

## RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

**CASE:** C14-76-083(RCA2) – Loyola Landing

**Z.A.P. DATE:** March 20, 2018

**ADDRESS:** 5601 Durango Pass

**AREA:** 3.79 acres

**DISTRICT:** 1

**OWNERS/ APPLICANT:** Harold K. Kaemerle, Jr., Sharie Kaemerle, and Patrick T. Kaemerle; 3 S & D Interest (David Kalisz)

**AGENT:** A. Glasco Consulting (Alice Glasco)

**ZONING:** SF-3, MF-3

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends the restrictive covenant amendment.

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

March 20, 2018: TO AMEND THE RESTRICTIVE COVENANT AS RECOMMENDED BY STAFF, ON CONSENT. (9-0-2) [J. Duncan- 1<sup>st</sup>, A. Aguirre- 2<sup>nd</sup>; Y. Flores, A. Tatkow- Absent]

### **ISSUES:**

The proposed restrictive covenant amendment (RCA) would eliminate requirements tied to a 1976 zoning case (City File #C14-76-083) for a portion of the original area. The 1976 rezoning case included 24.24 acres of land, and the RC covered the entire 24.24 acres. This proposed RCA includes only 3.79 acres out of the 24.24 acres. The remainder of the 24.24 acres will not be affected by the RCA, if approved. Please refer to *Exhibit A (Restrictive Covenant)*. Several related restrictive covenant terminations (RCTs) are also being processed concurrently with this RCA request. Removing/modifying these restrictive covenants (RCs), would allow consolidation of the parcels for redevelopment. These are being processed under the following City File numbers: C14-75-042(RCT1), C14-75-042(RCT2), C14-76-083(RCA2), C14-84-346(RCT1) and C14-84-346(RCT2). Please note that C14-84-346(RCT1) and C14-84-346(RCT2) are for the same 3.79 acre tract, but were processed in 1984. Using multiple RCs with a single zoning case is no longer standard City of Austin practice. Please refer to *Exhibit B (RCT Map Exhibit)*.

A rezoning request is also being processed concurrently with this request; the request would rezone the tracts affected by these restrictive covenants to GR-MU and CS. (City File #C14-2008-0006).

By amending the RC, the Applicant proposes removing the following requirements from the 3.79 acre portion of the original rezoning tract:

1. All of the following portions of such 24.34 acres of land, to-wit:
  - A: 1.294 acres of land and
  - B. 14.25 acres of land shall be used for residential purposes only.
2. No street, driveway or easement way may ever be constructed or maintained upon any portion of the 1.294 acres, which permits or allows vehicles to pass, drive or move from or have direct access from the 10.067-acre tract directly to any street which may be built upon such 1.294 acres of land or contiguous to the east boundary line of said 1.294 acres of land.
3. As it relates to the 9.077 acres of land (a portion the of the 24.34 acres) the following restrictions shall apply:
  - A. No building may be erected or placed thereon unless the plans for any such buildings have been prepared by a licensed architect.

- B. Such 9.077 acres of land or any portion thereof may be used for any purpose permitted under GR zoning per the 1977 City Code, except uses allowed in section 45-22 (39) of the Zoning Ordinance.
  - C. No through street may be built upon such 9.077 acres of land which connect to Ed Bluestein Boulevard directly with any street either upon or contiguous to the easterly boundary line of the 1.294 acres of land. However, nothing in this subparagraph "c" shall prohibit the building of one or more streets upon said 9.077 acres of land, provided that any such street does not cross on, over or upon any portion of the immediately afore described 1.294 acres of land.
4. As it relates to the 10.067 acres of land, the following restrictions shall be applicable: From and after the date of this instrument, any owner desiring to place any building improvements upon any portion of such 10.067 acres of land shall at least 15 days prior to the filing of a building permit from the City of Austin, deliver or mail a notice, by registered or certified mail, to the listed president or chief officer of the neighborhood association.

The RC as created no longer matches the intended redevelopment of the property—this area had been proposed for duplexes; the Applicant is proposing multifamily land use. Several of the conditions listed above pre-date current City standards, which are generally more stringent. If the RCA is approved, these conditions will be superseded by current City requirements and regulations at time of site plan. Please see *Exhibit C (Applicant Correspondence)*.

