

## **RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET**

**CASE:** C14-84-457 (RCA) – Chrysler Auto  
Dealership

**Z.A.P. DATE:** April 7, 2009  
April 21, 2009

**ADDRESS:** 6905 South IH 35 Service Road Northbound

**OWNER:** Chrysler Realty Company, L.L.C.  
(Mark Nagel)

**AGENT:** Alice Glasco Consulting  
(Alice Glasco)

**EXISTING ZONING:** GR

**AREA:** 6.901 acres

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends an Amendment of the Restrictive Covenant.

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

April 7, 2009: *POSTPONED TO 4-21-2009 WITH DIRECTION TO STAFF TO RESEARCH PROHIBITING PAWN SHOP SERVICES THROUGH AN AMENDMENT TO THE RESTRICTIVE COVENANT OR A NEW REZONING CASE THAT IS INITIATED BY THE CITY STAFF (PUBLIC HEARING REMAINS OPEN).*

*[K. JACKSON; D. TIEMANN – 2ND] (7-0)*

April 21, 2009: *TO APPROVE STAFF RECOMMENDATION TO TERMINATE THE RESTRICTIVE COVENANT AS IT APPLIES TO THIS PROPERTY, BUT RETAIN A RESTRICTION THAT PROHIBITS PAWN SHOP SERVICES AND RESIDENTIAL TREATMENT.*

*[D. TIEMANN; C. HAMMOND – 2ND] (4-0) B. BAKER – ILL; K. JACKSON, T. RABAGO – ABSENT*

### **ISSUES:**

The Applicant is in agreement with the recommendation of the Zoning and Platting Commission.

Zoning staff and Law Department staff have discussed the ZAP Commission's direction to Staff and have concluded that the way to accomplish the prohibition of pawn shop services under the existing RCA case would be to prepare a "partial release of Restrictive Covenant and restriction" document that would release Chrysler from the provisions of the 1986 covenant, and allow for all GR uses except for pawn shop services. Please refer to the attached *draft* document provided as Attachment B.

A representative for the adjacent property owner to the south (Austin Lone Star RV Resort) has submitted a letter suggesting additional land uses to be prohibited on the Property,

including bail bond services, drop-off recycling collection facility and residential treatment. Please refer to correspondence attached at the back of the Staff report.

### **DEPARTMENT COMMENTS:**

The Restrictive Covenant Amendment area covers Lot 2 of The Sidney Subdivision which contains a vacant automotive sales business and is zoned community commercial (GR) district by a 1974 case. Please refer to Exhibits A (Zoning Map), A-1 (Aerial View) and B (Recorded Plat).

With the 1986 zoning of the adjacent MF-1 zoned property to the east (2.007 acres in size), a Restrictive Covenant was established that applied to all three lots (18.120 acres) within the Sidney Subdivision, including the GR zoned property described above. Please refer to Exhibit C. The Restrictive Covenant limited all three lots to automotive sales dealerships and specified the types of business activities allowed that also included automotive leasing, rentals, financing, insurance and brokering, as well as other customary and incidental activities. A copy of the recorded Restrictive Covenant is provided as Attachment A.

A Restrictive Covenant Amendment request has been filed to delete the covenant as it applies to Lot 2, and would enable the property to have all of the conditional and permitted uses of GR zoning. Staff supports the Amendment request given its location on the northbound frontage lane of IH 35, the property is adjacent to commercial uses on its north, east and south sides, and it will provide for redevelopment of the property to occur.

### **EXISTING ZONING AND LAND USES:**

|              | <b>ZONING</b> | <b>LAND USES</b>  |
|--------------|---------------|---|
| <i>Site</i>  | GR            | Vacant automotive sales business                                |
| <i>North</i> | GR            | Vacant automotive sales business; Commercial                    |
| <i>South</i> | SF-3          | KOA campground  |
| <i>East</i>  | MF-1; SF-3    | Storage area for the KOA campground;<br>Telecommunication tower |
| <i>West</i>  | N/A           | Northbound frontage road of IH 35                               |

**AREA STUDY:** N / A

**TIA:** Is not required

**WATERSHED:** South Boggy Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

### **NEIGHBORHOOD ORGANIZATIONS:**

26 – Far South Austin Community Association  
 96 – Southeast Corner Alliance of Neighborhoods  
 300 – Terrell Lane Interceptor Association  
 428 – Barton Springs / Edwards Aquifer Conservation District

511 – Austin Neighborhoods Council      627 – Onion Creek Homeowners Association  
 646 – Circle S. Ridge Neighborhood Association  
 742 – Austin Independent School District  
 786 – Home Builders Association of Greater Austin  
 1037 – Homeless Neighborhood Organization      1075 – League of Bicycling Voters  
 1113 – Austin Parks Foundation      1164 – Austin Southwest Association  
 1168 – E-mail Notification Test Group      1180 – Savorey Lane Association

