

ZONING CHANGE REVIEW SHEETCASE: C14-2019-0081 Dalton LaneDISTRICT: 2ZONING FROM: I-SF-2TO: CS-CO, as amended by applicantADDRESS: 1201 Dalton LaneSITE AREA: 2.25 acresPROPERTY OWNER:Garfield Ranch LLC
(Bert Beveridge II)AGENT:McClean & Howard, LLP
(Jeffery Howard)CASE MANAGER: Kate Clark (512-974-1237, kate.clark@austintexas.gov)STAFF RECOMMENDATION:

Staff recommends General Commercial Services–Conditional Overlay (CS-CO) combining district zoning. The conditional overlay will prohibit a set of uses. *For a summary of the basis of staff's recommendation, see case manager comments on pages 3 and 4.*

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:**July 16, 2019**

Approved staff's recommendation. Vote 7-0 [D. King - 1st, A. Denkler - 2nd; A. Aguirre, N. Barrera-Ramirez, J. Kiolbassa and E. Ray were absent].

CITY COUNCIL ACTION:**August 22, 2019****Scheduled for City Council**ORDINANCE NUMBER:

ISSUES

Originally part of the Richland Estates, Section 1, this property has a private restrictive covenant (RC) on it (see *Exhibit C: Private Restrictive Covenant*). This private RC was enacted prior to the property being annexed into city limits and contained a provision that in the event the lots were annexed by and brought within the city limits, that the mentioned restrictions within the RC would become invalid if the restrictions were in conflict with any valid zoning ordinance.

This property is located within the Airport Overlay Zone Three (AO-3, Section 25-13-45) which permits commercial and industrial uses and prohibits new residential development from occurring.

CASE MANAGER COMMENTS:

The applicant is requesting the zoning change to allow for a professional landscape company office, and maintenance facility/minor storage of materials for the company.

This property is located on the southwest corner of Dalton Lane and Hawkins Lane. It is heavily wooded and approximately 2.25-acres in size. It is about a quarter mile northeast of the SH-71 and US-183 interchange. The property's northwestern boundary abuts Dalton Lane. Directly across this street to the north and west is a large vacant tract zoned Commercial Highway Service-Conditional Overlay (CH-CO) combining district. Northeast of the property across Hawkins Lane are additional tracts zoned Interim-Single Family-Standard Lot (I-SF-2) that are vacant. Further north along Dalton Lane is a commercial plant nursery (Altman Plants). Adjacent to the south of the property are tracts zoned Family Residence (SF-3) containing single-family structures. Adjacent to the property to the southwest is a tract zoned Rural Residential (RR) containing one single-family structure. Further southwest along Dalton Lane is another vacant tract zoned RR, see *Exhibit A: Zoning Map*.

Northeast of the property is Carson Creek. According to floodplain maps there is a floodplain within or adjacent to the project location. Based off the City's GIS system there appears to be a creek buffer along the southern boundary of the project, between this property and the SF-3 tracts.

The applicant has agreed to prohibiting the following the uses:

Residential Uses

Bed and Breakfast (Group 1 and Group 2)

Civic Uses

Hospital Services (General)

Hospital Services (Limited)

Commercial Uses

Automotive Repair Services	Indoor Sports and Recreation
Automotive Sales	Laundry Services
Automotive Washing (of any type)	Medical Offices -- exceeding 5000 sf
Bail Bond Services	gross floor area
Commercial Off-Street Parking	Medical Offices -- not exceeding 5000 sf
Drop-Off Recycling Collection Facility	gross floor area
Electronic Prototype Assembly	Monument Retail Sales
Electronic Testing	Off-Site Accessory Parking
Equipment Repair Services	Pawn Shop Services
Equipment Sales	Service Station
Exterminating Services	Software Development
Financial Services	Theater
Food Preparation	Vehicle Storage
Funeral Services	

Staff has received correspondence in opposition to the rezoning request, see, *Exhibit D: Correspondence Received*.

