

NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

NEIGHBORHOOD PLAN: Oak Hill Combined Neighborhood Plan

CASE #: NPA-2011-0025.01

PC DATE: June 14, 2011 (Forwarded to City Council with no recommendation)
May 24, 2011 (Postponed to June 14, 2011)
May 10, 2011 (Hearing cancelled)

ADDRESS/ES: 6804 Covered Bridge Drive

SITE AREA: 13.83 acres

APPLICANT/OWNER: Covered Bridge Assisted Living, L.P.

AGENT: Thrower Design (A. Ron Thrower)

TYPE OF AMENDMENT:

Change in Future Land Use Designation

From: Higher Density Single Family & Mixed Use

To: Multifamily

Base District Zoning Change

Related Zoning Case: No zoning case submitted

NEIGHBORHOOD PLAN ADOPTION DATE: December 11, 2008

PLANNING COMMISSION RECOMMENDATION: On June 14, 2011, after three failed motions, the Planning Commission forwarded the case to City Council **with no recommendation.**

STAFF RECOMMENDATION: Recommended

BASIS FOR STAFF'S RECOMMENDATION: The plan amendment request meets the following Goals, Objectives, and Recommendations:

CHAPTER 6: LAND USE AND DEVELOPMENT

- 6.A. Provide opportunities for high-quality new development and re-development.**

6A.1

Ensure quality of new construction and renovations.

- 6A.1b—Businesses that redevelop should meet Development Code standards and should meet the goals and objectives of the Oak Hill Combined Plan.**

- 6.B. Balance development and environmental protection by maintaining a vibrant residential and commercial community that demonstrates caring stewardship of the environment.**

6.B.1

Encourage zoning to be compatible with existing and neighboring land uses and seek optimal and most appropriate use of land.

- 6.B.1a—Rework zoning to allow/support the vision of the Oak Hill Neighborhood Plan.**

- 6.B.1b—Cluster higher density development in appropriate areas, striving to balance the interests of stakeholders while taking into consideration environmental concerns.**

- 6.E. Encourage locally-owned businesses to locate in the Oak Hill area and find ways for local businesses and employers to prosper.**

6.E.1

Oak Hill stakeholders desire more small-scale businesses with less strip commercial establishments

- 6.E.1c—Create a small business incubator for the Oak Hill area, to help foster the creation of locally-owned and operated businesses in the planning area.**

- 6.E.1d—Finds ways to attract businesses that will enhance services available to the community.**

- 6.E.1e—Encourage more doctors, dentists, and other medical professionals to locate in the area.**

CHAPTER 8: HOUSING

8.A. Balance development and environmental protection by maintaining a vibrant residential and commercial community.

8.A.1

Assess and minimize the impact of land development on surface and ground water.

8.A.1a—Every housing development/redevelopment should include an environmental impact analysis and incorporate all necessary measures to address its potential impact on the Edwards Aquifer (impervious cover, drainage, traffic, etc).

8.A.2

Design and place homes to minimize impacts on natural resources and the physical environment and to maximize social resources.

8.A.2a—Clustered development should be encouraged where appropriate (see Chapter 9: Neighborhood Design).

8.A.2b—Residential density should be compatible with surrounding uses and informed by a regional vision of the environmental impact development has over the Edwards Aquifer.

8.A.2c—Whenever possible, new housing development should be located where existing services and infrastructure exist. Their appearance and density should be appropriate to its environment and compatible with surrounding uses.

8.B. Preserve neighborhood identity, character, affordability, and diversity.

CHAPTER 9: NEIGHBORHOOD DESIGN

9.A. Require landscaping along roadways, sidewalks, bike paths, and around bus stops to provide shade in order to encourage pedestrian, bicycling, and mass transportation.

9.A.1

Incorporate pedestrian-friendly site design standards in all new commercial development and redevelopment projects to create safe pedestrian environment in the planning area.

9.A.1a—Provide open space and/or pedestrian amenities such as benches, bike racks, fountains, etc. for development sites greater than one acre.

9.A.1b—Provide street plantings at the time of new construction or major redevelopment.

9.A.2

Encourage incorporation of pedestrian-friendly building design elements in all non-residential development and redevelopment projects within the planning area.

9.A.2a—Use limestone, brick, or other regional building materials compatible with the Oak Hill “Hill Country” look.

9.A.2b—Integrate solar power and solar hot water heating into building design.

9.A.2c—Integrate green building practices such as solar power panels, solar hot water heating, wind power, rainwater collection systems, green roofs and water quality controls as necessary. If possible, projects should strive to achieve one star or higher rating under the City of Austin Green Building Program or other environmental programs.

9.A.2d—Provide façade articulation of wall recesses and projections and/or different colors and textures.

9.A.2e—Make primary entrances visible by using architectural details, planters, enhanced light fixtures, and the like.

9.A.2f—At least 75% of the building's front façade (facing the principal street) should consist of storefronts with at least two separate entrances.

9.A.2g—Provide for liner stores in building façade. A liner store is a commercial use on the ground floor of a building located not more than 30 feet from the street right-of-way with an entrance facing the street.

9.A.2h—Provide glazing to add interest for pedestrians and provide a human-scale element on the building façade. (Glazing is the panes or sheets of glass or other non-glass material made to be set in frames, as in windows or doors.)

9.A.2i—Provide roof design such as parapets and sloping angles.

9.A.2j—Consider design and application of sustainable roof such as vegetated roofs and/or rainwater collection systems.

9.B. Enhance the Hill Country look of Oak Hill by preserving trees and addressing aesthetic improvements in the planning area.

9.B.1

The City Council should consider the application of the Hill Country Roadway Ordinance on U.S. Highway 290 and State Highway 71 and other roadways within the Oak Hill neighborhood planning area to control signage, limit heights, plant trees, and to preserve the natural beauty of the environment.

9.B.1a—Use low-luminance light sources, light shields, and other methods on street lights to protect the night sky from light pollution.

9.B.1b—Design commercial signs and billboards in a tasteful manner that would limit light pollution after business hours.

9.B.1c—Preserve trees (such as oaks, elms, and pecan trees) that are more than 100 years old by using two feet of mulch over the roots during construction.

9.B.1d—Partner with tree preservation experts on tree preservation practices in Oak Hill during new development. Promote trenching and other appropriate methods around existing oaks to prevent the spread of Oak Wilt.

9.B.1e—Utilize design elements and native materials in a consistent manner throughout new developments.

9.B.1f—Provide design elements that are compatible with Oak Hill's Hill Country town look.

9.B.1g—Provide landscaping in medians to create scenery at interchanges.

9.C. Balance development and environmental protection by maintaining a vibrant residential and commercial community that demonstrates caring stewardship of the environment.

9.C.1

Ensure that the environmental impact on the Edwards Aquifer and the existing natural landscape is kept at a minimum by new commercial development and redevelopment in Oak Hill.

9.C.1a—Incorporate water control measures within the design of the site.

9.C.1b—Provide, protect, and preserve open spaces and environmental features by encouraging cluster developments.

9.C.2

All new residential development/redevelopment projects in Oak Hill should strive to ensure that the environmental impact on the Edwards Aquifer and the existing natural landscape is kept at a minimum.

9.C.2a—Development and redevelopment of large sites should include measures such as pervious paving, rainwater collection system, and smart irrigation where appropriate.

9.C.2 b—Encourage developers to explore clustered development as an option, since it provides sufficient housing units while maintaining and preserving considerable amounts of open space.

9.C.2c—Builders should use the Green Building Standards in their projects whenever possible: Using local materials, considering water needs for landscaping, and installing efficient heating and cooling systems are all steps to building greener homes.

9.C.2d—Builders should explore the option of including a trail through their project site or dedicating an easement near water quality features.

9.D. Preserve neighborhood identity, character, affordability, and diversity.

