

## **RESTRICTIVE COVENANT TERMINATION REVIEW SHEET**

**CASE:** C14-88-0129 (RCT)  
(Stonebridge Drive)

**P.C. DATE:** May 23, 2017

**ADDRESS:** 9501 Stonebridge Drive

**DISTRICT AREA:** 4

**OWNER/APPLICANT:** Reyna Lippincott

**EXISTING ZONING:** LO-CO-NP

**AREA:** 0.1898 acres (8,268.50 sq. ft.)

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends the applicant's request for a restrictive covenant termination.

### **PLANNING COMMISSION RECOMMENDATION:**

5/23/17: Approved staff's recommendation for a restrictive covenant termination by consent (8-0, F. Kazi, A. De Hoyos Hart, J. Schissler, J. Thompson and T. White-absent); P. Seeger-1<sup>st</sup>, N. Zaragoza-2<sup>nd</sup>.

### **DEPARTMENT COMMENTS:**

The applicant is requesting to terminate/delete a restrictive covenant associated with zoning case C14-88-129-CO as it applies to the property located at Lot 1 of the Quail Creek PHS 3, Section 2 Subdivision. This public restrictive covenant contains language stating that, "If use of the Property as dental laboratory use is discontinued for 90 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to "SF-3" Family Residence district." The applicant would like to delete these conditions as they would like to allow for a professional office use to be developed on the site. The applicant's request letter is included as Attachment A to this report.

The staff is recommending the applicant's request to terminate this restrictive covenant from 1989. According to County records, the lot has been used for an office since 1973. The property was rezoned from SF-3 to LO-CO in 1989, through zoning case C14-88-0129-CO. In 2001, the City Council approved the North Austin Civic Association Neighborhood Plan for this area. The associated rezoning case (Ordinance No. 010524-94) added an NP combining district to the existing LO-CO zoning for this tract. The staff believes that the applicant's request is consistent with the goals of the neighborhood plan as the North Austin Civic Association future land use map (FLUM) recommended a Commercial land use designation for this property.

The applicant agrees with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LO-CO-NP	Medical/Dental Office
<i>North</i>	SF-3-NP	Single-Family Residences
<i>South</i>	MF-2-NP	Apartments
<i>East</i>	MF-2-NP	Multifamily (Cross Creek Apartments)
<i>West</i>	SF-3-NP	Vacant, Sign/Clock Tower for Quail Creek Residential Subdivision

**AREA STUDY:** North Austin Civic Association NP      **TIA:** N/A**WATERSHED:** Little Walnut Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**HILL COUNTRY ROADWAY:** No**NEIGHBORHOOD ORGANIZATIONS:**

Austin Heritage Tree Foundation  
 Austin Independent School District  
 Austin Neighborhoods Council  
 Bike Austin  
 Friends of Austin Neighborhoods  
 Homeless Neighborhood Association  
 North Austin Civic Association Contact Team  
 North Austin Civic Association  
 North Growth Corridor Alliance  
 SELTEXAS  
 Shoal Creek Conservancy  
 Sierra Club, Austin Regional Group

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2008-0141 (EDI Parkfield Expansion: 11100 Parkfield Drive)	NO, LO-CO to LO	8/05/08: Approved staff recommendation of LO-CO zoning, with condition limiting the property to 'NO' district site development regulations (5-1, Baker-No, Hammond-absent); K. Jackson-1 <sup>st</sup> , J. Gohil-2 <sup>nd</sup> .	9/25/08:
C14-06-0113	NO to LR	7/18/06: Approved staff rec. of LR zoning by consent (6-0)	8/24/06: Approved LR on all 3 readings (7-0)
C14-06-0030	NO to GO	4/25/06: Approved GO-MU-CO- NP with conditions (8-0)	5/25/06: Approved GO-MU-CO- NP (7-0); all 3 readings
C14-06-0022	SF-6-NP to LO-MU-NP	4/11/06: Approved staff rec. of LO-MU-CO-NP (7-0)	5/18/06: Approved LO-MU-CO- NP (7-0)
C14-05-0097	GR-CO to GR-CO	8/16/05: Approved staff rec. of GR-CO by consent; TIA to be met before 3 <sup>rd</sup> reading (8-0)	9/29/05: Approved GR-CO (7-0); all 3 readings

