a Texas limited liability company

By: ABP Trust,
a Maryland Trust
its Manager

By: Jennifer S Clark
Name: Jennifer Clark
Title: Secretary

THE STATE OF Massachusetts §
§
COUNTY OF Middlesex §

This instrument was acknowledged before me on July 30th, 2025, by Jennifer Clark, Secretary of ABP Trust, a Maryland trust, Manager of West 34th Street Neighborhood Improvement Company LLC, a Texas limited liability company, on behalf of said trust and said limited liability company.

(SEAL)

AMANDA LOREN MAHAN NOTARY PUBLIC COMMONWEALTH OF MASSACHUSETTS MY COMMISSION EXPIRES 08-16-30

Amanda Mahan
Notary Public Signature Amanda Mahan

IN WITNESS WHEREOF, Heritage has executed this Declaration, to be effective as of the date first written above.

HERITAGE:

HERITAGE NEIGHBORHOOD ASSOCIATION,
a Texas nonprofit corporation

By: Laura S. Grim
Name: Laura S. Grim
Title: Heritage neighborhood president

THE STATE OF Texas §
§
COUNTY OF Travis §

This instrument was acknowledged before me on August 20, 2025, by Laura S. Grim, President of Heritage Neighborhood Association, a Texas nonprofit corporation, on behalf of said corporation.

(SEAL)

MARTHA ANN ADAMS
State of Texas
Notary Public
Commission No. 267719-7
My Commission Expires 1/30/2029

Notary Public Signature

EXHIBIT A

The Property

Tract One:

1.597 ACRES OF LAND BEING ALL OF LOT A, WEST 34TH STREET NORTH ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 82, PAGE 160, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AS DESCRIBED BY METES AND BOUNDS ATTACHED AS EXHIBIT A-1 HERETO.

A PORTION OF LOT 14, HILL VIEW ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 3, PAGE 25, PLAT RECORDS, TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THAT PORTION CONVEYED TO THE CITY OF AUSTIN IN STREET DEED RECORDED IN VOLUME 3621, PAGE 1857, DEED RECORDS, TRAVIS COUNTY, TEXAS.

Tract Two:

THE EAST 50 FEET OF LOTS 9, 10 AND 11, BLOCK 5 OF PENN SUBDIVISION OF BLOCKS 5 AND 6 OF SMYTH SUBDIVISION OUT OF OUTLOT 75, DIVISION "D," A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 3, PAGE 18, PLAT RECORDS, TRAVIS COUNTY, TEXAS, AS DESCRIBED BY METES AND BOUNDS ATTACHED AS EXHIBIT A-2 HERETO.

BEING THE NORTH 40 FEET OF LOT 6 AND ALL OF LOTS 7 AND 8, BLOCK 5 OF PENN SUBDIVISION OF BLOCKS 5 AND 6 OF SMYTH SUBDIVISION OUT OF OUTLOT 75, DIVISION "D," A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 3, PAGE 18, PLAT RECORDS, TRAVIS COUNTY, TEXAS, AS DESCRIBED BY METES AND BOUNDS ATTACHED AS EXHIBIT A-2 HERETO.

A 15 FOOT BY 140 FEET PORTION OF AN ALLEY VACATED BY ORDINANCE RECORDED IN VOLUME 6767, PAGE 1520 AND VOLUME 6776, PAGE 2040, DEED RECORDS, TRAVIS COUNTY, TEXAS AND CONVEYED TO DR E RICHARD PARKER IN DEED RECORDED IN VOLUME 6776, PAGE 2056, DEED RECORDS, TRAVIS COUNTY, AS DESCRIBED BY METES AND BOUNDS ATTACHED AS EXHIBIT A-2 HERETO.

Tract Three:

2.148 ACRES OF LAND BEING ALL OF WEST 34TH STREET ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 53, PAGE 37, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, TOGETHER WITH A PORTION OF LOTS

4, 5, 9 AND 10, BLOCK "6" PENN SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 3, PAGE 18, SAID PLAT RECORDS, AS DESCRIBED BY METES AND BOUNDS ATTACHED AS EXHIBIT A-3 HERETO.

