

SECOND/THIRD READINGS SUMMARY SHEET

CASE: C14-2023-0131 (E5ATX Rezone)

DISTRICT: 3

ADDRESS: 2613 and 2619 East 5th Street

APPLICANT: E5ATX LLC

AGENT: Thrower Design, LLC (Victoria Haase)

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

REQUEST:

Approve second and thirds readings of an ordinance amending City Code Title 25 by rezoning property locally known as 2613 and 2619 East 5th Street (Lady Bird Lake Watershed) from neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) and community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) district zoning to general commercial services-mixed use-conditional overlay-density bonus 90-neighborhood plan (CS-MU-CO-DB90-NP) combining district.

PREVIOUS CITY COUNCIL ACTION:

July 18, 2024: Postponed to August 29, 2024 at the request of staff.

August 29, 2024: Approved on first reading only on a vote of 8-1.

September 26, 2024: Postponed to October 10, 2024 at the request of the applicant.

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

ISSUES: N/A

ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0131 - (E5ATX Rezone)

DISTRICT: 3

ADDRESS: 2613 and 2619 East 5th Street

ZONING FROM: LR-CO-MU-NP and GR-CO-MU-NP

TO: CS-MU-CO-DB90-NP
(as amended)

SITE AREA: approximately 0.31 acres (approximately 13,591.5 square feet)

PROPERTY OWNER: E5ATX LLC

AGENT: Thrower Design, LLC (Victoria Haase)

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

STAFF RECOMMEDATION:

Staff recommends granting general commercial services-mixed use-conditional overlay-density bonus 90-neighborhood plan (CS-MU-CO-DB90-NP) combining district zoning. See the *basis or recommendation* section below for more information.

Staff's recommendation would maintain the Conditional Overlay present that **prohibits** the following uses:

- commercial off-street parking
- auto washing
- pawn shops
- adult businesses
- convenience storage
- kennels
- campground
- exterminators

PLANNING COMMISSION ACTION / RECOMMENDATION:

January 23, 2024: Staff postponement request granted, noticing issue

February 13, 2024: Approved applicant's request and staff's recommendation of CS-MU-CO-NP on the consent agenda.

June 11, 2024: Motion by Commissioner Johnson, seconded by Commissioner Woods to postpone case to July 9, 2024.

July 9, 2024: Applicant request and staff recommendation of CS-MU-CO-DB90-NP approved on consent agenda. Motion by Commissioner Azhar and seconded by Commissioner Maxwell with Commissioners Barrera-Ramirez, Cox, and Mushtaler voting no (7-3).

CITY COUNCIL ACTION:

July 18, 2024: Postponed to August 29, 2024 at the request of staff.

August 29, 2024: Approved on first reading only on a vote of 8-1.

September 26, 2024: Postponed to October 10, 2024 at the request of the applicant.

October 10, 2024: Case is scheduled to be heard by 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. Subsequently, the applicant amended their original application to request the -DB90 combining district.

Planning Commission Previous Action

January 23, 2024: Staff postponement request granted, noticing issue

February 13, 2024: Approved applicant’s request and staff’s recommendation of CS-MU-CO-NP on the consent agenda.

City Council Previous Action

None

CASE MANAGER COMMENTS:

The property in question is currently an approximately 1,800 square foot duplex and approximately 600 square foot office, both built in approximately 1970. An approximately 1,500 square foot single family home was built in approximately 1945. To the north is undeveloped land recently rezoned CS-MU-V-CO-NP by case C14-2020-0145 (see *area case histories section for more information*). To the south are three single family homes, two older and smaller and one newer and much larger. To the west is the approximately 6,500 square foot Doggie Howser Pet Social Club built in approximately 2022. To the east is a largely undeveloped tract with a long empty metal carport that runs the length of the lot.

The applicant is requesting general commercial services–vertical mixed-use building–conditional overlay–density bonus 90–neighborhood plan (CS-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.

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.

BASIS OF RECOMMENDATION:

The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.

The City Council and Planning Commission have made clear the need to promote housing density around public transportation assets and in and around Imagine Austin Centers and Corridors. This case exemplifies all of those principles. North Pleasant Valley Road is less than 500 feet to the east and is an Imagine Austin Corridor with bus service. There is a proposed Capital Metro Green Line (rail) stop proposed where North Pleasant Valley Road intersects with the railroad tracks one block north (approximately 700 feet northeast) of the subject tract. Lastly, the Plaza Saltillo Imagine Austin Center is approximately 500 feet to the west of the subject tract. With all of these important planning areas in the immediate area it makes sense that this rezoning case should be granted to support these areas, by promoting housing choice, and walkability.

