

From: David Newton

Sent: Monday, June 22, 2020 11:59 AM

To: Rivera, Andrew <Andrew.Rivera@austintexas.gov>

Subject: Fwd: Case Number:C14-2020-0048 Letter in OPPOSITION Rezoning of 1509 Enfield Rd, Austin, Texas 78703

*** External Email - Exercise Caution ***

Dear Mr. Rivera,

Last week I sent a letter in opposition to the above styled case, but it appears from looking at the BACKUP info posted on the Agenda for the Planning Commission that it was not included in the package sent to the members of the Planning Commission for the meeting on June 23. I am therefore sending it you to ask if you would kindly include it with the information you sent to the members of the Planning Commission.

Here is a summary, along with the letter. I would hope both will be included.

Summary

1. Enfield Rd. is historically and currently an entirely residential street with one exception. It passes through the Old Enfield neighborhood which lies to the north and south of Enfield Rd.. Except in the jargon of city planning, it is NOT a boundary, but a street through a neighborhood. This is a special area. Let's keep it residential as it has been since it was platted over 100 years ago.

2. 1501 Enfield Rd rezoned in 2010 was a special case, with a solution tailored to a unique situation. The exception was beneficial to the neighborhood. 1503 Enfield, owned by the same owner as 1501, was rezoned FROM an NO designation back to the original MF-3 designation , basically in a swap arrangement to promote rational zoning and historic preservation of an important Old Enfield estate. The NO designation of 1501 is an anomaly, but one that benefitted the entire neighborhood, which is not the case in the rezoning of 1509 Enfield Rd. It was not intended to open the door to further non-residential zoning along Enfield. On the contrary, it was a case of significant historic preservation of beautiful mansion that contributed significantly to the character of the neighborhood by the owner of the property who lives in the neighborhood and encumbered her property with significant restrictive covenants in exchange, including uses, size, and, importantly, signage.

3. Parking and traffic are inherently problematic w an NO zoning on Enfield. Spillover parking on to West Lynn, Marshall and Palma Plaza is an inevitability. The City has previously in other cases stated that NO zoning in a residential area should not be done mid-block, but is best done only if there is access to the property from side streets and where there is plenty of parking on the property appropriate to the NO zoning/usage. This is most definitely not true in the case of 1509 Enfield, which is mid-block, not a corner lot; 1509 has no access to a side street - entrance and exit to and from the property is directly onto Enfield Rd, at a point near a curve in the road with limited visibility. There is very little available parking on this property. Adequate for a residence, but not for a business. There is no traffic analysis or parking analysis provided by the applicant other than vague unsupported statements.

4. "NO" and other commercial zoning on Enfield is undesirable and incompatible with general nature

of Enfield and surrounding neighborhood which except for designated business areas conforming to the Neighborhood Plan is entirely residential. This applicant does not serve a neighborhood or community purpose and the property is not appropriate for its business purposes from this principle as articulated by the city's own standard that an NO should be compatible and serve a neighborhood need. The applicant here is not a neighborhood or community oriented service, but one that is wholly commercial and whose business lies entirely outside the neighborhood. The claim that some employees of the company live in the neighborhood is not supported by any evidence provided by the applicant and in any case is not a relevant standard for making a drastic zoning change.

5. Rezoning should comport w neighborhood quality of life goals/plan independent of any individual applicant. Future use of a rezoned property difficult to know or change back once done. An NO zoning today is an opening to further commercial zoning along Enfield. MU (mixed use that permits residential uses with an NO zoning) is an abusive use of that designation designed to make the request for NO more palatable to a neighborhood that is VERY opposed to the neighborhood office designation except in certain areas specified by the neighborhood plan, which is not along Enfield. Contrary to statements by the city staff is NOT currently mixed use or commercial. A NO designation here is an invitation to further commercial development along Enfield in the future - and undesirable development for this historically residential area. Such a rezoning would be irresponsible here and would negate the very purpose of zoning laws which is to regulate, rationalize and protect the different land uses that make a city livable and enjoyable . The MU (mixed use) designation is a Trojan horse that could turn Enfield Rd into a highly commercialized area Enfield is not Burnet Rd or Lamar and as an already highly trafficked street, should not be allowed to become like them.

