

ZONING CHANGE REVIEW SHEET

CASE: C14-85-244, Part 7 (RCA #3)

DISTRICT: 7

ADDRESS: 10001 N. Capital of Texas Highway

OWNER/APPLICANT: AUSTIN H ARBORETUM PROPCO, LP, a Delaware Limited Partnership

AGENT: Smith Robertson, LLP (David Hartman)

ZONING: NBG-CMU-NP

AREA: 3.66 acres

REQUEST: The applicant is requesting an amendment of the restrictive covenant conditions for this property (*please see Applicant's Request Letter – Exhibit C*).

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends the proposed amendment of the public restrictive covenant.

PLANNING COMMISSION ACTION / RECOMMENDATION:

April 12, 2022

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

DEPARTMENT COMMENTS:

In this case, the applicant is requesting to amend a public restrictive covenant associated with zoning case C14-85-244 (Part 7) and executed on July 1, 1986 that prohibits new development on the Property from exceeding a maximum floor to area ratio (FAR) of 0.9:1, requires a public site plan review, requires that any development comply with the roadway map on page 40 of the Golden Triangle Area Study and states that at the time of subdivision approval the applicant will dedicate right-of-way to the City. Specifically, the applicant's request is to remove these conditions for this 3.66 acre property so that development on this site can comply with the site development standards for the Commercial Mixed Use (CMU) subdistrict in the North Burnet Gateway Regulating Plan (*please see Applicant's Request Letter – Exhibit C*).

The staff recommends the applicant's request to delete the conditions of this public restrictive covenant for this site as the applicant is currently proposing to redevelop this property in accordance with the site development regulations approved in the North Burnet/Gateway Regulating Plan that allow for a 2:1 FAR on the property. The tract of land under consideration is currently developed with a hotel/motel use. This property was rezoned from CS-NP to NBG-CMU-NP, North Burnet/Gateway-Commercial Mixed Use-Neighborhood Plan Combining District, through case zoning C14-2008-0182 (North Burnet/Gateway Neighborhood Plan Rezonings), in 2009.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	NBG-NP	Hotel (Hyatt House)
<i>North</i>	NBG-NP	Hotel (Extended Stay America), Hotel (Marriott Townplace Suites)
<i>South</i>	NBG-NP	Multifamily (Arboretum at Stone Lake Apartments)
<i>East</i>	NBG-NP	Multifamily (Arboretum at Stone Lake Apartments), MOPAC Expressway
<i>West</i>	NBG-NP	Multifamily (Stonelake at Arboretum)

AREA STUDY: North Burnet/Gateway NP

TIA: Not Required

WATERSHED: Shoal Creek Watershed

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
 Austin Lost and Found Pets
 Austin Neighborhoods Council
 Friends of Austin Neighborhoods
 Homeless Neighborhood Association
 Neighborhood Empowerment Foundation
 North Burnet/Gateway Neighborhood Plan Staff Liaison
 SELTEXAS
 Shoal Creek Conservancy
 Sierra Club, Austin Regional Group
 TNR BCP -Travis County Natural Resources

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-85-244, Part 7(RCA #2) (10001 Stonelake)	To amend a public restrictive covenant associated with zoning case C14-85-244 (Part 7) for this 2.0974 acre property that prohibits new development on the Property from exceeding a maximum floor to area ratio (FAR) of 0.9:1, requires a public site plan review, requires that any development comply with the roadway map on page 40 of the Golden Triangle Area Study and states that at the time of subdivision approval the applicant will dedicate ROW to the city.	6/11/19: Motion to approve staff's recommendation for the restrictive covenant amendment by consent (11-0); C. Kenny-1 st , A. Azhar-2 nd .	6/20/19: Approved restrictive covenant amendment by consent (11-0); L. Pool-1 st , N. Harper-Madison-2 nd .

C14-2008-0182 (North Burnet /Gateway NP Rezoning: Metric Boulevard)	Add NP designation to existing zoning	9/09/08: Approved rezoning of certain tracts to NBG-NP or NBG-H-NP, with conditions (8-0)	10/16/08: Approved NBG-NP or NBG-H-NP (7-0); 1 st reading 3/12/09: Approved NBG-NP or NBG-H-NP (6-0); 2 nd /3 rd readings
C14-2007-0157 (North Burnet /Gateway Neighborhood Plan Rezoning)		9/25/07: Approved staff rec. with amendments (8-0)	10/18/07: Approved 1 st reading of Phase 1 of NP (6-0) 11/01/07: Approved Phase 1 of NP zonings (5-0); 2 nd /3 rd readings
C14-2007-0141 (Crescent Stonelake: 10011-100015 Stonelake Blvd)	CS to MF-4	10/23/07: Approved staff rec. of MF-4-CO by consent (9-0)	11/13/07: Approved Ordinance No. 20071108-097 for MF-4-CO (7-0); all 3 readings
C14-04-0146 (The Shops at Arbor Walk: 10515 North Mopac Expressway)	P to CH	11/9/04: Approved staff's recommendation of CH zoning with conditions (9-0)	12/2/04: Approved CH zoning (7-0); all 3 readings

