

ZONING CHANGE REVIEW SHEET

CASE: 830 Airport DB90 Rezoning (C14-2024-0081)

DISTRICT: 3

ADDRESS: 830 and 838 Airport Boulevard; 917 and 923 Shady Lane

ZONING FROM: CS-MU-V-CO-NP and CS-CO-NP TO: CS-MU-V-DB90-CO-NP

SITE AREA: approximately 2.5 acres (approximately 108,900 square feet)

PROPERTY OWNER: 838 Airport 2017, LP

AGENT: Armbrust & Brown, PLLC (Michael J. Whellan)

CASE MANAGER: Jonathan Tomko (512) 974-1057, jonathan.tomko@austintexas.gov

STAFF RECOMMEDATION:

Staff recommends granting general commercial services-mixed use-vertical mixed use-density bonus 90-conditional overlay-neighborhood plan (CS-MU-V-DB90-CO-NP) combining district zoning. Staff's recommendation would carry over the Conditional Overlay in Ordinance No. 20220901-110 which prohibits the vehicle storage use and conditionally allows the following seven uses: agricultural sales and services, building maintenance services, construction sales and services, equipment repair services, equipment sales, laundry services, and limited warehousing and distribution. For a summary of the basis of Staff's recommendation, please see the basis of recommendation section below.

PLANNING COMMISSION ACTION / RECOMMENDATION:

August 13, 2024: Planning Commission approved staff's recommendation of CS-MU-V-DB90-CO-NP on the consent agenda on Vice Chair Azhar's motion, Commissioner Woods' second on a 12-0 vote. Commissioner Howard was absent.

CITY COUNCIL ACTION:

October 10, 2024: Case is scheduled to be heard by City Council.

ORDINANCE NUMBER:

N/A

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.

CASE MANAGER COMMENTS:

The applicant is requesting CS-MU-V-DB90-CO-NP combining district 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.

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.

The subject tract is located south of the intersection of Shady Lane and Airport Boulevard (an Imagine Austin Corridor) with frontage on both streets. The tract is approximately 750 feet from the Springdale Station Imagine Austin Center, and was recently rezoned to its current zoning in 2022. This follow-up request is to add -DB90 to the zoning string.

The property is bounded on the north by Boggy Creek and the site includes floodplain and water quality zones that will affect redevelopment. Across Boggy Creek to the north is a property zoned CS-CO-NP, that is developed with Restaurant-limited land use. Across Shady Lane to the west is property zoned LR-MU-CO-NP which is utilized as the Rail Lily Farm School. Across Airport Boulevard to the east are properties zoned MH-NP and P-NP that are developed with a mobile home community and a fire station.

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. This request is consistent with the “VMU2” option and Ordinance No. 20240229-073, which replaced the invalidated “VMU2” option.

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

DB90 (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.

3. The proposed zoning should be consistent with the goals and objectives of the City Council. Granting this request would add additional housing units and potentially income-restricted affordable housing units along an identified Imagine Austin Activity Corridor and proximate to an Imagine Austin Activity Center.

4. 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.

5. Intensive multi-family zoning should be located on major arterials and highways.

Airport Boulevard is an ASMP level 3 roadway with two lanes in either direction and a turn lane in the middle. It is slated for improvements through the Airport Boulevard Mobility Program. Approximately 1/3 mile southeast of this tract Airport Boulevard merges into Ed Bluestein Boulevard/Highway 183.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-MU-V-CO-NP	A Goodwill thrift store and vacant automotive repair shop
<i>North</i>	CS-CO-NP	Restaurant-limited land use
<i>South</i>	CS-CO-NP, LO-MU-NP, and SF-3-NP	A barber shop, an art studio, cannabis dispensary, jewelry shop, and plumbing supply
<i>East</i>	MH-NP and P-NP	The Bel-Aire mobile home community and a fire station
<i>West</i>	GR-MU-NP and LR-MU-CO-NP	The Rail Lily Farm School

NEIGHBORHOOD PLANNING AREA: Govalle/Johnston Terrace Combined Neighborhood Planning Area (Govalle)

WATERSHED: Boggy Creek Watershed

SCHOOLS: A.I.S.D.

