

SECOND AND THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2007-0013 – Caswell Lofts

REQUEST:

C14-07-0013 - Caswell Lofts - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2205 North Lamar Boulevard and 2209 Shoal Creek Boulevard (Shoal Creek Watershed) from general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning to general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning to change a condition of zoning. First reading approved on May 17, 2007. Vote: 7-0. Applicant: Caswell Lofts, LP (Allen Cowden). Agent: Smith, Robertson, Elliott, Glen, Klein (David Hartman). City Staff: Jorge E. Rousselin, 974-2975.

APPLICANT: Caswell Lofts, LP (Allen Cowden)

AGENT: Smith, Robertson, Elliott, Glen, Klein (David Hartman)

DATE OF FIRST READING/VOTE: May 17, 2007. Vote: 7-0

CITY COUNCIL DATE: June 7, 2007

CITY COUNCIL ACTION:

May 17, 2007:

The public hearing was closed on Council Member Leffingwell's motion, Council Member McCracken's second on a 7-0 vote.

The first reading of the ordinance for general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning to change a condition of zoning with a 2,000 trip per day limitation was approved on Council Member Leffingwell's motion, Mayor Pro Tem Dunkerley's second on a 7-0 vote.

ASSIGNED STAFF: Jorge E. Rousselin, NPZD

PHONE: 974-2975

E-MAIL: jorge.rousselin@ci.austin.tx.us

ZONING REVIEW SHEET

CASE: C14-2007-0013

P.C. DATE: April 10, 2007
April 24, 2007

ADDRESS: 2205 North Lamar Boulevard and 2209 Shoal Creek Boulevard

OWNER: Caswell Lofts, LP (Allen Cowden)

AGENT: Smith, Robertson, Elliott,
Glen, Klein (David Hartman)

REZONING FROM: GO-MU-CO-NP (General Office-mixed use- conditional overlay-neighborhood plan) combining district.

TO: GO-MU-CO-NP (General Office-mixed use- conditional overlay-neighborhood plan) combining district; Nature of the request is to consider modifications to the existing conditional overlay for the subject tract only.

AREA: 1.38 Acres; Tract 1: 0.27 Acres; Tract 2: 1.11 Acres

ISSUES:

A petition has been filed with 13.37% opposition.

SUMMARY PLANNING COMMISSION RECOMMENDATION:

April 24, 2007:

APPROVED STAFF'S RECOMMENDATION OF GR-MU-CO-NP; J.REDDY, S.KIRK 2ND] (9-0)

ISSUES:

- On May 9, 2007, Staff received a petition with 63 signatures on it.
- On April 18, 2007, the Staff received an updated request from the applicant requesting the following modifications to the rezoning request:

The subject property will be reconfigured into Tract 1 and Tract 2;

For Tract 1 and Tract 2 the following modification to the existing conditional overlay shall apply:

- A residential unit may not exceed **1,285** square feet;

For Tract 1 only, the following modification to the existing conditional overlay shall apply:

- A building or structure may not exceed a height of **575** feet above sea level;

For tract 2 only, the following height restriction shall apply:

- A building or structure may not exceed a height of **570** feet above sea level;

SUMMARY STAFF RECOMMENDATION:

Staff recommends the rezoning from GO-MU-CO-NP to GO-MU-CO-NP for Tract 1 and Tract 2 to modify the conditional overlay. The conditional overlay modification includes:

For Tract 1 and Tract 2 the following modification to the existing conditional overlay shall apply:

- A residential unit shall not exceed **1,285** square feet;

For Tract 1 only, the following modification to the existing conditional overlay shall apply:

- A building or structure shall not exceed a height of **575** feet above sea level;

For Tract 2 only, the following height restriction shall apply:

- A building or structure shall not exceed a height of **570** feet above sea level; and
- The daily vehicle trips shall be limited to less than 2,000 per day.

The recommendation is based on the following considerations:

- 1.) The underlying land use and zoning classification shall be retained;
- 2.) Proposed changes to conditional overlay only include dwelling unit area and height of structure; and
- 3.) All other conditions as set forth by the Ordinance No. 041007-32 and private restrictive covenants shall be retained.

DEPARTMENT COMMENTS:

The subject property consists of a 1.38 acre site zoned GO-MU-CO-NP re-configured into Tract 1 and Tract 2 as depicted in Attachment A and is under construction for condominium lofts with access to Lamar Boulevard and Shoal Creek Boulevard. The property was rezoned on October 7, 2004 by Ordinance No. 041007-32 and imposing conditions (Please see Attachment B). The conditions are a reflection of private covenants addressing height of the structure and dwelling unit area limit enacted by Document No. 2005054998 and Document No. 2004198970 (Please see Attachment C). Subsequent covenant amendments have modified the existing conditions to reflect the requested change in height and unit area (Please see Attachment D).

The applicant seeks to modify the existing conditional overlay limiting the height of the structure Tract 1 as well as the dwelling unit area to accommodate technical issues raised at the time of construction.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO-MU-CO-NP	Condominiums under construction
<i>North</i>	SF-3-CO-NP	Undeveloped land
<i>South</i>	GO-MU-CO-NP	Offices
<i>East</i>	SF-3-CO-NP	Single-family residences
<i>West</i>	P	Shoal Creek

NEIGHBORHOOD PLAN AREA:

Central Austin Combined -- West University

TIA: N/A (See Transportation comments)

WATERSHED: Shoal Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

69--University Area Partners

173--Old Enfield Homeowners Assn.
 511--Austin Neighborhoods Council
 682--Caswell Pease Neighborhood Association
 698--West Campus Neighborhood Association
 742--Austin Independent School District
 744--Sentral Plus East Austin Koalition (SPEAK)
 754--Central Austin Neighborhoods Planning Area Committee
 782--Caswell Heights Neighborhood Association
 786--Home Builders Association of Greater Austin
 937--Taking Action Inc.

SCHOOLS:

Austin Independent School District

- Bryker Woods Elementary School
- O. Henry Middle School
- Austin High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-04-0021	West University Neighborhood Plan Combining District	04/27/04: APVD STAFF REC (7-0).	10/07/04: APVD, BUT PP 148A TO 10-21-04 (7-0).
SP-05-1130C	Consolidated site plan	N/A -- 09/19/2005 Extension granted	N/A -- 08/04/2006 Administrative site plan approval granted.