RELATED CASES:

C14-85-224 (Previous Zoning Case)

C14-2008-0182 (North Burnet/Gateway Neighborhood Plan Rezoning)

OTHER STAFF COMMENTS:

Comprehensive Planning

The termination or amending of a Restrictive Covenant is not under the purview of the policies of the Imagine Austin Comprehensive Plan, and therefore an Imagine Austin compliance report has not been provided for this case.

Environmental

Approved. No comments.

Fire

No comments.

Parks and Recreation

Parkland dedication will be required for any new residential units resulting from the release of this restrictive covenant. Parkland dedication and open space requirements can be found in the North Burnet Gateway Regulating Plan and City Code Title 25, Article 14. 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.

Site Plan

This tract is already developed and the proposed restrictive covenant amendment occurs within the existing development.

Site plans will be required for any new development other than single-family, two-family or duplex residential.

The site is in the North Burnet/Gateway (NBG) district.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

FYI: The applicant is responsible for requesting relocation and demolition permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

FYI: This site is within the Wildland/Urban Interface and will need additional related review from the Austin Fire Dept. Please reference <https://www.austintexas.gov/department/wildland-urban-interface-code> for additional information or work directly with AFD review staff.

Transportation

Austin Transportation Department does not object to this Restrictive Covenant Amendment.

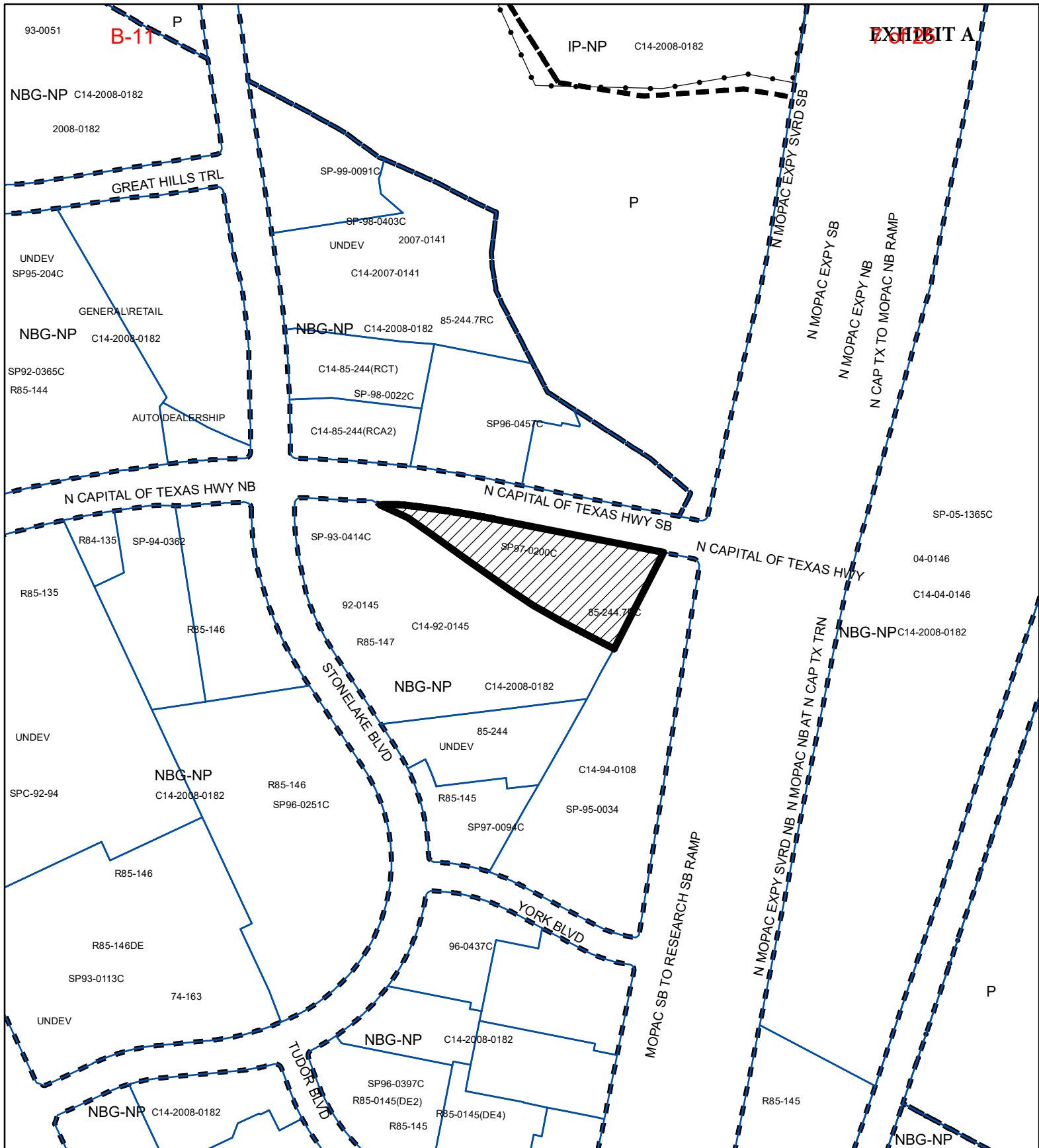
Any future development will be reviewed with the site plan application and will be assessed for TIA or mitigation at that time.