Govalle Elementary School

Martin Middle School

Eastside Memorial High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Lost and Found Pets, Austin Neighborhoods Council, Del Valle Community Coalition, East Austin Conservancy, El Concilio Mexican-American Neighborhoods, Friends of Austin Neighborhoods, Govalle Neighborhood Association, Govalle/Johnston Terrace Neighborhood Plan Contact Team, Guadalupe Neighborhood Development Corporation, Homeless Neighborhood Association, Neighborhood Empowerment Foundation, Neighbors United for Progress, Preservation Austin, SELTexas, Sierra Club, Austin Regional Group

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2020-0082 Trailhead Phase II	CS-MU-CO-NP and GR-NP to CS-V-CO-NP	10/27/2020: to grant CS-V-CO-NP as requested	12/3/2020: to grant CS-V-CO-NP as requested
C14-2019-0098 Shady Lane Mixed use	SF-3-NP to SF-6-NP and LR-MU-NP	6/23/2020: to grant SF-6-CO-NP and LR-MU-CO-NP	9/17/2020: to grant SF-6- CO-NP and LR-MU-CO-NP

RELATED CASES:

C14-2022-0054 (830 Airport) – Rezoning from SF-3-NP and CS-CO-NP to CS-MU-V-CO-NP - Approved
 NPA-2022-0016.01 (830 Airport) – Neighborhood Plan FLUM change from Commercial and Single Family to Mixed Use - Approved

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 830 AIRPORT BOULEVARD. C14-2024-0081. Project: 830 Airport DB90 Rezoning. Govalle/Johnston Terrace NP. FLUM: Mixed Use. 2.5 acres from CS-MU-V-CO-NP to CS-MU-V-DB90-CO-NP. Existing: commercial retail, restaurant, and car repair. Proposed: 360 mixed use midrise multifamily residential units, and retail. Demolition is proposed. 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	<p>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 *:</p> <ul style="list-style-type: none"> • Adjacent to Airport Boulevard Activity Corridor; 0.13 miles to Springdale Station Neighborhood Center
Y	<p>Mobility and Public Transit *: Located within 0.25 miles of public transit stop and/or light rail station.</p> <ul style="list-style-type: none"> • 0.09 miles to bus stop along Airport Boulevard accessible from Shady Lane

Y	Mobility and Bike/Ped Access *: Adjoins a public sidewalk, shared path, and/or bike lane. <ul style="list-style-type: none"> • Fragmented sidewalk infrastructure is provided immediately adjacent to site along Shady Ln, and resumes to the near south along the western portion of Airport Blvd.
Y	Connectivity, Good and Services, Employment *: Provides or is located within 0.50 miles to goods and services, and/or employment center.
	Connectivity and Food Access *: Provides or is located within 0.50 miles of a grocery store/farmers market.
	Connectivity and Education *: Located within 0.50 miles from a public school or university.
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"> • 0.2 miles to Govalle Neighborhood Park along Shady Lane
	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.)
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.
	Culture and Creative Economy *: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	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
9	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

1. 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.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
 3. According to floodplain maps there is no floodplain within or adjacent to the project location.
 4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
 5. 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.
 6. 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.
 7. 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

No comments on rezoning.

PARD – Planning & Design Review

PR1: Parkland dedication will be required at the time of subdivision or site plan application for new residential units, per City Code § 25-1-601, as amended. The proposed development meets the criteria for land dedication in City Code Title 25, Article 14. As such, a partial land dedication will be required, as well as any remaining fees in-lieu.

The Parks and Recreation Department (PARD) would consider a connection along Boggy Creek toward satisfying the requirement at time of permitting (whether subdivision or site plan). Such a connection would improve neighborhood connectivity, and satisfy an acquisition need for Boggy Creek, a recommendation identified in the Parks and Recreation Department's Long Range Plan.

Should there be any remaining fees in-lieu, 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.

Should the applicant wish 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 letter of the requirements as stated in this review.

Site Plan**Zoning Cases**

- SP 1. Site plans will be required for any new development other than single-family or duplex residential.
- SP 2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.
- SP 3. 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

- SP 4. The site is located within the Controlled Compatible Austin-Bergstrom Overlay. No use will be allowed that creates electrical interference with navigational signals or radio communications between airport and aircraft, makes it difficult for pilots to distinguish between the airport lights and others, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, creates bird strike hazards or otherwise in any way endangers or interferes 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.

DB90 Rezoning

- SP 5. This site must meet affordability minimums to be eligible for DB90. A signed approval letter from the Housing Department will be required with site plan submittal.
- SP 6. Airport Boulevard is the Principal Street for this site. Any buildings fronting this street will be required to have 75% of the ground floor as commercial uses.
- SP 7. This site is adjacent to a site that contains one to three dwelling units and is zoned SF-5 or more restrictive. A compatibility buffer 25' in width, designed to 25-8-700 and 25-2-652(G) will be required.

