

## **RESTRICTIVE COVENANT TERMINATION REVIEW SHEET**

**CASE:** C14-93-0147 (RCT)

**Z.P.C. DATE:** December 18, 2007

**ADDRESS:** 8700 Block of South First Street

**OWNER:** Mickey Rich Plumbing and Heating, Inc.  
(Roger M. Rich, Jr.)

**AGENT:** Smith, Robertson, Elliott,  
Glen, Klein & Bell, L.L.P.  
(David Hartman)

**EXISTING ZONING:** SF-6; LR-CO; GR-CO

**AREA:** 13.300 acres

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends a Termination of the Restrictive Covenant.

### **ZONING & PLATTING COMMISSION RECOMMENDATION:**

December 18, 2007: *APPROVED A TERMINATION OF THE RESTRICTIVE COVENANT;  
BY CONSENT.*

*[K. JACKSON, J. SHIEH – 2<sup>ND</sup>] (8-0)*

### **ISSUES:**

None at this time.

### **DEPARTMENT COMMENTS:**

The subject property consists of undeveloped acreage and is zoned townhouse and condominium residence along the northern portion (SF-6), neighborhood commercial – conditional overlay (LR-CO) for the majority of the tract and community commercial – conditional overlay (GR-CO) district for two acres along South 1<sup>st</sup> Street by a 2003-2004 case. Access is taken to South 1<sup>st</sup> Street, an arterial roadway and the property also shares a driveway with the commercial development (lube shop, service station, automotive sales) to the south. Just east, Ralph Ablanado Drive forms a “T” intersection with South First Street. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial).

The Applicant is proposing to rezone the property to the multi-family residence low density (MF-2) district so that it may be developed with multi-family residential uses. The Applicant requests termination of the Restrictive Covenant that was recorded in conjunction with approval of the 2004 zoning case. The Restrictive Covenant prescribed that development of the property cannot generate traffic that exceeds the total traffic generation specified in the Traffic Impact Analysis (TIA) and corresponding Staff memo. A copy of the recorded Restrictive Covenant is provided as Exhibit B.

On November 20, 2007, the Applicant's request for MF-2-CO zoning with the Conditional Overlay including a 2,000 vehicle trip limit was recommended for approval by the Zoning and Platting Commission (C14-2007-0199). Staff supports the Termination request as the property is in the process of being rezoned to a residential district. Thus, the Restrictive Covenant that was recorded with the 2004 case for commercial and townhome / condominium uses is no longer applicable to the MF-2-CO zoning in process.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	DR	Undeveloped
<i>North</i>	SF-2	Single family residences
<i>South</i>	CS-CO; GR-CO	Automotive sales; Lube shop; Service station; Retail; Undeveloped
<i>East</i>	DR; IP; LR-CO; IP-CO; LI-CO; LI; W/LO; LO-CO	Plumbing supply company; Masonry and supply company; Church; Beauty salon; Business park; Sign company; Office warehouse; Storage; Undeveloped
<i>West</i>	SF-3; SF-2	Duplexes; Single family residences

**AREA STUDY:** N/A

**TIA:** Is not required

**WATERSHED:** Slaughter Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

26 – Far South Austin Community Association  
 242 – Slaughter Lane Neighborhood Association  
 262 – Beaconridge Neighborhood Association  
 300 – Terrell Lane Interceptor Association  
 428 – Barton Springs / Edwards Aquifer Conservation District  
 499 – Park Ridge Owners Association                      511 – Austin Neighborhoods Council  
 627 – Onion Creek Homeowners Association  
 742 – Austin Independent School District  
 786 – Home Builders Association of Greater Austin  
 948 – South by Southeast Neighborhood Organization  
 1037 – Homeless Neighborhood Organization