9.D.1

New single-family and multi-family developments/redevelopments should be compatible with existing residential architecture to reinforce the Hill Country character of Oak Hill, in terms of materials, lighting, and height.

9.D.1a—Preserve Old German-style masonry and limestone construction.

9.D.1b—Place overhangs on roofs for shade.

9.D.1c—Provide abundant porch space.

9.D.1d—Utilize metal roofing or some other comparable material.

9.D.1e—Preserve character of old while incorporating sustainable green building practices.

9.D.1f—Incorporate vegetative buffers for all new residential neighborhoods.

Staff Analysis: The project, as described by the property owners, will have clustered buildings located outside of the environmentally sensitive areas to preserve trees and to provide for open space. They propose limestone building construction is consistent with the

Oak Hill Plan Goals. During the planning process there was strong desire for this type of use so older Oak Hillians can still live in the community with family and friends even if they are not able to live in their homes.

BACKGROUND: The plan amendment case was filed on January 6, 2011, with a letter from the Oak Hill Planning Contact Team to file outside of the February open filing period for City Council-approved plans located on the west side of IH-35.

The plan amendment request is to change the future land use map from Higher Density Single Family and Mixed Use to Multifamily. No zoning case has been filed at this time. The property owners propose to build an assisted living facility with 100 rooms in five buildings. The development will be built in two phases. One building will be for Alzheimer patients.

The current zoning on the property is SF-6-NP with a public restrictive covenant, a copy of which is provided at the back of this report.

The Oak Hill Combined Neighborhood Plan was completed under the City of Austin's Neighborhood Planning Program and was adopted as part of the Austin Tomorrow Comprehensive Plan on December 11, 2008. The Oak Hill Combined Neighborhood Planning area is located in southwest Austin and is bound by MOPAC (Loop 1) on the east, Thomas Spring Road Circle Drive on the west, Southwest Parkway and Travis Country neighborhood on the north, and Convict Hill, Davis Lane, and Granada Hills neighborhood on the south.

PUBLIC MEETINGS: The plan amendment meeting was held on January 26, 2011. Fifty-nine notices were mailed to property owners, utility account holders, and neighborhood organizations registered on the Community Registry, in addition to members of the Oak Hill Planning Contact Team. Twenty-two people attended the meeting, including one city staff member.

The property owners and their agent, Ron Thrower, showed the conceptual plan (page 2 of the Oak Hill Planning Contact Team's letter), and provided the following information on the proposed project:

- The development will be a maximum two stories in height;
- Will have 100 rooms in five buildings;
- Will only have access to State Highway 71;
- There will not have access to Covered Bridge Drive;
- The development will concentrate buildings on the upper part of the property. The development will preserve 90% of the trees. A tree survey has been conducted.
- The buildings will not be institutional-looking, but will be built with limestone and stucco;
- The development will have wheelchair-accessible walking paths, a garden, and a community center.

No zoning case has been filed, but when the case is filed, they will ask for Planned Unit Development zoning for an assisted living facility.

After the presentation, the following questions were asked:

Question: If you received your PUD zoning and the project didn't happen, what would be the worst case scenario of what could be built there?

Answer: With the PUD zoning, it would have to be a civic-related use, such as assisted living facility, congregate living, and group home Type 1. However, the existing zoning would allow 172 apartments, which could have 1000 vehicle trips. The proposed zoning would be 100 rooms, with 300 vehicle trips.

Question: Why will you seek PUD zoning?

Answer: We want to protect areas of the site. The PUD zoning allows us to concentrate the development in area that is best suited for development.

Question: How many staff will live and work there?

Answer: No staff will live there; about 25 will work there in Phase 1 of the development.

Question: What will be the average age of the patients?

Answer: Eighty years old.

Question: What other properties do you own?

Answer: We have a facility at 183 and Peyton Gin Road called the Colonfield House.

After the questions and answers, the Oak Hill Planning Contact team voted to support the plan amendment case based on the conceptual plan that was submitted by the applicants at the meeting. The letter of support is provided in this case report.

May 24, 2011 Planning Commission Hearing: At the Planning Commission hearing on May 24, 2011, a property owner who owns the land upon which a public access easement to SH 71 is located had concerns about who will incur the cost of developing the road and how the increased impervious cover will affect his property. The Planning Commissioners ask staff to provide for them a copy of the easement for their review before the case is heard again at the June 14, 2011 planning commission hearing date. A copy of the public easement is at the back of this report.

June 14, 2011 Planning Commission Hearing: After the Planning Commissioners reviewed the Access Easement Document, the Commissioners had the following questions. Answers are provided by Amber Mitchell, Senior Planner in the Development Assistance Center.

1) When the developer of the assisted living facility paves the road, does this increase the impervious cover on Mr. Crowe's property, which will affect how he is able to develop his property?

--Yes, the pavement within an easement for private drive counts against the impervious cover permitted on the site the easement goes through.

2) Once the road is paved, does this mean that Mr. Crowe will need to replat his lot as a result of the road being paved?

--An addition of more than 1,000 square feet of impervious cover requires a site development permit. Mr. Crowe will either need to submit a separate site plan to have the easement paved, or his property will have to be added to the site plan for 6804 Covered Bridge and Mr. Crowe will have to be one of the applicants.

3) Can the Planning Commission make requirements for the road when the property upon which the road is located is not part of the property proposed for the plan amendment and, eventually, a zoning change?

--It is my understanding that only the site under application can be modified, as the site with the proposed drive does not have an open case under consideration. That said, if the Commission wanted minimum standards for access to the development, I suppose it would be up to the applicant to secure those conditions with Mr. Crowe for the development to proceed.

OTHER ISSUE: At the time of updating this report, the City Attorney's office has not made a final determination as to whether the Applicants can use Mr. Crowe's access easement (located on land zoned RR – Rural Residential) as the primary access to a commercial property, even if the proposed zoning on the commercial property is a Planned Unit Development.

CITY COUNCIL DATE:

June 9, 2011

ACTION: Postponed to June 23, 2011

June 23, 2011

ACTION: (Pending)

CASE MANAGER: Maureen Meredith, Senior Planner **PHONE:** 974-2695

EMAIL: Maureen.meredith@ci.austin.tx.us

**Page 1 of Oak Hill Planning Contact
Team letter of support**

*Brian Reis, Chair
Bill Schultz, Vice-Chair
Jackie Waters, Secretary*



Date: January 31, 2011

To: Maureen Meredith, Senior Planner
City of Austin, Planning & Development Review Department,
505 Barton Springs Road, 5th Floor
Austin, TX 78704

Re: **6804 Covered Bridge Drive**
Owner's Representative: Ron Thrower

On January 26, 2011, the Oak Hill Neighborhood Contact Team held a meeting in accordance with our bylaws to discuss the applicant's proposed future land use amendment for the property located at 6804 Covered Bridge Drive. The applicant has requested a **change in land use from Higher-Density Single Family to Multifamily**. Several members of the contact team attended the community meeting held early that evening and heard the request.

The OHNPCT voted to support the request for the change in use as generally described in the meeting and illustrated in the attached concept plan for an assisted living facility.

Sincerely,

A handwritten signature in blue ink that reads "Brian Reis".

