RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-02-0183(RCA)
1118 Tillery Street

DISTRICT: 3

ADDRESS: 1118 Tillery Street

SITE AREA: 3.781 acres

PROPERTY OWNERS:
Theodore and Mary E. Lopez

AGENT:
Drenner Group PC
(Leah Bojo)

CASE MANAGER: Heather Chaffin (512-974-2122, heather.chaffin@austintexas.gov)

STAFF RECOMMENDATION:
Staff supports the Applicant's request to amend the restrictive covenant by removing Tracts 1, 2, 4 and 5.
For a summary of the basis of staff's recommendation, see case manager comments on page 2.

PLANNING COMMISSION ACTION / RECOMMENDATION:
February 22, 2022: Motion by Commissioner Cox, seconded by Commissioner Mushtaler to deny amending a restrictive covenant for C14-02-0183(RCA) - 1118 Tillery Street located at 1118 Tillery Street was approved on a vote of 7-0. Commissioners Thompson, Schneider, Azhar and Connolly abstained.

CITY COUNCIL ACTION:
3/24/2022:

ORDINANCE NUMBER:

ISSUES:
The subject property is developed with plant nursery land use and was rezoned from SF-3 to CS-MU-CO-NP as part of the Govalle Neighborhood Plan in 2002-2003. No changes to this zoning are currently proposed. This public restrictive covenant (RC) was created concurrent with the rezoning and states that if use of the property as a plant nursery use is discontinued for 90 consecutive days, the owner of the property will not object to the City of Austin rezoning the Property to SF-4A-NP. The RC applies to 5 tracts, and the Applicant is requesting to remove 4 of these tracts from the RC. ***Please see Exhibit C- Redlined Restrictive Covenant.***

A petition against the restrictive covenant amendment (RCA) has been submitted to staff and is included with this report. Under state law, a Valid Petition can be filed in opposition to a rezoning but cannot be applied to an initial zoning of a property or an RCA. The petition submitted to the City will not affect the number of votes required to approve the RCA. ***(Please see Exhibit E- Petition).***

CASE MANAGER COMMENTS:
The subject property is located on the west side of Tillery Street between Govalle Avenue and Goodwin Avenue. North of the subject property is another CS-MU-CO-NP property that is subject to the same RC and includes residential and nursery land uses. Further north is a residential area zoned SF-3-NP. East of the property, across Tillery Street, is a residential area zoned SF-3-NP. West of the property is a residential area zoned SF-3-NP and the Austin Community College Eastview Campus, which is zoned P-NP. To the south are residential properties zoned SF-3-NP. Other land uses and zoning categories in the area include undeveloped, religious assembly and townhouse-condominium (zoned MF-3-NP, SF-3-NP and MF-3-NP, respectively). ***Please see Exhibits A and B- Zoning Map and Aerial Exhibit.***

At the time of the CS-MU-CO-NP zoning in 2002-2003 the subject property and the property to the north were under the same ownership and included nursery and residential uses. As stated previously, the property to the north is also subject to the same RC. The conditional overlays applied to these properties included the following:

1. The following uses may not exceed 5,000 square feet of gross floor area: Administrative and business office, Professional office.

2. The following uses are prohibited uses: Agricultural sales and services, Art and craft studio (general), Automotive repair services, Automotive washing (of any type), Automotive rentals, Automotive sales, Business or trade school, Campground, College and university facilities, Commercial off-street parking, Communication service facilities, Community recreation (public), Construction sales and services, Consumer repair services, Counseling services, Custom manufacturing, Day care services (general), Day care services (commercial), Day care services (limited), Drop-off recycling collection facility, Equipment repair services, Exterminating services, Food sales, General retail sales (convenience), Hotel-motel, Hospital services (general), Indoor entertainment, Kennels, Art and craft studio (limited), Building maintenance services, Business support services, Club or lodge, Commercial blood plasma center, Communications services, Community recreation (private), Congregate living, Consumer convenience services, Convenience storage, Cultural services, Electronic

prototype assembly, Equipment sales, Financial services, Funeral services, General retail sales (general), Guidance services, Hospital services (limited), Indoor sports and recreation Laundry services, Limited warehousing and distribution, Maintenance and service facilities, Medical offices (not exceeding 5000 sq. ft. gross floor area), Medical offices (exceeding 5000 sq. ft. gross floor area), Monument retail sales, Off-site accessory parking, Outdoor sports and recreation, Personal improvement services, Pet services, Private secondary educational facilities, Public secondary educational facilities, Residential treatment, Restaurant (general), Safety services, Software development, Transportation terminal, Veterinary services, Multifamily residential, Outdoor entertainment, Pawn shop services, Personal services, Private primary educational facilities, Public primary educational facilities, Research services, Restaurant (drive-in, fast food), Restaurant (limited), Service station, Theater, and Vehicle storage.

As a result, the only land uses permitted on the subject property are Single family residential, Duplex residential, Plant nursery, Administrative and Business Office, and Professional office. The CO also limits the office land uses to a maximum of 5,000 square feet.

In 2013-2014 the property owner to the north requested removing their property from the RC. Staff supported the request but Planning Commission and City Council denied the request.