**SCHOOLS:**

Casey Elementary School

Bedichek Middle School

Akins High School

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-05-0181 – Verde Stone Creek	DR to MF-2	To Grant MF-2-CO with CO for 2,000 trips	Approved MF-2-CO as ZAP recommended (12-15-05).
C14-02-0178 – Thomas Davern	DR to LO	To Grant LO-CO, with CO for 2,000 trips	Approved LO-CO as recommended by ZAP (2-13-03).
C14-01-0106 – Jack S. Moore Zoning Change	DR to MF-2	To Grant MF-2-CO with CO for 2,000 trips; MF-1 density; restriction of development within 25 feet of the drainage or waterway; 25' vegetative buffer on the east side.	Approved MF-2-CO with CO for 2,000 trips and MF-1 density (8-1-02).
C14-01-0014 – Slaughter Lane Apartments	DR; I-RR to MF-2-CO	To Grant MF-2-CO as requested with CO for 308 units, 19 u.p.a. and addition of a 50' building setback along east property line.	Approved MF-2-CO as recommended by PC (4-19-01).
C14-99-0135 – Rolando Jaimes	SF-2 to LI	To Grant W/LO-CO	Approved W/LO (2-3-00).
C14-98-0147 – Carter Zoning Case	DR to LR-CO; IP-CO	To Grant LR-CO for Tract 1; IP-CO for Tract 2	Approved LR-CO for Tract 1; IP-CO for Tract 2. CO limits structure height to 40'; impervious cover to 70%; 2,000 vehicle trips per day; sign regulations comply with that of Neighborhood Commercial regulations; Service Station use prohibited on Tract 1; Auto uses, Service station, Sports and recreation, Research services and Adult-oriented uses prohibited on Tract 2. (5-13-99).

C14-97-0027 – Red Barn Nursery	GR-CO to CS-CO	To Grant CS-CO with conditions	Approved CS-CO with conditions for: F.A.R. of 0.25 to 1; maximum impervious cover of 60%; list of prohibited uses and allow for urban agriculture (6-5-97).
C14-95-0011 – Police & Fire Substation	SF-2 to P	To Grant P	Approved P (3-30-95).
C14-94-0046 – Theriot Tract	DR to SF-4A	To Grant SF-4A w/conditions	Approved SF-4A-CO (9-1-94).
C14-90-0072 – First Slaughter Commerce Bank	DR to LI	To Grant LI-CO w/conditions	Approved LI-CO w/list of prohibited uses (2-21-91).

### **RELATED CASES:**

The subject property was rezoned in May 2004 to its present configuration of GR-CO, LR-CO and SF-6 (C14-03-0147). Retail and restaurant general uses and an automotive repair business were contemplated in the rezoning application. For the LR-CO zoned tract, the Conditional Overlay established a 70-foot wide building setback from the west property line. For the GR-CO tract, the CO allowed for restaurant general uses and all LR uses. A Traffic Impact Analysis also accompanied the 2003-2004 rezoning application.

The subject property was also the subject of a 1999 rezoning case from DR to LR, neighborhood commercial, which was subsequently amended to MF-2-CO, multi-family residence – low density – conditional overlay (Case # C14-99-2127). The staff recommended MF-2-CO with a 2,000 vehicle trip limit and limiting the density to 13.8 units per acre.

The Planning Commission recommended approval of MF-1-CO with a 2,000 vehicle trip limit. At First Reading, the City Council approved MF-2-CO with a 2,000 trip limit and modified the maximum density from 13.8 to 14 units per acre. The Applicant chose not to proceed past First Reading and subsequently, the case expired.