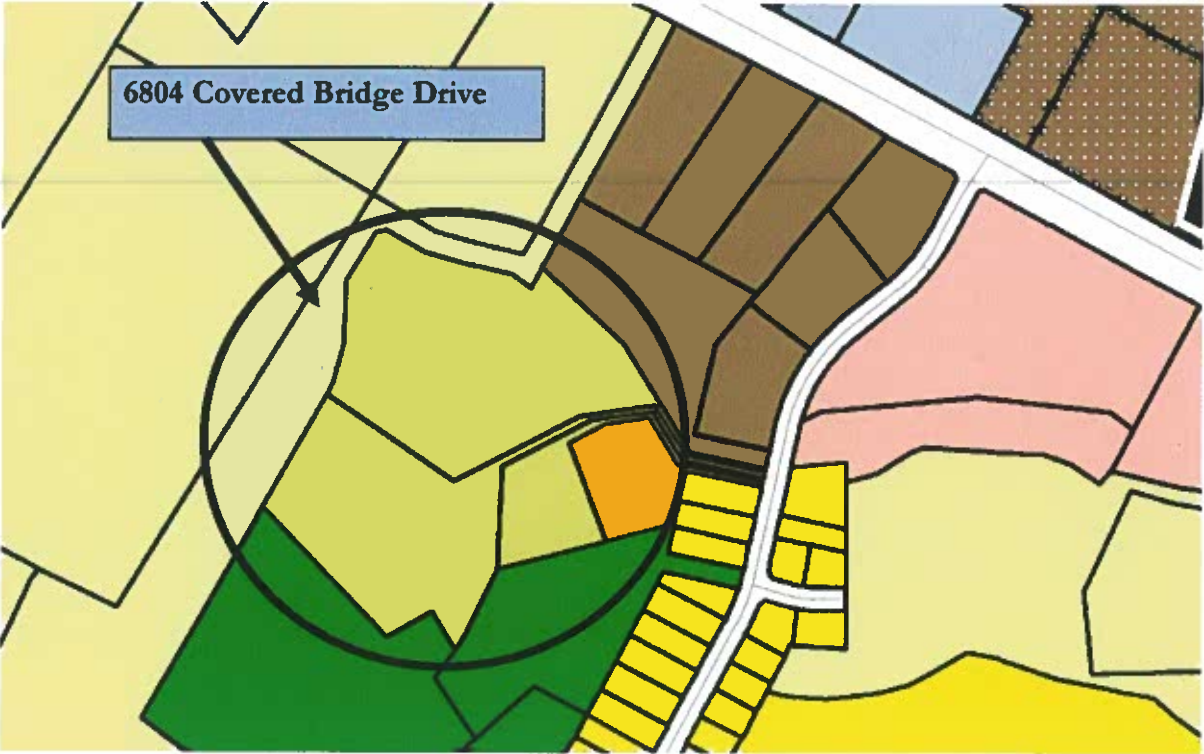
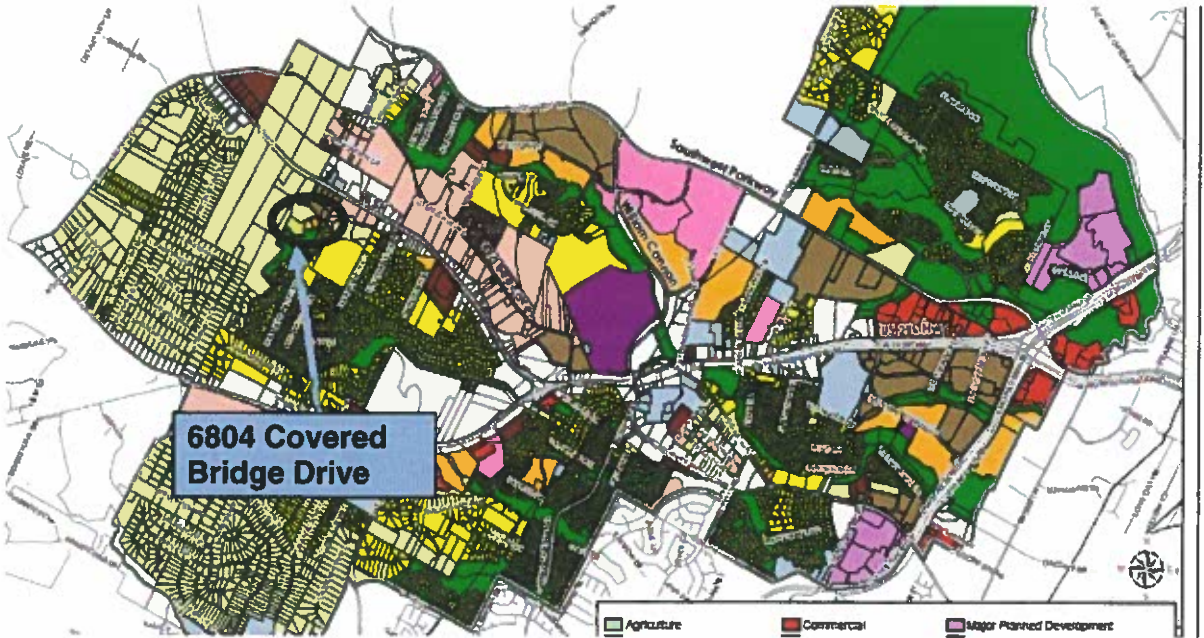
Brian Reis
Chair, OHNPCT

