

NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

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**NEIGHBORHOOD PLAN:** East MLK Combined

**CASE#:** NPA-2014-0015.01

**DATE FILED:** July 31, 2014 (in-cycle)

**PROJECT NAME:** City School (6005 Wilcab Road)

**COUNCIL DISTRICT:** 1

**PC DATE:** January 27, 2015

**ADDRESS:** 6005 Wilcab Road

**SITE AREA:** Approx. 11.19 acres

**OWNER:** Bill Gaston

**APPLICANT:** City School (John Rees, Head of School)

**AGENT:** McLean & Howard, L.L.P, (Jeffrey S. Howard)

**TYPE OF AMENDMENT:**

**Change in Future Land Use Designation**

**From:** Industry

**To:** Commercial

**Base District Zoning Change**

**Related Zoning Case:** No zoning case filed at this time

**From:** n/a

**To:** n/a

**NEIGHBORHOOD PLAN ADOPTION DATE:** November 7, 2002

**PLANNING COMMISSION RECOMMENDATION:** (Pending)

**STAFF RECOMMENDATION:** Not recommended.

**BASIS FOR STAFF'S RECOMMENDATION:** Staff does not recommend the applicant's request to change the land use on the future land use map from Industry to Commercial because the area is an established industrial park and staff believes it should be maintained as such. Changing the land use to commercial with the intent to build a private school is not supported by staff because a school is not an appropriate use within an industrial area.

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The East MLK Combined Neighborhood Plan document has a section that discusses the Ed Bluestein industrial area. This section supports the continuation of the industrial park for industrial uses. A private school would be a civic use.

Below are sections from the neighborhood plan document:

**Goal 2 - Promote a mix of land uses that respect and enhance the existing neighborhood and address compatibility between residential, commercial, and industrial uses.**

**Objective 2.1:** Where appropriate, address mis-matches between desired land use and zoning.

**Objective 2.2:** Reduce the impact of commercial and industrial uses on residential areas.

**Goal 3 - Preserve existing small businesses and encourage new neighborhood serving commercial services in appropriate locations.**

## **Ed Bluestein**

### **Existing Conditions**

Much of the Ed Bluestein area has been passed over by urban development for quite some time. Most of the land is vacant or occupied by rural land uses, such as agriculture and outdoor storage, which likely existed before the area was annexed into the City. Some industrial park-style development has occurred along Bluestein Drive, Wilcab Road, and Techni Center Drive, and a large apartment complex was recently constructed between Tannehill Lane and Ed Bluestein Blvd. The "Hog Pens" area between Harold Court and Hudson Street consists of dozens of unsubdivided parcels roughly one acre in size. Development in this area has been limited by numerous constraints, including undeveloped or substandard streets, several pipeline easements, sloping terrain, and remnants of an abandoned landfill. The Ed Bluestein area also includes the Travis County International Cemetery, located on Axel Lane.

### **Recommendations**

While not much development has occurred in the Ed Bluestein area, planned improvements to U.S. 183 and continued growth in Austin will likely increase demand for land in the area. Due to its proximity to a future freeway, commercial development is appropriate for much of the area, particularly tracts fronting Ed Bluestein Blvd. Small industrial areas should continue to develop, provided there is not encroachment into existing or planned residential areas. Future development of the "Hog Pens" area will be especially challenging, and specific recommendations are outlined in Action Item 61.

### **Action Items**

**Action 56 -** Allow the "Neighborhood Urban Center" at the intersection of MLK Blvd. and Ed Bluestein Blvd.

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**Action 57** - Preserve the Travis County Cemetery on Axel Lane.

**Action 58** - Allow neighborhood-oriented commercial at the intersection of Tannehill and Jackie Robinson.

**Action 59** - Allow highway commercial or industrial development along Ed Bluestein Blvd.

**Action 60** - Allow industrial development along Techni Center, Bluestein, Wilcab, and Axel Lane.

**Action 61** - For the "Hog Pens" area between Harold and Hudson:

- Allow Mixed/Use Commercial on the north side of Hudson and to the east of Bluestein Drive.
- Allow mixed residential between Axel and Bluestein.
- Allow Urban Homes, Cottages, Secondary Apartments, and Corner Stores in residential Areas.
- Allow industrial development to the south of Harold where the existing City vehicle facility is located.
- Flood plain and steep slope areas should remain as open space.

## **LAND USE DESCRIPTIONS**

### ***EXISTING LAND USE***

**Industry** - areas reserved for manufacturing and related uses that provide employment but are generally not compatible with other areas with lower intensity use. Industry includes general warehousing, manufacturing, research and development, and storage of hazardous materials.

#### **Purpose**

1. To confine potentially hazardous or nuisance-creating activities to defined districts;
2. To preserve areas within the city to increase employment opportunities and increased tax base;
3. To protect the City's strategic advantage as a high tech job center; and
3. To promote manufacturing and distribution activities in areas with access to major transportation systems.

#### **Application**

1. Make non-industrial properties in areas with a dominant industrial character compatible with the prevailing land use scheme;
2. Where needed, require a buffer area for industrial property that abuts residentially used land;
3. Industry should be applied to areas that are not appropriate for residential or mixed use development, such as land within the Airport Overlay

4. In general, mixed use and permanent residential activities are not appropriate in industrial areas. An exception may be the edge of an industrial area along the interface with an area in which residential activities are appropriate. Such exceptions should be considered case by case, with careful attention to both land use compatibility and design;

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**5. Industry should not be either adjacent to or across the road from single family residential or schools;**

6. Use roadways and/or commercial or office uses as a buffer between residential and industry; and
7. Smaller scale "local manufacturing" districts may be appropriate in some locations to preserve employment opportunities and cottage industries of local artisans. In these areas, hazardous industrial uses (i.e. basic industry, recycling centers, and scrap yards) should be prohibited.

**PROPOSED LAND USE**

**Commercial** - Lots or parcels containing retail sales, services, hotel/motels and all recreational services that are predominantly privately owned and operated for profit (for example, theaters and bowling alleys). Included are private institutional uses (convalescent homes and rest homes in which medical or surgical services are not a main function of the institution), but not hospitals.

**Purpose**

1. Encourage employment centers, commercial activities, and other non- residential development to locate along major thoroughfares; and
2. Reserve limited areas for intense, auto-oriented commercial uses that are generally not compatible with residential or mixed use environments.

**Application**

1. Focus the highest intensity commercial and industrial activities along freeways and major highways; and
2. Should be used in areas with good transportation access such as frontage roads and arterial roadways, which are generally not suitable for residential development.

**IMAGINE AUSTIN PLANNING PRINCIPLES**

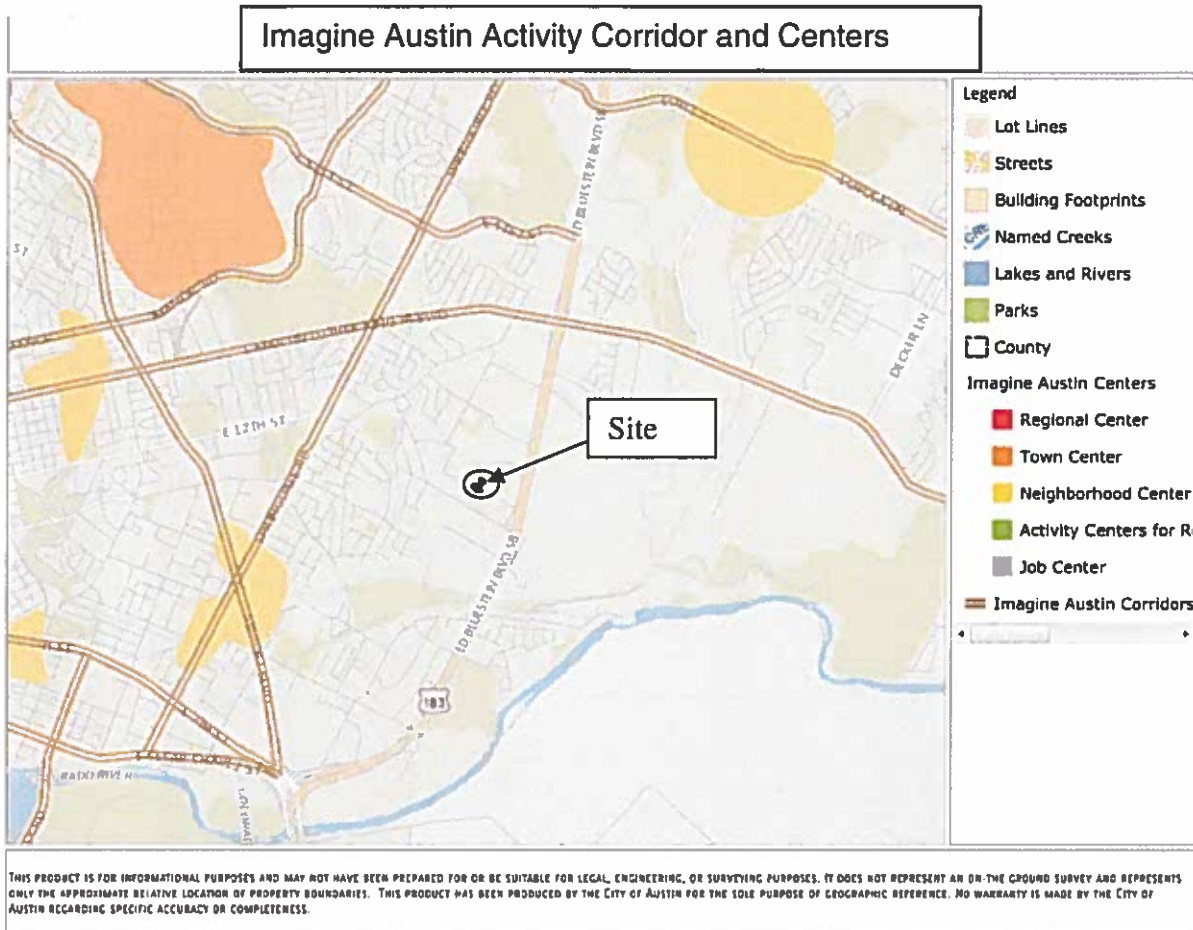
1. Create complete neighborhoods across Austin that provide a mix of housing types to suit a variety of household needs and incomes, offer a variety of transportation options, and have easy access to daily needs such as schools, retail, employment, community services, and parks and other recreation options.

