

Applicant/Neighborhood Agreement
Term Sheet

Marlo Heights Rezoning

C14-2015-0001

4905, 5001, and 5003 Pecan Springs Road

Based upon meetings and discussions between the St. Stephen's Place, LLC, (the "Applicant") and certain owners of property within close proximity to the proposed project (neighbors Christopher Ring, Lyova Rosanoff, Marco Montoya, Thomas Krager, Ryan Krager, Dane Krager, Matthew Brown, and Carrie Brown are collectively referred to herein as the "Neighbors"), the Applicant agrees to impose the following conditions upon the tract of land referenced as Tract 2 in the zoning case (hereinafter referred to interchangeably as either "Tract 2" or the "Property") in exchange for support of the rezoning by the Neighbors. Applicant and Neighbors jointly request that the Planning Commission recommend approval of the staff recommendation with respect to the rezoning request and include in such recommendation instruction that the parties must codify all of these terms in the form of a recorded development agreement, restrictive covenant, and/or Declaration of Condominium Regime, as applicable, prior to City Council's vote on the case.

1. Tract 2 shall be developed substantially in the layout as set forth in the site plan attached hereto as Exhibit "A" (the "Site Plan"). The parties acknowledge that the Site Plan is conceptual only, has not been through technical or code review by the City of Austin, and may change based upon City of Austin land development and other code requirements. Accordingly, the final site plan and site development permit may differ from that referenced herein as the Site Plan.
2. The maximum number of units on the Tract 2 shall be 38.
3. The minimum western and southern setbacks on Tract 2 shall be 30'.
4. The minimum northern setback on Tract 2 shall be 25'.
5. Units fronting Pecan Springs Road (western boundary) and southern boundaries shall be a maximum of 2 stories.
6. There shall be a vegetative buffer consisting of at least one line of shade trees (Class I trees spaced at 30 feet on center) along the southern boundary of Tract 2 within the 30' setback and along the southern fence line of Tract 2. In addition, Applicant shall install an 8 foot wooden privacy fence along the southern property line of Tract 2 extending southward to the edge of the Erosion Hazard Zone of the creek, subject to City of Austin approval. If the City of Austin will not administratively permit installation of an 8' fence in this location on Tract 2, Applicant shall install the tallest fence the City of Austin will administratively approve in this location. Applicant shall not be required to seek a

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variance from any board, commission, or the city council to construct the fence at a height taller than the height the City of Austin will administratively approve.

7. There shall be a vegetative buffer installed on Tract 2 to screen overflow parking areas.
8. There shall only be one vehicle entrance/exit to and from Tract 2, and it shall be located at the northernmost corner of the Property as close to St. Stephens Place as the City of Austin will permit via administrative approval.
9. The development of Tract 2 shall be in accordance with the following construction quality and site design standards:
 - a. On the west side of Tract 2, there shall be variation in setbacks and variation in building materials used.
 - b. The general contractor responsible for the construction of all homes on Tract 2 shall be insured.
10. There shall be a maximum of 5 homes fronting on Pecan Springs Road and a maximum of 6 homes constructed along the southern boundary of Tract 2 (5 of which will back up to the southern boundary of Tract 2, and 1 of which will have a side that is along the southern boundary of Tract 2).
11. To protect the privacy of the residential neighbor to the south of the Property, the homes constructed along the southern boundary of Tract 2 shall be constructed no farther east than the 546 topographical elevation line as such elevation line is shown in attached **Exhibit "B"**, said homes shall not include any second-floor balconies that face the southern boundary of Tract 2, and said homes shall have no second-floor windows installed lower than 60" above the finished second floor on the façades of said homes parallel to the southern boundary of Tract 2. In addition, any balcony constructed on the home located on the most southeasterly home site of Tract 2 shall include a wing wall on the southern edge of said balcony to screen direct views onto the residential property south of Tract 2.
12. No 1-story structure on Tract 2 shall exceed 20' in height.
13. Because of the proximity of the Property to several colleges and universities in the area, Applicant and Neighbors agree to take certain steps to promote home ownership at the Property. Accordingly, Applicant agrees to incorporate into the project's Declaration of Condominium Regime for Tract 2: (1) a provision requiring that all purchasers of residences shall purchase the residences with the intent of owner-occupancy or occupancy by a person or persons related to the purchaser; (2) a provision that prohibits any one person or entity from purchasing more than one residence; and (3) a provision that requires all purchasers (or someone related to a particular purchaser) to occupy their residences within 2 years of purchase. These restrictions will be enforced by the Condominium Owners' Association. In addition, Applicant agrees to impose a restriction

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on Tract 2 restricting dwelling unit occupancy by unrelated persons to no more than 4 unrelated persons per dwelling unit and to impose a restriction prohibiting non owner-occupied short-term rentals (Type 2 and Type 3 short-term rentals).

