

**ZONING CHANGE AND RESTRICTIVE COVENANT TERMINATION
REVIEW SHEET**

CASE: C14-2007-0076 & C14-84-361 (RCT)

PC Date: August 14, 2007

ADDRESS: 2200 Tillery Street

APPLICANT/AGENT: Smart Mail of Austin (Lawrence Mathis)

ZONING FROM: LO-MU-CO-NP

TO: CS-MU-CO-NP

RESTRICTIVE COVENANT REQUEST: Terminate the restrictive covenant limiting the types of uses allowed on the property to only those listed, and placing other restrictions on the property.

AREA: 1.217 acres

SUMMARY STAFF RECOMMENDATION:

Staff alternatively recommends approval of Community Commercial-Mixed Use-Conditional Overlay-Neighborhood Plan (GR-MU-CO-NP). The conditional overlay would limit the total daily vehicle trips to not more than 2000 and prohibit the following uses:

1. Automotive Rentals
2. Automotive Repair Services
3. Automotive Sales
4. Automotive Washing (any type)
5. Commercial Off-Street Parking
6. Off-Site Accessory Parking
7. Pawn Shop Services
8. Service Station

Staff recommends the termination of the restrictive covenant.

PLANNING COMMISSION RECOMMENDATION:

August 14, 2007: Postponed to August 28, 2007.

August 28, 2007:

1. APPROVED STAFF'S RECOMMENDATION FOR TERMINATION OF THE RESTRICTIVE COVENANT. [J.REDDY, T.ATKINS 2ND] (8-0)
2. APPROVED STAFF'S RECOMMENDATION FOR GR-MU-CO-NP DISTRICT ZONING. [J.REDDY, T.ATKINS 2ND] (6-2) M.DEALEY, P.HUI – NAY

DEPARTMENT COMMENTS:

In 1984 a restrictive covenant was placed on this property restrict the available uses to largely office and limited commercial uses. In 1986 this RC was amended to specifically allow the State Bar of Texas to operate a print shop at the location. Both documents are attached.

The intent is to operate a digital print shop (similar to Miller Blue Print). The roughly 20,000 square foot building would be divided into 12,000 square feet of air-conditioned space with large digital printers and roughly 8,000 square feet of non-conditioned warehouse. While printing and publishing is allowed in GR base zoning, the amount of warehouse proposed is too great to be considered an accessory use. Limited warehouse and distribution requires CS base zoning.

The site is currently zoned Limited Office-Mixed Use-Neighborhood Plan (LO-MU-NP) combining district. The request is to rezone the property to General Commercial Services-Mixed Use-Conditional Overlay-Neighborhood Plan (CS-MU-CO-NP). The applicant has agreed to limit the development to less than 2,000 vehicle trips per day, and to prohibit the following uses:

- | | |
|------------------------------------|--|
| 1. Agricultural Sales and Services | 17. Funeral Services |
| 2. Automotive Rentals | 18. General Retail Sales (Convenience) |
| 3. Automotive Repair Services | 19. General Retail Sales (General) |
| 4. Automotive Sales | 20. Hotel-Motel |
| 5. Automotive Washing (any type) | 21. Kennels |
| 6. Bail Bond Services | 22. Laundry Services |
| 7. Building Maintenance Services | 23. Marina |
| 8. Campground | 24. Monument Retail Sales |
| 9. Commercial Blood Plasma Center | 25. Off-Site Accessory Parking |
| 10. Consumer Convenience Services | 26. Pawn Shop Services |
| 11. Drop-Off Recycling Collection | 27. Plant Nursery |
| 12. Equipment Repair Services | 28. Restaurant (General) |
| 13. Equipment Sales | 29. Restaurant (Limited) |
| 14. Exterminating Services | 30. Service Station |
| 15. Food Preparation | 31. Vehicle Storage |
| 16. Food Sales | 32. Veterinary Services |