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- ***The applicant is not proposing any residential uses so this principle is not applicable.***
- 2. Support the development of compact and connected activity centers and corridors that are well-served by public transit and designed to promote walking and bicycling as a way of reducing household expenditures for housing and transportation.
  - ***The property is not located on or near an activity center or corridor. There is only one bus route in close proximity to the property.***
- 3. Protect neighborhood character by ensuring context-sensitive development and directing more intensive development to activity centers and corridors, redevelopment, and infill sites.
  - ***The property is not located on or near an activity corridor or center.***
- 4. Expand the number and variety of housing choices throughout Austin to meet the financial and lifestyle needs of our diverse population.
  - ***The applicant is not proposing any residential uses.***
- 5. Ensure harmonious transitions between adjacent land uses and development intensities.
  - ***Staff believes the commercial land use request to allow a private school is not an appropriate use within an industrial park and is not a harmonious transition of land uses and intensities.***
- 6. Protect Austin's natural resources and environmental systems by limiting land use and transportation development over environmentally sensitive areas and preserve open space and protect the function of the resource.
  - ***The property is not located within an environmentally sensitive area.***
- 7. Integrate and expand green infrastructure—preserves and parks, community gardens, trails, stream corridors, green streets, greenways, and the trails system—into the urban environment and transportation network.
  - ***Not applicable.***
- 8. Protect, preserve and promote historically and culturally significant areas.
  - ***Not applicable.***
- 9. Encourage active and healthy lifestyles by promoting walking and biking, healthy food choices, access to affordable healthcare, and to recreational opportunities.
  - ***Not applicable.***
- 10. Expand the economic base, create job opportunities, and promote education to support a strong and adaptable workforce.
  - ***Although the propose use is for a private school which would promote education, staff believes a school located within an industrial park is not an appropriate location for school children.***
- 11. Sustain and grow Austin's live music, festivals, theater, film, digital media, and new creative art forms.

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- *No applicable.*
12. Provide public facilities and services that reduce greenhouse gas emissions, decrease water and energy usage, increase waste diversion, ensure the health and safety of the public, and support compact, connected, and complete communities.
- *No applicable.*



**BACKGROUND:** The application was filed on July 31, 2014, which is in-cycle for neighborhood planning areas located on the east side of I.H.-35.

The applicant proposes to change the land use on the future land use map from Industry to Commercial. No zoning case has been filed at this time, but the proposed use is for a private school.

The property is subject to the conditions of a private restrictive covenant which is provided at the back of this report.

According to K.C. Willis, the real estate agent working with City School, the pipeline was removed and remediated by the previous property owner as part of the 183 improvements. Please see the Hazardous Pipeline Overlay map on pages 15-16 of this report.

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**PUBLIC MEETINGS:** The ordinance-required plan amendment meeting was held on September 17, 2014. Approximately seventy-two meeting notices were mailed to property owners, utility account holders and interested parties within 500 feet of the property. Nine people attended the meeting.

John Rees, Head of School at City School, said the school enrollment reflects the demographics of the city. A small percent of students are high income. Sixty percent receive tuition assistance. Thirty percent of the schools income is from tuition. Kids come from all over the city. It's not just a neighborhood school but it's a commuter school. There's no real private Christian church to the east of I.H.-35. This property is on the boundary line between the haves and have nots, but the line is moving further east, this property is on the border of that line.

Right now we are renting property, but we want to grow the school, so we want to purchase property.

There's a charter school across the street, but since it gets funding from AISD, they didn't need a zoning change to put a school in the LI-NP zoning like we do because we are private school. We have no public funding because we don't want strings attached. We have raised millions of dollars and want to serve families.

After Mr. Rees' presentation, the following questions were asked and comments made by attendees:

**Q. Will the school have athletics classes?**

A. Yes, but it won't be a big focus. We'll have flag football, volleyball, soccer, but no stadium is planned.

**Q. Will you have a middle school?**

A. We will have classes at least until 8<sup>th</sup> grade, but we plan to grow.

**Q. What are the school hours?**

A. 8:00 a.m. to 3:00 p.m.

**Q. Will you have after-school events?**

A. A few events, like soccer, but we're a small school. The area seemed like a good fit.

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**Comments:**

- Blair Labatt - I own Labatt Food Service that is located to the north of your property. I believe your wanting to have a school is for good causes, but the question is whether placing a school in an industrial park is the right place. There are big trucks that serve these businesses and this is a safety issue for children. I don't want an accident to happen and we get sued, which is why we are located in an industrial park. There is a private restrictive covenant on the property that allows industrial and commercial uses, but your school is not a commercial use. I ask the City to respect the deed restrictions.
- K.C. Willis (Real Estate Agent for City School) – We don't want to put the school at risk. We want to work with you to address your concerns. We want to be good neighbors. You know how to get ahold of us. We are very willing to work with you. We don't want to amend the restrictive covenant because it will be a costly process. You're the only property owner in the area with concerns that I know of, but we'd like to work with you.

The East MLK Planning Contact Team supports the change to from Industry to Commercial land use.

**CITY COUNCIL DATE:** February 26, 2015

**ACTION:** (Pending)

**CASE MANAGER:** Maureen Meredith

**PHONE:** (512) 974-2695

**EMAIL:** Maureen.meredith@austintexas.gov



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**Letter from the E MLK Planning Contact Team**

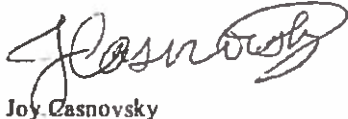
November 29, 2014

To: City of Austin Planning Commission  
From: East MLK Combined Neighborhood Plan Contact Team  
Re: 6005 Wilcab Road; NPA-2014-0015.01

Dear Board Members,

The East MLK Combined Neighborhood Plan Contact Team supports the applicant's desire to change the FLUM from Industry to Commercial at the property of 6005 Wilcab Road case # NPA-2014-0015.01 to construct a school

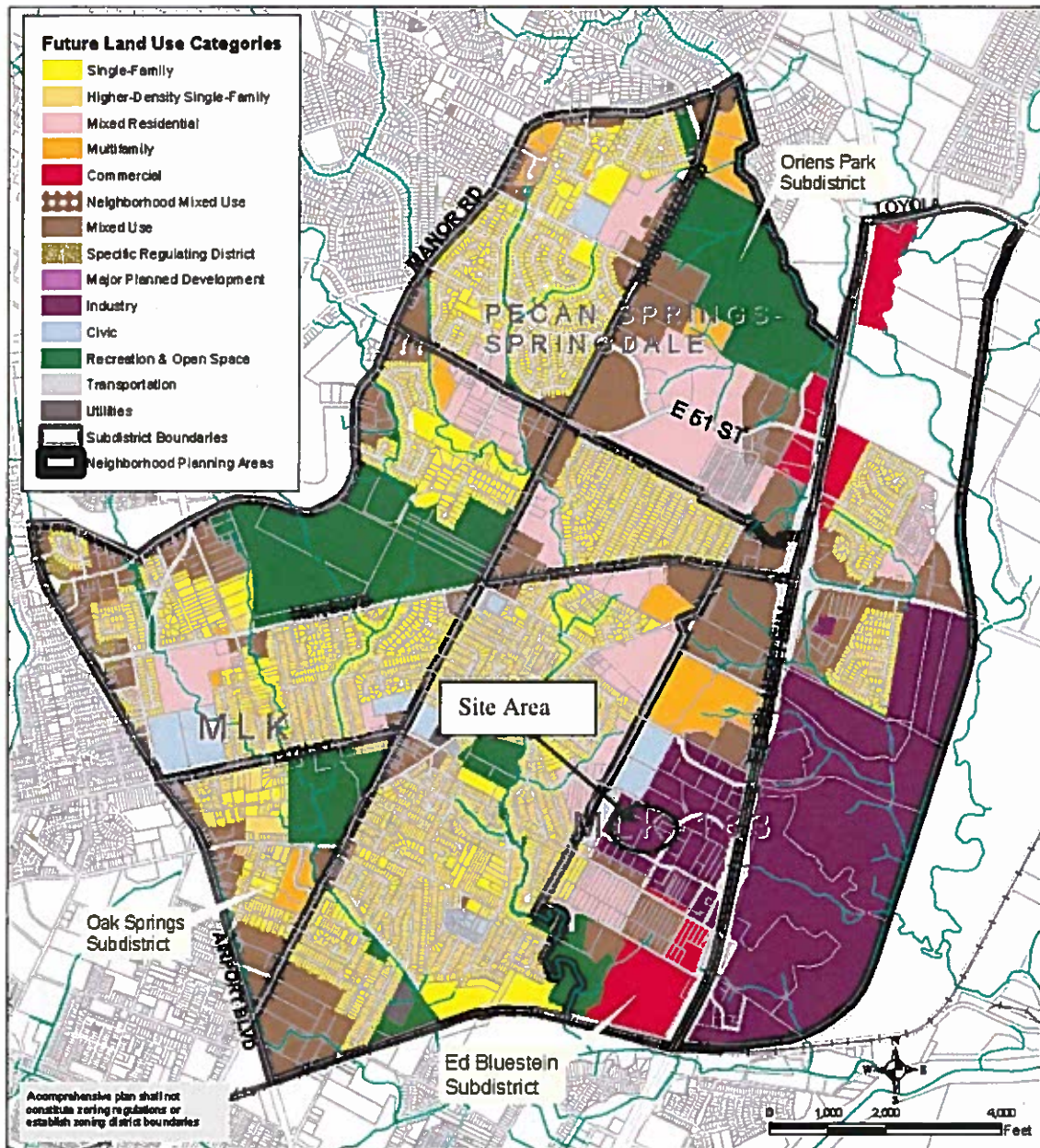
Cordially,



Joy Casnovsky  
Chair, EMLK Combined Contact Team

soyjoyc@gmail.com

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## East MLK Combined Neighborhood Planning Area Future Land Use Map

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.

