Flag Lot Ordinance Amendment

Public Comments

From: Brooke Bulow [redacted]
Sent: Wednesday, September 21, 2011 2:27 PM
To: Perryman, Don
Subject: Comment to proposed flag lot amendments
Hi Don,

Will you please share the following concerns about the proposed amendments to flag lots with the Planning Commission since the HBA will not able to attend the hearing? We have some other commitments that evening and we are stretched pretty thin (like everyone).

The City of Austin is on record saying it prefers infill development to sprawl. Flag lots help the city reach that goal. We have several concerns that some of the amendments (from cost and process perspectives) will make it more difficult to provide infill housing in established neighborhoods.

Thanks,

Brooke

(HBA comments in blue font)

25-1-21 DEFINITIONS (proposed)
(38) FLAG LOT means a lot that abuts a street by means of a strip of land that does not comply with the requirements of this chapter for minimum lot width, is not less than 20 feet wide, and may be used for access.
HBA comment: The problem being addressed by this proposed change is not clear; 15 feet should be plenty for fire and emergency access. The proponents for this change should articulate the problem and how increasing the minimum width of a flag lot addresses the problem, particularly if access to the lot will be elsewhere. The HBA will support reasonable changes to the Land Development Code that are tailored to address specific problems and are the least burdensome solution. The HBA asks that an affordability impact statement be produced per city code since it is likely the proposed increase in the minimum lot width will raise housing costs.

Proposed new section of LDC for Flag Lots (25-4-175):

(A) All residential subdivisions utilizing a flag-lot design must submit a driveway plan and a utility plan for review and approval with the final plat application

Staff supports this amendment because often it is difficult to design and fit utilities on a site for flag lots as well as comply with off-site parking requirements. Problems associated with utilities are not often discovered until the building permit process after the subdivision has already been approved. This amendment would require the developer to show in detail how utilities and driveways can be accommodated prior to having their flag lot subdivision approved.
HBA comment: What if driveway and utility locations are not defined at the time of plat application? The driveways are located when the house plan is submitted and the utility locations are determined when the infrastructure development plans are developed. Both of those items are done after the plat application. We would also suggest that if the city insists on the wider minimum to 20 feet that the problems cited would be addressed and this section not required. Due to the additional cost of submitting a driveway plan and a utility plan, the HBA asks that an affordability impact statement be produced per city code.

(B) All addresses for residential lots utilizing the flag lot design must be displayed at the street for emergency responders.
HBA comment: We agree with the staff recommendation due to public safety concerns.

> Staff supports this amendment. Residential flag lots often result in residential structures being built behind the primary structure that are not visible from the street. This requirement can only help emergency responders locate a structure if there was any doubt about the location of the emergency call.

(C) A residential subdivision utilizing flag lot designs may not be approved if it is in violation of private deed restrictions against resubdivisions.

HBA comment: We agree with the staff recommendation.

Staff does not support this amendment. Private deed restrictions are contracts between individual, non-governmental, persons or groups. The enforcement of private deed restrictions has never been included as part of a review by city staff on a development application. The City of Austin should not develop a policy whereby staff is enforcing rules and regulations that were not approved by the City Council. Staff believes that any enforcement of private deed restrictions by the City would set a bad precedent and would put staff in a position of having to determine what other private deed restrictions may be enforceable by the City. Staff does not want to be in a position of having to make decisions on the applicability, enforceability, or legality of private deed restrictions to which the City was not a party and which may not be consistent with City regulations or policies.

(D) Residential flag lot designs which include three or more units must be constructed with a fire lane for access for emergency responders.
HBA comment: We agree with the staff recommendation.

Staff does not support this amendment. In conversations with Fire Department reviewers we have learned that a fire engine will not normally leave the public right-of-way onto a private residential driveway due to the weight of the fire engine and the possibility of damaging the property or the fire department's equipment. In addition, the cost of constructing a residential fire lane to Fire Department specifications would be cost prohibitive for so few residential units.

(E) If the residential structure associated with a flag lot is over 150 feet from the street, that structure must be sprinkled for fire protection.
HBA comment: We agree with the staff recommendation. The city must follow state law.

Staff does not support this amendment because there is a state law prohibiting this requirement. S.B. No. 1410, signed into law in June of 2009 states;

SECTION 12. Section 1301.551, Occupations Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) Notwithstanding any other provision of state law, after January 1, 2009, a municipality may not enact an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire sprinkler protection system in a new or existing one- or two-family dwelling. A municipality may adopt an ordinance, by-law, order, or rule allowing a multipurpose residential fire protection sprinkler specialist or other contractor to offer, for a fee, the installation of a fire sprinkler protection system in a new one- or two-family dwelling.

Brooke Bulow
Vice President of Public Policy
(512) 454-5588, ext. 106
www.AustinHomeBuilders.com
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About the Home Builders Association (HBA) of Greater Austin
For 57 years, HBA has served as the leading not-for-profit trade organization dedicated to residential construction and remodeling in Central Texas. With approximately 8500 members, the HBA works with government, public, business and community organizations in five counties to protect every family's right to home ownership. The HBA and its members work to ensure that those who protect us, teach our children, and provide essential services can afford to live here. The majority of new homes are purchased by middle-class families – the very people at risk of being priced out of our communities by rising taxes, government fees and regulations.

Have your special event or corporate meeting at the HBA's Phillips Event Center.

From: Terry Mitchell [redacted]
Sent: Saturday, October 08, 2011 2:43 PM
To: Perryman, Don
Cc: Larry Hanrahan
Subject: Flag lots

Attachments: flag lots.pdf
Don,

I hear that the City is considering alterations to flag lots under the code.

We have been planning for years in our Goodnight project— and now these lots are even more important — to incorporate flag lots into our building programs. This old conceptual plan is begin redone to add more flag lots for these reasons:

- Affordability is a MAJOR issue in our City. As you probably know, 229,000 jobs are located in our urban core (78701, 78703, 78705, 78704), which represents 30% of all jobs in our metro area (over 75 miles from San Marcos to Jarrell). Well over 90% of ALL of those who work in this urban area live OUTSIDE those zip codes.
    - As a result, we have a huge transportation issue — a directional density problem — results as 200,000 or so travel to those areas to work. That issue is HUGE.
    - Moveover, we are promoting sprawl in our metro area as we pass laws that in fact hinder density — the key tool we have to lower the cost of housing. . . The result of laws that limit density — promotes sprawl as we have to move further out to provide reasonably priced housing.
- Normally, we would have to create a condo project to keep the density needed to push pricing down for our residents. If I don't do that, I am contributing to sprawl. So, I would normally create the condo project, however, the national mortgage regulations are now making it very difficult to create condo projects that can serve people with affordable housing. As a result, flag lots become an even more important tool in providing reasonably priced housing to our citizenry, as we can provide conventional mortgages to these homeowners.
    - Widening the 15' flag to 20' -- and I am not sure why we are doing this — the density goes down and prices go up.

I know there are probably reasons for the proposal, but I ask that we strongly consider other ways of addressing issues that the City may have. I would recommend an analysis happen that tells us how to address whatever issue the city sees (what is that issue?) in a manner that does NOT reduce density. Every time we reduce that density, we hurt affordable housing and promote sprawl.

Thanks for your time and consideration.

