

ZONING CHANGE REVIEW SHEET

CASE: C14-2018-0126
Pioneer Hill Apartments

DISTRICT: 1

ZONING FROM: LI-CO

TO: MF-4, with conditions

ADDRESS: 1420 Dessau Road

SITE AREA: 29.33 Acres

PROPERTY OWNER:
FC Morse, Jr. Exempt Family Trust, et. al.
(Scott Morse)

AGENT:
Alice Glasco Consulting
(Alice Glasco)

APPLICANT:
JCI Residential, LLC
(Ross Hamilton)

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

STAFF RECOMMENDATION:

Staff supports the Applicant's request for rezoning from LI-CO to MF-4 with conditions, as requested by the Applicant. The condition is that the Applicant comply with conditions outlined in the attached TIA memorandum. The memo will be attached by public restrictive covenant (RC). For a summary of the basis of staff's recommendation, see case manager comments on page 2.

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

April 2, 2019:

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES:

No issues at this time.

CASE MANAGER COMMENTS:

The rezoning tract is located on the east side of Dessau Road, approximately ½ mile north of Rundberg Lane. The property is zoned LI-CO and is undeveloped. Immediately to the south is property zoned I-RR that is developed with nursery/construction sales & services, religious assembly, and undeveloped land uses. Also to the south and southeast are properties that are located in the ETJ. These properties, which access Brown Lane, are a mix of commercial and limited industrial uses. Uses include nursery, administrative offices, limited warehousing and distribution, construction sales and services, and others. East of the rezoning tract is undeveloped property zoned SF-6-CO and TND. North and northeast of the rezoning tract are properties zoned SF-6-CO that are developed with small lot single family residential uses. Also north of the rezoning tract, along Dessau Road are undeveloped properties zoned GR-CO. West of the rezoning tract, across Dessau Road, are single family residences zoned SF-3-NP. *Please see Exhibits A and B—Zoning Map and Aerial Exhibit.*

The proposed rezoning tract was originally zoned from Interim Rural Residential (I-RR) district to Tradition Neighborhood District (TND) zoning district in 2003-2004. The proposed rezoning tract is 29.33 acres out of the original 277.393 acre Pioneer Hill TND project which included a mix of residential, commercial, and industrial land uses. The rezoning tract was Tract 5a which was designated “Workshop Area” and “Employment - LI”. In the years since the TND was approved, the area has been rezoned to change conditions of the TND, and then finally to eliminate the TND zoning for most of the original area. When the subject tract was rezoned from TND in 2011, it changed to LI-CO. The conditional overlay (CO) prohibited many commercial and industrial land uses and established 100’-150’ setbacks from adjacent residential, depending on the commercial land uses. If rezoned, the CO will no longer apply, since all commercial and industrial uses would be prohibited under MF-4. *Please see Exhibit C—Zoning Ordinance.*

A public restrictive covenant (RC) was attached to the property at the time of rezoning in 2011 and is not proposed to be removed. The RC prohibits a public street connection to Brown Lane to the south and requires that a private driveway be constructed by the property owner to access Brown Lane. *Please see Exhibit D—Restrictive Covenant.*

The rezoning tract was included in a Traffic Impact Analysis (TIA) that was approved in 2002 and amended in 2003 and 2011. The Applicant has submitted an updated TIA that has been approved by City staff. Staff recommends that the TIA be attached to the rezoning case if it is granted. *Please see Exhibit E—TIA Memorandum.*

Staff supports the rezoning request with the updated TIA. The Applicant is proposing approximately 600 market rate multifamily units, with a range of 1, 2, and 3-bedroom units. This will provide more housing in the area, as well as increase housing options in addition to the adjacent small-lot residences and the standard single family residences across Dessau Road. The site is also appropriately located for multifamily residential use. The site is adjacent to SF-6-CO property to the north and east, most of which is developed/platted with small lot single family residential land use. The I-RR property to the south is developed with nursery/construction sales & services, religious assembly, and undeveloped land uses. These

are low intensity uses that would not be adversely affected by multifamily development to the north. The area to the southeast of the property is located in the county and is developed with a mix of commercial and light industrial uses. While there are some more intense industrial uses further south on Brown Lane, Austin Fire Department has cleared the site for any possible hazardous materials nearby.

BASIS OF RECOMMENDATION:

1. *The proposed zoning should be consistent with the purpose statement of the district sought.* Multifamily residence moderate - high density (MF-4) district is the designation for multifamily and group residential use with a maximum density of 36 to 54 units per acre, depending on unit size. An MF-4 district designation may be applied to high density housing in a centrally located area near supporting transportation and commercial facilities, in an area adjacent to the central business district or a major institutional or employment center, or in an area for which moderate to high density multifamily use is desired.

2. *The proposed zoning should be consistent with the goals and objectives of the City Council.*

Multifamily zoning will increase residential stock and increase the variety of housing types available in the area, as promoted by the Strategic Housing Blueprint.

