

RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-2009-0151(RCA) Shoal Creek Walk

P. C. DATE: 03/26/13

ADDRESS: 836 W. 6th Street

AREA: 2.6 acres

APPLICANT: Schlosser Development, LP
(Bradley Schlosser)

AGENT: Alice Glasco Consulting
(Alice Glasco)

NEIGHBORHOOD PLAN AREA: Downtown

CAPITOL VIEW: Yes

T.I.A.: N/A

HILL COUNTRY ROADWAY: No

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

CURRENT ZONING: DMU-CURE – Downtown Mixed Use – Central Urban Redevelopment District

SUMMARY STAFF RECOMMENDATION:

Staff recommendation is to amend the Restrictive Covenant as follows –

That number 4 of the Restrictive Covenant be modified as follows:

4. Open Space. If building development on the property exceeds 482,687 square feet of gross leasable area, the Owner Developer shall provide the following:

At least ~~thirty~~ twenty thousand (~~30,000~~ 20,000) feet of total development on the Property shall be provided as green and/or open space (hardscape and/or landscape) accessible for public use. At least 5,000 square feet of green/open space shall be along Shoal Creek.

That number 6 be deleted and replaced with the following:

6. Shoal Creek Improvements. Development under the current site plan number SP-2012-0036 or any successor site plan approved and released for development of the property shall include a connection to the Shoal Creek Hike & Bike Trail. During maintenance and construction of the trail between West 5th and West 6th Streets, signs shall be provided to direct pedestrian and bike traffic to alternate routes.

PLANNING COMMISSION RECOMMENDATION:

The motion to approve staff's recommendation to amend the Restrictive Covenant was approved by Commissioner Alfonso Hernandez's motion, Commissioner Steve Oliver seconded the motion on a vote of 9-0;

DEPARTMENT COMMENTS:

The subject property is currently developed with a surface parking lot. This property was granted Downtown Mixed Use, Central Urban Redevelopment District (DMU-CURE) combining district zoning with case number C14-2009-0151. In addition to the ordinance for this property, there was a Restrictive Covenant that was executed that had additional conditions for the development of the property. The

Restrictive Covenant included Great Streets, a green roof requirement, open space requirement, bike lanes and improvements to Shoal Creek. This Restrictive Covenant was tied to an already approved site plan, SP-06-0588C. The aforementioned site plan has since expired and has been replaced by a new site plan, case number SP-2012-0036C that is currently under review at city. The applicant is requesting to amend number four (4), Open Space and number six (6) Shoal Creek Improvements of the existing Restrictive Covenant. In between the time that the zoning was approved in 2009 the existing site plan from 2006 has expired and been replaced with a new 2012 site plan. Also in between that time the City has updated its flood plain models. The change in the flood plain models affected the subject property on the east side by decreasing the amount of usable property. The new site plan includes Great Streets whereas the old site plan did not. The inclusion of Great Streets mandates that the developer install wider than normal sidewalks thus diminishing the amount of useable property even further. With the diminished amount of developable property and the inclusion of Great Streets on the new site plan, the applicant is requesting to amend the Restrictive Covenant, number four (4) to change the amount of Open Space from thirty thousand square feet (30,000) to twenty thousand square feet (20,000). Also with the aforementioned changes to the developable site area and the new flood plain models the applicant is no longer able to provide the improvements to the Shoal Creek Hike & Bike Trail that were approved on the 2006 site plan. The new creek improvement will be limited to a small ramp to the creek. The City of Austin Parks and Recreation Department has provided an email stating that they are agreeable to the new improvements to Shoal Creek as depicted on the new 2012 site plan.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	DMU-CURE	Parking Lot
NORTH	DMU	GSD&M
SOUTH	DMU	Retail
EAST	CBD/DMU	Apartments
WEST	DMU	Whole Foods

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-2011-0006	From GO & GR to CBD	Approved CBD-CO [Vote: 7-0]	Approved CBD-CO [Vote: 7-0]
C14-2011-058	From GO to CS	Approved CS-CO [Vote: 7-0]	Approved CS-CO [Vote: 7-0]

NEIGHBORHOOD ORGANIZATION:

- Downtown Austin Neighborhood Coalition
- Pecan Street Owner's Association
- Downtown Austin Alliance
- Austin Warehouse District Association
- Old Pecan Street Association
- Sentral Plus East Austin Coalition
- Austin Neighborhood Council
- Downtown Austin Neighborhood Association
- Original Austin Neighborhood Assoc.