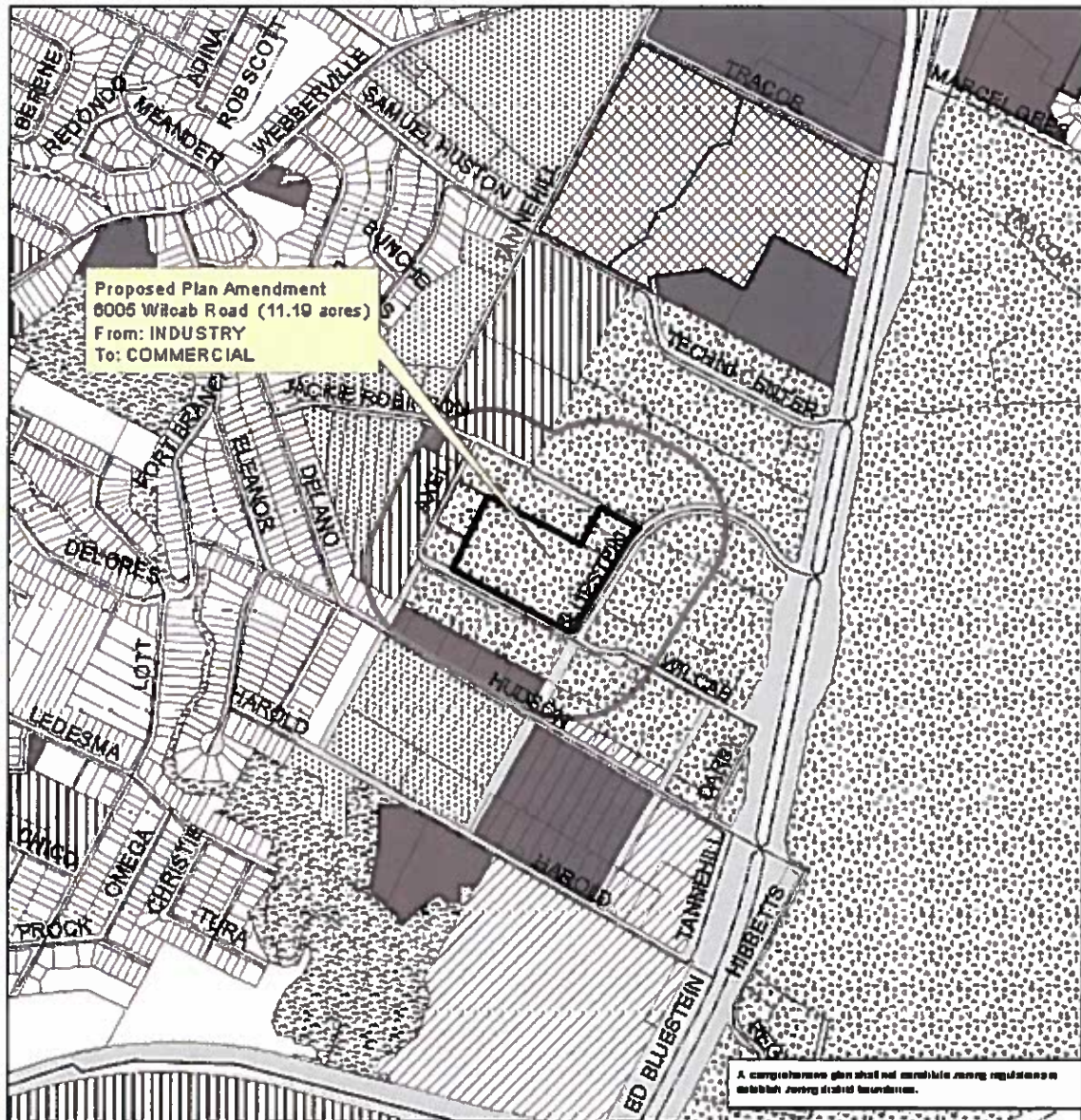
This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Last Amended: October 17, 2013

City of Austin  
Planning and Development Review Department



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## E MLK Combined Neighborhood Plan NPA-2014-0015.01

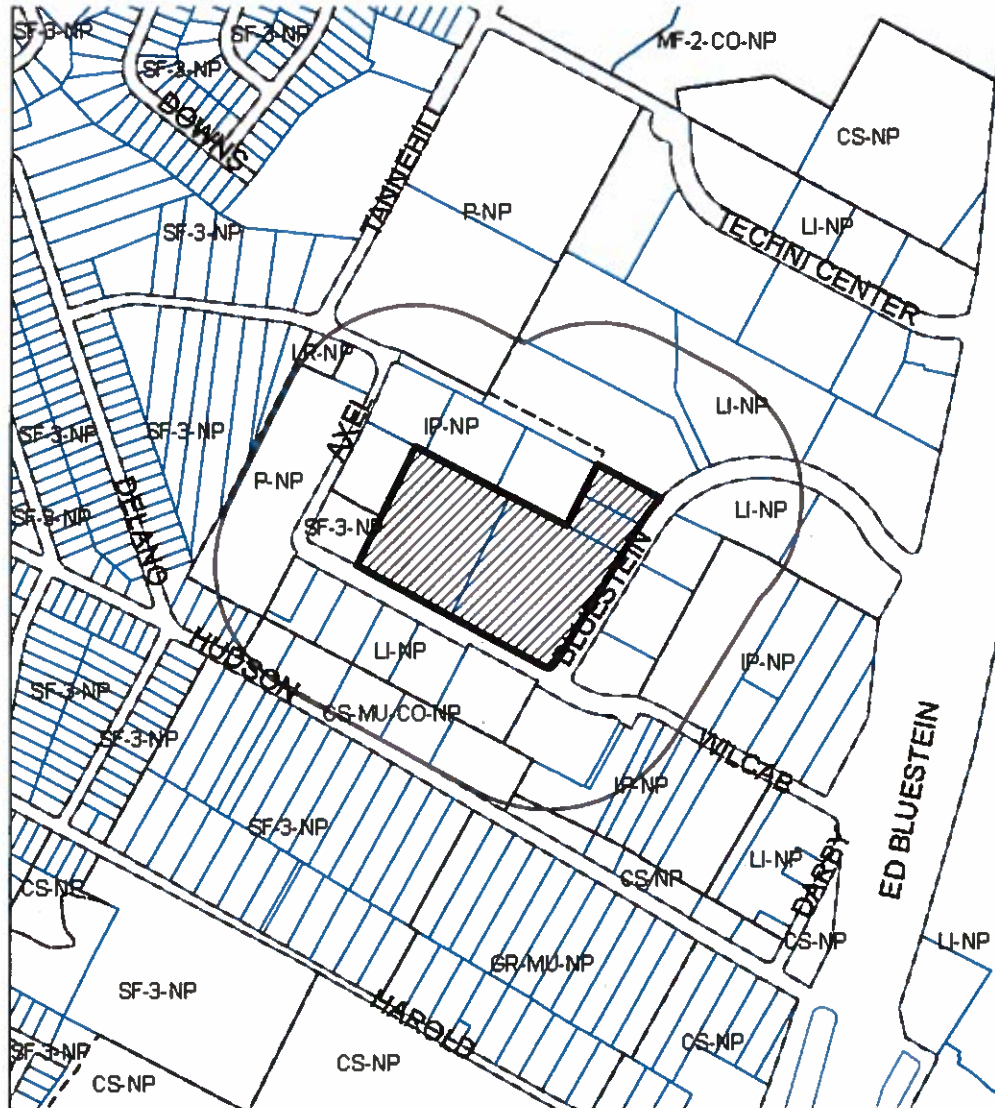
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City of Austin  
Planning and Development Review Department  
Created on August 13, 2014\_M Meredith

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- SUBJECT TRACT
- PENDING CASE
- ZONING BOUNDARY
- 500ft Notification Boundary

