

other than normal hours of operation. For the purpose of this agreement normal hours of operation are defined as from 7:00 a.m. to 7:00 p.m., Monday through Friday.

Any and all outside lighting constructed on said property shall be directed away from the adjoining residences, shall be low level lighting, and no high pressure sodium lighting shall be used.

No portable structures or structures of a temporary nature shall be constructed on said property.

No building or land shall be used and no building shall be erected or structurally altered for any use that will require the on-site storage of heavy equipment including, but not limited to drilling rigs, generators, trucks, tractors, and construction equipment or for any use which will generate excessive noise, dust or air pollutants.

No improvements shall be constructed on the above-described property except those indicated on a site plan approved by the Austin City Council.

Exterior walls shall be constructed of brick and roofs shall be pitched and of clay or concrete tile similar to mission or spanish tile. No building shall have more than two (2) stories nor shall it exceed City of Austin first height and area requirements. The gross building area, based on outside wall measurements of all buildings shall not exceed 40,000 square feet.

All site trash receptacles shall be placed behind fences, wall, or screens so that they will not be visible.

No signs shall be erected which are in violation of the City of Austin Sign Ordinance.

The owners of the property shall provide for periodic security patrols of the building premises as required to ensure the peace and tranquility of the adjoining property owners.

The site plan for the described property is attached to this

Restrictive Covenant and labled "EXHIBIT A, T.K.G. PROPERTIES SITE PLAN." That site plan is hereby incorporated into this document by reference as if copied and set forth in full. All restrictions, requirements and designs appearing on that site plan are hereby mandated by this Covenant.

All zoning ordinances, building codes, or any other requirements referred to in this Restrictive Covenant or in the Site Plan, are those which were in effect on September 1, 1984, provided, however, that this provision does not relieve owner of its obligation to meet new code and ordinance requirements which may be in effect at the time of any new construction. Owner shall comply with the terms of this Covenant or the requirements of applicable codes or zoning restrictions, whichever may be stricter.

2. 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 any person owning property within 200 feet of said property, his successors and assigns, and 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.

3. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment 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.

4. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, or by any person owning property within 200 feet of the above described property, his successors and assigns whether any violations hereof are

RESTRICTIVE COVENANT - 4
Kopecky, Garcia, and Tress
TKG/DOCS1/101184

09178 0228

known or not, shall not constitute a waiver or estoppel of the right to do so.

5. This agreement may be modified, amended or terminated only by action of three-fourths 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, after notice and opportunity for hearing before such governing body has been given to the owners of property within 200 feet of the described property. A condition precedent to the consideration by the Austin City Council, or its successors, of any proposed modification, amendment or termination of this agreement, shall be the requirement that the owners of the subject property shall first exhaust all administrative remedies and avenues available through the City of Austin Planning Commission, City Planning Department and related or successor offices.

EXECUTED, this the 15th day of OCTOBER, 1984.

Willie J. Kopeccky
WILLIE J. KOPECKY

Gustavo L. Garcia
GUSTAVO L. GARCIA

Pedro Tress Hernandez
PEDRO TRESS HERNANDEZ

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 WILLIE J. KOPECKY, GUSTAVO L. GARCIA, and PEDRO TRESS HERNANDEZ known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they have executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 15th day of OCTOBER, 1984.

