

ZONING CHANGE REVIEW SHEET

CASE: C14-84-022(RCA) - Riata Restrictive Covenant Amendment DISTRICT: 6

ADDRESS: 5636 1/2, 5621 1/2, 5705, 5729 1/2 Diehl Trail

OWNER/APPLICANT: DK Riata LLC (Kathryn Jorgensen)

AGENT: Land Use Solutions (Michele Haussmann)

ZONING: MF-4-CO

AREA: 17.078 acres

REQUEST:

The applicant is requesting an amendment to this restrictive covenant to remove the thirty (30) units per acre maximum.

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends the proposed amendment to the public restrictive covenant.

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

November 19, 2024: Approved staff's recommendation to grant the restrictive covenant amendment (9-0, A. Flores and L. Stern-absent); R. Puzychi-1st, F. De Portu-2nd.

CITY COUNCIL ACTION:

January 30, 2025: Granted staff postponement request to February 27, 2025 by consent (11-0); N. Harper-Madison-1st, P. Ellis-2nd.

February 27, 2025: Postponed to April 10, 2025 at the staff request by consent (11-0).

April 10, 2025: Postponed to April 24, 2025 at the applicant's request by consent (11-0); Z Qadri-1st, N. Harper-Madison-2nd.

April 24, 2025: Postponed to May 22, 2025 at the applicant's request by consent (11-0).

May 22, 2025: Postponed to July 24, 2025 at the applicant's request by consent (11-0): Z. Qadri-1st, R. Alter-2nd.

July 24, 2025

ORDINANCE NUMBER:

DEPARTMENT COMMENTS:

In this case, the applicant is requesting to amend a public restrictive covenant that was recorded in 1984 in association with zoning case C14-84-022. The applicant is asking to amend to this restrictive covenant that applies to Tract 7 to remove the thirty (30) units per acre maximum since it is higher than the existing eighteen (18) units per acre maximum stipulated by the conditional overlay in zoning Ordinance No. 20080131-101 for this property (*please see Applicant's Request Letter - Exhibit C and Original Restrictive Covenant – Exhibit D*).

The staff recommends the applicant's request to amend the conditions of this public restrictive covenant because the property in question is currently developed with a 307-unit multifamily project, which has a density of eighteen (18) units per acre. As the units per acre limit is more restrictive in the current zoning ordinance, Ordinance No. 20080131-101, there is no need to maintain the less restrictive condition in the public restrictive covenant from 1984.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	MF-4-CO	Multifamily
<i>North</i>	SF-2	Single-Family Residential
<i>South</i>	GO-CO, MF-3	Office/Warehouse, Multifamily (Riata Apartments)
<i>East</i>	GO-CO, LI	Office/Warehouse (Highflex), Undeveloped
<i>West</i>	SF-2	Single-Family Residential

AREA STUDY: Golden Triangle Area Study

WATERSHED: Walnut Creek

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2007-0211 (Clear Water: 5701-5725 Diehl Trail)	GO-MU-CO to MF-4	12/18/07: Approved the staff recommendation of MF-4-CO zoning with following proposed CO: 1) Development on the site shall be limited to less than to less than 2,260 trips per day. 2) There shall be a 25-foot vegetative buffer (within the required compatibility setback)	01/10/2008: Approved MF-4-CO zoning by consent, with the following amendment to allow additional trees to be planted in the vegetative buffer and the necessary improvements to allow trees to be planted (7-0); 1 st reading.

		<p>along the property line adjacent to the existing SF-2 zoning /single family residential uses to the north, west and east.</p> <p>3) Residential development on the property shall be limited to 18 units per acre. Adding conditions agreed upon by the applicant and the adjacent single-family residents (7-0, J. Martinez-off dais)</p>	<p>01/31/2008: Approved MF-4-CO zoning by consent, prohibiting structures within a limited area as the neighborhood had requested (7-0); 2nd/3rd readings.</p>
C14-06-0131	GO-CO to GO-MU	<p>7/18/06: Approved the staff's recommendation of GR-MU-CO zoning by consent (6-0, B. Baker, J. Gohil, J. Martinez-absent); M. Hawthorne-1st, C. Hammond-2nd. The conditional overlay will impose the following conditions on the site:</p> <p>1) The property shall be restricted to 'LO' district development standards and regulations, with the exception of height limitations. 2) Development on the site shall be limited to less than to less than 2,260 trips per day. 3) There shall be a 25-foot vegetative buffer (within the required compatibility setback) along the property line adjacent to the existing SF-2 zoning/ single family residential uses to the north, west and east.</p> <p>4) Residential development on the property shall be limited to 18 units per acre.</p> <p>In addition, the applicant agreed to post fiscal for improvements at the intersection of Riata Vista West and Parmer Lane, Riata Vista East and Parmer Lane, and Delcour Drive and Parmer Lane in association with zoning case C14-00-2188.</p>	<p>8/10/06: Approved GO-MU-CO zoning with building coverage increased to 60% and impervious coverage increased to 80%(7-0); all 3 readings</p>
C14-01-0174	I-RR to LI-PDA	<p>1/08/02: Approved staff's recommendation of LI-PDA by consent (9-0)</p>	<p>2/07/02: Approved LI-PDA on all 3 readings (6-0, Goodman-absent)</p>
C14-01-0145	IP to P	<p>11/13/01: Approved staff's recommendation of P zoning by consent. (8-0, J. Martinez-</p>	<p>12/13/01: Approved P on all 3 readings (7-0)</p>

