RESTRICTIVE COVENANT AMENDMENT CHANGE REVIEW SHEET

CASE: C14-05-0112(RCA2) – AMLI South Shore DISTRICT: 9

EXISTING ZONING: ERC (Corridor Mixed Use)

ADDRESS: 1720 South Lakeshore Blvd

SITE AREA: 10.48 acres

PROPERTY OWNER:
1620 East Riverside Drive, LLC. (Taylor Bowen)

AGENT:
Drenner Group, PC (Amanda Swor)

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

STAFF RECOMMENDATION:

Staff recommends amending the Restrictive Covenants to increase the total number of units allowed on site to 520 units and removing the ownership requirements. *For a summary of the basis of staff's recommendation, see page 2.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

July 28, 2020 Scheduled for Planning Commission

CITY COUNCIL ACTION:

August 27, 2020 Planned to be Scheduled for City Council

RESTRICTIVE COVENANT AMENDMENT RECORDING NUMBER:

ISSUES

None at this time.

CASE MANAGER COMMENTS:

This property is approximately 10.48 acres and currently developed with a mixed-use project containing multifamily residential and commercial uses. It was rezoned to ERC with the East Riverside Neighborhood Plan Rezoning Case in 2006 and is surrounded by other properties within the ERC. This rezoning case included a public Restrictive Covenant (RC Recording No. 2007039123) which was later amended in 2011 (RC Recording No. 2011186530), please see *Exhibit B: Original Restrictive Covenants*. The Applicant's request is to modify the ownership

requirement from the first RC to remove the requirement that a minimum of 45 residential units be for sale and to increase the maximum number of residential units allowed on the property from 450 units to 520 units from the amended RC. No other changes are proposed at this time.

BASIS OF RECOMMENDATION:

Staff recommends the Applicant's proposed changes to the Restrictive Covenants to allow for increased density and removal of ownership requirements. This is an existing mixed-use development. Currently the Applicant is proposing all new construction in an undeveloped area of the property with no increased entitlements other than the density. The Applicant is not proposing any changes to the existing Lady Bird Boardwalk Trail access. Allowing additional units for this development would increase density in an area that is already developed without replacing any existing units.

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	ERC	Mixed Use
North	Lady Bird Lake	N/A
South	ERC and PUD	Commercial and Mixed Use
East	ERC	Multifamily
West	ERC	Multifamily

NEIGHBORHOOD PLANNING AREA: East Riverside/Oltorf Combined NP Area

TIA: The site must demonstrate compliance with the TIA and final memo approved with SP-2007-0710(XT) at the time of site plan. A new or amended traffic impact analysis may be required but should be deferred to the time of site plan application.

WATERSHED: Lady Bird Lake (urban)

OVERLAYS: ADU Approximate Area Reduced Parking, Residential Design Standards, Scenic Roadways Overlay (Riverside Drive), Waterfront Setbacks Overlay.

SCHOOLS: Sanchez Elementary, Martin Middle and Austin High Schools.

NEIGHBORHOOD ORGANIZATIONS

Austin Independent School District
Austin Lost and Found Pets
Austin Neighborhoods Council
Bike Austin

Crossing Gardenhome Owners Assn. (The)
Del Valle Community Coalition
East Austin Conservancy
East Riverside/Oltorf Neighborhood Plan Contact Team
El Concilio Mexican-American Neighborhoods
Friends of Austin Neighborhoods
Friends of Riverside ATX Neighborhood Association
Homeless Neighborhood Association
Neighborhood Empowerment Foundatio
Pleasant Valley, Preservation Austin
SELTexas
Sierra Club (Austin Regional Group)
South Central Coalition
South River City Citizens Assn.
Southeast Austin Neighborhood Alliance
Waterfront Condominium Homeowners Association
Zoning Committee of South River City Citizens

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2012-0111 East Riverside Corridor Regulating Plan-East Riverside Oltorf Combined Neighborhood	To rezone approximately 700 acres from various to ERC	To grant ERC.	Approved ERC. (5/9/13)
C14-2011-0129 East Riverside Corridor Regulating Plan	To rezone 1,000 acres from various to ERC	Case expired.	Case expired.
C814-2008-0087 South Shore District PUD	From MF-3/MF-3-NP, CS-1NP/GR-NP, GR-NP, LR-NP/MF-3/MF-3/MF-3-NP to PUD-NP	To grant PUD-NP.	Approved PUD-NP. (12/17/09)

RELATED CASES:

C14-05-0112: as a part of this zoning case the property had a restrictive covenant (RC) place on it. This is document 2007039123.

