

## ZONING CHANGE REVIEW SHEET

CASE: C14-2024-0044 – University Park North

DISTRICT: 9

ADDRESSES:

North – 3800, 3808, 3810 N IH 35 Service Road SB; 1015, 1017 E 38<sup>th</sup> Half Street; 1014, 1016 E 38<sup>th</sup> Street

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

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

SITE AREA:

North – 1.24 acres

PROPERTY OWNER: GDC-NRG IH35 LLC (Adam Moore)

AGENT: Land Use Solutions (Michele Haussmann)

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 designates the following as conditional uses:**

Automotive Repair Services, Automotive Washing (of any type), Building Maintenance Services, Funeral Services, Commercial Blood Plasma Center, Hotel-Motel, Commercial Off-Street Parking, Outdoor Sports and Recreation, Custom Manufacturing, Research Services, Residential Treatment and Drive-in service is a conditional use as an accessory use to commercial uses.

**The Conditional Overlay designates the following as prohibited uses:**

Agricultural Sales and Services, Automotive Rentals, Automotive Sales, Campground, Construction Sales and Services, Convenience Storage, Drop-Off Recycling Collection Facilities, Equipment Repair Services, Equipment Sales, Kennels, Limited Warehousing and Distribution, Maintenance and Service Facilities, Monument Retail Sales, Outdoor Entertainment, Pawn Shop Services, Service Station and Vehicle Storage.

*For a summary of the basis of Staff's recommendation, see pages 2 - 5.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

**May 14, 2024: APPROVED CS-MU-V-CO-DB90-NP COMBINING DISTRICT ZONING AS STAFF RECOMMENDED, BY CONSENT. [UNIVERSITY PARK NORTH]**

*[A. AZHAR; A. HAYNES -2<sup>nd</sup>] (8-0) A. HAYNES – ABSTAINED, P. HOWARD, J. MUSHTALER, R. JOHNSON, A. WOODS – ABSENT*

CITY COUNCIL ACTION:

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 Conditional Overlay which established conditional and prohibited uses, originally in the Hancock Park Neighborhood Plan (Ordinance No. 040826-59), and was included as Conditional Overlay in the rezoning ordinances for case numbers C14-2023-0001 and C14-2023-0012, are recommended to be maintained in this new rezoning.

The University Park project is a unified development, assigned two separate case numbers due to public right of way separating the North and South portions. At the May 14, 2024, Planning Commission hearing, the Commission granted a Neighborhood postponement request for two weeks until the May 28, 2024, Planning Commission hearing for the University Park South portion, on consent. The South portion was recommended for approval by the Planning Commission on May 28, 2024. The North portion was recommended for approval at the May 14, 2024, Planning Commission hearing.

Planning Commission Previous Action

**July 25, 2023:** *APPROVED CS-MU-V-CO-NP DISTRICT ZONING AS STAFF*

*RECOMMENDED, BY CONSENT*

*[A. WOODS; J. CONNOLLY – 2<sup>nd</sup>] (11-0) J. MUSHTALER, A. PHILLIPS – ABSENT*

**June 27, 2023:** *APPROVED a POSTPONEMENT REQUEST by staff to JULY 25, 2023*

*[A. AZHAR; F. MAXWELL – 2<sup>nd</sup>] (9-0) N. BARERRA-RAMIREZ, P. HOWARD, G. ANDERSON – ABSENT*

City Council Previous Action

**September 14, 2023:** *APPROVED CS-MU-V-CO-NP AS RECOMMENDED BY PLANNING COMMISSION*

*[Council Member Ryan Alter's motion, Council Member Kelly's second on a 7-0 vote. Mayor Pro Tem Ellis was off the dais. Council Members Alison Alter, Harper-Madison, and Pool were absent.]*

Prior Rezoning Case (C14-2023-0001 (North) and C14-2023-0012 (South))

University Park South - Ordinance No. 20230914-109, approved September 14, 2023

University Park North – Ordinance No. 20230914-110, approved September 14, 2023

CASE MANAGER COMMENTS:

Overall, the subject rezoning area for University Park North and South is approximately 1.83 acres located in the Hancock Neighborhood Plan Area between the southbound North IH 35 Service Road and Harmon Avenue along East 38th Street and East 38th Half Street. It is composed of two tracts of land separated by East 38th Street and is currently zoned general commercial services – mixed use – vertical mixed use building – conditional overlay - neighborhood plan (CS-MU-V-CO-NP) combined district zoning.

University Park North is 1.24 acres and consists of 16 multifamily units that are occupied and two single family residences that are not occupied. A portion of the site is undeveloped and there is also an abandoned building that was previously an auto service business. The applicant is proposing to build 210 multifamily residential units.

University Park South is 0.5897 acre and consists of 14 multifamily units that are occupied and one single family residence that is not occupied. The applicant is proposing to build 50 multifamily residential units.

There is a fuel station and day care center as well as single family residences to the north (CS-MU-NP; SF-3-NP). Single family residences are all along Harmon Avenue to the west of both properties (SF-3-CO-NP). To the south are multifamily units (PUD-NP). The southbound North IH 35 service road is directly to the east. ***Please refer to Exhibits A (Zoning Map) and A-1 (Aerial Exhibit).***

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 multifamily 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 applicant is proposing a unified development that will include approximately 260 multifamily residential units as well commercial uses. The proposed project will have access from Harmon Avenue.

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.

