



Travis County Commissioners Court Agenda Request

Meeting Date: January 31, 2012

Prepared By: Darla Vasterling **Phone #:** 854-7564

Division Director/Manager: Anna M. Bowlin ACCP, Division Director of Development Services

AB

Department Head: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: Commissioner Davis, Precinct One

AGENDA LANGUAGE: Consider and take appropriate action on the following requests:

- A) The use of an Alternative Fiscal Agreement for the Commons at Rowe Lane Phase IIC; and
- B) The use of a Cash Security Agreement for the Commons at Rowe Lane Phase IIC.

BACKGROUND/SUMMARY OF REQUEST:

The developer of the subject subdivision requests to enter into an alternative fiscal agreement with Travis County. Under the alternative fiscal agreement the plat will be held in abeyance while the street and drainage facilities are constructed. The developer also requests to enter into a cash security agreement with Travis County for the required fiscal.

STAFF RECOMMENDATIONS:

The request has been reviewed by TNR staff and staff finds the use of the subject agreements meets all Travis County standards. As such, TNR staff recommends the approval of the proposed motions.

ISSUES AND OPPORTUNITIES:

Under Alternative Fiscal the County Executive of TNR holds the plat in abeyance and, upon completion of the items listed below, the Division Director of Planning and Engineering Services authorizes the issuance of a Basic Development Permit for construction of streets and drainage facilities.

Plat Status

Staff has reviewed the plat and all comments have been addressed. It meets current standards and has everything in place such that it could be recommended for approval and recordation at this time. It is the City of Pflugerville's procedure not to approve the plat until the improvements are built.

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Restoration/Erosion Control Fiscal

The fiscal for the subdivision restoration and improvements have been posted with Travis County using a Cash Security Agreement. The posted amount is \$44,908.00.

Access to Publicly Maintained Road

The Commons at Rowe Lane Phase IIC takes access Windmill Ranch Avenue and Huckabee Bend in the Commons at Rowe Lane Phase IIB. Commons at Rowe Lane Phase IIB is maintained by Travis County.

Waste Water Service

Wastewater service for this subdivision will be provided by the City of Pflugerville.

Construction Plans and Engineer's Estimate of Construction Cost Approved

All comments by Travis County staff have been addressed and the reviewer is prepared to sign the cover sheets of the plans and issue permit #11-1880. The estimated cost of the improvements is \$398,500.00. This amount includes all costs related to the construction of all streets and drainage facilities (including temporary erosion controls and all structures contributing to the total detention.

The developer has signed the attached statement acknowledging that this action does not imply or guarantee plat approval by the Commissioners Court and that he/she understands the constraints related to the use of alternate fiscal. An Extension of Sixty-Day Period for Completed Plat Application Final Action is also included.

FISCAL IMPACT AND SOURCE OF FUNDING:

None

ATTACHMENTS/EXHIBITS:

- Alternative Fiscal Acknowledgment
- Exhibit "A" – Description
- Extension of Sixty-Day Period
- Cash Security Agreement
- Proposed Plat
- Maps

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
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Steve Manilla	County Executive	TNR	854-9429
Anna Bowlin	Division Director, Development Services	TNR	854-7561

CC:

John Ellis	Engineering Review	TNR	854-9805
Shira Rodgers	Subdivision Planner	TNR	854-7687

AB:SM:dv

1101 - Development Services -

1105 - Subdivision - the Commons at Rowe Lane Phase IIC

§ EXHIBIT 82.401 (D)

ALTERNATIVE FISCAL POLICY REQUEST AND ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

TO THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS:

The undersigned Owner proposes to subdivide that certain tract of land more particularly described in **Exhibit “A”**, which is attached hereto and made a part hereof. The Owner requests that Travis County’s Transportation and Natural Resources Department (“TNR”) hold the proposed plat of land in abeyance until all of the proposed subdivision Improvements have been constructed to Travis County Standards for the Construction of Streets and Drainage in Subdivisions (the “Standards”) to the satisfaction of the County Executive of TNR. In order to qualify for this Alternative Fiscal Policy, the proposed subdivision must meet the access criteria set forth in the Standards.

