

ZONING CHANGE REVIEW SHEET

CASE: **C14-2024-0149** – FiveOne

DISTRICT: 1

ADDRESS: 5525 E. 51st Street

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

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

SITE AREA: 4.0 acres

PROPERTY OWNER: 5525 E. 51st St. LLC (Charles Brewer III)

AGENT: Ledgestone Development Group LLC (Craig Alter)

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 prohibits the following uses in the CS base zoning district: Drive-in service as an accessory use to commercial uses, Automotive rentals, Automotive repair services, Automotive sales, Automotive washing (of any type), Service station, and Pawn shop services.

PLANNING COMMISSION ACTION / RECOMMENDATION:

December 10, 2024: APPROVED CS-MU-V-CO-DB90-NP AS STAFF RECOMMENDED, ON CONSENT. [A. AZHAR; A. WOODS – 2ND] 10-0, F. MAXWELL – ABSTAIN; G. ANDERSON, C. HANEY - ABSENT

CITY COUNCIL ACTION:

January 30, 2025:

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 conditions establishing prohibited uses in the CS base zoning district within the Conditional Overlay for case number C14-2022-0009 are requested by the Applicant and are continued to be recommended by Staff in this new rezoning. These prohibited uses originated in a CO on this site during the Neighborhood Plan rezonings.

Planning Commission Previous Action

May 24, 2022: *Approved CS-MU-V-NP combining district zoning as Applicant requested, with added Conditional Overlay with prohibited uses in the CS base zoning district recommended by Staff: Drive-in service as an accessory use to commercial uses, Automotive rentals, Automotive repair services, Automotive sales, Automotive washing (of any type), Service station, and Pawn shop services (CS-MU-V-CO-NP).*

[J. THOMPSON; P. HOWARD – 2ND] (8-0) A. AZHAR – ABSTAINED; C. HEMPEL, Y. FLORES, J. MUSHTALER, J. SHIEH - ABSENT

May 10, 2022: *Approved a Postponement Request by Applicant to May 24, 2022*

[A. AZHAR; J. MUSHTALER – 2ND] (13-0)

City Council Previous Action

July 28, 2022: *Approved CS-MU-V-CO-NP combining district zoning as Planning Commission recommended, by consent.*

VOTE: 10-0. Council Member Fuentes was off dais.

Prior Rezoning Case (C14-2022-0009)

Ordinance No. 20220728-158 approved July 28, 2022

CASE MANAGER COMMENTS:

The subject property is located on the south side of East 51st Street approximately 400 feet west of Ed Bluestein Boulevard. East 51st Street is an Imagine Austin Activity Corridor. The 4-acre property is undeveloped and heavily vegetated. Immediately to the west and south of the property is a residential neighborhood (SF-4A-NP). Immediately to the east of the property is the newly constructed 183/51st Street Trailhead that provides bicycle and pedestrian access across 183/Ed Bluestein Boulevard (CS-CO-NP). The trail connects on the east side of the highway adjacent to the East Communities YMCA and Walnut Creek Greenbelt. Also east and southeast of the rezoning tract are properties that front the southbound Ed Bluestein frontage road, exhibiting Automotive repair, Undeveloped, and Public high school land uses (LI-CO-NP, CS-NP, and CS-CO-NP). Across East 51st Street to the north is Little Walnut Creek Greenbelt (P-NP), and a Hotel-motel property (GR-NP).

Please see Exhibits A - Zoning Map and A-1 Aerial Exhibit.

During the 2022 case to add the -V combining district zoning, Staff did not recommend the rezoning request to CS-MU-V-NP due to public transportation (bus stop) being almost one mile away, thus per that Staff member's assessment would necessitate vehicle use. Further, staff noted that the 40% reduction in parking allowable for a "VMU" project (the Code requirement at the time of approval in 2022) would conflict with the aforementioned vehicle dependency. During the discussion of the case on May 24, 2022, Planning Commissioners noted the existing limited transit option however also noted a lot of existing pedestrian and bicycle connectivity. The Commissioners voiced support of potential affordable housing as part of the project, and took the longer-term approach noting this is an Imagine Austin corridor and a development that could be built under the "VMU" zoning would increase density and services in the area, which may lead to transit service as the area densifies. Ultimately, the Commission recommended approval of CS-MU-V-CO-NP combining district zoning, which was approved by City Council.

The applicant is currently 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 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/or offices on the ground floor, and residential units on upper levels. The overall project would consist of approximately 343 residential units and pedestrian-oriented commercial or civic uses.

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 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.

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 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 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 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.

4. *Zoning changes should promote an orderly relationship among land uses.*

Staff recommends the Applicant’s request as described above for CS-MU-V-CO-DB90-NP combining district zoning for the subject property based on the following considerations:

- 1) Recognizing the site’s location on E. 51st Street, which is an Imagine Austin Activity Corridor;
- 2) the existing pedestrian and bicycle connectivity;
- 3) number of units and housing choice that could be produced would suit a variety of household sizes, incomes, and lifestyle needs of a diverse population in support of Imagine Austin and the Strategic Housing Blueprint;
- 4) the prior rezoning to “VMU” zoning granted on the site.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-MU-V-CO-NP	Undeveloped
<i>North</i>	P-NP; GR-NP	Little Walnut Creek Greenbelt, Hotel/ Motel
<i>South</i>	SF-4A-NP	Small-lot single family residential
<i>East</i>	CS-CO-NP; LI-CO-NP; CS-NP; CS-CO-NP	Public trailhead, Automotive repair, Undeveloped
<i>West</i>	SF-4A-NP	Small-lot single family residential

NEIGHBORHOOD PLANNING AREA: East MLK Combined (Pecan Springs/Springdale)

WATERSHED: Walnut Creek (Suburban) and Little Walnut Creek (Urban)

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS: Austin Independent School District
 Pecan Springs Elementary Martin Middle School Northeast High School/ Early College

COMMUNITY REGISTRY LIST:

- Del Valle Community Coalition
- Austin Neighborhoods Council
- Friends of Austin Neighborhoods
- Austin ISD
- Pecan Springs/ Springdale Hills Neighborhood Association
- East MLK Combined Neighborhood Contact Team
- Colony Park/ Lakeside Community Development Corp

Overton Family Committee
 East Austin Conservancy
 Homeless Neighborhood Association
 Senate Hills HOA
 Preservation Austin
 Save Our Springs Alliance
 Friends of Northeast Austin

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2022-0009	CS-MU-V-NP	To Grant CS-MU-V-CO-NP, as Applicant recommended and Staff recommended CO to prohibit uses: Drive-in service as an accessory use to commercial uses, Automotive rentals, Automotive repair services, Automotive sales, Automotive washing (of any type), Service station, and Pawn shop services (5/24/2022)	Apvd CS-MU-V-CO-NP (7/18/2022)
Little Walnut Creek Greenbelt Rezoning C14-2017-0088	City initiated- To rezone +/- 205 acres of MF-3-CO-NP, GR-NP, SF-6-NP and CS-MU-CO-NP to P-NP	10/24/2017: To grant P-NP zoning, on consent.	12/7/2017: To grant P-NP zoning, on consent.

RELATED CASES:

C14-2022-0009 – Rezoned site to CS-MU-V-CO-NP

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 5525 E 51ST STREET. C14-2024-0149. Project: FiveOne. 3.998 acres from CS-MU-V-CO-NP to CS-MU-V-CO-DB90-NP. Existing: Vacant. Proposed: Multi-family (343 units). Proposal seeks Density Bonus 90 Combining District

(Ordinance No. 20240229-073), which sets affordability minimums on ownership and rental units, and further allows for an increase of up to 30 ft in height above the base zone allowance, with a maximum limit of 90 feet in total height. DB90 additionally releases the site from some base zoning district development standards, including maximum floor area ratio.

Yes	Imagine Austin Decision Guidelines
Complete Community Measures *	
Y	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 *: <ul style="list-style-type: none"> • Adjacent to 51st Street/Airport/53rd Street Activity Corridor
	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. <ul style="list-style-type: none"> • Bike lane present along E 51st ST. • Sidewalk is absent along the northern edge of the site but resumes to the East and West
	Connectivity, Good and Services, Employment *: Provides or is located within 0.50 miles to goods and services, and/or employment center.
	Connectivity and Food Access *: Provides or is located within 0.50 miles of a grocery store/farmers market.
	Connectivity and Education *: Located within 0.50 miles from a public school or university.
Y	Connectivity and Healthy Living *: Provides or is located within 0.50 miles from a recreation area, park or walking trail. <ul style="list-style-type: none"> • Adjacent to Little Walnut Creek Greenbelt
	Connectivity and Health *: Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor’s office, drugstore clinic, and/or specialized outpatient care.)
Y	Housing Choice *: Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
Y	Housing Affordability *: Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
	Mixed use *: Provides a mix of residential and non-industrial uses.
	Culture and Creative Economy *: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	Culture and Historic Preservation: Preserves or enhances a historically and/or culturally significant site.
	Creative Economy: Expands Austin’s creative economy (ex: live music venue, art studio, film, digital, theater.)
	Workforce Development, the Economy and Education: Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in a particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	Industrial Land: Preserves or enhances industrial land.
Y	Not located over Edwards Aquifer Contributing Zone or Edwards Aquifer Recharge Zone
6	Number of “Yes’s”

Drainage

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City’s Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through

engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed classified as a Suburban Watershed and Little Walnut Creek Watershed of the Colorado River Basin classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.

Under current watershed regulations, development or redevelopment on this site within the suburban watershed will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

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.

Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2-year storm on site.

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.

PARD – Planning & Design Review

Parkland dedication will be required for the new applicable uses proposed by this development, multifamily, office, and retail with CS-MU-V-CO-DB90-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 any 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 § 25-1-609.

PARD recognizes that there is a critical connection needed through Tannehill extension that is also shown in the ASMP. This connection would be considered to satisfy parkland dedication if new ROW is not already being dedicated. If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: ann.desanctis@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

Zoning Cases

Site plans will be required for any new development other residential only project with up to 4 units.

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

DB90 Rezoning

This site must meet affordability minimums to be eligible for DB90. A signed approval letter from the Housing Department will be required with site plan submittal.

E 51st St is the Principal Street for this site. Any buildings fronting this street will be required to have 75% of the ground floor as commercial uses.

This site is adjacent to a site that contains one to three dwelling units and is zoned SF-5 or more restrictive. A compatibility buffer 25' in width, designed to 25-8-700 and 25-2-652(G) will be required.

Austin Fire Department

No comments.

Austin Transportation Department – Engineering Review

Submittal of the TIA is deferred to the site plan application. [LDC 25-6-113].

The Austin Strategic Mobility Plan (ASMP) calls for 116 feet of right-of-way for E 51ST ST. It is recommended that 58 feet of right-of-way from the existing centerline should be dedicated for E 51ST 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 72 feet of right-of-way for E 51ST ST-NORTHDALE DR CONNECTOR. It is recommended that 72 feet of right-of-way should be dedicated for E 51ST ST-NORTHDALE DR CONNECTOR according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

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)
E 51ST ST	Corridor Mobility - Level 3	116 feet	85 feet	59 feet	No	Bike Lane - Protected One-Way	No
E 51ST ST-NORTH DALE DR CONNECTOR	Local Mobility - Level 2	72 feet	DNE	DNE	DNE	DNE	No

Austin Water Utility

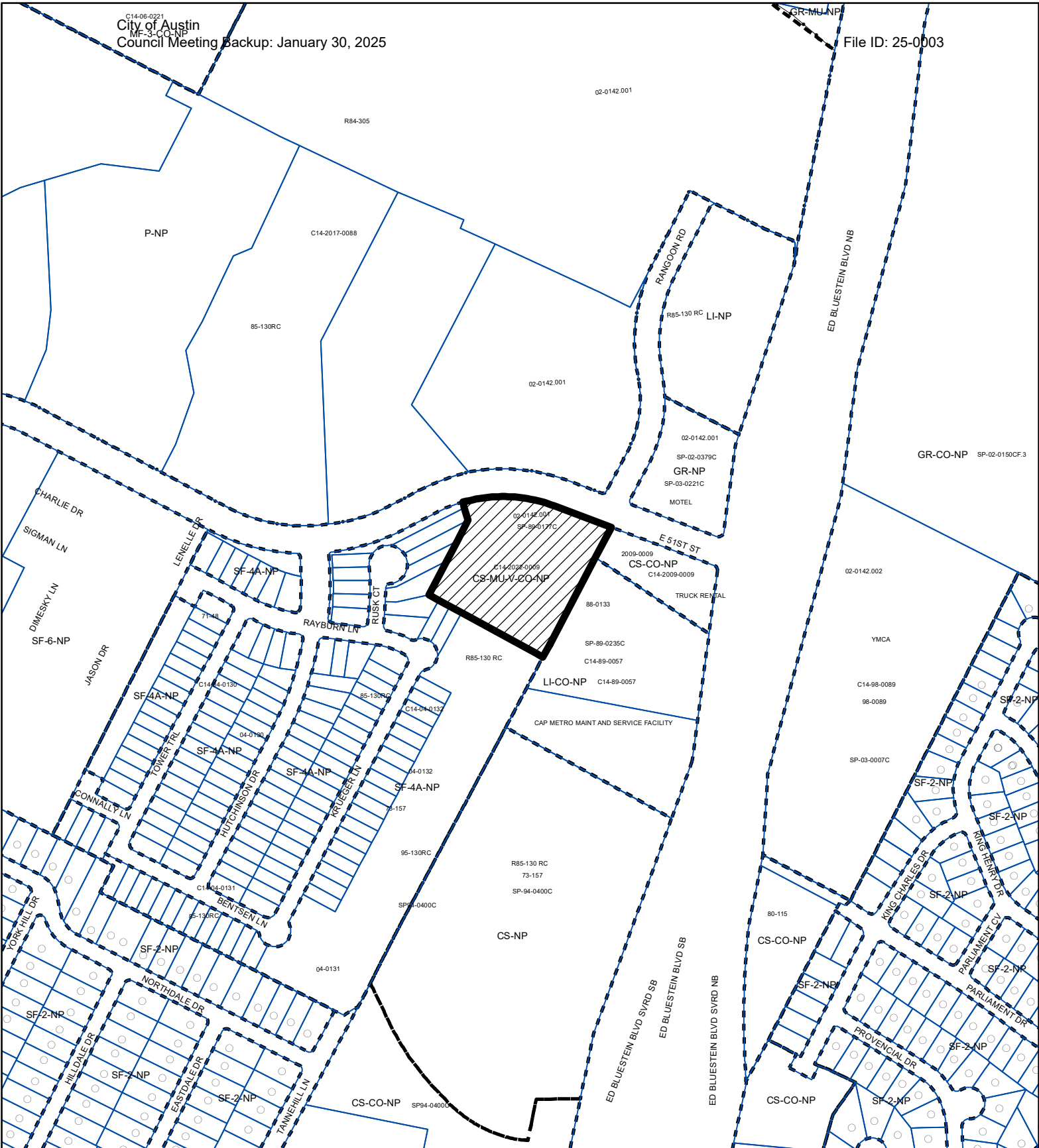
No comments on zoning change.

FYI: The landowner intends to serve the site with existing City of Austin water utilities.

Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.

INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:




- Exhibit A: Zoning Map
- Exhibit A-1: Aerial Map
- Exhibit B: Applicant’s Summary Letter
- Public Correspondence



ZONING

ZONING CASE#: C14-2024-0149



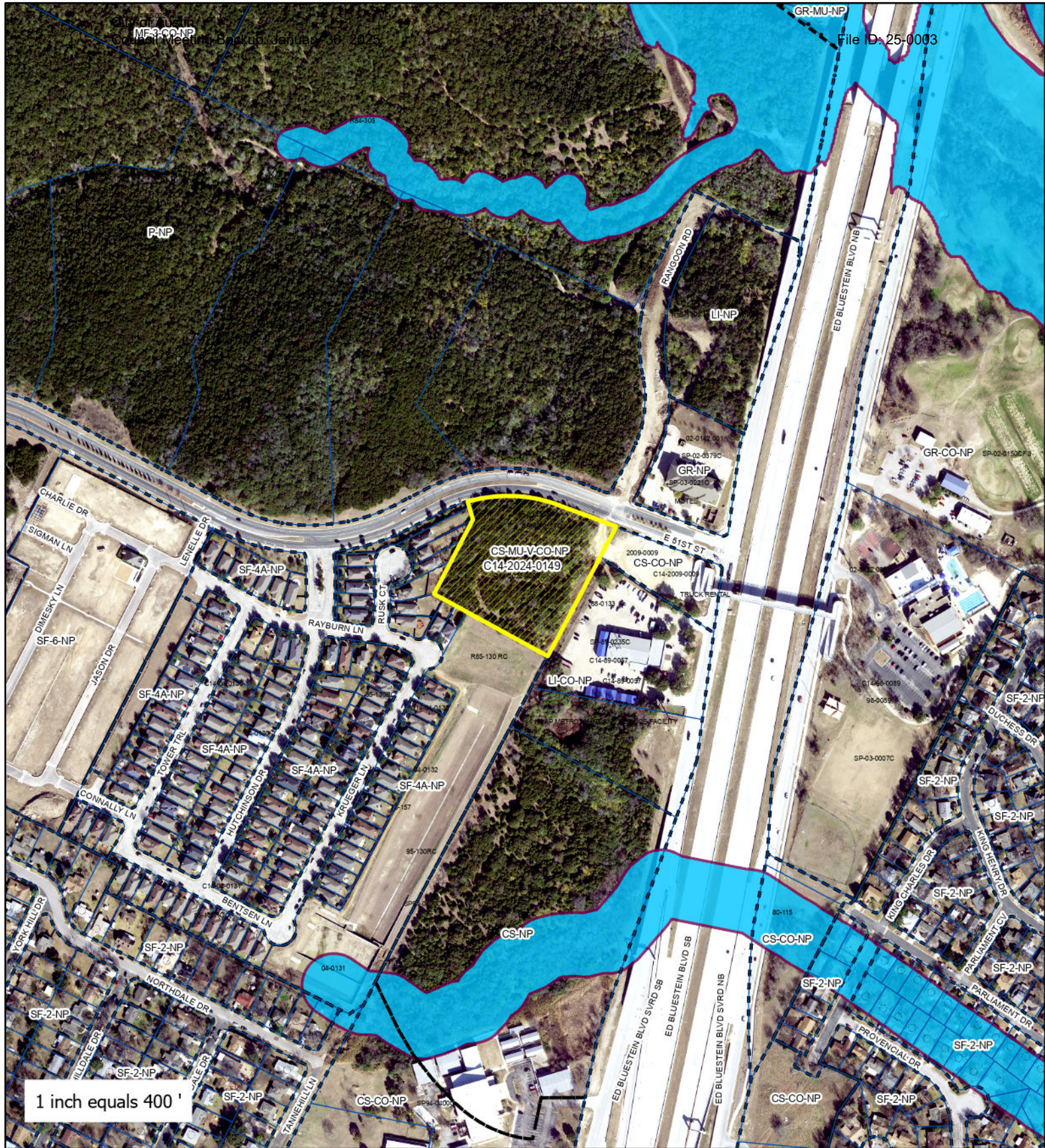
-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 400'

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

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









1 inch equals 400'

FiveOne



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

ZONING CASE#: C14-2024-0149
 LOCATION: 5525 E. 51st St.
 SUBJECT AREA: 3.998 Acres
 MANAGER: Marcelle Boudreaux





September 30, 2024

City of Austin
Development Services Department
P.O. Box 1088
Austin, TX 78701

Re: DB90 Residential Zoning Application
5525 E. 51st Street, Austin, TX 78723

Dear Sir or Madam:

Please find attached an Application for Zoning for the property located at 5525 E. 51st Street, Austin, TX 78723 along with the check list required exhibits. I direct your attention to the authorization letter executed by the owner permitting me to act as the Owner's Agent and the Organization Chart exhibit which provides the partner entity names within the property ownership and.

The Travis County Tax Office tax certificate exhibit contains an error in the owner's name as it also includes the previous owner, Baer Engineering & Environmental, along with the current owner, 5525 E. 51st St., LLC. The Tax Office has been notified of this error; however, as the error is being corrected, please accept the enclosed Special Warranty Deed showing title conveyance to 5525 E. 51st St., LLC to substantiate the correct property owner name and legal description. Notice also the Deed recording number matches the Travis Central Appraisal District deed recording information.

The TIA determination was addressed during the previous Vertical Mixed Use zoning application when the Austin Transportation staff deferred the TIA requirement to site plan review. Please refer to the email provided by Amber Hutchens dated September 27, 2024 stating that a new TIA worksheet is not needed for this zoning application.

The zoning district being requested is DB90 Combining District. The subject property meets Ordinance No. 20240229-073 Part 5 (A)(1) and (2) and (B) eligibility for City Council initiated rezoning and the waiver of zoning related fees. The property received VMU zoning through Ordinance No. 20220728-158 and was subject to the corrected COR Ordinance No. 20221201-056 as it is located within the Exhibit C, E. 51st Street-Berkman Drive to Ed Bluestein Blvd. Larger Corridor Segment. Therefore, the applicant is not required to pay an application fee.

Please contact me should you have any questions or need any further information.

Thank you for your assistance.

LedgeStone Development Group | 7800 Shoal Creek Blvd., STE 100-N, Austin, TX 78757
512.726.0500 | info@LedgeStoneTX.com

Sincerely,

Craig B. Alter

Craig B. Alter
Vice President, Development

Attachments:

1. Agent authorization letter
2. Zoning Application Form, Submittal Verification, Inspection Authorization, Acknowledgment Form
3. Neighborhood Plan Amendment Determination
4. Amber Hutchins email
5. Tax Plat
6. Tax Certificate
7. Special Warranty Deed
8. Owner Organization Chart

Case Number: C14-2024-0149
Contact: Marcelle Boudreaux, 512-974-8094
Public Hearing: December 10, 2024, Planning Commission

Eric C Cooper

Your Name (please print)

<input type="checkbox"/>	I am in favor
<input checked="" type="checkbox"/>	I object

5405 Rusk ct Austin, TX 78723

Your address(es) affected by this application (optional)

E. C. Cooper

12/7/2024

Signature

Date

Daytime Telephone (Optional): _____

Comments: I object to this proposed re-zoning and the project in general. This is directly in my backyard, and besides the multiple stories of these buildings being an eyesore and possibly depriving me of privacy on my property, I also fear the effects of felling all the trees currently in the space. These trees not only dampen some of the sounds from U.S. Route 183, they also scrub the carbon dioxide and monoxide from the ever-increasing traffic.

Basically, I do not wish to lose what little green and forested area we have left on this side of 51st. st.

If you use this form to comment, it may be returned to:

City of Austin, Planning Department

Marcelle Boudreaux

P. O. Box 1088, Austin, TX 78767

Or email to:

Marcelle.boudreaux@austintexas.gov