Currently University Park North has 16 multifamily units that are occupied and University Park South has 14 multifamily units that are occupied. The applicant is proposing to redevelop both sites with a mixed-use development that includes multifamily units and ground floor commercial uses. The developer will comply with the Tenant Notification and Relocation Assistance requirements for the City of Austin.

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 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 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 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	North: 16 multifamily units (occupied) 2 single family units (not occupied) Undeveloped portion Abandoned building South: 14 multifamily units (occupied) 1 single family unit (not occupied)
<i>North</i>	CS-MU-NP; SF-3-CO-NP	Fuel Station; Day care center; Single family residences
<i>South</i>	PUD-NP	Multifamily
<i>East</i>	CS-MU-NP	N Interstate Highway 35; Restaurant
<i>West</i>	SF-3-CO-NP	Single family residences

NEIGHBORHOOD PLANNING AREA: Central Austin Combined Neighborhood Plan (Hancock)

WATERSHED: Boggy Creek - Urban

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS: Austin Independent School District

Lee Elementary School

Kealing Middle School

McCallum High School

COMMUNITY REGISTRY LIST:

Austin Independent School District,  
Austin Neighborhoods Council,  
CANPAC (Central Austin Neigh Plan Area Committee),  
Cherrywood Neighborhood Association,  
Del Valle Community Coalition,  
Friends of Austin Neighborhoods,  
Hancock Neighborhood Assn.,  
Homeless Neighborhood Association,  
Neighborhood Empowerment Foundation,  
North Austin Neighborhood Alliance,  
Preservation Austin,  
Upper Boggy Creek Neighborhood Planning Team

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2023-0001 & C14-2023-0012 – University Park North & South	CS-MU-CO-NP; CS-MU-NP to CS-MU-V-NP	To grant CS-MU-V-CO-NP, as recommended by Staff (7/25/2023)	Apvd (9/14/2023)
C814-06-0175.04 – East Ave PUD Amendment	PUD-NP to PUD-NP, to add business & admin use to Parcel H	Approved fourth amendment (05-23-2023)	Apvd (8/31/2023)
C14-2022-0019.SH – 1004 E 39 <sup>th</sup> Street	SF-3-CO-NP, LO-MU-NP to MF-6-NP.	To grant MF-4-NP (05/10/2022)	Apvd (06/09/2023)
C14H-2014-0007	SF-3-CO-NP to SF-3-CO-H-NP	Planning commission – To deny SF-3-CO-H-NP (08/26/2014).  Historic Landmark Commission – To grant SF-3-CO-H-NP (07/28/2014)	Apvd (12/11/2014)

RELATED CASES:

C14-2023-001 &amp; C14-2023-0012

SP-2022-0201C – 38<sup>th</sup> Street Multifamily-North (Expired)SP-2022-0200C – 38<sup>th</sup> Street Multifamily-South (Expired)ADDITIONAL STAFF COMMENTS:Comprehensive Planning

**Project Name and Proposed Use:** 1015 E 38TH STREET. C14-2024-0043. Project: University Park – South. Central Austin Combined Neighborhood Plan (Hancock). FLUM: Mixed Use. 0.5897 acres from CS-MU-V-CO-NP to CS-MU-V-DB90-CO-NP. Existing: single family and multifamily residential units. Proposed: 50 multifamily midrise residential units. Proposes demolition of existing 15 residential units. Proposal seeks Density Bonus 90 Combining District (Ordinance No. 20240229-073). Density Bonus 90 (DB90) 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.

**Project Name and Proposed Use:** 3800 N IH 35 SERVICE ROAD SB. C14-2024-0044. Project: University Park North. Central Austin Combined Neighborhood Plan (Hancock). FLUM: Mixed Use. 1.24 acres from CS-MU-V-CO-NP to CS-MU-V-DB90-CO-NP. Existing: single family, commercial and multifamily. Proposed: 210 proposed residential multifamily units. Demolition of 18 existing residential units is proposed. Proposal seeks Density Bonus 90 Combining District (Ordinance No. 20240229-073). Density Bonus 90 (DB90) 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
	<b>Complete Community Measures *</b>
Y	<b>Imagine Austin Growth Concept Map:</b> 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. <b>Names of Activity Centers/Activity Corridors/Job Centers *:</b> <ul style="list-style-type: none"> <li>• <b>Adjacent to Downtown Regional Center</b></li> </ul>
Y	<b>Mobility and Public Transit *:</b> Located within 0.25 miles of public transit stop and/or light rail station. <ul style="list-style-type: none"> <li>• <b>0.15 miles from bus stop on Red River St</b></li> </ul>
Y	<b>Mobility and Bike/Ped Access *:</b> Adjoins a public sidewalk, shared path, and/or bike lane. <ul style="list-style-type: none"> <li>• <b>Sidewalk present along E 38<sup>th</sup> St to the north.</b></li> </ul>
Y	<b>Connectivity, Good and Services, Employment *:</b> Provides or is located within 0.50 miles to goods and services, and/or employment center.
Y	<b>Connectivity and Food Access *:</b> Provides or is located within 0.50 miles of a grocery store/farmers market. <ul style="list-style-type: none"> <li>• <b>0.3 Miles from Fiesta Mart</b></li> </ul>
Y	<b>Connectivity and Education *:</b> Located within 0.50 miles from a public school or university. <ul style="list-style-type: none"> <li>• <b>0.5 miles from Russell Lee Elementary School</b></li> </ul>
Y	<b>Connectivity and Healthy Living *:</b> Provides or is located within 0.50 miles from a recreation area, park or walking trail. <ul style="list-style-type: none"> <li>• <b>Hancock Golf Course and Recreation Center</b></li> </ul>
Y	<b>Connectivity and Health *:</b> 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"> <li>• <b>0.5 miles from St. David's Medical Center</b></li> </ul>
Y	<b>Housing Choice *:</b> 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	<b>Housing Affordability *:</b> Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
Y	<b>Mixed use *:</b> Provides a mix of residential and non-industrial uses.
	<b>Culture and Creative Economy *:</b> Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	<b>Culture and Historic Preservation:</b> Preserves or enhances a historically and/or culturally significant site.
	<b>Creative Economy:</b> Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	<b>Workforce Development, the Economy and Education:</b> 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.
	<b>Industrial Land:</b> Preserves or enhances industrial land.
Y	<b>Not located over Edwards Aquifer Contributing Zone or Edwards Aquifer Recharge Zone</b>
12	<b>Number of "Yes's"</b>

