

Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION



AGENDA ITEM NO.: 81
AGENDA DATE: Thu 12/15/2005
PAGE: 1 of 1

SUBJECT: C14-05-0033 - 2529 South Lamar Blvd. - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2529 South Lamar Blvd. (West Bouldin Creek Watershed) from family residence (SF-3) district zoning to limited office-mixed use-conditional overlay (LO-MU-CO) combining district zoning. First reading approved on July 28, 2005. Vote: 7-0. Applicant: Gene Payne. Agent: Jim Bennett. City Staff: Robert Heil, 974-2330.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

SECOND / THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-05-0033

REQUEST:

Approve second / third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2529 S. Lamar; also known the property located on Bluebonnet Lane beginning approximately 285 feet southeast of the intersection of Bluebonnet Lane and South Lamar Blvd. (East Bouldin Creek Watershed) from family residence (SF-3) district zoning to limited office-mixed use-conditional overlay (LO-MU-CO) combining district zoning.

DEPARTMENT COMMENTS:

Staff recommends limited office-mixed use-conditional overlay (LO-MU-CO) combining district zoning. The conditional overlay would specify:

- Maximum of 200 vehicle trips per day;
- Maximum of 40 residential units
- Minimum 20% and maximum 40% of building square to be non-residential uses;
- Minimum 60% and maximum 80% of building square to be residential uses;;
- Prohibit medical office use; and
- Shielded exterior lights.

In addition there is a restrictive covenant specifying that there shall be no access to Bluebonnet Lane until the improvements specified in the Neighborhood Traffic Analysis have been completed.

The applicant and neighborhood agree to the Zoning and Platting Commission's recommendations. In addition there is a separate private restrictive covenant being signed by the neighborhood and applicant to address additional site development and construction timing issues.

OWNER/APPLICANT: Gene Payne

AGENT: Jim Bennett

DATE OF FIRST READING: July 28 2005.

CITY COUNCIL HEARING DATE: December 15, 2005

CITY COUNCIL ACTION: Approve LO-MU-CO. (7-0).

ORDINANCE NUMBER:

ASSIGNED STAFF: Robert Heil, e-mail: robert.heil@ci.austin.tx.us

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 2529 SOUTH LAMAR BOULEVARD FROM FAMILY
3 RESIDENCE (SF-3) DISTRICT TO LIMITED OFFICE-MIXED USE-
4 CONDITIONAL OVERLAY (LO-MU-CO) COMBINING DISTRICT.

5
6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

7
8 PART 1. The zoning map established by Section 25-2-91 of the City Code is amended to
9 change the base district from family residence (SF-3) district to limited office-mixed use-
10 conditional overlay (LO-MU-CO) combining district on the property described in Zoning
11 Case No. C14-05-0033, on file at the Neighborhood Planning and Zoning Department, as
12 follows:

13
14 A 2.139 acre tract of land, more or less, out of the Isaac Decker League, Travis
15 County, the tract of land being more particularly described by metes and bounds in
16 Exhibit "A" incorporated into this ordinance (the "Property"),

17
18 locally known as 2529 South Lamar Boulevard, in the City of Austin, Travis County,
19 Texas, and generally identified in the map attached as Exhibit "B".

20
21 PART 2. The Property within the boundaries of the conditional overlay combining district
22 established by this ordinance is subject to the following conditions:

- 23
24 1. A site plan or building permit for the Property may not be approved, released, or
25 issued, if the completed development or uses of the Property, considered cumulatively
26 with all existing or previously authorized development and uses, generate traffic that
27 exceeds 2,000 trips per day.
- 28
29 2. Vehicular access to Bluebonnet Lane is prohibited until improvements outlined in the
30 memorandum dated April 27, 2005, from the Transportation Review Section of the
31 Watershed Protection and Review Department, are completed.
- 32
33 3. Development of the Property may not exceed 40 residential units.
- 34
35 4. Development of the Property may not exceed 20 residential units per acre.
- 36

- 1 5. Residential use of the Property may not be less than 60 percent or more than 80
2 percent of total building square footage.
3
4 6. Non-residential use of the Property may not be less than 20 percent or more than 40
5 percent of total building square footage.
6
7 7. Medical office use is a prohibited use of the Property.
8
9 8. Exterior lighting must be hooded or shielded so that the light source is not directly
10 visible from adjacent property.
11

12 Except as specifically restricted under this ordinance, the Property may be developed and
13 used in accordance with the regulations established for the limited office (LO) base district
14 and other applicable requirements of the City Code.
15

16 PART 3. This ordinance takes effect on _____, 2005.
17

18
19 PASSED AND APPROVED
20

21 §
22 §
23 §

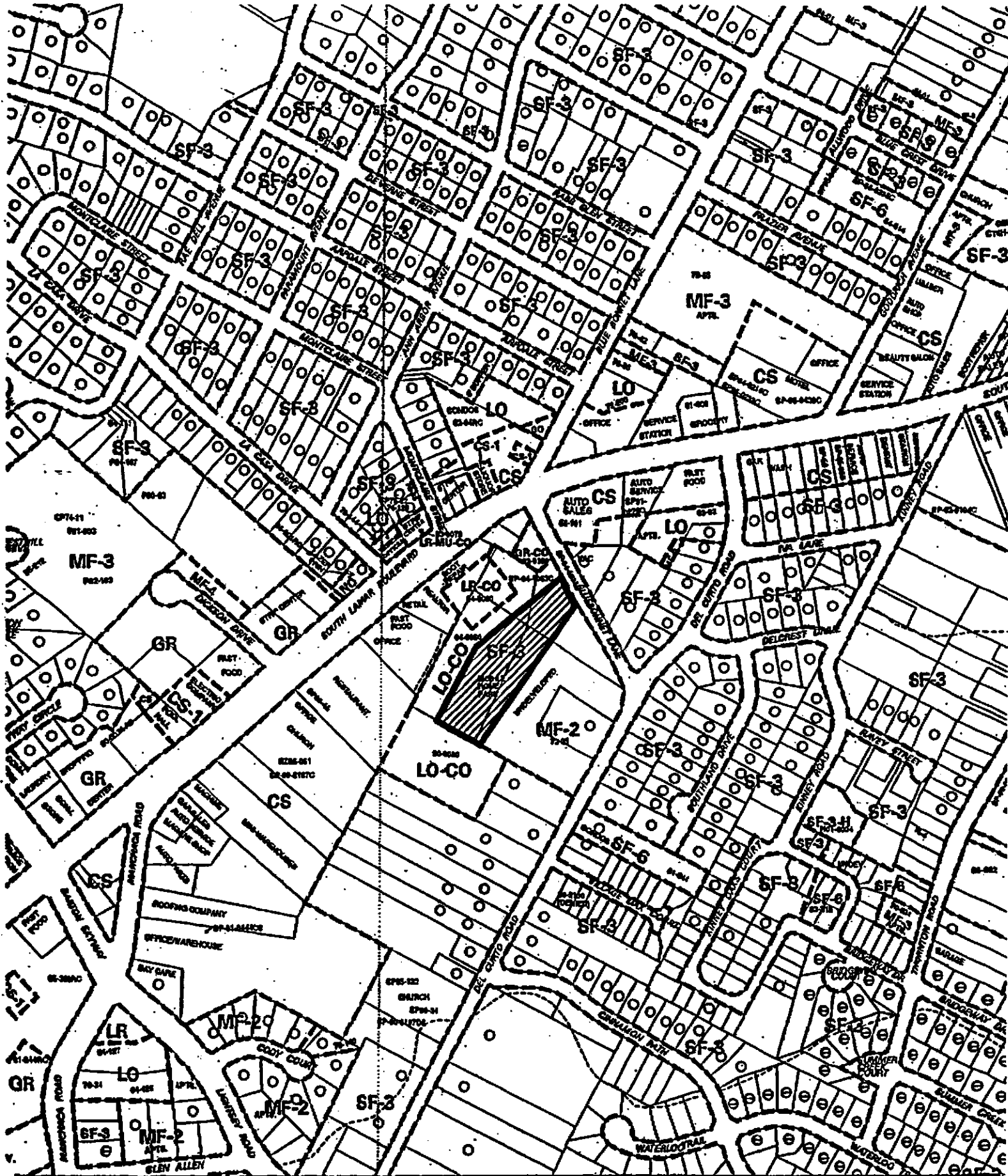
24 Will Wynn
25 Mayor
26





27
28 APPROVED: _____
29

30 David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Brown
City Clerk



 1" = 400'	SUBJECT TRACT		ZONING CASE #: C14-05-0033 ADDRESS: 2529 S LAMAR BLVD SUBJECT AREA (acres): 2.139	DATE: 05-03 INTLS: 6M	CITY GRID REFERENCE NUMBER G20
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: R. HEIL				

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0033

ZAP Date: April 19, 2005
May 3, 2005
July 5, 2005

ADDRESS: 2529 S. Lamar; also known the property located on Bluebonnet Lane beginning approximately 285 feet southeast of the intersection of Bluebonnet Lane and South Lamar Blvd.