### **ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
South 1st Street	70-90 feet	45-65 feet	4-lane undivided minor arterial with 7,379 vpd, S. of Slaughter (2006)	Yes, except for the property's frontage	Priority #2	Route #10 S 1st

Ralph Ablanedo Drive	82 feet	22 feet	Collector (substandard)	No	No	No
-------------------------	------------	---------	----------------------------	----	----	----

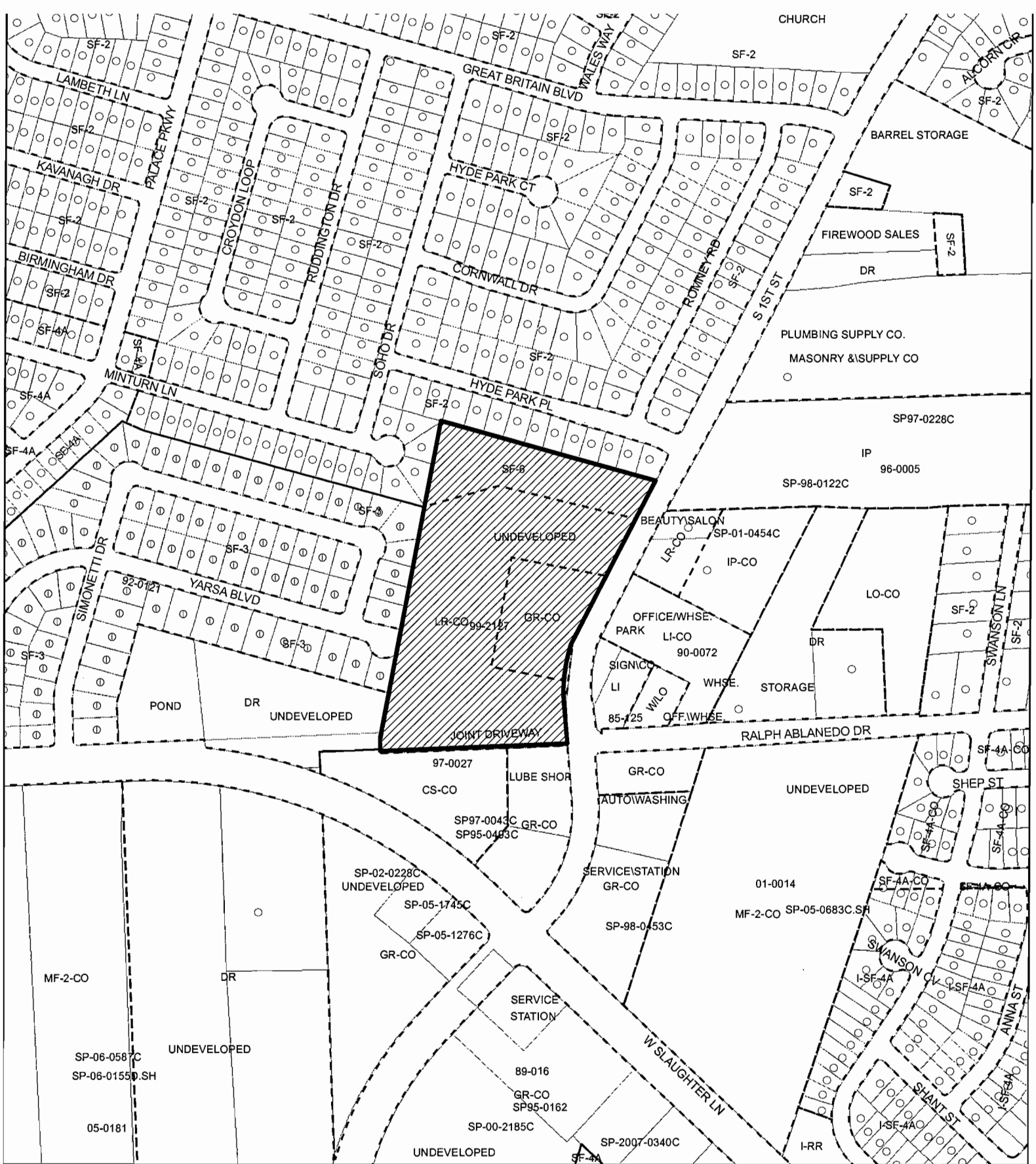
**CITY COUNCIL DATE:** January 10, 2008

**ACTION:**

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Rhoades  
e-mail: wendy.rhoades@ci.austin.tx.us