C14-03-0182	GO to CS	2/03/04: Approved staff rec. of GR-CO by consent (9-0)	3/04/04: Approved GR-CO (6-0); 1 <sup>st</sup> reading only  3/25/04: Approved GR-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-03-0009	SF-3, LR, GR to CS	3/25/03: Approved LR for Tract 1 and NO for Tracts 2 & 3 (8-0)	5/08/03: Approved LR for Tract 1 and NO for Tracts 2 and 3 (7-0); 1 <sup>st</sup> reading  6/12/03: Approved LR-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-02-0187	SF-6 to LO	2/12/02: Approved LO-MU-CO-NP (7-0)	3/20/03: Approved LO-MU-CO-NP (7-0); 1 <sup>st</sup> reading  4/24/03: Approved LO-MU-CO-NP (6-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-01-0037 NACA Neighborhood Plan)	MF-2, SF-2, SF-3 to NO-NP	4/17/01: Approved staff rec. of NO-NP, CS-NP, MF-2-NP, LO-NP, GR-NP, P-NP, LI-NP, (9-0)	5/24/01: Approved PC rec. on all 3 readings, except for Tract 9 (6-0); 1 <sup>st</sup> reading only 7/19/01: PP Tract 9 to 8/09/01 by staff (6-0)  8/09/01: Approved CS-NP zoning for Tract 9 (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings

**RELATED CASES:** C14-2017-0033 (Current Associated Rezoning Case)  
C14-01-0037 (NACA Neighborhood Plan Rezoning)  
C14-88-0129-CO (Previous Zoning Case)

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Stonebridge Drive	50 ft.	27 ft.	Local	No	No	Yes
Rutland Drive	70 ft.	50 ft.	Collector	Yes	No	Yes

**CITY COUNCIL DATE:** June 22, 2017

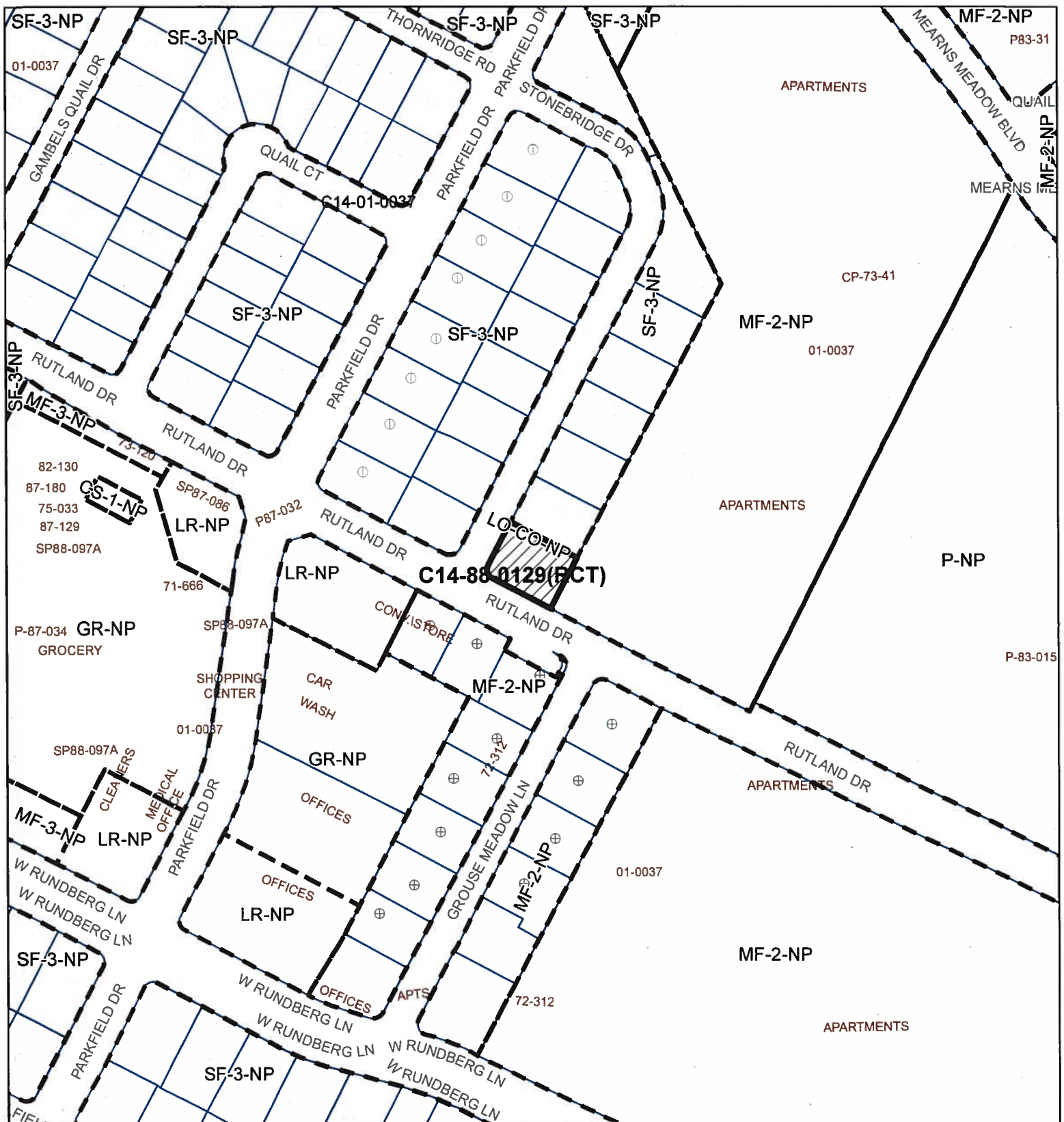
**ACTION:** Postponed to August 3, 2017 at the neighborhood's request (10-0, E. Troxclair-absent); L. Pool-1<sup>st</sup>, G. Casar-2<sup>nd</sup>.