12. If required to do so by the City of Austin, Applicant will construct an added vehicle travel lane on Pecan Springs Road and install sidewalks, curbs, and a storm sewer along the length of the western boundary of Tract 2. In addition, Applicant agrees to work with the Neighbors to encourage the City of Austin to make any additional, needed improvements to Pecan Springs Road and other surrounding streets to improve connectivity, safety, and traffic flow, including but not limited to adding curbs, sidewalks, utilities, and traffic signals.
13. Applicant agrees to not seek any waivers of City of Austin Compatibility Standards for any structure on Tract 2.
14. Applicant agrees to install a vegetative barrier or screen along the portion of Tract 2 that abuts Pecan Springs Road to help keep vehicle headlights on the interior streets on the Property from shining onto Pecan Springs Road.
15. There shall be no neon, electric, or internally-illuminated, moving, or flashing signs anywhere on Tract 2, no sign on Tract 2 shall be larger than 3' by 6', and all signs on the Tract 2 shall be at located least 15' from Pecan Springs Road. Applicant requests the right to softly upright and/or backlight lettering on signs on Tract 2 for visibility and requests that the Neighbors work with Applicant toward agreement language that will permit such limited lighting.
16. During the initial construction of the project, construction activity on Tract 2 shall be allowed only during the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and during the hours of 8:00 a.m. and 2:00 p.m. on Saturdays. Construction shall not be permitted on Sundays.
17. During the initial construction of the project, Applicant shall keep the Property free of trash and debris and shall not permit any parking of construction vehicles or equipment on Pecan Springs Road or allow workers or food vendors to park along Pecan Springs Road.
18. Applicant agrees to impose by restrictive covenant on Tract 2 an integrated pest management plan substantially similar to and generally in accordance with the Integrated Pest Management Plan attached hereto as Exhibit "C" and to add to such covenant provisions for trash, invasive species, and erosion control and maintenance along the side of Tract 2 adjacent to the creek.
19. Only plant vegetation approved by the City of Austin shall be installed by Applicant, and Applicant agrees to not seek any waivers or adjustments to install different vegetation.

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- 20. The homes along Pecan Springs Road shall be designed in an architectural style and constructed of materials similar to the homes shown in Exhibit "D" attached hereto. Applicant will create written design standards to govern same prior to action on the case by City Council.
- 21. Each of the Neighbors agrees to withdraw his or her name from the valid petition once the agreements codifying all of the terms above are signed by all parties hereto.

EXHIBITS:

- "A" – Site Plan
- "B" – Topographical Map Showing 546 Elevation Line
- "C" – Form of Integrated Pest Management Plan
- "D" – Sample of Proposed Construction of Homes on Pecan Springs Road

AGREED as of this ____ day of August 2015.

APPLICANT:

ST. STEPHEN'S PLACE, LLC

By: 
 Edwin W. Prewitt, Jr., Manager

NEIGHBORS:


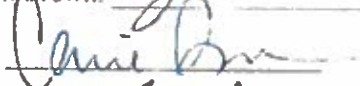





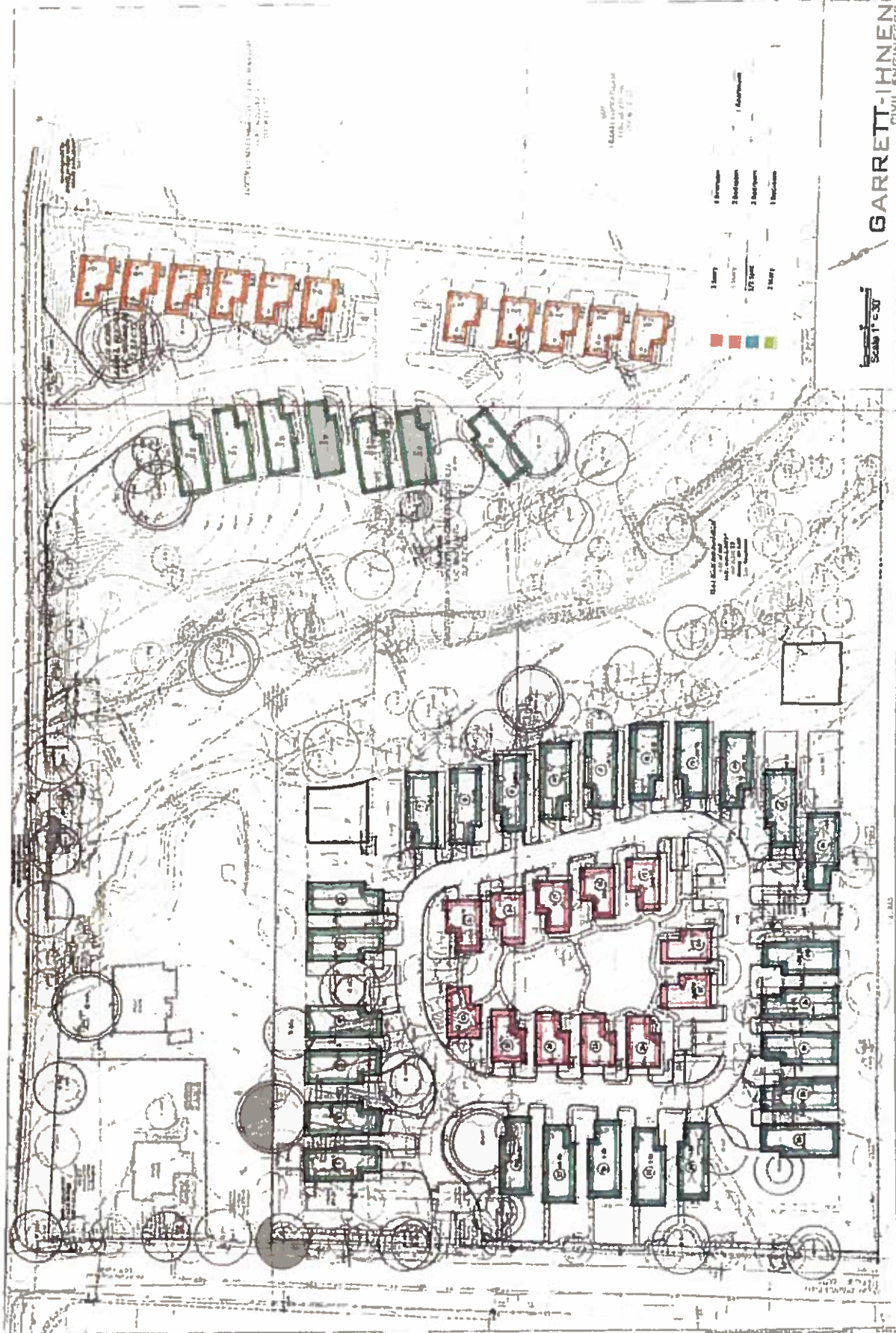
By: Matthew Tyson Brown: 
 Carrie Brown: 
 Christopher Ring: 
 Lyova Rosanoff: 
 Marco Montoya: _____
 Thomas Krager: 
 Ryan Krager: 
 Dane Krager: 

