

ZONING CHANGE REVIEW SHEET

CASE: C14-73-144(RCA) – HDJS Partners South First **P.C. DATE:** May 26, 2015

ADDRESS: 6311 South 1st Street

DISTRICT AREA: 2

AREA: 3.82 acres

NEIGHBORHOOD PLAN AREA: South Congress Combined
(Sweetbriar Neighborhood Plan Area)

OWNER: HDJS Partners, LP (Haythem Dawlett)

AGENT: Jim Bennett Consulting (Jim Bennett)

REQUEST: To terminate a 1973 Restrictive Covenant as it applies to this property

SUMMARY STAFF RECOMMENDATION:

Staff recommends granting the termination of the 1973 Restrictive Covenant as it applies to this property.

PLANNING COMMISSION ACTION:

May 26, 2015: *APPROVED A TERMINATION OF THE RESTRICTIVE COVENANT AS IT APPLIES TO THIS PROPERTY, AS STAFF RECOMMENDED, BY CONSENT*

[S. OLIVER; J. NORTEY – 2ND] (5-0) J. STEVENS, R. HATFIELD, A. HERNANDEZ – ABSENT, J. SHIEH – NOT YET ARRIVED

DEPARTMENT COMMENTS:

The subject lot (see Exhibit C) is subject to a Restrictive Covenant that accompanied a 1973-74 zoning change to the GR zoning district. As it applies to this property, the Restrictive Covenant requires a six foot privacy fence along the north property line, prohibits apartments and requires curb cut approval by the City. As information, the Restrictive Covenant also applies to the adjacent two lots to the east which were part of an original lot known as Sweetbriar Village Commercial Area. The restrictive covenant amendment area represents a resubdivision of that original lot, now platted as Lot 1A of Eberhart Village.

The subject lot was rezoned to the general community – mixed use – conditional overlay – neighborhood plan (GR-MU-CO-NP) combining district in August 2005 as part of the Sweetbriar Neighborhood Plan Area rezoning case (C14-05-0105). The MU overlay allows for residential to occur and CO that applies to this tract prohibits auto sales, auto washing (of any type) and pawn shop services.

The Applicant is planning to develop residential uses on the property, likely condominiums or apartments. The privacy fence is addressed through the

application of compatibility standards and curb cuts are reviewed at the time of site plan and require City approval. The overall goal of the restrictive covenant amendment is to remove the potential for the 1972 Restrictive Covenant to be inconsistent with the GR-MU-CO-NP zoning that applies to this property.

EXISTING ZONING AND LAND USES:

	ZONING	FLUM / Character District Map	LAND USES
<i>Site</i>	GR-MU-CO-NP	Mixed Use	Undeveloped
<i>West</i>	GR-NP; GR-CO-NP (in the Garrison Park NPA)	Neighborhood Node	Financial services; Funeral home; Medical offices
<i>East</i>	SF-6-NP	Higher Density Single Family	Condominiums
<i>South</i>	GR-MU-CO-NP; SF-3-NP	Mixed Use	Auto repair; Apartments
<i>North</i>	SF-2-NP; LO-MU-NP	Single Family	Single family residences in the Flournoy's Sweebriar subdivision

ABUTTING STREETS & TRANSIT:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route
South First Street	Varies	MAR – 4	Minor Arterial (22,043 vpd)	Yes, both sides	No. 10, 110 and 484

South 1st Street is classified in the Bicycle Plan as Bike Route No. 33.

TIA: Not Applicable

WATERSHED: Williamson Creek – Suburban

SCENIC ROADWAY: No

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

NEIGHBORHOOD ASSOCIATIONS & COMMUNITY ORGANIZATIONS:

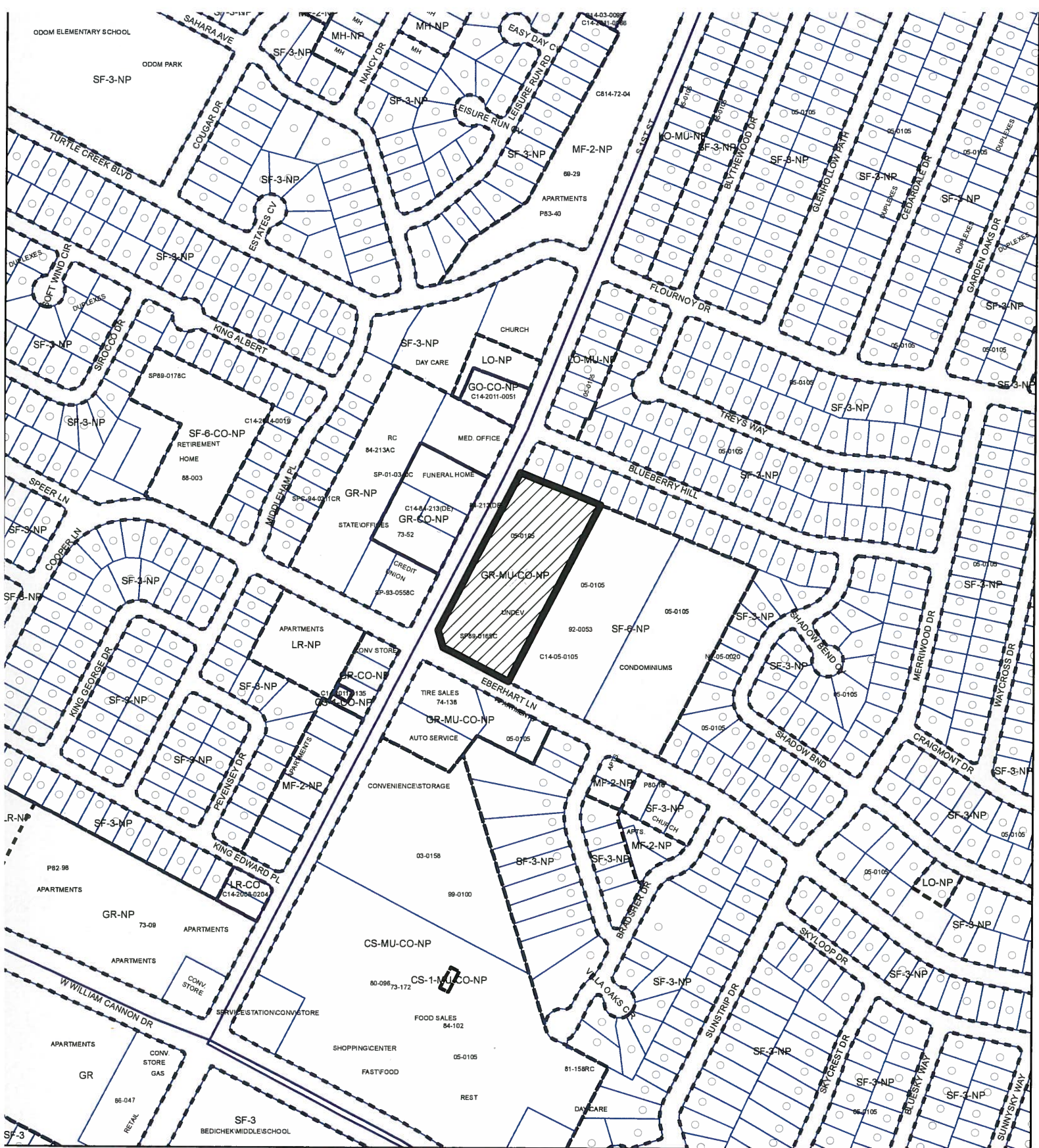
COMMUNITY REGISTRY NAME REGISTRY ID	COMMUNITY
Far South Austin Community Association	26
Austin Neighborhoods Council	511
Onion Creek Homeowners Association	627
Austin Independent School District	742
Woodhue Community Neighborhood Watch	1008
South Congress Combined Neighborhood Plan Contact Team	1173
South Austin Neighbor Awareness Project	1187




Sierra Club, Austin Regional Group	1228
The Real Estate Council of Austin, Inc.	1236
Austin Heritage Tree Foundation	1340
SEL Texas	1363
Friends of Armadillo Park	1386
Go!Austin/Vamos!Austin (GAVA)	1429
Friends of the Emma Barrientos MACC	1447
Armadillo Park Neighborhood Association	1468