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.

Granting of the request should result in an equal treatment of similarly situated properties.

Properties in the vicinity have been granted CS-MU-CO-NP zoning recently. Staff seeks to maintain the conditional overlay that has been applied on several other tracts in the area, prohibiting several CS uses that are the most intense given that there are single family zoned tracts immediately to the south. These prohibited uses are listed above in the *staff recommendation* section.

Zoning should allow for reasonable use of the property.

These two adjacent parcels have different zoning strings LR-CO-MU-NP and GR-CO-MU-NP; however, it makes it difficult to develop it as one cohesive property. Given what the applicant is proposing with their request, the requested zoning would allow reasonable use of the property given the location of the site and area case histories granted for more intense uses.

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

General commercial services (CS) district is the designation for a commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments.

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.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LR-MU-CO-NP and GR-MU-CO-NP	An approximately 1,800 square foot duplex and approximately 600 square foot office, both built in approximately 1970. An approximately 1,500 square foot single family home built in approximately 1945.
<i>North</i>	CS-MU-V-CO-NP	Undeveloped land (rezoned by case C14-2020-0145) – see <i>area case histories</i> section below for more information)
<i>South</i>	SF-3-NP	3 single family homes: An approximately 600 square foot single family home built in approximately 1939. An approximately 1,400 square foot single family home was built

		in approximately 1947. An approximately 2,400 square foot single family home built in approximately 2022.
<i>East</i>	CS-MU-CO-NP	Long empty metal carport that runs the length of the lot which is undeveloped apart from the carport.
<i>West</i>	GR-MU-CO-NP	Approximately 6,500 square foot Doggie Howser Pet Social Club built in approximately 2022.

NEIGHBORHOOD PLANNING AREA: Holly Neighborhood Planning Area

WATERSHED: Lady Bird Lake

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

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, Barrio Unido Neighborhood Assn., Buena Vista Neighborhood Association, Capital Metro, Del Valle Community Coalition, East Austin Conservancy, El Concilio Mexican-American Neighborhoods, Friends of Austin Neighborhoods, Greater East Austin Neighborhood Association, Guadalupe Neighborhood Development Corporation, Homeless Neighborhood Association, Neighborhood Empowerment Foundation, Neighbors United for Progress, Preservation Austin, SELTexas, Sierra Club, Austin Regional Group, Tejano Town

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2023-0111 (518 N. Pleasant Valley Rd.)	The Applicant is proposing to rezone approximately 3.811 acres from LI-CO-NP to CS-MU-V-NP.	12.12.2023: PC approved staff recommendation CS-MU-V-CO-NP on the consent agenda. Motion by Commissioner Maxwell, 2nd by Commissioner Azhar, Vote 11-0.	02.01.2024: Case is scheduled to be heard by Council.
C14-2023-0013 (501 Pedernales)	The Applicant is proposing to rezone approximately 1.79 acres from CS-MU-CO-NP to CS-MU-V-NP.	09.12.2023: PC approved on consent staff recommendation of CS-MU-V-CO-NP. Motion by Vice Chair Hempel, seconded by Commissioner Azhar, unanimous.	10.19.2023: CS-MU-V-CO-NP approved on Mayor Pro Tem Ellis' motion, Council Member Pool's second on a 10-0 vote. Council Member Harper-Madison was absent.

<p>C14-2022-0112 (2615 and 2617 E. 6th St.)</p>	<p>The Applicant is proposing to rezone approximately 0.71 acres from LI-CO-NP to CS-MU-V-NP.</p>	<p>03.14.2023: Motion to grant Staff’s recommendation of CS-MU-V-CO-NP was approved on the consent agenda on the motion by Commissioner Schneider, seconded by Vice-Chair Hempel on a vote of 9-0. Commissioners Flores, Mushtaler, Shieh and Thompson absent.</p>	<p>05.18.2023: CS-MU-V-CO-NP approved without objection.</p>
<p>C14-2020-0145 (2700, 2716, 2726 E. 5th St. Zoning)</p>	<p>The Applicant proposes to rezone 3 contiguous lots totaling 4.55 acres from CS-MU-CO-NP to CS-MU-V-CO-NP.</p>	<p>03.09.2021: Approved CS-MU-V-CO-NP w/CO prohibiting campground, convenience storage, exterminating services, kennels, pawn shop services and adult oriented businesses, and establishing the following as conditional: auto washing (of any type) and commercial off-street parking, as Staff recommended</p>	<p>06.10.2021: Affirmed, approved CS-MU-V-CO-NP as PC recommended on all 3 readings.</p>