Staff alternatively recommends the termination of the restrictive covenant and approval of Community Commercial-Mixed Use-Conditional Overlay-Neighborhood Plan (GR-MU-CO-NP). The conditional overlay would limit the total daily vehicle trips to not more than 2000 and prohibit the following uses:

- | | |
|----------------------------------|----------------------------------|
| 1. Automotive Rentals | 5. Commercial Off-Street Parking |
| 2. Automotive Repair Services | 6. Off-Site Accessory Parking |
| 3. Automotive Sales | 7. Pawn Shop Services |
| 4. Automotive Washing (any type) | 8. Service Station |

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO-MU	Print Shop
<i>North</i>	CS-CO-NP	Landscaping Company
<i>South</i>	MF-2-NP	Single Family Residence
<i>East</i>	CS-CO-NP and SF-3-NP	Single Family Residence and Undeveloped
<i>West</i>	GR-NP	Tire Storage

AREA STUDY: The property lies within the MLK neighborhood plan area. The draft future land use map calls for mixed use land use for this property. The requested CS-MU-CO-NP zoning is in compliance with the adopted neighborhood plan.

TIA: A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Tillery Street	50'	30'	Collector	Yes	Yes	Yes

WATERSHED: Boggy Creek, Tannehill Branch

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No **HILL COUNTRY ROADWAY:** No

REGISTERED NEIGHBORHOOD AND COMMUNITY ORGANIZATIONS

- Taking Action Inc,
- East MLK Neighborhood Plan Contact Team
- Austin Neighborhoods Council
- Mueller Neighborhoods Association
- Seabrook Neighborhood Association
- PODER – People Organized to Defend Earth and her Resources
- Anberly Airport Association
- Keep the Land
- Home Builders' Association of Greater Austin
- Austin Independent School District

CASE HISTORIES

Case	Address	From	To	Notes
C14-01-0033	3300 Manor	GR	CS-CO	2000 trip limit. Many prohibited uses. 15' vegetated buffer on west and south.
C14-00-2083	3219 Manor	GR	CS-CO	2000 trip limit. Many prohibited uses. No access to Tillery 15' vegetated buffer on east.

SCHOOLS: (AISD)

Maplewood Elementary School Kealing Middle School McCallum High School

ABUTTING STREETS:

CITY COUNCIL DATE: **ACTION:**

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Robert Heil
e-mail address: robert.heil@ci.austin.tx.us

PHONE: 974-2330

C14-2007-0076 and
C14-84-361 (RCT)
2200 Tillery Street
From LO-MU-NP to CS-MU-NP



SUMMARY STAFF RECOMMENDATION

Staff alternatively recommends approval of Community Commercial-Mixed Use-Conditional Overlay-Neighborhood Plan (GR-MU-CO-NP). The conditional overlay would limit the total daily vehicle trips to not more than 2000 and prohibit the following uses:

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Staff recommends the termination of the restrictive covenant.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

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

Community Commercial base district zoning is the designation for an office or other commercial use that serves neighborhood and community needs and that is generally is accessible from major traffic ways.

The Mixed Use combining district is to allow office, retail commercial and residential uses to be combined in a single development.

2. *Zoning changes should promote compatibility with adjacent and nearby uses.*
3. *Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.*

GR zoning would provide a transition from the CS zoning to the north and the multi-family zoning to the south..

Transportation

No additional right-of-way is needed at this time.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Tillery Street	50'	30'	Collector	Yes	Yes	Yes

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy and Tannehill Branch Creek Watersheds of the Colorado River Basin, which are classified as Urban Watersheds by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area.

At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Site Plan

Site plans will be required for any new development other than single-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.

Compatibility Standards

The site is subject to compatibility standards. Along the east property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.

- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- Additional design regulations will be enforced at the time a site plan is submitted.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.

Water and Wastewater

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 the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocation, and abandonment. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. 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.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.ci.austin.tx.us/development

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2007-0076

Contact: Robert Heil, (512) 974-2330

Public Hearing:

July 10, 2007 Planning Commission

Your Name (please print)

Cerfude Truitt Green

Your address(es) affected by this application

2034 Excelsior Dr Austin, TX 78723

Signature Date

Comments:

I objected to Smart Mail moving to be in the first place. I believe the combination of the location and the over the fence home design the street was not going to hold several. They are held together. We cannot get a good dump in 2007, but any kind of dump can come in. I object.