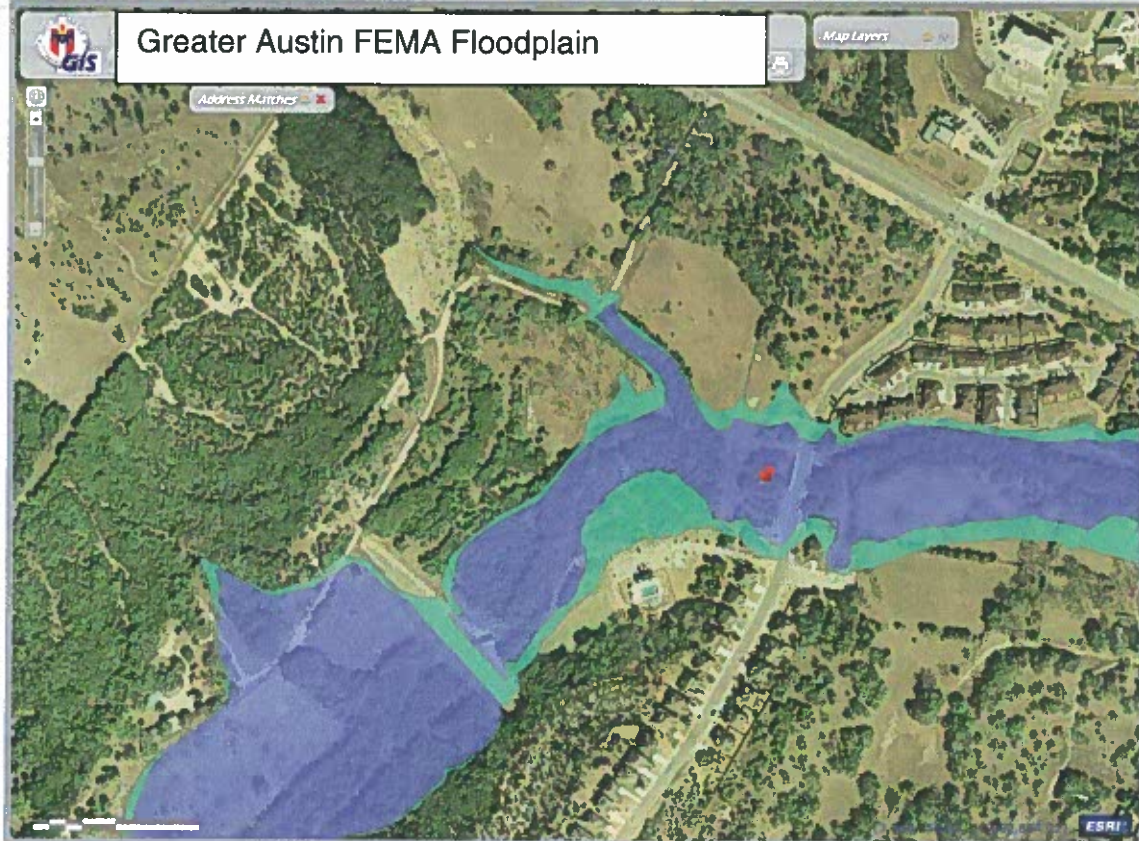
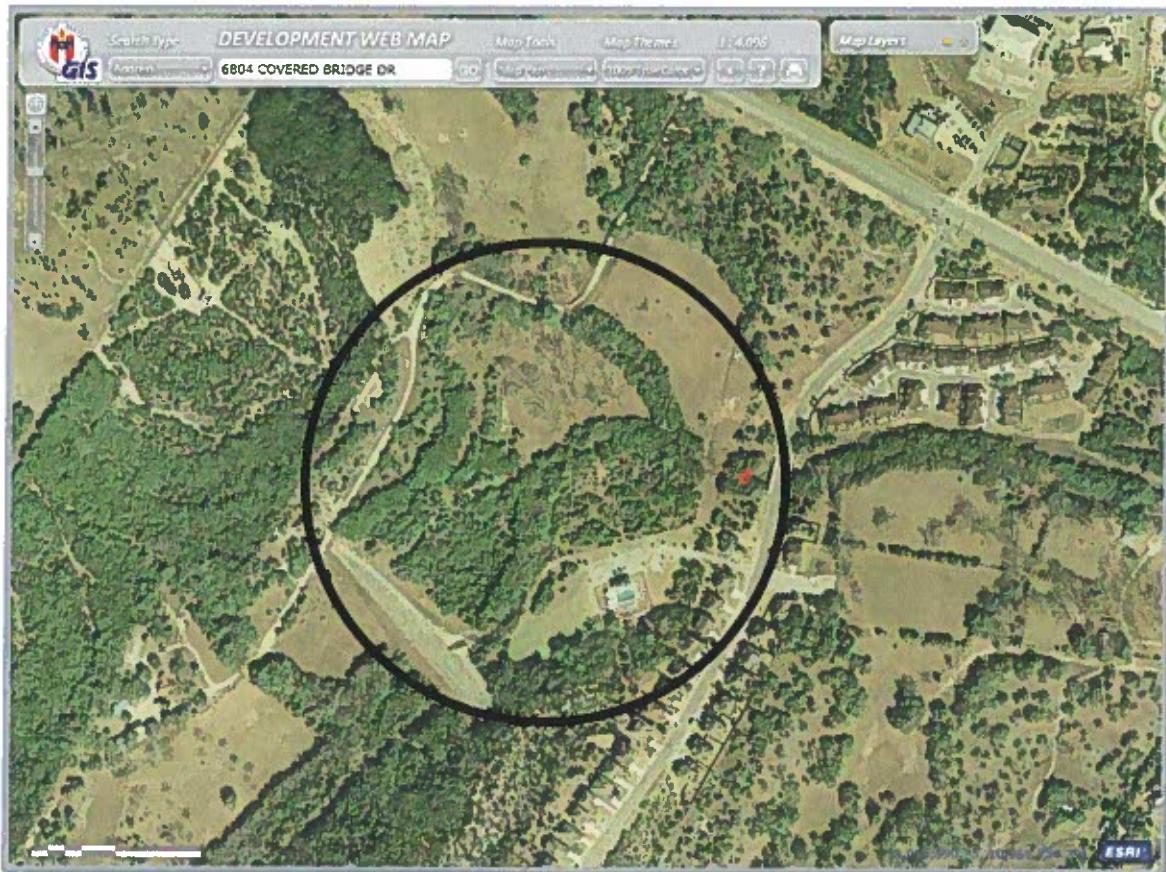
Cc: Bill Schultz
Jackie Waters

Attachment




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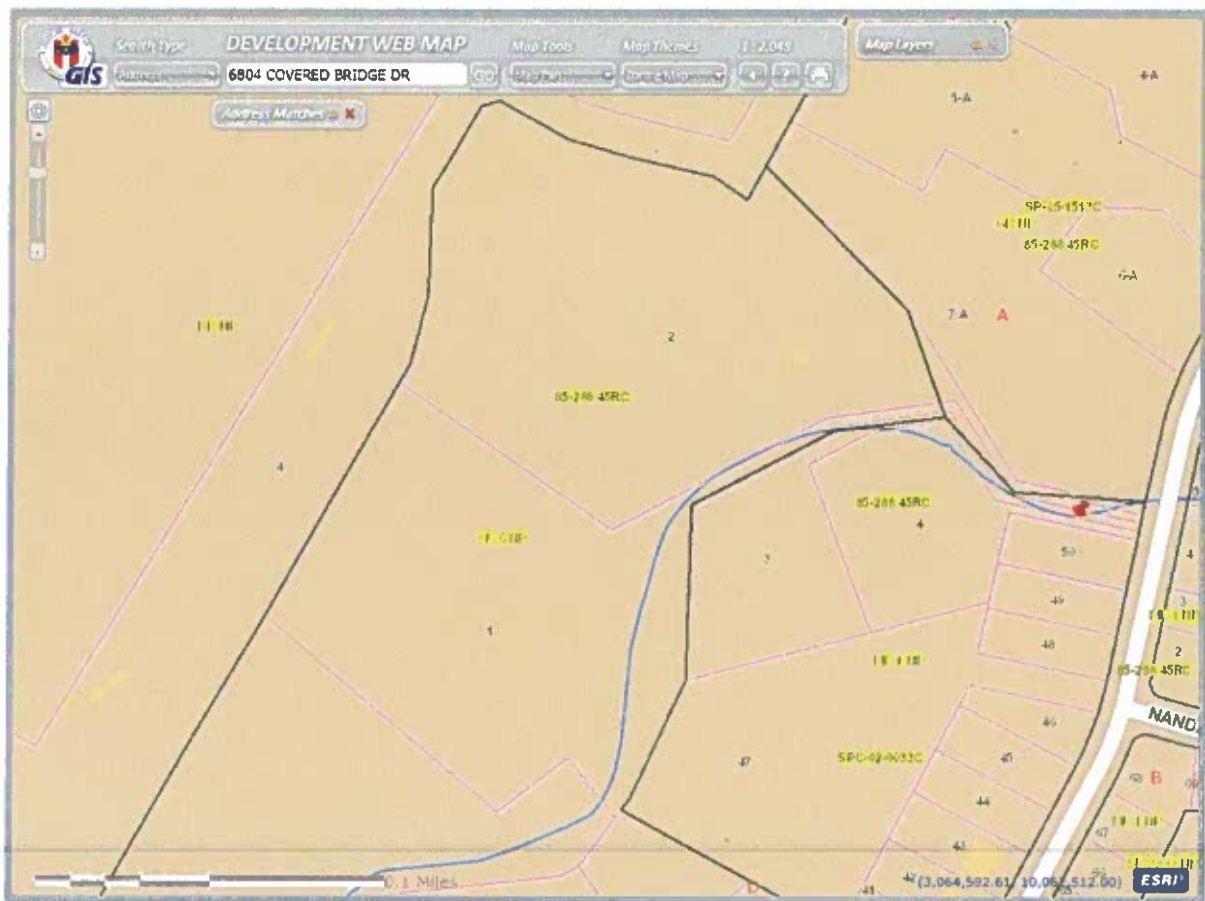


