RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-85-288.79(RCA) – Greystar 290 DISTRICT: 8

ADDRESS: 8110 ½ and 8112 Scenic Brook Drive SITE AREA: 8.6149 acres

EXISTING ZONING: LO-NP & LR-NP

PROPOSED ZONING: MF-5-NP for Tract 1 and LO-MU-NP for Tract 2

PROPERTY OWNER: Schmidt Investments LTD

AGENT: Armbrust & Brown, PLLC (Richard Suttle)

CASE MANAGER: Nancy Estrada (512-974-7617, nancy.estrada@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends amending the Restrictive Covenant as outlined in *Exhibit D: Restrictive Covenant Amendment Redlines*. *For a summary of the basis of staff's recommendation, see page 2.*

ENVIRONMENTAL COMMISSION ACTION / RECOMMENDATION:

June 7, 2023: Approved an amendment to the Restrictive Covenant as Staff recommended, with the following additional conditions:

1. 56% impervious cover as limits onsite.
2. Provide 125% of required tree mitigation consistent with code.
3. Any new trees will be sourced from nurseries within 300 miles of the site to the maximum extent practicable and considered native to the Edwards Plateau or surrounding ecoregions and will be selected from the ECM Appendix N.
4. All buildings must comply with Austin Green Building 3-star rating.
5. Require all buildings to utilize bird-friendly glass and building best practices with reflectivity of 15% or less.
6. Include pollinator gardens and plants to support Monarch butterflies and other pollinators.
7. Include dog waste stations.
8. Ensure 5% of all units are considered affordable housing.
9. Recommend A/C condensation catchment system to be used for landscaping.
10. Utilize dark skies best practices for all outdoor lighting: 3000k or less; maximum 25,000 lumens/net acre for residential and 100,000 lumens/net acres for non-residential property; focus light on activity and use activity- appropriate lighting.

[K. Ramberg; D. Sullivan – 2nd] (9-0) C. Nickells – Abstain; J. Bristol – Absent

PLANNING COMMISSION ACTION / RECOMMENDATION:

July 11, 2023: ***APPROVED AN AMENDMENT TO THE RESTRICTIVE COVENANT AS STAFF RECOMMENDED, BY CONSENT***
[J. CONNOLLY; VC HEMPEL – 2ND] (12-0) ONE VACANCY ON THE DIAS

May 9, 2023: *APPROVED AN INDEFINITE POSTPONEMENT REQUEST BY THE APPLICANT*
[J. CONNOLLY; A. WOODS – 2ND] (12-0) ONE VACANCY ON THE DIAS

CITY COUNCIL ACTION:

September 21, 2023:

August 31, 2023: *APPROVED a postponement request by the applicant to SEPTEMBER 21, 2023. VOTE: 9-0. Council Members Vela and Harper-Madison off the dais.*

ISSUES:

Environmental Commission approved the restrictive covenant amendment in June 2023 with additional development related standards. Please refer to related back-up material.

CASE MANAGER COMMENTS:

The proposed Restrictive Covenant Amendment (RCA) area is approximately 8.615 acres and is part of a larger property currently being requested to be rezoned to MF-5-NP for Tract 1 and LO-MU-NP for Tract 2. Please see Zoning Case No. C14-2022-0160.

This undeveloped property is located at the intersection of Scenic Brook Drive and West US 290 Hwy and is zoned LO-NP and LR-NP. Adjacent zoning consists of LR-NP, NO-NP, SF-1-NP and SF-2-NP to the east; SF-1-NP and LO-NP to the north and LR-MU-NP and SF-1-NP to the west. To the south is West US 290 Hwy right-of-way and is not zoned. Please refer to ***Exhibit A: Zoning Map and Exhibit B: Aerial Map.***

The Applicant is requesting to amend the permitted site development standards and environmental requirements as established by the 1986/1987 recorded Restrictive Covenants. Specifically, the amendment includes: 1) removing the maximum floor-to-area ratio limitations and 2) replacing the language related to the Comprehensive Watershed Ordinance with current standards as defined in the Save Our Springs Initiative. Please see ***Exhibit D: Restrictive Covenant Amendment Redlines*** for current RC and proposed revisions.

BASIS OF RECOMMENDATION:

Staff recommends the proposed amendments to the Restrictive Covenants because much of it allows for development under a previous code and therefore is not up to date on newer and current standards. Impervious cover will be treated for water quality under the same standards as the Save Our Springs Initiative. Development on the property will also comply with current code

except as modified by the restrictive covenant amendment with a maximum of 65% gross impervious cover. The Applicant has also worked with Watershed Protection staff as it relates to Tree Mitigation and Dark Skies conditions.

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	LO-NP; LR-NP	Undeveloped
North	SF-1-NP; LO-NP	Single-family residences
South	Not applicable	West US 290 Hwy; Austin ETJ
East	LR-NP; NO-NP; SF-1-NP and SF-2-NP	Single-family residences
West	LR-MU-NP; SF-1-NP	Undeveloped; Single-family residences

NEIGHBORHOOD PLANNING AREA: Oak Hill Combined (West Oak Hill)

TIA: Not required at this time

WATERSHED: Williamson Creek – Barton Springs Zone (Contributing Zone)

SCHOOLS: Patton Elementary, Small Middle and Bowie High Schools

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
Covered Bridge Property Owners
Friends Of Austin Neighborhoods
Neighborhood Empowerment Foundation
Oak Hill Neighborhood Plan - COA Liaison
Oak Hill Neighborhood Plan Contact Team
Scenic Brook Neighborhood Association
Sierra Club, Austin Regional Group
Thomas Springs / Circleville Alliance
Oak Hill Association of Neighborhoods (Ohan)
TNR BCP - Travis County Natural Resources
Austin Lost and Found Pets
Aviara HOA
City of Rollingwood
Ridgeview
SELTexas
Save Our Springs Alliance
Oak Hill Trails Association

RELATED CASES:

NPA-2021-0025.02: This is the associated neighborhood plan amendment case from Neighborhood Mixed-Use and Single-Family to a Mixed-Use designation that is being considered with this rezoning request.

C14-2022-0160: This is the associated rezoning case that is being considered with this restrictive covenant amendment case. For the area that is covered by this RC, the Applicant is requesting to rezone from LO-NP and LR-NP to MF-5-NP for Tract 1 and LO-MU-NP for Tract 2.

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Scenic Brook Drive	Level 2	72’	50’	26’	No	No	No
W US 290 HWY	Level 5	Coordinate with TxDOT to determine future ROW needs.	142’	65’	No	No	No

OTHER STAFF COMMENTS:

Inclusive Planning

Imagine Austin
The termination or amending of a Restrictive Covenant is not under the purview of the policies of the Imagine Austin Comprehensive Plan, which is broad in scope and therefore, no Imagine Austin compliance review comments are being submitted for this request.