NOTARY SEAL

Willie J. Kopeccky
Notary Public in and for
the State of Texas

My commission expires: 1/28/87

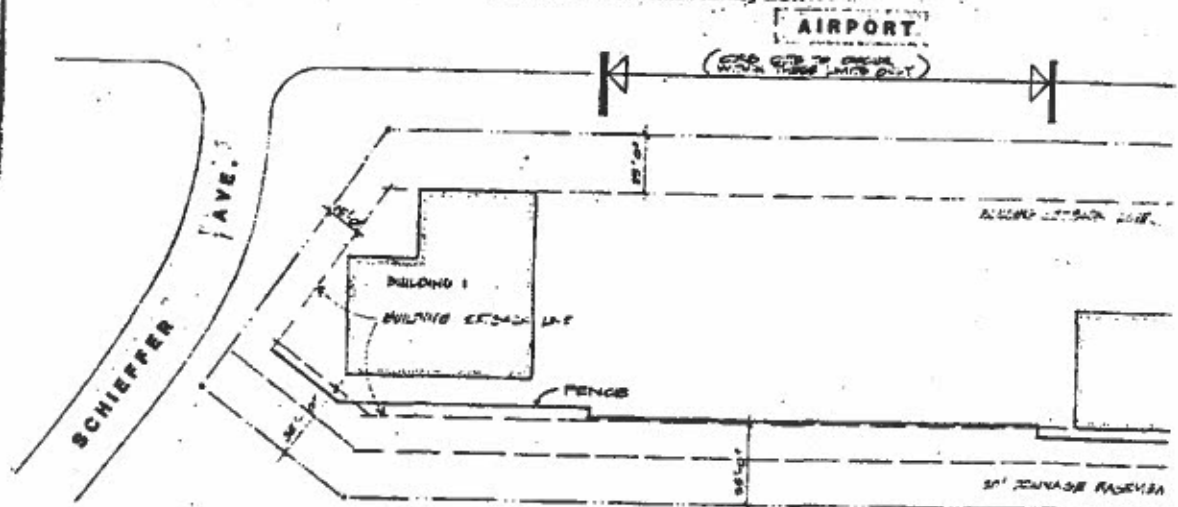
Printed Name of Notary Public in the
STATE OF TEXAS FOR THE COUNTY OF TRAVIS.
MY COMMISSION EXPIRES JANUARY 28, 1987.

RESTRICTIVE COVENANT - 5
Kopeccky, Garcia, and Tress
TKG/DOCS1/101184

* REPRESENTED by Gustavo L. Garcia, HOLDER
of POWER of ATT

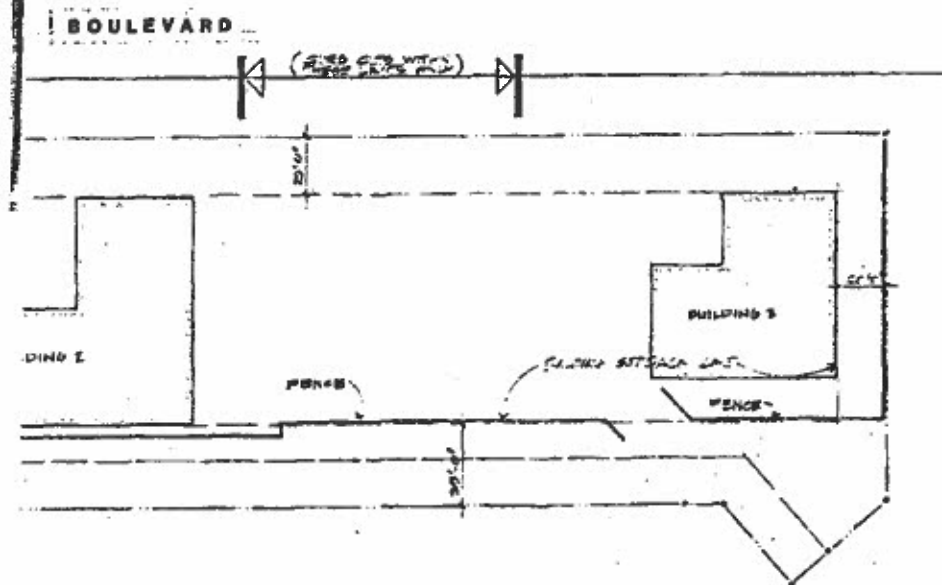
NOTES:

1. BUILDING LOCATIONS ARE APPROXIMATE, HOWEVER, NO OTHER BUILDING SHALL BE ERECTED CLOSER THAN 25'-0" FROM LOCATION INDICATED ON PLAN, AND NO BUILDING SHALL BE ERECTED BETWEEN THE BUILDING SETBACK LINES AND THE PROPERTY LINE.
2. MINIMUM CONSTRUCTION WILL NOT EXCEED 40,000 SQ. FT.
3. NO CURB CUTS WILL BE CONSTRUCTED OTHER THAN WITHIN THE LINES INDICATED ON PLAN. NO CURB CUTS WILL BE CONSTRUCTED FRONTING ON SCHIEFFER AVE.
4. ALL CURB CUTS WILL MEET CITY OF ALBUQUERQUE CODE AND ORDINANCE REQUIREMENTS.
5. FENCE LOCATIONS IS APPROXIMATE, HOWEVER, NO PORTION OF FENCE SHALL BE LOCATED MORE THAN 10'-0" FROM LOCATION INDICATED AND ALL FENCES SHALL BE WITHIN PROPERTY LINE.