Terry Mitchell

Terry Mitchell
Momark Development LLC
P.O. Box 5654
Austin, Texas 78763
T: 512.391.1789
F: 512.233.2331
M: 512.924.8066
[redacted]

From: Terry Mitchell [tmitchell@momarkdevelopment.com]
Sent: Wednesday, October 12, 2011 12:43 PM
To: Perryman, Don
Cc: Greg Anderson
Subject: FW: Flag lots

Attachments: flag lot REVIEW SHEET final no changes.doc; 2010.11.30 Density Price Comparison SA Example.pdf
Don,

Thanks for this feedback. Please keep me in the loop as I will attempt to testify as the date comes forth . .... . A couple of questions/thoughts for staff to consider:

- To reiterate, the reason I care that density not be harmed (still not completely clear to me about the change from 15' to 20'):
  - Density is needed to fight sprawl and the impending financial hits of the future (when we stop growing and find out existing development does not pay for itself).
  - Affordable housing is a BIG challenge and adding density (through a tool like flag lots) allow folks to provide for much more affordable homes to our citizenry. The attached spread sheet was prepared in 2008 based loosely on our Salvation Army project (coming on line in a few months as "The Denizen"). . . These numbers are pretty close, even three years later. Single family would be even higher than shown — most likely in the upper $500s . . . And yet, if we moved to 300 units, we could get the average sales price lower than $200k . . . Not much new product close in for under $200k. . . .The project was approved for 123 units, which provides a big savings over the 54 unit detached single family but still doesn't get close to the 300 unit example. . .
  - The financing world (mortgages) is killing condos . . . There much work happening that would try to stop this travesty (forcing the world to rent, unless they are wealthy) . . Being able to do a higher density "single family" product mitigates this a little . . .

So, I urge the City to keep the flag lats as flexible as possible . . . Moving from a 15' flag to a 20' flag does nothing for me . . .I dedicated a separate alley for access. All this does for me is to lower density . . . And hurt each of the objectives noted above . . .

Let me know when the hearings happen.

Thanks again.

Terry

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Wahlgren, David

From: Zapalac, George
Sent: Thursday, February 02, 2012 2:11 PM
To: Wahlgren, David; Perryman, Don
Subject: FW: Flag Lots
Attachments: 2012_02_02_Sample Flag Lot Configuration.pdf

FYI

From: Terry Mitchell [mailto:[redacted]]
Sent: Thursday, February 02, 2012 1:55 PM
To: Zapalac, George
Cc: Adams, George; Anderson, Greg
Subject: Flag Lots

All,

Thanks for taking on this issue. Here are the reasons I use flag lots:

- I use the "flag" areas to create common courtyards that facilitate "community connections", by overlaying ON THE FLAG AREAs an open space easement. We are finding out that many folks PREFER these configurations over typical single family configurations due to a variety of reasons, including:
  - People make stronger connections where there are "gathering places' where neighbors can meet and share life. (I strive for this above almost anything else – fostering human connections.)
  - Parents like having their children playing in a area where it is perceived to be safer – no car hitting them; less likely for a predator to run in a courtyard and grab a child, as compared to a front yard along a street).
  - The HOA typically maintains the courtyard so it always looks nice.
- The use of flag lots allows me to save trees (putting the flags/open space) and creating the courtyard around the trees.
- The use of flag lots allows me to lower the costs of homes as there is less pavement and I can pass that price savings to the home owner.
- The use of flags in the configurations I show allows me to increase density – in a fully compatible manner – single family housing – and again lower the cost of housing. This works especially well in our urban infill areas. The massing of the housing is the exact same as single family, but by congregating the open space, I can lower the cost of housing.
- This type of housing is completely compatible with single family, and it is used as a buffer from denser development (protecting single family). Think of Chestnut Commons at the MLK TOD, where we did these types of cottages (not flags, but the concept was similar) to provide a buffer from the office space behind.
- Last, I have been asked why we can't do this with condos. I can, however, because of

the housing debacle, FHA – the primary source of financing for most of our homeowners – has put limits on condos, and in many cases, only 50% of the condos in a condo community can be financed by FHA financing (less down payment; lower interest rate typically). The "market" would typically have 90+% as FHA financing (thus helping our citizenry get into homes).

- As a consequence, I am trying to keep as many of these courtyard configurations as I can – as single family – so I can provide 100% of the units with the more attractive FHA financing. By doing so, more people can buy their homes.

These are the essential reasons I like flag lots. They allow me to lower the cost of housing, save trees, provide better living designs, and make sure I provide better financing alternatives.

Thanks for letting me give you some thoughts.

Terry

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Perryman, Don

From: Megan Meisenbach [mmeisenbach@austin.rr.com]
Sent: Wednesday, April 04, 2012 12:34 PM
To: Perryman, Don
Cc: AMC Co; Joe Reynolds
Subject: Additions to Amendments to Flag Lot Code

Attachments: Additions to Flag Lot Code Amendments.pdf; ATT5992367.txt


Additions to Flag Lot Code Ame...


ATT5992367.txt (159 B)

Dear Mr. Perryman,
Thank you for your call to me today. I am sorry I missed your call.
We suggest the follow Additions to the Flag Lot Code Amendments, in order for the City Code to to follow the State Law (212.014 and 212.015).

1) Applies only to applications for flag lots in residential subdivisions.
2) Flag lot applications must include:
a. A copy of the Deed Restrictions applying to the property (also known as Covenants), sealed and certified by the Travis county clerk
b. A Texas State Bar licensed attorney's signed Letter of Review of Deed Restrictions stating that the proposed flag lot:
i. Will not violate, alter, amend or terminate deed restrictions concerning lot width
ii. Will not violate, alter, amend or terminate deed restrictions concerning lot length
iii. Will not violate, alter, amend or terminate deed restrictions concerning lot size
iv. Will not violate, alter, amend or terminate deed restrictions concerning additional lots
v. Will not violate, alter, amend or terminate deed restrictions concerning re-subdivision

c) A copy of modifications made to original deed restrictions sealed and certified by the Travis county clerk

3) Re-subdivisions as flag lots must have approval of the Letter of Review of Deed Restrictions by the Planning Commission or Zoning and Platting Commission before filing with the Travis County Clerk.

4) All flag lot re-subdivisions applications are variances.

5) Notice of a flag lot re-subdivision and right of petition must be mailed to all current owners of the subdivision's lots within 200 feet prior to review by the Planning Commission or Zoning and Platting Commission, upon receipt of a request for a flag lot.

6) If owners representing 20% of the land within that area described in 5) above oppose the flag lot, then any approval requires a super majority of 66.66% of the City Council or appropriate commission assigned the task of land granting a flag lot.

Submitted by Megan Meisenbach
[redacted]
Reviewed and approved by Allan Mc Murtry
[redacted]

From: Joe Reynolds [joe.rey@texas.net]
Sent: Sunday, April 08, 2012 8:48 PM
To: Dave Sullivan; Danette Chimenti; Saundra Kirk; Mandy Dealey; Dave Anderson; Richard Hatfield; Alfonso Hernandez; Jean Stevens; Donna Tiemann
Cc: Perryman, Don
Subject: McMurtry Comments: Case Number C20-2011-0011 "Flag Lots" Code Amendment Meeting April 10
Commissioners, the following is material submitted by Allan McMurtry about the Staff Option for the Flag Lot Development Code Revisions. Allan plans to speak to these point Tuesday night. He points out places where the proposed version of code violates state law.