Staff has received correspondence in opposition to the RC amendment. ***Please see Exhibit D-Correspondence.***

Staff supports the Applicant's request to remove Tracts 1, 2, 4 and 5 from the restrictive covenant. The significant number of prohibited land uses that were added with the conditional overlay limit the property to very few uses. The residential and office uses are suitable for the area.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	CS-MU-CO-NP	Plant nursery
North	CS-MU-CO-NP, SF-3-NP	Plant nursery, Single family residential, Religious assembly
South	SF-3-NP, MF-3-NP	Single family residential, Religious assembly
East	SF-3-NP	Single family residential, Religious assembly
West	SF-3-NP, P-NP	Single family residential, Public college/ university, Undeveloped

NEIGHBORHOOD PLANNING AREA: Govalle/Johnston Terrace NP (Govalle)

WATERSHED: Boggy Creek

NEIGHBORHOOD ORGANIZATIONS:

Govalle/Johnston Terrace NPCT
Guadalupe Neighborhood Development Corporation
Sierra Club
East Austin Conservancy

Del Valle Community Coalition
Govalle Neighborhood Association
SELTexas
Austin Neighborhood Council
El Concilio Mexican American Neighborhoods
Homeless Neighborhood Association
PODER
AISD
Friends of Austin Neighborhoods
Neighbors United for Progress
Austin Lost & Found Pets
Preservation Austin

AREA CASE HISTORIES:

CASE NUMBER/ ADDRESS	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-02-0183(RCT) 1120 Tillery Street	To terminate RC.	12/10/2013: To deny request. (5-0)	1/30/2014: To deny request. (5-0)

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning
This request per the agent is to remove the existing Restricted Covenant (Travis County Document 2003291517) that states that if the use of the Property as a plant nursery use is discontinued for 90 consecutive days, the owner of the Property will not object to the City of Austin rezoning the Property to SF-4A-NP (Single Family Residence Small Lot-Neighborhood Plan). The purpose of this application is to amend the existing restrictive covenant to remove the Property from the restrictive covenant so as to allow a change-of-use from plant nursery to other land uses permitted in the CS-MU-CO-NP zoning district. The property is Zoned CS-MU-CO-NP (General Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan) and is located in the Govalle Neighborhood Planning Area (NPA) of the larger Govalle / Johnston Terrace Combined NPA, and it is currently developed with a plant nursery land use. The property is designated Single Family on the Future Land Use Map (FLUM).
Imagine Austin- The property is not located along an Activity Corridor or within an Activity Center and has mixed use zoning on it, which allows for residential uses. The policies of Imagine Austin Comprehensive Plan are broad in scope and the Plan is neutral on amending a restricted covenant.

Environmental
No environmental review comments regarding the proposed amendment.

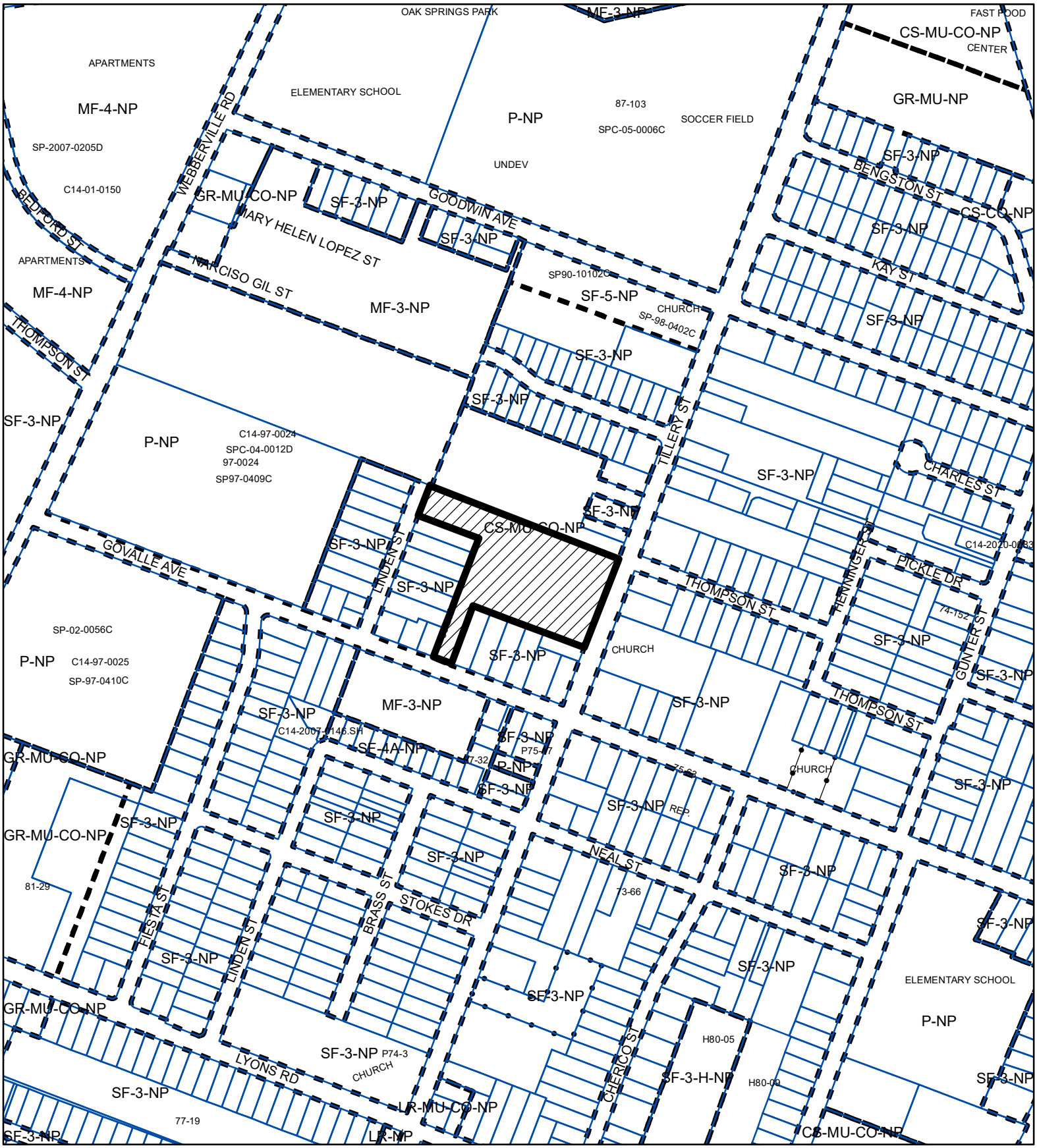
Site Plan
Site Plan comments will be provided at time of site plan submittal; no comments at this time.

