

ORDINANCE NO. \_\_\_\_\_

1 **AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE**  
2 **PROPERTY LOCATED AT 9901 SOUTH 1<sup>ST</sup> STREET FROM TOWNHOUSE**  
3 **AND CONDOMINIUM RESIDENCE (SF-6) DISTRICT TO MULTIFAMILY**  
4 **RESIDENCE MODERATE HIGH DENSITY-CONDITIONAL OVERLAY (MF-4-**  
5 **CO) COMBINING DISTRICT.**

6  
7 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**  
8

9 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to  
10 change the base district from townhouse and condominium residence (SF-6) district to  
11 multifamily residence moderate high density-conditional overlay (MF-4-CO) combining  
12 district on the property described in Zoning Case No. C14-2009-0007, on file at the  
13 Neighborhood Planning and Zoning Department, as follows:  
14

15 A 3.356 acre tract of land, more or less, out of the S.F. Slaughter League Survey  
16 No. 1, Abstract No.20, Travis County, the tract of land being more particularly  
17 described by metes and bounds in Exhibit "A" incorporated into this ordinance (the  
18 "Property"),  
19

20 locally known as 9901 South 1<sup>st</sup> Street, in the City of Austin, Travis County, Texas, and  
21 generally identified in the map attached as Exhibit "B".  
22

23 **PART 2.** The Property within the boundaries of the conditional overlay combining district  
24 established by this ordinance is subject to the following conditions:  
25

26 Development of the Property may not exceed a height of 40 feet from ground level.  
27

28 Except as specifically restricted under this ordinance, the Property may be developed and  
29 used in accordance with the regulations established for the multifamily residence moderate  
30 high density (MF-4) base district, and other applicable requirements of the City Code.  
31  
32  
33  
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37

1 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2009.  
2  
3

4 **PASSED AND APPROVED**  
5

6 §  
7 §  
8 \_\_\_\_\_, 2009 § \_\_\_\_\_  
9

10 Will Wynn  
11 Mayor  
12

13 **APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
14 David Allan Smith Shirley A. Gentry  
15 City Attorney City Clerk

DESCRIPTION

DESCRIPTION OF 3.356 ACRES OF LAND SITUATED IN THE S. F. SLAUGHTER LEAGUE SURVEY NO. 1, ABSTRACT NO. 20 IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 27, BLOCK A OF SOUTHPARK MEADOWS SUBDIVISION ACCORDING DOCUMENT NO. 200600268 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID LOT 27 BEING CONVEYED TO BDDDB 27, LTD. IN DOCUMENT NO. 2007022356 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 3.356 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod found in the east right-of-way line of South First Street (right-of-way varies) for the southeast corner of that certain tract of land conveyed to the City of Austin in Volume 11532, Page 2216 of the Real Property Records of Travis County, Texas and the northeast corner of that certain tract of land conveyed to the City of Austin in Document No. 1999143398 of the Official Public Records of Travis County, Texas, same point being the southwest corner of Lot 27, Block A of said Southpark Meadows Subdivision and for the northwest corner of Lot 26, Block A of the Amended Plat of Lot 15 and Lots 22-26, Block A and Lot 1, Block B of Southpark Meadows Subdivision recorded in Document No. 200700252 of the Official Public Records of Travis County, Texas;

THENCE, N09°16'59"W with said east right-of-way line of South First Street and west line of said Lot 27, Block A, a distance of 278.36 feet to a PK nail set with aluminum washer stamped "Cunningham-Allen, Inc." for the northwest corner of the herein described tract, from which point a PK nail found with aluminum washer stamped "Cunningham-Allen, Inc." for the northwest corner of said Lot 27, Block A and the southwest corner of Lot 28, Block A of said Southpark Meadows Subdivision bears N09°16'59"W a distance of 15.00 feet;

THENCE, over and across said Lot 27, Block A the following three (3) courses and distances:

- 1) N80°10'12"E a distance of 191.67 feet to a PK nail set with aluminum washer stamped "Cunningham-Allen, Inc." at the beginning of a curve to the right;
- 2) with said curve to the right, having a radius distance of 1458.44 feet, an arc length of 234.27 feet, a delta angle of 09°12'12" and a chord which bears N84°46'19"E a distance of 234.02 feet to a 1/2 inch iron rod set with cap stamped "Cunningham-Allen, Inc." for the northeast corner of the herein described tract;
- 3) S04°50'16"W a distance of 485.79 feet to a 1/2 inch iron rod set with cap stamped "Cunningham-Allen, Inc." in the south line of said Lot 27, Block A and the north line of said Lot 26, Block A for the southeast corner of the herein described tract;

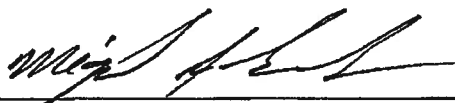
THENCE, N65°11'44"W with said south line of Lot 27, Block A and the north line of said Lot 26, Block A a distance of 370.18 feet to the POINT OF BEGINNING containing 3.356 acres of land more or less within these metes and bounds.

Reference is herein made to the sketch accompanying this metes and bounds description.

Bearing basis: monumented south boundary line of Lot 27, Block A, Southpark Meadows Subdivision, Document No. 200600268 of the Official Public Records of Travis County, Texas.

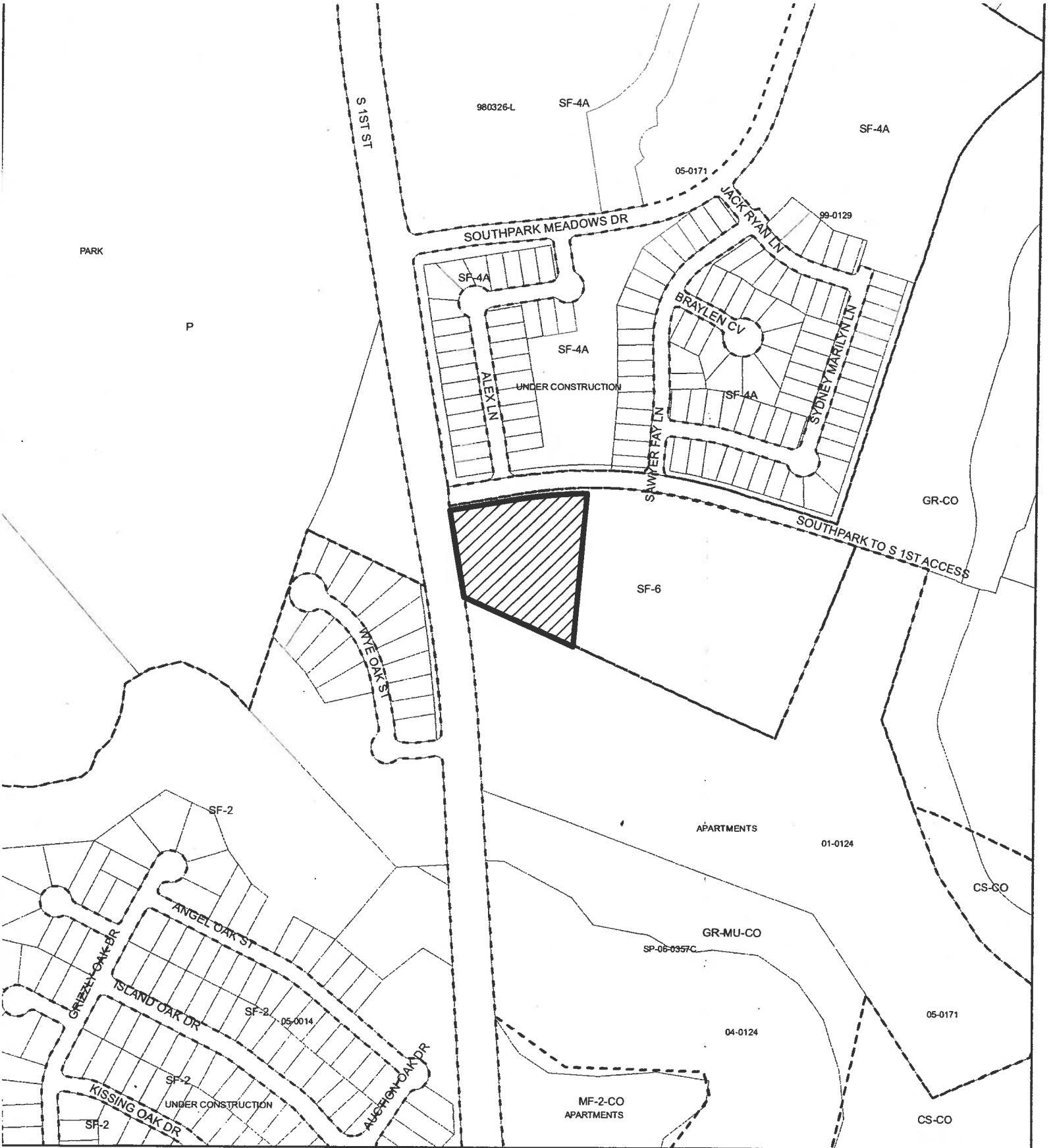
I hereby certify that this description was prepared from a survey made on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.