**SCHOOLS:**

Langford Elementary School      Mendez Middle School      Akins High School

**CASE HISTORIES:**

| NUMBER   | REQUEST                  | COMMISSION     | CITY COUNCIL  |
|--|--------------------------|----------------|---|
| C14-2008-0123 –<br>Bennett Tract –<br>7309 ½ South IH<br>35 Service Road<br>Northbound | I-RR; GR to MF-<br>3; CS | Pending        | Pending   |
| C14-93-0086 –<br>Leon's South –<br>7111 South IH 35<br>Service Road<br>Southbound      | SF-2 to LI               | To Grant CS-CO | Approved CS-CO with<br>CO limiting general<br>retail sales (general) to<br>20,000 s.f. and<br>prohibiting financial<br>services, food sales,<br>restaurants, and<br>service station (09-02-<br>93). |

**RELATED CASES:**

The subject property was approved for GR zoning on August 8, 1974 (C14-74-060). The adjacent property to the east was zoned MF-1 on October 23, 1986 (C14-84-457). The Restrictive Covenant attached to the MF-1 zoning ordinance establishes that the subject property as well as the two other lots that comprise The Sidney Subdivision are to be used exclusively for an automotive sales dealership and specifies the business activities allowed at the dealership.

The property is platted as Lot 2 of The Sidney Subdivision, recorded in November 1986 (C8-86-066.1). Please refer to Exhibit B.

**CITY COUNCIL DATE:** April 30, 2009

**ACTION:**

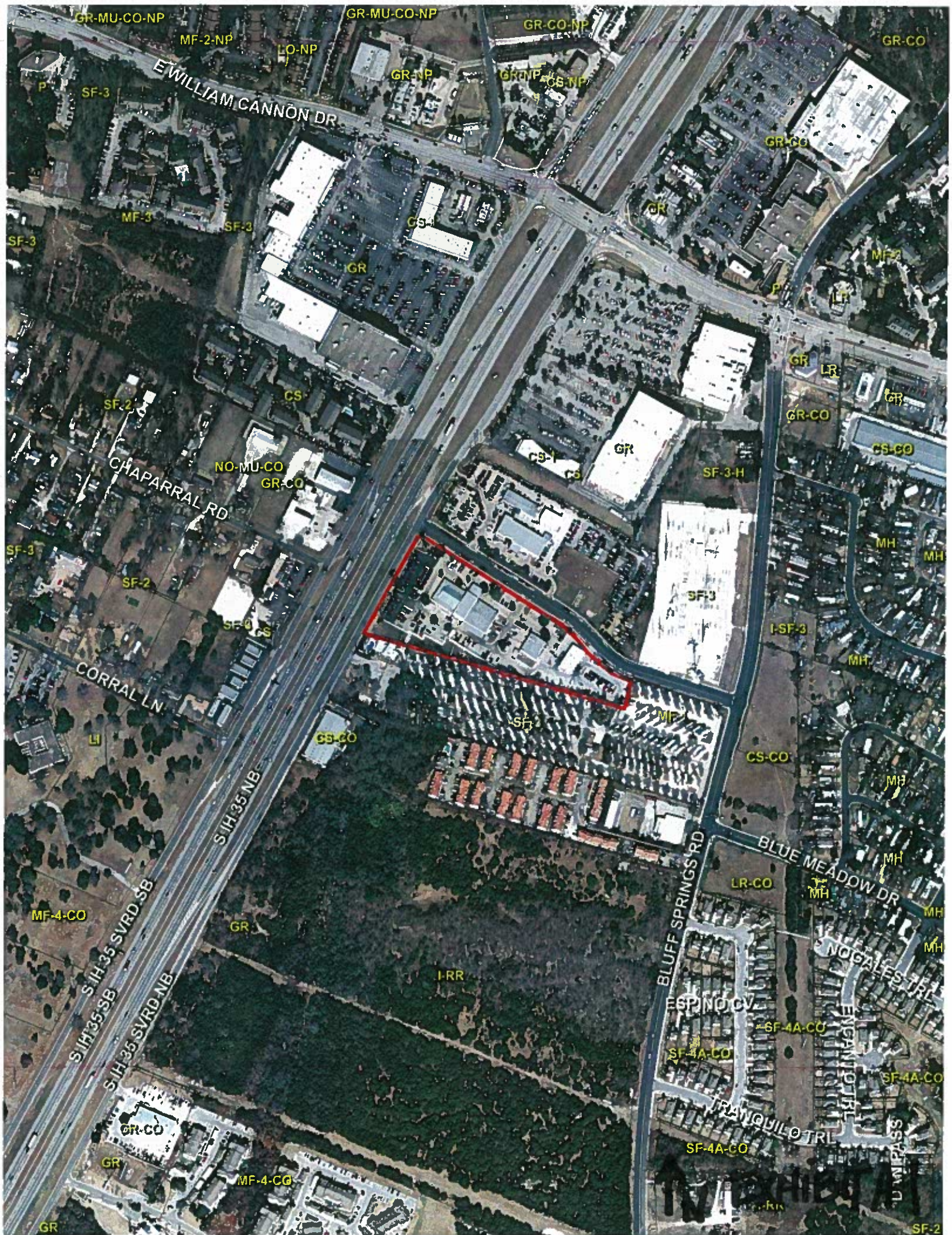
**ORDINANCE NUMBER:**

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

**PHONE:** 974-7719

1" = 400'