Water Utility

Austin Water has no comments on RCA.

INDEX OF EXHIBITS TO FOLLOW

- A: Case Map
- B. Aerial Map
- C. Applicant's Request Letter
- D. Proposed Redlined Restrictive Covenant
- E. North Burnet Gateway Subdistrict Map
- F. Regulations for the CMU District in the NBG Regulating Plan



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

Restrictive Covenant Amendment

CASE#: C14-85-244, Part 7
(RCA)

1" = 400'

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



Created: 2/16/2022



10001 N. Capital of Texas Highway

ZONING CASE#: C14-85-244.8(RCA)
 LOCATION: 10001 North Capital of Texas Highway
 SUBJECT AREA: 3.664 Acres
 GRID: J32
 MANAGER: SHERRI SIRWAITIS



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.

1" = 300'



SMITH|ROBERTSON
Attorneys at Law

DAVID HARTMAN
PARTNER

Direct Line 512.225.1704 • Direct Fax 512.225.1714
Email dhartman@smith-robertson.com

January 10, 2022

Ms. Rosie Truelove, Director
Housing and Planning Department
City of Austin
1000 E. 11th Street
Austin, TX 78702

Re: Restrictive Covenant Amendment Application; 3.66 acres located at 10001 N. Capital of Texas Highway in Austin, Travis County, Texas (the "Property")

Dear Ms. Truelove:

This letter is submitted in connection with the Zoning Amendment application to amend the public Restrictive Covenant recorded as Volume 9839, Page 566 of the Real Property Records, Travis County, Texas (the "Covenant"). The Covenant was recorded on August 19, 1986 and affects more than 71 acres of land including the subject Property, and in part limits development to a maximum Floor Area Ratio (FAR) of 0.9:1.

The Property is approximately 3.66 acres at 10001 N. Capital of Texas Highway, located between SH 183 and N. Mopac Expressway in the North Burnet Gateway Planning Area and is zoned NBG-NP pursuant to the North Burnet Gateway Regulating Plan approved in 2009. We are proposing to amend the Covenant to release the Property from the Covenant so that the Property will no longer be subject to the Covenant and can be developed in adherence to the site development regulations in the North Burnet Gateway Regulating Plan. In 2019, City Council unanimously approved two similar amendments to the Covenant for two adjacent tracts at 10001 Stonelake Blvd., and 10010 N. Capital of Texas Highway, recorded copies of which are enclosed for convenience.

Please let me know if I can provide additional information in connection with this application.

Best regards,

David Hartman

cc: Jerry Rusthoven
Sherri Sirwaitis

DH/ema



4 pgs 2019099851

FIRST AMENDMENT TO RESTRICTIVE COVENANT
FOR ZONING CASE: C14-85-244, PART 7 (RCA)

OWNER: Fredric Clarke Morse, III and Scott Morse individually and as trustee of the Scott Morse 2012 Family Trust

OWNER ADDRESS: 4726 Twin Valley Drive, Austin, Texas 78731 and 2801 Bridle Path, Austin, Texas 78703

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 Estate of Fred Morse, Deceased, and Estelle K. Morse, individually, entered into that certain Restrictive Covenant, dated as of July 1, 1986, and recorded in the Real Property Records of Travis County, Texas, on August 19, 1986, in Volume 9839, Page 566 (the "Restrictive Covenant"), as part of City of Austin Zoning Case No. C14-85-244 (Part 7); and

WHEREAS, the Restrictive Covenant encumbers real property, consisting of approximately 73.91 acres, more particularly described in the Restrictive Covenant; and

WHEREAS, the 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, Frederic Clarke Morse, III, and Scott Morse individually and as trustee of the Scott Morse 2012 Family Trust, as current owners (the "Owner") of the portion of the Property, more particularly described as Lot 2, Block A, Morse Commercial Subdivision, a subdivision in Travis County, Texas, according to the map or plat of record in Book 101, Page 54, Plat Records of Travis County, Texas (the "Released Property") on the date of this First Amendment to Restrictive Covenant ("Amendment"), desire to amend the Restrictive Covenant to release the Released Property; and

WHEREAS, the City Council agrees the Restrictive Covenant should be amended to release the Released Property.

