



Zoning
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: Z-7
AGENDA DATE: Thu 04/14/2005
PAGE: 1 of 1

SUBJECT: C14-05-0015 - Jelson Commercial Development - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 6941 West U.S. Highway 290 (Williamson Creek Watershed-Barton Springs Zone) from rural residence (RR) district zoning to general commercial services (CS) district zoning. Zoning and Platting Commission Recommendation: To grant general commercial services-conditional overlay (CS-CO) combining district zoning. Applicant: Convict Hill Development, L.L.C. (William K. Reagan, II). Agent: Brown McCarroll, L.L.P. (Nikelle S. Meade). City Staff: Wendy Walsh, 974-7719.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0015

Z.P.C. DATE: March 1, 2005

ADDRESS: 6941 West U.S. Highway 290

OWNER: Convict Hill Development, L.L.C.
(William K. Reagan, II)

AGENT: Brown McCarroll, L.L.P.
(Nikelle S. Meade)

ZONING FROM: RR

TO: CS

AREA: 0.350 acres (15,246 square feet)

SUMMARY STAFF RECOMMENDATION:

The staff's alternate recommendation is to grant general commercial services – conditional overlay (CS-CO) combining district zoning. The Conditional Overlay: 1) prohibits the following uses: automotive sales; automotive repair services; automotive rentals; automotive washing (of any type); commercial off-street parking; convenience storage; equipment repair; equipment sales; exterminating services; hotel-motel; kennels; off-site accessory parking; pawn shop services; and service station; 2) prohibit drive-in services as an accessory use to a restaurant (general) use or a restaurant (limited) use; and 3) limits development of the property to 2,000 motor vehicles per day.

ZONING & PLATTING COMMISSION RECOMMENDATION:

March 1, 2005: *APPROVED STAFF RECOMMENDATION OF CS-CO DISTRICT ZONING. AS AGREED BETWEEN THE APPLICANT AND STAFF, RESTAURANT (LIMITED) AND RESTAURANT (GENERAL) WERE REMOVED AS PROHIBITED USES, AND INSTEAD, DRIVE-IN SERVICES ARE PROHIBITED AS AN ACCESSORY USE TO A RESTAURANT (LIMITED) OR A RESTAURANT (GENERAL) USE.*

[J. MARTINEZ; J. GOHIL 2ND] (8-0) K. JACKSON – ABSENT

ISSUES:

The applicant is in agreement with the staff's alternate recommendation and has discussed this case with representatives of the Convict Hill Neighborhood Association and the Oak Hill Association of Neighborhoods (OHAN).

The applicant has indicated his willingness to enter into a Restrictive Covenant with the City that provides that at the time a site plan is submitted, it will include an Integrated Pest Management (IPM) Plan, and a landscape plan for the use of native and adapted plant materials, and also prohibits the use of coal tar sealants.

DEPARTMENT COMMENTS:

The subject property consists of undeveloped land with a billboard and carries rural residence (RR) district zoning. The property has access to the eastbound lanes of West U.S. Highway 290, a major arterial. The property is adjacent to undeveloped property to the south and southwest (zoned CS-CO), and office and automotive uses are directly east (LR-CO; GR-CO; LR; I-SF-2). The Convict Hill neighborhood is situated further south, and primarily consists of single family residences (SF-2; SF-1), one duplex (SF-3) and undeveloped SF-5 and SF-6 zoned properties as well. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The applicant proposes to rezone the property to the general commercial services (CS) district so that it has the opportunity to be combined with the adjacent CS-CO zoned property to the southwest. In consideration of the applicant's rezoning request, Staff researched this 1988-1989 zoning case. The Conditional Overlay for the commercial tracts prohibited several land uses and these have been incorporated into the staff's alternate recommendation.

Staff recommends the applicant's request for CS zoning with a Conditional Overlay based upon the following considerations of the property: 1) it is compatible with the adjacent zoning and uses along West U.S. 290 between Wolfcreek Pass and Hill Oaks Drive and is situated away from residential uses; 2) the Conditional Overlay is consistent with that approved for the adjacent CS-CO zoned property, with the addition of automotive and equipment-related uses in recognition of its location over the Edwards Aquifer Recharge Zone; 3) its frontage on a major arterial roadway, and, 4) an established maximum number of daily vehicle trips that will limit development to maintain acceptable traffic conditions on adjacent roadways and intersections.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	RR	Undeveloped
<i>North</i>	N / A	West U.S. Highway 290 and West State Highway 71
<i>South</i>	CS-CO; SF-6-CO; SF-1	Undeveloped; Single family residences
<i>East</i>	LR-CO; GR-CO; SF-3; I-SF-2; LR; NO; DR	Office; Automotive repair; Undeveloped; Automotive sales
<i>West</i>	CS-CO; NO; SF-5	Undeveloped

AREA STUDY: N / A

TIA: Is not required

WATERSHED: Williamson Creek –
Barton Springs Zone

DESIRED DEVELOPMENT ZONE: No

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

177 – Convict Hill Neighborhood Association
 298 – Oak Hill Association of Neighborhoods (OHAN)
 384 – Save Barton Creek Association
 428 – Barton Springs / Edwards Aquifer Conservation District
 605 – City of Rollingwood
 705 – OHAN 78735
 708 – OHAN 78738
 943 – Save Our Springs Alliance
 385 – Barton Springs Coalition
 706 – OHAN 78736
 709 – OHAN 78739
 707 – OHAN 78737
 710 – OHAN 78749
 967 – Circle C Neighborhood Association

SCHOOLS:

Patton Elementary School

Small Middle School

Austin High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-02-0139	SF-1 to SF-3	Sent to the City Council without a recommendation	Applicant withdrew the case (3-6-03).
C14-99-2013	DR to GR	To Grant LR for Tract 1 and GR for Tract 2, In Tract 2, GR limited to car wash footprint only; max. of 2,000 trips per day; no access to Hill Oaks Drive.	Approved PC recommendation of LR-CO w/conditions for Tract 1; GR-CO w/conditions for Tract 2 (footprint only) (1/27/00).
C14r-85-389-CO	I-RR to SF-6; CS		Approved CS-CO for Tracts 1 and 2; SF-6-CO for Tract 3. Conditions include prohibited uses, gross floor area; structure height; buffering; emergency access, and r-o-w dedication. <u>Note:</u> No site plan attached to ordinance (1/5/89).
C14-85-288.D (A part of Tract 101)	I-SF-2 to SF-3	To Grant SF-3	Approved SF-3 (1986).