09178 0231

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09178 0233

VILLALVA·COTERA·KOLAR

ARCHITECTS AND PLANNERS
1100 East 8th Street • Austin, Texas 78702 • (512) 474-6526

PETITIONHearing Date: March 11, 2010File Number: C14-2009-0102 Tract 3

Address of

Rezoning request: 4020 Airport Blvd.

To Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any other than LO-NP.

Reasons for protest:

We are a neighborhood of 1 story homes. VMU would allow multi-stories which would overshadow our homes just as "Mc-Mansions" have done in our older neighborhoods. This narrow tract of land is immediately adjacent to many of our back yards.

The height of VMU buildings will make our homes and yards viewable from their higher stories, resulting in significant loss of our privacy. In addition, the higher density will increase noise, congestion, and glaring lights, and possibly, animal and sanitation problems from large outdoor garbage containers.

The land is a narrow strip with a creek and water drainage issues. Allowing more density and relaxed restrictions will cause added drainage problems.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

SignaturePrinted NameAddress

<u>Suzan O. Bradbury</u>	<u>SUZAN O. BRADBURY</u>	<u>4009 VINELAND</u>
<u>Raymond S. Joseph</u>	<u>RAYMOND S. JOSEPH</u>	<u>1816 E. 40TH ST.</u>
<u>Vivian N. Joseph</u>	<u>VIVIAN N. JOSEPH</u>	<u>1816 E. 40TH ST.</u>
<u>Thomas Johnson</u>	<u>THOMAS JOHNSON</u>	<u>1814 E. 40TH ST.</u>
<u>Bruce Miller</u>	<u>BRUCE MILLER</u>	<u>4001 Vineland Dr.</u>
<u>Mary E. Haynes</u>	<u>MARY E. HAYNES</u>	<u>4005 Vineland Dr.</u>
<u>Matilda Attal</u>	<u>MATILDA ATTAL</u>	<u>4003 VINELAND</u>

Date _____

Contact Name _____

Phone Number _____

PETITION

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<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
<u>Earl Burg</u>	<u>EARL BURG</u>	<u>4007 VINELAND DR</u>
<u>Teresa M. Coe</u>	<u>TERESA M COE</u>	<u>4011 VINELAND DR</u>
<u>Charles R Jones</u>	<u>CHARLES R. JONES</u>	<u>4014 VINELAND DR</u>
<u>Michael Emery</u>	<u>MICHAEL EMBERS</u>	<u>4010 VINELAND</u>
<u>Jim Martindale</u>	<u>JIM MARTINDALE</u>	<u>4012 VINELAND DR</u>
<u>Alvin Youngblood Jr</u>	<u>ALVIN YOUNGBLOOD JR</u>	<u>4015 VINELAND DR</u>
<u>Kathleen Youngblood</u>	<u>KATHLEEN YOUNGBLOOD</u>	<u>4015 VINELAND DR</u>
<u>Robert P. Dailey</u>	<u>ROBERT P. DAILEY</u>	<u>4002 VINELAND DR</u>

Date _____

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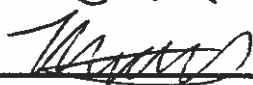
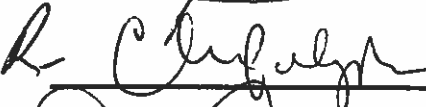



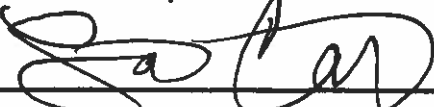
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<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
	ERIK BARTH	1804 E 40TH ST
	Ryan Steglich	4008 Vineland Dr.
	CHRISTA PALAZZO	4016 Vineland Dr.
	David Boston	4001 Vineland
	Patricia Johnson	1814 E-40th St.
	Carolyn Greene	3907 Vineland Dr.
	Laura Correa	4013 Vineland Dr.

