

ZONING CHANGE REVIEW SHEET

CASE: C14-2013-0095

Z.A.P. DATE: September 3, 2013
October 1, 2013

ADDRESS: 9405 Fourteen Tee Drive

OWNER/APPLICANT: Balcones Country Club Membership Association (David Dew)

AGENT: Hutson Land Planners (Duane Hutson)

ZONING FROM: RR, I-SF-2 **TO:** SF-1 **AREA:** 0.3069 acres (13,369 sq. ft.)

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant SF-1, Single Family Residence-Large Lot District, zoning.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

9/03/13: Postponed to October 1, 2013 at the neighborhood's request (7-0); P. Seeger-1st,
R. McDaniel-2nd.

10/01/13: Denied the zoning/rezoning request (7-0); G. Rojas-1st, R. McDaniel-2nd.

ISSUES:

On August 22, 2013, members of the neighborhood sent a Warranty Deed document to the staff for our review (Please see Attachment A). The City's Law Department looked at the information and determined that the restrictions set forth in the warranty deed are effectively a restrictive covenant. They stated that the right of enforcement against breach of this restriction was vested in Northwest Travis County MUD No. 2, its successors and assigns. The Northwest Travis County MUD No. 2 was annexed by the City of Austin and the Northwest Travis County MUD No. 2 was dissolved in 1997 (Please see Annexation Ordinance—Attachment B). Therefore, the City would have the right to enforce this restriction. The Law Department also stated that the City is under no obligation to enforce this document. The zoning staff discussed our recommendation for this case again after becoming aware of the warranty deed. The staff decided to maintain our recommendation for SF-1 zoning at this location as the site meets the intent of the Single Family Residence-Large Lot District designation and is consistent with other development and zoning surrounding this tract of land. The applicant is requesting a zoning change from one low density residential district, RR, to another, SF-1 within an existing single family residential neighborhood. The current RR, Rural Residence District, zoning does not permit a golf course (Outdoor Sports and Recreation) use.

The staff received a petition on August 29, 2013 from adjacent property owners who are opposed to any changes to the existing RR zoning on the site (Please see Attachment C-Petition). This petition is valid at 36.86 % and therefore will require an affirmative vote of three-fourths of the members of Council to approve a proposed rezoning.

The excerpt below is from the City of Austin's Land Development Code and explains when the City Council is subject to the three-fourths vote.

Sec. 25-2-284 REQUIREMENT FOR APPROVAL BY THREE-FOURTHS OF COUNCIL.

- (A) *The affirmative vote of three-fourths of the members of Council is required to approve a proposed rezoning if:*
- (1) the Land Use Commission recommends denial of an application to rezone property to a planned unit development; or*
 - (2) the proposed rezoning is protested in writing by the owners of not less than 20 percent of the area of land:*
 - (a) included in the proposed change; or*
 - (b) immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.*

DEPARTMENT COMMENTS:

The property in question is currently considered part of the fourteenth tee and contains an outbuilding as part of the Balcones Country Club golf course. The applicant is requesting a rezoning from RR to SF-1 to construct a single family residence on the property. The staff recommends the applicant's request for SF-1 zoning because the property fronts meets the intent of the SF-1 district and fronts onto a local residential street, Fourteen Tee Drive. The site is located adjacent to existing SF-1 zoning and single family residential uses to the south and west.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	RR, I-SF-2	Undeveloped
<i>North</i>	RR	Undeveloped
<i>South</i>	SF-1	Single-Family Residence
<i>East</i>	RR	Golf Course
<i>West</i>	SF-1	Single-Family Residence

AREA STUDY: N/A

TIA: Not Required

WATERSHED: Bull Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

Austin Heritage Tree Foundation
Austin Monorail Project
Balcones Village-Spicewood Home Owners Association
Bike Austin
Bull Creek Foundation
Homeless Neighborhood Association

Long Canyon Homeowners Association
Long Canyon Phase II & III Homeowner Association Inc.
SELTEXAS
Sierra Club, Austin Regional Group
Spicewood Springs Road Tunnel Coalition
Super Duper Neighborhood Objectors and Appeals Organization
The Real Estate Council of Austin, Inc.

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-05-0179 (Spring Lake Subdivision: 9009 Spring Lake Drive)	RR to SF-1	11/15/05: Approved SF-1-CO zoning limited to two residential units (7-0, J. Gohil, J. Martinez-absent); M. Hawthorne-1 st , T. Rabago-2 nd .	8/24/06: Approved SF-1-CO zoning with the changes and direction to staff (7-0); Council Member Kim-1st, Mayor Pro Tem Dunkerley-2nd. The changes were: limit the buildings on the property to a single residence, provide a 50-foot setback from the wetland area, reduce the size of the original zoning request to 0.36 acres, limit the impervious cover on the property to 2,500 square feet, limit the building coverage to 1500 square feet, allow for only one tree to be removed, and require a pier and beam construction instead of a slab on grade. 12/14/06: Approved SF-1-CO with conditions (6-0); 2 nd /3 rd readings
C14-02-0180 (Hope Presbyterian Church: 11512 Olson Drive)	RR to GR	1/07/03: Approved staff's recommendation of GO-CO zoning with conditions to limit development intensity to 2,000 vehicle trips per day; allow Religious Assembly as the only permitted GO use; and allow all other LO uses (9-0); B. Baker-1 st , K. Jackson-2 nd	2/06/03: Granted GO-CO on all 3 readings (7-0)
C14-02-0134 (9701- 9723 Anderson Mill Road)	LR-CO to SF-6	9/24/02: Approved staff's recommendation of SF-6 zoning, by consent (5-0, D. Castaneda, B. Baker- absent)	10/24/02: Granted SF-6 on 1st reading – Staff to report back on flooding complaints: What s been done and what the applicant can do to help mitigate the situation. (5-0, Garcia-off dais, Dunkerley- absent)

			2/27/03: Approved (7-0); 2 nd /3 rd readings
C14-01-0142 (Anderson Mill Retail Center: 9701- 9723 Anderson Mill Road)	RR, SF-1 to GR	1/22/02: Approved staff's rec. on LR-CO zoning, the CO would subject the property to the TIA and to a 50-foot building setback to be established and maintained along the property line adjacent to property developed or zoned residential, (8-0, A. Adams- absent)	2/28/02: Approved LR-CO zoning by consent on first reading (6-0-1, Thomas-off dais) 3/21/02: Approved LR-CO (7-0); 2 nd /3 rd readings
C14-99-2033 (Unity Church of the Hills: 9905 Anderson Mill Road)	RR to LO	10/05/99: Approved LO-CO allowing only 'NO' uses w/ 'LO' site regulations (8-0)	11/04/99: Approved PC rec. of LO-CO on 1 st reading (6-0); subject to current watershed regulations 3/20/00: Approved 2 nd / 3 rd readings (6-0)
C14-98-0196 (Oak Park Office Center: 9801 Anderson Mill Road)	SF to GO	12/08/98: Approved LO (8-0)	1/07/99: Approved PC rec. of LO conditions (7-0); 1 st reading 2/04/99: Approved LO (7-0); 2 nd /3 rd readings
C14-98-0011 (Hidden Forest: 9907 Anderson Mill Road)	DR to SF-1	3/03/98: Approved SF-1 on consent (7-0)	3/26/98: Approved PC re. of SF-1 (6-0); all 3 readings

RELATED CASES: Annexation Ordinance No. 971204-H (December 31, 1997)

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Fourteen Tee Drive	50	27	Local	No	No	No

CITY COUNCIL DATE: September 26, 2013

ACTION: Postponed to October 17,
2013 at the staff's request (7-0);
B. Spelman-1st, S. Cole-2nd.