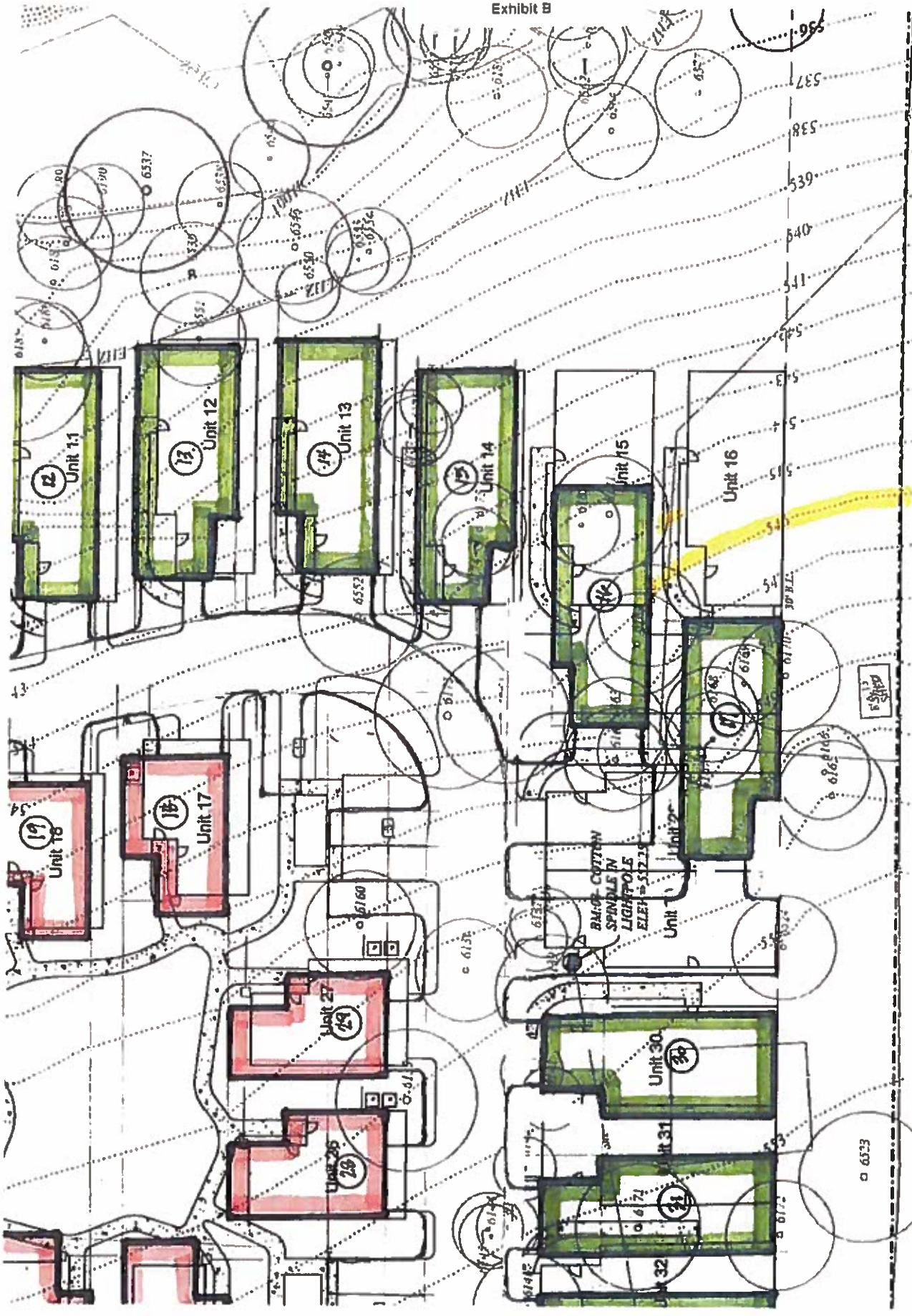
Exhibit A



GARRETT-IHNIEN
CIVIL ENGINEERS

Garrett-Ihnen

Exhibit B



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EXHIBIT C

Integrated Pest Management Plan

St. Stephen's

***Prepared For:
City of Austin
Planning and Development Review Department
505 Barton Springs Road
Austin, Texas 78704
Phone: (512) 974-2788***

***Prepared By:
Garrett-Ihnen Civil Engineers, Inc.
12007 Technology Blvd., Suite 150
Austin, Texas 78727
(512) 454-2400***

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PART B – PUBLIC EDUCATION PROGRAM, IPM PLANS, AND ANTICIPATED PEST PROBLEMS

PUBLIC EDUCATION

1.0 INTRODUCTION

This document is intended to provide citizens with the information necessary to follow an environmentally sensitive approach to lawn care, pest management, and to other aspects of urban living. To maintain a healthy environment and avoid polluting, it is important that each individual employ the following recommended measures. If a service company is employed by the property owner, then the owner must ensure that the company:

- Is aware of the covenants and restrictions on the property
- Is given a copy of this guide
- Use the practices recommended in this guide

2.0 DEFINITION OF IPM

Integrated pest management (IPM) is a system of controlling pests (weeds, diseases, insects or others) in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected control(s) are implemented. Control options--which include biological, cultural, manual, mechanical and chemical methods--are used to prevent or remedy unacceptable pest activity or damage. Choice of control option(s) is based on effectiveness, environmental impact, site characteristics, public health and safety, and economics. IPM takes advantage of all appropriate pest management options.

3.0 GROW GREEN PROGRAM

The Grow Green program is a partnership of the City of Austin Watershed Protection and Development Review Department and the Cooperative Extension Service of Travis County. This program is a community-wide environmental education program intended to preserve and protect our water resources. The Grow Green partnering agencies distribute educational materials, such as the earth-wise guides included in this document, to the Austin-area nurseries and home improvement stores that have elected to participate in the program.