Date _____

Contact Name _____

Phone Number _____

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Signature

Printed Name

Address

Mrs. Ross McIlroy MRS. ROSS McILROY 3911 GRAYSON LANE

R.E. MEBAUGH RETHLEW 1818 E. 40TH.

Nicki Mebane NICKI MEBAUGH 4000 VINELAND

Forrest E. Ward FORREST E. WARD 4018 VINELAND

Pierce S. Haynes PIERCE S. HAYNES 4005 VINELAND DR.

Robin E. Graham-Moore Robin E. Graham-Moore 1817 E 40th St

Brian Graham-Moore Brian Graham-Moore 1817 E 40th St

Date _____

Contact Name _____

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<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
<i>Katherine Robertson</i>	Katherine Robertson	4006 Vineland Austin 78722
<i>Alfred Hernandez</i>	Alfred Hernandez	4019 Vineland Dr Austin 78722
<i>Stephanie Francis</i>	Stephanie Francis	4016 Vineland Dr Austin 78722
<i>Vera Y Arnold</i>	VERA ARNOLD	4021 Vineland Dr.
<i>Tim Jones</i>	Tim Jones	4017 Vineland Dr.

Date _____

Contact Name _____

Phone Number _____

CARLOS GONZALEZ KELLY GONZALEZ	1815 E. 40th AUSTIN, TX 78722
-----------------------------------	----------------------------------

RMMA Redevelopment

Patterson Park

Subject Tract

Locator Map



**Neighborhood Planning & Zoning
Department**
P.O. Box 1088
Austin, TX 78767

EXPLANATION OF VMU PETITIONS

BACKGROUND—DESIGN STANDARDS AND MIXED USE

On August 31, 2006, Austin's City Council adopted Subchapter E of Chapter 25-2 of the City Code (*Design Standards and Mixed Use*), commonly called the Design Standards. The Design Standards became effective on January 13, 2007.

One of the purposes of the Design Standards was to foster the development of vertical mixed use (VMU) buildings. VMU buildings are allowed as a matter of right in a vertical mixed use overlay district. VMU buildings may also be allowed in a mixed use combining district or by conditional use permit under certain conditions. The Design Standards establish certain development incentives for VMU buildings that provide for affordable housing.

Under the Code amendment that established the Design Standards, regulations regarding applicability of the development incentives are not established until the "opt-in/opt-out process" takes place. The Code provides that a person may not take advantage of the incentives until the opt-in/opt-out process is concluded. Before finalizing the regulations, the Council wanted to obtain recommendations from the neighborhoods and the Planning Commission about how the development incentive regulations would apply to properties in the neighborhoods. After hearing the recommendations, the Council will then establish the regulations for each neighborhood.

WHAT IS A VALID PETITION?

Section 211.0069(d) of the *Local Government Code* provides that a proposed change in a zoning regulation or boundary must be approved by at least three-fourths of the members of the Council if the change is protested by 20 percent of the owners of either (1) the area of the land covered by the proposed change or (2) the area of the land immediately adjoining the area covered by the proposed change and extending for 200 feet.

CAN A PERSON PROTEST THE NEIGHBORHOOD RECOMMENDATIONS REGARDING THE APPLICABILITY OF THE DEVELOPMENT INCENTIVES TO AN INDIVIDUAL PROPERTY (OPT-OUT RECOMMENDATIONS)?

No, the opt-out recommendations are not proposals concerning the zoning for individual properties. The Council's determinations regarding the applicability of the development incentives are the finalization of the Code amendment process that established the Design Standards. The determinations are not the zoning of individual property. The Council is setting

May 4, 2008

the standards that apply in the VMU overlay districts. This is similar, for example, to the Council setting the height or impervious cover limitations of the SF-3 zoning district.

As with all amendments to the zoning regulations of the Code, citizens could have protested the adoption of the Design Standards in August 2006. A valid protest would require a written opposition by 20 percent of the owners of land in the City.

CAN A PERSON PROTEST A RECOMMENDATION TO EXCLUDE A PROPERTY FROM A VMU OVERLAY DISTRICT?