Environmental Review / Environmental Office Review

Please refer to attached support materials.

PARD Review

Parkland dedication will be required for any new development resulting from the amendments of these restrictive covenants. PARD would require onsite parkland dedication for the redevelopment of this site – see comments associated with rezoning case C14-2022-0160.

Transportation

Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements, will occur at the time of site plan application. Transportation assessment/traffic impact analysis and transportation demand management plan shall be required at the time of site plan if triggered per LDC 25-6 and TCM 10.2.1.

The Austin Strategic Mobility Plan (ASMP) calls for 72 feet of right-of-way for Scenic Brook Drive. It is recommended that 36 feet of right-of-way from the existing centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

This site is in Limited Purpose jurisdiction. The access to the one City-owned roadway (Scenic Brook Drive) is proposed to be emergency only, which will generate negligible trips to the City's transportation network. If this assumption changes, analysis may be required. The main access is proposed to be onto US Hwy 290, which is TxDot controlled and will require their analysis.

There is a proposed Urban Trail adjacent to this site, along the southern property boundary. The easement required is a minimum of 20 ft as this allows for a 12 ft trail (minimum trail width per the urban trails plan) and room for maintenance activity. This is the same for Tier I and Tier II trails.

Austin Water Utility

No comment for restrictive covenant amendment case. All existing easements must be retained.

INDEX OF EXHIBITS TO FOLLOW:

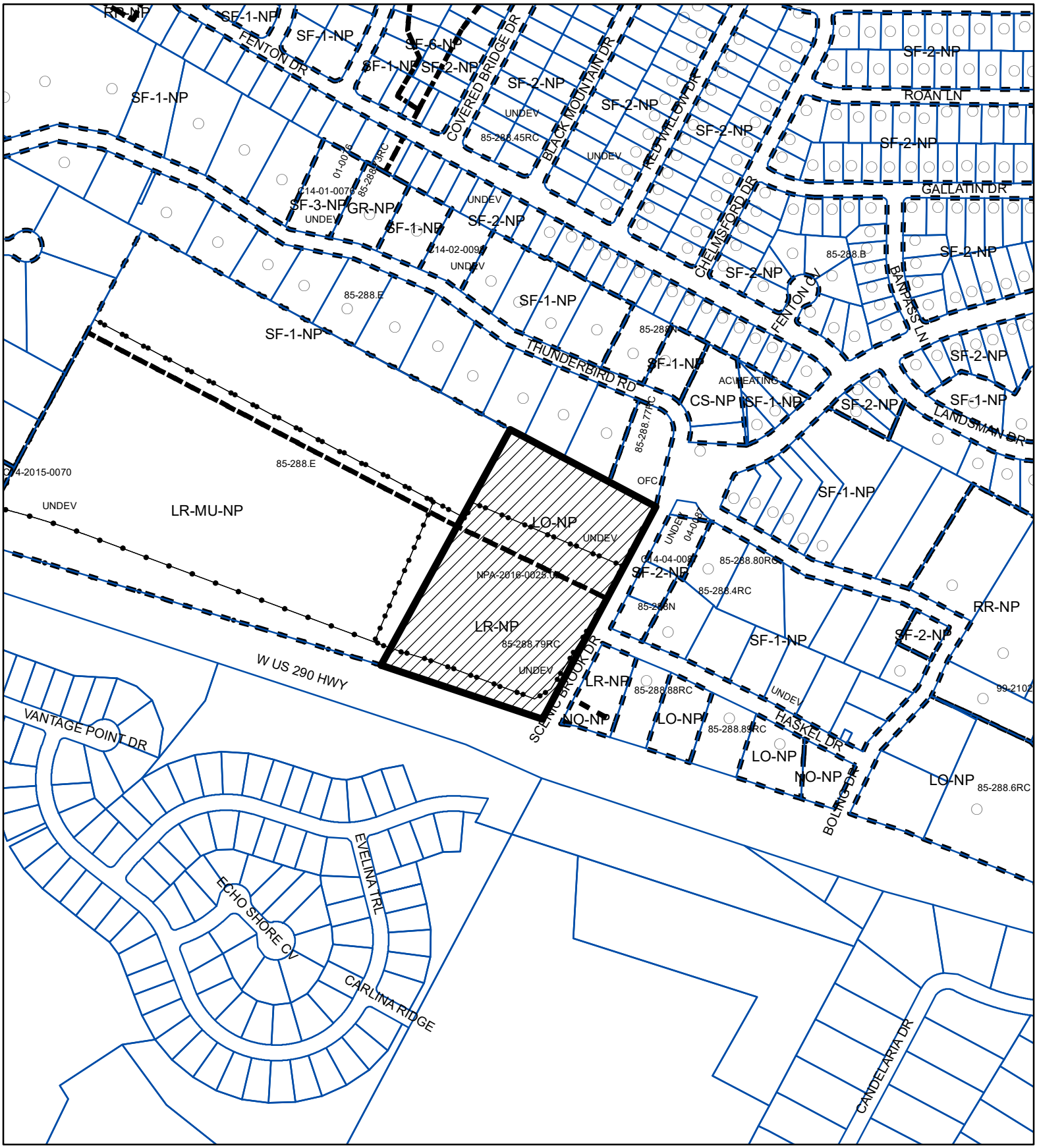
Exhibit A: Zoning Map

Exhibit B: Aerial Map

Exhibit C: Applicant’s Correspondence

Exhibit D: Restrictive Covenant Amendment Redlines

Exhibit E: Correspondence Received



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1 " = 400 '

Restrictive Covenant Amendment

CASE#: C14-85-288.79(RCA)

EXHIBIT A

CITY OF AUSTIN FOUNDED 1839

Created: 11/16/2022

N

SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

CREEK BUFFER

Greystar 290

EXHIBIT B

ZONING CASE#:	C14-85-288.79(RCA)
LOCATION:	8112 Scenic Brook Drive
SUBJECT AREA:	8.6149 Acres
GRID:	A19
MANAGER:	Wendy Rhoades

Created: 11/30/2022

EXHIBIT C

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

Jewels Cain
(512) 435-2318
jcain@abaustin.com

June 28, 2022

Jerry Rusthoven
Housing and Planning Department
City of Austin
1000 E. 11th Street, Suite 200
Austin, TX 78702

Re: Rezoning Application for 8112 Scenic Brook Drive and 8352 W. US 290 Hwy (TCAD Parcel No. 0408480108 and No. 0408500105) and Restrictive Covenant Amendment Application for 8112 Scenic Brook Drive in Austin, Travis County, Texas (TCAD Parcel No. 0408480108) (the "Application")

Dear Mr. Rusthoven:

This firm represents and this letter is submitted on behalf of the owner for the above Application. The site proposed for redevelopment in connection with this Application consist of 35.57 acres. Of that area, 19.309 acres is being proposed for rezoning (the "Property"). The area to be rezoned is described in Exhibit A and Exhibit B. The Property is located in the City of Austin Limited Purpose Jurisdiction. Field notes are being submitted with this Application to define the footprint of the existing and proposed zoning request.