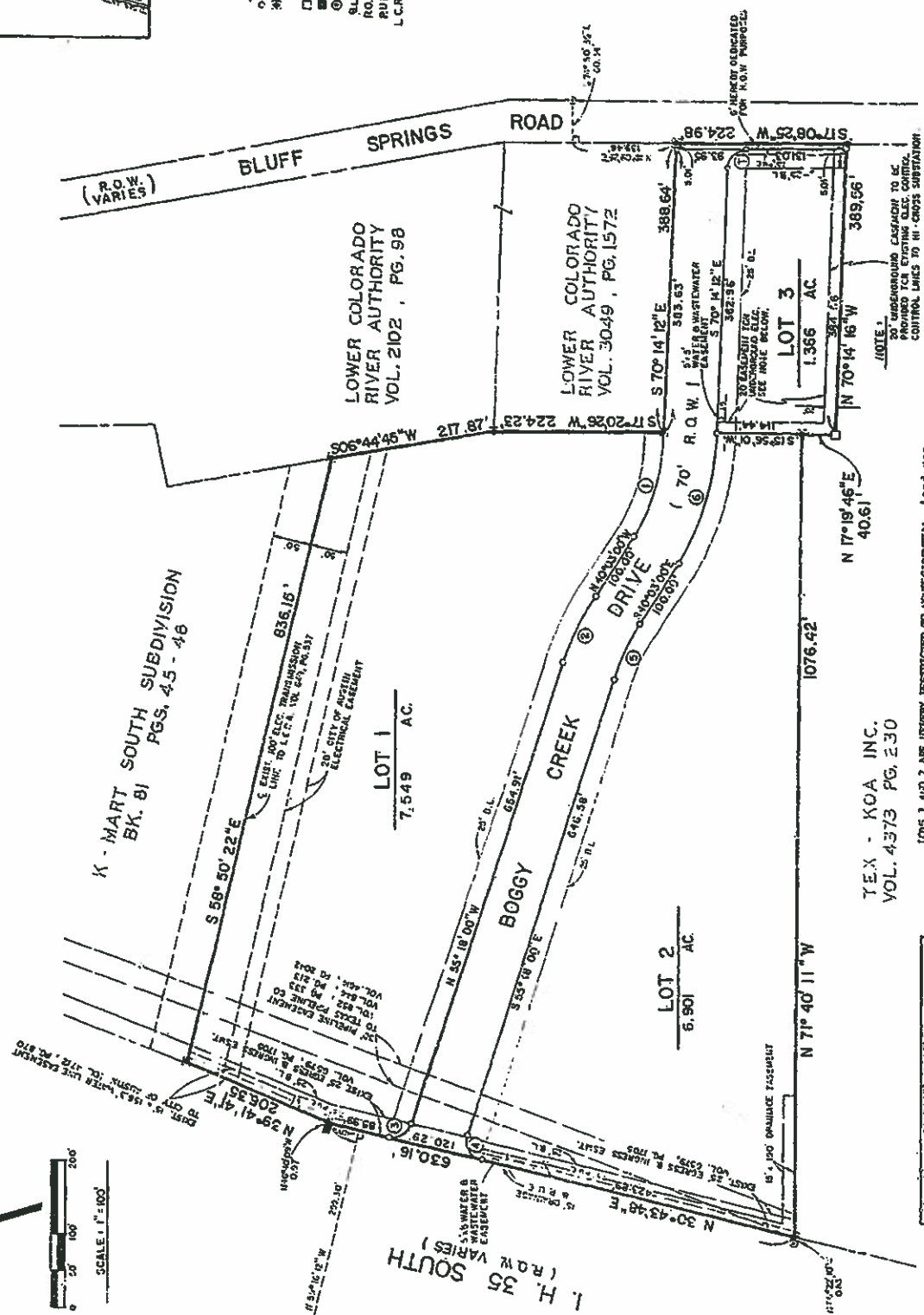


18.120 Acres

**VICINITY MAP**  
U. I. 3.

## LEGEND

- ☐ IRON ROD SET  
☒ CONCRETE MONUMENT SET  
 AROUND IRON ROD FOUND  
☐ CONCRETE MONUMENT SET  
☒ CONCRETE MONUMENT FOUND  
☒ IRON PIPE FOUND  
☐ BUILDING LINE  
 RIGHT OF WAY  
 PUBLIC UTILITY EASEMENT  
 LOWER COLORADO RIVER  
 AUTHORITY  
 L.C.R.A.



TEX - KOA INC.  
VOL. 4573 PG. 230

ONIS 1 AND 2 ARE HEREBY RESTRICTED TO PRESIDENTIAL AND VICE

This plat shall comply with the terms and requirements of Division 6, Article II, Chapter 13-15 of the Austin City Code of 1981 as amended. Land in this subdivision is restricted to the irrevocable cover limitations of Division 6.

Sedimentation/filtration basins shall be required to serve all commercial and multifamily development with impervious cover in excess of 20 percent of the net site area. Filtration requirements for Boggy Creek Drive will be provided within the adjacent lots.