**PHONE:** 974-7719



**SUBJECT TRACT**

**ZONING BOUNDARY**

**PENDING CASE**

**ZONING**

**ZONING CASE#: C14-03-0147(RCT)**

**ADDRESS: 8600-8814 S 1ST ST**

**SUBJECT AREA: 13.3 ACRES**

**GRID: F14**

**MANAGER: W. RHOADES**

EXHIBIT A

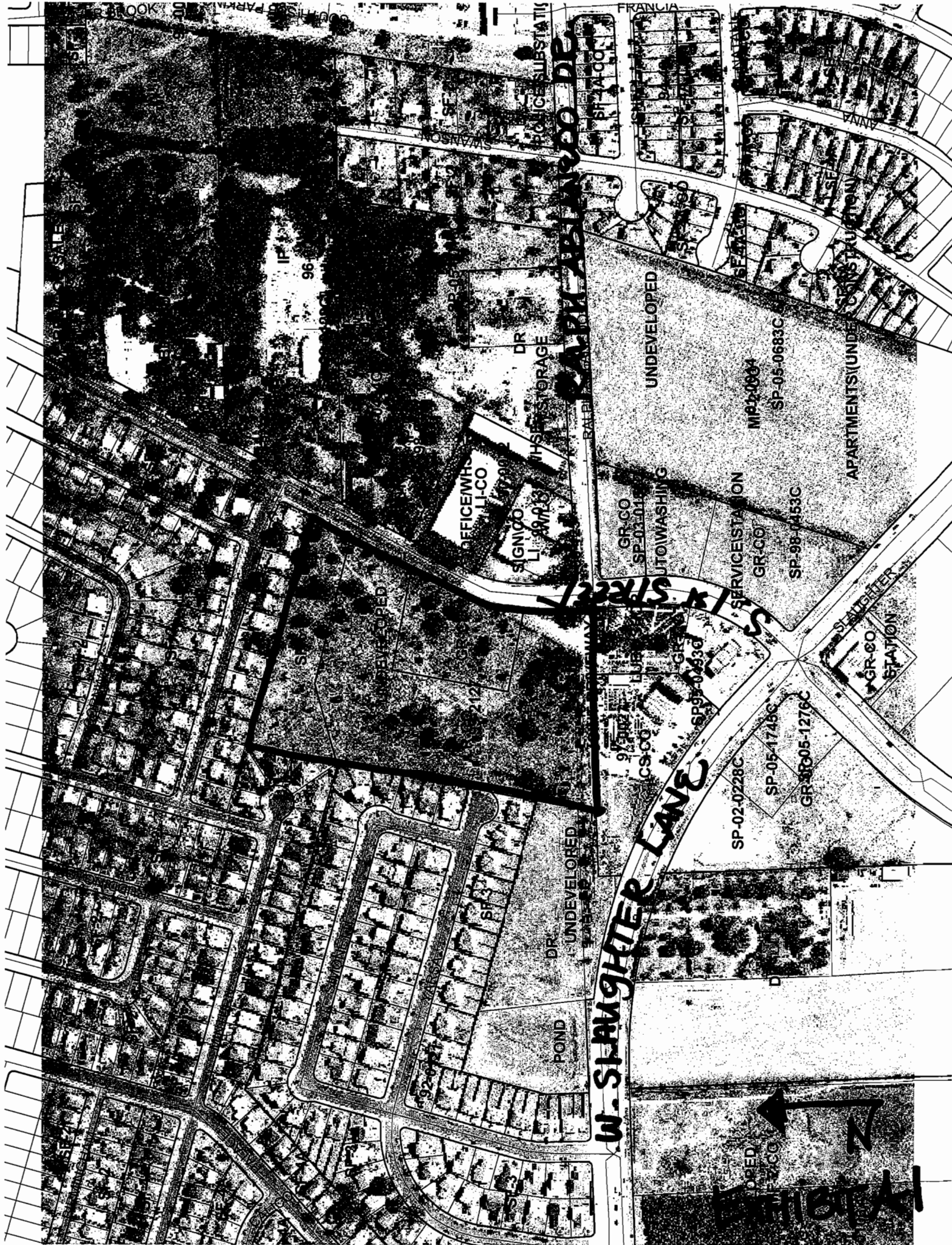


**OPERATOR: S. MEEKS**

This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 400'







