RESTRICTIVE COVENANT AMENDMENT CHANGE REVIEW SHEET

CASE: C14-85-288.56(RCA) – Highway 71 & Mountain Shadows

DISTRICT: 8

EXISTING ZONING: GR-NP (Tract 1) and LR-NP (Tract 2)

ADDRESS: 8732, 8624 and 8722 W. State Highway 71

TOTAL SITE AREA: 1.676 acres (Tract 1) and 3.92 acres (Tract 2)

PROPERTY OWNER: THT Holdings LLC, (Senthil Rangaswamy and Prithiviraj Loganathan)

AGENT: Metcalfe Wolff Stuart & Williams LLP (Michele Rogerson Lynch)

CASE MANAGER: Kate Clark (512-974-1237, kate.clark@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends amending the Restrictive Covenant as outlined in the Staff Conditions section in Exhibit C: Environmental Officer's Review. *For a summary of the basis of Staff's recommendation, see case manager comments on Page 2.*

ENVIRONMENTAL COMMISSION ACTION / RECOMMENDATION:

June 3, 2020 **Scheduled for Environmental Commission**

PLANNING COMMISSION ACTION / RECOMMENDATION:

June 23, 2020 **Scheduled for Planning Commission**

CITY COUNCIL ACTION:

July 30, 2020 **Scheduled for City Council**

RESTRICTIVE COVENANT AMENDMENT RECORDING NUMBER:

ISSUES

Neighbors in the area are concerned about the project connecting to Mountain Shadows Drive per the current Restrictive Covenant (RC) requirements. Because this project site is over the Barton Springs Contributing Zone, the Applicant, the Austin Transportation Department (ATD) and the Office of the Environmental Officer have been working closely to come to an agreement on how and when this road should be developed.

Mountain Shadows Drive is shown on the Austin Strategic Mobility Plan (ASMP) to be extended from its current terminus to State Highway 71. At this time, ATD is recommending removing the current language in the RC and to defer ROW dedication for this road until submittal of the first subdivision or site plan application.

The Applicant has agreed to not take access to any of the existing neighborhood roads for this development project. Therefore, they will be constructing a part of Mountain Shadows Drive from State Highway 71 to their project entrance for their access. They have agreed to only build the portion of the road that will be necessary to provide access for their development and dedicate the remaining ROW to be constructed at a later date.

CASE MANAGER COMMENTS:

The proposed Restrictive Covenant Amendment (RCA) area is approximately 5.596 acres and is currently undeveloped. It was zoned to GR and LR in 1987. The zoning case included a public Restrictive Covenant (RC) that dictated development standards and permitted land uses for these tracts of land. The applicant is requesting to amend C14-85-288.56 RC (see *Exhibit B: Original 1985 Restrictive Covenant*) to keep the existing impervious cover allowances, increase the originally allowed maximum FAR to current code and to allow various types of construction on different slope types (current code) in exchange of relinquishing outdated Environmental Codes.

BASIS OF RECOMMENDATION:

Staff recommends the proposed amendments to the RC because much of it allows for development under a previous code and therefore is not up to date on newer and current standards.

Please refer to the “Staff Conditions” section within *Exhibit C: Environmental Officer’s Review* for Staff’s Recommendations on the amendments to the RC.

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	LR-NP and GR-NP	Undeveloped
North	RR-NP	Undeveloped
South	Right-of-way and PUD-NP	State Highway 71 and multifamily residential

	Zoning	Land Uses
East	GR-NP	Fire station and government buildings
West	AG-NP	Single family residential

NEIGHBORHOOD PLANNING AREA: Oak Hill Combined Neighborhood Plan (West Oak Hill, NP Ordinance No. 20081211-096)

TIA: not required at this time.

WATERSHED: Williamson Creek (Barton Springs Zone -Contributing Zone)

OVERLAYS: Barton Springs Overlay

SCHOOLS: Oak Hill Elementary, Small Middle and Austin High Schools

NEIGHBORHOOD ORGANIZATIONS

Austin Independent School District
Aviara HOA
Bike Austin
City of Rollingwood
Covered Bridge Property Owners
Friends of Austin Neighborhoods
Neighborhood Empowerment Foundation
Oak Hill Association of Neighborhoods (OHAN)
Oak Hill Neighborhood Plan - COA Liaison
Oak Hill Neighborhood Plan Contact Team
Oak Hill Trails Association
Ridgeview
Save Our Springs Alliance
SELTexas
Sierra Club, Austin Regional Group
Thomas Springs Alliance
TNR BCP - Travis County Natural Resource