RELATED CASES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-98-0138	LO to SF-5	11/17/98: PC APVD MF-3 W/LIMIT OF 10 UNITS CONST OF MASONRY FENCE.	02/25/99: APVD SF-5 W/CONDITIONS (6-0) 1 RDG; PC REC FOR FENCE WAS DELETED; AP WILL INSTALL 'NO LEFT TURN' SIGNAL. 04/15/99: APVD SF-5 W/CONDS (7-0) 2ND/3RD RDGS.
C14-05-0057	GO-MU-CO-NP to GO-MU-CO-NP	08/08/06: DENY REQUEST TO MODIFY -CO OF INCREASING # OF DWELLING UNITS TO 24 (7-0)	CASE EXPIRATION, PER 25- 5-283(A)

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Lamar Blvd.	75'	60'	Arterial	No	Yes	No
Shoal Creek Blvd.	70'	40'	Collector	No	No	No

CITY COUNCIL DATE:

April 19, 2007

May 3, 2007

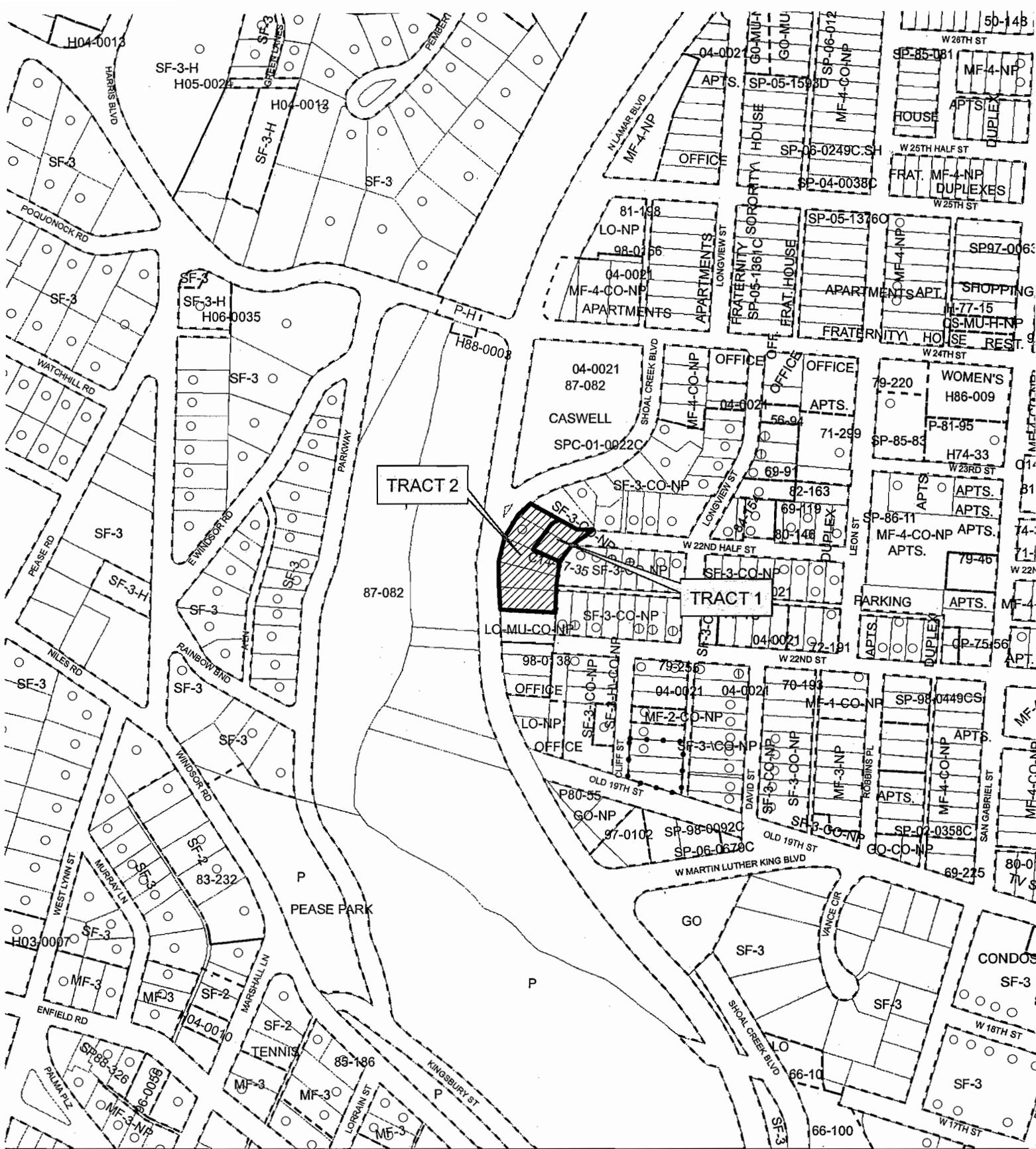
May 17, 2007

ACTION:

Postponed to May 3, 2007 at the request of Staff.

Postponed to May 17, 2007 at the request of the neighborhood

ORDINANCE READINGS: 1st 2nd 3rd**ORDINANCE NUMBER:****CASE MANAGER:** Jorge E. Rousselin, NPZD**PHONE:** 974-2975**E-MAIL:** jorge.rousselin@ci.austin.tx.us



ZONING

-  Subject Tract
-  Zoning Boundary
-  Pending Cases

ZONING CASE#: C14-2007-0013
ADDRESS: 2205 N LAMAR BLVD & 2209 SHOAL CREEK BLVD
SUBJECT AREA: 1.378
GRID: H24
MANAGER: J. ROUSSELIN