Zoning Case No. C14-03-0147

**RESTRICTIVE COVENANT**

OWNER: Mickey Rich Plumbing and Heating, Inc., Texas corporation

ADDRESS: P.O. Box 150758, Austin, TX 78715

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: Tract One: A 2.5737 acre tract of land, more or less, out of the William Cannon Survey No. 19, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant, and

Tract Two: An 8.5823 acre tract of land, more or less, out of the William Cannon Survey No. 19 and the S.F. Slaughter League Survey No. 1, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant, and

Tract Three: A 2.1020 acre tract of land, more or less, out of the William Cannon Survey No. 19 and the S.F. Slaughter League Survey No. 1, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "C" 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. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Robert J. Halls and Associates, and Greear and Associates, dated April 16, 2004, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated May 4, 2004. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. 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.

5-27-04

# 75

EXHIBIT B



3. 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.
4. 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.
5. 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.

EXECUTED this the 24<sup>th</sup> day of May, 2004.

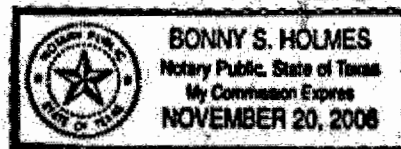
**OWNER:**

Mickey Rich Plumbing and Heating, Inc.,  
a Texas corporation

By: Mickey Rich  
Mickey Rich,  
President

**APPROVED AS TO FORM:**

Delia Thomas  
Assistant City Attorney  
City of Austin



**THE STATE OF TEXAS §**

**COUNTY OF TRAVIS §**

This instrument was acknowledged before me on this the 24<sup>th</sup> day of May, 2004, by Mickey Rich, President of Mickey Rich Plumbing and Heating, Inc., a Texas corporation, on behalf of the corporation.

Bonny S. Holmes  
Notary Public, State of Texas

C14-03-0147  
TRACT 2  
SF-6 district zoning

Exhibit "A"

TRACT "A"

METES AND BOUNDS DESCRIPTION

Being all that certain 2.5737 acre tract or parcel of land situated in the WILLIAM CANNON SURVEY NO. 19, Travis County, Texas, and being out of and part of that certain 12.419 acre tract as described in Deed to Mickey Rich Plumbing and Heating, Inc. as recorded in Volume 10129, Page 851, Travis County Real Property Records (TCRPR), and being more particularly described by metes and bounds as follows, to-wit:

BEGINNING at an iron rod found marking the Northeast corner hereof, same being the Northeast corner of said 12.419 acre tract, same being the Southeast corner of Lot 1, Block G, BUCKINGHAM ESTATES PHASE III SECTION ONE, a subdivision according to the map or plat thereof recorded in Volume 77, Page 350, Travis County Plat Records (TCPR), same being located in the West right-of-way line of South 1st Street (75 feet in width);

THENCE, South 30 10' West, with the said West right-of-way line of South 1st Street, a distance of 135.00 feet to a point for the Southeast corner hereof;

THENCE, North 73 48'50" West, a distance of 450.87 feet to a point for corner hereof;

THENCE, South 77 20'05" West, a distance of 240.00 feet to a point for the Southwest corner hereof, same being located in the East line of BUCKINGHAM ESTATES PHASE IV SECTION C, according to the map or plat thereof recorded in Volume 84, Page 610, TCRPR, same being in the West line of said 12.419 acre tract;

