

Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION



AGENDA ITEM NO.: 95
AGENDA DATE: Thu 12/15/2005
PAGE: 1 of 1

SUBJECT: C14-05-0172 - Colina Vista - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 9716 F.M. 2222 (West Bull Creek Watershed) from limited office (LO) district zoning and community commercial (GR) district zoning to townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning. First reading approved on December 1, 2005. Vote: 6-0, Council Member McCracken off the dais. Applicant: 2222 Research Park, Ltd. (Tim Jamail). Agent: Armbrust & Brown, L.L.P. (Richard T. Suttle, Jr.) City Staff: Sherri Sirwaitis, 974-3057.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-05-0172

REQUEST:

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code, zoning the property locally known as 9716 F.M. 2222 from LO, Limited Office district, zoning and GR, Community Commercial district, zoning to SF-6-CO, Townhouse & Condominium Residence-Conditional Overlay district, zoning.

The Ordinance reflects those conditions imposed by Council on 1st reading.

PROPERTY OWNER: 2222 Research Park, Ltd. (Tim Jamail)

AGENT: Armbrust & Brown, L.L.P. (Richard T. Suttle, Jr.)

DEPARTMENT COMMENTS:

The property in question is currently undeveloped. There are significant slopes along the southeastern portion of the site. The northwest side of this tract of land is densely vegetated. The applicant is requesting a down zoning from commercial and office to residential zoning to develop 160 condominiums units on the site. The property will share an access street/ right-of-way with the Ribelin Ranch PUD to the west. The proposed roadway, shown on the Ribelin Ranch PUD adopted land use plan and in an approved site plan for this site (SP-03-0483B), will provide a connection from F.M. 2222 to the extension of Mc Neil Drive to the west (PUD Plan and Site Plan for SP-03-0483B – Attachment A).

The staff recommends SF-6-CO zoning for the site because the Townhouse & Condominium Residence district will allow for a clustering of residential development on a tract of land with topographical constraints. In addition, the applicant's request for a down zoning from LO and GR to SF-6 will reduce the amount of traffic generated by the site from 5,347 vehicle trips per day (proposed in the approved site plan SP-03-0483B) to the 957 vehicle trips per day that would be generated by the proposed development of 160 condominium units on the property (Traffic Phasing Restrictive Covenant in case SP-03-0483B-- Attachment B).

The site under consideration meets the purpose statement and development regulations of the SF-6 zoning district. The proposed zoning will promote consistency and orderly planning because there is office-residential mixed use planned to the north and commercial-residential mixed use planned to the west of this tract in the Ribelin Ranch PUD. The properties to the south and east currently have I-RR and SF-2 zoning designations.

The applicant agrees with the City Council's recommendation at first reading.

DATE OF FIRST READING/VOTE: December 1, 2005/Approved SF-6-CO zoning by consent (6-0, McCracken-absent); 1st reading

CITY COUNCIL DATE: December 15, 2005

CITY COUNCIL ACTION:

ASSIGNED STAFF: Sherri Sirwaitis

PHONE: 974-3057

sherri.sirwaitis@ci.austin.tx.us

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0172

Z.A.P. DATE: November 1, 2005

ADDRESS: 9716 F.M. 2222

OWNER/APPLICANT: 2222 Research Park, Ltd. (Tim Jamail)

AGENT: Armbrust & Brown, L.L.P. (Richard T. Suttle, Jr.)

ZONING FROM: LO, GR **TO:** SF-6 **AREA:** 32.513 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant SF-6-CO, Townhouse & Condominium Residence-Conditional Overlay District, zoning. The conditional overlay would limit the development intensity on the site to less than 2,000 vehicle trips per day.

ZONING AND PLATTING COMMISSION:

11/01/05: Approved staff recommendation of SF-6-CO zoning by consent (9-0); J. Martinez-1st, J. Gohil-2nd.

DEPARTMENT COMMENTS:

The property in question is currently undeveloped. There are significant slopes along the southeastern portion of the site. The northwest side of this tract of land is densely vegetated. The applicant is requesting a down zoning from commercial and office to residential zoning to develop 160 condominiums units on the site. The property will share an access street/right-of-way with the Ribelin Ranch PUD to the west. The proposed roadway, shown on the Ribelin Ranch PUD adopted land use plan and in an approved site plan for this site (SP-03-0483B), will provide a connection from F.M. 2222 to the extension of Mc Neil Drive to the west (PUD Plan and Site Plan for SP-03-0483B – Attachment A).

The staff recommends SF-6-CO zoning for the site because the Townhouse & Condominium Residence district will allow for a clustering of residential development on a tract of land with topographical constraints. In addition, the applicant's request for a down zoning from LO and GR to SF-6 will reduce the amount of traffic generated by the site from 5,347 vehicle trips per day (proposed in the approved site plan SP-03-0483B) to the 957 vehicle trips per day that would be generated by the proposed development of 160 condominium units on the property (Traffic Phasing Restrictive Covenant in case SP-03-0483B-- Attachment B).

