

## RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

**CASE:** C14-85-288.166 (RCA) – Sunset Ridge      **P.C. DATE:** April 27, 2010  
May 11, 2010

**ADDRESS:** 8401 Southwest Parkway

**OWNER & APPLICANT:** Los Indios Ventures, Inc. (Tim Jamail)

**EXISTING ZONING:** IP-NP

**PROPOSED ZONING:** GO-NP

**AREA:** 9.6 acres

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends an Amendment of the Restrictive Covenant to be accomplished by adding new Paragraphs 9 and 10 as follows:

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9. ~~The Property may be developed up to a floor-to-area ratio of 0.5 to 1 for an office use,~~  
provided that the Property is developed in accordance with the following standards:

- A. Impervious cover is limited to 55%; and*
- B. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual.*
- C. Except for emergency access purposes, vehicular access to Sunset Ridge is prohibited.*

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10. The Property may be developed with a religious assembly use and related administrative support, day care services and educational facilities, provided that the Property is developed in accordance with the following standards:

- A. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual.*

In addition, the Staff recommends that the following 10 uses are removed from the Restrictive Covenant: agricultural sales and services, building maintenance services business support services, construction sales and services, service station, custom manufacturing, limited warehousing and distribution, general warehousing and distribution, maintenance and service facilities, and railroad facilities.

### **PLANNING COMMISSION RECOMMENDATION:**

April 27, 2010: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO MAY 11, 2010.*

*[M. DEALEY; D. ANDERSON – 2<sup>ND</sup>] (9-0)*

May 11, 2010: *APPROVED AN AMENDMENT TO A PORTION OF THE RESTRICTIVE COVENANT AS IT RELATES TO CERTAIN USES AND DEVELOPMENT STANDARDS AS STAFF RECOMMENDED; BY CONSENT.*

*[C. SMALL; M. DEALEY – 2<sup>ND</sup>] (8-0) J. REDDY – ABSENT*

### **ISSUES:**

The Applicant's engineer has provided a letter outlining three different water quality scenarios which is located at the very back of the packet.

The Applicant has met to discuss the restrictive covenant amendment and rezoning cases with the Travis Country West Home Owners Association. A letter of support from the Association is provided at the back of the packet.

### **DEPARTMENT COMMENTS:**

The Restrictive Covenant Amendment area is a legal tract with frontage on Southwest Parkway, contains one vacant structure and is zoned industrial park – neighborhood plan (IP-NP) district with the base district established through the 1985 Oak Hill Area Study. The tract is adjacent to the Travis Country West subdivision to the east and south (SF-2-CO-NP), one single family residence to the west (GO-MU-CO-NP), and undeveloped land across Southwest Parkway to the north (LR, LO, SF-6-CO, all outside the Oak Hill Combined Neighborhood Planning Area). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

#### *Background and Applicant's Requests*

A Restrictive Covenant accompanied the 1987 zoning and established the maximum FAR of 0.25 to 1. The RC also addresses the applicability of the Williamson Creek ordinance to this property, establishes a list of allowable commercial and industrial uses, and a list of certain commercial and civic uses that require a conditional use permit. A copy of the recorded Restrictive Covenant is provided as Attachment A.

The Applicant proposes to amend the Restrictive Covenant to increase the FAR from 0.25:1 to 0.50:1 for the purposes of building an office development with structured parking. The Applicant is also willing to reduce the amount of impervious cover from a maximum of 65% allowed for commercially zoned properties by the Williamson Creek ordinance to 55%, and provide ponds that are better than that required by this ordinance.

A church has also been in contact with the Applicant about the property, and the Applicant has also requested that religious assembly, and related administrative support, day care services and educational facilities be added as a permitted use.

For either the church or office use, the Applicant is willing to provide water quality ponds that comply with the Save Our Springs (SOS) ordinance. To this end, the Applicant had a series of permeability tests performed in late Summer 2009 and the results indicate that there is enough land area to provide SOS water quality ponds on the property.

The Applicant is also willing to remove 10 uses from the Restrictive Covenant as follows:

agricultural sales and services	building maintenance services
business support services	construction sales and services
service station	custom manufacturing
limited warehousing and distribution	general warehousing and distribution
maintenance and service facilities	railroad facilities

*Basis for Staff Recommendation*

Staff supports the Restrictive Covenant Amendment and rezoning applications as described above as it will remove an industrially-zoned tract, and other intensive industrial and commercial uses over the aquifer (Staff also recommended that the Applicant file a rezoning request from IP-NP to GO-NP), provide SOS water quality ponds, and reduce the maximum impervious cover for an office use from 65% to 55%.

To that end, an amendment to the Restrictive Covenant would be accomplished by adding new Paragraphs 9 and 10 to read as follows:

9. The Property may be developed up to a floor-to-area ratio of 0.5 to 1 for an office use, provided that the Property is developed in accordance with the following standards:

- A. Impervious cover is limited to 55%;*
- B. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual; and*
- C. Except for emergency access purposes, vehicular access to Sunset Ridge is prohibited.*

10. The Property may be developed with a religious assembly use and related administrative support, day care services and educational facilities, provided that the Property is developed in accordance with the following standards:

- A. Water quality facilities which meet non-degradation standards as defined by the Save Our Springs Ordinance, in accordance with Section 1.6.9.3 (Control Measure Design) of the Environmental Criteria Manual.*

The Staff is also recommending that the industrial and commercial uses listed on Page 2 are removed from the Restrictive Covenant.

**Environmental**

This site is not located over the Edwards Aquifer Recharge Zone (the site is located over the Edwards Aquifer Contributing Zone). As shown in Exhibit B, the site is in the Williamson Creek and the Barton Creek Watershed of the Colorado River Basin, which are classified as Barton Springs Zone (BSZ) watersheds. It is in the Drinking Water Protection Zone. At this time, information has been provided indicating that a Restrictive Covenant grandfathers the property to the Williamson Creek Ordinance (Ordinance No. 840726-LL).

Single and two-family residential development shall not exceed a projected impervious cover of 40 percent. The projected impervious cover on any single commercial lot shall not exceed

40 percent within 200 feet of a Critical Water Quality Zone of a major waterway, within 100 feet of a Critical Water Quality Zone of an intermediate waterway, and no commercial development shall occur within 100 feet of the centerline of a minor waterway. Unless the aforementioned commercial development provisions are more restrictive, no commercial development shall exceed 65 percent cover on slopes of 10 to 20 percent gradient, nor 25 percent on slopes greater than 20 percent gradient.

According to flood plain maps, there is no flood plain within the project location.