Parks & Recreation
PR1: Parkland dedication will be required for any new residential units or hotel-motel keys resulting from this restrictive covenant amendment.
If the applicant wishes to discuss parkland dedication requirements in advance of any future site plan or subdivision applications, please contact this reviewer: thomas.rowlinson@austintexas.gov. At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

Transportation
ATD Staff has no objections to the removal of the existing restrictive covenant. Upon redevelopment the site will need to comply with all transportation requirements of the Land Development Code, including right of way dedication per the Austin Strategic Mobility Plan, and any and all required studies and their associated mitigations.

Water Utility
AW1. No comment for restrictive covenant release.

INDEX OF EXHIBITS TO FOLLOW
A: Zoning Map
B. Aerial Exhibit
C. Redlined Restrictive Covenant
D. Correspondence
E. Petition



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1 " = 400 '

Restrictive Covenant Amendment

CASE#: C14-02-0183(RCA)

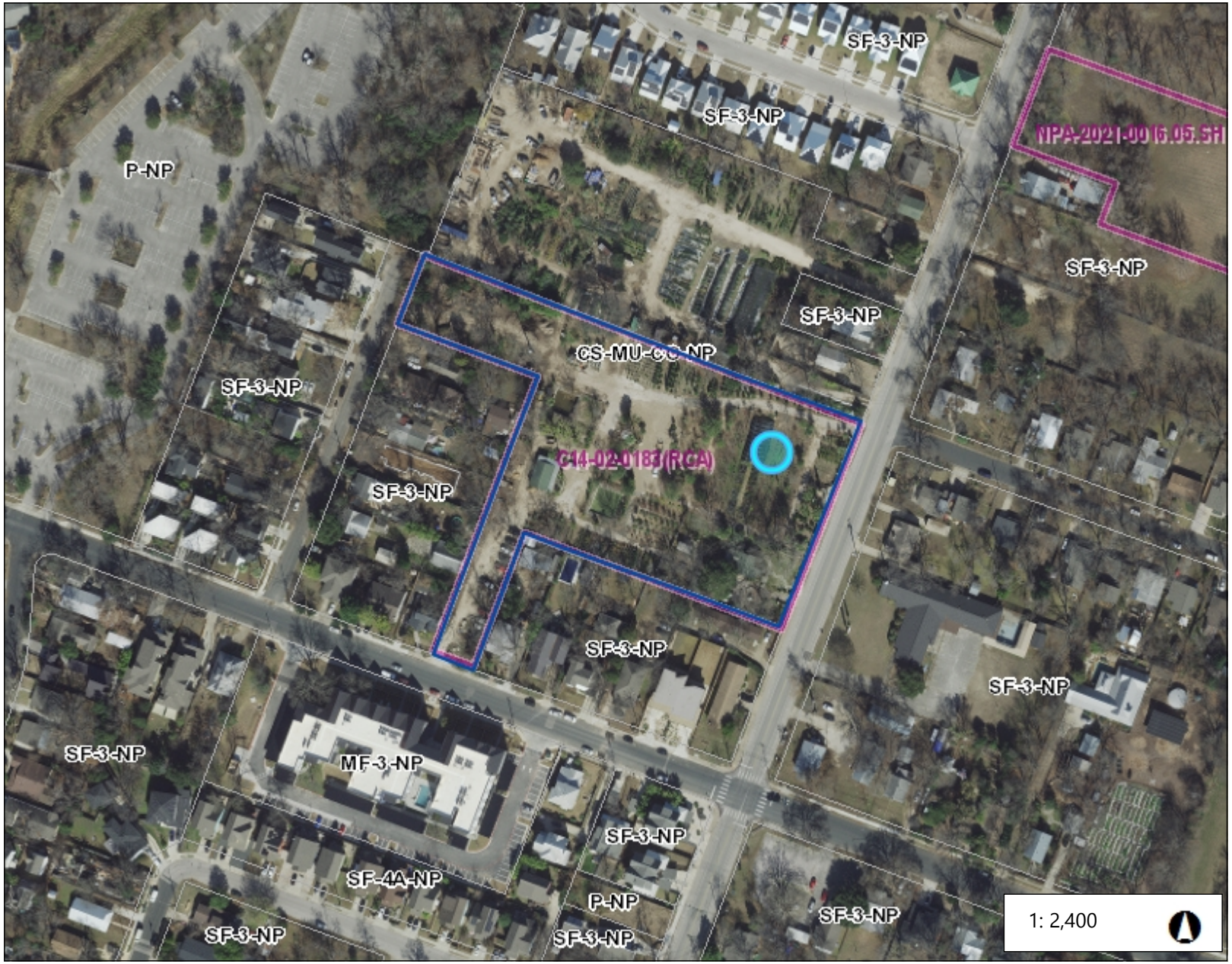
[redacted]

