

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2009-0083 / Justine's

**PC PUBLIC HEARING DATE:** October 13, 2009

**ADDRESS:** 4710 East 5<sup>th</sup> Street

**AREA:** .49 acres (21,344.4 square feet)

**APPLICANT/ OWNER:** Drake Builders (Justine Gilcrease) 409-789-0663

**ZONING FROM:** CS-CO-NP, General Commercial Services – Conditional Overlay –  
Neighborhood Plan Combining District

**TO:** CS-MU-CO-NP, General Commercial Services – Mixed Use – Conditional Overlay –  
Neighborhood Plan Combining District

**STAFF RECOMMENDATION:** The staff recommendation is to grant the change from General Commercial Services – Conditional Overlay – Neighborhood Plan Combining District (CS-MU-CO-NP) to General Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan Combining District (CS-MU-CO-NP). The Conditional Overlay will:

1) Limit residential development to one residential unit. The residence is limited to 2 stories and 32 feet in height.

2) Prohibit the following uses:

Adult oriented businesses  
Kennels  
Pawn shop services  
Vehicle Storage

Campground  
Laundry Services  
Residential Treatment

3) Make the following uses conditional:

Agricultural sales and services  
Automotive repair services  
Automotive washing (of any type)  
Commercial off-street parking  
Equipment sales  
Limited warehousing and distribution  
Drive-in service as an accessory use to commercial uses

Automotive rentals  
Automotive sales  
Building maintenance services  
Construction sales and services

**PLANNING COMMISSION RECOMMENDATION:** On October 27, 2009, the Planning Commission *APPROVED* staff's recommendation for CS-MU-CO-NP zoning; was approved on the consent agenda by Commissioner Jay Reddy's motion, Commissioner Clint Small second the motion on a vote of 7-0; Commissioner Sandra Kirk was absent; 1 vacancy on the Commission.

**ISSUES:** On April 8, 2009, the property owner was issued a Code Enforcement citation for residing in a Recreational Vehicle located at the rear of the property.

### **DEPARTMENT COMMENTS**

The .49-acre site is currently zoned CS-CO-NP (General Commercial Services–Conditional Overlay – Neighborhood Plan) district zoning and is located at the mid-block of East 5<sup>th</sup> Street between Springdale Road and Shady Lane. The property has driveway access from E. 5<sup>th</sup> Street, to which both ingress and egress access is taken. The site lies within the Govalle / Johnston Terrace Combined Neighborhood Plan area and is surrounded by industrial uses to the north, south, east and west.

The subject property is currently developed with a one-story bungalow which has been remodeled to serve as a restaurant named Justine's (a French brasserie). The property owner would like the option to construct a residence in the rear of the restaurant so that she and her family could live on the site, and be able to oversee the restaurant.

The staff recommendation is to approve the requested zoning change because it allows for reasonable use of the property. Current code allows a single dwelling unit as an accessory to any commercial use but assumes the use will be in the same building as the dwelling unit. There is ample site area for a single family house in addition to the restaurant building. In this case, however, the accessory use will be in a separate building, but located on the same legal lot.

Additionally, the surrounding properties are fully developed with industrial uses and this case is unlikely to set a precedent for housing development in the area.

### **EXISTING ZONING AND LAND USE INFORMATION:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CS-CO-NP	Restaurant - Commercial
<i>North</i>	CS-V-CO-NP	Industrial
<i>South</i>	LI-CO-NP	Industrial
<i>East</i>	LI-CO-NP	Industrial
<i>West</i>	CS-CO-NP	Limited and Warehouse Distribution

**NEIGHORHOOD PLAN:** Govalle / Johnston Terrace Combined

**TIA:** A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

**WATERSHED:** Colorado River

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**HILL COUNTRY ROADWAY:** No

### **REGISTERED COMMUNITY ORGANIZATIONS:**

Home Builders Association of Greater Austin  
Sentral Plus East Austin Koalition (SPEAK)  
Austin Neighborhoods Council

Central East Austin Business Owners Assn.  
 Buena Vista Neighborhood Assn.  
 Guadalupe Neighborhood Development Corp.  
 Govalle/Johnston Terrace Planning Team of Neigh. Orgs.  
 Homeless Neighborhood Organization  
 PODER People Organized in Defense of Earth & Her Resources  
 Austin Street Futbol Collaborative  
 Tejano Town  
 East River City Citizens  
 Terrell Lane Interceptor Assn.  
 League of Bicycling Voters  
 Super Duper Neighborhood Objectors and Appealers Organization  
 El Concilio, Coalition of Mexican American Neigh. Assn.  
 United East Austin Coalition

