

**ZONING CHANGE REVIEW SHEET**CASE: C14-2019-0053 – 2106 PayneDISTRICT: 7ZONING FROM: SF-3-NPTO: LO-MU-NPADDRESS: 2106 Payne AvenueSITE AREA: 0.1626 acres (7,082 square feet)OWNER: 2106 Payne Venture, LLC  
(Armen Stephanian)APPLICANT: Drenner Group, PC  
(Amanda Swor)CASE MANAGER: Kate Clark (512-974-1237, [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov))STAFF RECOMMENDATION:

**Staff recommends Neighborhood Office – Mixed Use – Neighborhood Plan (NO-MU-NP) combining district zoning.** *For a summary of the basis of staff's recommendation, see page 2 and 3.*

PLANNING COMMISSION ACTION / RECOMMENDATION:**June 11, 2019****Scheduled for Planning Commission**

May 14, 2019

Approved postponement request by applicant to June 11, 2019. Vote 13 – 0.

CITY COUNCIL ACTION:**June 6, 2019****Scheduled for City Council – staff request for postponement to June 20, 2019.**ORDINANCE NUMBER:

ISSUES:

The property owner would like to maintain the existing single-family structure on the site and convert it into a small office. This plan requires a zoning change and a Neighborhood Plan Amendment as well as compliance with all relevant aspects of the Land Development Code, (e.g. parking requirements).

The property is adjacent and across the street to lots zoned Limited Office-Mixed Use-Neighborhood Plan (LO-MU-NP). These properties are at the edge of a single-family neighborhood.

This zoning case is accompanied by Neighborhood Plan Amendment (NPA-2017-0018.01), requesting a change from Single Family to Mixed Use / Office. A community meeting was held, and afterwards, the Brentwood Neighborhood Plan Contact Team sent a letter opposing the amendment change as well as the rezoning citing issues with the existing office uses at the corner of Payne Avenue and Burnet Lane, see *Exhibit D, letter from NPCT*.

Per the transportation review, 28 feet of right-of-way should be dedicated from the centerline of Payne Avenue prior to 3rd reading of City Council.

CASE MANAGER COMMENTS:

Currently the subject property is zoned Family Residence-Neighborhood Plan (SF-3-NP) and has a single-family house built onsite. The site has relatively little topography and is not within a floodplain area.

Directly north of the property is a large lot zoned CS-MU-CO-NP. This lot fronts onto Burnet Lane and consists of a warehouse-type structure that currently houses a carpet cleaning company.

East of the property and southeast across Payne Avenue are SF-3 zoned lots with single family residences. Directly south of the property on the south side of Payne Avenue are two lots zoned LO-MU-NP which are the site of a three-story office and a one-story personal services use (hair salon) building. Directly west of the property is a LO-MU-NP zoned property with an office use in a single-family house structure. Further west across Burnet Lane is a restaurant that is currently vacant.

BASIS OF RECOMMENDATION:

Staff recommends Neighborhood Office – Mixed Use – Neighborhood Plan (NO-MU-NP) combining district zoning.

The first basis of the recommendation is that zoning should be consistent with the purpose statement of the district sought. The applicant is requesting a zoning change to allow for the

potential use of Administrative and Business Offices within an existing structure. While the applicant is requesting LO, for the proposed intended use NO would permit this use and be more compatible with the adjacent SF-3 property to the east. The NO district is designed to accommodate small, single-use offices and to encourage and preserve compatibility with existing neighborhoods. Rezoning this property to NO would allow the applicant to convert the property into an office use that is context sensitive to the adjacent residential buildings.

The second basis is that zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character. NO zoning districts are designed to preserve compatibility with existing neighborhoods through renovation and modernization of existing structures. Additionally, the site development standards for NO and SF-3 are more similar and comparable than what would be allowed in a LO zoning district. The LO base zoning districts allows for more intensive development on a site and is considered less compatible to single-family neighborhoods.

The third basis is that zoning should promote a transition between adjacent and nearby zoning districts, land uses and development intensities. Rezoning to NO-MU-NP would provide a transition from the existing SF-3 lots to the east and the LO-MU lot to the west.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	SF-3-NP	Single family residence
North	CS-MU-CO-NP	Warehouse (carpet cleaner)
South	Payne Ave, then LO-MU-NP, SF-3-NP	Payne Ave, then office, single family
East	SF-3-NP	Single family residences
West	LO-MU-NP	Office

NEIGHBORHOOD PLANNING AREA: Brentwood

TIA: Not required

WATERSHED: Shoal Creek

OVERLAYS: None

SCHOOLS: Brentwood Elementary, Lamar Middle School, McCallum High School

NEIGHBORHOOD ORGANIZATIONS

5702 Wynona Neighbors  
 Allandale Neighborhood Association  
 Austin Independent School District  
 Austin Neighborhoods Council  
 Bike Austin  
 Brentwood Neighborhood Assn  
 Brentwood Neighborhood Plan Contact  
 Team  
 Friends of Austin Neighborhoods

Homeless Neighborhood Association  
 Lower District 7 Green  
 Neighborhood Empowerment Foundation  
 North Austin Neighborhood Alliance  
 NW Austin Neighbors  
 Seltexas  
 Shoal Creek Conservancy  
 Sierra Club, Austin Regional Group  
 The Midtown Alliance

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-04-0012 Brentwood Neighborhood Plan	Brentwood Neighborhood Plan	02-24-04 – Apvd NP with exceptions	05-13-04 – Apvd NP with amendments

RELATED CASES:

The subject property is part of the Brentwood Neighborhood Plan area but is not called out specifically in the ordinance adopting the plan. The plan ordinance rezoned 2108 Payne from SF-3 to LO-MU-NP; and 6431 Burnet Lane and 2107 Payne from CS to LO-MU-NP.

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Payne Avenue	50 feet	30 feet	Collector	No	Yes, wide curb lane	Yes

OTHER STAFF COMMENTS:Comprehensive Planning

See staff report for accompanying Neighborhood Plan Amendment (NPA-2017-0018.01)

### Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal 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. 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 square feet cumulative is exceeded, and onsite 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.

### Site Plan

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

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.

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

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

The site is subject to small lot compatibility standards due to adjacency to the SF-3-NP property to the east. The following standards apply:

- No structure may be built within 15 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed between 50 feet and 100 feet of the property line.
- No parking is allowed within 5 feet.

- Landscaping or screening is required along the east property line in accordance with the screening requirements (Section 25-2-1006 and ECM 2.9.1.), Parking Design Standards (Section 25-6-563) and/or Screening Standards (Section 25.2.1066) to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from property in an SF-5 or more restrictive zoning district.

The site is subject to 25-2 Subchapter F. Residential Design and Compatibility Standards.

### Transportation

Per Ordinance No. 20170302-077, off-site transportation improvements and mitigations may be required at the time of site plan application.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC 25-6-113] Additionally, a Neighborhood Traffic Analysis was not required because the traffic generated by the proposed zoning does not exceed the threshold of 300 vehicle trips per day [LDC 25-6-114].

Payne Lane requires 56 feet of right-of-way in accordance with the TCM. 28 feet of right-of-way should be dedicated from the centerline of Payne Avenue prior to 3rd reading of City Council in accordance with the TCM. LDC 25-6-55; TCM, Tables 1-7, 1-12. Additional right-of-way maybe required at the time of subdivision and/or site plan.

Janae Spence, Urban Trails, Public Works Department, Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, a bike lane is recommended for Payne Avenue. Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments and requirements for right-of-way dedication and bicycle facility construction in accordance with LDC 25-6-55 and LDC 25-6-101. Please review the Bicycle Master Plan for more information.

FYI – the existing driveway accessing Payne Avenue will be required to be removed and reconstructed at the time of the site plan application in accordance with the Land Development Code and Transportation Criteria Manual.

FYI – sidewalks shall be construction along Payne Avenue at the time of the site plan application in accordance with the Land Development Code and Transportation Criteria Manual.

Austin Water Utility

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.

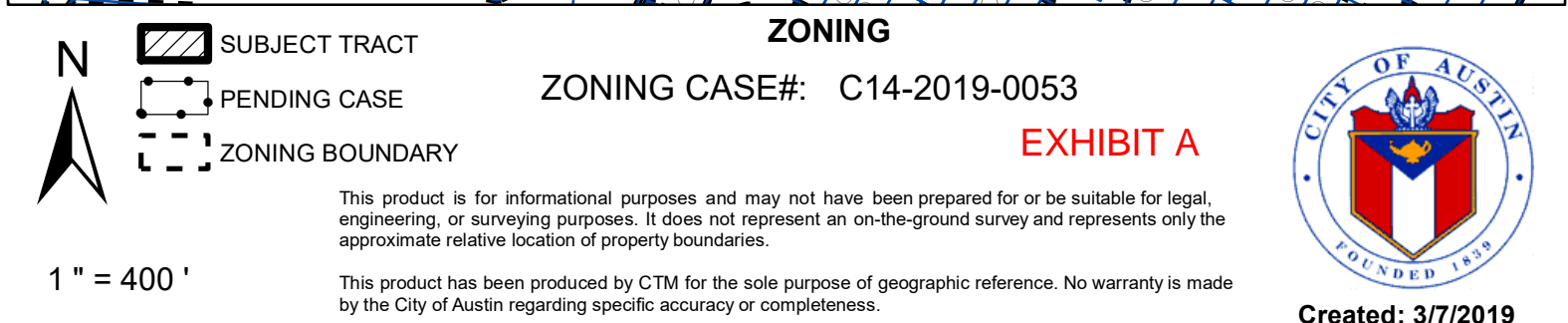
Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin.

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 Map
- C. Subdivision
- D. Letter from Neighborhood Plan Contact Team
- E. Correspondence with Interested Parties

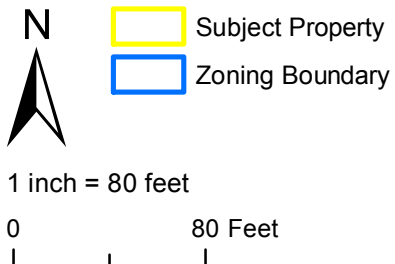








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## ZONING & VICINITY

Zoning Case: C14-2019-0053  
 Address: 2106 Payne Avenue  
 Subject Area: 0.1626 Acres  
 Case Manager: Scott Grantham

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



**EXHIBIT B**





# Brentwood Neighborhood Plan Contact Team

4/29/19

Maureen Meredith

City of Austin

Neighborhood Planning

**RE: NPA-2017-0018.01\_2106 Payne Avenue**

Hello Maureen,

Upon review of the presentation by the applicant the Neighborhood Contact Team would like to formally oppose the requested change to the Neighborhood Plan for the following reasons:

1. Payne avenue suffers from overflow parking that disrupts the single-family residents and reduces their quality of life. This overflow parking often blocks driveways, and creates a safety hazard.
2. Current businesses at the intersection of Payne Avenue and Burnet Lane operate during non-business hours, with delivery and trash trucks often arriving at night, disrupting residential uses.
3. Further encroachment of commercial uses along Payne avenue and into the single-family neighborhood will only exacerbate the problems noted above.
4. The requested zoning would allow the development of the single-family lot into a large single-family home, that ignores compatibility setbacks, only to have the use changed at a later date. (example of this is directly across the street from the subject tract).

If the Planning Commission decides to ignore the Neighborhood's request to deny this "up zoning", then we request that they consider some conditional requirements:

1. Restrict access to the property, upon redevelopment, to Burnet Lane(no access to Payne avenue), to help mitigate the traffic on Payne Avenue.
2. Comply with all required Compatibility Requirements and be denied all waivers.
3. Require new Single-Family development to comply with Compatibility Requirements for commercial uses, since the "change of use" post development process seems to be the method preferred.
4. Restrict time of delivery and trash pick-up to regular business hours.
5. Provide sidewalks along Payne Avenue, upon any redevelopment or change of use.

Sincerely,

Travis G. Young, AIA

Chair

Brentwood Neighborhood Plan Contact Team

**Grantham, Scott**

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**From:** Meredith, Maureen  
**Sent:** Tuesday, May 07, 2019 4:41 PM  
**To:** Grantham, Scott  
**Subject:** FW: NPA-2017-0018.01

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**From:** Charlotte Spencer []  
**Sent:** Monday, June 12, 2017 2:49 PM  
**To:** Meredith, Maureen <Maureen.Meredith@austintexas.gov>  
**Subject:** Re: NPA-2017-0018.01

Thank you, my comments are below:

Case Number: NPA-2017-0018.01

I am opposed to the requested neighborhood plan amendment. The proposal will allow commercial enterprises to replace residential homes in the block of Payne closest to Burnet Lane.

Payne is a through-street for the neighborhood to Burnet Lane/Burnet Road, which causes it to carry heavy traffic. The driveways are single car-width and, therefore, the street usually has cars parked in front of most of the houses. Add in the increased parking due to the new restaurants/shops/apartments on Burnet Road near the intersection with Payne and we have seen a huge increase in parking issues. I have had to ask people who were going to a free food event at El Chilito not to block access to my driveway, and they protested that they were only over a small portion of my driveway.

There are many locations for mixed use properties and/or businesses on Burnet Road and general vicinity along major streets in this area so I can't understand allowing businesses to come into a residential area that is already brimming with the stresses of increased development.

Charlotte Spencer, Property Owner of 2019 Payne Ave

On Thu, Jun 1, 2017 at 11:28 AM, Meredith, Maureen <[Maureen.Meredith@austintexas.gov](mailto:Maureen.Meredith@austintexas.gov)> wrote:

Hi, Charlotte:

You can send me your comments via email and I can add them to the case reports for Planning Commission and City Council when the cases are eventually scheduled for those public hearings.

Maureen

**From:** Charlotte Spencer [mailto:[cspencer419@gmail.com](mailto:cspencer419@gmail.com)]  
**Sent:** Wednesday, May 31, 2017 10:45 PM  
**To:** Meredith, Maureen  
**Subject:** NPA-2017-0018.01

Ms. Meredith,

I received notice of an application for a neighborhood plan amendment, case number NPA-2017-0018.01, as a nearby property owner. The notice tells me that I will be notified of public hearings on this matter.

Is attendance in person at a public hearing the only way to communicate my views on this potential change? Attending a meeting may not be possible and I want to give my input on the application.

Thank you,

Charlotte Spencer

2019 Payne Ave.

**Grantham, Scott**

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**From:** Meredith, Maureen  
**Sent:** Tuesday, May 07, 2019 4:42 PM  
**To:** Grantham, Scott  
**Subject:** FW: 2106 Payne Avenue - Case No. NAP-2017-0018.01

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** Renee Poteet []  
**Sent:** Tuesday, March 12, 2019 11:13 AM  
**To:** Meredith, Maureen <Maureen.Meredith@austintexas.gov>  
**Subject:** 2106 Payne Avenue - Case No. NAP-2017-0018.01

Ms. Meredith,

I have heard that the owner of 2106 Payne Avenue is once again requesting a code change to Mixed Use/Office. The Case Number is: NAP-2017-0018.01. We have not received anything in the mail or any notice of this change or opportunity to protest. This neighborhood is already overcrowded and has too much traffic because of the Marq on Burnet and other developments on Burnet Road and throughout the neighborhood. The street parallel to Burnet Road, Burnet Lane, is dangerously overcrowded and barely navigable. A lot of people walk their dogs and children in this neighborhood, and the addition of more traffic is going to create a dangerous mix. I urge you to reject this application. Thank you for your consideration.

Reneé Poteet

2020 Payne Avenue



**Grantham, Scott**

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**From:** Charlotte Spencer <>  
**Sent:** Thursday, May 09, 2019 12:05 PM  
**To:** Grantham, Scott  
**Subject:** Case Number: C14-2019-0053

Mr. Grantham,

I received notice of the application for rezoning of a nearby home located at 2106 Payne, and request that the zoning change be denied. My property is 2019 Payne Ave.

The primary problem with changing the property from SF-3-NP to LO-MU-NP is the limited capacity of the area to absorb greater traffic that a business, especially the type allowed as 'Mixed Use,' will add to the already very busy street.

Our old neighborhood has single-width driveways, so many residents' cars are already parked on the street, limiting the traffic flow for cars, walkers and bicyclers. Payne Ave. is an access street out of the neighborhood to Burnet, which adds significantly to its traffic load. Payne Ave. ends at Burnet Lane, not Burnet Road, at an intersection that is small with some limited visibility due to utility boxes on the northeast corner.

We are located near elementary and middle schools and there are a lot of kids in the neighborhood who walk, ride bikes and play outside. Many schoolchildren walk or bike on Laird to Romeria to get to the middle-school at Romeria and Burnet Road, further complicating the situation. Laird is the north-south cross street between my house and the house requesting the change. The stop is 2 way on Payne. Laird bends just south of the intersection and some people drive so quickly that it can be treacherous to go through the intersection.

This neighborhood is seeing a great deal of growth, with many of the older homes being replaced with duplexes and multi-family homes, resulting in more vehicles and people being on our streets.

In the interest of safety in the neighborhood for everyone, cars, pedestrians, etc., I request that the residences remain residences.

Thank you for your consideration,

Charlotte Spencer

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. 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.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:  
[www.austintexas.gov/planning](http://www.austintexas.gov/planning).

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 board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2019-0053

Contact: Scott Grantham, 512-974-3574

Public Hearing: May 14, 2019, Planning Commission  
June 6, 2019, City Council

Abby Lewis & Benjamin Marley  
Your Name (please print) (Homeowners)

2103 Payne Avenue, Unit B  
Your address(es) affected by this application

Signature

Date

Daytime Telephone: 724-309-6172

☐ I am in favor  
☒ I object

Comments: We will be out of town on the hearing date or would have attended in person. There are already two other businesses on this small section of street, which is Residential. Their employees and customers already take up all the street parking and regularly use our driveway and lawn to turn around or park temporarily causing property damage. I'm deeply concerned about my property value if we are surrounded by commercial businesses. Allowing 3 out of 10 lots on this street to become commercial is inappropriate for a residential neighbor. I strongly object.

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

City of Austin  
Planning & Zoning Department  
Scott Grantham  
P. O. Box 1088  
Austin, TX 78767-8810