Tract Four:

ALL OF THAT CERTAIN PARCEL OR TRACT OF LAND BEING ALL OF LOT 1, OF THE TYLER SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN VOLUME 86, PAGE 86B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

ALL OF THAT CERTAIN PARCEL OR TRACT OF LAND BEING ALL OF LOT 3, OF MARY ALICE COMENSKEY SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT OF RECORD IN VOLUME 15, PAGE 5 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

EXHIBIT A-1

FIELD NOTE DESCRIPTION OF 1.597 ACRES OF LAND BEING ALL OF LOT A, WEST 34TH STREET NORTH ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 82, PAGE 150, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID 1.597 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING at a 1/2" iron rod set for the Southeast corner of said Lot A, same being the intersection of the North right-of-way line of West 34th Street and the West line of West Avenue for the Southeast corner and the PLACE OF BEGINNING hereof;

THENCE along said right-of-way line of West 34th Street and with the South line of said Lot A, the following two (2) courses and distances;

(1)N 60° 42' 00" W, a distance of 155.00 ft. to a 1/2" iron rod set

(2) N 60° 39' 50" W a distance of 89.32 ft. to a 1/2" iron rod found for the common South corner of said Lot A and the remainder of Lot 14, Hill View Addition, a subdivision in said county and state, recorded in Vol. 3, Page 25, said Plat Records for an outside ell corner of said Lot A and hereof;

THENCE with the dividing line of said Lot A and said remainder of Lot 14, the following two (2) courses and distances:

(1) N 30° 05' 56" E, a distance of 50.03 ft. to a 1/2" iron rod found for an inside ell corner hereof

(2) N 60° 38' 36" W, a distance of 80.75 ft. to a mag nail found in concrete in the East right-of-way line of Owen Avenue for the Southwest corner hereof;

THENCE along said right-of-way line of Owen Avenue, and with the West line of said Lot A, the following two (2) courses and distances: (1)N 30° 15' 01" E, adistance of 150.19 ft. toa 1/2" ironrod found (2)N 30° 12' 29" E, a distance of 55.32 ft. to an "X" found in concrete, same being the common corner of said Lot A and that certain tract of land in the name o.f U.S. Postal Service per deed recorded in Volume 13129, Page 1024, Real Property Records of Travis County, Texas, for the Northwest corner of said Lot A and hereof;

THENCE along the dividing line of said Lot A and said U.S. Postal Service tract, the following two (2) courses and distances: (1)S 59° 13' 31" E, a distance of 112.90 ft. to 1/2" iron rod set (2)S 59° 49' 37" E, a distance of 47.31 ft. to a 1/2" iron rod found in the approximate centerline of a vacated alley for an outside ell corner of said Lot A and hereof;

THENCE S 30° 22' 54" W, with the approximate centerline of said alley, a distance of 51.99 ft. to a 1/2" iron rod found for an inside ell corner of said Lot A and hereof;

THENCE S 60° 40' 58" E, over and across said vacated alley and with the North line of said Lot A, at approximately 10 ft. pass the Southwest corner of Lot 15 said Hill View Addition, continuing with the dividing line of said Lot A and Lot 15, in all a total distance of 154.86 ft. to a 1/2" iron rod found in the said West right-of-way line of West Avenue for the Northeast corner of said Lot A and hereof;

THENCE S 30°10' 34" W, along said right-of-way line and with the East line of said Lot A, a distance of 200.00 ft. to the PLACE OF BEGINNING and containing 1.597 acres. Bearings shown herein are oriented to the South right-of-way line of West 34th Street. These field notes to accompany a survey plat of the area herein described.

EXHIBIT A-2

FIELD NOTES
FOR

26.182 SQUARE FEET OF LAND

ALL OF THAT CERTAIN TRACT OF PARCEL OF LAND BEING THE NORTH 40 FEET OF LOT 6 ALL OF LOTS 7 AND 8 THE EAST 50 FEET OF LOTS 9, 10 AND 11 BLOCK 5 OF PENN SUBDIVISION OF BLOCKS 5 & 6 OF THE SMYTH SUBDIVISION OF OUTLOT 75 DIVISION "D" A SUBDIVISION IN TRAVIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 3, PAGE 18 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A CALLED 15 FOOT BY 140-FOOT PORTION OF AN ALLEY VACATED BY ORDINANCE RECORDED IN VOLUME 6767 PAGE 1520 AND VOLUME 6776, PAGE 2040 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

