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RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-85-288.166 (RCA) – Sunset Ridge **P.C. DATE:** April 27, 2010

ADDRESS: 8401 Southwest Parkway

OWNER & APPLICANT: Los Indios Ventures, Inc. (Tim Jamail)

EXISTING ZONING: IP-NP

PROPOSED ZONING: GO-NP

AREA: 9.6 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends an Amendment of the Restrictive Covenant to be accomplished by adding new Paragraphs 9 and 10 as follows:

9. The Property may be developed up to a floor-to-area ratio of 0.5 to 1 for an office use, provided that the Property is developed in accordance with the following standards:

- A. Impervious cover is limited to 55%; and*
- B. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual.*
- C. Except for emergency access purposes, vehicular access to Sunset Ridge is prohibited.*

10. The Property may be developed with a religious assembly use and related administrative support, day care services and educational facilities, provided that the Property is developed in accordance with the following standards:

- A. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual.*

In addition, the Staff recommends that the following 10 uses are removed from the Restrictive Covenant: agricultural sales and services, building maintenance services business support services, construction sales and services, service station, custom manufacturing, limited warehousing and distribution, general warehousing and distribution, maintenance and service facilities, and railroad facilities.

PLANNING COMMISSION RECOMMENDATION:

April 27, 2010:

ISSUES:

The Applicant has met to discuss the restrictive covenant amendment and rezoning cases with the Travis Country West Home Owners Association.

DEPARTMENT COMMENTS:

The Restrictive Covenant Amendment area is a legal tract with frontage on Southwest Parkway, contains one vacant structure and is zoned industrial park – neighborhood plan (IP-NP) district with the base district established through the 1985 Oak Hill Area Study. The tract is adjacent to the Travis Country West subdivision to the east and south (SF-2-CO-NP), one single family residence to the west (GO-MU-CO-NP), and undeveloped land across Southwest Parkway to the north (LR, LO, SF-6-CO, all outside the Oak Hill Combined Neighborhood Planning Area). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

Background and Applicant's Requests

A Restrictive Covenant accompanied the 1987 zoning and established the maximum FAR of 0.25 to 1. The RC also addresses the applicability of the Williamson Creek ordinance to this property, establishes a list of allowable commercial and industrial uses, and a list of certain commercial and civic uses that require a conditional use permit. A copy of the recorded Restrictive Covenant is provided as Attachment A.

The Applicant proposes to amend the Restrictive Covenant to increase the FAR from 0.25:1 to 0.50:1 for the purposes of building an office development with structured parking. The Applicant is also willing to reduce the amount of impervious cover from a maximum of 65% allowed for commercially zoned properties by the Williamson Creek ordinance to 55%, and provide ponds that are better than that required by this ordinance.

A church has also been in contact with the Applicant about the property, and the Applicant has also requested that religious assembly, and related administrative support, day care services and educational facilities be added as a permitted use.

For either the church or office use, the Applicant is willing to provide water quality ponds that comply with the Save Our Springs (SOS) ordinance. To this end, the Applicant had a series of permeability tests performed in late Summer 2009 and the results indicate that there is enough land area to provide SOS water quality ponds on the property.

The Applicant is also willing to remove 10 uses from the Restrictive Covenant as follows:

agricultural sales and services	building maintenance services
business support services	construction sales and services
service station	custom manufacturing
limited warehousing and distribution	general warehousing and distribution
maintenance and service facilities	railroad facilities

Basis for Staff Recommendation

Staff supports the Restrictive Covenant Amendment and rezoning applications as described above as it will remove an industrially-zoned tract, and other intensive industrial and commercial uses over the aquifer (Staff also recommended that the Applicant file a rezoning

request from IP-NP to GO-NP), provide SOS water quality ponds, and reduce the maximum impervious cover for an office use from 65% to 55%.

