ZONING CHANGE REVIEW SHEET

CASES: C14-2020-0023 – Highway 71 & Mountain Shadow

DISTRICT: 8

ZONING FROM: RR-NP (Tract 1); LR-NP and GR-NP (Tract 2)

ZONING TO: MF-1-NP (Tract 1); LR-MU-NP (Tract 2)

ADDRESSES: 8709 & 8701 Sky Mountain Drive (Tract 1) and
8732, 8624 & 8722 W. State HWY 71 (Tract 2)

SITE AREA: 6.5 acres (Tract 1); 5.5 acres (Tract 2); 12.0 acres (Total)

PROPERTY OWNERS:
Tract 1: Roberta Hudson
Tract 2: 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 multifamily residence – limited density – neighborhood plan (MF-1-NP) combining district zoning for Tract 1 and neighborhood commercial – mixed use - neighborhood plan (LR-MU-NP) combining district zoning for Tract 2. *For a summary of the basis of staff's recommendation, see page 2.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

June 23, 2020	**Approved staff's recommendation on the consent agenda. (12-0) [J. Thompson, R. Schneider – 2nd; P. Seeger was off the dais].**

CITY COUNCIL ACTION:

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

ORDINANCE NUMBER:

ISSUES:

There is an existing public Restrictive Covenant (RC) that covers Tract 2 of this rezoning case. One of the items in this RC is a requirement to extend Mountain Shadows Drive south to State Highway 71 prior to the issuance of any building permits. Residents from the surrounding neighborhood have expressed concerns about this extension and have communicated they are opposed to the rezoning of these properties if that extension is constructed. There is a Restrictive Covenant Amendment (C14-85-288.56(RCA)) that is being processed concurrently with this rezoning case that addresses this issue.

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, the Austin Transportation Department (ATD) is recommending removing the current language in the existing 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 the existing Mountain Shadows Drive for this development project. However, they will be constructing a new section 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.

On March 10, 2020 staff received an online petition from the Mountain Shadows Community opposing the rezoning of these properties and the extension of Mountain Shadows Drive, and a letter from the Oak Hill Association of Neighbors (OHAN) supporting their position. Staff discussed the online petition with the organizer and informed them that the City does not recognize online petitions as a “formal petition” as defined in the City Code. Staff sent the original petition organizer information on the City’s petition process.

On April 24, 2020 staff received a formal petition opposing the rezoning of these properties from the surrounding neighbors. At that time, the petition area for signatures received was at 4.03%. Many of the signatures that staff received were not within the 200’ petition area. Staff was informed that the Applicants’ Agent was continuing to discuss the proposed development and access to Mountain Shadows Drive with the Mountain Shadows Cove Ownership Association (HOA).

On June 15, 2020 staff received a letter from the President of the HOA requesting to rescind the submitted petition and providing a letter of support for the rezoning case. Staff has compared the signatures originally received for the petition to those received rescinding their opposition and have removed those wishing to withdraw their opposition. The new petition area of received signatures is 1.91%. Signatures that were originally received (within and outside of the 200’ boundary) but not withdrawn are still included in the backup. A current map and list of property owners of the petition area and the signatures received to date are included in *Exhibit C: Formal Petition*.

On June 18, 2020 staff received a letter from the President of OHAN rescinding their opposition and supporting a private RC between the Mountain Shadows Cove Owners Association and the Applicant. Please refer to *Exhibit E: Private RC between Mountain Shadows Cove Owners Association and the Applicant*.

All other communication received for this rezoning case is included in *Exhibit D: Correspondence Received*.

CASE MANAGER COMMENTS:

This project consists of two undeveloped tracts comprised of approximately 12.0 acres. Tract 1 is approximately 6.5 acres and is zoned RR-NP. Tract 2 is approximately 5.5 acres and is zoned a combination of LR-NP and GR-NP.

To the north of this project are tracts zoned RR-NP and MF-1-NP. Some of these tracts are undeveloped and some are developed with residential uses. Adjacent to the east are tracts zoned MF-1-CO-NP and GR-NP containing civic and multifamily residential uses. South of the site is State Highway 71. To the west are properties zoned AG-NP and MF-1-NP with residential uses. Please refer to *Exhibit A: Zoning Map* and *Exhibit B: Aerial Map*.

BASIS OF RECOMMENDATION:

1. *Zoning changes should promote compatibility with adjacent and nearby uses.*

The applicant is requesting to rezone Tract 1 from RR-NP to MF-1-NP to allow for residential uses. This tract is currently surrounded by MF-1-NP zoned properties. Rezoning this tract to MF-1-NP would be consistent with the current zoning pattern.

The applicant is requesting to rezone Tract 2 from LR-NP and GR-NP to LR-MU-NP to allow for residential uses and provide access to Tract 1 from State Highway 71. Rezoning this tract to LR-MU-NP would provide a transition in zoning and use between State Highway 71 and the existing properties zoned MF-1-NP.

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	RR-NP, LR-NP and GR-NP	Undeveloped
North	MF-1-NP and RR-NP	Residential uses and undeveloped land
South	Right-of-way and PUD-NP	State Highway 71 and multifamily residential
East	GR-NP and MF-1-CO-NP	Fire station, government buildings and multifamily residential

	Zoning	Land Uses
West	AG-NP and MF-1-NP	Residential uses

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

TIA: The TIA determination has been deferred to the site plan submittal, when land use and intensity will be finalized.

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 Resources

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 and prohibit access to Mountain Crest Drive and Sky Mountain Drive.	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:

C15-85-288.56(RCA) Highway 71 and Mountain Shadow: the applicant is requesting to amend the existing public restrictive covenant on a portion of this property (Tract 2). This application is currently being reviewed.

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)
Sky Mountain Drive	50’	0’	Level 1	None	None	None
Mountain Shadows Drive	50’	20’	Level 2	None	None	None
W SH 71	150’	75’	Level 5	None	None	None

OTHER STAFF COMMENTS:

Comprehensive Planning

This rezoning case is located at the south terminus of Mountain Shadows Drive, the south side of Sky Mountain Drive and north side of State Highway 71. The 12.0-acre property is undeveloped and not located along an Activity Corridor. There is an Activity Centers for Redevelopment in Sensitive Environmental Areas located eight-tenths of a mile away. The property is located within the Oakhill Combined Neighborhood Planning Area (OCNPA) in West Oakhill. Surrounding land uses include single family housing, vacant land, an auto repair shop and a bilingual school to the north; to the south is State Highway 71 and south of the highway, a dentist office, a veterinarian clinic and an apartment complex; to the east are several Travis County government office buildings, a fire station, office buildings and an apartment complex; and to the west are a small single family subdivision and vacant land.

Connectivity
There are no bike lanes, public transit stops, or public sidewalks located along the two residential streets or State Highway 71, which abuts the subject property. A small residential subdivision located to the west has public sidewalks. There is a bilingual language school located approximately 1,000 feet north of this property. The mobility and connectivity options in the area are below average.

Oakhill Combined Neighborhood Plan
The OCNPA Future Land Use Map (FLUM) classifies this property as 'Neighborhood Mixed Use;' and 'Mixed Residential.' Tract 1 is under the FLUM category of Mixed Residential, which supports a variety of different housing types in one area, including single-family residential, townhouses, duplexes, and apartments; Zone M-1 is permitted under FLUM category. Tract 2 is under the FLUM category of Neighborhood Mixed Use, which is appropriate for a mix of neighborhood commercial (small scale retail or offices, professional services, convenience retail, and shop front retain that serves a market at a neighborhood scale) and small to medium-density residential uses; LR-MU is permitted in this FLUM category.

The following text, goals, objectives and recommendations are taken from the Oakhill Combined Neighborhood Plan:

- Goal 6.A. Provide opportunities for high-quality new development and redevelopment.
    - Objective 6A.1: Ensure quality of new construction and renovations. (p 66)

- Goal 6.B. - Balance development and environmental protection by maintaining a vibrant residential and commercial community that demonstrates caring stewardship of the environment. (p 66)
    - Objective 6.B.1 - Encourage zoning to be compatible with existing and neighboring land uses and seek optimal and most appropriate use of land.

- Goal 6.C: Create a mix of uses in existing corridors of commercial development that will provide a diversity of local services convenient to neighborhoods and establish commercial "nodes" (concentrated) (p 67)

- Goal 6.E: Encourage locally-owned businesses to locate in the Oakhill area and find ways for local businesses and employers to prosper. (p 67)
    - Objective 6.E.1: Oakhill stakeholders desire more small-scale businesses with less strip commercial establishments.

