

**ZONING CHANGE REVIEW SHEET**

CASE: C14-2021-0103 (Marielle 2)

DISTRICT: 6

ZONING FROM: I-RR

TO: MF-2

ADDRESS: 8600 Black Oak Street

SITE AREA: 3.0 acres

PROPERTY OWNER: The Warren Edward Kodowsky 1997 Trust

AGENT: Mathias Company (Richard Mathias)

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

STAFF RECOMMENDATION:

**Staff recommends MF-2-CO, Multifamily Residence-Low Density-Conditional Overlay District, zoning. The conditional overlay will prohibit access to Black Oak Street unless the property is utilized for a single-family residential use.**

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

**April 5, 2022**

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is a 3-acre lot that is developed with a single-family residence that takes access to a cul-de-sac on Black Oak Street. The tract of land to the north and east consists of undeveloped area zoned MF-2 that fronts onto Morris Road. To the south, there is a religious assembly use (Austin Vineyard Church), with associated parking zoned LO-MU. The lots to the west are developed with single family/duplex residential uses (I-SF-2). The applicant is requesting MF-2 zoning to combine this lot with the neighboring 4.91 acre MF-2 zoned parcel to the north and east to develop a condominium project/multifamily use.

The staff recommends MF-2-CO, Multifamily Residence-Low Density-Conditional Overlay District, zoning. The proposed conditional overlay will prohibit access to Black Oak Street, unless this property is used to access a single-family residential use. The proposed MF-2-CO zoning is consistent with the MF-2 zoning to the north and east. The property in question will be combined with the adjacent to 4.91 acre MF-2 zoned property and will access Morris Road a Level 1, residential street. MF-2-CO zoning will permit the applicant to develop additional housing in this area.

The applicant agrees with the staff's recommendation.

BASIS OF RECOMMENDATION:

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

Multifamily Residence (Low Density) district is intended to accommodate multifamily use with a maximum density of up to 23 units per acre, depending on unit size. This district is appropriate for multifamily residential areas located near single-family neighborhoods, and in selected areas where low density multifamily use is desirable.

- 2. The proposed zoning should promote consistency and orderly planning.*

The proposed MF-2-CO zoning is consistent with the MF-2 zoning to the east that was approved by the City Council last year in case C14-2020-0111 (Vineyard Christian Fellowship of Austin, Texas, Inc.: 13208 Morris Road).

- 3. The proposed zoning should allow for a reasonable use of the property.*

The proposed zoning would allow for a fair and reasonable use of the site as it will permit the applicant to combine this property with the tract of land to the east develop new residential units with access to Morris Road, directly to the south of a supporting civic use, Recreation (Town & Country Sports - Miracle Field).

The proposed MF-2-CO zoning will provide for additional housing opportunities in this area of the city near a major arterial roadway, Anderson Mill Road.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	I-RR	Single Family Residence
<i>North</i>	MF-2, I-RR	Undeveloped Area, Outdoor Sports and Recreation (Town & Country Sports - Miracle Field)
<i>East</i>	MF-2	Undeveloped
<i>South</i>	LO-MU, GR-CO	Religious Assembly (Austin Vineyard Church), Commercial Retail Center (Dakota Plaza: MaxiM, Aim & Focus Karate, Anderson Day Spa, Esquire Liquor, Central Donut, Best Cuts, Jing Massage, Anytime Fitness)
<i>West</i>	I-SF-2	Single Family/Duplex Residences

NEIGHBORHOOD PLANNING AREA: N/A

TIA: Deferred to the time of Site Plan

WATERSHED: Lake Creek

SCHOOLS: Round Rock I.S.D.

