

**PLANNING COMMISSION  
SITE PLAN WAIVER REQUEST REVIEW SHEET**

**CASE NUMBER:** SP-2016-0008C      **PLANNING COMMISSION  
HEARING DATE:** January 10, 2017

**PROJECT NAME:** Lofts at 12th Street

**ADDRESS:** 2724 E. 12<sup>th</sup> Street  
**NEIGHBORHOOD PLAN:** Chestnut  
**COUNCIL DISTRICT #:** 1

**APPLICANT:** Big Red Dog (Mike Reyes) (512) 669-5560  
2010 E. 5<sup>th</sup> Street Ste. 100  
Austin, TX 78702

**AGENT:** San Antonio Dream Homes, LLC. (Shravan Parsi) (281) 862-5294  
701 Brazos Street Ste. 1620  
Austin, TX 78701

**CASE MANAGER:** Rosemary Avila      Phone: 512-974-2784  
[Rosemary.avila@austintexas.gov](mailto:Rosemary.avila@austintexas.gov)

**PROPOSED DEVELOPMENT:**

The applicant is proposing to construct a five story multi-family residential development (30 units total) with associated site improvements. The site is 0.60 acres, located in the MLK TOD, and zoned TOD-NP-CO (Transit Oriented Development- Neighborhood Plan- Conditional Overlay).

**DESCRIPTION OF WAIVERS:**

The applicant is requesting a waiver from § 25-2-1063, "a person may not construct a structure 25 feet or less from a property in an urban family residence (SF-5) or more restrictive zoning district." The applicant is requesting a 5' setback on the west property line. The applicant is proposing 11 parking spaces, a transformer pad (10' x 10'), and bicycle parking that are encroaching into the 25' compatibility setback.

**SUMMARY STAFF RECOMMENDATION:**

Staff recommends approval of the waiver request. The proposed multi-family building is not within the 25' compatibility setback. A portion of the site is within a Critical Water Quality Zone, there is a drainage easement, and the site frontage is 39' wide, therefore the applicant is unable to build on the southern portion of the lot. Adjacent neighbors to the west of the site have signed support letters for the proposed parking within the 25 foot setback (see letters attached in the back-up material). The site complies with other compatibility standard requirements such as lighting and screening.

**COMPATIBILITY:**

Section 4.2.10 of the MLK TOD (Transit Oriented Development) states Compatibility Standards, as stipulated of Article 10 of Chapter 25-2 of the LDC, shall apply to all properties within the TOD District.

Section 25-2-1051 states that "Article 10 Compatibility Standards apply if a use in a SF-6 or less restrictive zoning district is located on a property across the street from or adjoining a property on which a use is permitted in a SF-5 or more restrictive zoning district is located."

The proposed development is subject to Compatibility Standards on the west property line due to the adjacent properties zoned SF-3-NP.

SP-2016-0008C

Lofts at 12th Street

Per the Design Regulations schedule in 25-2-1067(H) of the LDC, the setback for the driveway is 0 feet, due to the E. 12<sup>th</sup> street frontage being 39 feet. Since the parking area is over 125 feet wide, the back part of the lot cannot fall under the Design Regulations schedule and is subject to the 25' standard Compatibility setback.

**PLANNING COMMISSION ACTION:**

September 13, 2016	Postponement by Planning Commission
October 11, 2016	Postponement by Neighborhood
October 25, 2016	Postponement by Applicant
November 8, 2016	Postponement by Neighborhood
December 13, 2016	Postponement by Planning Commission

**PROJECT INFORMATION:**

<b>SITE AREA</b>	26,136 square feet	.60 acres
<b>EXISTING ZONING</b>	TOD-NP-CO	
<b>WATERSHED</b>	Boggy Creek	
<b>WATERSHED ORDINANCE</b>	Comprehensive Watershed Ordinance (Urban)	
<b>TRAFFIC IMPACT ANALYSIS</b>	Not required	
<b>CAPITOL VIEW CORRIDOR</b>	None	
<b>PROPOSED ACCESS</b>	E 12 <sup>th</sup> Street	
	<b>Allowed/Required</b>	<b>Proposed</b>
<b>FLOOR-AREA RATIO</b>	2:1	1.28:1
<b>BUILDING COVERAGE</b>	95%	32.28%
<b>IMPERVIOUS COVERAGE</b>	95%	68.5%
<b>PARKING</b>	21	31

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	TOD-NP-CO	Multi-family Residential
<i>North</i>	TOD-NP-CO	Common Area
<i>South</i>	E 12 <sup>th</sup> St, then P-NP and Railroad	E 12 <sup>th</sup> St, then Railroad and Parks/Greenbelt
<i>East</i>	Railroad then P-NP	Railroad then Parks/Greenbelts
<i>West</i>	SF-3-NP	Single Family, Duplexes

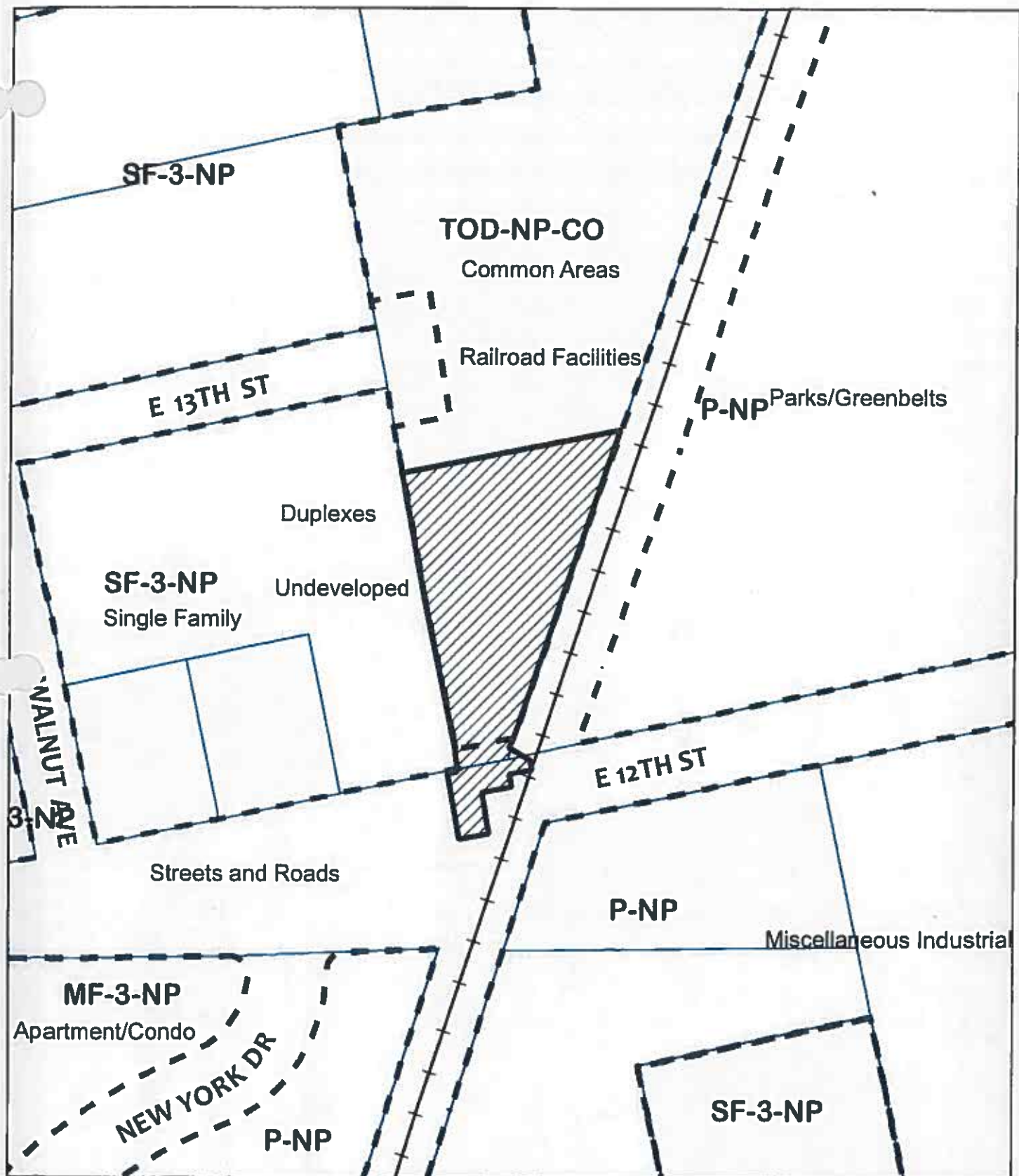
**ABUTTING STREETS:**

<b>Street</b>	<b>Right-of-Way Width</b>	<b>Pavement Width</b>	<b>Classification</b>
E 12 <sup>th</sup> Street	56'	40'	MNR 4 (Minor Arterial- 4 Lane)

**NEIGHBORHOOD ORGANIZATIONS:**

African American Cultural Heritage District  
 Business Association  
 Austin Heritage Tree Foundation  
 Austin Independent School District  
 Austin Neighborhoods Council  
 Bike Austin  
 Chestnut Addition Neighborhood Assn.  
 Chestnut Commons HOA  
 Chestnut Neighborhood Contact Team  
 Chestnut Neighborhood Revitalization Corp.  
 Del Valle Community Coalition  
 East Austin Conservancy

Friends of Austin Neighborhoods  
 Friends of Chestnut Neighborhood Plan  
 Friends of Emma Barrientos MACC  
 Homewood Heights Neighborhood Association  
 Preservation Austin  
 Rosewood Neighborhood Contact Team  
 SEL Texas  
 Sierra Club, Austin Regional Group  
 United East Austin Coalition



Site Plan - Waiver

CASE#: SP-2016-0008C

ADDRESS: 2724 E 12th St

CASE NAME: Lofts at 12th Street

MANAGER: Rosemary Avila

 SUBJECT TRACT

 ZONING BOUNDARY

 0 50 100 200 Feet

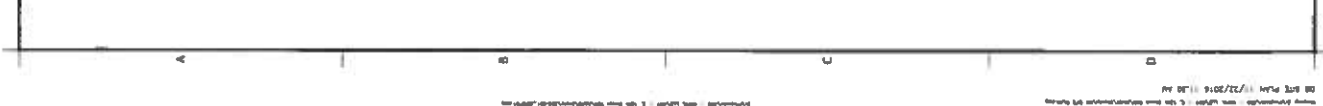
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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



OPERATOR: R. Avila







METCALFE WOLFF  
STUART & WILLIAMS, LLP  
Attorneys at Law

MICHELE R. LYNCH  
512.404.2251  
mlynch@mwswtexas.com

September 6, 2016

Rodney Gonzales  
City of Austin Development Services Dept.  
505 Barton Springs Road, 1<sup>st</sup> Floor  
Austin, Texas 78704

Re: East 12<sup>th</sup> Street Lofts (the "Project"); Planning Commission – Waiver to 25' Compatibility Setback; 2724 E. 12<sup>th</sup> Street (the "Property")

Dear Mr. Gonzales:

As representatives of the owner of the above stated Property we respectfully submit this letter requesting a waiver to the 25 foot setback requirement in Austin's Land Development Code § 25-2-1063.

LDC § 25-2-1081 (A) states the Land Use Commission may waive a requirement of this article if the Land Use Commission determinates that a waiver is appropriate and will not harm the surrounding area. However, any Land Use Commission Waiver may not reduce a required setback to less than five feet (LDC § 25-2-1081 (B)).

The Property is in the MLK Transit Oriented Development Regulating Plan ("MLK TOD"), and compatibility is triggered by the property owners to the west that are outside of the MLK TOD.

We are requesting a 5' setback on the western side of the Property, which will allow for bicycle and vehicular parking as well as a transformer, as shown on Exhibit "B". We offer the following reasons to demonstrate that this waiver is appropriate and will not harm the surrounding area:

1. The 25' compatibility setback is triggered by properties that are zoned Single Family Residence – Neighborhood Plan (SF-3-NP), all of which have offered support of this setback waiver; see Exhibit "B" for triggering properties and please find the compatibility support letters attached hereto under separate cover.
  - a. The developer of the Project has agreed to provide screening in between the parking on the Property and the properties to the west.
2. The Property is constrained by Railroad Right-of-Way, floodplain, and a drainage easement. Therefore, development is only allowed on certain portions of a small tract. The proposed building was shifted away from the adjacent neighbors, but some of the parking must encroach in the 25' compatibility setback; see Exhibit "C".

Because this compatibility setback waiver request (from 25' to 5') is appropriate, will not harm



September 6, 2016  
Page 2

the surrounding area, is not less than 5', and is supported by the property owners triggering compatibility, we respectfully request staff support.

If you have any questions or need additional information, please feel free to contact me or the project engineer.

Sincerely,

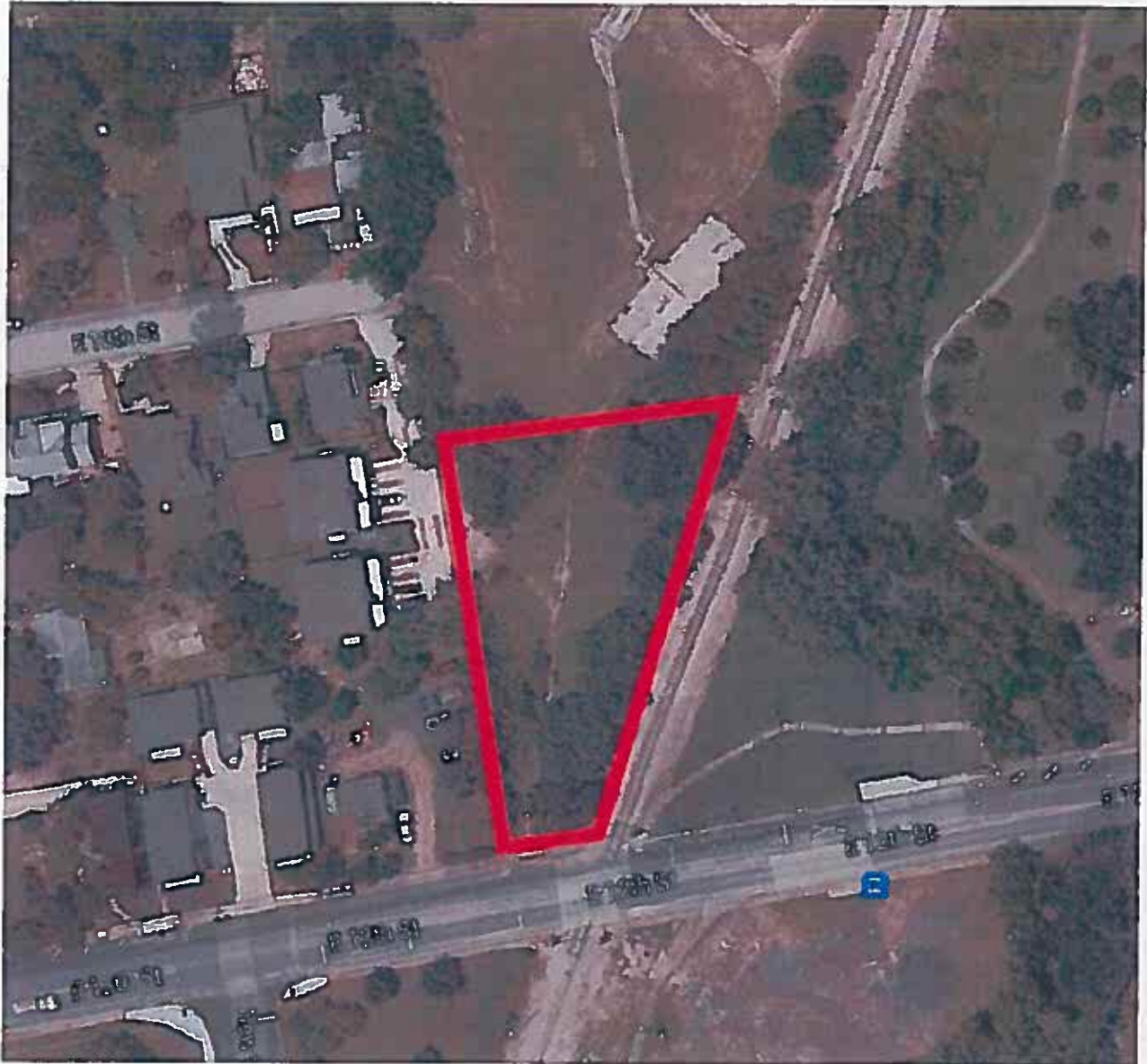
*Michele R. Lynch,*  
Michele R. Lynch 

MRL:kw  
Enclosures

cc: Shravan Parsi, Owner  
Cliff Kendall, Big Red Dog  
Ron Pope, Architect

September 6, 2016  
Page 3

**Exhibit "A"**





September 6, 2016

## Exhibit "B"

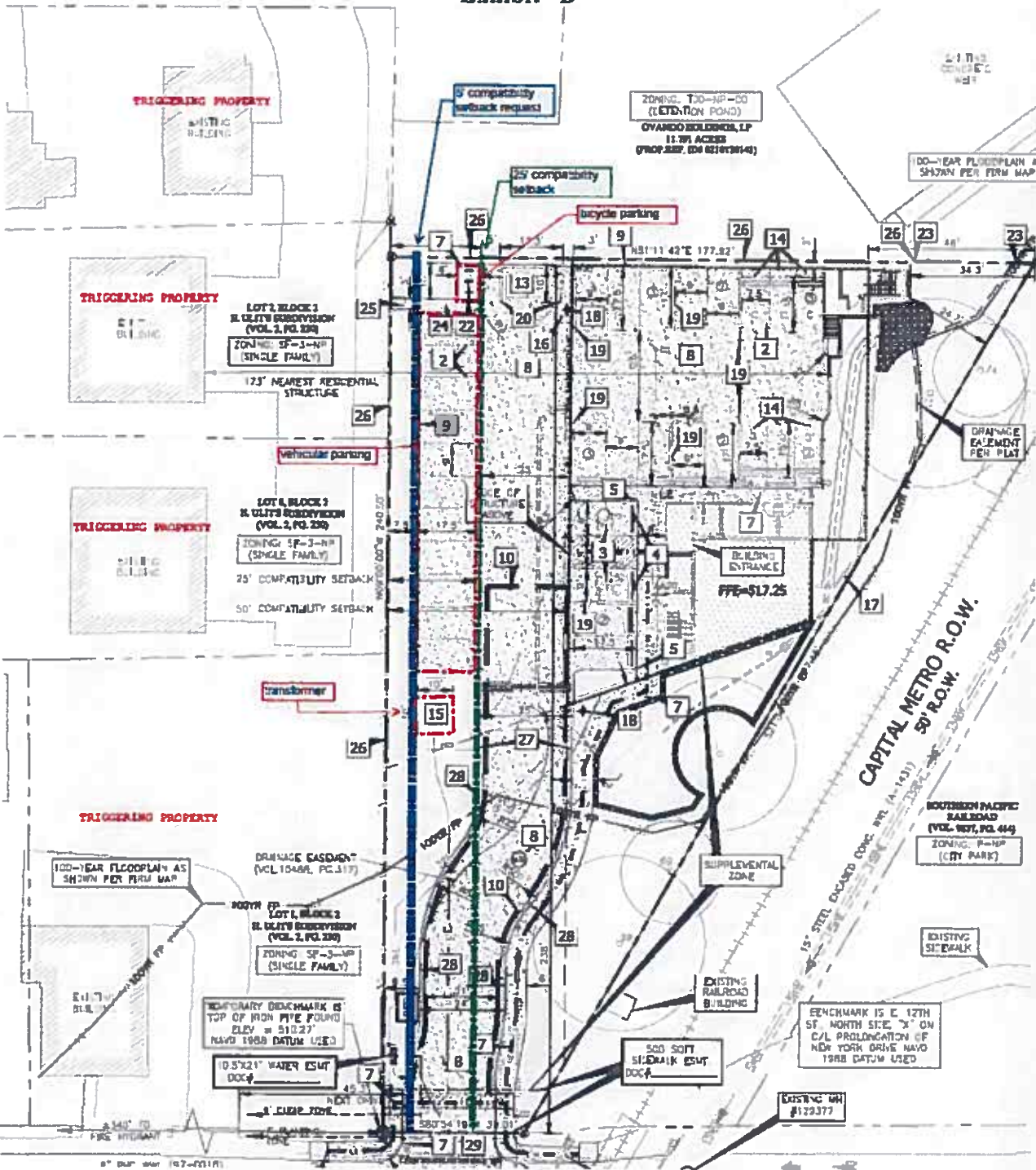






Exhibit "C"

MICHELLE R. LYNCH  
512.404.2251  
mlynch@mrswtexas.com

## To Whom It May Concern:

I am a landowner with property, which abuts a .6-acre lot located at 2724 East 12th Street. As such, Napa Ventures, the owner of the above-mentioned lot, approached me about their desire to develop the site into a residential transit oriented development. I have seen preliminary plans for development, and as a neighboring property owner I would be willing to support the construction of a 5-story residential building as well as parking within 25 feet of the property adjacent to my property.

Thank you for your consideration on this matter.

Signed:

Ray Jackson Sr.

Date:

7-21-2015

Name:

Ray Jackson Sr.

Address:

2724 East 12th St.

Phone:

512 628 0259

Email:

**Thank you for your consideration on this matter.**

Signed: Afrand Razian

Date: 7/24/15

Name: Afrand Razian

Address: 2709 E. 13th St Unit F

Phone: 832-876-1051

Email:



## To Whom It May Concern:

I am a landowner with property, which abuts a .6 acre lot located at 2724 East 12<sup>th</sup> Street. As such NAPA Ventures, the owner of the above-mentioned lot, approached me about their desire to develop the site into a residential transit oriented development. I have seen the preliminary plans for development, and as a neighboring property owner I would be willing to support the construction of a 5-story residential building as well as parking within 25 feet of the property adjacent to my property.

Thank you for your consideration on this matter.

Signed:



Date:

5/31/2016 5/31/2016

Name:

Timothy Kirk  
PEI-YING WANG

Address:

2709 East 13<sup>th</sup> Street, Unit D, Austin, TX 78702

Phone:

415 990 8974

Email:

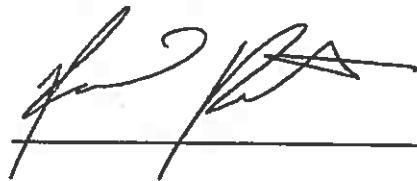
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Thank you for your consideration on this matter.

Signed:



Date:

7-22-15

Name:

Paul Pita

Address:

2709 E. 13<sup>th</sup> Street Austin TX 78702

Phone:

774-238-8586

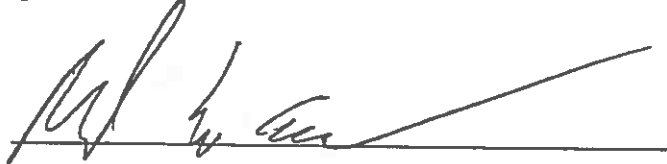
Email:

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Thank you for your consideration on this matter.

Signed:



Date:

11/12/15

Name:

Mike Bickford

Address:

2709 E 13<sup>th</sup> St Unit E

Email:

m...  
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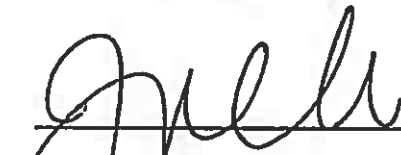


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Thank you for your consideration on this matter.

Signed:



Date:

7/30/2015

Name:

Jennifer Hollers

Address:

2709 E 13th St. 1 78702

Phone:

(512) 826 3040

Email:

J



Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: SP-2016-0008C

Contact: Rosemary Avila, 512-974-2784 or

Elsa Garza, 512-974-2308

Public Hearing: Planning Commission, September 13, 2016

Timothy Kirk  
Your Name (please print)

2709 E. 13th St. #D

Your address(es) affected by this application

Signature

Daytime Telephone: 415-990-8974

Date

Comments:

I am an adjacent property owner to the project. I have met with the development team regarding the design of the project, and I am in support of the project and the proposed compatibility variance.

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

City of Austin

Development Services Department, 4<sup>th</sup> Floor

Rosemary Avila

P. O. Box 1088

Austin, TX 78767-8810

## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

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A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

A zoning ordinance amendment may include a conditional overlay which would include conditions approved by the Land Use Commission or the City Council. If final approval is by a City Council's action, there is no appeal of the Land Use Commission's action.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

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Case Number: SP-2016-0008C

Contact: Rosemary Avila, 512-974-2784 or

Elsa Garza, 512-974-2308

Public Hearing: Planning Commission, September 13, 2016

Your Name (please print) Luke Anderson

☐ I am in favor  
☒ I object

1601 Miriam Ave #120

Your address(es) affected by this application

Signature

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

9/13/16  
Date

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

City of Austin  
Development Services Department, 4<sup>th</sup> Floor  
Rosemary Avila  
P. O. Box 1088  
Austin, TX 78767-8810

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Case Number: SP-2016-0008C

Contact: Rosemary Avila, 512-974-2784 or  
Elsa Garza, 512-974-2308

Public Hearing: Planning Commission, September 13, 2016

Your Name (please print)

ROSA-LYN NGUYEN

☐ I am in favor  
☒ I object

1601 WILKINSON AVE #120

Your address(es) affected by this application

9/12/16

Date

Signature

Daytime Telephone: 512 508 5357

Comments:

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City of Austin  
Development Services Department, 4<sup>th</sup> Floor  
Rosemary Avila  
P. O. Box 1088  
Austin, TX 78767-8810

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Contact: Rosemary Avila, 512-974-2784 or

Elsa Garza, 512-974-2308

Public Hearing: Planning Commission, September 13, 2016

Heslie M. Padilla

Your Name (please print)

1211 Walnut Ave, K

Your address(es) affected by this application

Austin, TX 78702

Signature

Daytime Telephone: 505-350-0514

Comments: Traffic concerns on 13th St. have not been addressed.

No good cause exists for variance because property can be profitably developed without setback waivers.

Proposed development is already in consist with surrounding neighborhood (5 stories!) so setback are important to keep in compatible

Development Services Department, 4th Floor

Rosemary Avila

P. O. Box 1088

Austin, TX 78767-8810

development as far away from single family and existing homes as possible.

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

City of Austin

Development Services Department, 4th Floor

Rosemary Avila

P. O. Box 1088

Austin, TX 78767-8810

development as far away from single family and existing homes as possible.



**Avila, Rosemary**

---

**From:** Leslie Padilla [REDACTED]  
**Sent:** Monday, September 12, 2016 2:17 PM  
**To:** Avila, Rosemary  
**Subject:** Planning Commission: SP-2016-0008C

Dear Rosemary -- I am a homeowner whose property is within 500 feet of the application in SP-2016-0008C. I have also registered as an interested party in this case. I am writing concerning the waiver to setback requirements that was requested by the developer. I mailed in my written comments, but I am concerned they might not reach you in sufficient time prior to the Planning Commission meeting.

In my written comments, I made the following points:

1. The 5-story building that the developer is proposing is three stories higher than any nearby building. I believe that the closest building in height is the new development at Alexander and MLK. That development is a good distance from the proposed 12th st condos and is only 3 or 4 stories. A 5-story building immediately adjacent to a neighborhood comprising mostly single- and 2-story homes is incompatible and must therefore only be built with the appropriate setbacks. As proposed, the higher-story residents will be able to see into nearby homes and yards, including mine. The Privacy that currently exists with existing compatible development will be destroyed with a five-story building without appropriate setbacks.
2. The developer has not given appropriate consideration to the traffic/parking impacts that are very likely to result on 13th street. Because there appears to be insufficient parking as part of the development, residents are likely to seek to park on 13th street.
3. The developer is not properly respecting the history of the 12th street parcel, which served Austin's African-American community as Emancipation Park for a number of years.

In addition to the comments I included in what I mailed to you, I would add:

1. The developer has not shown good cause for a waiver of setbacks.
2. The letters that the developer has provided in support of the waiver are over one year old. It is not established that the people who signed those letters still own nearby property.

I hope to attend the meeting tomorrow night, but if I cannot be there, I trust these comments will be included in the record.

thank you,

Leslie Padilla

October 24, 2016

Dear Austin Planning Commission:

We are writing to voice some concerns about a proposed structure on the 2724 E 12<sup>th</sup> Street parcel of land. It is currently zoned TOD-NP-CO and a site plan application has been submitted for a 5-story building.

In January of 2016, neighbors of the bordering property, 2709 East 13<sup>th</sup> Street, signed a document to grant Easement Access to residents of the proposed structure in the event of fire and flooding (See Attachment A). In exchange for signing the document, neighbors were promised \$1,666.00 in compensation from the developer. The caveat was that the incentive would only be paid if 100% of the neighbors signed said document. So, many neighbors signed under pressure-to avoid being the only individual(s) preventing consenting neighbors from receiving compensation. The developer stated that if he did not get 100% compliance, he would instead get approval for easement access from owners of the land across the retention pond.

In addition, during this time period, the developer of the property gave the impression that all neighbors fully supported the proposed structure, but as we began communicating, we found that this was not, in fact, the case. Many of us have concerns about the proposed structure, including, but not limited to:

**Flooding**-a portion of the proposed structure is in a hundred-year flood plain. Though there have been assurances by the developer that this will not be an issue, the recent heavy rains have left that parcel of land under feet of running water multiple times in just the last year. Additionally, these rains have flooded Units E and F, a situation that would be worsened by such a large amount of additional impervious coverage as is proposed for the neighboring lot.

**Parking**-the proposed number of parking spaces for the building is roughly equivalent to the number of units. Unless every unit is occupied by a single individual, there will be a need for overflow parking. Because parking is not allowed on that part of East 12<sup>th</sup> Street, there are concerns about how the parking shortage will manifest in the neighborhood.

**Historical Significance**- this property was not initially zoned for 5-stories and a condo. It was single family zoning - regular 2/3 story houses. But the city and neighborhood supported re-zoning after the initial developer made three promises at city hall:

- 40% affordability
- Walkability via the property from 12th to retention pond so folks can walk to MLK station south of 12th.
- Memorial to Emancipation Park

However, the current iteration of the proposed project is:

- 10% affordability
- no walkability via 12th.
- a memorial plaque

While we do understand, and encourage the need to, develop on that parcel of land, we urge the Planning Commission to take these concerns into account and help us work with the developer to build a structure that will honor past promises and plan accordingly for the environmental impact upon the neighborhood in which we live.

Thanks for your time,

Afrand Razian  
2709 E. 13<sup>th</sup> Street, Unit F

Jennifer Hollars  
270 East 13<sup>th</sup> Street, Unit B

Catherine Mas  
2709 East 13<sup>th</sup> Street, Unit A

City of Austin Case # SP-2016-0008C  
Planning Commission  
October 24, 2016

Dear Planning Commission –

As the Chair of the Chestnut NPCT I urge you not to grant the waiver sought for “The Lofts at 12<sup>th</sup>” Located at 2724 E. 12<sup>th</sup> St. Our large and diverse NPCT voted to oppose this waiver unanimously at our last meeting on Oct. 18.

The Chestnut NPCT has been involved with this property since early 2011 when the previous owner proposed a SMART housing development on the site. A brief timeline of our involvement in the case is as follows:

**Q1 2011** – The Chestnut NPCT engages with owner of 2724 E. 12<sup>th</sup> to establish conditions of support to rezone the site from TOD – Low Density Residential (max 9 units / 2 stories) to TOD – Live Work Flex (max 30 units / 5 stories)

**11/8/2011** – The Chestnut NPCT supports a zoning change at the Nov. 8, 2011 Planning Commission Meeting (Case C14-2011-0130.SH) on the conditions that:

- 40% of the units are affordable at 80% MFI
- The development recognizes the site’s former use as Emancipation Park
- The development connects to the rest of the MLK TOD via a walkable route

The Planning Commission approves the case. The previous owner pledges to make 18 of 30 units (60%) affordable (See ‘Original NPCT Letter’ in Backup).

**2013** – 2724 E. 12<sup>th</sup> is sold to the current developer Shravan Parsi. During the sale the leaders of the NPCT met and communicated the previous conditions of neighborhood support for rezoning multiple times (See Email A in Backup). The previous owner Pegasus Planning also clearly communicated the neighborhood conditions for the previous rezoning to Mr. Parsi (See Email B in Backup).

**3/2016** – The CNPCT engages current owner Shravan Parsi again about his plans for the site and he claims he is unaware of the previous conditions of NPCT support when the site was rezoned. In a face-to-face meeting between the NPCT and Mr. Parsi’s team they refused to commit to any of the conditions the NPCT had previously established when the property was rezoned at the Planning Commission.

As it is clear from this sequence of events above, the NPCT advocated for a significantly more dense zoning with the previous owner under explicit conditions. The property was then sold to the current owner who will honor none of those conditions. A project that was supposed to bring 18 affordable units to our neighborhood will now bring 3 (by the TOD density bonus requirement).

Mr. Parsi bought this property knowing the Chestnut NPCT's conditions for the development when it was rezoned. He seeks to gain significant financial benefit from that rezoning while not fulfilling any of the previous conditions the NPCT worked hard to establish.

After facing opposition at the 9/13/16 Planning Commission Meeting his team finally offered to write a restrictive covenant ensuring a memorial to the site's former use as Emancipation Park. He has refused, however, to make any more units affordable or develop a walkable connection to the rest of the TOD. His logic is simple to understand. While the memorial might cost him a few thousand dollars, designating any more units as affordable won't make him enough money to repay investors the return he has already promised them (see email C).

Mr. Parsi met with NPCT leaders multiple times before he promised any investors money and purchased this property. He knew if he had to get our consent for anything in developing this project that it would be a risk to his investment. Granting this waiver brushes aside all the effort our neighborhood has spent working on affordability and respecting the legacy of our community. Granting this waiver gives Mr. Parsi and other developers like him encouragement to continue ignoring and exploiting neighborhoods in search of profits. Please don't set that precedent.

We wish to revise the restrictive covenant Mr. Parsi's team drafted to incorporate not only the memorial to Emancipation Park but also that:

- Any development on this site have at least 40% of the units be designated affordable at 80% MFI
- His team develops a walkable connection to the rest of the MLK TOD

This is the compromise the NPCT made when this site was rezoned and we ask that compromise to be honored.

Sincerely  
Cavan Merski