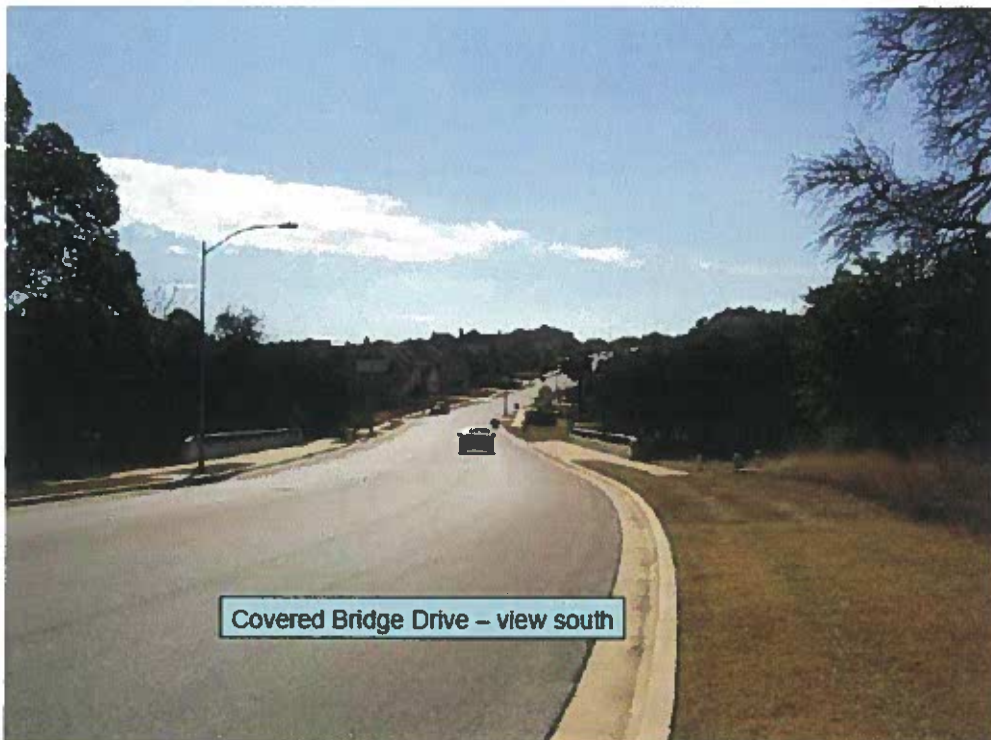
 SUBJECT TRACT
 PENDING CASE
 ZONING BOUNDARY

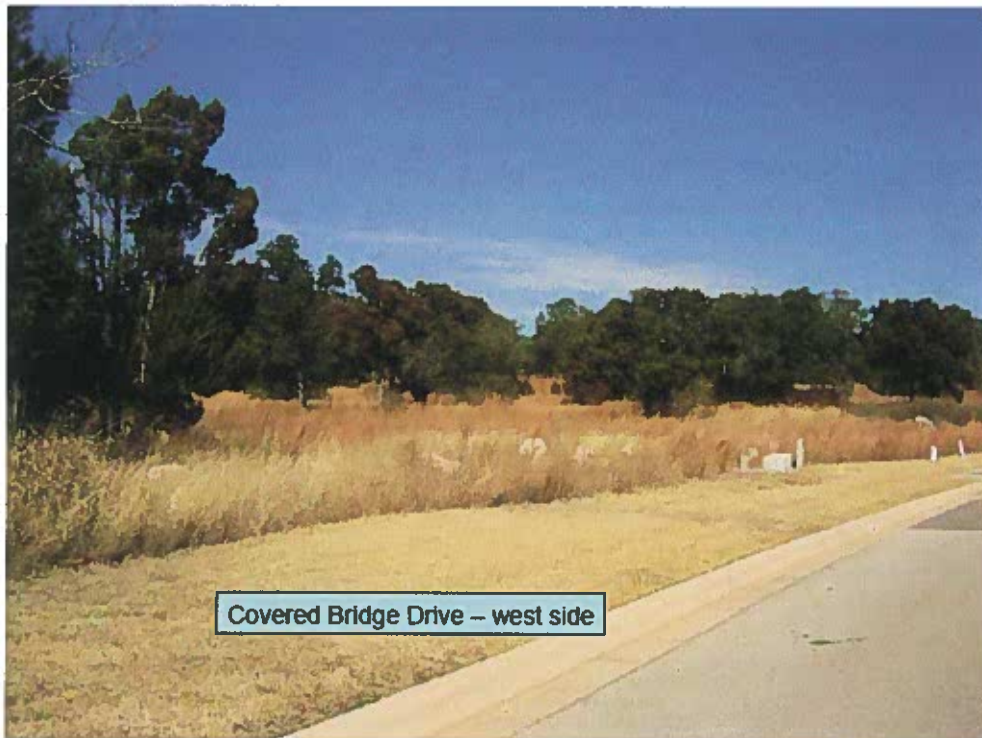
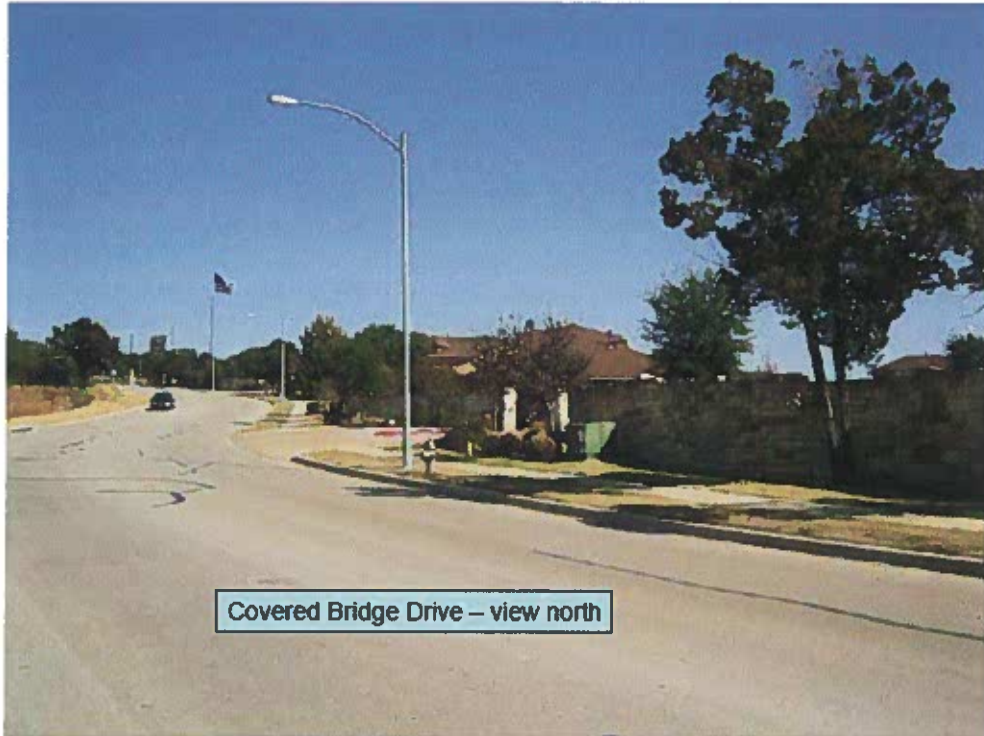
NPA CASE#: NPA-2011-0025.01
LOCATION: 6804 COVERED BRIDGE DR
SUBJECT AREA: 13.83 ACRES
GRID: A20-21
MANAGER: MAUREEN MEREDITH



