

## ZONING CHANGE REVIEW SHEET

CASE: C14-2021-0009 – 1725 Toomey

DISTRICT: 5

ZONING FROM: CS

TO: MF-6

ADDRESS: 1725 Toomey Road

SITE AREA: 0.90 Acres

PROPERTY OWNER:  
1725 Toomey LLC

AGENT:  
Drenner Group (Amanda Swor)

CASE MANAGER: Kate Clark (512-974-1237, [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov))

### STAFF RECOMMENDATION:

**Staff recommends multifamily residence highest density (MF-6) district zoning.** *For a summary of the basis of staff's recommendation, see page 2 and 3.*

### SMALL AREA PLANNING JOINT COMMITTEE

**June 2, 2021                      Forwarded to Planning Commission without a Recommendation.**

### PLANNING COMMISSION ACTION / RECOMMENDATION:

**September 14, 2021      Scheduled for Planning Commission**

August 24, 2021              The public hearing portion for the Planning Commission meeting was canceled due to technical difficulties.

July 27, 2021                  Approved neighborhood's request to postpone to August 24, 2021 on the consent agenda. Vote: 10-0. [Commissioner Schneider - 1st, Commissioner Azhar - 2nd; Chair Shaw and Commissioners Howard and Thompson were absent].

July 13, 2021                  Approved neighborhood's request to postpone to July 27, 2021 on the consent agenda. Vote: 8-0. [Vice Chair Hempel - 1st, Commissioner Flores - 2nd; Commissioners Azhar, Howard, Rosa Praxis, Llanes Pulido and Schneider were absent].

### CITY COUNCIL ACTION:

**September 30, 2021      Scheduled for City Council**

August 26, 2021      Approved staff's request to postpone to September 30, 2021 on the consent agenda. Vote: 11-0.

July 29, 2021      Approved staff's request to postpone to August 26, 2021 on the consent agenda. Vote: 11-0.

### ORDINANCE NUMBER:

### ISSUES

Staff has received comments in opposition and in favor of this rezoning request. For all written or emailed comments, please see *Exhibit C: Correspondence Received*.

Prior to this rezoning case being submitted, a tree permit (2020-127211 TP) was filed and approved to remove a heritage tree at this property. Emailed comments related to the removal of this tree, may also be found in *Exhibit C: Correspondence Received*. The following is a summary of the application timeline from the Community Tree Preservation Division:

The application was received on September 4, 2020 and included detailed photographs and a narrative report from a private Certified Arborist. These materials demonstrated the damage to the structure that was caused by the tree. The application also cited internal decay as a cause for concern and was statutorily disapproved pending documentation that supported that claim.

On November 16, 2020 a tomography report from Tree Associates, LLC and completed International Society of Arboriculture tree risk assessment form were submitted to the City for further review.

It was determined that the damage that was being caused to the structure (the roof of the apartment complex had been physically deformed by the upper stem of the tree), combined with the evidence of the presence of less-sound wood in the lower stem and extreme proximity to high-value targets provided sufficient justification for removal of this tree. The Tree Permit was issued on November 20, 2020.

### CASE MANAGER COMMENTS:

This property is located at the southeast corner of Sterzing Street and Toomey Road and is approximately 0.9 acres. It is currently zoned CS and developed with an existing multifamily building. Adjacent zoning to the east and south is CS, across Sterzing Street to the west are CS, CS-CO and LO zoned tracts and to the north across Toomey Road is a P zoned tract. This property is located within the South Lamar Combined Neighborhood Planning Area (Zilker Neighborhood) which does not have an adopted Future Land Use Map (FLUM). Please see *Exhibit A: Zoning* and *Exhibit B: Aerial Map*.

Per the applicant's application, they are requesting to rezone from CS to MF-6 to allow for a residential development with up to 215 units. Due to the number of proposed residential units, staff provided AISD the Educational Impact Statement (EIS) forms submitted in the application. Their response is included in *Exhibit D: EIS from AISD*.

#### BASIS OF RECOMMENDATION:

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The City's current Land Development Code (LDC) defines the base zoning district for MF-6 as:

*"...the designation for multifamily and group residential use. An MF-6 district designation may be applied to a use in a centrally located area near supporting transportation and commercial facilities, an area adjacent to the central business district or a major institutional or employment center, or an area for which the high density multifamily use is desired."*

This property is located 320 feet from Barton Springs Road and 0.30 miles from S. Lamar Boulevard. Both streets are identified as Level 3 streets in the Austin Strategic Mobility Plan and have CapMetro bus routes running along them, one of which is a high-frequency route and is proposed to be enhanced through ProjectConnect's initial investments service map. S. Lamar Boulevard is also identified as a Core Transit Corridor in the LDC and an Activity Corridor within the Imagine Austin Comprehensive Plan. Additionally, this property is adjacent to Butler Shores Metro Park and is within a quarter mile of Zilker Park, the Butler Hike and Bike Trail and the Pfluger Pedestrian Bridge. Rezoning this property to MF-6 would be consistent with the purpose statement of the zoning district, and provide increased residential opportunities near significant public spaces and within walking distance of existing and planned transit corridors.

#### EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	CS	Multi-family residential
North	P	Parkland
South	CS	Restaurant (general)
East	CS	Multi-family residential
West	LO and CS-CO	Professional office and Multi-family residential

NEIGHBORHOOD PLANNING AREA: South Lamar Combined NP area - Zilker (suspended)

TIA: A TIA shall be required at the time of site plan if triggered per LDC 25-6-113.

WATERSHED: Lady Bird Lake Watershed

OVERLAYS: Residential Design Standards, Waterfront Setbacks Overlay, Waterfront Overlay (Butler Shores)

SCHOOLS: Zilker Elementary, O. Henry Middle and Austin High Schools

NEIGHBORHOOD ORGANIZATIONS

Austin Independent School District	Perry Grid 614
Austin Lost and Found Pets	Preservation Austin
Austin Neighborhoods Council	SELTexas
Bike Austin	Sierra Club, Austin Regional Group
Friends of Austin Neighborhoods	South Central Coalition
Friends of Zilker	TNR BCP - Travis County Natural
Homeless Neighborhood Association	Resources
Neighborhood Empowerment Foundation	Zilker Neighborhood Association

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-07-0018 Barton Place 1600 Barton Springs Rd	From CS to MF-6	Approved staff's recommendation of MF-6-CO; CO was to limit height to 75 feet.  The height limit for this property was an agreement between the applicant and the neighborhood, staff supported the agreement between the two parties.	Approved MF-6-CO as Commission recommended (2/28/08).
C14-05-0189 1900 Barton Springs Rd	From CS-CO & LO-CO to CS-CO, as amended	Approved staff's recommendation of CS-CO; CO was to limit the max. daily vehicle trips per day to less than 650.	Approved CS-CO; CO was to prohibit a set of land uses, restrict non-residential uses to a max. of 10,000 SF, and to limit the max. daily vehicle trips per day to less than 650 (3/1/07).

