

RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-81-113(RCA) – SAM

Z.A.P. DATE: May 6, 2008

ADDRESS: 6700 Manchaca Road

OWNERS & APPLICANTS: Janice Godwin and George W. Godwin

EXISTING ZONING: MF-2 **PROPOSED ZONING:** LO-MU **AREA:** 1.722 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends an Amendment to terminate the Restrictive Covenant as it applies to the subject property.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

May 6, 2008: *APPROVED A TERMINATION OF THE RESTRICTIVE COVENANT AS IT APPLIES TO THE SUBJECT PROPERTY.*

[K. JACKSON; B. BAKER – 2ND] (6-0) J. MARTINEZ; R. EVANS – ABSENT

ISSUES:

The Applicant has also submitted a rezoning application from MF-2 to LO-MU (C14-2008-0036).

DEPARTMENT COMMENTS:

The subject platted lot contains one single family residence, has direct access to Manchaca Road and is zoned multifamily residence low density (MF-2). There is a townhome development to the south known as Towne Court (MF-2), single family residences within the Cherry Creek Village subdivision to the west (SF-2), an undeveloped commercially zoned property to the north (GR-MU-V-CO and GR-MU-CO). Across Manchaca Road to the east there are offices and a fire station (LO; P). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The property represents one of three tracts in an application that was approved for BB, Residence, First Height and Area zoning in March 1984 which converted to MF-2 zoning also in 1984 (C14-81-013). The Restrictive Covenant accompanying the rezoning has five components: 1) requires site plan approval from the City; 2) provision of a 15-foot wide landscape buffer along the west property line; 3) restricts the total number of residential units to an average density of 17 units per acre; 4) quitclaims a 20-foot strip known as a "20' lane" on the Cherry Creek Subdivision Phase III Section Four plat (adjacent to properties with frontage on Campden Drive); 5) restricts the first tier of buildings adjacent to SF-2 zoning to duplex density and two stories in height; and 6) restricts access for vehicular traffic from Manchaca Road to points at Barge Lane and Bissell Lane only, with exceptions during the

construction phase. Please refer to Exhibit B (Recorded Restrictive Covenant as it applies to this property).

The Applicants are seeking amendment of the Covenant to terminate its application to their property. (The subject Restrictive Covenant remains applicable to the two tracts to the south, which is the 46-unit Towne Court townhome development.) At the time the Restrictive Covenant was approved, the City did not have the site plan and compatibility requirements and that are currently in effect, or the ability to limit development standards through conditional overlays.

The Restrictive Covenant also indicates that residential development was intended as a unified development across the three tracts. The subject property plus the Towne Court development totals 3.532 acres, and the density limit of 17 units per acre establishes the total number of residences to 60. As the Towne Court development consists of 46 units, this property is now limited to 14 which is now less than other similarly situated properties on Manchaca Road.

Another provision establishes vehicular access onto Manchaca Road, opposite Barge Street and Bissel Lane. At one time, a fourth tract (zoned MF-1 to the south) was part of the zoning case and had frontage across from Bissel Lane, but was withdrawn prior to final Council approval. Furthermore, Towne Court is a unified development, but its driveway does not line up with either street. However, the subject tract's driveway will likely line up with Barge Street given the City's driveway separation standards on arterial roads, and existing driveways to the north and south. Quitclaim deeds have been recorded that address the access easement between the four tracts on Manchaca Road (including this property), and 12 lots on the east side of Campden Drive to the west (within Cherry Creek Phase III, Section Four). For these reasons, the Staff is supportive of amending the Covenant to terminate the provisions as it applies to 6700 Manchaca Road.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	MF-2	One single family residence
<i>North</i>	MF-3; GR	Apartments; Undeveloped (proposed for a vertical mixed use development); Financial services
<i>South</i>	MF-3	46 cottage homes within the Towne Court development
<i>East</i>	LO; P; GR	Offices; Fire station
<i>West</i>	MF-2; SF-2	Single family residences