RELATED CASES:

The subject property was converted from interim – rural residence to rural residence district zoning in October 1987 (C14-85-288.L). There are no related subdivision or site plan cases on the subject property.

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
U.S. 290 West	Varies	2 @ 24 feet	Major Arterial	No	Route # 171 & 133	No

CITY COUNCIL DATE: April 7, 2005

ACTION: Approved a Postponement to 04-14-05 (6-0, McCracken off the dais)

*Staff to research previous approvals on the adjacent property to the west.

April 14, 2005

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Wendy Walsh
e-mail: wendy.walsh@ci.austin.tx.us

PHONE: 974-7719



 1" = 400'	SUBJECT TRACT		ZONING EXHIBIT A CASE #: C14-05-0015 ADDRESS: 6941 W US HWY 290 SUBJECT AREA (acres): 0.350	DATE: 05-02 INTLS: SM	CITY GRID REFERENCE NUMBER C19
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: W. WALSH				



OR

UNDEV

UNDEV

SHOPPING CENTER

MH

OUTDOOR STORAGE

SF-2

EL-CO

OFFICE
I-SF-2

LR

LR

AUTO SALES

LR-CO

GR-CO

UNDEV

RR

NO

SF-3

GAS

CS-CO

45-2880

NO

SF-1

UNDEV

C14R-85-389

45-0115
UNDE

NO

SF-6-CO

MF-2

SF-5

UNDEV

RR

SF-2

SF-2

BOULEVARD

NORTH

SUMMARY STAFF RECOMMENDATION:

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BACKGROUND

The subject property consists of undeveloped land with a billboard and carries rural residence (RR) district zoning. The property has access to the eastbound lanes of West U.S. Highway 290, a major arterial. The property is adjacent to undeveloped property to the south and southwest (zoned CS-CO), and office and automotive uses are directly east (LR-CO; GR-CO; LR; I-SF-2). The Convict Hill neighborhood is situated further south, and primarily consists of single family residences (SF-2; SF-1), one duplex (SF-3) and undeveloped SF-5 and SF-6 zoned properties as well.

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BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. The proposed zoning should be consistent with the purpose statement of the district sought.

CS, Commercial Services, zoning is intended for commercial or industrial uses that typically have operating characteristics or traffic service requirements generally incompatible with residential environments.

The property has access to West U.S. Highway 290, a major arterial, is in proximity to other commercial and office uses, and is situated away from residential development.

2. Zoning changes should promote an orderly and compatible relationship among land uses.

Staff recommends the applicant's request for CS zoning with a Conditional Overlay based upon the following considerations of the property: 1) it is compatible with the adjacent zoning and uses along West U.S. 290 between Wolfcreek Pass and Hill Oaks Drive and is situated away from residential uses; 2) the Conditional Overlay is consistent with that approved for the adjacent CS-

CO zoned property, with the addition of automotive and equipment-related uses in recognition of its location over the Edwards Aquifer Recharge Zone; 3) its frontage on a major arterial roadway, and, 4) an established maximum number of daily vehicle trips that will limit development to maintain acceptable traffic conditions on adjacent roadways and intersections.

EXISTING CONDITIONS

Site Characteristics

The property is undeveloped. The site slopes upwards to the west and there appear to be no significant topographical constraints on the site.

Impervious Cover

The maximum impervious cover allowed by the CS-CO zoning district would be 15%, which is based on the more restrictive watershed regulations described below.

Environmental

This site is located over the Edward's Aquifer Recharge Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Barton Springs Zone (BSZ) watershed.

Project applications at the time of this report are subject to the SOS Ordinance which allows 15% impervious cover in the recharge zone.

According to flood plain maps, there is no flood plain within the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention. Runoff from the site is required to comply with pollutant load restrictions as specified in LDC Section 25-8-514.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code regulations.

TPSD Right-of-Way

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded City of Austin Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) projects. A comment from this reviewer that no right-of-way is needed applies only to needs for these categories, and does not preclude the need to dedicate right-of-way to satisfy requirements by others. There are separate right-of-way dedication and reservation requirements enforced by other City Departments and other governmental

jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan that may not yet be funded, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

No aspect of the proposed project is being considered or approved as part of this review other than the need for right-of-way for City-funded projects. If the configuration of the site/subdivision/plan will require any variances to Transportation Criteria Manual standards, the variance request(s) must be submitted separately through the assigned City of Austin case manager.

We have reviewed the proposed rezoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

Transportation

The Austin Metropolitan Area Transportation Plan calls for a total of 400 feet of right-of-way for US 290 West. Reservation of additional right-of-way may be required during the subdivision or site plan process in accordance with the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55]

The trip generation under the requested zoning is estimated to be 3,138 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Water and Wastewater

The landowner intends to serve the site with City water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or utility adjustment are required, the landowner, at own expense, will be responsible for providing. Also, the utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The utility construction must be inspected by the City. The landowner must pay the associated City fees.

The landowner must pay the tap and impact fee once the landowner makes an application for a City water and wastewater utility tap permit.