To that end, an amendment to the Restrictive Covenant would be accomplished by adding new Paragraphs 9 and 10 to read as follows:

9. The Property may be developed up to a floor-to-area ratio of 0.5 to 1 for an office use, provided that the Property is developed in accordance with the following standards:

- A. Impervious cover is limited to 55%;*
- B. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual; and*
- C. Except for emergency access purposes, vehicular access to Sunset Ridge is prohibited.*

10. The Property may be developed with a religious assembly use and related administrative support, day care services and educational facilities, provided that the Property is developed in accordance with the following standards:

- A. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual.*

The Staff is also recommending that the industrial and commercial uses listed on Page 2 are removed from the Restrictive Covenant.

Environmental

This site is not located over the Edwards Aquifer Recharge Zone (the site is located over the Edwards Aquifer Contributing Zone). As shown in Exhibit B, the site is in the Williamson Creek and the Barton Creek Watershed of the Colorado River Basin, which are classified as Barton Springs Zone (BSZ) watersheds. It is in the Drinking Water Protection Zone. At this time, information has been provided indicating that a Restrictive Covenant grandfathers the property to the Williamson Creek Ordinance (Ordinance No. 840726-LL).

Single and two-family residential development shall not exceed a projected impervious cover of 40 percent. The projected impervious cover on any single commercial lot shall not exceed 40 percent within 200 feet of a Critical Water Quality Zone of a major waterway, within 100 feet of a Critical Water Quality Zone of an intermediate waterway, and no commercial development shall occur within 100 feet of the centerline of a minor waterway. Unless the aforementioned commercial development provisions are more restrictive, no commercial development shall exceed 65 percent cover on slopes of 10 to 20 percent gradient, nor 25 percent on slopes greater than 20 percent gradient.

According to flood plain maps, there is no flood plain within the project location.

The site is located within the endangered species survey area.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. If further explanation or specificity is needed, please contact the City Arborist at 974-1876.

All developments on this site will be subject to providing detention, sedimentation, and filtration for water quality control when projected impervious cover exceeds 18 percent.

Site Plan

Any changes to the site plan which is affected by this amendment will need to proceed through the revision process. The revision will need to comply with Commercial Design Standards, Subchapter E, per the approval of the extension on February 6, 2007.

FYI -The site plan was extended until September 9, 2010.

If the restrictive covenant amendment is approved, a correction will need to be submitted to update the FAR, gross floor area on the site plan sheets.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	IP-NP	One vacant structure; Undeveloped
<i>North</i>	SF-2-CO; SF-6-CO; LR; LO	Undeveloped; One single family residence
<i>South</i>	SF-2-CO-NP	Pond and single family residences within the Travis Country West subdivision
<i>East</i>	SF-2-CO-NP	Pond and single family residences within the Travis Country West subdivision
<i>West</i>	GO-MU-CO-NP	One single family residence

NEIGHBORHOOD PLANNING AREA: West Oak Hill **TIA:** Is not required

WATERSHED: Williamson Creek / **DESIRED DEVELOPMENT ZONE:** No
Barton Creek – Barton Springs Zone – Contributing Zone

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: Yes

NEIGHBORHOOD ORGANIZATIONS:

298 – Oak Hill Association of Neighborhoods (OHAN) 605 – City of Rollingwood
705 – OHAN 78735 712 – Travis Country West Home Owners Association
742 – Austin Independent School District 779 – Oak Hill Combined NPA Staff Liaison
786 – Home Builders Association of Greater Austin
917 – Barton Creek North Property Owners Association
943 – Save Our Springs Alliance 1037 – Homeless Neighborhood Association
1075 – League of Bicycling Voters 1113 – Austin Parks Association
1166 – Oak Hill Neighborhood Planning Contact Team
1200 – Super Duper Neighborhood Objectors and Appealers Organization

1224 – Austin Monorail Project

1228 – Sierra Club, Austin Regional Group

1236 – The Real Estate Council of Austin, Inc.

