

ZONING CHANGE REVIEW SHEET

CASE: C14-2024-0070 – 3117 & 3121 E. 12th Street

DISTRICT: 1

ADDRESS: 3117 & 3121 East 12th Street

ZONING FROM: CS-MU-V-CO-NP

TO: CS-MU-V-CO-DB90-NP

SITE AREA: 1.0 acre

PROPERTY OWNER: 3121 E. 12th Horizontal Investors, LP (Michael Bernstein)

AGENT: Armbrust & Brown (Michael J. Whellan)

CASE MANAGER: Marcelle Boudreaux (512-974-8094,
marcelle.boudreaux@austintexas.gov)

STAFF RECOMMENDATION:

The Staff recommendation is to grant general commercial services – mixed use - vertical mixed use building – conditional overlay - density bonus 90 - neighborhood plan (CS-MU-V-CO-DB90-NP) combining district zoning.

The Conditional Overlay would:

- 1) Prohibit these uses in the CS base district: Adult oriented businesses, Agricultural sales and services, Automotive washing (of any type), Campground, Commercial blood plasma center, Commercial off-street parking, Construction sales and services, Convenience storage, Custom manufacturing, Drop-off recycling collection facility, Equipment repair services, Equipment sales, Laundry services, Limited warehousing and distribution, Maintenance and service facilities, Pawn shop services, Service station, Vehicle storage;**
- 2) Make conditional these uses: Automotive sales, Exterminating services, Guidance services, Hotel-motel, Kennels, Monument retail sales, Outdoor sports and recreation, Residential treatment;**
- 3) Limit Development of the Property to not exceed an impervious coverage of 90 percent.**

PLANNING COMMISSION ACTION / RECOMMENDATION:

July 9, 2024: MOTION TO APPROVE CS-MU-V-CO-DB90-NP FAILS, AND FORWARDED TO CITY COUNCIL WITHOUT RECOMMENDATION, DUE TO LACK OF AFFIRMATIVE VOTE..

[A. AZHAR; F. MAXWELL – 2ND] (6-2-1) A. HAYNES, G. COX - NAY; N. BARRERA-RAMIREZ – ABSTAIN; D. SKIDMORE – OFF DAIS; C. HEMPEL, A. PHILLIPS, P. HOWARD – ABSENT

June 25, 2024: *APPROVED NEIGHBORHOOD POSTPONEMENT REQUEST TO JULY 9, 2024, BY CONSENT.*

[R. JOHNSTON; F. MAXWELL – 2ND] (7-0) J. MUSHTALER, A. AZHAR, C. HEMPEL, A. HAYNES. G. COX, A. PHILLIPS – ABSENT

CITY COUNCIL ACTION:

August 29, 2024: *APPROVE NEIGHBORHOOD POSTPONEMENT REQUEST TO SEPTEMBER 12, 2024, ON CONSENT.*

[J. VELA; Z. QADRI - 2nd]; (9-0), A. ALTER - OFF DAIS, N. HARPER-MADISON - ABSENT.

July 18, 2024: *APPROVE STAFF POSTPONEMENT TO AUGUST 29, 2024, CITY COUNCIL, ON CONSENT.*

VOTE: [Z. QADRI; R. ALTER – 2ND] (11-0)

ORDINANCE NUMBER:

ISSUES:

In December 2023, Ordinance No. 20220609-080, Ordinance No. 20221201-056 and Ordinance No. 20221201-055 were invalidated. On March 11, 2024, Ordinance No. 20240229-073, was enacted to create the “DB90” combining district, which amended City Code Title 25 (Land Development) to create a new zoning district for a density bonus program that grants 30 feet in height above the base zoning district, to a maximum of 90 feet, and modifies site development regulations including compatibility standards. Subsequently, the applicant submitted this new rezoning application to request the -DB90 combining district.

The conditions establishing conditional uses, prohibited uses and limit to impervious cover in the Conditional Overlay for case number C14-2022-0150 are continued to be recommended in this new rezoning, as the applicant requested. The previous condition limiting maximum height to 80 feet is recommended to be removed from the Conditional Overlay. If this condition remains to limit height on the property, it will not apply if the DB90 combining district is used.

Planning Commission Previous Action

May 23, 2023: *APPROVED CS-MU-V-CO-NP DISTRICT ZONING AS STAFF RECOMMENDED, BY CONSENT.*

[A. AZHAR; J. CONNOLLY – 2ND] (9-0) BARRERA-RAMIREZ, COX, AND MUSHTALER - ABSENT. ONE VACANCY ON THE DAIS.

May 9, 2023: *APPROVED A NEIGHBORHOOD POSTPONEMENT REQUEST TO MAY 23, 2023*

[J. CONNOLLY; A. WOODS – 2ND] (12-0) ONE VACANCY ON THE DAIS.