BEGINNING at a ½ inch from pin found at the intersection of the South R O W line of West 34th Street, a 60-foot wide public right-of-way, and the West R O W line of Grandview Street, a 60-foot wide public right-of-way, bring at the Northeast corner of said Lot 8. for the Northeast corner and PLACE OF BEGINNING hereof,

THENCE along the East lines of said Lots 6, 7 and 8 , being along the West R O W. line of Grandview Street, S 39° 17'30" W for a distance of 140 25 feet to a ½ inch iron pin found in the East line of said Lot 6 for the southeast corner,

THENCE N 60° 44' 16" W at a distance of 418 16 feet passing the West line of said Lot 6 and the Southeast corner of said 15-foot by 140-foot portion of the vacated alley, and continuing for a total distance of 133 16 feet to a ½ inch iron pin found in the East line of said Lot 11, for an inside ell corner hereof,

THENCE along the East line of said Lot 11, W 29° 21' 32" W for a distance of 10 03 feet to a ½ inch iron pin found at the Southeast corner of said Lot 11,

THENCE along the South line of said Lot 11, N 60° 34' 53" W for a distance of 49 96 feet to a ½ inch iron pin found for the Southwest corner hereof;

THENCE N 29° 20' 38" E for a distance of 150 25 feet to a ½ inch iron pin found in the North line of said Lot 9, being in the South R.O W lane of West 34th Street, for the Northwest corner hereof,

THENCE along the North lines of said Lots 8 and 9 and the North line of said 15-foot by 140-foot portion of the vacated alley, being along the South R O W line of West 34th Street, S 60° 42' 00" E for a distance of 183 00 feet to the PLACE OF BEGINNING and containing 126 182 square feet of land, more or less

EXHIBIT A-3

FIELD NOTE DESCRIPTION OF 2.148 ACRES OF LAND BEING ALL OF WEST 34TH STREET ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 53, PAGE 37, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, TOGETHER WITH A PORTION OF LOTS 4,5,9 AND 10, BLOCK "6" PENN SUBDIVISION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 3, PAGE 18, SAID PLAT RECORDS, SAID 2.148 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found at the intersection of the East right-of-way line of Grandview Street and the South right-of-way line of West 34th Street, same being the Northwest corner of said West 34th Street Addition, for the Northwest corner and the PLACE OF BEGINNING hereof;

THENCE S 60° 42' 00" E, along said right-of-way line of West 34th Street and with the North line of said West 34tfl Street Addition, a distance of 332.01 ft. to a 1/2" iron rod set at the intersection of West Avenue and West 34th Street for the Northeast corner of West 34th Street Addition and hereof;

THENCE S 29° 23' 00" W, along the West right-of-way line of West Avenue, a distance of 241.05 ft. to a 1/2" iron rod set at the North right-of-way line of an alleyway for the Southeast corner hereof;

THENCE along said alley right-of-way line the following three (3) courses and distances:

(1)N 60° 46' 52" W, a distance of 144.74 ft. to 60d nail found for an inside ell corner hereof

(2.S 29° 27' 34" W, a distance of 71.39 ft. to a 1/2" iron rod found for an outside ell corner hereof

(3)N 61° 01' 56" W, a distance of 197.18 ft. to a 1/2" iron rod set in the East right-of-way line of said Grandview Street for the Southwest corner hereof;

THENCE N 29° 23' 00" E, along said right-of-way line of Grandview Street, a distance of 313.73 ft. to the PLACE OF BEGINNING and containing 2.148 acres.