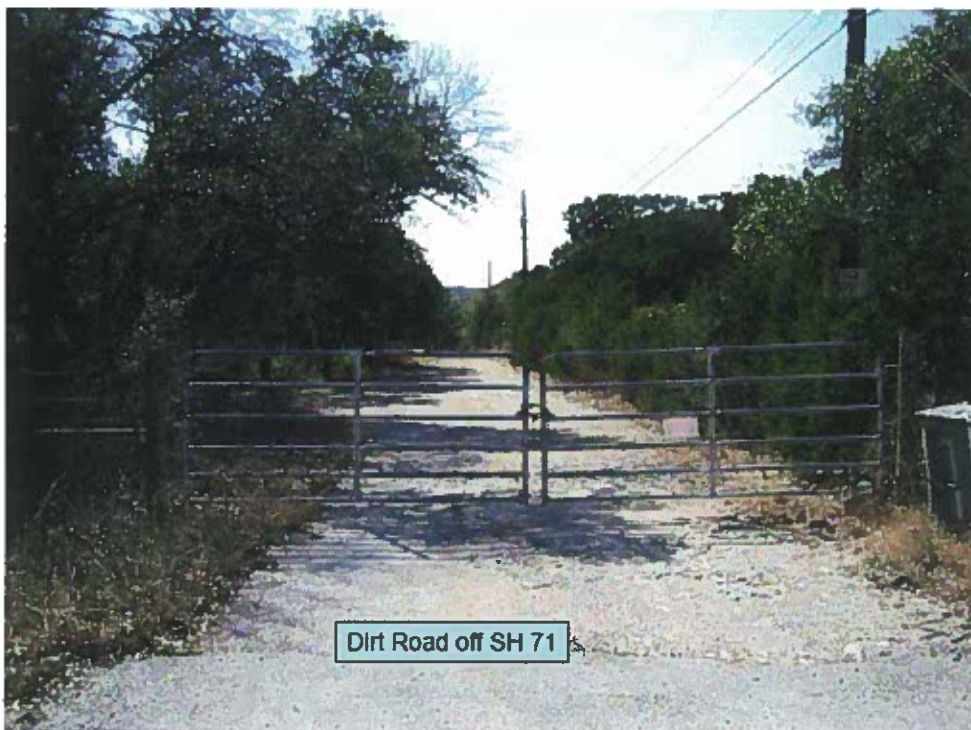
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Public Restrictive Covenant

02-8-15-86/JV

39
ZONING CASE NO. C14-85-288
(part - case 45)

RESTRICTIVE COVENANT

THE STATE OF TEXAS
COUNTY OF TRAVIS

Section 5

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned, of Deaf Smith County, Texas is owner of the following described property (hereinafter referred to as "the property"), to-wit:

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,

WHEREAS, the City of Austin, Texas, a municipal corporation, and the undersigned owner of the property have agreed that the property should be impressed with certain covenants and restrictions running with the land, for the benefit of the owner, the benefit of the public, and the more appropriate development and benefit of the property, and desire to set forth such agreement in writing;

NOW, THEREFORE, for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand paid by the City of Austin, the receipt and sufficiency of which is hereby acknowledged and confessed, the undersigned owner does hereby impress upon the property, the following covenants, Conditions and restrictions, which shall be deemed and considered to be covenants running with the land, and which shall be binding on the undersigned owner, its personal representatives, successors and assigns, as follows, to-wit:

1. The portion of the property zoned "GR" and designated as PARCEL 1 in Exhibit "B" attached hereto and made a part hereof for all purposes shall be limited to a maximum impervious coverage of fifty (50) percent and to a maximum building area of 105,500 square feet, and shall be further

02/08-15-86/JV

limited to two curb cuts among State Highway 71. Development of PARCEL 1 shall be in compliance with all provisions of the Williamson Creek Watershed Ordinance, Section 13-3-401 through 13-3-475 of the Austin City Code of 1981, as amended from time to time, except for the following ordinance sections:

Ordinance 801218-W: part 1, Section 203.3(c), (d) and (e); all of part 2;

Ordinance 810319-M: the part of section 101.2(b) reading "...or to a development within a recorded subdivision which was finally approved or disapproved by the Planning Commission prior to December 18, 1980[.]" all of sections 103.3(c), (d) and (e).

2. The portion of the property zoned "MF-1" and designated as PARCEL 2 and PARCEL 3A on Exhibit "B" each shall be limited to a maximum impervious coverage of fifty (50) percent, and PARCEL 2 shall be further limited to two curb cuts along State Highway 71. Any residential dwellings constructed upon these PARCELS shall be limited to a maximum of 120 units for PARCEL 2 and a maximum of 78 units for PARCEL 3A. Development of any PARCEL of the property zoned MF-1 shall comply with the same provisions of the Williamson Creek Watershed Ordinance as set forth in paragraph 1 of this covenant.

3. The portions of the property zoned "SF-6" and designated as PARCEL 3B and PARCEL 4 on Exhibit "B" each shall be limited to a maximum impervious coverage of fifty (50) percent. Any residential dwellings constructed upon these PARCELS shall be limited to a maximum of 72 units for PARCEL 3B and a maximum of 250 units for PARCEL 4. Development within any PARCEL of the property zoned SF-6 shall not occur on any slope which is fifteen (15) percent or greater.

4. Any residential dwellings constructed upon the portion of the property zoned "SF-2" and designated as PARCEL 5 on Exhibit "B" shall be limited to a maximum of 75 units. Development of any PARCEL of the property zoned SF-2 shall

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comply with the same provisions of the Williamson Creek Watershed Ordinance as set forth in paragraph 1 of this covenant.

5. Any residential dwellings constructed upon the portion of the property zoned "SF-1" and designated as PARCEL 6 on Exhibit "B" shall be limited to a maximum of 75 units.

6. Any residential dwellings constructed upon the portion of the property zoned "RR" and designated as PARCEL 7 on Exhibit "B" shall be limited to a maximum of 13 units.

7. During the process of subdividing the property, right-of-way for the proposed Covered Bridge Parkway (a 4-lane divided roadway) shall be dedicated from State Hwy 71 to the rear property line. The alignment of such right-of-way shall be coordinated with adjoining property owners and the obligations for construction of said roadway as normally apply in the subdivision process shall apply.

8. When a proposed site plan for any portion of the property which is subject to site plan review under the City of Austin Zoning Ordinance is submitted to the City for approval, notice of said submittal shall be given to the Westview Estates Homeowner's Association, Windmill Run Neighborhood Association and West Oaks Neighborhood Association. If notice is not given by the City, the applicant shall give such notice which shall be given in writing by certified mail, return receipt requested, to the representative of each such association as registered with the City and shall be given within three working days of site plan submission to the City by depositing said notice in the U.S. Mail.

9. If any 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

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Prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant; or to take any other action authorized by ordinance or utility service regulations of the City of Austin.

10. 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 effect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

11. 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.

12. 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 owner(s) of the above-described property at the time of such modification, amendment or termination.

EXECUTED this the 28th day of August, 1986.

HI-PLAINS SAVINGS & LOAN
ASSOCIATION

By Bernard M. Cepps, Sr.
Name: Bernard M. Cepps, Sr.
Title: President

THE STATE OF TEXAS §
COUNTY OF DEAF SMITH §

This instrument was acknowledged before me on August 28th, 1986 by Bernard M. Cepps, Sr., President of Hi-Plains Savings and Loan Association, a savings and loan association, on behalf of said association.