Yes, either the owners of the affected property or the owners of property within 200 feet of the affected property can protest the complete exclusion of a property from a VMU overlay district. The Design Standards provides that property along a Core Transit Corridor that meets certain criteria is a part of a VMU overlay district. A recommendation to modify the VMU overlay district by excluding property is a proposal to change the zoning of an individual property. A protest will be "valid" if it complies with the requirements of the Local Government Code as stated above.

Some citizens who support a neighborhood recommendation to exclude a property from the district have asked if they can have a valid petition to require a three-fourths vote of Council not to exclude the property. No, a three-fourths vote can only be required if there is a protest opposing a proposed change. In this case, the "protesters" are in support of the proposed change.

CAN A PERSON PROTEST A RECOMMENDATION TO ALLOW A PROPERTY THAT IS NOT IN A VMU OVERLAY DISTRICT TO USE THE DEVELOPMENT INCENTIVES (OPT-IN RECOMMENDATIONS)?

Yes, a property that is not in a VMU overlay district must be given permission to use the development incentives. This is a change in the zoning of the individual property. Either the owners of the affected property or the owners of property within 200 feet of the affected property can protest the recommendation.

FOR QUESTIONS OR ADDITIONAL INFORMATION PLEASE CONTACT

George Adams, Assistant Director, Neighborhood Planning and Zoning Department, (512) 974-2146 or george.adams@ci.austin.tx.us.

May 4, 2008

PLANNING COMMISSION HEARING**DATE:** Tuesday, February 9, 2010 **TIME:** 6:00 P.M.**LOCATION:** City Hall, Rm. 1002, Council Chambers
301 W. 2nd Street, Austin**CITY COUNCIL HEARING****DATE:** Thursday, March 11, 2010 **TIME:** 2:00 P.M.**LOCATION:** City Hall, Rm. 1002, Council Chambers
301 W. 2nd Street, Austin

For questions regarding the vertical mixed use application for the Upper Boggy Creek Neighborhood Planning Area, please call Jacob Browning at (512) 974-7657 or email at: jacob.browning@ci.austin.tx.us. Si Ud. necesita información en español, favor de llamar a Jacob Browning (512) 974-7657. Office hours are 8:00 AM to 5:00 PM Monday through Friday. Please be sure to refer to the File Number on the first page when you call. See attached sheets for more information.

PLANNING COMMISSION COMMENT FORM

You may send your written comments to the Planning and Development Review Department, P. O. Box 1088, C/O Jacob Browning, Austin, TX 78767-8835.

File # C14-2009-0102**Planning Commission Hearing Date: February 9, 2010****Name (please print)** Axel Gerdau☒ I am in favor of VMU
(Estoy de acuerdo)**Address** 2204 Chestnut Ave☐ I object to VMU
(No estoy de acuerdo)**Comments** We need more mixed-use density + affordable housing.**INFORMATION ON PUBLIC HEARINGS**

THE PLANNING AND DEVELOPMENT REVIEW DEPARTMENT HAS FILED AN APPLICATION TO IMPLEMENT THE VERTICAL MIXED-USE (VMU) LAND USE REGULATIONS. THIS NOTICE HAS BEEN MAILED TO YOU BECAUSE YOU OWN PROPERTY, ARE A REGISTERED ENVIRONMENTAL OR NEIGHBORHOOD ORGANIZATION, OR HAVE A UTILITY SERVICE ADDRESS WITHIN 500 FEET OF A VMU ELIGIBLE PROPERTY.

This request for zoning/rezoning will be reviewed and acted upon at two public hearings: First, before the Planning Commission and then before the City Council. After a public hearing, the Planning Commission reviews and evaluates City staff recommendation and public input and then sends its own recommendation on the proposed VMU land use regulations to the City Council. Meeting dates and locations are shown on this notice.

During its public hearing, the board or commission may postpone or continue an applicant's hearing to a later date. 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.

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) Lionel James

☒ I am in favor of VMU
(Estoy de acuerdo)

Address 2942 Moss St 7x 7072

☐ I object to VMU
(No estoy de acuerdo)

Comments _____

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) Justin Clemens

Address 711 E. 43rd Austin TX 78751

Comments _____

- ☒ I am in favor of VMU
(Estoy de acuerdo)
☐ I object to VMU
(No estoy de acuerdo)

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) _____

Address _____

Comments _____



I am in favor of VMU

(Estoy de acuerdo)



I object to VMU

(No estoy de acuerdo)

.....