EXHIBIT B

Location of Tract 3's Southerly Boundary

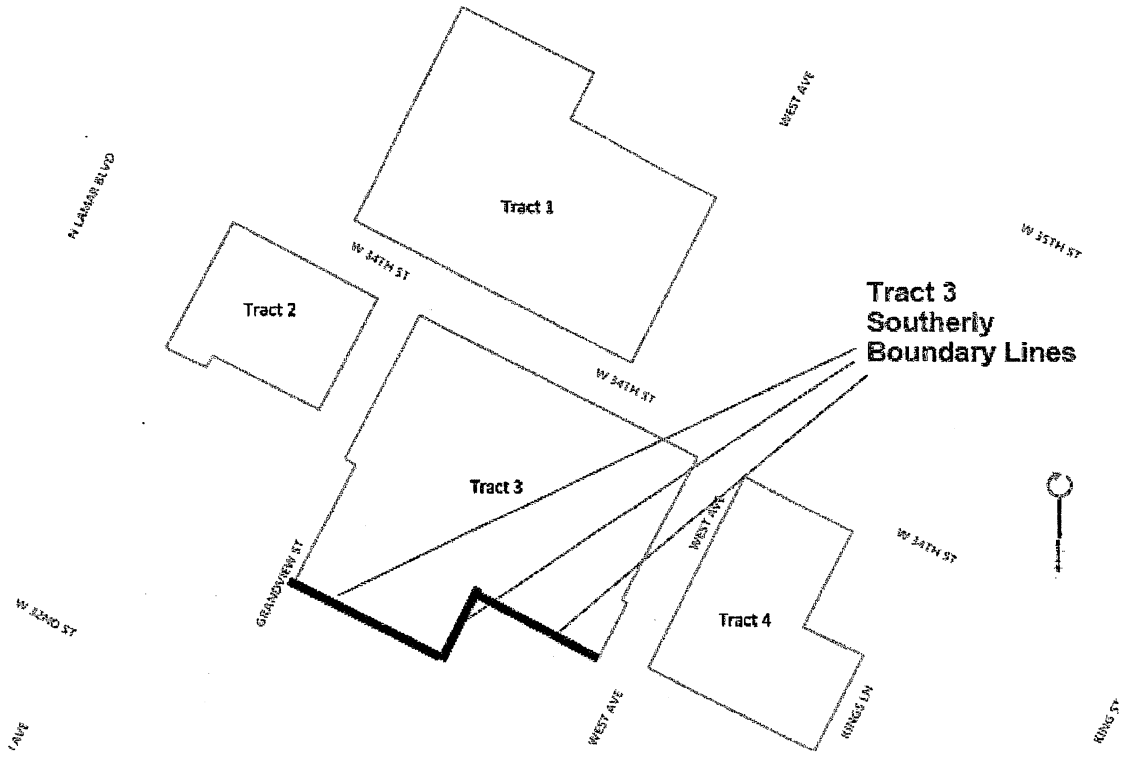


EXHIBIT C

July __, 2025

RE: Heritage Neighborhood Association Support for the 34th and West Cases (NPA-2024-0019.02, C14-2025-0006, C14-2025-0007, C14-2025-0008, C14-2025-0009)

Mayor, City Council, and Planning Commissioners:

On behalf of the Heritage Neighborhood Association, I ask that you **support** the applicant's request for GR-MU-V-CO-ETOD-DBETOD-NP and CS-MU-V-CO-ETOD-DBETOD-NP zoning in the "34th and West" cases.

We recognize that the city is seeking to support its transit and affordability goals. At the same time, as a neighborhood association, we have a duty to work to address the concerns that members of the Heritage Neighborhood Association have voiced. We believe that the cases before you today, which feature conditional overlays and a private restrictive covenant, help meet the city's needs while addressing community concerns.

Our members have worked with the applicant on a compromise proposal that provides them with additional height, density, and uses while also providing enhanced compatibility buffering, limits on 'big box' stores and other uses, restrictions on hours of operation, and a 'trigger' to require residential uses, among other things.

Accordingly, we would ask that you support the applicant's requested rezoning. Thank you for your consideration.

NAME
TITLE

EXHIBIT C

July 22, 2025

RE: Heritage Neighborhood Association Support for the 34th and West Cases (NPA-2024-0019.02, C14-2025-0006, C14-2025-0007, C14-2025-0008, C14-2025-0009)

Mayor, City Council, and Planning Commissioners:

On behalf of the Heritage Neighborhood Association, I ask that you **support** the applicant's request for GR-MU-V-CO-ETOD-DBETOD-NP zoning for tracts 1, 2b, 3 and 4 and CS-MU-V-CO-ETOD-DBETOD-NP zoning for tract 2A in the "34th and West" cases.

