

## SECOND/THIRD READINGS SUMMARY SHEET

CASE: C14-2022-0205 - Denny's Condos

DISTRICT: 1

ADDRESS: 1601 North IH 35 Service Road Northbound

APPLICANT: McGrane Living Trust

AGENT: Alice Glasco Consulting (Alice Glasco)

CASE MANAGER: Joi Harden, 512- 974-1617, joi.harden@austintexas.gov

REQUEST:

Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 1601 North IH 35 Service Road Northbound to rezone from commercial highway services-conditional overlay-neighborhood plan (CH-CO-NP) combining district zoning to commercial highway services -planned development area -neighborhood plan (CH-PDA-NP) combining district zoning, as amended.

PREVIOUS CITY COUNCIL ACTION:

June 1, 2023: First Reading approved combining district zoning to commercial highway services - planned development area -neighborhood plan (CH-PDA-NP) combining district zoning, as amended. Vote 8-0 with Mayor Watson and Council Member A. Alter off the dais. Commissioner R. Alter recused.

Conditional Overlay:

Modify the maximum height of a building or structure to 230 feet, excepting the 36 feet parallel to and measured from East 16th Street frontage where the maximum height of a building or structure is 40 feet.

## ZONING CHANGE REVIEW SHEET

CASE: C14-2022-0205  
Denny's Condos

DISTRICT: 1

ZONING FROM: CH-CO-NP

TO: CH-PDA-NP, as amended

ADDRESS: 1601 North IH 35 Service Road Northbound

SITE AREA: 1.28 Acres

PROPERTY OWNER:  
McGrane Living Trust

AGENT:  
Alice Glasco Consulting  
(Alice Glasco)

CASE MANAGER: Joi Harden, (512) 974-1617, joi.harden@austintexas.gov

STAFF RECOMMENDATION:

**Staff supports CH-PDA-NP.** *For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

February 28, 2023: Postponed to March 14, 2023

March 14, 2023: Azhar, Hempel LI-PDA-NP, with conditions. Cox nay. Schneider abstained. Vote: 7-1.

CITY COUNCIL ACTION:

May 18, 2023: Staff Postponement to June 1, 2023

June 1, 2023, Approved CH-PDA-NP, 1st Reading

ORDINANCE NUMBER:

ISSUES:

The rezoning case initially requested CH-V-PDA-NP. Further research noted that PDA cannot be added to the CH base zoning district if the property is less than 10 acres in size, per City Code section 25-2-582. The applicant revised the request January 5, 2023, to the current request of request LI-PDA-NP *Please see Exhibit C- Applicant Letter.*

CASE MANAGER COMMENTS:

The subject property is located on the northbound frontage road of IH 35, zoned CH-CO-NP and developed with restaurant land use. The property has frontage on the IH 35 service road on the west and East 16<sup>th</sup> Street to the south. Immediately to the east is a property zoned CH-V-CO-NP that is developed with hotel/motel land use. The next property to the east is Oakwood Cemetery, zoned P-H-NP. Across East 16<sup>th</sup> to the south is the Swede Hill neighborhood. The neighborhood is primarily zoned SF-3-NP and developed with single family residential uses, but other zoning designations and land uses. Other nearby zoning designations include MF-3-NP, MF-2-NP and LR-MU-NP. Most of these properties are also developed with single family residential land uses. To the north, across East Martin Luther King Boulevard are unzoned properties owned by The University of Texas (UT) and developed with offsite accessory parking and outdoor sports and recreation facilities. Across IH 35 to the west are CS and MF-4 properties that are developed with UT uses, including the Frank Erwin Center. *Please see Exhibits A and B—Zoning Map and Aerial Exhibit.*

The rezoning request of LI-PDA-NP would remove conditions established by the current zoning under Ordinance # 951214-F and establish new land uses and site development regulations. Conditions of the current zoning that are proposed to be changed:

1. General retail sales (convenience) is prohibited—would become permitted use
2. Cocktail lounge is prohibited—would become conditional use
3. Residential development is limited to 170 units per acre – remove limit

The LI-PDA-NP rezoning request would add condominium/townhouse, multifamily and group residential as permitted land uses and prohibit 40 land uses that are permitted in LI zoning. Site development standards that are proposed are:

1. The maximum floor-to-area ratio (FAR) is 8 to 1
2. The maximum height is 200 feet
3. The minimum front yard setback is 0-50 feet
4. The minimum street side yard setback is 0-50 feet
5. The minimum interior side yard setback is 0 feet
6. The minimum rear yard setback is 0 feet
7. The maximum building coverage is 95%
8. The maximum impervious cover is 95%

Staff does not support the rezoning request of LI-PDA-NP and supports CH-V-NP instead. CH-V-NP would eliminate the conditional overlays of the existing zoning regarding General retail sales (convenience), Cocktail lounge, and residential units. All other land uses currently allowed on the site would remain, as would the site development standards. CH zoning allows increased height in relation to reduced impervious cover up to 120 feet. Beyond that, additional building height and FAR can be achieved if VMU-2 is utilized. Utilizing VMU-2 to increase height would require affordable housing units.

Staff does not support the addition of LI- Limited Industrial to this site. Per City Code, “Limited industrial service (LI) district is the designation for a commercial service use or limited manufacturing use generally located on a moderately-sized site.” Also per Code, “Commercial highway services (CH) district is the designation for a use that has operating and traffic generation characteristics that require that the use be located at the intersection of state maintained highways other than scenic arterial roadways. A CH district designation may be applied to a single major mixed use development of a service nature that includes any combination of office, retail, commercial, and residential uses. A CH district may include a high density residential use. Site development regulations and performance standards applicable to a CH district are designed to ensure adequate access to and from all uses.” The addition of LI is not appropriate at this location in close proximity to single family residential and civic land uses. The request of LI-PDA-NP is not consistent with the intent of the base district and is proposed in order to request increased height, FAR, impervious cover and more.

**BASIS OF RECOMMENDATION:**

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*
2. *Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.*
3. *Zoning should allow for reasonable use of the property.*
4. *The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.*

**EXISTING ZONING AND LAND USES:**

|       | ZONING                              | LAND USES  |
|-------|-------------------------------------|--|
| Site  | CH-CO-NP                            | Restaurant   |
| North | CH-CO-NP, Unzoned, P-NP             | Hotel-motel, Parking garage, Outdoor sports and recreation |
| South | SF-3-NP, MF-3-NP, MF-2-NP, LR-MU-NP | Single family residential                                  |
| East  | P-H-NP                              | Oakwood Cemetery   |
| West  | MF-4, Unzoned                       | Indoor entertainment, University facilities                |

**NEIGHBORHOOD PLANNING AREA:** Organization of Central East Austin Neighborhoods (OCEAN)

**OVERLAYS:** Capital View Corridor

**TIA:** Deferred to time of site plan, if triggered

**WATERSHED:** Waller Creek

NEIGHBORHOOD ORGANIZATIONS:

|   |                                   |
|---|-----------------------------------|
| Del Valle Community Coalition                                 | East Austin Conservancy           |
| Swede Hill Neighborhood Association                           | Waller Creek Conservancy          |
| Austin Heritage Tree Foundation                               | Downtown Austin Alliance          |
| Downtown Austin Neighborhood Association                      | Lower Waller Creek                |
| Austin Neighborhoods Council                                  | The Real Estate Council of Austin |
| Friends of the Emma Barrientos MACC                           | Oakwood Neighborhood Association  |
| United East Austin Coalition                                  | Swede Hill Lofts HOA              |
| Sierra Club, Austin Regional Group                            | SELTexas                          |
| Central Austin Community Development Corporation Preservation |                                   |
| Organization of Central East Austin Neighborhoods (OCEAN)     |                                   |

EXISTING STREET CHARACTERISTICS:

| Name                          | ASMP Classification | ASMP Required ROW | Existing ROW | Existing Pavement | Sidewalks | Bicycle Route | Capital Metro (within ¼ mile) |
|-------------------------------|---------------------|-------------------|--------------|-------------------|-----------|---------------|-------------------------------|
| N IH 35<br>SCRD NB            | 4                   | Defer to<br>TxDOT | ~385'-416'   | 46'               | Yes       | Yes           | Yes                           |
| E. 16 <sup>th</sup><br>Street | 1                   | 58'               | 60'          | 34'               | Yes       | No            | No                            |

OTHER STAFF COMMENTS:COMPREHENSIVE PLANNING

| Yes                         | Imagine Austin Decision Guidelines   |
|-----------------------------|--|
| Complete Community Measures |  |
| Y                           | <b>Imagine Austin Growth Concept Map:</b> Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. <b>Name(s) of Activity Center/Activity Corridor/Job Center: Next to Downtown Regional Center and 0.11 miles from the E MLK Activity Corridor</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.  |

|   |   |
|---|---|
| Y | <b>Connectivity and Health:</b> Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.)   |
|   | <b>Housing Affordability:</b> Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.   |
| Y | <b>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>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 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.  |
| 9 | <b>Total Number of "Yes's"</b>  |

### ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Waller 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.
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. Currently, 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.

### SITE PLAN

- SP 1. Site plans will be required for any new development other than single-family, two-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. The site is subject to compatibility standards due to the proximity of the SF-3-NP districts to the south.
- 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. This tract is already developed and the proposed zoning change is a footprint within the existing development. The applicant is responsible for requesting relocation and demolition permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

SP 5. A portion of the site is within the Oakwood Cemetery Capitol View Corridor. An application for a Capitol View Corridor Height Determination would be required.

### TRANSPORTATION

ATD 1. 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) |
|-------------------------------|---------------------|-------------------|--------------|-------------------|-----------|---------------|-------------------------------|
| N IH 35<br>SCRD NB            | 4                   | Defer to<br>TxDOT | ~385'-416'   | 46'               | Yes       | Yes           | Yes                           |
| E. 16 <sup>th</sup><br>Street | 1                   | 58'               | 60'          | 34'               | Yes       | No            | No                            |

ATD 2. ATD has no objections to the proposed PDA amendment of site development standards or uses.

ATD 3. A transportation assessment/traffic Impact analysis shall be required at the time of site plan if triggered, when land uses and intensities will be known per LDC 25-6-113 and TCM 10.2.1.

### PARKS AND RECREATION

PR1: Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with CH-V-PDA-NP zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2). If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

WATER UTILITY

AW1. 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.

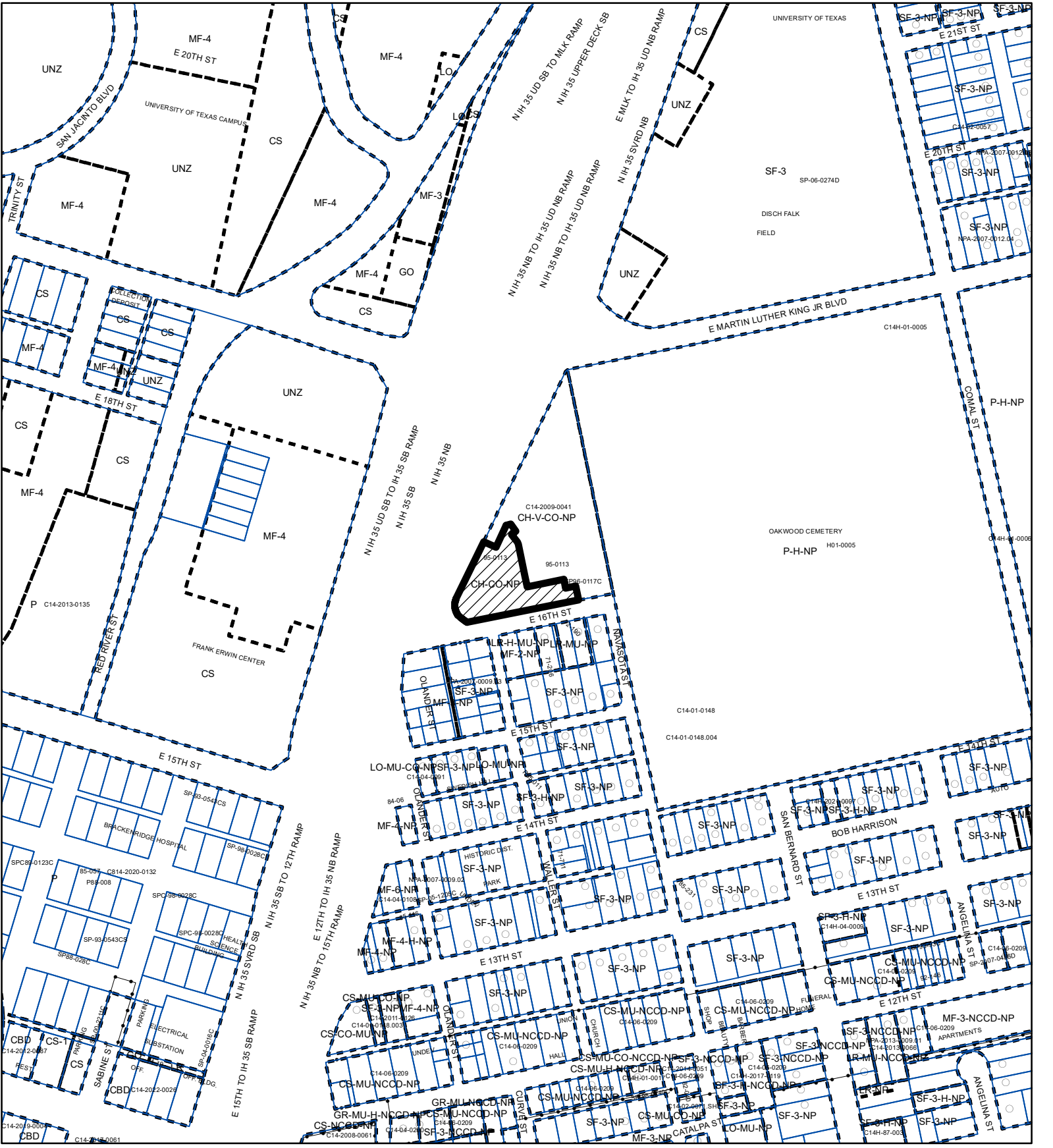
Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at [ser@austintexas.gov](mailto:ser@austintexas.gov).

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 TO FOLLOW

- A: Zoning Map
- B. Aerial Exhibit
- C. Applicant Letter





**ZONING**

**ZONING CASE#: C14-2022-0205**



- 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 Housing and Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or

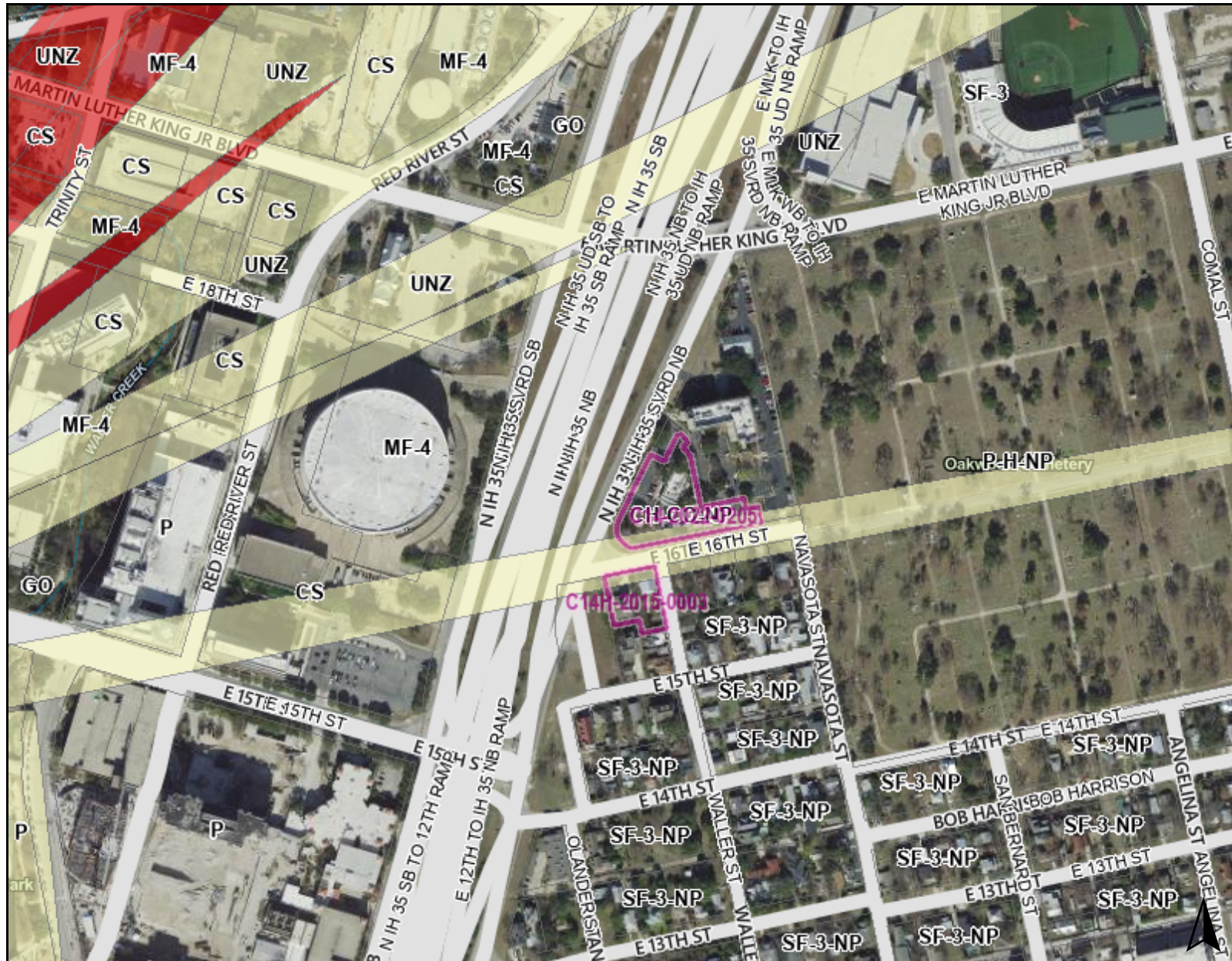


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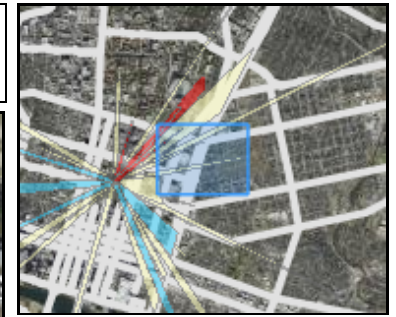
# Property Profile



0 500 1000  
ft

2/24/2023

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## Legend

Property

Street Labels

Review Cases

Zoning Review Cases- IN REVIEW



Zoning 1

Zoning Text



Zoning 2

Capitol View Corridors

City of Austin

State of Texas Corridors

## Notes

## **ALICE GLASCO CONSULTING**

May 30, 2023

Joi Harden, Interim Zoning Officer  
Planning Department  
1000 E. 11<sup>th</sup> Street, Suite 200  
Austin, Texas 78702

RE: Denny's Condos - 1601 N. IH 35 SVRD NB - Amended Rezoning Request to CH-PDA-NP

Dear Ms. Harden:

As the agent representing LedgeStone Development Group, the prospective buyer of the above-referenced property, I would like to amend the requested zoning from LI-PDA-NP to CH-PDA-NP. Additionally, I would like to request an increase in the building height from 200 feet to 230 feet.

### **Background:**

The subject site is currently developed with a restaurant (Denny's). In 1995, the property (Tract 2) was rezoned to CH-CO, under case number C14-95-0113 (Ordinance # 951214-F).

### **Remove the following conditions from Ordinance # 951214-F**

1. General Retail Services (convenience) – remove from CO
2. Cocktail lounge – remove from CO (will remain as a conditional use per code)
3. Residential development of the Property shall not exceed a density of 170 units per acre - remove from CO

### **The proposed PDA standards for the subject property would be as follows**

- a. Except as provided below, all permitted and conditional uses under CH zoning are permitted and conditional uses for the subject property.

### **The following uses shall be prohibited on the Property**

(1) Agricultural Sales and Services, (2) Automotive Rentals, (3) Automotive Repair Services, (4) Automotive Sales, (5) Automotive Washing (All types) (6) Campground, ((7) Commercial Blood Plasma Center, (8) Pawn Shop, (9) Commercial Off-Street Parking, (10) Construction Sales and Services, (11) Convenience Storage, (12) Drop-Off Recycling Collection Facility, (13) Electronic Prototype Assembly, (14) Equipment

Repair Services, (15) Equipment Sales, (6) Exterminating Services, (17) Funeral Services, (18) Communication Services, (19) Off-Site Accessory Parking, (20) Safety Services, , (21) Kennels, (22) Liquor Sales, (23) Laundry Services, (24) Monument Retail Sales, (25) Outdoor Entertainment, (conditional), (26) Transportation Terminal, (27) Vehicle Storage, (28) Limited Warehousing and Distribution, (29) Pet Services, (30) Restaurant (Drive-in, Fast Food) (31) Service Station, (32) Custom Manufacturing, (33) Hospital Services (general), (34) Local Utility Services, and (35) Maintenance and Service Facilities

**The following site development standards shall apply to the property:**

- 1. The maximum floor-to-area ratio is 8 to1**
- 2. The maximum height is 230 feet**
- 3. The minimum front yard setback is 0-50 feet**
- 4. The minimum street side yard setback is 0-50 feet**
- 5. The minimum interior side yard setback is 0 feet**
- 6. The minimum rear yard setback is 0 feet**
- 7. The maximum building coverage is 95%**
- 8. The maximum impervious cover is 95%**

Sincerely,

*Alice Glasco*

Alice Glasco, President  
AG Consulting

Cc: Cass Brewer, Ledgestone development Group  
Paul Shepherd, Ledgestone Development Group