The site under consideration meets the purpose statement and development regulations of the SF-6 zoning district. The proposed zoning will promote consistency and orderly planning because there is office-residential mixed use planned to the north and commercial-residential

mixed use planned to the west of this tract in the Ribelin Ranch PUD. The properties to the south and east currently have I-RR and SF-2 zoning designations.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LO, GR	Undeveloped
North	PUD	Ribelin Ranch PUD-Tract 1A (GO-MU uses)
South	SF-2, DR	Undeveloped
East	County, SF-2, I-RR	Undeveloped
West	PUD	Ribelin Ranch PUD-Tract 1B (GR-MU uses)

AREA STUDY: N/A

TIA: Not Required

WATERSHED: West Bull Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: Yes

NEIGHBORHOOD ORGANIZATIONS:

157 – Courtyard Homeowners Association
 190 – Middle Bull Creek Neighborhood Association
 426 – River Place Residential Community Association, Inc.
 434 – Lake Austin Business Owners
 439 – Concerned Citizens for P&B of FM 2222
 448 – Canyon Creek Homeowners Association
 475 – Bull Creek Foundation
 965 – Old Spicewood Springs Road Neighborhood Association

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-04-0010	I-RR to LO-MU-CO	2/17/04: Approved staff's recommendation of LO-MU-CO zoning (8-1, J. Martinez-Nay)	3/25/04: Granted LO-MU-CO – Limited to right- in and right-out to FM-2222, and limit vehicle trips per day to 1000 (7-0); 1 st reading 5/6/04: Approved (7-0)
C814-95-0002.04	PUD to PUD	2/4/03: Approved staff's recommendation of PUD zoning by consent (7-0, K.	3/6/03: Granted PUD zoning on 1 st reading (6-0, Dunkerley-absent)

		Jackson, J. Martinez-absent)	
C14-01-0058	SF-2 to GR	5/8/01: Approved GR-CO w/ trip limitation conditions maintained as per staff rec. & prohibit auto related uses (6-2, JM/RC-No)	7/19/01: Approved GR-MU-CO w/ conditions & RR (6-0) 7/19/02: Expired-No 3 rd reading (Administrative)
C14-01-0057	SF-2 to GR	5/8/01: Approved GR-CO w/ trip limitation conditions maintained as per staff rec. & prohibit auto related uses (6-2, JM/RC-No)	7/19/01: Approved GR-CO w/ conditions (6-0); all 3 readings
C14-01-0056	SF-2 to GR	5/8/01: Approved GR-CO w/ trip limitation conditions maintained as per staff rec. & prohibit auto related uses (6-2, JM/RC-No)	7/19/01: Approved GR-CO w/ conditions (6-0); all 3 readings
C14-99-2075	RR to GO	11/16/99: Approved GO, limited to 'LO' development regs. and 1,500 trips per day (8-0)	1/27/00: Approved PC rec. of GO-CO (5-0); 1 st reading 3/23/00: Approved GO-CO w/ restrictions: 1) Office size limited to 150,000, 2) Limited traffic to 1,850 TPD, 3) Limited any single tenant lease space to 75,000 sq ft (6-0, DS-out of room); 2 nd reading 6/1/00: Approved 3 rd reading (7-0)
C14-98-0236	I-RR to LI	4/6/99: Approved LI w/ conditions (8-0)	5/6/99: Approved PC rec. of LI-CO w/ conditions and provision to rollback to GR if current use ceases for more than 90 days (6-0); 1 st

			<p>reading</p> <p>7/1/99: Approved LI-CO w/ conditions: 1) Allow all restaurant uses, 2) Rollback to 'GR' if use ceases for more than 180 days (subj. to discussion taken at 3rd reading) (6-0); 2nd reading</p> <p>7/15/99: Approved LI-CO w/ conditions (4-2, Griffith/ Slusher-Nay); 3rd reading</p>
C14-98-0225	I-RR to GR	2/2/99: Send case to CC without recommendation	<p>3/4/99: Approved GR-MU-CO w/ conditions (6-1, DS-Nay)</p> <p>7/1/99: Approved GR-MU-CO w/ conditions (5-1, DS-No); 2nd reading</p> <p>7/22/99: Approved GR-MU-Co w/ conditions (6-1, Slusher-No)</p>
C14-98-0214	SF-2, DR to CS	3/2/99: Approved GR (comply with HCS), CS only for storage (6-2, BB/SA-Nay)	4/15/99: Approved GR-CO for entire site w/ LR uses and Automotive Sales and Automotive Repair as only GR uses & other conditions (6-0); 3 rd reading
C14-98-0027	I-SF-2 to GR	4/14/98: Approved GR-CO w/ conditions (6-2)	6/11/98: Approved PC rec. of GR-CO w/ conditions: deleted ROW dedication sue to waiver by TXDOT (6-0); 1 st reading

			7/9/98: Approved GR-CO w/ conditions (7-0); 2 nd / 3 rd readings
C814-95-0002	PUD to PUD	12/12/95: Approved PUD revision w/ conditions (5-3)	12/14/95: Approved PUD subject to list of conditions (4-0); 1 st reading; (Public hearing closed but speakers will be allowed to speak at 2 nd /3 rd readings) 6/13/96: Approved PUD subject to conditions

RELATED CASES: C14R-85-340
SP-03-0483B

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
RM 2222	100'	50'	Major Arterial	No	No	# 434

CITY COUNCIL DATE: December 1, 2005

ACTION: Approved SF-6-CO zoning by consent (6-0, McCracken-absent); 1st reading

December 15, 2005

ACTION:

ORDINANCE READINGS: 1st

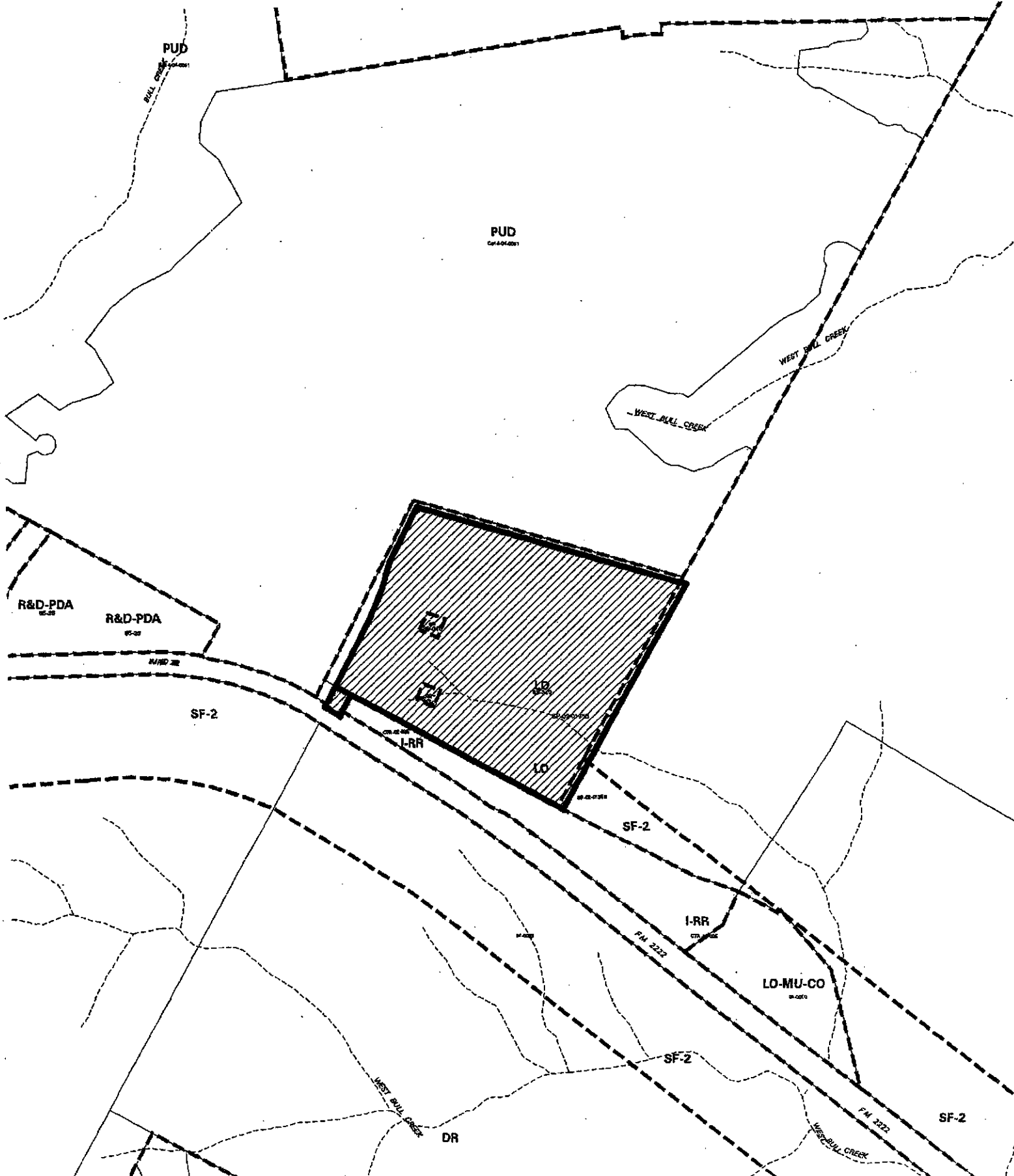
2nd

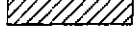


3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057,
sherri.sirwaitis@ci.austin.tx.us



<div data-bbox="56 1837 138 2005"> </div> <div data-bbox="138 1837 544 2005"> <p>SUBJECT TRACT </p> <p>PENDING CASE </p> <p>ZONING BOUNDARY </p> <p>CASE MGR: S. SIRWAITIS</p> </div>	<div data-bbox="893 1848 1023 1890"> <p>ZONING</p> </div> <div data-bbox="552 1890 893 2026"> <p>CASE #: C14-05-0172</p> <p>ADDRESS: 9716 F M 2222 RD</p> <p>SUBJECT AREA (acres): 32.513</p> </div> <div data-bbox="1055 1932 1218 2026"> <p>DATE: 05-10</p> <p>INTLS: SM</p> </div>	<div data-bbox="1421 1837 1567 1932"> <p>CITY GRID REFERENCE NUMBER</p> </div> <div data-bbox="1421 1932 1469 1974"> <p>E33</p> </div>
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STAFF RECOMMENDATION

The staff's recommendation is to grant SF-6-CO, Townhouse & Condominium Residence-Conditional Overlay District, zoning. The conditional overlay would limit the development intensity on the site to less than 2,000 vehicle trips per day.

BASIS FOR RECOMMENDATION

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

Townhouse and condominium residence (SF-6) district is the designation for a moderate density single family, duplex, two-family, townhouse, and condominium use that is not subject to the spacing and location requirements for townhouse and condominium use in an SF-5 district. An SF-6 district designation may be applied to a use in an area with large lots that have access to streets other than minor residential streets. An SF-6 district may be used as a transition between a single family and multifamily residential use.

The proposed SF-6-CO zoning will allow for a clustering of residential development on this tract of land, which has topographical constraints.

2. The proposed zoning should promote consistency and orderly planning.

The proposed zoning will promote consistency and orderly planning because there are office-residential mixed use (GO-MU uses) planned to the north and commercial-residential mixed use (GR-MU uses) planned to the west of this tract in the Ribelin Ranch PUD. The properties to the south and east have I-RR and SF-2 zoning designations.

The down zoning of this tract of land from LO and GR to SF-6 will reduce the amount of traffic generated by this site onto F.M. 2222, a heavily traveled roadway with visual constraints, from approximately 5,347 vehicle trips per day to approximately 957 vehicle trips per day.

EXISTING CONDITIONS

Site Characteristics

The site is undeveloped and the northwestern portion of the tract is densely vegetated. There are significant slopes along the southeastern edge of the site.

Hill Country Roadway

The site is within a Low Intensity Zone area of the Hill Country Roadway Corridor. All non-residential development within this zone shall be subject to a maximum Floor-to-Area

Ratio of .20 on 0-15% slopes, .08 on 15-25% slopes, and .04 on 25-35% slopes, excluding parking structures and atriums.

Beyond two hundred feet (200') of the right-of-way of 2222, maximum height may increase but shall not exceed 28' in Low Intensity areas, except as provided in Section 25-2-1128, Performance Incentives. [25-2-1124].