BASIS OF RECOMMENDATION:

Staff recommends rezoning to General Commercial Services–Conditional Overlay (CS-CO) combining district zoning due to the property’s location near existing commercial uses, its proximity to the SH-71 and US-183 interchange and being within the AO-3 zone.

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The applicant is requesting the rezoning to allow for a professional landscape company office and maintenance facility as well as minor storage of materials for the company. The CS zoning district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments. This property fronts on to Dalton Lane, a collector road with existing CH-CO and LI-CO zoning districts along it. While this property backs to existing SF-3 zoning on its southern boundary, there is a natural buffer between them which would separate development on this tract from the single-family structures. The proposed conditional overlay would prohibit the intense commercial uses that are typically considered incompatible with single family zoning.

2. *Zoning should not constitute a grant of special privilege to an individual owner; Granting of the request should result in an equal treatment of similarly situated properties.*

This property is located within the AO-3 zone that currently restricts new residential and school uses. While the previously recorded plat could potentially allow for residential uses to be built on these lots (a plat was recorded prior to August 20, 2001) it is highly recommended not to do so. The Director of the Planning and Zoning Department, Greg Guernsey, discussed a similar case with Shane Harbinson, the Assistant Director of the Department of Aviation, and agreed that staff shall protect the Airport Overlay Zones. For consistency purposes, staff is supporting the rezoning request from I-SF-2 to CS-CO in order to reduce the number of new residential units being built within this overlay.

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	I-SF-2	Vacant
North	CH-CO	Vacant
South	SF-3 / RR	Single Family Residences
East	I-SF-2	Vacant
West	CH-CO	Vacant

NEIGHBORHOOD PLANNING AREA: N/A

TIA: A TIA is not required.

WATERSHED: Carson Creek

OVERLAYS: Airport Overlay Zone Three (AO-3)

SCHOOLS: Collins Elementary, Dailey Middle School, Del Valle High School

NEIGHBORHOOD ORGANIZATIONS

Neighborhood Empowerment

Foundation

Homeless Neighborhood Association

Imperial Neighborhood Association

Sierra Club, Austin Regional Group

Austin Neighborhoods Council

Del Valle Independent School District

Bike Austin

Friends of Austin Neighborhoods

Del Valle Community Coalition

Seltexas

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2019-0022	GR, LR, SF-3 to MH	Case was withdrawn for being within the AO-3 Zone and not heard at Commission.	Case was withdrawn for being within the AO-3 Zone and not heard at Council.
C14-05-0135	I-RR, CS to CH-CO	Approved CH-CO, with conditions from TIA memo and limiting height to 90 feet. (9-0)	Approved CH-CO (7-0); all three readings

RELATED CASES:

There are no recent related cases to this property.

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Dalton Lane	74'	25'	ASMP Level 2 (Collector)	No	Yes	No
Hawkins Dr	50'	25'	ASMP Level 1 (Local)	No	Yes	No

OTHER STAFF COMMENTS:Comprehensive Planning*Connectivity*

The Walkscore for this area is 9/100, Car Dependent, meaning most errands require a car. There are no bike lanes, public sidewalks, or public transit stops in the area. The mobility and connectivity options in this area are below average.

Imagine Austin

The project is not located by an Activity Center or along an Activity Corridor. The following IACP policies are applicable to this project:

- HN P11. Protect neighborhood character by directing growth to areas of change and ensuring context sensitive infill in such locations as designated redevelopment areas, corridors, and infill sites.
- 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.

Based upon: (1) the comparative scale of the site relative to the other greenhouse/nursery facilities on Dalton Lane; and (2) the two Imagine Austin policies above, which support context sensitive infill, this project appears to support the Imagine Austin Comprehensive Plan.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Carson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

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

According to floodplain maps there is a floodplain within or adjacent to the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Critical Water Quality Zone exists within the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes and wetlands.

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

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

Any new development is subject to Subchapter E: Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted. Additional design regulations will be enforced at the time a site plan is submitted.

