

RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-71-278(RCA) – 1408 E. 51st Street

DISTRICT: 4

ADDRESS: 1408, 1410, 1414, 1416 and 1418 East 51st Street

SITE AREA: 3.8246 Acres

PROPERTY OWNER:

Sage Crossroads, LLC

(David Foor)

AGENT:

Drenner Group PC

(Leah Bojo)

CASE MANAGER: Heather Chaffin (512-974-2122, heather.chaffin@austintexas.gov)

STAFF RECOMMENDATION:

Staff supports the Applicant's request to amend Restrictive Covenant C14-71-278.

For a summary of the basis of staff's recommendation, see case manager comments on page 2.

PLANNING COMMISSION ACTION / RECOMMENDATION:

December 10, 2019: TO AMEND RESTRICTIVE COVENANT AS REQUESTED BY APPLICANT(12-0-1) [C. Kenny- 1st, G. Anderson- 2nd; C. Hempel- Abstain]

November 12, 2019: TO GRANT POSTPONEMENT TO DECEMBER 10, 2019 AS REQUESTED BY NEIGHBORHOOD, ON CONSENT (11-0) [Azar- 1st, Kenny- 2nd]

CITY COUNCIL ACTION:

December 5, 2019: TO GRANT POSTPONEMENT TO JANUARY 23, 2020 AS REQUESTED BY STAFF, ON CONSENT.

ORDINANCE NUMBER:

ISSUES:

There are no issues at this time. This is related to rezoning case C14-2019-0123.

CASE MANAGER COMMENTS:

The subject tract is comprised of multiple lots located on the north side of East Manor Road, approximately halfway between IH 35 and Berkman Drive. The Applicant proposes amending a restrictive covenant (RC) that was attached to the subject property as part of zoning case C14-71-278. The RC is attaching to four tracts of land; the Applicant proposes removing Tracts 2 and 3 from the RC. Tracts 1 and 4 are owned by other parties. The restrictive covenant established the following conditions:

“1. In the event any of the above described tracts are developed with multi-family improvements, the number of units which may be erected on each such tract shall be the number which would be authorized if said tract were zoned BB ‘Residence’ First Height and Area.”

BB-Residence was a zoning category used in 1971; under current code, this would limit each tract to the density of MF-2 zoning (maximum 23 units per acre). ***Please see Exhibits A, B, and C—Zoning Map, Aerial Exhibit, Redlined Restrictive Covenant.***

Staff supports amending the RC to release the subject tract from this requirement. The proposed rezoning for the property from LO-V-NP to GR-MU-V-NP is intended to allow a higher density level of multifamily, as well as mixed use. This type of development meets current City goals and policies of increasing residential opportunities and densities along core transportation corridors. Amending the RC will make development regulations on the property consistent with current code and surrounding properties.

BASIS OF RECOMMENDATION:

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

The conditions of the 1971 RC are outdated and have been replaced by more appropriate development regulations under current code.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LO-V-NP	Undeveloped, Parking lot
North	LO-NP, LO-CO-NP, SF-3-NP	City drainage features, Single family residential
South	PUD	Mueller PUD- Office, Commercial, Residential
East	LO-V-NP, LI-NP, GR-MU-CO-NP	Religious assembly, City drainage features, Automotive washing, Service station, Food sales
West	GR-MU-V-CO-NP, LO-V-NP, MF-2-NP	Multifamily, Office, Restaurant-limited