**SCHOOLS: (AISD)**

Brooke Elementary School      Martin Middle School      Eastside Memorial High School

**CASE HISTORIES:** There are no relevant case histories on or surrounding the subject tract.

**RELATED CASES:** The Govalle / Johnston Terrace Combined Neighborhood Plan rezonings were approved by Council on March 27, 2003 (C14-02-0183). A Neighborhood Plan Amendment to change the FLUM designation from Commercial to Mixed Use is also in process (NPA-2009-0016.02).

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro
East 5 <sup>th</sup> Street	60'	42'	Collector	yes	No	Yes (Within ¼ mile)

**CITY COUNCIL DATE:**

November 19, 2009

**ACTION:**

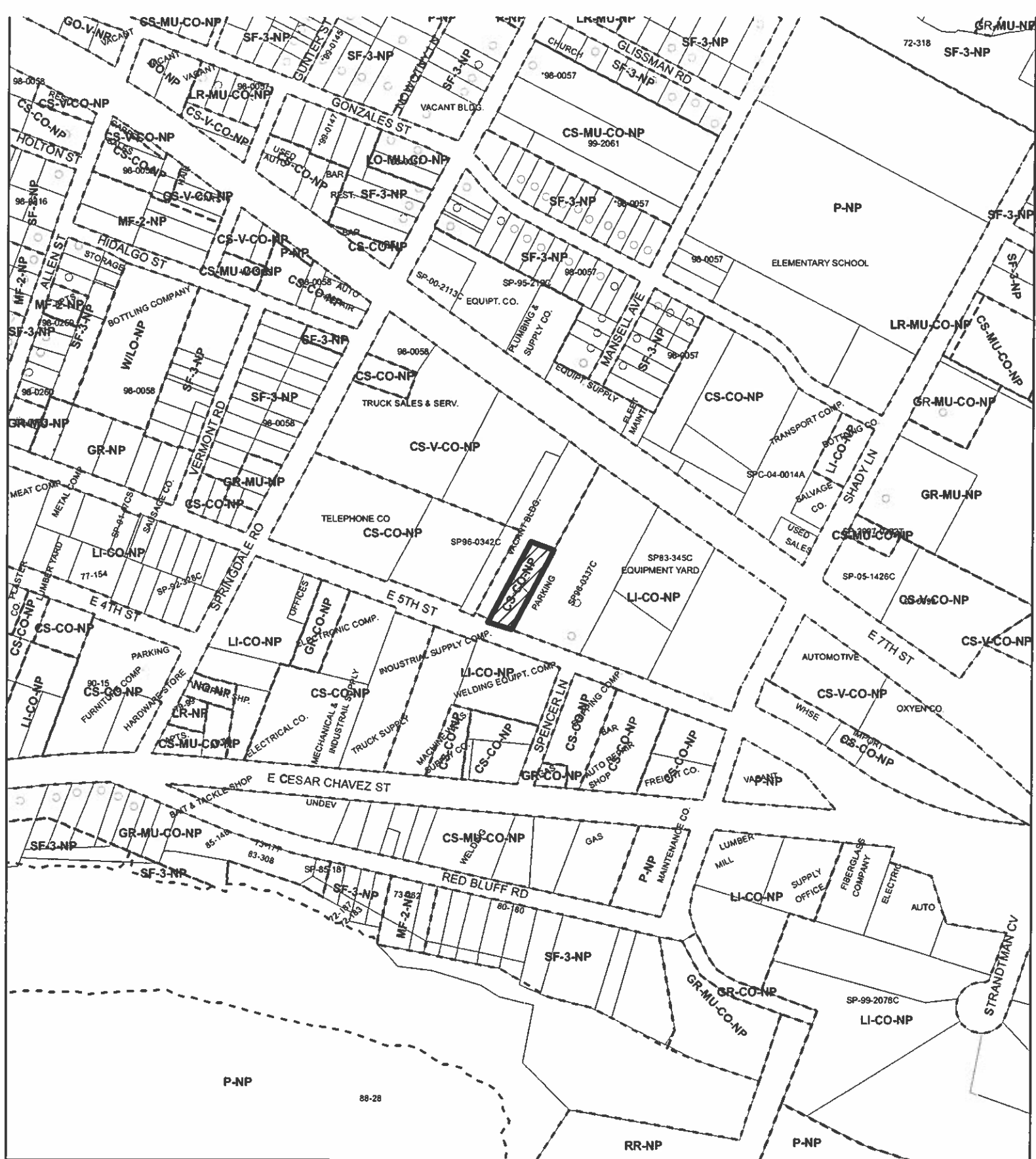
**ORDINANCE READINGS:** 1<sup>st</sup>      2<sup>nd</sup>      3<sup>rd</sup>

