



**Zoning**  
**CITY OF AUSTIN**  
**RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: Z-6**  
**AGENDA DATE: Thu 01/08/2004**  
**PAGE: 1 of 1**

**SUBJECT:** C14-00-2112.SH (RCA) - Austin-Century Park Ltd. - Conduct a public hearing and approve a restrictive covenant amendment for the property locally known as 13601 & 13605 Ida Ridge Drive and 2700, 2800, and 2900 Century Park Drive (Walnut Creek Watershed) . Zoning and Platting Commission Recommendation: To grant the restrictive covenant amendment. Applicant: Austin-Century Park Ltd. Agent: Mike McHone Real Estate (Mike McHone). City Staff: Sherri Gager, 974-3057.

**REQUESTING** Neighborhood Planning  
**DEPARTMENT:** and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

## **RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET**

**CASE:** C14-00-2112.SH (RCA)

**Z.A.P. DATE:** December 16, 2003

**ADDRESS:** 13601 & 13605 Ida Ridge Drive  
2700, 2800, & 2900 Century Park Drive

**OWNER/APPLICANT:** Austin-Century Park Ltd.

**AGENT:** Mike McHone Real Estate  
(Mike McHone)

**EXISTING ZONING:** MF-3-CO

**AREA:** 13.289 acres

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends the amendment to the restrictive covenant to modify the language concerning the proposed sound barrier between the subject tract and the property located to the north.

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

12/16/03: Approved restrictive covenant amendment by consent (8-0, C. Hammond-absent);  
J. Martinez-1<sup>st</sup>, J. Gohil-2<sup>nd</sup>.

### **DEPARTMENT COMMENTS:**

The property in question is currently undeveloped. The applicant is requesting an amendment to a restrictive covenant associated with zoning case C14-00-2112, which rezoned this site from IP, Industrial Park district, zoning to MF-3-CO, Multi-Family Residence-Medium Density district, zoning on December 7, 2000. The restrictive covenant (Attachment A) states,

“In the event that a multifamily project is constructed on the Property, then concurrently with the construction of such multifamily project a sound barrier in the form of a parking garage with a pitched roof shall be constructed along the north property line of Lots 1, 3, 4, and 5 of the Property, between approximately the midpoint of Lot 1 to the midpoint of Lot 5. The height of the structure shall be a minimum of 22 feet from ground level.”

The applicant is requesting to modify this language to design a sound barrier that is not specific to the parking garage structure in order to accommodate the need of the Austin Energy electric utility to maintain access to overhead transmission poles and lines at this location (Letter from Austin Energy- Attachment C). The applicant would like to have the flexibility to adjust (lower) the height of the barrier with an alternate design while maintaining the original intent of the sound barrier. The applicant is proposing the following amended language for Part 1 of the restrictive covenant (Attachment B):

“In the event that a multifamily project is constructed on the Property, then concurrently with the construction of such multifamily project a sound barrier in the form of a wall shall be constructed along the north property line. The sound barrier shall be constructed from the midpoint of Lot 1 to the eastern edge of the now vacated Orchid Lane. The purpose of the sound barrier is to mitigate the sound transmission from the existing concrete plant onto the multifamily project

constructed on Lots 1-5, Block A, Century Park Addition. The height of the sound barrier shall be aligned such that the finished "head" of the window opening of the top floor of the multifamily project shall be no higher than the top elevation of the sound barrier."

The staff is recommending the applicant's request for the amendment to the restrictive covenant because the staff believes that the proposed language meets the intent for the sound barrier to separate the property in question and the industrial site to the north. The proposed RC amendment will require that a structure will be built on the site to provide for noise mitigation for the multifamily residential development on the property.