The Property is zoned Limited Office – Neighborhood Plan (LO-NP), Neighborhood Commercial – Neighborhood Plan (LR-NP), Neighborhood Commercial – Mixed Use – Neighborhood Plan (LR-MU-NP) and Single Family Residence Large Lot – Neighborhood Plan (SF-1-NP). The Property is currently undeveloped. The request is to rezone a portion of the Property from LO-NP, LR-NP, LR-MU-NP and SF-1-NP to Limited Office – Mixed Use – Neighborhood Plan (LO-MU-NP) ("Tract 1") and Multi-Family Residence High Density – Neighborhood Plan (MF-5-NP) ("Tract 2") to allow for a mixed residential project consisting of single family and multifamily units.

The Property is located within the Oak Hill Combined Neighborhood Plan. A Neighborhood Plan Amendment Application was submitted on March 12, 2021 to request a Mixed-Use designation for the Property under Case No. NPA-2021-0025.01 and has been indefinitely postponed until the zoning request can catchup. The Property is currently designated on the Future Land Use Map (FLUM) partially for Neighborhood Mixed-Use and partially for Single-Family.

Communication with the direct neighbors along Thunderbird Road regarding a private restrictive covenant is ongoing to address concerns with the proposed development of the Property. Additional outreach to communities registered for this area is underway.

A Traffic Impact Analysis (TIA) has been deferred to site plan. The TIA Determination signed by Justin Good on May 25, 2022 is included in the submittal package.

Three restrictive covenants were recorded in association with City of Austin case number C14-85-288.79 and apply to 8.6149 acres of the Property as shown on Exhibit C. The chart below provides a summary of the restrictive covenant document numbers. All three restrictive covenants have the exact same language with the exception of one which has a different FAR limitation than the other two. A restrictive covenant amendment application is being submitted concurrently with the zoning application for all three restrictive covenants. The purpose of the restrictive covenant amendment application is to remove the maximum FAR limitations and replace the language related to the Comprehensive Watershed Ordinance with current standards as defined in the Save Our Springs Initiative. Redlines for each of the restrictive covenants is included with this submittal package.

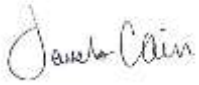
Document Number	**Date Recorded**	**Acres**	**FAR Limitation**
Volume 10028, Page 342 [This document may need to be terminated since it was replaced by the one below.]	12/29/1986	6 acres	Maximum of 0.20
Volume 10028, Page 338	12/29/1986	3.802 acres	Maximum of 0.25
Volume 10416, Page 860	9/15/1987	6 acres (same area as above)	Maximum of 0.20

A Service Extension Request is currently in review for the 35.57 acre site that is proposed for development and will require City Council approval due to the Property being located in the City of Austin Limited Purpose Jurisdiction within a drinking water protection zone.

Thank you in advance for your time and consideration of this zoning request. If you have any questions or need additional information, please do not hesitate to contact me at (512) 435-2318.

Respectfully,

ARMBRUST & BROWN, PLLC



Jewels Cain
Land Development Consultant

cc: Joi Harden, Housing and Planning Department
Richard Suttle, Armbrust and Brown, PLLC

Exhibit A

Existing		**Proposed**	
Zoning	**Acres**	**Zoning**	**Acres**
LO-NP	3.799	Tract 1 LO-MU-NP	12.438
SF-1-NP	9.647		
LR-MU-NP [Majority of this area is not included in the rezoning request]	17.261	Tract 2 MF-5-NP	6.871
LR-NP	4.863		
TOTAL:	35.57 acres	TOTAL:	19.309 acres