Live Oak Elementary School  
 Deerpark Middle School  
 McNeil High School

NEIGHBORHOOD ORGANIZATIONS:

Friends of Austin Neighborhoods  
 Homeless Neighborhood Association  
 Neighborhood Association of Southwest Williamson County  
 Neighborhood Empowerment Foundation  
 SELTEXAS  
 Sierra Club, Austin Regional Group

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2020-0111 (Vineyard Christian Fellowship of Austin, Texas, Inc.: 13208 Morris Road)	I-RR to Tract 1: MF-2 and Tract 2: GR	12/15/20: Approved staff's recommendation of MF-2 zoning for Tract 1 and LO-MU zoning for Tract 2 by consent (10-0, A. Denkler-absent); H. Smith-1st, N. Barrera-Ramirez-2nd.	2/04/21: The public hearing was conducted and a motion to close the public hearing and approve multifamily residence-low density (MF-2) district zoning for Tract 1 and limited office-mixed use

			combining (LO-MU) district zoning for Tract 2 was approved on Mayor Adler's motion, Council Member Renteria's second on a 10-1 vote. Council Member Kelly voted nay.
C14-2019-0124 (Ramendu Complex at Lyndon Lane: 12303 Morris Road)	I-RR to SF-6	11/05/19: Motion made to approve SF-6-CO zoning, with a maximum of 12 residential units, B. Evans-1st, A. Tatkow-2nd.  Substitute motion made to approve SF-6-CO zoning, with a maximum of 11 residential units (8-1, D. King-No); A. Denkler-1st, J. Kiolbassa-2nd.	2/06/20: Approved SF-6 zoning on 1st reading only, with direction to work on tree mitigation (7-0, L. Pool and A. Alter-abstain; K. Tovo and G. Casar-off the dais); J. Flannigan-1st, P. Renteria-2nd.
C14-2015-0110 (Dakota Plaza: 8516 Anderson Mill Road)	I-RR to GR	9/15/15: Approved staff's recommendation of GR-CO district zoning, with a CO to limit development on the site to less than 2,000 vehicle trips per day, to allow for Personal Improvement Services as the only permitted GR district use, to allow for all other LR district permitted uses and will limit the site to LR district site development standards and with a clarification that no additional ROW is required at this time, on consent (11-0); T. Weber-1 <sup>st</sup> , L. Brinsmade-2 <sup>nd</sup> .	11/12/15: Approved GR-CO zoning on consent on all 3 readings (11-0); D. Zimmerman-1 <sup>st</sup> , S. Gallo-2 <sup>nd</sup> .

C14-2014-0107 (Fredrickson 1.5: 8410 Anderson Mill Road)	I-RR to W/LO	8/05/14: Approved staff recommendation of W/LO-CO zoning with ROW condition by consent (5-0, C. Banks and R. McDaniel-absent); P. Seeger-1 <sup>st</sup> , S. Compton-2 <sup>nd</sup> .	8/28/14: Approved W/LO-CO zoning, with conditions, on consent on first reading (7-0); B. Spelman-1 <sup>st</sup> , L. Morrison-2 <sup>nd</sup> .  9/25/14: Approved W/LO-CO zoning, with conditions, on consent on 2 <sup>nd</sup> /3 <sup>rd</sup> readings (7-0); B. Spelman-1 <sup>st</sup> , L. Morrison-2 <sup>nd</sup> .
C14-2011-0073 (Villages at Turtle Rock: 12800 Turtle Rock Road)	I-RR to MF-3	8/16/11: Approved staff's recommendation of MF-3-CO zoning, with CO to limit development on the site to less than 2,000 vehicle trips per day, by consent (6-0, G. Rojas-absent); D. Tiemann-1 <sup>st</sup> , G. Bourgeios-2 <sup>nd</sup> .	9/22/11: Approved MF-3-CO zoning on consent on all 3 readings (7-0); B. Spelman-1 <sup>st</sup> , L. Morrison-2 <sup>nd</sup> .
C14-2011-0072 (8915 Anderson Mill Road)	I-RR to GR-MU	8/16/11: Approved staff's recommendation of LR-MU-CO zoning, with CO to limit development on the site to less than 2,000 vehicle trips per day, by consent (6-0, G. Rojas-absent); D. Tiemann-1 <sup>st</sup> , G. Bourgeios-2 <sup>nd</sup> .	9/22/11: Approved LR-MU-CO zoning on consent on all 3 readings (7-0); B. Spelman-1 <sup>st</sup> , L. Morrison-2 <sup>nd</sup> .
C14-06-0236 (13201 Pond Springs Road)	I-RR to CS-1	5/15/07: Approved staff rec. of GR-CO and CS-1-CO (7-0)	6/08/07: Approved for GR-CO for Tract 1 and CS-1 for Tract 2 (7-0); on all 3 readings
C14-06-0157 (Pond Springs Plaza – 13233 Pond Springs Road)	I-SF-2 to Tract 1: CS Tract 2: CS-1	9/05/06: 1 <sup>st</sup> Motion: Approved staff's recommendation of GR-CO for Tract 1 and CS-1-CO for Tract 2, with additional condition to prohibit Pawn Shop Services, by consent (8-0, J. Shieh-absent); J. Martinez-1 <sup>st</sup> , S. Hale-2 <sup>nd</sup> .  2 <sup>nd</sup> Motion: To rescind and reconsider 1 <sup>st</sup> motion (6-0, J. Shieh-absent; T. Rabago, J. Martinez-off dais);	12/07/06: Approved the ZAP recommendation, striking the requirement for double door access from the bar (Tract 2) to the deck (Tract 3) and adding the bar (Tract 2) to the deck (Tract 3) and adding a condition for speakers be removed from the deck area (7-0).  4/12/06: Approved GR-CO zoning for Tract 1,