### 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 Bpggy 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.

#### Austin Fire Department

No comments.

#### PARD – Planning & Design Review

Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with CS-MU-V-DB90-CO-NP zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

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

#### Site Plan

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

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

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].

A Neighborhood Traffic Analysis may be required at the time of site plan, if triggered, when land uses and intensities will be known. [LDC 25-6-114].

The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for HARMON AVE. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for HARMON AVE according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for E 38TH ST. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for E 38TH ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 80 feet of right-of-way for E 38TH HALF ST. It is recommended that 40 feet of right-of-way from the existing centerline should be dedicated for E 38TH HALF ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

N IH 35 SVRD SB: Coordination with TXDOT is required regarding additional right-of-way for IH 35 Mobility plan. Please review IH 35 Mobility plan and let TXDOT know if the site is adjacent to the required ROW.

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)
HARMON AVE	Local Mobility - Level 1	58 feet	50 feet	29 feet	No	Shared lane (on-street)	Yes
E 38TH ST	Local Mobility - Level 1	58 feet	49 feet	28 feet	No	No	Yes

E 38TH HALF ST	Corridor Mobility - Level 3	80 feet	50 feet	39 feet	Existing 4 feet sidewalks	Shared lane (on-street)	Yes
N IH 35 SVRD SB	Regional Mobility - Level 4	Coordination with TxDOT is required.	209 feet	173 feet	Existing 4 feet sidewalks	Shared lane (on-street)	Yes

Austin Water Utility

No comments.

## INDEX OF EXHIBITS:

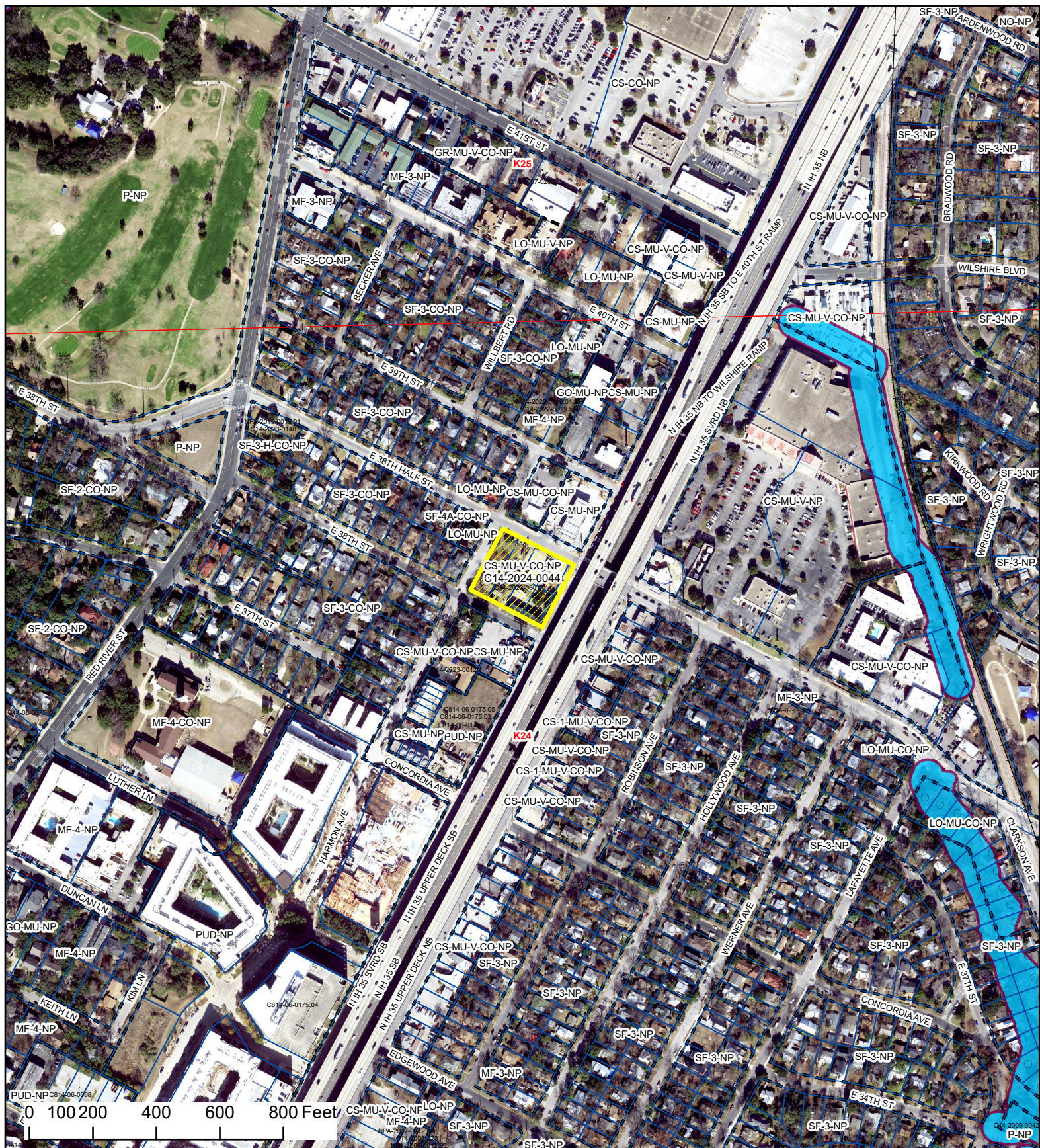
Exhibit A: Zoning Map – University Park North