- Goal 8.A. Balance development and environmental protection by maintaining a vibrant residential and commercial community (p 120)
    - Objective 8.A.2 Design and place homes to minimize impacts on natural resources and the physical environment and to maximize social resources.
        - Recommendation 8.A.2a—Clustered development should be encouraged where appropriate.
        - Recommendation 8.A.2b—Residential density should be compatible with surrounding uses and informed by a regional vision of the environmental impact development has over the Edwards Aquifer.
        - Recommendation 8.A.2c—Whenever possible, new housing development should be located where existing services and infrastructure exist. Their appearance and density should be appropriate to its environment and compatible with surrounding uses. (p 126)

    - Objective 8.B. Preserve neighborhood identity, character, affordability, and diversity.
        - Recommendation 8.B.1a—For housing development/redevelopment projects where traffic impact is a concern, a traffic analysis should be done due to current traffic problems, long-term challenges of road expansion and improvement, and the overall lack of connectivity of the area (see Chapter 7: Transportation and Infrastructure). Such analysis should consider the adequacy of road connectivity, mobility, alternate transit modes, access, and condition.

Chapter 9: Neighborhood Design

- Goal 9.A. Require landscaping along roadways, sidewalks, bike paths, and around bus stops to provide shade in order to encourage pedestrian, bicycling, and mass transportation.

- Goal 9.B. Enhance the Hill Country look of Oakhill by preserving trees.
    - Objective 9.B.1 The City Council should consider the application of the Hill Country Roadway Ordinance on U.S. Highway 290 and State Highway 71 and other roadways within the Oakhill neighborhood planning area to control signage, limit heights, plant trees, and to preserve the natural beauty of the environment.

- Goal 9.C. Balance development and environmental protection by maintaining a vibrant residential and commercial community that demonstrates caring stewardship of the environment. (p 134)
    - Recommendation 9.C.2 b—Encourage developers to explore clustered development as an option, since it provides sufficient housing units while maintaining and preserving considerable amounts of open space. (p 135)

- Goal 9.D. Preserve neighborhood identity, character, affordability, and diversity. (p. 135)
    - Objective 9.D.1 New single-family and multi-family developments/redevelopments should be compatible with existing residential architecture to reinforce the Hill Country character of Oakhill, in terms of materials, lighting, and height.
        - 9.D.1a—Preserve Old German-style masonry and limestone construction.
        - 9.D.1b—Place overhangs on roofs for shade.
        - 9.D.1c—Provide abundant porch space.
        - 9.D.1d—Utilize metal roofing or some other comparable material.
        - 9.D.1e—Preserve character of old while incorporating sustainable green building practices.

- Goal 9.E. Provide managed connectivity between various neighborhoods while maintaining the quiet enjoyment of neighborhoods. (p. 135)

The proposed multi-family apartment complex does not include a mix of residential housing types or a mix of uses. While the proposed development would provide infill housing, the applicant's request only partially supports the neighborhood plan because it does not provide a true mix of housing types and non-residential uses.

Imagine Austin
The property is located less than a mile from an 'Activity Centers for Redevelopment in Sensitive Environmental Areas' as identified on the Imagine Austin's Growth Concept Map. "Five centers are located over the recharge or contributing zones of the Barton Springs Zone of the Edwards Aquifer or within water-supply watersheds. These centers are located on already developed areas and, in some instances, provide opportunities to address long-standing water quality issues and provide walkable areas in and near existing neighborhoods. State-of-the-art development practices will be required of any redevelopment to improve stormwater retention and the water quality flowing into the aquifer or other drinking water sources. These centers should also be carefully evaluated to fit within their infrastructural and environmental context." One of the Land Use and Transportation policies, LUT P21 (p. 102), clarifies the intent, "Ensure that redevelopment in the Edwards Aquifer's recharge and contributing zones maintains the quantity and quality of recharge of the aquifer."

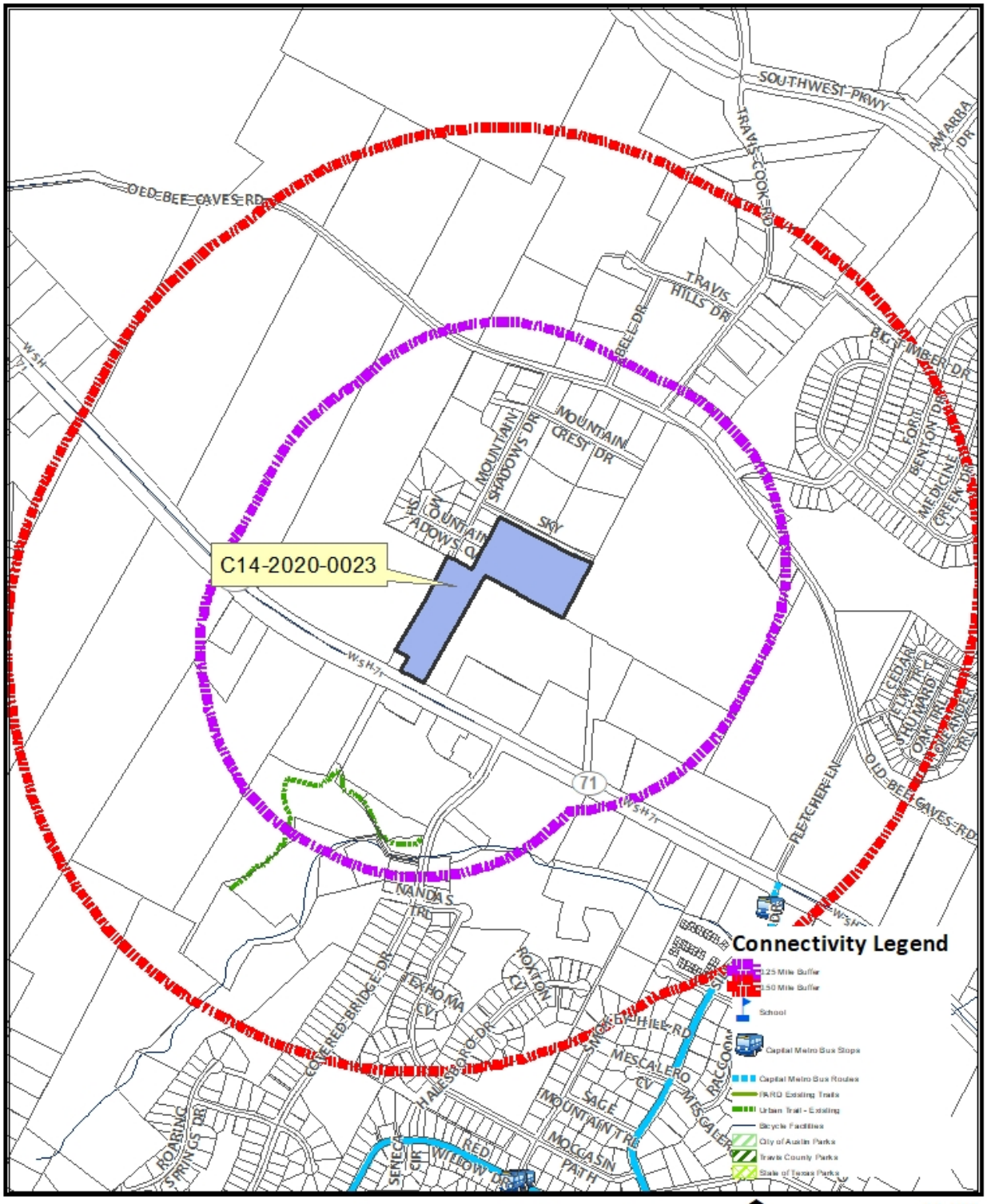
This property is also within the "Other Development within City Limits" Growth Concept Map category. Page 107 of the IACP states, "While most new development will be absorbed by centers and corridors, development will happen in other areas within the city limits to serve

neighborhood needs and create complete communities. The design of new development should be sensitive to and complement its context." The following Imagine Austin policies are taken from Chapter 4 of the IACP, which specifically discusses infill development, including over environmentally sensitive land:

Complete Community Policies

- LUT P3. Promote development in compact centers, communities or along corridors that are connected by roads and transit, are designed to encourage walking and bicycling, and reduce healthcare, housing and transportation costs.
- LUT P4. Protect neighborhood character by directing growth to areas of change that includes designated redevelopment areas, corridors and infill sites. Recognize that different neighborhoods have different characteristics and new and infill development should be sensitive to the predominant character of these communities.
- LUT P5. Create healthy and family-friendly communities through development that includes a mix of land uses and housing types and affords realistic opportunities for transit, bicycle, and pedestrian travel and provides both community gathering spaces, parks and safe outdoor play areas for children.
- HN P10. Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to schools, retail, employment, community services, and parks and recreation options.

The area around this proposed development lacks connectivity and mobility options, including public sidewalks, bike lanes, public transit stops, trails, local goods and services and civic uses such as parks and public schools. While this proposed project may provide additional residential units, it does not include a true mix of uses or mix of residential housing, and thus appears to only partially support the policies of the Imagine Austin Comprehensive Plan.