The site is located within the endangered species survey area.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. If further explanation or specificity is needed, please contact the City Arborist at 974-1876.

All developments on this site will be subject to providing detention, sedimentation, and filtration for water quality control when projected impervious cover exceeds 18 percent.

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#### **Site Plan**

Any changes to the site plan which is affected by this amendment will need to proceed through the revision process. The revision will need to comply with Commercial Design Standards, Subchapter E, per the approval of the extension on February 6, 2007.

FYI -The site plan was extended until September 9, 2010.

If the restrictive covenant amendment is approved, a correction will need to be submitted to update the FAR, gross floor area on the site plan sheets.

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

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	IP-NP	One vacant structure; Undeveloped
<i>North</i>	SF-2-CO; SF-6-CO; LR; LO	Undeveloped; One single family residence
<i>South</i>	SF-2-CO-NP	Pond and single family residences within the Travis Country West subdivision
<i>East</i>	SF-2-CO-NP	Pond and single family residences within the Travis Country West subdivision
<i>West</i>	GO-MU-CO-NP	One single family residence

**NEIGHBORHOOD PLANNING AREA:** West Oak Hill **TIA:** Is not required

**WATERSHED:** Williamson Creek / **DESIRED DEVELOPMENT ZONE:** No  
Barton Creek – Barton Springs Zone – Contributing Zone

**CAPITOL VIEW CORRIDOR:** No

**HILL COUNTRY ROADWAY:** Yes

**NEIGHBORHOOD ORGANIZATIONS:**

298 – Oak Hill Association of Neighborhoods (OHAN)      605 – City of Rollingwood  
 705 – OHAN 78735      712 – Travis Country West Home Owners Association  
 742 – Austin Independent School District      779 – Oak Hill Combined NPA Staff Liaison  
 786 – Home Builders Association of Greater Austin  
 917 – Barton Creek North Property Owners Association  
 943 – Save Our Springs Alliance      1037 – Homeless Neighborhood Association  
 1075 – League of Bicycling Voters      1113 – Austin Parks Association  
 1166 – Oak Hill Neighborhood Planning Contact Team  
 1200 – Super Duper Neighborhood Objectors and Appealers Organization  
 1224 – Austin Monorail Project      1228 – Sierra Club, Austin Regional Group  
 1236 – The Real Estate Council of Austin, Inc.

**SCHOOLS:**

Oak Hill Elementary School

Small Middle School

Austin High School

**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2007-0250 – Amarra Drive Lot 1 – 8718-8734	DR to MF-1	To Grant MF-1-CO with the CO for 2,000 trips and maximum of 215 units. The Commission also recommended that	Approved MF-1-CO as Commission recommended with a Restrictive Covenant for two-star Green Building and erosion and sedimentation control measures that exceed current requirements (3-20-08).
Southwest Parkway; 5105-5301 and 5305-5325 Barton Creek Boulevard		the Applicant comply with future erosion and sedimentation controls at the site permit stage	
C14-06-0061 – 8509 Southwest Parkway	GO-MU-CO to GO-MU-CO, in order to remove the CO that restricts development of the Property to one residential unit	To Grant GO-MU-CO with the CO for a 2,000 trips per day limit	Approved GO-MU-CO as Commission recommended (07-27-06).
C14-01-0083 – Sutter Residence – 8700	DR to SF-2	To Grant SF-2-CO with CO for 2 residences	Approved SF-2-CO with CO for 0.184 residences per acre (8-23-01).



Southwest Parkway			
C14-99-2144 – Travis Country West – Southwest Parkway at Travis Cook Road	LR; GR; IP to SF-2	To Grant SF-2-CO	Approved SF-2-CO with CO establishing a maximum of 2.139 residential units per acre and allowing one curb cut to Old Bee Caves Road (10-5-00).
C14-94-0044 – Jamail Zoning Change – 5601 Sunset Ridge	GO to GO-MU	To Grant GO-MU-CO	Approved GO-MU-CO with the CO restricted to one dwelling unit (6-23-94).
C14-92-0117 – Parkway II – 8212 Barton Club	SF-3; LO, LR to GR	Scheduled for Commission, but postponed indefinitely Expired	Not applicable

### **RELATED CASES:**

#### *1985 Zoning and Restrictive Covenant*

The subject property was annexed into the City limits on December 19, 1985 approved for IP zoning on September 17, 1987 (C14-85-288.166), as part of the Oak Hill Study. The Restrictive Covenant attached to the IP zoning ordinance establishes a maximum FAR of 0.25 to 1; requires compliance with the Williamson Creek ordinance; and defines permitted and conditional commercial, industrial and civic uses.

#### *2008 Oak Hill Neighborhood Plan and Rezoning*

The property is designated as Office on the Future Land Use Map (FLUM) of the Oak Hill Neighborhood Plan. The rezonings associated with the West Oak Hill Neighborhood Plan Area were approved by Council on December 11, 2008 (C14-2008-0129, Ordinance No. 20081211-098). The base district of the subject property did not change, and the NP combining district was added.

#### *Related Rezoning Case*

The Applicant has applied for GO-NP zoning in conjunction with the proposed Restrictive Covenant Amendment (C14-2010-0042 – Sunset Ridge).

#### *Land Use Determination and Approved Site Plan*

The property has an approved land status determination and is not required to be platted (C8i-03-0087). There is an existing approved site plan for a three-story office building and a four-level parking garage that is within the 0.25: to 1 FAR limitation. This site plan is valid until September 9, 2010 (SPC-03-0014C). Please refer to Exhibit C.

**ABUTTING STREETS:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Sidewalks</b>	<b>Bike Route</b>	<b>Capital Metro</b>
Southwest Parkway	Varies	Varies	Arterial, MAD 6, 17,300 vpd (TXDOT, 2005)	No	Yes, Priority 1 bike route	Not available
Sunset Ridge	50 feet	Varies	Local	No	No	No

**CITY COUNCIL DATE:** May 27, 2010**ACTION:** Approved a Postponement request by the Applicant to June 10, 2010 (6-0, Spelman – off the dais).