October 17, 2013

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

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



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

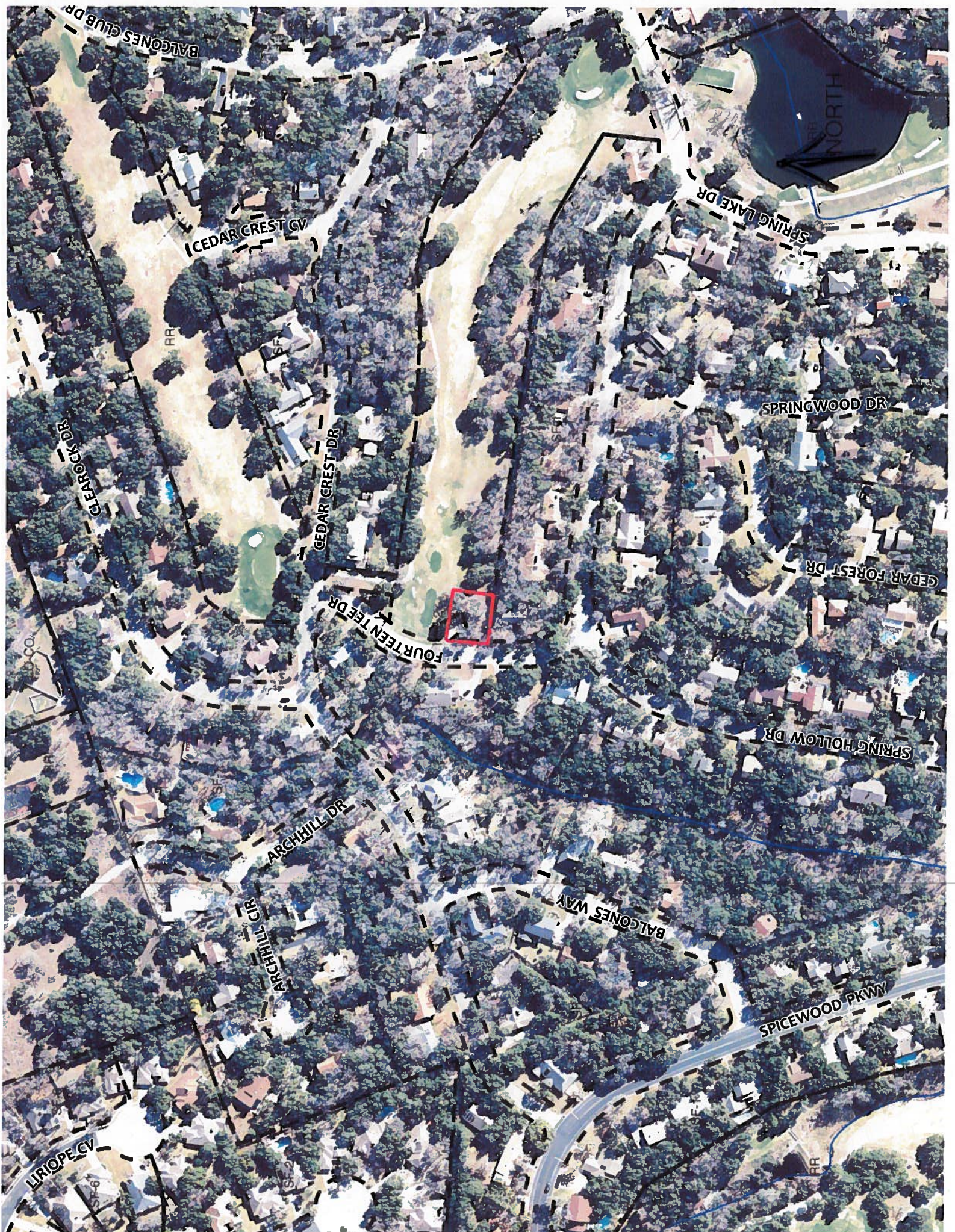
ZONING CASE
C14-2013-0095

1" = 400'

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.





STAFF RECOMMENDATION

The staff's recommendation is to grant SF-1, Single Family Residence-Large Lot District, zoning.

BASIS FOR RECOMMENDATION

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

Single-family residence large lot (SF-1) district is the designation for a low density single-family residential use on a lot that is a minimum of 10,000 square feet. An SF-1 district designation may be applied to a use on land with sloping terrain or environmental limitations that preclude standard lot size or to a use in an existing residential development on a lot that is 10,000 square feet or more.

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

The proposed zoning promotes consistency and orderly planning because there are existing single family residential uses to the south and west of this site. The property in question is located adjacent to SF-1 zoning and fronts onto a local residential street, Fourteen Tee Drive.

EXISTING CONDITIONS

Site Characteristics

The site under consideration is currently considered part of the 14th tee and contains an outbuilding as part of the Balcones Country Club golf course. There are existing single family residential houses to the south and west.

Comprehensive Planning

RR and I-SF-2 to SF-1 (Single Family Large Lot)

This zoning case is located on a .30 acre vacant lot on the east side of Fourteen Tee Drive and is not located within the boundaries of a neighborhood planning area. Surrounding land uses includes single family houses to the north, south and west and a golf course to the east. The developer wants to build a single family house on the property.

Imagine Austin

The site is located over the Edwards Aquifer Recharge Zone, as identified on the Imagine Austin's Environmental Resources Map, found in the Image Austin Comprehensive Plan (IACP). An aquifer contributing zone is an area where runoff from precipitation flows to the recharge zone of an aquifer. Streams in the contributing zone flow downstream into the recharge zone and "contribute" water to the aquifer.

The overall goal of the IACP is to achieve 'complete communities' across Austin, where housing, services, retail, jobs, entertainment, health care, schools, parks, and other daily needs are within a convenient walk or bicycle ride of one another. Page 107 of the IACP states, "While most new development will be absorbed by centers and corridors, development will happen in other areas within the city limits to serve neighborhood needs and create complete communities. Infill

*development can occur as redevelopment of obsolete office, retail, or residential sites or as new development on vacant land within largely developed areas. New commercial, office, larger apartments, and institutional uses such as schools and churches, may also be located in areas outside of centers and corridors. The design of new development should be sensitive to and complement its context. **The Growth Concept Map not only guides where Austin may accommodate new residents and jobs but also reflects the community intent to direct growth away from environmentally sensitive areas including, but not limited to, the recharge and contributing zones of the Barton Springs segment of the Edwards Aquifer, and to protect the character of neighborhoods by directing growth to areas identified by small area plans.***

The following Imagine Austin policies are taken from Chapter 4 of the IACP, which specifically discusses the promotion of a variety of housing types and building over environmentally sensitive lands:

- **LUT P22** Protect Austin's natural resources and environmental systems by limiting land use and transportation development in sensitive environmental areas and preserving areas of open space.
- **CE P2.** Conserve Austin's natural resources systems by limiting development in sensitive environmental areas, including the Edwards Aquifer, its contributing and recharge zones, and endangered species habitat.
- **H P1.** Distribute a variety of housing types throughout the City to expand the choices able to meet the financial and lifestyle needs of Austin's diverse population.

Based on the property being located within the boundaries of an existing residential subdivisions, and the Imagine Austin policies referenced above that supports a variety of housing types throughout Austin, staff believes that the proposed residential use is consistent with the Imagine Austin Comprehensive Plan as long as environmental ordinances are enforced over this environmentally sensitive area.

Environmental

The site is located over the Edwards Aquifer Recharge Zone. The site is in the 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.

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

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding 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.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code requirements.

Impervious Cover

The maximum impervious cover allowed by the SF-1 zoning district would be 40%. However, because the Watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover on this site would 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:

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

Note: The most restrictive impervious cover limit applies.

Site Plan

No site plan comments.

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 storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

Transportation

No additional right-of-way is needed at this time.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route
Fourteen Tee Drive	50	27	Local	No	No	No

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 any water and wastewater utility

improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

WARRANTY DEED

FILM CODE

00005592030

THE STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

KNOW ALL MEN BY THESE PRESENTS:

That ANN COOK McCULLICK ("Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid by BALCONES COUNTRY CLUB MEMBERSHIP ASSOCIATION, INC., a Texas non-profit corporation ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto BALCONES COUNTRY CLUB MEMBERSHIP ASSOCIATION, INC., a Texas non-profit corporation ("Grantee"), those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with Grantor's interest in all improvements thereon, and all rights, titles and interests appurtenant thereto:

1. Spicewood Golf Course:

TRACT I: 61.71 acres,
TRACT II: 83.55 acres, save and except
TRACT III: .679 and .055 acres, and

Balcones Golf Course:

TRACT IV: 60.31 acres, save and except .08 acres,
TRACT V: 15.61 acres,
TRACT VI: 8.98 acres,
TRACT VII: 6.33 acres,
TRACT VIII: 5.57 acres, save and except .016 acres,
TRACT IX: 6.48 acres,
TRACT X: 13.70 acres, save and except
TRACT XI: .298 acres, and save and except
TRACT XII: .552 acres, and save and except
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof (collectively referred to hereinafter as the "Golf Course Tracts").

2. That certain 7.12 acre tract of real property situated in the County of Travis, State of Texas, as more particularly described on Exhibit "B" attached hereto and incorporated herein by reference;

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12960 0664

Lot 48, Balcones Village Subdivision, situated in the County of Travis, State of Texas; and

Lots 41-46, Block F, Section 10, Balcones Village Subdivision, situated in the County of Travis, Texas;

collectively referred to hereinafter as the "Property."

TO HAVE AND TO HOLD the above-described Property and Golf Course Tracts, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to **WARRANT AND FOREVER DEFEND** all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

Taxes for 1997 and all prior years are assumed by Grantee.