Imagine Austin Compliance

Zoning Case
Case#: C14-2020-0023
8709 Sky Mountain Drive
12.01 acres

3/31/2020

0 0.085 0.17 Miles

PLANNING AND ZONING

Disclaimer: 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 the Planning and Zoning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Document Path: G:\Projects_and_Programs\ImagineAustin\Compliance Review\Compliance maps\C14-2020-0

Environmental

This site is not located over the Edwards Aquifer Recharge Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Barton Springs Zone Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone.

According to floodplain maps there is no floodplain within or adjacent to the project location.

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

A portion of the requested rezoning area (Tract 2) is subject to an existing Public RC. For areas outside of the RC, the following will apply:

- Project applications at the time of this report are subject to the SOS Ordinance that allows 25% impervious cover in the contributing zone.
- Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
- Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2-year storm on site. Runoff from the site is required to comply with pollutant load restrictions as specified in Land Development Code.

Site Plan

Site plans will be required for any new development other than single-family or duplex residential. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property which is in an SF-5 or more restrictive zoning district, or on which a use permitted in an SF-5 or more restrictive zoning district is located, will be subject to compatibility development regulations. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

Compatibility Standards

The site is subject to compatibility standards. Along the western property line, the following standards apply on any section of the site adjacent to a property on which a use permitted in an SF-5 or more restrictive zoning district is located:

- 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.
- A landscape area at least 25 feet wide is required along 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.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property line.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining triggering property.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

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

Transportation

The Austin Strategic Mobility Plan (ASMP) adopted 04/11/2019, calls for 78 feet of right-of-way for Mountain Shadows Drive. It is recommended that 78’ feet of right-of-way from the future centerline should be dedicated for Mountain Shadows Drive according to the Transportation Plan prior with the submittal of the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The TIA determination has been deferred to the site plan submittal, when land use and intensity will be finalized.

Austin Water Utility

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact Alberto Ramirez with Austin Water, Utility Development Services at 625 E. 10th St., 7th floor. Ph: 512-972-0211.

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

INDEX OF EXHIBITS TO FOLLOW

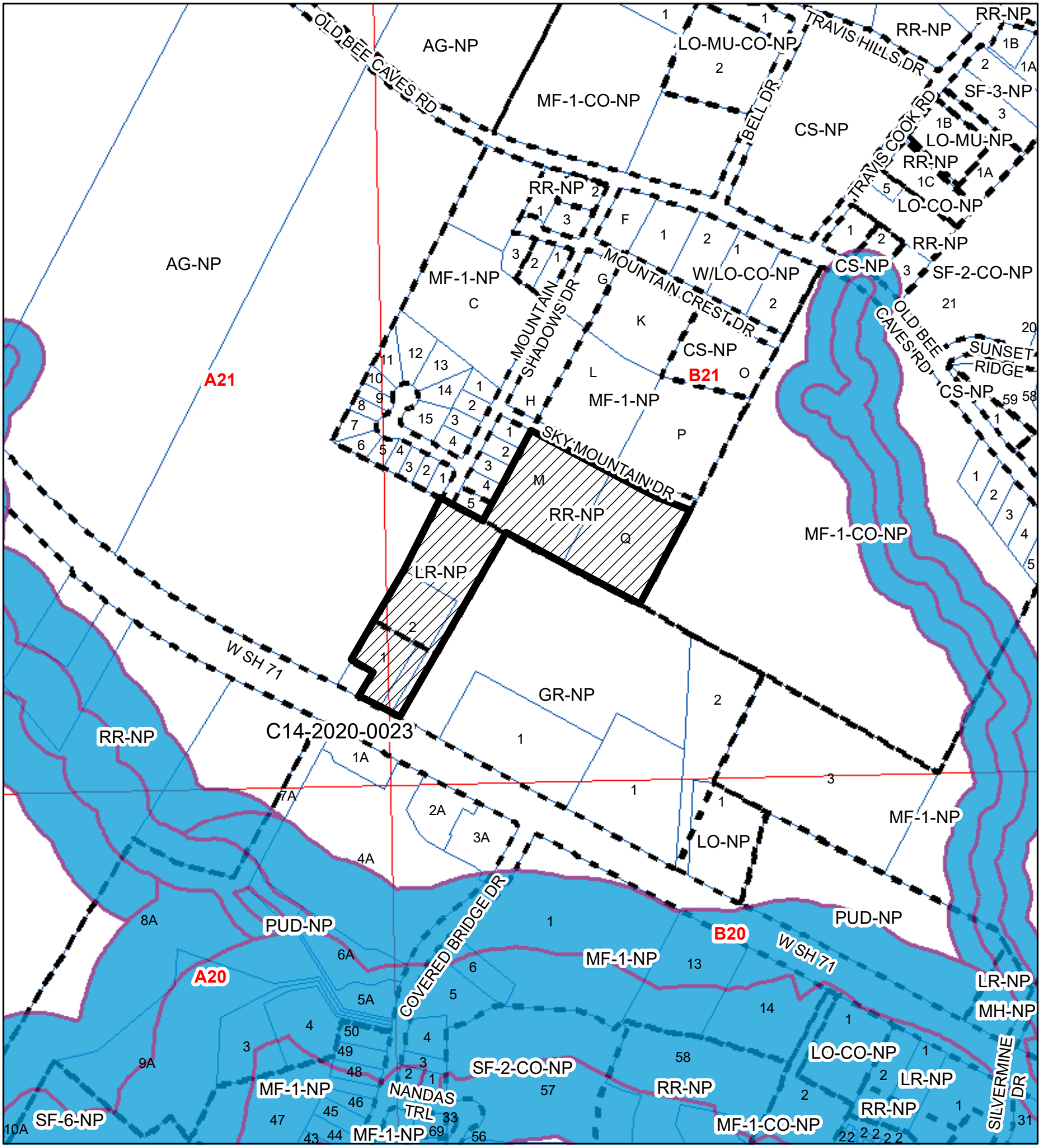
Exhibit A: Zoning Map

Exhibit B: Aerial Map

Exhibit C: Formal Petition

Exhibit D: Correspondence Received

Exhibit E: Private RC between Mountain Shadows Cove Owners Association and the Applicant



N

1" =500'

SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

CREEK BUFFER

HIGHWAY 71 & MOUNTAIN SHADOWS

Exhibit A

ZONING CASE#: C14-2020-0023
LOCATION: 8709 & 8701 Sky Mountain Dr; 8732 & 8624 W. State HWY 71
SUBJECT AREA: 12.01 ACRES
GRID: B21
MANAGER: KATE CLARK

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

N

1" =500'

SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

CREEK BUFFER

HIGHWAY 71 & MOUNTAIN SHADOWS

Exhibit B

ZONING CASE#: C14-2020-0023
LOCATION: 8709 & 8701 Sky Mountain Dr; 8732 & 8624 W. State HWY 71
SUBJECT AREA: 12.01 ACRES
GRID: B21
MANAGER: KATE CLARK

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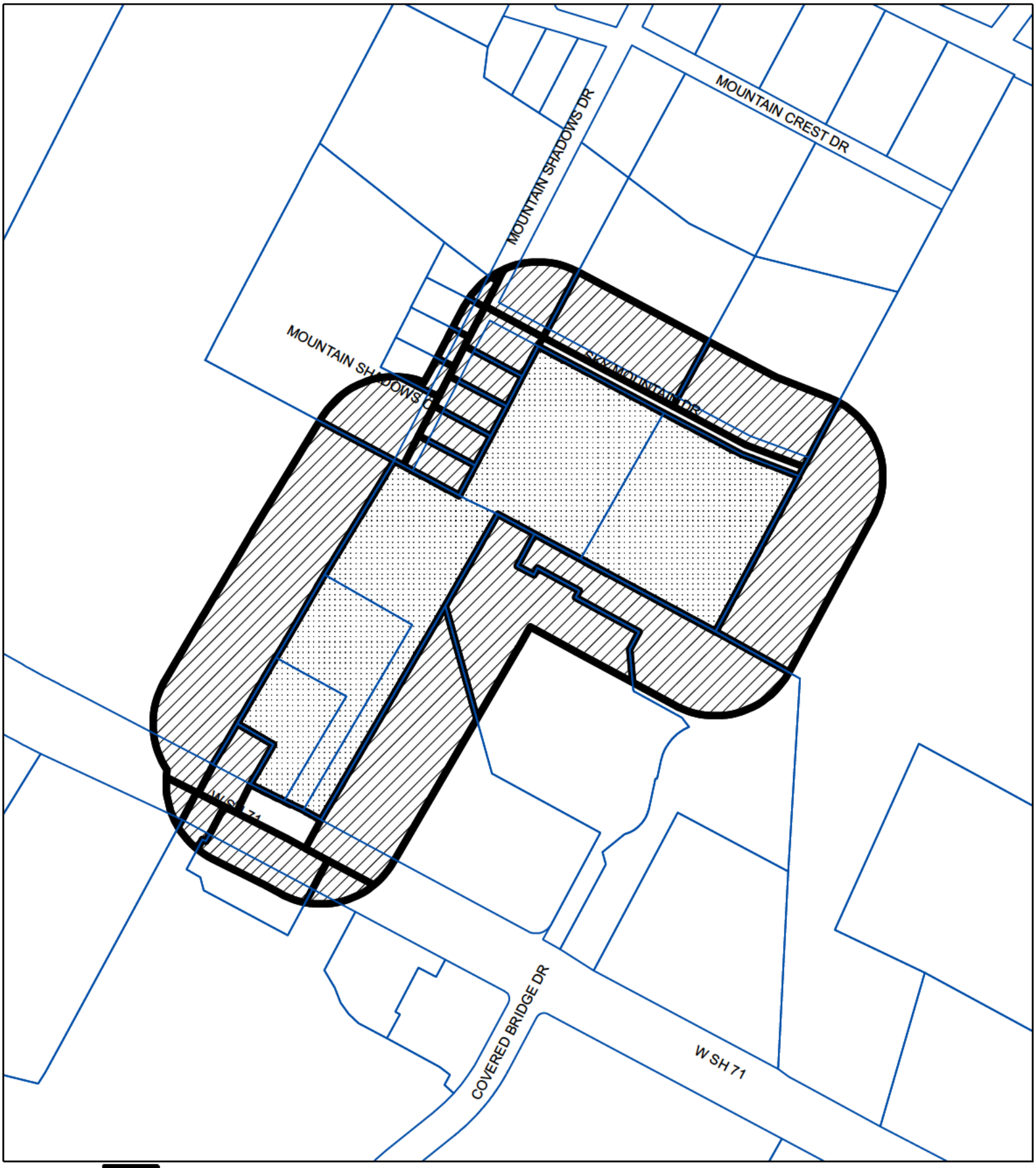