Exhibit A-1: Aerial Map – University Park North

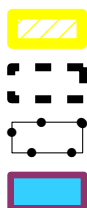
Exhibit B: Applicant's Summary Letter – University Park North and South







## University Park North



SUBJECT TRACT



ZONING BOUNDARY



PENDING CASE



CREEK BUFFER

CASE#: C14-2024-0044  
 LOCATION: 3800, 3808, 3810 N IH 35 SvrD SB;  
 1015, 1017 E 38th 1/2 St; 1014, 1016 E 38th St  
 SUBJECT AREA: 1.24 Acres  
 GRID: K24  
 MANAGER: Marcelle Boudreaux







Michele Haussmann  
PRINCIPAL  
[Michele@LandUseSolutionsTX.com](mailto:Michele@LandUseSolutionsTX.com)

March 22, 2024

Ms. Joi Harden, Zoning Officer  
Planning Department  
City of Austin  
*VIA Electronic Mail* [Joi.Harden@AustinTexas.gov](mailto:Joi.Harden@AustinTexas.gov)

Re: Zoning Application – Approximately 1.8297 acres located at East 38<sup>th</sup> Street and 38 ½ Street on Harmon Avenue, in the City of Austin (“City”), Travis County, Texas (“Property”)

Dear Ms. Harden:

As representatives of the owner of the above stated Property, GDC-NRG IH35, LLC and 3703 Harmon LP (“Applicants”), we respectfully submit the enclosed zoning applications and submittal packages. The Property was rezoned to add the VMU combining district in September 2023 under the VMU2 Ordinance resulting in the CS-MU-V-CO-NP zoning district, Zoning Ordinances 20230914-109 and 20230914-110. With the rezoning cases being approved on September 14, 2023, this places the applications within the timeline for the DB90 fee waivers outlined in DB90 Ordinance 20240229-073.

The Property consists of approximately 1.8297 acres and is in the Hancock Neighborhood Plan area. Two zoning applications are being submitted as the Property is separated by Harmon Avenue. The Applicant is requesting a rezoning of the Property to allow for the development of mixed-use project (“Project”). The Project is known as University Park North and University Park South. The requests are to rezone the Property to CS-MU-V-DB90-CO-NP. Please see the enclosed exhibits for your review.

The Property was designated Mixed Use and zoned CS-MU-NP and CS-MU-CO-NP with the adoption of the Hancock Neighborhood Plan in 2004, Ordinance 040826-059. The Conditional Overlay (“CO”) established with the Neighborhood Plan includes the following 1) designates the following uses as conditional uses: Automotive Repair Services, Automotive Washing (of any type), Building Maintenance Services, Funeral Services, Commercial Blood Plasma Center, Hotel-Motel, Commercial Off-Street Parking, Outdoor Sports and Recreation, Custom Manufacturing, Research Services and Residential Treatment, and 2) designates the following uses as prohibited: Agricultural Sales and Services, Automotive Rentals, Automotive Sales, Campground, Construction Sales and Services, Convenience Storage, Drop-Off Recycling Collection Facilities, Equipment Repair Services, Equipment Sales, Kennels, Limited Warehousing and Distribution,

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Maintenance and Service Facilities, Monument Retail Sales, Outdoor Entertainment, Pawn Shop Services, Service Station and Vehicle Storage. The same CO was included in the 2023 Zoning Ordinances and the same is being proposed with these rezoning cases.

The Property is located on a Large Corridor, Interstate Highway 35 Service Road, as defined in the Compatibility on Corridors backup material for the draft ordinance approved by City Council on December 1, 2022.

The Property is located to support individuals and families as it is within walking distance of a bus stop and in proximity to a recreation center and golf course located on the same lot. Families will be able to access several schools within 5 minutes driving, the closest being Russell Elementary School that is a half a mile from the Property.

The surrounding zoning and land uses are consistent and compatible with the land use designations including Mixed Use to the north, south and west and Single Family to the west. The Property is surrounded by compatible zoning districts including CS-MU-NP to the north, PUD-NP to the south and SF-3-CO-NP to the west.

Please contact me if you or your team members have any questions or need additional information. Thank you for your time and assistance with the requests.

Respectfully,

A handwritten signature in blue ink that reads 'Michele Haussmann'.