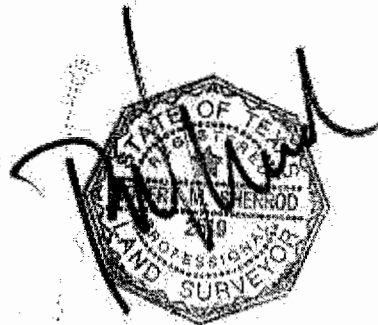
THENCE, North 13 37' East, with the said East line of PHASE IV SECTION C and the said West line of the 12.419 acre tract, a distance of 275.00 feet to an iron rod found marking the Northwest corner hereof, same being the Northwest corner of said 12.419 acre tract, same being the Northeast corner of said PHASE IV SECTION C, same being also in the South line of BUCKINGHAM ESTATES PHASE III, SECTION 2-A, according to the map or plat thereof recorded in Volume 80, Page 173, TCRPR;

THENCE, South 71 33' East, with the North line of said 12.419 acre tract and the South line of said PHASE III SECTION ONE and said PHASE III SECTION 2-A, a distance of 706.55 feet to the POINT OF BEGINNING and containing 2.5737 acres of land.

BASIS OF BEARINGS: Vol. 10129, Page 851, TCRPR

Compiled By:

Robert M. Sherrod, R.P.L.S.  
GEO, A Geographical Land Services Co.  
4412 Spicewood Springs Road, #1002  
Austin, Texas 78759  
April 30, 2004  
GEO Job No.0410979



METES AND BOUNDS DESCRIPTION

Being all that certain 8.5823 acre tract or parcel of land situated in the WILLIAM CANNON SURVEY NO. 19 and the S. F. SLAUGHTER LEAGUE SURVEY NO. 1, Travis County, Texas, and being out of and part of that certain 13.2580 acre tract(s) same being comprised of six (6) tracts: (a) 12.419 acres as described in Deed to Mickey Rich Plumbing and Heating, Inc. as recorded in Volume 10129, Page 851, Travis County Real Property Records (TCRPR); and (b) 0.371 acres, 0.224 acres, 0.143 acres, 0.057 acres and 0.044 acres as conveyed by Deed to Mickey Rich Plumbing and Heating, Inc. as recorded in Volume 12923, Page 179, TCRPR; said 8.5823 acre tract being more particularly described by metes and bounds as follows, to-wit:

COMMENCING at an iron rod found marking the Northeast corner of said 12.419 acre tract, same being the Southeast corner of Lot 1, Block G, BUCKINGHAM ESTATES PHASE III SECTION ONE, a subdivision according to the map or plat thereof recorded in Volume 77, Page 350, Travis County Plat Records (TCPR), same being located in the West right-of-way line of South 1st Street (75 feet in width);

THENCE, South 30 10' West, with the said West right-of-way line of South 1st Street, a distance of 135.00 feet to a point for the Northeast corner and POINT OF BEGINNING hereof;

THENCE, North 73 48'50" West, a distance of 450.87 feet to a point for corner hereof;

THENCE, South 77 20'05" West, a distance of 240.00 feet to a point for the Southwest corner hereof, same being located in the East line of BUCKINGHAM ESTATES PHASE IV SECTION C, according to the map or plat thereof recorded in Volume 84, Page 61C, TCRPR, same being in the West line of said 12.419 acre tract;

THENCE, South 13 37' West, with the said East line of PHASE IV SECTION C and the said West line of the 12.419 acre tract, a distance of 751.16 feet to an iron rod found marking the Southwest corner of said 12.419 acre tract, same being the Southeast corner of said PHASE IV SECTION C, same being the Northwest corner of said 0.371 acre tract;

THENCE, South 00 26'50" West, with the West line of said 0.371 acre tract, a distance of 35.00 feet to a point marking the Southwest corner hereof, same being the Southwest corner of said 0.371 acre tract, and being also located in the North line of Lot 3, SLAUGHTER/SOUTH FIRST SECTION TWO, a subdivision according to the map or plat thereof recorded in Volume 96, Page 362, TCRPR;