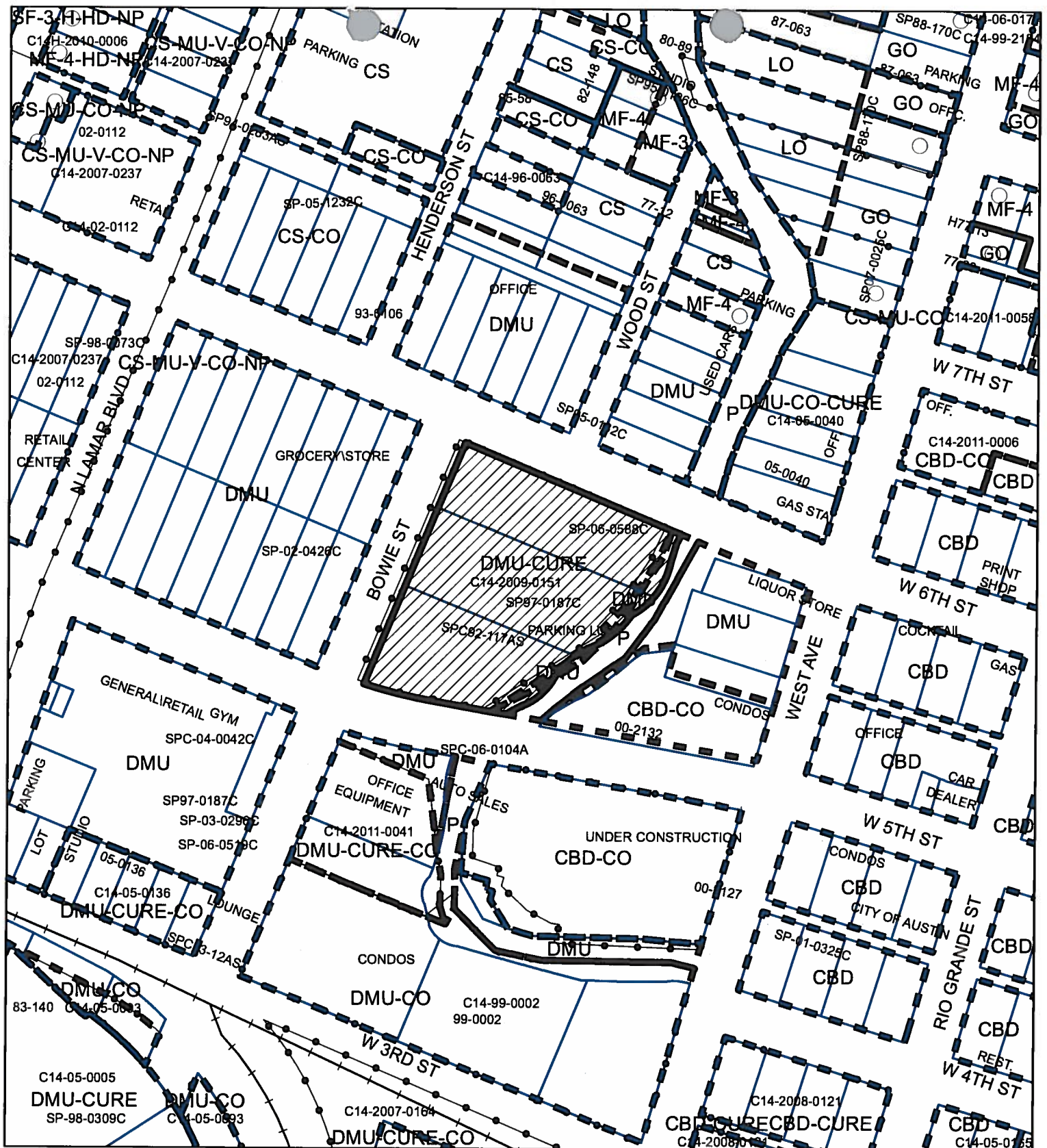
SCHOOLS:

Matthews Elementary School
O' Henry Middle School
Austin High School

CITY COUNCIL DATE: April 25th, 2013**ACTION:****ORDINANCE READINGS:** 1ST 2ND 3RD**ORDINANCE NUMBER:**

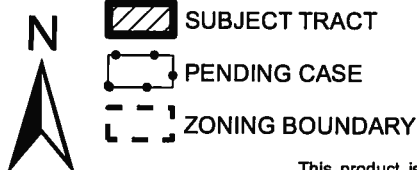
CASE MANAGER: Clark Patterson
Clark.patterson@ci.austin.tx.us