Transportation and Public Works Department (TPW) – Engineering Review

- TPW 1. The Austin Strategic Mobility Plan (ASMP) calls for 120 feet of right-of-way for Airport Boulevard. It is recommended that 60 feet of right-of-way from the existing centerline should be dedicated for Airport Boulevard according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].
- TPW 2. The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for Shady Lane. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for Shady Lane according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Airport Boulevard	Level 3	120'	110'	60'	No	Yes	Yes
Shady Lane	Level 2	84'	75'	40'	Yes	Yes	Yes

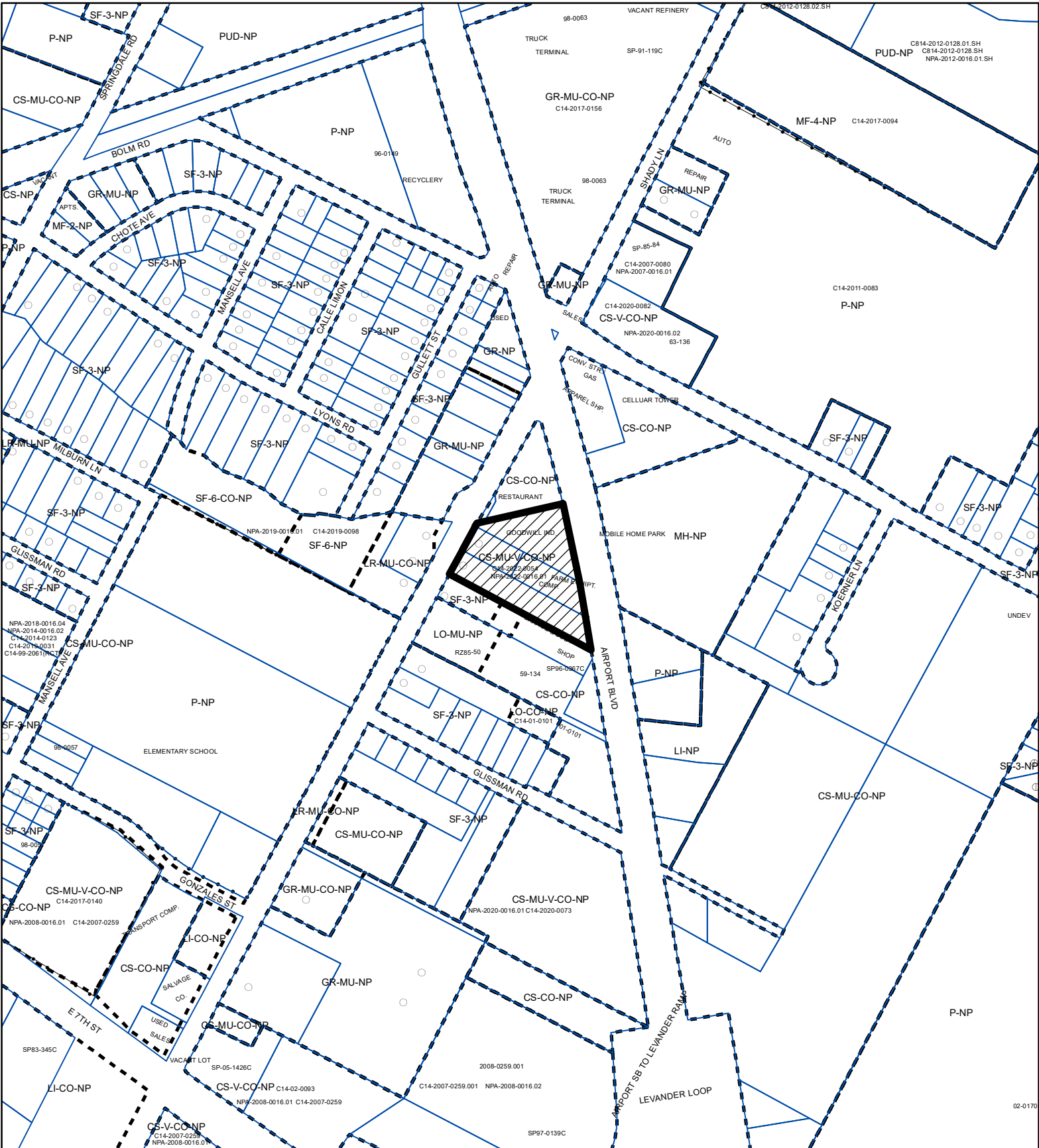
TIA: A traffic impact analysis is NOT required. The traffic generated by the proposal does not exceed the threshold established in the Land Development Code.

