

Planning & Zoning: June 4, 2018 **Staff Contact:** Jeremy Frazzell, Asst. Planning Director
City Council: June 12, 2018 **E-mail:** jeremyf@pflugervilletx.gov
Case No.: REZ1712-03 **Phone:** 512-990-6300

SUBJECT: To receive public comment and consider an application for the rezoning of Lot 1 Block A Greenridge Subdivision Phase 8, generally located southeast of the N. Heatherwilde Blvd and Cheyenne Valley Dr. intersection. The proposed request is to rezone the north 0.78 acres from Agriculture/Conservation (A) District to Office (O) District, and the remaining 1.8 acres from Agriculture/Conservation (A) District to Retail (R) District; all to be known as 19501 Cheyenne Valley Drive Rezoning. (REZ1712-03).

LOCATION:

The proposed property is north of SH 45 and contains 2.58 acres of land located generally southeast of the Cheyenne Valley and N. Heatherwilde Blvd intersection, in the northwest portion of the city limits.

SURROUNDING LAND USE:

Located near the confluence of Round Rock ETJ and Pflugerville full purpose jurisdictions, the area around Heatherwilde Blvd, generally north of SH 45 is predominantly low to medium density residential with limited commercial in the area. The subject property is located at the perimeter of the Greenridge subdivision and bordered by a single family home, a detention pond, and a water tower associated with the subdivision to the east. To the north is Cheyenne Valley Dr., a collector level road that provides a connection between Heatherwilde Blvd and Gattis Crossing through the residential subdivision. Just north of Cheyenne Valley Dr. are two single family homes which face the subject lot and have driveways off of the collector road. To the west is Heatherwilde Blvd, a four-lane divided arterial street, followed by the Westchester Woods apartment complex and gas station with convenience store. South of the property is unimproved agricultural land which contains frontage along Heatherwilde Blvd and SH 45 frontage road. Once utilities become available, the large unimproved tract can be anticipated to be further divided and developed with a mix of residential and non-residential land uses.

Adjacent	Base Zoning District	Existing Land Use
North	Single Family Suburban (SF-S)	Single family homes
South	Corridor Urban Level 5 (CL5)	Unimproved
East	Single Family Suburban (SF-S) and Agriculture/Conservation (A)	Single family homes, detention pond, water tower
West	General Business 1 (GB1) & Multi-Family 10 (MF-10)	Gas station and apartment complex

(Refer to Attachments for Zoning Map)

SITE ANALYSIS:

The subject property is a platted corner lot with frontage along N. Heatherwilde Blvd and Cheyenne Valley. The lot is irregularly shaped and generally unimproved with exception of neighborhood signage and landscaping improvements located in an established easement. The easement was recently amended to allow the existing subdivision improvements within 100 feet of the intersection to remain, but the remaining segments of fencing and landscaping to be able to be removed to allow for the development of the property. Given proximity of the single family homes and concerns of traffic from the property to Cheyenne Valley, a “no-access” easement was established to prevent vehicular access to the property from Cheyenne Valley.

HISTORY:

The Greenridge subdivision was established while outside the Pflugerville city limits. The subject property was platted in 2006 through the Greenridge Phase 8 final plat (Doc No. 200600210). A note included on that plat restricts the land use to non-residential. In 2009, the subject property was annexed into the city (ORD No. 1009-09-08-25) while the remainder of the Greenridge neighborhood was annexed in 2010 (ORD No. 1065-10-12-14). At time of annexation, all land was zoned Agriculture/Conservation as an interim zoning. In 2009 and 2010, pro-active rezoning of the newly annexed land was initiated by the city. The single family lots within the neighborhood were rezoned to what is now the Single Family Suburban (SF-S) zoning district, while the subject property, detention ponds, and park area remained zoned A (ORD No. 1017-09-09-22, and ORD No. 1067-11-01-11).