C14-05-0112(RCA): this was the first amendment to the original RC. This is document number 2011186530.

Please see *Exhibit B: Original Restrictive Covenants* for copies of all the RCs on this property.

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
S. Lakeshore Blvd.	~81’	92’	43’	2	Yes	Yes
E. Riverside Drive	~157’	140’	~92’	3	Yes	Yes

OTHER STAFF COMMENTS:

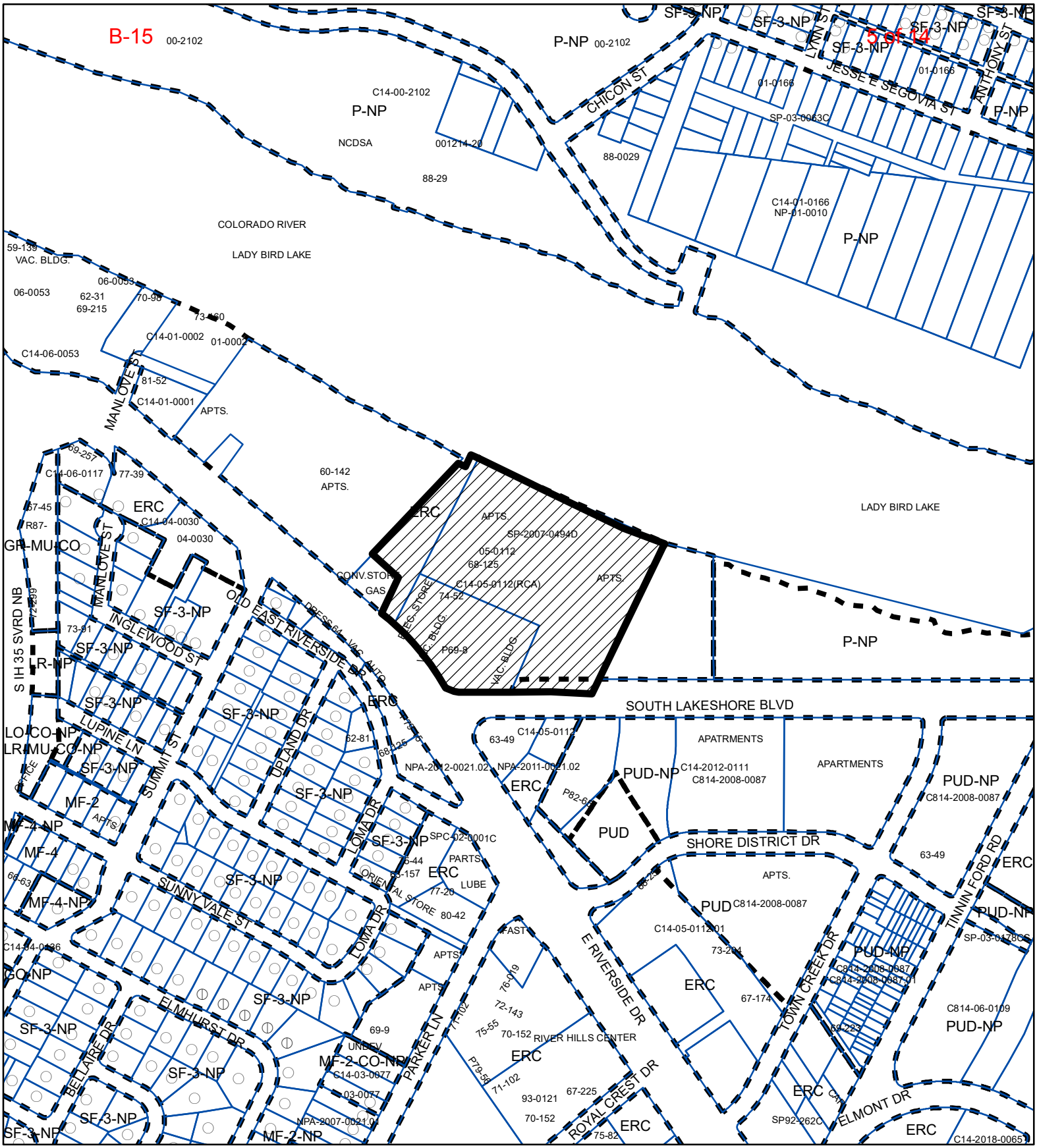
Transportation

The Austin Strategic Mobility Plan (ASMP), adopted 04/11/2019, identifies existing right-of-way as sufficient for S. Lakeshore Boulevard and E. Riverside Drive. The site must demonstrate compliance with the TIA and final memo approved with SP-2007-0710(XT) at the time of site plan. A new or amended traffic impact analysis may be required but should be deferred to the time of site plan application.