Michele Haussmann

Enclosures

CC: Marcelle Boudreaux, Planning Department, *via electronic mail*  
Nancy Estrada, Planning Department, *via electronic mail*  
Adam Moore, Gilbane Development Company, *via electronic email*  
Griff Whelan, Narrow Road Group, *via electronic email*  
Bart Whatley, Vice President, Hancock Neighborhood Association, *via electronic email*  
Barbara Epstein, President, Hancock Neighborhood Association, *via electronic email*  
Dylan Coons, Land Use Solutions, *via electronic email*

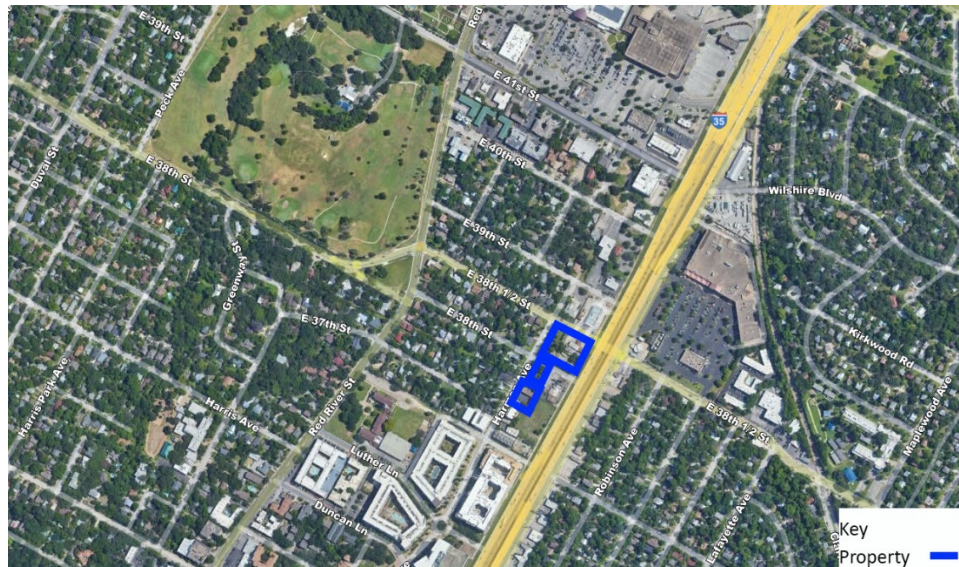
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Aerial Zoomed Out



Aerial Zoomed In



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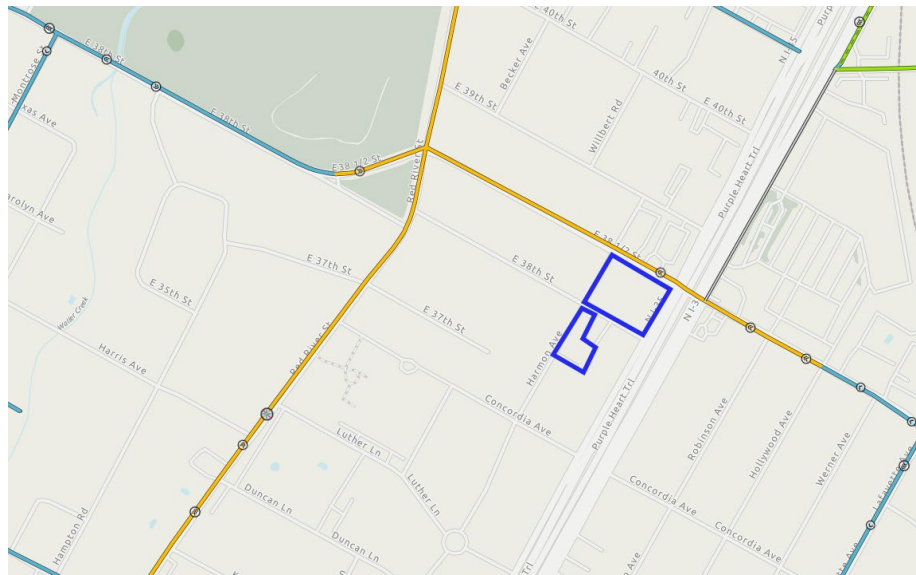




Park Distance Map



Bike Route Map



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## School Distance Map



## Recreation Center Map



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## Bus Stop Map



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**ORDINANCE NO. 20230914-110**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 3800, 3808, AND 3810 NORTH IH 35 SERVICE ROAD SOUTHBOUND, 1015 AND 1017 EAST 38TH HALF STREET, AND 1014 AND 1016 EAST 38TH STREET, IN THE CENTRAL AUSTIN COMBINED NEIGHBORHOOD PLAN AREA FROM GENERAL COMMERCIAL SERVICES-MIXED USE-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (CS-MU-CO-NP) COMBINING DISTRICT AND GENERAL COMMERCIAL SERVICES-MIXED USE-NEIGHBORHOOD PLAN (CS-MU-NP) COMBINING DISTRICT TO GENERAL COMMERCIAL SERVICES-MIXED USE-VERTICAL MIXED USE BUILDING-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (CS-MU-V-CO-NP) COMBINING DISTRICT.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district and general commercial services-mixed use-neighborhood plan (CS-MU-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. C14-2023-0001, on file at the Planning Department, as follows:

0.135 acre tract of land, being portions of lots described in recorded subdivisions, located in Travis County, Texas, according to the maps or plats thereof, said 0.135 acres of land being more particularly described by metes and bounds in **Exhibit "A"** incorporated into this ordinance,

AND

LOTS 5, 6, 7, 8, 9, 10, 11, 12, BLOCK "A" of the RESUBDIVISION AND PART OF BLOCK 4 OF PLAINVIEW HEIGHTS, a subdivision of Outlots Nos. 20 and 21, Division "C" in the City of Austin, Travis County, Texas, according to the map or plat thereof as recorded in Volume 4, Page 128, of the Plat Records of Travis County, Texas,

(collectively the "Property"),





# LAND USE SOLUTIONS

locally known as 3800, 3808, and 3810 North IH 35 Service Road Southbound, 1015 and 1017 East 38th Half Street, and 1014 and 1016 East 38th Street, in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "B"**.

**PART 2.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

(A) The following uses are prohibited uses on the Property:

Agricultural sales and services	Automotive rentals
Automotive sales	Campground
Construction sales and services	Convenience storage
Drop-off recycling collection facilities	Equipment repair services
Equipment sales	Kennels
Limited warehousing and distribution	Maintenance and service facilities
Monument retail sales	Outdoor entertainment
Pawn shop services	Service station
Vehicle storage	

(B) The following uses are conditional uses of the Property:

Automotive repair services	Automotive washing (of any type)
Building maintenance services	Commercial blood plasma center
Commercial off-street parking	Custom manufacturing
Drive-in service as an accessory use to commercial uses	Funeral services
Hotel-motel	Outdoor sports and recreation
Research services	Residential treatment

**PART 3.** Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the general commercial services (CS) base district, mixed use (MU) combining district, and other applicable requirements of the City Code.

**PART 4.** Except as specifically modified by this ordinance, the Property is subject to Ordinance No. 040826-59 that established zoning for the Hancock Neighborhood Plan.



**LANDUSE**  
**SOLUTIONS**

**PART 5.** This ordinance takes effect on September 25, 2023.

**PASSED AND APPROVED**

\_\_\_\_\_, September 14, 2023

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\_\_\_\_\_  
Kirk Watson  
Mayor

**APPROVED:**

\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

\_\_\_\_\_  
Myrna Rios  
City Clerk



**ORDINANCE NO. 20230914-109**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 1015 EAST 38TH STREET AND 3703 HARMON AVENUE, IN THE CENTRAL AUSTIN COMBINED NEIGHBORHOOD PLAN AREA, FROM GENERAL COMMERCIAL SERVICES-MIXED USE-NEIGHBORHOOD PLAN (CS-MU-NP) COMBINING DISTRICT TO GENERAL COMMERCIAL SERVICES-MIXED USE-VERTICAL MIXED USE BUILDING-CONDITIONAL OVERLAY-NEIGHBORHOOD PLAN (CS-MU-V-CO-NP) COMBINING DISTRICT.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from general commercial services-mixed use-neighborhood plan (CS-MU-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. C14-2023-0012, on file at the Planning Department, as follows:

0.282 acres of land, being a portion of BLOCK 3 of PLAINVIEW HEIGHTS, a subdivision of Outlots Nos. 20 and 21, Division "C", in Travis County, Texas, said 0.282 acres of land being more particularly described by metes and bounds in **Exhibit "A"** incorporated into this ordinance,

AND

LOT B, L.C. JOHNSON'S RESUBDIVISION OF A PORTION OF LOT 3 OF PLAINVIEW HEIGHTS, a subdivision in Travis County, Texas, according to the map or plat thereof as recorded in Volume 25, Page 22, of the Plat Records of Travis County, Texas

(collectively the "Property"),

locally known as 1015 East 38th Street and 3703 Harmon Avenue in the City of Austin, Travis County, Texas, generally identified in the map attached as **Exhibit "B"**.

**PART 2.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:



(A) The following uses are prohibited uses on the Property:

Agricultural sales and services	Automotive rentals
Automotive sales	Campground
Construction sales and services	Convenience storage
Drop-off recycling collection facilities	Equipment repair services
Equipment sales	Kennels
Limited warehousing and distribution	Maintenance and service facilities
Monument retail sales	Outdoor entertainment
Pawn shop services	Service station
Vehicle storage	

(B) The following uses are conditional uses of the Property:

Automotive repair services	Automotive washing (of any type)
Building maintenance services	Commercial blood plasma center
Commercial off-street parking	Custom manufacturing
Drive-in service as an accessory use to commercial uses	Funeral services
Hotel-motel	Outdoor sports and recreation
Research services	Residential treatment

**PART 3.** Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the general commercial services (CS) base district, mixed use (MU) combining district, and other applicable requirements of the City Code.

**PART 4.** Except as specifically modified by this ordinance, the Property is subject to Ordinance No. 040826-59 that established zoning for the Hancock Neighborhood Plan.