Allan was one of the people responsible for the initiation of the code review and subsequent actions by codes and ordinances sub-committee. He participated in the lawsuit mentioned below to overturn a flag lot resubdivision.

I would like to comment as well in support of what Allan says and to cast light on some staff statements. The covenants restricting subdivision are not simply ones that explicitly say, "No new lots may be created except by vote of current owners." Although there are some which do say that directly. Other covenants restrict in different ways. They may set a minimum lot width at the street [my deed is so restricted, to 50ft] or they may have other geometric or configuration clauses, such as minimum distances to side streets or required utility easements. So, I'd like to remind you to think broadly in this matter. This breadth is why, as citizens, we believe that the commission hearing is the place to resolve a conflict. The breadth is why your combined judgement is necessary, and why you are empowered to make the call on each case. Joe Reynolds 297-4841 [c]

From: "AMC Co" <AMCCompany@austin.rr.com>
To: "'Megan Meisenbach'" <mmeisenbach@austin.rr.com>,
"'Joe Reynolds'" <joe.rey@texas.net>

Subject: Flag lots

Date: Sat, 7 Apr 2012 13:26:47 -0500

The City of Austin staff does not have the legal authority to countermand State Law in this matter--See 212.014 and 212.015.

These sections were adopted into the current Austin City Code, verifying the limitation of the Director's options

The Director has no authority under State Law to decide cases involving resubdivisions on his own even if one is written into the City Ordinance except as outlined below:

212.005-"The municipal authority responsible for approving plats under this subchapter is

the municipal planning commission or, if the municipality has no planning commission, the governing body of the municipality."

212.0065-"The governing body of a municipality may delegate to one or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve:"

1) Amending a plat without vacation and if it is solely for one of the following reasons found in 212.016

1-8 to corrections of errors only or to relocate lots line to prevent encroachment

7 "the amendment does not have a material adverse effect on the property rights of the other owners in the plat"

10 relates to replatting in a municipal improvement area approved by the planning commission or other body after a public hearing

9 & 11 to relocate one or more lot lines if

(A) All owners agree

(B) "the amendment does not attempt to remove recorded covenants or restrictions

(C) **"the amendment does not increase the number of lots"**

2) "minor plats." (NOT REPLATS)

3) "a replat under 212.045."

212.045 "A replat of a part of a subdivision may be recorded and is controlling if the replat:

a 2) B " is owned and used by a non-profit corporation established to assist children in at-risk situations through volunteer and individualize attentions"

b (2) "the replatted property has been continuously used by a nonprofit for at least 10 years before the date of the replat

State Law is clear that the City Council has authority over these land use actions and that City Councils can delegate that authority to another Board or Commission, not to an individual who makes determinations outside of a hearing except as stated above

The State Law was established as a compromise to allow persons with deed restrictions that limit resubdivision to have a say in the resubdivisions, AND the law specifically stated that the authorities in cities in Texas had to comply with these statutes

The meaning of this law was validated by Judge Livingston in District Court 261, in Travis County, in 2010 when she issued a TRO against the City of Austin prohibiting a resubdivision pursuant to a finding that the deed restrictions were valid

Ultimately, the defendant in this case agreed that the deed restrictions were valid and agreed to a permanent injunction. The defendant rescinded the resubdivision issued by the City of Austin

All parties should be equal under the law.

It is not sufficient to claim that since an aggrieved party has an avenue to sue, the City of Austin has no obligation to follow both State Law and its own Ordinances

Civil suits and statutory law can proceed simultaneously through separate courses of actions with no diminution to either by actions in the other unless and until a suit limits the statutory law

The only case in point was that there was enough evidence that 212.014/.015 was legal and binding for Judge Livingston to halt implementation of a City approved resubdivision

Further, unless written into the State Law, there is no date after which a State Law is invalid or inapplicable

No such date is written into this law regarding this issue

New subdivisions do not need an exemption from this Flag Lot Ordinance since the developer can easily write into the restrictive covenants of new subdivisions that resubdivisions are permissible

That renders 212.014 and 212.015 moot

This entire issue has been precipitated because the City of Austin refuses to follow the clear dictates of State Law

It is IMPORTANT to note that in the section under 212 Government Code

The phrase "Does not ATTEMPT TO REMOVE DEED RESTRICTIONS is found in 5 separate locations in this statute

212.014 (3): 212.0145 (b): 212.016 7 (C): 212.016 9 (B): 212.016 10 (B):

At some point in time, somebody needs to understand that the State Law is crystal clear that replats cannot ATTEMPT to remove or amend restrictive covenants when replating without vacation. If you vacate the plat, you can do whatever you wish.

Allan McMurtry

--

Joe Reynolds
2611 West 49th St
Austin, Texas 78731
512-454-8880 [H]
512-297-4841 [C]

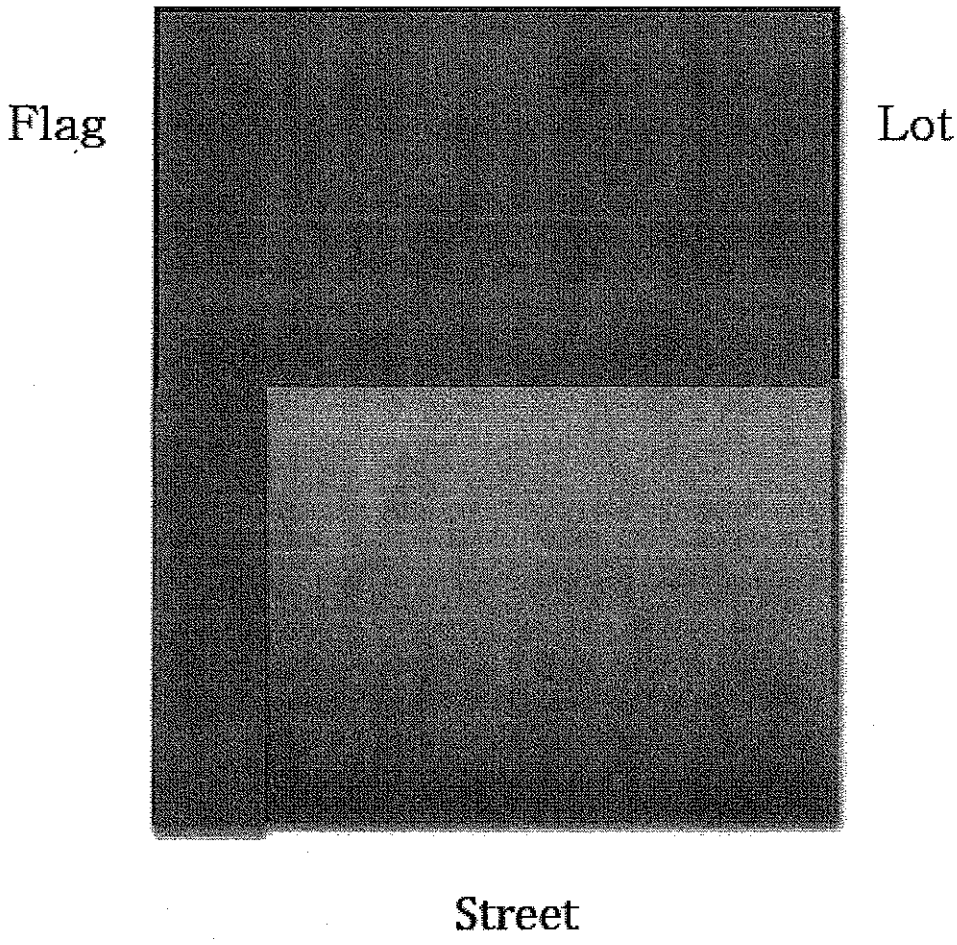
C20-2011-0011 Tuesday APRIL 10TH
PLANNING COMMISSION HEARING
Flag Lots
Residential Flag Lots* Subdivisions are not allowed in the City Code nor should they be added to the Code. Yet, development staff has been bringing Flag Lots Subdivisions cases forward. Residential Flag Lot Subdivisions are not desirable (for Austin and its Extra Territorial Jurisdiction). Lawsuits and delays have been caused.

