

ZONING CHANGE REVIEW SHEET

CASE: C14-2020-0057 One Way Out

DISTRICT: 1

ZONING FROM: GR-CO

TO: GR-MU, as amended

ADDRESS: 5601 Nixon Lane

SITE AREA: 4.679 Acres

PROPERTY OWNER/APPLICANT: Gyro Plus LLC (Mohammad Arami)

CASE MANAGER: Heather Chaffin (512-974-2122, heather.chaffin@austintexas.gov)

STAFF RECOMMENDATION:

Staff supports the Applicant's request to rezone the property to GR-MU. *For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

ZONING AND PLATTING COMMISSION ACTION/ RECOMMENDATION:

September 1, 2020: To grant GR-MU-CO with the condition that service station is a prohibited use. (7-2) [Smith, Evans- Nay; Ray- Absent]

July 7, 2020: To grant LR-MU-CO with the condition that service station is a prohibited use. (6-4) [Denkler- 1st, King- 2nd, Bray, Smith, Evans, Duncan- Nay.]

CITY COUNCIL ACTION:

December 3, 2020:

October 1, 2020: To grant Staff postponement to December 3, 2020, on consent.

ORDINANCE NUMBER:

ISSUES:

The Applicant originally filed this request from GR-CO to LR-MU. At that time, the Applicant didn't realize this would reduce the permitted building height from 60 feet to 40 feet/3 stories. Consequently, the Applicant is now requesting GR-MU.

CASE MANAGER COMMENTS:

The proposed rezoning is for 4.679 acre property located at the southwest corner of FM 969 and Nixon Lane. The property is currently zoned GR-CO and is developed with a single family dwelling facing Nixon Lane; the rest of the property is undeveloped. The existing conditional overlay limits the property to 2,000 vehicular trips per day (v.p.d.). Across FM 969 to the north is a mix of local commercial and residential land uses. A convenience store zoned LR and a large undeveloped parcel zoned LR-MU are directly across from the property. Land zoned SF-2 is also located north of the rezoning tract that contains a single family land use along FM 969, as well as the Agave single family residential neighborhood. Across Nixon Lane to the east is a gas station zoned LR and a liquor store zoned CS-1. Also across Nixon Lane are single family residential uses zoned SF-2. Immediately south of the property is land zoned SF-2 and CS that include a single family residence and a dog kennel. West of the property is land zoned SF-2 and P that contain an overhead electric utility as well as a railroad right-of-way (ROW). The majority of the subject property is within the 100 year floodplain; the property also contains a significant amount of creek buffers. As a result, development of the property is greatly impeded by these features. Development on the site will be required to comply with Suburban Watershed limits, which vary based on proposed land uses. ***Please see Exhibits A and B—Zoning Map and Aerial Exhibit.***

Staff has received correspondence in favor and in opposition of the rezoning request. ***Please see Exhibit C- Correspondence.***

Staff supports the proposed GR-MU zoning district. This zoning will allow the possibility of commercial, residential, or mixed use development. This is consistent with the mix of residential and local commercial services that surround the property. Additionally, this section of FM 969 is designated as an Activity Corridor which is appropriate for mixed use zoning.

BASIS OF RECOMMENDATION:

1. *Zoning changes should promote an orderly relationship among land uses.*

Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.

GR-MU provides a transition between the commercial zoning along FM 969 and the mix of commercial and residential zoning along Nixon Lane.

2. *The proposed zoning should be consistent with the goals and objectives of the City Council.*

The property is located along an 'Activity Corridor' (MLK/FM 969), which is characterized by a variety of activities and buildings located along the roadway, that are intended to allow people to reside, work, shop, access services, people watch, recreate, and hang out without traveling far distances. The proposed rezoning would provide improved access to retail, employment, community services for the area, as well as add variety to available housing stock.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	GR-CO	Single Family Residential/Undeveloped
North	LR, SF-2, LR-MU	Convenience Store/Single Family Residential/Undeveloped
South	CS, SF-2	Kennel/Single Family Residential
East	LR, CS-1, SF-2	Convenience Store/Liquor Store/Single Family Residential
West	SF-2, P	Electric utility easement, Railroad ROW

STREET CHARACTERISTICS:

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E. MLK (FM 969)	~103' (TxDOT ROW)	154'	68'	4	No	Yes	No
Nixon Lane	~65	Existing	26'	1	No	No	No

TIA: N/A

WATERSHED: Walnut Creek (Suburban)**NEIGHBORHOOD ORGANIZATIONS:**

Homeless Neighborhood Association
 Neighborhood Empowerment Foundation
 Del Valle Community Coalition
 Agave Neighborhood Association
 Friends of Austin Neighborhoods
 Austin Neighborhoods Council

Friends of Northeast Austin
 SELTexas
 Sierra Club
 Neighbors United for Progress
 Claim Your Destiny Foundation

OTHER STAFF COMMENTS:**COMPREHENSIVE PLANNING**

Connectivity- There are no public sidewalks or transit stops located within a half of a mile from the project area. Bike lanes are located along both sides of FM 969. The mobility options in the area are below average while the connectivity options are fair.

Imagine Austin- The Imagine Austin Growth Concept Map, found in the Imagine Austin Comprehensive Plan identifies FM 969 Road as an Activity Corridor. Activity corridors are characterized by a variety of activities and types of buildings located along the roadway — shopping, restaurants and cafés, parks, schools, single-family houses, apartments, public buildings, houses of worship, mixed-use buildings, and offices.

The following Imagine Austin policies are applicable to this case:

□ LUT P3 Promote development in compact centers, communities or along corridors that are connected by roads and transit, are designed to encourage walking and bicycling, and reduce healthcare, housing and transportation costs.

□ HN P10. Create complete neighborhoods across Austin that have a mix of housing types and land uses, affordable housing and transportation options, and access to schools, retail, employment, community services, and parks and recreation options.

While the site is located along an Activity Corridor, which supports mixed use, based on the lack of mobility options in the area, this request appears to partially support the policies of the Imagine Austin Comprehensive Plan.

ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

2. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

3. According to floodplain maps there is a floodplain within the entire project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Critical Water Quality Zone exists within 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. 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.

6. Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

SITE PLAN

SP 1. Site plans will be required for any new development other than single-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.

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

COMPATIBILITY STANDARDS

SP 5. The entire site is subject to compatibility standards due to proximity to property zoned SF-2

. The following standards apply:

- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- For a structure more than 300 feet but not more than 540 feet from property zoned SF-5 or more restrictive, 60 feet plus one foot for each four feet of distance in excess of 300 feet from the property zoned SF-5 or more restrictive.

SP 7. The site is subject to 25-2 Subchapter F. Residential Design and Compatibility Standards.

TRANSPORTATION

The Austin Strategic Mobility Plan (ASMP), adopted 04/11/2019, calls for 154 feet of right-of-way for E. MLK (FM 969). It is recommended that 77 feet of right-of-way from the existing centerline should be dedicated for E. MLK at the time of subdivision or site plan. A traffic impact analysis should be deferred to the site plan application when land uses and intensities will be finalized.

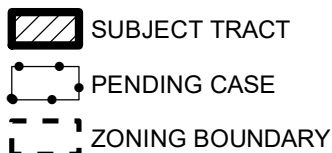
Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E. MLK (FM 969)	~103' (TxDOT ROW)	154'	68'	4	No	Yes	No
Nixon Lane	~65	Existing	26'	1	No	No	No

WATER UTILITY

1. 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. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. 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 Exhibit
- C. Correspondence

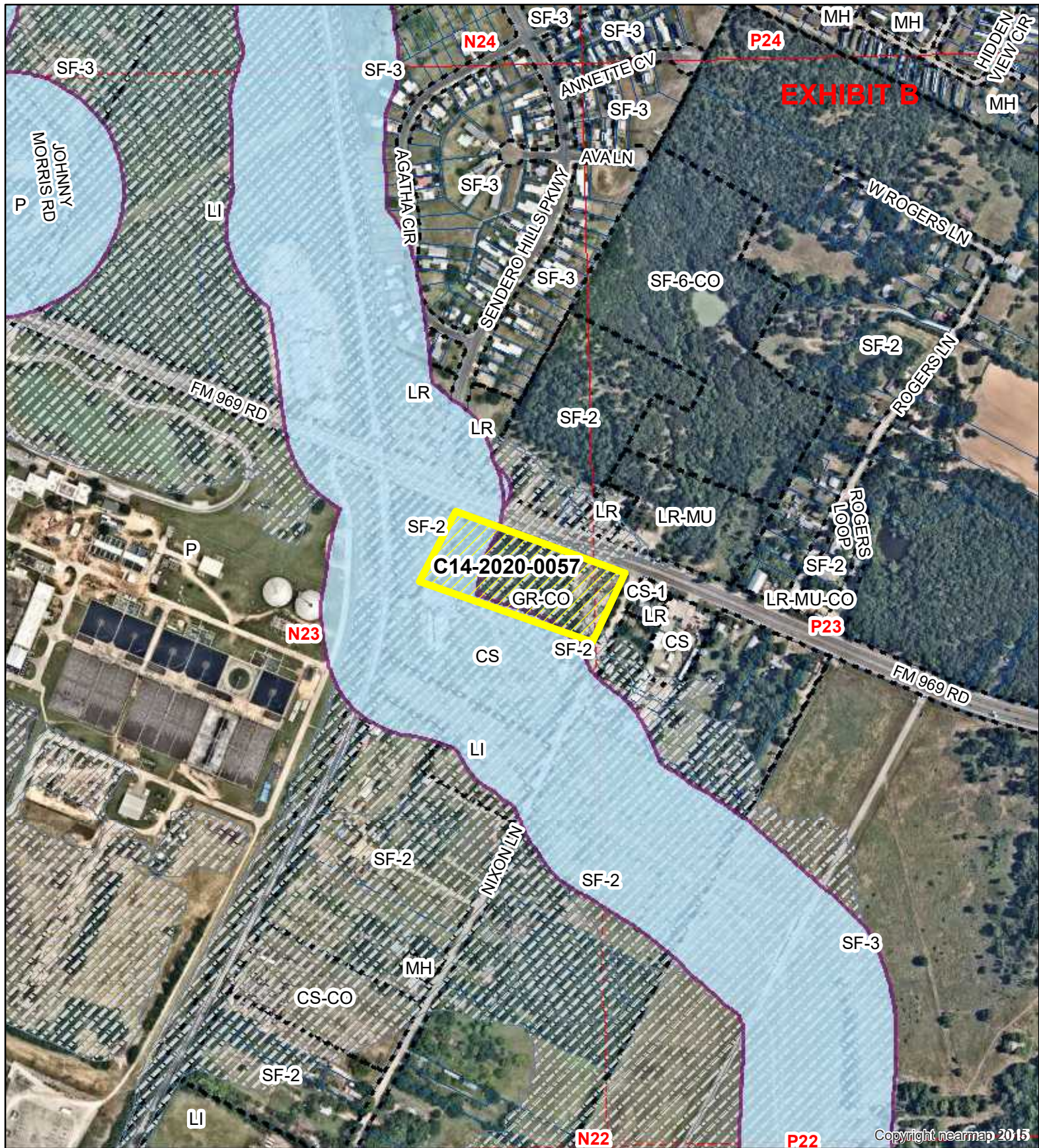


ZONING CASE#: C14-2020-0057

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Created: 6/3/2020



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C14-2020-0057

Creek Buffers

ZONING BOUNDARY

FULLY DEVELOPED FLOODPLAIN

ONE-WAY-OUT

ZONING CASE#: C14-2020-0057
 LOCATION: 5106 NIXON LANE
 SUBJECT AREA: 4.679 Acres
 GRID: N23
 MANAGER: Heather Chaffin



1" = 500'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

EXHIBIT C

From: Agave Neighborhood
Sent: Sunday, June 28, 2020 12:31 PM
To: Chaffin, Heather <Heather.Chaffin@austintexas.gov>
Cc: Agave Neighborhood
Subject: Case Number C14-2020-0057 - COA Zoning and Platting Commission - Public Hearing
07/07/2020

*** External Email - Exercise Caution ***

Ms. Chaffin,
The Agave Neighborhood Association is IN FAVOR OF the proposed zoning change for 5106 Nixon Ln, applicant Gyro Plus LLC, Mohammad Arami, Case Number C14-2020-0057.

Best regards,

Candace Million, Treasurer

Agave Neighborhood Association

6006 Seville Dr, Austin, TX 78724

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.

From: Zenobia C. Joseph

Sent: Monday, July 6, 2020 11:59:28 AM

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

Cc: King, David - BC <BC-David.King@austintexas.gov>

Subject: 7/7: B-4 Against_Fwd: Thanks_Re: Title VI Questions: B-5/B-6 MLK & 183 Residential and FM 969/Craigwood [6.23.2020 Planning Commission Follow-up]

To: Zoning and Platting Commission

Name: Zenobia C. Joseph

PO Box 143832 Austin TX 78714-3832

Against B-4

512.743.8327

Existing Traffic Volumes: FM 969/US 183 is approximately 1.2 miles from 5601 Nixon Lane. Traffic increases to "28,000 close to US 183" (COA, 2012, p. F-2).

https://austintexas.gov/sites/default/files/files/Transportation/Appendix_F_-_FM_969_Task_3_3_1_-_Traffic_Ops_Model_Memo_-_20121121.pdf

Activity Corridor Misleading Language: "Additionally, this section of FM 969 is designated as an Activity Corridor which is appropriate for mixed use zoning" (p. 2). FM 969/Craigwood is a Historically Black Neighborhood with 60-minute bus service, the worst in the system. Neither Capital Metro nor the City of Austin view this area as a vibrant "Activity Corridor."

Discriminatory Mixed-Use: June 23, 2020 per email below, staff recommended development of approximately 520-570 units at FM 969/US 183 with a fourth "service station" in a one-fourth mile stretch of FM 969/Craigwood and US 183. Neither Case Manager Rachel Tepper nor **Heather Chaffin disclosed that 6121 FM 969 had a zoning change from mixed-use to light industrial in 2007. In short, I oppose Item B-4 and recommend a HAZMAT analysis of FM 969 within 2 miles of the property to US 183. I also recommend limiting any addition liquor stores and service stations on FM 969. Planning Commission also approved a liquor store for Craigwood with no community input May 26, 2020.**

PART 2. Ordinance No. 021107-Z-11 is amended to change the land use designation for 6121 FM 969 from Mixed Use to Industrial on the future land use map attached as Exhibit "A" and incorporated in this ordinance, and described in File NPA-2007-0015.03 at the Neighborhood Planning and Zoning Department.

July 7, 2020

Memorandum for Zoning and Platting Commission

Subject: Opposition to Mixed-Use Entitlements for FM 969 Routes 339/237 60-Minute "Activity Corridor" with **Support for "LR"** Neighborhood Commercial Moratorium on Liquor Stores and Service Stations within 0.9 Miles of Craigwood/Black Neighborhood

1. **Case C14-2020-0080:** One Way Out, District 1. Zoning From: GR-CO (Community Commercial_CO Conditional Overlay) to LR-MU (Neighborhood Commercial_Mixed-Use). Address: 5601 Nixon Lane (4.679 Acres). 2011: FM 969 = 28K daily vehicles.

2. **Opposition:** June 23, 2020 Planning Commission passed Asero's FM 969/US 183, 520-570 units, Service Station. Site was MU in 2007 to Light Industrial then back to MU (no HAZMAT review)—1.2 miles from 5601 Nixon (Service Station, Liquor Store).

B-4: FM 969 is ADA Non-Compliant, not an Activity Corridor! Craigwood Blacks 60-min bus: Liquor Store, 3 Service Stations in ¼ mile



The proposed zoning should be consistent with the goals and objectives of the City Council.

The property is located along an 'Activity Corridor' (MLK/FM 969), which is characterized by a variety of activities and buildings located along the roadway, that are intended to allow people to reside, work, shop, access services, people watch, recreate, and hang out without traveling far distances. The proposed rezoning would provide improved access to retail, employment, community services for the area, as well as add variety to available housing stock. ZAP, 2020 (p. 2)



Activity Corridor



Activity Corridor

**ACTIVITY CENTERS AND
CORRIDORS**

Imagine Austin, Adopted June 15, 2012 (p. 113)

Subject: Opposition to Mixed-Use Entitlements for FM 969 Routes 339/237 60-Minute "Activity Corridor" with **Support for "LR"** Neighborhood Commercial Moratorium on Liquor Stores and Service Stations within 0.9 Miles of Craigwood/Black Neighborhood

3. **Recommendation:** Request Zoning and Platting ("ZAP") Commission approve LR zoning and disapprove MU. The mixed-use entitlement on FM 969 has consistently failed to improve the quality of life for Black residents in Craigwood or future residents on the corridor. Capital Metropolitan Transportation Authority ("Capital Metro") also reduced service on Route 339-Tuscany by about 3 hours, but the Title VI Service Equity Analysis falsely called it new though it was a restored number from ServicePlan2020 in 2010. service went from 35 minutes Peak to 60 minutes all day.

a. Precedent: October 16, 2018 ZAP Commission partially approved 7712 FM 969 case, only 0.3 miles from 5601 Nixon Lane.

ZAP favors half of zoning case - Austin MonitorAustin Monitor

<https://www.austinmonitor.com/stories/2018/10/zap-favors-half-of-zoning-case>

Oct 23, 2018 · In the end, the **Zoning and Platting** Commission approved a rezoning for 200 feet of a property just east of U.S. Highway 183 at 7712 **FM 969**.

b. Title VI: October 16, 2018 ZAP Commission passed an Interlocal Agreement with Capital Metro. Zoning changes should improve quality of life. I oppose granting MU entitlements based on staff's "Activity Corridor" note. Substandard service forces transit-dependent Blacks to walk at least 1 mile from Craigwood to Frequent Route 18 at Tannehill/Webberville. There is no continuous sidewalk (FM 969 to Decker) and no transit incentive for 5601 Nixon homeowners. Route 339 starts at 6:10AM and ends at 9:10PM, once an hour unlike 6 minutes to The University of Texas at Austin and 15 minutes South/West and Central.

c. Future Agenda Item: Recommend ZAP Commission request Austin City Council exempt Northeast Austin and homeowners with 45- to 60-minute buses from Future Land Use Map criteria and mixed-use development density with no community benefit.

FM 969: E. MLK/US 183
Current Industrial zoning
Proposed B-05, B-06 site

November 26, 2019 Council Member Delia Garza **praised the Planning Commission** for approving "several policy recommendations [that] more equitably distribute the city's desired affordable housing stock into more desirable neighborhoods." **Putting 520 to 570 FM 969 units on 60-minute Black Route 339 with 3 convenience stores, a liquor store, and Cricket is undesirable** (Austin Chronicle).





February 22, 2019 FM 969 photo. **Top: Substandard 60-minute #339/Interlined #237** [formerly homeless] forces Blacks to walk to US 183—proposed site on left. Tepper failed to acknowledge 60-minute routes only run in Northeast Austin Black neighborhoods, undergirding "Project Connect System as of 4/21/20" (B-5, p. 4).


Subject: Opposition to Mixed-Use Entitlements for FM 969 Routes 339/237 60-Minute "Activity Corridor" with **Support for "LR"** Neighborhood Commercial Moratorium on Liquor Stores and Service Stations within 0.9 Miles of Craigwood/Black Neighborhood

4. **Environmental Analysis Needed:** Surrounding property at FM 969/US 183 changed from mixed-use to industrial in 2007, but staff (Heather Chaffin) failed to disclose this fact at the June 23, 2020 Planning Commission Meeting for Item B-06 which granted "Zoning From: CS-NP and LI-CO-NP To: CS-MU-NP ADDRESS: 6121 FM 969 REZONING AREA: 9.5460 Acres . . . A site plan for a **convenience store** is under review for this site." Applicant will "develop approximately 250-300 multifamily units on the site." Chaffin stated that Kwik Mart was planned for the site. Google Images shows Kwik Mart developments with a gas station though there are three gas stations within ¼-mile (Texaco and Chevron at FM 969/Craigwood) and Shell at FM 969/US 183. Item B-05 was briefed by Rachel Tepper for the same Asero Welding site with no disclosure of prior industrial. Zoning is for 3-stories "approximately 270 units ("1.78 acres"). Mixed-use entitlements (stack and pack) with no Craigwood input reduces quality of life. One-way in/out boarded by US 183 and uneven terrain. Request ZAP Commission seek Fire Department environmental review.

a. Precedent: May 14, 2019 Planning Commission denied zoning change, requiring Austin Fire Department Hazardous review:

 [Backup](#) - Item C-07 (NPA-2018-0021.01 - 5101 East Oltorf; District 3).pdf (2.8MB)

 [Backup](#) June 23, 2020 Planning Commission- **B-05 (NPA-2020-0015.01 - MLK & 183 Residential; District 1) (6.9MB)**

 [Backup](#) June 23, 2020 Planning Commission - **B-06 (C14-2020-022 - MLK & 183 Residential; District 1) (1.9MB)**

ORDINANCE NO. 20071213-110

AN ORDINANCE AMENDING ORDINANCE NO. 021107-Z-11, WHICH ADOPTED THE EAST MARTIN LUTHER KING COMBINED NEIGHBORHOOD PLAN AS AN ELEMENT OF THE AUSTIN TOMORROW COMPREHENSIVE PLAN, TO CHANGE THE LAND USE DESIGNATION ON THE FUTURE LAND USE MAP FOR PROPERTY LOCATED AT 6121 FM 969.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Ordinance No. 021107-Z-11 adopted the East Martin Luther King Combined Neighborhood Plan as an element of the Austin Tomorrow Comprehensive Plan.

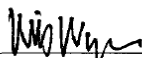
PART 2. Ordinance No. 021107-Z-11 is amended to change the land use designation for 6121 FM 969 from Mixed Use to Industrial on the future land use map attached as Exhibit "A" and incorporated in this ordinance, and described in File NPA-2007-0015.03 at the Neighborhood Planning and Zoning Department.

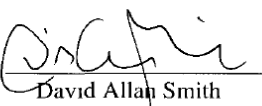
PART 3. Section A of Chapter VII (*Land Use*) Page 79 of the East Martin Luther King Combined Neighborhood Plan, attached as Exhibit A to Ordinance 021107-Z-11, is amended to add the following action item:

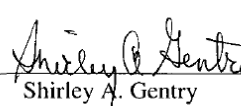
Action 75 Allow light manufacturing use along FM 969.

PART 4. This ordinance takes effect on December 24, 2007.

PASSED AND APPROVED

_____, December 13, 2007 §
 §
 § 
 § Will Wynn
 § Mayor

APPROVED: 
 David Allan Smith
 City Attorney

ATTEST: 
 Shirley A. Gentry
 City Clerk

Subject: Opposition to Mixed-Use Entitlements for FM 969 Routes 339/237 60-Minute "Activity Corridor" with **Support for "LR"** Neighborhood Commercial Moratorium on Liquor Stores and Service Stations within 0.9 Miles of Craigwood/Black Neighborhood

b. Staff Recommendation: LR (Neighborhood Commercial) limits uses like Pawn Shop which GR (Community Commercial) permitted. With FM 969 so isolated, consider sports with condition to comply with noise ordinance. I oppose MU as noted throughout and included a photo of the Shell Station with cyclist (p. 5). FM 969 generated 28,000 vehicles per day (COA, 2011). June 23, 2020 excluded traffic discourse and Agents refused to discuss FM 969 ingress/egress per Community Meeting letter.

BASIS OF RECOMMENDATION:

1. *Zoning changes should promote an orderly relationship among land uses.*

Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.

LR-MU provides a transition between the commercial zoning along FM 969 and the less intense zoning along Nixon Lane. LR-MU allows mixed use and is less intense than the current GR-CO zoning on the property.

B-5

18 of 23

Letter from the Neighborhood Plan Contact Team (NPCT)

27 April 2020

To: Planning Commission and City Council Members
Re: NPA-2020-0015.01 6121 FM 969

Although the East MLK Combined Neighborhood Plan Contact Team (EMLK NPCT) would like to support the plan amendment request in question, changing the property's land use from Industrial to Mixed Use, we are withholding that support for two reasons:

1. The owner is unwilling to agree to a restrictive covenant limiting rental rates on the property to 80% MFI, a number that would be consistent with the rates indicated in the description of Workforce Housing.
2. The single driveway off of FM 969 would create a dangerous traffic situation so close to the intersection at Ed Bluestein Blvd. Although the owner's agents have expressed an interest in pursuing access to Ed Bluestein, they are unwilling to do so until the entitlement increase they seek has been granted.

The EMLK NPCT urges members of the Planning Commission to bind the proposed affordability to either the zoning change or property using whichever vehicle is most appropriate, be that a conditional overlay or otherwise.

For the reasons listed above, the EMLK NPCT **neither supports nor opposes the plan amendment request** for the Property.

Sincerely,



Jon Hagar
Chair, EMLK NPCT
jonhagar@gmail.com
(512) 739-4101

Subject: Opposition to Mixed-Use Entitlements for FM 969 Routes 339/237 60-Minute "Activity Corridor" with **Support for "LR" Neighborhood Commercial** Moratorium on Liquor Stores and Service Stations within 0.9 Miles of Craigwood/Black Neighborhood

c. FM 969/US 183: Shell is across from the June 23, 2020 Planning Commission site (B-05, B-06) with a new Burger King. Within ¼-mile at Craigwood, there is a Texaco, new Chevron, and store. May 26, 2020 Planning Commission approved an incompatible liquor store at the entrance of Craigwood with no resident input. Blacks deserve more than liquor and gas stations.

FLUM Falsity: FM 969 is not walkable or bikeable, but Pepper falsely called it an "Activity Corridor and Transit Corridor."
§ 2-7-1 -Ethics Violation: "employees (must) be independent, impartial" for the public to "have confidence in the integrity of its government."



5. **Capital Metro:** FM 969/E. MLK, Jr. Blvd. Corridor Development Program February 2014 Austin Mobility. There is no transit expansion planned for FM 969. The area is not pedestrian or bicycle-friendly and should not receive mixed-use entitlements.

4.2.3.1 Capital Metro

The current land use along the FM 969 corridor is a mix of low density commercial, retail, and residential, and community facilities, such as schools and churches. **This mix of development does not provide the number of potential transit users necessary to support expanded service at this time.** Based on the number of planned residential and mixed use projects, it is anticipated that in the study influence area, a population base for potential ridership will develop. Future expansion of the Capital Metro service area would require annexation by the City of Austin. There are several options to improve transit

along the FM 969 corridor within the existing plans.

Figure 33 shows some possible improvements (but not bus routes) that cumulatively would improve access to transit, and more importantly, provide options for current residents of the corridor. These items include:

- Future Green Line commuter rail to Manor
- Future Green Line station near FM 969 or Loyola Lane

New transit service to the Austin's Colony Activity Center and improvements to the existing service were reoccurring comments throughout the public

6. **Closing:** Thanks for your time and consideration. Point of contact is the undersigned.

Very respectfully,

Zenobia C. Joseph

Zenobia C. Joseph
 e: zcjsph@aol.com

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

Sent: Tuesday, September 01, 2020 6:11 PM

To: Zenobia Joseph; Kiolbassa, Jolene - BC <bc-Jolene.Kiolbassa@austintexas.gov>; King, David - BC <BC-David.King@austintexas.gov>; Aguirre, Ana - BC <BC-Ana.Aguirre@austintexas.gov>; Denkler, Ann - BC <bc-Ann.Denkler@austintexas.gov>; Chaffin, Heather <Heather.Chaffin@austintexas.gov>

Subject: Re: B-01: Neutral (C14-2020-0057 - One Way Out; District 1)

Thank you, Ms. Joseph.

Friendly reminder, please include the case manager on your emails.

Andrew

Get [Outlook for iOS](#)

From: [Zenobia Joseph](#) <[Zenobia Joseph](#)>

Sent: Tuesday, September 1, 2020 5:55:38 PM

To: Kiolbassa, Jolene - BC <[bc-Jolene.Kiolbassa@austintexas.gov](#)>; King, David - BC <[BC-David.King@austintexas.gov](#)>; Aguirre, Ana - BC <[BC-Ana.Aguirre@austintexas.gov](#)>; Denkler, Ann - BC <[bc-Ann.Denkler@austintexas.gov](#)>; Rivera, Andrew <[Andrew.Rivera@austintexas.gov](#)>

Subject: B-01: Neutral (C14-2020-0057 - One Way Out; District 1)

*** External Email - Exercise Caution ***

Memorandum for Zoning and Platting Commission Chair Jolene Kiolbassa and Members thru Staff Liaison Andrew Rivera

Subject: B-01 Neutral Position Service Station Condition Use Appreciation—Add Convenience Store Conditional Overlay

(C14-2020-0057 - One Way Out; District 1)

1. **Gratitude:** I wish to thank the Applicant for his willingness to accept the service station conditional use. Thanks, especially, to Commissioners Ann Denkler and David King for putting forth the motion and for each member who spoke in favor. In the context of environmental and racial justice, four service stations exist within a 2-mile radius of 5601 Nixon Lane on FM 969, as I noted on July 7, 2020 in oral testimony—three gas stations in ¼-mile with a fourth Kwik Mart passed by Austin City Council with 270 units July 30, 2020 on all three readings. The conditional overlay will provide much needed relief on this corridor. I thank you for the many residents who may be unaware of zoning changes and major development in and around the neighborhood.

2. **Pending:** Please see attached PDF for text in its entirety. Request also that you update my position and include the memorandum and email thread in its entirety for Case# C14-2020-0057 - One Way Out; District 1 from Wednesday, June 24, 2020 at 10:43 PM through Sent: Mon, Jul 6, 2020 11:59 am. The excerpt noted in the Backup Material decontextualizes my comments and inaccurately reflects my position. I also respectfully ask that you include the entire memorandum when "One-Way Out" case goes to Austin City Council.

Thanks.~zcj

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 cybersecurity@austintexas.gov.

From: Zenobia Joseph <Zenobia.Joseph>

Sent: Wednesday, September 02, 2020 8:06 AM

To: Kiolbassa, Jolene - BC <bc-Jolene.Kiolbassa@austintexas.gov>; King, David - BC <BC-David.King@austintexas.gov>; Denkler, Ann - BC <bc-Ann.Denkler@austintexas.gov>; Evans, Bruce - BC <bc-Bruce.Evans@austintexas.gov>; Duncan, Jim - BC <BC-Jim.Duncan@austintexas.gov>

Cc: Tepper, Rachel <Rachel.Tepper@austintexas.gov>; Chaffin, Heather <Heather.Chaffin@austintexas.gov>

Subject: Thanks: Equity Recommendations_Fwd: B-4 Testimony_Fwd: July 7th Zoning and Platting Commission Registered Speaker; Opposed, Item B-4

To: Chair Jolene Kiolbassa, Zoning and Platting Commission and Members <bc-Jolene.Kiolbassa@austintexas.gov>

Subject: Reflections and Recommendations on Viewing Cases Holistically through an Equitable “Black Lives Matter” Lens

1. **Gratitude:** Thanks tremendously for your vote (and members, too) on a gas station conditional overlay (“CO”) for the One-Way Out case (5601 Nixon Lane off FM 969) last night. I saw the ZAP Agenda too late yesterday to register to testify. So I sent written testimony to update my position to neutral and truly appreciated you acknowledging receipt of my email on the record.

2. **CO Precedent:** Had I been able to speak, I would have noted the 25 conditional uses read into the record December 14, 2017 by Council Member Alison Alter for Arbor Cinema at Great Hills redevelopment near The Arboretum, only one gas station at Braker/Jollyville despite enormous commercial. I’m thankful members voted for the one CO for FM 969/US 183-area. For the naysayers, I couldn’t help but wonder if they realized that in addition to the two gas stations across from One-Way Out, two more are located 0.9 miles away at FM 969/Craigwood with another at US 183, ¼-mile. July 30, 2020 Council also approved Kwik Mart (gas station unknown) with 270 units on Consent (all 3 Readings though staff/Rachel Tepper was still gathering answers). I wondered, in part, about Craigwood Notice but got a June 1, 2020 Endeavor email noting, “FYI I just spoke to Loreen in the neighborhood. She did not have any questions nor did she express any concerns with our rezoning. She specifically said ‘it’s a done deal so whatever y’all plan to do is fine with me’.” No title for Loreen and notice to Craigwood residents remains unknown.

Please see attached PDF noting recommendations to help ensure Northeast Austin cases get a fair/equitable planning process.

Thanks. ~zcj

-----Original Message-----

From: Zenobia Joseph

To: steve.adler@austintexas.gov <steve.adler@austintexas.gov>

Cc: King@aol.com <King@aol.com>; David - BC <BC-David.King@austintexas.gov>; Kiolbassa@aol.com <Kiolbassa@aol.com>; Jolene - BC <bc-Jolene.Kiolbassa@austintexas.gov>; Ramirez@aol.com <Ramirez@aol.com>; Nadia - BC <BC-Nadia.Ramirez@austintexas.gov>

Sent: Tue, Jul 7, 2020 6:22 pm

Subject: B-4 Testimony_Fwd: July 7th Zoning and Platting Commission Registered Speaker; Opposed, Item B-4

Mayor Adler,

Why are the call-in rules different for Zoning and Platting Commission Meetings? Once again, Mr. Rivera has requested my personal phone number but this is not a requirement for other Boards/Commissions or

Council Meetings. I provided written testimony, but without the meeting phone number, I will be unable to speak. Thanks.~~zcj

-----Original Message-----

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

To: Zenobia Joseph <Zenobia Joseph>

Cc: King, David - BC <BC-David.King@austintexas.gov>; Kiolbassa, Jolene - BC <bc-Jolene.Kiolbassa@austintexas.gov>; Ramirez, Nadia - BC <BC-Nadia.Ramirez@austintexas.gov>

Sent: Mon, Jul 6, 2020 12:55 pm

Subject: July 7th Zoning and Platting Commission Registered Speaker; Opposed, Item B-4

Hello Ms. Joseph,

Thank you for your interest in participating in the Zoning and Platting Commission meeting .

I have you registered in opposition to Item B-04, and calling-in from the following number **512-redacted** . Should you need to revise this number please let me know in advance of the meeting.

The Zoning and Platting Commission meeting teleconference call-in number and additional information will be provided Tuesday afternoon.

Except for consent items and the first discussion item applicants and citizens will not have to call in until their item is up for discussion.

An email will be sent approximately 15 minutes prior to when the item is to be discussed.

Please note the following:

- Call – in will be by telephone only. The meeting will be viewable online (<https://austintexas.gov/page/watch-atxn-live>) and on cable networks.
- Caller must utilize the registered telephone number.
- Participants are automatically muted. Select *6 when the chair calls your name to speak.
- Speakers are allotted 3 minutes.
- Applicants 6 minutes and 3 minute rebuttal.
- No donation of time.
- If watching online or on a cable network, during your remarks, please mute the device or a loop echo may occur.
- As Commissioners may have questions for you, once you've completed your remarks please stay on the line, but return your telephone to mute mode.

Discussion items will be conducted as follows:

Staff Presentation
Applicant Presentation
Public Testimony
Applicant Rebuttal
Close Public Hearing
Commission Q & A
Deliberation and Vote

The agenda and backup may be found at the link below:

https://www.austintexas.gov/cityclerk/boards_commissions/meetings/54_1.htm

Thank you,

Andrew

From: Zenobia Joseph <Zenobia.Joseph>
Sent: Monday, July 6, 2020 11:59 AM
To: Rivera, Andrew <Andrew.Rivera@austintexas.gov>
Cc: King, David - BC <BC-David.King@austintexas.gov>
Subject: 7/7: B-4 Against_Fwd: Thanks_Re: Title VI Questions: B-5/B-6 MLK & 183 Residential and FM 969/Craigwood [6.23.2020 Planning Commission Follow-up]

To: Zoning and Platting Commission

Name: Zenobia C. Joseph
PO Box 143832 Austin TX 78714-3832
Against B-4
512.743.8327

Existing Traffic Volumes: FM 969/US 183 is approximately 1.2 miles from 5601 Nixon Lane. Traffic increases to "28,000 close to US 183" (COA, 2012, p. F-2).

https://austintexas.gov/sites/default/files/files/Transportation/Appendix_F_-_FM_969_Task_3_3_1_-_Traffic_Ops_Model_Memo_-_20121121.pdf

Activity Corridor Misleading Language: "Additionally, this section of FM 969 is designated as an Activity Corridor which is appropriate for mixed use zoning" (p. 2). FM 969/Craigwood is a Historically Black Neighborhood with 60-minute bus service, the worst in the system. Neither Capital Metro nor the City of Austin view this area as a vibrant "Activity Corridor."

Discriminatory Mixed-Use: June 23, 2020 per email below, staff recommended development of approximately 520-570 units at FM 969/US 183 with a fourth "service station" in a one-fourth mile stretch of FM 969/Craigwood and US 183. Neither Case Manager Rachel Tepper nor **Heather Chaffin** disclosed that **6121 FM 969 had a zoning change from mixed-use to light industrial in 2007. In short, I oppose Item B-4 and recommend a HAZMAT analysis of FM 969 within 2 miles of the property to US 183. I also recommend limiting any addition liquor stores and service stations on FM 969. Planning Commission also approved a liquor store for Craigwood with no community input May 26, 2020.**

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-----Original Message-----

To: Rachel.Tepper@austintexas.gov <Rachel.Tepper@austintexas.gov>

Sent: Tue, Jun 30, 2020 7:05 am

Subject: Thanks_Re: Title VI Questions: B-5/B-6 MLK & 183 Residential and FM 969/Craigwood [6.23.2020 Planning Commission Follow-up]

To: Rachel Tepper, AICP

Long Range Planning

City of Austin | Planning and Zoning Department

Gratitude: Thanks! I appreciate your efforts and await your reply.~zcj

-----Original Message-----

From: Tepper, Rachel <Rachel.Tepper@austintexas.gov>

To: Zenobia.Joseph <Zenobia.Joseph>

Sent: Fri, Jun 26, 2020 10:56 am

Subject: Re: Title VI Questions: B-5/B-6 MLK & 183 Residential and FM 969/Craigwood [6.23.2020 Planning Commission Follow-up]

Hi Zcj,

Thank you for your email.

I just wanted to let you know that I am working on responses to your questions below in reference to Item B-5. I am trying to provide a detailed response by next Wednesday at the latest – I want to check in with the applicant on the status item 2.

Please let me know if you have any other questions or comments.

Rachel Tepper, AICP
Long Range Planning
City of Austin | Planning and Zoning Department
pronouns: she/her/hers



tel: 512-974-1485

e: Rachel.tepper@austintexas.gov

From: "Zenobia Joseph" <Zenobia.Joseph@austintexas.gov>
Reply-To: "Zenobia Joseph" <Zenobia.Joseph@austintexas.gov>
Date: Wednesday, June 24, 2020 at 10:43 PM
To: "Tepper, Rachel" <Rachel.Tepper@austintexas.gov>, "Chaffin, Heather" <Heather.Chaffin@austintexas.gov>
Cc: "Rivera, Andrew" <Andrew.Rivera@austintexas.gov>
Subject: Title VI Questions: B-5/B-6 MLK & 183 Residential and FM 969/Craigwood [6.23.2020 Planning Commission Follow-up]

*** External Email - Exercise Caution ***

To: Case Managers Rachel Tepper and Heather Chaffin

Re: Planning Commission Items B-05 and B-06 - MLK & 183 Residential [FM 969]

Backup - B-05 (NPA-2020-0015.01 - MLK & 183 Residential; District 1) (6.9MB)

Backup - B-06 (C14-2020-022 - MLK & 183 Residential; District 1) (1.9MB)

- Preface: I listened to the June 23, 2020 Planning Commission Meeting but have a few questions that weren't addressed. Since Commissioners took up B-5 and B-6 together, my questions relate to both items. Thanks in advance for your time.

1. **Public Meeting:** Where was the March 5, 2020 MLK & 183 Public Meeting held? How long did the meeting last? How many members of the public attended? **Were there only 4 people in attendance that weren't staff or individuals associated with the two cases?** Were both cases discussed at the March 5, 2020 Meeting? What was the demographic makeup of meeting attendees? Were there any African-Americans at the meeting?

- Please email me a list of attendees and/or sign-in sheet, including members of the public, staff, project team, and city staff names and titles. Public Meetings text notes, "Attendance: 5 project team, 2 city staff, 4 public including neighborhood association and neighborhood contact team members" (B-5, p. 12).

2. **Craigwood Outreach Follow-up:** What contact have Applicants made with Craigwood Historically Black neighborhood residents about the proposed apartment development? Were there any responses to the "192 notices" or any other efforts (e.g., in-person, emails)? B-5 Questions/Answers note, "Applicants

will attempt to reach out to Craigwood residents. Staff will review the community registry and follow up [sic] with meeting participants" (p. 13).

3. **Total Units:** Item B-5 specifies "270 units in a collection of 3-story structures." B-6 specifies "approximately 250-300 multifamily units." **Approximately, how many total units will be built at MLK & 183 (FM 969)?** Will the total be $270 + 250-300 = 520$ to 570 units?

4. **Traffic/Safety:** In 2011, the City of Austin estimated average daily traffic volume "increases to 28,000 close to US 183" (FM 969 Corridor, 2011, p. 3). How will Endeavor Real Estate Group, representing Asero Holdings Corporation, mitigate pedestrian safety risks to comply with the City's Vision Zero and Federal Highway Administration Road to Zero by 2050 goals?

- Fatalities: I am concerned about children, transit-dependent Blacks, minorities, and potential pedestrian fatalities given the proximity to high-speed roadways (US 183/FM 969)?
- B-6 notes safety three times, in part, "quality transit, public space, and walkable destinations . . . achieve safety and comfort" (p. 11).

5. **Industrial/Environmental Safety:** Because the current zoning is industrial, what environmental review will determine the safety of building residential units at FM 969/US 183? Will the apartments be built around the "steel shop and welding facility" or will this be demolished? (B-5, p. 4).

6. **Title VI and FLUM Entitlements:** Why is Endeavor seeking, in part, Mixed-Use zoning since Q/A response states intent to build "apartments only" with no retail? Is there a Future Land Use Map tax benefit for the Applicant to get MU rezoning or some other reason? (B-5, p. 13). Q/A also asked, "Why this area?" (p. 13).

a. Anecdote: After the Plaza Saltillo Endeavor deal, a resident who testified in the early morning hours before Austin City Council told me in the ladies room, "We lost." Endeavor got more height. See final deal posted on Endeavor's website (below). Advocates fighting to preserve their neighborhood expressed the same sentiments when Endeavor got the McKalla Place Soccer Stadium deal in 2018.

b. Transit Reality: Counter to language in the staff recommendation, Capital Metro unilaterally reduced FM 969/Craigwood bus service on Route 339-Tuscany from 35 minutes Peak to 60 minutes with a reduction of nearly 3 hours runtime for June 3, 2018 implementation which contravenes Title VI of the Civil Rights Act of 1964 and serves as the discriminatory foundation for "Project Connect System as of 4/21/20" (B-5, p. 4). The last #339-Tuscany leaves Walmart-Norwood at 9:10PM, denying transit-dependent Northeast riders from working 2nd Shift, in part, at UPS. Route 339 is a restored route number from ServicePlan2020 in 2010, but Capital Metro's Title VI Service Equity Analysis called the route "New" though worsened and no longer traveling in the Black Neighborhood (Craigwood). Please provide honest answers rather than trying to sell the MLK/183 project to Austin City Council.

- **Title VI: If "Black Lives Matter," what is the community benefit of more apartments with no retail or additional jobs to improve quality of life for Black taxpayers, in particular, on 60-minute Routes 339/237 disconnected FM 969 corridor?**

Search Results

Web results

EXCLUSIVE: Contract reveals final terms for Plaza Saltillo deal

[www.endeavor-re.com › news › exclusive-contract-reveals-final-terms...](http://www.endeavor-re.com/news/exclusive-contract-reveals-final-terms...)

1. EXCLUSIVE: Contract reveals final terms for **Plaza Saltillo deal**. Jun 22, 2017, 7:00pm CDT Ben Wear My Statesman · A MetroRail train runs along the **Plaza Saltillo** site in East Austin on Thursday as construction begins ... \$2.2 million in annual rent in 2029 from **Endeavor** Real Estate Group and Columbus Realty Partners, ...

7. **Transit:** Routes 339/interlined 237 only run once an hour -- starts late and ends early, as of 2018. MLK & 183 Residential cases rely heavily on Imagine Austin and transit language to justify density. Will the Applicants commit in writing (e.g., restrictive covenant, Capital Metro/COA agreement) to "improve

effectiveness of transit" to 15-minute frequency compatible with South/West and Central Austin service provided to white choice riders and by what date? (B-5, p. 4).

8. **Out-of-Cycle:** What reason did the February 5, 2020 Asero application state for the out-of-cycle request to develop the proposed MLK & 183 Residential [FM 969] project? (B-5, p. 1).

- How often are these exceptions granted?
- In the past 12 months, how many out-of-cycle requests were granted?

References:

B-6

Staff supports the Applicant's request of CS-MU-NP. The existing zoning does not allow the possibility of residential or mixed use development of the property. The Applicant has stated that they intend to develop approximately 250-300 multifamily units on the site. *Please see Exhibit C- Applicant Letter.*

B-5

Error! Filename not specified.

What contacts have you had with representatives of the Craigwood Neighborhood?

Applicants will attempt to reach out to Craigwood residents. Staff will review the community registry and follow up with meeting participants to share any known contacts for Craigwood.

Will there be any retail as a part of the project?

At this time the applicant does not anticipate building any commercial retail – the project they have in mind is apartments only.

CITY COUNCIL DATE: TBD

CASE MANAGER: Rachel Tepper

EMAIL: Rachel.tepper@austintexas.gov

ACTION: PENDING

PHONE: (512) 974-1485

Thanks.~zcj

Copy Furnished:

Andrew Rivera, Staff Liaison

Planning Commission

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