#### **DEPARTMENT COMMENTS**

The land affected by this RC is located at the terminus of Lazy Creek Drive, south of Purple Sage Drive. To the north is a residential neighborhood that is zoned SF-3. This neighborhood is primarily developed with duplex residences and LBJ High School. Immediately to the east is a small tributary to Walnut Creek that has 100-year floodplain and a 200' wide creek buffer centered on the tributary. Any site development in this floodplain/buffer area would be extremely limited. East of the tributary is undeveloped land zoned SF-2-CO. Further east, across Millrace Drive, is more of the residential neighborhood, which is mostly zoned SF-2, with a few SF-3 properties as well. This area is developed with duplexes and single family residences. Southeast of the property are tracts that are under the same ownership as the subject property; these undeveloped tracts are the subject of the related cases referenced in the Issues Section. These are zoned SF-3, LO, and GR. To the west is undeveloped property zoned GR. Staff has received correspondence from LBJ Neighborhood Association supporting the rezoning, RCTs and RCA. *Please see Exhibit D (Neighborhood Correspondence)*.

#### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3, LO	Undeveloped
<i>North</i>	SF-2, SF-3	Duplex, Single family, LBJ High School
<i>South</i>	P	Parkland/ open space
<i>East</i>	SF-2, SF-3	Duplex, Single family
<i>West</i>	GR, LO, MF-3, SF-3	Undeveloped

#### **STAFF RECOMMENDATION:**

Staff recommends the restrictive covenant amendment.

##### *1. The proposed zoning should promote consistent and orderly planning.*

The requirements that would be removed were not standard City requirements in 1976, but are now superseded by more stringent City standard requirements. The existing restrictive covenants are a patchwork of outdated requirements that make cloud the property title and make regulatory application confusing.

##### *2. The proposed rezoning does not grant an unequal benefit to the landowner.*

Removal and/or modification of the restrictive covenant will make the property subject to current City codes and regulations, which is more equal to other properties.

**NEIGHBORHOOD ORGANIZATIONS:**

Senate Hills Homeowners' Association  
Austin Inncity Alliance  
Del Valle Community Coalition  
East MLK Combined Neighborhood Contact Team  
University Hills Neighborhood Association  
LBJ Neighborhood Association  
Homeless Neighborhood Association  
Claim Your Destiny Foundation

Friends of Austin Neighborhoods  
Neighbors United for Progress  
East Austin Conservancy  
University Hills Neighborhood Plan Contact Team  
Austin Neighborhoods Council  
Friends of Northeast Austin  
SELTexas  
Black Improvement Association

**CITY COUNCIL DATE/ACTION:**

April 12, 2018:

**ORDINANCE READINGS:** 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>

**CASE MANAGER:** Heather Chaffin  
e-mail: heather.chaffin@austintexas.gov

**ORDINANCE NUMBER:**

**PHONE:** 974-2122

EXHIBIT A

C14-76-083(RCA2)

125

THE STATE OF TEXAS )  
COUNTY OF TRAVIS ) 4-25-77 RCHA 4762 13-50

1-50-5503

WHEREAS, City National Bank of Austin, Austin, Texas,  
is the owner of the following described tract or parcel of land,  
lying and being situated in the City of Austin, Travis County,  
Texas, to-wit:

24.34 acres of land, a portion of the J. C. Tannehill League Survey #29 in Travis County, Texas, and being a portion of that 43.85 acre tract conveyed in a deed from Roy Q. Mills, Administrator of the Estate of Baxter Stubbs, Deceased, to Fred C. Morse, Sr., as recorded in Volume 1955, Page 108, Travis County Deed Records, as surveyed for Fred C. Morse, Sr., by Forrest B. Scott, Registered Public Surveyor, Austin, Texas.

BEGINNING at an iron stake found for the northeast corner of that 43.85 acre tract of land as conveyed in a deed from Roy Q. Mills, Administrator of the Estate of Baxter Stubbs, deceased, to Fred C. Morse, Sr., as recorded in Volume 1955, Page 108, Travis County Deed Records, as found fenced and used upon the ground;

THENCE with the southeast line of the said Fred C. Morse, Sr. 43.85 acre tract, as fenced and used upon the ground, S. 29° 45' W. 457.47 feet to an iron stake found for the southeast corner of the said Fred C. Morse, Sr., 43.85 acre tract;

