

LAND STRATEGIES INC.**Z-18****PAUL LINEHAN & ASSOCIATES**

June 24, 2004

Attn: Sherri Gager
City of Austin
Neighborhood Zoning & Platting Dept.
605 Barton Springs Road, 5th Floor
Austin, Texas 78704

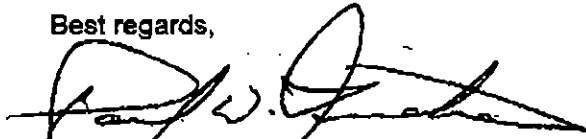
Re: Eppright 12-acre Tract
C14-04-0035
Postponement of Council hearing

Dear Sherri:

It is my understanding the Canyon Creek neighborhood association has requested a postponement of the hearing of the above referenced case to July 29th. I also understand that at that time, we will be able to go in for all three readings. We are disappointed to have the case postponed, as we have furnished the neighborhood association with an executed copy of the Restrictive Covenant, and our negotiations regarding this document are completed to the best of our knowledge.

Please verify that the case will be heard on all three readings at the July 29th City Council hearing. Should you need any information from me or have any questions, please feel free to call me.

Best regards,



Paul W. Linehan, ASLA
Land Strategies, Inc.

PWL:enw

cc: Fred Eppright
Karin Crump (Canyon Creek Neighborhood Assoc.)

Gager, Sherri

From: Erin Welch [ewelch@landstrat.com]
Sent: Monday, June 21, 2004 1:50 PM
To: Gager, Sherri
Subject: Eppright 12-acre Tract; C14-04-0035



Restrictive
Covenant_Client Ap..

Sherri:

Attached is the Restrictive Covenant (Draft) between Fred Eppright (Shoal Creek) and the neighborhood association (Canyon Creek). It's in .pdf format. We may have revisions to this document in the future, but this is the latest draft that was sent to the neighborhood, and was approved by Fred Eppright.

Please let me know if you need anything else from us prior to the Thursday Council hearing on this case.

Thanks!

Erin Welch
Project Coordinator
Land Strategies, Inc.
1010 Land Creek Cove, Suite 100
Austin, Texas 78746
512/328-6050 (tel)
512/328-6172 (fax)
www.landstrat.com

DRAFT
OF
PRIVATE
RESTRICTIVE COVENANT

Z-18

RESTRICTIVE COVENANT

STATE OF TEXAS §
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COUNTY OF TRAVIS §

The following covenants are agreed to by Shoal Creek Properties, Ltd., a Texas limited partnership (the "Owner") affecting approximately 12.52 acres of real property located at or about 9300-9800 block of R.R. 620 North, Austin, Travis County, Texas 78766, being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes (the "Property").

WHEREAS, Owner is the Applicant in an application to the City of Austin (the "City") in zoning case number C14-04-0035, in which Owner is requesting a zoning change from I-RR (Interim Rural Residential) to SF6-CO (Town House and Condominium Residential-Conditional Overlay);

WHEREAS, The Homeowners' Association for Canyon Creek, Inc., a Texas non-profit corporation ("Canyon Creek "), has entered an appearance in the zoning case as an interested party;

WHEREAS, based upon meetings with the Owner regarding Owner's agreement to certain restrictions on its proposed condominium development on the Property, Canyon Creek has elected not to oppose the zoning change on the Property in return for the following restrictions being imposed by Owner of the Property;

WHEREAS, the zoning ordinance proposed by the Applicant and recommended by the City Planning Department and the City Planning Commission is attached hereto and made a part hereof for all purposes as Exhibit "B" (the "Zoning Ordinance");

NOW, THEREFORE, subject to the condition that the Zoning Ordinance be approved and adopted on third and final reading by the City Council, Owner hereby restricts the Property, as follows:

1. **Subdivision.** The Property shall be final platted as a one (1) lot condominium subdivision.
2. **Site Plan.** Owner shall prepare and submit to the City of Austin a detailed site Plan for the proposed development, including tree and topographic surveys, for Site Plan approval, with the following requirements:
 - a. Owner shall provide Canyon Creek with a copy of the Site Plan showing elevations, plans, building design and materials, specifications, builder name, common areas, landscape plans, phasing plan (if any), and general

development timeline. Copies of the Site Plan are provided by Owner to Canyon Creek for its review and comment only, and approval of the Site Plan by Canyon Creek shall not be required or deemed a condition for City approval of the Site Plan.

- b. Owner shall provide a minimum fifty foot (50') building setback from the Property line abutting the drainage easement(s) behind Canyon Creek Subdivision homes fronting on Tibce and Aire Libre streets. No more than 50% of the homes along this Property line shall be two-story homes.
- c. Owner shall utilize existing site topography and drainage for the overall placement of one and two story homes on the site.
- d. The entrance/exit gate shall be located approximately sixty feet (60') inside the Property line.
- c. The Critical Environmental Feature (CEF) at the front of the Property shall not be developed, and all trees and natural vegetation the CEF Setback (as defined by the City) shall remain undisturbed.

3. **Development Requirements and Restrictions.** Development requirement and restrictions on the Property shall be as follows:

- a. No more than 59 residential condominium units may be constructed on the Property.
- b. All units are to be detached single-family residences.
- c. The development shall be a gated community with private roads.
- d. Single-story units shall be comprised of: 75% masonry, excluding hardi-plank. Two-story units shall be comprised of: 75% masonry, excluding hardi-plank on the first floor; 50% masonry, excluding hardi-plank on the second floor.
- e. 25-year/ 240-pound roofs shall be installed on all units.
- f. Signage shall be placed at or near the exit gate to alert vehicular traffic to the possible presence of children at play outside the development, and require vehicular traffic to slow down while exiting the development.

4. **Restrictions during construction of the Condominium.**

- a. Builder shall ensure that Canyon Creek is minimally affected by dirt, dust and debris from the construction of the proposed development.

- b. Construction shall only take place during the following hours: Monday through Friday from 8:00 a.m. to 6:00 p.m., and Saturday from 9:00 a.m. to 5:00 p.m. There shall be no construction activities on Sundays.

5. These restrictive covenants are for the benefit of Canyon Creek, their successors and assigns. All claims for breach of this restrictive covenant shall be submitted to mediation with mediation services provided by the Travis County Dispute Resolution Center, with the cost of mediation services to be shared equally by the parties to the dispute.

6. In the event the dispute is not settled by mediation, this restrictive covenant may be enforced by a suit for declaratory judgment by Canyon Creek against the Property owner. In the event Canyon Creek prevails in obtaining a finding of a violation of one or more of the foregoing restrictions, it shall be entitled, in addition to an order enforcing the restrictions, to recover its court costs and reasonable attorney's fees.

OWNER:

Shoal Creek Properties, Ltd.,
a Texas limited partnership

By: Sovereign Investments, Inc.
A Texas corporation, General Partner

By: _____
Fred Eppright, Vice-President

THE STATE OF TEXAS

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COUNTY OF TRAVIS

This instrument was acknowledged before me on this the _____ day of June, 2004 by Fred Eppright, Vice-President of Sovereign Investments, Inc., a Texas corporation, as general partner of Shoal Creek Properties, Ltd., a Texas limited partnership, on behalf of such limited partnership.

Notary Public, State of Texas

APPROVED BY:

The Homeowners' Association for Canyon Creek, Inc.

By: _____
Paul Gunn, President

AFTER RECORDING, RETURN TO:

Law Offices of Glenn K. Weichert, P.C.
3821 Juniper Trace, Suite 106
Austin, Texas 78738