Compatibility Standards

This tract is already undeveloped. However, any new construction on this site would be subject to compatibility development regulations due to the existing SF-2 zoned property to the south, east and west, and would be subject to the following requirements:

The site is subject to compatibility standards. Along the east, south, and west property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.

- No parking or driveways are allowed within 25 feet of the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

Additional design regulations will be enforced at the time a site plan is submitted.

The property lies in an overlay of the Barton Springs Zone.

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 6941 WEST U.S. HIGHWAY 290 FROM RURAL
3 RESIDENCE (RR) DISTRICT TO GENERAL COMMERCIAL SERVICES-
4 CONDITIONAL OVERLAY (CS-CO) COMBINING DISTRICT.

5
6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

7
8 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
9 change the base district from rural residence (RR) district to general commercial services-
10 conditional overlay (CS-CO) combining district on the property described in Zoning Case
11 No. C14-05-0015, on file at the Neighborhood Planning and Zoning Department, as
12 follows:

13
14 A 0.350 acre tract of land (15,242 square feet), more or less, out of the Jesse
15 Williams Survey No. 62, Travis County, the tract of land being more particularly
16 described by metes and bounds in Exhibit "A" incorporated into this ordinance (the
17 "Property"),

18
19 locally known as 6941 West U.S. Highway 290, in the City of Austin, Travis County,
20 Texas, and generally identified in the map attached as Exhibit "B".

21
22 PART 2. The Property within the boundaries of the conditional overlay combining district
23 established by this ordinance is subject to the following conditions:

24
25 1. The following uses are prohibited uses of the Property:

26
27 Automotive rentals

28 Automotive sales

29 Commercial off-street parking

30 Equipment repair services

31 Exterminating services

32 Kennels

33 Pawn shop services

Automotive repair services

Automotive washing (of any type)

Convenience storage

Equipment sales

Hotel-motel

Off-site accessory parking

Services station

34
35 2. Drive-in service is prohibited as an accessory use to a restaurant (general) use and a
36 restaurant (limited) use.
37

1 3. A site plan or building permit for the Property may not be approved, released, or
2 issued, if the completed development or uses of the Property, considered cumulatively
3 with all existing or previously authorized development and uses, generate traffic that
4 exceeds 2,000 trips per day.
5

6 Except as specifically restricted under this ordinance, the Property may be developed and
7 used in accordance with the regulations established for the general commercial services
8 (CS) base district and other applicable requirements of the City Code.
9

10 **PART 3.** This ordinance takes effect on _____, 2005.
11

12
13 **PASSED AND APPROVED**
14

15
16 _____, 2005
17

18 Will Wynn
19 Mayor
20

21
22 **APPROVED:** _____
23

24 David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Brown
City Clerk

**METES AND BOUNDS DESCRIPTION
0.350 ACRES (15,242 SQUARE FEET)
JESSE WILLIAMS SURVEY NO. 62
CITY OF AUSTIN
TRAVIS COUNTY, TEXAS**

Being a tract containing 0.350 of one acre (15,242 square feet) of land situated in the Jesse Williams Survey No. 62, Travis County, Texas and being the same tract of land as recorded in Document No. TRV 2001016320 of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.). Said 0.350 of one acre (15,242 square feet) tract being more particularly located and described as follows with all bearings based on the right-of-way map (Control Number 0113, Section Number 08 and Job Number 039) for United States Highway Number 290 West (US 290) (right-of-way varies) as supplied by the Texas Department of Transportation (TxDOT).

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "GARZA ENG" found on the southerly right-of-way line of said US 290 for the westernmost corner of Lot 19-A, Wedgewood Commercial Section One Subdivision as recorded in Book 59, Page 63 of the Travis County Plat Records (T.C.P.R.) and the northernmost corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, South 42°06'41" East, (South 40°07'22" East), along the common line of said Lot 19-A and said 0.350 acre tract, a distance of 191.88 feet (191.90 feet) to a 1/2-inch iron rod found for a corner of Lot 2, Oak Hill "Y" Section One Subdivision as recorded in Book 92, Pages 22 and 23, T.C.P.R. and the easternmost corner of this tract;

THENCE, South 89°51'11" West, (South 88°09'30" West), along a common line of said Lot 2 and said 0.350 acre tract, a distance of 130.38 feet to a cotton spindle found for a common corner;

THENCE, North 39°01'19" West, (North 37°02'00" West), along common lines of Lot 3 of said Oak Hill "Y" Section One, said Lot 2 and said 0.350 acre tract, a distance of 129.69 feet to a 1/2-inch iron rod with a TxDOT aluminum cap found on the arc of a non-tangent curve to the right being the southerly right-of-way line of said U.S. Highway 290 West, for the westernmost corner of this tract;

EXHIBIT A

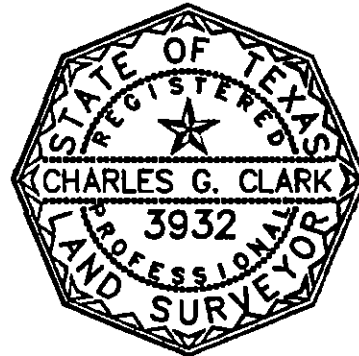
THENCE Northeasterly, an arc distance of 93.31 feet, along the southerly right-of-way line of said US 290 with said curve to the right having a Radius of 2,291.83 feet, a Delta of $02^{\circ}19'58''$ and a Chord Bearing and Distance of North $63^{\circ}18'02''$ East, 93.31 feet (Chord: North $65^{\circ}17'22''$ East, 93.33 ft.), to the **POINT OF BEGINNING** and containing a computed area of 0.350 of one acre (15,242 square feet) of land.

This Metes and Bounds description is accompanied by a Survey of the same date. Calls in parenthesis denote record information.