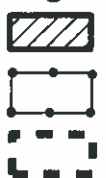
June 10. 2010

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**CASE MANAGER:** Wendy Rhoades  
e-mail: wendy.rhoades@ci.austin.tx.us**PHONE:** 974-7719

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### Legend



SUBJECT TRACT

## PENDING CASE

## ZONING

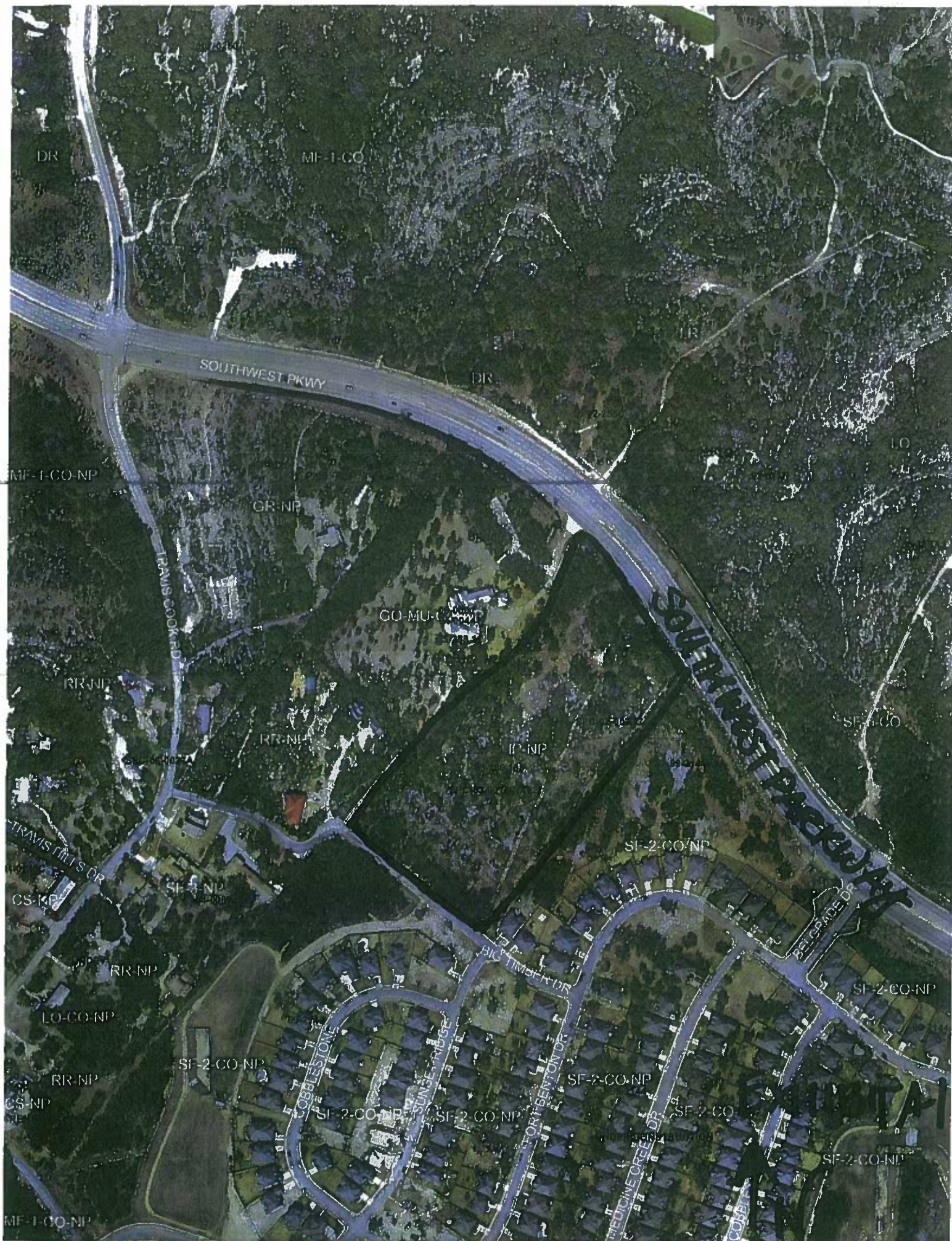
SCALE: 1" = 400'

CASE NUMBER: C14-85-288.166(RCA)  
ADDRESS: 8401 SOUTHWEST PARKWAY  
AREA: 9.600 AC. EXH  
GRID: B21  
CASE MGR: W. RHOADES

