

ZONING CHANGE REVIEW SHEET

CASE: C14-2024-0138 (Burnet & 183 DB90)

DISTRICT: 4

ADDRESS: 8909, 9030-1/2 and 9034 Burnet Road

ZONING FROM: CS-MU-V-NP

TO: CS-MU-V-DB90-NP

SITE AREA: 2.57 acres (34,356 sq. ft.)

PROPERTY OWNER: PCD BURNET LTD (PCD BURNET LLC) (Peter L. Donovan, Manager)

APPLICANT/AGENT: Armbrust & Brown, PLLC (Michael J. Whellan)

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends CS-MU-V-DB90-NP, General Commercial Services-Mixed Use-Vertical Mixed Use Building-Density Bonus 90-Neighborhood Plan Combining District, zoning.

PLANNING COMMISSION ACTION / RECOMMENDATION:

November 12, 2024: Approved staff's recommendation of CS-MU-V-DB90-NP zoning by consent (12-0; G. Cox-absent); A. Azhar-1st, D. Skidmore-2nd.

CITY COUNCIL ACTION:

December 12, 2024

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.

CASE MANAGER COMMENTS:

The property in question is a 2.57-acre lot located at the southeast corner of Research Boulevard (U.S. Highway-183 Southbound Service Road) and Burnet Road that is currently developed with an Indoor Sports and Recreation use (Highland Lanes Bowling Alley). There are commercial uses (Colonnade Retail Center) to the north, across Research Boulevard/U.S. Highway 183, that are zoned NBG-CMU-NP. To the south, there are restaurant (Olive Garden) and retail sales uses (Cavender’s Boot City) zoned CS-NP. The lot to the east contains a Retail Sales-General use (Furniture Row) and a Cocktail Lounge (Emerald Tavern Games and Café) that are zoned CS-NP and CS-1-CO-NP respectively. Across Burnet Road to the west, there is another retail center (Crossroads Shopping Center) that is zoned CS.

The agent has stated that after approval of the current CS-MU-V-NP through zoning case C14-2022-0111 the applicant immediately submitted a site plan to develop the property through the VMU2 program, including an estimated 273 units (including income-restricted affordable units) above ground-floor commercial space (*please see Applicant’s Summary Letter- Exhibit C*). Therefore, the applicant is asking to rezone this property to add DB90 as a replacement to the invalidated VMU2 program. In this case, the applicant is requesting general commercial services-mixed use-vertical mixed use building-density bonus 90-neighborhood plan (CS-MU-V-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 offices on the ground floor, and residential units on upper levels. The overall project would consist of approximately 273 units residential units and will not be seeking a partial/complete (0-100%) modification for the ground floor commercial space requirement.

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 residential 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.

The staff recommends General Commercial Services-Mixed Use-Vertical Mixed Use Building-Density Bonus 90-Neighborhood Plan Combining District, zoning as the site meets the intent of the zoning district. The property is within the Burnet Road Activity Corridor, as identified on the Growth Concept Map in the Imagine Austin Comprehensive Plan. In addition, the property takes access to Burnet Road, a Level 3 arterial roadway, and is located along the Burnet Road Enhanced Metro Rapid Route according to the System Plan that was adopted by Capital Metro and the Austin City Council in 2020. The North Burnet/Gateway Neighborhood Plan and Transit Oriented District (TOD) is directly to the north across U.S. Highway 183/Research Boulevard. Currently, the NBG-CMU-NP zoning on the tract of land to the north will permit a maximum 60 feet in height and 2:1 FAR and up to 120 feet in maximum height and 3:1 FAR, with development bonus.

This site under consideration is within the Wooten portion of the Crestview/Wooten Combined Neighborhood Planning Area. The Future Land Use Map (FLUM) calls for this site to be designated as “Mixed Use”. As the proposed zoning is consistent with this land use designation, an NPA is not required.

The applicant agrees with the staff’s recommendation.

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. This request is consistent with the “DB90” option and Ordinance No. 20240229-073, which replaced the invalidated “VMU2” combining district.

The property under consideration is located along the Burnet Road Activity Corridor and is next to North Burnet/Gateway Station Regional Center. It is also located along the Burnet Road Enhanced Metro Rapid Route according to the System Plan that was adopted by Capital Metro and the Austin City Council in 2020 (*please see Resolution No. 20200807-003 -Exhibit A: System Plan - Exhibit D*).

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

General Commercial Services district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments.

Mixed Use combining district 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.

Density Bonus 90 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.

Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

3. *Zoning changes should promote compatibility with adjacent and nearby uses.*

The proposed CS-MU-V-DB90-NP site is located at the southeast intersection of U. S. Highway 183/Research Boulevard and Burnet Road, a Level 3 arterial roadway, and is surrounded by commercial zoning district designations. There is NBG-CMU-NP zoning to the north, CS-NP zoning to the south and east and CS zoning to the west.

4. *Zoning should allow for reasonable use of the property.*

The staff's recommendation of CS-MU-V-DB90-NP zoning will permit the applicant to redevelop this site with a mixture of residential, office, civic and commercial uses that will serve the surrounding community. In addition, the applicant's intent to approximately 273 multifamily residential units at this location supports the goals stated in the Imagine Austin Comprehensive Plan and the Strategic Housing Blueprint.

5. *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-NP	Indoor Sports and Recreation (Highland Lanes Bowling Alley)
<i>North</i>	NBG-NP	Retail Center (Colonnade: Planned Parenthood, Casa Chapala, Zaika Indian Contemporary Cuisine, Block Advisors, People Ready, Mikado Japanese Cuisine, Honey Baked Ham, Salon Change, All Wireless Repair, Todd Pilates Fitness Studio, 1 World Karate, Apartment Experts, Onin Staffing, Let's Relax)
<i>South</i>	CS-NP	Restaurant (Olive Garden), Retail Sales (Cavender's Boot City)
<i>East</i>	CS-NP, CS-1-CO-NP	Retail Sales-General (Furniture Row), Cocktail Lounge (Emerald Tavern Games and Café)
<i>West</i>	CS	Retail Center (Crossroads Shopping Center: Bon Aire, Kung Fu Tea, The Soccer Corner, Palms Social, West Marine, Cycle Gear Motorcycle Apparel and Accessories, Pluckers Wing Bar, Make It Sweet, Tabu Lingerie, Li Massage, Cloud Dental, TRND Setters Barber Shop, Chili's, Le Bleu, Craving Vapor, Hook & Reel Cajun Seafood Bar, Avis/Budget Rentals, Dover Saddlery, Yisel Jewelry, Humpty's Wall of Breakfast, Modern Muse Beauty Collective, Fast Signs, Paradise on Ice Daiquiris to Go, Apartment Specialists, Painting with a Twist, Trudy's North Star)

NEIGHBORHOOD PLANNING AREA: Crestview/Wooten Combined Neighborhood Plan (Wooten)

WATERSHED: Little Walnut Creek

SCHOOLS: Austin I.S.D.
Pillow Elementary
Padron Elementary
Burnet Middle School

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
Austin Lost and Found Pets
Austin Neighborhoods Council
Friends of Austin Neighborhoods
Friends of North Shoal Creek
Homeless Neighborhood Association
Neighborhood Empowerment Foundation
North Austin Neighborhood Alliance
North Burnet Gateway Neighborhood Staff Liaison
North Growth Corridor Alliance
North Shoal Creek Neighborhood Association
North Shoal Creek Neighborhood Contact Team
NW Austin Neighbors
Red Line Parkway Initiative
SELTEXAS
Shoal Creek Conservancy
Sierra Club, Austin Regional Group
Wooten Neighborhood Plan Contact Team

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2024-0075 (9012 Research)	CS-NP, CS-1-CO-NP to CS-1-MU-V-CO- DB90-NP	8/13/24: Approved staff's recommendation CS-MU-V-CO-DB90-NP zoning, with a CO to limit the size of a cocktail lounge or liquor sales use to 10,000 sq. ft. on the property and to grant the modification request to not provide ground floor Pedestrian-Oriented Commercial Space (to provide 0% of the requirement), by consent (12-0, P. Howard-absent); A. Azhar-1st, A. Woods-2nd.	9/12/24: Approved CS-1-MU-V-CO-DB90-NP zoning on 1st reading only [L. Pool; P. Ellis - 2nd]; (11-0).
C14-2022-0111 (Burnet & 183: 8909 & 9034 Burnet Road)	CS-NP to CS-MU-V-NP	11/08/22: Approved staff's recommendation for CS-MU-V-NP zoning by consent (11-0, R. Schneider-absent); C. Hempel-1st, J. Shieh-2nd.	12/08/22: The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20221208-090 for CS-MU-V-NP combining district zoning was approved on Council Member Fuentes' motion,

			Council Member Pool's second on an 11-0 vote.
C14-2021-0059 (2100 Polaris Avenue)	CS-CO-MU-NP to CS-MU-NP	6/08/21: Motion to approve the staff's recommendation of CS-MU-CO-NP zoning by consent (11-0, Y. Flores and J. Shieh-absent); A. Azhar-1st, J. Mushtaler-2nd.	7/29/21: Approved staff's recommendation of CS-MU-CO-NP zoning by consent on 1st reading (11-0); L. Pool-1st, P. Ellis-2nd. 10/21/21: Approved CS-MU-CO-NP zoning by consent on 2nd/3rd readings (10-0, G. Casar-off dais); A. Kitchen-1st, M. Kelly-2nd.
C14-2015-0132 (Calvin's Liquor: 8820 Burnet Road, Ste. 505)	CS to CS-1	11/10/15: Approved staff's recommendation for CS-1-CO zoning, with a conditional overlay to prohibit Cocktail Lounge use on the property, on consent (11-0); N. Zaragoza-1 st , P. Seeger-2 nd .	12/10/15: Approved CS-1-CO district zoning on all 3 readings (9-1, O. Houston-No, S. Adler-absent); D. Zimmerman-1 st , D. Garza-2 nd .
C14-03-0002 (9325 Burnet Road)	LI to CS	3/26/03: Recommended for approval by consent, with the addition of the following restrictions added to staff's proposed conditional overlay for this case: 1) Use of the property as an adult bookstore shall be restricted to not more than 7,500 square feet of gross floor area and 2) Use of the property as an adult arcade, adult cabaret, adult lounge, adult novelty shop, adult service business and adult theater is prohibited. Vote: 7-0 (Off Dais: Pratt, Absent: Spelman.); M. Armstrong-1 st , M. Casias-2 nd .	6/05/03: Granted CS-CO on all 3 readings (7-0)
C14-01-0037 (North Austin Civic Association Neighborhood Plan)	MF-2, SF-2, SF-3 to NO-NP, MF-2, LO, MF-3, CS to GR-NP CS, SF-3 to P-NP	4/17/01: Approved Staff rec. of NO-NP, CS-NP, MF-2-NP, LO-NP, GR-NP, P-NP, LI-NP (9-0); with 25 foot vegetative buffer on south boundary of Tract 19	5/24/01: Approved PC rec. on all three readings, except for Tract 9-1 st reading only (6-0) 8/9/01: Approved CS-NP for Tract 9 (7-0); 2 nd /3 rd readings

RELATED CASES:

C14-2022-0111 – Previous Zoning Case
C8-AI-3167 - Subdivision Case

OTHER STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 8909 BURNET ROAD. C14-2024-0138. Wooten Neighborhood Plan. FLUM: Mixed Use. Project: Burnet & 183 DB90 Rezoning. 2.57 acres from CS-MU-V-NP to CS-MU-V-DB90-NP. Existing: commercial (bowling alley). Proposed: 273 multifamily units and 4,000 sq. ft office/retail. Demolition of existing site is proposed. 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 North Burnet/Gateway Station Regional Center; Adjacent to Burnet RD Activity Corridor
Y	Mobility and Public Transit *: Located within 0.25 miles of public transit stop and/or light rail station. <ul style="list-style-type: none"> • Adjacent to Research BLVD bus stop
Y	Mobility and Bike/Ped Access *: Adjoins a public sidewalk, shared path, and/or bike lane. <ul style="list-style-type: none"> • Sidewalk present along Burnet RD
Y	Connectivity, Good and Services, Employment *: Provides or is located within 0.50 miles to goods and services, and/or employment center. <ul style="list-style-type: none"> • Goods and Services present along Burnet Rd and Research BLVD
	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.
	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.
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.
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.
Y	Not located over Edwards Aquifer Contributing Zone or Edwards Aquifer Recharge Zone
8	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 located in the Little Walnut 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 sq. ft. 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.

Fire

No comments.

Parks and Recreation

Parkland dedication will be required at the time of subdivision or site plan application for new residential units, per City Code § 25-1-601, as amended. 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 § 25-1-609, as amended.

Note that residential units that are certified affordable and income-restricted are exempt from the parkland dedication requirements per City Code § 25-1-601(D)(4).

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

The legal description in the application and resolution are prior to some resubdivisions.

The rezoning covers 4 lots:

AMENDED PLAT OF THE IBM EAST RESUBDIVISION LOTS 1B, 2B AND 3B BLOCK A
IBM EAST SUBDIVISION, BLOCK "A", LOTS 1 & 2; AMEN*
IBM SUBDIVISION EAST RESUBDIVISION ESTABLISHING LOTS 1, 2, & 3, BLOCK F
IBM SUBDIVISION EAST RESUBDIVISION ESTABLISHING LOTS 1 & 2, BLOCK L

Transportation

FYI: The site is subject to the approved TIA with a previous zoning case #C14-2016-0136. A TIA compliance memo will be required with any subsequent site plan applications. The TIA may need to be revised upon further review with future site plan applications. TCM, 10.4.4.

The Austin Strategic Mobility Plan (ASMP) calls for 154 feet of right-of-way for Burnet Rd. It is recommended that 77 feet of right-of-way from the existing centerline should be dedicated for Burnet Rd 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 84 feet of right-of-way for Burnet Rd Collector. It is recommended that 42 feet of right-of-way from the existing centerline should

be dedicated for Burnet Rd 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 84 feet of right-of-way for Gracy Farms Ln – Kramer Ln Collector. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for Gracy Farms Ln – Kramer Ln Collector 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 Solaris St. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for Solaris 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 58 feet of right-of-way for Rosalind Way. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for Rosalind Way 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 Azul Xing. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for Azul Xing 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 116 feet of right-of-way for Gault Lane. It is recommended that 58 feet of right-of-way from the existing centerline should be dedicated for Gault Lane 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:

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (¼ mile)
Burnet Rd	Level 4 (TXDOT Roadway)	154 feet	Approx 135 feet	Approx 68 feet	Yes	Yes	Yes

Burnet Rd Collector	Level 2	84 feet					Yes
Gracy Farms Ln – Kramer Ln Collector	Level 2	84 feet					Yes
Solaris St	Level 1 (Private Drive)	58 feet		Approx 35 feet	Yes	No	Yes
Rosalind Way	Level 1 (Private Drive)	58 feet		Approx 30 feet			Yes
Azul Xing	Level 1 (Private Drive - southern)	58 feet					Yes
Gault Lane	Level 3	116 feet	Approx 28 feet			Yes	Yes
Azul Xing	Private Drive - northern						Yes
Skyrise Ave	Private Drive			Approx 58 feet			Yes
John S Chase Trail	Private Drive						Yes

Water Utility

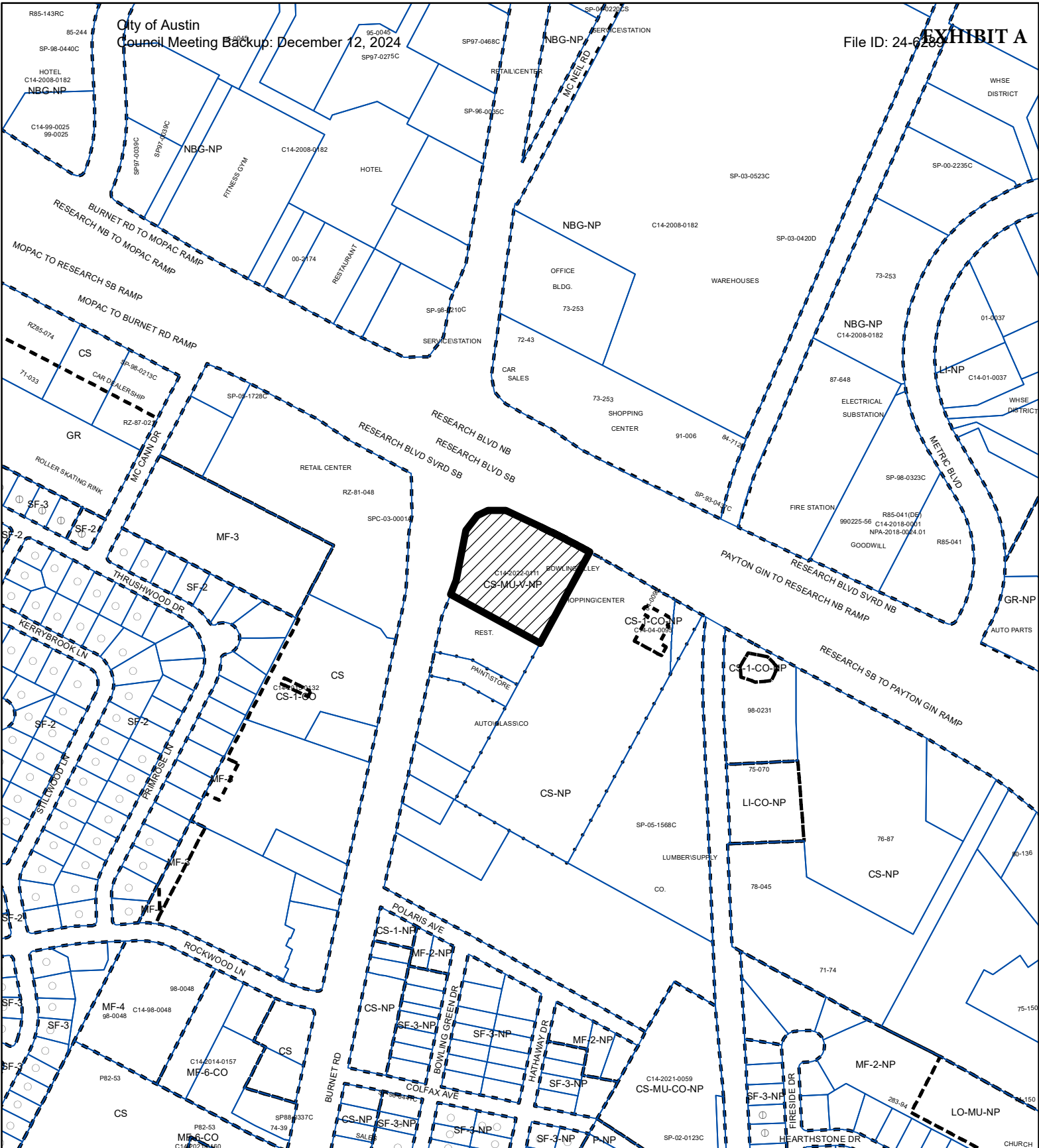
No comments on zoning change.

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 TO FOLLOW




- A: Zoning Map
- B. Aerial Map
- C. Applicant's Request Letter



ZONING

ZONING CASE#: C14-2024-0138

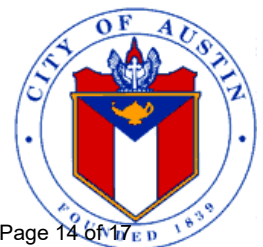


-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

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.







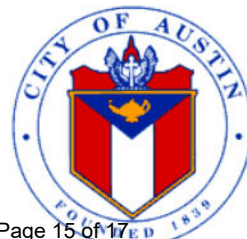


Burnet & 183 DB90 Rezoning

ZONING CASE#: C14-2024-0138
LOCATION: 8909, 9030-1/2, 9034 Burnet Rd.
SUBJECT AREA: 2.57 Acres
MANAGER: Sherri Sirwaitis



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



ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

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512-435-2300

FACSIMILE 512-435-2360

September 13, 2024

Joi Harden, Planning Officer
Planning Department
6310 Wilhelmina Delco Drive
Austin, Texas 78752

Re: Rezoning application for 8909, 9030 ½, and 9034 Burnet Rd. (the “Property”)

Dear Ms. Harden:

I request that the city rezone the Property to include the Density Bonus 90 Combining District (“DB90”). Council previously granted VMU2 zoning for the Property, which the applicant then relied upon in submitting a site plan for a proposed 273 housing units – including affordable housing – above ground-floor office/commercial. In this case, the applicant simply seeks DB90 as a replacement to the invalidated VMU2 program.

Background

Two years ago, Council created the Vertical Mixed-Use 2 (“VMU2”) program to “build upon and strengthen an existing successful program [Vertical Mixed-Use, or “VMU”] and reaffirm [Council’s] commitment to providing both affordable housing and increased density along transportation corridors.”

A little over one month after the VMU2 ordinance went into effect, the applicant filed a rezoning case for the Property, requesting the ability to participate in the newly established VMU2 program. Council approved this request on December 8, 2022 – and the applicant immediately submitted a site plan to develop the Property through the VMU2 program, including an estimated 273 units (including income-restricted affordable units) above ground-floor commercial space. (The TIA determination worksheet lists the commercial space as ‘general office;’ this is a placeholder use. The final commercial use will be determined closer to project completion.)

However, late last year, a Travis County judge invalidated the VMU2 program upon which the applicant’s entire project relied. Council quickly adopted a replacement program on February 29, 2024, passing Ordinance No. 20240229-073 (the “DB90 Ordinance”) and creating the DB90 program as a successor to the invalidated VMU2. Part 5 of the DB90 Ordinance additionally initiated rezoning for property that was “rezoned to allow for one or more VMU buildings after June 10, 2022, but before February 29, 2024,” if the affected property owners submit the corresponding rezoning application prior to December 31, 2024.

The Property meets this criterion. The Applicant previously sought – and Council granted – rezoning for the Property from CS-NP to CS-MU-V-NP in Case No. C14-2022-0111, as follows:

- July 28, 2022: Applicant applies to rezone the Property for VMU.
- November 8, 2022: Planning Commission recommended approval of rezoning.
- December 8, 2022: Council approves Ordinance No. 20221208-090 rezoning the Property for VMU.

I have attached the prior case report and rezoning ordinance for that rezoning. The same rationale from that VMU case applies to the Applicant’s request for DB90.

Policy Context

As described above, Council previously determined that a density bonus program allowing up to 90 ft. of height was appropriate on this Property. This case would simply restore the density bonus option that Council previously granted to this Property – and allow the applicant to continue to work to move the project forward.

A density bonus option allowing up to 90 ft. of height on this Property continues to be appropriate for the following reasons:

- **This project would provide on-site, long-term, income-restricted affordable housing.** The DB90 program – like VMU2 before it – requires applicants to provide 12 percent of all housing units at a rent affordable to households earning up to 60 percent of the Median Family Income (“MFI”) – ensuring that all participating projects help further the city’s housing strategy.
- **The property is strategically located along the Burnet corridor, at its intersection with US-183.** The city has designated Burnet Road as an appropriate location for growth, identifying it as an Imagine Austin Corridor, a Transit Priority Network Roadway, and a 2016 Mobility Bond Corridor. Additionally, the property is served by one of only two active MetroRapid bus lines in the city (the 803 bus).
- **Additional height at this site would be fully compatible with the surrounding zoning – and would be meaningfully buffered from single-family.** The property is surrounded to the east, south, and west (across Burnet Road) by CS and CS-1-zoned property, and to the north (across US-183) by the North Burnet/Gateway Regulating Plan area. Additionally, the site is meaningfully buffered from single-family areas, with the closest single-family lot over 480 ft. away, across Burnet Road.
- **Restoring previously approved zoning standards will ensure regulatory stability.** Austin is currently facing a difficult macroeconomic environment that has made it challenging for applicants to deliver on new projects and help the city continue to meet residents’ housing needs. The applicant has been working diligently to try to navigate these macroeconomic difficulties and ensure a feasible project. To do this, they must be able to rely upon the Council-approved zoning under which they had been proceeding.

We believe that this information demonstrates that DB90 is an appropriate designation for the Property. Thank you for your consideration. Please do not hesitate to reach out with any questions related to this request.

Respectfully,



Michael J. Whellan