Chas G. Clark 3/4/03

Charles G. Clark Date
Registered Professional Land Surveyor
Texas Registration Number 3932

SURVCON INC.
400 West 15th St., Suite 1030
Austin, TX 78701
(512) 457-7870
March 2003



U.S. HIGHWAY 290 WEST

0.150 ACRE
STATE OF TEXAS
(VOL. 11824, PG. 22, R.P.R.T.C.T.)

POINT OF BEGINNING

FOUND 1/2" IRON ROD
WITH PLASTIC CAP
STAMPED "GARZA ENG"

R.O.W. LINE U.S. 290 WEST

$R = 2291.83'$
 $L = 93.31'$
 $\Delta = 219.58^\circ$
 $\text{Chord} = 93.31'$
 $N63^\circ18'02"E$

FOUND 1/2" IRON
ROD WITH TXDOT
ALUMINUM CAP

CHORD: $N65^\circ17'22"E$ 93.33'

LOT 19-A
WEDGEWOOD COMMERCIAL,
SECTION ONE
(BOOK 59, PAGE 63, T.C.P.R.)

LOT 3
OAK HILL "Y"
SECTION ONE
(BOOK 92, PAGE
22-23, T.C.P.R.)

0.350 ACRE

ELEVATED
BILLBOARD

(S $88^\circ09'30"W$)
 $S 89^\circ51'11"W$
130.38'

FOUND 1/2" IRON ROD

FOUND COTTON
SPINDLE

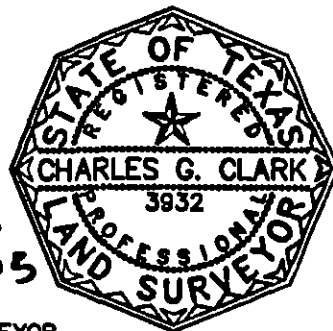
LOT 2
OAK HILL "Y" SECTION ONE
(BOOK 92, PAGE 22-23, T.C.P.R.)

NOTES:

1. BEARING BASIS: RIGHT-OF-WAY MAP (CSJ NO. 0113 08 039) OF U.S. HIGHWAY 290 WEST AS PROVIDED BY TXDOT.
2. TOP OF SIGN IS 56.9 FEET ABOVE THE MAIN TRAVEL LANES OF U.S. HIGHWAY 290.
3. THIS SURVEY IS ACCOMPANIED BY A NARRATIVE METES AND BOUNDS DESCRIPTION.
4. CALLS IN PARENTHESIS DENOTE RECORD INFORMATION.
5. R.P.R.T.C. = REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.
6. T.C.P.R. = TRAVIS COUNTY PLAT RECORDS.
7. O.P.R.T.C.T. = OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.
8. THIS TRACT LIES WITHIN ZONES X AND AE ACCORDING THE F.E.M.A. FLOOD INSURANCE RATE MAP (F.I.R.M.) COMMUNITY PANEL NO. 48453C0255F, REVISED JUNE 5, 1997.

Charles G. Clark 3/4/03

CHARLES G. CLARK
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NUMBER 3932



BOUNDARY & IMPROVEMENT SURVEY
BEING 0.350 ACRES (15,242 SQ. FT.) OF LAND IN
THE JESSE WILLIAMS SURVEY NO. 62, TRAVIS
COUNTY, TEXAS AS RECORDED IN DOC. TRV
2001016320, O.P.R.T.C.T.



SURVCON INC.
PROFESSIONAL SURVEYORS
400 WEST 16th STREET, SUITE 1030
AUSTIN, TEXAS 78701
PH. (612) 457-7870
WWW.SURVCON.COM

SCALE:	1"=50'	JOB NO.	4906-01
DATE:	MARCH 4, 2003	F.B. NO.	1187
DRAWN BY:	P. Yglesias	PAGE	3 OF 3

SHEET 1 OF 1

NO PART OR PARTS OF THIS DRAWING MAY BE REPRODUCED OR RETRANSMITTED IN ANY WAY OR FORM (ELECTRONIC, MECHANICAL, PHOTOCOPYING, OR OTHERWISE) WITHOUT THE EXPRESS WRITTEN PERMISSION OF SURVCON INC.
DRAWING: Z:\490601 Reagan Sign\dwg\490601.dwg
PLOTTED: Mar 04, 2003 - 10:52am



SUBJECT AREA (acres): 0.350

INTLS: SM

C19

RESTRICTIVE COVENANT

OWNER: Convict Hill Development, L.L.C., a Texas limited liability company

ADDRESS: 9211 U.S. Highway 290 East, Austin, Texas 78724

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 0.350 acre tract of land (15,242 square feet), more or less, out of the Jesse Williams Survey No. 62, in Travis County, the tract being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

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. The use of coal tar based asphalt sealants for construction or repair of asphaltic concrete paving is prohibited on the Property.
2. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, an Integrated Pest Management (IPM) plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. The IPM plan shall comply with the guidelines in Section 1.6.9.2 (D) and (F) of the Environmental Criteria Manual that are in effect on the date of this covenant.
3. At the time an application for approval of a site plan is submitted for development of the Property, or any portion of the Property, a landscape plan shall be submitted to the Watershed Protection and Development Review Department for review and approval. Ninety percent of the total plant material used, exclusive of turf, shall be native to Central Texas or on the Grow Green Native and Adapted Landscape Plants list, attached as Exhibit "B". Plants on the Invasive Species/Problem Plants list, attached as Exhibit "C", may not be included.
4. 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.
5. 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.

6. 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.
7. 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.

EXECUTED this the 6th day of April, 2005.