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BUFFER

PROPERTY_OWNER

SUBJECT_TRACT

PETITION

Case#: C14-2020-0023

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. t does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

1 " = 300 '

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.

CITY OF AUSTIN FOUNDED 1839

Case Number:

C14-2020-0023

PETITION

Date: 6/16/2020

Total Square Footage of Buffer: 950357.2724

Percentage of Square Footage Owned by Petitioners Within Buffer: 1.91%

Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

TCAD ID	Address	Owner	Signature	Petition Area	Precent
0101480205	6209 MOUNTAIN SHADOWS DR 78735	BECHER PROPERTIES LLC	no	12402.06	0.00%
0101440702	OLD BEE CAVES RD 78735	BELL FUND V ESTANCIA LLC	no	115620.08	0.00%
0402480204	W STATE HY 71 78736	CITY OF AUSTIN	no	18765.85	0.00%
0402440218	8660 W STATE HY 71 78736	CITY OF AUSTIN	no	112679.92	0.00%
0402480329	8731 W STATE HY 71 78735	COVERED BRIDGE LANDHOLDING LLC	no	34104.89	0.00%
0101440501	8803 SKY MOUNTAIN DR 78735	DEY ERIC T & CLARA M EDWARDS DEY	no	16331.73	0.00%
0101480201	6303 MOUNTAIN SHADOWS DR 78735	GONZALES LYDIA	no	12105.99	0.00%
0101440403	MOUNTAIN SHADOWS DR 78735	HUDSON HAROLD A JR	no	24136.21	0.00%
0101480203	6211 MOUNTAIN SHADOWS DR AUSTIN 78735	JOHNSTON HILLARY M & KATHERINE E	no	12260.73	0.00%
0402480303	8801 W STATE HY 71 78735	JONES BRIAN SADLER & SANDRA W	no	4519.73	0.00%
0101440402	8800 SKY MOUNTAIN DR 78735	LEGGETT JUDITH ELAINE	no	61686.38	0.00%
0101440401	8702 SKY MOUNTAIN DR 78735	LEGGETT JUDITH ELAINE	no	60377.72	0.00%
0102470305	8776 W STATE HY 71 78735	MARX WILLIAM D	no	176351.49	0.00%
0101480106	6210 MOUNTAIN SHADOWS DR 78735	MECHEM CHRISTOPHER L & MERRY N MILLER	no	4244.19	0.00%
0101480202	6301 MOUNTAIN SHADOWS DR 78735	NORTON CARL EDWARD & LAURA ELIZABETH NORTON	yes	12118.81	1.28%
0402480330	8715 W STATE HY 71 78736	PPF AMLI COVERED BRIDGE DRIVE LLC	no	17022.36	0.00%
0101480105	6208 MOUNTAIN SHADOWS DR 78735	RODRIGUEZ DANIEL	yes	3651.64	0.38%
0101480103	6204 MOUNTAIN SHADOWS DR 78735	RODRIGUEZ DANIEL	yes	2398.02	0.25%
0402440223	W STATE HY 71 78736	TRAVIS COUNTY	no	91541.90	0.00%
0101480104	6206 MOUNTAIN SHADOWS DR 78735	WHITE ROBERTA J	no	3580.27	0.00%
0402440501	Address Not Found		no	88191.09	0.00%
0101480401	Address Not Found		no	34793.79	0.00%
Total				**918884.85**	**1.91%**

Clark, Kate

From: Michelle Sain
Sent: Monday, June 15, 2020 9:45 PM
To: Clark, Kate; [redacted]; Michele Rogerson Lynch
Cc: Michelle Sain
Subject: Mountain Shadows Owners Association and Neighbors "Withdraws" our Previous Opposition to the Mountain Shadows Rezoning
Attachments: Recinding Petition for Case #c14-2020-0023.pdf; Declaration of Restrictive Covenant.v1 (6-4-20 MWSW) (2).doc; Support Letter for #c14-2020-0023.pdf

*** External Email - Exercise Caution ***

Dear
Kate Clark of City of Austin Planning and Zoning Department,
Cynthia Wilcox the President of OHAN
Michele Lynch Director of Land Use & Entitlements at Metcalfe Wolff Stuart & Williams, LLP

RE: File Number C14-2020-0023 and C14-85-288.56(RCA)

Based upon additional discussions and conditions agreed to with the developer of the proposed project, the Mountain Shadows Cove Neighborhood supports the rezoning and restrictive covenant amendment and is no longer in opposition to the proposed project.

I, Michelle Sain and the President of the Mountain Shadows Cove Owners Association a 28 unit Condo complex within 200 feet of the proposed Development. As President I speak on behalf of the Owners Association and after a meeting with the Developer the Mountain Shadows Community had a vote to Support the proposed development. I have gathered Letter's to Rescind the Previous petition letters filed. I have attached the first batch of Letter to Support the new Development and to Rescind the previous protests.

The Mountain Shadows Cove Association would also like to ask OHAN to "Withdraw their opposition to the proposed development" now that a very neighborhood friendly design of the complex has been created along with the new restrictive covenant the developer will file for this tract of land. Mountain Shadows is very grateful to OHAN and the opportunity OHAN gave for the neighborhood to meet the Developer and work to find a very agreeable building plan for the vacant land.

Thank you Kate Clark of City of Austin, Cynthia Wilcox of OHAN and Michele Lynch for your assistance in this matter.

If you need additional information, please feel free to contact me.

Sincerely,

Michelle Sain
President of Mountain Shadows Cove Owners Association in Oak Hill, Austin

512-731-2330

8809 A & B Mountain Shadows Cove, Austin, TX 78735

Within 200 feet of the subject tract for Case # C14-2020-0023

512-731-2330

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to CSIRT@austintexas.gov.

DocuSign Envelope ID: 10E35DA8-9861-43C0-9949-C1DDFBAC595B

June 8, 2020

Kate Clark

Senior Planner

City of Austin Planning and Zoning Department

P.O. Box 1088, Austin, Texas, 78767

Via email: kate.clark@austintexas.gov

RE: File Number C14-2020-0023 and C14-85-288.56(RCA)

Dear Ms. Clark,

Based upon additional discussions and conditions agreed to with the developer of the proposed project, I withdraw my opposition to the project and withdraw my name from the petition previously filed.

Thank you for your assistance in this matter. If you need additional information, please feel free to contact me.

Sincerely,

Amy & James Sutherland – Owners of 8917 B Mountain Shadows Cv, Austin TX 78735

DocuSigned by:
AMY SUTHERLAND
63ECBE1656D04BE...

6/9/2020

June 12, 2020

Kate Clark

Senior Planner

City of Austin Planning and Zoning Department

P.O. Box 1088, Austin, Texas, 78767

Via email: kate.clark@austintexas.gov

RE: File Number C14-2020-0023 and C14-85-288.56(RCA)

Dear Ms. Clark,

Based upon additional discussions and conditions agreed to with the developer of the proposed project, I withdraw my opposition to the project and withdraw my name from the petition previously filed.

Thank you for your assistance in this matter. If you need additional information, please feel free to contact me.