AREA STUDY: N / A

TIA: Is not required

WATERSHED: Williamson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

26 – Far South Austin Community Association
 43 – Manchaca Estates Neighborhood Association
 428 – Barton Springs / Edwards Aquifer Conservation District
 461 – Cherry Creek SW Neighborhood Association 511 – Austin Neighborhoods Council
 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District
 790 – Cherry Creek Village Neighborhood Association
 786 – Home Builders Association of Greater Austin 943 – Save Our Springs Alliance
 1075 – League of Bicycling Voters 1037 – Homeless Neighborhood Association

SCHOOLS:

Cunningham Elementary School Covington Middle School Crockett High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2007-0173 – 6414 Manchaca Road	GR to GR-MU-V	To Grant GR-MU-V-CO for Tract 1 and GR-MU-CO for Tract 2	Approved GR-MU-V-CO for Tract 1 and GR-MU-CO for Tract 2 with the CO for 2,000 trips (3-6-08).
C14-00-2121 – 6708 Manchaca Road	SF-3 to MF-2	To Grant MF-1	Approved MF-1 with the CO for 2,000 trips (11-30-00).
C14-81-113 – REG Enterprises	Interim AA, First Height and Area to BB, First Height and Area	To Grant O-1, First Height and Area and BB, First Height and Area, with 17 u.p.a. limit	Approved BB, Residence, First Height and Area (03-01-84).

RELATED CASES:

The property represents one of two tracts of a case zoned BB, Residence, First Height and Area in March 1984 (C14-81-113). Details are provided in the Department Comments section of this report.