3. *Zoning changes should promote a balance of intensities and densities.*

MF-4 zoning in this area provides a transition of intensities and uses from commercial uses to the southeast to the single family residential uses to the north and northeast.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LI-CO	Undeveloped
North	GR-CO, SF-6-CO, MF-3-CO	Undeveloped, Small lot single family residential
South	I-RR, Unzoned (Travis County)	Nursery, Religious assembly, Administrative office, limited warehousing and distribution, construction sales and services
East	SF-6-CO, TND	Undeveloped, Small lot single family residential
West	SF-3-NP	Single family residential

SCHOOLS:

Pioneer Crossing Elementary School
Decker Middle School
Manor High School

TIA: See attached memorandum

WATERSHED: Walnut Creek (Suburban)

NEIGHBORHOOD ORGANIZATIONS:

Homeless Neighborhood Association
 Neighborhood Empowerment Foundation
 North Growth Corridor Alliance
 Windsor Hills Neighborhood Association
 Heritage Hills/ Windsor Hills Neighborhood Plan Contact Team
 Bike Austin
 SELTexas

Austin Neighborhoods Council
 Friends of Austin Neighborhoods
 Harris Branch Master Association, Inc.
 AISD
 Sierra Club

EXISTING STREET CHARACTERISTICS:

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Dessau Rd	125 feet	77 feet	Arterial	Yes	No	N/A
Avers Ln	20 feet	20 feet	Alley	No	No	N/A
Brown Lane	50 feet	20 feet	Collector	No	No	No
Lampton Lane	50 feet	28 feet	Local	No (not yet constructed)	No	No

OTHER STAFF COMMENTS:COMPREHENSIVE PLANNING:

Connectivity. Public sidewalk are located along both sides of Dessau Road. There are no urban trails, bike lanes, or public transit stops located within a half a mile of this site. The Walkscore for this site is 31/100, Car Dependent, meaning almost all errands require a car. When analyzing this particular location, the existing connectivity options in this area appear to be limited.

Imagine Austin. The Imagine Austin Growth Concept Map identifies this project as being located along an Activity Corridor (Dessau Road). Activity Corridors are designated for additional people and jobs above what currently exists on the ground. Corridors are intended to allow people to reside, work, shop, access services, people watch, recreate, and hang out without traveling far distances. They are characterized by a variety of activities and types of buildings located along the roadway — shopping, restaurants and cafés, parks, schools, single-family houses, apartments, public buildings, houses of worship, mixed-use, and offices. The following Imagine Austin policies are applicable to this case:

- ☐ LUT P3. Promote development in compact centers, communities, or along corridors that are connected by roads and transit that are designed to encourage walking and bicycling, and reduce health care, housing and transportation costs.
- ☐ LUT P4. Protect neighborhood character by directing growth to areas of change that includes designated redevelopment areas, corridors and infill sites. Recognize that different neighborhoods have different characteristics and new and infill development should be sensitive to the predominant character of these communities.

□ HN P10. Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to healthy food, schools, retail, employment, community services, and parks and recreation options.

Conclusions. Analyzing the land uses located within a mile of radius of the subject property, there appears to be both benefits and challenges to this location. The area of Austin is currently lacking a variety of goods and services to nearby residents, and connectivity options, including transit stops, bike lanes and urban trails. However, the subject property is located adjacent to an Activity Corridor, where a variety of pedestrian friendly retail and public amenities could eventually develop to provide walkable amenities to nearby residents. Based upon the project: (1) being located along a designated Activity Corridor, which supports residential uses; (2) Imagine Austin policies above that supports a variety of land uses, including apartment complexes, along busy corridors; (3) one public school and a recreation center being located within a mile of this site; (4) public sidewalks being located along Dessau Road, which provides some connectivity; and (5) the multifamily project being just one of several components to a much larger mixed use development, this proposed residential project appears to partially support the policies of Imagine Austin.

ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed and the Colorado River Watershed, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. Zoning district impervious cover limits apply in the Urban Watershed classification. Under current suburban watershed regulations, development or redevelopment on the portion of the site located in the Suburban Watershed classification will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

2. According to floodplain maps there is no floodplain within or adjacent to the project location.

3. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

4. Several trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 512-974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

5. Under current watershed regulations, development or redevelopment requires water quality

control with increased capture volume and control of the 2 year storm on site.

SITE PLAN

SP 1. Site plans will be required for any new development other than single-family or duplex residential.

SP 2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

SP 3. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

SP 4. The site is subject to compatibility standards. Along the northerly property line adjacent to single family residential development and along the westerly property line across Dessau Road from property zoned SF-3-NP, the following standards apply:

- ☐ No structure may be built within 25 feet of the northerly property line.
- ☐ No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the northerly property line or westerly right of way of Dessau Road.
- ☐ No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the northerly property line or westerly right of way of Dessau Road.
- ☐ No parking or driveways are allowed within 25 feet of the northerly property line.
- ☐ A landscape area at least 25 feet wide is required along the northerly property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- ☐ For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property line.
- ☐ For a structure more than 300 feet but less than 54 feet from property zoned SF-5 or more restrictive, height limitation is 60 feet plus one foot for each four feet in excess of 300 feet from the property line.
- ☐ An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining property used for single family residences.

