

**FIRST AMENDMENT TO RESTRICTIVE COVENANT
FOR ZONING CASE: C14-85-288.43 (RCA)**

OWNER: SRE/MRE Oak Hill GP, LLC, a Texas limited liability company

OWNER ADDRESS: 9811 Katy Freeway, Suite 925,
Houston, TX 77024

CITY: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

CITY COUNCIL: The City Council of the City of Austin.

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

WHEREAS, the property consisting of approximately 18.308 acres of land located at 6901 Old Bee Caves Road (the "Property"), more particularly described as follows:

Legal Description:

Being a description of a tract of land containing 18.3163 acres (797,857 square feet) out of the Thomas Anderson Survey No. 90, Abstract No. 28 in Travis County, Texas, being all of a called 18.308 acre tract conveyed to Galt Graydon in Document No. 2001091311 of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.), said 18.3163 acres being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the Original Restrictive Covenant provides that the covenant can be modified, amended, or terminated by joint action of both a majority of the members of the City Council and the Owner of the Property at the time of such modification, amendment or termination; and

WHEREAS, the Owner of the Original Property on the date of this First Amended Restrictive Covenant ("Amendment") desires to amend the Original Restrictive Covenant as to the Property; and

WHEREAS, the City Council and the Owner agree the Original Restrictive Covenant should be amended; and

WHEREAS, upon completion of the construction of any multifamily development on the Property, all further development or redevelopment, exclusive of site plan corrections or revisions as established under current Code, shall be subject to current regulations at the time of site development permit application, and this Restrictive Covenant shall not be construed to establish any vested rights.

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City and the Owner agree as follows:

1. Part 1 of the Original Restrictive Covenant is amended to read:

1. If development occurs, the maximum impervious coverage of the Property shall be 35 percent ~~[40 percent]~~ calculated on a gross site area basis for the entire Property. ~~[If parkland, in the amount of not less than 5 acres and not more than 8 acres, is dedicated for public use, then the maximum impervious coverage of the Property shall be 65 percent, calculated on the entire Property.]~~

2. Part 2 of the Original Restrictive Covenant is amended to read:

2. If development occurs, the Property shall be limited to maximum of .5 to 1 floor to area ratio ~~[-25 to 1 floor to area ratio]~~ as defined by Section 1212 of Chapter 13-2A of the Austin City Code.

3. Part 3 of the Original Restrictive Covenant is amended to read:

3. Except as otherwise modified by this Restrictive Covenant. ~~[D]~~development of the Property shall be in compliance with Sections 9-10-171 through 9-10-230 and Sections 13-3-4-1 through 13-3-475 of the Austin City Code of 1981 except for the following sections:

The part of Section 9-10-191 which reads "or to a development within a recorded subdivision which was finally approved or finally disapproved by the Planning Commission prior to December 18, 1980."

Section 9-10-208, subsections (c), (d), and (e).

Section 13-3-408(a).

Section 13-3-433, subsections (c), (d), and (e).

4. Part 4 of the Original Restrictive Covenant is deleted and a new Part 4 is added as follows:

4. The following land uses shall be prohibited on the Property:

Bed and Breakfast Residential (Group 1)

Bed and Breakfast Residential (Group 2)

Condominium Residential

Duplex Residential

Group Residential

Short-Term Rentals

Townhouse Residential

Adult-Oriented Business

Agricultural Sales and Services

Alternative Financial Services

Automotive Rentals
Automotive Repair Services
Automotive Sales
Automotive Washing—of any type
Bail Bond Services
Building Maintenance Services
Business Support Services
Commercial Blood Plasma Center
Commercial Off-Street Parking
Construction Sales and Services
Consumer Convenience Services
Consumer Repair Services
Convenience Storage
Drop-Off Recycling Collection Facilities
Electronic Prototype Assembly
Electronic Testing
Equipment Repair Services
Equipment Sales
Exterminating Services
Single-Family Attached Residential
Single-Family Residential
Food Preparation
Food Sales
Funeral Services
Financial Services
General Retail Sales—Convenience
General Retail Sales—General
Hotel/Motel
Indoor Sports and Recreation
Indoor Entertainment
Kennels
Laundry Services
Monument Retail Sales
Off-Site Accessory Parking
Outdoor Sports and Recreation
Pawn Shop Services
Pedicab Storage and Dispatch
Personal Improvement Services
Personal Services
Pet Services
Plant Nursery
Printing and Publishing Services
Professional Offices
Research Services
Restaurant—Limited