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2011-0038 Mountain Shadows Rezone, Lots K, L and P 8800 Sky Mountain Drive	RR-NP to MF-1-NP	To grant MF-1-CO-NP as staff recommended. CO was to limit trips per day.	To approve MF-1-CO-NP as Commission recommended. (8/18/11)

Number	Request	Commission	City Council
C14-00-2104 Oak Forest 8501-8635 Block of Old Bee Caves Rd	I-RR and RR to MF-1-CO	To grant MF-1-CO as staff recommended. CO was to limit trips per day, prohibit access to Mountain Crest Drive and Sky Mountain Drive and a dedication of ROW.	To approve MF-1-CO as Commission recommended. (11/30/00)
C14-85-288.115 Mountain Shadow's Subdivision	RR to MF-1	To grant MF-1 as staff recommended with public restrictive covenant.	To Approve MF-1 as Commission recommended with public restrictive covenant. (4/30/87)

RELATED CASES:

C14-2020-0023: This rezoning case is currently being reviewed and includes the area that is covered by this Restrictive Covenant (RC) as well as additional land to the northeast. For the area that is covered by this RC, the Applicant is requesting to rezone from LR-NP and GR-NP to LR-MU-MP.

C14-2008-0125: West Oak Hill NPCD Oak Hill Combined Neighborhood Plan (Ordinance No. 20081211-097)

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Mountain Shadows Drive	50’	20’	Level 2	None	None	None
W SH 71	150’	75’	Level 5	None	None	None

OTHER STAFF COMMENTS:

Transportation

The Austin Transportation Department (ATD) staff recommends removing language regarding the dedication on Mountain Shadows or the replacing existing text with the following alternative: “Mountain Shadows Road shall comply with the Austin Strategic Mobility Plan”.

Environmental Officer

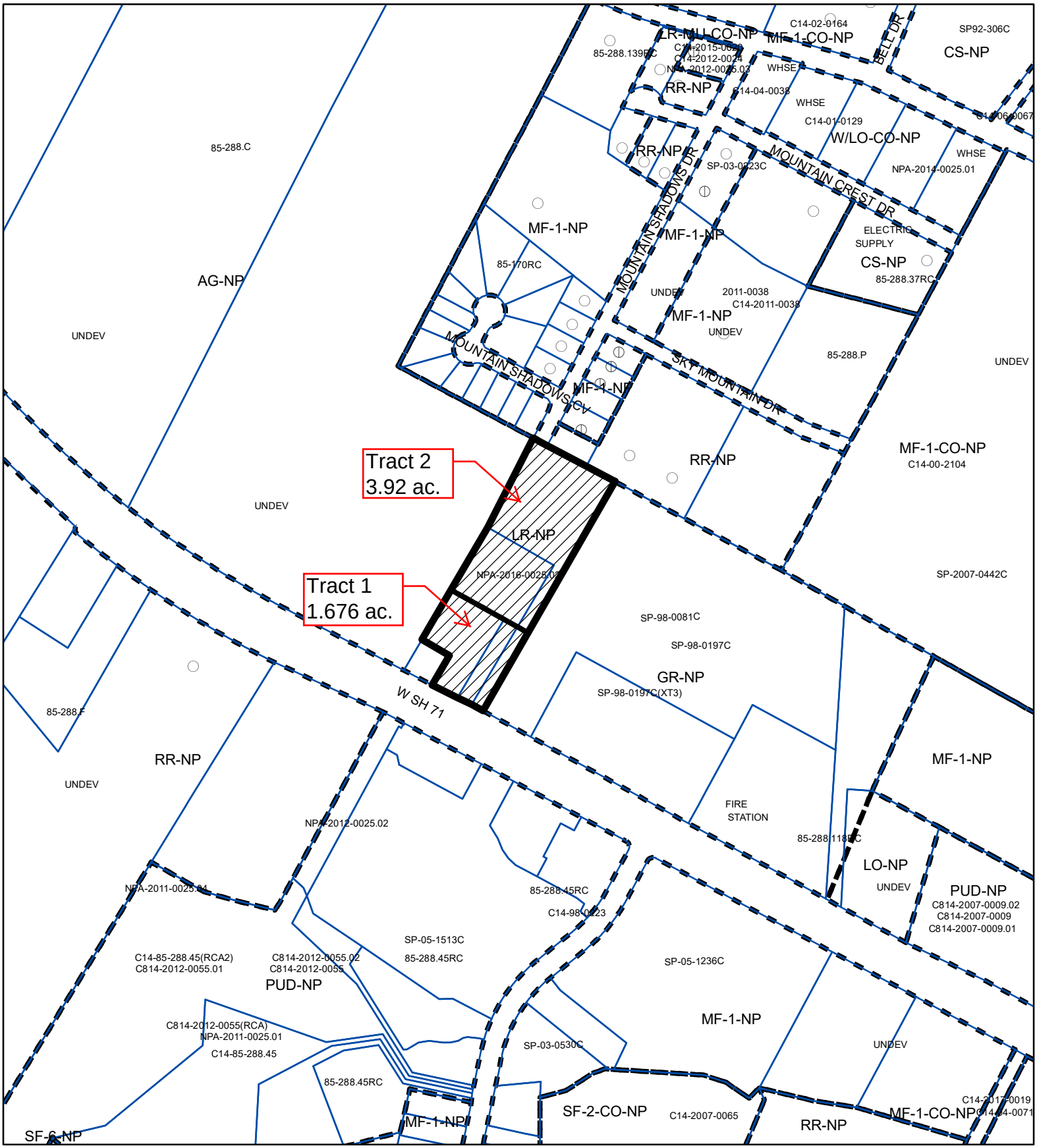
Please refer to *Exhibit C: Environmental Officer's Review*.