August 3, 2017

**ACTION:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 512-974-3057  
sherri.sirwaitis@austintexas.gov



## RESTRICTIVE COVENANT TERMINATION

Case#: C14-88-0129(RCT)

- N
- Subject Tract
- Pending Case
- Zoning Boundary
- Railroads

0 200 Feet

1" = 200'

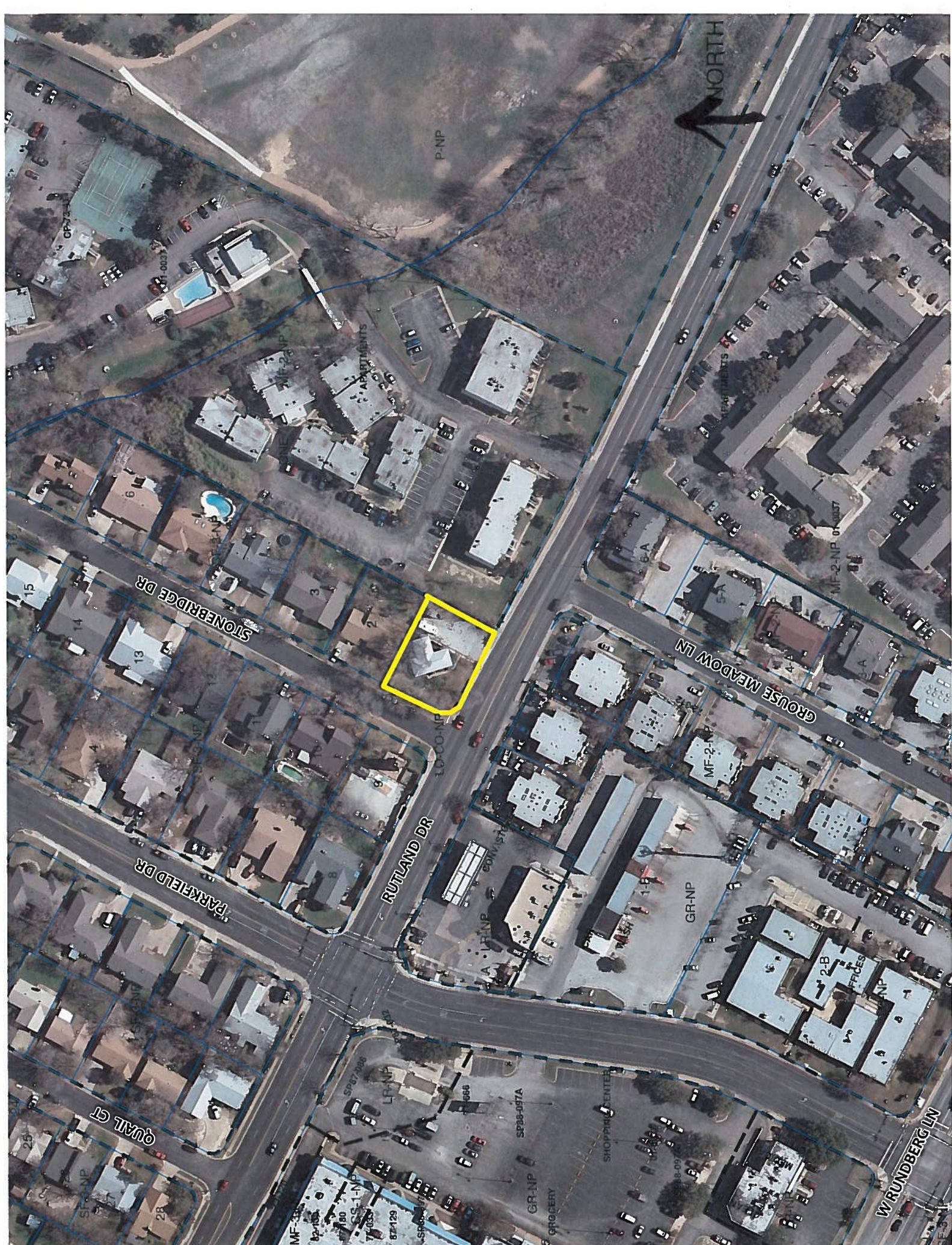
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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