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

Created: 8/26/2021

Property Profile



Legend

- Zoning Review Cases- IN REV
- Zoning Text

Notes

0.1 0 0.04 0.1 Miles

NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet

Date Printed:

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TRV 2003291517
3 pgs

Redline Copy

Zoning Case No. C14-02-0183

RESTRICTIVE COVENANT

OWNER: Theodore Lopez and Mary E. Lopez

ADDRESS: 12010 Shropshire Boulevard, Austin, Texas 78753

CONSIDERATION: Ten and No/100 Dollars ($10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: ~~Tract One and Tract Two: (1116 and 1118 Tillery Street) A 1.51 acre tract of land and a 1.53 acre tract of land out of Lots 7 and 8, respectively, of the Fred Erzkus unrecorded subdivision in the City of Austin, Travis County, the tracts being more particularly described by metes and bounds in a Warranty Deed recorded in Document No. 2000108864, Official Public Records of Travis County, Texas.~~

3

Tract Three: (1120-1/2 Tillery Street) A 39 x 150 foot tract of land (0.13 acre) out of Outlots 46 and 51, Division A, in the City of Austin, Travis County, the tract being more particularly described by metes and bounds in a Warranty Deed recorded in Document No. 20020816130, Official Public Records of Travis County, Texas.

~~Tract Four: (1123 Linden Street) Lot 7A and Lot 7B, resubdivision of Lot 7, Block 1, Outlots 45 and 46, Division A, Cherico Subdivision No. 2, a subdivision in the City of Austin, Travis County, according to the map or plat of record in Plat Book 4, Page 61, Plat Records of Travis County, Texas.~~

~~Tract Five: (3008 Govalle Avenue) A 60 x 200 foot tract of land being generally out of Outlot 46, Division A, in the City of Austin, Travis County, being that same property described in a Warranty Deed recorded in Document 2000147956, Official Public Records of Travis County, Texas.~~

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. If use of the Property as a plant nursery use is discontinued for 90 consecutive days, the Owner of the Property will not object to the City of Austin rezoning the Property to single family residence small lot-neighborhood plan (SF-4A-NP) combining district as defined in Chapter 25-2 of the City Code. Normal seasonal cessation of a use, or temporary discontinuance for purposes of maintenance or rebuilding of the Property after damage or destruction may not be used in calculating of the period of discontinuance

5/8/03 #24

Redline Copy

2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

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

4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

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, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 10th day of June, 2003.

OWNER:

Theodore Lopez

Mary E. Lopez

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

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THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Alfonso Patricio Calvo
My Commission Expires
August 26, 2006

This instrument was acknowledged before me on this the 10th day of March, 2003, by Theodore Lopez.

Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Alfonso Patricio Calvo
My Commission Expires
August 26, 2006

This instrument was acknowledged before me on this the 10th day of March, 2003, by Mary E. Lopez.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1546
Austin, Texas 78767-1546
Attention: Diana Minter, Legal Assistant

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

12-18-2003 01:47 PM 2003291517
TANGUMAK $18.00
DANA DEBEAUVOIR ,COUNTY CLERK
TRAVIS COUNTY, TEXAS

GOVALLE NEIGHORHOOD ASSOCIATION
www.govalle.org

September 12, 2021

Re: Ted's Trees Restrictive Covenant
Permit/Case: 2021-121077 ZC
Reference File Name: C14-02-0183(RCA)

To Planning Commission, Austin City Council, Mayor and City Manager:

The Govalle Neighborhood Association listened to the applicant and discussed this case in our September meeting. The strong majority agreed **the Restrictive Covenant should NOT be amended. Please deny this proposal as you have in the recent past. In 2014, the City of Austin denied the applicant's request to terminate the restrictive covenant.**

What you need to know: This restrictive covenant was put in place 20 years ago when the neighborhood adopted the neighborhood plan. The neighborhood plan was the culmination of many volunteer hours, meetings and outreach. The historic Latino community wanted zoning that emphasized family and neighborhood housing and community and de-emphasized the industrial and dirty zoning regulations that had been polluting the neighborhood.

Ted's Trees was allowed to stay as a commercial operation for 20 years, with the understanding that when that business ceases to operate, this land would become housing.

This land is NOT on a corridor and is located in the heart of our neighborhood, surrounded by single family, and affordable housing.

Our neighborhood is bleeding families. Please help us build on the work that has been done and make sure this land can become a mix of single and missing middle housing that is affordable and suitable for families.

The neighborhood voted to DENY applicant's requests to amend the Restrictive Covenant.

Sincerely,

/Jessica L. Eley/ //Candace Fox//

Jessica L. Eley Candace Fox

Co-Chair GNA Co-Chair GNA



From: Chaffin, Heather
Sent: Friday, January 21, 2022 9:47 AM
To: Jessica Eley
Subject: RE: Ted's Trees restrictive covenant
Good morning,

Due to the recent increase in COVID concerns, we are switching to hybrid Planning Commission meetings where people can attend in person or call in over the phone. Since we're still setting it up, I don't have instructions on hand. I will have them in the next week or so.