4.0 EARTH-WISE GUIDES

The earth-wise guides in this document were developed as an educational component of the Grow Green program. The Grow Green earth-wise guides are available for free at each participating retailer. This information is meant to assist individuals in identifying a pest of concern and describe a least-toxic approach to managing the pest. So that you may choose a least toxic control measure, various products labeled for the control of that pest are rated according to toxicity and persistence. These guides are updated on an occasional basis as new products and treatment options become available. Additional copies may be available upon request by either picking them up at a participating retailer, or by contacting the City of Austin at (512) 974-2550 or the Cooperative Extension Service at (512) 854-9600.

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5.0 VEHICLE MAINTENANCE

Used motor oil, oil filters, car batteries, and tires should be dropped off at an appropriate facility. Many automotive shops, lubrication centers, and some recycling centers will accept these materials. For more information on proper disposal and recycling, refer to the next item, 6.0 Disposal and Recycling. When cleaning your vehicle, it is important that the wastewater from the cleaning process not enter the storm drain system. Approved car washing facilities direct the wastewater to a treatment facility. When washing a vehicle at home, drain the wash water to a landscape area. Thus, the landscaping can use the water, and the dirt and cleaning agents can be degraded.

6.0 DISPOSAL and RECYCLING

It is important to recycle any material that is recyclable, and to properly dispose of items that cannot be recycled. Residents of the City of Austin or of Travis County have access to the Home Chemical Collection facility located at 2514 Business Center Drive, south of the Ben White/Burleson intersection. It is open Tuesday and Wednesday from 12 to 7 p.m. The phone number for the facility is (512) 974-4343. If you reside outside Travis county, contact your local county government or the Texas Commission on Environmental Quality (TCEQ) to find out if there is a disposal site or recycling program for your area. The TCEQ offers citizens two easy ways to access this information. One method is to use the toll-free phone number (1-800-CLEAN-UP), that allows you to enter your five-digit ZIP code to find information specific to your locale. Web surfers can find the same information on the Internet at www.1800cleanup.org.



IPM FOR INNOVATIVE WATER QUALITY CONTROLS

City of Austin - Watershed Protection and Development Review Department

Integrated Pest Management (IPM) plans are required for the following innovative water quality controls described in the Environmental Criteria Manual (ECM):

- ECM 1.6.7.A Retention/Irrigation
- ECM 1.6.7.B Vegetative Filter Strip
- ECM 1.6.7.C Biofiltration
- ECM 1.6.7.D Rainwater Harvesting (if used in conjunction with vegetation)
- ECM 1.6.7.F Vegetative Filter Strip – Disconnection of Impervious Cover
- ECM 1.6.7.G Non-Required Vegetation
- ECM 1.6.7.H Rain Garden

The management of these water quality controls must adhere to the techniques and control options described within this IPM plan. IPM is a continuous system of controlling pests (weeds, diseases, insects or others) in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected control(s) are implemented. Control options--which include biological, cultural, manual, mechanical and chemical methods--are used to prevent or remedy unacceptable pest activity or damage. Choice of control option(s) is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an IPM system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. IPM takes advantage of all appropriate pest management options.

Manage the treatment system in conformance with the following criteria. Refer questions regarding the proper application of these criteria to the City of Austin IPM Coordinator (phone 512-974-2550):

1. Vegetation Functions: The vegetation in this storm water treatment system is integral and necessary for it to function properly. A minimum of 95% of the vegetation specified in the project construction documents shall be alive and viable throughout the life of the system. No bare areas greater than 1 square foot may exist. These performance requirements apply to the entire treatment facility, as well as to areas immediately adjacent to and related to the facility (including access areas, easements, etc.)
2. Drainage Issues and Vegetation Establishment: Water management is critical during plant establishment, and remains crucial through the life of the system for proper vegetation management. Allow newly-planted roots to become established before flooding soils for an extended period.
3. Mowing and/or Trimming: Mowing and/or trimming of vegetation shall occur with certain restrictions.
 - a. Tall and Medium Herbaceous Plants: Trimming activities must not impinge on the growing tips (basal crown) of the bunchgrasses. Cutting these grasses below the basal crown will severely stress and possibly kill them. These plants shall be cut

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no lower than 18" from the ground. In all cases, clippings and trimmings shall be bagged and removed from the site.