**PREPARED BY :**

**Curry & Pittman, Inc.**  
Consulting Engineers - Surveyors

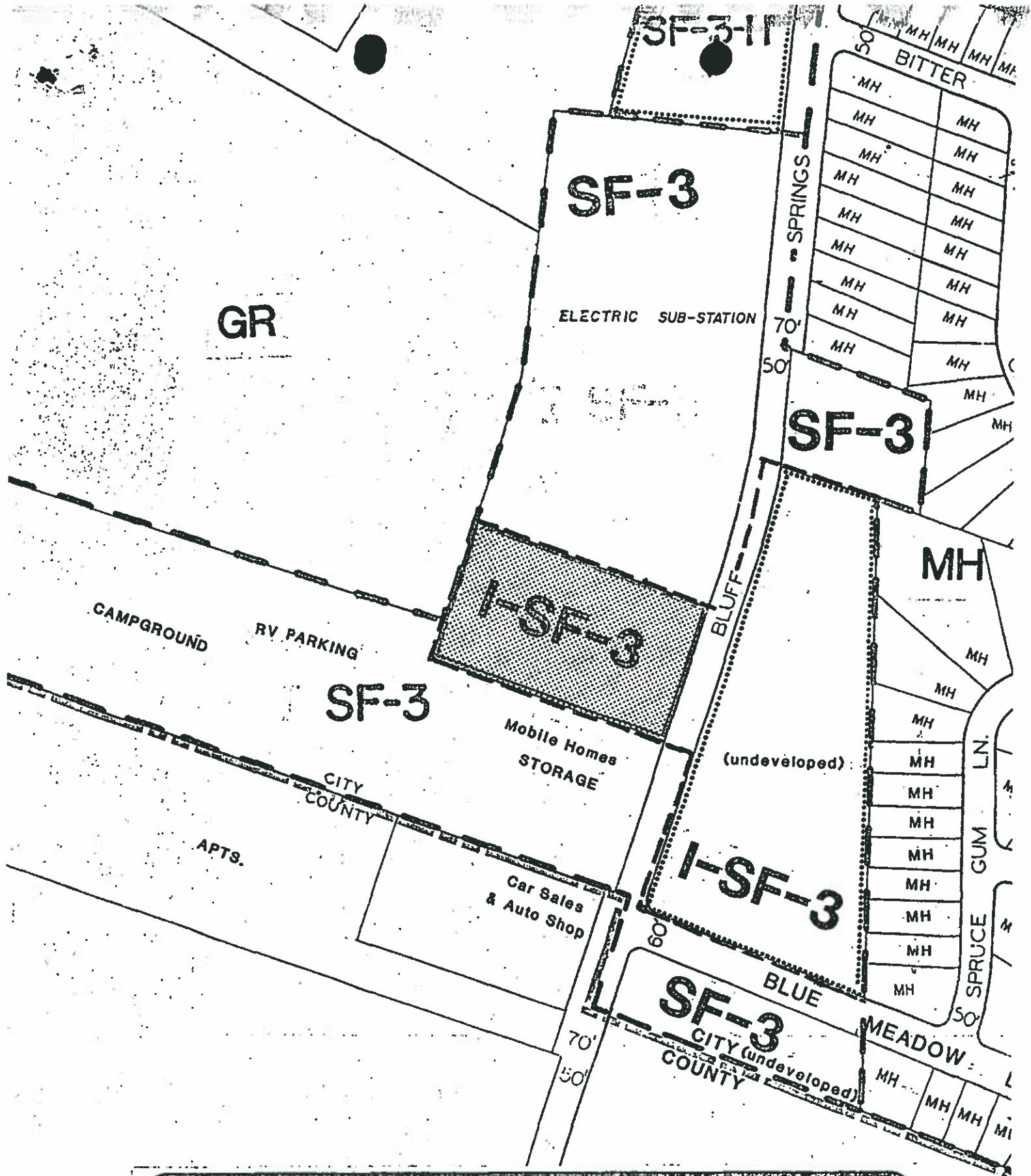
0010 011 00

1998-87

[illegible]

EXHIBIT B  
RECORDED RAT

**SHEET**  
**1 OF 2**



|  |       |  |                            |      |
|--|-------|--|----------------------------|------|
|  | NORTH | PENDING CASE .....                             | SUBJECT TRACT.....         | GRID |
|  |       | ZONING LINE - - - - -                          | SUBJECT ACREAGE 2.0008 Ac. | H    |
|  |       | CYCLE 2/25<br>5/36<br>INTLS <i>RS</i><br>(1SR) | CASE NO: <b>C14-84-457</b> | 15   |

**EXHIBIT C**

4 1 678 13<sup>th</sup>

RESTRICTIVE COVENANT

CM-94-457

STATE OF TEXAS §  
COUNTY OF TRAVIS §

WHEREAS, TAPP DEVELOPMENT CO., LTD. of Oklahoma City, Oklahoma, is the owner of the following described property (hereinafter referred to as "Property"):

APPROXIMATELY 16.113 ACRES OUT OF THE SANTIAGO DEL VALLE GRANT, ABSTRACT NO. 24 IN TRAVIS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES.

WHEREAS, the City of Austin and TAPP DEVELOPMENT CO., LTD. have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing:

NOW, THEREFORE, TAPP DEVELOPMENT CO., LTD., for and in consideration of ONE AID NO/100 DOLLARS (\$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 the Property, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on TAPP DEVELOPMENT CO., Ltd., its successors and assigns as follows:

1. The Property, more particularly described in Exhibit "A" shall be used exclusively as the site of one or more Automotive Sales Dealerships as defined in Section 1635 of Chapter 13-2a as amended of the Austin City Code.