Regarding a petition, there are no formal requirements for a petition against a restrictive covenant amendment RCA). As I stated previously, there is something called a Valid Petition that can be made against a rezoning case, but it is a distinctly different thing. Valid Petitions come out of state law and have formal requirements. A Valid Petition can affect the number of votes required to approve a rezoning at the final reading by City Council.

Since the petition you are working on is not a Valid Petition there are no requirements about format, signatures, etc. There also isn't a process to make it "valid." If you want me to add it to the staff report that goes to Planning Commission and City Council, I will need a PDF or hard copy of the petition. I haven't used Change.org before, so I don't know if you can create a document from that site.

I would recommend that any petition against the RCA include the following:

1. The date
2. The case number and address – C14-02-0183(RCA) , 1118 Tillery Street
3. A brief description of your opposition
4. A place for people to provide their name (printed), signature, and address.

Again, these are not required items but are recommended. You may want to model it after a Valid Petition, so I'm attaching a copy of the preferred Valid Petition format.

Let me know if you have more questions. Staff is currently planning on putting this on the February 8th Planning Commission agenda, so notices should go out next week.

Heather

From: Jessica Eley
Sent: Thursday, January 20, 2022 5:05 PM
To: Chaffin, Heather <Heather.Chaffin@austintexas.gov>
Subject: Re: Ted's Trees restrictive covenant

This answers a lot of our questions. Thank you! Just two follow up questions.

I've been checking the city website and it says there's no option to call in for PC meetings, only council meetings. This would help a lot if folks could call in.
How do we register to call in?

Is there a template for petitions?

If we gather support online through a change.org petition will that be valid? Or only hand written signatures count? Is there ais that something you could add to the file, or only hand signatures count?

On Thu, Jan 20, 2022 at 4:06 PM Chaffin, Heather <Heather.Chaffin@austintexas.gov> wrote:

Hello—

Yes, you can create a petition to protest the restrictive covenant amendment (RCA). For rezoning cases there is a specific kind of petition established by state law that is called a Valid Petition and affects the amount of votes required for rezoning approval. This case is not a rezoning so there is no Valid Petition aspect.

Your petition will not affect legal rules about approval, but will demonstrate neighborhood opposition. Emails or petitions sent to me expressing support or opposition will be attached to the Planning Commission (PC) and City Council (CC) staff reports.

Staff anticipates scheduling this case for the February 8th PC agenda, which will be a hybrid meeting- people can attend in person or via phone. Notices are required to be sent out with the information in advance. Please note that several cases might be postponed by commission becahse of Covid related issues that affected January cases.

Let me know if you have more questions or have emails or items to submit. The earlier that you can submit for the PC or CC agenda, the better.

Heather

From: Jessica Eley
Sent: Saturday, January 15, 2022 11:29 AM
To: Chaffin, Heather <Heather.Chaffin@austintexas.gov>
Subject: Ted's Trees restrictive covenant

Hi Heather,

The neighbors are organizing a petition to support the Restrictive Covenant. Is an online petition enough to show support, or is there a formal process we should go through? This is regarding....

Re: Ted's Trees Restrictive Covenant
Permit/Case: 2021-121077 ZC
Reference File Name: C14-02-0183(RCA)

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All the best,

~Jess

From: Jessica Eley
Sent: Tuesday, September 28, 2021 9:21 AM
To: Chaffin, Heather <Heather.Chaffin@austintexas.gov>; joy.hardin@austintexas.gov
Cc: Candi Fox
Subject: Govalle NA Letter Re: C14-02-0183(RCA)

*** External Email - Exercise Caution ***

Hi Heather,

This is not a technically a zoning change, but really it is. Because of that we haven't gotten the same letters and announcements the city usually sends out.

Can you tell me when this case is going to Planning Commission?

Also, Can you include our letter in the backup?

In the recent past (2014) the city denied removing the restrictive covenant. Now they're trying to "amend" it, but they essentially want it gutted.
20 years ago when they neighborhood plan was adopted, Ted's Trees was grandfathered in, since it was a nice business. However the Convenant they agreed to says that once they sell, it goes back to SF-4.

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Thanks,
Jessica L. Eley
Co-Chair

Govalle Neighborhood Association
www.govalle.org

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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code: https://bit.ly/ATXZoningComment.

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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online

Case Number: C14-02-0183(RCA)
Contact: Heather Chaffin, 512-974-2122
Public Hearing: February 8, Planning Commission

Jacklyn Rocha
Your Name (please print)

☐ I am in favor
☑ I object

Neal St.
Your address(es) affected by this application (optional)

Jacklyn Rocha 01-31-22
Signature *Date*

Daytime Telephone (optional):_____

Comments: the Restrictive Convenent should Not Be remove. . this tract of LAND should Be protected with the restrictive Convenent to SF-4A.

If you use this form to comment, it may be returned to:
City of Austin Housing and Planning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov

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Case Number: C14-02-0183(RCA)
Contact: Heather Chaffin, 512-974-2122
Public Hearing: February 8, Planning Commission

Josephine Rocha
Your Name (please print)

☐ **I am in favor**
☑ **I object**

1009 Cherico Street A 78702
Your address(es) affected by this application (optional)

[signature] Rocha — 2/1/22
Signature — *Date*

Daytime Telephone (optional):_____

Comments:_____

If you use this form to comment, it may be returned to:
City of Austin Housing and Planning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov

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Case Number: C14-02-0183(RCA)
Contact: Heather Chaffin, 512-974-2122
Public Hearing: February 8, Planning Commission

Rose Marie Rocha
Your Name (please print)

☐ I am in favor
☒ I object

3409, 3405 Gonzales
PTS Properties
3413 Gonzales St / 2700 E. 7th
Your address(es) affected by this application (optional)

Signature

2/8/2022
Date

Daytime Telephone (optional):_____

Comments: The Restrictive Covenant should NOT be remove from these two properties. Housing (CSF) HAS the future plan for these properties

If you use this form to comment, it may be returned to:
City of Austin Housing and Planning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov

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 both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code: https://bit.ly/ATXZoningComment.

