

STAFF RECOMMENDATION

ORDINANCE NO. \_\_\_\_\_

2-10

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 300 NUECES STREET FROM CENTRAL BUSINESS DISTRICT (CBD) DISTRICT TO CENTRAL BUSINESS DISTRICT-CENTRAL URBAN REDEVELOPMENT (CBD-CURE) COMBINING DISTRICT.

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

**PART 1.** The zoning map established by Section 25-24191 of the City Code is amended to change the base district from central business district (CBD) district to central business district-central urban redevelopment (CBD-CURE) combining district on the property described in Zoning Case No. C14-05-0165, on file at the Neighborhood Planning and Zoning Department, as follows:

A 1.287 acre tract of land out of Lots 1-6, Block 25, Original City of Austin, according to the map or plat of record in the General Land Office of the State of Texas, and those certain tracts of land being portions of alleys; all the tracts being more particularly described in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as the property located at 300 Nueces Street, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

**PART 2.** The regulations for the Property within the boundaries of the CURE combining district established by this ordinance are modified as follows:

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 4,127 trips per day.
2. Development of the Property may not exceed a floor to area ratio (F.A.R.) of 10 to 1.
3. Development of the Property shall comply with the following setbacks:
  - a. The maximum building setback from the 3<sup>rd</sup> street right-of-way is 25 feet.

## STAFF RECOMMENDATION

- b. The maximum setback from the 4<sup>th</sup> Street right-of-way is 20 feet, beginning 70 feet west of the intersection of 4<sup>th</sup> Street and Nueces Street and continuing west for a distance of 50 feet.
- c. The maximum setback from the 4<sup>th</sup> Street right-of-way for the remainder of the right-of-way along 4<sup>th</sup> Street, is 75 feet.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the central business district (CBD) base district and other applicable requirements of the City Code.

**PART 3.** This ordinance takes effect on \_\_\_\_\_, 2005.

### PASSED AND APPROVED

\_\_\_\_\_, 2005

Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_

David Allan Smith  
City Attorney

Shirley A. Brown  
City Clerk

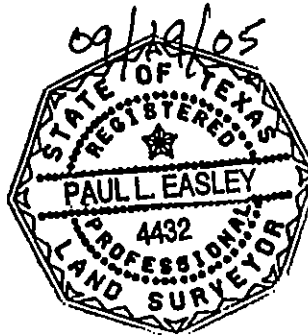
**Legal Description:**

EXHIBIT A





A 1.287-acre tract of land conveyed to Novare-AU Nuéces, L.P., as recorded in Document # 2005171317 of the Real Property Records of Travis County, Texas; being a Legal Lot in an approved and recorded subdivision, Lots 1-6, Block 25, of the Original City of Austin, Travis County, Texas, according to the records of the General Land Office of the State of Texas, and including that 2,425 square feet of land, more or less, being a portion of the alley, as described in Quitclaim Deed of record in Volume 6776, Page 2048, and 336 square feet of land, more or less, being a portion of the alley between Lots 3 and 6, Block 25, vacated by Ordinance recorded in Document No. 2000007994.



Paul Easley, R.P.L.S.  
Doucet & Associates, Inc.  
7401-B Hwy. 71 W., Ste. 160  
Austin, TX 78735



SP94-0440C


 SUBJECT TRACT   
 PENDING CASE   
 ZONING BOUNDARY   
 CASE MGR: J.ROUSSELIN

PRINT  
SHOP  
OFFICE

REST. OFF. **CBD** USED CARB OFFICE  
SP. 88-020508  
WEST

CBD	CBD	948
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LOOK SMITH REST CBD REALTOR

USED CAR8

BLUEPRINT COMPANY

CAR SALES

CBD

**CBD** **CBD**  
CAR  
DEALER  
WEST 5TH SYDNEY

LEADING  
SP-04-0480C  
CBD  
SP-05-0211A  
SP-05-0707C  
WEST 8TH STREET

SP-04-0980C  
NEW  
CARS

374 STREET  
CBD  
CITY OF AUSTIN  
SP-01-0356

USED CAR SALES  
CBD  
SP28-2509

NEW CAR SALES

**CBD**

SP-84-025508

SP-88-00050

BODY SHOP

01-09250  
**CBD**  
WEST 4TH STREET

SP-98 2509  
REST. CBD EQUIP. WARE.  
WEST 4TH STREET

STREET

CITY OF AUSTIN

P

87-57  
C14P87-020

GRANDE

REPUBLIC SQUARE  
PARK  
P-H  
H90-0013  
WEST 4TH STREET

4TH STREET

SPC88-0232C

**CBD**

OFF-GITE  
PARKING

WEST 3RD

WEST 3RD STREET

SP93-37C

C14H-00-011

CITY WATER TREATMENT FACILITY

P

An aerial photograph of an industrial area. A dashed line runs diagonally across the image. To the upper left of this line is a hatched rectangular area labeled 'CBD'. To the upper right is a large rectangular area labeled 'PARKING'. To the right of the parking area are two rectangular areas labeled 'WAREHOUSE'. Below the dashed line, to the left, is a rectangular area labeled 'FOOD WHSE.'. To the right of the 'FOOD WHSE.' is a large rectangular area labeled 'WHSE.'. The label 'CBD' also appears at the bottom center of the image.

POC-36	CBD		
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ZONING EXHIBIT B

**CASE #: C14-05-0165**  
**ADDRESS: 300 NUECES ST.**  
**SUBJECT AREA (acres): 1.280**

DATE: 05-09  
INTLS: TRC

CITY GRID  
REFERENCE  
NUMBER  
J22

**RESTRICTIVE COVENANT**

**OWNER:** NOVARE-AU NUECES, L.P., a Delaware limited partnership

**ADDRESS:** 817 W. Peachtree Street, NW, Suite 601, Atlanta GA 30308-1138

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** A 1.287 acre tract of land out of Lots 1-6, Block 25, Original City of Austin, according to the map or plat of record in the General Land Office of the State of Texas, and those certain tracts of land being portions of alleys; all the tracts being more particularly described in Exhibit "A" attached and incorporated into this covenant.

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

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

1. The Owner shall design and construct streetscape improvements in full compliance with the City of Austin Great Streets design criteria as the criteria existed on November 17, 2005. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED to be effective the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**OWNER:**

NOVARE-AU NUECES, L.P.,  
a Delaware limited partnership

By: NOVARE-AU NUECES GP, LLC,  
a Delaware limited liability company,  
General Partner

By: NOVARE-AU AUSTIN  
DEVELOPMENT, LLC,  
a Georgia limited liability company,  
Managing Member

By: \_\_\_\_\_  
Billy R. Holley, Jr.,  
Vice President

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS   §**

**COUNTY OF TRAVIS     §**

This instrument was acknowledged before me on this the \_\_\_\_ day of November, 2005, by Billy R. Holley, Jr., Vice President of NOVARE-AU AUSTIN DEVELOPMENT, LLC, a Georgia limited liability company, Managing Member of NOVARE-AU NUECES GP, LLC, a Delaware limited liability company, General Partner of NOVARE-AU NUECES, L.P., a Delaware limited partnership, on behalf of the limited liability companies and the limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas

**After Recording, Please Return to:**

**City of Austin**

**Department of Law**

**P. O. Box 1088**

**Austin, Texas 78767**

**Attention: Diana Minter, Legal Assistant**