**LANDUSE**  
**SOLUTIONS**

**PART 5.** This ordinance takes effect on September 25, 2023.

**PASSED AND APPROVED**

\_\_\_\_\_, September 14, 2023

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\_\_\_\_\_  
Kirk Watson  
Mayor

**APPROVED:**

\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

\_\_\_\_\_  
Myrna Rios  
City Clerk



**ORDINANCE NO. 20240229-073**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 TO CREATE A COMBINING DISTRICT FOR DENSITY BONUS PROGRAMS; AMENDING CITY CODE CHAPTER 25-8 TO REGULATE COMPATIBILITY BUFFERS APPLICABLE TO DENSITY BONUS PROGRAMS; AND INITIATING REZONINGS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsection (F) of City Code Section 25-2-32 (*Zoning Districts and Map Codes*) is amended to add a new combining district that reads as follows:

(F) Combining districts and map codes are as follows:

(21) density bonus 90 .... DB90

**PART 2.** Division 6, Subchapter A, Article 2 of City Code Chapter 25-2 (*Zoning*) is amended to add a new Section 25-2-181 to read:

**§ 25-2-181 DENSITY BONUS COMBINING DISTRICTS.**

- (A) Density bonus (DB) combining districts authorize a particular 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.
- (B) DB90 Combining District allows residential uses on sites with certain commercial base zoning districts, modifies compatibility requirements, and grants additional height in exchange for income-restricted housing.

**PART 3.** Division 6, Article 3, Subchapter C of City Code Chapter 25-2 (*Zoning*) is amended to add a new Section 25-2-652 to read:

**§ 25-2-652 DENSITY BONUS 90 (DB90) COMBINING DISTRICT REGULATIONS.**

- (A) This section establishes the applicable regulations for DB90 zoning.
- (B) This section governs over a conflicting provision of this title or other ordinance unless the conflicting provision is less restrictive.

- (C) To utilize the regulations described in Subsections (F) and (G), the site's zoning must include DB90 and an applicant must comply with Subsection (E).
- (D) A DB90 combining district may be combined with the following base districts:
  - (1) Commercial Liquor Sales (CS-1);
  - (2) General Commercial Services (CS);
  - (3) Community Commercial (GR);
  - (4) Neighborhood Commercial (LR);
  - (5) General Office (GO); and
  - (6) Limited Office (LO).
- (E) Affordability Requirements.
  - (1) Affordability Minimums - Ownership Units. If an applicant develops dwelling units for sale, this subdivision applies.
    - (a) An applicant must reserve a minimum of 12 percent of the residential units as affordable for ownership and occupancy by households earning 80 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Median Family Income as determined by the Housing Director.
    - (b) An applicant for a proposed owner-occupied housing development may elect to meet the affordability requirement without providing income-restricted units onsite by paying a fee in-lieu to the Housing Trust Fund. At a minimum the fee-in-lieu shall be 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.
  - (2) Affordability Minimums - Rental Units. If an applicant develops dwelling units for lease, this subdivision applies. An applicant must reserve:
    - (a) a minimum of 12 percent of the residential units as affordable for lease and occupancy by households earning 60 percent or less of the

current Austin-Round Rock Metropolitan Statistical Area Median Family Income as determined by the Housing director; or

- (b) a minimum of ten percent of the residential units as affordable for lease and occupancy by households earning 50 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Median Family Income as determined by the Housing director.

(F) Development Standards and Mixed Use.

(1) In a DB90 combining district, the following uses are permitted:

- (a) uses that are permitted in the base zoning district unless the use is restricted by a conditional overlay that applies to the property; and
- (b) residential uses.

(2) A development must comply with Article 2 (*Site Development Standards*) and Article 3 (*Building Design Standards*) in Subchapter E (*Design Standards and Mixed Use*) of this chapter except when those provisions conflict with this section.

(3) Mix of Uses.

- (a) In this subdivision, PRINCIPAL STREET has the same meaning as principal street in and is applied consistent with Article 5 (*Definitions*) of Subchapter E (*Design Standards and Mixed Use*).
- (b) Pedestrian-Oriented Commercial Spaces. When a site abuts a principal street, 75 percent of the ground floor of the building must contain one or more commercial uses and must comply with the dimensional requirements found in Section 4.3.3.C in Subchapter E (*Design Standards and Mixed Use*) of this chapter.
- (c) If a building includes a mix of uses, a non-residential use:
  - (i) may not be located above a residential use; and
  - (ii) may not be located on or above the third story of the building.
- (d) An on-site amenity is a residential use when provided solely for use by the occupant, or the occupant's guests.



- (e) The ordinance zoning or rezoning a site as DB90 may modify the requirements in Subdivision (3)(b) if the site abuts one of the following roadways defined in Article 5 (*Definitions*) of Subchapter E (*Design Standards and Mixed Use*):
  - (i) urban roadway;
  - (ii) suburban roadway;
  - (iii) highway; or
  - (iv) hill country.
- (4) A building may exceed the maximum building height in the base zoning district by a maximum of 30 feet except that no building may exceed 90 feet in height.
- (5) A site is not required to comply with the base zoning district's:
  - (a) minimum site area requirements (if applicable);
  - (b) maximum floor area ratio;
  - (c) maximum building coverage;
  - (d) minimum street side yard setback and interior yard setback; and
  - (e) minimum front yard setback; provided, however, that if the right-of-way is less than 60 feet in width, the minimum front yard setback for buildings three or more stories in height shall be 30 feet from the centerline of the street to ensure adequate Fire Department access.
- (6) Section 1.4 (*Minor Modifications*) and Section 1.5 (*Alternative Equivalent Compliance*) in Subchapter E (*Design Standards and Mixed Use*) of this chapter apply to a site developed under this section.
- (G) Compatibility Requirements.
  - (1) A building is not required to comply with Article 10 (*Compatibility Standards*), Subchapter C.