NEIGHBORHOOD PLANNING AREA: University Hills/Windsor Park

WATERSHED: Tannehill Branch Creek

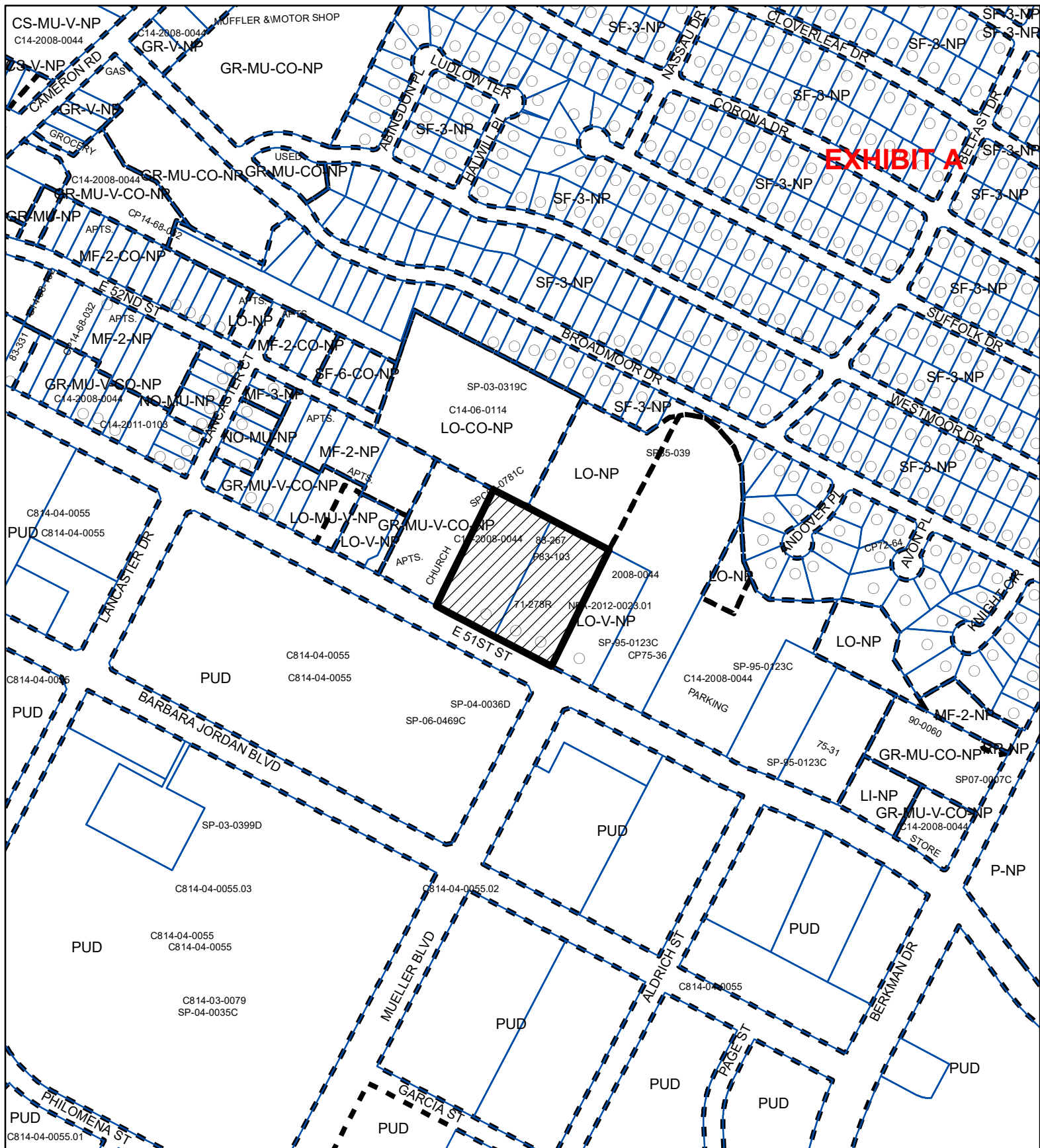
NEIGHBORHOOD ORGANIZATIONS:




Homeless Neighborhood Association
Del Valle Community Coalition
Friends of Austin Neighborhoods
Neighborhood Empowerment Foundation
Windsor Park Neighborhood Association
Mueller Neighborhood Association
Winsor Park-Pecan Springs Heritage NA
Windsor Park Neighborhood Plan Contact Team

AISD
Preservation Austin
Sierra Club
Mueller Community Associations
Bike Austin
Austin Neighborhoods Council

INDEX OF EXHIBITS TO FOLLOW

A: Zoning Map
B. Aerial Exhibit
C. Restrictive Covenant



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

Restrictive Covenant Amendment

CASE#: C14-71-278(RCA)



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 CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 400'

Created: 9/11/2019



1408 E. 51st Street

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

ZONING CASE#: C14-71-278RCA
 LOCATION: 1408-1418 E. 51St.
 SUBJECT AREA: 3.82 Acres
 GRID: L25
 MANAGER: Heather Chaffin

1" = 200'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Redline Copy

DEC 15-71 3171 * 4.50

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

WHEREAS, the undersigned are the owners of the following described property located and being in the City of Austin, Travis County, Texas, to wit:

Those four tracts of land described in Exhibit A attached hereto and incorporated herein for all purposes.

WHEREAS, the City of Austin is desirous that said property be developed properly and appropriately so that such city will be able to plan the future expansion of its utility and street systems in the area; and

WHEREAS, the City of Austin and the undersigned have agreed that the above property owned by the undersigned should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing:

Now, therefore, KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, the owners of the above described property in the City of Austin, Travis County, Texas, for and in consideration of \$1.00 cash and other valuable consideration to them in hand paid by the City of Austin, a municipal corporation, the receipt of which is hereby acknowledged, do hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land and which shall be binding upon them, their heirs, executors, administrators, successors and assigns, as follows, to wit:

1. In the event any of the above described tracts are developed with multi-family improvements, the number of units which may be erected on each such tract shall be the number which would be authorized if said tract were zoned BB "Residence" First Height and Area.