RELATED CASES:

None

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 410 PRESSLER ST. C14-2023-0101, 1.13 acres from LI-CO-NP to LI-PDA-NP. Old West Austin NP. No FLUM. Indoor sports and rec and retail/surface parking to Mixed Use Multistory Building with general office and/or retail on ground floor and multifamily or office on other floors. (Staff assuming mixed use project with residential use). Aug 30, 2023

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: Abuts 5 th Street Activity Corridor
Y	Mobility and Public Transit: Located within 0.25 miles of public transit stop and/or light rail station.
Y	Mobility and Bike/Ped Access: Adjoins a public sidewalk, shared path, and/or bike lane.
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.
	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.
	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.
7	Total Number of “Yes’s”

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Ladybird Lake 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 square feet 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

Parkland dedication will be required for the residential uses proposed by this development, 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: scott.grantham@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

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.

SP 4. The proposed zoning area is located within the Holly Neighborhood Plan.

SP 5. This tract is already developed, and the proposed zoning change is a footprint within the existing development.

Transportation and Public Works Department – Engineering Review

ATD 1. The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for E 5th Street. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for E 5th Street according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

ATD 2. The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for Santa Rosa Street. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for Santa Rosa Street 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)
E 5 th Street	Level 2	84'	58'	42'	Yes	Yes	Yes
Santa Rosa Street	Level 1	58'	50'	29'	Yes	No	Yes

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

Austin Water Utility

AW1. No comments on zoning change.

FYI: The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

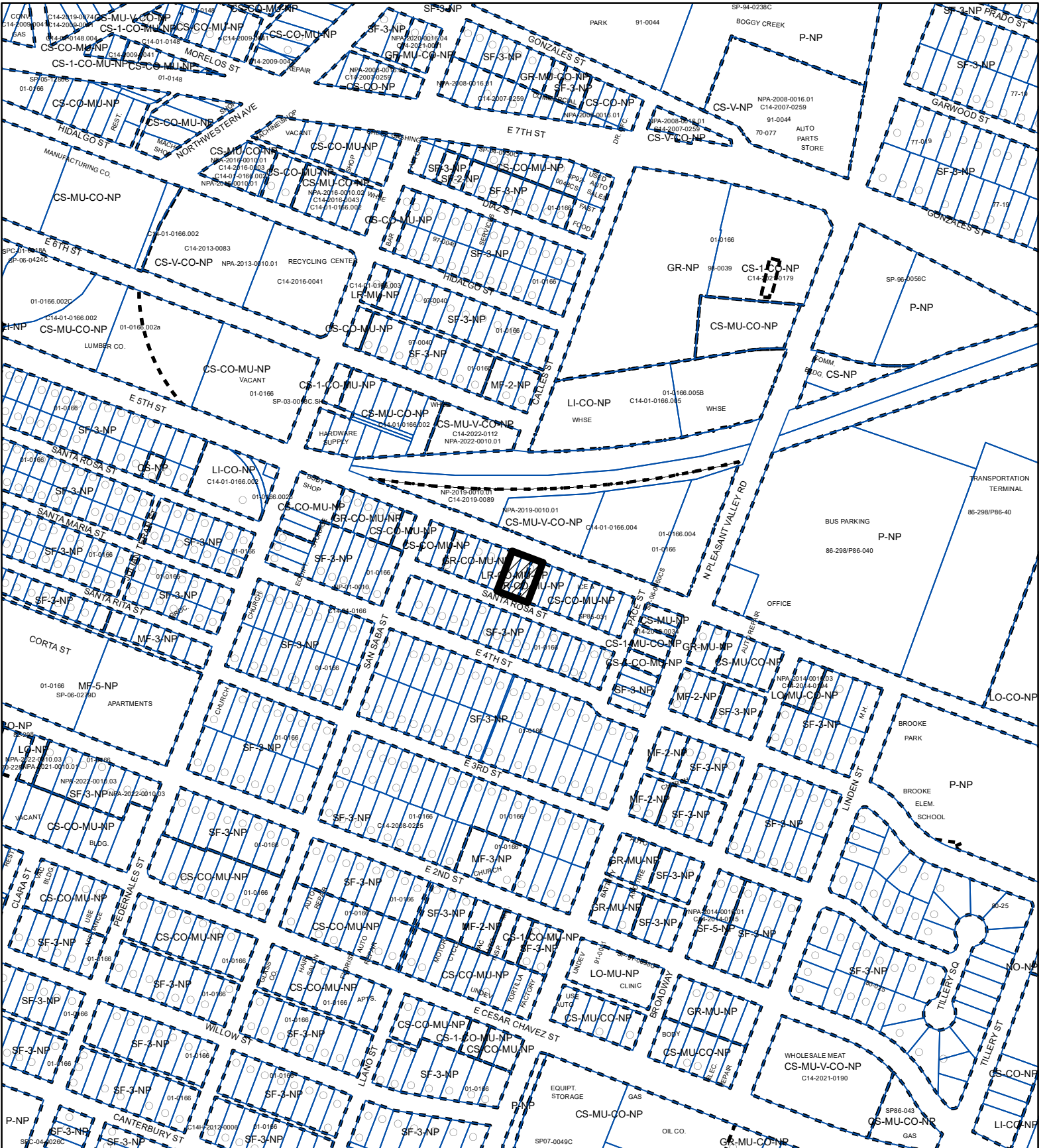
Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide adequate service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.