- (2) In this subsection, a triggering property:
  - (a) includes at least one dwelling unit but less than four dwelling units; and
  - (b) is zoned Urban Family Residence (SF-5) or more restrictive.
- (3) Compatibility Buffer. A compatibility buffer is required along a site's property line that is shared with a triggering property.
  - (a) The minimum width of a compatibility buffer is 25 feet.
  - (b) A compatibility buffer must comply with Section 25-8-700 (*Minimum Requirements for a Compatibility Buffer*).
- (4) Exterior lighting must be hooded or shielded so that the light source is not visible from the site's property line that is shared with a triggering property.
- (5) Mechanical equipment may not produce sound in excess of 70 decibels measured at the site's property line that is shared with a triggering property.
- (6) A concrete slab used for a refuse receptacle may not be placed within 15 feet of triggering property.
- (7) Except for a multi-use trail, an on-site amenity that is available only to residents and occupants of the site and their guests may not be located within 25 feet of a triggering property.
- (8) Screening Requirements. Except when visible from or through a pedestrian or bicycle access point, the following objects may not be visible at the site's property line that is shared with a triggering property and shall be screened:
  - (a) vehicle lights from vehicles that use or are parked on a parking lot or in a parking structure located on the site;
  - (b) mechanical equipment;
  - (c) outdoor storage;

- (d) refuse receptacles and collection areas; or
- (e) common areas for amenities, including outdoor decks, patios, or pools.
- (9) The screening required in Subdivision (9) may not impede pedestrian or bicycle access points.
- (H) To preserve reserved dwelling units, an applicant must comply with Division 1 (*General Provisions*), Article 2 (*Density Bonus and Incentive Programs*) of Chapter 4-18 before applying for a building permit or site plan that relies on the regulations described in Subsections (F) and (G).

**PART 4.** Chapter 25-8 (*Environment*) of City Code Title 25 is amended to add a new Subchapter C to read:

#### **SUBCHAPTER C. COMPATIBILITY BUFFERS**

##### **§ 25-8-700 MINIMUM REQUIREMENTS FOR COMPATIBILITY BUFFERS.**

- (A) This section applies to a site that is required to provide a compatibility buffer.
- (B) In this section,
  - (1) **PROPERTY LINE** means the property line that is shared with a triggering property; and
  - (2) **TRIGGERING PROPERTY** means a property that:
    - (a) includes at least one dwelling unit but less than four dwelling units; and
    - (b) is zoned Urban Family Residence (SF-5) or more restrictive
- (C) Except as provided in this section, a compatibility buffer may not include vertical structures.
- (D) A compatibility buffer shall include a screening zone and restricted zone.
  - (1) **Screening Zone.**

- (a) The screening zone is parallel to the property line, begins at the property line, and extends ten feet into the property.
- (b) At 25 linear feet intervals parallel to the property line that is shared with a triggering property, a screening zone must include a minimum of:
  - (i) 1 large or medium tree;
  - (ii) 1 small tree; and
  - (iii) 10 large shrubs.
- (c) A pathway and gate to an adjacent property may be located within the screening zone.
- (d) If a utility easement or utility infrastructure makes compliance with the requirements of this subsection impossible, a property complies with this subsection if the elements described in Subdivision (2) are included within the restricted use zone.

(2) Restricted Zone.

- (a) The restricted zone is parallel to the property line, begins at the edge of the screening zone, and extends an additional 15 feet into the property.
- (b) A restricted zone may include:
  - (i) landscaping or gardens;
  - (ii) fences, walls, or berms;
  - (iii) surface parking lots, driveways, alleys, or fire lanes;
  - (iv) paths, walkways, or public use trails;
  - (v) utility infrastructure
  - (vi) refuse receptacles; and
  - (vii) mechanical equipment.



- (3) A compatibility buffer may include retaining walls and green stormwater infrastructure, including cisterns and rainwater capture systems.
- (E) In a compatibility buffer, vegetation must be:
  - (1) listed in Appendix N of the Environmental Criteria Manual; and
  - (2) irrigated, maintained, and certified in accordance with the Environmental Criteria Manual.
- (F) If a utility easement or utility infrastructure makes compliance with the requirements of this section impossible, an applicant may request alternative methods of compliance.
- (G) Nothing in this section requires an applicant to remove healthy and existing vegetation located within the screening zone.

**PART 5. Rezoning Initiated.**

- (A) This part applies to a property:
  - (1) rezoned to allow for one or more VMU buildings after June 10, 2022, but before February 29, 2024; or
  - (2) that was the subject of a site plan or building permit application that relied on an ordinance described in (2) and the application was submitted after June 20, 2022, but before December 11, 2023.
- (B) City Council initiates rezoning of property that was impacted when Ordinance No. 20220609-080, Ordinance No. 20221201-056, and Ordinance No. 20221201-055 were invalidated.
- (C) By initiating rezoning for the properties described in (1), the City Council waives fees only. An applicant must submit an application to request to rezone a property to the DB90 combining district. Nothing in this part commits the Council to adopt a rezoning described in this ordinance.
- (D) This part expires on December 31, 2024.

**PART 6.** This ordinance takes effect on March 11, 2024.

**PASSED AND APPROVED**

\_\_\_\_\_, February 29, 2024

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*Kirk Watson*

Kirk Watson  
Mayor

**APPROVED:**

*Anne L. Morgan*

Anne L. Morgan  
City Attorney

**ATTEST:**

*Myrna Rios*

Myrna Rios  
City Clerk