THENCE with the most easterly southwest line of the said Fred C. Morse, Sr., 43.85 acre tract, as fenced and used upon the ground, courses numbering 1 and 2, as follows:

(1) N. 60° 18' W. 1424.36 feet to an iron stake;  
(2) N. 59° 54' W. 671.53 feet to an iron stake in the east right-of-way line of Ed Bluestein Boulevard (Loop 111);

THENCE with the east right-of-way line of Ed Bluestein Boulevard, N. 10° 36' W. 610.53 feet to an iron stake in the northeast line of the said Fred C. Morse, Sr. 43.85 acre tract;

THENCE with the northeast line of the said Fred C. Morse, Sr., 43.85 acre tract, S. 60° 00' E. 2491.23 feet to the PLACE OF BEGINNING, containing 24.34 acres of land.

WHEREAS, as condition to the rezoning of portion of such property, and for the better development of the property within

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such subdivision, the City Council of Austin, Texas, desires that City National Bank of Austin, and it has heretofore agreed to make, execute and deliver for the benefit of said property and for the City of Austin, a municipal corporation, certain restrictive covenants relating to such above described property; and

WHEREAS, such hereafter enumerated restrictive covenants will benefit the said City National Bank of Austin and also the City of Austin, a municipal corporation, and in order to effect the same this written instrument is made and entered into, NOW, THEREFORE,

KNOW ALL MEN BY THESE PRESENTS:

THAT, City National Bank of Austin, a national banking association, acting herein by and through its heretofore duly authorized and undersigned President, the owner of the hereinbefore described property, does hereby place and charge said hereinbefore described property (or such portion thereof as hereafter specifically designated) with the following restrictive covenants, which shall be deemed and considered as covenants running with the land, and which shall be binding upon the undersigned, its successors and assigns:

1. All of the following portions of such 24.34 acres of land, to-wit:

a. 1.294 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas, described as follows, to-wit:

BEGINNING at the point of intersection of the northeasterly line of said 24.34 acre tract with the westerly line of "Lazy Creek Drive" a 70.00 foot wide street, said point of beginning being also the southeast corner of Lot 1, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas.

C(4-75-083CRCA2)

1-50-5305

THENCE with the proposed westerly line of "Lazy Creek" the following three (3) calls:

(1) a distance of 228.80 feet along the arc of a curve to the right whose radius = 914.60 feet, central angle =  $14^{\circ} 20'$  and whose long chord bears  $S 37^{\circ} 35' W$  a distance of 228.20 feet to a point of tangency;

(2)  $S 44^{\circ} 45' W$  a distance of 72.14 feet to a point of curvature;

(3) a distance of 169.07 feet along the arc of a curve to the left whose radius = 659.72 feet, central angle =  $14^{\circ} 41'$  and whose long chord bears  $S 37^{\circ} 25' W$  a distance of 168.61 feet to the point of intersection with the southerly line of the aforementioned 24.34 acre tract;

THENCE with the said southerly line of the 24.34 acre tract  $N 59^{\circ} 56' W$  a distance of 120.00 feet to a point, the most westerly southwest corner hereof;

THENCE across the said 24.34 acre tract the following four (4) calls:

(1)  $N 32^{\circ} 53' 14'' E$  a distance of 76.80 feet to a point;

(2)  $N 41^{\circ} 01' 42'' E$  a distance of 148.74 feet to a point;

(3)  $N 42^{\circ} 58' 54'' E$  a distance of 123.28 feet to a point;

(4)  $N 34^{\circ} 48' 44'' E$  a distance of 121.37 feet to a point in the aforementioned northeasterly line of the 24.34 acre tract, same being the southwesterly line of the aforementioned subdivision;

THENCE with the said northeasterly line of the 24.34 acre tract  $S 59^{\circ} 39' E$  a distance of 120.00 feet to the POINT OF BEGINNING and containing 1.294 acres of land; and

b. 14.25 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, and being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152. Deed Records of Travis County, Texas.