PHONE: 974-7691



ZONING

ZONING CASE#: C14-2009-0151(RCA)



1" = 200'

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

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



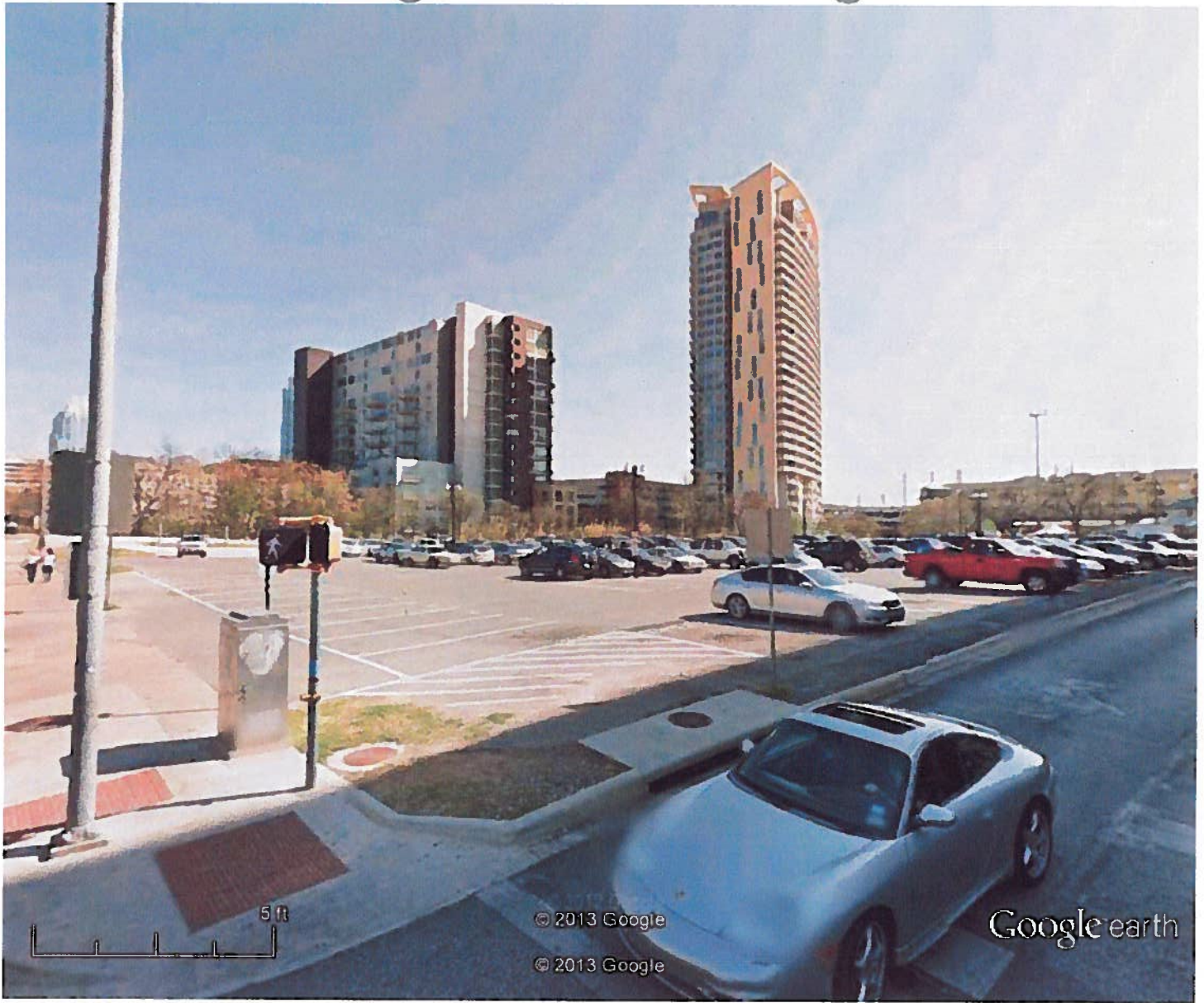




Google earth

feet 10
meters 3





Alice Glasco Consulting

5117 Valburn Court, Suite A
Austin, TX 78731
aliceglasco@mindspring.com
512-231-8110 • 512-857-0187 Fax

February 6, 2013

Greg Guernsey, Director
Planning and Development Review Department
505 Barton Spring Road, Suite 500
Austin, Texas 78704