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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online

Case Number: C14-02-0183(RCA)
Contact: Heather Chaffin, 512-974-2122
Public Hearing: February 8, Planning Commission

Joe A. Montoya Delma Montoya
Your Name (please print)

☑ **I am in favor**
☐ **I object**

3112 Govalle Ave. Austin, TX 78702
1114 1/2 Tillery St. Austin, TX 78702
Your address(es) affected by this application (optional)

Joe A. Montoya Delma Montoya 2/8/2022
Signature *Date*

Daytime Telephone (optional): (512) 689-3850

Comments: We see no reason why this property couldn't be developed now or in the future with mixed used combing office, retail, commercial and residential uses within a single Development. Why should this property be treated any different than those already developed on Tillery / Govalle and Those within a mile radius. Owners have occupied this property for years, what they are requesting is not unreasonable.

If you use this form to comment, it may be returned to:
City of Austin Housing and Planning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov

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Case Number: C14-02-0183(RCA)
Contact: Heather Chaffin, 512-974-2122
Public Hearing: February 8, Planning Commission

Mary Lopez + Theodore Lopez
Your Name (please print)

☑ I am in favor
☐ I object

1118 Tillery St. Austin Tx 78702
Your address(es) affected by this application (optional)

Signature *Date* 2/7/2022

Daytime Telephone (optional): (512) 844-1192

Comments: We grew up in this neighborhood we've seen the changes. Some changes that may never had happen if it wasn't for the diversity it now has. Changes have been positive in many ways renovated schools, parks, streets, sidewalks for all residents. Many new homes, Apartments, condos have gone up providing additional housing and all tastefully done. ACC is located nearby and with this property being so close to downtown it could provide even a more tranquil area to reside for those still wanting to remain in the neighborhood. I believe that whatever is built will be for everyone's best interest. Should we decide to ever sale.

If you use this form to comment, it may be returned to:
City of Austin Housing and Planning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

Or: heather.chaffin@austintexas.gov

EXHIBIT E

Petition from Neighbors in Support of Upholding the Restrictive Covenant on 1118 Tillery St

Planning Commission Meeting: Feb. 8, 2022

Regarding: Permit/Case: 2021-121077 ZC

Reference File Name: C14-02-0183(RCA)

Address: 1118 Tillery Street

Note: 155 signatures were downloaded Saturday Feb 5, 2021. This continues to be an active topic of conversation in the neighborhood so we are leaving the petition open. The screen shot captured on Sunday Feb 6, 2021 shows 162 have signed the petition. We will update the City file if there are another 50 signatures, or if this case is sent to City Council.

Neighbors in Support of Upholding the Restrictive Covenant on 1118 Tillery St



Govalle Neighborhood Association started this petition to City Of Austin Planning Commission and 3 others

Planning Commission Meeting: Feb. 8, 2022

Regarding: Permit/Case: 2021-121077 ZC

Reference File Name: C14-02-0183(RCA)

Address: 1118 Tillery Street

Help Stop Massive Development on Ted's Trees Tract on Tillery. The owners of Ted's Trees via their agent, Drenner Group, have asked the City of Austin to throw out an agreement with our community so they can have a blank check to develop whatever they want.

162 have signed. Let's get to 200!

Thanks to your support this petition has a chance at winning! We only need 38 more signatures to reach the next goal - can you help?

Take the next step!

Address: 1118 Tillery Street **Permit/Case**: 2021-121077 ZC

Reference File Name: C14-02-0183(RCA)

Neighbors in Support of Upholding the Restrictive Covenant on 1118 Tillery St

The owners of Ted's Trees via their agent, Drenner Group, have asked the City of Austin to throw out an agreement with our community so they can have a blank check to develop whatever they want.

In 2003 when the Govalle Johnston Terrace Neighborhood Plan was approved by the city, part of that plan included a special case for Ted's Trees, a nursery in the middle of the neighborhood. The plan was created to right the wrongs of the past. As a result of red lining, much of the neighborhood was zoned Commercial and Industrial. In an effort to codify the same protections and rights enjoyed by neighborhoods elsewhere in the city, the neighborhood plan pushed to create zoning for housing.

A compromise was reached with Ted's Trees. They would be given the zoning Commercial Mixed Use, with the understanding that it applied only to that business, and if/when that business ceases operation, the land will rightfully and automatically be rezoned (SF4a). The restrictive covenant is how this is achieved and it's this restrictive covenant that the owners would now like removed.

The neighborhood kept up its side of the bargain but the owner is now attempting to retrade the agreement they made to their neighbors and the neighborhood, in order to unencumber the property prior to sale. If the owners of Ted's Trees are successful in lifting the restrictive covenant, the Govalle Neighborhood association will lose any voice in the future development of the property. This will lead to a very high density development, 60 ft tall in the middle of our neighborhood introducing unwanted side effects such as traffic congestion and noise. The neighborhood plan encourages such density on the perimeter of our neighborhood, namely Airport BLVD and 7th St, saving the middle for a neighborhood for families. The location of Ted's Trees is in the middle of our neighborhood and should be housing for families. Help us stick to the plan.