The applicant agrees with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	MF-3-CO	Undeveloped
<i>North</i>	LI, CS	Concrete Plant, Single-Family Homes, Junkyard, Construction Sales and Services
<i>South</i>	MF-3-CO	Apartments
<i>East</i>	MF-1-CO	Garden Homes/ Condominiums
<i>West</i>	IP	Undeveloped

**AREA STUDY:** N/A

**TIA:** N/A

**WATERSHED:** Walnut Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

- 52 - Northwood Neighborhood Association
- 64 - River Oaks Lakes Estates Neighborhood Association
- 114 - North Growth Corridor Alliance

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-00-2205	GR to LI	12/5/00: Approved staff rec. of CS-CO (as amended by applicant) by consent (8-0); conditions as follows: 1) Height limit of 40 feet 2) Prohibit Adult Oriented Businesses 3) 2,000 vehicle trip per day limit	1/18/01: Approved CS-CO w/conditions; (6-0); all 3 readings

C14-00-2179	IP to SF-2, SF-3, MF-1	10/17/00: Approved staff rec. of SF-2 (TR1), SF-3 (TR 2), and MF-1 (TR3) by consent (8-0)	11/30/00: Approved SF-2-CO (TR1), SF-3-CO (TR2); MF-1-CO (TR3) w/condition of 2,000 vehicle trip per day limit (7-0); all 3 readings
C14-00-2112	IP to MF-3	9/19/00: Approved staff alternate rec. of MF-3-CO by consent (9-0); conditions as follows: 1) 2,000 vehicle trip per day limit 2) Maximum of 23 residential units per acre 3) A residential structure or portion of a residential structure may not be constructed within 100 ft of the north property line between Ida Ridge and Orchid Lane	10/26/00: Approved MF-3-CO (7-0); 1 <sup>st</sup> reading  12/7/00: Approved MF-3-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-95-0051	GO to CS-CO	5/23/95: Approved staff alternate rec. of CS-CO w/conditions (7-0)	6/22/95: Approved CS-CO w/conditions (5-0); all 3 readings
C14-92-0109	IP to MF-3	11/24/92: Approved MF-3	12/3/92: Approved MF-3-CO; with following conditions: 1) Limit of 23 units per acre for multifamily development 2) Parkland dedication shall apply at site plan approval (6-0-1, RR-abstain); 1 <sup>st</sup> reading  4/7/94: Approved MF-3-CO (5-0-1, RR-abstain); 2 <sup>nd</sup> reading  4/21/94: Approved MF-3-CO (5-0-1, RR-abstain); 3 <sup>rd</sup> reading
C14-92-0108	IP to MF-3	11/24/92: Approved MF-3	12/3/92: Approved MF-3-CO; with following conditions: 1) Limit of 23 units per acre for multifamily development 2) Parkland dedication shall apply at site plan approval (6-0-1, RR-abstain); 1 <sup>st</sup> reading 4/7/94: Approved MF-3-CO (5-0-1, RR-abstain); 2 <sup>nd</sup> reading  4/21/94: Approved MF-3-CO (5-0-1, RR-abstain); 3 <sup>rd</sup> reading