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. The restrictive covenant is amended as of the date hereof to release the Released Property from the terms and provisions of the Restrictive Covenant.
2. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.
3. 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 19th day of June, 2019.

OWNER:

By: Frederic Clarke Morse, III
Frederic Clarke Morse, III

By: Scott Morse
Scott Morse, Individually and as
Trustee of the Scott Morse 2012 Family
Trust

CITY OF AUSTIN:

By: J. Rodney Gonzales
J. Rodney Gonzales
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 19 day of June, 2019, by Frederic Clarke Morse, III.





Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 19 day of June, 2019, by Scott Morse, individually and as trustee for the Scott Morse 2012 Family Trust:

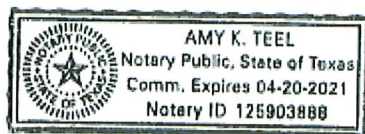



Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 20th day of June, 2019, by J. Rodney Gonzales, as 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
Department of Law
P. O. Box 1088
Austin, Texas 78767-1088
Attention: C. Curtis, Paralegal

**2019099851**

**FILED AND RECORDED
OFFICIAL PUBLIC RECORDS**

Dana DeBeauvoir

Dana DeBeauvoir, County Clerk
Travis County, Texas

Jul 05, 2019 01:55 PM

Fee: \$38.75

MEDINAE



3 pgs

2019197760

SECOND AMENDMENT TO RESTRICTIVE COVENANT
FOR ZONING CASE: C14-85-244, PART 7 (RCA2)

OWNER: Lufthehe RE, LP a Texas limited partnership

OWNER ADDRESS: 3407 Toro Canyon Road
Austin, Texas 78746

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 Estate of Fred Morse, Deceased, and Estelle K. Morse, individually, entered into that certain Restrictive Covenant, dated as of July 1, 1986, and recorded in the Real Property Records of Travis County, Texas, on August 19, 1986, in Volume 9839, Page 572 (the "Restrictive Covenant"), as part of City of Austin Zoning Case No. C14-85-244 (Part 7); and

WHEREAS, the Restrictive Covenant encumbers real property, consisting of approximately 73.91 acres, more particularly described in the Restrictive Covenant; and

WHEREAS, the 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, Lufthehe RE, LP, a Texas limited partnership (the "Owner") of the Property on the date of this Second Amendment to Restrictive Covenant ("Amendment"), desire to amend the Restrictive Covenant to release a portion of the Property more particularly described as Lot 1, Block A, Morse Commercial Subdivision, a subdivision in Travis County, Texas, according to the map or plat of record in Book 101, Page 54, Plat Records of Travis County, Texas (the "Released Property"); and

WHEREAS, the City Council agrees the Restrictive Covenant should be amended to release the Released Property.

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. The restrictive covenant is amended as of the date hereof to release the Released Property from the terms and provisions of the Restrictive Covenant.

2. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.
3. 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 25 day of November, 2019.

OWNER:

Luftheife RE, LP, a Texas limited partnership

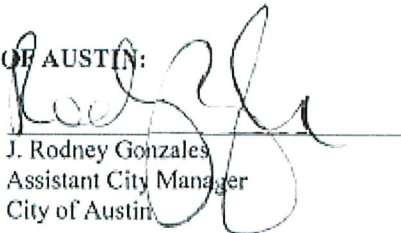
By: H and M Austin Management, Inc., a Texas corporation, its general partner

By:


Michael J. McGinnis, Director

CITY OF AUSTIN:

By:


J. Rodney Gonzales
Assistant City Manager
City of Austin

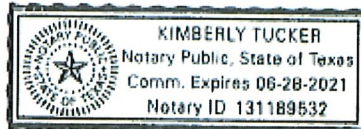
APPROVED AS TO FORM:


Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF Travis §

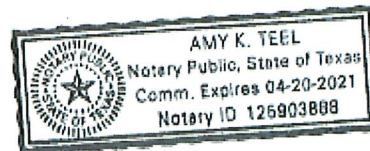
This instrument was acknowledged before me on this the 25 day of November 2019, by Michael J. McGinnis, as Director of H and M Austin Management, Inc., a Texas corporation as general partner of Luftheife RE, LP, a Texas limited partnership, on behalf of said partnership.