Reservations and Exceptions

1. The Property and the Golf Course Tracts are subject to all reservations, covenants, conditions, and restrictions of record, including, by way of example and not in limitation, those restrictions set forth in that certain Warranty Deed dated to be effective as of June 19, 1997 entered into by Northwest Travis County Municipal Utility District No. 2, as Grantor, and Ann C. McCullick, as Grantee.

2. The Golf Course Tracts shall be used in perpetuity for golf and recreational purposes with right of enforcement by injunctive relief against breach of this restriction vested in Northwest Travis County Municipal Utility District No. 2, its successors and assigns.

3. The Golf Course Tracts are subject to an easement held by Northwest Travis County Municipal Utility District No. 2, its successors and assigns, and Technology Hydraulics, Inc. for the free, uninterrupted, and perpetual use of the Golf Course Tracts for irrigation disposal of treated effluent, together with a perpetual easement in favor of the same persons to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace, and remove certain irrigation facilities.

4. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Northwest Travis County Municipal Utility District No. 2 is required to convey to the City of Austin a 20-foot easement across the Golf Course Tracts at a location to be determined by Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc. At the time that the City of Austin requests

such easement, Grantee agrees to convey the easement to the City of Austin.

5. It is expressly understood and agreed by Grantor and Grantee that Grantor has no ownership interest in any of the irrigation facilities located on the Golf Course Tracts and such facilities are not included in this conveyance.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS-WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.

EXECUTED to be effective the 20th day of June, 1997.

ANN COOK MCCULLICK

Ann Cook McCullick
Ann Cook McCullick

BALCONES COUNTRY CLUB
MEMBERSHIP ASSOCIATION, INC., a
Texas non-profit corporation

By: *Guy Michael Eerson*
Name: Guy Michael Eerson
Title: President

By: *Paul Herlong Wilkinsen*
Name: Paul Herlong Wilkinsen
Title: Secretary

H2AUS1-CORBETT/37679.2

-4-

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12960 0667

FILM CODE
00005592029

8500
OK

WARRANTY DEED

THE STATE OF TEXAS
COUNTY OF TRAVIS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

Recitals

A. That Northwest Travis County Municipal Utility District No. 2, a governmental subdivision of the state of Texas, is a municipal utility district operating under the laws set forth in Chapters 49 and 54 of the Texas Water Code;

B. Section 49.226(b) of the Texas Water Code provides that any property dedicated to or acquired by a municipal utility district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release;

C. J.H. McCullick donated the property described in Exhibit "A" hereto to the Northwest Travis County Municipal Utility District No. 2 pursuant to that certain Warranty Deed recorded at Volume 8593, Page 442 of the real property records of Travis County, Texas.

D. Ann C. McCullick is the wife and sole heir of J.H. McCullick, who is deceased;

E. After careful deliberation, the Board of Directors of Northwest Travis County Municipal Utility District No. 2 has determined that it is necessary and advantageous for Northwest Travis County Municipal Utility District No. 2 to abandon and release the aforementioned property to Ann C. McCullick, as heir and successor to J.H. McCullick pursuant to the authority set forth in Section 49.226(b) of the Texas Water Code and in accordance with the terms and conditions set forth in this Warranty Deed.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Northwest Travis County Municipal Utility District NO. 2 and Ann C. McCullick hereby agree as follows:

Conveyance

That NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2, a political subdivision of the State of Texas ("Grantor"), in abandonment and release, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto ANN C. McCULLICK ("Grantee"), heir and successor of J. H. McCullick, those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with all of Grantor's rights, title and interest in

improvements (including all structures and fixtures located thereon) and all rights, titles and interests appurtenant thereto (such land, improvements and interests are hereinafter referred to as the "Property") to wit:

Spicewood Golf Course:

TRACT I: 61.71 acres,
TRACT II: 83.55 acres, save and except
TRACT III: .679 and .055 acres, and

Balcones Golf Course:

TRACT IV: 60.31 acres, save and except .08 acres,
TRACT V: 15.61 acres,
TRACT VI: 8.98 acres,
TRACT VII: 6.33 acres,
TRACT VIII: 5.57 acres, save and except .016 acres,
TRACT IX: 6.48 acres,
TRACT X: 13.70 acres, save and except
TRACT XI: .298 acres, and save and except
TRACT XII: .552 acres, and save and except
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the above-described Property, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

It is expressly understood and agreed by Grantor and Grantee that taxes for 1997 and all prior years are hereby assumed by Grantee. It is further understood and agreed that this Warranty Deed and the abandonment and release of the Property to Grantee shall not impact or relieve Grantor or other parties of their respective obligations under the following agreements: (1) that certain "Irrigation and Maintenance Agreement," dated February 21, 1991, entered into by Balcones Country Club Membership Association, Inc. and Northwest Travis County Municipal Utility District No. 2; and (2) that certain "Wastewater Services and Development Agreement," dated July 1, 1983, entered into by Spicewood Development Corporation, Northwest Travis County Municipal Utility District No. 2, Homer D. Reed, and Luther E. Smith.

Reservations and Exceptions

1. The Property shall be used in perpetuity as a golf course with the right of enforcement by injunctive relief against breach of this restriction vested in the Northwest Travis County Municipal Utility District No. 2, its successors and assigns. This covenant shall run with the land.
2. Grantor hereby excludes from the conveyance hereunder and reserves for Grantor and Grantor's successors and assigns and for Technology Hydraulics, Inc., an easement for the free, uninterrupted, and perpetual use of the Property for irrigation disposal of treated wastewater effluent, together with a perpetual easement to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace and remove all irrigation facilities existing as of the date of this conveyance.
3. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Grantor is required to convey to the City of Austin a 20-foot easement across the Property at a location to be determined by Grantor and Technology Hydraulics, Inc. At the time that the City of Austin requests such easement from Grantor, Grantee agrees to convey the easement to the City of Austin.
4. Grantor hereby excludes from the conveyance hereunder all irrigation facilities and equipment located on the Golf Course Tracts.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS--WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.

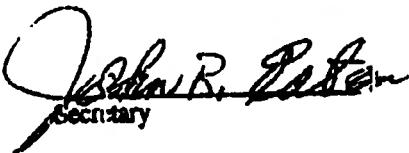
NOTWITHSTANDING THE FOREGOING, IN THE EVENT THAT IT IS EVER DETERMINED BY A COURT OF COMPETENT JURISDICTION THAT THIS CONVEYANCE IS NOT VALID FOR ANY REASON, THEN NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AGREES THAT IT SHALL OFFER THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO FOR SALE TO ANN C. MCCULLICK, OR ANY SUCCESSOR OR ASSIGN THEREOF THAT MAY BECOME THE OWNER OF THE PROPERTY, AT ITS FAIR MARKET VALUE. THIS OBLIGATION SHALL BE BINDING UPON NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AND ITS SUCCESSORS AND ASSIGNS.

EXECUTED to be effective as of the 19th day of June, 1997.

NORTHWEST TRAVIS COUNTY
MUNICIPAL UTILITY DISTRICT NO. 2

By:


Gary Potts, President


Secretary

ANN C. MCCULLICK

By:


Ann C. McCullick

ORDINANCE NO. 971204-H

AN ORDINANCE ANNEXING, FOR FULL PURPOSES, ADDITIONAL TERRITORY ADJACENT TO THE CITY LIMITS OF THE CITY OF AUSTIN, CONSISTING OF APPROXIMATELY 1,576 ACRES OF LAND OUT OF THE A.E. LIVINGSTON SURVEY NO. 155, THE WILLIAM P. MOORE SURVEY NO. 152, THE JOHN T. SMITH AND THE S.A. & M.G. RAILROAD CO. SURVEY NO. 801 AND THE WILLIAM TRAMPTON SURVEY NO. 122, THE JAMES C. IRVINE SURVEY NO. 122, THE WILLIAM MOORE SURVEY NO. 152, THE WILLIAM B. GRAY SURVEY NO. 153 AND THE JOHN M. SWISHER SURVEY NO. 32, LOCATED IN TRAVIS COUNTY, TEXAS; AND ANNEXING FOR FULL PURPOSES, TERRITORY WITHIN THE LIMITED PURPOSE BOUNDARY LIMITS OF THE CITY LIMITS OF THE CITY OF AUSTIN, CONSISTING OF APPROXIMATELY 279 ACRES OF LAND OUT OF THE A.E. LIVINGSTON SURVEY NO. 155, THE S.A. & M.G. RAILROAD CO. SURVEY NO. 801, THE WILLIAM TRAMPTON SURVEY NO. 122, THE JAMES C. IRVINE SURVEY NO. 122, THE WILLIAM MOORE SURVEY NO. 152, THE WILLIAM B. GRAY SURVEY NO. 153, AND THE JOHN M. SWISHER SURVEY NO. 32, LOCATED IN TRAVIS COUNTY, TEXAS; BOTH OF WHICH AREAS INCLUDE THE NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 1 AND ITS OUT-OF-DISTRICT SERVICE AREA, NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2, THE SPICEWOOD AT BALCONES VILLAGE SUBDIVISION, OTHER AREAS GENERALLY LOCATED BETWEEN SPICEWOOD SPRINGS ROAD ON THE SOUTH, THE EXISTING CITY LIMITS AND THE ANDERSON MILL ESTATES SUBDIVISION TO THE WEST, ANDERSON MILL ROAD TO THE NORTH, AND THE BALCONES VILLAGE SUBDIVISION AND THE EXISTING CITY LIMITS TO THE EAST; AND APPROVING A SERVICE PLAN FOR THE ANNEXED TERRITORY.