		absent)	
C14-00-2188	MF-3 to GO	12/05/00: Approved staff's rec. of GO-CO w/ conditions (8-0): 40 foot height limit, 100 foot building setback from any single-family residential property, 'LO' development standards and regulations, and a 2,260 vehicle trip limit per day.	1/18/01: Approved PC rec. of GO-CO (6-0); all 3 readings
C14-98-0130	I-RR to LI-PDA I-RR to GR-MU	Approved initiation of rezoning from I-RR to GR-MU, LO-MU and IP (5-0-1, DS-abstain) Approved LI-PDA & GR-MU by consent (8-0-1)	Approved PC recommendation of LI-PDA (TR1&3), GR-MU (TR 2A/2B) with conditions (6-0); all 3 readings
C14-96-0001	GR-CO to GR-MU	Approved alternate recommendation of GR-CO-MU (5-1)	Approved PC recommendation of GR-MU-CO w/ conditions (6-0), all 3 readings
C14-84-0022	Restrictive Covenant Amendment	Approved RCA with neighborhood and applicant agreement (6-0)	Approved RCA with conditions (5-0, WL/JG-absent)

RELATED CASES:

C14-2007-0211, C14-06-0131, C14-00-2188 - Previous Rezoning Cases

OTHER STAFF COMMENTS:

Comprehensive Planning

The initiation, termination or amending of a Restrictive Covenant is not under the purview of the policies of the Imagine Austin Comprehensive Plan and therefore an Imagine Austin compliance report has not been provided for this case.

Environmental

No comments.

Fire

No comments.

Parks and Recreation

Parkland dedication fees may apply to any future site or subdivision applications resulting from this rezoning.

Site Plan

Site plan comments will be provided at time of site plan submittal.

Transportation

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Diehl Trail	Level 1	58'	78'	42'	Yes	No	No
Riata Vista Cir.	Level 3	116'	90'	61'	Yes	No	No

Water Utility

No review required.

INDEX OF EXHIBITS TO FOLLOW

A: Case Map

B. Applicant's Request Letter and Public Restrictive Covenant Document

Michele Haussmann
PRINCIPAL
Michele@LandUseSolutionsTX.com

July 25, 2024

Ms. Joi Harden, Zoning Officer
Planning Department
City of Austin
VIA Electronic Mail Joi.Harden@AustinTexas.gov

Re: Restrictive Covenant Amendment – Approximately 17.078-acre tract located at 5701 Diehl Trail in the City of Austin (“City”), Travis County, Texas (“Property”)

Dear Ms. Harden:

As representatives of the owner of the above-stated Property, DK RIATA LLC (“Applicant”), we respectfully submit the enclosed Restrictive Covenant Amendment Application and submittal package. The Property is subject to the City Public Restrictive Covenant recorded in Volume 9775, Page 543 of the Travis County Real Property Records (“City Restrictive Covenant”), which restricts residential development to a maximum of thirty (30) units per acre. A copy is enclosed for your review. The Property is currently developed as a 307 unit multifamily project, which has a density of eighteen (18) units per acre. Since the existing multifamily project is eighteen (18) units per acre, which is less than the thirty (30) units per acre maximum in the City Restrictive Covenant, we respectfully request an amendment to delete the thirty units (30) per acre maximum.

The City Restrictive Covenant was part of a rezoning request in 1984, City File Number C14-84-022. At that time, the City Code did not have a provision that allowed the inclusion of a Conditional Overlay (“CO”) in a zoning Ordinance to restrict certain site development regulations, such as, maximum density. Since CO’s were not an option, the City required public Restrictive Covenants.