INDEX OF EXHIBITS TO FOLLOW

Exhibit A: Restrictive Covenant Amendment Map

Exhibit B: Original 1985 Restrictive Covenant

Exhibit C: Environmental Officer's Review



Restrictive Covenant Amendment

CASE#: C14-85-288.56(RCA)

Exhibit A

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.

Created: 2/19/2020

Exhibit B

1700

Zoning Case No. C14-85-288.56

17.00 INDX
09/29/87

RESTRICTIVE COVENANT

-90-Docs
6675.23-CHK#

Owner: LHC Joint Venture

4 28 5385

Owner's Address: P.O. Box 2102 , Austin, Texas 78768

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

Property: Tract 1: 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

Tract 2: All that certain tract, piece or parcel of land, lying and being situated in the County of Travis, State of Texas, described in Exhibit "B" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

Owner of the Property, for the consideration, impresses the Property with these covenants and restrictions running with the land:

1. The following covenants and restrictions apply only to Tract 1 of the Property:

   a) Maximum impervious coverage of the Property shall be 65 percent.

   b) The Property shall be limited to a maximum of .20 to 1 floor to area ratio as defined by Section 1212 of Chapter 13-2A of the Austin City Code.

   c) 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 of 1981 except for the following sections:
      The part of Section 9-10-191 which reads "or to a development within a recorded subdivision which was finally approved or finally disapproved by the Planning Commission prior to December 18, 1980."
      Section 9-10-208, subsections (c), (d), and (e).
      Section 13-3-408(a)
      Section 13-3-433, subsections (c), (d), and (e).

   d) The maximum number of curb cuts on the Property where it fronts State Highway 71 ("S.H. 71") shall be one.

   e) The Property shall be limited to Restaurant (General) and Restaurant (Drive-In, Fast Food) uses as defined in Sections 1725 and 1727 in Chapter 13-2A of the Austin City Code.

   f) If use of the Property as a restaurant is discontinued for 90 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to "LR" Neighborhood Commercial as defined in Sections 2475 through 2479 of the Austin City Code. Normal, seasonal cessation of a use, or temporary discontinuance purposes of maintenance or rebuilding of the

REAL PROPERTY RECORDS
Travis County, Texas

Property after damage or destruction shall not be included in calculating the period of discontinuance.

2. The following covenants and restrictions apply only to Tract 2 of the Property:

   a) Maximum impervious coverage of the Property shall be 65 percent.

   b) The Property shall be limited to a maximum of .20 to 1 floor to area ratio as defined by Section 1212 of Chapter 13-2A of the Austin City Code.

   c) 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 of 1981 except for the following sections:
      The part of Section 9-10-191 which reads "or to a development within a recorded subdivision which was finally approved or finally disapproved by the Planning Commission prior to December 18, 1980."
      Section 9-10-208, subsections (c), (d), and (e).
      Section 13-3-408(a)
      Section 13-3-433, subsections (c), (d), and (e).

   d) A building permit for the site on this tract shall not be issued until Mountain Shadows Road has been constructed from State Highway 71 to the north Property line at 44 feet of pavement within 70 feet of right-of-way, or at a design standard as otherwise may be approved by the City.