Impervious Cover

The maximum impervious cover allowed by the SF-6 zoning district would be 55%. However, if the Watershed impervious cover is more restrictive than the SF-6 zoning district's allowable impervious cover, the impervious cover on this site could be limited by the watershed ordinance.

Under the current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

Development Classification	% of Net Site Area	% NSA with Transfers
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

Note: The most restrictive impervious cover limit applies.

Environmental

The site is located over the North Edward's Aquifer Recharge Zone. The site is in the West Bull Creek Watershed of the Colorado River Basin, and is classified as a Water Supply Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is no flood plain in, or within close proximity of, the project location.

The site is located within the endangered species survey area and must comply with the requirements of Chapter 25-8 Endangered Species in conjunction with subdivision and/or site plan process.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

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.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

Transportation

The Austin Metropolitan Area Transportation Plan calls for a total of 114 feet of right-of-way for RM 2222. Dedication of additional right-of-way may be required during the subdivision or site plan process. [LDC, Sec. 25-6-51 and 25-6-55)

The trip generation under the requested zoning is estimated to be 2,829 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics). The proposed use of 160 condominiums will generate approximately 957 trips per day.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
RM 2222	100'	50'	Major Arterial	No	No	# 434

There is an existing traffic phasing restrictive covenant recorded with the approved site plan, SP-03-0483B. This restrictive covenant sets limitations on timing of development and requires participation in off-site traffic improvements. The restrictive covenant would have to be amended or terminated prior to site plan approval.

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extension, and system upgrades to serve the site and land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The water and wastewater utility construction must be inspected by the City. The landowner must pay the associated and applicable City fees.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated

through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

Compatibility Standards

There is an approved site plan for this property (SP-03-0483B) which provides for 242,629 square feet of restaurants and professional/office uses, along with associated parking and drainage facilities. This site plan does not expire until June 14, 2007.

The site lies within a LOW Intensity Zone area of the Hill Country Roadway Corridor. [Section 25-2-1121], all non-residential development within this zone shall be subject to a maximum Floor-to-Area Ratio of .20 on 0-15% slopes, .08 on 15-25% slopes, and .04 on 25-35% slopes, excluding parking structures and atriums.

Beyond two hundred feet (200') of the right-of-way of 2222, maximum height may increase but shall not exceed 28' in Low Intensity areas, except as provided in Section 25-2-1128, Performance Incentives. [25-2-1124].

The site is subject to compatibility standards. Along a portion of the east property line, the following standards apply:

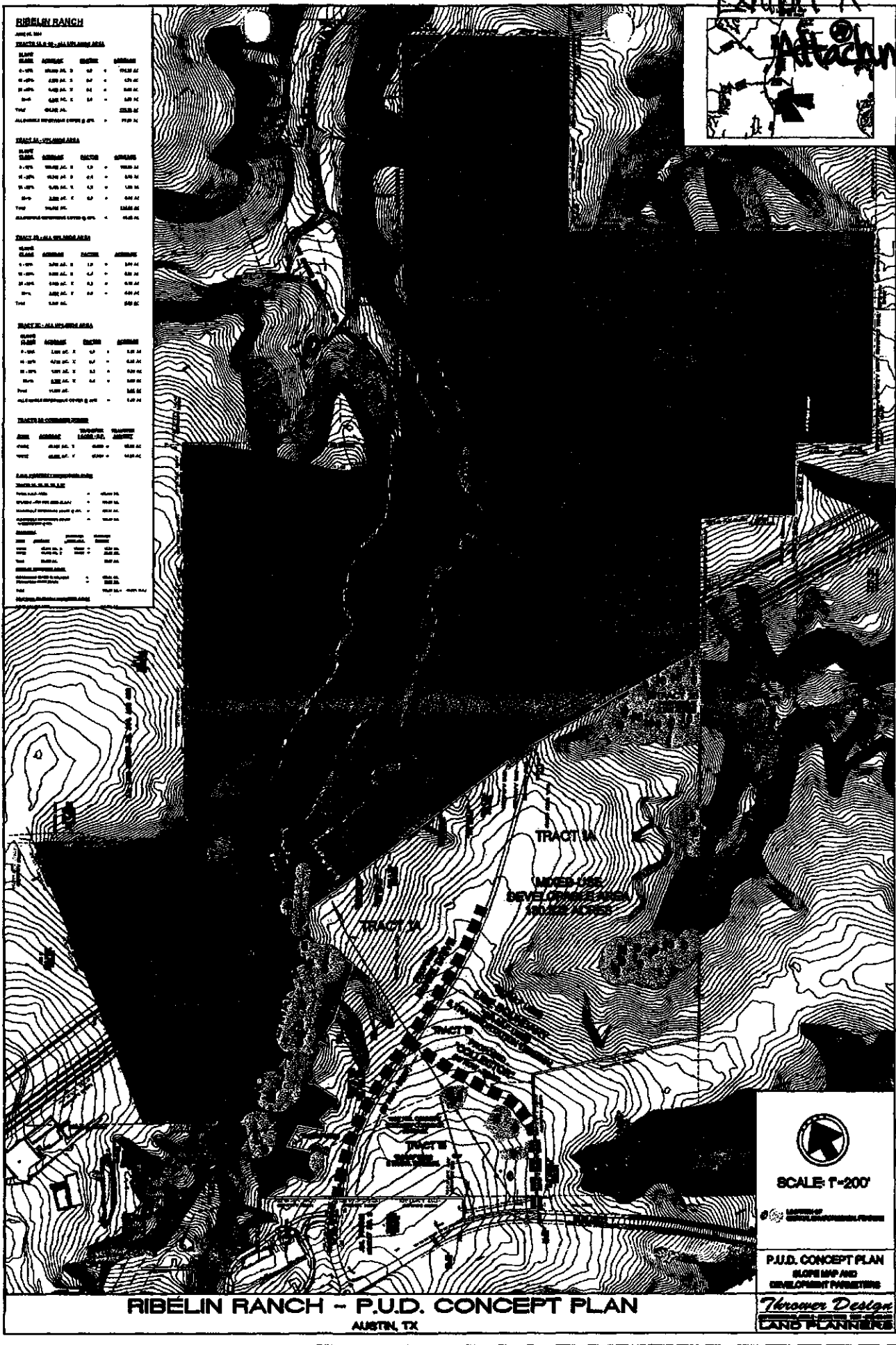
- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.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

FM 2222 is a scenic roadway.