OWNER/APPLICANT: Gene Payne

AGENT: Jim Bennett

ZONING FROM: SF-3

TO: LO-MU-CO

AREA: 2.139 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends limited office-mixed use-conditional overlay (LO-MU-CO) combining district zoning. The conditional overlay would specify:

- Maximum of 2000 vehicle trips per day;
- Maximum of 40 residential units
- Minimum 20% and maximum 40% of building square footage to be non-residential uses;
- Minimum 60% and maximum 80% of building square footage to be residential uses;
- Prohibit medical office use; and
- Shielded exterior lights.

In addition there is a restrictive covenant specifying that there shall be no access to Bluebonnet Lane until the improvements specified in the Neighborhood Traffic Analysis have been completed.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

April 19, 2005: Postponed until May 3, 2005 at the request of staff.
[J.M; M.W 2ND] (7-0) K.J; C.H – ABSENT

May 3, 2005: APPROVED LO-MU-CO ZONING WITH CONDITIONS OF:

- MAXIMUM OF 2000 VEHICLE TRIPS PER DAY;
- MAXIMUM 40 RESIDENTIAL UNITS
- MAXIMUM 40% OF BUILDING SQUARE FOOTAGE TO BE NON-RESIDENTIAL USES;
- MAXIMUM 80% OF BUILDING SQUARE FOOTAGE TO BE RESIDENTIAL USES;
- PROHIBIT MEDICAL OFFICE USE;
- NO ACCESS TO BLUEBONNET LANE UNTIL UPGRADES HAVE BEEN MADE;

- **PROVIDE SHIELDED EXTERIOR LIGHTING**
[K.J; M.W 2ND] (8-0) J.M – ABSENT

July 5, 2005: Reconfirmed their action of May 3, 2005 by consent

APPROVED LO-MU-CO ZONING WITH CONDITIONS OF:

- **MAXIMUM OF 2000 VEHICLE TRIPS PER DAY;**
- **MAXIMUM 40 RESIDENTIAL UNITS**
- **MAXIMUM 40% OF BUILDING SQUARE FOOTAGE TO BE NON-RESIDENTIAL USES;**
- **MAXIMUM 80% OF BUILDING SQUARE FOOTAGE TO BE RESIDENTIAL USES;**
- **PROHIBIT MEDICAL OFFICE USE;**
- **NO ACCESS TO BLUEBONNET LANE UNTIL UPGRADES HAVE BEEN MADE;**
- **PROVIDE SHIELDED EXTERIOR LIGHTING**
[J.M; J.G 2ND] (7-0) M.W – ABSENT; T.R – ARRIVED LATE

DEPARTMENT COMMENTS:

The applicant and neighborhood agree to the Zoning and Platting Commission's recommendations. In addition there is a separate private restrictive covenant being signed by the neighborhood and applicant to address additional site development and construction timing issues.

This case was previous heard by this commission on May 3, 2005. The property was incorrectly described as 2525 Lamar at that time. The property is currently known as 2529 South Lamar; also known the property located on Bluebonnet Lane beginning approximately 285 feet southwest of the intersection of Bluebonnet Lane and South Lamar Blvd.

The property is currently zonde Family Residence (SF-3) and the request is for a rezoning to Neighborhood Commercial-Mixed Use-Conditional Overlay (LR-MU-CO). The conditional overlay would limit vehicle trips to less than 2000 per day.

Staff recommends Limited Office-Mixed Use-Conditional Overlay (LO-MU-CO). Staff supports the conditional overlay limiting trips to less than 2000 vehicle trips per day.

The property to the west and north is in the process of being redeveloped for a Walgreen's Drug Store. To the south is parking for a Mexican restaurant – Matt's el Rancho. To the east is multi-family (MF-2) zoned land developed with one single-family house. Across Bluebonnet to the north lies additional Family Residence (SF-3) zoned land.

Staff supports the addition of mixed use to provide additional housing opportunities but believes that Limited Office is more in keeping with surrounding land use and neighborhood patterns.

The property is located in the proposed South Lamar Neighborhood Planning Area, that is scheduled to begin in the October 2005. The tentative Planning Commission Public hearing dates should occur in the June 2006, and the City Council will consider the neighborhood plan and rezoning in the summer of 2006.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-3	Mobile Home Park
<i>North</i>	LO-CO and LR-CO	Future site of Walgreens
<i>South</i>	LO	Parking for Mexican Restaurant (Matt's El Rancho)
<i>East</i>	MF-2	Vacant and One Single Family House
<i>West</i>	LO-CO	Vacant

AREA STUDY: The property lies within the proposed South Lamar Neighborhood Planning Area which is scheduled to begin in September, 2005.

TIA: A Neighborhood Traffic Analysis was prepared (attached).

WATERSHED: West Bouldin **DESIRED DEVELOPMENT ZONE:** Yes

CAPITOL VIEW CORRIDOR: No **HILL COUNTRY ROADWAY:** No

REGISTERED NEIGHBORHOOD ORGANIZATIONS:

- South Lamar Neighborhood Association
- South Central Coalition
- Austin Neighborhoods Council
- Barton Springs/Edwards Aquifer Conservation District
- Austin Independent School District

SCHOOLS: (AISD)

Zilker Elementary School O. Henry Middle School Austin High School

ABUTTING STREETS and TRAFFIC INFORMATION:

A neighborhood traffic analysis was prepared and is attached.

C14-05-0033

CITY COUNCIL DATE: December 15, 2005

ACTION:

ORDINANCE READINGS:

1st

07/28/64

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Robert Heil

PHONE: 974-2330

e-mail address: robert.heil@ci.austin.tx.us



SUBJECT TRACT
 PENDING CASE
 ZONING BOUNDARY
 CASE MGR: R. HEIL

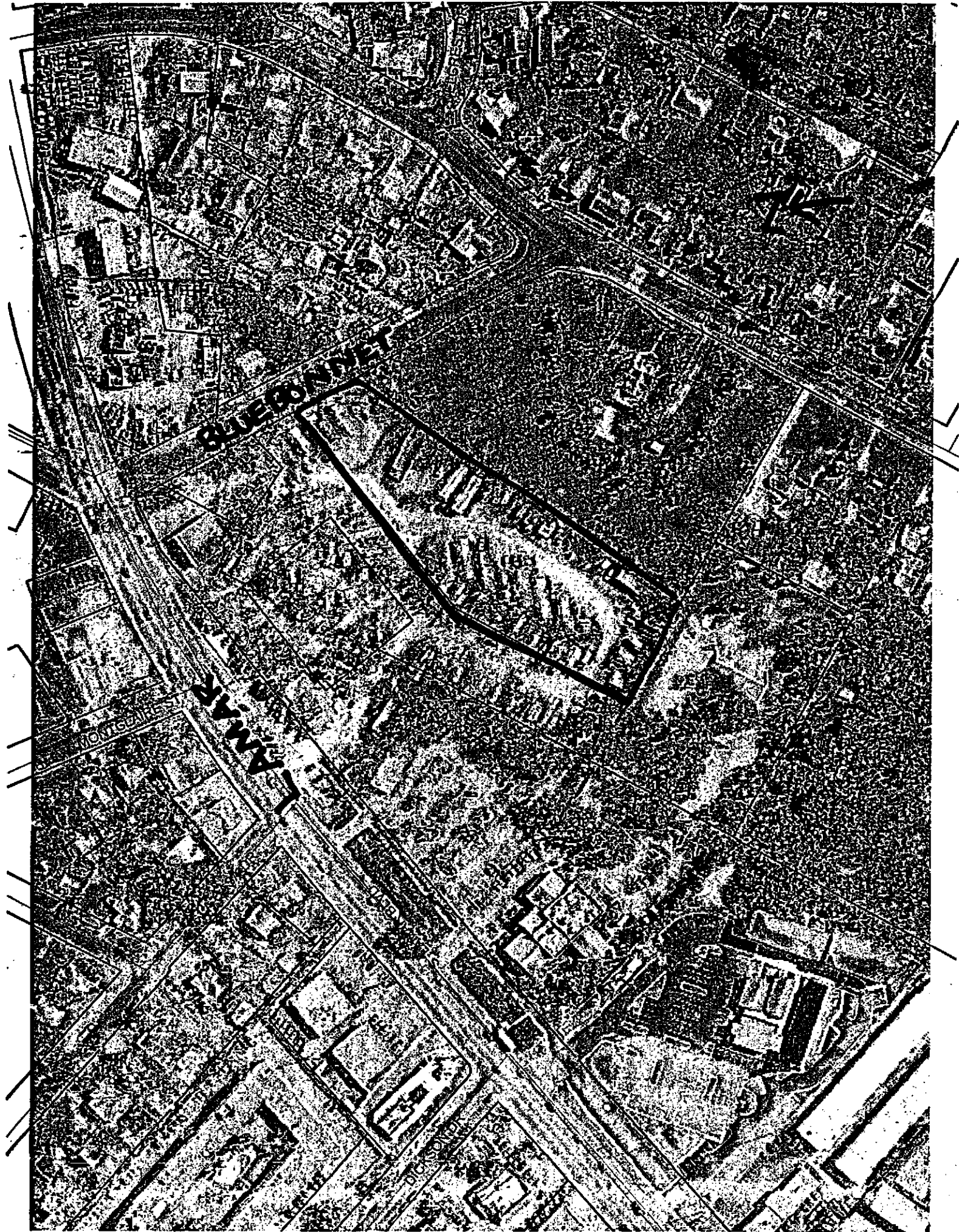


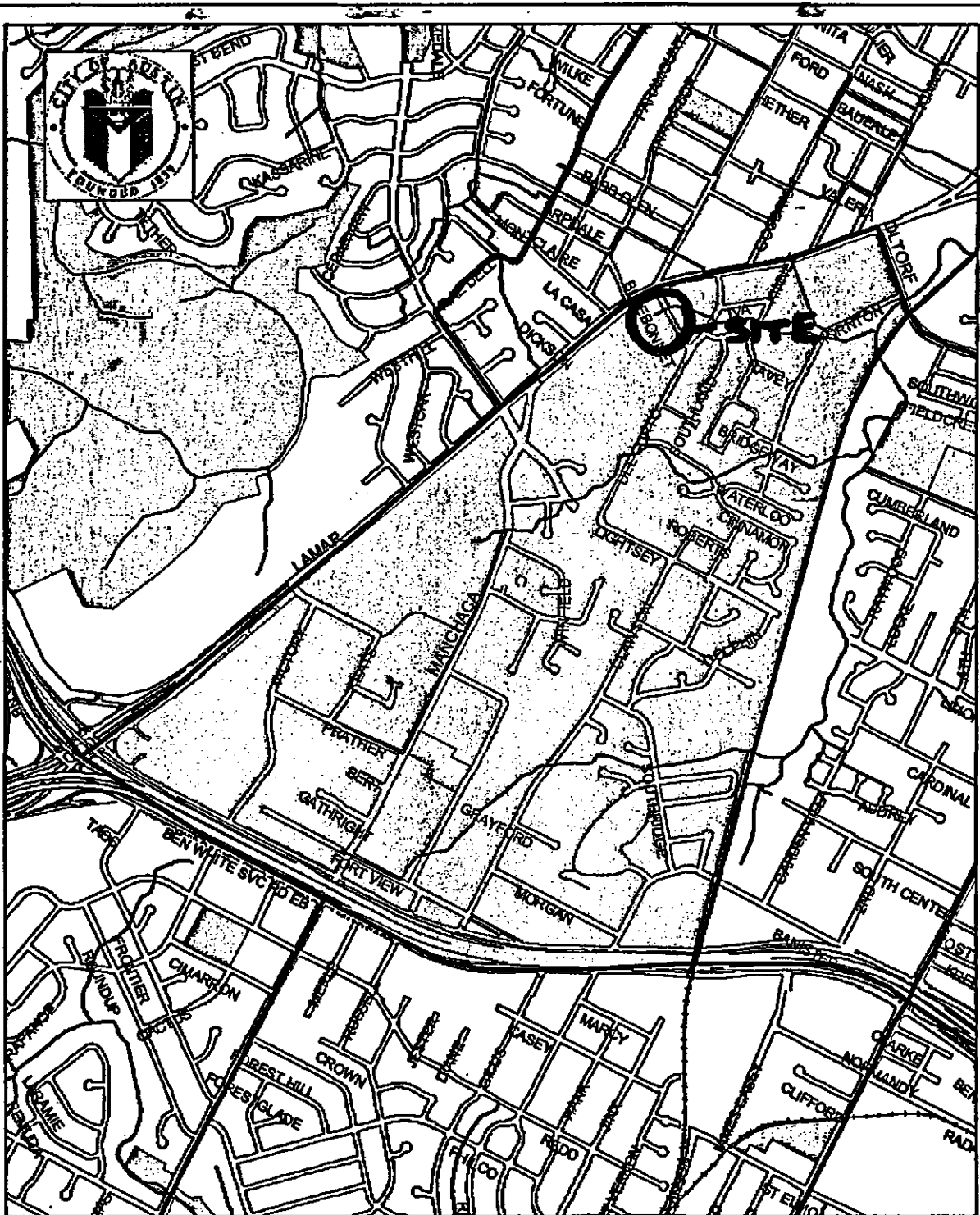
CASE #: C14-05-0033
 ADDRESS: 2629 S LAMAR BLVD
 SUBJECT AREA (acres): 2.139