We recognize that the city is seeking to support its transit and affordability goals. At the same time, as a neighborhood association, we have a duty to work to address the concerns that members of the Heritage Neighborhood Association have voiced. We believe that the cases before you today, which feature conditional overlays and a private restrictive covenant, help meet the city's needs while addressing community concerns.

Our members have worked with the applicant on a compromise proposal that provides them with additional height, density, and uses while also providing enhanced compatibility buffering, limits on 'big box' stores and other uses, restrictions on hours of operation, and a 'trigger' to require residential uses, among other things.

Accordingly, we would ask that you support the applicant's requested rezoning. Thank you for your consideration.

Laura Grim
President, Heritage Neighborhood Association

ORDINANCE NO. 20250911-057

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 800, 804, 806, AND 808 WEST 34TH STREET AND 3404 AND 3406 WEST AVENUE IN THE CENTRAL AUSTIN COMBINED NEIGHBORHOOD PLAN AREA FROM LIMITED OFFICE-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (LO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 2) TO COMMUNITY COMMERCIAL-MIXED USE-VERTICAL MIXED USE BUILDING-CONDITIONAL OVERLAY- EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (GR-MU-V-CO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 2).

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from limited office-equitable transit-oriented development-density bonus ETOD-neighborhood plan (LO-ETOD-DBETOD-NP) combining district (Subdistrict 2) to community commercial-mixed use-vertical mixed use building-conditional overlay-equitable transit-oriented development-density bonus ETOD-neighborhood plan (GR-MU-V-CO-ETOD-DBETOD-NP) combining district (Subdistrict 2) on the property described in Zoning Case No. C14-2025-0006, on file at the Planning Department, as follows:

LOT A, WEST 34TH STREET NORTH ADDITION, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 82, Page 160, of the Plat Records of Travis County, Texas; and

The West 85.8 feet of LOT 14, Outlot 76, Division "D", HILL VIEW ADDITION, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 3, Page 25, of the Plat Records of Travis County, Texas, SAVE AND EXCEPT that portion conveyed to the City of Austin by deed recorded in Volume 3621, Page 1857, of the Deed Records of Travis County, Texas, (collectively, the "Property"),

locally known as 800, 804, 806, and 808 West 34th Street, and 3404 and 3406 West Avenue in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "A"**.

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

(A) The following uses are prohibited uses of the Property:

Alternative Financial Services	Automotive Washing (of any type)
Bail Bond Services	Communication Service Facilities
Communications Services	Outdoor Entertainment
Outdoor Sports and Recreation	Pawn Shop Services
Pedicab Storage and Dispatch	Safety Services

(B) The following uses are conditional uses of the Property:

Business or Trade School	Business Support Services
Hotel-Motel	Performance Venue (not to exceed 9,000 square feet)
Private Primary Educational Facilities	Private Secondary Educational Facilities
Public Primary Educational Facilities	Public Secondary Educational Facilities
Theater (not to exceed 5,000 square feet)	

(C) The maximum height of a building or structure shall not exceed 45 feet.

PART 3. The Property may be developed in compliance and used in accordance with the regulations established for density bonus ETOD (DBETOD) combining district and other applicable requirements of the City Code.

PART 4. 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, the mixed use combining district, and other applicable requirements of the City Code.

PART 5. Except as specifically modified by this ordinance, the Property is subject to Ordinance No. 040826-57 that established zoning for the West University Neighborhood Plan.

PART 6. This ordinance takes effect on September 22, 2025.