TRANSPORTATION

TR1. The site is subject to the approved TIA with zoning case # C14T-02-0001 and C14T-03-0001. A TIA revision is required for this zoning application and has been reviewed by staff. Additional mitigations may be required if the conditions in the TIA have changed. FYI – the fiscal from the previously approved TIA with C14T-02-0001 and C14T-03-0001 has been paid.

TR2. The Austin Metropolitan Area Transportation Plan calls for 140 feet of right-of-way for Dessau Road. It is recommended that 70 feet of right-of-way from the existing centerline should be dedicated for Dessau Road according to the Transportation Plan prior to 3rd reading of City Council. [LDC 25-6-51 and 25-6-55].

TR3. Additional right-of-way maybe required at the time of subdivision and/or site plan.

TR4. Janae Spence, Urban Trails, Public Works Department, Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

TR5. According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a protected bike lane for all ages and abilities is recommended for Dessau Road. Per Mike Schofield with the Bicycle Program in Austin Transportation Department, the protected bicycle lanes are planned to be installed in 2019 or 2020 in coordination with resurfacing. If any turn lanes are proposed to be installed on Dessau as a part of the TIA, bicycle facilities would need to be pulled behind curb for the length of the turn lane. Coordination may need to occur with the proposed bicycle facility construction and future site plan applications along Dessau Road. Additional right-of-way dedication and bicycle facility construction may be required in accordance with LDC 25-6-55 and LDC 25-6-101 to accommodate the bicycle facilities. Please review the Bicycle Master Plan for more information.

TR6. This site is subject to the Restrictive Covenants recorded with zoning application C14-2011-0049.

a. It appears the required improvements associated with doc. no. 2011186520 have been constructed and installed. Compliance with the RC will be confirmed during the subdivision and site plan applications;

b. Restrictive Covenant doc. no. 2011186521 requires a cul-de-sac turnaround for Brown Lane.

c. Restrictive Covenant doc. no. 2011186521 requires dedicating a 10-foot public access easement with an 8-foot constructed trail from Brown Lane to a public right-of-way within the property. Staff is coordinating with Urban Trails Program and Parks and Recreation Department to determine the location of the required trail. The location and design of the trail shall be finalized with future applications.

d. Per Restrictive Covenant doc. no. 2011186521, no building permit identified in Exhibit C (of the document) shall be issued without the trail connection shown in a site plan that is approved and active. Additionally, no certificate of occupancy shall be issued for the area identified in Exhibit C (of the document) if the Brown Lane access improvements are not completed. It appears building permits and certificate of occupancies have been issued within the area identified in Exhibit C. Future building permits and CO's may be held until the improvements are implemented per the recorded document.

TR7. FYI – staff recommends access to the site be provided through internal streets and right-of-way

instead of from Dessau Road. This will reduce the amount of curb cuts provided on the arterial streets as recommended in the City of Austin's Complete Streets and Vision Zero Policies.

TR8. FYI – the site will be required to comply with residential use block length standards for the

proposed MF-4 zoning at the time of the subdivision application(s). Any approved preliminary plans may be required to be revised prior to approval and recordation of any final plat.

TR9. FYI – the existing sidewalks along Dessau Road do not appear to comply with the Land Development code and do not appear to be ADA compliant based on Google Images. The existing sidewalks shall be reconstructed to City of Austin standards in accordance with the Land Development Code and Transportation Criteria Manual at the time of the site plan application.

TR10. Existing Street Characteristics:

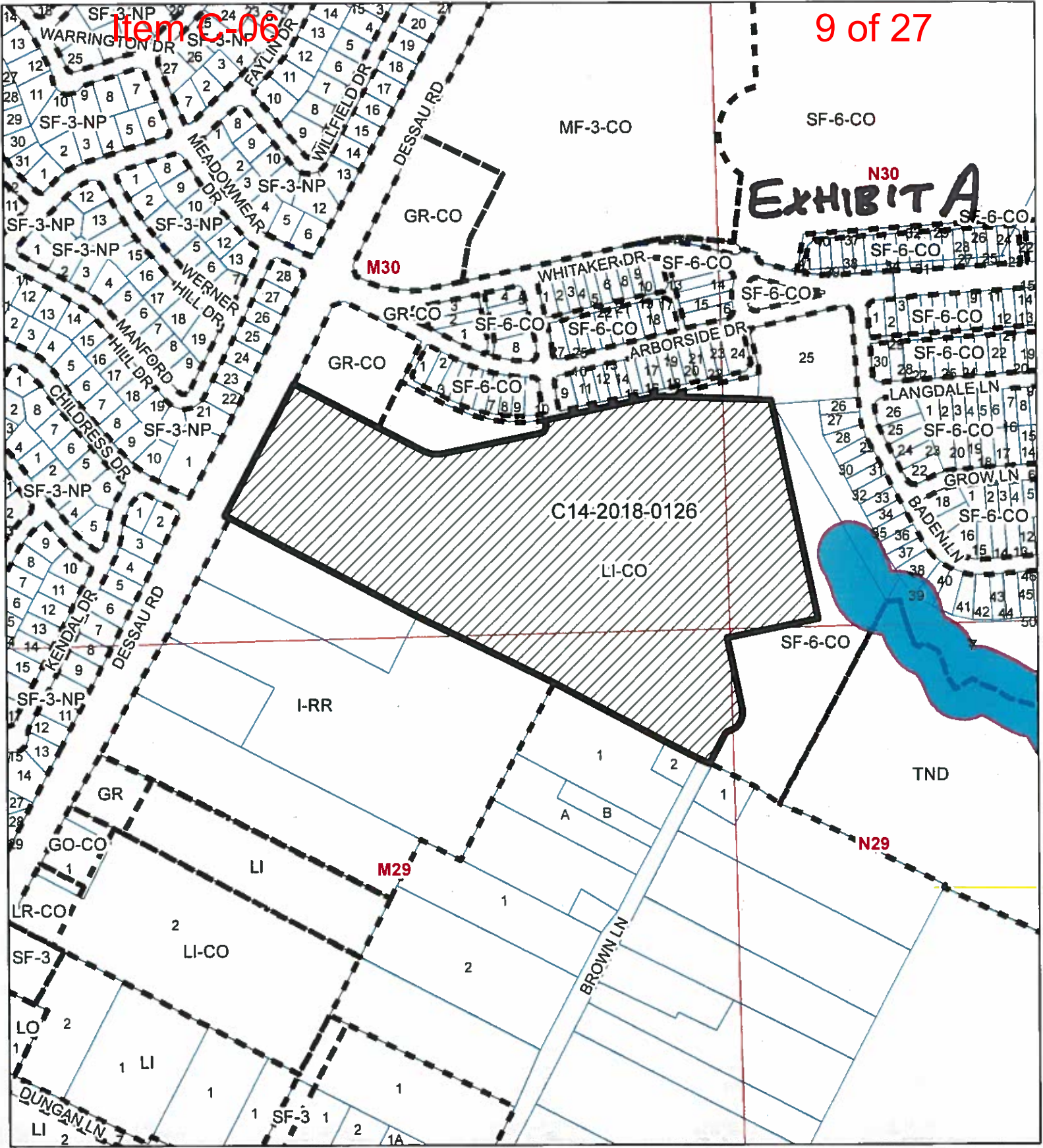
Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
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Brown Lane	50 feet	20 feet	Collector	No	No	No
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WATER UTILITY

WW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Exhibit
- C. Zoning Ordinance
- D. Restrictive Covenant
- E. TIA Memorandum



PIONEER HILL APARTMENTS

ZONING CASE#: C14-2018-0126
LOCATION: 1420 DESSAU RD.
SUBJECT AREA: 29.33 ACRES
GRID: M30
MANAGER: HEATHER CHAFFIN

- N
- SUBJECT TRACT
 - ZONING BOUNDARY
 - PENDING CASE
 - CREEK BUFFER
- 1" = 400'








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ORDINANCE NO. 20111215-075**EXHIBIT C**

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY FORMERLY KNOWN AS PIONEER HILL TND LOCATED AT 9900-10324 DESSAU ROAD FROM TRADITIONAL NEIGHBORHOOD DISTRICT (TND) TO VARIOUS ZONING DISTRICTS ON APPROXIMATELY 269 ACRES OF LAND.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district on the property (the "Property") described in Zoning Case No. C14-2011-0049, on file at the Planning and Development Review Department, as follows:

Tract One: From traditional neighborhood district (TND) to multifamily residence limited density-conditional overlay (MF-1-CO) combining district.

A 16.85 acre tract of land, more or less, out of the James O. Rice Survey No. 31, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance; and,

Tract Two: From traditional neighborhood district (TND) to townhouse and condominium residence-conditional overlay (SF-6-CO) combining district.

A 191.43 acre tract of land, more or less, out of the James O. Rice Survey No. 31, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this ordinance; and,

Tract Three: From traditional neighborhood district (TND) to multifamily residence medium density-conditional overlay (MF-3-CO) combining district.

A 23.83 acre tract of land, more or less, out of the James O. Rice Survey No. 31, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "C" incorporated into this ordinance; and,

Tract Four: From traditional neighborhood district (TND) to community commercial-conditional overlay (GR-CO) combining district.

A 6.20 acre tract of land, more or less, out of the James O. Rice Survey No. 31, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "D" incorporated into this ordinance; and,

Tract Five-A: From traditional neighborhood district (TND) to limited industrial service-conditional overlay (LI-CO) combining district.

A 29.33 acre tract of land, more or less, out of the James O. Rice Survey No. 31, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "E" incorporated into this ordinance; and,

Tract Five-B: From traditional neighborhood district (TND) to limited industrial service-conditional overlay (LI-CO) combining district.

A 1.30 acre tract of land, more or less, out of the James O. Rice Survey No. 31, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "F" incorporated into this ordinance; and,

locally known as 9900-10324 Dessau Road, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "G".