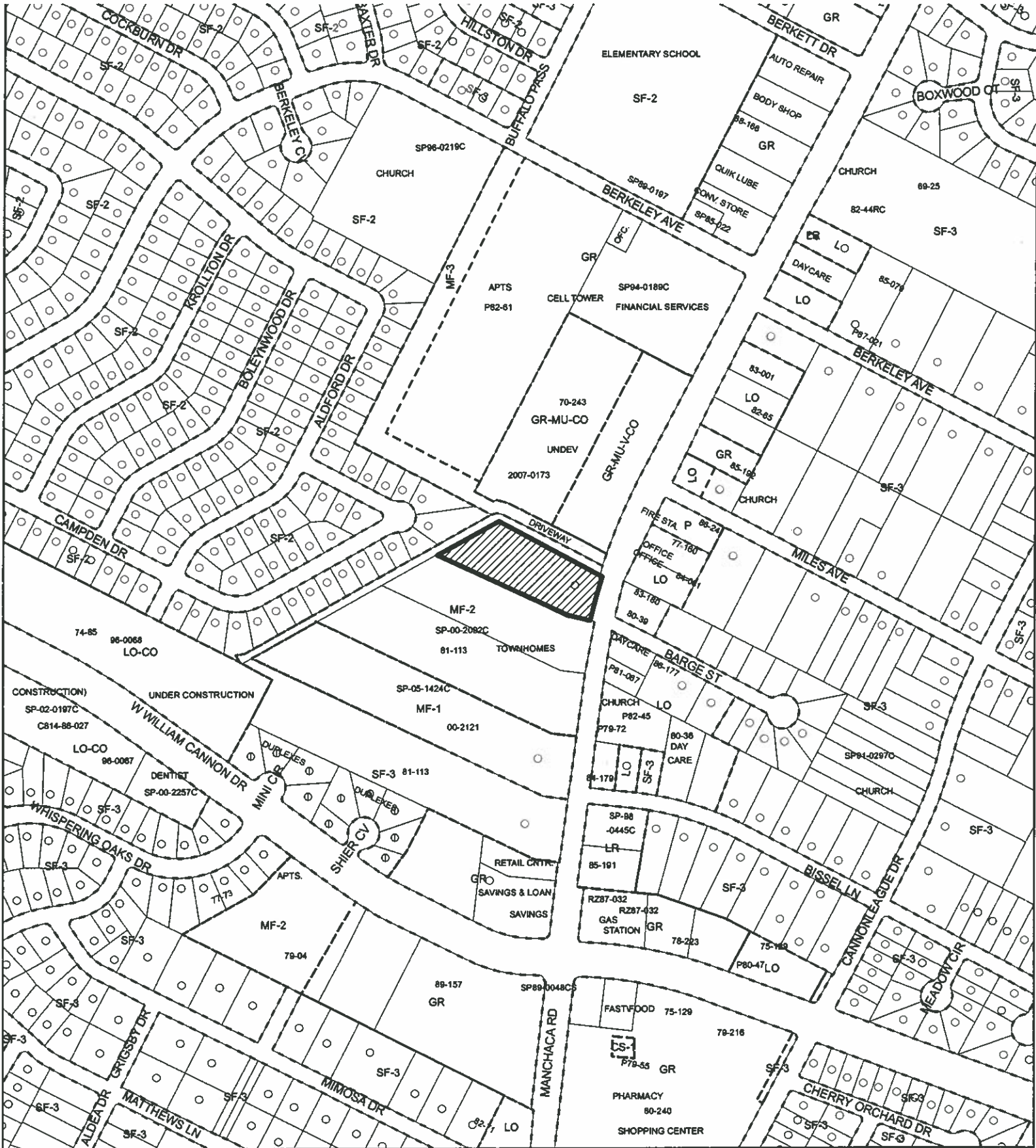
CITY COUNCIL DATE: June 19, 2008

ACTION:

ORDINANCE NUMBER:




CASE MANAGER: Wendy Rhoades
 e-mail: wendy.rhoades@ci.austin.tx.us

PHONE: 974-7719



ZONING

Exhibit A

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE

ZONING CASE#: C14-81-113(RCA)
 ADDRESS: 6700 MANCHACA RD
 SUBJECT AREA: 1.722 ACRES
 GRID: F17
 MANAGER: W. RHOADES

OPERATOR: S. MEEKS

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.



1" = 400'



RESTRICTIVE COVENANTS

STATE OF TEXAS §

COUNTY OF TRAVIS §84.25 6356 * 5.00

50c
3-62-7640

WHEREAS, Richard B. Layman, Jr., and wife, Sammie Layman,, who resides at 6704 Manchaca Road, Austin, Travis County, Texas, hereinafter called Grantor, is the owner of a certain tract or parcel of land, lying and being situated in the City of Austin, Travis County, Texas, and more particularly described as follows, to-wit:

Lot No. One (1), of the C. T. Baker Subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Vol. 6, Pg. 120, of the Plat Records of Travis County, Texas;

TOGETHER WITH

Lot No. Two (2) of the C. T. Baker Subdivision in Travis County, Texas, according to the map or plat thereof, recorded in Vol. 6, Pg. 120 of the Plat Records of Travis County, Texas.

WHEREAS, the City of Austin and Grantor, 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, Grantor for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, P. O. Box 1088, Austin, Texas 78767, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement be deemed and considered as a covenant running with the land and which shall be binding on him, his successors and assigns, as follows, to-wit:

1. Prior to the development of any portion of the above-described tract, an application for special permit, including a Site Plan, shall be filed in the office of the City Planning Department and approval of such application obtained.
2. Said Site Plan shall provide a landscape buffer running fifteen feet wide at the rear of the above-described tracts.
3. The total number of dwelling units to be constructed on the two tracts above-described shall not exceed an average density of seventeen units per acre.
4. Grantor quitclaims all his right, title or interest, if any, to a twenty foot strip between his property and the rear lot lines of the properties along Campden Drive; said twenty foot strip being the same property described as a "20' lane" on the Plat of Cherry Creek Subdivision Phase III Section Four recorded at Volume 63, Page 68 of the Plat Records of Travis County, Texas.
5. The first tier of buildings or improvements which shall be adjacent to property zoned "AA" Residential shall not exceed duplex density and shall not exceed two stories in height.
6. The above-mentioned Site Plan shall restrict access for vehicular traffic from Manchaca Road to points at Barge Lane and Bissell Lane only; except that until construction of traffic circulation facilities on the tract immediately North of the subject tracts and the property immediately south of the subject tract the Grantors may provide a temporary entrance from Manchaca Road by way of his existing entrance.
7. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement

DEED J
Travis County, Texas

8492 830

EXHIBIT B

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.