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







DR

MF-1-CO

SF-2-CO

SOUTHWEST PKWY

DR

MF-1-CO-NP

GR-NP

CO-MU-C-NP

RR-NP

RR-NP

IP-NP

SF-1-CO

TRAVIS MILLS DR

CS-KP

RR-NP

LO-CO-NP

RR-NP

CS-NP

SF-2 CO-NP

COBBLSTONE

SF-2 CO-NP

SUNSET RIDGE

SF-2 CO-NP

SF-2 CO-NP

PORTERBTON DR

COBBLSTONE

SF-2 CO

SF-2 CO-NP

SF-2 CO-NP

MF-1-CO-NP



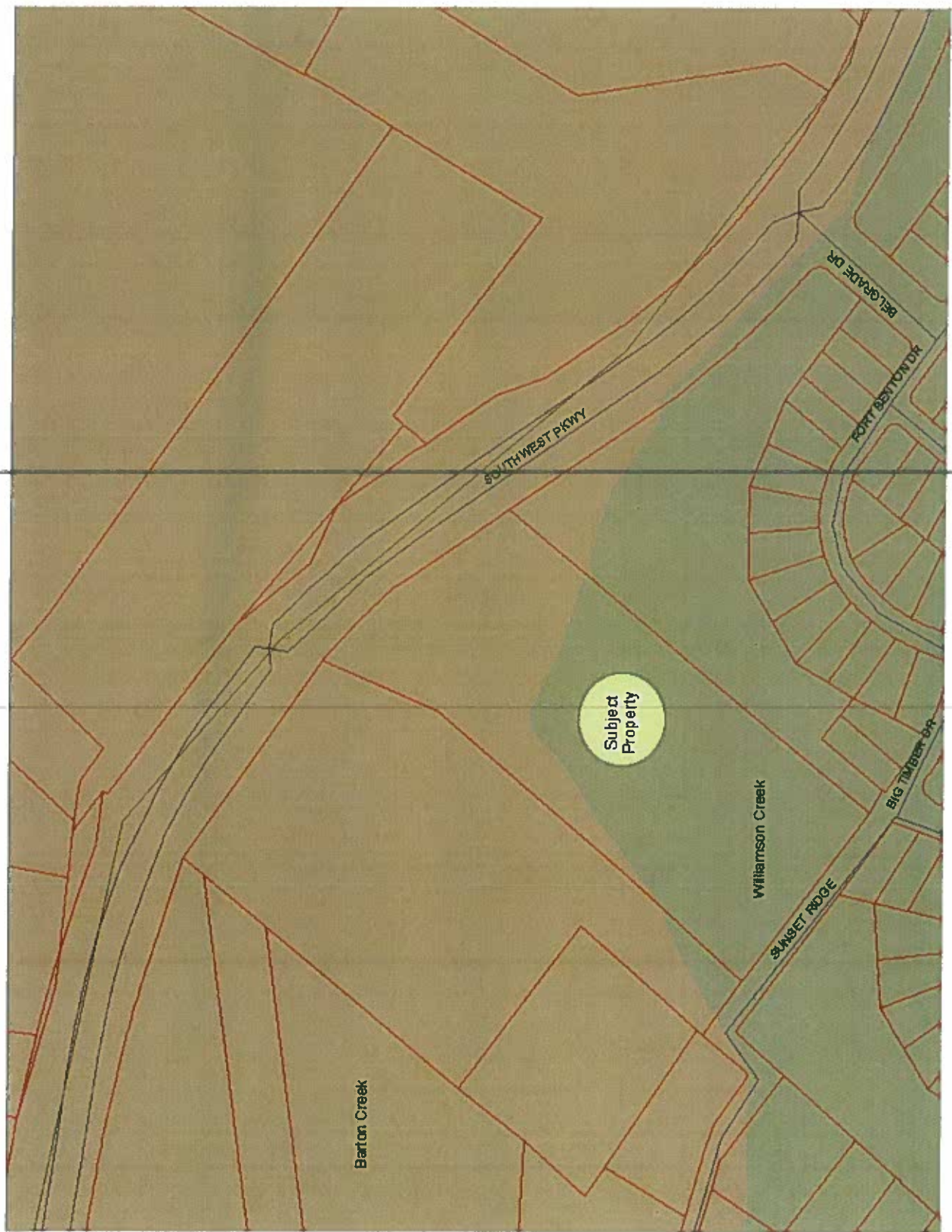


EXHIBIT B  
WATERSHED MAP

EXHIBIT C  
APPROVED SITE PLAN



**RESTRICTIVE COVENANT**

**Owner:** Boston Lane G.L.S. Joint Venture

**Owner's Address:** 11130 Jollyville Road  
Austin, Texas 78729

**Consideration:** One and No/100 Dollars (\$1.00) and other good and valuable consideration paid by the City of Austin in hand to the Owners, the receipt and sufficiency of which is acknowledged.

**Property:** All that certain tract, piece or parcel of land, lying and being situated in the County of Travis, State of Texas, described in Exhibit "A" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property; and,

Owners of the Property, for the consideration, impress the Property with these covenants and restrictions running with the land:

1. The Property shall be limited to a maximum of .25 to 1 floor to area ratio as defined by Section 1212 of Chapter 13-2A of the Austin City Code.

2. Development of the Property shall be in compliance with Sections 9-10-171 through 9-10-230 and Sections 13-3-401 through 13-3-475 of the Austin City Code, which regulate site development and subdivisions in the Williamson Creek Watershed.

3. The Property shall be limited to the following use types, defined in the Austin City Code:

**Commercial Uses**

Administrative and Business Offices  
Agricultural Sales and Services\*  
Arts and Craft Studio (Limited)  
Arts and Craft Studio (General)  
Arts and Craft Studio (Industrial)  
Building Maintenance Services  
Business Support Services  
Business or Trade School  
Communications Services  
Constructions Sales and Services  
Financial Services  
Indoor Entertainment  
Indoor Sports and Recreation  
Medical Offices  
Outdoor Sports and Recreation  
Personal Services  
Professional Offices  
Research Services\*  
Restaurant (Convenience)  
Restaurant (Limited)  
Restaurant (General)  
Service Station

\*Not permitted in the Critical Water Quality Zone.

**Industrial Uses**

Custom Manufacturing  
Light Manufacturing  
Limited Warehouse and Distribution  
General Warehouse and Distribution

*attachment a*

Civic Uses

Communication Services Facilities  
Cultural Services  
Day Care Services (Commercial)  
Group Homes, Class I (Limited & General)  
Group Homes, Class II  
Local Utility Services  
Maintenance and Services Facilities  
Railroad Facilities  
Safety Services

4. The following use types are permitted if approved by the Conditional Use Procedure described in Sections 6200 through 6290 of Chapter 13-2A of the Austin City Code:

Commercial Uses

Outdoor Entertainment

Civic Uses

Club or Lodge  
Parking Facilities

5. If any person or entity 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 such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

6. If any part of this agreement or covenant shall be declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

7. If at any time the City of Austin, its successors or assigns, fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

8. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) the owner(s) of the Property at the time of such modification, amendment or termination.

All citations to the Austin City Code shall refer to the Austin City Code of 1991, as amended from time to time, unless otherwise specified.

When the context requires, singular nouns and pronouns include the plural.

EXECUTED this the 28<sup>th</sup> day of August, 1987.

Boston Land & L.S. Joint Venture

BY:

Robert R. Guinn  
Robert R. Guinn



This instrument was acknowledged before me on this the 28<sup>th</sup>  
day of August, 1987 by Robert R. Gunn, on behalf of  
Boston Lane G.L.S. Joint Venture.

Jane C. Bierchner  
Notary Public, State of Texas

JANE C. BIERCHNER  
Notary's name (printed):

My commission expires: 3-23-89

288.166/2

**Oak Hill Surveying Co., Inc.**  
6126 Hwy. 290 West • Austin, TX 78735 • (512) 892-5320

Sept. 13, 1984

FIELD NOTES DESCRIBING A 12.1557 ACRE (529,500 S.F.) TRACT OF LAND OUT OF THE J. HUDSON SURVEY NO. 530 IN TRAVIS COUNTY, TEXAS, SAID 12.1557 ACRE TRACT OF LAND BEING CONVEYED TO E. F. OERTLI BY DEED RECORDED IN VOLUME 2401, PAGE 10 AND VOLUME 2308 PAGE 166 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 12.1557 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pipe found on the Northeast line of a 50' wide roadway easement at the Southwest corner of that certain 52.59 acre tract of land conveyed to James H. Arnold, et. ux. by deed recorded in Volume 3459, Page 2250 of the Travis County Deed Records, said point being situated at the Southeast corner of said tract conveyed to E. F. Oertli by deed recorded in ~~Volume 2401, Page 10 of the Travis County Deed Records.~~

THENCE with the Northeast boundary line of said Roadway Easement N46°49'20"W for 416.53 feet to an iron pipe found at the most Southerly corner of that certain 11.50 acre tract of land conveyed to Evan Hintner by deed recorded in Volume 6513, Page 107 of the Travis County Deed Records.