If Residential Flag Lot Subdivision Code must be added, then Flag Lot Subdivisions must be a Variance from Code (which mandates 50' frontage on the street-the flagpole is only 15 to 20 feet wide). Neighboring owners must be notified before their backyards are turned inside out by the front yard of a flag lot, which changes what was a private space (a private back yard, porch, pool, or patio) into a public area. These present patterns of residential Land Use, where the front yard is the front and the back yard is private, are the responsibility of the Planning Commission. If our present pattern of residential Land Use is upset, at least the Planning Commission should hear each Residential Flag Lot Subdivision case as a Variance and give neighbors a right to object. I ask that you maintain the sovereignty of the Planning Commission.

In Judges Hill Neighborhood, one flag lot could impact the privacy of 6 to 8 backyards, whose rights are understood to be protected by the 50 foot minimum street frontage. One owner, Bob King, went so far as to buy an extra strip of land to prevent this kind of re-subdivision.
I ask that:
1) All flag lot re-subdivisions applications must be variances.
2) Notice of a flag lot re-subdivision and right
of petition must be mailed to the owners with lots within 200 feet prior to review by the Planning Commission or Zoning
and Platting Commission, upon receipt of a request for a flag lot.
Sincerely,
Megan Meisenbach 940-2615 cell phone

1800 San Gabriel Street
Austin, TX 78701

* A lot without access to the frontage gains access with a 15 foot wide strip (driveway see diagram below)



Proposed Code for 'Flag & Stamp Lots'

Case Number C20-2011-0011

Commissioners,
This is to address issues of the proposed city code to regulate re-subdivision into a configuration commonly know as "flag lots." I'm sure that you are familiar with the topic.

Much of central Austin was developed when land was not a dear as it is now; many lots are large by today's standards. In the 60 years since the building of the '50s the trees have grown and traditional neighborhoods have flourished.

I recognize the feeling that Austin needs to "increase its' density" and the topic of "infilling." But these are in conflict with the attributes of the neighborhoods that make them attractive. Austin is close to unique in the characteristic of its' older neighborhoods. Cities in the California Santa Clara Valley, like San Jose and Mountain View have to work to protect their older neighborhoods. They recognize that once neighborhoods are redeveloped, and the charm is squandered, the desirability can not be recovered. They have been using heritage plots of agricultural land, orchards and strawberry fields, for "infill".

When in-fill is to occur, the flag-lot is an especially perfidious example of the concept. MacMansions are a straight forward [but largely undesirable to the neighbors] for of redevelopment. Splitting wide lots is of the same degree. Both encroach on their neighbors. Both reduce privacy due to increased closeness, but the structure of the privacy isn't changed. Things are closer, you hear your neighbor's trash can roll-out, your kids have activity outside their windows, but the front is the front, the side the side, and the back is the back.

With flag-lots the structure of outdoor space and privacy changes. To satisfy one developer, to gain one new house, five neighbors have their privacy completely altered. The 'safe haven' back yard is suddenly adjacent to someone's front yard. Your bedroom, on the back for privacy and quiet, now has someone's front porch light shining in the window. The kids' rooms have cars driving past.

The neighbors deserve better. They bought their house with some common and long held beliefs in the structure of their world; front is public and back is private. They deserve at least a public hearing before their world is so completely disrupted.

One version of the code you are considering, that from Zoning and Platting, listed the "flag pole" as a variance to the existing lot-width standard of 50ft minimum. That it is a variance is plain in its' reading. Recognizing this variance will ensure the neighbors a hearing.

Another real estate feature from the time our neighborhoods were built are restrictive covenants regulating land use in the development and on the individual lots. Having lived through the Great Depression, the residents wanted to avoid some of the blight that occurred. So there are common deed restrictions, passed with the land from owner to owner, that set minimum lot sizes and dimensions, minimum house size, height, and construction standards, set-back limits, rules requiring a vote of owners before a new lot can be created, and, rules for amending the covenants. Texas law recognizes and enforces these covenants. Many covenants will conflict with the flag-lot configuration.

Another item in earlier drafts of this proposed code dealt with the conflicts with the covenants. There have been several proposals for resolving the issue of "deed restrictions" and City Staff have a long running practice of simply ignoring the covenants. This results in expensive lawsuits [you could send you kid through much of college for the expense] to overturn City action taken in violation of State Law protecting the covenants.

I believe that the earlier versions of this code didn't call for Staff to enforce the covenants, simply to recognize them. Acknowledge that they have a regulating effect.

If this code includes the Variance provisions [concerning the lot width of the flagpole], then the issues of covenants can be addressed at the required public hearing. I know that this commission considered such covenants on other subdivision cases. At the hearing, adjustments can be made in the approval process for any covenants requiring adjudication. Delayed filings to the county by the Chair occur now just to accommodate any legal challenge resulting from a commission action.

In summary, the code should provide that the "flagpole" is a variance to the land development code, triggering a public hearing that the neighbors deserve, and the code should recognize and accommodate restrictive covenants that might prohibit the subdivision.

Than You -

Joseph Reynolds
2611 West 49th St
512-297-4841 [c]
[redacted]

Zapalac, George

From: Perryman, Don
Sent: Tuesday, April 24, 2012 8:00 AM
To: Zapalac, George; Lloyd, Brent
Subject: FW: Comments: Case Number C20-2011-0011 "Flag Lots" Code Amendment Meeting April 24

Attachments: FlagLotApr24.pdf; AllandaleVillageDRextract.pdf; ChrestviewExtract.pdf; ShoalwoodDRextract.pdf; Vance parkDR extract 1.pdf; Vance parkDR extract 2.pdf


FlagLotApr24.pdf (27 KB)


AllandaleVillageDRextract.pdf ...


ChrestviewExtract.pdf (1 MB)


ShoalwoodDRextract.pdf (969 KB...


Vance parkDR extract 1.pdf (3 ...


Vance parkDR extract 2.pdf (2 ...