CITY COUNCIL DATE:

June 11, 2015

CASE MANAGER: Wendy Rhoades, 512-974-7719e-mail: wendy.rhoades@austintexas.gov



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

ZONING
CASE NUMBER: C14-73-144(RCA)

EXHIBIT A



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 400'



SF-3-NP

SF-3-NP

CHURCH

DAY CARE

OFF. P80-Y2

LO-NP

SF-3

SF-3-NP

GR-NP

P79-8

79-12

YOUTH/FAMILY SERVICES

LO-MU-NP

SF-3-NP

RC

84-213AC

MED. OFFICE

SP-01-0340C

FUNERAL HOME

SPC-94-0311CR

GR-CO-NP

84-213(DE)

STATE OFFICES

79-52

S 1ST ST

05-0105

CREDIT UNION

SP-93-0558C

P82-85

GR-MU-CO-NP

UNDEV

05-0105

SF-6-NP

05-0105

LR-NP

CONV STORE

CS-1-CO-NP

SF-3-NP 97-0088

TIRE SALES

74-133

GR-MU-CO-NP

05-0105

AUTO SERVICE

EBERHART LN

CONDOMINIUMS

MF-2-NP

CONVENIENCE STORAGE

CS-MU-CO-NP

SF-3-NP

P80-16

SF-3-NP

APR-5-74 RCCN 5085 * 2.50

750
94-2570

STATE OF TEXAS §
COUNTY OF TRAVIS §

WHEREAS, M. H. FLOURNOY, of Travis County, Texas, is the owner of the following described property, to-wit:

Lot 1, Block "Y", a subdivision in the City of Austin, Travis County, Texas, known and designated as Sweetbriar Village Commercial Area, according to a map or plat of record in Book 67, at page 92, of the Plat Records of Travis County, Texas; and,

WHEREAS, the City of Austin and M. H. FLOURNOY have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, M. H. FLOURNOY, for and in consideration of One and No/100 (\$1.00) Dollar 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. At the time the said Lot 1, Block "Y", is used for any purpose not permitted under the "A" Residential District classification of the Zoning Ordinance of the City of Austin, there shall be erected and thereafter properly maintained a six (6) foot privacy fence along the entire most northerly and easterly boundaries of said Lot 1, Block "Y".
2. There shall be no apartment house development on any portion of said Lot 1, Block "Y", under the presently authorized "GR" District classification of the Zoning Ordinance of the City of Austin.
3. Lot 1, Block "Y", shall be governed by all ordinances and regulations enacted by the City Council of the City of Austin relating to curb cuts.
4. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement

DEED RECORDS
Travis County, Texas

4892 573

EXHIBIT B
RECORDED RESTRICTIVE COVENANT

or 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.

5. 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 no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

6. 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.

7. 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 2nd day of April, 1974.

N. H. Flournoy
N. H. Flournoy

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 N. H. FLOURNOY, 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 2nd day of April, 1974.

NOTARY SEAL

Mary M. Mearns
Notary Public in and for Travis County,
Texas

94-2572

FILED

APR 5 8 12 AM '74

Continued from page 1

INDEXED

STATE OF TEXAS COUNTY OF TARRANT
I hereby certify that the following was filed on the
date and at the place and in the manner and only
as required by the laws of the State of Texas
of Tarrant County, Texas, as shown by the
of the County Clerk, Texas.

APR 5 1974



Chris E. Thompson

COUNTY CLERK
TARRANT COUNTY, TEXAS

CITY OF AUSTIN
Legal Department
Rev. 10-29
AUSTIN, TEXAS

4892

575

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:
<http://www.austintexas.gov/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: C14-73-144(RCA)

Contact: Wendy Rhoades, 512-974-7719

Public Hearing: May 26, 2015, Planning Commission

June 11, 2015, City Council

NAUSHTAD MEANS

Your Name (please print)

6400 South First Austin TX 78745

Your address(es) affected by this application

Signature

Date

Daytime Telephone: 92 633 3875

Comments:

☒ I am in favor
☐ I object

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

City of Austin
Planning and Zoning Department
Wendy Rhoades
P. O. Box 1088
Austin, TX 78767-8810