INDEX OF EXHIBITS TO FOLLOW

Exhibit A: Restrictive Covenant Amendment Map

Exhibit B: Original Restrictive Covenants



Restrictive Covenant Amendment

CASE#: C14-05-0112(RCA2)

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: 6/17/2020

RESTRICT 2007039123
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Zoning Case No. C14-05-0112

RESTRICTIVE COVENANT

OWNERS: Jimmy Nassour (Tract I)
Jimmy Nassour, Trustee (Tract II)
Stephen Oyster and Tina Oyster (Tract III)
Austin 1825 Fortview, Inc., a Texas corporation (Tracts IV, V, and VI)

ADDRESS: See Below

OWNER: Contessa Dormitory Associates, Ltd., a Texas limited partnership (6.926 acres)

ADDRESS: 3724 West Jefferson Street, Suite 306, Austin, Texas 78731

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: A 6.926 acre tract of land, more or less, out of the Santiago Del Valle Grant, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit A attached and incorporated into this covenant; and

Tracts I, II, III, IV, V, VI, being those certain lots out of Riverside Divide Section 3 and Shamrock Addition, in the City of Austin, Travis County, as shown on Exhibit B attached and incorporated into this covenant.

WHEREAS, the Owners 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 Owners 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 Owners of the Property, its heirs, successors, and assigns.

1. Development of the Property is subject to Ordinance No. 20060831-068 that established standards for commercial design, including the development bonuses provided in Section 4.3.4 of Subchapter E.

2. A driveway that provides vehicular access from a public right-of-way to the Property may not be gated.

3. A 100-foot wide building setback shall be established from the shoreline of Town Lake. Improvements permitted within this setback zone are limited to utility crossings, drainage and water quality improvements, the hike and bike trail, or those improvements that may be otherwise required by the City of Austin or specifically authorized in this covenant.

4. The maximum height of a building or structure is 60 feet from ground level.

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5. Owner is responsible for the construction of the hike and bike trail within a 30-foot wide easement to be provided by the Owner for this purpose prior to the issuance of a certificate of occupancy for a residential project.

6. Public pedestrian access shall be provided from East Riverside Drive and Lakeshore Boulevard to Town Lake on the east and west sides of the Property.

7. A minimum of 45 residential units shall be provided as for-sale properties.

8. A maximum of 375 dwelling units for rental may be constructed on the Property.

9. A minimum of 10,000 square feet of retail uses shall be provided along East Riverside Drive.

10. An area within the Property shall be provided to allow for regional water quality controls to capture, isolate and treat a minimum 10.94 acres of stormwater runoff from off-site contributing drainage areas. The owner will work with the Watershed Protection and Development Review Department staff to identify the opportunity available to capture and treat additional run-off. The size and location of the on-site water quality controls shall be agreed to and approved by the City. The water quality controls shall comply with the water quality control standards as set forth in Section 25-8-213 of the City Code.

11. Five percent of the residential units in the vertical mixed use (VMU) building shall be reserved as affordable, for a minimum of 40 years following the issuance of the certificate of occupancy, for rental by households earning no more than 80 percent of the annual median family income (MFI).

12. 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.

13. 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.

14. 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.

15. 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.

16. This Restrictive Covenant may be executed in any number of counterparts, each of which is deemed to be an original, and all of which are identical.

EXECUTED this the 14th day of February, 2006.7

OWNER(S):

6.926 acres (Exhibit A)

Contessa Dormitory Associates, Ltd.
a Texas limited partnership

By: ASC Development, L.C.
a Texas limited liability company,
its General Partner

By: M. Farahani
Manny Farahani,
President

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 14th day of February, 2006, by Manny Farahani, President of ASC Development, L.C., a Texas limited liability company, General Partner on behalf of Contessa Dormitory Associates, Ltd., a Texas limited partnership.

NOTARY PUBLIC STATE OF TEXAS
CHRISTIE SHULTZ
NOTARY PUBLIC
State of Texas
Comm. Exp. 05-26-2008

Christie Shultz
Notary Public, State of Texas

EXECUTED this the 15th day of FEBRUARY, 2006 2007

OWNER(S):

Tract I (Exhibit B)

Jimmy Nassour
Address: ~~1200 San Antonio St.~~ 3839 BEE CAVE RD #200
Austin, TX 78701 78746

Tract II (Exhibit B)

Jimmy Nassour, Trustee
Address: ~~1200 San Antonio St.~~ 3839 BEE CAVE RD #200
Austin, TX 78701 78746

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of FEBRUARY, 2006 2007, by Jimmy Nassour.