RE: Amendment to Restrictive Covenant for Shoal Creek Walk
(C14-2009-0151)

Dear Greg:

I represent Schlosser Development, the owner of the above referenced property. In 2010, the subject property was encumbered with a restrictive covenant that is associated with zoning case number C14-2009-0151. As part of the rezoning process, Schlosser Development offered and agreed to 6 conditions that are listed in the attached restrictive covenant. Two of the 6 conditions relate to open space and improvements to Shoal Creek.

My request is to amend the restrictive covenant relating to paragraphs 4 and 6, to read as follows:

Paragraph 4. Open space: If building development on the property exceeds 482,687 square feet of gross leasable area, the owner/developer shall provide the following:

At least twenty thousand (20,000) square feet of the total development on the property shall be provided as green and/or open space (hardscape, and/or landscape accessible for public use, of which, at least 5,000 square feet of such green/open space shall be along Shoal Creek.

Justification:

The reduction in the amount of total open space is due to two reasons: (1) a new site plan (SP-2012-0036C) that is currently under review more accurately accounts for and reflects all open space, including the accommodation Great Streets while the expired 2006 site plan did not; and, (2) the property is also impacted to the east by changes to the City's Floodplain Model, which has, again, raised the 100-year elevation on the property by an additional 1.25 feet.

Greg Guernsey, Director
Planning and Development Review Department

Paragraph 6. Shoal Creek Improvements: development under the current site plan number SP-2012-0036 or any successor site plan approved and released for development of the property shall include connection to the Shoal Creek hike and bike trail. During maintenance and construction of the trail between West 5th and West 6th Streets, signs shall be provided to direct pedestrian and bike traffic to alternate routes.

Justification:

The improvements that were to be made to Shoal Creek Walk were reflected on a 2006 site plan (SP-06-0588C), which has since expired. Between the expiration of the site plan on December 26, 2010 and now, the City of Austin has updated its current Shoal Creek floodplain model several times. Due to the changes in the City's Floodplain Model, which has, again, raised the 100-year elevation on the property by an additional 1.25 feet from the original approval, we are no longer able to provide the previous improvements from the 2006 site plan. Therefore, our improvements are now limited to a small ramp down to the Shoal Creek Hike & Bike Trail. The new/current site plan – SP-2012-0036C - now reflects improvements to Shoal Creek as dictated by a new city-initiated Shoal Creek floodplain model, which actually maintains more natural area along Shoal Creek than was previously contemplated in 2006.

The recorded restrictive covenant Schlosser Development is seeking to amend is attached. Please let me know if you have any questions or need additional information.

Sincerely,



Alice Glasco, President
AG Consulting

Cc: Rick R. Duggan III, Schlosser Development
David Vitanza, Schlosser Development
Jerry Rusthoven, Zoning Division Manager
Clark Patterson, Zoning Planner

SCANNED



RESTRICT 2010083202

10 PGS

Zoning Case No. C14-2009-0151

RESTRICTIVE COVENANT

OWNER: Shoal Creek Walk, Ltd., a Texas limited partnership

ADDRESS: 601 North Lamar Blvd., Suite 301, Austin, Texas 78703

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 2.6 acre tract of land, more or less, being a portion of Lots 1-3 Block 5, Subdivision of Raymond Plateau, Outlot 11, Division Z, City of Austin, and a 4,940 square foot tract of land being a partial vacation of the Bowie Street right-of-way, the tracts of land being more particularly described by metes and bounds in Exhibits "A" and "B" incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more), 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 ("Agreement"). 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. All residential and commercial development shall comply with Austin Energy Green Building Program (GBP) for a minimum two-star rating.
2. The Owner shall design and construct streetscape improvements in full compliance with the City of Austin Great Streets design criteria as it exists May 2010. 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 Planning and Development Review Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.
3. Green roofs. At least 20,000 square feet of green roof design shall be provided as a means to improve the quality of the air, reduce stormwater runoff and improve energy efficiency of the structure beneath. The green roof system shall be designed according to City approved requirements and standards.