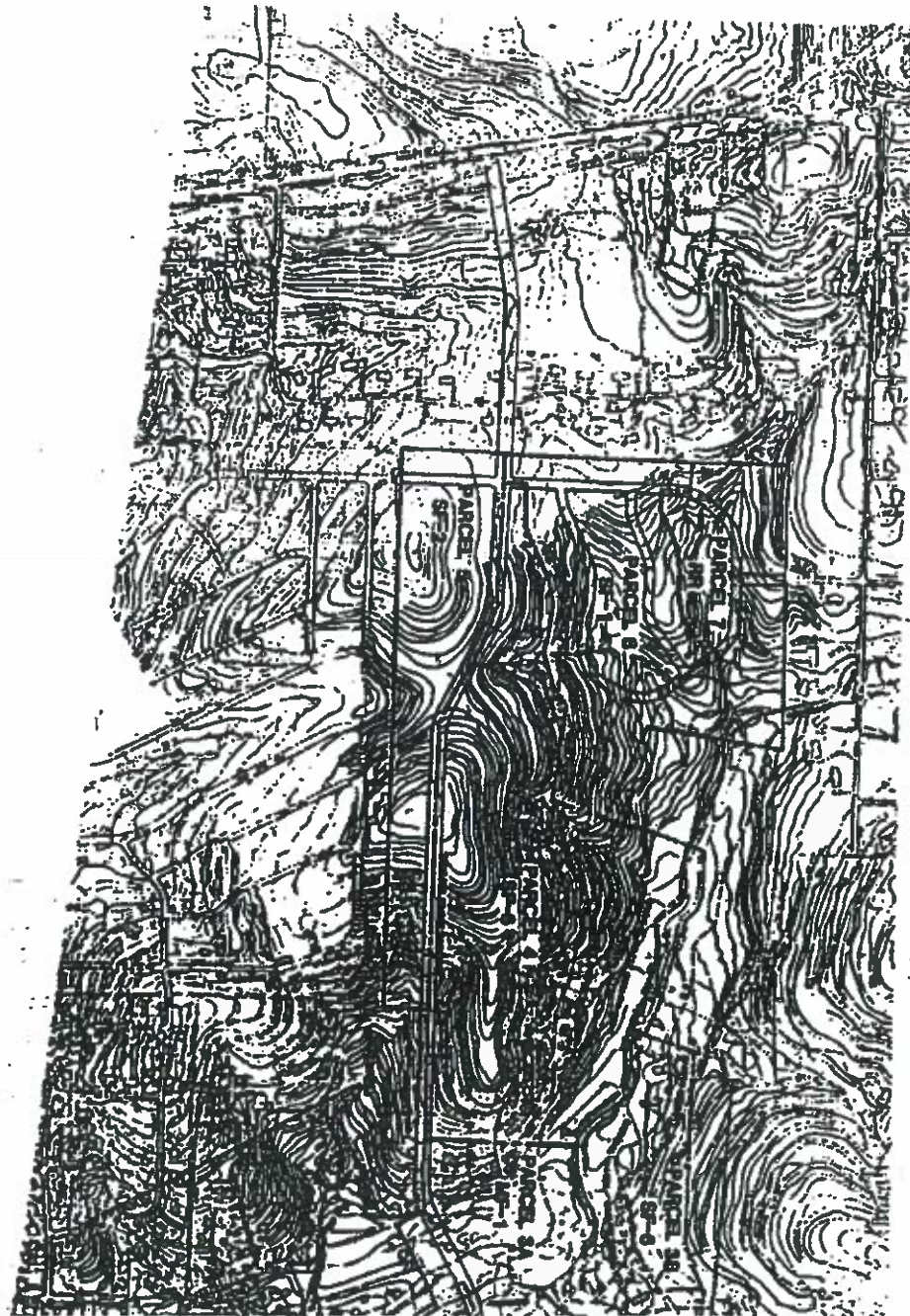
My commission expires:
04-20-88

Bra Carao
Notary Public - State of Texas





EXHIBIT B





Public Easement Document

17.00

EASEMENT AGREEMENT

3-58-1065

THE STATE OF TEXAS :
COUNTY OF TRAVIS :

RECORDED
1984 JUN 22 12:00

THIS AGREEMENT is made and entered into by and between John Dudley White Jr. and wife, Viola White, of Travis County, Texas ("White") and Rick Sheldon Builders, Inc., a Texas corporation ("Sheldon") and is as follows:

WHEREAS, by a deed of even date herewith, White has granted, sold and conveyed to Sheldon certain real property located in Travis County, Texas (the "Sheldon Property"), described as follows, to-wit:

32.60 acres of land out of the H. McClure Survey No. 94, the A. Bowles Survey No. 63, and the S. J. Bishop Survey No. 100 in Travis County, Texas, being a portion of that certain 223.76 acre tract of land conveyed to Dudley White, Jr. by deed of record in Volume 2477, page 277, Deed Records of Travis County, Texas, and more particularly described by metes and bounds in Exhibit "A", which is attached hereto and is incorporated herein by reference for all purposes as if here set forth verbatim; and

WHEREAS, White remains the owner of that certain real property located in Travis County, Texas (the "White Property") a portion of which lies immediately to the north and west of the Sheldon Property, being a part of the above described 223.76 acre tract; and

WHEREAS, in consideration for the purchase from White of the Sheldon Property and for the other consideration herein set forth, White desires to grant an easement and to agree upon and impose certain rights and obligations upon and with respect to the White Property all as hereinafter set forth;

NOW, THEREFORE, for the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, including the consideration herein recited, the receipt and adequacy of which are hereby acknowledged, White agrees as follows:

DEED
Travis County, Texas

- 1 -

8466 366

3-58-1066

1. White hereby GRANTS, BARGAINS, SELLS AND CONVEYS to Sheldon, Sheldon's successors and assigns, and the contractors, tenants, employees, and invitees of Sheldon, its successors and assigns, a perpetual easement for the purpose of ingress and egress of motor vehicular and pedestrian traffic to and from the Sheldon Property upon, over and across that portion of the White Property described in Exhibit "A", which is attached hereto and is incorporated herein by reference for all purposes as if here set forth verbatim.

TO HAVE AND TO HOLD said easement unto Sheldon, its successors and assigns forever, and White binds themselves, their heirs, successors and assigns to WARRANT AND FOREVER DEFEND said easement unto Sheldon, its successors and assigns against every person lawfully claiming or to claim the same or any part thereof. The easement granted herein is hereinafter referred to as the "Easement".

2. The right to use and enjoy the Easement is hereby expressly reserved unto White and their heirs, successors and assigns in common with all other parties entitled to the use thereof; provided, however, White covenants that White will not convey any other easement or conflicting rights within the area covered by the Easement.

3. Within a reasonable time, not to exceed two years, after any final subdivision plat is filed in the Plat Records of Travis County with respect to the Sheldon Property, Sheldon agrees to construct and maintain a paved street within the Easement. Sheldon shall be responsible for the cost of constructing, maintaining, repairing and replacing the improvements to the Easement. Upon the sale, exchange or other conveyance of any part of the Sheldon Property, the new owner or owners thereof shall assume the obligations of Sheldon hereunder and all benefits of this agreement shall inure to such new owner or owners.

3-58-1067

4. White and Sheldon shall each be responsible for insuring that they and their respective contractors, tenants, employees and invitees keep the Easement free and unobstructed at all times for the use of the other party. Vehicular parking shall be allowed on the Easement, but neither party hereto shall allow any parking or other use of the Easement that hinders or obstructs use of the Easement by the other party. Both parties hereto shall at all times conduct operations on and with respect to the Easement in such a manner as not to create a nuisance or cause detrimental effects (excepting normal wear and tear) to the pavement or other improvements on the Easement.

5. The Easement and the covenants running with the land as created hereby are for the sole benefit of the parties hereto, their respective successors and assigns, and the tenants, employees, contractors and invitees of the parties hereto, their respective successors and assigns. Nothing contained herein shall be construed to grant any right to the general public or to any governmental body or agency to use or enter upon the Easement.

6. Sheldon agrees to pay all ad valorem taxes or to reimburse White for the payment of all ad valorem taxes attributable to the land covered by the Easement. The ad valorem taxes attributable to the land covered by the Easement shall be determined by dividing the number of acres of land covered by the Easement by the total acreage of the tax parcel which contains the Easement and multiplying the number resulting from that division by the total ad valorem tax for such parcel.

7. If any portion of this Agreement is hereafter expressly declared by a Court of proper jurisdiction to be invalid or unenforceable, then such provision shall be cancelled and severed from this Agreement and the other provisions of this Agreement shall continue in full force and effect.

8. This Agreement shall constitute a binding contract between the parties upon the execution hereof. The terms of this

3-58-1068

Agreement shall run with the lands described herein and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, as owners of the White Property or the Sheldon Property.

9. This Agreement may be amended only by written agreement recorded in the Real Property Records of Travis County, Texas, executed by Sheldon, its successors or assigns, as owners of the Sheldon Property, and White, their heirs, successors or assigns as owners of the White Property.