BEGINNING at the northeast corner of the said 24.34 acres of land, same being the southeast corner of Lot 4, Block 7 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas;

THENCE with the easterly line of the said 24.34 acre tract same being the westerly line of the



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said subdivision S 30° 05' W a distance of 457.36 feet to a point at the southeast corner of the 24.34 acre tract, the southeast corner hereof;

THENCE with the southerly line of the 24.34 acre tract N 59° 56' W a distance of 1382.00 feet to a point;

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THENCE across the said 24.34 acre tract the following four (4) calls:

(1) N 32° 53' 14" E a distance of 76.80 feet to a point;

(2) N 41° 01' 42" E a distance of 148.74 feet to a point;

(3) N 42° 58' 54" E a distance of 123.28 feet to a point;

(4) N 34° 48' 44" E a distance of 121.37 feet to a point in the southwesterly line of the said "Las Cimas Section One" subdivision, the northeast corner hereof;

THENCE with the said southwesterly line of the aforementioned subdivision S 59° 39' E a distance of 1312.49 feet to the POINT OF BEGINNING and containing 14.25 acres of land,

shall be used for residential purposes only, but such limitation of use to residential purposes only shall not prevent the rent or leasing of any of such property (or any portion thereof) to tenants or lessees of the owner, provided that any such tenant or lessee shall use the same for residential purposes only.

2. No street, driveway or easement way may ever be constructed or maintained upon any portion of the following described property (a portion of such 24.34 acres of land) to-wit:

1.294 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas.

BEGINNING at the point of intersection of the northeasterly line of said 24.34 acre tract with the westerly line of "Lazy Creek Drive" a 70.00 foot wide street, said point of beginning being also the southeast corner of Lot 1, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas.

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THENCE with the proposed westerly line of "Lazy Creek" the following three (3) calls:

(1) a distance of 228.80 feet along the arc of a curve to the right whose radius = 914.60 feet, central angle =  $14^{\circ} 20'$  and whose long chord bears  $S 37^{\circ} 35' W$  a distance of 228.20 feet to a point of tangency;

1-50-5507

(2)  $S 44^{\circ} 45' W$  a distance of 72.14 feet to a point of curvature;

(3) a distance of 169.07 feet along the arc of a curve to the left whose radius = 659.72 feet, central angle =  $14^{\circ} 41'$  and whose long chord bears  $S 37^{\circ} 25' W$  a distance of 168.61 feet to the point of intersection with the southerly line of the aforementioned 24.34 acre tract;

THENCE with the said southerly line of the 24.34 acre tract  $N 59^{\circ} 56' W$  a distance of 120.00 feet to a point, the most westerly southwest corner hereof;

THENCE across the said 24.34 acre tract the following four (4) calls:

(1)  $N 32^{\circ} 53' 14'' E$  a distance of 76.80 feet to a point;

(2)  $N 41^{\circ} 01' 42'' E$  a distance of 148.74 feet to a point;

(3)  $N 42^{\circ} 58' 54'' E$  a distance of 123.28 feet to a point;

(4)  $N 34^{\circ} 48' 44'' E$  a distance of 121.37 feet to a point in the aforementioned northeasterly line of the 24.34 acre tract, same being the southwesterly line of the aforementioned subdivision;

THENCE with the said northeasterly line of the 24.34 acre tract  $S 59^{\circ} 39' E$  a distance of 120.00 feet to the POINT OF BEGINNING and containing 1.294 acres of land,

which permits or allows vehicles (of any type or character) to pass, drive or move from or have direct access from the following described property (a portion of such 24.34 acres of land), to-wit:

10.067 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas.

BEGINNING at a point in the northeasterly line of the said 24.34 acre tract, being also the



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southwesterly line of Lot 2, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 89, Plat Records of Travis County, Texas, said POINT OF BEGINNING bears N 59° 39' W a distance of 120.00 feet from the most southerly southeast corner of Lot 1, Block 8 of the aforementioned "Las Cimas Section One";

1-50-5508

THENCE with the northeasterly line of the said 24.34 acre tract N 59° 39' W at a distance of 864.78 feet pass the most southeasterly corner of that certain tract of land containing 0.306 acres in a deed conveyed to J. D. Connolly; said deed being of record in Volume 4127, Page 1808, Deed Records of Travis County, in all 1178.04 feet to a point in the east right-of-way (R.O.W.) line of Ed Bluestein Boulevard, the most westerly northwest corner of said 24.34 acre tract;

THENCE with and along the easterly R.O.W. of Ed Bluestein Blvd. S 10° 16' E a distance of 610.42 feet to a point, the most westerly southwest corner hereof;

THENCE with the southwesterly line of the aforementioned 24.34 acre tract the following two (2) calls:

(1) S 59° 34' E a distance of 670.93 feet to a point;