**NEIGHBORHOOD PLAN AMENDMENT**

Case Number: NPA-2014-0015.01

Address: 6005 Wilcab Road

Approx. 11.19 acres

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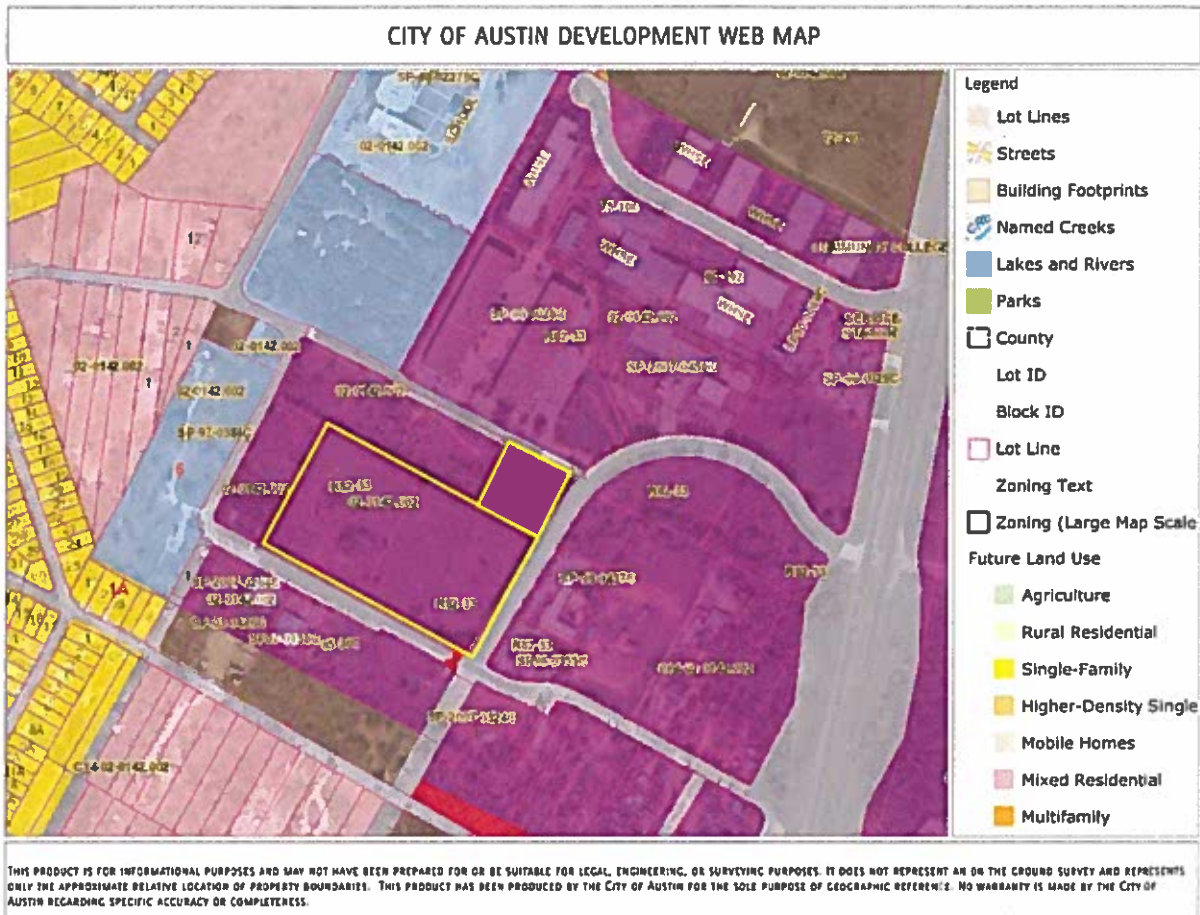
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CITY OF AUSTIN DEVELOPMENT WEB MAP



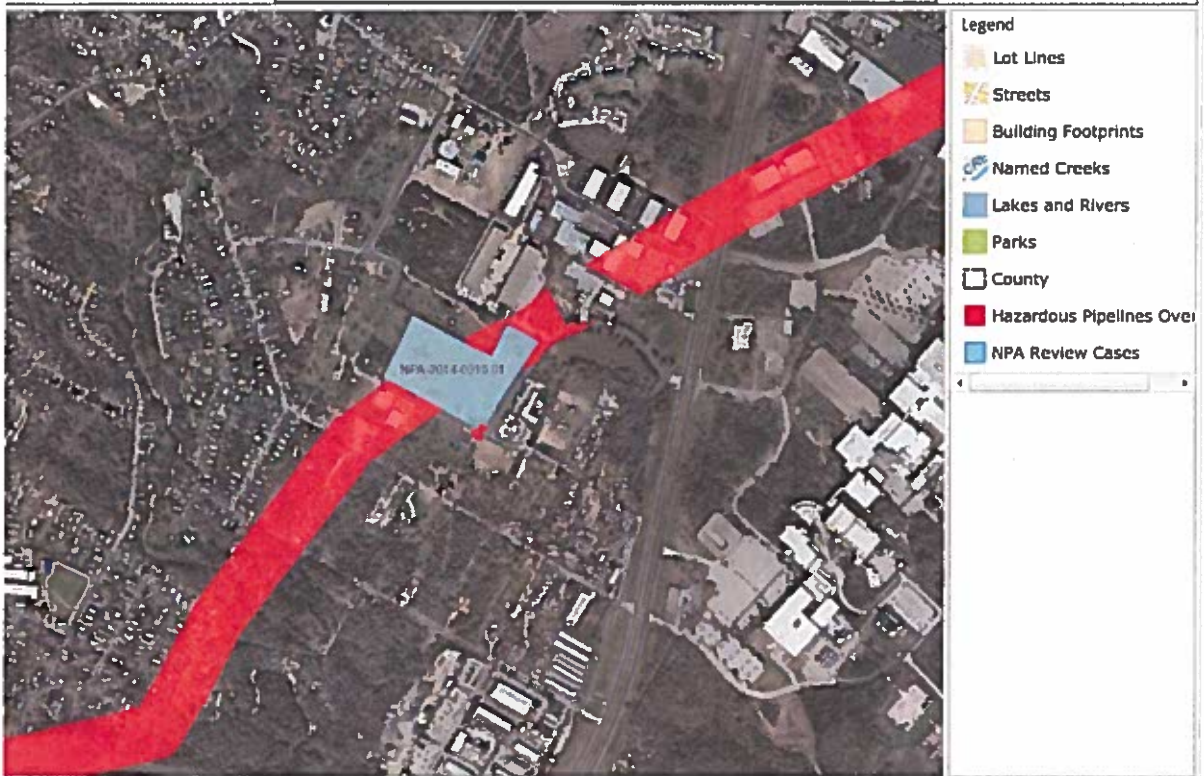
THIS PRODUCT IS FOR INFORMATIONAL PURPOSES AND MAY NOT HAVE BEEN PREPARED FOR OR BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEYING PURPOSES. IT DOES NOT REPRESENT AN ON THE GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF PROPERTY BOUNDARIES. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.

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## Hazardous Pipeline Overlay