Kimberly Tucker
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §



This instrument was acknowledged before me on this the 15th day of December, 2019, by J. Rodney Gonzales, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

Amy K. Teel
Notary Public, State of Texas

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



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

Dana DeBeauvoir, County Clerk
Travis County, Texas

2019197760

Dec 17, 2019 09:33 AM

Fee: \$34.00

MEDINAE

1502

B-11

EXHIBIT D

4 10 8616

Zoning Case No. C 14-85-244 (Part 7)

RESTRICTIVE COVENANT

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the ESTATE OF FRED MORSE, DECEASED, and ESTELLE K. MORSE, individually, are the owners of the following described property ("Property") located in Travis County, Texas:

TRACT 1

71.91 acres of land lying within and being a part of the James Rogers Survey in Travis County, Texas and being the several tracts of land in said Rogers Survey conveyed by C.R. Puckett and wife, Lottie Puckett, to Tully L. Witter and wife, Ermine Witter, by warranty deed dated October 15, 1946, of record in Vol. 816, Pages 571-573, of the Travis County Deed Records, and more particularly described by metes and bounds as follows:

BEGINNING at an iron stake at the southwest corner of Tract No. 4 of 47.75 acres as described in the aforementioned deed;

THENCE N. 24 degrees 36' E. 771.74 feet to an iron stake set by a leaning Live Oak tree for an ell corner of this tract;

THENCE N. 60 degrees 13' W. 1120.00 feet to an iron stake set in the east line of Charlie Hamilton's land for the most westerly southwest corner of this tract;

THENCE along the east line of Charlie Hamilton's land N 33 degrees 14' E. 963.07 feet to an iron stake set for the northwest corner of this tract;

THENCE S. 57 degrees 41' E. 513.54 feet to an iron stake and rock mound for a corner of this tract;

THENCE S. 26 degrees 31' W. 220.02 feet to an iron stake by a dead Live Oak for a corner of this tract;

THENCE S. 13 degrees 17' E. 62.89 feet to an iron stake and a six inch elm for a corner of this tract;

THENCE S. 36 degrees 32' E. 131.95 feet to an iron stake for a corner;

THENCE S. 27 degrees 10' W. 203.62 feet to an iron stake for a corner;

THENCE S. 58 degrees 21' E. 2009.99 feet to an iron pipe found in a root of a 12 inch elm for a corner of this tract;

THENCE S. 2 degrees 20' W. 247.85 feet to an iron pipe for a corner of this tract;

THENCE S. 25 degrees 34' E. 356.29 feet to an iron stake by a 14 inch Live Oak;

THENCE S. 52 degrees 28' E. 552.18 feet to an iron stake at the end of a rock wall;

THENCE S. 28 degrees 50' W. 543.40 feet to a cedar post in the middle of a rock wall for the southeast corner of this tract;

THENCE N. 59 degrees 13' W. 2063.95 feet to an iron stake in the fence line;

THENCE N. 73 degrees 50' W. 489.54 feet to the place of beginning and being the same land conveyed by Tully Witter and wife, Ermine Witter, to E. H. Nelle and wife, Lula Belle Nelle, by deed dated November 1, 1948, of record in Vol. 2046, Page 440, of the Travis County Deed Records.

as surveyed by C. P. Schoolfield, Registered Public Surveyor, in June, 1959.

TRACT 2

Two (2) acres of land out of the James Rogers Survey No. 19, in Travis County, Texas, being out of a tract of land conveyed to Emma F. Elliott by Walter Williams by deed dated February 14, 1928, recorded in Vol. 317, Page 21, of the Travis County Deed Records, and more particularly described by metes and bounds as follows:

BEGINNING at an iron stake in the east line of U.S. Highway No. 183, same being the northwest corner of a 0.94 acre tract conveyed to W. M. Robinson by deed recorded in Vol. 2017, Page 49, of the Travis County Deed Records;

THENCE S. 84 deg. 25' E. along the north line of said Robinson tract 193.38 feet to an iron stake;

THENCE N. 28 deg. 50' E. 166.40 feet to a point;

THENCE N. 31 deg. 39' E. 194.60 feet to an iron stake for the northeast corner of this tract;

THENCE N. 84 deg. 25' W. 344.90 feet to an iron stake set in the east line of U.S. Highway No. 183;

THENCE S. 5 deg. 35' W. along the said east line of said U.S. Highway No. 183, 327.50 feet to the place of beginning.