Don Perryman
Planning and Development Review
City of Austin

-----Original Message-----
From: Joe Reynolds [mailto:[redacted]]
Sent: Tuesday, April 24, 2012 1:21 AM
To: Dave Sullivan; Danette Chimenti; Saundra Kirk; Mandy Dealey; Dave Anderson; Richard Hatfield; Alfonso Hernandez; Jean Stevens; Donna Tiemann
Cc: Perryman, Don
Subject: Comments: Case Number C20-2011-0011 "Flag Lots" Code Amendment Meeting April 24

Commissioners,
I am forwarding comments on the proposed changes to the land Development Code to regulate Flag Lots in anticipation to speaking at the hearing Tuesday evening.

I urge that you approve and forward to the City Council, the version of the code as edited following Tuesday's meeting of the Codes and Ordinances subcommittee. Through the variance process established, this proposed code provides the needed forum for applicants and effected neighbors to argue a proposed replat, and for the commission to decide its' suitability.

These comments contain a discussion of ways in which deed restrictions may conflict with a proposed flag lot. I am attaching extracts from example covenants so you can see the ways in which a flag lot might conflict.

I recognize that this is only a short time before tonight's hearing, so i will have printed copies available at the hearing.
--
Joe Reynolds
2611 West 49th St
Austin, Texas 78731
512-454-8880 [H]
512-297-4841 [C]

Comments on Proposed Land Development Code to Regulate Flag Lots
Joe Reynolds

Commissioners,

You are considering revisions to the Land Development Code to regulate a lot configuration commonly called Flag and Stamp Lots.

These have frequently been created in the larger lots of Austin's heritage neighborhoods – Austin's first suburbs. The homes of Judge's Hill were the first "out lots" adjoining the original 1-mile survey defining Austin. Allandale and Shoalwood and Shoalmont are from the 1950s with the post war building boom. [McCallum High School was the first new school after Austin High and Old Anderson.] Crestview is a little later, but still when the drive-in movies on Burnet Rd and Lamar were drawing crowds. Compared with today's development, those of us who live in these neighborhoods have bigger lots, more trees, more grooming. We have most of the urban forest in Austin.

When these neighborhoods were platted, the developers attached covenants to the deeds to ensure uniform standards and to ensure that the character of the neighborhood be maintained in the future. This made the original sales more attractive, and the restrictions that were imposed provide stability and cohesiveness for today's residents.

In these traditional neighborhoods the Flag Lots are a particularly disruptive form of redevelopment. They completely reverse conventional land use patterns, where public is toward the street, private is in the back. To satisfy the property rights of one developer, five established neighbors have their privacy abridged. A new front porch light is now in your bedroom window. Pizza delivery and the bug-guy now drive past your teenager's window. Where once there was privacy, now there is traffic. When your new neighbor heads to work in winter, his headlights light you room.

Thankfully, this version of the proposed code will recognize that the 'flag pole' of the proposed new lot violates the lot-width standard of the existing Land Development Code. A hearing on a variance will be necessary to establish the suitability of the re-platting. The proposed code anticipates the commission thoroughly evaluating the suitability of the re-platting. At the public hearing any conflict between the Flag Lot and the development covenants will examined.

None of the covenants will explicitly mention the term "Flag Lot" as that is too recent a convention. But, other aspects of the covenants may well conflict. The covenants cover many aspects of the subdivision. They typically restrict the property to being residential, and single family. They often set building requirements, and prohibit shacks and unconventional living arrangements. They may prohibit some on-site activity. [Some of our examples prohibit both raising chickens and oil drilling.] We are supplying examples, typical of the covenants to be considered; at Judges Hill, Allandale Village, Shoalwood, and Crestview.

Two of the example covenants have explicit requirements that the creation of new lots require approval by a majority of current owners in the subdivision. [One is the Judges Hill area, and this commission considered those covenants in a subdivision hearing only last year. One subdivision is the Shoalmont area, and it was a case in this subdivision that first triggered this flag-lot code development. The flag-lot case in the Shoalmont area, approved by the commission at the insistence of legal staff, was overturned in 2010 by Judge Livingston in District Court 261.]

Other covenants however apply a less direct, but equally valid restriction. All of our examples, Judges Hill, Shoalwood, Allandale Village, and Crestview, have geometric and easement requirements. Crestview requires that houses front on the street. All apply restrictions to the lot size, lot shape, and house location. They restrict the lot width at the street set back [Shoalwood 50ft wide, and Allandale 65ft wide]. They require at least a 6000sf lot size. In Allandale, not only is the minimum set back from the street specified, but the maximum is as well; at least 25ft from the street and not more than 45 ft. They specify side and rear set-backs too. So, a flag-lot could violate several of these provisions.

Texas Local Government Code repeatedly, in many voices, requires respect for deed restrictions. The relevant portions have been adopted into Austin's code of ordinances, so local code also respects the covenants. Wording is completely clear and unambiguous in 212.014 [the section of the law governing replatting]. It is short, with only three provisions, and provision (3) " does not attempt to amend or remove any covenants or restrictions."

212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT
A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
(1) is signed and acknowledged by only the owners of the property being replatted;
(2) is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the municipal authority responsible for approving plats; and
(3) does not attempt to amend or remove any covenants or restrictions.

Texas Local Government Code for Replatting

The State Law was established as a compromise to allow persons with deed restrictions that limit re-subdivision to have a say in the re-subdivision process, and the law specifically states that the authorities in cities in Texas have to comply with these statutes

We have supplied, for a variety of Austin's neighborhoods, examples of relevant covenants. The existence of such covenants does not preclude the replatting, the covenants must be interpreted in the context of the proposed action. It will be for the

commissioners, in the variance hearing required by State Law, to decide whether the covenants conflict with the proposed replat. Many cases will be straightforward, such as a prohibition against creation of new lots without a vote, some may require examination of proposed lot geometries or other considerations.

The code revision will provide, through the public hearing of the variance process, a forum for both applicants and owners in a subdivision effected by a Flag Lot to argue it's suitability. We urge that you forward this draft of the Flag Lot revision to the Land Development Code to the City Council with a recommendation for approval.

Thank you for your consideration of this issue.

subdivision. Except for the sale office hereinabove referred to, signs which evidence commercial use of the property shall not be erected on any lot or building.

4.

Residences constructed on lots in this subdivision shall be located on the lots so as to comply with the minimum set-back requirements of the City of Austin, as set out in the plat of Allandale Park, Sec. 4, and in no event shall a dwelling be located nearer than twenty-five feet (25') to, nor more than forty-five feet (45') from the front lot boundary, nor shall any building be nearer than ten feet (10') from the lot boundary along any side street. No fence, wall or hedge shall be built and maintained forward of the front wall line of the building or residence house. No building shall be located nearer than five feet (5') to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located sixty feet (60') or more from the minimum building setback line. No dwelling shall be located on any interior lot nearer than twenty-five feet (25') to the rear lot line. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building, on a lot to encroach upon another lot.

5.

No structure shall be erected or maintained on any building plot which plot has an area of less than seven thousand five hundred (7,500) square feet and a width of less than sixty-five feet (65') at the building set-back lines as set out in Section Four (4) hereof. No corner lot shall be resubdivided or used as to permit an additional dwelling facing on a side street.

6.

No trailer, tent, shack, barn or outbuilding shall be permitted on any lot. Each dwelling will be occupied by no more than one family at a time except, however, that servants' quarters attached to the main residence, or attached to a garage which is attached to the main residence, may be occupied and used by domestic servants of a resident owner or tenant while in the full-time employment or a resident owner or tenant.