	<p>J. Gohil-1<sup>st</sup>, K. Jackson-2<sup>nd</sup>.</p> <p>3rd Motion: To postpone and place on the September 19, 2006 ZAP Agenda (6-0, J. Shieh-absent; T. Rabago, J. Martinez-off dais); J. Gohil-1st, K. Jackson-2nd.</p> <p>9/19/06: Continued to October 3, 2006 by Zoning and Platting Commission (7-0, J. Martinez, J. Pinnelli-absent); S. Hale-1st, J. Shieh-2nd.</p> <p>10/03/06: Postponed to November 7, 2006 by the applicant (7-0, K. Jackson, J. Pinnelli-absent); J. Martinez-1st, S. Hale-2nd.</p> <p>11/07/06: Approved staff's recommendation of GR-CO zoning for Tract 1 (shopping center), CS-1-CO zoning for Tract 2 (bar area), and GR-CO zoning for newly created Tract 3 (deck area). The Commission added the following conditions to Tract 2: Prohibit Adult Oriented Businesses; To require double door access to the deck from the bar (if allowable by Code and Building Permit regulations); To place permanent signage on the property at the driveway entries to restrict motorcycle parking in the rear/alleyway. To place permanent signage along the fence/property line between the residential site to the west and the property in question designating the parking spaces in the rear/alleyway as,</p>	<p>CS-1-CO zoning for Tract 2, and GR-CO zoning for Tract 3 (6-0); 2nd/3rd readings</p>
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		<p>“Employee Parking Only”. To construct an 8-foot masonry/or sound retardant fence around the deck to mitigate sound emanating from the deck. The Commission also placed the following conditions on Tract 3 (the deck area): Place an 85 decibel limit (in accordance with LDC Sec. 9-2-4) on the deck to reduce noise emanating from the deck. Restrict amplified sound on the deck. Place permanent signage on the deck for noise mitigation. Remove the pool table off of the deck. Vote: (7-2, B. Baker, J. Martinez- No); J. Shieh-1st, S. Hale-2nd.</p>	
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RELATED CASES:

C8J-2008-007.0A – Subdivision Case

EXISTING STREET CHARACTERISTICS:

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Black Oak Street	60'	50'	20'	1	No	No	No

## OTHER STAFF COMMENTS:

### Comprehensive Planning

This zoning case is located at the eastern terminus of Black Oak Street, which dead ends into this 3 acre property, which contains a 1,200 square foot building. The property is not located within a small plan area or near an Activity Center or Corridor. Anderson Mill Road is located 0.18 miles to the south and contains an abundance of residential uses and a small amount of commercial uses. Surrounding land uses include sport fields to the north; to the south is a small shopping center with eight commercial bays and an apartment complex; to the east and west are single family subdivisions. The request is for multifamily zoning to construct a 60-unit condominium project.

### **Connectivity:**

Public sidewalks are located intermittently along one side of Villa Parke Drive but there are no public sidewalks or curbing along Black Oak Street, which is a residential street. There are no public transit stops located within a half of a mile of the subject property. Anderson Mill Road does have **unprotected bike lanes** along both sides of this portion of the road. A public elementary school is located approximately 0.40 miles away, while a public middle school is located approximately 0.60 miles away, which are both located on the south side of Anderson Mill Road.