8. 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 wise affect any of the provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

9. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

10. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above-described property at the time of such modification, amendment or termination.

EXECUTED this 31st day of January, 1984.

Richard B. Layman, Jr.
RICHARD B. LAYMAN, JR., OWNER
Sammy L. Layman
SAMMY L. LAYMAN, OWNER

STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Richard B. Layman, Jr., and wife, Sammy/Layman, known to me to be the persons whose names are subscribed above, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 31st day of January, 1984.

Thomas J. O'Heara, Jr.
NOTARY PUBLIC IN AND FOR
STATE OF TEXAS
Thomas J. O'Heara, Jr.

MY COMMISSION EXPIRES:
4-20-84

NOTARY SEAL

FILED
MAR 12 4 00 PM '84
Louis H. Aguirre
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 herein by me, and was duly
RECORDED in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on

MAR 12 1984



Louis H. Aguirre
COUNTY CLERK
TRAVIS COUNTY, TEXAS

8492 831

EXHIBIT "A"

1-48-8523

3-62-8579

1.81 acres of land out of and a part of the Theodore Bissell Survey No. 18, Abstract No. 3, in Travis County, Texas, said 1.81 acre tract being more particularly described as being part of that certain 2.15 acre tract of land that was conveyed to Ralph W. Hennig by deed of record in Volume 2280, Page 471, of the Travis County, Texas Deed Records, said 1.81 acre tract being more fully described by metes and bounds as follows:

BEGINNING at a steel pin and fence corner on the West line of F. M. Highway No. 2304 (Marchaca Road), said fence corner being in the North line of the above said 2.15 acre tract and being also the Northwest corner of that certain 0.12 of an acre tract that was conveyed to the County of Travis, State of Texas, by deed of record in Volume 2575, Page 47, of the Travis County, Texas Deed Records, said point being the Northeast corner of the 1.81 acre tract herein described;

THENCE with the curving West line of said F. M. Highway No. 2304, with a $3^{\circ} - 00'$ curve to the left a sub-chord which bears $S 17^{\circ} - 33' W$ 143.6 feet to a steel pin and fence corner in the South line of the above said 2.15 acre tract for the Southeast corner of this 1.81 acre tract;

THENCE with the fence along the South line of said 2.15 acre tract the following two (2) courses;

1. $N 82^{\circ} - 43' W$ 77.0 feet to a fence corner;
2. $N 62^{\circ} - 15' W$ 456.6 feet to a concrete monument found at the Southwest corner of said 2.15 acre tract for the Southwest corner of this 1.81 acre tract;

THENCE with the West line of said 2.15 acre tract $N 62^{\circ} - 36' E$ 222.14 feet to a steel pin found for a corner;

THENCE with the North line of said 2.15 acre tract $S 60^{\circ} - 07' E$ 376.6 feet to the place of beginning, containing 1.81 acres of land.

STATE OF TEXAS

COUNTY OF TRAVIS

I hereby certify that this instrument was FILED in the date and at the time, place and to the effect hereon by me; and was duly RECORDED, in the Volume and Page or the same RECORDS of Travis County, Texas, as indicated herein by me, do