EXHIBIT A

Attachment A



RIBELIN RANCH

TRACT 1A & 1B - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1A	50.00	50.00%	50.00 AC.
TRACT 1B	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1C & 1D - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1C	50.00	50.00%	50.00 AC.
TRACT 1D	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1E & 1F - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1E	50.00	50.00%	50.00 AC.
TRACT 1F	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1G & 1H - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1G	50.00	50.00%	50.00 AC.
TRACT 1H	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1I & 1J - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1I	50.00	50.00%	50.00 AC.
TRACT 1J	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1K & 1L - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1K	50.00	50.00%	50.00 AC.
TRACT 1L	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1M & 1N - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1M	50.00	50.00%	50.00 AC.
TRACT 1N	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1O & 1P - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1O	50.00	50.00%	50.00 AC.
TRACT 1P	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1Q & 1R - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1Q	50.00	50.00%	50.00 AC.
TRACT 1R	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1S & 1T - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1S	50.00	50.00%	50.00 AC.
TRACT 1T	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1U & 1V - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1U	50.00	50.00%	50.00 AC.
TRACT 1V	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.


TRACT 1W & 1X - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1W	50.00	50.00%	50.00 AC.
TRACT 1X	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

TRACT 1Y & 1Z - 100 AC. TOTAL AREA

TRACT	ACRES	PERCENT	ADDITIONAL
TRACT 1Y	50.00	50.00%	50.00 AC.
TRACT 1Z	50.00	50.00%	50.00 AC.
TOTAL	100.00	100.00%	100.00 AC.

RIBELIN RANCH - P.U.D. CONCEPT PLAN
AUSTIN, TX



SCALE: 1"=200'

SEAL OF THE CITY OF AUSTIN

P.U.D. CONCEPT PLAN
SLOPE MAP AND
DEVELOPMENT PARAMETERS

Thomson Design
LAND PLANNERS

**TRAFFIC PHASING RESTRICTIVE COVENANT**

Owner: 2222 Research Park, Ltd.

Owner's Address: 151 South First Street
Suite 200
Austin, Texas 78704

Property: 33.07 acres of land, more or less, consisting of two tracts of land out of the S.P.R.R. Co. Survey No. 1 and the William Preece Survey, No. 4, Travis County, Texas, the tract being more particularly described by metes and bounds in Exhibit A attached to and incorporated into this covenant ("Property")

Consideration: Ten and No/100 Dollars and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, 2222 Research Park, Ltd., owner of the Property ("Owner") and the City of Austin ("City") have agreed that the Property should be impressed with certain covenants and restrictions; and

WHEREAS, the City has agreed to perform certain duties regarding the site development permit that is applicable to the Property.

NOW, THEREFORE, it is declared that the Owner of the Property, for consideration, shall hold, sell, and convey the Property subject to the following covenants and restrictions impressed on the Property by this restrictive covenant. These covenants and restrictions shall run with the land and is binding on the Owner and its heirs, successors and assigns.

1. **Development Phasing.** The development of the Property shall be a phased development consisting of the three phases described in the Phasing Schedule attached to and incorporated into this covenant as Exhibit B. Development shall comply with Site Plan Nos. C14r-85-340 and SP-03-0483B on file with the City. Traffic improvements associated with each phase of development and the Owner's share of each improvement are identified in Exhibit C, attached to and incorporated in this covenant.

2. **Traffic Improvements.** As a condition precedent to the City's obligation to issue a building permit for construction of a building in a phase of development, the Owner must comply with the following:

a. Fiscal surety in a proportionate amount identified in Exhibit C must be posted by the Owner for the Phase 2 road improvements before the issuance of a building permit for construction of a building in Phase 2.

b. Fiscal surety in a proportionate amount identified in Exhibit C must be posted by the Owner for the Phase 3 road improvements before the issuance of a building permit for construction of a building in Phase 3.

c. As identified on Exhibit C, there are no improvements associated with Phase 1 and the issuance of a building permit for Phase 1 is not conditioned on a road improvement requirement.

3. **Improvements on State Highways.** Improvements on a state highway are subject to approval by the Texas Department of Transportation. The Department of Transportation must verify the costs and design associated with the improvements.

4. **Enforcement.** If a person or entity violates or attempts to violate this covenant, the City of Austin may enforce the covenant by any proceeding at law or in equity. Failure to enforce any provision in this covenant does not waive the future right to do so.

5. **Modification or Termination.** This covenant may be modified, amended, or terminated by the joint action of both (a) the Director of the Watershed Protection and Development Review Department of the City of Austin, or successor department and (b) all of the Owners of the Property at the time of such modification, amendment, or termination. Such joint action only becomes effective after it is reduced to writing, signed by the Director of the Watershed Protection and Development Review Department of the City of Austin or its successor department and the Owner and filed in the Real Property Records of Travis County.

Notwithstanding any other provision of this section, this covenant will automatically terminate when Site Plan No. C14r-85-340 expires or the Property is rezoned.

6. **Obligations to Run with the Land.** The obligations created in this covenant run with the land defined as the Property. If the Owner conveys the Property, the Owner shall be released and discharged obligations accruing under this the agreement.