### **Imagine Austin.**

The property is not located near an Activity Corridor or Activity Center. Activity Corridors are intended to allow people to reside, work, shop, access services, people watch, recreate, and hang out without traveling far distances, although Anderson Mill Road serves this same purpose.

The following Imagine Austin policies are also applicable to this case:

- **LUT P5.** Create healthy and family-friendly communities through development that includes a mix of land uses and housing types and affords realistic opportunities **for transit, bicycle, and pedestrian travel** and provides both community gathering spaces, parks and safe outdoor play areas for children.
- **HN P1.** Distribute a variety of housing types throughout the City to expand the choices able to meet the financial and lifestyle needs of Austin's diverse population.
- **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 schools, retail, employment, community services, and parks and recreation options.**

Based upon:

- Anderson Mill Lane acting as a major arterial corridor with some civic and commercial in the area.
- The presence of public sidewalks and unprotected bike lanes located along this section of Anderson Mill Road.
- Imagine Austin housing policies and the Strategic Housing Blueprint supporting a variety of housing types; but the lack of public transit and goods and services in the

area, this project partially supports the policies of the Imagine Austin Comprehensive Plan.

### Environmental

The site is located over the North Edwards Aquifer Recharge Zone. The site is in the Lake Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Under current watershed regulations, development or redevelopment on this site 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 Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%
Commercial	65%	70%

According to floodplain maps there is no floodplain within or adjacent to 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.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

### Fire

Approved. No comments.

### Parks and Recreation

Parkland dedication will be required for the new residential units proposed by this development, multifamily with MF-2 zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should

fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

### Site Plan

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

The site is subject to compatibility standards. Along the west property line, the following standards apply:

- a. No structure may be built within 25 feet of the property line.
- b. No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- c. No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- d. No parking or driveways are allowed within 25 feet of the property line.
- e. A landscape area at least 25 feet wide is required along the 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.

Additional design regulations will be enforced at the time a site plan is submitted.

### Transportation

The Austin Strategic Mobility Plan (ASMP), adopted 04/11/2019, identified sufficient right-of-way for Black Oak Street.

Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements, will occur at the time of site plan/subdivision application. A traffic impact analysis shall be required at the time of site plan if triggered per LDC 25-6-113.