3. If any person or entity shall violate or attempt to violate this 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.

4. 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.

5. 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.

6. 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 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 1981, as amended from time to time, unless otherwise specified.

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

EXECUTED this 10th day of August, 1987

LHC JOINT VENTURE

Hubert M. Caskey, Managing Partner

THE STATE OF TEXAS

This instrument was acknowledeg before me on August 10th, 1987, by Hubert M. Caskey, managing partner, on behalf of LHC Joint Venture, a joint venture.

Bambi A. Slack NOTARY SEAL

Notary Public, State of Texas

Notary's name (printed

Bambi G. Slack

Notary's commission expires:

May 3, 1988

8528856.RC

10433 0177

MEMORANDUM

TO: Linda Guerrero, Chair, and Members of the Environmental Commission

FROM: Christopher S. Herrington, P.E., Environmental Officer
Watershed Protection Department

DATE: May 20, 2020

SUBJECT: Highway 71 & Mountain Shadow RCA – C14-85-288.56(RCA)

This summary is being provided to the Environmental Commission for the Highway 71 & Mountain Shadow Restricted Covenant Amendment (RCA), a proposed amendment to an existing restrictive covenant from 1985.

History

Restrictive covenants from this time period are legal documents that establish site development regulations and use limitations for some properties located within the Oak Hill Study area. These restrictive covenants establish certain entitlements for the land which may accompany restrictions on allowable or prohibited land uses. This restrictive covenant includes two tracts of land which are located in the full purpose jurisdiction, in the Williamson Creek Watershed, and in the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer:

Tract 1 - 1.676 acres
Tract 2 – 3.92 acres

These Oak Hill area restrictive covenants frequently lock in older site development regulations which predate current water quality protections for the Barton Springs Zone established by City Code 25-8, Article 13 (*Save Our Springs Initiative*). These properties could develop under the terms of the restrictive covenant without achieving compliance with the non-degradation water quality standard of the Save Our Springs Ordinance.

If the property is rezoned to allow uses other than the uses allowed by the restrictive covenant, the restrictive covenant must also be amended. Because these restrictive covenants entitle the properties to develop under older regulations, amending these restrictive covenants provides an opportunity for additional environmental protection and for development on these tracts to achieve a greater degree of compliance with current environmental regulations.

Proposed Changes

The applicant is proposing to rezone the property from LR-NP, RR-NP, GR-NP to MF-1-NP and LR-MU-NP. As part of the restrictive covenant amendment, the applicant is agreeing to also amend the terms of the restrictive covenant to provide additional environmental benefits, in particular agreeing to comply with the non-degradation water quality treatment standard of the Save Our Springs Ordinance.

Staff Recommendation

Because the restrictive covenant amendment provides greater overall environmental protection and achieves a higher degree of overall compliance with current regulations than would otherwise be permitted under the current restrictive covenant, staff recommends this restrictive covenant amendment with conditions.

Staff Conditions

1. This application completes the project established by the Restrictive Covenant such that any further development or redevelopment is subject to current code at the time of site development permit application.
2. This project shall comply with current code except for the following exceptions:
    a. 65% impervious cover on a gross site area shall be allowed for Tracts 1 and 2 as established by the current Restrictive Covenant.
    b. A 1.25 acre area of Tract 2 shall comply with the Code of 1985 (Rivers, Lakes, and Watercourses) section 9-10-192(g) for construction on slopes as established by the current Restrictive Covenant. The remainder of Tract 2 shall comply with current code for construction on slopes.
    c. Cut and fill shall not exceed 8 feet for a 1.25 acre area of Tract 2. The remainder of Tract 2 shall comply with current code for cut and fill.
3. All impervious cover shall be treated for water quality under the non-degradation standards of the Save Our Springs Initiative, City Code 25-8, Article 13 (*Save Our Springs Initiative*), including sizing water quality treatment volumes to account for the future extension of Mountain Shadows Road.
4. The Mountain Shadows Road right-of-way shall be included in the calculation of allowable impervious cover.
5. A water quality control for the treatment of development on Tracts 1 and 2 shall be allowed to be located on Tract 1.
6. Restrictions on curb cuts along State Highway 71 for Tract 1 established by the current Restrictive Covenant shall be removed, as access to State Highway 71 is determined by the Texas Department of Transportation.
7. The restrictions on issuance of building permits for Tract 2 contingent upon construction of Mountain Shadows Road in the current Restrictive Covenant shall be modified to provide for a safer connection to the existing roadway as determined by the Austin Transportation Department using current code requirements.