5-27-10
71

4. **Open Space.** If building development on the Property exceeds 482,687 square feet of gross leasable area, the Owner/Developer shall provide the following:

At least thirty thousand (30,000) square feet of the total development on the Property shall be provided as green and/or open space (hardscape and/or landscape) accessible for public use. At least 5,000 square feet of green/open space shall be along Shoal Creek.

5. **Bowie Street Bike Lane.**

- a) Prior to issuance of a certificate of occupancy for any phase of the project, Owner/Developer shall design and install a five foot monolithic curb bicycle lane on the east side of Bowie Street between 5th and 6th Streets. Design and construction shall be as generally depicted on Exhibit "C" attached to this Agreement.
- b) Installation shall include all necessary signing and striping, and sealcoating of any remaining and existing asphalt.

6. **Shoal Creek Improvements.** Development under the current approved and released site plan, SP-06-0588C, as approved on December 28, 2007, or any successor site plan approved and released for development of the Property, shall include improvements to the Shoal Creek hike and bike trail as specified under SP-06-0588C. During maintenance and construction of the trail between West 5th and West 6th streets, signs shall be provided to direct pedestrian and bike traffic to alternate routes.
7. If any person or entity shall violate or attempt to violate this Agreement, 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, to prevent the person or entity from such actions, and to collect damages for such actions.
8. If any part of this Agreement 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.
9. 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.
10. 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, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED on May 26, 2010.

OWNER:

Shoal Creek Walk, Ltd.,
a Texas limited partnership

By: Shoal Creek Walk GP, L.L.C.,
a Texas limited liability company, its
general partner

By: [Signature]
Bradley Schlosser, its Manager

APPROVED AS TO FORM:

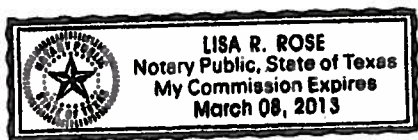
[Signature]
Assistant City Attorney
City of Austin

THE STATE OF TEXAS

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§
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COUNTY OF TRAVIS

This instrument was acknowledged before me on May 26, 2010, by
Bradley Schlosser, Manager of Shoal Creek Walk GP, L.L.C., a Texas limited liability company,
general partner of Shoal Creek Walk, Ltd., a Texas limited partnership, on behalf of said limited
partnership.



Lisa R. Rose
Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P.O. Box 1088
Austin, Texas 78767-1088
Attention: Diana Minter, Paralegal

Patterson, Clark

Subject: FW: Shoal Creek Walk: Restrictive Covenant Amendment Language

From: Soliz, Ricardo
Sent: Thursday, March 14, 2013 12:00 PM
To: Patterson, Clark
Cc: Williams, D'Anne
Subject: FW: Shoal Creek Walk: Restrictive Covenant Amendment Language

Clark,

Thank you for your call yesterday regarding Shoal Creek Walk between 5th and 6th Street.

The Parks Department has reviewed the connection to the trail from the Schollosser Development property and is supportive of the design and its connection. Furthermore, the Parks Department requested the developer include maintenance responsibility for the trail and the section of greenbelt abutting the property. If you have further questions, please let me or D'Anne Williams (974-9456).

Thanks,

Ricardo Soliz

From: Alice Glasco [<mailto:alice@agconsultingcompany.com>]
Sent: Tuesday, February 19, 2013 6:37 PM
To: Patterson, Clark
Cc: Soliz, Ricardo; Williams, D'Anne
Subject: FW: Shoal Creek Walk: Restrictive Covenant Amendment Language

Clark,

FYI – see PARD support below.

Alice Glasco, President
Alice Glasco Consulting
512-231-8110 W
512-626-4461 C
Email: alice@agconsultingcompany.com

From: Soliz, Ricardo [<mailto:Ricardo.Soliz@austintexas.gov>]
Sent: Wednesday, February 06, 2013 2:46 PM
To: Alice Glasco
Cc: Williams, D'Anne; Rick Duggan; David Vitanza; Joe Longaro
Subject: RE: Shoal Creek Walk: Restrictive Covenant Amendment Language

Excellent. Thank you very much.

Ricardo Soliz

From: Alice Glasco [<mailto:alice@agconsultingcompany.com>]
Sent: Wednesday, February 06, 2013 1:24 PM
To: Soliz, Ricardo
Cc: Williams, D'Anne; Rick Duggan; David Vitanza; Joe Longaro
Subject: Re: Shoal Creek Walk: Restrictive Covenant Amendment Language

Ricardo,

Yes, Schlosser Development is agreeable to your maintenance request.