### 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.

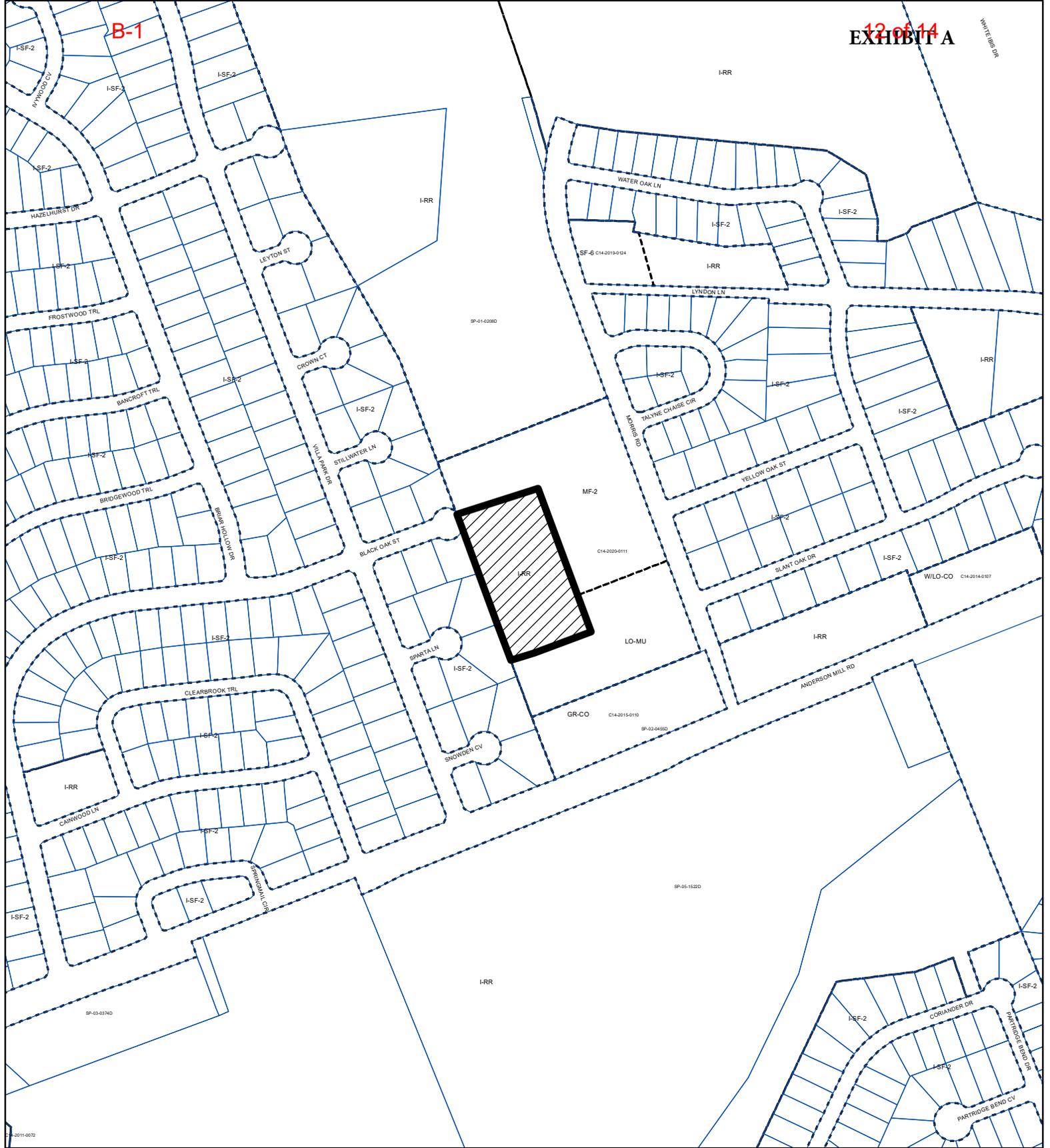
Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin.