Exhibit B

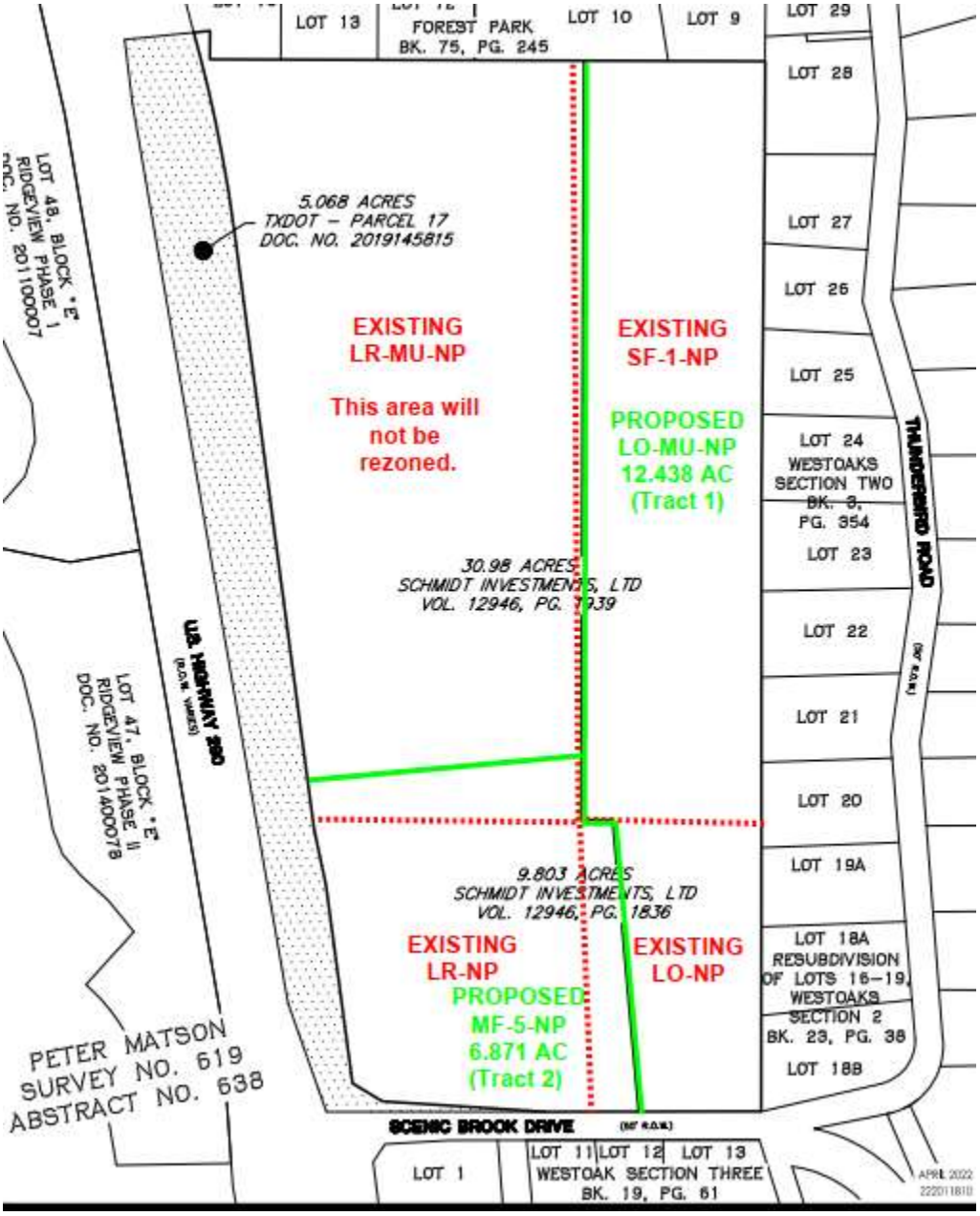

LOT 13
FOREST PARK
BK. 75, PG. 245
LOT 10
LOT 9
LOT 29
LOT 28
LOT 27
LOT 26
LOT 25
LOT 24
WESTOAKS
SECTION TWO
BK. 3,
PG. 354
LOT 23
LOT 22
LOT 21
LOT 20
LOT 19A
LOT 18A
RESUBDIVISION
OF LOTS 16-19,
WESTOAKS
SECTION 2
BK. 23, PG. 38
LOT 18B
LOT 48, BLOCK "E"
RIDGEVIEW PHASE 1
DOC. NO. 201100007
LOT 47, BLOCK "E"
RIDGEVIEW PHASE II
DOC. NO. 201400078
5.068 ACRES
TXDOT - PARCEL 17
DOC. NO. 2019145815
EXISTING
LR-MU-NP
This area will
not be
rezoned.
EXISTING
SF-1-NP
PROPOSED
LO-MU-NP
12.438 AC
(Tract 1)
30.98 ACRES
SCHMIDT INVESTMENTS, LTD
VOL. 12946, PG. 1939
9.803 ACRES
SCHMIDT INVESTMENTS, LTD
VOL. 12946, PG. 1836
EXISTING
LR-NP
PROPOSED
MF-5-NP
6.871 AC
(Tract 2)
EXISTING
LO-NP
U.S. HIGHWAY 290
THUNDERBIRD ROAD
SCENIC BROOK DRIVE
PETER MATSON
SURVEY NO. 619
ABSTRACT NO. 638
LOT 1
LOT 11
LOT 12
LOT 13
WESTOAK SECTION THREE
BK. 19, PG. 61
APRIL 2022

Exhibit C


SF-1-NP
SF-2-NP
SF-2-NP
SF-2-NP
CHELMSFORD DR
FENTON DR
THUNDERBIRD RD
THUNDERBIRD CV
SF-2-NP
SF-1-NP
SF-1-NP
SF-2-NP
CS-NP
O-NP
LR-MU-NP
LO-NP
Restrictive
Covenant
Amendment
C14-85-288.79
LR-NP
Scenic Brook Dr.
290
SF-1-NP
VANTAGE POINT DR
HASKEL DR
TURNING TRL
LO-NP
LOOKOUT CLIFF PASS
W US 290 HWY

EXHIBIT D

Qec

4 16 3820

2000 309408 9.00 RTEA 2 12/29/86

RESTRICTIVE COVENANT

C14-85-288 (79)
(3.802 acres)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

WHEREAS, ~~B. E. LAMM, TRUSTEE~~, is the owner of all of that property described by metes and bounds in the field notes attached hereto as Exhibit "A", consisting of 3.802 acres of land, more or less (the "Property"); and

WHEREAS, the City of Austin and ~~B. E. LAMM, TRUSTEE~~ have agreed that the above-described Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, ~~B. E. LAMM, TRUSTEE~~, for and in consideration of One and No/100 Dollar ($1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered a covenant running with the land, and which shall be binding upon said Venture its successors and assigns as follows, to-wit:

~~1. No improvements shall be constructed on the above described Property which will result in a floor to area ratio (F.A.R.) greater than 0.25 feet of gross floor area in the improvements for every 1 foot of total land area in the site.~~

2. No more than sixty-five percent (65%) of the Property described above shall be covered with impervious material or structures.

~~3. All development on the Property shall be completed in accordance with the Comprehensive Watersheds Ordinance of the City of Austin as it may be from time to time amended.~~

4. No construction of improvements on the property shall be commenced until a letter of credit has been posted with the City of Austin to secure the pay
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Property and this restrictive covenant.

All impervious cover shall be treated for water quality under the non-degradation standards of the Save Our Springs Initiative, City Code 25-8, Article 13 (Save Our Springs Initiative). All development on the property will comply with current code except as modified by the restrictive covenant amendment with a maximum 65% gross impervious cover.

5. If any person, persons, corporation or entity of any other character 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 said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

6. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment 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 force and effect.

7. The failure at any time to enforce this agreement by the City of Austin, its successors or assigns, whether any violation hereof is known or not, shall not constitute a waiver or termination of the right to do so.

8. 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 of Council of the

City of Austin, and (b) the then owner of the above-described property at the time of such modification, amendment or termination.

EXECUTED this 17th day of September, 1986.

B. E. Lamm, Trustee

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on September 17, 1986 by B. E. Lamm, Trustee.