City Council Previous Action

September 21, 2023: *APPROVED ORDINANCE ON SECOND AND THIRD READING, WITH STAFF AMENDMENTS TO CONDITIONS: 3) DEVELOPMENT OF THE PROPERTY MAY NOT EXCEED AN IMPERVIOUS COVERAGE OF 90 PERCENT. 4) THE MAXIMUM HEIGHT OF A BUILDING OR STRUCTURE ON THE PROPERTY SHALL NOT EXCEED 80 FEET.*

VOTE: [COUNCIL MEMBER POOL; COUNCIL MEMBER HARPER-MADISON – 2ND] 11-0.

August 31, 2023: *APPROVED THE ORDINANCE ON FIRST READING ONLY.*

VOTE: [COUNCIL MEMBER HARPER-MADISON; MAYOR PRO TEM ELLIS – 2ND] 10-0. COUNCIL MEMBER VELA WAS OFF DAIS.

July 20, 2023: *APPROVED NEIGHBORHOOD POSTPONEMENT REQUEST TO AUGUST 31, 2023.*

VOTE: [COUNCIL MEMBER QADRI; MAYOR PRO TEM ELLIS – 2ND] 10-0. COUNCIL MEMBER FUENTES WAS OFF DAIS.

Prior Rezoning Case C14-2022-0150

Ordinance No. 20230921-091 approved September 21, 2023

CASE MANAGER COMMENTS:

The subject site is developed with construction sales and service use (CS-MU-V-CO-NP). To the east and to the west are townhome-style multifamily residences (CS-CO-NP; MF-3-NP; CS-MU-V-CO-NP). To the south is multifamily in apartment complex with access from East 12th Street and from Airport Boulevard (MF-3-NP). To the north across East 12th Street are single- family residences and Administrative and Business office uses (CS-MU-CO-NP).

The parcels lie within a ½-mile radius of the MLK Red Line Transit Stop which was not present when the Rosewood Neighborhood Plan was adopted in 2001. The Capital Metro Red Line began service in 2010 and will have additional public investment in transportation choices as a part of Project Connect. *Please refer to Exhibits A (Zoning Map), A-1 (Aerial View).*

The applicant is requesting general commercial services – mixed use - vertical mixed use building – conditional overlay - density bonus 90 - neighborhood plan (CS-MU-V-CO-DB90-NP) combining district zoning for a proposed development that would include multi-family units requiring an affordable component. A building constructed under density bonus 90 (-DB90) standards allows for a mix of residential uses and commercial uses, and the result is typically retail, restaurants and offices on the ground floor, and residential units on upper levels. The overall project would consist of 90 residential units and mix of uses.

A development utilizing the “density bonus 90” incentives is permitted with a base CS district, and must include an affordability component for residential use in order to obtain incentives, including height maximum of 90 feet in the CS district (60 feet base plus 30 feet

incentive) and relaxation of development and compatibility standards, such as FAR, setbacks and building coverage. There are several methods of satisfying DB90 development affordability requirements. There are two options for projects including rental units:

- 1) a minimum of 12% of the rental units in a building are affordable for a 40-year period for households earning 60% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; or
- 2) a minimum of 10% of the rental units are affordable for a 40-year period as described above for households earning 50% or less MFI.

There are two options of satisfying DB90 development affordability requirements which include ownership units:

- 1) a minimum of 12% of the rental units in a building are affordable for a 40-year period for households earning 80% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; or
- 2) an in-lieu-fee payment to the Housing Trust Fund, equivalent to the required percentage of the total residential units, including the mix of bedrooms required, at the rate set in the fee schedule at the time of final site plan submission.

A similar rezoning request was previously approved for this property by the Planning Commission and City Council. However, the Court's ruling invalidated the bonuses authorized for a "VMU2" building. The analysis and basis for recommendation for the previous -V combining district is the same for this rezoning request to add the -DB90 combining district.

BASIS OF RECOMMENDATION:

1. *The rezoning should be consistent with the policies and principles adopted by the City Council.*

City Council has provided policy and direction for having more residential density and increased affordability, as well as incentivizing vertical mixed use buildings throughout the City. City Council previously approved rezoning this property to allow for vertical mixed-use buildings. This request is consistent with the "VMU2" option and Ordinance No. 20240229-073 (new DB90), which replaced the invalidated "VMU2" option.

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

The general commercial services (CS) district zoning is intended for commercial or industrial uses that typically have operating characteristics or traffic service requirements generally incompatible with residential environments.

Mixed Use combining district (MU) is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development.

Vertical Mixed Use Building (V) combining district may be applied in combination with any commercial base zoning district and allows for a combination of office, retail, commercial and residential uses within a vertical mixed use building.

The Conditional Overlay (CO) combining district may be applied in combination with any base district. The district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties.

The proposed density bonus 90 (DB90) combining district, in exchange for providing affordable housing units and in combination with commercial base zoning districts, allows a mixture of office, retail, commercial, and residential uses with modifications of compatibility standards and site development regulations including increased building height.