2. If any person or persons shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and

DEED RECORDS

4224 2396

Travis County, Texas

EXHIBIT C

52-0330

assigns, to prosecute proceedings at law or in equity against the person or persons violating or attempting to violate such agreement or covenant, and either to prevent him or them from so doing, or to collect damages for such violation.

3. If any part or provision of the agreement or covenants herein contained shall be declared invalid by judgment or a court order, the same shall in nowise effect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

4. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

5. This agreement may be modified, amended or terminated only by joint action of both (1) 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 (2) by the owner of the above described property at the time of such modification, amendment, or termination.

Executed this 22nd day of November, 1971.

Charlie C. Tawater
Charlie C. Tawater

B. L. Hues
B. L. Hues

M. W. Engelbrecht
M. W. Engelbrecht

52-0331

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

Before me, the undersigned authority,
on this day personally appeared
Charlie C. Tawater, known to me to be the person whose name is sub-
scribed to the foregoing instrument, and acknowledged to me that
he executed the same for the purposes and consideration therein ex-
pressed.

Given under my hand and seal of office, this 22nd day of
November, 1971.

NOTARY SEAL

Barbara J. Gore
Notary Public, Travis County, Texas

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

Before me, the undersigned authority,
on this day personally appeared
E. L. McGee, known to me to be the person whose name is subscribed
to the foregoing instrument, and acknowledged to me that he executed
the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 22nd day of
November, 1971.

NOTARY SEAL

Shirley M. Beck
Notary Public, Travis County, Texas

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

2.28

ENGELBRECHT

Before me, the undersigned authority,
on this day personally appeared
M. W. Engelbrecht, known to me to be the person whose name is sub-
scribed to the foregoing instrument, and acknowledged to me that he
executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 22nd day of
November, 1971.

NOTARY SEAL

Barbara J. Gore
Notary Public, Travis County, Texas

52-0332

TRACT 1: The East 102.5 feet of the south 200 feet of Lot 9, Ridgetop Gardens, in the City of Austin, Travis County, Texas, as shown in the plat of said subdivision of record in Volume 3, Page 50, Plat Records of Travis County, Texas. *Book*

~~TRACT 2: The south 203.15 feet of Lot 12, Ridgetop Gardens Addition to the City of Austin, Travis County, Texas, as shown in the plat of said subdivision of record in Volume 3, Page 50, Plat Records of Travis County, Texas. *Book*~~

~~TRACT 3: The south 203.15 feet of the east 102.5 feet of Lot 11, Ridgetop Gardens Addition to the City of Austin, Travis County, Texas, as shown in the plat of said subdivision of record in Volume 3, Page 50, Plat Records of Travis County, Texas. *Book*~~

TRACT 4: A portion of Lots Nos. Eight (8) and Nine (9) in Ridgetop Gardens in the City of Austin, Travis County, Texas, according to a plat of record in Book 3, Page 50, Plat Records of Travis County, Texas, being a portion of that tract conveyed by Joe E. Marks, et ux., to William H. Chenault by deed recorded in Volume 1004, Page 476, Deed Records of Travis County, Texas, and more particularly described by metes and bounds as follows:

Beginning at an iron stake at the Southwest corner of the East 1/2 of Lot No. 8;

Thence S. 60 deg. 00' E. 85 feet along the South line of Lot No. 8 and the North line of East Fifty-first Street to a corner post;

Thence N. 30 deg. 00' E. 200 feet along a fence to a corner post;

Thence S. 60 deg. 00' E. 60 feet along a fence to a corner post;

Thence N. 30 deg. 00' E. 25 feet along a fence to an iron stake;

Thence N. 60 deg. 00' W. 145 feet to an iron stake in the West line of the said Chenault tract;

Thence S. 30 deg. 00' W. 225 feet along a fence at the West line of the said Chenault tract to an iron stake at the place of Beginning, as surveyed by Doak Rainey, P.S.

EXHIBIT

A

4224 2399

X

Dec 15 8 14 AM '71

Loris B. Chapman
COUNTY CLERK
TRAVIS COUNTY, TEXAS

52-0833

Law
CITY OF AUSTIN
Economic Development
Box 1088
AUSTIN, TEXAS

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

DEC 15 1971



Loris B. Chapman
COUNTY CLERK
TRAVIS COUNTY, TEXAS

4224 2400