1" = 400' OPERATOR: SM

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



2205 N Lamar &
2209 Shal Creek
C14-2007-0013

04-0021
87-082
P-NP
CASWELL
TENNIS COURT
SFC

Legend

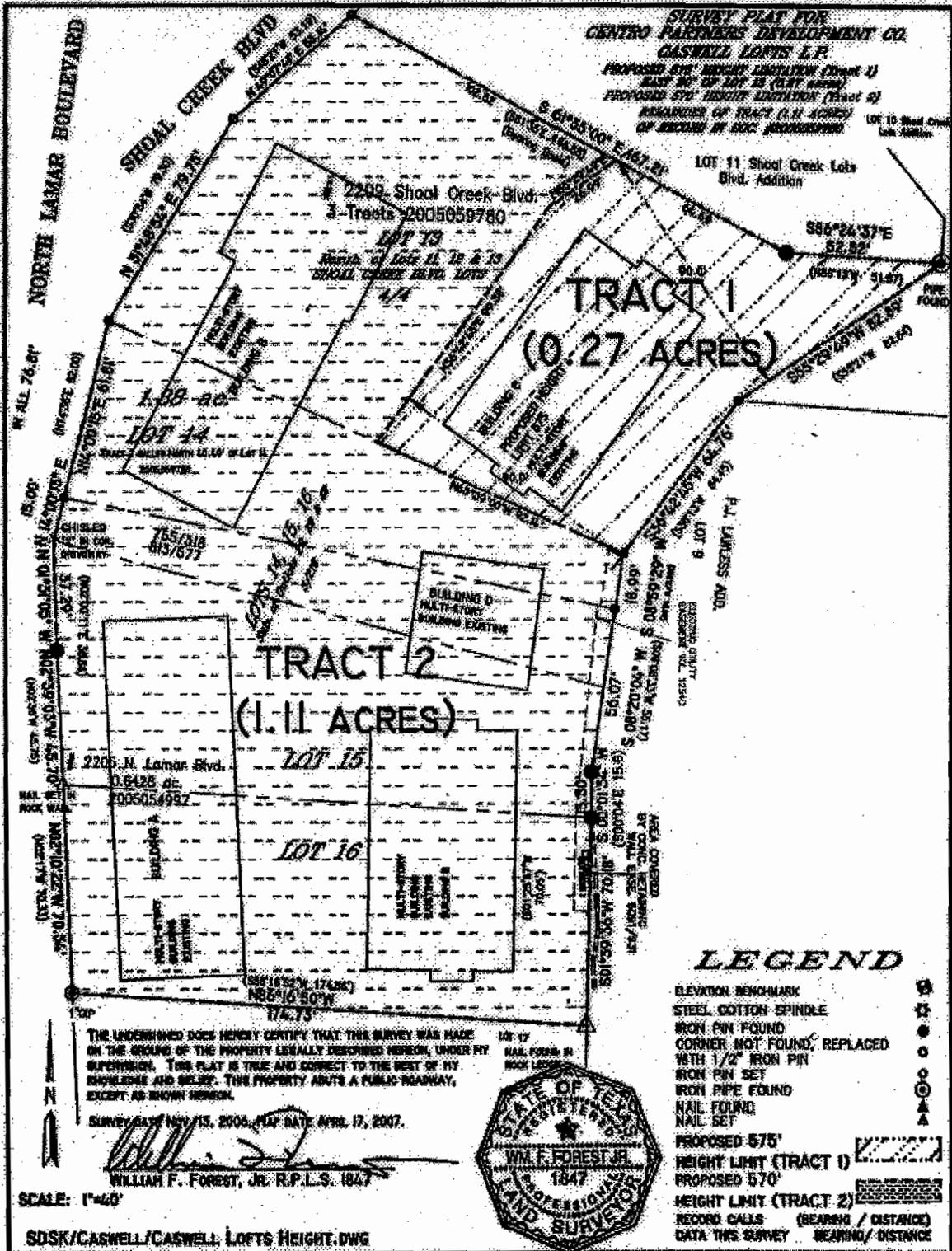
- Zoning Base
- Center Line

40 0 40 80 120 Feet

C14-2007-0013

EXHIBIT A

Property Survey



ATTACHMENT A

STAFF RECOMMENDATION

SUMMARY STAFF RECOMMENDATION:

Staff recommends the rezoning from GO-MU-CO-NP to GO-MU-CO-NP for Tract 1 and Tract 2 to modify the conditional overlay. The conditional overlay modification includes:

For Tract 1 and Tract 2 the following modification to the existing conditional overlay shall apply:

- A residential unit shall not exceed 1,285 square feet;

For Tract 1 only, the following modification to the existing conditional overlay shall apply:

- A building or structure shall not exceed a height of 575 feet above sea level;

For Tract 2 only, the following height restriction shall apply:

- A building or structure shall not exceed a height of 570 feet above sea level; and
- The daily vehicle trips shall be limited to less than 2,000 per day.

The recommendation is based on the following considerations:

- 1.) The underlying land use and zoning classification shall be retained;
- 2.) Proposed changes to conditional overlay only include dwelling unit area and height of structure; and
- 3.) All other conditions as set forth by the Ordinance No. 041007-32 and private restrictive covenants shall be retained.

BASIS FOR RECOMMENDATION

1. Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.

The requested conditional overlay modification will not have a detrimental land use impact on the surrounding properties or the character of the established neighborhood.

2. The proposed zoning should promote consistency and orderly planning.

The property is currently zoned GO-MU-CO-NP. The proposed change will not modify the base zoning classification nor will it alter established land uses. Conditions and restrictions as established by Ordinance No. 041007-32 and private restrictive covenants shall be retained.

EXISTING CONDITIONS

Site Characteristics

The subject property consists of a 1.38 acre site zoned GO-MU-CO-NP re-configured into Tract 1 and Tract 2 as depicted in Attachment A and is under construction for condominium lofts with access to Lamar Boulevard and Shoal Creek Boulevard. The property was rezoned on October 7, 2004 by Ordinance No. 041007-32 and imposing conditions (Please see Attachment B). The conditions are a reflection of private covenants addressing height of the structure and dwelling unit area limit enacted by Document No. 2005054998 and Document No. 2004198970 (Please see Attachment C).

Subsequent covenant amendments have modified the existing conditions to reflect the requested change in height and unit area (Please see Attachment D).

Transportation

1. No additional right-of-way is needed at this time.
2. The trip generation under the requested zoning is estimated to be 2,239 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).
3. A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Water and Wastewater

1. 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 the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. 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.

Compatibility Standards

1. The site is subject to compatibility standards of LDC Article 10 along the north, and east property lines.

ORDINANCE NO. 041007-32

AN ORDINANCE AMENDING ORDINANCE NO. 040826-57, AND REZONING AND CHANGING THE ZONING MAP TO ADD A NEIGHBORHOOD PLAN COMBINING DISTRICT TO THE BASE ZONING DISTRICT ON THREE TRACTS, BEING APPROXIMATELY 1.89 ACRES OF LAND IN THE WEST UNIVERSITY NEIGHBORHOOD PLAN AREA AND TO CHANGE THE BASE ZONING DISTRICTS ON THE TRACTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Ordinance No. 040826-57 is amended to include the property identified in this Part in the West University neighborhood plan combining district. The zoning map established by Section 25-2-191 of the City Code is amended to add a neighborhood plan (NP) combining district to the base zoning districts and to change the base zoning districts on three tracts of land described in File C14-04-0021 (PART), as follows:

- Tract 40 0 (Lot 5 Olt 13 Div E, Lamar at 19th) and,
 1230-1232 West Martin Luther King, Jr. Boulevard;
- Tract 44 2209 and 2301 Shoal Creek Boulevard; and
- Tract 49 2305 Longview Street;

(the "Property") as shown on the attached Exhibit "A",

generally known as the West University neighborhood plan combining district, locally known as the area bounded by Lamar Street on the west, 38th Street on the north, Guadalupe Street on the east, and Martin Luther King, Jr. Boulevard on the south, and includes the three Subdistricts identified as Heritage Subdistrict, Shoal Crest Subdistrict and West University Neighborhood Subdistrict, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

PART 2. The base zoning districts for the tracts of land are changed from family residence (SF-3) district, multifamily residence medium density (MF-3) district, and general office (GO) district to family residence-conditional overlay-neighborhood plan (SF-3-CO-NP) combining district, multifamily residence limited density-conditional overlay-neighborhood plan (MF-1-CO-NP) combining district, and general office-mixed

use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district, and as more particularly described and identified in the chart below.

Tract No.	Property	From	To
40	0 (LOT 5 OLT 13 DIV E LAMAR AT 19 th), 1230-1232 W MARTIN LUTHER KING JR BLVD	GO	GO-MU-CO-NP
44	2209 SHOAL CREEK BLVD	SF-3	GO-MU-CO-NP
	2301 SHOAL CREEK BLVD	SF-3	SF-3-CO-NP
49	2305 LONGVIEW ST	MF-3	MF-1-CO-NP

PART 3. The following applies to a single-family residential use, a duplex residential use, or a two-family residential use within the boundaries of the NP:

1. Front porch setback applies as set forth in Section 25-2-1602 of the Code.
2. Impervious cover and parking placement restrictions apply as set forth in Section 25-2-1603 of the Code.
3. Garage placement restrictions apply as set forth in Section 25-2-1604 of the Code.
4. Front or side yard parking restrictions apply as set forth in Section 25-2-1406 of the Code.

PART 4. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. The maximum height of a building or structure is 42.25 feet from ground level on Tract 40.
2. Development of Tract 40 may not exceed one residential unit.
3. The maximum height of a building or structure is 30 feet from ground level on 2301 Shoal Creek Boulevard in Tract 44 and Tract 49.
4. For a residential use of Tract 49, the maximum square footage is 3,000 square feet.

5. The following conditions apply to 2209 Shoal Creek in Tract 44.
- A. The maximum impervious cover is 80 percent.
 - B. For a residential use, the maximum building coverage is 24,000 square feet.
 - C. The maximum floor-to-area ratio is 0.75 to 1.0.
 - D. A residential unit may not exceed 1200 square feet.
 - E. Except as provided in Subsection F, a building or structure may not exceed a height of 578 feet above sea level.
 - F. A building or structure located within the area measured 90 feet from the rear property line may not exceed a height of 570 feet above sea level.
 - G. Vehicular access from the property to West 22 ½ Street is prohibited. All vehicular access to the property shall be from other adjacent public streets or through other adjacent property.
6. The following uses are prohibited uses of Tract 40, and 2209 Shoal Creek in Tract 44:
- Community recreation (private)
 - Group residential
 - Club or lodge
7. The following uses are prohibited uses of Tract 49 and 2301 Shoal Creek in Tract 44:
- Community recreation (private)
 - Club or lodge

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the respective base districts and other applicable requirements of the City Code.

PART 5. Except as otherwise provided in this ordinance, the Property is subject to Ordinance No. 040826-57 that established the West University neighborhood plan combining district.

PART 6. This ordinance takes effect on October 18, 2004.

PASSED AND APPROVED

October 7, 2004

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§
§



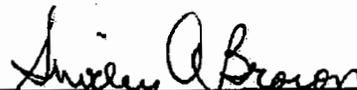
Will Wynn
Mayor

APPROVED:



David Allan Smith
City Attorney

ATTEST:



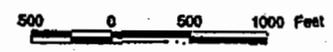
Shirley A. Brown
City Clerk



West University Neighborhood Planning Area:
Rezonings Approved on 3rd Reading 10-7-04
 Case #C14-04-0021 *EXHIBIT A*



City of Austin
 Neighborhood Planning and Zoning Department



Legend

 Properties with proposed zoning changes

 Tract Number




 SUBJECT TRACT 
 PENDING CASE 
 ZONING BOUNDARY 
 CASE MGR: G. RHOADES

CASE #: C14-04-0021
 ADDRESS: WEST UNIVERSITY
 NEIGHBORHOOD PLANNING AREA
 SUBJECT AREA (ACRES): 3.6720

ZONING EXHIBIT B

DATE: 04-03

INTLS: SN

CITY GRID
 REFERENCE
 NUMBER
 J23-25 H23
 4

1" = 1200'

100

**AGREEMENT CONCERNING COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DEVELOPMENT OF PROPERTY**

This AGREEMENT CONCERNING COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEVELOPMENT OF PROPERTY (the "Agreement") is made as of the Effective Date stated in Section 16 hereof, by and between, the owner of the Property, Joe W. Neal and the Estate of Clarice G. Neal, Deceased (referred to herein as "Neal"), and BARBARA BRIDGES, TRUSTEE for a proposed nonprofit corporation to be known as WEST UNIVERSITY NEIGHBORHOOD ASSOCIATION ("WUNA"). Neal, and WUNA are sometimes collectively referred to herein as the "Parties" and individually as the "Party".

RECITALS

A. Neal is the Owner of the tracts of land situated in the City of Austin, Travis County, Texas, located at 2209 Shoal Creek Blvd., and described as (a) Lots 13, Resubdivision of Lots 11, 12 and 13 of Shoal Creek Boulevard Lots, a subdivision in Travis County, Texas according to the map or plat thereof, recorded in Volume 4, Page 4 of the Plat Records of Travis County, Texas, (b) a portion of Lot 14 Shoal Creek Boulevard Lots, a subdivision in Travis County, Texas, recorded in Book 3, Page 218 of the Plat Records of Travis County, Texas, being the same tract recorded in Volume 2575, Page 514 of the Travis County, Texas Deed Records and (c) together with that certain vacated portion of West 22 1/2 Street more particularly described by Volume 2570, page 647 of the Deed Records of Travis County, (the "Property").