On Feb 6, 2013, at 11:53 AM, "Soliz, Ricardo" <Ricardo.Soliz@austintexas.gov> wrote:

Alice, do you think your client will be amiable to maintaining the section of trail abutting your client's property? I am talking about weekly maintenance only, similar to what you will do for Great Streets. That would represent a great deal for us and we could support your reduction of open space from 30,000 to 20,000 sf.

What do you think?

Ricardo Soliz

From: Alice Glasco [<mailto:alice@agconsultingcompany.com>]
Sent: Tuesday, February 05, 2013 7:44 PM
To: Williams, D'Anne; Soliz, Ricardo
Cc: Rick Duggan (rwduggan@sdcaustin.com); David Vitanza (dvitanza@sdcaustin.com); Joe Longaro (joe@longaroclarke.com)
Subject: RE: Shoal Creek Walk: Restrictive Covenant Amendment Language

D'Anne,

Please see the attached draft letter to Greg Guernsey with justification for amending paragraphs 4 and 6. Basically as it relates to paragraph number 4 – Open Space – the property is being squeezed on both sides, on the east by Great Streets and on the west by the city's new floodplain study. The "squeeze" affects building design and thus the amount of open space.

Also, we have removed mention of public drive – which brings the total open space area to 20,000 sq. ft.

Note: The total amount of open space was never initiated/requested by any city staff. Schlosser Development simply offered that amount during the rezoning to DMU-CURE based on the floodplain model at the time. It is important to note that each time the floodplain model changes, it affects the design of all buildings and on all site improvements.

Application filing date is tomorrow – 2/6/13.

Alice Glasco, President

Alice Glasco Consulting

512-231-8110 W

512-626-4461 C

Email: alice@agconsultingcompany.com

From: Williams, D'Anne [mailto:D'Anne.Williams@austintexas.gov]

Sent: Tuesday, February 05, 2013 4:32 PM

To: Alice Glasco; Soliz, Ricardo

Subject: RE: Shoal Creek Walk: Restrictive Covenant Amendment Language

Alice,

Ricardo and I looked it over and we have a couple of questions. On Paragraph 4, can you explain the reasoning in changing the area of public space from 30,000sf to 25,000? Also I am not sure that a "public drive" could be considered a public amenity. Can you describe your thoughts on this? The changes to Paragraph 6 look good.

Thanks

D'Anne Williams

Landscape Architect / Trails Coordinator

Austin Parks and Recreation Department

Planning and Design Division

919 West 28 1/2 Street,

Austin TX 78705

512-974-9456

ORDINANCE NO. 20100527-071

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 835 WEST 6TH STREET FROM DOWNTOWN MIXED USE (DMU) DISTRICT TO DOWNTOWN MIXED USE CENTRAL URBAN REDEVELOPMENT (DMU-CURE) COMBINING DISTRICT.

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from downtown mixed use (DMU) district to downtown mixed use central urban redevelopment (DMU-CURE) combining district on the property described in File C14-2009-0151, on file at the Planning and Development Review Department, as follows:

A 2.6 acre tract of land, more or less, being a portion of Lots 1-3 Block 5, Subdivision of Raymond Plateau, Outlot 11, Division Z, City of Austin, and a 4,940 square feet tract of land being a partial vacation of the Bowie Street right-of-way, the tracts of land being more particularly described by metes and bounds in Exhibits "A" and "B" incorporated into this ordinance, (the "Property")

locally known as 835 West 6th Street, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "C".

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

- A. The Property is subject to the Capitol View Corridor Overlay district as set forth in the Code.
- B. No portion of a building constructed on the Property outside the Capitol View Corridor Overlay district may exceed a height of 350 feet from grade.
- C. Parking.
 - 1) The façade of a parking structure on the Property must be screened such that vehicles parked within such structure are screened from view from adjacent streets.

2) If building development on the Property exceeds 482,687 square feet of gross leasable area, the following applies:

- a. No more than 30 at-grade parking spaces may be provided as short term parking, excluding parking spaces located within a porte-cochere area.
- b. A minimum of 2 levels of underground parking shall be provided.

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

PART 3. This ordinance takes effect on June 7, 2010.