ZONING

DATE: 05-03
 INTLS: 6M

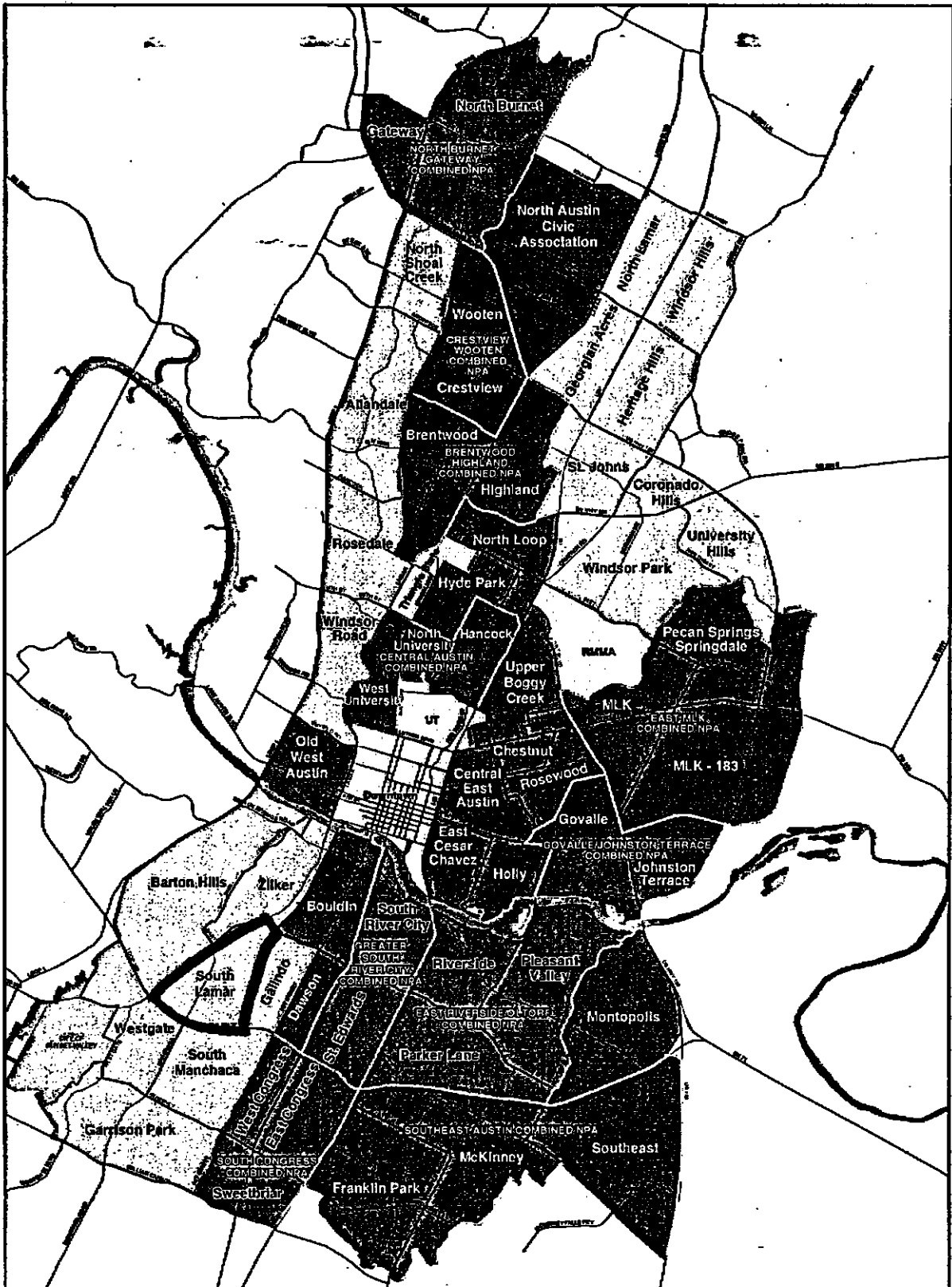
**CITY GRID
 REFERENCE
 NUMBER**
 G20





South Lamar Neighborhood Planning Area

 Parks



City of Austin Neighborhood Planning Areas



Produced by City of Austin
Neighborhood Planning & Zoning Department
August 20, 2004

Combined Neighborhood
Planning Areas

Neighborhood Plan Status

- Adopted Neighborhood Plan & Zoning
- Neighborhood Plan Underway
- Future Neighborhood Planning Area
- Non-Neighborhood Planning Area



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

SUMMARY STAFF RECOMMENDATION

C14-05-0033

The property is currently zone Family Residence (SF-3) and the request is for a rezoning to Neighborhood Commercial-Mixed Use-Conditional Overlay (LR-MU-CO). The conditional overlay would limit vehicle trips to less than 2000 per day.

Staff recommends Limited Office-Mixed Use-Conditional Overlay (LO-MU-CO). Staff supports the conditional overlay limiting trips to less than 2000 vehicle trips per day.

The property to the west and north is in the process of being redeveloped for a Walgreen's Drug Store. To the south is parking for a Mexican restaurant – Matt's el Rancho. To the east is multi-family (MF-2) zoned land developed with one single-family house. Across Bluebonnet to the north lies additional Family Residence (SF-3) zoned land.

Staff supports the addition of mixed use to provide additional housing opportunities but believes that Limited Office is more in keeping with surrounding land use and neighborhood patterns.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*
2. *Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.*

EXISTING CONDITIONS**Site Plan**

This tract is has been previously developed with a now vacated mobile home park. Any new construction on this site would be subject to compatibility development regulations due to the existing SF-3 zoned property to the north, south, east & west and would be subject to the following requirements:

The site is subject to compatibility standards. Along the south and east property lines, the following standards apply:

- No structure may be built within 25 feet of the residential property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the residential property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the residential property line.
- No parking or driveways are allowed within 25 feet of the residential property line.

In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection. Additional design regulations will be enforced at the time a site plan is submitted.

Transportation

A neighborhood traffic analysis was prepared and is attached.

Water and Wastewater

The landowner intends to serve the site with City water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or utility adjustment are required, the landowner will be responsible for all costs and providing. Also, the utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City of Austin utility design criteria and specifications.

The landowner must pay all required water and wastewater utility tap permit, impact, construction inspection, and utility plan review fees.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the West Bouldin Creek 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 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.

At this time, site-specific information is unavailable regarding existing trees and 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.



MEMORANDUM

TO: Robert Heil, COA Neighborhood Planning and Zoning Department
CC: Members of the Zoning and Platting Commission
Jim Bennett
FROM: Emily Barron, COA Watershed Protection and Development Review Department
DATE: April 27, 2005
SUBJECT: Neighborhood Traffic Analysis for Bluebonnet Lane
Zoning Case # C14-05-0033 RC-2

The transportation section has performed a Neighborhood Traffic Impact Analysis for the above referenced case and offers the following comments.

The 2.139-acre tract is located in south Austin just east of the intersection of South Lamar Boulevard and Bluebonnet Lane. The site is currently zoned Single Family Residence (SF-3) and the existing use is a mobile home park. The site is surrounded by predominantly commercial uses to the west, single family to the north and multi family and limited office to the south and east. The zoning request is for Neighborhood Commercial Mixed Use with a conditional overlay (LR-MU-CO).

Roadways

The tract proposes access to Lamar Boulevard and Bluebonnet Lane via a joint access easement with the adjacent property owner and a driveway to Bluebonnet Lane that will serve only the proposed residential components of the site.

Lamar Boulevard is classified as a four lane divided major arterial and would provide the main access to the commercial portion of the site. The roadway currently has 120 feet of right-of-way and 60 feet of pavement. Lamar Boulevard is in the Bicycle Plan as a Priority 2 route from Bluebonnet Lane to Manchaca Road.

Bluebonnet Lane abuts the northeastern portion of the site and is proposed as the main access point for the residential portion of the site. Bluebonnet Lane is classified as a residential collector street with variable right-of-way and 20 feet of pavement. Improvements to Bluebonnet are currently under review (SP-04-1035D), which would provide Bluebonnet Lane with 40 feet of pavement from this site's eastern property line to Lamar Boulevard. Bluebonnet Lane is classified as a Priority 1 route in the Bicycle Plan. Under Section 25-6-114 of the Land Development Code, the portion of Bluebonnet Lane from Lamar Boulevard to Del Curto Road is classified as a residential collector street because at least 50 percent of its frontage is zoned for SF-5 or more restrictive uses.

Trip Generation and Traffic Analysis

The site is currently developed with 20 mobile home units that generate approximately 348 trips per day based on the Institute of Transportation Engineer's publication Trip Generation. The proposed 13,502 square feet of retail and 52-multi family dwelling unit development, that will replace the mobile home park, will generate 2,311 vehicle trips per day. A 34% pass-by trip reduction has been assumed for this retail use in accordance with the ITE Publication. Therefore, the adjusted trip generation is 1,683 vehicles per day. This information is provided in Table 1.

Table 1.				
Land Use	Size	Unadjusted Trip Generation	Pass-by reduction %	Adjusted Trip Generation
Retail	13,502s.f.	1,848	34%	1,220
Multi Family	52 d.u.	463	0%	463
TOTAL		2,311		1,683

Table 2 represents the expected distribution of the 1,683 trips:

Table 2.		
Street	Traffic Distribution by Percent for Retail	Traffic Distribution by Percent for Multi-Family
Lamar Boulevard	70%	50%
Bluebonnet Lane	30%	50%
TOTAL	100%	100%

Table 3 represents a breakdown of existing traffic on Lamar Boulevard and Bluebonnet Lane, proposed site traffic, total traffic after development and percentage increase in traffic on Lamar Boulevard and Bluebonnet Lane. It should be noted that it is assumed that joint access will be provided through the adjacent property, a future Walgreen's, to Lamar Boulevard and Bluebonnet Lane for all of the proposed retail and 50 percent of the residential use. The site driveway that is anticipated on Bluebonnet is proposed to be gated and therefore could only be used by the residents of the site.