MARIE A. HOWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
JANUARY 24, 2009

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of FEBRUARY, 2006 2007, by Jimmy Nassour, Trustee.

MARIE A. HOWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
JANUARY 24, 2009

Notary Public, State of Texas

EXECUTED this the 15th day of FEBRUARY, 2006.7

Tract III (Exhibit B)

OWNER(S):

Stephen Oyster

Tina F. Oyster

Tina Oyster

Address: 3825 LAKE AUSTIN BLVD # 401
AUSTIN, TX 78703

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of FEBRUARY, mah ~~2006~~ 2007, by Stephen Oyster.

MARIE A. HOWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
JANUARY 24, 2009

Marie A Howell
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of FEBRUARY, mah ~~2006~~ 2007, by Tina Oyster.

MARIE A. HOWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
JANUARY 24, 2009

Marie A Howell
Notary Public, State of Texas

EXECUTED this the 15th day of FEBRUARY, 2006. 7

OWNER(S):

Tracts IV, V, VI (Exhibit B)

Austin 1825 Fortview, Inc.
a Texas corporation

By: _____

Name: Jimmy Nassour

Title: Vice President

Address: 3839 Bee Cave Rd # 200
Austin, Tx 78746

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of FEBRUARY, MAH 2007 ~~2006~~, by Jimmy Nassour, Vice President of Austin 1825 Fortview, Inc., a Texas corporation, on behalf of the corporation.

MARIE A. HOWELL
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
JANUARY 24, 2009

Marie A Howell
Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

TRV 2011186530
4 PGS

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AMENDMENT OF RESTRICTIVE COVENANT FOR ZONING CASE NO. C14-05-0112

Owner:	1620 East Riverside Drive, LLC, a Delaware limited liability company
Address:	c/o AMLI Residential, 5057 Keller Springs Road, Suite 250, Addison TX 75001
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, Jimmy Nassour, Contessa Dormitory Associates, Ltd., et al, as owners of all that certain property described in Zoning File No. C14-05-0012, consisting of approximately 10.9 acres of land (the "Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Document No. 2007039123 (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, 1620 East Riverside Drive, LLC, a Delaware limited liability company is the current owner (the "Owner") of the Property on the date of this Amendment of Restrictive Covenant ("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. 8 and Paragraph No. 11 of the Restrictive Covenant are amended as follows:

   8) A maximum of 450 [~~375~~] dwelling units for rental may be constructed on the Property.

   11) Five percent of the for-lease [~~residential~~] units [~~in the vertical mixed use (VMU) building~~] shall be reserved as affordable, for a minimum of 40 years following the

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issuance of the certificate of occupancy, for rental by households earning no more than 80 percent of the annual median family income (MFI).

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 his designee, shall execute on behalf of the City, this Amendment as authorized by the City Council of the City of Austin. The Amendment shall be filed in the Official Public Records of Travis County, Texas.

EXECUTED to be effective the _____ day of _____, 2011.

OWNERS:

1620 East Riverside Drive, LLC,
a Delaware limited liability company

By: PPF AMLI Devco, LLC,
its sole member

By: PPF AMLI Co-investment, LLC,
its managing member

By: AMLI Residential Properties, L.P.
its managing member

By: AMLI Residential Partners, LLC,
its general partner

By: _____
Taylor Bowen,
Authorized Signatory

CITY OF AUSTIN:

By: _____
Sue Edwards,
Assistant City Manager, City of Austin

APPROVED AS TO FORM:

Chad Shaw
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on this the 6th day of December, 2011, by Taylor Bowen, Authorized Signatory, of AMLI Residential Partners, LLC, general partner of AMLI Residential Properties, L.P., managing member of PPF AMLI Co-investment, LLC, managing member of PPF AMLI Devco, LLC, sole member of 1620 East Riverside Drive, LLC, a Delaware limited liability company, on behalf of the companies and partnership.

GIA BRODT
Notary Public, State of Texas
My Commission Expires
May 19, 2014

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of December, 2011, by Sue Edwards, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

DANA F. ESKEW
NOTARY PUBLIC
State of Texas
Comm. Exp. 01-26-2014

Notary Public, State of Texas