PASSED AND APPROVED

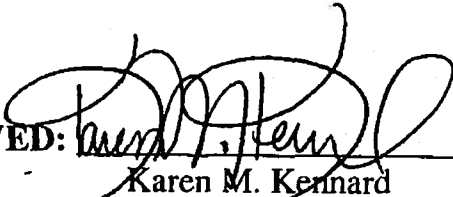
_____, May 27, 2010

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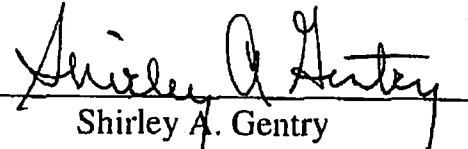
Lee Leifingwell
Mayor

APPROVED:



Karen M. Kennard
Acting City Attorney

ATTEST:



Shirley A. Gentry
City Clerk



0 20 40

W. 4TH STREET
100' 0" 100' 0" 100' 0"

ENTRANCE
DMU
CONCRETE
WHOLE FOODS
LAMAR LEVEL PARKING

EXT

BOWE STREET
80' 0" 100' 0"

BUILDING 1
SLAB TYPE - PIER & BEAM
TOTAL SF = 100,000
HEIGHT = 100 FT
8 STORIES

BUILDING 2
SLAB TYPE - PIER & BEAM
TOTAL SF = 200,000
HEIGHT = 80 FT
5 STORIES

PARKING GARAGE
(ABOVE GARAGE)
TOTAL SF = 100,000
HEIGHT = 100 FT
ROOF ELEVATION
TOP OF RAIL

LOT 3

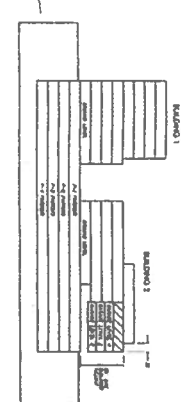
LOT 2

LOT 1

FRANZETTI TO
PETER & VERNON
VOL. 1091 19, P. 151, UNNOT

CBD

CITY OF MINN
VOL. 1091 19, P. 151, UNNOT



- NOTES:
1. SEE SHEET SP-1 THRU SP-9 FOR DETAILED SECTION VIEWS.
 2. SEE SHEET SP-9 FOR PARKING CALCULATIONS.
 3. CONFORMANCE WITH OTHER BUILDING STANDARDS IS REQUIRED FOR ALL BUILDINGS CONSTRUCTED ON THIS SITE.
 4. THE SITE IS COMPOSED OF FOUR LOTS/TRACTS. IT HAS BEEN DIVIDED AS THE CONCEPT DEVELOPMENT, WITH THE BUILDING FOOTPRINTS AND SITE PLAN APPROVAL AND BEING REVIEWED.
 5. CONFORMANCE WITH THE MINNESOTA AS-BUILT-TO-BUILT CONSTRUCTION ACT IS REQUIRED FOR ALL BUILDINGS CONSTRUCTED ON THIS SITE.
 6. THERE ARE NO EXISTING STRUCTURES WITHIN SP-9 OR SP-10.
 7. THE SHOWN PARKING IS THE MINIMUM REQUIRED PARKING TO THE MINNESOTA CONSTRUCTION ACT.

NO.	DESCRIPTION	AREA	PERCENT	PERCENT	PERCENT
1	ENTRANCE	100.00	100.00	100.00	100.00
2	ENTRANCE	100.00	100.00	100.00	100.00
3	ENTRANCE	100.00	100.00	100.00	100.00
4	ENTRANCE	100.00	100.00	100.00	100.00
5	ENTRANCE	100.00	100.00	100.00	100.00
6	ENTRANCE	100.00	100.00	100.00	100.00
7	ENTRANCE	100.00	100.00	100.00	100.00
8	ENTRANCE	100.00	100.00	100.00	100.00
9	ENTRANCE	100.00	100.00	100.00	100.00
10	ENTRANCE	100.00	100.00	100.00	100.00



REPLACEMENT SHEET A

DATE: 04/18/2018
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]

LONGARO & CLARKE
Consulting Engineers

Lead Development © Structures Management © Water Resources
1700 West Central Expressway Building A, Suite 200, Minneapolis, MN 55425
612.338.0000 • www.longaroandclarke.com • 800.555.5555

SIXTH AND LAMAR
EAST BLOCK
835 W 6TH STREET
OVERALL SITE LAYOUT

DATE: 04/18/2018
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]

SP.06-0502