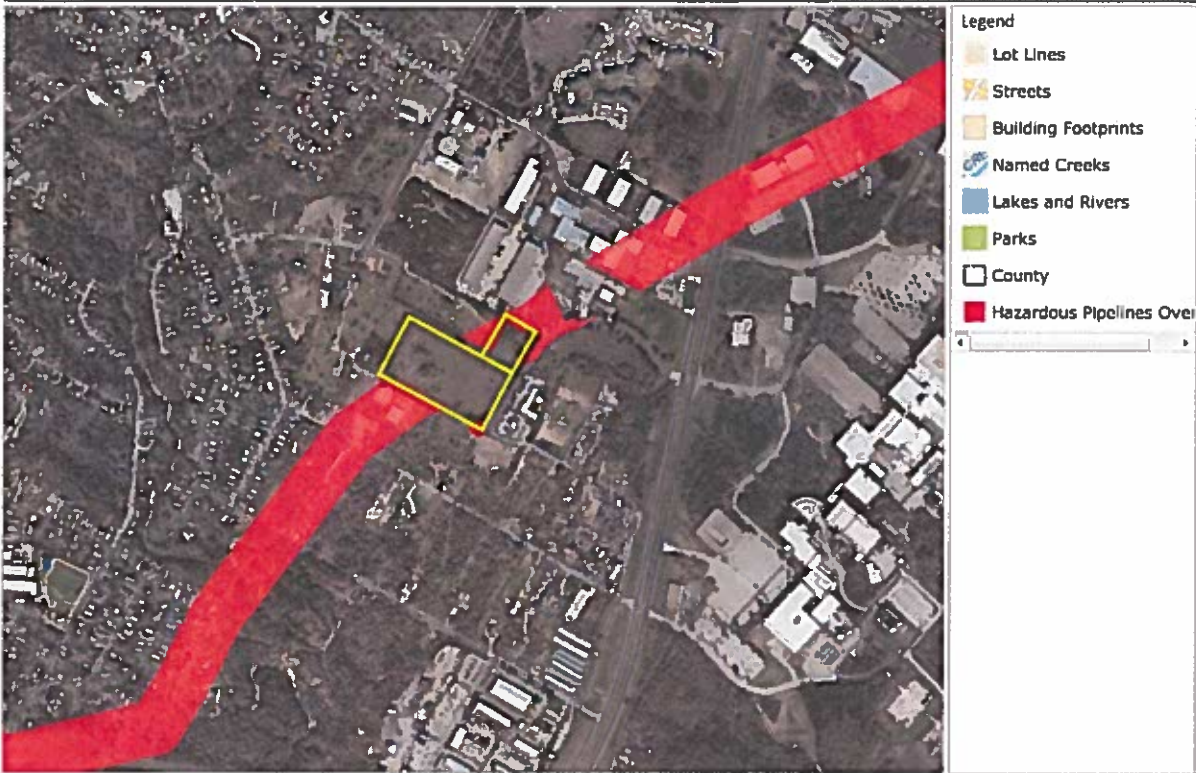


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Hazardous Pipeline Overlay

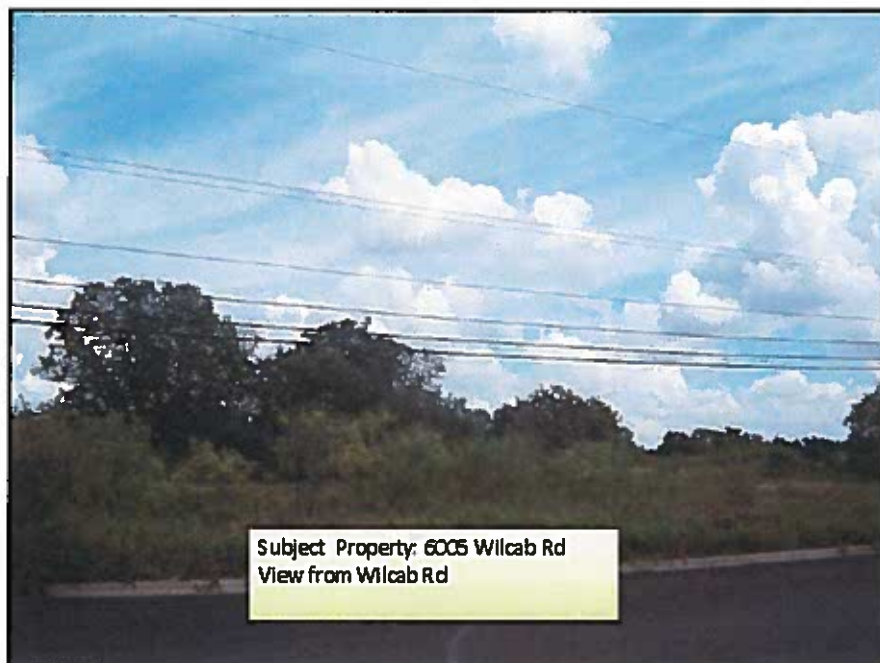
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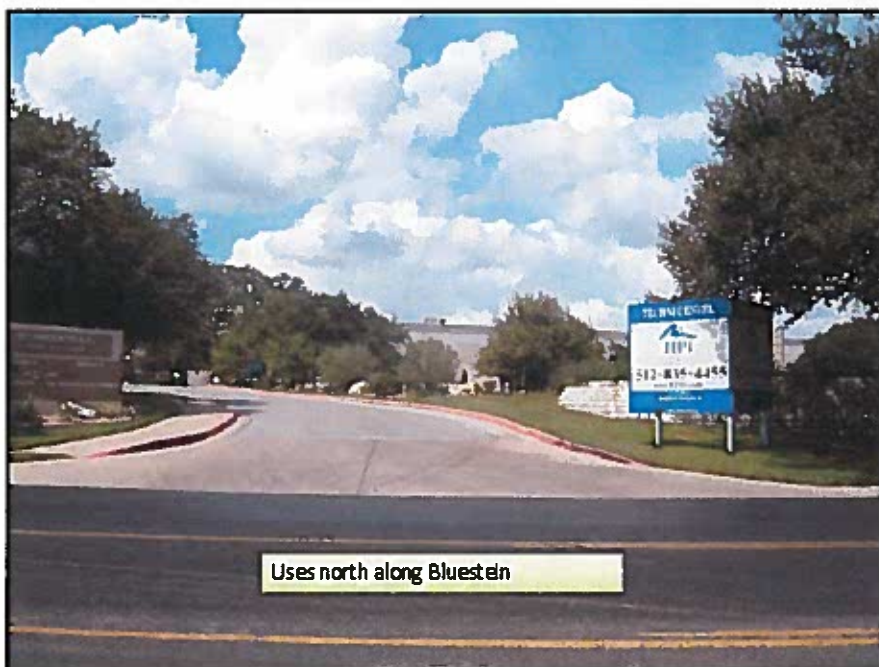
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Uses along Wilcab Road -- south side



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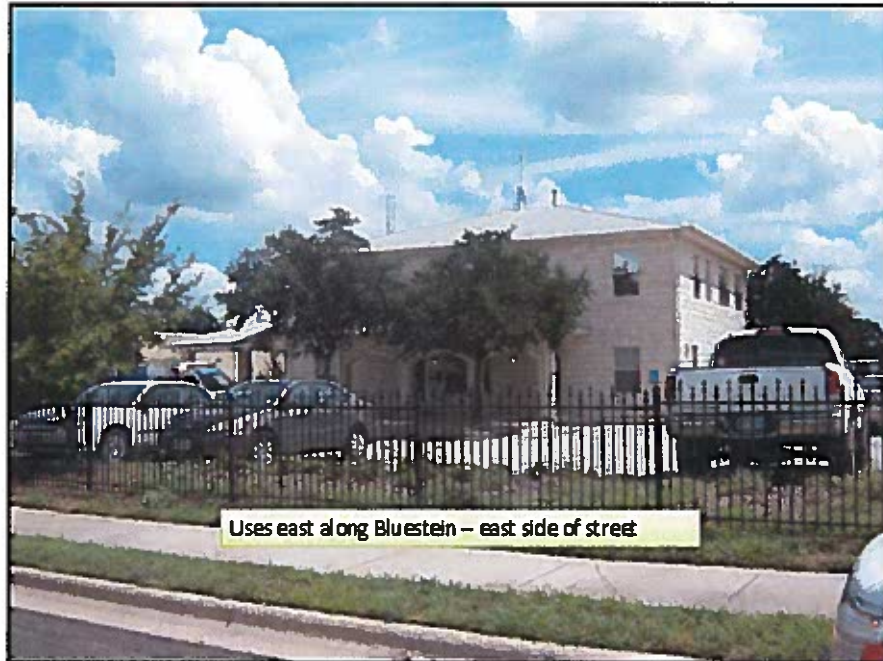




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Letter from adjacent property owner

(210) 661-4216

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LABATT FOOD SERVICE  
4500 INDUSTRY PARK DRIVE  
POST OFFICE BOX 2140  
SAN ANTONIO, TEXAS 78297

October 6, 2014

Via Certified Mail #7013 2630 0000 6703 6037, Return Receipt Requested

Ms. Maureen Meredith  
Planning and Development Review Department  
City of Austin  
One Texas Center  
505 Barton Springs Road  
Austin, Texas 78704

Re: Proposed Neighborhood Plan Amendment by the Planning and Development Review  
Department of the City of Austin to Zoning for 6005 Wilcab Road, Austin, Texas; Case #  
NPA-2014-0015.01 (the "Zoning Case")

Dear Ms. Meredith:

As you know from our discussions, my company, Labatt Food Service LLC ("Labatt"), is the owner of the improved property located at 3722 Bluestein Drive, Austin, Texas (the "Property"), which is located in the industrial park called Bluestein Park. In the Zoning Case, City School has requested that the City of Austin change the zoning for the property at 6005 Wilcab Road from its current industrial zoning (which does not permit schools) to a commercial zoning category that permits a school. Our company strongly objects to the proposed zoning change for the reasons I stated to you at the recent meeting.

The introduction of a school into the industrial park will produce significant safety issues due to the presence of children and their parents going to and from school at the very time of day that our eighteen-wheel vehicles are on the streets of the industrial park. If the zoning change is approved by the City, Labatt might very well have to suffer the risk of vehicles being lined up from the school all the way past the entrance to the Labatt Property. Labatt invested in this industrial park and spent considerable sums in constructing a new building in order to conduct its business in an industrial area, not in a school zone with the concern of possibly endangering school children. There is a reason that City ordinances do not permit schools in industrial zones.

In fact, Bluestein Park is protected from such inconsistent uses with a recorded Declaration of Covenants, Conditions and Restrictions for Bluestein Park (the "Restrictions")

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that certainly did not contemplate an elementary school use in close proximity to industrial uses. Labatt relied upon the property rights associated with the Restrictions for Bluestein Park in making its investments in its Property, and the City of Austin should not be engaged in changing existing industrial zoning for the property at 6005 Wilcab Road to the detriment of Labatt and its property rights. Such a change in the zoning designation would be inconsistent with the Restrictions. Labatt has legal rights under the Restrictions to prohibit the proposed use of that property as a school, and intends to enforce those rights vigorously.

The City of Austin should respect the existing Restrictions, the existing industrial nature of the neighborhood, and the existing industrial zoning for the property at 6005 Wilcab Road, and should deny the proposed zoning change. However well-intended the City School is, and however dedicated its trustees are, the City of Austin should recognize that the industrial park is simply not an appropriate location for City School.

We therefore ask the Planning and Development Review Department to maintain the character, safety and setting of the industrial park by enforcing the existing industrial zoning ordinances and rejecting the proposed neighborhood plan amendment.

Sincerely,



Blair Labatt, President and CEO  
Labatt Food Service

CC:  
Ms. Maureen Meredith  
(Via Email [maureen.meredith@austintexas.gov](mailto:maureen.meredith@austintexas.gov) )

John B. Stewart, Esq.  
Cox Smith  
(Via Email: [jbstewart@coxsmith.com](mailto:jbstewart@coxsmith.com))



Private Restrictive Covenant for Industrial Park

04-96107LAB  
02-0923-0462-0000

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BLUESTEIN PARK

FILM CODE

00005479532

THE STATE OF TEXAS

FILM CODE

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS

This Declaration of Covenants, Conditions and Restrictions ("Declaration") is made as of the date last herein written by Shell Land and Energy Company, a Delaware corporation, and is as follows:

WHEREAS, Shell Land and Energy Company is the owner of fee simple title to that real property described in Section 1.06 hereof; and

WHEREAS, Shell Land and Energy Company desires to subject the real property described in Section 1.06 hereof to the covenants, conditions, restrictions, liens and charges hereinafter set forth in order to protect and enhance the value, attractiveness and desirability of such real property; and

WHEREAS, Bluestein Improvement Association, Inc., incorporated under the laws of the State of Texas as a nonprofit corporation, has been granted the powers of administering and enforcing the covenants, conditions, restrictions liens and charges created herein;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT Shell Land and Energy Company does hereby declare that the real property described in Section 1.06 hereof is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

1.01 **Common Area.** "Common Area" shall mean and refer to that area of land within the Property which Shell Land and Energy Company has designated for the main entrance signage and its supporting landscaping by separate instrument of even date herewith, recorded in the Real Property Records of Travis County, Texas, which instrument conveys an easement in the Common Area to the Bluestein Improvement Association to benefit all owners of land within the Property, which property is presently known as Bluestein Park.

