RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-76-083(RCA3) -- 7009 Ed Bluestein Blvd. DISTRICT: 1

RCA ADDRESS: 7009 Ed Bluestein Boulevard

SITE AREA: 9.26 Acres

PROPERTY OWNER/APPLICANT:
Hassan Rahimi and 726 LLC

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

ZONING AND PLATTING COMMISSION ACTION/ RECOMMENDATION:
May 18, 2021: To grant the requested restrictive covenant amendment, on consent. (9-0) [Commissioner Smith- 1st, Commissioner King-2nd; Commissioner Denkler- off the dais; 1 Vacancy on Commission]

CITY COUNCIL ACTION:
June 10, 2021:

ORDINANCE NUMBER:

ISSUES:
This restrictive covenant termination was originally filed as a restrictive covenant amendment. Upon review, staff determined that all other affected tracts had previously been removed from the restrictive covenant, making this request a termination rather than an amendment. A rezoning request has been filed in conjunction with the restrictive covenant amendment (City File # C14-2021-0021). ***Please see Exhibit C- Applicant Letter.***

CASE MANAGER COMMENTS:
The subject property is located on the east side of Ed Bluestein Boulevard between Loyola Lane and Manor Road, slightly south of Purple Sage Drive. Most of the undeveloped property is zoned GR (8.27 acres), while a small strip along the northern boundary is zoned SF-3 (0.99 acres). To the north is a residential neighborhood that is zoned SF-3 and will trigger compatibility standards. This neighborhood is primarily developed with duplex residences and LBJ High School. Immediately to the south and east is undeveloped land zoned GR-MU. A small tributary to Walnut Creek is located adjacent to the southern tract boundary; no floodplain or creek buffers are associated with this tributary. Further west are undeveloped properties zoned SF-2-CO. Immediately west of the property is Ed Bluestein Boulevard; across Ed Bluestein Boulevard are properties zoned GR-V-NP, GR-NP, and GR-MU-CO-NP. These properties include retail uses (including a grocery store), undeveloped property, and civic land uses (Boys and Girls Club). 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. East of the tributary is undeveloped land zoned SF-2-CO. ***Please see Exhibits A and B—Zoning Map and Aerial Exhibit.***

In 1976, a restrictive covenant (RC) was placed on a 24.34 acre tract of land that includes this 9.26 acre site. No changes are proposed for the remaining 15.08 acres under the RC. For this property, the RC prohibited any land use that is not permitted under GR zoning. Since the Applicant is proposing to develop the site with multifamily, this restriction would need to be removed. The RC also prohibits the construction of any street that connects Ed Bluestein to the property to the east. The property to the east is zoned GR-MU, which matches the proposed rezoning on the subject tract. The RC also includes language about how development of the property would be reviewed and processed by the City; this language is also proposed to be removed because it does not reflect current Code requirements. Current Code requirements are significantly more restrictive than those outlined in the RC. ***Please see Exhibit D- Redlined Restrictive Covenant.***

Staff supports the restrictive covenant termination. It would allow the development of much needed housing and would allow cohesive development and access through the property. The termination would remove outdated process and permitting requirements and make any development of the site consistent with existing Code requirements.

BASIS FOR RECOMMENDATION
1. *Zoning should allow for reasonable use of the property.*
2. *Granting of the request should result in an equal treatment of similarly situated properties.*

The proposed termination of this restrictive covenant would allow this property to provide residential units as are permitted to the north, south and east of the site. Removing the access restrictions and processing requirements would allow development to proceed in a manner consistent with current Code requirements.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	GR, SF-3	Undeveloped
North	SF-3	Single family and duplex residential, Public high school
South	GR-MU	Undeveloped
East	GR-MU, SF-2-CO	Undeveloped
West	GR-NP, GR-V-NP, and GR-MU-CO	General retail sales (general), Civic

STREET CHARACTERISTICS:

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Ed Bluestein Blvd SVRD NB	157’	Defer to TxDOT	43’	4	Yes	Yes	No