WHEREAS, the City of Austin, Texas, and the Owners of the Property have agreed that the Property should be impressed with certain covenants and restrictions running with the land, and desire to set forth such agreement in writing;

NOW, THEREFORE, in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration paid by the City of Austin in hand to the Owners, the receipt and sufficiency of which is acknowledged, the Owners do hereby impress upon the Property shown on Exhibit A attached hereto and incorporated herein by reference, the following covenants and conditions which shall be considered to be covenants running with the land, and which shall be binding on the Owners, their heirs, legal representatives, successors and assigns, as follows:

Release the Property
from Tract 1 Section

TRACT 1

1. Use of the Property shall be limited to a maximum floor area ratio of .9 to 1.0, as described in sections 3150 through 3152 of Chapter 13-2A of the Austin City Code of 1981, and shall comply with site development regulations applicable to "GR" Community Commercial uses, as described in section 2504 of Chapter 13-2A of the Austin City Code of 1981.
2. Any development of the Property shall be subject to public site plan review.
3. Any development of the Property shall comply with the staff proposed roadway map on page 40 of the Golden Triangle Area Study [conducted by OLDS] (as existing at the date of this covenant and as amended at any time).
4. At any time subdivision approval is sought for the Property, Owner agrees to dedicate whatever right-of-way is needed by the City of Austin for MoPac Boulevard (Loop 1).

TRACT 2

1. Use of the Property shall be limited to a maximum floor area ratio of .9 to 1.0, as described in sections 3150 through 3152 of Chapter 13-2A of the Austin City Code of 1981, and shall comply with site development regulations applicable to "GR" Community Commercial uses, as described in section 2504 of Chapter 13-2A of the Austin City Code of 1981.
2. Any development of the Property shall be subject to public site plan review.
3. Any development of the Property shall comply with the staff proposed roadway map on page 40 of the Golden Triangle Area Study [conducted by OLDS] (as existing at the date of this covenant and as amended at any time).

Release the Property from
Tract 1 and 2 Section

TRACTS 1 AND 2

1. If any person or entity 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 assigns, to prosecute proceedings at law or in equity, against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions, and to collect damages for such actions.
2. If any part of this agreement or covenant shall be declared invalid, by judgement or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
3. If at any time the City of Austin, its successors or assigns, fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
4. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority 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 (b) by the owner(s) of the Property at the time of such modification, amendment or termination.

EXECUTED this the 1st day of July, 1986.

ESTATE OF FRED MORSE

By Fred C. Morse, Jr.
FRED C. MORSE, JR.
INDEPENDENT EXECUTOR OF THE ESTATE
OF FRED MORSE, DECEASED

Estelle K. Morse
ESTELLE K. MORSE,
INDIVIDUALLY AND AS INDEPENDENT
EXECUTRIX OF THE ESTATE OF FRED
MORSE, DECEASED

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared FRED C. MORSE, JR., INDEPENDENT EXECUTOR OF THE ESTATE OF FRED MORSE, DECEASED, 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 purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 30th day of June, 1986.

NOTARY SEAL

Catherine E. Jennings
Notary Public, State of Texas

CATHERINE E. JENNINGS
Type or Print Name of Notary Public

My Commission Expires: 12/17/89

THE STATE OF TEXAS §
 COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared ESTELLE K. MORSE, INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF FRED MORSE, DECEASED, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed and in the capacity therein stated.

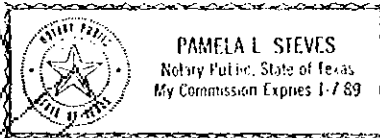
GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 1st day of July 1986.