PROPOSED REQUEST:

The applicant has proposed to rezone the 2.58-acre lot from the current Agriculture/Conservation zoning district into two separate non-residential zoning districts. The northern 0.78 acres are proposed to be rezoned to the Office (O) district, while the remaining 1.8 acres are proposed to be rezoned to the Retail (R) district. Below is a description of each zoning district per the Unified Development Code as well as the land uses that can be considered in each.

Office (O) District: This district is established to create a flexible district for low intensity office and professional uses (less than 10,000 square feet of floor area). The district can be used as a transition district between more intense uses and residential uses. Permitted uses should be compatible with adjacent residential areas by limiting heights to one story and utilizing buffers and landscape requirements. Sites zoned Office (O) may be built to two stories or in excess of 10,000 square feet if not located adjacent to any properties zoned SF-S or 2-F.

- Permitted residential uses within the district include: No permitted residential uses under the Office Zoning District.
- Office Permitted non-residential uses within the district include: Civic Center, Dry Cleaning Minor, Financial Institution, Government Facilities, Massage Therapy (Licensed), Museum/Art Gallery, Office: Administrative (Medical or Professional), Park or Playground, Place of Worship, Retail Sales and Services, School: Private or Parochial.
- Office Conditional uses within the district include: Restaurant, Utilities.

Retail (R) District: This district is established to provide locations for various types of general retail trade, business and service uses for services to one or more neighborhoods. The commercial areas developed within a Retail (R) district should utilize to the maximum extent possible the existing landscaping on site to buffer from adjacent residential uses and be limited to two stories in height. The Retail (R) district should be located generally at the intersection of major thoroughfares and convenient to a residential trade area, with signage compatible with surrounding land use. In the Retail (R) district, open storage as defined herein is not permitted.

- Retail Permitted residential uses within the district include: Assisted Living, Live Work Unit, Nursing Home/Skilled Nursing (Convalescent), Single Family Attached (3 or more) Townhome.
- Retail Permitted non-residential uses within the district include: Automotive Parts Sales (Inside), Automobile Parking Lot/Garage, Brewpub/Wine Bar, Catering Establishment, Cemetery/Mausoleum, Civic Center, Clinic, Day Care Facility, Dry Cleaning (Minor), Equipment and Machinery Sales and Rental (Minor), Financial Institution, Golf Course and or Country Club, Government Facilities, Health/Fitness Center, Hospital, Laundromat, Massage Therapy, Licensed, Museum Art Gallery, Office: Administrative, Medical or Professional, Park or Playground, Personal Services, Place of Worship, Reception Hall, Retail Sales and Services, School: Private or Parochial, Theater.
- Retail residential and non-residential Conditional uses within the district include: Condominium, Multi-Family, Animal Establishments (Commercial), Car Wash, Commercial Recreation and Entertainment Indoor, Gas Station, Restaurant, Utilities.
- Retail Specific Use Permitted uses within the district: Wireless Telecommunications Facilities (WTFs).

COMPREHENSIVE PLAN:

The Preferred Land Use Vision Plan currently identifies the area as Low to Medium density residential within close proximity to Medium to High Density Residential and Employment with an Employment Center along SH 45. While not specifically depicted on the map, the intersection of Cheyenne Valley (collector) and Heatherwilde Blvd (arterial) has an opportunity to function as a transitional neighborhood center with a mix of non-residential land uses to provide goods and services to meet the needs of the immediate vicinity, with a general two to three mile market catchment area. The proposed rezoning will offer an opportunity to provide immediate services to the surrounding neighborhoods as encouraged through the neighborhood center concept, and support multiple goals and actions as excerpted below from the Comprehensive Plan.



Land Use and Development Character Goal 2: *“Development (infill and new development) will be focused around a hierarchy of centers that will create a stronger sense of community, provide employment opportunities and shopping districts while reducing infrastructure costs.”*

- Action 2.1.1: “Provide new and infill development to accommodate basic retail services within walking distance of residential areas.”