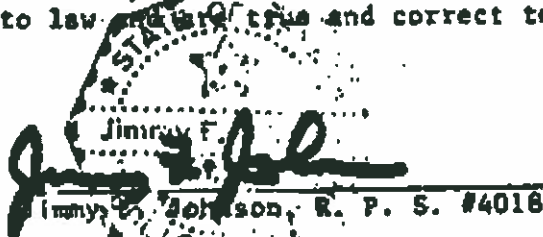
THENCE along the East boundary of said 11.50 acre tract same being the West boundary of the herein described tract the following three (3) courses:

1. N43°35'26"E for 326.82 feet to an iron pipe found.
2. N42°32'12"E for 494.13 feet to an iron pipe found.
3. N26°11'24"E for 450.08 feet to an iron pipe found on the Southwest boundary line of that certain 9.53 acre tract of land described in a deed to Evan Hintner recorded in Volume 5991, Page 1382 of the Travis County Deed Records.

THENCE with the fenced Southwest boundary line of said 9.53 acre tract S46°43'32"E for 517.82 feet to an iron pipe found at the Northwest corner of said 52.59 acre James H. Arnold tract.

THENCE along the fenced West boundary line of said 52.59 acre tract S41°46'34"W for 1250.90 feet to the POINT OF BEGINNING of the herein described tract containing 12.1557 acres of land more or less.

I HEREBY CERTIFY that these notes were prepared from a survey made on the ground under my supervision according to law and are true and correct to the best of my knowledge.

  
Jimmy F. Johnson, R. P. S. #4016

THOMAS H. JESTER

2

EARL LEE MARK  
2007/20  
1200

WILEY B. EAST  
3438/807  
2500

ALAN P. HIGMAN, TRS.  
2474/876  
18-000

VINCENT J. STRABELLE  
4471/728  
18-000

SANDY E. BLACKBURN  
4880/747  
10-000

R. M. JOHNSON, SUR 74

EVAN HEDDER  
1347/05  
20-000

MANUEL DE VOUTENAR, JR.  
3161/275  
8-000

EVAN HEDDER  
2813/107  
11-000

SPENCER PEARMAN  
4718/5  
2000

S. P. DENTILL  
2804/100  
7-000

JAMES W. CO  
1317/813  
19-000

JAMES H. BRNOLD, JR.  
3483/2830  
22-000

J. HUDSON SUR 530

J. H. BRNOLD, JR.  
2444/210  
8-700

ROSEMELO H. BRNOLD  
2300/170  
10-000

MAY BETH BRNOLD  
1871/000  
6-000

DESS E. SMITH  
2022/8  
1871/000  
6-000

FRANCIS B. BRNOLD  
2279/271  
22-000

SUR 75

IN SHADOWS

SUB

4 0747

**Travis Country West Homeowner's Association**

**11149 Research Blvd., Suite 100, Austin, TX 78759-5227**

**Voice (512) 502-7517 Fax (512) 346-4873 1-800-900-9120**

1149 Research Blvd., Suite 100  
Austin, TX 78759

April 23, 2010

To Whom It May Concern:

Please consider this letter as a first request for postponement of rezoning case #: C14-85-288.166(RCA)  
~~– Sunset Ridge pertaining to the property located at 8401 Southwest Parkway. We are making this~~  
request on behalf of the Travis Country West Home Owner's Association (The Association). The Association would like to request a two-week postponement with a date certain of May 11, 2010. We hope to complete our decision process that will determine our public input on the case during the two weeks and we hope that we will not need to request a second postponement.

Sincerely,

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Seth Prejean  
Director  
Travis Country West HOA

# IRION|SLADE

ATTORNEYS & COUNSELORS AT LAW  
A PROFESSIONAL LIMITED LIABILITY COMPANY

Terrence L. Irion  
Attorney at Law

2224 Walsh Tarlton  
Suite 210  
Austin, Texas 78746

512.347.9977  
Fax: 512.347.7085  
tirion@islblaw.com

May 7, 2010

VIA U.S. MAIL

Mr. Marco Martinez  
C/o Mr. Carl A. Gamble  
TCW Property Management, Inc.  
11149 Research, Suite 100  
Austin, Texas 78759-5227

Re: Travis Country Community Service Association, Inc./Los Indios Venture, Inc. Agreement

Dear Mr. Martinez:

This letter is written to you as President of the Travis Country Community Service Association, Inc. (the "Association"). My client Los Indios Ventures, Inc. ("Los Indios") proposes the following cooperation agreement.

As you know, Los Indios has an approved City of Austin site plan SP-03-0014C for Sunset Ridge at Southwest Parkway Office Development Project (the "Project"). This Project approves the construction of an office project in the "IP" industrial park zone district, which currently allows for 89,515 square feet of impervious cover. However, in March of 2008, Los Indios received a letter from the City acknowledging that the property was entitled to more impervious cover by applicable ordinance than is currently approved in the site plan and that the site plan can be amended to allow up to 270,753 square feet or 65% impervious cover as provided for under the Williamson Creek Ordinance.

There is a Restrictive Covenant on the property which currently limits the applicable FAR to .25:1. This covenant has the draw back of discouraging structured parking and a taller more compact building footprint in favor of covering a larger surface area with surface parking. The FAR restriction is not required by zoning, but only by a restrictive covenant running in favor of the City of Austin.

My client would propose that the Restrictive Covenant be amended to allow a .50 FAR. Furthermore, my client would request that the proposed amendment provide for an additional use to allow for religious assembly and private primary and/or secondary educational facilities/administrative support services in connection with religious assembly use. If a church purchases the property, it would not need the additional FAR, but would need the 65% impervious cover and for the Restrictive Covenant to include the additional civic use of religious assembly and private primary or secondary educational facilities. In addition, my client will ask for a variance from compatibility setback requirements which are triggered by the SF-2 zoning of the Conservation Easement abutting the eastern property line of the subject tract, whether the ultimate use is office or religious assembly. This will allow the Southwest Parkway driveway access to be located along the easterly property line for increased sight visibility to address traffic safety concerns.



Mr. Marco Martinez

May 7, 2010

Page 2

In consideration for the neighborhood's support for the amendment of the Restrictive Covenant regarding FAR at Planning Commission and City Council, and the neighborhood's support for the compatibility waiver variances before the Board of Adjustment, my client would: (i) revise its approved site plan to relocate the office building footprint as a three and four story building further to the west; (ii) construct a structured parking garage towards the center of the tract limited in height to 45 feet; and (iii) relocate the access drive to Southwest Parkway along the easterly property line, and (iv) relocate the access drive to Sunset Ridge (which currently is at the southeastern corner of the tract) to the southwestern side of the tract and allow only emergency vehicle access via a "crash gate" from Sunset Ridge, all in accordance with the site plan and driveway detail attached to this letter as described in Attachment 1.