Please help us to send a message to the Mayor and City Council that commitments should be honored. Otherwise why would we ever choose to negotiate with developers in the future

Name	City	State	Postal Code	Country	Signed On
Candace Fox	Austin	TX		US	2022-01-22
Jessica Eley	Austin	TX	78202	US	2022-01-22
Pauline Willeford	Austin	TX	78723	US	2022-01-22
Timothy Newton	Austin	TX	78704	US	2022-01-22
Rebecca Zandste	Austin	TX	78702	US	2022-01-22
Allison Turrell	Austin	TX	78702	US	2022-01-22
Romy Parzick	Austin	TX	78702	US	2022-01-22
Lyman Hardy	Austin	TX	78754	US	2022-01-22
Eric Bohanon	Austin	TX	78702	US	2022-01-22
SARAH WILSON	Austin	TX	78704	US	2022-01-22
trish niswander	austin	TX	78702	US	2022-01-22
Matthew Pawlak	Austin	TX	78702	US	2022-01-22
Vasavi Amara	Austin	TX	77084	US	2022-01-22
Joan Brook	Austin	TX	78702	US	2022-01-22
Janet Pawlak	Austin	TX	78702	US	2022-01-22
Jacklyn Rocha	Austin	TX	78702	US	2022-01-22
Amy Laverentz	Austin	TX	78702	US	2022-01-22
Stacie Freasier	Austin	TX	78702	US	2022-01-22
jason tureau	Austin	TX	78702	US	2022-01-22
Ali Tajiran	Austin	TX	78702	US	2022-01-22
Josephine Rocha	Austin	TX	78702	US	2022-01-22
Scott Miklaw	Austin	TX	78748	US	2022-01-22
Galavardino Sou	Austin	TX	78745	US	2022-01-22
Mary Weinand	San Marcos	TX	78666	US	2022-01-22
Charlotte Weinar	Austin	TX	78745	US	2022-01-22
Bruno Garcia	Brooklyn	NY	11221	US	2022-01-22
Maricela Cisnero	austin	TX	78702	US	2022-01-22
Jennifer Lewis	Austin	TX	78702	US	2022-01-22
Felicia Garcia-Hi	Austin	TX	78724	US	2022-01-22
Kelsey Heath	Austin	TX	78723	US	2022-01-22
Alisha Pandhi	CancÃºn		77520	Mexico	2022-01-22
Max Heath	Austin	TX	78702	US	2022-01-22
Benita Saldana	Los Angeles	CA	90011	US	2022-01-22
Maureen Collins	Austin	TX	78702	US	2022-01-23
Roychelle Rowde	Austin	TX	78702	US	2022-01-23
Jeremy Rowden	Austin	TX	78704	US	2022-01-23
Paul Limon	San Antonio	TX	78229	US	2022-01-23
Stephanie Lindse	Taos	NM	87571	US	2022-01-23
Andrew Danziger	Austin	TX	78702	US	2022-01-23
HALLIE GARRET	Austin	TX	78721	US	2022-01-23
Alexa Carlson	Austin	TX	78729	US	2022-01-23
Jordan True	Austin	TX	78702	US	2022-01-23
Kameron True	Austin	TX	78702	US	2022-01-23
nine francois	Austin	TX	78702	US	2022-01-23
Michael Yates	Brooklyn	NY	11231	US	2022-01-23

Martin Espinosa	Austin	TX	78749	US	2022-01-23
Melinda Barsales	Austin	TX	78721	US	2022-01-23
Jen Johnston	Austin	TX	78702	US	2022-01-23
Jana Swec	Austin	TX	78704	US	2022-01-23
Laura Smith	Austin	TX	78704	US	2022-01-23
Mary True	Christiansburg	VA	24073	US	2022-01-23
Laurence Nepvet	Austin	TX	78702	US	2022-01-23
Craig Campbell	Austin	TX	78702	US	2022-01-23
Laura Freeman	Austin	TX	78702	US	2022-01-23
Casey Maddeaux	Austin	TX	78704	US	2022-01-23
Topaz McGarrigl	Austin	TX	78721	US	2022-01-23
Christinah Barne	Austin	TX	78702	US	2022-01-23
Scott Maddeaux	Austin	TX	78704	US	2022-01-23
Laura Davis	Austin	TX	78745	US	2022-01-23
Samantha Morley	Austin	TX	78702	US	2022-01-23
Paul Belanger	Austin	TX	78745	US	2022-01-23
Peter Tuhtan	Austin	TX	78702	US	2022-01-23
Erin Tuhtan	Austin	TX	78702	US	2022-01-23
Jade Place	Austin	TX	78723	US	2022-01-23
Melissa Hudgens	Austin	TX	78702	US	2022-01-23
Kevin Auer	Austin	TX	78753	US	2022-01-23
Randolph Jarrett	Austin	TX	78725	US	2022-01-23
Jon Hutson	Austin	TX	78737	US	2022-01-23
Debbie Messmer	Austin	TX	78702	US	2022-01-23
Lindsay Duran	Austin	TX	78702	US	2022-01-23
Shea Little	Austin	TX	78724	US	2022-01-23
Talitha Newman	Austin	TX	78759	US	2022-01-23
McKenzie Messn	Cincinnati	OH	45202	US	2022-01-23
Stevan Rademar	Cincinnati	OH	45219	US	2022-01-23
Jamie Cormier	Austin	TX	78721	US	2022-01-23
Alexis Powell	Providence	RI	2908	US	2022-01-23
Megan Carmicha	Austin	TX	78702	US	2022-01-23
Kyle Schlesinger	Austin	TX	78723	US	2022-01-23
Matthew Axley	Austin	TX	78748	US	2022-01-23
Sarah Nowlen	Austin	TX	78704	US	2022-01-23
Chad Carmichae	Austin	TX	78723	US	2022-01-23
Matthew Powell	Providence	RI	2908	US	2022-01-23
Jodi Eckberg	Austin	TX	78734	US	2022-01-23
Patrick Lisk	Austin	TX	78702	US	2022-01-23
Greg Mathews	Austin	TX	78702	US	2022-01-23
Nora Davis	Austin	TX	78702	US	2022-01-23
Max Elliott	AUSTIN	TX	78702	US	2022-01-23
Daniel Harrison	Austin	TX	78702	US	2022-01-23
Ryan Parzick	Austin	TX	78702	US	2022-01-23
Rosie Scanga	Austin	TX	78702	US	2022-01-23
Susan Hausman	Austin	TX	78702	US	2022-01-23

