



Steering Committee Members:

Adrienne Goldsberry, Chair

Kate Ertle, Kevin Kimbrough, Claudette Kazzoun, Rob Kish, James Logan,

Andi March, Maureen Metteauer, Oam Parkash, Shawn Shillington,

Margaret Sullivan, Jim Todd, Brandon Wright

October 10, 2022

RE: BOA Case No. C15-2022-0066

Dear Ms. Cohen and BOA Members:

This letter is to express the Old West Austin's Neighborhood Association's (OWANA) support for the variances requested as a part of Case No. C15-2022-0066 for the October 10, 2022 Board of Adjustment meeting.

The Clarks Village, LLP group has worked closely with neighboring residents of the subject properties and OWANA's zoning committee during the initial design process for the proposed hotel, residential, and retail project. They have responded positively to neighborhood feedback, adjusting the project design and scope to minimize impacts to neighbors. They also incorporated feedback from the City of Austin's Historic Landmark Commission into the design.

They presented this project, including the proposed variances, at the June 7 OWANA General Membership meeting, and the membership voted to support the proposed uses and design.

The attached restrictive covenant codifies the neighborhood's requests to ensure this project is compatible with and respectful to the residential properties adjacent to it. As such, the Clarks Village group has OWANA's support for the proposed variances.

Thank you, and please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Adrienne Goldsberry".

Adrienne Goldsberry
Chair, OWANA Steering Committee

RESTRICTIVE COVENANT

C15-2022-0066

1110-1130 W 6th Street and 605-607 Blanco Street

This Restrictive Covenant (“**Restrictive Covenant**”), is executed as of OCTOBER 10, 2022, by **Clarks Village, LP**, a Texas limited partnership (“**Declarant**”) and its successors and assigns, for the benefit of Old West Austin Neighborhood Association (“**OWANA**”) and is as follows:

RECITALS

- A. Declarant owns that certain tract of real property located at 1110-1130 W 6th Street and 605-607 Blanco Street, Austin, Travis County, Texas, being more particularly described as Lots 14-22, Block B, of the Raymond Subdivision of part of Outlot 2, Division Z according to the plat recorded as in Volume 2, Page 129 of the Plat Records of Travis County, Texas (the “**Property**”).
- B. Declarant has filed a variance request with the City of Austin under Case Number C15-2022-0066 (the “**Variance Case**”) to entitle the Property to modify the compatibility standards for development and use of the Property for a mixed-use residential project (the “**Project**”).
- C. OWANA exists to make decisions concerning variance requests in the City of Austin by monitoring key municipal and county issues and advocating for the neighborhood.
- D. In consideration of OWANA’s support of the Variance Case, Declarant has agreed to impose upon the Property these covenants and conditions for the benefit of OWANA, provided that the effectiveness of this Restrictive Covenant shall be conditioned on (i) City of Austin Board of Adjustment approval of the Variance Case consistent with, and no more restrictive than, the compatibility standard variances described in Exhibit A, without conditions that would further restrict those specific standards set forth in Section 2 below.

AGREEMENT

NOW, THEREFORE, Declarant declares that the Property is subject to the following covenants, conditions and restrictions, and agrees as follows:

1. Recitals Incorporated. The above Recitals and all terms defined therein are incorporated into this Restrictive Covenant for all purposes.
2. Project. If the Project is developed and constructed on the Property, Declarant agrees as follows:
 - (a) **Zoning Height.** The maximum zoning height of the property shall be limited to 55 feet. Height shall be measured as set forth in the City of Austin Land

Development Code pursuant to Chapters 25-1 and 25-2. The foregoing sentence does not imply a height of 55 feet as measured from existing grade, nor does it exclude the height exceptions set forth in the City of Austin Land Development Code.