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

- A. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 17,670 trips per day.
- B. The following uses are prohibited uses of Tract One:

Bed & breakfast (Group 1)	Bed & breakfast (Group 2)
Multifamily residential	Urban farm
Communication service facilities	Community events
Public primary educational facilities	Club or lodge
Public secondary educational facilities	College or university facilities
Private primary educational facilities	Cultural services
Private secondary educational facilities	Local utility services
Safety services	

C. The following uses are prohibited uses of Tract Two:

Bed & breakfast (Group 1)	Bed & breakfast (Group 2)
Safety services	Urban farm
Communication service facilities	Community events
Public primary educational facilities	Club or lodge
Public secondary educational facilities	College or university facilities
Private primary educational facilities	Cultural services
Private secondary educational facilities	Local utility services

D. The following uses are prohibited uses of Tract Four:

Automotive sales	Bail bond services
Automotive washing (of any type)	Outdoor entertainment
Plant nursery	Research services
Urban farm	Hospital services (general)

E. The following uses are prohibited uses of Tracts Five-A and Five-B:

Agricultural sales & services	Automotive sales
Automotive repair services	Bail bond services
Automotive washing (of any type)	Campground
Commercial off-street parking	Construction sales & services
Convenience storage	Equipment repair services
Equipment sales	Exterminating services
Drop-off recycling collection facility	Hotel-motel
Indoor entertainment	Kennels
Laundry service	Liquor sales
Monument retail sales	Outdoor entertainment
Printing & publishing	Scrap & salvage
Vehicle storage	Veterinary services
Basic industry	Recycling center
Resource extraction	Club or lodge
Congregate living	Railroad facilities
Maintenance & service facilities	Residential treatment
Transitional housing	Transportation terminal

- F. A 100-foot wide buffer zone shall be established between property developed with a residential use on Tract Two and the following commercial, industrial and civic uses on Tracts Five-A and Five-B:

Research services

Limited warehousing & distribution

Custom manufacturing

The 100-foot wide buffer zone shall be measured from the property line of a property developed with a residential use to a building with a commercial, industrial or civic use.

Improvements permitted within the buffer zone are limited to streets, access easements, driveways, parking facilities, solid fences, pedestrian trails, hike and bike pathways, recreational facilities, detention and water quality re-irrigation facilities, underground utility improvements, overhead electric or communication lines, or those improvements that may be otherwise required by the City of Austin.

A driveway, access easement, or private street that serves a building with a commercial, industrial, or civic use, may not be constructed within 50 feet of the property line of a lot with a residential use.

- G. A 150-foot wide buffer zone shall be established between property developed with a residential use on Tract Two and the following specific industrial uses on Tracts Five-A and Five-B:

General warehousing & distribution

Light manufacturing

The 150-foot wide buffer zone shall be measured from the property line of a property developed with a residential use to a building with the above identified specific industrial uses.

Improvements permitted within the buffer zone are limited to streets, access easements, driveways, parking facilities, solid fences, pedestrian trails, hike and bike pathways, recreational facilities, detention and water quality re-irrigation facilities, underground utility improvements, overhead electric or communication lines, or those improvements that may be otherwise required by the City of Austin.

A driveway, access easement, or private street that serves a building with a commercial, industrial, or civic use, may not be constructed within 50 feet of the property line of a lot with a residential use.

- H. A 25-foot wide vegetative buffer to provide screening shall be established and maintained between property developed with a residential use and any of the commercial or industrial uses identified in Sections F and G. The vegetative buffer may be placed with the 100-foot and 150-foot setback buffers described in Section F and G.

Improvements permitted within this vegetative buffer are limited to hike and bike trails, drainage, underground utility improvements, overhead electric or communication lines, or those improvements that may be otherwise required by the City of Austin.

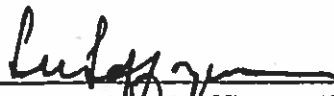
Except as otherwise specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the respective base districts, and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on December 26, 2011.

PASSED AND APPROVED

December 15, 2011

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§
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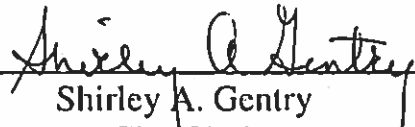
Leo Leffingwell
Mayor

APPROVED:

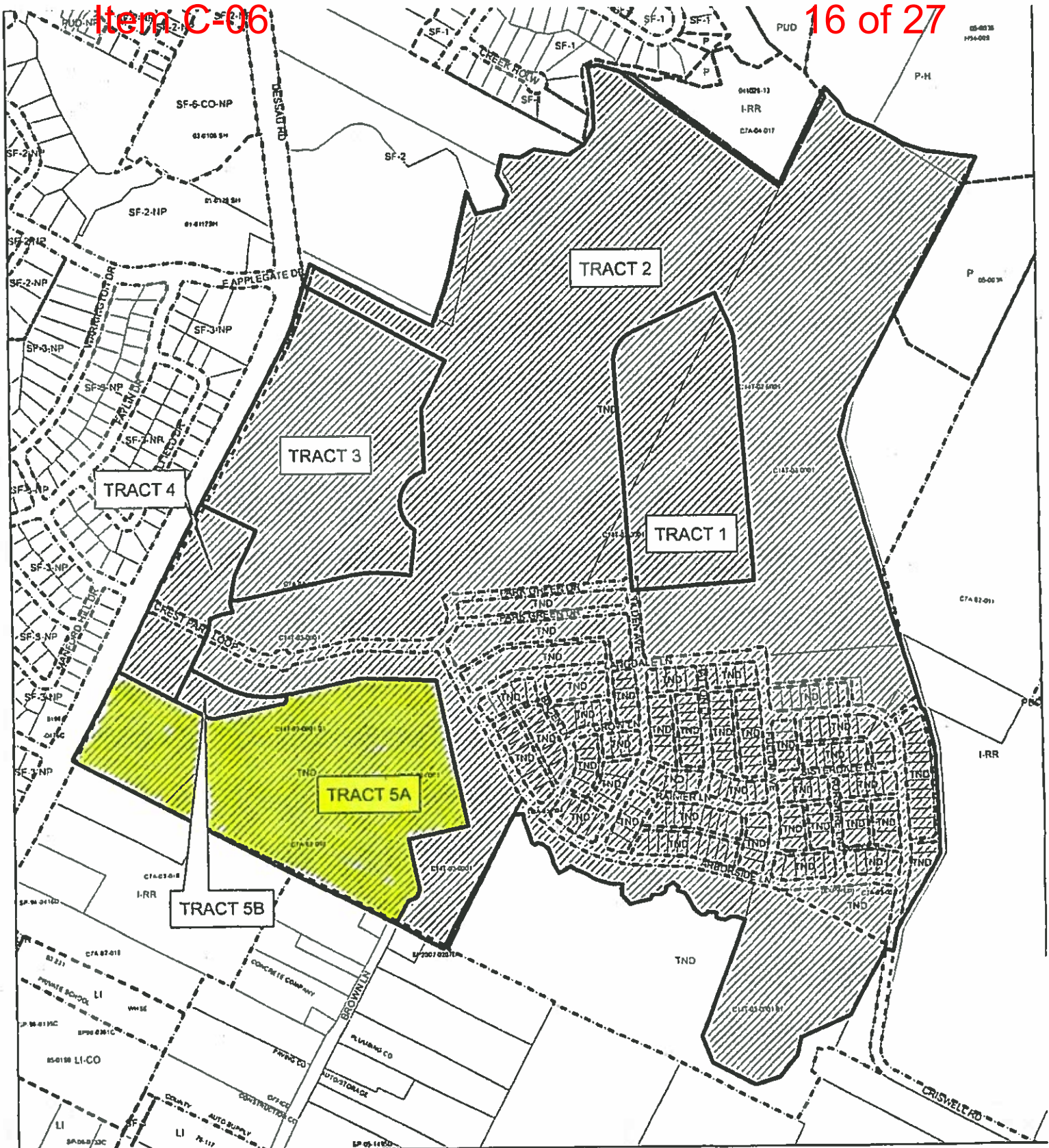


Karen M. Kennard
City Attorney

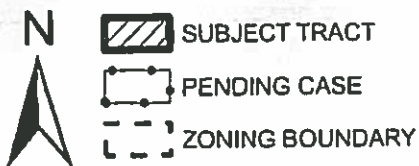
ATTEST:



Shirley A. Gentry
City Clerk



ZONING EXHIBIT G



ZONING CASE#: C14-2011-0049
 LOCATION: 9900-10324 Dessau Road.
 SUBJECT AREA: 268.94 ACRES
 GRID: M29-30 & N29-30
 MANAGER: SHERRI SIRWAITIS



1"=600'

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TRV

2011186521

22 PGS

EXHIBIT D

Zoning Case No. C14-2011-0049

RESTRICTIVE COVENANT

- OWNER: Continental Homes of Texas, LP, a Texas limited partnership, dba D.R. Horton-America's Builder ("Continental Homes")
- ADDRESS: 12554 Riata Vista Circle, 2nd Floor, Austin TX 78727
- OWNER: JPMorgan Chase Bank, N.A., Trustee of the Frederic Clarke Morse, Jr. Exempt Family Trust and Frederic C. Morse, III and Scott Morse, Independent Co-Executors of the Estate of Frederic C. Morse, Sr., (collectively "Morse")
- ADDRESS: c/o Scott Morse, 2630 Exposition Blvd, Ste. 119, Austin Texas 78703 and c/o Cassidy Turley Attn: Kyle Gubernator, 613 NW Loop 410, Ste. 350, San Antonio, Texas 78216
- CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.
- PROPERTY: A 191.43 acre tract of land, more or less, located in Travis County, Texas, being more particularly described by metes and bounds in Exhibit A incorporated into this restrictive covenant ("Continental Homes Property"); and,
- A 29.33 acre tract of land, more or less, located in Travis County, Texas, being more particularly described by metes and bounds in Exhibit B incorporated into this restrictive covenant ("Morse Property").

WHEREAS, the Owners of the Continental Homes Property and the Morse Property and the City of Austin have agreed that the two properties should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owners of the Continental Homes Property and the Morse Property, for the consideration, shall hold, sell and convey the properties, subject to the following covenants and restrictions impressed upon such properties by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, their heirs, successors, and assigns.