SCHOOLS:

Oak Hill Elementary School

Small Middle School

Austin High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2007-0250 – Amarra Drive Lot 1 – 8718-8734 Southwest Parkway; 5105-5301 and 5305-5325 Barton Creek Boulevard	DR to MF-1	To Grant MF-1-CO with the CO for 2,000 trips and maximum of 215 units. The Commission also recommended that the Applicant comply with future erosion and sedimentation controls at the site permit stage	Approved MF-1-CO as Commission recommended with a Restrictive Covenant for two-star Green Building and erosion and sedimentation control measures that exceed current requirements (3-20-08).
C14-06-0061 – 8509 Southwest Parkway	GO-MU-CO to GO-MU-CO, in order to remove the CO that restricts development of the Property to one residential unit	To Grant GO-MU-CO with the CO for a 2,000 trips per day limit	Approved GO-MU-CO as Commission recommended (07-27-06).
C14-01-0083 – Sutter Residence – 8700 Southwest Parkway	DR to SF-2	To Grant SF-2-CO with CO for 2 residences	Approved SF-2-CO with CO for 0.184 residences per acre (8-23-01).
C14-99-2144 – Travis Country West – Southwest Parkway at Travis Cook Road	LR; GR; IP to SF-2	To Grant SF-2-CO	Approved SF-2-CO with CO establishing a maximum of 2.139 residential units per acre and allowing one curb cut to Old Bee Caves Road (10-5-00).
C14-94-0044 – Jamail	GO to GO-MU	To Grant GO-MU-CO	Approved GO-MU-CO with the CO restricted to one dwelling unit

Zoning Change – 5601 Sunset Ridge			(6-23-94).
C14-92-0117 – Parkway II – 8212 Barton Club	SF-3; LO, LR to GR	Scheduled for Commission, but postponed indefinitely - Expired	Not applicable

RELATED CASES:*1985 Zoning and Restrictive Covenant*

The subject property was annexed into the City limits on December 19, 1985 approved for IP zoning on September 17, 1987 (C14-85-288.166), as part of the Oak Hill Study. The Restrictive Covenant attached to the IP zoning ordinance establishes a maximum FAR of 0.25 to 1; requires compliance with the Williamson Creek ordinance; and defines permitted and conditional commercial, industrial and civic uses.

2008 Oak Hill Neighborhood Plan and Rezoning

The property is designated as Office on the Future Land Use Map (FLUM) of the Oak Hill Neighborhood Plan. The rezonings associated with the West Oak Hill Neighborhood Plan Area were approved by Council on December 11, 2008 (C14-2008-0129, Ordinance No. 20081211-098). The base district of the subject property did not change, and the NP combining district was added.

Related Rezoning Case

The Applicant has applied for GO-NP zoning in conjunction with the proposed Restrictive Covenant Amendment (C14-2010-0042 – Sunset Ridge).

Land Use Determination and Approved Site Plan

The property has an approved land status determination and is not required to be platted (C8i-03-0087). There is an existing approved site plan for a three-story office building and a four-level parking garage that is within the 0.25: to 1 FAR limitation. This site plan is valid until September 9, 2010 (SPC-03-0014C). Please refer to Exhibit C.

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro
Southwest Parkway	Varies	Varies	Arterial, MAD 6, 17,300 vpd (TXDOT, 2005)	No	Yes, Priority 1 bike route	Not available
Sunset Ridge	50 feet	Varies	Local	No	No	No

CITY COUNCIL DATE: May 27, 2010

ACTION:

CASE MANAGER: Wendy Rhoades
e-mail: wendy.rhoades@ci.austin.tx.us

PHONE: 974-7719



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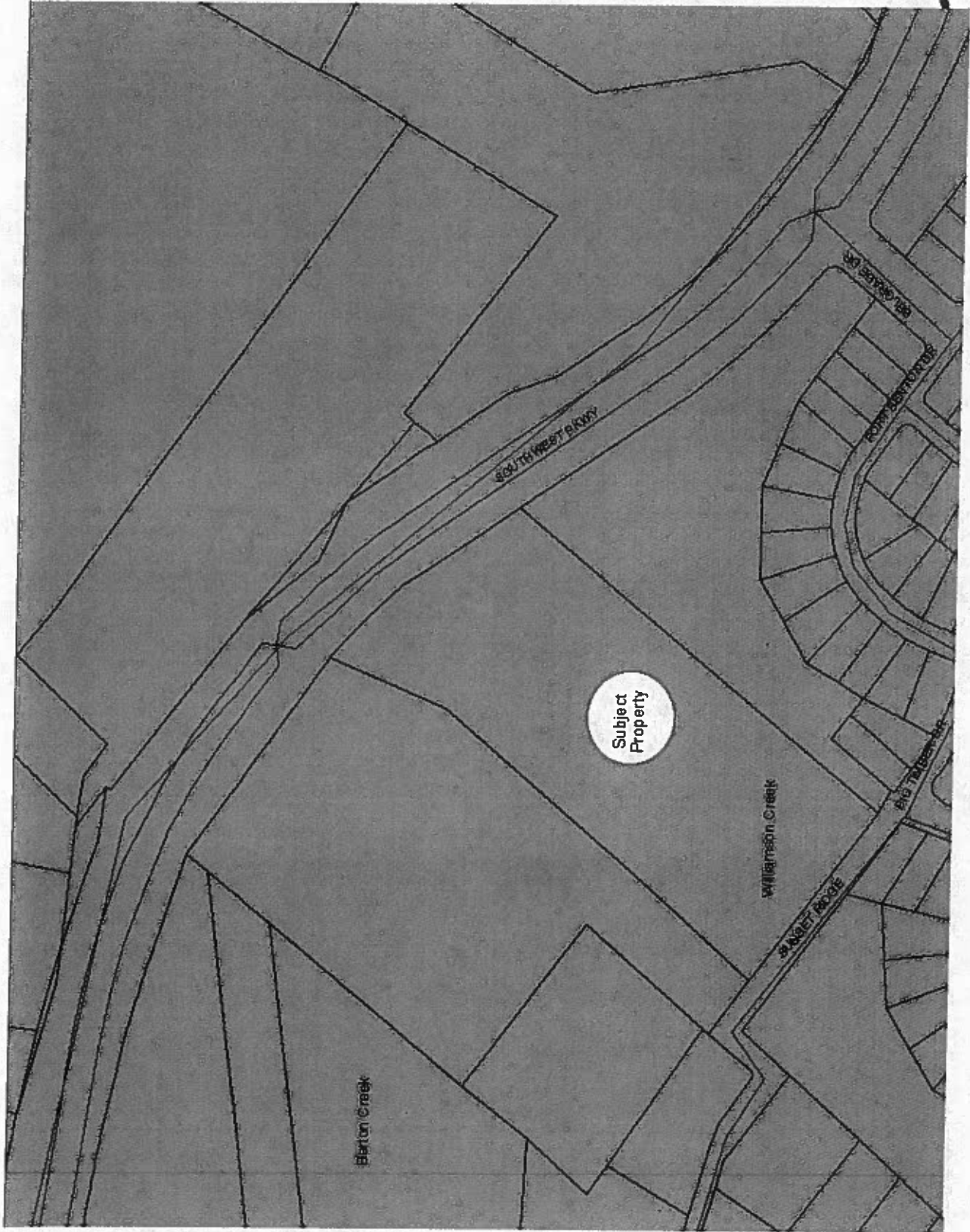