Sincerely,

Hillary J

Hilary and Katherine Johnston
owners of 6211 Mountain Shadows Dr. Austin
TCAD # 0101480203

June 8, 2020

Kate Clark

Senior Planner

City of Austin Planning and Zoning Department

P.O. Box 1088, Austin, Texas, 78767

Via email: kate.clark@austintexas.gov

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Sincerely,

Kathleen E. McMahon

Kathleen E McMahon - Board Member 2020 - Mountain Shadows Cove Owners Association

*, 8817 B Mountain Shadows Cv, Austin TX 78735,

Mountain Shadows Cove Owner Association is a 28 unit Condominium Community located at Mountain Shadows Drive & Mountain Shadows Cove, Austin, TX 78735.

Located within 200 yards of the Proposed Development.

June 13, 2020

Kate Clark

Senior Planner

City of Austin Planning and Zoning Department

P.O. Box 1088, Austin, Texas, 78767

Via email: kate.clark@austintexas.gov

RE: File Number C14-2020-0023 and C14-85-288.56(RCA)

Dear Ms. Clark,

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Thank you for your assistance in this matter. If you need additional information, please feel free to contact me.

Sincerely,

Christopher L Mechem & Merry N Miller 6210 Mountain Shadows Dr. Austin TX 78735

TCAD# 010480106

Located within 200 yards of the Proposed Development.

Merry Lutka 501 W. Creekwood DR
DRIFTWOOD TX 78619

Own 6210 Mountain Shadows DR

June ___, 2020

Kate Clark

Senior Planner

City of Austin Planning and Zoning Department

P.O. Box 1088, Austin, Texas, 78767

Via email: kate.clark@austintexas.gov

RE: File Number C14-2020-0023 and C14-85-288.56(RCA)

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Thank you for your assistance in this matter. If you need additional information, please feel free to contact me.

Sincerely,

Roberta J. White
6206 Mountain Shadows Dr. Austin, Tx 78735
TCAD # 0101480104

CHERYL CASTILLE

8913B Mountain Shadows Cove
Austin, Texas 78735
337-401-0686

Kate Clark, AICP, LEED AP
Senior Planner
City of Austin | Planning and Zoning Department
Mailing Address: P.O.Box 1088, Austin, Texas 78767
Physical Address: 505 Barton Springs Rd, 5th floor, Austin, Texas 78704

RE: File Number C14-2020-0023
C14-85-288.56 (RCA)

Dear Ms. Clark,

Enclosed please find the formal petition regarding the rezoning request for Sky Mountain Drive. The signatures are also being forwarded to you by e-mail per your request. There will possibly be more signatures prior to any public hearing.

Thank you for your assistance in this matter. If you need additional information, please feel free to contact me.

Sincerely,
Cheryl Castille

DEAR NEIGHBOR, WE ARE REQUESTING YOUR ASSISTANCE IN OPPOSING THE REZONING OF LAND BETWEEN MOUNTAIN SHADOWS DRIVE AND HWY 71 AND THE EXTENSION OF MOUNTAIN SHADOWS FOR THE FOLLOWING REASONS. PLEASE SIGN AND RETURN THE ENCLOSED PETITION IN THE ENVELOPE PROVIDED

Mountain Shadows Drive is classified by the City of Austin as a **substandard** street. The street is only 16.5 feet wide (a generous measurement); and it has no shoulders, side of the street parking, or sidewalks. School buses are typically 8 to 9 feet wide; and pickup trucks 6.5 to 7 feet wide. A school bus and a pickup could not safely pass each other on Mountain Shadows Drive without leaving the pavement. Two schools, the Austin Eco Bilingual School and the Monarch Suzuki Academy, are located on this street. Parents bringing their children to these two schools presently park on the pavement during peak traffic hours. Mountain Shadows Drive is the sole exit for the neighborhood. There are limited sight lines at the exit to Old Bee Caves negatively affecting the egress – a curve feet to the south and the intersection of Travis Cook Road to the north.

The land between Mountain Shadows Drive and Hwy 71 is covered by a restricted covenant. The covenant states that a building permit for the site on this tract **"shall not be issued until Mountain Shadows Road has been constructed from State Hwy 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." The courts have generally ruled that when restrictive covenants are at variance with development codes the more restrictive standards shall be applied.

The extension of Mountain Shadow Drive is included in the Austin Strategic Mobility Plan (ASMP).
The ASMP also has a project identified for the existing section of Mountain Shadows Drive. This project would include reconstructing the street to urban standards with curb and gutter, two vehicle travel lanes, all ages and abilities bicycle facilities, and sidewalks. Both the new roadway project and the project to expand the existing roadway would be coordinated closely to minimize any impacts to affected property owners and **ensure consistency** along all of Mountain Shadows Drive. However according the ASMP team "**the city does not have an active project to construct it, nor has any funding been identified to pursue this project**. At this time, it is simply a concept that is desired based on mobility and safety needs in anticipation of future growth"

A rezoning application has been filed to rezone the tracts of land between Mountain Shadows Drive and Hwy 71. The request includes modifying language to allow the extension of Mountain Shadow Drive by the developer to **25 feet of pavement with 50 feet of Right of Way.** The draft of the Austin Street Design for a Level 2 road such as Mountain Shadow recommends a minimum of **26 foot of pavement with 74 feet Right of Way.** The optimal design for a Level 2 road is a pavement width of 26 feet**,** and a 92-foot Right of Way with 40-foot pavement to allow for bicycle lanes, sidewalks, curbs, and roadside parking. The proposed extension by the developer would not ensure consistency along all of Mountain Shadows Drive as called for in the Austin Strategic Mobility Plan. Future roads should **not** be constructed at less than minimum standards but should be constructed to optimize future growth and in accordance with the restricted covenant.

1. Neither a Traffic Impact Analysis (TIA) or a Neighborhood traffic analysis has been provided to the affected neighborhood. According to the Austin government website, a TIA is required if the expected number of trips generated by the project exceeds 2,000 vehicle trips per day, and a neighborhood traffic analysis is required if the trips generated exceed 300 vehicle trips per day over the existing uses. Estimation of traffic per family unit is estimated as high as 20 trips per day. Even at half that, the 234 unit proposed complex would place 2,340 more vehicles a day either turning onto a substandard road or attempting egress onto Hwy 71.
2. Safety is a major concern. In the last year there has been at least one fatality on that section of Hwy 71 from a vehicle exiting an apartment complex and a hit and run accident involving a teenage pedestrian on Mountain Shadow Drive. Children exiting vehicles parked at the local schools would also be at increased risk.
3. Research has shown that when streets designed to carry a high volume of traffic (like Hwy 71/290) are overloaded or there is a congested intersection (such as the Y at Hwy 290/71 or William Cannon/ 290) motorists tend to seek residential streets for shortcutting. The Texas Department of Transportation has described Hwy 290/71 as the 53rd most congested roadway in the state. Construction scheduled for this roadway is likely to increase this congestion for the next few years. It is logical to assume that motorists will tend to use Mountain Shadow Drive as a shortcut, increasing neighborhood safety problems.
4. The proposed development and road extension would affect reasonable access for emergency and transit services. A fire department is located near the proposed exit on Hw71, and increased traffic could delay response times. There are presently no transit services near the proposed complex. Decreasing pavement size would hinder the future development of safe transit stops.

In addition to the road problems, the proposed rezoning would contribute to other neighborhood concerns.

1. Police staffing is limited at this time, especially in the outlying areas of the city. The infusion of over 234 new residents in this one complex would exacerbate this situation.
2. Public schools would be adversely affected by the influx of new students. Small Middle School serves the students in this neighborhood. The student teacher ratio at Small Middle is 18:1, which is higher that the Texas state level of 15:1 and has increased from 16:1 over five school years. Oak Hill Middle School has class size averages that are above district and state averages. Austin High School has a student teacher ratio of 16.7:1; fifteen of the high schools in the Austin Independent School District have better student/teacher ratios.
3. There are no parks in the neighborhood. The proposed extension does not even include bike paths
4. The proposed development is near the Barton Creek Habitat Preserve and will negatively affect local wildlife in the neighborhood.
5. The proposed development will increase the noise pollution and light pollution in the neighborhood.
6. The proposed zoning favors corporate and absentee investors to the detriment of homeowners and small local developers.

PETITION

Date: March 14, 1010
File Number: C14-2020-0023
C14-85-288.56 (RCA)
Address of Rezoning Request:
8709 Sky Mountain Drive Austin, Tx 78735

To: Austin Planning Commission
Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than RR-NP, LR-NP.
The reasons for this request are as follows:

a. Traffic safety concerns – Mountain Shadows Drive is classified as a substandard road and is not suitable for the increased traffic that would be created by this development.
b. Police staffing is limited at this time in this outlying area, and the influx of this many new residents would exacerbate this situation.
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g. There is a lack of adequate infrastructure – parks, sidewalks, bike paths, etc.

We also protest the removal of the Restrictive Covenant applicable to this property. The Restricted Covenant was established to protect the environment and the community, and it is still relevant.