PASSED AND APPROVED

September 11, 2025

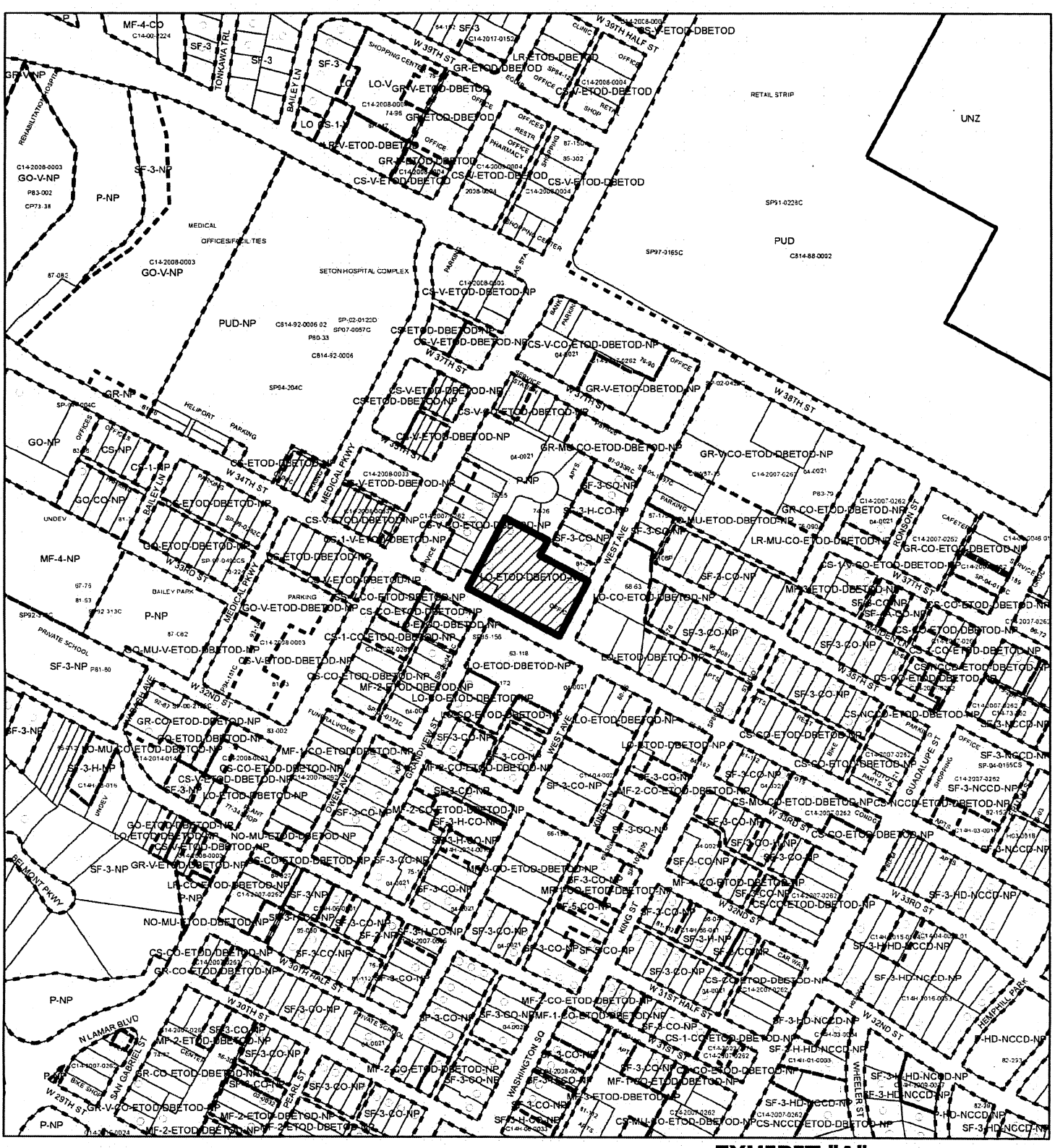
§
§
§

Kirk Watson
Mayor

APPROVED: **ATTEST:**

Deborah Thomas
City Attorney

Erika Brady
City Clerk



ZONING **EXHIBIT "A"**

ZONING CASE#: C14-2025-0006

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

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.

This product has been produced by the Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

CITY OF AUSTIN · FOUNDED 1839 ·

Created: 1/14/2025

ORDINANCE NO. 20250911-059

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 801 WEST 34TH STREET IN THE CENTRAL AUSTIN COMBINED NEIGHBORHOOD PLAN AREA FROM LIMITED OFFICE-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (LO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 1) TO COMMUNITY COMMERCIAL-MIXED USE-VERTICAL MIXED USE BUILDING-CONDITIONAL OVERLAY-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (GR-MU-V-CO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 1) ON TRACT 1, FROM LIMITED OFFICE-CONDITIONAL OVERLAY-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (LO-CO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 2) TO COMMUNITY COMMERCIAL-MIXED USE-VERTICAL MIXED USE BUILDING-CONDITIONAL OVERLAY-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (GR-MU-V-CO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 2) ON TRACT 2, AND FROM LIMITED OFFICE-CONDITIONAL OVERLAY-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (LO-CO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 1) TO COMMUNITY COMMERCIAL-MIXED USE-VERTICAL MIXED USE BUILDING-CONDITIONAL OVERLAY-EQUITABLE TRANSIT-ORIENTED DEVELOPMENT-DENSITY BONUS ETOD-NEIGHBORHOOD PLAN (GR-MU-V-CO-ETOD-DBETOD-NP) COMBINING DISTRICT (SUBDISTRICT 1) ON TRACT 3.