TIA: Deferred to time of site plan, if triggered

WATERSHED: Walnut Creek (Suburban)

NEIGHBORHOOD ORGANIZATIONS:

Senate Hills Homeowners' Association
East MLK Combined Neighborhood Contact Team
Friends of Austin Neighborhoods
University Hills Neighborhood Association
LBJ Neighborhood Association
Claim Your Destiny Foundation
Friends of Northeast Austin
Black Improvement Association
University Hills Neighborhood Plan Contact Team
Austin Innercity Alliance
Del Valle Community Coalition
Neighbors United for Progress
East Austin Conservancy
Homeless Neighborhood Association
Austin Neighborhoods Council
SELTexas

OTHER STAFF COMMENTS:

COMPREHENSIVE PLANNING

Connectivity: Newly installed public sidewalks are located all this section of the Ed Bluestein

Service Road, which is located immediately adjacent to a major highway. The nearest Capital Metro transit stop is located 0.48 miles away, in front of the Delco Activity Center. The LBJ Early College High School is located to the north, approximately 0.43 miles from the subject property and is accessible by public sidewalks. The Davis/White Northeast Neighborhood Park is located to the southeast. Civic uses are abundant in the area while goods and services, including a grocery store, are not. The mobility options in the area are fair and bus stops are located almost a half a mile from the subject property.

Imagine Austin: The property is located 0.30 miles from an Activity Center and is located along a major highway. The following Imagine Austin Comprehensive Plan policies are applicable to this case:

 LUT P3. Promote development in compact centers, communities, or along corridors that are connected by roads and transit, are designed to encourage walking and bicycling, and reduce healthcare, housing, and transportation costs.

 LUT P5. Create healthy and family-friendly communities through development that includes a mix of land uses and housing types and affords realistic opportunities for transit, bicycle, and pedestrian travel and provides both community gathering spaces, parks and safe outdoor play areas for children.

 HN P1. Distribute a variety of housing types throughout the City to expand the choices able to meet the financial and lifestyle needs of Austin's diverse population.

 HN P10. Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to schools, retail, employment, community services, and parks and recreation options.

The Applicant has stated that this project will provide affordable housing, based on the lack of connectivity options (no grocery stores, goods or services) and only fair mobility options (bus stop, school and park are almost a half a mile away), it will be necessary for all tenants to own a car to access jobs and goods and services, and therefore this project partially supports the policies of the Imagine Austin Comprehensive Plan.

ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

2. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

Development Classification	*% of Gross Site Area*	*% of Gross Site Area with Transfers*
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

3. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

4. At this time, site specific information is unavailable regarding vegetation, areas of steep

slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
5. Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

SITE PLAN
SP1. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.
SP2. The site is subject to compatibility standards including noise and light limitations and screening.
SP3. Additional design regulations will be enforced at the time a site plan is submitted.

TRANSPORTATION
The Austin Strategic Mobility Plan (ASMP), adopted 04/11/2019, identifies sufficient right-of-way for Ed Bluestein Boulevard SVRD NB and is deferred to TxDOT. There is a proposed Urban Trail adjacent to this site, along the western property boundary. Traffic impact analysis was waived, the determination is deferred to site plan application, when land use and intensity will be finalized.

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Ed Bluestein Blvd SVRD NB	157’	Defer to TxDOT	43’	4	Yes	Yes	No