7.

Easements are reserved as shown on the recorded plat. A five foot (5') easement for utility installation and maintenance is reserved off of the rear of each platted lot, whether or not such easement is shown on the plat.

6. No dwelling shall be erected or placed on any of said lots having a width of less than 60 feet at the minimum building setback line nor shall any dwelling be erected or placed on any of said lots having an area of less than 6000 square feet, except that dwellings may be erected or placed on lots as shown on the recorded plat of Northridge Terrace.

7. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear five feet of each lot in Northridge Terrace.

8. No noxious or offensive activity shall be carried on upon any of said lots, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

9. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be placed on any of said lots at any time as a residence either temporarily or permanently.

10. No sign of any kind shall be displayed to the public view on any of said lots except one professional sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

11. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any of said lots, nor shall oil wells, tanks, tunnels, mining excavations, or shafts be permitted upon or in any of them. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any of said lots.

12. No part of any of said lots shall ever be used for a business or commercial purpose or for carrying on any trade or profession, except that Pringle Bros., Inc., its successors or assigns, may erect and maintain a sales office and exhibit houses upon any of them during the construction period.

13. No corner lot may be resubdivided or used so as to permit an additional dwelling to face on a side street. The main structure of the dwelling erected on any lot shall face upon the street in the subdivision upon which the lot fronts.

14. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any of said lots, except that dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.

15. None of said lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

16. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot herein described within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The

THE STATE OF TEXAS

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

That Gray and Becker, Inc., a corporation, acting herein by and through its heretofore duly authorized President, F. H. Becker, Jr., and Mary Chiappero, a widow, of Travis County, Texas, and Joe F. Gray and wife, Cherry K. Gray, both of Travis County, Texas, and F. H. Becker, Jr., and wife, Marie B. Becker, do hereby agree to amend the restrictions applicable to each and every lot now set apart in those two subdivisions known as Shoalwood Section One and Shoalwood Section Two, according to the map or plats of said subdivisions respectfully of record in Volume 6, Page 67, and Volume 6, Page 83 of the Plat Records of Travis County, Texas, and agree that each and every lot so designated by said plats shall be subject to the following restrictions and covenants as follows:

1. All lots in the tract shall be known and described as Residential lots. No structure shall be erected, altered, placed, or permitted to remain on any residential building plot other than one detached single-family dwelling and private garage and other outbuildings incidental to residential use of the plot.

2. No building shall be located on any residential building plot nearer than twenty-five (25) feet to the front line, nor nearer than ten (10) feet to any side street line.

3. No residential structure shall be erected or placed on any building plot which plot has an area of less than six thousand (6,000) square feet, nor a width of less than fifty (50) feet at the front building setback line.

4. No noxious trade or occupation shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

5. No trailer, basement, tent, shack, garage, garage apartment, or other outbuilding erected in or on this tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of temporary character ever be used as a residence.

6. No dwelling which has less than eight hundred and fifty (850) square feet of floor area, exclusive of one story open porches and garages, shall be permitted on any lot or plot in this tract. All dwellings shall be of frame construction or better, and the cost of such improvements, exclusive of land, shall not be less than $6,500.00.

PLANNING CONSULTANT
2410 SAN ANTONIO ST.
AUSTIN 6, TEXAS, 61705

THE STATE OF TEXAS :
KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS :

That I, Julia E. Vance, a feme sole, of Travis County, Texas, owner of Vance Park, Section One, as shown on the plat thereof recorded in Book 41, Page 336, of the Plat Records of Travis County, Texas, do hereby impress all of the property included in said Vance Park, Section One, with the following restrictions and covenants:

1. Designation of Use.

All lots in Vance Park, Section One, shall be known and described as residential lots and shall be used for residential purposes only. For the purposes of these restrictions and covenants, a "plot" shall consist of a lot or a part of a lot or lots having a contiguous frontage.

2. Retention of Easements.

Easements are reserved as indicated on the recorded plat.

3. Restriction Against Nuisance Use.

No trade or profession of any character shall be carried on upon any lot; nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4. Restriction as to Racial Use and Ownership.

No part of the premises or the property covered hereby shall ever be used by, or rented, leased, sold, demised, conveyed to, or otherwise become the property of, or come into the use or possession of, any persons other than white persons of strict Caucasian blood; provided this covenant shall not prevent occupancy of servants quarters by domestic servants of a different race or nationality employed by an owner or tenant.

5. Restriction Against Temporary Structures and Garage Apartments.

No trailer, tent, shack, detached garage, garage apartment, or other outbuilding shall be placed, erected, or be permitted to remain on any residential plot; nor shall any structure of temporary character be used at any time as a residence.

6. Restriction as to Minimum Lot Size.

No structure shall be erected or placed on any building plot which plot has a width of less than 75 feet at the front building set-back line. No corner lot shall be re-subdivided so as to permit an additional dwelling facing on a side street. No re-subdivision of lots as platted may be made whereby any additional lot is created.

7. Restriction as to Number and Type of Improvements Per Plot.

No building other than one residence, together with customary servants quarters and garage, shall be erected, altered, placed, or be permitted to remain on any residential plot covered hereby; provided, however, that on Lot 10 and on Lots 13 to 17, inclusive, no residence shall be for more than one family, and that on Lots 8, 9, 11 and 12, no residence shall be for more than two families. Any residence on Lots 8 to 17, inclusive, shall face on Vance Circle. Ornamental fences and walls are permitted subject to the provisions of Paragraph Eleven, below.

8. Set Back and Side Line Restriction.

No building shall be located on any building plot nearer to any front street line, side plot line or rear line than the distances set out

visions of Paragraph Eleven, below.

8. Set Back and Side Line Restriction.

No building shall be located on any building plot nearer to any front street line, side plot line or rear line than the distances set out herein, to-wit:

To front street line--Lots 1 to 4, inclusive, 25 feet; Lots 5 to 11, inclusive, and Lots 13 to 15, inclusive, 30 feet; and Lot 12, 50 feet.
To side plot line--10 feet, except as to the North lines of Lots 3 & 11 and the South line of Lot 4, which shall be 20 feet; to the North lines of Lots 4 & 8, which shall be 30 feet; and to the East lines of Lots 5 & 12, which shall be 25 feet.
To rear line--25 feet, except as to Lots 5, 6 & 7, which shall be 30 feet; and Lots 4, 8, 9 & 10, which shall be 10 feet.

9. Restriction as to Garages, Servants Houses and Outhouses.

No detached garage or servants house or other outhouse shall be built on any plot in said tract, but any garage or servants house or quarters shall be a part of the main residence or attached thereto by a common wall or by a covered passage-way.

10. Restriction as to Cost and Size of Improvements.

No dwelling costing less than Ten Thousand Dollars ($10,000.00) shall be permitted on any plot in the tract. The ground area of the main structure, exclusive of garages, servants quarters and porches, shall not be less than fifteen hundred (1,500) square feet in the case of a structure of one story, or less than one thousand (1,000) square feet in the case of a structure of more than one story, provided that the total floor area of the main structure shall not in any case be less than fifteen hundred square feet, exclusive of garages, servants quarters and porches.