(2) S 59° 56' E a distance of 42.40 feet to a point the most easterly southeast corner hereof;

THENCE across the said 24.34 acre tract the following four (4) calls:

(1) N 32° 53' 14" E a distance of 76.80 feet to a point;

(2) N 41° 01' 42" E a distance of 148.74 feet to a point;

(3) N 42° 58' 54" E a distance of 123.28 feet to a point;

(4) N 34° 48' 44" E a distance of 121.37 feet to the POINT OF BEGINNING and containing 10.067 acres of land,

directly to any street which may hereafter be placed or built either upon such 1.294 acres of land (hereinbefore described) or contiguous to the east boundary line of said 1.294 acres of land (hereinbefore described).

3. As relates to the following described 9.077 acres of land (a portion of the 24.34 acres of land), to-wit:

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10.067 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas.

1-50-5509

BEGINNING at a point in the northeasterly line of the said 24.34 acre tract, being also the southwesterly line of Lot 2, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas, said POINT OF BEGINNING bears N 59° 39' W a distance of 120.00 feet from the most southerly southeast corner of Lot 1, Block 8 of the aforementioned "Las Cimas Section One";

THENCE with the northeasterly line of said 24.34 acre tract N 59° 39' W at a distance of 864.78 feet pass the most southeasterly corner of that certain tract of land containing 0.306 acres in a deed conveyed to J. D. Connolly; said deed being of record in Volume 4127, Page 1808, Deed Records of Travis County, in all 1178.04 feet to a point in the east right-of-way (R.O.W.) line of Ed Bluestein Boulevard, the most westerly northwest corner of said 24.34 acre tract;

THENCE with and along the easterly R.O.W. of Ed Bluestein Blvd. S 10° 16' E a distance of 610.42 feet to a point, the most westerly southwest corner hereof;

THENCE with the southwesterly line of the aforementioned 24.34 acre tract the following two (2) calls:

(1) S 59° 34' E a distance of 670.93 feet to a point;

(2) S 59° 56' E a distance of 42.40 feet to a point the most easterly southeast corner hereof;

THENCE across the said 24.34 acre tract the following four (4) calls:

(1) N 32° 53' 14" E a distance of 76.80 feet to a point;

(2) N 41° 01' 42" E a distance of 148.74 feet to a point;

(3) N 42° 58' 54" E a distance of 123.28 feet to a point;

(4) N 34° 48' 44" E a distance of 121.37 feet to the POINT OF BEGINNING and containing 10.067 acres of land,

But LESS and SAVE and EXCEPT .99 acres thereof described by metes and bounds as follows, to-wit:

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0.99 acre strip of land 50.00 feet in width out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed to R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas.

1-50-5510

BEGINNING at a point in the northeasterly line of the said 24.34 acre tract, said point being also the most westerly southwest corner of Lot 13, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas;

THENCE with the northeasterly line of said 24.34 acre tract, same being the southwesterly line of the said subdivision S 59° 39' E a distance of 864.78 feet to a point, the most easterly northeast corner hereof;

THENCE S 34° 48' 44" W a distance of 50.15 feet to a point;

THENCE parallel to and a perpendicular distance of 50.00 feet southwesterly of the aforementioned northeasterly line of the 24.34 acre tract N 59° 39' W a distance of 860.88 feet to a point;

THENCE N 30° 21' E a distance of 50.00 feet to the POINT OF BEGINNING and containing 0.99 acres of land,

the following restrictive covenants shall be applicable:

a. No building may be erected or placed thereon (or upon any portion thereof) unless the plans for any such building have been prepared by a duly licensed architect.

b. Such 9.077 acres of land (or any portion thereof) may be used for any purpose which, under the Ordinances of the City of Austin as such Ordinances exist on the date of the execution of this instrument, is permitted under GR General Retail zoning classification, except that no use permitted by Sec. 45-22.(39) (a) of the Zoning Ordinances may be carried on upon such 9.077 acres of land, or any portion thereof.

In determining what uses are so hereby authorized and approved, reference is here made to the Ordinances of the City of Austin in existence as of the date of the execution of this instrument. Any future amendment to the presently existing

Ordinances shall in no manner alter, affect, expand or impair the provisions of this Agreement.

c. No through street may be built upon such 9.077 1-50-5511 acres of land which connects Ed Bluestein Boulevard directly with any street either upon or contiguous to the easterly boundary line of the following described property (a portion of such 24.34 acres of land) to-wit:

1.294 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas.