B. Neal desires to obtain certain approvals and modifications to the City of Austin ordinances and regulations that govern the development of the Property, including the proposed rezoning of the Property with a zoning district of GO-MU-CO-NP pursuant to the Central Austin Combined Neighborhood Plan adopted by the Austin City Council on _____ and Neal has agreed to a zoning classification of SF-3-CO-NP, under such plan, on property located at 2301 Shoal Creek Blvd., (the "Proposed Zoning").

C. Neal has asked WUNA to support the Proposed Zoning of the Property and WUNA has agreed to support the Proposed Zoning, subject to the imposition of certain restrictions, covenants and conditions on the use of the Property and the construction of the proposed mixed-use project to be located on the Property (the "Project").

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the WUNA agrees to support the Proposed Zoning and uses allowed therein on the following terms and conditions:

1. Residential and Office Units. The Project shall contain only residential and office/condominium units and shall contain no more than twenty-four (24) units, no more than four (4) of which may be office units. No residential unit shall contain more than 1,200 square feet of air-conditioned space and no residential unit shall have more than one (1) bedroom. The existing structure on the Property may be incorporated into the Project and, in such event, shall be counted as the number of approved units equal to the total square footage of the structure

Neal

divided by 1,200, rounded off to the nearest whole number. The Project shall not exceed a total of 24,000 square feet of air-conditioned space.

4. Height Limit. All structures located within ninety (90) feet of the eastern boundary of the Property shall have a height no greater than five hundred seventy (570) feet above the mean sea level line. All structures located on the remainder of the Property shall have a height no greater than five hundred seventy-eight (578) feet above the mean sea level line. The foregoing height limits shall be measured to the uppermost point of the structure or any additions thereto.



#10

24233d-dk

Beeson



AGRI 200505001
B POE

AGREEMENT CONCERNING COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DEVELOPMENT OF PROPERTY

9

This AGREEMENT CONCERNING COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEVELOPMENT OF PROPERTY (the "Agreement") is made as of the Effective Date stated in Section 16 hereof, by and between CATHERINE E. BEESON AND ELLEN M. BEESON (collectively referred to as "Beeson"), CENTRO DEVELOPMENT, LLC, a Texas limited liability company ("Centro"), and BARBARA BRIDGES, TRUSTEE for a proposed nonprofit corporation to be known as WEST UNIVERSITY NEIGHBORHOOD ASSOCIATION ("WUNA"). Beeson, Centro and WUNA are sometimes collectively referred to herein as the "Parties" and individually as the "Party".

RECITALS

A. On or before the Effective Date, Centro or its assignee intends to acquire from Beeson the tracts of land located at 2205 North Lamar Boulevard in Austin, Travis County, Texas, described as Lots 15 and 16, Shoal Creek Boulevard Lots, a subdivision recorded in Book 3, Page 218 of the Travis County Plat Records, along with a portion of Lot 14 of said Shoal Creek Boulevard Lots as recorded in Volume 755, Page 318 of the Travis County Deed Records (the "Property").

B. Beeson and Centro desire to obtain certain approvals and modifications to the City of Austin ordinances and regulations that govern the development of the Property, including the proposed rezoning of the Property with a zoning district of GO-MU-CO-NP pursuant to the proposed Central Austin Combined Neighborhood Plan and the University Neighborhood Overlay Code Amendment (the "Proposed Zoning").

C. Beeson and Centro have asked WUNA to support the Proposed Zoning of the Property and WUNA has agreed to support the Proposed Zoning, subject to imposition of certain restrictions, covenants and conditions on the use of the Property and the construction of the proposed mixed-use project to be located on the Property (the "Project").

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Residential and Office Units. The Project shall contain only residential and office condominium units and shall contain no more than twenty-one (21) units, no more than four (4) of which may be office units. ~~No residential unit shall contain more than 1,200 square feet of air-conditioned space and no residential unit shall have more than one (1) bedroom.~~ The existing structure on the Property may be incorporated into the Project and, in such event, shall be counted as the number of approved units equal to the total square footage of the structure divided by 1,200, rounded off to the nearest whole number. The Project shall not exceed a total of 21,000 square feet of air-conditioned space.

AUSTIN:05308500006:298179-5

4. Height Limit. All structures located within ninety (90) feet of the eastern boundary of the Property shall have a height no greater than five hundred seventy (570) feet above the mean sea level line. All structures located on the remainder of the Property shall have a height no greater than five hundred seventy-eight (578) feet above the mean sea level line. The foregoing height limits shall be measured to the uppermost point of the structure or any additions thereto.

*
*



1st
Amendment

AMENDMENT TO AGREEMENTS CONCERNING COVENANTS,
CONDITIONS AND RESTRICTIONS FOR DEVELOPMENT OF PROPERTY

This AMENDMENT TO AGREEMENTS CONCERNING COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEVELOPMENT OF PROPERTY (the "Amendment") is executed effective as of the 14th day of May, 2006, by and between CASWELL LOFTS, LP, a Texas limited partnership ("Caswell"), and CASWELL HEIGHTS NEIGHBORHOOD ASSOCIATION ("CASWELL HEIGHTS").

RECITALS

A. Caswell is the owner of the tracts of land located at 2205 North Lamar Boulevard in Austin, Travis County, Texas, described as Lots 15 and 16, Shoal Creek Boulevard Lots, a subdivision recorded in Book 3, Page 218 of the Plat Records of Travis County, Texas, along with a portion of Lot 14 of said Shoal Creek Boulevard Lots as recorded in Volume 755, Page 318 of the Deed Records of Travis County, Texas (the "Beeson Property").

B. Caswell is also the owner of the tracts of land located at 2209 Shoal Creek Boulevard in Austin, Travis County, Texas, described as (a) Lots 13, Resubdivision of Lots 11, 12 and 13 of Shoal Creek Boulevard Lots, a subdivision in Travis County, Texas according to the map or plat thereof, recorded in Volume 4, Page 4 of the Plat Records of Travis County, Texas, (b) a portion of Lot 14 Shoal Creek Boulevard Lots, a subdivision in Travis County, Texas, recorded in Book 3, Page 218 of the Plat Records of Travis County, Texas, being the same tract recorded in Volume 2575, Page 514 of the Deed Records of Travis County, Texas and (c) together with that certain vacated portion of West 22 1/2 Street more particularly described by Volume 2570, Page 647 of the Deed Records of Travis County, Texas (the "Neal Property").