MAR 25 1977



David H. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED

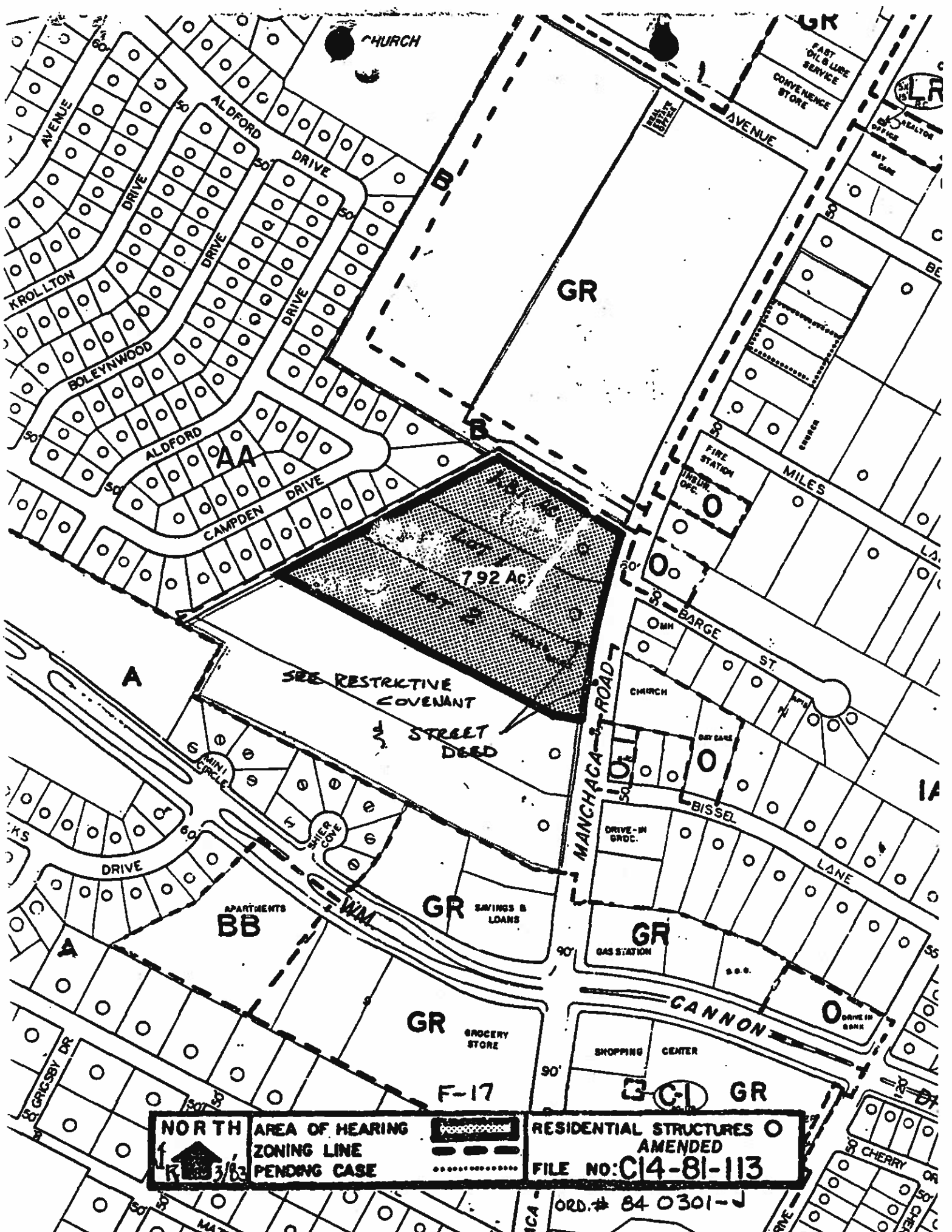
MAR 25 10 31 AM 1977

David H. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

RECORDERS MEMORANDUM
ALL OR PARTS OF THE TEXT ON THIS PAGE WAS NOT
CLEARLY LEGIBLE FOR SATISFACTORY RECORDATION

8493 769

5743 1529



NORTH  **AREA OF HEARING**
ZONING LINE
PENDING CASE 
RESIDENTIAL STRUCTURES 
AMENDED
FILE NO: C14-81-113

ORD. # 84 0301-J



**ZONING & PLATTING COMMISSION
MINUTES**

**REGULAR MEETING
MAY 6, 2008**

The Zoning & Platting Commission convened in a regular meeting on May 6, 2008 @ 301 W. 6th Street in Austin, Texas.

Chair Betty Baker called the Board Meeting to order at 6:15 p.m.

Board Members in Attendance:

Betty Baker – Chair

Jay Gohil

Clarke Hammond

Keith Jackson

Teresa Rabago

James Shieh

1. CITIZEN COMMUNICATION: GENERAL

Ella Beatty, Cypress Ridge Association – Ms. Beatty discussed issues regarding wastewater and access issues relative to SP-05-0033.0A

Jennifer Gale – Ms. Gale discussed concerns with building heights and the need for more trees and recycling. Ms. Gale further commented upon the need of a no-kill pet facility, bike avenues and house preservation.