Number	Request	Commission	City Council
C14-05-0186 404 Sterzing Street	From CS to CS-CO, as amended	Approved staff's recommendation of CS-CO; CO was to limit the max. daily vehicle trips per day to less than 650.	Approved CS-CO; CO was to prohibit a set of land uses, restrict non-residential uses to a max. of 10,000 SF, and to limit the max. daily vehicle trips per day to less than 650 (3/1/07).

RELATED CASES:

There are no related cases to this rezoning case.

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
Sterzing Street	52'	30'	Level 1	No	N/A	Yes
Toomey Road	52'	30'	Level 1	No	N/A	Yes

OTHER STAFF COMMENTS:Comprehensive Planning

The property is approximately 0.90 acres in size and located at the southeast corner of Toomey Road and Sterzing Street intersection. The current use is a small 40-unit multifamily apartment building. The site is located 0.30 miles from the South Lamar Activity Corridor and is not in area with an adopted neighborhood plan. Surrounding land uses includes Butler Shores Park, sports fields, the Butler Hike and Bike Trail and Downtown Austin to the north; the south are a variety of commercial uses; to the west is a condominium building; and to the east is an apartment complex. The proposal is to remove the existing 40-unit complex and construct up to a 215-unit multistory apartment building.

*Connectivity*

Public sidewalks are located along both sides of S. Lamar Boulevard and Barton Springs Road and partially along Toomey Road. Sterzing Street has an incomplete public sidewalk system. A CapMetro transit stop is located 650 feet from the subject area. Several bus lines run on S. Lamar Boulevard including the 803 Rapid Bus. The Butler Hike and Bike Trail and the Pfluger Pedestrian Bridge are located within a quarter of a mile from this site. The mobility options in this area are above average.

*Imagine Austin*

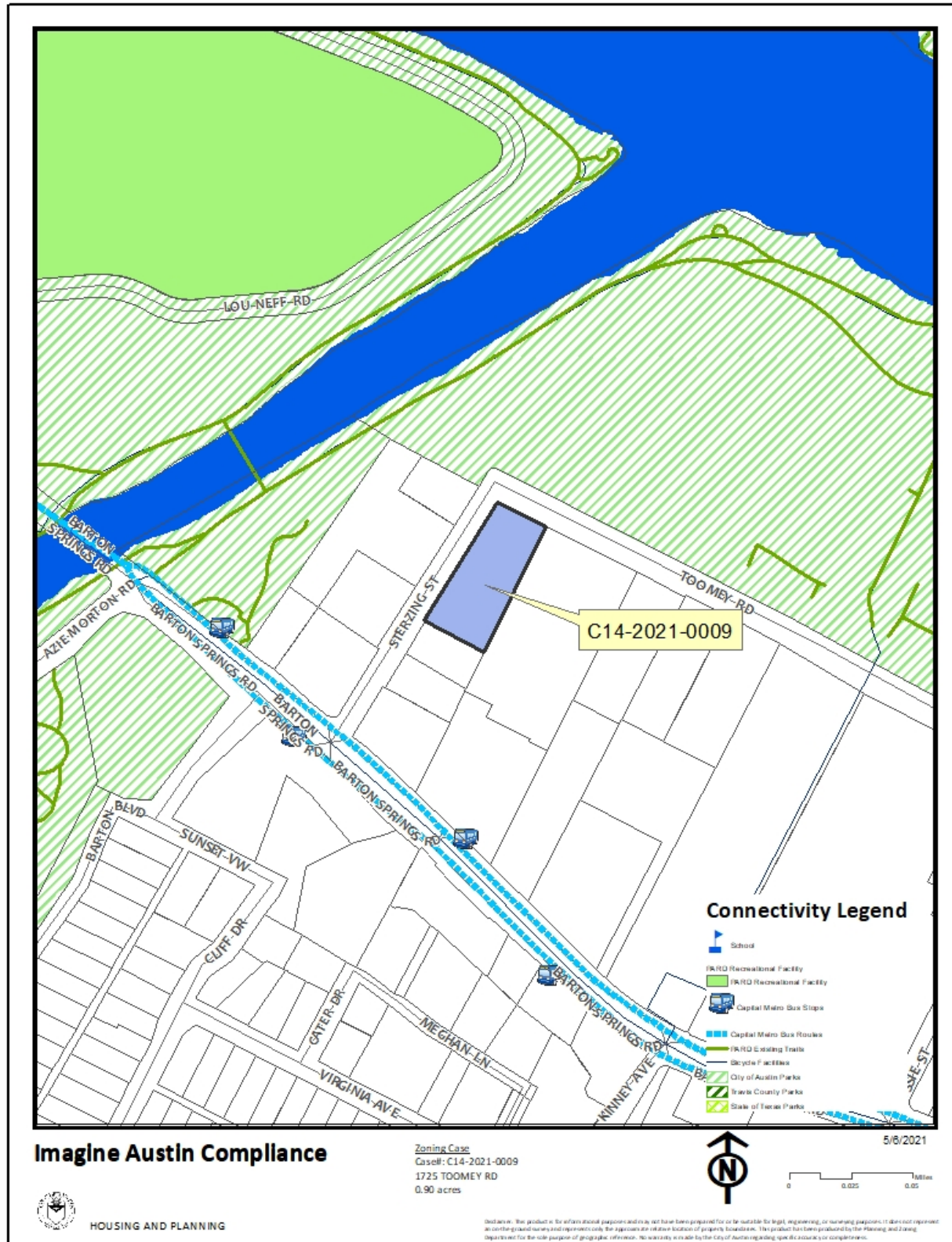
The Imagine Austin Comprehensive Plan identifies this section of S. Lamar Boulevard as an Activity Corridor and is just south of the Downtown Regional Center. It is also located along a designated High Capacity Transit Corridor. Activity Corridors are the connections that link activity centers and other key destinations to one another and allow people to travel throughout the city and region by bicycle, transit, or automobile. These 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 also applicable to this case:

- LUT P3. Promote development in compact centers, communities, or along corridors that are connected by roads and transit that are designed to encourage walking and bicycling, and reduce health care, housing and transportation costs.
- LUT P4. Protect neighborhood character by directing growth to areas of change that includes designated redevelopment areas, corridors and infill sites. Recognize that different neighborhoods have different characteristics and new and infill development should be sensitive to the predominant character of these communities.
- LUT P7. Encourage infill and redevelopment opportunities that place residential, work, and retail land uses in proximity to each other to maximize walking, bicycling, and transit opportunities.

Based upon nearby multifamily uses; the above average connectivity and mobility options in the area, and the site being located near an Activity Corridor, which supports dense, connected and pedestrian oriented development, this proposed project supports the policies of the Imagine Austin Comprehensive Plan.





### Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone but is within the 1,500-foot Edwards Aquifer Recharge Verification Zone. The site is located in the Lady Bird Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
3. According to floodplain maps there is no floodplain within or adjacent to the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. 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. 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 on-site control for the two-year storm.
7. 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.

### Fire Review

The following chart identifies locations within 1,000 feet of the subject parcel with Austin Fire Department (AFD) Aboveground Hazardous Material permits. These locations present minimal risk of an off-site consequence to the parcel being reviewed.

ADDRESS	PROPERTY NAME	HMP PERMIT	PRIMARY HAZMAT
1501 Toomey Rd.	COA Transportation Department	Type C	15 pounds of solid with NFPA 704 health rating of "4."
1902 Barton Springs Rd.	Verizon-Sterzing	Type C	50 gallons of corrosive battery electrolyte in gel suspension
1728 Barton Springs Rd.	Chuy's	Type B	356 lbs. of liquefied compressed carbon dioxide gas; 3,123 Ft. <sup>3</sup> of liquefied petroleum gas
1608 Barton Springs Rd.	Ski Shores Cafe	Type B	3,670 Ft. <sup>3</sup> of liquefied petroleum gas



ADDRESS	PROPERTY NAME	HMP PERMIT	PRIMARY HAZMAT
1600 Barton Springs Rd	Barton Place Condominiums	Type B	400 gallons #2 diesel – emergency power generator

#### PARD Review

PR1: Parkland dedication will be required for the new residential units proposed by this development, multifamily with MF-6 zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

#### Site Plan

- SP1. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.
- SP2. This site is within the Butler Shores Waterfront Overlay and the Waterfront Setback Overlay. Additional development standards and use requirements will apply.

#### Transportation

##### *Transportation Assessment*

Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements, will occur at the time of site plan application. A Traffic Impact Analysis shall be required at the time of site plan if triggered per LDC 25-6-113.

#### Austin Water Utility

- AW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

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.

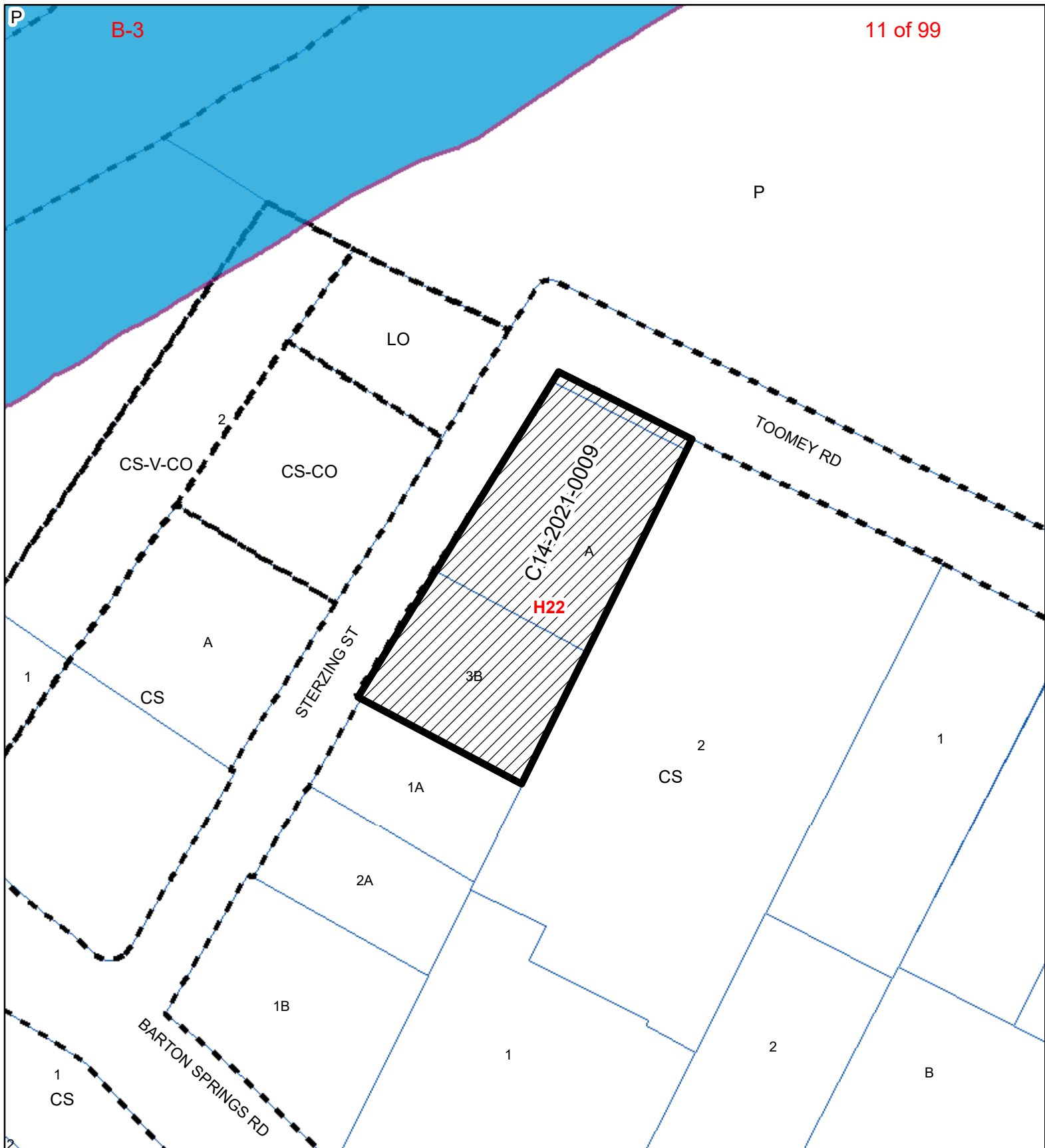
#### INDEX OF EXHIBITS TO FOLLOW

Exhibit A: Zoning Map

Exhibit B: Aerial Map

Exhibit C: Correspondence Received

Exhibit D: EIS from AISD



N



1" = 100'



SUBJECT TRACT



ZONING BOUNDARY



PENDING CASE



CREEK BUFFER

## 1725 Toomey Rd. Rezoning

Exhibit A

ZONING CASE#: C14-2021-0009  
 LOCATION: 1725 Toomey Road  
 SUBJECT AREA: 0.90 ACRES  
 GRID: H22  
 MANAGER: KATE CLARK







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.





1" = 100'

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

## 1725 Toomey Rd. Rezoning

Exhibit B

ZONING CASE#: C14-2021-0009  
LOCATION: 1725 Toomey Road  
SUBJECT AREA: 0.90 ACRES  
GRID: H22  
MANAGER: KATE CLARK



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**Clark, Kate**

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**From:** Ronnie Brooks  
**Sent:** Wednesday, January 6, 2021 2:03 PM  
**To:** Clark, Kate  
**Cc:** KURT SIMONS; Diana Wallace; Ken Wallace; a WORK a WORK xx; ANN VANDERBURG; Christian Brooks  
**Subject:** 1725 Toomey Rezoning Case - Mobile Manor, LLC and 1717, Ltd. as Interested Parties

\*\*\* External Email - Exercise Caution \*\*\*

Ms. Clark,

Please register **Mobile Manor, LLC** and **1717, Ltd.** as interested parties to the Rezoning Case at 1725 Toomey Road, 2020-193072 ZC. Our concerns include traffic, compatibility with the neighborhood, height, parking, and more.

Mobile Manor, LLC is the property owner of record next door at 1717 Toomey Road.

1717, Ltd. is the lessee of the ground lease next door at 1717 Toomey Road.

Respective addresses for notice are:

**Mobile Manor, LLC**  
**1717, Ltd.**  
**Att: Diana Wallace**  
**Att: Kurt Simons**  
**2603 Rollingwood Drive**  
**4201 Bee Cave Road, Ste A-204**  
**Austin, TX 78746**  
**Austin, TX 78746**

Thank you,

Ronnie Brooks  
Partner, 1717, Ltd.

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**Clark, Kate**

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**From:** D. Harry Sewell  
**Sent:** Monday, February 8, 2021 9:40 AM  
**To:** Clark, Kate  
**Cc:** Curtis, Cathy; Bahoosh, Dylan  
**Subject:** Re: 1725 Toomey rd. Rezoning permit: Illegal acquisition of heritage tree removal permit performed by owner  
**Attachments:** IMG\_41045600.MOV

\*\*\* External Email - Exercise Caution \*\*\*

I can discuss later, after y'all investigate. Mark Mann wasn't responsible in my opinion he helped. Tree associates and Greg smith ya? Arborist initial denial correct. Then false info given to him it appears. Thank you.

On Mon, Feb 8, 2021 at 7:42 AM D. Harry Sewell [REDACTED] wrote:

Im sending this to yall. Could you take a look and respond soon please? It's being distributed among others. I called on Friday.

Public is pissed. Been shared all weekend on social media. Stand by for the next attachment also.

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**Clark, Kate**

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**From:** D. Harry Sewell  
**Sent:** Wednesday, February 10, 2021 3:56 AM  
**To:** Clark, Kate  
**Cc:** Curtis, Cathy; Bahoosh, Dylan  
**Subject:** Re: 1725 Toomey rd. Rezoning permit: Illegal acquisition of heritage tree removal permit performed by owner  
**Attachments:** IMG\_168692233.MOV

\*\*\* External Email - Exercise Caution \*\*\*

A response would be great. However, we are all happy to see no movement on both reviews. Tree not closed out and rezoning still in review.

My motive is justice and respect for the process which Greg smith of 1725 Toomey, LLC showed none of. In the age of transparency and information the trust in our institutions will be soon be restored. The process to that looks like this. Please give me a response via email your status on these matters as soon as you can so I can update the tenants here and the rest of the world. If you reply via email I will then speak to you if you'd like.

Again, my intentions are pure.

Thank you.

See video below. Many posts still to come.

On Mon, Feb 8, 2021 at 9:39 AM D. Harry Sewell [REDACTED] wrote:

I can discuss later, after y'all investigate. Mark Mann wasn't responsible in my opinion he then helped me. Tree associates and Greg smith ya? Arborist initial denial correct. Then false info given to him it appears. Thank you.

On Mon, Feb 8, 2021 at 7:42 AM D. Harry Sewell [REDACTED] wrote:

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**Clark, Kate**

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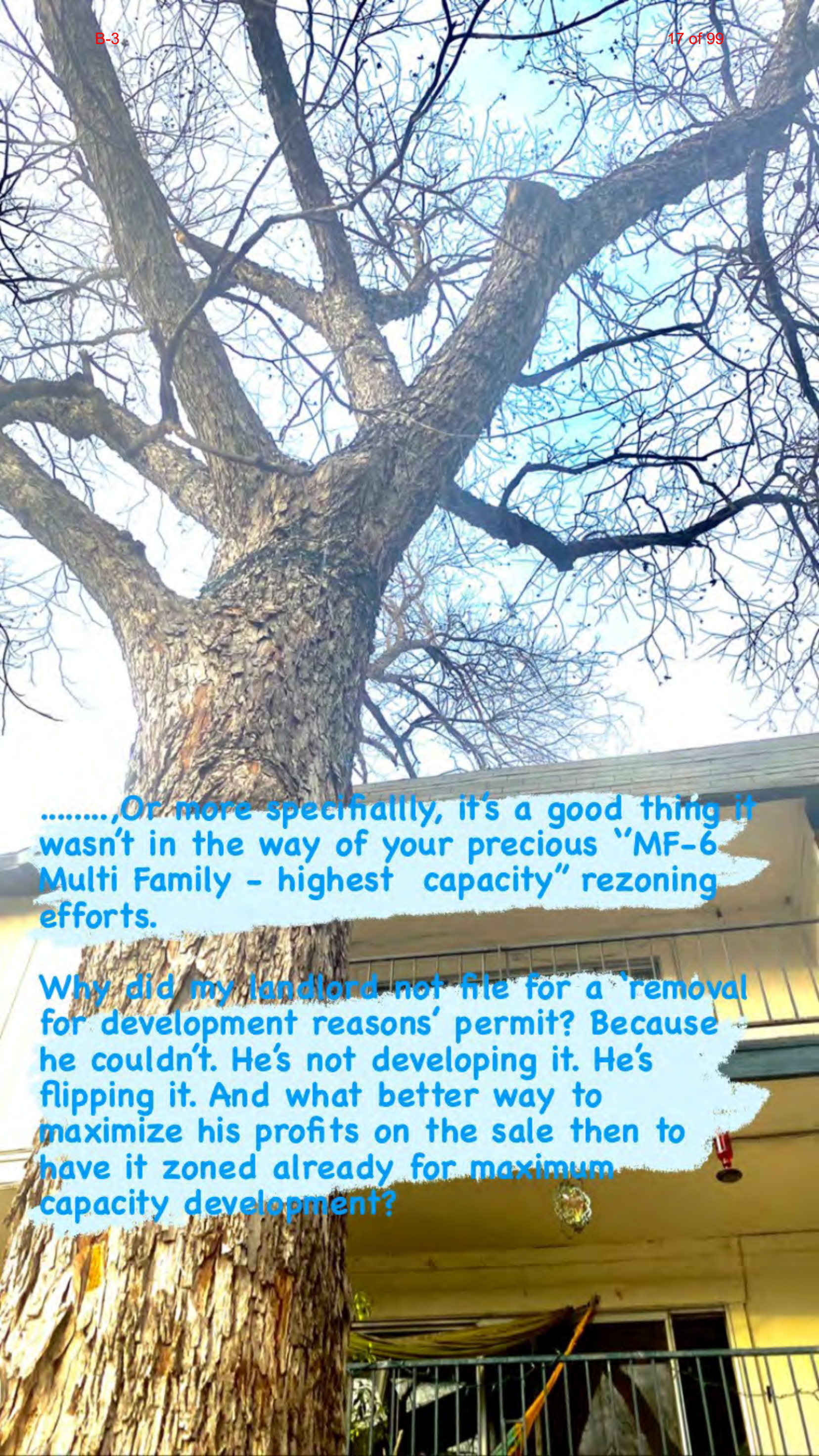
**From:** D. Harry Sewell  
**Sent:** Wednesday, February 10, 2021 5:00 AM  
**To:** Curtis, Cathy; Bahoosh, Dylan; Clark, Kate  
**Subject:** 1725 Toomey : illegal acquisition of heritage tree removal permit  
**Attachments:** image\_72192707.JPG; IMG\_153448542.MOV

\*\*\* External Email - Exercise Caution \*\*\*

P.S. Your retrieval of these emails and the viewing of their attachments cannot be denied. At what degree of seriousness are these matters be taken? If silence is continued, it will begin to speak volumes. Thank you.

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....., Or more specifically, it's a good thing it wasn't in the way of your precious "MF-6 Multi Family - highest capacity" rezoning efforts.

Why did my landlord not file for a 'removal for development reasons' permit? Because he couldn't. He's not developing it. He's flipping it. And what better way to maximize his profits on the sale then to have it zoned already for maximum capacity development?



**Dear Landlord,  
Which of the following is true?**

**A. In order to get the property rezoned the way you wanted, the tree had to be removed.**

**B. When Mark Mann couldn't get approval you took over and made it happen with claims of a dead tree.**

**C. Mark Mann is a good man.**

**D. Everyone knew the tree wasn't dead.**

**E. All of the above.**

**Answer: E. All of the above.**



**Clark, Kate**

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**From:** Catherine Cooke  
**Sent:** Friday, February 26, 2021 2:16 PM  
**To:** Clark, Kate  
**Subject:** 1725 Toomey Concerns

\*\*\* External Email - Exercise Caution \*\*\*

Hi Kate,

Thanks for speaking with me earlier on the phone. I wanted to formally state how deeply opposed I am to the zoning changes allowing yet another huge high rise to be built on Toomey. As I'm sure you know, Toomey is a very small street that already has FOUR huge high rises on the block. There are thousands of people that live in this small small area, already overcrowded with cars that pollute, directly next to Austin's beloved Barton Creek and Zilker Park. Each of these high rises has occupancies- MANY occupancies. We are not in dire need of more housing. And we definitely aren't in need of more expensive housing. In fact, there are even more high rises being built just blocks away that will provide expensive housing for thousands more people. We do not need *more* expensive, overpriced housing.

What exists currently at 1725 Toomey is what makes Austin special yet is becoming exceedingly rare. Our complex is holding onto what has been so great about Austin: we are friends, look out for each other, and invest in the community. We are mixed ages that actually still mingle and have some people who have lived here for decades. Their lives are rooted here, not recent tech transplants. We have beloved elderly teachers who have been forced to recently retire due to COVID concerns, people working in immigrant and refugee resettlement nonprofits, and just genuinely good people who can't afford the crazy rents of the high rises that continue to go up all around us. We cannot forget to take care of our residents who make average wages just for the sake of profit, greed, and the incoming tech transplants. I lived in San Francisco for 6 years and can certainly tell you how that doesn't end well!

Please don't allow the destruction of what keeps Austin so special.

You may use any of my comments, name, and contact info publicly. My phone number is 713-598-1112.

Thank you,

Cat Cooke  
Resident of 1725 Toomey

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**Clark, Kate**

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**From:** Katherine Culotta  
**Sent:** Saturday, February 27, 2021 12:13 AM  
**To:** Clark, Kate  
**Subject:** Concerns about role-zoning of 1725 Toomey Rd

\*\*\* External Email - Exercise Caution \*\*\*

Hello Kate,

My name is Katie Culotta and I've lived at 1725 Toomey Rd for almost 6 years. I heard of a possible re-zoning to demolish our current building and replacing it with a high rise.

I would humbly ask that you reconsider. Toomey Rd has changed a lot since I moved it and it's mostly been new complexes like Coldwater, Zilker on the Park, Barton Place, and Cole. At some point, there will be no original buildings that created such a weird & special city.

There are high rises popping up left and right in 78704 and it's extremely sad to watch our city disappear into a sea of glass and metal. Please let me know if anything can be done to protect the place I've called home for so many years. We have residents that have lived in this building for decades. Not to mention the mature pecan trees that have been ripped out thus far in an effort to make the property more attractive to builders.

I'm happy to chat with you further and thank you for your consideration!

Warmly,  
Katie

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**Clark, Kate**

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**From:** D. Harry Sewell  
**Sent:** Monday, March 1, 2021 2:37 PM  
**To:** Clark, Kate  
**Subject:** Re: C14-2021-0009 (1725 Toomey) Contact Information

Kate,

I would like to stay involved so if you could keep me on the list so I can stay informed that would be great. Two different permits yes, and I've explained already why they relate to one another; which no one has thanked me for yet.

I was merely clarifying your initial statement. I've been a builder in Austin my entire 13 yr career and the point of contact for building permits for the likes of Amazon, eBay, PayPal, The Fairmont and much more . And although my degree is in regional development, rezoning permitting is new to me so apologies and thank you for clarifying.

Dan Sewell

On Mon, Mar 1, 2021 at 2:18 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Mr. Sewell,

My apologies, I incorrectly assumed that because you were concerned with the tree removal at this property, you would be interested in the rezoning case as well. Like you pointed out, they are different issues and if you are not interested in the rezoning I will remove you from my rezoning contact list. The agent I am speaking of is the agent for the rezoning case and is not part of the tree permit or questions you previously had.

Thank you for getting back to me, hope you have nice day.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

Physical Address: [505 Barton Springs Rd, 5th floor, Austin, Texas 78704](#)

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

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**From:** D. Harry Sewell  
**Sent:** Monday, March 1, 2021 2:14 PM  
**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>  
**Subject:** Re: C14-2021-0009 (1725 Toomey) Contact Information

\*\*\* External Email - Exercise Caution \*\*\*

Good afternoon,

I'm sorry I'm not sure what agent you are referring to could you elaborate?

My concerns are with the Tree 'removal for non development reasons' permit. Which Is a completely different than the rezoning for MF-6 -maximum capacity development permit. However I'm sure I'd be happy to discuss the relationship between the two as long as the agent is someone with the city, per say. Thank you Kate. Let me know.

Dan Sewell.

On Mon, Mar 1, 2021 at 1:58 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Afternoon,

The agent has requested the contact information of people that have emailed me with concerns in regards to this rezoning case. If you are okay with me sharing your contact information, please let me know.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

Physical Address: [505 Barton Springs Rd, 5th floor, Austin, Texas 78704](#)

**Tel:** 512-974-1237

Email: [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

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**Clark, Kate**

---

**From:** Rotramel, Naomi  
**Sent:** Thursday, March 11, 2021 9:42 AM  
**To:** D. Harry Sewell  
**Cc:** Clark, Kate; Curtis, Cathy; Bahoosh, Dylan  
**Subject:** RE: 1725 Toomey Rd. (Unanswered Email #4) illegal permit

Hi Dan,

The zoning request will be considered by the Planning Commission and determined by City Council. However, because the rezoning request is within the waterfront overlay, it will first be heard by the Small Area Planning Joint Committee for review. After it is heard there, it will go before Planning Commission and then to Council. Notification for the Planning Commission and City Council will be mailed to property owners, registered interest groups and utility account address within 500' of the rezoning area.

Kind regards,

**Naomi Rotramel**

*City Arborist, Community Tree Preservation Division  
ISA Certified Arborist & Municipal Specialist PN-1937AM  
Tree Risk Assessment Qualified (TRAQ)  
City of Austin Development Services Department  
6310 Wilhelmina Delco Rd., Austin, Texas 78752  
<http://austintexas.gov/page/tree-reviews-and-permitting>*



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**PER CITY ORDINANCE:** All individuals scheduling or accepting a meeting invitation with a City Official are requested to provide responses to the questions at the following link: [DSD Visitor Log](#).

*Please note that all information provided is subject to public disclosure via DSD's open data portal. For more information please visit: [City of Austin Ordinance 2016-0922-005](#) | [City Clerk's website](#) | [City Clerk's FAQ's](#)*

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**From:** D. Harry Sewell  
**Sent:** Tuesday, March 9, 2021 9:47 PM  
**To:** Clark, Kate <Kate.Clark@austintexas.gov>; Curtis, Cathy <Cathy.Curtis@austintexas.gov>; Rotramel, Naomi <Naomi.Rotramel@austintexas.gov>; Bahoosh, Dylan <Dylan.Bahoosh@austintexas.gov>  
**Subject:** Re: 1725 Toomey Rd. (Unanswered Email #4) illegal permit

Naomi,

Who is the appropriate commission you speak of and how are we to be informed of their progress?

Dan Sewell

On Wed, Feb 24, 2021 at 10:18 AM Rotramel, Naomi <[Naomi.Rotramel@austintexas.gov](mailto:Naomi.Rotramel@austintexas.gov)> wrote:

Hello Mr. Sewell,

The tree permit was issued due to a conflict between the existing apartments and the tree in question. The issuance of that permit was before the zoning request and is consistent with what is allowed by the Land Development Code. Staff will provide this information to the appropriate Commission and City Council when they deliberate the zoning request.

Best regards,

**Naomi Rotramel**

*City Arborist, Community Tree Preservation Division*

*ISA Certified Arborist & Municipal Specialist PN-1937AM*

*Tree Risk Assessment Qualified (TRAQ)*

City of Austin Development Services Department

[6310 Wilhelmina Delco Rd., Austin, Texas 78752](https://www.austintexas.gov/6310-Wilhelmina-Delco-Rd.-Austin-Texas-78752)

<http://austintexas.gov/page/tree-reviews-and-permitting>



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**From:** D. Harry Sewell

**Sent:** Tuesday, February 23, 2021 6:56 PM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** [1725 Toomey Rd.](#) (Unanswered Email #4) illegal permit

Kate,

Do you need help with the information? The meeting today told us nothing obviously, however another day passes with nothing actually on the record regarding an illegal permit, or anything at all really. Is this why you won't respond?

I've been very patient but your phone call I purposely ignored 27 minutes after my first email, does not constitute a formal response and/or acknowledgment of receiving my email does it?

The information is no longer solely in your control and will now be presented to you by someone who just did acknowledge receiving it. Im sorry but your silence spoke volumes.

Good job not approving the permit however. Wish I knew why, seemed like a flawless review prior to the tree and my email to you. Please reply to this email as continued written silence will speak even more than it already has. Much more.

Dylan Bahoosh- you made a mistake, that's all it is. Unless you close out the removal permit of course, in which case it becomes something else.

Cathy Curtis- Im being told I made the mistake of not addressing you formally from the start. Can you hear me now?

Dan Sewell

On Fri, Feb 19, 2021 at 2:13 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Day,

Due to inclement weather conditions, I will be out of the office through Friday, February 19, 2021 and will respond to your email when I return next week on Monday, February 22, 2021.

Kate Clark, AICP, LEED AP



Senior Planner

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

Physical Address: [505 Barton Springs Rd, 5th floor, Austin, Texas 78704](#)

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

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**Clark, Kate**

---

**From:** Becky Taylor  
**Sent:** Tuesday, March 16, 2021 9:48 PM  
**To:** Clark, Kate  
**Subject:** 1725 Toomey rezoning case- opposition

\*\*\* External Email - Exercise Caution \*\*\*

Dear Kate:

Please register BartonPlace Condominiums as an interested party to the rezoning case at 1725 Toomey Road, 2020-193072 ZC. Our concerns include traffic, compatibility with the neighborhood, parking, noise, pedestrian/pet safety, and more. Thank you for your time.

Kind regards,  
Rebecca Taylor



"Fellowship is the purpose behind our creation" - Marcus Aurelius

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## LETTER OF OPPOSITION

Re: Letter of Opposition to Rezoning Case C14-2021-0009 for the Property at 1725 Toomey Rd.

Dear City Staff, Commissioners, Mayor, and City Council Members:

The HOA Board of Directors for the Barton Place Condominiums *oppose* the proposed MF-6 zoning of the property since it would allow for a level of density that is inappropriate for the surrounding area. Barton Place Condominiums, comprised of 270 condominiums at an aggregate valuation of at least \$150 Million, is located just over 500 feet from the subject property, and will be directly, materially, and negatively impacted by this change if approved.

Approval would exacerbate traffic issues for our residents and other nearby residents, visitors, and businesses, and public buildings, including the new Dougherty Arts Center, which is planned to be constructed on Toomey Road across the street from the subject property.

The increased traffic would also impact future residents, visitors, and employees at the nearby Taco PUD and Schlotzsky's PUD developments, which per the Austin Transportation Department will generate a combined 5,000 new average daily vehicle trips, and so there will not be roadway capacity remaining after they are constructed. The proposed zoning would also allow for a level of density that will worsen the traffic congestion and vehicle queue issues for people trying to access our City's beloved ZACH Theater, Butler Fields, Umlauf Sculpture Garden, Barton Springs Pool and Greenbelt, and Zilker Park.

For the above reasons, we oppose rezoning the property to MF-6. Our strong preference is that any structure be restricted to no more than 60', which is the maximum height allowed for most properties in the surrounding area, and is taller than existing nearby structures.

Thank you for your consideration.

Sincerely,

Becky Taylor, Chair

Future Development Committee, HOA Board of Directors

The Barton Place Condominiums

**Clark, Kate**

---

**From:** Jay Roth  
**Sent:** Monday, April 26, 2021 10:27 AM  
**To:** Clark, Kate  
**Subject:** 1725 Toomey Rd

\*\*\* External Email - Exercise Caution \*\*\*

I recieved information that the owners of 1725 Toomey Rd (78704) are looking to demolish the building and replace it with a 200 unit tower. I believe they are in the process of requesting a variance. As a longtime resident of the area, I have multiple and very severe concerns about this being allowed to go through.

Jay

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## Zilker Neighborhood Association

### Re: Opposition to 1725 Toomey rezoning in Waterfront Overlay (C14-2021-0009)

May 27, 2021

The Zilker Neighborhood Association strongly opposes the proposed rezoning of the property at 1725 Toomey Road from CS to a zoning category that would allow for a building up to 90 feet in height, since the rezoning would conflict with the environmentally sensitive area, exacerbate existing traffic issues, and create new problems.

Below is a "before and after" photo approximation of how an MF-6 zoned building would appear if it were built to the limits of the entitlements, which would likely happen in order to accommodate 215 units. The view in the photo is looking southeast across Barton Creek from the Butler Hike and Bike Trail at Lou Neff Point. The horizontal white line across the building's face is the current zoning height of 60 feet.



Building in excess of current height limits, which are 60 feet tall, would be out of scale with the surrounding neighborhood and would be incompatible with the purpose of the Waterfront Overlay, since it would not promote the harmonious interaction and transition between urban development and the park land and shoreline of Lady Bird Lake (as is required by the City Code). It would block sunlight and views, impair access, and accelerate efforts to create a canyon-like effect of tall buildings in close proximity to—and especially on the east shoreline of--Barton Creek. A building greater than 60 feet in height would also be especially inappropriate for this particular property because:

1. The property is not just on the edge of the Waterfront Overlay. Rather, the overlay extends south of the property across Barton Springs Road.
2. There is an Overlay Setback running through the front of the property.
3. The property is only approximately 325' from Barton Creek.

4. Increased zoning entitlements at the intersection of Toomey Road and Sterzing Road would exacerbate congestion on Barton Springs Road very near the intersection of Azie Morton Road, and also exacerbate congestion at Toomey Road and South Lamar, which is very near the entrances of the proposed Dougherty Arts Center parking garage and the area-wide parking garage of the Schlotsky's PUD project at 218 S Lamar.

A building taller than 60 feet is also incompatible with the proposed new Dougherty Arts Center, which is planned to be constructed on the other side of Toomey Road. The center will serve as a valuable cultural resource, and it should be protected against the type of construction that would be allowed under the proposed 90 feet zoning. Toomey and Sterzing are very small streets that provide the only access to Butler Shores Park. Toomey is, in essence, a "park road," providing essential park access while providing safe pedestrian and bike travel, away from Barton Springs Road and Lamar. Toomey traffic and parking is already problematic. The city should not be making land use decisions that increase auto traffic on Toomey and Sterzing.

Sincerely,

David Piper

Secretary, Zilker Neighborhood Association

**Clark, Kate**

---

**From:** D. Harry Sewell  
**Sent:** Friday, May 28, 2021 12:52 PM  
**To:** Clark, Kate  
**Subject:** Re: C14-2021-0009 (1725 Toomey)

Kate,

Thank you for your response! Apologies, I should clarify. I just have some questions about the overall requirements, restrictions and allowances set forth and required by the City Code/doctrines when obtaining an MF-6 overlay within this neighborhood. I would like someone from the city to solidly my claim that MF-6 would not have met the city requirements (specifically the future developments needed coverage on a <1 acre plot) because let's say hypothetically there was a giant heritage tree in the way. It would be great to get such a response without the need for a court order similar to that of the one going to the Arborist Department.