The rezoning of this property and the proposed extension of Mountain Shadows Drive is opposed by both the Mountain Shadows Cove Home Owner's Association and the Oak Hill Association of Neighborhoods.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
Lisa D Speck	Lisa D Speck	6204 Mountain Shadows Drive
Hector Perez	Hector Perez	6204 Mountain Shadows Dr. #B
Alejandra Melchor	Alejandra Melchor	6204 Mountain Shadows DR #B 78735
Evan Speck	Evan Speck	6204 Mountain Shadows Dr #B

PETITION

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Signature	Printed Name	Address
Natalie Vonderhaar	Natalie Vonderhaar	6204 Mountain Shadows Unit A ATX
	Jordan Vonderhaar	6204 Mountain Shadows Dr. Apt A

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
Alan Friedman	Alan Friedman	8725 Mountain Crest Dr. Austin, TX 78735
Susan F Friedman	SUSAN FRIEDMAN	8725 MOUNTAIN CREST DR AUSTIN 78735

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
Albert Travis White	Albert Travis White	8711 Old Bee Caves Rd Austin TX 78735
Sharon White	SHARON WHITE	8711 OLD BEE CAVES RD 78735

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
[illegible]	Bradly Montgomery	8905 Mountain Shadows Cv Unit B
[illegible]	Shelley Montgomery	Austin Tx, 78735
		8905 Mountain Shadows Cove B Austin, TX 78735

PETITION

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Signature	Printed Name	Address
Cheryl Castille	Cheryl Castille	8913 B Mountain Shadows Cove Austin, TX 78735

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
[illegible]	CHRISTINE NICHOLS	8813 MOUNTAIN SHADOWS COVE APT A AUSTIN, TX 78735

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
Marlene Garcia	Marlene Garcia	8813 Mountain Shadows Cove Unit B

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
Josephine Slawik	Josephine Slawik	8821 A MT Shadows Cove

PETITION

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The rezoning of this property and the proposed extension of Mountain Shadows Drive is opposed by both the Mountain Shadows Cove Home Owner's Association and the Oak Hill Association of Neighborhoods.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
	Daniel Taylor	8821 Mountain Shadows CV Apt B Austin TX 78735

PETITION

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(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
James Riley	James Riley	8901-B Mtn. Shadows Cove, Austin 78735
Karel Riley	KAREL RILEY	8901B Mountain Shadows Cove

PETITION

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The rezoning of this property and the proposed extension of Mountain Shadows Drive is opposed by both the Mountain Shadows Cove Home Owner's Association and the Oak Hill Association of Neighborhoods.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature	Printed Name	Address
	Matthew Lee Kirby	8909 A Mountain Shadows Cv., Austin, TX 78735
* (In Black Ink)	Matthew Lee Kirby	8909 A Mountain Shadows Cv Austin, TX 78735

PETITION

Date: March 14, 1010
File Number: C14-2020-0023
C14-85-288.56 (RCA)
Address of Rezoning Request:
8709 Sky Mountain Drive Austin, Tx 78735

To: Austin Planning Commission
Austin City Council

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Signature	Printed Name	Address
[illegible]	Sean Vornhagen	8909 Mountain Shadows CV Apt. B Austin Tx 78735
Abby Winscott	Abby Winscott	

PETITION

Date: March 14, 1010
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Signature	Printed Name	Address
Heather McMillion	Heather McMillion	8912A Mountain Shadows Cove Austin, TX 78735
[illegible]	Brian Baldwin	" "

PETITION

Date: March 14, 1010
File Number: C14-2020-0023
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Signature	Printed Name	Address
Kay Caviness	Kay Caviness	8917A Mountain Shadows CV, 78735

PETITION

Date: March 14, 1010
File Number: C14-2020-0023
C14-85-288.56 (RCA)
Address of Rezoning Request:
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Signature	Printed Name	Address
	HOANG LE	8913 MOUNTAIN SHADOWS CV APT A, AUSTIN TX 78735
	HOANG LE	8913 MOUNTAIN SHADOWS CV APT A, AUSTIN TX 78735

PETITION

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Signature	Printed Name	Address
NBullard	Nancy BULLARD	8916A Mountain Shadows Cv 78735

PETITION

Date: March 14, 1010
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Signature	Printed Name	Address
Gwendolyn Crutchow	GWENDOLYN CRUCHOW	8916 MOUNTAIN SHADOWS COVE
		AUSTIN, TX 78735

PETITION

Date: March 14, 1010
File Number: C14-2020-0023
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Signature	Printed Name	Address
[illegible]	Christopher M. Friend	8912 Mountain Shadows Cv, B

PETITION

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Signature	Printed Name	Address
Mauri Rex	Mauri Rex	8921-3 Mountain Shadows CV Austin, TX 78735

PETITION

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Signature	Printed Name	Address
	Daniel Ivan Rodriguez	6208 Mountain Shadows Dr Austin TX 78735
	Daniel Ivan Rodriguez	6204 Mountain Shadows Dr Austin TX 78735

PETITION

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Signature	Printed Name	Address
[illegible]	DONALD WOODARD	8656 Hwy 71 W, 78735

PETITION

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Signature	Printed Name	Address
Pete Becher	Peter Becher	6209 Mountain Shadows

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Signature	Printed Name	Address
	ROBERT TOBIANSKY	7616 EVENING SKY CIR, AUSTIN

PETITION

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Signature	Printed Name	Address
Marion Claire Mabry	Marion Claire Mabry	8723 Mt Crest Dr Austin tx 78735

PETITION

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Signature	Printed Name	Address
[illegible]	CARL NORTON	6301 A Mtn Shad
[illegible]	Laura Norton	6301 B Mountain Shadows

Exhibit D

June 13, 2020

OHAN

Cynthia Wilcox, President@OHAN.ORG

RE: Oak Hill /Mountain Shadows Community

File Number C14-2020-0023 and C14-85-288.56(RCA)

Dear Cynthia Wilcox

Thank you and OHAN for giving Mountain Shadows Community the chance to come to the OHAN February 19th 2020 Meeting to Hear the Presentation Given by Metcalfe Wolf Stuart & Williams by Michelle Rogerson Lynch. This meeting with the Developer who is proposing to build at 8732, 8624 & 8722 State Hwy 71 was very informative. Mountain Shadows also appreciated OHAN backing Mountain Shadows Cove's Petition to block the Original Zoning Change request. BUT WE HAVE NEW GOOD NEWS!!!

After many additional discussions with the Developer Metcalfe Wolf Stuart & Williams a New Set of Conditions have been agreed to with the developer of the proposed project, and Mountain Shadows Cove Community Now WITHDRAWS our previous opposition to the project and withdraw Mountain Shadows Cove from the petition previously filed. Mountain Shadows Now Supports the New Rezoning with the Amendment to the new Restrictive Covenant attached.

It would be of Great Help if OHAN would now Join Mountain Shadows Community in Supporting the new Rezoning.

Please Let Kate Clark the Senior Planner of the City of Austin Planning and Zoning Department know that OHAN No Longer is Against the Zoning. Via email: kate.clark@austintexas.gov , City of Austin Planning and Zoning Department, P.O. Box 1088, Austin, Texas, 78767

Sincerely, Michelle Sain

Michelle Sain, HOA President of Mountain Shadows Cove Owners Association
MIchelle owns within the 200 ft from the 200 ft of subject track.

512-731-2330, [redacted], 8809 A& B Mountain Shadows Cove, Austin TX 78735

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to participate in a public hearing, you are not required to participate. This meeting will be conducted online and you have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for information on how to participate in the public hearings online. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website: www.austintexas.gov/planning.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2020-0023
Contact: Kate Clark, 512-974-1237
Public Hearing: June 23, 2020, Planning Commission

Kathy E. McMahon
Your Name (please print)

☒ **I am in favor**
☐ **I object**

8817 Mtn Shadows Cove #B
Austin, TX 78735
Your address(es) affected by this application

Kathy E. McMahon — 6/15/20
Signature — *Date*

Daytime Telephone: 512/743-8866

Comments: I am in favor of this rezoning request, as long as Mountain Shadows Drive is not extended fully all the way to the end at Hwy 71.

If you use this form to comment, it may be returned to:
City of Austin, Planning & Zoning Department
Kate Clark
P. O. Box 1088, Austin, TX 78767-8810

Or email to:
Kate.Clark@austintexas.gov

OHAN

OAK HILL ASSOCIATION OF NEIGHBORHOODS

DATE: **18 June 2020**

TO: **City Council**
Planning Commission

FROM: **Oak Hill Association of Neighborhoods**

RE: **C14-2020-0023 and C14-85-288.56(RCA)**

To Whom It May Concern:

The Oak Hill Association of Neighborhoods, at the June 17 2020 membership meeting, unanimously approved a motion in support of the agreement between Mountain Shadows Cove Owners Association and the applicant regarding approval of C14-2020-0023 and C14-85-288.56(RCA) as agreed upon by neighborhood stakeholders and as articulated in the attached documents.

If you have any additional questions, please email President@OHAN.org.