The site is subject to compatibility standards due to proximity of SF-3 zoning to the southeast and adjacency of I-SF-2 to the north. The following standards apply:

- No structure may be built within 25 feet of the property line to the southeast.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line to the southeast or to the north.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line to the southeast or to the north
- No parking or driveways are allowed within 25 feet of the property line to the southeast.
- Landscaping or screening is required along the southeast property line in accordance with the screening requirements (LDC 25-2-1006 and ECM 2.9.1.), Parking Design Standards (LDC 25-6-563) and/or Screening Standards (LDC 25.2.1066) 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 zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from property in an SF-5 or more restrictive zoning district.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

Airport Overlay

The site is located within Austin-Bergstrom Overlay (AO-3). No use will be allowed that create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between the airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, taking off, or

maneuvering of aircraft intending to use the Austin-Bergstrom Airport. Height limitations and incompatible uses with each Airport Overlay zone are established in the Airport Overlay Ordinance.

Transportation

Austin Strategic Mobility Plan (ASMP) adopted April 11, 2019, calls for 78 feet of right-of-way for Dalton Lane. Additional right-of-way maybe required at the time of subdivision and/or site plan. A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day (LDC 25-6-113).

Austin Water Utility

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.

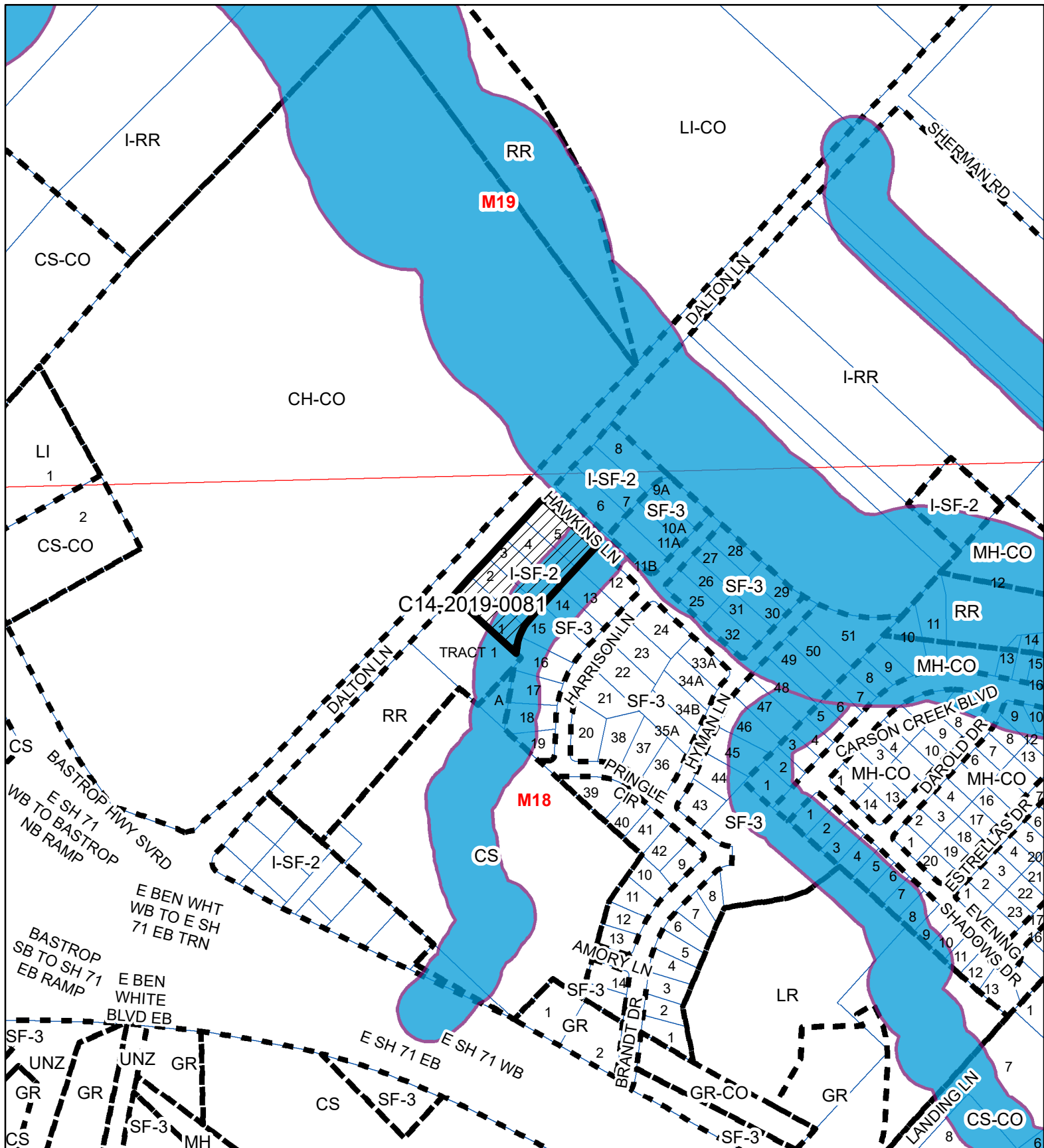
INDEX OF EXHIBITS TO FOLLOW

Exhibit A: Zoning Map

Exhibit B: Aerial Map

Exhibit C: Private Restrictive Covenant





Exhibit D: Correspondence Received



Dalton Lane

Exhibit A



-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

ZONING CASE#: C14-2019-0081
 LOCATION: 1201 Dalton Lane
 SUBJECT AREA: 2.25 ACRES
 GRID: M18
 MANAGER: KATE CLARK



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



N



1" = 400'



SUBJECT TRACT



ZONING BOUNDARY



PENDING CASE



CREEK BUFFER

Dalton Lane

Exhibit B

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THE STATE OF TEXAS
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

VOL 2577 PAGE 281

That RICHLAND PROPERTIES, INC., a Texas Corporation, being the sole owner of Lots Nos. 1 through 51, inclusive, in RICHLAND ESTATES, Section One, a subdivision of a part of the Sims League in the Santiago Del Valle Grant lying partly within and partly outside of the City of Austin, Travis County, Texas, according to the map or plat of said subdivision recorded in Book 17, at Page 44, of the Plat Records of Travis County, Texas, hereby imposes the following covenants, conditions, and restrictions upon all of said lots, to-wit:

1. None of said lots shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any of said lots other than one detached single family dwelling not to exceed two and one-half stories in height and a private garage for not more than two cars.
2. No building shall be erected or placed on any of said lots in RICHLAND ESTATES, Section One, 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 Richland Properties, Inc., or its successor, or a representative designated in writing by Richland Properties, Inc., or its successor. If said building plans and specifications and said plot plan 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 shall be conclusively presumed to have been had and obtained.
3. No dwelling shall be permitted on any of said lots at a cost of less than \$7,000.00 based upon the cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of these covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size; the ground floor area of the main structure,

exclusive of one-story open porches and garages, shall not be less than 900 square feet for a one-story dwelling, nor less than 700 square feet for a dwelling of more than one story.

4. No building shall be located on any of said lots nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event no building shall be located on any of said lots nearer than 30 feet to the front lot line or nearer than 10 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building setback line. No dwelling shall be located on any of the interior lots nearer than 25 feet 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 any other lot.

5. No dwelling shall be erected or placed on any of said lots having a width of less than 55 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 6,000 square feet.

6. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

7. 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.

8. 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.

9. No sign of any kind shall be placed on or 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 of any dwelling erected on said lot by said builder.

10. 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.

11. 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 Richland Properties, Inc., its successors or assigns, may erect and maintain sales offices and exhibit houses upon any of them.

12. No corner lot may be resubdivided or used so as to permit an additional dwelling to face on a side street.

13. 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.

14. 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.