Restaurant—General
Service Station
Software Development
Theater
Vehicle Storage
Veterinary Services
Community Events
Community Recreation—Private
Community Recreation—Public
Congregate Living
Counseling Services
Hospital Service—Limited
Hospital Services—General
Maintenance and Service Facilities
Residential Treatment
Safety Services
Transitional Housing
Transportation Terminal
Custom Manufacturing
Limited Warehousing and Distribution
Community Garden
Indoor Crop Production
Urban Farm

5. Part 6 of the Original Restrictive Covenant is amended to read:

6. Redevelopment on the part of the Property zoned "CS-MU-NP" Commercial Services, as defined in the Austin City Code shall be limited to a maximum of 60 feet [~~two stories not to exceed a total of 35 feet~~] in height.

6. The Original Restrictive Covenant is amended to add a new Part 8 and renumber the remaining parts as follows:

8. Water quality treatment requirements shall be provided for development on the Property. The first water quality detention control in the series of water quality controls shall be sized to capture the volume of stormwater required per current code in effect at the time of site development permit application. A depth of at least 0.39 inches of the required Stormwater capture volume will be re-irrigated on the Property.

7. The Original Restrictive Covenant is amended to add a new Part 9 and renumber the remaining parts as follows:

9. Re-irrigation of captured Stormwater shall be allowed within the 100-year floodplain but not within the 25-year floodplain.

8. The Original Restrictive Covenant is amended to add a new Part 10 and renumber the remaining parts as follows:

10. Critical water quality zones on the Property shall be defined as per Austin City Code Section 25-8-92 (Critical Water Quality Zones Established), but the Property shall be exempted from prohibitions on development in Section 25-8-261 (Critical Water Quality Zone Development).

9. The Original Restrictive Covenant is amended to add a new Part 11 and renumber the remaining parts as follows:

11. Austin City Code Section 25-8-482 (Water Quality Transition Zone) does not apply to the Property for the purposes of this project.

10. The Original Restrictive Covenant is amended to add a new Part 12 and renumber the remaining parts as follows:

12. Austin City Code Section 25-8-341 (Cut Requirements) shall apply to the Property, except that cuts on a tract of land may not exceed eight feet unless otherwise allowed under Section 25-8-341.

11. The Original Restrictive Covenant is amended to add a new Part 13 and renumber the remaining parts as follows:

13. Austin City Code Section 25-8-342 (Fill Requirements) shall apply to the Property, except that fill on a tract of land may not exceed eight feet unless allowed under Section 25-8-342.

12. The Original Restrictive Covenant is amended to add a new Part 14 and renumber the remaining parts as follows:

14. Impervious cover may not exceed 40 percent on a slope with a gradient less than 15 percent. Impervious cover may not exceed 10 percent on a slope with a gradient of more than 15 percent and less than 25 percent.

13. The Original Restrictive Covenant is amended to add a new Part 15 and renumber the remaining parts as follows:

15. Development on the Property shall be subject to Tree Protection regulations in effect at the time of site development permit application.

14. The Original Restrictive Covenant is amended to add a new Part 16 and renumber the remaining parts as follows:

16. Development on the Property shall be subject to drainage regulations in Austin City Code Chapter 25-7 (Drainage) in effect at the time of site development permit application.

15. The Original Restrictive Covenant is amended to add a new Part 17 and renumber the remaining parts as follows:

17. All buildings, driveways, and parking areas shall be located outside the 500-year floodplain as delineated on November 29, 2018, unless a floodplain delineation study is submitted by the Owner and approved by the City.

16. The Original Restrictive Covenant is amended to add a new Part 18 and renumber the remaining parts as follows:

18. Development on the Property shall be subject to erosion and sedimentation control requirements in the Environmental Criteria Manual in effect at the time of site development permit application.

17. The Original Restrictive Covenant is amended to add a new Part 19 and renumber the remaining parts as follows:

19. Development on the Property shall be subject to Erosion Hazard Zone requirements in Austin City Code Chapters 25-7 (Drainage) and 25-8 (Environment) in effect at the time of site development permit application.