Austin Water Utility

No comments on rezoning.




INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

- A. Zoning Map
- B. Aerial Map
- C. Applicant's Summary Letter



ZONING

ZONING CASE#: C14-2024-0081

-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY



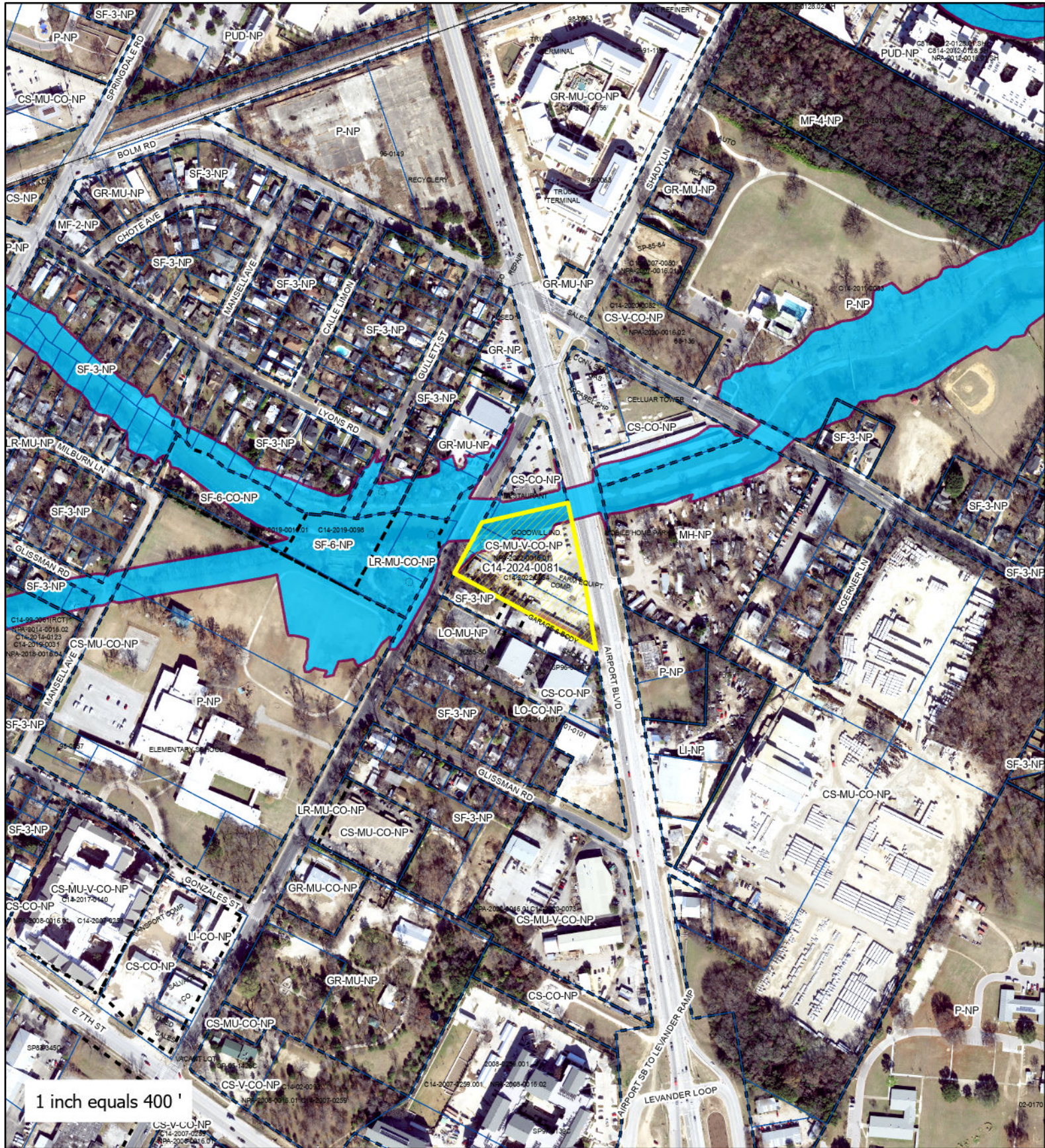
1" = 400'

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 Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Created: 5/9/2024



830 Airport DB90 Rezoning

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

ZONING CASE#: C14-2024-0081
 LOCATION: 830, 838 Airport Blvd.
 917, 923 Shady Ln.
 SUBJECT AREA: 2.5 Acres
 MANAGER: Jonathan Tomko



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 completeness.

Created: 8/7/2024

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

May 8, 2024

May 7, 2024
Joi Hardin, Interim Zoning Officer
City of Austin
Housing and Planning Department
1000 E. 11th St.
Austin, Texas 78702

Re: DB90 Rezoning for 830 & 838 Airport Blvd. and 917 & 923 Shady Ln. (the "Property")

Dear Ms. Hardin,

On behalf of 838 Airport 2017, LP (the "Applicant"), I request that the city rezone the Property to include the Density Bonus 90 Combining District ("DB90").

City-Initiated Rezoning Case

On February 29, 2024, Council adopted Ordinance No. 20240229-073 ("DB90 Ordinance"), which created DB90 as a successor to the invalidated Vertical Mixed-Use 2 program. Part 5 of the DB90 Ordinance additionally initiated rezoning for property that was "rezoned to allow for one or more VMU buildings after June 10, 2022, but before February 29, 2024," if the affected property owners submit the corresponding rezoning application prior to December 31, 2024. The Applicant is submitting this request under that provision.

Case Goals: DB90 Zoning and Prior Case Clean-Up

This case will accomplish two main goals:

- **It will rezone the Property to DB90 in accordance with prior Council action.** The Applicant previously sought – and Council granted, on September 1, 2022 – rezoning for the Property to CS-MU-V-CO-NP, in Case No. C14-2022-0054 (Ordinance No. 20220901-110). As described above, Council initiated rezoning for properties such as this one through the DB90 Ordinance.
- **It will clean up a discrepancy in the prior ordinance.** In preparing this application, we discovered a discrepancy in the prior case materials. While the Applicant had filed the prior rezoning case for the entire Property – and while all interested parties understood the case to include the entire Property – the case ordinance inadvertently included metes and bounds that only covered a portion of the Property. This case will resolve that discrepancy in the new zoning ordinance. (See Attachment A to this letter for more information.)

Case Request and Rationale

Due to the discrepancy described above, the Applicant is technically requesting rezoning from CS-MU-V-CO-NP and CS-CO-NP to CS-MU-V-DB90-CO-NP. (Property Profile Tool currently lists the entire Property as CS-MU-V-CO-NP, based on the expectation that the prior case had rezoned the Property in its entirety.)

Despite this inadvertent error, the planning rationale for rezoning the Property remains the same as outlined in that prior case. In short, the Property sits on a major Imagine Austin Corridor (Airport Boulevard) and features the following land use context:

- North: CS-CO-NP
- East: Airport Boulevard (and beyond it, P-NP and MH-NP)
- South: CS-CO-NP, LO-MU-NP, and a single SF-3-NP portion)
- West: Shady Lane (and beyond it, GR-MU-NP and LR-MU-CO-NP)

Council additionally approved a conditional overlay in Ordinance No. 20220901-110 with the following provisions:

- Vehicle storage is a prohibited use.
- The following uses are conditional:
 - Agricultural sales and services
 - Building maintenance services
 - Construction sales and services
 - Equipment repair services
 - Equipment sales
 - Laundry services
 - Limited warehousing and distribution

We request that Council keep this conditional overlay and rezone the entirety of the Property for CS-MU-V-DB90-CO-NP – thus implementing the city’s DB90 policy and resolving the discrepancy affecting this particular case.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions or need further details.

Respectfully,



Michael J. Whellan

Attachment A. Discrepancy Discussion

Ordinance No. 20220901-110 shows the Property in full (Figure 1), but the metes and bounds only describes the southern portion of the Property (Figure 2), as illustrated in Figure 3.

Figure 1. Property Map in Zoning Ordinance



Figure 2. Metes and Bounds Description

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from family residence-neighborhood plan (SF-3-NP) combining district and general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district to general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district on the property described in Zoning Case No. C14-2022-0054, on file at the Housing and Planning Department, as follows:

Being 1.631 acres of land situated in the J.C. Tannehill League in Travis County, Texas, said 1.631 acre tract of land being all of Tract 1, a 0.891 acre tract of land, all of Tract 2, a 0.300 acre tract of land, and all of Tract 3, a 0.440 acre tract of land, THOMAS F. TAYLOR SUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat thereof as recorded in Volume 2, Page 227, of the Plat Records of Travis County, Texas, said 1.631 acres of land being more particularly described by metes and bounds in **Exhibit "A"** incorporated into this ordinance (the "Property"),

locally known as 830 and 838 Airport Boulevard and 917 and 923 Shady Lane in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "B"**.

Figure 3. Discrepancy Issue