C. Prior to conveyance of the Beeson Property to Caswell, Catherine E. Beeson and Ellen M. Beeson (the prior owners of the Beeson Property), Centro Development, LLC, a Texas limited liability company ("Centro"), and BARBARA BRIDGES, TRUSTEE FOR A PROPOSED NONPROFIT CORPORATION TO BE KNOWN AS WEST UNIVERSITY NEIGHBORHOOD ASSOCIATION ("WUNA") entered into that certain Agreement Concerning Covenants, Conditions and Restrictions for Development of Property, effective on or before October 20, 2004, and recorded under Document No. 2005054998 of the Official Public Records of Travis County, Texas, with respect to the Beeson Property (the "Beeson Agreement").

D. Prior to conveyance of the Neal Property to Caswell, Joe W. Neal and the Estate of Clarice G. Neal (the prior owners of the Neal Property) and WUNA entered into that certain Agreement Concerning Covenants, Conditions and Restrictions for Development of Property, effective on or before October 20, 2004, and recorded under Document No. 2004198970 of the Official Public Records of Travis County, Texas, with respect to the Neal Property (the "Neal Agreement"). The Beeson Agreement and Neal Agreement are sometimes referred to together herein as the "Agreements."

{007.00022475.1}

ATTACHMENT D

E. Centro was made a party to the Beeson Agreement due to its then-pending contract to acquire the Beeson Property. The Beeson Property was subsequently acquired by Caswell, an entity affiliated with Centro, and Centro hereby joins in the execution of this Amendment for purposes of disclaiming any interest in the Beeson Property and Beeson Agreement and confirming its prior assignment of all of its rights and obligations under the Beeson Agreement to Caswell, which Caswell has accepted.

F. The neighborhood intended as a party to the Agreements and represented by Barbara Bridges, as trustee, has since changed its name from West University Neighborhood to Caswell Heights Neighborhood and has incorporated itself under the name Caswell Heights Neighborhood Association ("CASWELL HEIGHTS"). Barbara Bridges, Trustee, has assigned all the right, title, and interest held by her in the Agreements on behalf of the neighborhood to Caswell Heights, and Caswell Heights has adopted and ratified the Agreements as its own. The neighborhood represented by Caswell Heights includes the area immediately east of the Property and has been registered with the City of Austin, as required by the Agreements (Section 17.b. of the Beeson Agreement and Section 7.b. of the Neal Agreement).

G. Caswell and Caswell Heights now desire to modify and amend the Agreements as hereafter provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Caswell and Caswell Heights agree as follows:

1. Unified Project. Because ownership of and title to the Beeson Property and Neal Property has now been unified in Caswell, and because the development project contemplated in the respective Agreements will in fact be a unified condominium project located on both such properties, the parties agree that the Agreements shall be read and construed together to the extent reasonably feasible. Accordingly, unless the context clearly requires otherwise, all references in the Agreements and this Amendment to the "Property" shall mean the Beeson Property and Neal Property together, and all references in the Agreements and this Amendment to the "Project" shall mean the unified condominium project located or to be located on the Property.

2. Residential Restrictions. Notwithstanding anything to the contrary in Section 1 of the Agreements, the following restrictions shall apply to the Project: (a) the Project shall contain only residential and office condominium units and shall contain no more than forty-five (45) units in total, of which no more than eight (8) may be office units; (b) the maximum size of any residential unit shall be 1,285 square feet of air-conditioned space; (c) the Project shall not exceed a total of 45,000 square feet of air-conditioned space; (d) no residential unit shall have more than one (1) bedroom; and (e) no residential unit may be occupied by more than two (2) persons eighteen (18) years of age or older unless each of the occupants of the unit is related to each of the other occupants of the unit by blood, marriage, or legal adoption as either a parent, child, grandparent, grandchild, sibling, or spouse. The provision in Section 1 of the Agreements concerning incorporation of the existing structure on the Property into the Project is moot and is hereby deleted.

{007.00022475.1}

SECOND AMENDMENT TO AGREEMENTS CONCERNING COVENANTS,
CONDITIONS AND RESTRICTIONS FOR DEVELOPMENT OF PROPERTY

2nd
Amend

This SECOND AMENDMENT TO AGREEMENTS CONCERNING COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEVELOPMENT OF PROPERTY (the "Amendment") is executed effective as of the ____ day of February, 2007, by and between CASWELL LOFTS, LP, a Texas limited partnership ("Caswell"), and CASWELL HEIGHTS NEIGHBORHOOD ASSOCIATION, a Texas nonprofit corporation ("Caswell Heights").

RECITALS

A. Caswell (successor-in-interest to Joe W. Neal, the Estate of Clarice G. Neal, Deceased, Catherine E. Beeson, Ellen M. Beeson and Centro Development, LLC) and Caswell Heights (successor-in-interest to Barbara Bridges, Trustee for a proposed nonprofit corporation to be known as West University Neighborhood Association) are parties to (i) that certain Agreement Concerning Covenants, Conditions and Restrictions for Development of Property dated effective March 31, 2005, and recorded under Document No. 2005054998 of the Official Public Records of Travis County, Texas (the "Beeson Agreement"), (ii) that certain Agreement Concerning Covenants, Conditions and Restrictions for Development of Property dated effective October 20, 2004, and recorded under Document No. 2004198970 of the Official Public Records of Travis County, Texas (the "Neal Agreement"), and (iii) that certain Amendment to Agreements Concerning Covenants, Conditions and Restrictions for Development of Property dated effective June 14, 2006 and recorded under Document No. _____ of the Official Public Records of Travis County, Texas (the "First Amendment"). The Beeson Agreement and Neal Agreement, as amended by the First Amendment, are sometimes collectively referred to herein as the "Restrictive Covenant Agreement."

B. Caswell and Caswell Heights now desire to further modify and amend the Restrictive Covenant Agreement as hereafter provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Caswell and Caswell Heights agree as follows:

1. Section 4 of both the Neal Agreement and Beeson Agreement (as modified by the First Amendment) are hereby amended to provide that all structures located on the Property shall have a height no greater than five hundred seventy (570) feet above the mean sea level line. Notwithstanding the foregoing, Caswell and Caswell Heights acknowledge that "Building C" on the Property as shown on Exhibit "A" attached hereto will have a finished height of approximately five hundred seventy-five (575) feet above the mean sea level line (as measured from the uppermost point of such structure), and Caswell Heights hereby waives such violation of the height limit set forth in Section 4, but only with respect to Building C as described above. Caswell and Caswell Heights hereby stipulate and agree that the height of all other buildings on the Property as shown on Exhibit "A" attached hereto (as measured from the uppermost point of each such structure) is at or below such 570-foot height limit as of the date hereof.