NOTARY SEAL

Notary Public, State of Texas

Printed or typed name: _____

My Commission expires: _____

40/33b

NOTARY PUBLIC STATE OF TEXAS

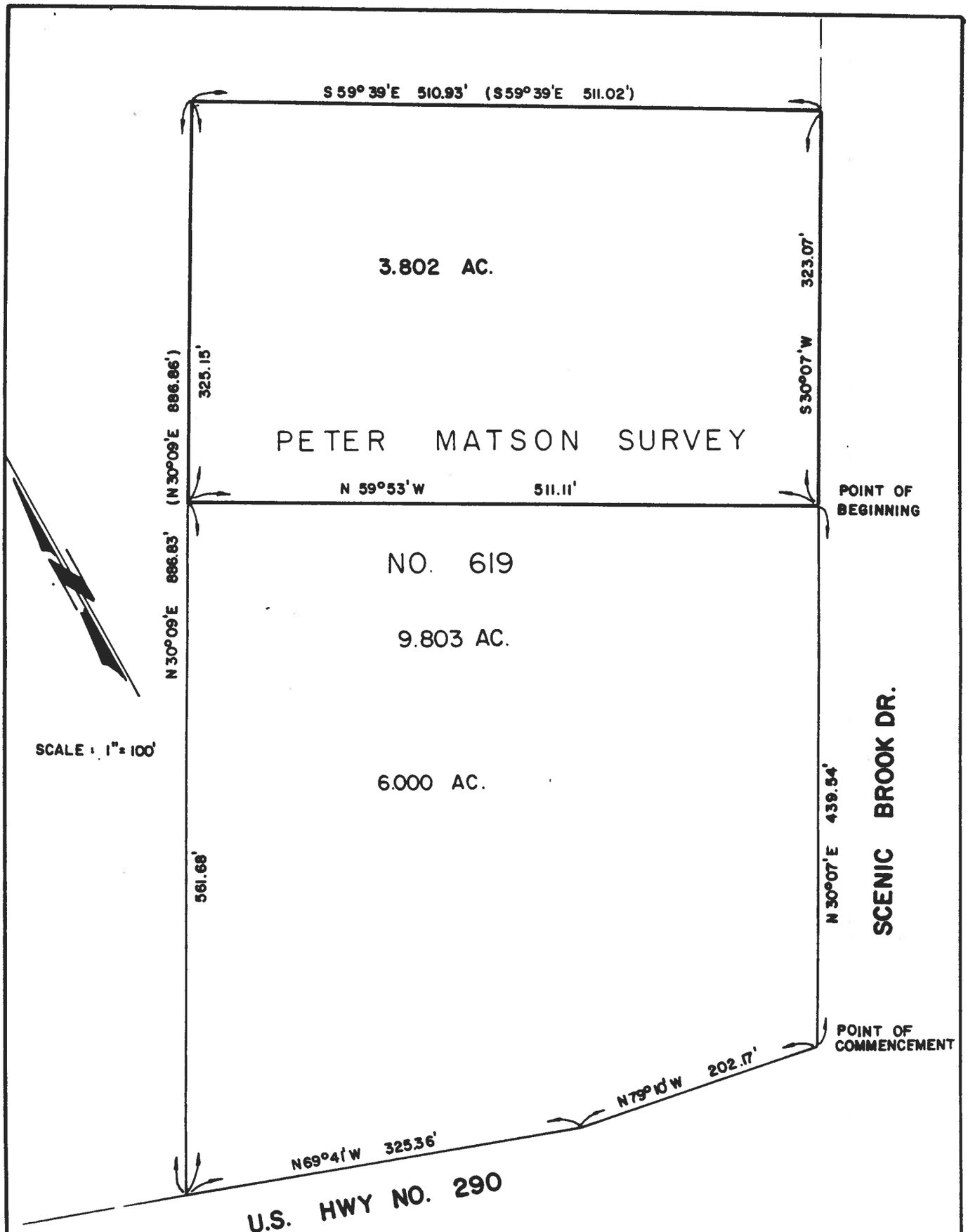
VICKI L. COLLIER
Notary Public State of Texas
My Commission Expires 3-14-89

Add Dark Sky Conditions:

1.Require warm light: Low Kelvin rated lights (3000 Kelvin or less) are warm and emit less harmful blue-violet light than high Kelvin rated.
2.Shielding: outdoor lighting shall be shielded so that the luminous elements of the fixture are not visible from any other property. Outdoor lighting fixtures are not allowed to have light escape above a horizontal plane running through the lowest point of the luminous elements.
3.Prevent light trespass: Focus light on activity and use activity appropriate lighting.

Add Tree Mitigation:

If development of the Property results in the removal of trees requiring mitigation under subsection 3.5.4 of the City of Austin Environmental Criteria Manual as determined by the City Arborist, Owner shall provide mitigation at 110% of the current requirements established in 3.5.4. Additionally, any such mitigation shall be provided through a Mitigation Program on the Property or on directly adjacent land.



SKETCH TO ACCOMPANY FIELD NOTES

A 3.802 ACRE TRACT OF LAND OUT OF 9.803 ACRE TRACT WITHIN THE PETER MATSON SURVEY NO. 619 SITUATED IN TRAVIS COUNTY, TEXAS.

SEPT. 29, 1986

JOB NO. 185-1-006-111 DISK: NO.17, FILE: MATSON

BAKER-AICKLEN & ASSOCIATES, INC.
Consulting Engineers
9111 JOLLYVILLE ROAD
SUITE 107
AUSTIN, TEXAS 78759
(512) 346-6980

FIELD NOTES

FOR A 3.802-ACRE TRACT OF LAND OUT OF THE PETER MATSON SURVEY NO. 619 SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 9.803-ACRE TRACT AS SHOWN ON SURVEY PLAT PREPARED BY ABBE ENGINEERING COMPANY DATED FEBRUARY 2, 1984, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS DESCRIPTION AS FOLLOWS:

COMMENCING at a point of intersection of the north right-of-way line of U.S. Highway No. 290 with the west right-of-way line of Scenic Brook, same being the southeast corner of said 9.803-acre tract and being more particularly described by metes and bounds as follows:

THENCE, N30-07'00"E, 439.54 feet following the westerly right-of-way line of Scenic Brook Drive for the POINT OF BEGINNING;

THENCE, N59-03'00"W, 511.11 feet to a point in the westerly line of said 9.803-acre tract;

THENCE, N30-09'00"E, 325.15 feet following the westerly line of said 9.803-acre tract for the northwest corner of the herein-described tract;

THENCE, S59-39'00"E, 510.93 feet following the northerly line of said 9.803-acre tract to a point in the westerly line of said Scenic Brook Drive;

THENCE, S30-07'00"W, 323.07 feet following the westerly right-of-way of said Scenic Brook Drive to the POINT OF BEGINNING, containing 3.802 acres of land.

ES:ek
September 29, 1986
Job No. 185-01-006-111

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.

FILED

1986 DEC 29 AM 11:41

Dorie Shropshire
COUNTY CLERK
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 on

DEC 29 1986

Dorie Shropshire
COUNTY CLERK
TRAVIS COUNTY, TEXAS

City of Austin
Dept of Law
P.O. Box 1088
Austin Tx 78767-8828

4 16 3821

RESTRICTIVE COVENANT

C14-85-288(79)
(6 acres)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

9.00 RTEA
2000 309407 2 12/29/86

WHEREAS, ~~B. E. LAMM, TRUSTEE~~, is the owner of all of that property described by metes and bounds in the field notes attached hereto as Exhibit "A", consisting of 6 acres of land, more or less (the "Property"); and

WHEREAS, the City of Austin and ~~B. E. LAMM, TRUSTEE~~ have agreed that the above-described Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, ~~B. E. LAMM, TRUSTEE~~, for and in consideration of One and No/100 Dollar ($1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered a covenant running with the land, and which shall be binding upon said Venture its successors and assigns as follows, to-wit:

~~1. No improvements shall be constructed on the above described Property which will result in a floor to area ratio (F.A.R.) greater than 0.20 feet of gross floor area in the improvements for every 1 foot of total land area in the site.~~

2. No more than sixty-five percent (65%) of the Property described above shall be covered with impervious material or structures.