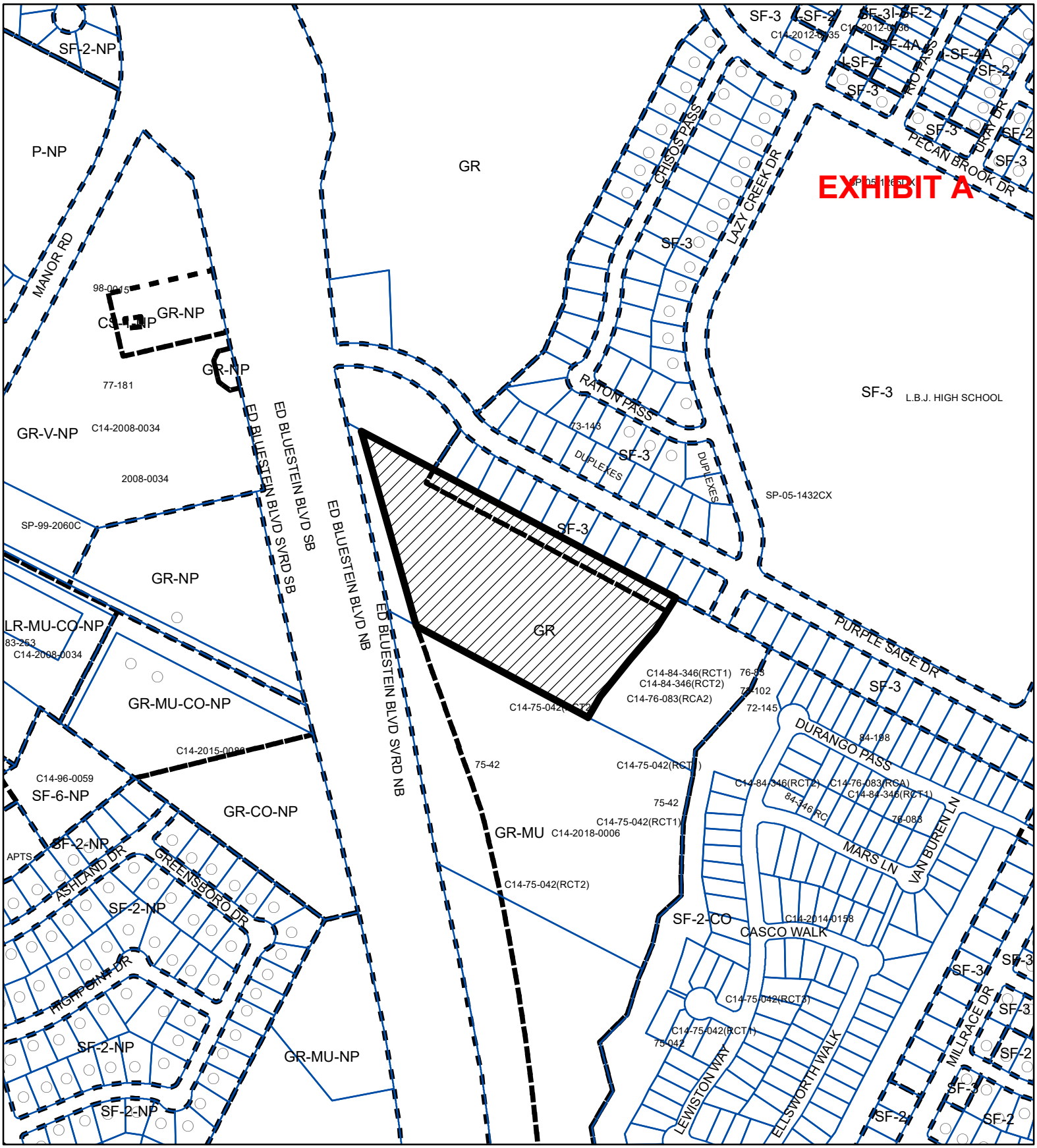
PARKS AND RECREATION
PR1: Parkland dedication will be required for the new residential units proposed by this development, condominiums with GR-MU-NP zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2). If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: thomas.rowlinson@austintexas.gov. At the applicant’s request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

WATER UTILITY
AW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin

Water for compliance with City criteria and suitability for operation and maintenance. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS TO FOLLOW

A: Zoning Map
B. Aerial Exhibit
C. Applicant Letter
D. Redlined Restrictive Covenant



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1 " = 400 '

Restrictive Covenant Amendment

CASE#: C14-76-083(RCA3)

