RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-71-278(RCA) – 1408 E. 51st Street   DISTRICT: 4

ADDRESS: 1408, 1410, 1414, 1416 and 1418 East 51st Street

SITE AREA: 3.8246 Acres

PROPERTY OWNER: Sage Crossroads, LLC
(David Foor)

AGENT: Drenner Group PC
(Leah Bojo)

CASE MANAGER: Heather Chaffin (512-974-2122, heather.chaffin@austintexas.gov)

STAFF RECOMMENDATION:

Staff supports the Applicant’s request to amend Restrictive Covenant C14-71-278.

For a summary of the basis of staff’s recommendation, see case manager comments on page 2.

PLANNING COMMISSION ACTION / RECOMMENDATION:

November 12, 2019:

CITY COUNCIL ACTION:

December 5, 2019:

ORDINANCE NUMBER:
ISSUES:
There are no issues at this time. This is related to rezoning case C14-2019-0123.

CASE MANAGER COMMENTS:
The subject tract is comprised of multiple lots located on the north side of East Manor Road, approximately halfway between IH 35 and Berkman Drive. The Applicant proposes amending a restrictive covenant (RC) that was attached to the subject property as part of zoning case C14-71-278. The RC is attaching to four tracts of land; the Applicant proposes removing Tracts 2 and 3 from the RC. Tracts 1 and 4 are owned by other parties. The restrictive covenant established the following conditions:

“1. In the event any of the above described tracts are developed with multi-family improvements, the number of units which may be erected on each such tract shall be the number which would be authorized if said tract were zoned BB ‘Residence’ First Height and Area.”

BB-Residence was a zoning category used in 1971; under current code, this would limit each tract to the density of MF-2 zoning (maximum 23 units per acre). Please see Exhibits A, B, and C—Zoning Map, Aerial Exhibit, Redlined Restrictive Covenant.

Staff supports amending the RC to release the subject tract from this requirement. The proposed rezoning for the property from LO-V-NP to GR-MU-V-NP is intended to allow a higher density level of multifamily, as well as mixed use. This type of development meets current City goals and policies of increasing residential opportunities and densities along core transportation corridors. Amending the RC will make development regulations on the property consistent with current code and surrounding properties.

BASIS OF RECOMMENDATION:
1. The proposed zoning should promote consistent and orderly planning.
The conditions of the 1971 RC are outdated and have been replaced by more appropriate development regulations under current code.

EXISTING ZONING AND LAND USES:

<table>
<thead>
<tr>
<th>ZONING</th>
<th>LAND USES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>LO-V-NP</td>
</tr>
<tr>
<td>North</td>
<td>LO-NP, LO-CO-NP, SF-3-NP</td>
</tr>
<tr>
<td>South</td>
<td>PUD</td>
</tr>
<tr>
<td>East</td>
<td>LO-V-NP, LI-NP, GR-MU-CO-NP</td>
</tr>
<tr>
<td>West</td>
<td>GR-MU-V-CO-NP, LO-V-NP, MF-2-NP</td>
</tr>
<tr>
<td></td>
<td>Undeveloped, Parking lot</td>
</tr>
<tr>
<td></td>
<td>City drainage features, Single family residential</td>
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<tr>
<td></td>
<td>Mueller PUD- Office, Commercial, Residential</td>
</tr>
<tr>
<td></td>
<td>Religious assembly, City drainage features,</td>
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<tr>
<td></td>
<td>Automotive washing, Service station, Food sales</td>
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<tr>
<td></td>
<td>Multifamily, Office, Restaurant-limited</td>
</tr>
</tbody>
</table>

NEIGHBORHOOD PLANNING AREA: University Hills/Windsor Park

WATERSHED: Tannehill Branch Creek
NEIGHBORHOOD ORGANIZATIONS:
Homeless Neighborhood Association   AISD
Del Valle Community Coalition   Preservation Austin
Friends of Austin Neighborhoods   Sierra Club
Neighborhood Empowerment Foundation   Mueller Community Associations
Windsor Park Neighborhood Association   Bike Austin
Mueller Neighborhood Association   Austin Neighborhoods Council
Winsor Park-Pecan Springs Heritage NA
Windsor Park Neighborhood Plan Contact Team

INDEX OF EXHIBITS TO FOLLOW

A: Zoning Map
B. Aerial Exhibit
C. Restrictive Covenant
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Restrictive Covenant Amendment
CASE#: C14-71-278(RCA)

Created: 9/11/2019
ZONING CASE#: C14-71-278RCA
LOCATION: 1408-1418 E. 51st St.
SUBJECT AREA: 3.82 Acres
GRID: L25
MANAGER: Heather Chaffin

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.
THE STATE OF TEXAS:
COUNTY OF TRAVIS:

WHEREAS, the undersigned are the owners of the following described property located and being in the City of Austin, Travis County, Texas, to wit:

Those four tracts of land described in Exhibit A attached hereto and incorporated herein for all purposes.