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) GERALD R. LAWSON

☐ I am in favor of VMU
(Estoy de acuerdo)

Address 3402 ROBINSON AVE

☒ I object to VMU
(No estoy de acuerdo)

Comments _____

PLANNING COMMISSION COMMENT FORM

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) DEBORAH MCELISH

☒ I am in favor of VMU
(Estoy de acuerdo)

Address 4309 Airport Blvd, Austin Tx 78722

☐ I object to VMU
(No estoy de acuerdo)

Comments Let's move forward to update our City
to meet the needs of a growing population.

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For questions regarding the vertical mixed use application for the Upper Boggy Creek Neighborhood Planning Area, please call Jacob Browning at (512) 974-7657 or email at: jacob.browning@ci.austin.tx.us. Si Ud. necesita información en español, favor de llamar a Jacob Browning (512) 974-7657. Office hours are 8:00 AM to 5:00 PM Monday through Friday. Please be sure to refer to the File Number on the first page when you call. See attached sheets for more information.

PLANNING COMMISSION COMMENT FORM

You may send your written comments to the Planning and Development Review Department,
P. O. Box 1088, C/O Jacob Browning, Austin, TX 78767-8835.

File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) CARLOS M. RIVERO

Address 1917 MANOR RD AUSTIN, TX 78722

Comments _____

- ☐ I am in favor of VMU
(Estoy de acuerdo)
☒ I object to VMU
(No estoy de acuerdo)

INFORMATION ON PUBLIC HEARINGS

THE PLANNING AND DEVELOPMENT REVIEW DEPARTMENT HAS FILED AN APPLICATION TO IMPLEMENT THE VERTICAL MIXED-USE (VMU) LAND USE REGULATIONS. THIS NOTICE HAS BEEN MAILED TO YOU BECAUSE YOU OWN PROPERTY, ARE A REGISTERED ENVIRONMENTAL OR NEIGHBORHOOD ORGANIZATION, OR HAVE A UTILITY SERVICE ADDRESS WITHIN 500 FEET OF A VMU ELIGIBLE PROPERTY.

This request for zoning/rezoning will be reviewed and acted upon at two public hearings: First, before the Planning Commission and then before the City Council. After a public hearing, the Planning Commission reviews and evaluates City staff recommendation and public input and then sends its own recommendation on the proposed VMU land use regulations to the City Council. Meeting dates and locations are shown on this notice.

During its public hearing, the board or commission may postpone or continue an applicant's hearing to a later date. 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.

PLANNING COMMISSION HEARING

DATE: Tuesday, February 9, 2010 **TIME: 6:00 P.M.**

LOCATION: City Hall, Rm. 1002, Council Chambers
301 W. 2nd Street, Austin

CITY COUNCIL HEARING

DATE: Thursday, March 11, 2010 **TIME: 2:00 P.M.**

LOCATION: City Hall, Rm. 1002, Council Chambers
301 W. 2nd Street, Austin

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) JAMES KOCURKA

Address 3406 ROBINSON AVENUE

Comments _____

- ☒ I am in favor of VMU
(Estoy de acuerdo)
☐ I object to VMU
(No estoy de acuerdo)

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) Chad Ballentine

Address 2204 Chestnut Ave

Comments I live in an SFR adjacent to the
Proposed VMU, And I APPROVE. We need density & Light
Urban rail!

- ☒ I am in favor of VMU
(Estoy de acuerdo)
☐ I object to VMU
(No estoy de acuerdo)

PLS call if you have questions or need assistance
INFORMATION ON PUBLIC HEARINGS 673-2105

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File # C14-2009-0102

Planning Commission Hearing Date: February 9, 2010

Name (please print) WALTER JOHN KUETEN

Address 3504 BANTON RD

Comments _____

☒ I am in favor of VMU
(Estoy de acuerdo)
☐ I object to VMU
(No estoy de acuerdo)