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from limited office-equitable transit-oriented development-density bonus ETOD-neighborhood plan (LO-ETOD-DBETOD-NP) combining district (Subdistrict 1) to community commercial-mixed use-vertical mixed use building-conditional overlay-equitable transit-oriented development-density bonus ETOD-neighborhood plan (GR-MU-V-CO-ETOD-DBETOD-NP) combining district (Subdistrict 1) on Tract 1, from limited office-conditional overlay-equitable transit-oriented development-density bonus ETOD-neighborhood plan (LO-CO-ETOD-DBETOD-NP) combining district (Subdistrict 2) to community commercial-mixed use-vertical mixed use building-conditional overlay-equitable transit-oriented development-density bonus ETOD-neighborhood plan (GR-MU-V-CO-ETOD-DBETOD-NP) combining district (Subdistrict 2) on Tract 2, and from limited office-conditional overlay-equitable transit-oriented

development-density bonus ETOD-neighborhood plan (LO-CO-ETOD-DBETOD-NP) combining district (Subdistrict 1) to community commercial-mixed use-vertical mixed use building-conditional overlay-equitable transit-oriented development-density bonus ETOD-neighborhood plan (GR-MU-V-CO-ETOD-DBETOD-NP) combining district (Subdistrict 1) on Tract 3 on the property described in Zoning Case No. C14-2025-0008, on file at the Planning Department, as follows:

Tract 1
All LOTS AND BLOCKS comprising the entirety of WEST 34TH STREET ADDITION, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 53, Page 37, of the Plat Records of Travis County, Texas,

Tract 2
LOTS 9 AND 10, BLOCK 6, PENN SUBDIVISION OF BLOCKS 5 AND 6 OF THE SMYTH SUBDIVISION OF OUTLOT 75, DIVISION "D", a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 3, Page 18, of the Plat Records of Travis County, Texas, and

Tract 3
LOT 5 AND THE NORTH 16 FEET OF LOT 4, BLOCK 6, PENN SUBDIVISION OF BLOCKS 5 AND 6 OF THE SMYTH SUBDIVISION OF OUTLOT 75, DIVISION "D", a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Volume 3, Page 18, of the Plat Records of Travis County, Texas,

(Tracts 1, 2, and 3, collectively, the "Property"),

locally known as 801 West 34th Street in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "A"**.

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

(A) The following uses are prohibited uses of the Property:

Alternative Financial Services	Automotive Washing (of any type)
Bail Bond Services	Communication Service Facilities
Communications Services	Outdoor Entertainment
Outdoor Sports and Recreation	Pawn Shop Services
Pedicab Storage and Dispatch	Safety Services

(B) The following uses are conditional uses of the Property:

Business or Trade School	Business Support Services
Hotel-Motel	Performance Venue (not to exceed 9,000 square feet)
Private Primary Educational Facilities	Private Secondary Educational Facilities
Public Primary Educational Facilities	Public Secondary Educational Facilities
Theater (not to exceed 5,000 square feet)	

(C) The maximum height of a building or structure shall not exceed 45 feet.

PART 3. The Property may be developed in compliance and used in accordance with the regulations established for density bonus ETOD (DBETOD) combining district and other applicable requirements of the City Code.

PART 4. 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, the mixed use combining district, and other applicable requirements of the City Code.

PART 5. Except as specifically modified by this ordinance, the Property is subject to Ordinance No. 040826-57 that established zoning for the West University Neighborhood Plan.

PART 6. This ordinance takes effect on September 22, 2025.

PASSED AND APPROVED

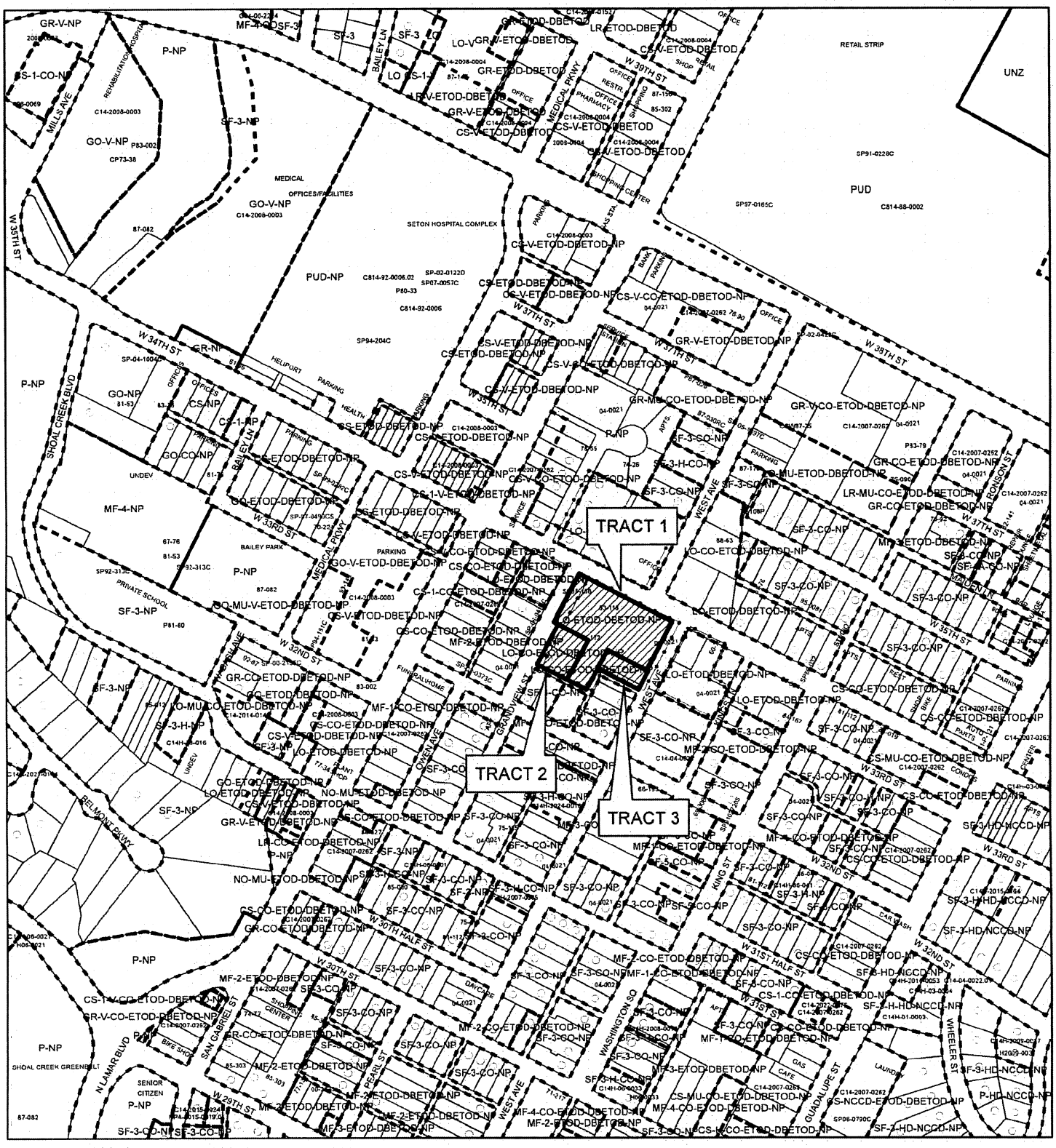
September 11, 2025 § §

Kirk Watson
Mayor

APPROVED: Deborah Thomas **ATTEST:** Erika Brady

Deborah Thomas
City Attorney

Erika Brady
City Clerk



ZONING **EXHIBIT "A"**

ZONING CASE#: C14-2025-0008

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

0 200 400 Feet

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 Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

CITY OF AUSTIN FOUNDED 1839

Created: 8/8/2025