

Late Backup

Item #9
November 1, 2018
Council Member Alter

MOTION SHEET

Amending the Ordinance and replacing the Exhibit in back up to remove reference to multi-family development and clarify the impervious cover allowed in particular slope categories

I. Amend Part 4 of the ordinance in back up as follows:

PART 4. To effectuate the Second Amendment, City Council modifies the Lake Austin Watershed regulations (Ordinance No. 840301-F) as follows:

(1) to provide that in no case may impervious cover on the Property exceed 3.49 acres; [~~and~~]

(2) to modify impervious cover limitations in slope categories to allow:

(a) not more than 2.32 acres of impervious cover on slopes of 15-25 percent gradient;

(b) not more than 0.90 acres of impervious cover on slopes of 25-~~25~~ 35 percent gradient; and

(c) not more than 0.07 acres of impervious cover on slopes greater than 35 percent gradient, but only if necessary for a single driveway for access from City Park Road;

(3) to modify Section 9-10-382 (*Prohibited on Steep Slopes*) to allow a single driveway on slopes over 35 percent gradient, of no more than 0.07 acres of impervious cover, and only if necessary for access from City Park Road; and

(4) [(2)] to grant the [~~this~~] modifications of Lake Austin Watershed Ordinance No. 840301-F as stated above without Planning Commission approval.

II. Replace Exhibit 1 with the attached Exhibit.

EXHIBIT 1

**SECOND AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT
REGARDING CHAMPIONS TRACT 3**

**SECOND AMENDMENT TO THE COMPROMISE SETTLEMENT AGREEMENT
REGARDING CHAMPIONS TRACT 3**

This Second Amendment to the Compromise Settlement Agreement (the "Second Amendment") is made and entered into by and between Loop 360 Land, LP, Texas limited partnership ("360") and the City of Austin (the "City") for the purposes and on the terms specified herein and operates in conjunction with the Compromise Settlement Agreement (the "Original Agreement"), effective July 11, 1996, and the First Amendment to the Compromise and Settlement Agreement (the "First Amendment") effective February 26, 2018.

RECITALS

WHEREAS, the City approved an ordinance adopting the Original Agreement between the Champion Assets, Ltd., a Texas limited partnership; Champion-Meier Assets, Ltd., a Texas limited partnership; and Champion Legacy Partners, L.P., a Texas limited partnership, successors to Josie Ellen Champion, Juanita Champion Meier, and Mary Margaret Champion Roberson (the "Champions") and the City on June 13, 1996; and

WHEREAS, the City approved an ordinance adopting the First Amendment between 2222 CAP. TEXAS, LLC, a Texas limited liability company ("CAP") and the City regarding Champions Tract 3 on February 26, 2018; and

WHEREAS, 360 Purchased Tract 3 from CAP and is the current owner of Tract 3; and

WHEREAS, in accordance with Paragraph 7 of the Original Agreement, the City and 360 are executing this Second Amendment to amend the provisions regarding site development and use of Tract 3;

NOW, THEREFORE, in consideration of the recitals, the mutual covenants and agreements contained in this Second Amendment, 360 and the City agree as follows:

TERMS OF AMENDMENT

I. Section 2.g. is amended to read:

- g. During the term of this Agreement, the modifications to City regulations and the conditions established for the modifications listed in this subsection apply to the initial congregate living or convalescent services development on Tract 3. The modifications do not apply to any subsequent development or redevelopment of Tract 3.

II. Section 2.g.1. A. is amended to read:

1. Modifications to Lake Austin watershed regulations {Ordinance No. 840301-F)

A. Impervious cover modifications

i. Section 9-10-382 (*Prohibited on Steep Slopes*) is modified to allow .07 acres of impervious cover on slopes greater than 35%.

ii. Modify impervious cover limitations in slope categories to allow:

(a) not more than 2.32 acres of impervious cover on slopes of 15-25 percent gradient;

²⁵⁻³⁵ (b) not more than 0.90 acres of impervious cover on slopes of 25-~~25~~ percent gradient; and

(c) not more than 0.07 acres of impervious cover on slopes greater than 35 percent gradient, but only if necessary for a single driveway for access from City Park Road.

iii. Section 9-10-382 (*Prohibited on Sleep Slopes*) is modified to allow a single driveway on slopes over 35 percent gradient, of no more than 0.07 acres of impervious cover, and only if necessary for access form City Park Road.

iii. In no case may impervious cover on Tract 3 exceed 3.49 acres.

III. Miscellaneous Provisions

A. Binding. This Second Amendment will be binding upon the heirs, representatives, successors and assigns of each of the parties to this First Amendment.

B. Effective Date. The Agreement shall be effective as of the latest date that both parties have signed and executed this Second Amendment.

C. Applicable Law and Venue. The construction and validity of this Second Amendment shall be governed by the laws of the State of Texas and is performable in Travis County, Texas.

D. No Party Deemed Drafter. 360 and the City have both had the opportunity to have legal counsel examine this Second Amendment. Accordingly, this Second

Amendment will not be interpreted for or against either party due solely to the fact that one party was the principal author of this Second Amendment.

- E. Term; Termination. This Second Amendment shall be effective as of the date signed by all parties and shall terminate upon completion of the initial congregate living or convalescent services development or 10 (ten) years after the effective date of this Second Amendment, whichever is sooner. Upon termination of this Second Amendment, the First Amendment shall terminate and the Original Agreement shall be of no force or effect regarding Tract 3. Notwithstanding the foregoing, the restrictive covenant filed pursuant to the terms of the First Amendment will survive termination.
- F. Filing. This Second Amendment shall be filed of record.
- G. Authority. The parties warrant that they have authority to execute this Second Amendment.
- H. Assignment of Owner Rights. 360 may assign in whole or part its rights and obligations under this Second Amendment to persons purchasing all or part of the Property.
- I. Ratification of Original Agreement and First Amendment. Any and all terms and provisions of the Original Agreement and First Amendment shall, except as and to the extent expressly amended and modified by this Second Amendment, remain in full force and effect.
- J. Severability. If a court of competent jurisdiction determines that a term or provision of this Agreement is void or unenforceable, the remainder of this Agreement remains effective to the extent permitted by law.

EXECUTED to be effective the ____ day of _____, 2018

Loop 360 Land, LP, a Texas limited partnership

By: Loop 360 Land GP, LLC,
its General Partner

By: _____
Name: Jonathan Coon

Title: Manager

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of October, 2018, by Jonathan Coon, Manager of Loop 360 Land GP, LLC, General Partner of Loop 360 Land, LP, a Texas limited partnership, on behalf of said company.

Notary Public, State of Texas

CITY OF AUSTIN,
a home-rule municipal corporation

By: _____
Name: Joseph Pantalion, P.E.
Title: Interim Assistant City Manager

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of October, 2018, by Joseph Pantalion, P.E., Interim Assistant City Manager, City of Austin, a home-rule municipal corporation, on behalf of said entity.

Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney

After Recording, please return to:

City of Austin
Law Department
P.O. Box 1088
Austin, Texas 78767
Attention: C. Curtis, Paralegal