OWNER:

Convict Hill Development, L.L.C.,
a Texas limited liability company

By: [Signature]
William K. Reagan II,
Manager

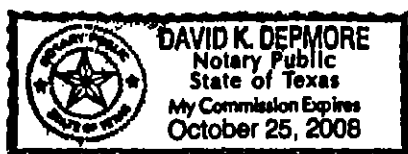
APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 6th day of April, 2005, by William K. Reagan II, Manager of Convict Hill Development, L.L.C., a Texas limited liability company, on its behalf.



[Signature]
Notary Public, State of Texas

**METES AND BOUNDS DESCRIPTION
0.350 ACRES (15,242 SQUARE FEET)
JESSE WILLIAMS SURVEY NO. 62
CITY OF AUSTIN
TRAVIS COUNTY, TEXAS**

Being a tract containing 0.350 of one acre (15,242 square feet) of land situated in the Jesse Williams Survey No. 62, Travis County, Texas and being the same tract of land as recorded in Document No. TRV 2001016320 of the Official Public Records of Travis County, Texas (O.P.R.T.C.T.). Said 0.350 of one acre (15,242 square feet) tract being more particularly located and described as follows with all bearings based on the right-of-way map (Control Number 0113, Section Number 08 and Job Number 039) for United States Highway Number 290 West (US 290) (right-of-way varies) as supplied by the Texas Department of Transportation (TxDOT).

BEGINNING at a 1/2-inch iron rod with a plastic cap stamped "GARZA ENG" found on the southerly right-of-way line of said US 290 for the westernmost corner of Lot 19-A, Wedgewood Commercial Section One Subdivision as recorded in Book 59, Page 63 of the Travis County Plat Records (T.C.P.R.) and the northernmost corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, South 42°06'41" East, (South 40°07'22" East), along the common line of said Lot 19-A and said 0.350 acre tract, a distance of 191.88 feet (191.90 feet) to a 1/2-inch iron rod found for a corner of Lot 2, Oak Hill "Y" Section One Subdivision as recorded in Book 92, Pages 22 and 23, T.C.P.R. and the easternmost corner of this tract;

THENCE, South 89°51'11" West, (South 88°09'30" West), along a common line of said Lot 2 and said 0.350 acre tract, a distance of 130.38 feet to a cotton spindle found for a common corner;

THENCE, North 39°01'19" West, (North 37°02'00" West), along common lines of Lot 3 of said Oak Hill "Y" Section One, said Lot 2 and said 0.350 acre tract, a distance of 129.69 feet to a 1/2-inch iron rod with a TxDOT aluminum cap found on the arc of a non-tangent curve to the right being the southerly right-of-way line of said U.S. Highway 290 West, for the westernmost corner of this tract;

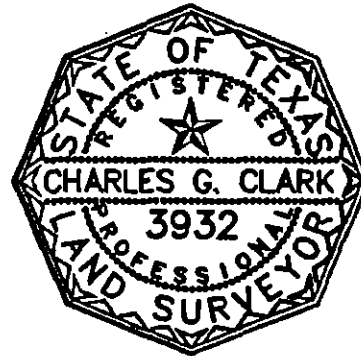
THENCE Northeasterly, an arc distance of 93.31 feet, along the southerly right-of-way line of said US 290 with said curve to the right having a Radius of 2,291.83 feet, a Delta of 02°19'58" and a Chord Bearing and Distance of North 63°18'02" East, 93.31 feet (Chord: North 65°17'22" East, 93.33 ft.), to the POINT OF BEGINNING and containing a computed area of 0.350 of one acre (15,242 square feet) of land.

This Metes and Bounds description is accompanied by a Survey of the same date.
Calls in parenthesis denote record information.

Charles G. Clark 3/4/03

Charles G. Clark Date
Registered Professional Land Surveyor
Texas Registration Number 3932

SURVCON INC.
400 West 15th St., Suite 1030
Austin, TX 78701
(512) 457-7870
March 2003



U.S. HIGHWAY 290 WEST

0.150 ACRE
STATE OF TEXAS
(VOL. 11824, PG. 22, R.P.R.T.C.T.)

POINT OF BEGINNING

FOUND 1/2" IRON ROD
WITH PLASTIC CAP
STAMPED "GARZA ENG"

R.O.W. LINE U.S. 290 WEST

$R = 2291.83'$
 $L = 93.31'$
 $\Delta = 2^\circ 19' 58''$
Chord = $93.31' \angle 63^\circ 18' 02'' E$

FOUND 1/2" IRON
ROD WITH TXDOT
ALUMINUM CAP

(CHORD: $N65^\circ 17' 22'' E$ 93.33')

LOT 19-A
WEDGEWOOD COMMERCIAL,
SECTION ONE
(BOOK 59, PAGE 63, T.C.P.R.)

0.350 ACRE

LOT 3
OAK HILL "Y"
SECTION ONE
(BOOK 92, PAGE
22-23, T.C.P.R.)

LOT LINE

$N 39^\circ 01' 19'' W$
 $128.69'$
 $N 57^\circ 02' 00'' W$

ELEVATED
BILLBOARD

($S 88^\circ 09' 30'' W$)
 $S 89^\circ 51' 11'' W$
130.38'

FOUND 1/2" IRON ROD

FOUND COTTON
SPINDLE

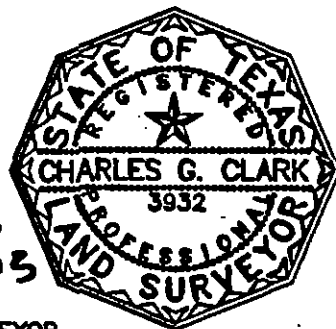
LOT 2
OAK HILL "Y" SECTION ONE
(BOOK 92, PAGE 22-23, T.C.P.R.)