Subsequent to the recordation of the City Restrictive Covenant in 1984, in 2008 the Property was rezoned as MF-4-CO, Ordinance No, 20080131-101 (“Zoning Ordinance.”) A copy is enclosed for your review. The Zoning Ordinance includes a CO that restricts the maximum density to eighteen (18) units per acre. The Applicant is requesting an amendment to the City Restrictive Covenant to remove the thirty (30) units per acre maximum since it is higher than the existing eighteen (18) units per acre maximum in the CO in the Zoning Ordinance and as the Property is developed today.

Please let me know if you have any questions or need additional information. Thank you for your time and assistance with this request and I look forward to working with you and your team.

Respectfully,



Michele Haussmann

CC: Sherri Sirwaitis, Planning Department, *via electronic mail*
Wendy Rhoades, Development Services Department, *via electronic mail*
Kathryn Jorgensen, DK RIATA LLC, *via electronic mail*

Enclosures

700
04 -09-0162

Zoning Case #C 14-84-022
Tract 7
RESTRICTIVE COVENANT

2000 251528 7.00 RTEA
2 07/08/86

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

WHEREAS, Milwood Joint Venture II, a Texas Joint Venture composed of Bill Milburn, Inc. and Palmar Associates, Limited, is the owner of the following described property, to-wit:

Milwood, Section 19, a subdivision in Travis County, as recorded in Book 85, Pages 55A and 55B, Plat Records, of Travis County, Texas.

WHEREAS, the City of Austin and Owner have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Owner, for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on it, it's successors and assigns, as follows, to-wit:

1. Development on this property shall be limited to a maximum of thirty (30) units per acre.
2. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.
3. If any part or provision of this agreement of covenant herein contained shall be declared invalid, by judgment or court order, the same shall in nowise affect any of the other provisions of this agreement and such remaining portion of this agreement shall remain in full force and effect.
4. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.
5. This agreement may be modified, amended or terminated only by joint action by both (a) a majority of the members of the City Council of the City

REAL PROPERTY RECORDS
Travis County, Texas

09775 0543

of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the Owner of the above described property at the time of such modification, amendment or termination.

EXECUTED, this the 4th day of November, 1985.

MILWOOD JOINT VENTURE II
By: Bill Milburn, Inc., Joint Venturer

Bill Milburn
Bill Milburn, President

By: Palmar Associates, Limited, a Texas Partnership

A.H. Robinson III
A.H. Robinson, III, General Partner

John Oscar Robinson
John Oscar Robinson, General Partner

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Bill Milburn, 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 and in the capacity therein stated.

NOTARY SEAL



Tina F. Harris
Notary Public in and for the State of Texas

Tina F. Harris
Printed/typed name

My commission expires: 7-16-89

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared A.H. Robinson, III, 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 and in the capacity therein stated.

NOTARY SEAL



Melissa K. Miller
Notary Public in and for the State of Texas

MELISSA K. MILLER
Printed/typed name

My commission expires: 5-9-89

09775 0544

THE STATE OF TEXAS
COUNTY OF TRAVIS

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BEFORE ME, the undersigned authority, on this day personally appeared John Oscar Robinson, 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 and in the capacity therein stated.

NOTARY SEAL



Melissa K. Miller
Notary Public in and for the State of Texas

MELISSA K. MILLER

Printed/typed name

My commission expires: 5-9-89

FILED
JUL 8 4 15 PM '86
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped herein above, and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas as

JUL 8 1986



San Antonio
COUNTY CLERK
TRAVIS COUNTY, TEXAS

*Return to:
City of Austin
Duffy Law
July 1986*

09775 0545

3

ORDINANCE NO. 20080131-101

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 5701-5725 DIEHL TRAIL FROM GENERAL OFFICE-MIXED USE-CONDITIONAL OVERLAY (GO-MU-CO) COMBINING DISTRICT TO MULTIFAMILY RESIDENCE MODERATE HIGH DENSITY-CONDITIONAL OVERLAY (MF-4-CO) COMBINING DISTRICT.