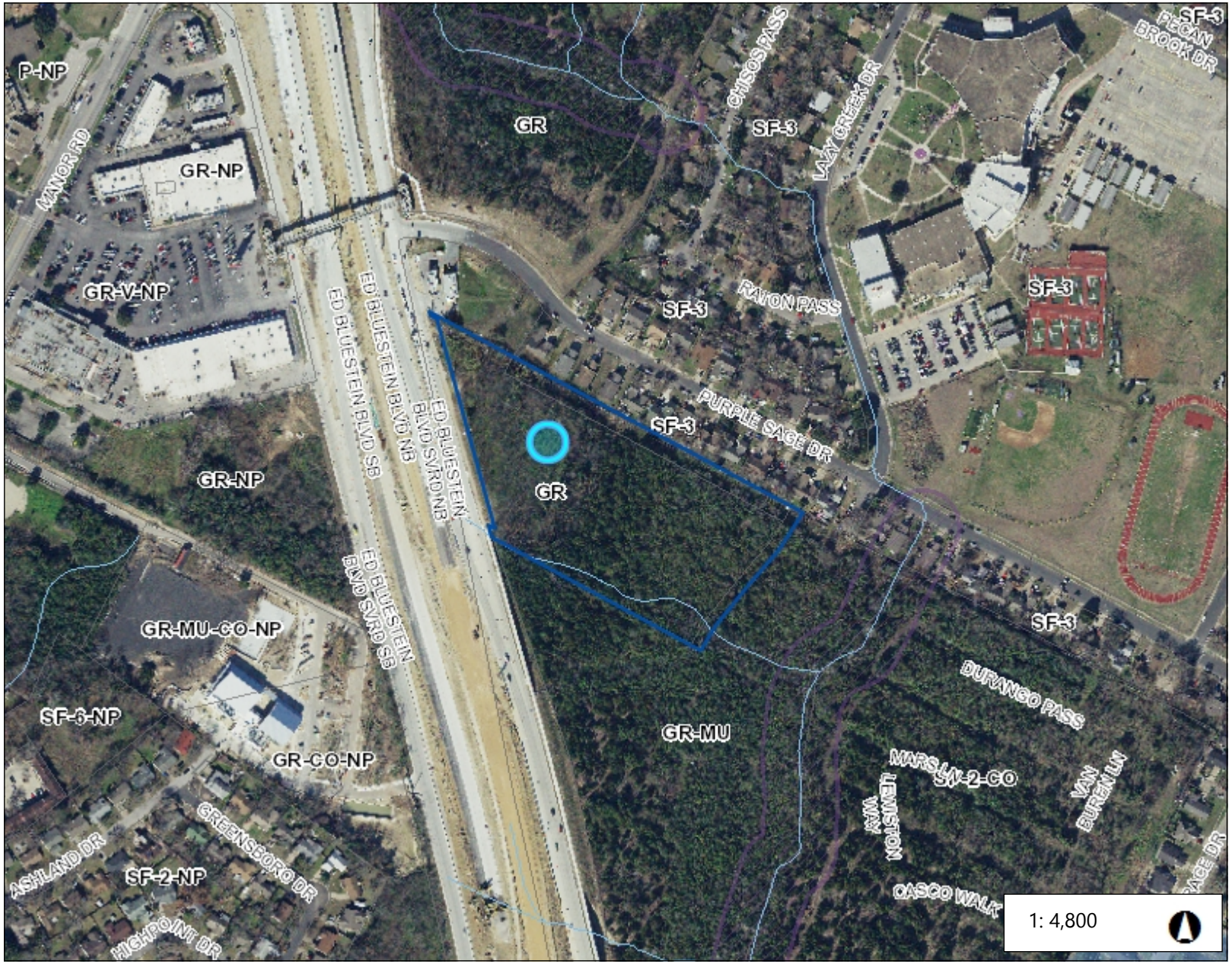
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Housing and Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or

CITY OF AUSTIN FOUNDED 1839

Created: 3/1/2021

Property Profile



0.2 0 0.08 0.2 Miles

NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet

Date Printed:

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. This product has been produced by the City of Austin for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Legend