Rachel Bockheim	Austin	TX	78702	US	2022-01-23
Mijkl Blue	Austin	TX	78702	US	2022-01-24
jesse crandell	austin	TX	78745	US	2022-01-24
Kevin Burra	Austin	TX	78745	US	2022-01-24
Anthony M	Austin	TX	78702	US	2022-01-24
Marco Olson	Austin	TX	78702	US	2022-01-24
sunyong chung	Austin	TX	78702	US	2022-01-24
philippe klinefelte	Austin	TX	78744	US	2022-01-24
Wesley Paparon	Austin	TX	78702	US	2022-01-24
Conor Lee	Austin	TX	78702	US	2022-01-24
Sunil Khanna	Austin	TX	78702	US	2022-01-24
Eve Lyons	Austin	TX	78704	US	2022-01-24
Claire Hansen	Austin	TX	78702	US	2022-01-24
David Eads	Johns creek	GA	30097	US	2022-01-24
Kim Romano	Austin	TX	78702	US	2022-01-24
Lander Coronad	Austin	TX	78702	US	2022-01-24
Mark Privitera	Austin	TX	78721	US	2022-01-24
Jason Oliver	Austin	TX	78702	US	2022-01-24
Mary cisneros	Austin	TX	78702	US	2022-01-24
Michael Koetting	Austin	TX	78721	US	2022-01-24
Theresa Noyes	Austin	TX	78723	US	2022-01-25
Eryn Moris	Austin	TX	78702	US	2022-01-25
Tina Manchaca	Austin	TX	78702	US	2022-01-25
Damon Waldrip	Austin	TX	78731	US	2022-01-25
Lynn Htet				US	2022-01-25
Nicole Ton	Stanton		90680	US	2022-01-25
Rebbeca Cortine	Austin	TX	78702	US	2022-01-25
Thomas Damron	Austin	TX	78702	US	2022-01-25
Greg Bosley	Austin	TX	78704	US	2022-01-25
Racheal Brooks	Austin	TX	78702	US	2022-01-25
Jonathan Rocha	Austin	TX	78702	US	2022-01-25
Bill NIMBY (No t	Austin	TX	78745	US	2022-01-25
Shaun Auckland	Austin	TX	78702	US	2022-01-25
Andrew Parsons	Austin	TX	78745	US	2022-01-25
Brigitte Brieschke	Austin	TX	78702	US	2022-01-25
Jeremy Kitzman	Austin	TX	78702	US	2022-01-25
Dory Kuo	Los Angeles		90013	US	2022-01-26
Brittany Bussa	Jacksonville		28546	US	2022-01-26
Adrienne Pedrott	Austin	TX	78721	US	2022-01-26
Julie Adams	Austin	TX	78702	US	2022-01-26
Katherine Vande	Austin	TX	78702	US	2022-01-26
Gabriela Flores F	Gastonia		28052	US	2022-01-26
Jennie Trower	AUSTIN	TX	78745	US	2022-01-26
Tara Hedlund	Austin	TX	78702	US	2022-01-27
Lizeth Hernande	Austin		78704	US	2022-01-27
Betsy Garcia	Pharr		78577	US	2022-01-27

Hermes Porrero	Austin		78753	US	2022-01-27
Freddy Jimenez	Mcallen		78501	US	2022-01-27
Alma Guajardo	Austin	TX	78702	US	2022-01-28
Aaron Abolt	Austin	TX	78702	US	2022-01-28
Kelly Canepa	Austin	TX	78745	US	2022-01-29
Tony Canepa	Austin	TX	78702	US	2022-01-29
Rocco Belotti	Saylorsburg		18353	US	2022-01-29
Naomi Suarez	Hooper		68031	US	2022-01-30
Caroline Lew	Calabasas		91325	US	2022-01-31
Monique Mulvany	Austin	TX	78749	US	2022-01-31
Claudia Vanegas	Dallas	TX	75207	US	2022-02-01
Stephanie Xenos	Austin	TX	78702	US	2022-02-01
Nabil Ghaddar	Austin	TX	78702	US	2022-02-01
Ashley MacDona	Austin	TX	78702	US	2022-02-01
Meg Barbor	New Orleans	LA	70115	US	2022-02-01
renee bejil	Austin	TX	78723	US	2022-02-02
Zhipeng Sui	Fremont		94536	US	2022-02-03