11. Architectural Control.

No structure shall be erected on any building plot until the design and location thereof have been approved in writing by a committee appointed at intervals of not more than five years by the owners of a majority of the lots in said Vance Park, Section One, provided that, when a structure has been designed by a licensed architect, approval as to the design by the committee shall not be required. If such committee, if in existence, fails to act within fifteen days after plans have been submitted for approval as to design or location, or both, and if no suit to enjoin the erection of such building has been commenced prior to the completion thereof, such approval shall not be required.

12. General Covenants.

These restrictions and covenants are hereby declared to be covenants running with the land and shall be fully binding upon all persons acquiring property in Vance Park, Section One, whether by descent, devise, purchase, or otherwise, and any person by the acceptance of title to any lot or plot of this subdivision shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants. These restrictions and covenants shall be binding until January 1, 1970. On and after January 1, 1970, said restrictions and covenants shall be automatically extended for successive periods of ten years each unless by a vote of a three-fourths majority of the then owners of the lots in said tract, it is agreed to change said restrictions in whole or in part.

13. Penalty Provisions.

If any person or persons shall violate or attempt to violate any of the restrictions and covenants herein, it shall be lawful for any other person or persons owning any real property situated in said tract to prosecute proceedings at law or in equity against the person violating or attempting to

Zapalac, George

From: Perryman, Don
Sent: Wednesday, April 25, 2012 3:01 PM
To: Zapalac, George
Subject: FW: deed restrictions in urban Austin relating to flag lots
Attachments: 2704 Rock Terrace Plat restrictions legible.pdf; South Lund Park Restrictions.pdf

George,

I just received this, we may want to include it?!

Don Perryman
Planning and Development Review
City of Austin

From: Scott Turner [mailto:[redacted]]
Sent: Wednesday, April 25, 2012 2:48 PM
To: Perryman, Don
Cc: 'Brooke Bulow'
Subject: deed restrictions in urban Austin relating to flag lots

Hi Don,

I am an urban homebuilder and developer, and Brooke asked me to provide some examples of deed restrictions that have similar conflicts with zoning codes. The attached are for subdivisions over in Zilker (South Lund Park above Zilker Park) and Barton Hills. Both have provisions that, while not pertaining to flag lots, do conflict with current zoning codes in a number of ways, such as single family limitations, number of stories, etc. Neither are in areas where there is an active, entitled HOA with the means to enforce, however. I think they perhaps exemplifies some of the concerns expressed by staff regarding enforcement of private restrictions, as the neighbors and related associations may look to staff, for example, to enforce single family limitations, particularly where budgets are limited. Given the hodge-podge of platting in urban Austin, there may be restrictions that vary from one home to another on the same street. In the end, neighbors and associations could turn to city staff for changes to ordinances similar to this one, effectively passing on the costs of private deed restriction enforcement to the city along with it.

I hope this helps in some way. Please consider me a resource for urban infill from a developers point of view, one who is on good terms with the neighborhood associations.

Thanks,
Scott

Scott Turner, owner/broker
Turner Residential/Riverside Homes
[redacted]
o 512-473-9930
f 512-473-9933
c 512-751-5358

Turner Residential

Riverside Homes

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RESTRICTIONS

ALL LOTS SHOWN HEREON SHALL BE SOLD SUBJECT TO THE FOLLOWING MINIMUM CONDITIONS, RESTRICTIONS, COVENANTS, AND USES:

LAND USE AND BUILDING TYPE: No lot shall be used except for residential purposes. No building shall be placed, erected, altered, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height, and a private garage for not more than two cars except as set out in following paragraphs.

ARCHITECTURAL CONTROL: No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by a committee appointed by Builders Development Corporation, as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, located or altered on any lot nearer to any street than the minimum building setback line unless similarly approved.

DWELLING SIZE AND LOCATION: The ground floor area of the main structure, exclusive of one story open porches and garages, shall be not less than 1250 square feet for one story dwelling, nor less than 1600 square feet for a two story dwelling. No building shall be located on any lot nearer to the lot line, or nearer to the side street line than the minimum building setback lines as required by the City of Austin Building Ordinance. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this paragraph shall not be construed to permit any portion of a building on a lot to encroach on another lot.

LOT AREA AND WIDTH: No dwelling shall be erected or placed on any lot having a width of less than fifty feet at the minimum building setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 7000 square feet

EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are dedicated as shown on the recorded plat and over the rear five feet of each lot. In addition to the easements specifically shown on this subdivision plat, an aerial overhang easement is granted for only electric and telephone wires on the rear portion of all lots in this subdivision as is now necessary to cross in order to service the improvements on any one lot or adjoining lot or lots from the pole line to be constructed in the public utility easements across the rear of said lots as the same appears on the map or plat of this subdivision.

NUISANCES: No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

TEMPORARY AND MOVED STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any lot at any time as a residence either temporarily or permanently, nor shall any structure be moved from another area and placed on any lot in this subdivision.

SIGNS: No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction period.

MASONRY: All dwelling structures must have at least 50% of their outside walls of masonry.

OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.

LIVESTOCK AND POULTRY: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste which shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

SIGHT DISTANCE AT INTERSECTIONS: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage is maintained at a sufficient height to prevent obstruction of such sight lines.

ENFORCEMENT: Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

SEVERABILITY: Invalidation of any one of these covenants by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect

TERM: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

CURVE DATA

1	2	3	4	5	6	7	8	9
Δ=90°19'	Δ=90°00'	Δ=91°28'	Δ=85°50'	Δ=90°04'	Δ=93°19'	Δ=85°18'	Δ=89°42'	Δ=83°38'
T=15.07'	T=15.00'	T=16.39'	T=18.01'	T=15.02'	T=15.68'	T=15.82'	T=15.22'	T=18.45'
R=14.93'	R=15.00'	R=15.00'	R=15.05'	R=15.00'	R=15.00'	R=15.00'	R=15.90'	R=20.62'
LC=21.29'	LC=21.21'	LC=21.48'	LC=21.21'	LC=21.23'	LC=21.82'	LC=20.23'	LC=21.56'	LC=21.60'
A=23.63'	A=23.56'	A=23.95'	A=23.60'	A=23.58'	A=24.43'	A=22.83'	A=23.95'	A=30.10'

10	11	12	13	14	15	16	17	18
Δ=100°11'	Δ=90°09'	Δ=41°16'	Δ=43°48'	Δ=89°46'	Δ=41°16'	Δ=43°48'	Δ=86°21'	Δ=89°54'
T=17.93'	T=15.04'	T=118.01'	T=135.45'	T=14.94'	T=97.18'	T=205.55'	T=15.54'	T=15.06'
R=15.00'	R=15.00'	R=325.10'	R=461.35'	R=15.00'	R=558.10'	R=511.32'	R=18.56'	R=15.09'
LC=23.01'	LC=21.24'	LC=327.14'	LC=344.18'	LC=21.17'	LC=391.50'	LC=381.45'	LC=22.66'	LC=21.33'
A=26.28'	A=25.80'	A=227.91'	A=352.66'	A=23.50'	A=195.80'	A=390.88'	A=24.96'	A=25.69'
19	20	21	22	23	24	25	26	27

THE STATE OF TEXAS :
:
COUNTY OF TRAVIS : KNOW ALL MEN BY THESE PRESENTS:

That I, A. D. Stenger, of Travis County, Texas, being the sole owner of South Land Park, Section 1, a subdivision out of the Isaac Decker and Henry P. Hill Leagues, in the City of Austin, Travis County, Texas, according to the map or plat of said subdivision recorded in Book "6", Page 63, Plat Records of Travis County, Texas, hereby impose the following covenants, conditions, and restrictions upon the property located in said subdivision:

1. All of said property shall be used for residence purposes only. Only one single family dwelling unit shall be erected, placed, or permitted to remain on any one of said lots; provided, however, garages, guest houses, and servants' quarters may be erected or constructed in the manner provided by paragraph 4 hereof.