**RELATED CASES:**

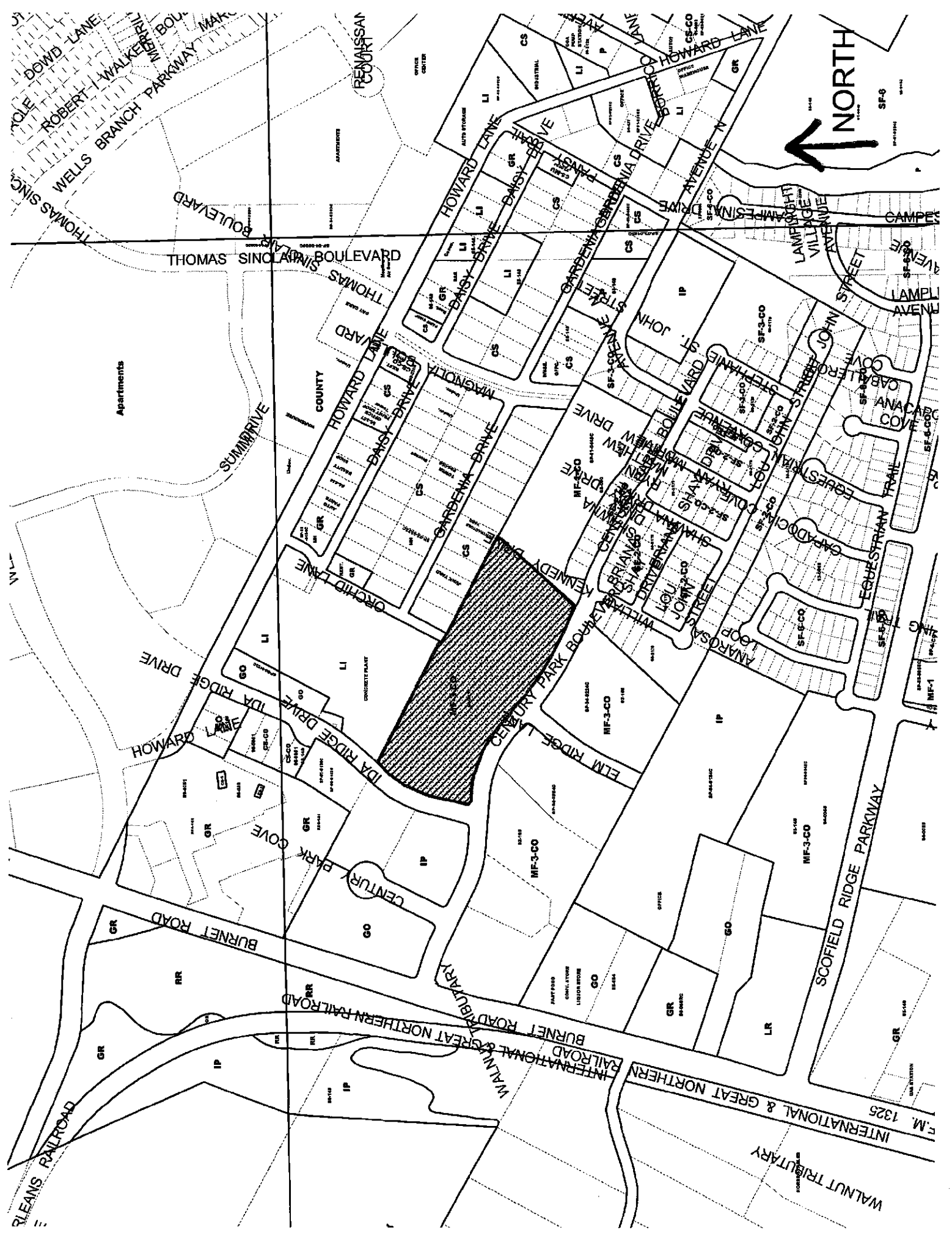
<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-00-2112	IP to MF-3	9/19/00: Approved staff alternate rec. of MF-3-CO by consent (9-0); conditions as follows: 1) 2,000 vehicle trip per day limit 2) Maximum of 23 residential units per acre 3) A residential structure or portion of a residential structure may not be constructed within 100 ft of the north property line between Ida Ridge and Orchid Lane	10/26/00: Approved MF-3-CO (7-0); 1 <sup>st</sup> reading  12/7/00: Approved MF-3-CO (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings

**ABUTTING STREETS:**

<b>NAME</b>	<b>ROW</b>	<b>PAVEMENT</b>	<b>CLASSIFICATION</b>	<b>DAILY TRAFFIC</b>
Century Park Blvd.	90'	Varies	Primary Collector	N/A
Ida Ridge Road	90'	Varies	Primary Collector	N/A

**CITY COUNCIL DATE:** January 8, 2004**ACTION:****CASE MANAGER:** Sherri Gager**PHONE:** 974-3057  
sherri.gager@ci.austin.tx.us





Apartment

E.M. 1325





Zoning Case No. C14-00-2112

**RESTRICTIVE COVENANT**

OWNER: AUSTIN-CENTURY PARK, LTD.