_____
Cynthia Wilcox, President, OHAN

18 June 2020
_____
Date

cc: Kate Clark, AICP, LEED AP, Senior Planner, City of Austin Planning & Zoning Department

June 10, 2020

Kate Clark

Senior Planner

City of Austin Planning and Zoning Department

P.O. Box 1088, Austin, Texas, 78767

Via email: kate.clark@austintexas.gov

RE: File Number C14-2020-0023 and C14-85-288.56(RCA)

Dear Ms. Clark,

Based upon additional discussions and conditions agreed to with the developer of the proposed project, the Mountain Shadows Cove Neighborhood supports the rezoning and restrictive covenant amendment and is no longer in opposition to the proposed project. The Developer Has Agreed to the Attached Declaration of Covenants, Conditions and Restrictions the Mountain Shadows Cove Owners Association Members have agreed to.

Thank you for your assistance in this matter. If you need additional information, please feel free to contact me.

Sincerely,

Michelle Sain

Michelle Sain
President of Mountain Shadows Cove Owners Association in Oak Hill, Austin

512-731-2330 michellesain@gmail.com

8809 A & B Mountain Shadows Cove, Austin, TX 78735

WIthin 200 feet of the subject tract for Case # C14-2020-0023

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This Declaration of Covenants, Conditions, and Restrictions (this "Declaration") is made as of the _____ day of _____, 2020, by Legacy DCS, LLC a Texas limited liability company (the "Declarant")

RECITALS

WHEREAS, Declarant is the owner of the approximately 22 acres of land more particularly described on Exhibit "A" and "A-1" attached hereto and referred to as the "Property";

WHEREAS, Declarant currently intends to develop a Multifamily Residence project on the Property (the "Project") thereon consistent with the conceptual plan attached as Exhibit "B" (the "Concept Plan"), and is seeking LR-MU-NP zoning (Neighborhood Commercial-Mixed Use- Neighborhood Plan) and MF-1-NP zoning (Multifamily Residence Limited Density-Neighborhood Plan) from the City of Austin for the Project pursuant to City of Austin Zoning Case Number C14-2020-0023 (the "Zoning Case") and associated amendment to an existing City of Austin restrictive covenant pursuant to City of Austin Restrictive Covenant Amendment Case Number C14-85-288.56(RCA) (the "Restrictive Covenant Amendment Case") ; and

WHEREAS, in consideration of support by the Mountain Shadows Cove Neighborhood Association, Inc., a Texas nonprofit corporation ("MSC") for the Zoning Case and the Restrictive Covenant Amendment Case, Declarant has agreed to establish certain restrictive covenants, which are described herein, in connection with the development of the Project.

NOW, THEREFORE, for and in consideration of MSC's support before the City of Austin Planning Commission and City Council as described above, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Declarant agrees to hold, sell and convey the Property subject to the following covenants, conditions, and restrictions, which are impressed upon the Property by this Declaration.

DECLARATION

I. Covenants, Conditions, and Restrictions

1.1 Development Standards. Subject to all of the terms and conditions of this Declaration, development on the Property consistent with the Concept Plan shall comply with the following requirements.

A. Access to Mountain Shadows Drive. The Project shall take access from Mountain Shadows Drive as extended from Highway 71 West into the Project as generally shown on the Concept Plan. Declarant may be required by the City of Austin to dedicate right-of-way for the future extension of Mountain Shadows Drive from Highway 71 West to the terminus of the existing Mountain Shadows Drive, however, in no event shall Declarant seek to construct the future extension of Mountain Shadows beyond the Project entrance noted above unless required by the City of Austin for emergency access. Nevertheless, the Project shall not take access to any portion of Mountain Shadows Drive except as shown on the Concept Plan.

B. Access to Sky Mountain Drive. In association with the development of the Project on the Concept Plan, Declarant shall seek to vacate the unconstructed portion of the City of Austin right-of-way for Sky Mountain Drive that is within the boundary of the Project as shown on the survey attached as Exhibit "C" and labeled as "[Q]" (the "Survey") unless required by the City of Austin for emergency access. The constructed portion of Sky Mountain Drive from Mountain Shadows Drive as shown on the Concept Plan shall not be vacated, however Declarant will not take access to the constructed portion of Sky Mountain Drive for the Project unless required by the City of Austin for emergency access.

C. Multifamily Building Location. A building used for Multifamily Residence use as defined by Chapter 25-2 of the Austin City Code as of the date hereof, may not be closer than 100 feet from the existing portion of Mountain Shadows Drive as generally shown on the Concept Plan.

D. Construction Access. All vehicles related to construction of the Project shall take access from Highway 71 West or from the portion of Mountain Shadows Drive that will be extended from Highway 71 West to the Project entrance with the exception of necessary and required improvements that may include, but are not limited to items such as utilities, trails, sidewalks, or other work that cannot reasonably be accessed from Highway 71 West or as required by the City of Austin.

E. Subparts A, B, C or D above shall be null and void if the Property is developed for a use permitted in SF-6 or less intense zoning (as such zoning categories exist on the date hereof).

F. Lighting. All outdoor lighting fixtures above 100 watts shall be hooded and shielded to reduce light pollution. All outdoor lighting fixtures shall be hooded, shielded, or screened to eliminate light source visibility from the single-family residences which are adjacent to the northern boundary line of the Property and across Mountain Shadows Drive. The maximum allowable wattage of any single outdoor fixture is 400 watts. The uniformity ratio of average to minimum illumination at ground level will be no more than 8:1, except that building fronts and ground signage may be floodlit from the ground, provided that any such floodlights are aimed at improvements on the Property and not at any adjacent single-family residence.

II. Conditions on Effect; Exhibits as Examples

2.1 Zoning Case. Notwithstanding any other provision of this Declaration to the contrary, the agreements of Declarant reflected herein are conditioned upon final approval (i.e., third reading) of the Zoning Case and of the Restrictive Covenant Amendment Case by the City of Austin City Council in a form acceptable to Declarant.

2.2 Exhibits. Any Concept Plan, drawing, or depiction of the Project attached hereto as an exhibit is attached only for such purpose, and does not necessarily constitute the final design of the Project as it will be built (unless and to the extent this Declaration expressly provides otherwise). Without limiting the foregoing, but subject to the limitations of Article I of this Declaration, neither Declarant nor any developer is required to build any building, structure or improvement, as may be shown on an exhibit hereto.

III. General Provisions

3.1 Enforcement of Declaration. If Declarant shall violate this Declaration, it shall be lawful for the MSC as its sole and exclusive remedy, to enforce this Declaration through a claim for actual damages or injunctive relief against the Declarant. Notwithstanding the foregoing, the MSC may not enforce its remedies until after it has delivered a written notice to the Declarant, informing it of the alleged violations of this Declaration. Within thirty (30) days after receiving such a notice of violation, the Declarant shall send a written response to the MSC informing it of what actions, if any, it plans to take in order to remedy the alleged violation(s). If the Declarant notifies the MSC that it intends to cure the alleged violation, then the Declarant shall have a reasonable period of time, not to exceed ninety (90) days from the date of notice (or if such violation can not be cured within ninety (90) days despite the Declarant's commercially reasonable efforts, then as long as reasonably necessary) in which to cure the alleged violation, during which period, if the Declarant timely commences the cure and is using commercially reasonable efforts to cure the violation, then the MSC shall not enforce any remedy. If the Declarant fails to cure the default within the 90-day or extended period, as applicable, then the MSC may enforce its remedies as provided herein. The prevailing party in any litigation hereunder shall be entitled to reasonable attorney's fees actually incurred in the enforcement or defense of this Declaration. Except for Declarant and the MSC and their respective successors and assigns, this Declaration shall not be enforceable by any other person or entity.

3.2 Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by either facsimile, with verification that the facsimile has been received, or mailed by certified or registered mail, postage prepaid, overnight delivery by a national delivery company, or express mail, addressed as follows:

If to Declarant:

Legacy DCS, LLC

Attn: Cass Brewer, Managing Member

205 Wild Basin Road South, Bldg. One

Austin, Texas 78746

Phone: (512) 848-7221

Email: cassbrewer@legacydcs.com

If to MSC: Mountain Shadows Cove Neighborhood Association

c/o Current President of Association

_____

Austin, Texas 78___

3.3 Binding Effect. It is intended that the provisions of this Declaration shall run with the land and be binding upon Declarant's successors and assigns.

3.4 Modification. This Declaration may be modified, amended, or terminated only by joint action of both (a) the MSC, or any successor association, and (b) by the fee simple owner(s) of at least seventy-five percent (75%) of the gross land area of the Property at the time of such modification, amendment or termination.

3.5 Partial Invalidity. If any part of this Declaration is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Declaration, and such remaining portion of this Declaration shall remain in full effect.

3.6 Controlling Law. This Declaration has been made and entered into under the laws of the State of Texas, and said laws shall control the interpretation thereof.