1. The developer of the Morse Property shall provide access from the Morse Property to Brown Lane, as follows:
 - a) A cul-de-sac turnaround is required for the Morse Property during the subdivision stage to terminate Brown Lane in accordance with City of Austin standards.
 - b) The Morse Property shall connect to Brown Lane at the cul-de-sac by means of a commercial Type II driveway.
 - c) The developer of the Morse Property is responsible for the design, construction, and delivery of items 1.a and 1.b in accordance with the City of Austin's requirements. A building permit for the portion of the Morse Property that is

platted as a separate lot and is adjacent to the improvements described in item 1.a and 1.b may not be approved, released, or issued, until the improvements described in items 1.a are completed and the items in 1.b are approved with the Consolidated Site Development Permit.

2. The developer of the Continental Homes Property shall:
 - a) Provide a public easement ten feet in width from the Brown Lane cul-de-sac through the Continental Homes Property to a public right-of-way within the Continental Homes Property to provide connectivity for bicycle and pedestrian use to and from Brown Lane (the "Brown Lane Access"). The improvements for the Brown Lane Access shall be a trail eight feet (8') in width and, at Continental's option, may be either a crushed granite trail or hard surface trail.
 - b) The developer of the Continental Homes Property is responsible for the design, construction, and delivery of the Brown Lane Access in accordance with the City of Austin Code of Ordinances. No building permit in the described area of Exhibit C shall be issued without a connection shown in a site plan that is approved and active. No certificate of occupancy on the described area of the Exhibit C shall be granted if the Brown Lane Access improvements described in 2.a are not completed.
 - c) A direct street connection from the Continental Homes Property to Brown Lane is not required.
3. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
4. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
5. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
6. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 19th day of December, 2011.

OWNERS:

**Continental Homes of Texas, L.P., a Texas
limited partnership, dba D.R. Horton-America's
Builder**

By: CHTEX of Texas, Inc.,
(a Delaware corporation)
its general partner

By: 
Richard N. Maier,
Vice President

Estate of Frederic C. Morse, Sr.

By: _____
Fred C. Morse, III,
Independent Co-Executor

By: _____
Scott Morse,
Independent Co-Executor

**JPMorgan Chase Bank, N.A. Trustee of the
Frederic Clarke Morse, Jr. Exempt Family Trust**

By: _____
Matthew A. Thiesen,
Vice President

APPROVED AS TO FORM:


Chad Shaw
Assistant City Attorney
City of Austin


After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-1088
Attention: Diana Minter, Paralegal

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 14th day of December, 2011, by Richard N. Maier, Vice President of CHTEX of Texas, Inc., a Delaware corporation, general partner of Continental Homes of Texas, LP, a Texas limited partnership, dba D.R. Horton-America's Builder, on behalf of the corporation and the limited partnership.





Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2011, by Matthew A. Thiesen, Asset Management, of JPMorgan Chase Bank, N.A., Trustee of the Frederic Clarke Morse, Jr. Exempt Family Trust.

Notary Public, State of Texas

EXECUTED this the 14th day of DECEMBER 2011.

OWNERS:

**Continental Homes of Texas, L.P., a Texas
limited partnership, dba D.R. Horton-America's
Builder**

By: **CHTEX of Texas, Inc.,
(a Delaware corporation)
its general partner**

By: _____
Richard N. Maier,
Vice President

Estate of Frederic C. Morse, Sr.

By: 
Fred C. Morse, III,
Independent Co-Executor

By: 
Scott Morse,
Independent Co-Executor

**JPMorgan Chase Bank, N.A. Trustee of the
Frederic Clarke Morse, Jr. Exempt Family Trust**

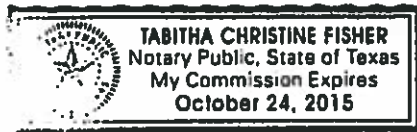
By: _____
Matthew A. Thiesen,
Vice President

APPROVED AS TO FORM:

Chad Shaw
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 14th day of December, 2011, by Fred C. Morse, III, Independent Co-Executor of the Estate of Frederic C. Morse, Sr.





Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 14th day of December, 2011, by Scott. Morse, Independent Co-Executor of the Estate of Frederic C. Morse, Sr.




Notary Public, State of Texas

EXECUTED this the 14 day of December, 2011.

OWNERS:

Continental Homes of Texas, L.P., a Texas limited partnership, dba D.R. Horton-America's Builder

By: **CHTEX of Texas, Inc.,
(a Delaware corporation)
its general partner**

By: _____
Richard N. Maier,
Vice President

Estate of Frederic C. Morse, Sr.