18. The Original Restrictive Covenant is amended to add a new Part 20 and renumber the remaining parts as follows:

20. Prior to approval of a site development permit, the Owner shall dedicate 6.3 acres of parkland to the City. Such parkland may be located within the 25-year and 100-year floodplain.

19. The Original Restrictive Covenant is amended to add a new Part 21 and renumber the remaining parts as follows:

21. Prior to approval of a site development permit, the Owner shall dedicate an easement to the City for a pedestrian trail located outside the 100-year floodplain generally running along the boundaries of the 500-year floodplain. The easement shall run the entire length of the floodplain boundary.

20. The Original Restrictive Covenant is amended to add a new Part 22 and renumber the remaining parts as follows:

22. Prior to approval of a certificate of occupancy, the Owner shall construct a pedestrian trail within the trail easement. As long as the adjacent property is developed with a single-family

residence, the Owner shall not connect the trail to the western property line and shall create a turnaround on the Owner's Property.

21. The Original Restrictive Covenant is amended to add a new Part 23 and renumber the remaining parts as follows:

23. Prior to approval of a site development permit, the Owner shall dedicate a trailhead to the Parks and Recreation Department. Such trailhead shall be located outside the 100-year floodplain near Old Bee Caves Road. The exact size and location of the trailhead and amount of parking shall be determined at the time of site development permit.

22. Upon completion of the construction of any multifamily development on the Property, all further development or redevelopment, exclusive of site plan corrections or revisions as established under current Code, shall be subject to current regulations at the time of site development permit application, and this Restrictive Covenant shall not be construed to establish any vested rights.
23. Except as expressly provided in the Amendment, each and every one of the terms, conditions, and provisions of the Original Restrictive Covenant, as set forth in the Original Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.
24. The City Manager, or his designee, shall execute on behalf of the City, this Amendment as authorized by the City Council of the City of Austin. The Amendment shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED this the 13 day of DECEMBER, 2018.

Owner:

SRE/MRE Oak Hill, Ltd.

By: SRE/MRE Oak Hill GP, LLC

By: 

J. Mark Stevenson, Manager

CITY OF AUSTIN:

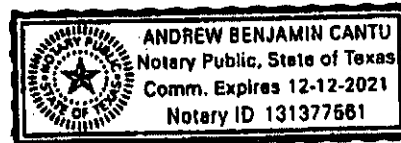
By: _____

Joe Pantalione
Interim Assistant City Manager
City of Austin

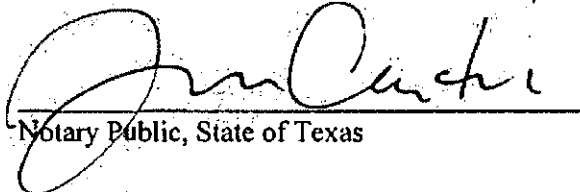
APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §



This instrument was acknowledged before me on this the 13th day of December 2018, by J. Mark Stevenson, as Partner of SRE/MRE Oak Hill Ltd., a Texas limited partnership, on behalf of said partnership.



Notary Public, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____, 2018, by Joe Pantalion, as Interim Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

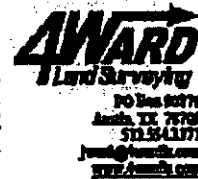
Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Law Department
P. O. Box 1088
Austin, Texas 78767
Attention: C. Curtis, Paralegal

Thomas Anderson Survey No. 90, Abstract No. 28

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 18.3163 ACRES (797,867 SQUARE FEET) OUT OF THE THOMAS ANDERSON SURVEY NO. 90, ABSTRACT NO. 28 IN TRAVIS COUNTY, TEXAS, BEING ALL OF A CALLED 18.398 ACRE TRACT CONVEYED TO GALT GRAYDON IN DOCUMENT NO. 2881091311 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.), SAID 18.3163 ACRES BEING MORE PARTICULARLY DESCRIBED BY MEES AND BOUNDS AS FOLLOWS:



BEGINNING, at a 3/4-inch iron pipe found at a corner in the west right-of-way line of Old Bee Caves Road (right-of-way varies), and being the southeast corner of said Graydon tract, for the southeast corner and **POINT OF BEGINNING** hereof;