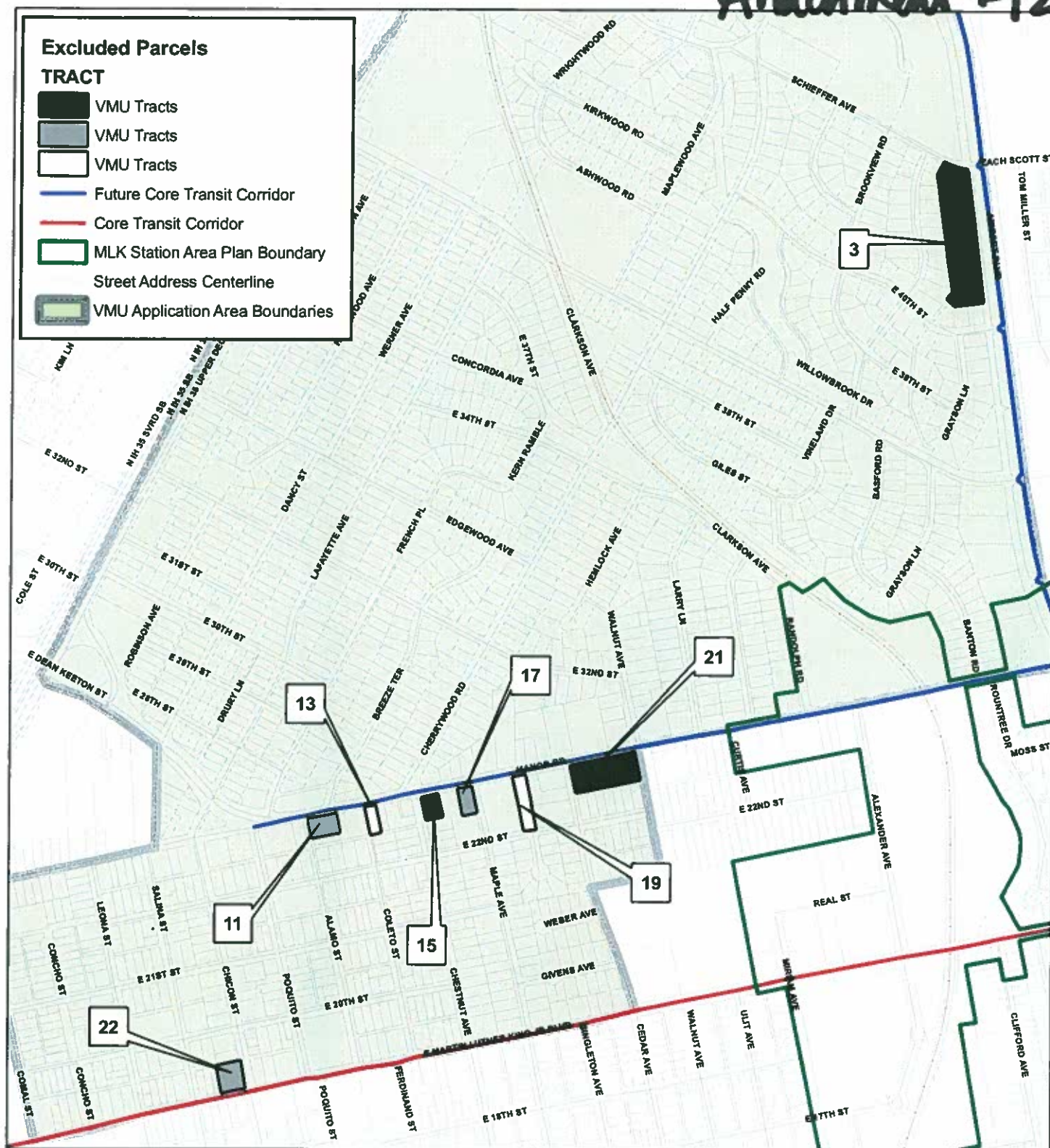
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Attachment #12



**Upper Boggy Creek Neighborhood Planning Area
Vertical Mixed Use (VMU) Opt-In/Opt-Out Process
Tract Map, C14-2009-0102 (part)**