Pamela L. Steves
 Notary Public, State of Texas

NOTARY SEAL

Type or Print Name of Notary Public

My Commission Expires: _____



GOLDEN TRIANGLE STUDY AREA
PROPERTY OWNERS MAP

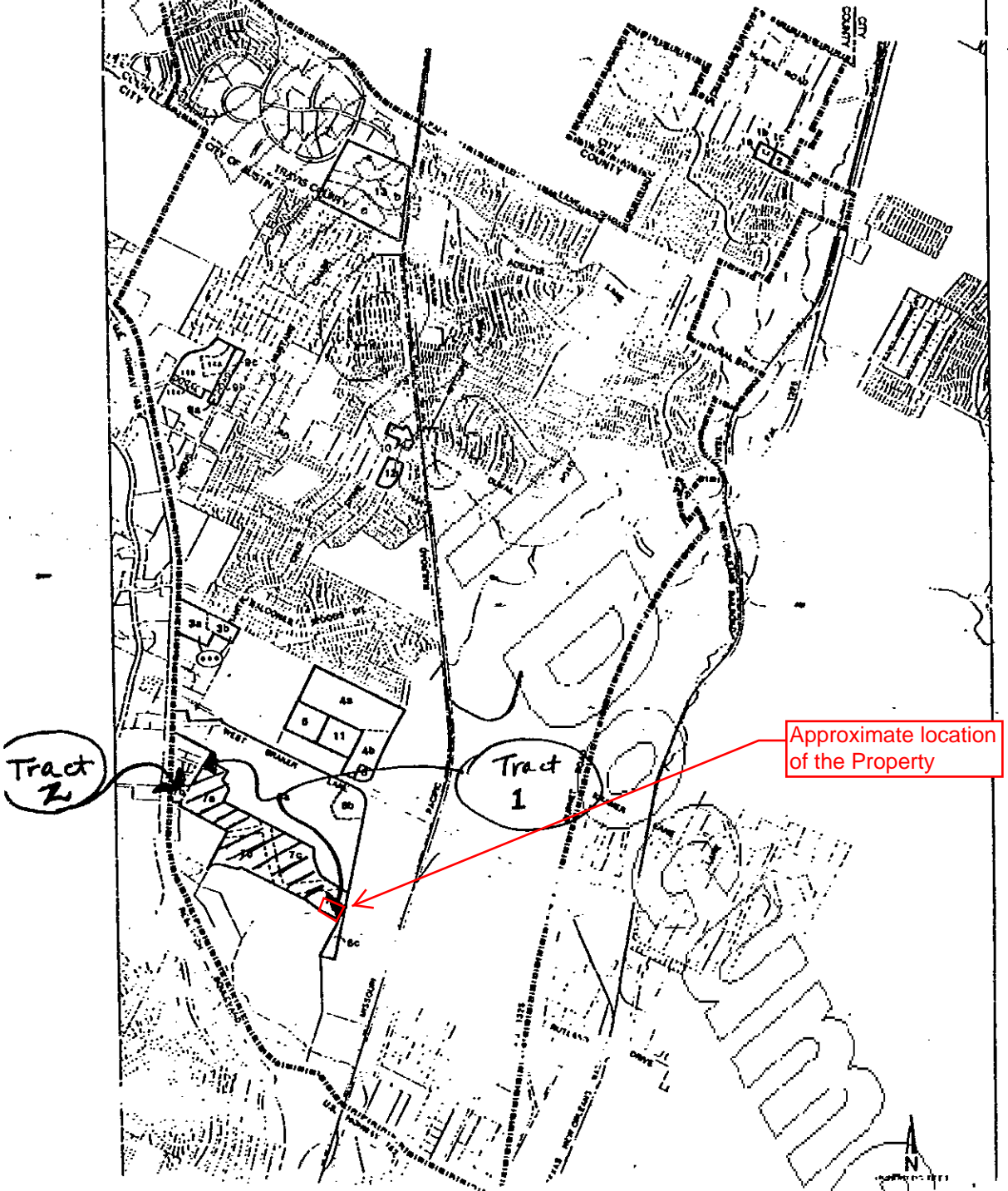


EXHIBIT "A"

09839 0571

B-11
AUSTIN, TEXAS 78767-8828

CITY OF AUSTIN
DEPT. OF LAW
P. O. BOX 1088

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

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 at Travis County, Texas on

AUG 19 1986



David S. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

David S. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

AUG 19 10 51 AM '86

FILED

09839 0572

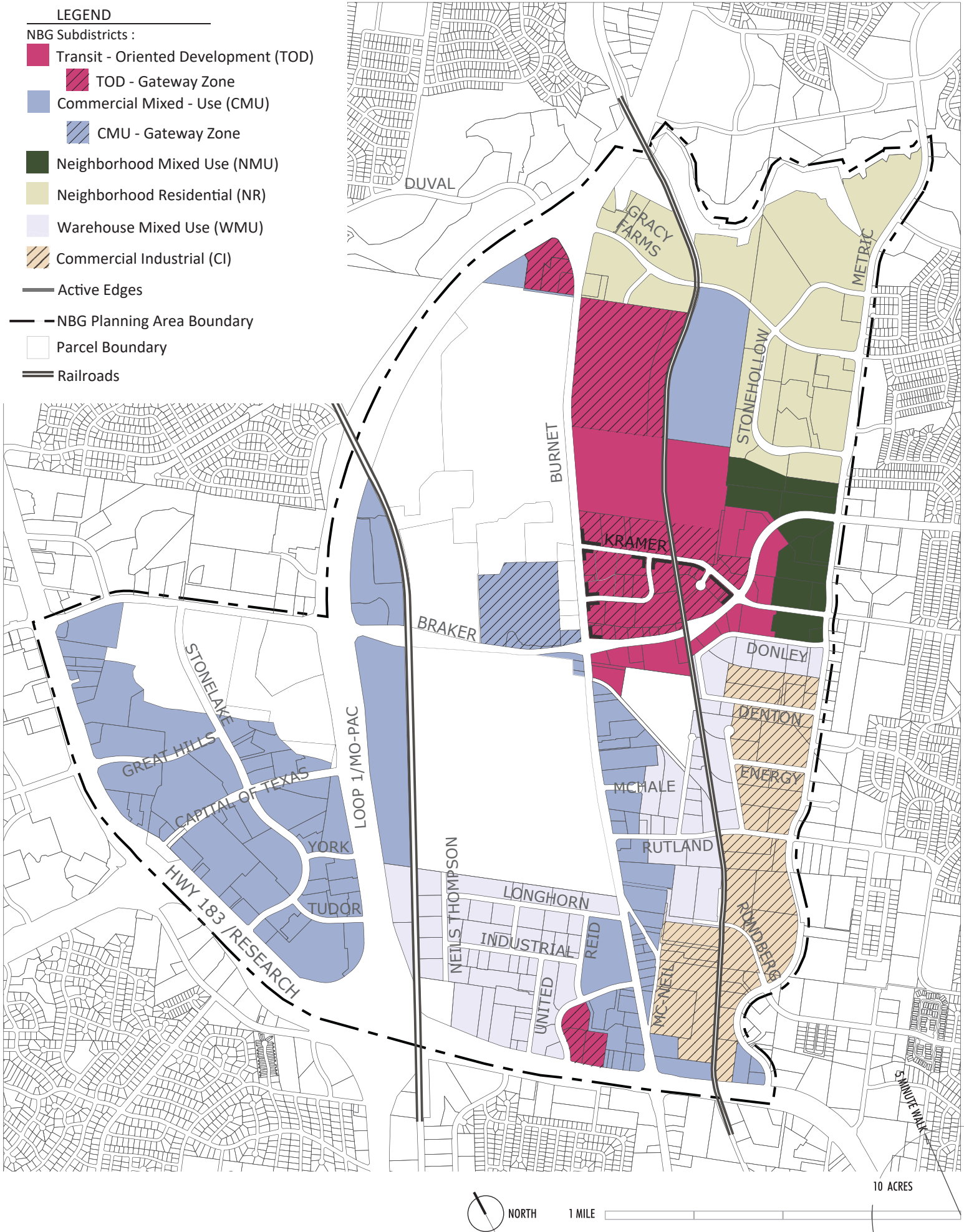


FIGURE 4 - 1 **CMU**: NBG ZONING DISTRICT GENERAL SITE DEVELOPMENT STANDARDS**COMMERCIAL MIXED USE (CMU) SUBDISTRICT**

LOT SIZE	
Minimum Lot Size	2,500 SF
Minimum Lot Width	20 Feet

MINIMUM SETBACKS	
Front Yard and Street Side Yard*:	
No ground-level front yard or street side yard setbacks are required. Instead, development must meet the building placement standards in Section 4.3.	
Front and Street Side Upper-Story Building Facade Stepbacks:	
The building facade at the 6th story and above must be stepped back 30 feet from the ground-level building facade line.	
Interior Side Yard:	0 Feet
Rear Yard:	0 Feet
* If the street right-of-way is less than 60 feet in width, the minimum front yard setback for buildings three or more stories in height shall be 30 feet from the center line of the street to ensure fire access.	

MAXIMUM IMPERVIOUS COVER	
If located in an urban watershed (Shoal or Little Walnut Creek) :	
Established on Figure 4-6 (Based on the maximum impervious cover allowed by the property's zoning prior to adoption of the this Document.)	
If located in a suburban watershed (Walnut Creek)*: 80%	
* This requirement supersedes impervious cover requirements of Section 25-8-394(C) of the LDC.	

PLATTING REQUIREMENTS	
If located in the CMU Gateway Zone:	
Section 24-4-171(<i>Access to Lots</i>) of the City Code is modified to permit a lot to abut a dedicated public street or a Major Internal Drive.	

FLOOR TO AREA RATIO	
Maximum Floor-to-Area Ratio (FAR) by Right:	
Established on Figure 4-2 (Based on the maximum FAR allowed by the property's zoning prior to adoption of this Document)	
Maximum Floor-to-Area Ratio (FAR) with Development Bonus:	
CMU Zone	3:1
CMU Gateway Zone	8:1
This FAR may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	



Typical examples of buildings in the Commercial Mixed Use Subdistrict.

BUILDING HEIGHT	
Minimum Building Height:	
Not applicable	
Maximum Building Height by Right:	
Established on Figure 4-4 (Based on the maximum height allowed by the property's zoning prior to adoption of this Document.)	
Maximum Building Height with Development Bonus*:	
CMU Zone	180 Feet
CMU Gateway Zone	308 Feet
This building height may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	
*Exception: If adjacent to or across the street from NR Subdistrict the maximum height is 120 feet.	

