



MEMORANDUM

TO: Mayor and Council

FROM: Greg Guernsey, Director
Planning and Development Review Department

DATE: October 23, 2014

RE: **C814-89-0006.05 – Canyon Ridge Phase B PUD Amendment #5**
Withdrawal of Zoning Change Request by the Applicant

The Applicant has provided Staff with correspondence withdrawing the above-referenced rezoning case from further consideration.

Wendy W. Rhoads for

Greg Guernsey, Director
Planning and Development Review Department

- x. Marc A. Ott, City Manager
Sue Edwards, Assistant City Manager

Sirwaitis, Sherri

From: Terry Irion [REDACTED]
Sent: Wednesday, October 01, 2014 3:24 PM
To: Sirwaitis, Sherri
Subject: FW: Canyon Ridge Phase B PUD
Attachments: Sirwaitis.ltr.10.1.14.pdf

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From: Terry Irion
Sent: Wednesday, October 01, 2014 3:19 PM
To: 'sherri.sirwaitis@ausstntexas.gov'
Cc: Jana Rice [REDACTED]
Subject: Canyon Ridge Phase B PUD

Sherri,

I drafted the attached letter this morning and was waiting for confirmation from my client to send to you when your e-mail to Jana Rice came in. Your email response confirms my suspicion that there was a lot of confusion about the request.

First, no request was ever made to change the definition of height. The building height will not exceed 28' as measured by the City of Austin. Second, the building profiles will not exceed two stories as defined by the International Residential Code. Third, there is no need for a variance from the protective covenants, nor any need to seek the consent of the Neighborhood Representatives, who only have enforcement authority on the Protective Covenants applicable to the Commercial Lots 2, 3 and 4 pursuant to the Second Amendment of the Declaration of Protective Covenants.

I have just received the consent of the applicant and Jana Rice to withdraw the PUD amendment application. There is no need to postpone the hearing on Tuesday night. The request is withdrawn.

Sorry for the confusion.

Terry Irion

Terrence L. Irion
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Terrence L. Irion

Attorney at Law

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(512) 306-8903-FAX

October 1, 2014

VIA EMAIL:

Ms. Sherri Sirwaitis

Plan Reviewer

City of Austin

505 Barton Springs Road

Austin, Texas 78704

RE: Canyon Ridge Phase B, PUD Ordinance Amendment CAI Project
#268-0101

Dear Ms. Sirwaitis:

The purpose of this letter is to clarify some confusion regarding the requirements of the current PUD Ordinance 91114-F with respect to the proposed multi-family condominium improvements proposed by CSGM Canyon Ridge, L.P. on Buildings 13, 14, 20, 21, 22, 25, 26 and 34. There was concern that the application may have involved the construction of three story buildings which exceeds the limits of the PUD Ordinance Part 6(A)(ii)(iii). In fact, it appears that the buildings, as proposed, meet the International Residential Code definition of "two-story building" because each story only has one floor above it and no portion of each building exceeds 28-feet in height. Furthermore, there is no construction involving over/under flats. Accordingly, the applicant is considering a possible withdrawal of its PUD Amendment Application. A final decision on this has not been made, but is under active consideration.

In the meantime, I wish to clarify the applicable Deed Restrictions that control the subject Property, which is described in the PUD Zoning Ordinance as Tract 7 and in the Subdivision Plat as Lot 6. Tract 7, Lot 6 is subject to the original Declaration of Protective Covenants recorded in Volume 11624, Page 0240, Real Property Records of Travis County, Texas in February 1992. When the amendment to PUD Ordinance 91114-F was approved by the City Council in Ordinance 2006-0727-121 the Owner of the property made the subject of that amendment (Lots 2, 3 and 4 only) also amended the Declaration of Protective Covenants as it affected Lots 2, 3 and 4. This amended declaration styled Second Amendment to Declaration and Protective Covenants for Canyon Ridge Phase B PUD as recorded in Document #2006144450, Official Public Records of Travis County, Texas gave the Neighborhood Representative and the Architectural Control Committee enforcement authority with respect to Lots 2, 3 and 4, which are the commercial lots. Neither the Jester Home Owners Association, nor the Board of Directors of the 2222 Coalition of Neighborhood Associations have any enforcement authority with respect to Tract 7, Lot 6. Furthermore, the proposed construction is fully consistent with the covenants of the original Declaration, Article 4, Sections 4.2, 4.11 and 4.17 and no variance is required. If a variance were

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required, it would be a matter for the Member Lot Owners of the Canyon Ridge PUD only to decide and enforce, not the Neighborhood Representatives.

In summary, we apologize for any confusion the PUD Amendment Application may have created, but the Applicant, CSGM Canyon Ridge, L.P. is not in need of any variance from the applicable Deed Restrictions; is not proposing development which exceeds two stories as defined by the International Residential Code; needs no consent from the Neighborhood Representatives to the Second Amendment to Declaration and Protective Covenants, which only affects the commercial Lots 2, 3 and 4; and will likely withdraw its PUD Amendment Application in the near future.

Sincerely,



Terrence L. Irion
Attorney for CSGM Canyon Ridge, L.P.

TLH:lm

Cc: Jesse McBay
Jana Rice