Created: 4/10/2017







4/4/2017

City of Austin Planning and Zoning Department  
505 Barton Springs Blvd.  
Austin, Texas 78704

Termination of existing Restrictive Covenant

To Zoning Department:

The property on 9501 Stonebridge Drive is currently restricted to only one industry, which is only for dental labs. We are requesting to terminate the existing restrictive covenant to allow for professional offices.

The current restriction is hindering the opportunity for future use of the property. Because of the limitations to only dental labs, the property will most likely stay vacant for many years with a structure that is falling apart. In addition, because we are retiring, the property taxes would be in default, eventually. Therefore, we ask that the restrictive covenant be terminated in order for future professional offices to be permitted to operate.

Warm Regards,



Reyna Lippincott  
512-750-4934

DOC. NO.

89066390

14 88-0129  
FILM CODE

Zoning Case No. 0000450577129

RESTRICTIVE COVENANT

00004505771

OWNER: BURTIS L. WILKINS and RICKFORD C. REDMOND  
ADDRESS: c/o 6309 Mercedes Bend, Austin, Texas, 78759

5.00 INDX  
1 1 08/07/89  
890663.90-DOC#

CONSIDERATION: One and No/100 Dollars (\$1.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lot 1, Quail Creek, Phase III, Section 2 Subdivision, a subdivision in the City of Austin, Travis County, Texas according to the map or plat of record in Book 55, Page 63, of the Plat Records of Travis County, Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions as conditions of zoning for the Property;

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. If use of the Property as dental laboratory use is discontinued for 90 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to "SF-3" Family Residence district. Normal, seasonal cessation of a use, or temporary discontinuance for purpose of maintenance or rebuilding of the Property after damage or destruction shall not be included in calculating the period of discontinuance.
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,

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

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 at the time of such modification, amendment or termination.

All citations to the Austin City Code shall refer to the Austin City Code of 1981, as amended from time to time, unless otherwise specified.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 28 day of JUNE, 1989.

BY: Burtis L. Wilkins  
BURTIS L. WILKINS

THE STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 28 day of June, 1989, by Burtis L. Wilkins.

Karin Mullen  
Notary Public Signature

Karin Mullen  
Type or Print Notary Name  
My Commission Expires: 9/7/92

NOTARY SEAL

BY: Rickford C. Redmond  
RICKFORD C. REDMOND

THE STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on this the 28 day of June, 1989, by Rickford C. Redmond.

Eric Wilkins  
Notary Public Signature

Eric Wilkins  
Type or Print Notary Name  
My Commission Expires: 2-13-90

NOTARY SEAL

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

10995 1264

Return to:  
CITY OF AUSTIN  
DEPT. OF LAW  
P. O. BOX 1088  
AUSTIN, TEXAS 78767  
Attn: Martha Rucker

STATE OF TEXAS COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Travis County, Texas, on