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

PART 1. FINDINGS.

The Council finds that:

- (A) Notice of public hearings concerning annexation of the territory referred to as the U.S. 183 West area and described in Exhibits A-1 and A-2 was published in a newspaper of general circulation in the City of Austin and in the area to be annexed.
- (B) Public hearings were held on October 14, 1997 at 6:30 p.m. at Spicewood Elementary School, October 16, 1997 at 6:30 p.m. in Council Chambers, and October 27, 1997 at 7:00 p.m. at Hope Presbyterian Church. Spicewood Elementary School and Hope Presbyterian Church are located in the area to be annexed.
- (C) The public hearings were concluded after providing an opportunity for all persons present to be heard with respect to the proposed annexation. A proposed Service Plan for this area was made available and explained at the public hearings.
- (D) The annexation, for full purposes of the territory described in Exhibits A-1 and A-2 serves the interests of the current and future residents of the City of Austin.
- (E) The revised Service Plan, as amended through negotiation, is attached to this ordinance as Exhibit B, and the number and level of the municipal services provided in the Service Plan meets or exceeds all State law requirements.
- (F) All procedural requirements imposed by state law for the annexation of the territory described in Exhibits A-1 and A-2 have been met.

PART 2. Boundary Adjustments.

- (A) The present boundary limits of the City are amended to include the following territory which is within the extraterritorial jurisdiction and adjacent to the city limits of the City of Austin in Travis County, Texas, and which is annexed into the City for full purposes:

Three tracts of land, same being out of the A.E. Livingston Survey No. 155, the William P. Moore Survey No. 152, the John T. Smith and the S.A. & M.G. Railroad Co. Survey No. 801 and the William Trampton Survey No. 122, the James C. Irvine Survey No. 122, the William Moore Survey No. 152, the William B. Gray Survey No. 153 and the John M. Swisher Survey No. 32 in Travis County, Texas, the tract of land described as Number One containing 1456 acres of land more or less, the tract of land described as Number Two containing 74 acres of land, more or less, and the tract of land described as Number Three containing 46 acres of land, more or less, which three tracts of land are more particularly described in Exhibit A-1 attached to this ordinance; and

- (B) The present boundary limits of the City are amended to include the following territory which is within the limited purpose boundary limits of the City of Austin in Travis County, Texas, and which is annexed into the City for full purposes:

Five tracts of land, same being out of and a part of the A.E. Livingston Survey No. 155, the S.A. & M.G. Railroad Co. Survey No. 801, the William Trampton Survey No. 122, the James C. Irvine Survey No. 122, the William Moore Survey No. 152, the William B. Gray Survey No. 153 and the John M. Swisher Survey No. 32 in the City of Austin, Travis County, Texas, the tract of land described as Number One containing 13 acres of land, more or less, the tract of land described as Number Two containing 16 acres of land, more or less, the tract of land described as Number Three containing 9 acres of land, more or less, the tract of land described as Number Four containing 70 acres of land, more or less, and the tract described as Number Five containing 171 acres of land, more or less, said five tracts of land being more particularly described in Exhibit A-2 attached to this ordinance.

PART 3. The Northwest Travis County Municipal Utility District No. 1 is abolished on December 31, 1997, the effective date of this ordinance. On that date, and in accordance with the provisions of state law, the City shall take over all the property and other assets of the District and shall assume all the debts, liabilities, and obligations of the District.

PART 4. The Northwest Travis County Municipal Utility District No. 2 is abolished on December 31, 1997, the effective date of this ordinance. On that date, and in accordance with the provisions of state law, the City shall take over all the property and other assets of the District and shall assume all the debts, liabilities, and obligations of the District.

PART 5. The Service Plan attached as Exhibit B is approved as the Service Plan for the annexed area.

PART 6. The City Council directs the City Manager to negotiate with Technology Hydraulics, Inc. to find ways to reduce the monthly wastewater costs of its customers.

PART 7. The City Council declares that its purpose is to annex to the City of Austin every part of the area described in Exhibits A-1 and A-2 as provided in this ordinance, regardless of whether any other part of the described area is effectively annexed to the City. If this ordinance is held invalid as to any part of the area annexed to the City of Austin, that invalidity does not affect the effectiveness of this ordinance as to all of the remainder of the area.

If any area or lands included within the description of the area set out in Exhibits A-1 and A-2 are: (1) presently part of and included within the general limits of the City of Austin; (2) presently part of and included within the limits of any other city, town, or village; or (3) are not within the jurisdiction or power of the City of Austin to annex, then that area is excluded and excepted from the area annexed as fully as if the excluded and excepted area were expressly described in Exhibits A-1 and A-2.

PART 8. The Council waives the requirements of Sections 2-2-3 and 2-2-7 of the City Code for this ordinance.

PART 9. This ordinance takes effect on December 31, 1997.

PASSED AND APPROVED

December 4

, 1997.

§
§
§

Kirk Watson

Kirk Watson
Mayor

APPROVED:

Andrew Martin

Andrew Martin
City Attorney

ATTEST:

James E. Aldridge

James E. Aldridge
City Clerk

P E T I T I O N

Date: August 25, 2013

File Number: C14-2013-0095

Address of Rezoning Request: 9405 Fourteen Tee Drive

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than RR – Golf Course.

It has been our understanding that the Golf Course properties were to be used for golf or recreational purposes in perpetuity. The land in issue is a part of the Golf Course properties. We believe the applicant in this case intends to develop this land, perhaps constructing a homestead (although a bed and breakfast appears to be a permitted use under the requested SF-1 zoning), which is in direct contravention of our understanding and the decades-old deed restrictions which are currently in place covering and protecting the Golf Course properties from this sort of development.

Rezoning this property to SF-1 is contradictory to the deed restrictions as it allows residential development, which is neither golf nor recreational use. Allowing the rezoning will open the buyer up to potential litigation filed by the beneficiaries of these deed restrictions (current homeowners in the area) down the road. Allowing the re-zoning could be misleading to the buyers and others.

Prior to its abolition by the City of Austin, the Northwest Travis County MUD #2 (MUD) transferred the Golf Course properties, including the land in issue, with a restriction that the transferred properties would be used as a golf course, a restriction it stated would run with the land. The properties were then deeded to the Balcones Country Club Membership Association, which the restriction that the properties be used for golf and recreational purposes.

The City of Austin, per Ordinance dated December 4, 1997, abolished and assumed the obligations of the MUD. The City has the ability, and perhaps the obligation, to enforce the deed restriction, pursuant to its takeover of the MUD. Allowing re-zoning implies that the land can be used for other purposes, which is inconsistent with the restriction the City now holds the right to enforce.

Allowing re-zoning of the land in issue, although it is a small parcel in and of itself, could open the door to broader development of the Golf Course properties, which will be detrimental to the current homeowners in the neighborhood. It is especially troubling to those who have maintained homesteads adjacent to the Golf Course properties, with the assumption that the deed restrictions in place would protect the Golf Course properties from development and protect the investment made in this community.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
<i>S. Legett</i>	Suzanne Legett	9401 14th Tee Dr 78750
<i>Stuart Holland</i>	Stuart Holland	9306 Spring Hollow 78750
<i>Holly Holland</i>	Holly Holland	9306 Spring Hollow 78750
<i>Maria R. Washington</i>	Maria Washington	9302 Spring Hollow Dr. 78750
<i>Ester Gonzalez</i>	Ester Gonzalez	9302 Spring Hollow Dr. 78750
<i>Frank Garcia</i>	FRANK GARCIA	9305 Spring Hollow Dr 78750
<i>Larissa Bradford</i>	Larissa Bradford	9307 Spring Hollow Dr. 78750
<i>Peter Bradford</i>	Peter Bradford	9307 Spring Hollow Dr 78750
<i>Carolyn J. Kostecky</i>	Carolyn J. Kostecky	9404 14th Tee Dr. 78750
<i>Ronald Kostecky</i>	RONALD KOSTECKY	9404 14th TEE DR. 78750
<i>Carol Van Rosenberg</i>	CAROL VAN ROSENBERG	9401 CEDAR CREST 78750
<i>Michael R. Blissit</i>	Michael R. Blissit	9305 Cedar Crest Dr.
<i>Kelley K. Blissit</i>	Kelley K. Blissit	✓ / - -

Date: 8/28/13

Contact Name: *Suzanne Legett*
 Phone Number: 512-902-8163

PETITION

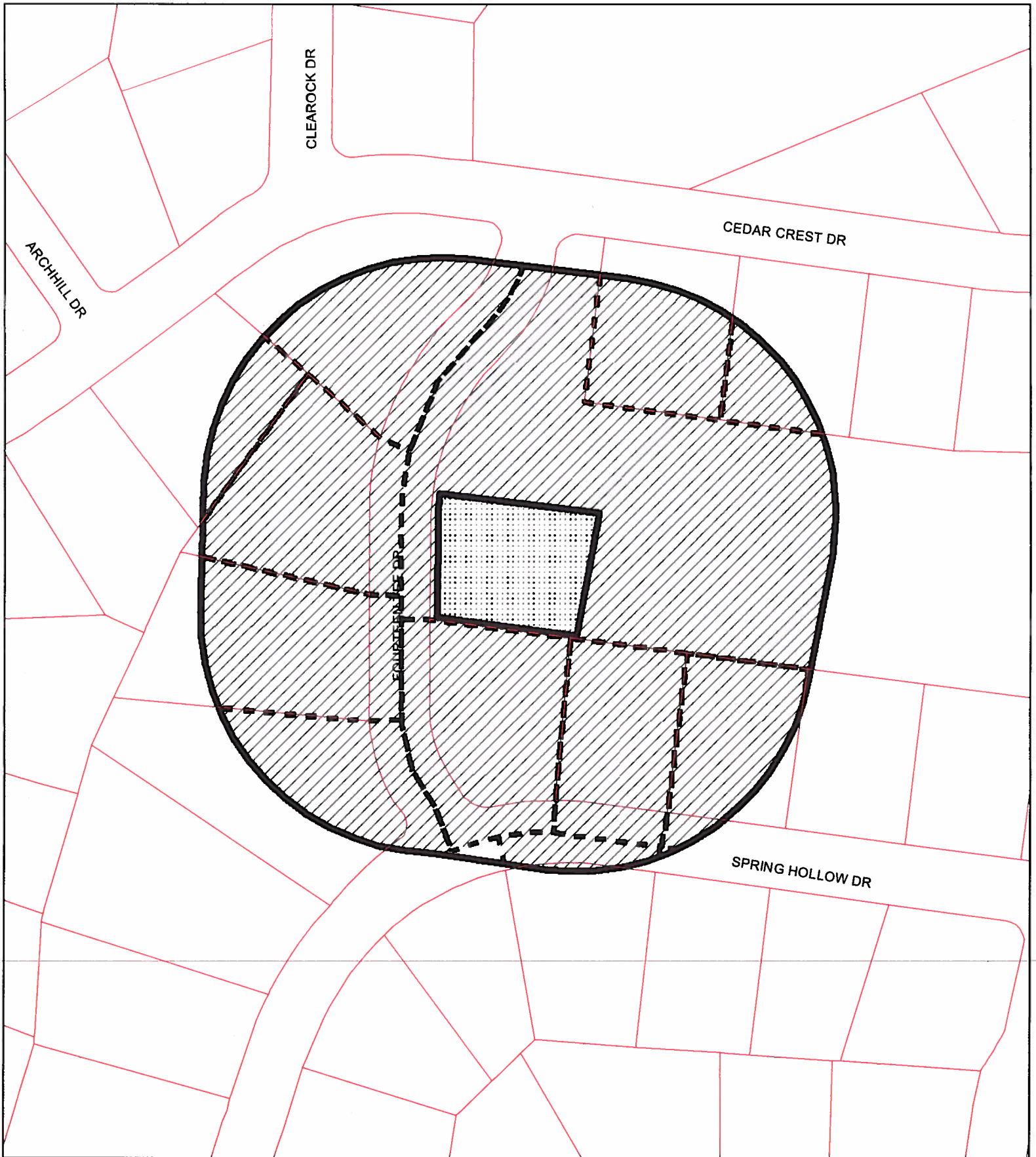
Case Number: **C14-2013-0095**

Date: 9/6/2013

Total Square Footage of Buffer:	218339.07
Percentage of Square Footage Owned by Petitioners Within Buffer:	43.13%



Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.



SUBJECT_TRACT

PROPERTY_OWNER

BUFFER

PETITION

CASE#: C14-2013-0095

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.



Sirwaitis, Sherri

Subject: FW: ZAP Cases September 3, 2013

-----Original Message-----

From: Skip Cameron [REDACTED]

Sent: Tuesday, August 27, 2013 5:30 PM

To: Meeker, Jason - BC; Seeger, Patricia - BC; McDaniel, Rahm - BC; Compton, Sean - BC; Banks, Cynthia - BC; Rojas, Gabriel - BC; Baker, Betty - BC; Hoelter, Nikki; Crow, Ross; Ferri, Jennifer

Cc: Li, Victoria J; Guernsey, Greg

Subject: ZAP Cases September 3, 2013

Regarding these 3 cases:

2013-080209 ZC C14-2013-0096

The applicant is proposing to rezone property from RR to SF-1.

11512 Spicewood Parkway

2013-080220 ZC C14-2013-0097

The applicant is proposing to rezone property from RR to SF-1.

11300 Spicewood Parkway

2013-080191 ZC C14-2013-0095

The applicant is proposing to rezone property from RR and I-SF-2 to SF-1.

9405 Fourteen Tee Drive

Preserving the vitality of critical environmental features in Bull Creek watershed neighborhoods is critical. Bull Creek is the only Edwards Aquifer spring fed creek that supplies part of our drinking water.

There will be adverse environmental impact to the immediate area and to Bull Creek Watershed.

These tracts were specifically and conscientiously preserved for drainage, spring protection, wildlife habitat and wildlife passage.

These tracts were set aside when the Balcones Country Club was developed, and Deed Restrictions indicate that these tracts can only be used for recreational and golf course uses only.

There is no condition imaginable where anything other than RR zoning is appropriate.

Please deny the zoning change on these 3 cases and reaffirm the long standing and correct zoning of RR.

Thank you,

Skip Cameron, President

Bull Creek Foundation

8711 Bluegrass Dr.

Austin, TX 78759

(512) 794-0531

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0095

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Suzanne Leggett

Your Name (please print)

9401 14th Tree Dr, 78750

Your address(es) affected by this application

Suzanne Leggett 8/26/13

Signature

Date

Daytime Telephone: (512) 902-8163 / (512) 451-7105

Comments:

See attachment, etc

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

August 26, 2013

Case #: **C14-2013-0095**

To: Sherri Sirwaitis

Planning and Development Review Department

Comments to Rezoning Objection:

I object to the proposed rezoning of a recreational land plot on 14th Tee Drive; Balcones Village of Austin, Texas. This plot runs adjacent to my property – 9401 14th Tee Drive. The proposed rezoning to a single family dwelling would adversely affect my home property value. I purchased my home in 1994, understanding the neighborhood Deed restrictions and the assurance that the integrity of the area would be maintained. My property provides a golf course view/access; I understood the land next to mine would remain recreational use only. The proposed rezoning boundaries on the adjacent 14th Tee land would completely cut off golf course access and view from my property. The only communication received on the proposed rezoning came after I called a meeting with the Balcones Country Club Board. Information from the Balcones Country Club Board has been conflicting and sporadic.

I appreciate this opportunity/forum to express my grievance and concern with the rezoning proposal and the violation of existing Balcones Village Deed restrictions.

Thank you,


Suzanne Leggett

9401 14th Tee Drive

Austin, Texas 78750

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0095

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Stuart Holland
Your Name (please print)

☐ I am in favor
☒ I am object

9306 Spring Hollow
Your address(es) affected by this application

Stuart Holland
Signature

8/26/13
Date

Daytime Telephone: 512-826-3446

Comments: Existing warranty deed of
9405 Fourteen Tee Drive Austin, TX 78750"
restricts any re zoning of property.
Ms. Sirwaitis has been issued a copy of
this deed. The property shall be used in
perpetuity as a golf course with the right of
self-enforce enforcement by injunctive relief
against breach of ~~contract~~ this restriction vested
in Travis County MUD #2 & its successors (City of
Austin). ~~See~~ (See attached deed)

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

FILM CODE
00005592029

850
OK

WARRANTY DEED

THE STATE OF TEXAS
COUNTY OF TRAVIS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

Recitals

A. That Northwest Travis County Municipal Utility District No. 2, a governmental subdivision of the state of Texas, is a municipal utility district operating under the laws set forth in Chapters 49 and 54 of the Texas Water Code;

B. Section 49.226(b) of the Texas Water Code provides that any property dedicated to or acquired by a municipal utility district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release;

C. J.H. McCullick donated the property described in Exhibit "A" hereto to the Northwest Travis County Municipal Utility District No. 2 pursuant to that certain Warranty Deed recorded at Volume 8593. Page 442 of the real property records of Travis County, Texas.

D. Ann C. McCullick is the wife and sole heir of J.H. McCullick, who is deceased;

E. After careful deliberation, the Board of Directors of Northwest Travis County Municipal Utility District No. 2 has determined that it is necessary and advantageous for Northwest Travis County Municipal Utility District No. 2 to abandon and release the aforementioned property to Ann C. McCullick, as heir and successor to J.H. McCullick pursuant to the authority set forth in Section 49.226(b) of the Texas Water Code and in accordance with the terms and conditions set forth in this Warranty Deed.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Northwest Travis County Municipal Utility District NO. 2 and Ann C. McCullick hereby agree as follows:

Conveyance

That NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2, a political subdivision of the State of Texas ("Grantor"), in abandonment and release, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto ANN C. McCULLICK ("Grantee"), heir and successor of J. H. McCullick, those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with all of Grantor's rights, title and interest in

improvements (including all structures and fixtures located thereon) and all rights, titles and interests appurtenant thereto (such land, improvements and interests are hereinafter referred to as the "Property") to wit:

Spicewood Golf Course:

TRACT I: 61.71 acres,
TRACT II: 83.55 acres, save and except
TRACT III: .679 and .055 acres, and

Balcones Golf Course:

TRACT IV: 60.31 acres, save and except .08 acres,
TRACT V: 15.61 acres,
TRACT VI: 8.98 acres,
TRACT VII: 6.33 acres,
TRACT VIII: 5.57 acres, save and except .016 acres,
TRACT IX: 6.48 acres,
TRACT X: 13.70 acres, save and except
TRACT XI: .298 acres, and save and except
TRACT XII: .552 acres, and save and except
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the above-described Property, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

It is expressly understood and agreed by Grantor and Grantee that taxes for 1997 and all prior years are hereby assumed by Grantee. It is further understood and agreed that this Warranty Deed and the abandonment and release of the Property to Grantee shall not impact or relieve Grantor or other parties of their respective obligations under the following agreements: (1) that certain "Irrigation and Maintenance Agreement," dated February 21, 1991, entered into by Balcones Country Club Membership Association, Inc. and Northwest Travis County Municipal Utility District No. 2; and (2) that certain "Wastewater Services and Development Agreement," dated July 1, 1983, entered into by Spicewood Development Corporation, Northwest Travis County Municipal Utility District No. 2, Homer D. Reed, and Luther E. Smith.

Reservations and Exceptions

1. The Property shall be used in perpetuity as a golf course with the right of enforcement by injunctive relief against breach of this restriction vested in the Northwest Travis County Municipal Utility District No. 2, its successors and assigns. This covenant shall run with the land.
2. Grantor hereby excludes from the conveyance hereunder and reserves for Grantor and Grantor's successors and assigns and for Technology Hydraulics, Inc., an easement for the free, uninterrupted, and perpetual use of the Property for irrigation disposal of treated wastewater effluent, together with a perpetual easement to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace and remove all irrigation facilities existing as of the date of this conveyance.
3. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Grantor is required to convey to the City of Austin a 20-foot easement across the Property at a location to be determined by Grantor and Technology Hydraulics, Inc. At the time that the City of Austin requests such easement from Grantor, Grantee agrees to convey the easement to the City of Austin.
4. Grantor hereby excludes from the conveyance hereunder all irrigation facilities and equipment located on the Golf Course Tracts.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS--WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.

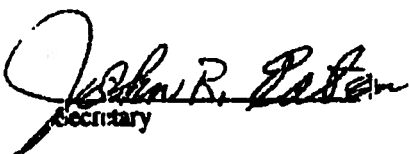
NOTWITHSTANDING THE FOREGOING, IN THE EVENT THAT IT IS EVER DETERMINED BY A COURT OF COMPETENT JURISDICTION THAT THIS CONVEYANCE IS NOT VALID FOR ANY REASON, THEN NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AGREES THAT IT SHALL OFFER THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO FOR SALE TO ANN C. MCCULLICK, OR ANY SUCCESSOR OR ASSIGN THEREOF THAT MAY BECOME THE OWNER OF THE PROPERTY, AT ITS FAIR MARKET VALUE. THIS OBLIGATION SHALL BE BINDING UPON NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AND ITS SUCCESSORS AND ASSIGNS.

EXECUTED to be effective as of the 19th day of June, 1997.

NORTHWEST TRAVIS COUNTY
MUNICIPAL UTILITY DISTRICT NO. 2

By: 

Gary Potts, President


Secretary

ANN C. MCCULLICK

By: 

Ann C. McCullick

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov/zoning

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0095

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Peter & Larissa Bradford

Your Name (please print)

9207 Spring Hollow Dr. Austin TX 78750

Your address(es) affected by this application

☐ I am in favor
☒ I object

Signature

Date

Daytime Telephone: 512-330-4886 / 512-339-1440

Comments:

① Observing deed restrictions conveyed at the sale of the original tracts, the intended use of land appears to be in violation of that agreement. Any changes could bring suits against the contracting agent and possibly the city.

② We have no desire to open the larger tracts of land to non-recreational use, which is a possible result of violating the original agreement.

If you use this form to comment, it may be returned to:
City of Austin
Planning & Development Review Department
Sherri Sirwaitis
P. O. Box 1088
Austin, TX 78767-8810
HOA requirements. Thus, the house or resulting structure would look out of place.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0095

Contact: Sherri Sirwaitis, 512-974-3057

**Public Hearing: Sep 3, 2013, Zoning and Platting Commission
Sep 26, 2013, City Council**

RONALD KOSTELECKY Carolyn J. Kostecky
Your Name (please print)

☐ I am in favor
☒ I object

9404 Fourteen Tee Dr Austin
Your address(es) affected by this application

Ronald Kostelecky Carolyn Kostecky 8/27/2013
Signature Date

Daytime Telephone: 512.331.0928

Comments: Please see ATTACHED

If you use this form to comment, it may be returned to:

City of Austin
Planning & Development Review Department
Sherri Sirwaitis
P. O. Box 1088
Austin, TX 78767-8810

To: Zoning and Platting Commission, City of Austin
Contact: Sherri Sirwaitis

From: Ronald and Carolyn Kostelecky
9404 Fourteen Tee Drive, Austin, TX

Re: Public Hearing September 3, 2013
Case Number C-14-2013-0095/Rezoning Application for 9405 Fourteen Tee Drive

Fourteen Tee Drive is a short street with only three residential addresses. Our home sits directly across the street from the 14th Tee of Balcones Golf Course and the property in question. Since 1984, when we purchased our home, we have enjoyed the unobstructed view from our front doorstep of the fairway as well as the natural trees and foliage along the creek bed at the rear of our home. *The promise in our deed that our front porch view and its accompanying quiet street would always remain* played large in our decision to make this our permanent homestead.

Our *primary* concern, however, with the proposed change of zoning for the property is that the deed restrictions that bind our community will not apply to the newly rezoned property. We are very concerned that rezoning this lot from RR-golf course to SF-1 without deed restrictions will open our neighborhood to other types of development, such as multi-family and/or commercial usage. The Balcones Village/Spicewood Homeowners Association, the "enforcers" of our deed restrictions, would have no power or authority to maintain the quality of properties in our neighborhood that currently are located on the golf course. Our deed includes restrictions, covenants, conditions and uses regarding our home properties (i.e., single family residences only, no temporary structures, size and exterior construction of dwellings, set-backs, and so forth).

Additionally, we protest the abrogation of the Warranty Deed that conveyed the NW Travis County MUD District No. 2 to the City of Austin. The first point in the "Reservations and Exceptions" section of the Warranty Deed dated June 19, 1997, begins: *"The Property shall be used in perpetuity as a golf course..."* The Warranty Deed dated June 20, 1997, that brought the Balcones Golf Course into the City of Austin added this statement in the "Reservations and Exceptions" section: *"The Golf Course Tracts shall be used in perpetuity for golf and recreational purposes with right of enforcement by injunctive relief against broach of this restriction..."*

We are concerned that allowing the rezoning of the property in question will diminish the quality of our neighborhood thus making it a less desirable place for families and eventually lowering the value of our home and property. *We object to the proposed rezoning* of the Balcones Golf Course lot, which for purposes of their petition the developers call 9405 Fourteen Tee Drive.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov/zoning

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0095

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Michelle R. Buissit
Your Name (please print)

9305 Cedar Crest Dr.
Your address(es) affected by this application

[Signature]
Signature

8/28/13
Date

Daytime Telephone: *512-250-5620*

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810



August 29, 2013

Sherri Sirwaitis
Planning & Development Dept
City of Austin, Texas

Dear Ms. Sirwaitis,

This correspondence is being sent in connection with the following rezoning cases in the Balcones/Spicewood neighborhood:

Number C14-2013-0097 for property at 11300 Spicewood Parkway, Austin, TX 78750
Number C14-2013-0096 for property at 11512 Spicewood Parkway, Austin, TX 78750
Number C14-2013-0098 for property at 9900 Mandeville Circle, Austin, TX 78750
Number C14-2013-0095 for property at 9405 Fourteen Tee Drive, Austin, TX 78750

Balcones Club Management LP (Balcones Club) has entered into a 99 year lease with Balcones Country Club Membership Association (BCCMA), the owner of Balcones Country Club and the parcels subject to the action above. Balcones Club is responsible for the successful operations of the Country Club.

We agree to the removal of the parcels identified above from our lease upon their successful sale. The parcel sales will not impact operations at the Country Club and funds generated from these sales will be reinvested into the facility of the Country Club, which will in turn have a positive impact on the community.

Regards,


Ken Story
Partner
Balcones Club Management LP
an affiliate of Arnold Palmer Golf Management

5430 LBJ Freeway
Three Lincoln Centre
Suite 1400
Dallas, Texas 75240
T 972 419 1400
F 972 419 1450
www.centurygolf.com
www.palmergolf.com

August 26, 2013

Case #: **C14-2013-0095**

To: Sherri Sirwaitis

Planning and Development Review Department

Comments to Rezoning Objection:

I object to the proposed rezoning of a recreational land plot on 14th Tee Drive; Balcones Village of Austin, Texas. This plot runs adjacent to my property – 9401 14th Tee Drive. The proposed rezoning to a single family dwelling would adversely affect my home property value. I purchased my home in 1994, understanding the neighborhood Deed restrictions and the assurance that the integrity of the area would be maintained. My property provides a golf course view/access; I understood the land next to mine would remain recreational use only. The proposed rezoning boundaries on the adjacent 14th Tee land would completely cut off golf course access and view from my property. The only communication received on the proposed rezoning came after I called a meeting with the Balcones Country Club Board. Information from the Balcones Country Club Board has been conflicting and sporadic.

I appreciate this opportunity/forum to express my grievance and concern with the rezoning proposal and the violation of existing Balcones Village Deed restrictions.

Thank you,

Suzanne Leggett

9401 14th Tee Drive

Austin, Texas 78750

To: Zoning and Platting Commission, City of Austin
Contact: Sherri Sirwaitis

From: Ronald and Carolyn Kostelecky
9404 Fourteen Tee Drive, Austin, TX

Re: Public Hearing September 3, 2013
Case Number C-14-2013-0095/Rezoning Application for 9405 Fourteen Tee Drive

Fourteen Tee Drive is a short street with only three residential addresses. Our home sits directly across the street from the 14th Tee of Balcones Golf Course and the property in question. Since 1984, when we purchased our home, we have enjoyed the unobstructed view from our front doorstep of the fairway as well as the natural trees and foliage along the creek bed at the rear of our home. *The promise in our deed that our front porch view and its accompanying quiet street would always remain* played large in our decision to make this our permanent homestead.

Our *primary* concern, however, with the proposed change of zoning for the property is that the deed restrictions that bind our community will not apply to the newly rezoned property. We are very concerned that rezoning this lot from RR-golf course to SF-1 without deed restrictions will open our neighborhood to other types of development, such as multi-family and/or commercial usage. The Balcones Village/Spicewood Homeowners Association, the “enforcers” of our deed restrictions, would have no power or authority to maintain the quality of properties in our neighborhood that currently are located on the golf course. Our deed includes restrictions, covenants, conditions and uses regarding our home properties (i.e., single family residences only, no temporary structures, size and exterior construction of dwellings, set-backs, and so forth).

Additionally, we protest the abrogation of the Warranty Deed that conveyed the NW Travis County MUD District No. 2 to the City of Austin. The first point in the “Reservations and Exceptions” section of the Warranty Deed dated June 19, 1997, begins: *“The Property shall be used in perpetuity as a golf course...”* The Warranty Deed dated June 20, 1997, that brought the Balcones Golf Course into the City of Austin added this statement in the “Reservations and Exceptions” section: *“The Golf Course Tracts shall be used in perpetuity for golf and recreational purposes with right of enforcement by injunctive relief against broach of this restriction...”*

We are concerned that allowing the rezoning of the property in question will diminish the quality of our neighborhood thus making it a less desirable place for families and eventually lowering the value of our home and property. *We object to the proposed rezoning* of the Balcones Golf Course lot, which for purposes of their petition the developers call 9405 Fourteen Tee Drive.

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0095

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Sherri Sirwaitis
Your Name (please print)

☐ I am in favor
☐ I object

2401 CEDAR CREST DR.
Your address(es) affected by this application

Sherri Sirwaitis
Signature

8/28/13
Date

Daytime Telephone: 512-258-2826

Comments: LIVED AT THIS ADDRESS

FOR 40 YRS! THIS PROPERTY

WILL DESTROY OUR PROPERTY

VALUE & DESTROY OUR VIEW OF

THE GOLF COURSE. WE HOPE

YOU WILL REALIZE THAT WE

DON'T WANT TO BE ARROWDING AND

OUR OPENESS WILL BE COMPROM-

ISED! SORRY ABOUT THE TRENOR!

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

H. GLENN HALL

Attorney at Law
Board Certified
Commercial Real Estate Law
Texas Board of Legal Specialization

4408 Spicewood Springs Road
Austin, Texas 78759

Telephone: (512) 236-8955
e-mail: g_hall@texas.net

August 30, 2013
Certified, Return Receipt Requested
with copies by United States First Class Mail

Balcones Country Club Membership Association
8600 Balcones Club Drive
Austin, Texas 78750
Attn: David Roon, President

Re: Proposed Rezoning of Properties Conveyed to Balcones Country Club Membership Association by Ann Cook McCullick

Ladies and Gentlemen:

This law firm represents John Cotton and Traci Cotton in connection with the referenced matter. As you should know, the deed by which these properties were conveyed to the Balcones Country Club Membership Association (the "BCCMA"), recorded at Volume 12960, Page 664, Real Property Records, Travis County, Texas (the "Deed"), contained very explicit and unambiguous restrictions on the use of these properties, which were described in the deed as "Golf Course Tracts." Those restrictions (the "Restrictions") provide, *inter alia*, as follows: "The Golf Course Tracts shall be used in perpetuity for golf and recreational purposes"

It is our understanding that the proposed rezoning was initiated at a Stockholders Meeting which was held on December 19, 2012, pursuant to a notice which contained materially inaccurate and misleading information. Specifically, the notice referred to the sale of "residential lots" which do not exist and contained the equivocating statement that the "properties which are to be discussed are undeveloped parcels and are not part of the *playable* [emphasis added] areas of either the Balcones or Spicewood Golf Courses." The tracts to which the rezoning application applies are part of the Golf Course Tracts described in the Deed. I doubt that the Deed's grantor, Ann Cook McCullick, would agree that the "sale of residential lots" out of the Golf Course Tracts would constitute use "in perpetuity for golf and recreational purposes," or that the Restrictions apply only to the "playable" areas of the Balcones or Spicewood Golf Courses. If the grantor had intended that the conveyed properties be used as nothing more than a source of income, she could have sold the properties and donated the sales proceeds to the BCCMA.


It is a well-established principle in Texas law that when a given property is subject to both zoning regulation and restrictive covenants, whichever of the two is the most restrictive will control. Clearly, the permitted uses under the City of Austin zoning SF-1 are less restrictive than use "in perpetuity for golf and recreational purposes," and the Restrictions apply to all of the Golf Course Tracts, as described in the deed, and not merely to the "playable areas," whatever

that term might mean. It is also a well-established principle in Texas law that any person benefitted by a deed restriction (or restrictive covenant) is entitled to enforce that restriction or restrictive covenant. It is clear that the members of the BCCMA were intended beneficiaries of the Restrictions and are therefore entitled to enforce them.

Since the proposed re-zoning will have no effect on the Restrictions, the Board of Directors appears to be contemplating selling the affected tracts in violation of the Restrictions. In my opinion it is not likely that a title agent or title insurance company will issue an owner or lender's policy without taking exception to the Restrictions, but even if one should do so, the BCCMA would still be liable to a buyer for damages resulting from the enforcement of the Restrictions.

In light of the foregoing considerations, on behalf of my clients I strongly urge that the Board of Directors withdraw its rezoning application before any hearings and before any further legal costs are incurred. If you have any questions or comments, please do not hesitate to contact me.

Sincerely yours,


H. Glenn Hall

cc: John Cotton
Traci Cotton
Bob Cotton
Jimmy Helm
John Drieling
David Dew
Hutson Land Planners
Sherri Sirwaitis

September 25, 2013
11604 Jamieson Drive
Austin, Texas 78750-2544

Austin City Council
301 W. Second St.
Austin, Texas 78701

RE: Case Numbers C14-2013-0095, C14-2013-0096, C14-2013-0097, C14-2013-0098

Dear Council Members:

I would like to make a few comments and provide some background information regarding the referenced case numbers.

Just for clarification, my name is Tom Manning, and I have lived in the Balcones Village/Spicewood area for a little over 30 years. I was President of the Northwest Travis Municipal Utility District (MUD) #2 for about 9 years, and was in that office at the time that the developer of the area, who also owned the golf course property as well as the country club facilities, divested themselves of the property. I, along with Jack Firth, representing the Balcones Country Club, and Jim McCullick, representing Spicewood Development Corporation, were the ones that negotiated, agreed to, and signed the paperwork that transferred ownership of the golf course property to the MUD, and the ownership of the country club facilities (buildings, pools, tennis courts, etc.) to BCC.

When the land was initially platted for the various sections, and the 2 golf courses, there was property that was not platted, but neither was it a part of the playable golf courses. This property was retained by the developer. Some of this land was not usable as lots because back then, we did not have city sewer, and the homes needed drainage fields, to accommodate their individual cesspools, which could not be built on the property; some of the land was left open for drainage reasons, and some of the land was left open, along with the 36 playable holes, to meet requirements from the state to handle the distribution of gray water from the private sewage treatment plant that served the homes in the Spicewood section and the sewage treatment plant owned by the MUD. All of the property that was not platted was lumped together and title for that property was transferred to the MUD.

Back when the transfer happened in the early 90's, the area was not in the city of Austin, but annexation was anticipated. When we drafted the documents to cover the transfer, we wanted to make sure that the MUD had adequate surface ground area to meet the state requirements for the gray water distribution, and we also wanted to protect the golf course property for BCC, because with the annexation, the city of Austin would obtain ownership of all of the MUD facilities and property, and could choose to stop using the sewage treatment facilities and MUD property for gray water distribution, and decide to make some other use of the property. For that reason, a clause was included that tied the use of the land to serve as both gray water distribution and golf course recreational activity.

Since that time, a number of things have happened:

1) The city of Austin did annex the entire area, but prior to the annexation, the MUD was able to transfer ownership of the property that it had to BCC, so protecting the use of the property as a golf course for BCC is no longer an issue. BCC is in the best position to determine the need and what to do with the property.

2) The city of Austin has now provided sewage service to the entire area, so some of the property that previously could not be used as lots because of drain field issues, can now be built on.

3) The city of Austin has taken over operation of both the private sewage system and the MUD system, and as anticipated many years ago, has chosen to no longer use the golf course for distribution of the gray water. As a result, the need to protect surface area to use for that purpose is gone.

Keeping BCC a viable entity is important to keeping our neighborhood an attractive place to live. The BCC Board would like to make some improvements to the BCC facilities, and have decided that they can raise funds to do this by selling off some property that is not needed. Some concerns have been raised regarding the protection clauses associated with the deed.

Provided that the primary focus is consistent with the intent of the protection clauses of retaining the 36 holes of golf, tennis, swimming, and clubhouse facilities, disposition of unneeded property by platting and selling lots with deed restrictions matching the ones that currently apply to the neighborhood should not be an issue. Our neighborhood is one of single family dwellings, and conversion of property to single family homes is the most desirable use of this unneeded property. All of this property needs to be re-zoned, and if there are issues such as size or drainage associated with individual lots, that should be sorted out in the zoning process.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Thomas W. Manning', with a stylized, flowing script.

Thomas W. Manning

September 30, 2013

City of Austin – Zoning & Platting Commission

Tuesday, October 1, 2013 – Public Hearing

Case # C14-2013-0095

Dear Commissioners,

Please accept the following statement in my absence for Case #C14-2013-0095; specifically the 14th Tee Drive lot.

Due to a prior commitment, I am unable to attend the October 1st rescheduled hearing.

My name is Suzanne Leggett, I am the current owner of 9401 14th Tee Drive, Austin, Texas 78750. My property runs adjacent to the 14th Tee Drive lot, proposed for re-zoning.

I strongly object to the re-zoning and development of the 14th Tee lot on Balcones Country Club for the following reasons. Note my objection timeline:

- From my experience the Balcones Country Club Board has not been forthcoming to area residence on the proposed lot expansions/re-zoning. I am not confident or comfortable that they have the best interest of current Balcones/Spicewood home owners.
- Only after attending the June 2013 Balcones HOA meeting was I able to receive information on the proposed 14th Tee Drive development. All efforts to contact the 14th Tee Drive listed realtor went unanswered. At the HOA meeting on June 12th it was brought to my attention that the HOA Board secretary was in fact the listed realtor who had not returned my calls. In addition, one of the vocal HOA Board members ALSO serves on the

- I do not support the manner in which the BCC has steamrolled this proposed development. The Balcones Country Club Board has not made any overture to listen and work with current residence.

I thank you for your time and willingness to listen to both sides. I hope and pray that you will open your heart and mind to all concerns and reject the proposed Balcones/Spicewood re-zoning and development – Case # C14-2013-0095.

Sincerely,

Suzanne Leggett

9401 14th Tee Drive

Austin, Texas 78750.

I

PARCEL #2 – 9403 14 TEE DRIVE

- EXISTING TRACT SIZE: 2,097 s.f. (0.05 ac.)
- PROPOSED LOT SIZE: 9,470 s.f. (0.22 ac.)
- ZONING: I-SF-2 (Interim Single Family Residence Standard Lot)

ADDITIONAL NOTES: Currently not a legal lot

- Will need to be subdivided and rezoned and move rest room facility
- Appraised Value \$118,500

Overall Tract

Parcel 2
9403 14 Tee Drive

Site Summary

Lot Size 0.22 Ac. (9,470 s.f.)
Zoning I-SF-2 (Single Family Standard Lot & RR (Permit Required))

Legend

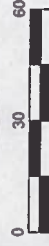
 Tract Boundary

Sources

Aerial - Circa 2009
CAPCOG
City of Austin
Travis County Appraisal District



Scale



GRAPHIC SCALE: 1" = 30'
Date: 10-26-12

Hutson Land Planners
Development Consultants, LLC



October 9th, 2013

Sherri Sirwaitis
City of Austin
Planning & Development Review Department
505 Barton Springs Rd.
Austin, TX 78704

RE: C14-2013-0098; 9900 Mandeville Circle
C14-2013-0097; 11300 Spicewood Parkway
C14-2013-0096; 11512 Spicewood Parkway
C14-2013-0095; 9405 Fourteen Tee Drive

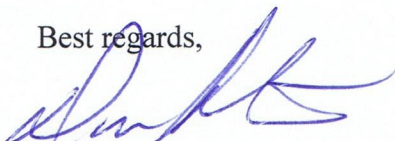
Dear Mrs. Sirwaitis,

I am writing to formally request a postponement of the presentation of the above listed zoning cases before the Austin City Council from the currently scheduled date of October 17th, 2013 to November 21st, 2013. My clients are trying to coordinate meetings with the Cotton Family who is the primary representative for the neighbors.

We also feel the Zoning and Platting Commission did not review the above listed cases on the merits of zoning and voted on the recommendations based on a warranty deed/ restrictive covenant in place on the property that is not related to the zoning cases. The rezoning of these cases to SF-1 does not impact the warranty deed/restrictive covenant and we feel the City legal opinion presented during the presentation of the cases was not the same as what was presented to my client and stated in the zoning back up. My clients and I feel we need adequate time to coordinate with the Cottons, as well as our legal counsel.

If you have any questions regarding this formal request for postponement to November 21st, 2013, please do not hesitate to contact me directly.

Best regards,



Duane Hutson, AICP