If you have any questions about the environmental conditions of this restrictive covenant amendment, please contact Atha Phillips in the Watershed Protection Department at 512-974-2132 or atha.phillips@austintexas.gov.

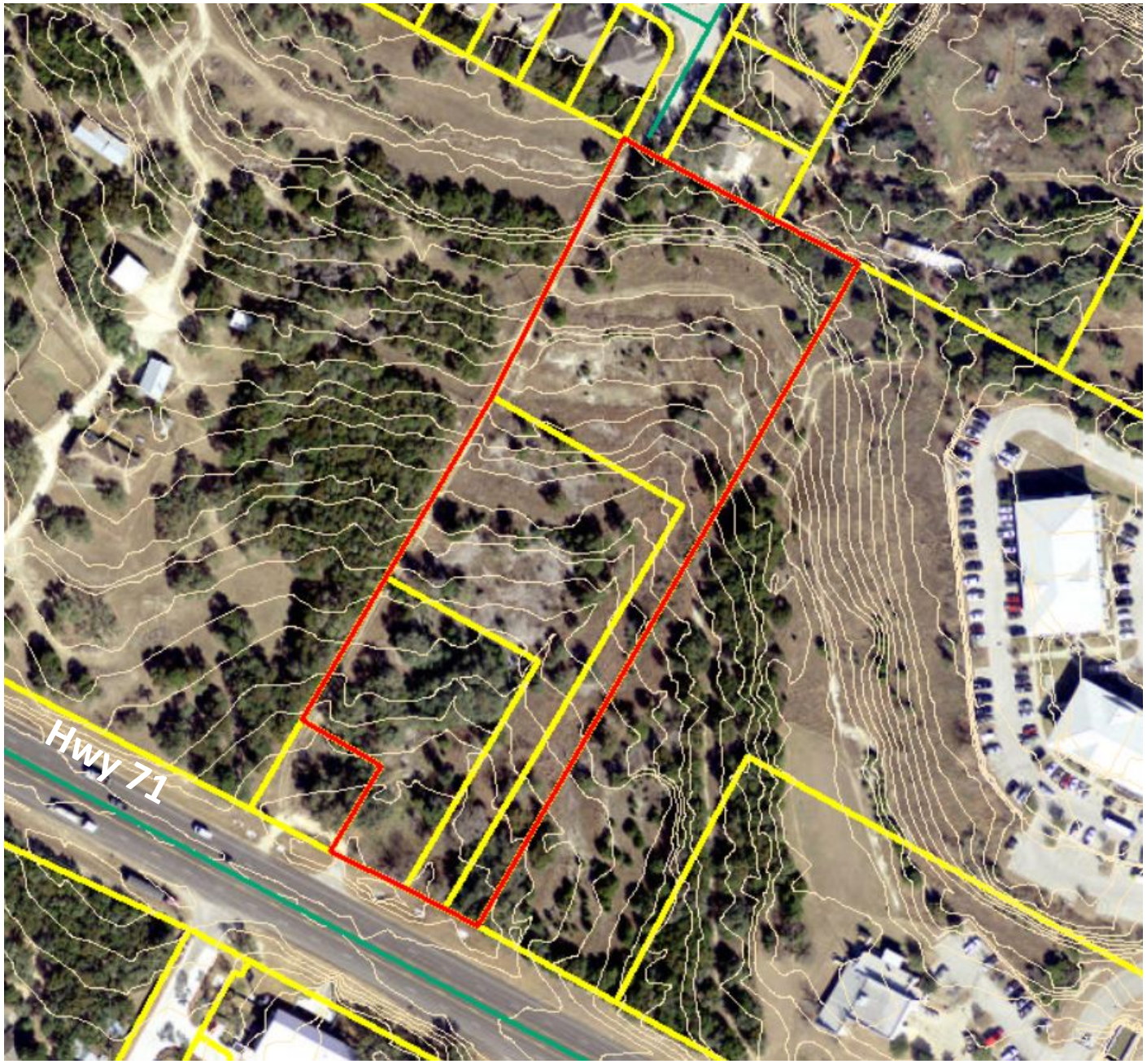
Hwy 71 & Mountain Shadows

Restrictive Covenant Amendment

- Williamson Creek Watershed
- Barton Springs Zone
- Edwards Aquifer Contributing Zone
- Current Code: 25% Net Site Area Impervious Cover

  Entitled Impervious Cover: 65% Gross Site Area
- Will provide SOS non-degradation water quality


71
Hwy 71


Hwy 71