EXHIBIT B
WATERSHED MAP



SPC-03-00111C

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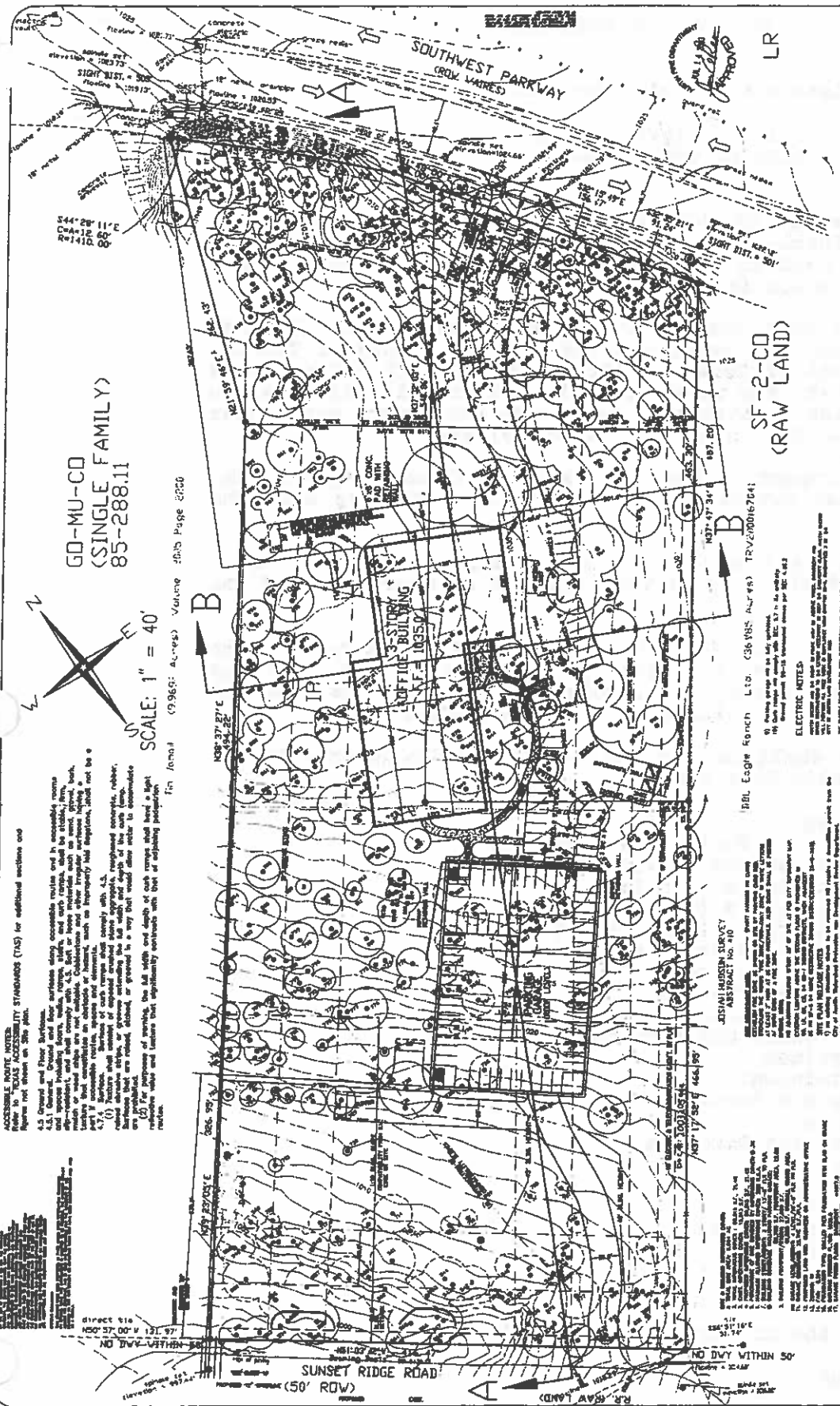
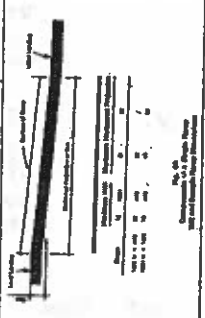


TABLE 1: SUMMARY OF PROPOSED DEVELOPMENT

Item	Quantity	Notes
Office Building	1	3-Story, 10,000 sq. ft.
Parking Spaces	100	Surface parking
Landscaping	10,000 sq. ft.	Native plants and trees
Utilities	100' of water, 100' of sewer	Underground



GO-MU-CD (SINGLE FAMILY) 85-288.11

SCALE: 1" = 40'

SUNSET RIDGE ROAD (50' ROW)

SOUTHWEST PARKWAY (CREEK VARIES)

3-STORY OFFICE BUILDING

SF-2-CD (RAW LAND)

LR

ELECTRIC NOTES

1. All electrical work shall conform to the latest edition of the National Electrical Code (NEC) as adopted by the State of Florida.