- Action 2.2.1: “Provide a mixture of residential and non-residential uses in new and infill development to accommodate larger scale retail services that will serve multiple neighborhoods.”

Transportation Goal 2: *“Balance land use and transportation infrastructure to make living, working, shopping and playing in Pflugerville safer and more convenient for residents and visitors.”*

- Action 2.1.1: “As a rule, locate high trip generating uses such as employment and regional centers adjacent to arterial roadways, major collector streets, or freeway frontage roads.”

Economic Goal 2: *“Pflugerville will have enhanced access to medical facilities, services and specialties as the City continues to grow.”*

- Action 2.1.1: “Encourage the development of small medical offices with uses such as physicians’ offices, urgent care, rehabilitation services, and imaging among others.”

STAFF RECOMMENDATION:

The proposed request is an adjustment from the original application, and is a result of discussions by the applicant with the HOA, property owners, and staff. With the initial zoning application, the applicant requested the Retail zoning for the lot. Given the proximity of the single family homes and concern of vehicular access from the lot to Cheyenne Valley Dr., the applicant adjusted the original application to lessen the zoning request to the Office (O) district for the northern portion of the lot (0.78 acres), and the Retail (R) district for the remainder (1.8 acres). The depth of the land proposed to be rezoned to Office (O) district is greater than the adjacent single family lot depth, and is intended to lessen any impact a non-residential land use might have on adjacent single family. The Office (O) district is currently the most restrictive commercial/non-residential zoning district in the Unified Development Code. In addition to adjusting the application, the applicant also established a no access easement along Cheyenne Valley Dr. to prevent vehicular access from the subject lot to Cheyenne Valley Dr. and established agreements with the HOA and neighbors to mitigate immediate concerns.

While the Retail (R) district is a more intensive zoning district than the Office (O) district, the Retail (R) district is less intensive than the General Business 1 (GB1) zoning district currently found across Heatherwilde Blvd, or the Corridor Urban Level 5 (CL5) district located to the south of the Greenridge subdivision. If approved, the Office (O) and Retail (R) districts will provide the opportunity for limited non-residential uses/services that have been identified as generally compatible with surrounding residential neighborhoods.

The Comprehensive Plan identifies the area with low to medium density residential, medium to high density residential, and employment within close proximity. A neighborhood center can be expected at intersections of arterial and collector roadways and within close proximity to multiple neighborhoods. The subject property is infill commercial development, which supports goals and actions identified in the Comprehensive Plan. The proposed request is generally in conformance with the Preferred Land Use Vision Plan, and Staff recommends approval of the proposed request to the Office (O) and Retail (R) zoning districts.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

On June 4, 2018, the Planning and Zoning Commission conducted a public hearing and recommended approval of the proposed rezoning with a vote of 4-2.