2. APPROVAL OF MINUTES

The minutes for the regular meeting of April 15, 2008 were approved on the Consent Agenda by Commissioner Clarke Hammond's motion, Commissioner Jay Gohil second the motion on a 6-0 vote. Commissioners Roxanne Evans and Joseph Martinez were absent.

3. PUBLIC HEARINGS

APPEAL: SP-2007-0515C - Slaughter Lane Retail Center

a.

Location: 729 W. Slaughter Lane, Onion Creek Watershed
 Owner/Applicant: 729 East Slaughter Lane LTD. (Najib F. Wehbe)
 Agent: Professional Strucivil Engineers, Inc. (Mirza Baig)
 Request: Appeal of an administrative extension of update deadline. [LDC 25-1-88]
 Staff: Nikki Hoelter, 974-2863, nikki.hoelter@ci.austin.tx.us
 Watershed Protection and Development Review

The request for Appeal of an administrative extension was denied by Commisisoner Keith Jackson's motion, Commissioner Jay Gohil second the motion on a 6-0 vote. Commissioners Roxanne Evans and Joseph Martinez were absent.

b. Zoning: C14-2008-0069 - IABA Phase -1

Location: 12460 Los Indios Trail, Rattan Creek Watershed
 Owner/Applicant: Jabir Yusufali
 Agent: Syed Riaz Jafri
 Request: I-RR to MF3
 Staff Rec.: **Recommendation Pending**
 Staff: Sherri Sirwaitis, 974-3057, sherri.sirwaitis@ci.austin.tx.us
 Neighborhood Planning & Zoning

Pulled with no action required by the Commission; this case will be re-noticed for the May 20, 2008 hearing.

c. Rezoning: C14-2008-0036 - SAM

Location: 6700 Manchaca Road, Williamson Creek Watershed
 Owner/Applicant: Janice Godwin and George W. Godwin
 Request: MF-2 to LO-MU
 Staff Rec.: **Recommended; Postponement request by the Staff to 5-6-08.**
 Staff: Wendy Rhoades, 974-7719, wendy.rhoades@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

Approved LO-MU-CO district zoning with the CO of:

- 20 foot wide vegetative buffer along the west property line;
- Maximum of 14 residential units;
- prohibit the following uses: convalescent services, day care (limited), day care (general), day care (commercial) and medical offices.

[K.Jackson, T.Rabago 2nd] (6-0) R.Evans and J.Martinez – absent

SUMMARY

Wendy Walsh, staff, gave staff presentation to the full Zoning & Platting Commission regarding this case, 3c and case item 3d.

Commissioner Hammond – Do you have any idea what their plan is for this property?

Mrs. Rhoades – They would like to do office and multi-family.

Commissioner Shieh – How wide is the strip that was quit claimed?

Mrs. Rhoades – 20' wide; it is part of the lot that fronts Hampton Drive; the only access to this property would be through Manchaca Road.

Commissioner Jackson – One of the restrictive covenants was for there to be a 20' landscape area?

Mrs. Rhoades – That's right.

Commissioner Jackson – Was that envisioned to be that quit claimed area?

Mrs. Rhoades – No, it was to be on this particular property; even if we terminated it, it could be added as a conditional overlay.

Commissioner Jackson – I was going to ask why staff was agreeing to terminating that particular restrictive covenant.

Mrs. Rhoades – We're supporting terminating any conditions in this covenant regarding access; density and buffers can be in a conditional overlay.

Commissioner Baker – So we're not increasing the density?

Mrs. Rhoades – Yes

Commissioner Rabago – What is the height of this whole development?

Mrs. Rhoades – Under the LO they are limited to 40-feet.

Commissioner Shieh – Is that the same for the MF-2?

Mrs. Rhoades – MF-2 is also 40-feet.

Will and Janice Godwin, owners – Clarified that they did not have certain plans for this property, they are only asking for a change of zoning at this time. Most of the concerns that the neighbors have are on the property to the north of us, not our property. There's a lot of confusion regarding our zoning change request.