April 4, 2007

RECEIVED

APR 04 2007

Neighborhood Planning & Zoning

Mr. Greg Guernsey
Director of Neighborhood Planning and Zoning
City of Austin
505 Barton Springs Road, 5th Floor
Austin, Texas 78701

RE: Rezoning Case # C14-20070013 ("Rezoning") to Modify Certain Conditional Overlays Contained in the West University Neighborhood Plan to Reflect Modified Restrictions in Amended Private Restrictive Covenant; Caswell Lofts

Dear Mr. Guernsey:

We represent Caswell Lofts, L.P., a Texas limited partnership ("Caswell").

Caswell is developing a residential project known as Caswell Lofts located on the corner of North Lamar Boulevard and Shoal Creek Boulevard. In 2004, Caswell negotiated with representatives of the West University Neighborhood Association, predecessor-in-interest to the Caswell Heights Neighborhood Association ("Association") regarding certain development standards for the project, which were memorialized in recorded private restrictive covenants. At the Association's request, these development standards were also reflected as conditional overlays of the provisions of the West University Neighborhood Plan ("WUNP") applicable to the project, which followed the recorded private restrictive covenants.

Subsequent to passage of the WUNP, Caswell and the Association entered into recorded amendments to the private restrictive covenants that nominally modify development standards regarding the unit size of residences, and height of structures on the rear portion of part of the project. In order to follow the changes reflected in the amended private restrictive covenants, the Rezoning accordingly modifies the pertinent conditional overlays of the WUNP applicable to the project as follows:

- A residential unit may not exceed 1,285 net sq. ft.
 - This modified the prior 1,200 sq. ft. limit set forth in the pertinent conditional overlay of the WUNP.
 - This modification reflects technical changes in unit size calculation resulting from design changes involving internal stairs and access issues. These issues "create" additional living space square footage, although there is no actual unit size gain in terms of volume, exterior, dimensions, or height (see Exhibit "A").

Greg Guernsey

April 4, 2007

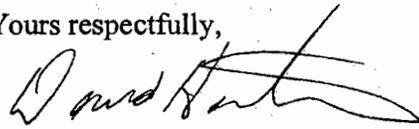
Page 2 of 2

- A building or structure located within the area measured 90 feet from the rear property line of a portion of the Property may not exceed a height of 575 feet above sea level.
 - This modified the 570 foot mean sea level limit set forth in the pertinent conditional overlay of the WUNP.
 - This modification reflects changes during site and building planning relating to steep slope conditions.

The foregoing modifications provided for in the Rezoning follow the modifications set forth in the amended restrictive covenants, and the Association indicates their support for the Rezoning by separate letter. The Caswell Lofts project, both before and after the Rezoning as proposed, complies with applicable GO development standards.

Thank you for your attention to this request. Please don't hesitate to contact me with any questions you might have.

Yours respectfully,



David Hartman

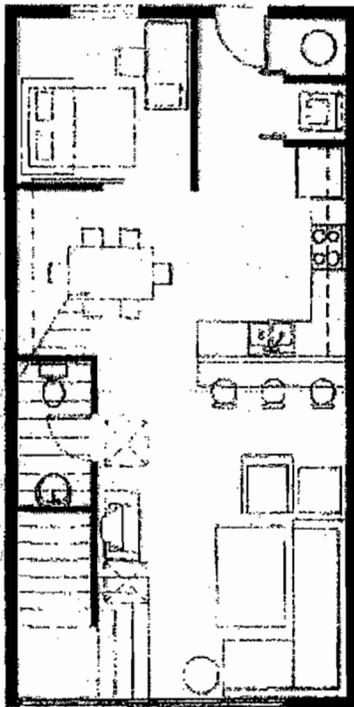
Enclosures

cc: Mr. Jerry Rusthoven
Mr. Jorge Rousselin
Mr. Allen Cowden
Mr. Kent Collins
Ms. Barbara Bridges, Caswell Heights Neighborhood Association
Jim Cousar, Esq.
Christopher K. Bell, Esq., *Firm*

Exhibit "A"

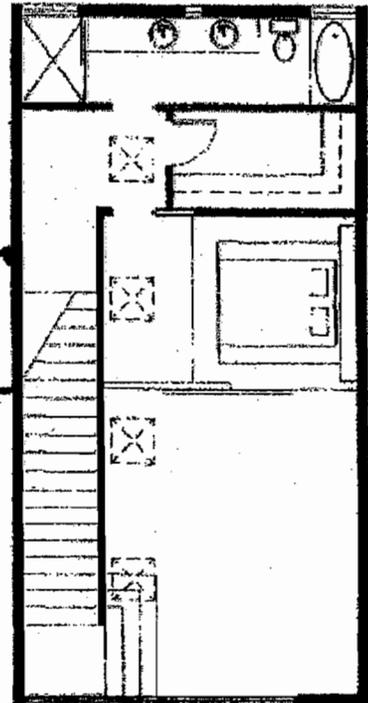
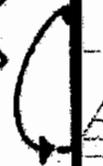
Technical Changes to Unit Size

INITIAL DESIGN



1ST

STAIR
LANDING
MOVED
FORWARD

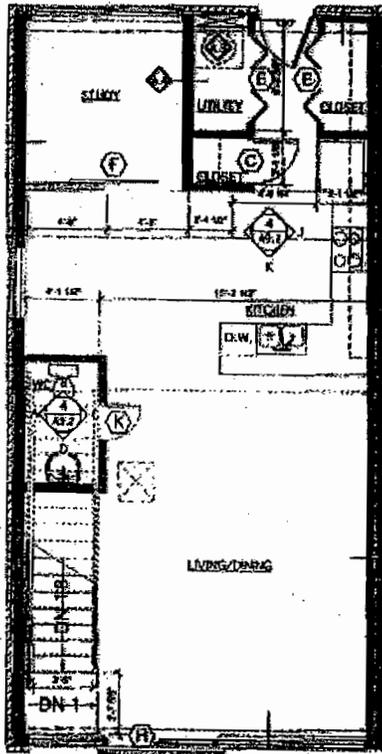


2ND

1200 GSF - TWO LEVEL, ONE BEDROOM W/ STUDY

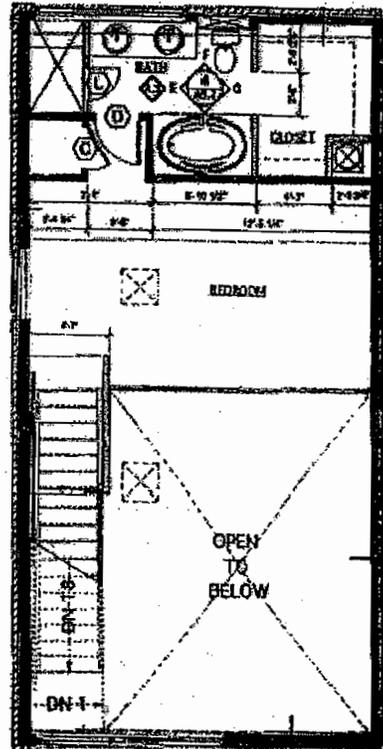
EXHIBIT "A-1"