2. All electrical work shall be installed in accordance with the manufacturer's instructions.

3. All electrical work shall be installed in a safe and sound manner.

4. All electrical work shall be installed in a neat and workmanlike manner.

5. All electrical work shall be installed in a safe and sound manner.

PLANNING NOTES

1. The proposed development is located in a residential area.

2. The proposed development is located in a residential area.

3. The proposed development is located in a residential area.

4. The proposed development is located in a residential area.

5. The proposed development is located in a residential area.

EXHIBIT C
 APPROVED SITE PLAN

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RESTRICTIVE COVENANT

Owner: Boston Lane G.L.S. Joint Venture

Owner's Address: 11130 Jollyville Road.
Austin, Texas 78759

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

Property: All that certain tract, piece or parcel of land, lying and being situated in the County of Travis, State of Texas, described in Exhibit "A" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property; and,

Owners of the Property, for the consideration, impress the Property with these covenants and restrictions running with the land:

1. The Property shall be limited to a maximum of .25 to 1 floor to area ratio as defined by Section 1212 of Chapter 13-2A of the Austin City Code.

2. Development of the Property shall be in compliance with Sections 9-10-171 through 9-10-230 and Sections 13-3-401 through 13-3-475 of the Austin City Code, which regulate site development and subdivisions in the Williamson Creek Watershed.

3. The Property shall be limited to the following use types, defined in the Austin City Code:

Commercial Uses

Administrative and Business Offices
Agricultural Sales and Services*
Arts and Craft Studio (Limited)
Arts and Craft Studio (General)
Arts and Craft Studio (Industrial)
Building Maintenance Services
Business Support Services
Business or Trade School
Communications Services
Constructions Sales and Services
Financial Services
Indoor Entertainment
Indoor Sports and Recreation
Medical Offices
Outdoor Sports and Recreation
Personal Services
Professional Offices
Research Services*
Restaurant (Convenience)
Restaurant (Limited)
Restaurant (General)
Service Station

*Not permitted in the Critical Water Quality Zone.

Industrial Uses

Custom Manufacturing
Light Manufacturing
Limited Warehouse and Distribution
General Warehouse and Distribution

attachment a

Civic Uses
Communication Services Facilities
Cultural Services
Day Care Services (Commercial)
Group Homes, Class I (Limited & General)
Group Homes, Class II
Local Utility Services
Maintenance and Services Facilities
Railroad Facilities
Safety Services

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4. The following use types are permitted if approved by the Conditional Use Procedure described in Sections 6200 through 6290 of Chapter 13-2A of the Austin City Code:

Commercial Uses
Outdoor Entertainment

Civic Uses
Club or Lodge
Parking Facilities

5. If any person or entity shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law or in equity, against 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.

6. If any part of this agreement or covenant shall be 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.

7. If at any time the City of Austin, its successors or assigns, 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.

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

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

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

EXECUTED this the 28th day of August, 1987.

Boston Lane P.L.L.C. Joint Venture

BY: Robert R. Guhn
Robert R. Guhn

This instrument was acknowledged before me on this the 28th
day of August, 1987 by Robert E. Gunn, on behalf of
Boston Lane G.L.S. Joint Venture.

Jane C. Bierchner
Notary Public, State of Texas

JANE C. BIERCHNER
Notary's name (printed):

My commission expires: 3-23-89

288.166/2

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Oak Hill Surveying Co., Inc.
6120 Hwy. 290 West • Austin, TX 78735 • (512) 892-5320

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Sept. 13, 1984

FIELD NOTES DESCRIBING A 12.1557 ACRE (529,500 S.F.) TRACT OF LAND OUT OF THE J. HUDSON SURVEY NO. 530 IN TRAVIS COUNTY, TEXAS, SAID 12.1557 ACRE TRACT OF LAND BEING CONVEYED TO E. F. OERTLI BY DEED RECORDED IN VOLUME 2401, PAGE 10 AND VOLUME 2308 PAGE 166 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 12.1557 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pipe found on the Northeast line of a 50' wide roadway easement at the Southwest corner of that certain 52.59 acre tract of land conveyed to James H. Arnold, et. ux. by deed recorded in Volume 3459, Page 2250 of the Travis County Deed Records, said point being situated at the Southeast corner of said tract conveyed to E. F. Oertli by deed recorded in Volume 2401, Page 10 of the Travis County Deed Records.