ADDRESS: 1717 West 6<sup>th</sup> Street, Suite 390 Austin, Texas 78703

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

PROPERTY: Lots 1 through 5, Block A, Century Park I Subdivision, a subdivision in the City of Austin, Travis County, Texas according to the map or plat of record in Plat Book 87, Page 81A, of the Plat Records of Travis County, Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. In the event that a multifamily project is constructed on the Property, then concurrently with the construction of such multifamily project a sound barrier in the form of a parking garage with a pitched roof shall be constructed along the north property line of Lots 1, 3, 4, and 5 of the Property, between approximately the midpoint of Lot 1 to the midpoint of Lot 5. The height of the structure shall be a minimum of 22 feet from ground level.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin 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.
3. If any part of this agreement or covenant is 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.
4. If at any time the City of Austin 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.
5. 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, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination; provided, however, the Restrictive Covenant shall automatically terminate at any time that the Property is no longer zoned or used for multifamily residential development.

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

EXECUTED this the 30 day of November, 2000.

OWNER:

AUSTIN-CENTURY PARK, LTD.  
A Texas limited partnership

By: Sage Land Company, Inc.  
A Texas corporation,  
Its General Partner

By: William Burrow  
President

APPROVED AS TO FORM:

Deborah Thomas  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 30<sup>th</sup> day of November, 2000, by William Burrow, President of Sage Land Company, Inc., a Texas corporation, on behalf of said corporation, and the corporation acknowledged this instrument as General Partner on behalf of Austin-Century Park, Ltd., a Texas limited partnership



Connie Fink  
Notary Public, State of Texas

After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1546  
Austin, Texas 78767-1546  
Attention: Diana Minter, Legal Assistant

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

12-27-2000 11:17 AM 2000202980  
BAZANJ \$13.00  
DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

Modified  
RESTRICTIVE COVENANT

OWNER: AUSTIN-CENTURY PARK, LTD.

ADDRESS: 1717 West 6<sup>th</sup> Street, Suite 390 Austin, Texas 78703

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

PROPERTY: Lots 1 through 5, Block A, Century Park I Subdivision, a subdivision in the City of Austin, Travis County, Texas according to the map or plat of record in Plat Book 87, Page 81A, of the Plat Records of Travis County, Texas.

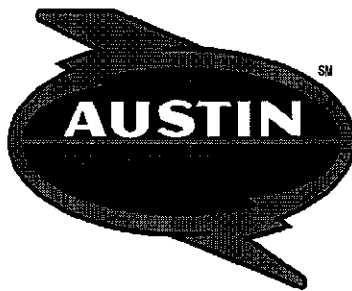
WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. In the event that a multifamily project is constructed on the Property, the concurrently with the construction of such multifamily project a sound barrier in the form of a wall shall be constructed along the north property line. The sound barrier shall be constructed from the mid point of Lot 1 to the eastern edge of the now vacated Orchid Lane. The purpose of the sound barrier is to mitigate the sound transmission from the existing concrete plant onto the multifamily project constructed on Lots 1-5 Block A Century Park Addition. The height of the sound barrier shall aligned such that the finished "head" of the window opening of the top floor of the multifamily project shall be no higher than the top elevation of the sound barrier.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin 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.
3. If any part of this agreement or covenant is 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.
4. If at any time the City of Austin 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.
5. 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, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination; provided, however, the Restrictive Covenant shall automatically terminate at any time that the Property is no longer zoned or used for multifamily residential development.

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

Attachment C



TO: JAVIER DELGADO  
WATERSHED PROTECTION AND DEVELOPMENT SERVICES

FROM: JUDY FOWLER  
AUSTIN ENERGY

DATE: NOVEMBER 18, 2003

RE: CENTURY PARK, SP-03-0476C.SH

While reviewing the above-referenced case, Century Park, a SMART housing project, Jean Evridge with Austin Energy realized the "parking structure" along the most northerly boundary would severely impact our 138kV transmission line. In discussions with the developer's representatives, we discovered through a series of oversights, Austin Energy's transmission line had been compromised by previous actions.

In 1987, there was a total vacation of the Century Park I, a subdivision recorded in Volume 86, Pages 1A-1C, Plat Records of Travis County, Texas, which eliminated a 50-foot easement along the northern boundary of the property. In 1986 through 1988, Austin Energy was constructing the 138kV transmission line from the Howard Lane Substation to the Jollyville Substation thinking the 50-foot easement was still in place. As a result of the loss of the 50 feet, Austin Energy has a 138kV line in 22.5 feet of overlapping easements.

Then in 2000, Austin Century Park LTD by its general partner, Sage Development, agreed to and executed a restrictive covenant tied to multi-family zoning (a copy is attached to this letter) for a sound barrier, which was to be a parking garage 22 feet tall at the property boundary. Because of the 22.5 feet of easements at the property line, such a structure would have to start at 22.5 feet off the property line which would prevent Austin Energy from accessing our transmission line for maintenance and to perform any upgrades on the line. If we enforce our common law right to access, then the SMART project will have to be redesigned and the owner would lose the opportunity to develop the project.

Austin Energy supports and desires to have the restrictive covenant amended to be an eight (8) foot wall which will act as a sound barrier and could be placed at the property line. Surface parking can be installed under the lines and within the easements. This

would give us access and allow the project to proceed. Austin Energy is building walls around several of its substations out of prefab concrete which act as sound barriers as well as screens. Pedernales Electric Cooperative has retrofitted quite a few of its substations with the same type of walls. The walls are very similar to the sound barrier walls seen along many highways which serve to protect adjacent neighbors from highway noise. It seems that the intent of the restrictive covenant was to act solely as a sound barrier but the parking garage wording changes what can be efficiently installed at the property line.

We cannot stress enough how critical access is to the lines. Loss of this type of circuit will generally impact a very large segment of the service area because it is a transmission circuit. We try to restore service as quickly as possible and being unable to use trucks will severely hinder our ability to bring the line back in service.

Please let me know if you need additional information to accomplish amending the restrictive covenant.

CC: Cheryl Mele, Acting Vice President of ESD  
Juan Garza, General Manager  
David Wood, Director of Transmission Construction  
Jean Evridge



Urban Design Group

November 13, 2003

Judy Fowler  
Austin Energy  
721 Barton Springs Rd. Ste.# 102  
Austin, TX 78704-1194

Via Fax: 322-6101

Re: Century Park

UDG # 03-257

Dear Judy:

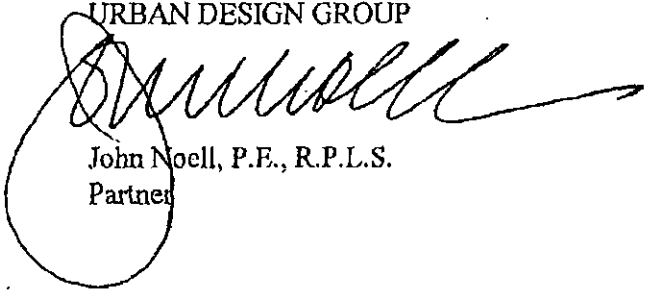
We represent Trammell Crow Residential (TCR), the proposed developers of the Century Park Apartments which are located on Lots 1 through 5, Block A of Century Park I Subdivision. The proposed development consists of a 240 unit affordable housing project in compliance with the City's Smart Housing regulations with financing assistance from the Texas Department of Housing and Community Affairs (TDHCA). TCR has contracted with Austin Century Park Limited for the purchase of the property subject to approval of a site development permit.

Based on our recent discussions with representatives of Austin Energy, the developer would encourage and support an effort by Austin Energy to modify the existing restrictive covenant to provide for an effective sound barrier on the north side of the proposed project which would not require a "parking garage" as part of the design. In order to accommodate the need of the electric utility to maintain access to its overhead transmission poles and lines, the developer would modify his site plan to improve such access if the terms of the restrictive covenant were modified slightly to eliminate the "parking garage" language. We look forward to working out any details with respect to an alternative design which will better serve the needs of the public.

It is imperative that this matter be resolved in a timely matter and, accordingly, we request that you place this on the City Council Agenda for consideration on December 4. Thank you for your cooperation in this matter.

Sincerely,

URBAN DESIGN GROUP



John Noell, P.E., R.P.L.S.  
Partner

xc: Javier Delgado, City of Austin  
Bob Buzbee, TCR  
Dustin Slack, TCR  
Gary Chiles, Architect

C:\Jobs\Century Park TCR - 03-257\Covenant Letter.vpd



2001 Bryan Street  
Suite 3700  
Dallas, Texas 75201  
(214) 922-8400

November 17, 2003

Judy Fowler  
Austin Energy  
721 Barton Springs Rd. Ste.# 102  
Austin, TX 78704-1194

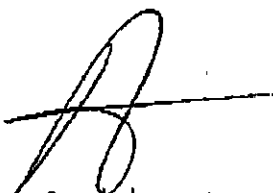
Via Fax: 322-6101

Re: Century Park

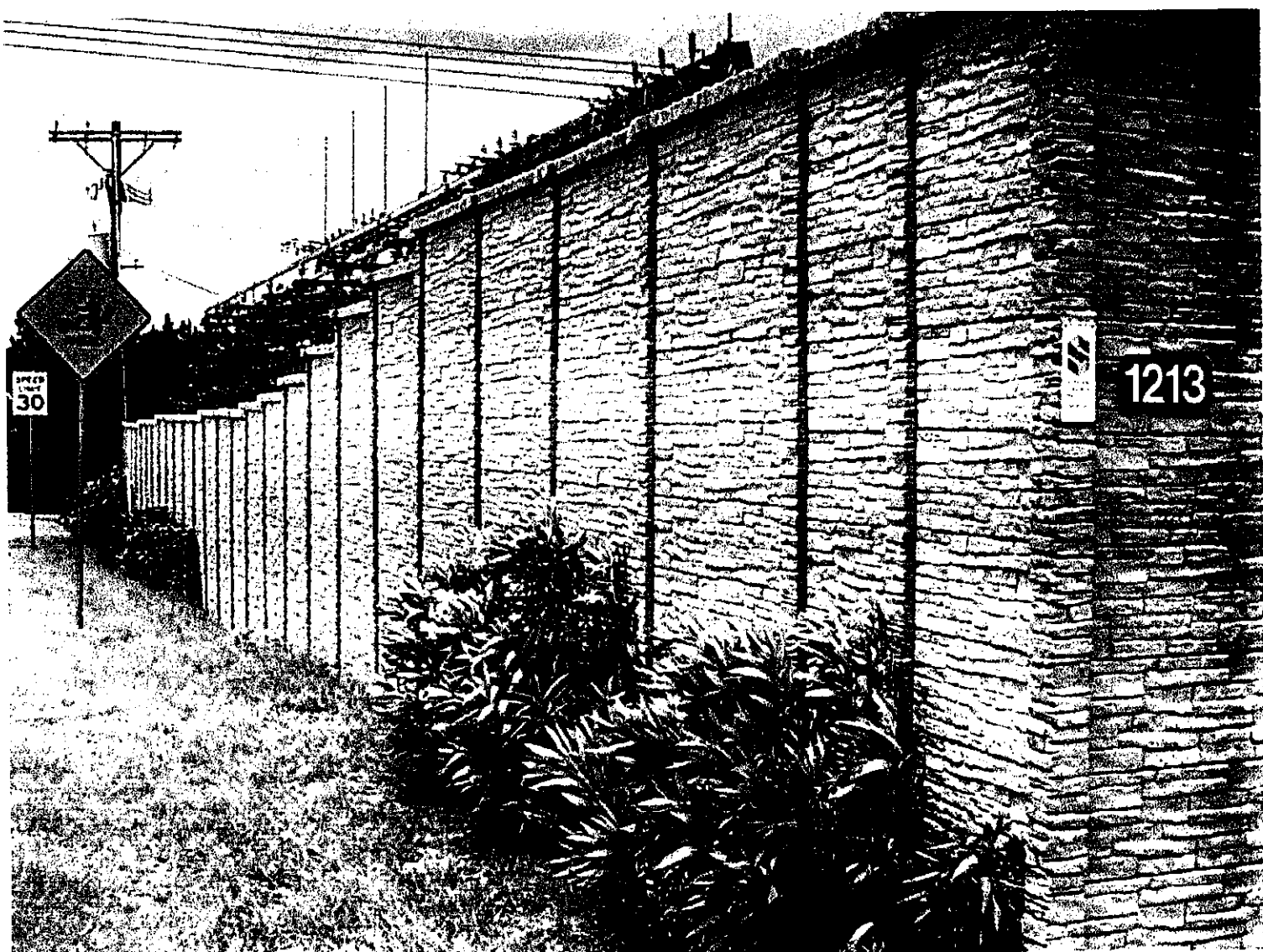
Dear Ms. Fowler:

As the developer of the proposed Century Park multifamily site, we concur with the letter dated November 13, 2003 addressed to you from John Noell, P.E. of Urban Design Group. It would appear that the only means to satisfy the needs of the utility would be to modify the restrictive covenant to eliminate the reference to a parking garage as part of the sound attenuation strategy.

Please contact us should you have any questions.

  
TCR South Central 1999 Inc.  
Bob Buzbee, President





**Fowler, Judy**

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**From:** Ohlenburger, Eric  
**Sent:** Tuesday, June 05, 2001 11:03 AM  
**To:** Fowler, Judy; Nickles, David; Small, Allen  
**Subject:** Website

Just in case you were interested, I found a website for Superior Concrete Products. Click away.

[<http://www.concretefence.com/index2.htm>](http://www.concretefence.com/index2.htm)

Enjoy,

**Eric Ohlenburger**  
**Austin Energy**  
**Power Delivery / Craft & Field Training**  
**Office (512) 505-7135**  
**Pager (512) 802-2197**  
**Cell (512) 736-1461**  
**Eric.Ohlenburger@AustinEnergy.com**

## REFERENCES

### Houston and Austin

- Wells Branch MUD  
Area bounded by Wells Branch Parkway, Merriltown Dr. Bratton Lane and Wells Port Drive  
Austin, Texas  
25,000' x 7' high and 1,000' x 6' high SUPERIOR-STONE□ Wall
- 1825 Place  
FM 1825 at Foothill Farms Loop  
Pflugerville, Texas  
1,425' x 6' high SUPERIOR-WOOD□ Wall
- Pedernales Electric Cooperative  
Johnson City, TX 78636
  - Lakeway Substation  
SUPERIOR-STONE – 490' x 10' high
  - Lago Vista Substation  
SUPERIOR-STONE – 1,360' x 10' high
  - Nameless Substation  
SUPERIOR-STONE – 1,270 x 10' high
  - Circle Drive Substation  
SUPERIOR-STONE – 950 x 10' high
  - Wimberly Switching Station  
SUPERIOR-STONE – 830 x 10' high
  - Sattler Substation Addition  
SUPERIOR-STONE – 800 x 10' high
- St. Joseph Hospital  
1919 Crawford,  
Houston, Texas  
220' x 8' high SUPERIOR-STONE□ Wall
- Stone Canyon  
Wyoming Springs & Bright Water  
Austin, TX  
2,000' x 6' high SUPERIOR-WOOD□ Wall
- Bent Tree

Sam Bass Road & FM 3406  
Round Rock, TX 78681  
1,365' x 6' high SUPERIOR-WOOD □ Wall

- Wellington Court – Lakeland Development  
Wirt Road & Wellington Court  
Houston, Texas  
655' x 9' high SUPERIOR-WOOD □ Wall
- Friendswood High School  
702 Greenbriar  
Houston, TX 77546  
100' x 12' high SUPERIOR-WOOD □ Wall
- Harbor Cove – Section 24  
Woodland Pkwy, to E. Panter Creek, turn right to Leewood Cove, turn right, to  
Pebblecove, turn right to Sandcove Court  
The Woodlands, Texas  
820' x 8' high SUPERIOR-WOOD □ Wall
- Albertson's  
18322 Clay Road  
Houston, Texas 77084  
1,315' x 8' high SUPERIOR-WOOD □ Wall
- Villas of Afton Oaks  
Vosdale @ West Alabama (4769 W. Alabama)  
Houston, Texas  
215' x 8' high SUPERIOR-STONE □ Wall
- Pine Chase Grove R.O.W.  
1324 Pine Chase Grove  
City of Hilshire Village, TX 77055  
114' x 7' high SUPERIOR-STONE □ Wall
- Kroger  
5730 Seawall Blvd  
Galveston, TX 77550  
675' x 6' high, SUPERIOR-WOOD
- Cypresswood

Louetta & Ella  
Houston, Texas  
600' x 6' high SUPERIOR-WOOD □ Wall

- Fairfield Inn of Houston  
Deerbrook Mall  
20525 Highway 59  
Humble, TX 77338  
190' x 8' high SUPERIOR-BRICK □ Wall
- Scofield Farms  
Metric Drive  
Austin, Texas  
1,545' x 6' high SUPERIOR-WOOD □ Wall

**AMENDMENT OF RESTRICTIVE COVENANT  
FOR  
ZONING CASE NO. C14-00-2112**

Owner: ACP II, Ltd., a Texas limited partnership

Address: 1717 West 6<sup>th</sup> Street, Suite 390, Austin, Texas 78703

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, Austin-Century Park, Ltd., a Texas limited partnership as owner of all that certain property described in Zoning File No. C14-00-2112, consisting of property in Century Park I Subdivision in Travis County (the "Original Property"), as more particularly described in the restrictive covenant recorded in the Official Public Records of Travis County, Texas, in Document No. 2000202980, (the "Restrictive Covenant"), imposed certain restrictions and covenants on the Property by the Restrictive Covenant of record.

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council, and (b) the owner of the Property at the time of such modification, amendment or termination.

WHEREAS, ACP II, Ltd., a Texas limited partnership, is the current owner (the "Owner") of the Property on the date of this Amendment of Restrictive Covenant (the "Amendment") and desires to amend the Restrictive Covenant as to the Property.

WHEREAS, the City Council and the Owner agree the Restrictive Covenant should be amended.

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

1. Paragraph No. 1 is deleted in its entirety and the following paragraph is substituted in its place:
  1. In the event that a multifamily project is constructed on the Property, then concurrently with the construction of such multifamily project, a sound barrier in the form of a wall shall be constructed along the north property line. The sound barrier shall be constructed from the mid-point of Lot 1 to the eastern

edge of the now vacated Orchid Lane. The purpose of the sound barrier is to mitigate the sound transmission from the existing concrete plant onto the multifamily project constructed on Lots 1-5, Block A, Century Park Addition. The height of the sound barrier shall be aligned such that the finished 'head' of the window opening of the top floor of the multifamily project shall be no higher than the top elevation of the sound barrier.

2. 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 in the Restrictive Covenant, shall continue in full force and effect on and after the effective date of this Amendment.
3. The City Manager, or her designee, shall execute, on behalf of the City, this Amendment of Restrictive Covenant for Zoning File No. C14-00-2112, 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 to be effective the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

**OWNER:**

**ACP II, Ltd.,  
a Texas limited partnership**

By: Sage Land Company, Inc.,  
a Texas corporation,  
General Partner

By: \_\_\_\_\_  
William F. Burrow, Jr., President

**CITY OF AUSTIN:**

By: \_\_\_\_\_  
**LISA Y. GORDON,  
ASSISTANT CITY MANAGER,  
CITY OF AUSTIN**

**CENTURY PARK  
AUSTIN, TEXAS**

100 FT. RESIDENTIAL SETBACK

BLDG #7, TYPE II



812.0

12.5 FT. ELEC. ESMU.

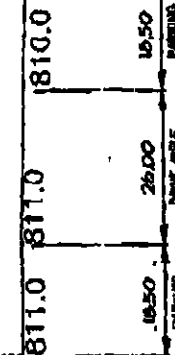
15 FT. BLDG. SETBACK

10 FT. P.U.E.

PROPERTY LINE

818.5

818.5



SITE SECTION

*Chiles Architects, Inc.*