NOTES:

1. BEARING BASIS: RIGHT-OF-WAY MAP (CSJ NO. 0113 08 039) OF U.S. HIGHWAY 290 WEST AS PROVIDED BY TXDOT.
2. TOP OF SIGN IS 56.9 FEET ABOVE THE MAIN TRAVEL LANES OF U.S. HIGHWAY 290.
3. THIS SURVEY IS ACCOMPANIED BY A NARRATIVE METES AND BOUNDS DESCRIPTION.
4. CALLS IN PARENTHESIS DENOTE RECORD INFORMATION.
5. R.P.R.T.C. = REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.
6. T.C.P.R. = TRAVIS COUNTY PLAT RECORDS.
7. O.P.R.T.C.T. = OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.
8. THIS TRACT LIES WITHIN ZONES X AND AE ACCORDING THE F.E.M.A. FLOOD INSURANCE RATE MAP (F.I.R.M.) COMMUNITY PANEL NO. 48453C0255F, REVISED JUNE 5, 1997.

SHEET 1 OF 1

NO PART OR PARTS OF THIS DRAWING MAY BE REPRODUCED OR TRANSMITTED IN ANY WAY OR FORM (ELECTRONIC, MECHANICAL, PHOTOCOPYING, OR OTHERWISE) WITHOUT THE EXPRESS WRITTEN PERMISSION OF SURVCON INC.
DRAWING: Z:\490601 Reagon Sign\dwg\490601.dwg
PLOTTED: Mar 04, 2003 - 10:52am



Charles G. Clark 3/4/03

CHARLES G. CLARK
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NUMBER 3932

BOUNDARY & IMPROVEMENT SURVEY

BEING 0.350 ACRES (15,242 SQ. FT.) OF LAND IN
THE JESSE WILLIAMS SURVEY NO. 62, TRAVIS
COUNTY, TEXAS AS RECORDED IN DOC. TRV
2001016320, O.P.R.T.C.T.



SURVCON INC.
PROFESSIONAL SURVEYORS

400 WEST 16th STREET, SUITE 1030
AUSTIN, TEXAS 78701
PH. (512) 457-7870
www.survcon.com

SCALE:	1"=50'	JOB NO.	4906-01
DATE:	MARCH 4, 2003	F.B. NO.	1187
DRAWN BY:	P. Yglesias	PAGE	3 OF 3

EXHIBIT B

Grow Green Native and Adapted Landscape Plants

Trees

Ash, Texas <i>Fraxinus texensis</i>	Oak, Escarpment Live <i>Quercus fusiformis</i>
Arizona Cypress <i>Cupressus arizonica</i>	Oak, Lacey <i>Quercus glaucoides</i>
Big Tooth Maple <i>Acer grandidentatum</i>	Oak, Monterey (Mexican White) <i>Quercus polymorpha</i>
Cypress, Bald <i>Taxodium distichum</i>	Oak, Shumard <i>Quercus shumardii</i>
Cypress, Montezuma <i>Taxodium mucronatum</i>	Oak, Texas Red <i>Quercus texana</i> (<i>Quercus buckleyi</i>)
Elm, Cedar <i>Ulmus crassifolia</i>	Pecan <i>Carya illinoensis</i>
Elm, Lacebark <i>Ulmus parvifolia</i>	Soapberry <i>Sapindus drummondii</i>
Honey Mesquite <i>Prosopis glandulosa</i>	
Oak, Bur <i>Quercus macrocarpa</i>	
Oak, Chinquapin <i>Quercus muhlenbergii</i>	
Oak, Southern Live <i>Quercus virginiana</i>	

Small Trees/Large Shrubs

Anacacho Orchit Tree <i>Bauhinia congesta</i>	Persimmon, Texas <i>Diospyros texana</i>
Buckeye, Mexican <i>Ungnadia speciosa</i>	Pistachio, Texas <i>Pistacia texana</i>
Buckeye, Rec <i>Aesculus pavia</i>	Plum, Mexican <i>Prunus mexicana</i>
Caolina Buckthorn <i>Rhamnus caroliniana</i>	Pomegranate <i>Punica granatum</i>
Cherry Laurel <i>Prunus caroliniana</i>	Redbud, Mexican <i>Cercis canadensis</i> 'mexicana'
Crape Myrtle <i>Lagerstroemia indica</i>	Redbud, Texas <i>Cercis canadensis</i> var. 'texensis'
Desert Willow <i>Chilopsis linearis</i>	Retama Jerusalem Thorn <i>Parkinsonia aculeata</i>
Dogwood, Roughleaf <i>Cornus drummondii</i>	Senna, Flowering <i>Cassia corymbosa</i>
Escarpment Black Cherry <i>Prunus serotina</i> var. <i>eximia</i>	Smoke Tree, American <i>Cotinus obovatus</i>
Eve's Necklace <i>Sophora affinis</i>	Sumac, Flameleaf <i>Rhus lanceolata</i>
Goldenball Leadtree <i>Leucaena retusa</i>	Viburnum, Rusty Blackhaw <i>Viburnum rufidulum</i>
Holly, Possumhaw <i>Ilex decidua</i>	Viburnum, Sandankwa <i>Viburnum suspensum</i>
Holly, Yaupon <i>Ilex vomitoria</i>	
Mountain Laurel, Texas <i>Sophora secundiflora</i>	