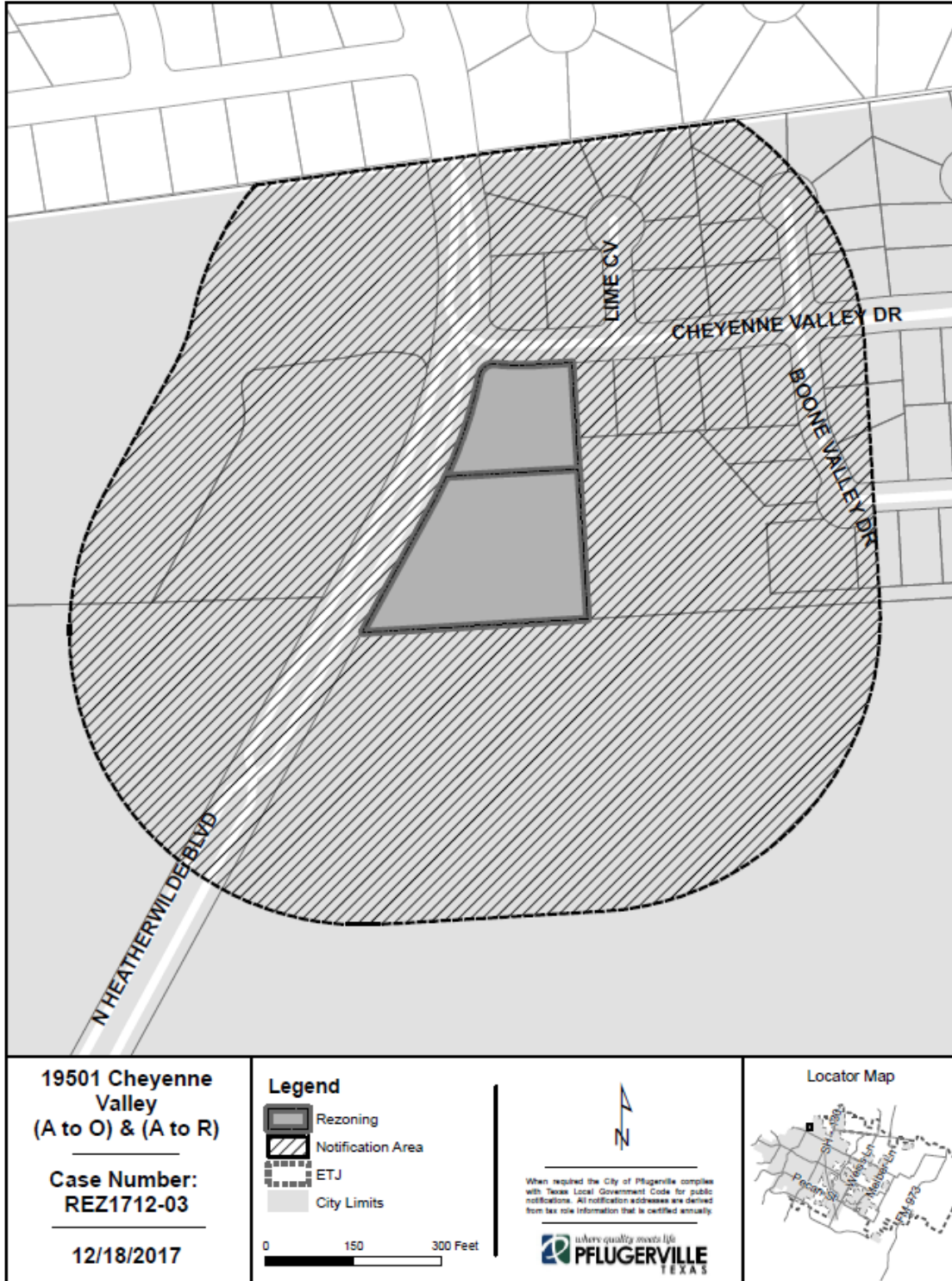
NOTIFICATION:

Newspaper notification was published, notification letters were mailed to property owners within 500 feet of the property, and signs were posted in accordance with the minimum notification requirements. Several inquiries were received regarding the proposed request, with concerns generally regarding land use, current improvements, congestion, and buffers.

ATTACHMENTS:

- Notification map
- Zoning map
- Site photos
- Request
- Existing private restriction

NOTIFICATION MAP



Legend

- Subject Property
- A - Agriculture/Conservation District
- SF-E - Single Family Estate District
- SF-S - Single Family Suburban Residential District
- SF-R - Single Family Residential District
- SF-MU - Single Family Mixed Use Residential District
- 2-F - Two Family Residential District
- MF-10 - Multi-Family 10 Residential District
- MF-20 - Multi-Family 20 Residential District
- MH - Manufactured Housing District
- NS - Neighborhood Services District
- O - Office District
- R - Retail District
- GB1 - General Business 1
- GB2 - General Business 2
- CI - Campus Industrial District
- LI - Light Industrial District
- GI - General Industrial District
- PUD - Planned Unit Development
- CL3 - Suburban Level 3 District
- CL4 - Urban Level 4 District
- CL5 - Urban Center Level 5 District

City Council Staff Report



Sidewalk, landscaping and fencing along N Heatherwilde Blvd.