- (b) **Streetscape.** Subject to approval of the Project by City of Austin, Declarant agrees to remove the existing back-in parking spaces on W 6th Street and construct streetscape improvements along W 6th Street, inclusive of a drop off zone, street trees, bike lane and appurtenant infrastructure.
 - (c) **Parking.** Declarant agrees to construct all new onsite parking below grade. The parking garage entrance and exit shall be located on W 6th Street near the east end of the Property. No parking garage entrance or exit shall be permitted on Blanco Street.
 - (d) **Historic Preservation.** Declarant agrees to preserve the front facades of structures at 1116 and 1124 W 6th Street consistent with the approval of the Historic Landmark Commission related to Cases DA-2022-098782/HR-2022-105301 and HR-2022-105301.
 - (e) **Alley Façade.** Declarant agrees to construct the alley facing façade to avoid a continuous base wall along the alley.
 - (f) **Operating Hours.** For any restaurant (general) and restaurant (limited) uses, specifically excluding any food and beverage operations ancillary to a hotel use, in the Project located between 1110 W 6th Street through 1124 W 6th Street the operating hours shall be limited to 11pm Sunday through Wednesday and midnight Thursday through Saturday.
 - (g) **Hotel.** An onsite hotel shall contain no more than 62 guest rooms.
 - (h) **Density.** The floor to area ratio for the Project shall not exceed 2:1.
3. **Term.** Unless sooner terminated in accordance with Sections 7 or 8 below, the term of this Restrictive Covenant shall expire upon the earlier of (i) forty (40) years commencing on the date hereof or (ii) the expiration or withdrawal of the site plan filed under SP-2022-1410C. Upon expiration of the Term, this Restrictive Covenant shall expire and be of no further force or effect.
4. **Binding Effect; Enforcement.** This Restrictive Covenant and the restrictions, covenants, benefits and obligations created hereby are benefits and servitudes running with the Property and are binding on future owners of all or any portion of the Property. However, the benefits hereunder (and the right to enforce this Restrictive Covenant) inure solely to the benefit of OWANA and are not assignable. Provided this Restrictive Covenant has not been terminated, it may be enforced by OWANA by action at law or in equity, including, without limitation, action for specific performance or injunctive relief. In no event shall

Declarant be liable for punitive or consequential damages resulting from any violation or breach of this Restrictive Covenant.

5. No Dedication. Nothing in this Restrictive Covenant shall ever constitute or be construed as a dedication of any interest herein described to the public or give any member of the public any right whatsoever. The sole beneficiary of this Restrictive Covenant is OWANA.
6. Severability. The provisions of this Restrictive Covenant must be deemed to be independent and severable, and the invalidity or partial invalidity of any provision or portion hereof does not affect the validity or enforceability of any other provision.
7. Amendment; Modification. This Restrictive Covenant may only be modified, amended or terminated upon the filing of a written modification, amendment or termination document in the Official Public Records of Travis County, Texas, executed, acknowledged and approved by the Chair of OWANA and the owner of the Property at the time of the modification, amendment, or termination. In the event the OWANA is no longer an organized body and it has not delegated its authority hereunder, then this Restrictive Covenant shall expire and be of no further force or effect.
8. Effectiveness. The effectiveness of this Restrictive Covenant is conditioned upon (i) City of Austin City Board of Adjustment approval of the Variance Case consistent with, and no more restrictive than, the compatibility standard variances described in Exhibit A, without conditions that would further restrict those specific standards set forth in Section 2 above. If such approval does not occur on or before December 31, 2023, then this Restrictive Covenant shall expire and be of no further force or effect. An affidavit executed by the owner of the Property and recorded in the Official Public Records of Travis County, Texas, certifying the facts supporting the expiration or ineffectiveness of this Restrictive Covenant pursuant to this paragraph shall be prima facie evidence that this Restrictive Covenant has terminated and no longer encumbers the Property. Any potential purchaser, lender, investor or tenant of the Property and any other third parties shall have the right to rely on such affidavit without any further investigation or inquiry.


EXECUTED to be EFFECTIVE as of the date first set forth above.

Declarant:

Clarks Village, LP,
a Texas limited partnership

By: Clarks Village GP, LP
a Texas limited partnership
its General Partner

By: Clarks Village Master GP, LLC
a Texas limited liability company
its General Partner

By: 
Name: Larry McGuire
Title: Manager

Not for recordation

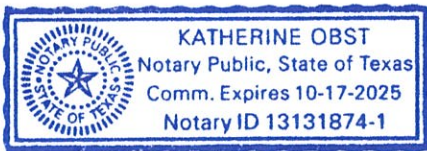
THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this 10 day of OCTOBER, 2022, by LARRY MCGUIRE, Manager of Clarks Village Master GP, LLC, a Texas limited liability company, General Partner of Clarks Village GP, LP, a Texas limited partnership, General Partner of Clarks Village, LP, a Texas limited partnership, on behalf of said limited liability company and said limited partnerships.

(seal)



Notary Public, State of Texas



OWANA:

Old West Austin Neighborhood Association
a Texas non-profit corporation

By: _____

Name: Adrienne Goldsberry

Title: OWANA Chair

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this ____ day of _____, 2022, by Adrienne Goldsberry, Chair of the Old West Austin Neighborhood Association, a Texas non-profit corporation, on behalf of said corporation.

(seal)

Notary Public, State of Texas

Exhibit "A"

Compatibility Standards Variances

The applicant is requesting a variance to increase the maximum allowable height requirements of Article 10, Compatibility Standards, Division 2 – Development Standards, Section 25-2-1063 (Height Limitations and Setbacks for Large Sites)

Triggering property at 608 Baylor Street

25-2-1063(B)

Restriction - 0' - 25' offset: no build setback

Proposed – 0' - 15' offset: no build setback (Reduce setback by 10')

25-2-1063(C1)

Restriction – 0' to 50' offset – 30' or 2 stories

Proposed 15' - 50' to offset- 55' and 6 story limit (Height limit adjustment of +25' and allowance for 4 additional stories)

25-2-1063(C2)

Restriction – 50' – 100' offset: 40' or 3 stories

Proposed - 50' - 100' offset: 55' and 6 story limit (Height limit adjustment of +15' and allowance for 3 additional stories)

25-2-1063(C3)

Restriction - 100' to 300' offset, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet = 40' to 60' max @ 300'

Proposed 100' - 250' offset: 55' no stepping (Height limit adjustment varies from +15' to +0')

Proposed 250' - 300' offset: 55' no stepping (Height limit adjustment of 0' to -5', with stepping max height is 55' at 250')

Triggering property at 611 Blanco Street

25-2-1063(B)

Restriction - 0' - 25' offset: no build setback

Proposed – No change

25-2-1063(C1)

Restriction – 0' to 50' offset – 30' or 2 stories

Proposed – No change

25-2-1063(C2)

Restriction – 50' – 100' offset: 40' or 3 stories

Proposed - 50' - 100' offset: 45' and 5 story limit (Height limit adjustment of +5' and allowance for 2 additional stories)

25-2-1063(C3)

Restriction - 100' to 300' offset, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet = 40' to 55' max @ 250'

Proposed 100' - 150' offset: 50' plus one foot for each 10 feet of distance in excess of 100 feet 55' (Height limit adjustment of +10')

Proposed 150' - 300' offset: 55' no stepping (Height limit adjustment of +10' to -5', with stepping max height at 250' is 55')

Triggering property at 612 Blanco Street

25-2-1063(B)

Restriction - 0' - 25' offset: no build setback

Proposed – No change

25-2-1063(C1)

Restriction – 0' to 50' offset – 30' or 2 stories

Proposed – No change

25-2-1063(C2)

Restriction – 50' – 100' offset: 40' or 3 stories

Proposed – No change

25-2-1063(C3)

Restriction - 100' to 300' offset, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet = 40' to 55' max @ 250'

Proposed 100' - 200' offset: 45' plus one foot for each 10 feet of distance in excess of 100 feet (Height limit adjustment of +5')

Proposed 200' - 300' offset: 55' no stepping (Height limit adjustment of +5' to -5', with stepping max height at 250' is 55')