RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-72-032 (RCT) – 7113 Burnet Rd
DISTRICT: 7

EXISTING ZONING: CS-1-CO-NP, CS-CO-NP, LO-CO-NP

ADDRESS: 7113 Burnet Road

SITE AREA: 1.1166 acres (48,638 square feet)

PROPERTY OWNER: Ronan Corporation (Craig Hopper)

AGENT: Armbrust & Brown PLLC (Michael Gaudini)

CASE MANAGER: Mark Graham (512-974-3574, mark.graham@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends granting a Termination of the Restrictive Covenant.

PLANNING COMMISSION ACTION / RECOMMENDATION:

July 14, 2020: APPROVED TERMINATION OF THE RESTRICTIVE COVENANT, AS STAFF RECOMMENDED.

[J. ANDERSON; A. AZHAR – 2ND] (8-4-1) C. LLANES PULIDO, R. SCHNEIDER, P. SEEGER, T. SHAW VOTED NAY; J. SHIEH – ABSTAINED

June 23, 2020: APPROVED POSTPONEMENT REQUEST BY NEIGHBORHOOD TO JULY 14, 2020:

[J. THOMPSON; R. SCHNEIDER – 2ND] (12-0) P. SEEGER - ABSENT

CITY COUNCIL ACTION:

September 17, 2020:

August 27, 2020: APPROVED POSTPONEMENT REQUEST BY STAFF TO SEPTEMBER 17, 2020 BY CONSENT. VOTE (11-0)

July 30, 2020: APPROVED POSTPONEMENT REQUEST BY NEIGHBORHOOD TO AUGUST 27, 2020 BY CONSENT. VOTE (11-0)

RESTRICTIVE COVENANT TERMINATION RECORDING NUMBER:

ISSUES:
No issues were identified for this request.

CASE MANAGER COMMENTS:
The subject Restrictive Covenant is less restrictive than current compatibility standards by Code. At the time that the subject property zoning was changed from residential to office, the
Restrictive Covenant was provided to increase the setback between the office and the houses on Hardy Circle.

Applicant is requesting the termination of the Restrictive Covenant which established a twenty-foot building setback from the north property line of the 48,638 square foot tract of land that was rezoned from residential to office in 1973 (Ordinance No. 73 0628-D).

The Restrictive Covenant is recorded in volume 4674, page 2281 of the Deed Records of Travis County, Texas. Paragraph number 1. “No Building or any part thereof shall be located within twenty (20) feet of the north property line of said property”. Please refer to Exhibit “A”.

Compatibility Standards in Article 10 (LDC 25-2-1063) apply to the subject site because it is located next to SF-3-NP zoning and the development site is bigger than 20,000 square feet. The minimum setback is 25 feet from SF-5 or more restrictive zoned land and it applies to the new building, the drive aisle and parking lots. There are also requirements for landscape buffering and screening (LDC 25-2-1066) in the area between multi-family buildings and buildings in the SF-5 or more restrictive districts.

**BASIS OF RECOMMENDATION:**

Staff supports the Termination request. The Restrictive Covenant was created in 1973 before the City Code had Compatibility Standards. The current Land Development Code, with Compatibility Standards for setbacks, building heights and screening requirements provides better transitions between detached residences and other uses including the proposed multi-family residential use.

**EXISTING ZONING AND LAND USES:**

<table>
<thead>
<tr>
<th>Site</th>
<th>Zoning</th>
<th>Land Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>CS-1-CO-NP, CS-CO-NP,</td>
<td></td>
</tr>
<tr>
<td></td>
<td>LO-CO-NP</td>
<td>Bar/Restaurant, coffee shop, personal services, auto repair, vehicle storage</td>
</tr>
<tr>
<td>North</td>
<td>CS-CO-NP, SF-3-NP</td>
<td>Retail with restaurants, retail specialty stores and freestanding restaurant, detached residences</td>
</tr>
<tr>
<td>South</td>
<td>MF-3-NP, GR-MU-CO-NP,</td>
<td>Car storage lot, former restaurant</td>
</tr>
<tr>
<td></td>
<td>GR-V-CO-NP</td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>SF-3-NP</td>
<td>Detached residences</td>
</tr>
<tr>
<td>West</td>
<td>(across Burnet Road) CS,</td>
<td>Car rental and sales, personal services</td>
</tr>
<tr>
<td></td>
<td>SF-2</td>
<td></td>
</tr>
</tbody>
</table>

**NEIGHBORHOOD PLANNING AREA:** Crestview/Wooten Combined Neighborhood Plan Ordinance No. 040401-328

**TIA:** Deferred to site plan.

**WATERSHED:** Shoal Creek - Urban 70% Impervious coverage maximum in MF-4 80% Impervious coverage maximum in MF-6
OVERLAYS: ADU Approximate Area Reduced Parking Neighborhood Planning Areas: CRESTVIEW Residential Design Standards: LDC/25-2-Subchapter F

SCHOOLS:
Brentwood Elementary  Lamar Middle  McCallum High

NEIGHBORHOOD ORGANIZATIONS
Allandale Neighborhood Association  Homeless Neighborhood Association
Austin Independent School District  NW Austin Neighbors
Austin Lost and Found Pets  Neighborhood Empowerment Foundation
Austin Neighborhoods Council  North Austin Neighborhood Alliance
Bike Austin  SELTexas
Crestview Neighborhood Assn.  Shoal Creek Conservancy
Crestview Neighborhood Plan Contact Team  Sierra Club, Austin Regional Group
Friends of Austin Neighborhoods

AREA CASE HISTORIES:

<table>
<thead>
<tr>
<th>Number</th>
<th>Request</th>
<th>Commission</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>C14-04-0004</td>
<td>The area bounded by Anderson Lane on the north, Lamar Blvd. on the east, Burnet Road on the west, Justin Lane on the south.</td>
<td>To Grant</td>
<td>Apvd. 04/01/2004 Ord. #040401-328</td>
</tr>
<tr>
<td>C14-2009-0065</td>
<td>The area bounded by Anderson Lane/US Highway 183 on the north, Justin Lane on the south, North Lamar Boulevard on the east and Burnet Road on the west.</td>
<td>To Grant</td>
<td>Apvd. 9/24/2009</td>
</tr>
<tr>
<td>C14-2020-0016</td>
<td>Crestview Vertical Mixed Use Bldg (V) Zoning/ Opt-in / Opt-out process. 62.70 Acres. (City Initiated)</td>
<td>To Grant</td>
<td>Apvd. 9/24/2009</td>
</tr>
</tbody>
</table>

RELATED CASES:

C14-2020-0016 – Request to rezone from CS-1-CO-NP, CS-CO-NP, LO-CO-NP to MF-6-CO-NP for multi-family residences.
EXISTING STREET CHARACTERISTICS:

<table>
<thead>
<tr>
<th>Name</th>
<th>Existing ROW</th>
<th>ASMP Required ROW</th>
<th>Pavement</th>
<th>ASMP Classification</th>
<th>Sidewalks</th>
<th>Bicycle Route</th>
<th>Capital Metro (within ¼ mile)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burnet Rd.</td>
<td>~122’</td>
<td>120’</td>
<td>55’</td>
<td>Level 4</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

INDEX OF EXHIBITS TO FOLLOW

Exhibit A: Zoning Map
Exhibit B: Aerial Map
Exhibit C: Restrictive Covenant
Restrictive Covenant Termination

ZONING CASE#: C14-72-032(RCT) Exhibit A

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

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.
ZONING CASE#: C14-72-032(RCT)
LOCATION: 7113 Burnet Rd.
SUBJECT AREA: ACRES
GRID: J29
MANAGER: MARK GRAHAM

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.
WHEREAS, Lee Blocker, James K. Eichelberger, Jr., Leon Howard, and Charles Howard, of Travis County, Texas, are the owners of the following described property, to-wit:

All that certain tract, piece or parcel of land, lying and being situated in the County of Travis, State of Texas, described in EXHIBIT "A" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

WHEREAS, the City of Austin and Lee Blocker, James K. Eichelberger, Jr., Leon Howard, and Charles Howard, have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Lee Blocker, James K. Eichelberger, Jr., Leon Howard, and Charles Howard, for and in consideration of One and No/100 Dollars ($1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, do hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on them, their successors and assigns, as follows, to-wit:

1. No building or any part thereof shall be located within twenty (20) feet of the north property line of said property.

2. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

3. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in
no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

4. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

5. 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, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above described property at the time of such modification, amendment or termination.

EXECUTED, this the 12 day of June, 1973.

LEE BLOCKER

JAMES R. ETCHELBERGER, JR.

LEON HOWARD

CHARLES HOWARD
THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared LEE BLOCKER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 16th day of

[Signature]

Notary Public in and for
Travis County, Texas

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared JAMES K. EICHBERGER, JR., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of

[Signature]

Notary Public in and for
Travis County, Texas

4674 2283
THE STATE OF TEXAS  I  
COUNTY OF TRAVIS  I  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared LEON HOWARD, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of

[Signature]  
Notary Public in and for Travis County, Texas

THE STATE OF TEXAS  I  
COUNTY OF TRAVIS  I  

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared CHARLES HOMARD, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th day of

[Signature]  
Notary Public in and for Travis County, Texas

1674  2784
Field notes to 48,638 square feet of land out of the George W. Spear Lng. in the City of Austin, Travis County, Texas, a part of that certain five (5) acre tract conveyed to Ranger Realty, Inc. by deed recorded in Volume 3472, Page 83 of the Deed Records of Travis County, Texas, being also in the South line of Lot 1, Gage Subdivision according to the map or plat of said subdivision recorded in the Plat Records of Travis County, Texas, for the Northeast corner of the tract herein described, from which the Northeast corner of the said Ranger Realty, Inc. tract in the West line of Hardy Drive bears S 59 deg. 46' 110.0 ft.;

Thence S 29 deg. 15' E, parallel to the West line of Hardy Drive and the East line of the said Ranger Realty, Inc. tract, 196.2 ft. to a point in the South line of the said Ranger Realty, Inc. tract and the North line of Lot 1 of the Myrtle J. Jenkins Subd., according to the map or plat of said subdivision recorded in the Plat Records of Travis County, Texas, the Southeast corner of this tract;

Thence with the South line of the said Ranger Realty, Inc. tract and the North line of said Lot 1, Myrtle J. Jenkins Subd., N 247.0 ft. to a point for the Southwest corner of this tract;

Thence E 59 deg. 15' E, parallel to the East line of the said Ranger Realty, Inc. tract and the South line of Lot 5 of the Gage Subdivision, for the Northwest corner of this tract;

Thence with the North line of the said Ranger Realty, Inc. tract and the South line of the said Gage Subdivision, S 59 deg. 46' 217.9 ft. to the place of beginning, containing 48,638 square feet of land.

By

Claude F. Bush, Jr.

State of Texas

COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me, and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as instrument hereon by me, on

JUL 2 1973

COUNTY CLERK
TRAVIS COUNTY, TEXAS

4674 2285