APPROVED PLANS



1ST

4 1ST FLOOR
UNIT TYPE 46 TYPICAL PLAN



2ND

4 2ND FLOOR
UNIT TYPE 46 TYPICAL PLAN

EXHIBIT "A-2"

0001/002

**Caswell Heights Neighborhood Association
1106 West 22½ Street
Austin, Texas 78705**

April 4 2007

RECEIVED

APR 04 2007

Neighborhood Planning & Zoning

Mr. Greg Guernsey
Director of Neighborhood Planning and Zoning
City of Austin
505 Barton Springs Road, 5th Floor
Austin, Texas 78701

RE: Rezoning Case # C14-20070013 ("Rezoning") to Modify Certain Conditional Overlays Contained in the West University Neighborhood Plan to Reflect Modified Restrictions in Amended Private Restrictive Covenant; Caswell Lofts

Dear Mr. Guernsey:

Caswell Lofts, L.P., a Texas limited partnership ("Caswell"), is developing a residential project known as Caswell Lofts located on the corner of North Lamar Boulevard and Shoal Creek Boulevard. In 2004, Caswell negotiated with representatives of the West University Neighborhood Association, predecessor-in-interest to the Caswell Heights Neighborhood Association ("Association") regarding certain development standards for the project, which were memorialized in recorded private restrictive covenants. At the Association's request, these development standards were also reflected as conditional overlays of the provisions of the West University Neighborhood Plan ("WUNP") applicable to the project, which followed the recorded private restrictive covenants.

Subsequent to passage of the WUNP, Caswell and the Association entered into recorded amendments to the private restrictive covenants that nominally modify development standards regarding the unit size of residences and height of a structure on the rear portion of part of the project. In order to follow the changes reflected in the amended private restrictive covenants, it is the Association's understanding that the Rezoning would modify the pertinent conditional overlays of the WUNP applicable to the project as follows:

- A residential unit may not exceed 1,285 net sq. ft.
 - This modifies the prior 1,200 sq. ft. limit set forth in the pertinent conditional overlay of the WUNP.
- One building or structure located within the area measured 90 feet from the rear property line of the portion of the Property – Caswell's Building "C" – may exceed a height of 570 feet above sea level and have a finished height of up to 575 feet above sea level.

Page 2
April 4, 2007

- This modifies the 570 foot mean sea level limit set forth in the pertinent conditional overlay of the WUNP.

In connection with the height amendment, please be advised that the recently amended restrictive covenant allows only Caswell's Building "C" to exceed 570 feet. As we understand it, this zoning change would implement that change for that one structure, but the 570 foot height cap would still apply to other structures within 90 feet of the rear property line.

The foregoing modifications provided for in the Rezoning are consistent with the modification set forth in the amended restrictive covenants, and the Association evidences its support for this Rezoning by the signature below of its representative.

Thank you for your attention to this request. Please don't hesitate to contact me with any questions you might have.

Yours respectfully,

Barbara S. Bridges

Barbara S. Bridges
Coordinator,
Caswell Heights Neighborhood Association

**RECEIVED**

April 18, 2007

APR 18 2007

Mr. Jorge E. Rousselin, Sr. Planner
City of Austin Neighborhood Planning and Zoning Department
505 Barton Springs Road, One Texas Center - Suite 525
Austin, Texas 78704

VIA HAND DELIVERY
Neighborhood Planning & Zoning

RE: Rezoning Case # C14-20070013 ("Rezoning"), Caswell Lofts – Amendment Pertaining to Conditional Overlay Involving Height

Dear Mr. Rousselin:

As you know the Rezoning application filed March 9, 2007, covers the approximately 1.38-acre Caswell Lofts project (the "Property"), and modifies the pertinent conditional overlays of the applicable West University Neighborhood Plan ("WUNP") zoning ordinances as follows:

- A residential unit on the Property may not exceed 1,285 net sq. ft.
 - This modified the prior 1,200 sq. ft. limit set forth in the pertinent conditional overlay of the WUNP.
- A building or structure located within the area measured 90 feet from the rear property line of a portion of the Property may not exceed a height of 575 feet msl.
 - This modified the 570 foot msl height restriction for this area set forth in the pertinent conditional overlay of the WUNP and applied to the rear 90 foot portion of the Property (commonly known as the Neal Tract, identified as Tract #44 in Ordinance No. 04007-32), upon which "Building "C" of the Caswell Lofts project is located.

The Rezoning application reflects recent amendments to private restrictive covenants applicable to the project, using information available at the time the application was submitted. Subsequent to filing the Rezoning application, we obtained the survey on Exhibit A that delineates the Property into "Tract 1," and "Tract 2."

In order to more closely reflect the amended private restrictive covenants regarding the applicable height restrictions covering the Property, we respectfully request that the Rezoning application be amended to (i) clarify the portion of the Property where a structure is restricted to 575 msl, in order to more precisely describe only the portion of the Property where "Building C" is located (Tract 1 on Exhibit A), and (ii) require that all buildings or structures located on the remainder of the Property are restricted to 570 msl (Tract 2 on Exhibit A).

Thus the Rezoning application, as amended, would cover the Property and establish conditional overlays applicable to the Property as follows:

- Tracts 1 and 2: A residential unit may not exceed 1,285 net sq. ft.
- Tract 1: A building or structure may not exceed a height of 575 feet above sea level.
- Tract 2: A building or structure may not exceed a height of 570 feet above sea level.

SMITH, ROBERTSON, ELLIOTT, GLEN, KLEIN & BELL, L.L.P.

Mr. Jorge E. Rousselin

April 18, 2007

Page 2 of 2

Thank you for your attention to this requested amendment to the Rezoning application. Please do not hesitate to contact me with any questions you might have.

Yours respectfully,

David Hartman
David Hartman
by RWM

Enclosures

cc w/enc: Mr. Greg Guernsey
Mr. Jerry Rusthoven
Mr. Allen Cowden
Mr. Kent Collins
Christopher K. Bell, Esq., *Firm*