7. **Severability.** If any part of this covenant is for any reason held to be unconstitutional, invalid, or unenforceable, the validity of the remaining portions of this covenant are not affected thereby, and the remaining provisions shall remain in full force and effect.

Executed this the 10th day of JUNE, 2005.

OWNER:

**2222 Research Park, Ltd.,
a Texas limited partnership**

**By: 2222 Management, Inc.,
a Texas corporation,
its General Partner**

By: 
Tim Jamail, President

EXHIBIT A

32.76 acres out of the S.P. R.R. Co. survey, Abstract No. 750, in Travis County, Texas, and recorded in Volume 12297, Page 274, of the Real Property Records of Travis County, Texas, and

0.31 acres of land out of the J.W. Preece Survey, Abstract No. 2471, in Travis County, Texas, as recorded in Volume 12297, Page 274, of the Real Property Records of Travis County, Texas.

EXHIBIT B

Phasing Schedule

Phase	Building No.*	Land Use	Square Feet	Trips
1	2	Restaurant	4,280	544
1	3	Prof. Office	4,380	158
2	1	Restaurant	5,400	687
2	9	Admin. Office	28,800	512
2	10	Admin. Office	28,800	512
2	11	Admin. Office	28,800	512
3	4	Admin. Office	43,200	699
3	5	Admin. Office	43,200	699
3	7	Admin. Office	28,800	512
3	8	Admin. Office	28,800	512
Total			244,460	5,347

* Building numbers reference buildings identified on Site Plan Nos. C14r-85-340 and SP-03-0483B.

EXHIBIT C

Traffic Improvements

Phase	Location	Improvement	Total Cost	Applicant's Share	Applicant's Cost
1		None			
2	RM 2222 & Ribelin Ranch Rd	Center Turn Lane	\$425,041	15.38%	\$65,371*
3	RM 2222 & Ribelin Ranch Rd	Traffic Signal	82,500	15.30%	12,623*
		Westbound Right Turn Lane	227,406	9.31%	21,171*
3	Ribelin Ranch Rd. north of RM 2222	Construct 4-lane divided road where adjacent to property	107,822	50.0%	53,911

*Costs subject to review by Texas Department of Transportation prior to issuance of the building permits for Phase II and III of the project.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2005 Jun 21 11:05 AM 2005110011

CRIDERL \$24.00

DANA DEBEAUVOIR COUNTY CLERK
TRAVIS COUNTY TEXAS

ORDINANCE NO. _____

1 **AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE**
2 **PROPERTY LOCATED AT 9716 F.M. 2222 ROAD FROM LIMITED OFFICE**
3 **(LO) DISTRICT AND COMMUNITY COMMERCIAL (GR) DISTRICT TO**
4 **TOWNHOUSE AND CONDOMINIUM RESIDENCE CONDITIONAL OVERLAY**
5 **(SF-6-CO) COMBINING DISTRICT.**

6
7 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

8
9 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
10 change the base districts from limited office (LO) district and community commercial
11 (GR) district to townhouse and condominium residence conditional overlay (SF-6-CO)
12 combining district on the property described in Zoning Code No. C14-05-0172, on file at
13 the Neighborhood Planning and Zoning Department as follows:

14
15 A 32.291 acre tract of land, more or less, out of the Southern Pacific RR Co.
16 Survey No. 1, Abstract No. 750, and a 0.222 acre tract of land, more or less, out
17 the W.M. Preece and J.W. Preece surveys, in Travis County, the tracts of land
18 being more particularly described by metes and bounds in Exhibit "A"
19 incorporated into this ordinance (the "Property"),

20
21 locally known as 9716 F.M. 2222 Road, in the City of Austin, Travis County, Texas, and
22 generally identified in the map attached as Exhibit "B".

23
24 **PART 2.** The Property within the boundaries of the conditional overlay combining district
25 established by this ordinance is subject to the following conditions:

26
27 A site plan or building permit for the Property may not be approved, released, or
28 issued, if the completed development or uses of the Property, considered cumulatively with
29 all existing or previously authorized development and uses, generate traffic that exceeds
30 2,000 trips per day.

31
32 Except as specifically restricted under this ordinance, the Property may be developed and
33 used in accordance with the regulations established for the townhouse and condominium
34 residence (SF-6) base district and other applicable requirements of the City Code.

1 **PART 3.** This ordinance takes effect on _____, 2005.

2
3
4 **PASSED AND APPROVED**

5
6
7
8 _____, 2005

§
§
§

Will Wynn
Mayor

9
10
11
12
13 **APPROVED:** _____

ATTEST: _____

14 David Allan Smith
15 City Attorney

Shirley A. Brown
City Clerk

**CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.**

1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

July 1, 2005

EXHIBIT A

TRACT 1

FIELD NOTE DESCRIPTION OF 32.291 ACRES OF LAND OUT OF THE SOUTHERN PACIFIC RAILROAD CO. SURVEY No. 1, ABSTRACT No. 760, BEING A PORTION OF THAT CERTAIN (32.76 ACRE) TRACT OF LAND AS CONVEYED TO 2222 RESEARCH PARK, LTD., BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 12297, PAGE 274 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the Southerly line of that certain (32.76 acre) tract of land as conveyed to 2222 Research Park, Ltd., by Special Warranty Deed recorded in Volume 12297, Page 274 of the Real Property Records of Travis County, Texas, same being the most Northerly Northwest corner of Lot 1, Block A, Tumbleweed Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 96, Page 364 of the Plat Records of Travis County, Texas, also being the Northeast corner of that certain (0.31 acre) tract of land as conveyed to 2222 Research Park, Ltd. by Special Warranty Deed recorded in Volume 12297, Page 274 of the Real Property Records of Travis County, Texas, and being the **PLACE OF BEGINNING** of the herein described tract;