1.02 **Declaration.** "Declaration" shall mean this instrument, and as it may be hereafter amended from time to time.

1.03 **Improvements.** "Improvement" or "Improvements" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, patios, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning equipment, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.04 **Lot.** "Lot" or "Lots" shall mean any unit or units of land within the Property qualifying as Lots under City of Austin ordinances as of the date of filing this Declaration.

Bluestein Improvement Association  
Conditions, Covenants and Restrictions

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ALM1:200615:  
18M12:0403

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12762 0098



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1.05 Owner(s). "Owner(s)" shall mean the person or entity including Shell Land and Energy Company, holding a fee simple interest in all or any portion of the Property, but shall not include the beneficiary of a mortgage.

1.06 Property. "Property" shall mean the land described in Exhibit "A" attached hereto.

1.07 Association. "Association" or "Bluestein Improvement Association" shall mean and refer to the Bluestein Improvement Association, Inc.

1.08 Board. "Board" shall refer to the Board of Directors of the Association.

## ARTICLE II

### BUILDING USE AND RESTRICTIONS

2.01 Business and Commercial Use. The use of the Property, unless specifically authorized to the contrary herein, shall be restricted to the following business and commercial activities unless prohibited by the City of Austin:

- (A) Office, commercial and financial related activities.
- (B) Business services or any other commercial use, except that convenience stores shall not be permitted.
- (C) Storage and warehousing.
- (D) Wholesale distribution.
- (E) Manufacturing or processing where conducted as follows:
  - (1) All operations shall be within a fully-enclosed building; and
  - (2) All activities shall be conducted in such a way as to comply with the appropriate performance standards described herein.

2.02 Insurance Rates. Nothing shall be done or kept on any of the Property or any Lot which would increase the rate of insurance on any other Lot or any Improvements constructed upon any other Lot, nor shall anything be done or kept on the Property or any Lot which would result in the cancellation of insurance on any other Lot or any Improvements constructed upon any other Lot, nor which would be in violation of any law.

2.03 Signs. All signs must conform to the then effective City of Austin sign ordinances and must be maintained in a clean and professional manner. No signs may incorporate flashing lights and no portion of the sign may have moving parts.

2.04 Rubbish and Debris. No rubbish or debris of any kind (including weeds or brush) shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom, so as to render any such Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other Property or its occupants. Refuse, garbage, and trash shall be kept at all times in a covered container and any such container shall be kept within an enclosed structure or appropriately screened from view as described in Section 2.16 Screening.

2.05 Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any of the Property so as to be offensive or detrimental to any other Property or to its occupants.

Bluestein Improvement Association  
Conditions, Covenants and Restrictions

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AUSTIN: 2015.1  
12041: 2015.1

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12762 0093

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2.06 Construction Standards.

- (A) All building exterior walls from grade to roof levels shall be faced and finished with brick, stone, stucco, marble, architectural concrete (including tiltwall), or glass. No building shall have sheet or corrugated aluminum, iron, steel, wood, or asbestos covering the exterior walls except as trim features representing less than 5% of the surface area of the exterior walls. Windows shall not be glazed or reglazed with mirrored or reflective glass.
- (B) All buildings should meet the following additional criteria:
  - (i) Provide adequate fire protection systems;
  - (ii) Provide for all underground utilities (public and private);
  - (iii) Preserve the quality and atmosphere of the Property and not detract from adjacent portions of the Property; and
  - (iv) Do not include exterior fire escapes.
- (C) Each commercial building, complex of buildings, or separate commercial business enterprise shall have a trash receptacle on the premises adequate to handle the trash and waste items generated, manufactured, or acquired thereon by such commercial activities. The sorting, handling, moving, storing, removing and disposing of all such waste materials must be housed or screened from view as described in Section 2.16 Screening.
- (D) No excavation shall be made except in conjunction with construction of an improvement. When such improvement is completed, all exposed openings shall be backfilled and graded.
- (E) Once commenced, construction shall be diligently pursued to the end that it may not be left in a partly finished condition any longer than a reasonable time. In no case shall construction be suspended for a period longer than six months.

2.07 Parking. Parking will not be permitted on any street or road, whether public or private, or at any place other than paved parking spaces, and each Owner shall be responsible for compliance by the respective lessees, licensees, employees, guests, customers, business invitees and visitors. Parking will not be permitted nearer than five (5) feet to any interior property line which separates adjoining Lots within the Property nor nearer than ten (10) feet to any property line which is also a right-of-way line for any dedicated public street. Parking abutting the street should be screened by landscaping.

2.08 Landscaping. All open, unpaved space, including, but not limited to, front, side and rear building set-back areas, and all areas between the curb line and the property line, shall be planted and landscaped, and maintained as provided in Article III MAINTENANCE hereof. A sprinkler system shall be installed in all major landscaped areas. Landscaping must be completed within sixty (60) days following the occupancy or completion of any building, whichever occurs first.

2.09 Illumination. If exterior illumination is required or desired for any building or parking area, such exterior illumination shall be designed so as to shine primarily on that particular building or down on the parking area and shall not objectionably interfere with any adjoining portions of the Property. Yard lighting should be of the "shoe box" variety with square metal poles.

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2.10 Hazardous Activities. No activities shall be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted.

2.11 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon the Property, except that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders, and foremen may be used during actual construction of buildings and improvements on the Property.

2.12 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth, nor shall wells, tanks, tunnels, mineral excavations or shafts be permitted upon or within any portion of the Property. No derrick or other structure designated for use in drilling for ore or natural gas shall be erected, maintained or permitted upon any portion of the Property.

2.13 Animals. No kennel or other facility for raising or boarding dogs, cats, poultry, livestock or other animals for commercial purposes shall be kept on any part of the Property.

2.14 Unightly Articles, Vehicles. Without limiting the generality of the foregoing, trailers, graders, boats, tractors, campers, wagons, buses and maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view as described in Section 2.16 Screening. No repair or maintenance work shall be done on any of the foregoing, or on any automobile or pickup truck, motorcycle, or motor scooter (other than minor emergency repairs), except in enclosed garages or other structures. Service areas and storage areas shall be appropriately screened from view and no lumber, metals, bulk materials, scrap, refuse, or trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view. Liquid propane, gas, oil and other exterior tanks shall be kept within enclosed structures or permanently screened from view as described in Section 2.16 Screening.

2.15 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any portion of the Property at any time, and no travel trailers or recreational vehicles shall be parked on or near any portion of the Property so as to be visible from adjoining property or public or private thoroughfares for more than forty-eight hours.

2.16 Screening. Storage areas, air conditioning and heating equipment not mounted on the roof, incinerators, storage tanks, trucks, roof mounted objects not used as part of a HVAC system, trash containers and maintenance facilities shall either be housed in closed buildings or otherwise completely screened from view at ground level from adjoining streets, buildings and other Lots and improvements thereon. Such screening shall include landscaping or permanent fences of solid materials located as far from property lines as reasonably possible.

2.17 Architectural Approval Required. Prior to the commencement of any construction of any building, other structure or improvement upon the Property (whether initially or by way of addition to another building, structure or improvement), two sets of drawings and specifications for the building or other structure, as hereinafter set forth (the "Plans"), shall be submitted to the Shell Land and Energy Company, for written approval, at One Shell Plaza, P.O. Box 4855, Houston, Texas 77210-4855, Attention: Corporate Real Estate. The Plans shall consist of: (1) site plans and civil engineering drawings showing the location of all contemplated buildings or other structures, parking areas, driveways, pedestrian walkways, service areas, loading docks (if any), and drainage system; (2) floorplans for any and all buildings; (3) exterior elevations and building sections showing the design including front, rear and side elevations together with a description of materials (outside walls of all buildings shall be of materials approved by the Shell

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Land and Energy Company). (4) clearing, landscaping and irrigation system plans, and (5) exterior lighting plans (including "cut sheets"), graphics and sign specifications.

The Shell Land and Energy Company shall within thirty (30) days after receipt of the Plans advise the submitting party of its approval or disapproval or objection to certain features of the Plans as submitted, the approval or disapproval of same. In the event the Shell Land and Energy Company does not advise the party submitting the Plans by written notice given within such 30-day period of the disapproval or objection to certain features of the Plans as submitted, the approval of the Shell Land and Energy Company shall be conclusively presumed to have been given. The aforesaid 30-day period for the Shell Land and Energy Company's review of the Plans shall not commence to run until two complete sets of all the above-described drawings, plans, specifications, and schedules comprising the Plans have been received by the Shell Land and Energy Company in final form.

In the event the Shell Land and Energy Company shall object to or disapprove all or any portion of the Plans, the party submitting the Plans shall cause the Plans to be modified to the extent required by the Shell Land and Energy Company and resubmit revised Plans to Shell Land and Energy Company for approval. No construction of any kind (including clearing or grading) shall be commenced upon any portion of the Property without prior written approval by the Shell Land and Energy Company of the Plans as set forth above. The approval or disapproval of the Shell Land and Energy Company as aforesaid shall be final and wholly within the discretion of the Shell Land and Energy Company. All buildings or structures built on the Property shall be constructed in accordance with the Plans as the same shall be finally approved by the Shell Land and Energy Company.