**ORDINANCE NUMBER:**

**ZONING CASE MANAGER:** Joi Harden

**PHONE:** 974-2122

**E-mail:** joi.harden@ci.austin.tx.us



**LEGEND**

- SUBJECT TRACT**
- ZONING BOUNDARY**
- PENDING CASE**

OPERATOR: S. MEEKS

### ZONING

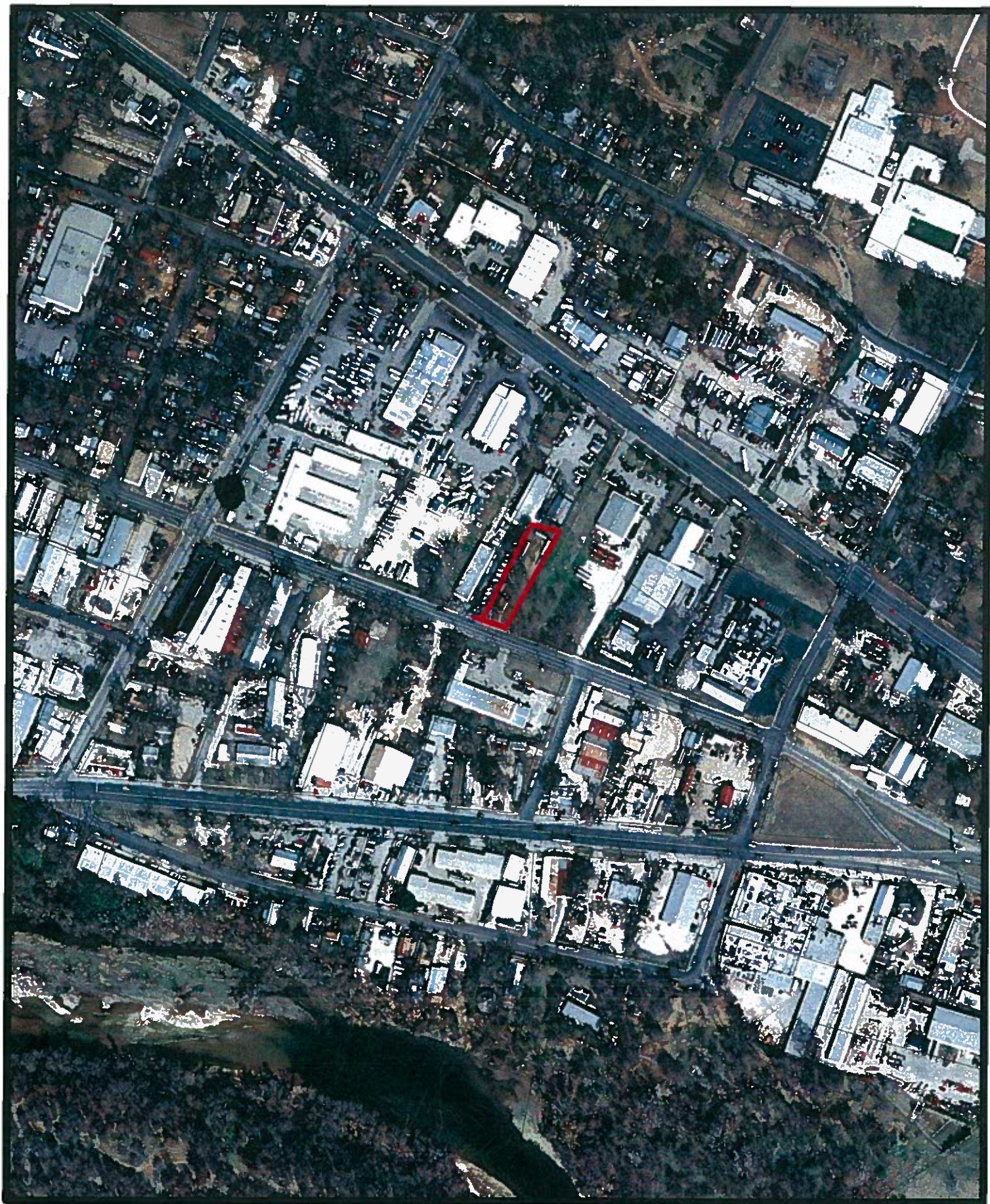
ZONING CASE#: C14-2009-0083  
 ADDRESS: 4710 E 5TH ST  
 SUBJECT AREA: 0.49 ACRES  
 GRID: L21  
 MANAGER: J. HARDEN