2. The business activities of the Automotive Sales Dealerships may include, but may not be limited to the following:

- a. New and Used Automotive Sales
- b. New and Used Automotive Sales Leasing
- c. Daily New and Used Automotive Sales Rental
- d. New and Used Automotive Sales Financing
- e. Issuance of New and Used Automotive Sales Insurance including Life, Accident and Health, Comprehensive and Liability
- f. New and Used Automotive Sales Brokerage

REAL PROPERTY RECORDS  
Travis County, Texas

09965 0636

ATTACHMENT A  
RECORDED RESTRICTIVE  
COVENANT



g. Those other activities usually and customarily conducted incident to the operation of a Automotive Sales Dealership

3. Any Automotive Sales Dealership on the Property may contain an automotive sales service and parts department providing the following non-exclusive services; (a) installation of all options offered in regard to the automotive sales, (b) necessary repair and replacement of automotive sales, (c) safety inspections, (d) automotive sales body work, (e) painting, (f) reconditioning, (g) wrecker servicing and maintenance and (h) retail and wholesale sales of automotive sales parts.

4. 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.

5. 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 nowise affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full force and effect.

6. 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.

7. 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.

8. All references to the effective date of this Agreement or similar reference shall be deemed to refer to the date in point of time in which all the parties have executed this Agreement.

EXECUTED, this the 22<sup>nd</sup> day of October, 1986.

TAPP DEVELOPMENT CO., LTD.

By: [Signature]  
F. Barry Tapp  
Managing General Partner

OKLAHOMA  
STATE OF ~~TEXAS~~ §  
COUNTY OF ~~TRAVIS~~ §  
OKLAHOMA §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared F. Barry Tapp, Managing General Partner of TAPP DEVELOPMENT CO., LTD., an Oklahoma limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed on behalf of said ~~corporation~~ limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 22<sup>nd</sup> day of October, 1986.

NOTARY SEAL

[Signature]  
Notary Public in and for the  
State of ~~Texas~~ Oklahoma  
Benice Lane  
Name Printed  
My Commission Expires: 9-8-90

EKA02/07/mp

09965 0638

16.113 Acres

DESCRIPTION

DESCRIPTION OF 16.113 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED AS A 16.132 ACRE TRACT OF LAND IN A DEED TO BVT AUSTIN LAND, LTD., A TENNESSEE LIMITED PARTNERSHIP OF RECORD IN VOLUME 8151, PAGE 931, DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAME ALSO BEING THAT CERTAIN TRACT OF LAND DESCRIBED AS TRACT I IN A DEED TO TAPP DEVELOPMENT CO., LTD., AN OKLAHOMA LIMITED PARTNERSHIP, OF RECORD IN VOLUME 8884, PAGE 36, DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 16.113 ACRES OF LAND SURVEYED BY MCGRAY & MCGRAY LAND SURVEYORS, INC. AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod found at the southwest corner of this tract and of said Tapp Development tract, same being in the east line of I.H. 35 according to a Texas State Highway Department Right-of-Way Map of U.S. Highway No. 81 (Interstate) from south city limits of Austin to intersection U.S. Highway No. 81, dated 9-29-54, which calls for the right-of-way markers to be one foot (1.00) inside of the right-of-way line of I.H. 35, from which a 1/2 inch iron rod found at the southwest corner of said BVT tract, same being the northwest corner of that certain tract of land described in a deed to Tex-Koa, of record in Volume 4373, Page 230, Deed Records of Travis County, Texas, bears N71°26'56"W 1.02 feet;

THENCE, with the west line of this tract and of said Tapp Development tract, same being the east line of I.H. 35, according to said map, same also being one (1.00) foot east of and parallel with the west line of said BVT tract, N30°55'00"E 450.36 feet to a 1/2 inch iron rod found, from which a 1/2 inch iron pipe found in the west line of said BVT tract bears N69°36'21"W 1.02 feet;

THENCE, with the west line of this tract and of said Tapp Development tract, same being the east line of I.H. 35, according to said map, same being one (1.00) foot east of and parallel with the west line of said BVT tract, N30°55'52"E 179.86 feet to a 1/2 inch iron rod found, from which a concrete monument found one (1.00) foot west of the east line of I.H. 35 bears N54°06'31"W 1.00 foot;

THENCE, continuing with the west line of this tract, same being the east line of I.H. 35, according to said map, same being one (1.00) foot east of and parallel with the west line of said BVT tract, N39°54'22"E 206.24 feet to a 1/2 inch iron rod set at the northwest corner of this tract and of said Tapp Development tract, same also being in the center of an L.C.R.A. Electric Transmission Line and in the center of a 100 foot Electric Transmission Line Easement to L.C.R.A., of record in Volume 649, Page 537, Deed Records of Travis County, Texas, from which a 1/2 inch iron rod at the northwest corner of said BVT tract, same being the southwest corner of Lot 3, of K-Mart South,



a subdivision of record in Book 81, Page 45, Plat Records of Travis County, Texas, bears N58°37'38"W 1.01 feet;