EXHIBIT B

- Street Labels
- Fully Developed Floodplain
  - COA Fully Developed 25-Year
  - COA Fully Developed 100-Year
  - COA Master Plan 25-Year
  - COA Master Plan 100-Year
  - 100-Year (Detailed-AE)
  - 100-Year (Shallow-AO,AH)
  - 100-Year (Approx-A)
- Creek Buffers/Waterway Setba
  - Critical Water Quality Zone
  - Water Quality Transition Zone
- Creek Centerlines
- Lakes
- Zoning Text

Notes

DRENNER GROUP

January 29, 2021

EXHIBIT C

Rosie Truelove
Development Services
6310 Wilhelmina Delco Dr.
Austin, TX 78752

Via Electronic Delivery

Re: 7009 Ed Bluestein Blvd – Rezoning and Restrictive Covenant Amendment applications for the 9.26-acre piece of property located at 7009 Ed Bluestein Boulevard, Austin, Travis County, Texas (the "Property")

Dear Ms. Truelove:

As representatives of the owner of the Property, we respectfully submit the enclosed rezoning and public restrictive covenant amendment application packages. The project is titled 7009 Ed Bluestein Blvd, consists of 9.26 acres, and is located at 7009 Ed Bluestein Boulevard, in the full purpose jurisdiction of the City of Austin. The Property is currently undeveloped.

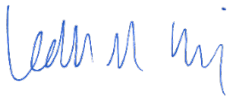
The Property is zoned GR (Community Commercial) and SF-3 (Family Residence). The requested rezoning is from GR and SF-3 to GR-MU (Community Commercial – Mixed Use). The purpose of this rezoning is to allow for residential uses on the Property. We also intend for this to be an Affordability Unlocked project. This rezoning request would match the zoning district to the south and east of the Property, which was already rezoned to GR-MU pursuant to Ordinance No. 20180426-070.

In conjunction with the rezoning, we are also requesting that a public restrictive covenant dated March 3, 1977 be amended (the "Covenant"). The Covenant currently restricts the Property to General Retail (GR) uses existing at the time of the Covenant's execution and does not permit access across the Property's eastern boundary. As we are requesting residential uses, we also request that this restriction in the Covenant be removed. Per the terms of the Covenant, a City Council vote is required for any amendment to the Covenant.

These requests are consistent and compatible with nearby zoning and uses and will contribute to the City reading its' affordable housing goals as laid out in the Austin Strategic Housing Blueprint.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Sincerely,



Leah M. Bojo

cc: Joi Harden, Planning and Zoning Review Department *(via electronic delivery)*
Heather Chaffin, Planning and Zoning Review Department *(via electronic delivery)*

EXHIBIT D

Redline Copy

12.50

THE STATE OF TEXAS)
) 4-25-77 ECHA 4762 13.50
COUNTY OF TRAVIS)

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

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

C-59-5504

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.

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

1-50-5505

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

(2) S 44° 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° 41' and whose long chord bears S 37° 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° 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° 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 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° 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

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;

1-50-5506

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

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 renting 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.

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° 20' and whose long chord bears S 37° 35' W a distance of 228.20 feet to a point of tangency;

1-50-5507

(2) S 44° 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° 41' and whose long chord bears S 37° 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° 56' W a distance f 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° 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 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° 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

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";

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:

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;

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(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:

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.

1-50-5511

c. No through street may be built upon such 9.077 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° 20' and whose long chord bears S 37° 35' W a distance of 228.20 feet to a point of tangency;

(2) S 44° 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° 41' and whose long chord bears S 37° 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° 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° 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 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 aforedescribed 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:

(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 128.28 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

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.

1-5D-5514

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 2nd day of March, 1977.

(CORPORATE SEAL)

CITY NATIONAL BANK OF AUSTIN

By: John C. Scurlock, President

ATTEST:

~~Cashier~~ Assistant Cashier

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 instrument, 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.

1-50-5515

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

NOTARY SEAL

Michi Bonesz
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 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

APR 25 1977

Doris A. Sturgeon
COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED
APR 25 8 15 AM 1977

Doris A. Sturgeon
COUNTY CLERK
TRAVIS COUNTY, TEXAS