The decision of the Shell Land and Energy Company shall be conclusive in the absence of bad faith. The Shell Land and Energy Company shall not be liable to any person under any theory or under any circumstances in connection with the approval or disapproval of the Plans including, without limitation, any liability based on soundness of construction, adequacy of drawings and specifications, or otherwise.

In the event construction does not commence on a project for which Plans have been approved within six (6) months of such approval, it shall be necessary for the Purchaser to re-submit the Plans to the Shell Land and Energy Company for re-approval.

At the point in time where Shell Land and Energy Company ceases to be an Owner of any Lot or any portion of the Property, the responsibilities for reviewing Plans and approving or disapproving the same shall be transferred to an architectural control committee consisting of three members nominated by the Board and approved by a majority of the Owners.

### ARTICLE III

#### MAINTENANCE

##### 3.01 Duty of Repairs and Maintenance.

A. All Improvements hereafter constructed upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

B. Owners and occupants (including lessees) of any part of the Property shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of the Property so owned or occupied, and all areas adjacent to such Property which are within dedicated rights-of-way but not within an actual paved roadway, to the extent not maintained by the City of Austin, including buildings, improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such

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maintenance shall include, but is not limited to the following which shall be performed in a timely manner:

- (i) Prompt removal of all litter, trash, refuse and wastes.
- (ii) Lawn mowing.
- (iii) Tree and shrub pruning.
- (iv) Watering of lawn and garden areas which shall be maintained in an attractive manner.
- (v) Keeping exterior lighting and mechanical facilities in working order.
- (vi) Keeping parking areas, driveways and roads in good repair.
- (vii) Complying with all government, health and police requirements.
- (viii) Repainting of improvements.
- (ix) Repair of exterior damage to improvements.

#### ARTICLE IV

#### THE ASSOCIATION

**4.01 Membership.** Each and every person, persons or legal entity who shall own any lot, tract, or parcel of land in the Property shall automatically be a member of the Association, provided, however, that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a member of the Association. When two (2) or more persons or entities hold undivided interests in any part of the Property, such persons or entities shall collectively constitute one member for all purposes hereunder, and shall be entitled to exercise their collective votes in such a manner as they determine, but in no event shall they be entitled to more than one vote with respect to each acre, or major fraction thereof, of the Property in which such persons or entities own undivided interests. When two or more persons shall collectively hold undivided interests of the Property, such persons shall designate to the Association one Owner who shall have authority to act on behalf of all such co-owners to exercise or receive membership rights and benefits (including without limitation authority to exercise voting rights and receive any notices or disclosures given to the members.)

**4.02 Voting Rights of Members.** All Owners of property within the Property shall be members of the Association. Members of the Association shall be entitled to one vote for each acre or major fraction thereof (i.e. rounding up to the nearest acre for any fraction of an acre greater than or equal to one-half acre and rounding down to the nearest acre for any fractional acre less than one-half acre), of that portion of the Property owned by each such member.

(a) **Proxy Voting.** Any Owner may give a revocable written proxy to any person authorizing such person to cast the Owner's votes in any matter. Such written proxy shall be in a form as may be prescribed in the By-Laws, and shall not be valid for more than eleven (11) months, and shall not be valid unless filed with the Secretary of the Association in the manner required by the By-Laws.

**4.03 Meetings.** There shall be an annual meeting of the members of Association at such place and time as may be designated by the Board. The Board shall have the power to designate a time and place for any annual meeting. Written notice of the meeting shall be delivered not less than ten (10) nor more than fifty (50) days prior to the date fixed for said meeting, to all

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members. All notices shall be addressed to each member as his address appears on the books of the Association.

- (a) Quorum. The presence at any meeting, in person or by proxy, of members to vote at least a majority of the total votes outstanding and not suspended shall constitute a quorum.
- (b) Presiding Officer. The President, or in his absence the Vice President, or in his absence the Secretary/Treasurer, or in his absence any other director, regardless of whether such person is an officer, shall call meetings of the members to order and act as Chairman of such meetings. In the absence of all the above, any member entitled to vote or any proxy of any such member may call the meeting to order and a Chairman may be elected.
- (c) Vote Necessary. Except as provided otherwise in this Declaration, any action may be taken at any legally convened meeting of the Members upon the affirmative vote of the members constituting a Quorum.

4.04 Duties of the Association. Subject to and in accordance with the provisions of this Declaration, the Association shall have and perform each of the following duties:

- (a) To accept, own, operate, maintain and repair the main entrance signage and landscaping.
- (b) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount to carry out the Association functions.
- (c) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact such rules (the "Rules") and Association Bylaws (the "Bylaws"), not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of Association property. Without limiting the generality of the foregoing, such Rules may set dues and fees and prescribe the regulations governing the operation of Association property. Each member of the Association shall be entitled to examine such Rules and Bylaws at any time during normal working hours at the principal office of the Association.
- (d) To keep books and records of the Association's affairs.
- (e) To carry out and, at its option, enforce all provisions of the Association set forth in this Declaration, or the Articles or Bylaws of the Association.

4.05 Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association shall have the power and authority at all times and may, at its option, exercise said power and authority as follows:

- (a) To levy assessments as provided in Article V, below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article V hereof in order to raise the total amount for which the levy in question is being made.

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- (b) The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration, the Rules, or the Bylaws. The Association shall also have the power to levy a special charge (not to exceed \$50 per violation) for any violation of this Declaration, the Rules or the Bylaws.
- (c) To retain and pay for the services of a person or entity (the "Manager") to manage and operate the Association, including its property to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association, or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.
- (d) To retain and pay for legal and accounting services necessary or proper in the operation of the Association, the operation and management of its property, the enforcement of this Declaration, the Bylaws, or the Rules, or in the performance of any other duty, right, power, or authority of the Association.
- (e) To maintain and repair the main entrance signage and its supporting landscaping as defined in Article I, Section 1.01, as appropriate.
- (f) To enter into contracts on such terms and provisions as the Board shall determine to operate and maintain any Common Area or to provide any service or perform any function on behalf of the Association.
- (g) To enter upon such Owner's property, and upon adjacent right-of-way areas, without liability to such Owner (or any lessee, invitee, customer or licensee of Owner) for trespass or otherwise, and cause to be done any work or any other act necessary to secure compliance with these protective covenants. As a condition precedent to exercising the rights given to the Association under this Section 4.05, the Association shall give the Owner written notice specifying with particularity the nature of the work or act which the Association considers necessary and such Owner shall have ten (10) days after receipt of such written notice within which to commence such work or act. If such Owner timely commences such work or act and prosecutes same with due diligence until completion, the Association shall not have any right to enter upon such Owner's property or adjacent right-of-way areas for performing the same. The cost of any such work or act performed by the Association on the Owner's property or adjacent right-of-way areas shall be assessed against such Owner's property. Each Owner shall be deemed to have agreed to pay for any such work or act performed promptly upon receipt of a statement covering the cost of such work, and upon failure to make prompt payment, the amount due for such work or act shall become a personal obligation of such Owner and shall be subject to the same lien and collection procedures as the Assessments provided for in Article V hereof.

4.06 Indemnification. Except when prohibited under the Texas Non-Profit Corporation Act, the Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he or she is or was a director,

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officer, committee member, employee, servant or agent of the Association (collectively, "Indemnified Parties") against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by him or her in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he or she (1) acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or her or incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability hereunder or otherwise. Any Indemnified Party shall promptly advise the Association in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and the Indemnified Party, at the Indemnified Party's expense, shall assume on behalf of the Association (and the other Indemnified Parties) and conduct with due diligence and in good faith the defense thereof with counsel satisfactory to the Association; provided, however, that the Association shall have the right, at its option, to be represented therein by advisory counsel of its own selection and at its own expense. In the event of failure by the Indemnified Party to fully perform in accordance with this indemnification paragraph, the Association, at its option, and without relieving the Indemnified Party of its obligations hereunder, may so perform, but all costs and expenses so incurred by the Association in that event shall be reimbursed by the Indemnified Party to the Association, together with interest on the same from the date any such expense was paid by the Association until reimbursed by the Indemnified Party, at the rate of interest provided to be paid on judgments, by the law of the jurisdiction to which the interpretation of the Contract is subject.

#### ARTICLE V

#### ASSESSMENTS

5.01 Covenants for Assessments. Shell Land and Energy Company for each lot, tract or parcel of land owned by it within the Property, hereby covenants, and each purchaser of any such lot, tract or parcel of land by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the Association (i) quarterly assessments or charges (as specified in Section 5.03 hereof); and (ii) special assessments for capital improvements (as specified in Section 5.04 hereof), all of such assessments to be fixed, established, and collected from time to time as hereinafter provided.

5.02 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the maintenance and improvement of the Common Area or any part thereof, and for carrying out the purposes of the Association as stated herein or as otherwise provided in its Articles of Incorporation.

5.03 Quarterly Assessment. Each Owner of any part of the Property shall pay to the Association a quarterly assessment to be determined by the Manager. The Assessment that an Owner is to pay shall be based upon the proportion of acreage that it owns as compared to the total acres of the Property. The Board may, after consideration of current operation and maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The Association may not accumulate a surplus at the end of any year which is more than two times the maximum permissible total annual assessment for that year.

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5.04 Special Assessments. In addition to the quarterly assessments authorized by Section 5.03 hereof, the Association may, by vote of its members as set forth in Section 5.06 hereof, levy in any assessment year or years a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any improvement located upon the Common Area, including the necessary fixtures and personal property related thereto, or for carrying out other purposes of or otherwise benefiting the Association.