All new development within the proposed project will be subject to City Code Chapter 25-9 and any future amendments relating to reclaimed water connections, water benchmarking, and mandatory onsite water reuse.

All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:




- A. Zoning Map
- A-1. Aerial Map
- B. Applicant’s Summary Letter



ZONING

ZONING CASE#: C14-2023-0131



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

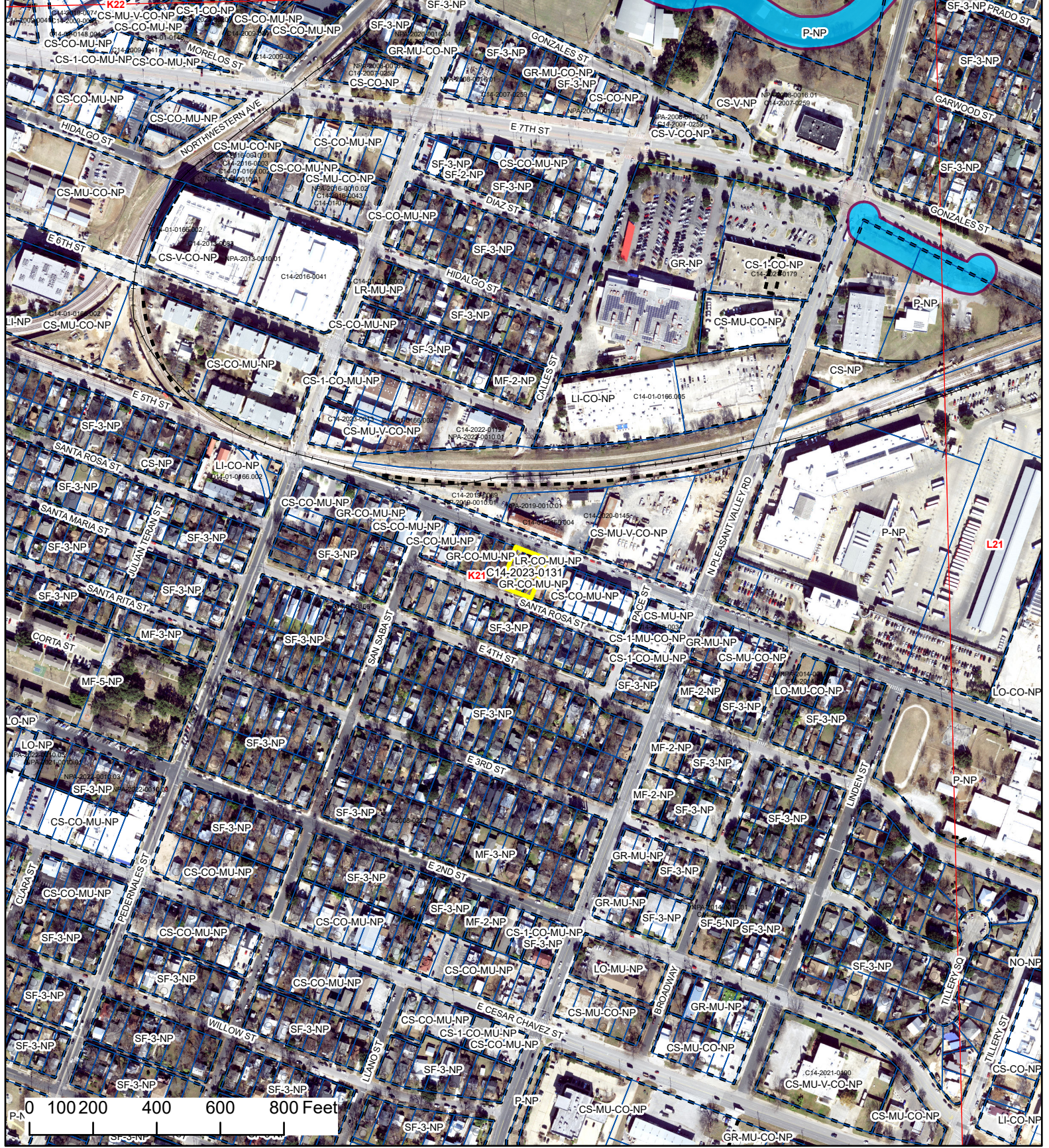
1" = 400'