In the event the property is used for religious assembly and/or private primary or secondary educational facilities in connection with the religious assembly use: (a) the FAR would not exceed .25/1.0 and the height would be deed restricted to 45-feet; b) the access drive to Sunset Ridge (which currently is at the southeastern corner of the tract) would be relocated to the southwestern side of the tract and allow only emergency vehicle access via a "crash gate" from Sunset Ridge; and (c) items (i) and (ii) above would not apply. The Association hereby acknowledges that the representatives of All Saints Presbyterian Church would like the opportunity to continue their ongoing discussions with regard to the possibility of gaining the support of the Association for access on to Sunset Ridge from the subject property.

In the event the amendments to the Restrictive covenant described herein are not approved by the City of Austin, then this agreement shall be rendered null and void and of no further force and effect.


In further consideration for the support of this Restrictive Covenant amendment and Board of Adjustment variance, my client will continue to support the TCW Neighborhood's efforts to achieve meaningful traffic calming measures approved by the City. In light of the fact that we may not know if the traffic calming measures proposed by the City will achieve their desired results before your neighborhood's support is requested on the Restrictive Covenant amendment and compatibility waiver variance, my client is willing to escrow the sum of \$30,000 in accordance with a mutually agreed escrow agreement to demonstrate its support for these neighborhood efforts. This money would be escrowed whether an office project or a church is developed on the subject property and may be used to construct traffic calming measures approved by the City within the neighborhood or to pursue the privatizing of Sunset Ridge between Old Bee Cave Road and Cobblestone Street and the construction of a gate. The escrow agreement would provide that the money could be used by the neighborhood for gate construction costs, or installation of other traffic calming devices and attorney's fees, consulting work, engineering fees, permit fees, and street vacation fees, in connection with the aforementioned gating or traffic calming measures as determined by the neighborhood and in accordance with the Escrow Agreement. The escrow funds would be escrowed at the time of final site plan approval by the City of Austin of either the proposed office project or religious assembly use as previously described and remain in place for a period of two (2) years, at the end of which time any remaining funds would be refunded to Los Indios.

In the event the property is developed as an office project, Los Indios will also agree to the signage, lighting, landscaping and trash restrictions as described in the Declaration of Covenants, Conditions and Restrictions previously negotiated with your Association, a copy of which is attached hereto as Attachment 3. Additionally, All Saints Presbyterian Church will agree to include the Association as a party to the proposed Declaration of Covenants, Conditions and Restrictions prepared in the event of a sale of the subject property to All Saints Presbyterian Church as previously provided to the Association to include provisions to (i) restrict access to Sunset Ridge to emergency vehicles only via a crash gate and (ii) prohibit parking of their

Mr. Marco Martinez  
May 7, 2010  
Page 3

parishioners on the TCW neighborhood streets.

Sincerely,



Terrence L. Irion

TLI:lm:  
Cc: Tim Jamail

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**ACKNOWLEDGED AND AGREED:**



Marco Martinez, President  
Travis Country Community Service Association, Inc.

Date: May 10, 2010

Subject to and conditioned upon final agreement of the  
form of all restrictive covenants, the escrow  
agreement and other documents to memorialize this  
letter agreement prior to City Council approval. man

## LJA Engineering & Surveying, Inc.



5316 Highway 290 West  
Suite 150  
Austin, Texas 78735

Phone 512.439.4700  
Fax 512.439.4716  
www.ljaengineering.com

May 5, 2010

Mr. Tim Jamail  
Los Indios Ventures, Inc.  
151 South First Street, Suite 200  
Austin, TX 78714

Re. 8401 Southwest Parkway  
LJA Job Number A188-0401

Dear Mr. Jamail:

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We are writing this letter to provide information to you on potential water quality scenarios for the 9.6 acre Sunset Ridge tract located at 8401 Southwest Parkway, east of Travis Cook Road. As you are aware, the referenced tract is subject to a City approved Restrictive Covenant, Case Number C14-85-266.166. Paragraph 2 of the Restrictive Covenant requires that the "Development of the Property shall be in compliance with Sections 9-10-171 through 9-10-230 and Sections 13-3-401 through 13-3-475 of the Austin City Code, which regulate site development and subdivisions in the Williamson Creek Watershed." Under these regulations, the subject tract would be allowed to be developed as a commercial development with 65% impervious cover and require water quality treatment via a sedimentation / filtration pond sized to capture the first 0.5 inch of runoff.

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In conjunction with the two possible proposed amendments to the Restrictive Covenant, one to allow for an increased FAR under the existing approved uses and the other possible amendment to allow for religious assembly use, it is our understanding that you have agreed to further restrict development of the property under either scenario such that water quality treatment will be increased to meet the non-degradation requirements of Section 1.6.9.3 of the Environmental Criteria Manual, as defined in the SOS Ordinance. Based on this, we have analyzed three basic scenarios in order to quantify the increased water quality benefits as proposed:

- 1) 65% impervious cover under the Williamson Creek Ordinance
- 2) 65% impervious cover for Church use, with SOS water quality controls
- 3) 55% impervious cover for Office use, with SOS water quality controls

It is important to note that no specific site plan was used to evaluate these scenarios; rather a generic control was used for the entire site acreage for comparison purposes. The actual volumes of ponds and pollutant loads may vary slightly once design is undertaken as controls are sized by drainage area contributing to them.

The first scenario is essentially a review of pollutant loads based on existing agreements in place. The Williamson Creek Ordinance (Ordinance No. 801218-W) requires water quality controls to be sized for a 0.5 inch capture volume, treated with a conventional sedimentation / filtration pond. The City of Austin has performed studies quantifying the amount of pollutant load bypassing water quality controls when the capture volume is 0.5 inches, specifically in The First Flush of Runoff and its Effects on Control Structure Design, 1990. The City's findings indicated that between 20 and 25 percent of the annual pollutant load was left untreated at this capture volume. In order to determine the actual pollutant load removals, we have used the City's published data on sedimentation / filtration pond efficiency coupled with the percent capture as described above. The results for all the required pollutants are shown on the enclosed spreadsheets, but overall removal percentage of annual pollutant loads range from 25% for total nitrogen (TN) to 71% for total suspended solids (TSS).

The second and third scenarios are potential development scenarios under which the site would voluntarily comply with the non-degradation requirements of the SOS ordinance, which requires no increase in the developed pollutant load from the pre-developed (baseline) pollutant load. Per these requirements, the capture volume is determined based upon the percent impervious cover draining to the pond. Based on this, the capture volume for Scenario 2 is 1.77 inches, while for Scenario 3 it is 1.59 inches. The attached spreadsheets show the required pollutant removal rates which range from 94.8% for TSS to 99.3% for Fecal Streptococci (FS) for Scenario 2, and from 93.5% for TSS to 99.1% for FS for Scenario 3. In order to accomplish this level of pollutant load removal, a form of retention followed by irrigation or infiltration on vegetated areas is required, thus resulting in a zero-discharge system that effectively removes 100% of the total pollutant load.