10. Upon the default by Sheldon to perform under the terms of this Agreement and Sheldon's failure to cure such default within thirty days after the date of written notice by White to Sheldon (or in the case of a default which cannot be cured within a thirty day period, to commence and diligently work toward curing such default), then for so long as the default continues, White shall have the right, at the sole election of White, to obtain specific performance by injunction, or to pursue any other remedy available at law or in equity.

11. White agrees to dedicate the Easement as a public road at the option of Sheldon. If such option is exercised, Sheldon shall construct all improvements to the Easement as may be required by applicable governmental standards at the sole expense of Sheldon and shall pay all surveying, legal and other expenses necessary to accomplished such dedication.

Executed this first day of February, 1984.

Address:

John Dudley White, Jr.
8703 Highway 71 West
Austin, Texas 78735

John Dudley White, Jr.
JOHN DUDLEY WHITE, JR.

Viola White
VIOLA WHITE

Address:

1703 Capital of Texas Highway
Suite 405
Austin, Texas 78746

RICK SHELDON BUILDERS, INC.

By: Rick Sheldon
RICK SHELDON, President

NO SEN

3-58-1069

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this the 2nd
day of February, 1984 by John Dudley White, Jr.

My Commission Expires:

7/28/87

Russell G. Ferguson
Notary Public, State of Texas

RUSSELL G. FERGUSON

(Name - Typed or Printed)

[S E A L]

NOTARY SEAL

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this the 2nd
day of February, 1984 by Viola White.

My Commission Expires:

7/28/87

Russell G. Ferguson
Notary Public, State of Texas

RUSSELL G. FERGUSON

(Name - Typed or Printed)

[S E A L]

NOTARY SEAL

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me this the 2nd
day of February, 1984 by Rick Sheldon, President of Rick Sheldon
Builders, Inc. a Texas corporation, on behalf of said
corporation.

My Commission Expires:

10/4/87

Mary E. Williams
Notary Public, State of Texas

MARY E. WILLIAMS

(Name - Typed or Printed)

[S E A L]

NOTARY SEAL

SEAL/39

3-58-1070

FIELD NOTES
FOR
DUDLEY WHITE

32.62 ACRE TRACT

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE B. MCCLURE SURVEY NO. 94, THE A. BOWLES SURVEY NO. 63, AND THE S. J. BISHOP SURVEY NO. 100 IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 223.76 ACRE TRACT OF LAND AS CONVEYED TO DUDLEY WHITE, JR. BY DEED RECORDED IN VOLUME 2477, PAGE 277 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at an iron pin found in the South r.o.w. line of State Hwy. No. 71 at the most Northerly corner of the said Dudley White Tract, same being the most Easterly corner of that certain tract of land as conveyed to Harry Marx by deed recorded in Volume 3792, Page 57 of the Deed Records of Travis County, Texas;

THENCE with the South r.o.w. line of State Hwy. 71, S 59°41'8 for a distance of 50.00 feet to an iron pin set for the most Northerly corner and the PLACE OF BEGINNING hereof;

THENCE continuing with the said South r.o.w. line, same being the Northeast line of the herein described tract, S 59°41' E for a distance of 614.14 feet to an iron pin found for the most Easterly corner hereof;

THENCE along the Southeasterly line of the herein described tract of land, the following courses:

S 41°15' W for a distance of 695.18 feet to an iron pin found;

S 14°40' W for a distance of 480.32 feet to an iron pin found;

S 77°27' W for a distance of 474.54 feet to an iron pin found;

S 27°09' W for a distance of 197.92 feet to an iron pin found;

S 38°21' W for a distance of 128.55 feet to an iron pin found;

S 67°47' W for a distance of 56.74 feet to an iron pin found;

S 85°29' W for a distance of 242.44 feet to an iron pin found;

EXHIBIT A

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3-58-1071

FIELD NOTES
FOR
DUDLEY WHITE

32.60 ACRE TRACT - Page Two

S 34°23' W for a distance of 184.87 feet to an iron pin found;

S 26° 10' W for a distance of 154.48 feet to an iron pin found for the most Southerly corner hereof;

THENCE with the Southwest line of the herein described tract, N 46°36' W for a distance of 81.320 feet to an iron pin set and continuing with a fence line N 49°45' W for a distance of 303.07 feet to an iron pin set for the most Southwesterly corner hereof;

THENCE along the Northwesterly line of herein described tract of land, the following courses:

N 31°27' E for a distance of 320.04 feet to an iron pin set;

N 31°40' E " 680.38 "

N 16°20' E " 106.01 "

N 04°12' E " 165.18 "

N 33°36' E " 50.27 "

N 32°01' E " 51.03 "

N 32°49' E " 43.66 "

N 77°27' E " 28.80 "

S 58°38' E " 119.79 "

S 71°39' E " 102.56 "

S 75°11' E " 125.25 "

S 52°58' E " 62.25 "

N 30°26' E " 95.68 "

N 30°32' E " 687.68 feet to the PLACE OF BEGINNING and containing 32.60 acres of land, more or less.

SURVEYED BY
W. HARVEY SMITH SURVEYOR, INC.


W. HARVEY SMITH
Registered Public Surveyor No. 3908
October 5, 1983

Job No. 32246

8466 372

3-58-1072

FIELD NOTES FOR EASEMENT GRANTED BY
JOHN DUDLEY WHITE, JR., AND WIFE,
VIOLA WHITE, TO RICK SHELDON BUILDERS, INC.

An easement 60 feet in width, the southeasterly boundary line of which is the same as the northeasterly boundary line of the 32.60 acre tract of land conveyed to Rick Sheldon Builders, Inc., by John Dudley White, Jr., and wife, Viola White, by deed dated February 1, 1984, and recorded in the Deed Records of Travis County, Texas, which line is more particularly described as follows:

BEGINNING FOR REFERENCE at an iron pin found in the south r.o.w. line of State Hwy. No. 71 at the most northerly corner of the 223.76 acre tract of land conveyed to John Dudley White, Jr., by deed recorded in Volume 2477, page 277, Deed Records of Travis County, Texas, same being the most easterly corner of that certain tract of land as conveyed to Harry Marx by deed recorded in Volume 3792, page 57, Deed Records of Travis County, Texas;

THENCE with the South r.o.w. line of State Hwy. 71, S 59°41' E for a distance of 60.00 feet to an iron pin set for the PLACE OF BEGINNING hereof;

THENCE along the northwesterly line of said 32.60 acre tract of land as follows:

S 30°32' W for a distance of 687.68 feet to an iron pin set;
S 30°26' W for a distance of 95.68 feet to an iron pin set;
N 52°58' W for a distance of 62.25 feet to an iron pin set;
N 75°11' W for a distance of 125.25 feet to an iron pin set;
N 71°39' W for a distance of 102.56 feet to an iron pin set;
N 58°38' W for a distance of 119.79 feet to an iron pin set;
S 77°27' W for a distance of 28.80 feet to an iron pin set;
S 32°49' W for a distance of 43.66 feet to an iron pin set;
S 32°01' W for a distance of 51.03 feet to an iron pin set;
S 33°36' W for a distance of 50.27 feet to an iron pin set;
S 04°12' W for a distance of 165.18 feet to an iron pin set;
S 16°20' W for a distance of 106.01 feet to an iron pin set;
S 31°40' W for a distance of 680.38 feet to an iron pin set;
S 31°27' W for a distance of 320.04 feet to an iron pin,
which is the TERMINATION POINT of the southeasterly line of
the herein described easement.

KLAI/40

FILED

FEB 22 PM 4:41

David S. Thompson
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 Deed RECORDS
of Travis County, Texas, as stamp herein by me, on

FEB 22 1984



David S. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

EXHIBIT "B"
- 1 -

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