BEGINNING at the point of intersection of the northeasterly line of said 24.34 acre tract with the westerly line of "Lazy Creek Drive" a 70.00 foot wide street, said point of beginning being also the southeast corner of Lot 1, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas.

THENCE with the proposed westerly line of "Lazy Creek" the following three (3) calls:

(1) a distance of 228.80 feet along the arc of a curve to the right whose radius = 914.60 feet, central angle =  $14^{\circ} 20'$  and whose long chord bears  $S 37^{\circ} 35' W$  a distance of 228.20 feet to a point of tangency;

(2)  $S 44^{\circ} 45' W$  a distance of 72.14 feet to a point of curvature;

(3) a distance of 169.07 feet along the arc of a curve to the left whose radius = 659.72 feet, central angle =  $14^{\circ} 41'$  and whose long chord bears  $S 37^{\circ} 25' W$  a distance of 168.61 feet to the point of intersection with the southerly line of the aforementioned 24.34 acre tract;

THENCE with the said southerly line of the 24.34 acre tract  $N 59^{\circ} 56' W$  a distance of 120.00 feet to a point, the most westerly southwest corner hereof;

THENCE across the said 24.34 acre tract the following four (4) calls:

(1)  $N 32^{\circ} 53' 14" E$  a distance of 76.80 feet to a point;

(2)  $N 41^{\circ} 01' 42" E$  a distance of 148.74 feet to a point;

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(3) N 42° 58' 54" E a distance of 123.28 feet to a point;

(4) N 34° 48' 44" E a distance of 121.37 feet to a point in the aforementioned northeasterly line of the 24.34 acre tract, same being the southwesterly line of the aforementioned subdivision;

1-50-5512

THENCE with the said northeasterly line of the 24.34 acre tract S 59° 39' E a distance of 120.00 feet to the POINT OF BEGINNING and containing 1.294 acres of land,

however, nothing contained in this subparagraph "c" shall prohibit the building of one or more streets upon said 9.077 acres of land, provided that any such street does not cross on, over or upon any portion of the immediately aforescribed 1.294 acres of land.

d. As relates to the following described property (same being a portion of the said 24.34 acres of land) to-wit:

10.067 acres of land out of and a part of the J. C. Tannehill League, Travis County, Texas, being also out of and a part of that certain tract containing 24.34 acres of land in a deed conveyed by R. J. Del Guidice to Central Texas Roofing Company of record in Volume 4647, Page 152, Deed Records of Travis County, Texas.

BEGINNING at a point in the northeasterly line of the said 24.34 acre tract, being also the southwesterly line of Lot 2, Block 8 of "Las Cimas Section One", a subdivision of record in Volume 65, Page 88, Plat Records of Travis County, Texas, said POINT OF BEGINNING bears N 59° 39' W a distance of 120.00 feet from the most southerly southeast corner of Lot 1, Block 8 of the aforementioned "Las Cimas Section One";

THENCE with the northeasterly line of said 24.34 acre tract N 59° 39' W at a distance of 864.78 feet pass the most southeasterly corner of that certain tract of land containing 0.306 acres in a deed conveyed to J. D. Connolly; said deed being of record in Volume 4127, Page 1808, Deed Records of Travis County, in all 1178.04 feet to a point in the east right-of-way (R.O.W.) line of Ed Bluestein Boulevard, the most westerly northwest corner of said 24.34 acre tract;

THENCE with and along the easterly R.O.W. of Ed Bluestein Blvd. S 10° 16' E a distance of 610.42 feet to a point, the most westerly southwest corner hereof;

THENCE with the southwesterly line of the aforementioned 24.34 acre tract the following two (2) calls:

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(1) S 59° 34' E a distance of 670.93 feet to a point;

(2) S 59° 56' E a distance of 42.40 feet to a point the most easterly southeast corner hereof;

1-50-5513

THENCE across the said 24.34 acre tract the following four (4) calls:

(1) N 32° 53' 14" E a distance of 76.80 feet to a point;

(2) N 41° 01' 42" E a distance of 148.74 feet to a point;

(3) N 42° 58' 54" E a distance of 123.28 feet to a point;