Greenridge residential subdivision monument sign.



Sidewalk, landscaping and fencing along Cheyenne Valley Dr.



Image of the full site, showing all existing fencing and unimproved agricultural land.



Gas Station west of the property.



Adjacent detention pond for the residential subdivision directly east of the subject site.

APPLICANT REQUEST:

April 9th 2018

Jeremy Frazzell
Assistant Planning Director
City of Pflugerville
Development Services Center – Planning Department
Pflugerville, Texas

Re: 19501 Cheyenne Valley Drive
REZ 12-03

Mr. Frazzell,

Thank you for your and staff's time on this item.

To review, the applicant is seeking a zoning change to allow for the construction of a gas station and attached retail along Heatherwilde, and a light office in the northern portion of the site.

At your request, we have reduced the ask from our original request of Commercial Services to Retail (allowing only four pumps) and to Office for the area of the site nearest the single family neighborhood.

With this letter, we are stating our agreement to give up access from this site on to, or from, Cheyenne Valley Drive.

We have been working closely with the Greenridge HOA who holds the landscaping easement surrounding this site, and, with the adjacent homeowner most impacted by this request.

We have met with the HOA leadership twice, and conducted a public meeting reviewing the plans for the site. HOA members have submitted a list of requests that any support from them would be contingent on, and that correspondence is attached.

The adjacent single family homeowner and I are speaking weekly to address his concerns, primarily security and light pollution.

I have also attached a draft of the restrictive covenant closing the egress on Cheyenne Valley Drive and binding the developer to a set of enhanced landscaping requirements. The HOA attorney is reviewing this document and the board will meet in late April. We can sign it now, pending suggested edits by the HOA.

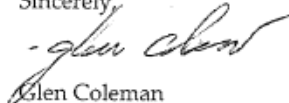
This letter is to request staff support for our zoning change.

We believe the land use desired is consistent with the pattern of the built environment reflected in your Unified Development Code, consistent with similar zoning requests granted in the area, and will serve business, commuters, and local residents. This site should well serve the employment centers envisioned in your 2030 Comprehensive Plan.

The concurrent closing of the egress on to Cheyenne Valley Drive will protect residents from future commercial traffic and the enhanced landscaping should be a welcome addition to the area while providing a higher aesthetic for the entrance to the Greenridge Community.

We hope you will look favorably on our request.

Sincerely,



Glen Coleman
For applicant, Najibe Wehbe
glen@southllano.com
512 407-9357

EXISTING PRIVATE RESTRICTION:

ORIGINAL
FILED FOR RECORD



TRV 2018070300
6 PGS

When Recorded Return To:

Taylor & Coughlin, PLLC
800 Rio Grande Street
Austin, Texas 78701

**DECLARATION OF COVENANT, CONDITIONS, AND RESTRICTIONS, AND
MODIFICATION OF ENTRYWAY EASEMENT AGREEMENT**

This Declaration of Covenant Conditions, and Restrictions, and Modification Of Entryway Easement Agreement (the "Covenant"), is made by and between **19501 Cheyenne, LLC** (the "Owner"), whose address is 5902 Mountain Villa Drive, Austin TX, 78731, and **Greenridge (Pflugerville) Homeowner's Association** (the "Association")(collectively "Parties") for the purposes herein set forth as follows:

WITNESSETH

WHEREAS, Owner is the sole owner of that certain real property located in Travis County, State of Texas, described as follows:

LOT 1, Block A Greenridge Phase 8 Subdivision, according to the plat or map thereof recorded in Document No. 2017195754, Official Public Records of Travis County, Texas. (the "Property")

Known Locally As: 19501 Cheyenne Valley, Pflugerville, Texas 78664.