15. 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 the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any of said lots within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

16. No fence, wall, or hedge shall be built or maintained forward of the front wall line of any house erected on any of said lots.

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 twenty-five 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 in Richland Estates, Section One, has been recorded, agreeing to change said covenants, conditions and restrictions, 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. Invalidity of any one of these covenants by judgment or a court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

20. Lots Nos. One through Eight of Richland Estates, Section One, are presently outside of the city limits of the City of Austin; in the event that the said Lots One through Eight are ever annexed by and brought within the city limits of the City of Austin, the above restrictions numbered 1 through 19 shall be invalid as to said Lots One through Eight insofar as said restrictions are in conflict with any valid Zoning Ordinance of the City of Austin having application to said lots or any one or more of them, whether or not said Zoning Ordinance shall have been passed or in effect at the time of such annexation. Any such Zoning Ordinance of the City of Austin having application to any of said lots shall be solely determinative of any question of breach or violation of the above covenants as applied to said lot or lots, and any use or act permitted by such Ordinance shall not be considered or held to be in violation of these covenants as applied to said lots.

EXECUTED this 10 day of December, 1962.

RICHLAND PROPERTIES, INC.

By:

A. B. Beddow
A. B. Beddow, President

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared A. B. BEDDOW, President of RICHLAND PROPERTIES, INC., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of RICHLAND PROPERTIES, INC., a corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.



GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 10th day of December, 1962.

Louise A. O'Connell
Notary Public, Travis County, Texas.

Filed Apr 17 1963 at 4:20 P M.
Recorded Apr 19 1963 at 2:40 P M.

THE STATE OF TEXAS

County of Travis

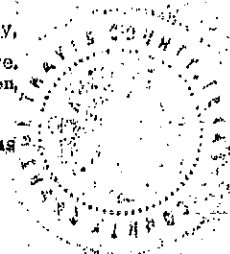
I MISS EMILIE LIMBERG, Clerk of the County Court

within and for the County and State aforesaid, do hereby certify that the within and foregoing Instrument of Writing, with its Exhibits of Acknowledgment, was filed for record in my office on the 17 day of Apr A.D. 1963 at 4:20 o'clock P M., and duly recorded on the 19 day of Apr A.D. 1963 at 2:40 o'clock P M., in the DEED Records of said County, in Book No. 2577 Pages 281 to 285 inclusive.

WITNESS MY HAND and seal of the said County Court of said County, the date last above written.

By E. Lindgren Deputy.

MISS EMILIE LIMBERG
Clerk County Court, Travis County, Texas



PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:
www.austintexas.gov/planning.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2019-0081

Contact: Kate Clark, 512-974-1237

Public Hearings: July 16, 2019, Zoning and Platting Commission;

August 22, 2019, City Council

James C. Jensen
Your Name (please print)

501 Jet Lane Austin
Your address(es) affected by this application

Jenna Jensen
Signature

Daytime Telephone: *512.567.4614*

Date

Comments: *Property will be on top of*

Austin City Sewage Tunnel from
Mid Austin City to Onion Creek
City Sewage Plant and also is in the

Hazards Loss Corridor for
Runway 35417 left of Beggs Creek
Inter Airport.

Drainages of city do not care

If you use this form to comment, it may be returned to:

City of Austin

Planning & Zoning Department

Kate Clark

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ I am not in favor

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Contact: Kate Clark, 512-974-1237

Public Hearings: July 16, 2019, Zoning and Planning Commission;

August 22, 2019, City Council

James Gordon Jensen

Your Name (please print)

1356 Hyman Lane

Your address(es) affected by this application

James Gordon Jensen

Signature

Date

Daytime Telephone: 512 547 4614

Comments:

Property is in Hazardous Waste
Contour for Runways 35+17

Bergstrom Regional Airport
Also part of Austin Sewerage
Tunnel from Mid City to Onion Creek
Dumb Ideas

If you use this form to comment, it may be returned to:

City of Austin

Planning & Zoning Department

Kate Clark

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor
☒ I object