THENCE with the common line of said 2222 Research Park, Ltd. (32.76 acre) and (0.31 acre) tracts, **N60 deg. 11'43"W 85.04 feet**, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors" in the Southeasterly line of that certain (0.543 acre) tract of land as conveyed to the City of Austin, by Street and Utility Deed recorded in Document No. 2004091614 of the Official Public Records of Travis County, Texas, for the Southwest corner of this tract;

THENCE crossing the interior of said 2222 Research Park, Ltd. (32.76 acre) tract, with the Southeasterly line of said City of Austin (0.543 acre) tract, the following two (2) courses:

1.) N28 deg. 39'15"E 384.88 feet, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors" at a point of curvature;

2.) Following along a curve to the left with a radius of 1035.00 feet, for an arc length of 271.02 feet and which chord bears, N21 deg. 09'08"E 270.25 feet, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors" in the common line of said 2222 Research Park, Ltd. (32.76 acre) tract and that certain (740.5 acre) tract of land as conveyed to Ribelin Ranch Partnership, Ltd., by deed recorded in Volume 9326, Page 1 of the Real Property Records of Travis County, Texas;

THENCE with the common line of said 2222 Research Park, Ltd. (32.76 acre) tract and Ribelin Ranch Partnership, Ltd. (740.5 acre) tract, **N28 deg. 36'16"E 300.01 feet**, to a ½" iron rod found at the Northwest corner of said 2222 Research Park, Ltd. (32.76 acre) tract, same being an interior corner of said Ribelin Ranch Partnership, Ltd. (740.5 acre) tract, and the Northwest corner of this tract;

THENCE continuing with the common line of said 2222 Research Park, Ltd. (32.76 acre) and Ribelin Ranch Partnership, Ltd. (740.5 acre) tracts, **S72 deg. 09'20"E 1351.08 feet** to a ½" iron rod found at the Northeast corner of said 2222 Research Park, Ltd. (32.76 acre) tract, same being the most Easterly Southeast corner of said Ribelin Ranch Partnership, Ltd. (740.5 acre) tract, also being a point in the Northwestern line of that certain (942.272 acre) tract of land as conveyed to the City of Austin by Special Warranty Deed Recorded in Volume 13030, Page 1960 of the Real Property Records of Travis County, Texas, for the Northeast corner of this tract;

THENCE with the common line of said 2222 Research Park, Ltd. (32.76 acre) and City of Austin (942.272 acre) tracts, the following six (6) courses:

- 1.) **S30 deg. 29'39"W 226.65 feet**, to a metal t-post found in concrete;
- 2.) **S30 deg. 30'40"W 228.26 feet**, to a ½" iron rod found;
- 3.) **S30 deg. 17'32"W 255.68 feet**, to a ½" iron rod found;
- 4.) **S30 deg. 44'08"W 235.58 feet**, to a ½" iron rod found;
- 5.) **S30 deg. 31'25"W 115.09 feet**, to a ½" iron rod found;
- 6.) **S30 deg. 38'58"W 173.50 feet**, to a ½" iron rod found at the Southeast corner of said 2222 Research Park, Ltd. (32.76 acre) tract, same being the most Westerly Southwest corner of said City of Austin (942.272 acre) tract, also being a point in the Northeasterly line of said Lot 1, Block A, Tumbleweed Subdivision, and the Southeast corner of the herein described tract;

THENCE with the common line of said 2222 Research Park, Ltd. (32.76 acre) tract and Lot 1, Block A, Tumbleweed Subdivision, **N60 deg. 03'36"W**, passing a ½" iron pipe found at a distance of 989.81 feet, continuing along said bearing a total distance of **1166.50 feet**, to the **PLACE OF BEGINNING** and containing **32.291 acres** of land.

SURVEYED: July 1, 2005

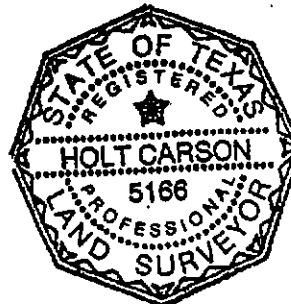
BY:



Holt Carson

Registered Professional Land Surveyor No. 5166

see accompanying map: B 662002



**CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.**

1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

July 1, 2005

EXHIBIT A

TRACT 2

FIELD NOTE DESCRIPTION OF 0.222 ACRE OF LAND OUT OF THE W.M. PREECE SURVEY NO. 4, ABSTRACT NO. 2470, AND THE J. W. PREECE SURVEY No. 2, ABSTRACT No. 2471, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN (0.31 ACRE) TRACT OF LAND AS CONVEYED TO 2222 RESEARCH PARK, LTD., BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 12297, PAGE 274 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the Southerly line of that certain (32.76 acre) tract of land as conveyed to 2222 Research Park, Ltd., by Special Warranty Deed recorded in Volume 12297, Page 274 of the Real Property Records of Travis County, Texas, same being the most Northerly Northwest corner of Lot 1, Block A, Tumbleweed Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 96, Page 364 of the Plat Records of Travis County, Texas, also being the Northeast corner of that certain (0.31 acre) tract of land as conveyed to 2222 Research Park, Ltd. by Special Warranty Deed recorded in Volume 12297, Page 274 of the Real Property Records of Travis County, Texas, and being the Northeast corner and **PLACE OF BEGINNING** of the herein described tract;

THENCE with the common line of said 2222 Research Park, Ltd. (0.31 acre) tract and said Lot 1, Block A, Tumbleweed Subdivision, **S28 deg. 45'44"W**, passing a ½" iron rod found at a distance of 92.19 feet for the most Westerly Northwest corner of said Lot 1, Block A, Tumbleweed Subdivision, same being a point in the Northerly right-of-way line of F.M. Highway 2222, continuing along said bearing for a total distance of 116.36 feet, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors" in the Northerly right-of-way line of F.M. Highway 2222;