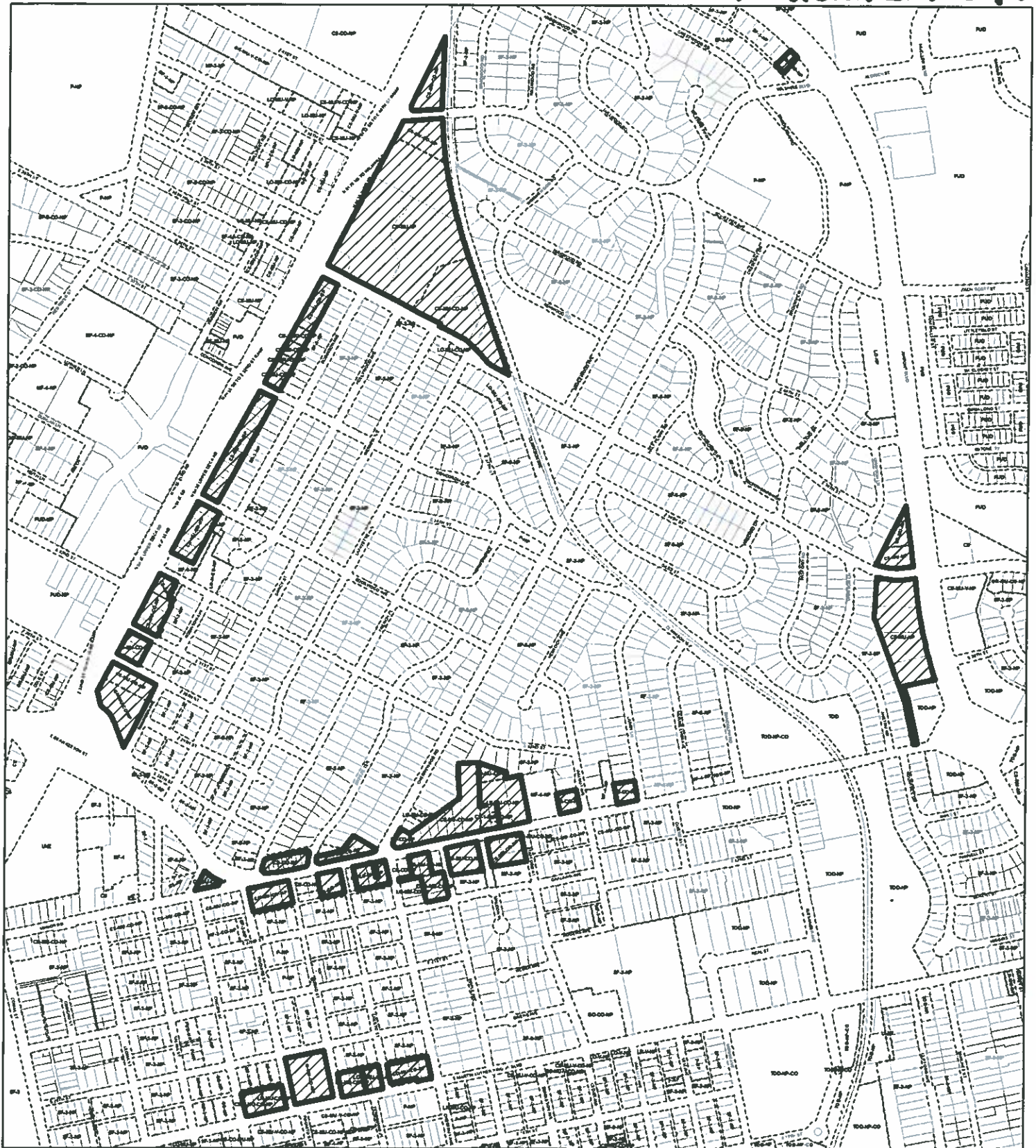


Produced by City of Austin
Planning & Development Review Dept.
August 27, 2009



0 250 500 1,000 Feet

This map has been produced by the City of Austin for the sole purpose of aiding regional planning and is not warranted for any other use. No warranty is made regarding its accuracy or completeness.



SUBJECT TRACT



ZONING BOUNDARY



PENDING CASE

OPERATOR: S. MEEKS

ZONING

ZONING CASE#: C14-2009-0102
ADDRESS: UPPER BOGGY CREEK PLANNING AREA
SUBJECT AREA: 51.39 ACRES
GRID: K23-25 & L24
MANAGER: J. BROWNING



1" = 800'

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