(4) N 34° 48' 44" E a distance of 121.37 feet to the POINT OF BEGINNING and containing 10.067 acres of land,

the following restrictive covenant shall be applicable:

(i) From and after the date of this instrument, any owner desiring to place any building improvements upon any portion of such 10.067 acres of land (as immediately above described) shall at least fifteen (15) days prior to the filing of an application for a building permit from the City of Austin, a municipal corporation, deliver or mail, by registered or certified mail, return receipt requested, to the listed president (or chief officer) of the neighborhood association then registered with the Planning Department of the City of Austin, and which neighborhood association includes within its prescribed area or territory the said 10.067 acres of land. In the event that there is no such neighborhood association so registered with the said Planning Department of the City of Austin, the then owner shall not be so required to deliver or mail such plans to any such person and this covenant as contained in this subparagraph (i) shall not be applicable. A letter statement from the Director (or chief employee) of the Planning Department of the City of Austin listing the president of the neighborhood association or the fact that no such neighborhood organization exists including within its prescribed territory the said 10.067 acres of land, shall be deemed



C14-76-0830RCAZ)

and conclusively presumed to evidence the correct information relating to compliance with the provisions of this subparagraph (i).

4. If any person or persons shall violate or attempt to violate any of the foregoing restrictive covenants, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against the person or persons violating or attempting to violate any such restrictive covenants, and either prevent him or them from so doing or to collect damages for such violation.

5. The failure at any time to enforce these restrictive covenants by the City of Austin, whether such violations are of knowledge or not, shall not constitute a waiver or estoppel of the right to do so.

6. This Agreement may be modified, amended or terminated only by a majority vote of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and by the then owner of the above described property at the time of such modification, amendment or termination.

EXECUTED this the 3<sup>rd</sup> day of March, 1977.

(CORPORATE SEAL)

CITY NATIONAL BANK OF AUSTIN

By:

John C. Scurlock, President

ATTEST:

Laura H. Hay  
Cashier

C. (4-76-0830RCAZ)

THE STATE OF TEXAS     )  
                                  )  
COUNTY OF TRAVIS     )

BEFORE ME, the undersigned authority, on this day  
personally appeared JOHN C. SCURLOCK, President of CITY NATIONAL  
BANK OF AUSTIN, a national banking association, known to me to  
be the person whose name is subscribed to the foregoing instru-  
ment, and acknowledged to me that he executed the same for the  
purposes and consideration therein expressed, in the capacity  
therein stated and as the act and deed of said national banking  
association.

1-50-5315

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the  
2 day of MARCH, 1977.

NOTARY SEAL

*Michi Bress*  
Notary Public in and for  
Travis County, Texas

STATE OF TEXAS     COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on the  
date and at the time stamped herein by me; and was duly  
RECORDED, in the Volume and Page of the named RECORDS  
of Travis County, Texas, as Stamped herein by me, on

APR 25 1977



*Doris H. Haggard*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

FILED

APR 25 8 15 AM 1977

*Doris H. Haggard*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

$$1'' = 300'$$

EXHIBIT C

**ALICE GLASCO CONSULTING**

**3571 Far West Blvd., PMB 61**

**Austin, Texas 78731**

**512-231-8110 Office**

January 11, 2018

Mr. Greg Guernsey, Director  
Neighborhood Planning and Zoning Department  
505 Barton Spring Road, Suite 500  
Austin, Texas 78704

RE: Restrictive Covenant Amendment/Termination - C14-76-083 (RCA2)

Dear Greg:

I am representing 3S&D Interests (David Kalisz) as it relates to the amendment of the referenced restrictive covenant associated with zoning case number C4-76-083. The restrictive covenant amendment request is basically to terminate the restrictions pertaining to 3.79 acres. On February 12, 2015, a restrictive covenant for 10.49 acres, under case number C14-76-042(RCA), was amended by the City Council to remove all restrictions called out in the document.

My client, 3S&D Interests has the subject property under contract with the intent of developing multifamily housing.