THENCE with the Northeast boundary line of said Roadway Easement N46°49'20"W for 416.53 feet to an iron pipe found at the most Southerly corner of that certain 11.50 acre tract of land conveyed to Evan Hintner by deed recorded in Volume 6513, Page 107 of the Travis County Deed Records.

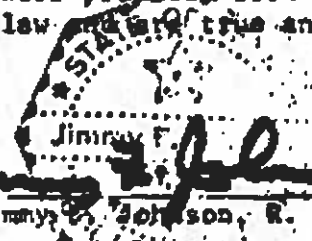
THENCE along the East boundary of said 11.50 acre tract same being the West boundary of the herein described tract the following three (3) courses:

1. N43°35'26"E for 326.82 feet to an iron pipe found.
2. N42°32'12"E for 494.13 feet to an iron pipe found.
3. N26°11'24"E for 450.08 feet to an iron pipe found on the Southwest boundary line of that certain 9.53 acre tract of land described in a deed to Evan Hintner recorded in Volume 5991, Page 1382 of the Travis County Deed Records.

THENCE with the fenced Southwest boundary line of said 9.53 acre tract S46°43'32"E for 517.82 feet to an iron pipe found at the Northwest corner of said 52.59 acre James H. Arnold tract.

THENCE along the fenced West boundary line of said 52.59 acre tract S41°46'34"W for 1250.90 feet to the POINT OF BEGINNING of the herein described tract containing 12.1557 acres of land more or less.

I HEREBY CERTIFY that these notes were prepared from a survey made on the ground under my supervision according to law and are true and correct to the best of my knowledge.


Jimmy F. Johnson
Surveyor, Travis County, Texas
R. P. S. #4018

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THOMAS H. JESTER

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EARL LEE WARE
2007/30
1.200

31/07/70
JAMES P. FLEMING, JR.
2474/070
10.274

BATHLET
430

HELVY D. EAST
3030/001
2.304

31/07/70
JAMES P. FLEMING, JR.
2474/070
10.274

31/07/70
VINCENT J. STRABELLA
4271/708
10.274

31/07/70
SANDY E. BLACKBURN
2000/747
10.284

30 3300/010
ROBERT L. LAMINGTON
R. M. JOHNSON, SUR 74

31/07/70
EVAN HATHORN
2347/05
10.284

PETER J. K. LAMBERT
4780/020
10.08

31/07/70
JAMES P. FLEMING, JR.
2474/070
10.274

31/07/70
JAMES P. FLEMING, JR.
2474/070
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EVAN HATHORN
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EVAN HATHORN
2347/05
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A. HERO

JAMES H. ARNOLD, JR.
2400/000
10.274

J. H. ARNOLD, JR.
2400/000
10.274

J. HUDSON, SUR 530

31/07/70
EVAN HATHORN
2347/05
10.284

31/07/70
EVAN HATHORN
2347/05
10.284

31/07/70
EVAN HATHORN
2347/05
10.284

ELL SUR 75

IN SHADOWS

SUB

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40147

1000

Travis Country West Homeowner's Association

11149 Research Blvd., Suite 100, Austin, TX 78759-5227

Voice (512) 502-7517 Fax (512) 346-4873 1-800-900-9120

1149 Research Blvd., Suite 100
Austin, TX 78759

C3 & C4

April 23, 2010

To Whom It May Concern:

Please consider this letter as a first request for postponement of rezoning case #: C14-85-288.166(RCA) – Sunset Ridge pertaining to the property located at 8401 Southwest Parkway. We are making this request on behalf of the Travis Country West Home Owner's Association (The Association). The Association would like to request a two-week postponement with a date certain of May 11, 2010. We hope to complete our decision process that will determine our public input on the case during the two weeks and we hope that we will not need to request a second postponement.

Sincerely,

Seth Prejean
Director
Travis Country West HOA