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 from general office-mixed use-conditional overlay (GO-MU-CO) combining district to multifamily residence moderate high density-conditional overlay (MF-4-CO) combining district on the property described in Zoning Case No. C14-2007-0211, on file at the Neighborhood Planning and Zoning Department, as follows:

Lots 1 and 2, Milwood Section 19 Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 85, Pages 55A-55B of the Plat Records of Travis County, Texas (the "Property"),

locally known as 5701-5725 Diehl Trail, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

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

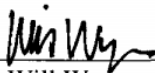
- A. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,260 trips per day.
- B. The maximum density on the Property is 18 dwelling units per acre.
- C. A 25-foot wide vegetative buffer shall be provided and maintained along the property lines that run adjacent to the existing single family residential uses to the north, west, and east of the Property. Improvements permitted within the buffer zone are limited to fencing, drainage, underground utility improvements or those improvements that may be otherwise required by the City of Austin or specifically authorized in this ordinance.


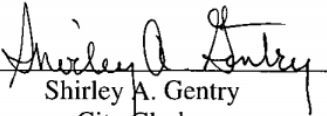
- D. Trees provided and maintained for screening within the vegetative buffer shall have a minimum height of 12 feet and shall be planted along the north, west, and east property lines, adjacent to a seven foot high solid fence to be provided and maintained along the same property lines.
- E. No building coverage is allowed within the portion of the Property identified as a 0.062 acre tract of land more particularly described by metes and bounds on the attached Exhibit "B".

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the multifamily residence moderate high density (MF-4) base district, and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on February 11, 2008.

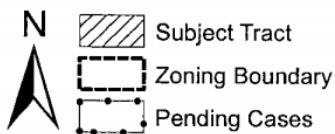
PASSED AND APPROVED

_____, January 31, 2008 §
 §
 § 
 Will Wynn
 Mayor

APPROVED:  **ATTEST:** 
 David Allan Smith Shirley A. Gentry
 City Attorney City Clerk



ZONING EXHIBIT A



ZONING CASE#: C14-2007-0211
ADDRESS: 5701-5725 DIEHL TRL
SUBJECT AREA: 17.078 ACRES
GRID: J36
MANAGER: S. SIRWATIS



1" = 400' OPERATOR: S. MEEKS

This map has been produced by GIS Services for the sole purpose of geographic reference.
No warranty is made by the City of Austin regarding specific accuracy or completeness.

0.062 ACRE
LEGACY PARTNERS RESIDENTIAL
DEVELOPMENT, INC.

EXHIBIT B

FN NO. 08-065(KWA)
JANUARY 30, 2008
BPI JOB NO. 1644-02

DESCRIPTION

OF 0.062 ACRE OF LAND OUT OF LAND SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 1, MILWOOD SECTION 19, A SUBDIVISION OF RECORD IN VOLUME 85, PAGES 55A AND 55B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.062 ACRE OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

COMMENCING at a 60D nail found at the common northerly corner of Lot 1 and Lot 2 of said Millwood Section 19, being in the southerly line of Lot 24, Millwood Section 16, a subdivision of record in Book 83, Pages 192D and 193A of said Plat Records;

THENCE, N68°26'20"E, leaving the southerly line of said Lot 24, over and across said Lot 1, a distance of 122.65 feet to the **POINT OF BEGINNING** and the most westerly corner hereof;

THENCE, continuing over and across said Lot 1, along the westerly, northerly, easterly and southerly lines hereof, the following five (5) courses and distances:

- 1) N56°51'16"E, a distance of 80.13 feet to the most northerly corner hereof, from which a 1/2 inch iron rod found at an angle point in the northerly line of said Lot 1 and the southerly line of Lot 29 of said Millwood Section 16 bears N29°49'49"E, a distance of 55.79 feet;
- 2) S33°18'58"E, a distance of 72.22 feet to the most easterly corner hereof;
- 3) S84°37'39"W, a distance of 25.25 feet to a point of curvature of a curve to the right;
- 4) Along said curve to the right having a radius of 24.63 feet, a central angle of 53°05'45", an arc length of 22.83 feet, and a chord which bears N68°40'08"W, a distance of 22.02 feet to the point of reverse curvature of a curve to the left;
- 5) Along said reverse curve to the left having a radius of 50.50 feet, a central angle of 75°51'06", an arc length of 66.86 feet, and a chord which bears N79°53'29"W, a distance of 62.08 feet to the **POINT OF BEGINNING**, containing an area of 0.062 acre (2,682 sq. ft.) of land, more or less, within these metes and bounds.

BURY & PARTNERS, INC.
ENGINEERING SOLUTIONS
221 WEST SIXTH STREET, SUITE 600
AUSTIN, TEXAS 78701

Mark J. Jezisek
MARK J. JEZISEK
R.P.L.S. NO. 5267
STATE OF TEXAS