~~3. All development on the Property shall be completed in accordance with the Comprehensive Watersheds Ordinance of the City of Austin as it may be from time to time amended.~~

4. No construction of improvements on the property shall be commenced until a letter of credit has been posted with the City of Austin to assure the paym
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improvements to the Property in accordance with the zoning classification of the Property and this restrictive covenant.

All impervious cover shall be treated for water quality under the non-degradation standards of the Save Our Springs Initiative, City Code 25-8, Article 13 (Save Our Springs Initiative). All development on the property will comply with current code except as modified by the restrictive covenant amendment with a maximum 65% gross impervious cover.

5. If any person, persons, corporation or entity of any other character 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 said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

6. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment 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 force and effect.

7. The failure at any time to enforce this agreement by the City of Austin, its successors or assigns, whether any violation hereof is known or not, shall not constitute a waiver or termination of the right to do so.

8. 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 of Council of the

City of Austin, and (b) the then owner of the above-described property at the time of such modification, amendment or termination.

EXECUTED this 17th day of September, 1986.

B E Lamm Trustee

B. E. Lamm, Trustee

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on September 17, 1986 by B. E. Lamm, Trustee.

Vicki L. Collier

Notary Public, State of Texas

Printed or typed name: _____

My Commission expires: _____

NOTARY SEAL

NOTARY PUBLIC STATE OF TEXAS

VICKI L. COLLIER
Notary Public State of Texas
My Commission Expires 3-14-89

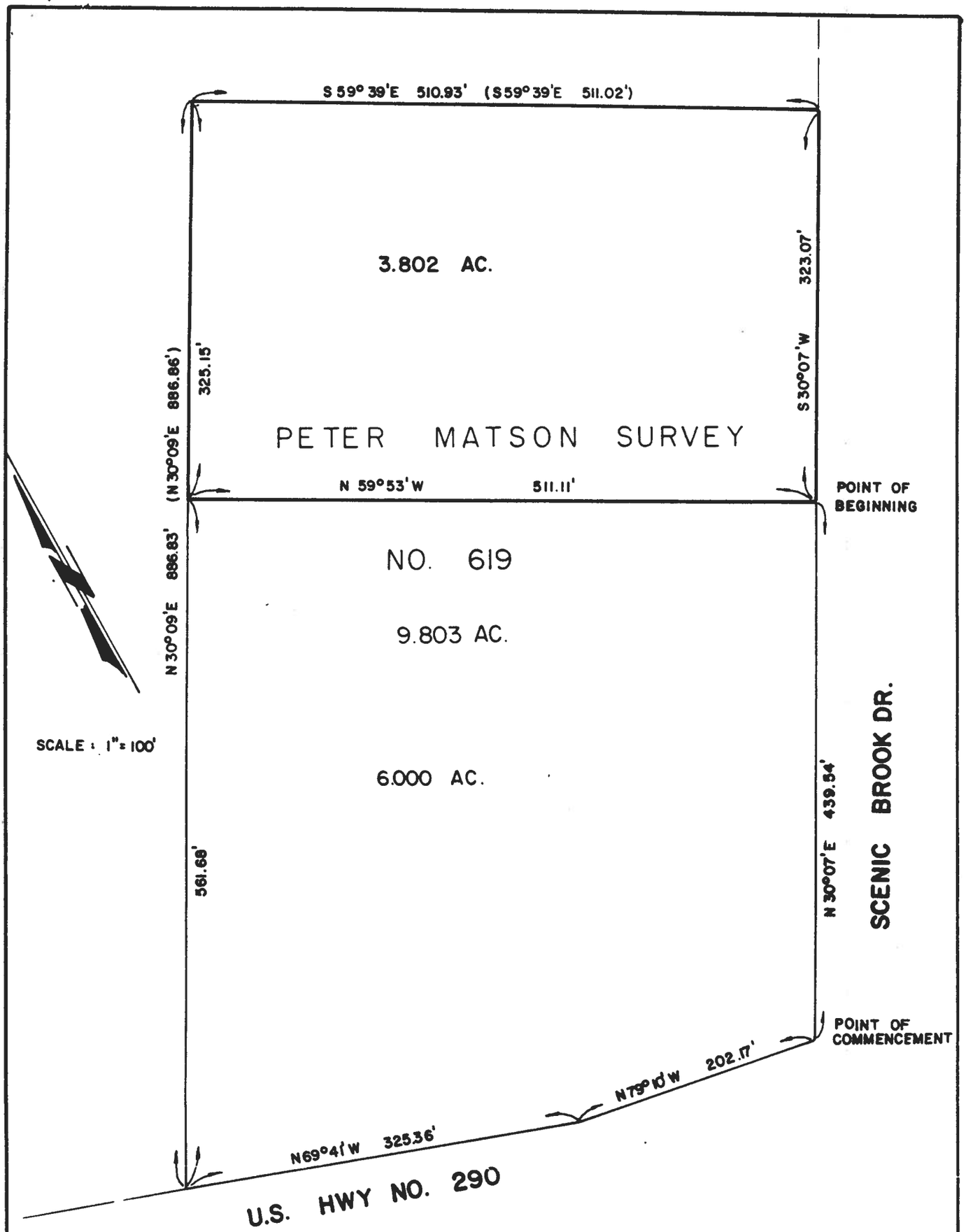
40/33b

Add Dark Sky Conditions:

1.Require warm light: Low Kelvin rated lights (3000 Kelvin or less) are warm and emit less harmful blue-violet light than high Kelvin rated.
2.Shielding: outdoor lighting shall be shielded so that the luminous elements of the fixture are not visible from any other property. Outdoor lighting fixtures are not allowed to have light escape above a horizontal plane running through the lowest point of the luminous elements.
3.Prevent light trespass: Focus light on activity and use activity appropriate lighting.

Add Tree Mitigation:

If development of the Property results in the removal of trees requiring mitigation under subsection 3.5.4 of the City of Austin Environmental Criteria Manual as determined by the City Arborist, Owner shall provide mitigation at 110% of the current requirements established in 3.5.4. Additionally, any such mitigation shall be provided through a Mitigation Program on the Property or on directly adjacent land.



SKETCH TO ACCOMPANY FIELD NOTES

A 3.802 ACRE TRACT OF LAND OUT OF 9.803 ACRE TRACT WITHIN THE PETER MATSON SURVEY NO. 619 SITUATED IN TRAVIS COUNTY, TEXAS.