By: _____
Fred C. Morse, III,
Independent Co-Executor

By: _____
Scott Morse,
Independent Co-Executor

**JPMorgan Chase Bank, N.A. Trustee of the
Frederic Clarke Morse, Jr. Exempt Family Trust**

By: Matthew A. Thiesen
Matthew A. Thiesen, Thiesen 
Vice President

APPROVED AS TO FORM:

Chad Shaw
Assistant City Attorney
City of Austin

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-1088
Attention: Diana Minter, Paralegal

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

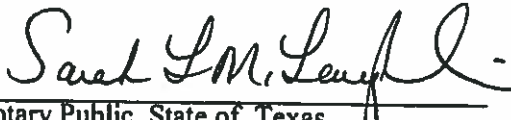
This instrument was acknowledged before me on this the ____ day of _____, 2011, by Richard N. Maier, Vice President of CHTEX of Texas, Inc., a Delaware corporation, general partner of Continental Homes of Texas, LP, a Texas limited partnership, dba D.R. Horton-America's Builder, on behalf of the corporation and the limited partnership.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF ~~TRAVIS~~ §
 Dallas

This instrument was acknowledged before me on this the 14 day of December, 2011, by Matthew A. ~~Theisen~~, Asset Management, of JPMorgan Chase Bank, N.A., Trustee of the Frederic Clarke Morse, Jr. Exempt Family Trust.

 Theisen



Notary Public, State of Texas





EXHIBIT E

MEMORANDUM

Date: March 18, 2019
To: Heather Chaffin, Case Manager
CC: Mohammed S. Ula, P.E., Jones and Carter
 Eric Bollich, P.E., PTOE., Austin Transportation Department
 Upal Barua, P.E., P. Eng., PTOE, Austin Transportation Department
Reference: Pioneer Hill Apartments – TIA Final Memo
 C14-2018-0126

The Austin Transportation Department has reviewed the February 6, 2019 (received February 11, 2019) "Traffic Impact Analysis, Pioneer Hill Apartments, Austin, Texas", prepared by Jones and Carter. The proposal calls for a zoning change to allow for up to 625 DU multifamily housing. The site is located on the southeast corner of Dessau Road and Arborside Drive. Access to the proposed site includes three driveways: one full access driveway on Arborside Drive, one right-in/right-out driveway on Dessau Rd, and one exit only driveway that connects to Brown Lane (restrictive covenant 1b for zoning case number C14-2011-0049). The development is anticipated to be completed by 2022.

The TIA is part of the approved zoning case C14T-02-001 and amendments (C14T-03-0001 and C14-2011-0049).

The following is a summary of review findings and recommendations:

Trip Generation:

Based on the Institute of Transportation Engineers (ITE) Trip Generation Manual (10th Edition), the development will generate approximately 3,404 average daily vehicles trips (ADT) upon build out. The table below shows the trip generation by land uses for the proposed development.

Table 1: Trip Generation						
Proposed Land Use	Size	24-Hour Two Way Volume	AM Peak Hour		PM Peak Hour	
			Enter	Exit	Enter	Exit
Multifamily Housing – Mid Rise	625 DU	3,404	54	153	157	100
Total		3,404	54	153	157	100

Assumptions:

1. Based on TxDOT Traffic Count Database System (TCDC) AADT volume data, a 5% annual growth rate was assumed to account for the increase in background traffic.
2. The following background developments were included in the analysis; Dungan Office Warehouse (SP-2016-0574C), Cameron Crossing I (SP-2016-0507C), RCCG Salvation Center of Austin (SP-2011-0322C), and Sommerfield Commercial Tract (SP-2016-0471D).

Staff Recommendations:

1. The ASMP calls for 140 feet of right-of-way for Dessau Road. 70 feet of right-of-way from the existing centerline should be dedicated for Dessau Road prior to City Council's 3rd reading of this zoning case.
2. The fee in lieu to the amount of **\$268,199** shall be paid to City of Austin prior to City Council's 3rd reading of this zoning case.
3. Based on the TIA and discussions with the applicant, the applicant shall contribute towards the following improvements;

Intersection	Recommendation	Improvement Cost	% Site Traffic	Pro-Rata Cost
Dessau Rd and Arborside Dr.	The installation of a traffic signal	\$324,937	81%	\$263,199
Cameron Rd and E Rundberg Ln.	Update to signal timing	\$5,000	100%	\$5,000
Total			Total	\$268,199

4. Two copies of the final TIA are required to be provided prior to approval of zoning case.
5. Development of this property should not vary from the approved uses or deviate from the approved intensities and estimated traffic generation assumptions within the finalized TIA document, including land uses, trip generation, trip distribution, traffic controls, driveway locations, and other identified conditions. Any change in the assumptions made to the TIA document shall be reviewed by ATD and may require a new or updated TIA/addendum.
6. The assumed driveways in the TIA are subject to review and approval by the Development Services Department and Austin Transportation Department in accordance with LDC and TCM at the time of site plan.

7. The City of Austin reserves the right to allocate the money to any or all of the improvements identified in the TIA.
8. The findings and recommendations of this TIA memorandum remain valid until five (5) years from the date of this memo, after which a revised TIA or addendum may be required.

If you have any questions or require additional information, please contact me at 512-974-7110.

A handwritten signature in black ink that reads "Upal Barua". The signature is written in a cursive style with a large, stylized 'U' and 'B'.

Upal Barua, P.E., P. Eng., PTOE
Austin Transportation Department