6. Rezoning should be rational and neighborhood compatible. It should not be done arbitrarily and should not be done based on inaccurate assessments or statements, nor against strong, reason-based neighborhood opposition. In this case the City Staff ignores its own prior assessment of the appropriate use of NO zoning in residential neighborhoods, i.e. not mid-block, with access to side streets, with adequate parking, each element of which is missing in this instance. Rezoning to NO in this neighborhood well thought out and based on complete, accurate information that correctly understands the Neighborhood Plan, the neighborhood character and the reasonable objections of the residents as individually expressed and as voted on by OWANA which represents the neighborhood as a whole.. A major departure from the historically residential character of Enfield Rd should not be lightly undertaken.

Begin forwarded message:

From: David Newton < >

Subject: Case Number:C14-2020-0048 Letter in OPPOSITION Rezoning of 1509 Enfield Rd, Austin, Texas 78703

Date: June 17, 2020 at 4:27:23 PM CDT

To: Mark.Graham@austintexas.gov

Dear Mr. Graham,

As a resident of the Old West Austin neighborhood and a resident very near the property under consideration for rezoning - I am two lots away from it to the southeast - I am writing to you express my opposition to the rezoning of this property, 1509 Enfield Rd. Please include this opposition brief to the Planning Commission at the time they take this matter under consideration. Thank you.

Sincerely,

David Newton

In re: Rezoning Application of 1509 Enfield Rd; Case Number C14-2020-0048

IN OPPOSITION TO THE PROPOSED REZONING APPLICATION

As a resident of the Old Enfield neighborhood and member of OWANA who lives on Palma Plaza one lot southeast of 1509 Enfield Rd, I write to join many of my neighbors in expressing opposition to the rezoning of 1509 Enfield from its current residential MF-3 zoning to NO or NO-MU. My reasons are as follows:

1. ENFIELD RD. IS A HISTORICALLY RESIDENTIAL STREET AND IS SPECIAL IN CHARACTER, FUNCTION AND CONTRIBUTION TO THE AREA

Enfield Rd has historically been a residential street since it was platted over a century ago. It is not, except in the jargon of land use and zoning, a boundary street to be commercially exploited and developed for non-residential uses. Enfield is one of residential streets of both Old Enfield to the North and Old Enfield B and other subdivisions to the south, not just a boundary road like Lamar or Mopac. Enfield Road was once a country road leading out of the main part of Old Austin when the city extended no further than West Avenue. When the area west of Shoal Creek extending to what is now Mopac was platted just over 100 years ago it was as part of the residential Old Enfield neighborhood, an area of elegant large to medium size homes in substantial conformity with ideas first promoted by the City Beautiful movement which had started in the late 19th century as an urban planning and beautification movement. The intention of the original developers was that this street - Enfield Rd - and the surrounding neighborhoods would be entirely residential, "an area of tranquility and calm, contributing to a high quality of life, removed from the busy commercial development of downtown Austin to the east" to paraphrase language from contemporary sources. Sales pamphlets of the time of the original development of the area that have been preserved in the Austin History Center cite the cool leafy road - Enfield Rd - and neighboring streets as the most desirable area of the city, with a healthier, cooler climate than the dense central city. Enfield runs approximately 2.5 miles from Parkway just west of Lamar Blvd to Lake Austin Blvd, all of which was originally conceived exclusively for residential use on both north and south sides of the road, without commercial development, and which has been zoned residential ever since its origins and zoning began.

The neighborhoods bordering Enfield Rd are of a longstanding special and significant character and history to the city of Austin. Because of the residential character of Enfield and the surrounding neighborhoods, including a Historic District, residents are generally opposed to further encroachment of non-residential, commercial rezoning, including professional offices. Such non-residential and mixed use zoning and uses already exist along West Lynn and W 5th and W 6th St. by businesses that **serve neighborhood needs** and are **compatible** with the residential tenor of the area. To residents of the area, an expansion of non-residential and commercial or professional office uses onto Enfield Rd represents an erosion and deterioration of the historically residential nature and general quality of the Enfield neighborhoods.

Zoning in the area from Lamar to Mopac and from Windsor Rd on the north to Town Lake on the southern end of the neighborhood should be considered globally, not piecemeal, each lot and its uses considered in relation to the whole in a mixture of residences, and **compatible** professional services on the streets bordering the residential areas that relate to and serve neighborhood community needs, with the historical uses and tradition of the area kept in mind. Enfield itself, since its platted beginnings has been residential. Even though some of the old charming homes that once existed along Enfield have been replaced with condos and apartment buildings, it still retains a completely residential character. There are therefore good historic reasons for retaining the residential zoning of Enfield. Changes to the residential scheme of Enfield that has been in place for over a hundred years is generally undesirable.

2. BACKGROUND ON THE "NO" REZONING OF 1501 ENFIELD IN 2010: A UNIQUE AND BENEFICIAL EXCEPTION, NOT A PRECEDENT FOR FURTHER "NO" OR "MU" OR OTHER NON-RESIDENTIAL ZONING

1501 Enfield is the sole NO zoned designation on Enfield west of Parkway as far as I can determine. As such it will be cited by any applicant for rezoning to NO as a precedent: if them, why not us? But the rezoning of 1501 Enfield was the result of unique circumstances and unique solutions: an exchange of an already existing NO zoning on the neighboring lot to the east, at 1503 Enfield Rd. Both 1501 and 1503 Enfield were owned by the same owner, Laura Gottesman, at the time of the rezoning

in 2010. Despite the odd numbering, 1503 Enfield Rd is the lot directly adjacent to the east of 1509 Enfield, the property whose owners, agents or potential buyer seek the rezoning from MF-3 to NO or NO-MU.

Before Ms. Gottesman's ownership, 1503 Enfield had housed the Austin Children's Shelter, a non-profit community service care organization that provided temporary care and shelter for child survivors of abuse, neglect and abandonment. By its nature it served a community and a neighborhood function, not a commercial one. The Shelter was housed in a nondescript ranch style house of no historical or aesthetic value. The Shelter organization acquired the house and lot sometime in the mid 1980s and used it as the shelter. It was zoned MF-3 at the time of the Shelter's acquisition. The NO designation was later obtained by the Shelter because, in addition to providing services to vulnerable children, the Shelter wanted to maintain an administrative office within the building. Thus, as far as I can determine, the NO zoning applied to only approximately 400 square feet or so of the house then existing on the lot, which til that time had had only a residential MF-3 zoning designation like all the surrounding neighbors. Then, in 1997, the Shelter acquired 1501 Enfield, the property adjacent to the east on the corner of Enfield Rd. and Marshall Lane, zoned at that time as MF-3 like all the surrounding homes. 1501 Enfield Rd then as now was a significant estate property with a large, architecturally attractive 1924 house on it. After acquisition, the Shelter performed some non-aesthetic, functional renovations on the house without regard to its historic or aesthetic significance, and then apparently used that building for its administrative offices despite not having obtained an NO zoning. Its use as an office without appropriate zoning was considered "open and notorious" in the words of one former OWANA board member.

Ms. Gottesman acquired both properties in 2010: 1503 Enfield with the NO designation and 1501 with the MF-3 designation, which, to reiterate, is the zoning for all of the surrounding properties. Ms Gottesman petitioned for a swap of these zoning designations so that she could maintain a professional office - a boutique real estate brokerage firm- in the substantial 1924 mansion at 1501 Enfield, which she promised to restore, to the benefit of the entire neighborhood. 1503, already zoned for partial NO use was as noted not a suitable property to use because of its direct access only onto Enfield and because it was totally lacking in architectural importance, character or aesthetics for the kind of use proposed. This promised period-appropriate restoration by a prominent architect and designer who had a track record of beautiful restoration of numerous homes in the area, was expeditiously accomplished as promised by Ms. Gottesman and the property returned to its former grandeur, completely aesthetically compatible with surrounding neighborhood.

Rezoning request in 2010 of 1501 Enfield and 1503 Enfield Benefitted the Neighborhood In seeking the zoning change, Ms. Gottesman also readily agreed to address some neighbors' concerns by encumbering both 1501 and 1503 Enfield with restrictive covenants relating to further limit development, size, usage, signage, parking and traffic - all of which covenants were beneficial to all the nearby neighbors and the neighborhood in general, and which were memorialized in city ordinances at a meeting of the City Council on November 4, 2010. Though some residents of the area did have objections to the zoning change, OWANA did not oppose the rezoning of the two properties because there was a clear benefit to the neighborhood in general in having a significant estate such as 1501 Enfield preserved and restored, rather than potentially demolished or used for other purposes less compatible with the neighborhood and less congenial to the surrounding neighbors.

In considering and approving this zoning swap, the city zoning department also pointedly noted that a compatible NO designation in an area of MF-3 zoned properties was more appropriate at a **corner lot** of a **residential** block than in the **middle** of the block; and that adequate parking area in relation to the business for the NO designated property existed - with access to a side road (Marshall Lane) for entering and leaving the property, rather than on to a main thoroughfare such as Enfield Rd, a busy thoroughfare. Such access to a side street was an important consideration by the city in permitting the rezoning, as being safer and more appropriate and desirable than mid-block, where entering and exiting the property was limited only directly onto busy Enfield Rd. None of these conditions exist at 1509 Enfield Rd, which is not on a corner lot but in the middle of the block, with very little parking on site, and with access only to and from Enfield Rd, a busy street. These criteria stated by the city in 2010 are as relevant today as they were ten years ago.

3. THE "NO" ZONING DESIGNATION OF 1501 ENFIELD RD. SHOULD NOT BE USED AS A PRECEDENT for FURTHER "NO" OR "MU" REZONING ALONG ENFIELD RD.

Thus, the unique background circumstances to the rezoning of 1501 and 1503 Enfield Rd is quite distinct from the current requested rezoning of 1509 Enfield Rd under consideration, and indicates the very particular, very unique circumstances of the rezoning of 1501 and 1503 Enfield. This background makes clear that the rezoning to NO of 1501 Enfield was a deviation from the prevailing MF-3, though one with substantial benefit to the neighborhood in that it preserved a classic Old Enfield home - the kind of distinguished house that historically defined "Old Enfield" in the minds of Austinites for generations. It should not be used as a precedent for further such rezoning along Enfield Rd, a street that is entirely MF-3 with the one exception noted. **To reiterate:** pursuant to the rezoning that occurred in 2010, 1503 Enfield (the former Children's Shelter/Office) was **returned** to its original MF-3 zoning in line with all the other properties on Enfield Rd. It had only briefly carried an NO designation, and

for only a small portion of the property. It was a **rational and a compatible rezoning**, designed to protect and preserve the surrounding residential character and one conforming with existing surrounding residential zoning. It was **unopposed** by the OWANA neighborhood association and by most of the neighbors in the area, though of course there were some who objected. The rezoning of 1501 Enfield to NO was a deviation, or anomaly, but one that was **beneficial** to the neighborhood and given in consideration of several concessions by the property owner applying for the rezoning (Ms. Gottesman). 1501 Enfield was an important at-risk stately home that reflected Austin's past and which anchored Marshall Lane, the preservation of which by the current historic preservation-minded owner and the goals of the residents and of OWANA contributed to the historical aesthetic of Enfield Rd, Marshall Lane and the surrounding neighborhood. As currently renovated, landscaped and maintained, the office do not stand out as a commercial enterprise, but looks simply like the private residence it always was. The benefits of the renovation accrued to everyone. Preservation of a historic road of many stately homes around the Old Enfield neighborhoods moreover contributes generally to the City of Austin as a whole. In not opposing the change to NO zoning on 1501 Enfield Rd, neither OWANA nor the neighborhood intended to open the door to further NO, MU, or other non-residential zoning along Enfield. OWANA and the City may therefore distinguish the current request for rezoning from the past one without any sustainable claim of unequal treatment.

4. PARKING AND TRAFFIC ARE INHERENT PROBLEMS IN "NO" AND "MU" ZONING AT 1509 ENFIELD RD

The potential for parking spillover from a commercial enterprise - NO OR NO-MU at 1509 Enfield, which has very little room for parking or expansion for parking adequate to the needs of a business is a serious concern to residents along West Lynn, Palma Plaza and Marshall Lane. One objection to the Children's Shelter that had been problematic over the years had been traffic and parking issues, with school buses idling on Marshall Lane, and employees of the Shelter and volunteers parking along Marshall Lane and Palma Plaza because of the lack of on site parking. Therefore, spillover parking from any business use of 1509 Enfield would clearly be inevitable. The flow of traffic along Enfield Rd is not conducive to business or commercial activity on the site of 1509 Enfield. The property's inadequate space for parking for even the most minimal business use of the property, as well as the traffic safety concerns relating to entering and exiting directly onto Enfield (moreover, right past a bend in the road just east of West Lynn that is dangerous) should preclude this property from a commercial use. Non-residential use of this property also would intensify these traffic and parking concerns, as well as serious drainage issues noted by neighbors behind the property to the south, on Palma Plaza

5. THE REQUESTED REZONING DOES NOT BENEFIT THE NEIGHBORHOOD'S NEEDS, GOALS OR HISTORY

Further, the rezoning of 1501 Enfield Rd to NO for a professional real estate company that specializes in the surrounding neighborhood benefits and serves the neighborhood's needs by providing a service to the neighbors and residents in the purchase and sale of properties in the area, is distinctly different from the offices of a luxury home construction **commercial** business in a neighborhood of older historic homes where little new construction occurs. The **commercial** business of this proposed office, presumably including sales, lies entirely outside of the Old Enfield and Old West Austin neighborhoods. The Old Enfield Neighborhoods by consensus seeks to preserve the existing special character of the neighborhoods along the Enfield as residential, and to maintain and enhance the quality of life of their residents by preservation and renovation of their homes and streets through zoning that is contiguously compatible and residential except in exceptional cases along existing collector streets. Opponents of the NO designation for 1501 Enfield in 2010 expressed some fears that the change from MF-3 to NO in 2010 was a dire first step down a slippery slope toward further degradation of Enfield Rd and the neighborhoods along it in general and would set a bad precedent for others along Enfield. In compromising on a one time exception for 1501 Enfield because of the special circumstances accruing at the time and for that significant property and given the concessions and promises of the owner of that property that benefitted the entire the neighborhood, the neighbors did not intend to thereby dismantle the residential character of Enfield by further future rezoning to NO or MU zoning. To do so in this case would ignore the unique circumstances that surrounded the rezoning of 1501 Enfield and confirm the fears of a continued lot by lot degradation of the residential character of our neighborhoods, the special and valuable character of which cannot be replaced once gone. **The anomalous should not become the standard.**

6. REZONING TO "NO" OR "MU" WOULD NOT COMPORT WITH NEIGHBORHOOD COMPATIBILITY AS CONTEMPLATED BY THE NEIGHBORHOOD PLAN

The rezoning of 1509 Enfield - or any other property in the neighborhood - should not be applicant specific because the future uses of the property by subsequent owners and further applications for other types of uncongenial zoning is a possibility that must be considered. In other words, the rezoning would linger beyond the current applicant. Zoning should insure compatibility with the neighborhood and guarantee the quality of life of the residents of the neighborhood. Rezoning should

be careful, rational and to the benefit of the neighborhood as a whole. Rezoning that allows incompatible uses today can be leveraged into further even more incompatible uses tomorrow. We should always keep in mind these overarching principles and rationales for zoning when we make changes.

That said, every applicant for rezoning should be examined on its merits. Though I have no personal opinion about any of the applicants for this rezoning, I note that the applicant for rezoning who proposes here to use 1509 Enfield Rd for its **commercial** offices currently maintains its main office in a 3700 sq ft building on a distinctly **commercial** looking property somewhat out in a not very densely built-up area east of the airport, surrounded by a large parking lot on a lot larger than an acre. Pictures of the property on the internet show large pickup trucks and SUVs in the parking area on that surrounds two sides of the building. It is difficult to see how the purposes of this business - a luxury home builder that has bought and demolished many older homes in Tarrytown and replaced them with what is commonly called "McMansions" would serve the neighborhood or be compatible with it, which are criteria for rezoning to NO or NO-MU zoning - neighborhood compatibility. Before considering the rezoning of 1509 Enfield Rd from MF-3 to NO or NO-MU, OWANA and the Planning Commission should inquire whether this applicant would agree to encumber this property with restrictive covenants that would limit future size, usage, signage and guarantee limitations on parking and traffic such as were agreed to by the owner of 1501 and 1503 Enfield Rd in 2010? If not, we as a neighborhood will face other zoning applicants that we find are even more incompatible with our neighborhood character and needs. We need only look to 6th St and 5th St for proof of this. But those are collateral, bordering streets with somewhat different histories and challenges than Enfield Rd, which passes through the heart of our neighborhood and in many ways, define it. In the Neighborhood Plan, Enfield Rd is defined as part of the residential core to be protected and preserved from rezoning to anything non- residential

I urge OWANA and the Planning Commission to oppose this rezoning application and retain Enfield Rd as a residential street in keeping with its historically and currently residential character.

Sincerely,
David A. Newton

CAUTION: This email was received at the City of Austin, from an EXTERNAL source. Please use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please forward this email to CSIRT@austintexas.gov.