Background traffic volumes were included in the existing traffic counts for the following project:

Walgreen's C14-04-0060

Table 3.				
Street	Existing Traffic (vpd)	Proposed New Site Traffic to each Roadway	Overall Traffic	Percentage Increase in Traffic
Lamar Boulevard	40,008	1,085	41,093	3%
Bluebonnet Lane (east)	2,318	598	2,916	20%

Of the site traffic to Bluebonnet it is assumed that all of the retail traffic will be turning left. This assumption is made based on the design restrictions established with the Walgreen's property that limit the turning movements for the driveway onto Bluebonnet to right/left in and left out only maneuvers. It is assumed that approximately 90 percent of the residential traffic will turn left at

the site driveway to access Lamar and approximately 10% will turn right to access Del Curto. Table 4 illustrates the distribution of site traffic onto Bluebonnet and the overall increase in traffic that would occur.

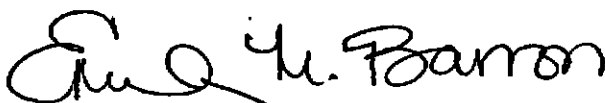
Table 4.						
Section of Bluebonnet	Retail Trips	Residential Trips	TOTAL Trips	Existing Traffic on Bluebonnet	Forecasted Traffic on Bluebonnet	Percentage Increase for Each Segment
Site Driveway to Lamar Boulevard	366	209	575	2,318	2,893	19%
Site Driveway to Del Curto	0	23	23	2,318	2,341	1%

According to Section 25-6-116 of the Land Development Code, streets which are less than 30 feet in width are considered to be operating at an undesirable traffic level if the average daily traffic volume for such roadways exceeds 1,200 vehicles per day. Currently, Bluebonnet Lane operates at an undesirable level. By widening Bluebonnet Lane as proposed with case SP-04-1035D the desirable operating level for Bluebonnet from the site driveway to Lamar Boulevard will increase to 4,000vpd and this section of Bluebonnet would operate at acceptable levels for this portion of the roadway. The portion of Bluebonnet from the site driveway to Del Curto is not included in the plans to upgrade therefore this portion of Bluebonnet would operate at undesirable traffic levels as defined by the Land Development Code.

Recommendations/Conclusions

1. No access to Bluebonnet Lane should be permitted until Bluebonnet Lane has been upgraded to 56' of right-of-way and 40' of pavement from the intersection of Lamar Boulevard to the southern site property line on Bluebonnet Lane.
2. City Council may approve this site if the Council determines that the applicant has satisfactorily mitigated adverse traffic effects, or that the additional traffic from a project has an insignificant effect on the residential street.
3. In order to minimize traffic on surrounding streets, the intensity and uses for this rezoning should be limited to 2,000 unadjusted vehicle trips per day over the current trip generation on the site. Development of this property should also be limited to uses and intensities, which will not exceed or vary from the projected traffic conditions assumed in this neighborhood traffic analysis including traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me 974-2788.



Emily M. Barron
Sr. Planner - Transportation Review
Watershed Protection and Development Review Department

**CITY ZONING AND PLATTING
COMMISSION
May 3, 2005 [ANNOTATED]
CITY COUNCIL CHAMBERS AT CITY HALL
301 W. 2ND Street
1ST Floor**

CALL TO ORDER – 6:00 P.M.

COMMENCED: 6:05 P.M.

ADJOURNED: 9:40 P.M.

_____ Betty Baker - Chair

_____ John Philip Donisi

_____ Jay Gohil

_____ Clarke Hammond - Secretary

_____ Melissa Whaley Hawthorne- Assist. Sec.

_____ Keith Jackson - Parliamentarian

_____ A Joseph Martinez – Vice-Chair

_____ Janis Pinnelli

_____ Teresa Rabago

CONDUCT OF PUBLIC HEARINGS

1. Chair announces request.
2. Staff presents a summary of the case.
3. Chair calls on those **FAVORING** the request.
4. Applicant's presentation (5 minutes).
5. Others favoring the request (3 minutes).
6. Chair calls on those **OPPOSING** the request.
7. Primary presentation (5 minutes).
8. Others opposing the request (3 minutes).
9. Applicant is given opportunity to answer objections stated. (3 minutes)
10. Staff summation and questions from the Commission.
11. The public hearing on a zoning case may be closed and no further testimony is taken from the public.
12. If the public hearing is closed, the Commission shall make a recommendation to the City Council within 14 days or the case will be forwarded to the City Council without a recommendation. (Section 25-2-282).

All of the following items may be acted upon by one motion. The Commission does not consider items earlier than the time stated on the agenda; "Other Business" items can be taken at any time. After the posted time, the Commission Chairperson may announce the item and, if there is no opposition, the item may be taken "by consent" for approval without discussion.

CITIZENS WISHING TO SPEAK BEFORE THE COMMISSION MUST REGISTER BY SIGNING A LIST AT THE ENTRANCE (RED BOOK).

Any interested party aggrieved by a decision of the Zoning & Platting Commission on a Hill Country Site Plan, Conditional Use Permit, Replacement Site Plan, or a Preliminary Subdivision Plan with an environmental variance may only appeal the Commission's decision to the City Council. The notice of appeal must be submitted in writing on a form provided by the Director of Neighborhood Planning & Zoning Department within fourteen (14) days following the decision of the Zoning & Platting Commission.

6. **Rezoning:** C14-05-0033 - 2525 South Lamar
Location: 2525 South Lamar, West Bouldin Creek Watershed
Owner/Applicant: Gene Payne
Agent: Bennett Consulting (Jim Bennett)
Prev. Postponed on 4/19/05 (Staff)
Postponements
Request: SF-3 to LR-CO-MU; AMENDED TO LO-MU-CO
Staff Rec.: RECOMMENDED
Staff: Robert Heil, 974-2330, Robert.Heil@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

APPROVED LO-MU-CO ZONING WITH CONDITIONS OF:

- **MAXIMUM OF 2000 VEHICLE TRIPS PER DAY;**
- **40 RESIDENTIAL UNITS, REMAINDER 40% BE NON-RESIDENTIAL;**
- **PROHIBIT MEDICAL OFFICES;**
- **NO ACCESS TO BLUEBONNET LANE UNTIL UPGRADES HAVE BEEN MADE;**
- **PROVIDE SHIELDED EXTERIOR LIGHTING;**

[K.J; M.W 2ND] (8-0) J.M - ABSENT

7. **Rezoning:** C14-05-0048 - Palm Harbour Round Rock Sales Office
Location: 15946 N. IH-35 Service Road South Bound, Gilleland Creek Watershed
Owner/Applicant: Palm Harbor Homes (Greg Vaughn)
Agent: The Moore Group, Inc. (Ed Moore)
Request: SF-2 to CS
Staff Rec.: ALTERNATE RECOMMENDATION: CS-CO
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

POSTPONED TO 05/17/05 (APPLICANT & NEIGHBORHOOD)

[J.D; T.R 2ND] (7-0-1) K.J - ABSTAINED; J.M - ABSENT

8. **Zoning:** C14-05-0051 - Tomanet Estates Zoning #1 (City Initiated)
Location: 12502-12604 Tomanet Trail, Walnut Creek Watershed
Owner/Applicant: City of Austin
Agent: Neighborhood Planning & Zoning Department (Sherri Sirwaitis)
Request: I-RR to SF-1
Staff Rec.: RECOMMENDED
Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

APPROVED STAFF'S RECOMMENDATION FOR SF-1 ZONING: BY CONSENT.

[J.D; J.G 2ND] (8-0) J.M - ABSENT

MEMORANDUM

TO: Betty Baker, Chair and Members of the Zoning and Platting Commission

FROM: Dora Anguiano, Zoning and Platting Commission Coordinator
Neighborhood Planning and Zoning Department

DATE: May 10, 2005

SUBJECT: Zoning and Platting Commission Summary

Attached is a Zoning and Platting Commission summary, which will be forwarded to the City Council.