Under this Policy, the Owner is not required to post fiscal Security to secure the construction of the Improvements, but is required to obtain a Travis County Basic Development Permit. The owner will be required to post fiscal for boundary streets improvements if they are not to be completed during the construction of the Improvements. Additionally, the Owner shall file Security with the submitted Final Plat to secure restoration of disturbed areas should construction not be completed.

Upon satisfactory completion of the Improvements, the submitted plat shall be forwarded by TNR to the Commissioners Court for approval and recording.

If the Owner elects to proceed under this option, the Owner acknowledges and agrees that, until the plat is filed, the Owner may not use the proposed subdivision’s description in a contract to convey real property, unless the conveyance is expressly contingent on the recording and approval of the final plat and the purchaser is not given the use or the occupancy of the real property before the recording of the final plat, under penalty of prosecution under Section 12.002 of the Texas Property Code. In addition, the approval of Alternative Fiscal in no way constitutes approval of the proposed plat.

If the plat is to be approved and filed, the Owner must post Security in the amount of 10% of the cost of the completed Improvements and 100% of the cost of the incomplete Improvements to secure the performance of the construction of the Improvements for one year, or more, from the date of the approval of the plat and acceptance of the dedication by the County.

Alternative Fiscal

Executed this 30 day of December, 2011.

Commons AT Rowe Lane, LP
OWNER: Rowe Commons Corp, GP

Address: 2929 W. 5th, Ste A
Fort Worth, TX 76017

By: Lee Nicol, President

Name: Lee Nicol

Phone: 817.332.0028

Title: PRESIDENT
Authorized Representative

Fax: 817.332.1400

TRAVIS COUNTY, TEXAS:

By: _____
County Judge

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 30 day of December, 2011, by Lee Nicol in the capacity stated herein.

Dana K Chase
Notary Public in and for the State of Texas
Dana K Chase
Printed or typed name of notary

My Commission Expires: 09/18/2013

ACKNOWLEDGEMENT



STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me by County Judge Samuel T. Biscoe, on the _____ day of _____, 2012, in the capacity stated herein.

Notary Public in and for the State of Texas

Printed or typed name of notary

My commission expires: _____

EXHIBIT "A"

**STATE OF TEXAS
COUNTY OF TRAVIS**

**9.735 ACRE TRACT,
SITUATED IN THE
JACOB CASNER SURVEY,
ABSTRACT NO. 2753,
TRAVIS COUNTY, TEXAS**

LEGAL DESCRIPTION

DESCRIPTION OF A 9.735 ACRE TRACT, SITUATED IN THE JACOB CASNER SURVEY, ABSTRACT NO. 2753, BEING A PORTION OF THAT CERTAIN 108.529 ACRE TRACT OF LAND CONVEYED TO THE COMMONS AT ROWE LANE, L.P., OF RECORD IN DOCUMENT NO. 2005022370 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 9.735 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

Commencing at a 1/2 inch iron rod with cap set (ZWA) for the northwest corner of said 108.529 acre tract being also an interior ell corner of Steeds Crossing, a subdivision of record in Book 88, Pages 99 thru 101 of the Plat Records of Travis County, Texas and being the northwest corner of the herein described tract;

THENCE S 82°29'22" E with the north line of said 108.529 acre tract, the south line of said Steeds Crossing and the south line of a 10.032 acre tract of land as described in a deed to The Commons at Rowe Lane, LP of record in Document Number 2005045836 of the Official Public Records of Travis County, Texas for a distance of 433.53 feet to 1/2 inch iron rod with cap set (ZWA) for the northeast corner of proposed Lot 11, Block EE, of Proposed Final Plat The Commons at Rowe Lane Phase IIB;

THENCE S 17°13'15" E over and across said 108.529 acre tract for a distance of 297.12 feet to 1/2 inch iron rod with cap set (ZWA) for the **POINT OF BEGINNING** and being the northeast corner of the herein described tract;

THENCE, continuing over and across said 108.529 acre tract the following twenty (20) courses and distances:

1. S 17°13'15" E for a distance of 106.25 feet to a 1/2 inch iron rod with cap set (ZWA) at the beginning of a curve to the right,
2. along said curve to the right, an arc distance of 23.56 feet, said curve having a radius of 15.00 feet, a central angle of 90°00'00" and a chord bearing of S 27°46'45" W for a chord distance of 21.21 feet to a 1/2 inch iron rod with cap (ZWA) set at the end of said curve,

3. S 17°13'15" E for a distance of 50.00 feet to a 1/2 inch iron rod with cap set (ZWA) at the beginning of a curve to the right,
4. along said curve to the right, an arc distance of 23.56 feet, said curve having a radius of 15.00 feet, a central angle of 90°00'00" and a chord bearing of S 62°13'15" E for a chord distance of 21.21 feet to a 1/2 inch iron rod with cap (ZWA) set at the end of said curve,
5. S 17°13'15" E for a distance of 284.85 feet to a 1/2 inch iron rod with cap set (ZWA) at the beginning of a curve to the right,
6. along said curve to the right, an arc distance of 23.56 feet, said curve having a radius of 15.00 feet, a central angle of 90°00'00" and a chord bearing of S 27°46'45" W for a chord distance of 21.21 feet to a 1/2 inch iron rod with cap (ZWA) set at the end of said curve,
7. S 17°13'15" E for a distance of 50.00 feet to a 1/2 inch iron rod with cap set (ZWA) at the beginning of a curve to the right,
8. along said curve to the right, an arc distance of 23.56 feet, said curve having a radius of 15.00 feet, a central angle of 90°00'00" and a chord bearing of S 62°13'15" E for a chord distance of 21.21 feet to a 1/2 inch iron rod with cap (ZWA) set at the end of said curve,
9. S 17°13'15" E for a distance of 115.00 feet to a 1/2 inch iron rod with cap set (ZWA),
10. S 72°46'45" W for a distance of 221.02 feet to a 1/2 inch iron rod with cap set (ZWA),
11. S 89°29'18" W for a distance of 57.74 feet to a 1/2 inch iron rod with cap set (ZWA),
12. N 82°40'57" W for a distance of 193.17 feet to a 1/2 inch iron rod with cap set (ZWA),
13. N 36°21'01" W for a distance of 38.61 feet to a 1/2 inch iron rod with cap set (ZWA),
14. S 52°44'09" W for a distance of 39.79 feet to a 1/2 inch iron rod with cap set (ZWA),
15. N 82°40'57" W for a distance of 117.50 feet to a 1/2 inch iron rod with cap set (ZWA),
16. S 07°19'03" W for a distance of 41.71 feet to a 1/2 inch iron rod with cap set (ZWA),
17. N 82°40'57" W for a distance of 170.00 feet to a 1/2 inch iron rod with cap set (ZWA),
18. N 07°19'03" E for a distance of 628.94 feet to a 1/2 inch iron rod with cap set (ZWA),
19. S 82°40'57" E for a distance of 258.32 feet to a 1/2 inch iron rod with cap set (ZWA),
and
20. N 72°45'15" E for a distance of 284.74 feet to the **POINT OF BEGINNING** and containing 9.735 acres of land.

Alternative Fiscal

§ EXHIBIT 82.201(C)
EXTENSION OF SIXTY-DAY PERIOD FOR
COMPLETED PLAT APPLICATION FINAL ACTION

Date: 30 December 2011

Owner's Name and Address: Commons At Rowe Lane, Lp
Rowe Commons Corp, Gp
2929 W. 5th St, STE A
FORT WORTH, TX 76107

Proposed Subdivision Name and Legal Description (the "Property"):

Commons At Rowe Lane - Phase 2C (Ex A)

The undersigned Owner and the Executive Manager of Travis County Transportation and Natural Resources Department hereby agree that the sixty (60) day period for final action to be taken on a Completed Plat Application for the Property is hereby extended by mutual agreement and without compulsion until the date that all subdivision requirements have been met to Travis County standards to the satisfaction of the Executive Manager of TNR.

Executed and affective as of the date set forth below.

Owner: Commons At Rowe Lane, Lp / Rowe Commons Corp, Gp
By: [Signature]
Name: Lee Nicol
Title: President
Authorized Representative

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF TRAVIS

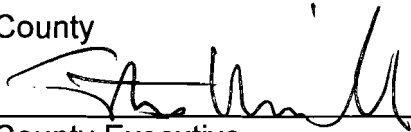
This instrument was acknowledged before me on the 30 day of December, 2011, by Lee Nicol of Travis County, Texas known to me personally or on the basis of an approved form of identification, in the capacity stated.

Notary Public, State of Texas

Dana K Chase



Travis County

By: 
County Executive
Travis County Transportation and Natural Resources Department

ACKNOWLEDGEMENT

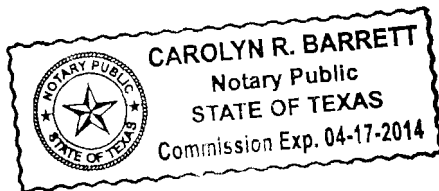
STATE OF TEXAS
COUNTY OF TRAVIS

This instrument was acknowledged before me on the 20th day of January, 2012 by Steven M Manilla, P.E., County Executive of Travis County, Texas known to me personally or on the basis of an approved form of identification, in the capacity stated.

Notary Public, State of Texas



Carolyn R. Barrett
(Printed Name of Notary)



My Commission Expires: 4-17-14

§ EXHIBIT 82.401 (C)

CASH SECURITY AGREEMENT

TO: Travis County, Texas

DEVELOPER: *Commons At Rowe Lane, Lp / Rowe Commons Corp. G.P.*

ESCROW AGENT: Travis County Treasurer

AMOUNT OF SECURITY: *\$44,908.00*

SUBDIVISION: *Commons At Rowe Lane - Phase 2c (EX A)*

DATE OF POSTING: *1/31/2012*

EXPIRATION DATE: Three Years, or more, from Date of Posting

The ESCROW AGENT shall duly honor all drafts drawn and presented in accordance with this CASH SECURITY AGREEMENT (this "Agreement"). Travis County (the "County") may draw on the account of the DEVELOPER up to the aggregate AMOUNT OF SECURITY upon presentation of a draft signed by the County Judge that the following condition exists:

The County considers such a drawing on this Security necessary to complete all or part of the SUBDIVISION Improvements to current Travis County Standards for the Construction of Roads and Drainage in Subdivisions (the "Standards"). No further substantiation of the necessity of the draw is required by this Agreement.

This Agreement is conditioned on the performance of the duties of the DEVELOPER prior to the EXPIRATION DATE to provide for the construction and completion of the street and drainage Improvements in the SUBDIVISION to current Travis County Standards for the construction of Roads and Drainage in Subdivisions ("the "Standards"), so that the Improvements are performing to the Standards upon the approval of the construction of the Improvements and the acceptance of the public Improvements by the Commissioners Court and at the end of the public Improvement construction Performance Period, which commences upon the acceptance.

Partial drafts and reductions in the amount of Security are permitted. Upon the acceptance of the Improvements, the Security will be reduced to ten percent of the cost of the public Improvements. Drafts will be honored within five calendar days of presentment. In lieu of drawing on the Security, the County, in its discretion, may accept a substitute Security in the then current amount of the estimated cost of constructing the Improvements. This Agreement may be revoked only by the written consent of the DEVELOPER and the COUNTY.

DEVELOPER

Commons At Power Lane, LP
Power Commons Corp, GP
By: Lee Nicol

Name: Lee Nicol

Title: PRESIDENT

Date: 30 DECEMBER 2011

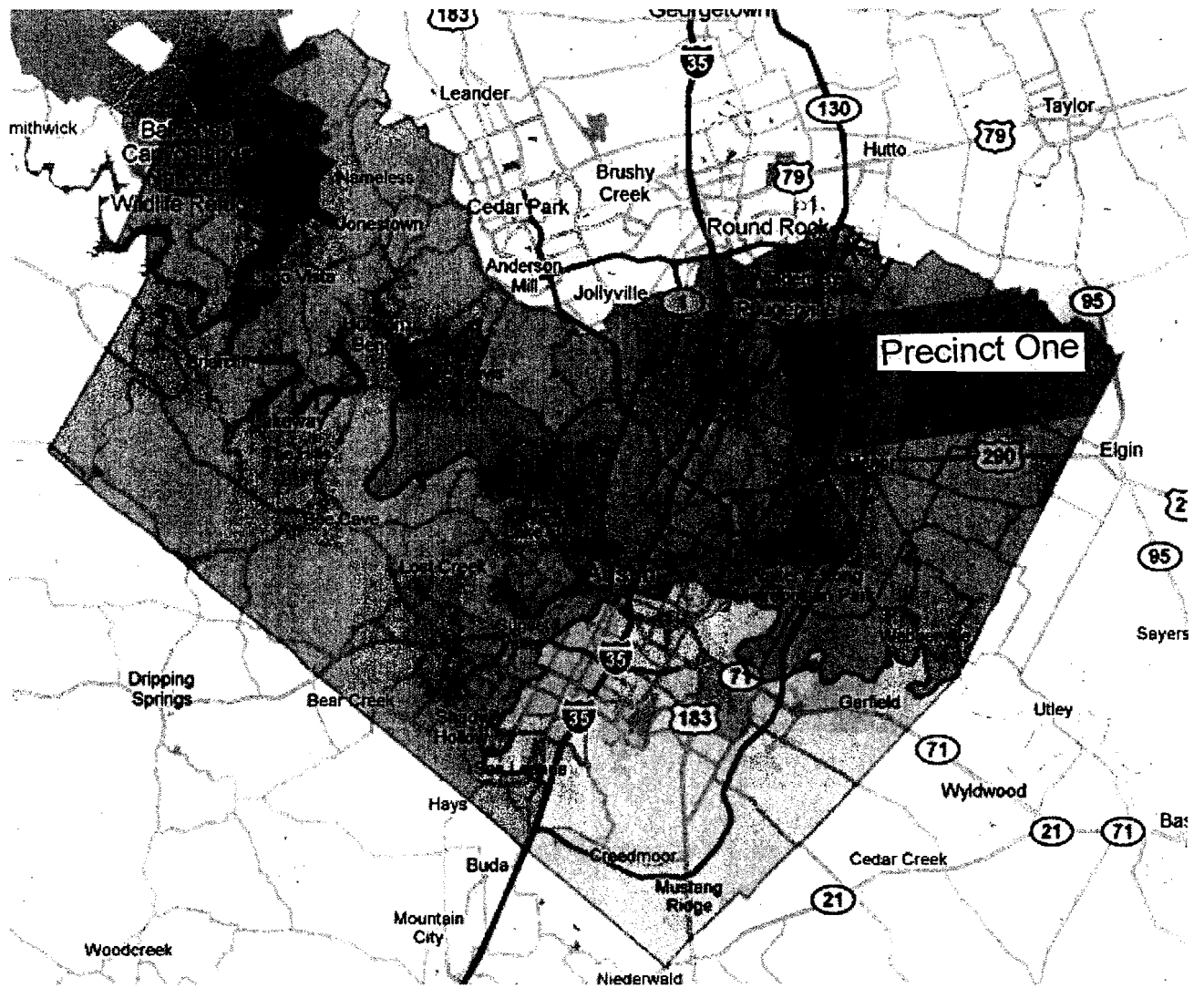
ADDRESS OF DEVELOPER

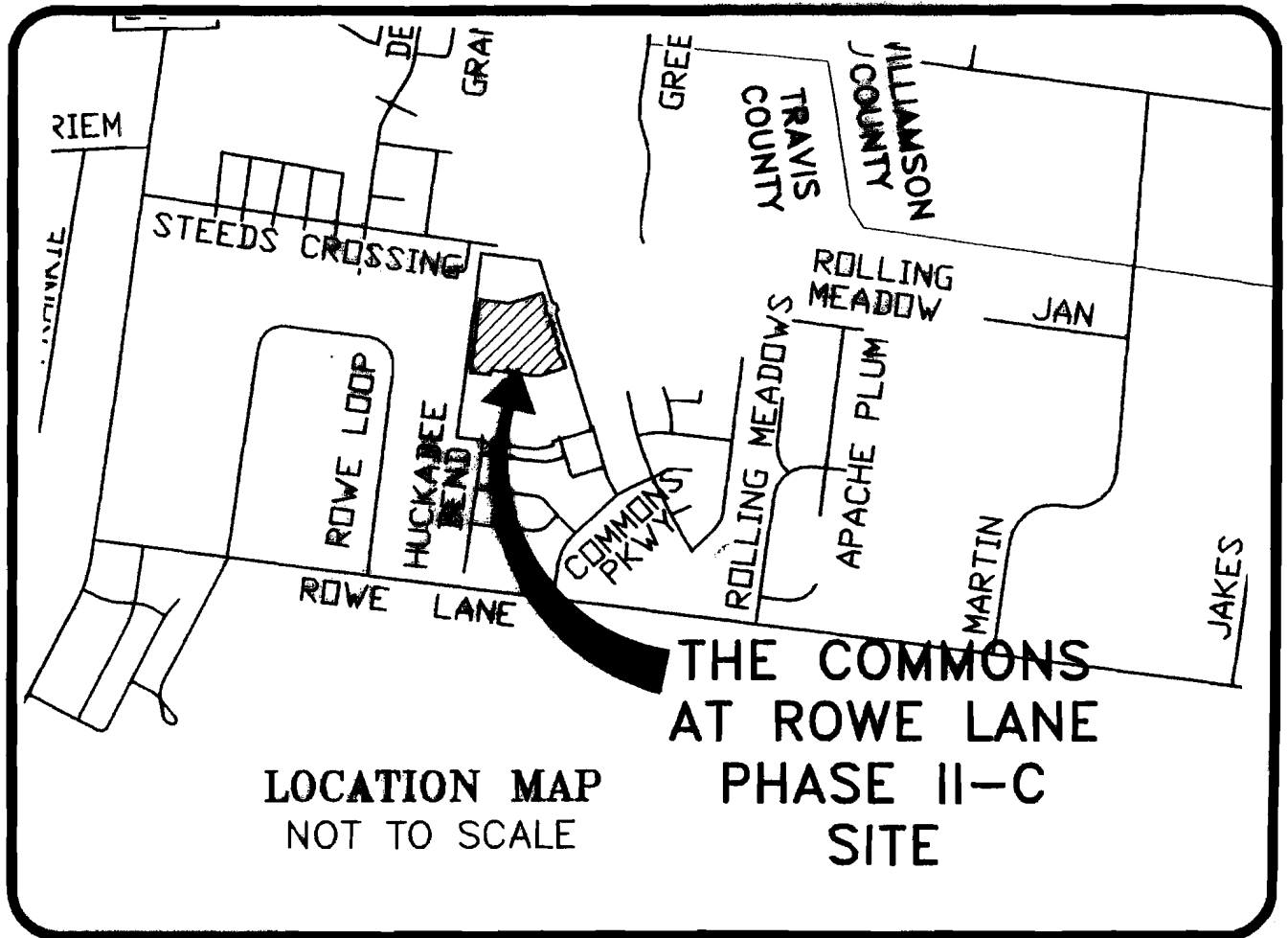
2929 W. 5th St, Ste A
FORT WORTH, TX 76107

Phone: 817.332.0028

APPROVED BY THE TRAVIS COUNTY COMMISSIONERS COURT: _____
Date

COUNTY JUDGE, TRAVIS COUNTY, TEXAS





LOCATION MAP
NOT TO SCALE

THE COMMONS
AT ROWE LANE
PHASE II-C
SITE

FINAL PLAT THE COMMONS AT ROWE LANE PHASE II C

THE COMMONS AT F
PARCEL
(62.806 AC)
DOC. NO. 20C
O.P.R.T.(

11
4.361 AC.
DRAINAGE EASEMENT
& OPEN SPACE

20' WASTEWATER EASEMENT

20' SLOPE EASEMENT
S82°40'57"E 258.32'

DEED LINE

WIND VANE WEST

WINDMILL RANCH AVENUE
(S17°38'14"E 1988.45'
(S14°34'48"E 1988.45')

CHOICE PLACE
(50' ROW)

STONEPATH WAY (50' ROW)

THE COMMONS AT ROWE LANE
PHASE II B
DOC. NO. 20120082
O.P.R.T.C

15
SPACE & P.U.E.

KABEE BEND