Shrubs

- | | |
|--|--|
| Abelia, Glossy <i>Abelia grandiflora</i> | Nandina <i>Nandina domestica</i> 'Compacta |
| Agarita <i>Berberis trifoliata</i> | nana' 'Gulf Stream' |
| Agave (Century Plant) <i>Agave sp.</i> | Oleander <i>Nerium oleander</i> |
| American Beautyberry <i>Callicarpa</i> | Palmetto <i>Sabal minor</i> |
| <i>americana</i> | Prickly Pear <i>Opuntia engelmannii</i> var. |
| Artemisia <i>Artemisia</i> 'Powis Castle' | <i>lindheimeri</i> |
| Barbados Cherry <i>Malpighia glabra</i> | Rose, Belinda's Dream <i>Rosa</i> 'Belinda's |
| Barberry, Japanese <i>Berberis thunbergii</i> | Dream' |
| 'Atropurpurea' | Rose, Lamarne <i>Rosa</i> 'Lamarne' |
| Basket Grass (Sacahuista) <i>Nolina texana</i> | Rose, Livin' Easy <i>Rosa</i> 'Livin' Easy' |
| Black Dalea <i>Dalea frutescens</i> | Rose, Marie Pavie <i>Rosa</i> 'Marie Pavie' |
| Bush Germander <i>Teucrium fruticans</i> | Rose, Martha Gonzales <i>Rosa</i> 'Martha |
| Butterfly Bush <i>Buddleja davidii</i> | Gonzales' |
| Butterfly Bush, Woolly <i>Buddleja</i> | Rose, Mutabilis <i>Rosa</i> 'Mutabilis' |
| <i>marrubifolia</i> | Rose, Nearly Wild <i>Rosa</i> 'Nearly Wild' |
| Coralberry <i>Symphoricarpos orbiculatus</i> | Rose, Old Blush <i>Rosa</i> 'Old Blush' |
| Cotoneaster <i>Cotoneaster sp.</i> | Rose, Perle d'or <i>Rosa</i> 'Perle d'or' |
| Eleagnus <i>Eleagnus pungens</i> | Rock Rose <i>Pavonia lasiopetala</i> |
| Esperanza/Yellow Bells <i>Tecoma stans</i> | Rosemary <i>Rosmarinus officinalis</i> |
| Flame Acanthus <i>Anisacanthus</i> | Sage, Mountain <i>Salvia regia</i> |
| <i>quadrifidus</i> var. <i>wrightii</i> | Sage, Texas (Cenizo) <i>Leucophyllum</i> |
| Fragrant Mimosa <i>Mimosa borealis</i> | <i>frutescens</i> |
| Holly, Burford <i>Ilex cornuta</i> 'Burfordii' | Senna, Lindheimer <i>Cassia</i> |
| Holly, Dwarf Chinese <i>Ilex cornuta</i> | <i>lindheimeriana</i> |
| 'Rotunda nana' | Southern Wax Myrtle <i>Myrica cerifera</i> |
| Holly, Dwarf Yaupon <i>Ilex vomitoria</i> | Sumac, Evergreen <i>Rhus virens</i> |
| 'Nana' | Sumac, Fragrant (Aromatic) <i>Rhus</i> |
| Jasmine, Primrose <i>Jasminum mesnyi</i> | <i>aromatica</i> |
| Kidneywood <i>Eysenhardtia texana</i> | Texas Sotol <i>Dasylirion texanum</i> |
| Lantana, Native <i>Lantana horrida</i> | Turk's Cap <i>Malvaviscus arboreus</i> |
| Mistflower, Blue (Blue Boneset) | Yucca, Paleleaf <i>Yucca pallida</i> |
| <i>Eupatorium coelestinum</i> | Yucca, Red <i>Hesperaloe parviflora</i> |
| Mistflower, White (Shrubby White | Yucca, softleaf <i>Yucca recurvifolia</i> |
| Boneset) <i>Ageratina havanense</i> | Yucca, Twistleaf <i>Yucca rupicola</i> |
| Mock Orange <i>Philadelphus coronarius</i> | |

Perennials

- | | |
|--|--|
| Black-eyed Susan <i>Rudbeckia hirta</i> | Lantana, Trailing <i>Lantana montevidensis</i> |
| Bulbine <i>B. frutescens</i> or <i>caulescens</i> | Marigold, Mexican Mint <i>Tagetes lucida</i> |
| Bush Morning Glory <i>Ipomoea fistulosa</i> | Obedient Plant, Fall <i>Physostegia virginiana</i> |
| Butterfly Weed <i>Asclepias tuberosa</i> | Oregano, Mexican <i>Poliomintha longiflora</i> |
| Butterfly Weed 'Mexican' <i>Asclepias curassivica</i> | Penstemon <i>Penstemon</i> sp. |
| Cast Iron Plant <i>Aspidistra elatior</i> | Phlox, Fragrant <i>Phlox pilosa</i> |
| Chile Pequin <i>Capsicum annuum</i> | Pink Skullcap <i>Scutellaria suffrutescens</i> |
| Cigar Plant <i>Cuphea micropetala</i> | Plumbago <i>Plumbago auriculata</i> |
| Columbine, Red <i>Aquilegia canadensis</i> | Poinciana, Red Bird of Paradise, Pride of Barbados |
| Columbine, Yellow <i>Aquilegia chrysantha</i> 'Texas Gold' | <i>Caesalpinia pulcherrima</i> |
| Coreopsis <i>Coreopsis lanceolata</i> | Primrose, Missouri <i>Oenothera macrocarpa</i> |
| Daisy, Blackfoot <i>Melampodium leucanthum</i> | Purple Coneflower <i>Echinacea purpurea</i> |
| Daisy, Copper Canyon <i>Tagetes lemmonii</i> | Ruellia <i>Ruellia brittoniana</i> |
| Damiantia <i>Crysactina mexicana</i> | Sage, Cedar <i>Salvia roemeriana</i> |
| Fall Aster <i>Aster oblongifolius</i> | Sage, Jerusalem <i>Phlomis fruticosa</i> |
| Fern, River <i>Thelypteris kunthii</i> | Sage, Majestic <i>Salvia guaranitica</i> |
| Firebush <i>Hamelia patens</i> | Sage, Mealy Blue <i>Salvia farinacea</i> |
| Gaura <i>Gaura lindeheimeri</i> | Sage, Mexican Bush <i>Salvia leucantha</i> |
| Gayfeather <i>Liatris mucronata</i> | Sage, Penstemon, Big Red Sage <i>Salvia penstemonoides</i> |
| Gregg Dalea <i>Dalea greggii</i> | Sage, Russian <i>Perovskia atricplifolia</i> |
| Hibiscus, Perennial <i>Hibiscus moscheutos</i> , <i>Hibiscus coccineus</i> | Sage, Scarlet or 'Tropical' <i>Salvia coccinea</i> |
| Honeysuckle, Mexican <i>Justicia spicigera</i> | Salvia, Gregg (Cherry Sage) <i>Salvia greggii</i> |
| Hymenoxys (Four Nerve Daisy) <i>Tetaneuris scaposa</i> | Shrimp Plant <i>Justicia brandegeana</i> |
| Indigo Spires <i>Salvia 'Indigo Spires'</i> | Texas Betony <i>Stachys coccinea</i> |
| Iris, Bearded <i>Iris albicans</i> | Verbena, Prairie <i>Verbena bipinnatifida</i> |
| Iris, Butterfly/Bicolor (African) <i>Dietes</i> sp. | Yarrow <i>Achillea millefolium</i> |
| Lamb's Ear <i>Stachys byzantina</i> | Zexmenia <i>Wedelia texana</i> |
| Lantana <i>Lantana x hybrida</i> (many varieties) | |