The neighborhood plan (NP) district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

3. *Zoning should promote clearly-identified community goals, such as creating employment opportunities or providing for affordable housing.*

This rezoning authorizes a property to participate in a voluntary density bonus or incentive program that provides modifications to development regulations or other regulatory-related benefits in exchange for community benefits. In exchange for increased development potential, the development is required to comply with affordable housing requirements.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-MU-V-CO-NP	Construction sales and service
<i>North</i>	CS-MU-CO-NP	Single family residences; Administrative and Business office
<i>South</i>	MF-3-NP	Multifamily apartment
<i>East</i>	CS-CO-NP; MF-3-NP	Townhome style multifamily
<i>West</i>	CS-MU-V-CO-NP	Townhome style multifamily

NEIGHBORHOOD PLANNING AREA: Rosewood

WATERSHED: Boggy Creek

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS: Austin Independent School District

- Oak Springs Elementary School
- Kealing Middle School
- Eastside Early College High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Neighborhoods Council, Del Valle Community Coalition, East Austin Conservancy, Friends of Austin Neighborhoods, Homeless Neighborhood Association, Homewood Heights Neighborhood Association, Neighborhood Empowerment Foundation, Preservation Austin, Residents of E 12th St, Rosewood Neighborhood Plan Contact Team, Martin Luther King Neighborhood Association, East MLK Combined Neighborhood Plan Contact Team

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2022-0150 – 3117 & 3121 E. 12 th Street	CS-MU-V-CO-NP; CS-1-CO-NP and CS-CO-NP to CS-MU-V-CO-NP	To Grant CS-MU-V-CO-NP (5/23/2023)	Apvd CS-MU-V-CO-NP as Commission recommended (09-21-2023).
C14-2024-0061 – 2900 Oak Springs	CS-MU-V-NP to CS-MU-V-DB90-NP	To Grant CS-MU-V—DB90-NP (5/28/24)	Scheduled for hearing
C14-2021-0125 – Austin Sports Facility – 1138 & 1140 Gunther St	SF-3-NP to CS-MU-CO-NP	Applicant withdrawal	N/A
C14-2015-0102 – 2612 Sol Wilson Drive	LR-MU-V-NP to CS-MU-CO-NP	To Deny (12/8/2015)	N/A
C14-2013-0055 – Airport Café – 1137 Airport Blvd	SF-3-NP to CS-MU-NP	To Grant CS-MU-CO-NP (8/13/2013), with conditions to prohibit certain land uses	Apvd CS-MU-CO-NP as Commission recommended (10/17/2013)

RELATED CASES:

C14-2022-0150 – 3117 & 3121 E. 12th Street rezoning to CS-MU-V-CO-NP (Ordinance No. 20230921-091)

NPA-2022-0008.01: 3117 & 3121 E. 12th Street change FLUM from commercial to mixed use (Ordinance No. 20230921-090)

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 3121 E 12TH STREET. C14-2024-0070. Rosewood NP. Project: 3117-3121 E. 12th Street. 1.0 acres from CS-MU-V-CO-NP to CS-MU-V-CO-

DB90-NP. Existing: office/event space and undeveloped. Proposed: 100 multifamily units and mixed use (retail). Demolition is proposed with zero residential units to be demolished. Proposal seeks Density Bonus 90 Combining District (Ordinance No. 20240229-073), which sets affordability minimums on ownership and rental units, and further allows for an increase of up to 30 ft in height above the base zone allowance, with a maximum limit of 90 feet in total height. DB90 additionally releases the site from some base zoning district development standards, including maximum floor area ratio.

Yes	Imagine Austin Decision Guidelines
Complete Community Measures *	
Y	Imagine Austin Growth Concept Map: Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. Names of Activity Centers/Activity Corridors/Job Centers *: <ul style="list-style-type: none"> • 0.07 miles to Airport Blvd Activity Corridor
Y	Mobility and Public Transit *: Located within 0.25 miles of public transit stop and/or light rail station. <ul style="list-style-type: none"> • 0.02 miles from bus stops along E 12th St
Y	Mobility and Bike/Ped Access *: Adjoins a public sidewalk, shared path, and/or bike lane. <ul style="list-style-type: none"> • Sidewalk and bike lane present along E 12th St
Y	Connectivity, Good and Services, Employment *: Provides or is located within 0.50 miles to goods and services, and/or employment center.
Y	Connectivity and Food Access *: Provides or is located within 0.50 miles of a grocery store/farmers market. <ul style="list-style-type: none"> • 0.4 miles from Poco loco Supermercado along Airport Blvd
Y	Connectivity and Education *: Located within 0.50 miles from a public school or university. <ul style="list-style-type: none"> • 0.5 miles to Oak Springs Elementary School
Y	Connectivity and Healthy Living *: Provides or is located within 0.50 miles from a recreation area, park or walking trail. <ul style="list-style-type: none"> • 0.5 miles to Downs Field and entry to Boggy Creek Greenbelt Trail
Y	Connectivity and Health *: Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor’s office, drugstore clinic, and/or specialized outpatient care.) <ul style="list-style-type: none"> • Medical clinic located withing 0.5 miles along Airport Blvd
Y	Housing Choice *: Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
Y	Housing Affordability *: Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.