THENCE, with the north line of said Graydon tract, in part with the west right-of-way line of said Old Bee Caves Road, in part with the north line of Lot 1, Block "A" of Center of the Hills, Section II, a subdivision recorded in Volume 93, Pages 341-342 of the Plat Records of Travis County, Texas (P.R.T.C.T.), and in part with the north line of Lot 1, Block "A" of Center of the Hills, a subdivision recorded in Volume 93, Pages 93-94 (P.R.T.C.T.), the following three (3) courses and distances:

- 1) N79°21'23"W, passing at a distance of 16.22 feet, a TeDot Type III aluminum cap found at a corner in the west right-of-way line of said Old Bee Caves Road, and being the northeast corner of Lot 1 of said Center of the Hills Section II, and continuing for a total distance of 339.24 feet to a 1/4-inch iron pipe found for an angle point hereof;
- 2) N79°21'51"W, a distance of 226.12 feet to a 1/4-inch iron pipe found for an angle point hereof, said point being at the common north corner of Lot 1 of said Center of the Hills Section II and Lot 1 of said Center of the Hills, and
- 3) N77°35'51"W, a distance of 35.47 feet to a calculated (rounded) point for the southwest corner hereof, said point being at the approximate centerline of Williamson Creek, and being in the north line of Lot 1 of said Center of the Hills, and being at the southeast corner of the remainder of a called 21.08 acre tract conveyed to Alice Min-Pei Z Yi in Document No. 2016051484 (O.P.R.T.C.T.), said tract being more particularly described in Volume 8491, Page 617 of the Deed Records of Travis County, Texas (D.R.T.C.T.);

THENCE, with the approximate centerline of said Williamson Creek, and with the common line of said Yi tract and said Graydon tract, the following three (3) courses and distances:

- 1) N3°35'40"W, a distance of 525.71 feet to a calculated (rounded) point for an angle point hereof;
- 2) N43°04'13"W, a distance of 263.90 feet to a calculated (rounded) point for an angle point hereof; and
- 3) N39°17'03"W, a distance of 86.82 feet to a calculated (rounded) point for the northwest corner hereof, said point being in the southeast line of a called 1.50 acre tract conveyed to Jacqueline Mary in Document No. 2013139393 (O.P.R.T.C.T.), said tract being more particularly described in Volume 1950, Page 341 (D.R.T.C.T.), and being the northeast corner of said Yi tract, and being the northwest corner of said Graydon tract;

THENCE, with the common line of said May tract and said Graydon tract, the following two (2) corners and distances:

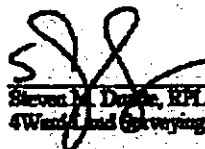
- 1) N68°42'34"E, a distance of 24.56 feet to a 1-inch iron rod found for an angle point hereof, and
- 2) N57°28'28"E, a distance of 424.56 feet to a 1/2-inch iron rod with "Ward-3811" cap set for an exterior all-corner hereof, said point being in the south right-of-way line of Old Bee Caves Road, and being at the common north corner of said May tract and said Graydon tract;

THENCE, with the south and west right-of-way line of said Old Bee Caves Road and the north and east lines of said Graydon tract, the following five (5) corners and distances:

- 1) S76°05'54"E, a distance of 630.58 feet to a 1/2-inch iron rod found for an angle point hereof,
- 2) S67°56'43"E, a distance of 94.19 feet to a 1/2-inch iron rod found for an angle point hereof,
- 3) S43°23'11"E, a distance of 91.91 feet to a 1/2-inch iron rod found for an angle point hereof,
- 4) S19°10'42"E, a distance of 108.33 feet to a calculated point (that falls inside a wastewater easement) for an angle point hereof, and
- 5) S06°01'36"W, a distance of 700.69 feet to the POINT OF BEGINNING and containing 18.3163 Acres (797,857 Square Feet) more or less.

NOTE:

All bearings are based on the Texas State Plane Coordinate System, Grid North, Central Zone (4303); all distances were adjusted to surface using a combined scale factor of 1.00071852816. See attached sketch (reference drawing: 00392.dwg)


Steven M. Duarte, RLS #5940
4Wanda and Surveying, LLC

3/31/17