AUG 7 1989

FILED

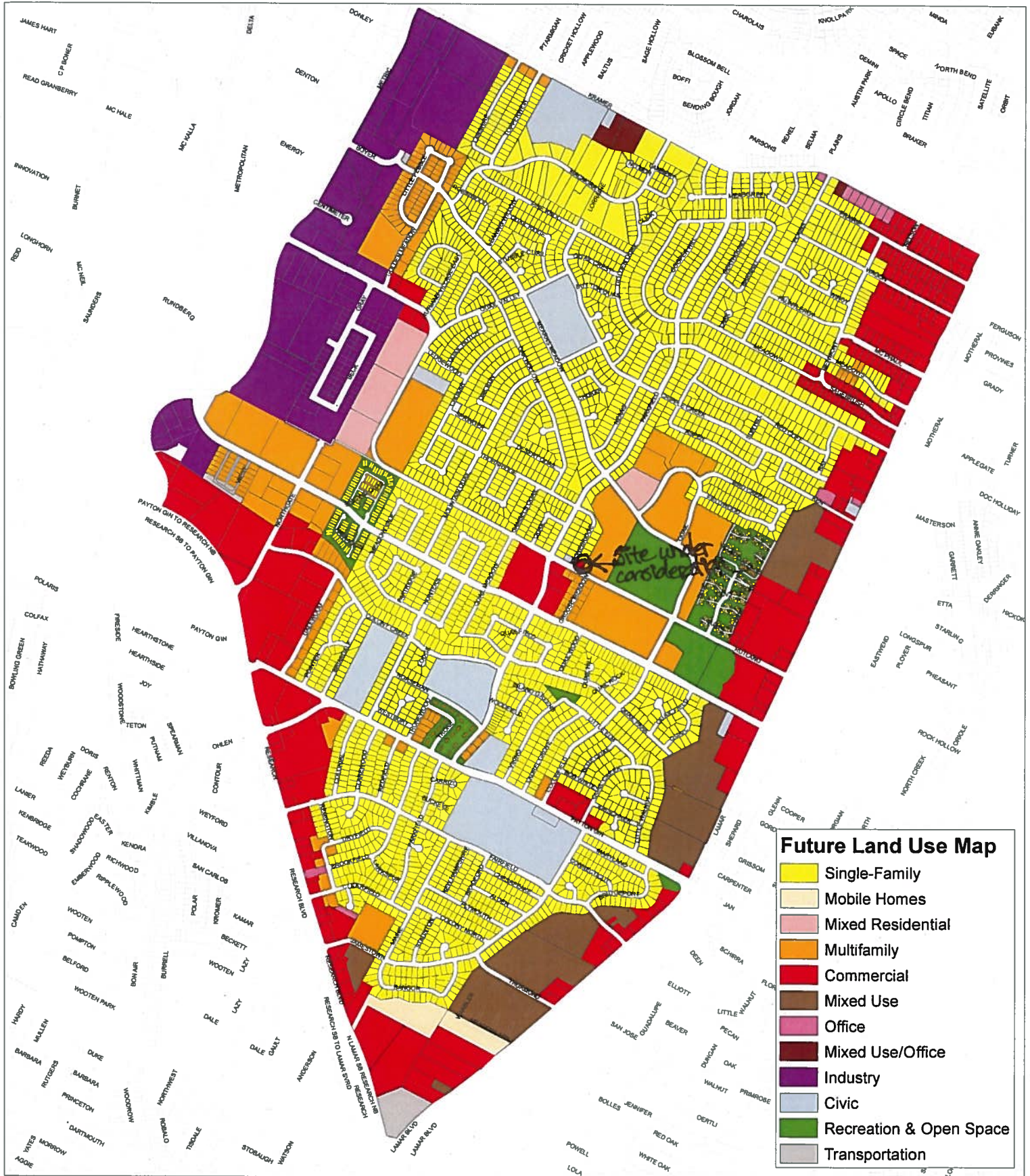
89 AUG -7 PM 4:36  
TRAVIS COUNTY, TEXAS  
DANA DERFALVO

2



Dana Derfaldo  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS





## North Austin Civic Association Neighborhood Plan

Future Land Use Map  
Adopted June 2000  
Last Modified 1/06/2015

Planning & Zoning Department

A comprehensive plan shall not  
constitute zoning regulations or  
establish zoning district boundaries.



## 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: [www.austintexas.gov/planning](http://www.austintexas.gov/planning).

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: C14-88-0129(RCT)**  
**Contact: Sherri Sirwaitis, 512-974-3057**  
**Public Hearing: May 23, 2017, Planning Commission**  
**June 22, 2017, City Council**

CHAD RGA  
 Your Name (please print)

☐ I am in favor  
☒ I object

9509 STONEBROOK DR  
 Your address(es) affected by this application

[Signature]  
 Signature

Daytime Telephone: 310-738-8886

Comments: I am in favor of  
residential zoning only  
& against any commercial  
business office or  
any kind.

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

City of Austin  
 Planning & Zoning Department  
 Sherri Sirwaitis  
 P. O. Box 1088  
 Austin, TX 78767-8810