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

- A. Zoning Map
- B. Aerial Map
- C. Correspondence from Interested Parties

B-1



### ZONING

ZONING CASE#: C14-2021-0103



 SUBJECT TRACT

 PENDING CASE

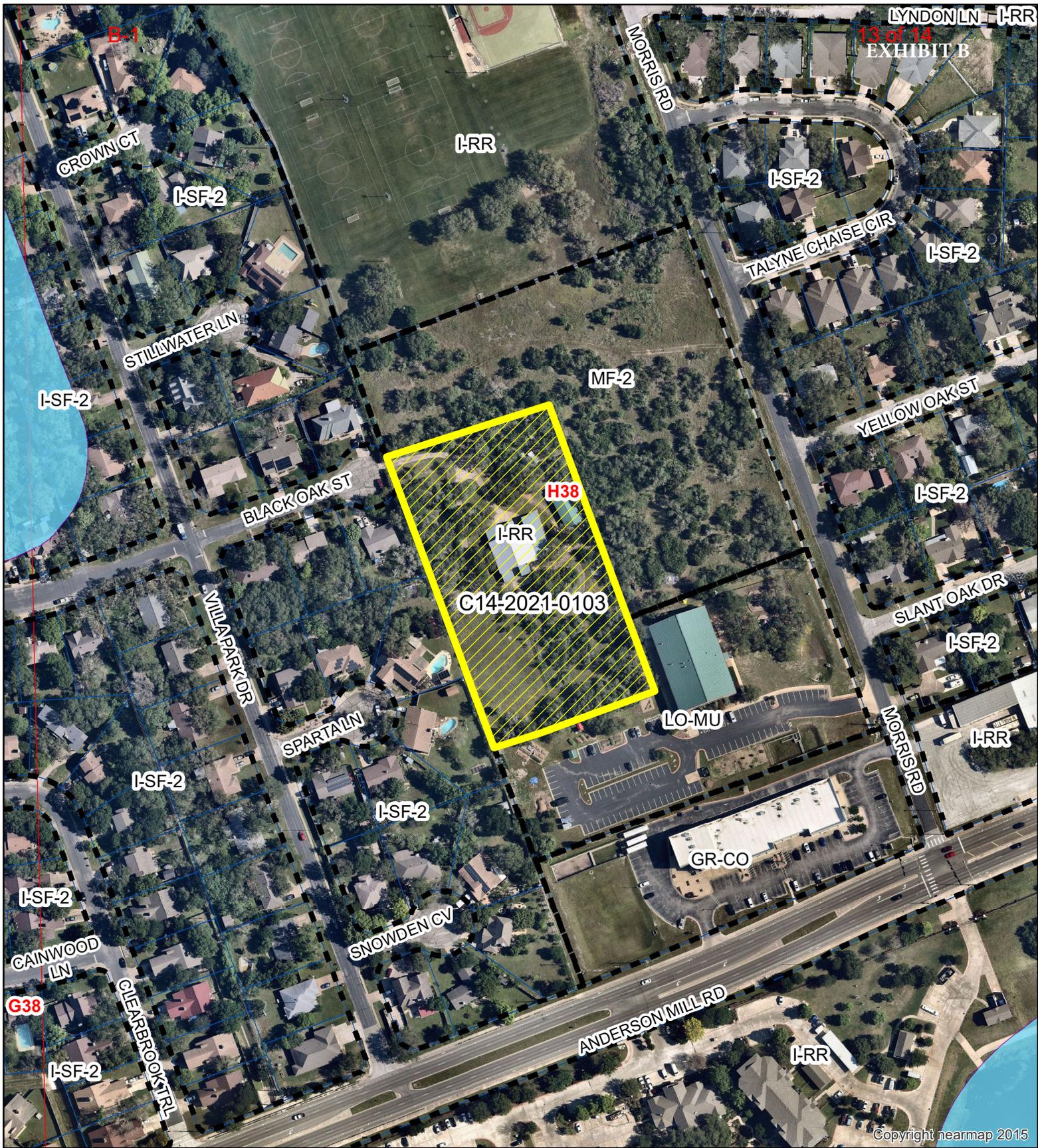
 ZONING BOUNDARY

1" = 400'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Housing and Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or





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

1" = 200'

**Marielle II**

ZONING CASE#: C14-2021-0103  
 LOCATION: 8600 Black Oak St.  
 SUBJECT AREA: 3 Acres  
 GRID: H38  
 MANAGER: Sherri Sirwaitis



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**From:** Jane Downing  
**To:** [Sirwaitis, Sherri](#)  
**Subject:** Re: Case Number C14-2021-0103  
**Date:** Friday, July 9, 2021 11:36:31 AM

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\*\*\* External Email - Exercise Caution \*\*\*

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> Case Number C14-2021-0103

> Contact Sherri Sirwaitis,

> Public Hearing: TBD, City Council

>

> I OBJECT

> Brenda Jane Downing

> 8704 Black Oak Street, Austin, TX 78729

> 512-657-6915

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> Comments:

> This is a Rural Residence District intended for very low density residential use. The areas next to the proposed rezoning tracts are very low density single family homes. Changing the adjacent property to Multifamily and Community Commercial would alter the character of the neighboring area. Increased traffic, reduced tree canopy, and diminished privacy all alter the area character. Development that exceeds the size and scale of typical properties in the vicinity alter the area character. It is the duty of the city council to preserve the area character.

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> If the zoning change is not granted the property is not left with no reasonable use by remaining zoned rural residence. The applicant would like you to believe that multi-family is a desired housing option for this area. That is not true. It is a housing option by default for this area. I speak from personal experience. I personally know several individuals who have lived in the multi-family housing near the middle school. I know one family that lived in multi-family for over 2 years in the hope of finding a single family home in the area. Single family homes in our area are purchased very quickly and often after a brief (usually less than 30 days) but very competitive bidding process. The family reluctantly moved out of the area to a neighborhood more than 11 miles away in order to purchase a single family home after 2 years of frustration. The developer would have a profitable return by building single family homes in this area.

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> Signed by/ Brenda Jane Downing

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