THENCE with the common line of said 2222 Research Park, Ltd. (0.31 acre) tract and F.M. Highway 2222, **N56 deg. 53'58"W 85.06 feet**, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors" at the most Southerly Southeast corner of that certain (0.543 acre) tract of land as conveyed to the City of Austin by Street and Utility Deed recorded in Document No. 2004091614 of the Official Public Records of Travis County, Texas, and the Southwest corner of the herein described tract;

THENCE crossing the interior of said 2222 Research Park, Ltd. (0.31 acre) tract, with the Southeasterly line of said City of Austin (0.543 acre) tract, **N28 deg. 39'15"E 111.48 feet**, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors" in the common line of said 2222 Research Park, Ltd. (0.31 acre) and (32.76 acre) tracts;

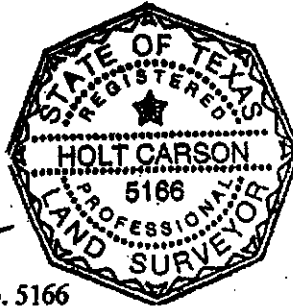
THENCE with the common line of said 2222 Research Park, Ltd. (0.31 acre) and (32.76 acre) tracts, S60 deg. 11'43"E 85.04 feet, to the **PLACE OF BEGINNING** and containing 0.222 acre of land.

SURVEYED: July 1, 2005

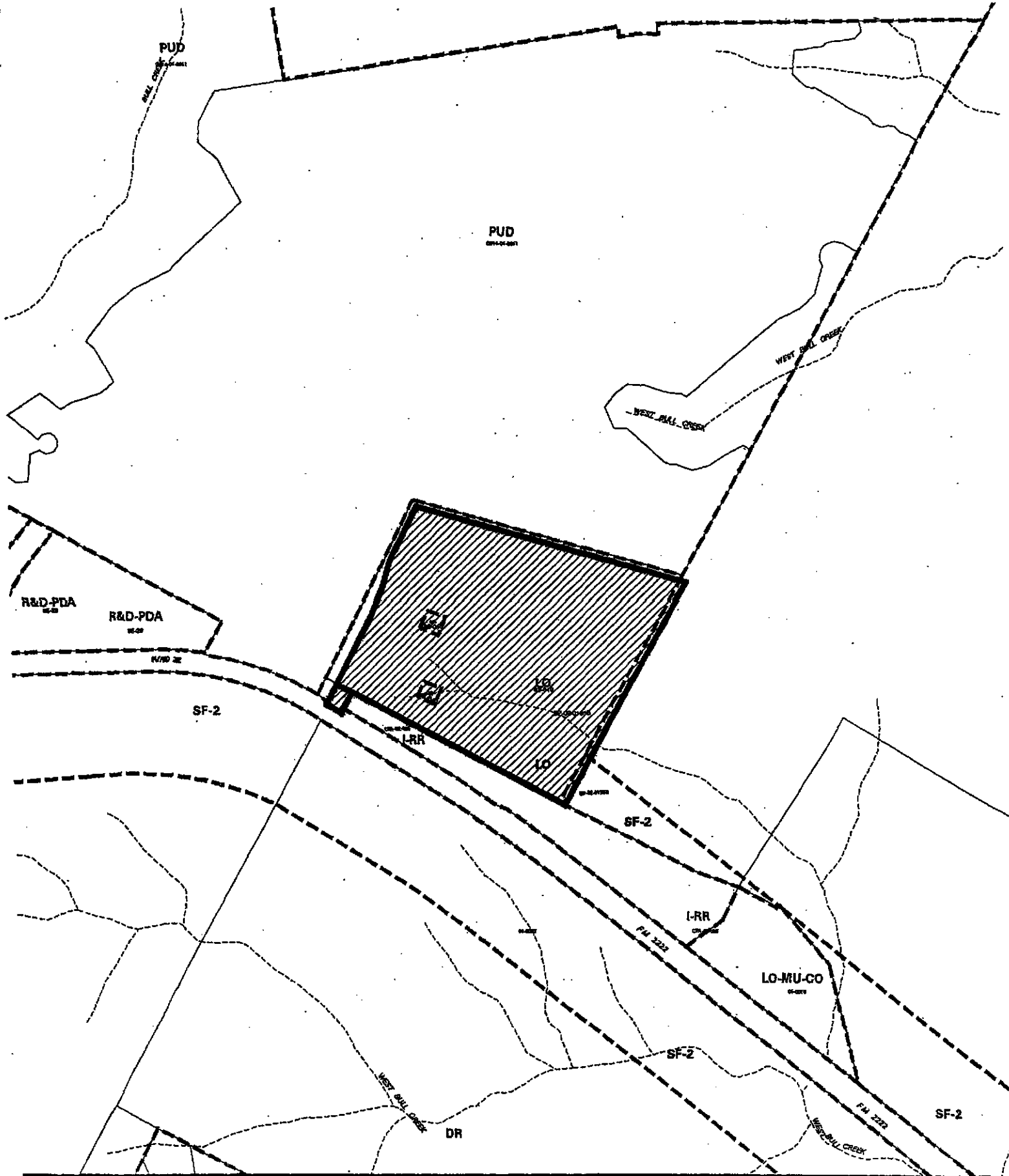
BY:





Holt Carson
Holt Carson

Registered Professional Land Surveyor No. 5166



see accompanying map: B 662002



 1" = 600'	SUBJECT TRACT 	ZONING EXHIBIT B		CITY GRID REFERENCE NUMBER E33
	PENDING CASE 			
	ZONING BOUNDARY 	CASE #: C14-05-0172	DATE: 05-10	
	CASE MGR: S. SIRWAITIS	ADDRESS: 9716 F M 2222 RD SUBJECT AREA (acres): 32.513	INTLS: SM	