WHEREAS, an existing Entryway Easement Agreement exists between Owner and the Association which inures to the benefit of Owner and the Association and which the Parties seek to modify. Said Entryway Easement Agreement was recorded in the Official Public Records of Travis County, Texas, on **July 28, 2004**, as document number **2004144034**.

NOW THEREFORE, the Parties hereby declare that the Property is subject to the following covenants, conditions and restrictions, which shall be deemed covenants running with the land and the title to the Property and shall be binding on all Parties having right, title, or interest in or to such portion of the Property or any part, their respective heirs, successors, and assigns, and which inure to the benefit of each of the Parties. Each contract, deed, or conveyance of any kind conveying all or a portion of the Property will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not they are set out in full or by reference in said contract, deed or conveyance. Owner reserves any use of, or activity on, the Property that is not inconsistent with the purpose of the real property Covenant and that is not prohibited herein.

1. RESTRICTIONS.

- a. There shall be no vehicle access to or from Cheyenne Valley Road from the Property, excepting fire and emergency vehicles accessed by lock box or similar practice. At owner's expense, a single pedestrian gate may also be placed along the Cheyenne Valley Drive, northern side, of the Property.
- b. Owner shall maintain a buffer between Owner and the western and southern property line of the adjacent single family home, consisting of:
 - i. A masonry or solid composite wall to the maximum height allowed by code;
 - ii. Five evergreen conifers for every 100 linear feet;
 - iii. Two understory trees for every 100 linear feet; or
 - iv. 20 native shrubs per 100 linear feet.
- c. Owner shall maintain a buffer on the Eastern property line of the Property, consisting of:
 - i. Five evergreen conifers for every 100 linear feet;
 - ii. Two understory trees for every 100 linear feet; or
 - iii. 20 native shrubs per 100 linear feet.
- d. Outdoor lighting, other than signage, on the Property shall use hooded lighting, or an equivalent best practice as determined by Owner.
- e. Owner shall, within one (1) year after the City of Pflugerville grants Owner retail and office zoning change in Case REZ 1712 – 03, refinish the existing masonry subdivision identification signage. Owner shall refinish said identification signage on both sides of the existing signage. Owner shall repair and enhance landscaping and landscape irrigation along identification signage within one (1) year, and after Owner's completion said landscaping and landscape irrigation is to be maintained by the Association.

2. MODIFICATION TO ENTRYWAY EASEMENT AGREEMENT.

- a. The Parties agree that the following modifications shall be made to the Entryway Easement Agreement, recorded in the Official Public Records of Travis County, Texas, as document number **2004144034**:
 - i. Section I shall be amended to state that "Any and all grants to the Association made by this Grant of Easement shall be limited to an area of 100 feet from the corner of Heatherwilde and Cheyenne Valley Drive. Any right to make associated entryway improvements anywhere appearing in this section or

- others shall likewise be limited to an area of 100 feet from corner of Heatherwilde and Cheyenne Valley Drive.”
- ii. The Entryway Easement Agreement shall be amended, and interpreted as necessary, to allow Owner to remove existing fencing on the Property along Heatherwilde. The Association acknowledges and endorses this act – such act being consistent with the Association’s right to replace and remove improvements.
 - iii. The Entryway Easement Agreement shall be amended, and interpreted as necessary, to provide for maintenance as follows:
 - A. The Association shall provide for maintenance and upkeep of the 100-foot area of the Property extending from the corner of Heatherwilde and Cheyenne Valley Drive. Such maintenance and upkeep shall include, but not be limited to, watering grass, cutting grass, and removing debris and litter.
 - B. Owner shall provide for maintenance and upkeep of the remainder of the Property not covered by the above section 2(a)(iii)(A). Such maintenance and upkeep shall include, but not be limited to, watering grass, cutting grass, and removing debris and litter.
 - iv. The Entryway Easement Agreement shall be amended, and interpreted as necessary, to give full effect to this modification and limitation of the Grant of Easement, as recognized, ratified, and desired by both parties to the existing Entryway Easement Agreement and this Modification.