3.7 No Third Party Beneficiary. The provisions of this Declaration are for the exclusive benefit of the MSC or any successor association, and not for the benefit of any third person, nor shall this Declaration be deemed to have conferred any rights, express or implied, upon any third person the public.

DECLARANT:

Legacy DCS, LLC

a Texas limited liability company

By: _____

Name: _____

Title: Managing Member

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

This instrument was acknowledged before me this ____ day of _____, 2020, by _____, Managing Member of Legacy DCS, LLC, a Texas limited liability company on behalf of said limited liability company.

_____

Notary Public, State of Texas

Exhibit “A” and “A-1”	Property
Exhibit “B”	Concept Plan
Exhibit “C”	Survey

AGREED TO AND ACCEPTED:

MOUNTAIN SHADOWS COVE NEIGHBORHOOD ASSOCIATION

By:_____

Name:_____

Title:_____

Date: _____

STATE OF TEXAS **§**

§

COUNTY OF TRAVIS **§**

This instrument was acknowledged before me on this the _____ day of _____, 2020, by _____, as _____ of the Mountain Shadows Cove Neighborhood Association, a Texas nonprofit corporation, on behalf of said corporation.

_____

Notary Public, State of Texas

Exhibit "A"

Property Description

Lots 1 and 2, Cedar Oaks Subdivision, a subdivision in Travis County, Texas according to the plat or map thereof recorded in Volume 60, Page 17 of the plat records of Travis County, Texas; and Ridgelea Properties, Inc., "Tract 7", Volume 12843, Page 1479, Deed Records of Travis County, Texas, attached and incorporated as Exhibit "A-1"

Block M and Q, Mountain Shadows Subdivision, a subdivision in Travis County, Texas according to the plat or map thereof recorded in Volume 25, Page 2 of the plat records of Travis County, Texas

Block K, Mountain Shadows Subdivision, a subdivision in Travis County, Texas according to the plat or map thereof recorded in Volume 25, Page 2 of the plat records of Travis County, Texas

Block L and P, Mountain Shadows Subdivision, a subdivision in Travis County, Texas according to the plat or map thereof recorded in Volume 25, Page 2 of the plat records of Travis County, Texas

Block H, Mountain Shadows Subdivision, a subdivision in Travis County, Texas according to the plat or map thereof recorded in Volume 25, Page 2 of the plat records of Travis County, Texas

Exhibit "A-1"

TRACT 7

A tract of land being a 2.92 acre tract or parcel of land, more or less, out of the A. Bowles Survey # Ninety-three (93), Abstract One Hundred One (101), and the Evan Williams Survey # Two Hundred Eighty-Four (284), Abstract Eight Hundred Thirty (830), and situated in Travis County, Texas, being also a portion of that certain tract or parcel of land conveyed to Helen Rice by deed recorded in Vol. 3266, Page 2310 of the Deed Records of Travis County, Texas, said 2.92 acres described by metes and bounds as follows:

Beginning at an iron stake found under fence in the north right-of-way line of U.S. Highway 71 far southeast corner hereof, said point being also the southeast corner of Lot Two (2) of Cedar Oaks Subdivision, a subdivision in Travis County, Texas according to the map or plat thereof recorded in Book Sixty (60), Page Seventeen (17) of the Plat Records of Travis County, Texas;

Thence: S 59 deg 29 min E with the average of fence in the north right-of-way line of said Hwy. 71, 50.0 ft. to a steel pin set under fence for southeast corner hereof;

Thence: N 31 deg. 15 min 30 sec E, 852.43 ft. to a steel pin set under fence in north line of said Rice tract being also in the south line of Lot 1, Mountain Shadows Subdivision, a subdivision in Travis County, Texas, according to the map or Plat thereof recorded in Book Twenty-Five (25), Page Two (2) of the Plat Records of Travis County, Texas;

Thence: N 61 deg 09 min 30 sec W with the average of fence in south line of said Lot 1 at 255 ft. passing the east right-of-way line of Mountain Shadows Drive (50' r.o.w.) 305.90 ft. in all to an iron stake found under fence corner for northwest corner hereof;

Thence S 29 deg 39 min 30 sec W with average of fence along west line of said Rice tract and east line of an 11.29 acre tract of land conveyed to Donald Max by deed recorded in Vol. 3792, Page 65, of the Deed Records of Travis County, Texas, 331.45 ft. to a steel fin found under fence for southwest corner hereof and northwest corner of said Lot Two (2) Cedar Oaks Subdivision.

Thence: S 59 deg 29 min E with North line of said Lot Two (2) 210.0 ft. to a steel pin found for inside corner hereof and northeast corner of said Lot Two (2);

Thence: S 31 deg 05 min W along East line of said Lot Two (2) and west line hereof, 511.30 ft. to an iron stake and point of beginning of this survey containing 2.92 acres of land, more or less. As surveyed on the ground May 30, 1975 by Chase Baromeo (sic), Jr., Registered Professional Engineer.

Being the same property conveyed to Robert O. Hammack by instrument of record in Volume 5180, Page 977, Deed Records of Travis County, Texas.

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Unofficial Document

Exhibit “B” – Concept Plan
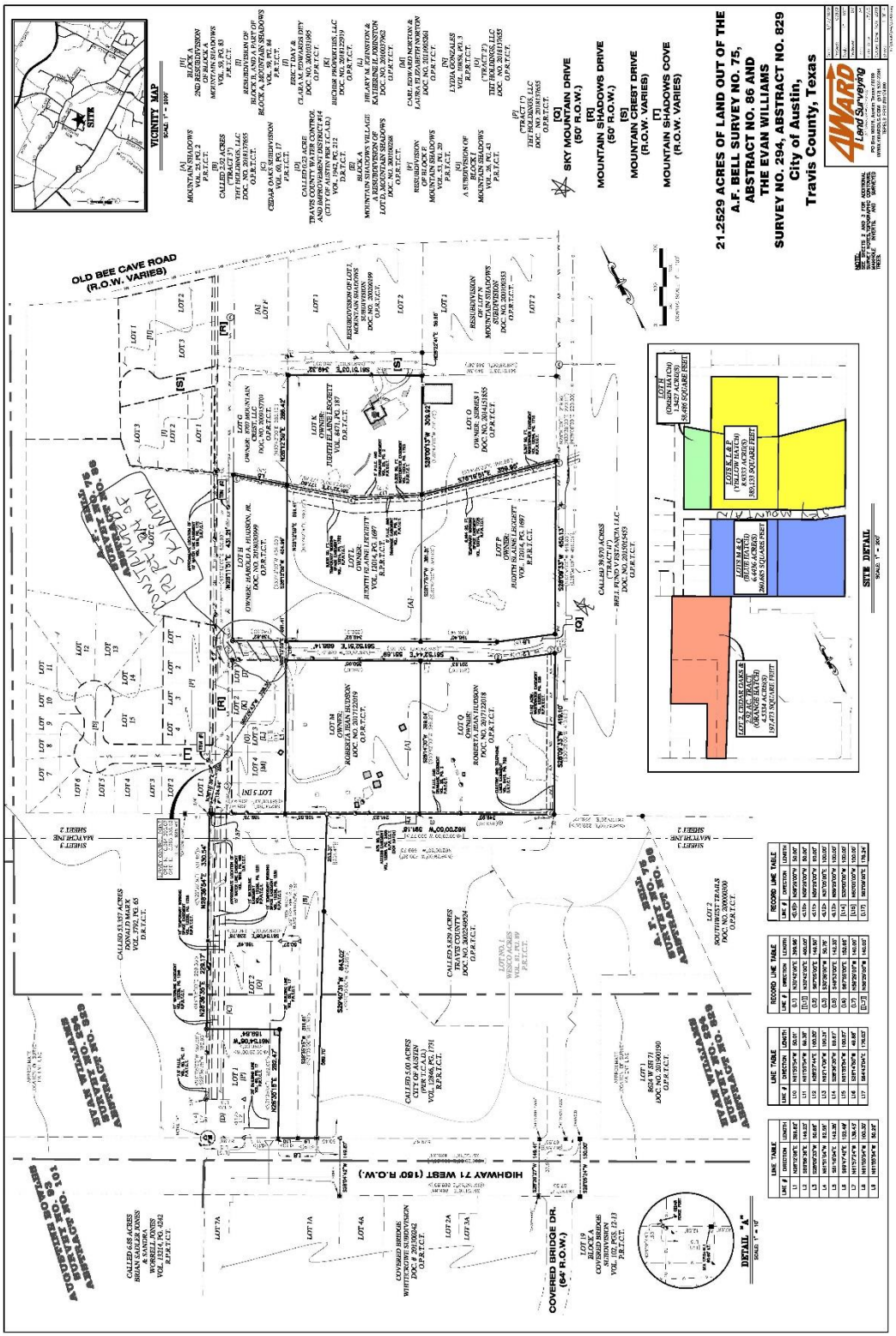
Exhibit "C" – Survey