Commissioner Baker – So basically you're zoning your property so you can develop it or convey it?

Mr. Godwin – Probably develop it.

Mrs. Godwin – This is our house, we live in it and there everyday so whatever we decide to do we'll be affected by it.

Commissioner Rabago – Have you had any communication with the neighbors?

Mr. Godwin – I've tried to communicate with my back door neighbor; however, it the property to the north of us that has the most concern.

Commissioner Rabago – It might be helpful if you picked up the phone or met with those people; you need to communicate with your neighbors and I recommend you do that.

Speakers in Favor

No Speakers.

Speakers in Opposition

David Gonzales, representing the West Side of the neighborhood, Cherry Creek Village Neighborhood Association – I am not here representing the whole association, I am here representing myself; this zoning change request is right at my backyard.

Commissioner Rabago – So you're here speaking only for yourself?

Mr. Gonzales – On my behalf and for my neighbors who could not be here tonight; it's my parents and they can not be here tonight. We've lived there over 10-years and it has been MF-2 and low density for a long time, we are very happy about that and we would like for it to stay that way. Mr. Gonzales expressed concerns regarding decreasing the setbacks, removing buffers, water retention, increasing impervious cover, and density.

Rebuttal

Mr. Godwin – We do not have a plan, our intention was to have office and residential; I don't think it's possible for us to have retail or commercial. I don't have the information that people want because I do not know what I am going to do with this property. I do need to get out there and alleviate some fears that the neighbors have regarding my request.

Commissioner Baker – How long have you owned this property?

Mr. Godwin – 5 ½ years

Commissioner Baker – I'm going to make a suggestion, there are many LO uses that you may not want, look at the list and take out the ones you will NOT do.

Commissioner Hammond – Are you trying to get more density here with the LO request?

Mr. Godwin – No, it's the combination of office and residential.

Commissioner Rabago moved to close the public hearing, second by Commissioner Gohil.

Motion

Commissioner Jackson made the motion to approve LO-MU-CO district zoning with the CO of a 20-foot wide vegetative buffer along the west property line; a maximum of 14 residential units; prohibit the following uses; convalescent services, day care (limited), day care (general), day care (commercial) and medical offices.

Commissioner Rabago seconded the motion.

Motion carried on a vote of 6-0. Commissioner Roxanne Evans and Commissioner Joseph Martinez were absent.

d. Restrictive Covenant Amendment: C14-81-113 (RCA) - SAM

Location: 6700 Manchaca Road, Williamson Creek Watershed
Owner/Applicant: Janice Godwin and George W. Godwin
Request: To amend the Restrictive Covenant that addresses provisions related to site plans, density, height, buffers, and access, as it applies to this property.
Staff Rec.: **Recommended.**
Staff: Wendy Rhoades, 974-7719, wendy.rhoades@ci.austin.tx.us
 Neighborhood Planning and Zoning Department

Commissioner Keith Jackson made the motion to approve an amendment to terminate the restrictive covenant as it applies to the subject property, as staff recommended.

Commissioner Betty Baker seconded the motion.

Motion carried on 6-0 vote, with Commissioner Roxanne Evans and Commissioner Joseph Martinez absent.

See above case (3c) for summary.

e. Site Plan - Hill Country Roadway: SPC-2007-0561C - River Place Center

Location: 10815 RM 2222, Bull Creek/Lake Austin Watershed
Owner/Applicant: Aspen Growth Properties (Jim Gallegos)
Agent: Jones-Carter Inc. (Jim Schissler)
Request: Approval of a Hill Country Roadway site plan
Staff Rec.: **Recommended**
Staff: Sue Welch, 974-3294, sue.welch@ci.austin.tx.us
 Watershed Protection & Development Review

Motion to approve staff's recommendation on the Consent Agenda was approved by Commissioner Clarke Hammond's motion, Commissioner Jay Gohil seconded the motion. Motion carried on a 6-0 vote, with Commissioner Roxanne Evans and Commissioner Joseph Martinez absent.