SEPT. 29, 1986

JOB NO. 185-1-006-111 DISK: NO.17, FILE: MATSON

BAKER-AICKLEN & ASSOCIATES, INC.
Consulting Engineers
9111 JOLLYVILLE ROAD
SUITE 107
AUSTIN, TEXAS 78759
(512) 346-6980

FIELD NOTES

FOR A 6.000-ACRE TRACT OF LAND OUT OF THE PETER MATSON SURVEY NO. 619 SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 9.803-ACRE TRACT AS SHOWN ON SURVEY PLAT PREPARED BY ABBE ENGINEERING COMPANY DATED FEBRUARY 2, 1984, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS DESCRIPTION AS FOLLOWS:

BEGINNING at the point of intersection of the north right-of-way line of U.S. Highway No. 290 with the west right-of-way line of Scenic Brook Drive, same being the southeast corner of said 9.803-acre tract and being more particularly described by metes and bounds as follows:

THENCE, following the northerly right-of-way line of said U.S. Highway No. 290 with two (2) courses and distances:

1) N79-10'00"W, 202.17 feet to a point;
2) N69-41'00"W, 325.36 feet to a point;

THENCE, N30-09'00"E, 561.68 feet departing said northerly right-of-way line of U.S. Highway No. 290 with the westerly line of said 9.803-acre tract to a point for corner;

THENCE, S59-53'00"E, 511.11 feet to a point in the westerly right-of-way line of said Scenic Brook Drive;

THENCE, S30-07'00"W, 439.54 feet with the westerly right-of-way line of said Scenic Brook Drive to the POINT OF BEGINNING, containing 6.000 acres of land.

ES:ek
September 29, 1986
Job No. 185-01-006-111

FILED

1986 DEC 29 AM 11:41

Doris Sturgeline
COUNTY CLERK
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 on

DEC 29 1986

Doris Sturgeline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

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.

City of Austin
Dept of Law
P.O. Box 1088
Austin TX 78767-8828

11.00

4 28 0178

RESTRICTIVE COVENANT

C14-85-288.79

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

WHEREAS, ~~B. E. LAMM, TRUSTEE~~, is the owner of all of that property described by metes and bounds in the field notes attached hereto as Exhibit "A", consisting of 6 acres of land, more or less (the "Property"); and

WHEREAS, the City of Austin and ~~B. E. LAMM, TRUSTEE~~ have agreed that the above-described Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, ~~B. E. LAMM, TRUSTEE~~, for and in consideration of One and No/100 Dollar ($1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered a covenant running with the land, and which shall be binding upon said Venture its successors and assigns as follows, to-wit:

~~1. No improvements shall be constructed on the above described Property which will result in a floor to area ratio (F.A.R.) greater than 0.20 feet of gross floor area in the improvements for every 1 foot of total land area in the site.~~

2. No more than sixty-five percent (65%) of the Property described above shall be covered with impervious material or structures.

~~3. All development on the Property shall be completed in accordance with the Comprehensive Watersheds Ordinance of the City of Austin as it may be from time to time amended.~~

4. No construction of improvements on the property shall be commenced until a letter of credit has been posted with the City of Austin to secure the payment of all expenses incurred by the City of Austin in installation of a traf and US H uch traf uch disa ake impr the Prop

All impervious cover shall be treated for water quality under the non-degradation standards of the Save Our Springs Initiative, City Code 25-8, Article 13 (Save Our Springs Initiative). All development on the property will comply with current code except as modified by the restrictive covenant amendment with a maximum 65% gross impervious cover.

5. If any person, persons, corporation or entity of any other character 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 said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

6. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment 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 force and effect.

7. The failure at any time to enforce this agreement by the City of Austin, its successors or assigns, whether any violation hereof is known or not, shall not constitute a waiver or termination of the right to do so.

8. 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 of Council of the

City of Austin, and (b) the then owner of the above-described property at the time of such modification, amendment or termination.

EXECUTED this 17th day of September, 1986.

B. E. Lamm, Trustee

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on September 17, 1986 by B. E. Lamm, Trustee.

Notary Public, State of Texas

Printed or typed name:_____

My Commission expires:_____

40/33b

NOTARY PUBLIC STATE OF TEXAS

VICKI L. COLLIER
Notary Public State of Texas
My Commission Expires 3-14-89

Add Dark Sky Conditions:

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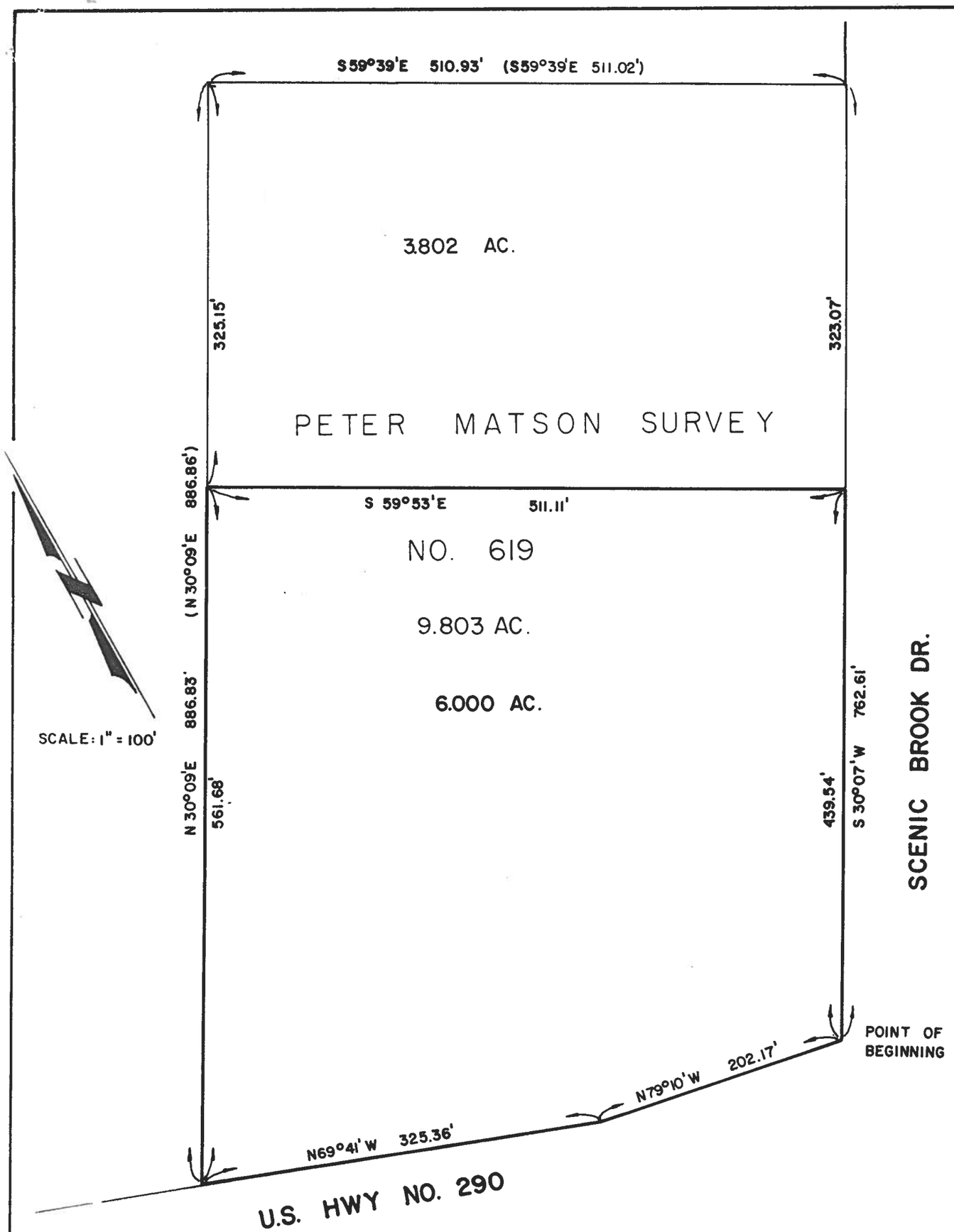