- b. Turf and other Short Herbaceous Plants: Sod-forming grasses may be mown or trimmed to an appropriate height. These plants shall not be scalped; cut no lower than 3" from the ground. All clippings and trimmings shall be bagged and removed from the site.
4. Weed Management: A weed is generally defined as any plant in the wrong place. Refer to the original design and construction documents when uncertainty exists as to the appropriateness of a specific plant. Preventing the introduction of weeds is the most practical and cost-effective method for their management. Avoid bare soil by minimizing soil disturbance and properly managing desirable vegetation. Remove weeds early in their growth stage, before they set seed. Allow the desired vegetation to out-compete the weeds. It is necessary to allocate greater resources on landscape maintenance during the initial 3-year establishment period. During this time weed "pressure" from the drainage area will be greatest, as will availability of bare surface areas within the treatment system. These factors allow weeds to gain a foothold, especially during the first few months of the life of the water quality control. The preferred method of weed control is to physically remove the weeds. Cut the weed roots below the soil to reduce root carbohydrates. This shall be done by hand tools only; using cultivating machines is not acceptable within the treatment system. Repeat cultivation at regular intervals during the growing season. Any bare areas resulting from this process must be re-vegetated. See the earth wise guide to Weeds for further information.
5. Pesticides (includes herbicides) and Fertilizer: The use of landscape chemicals, including fertilizer and pesticides, are not allowed within the treatment system without the approval of the City's IPM Coordinator (phone 512-974-2550). Herbicide use will be restricted to that of organic, least-toxic formulations. Be aware that organic herbicides must be used with caution and can be dangerous, especially in concentrated form. Personal protective equipment must be used: rubber gloves, long pants, eye protection, etc. The use of organic herbicides is generally restricted to the following products. These may not be effective on all weed species:
 - a. Acetic acid (20% vinegar) is effective on small annuals
 - b. Essential oils: Includes cinnamon, clove, summer savory and thyme must be used at the appropriate concentration.
6. Plant species listed as invasive by the state of Texas are not allowed. Refer to the following website for a list of plants and additional information.
http://www.texasinvasivcs.org/Invasives_Database/Invasives.html
7. Mosquito Management: This water quality treatment system shall not be a breeding place for mosquitoes. Incidental standing water must not be present for longer than three days (72 hours). If water exists for periods longer than this, the party responsible for maintenance shall remove the water from the system and conduct any repairs or design flaws to ensure that this condition is not repeated. See the earth wise guide to Mosquitoes for further information.

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8. **Wildlife and Pet Management:** In addition to water quality treatment, this facility offers environmental benefits such as providing food and habitat for wildlife. Pets may also be attracted to them. However, activities by animals within the water quality control shall not interfere with its functions and design objectives. Digging or burrowing by animals is particularly troublesome. Defecation from pets must be picked up on a regular basis. Where problems with wildlife exist, fencing or similar exclusionary methods shall be implemented.
9. **Irrigation System Performance:** Not all water quality treatment facilities include an irrigation system. When an irrigation system exists evaluate the efficiency of the system on a periodic basis, especially at the beginning of each irrigation season. The evaluation shall identify problems with the system, highlight strengths and weaknesses in system performance, and ensure that problems are properly addressed.
10. **Erosion:** Erosion damage to the treatment system shall be repaired immediately. Determine the cause of the erosion and address the situation to prevent it from recurring.
11. **Digging:** Contact utility companies to request that all underground utilities be located and marked prior to excavating in or near storm water facilities. At least one of the following systems shall be contacted.
 - a. Dig-Tess (Texas Excavation Safety System): 1-800-344-8377
 - b. Texas One-Call System: 1-800-245-4545
12. **Pest Management Plans:** Refer to the Grow Green website for updated versions of pest management plans. <http://www.ci.austin.tx.us/growgreen/>

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POTENTIAL PESTS AND GENERAL LANDSCAPING INFORMATION

There are no anticipated pest problems that are unique to the site. The following pest management strategies address common problems for this region.

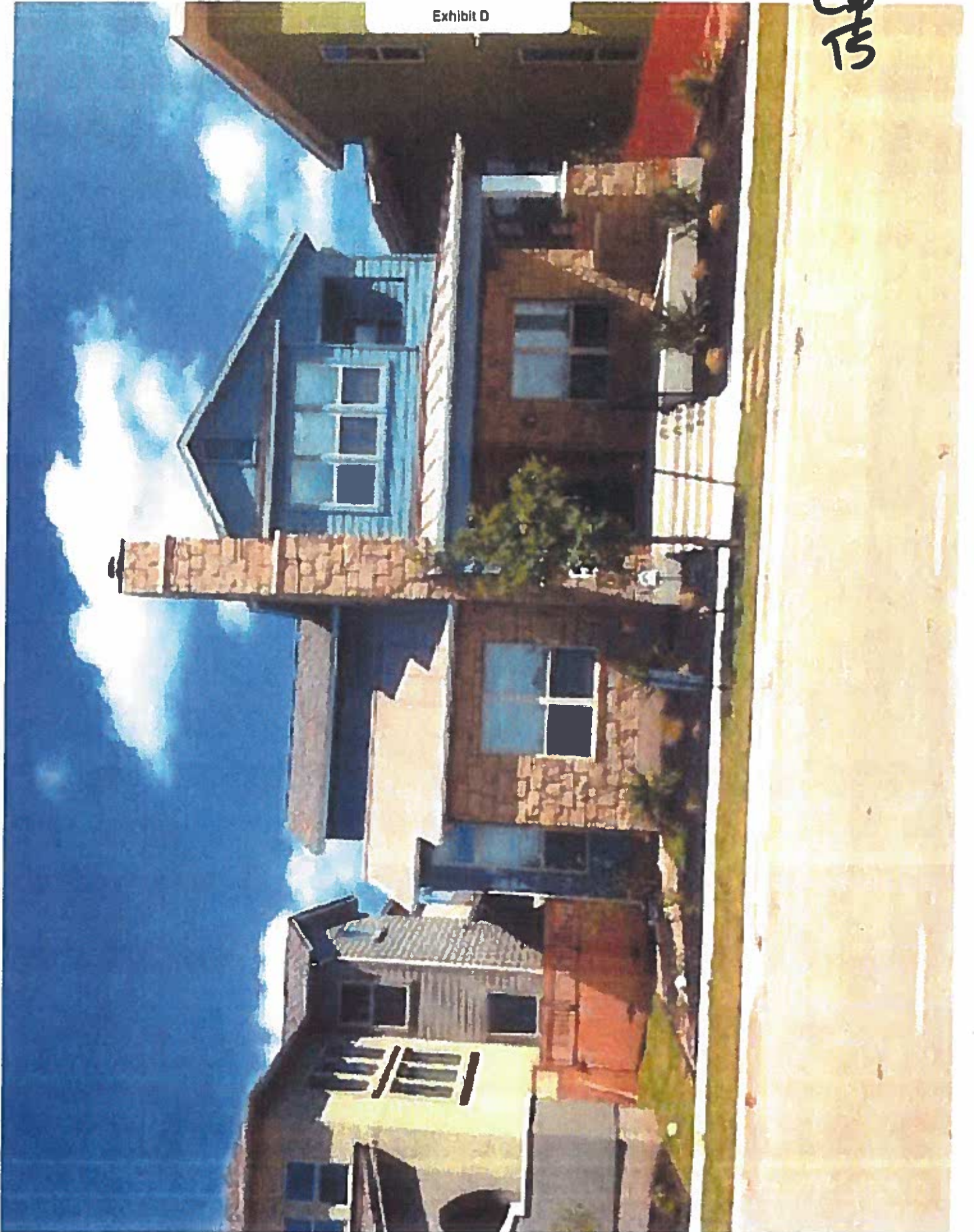
The following materials can be found at the City of Austin Grow Green website:

<http://www.ci.austin.tx.us/growgreen/default.htm>

- [Aphids](#)
- [Beetles](#)
- [Beneficial Insects](#)
- [Caterpillars](#)
- [Fertilizing Recommendations](#)
- [Fire Ants](#)
- [Fleas](#)
- [Galls](#)
- [Hiring a Landscaping Professional](#)
- [Landscaping](#)
- [Lawn Care](#)
- [Lawn Problems](#)
- [Mosquitos](#)
- [Poison Ivy](#)
- [Pruning](#)
- [Spider Mites](#)
- [Product Ratings](#)
- [Scale](#)
- [Snails](#)
- [Stink Bugs](#)
- [Weeds](#)

Please refer to this website for further information on the Grow Green initiative, updates and contact information.

Exhibit D



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Exhibit D



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Exhibit D