5.05 Vote Required for Increase in Rate of Quarterly Assessment. Any increase in the rate of the quarterly assessment as authorized by Section 5.03 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

5.06 Vote Required for Special Assessment. Any special assessment as authorized by Section 5.04 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

5.07 Commencement Date of Quarterly Assessment. The first quarterly assessment provided for herein shall commence on January 1, 1997 and shall continue thereafter from quarter to quarter.

5.08 Due Date of Assessments. The first quarterly assessment shall become due and payable on or before January 1, 1997, and shall be considered delinquent if not paid within thirty (30) days from its due date. The assessments for any quarter thereafter shall become due and payable within thirty (30) days from its due date. The due date and delinquent date of any special assessment under Section 5.04 hereof shall be fixed in the resolution authorizing such assessment.

5.09 Owner's Personal Obligation for Payment of Assessment. The quarterly and special assessments provided for herein shall be the personal and individual debt of the Owner of the property covered by such assessments. No Owner may exempt himself from liability for such assessments. In the event of default in the payment of any such assessment, the Owner of the property shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the assessment from the due date thereof, (or if there is no such highest rate, then at the rate of three percent (3%) per month) together with all costs and expenses of collection, including reasonable attorneys' fees.

5.10 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 5.09 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the property covered by such assessment, which shall bind such property in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. To evidence the aforesaid assessment lien, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the property covered by such lien and a description of the property. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such lien for payment of assessments shall attach from the date that such payment becomes delinquent as set forth in Section 5.08 above and may be enforced by the foreclosure of the defaulting Owner's property by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or the Association may institute suit against the Owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred.

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ARTICLE VI

MISCELLANEOUS PROVISIONS


6.01 Duration. This Declaration and the covenants, restrictions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and every Owner of any part of the Property, including Shell Land and Energy Company, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including December 31, 2025, after which time said covenants shall be automatically extended for successive periods of five (5) years unless a change (the term "change", as used herein, shall include additions, deletions or modifications hereto, in whole or in part) is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of such meeting; PROVIDED, HOWEVER, that no such change shall be effective until one (1) year following the vote referred to above, nor shall any such change be effective prior to the recording of a certified copy of such resolution in the Real Property Records of Travis County, Texas.

6.02 Amendment. This Declaration may be amended by Shell Land and Energy Company so long as Shell Land and Energy Company holds a majority of the votes of the Association. No amendment by Shell Land and Energy Company shall be effective until there has been recorded in the Real Property Records of Travis County, Texas, an instrument executed and acknowledged by Shell Land and Energy Company and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that Shell Land and Energy Company had the requisite number of votes. In addition, this Declaration may be amended by the recording in the Travis County Real Property Records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by a majority of the total eligible votes of the membership of the Association.

6.03 Jurisdiction. Notwithstanding the specifications and limitations set forth herein, all are subject to different limitations being now or hereafter set by the City of Austin, Texas and other governmental entities and where such occurs, the governmental limitations shall control where inconsistent herewith.

IN WITNESS WHEREOF, the undersigned, being the duly authorized representative of Shell Land and Energy Company, has executed this Declaration this 22nd day of August, 1996.

SHELL LAND AND ENERGY COMPANY

By:   
G. W. Hadley, Manager, Corporate Real Estate  
Shell Services Company, as agent for Shell Land  
and Energy Company

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THE STATE OF TEXAS §  
COUNTY OF HARRIS §

This instrument was acknowledged before me on this 22nd day of August, 1996,  
by G. W. Hadley, Manager Corporate Real Estate, Shell Services Company, as agent for Shell  
Land and Energy Company, a Delaware corporation, on behalf of said corporation.

My commission expires: 10/02/98

Martha Hickman  
M. P. Hickman  
Notary Public in and for  
Harris County, Texas



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EXHIBIT "A"

FIELD NOTES DESCRIBING A 42.1663 ACRE TRACT OF LAND OUT OF THE J. C. TARNHILL LEAGUE IN TRAVIS COUNTY, TEXAS, SAID 42.1663 ACRE TRACT BEING CONVEYED FROM THE M.P.M. CORPORATION TO BALTIC INVESTMENTS, LTD., BY DEED RECORDED IN VOLUME 7823, PAGE 116, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND A PORTION OF SAID 42.1663 ACRE TRACT OF LAND BEING CARIEN HILLS, A SUBDIVISION OF RECORD IN BOOK 67, PAGE 27, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID 42.1663 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pin found at a fence corner at the northwest corner of original 42.1663 acre tract of land, same being situated on the east boundary of that certain tract of land conveyed to the Austin Independent School District by Deed recorded in Volume 1864, Page 178, of the Travis County Deed Records, said iron pin being situated at the southwest corner of Techni Center Plaza, Section 11-A, a subdivision of record in Book 80, Page 261, of the Travis County Plat Records;

THENCE, with the south boundary of the aforesaid subdivision and the remains of an old fence on the north boundary of said 42.1663 acre tract, S 59°-26' E., 1599.56 feet to an iron pin found on the west right-of-way line of U.S. Highway 183 at the northeast corner of said 42.1663 acre tract and being also the southeast corner of said Techni Center Plaza, Section 11-A;

THENCE, with said west right-of-way line the following two (2) courses:

1. S 74°-05'-00" W., 364.19 feet to a concrete monument found;
2. S 32°-30'-50" W., 315.72 feet to a concrete Highway Monument found for the easternmost southeast corner of said 42.1663 acre tract; said monument being also the northeast corner of that certain tract conveyed to Price R. Ashton by Deed recorded in Volume 4237, at Page 140, of the Deed Records of Travis County, Texas;

THENCE, with the south line of said 42.1663 acre tract as fenced, N 58°-55' W., at about 85 feet pass the northwest corner of said Ashton tract and the northeast corner of that certain tract conveyed to Price R. Ashton by Deed recorded in Volume 2723, at Page 486, of the Deed Records of Travis County, Texas; at about 205 feet pass the northwest corner of said Ashton tract and the northeast corner of that certain tract conveyed to Edward Fabian by Deed recorded in Volume 2718, at Page 437, of the Deed Records of Travis County, Texas; in all 363.61 feet to an iron pipe found for the northwest corner of said Fabian tract and the northeast corner of that certain tract conveyed to El Bethel Primitive Baptist Association by deed recorded in Volume 5527, at Page 2331, of the Deed Records of Travis County, Texas;

THENCE, continuing with the south line of said 42.1663 acre tract as fenced and the north line of said Baptist Association tract, the following two (2) calls:

1. N 55°-11' W., 112.52 feet to an iron pin set;
2. N 62°-40' W., 181.30 feet to an iron pipe found at a fence corner for an ell corner of said 42.1663 acre tract and the northwest corner of said Baptist Association tract;

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THENCE, with the east line of said 42.1663 acre tract as fenced and the west line of said Baptist Association tract, S 31°-11'-15" W., 697.70 feet to a 60-d nail found set in a fence corner post on the northern right-of-way of Wilcab Street, said 60-d nail being the southeast corner of said Baptist Association tract and the southernmost southeast corner of said 42.1663 acre tract;

THENCE, with the fenced south boundary of said 42.1663 acre tract, same being the north right-of-way line of Wilcab Street prior to a 6.50 foot dedication for extra right-of-way by the Plat of Carlen Hills, as recorded in Book 67, at Page 27, of the Plat Records of Travis County, Texas, the following three (3) courses:

1. An arc distance of 67.68 feet along a curve to the left whose elements are: I=7°-36', T=33.89', R=510.23', and whose chord bears N 84°-55' W., for 67.63 feet to an iron pin found;
2. An arc distance of 142.51 feet along a curve to the right whose elements are: I=29°-38', T=72.89', R=275.55', and whose chord bears N 73°-55' W., for 140.93 feet to an iron pin found;
3. N 59°-06' W., 965.33 feet to an iron pin found at a fence corner, same being the southwest corner of said 42.1663 acre tract of land and being also the southeast corner of that certain tract of land conveyed to Isaiah Axel by deed recorded in Volume 751, Page 448, of the Travis County Deed Records;

THENCE, with the west boundary of said 42.1663 acre tract as fenced, N 29°-00' E., at about 248 feet pass the northeast corner of said Isaiah Axel tract and the southeast corner of that certain tract conveyed to Monroe Jones by deed recorded in Volume 1040, at Page 615, of the Deed Records of Travis County, Texas, in all 511.77 feet to an iron pipe found for the westernmost northwest corner of the herein described tract, said iron pipe being the northeast corner of said Jones tract and being situated on the southern boundary of that certain tract conveyed to Daniel Kaderka and Sibylle Stojanik by deed recorded in Volume 772, at Page 355, of the Deed Records of Travis County, Texas;

THENCE, with the southernmost northern boundary of said 42.1663 acre tract fenced, S 59°-49' E., at about 38.5 feet pass the southeast corner of said Kaderka and Stojanik Tract and the southwest corner of that certain tract conveyed to Daniel Kaderka by deed recorded in Volume 7021, at Page 1027, of the Deed Records of Travis County, Texas, at about 338.5 feet pass the southeast corner of said Daniel Kaderka Tract and the southwest corner of that certain tract conveyed to Sibylle Stojanik by deed recorded in Volume 7021, at Page 695, of the Deed Records of Travis County, Texas, in all 638.54 feet to an iron pipe found for an ell corner of the herein described tract, said iron pipe being the southeast corner of said Sibylle Stojanik tract;

THENCE, with the east boundary of the aforesaid tract, same being the easternmost western boundary of said 42.1663 acre tract, N 29°-18' E., 255.62 feet to an iron pin found at a fence corner for an ell corner of said 42.1663 acre tract and the northeast corner of said Stojanik tract;

EXHIBIT "A"

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REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

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