WHEREAS, the City of Austin is desirous that said property be developed properly and appropriately so that such city will be able to plan the future expansion of its utility and street systems in the area; and

WHEREAS, the City of Austin and the undersigned have agreed that the above property owned by the undersigned should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing:

NOW, therefore, KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, the owners of the above described property in the City of Austin, Travis County, Texas, for and in consideration of $1.00 cash and other valuable consideration to them in hand paid by the City of Austin, a municipal corporation, the receipt of which is hereby acknowledged, do hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land and which shall be binding upon them, their heirs, executors, administrators, successors and assigns, as follows, to wit:

1. In the event any of the above described tracts are developed with multi-family improvements, the number of units which may be erected on each such tract shall be the number which would be authorized if said tract were zoned BB "Residence" First Height and Area.

2. If any person or persons 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 the person or persons violating or attempting to violate such agreement or covenant, and either to prevent him or them from so doing, or to collect damages for such violation.

3. If any part or provision of the agreement or covenants herein contained shall be declared invalid by judgment or a court order, the same shall have no effect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

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

5. This agreement may be modified, amended or terminated only by joint action of both (1) a majority vote 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 (2) by the owner of the above described property at the time of such modification, amendment, or termination.

Executed this 22nd day of November, 1971.

[Signatures]

Charlie C. Fowler

[Signature]

M. W. Engelbrecht
THE STATE OF TEXAS:
COUNTY OF TRAVIS:

Before me, the undersigned authority, on this day personally appeared

Charlie C. Tawater, known to me to be the person whose name is subscribes to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 22nd day of November, 1971.

[Notary Seal]

Barbara D. Jones
Notary Public, Travis County, Texas

THE STATE OF TEXAS:
COUNTY OF TRAVIS:

Before me, the undersigned authority, on this day personally appeared

E. J. McGee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 22nd day of November, 1971.

[Notary Seal]

E. J. McGee
Notary Public, Travis County, Texas

THE STATE OF TEXAS:
COUNTY OF TRAVIS:

Before me, the undersigned authority, on this day personally appeared

M. W. Engelbrecht, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 22nd day of November, 1971.

[Notary Seal]

M. W. Engelbrecht
Notary Public, Travis County, Texas
TRACT 1: The East 102.5 feet of the south 200 feet of Lot 9, Ridgetop Gardens, in the City of Austin, Travis County, Texas, as shown in the plat of said subdivision of record in Volume 3, Page 50, Plat Records of Travis County, Texas.

TRACT 2: The south 203.15 feet of Lot 12, Ridgetop Gardens Addition to the City of Austin, Travis County, Texas, as shown in the plat of said subdivision of record in Volume 3, Page 50, Plat Records of Travis County, Texas.

TRACT 3: The north 203.15 feet of the east 102.5 feet of Lot 11, Ridgetop Gardens Addition to the City of Austin, Travis County, Texas, as shown in the plat of said subdivision of record in Volume 3, Page 50, Plat Records of Travis County, Texas.

TRACT 4: A portion of Lots Nos. Eight (8) and Nine (9) in Ridgetop Gardens in the City of Austin, Travis County, Texas, according to a plat of record in Book 3, Page 50, Plat Records of Travis County, Texas, being a portion of that tract conveyed by Joe E. Marks, et al., to William H. Chenault by deed recorded in Volume 1084, Page 476, Deed Records of Travis County, Texas, and more particularly described by metes and bounds as follows:

Beginning at an iron stake at the Southwest corner of the East 1/2 of Lot No. 8;
Thence S. 60 deg. 00' E. 85 feet along the South line of Lot No. 8 and the North line of East Fifty-first Street to a corner post;
Thence N. 30 deg. 00' E. 200 feet along a fence to a corner post;
Thence S. 60 deg. 00' E. 60 feet along a fence to a corner post;
Thence N. 30 deg. 00' E. 25 feet along a fence to an iron stake;
Thence N. 60 deg. 00' W. 145 feet to an iron stake in the West line of the said Chenault tract;
Thence S. 30 deg. 00' W. 223 feet along a fence at the West line of the said Chenault tract to an iron stake at the place of Beginning, as surveyed by Doak Rainey, P.E.

EXHIBIT A

4224 2399
STATE OF TEXAS  COUNTY OF TRAVIS
I hereby certify that the instrument was filed on the date and at the time stamped herein by me and was duly
RECORDED in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamped heretofore and on
DEC 15 1971

COUNTY CLERK
TRAVIS COUNTY, TEXAS

4224 2400