

## **ZONING CHANGE REVIEW SHEET**

CASE: C14-2023-0151 (5810 Berkman Drive)

DISTRICT: 4

ADDRESS: 5810, 5812, 5816 Berkman Drive

ZONING FROM: LO-MU-CO-NP

TO: GR-MU-CO-NP

SITE AREA: approximately 0.578 acres (approximately 25,177 square feet)

PROPERTY OWNER: WFT-ASW Property Management, LLC

AGENT: Drenner Group, PC (Leah Bojo)

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

### STAFF RECOMMENDATION:

**Staff does not support the Applicant's request of community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning for this property and offers an alternate recommendation of neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning. The existing conditional overlay, which prohibits the residential use of the tract from exceeding 25 percent of the total square footage of the first floor, would remain. See the *basis of recommendation* section below for more information.**

### PLANNING COMMISSION ACTION / RECOMMENDATION:

May 28, 2024: A motion to approve applicant's request for GR-MU-CO-NP for C14-2023-0151 - 5810 Berkman Drive located at 5810, 5812, and 5816 Berkman Drive was approved on Vice Chair Azhar's motion, Commissioner Johnson's second, on an 11-0 vote. Commissioners Howard and Phillips were absent.

### CITY COUNCIL ACTION:

July 18, 2024: Case is scheduled to be heard by City Council.

### ORDINANCE NUMBER:

N/A

### ISSUES: N/A

### CASE MANAGER COMMENTS:

The subject tract currently contains two office buildings, built in approximately 1976 and 1977, approximately 2,400 square feet and 1,200 square feet. To the north is an older two-story apartment complex. To the east (across Berkman Drive) is Windsor Village Berkman – Neighborhood Shopping Center built approximately 1960. To the south are two additional office buildings, built in approximately 1967 and 1973, approximately 2,200 square feet and 1,000 square feet. To the west are two single-family homes, built in approximately 1956 and 1958, approximately 1,600 square feet and 1,400 square feet.

Berkman Drive is an ASMP level-2 corridor with a buffered bicycle lane, sidewalks and transit service. It is not an Imagine Austin Activity Corridor. The subject tract is approximately ½ mile west of Cameron Road which is an Imagine Austin Activity Corridor and the eastern bound of the Highland Mall Imagine Austin Activity Center.

**BASIS OF RECOMMENDATION:**

**Zoning changes should promote compatibility with adjacent and nearby uses.** Staff is recommending LR-MU-CO-NP due to the proximity of the single-family homes to the west. The applicant's requested use is allowed in LR under the restrictions of Section 25-2-587, provided that:

1. The gross indoor floor area may not exceed 4,000 square feet.
2. A restaurant (general) use may operate only after 7:00 a.m. and before 11:00 p.m.
3. An outdoor seating area may not:
  - (a) exceed 500 square feet of area; or
  - (b) be located within 50 feet of property with a single-family use or property zoned as a townhouse and condominium residence (SF-6) or more restrictive district.
4. Outdoor entertainment as an accessory use is prohibited.
5. Outdoor amplified sound is prohibited.
6. A drive-through facility is prohibited.

**The proposed zoning should promote consistency and orderly planning.** Neighborhood Commercial (LR) would provide a transition between the GR across the street to the east and adjacent single family to the west.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
<i>Site</i>	LO-MU-CO-NP	Two office buildings, built in approximately 1976 and 1977, approximately 2,400 square feet and 1,200 square feet.
<i>North</i>	LO-MU-CO-NP	An older two-story apartment complex
<i>South</i>	LO-MU-CO-NP	Two office buildings, built in approximately 1967 and 1973, approximately 2,200 square feet and 1,000 square feet.
<i>East (across Berkman Dr.)</i>	GR-V-CO-NP and SF-3-NP	Windsor Village Berkman – Neighborhood Shopping Center built approximately 1960.
<i>West</i>	SF-3-NP	Two single-family homes, built in approximately 1956 and 1958, approximately 1,600 square feet and 1,400 square feet.