THENCE, South 89 29'50" East, with the South line hereof and the North line of said SLAUGHTER/SOUTH FIRST SECTION TWO, passing at a distance of 459.60 feet to a point marking the common South corner of said 0.371 acre tract and said 0.224 acre tract, passing at a distance of 498.50 feet the common South corner of said 0.224 acre and said 0.143 acre tract, passing at a distance of 537.40 feet the common South corner of said 0.143 acre tract and said 0.044 acre tract, and continuing a total distance of 593.56 feet to a point for the Southeast corner hereof, same being the Northeast corner of said SLAUGHTER/SOUTH FIRST SECTION TWO, and being also located in the Westerly right-of-way line of South 1st Street (90 feet in width);

THENCE, with the said Westerly right-of-way line of South 1st Street, a distance of 124.47 feet to a point of curvature;

THENCE, with the said Westerly right-of-way line of South 1st Street along the arc of a curve to the right, said curve having a radius of 494.12 feet, a chord bearing and distance of North 02 31'30" East-73.38 feet to a point for corner hereof;

THENCE, North 76 09'50" West, a distance of 240.00 feet to a point for corner hereof;

THENCE, North 13 21'45" East, a distance of 349.00 feet to a point for corner hereof;

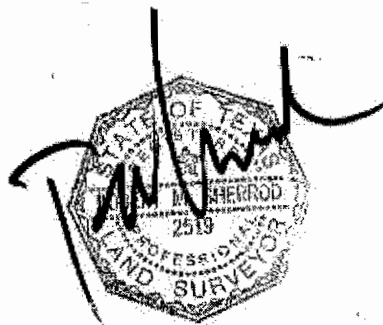
THENCE, North 76 09'50" East, a distance of 309.63 feet to a point for corner hereof located in the said West right-of-way line of South 1st Street;

THENCE, North 30 10' East, with the said West right-of-way line of South 1st Street, a distance of 205.00 feet to the POINT OF BEGINNING and containing 8.5823 acres of land.

BASIS OF BEARINGS: Vol. 10129, Page 851, TCRPR

Compiled By:

Robert M. Sherrod, R.P.L.S.  
GEO, A Geographical Land Services Co.  
4412 Spicewood Springs Road, #1002  
Austin, Texas 78759  
April 30, 2004  
GEO Job No.0410979



C14-03-0147  
TRACT 3  
GR-CO district zoning

Exhibit "C"

TRACT "C"

METES AND BOUNDS DESCRIPTION

Being all that certain 2.1020 acre tract or parcel of land situated in the WILLIAM CANNON SURVEY NO. 19 and the S. F. SLAUGHTER LEAGUE SURVEY NO. 1, Travis County, Texas, and being out of and part of that certain 13.2580 acre tract(s) same being comprised of six (6) tracts: (a) 12.419 acres as described in Deed to Mickey Rich Plumbing and Heating, Inc. as recorded in Volume 10129, Page 851, Travis County Real Property Records (TCRPR); and (b) 0.971 acres, 0.224 acres, 0.143 acres, 0.057 acres and 0.044 acres as conveyed by Deed to Mickey Rich Plumbing and Heating, Inc. as recorded in Volume 12923, Page 179, TCRPR; said 2.1020 acre tract being more particularly described by metes and bounds as follows, to-wit:

COMMENCING at an iron rod found marking the Northeast corner of said 12.419 acre tract, same being the Southeast corner of Lot 1, Block G, BUCKINGHAM ESTATES PHASE III SECTION ONE, a subdivision according to the map or plat thereof recorded in Volume 77, Page 350, Travis County Plat Records (TCPR), same being located in the West right-of-way line of South 1st Street (75 feet in width);

THENCE, South 30 10' West, with the said West right-of-way line of South 1st Street, a distance of 340.00 feet to a point for the Northeast corner and the POINT OF BEGINNING hereof;