Based on this, the following Table summarizes the three scenarios:

	Scenario 1			Scenario 2		Scenario 3	
Reqd Capture Vol.	17,424 cf			61,681 cf		55,408 cf	
	Baseline	Pollutant Load Removed	Percentage Removed	Pollutant Load Removed	Percentage Removed	Pollutant Load Removed	Percentage Removed
TSS	191	2629	71%	3685	100%	2920	100%
TP	0.13	2.52	47%	5.36	100%	4.25	100%
TN	1.9	15.1	25%	61.0	100%	48.3	100%
COD	76	1418	54%	2646	100%	2097	100%
BOD	28	109	41%	268	100%	212	100%
Pb	0.0106	0.6673	66%	1.0050	100%	0.7963	100%
FC	6.29E+10	2.13E+12	36%	5.92E+12	100%	4.69E+12	100%
FS	4.71E+10	4.54E+12	65%	6.99E+12	100%	5.54E+12	100%
TOC	21.1	318.4	50%	636.5	100%	504.3	100%
Zn	0.0278	0.9916	59%	1.6749	100%	1.3271	100%

In addition, as mentioned previously, in order for Scenarios 2 and 3 to meet the non-degradation requirements, both scenarios will require a vegetated area for irrigation or infiltration of the treated stormwater.

Please feel free to call with any questions or if you need additional information.

Sincerely,

Danny Miller, P.E.  
Senior Project Manager



**SUNSET RIDGE TRACT (LOS INDIOS VENTURES, INC.)**  
**WILLIAMSON CREEK ORDINANCE POND WITH SOS POLLUTANT LOADINGS**

**SITE DATA**  
 WATER QUALITY AREA      A  
 ACRES                        9.60  
 IMPERVIOUS COVER        65.0%  
 CAPTURE VOL. (IN.)        0.50  
 RECHARGE ZONE?           NO  
 RUNOFF COEFF. (Rf)        0.4736  
 LAND USE (SF, MF, CO?)   CO

**BASELINE LOADING**  
 (FROM TABLE 1-10)

POLLUTANT	UNIT LOAD(Bp)	BASELINE LOAD (Up)
TSS	19.9	191
TP	0.014	0.13
TN	0.2	1.9
COD	7.9	76
BOD	2.9	28
Pb	0.0011	0.011
FC	6.55E+09	6.29E+10
FS	4.81E+09	4.71E+10
TOC	2.2	21
Zn	0.0029	0.028

**SOS RULES TABLE 1-11**  
**POLLUTANT CONCENTRATIONS FOR DEVELOPED SITES**

SF: 0-15%	SF: >15%	MF: 0-15%	MF: >15%	CO: 0-15%	CO: >15%
82.5	110	82.5	110	82.5	110
0.1	0.15	0.1	0.15	0.1	0.15
1.27	2	0.97	1.4	1.18	1.82
28.5	35	28.5	35	50.5	79
8	8	8	8	8	8
0.012	0.02	0.012	0.02	0.017	0.03
6200	8400	6200	8400	21500	39000
7000	11000	7000	11000	24500	46000
7.5	9	7.5	8	12.5	18
0.024	0.04	0.024	0.04	0.029	0.05

**DEVELOPED LOADING**

POLLUTANT	UNIT LOAD(Dp)	DEVELOP ED LOAD (Tp)
TSS	383.8	3685
TP	0.558	5.38
TN	6.35	60.97
COD	275.7	2648
BOD	27.9	268
Pb	0.1047	1.005
FC	6.17E+11	5.92E+12
FS	7.28E+11	6.99E+12
TOC	66.3	636
Zn	0.174	1.675

**UNIT LOADS FOR DEVELOPED SITES**

SF: 0-15%	SF: >15%	MF: 0-15%	MF: >15%	CO: 0-15%	CO: >15%
287.8	383.8	287.8	383.8	287.8	383.8
0.349	0.558	0.349	0.558	0.349	0.558
4.43	6.98	3.38	4.99	4.12	6.35
99.5	122.1	99.5	122.1	176.2	275.7
27.92	27.92	27.92	27.92	27.92	27.92
0.0419	0.0698	0.0419	0.0698	0.0593	0.1047
9.81E+10	1.33E+11	9.81E+10	1.33E+11	3.40E+11	6.17E+11
1.11E+11	1.74E+11	1.11E+11	1.74E+11	3.88E+11	7.28E+11
26.2	31.4	26.2	31.4	43.6	66.3
0.084	0.140	0.084	0.140	0.101	0.174

**REMOVAL**

POLLUTANT	Rp	REQ'D REMOVAL (LB)	Efficiency:	% of Annual Load Captured*	BMP REMOVAL: SEDFIL LB REMOVED	Remaining Load	Actual Removal %
TSS	N/A	N/A	87%	82%	2,629	1,056	71%
TP	N/A	N/A	61%	77%	2,518	2.84	47%
TN	N/A	N/A	31%	80%	15.1	45.8	25%
COD	N/A	N/A	67%	80%	1,418	1,228	54%
BOD	N/A	N/A	51%	80%	109	158	41%
Pb	N/A	N/A	80%	83%	0.667	0.338	66%
FC	N/A	N/A	36%	77%	2.13E+12	3.79E+12	36%
FS	N/A	N/A	65%	75%	4.54E+12	2.45E+12	65%
TOC	N/A	N/A	61%	82%	318	318	50%
Zn	N/A	N/A	80%	74%	0.982	0.683	59%



**SUNSET RIDGE TRACT (LOS INDIOS VENTURES, INC.)**

SOS POLLUTANT LOADINGS (65% I.C. ON TRACT)

**SITE DATA**

WATER QUALITY AREA A  
 ACRES 9.60  
 IMPERVIOUS COVER 65.0%  
 CAPTURE VOL. (IN.) 1.77  
 RECHARGE ZONE? NO  
 RUNOFF COEFF. (Rf) 0.4738  
 LAND USE (SF, MF, CO?) CO

**BASELINE LOADING  
(FROM TABLE 1-10)**

POLLUTANT	UNIT LOAD(Bp)	BASELINE LOAD (Up)
TSS	19.9	191
TP	0.014	0.13
TN	0.2	1.9
COD	7.9	78
BOD	2.9	28
Pb	0.0011	0.011
FC	6.55E+09	6.29E+10
FS	4.91E+09	4.71E+10
TOC	2.2	21
Zn	0.0029	0.028