Y	Mixed use *: Provides a mix of residential and non-industrial uses.
Y	Culture and Creative Economy *: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center). <ul style="list-style-type: none"> • 0.5 miles to Willie Mae Kirk Branch Library
	Culture and Historic Preservation: Preserves or enhances a historically and/or culturally significant site.
	Creative Economy: Expands Austin’s creative economy (ex: live music venue, art studio, film, digital, theater.)
	Workforce Development, the Economy and Education: Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in a particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	Industrial Land: Preserves or enhances industrial land.
Y	Not located over Edwards Aquifer Contributing Zone or Edwards Aquifer Recharge Zone
13	Number of “Yes’s”

Drainage

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City’s Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

Environmental

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

Zoning district impervious cover limits apply in the Urban Watershed classification.

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.

This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

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.

PARD – Planning & Design Review

Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with CS-MU-V-DB90 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 § 25-1-609, as amended.

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. At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

Site Plan

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

A compatibility buffer of 25 feet may be required, pursuant to LDC 25-2-652. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

Airport Overlay

The site is located within Austin-Bergstrom Overlay {CCLUA, or AO-1,2,3}. No use will be allowed that creates 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. Airport Hazard Zoning Committee review may be required prior to Planning Commission Hearing.

This tract is already developed, and the proposed zoning change is a footprint within the existing development

This site is in the Rosewood Neighborhood Plan

Austin Fire Department

No comments.

Austin Transportation Department – Engineering Review

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 application. The traffic impact analysis for this site is not required, the traffic generated by the proposal does not exceed the thresholds established in the City of Austin Land Development Code. [LDC 25-6-113].

The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for E 12TH ST. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for E 12TH ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

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)
E 12TH ST	Local Mobility - Level 2	84 feet	59 feet	41 feet	Existing 5 feet sidewalks	Bike lane (on-street)	Yes

Austin Water Utility

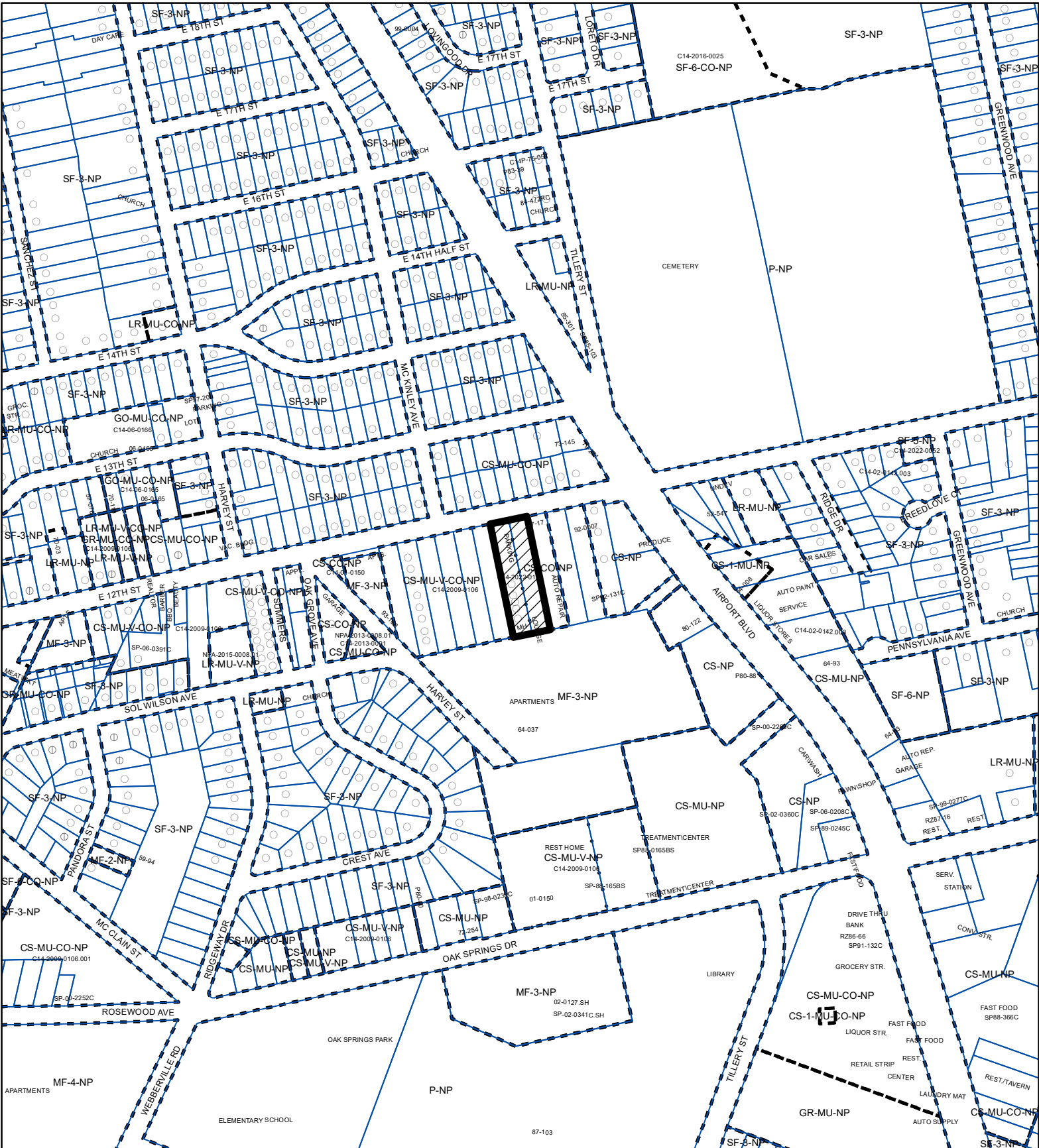
No comments on zoning change.

The landowner intends to serve the site with existing City of Austin water utilities.

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. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.

INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:




Exhibit A: Zoning Map
Exhibit A-1: Aerial Map
Exhibit B: Applicant's Summary Letter
Public Correspondence



ZONING

ZONING CASE#: C14-2024-0070



-  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.





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Created: 4/25/2024



3117-3121 E. 12th Street

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

CASE#: C14-2024-0070
LOCATION: 3117 and 3121 E 12th St
SUBJECT AREA: 1 Acres
GRID: L23
MANAGER: Marcelle Boudreaux



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ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

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MICHAEL J. WHELLAN
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MWHELLAN@ABAUSTIN.COM

July 8, 2024

Via email

Joi Harden, Chief Zoning Officer
City of Austin Planning Department
1000 E. 11th St.
Austin, TX 78702

Re: Rezoning applications for 3117-3121 E. 12th Street, also known as TCAD Parcels
0209150223, 0209150224, and 0209150207 (the "Property")

Dear Ms. Harden,

Based on City feedback related to the application of the Density Bonus 90 ("DB90") combining district, the applicant is amending the above-referenced rezoning application to remove the height limitation within the conditional overlay. It is our understanding that the conditional overlays affecting permitted uses and impervious cover may remain.

I appreciate your consideration and look forward to answering any questions.

Respectfully,



Michael J. Whellan

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

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512-435-2300

FACSIMILE 512-435-2360

MICHAEL J. WHELLAN
(512) 435-2300
MWHELLAN@ABAUSTIN.COM

April 23, 2024

Via email

Joi Harden, Chief Zoning Officer
City of Austin Planning Department
1000 E. 11th St.
Austin, TX 78702

Re: Rezoning applications 3117-3121 E. 12th Street, also known as TCAD Parcels
0209150223, 0209150224, and 0209150207 (the "Property")

Dear Ms. Harden,

I am submitting the attached rezoning application requesting the addition of Density Bonus 90 ("DB90") zoning to the Property. The Property was recently rezoned to CS-MU-V-CO-NP under Ordinance No. 2230921-091. The approved rezoning unified the Property's three parcels under the same zoning designation and made the site eligible to develop under the City's Vertical Mixed Use program. As a result of discussions with nearby neighbors, the ordinance also updated the site's existing conditional overlay to limit building height to 80 ft. and cap impervious cover at 90 percent.

As you know, the City developed a new density bonus program under the DB90 combining district to replace the now-defunct VMU2 program. Since the Property was initially planned for development under VMU2, we are now seeking DB90 zoning as the new tool for creating needed housing, including affordable housing, along the 12th Street corridor.

We are not seeking any changes to the zoning conditions beyond adding the DB90 combining district. As discussed in the previous rezoning discussions, the Property is located less than 500 feet from an Imagine Austin Corridor (Airport Boulevard), is along and near multiple CapMetro bus routes, and is within a ½ mile radius of the MLK Jr. rail station.

I appreciate your consideration and look forward to answering any questions.

Respectfully,



Michael J. Whellan



MEMORANDUM

TO: Mayor and City Council

FROM: Joi Harden, Zoning Officer
Planning Department

DATE: July 16, 2024

SUBJECT: DB90 cases – Postponement to August 29, 2024, City Council
Postponement request by Staff

Staff is requesting a postponement from July 18, 2024, City Council, to the August 29, 2024, City Council meeting, of all rezoning and neighborhood plan amendment cases requesting density bonus 90 (DB90) combining district zoning. The purpose of the postponements is to allow for City Council consideration of the rezoning cases, related neighborhood plan amendment cases, and Item #117 – Case Number C20-2024-011 (“DB90 code amendment”) at the same meeting. Staff recommends City Council consider the rezoning cases and the DB90 code amendment together so that any amendments made to DB90 are applied consistently to all properties with DB90 zoning. City Council approval of a rezoning case made prior to consideration of the DB90 code amendment may result in inconsistent regulations for properties zoned DB90. Staff has separately requested a City Council postponement of the DB90 code amendment to August 29. This postponement will provide time for Planning Commission to make a recommendation on the DB90 code amendment, which was postponed at Planning Commission on July 9, 2024, and is currently scheduled to be considered by Planning Commission on July 23, 2024.

Rezoning and NPA Cases:

7/18 CC Agenda Item #	Case number
133	C14-2024-0061
134	C14-2024-0059
136	NPA-2024-0030.01
137	C14-2024-0033
141	NPA-2022-0005.01
142	C14-2022-0107
146	C14-2024-0039
147	C14-2024-0052
149	C14-2023-0131
154	C14-2024-0055
163	C14-2024-0042
171	NPA-2023-0025.01
172	C14-2024-0040

174	C14-2024-0044
175	C14-2025-0043
176	C14-2024-0038
177	C14-2024-0063
178	C14-2024-0073
179	C14-2024-0053
180	C14-2024-0070
181	C14-2024-0076
182	C14-2023-0110
183	NPA-2024-0016.01.SH
184	C14-2024-0019.SH

If you need additional information, please contact Joi Harden, at 512-974-1617.

Joi Harden, Zoning Officer
Planning Department

cc: T.C. Broadnax, City Manager
Veronica Briseño, Assistant City Manager



Eastside Guardians / East Austin Conservancy

P.O. Box 6462, Austin, Texas, 78762

(512) 262-9946

administrator@eastsideguardians.org

July 15, 2024

To Mayor Watson and Austin City Council Members:

I am writing on behalf of the East Austin Conservancy to request a neighborhood postponement of the following agenda items on the July 18, 2024 meeting agenda.

Item #133 – DB-90 Request; 2900 Oak Springs Dr.

Item #141 & #142 – DB-90 Request; 400 Vargas Rd.

Item #146 – DB-90 Request; 3020 E. Cesar Chavez St.

Item #149 – DB-90 Request; 2613 & 2619 E. 5th St.

Item #154 – DB-90 Request; E. 51st, E. 52nd, Cameron Rd., Lancaster Rd.

Item #177 – DB-90 Request; 501 Pedernales St.

Item #180 – DB-90 Request; 3117 & 3121 E. 12th St.

Item #182 – DB-90 Request; 1230, 1400, 1404 & 1406 E. 38 ½ St.

Item #183 & #184 – DB-90 Request; 4900 Gonzales St.

The community has been blind-sided on DB-90 because, for many years, an MU or VMU zoning change typically meant 60 feet in height. Also, VMU2 (the category that DB-90 is replacing and which it most closely mirrors) was limited to certain corridors and City staff and Planning Commission are now failing to respect these conventions that were collectively developed.

Historically, the City Council has granted at least one neighborhood postponement request as a standard practice. The granting of this small concession is critical, particularly at this moment in time, when there are at least 17 such DB-90 proposals in Central East Austin that are under consideration by Planning Commission and City Council. Please consider the individual context of each DB-90 case as well as the cumulative impact that all of these DB-90 proposals will have on the Eastside as these out of scale proposals begin to propagate.

Thank you in advance for your support and consideration of this request.

Sincerely,

Raul Alvarez

East Austin Conservancy

From: [Homewood Heights Neighborhood Association President](#)
To: [Michael Whellan](#)
Cc: [Boudreaux, Marcelle](#); [McKinley Heights](#); [Lawler, John](#); [Corona, Nicole](#); [Brown, Destiny](#); [April Brown](#); [Thomas, Eric](#)
Subject: Re: PC 6/25/24 Item 14: C14-2024-0070 – 3117 & 3121 E. 12th Street
Date: Tuesday, June 25, 2024 3:51:00 PM

External Email - Exercise Caution

We can accommodate July 9th by one of the two neighborhoods offering a special called meeting.

Marcelle, please confirm when postponement to July 9th is on consent for tonight's PC meeting.

Christopher Page
President of the Homewood Heights Neighborhood Association

On Tue, Jun 25, 2024 at 3:37 PM Michael Whellan <MWhellan@abaustin.com> wrote:

Homewood Heights N.A. has requested July 23rd.

Applicant will not oppose a neighborhood postponement to July 9th.

We are waiting for Homewood Heights to decide whether this is a consent postponement to July 9th or a discussion postponement regarding July 23rd.

MJW.

From: Boudreaux, Marcelle <Marcelle.Boudreaux@austintexas.gov>
Sent: Tuesday, June 25, 2024 3:29 PM
To: Michael Whellan <MWhellan@abaustin.com>; Homewood Heights Neighborhood Association President <homewoodheightsneighborhood@gmail.com>
Cc: McKinley Heights <mckinleycliffordsanchez@gmail.com>; Lawler, John <John.Lawler@austintexas.gov>; Corona, Nicole <Nicole.Corona@austintexas.gov>; Brown, Destiny <Destiny.Brown@austintexas.gov>; April Brown <ABrown@abaustin.com>; Thomas, Eric <Eric.Thomas@austintexas.gov>
Subject: RE: PC 6/25/24 Item 14: C14-2024-0070 – 3117 & 3121 E. 12th Street

Hello all – Please reply all to this re: potential date for Postponement request.

I've removed Elizabeth Funk, as she is no longer the Liaison for Planning. I've added Destiny Brown, Liaison, and Eric Thomas from Planning.

Thank you,

Marcelle Boudreaux

Current Planning - Zoning

City of Austin Planning Department

P: 512-974-8094

E: marcelle.boudreaux@austintexas.gov

6310 Wilhelmina Delco Dr. Austin, Texas 78752

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From: Michael Whellan <MWhellan@abaustin.com>

Sent: Tuesday, June 25, 2024 2:33 PM

To: Homewood Heights Neighborhood Association President
<homewoodheightsneighborhood@gmail.com>

Cc: McKinley Heights <mckinleycliffordsanchez@gmail.com>; Lawler, John
<John.Lawler@austintexas.gov>; Corona, Nicole <Nicole.Corona@austintexas.gov>;
elizabeth.funk@austintexas.com; Boudreaux, Marcelle <Marcelle.Boudreaux@austintexas.gov>;

April Brown <ABrown@abaustin.com>; Michael Whellan <MWhellan@abaustin.com>

Subject: RE: PC 6/25/24 Item 14: C14-2024-0070 – 3117 & 3121 E. 12th Street

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The applicant will not oppose a two-week postponement to July 9th.

Let me know if that is acceptable and we can ask City staff to put the item on the consent agenda for postponement to July 9th.

Thank you.

MJW.

From: Homewood Heights Neighborhood Association President
<homewoodheightsneighborhood@gmail.com>
Sent: Tuesday, June 25, 2024 12:13 PM
To: Michael Whellan <MWhellan@abaustin.com>
Cc: McKinley Heights <mckinleycliffordsanchez@gmail.com>; Lawler, John <John.Lawler@austintexas.gov>; nicole.corona@austintexas.gov;
elizabeth.funk@austintexas.com; Boudreaux, Marcelle <Marcelle.Boudreaux@austintexas.gov>;
April Brown <ABrown@abaustin.com>
Subject: Re: PC 6/25/24 Item 14: C14-2024-0070 – 3117 & 3121 E. 12th Street

7/23/24 allows Homewood Heights NA and McKinley Heights NA time for one regularly scheduled meeting.

8/20/24 would be preferable due to work obligations and planned travel.

What dates would you support?

Christopher Page

President of the Homewood Heights Neighborhood Association

On Tue, Jun 25, 2024 at 11:24 AM Michael Whellan <MWhellan@abaustin.com> wrote:

| What date are you seeking to postpone to?

MJW.

From: Homewood Heights Neighborhood Association President
<homewoodheightsneighborhood@gmail.com>

Sent: Tuesday, June 25, 2024 11:10 AM

To: McKinley Heights <mckinleycliffordsanchez@gmail.com>; Lawler, John
<John.Lawler@austintexas.gov>; Michael Whellan <MWhellan@abaustin.com>; April Brown
<ABrown@abaustin.com>; nicole.corona@austintexas.gov; elizabeth.funk@austintexas.com;
Boudreaux, Marcelle <Marcelle.Boudreaux@austintexas.gov>

Subject: PC 6/25/24 Item 14: C14-2024-0070 – 3117 & 3121 E. 12th Street

Michael,

Would the applicant support a neighborhood request for postponement on Item 14 for tonight's PC hearing?

The mailed notification for the hearing did not allow time for the Homewood Heights Neighborhood Association to meet and discuss the matter.

Please let me know at your earliest convenience.

Christopher Page

President of the Homewood Heights Neighborhood Association

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For any additional questions or concerns, contact CSIRT at "cybersecurity@austintexas.gov".

From: [McKinley Heights](#)
To: [Boudreaux, Marcelle](#)
Cc: [Chris Page](#); [Lawler, John](#); [Mays, Sharon](#); [Clerk, City](#); [Harden, Joi](#); [Michael Whellan](#)
Subject: Re: C14-2024-0070 - Item 194 Postponement Request
Date: Wednesday, August 28, 2024 3:07:45 PM

External Email - Exercise Caution

Hi Marcelle,

McKinley Heights is amenable to the 10/24 postponement date requested by the East Austin Conservancy.

Thank you,
Jenny

On Aug 28, 2024, at 9:24 AM, Boudreaux, Marcelle
<Marcelle.Boudreaux@austintexas.gov> wrote:

Thank you, Chris. This supporting request made by Homewood Heights NA will be noted as N'hood Postponement request to 9/26 CC hearing, by the Planning Officer at tomorrow's City Council hearing, and this communication will be included as backup for the case.

Marcelle Boudreaux
Current Planning - Zoning
City of Austin Planning Department
P: 512-974-8094
E: marcelle.boudreaux@austintexas.gov
6310 Wilhelmina Delco Dr. Austin, Texas 78752

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From: Homewood Heights Neighborhood Association President
<homewoodheightsneighborhood@gmail.com>
Sent: Tuesday, August 27, 2024 9:16 PM
To: McKinley Heights <mckinleycliffordsanchez@gmail.com>
Cc: Lawler, John <John.Lawler@austintexas.gov>; Mays, Sharon
<Sharon.Mays@austintexas.gov>; Clerk, City <City.Clerk@austintexas.gov>; Harden, Joi
<Joi.Harden@austintexas.gov>; Boudreaux, Marcelle
<Marcelle.Boudreaux@austintexas.gov>; Michael Whellan <MWhellan@abaustin.com>
Subject: Re: C14-2024-0070 - Item 194 Postponement Request

External Email - Exercise Caution

Writing to ensure there's an official record of the Homewood Heights Neighborhood Association joining the postponement request sent by McKinley Heights listed above. Marcelle, if there's any further technical requirements to log this request please let me know.

Christopher Page
President of the Homewood Heights Neighborhood Association

On Tue, Aug 27, 2024 at 6:39 PM McKinley Heights
<mckinleycliffordsanchez@gmail.com> wrote:

Hello John and Sharon,

On behalf of the McKinley Heights and Homewood Heights Neighborhoods, I would like to request a postponement for Item 194 on August 29th's council agenda (C14-2024-0070, 3117-3121 E 12th St) until September 26, 2024. I am out of town the first week of September as well the third week of September for work, and my being gone will impede my ability to engage, educate and garner feedback and/or support from neighbors about the proposed restrictive covenant for the proposed new zoning designation of DB90.

Furthermore, we are awaiting information from the applicant about the requested changes to the restrictive covenant and feel it is important to continue these very important conversations because of their lasting impact to our neighborhoods.

@Marcelle - have I omitted anyone from this email that I need to include in our postponement request?

We look forward to hearing from you.

Best,
Jenny Grayson

McKinley Heights President
512-293-8819

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For any additional questions or concerns, contact CSIRT at
["cybersecurity@austintexas.gov"](mailto:cybersecurity@austintexas.gov).



Eastside Guardians / East Austin Conservancy

P.O. Box 6462, Austin, Texas, 78762

(512) 262-9946

administrator@eastsideguardians.org

August 25, 2024

To Mayor Watson and Austin City Council Members:

I am writing on behalf of the East Austin Conservancy to request a neighborhood postponement of the following agenda items on the August 29, 2024 meeting agenda.

Item #171 – DB-90 Request; 2900 Oak Springs Dr.

Item #177 & #178 – DB-90 Request; 400 Vargas Rd.

Item #181 – DB-90 Request; 3020 E. Cesar Chavez St.

Item #183 – DB-90 Request; 2613 & 2619 E. 5th St.

Item #184 – DB-90 Request; E. 51st, E. 52nd, Cameron Rd., Lancaster Rd.

Item #191 – DB-90 Request; 501 Pedernales St.

Item #194 – DB-90 Request; 3117 & 3121 E. 12th St.

Item #196 – DB-90 Request; 1230, 1400, 1404 & 1406 E. 38 ½ St.

Item #197 & #198 – DB-90 Request; 4900 Gonzales St.

The community has been blind-sided on DB-90 because it is being applied more broadly than VMU & VMU2 cases typically were typically. VMU cases & VMU2 cases (the category that DB-90 is replacing and which it most closely mirrors) was limited to certain corridors and City staff and Planning Commission are now failing to respect these previously conventions.

Furthermore, the rules that outline the parameters that apply to projects granted the DB-90 designation are on the same agenda on which the City is scheduled to vote on these 9 cases. Until the rules are adopted and understood by the Council and the public, no action should be taken on any DB-90 cases. This, too, is a good justification for a postponement in addition to the fact that neighborhoods are typically granted 1 postponement on a case.

An additional concern is that there are more than 20 active DB-90 cases in Central East Austin (D1 & D3). That is about half of all DB-90 cases. This disparate impact must be fully analyzed and policy measures that mitigate this disparate impact must be in place before the Council proceeds.

Thank you in advance for your support and consideration of this request.

Sincerely,

Raul Alvarez

East Austin Conservancy