2. No part of any of said property shall ever be used for a business or commercial purpose or for carrying on any trade or profession, except that with the consent of the City of Austin an office may be maintained by the subdivider or his assigns.

3. No house trailer, basement, tent, shack, garage, barn, or other outbuilding shall be placed, erected, or permitted to remain on any lot, nor shall any structure of a temporary character ever be used as a residence.

4. A one-story guest house or servants' quarters or garage of similar design and construction to that of the main dwelling may be built on any lot, provided it is attached to the main dwelling, and provided further that such main dwelling has been substantially completed prior to the erection or construction of such guest house or servants' quarters or garage.

5. All foundations and parts of foundations shall be of concrete, masonry, or steel and metal construction.

6. No building shall be erected or placed on any of said lots, nor shall any existing structure be altered, until the building plans and specifications and a plot plan have been submitted to and approved in writing by A. D. Stenger, or a representative by him designated in writing, or, in the event of the death or incapacity of said A. D. Stenger, then by his personal representative or a representative designated in writing by such personal representative. No fence, wall,

or hedge more than three feet in height shall be erected or placed on any lot in front of the front wall line of any dwelling, and no fence, wall, or hedge in excess of five feet in height shall be erected or placed elsewhere on any lot, unless like approval of the plan therefor is first obtained. If said building plans and specifications and said plot plan, or if said plan for a non-conforming fence, wall, or hedge, be not approved or disapproved within thirty days following the date on which the same are submitted for approval, or if no injunction suit shall have been commenced prior to the completion of the work, then proper approval of the building plans and specifications and of the plot plan or of the plan for a non-conforming fence, wall, or hedge shall be conclusively presumed to have been had and obtained.

7. No structure shall be erected, placed, or permitted to remain upon any of the lots indicated below unless the lot area is equal to or greater than that designated for such lots as follows:

Lot and Block	Required Area
Lots Nos. 1 through 8, inclusive, in Block "A"; Lots Nos. 1 and 2 and Lots Nos. 4 through 8, inclusive, in Block "J".	7500 square feet
Lots Nos. 1 through 14, inclusive, in Block "B"; Lots Nos. 1 through 5, inclusive, Lots Nos. 10 through 17, inclusive, and Lots Nos. 26 through 28, inclusive, in Block "C"; Lots Nos. 1 through 12, inclusive, in Block "F"; Lots Nos. 4 through 7, inclusive, in Block "G"; Lots Nos. 1 through 11, inclusive, in Block "H"; Lots Nos. 1 through 6, inclusive, in Block "I"; and Lot No. 3, in Block "J".	8000 square feet
Lots Nos. 4 through 8, inclusive, in Block "J".	7000 square feet

8. No structure shall be located nearer to the front lot line than as indicated below:

Lot and Block	Minimum Set-Back
Blocks "A", "B", "C", "I", and "J"; Lots Nos. 4 through 6, inclusive, in Block "G"; Lots Nos. 3, 5, 7, and 9, in Block "H"; and Lots Nos. 6 through 12, inclusive, in Block "F".	30 feet

Lots Nos. 1 through 5, inclusive, in Block "F"; Lot No. 7, in Block "G"; Lots Nos. 1, 2, 4, 6, 8, 10, and 11, in Block "H". 25 feet

For the purposes of this covenant, eaves and steps shall not be considered as a part of a building, provided, however, that this exception shall not be construed to permit any portion of a building on any lot to encroach upon any other lot.

9. No building shall be located nearer than 25 feet to any side street line or nearer than 5 feet to any side lot line, and provided that the total set-back from both side lot lines shall in no event be less than 15 feet.

10. No structure located on any lot or lots in Blocks "B", "C", "F", "G", "H", and "I" shall be more than one-story in height. Due to the steep terrain, however, the dwelling may be on two or three different levels, and the carport, garage, or utility room may be located beneath the main portion of the dwelling. Dwellings not to exceed two-stories in height may be erected on Lots Nos. 1 through 8, inclusive, in Block "A", and on Lots Nos. 1 through 8, inclusive, in Block "J".

11. The ground floor area of the main structure, exclusive of garages, carports, open porches, guest houses, and servants' quarters shall not be less than set out below, and the exterior wall surfaces shall be constructed of masonry materials to the extent hereinafter indicated, to wit:

Lot and Block	Minimum Ground Floor Area and Required Masonry Construction
Lots Nos. 1 through 6, inclusive, in Block "A".	1000 square feet
Lots Nos. 1 and 2, in Block "J".	1100 square feet and 10% masonry
Lots Nos. 1 through 4, inclusive, and Lots Nos. 6 through 11, inclusive, in Block "B".	1100 square feet and 15% masonry
Lots Nos. 4 through 6, inclusive, in Block "J".	1200 square feet
Lots Nos. 3 and 4, in Block "F", and	

Lots Nos. 1 through 8, inclusive, in Block "E".	1200 square feet and 10% masonry
Lots Nos. 5 through 7, inclusive, and Lots Nos. 12 through 14, in Block "B"; Lots Nos. 1 through 5, inclusive, and Lots Nos. 13 through 17, inclusive, in Block "C".	1200 square feet and 25% masonry
Lots Nos. 10 through 12, in Block "C".	1200 square feet and 30% masonry
Lot No. 3, in Block "J".	1250 square feet and 20% masonry
Lots Nos. 6 and 7, in Block "G".	1250 square feet and 25% masonry
Lots Nos. 9 through 12, inclusive, in Block "F".	1300 square feet
Lots Nos. 1 through 6, inclusive, in Block "I".	1300 square feet and 10% masonry
Lots Nos. 9 through 11, inclusive, in Block "H".	1300 square feet and 20% masonry
Lots Nos. 1 and 2, in Block "F".	1300 square feet and 25% masonry
Lots Nos. 5 through 8, inclusive, in Block "F".	1400 square feet and 25% masonry
Lots Nos. 4 and 5, in Block "G".	1500 square feet and 50% masonry
Lots Nos. 26 through 28, inclusive, in Block "C".	1550 square feet and 50% masonry

12. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted in or upon any lot. No derrick, or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

13. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.

14. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except

in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

15. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

16. An easement is reserved over and across the rear five feet of each of the above described lots for public utility installation and maintenance.

17. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 25 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

18. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

19. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any of the other provisions, all of which shall remain in full force and effect.

Witness my hand, this 15th day of July, 1952.

A. D. Stelzer

THE STATE OF TEXAS :
:
COUNTY OF TRAVIS :

Before me, the undersigned authority, on this day personally appeared A. D. Stelzer, 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 15th day of July, 1952.

Jack Sparks

Notary Public, Travis County, Texas.

Filed for Record January 5, 1953 at 8:30 AM
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