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

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Created: 10/31/2023



E5ATX Rezone

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

ZONING CASE#: C14-2023-0131
 LOCATION: 2613-2619 E 5th St
 SUBJECT AREA: 0.31 Acres
 GRID: K21
 MANAGER: Jonathan Tomko



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Created: 12/12/2023

October 9, 2023

Mrs. Lauren Middleton-Pratt
Director, Planning Department
City of Austin
1000 E 11th Street
Austin, TX 78702

Via Electronic Delivery

Re: Rezoning Application – E5ATX Rezone – 2613 & 2619 E 5th Street

Dear Mrs. Middleton-Pratt:

On behalf of the Owner(s) of the property referenced above, we respectfully submit the enclosed rezoning application. The subject lands are legally platted as Lots 20, 22-23 OLT 12 DIV O PACE D C ADDN., comprised of 13,591.5 square feet. The lands are in the Holly Neighborhood Planning Area and within Council District 3, represented by Council Member Jose Velasquez.

The Future Land Use Map (FLUM) of the Holly Neighborhood Plan designates the properties for *Mixed Use* and the properties are zoned “LR-CO-MU-NP” and “GR-CO-MU-NP”. The Neighborhood Plan does not specifically call out either property for specific conditions, other than that an existing legal lot with single-family use is allowed reduced site development requirements. The request of this rezoning application to change the zoning of the subject tracts to CS-MU-NP to allow for a mixed-use development, allowing for the possibility of commercial uses on the ground floor and residential uses on upper floors. The property is currently used for residential uses of single-family and multifamily in buildings that are dilapidated. The Plaza Saltillo Imagine Austin Neighborhood Center is about 500 feet to the west and north and there are existing CapMetro bus service and stops, less than 500 feet to the east.

The CS-MU-NP zoning district will allow up to 16 x efficiency units, 13 x 1-BR units, or 11 x 2-BR units. However, the unit mix and numbers are undetermined at this time.

We respectfully request support for the requests made. Please contact our office should you have need for additional information. Thank you for your time and attention to this application.

Kind regards,



Victoria Haase
www.throwerdesign.com
512-998-5900 Cell
512-476-4456 Office

April 9, 2024

Ms. Lauren Middleton-Pratt, Director
Planning Department
City of Austin
1000 E. 11th Street
Austin, Texas 78702

RE: E5ATX Rezone – C14-2023-0131 – Application Amendment for DB90 Overlay

Dear Ms. Middleton-Pratt,

On behalf of our client, E5ATX, LLC, we respectfully amend the application to request the addition of the DB90 Overlay. As this is a significant amendment, we also request an indefinite postponement of the case to allow for staff and the Planning Commission review of the amended request.

Pursuant to Ordinance 20240229-073, adopted by the Austin City Council on February 29, 2024, with an effective date of March 11, 2024, the City of Austin is directing additional housing development in areas of Austin where appropriate through the DB90 Overlay. Our position is that this project meets the requirements to receive the DB90 Overlay and thus, **the amended request is for CS-MU-DB90-CO-NP zoning.**

A. Ron Thrower

A. Ron Thrower