**NEIGHBORHOOD PLANNING AREA:** University Hills/Windsor Park Combined (Windsor Park)

**WATERSHED:** Fort Branch Watershed

SCHOOLS: A.I.S.D.

Blanton Elementary School

Lamar Middle School

Northeast High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Lost and Found Pets, Austin Neighborhoods Council, Del Valle Community Coalition, Friends of Austin Neighborhoods, Friends of Northeast Austin, Homeless Neighborhood Association, Neighborhood Empowerment Foundation, Neighbors United for Progress, Preservation Austin, Responsible Growth for Windsor Park, SELTexas, Sierra Club, Austin Regional Group, Windsor Park Neighborhood Association, Windsor Park Neighborhood Plan Contact Team, Windsor Park-Pecan Springs Heritage NA

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2022-0104 (Berkman Residential)	The Applicant is proposing to rezone approximately 0.86 acres from SF-6-NP to MF-5-NP.	01.10.2023: Motion by Commissioner Shieh, seconded by Commissioner Azhar to grant MF-5-CO-NP approved on a vote of 9-1. Commissioner Anderson voted nay. Commissioner Flores off the dais. Commissioner Howard absent. One vacancy on the dais. CO limits building height to 45 feet.	03.09.2023: Motion by Council Member Vela, Seconded by Council Member Qadri, approved MF-5-NP on a vote of 8-0. Council Member
C14-2023-0107 (Berkman Mixed Use)	The applicant is proposing to rezone approximately 0.8650 acres from SF-6-NP to GR-MU-NP.	12.12.2023: Motion by Commissioner Connolly, seconded by Commissioner Anderson to grant Applicant's request of GR-MU-NP, approved on a vote of 7-3. Commissioners Haynes, Mushtaler and Phillips voted nay. Commissioner Cox abstained.	03.21.2024: Motion by Council Member Qadri, Seconded by Council Member Ryan Alter, approved GR-MU-CO-NP on an 11-0 vote. Council Member Alison Alter abstained, Council Members Fuentes and Harper-Madison were off the dais.

		Commissioners Barrera-Ramirez and Howard absent.	
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RELATED CASES:

NPA-2023-0023.04: Mixed Use/Office to Mixed Use land use FLUM change.

ADDITIONAL STAFF COMMENTS:Comprehensive Planning

**Project Name and Proposed Use:** 5810, 5812 and 5816 Berkman Drive. C14-2023-0151. 0.578 acres from LO-MU-CO-NP to GR-MU-CO-NP. FLUM: Mixed Use/Office. University Hills/Windsor Park NP. Existing: building formerly containing personal services uses. Proposed: neighborhood-scale restaurant use

Yes	Imagine Austin Decision Guidelines
	Complete Community Measures *
	<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>
Y	<b>Mobility and Public Transit *:</b> Located within 0.25 miles of public transit stop and/or light rail station.
Y	<b>Mobility and Bike/Ped Access *:</b> Adjoins a public sidewalk, shared path, and/or bike lane.
Y	<b>Connectivity, Good and Services, Employment *:</b> Provides or is located within 0.50 miles to goods and services, and/or employment center.
	<b>Connectivity and Food Access *:</b> Provides or is located within 0.50 miles of a grocery store/farmers market.
Y	<b>Connectivity and Education *:</b> Located within 0.50 miles from a public school or university.
Y	<b>Connectivity and Healthy Living *:</b> Provides or is located within 0.50 miles from a recreation area, park or walking trail.
	<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.)
	<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.
	<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.
	<b>Mixed use *:</b> Provides a mix of residential and non-industrial uses.
Y	<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>
7	<b>Number of “Yes’s”</b>

### Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Fort Branch 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 a floodplain within or adjacent to the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Critical Water Quality Zone exists within 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: Beginning January 1, 2024, there are no parkland dedication requirements for new development applications with the proposed land use, restaurant (general).

### Site Plan

SP1. FYI - Site plans will be required for any new development other than single-family or duplex residential.

SP2. FYI - 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.

SP3. FYI - Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

SP4. The site is subject to compatibility standards. Along the East and West property line, the following standards apply:

- No structure may be built within 25 feet of the property line. § 25-2-1063-B
  - No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line. § 25-2-1063-C-1
  - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line. § 25-2-1063-C-2
  - For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive. § 25-2-1063-C-3
  - No parking or driveways are allowed within 25 feet of the property line. § 25-2-1067-G
  - A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
  - Intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
  - A landscape area at least 15 feet in width is required along the property line if the tract is zoned MF-3, MF-4, MF-5, MH, NO, or LO.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

Additional design regulations will be enforced at the time a site plan is submitted.

#### Transportation and Public Works Department – Engineering Review

ATD 1. The Austin Strategic Mobility Plan (ASMP) calls for 72 feet of right-of-way for Berkman Drive. It is recommended that 36 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

ATD 2. A Neighborhood Traffic Analysis shall be required at the time of site plan, if triggered, when land uses and intensities will be known. if triggered per LDC 25-6-114.

#### EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Cap Metro (within 1/4 mile)
Berkman Drive	Level 2	72 Feet	68 Feet	~39 feet	Yes	Yes	Yes

TIA: Neighborhood Transportation Analysis (NTA) deferred to the time of Site Plan.

Austin Water Utility

No comments on rezoning.

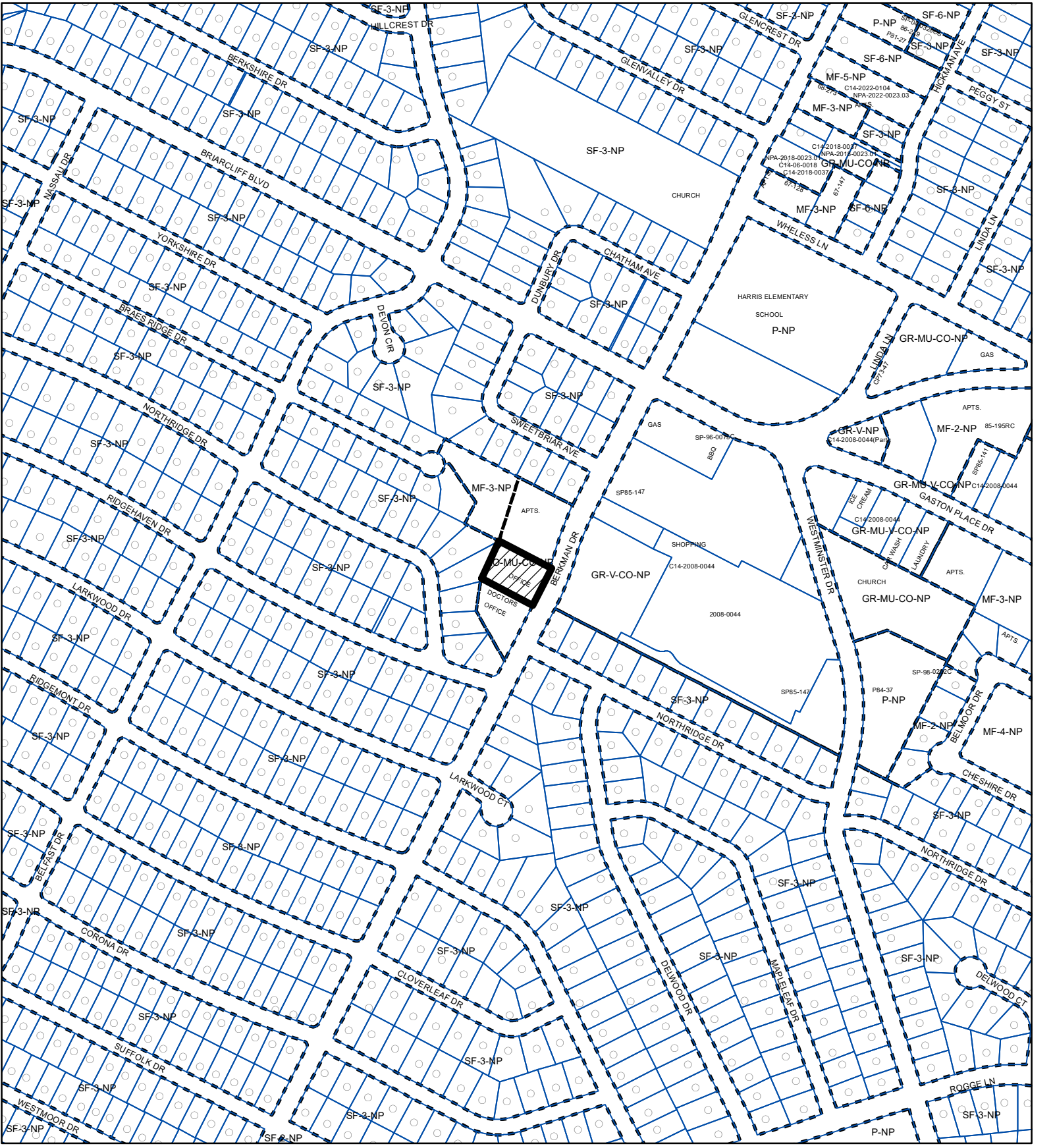
INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

A. Zoning Map

B. Aerial Map

C. Applicant's Summary Letter





N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

ZONING

ZONING CASE#: C14-2023-0151



1" = 400'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.





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Created: 12/11/2023





## 5810 Berkman Drive

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

ZONING CASE#: C14-2023-0151  
 LOCATION: 5810, 5812, 5816 Berkman Dr  
 SUBJECT AREA: 0.578 Acres  
 GRID: L26  
 MANAGER: Jonathan Tomko



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Created: 1/3/2024



December 4, 2023

Ms. Lauren Middleton-Pratt  
Planning Department  
City of Austin  
1000 E 11<sup>th</sup> Street  
Austin, TX 78702

Re: 5810 Berkman Drive – Zoning and Neighborhood Plan Amendment applications for the 0.578-acre property located at 5810, 5812, and 5816 Berkman Drive, in Austin, Travis County, Texas (the “Property”)

Dear Ms. Middleton-Pratt:

As representatives of the owner of the Property, we respectfully submit the enclosed rezoning and Neighborhood Plan Amendment (NPA) applications for 5810 Berkman Drive. The project is located within the Full Purpose Jurisdiction of the City of Austin and consists of 0.578 acres of land. It is located on the west side of Berkman Drive, south of Sweetbriar Avenue, north of Northridge Drive, and directly across from the Windsor Village vertical mixed use redevelopment project.

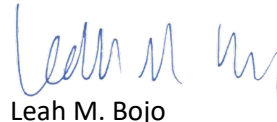
The Property is currently zoned LO-MU-CO-NP (Limited Office – Mixed Use – Conditional Overlay – Neighborhood Plan). The requested zoning is from LO-MU-CO-NP to GR-MU-CO-NP (Community Commercial – Mixed Use – Conditional Overlay – Neighborhood Plan). The purpose of this rezoning request is to allow for the adaptive reuse of the existing buildings that formerly contained personal service uses for a neighborhood-scale, restaurant use.

The Property is located in the University Hills/Windsor Park Combined Neighborhood Planning Area and has a Future Land Use Map (FLUM) designation of Mixed Use/Office. A NPA application is being submitted in conjunction with this rezoning request to amend the FLUM from Mixed Use/Office to Mixed Use. The request is supportive of the neighborhood plan’s land use goal to, “Attract needed vendors and service providers into the planning area through support for local businesses and revitalization/redevelopment of neighborhood shopping areas.”

A Traffic Impact Analysis (TIA) is not required, and a Neighborhood Traffic Analysis (NTA) will be conducted by the City of Austin per the attached TIA Determination worksheet, executed by Amber Hutchens, dated October 20, 2023.

Please let me know if you or your team members would like additional information or have any questions. Thank you for your time and we look forward to working with you as we move through this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leah M. Bojo".

Leah M. Bojo

cc: Joi Harden, Planning Department (*via electronic delivery*)  
Maureen Meredith, Planning Department (*via electronic delivery*)