THENCE, continue, South 30 10" West, with the said West right-of-way line of South 1st Street, a distance of 237.07 feet to a point of curvature;

THENCE, in a Southwesterly direction along the arc of a curve to the left and with the said Westerly right-of-way line of South 1st Street, said curve having a radius of 494.12 feet, a chord bearing and distance of South 13 52'20" West-121.44 feet to a point for the Southeast corner hereof;

THENCE, North 76 09'50" West, a distance of 240.00 feet to a point for corner;

THENCE, North 13 21'45" East, a distance of 349.00 feet to a point for corner;

THENCE, South 76 09'50" East, a distance of 309.63 feet to the POINT OF BEGINNING hereof and containing 2.1020 acres of land.

BASIS OF BEARINGS: Vol. 10129, Pg. 851, TCRPR

Compiled By:

Robert M. Sherrod, R.P.L.S.  
GEO, A Geographical Land Services Co.  
4412 Spicewood Springs Road, #1002  
Austin, Texas 78759  
April 30, 2004  
GEO Job No.0410979



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

## FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

2004 Jun 03 10:27 AM 2004105965

GONZALES \$26.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

**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.





November 19, 2007

Mr. Greg Guernsey  
Director of Neighborhood Planning and Zoning  
City of Austin  
505 Barton Springs Road, 5<sup>th</sup> Floor  
Austin, Texas 78704

Re: Terminate Restrictive Covenant recorded at Document Number 2004105965, in the Official Public Records of Travis County, Texas, on June 3, 2004 ("Restrictive Covenant"); Related to Rezoning of approximately 13.3 acres located at 8700 Block South 1<sup>st</sup> Street ("Property") to MF-2-CO "Multi-Family Residence, Low Density, Conditional Overlay" zoning category - Rezoning Case No. C-14-2007-0199

Dear Greg:

We request termination of the Restrictive Covenant in accordance with its terms, as provided for under the enclosed application to terminate restrictive covenant.

The Restrictive Covenant was recorded in conjunction with the approval of Ordinance No. 040527-75, that rezoned the Property SF-6, LR-CO, and GR-CO ("2004 Rezoning Ordinance"). The Restrictive Covenant provided that the development of the Property would be subject to the traffic impact analysis related to the uses set forth in the 2004 Rezoning Ordinance and provides in part as follows:

"A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Robert J. Halls and Associates, and Greear and Associates, dated April 16, 2004, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated May 4, 2004. The TIA shall be kept on file at the Watershed Protection and Development Review Department."

{007.00039228.1}

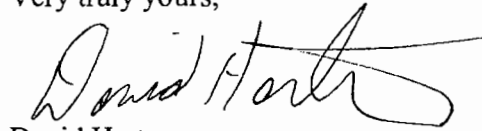
Greg Guernsey  
November 19, 2007  
Page 2 of 2

Section 5 of the Restrictive Covenant further provides as follows: "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."

On October 4, 2007, we submitted on behalf of the Property owner rezoning application (case number C-14-2007-0199, "2007 Rezoning Ordinance") that would rezone the Property to MF-2-CO "Multi-Family Residence, Low Density, Conditional Overlay." The 2007 Rezoning Ordinance includes a conditional overlay limiting development of the property to 2000 trips/day. Thus, we request termination of the Restrictive Covenant such that it is no longer in force and effect, and the 2000 trip limit set forth in the 2007 Rezoning will govern development of the Property.

If you have any questions or comments, please do not hesitate to give me a call.

Very truly yours,

A handwritten signature in black ink, appearing to read "David Hartman", with a stylized flourish extending from the end.

David Hartman

Enclosures

cc: Ms. Wendy Rhoades  
Mr. Mickey Rich  
Mr. Steve Oden, Jr.  
Mr. Ryan Stevens  
Christopher K. Bell, Esq.