3. DURATION. This Covenant shall only be valid upon the granting of the Owner’s request for a change in zoning by the Pflugerville City Council, Case REZ 1712 - 03. Should the City of Pflugerville not grant Owner’s request for change in zoning, Case REZ 1712-03, this Covenant shall immediately expire. Unless modified, amended, or terminated in accordance with Paragraph 5, this Covenant remains in effect for 99 years upon filing with Travis County.

4. TERMINATION, MODIFICATION AND AMENDMENT. Termination, modification or amendments to this Covenant may only be by joint action of both the Owner(s) of the Property - or a portion of the Property subject to the termination, modification, or amendment at the time of such termination, modification, or amendment - and a duly elected representative of the Greenridge (Pflugerville) Homeowner’s Association. Should the Greenridge (Pflugerville) Homeowner’s Association no longer be in existence at the time of a future termination, modification, or amendment, a majority of signatures of the owners of property formerly subject to the Greenridge (Pflugerville) Homeowner’s Association shall suffice for termination, modification, and amendment.

5. ENFORCEMENT. This Covenant may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting access and commanding compliance. Restraining orders and injunctions will be obtainable on proof of obstruction or the existence of a condition contemplated by paragraph 1 and 2, *supra*, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order

will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

6. **APPLICABLE LAW.** This Covenant and all rights and obligations created hereby will be governed by the laws of the State of Texas. If any provision of this Declaration is found to be in violation or conflict with applicable law, then said provision(s) shall be amended only to the extent necessary to comply with the applicable law but shall otherwise remain in full force and effect. The Covenant shall be interpreted in a manner that resolves any ambiguity or questions of validity of specific provisions so as to give maximum effect to this Covenant's purpose.

7. **FORCE MAJEURE.** Owner will not be liable for performance delays nor for non-performance due to causes beyond its reasonable control.

8. Any notices required by this real property covenant shall be in writing and shall be personally delivered or sent by first class mail to the Owner, at the address *supra*, and the Association at **1490 Rusk Road, Suite 301, Round Rock, Texas 78665** unless there is notice of a change of address.

9. If any provision of this real property covenant is found to be invalid, illegal, or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions. Owner and the Parties have agreed to modify past agreements and impose upon the Property these covenants, conditions, and restrictions for the benefit of the Property.

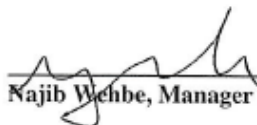
*[Remainder of Document Left Blank;
Signature Page Follows]*

IN WITNESS WHEREOF, this Declaration is executed on the date indicated below.

Executed on May 4, 2018.

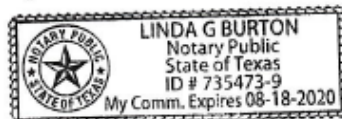
OWNER:

19501 Cheyenne, LLC


Najib Wehbe, Manager

STATE OF Texas §
COUNTY OF Tarrant §

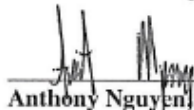
Before me, on this day, personally appeared **Najib Wehbe, Manager for 19501 Cheyenne, LLC**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.




Notary Public, State of Texas

READ, ATTESTED TO, AND ACKNOWLEDGED BY:

Greenridge (Pflugerville) Homeowner's Association:


Anthony Nguyen, Director

STATE OF Texas §
COUNTY OF Dallam §

Before me, on this day, personally appeared **Anthony Nguyen the Director of the Greenridge (Pflugerville) Homeowner's Association** known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.




Notary Public, State of Texas

SURVEY:

