

Zilker Neighborhood Association

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August 25, 2025

Re: C14-2025-0063, 2323 S. Lamar, rezoning hearing, City Council agenda item 114, Aug. 28, 2025
To: Marcelle Boudreaux, Development Services Dept., City of Austin
Austin Mayor and City Council
Ann DeSanctis and Scott Grantham, Parks and Recreation Dept., City of Austin

In the course of reviewing rezoning case C14-2025-0063 at 2323 South Lamar (item 114 on the August 28 City Council agenda), the Zoning Committee of the Zilker Neighborhood Association has found that the description of the case in the hearing notice and in the staff report was incomplete and misleading. We believe that the case must be withdrawn and renoticed to allow the public and the Planning Commission to consider the removal of Condition 2.E establishing the affordability rate of 60% MFI.

Background:

This is about the completed VMU building at 2323 S Lamar and Bluebonnet. The VMU zoning was approved 7 years ago with a conditional overlay committing to at least 165 dwelling units (10% affordable at 60% MFI), and the site plan was approved 6 years ago based on a VMU certification that 18 income-restricted housing units would be provided.

Now that construction is complete, taking advantage of the density bonuses, the new owner wants to reduce the residential portion to 20 condos with only 2 income-restricted units (one at 80% MFI and the other at 100% MFI) and turn the rest into a hotel, thus requiring rezoning to remove Condition 2.C from the ordinance: "Commercial uses on the Property are prohibited until at least 165 dwelling units are built, with a goal of 200 dwelling units."

The notice for the case is incomplete because:

- it refers only to the removal of "a condition,"
- 2.C is the only condition noted in applicant's request and staff's report,
- the red-lined ordinance submitted for the Planning Commission and the City Council hearings shows the deletion of Condition 2.C only;
- the other four conditions remain in the red-lined ordinance,
- but the draft ordinance submitted for the City Council hearing is also missing Condition 2.E, which establishes a 60% MFI standard for rental units.

Condition 2.E. "The Property is subject to Chapter 25-2, Subchapter E, Article 4.3 (Vertical Mixed Use Buildings). Ten percent of the residential units available for rental in a vertical mixed use building shall be reserved for households earning no more than 60 percent of the annual median family income."

Nothing in the publicly available material suggests that the rezoning case was intended to change the basic affordability level. That omission amounts to a violation of city and state Open Meetings rules.

The ZNA Zoning Committee requests that City staff correct the error by withdrawing the case, revising the hearing notification to indicate that two conditions involving residential affordability are being considered, and scheduling new hearings with new notifications for the Planning Commission and City Council.

In addition, we request that the staff report on the case address the attached list of 5 questions, bearing on the fiscal impact of the rezoning.

Thank you for your attention.

Sincerely yours,
Lorraine Atherton
on behalf of the ZNA Zoning Committee
Districts 5 and 9

Other information that should be available for an adequate hearing:

Fiscal Impact: The site plan was approved years ago and construction is essentially complete. Thus, the development fees, parkland dedication, and transportation mitigation have been determined and mostly paid. The fees are calculated or waived based on the terms of the affordability certification and density bonus. The applicant has already applied for a site plan change, so staff is able to recalculate the fees and report on whether fees will increase or have to be refunded if the change is approved.

- ZNA is particularly interested in the fate of the \$210,173.64 parkland fee-in-lieu. According to staff comments from 2021, this site is subject to the high-density fee for projects greater than 12 units per acre. The new proposal is for fewer than 12 units per acre. Will the new project be subject to any parkland fees at all?
- ZNA is also interested in the difference between the \$270,123 transportation mitigation fees calculated in 2020 and the \$90,041 fee paid in 2021. Was the project granted waivers from those fees based on the density bonus program, and will the new project still be eligible for waivers if it contains only 1 or 2 income-restricted units?
- ZNA is also concerned that the project may have received drainage fee waivers based on the substantial affordable housing commitment. The project caused

considerable delays and cost increases in the Del Curto flood mitigation project, and we would like to see an accounting of those costs.

- The potential hotel occupancy tax should be calculated for the proposed 153 hotel keys. Will the HOT offset the loss of parkland fees? Or will it all go to the Convention Center demolition?
- Since the point of the zoning change is to convert residential space to upper-level commercial (hotel) space, the public needs to understand whether the VMU fee for upper-level nonresidential space will apply. According to LDC 25-2 Subchapter E Article 4 Section 4.3 -F.4,* the hotel, which is considered commercial rather than residential space, should be subject to a fee, to be spent in the area. Again, can this fee offset the loss of parkland fees, or will it be absorbed into the general fund?

*"4. **Fee for Upper-Level Nonresidential Space.** The developers of VMU buildings that contain nonresidential uses above the ground-floor shall pay a fee as set by the City Council for all climate-controlled nonresidential space above the ground floor. At the same time that it sets the amount of the fee, the City Council shall also identify a means by which fees paid pursuant to this section shall be reserved only for expenditure within the area of the City from which they were collected."