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A 6.000 ACRE TRACT OF LAND OUT OF 9.803 ACRE TRACT WITHIN THE PETER MATSON SURVEY NO. 619 SITUATED IN TRAVIS COUNTY, TEXAS.

SEPT. 29, 1986

JOB NO. 185-1-006-111 DISK: 17, FILE MATSON

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ES:ek
September 29, 1986
Job No. 185-01-006-111

FILED

1987 SEP 15 PM 3:18

COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS

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SEP 15 1987

COUNTY COURT OF TRAVIS COUNTY, TEXAS

COUNTY CLERK
TRAVIS COUNTY, TEXAS

RECORDER'S MEMORANDUM:
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AFTER RECORDING, PLEASE RETURN TO:

CITY OF AUSTIN
DEPT. OF LAW
P. O. BOX 1088
AUSTIN, TEXAS 78767-8828

ATTN: Lupita Arellano

10416 0864

EXHIBIT E

Date: May 8, 2023

Project Name: Greystar 290 & Scenic Brook

Case Number: C14-2022-0160

Contact: Nancy Estrada, 512-974-7617, email: nancy.estrada@austintexas.gov

Public Hearing: May 9, 2023, Planning Commission

Subject: I/We object to proposed zoning change in Case C14-2022-0160

cc: Jennifer Bennett, Jennifer.Bennett@austintexas.gov
Kennedy Higgins, kennedy.higgins@austintexas.gov
Maureen Meredith, Maureen.meredith@austintexas.gov
Wendy Rhoades, wendy.rhoades@austintexas.gov
David Baker

Hello Nancy, et al,

Thank you for your notification dated April 28, 2023. We received it last week.

I have called in multiple times over the past year and spoken with Housing and Planning Department contacts in the City of Austin, who have been very helpful. We also intended meetings of neighbors on Thunderbird Road (our neighborhood does not have a formal Home Owners Association) and traded emails and even shared a video call with Greystar.

My husband, David Baker (cc'ed on this) and I, Melanie Guthrie, object to the proposed zoning change noted above. We bought our house at 8721 Thunderbird Rd in 1999. A few years later, we bought the adjoining property at 8800 Thunderbird Cove, which abuts directly with the proposed development of numerous rental properties proposed by Schmidt Investments and Greystar Development.

There are several reasons we fell in love with and purchased our home. We loved the large lots on Thunderbird Road. We loved the feel of being in the country without being too far from the City. Privacy was a major deciding factor to purchase, as I believe it is for many on our street. The house was the right size for retirement as well, and we envisioned selling the Thunderbird Cove land to a homeowner who would want to buy it, build their own dream home and have the pride of home ownership. In fact, because of the current zoning and numerous covenants and grandfather clauses on the land, we felt safe knowing that should Austin continue to grow and spread that the land behind us – so close to the homes and neighbors on Thunderbird, might be developed into single family homes for sell so others could have the pride of home ownership and take care of their properties, enjoying their own yards and privacy. We never dreamed it would be proposed that numerous rental properties – not purchased homes being taken care of by proud owners – would line the back our lots and backyards, some tall enough to overlook directly into home owner's backyards. So much for privacy.

I can't speak for my neighbors, but I can speak for our property and land we own on Thunderbird Rd and Cove and why we oppose the rental properties. We know that Greystar did not build but manages

Ocotillo, a rental development down the road just East of us on US 290. Ocotillo, built in 2016, is not directly abutting a neighborhood, as the proposed Greystar/Schmidt property would be.

Our concerns:

We bought this property to support our retirement, thinking it would be developed into a dream home for someone's family, a family who would take pride in home ownership. Instead, with the proposed changes the rental property would likely degrade our land value, as who would want to build a nice, new home on a big lot directly next to dozens of rental properties? Ocotillo, built in only 2016, is already looking weathered. A development like the one being proposed is going to deflate our property value and create monetary issues for us when we are too old to work. Given we are both in our sixties, this is a rapidly approaching situation.

Perhaps 10 years ago (maybe slightly less or more), some land was sold and an engineering firm built a single story business on the property between Graceland Grocery and Thunderbird Rd., on the East side of the church. Because of a grandfather clause protecting ours and our neighbors' properties, many of us had to sign off to authorize that land to be rezoned. That building was single story, stone and wood, and fit beautifully into the neighborhood. .Unfortunately, it's since been torn down for the impending Parkway. But it was well built and never became an eyesore or a traffic issue.

I can only imagine what would happen to our land on Thunderbird Cove if the numerous rental properties were built. The increased traffic, for one. I know I would want to go and explore the nearest open space to play, which will likely be our property. Exploring, or a variety of other activities. I could see our privacy vanishing quickly. I have lived in rental properties before, but it was never abutting directly with a neighborhood and there was usually parkland and outdoor areas and amenities provided for relaxation and activities.

Aside from reducing its value for the reasons mentioned above, and the caveat of the grandfather clause, there is also something else that perplexes me about this situation. Why would the owner not want to build single family homes so that others could enjoy home ownership, in a market where single family homes for sale are so desperately needed? Why not build homes for purchase instead, and build rentals in areas where there is plenty of space for the amenities required for a happy rental complex, and not subjecting the current neighborhood owners to resale, privacy, security and even lighting concerns?

Greystar contacted us about the potential for purchasing our land for trail area, as we were told the local Parks Department was concerned that there was not enough greenspace available. In a situation where the Parks Dept. would be responsible for the upkeep and safety requirements for a trail/park space, where reasonable accommodations for privacy and safety were met, we are willing to listen to options. We have had some brief emails with Greystar but have not had any recent updates or confirmation from Greystar on PARD's position.

Thank you for listening.

Kind regards,

Melanie Guthrie and David Baker, 8721 Thunderbird Rd & 8800 Thunderbird Cove, Austin, TX 78736