**SOS RULES TABLE 1-11  
POLLUTANT CONCENTRATIONS FOR DEVELOPED SITES**

SF: 0-15%	SF: >15%	MF: 0-15%	MF: >15%	CO: 0-15%	CO: >15%
82.5	110	82.5	110	82.5	110
0.1	0.18	0.1	0.18	0.1	0.18
1.27	2	0.97	1.4	1.18	1.82
26.5	35	28.5	35	50.5	79
8	8	8	8	8	8
0.012	0.02	0.012	0.02	0.017	0.03
8200	8400	8200	8400	21500	39000
7000	11000	7000	11000	24500	48000
7.5	9	7.5	9	12.5	19
0.024	0.04	0.024	0.04	0.029	0.05

**DEVELOPED LOADING**

POLLUTANT	UNIT LOAD(Dp)	DEVELOP ED LOAD (Tp)
TSS	383.8	3685
TP	0.558	5.36
TN	8.35	80.97
COD	275.7	2848
BOD	27.9	268
Pb	0.1047	1.005
FC	6.17E+11	5.92E+12
FS	7.28E+11	6.99E+12
TOC	66.3	636
Zn	0.174	1.675

**UNIT LOADS FOR DEVELOPED SITES**

SF: 0-15%	SF: >15%	MF: 0-15%	MF: >15%	CO: 0-15%	CO: >15%
287.9	383.8	287.9	383.8	287.9	383.8
0.349	0.558	0.349	0.558	0.349	0.558
4.43	8.98	3.38	4.89	4.12	8.35
99.5	122.1	99.5	122.1	178.2	275.7
27.92	27.92	27.92	27.92	27.92	27.92
0.0419	0.0698	0.0419	0.0698	0.0593	0.1047
9.81E+10	1.33E+11	9.81E+10	1.33E+11	3.40E+11	6.17E+11
1.11E+11	1.74E+11	1.11E+11	1.74E+11	3.88E+11	7.28E+11
28.2	31.4	28.2	31.4	43.8	66.3
0.084	0.140	0.084	0.140	0.101	0.174

**REMOVAL**

POLLUTANT	Rp	REQ'D REMOVAL (LB)	BMP REMOVAL: RETENTION / INFILTRATION	
			% REMOVAL	LB REMOVED
TSS	94.8%	3494	100%	3685
TP	97.5%	5.23	100%	5.36
TN	98.9%	59.0	100%	81.0
COD	97.1%	2571	100%	2848
BOD	89.6%	240	100%	268
Pb	98.9%	0.994	100%	1.005
FC	98.9%	5.88E+12	100%	5.92E+12
FS	99.3%	6.94E+12	100%	6.99E+12
TOC	96.7%	615	100%	636
Zn	98.3%	1.647	100%	1.675

**SUNSET RIDGE TRACT (LOS INDIOS VENTURES, INC.)**

SOS POLLUTANT LOADINGS (55% I.C. ON TRACT)

## SITE DATA

WATER QUALITY AREA A  
 ACRES 9.80  
 IMPERVIOUS COVER 55.0%  
 CAPTURE VOL. (IN.) 1.59  
 RECHARGE ZONE? NO  
 RUNOFF COEFF. (Rf) 0.3753  
 LAND USE (SF, MF, CO?) CO

**BASELINE LOADING**  
 (FROM TABLE 1-10)

POLLUTANT	UNIT LOAD(Bp)	BASELINE LOAD (Up)
TSS	19.9	191
TP	0.014	0.13
TN	0.2	1.9
COD	7.9	78
BOD	2.9	28
Pb	0.0011	0.011
FC	6.55E+09	6.29E+10
FS	4.91E+09	4.71E+10
TOC	2.2	21
Zn	0.0029	0.028

**SOS RULES TABLE 1-11**  
 POLLUTANT CONCENTRATIONS FOR DEVELOPED SITES

SF: 0-15%	SF: >15%	MF: 0-15%	MF: >15%	CO: 0-15%	CO: >15%
82.5	110	82.5	110	82.5	110
0.1	0.18	0.1	0.18	0.1	0.18
1.27	2	0.97	1.4	1.18	1.82
28.5	35	28.5	35	50.5	79
8	8	6	8	8	8
0.012	0.02	0.012	0.02	0.017	0.03
6200	8400	6200	8400	21500	39000
7000	11000	7000	11000	24500	48000
7.5	9	7.5	9	12.5	19
0.024	0.04	0.024	0.04	0.029	0.05

## DEVELOPED LOADING

POLLUTANT	UNIT LOAD(Dp)	DEVELOP ED LOAD (Tp)
TSS	304.1	2920
TP	0.442	4.25
TN	5.03	48.31
COD	218.4	2097
BOD	22.1	212
Pb	0.0829	0.798
FC	4.89E+11	4.89E+12
FS	5.77E+11	5.54E+12
TOC	62.5	504
Zn	0.138	1.327

## UNIT LOADS FOR DEVELOPED SITES

SF: 0-15%	SF: >15%	MF: 0-15%	MF: >15%	CO: 0-15%	CO: >15%
228.1	304.1	228.1	304.1	228.1	304.1
0.278	0.442	0.278	0.442	0.278	0.442
3.51	5.53	2.68	3.87	3.28	5.03
78.8	98.8	78.8	98.8	139.6	218.4
22.12	22.12	22.12	22.12	22.12	22.12
0.0332	0.0563	0.0332	0.0563	0.0470	0.0829
7.77E+10	1.05E+11	7.77E+10	1.05E+11	2.70E+11	4.89E+11
8.78E+10	1.38E+11	8.78E+10	1.38E+11	3.07E+11	5.77E+11
20.7	24.9	20.7	24.9	34.8	52.5
0.088	0.111	0.088	0.111	0.080	0.138

## REMOVAL

POLLUTANT	Rp	REQ'D REMOVAL (LB)	BMP REMOVAL: RETENTION / INFILTRATION	
			% REMOVAL	LB REMOVED
TSS	93.5%	2729	100%	2920
TP	98.8%	4.11	100%	4.25
TN	98.0%	48.4	100%	48.3
COD	98.4%	2021	100%	2097
BOD	98.9%	184	100%	212
Pb	98.7%	0.786	100%	0.798
FC	98.7%	4.63E+12	100%	4.89E+12
FS	98.1%	5.49E+12	100%	5.54E+12
TOC	95.8%	483	100%	504
Zn	97.9%	1.299	100%	1.327