Ornamental Grasses

Bluestem, Big *Andropogon gerardii*
 Bluestem, Bushy *Andropogon glomeratus*
 Bluestem, Little *Schizachyrium scoparium*
 Fountain Grass, Dwarf *Pennisetum alopecuroides*
 Indian Grass *Sorghastrum nutans*
 Inland Sea Oats *Chasmanthium latifolium*

Mexican Feathergrass (Wiregrass) *Stipa tenuissima*
 Muhly, Bamboo *Muhlenbergia dumosa*
 Muhly, Big *Muhlenbergia lindheimeri*
 Muhly, Deer *Muhlenbergia rigens*
 Muhly, Gulf *Muhlenbergia capillaris*
 Muhly, Seep *Muhlenbergia reverchonii*
 Sideoats Grama *Bouteloua curtipendula*
 Wild Rye *Elymus canadensis*

Vines

Asian Jasmine *Trachelospermum asiaticum*
 Carolina Jessamine *Gelsemium sempervirens*
 Coral Vine *Antigonon leptopus*
 Crossvine *Bignonia capreolata*
 Fig Vine *Ficus pumila*

Honeysuckle, Coral *Lonicera sempervirens*
 Lady Banksia Rose *Rosa banksiae*
 Passion Vine *Passiflora incarnata*
 Trumpet Vine *Campsis radicans*
 Virginia Creeper *Parthenocissus quinquefolia*

Groundcover

Aztec Grass *Ophiopogon japonicus*
 Frogfruit *Phyla incisa*
 Horseherb *Calypocarpus vialis*
 Leadwort *Plumbago Ceratostigma plumbaginoides*
 Liriope *Liriope muscari*
 Monkey Grass (Mondo Grass) *Ophiopogon japonicus*
 Oregano *Origanum vulgare*
 Periwinkle, Littleleaf *Vinca minor*
 Pigeonberry *Rivina humilis*

Purple Heart *Secreasea pallida*
 Santolina (Lavender Cotton) *Santolina chamaecyparissus*
 Sedge, Berkeley *Carex tumulicola*
 Sedge, Meadow *Carex perdentata*
 Sedge, Texas *Carex texensis*
 Sedum (Stonedrop) *Sedum nuttallianum*
 Silver Ponyfoot *Dichondra argentea*
 Woolly Stemodia *Stemodia lanata*
 (*Stemodia tomentosa*)

Turf Grasses

Bermuda 'Tif 419', 'Sahara', 'Baby', 'Common'
 Buffalo '609', 'Stampede', 'Prairie'
 St. Augustine 'Baby', 'Common', 'Raleigh', 'Delmar'

Zoysia, Fine Leaf 'Matrella', 'Emerald', 'Zorro'
 Zoysia, Coarse Leaf 'Japonica', 'Jamur', 'El Toro', 'Palis'

EXHIBIT C

Invasive Species/Problem Plants

PLANTS TO AVOID

INVASIVES

(Plants that are non-native to the Central Texas ecosystem and tend to out-compete native species)

Do Not Plant

(Travel by seeds, berries, and spores so can be transported long distances. They have already invaded preserves and greenbelts):

- Arizona Ash
- Chinaberry
- Chinese Pistache
- Chinese Tallow
- Chinese Privet
- Elephant Ear
- Holly Fern
- Japanese Honeysuckle
- Ligustrum, Wax Leaf
- Mimosa
- Mulberry, Paper
- Nandina (large, berrying varieties)
- Photinia, Chinese
- Pyracantha
- Tamarisk
- Tree of Heaven

Do Not Plant Near

Parks/Preserves/Greenbelts

(travel by runners, rhizomes, and stems so only invade neighboring areas):

- Bamboo
- English Ivy
- Vinca (Periwinkle)

PROBLEM TREES AND SHRUBS

(Typically fast-growing, highly adaptable, but often have weak wood and are short-lived. Most are susceptible to insect and disease problems.)

- Arizona Ash
- Azalea (not adapted to Austin soils)
- Boxelder
- Camellia
- Chinaberry
- Chinese Privet
- Chinese Tallow
- Cottonwood
- Ligustrum
- Lombardy Poplar
- Mimosa
- Mulberry, Paper
- Photinia, Chinese
- Siberian Elm
- Silver Maple
- Sweetgum
- Sycamore
- Tree of Heaven

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant