



Travis County Commissioners Court Agenda Request

Meeting Date: June 10, 2014
Prepared By/Phone Number: David Salazar
Office of the Travis County Judge
512-854-9555

Elected/Appointed Official/Dept. Head: Gerald Daugherty
Commissioner, Precinct 3

Commissioners Court Sponsor:

AGENDA LANGUAGE:

APPROVE AN ORDER REJECTING THE DEDICATION AND ABANDONING THE STREETS KNOWN AS LENAPE TRAIL, LENAPE COVE, SUPERVIEW DRIVE AND INDIAN SCOUT TRAIL, ALL ORIGINALLY DEDICATED BY THE OVERLOOK ESTATES, PHASE 1 SUBDIVISION – A SUBDIVISION IN PRECINCT THREE.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

STAFF RECOMMENDATIONS:

ISSUES AND OPPORTUNITIES:

FISCAL IMPACT AND SOURCE OF FUNDING:

REQUIRED AUTHORIZATIONS:

**ORDER OF THE TRAVIS COUNTY COMMISSIONERS COURT
CONVERTING LENAPE TRAIL, LENAPE COVE, SUPERVIEW DRIVE,
AND INDIAN SCOUT TRAIL TO PRIVATE STREETS AND
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE OVERLOOK ESTATES, PHASE 1**

RECITALS

1. The streets and roads in The Overlook Estates Phase 1 (the "Property"), a subdivision recorded at Volume 86, Page 152d - 153c, Travis County Plat Records, were dedicated to the public in 1986.
2. The streets have not been accepted by Travis County.
3. Overlook Estates Joint Venture ("Declarant"), a Texas joint venture, is the owner of the Property.
4. Declarant has applied to the Travis County Commissioners Court (the "Commissioners Court") to change the status of the streets from public to private.
5. The requisite 20-day notices were posted, and the Commissioners Court held public hearings on May 22, 2012 and July 30, 2013 to provide an opportunity for public comment and consider whether the following roads and streets, each of which connect directly or indirectly to Circle Drive should be converted from public county roads and streets to private roads and streets through their abandonment by Travis County:

Lenape Trail, Lenape Cove, Superview Drive, and Indian Scout Trail
hereinafter referred to collectively as ("the Streets")

6. The Overlook Estates Phase 1 HOA, Inc. (the "HOA"), a validly existing nonprofit corporation, will maintain the Streets when the construction is complete and the Commissioners Court is notified of completion of construction of the streets and drainage.
7. By virtue of the aforementioned actions, the HOA has assumed authority and responsibility to pay applicable taxes on and maintain the Streets and established easements for utilities, drainage, emergency service providers, and other public service providers so that abandonment of the Streets will not substantially impair the rights of the utilities, service providers, and any and all land owners who rely on or use the Streets for access.
8. The Streets are located within the territorial jurisdiction of Travis County Emergency Services District Number 3 ("ESD#3) and ESD#3 supports the conversion of the Streets from public streets to private streets.

9. The City of Austin, in whose extraterritorial jurisdiction the Streets are located, has consented to the conversion of the county streets and roads in its extraterritorial jurisdiction from public to private by adoption of Section 30-2-159, Austin/Travis County Subdivision Regulations.
10. The Declarant and the HOA acknowledge that abandoning streets and authorizing installation of security gates or similar obstructions are discretionary decisions by the Commissioners Court, and that the Declarant and the HOA have offered to comply with the covenants, conditions and restrictions below to induce the Commissioners Court to abandon the Streets and authorize installation of such gates.
11. On January 14, 2014, the Commissioners Court approved County staff's recommendation for abandonment of the Streets on certain conditions and directed that an order be drafted reflecting those conditions.

THE TRAVIS COUNTY COMMISSIONERS COURT FINDS AND ORDERS THAT:

1. The recitals in this Order are true and correct and are incorporated herein.
2. The Commissioners Court finds that the abandonment of the Streets will not substantially interfere with the access rights of any affected land owner.
3. The Streets are hereby abandoned and the public's interest in the right-of-way is relinquished, except as to the easements for utilities, drainage, and public service agencies established by such declarations and agreements, and subject to the covenants, conditions, and restrictions below.
4. Any clause, sentence, provision, paragraph, or article of this Order held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Order, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.
5. This Order takes effect upon its recordation in the Official Public Records of Travis County, Texas.

The Travis County Commissioners Court further orders and Declarant and the HOA hereby declare that the Property shall be subject to the following covenants, conditions, and restrictions which shall run with the Property shall be binding upon all parties having right, title, or interest in or to such portion of the Property or any part, their heirs, successors, and assigns and shall inure to the benefit of Travis County as the owner of the real property comprising the part of the Travis County roadway system in the vicinity of the Property.

Each contract, deed, or conveyance of any kind conveying the Property or any portion of the Property shall conclusively be held to have been executed, delivered, and

accepted subject to the following covenants, conditions, and restrictions, regardless of whether or not the same are set out in full or by reference in the contract, deed, or conveyance.

Covenants, Conditions, and Restrictions

1. For each security gate or other device that is installed or placed on the Streets to limit access to the Property (“Gates”), the HOA must:
 - A. provide perpetual access in emergencies through the Gates to Thomas Springs Road for all owners of the Property and all persons who own property in the Ridge at Thomas Springs, a subdivision recorded at Volume 77, Page 193-195, Travis County Plat Records, including without limitation:
 - i. providing a KNOX® emergency gate switch, or another type of emergency gate switch acceptable to the County and emergency services providers for the Property, with a means of emergency operation even if there is a power failure;
 - ii. ensuring that each electric gate is listed in accordance with UL 325;
 - iii. ensuring that each gate is installed in accordance with ASTM F 2200;
 - iv. providing gate codes or other devices to open the Gates to emergency services providers for the Property in accordance with any procedures set forth by the emergency services providers; to each lot owner in the Ridge at Thomas Springs, and, upon request, to the County;
 - B. provide in perpetuity a vegetated and landscaped buffer on the Property along its boundary with the Ridge at Thomas Springs adjacent to the Gates and walls, none of which walls may be higher than six feet;
 - C. submit proposals for installation or modification of the Gates or walls for review and approval by the County and the emergency services providers for the Property before any installation or modification occurs;
 - D. submit proposals for installation or modification of landscaping for review and approval by the County before any installation or modification occurs; and
 - E. provide the lot owners in the Ridge at Thomas Springs perpetual pedestrian and bicycle access through the Gates and walls and on sidewalks and the Streets.
3. The County reserves, and the Declarant and the HOA grant to the County an easement in and to the Streets, and across the Property to the extent necessary for the foregoing purposes.
4. While the Declarant owns any lot(s) in the Property, the Declarant and the HOA shall be jointly and severally liable for compliance with this Order.
5. If the Declarant or the HOA fails to comply with any requirement of this

Order, Travis County may remove or leave open, or require the Declarant or HOA to remove or leave open, the Gates until all terms of this Order are being complied with.

- 6. By signing this Order and installing and Gates, the Declarant and the HOA accept the covenants, conditions, and restrictions of this Order.
- 7. Travis County is also authorized to enforce the covenants, conditions, and restrictions and any other requirement of this Order in a court of competent jurisdiction in Travis County.

ORDERED by unanimous vote on _____, 2014.

Samuel T. Biscoe
Travis County Judge

Ron Davis
Commissioner, Precinct 1

Bruce Todd
Commissioner, Precinct 2

Gerald Daugherty
Commissioner, Precinct 3

Margaret Gómez
Commissioner, Precinct 4

By signing below, the Declarant and the HOA agree to comply with all the terms and conditions set forth in this Order and execute other and further instruments and documents as may become necessary or convenient to effectuate and carry out the purposes of this Order.

OVERLOOK ESTATES JOINT VENTURE

BY: _____
Name: _____
Title: _____
Date: _____

OVERLOOK ESTATES PHASE 1 HOA, INC.

BY: _____
Name: _____
Title: _____
Date: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on the _____ day of _____, 20____, by _____, for and on behalf of _____.

Notary Public in and for
The State of Texas

Notary's Name (Printed): _____
My commission expires: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on the _____ day of _____, 20____, by _____, for and on behalf of _____.

Notary Public in and for
The State of Texas

Notary's Name (Printed): _____
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AFTER RECORDING RETURN TO:
Travis County Transportation and Natural Resources Department
Attention: Development Services
P.O. Box 1748
Austin, Texas 78767