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August 8, 2016

Hon. Steve Adler, Mayor
and City Council Members
City of Austin
Austin City Hall
301 West 2nd Street, 2nd Floor
Austin, Texas 78701

*Via e-mail*

RE: The Grove at Shoal Creek Planned Unit Development (the "**Project**"); **C814-2015-007; Item No. 68 on the August 11, 2016 Council Agenda**

Dear Mayor Adler and Council Members:

I am writing on behalf of ARG Bull Creek, Ltd. (the "Owner") in response to the request for postponement of the above zoning case dated August 7, 2016 (the "Postponement Request") from the Bull Creek Road Coalition (the "BCRC"). The BCRC requests an indefinite postponement of the case. The Postponement Request was not made in accordance with Section 25-2-283(C)(1) because it was not submitted prior to the seventh day before the scheduled Council meeting date. **While the Owner would be willing to agree to a postponement to August 18, 2016, the Owner objects to the Postponement Request for the following reasons**:

1. TIA Addendum. On July 21, 2016, the Owner submitted a non-essential, voluntary addendum to the TIA. This addendum is not necessary to the staff recommendation and was not requested by either City staff or recommended by the City's Zoning and Platting Commission ("ZAP"). The addendum was submitted out of an abundance of caution by the Owner to address any possible concerns over the need for additional right-of-way. Specifically, the addendum states the following:

   *As has been fully disclosed to and acknowledged by the City of Austin transportation review staff in Public Works, DSD and ATD for many months, the proposed 4-lane northbound approach of Bull Creek Road requires the acquisition of a very small amount of right-of-way. ....* ***In approving the TIA, however, City of Austin staff does NOT require that this right-of-way be acquired prior to final zoning approval, but acknowledged that if this right-of-way were unavailable at the time of site plan review, such unavailability "may affect site plan review and approval." .....*** *Nevertheless, in response to questions raised by the Zoning and Platting Commission concerning how the 45th Street and Bull Creek Road intersection would operate if the right-of-way were not acquired, and in an abundance of caution, the Applicant wishes to provide this Addendum*

*to the TIA for staff's review that demonstrates that traffic can be fully mitigated even without the acquisition of the right-of-way.*

**As such, the addendum, while it may be useful to answering questions that some may have, is not necessary to staff's recommendation.** In addition, the addendum has been discussed for many weeks with City staff, including in a prior memorandum provided on June 29, 2016. While this review is not essential for the City Council to act on first reading since staff's recommendation is complete, we fully anticipate that this review will completed very, very soon.

2. Additional Bike Lane. On July 14, 2016, ZAP added a condition to the staff recommendation that a northbound, protected bike lane be added along Bull Creek Road adjacent to the property. The Owner agreed to that condition that evening. However, the PUD Land Use Plan will be updated to include this bike lane (like all other ZAP recommendations accepted by the Owner) once Council has acted on first reading. It is standard practice for the City staff to request updated zoning documents as part of finalizing the ordinance for all third reading and not prior to first reading.

3. Neighborhood Requested Changes. To clarify, the Owner has conducted recent discussions with a representative of the Ridgelea Neighborhood Association ("RNA") based on a formal position adopted recently by the RNA. The Owner has submitted a response to the RNA, and that response is being considering tonight, Monday, August 8, 2016. Therefore, the discussions with RNA will be concluded imminently. The Owner has also had several discussions over a fairly narrow set of issues with the Oakmont Heights over many months. We expect any discussions with Oakmont Heights to be concluded soon as well. The Owner certainly believes that both discussions will be completed prior to August 18, 2016. Given staff and ZAP recommendations, these discussions are not necessary for this case to proceed. In fact, if these discussions become the basis for a lengthy delay, then the Owner will, unfortunately, be compelled to end the discussions.

   It should be noted that the Owner has been engaged in discussions with all neighborhood groups for about 20 months including 54 formal meetings and dozens of informal meetings and communications. These discussions have included numerous "facilitated meetings" with the BCRC. These are not the "first signs of cooperation" from the Owner. There have been many, many changes and concessions to the Project based on cooperation with the neighborhoods (including an early reduction in the office from 350,000 sf to 225,000 sf to address neighborhood traffic concerns). Rather, these are the Owner's final attempts to work with two neighborhood groups adjacent to the Project.

4. PARD Discussions. Again, while not necessary for consideration of the case, we have maintained an ongoing dialogue with PARD over "parkland superiority". The parkland

currently proposed is not "inadequate" and in fact exceeds parkland requirements. Parkland "superiority" is neither essential to the staff recommendation nor a part of the ZAP recommendation. Parkland superiority is not required for the case to proceed. Like the neighborhood discussions above, if the PARD discussions become the basis for a lengthy delay, then the Owner will, unfortunately, be compelled to end them as well.

5. Public Participation. Unfortunately, nearly every City Council meeting is packed with many discussion items that frequently take City Council meetings late into the evening. An indefinite postponement will not avoid this condition. However, to address the BCRC concerns on this point, the Owner would support (i) limiting testimony to 30 minutes for each side, and (ii) scheduling the case for a time certain on August 18, 2016 (perhaps 4 p.m.), to assist Council consideration and the participation by both the many supporters of the Project and those with concerns.

In summary, because the TIA addendum, bike lane, neighborhood discussions and parkland superiority discussions are not necessary to presenting the case based on City staff and ZAP recommendations, no postponement of this case is warranted.

In addition, postponement beyond August 18, 2016 would potentially push the case far into the Fall which would be an unreasonable delay for a case that has been so publicly discussed, debated, presented and considered. The case has been pending for about 16 months and has had about 34 hours of public testimony and discussion already. The BCRC is very, very familiar with all aspects and details of the case as recommended by City staff and ZAP. The Owner has engaged in a massive public outreach effort. A lengthy delay in a case like this that has been pending for so long and has been so public will discourage future applicants from engaging in that sort of public outreach.

While the Owner believes the Postponement Request does not meet the requirements of the City Code and is not warranted in this case, the Owner would be willing to agree to a postponement to August 18, 2016.

Sincerely,

Jeffrey S. Howard

cc: Garrett Martin, *ARG Bull Creek, Ltd.*
Ron Thrower, *Thrower Design*
Robert Deegan, *Norris Design*
Greg Guernsey
Jerry Rusthoven