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

City of Austin

Neighborhood Planning and Zoning Department

Robert Heil

P. O. Box 1088

Austin, TX 78767-8810

☒ I am in favor
☐ I object

Can not
pare streets
I get adequate
but my parking
concerns in

Photo - Main lot in the N.H. area

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Case Number: C14-2007-0076

Contact: Robert Heil, (512) 974-2330

Public Hearing:

July 10, 2007 Planning Commission

Tom Cole

Your Name (please print)

3304 DENVER

75423

Your address(es) affected by this application

Tom Cole

Signature

Date

7/2/07

Comments:

The design for CS-MU-1P

seems inconsistent of the neighborhood. Although it is w/ the boundary for this type of zoning established in the neighborhood meeting it does not meet the intent of these meetings. There are residences directly next door across the street etc. Please take the time to look closely at this rezoning.

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

City of Austin

Neighborhood Planning and Zoning Department

Robert Heil

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ I object

*my cell 512 762 5592
Thanks, Tom*

Walsh, Wendy

From: Larry Mathis [lmathis@smartmailaustin.com]
Sent: Friday, July 20, 2007 2:42 PM
To: Walsh, Wendy
Cc: Heil, Robert
Subject: Zoning Case #C14-2007-0076 Amendment

Attachments: Zoning Case #C14-2007-0076_Amend.doc; ATT621638.txt



Zoning Case ATT621638.txt (68
C14-2007-0076_Ame B)

Ms. Walsh --

Attached is the amendment to my zoning application #C14-2007-0076. I had previously met with Robert Heil regarding my case, the attached letter being the result of our conversation.

I understand my case will be considered by the Planning Commission on August 14 and that Mr. Heil will be back in the office July 30th. I will contact him at that time.

Thank you for responding to my inquiry.

Larry Mathis
(512) 457-5255 (Direct)

RESTRICTIVE COVENANT

03932499e

THE STATE OF TEXAS

COUNTY OF TRAVIS

APR 19 1975 * 9.00

WHEREAS, Jimmy Youngquist of Travis County, Texas, is the owner of the following described property, to-wit:

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF OUTLOT 50, DIVISION B, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED TO WILLIAM L. Lundberg, AS RECORDED IN VOLUME 779, PAGE 232, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at an iron stake in the west line of Tillery Street at the Southeast corner of the said Lundberg tract and the Southeast corner of that certain tract of land as conveyed to the City of Austin, for street widening purposes, as recorded in Volume 3458, Page 1647, of the Deed Records of Travis County, Texas:

THENCE along the South line of the said Lundberg tract and the South line of the said City of Austin tract, S 80° 04' W for a distance to 10.00 feet to an iron stake for the Southwest corner and Place of Beginning hereof:

THENCE continuing along the South line of the said Lundberg tract S 80° 04' W for a distance of 292.24 feet to an iron stake found at the Southwest corner of the said Lundberg tract for the Southwest corner hereof:

THENCE along the West line of the said Lundberg tract N 7° 33' W for a distance of 186.73 feet to an iron stake found at the Northwest corner of the said Lundberg tract for the Northwest corner hereof:

THENCE along the North line of the said Lundberg tract N 81° 15' E for a distance of 284.22 feet to an iron stake for the Northeast corner hereof and from which corner the Northeast of the said Lundberg tract bears N 81° 15' E for a distance of 10.00 feet to an iron stake found in the West line of Tillery Street at the Northwest corner of the said City of Austin tract:

THENCE along the West line of the said City of Austin tract S 10° 00' E for a distance of 180.71 feet to THE PLACE OF BEGINNING.

WHEREAS, the City of Austin and Jimmy Youngquist have agreed that the above described property should be

NEAL PROPERTY RECORDS
Travis County, Texas

09124 0604

impressed with certain covenants and restrictions running with the land and desire to set forth such agreements.

NOW, THEREFORE, Jimmy Youngquist 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. The property shall be used only for professional or semi-professional business offices including medical and dental offices and laboratories, private schools or nursing home, business machine sales, rental or display, accessory parking, or any such other use as may be approved in writing by a majority of the property owners owning property within three hundred (300) feet of the subject property.

2. All business activity shall be conducted inside the building. No business shall be conducted within the building which shall create a nuisance to the neighborhood such as loud noises or air pollution.

3. The parking area and areas outside the building shall be lighted after dark. After normal business hours, access to the parking area shall be limited to those persons conducting business within the building.

4. A privacy fence no greater than six feet in height shall be maintained along property lines adjacent to the residential property.

5. 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 said person or entity from violating or attempting to violate such agreement or covenant.

6. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgement or court order, the same shall in nowise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

7. 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 a waiver or estoppel of the right to do so.

8. 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, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above described property at the time of such modification, amendment or termination.

EXECUTED, this the 10 day of January 1985.

Jimmy Youngquist
Jimmy Youngquist

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 Jimmy Youngquist 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 10 day of January, 1985.

Allen E. Wood
Notary Public in
and for Travis
County, Texas

NOTARY SEAL

FILED

1985 APR 19 AM 9:57

Rene Angeline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

*Copy to
County Clerk
Box 2038
78767*

STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped herein by me and
was duly RECORDED, in the Volume and Page of the
record RECORDS of Travis County, Texas, as

APR 19 1985



Rene Angeline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

00124 0607

86105166 LM

4 15 7963

14.300

3.00

STATE OF TEXAS §
COUNTY OF TRAVIS §

We, the undersigned persons, firms or corporations, are a majority of the property owners within 300 feet of that certain 1.19 acre tract of land out of Out lot Number 50, Division "B," Austin, Travis County, Texas, such tract being more fully described as follows:

BEGINNING FOR REFERENCE at an iron stake in the west line of Tillery Street at the Southeast corner of the said Lundberg tract and the Southeast corner of that certain tract of land as conveyed to the City of Austin, for street widening purposes, as recorded in Volume 3458, Page 1647, of the Deed of Records of Travis County, Texas;

THENCE along the South line of the said Lundberg tract and the South line of the said City of Austin tract, S 80° 04' W for a distance to 10.00 feet to an iron stake for the Southwest corner and Place of Beginning hereof;

THENCE continuing along the South line of the said Lundberg tract S 80° 04' W for a distance of 292.24 feet to an iron stake found at the Southwest corner of the said Lundberg tract for the Southwest corner hereof;

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THENCE along the West line of the said City of Austin tract S 10° 00' E for a distance of 180.71 feet to THE PLACE OF BEGINNING.

Pursuant to Paragraph 1. of that certain restrictive covenant dated January 10, 1985, signed by Jimmy Youngquist, recorded in Volume 9142 at Page 604 of the Deed of Records of Travis County, Texas, we do hereby agree to and approve the use of the above-described tract by the State Bar of Texas, an agency of the judicial department of the State of Texas and a public corporation, for the purposes of the business of the State Bar of Texas, including but not limited to a print shop facility.

Witness my hand on the date below subscribed.

Patrick Ryan
Signature
PATRICK RYAN

10-10-86
Date

3330 Manor Road, Austin, Texas
Address

Owner of property located at 3301 Manor Road,
1986 Travis County Appraisal District Parcel number(s) 2-1215-0501
and 2-1215-0502

STATE OF TEXAS |
|
COUNTY OF TRAVIS |

BEFORE ME, the undersigned authority in and for the State of Texas, on this day personally appeared Patrick Ryan, known to me to be the person(s) who(s) name(s) is/are 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 10th day of October, 1986.

Penny G. Canipe NOTARY SEAL
Notary Public in and for
the State of Texas

Penny G. Canipe
Printed Name of Notary

My Commission Expires: 2-6-90