CASE # C14-05-0033

6. **Rezoning:** C14-05-0033 - 2525 South Lamar
Location: 2525 South Lamar, West Bouldin Creek Watershed
Owner/Applicant: Gene Payne
Agent: Bennett Consulting (Jim Bennett)
Prev. Postponed on 4/19/05 (Staff)
Postponements
Request: SF-3 to LR-MU-CO; AMENDED TO LO-MU-CO
Staff Rec.: **RECOMMENDED**
Staff: Robert Heil, 974-2330, Robert.Heil@ci.austin.tx.us
Neighborhood Planning and Zoning Department

SUMMARY

Robert Heil, staff – “Staff would request that item #6 be placed back on the consent agenda; and the neighborhood and applicant have come to an agreement on the CO and staff is in support of that with conditions and your permission, I’d like to read that into the consent agenda”.

Commissioner Baker – “Go ahead”.

Mr. Heil – “The previous request was to LR-MU-CO; the amended request is to LO-MU-CO; the conditional overlay includes the following items; a maximum of 2000 vehicle trips per day, a maximum of 39 residential units, maximum of 40% of the enclosed space to be developed as commercial, Westlake lighting standards which can be incorporated there are several of those that are similar on the Walgreen tract adjacent to it; and the prohibition of medical office use”.

Commissioner Hammond – “You said a maximum of 40% commercial use; is that up to 40%, is there no minimum/maximum on that?”

Mr. Heil – “The intent with the maximum residential units and a maximum percentage of commercial office space is to provide a true mixed use project onsite”.

Commissioner Hammond – “I understand that; I want to make sure it’s clarified that this will be in area of 40% and not up 40%; that’s what I’m trying to get at. To me when you say a maximum of 40%, it could be 0%, right?”

Mr. Heil – “Yes, with this conditional overlay there is no minimum set on the amount of commercial space; however, having a maximum number of residential units is the attempt to address that on the other side”.

Commissioner Hammond – “I guess if the neighborhood is okay with that, I guess I’m okay with it”.

Commissioner Baker – “You might in the motion require a minimum or maximum of 39 dwelling units and then a proportionate ratio be non-residential; in other words, we don’t want it to be a parking lot for the apartments; is that correct?”

Commissioner Hammond – “Yes”.

Commissioner Baker – “If you can figure out a way to put that into a motion. Is anyone here to speak in opposition to this?”

Someone in the audience stood up to speak in opposition.

Commissioner Baker – “We’re going to pull it then; we’ll come back to this item”.

Commission moved on to Item #5 and then returned to Item #6.

Robert Heil, staff – “The request is from SF-3 and the amended request is to LO-MU-CO. The conditional overlay would be for a maximum of 2000 vehicle trips per day; a maximum of 40 residential units; a minimum of 20% and a maximum of 40% of the developed space as office/commercial; exterior lighting standards consistent with those used in Westlake; and prohibit medical offices. Staff is in support of these conditions, as well as the applicant and the neighborhood”.

Commissioner Baker – “Commissioners is it okay to go straight to the opposition?”

Commissioners – “Yes”.

Mr. Heil – “The applicant asked me to clarify that is a maximum of 40 residential units”.

Commissioner Whaley – “It was 39 and now it’s 40?”

Mr. Heil – “Correct; they also added a minimum of the office to address some of the concerns raised. There’s also conditions recommended in the neighborhood traffic analysis, which I would also like to include in the conditional overlay”.

Commissioner Baker – “It’s in the packet aren’t they?”

Mr. Heil – “Yes they are”.

Commissioner Baker – “Okay, there was someone here in opposition; will that person come up”.

OPPOSITION

Brian King – “I am concerned about when this goes through build out, that regardless if 10,000 square feet are built or 50,000 square feet, that we have that mixture in our neighborhood. Our desire for this area is mixed use and we don’t want to see it scud one

way or the other; we don't want to see 39 units built of residential and no commercial activity. We want it to be a vibrant walkable mixed use area. I would like to see in this conditional overlay that whatever is built, whether it be 1 foot or 50,000 square feet, that that ratio would apply to what is actually built. So we'll see businesses in there and we'll see residences in there and not one or the other".

Commissioner Baker – "Commissioners that could be an addition to the agreement or covenant with the neighborhood; that there would be no certificate of occupancy issued until the ratios of non-residential and residential were constructed".

Commissioner Donisi – "I like that".

Mr. King – "If we go with the restrictive covenant route; I would hope that you would also convey that the developer has agreed, in our last neighborhood meeting, to put a performance bond on any restrictive covenant, as we did with the Walgreen's agreement; and that be part of the recommendation. That if it falls back, that we have to, as a neighborhood, go enforce this percentage; we need to be funded to go after that because the neighborhood cannot fund a legal battle. The applicant did agree to do that at our last neighborhood meeting after we discussed it, so I would hope that would go forward too as your recommendation".

Commissioner Baker – "Can we hear from the applicant on that issue, please?"

Commissioner Whaley – "Mr. Heil, is there not a way that, that could be rolled into the CO? Maybe this is a question for legal".

Commissioner Baker – "No, it's not appropriate for the City to require that; it's an agreement that the neighborhood and applicant made. The ratios and the conditional overlay, yes".

Mr. Heil – "The ratio will be in the conditional overlay and my understanding of the site development process is that that would be checked at the site development approval stage. So there would be a check built in at that point; but a specific agreement would need to be done privately and would not be...."

Commissioner Whaley – "Well, it's the ratio language and not the bond or the private agreement; but in the conditional overlay, is there anyway to make the language perhaps specific to percentage?"

Commissioner Baker – "You want a conditional overlay that there would be a maximum of 40 units and in addition to that, 20 to 40% of the remainder of the land area would be either office, retail or commercial? That would be in the conditional overlay".

Mr. Heil – "My understanding is that that would apply regardless of the final build-out size of the project".

Commissioner Hammond – “Can we make it so that the conditional overlay is that the mixed use part of the project be 40% of the square footage of the residential? So if you have 50,000 square feet of residential...can we put in the conditional overlay that the mixed use development should be 40% of the 50,000?”

Commissioner Jackson – “If you go build 10,000 square feet of single-family residential; that then you have to build 2,000 or 4,000 commercial uses, before they go build another square foot of single-family residential use?”

Commissioner Hammond – “No, I’m talking about the whole project”.

Commissioner Jackson – “Well, I think you done it in the whole project”.

Commissioner Hammond – “I want to make sure”.

Commissioner Jackson – “Well, I think you have; if you limited the single-family to a certain number and then you got this minimum and maximum, we’ve done it. Unless they divide this up to where it’s only 39 single-family residences out there”.

Commissioner Hammond – “It’s South Austin and things can get a little slippery down there”.

[Laughter]

Commissioner Jackson and Rabago moved to close the public hearing.

Commissioner Baker – “Can there be a motion to the affect that we would approve the LO-MU-CO; the conditions outlined by staff; in addition, limiting the residential development to 40 units; the remainder of the land area, 20 to 40% of the total land area must be office, retail and/or commercial?”

Mr. Heil – “Excuse me.... Not land area, but square footage of the”

Commissioner Baker – “20 to 40% of the building development and would be office/commercial standards; exterior lighting, as in Westlake, and prohibit medical offices. Someone needs to make that motion”.

Commissioner Jackson – “I would make a motion very similar to that; I would ...”

Commissioner Donisi – “I think there are some people here would are burning to speak on this”.

Commissioner Baker – “Let’s resend the motion of closing the public hearing”.

Commissioners moved to resend and reopen the public hearing.

Carol Gibbs – “One of the main things I want to get put out here; I want to acknowledge this developer for being as upfront with us and working with us. I wish our battles could be this easy. As for the wording for this; I think part of the problem we’re having with what’s being battled around is that we want to see the percentage of commercial; the percentage of the build out space, the building, to be between 20 and 40% commercial AND the residential be limited to 40 units or less. I’m a little uncomfortable with the percentage coming after the reference to the residential; and then the lighting standards and all that.... I want to make one other comment about the performance bond that was discussed at our neighborhood association meeting; I have confidence, we won’t have to go there; we have worked out everything in the conditional overlay; I choose to believe that that won’t be an issue, thank you”.

Jim Bennett, applicant – “We agree with the staff recommendation that Robert presented to you and that Carol just presented to you”.

Commissioner Whaley and Donisi moved to close the public hearing.

Commissioner Jackson – “I make a motion that this be zoned LO-MU-CO; the CO being 2000 vehicle trips per day limit; of the total buildable square footage available on this site, 20 to 40% of it, be non-residential and the balance being no more than 40 residential units. The exterior lighting conforms to the Westlake lighting standards, prohibiting medical office uses and incorporating the traffic improvements and requirements in the staff recommendations”.

Commissioner Whaley – “I’ll second that”.

Commissioner Baker – “All in favor of the motion say aye”.

Aye. Motion carried 8-0.

COMMISSION ACTION:
MOTION:

JACKSON, WHALEY
APPROVED LO-MU-CO ZONING
WITH CONDITIONS OF:

- **MAXIMUM OF 2000 VEHICLE TRIPS PER DAY;**
- **MAXIMUM 40 RESIDENTIAL UNITS**
- **MINIMUM 20% AND MAXIMUM 40% OF BUILDING SQUARE FOOTAGE TO BE NON-RESIDENTIAL;**
- **PROHIBIT MEDICAL OFFICE USE;**
- **NO ACCESS TO BLUEBONNET LANE UNTIL UPGRADES HAVE BEEN MADE;**
- **PROVIDE SHIELDED EXTERIOR LIGHTING.**

AYES:

GOHIL, WHALEY, RABAGO,
JACKSON, PINNELLI, BAKER,
DONISI, HAMMOND
MARTINEZ

ABSENT:

MOTION CARRIED WITH VOTE: 8-0.

DECLARATION OF RESTRICTIVE COVENANTS

OWNER: Gene Charlesworth Payne ("Payne")
ADDRESS: 809 Newport Avenue, Austin, Texas 78753
OWNER: Richard Coons, Jr. ("Coons"), Contract Vendee of the Property
ADDRESS: 1205 B Kinney Avenue, Austin, Texas 78704

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the South Lamar Neighborhood Association (hereinafter referred to as the "Neighborhood Association"), the receipt and sufficiency of which is hereby acknowledged and confessed.

PROPERTY: That certain 2.139-acre tract of land located on Bluebonnet Lane, in Austin, Travis County, Texas, and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes (the "Property").

RECITALS

- A. Payne is the owner of the Property; and
- B. Payne, as Seller, and Coons, as Buyer, have entered into that certain Earnest Money Contract dated May 14, 2004 (the "Purchase Contract"), for the purchase and sale of the Property. Coons is executing this Agreement in its capacity as the Buyer under the Purchase Contract; and
- C. Coons, if he or his assignees become the owner of the Property, intends to develop (himself or through business arrangements with third parties) a mixed-use project on the Property that includes residential use and office use (collectively, the "Project"); and
- D. The Property is zoned SF-3 Family Residence district zoning according to City of Austin Ordinance No. _____. Pursuant to the Purchaser Contract, Coons filed an application with the City of Austin (referenced in the City of Austin files as case no. C14-05-0033) to change the zoning on the Property to LO-MU-CO Limited Office-Mixed Use-Conditional Overlay combining district zoning (the "Zoning Case"); and
- E. Payne now desires, in connection with the re-zoning of the Property pursuant to the Zoning Case, to impress the Property with this Declaration of Restrictive Covenants.

NOW, THEREFORE, for the consideration recited above, Coons and the Neighborhood Association agree that the Property shall be held, developed, used, sold and conveyed subject to the following covenants and restrictions impressed upon the Property by this Declaration of Restrictive Covenants for the benefit of the Neighborhood Association and its members. This Declaration shall run with the Property and shall be binding on Payne, his heirs, his successors and his assigns.

RESTRICTIVE COVENANT

Owner agrees to hold, sell and convey the Property subject to the following restrictive covenants:

1. The uses on the property, taken together, shall not generate more than two thousand (2000) vehicle trips per day as calculated in accordance with the City Code of the City of Austin.
2. There shall be no more than forty (40) dwelling units located on the Property.
3. No less than sixty percent (60%) of the total building square footage on the Property and no more than eighty percent (80%) of the total building square footage on the Property shall be used for residential purposes.
4. No less than twenty percent (20%) of the total building square footage on the Property and no more than forty percent (40%) of the total building square footage on the Property shall be used for non-residential purposes.
5. No medical office use (as the term "Medical Office" is defined in the City Code of the City of Austin) is permitted on the Property.
6.
 - a. Vehicular access to Bluebonnet Lane is prohibited until Bluebonnet Lane has been upgraded to 56' of right-of-way and 40' of pavement from the intersection of Lamar Boulevard to the southern site property line on Bluebonnet Lane.
 - b. Prior to the issuance of a Certificate of Occupancy, Owner will have installed a gate on the Property at the point of access to Bluebonnet Lane.
7. All exterior lighting on the Property shall be hooded, diffused, or otherwise designed and arranged to:
 - a. avoid glare on adjacent properties and public streets;
 - b. prevent the light source from being directly visible from adjacent property and public streets; and

- c. minimize glare and light trespass onto adjacent property and public streets.
8. All lighting used on the Property to illuminate any off-street parking or loading areas shall be designed and arranged so as to be confined within and directed onto that parking or loading area only.
 9. No driveway, parking lot, or security lighting on the Property may exceed three-foot candles, average maintained, measured horizontally at finished ground/pavement level.
 10. Prior to issuance of any certificate of occupancy for any portion of the Property that will have access to or from Bluebonnet Lane, Owner must install a double-gated residential access at the entrance or exit to or from the Property to or from Bluebonnet Lane sufficient to prevent any commercial traffic from accessing the Property by way of said entrance or exit to or from Bluebonnet Lane.
 11. The only exterior signage permitted on the Property is monument signage.
 12. There shall be no commercial business or office signage anywhere on the Property along the Bluebonnet Lane.
 13. Owner will preserve and protect all Class 1 Native trees measuring at least 24" in diameter at a height of 4 1/2 feet above natural grade.
 14. All tree care will meet the conditions outlined in the City of Austin WPDR Site Plan Review Comments on Case #SP-05-1384C.
 15. To the extent that a Class 1 Native tree cannot be saved, it will be replaced at 100% of its diameter by Class 1 Native trees, measured at 4 1/2 feet above grade, not necessarily the same species as the removed tree.
 - a. ALL new vegetation planted on the property will be from the City of Austin Grow Green plant list.
 - b. All new trees and shrubs planted on the property will be container-grown.
 - c. All new trees will be a minimum of 2 inches in diameter, measured at 4 1/2 feet above natural grade.
 - d. Owner will secure a tree maintenance contract with an arborist/tree maintenance company/landscape contractor to oversee protection of existing trees during construction, and for the entire Property for a period of five years from the date the Certificate of Occupancy is granted by the City of Austin.

- e. Any Class 1 Native tree that dies before five years from the Certificate of Occupancy date will be replaced by trees from the same class of tree species as the tree that died, at 100% of its diameter at time of death, measured 4 1/2 feet above natural grade, provided however, that if Owner and the Neighborhood Association agree that it is not feasible to replace any dead tree in the same location, Owner will donate such tree(s) to the Neighborhood Association.
- f. Owner will not allow any vehicles to be parked under the canopy or drip line of any tree on the Property, for the duration of the construction phase.

SECURITY FOR PERFORMANCE

Owners agree, in exchange for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Neighborhood Association, the receipt and sufficiency of which is hereby acknowledged and confessed by Coons, to provide, prior to City Council consideration of the Zoning Case, a performance bond or letter of credit from an FDIC insured financial institution ("Security Instrument") for the benefit of the Neighborhood Association in the amount of Fifty Thousand and No/100 Dollars (\$50,000.00). If on or before the date that is five (5) years from the date of issuance by the City of Austin of a Certificate of Occupancy (as the term "Certificate of Occupancy" is defined in the City Code of the City of Austin) for the Project, as a result of a breach by Payne, Coons, or any successor to owner or developer of the Property, subject to ten (10) days' written notice and period to cure, the Neighborhood Association institutes legal proceedings to enforce a breach against Owner hereunder or under any Certificate of Occupancy and provides the issuer of the Security Instrument written notice of such legal proceeding, then the Security Instrument shall be fully surrendered and released to an independent third party escrow agent selected by the Neighborhood Association ("Escrow Agent"), and the Neighborhood Association may draw on the proceeds of the Security Instrument from time to time thereafter to pay invoices for actual out-of-pocket costs incurred (but not required to be paid) as a direct result of instituting and pursuing such legal proceedings, including all attorneys and other consultants' fees and court costs by submitting a written request for payment to the Escrow Agent along with copies of such invoices for expenses, which are required to be repaid. Any funds remaining from such Security Instrument's proceeds plus interest, less fees to the Escrow Agent, shall be remitted to Owner on the date that is five (5) years from the date of issuance by the City of Austin of a Certificate of Occupancy.

MISCELLANEOUS PROVISIONS

1. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other person or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

2. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the parties hereto. Therefore, any previous written or oral agreements are replaced by

this Agreement. This Agreement may be amended or modified at any time only if all of the parties hereto agree to such amendment or modification in writing.

3. Notice. Any notice required hereunder shall be sent by personal service and e-mail or by certified or registered mail, return receipt requested and e-mail, at the address set forth below or as subsequently provided to the other party in writing.

If to Payne, to:

13605 Sun Dapple Ct
Manor, Texas 78653-3869
E-mail: Gene.Payne@sbcglobal.net
gpayne20@austin.rr.com

If to Coons, to:

1205 B Kinney Avenue
Austin, Texas 78704
E-mail: RCoons@austin.rr.com

If to the Neighborhood Association, to:

South Lamar Neighborhood Association
Attn. President
1602 Roberts Avenue
Austin, Texas 78704
E-mail: CGibbs1@austin.rr.com

4. Rights of Successors. The restrictions, benefits and obligations hereunder shall create benefits and servitudes running with the land. Subject to the other provisions hereto, this Declaration of Restrictive Covenants shall bind and inure to the benefit of the parties and their respective heirs, representatives, lessees, successors and assigns. References to "owner", "Owner", "owners", and "Owners" include the future owners of their respective interests portions of the Property. The singular number includes the plural and the masculine gender includes the feminine and neuter.

5. Governing Law. This Agreement shall be subject to, and governed by, the laws of the State of Texas. Venue for any action brought under this Agreement shall be exclusively Travis County, Texas.

6. Headings. The headings to this Agreement are inserted for convenience only and shall not be considered in construing the terms of this Agreement.

EXECUTED this 20 day of October, 2005.


Exhibits:

A: Property Description

OWNER:


Gene Charlesworth Payne

AND


Richard Coons, Jr.

AGREED AND ACCEPTED:

SOUTH LAMAR NEIGHBORHOOD ASSOCIATION

By: 
Carol Gibbs, President

[ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me this 20th day of October, 2005, by Gene Charlesworth Payne, for the purposes herein expressed.



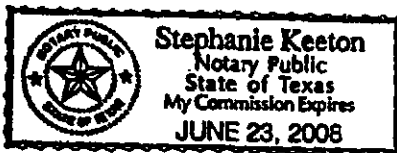
Stacey Coleman
Notary Public, State of Texas

ACKNOWLEDGEMENT

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me this 20 day of October, 2005, by Richard Coons, Jr., for the purposes herein expressed.



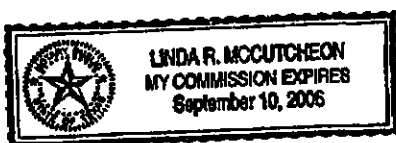
Stephanie Keeton
Notary Public, State of Texas

ACKNOWLEDGEMENT

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me this 28th day of NOVEMBER, 2005, by Carol Gibbs, President of South Lamar Neighborhood Association, on behalf of said Association and for the purposes herein expressed.



Linda R. McCutcheon
Notary Public, State of Texas

After Recording, Return To:

**Robert D. Burton
Armbrust & Brown, LLP
100 Congress Avenue
Suite 1300
Austin, TX 78701-2744**

**FIELD NOTES FOR ZONING
2.139 ACRE OF LAND
ISAAC DECKER LEAGUE
CITY OF AUSTIN
TRAVIS COUNTY, TEXAS
(PROPOSED LOT 3, BLUEBONNET TACO SUBDIVISION)**

FIELD NOTES DESCRIPTION OF 2.139 ACRES OF LAND OUT OF THE ISAAC DECKER LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF LOT 4 AND LOT 6, THEODORE LOW HEIGHTS, A SUBDIVISION OF RECORD IN VOLUME 445, PAGE 581 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, ALSO BEING A PORTION OF THAT CERTAIN 1.556 ACRE TRACT CONVEYED TO GENE CHARLESWORTH PAYNE BY DEED OF RECORD IN VOLUME 9178, PAGE 206 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND A PORTION OF THAT CERTAIN TRACT CONVEYED TO GENE CHARLESWORTH PAYNE BY DEED OF RECORD IN VOLUME 12881, PAGE 515 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS. THE SAID 2.139 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a point in the south line of the said tract conveyed to Payne of record in Volume 12881, Page 515, also being in the north line of El Rancho Subdivision, a subdivision of record in Book 89, Page 376 of the Plat Records of Travis County, Texas, and being at the southerly most corner of that certain 1.117 acre tract described in a deed to Maria Corbalan recorded in Document Number 2005005016 of the Official Public Records of Travis County, Texas and proposed Lot 1, Bluebonnet Taco Subdivision, and westerly most corner of proposed Lot 3, Bluebonnet Taco Subdivision;

THENCE, traversing the interior of the said tract conveyed to Gene Charlesworth Payne by deed of record in Volume 12881, Page 515 and the said 1.1556 acre tract conveyed to Gene Charlesworth Payne of record in Volume 9178, Page 206, the following three (3) courses and distances:

- 1) N 29°17'24" E, 274.20 feet to an angle point in the common line between the said proposed Lots 1 and 3;
- 2) N 52°00'11" E, 357.24 feet to a point at the northerly most corner of the said proposed Lot 3, the same being the easterly most corner of proposed Lot 2, Bluebonnet Taco Subdivision, and being on the west line of a proposed 10 foot wide strip of land to be dedicated for additional right-of-way along the west side of Bluebonnet Lane;
- 3) S 26°15'30" E, 105.25 feet along the west line of the said 10 foot wide strip of land, to a point at the easterly most corner of the said proposed Lot 3;

THENCE, S 35°59'22" W, a distance of 550.71 feet along the common line between the said proposed Lot 3 and that certain tract described in a deed to Linda Wong Luther and Ellen Kay Wong of record in Volume 13187, Page 699 of the Real Property Records of Travis County, Texas, to a point at the westerly most corner of the said Luther and Wong tract on the north line of the said El Rancho Subdivision, at the southerly most corner of the said proposed Lot 3;

**Proposed Lot 3
Bluebonnet Taco Subdivision
Page 2 of 2**

THENCE, N 59°43'39" W, a distance of 160.50 feet along the common line between the said El Ranch Subdivision and the said proposed Lot 3 to the PLACE OF BEGINNING, containing 2.139 acres of land, more or less.

THIS DESCRIPTION WAS PREPARED FOR ZONING PURPOSES ONLY BASED ON A PROPOSED PLAT OF BLUEBONNET TACO SUBDIVISION, PREPARED BY DOUCET & ASSOCIATES, AUSTIN, TEXAS, AND INFORMATION FROM PUBLIC RECORDS. THIS DESCRIPTION DOES NOT REPRESENT A SURVEY MADE ON THE GROUND.