1" = 400'

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.





**C14-2009-0083 4710 E. 5th Street  
From Comercial Services-Conditional Overlay-  
Neighborhood Plan (CS-CO-NP) to Commercial  
Services-Mixed Use-Conditional Overlay-  
Neighborhood Plan (CS-MU-CO-NP) District Zoning**





**STAFF RECOMMENDATION:** The staff recommendation is to grant the change from General Commercial Services – Conditional Overlay – Neighborhood Plan Combining District (CS-MU-CO-NP) to General Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan Combining District (CS-MU-CO-NP). The Conditional Overlay will:

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**BASIS FOR RECOMMENDATION (ZONING PRINCIPLES):**

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

The Mixed Use combining district (MU) is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development. Allows development of all types of residential uses, including single-family residential, multifamily residential and townhomes. The MU with the CS base district is in the spirit of the accessory dwelling unit in the Land Development Code.

2. *Zoning should allow for reasonable use of the property.*

The proposed zoning allows for reasonable use of the site while maintaining the character of the surrounding area.

**Site Characteristics**

The subject property consists of .49 acres on a relatively flat and sparsely vegetated lot. Currently, the property is developed with a one-story bungalow which has been remodeled to serve as a restaurant named Justine's (a French brasserie).

**Site Plan**

This site is within the Controlled Compatible Land Use Area of Austin-Bergstrom International Airport, but outside the Airport Overlay Zones. This property is within the Controlled

Compatible Land Use Area defined by Chapter 241 of the Local Government Code. Development on this property is limited by Chapter 25-13 of the Austin City Code. Airport hazards as defined in Federal Aviation Regulations Part 77, as adopted by the City in Sections 25-13-23, are prohibited. For more information, contact Joe Medici, Airport Planner, 530-6563.

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

This site is located within the Govalle Neighborhood Plan.

There is a site plan approved for this property (SP-2007-0665T) for off-site parking.

### **Transportation**

Additional right-of-way dedication may be required at the time of subdivision or site plan application.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Colorado River Watershed of the Colorado River Basin, which is classified as an Urban Watershed 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 of 95% 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.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding 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.

### **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 any water and wastewater utility

improvements, offsite main extensions, utility relocations and or abandonments required. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. 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.



**Harden, Joi**

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**From:** daniel llanes [dllanesrb@earthlink.net]  
**Sent:** Tuesday, October 27, 2009 2:16 PM  
**To:** Meredith, Maureen; Harden, Joi  
**Cc:** sully.jumpnet@sbcglobal.net; David Anderson; Sandra Kirk; amandadealey@aol.com  
**Subject:** Plan Amendment case #NPA-2009-0016.02, zoning case # C14-2009-0083  
**Attachments:** scan\_9102713148\_1.jpg

Dear Planning Commissioners and Staff,

Due to scheduling conflicts I will not be able to attend this evening planning commission hearing on this case. So I am sending you this copy of a signed letter of agreement between the Govalle/Johnston Terrace Neighborhood Planning Team and the applicant, Justine Gilcrease. Justine has the original signed copy which she should be presenting to you this evening.

Please forward this onto the other commissioners and extend my apologies to them for omitting them in this mailing, as I do not know them or have their email addresses.