**Background:**

While the original recorded restrictive covenant covered 24.24 acres, the current owner, Harold .K. Jr. and Sharie Kaemerle own only 14.2558 acres out of the original 24.24 acres. My client, 3S&D Interests intends to purchase **the remainder of the property consisting of 3.79 acres out of the 24.24 acres described in the recorded restrictive covenant.**

The conditions listed in the restrictive covenant are as follows:

1. All of the following portions of such 24.34 acres of land, to-wit:
  - A: 1.294 acres of land and
  - B. 14.25 acres of land shall be used for residential purposes only.
2. No street, driveway or easement way may ever be constructed or maintained upon any portion of the 1.294 acres, which permits or allows vehicles to pass, drive or move from or have direct access from the 10.067-acre tract directly to any street

Mr. Greg Guernsey  
Restrictive Covenant Amendment/Termination - C14-76-083 (RCA2)

3. which may be built upon such 1.294 acres of land or contiguous to the east boundary line of said 1.294 acres of land.
4. As it relates to the 9.077 acres of land (a portion the of the 24.34 acres) the following restrictions shall apply:
5. No building may be erected or placed thereon unless the plans for any such buildings have been prepared by a licensed architect.
6. Such 9.077 acres of land or any portion thereof may be used for any purpose permitted under GR zoning per the 1977 City Code, except uses allowed in section 45-22 (39) of the Zoning Ordinance.
7. No through street may be built upon such 9.077 acres of land which connect to Ed Bluestein Boulevard directly with any street either upon or contiguous to the easterly boundary line of the 1.294 acres of land. However, nothing in this subparagraph "c" shall prohibit the building of one or more streets upon said 9.077 acres of land, provided that any such street does not cross on, over or upon any portion of the immediately afore described 1.294 acres of land.
8. As it relates to the 10.067 acres of land, the following restrictions shall be applicable: From and after the date of this instrument, any owner desiring to place any building improvements upon any portion of such 10.067 acres of land shall at least 15 days prior to the filing of a building permit from the City of Austin, deliver or mail a notice, by registered or certified mail, to the listed president or chief officer of the neighborhood association.

**Justification**

All future development will comply with current regulations, including zoning and notification as descried in the Land Development Code.

Please let me know if you have any questions or need additional information.

Sincerely,

Alice Glasco, President  
AG Consulting

Cc: David Kalisz  
Heather Chaffin, Zoning Planner

EXHIBIT D

## **LBJ Neighborhood Association**

February 10, 2018

Dear Mayor Adler, Mayor Pro-Tem Tovo, Council Members and  
Zoning and Platting Commission Members

Re: Loyola Landing

On Thursday, February 8<sup>th</sup>, 2018, Ms. Glasco attended the LBJ Neighborhood Association meeting to give a presentation about a rezoning request and five restrictive covenant termination applications for 6651 Ed Bluestein Blvd. and 5601 Durango Pass. The LBJ Neighborhood Association supports the applicant's zoning change request and restrictive covenant terminations as follows:

**Rezoning Case no. C14-2018-0006:**

**Tract 1:** from GR/LO/MF-3/SF-3 to GR-MU

**Tract 2:** from GR to CS-MU

**Lazy Creek Road Extension:**

We understand that the City's transportation staff is requiring the extension of Lazy Creek Drive as a condition of rezoning. Since we, as residents, cannot determine what the pros and cons are of extending Lazy Creek Drive to Ed Bluestein Blvd. at this time, the LBJ Neighborhood Association would like to request that the consideration of whether to extend Lazy Creek Drive be deferred to the next stage of development when the developer will have a site plan and a Traffic Impact Analysis submitted to the city.

We are concerned that extending Lazy Creek Drive would encourage drivers from US Highway 290 East to cut through our neighborhoods. Therefore, waiting until the site development stage to look at whether the extension of Lazy Creek Drive makes sense will help the residents of Crystal Brook, Las Cimas, and Northridge determine what the implications are of extending this road to Ed Bluestein Blvd.



Mayor Adler, Mayor Pro-Tem Tovo, Council Members and  
Zoning and Platting Commission Members

Re: Loyola Landing

Page 2

**Termination of Restrictive Covenants Cases:**

1. C14-84-346 (RCT1)
2. C14-84-346 (RCT2)
3. C14-76-083 (RCA2)
4. C14-75-042 (RCT1)
5. C14-75-042 (RCT2)

We support the termination of the five restrictive covenants because we believe any proposed development should be required to comply with current city regulations. Please feel free to contact me at 512-426-1622 should you have any questions.

Sincerely,

2/10/2018

X Jack Nottingham

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Jack Nottingham  
V/P

Jack J. Nottingham, Vice President  
LBJ Neighborhood Association