THENCE, with the south line of said Lot 3, same being the center of said Electric Line and Electric Easement, and with the north line of this tract, of said Tapp Development tract and of said BVT tract, S58°37'38"E 836.22 feet to a 1/2 inch iron rod found at the northeast corner of this tract, of said Tapp Development tract and of said BVT tract, same being the southeast corner of said Lot 3, same also being in the west line of that certain tract of land described in a deed to L.C.R.A., of record in Volume 2102, Page 98, Deed Records of Travis County, Texas;

THENCE, with the east line of this tract, of said Tapp Development tract and of said BVT tract, same being the west line of said L.C.R.A. tract, S06°57'48"W 217.94 feet to a 3/4 inch iron rod found at the southwest corner of said L.C.R.A. tract and the northwest corner of that certain tract of land described in a deed to L.C.R.A. of record in Volume 3049, Page 1572, Deed Records of Travis County, Texas;

THENCE, with the average of a barb wire fence, and with the east line of this tract, of said Tapp Development tract, and of said BVT tract, same being the west line of the second L.C.R.A. tract described above, S17°34'15"W at 224.30 feet pass an iron pin set at the northwest corner of that certain tract of land described in a deed to Jean Holloway, of record in Volume 7376, Page 193, Deed Records of Travis County, Texas, same also being the northwest corner of that certain 2.008 acre tract of land described in said deed to BVT Austin Land, Ltd., of record in Volume 8151, Page 931, Deed Records of Travis County, Texas, said 2.008 acre tract of land also described as Tract 2 in said deed to Tapp Development Inc., of record in Volume 8884, Page 36, Deed Records of Travis County, Texas, and continuing with the east line of this tract and of said BVT tract, and the west line of said 2.008 acre tract, in all a total distance of 408.66 feet to an 1/2 inch iron pipe found at the southeast corner of this tract, of said Tapp Development tract, and of said BVT tract, same being the most northerly northeast corner of said Tex-Koa tract, from which point the southwest corner of said 2.008 acre tract bears S17°21'27"W 40.61 feet;

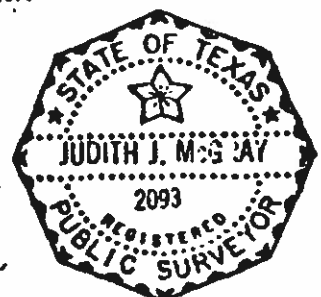
THENCE, with the average of a barb wire fence, and with the south line of this tract, of said Tapp Development tract, and of said BVT tract, same being the north line of said Tex-Koa tract, N71°26'56"W 1076.25 feet to the POINT OF BEGINNING and containing 16.113 acres of land within these metes and bounds.

The above described tract is intended to be all of said BVT 16.132 acre tract lying east of and adjoining the east right-of-way line of I.H. 35.

WITNESSED BY:  
SURVEYED BY: McGRAY & McGRAY LAND SURVEYORS, INC.  
3309 Hancock Drive  
Austin, Texas 78731 451-8591

*Judith J. McGray* 5-10-83 7-24-84 OCT 84  
Judith J. McGray, Reg. Public Surveyor No. 2093 Date  
09966 0648 REUSEP 1-14-86

860018



FILED

Nov 10 3 13 PM '86

*Doris Angolera*  
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.

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 on

NOV 10 1986



*Doris Angolera*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

PLEASE RETURN TO:

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

09965 0644

**AMENDMENT OF RESTRICTIVE COVENANT**  
**FOR**  
**ZONING CASE NO. C14-84-457**

Owner: Chrysler Realty Company LLC, a Delaware limited liability company, successor by conversion to Chrysler Realty Corporation, a Delaware corporation

Address: 1000 Chrysler Drive, CIMS 485-04-25, Auburn Hills, MI 48326-2766

City: The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.

City Council: The City Council of the City of Austin

Consideration: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, TAPP Development Co. Ltd., a prior owner of approximately 16.113 acres of real property located along the access road of South IH 35 ("Restricted Parcel"), imposed certain restrictions and covenants on that real property for the City's approval of Zoning File No. C14-84-457, by that Restrictive Covenant recorded in the real Property Records of Travis County, Texas in Volume 9965, Page 636 (the "Restrictive Covenant").

WHEREAS, the Restrictive Covenant provides that the Restricted Parcel may only be used for Automotive Sales Dealerships and further provides that the Restrictive Covenant may only be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the property at the time of such modification, amendment or termination.

WHEREAS, subsequent to the Restrictive Covenant being placed on the Restricted Parcel, the Restricted parcel was subdivided and a portion of the Restricted Parcel consisting of approximately 6.901 acres, more particularly identified as Lot 2, The Sidney Subdivision, a Subdivision of Record in Book 87, Page 36B-36C of the Plat Records of Travis County, Texas ("Lot 2"), was conveyed to Owner.

WHEREAS, the Owner, being the current owner of Lot 2, desires to amend the Restrictive Covenant as to Lot 2 to remove the restriction that Lot 2 only be used for Automotive Sales Dealerships but retain a restriction that Lot 2 not be used for Pawn Shop Services or Residential Treatment.

WHEREAS, the City Council and the Owner agree the Restrictive Covenant should be amended by this amendment ("Amendment").

*ATTACHMENT B*



NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreement hereinafter set forth, the City of Austin and the Current Owner agree as follows:

1. The City hereby releases Lot 2 from the restrictions in Paragraphs 1, 2, and 3 of the Restrictive Covenant that limit the use of Lot 2 to Automotive Sales Dealerships, thereby allowing all legal uses on Lot 2 within the applicable zoned uses, with the exception of Pawn Shop Services and Residential Treatment.
2. The Owner declares that Lot 2 is subject to and impressed with the following restrictive covenants running with land and binding the current Owner, its heirs, successors, and assigns:
  - a. Lot 2 shall not be used for Pawn Shop Services. The term "Pawn Shop Services" use means that term as defined by the City of Austin's City Code governing zoning uses, as that term may be redefined from time to time, and as currently so defined to include use for the lending of money on the security of property pledged in the keeping of the pawnbroking, and the incidental sale of the property; and
  - b. Lot 2 shall not be used for Residential Treatment. The term "Residential Treatment" use means that term as defined by the City of Austin's City Code governing zoning uses, as that term may be redefined from time to time, and as currently so defined to include: (i) use for 24 hour supervision, counseling, or treatment for more than 15 residents not needing regular medical attention, (ii) alcohol and chemical dependency rehabilitation facilities, (iii) facilities to which persons convicted of alcohol or drug related offenses are ordered to remain under custodial supervision as a condition of probation or parole, and (iv) residential care facilities and halfway houses for the emotionally ill.
3. Except as expressly provided for in this Amendment, each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth therein, remains unaffected and shall continue in full force and effect on and after the effective date of this Amendment.
4. The limited release and restriction set forth in this Amendment are strictly limited to the uses of Lot 2 and in no way affect the use of, owner of or title to the remainder of the Restricted Parcel.
5. The underlying base zoning district applying to Lot 2 remains unaffected by this Amendment.
6. The City Manager, or his designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant for Zoning File No. C14-84-457, as authorized by the City Council of the City of Austin. The Amendment of Restrictive Covenant shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**OWNER:**

Chrysler Realty Company LLC,  
a Delaware limited liability company

By: \_\_\_\_\_,  
its Vice-President  
Mark E. Nagel

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**CITY OF AUSTIN:**

By: \_\_\_\_\_  
**SUE EDWARDS,**  
**ASSISTANT CITY MANAGER**  
**CITY OF AUSTIN**

**THE STATE OF** \_\_\_\_\_ §  
§  
**COUNTY OF** \_\_\_\_\_ §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Mark E. Nagel, as Vice-President of Chrysler Realty Company LLC, a Delaware limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas

**THE STATE OF TEXAS**

§

§

**COUNTY OF TRAVIS**

§

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Sue Edwards, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

---

Notary Public, State of Texas

**AFTER RECORDING RETURN TO:**

City of Austin Law Department  
P.O. Box 1088  
Austin, Texas 78767-1088  
Attn: Diana Minter, Paralegal



# Alice Glasco Consulting

---

5117 Valburn Court, Suite A  
Austin, TX 78731  
aliceglasco@mindspring.com  
512-231-8110 • 512-857-0187 Fax

March 16, 2009

Greg Guernsey, Director  
Neighborhood Planning and Zoning Department  
505 Barton Spring Road, Suite 500  
Austin, Texas 78704

RE: Termination of Restrictive Covenant for a 6.901 acre lot - 6905 South I.H. 35  
(C14-84-457)

Dear Greg:

I represent Chrysler Realty Company LLC, the owner of the above referenced property. In 1986, the subject property was included in a restrictive covenant that is associated with zoning case number C14-84-457. While the 1984 zoning case only covered 2 acres, the restrictive covenant applied to a 16.113 acre tract, and prohibits all uses except Automotive Sales Dealerships as defined in Section 1635 of Chapter 13-2a (see attached restrictive covenant).

The land area described in the restrictive covenant was subsequently subdivided under case number C8-86-66.1 into three lots as The Sidney Subdivision. The property that is owned by Chrysler Realty Company consists of 6.901 acres.

My request is to terminate the restrictive covenant as it pertains to land that comprises 6.901 acres, described as: The Sidney Subdivision, Lot 2, a subdivision in Travis County, Texas, recorded in volume 87, pages 36B-36C (C8-86-66.1).

In researching the zoning case file, I was not able to find any information that explains why more land area than was covered by zoning case C14-84-457 was included in a restrictive covenant that limits use of a 16.113 acre tract to just Automotive Sales Dealerships.

Greg Guernsey, Director  
Neighborhood Planning and Zoning Department

We look forward to a positive staff recommendation. Please let me know if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alice Glasco".

Alice Glasco

Cc: Jerry Rusthoven, Zoning Division Manager  
Wendy Rhoades, Senior Planner

Attachments

**GALLAGHER & KENNEDY**  
P.A.  
LAW OFFICES

DAVID J. WARD  
DIRECT DIAL: (602) 530-8245  
E-MAIL: DAVID.WARD@GKNET.COM

2575 EAST CAMELBACK ROAD  
PHOENIX, ARIZONA 85016-9225  
PHONE: (602) 530-8000  
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April 15, 2009

VIA U.S. MAIL AND ELECTRONIC MAIL

Wendy Rhoades  
Neighborhood Planning and Zoning Department  
City of Austin  
One Texas Center  
505 Barton Springs Rd.  
Austin, TX 78704

**Re:      Amendment to Restrictive Covenant – Case No. C14-84-457(RCA)  
         6905 South IH-35 Austin, TX 78744  
         Comments on Request**

Dear Ms. Rhoades:

Please be advised that our office represents the owners of the Austin Lone Star RV Resort located at 7009 S. IH-35 Austin, TX 78744. We have reviewed the proposal in the above-referenced development case and have the following comments and concerns. Please ensure that these comments are submitted into the public record and presented to both the Zoning and Platting Committee and the City Council.

As a general matter, we are not opposed to removing the restrictive covenant at issue here. We understand the effect of that covenant is to limit the uses on the subject property solely to an auto dealership. Obviously, this severe of a restriction presents numerous problems. Our concerns relate to the potential future use of the property and to the process involved to ultimately develop this property. If the covenant is removed, the site will be open to development under the standards and uses allowed in the GR Zone. That zone is very broad and allows some uses that would conflict with the established use at the Austin Lone Star RV Resort.

We understand that the Zoning and Platting Commission expressed concerns regarding the potential for "Pawn Shop Services" to be located on this property. We share those concerns. In addition, the potential for "Bail Bond Services," "Drop-Off Recycling Collection Facilities," and "Residential Treatment" facilities all present potential conflicts with the existing uses at the Austin Lone Star RV Resort. We also have concerns about uses allowed in the "Group Home" category; however, we have been advised by Ms. Rhoades that these uses cannot be interfered



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with due to the Federal Fair Housing Act. We wish to go on record in opposition to these specific uses and are very concerned that the removal of the restrictive covenant, without appropriate limitations/conditions, could ultimately bring one of these uses into this neighborhood area.

After discussing this issue with Ms. Rhoades, we understand that one potential solution to address our concerns and the concerns of the Zoning and Platting Commission would be to require the applicant to process a rezone and change the zoning of the property from GR to GRCO. That process would allow the City of Austin to limit the uses on the site and avoid any future potential conflicts related to the uses listed above. We would advocate in favor of that process and would appreciate being placed on any lists that may exist to receive notifications related to this project.

We believe that the conflicts between the existing Austin Lone Star RV Resort and the uses discussed in this letter are fairly obvious. However, if the City would like further information regarding the potential issues that could arise, or the adverse impacts that these uses could have on residents and property values at the Austin Lone Star RV Resort, we would be happy to provide additional comment letters. We look forward to working with the City and the developer to arrive at a mutually acceptable method to remove the covenant and allow the property to redevelop.

Very truly yours,

GALLAGHER & KENNEDY, P.A.



By:

David J. Ward

cc (via U.S. mail): Alice Glasco  
Alice Glasco Consulting  
5117 Valburn Court, Suite A  
Austin, TX 78731

**GALLAGHER & KENNEDY**  
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April 20, 2009

VIA U.S. MAIL AND ELECTRONIC MAIL

Wendy Rhoades  
Neighborhood Planning and Zoning Department  
City of Austin  
One Texas Center  
505 Barton Springs Rd.  
Austin, TX 78704

**Re: Amendment to Restrictive Covenant – Case No. C14-84-457(RCA)**  
**6905 South IH-35 Austin, TX 78744**  
**Comments on Staff Report**

Dear Ms. Rhoades:

As you are aware, our office represents the owners of the Austin Lone Star RV Resort located at 7009 S. IH-35 Austin, TX 78744. We have reviewed the Staff Report for the April 21, 2009 hearing before the Zoning and Platting Commission (“ZAP”) and have the following comments and concerns. Please ensure that these comments are submitted into the public record and presented to both the Zoning and Platting Committee and the City Council.

We first begin by incorporating the text of our prior comment letter, which expresses concerns about the potential conflicts between new uses on the subject site and the existing Austin Lone Star RV Resort. We understand the current proposal before the ZAP is to simply amend the restrictive covenant that currently burdens the property. We further understand that the proposed amendment will prohibit Pawn Shops. We believe that is a good start; however, there are additional uses permitted in the GR zone that could create potential problems if allowed to locate on the subject site. The potential for “Bail Bond Services,” “Drop-Off Recycling Collection Facilities,” and “Residential Treatment” facilities all present potential conflicts with the existing uses at the Austin Lone Star RV Resort and should be included within the prohibitions of the amended restrictive covenant.

We wish to go on record in opposition to these specific uses and are very concerned that the removal of the restrictive covenant, without appropriate limitations/conditions, could ultimately bring one of these uses into this neighborhood area. We believe the easiest solution to

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avoid the potential for future conflicts in land uses is to add these uses to the list of prohibited uses within the amended restrictive covenant. We look forward to working with the City and the developer to arrive at a mutually acceptable method to remove the covenant and allow the property to redevelop.

Very truly yours,

GALLAGHER & KENNEDY, P.A.



By:

David J. Ward

cc (via U.S. mail): Alice Glasco  
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