As the letter states, **we support** the plan amendment request **with the conditions stated in the letter.** Please feel free to contact me any time today before 5:30 PM with any questions or comments you might have.

thank you,

Daniel Llanes  
Coordinator, Review Committee  
Govalle/Johnston Terrace Neighborhood Planning Team  
431-9665

See attached file(s)

10/27/2009

***Govalle/Johnston Terrace Neighborhood Planning Team***  
*Preserving and Improving our Neighborhoods*

October 9, 2009

The Review Committee for the Govalle/Johnston Terrace Planning Team held its meeting on August 31, 2009 and heard a presentation for a zoning change request from

Pierre & Justine Pelegrin on their property located at 4710 E. 5<sup>th</sup>, currently zoned CS-CO-NP. They are requesting a zoning of CS-MU for the entire tract so that they may build a house behind the current restaurant they have on the property.

After much discussion the Review Committee and the applicant agreed to support the change from CS-CO-NP to CS-MU with the following Conditional Overlay restrictions:

1) To allow for a single family unit to be built on the property with restrictions. If the property is sold, the property would have restrictions that only allow one SF unit and anyone wanting to do more would have to come before the Review Committee process for any other zoning change.

2) Limit residential development to one single family residence. The residence is limited to 2 stories and 30 feet in height.

3) Prohibited under Conditions are included:

Agricultural sales and services

Automotive repair services

Automotive washing (of any type)

Commercial off-street parking

Equipment sales

Limited warehousing and distribution

Drive-in service as an accessory use to commercial uses

Automotive rentals

Automotive sales

Building maintenance services

Construction sales and services

The following are restrictions also included by the Neighborhood Plan and are included in the Conditional Overlay for this approval.

4) Prohibit the following uses:

Adult oriented businesses

Kennels

Pawn shop services

Vehicle Storage

Campground

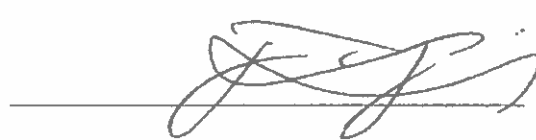
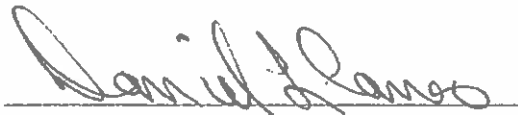
Laundry Services

Residential Treatment

These conditions are hereby agreed to by the Review Committee and the applicant, represented by:

Daniel Llanes  
Coordinator, Review Committee  
Govalle/Johnston Terrace Planning Team

Justin Pelegrin  
owner/applicant  
4710 E. 5<sup>th</sup> St.



## Harden, Joi

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**From:** Meredith, Maureen  
**Sent:** Tuesday, November 10, 2009 10:00 AM  
**To:** Harden, Joi; Minter, Diana  
**Cc:** 'daniel llanes'  
**Subject:** FW: FW: Ordinance

Joi and Diana:

Here's Daniel Llanes' email supporting the change in height to 32 feet.

Please let me know if you have any questions.

Maureen

Maureen Meredith, Senior Planner  
City of Austin, Planning & Development Review Department,  
505 Barton Springs Road, 5th Floor  
Austin, TX 78704  
Phone: (512) 974-2695/FAX: (512) 974-2269 maureen.meredith@ci.austin.tx.us  
www.ci.austin.tx.us/planning

Please note: E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act.

-----Original Message-----

From: daniel llanes [mailto:dllanesrb@earthlink.net]  
Sent: Tuesday, November 10, 2009 9:54 AM  
To: Meredith, Maureen  
Cc: Justine's  
Subject: Fwd: FW: Ordinance

Ms. Meredith,

please accept this email as confirmation of agreement to the change from 30 feet to 32 foot height limitation on the conditional overlay for this property at 4710 E. 5th, case # NPA-2009-0016.01.

If you have any further questions regarding this application please feel free to contact me at this email or by phone at 431-9665.

thank you,

Daniel Llanes  
Coordinator, Review Committee for  
Govalle/Johnston Terrace Neighborhood Planning Team  
512-431-9665  
.....

Begin forwarded message:

> From: justine@justines1937.com  
> Date: Tue Nov 10, 2009 1:54:28 AM US/Central  
> To: "Meredith, Maureen" <Maureen.Meredith@ci.austin.tx.us>  
> Cc: dllanesrb@earthlink.net, justine@justines1937.com  
> Subject: Re: FW: Ordinance  
>  
> I believe we are all agreeing to amend the ordinance to 32 feet. I,  
> Justine Gilcrease and Pierre Pelegrin are good with this amendment.  
> Thank  
> you.  
>  
>  
>