Miguel A. Escobar  
Registered Professional Land Surveyor No. 5630  
State of Texas  
Date: 4 Dec 08





**N**

**SUBJECT TRACT**

**ZONING BOUNDARY**

**PENDING CASE**

**OPERATOR: S. MEEKS**

**" = 400'**

**ZONING EXHIBIT B**

**ZONING CASE#: C14-2009-0007**  
**ADDRESS: 9901 S 1ST ST**  
**SUBJECT AREA: 3.356 ACRES**  
**GRID: F13**  
**MANAGER: W. RHOADES**



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.

**RESTRICTIVE COVENANT**

OWNER: BDDDB 27, Ltd., a Texas limited partnership

ADDRESS: 221 West 6<sup>th</sup> Street, Suite 1300, Austin, TX 78701

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 3.356 acre tract of land, more or less, out of the S.F. Slaughter League Survey No. 1, Abstract No.20, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more) 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, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR/WHM Transportation Engineering, Inc., dated March 4, 2009, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All 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 March 12, 2009. The TIA shall be kept on file at the Watershed Protection and Development Review Department.

The TIA was prepared for Zoning Case No. C14-05-0171. This covenant does not prohibit a zoning change provided cumulative traffic generated will not exceed the limits of the TIA.

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.
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 \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**OWNER:**

**BDDDB 27, Ltd.,  
a Texas limited partnership**

By: EGP Retail Management, L.L.C.,  
a Texas limited liability company,  
its General Partner

By: Endeavor EGP Holdings, L.L.C.,  
a Texas limited liability company,  
its Member

By: \_\_\_\_\_  
Jeffrey Newberg,  
Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS** §  
**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Jeffrey Newberg, Manager of Endeavor EGP Holdings, L.L.C., a Texas limited liability company, Member of EGP Retail Management, L.L.C., a Texas limited liability company, General Partner of BDDDB 27, Ltd., a Texas limited partnership, on behalf of the companies and the partnership.

Notary Public, State of Texas

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



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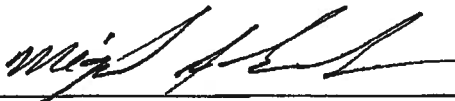
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I hereby certify that this description was prepared from a survey made on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.



Miguel A. Escobar  
Registered Professional Land Surveyor No. 5630  
State of Texas  
Date: 4 Dec 08