1725 Toomey Rd., was briefly just put back on the market for \$20 million more than when it was sold for just 11 months ago. Only difference in the two listings was they said they had MF-6. Oh, and no tree in the listings picture.

I understand you are lead on this case but who could I speak to about the overall technicalities in zoning at the city, let's say if I wanted to buy a piece of property or for any reason really?

Maybe you have forgotten the claims I made directly to you back in February but sending me to the person representing the one who orchestrated such a crime (Treegate) isn't exactly having my interest at heart, no?  
I now feel the need to remind you of the confidentiality of a private citizen making such claims to a government employee.

I speak to owner reps like Amanda Swor all the time and I know why her and staff are proposing MF-6. And I know the one thing that was stopping them from getting it. I need the planning and zoning department to answer one technical, hypothetical question on coverage, and I can do the rest.  
Can you recommend someone and provide their contact information please, if it's not you?

My city's arborist department couldn't correctly answer one question I had, when I could finally get them to even slightly acknowledge it. Let's do our best to be better than them.

Thank you.

D. Harry Sewell aka Pecan Dan  
"We have it all"

On Fri, May 28, 2021 at 11:14 AM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Morning Dan,

Currently staff is recommending MF-6. If you would like to propose some conditions within a conditional overlay, you would need to speak to the applicant's agent to see if they are amenable to them. The agent for this case Amanda Swor and her contact information is below:

**Amanda W Swor, Director of Entitlements & Policy**

Drenner Group, PC | [200 Lee Barton Drive | Suite 100 | Austin, TX 78704](#)

512-807-2904 direct | 512-496-8573 cell | [aswor@drennergrouppc.com](mailto:aswor@drennergrouppc.com) | [www.drennergrouppc.com](http://www.drennergrouppc.com)

Please let me know if you have any questions.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D. Harry Sewell

**Sent:** Friday, May 28, 2021 10:15 AM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** Re: C14-2021-0009 (1725 Toomey)

\*\*\* External Email - Exercise Caution \*\*\*

Good morning Kate,

Thank you for update! Who can I speak to about some of the technical aspects that go into receiving an MF-6 overlay?

Thank you,

Dan Sewell



On Fri, May 28, 2021 at 8:39 AM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Morning,

This case is being heard by the Small Area Planning Joint Committee on Wednesday, June 2, 2021 at 10:00 AM. This is not a public hearing and it will not be televised. However, if you would like to participate by calling in to listen to the meeting, please send your name and phone number to Jeff Engstrom ([Jeffrey.Engstrom@austintexas.gov](mailto:Jeffrey.Engstrom@austintexas.gov)) and Mark Walters ([Mark.Walters@austintexas.gov](mailto:Mark.Walters@austintexas.gov)) no later than 1:00 PM, June 1<sup>st</sup>.

This case is planned to be scheduled for the Planning Commission on July 13<sup>th</sup> and for City Council on July 29<sup>th</sup>. These will both be public hearings that you will be able to participate in. You have not received a notice for these dates because they have not been scheduled. If you are within 500 feet of the rezoning case, you will receive a notice for the public hearings in the mail.

Please let me know if you have any questions.

Kate Clark, AICP, LEED AP

*Senior Planner*

City of Austin | Housing and Planning Department

Mailing Address: P.O.Box 1088, Austin, Texas 78767

Tel: 512-974-1237

Email: [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

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**Clark, Kate**

---

**From:** Curtis, Cathy  
**Sent:** Monday, June 7, 2021 11:09 AM  
**To:** D. Harry Sewell; Clark, Kate  
**Subject:** RE: FW: Dan Sewell - Observer: Permit/Case: 2021-193072 ZC

Good morning Mr. Sewell,

I apologize if I wasn't clear in my last response, but I do not perform a legal review of zoning applications. I simply receive notification when zoning cases are filed, so I am aware they are in process. After a zoning case has been approved by either the planning commission or zoning and platting commission, I draft the ordinances based on the commission's recommendation to council.

I understand from your previous correspondence you have the names of the appropriate people to address your concerns of the tree removal.

Thank you.

Cathy

---

**From:** D. Harry Sewell  
**Sent:** Wednesday, June 2, 2021 9:23 AM  
**To:** Clark, Kate <Kate.Clark@austintexas.gov>; Curtis, Cathy <Cathy.Curtis@austintexas.gov>  
**Subject:** Re: FW: Dan Sewell - Observer: Permit/Case: 2021-193072 ZC

Good Morning Ladies,

Thank you for your response. Am I getting this straight, that you, Cathy, perform a legal review after the rezoning permit is approved?

I've never seen this before where a permit has a designated legal review, substantial completion date of Jan. 29, 2021 but the reviewer doesn't review it until after it is approved??? According to the website it was due Jan 29th.

Kate - maybe you can chime in here and point me in the right direction. As stated, applicant for this case got a heritage tree that was part of the shady grove here on Barton, yanked out of the ground and the rules (aka the law) was broken in doing such. Tree yank was directly related to achieving MF-6, and if it wasn't, for whatever reason y'all come up with, it doesn't change the fact he broke the law to get a tree removed. I've given the arborist department ample time to simply say a mistake was made but they can't even do that.

I am well versed in the methods at hand and I don't know how easier I can make this for y'all. Here is the initial denial of the tree permit to which The Arborist Department will never be able to run from and can't explain their way out of. Please let me know what you think and if you plan to do anything about it. If I need to, I will but I'd prefer you do your job or point me to a person that reviews the legality of rezoning permit/cases before they are approved.

I mean this is absurd, when we file for building permits, the legality, specifications, design, energy requirements etc. are all approved prior to permit approval. We don't build it then apply for a building permit and then make sure it's legal.

Alright here is the initial denial followed by the only sentence I could get out of the arborist department in an email. Treegate has been spreading like 'wildfire' in over 10 countries but especially now at UT. Let's not make it any bigger than it needs to be but if I need to, I can easily make that happen. Do the right thing and let me know. Please.

Thank you.





B-3

Your Story 4h

38 of 99



Rage Against The Machine · Killing In the Name E &gt;



Project address: Killing In the Name  
 Applicant: Rage Against The Machine  
 Folder: 2020-127211 TP

Tree Ordinance Review - Dylan Bahoosh dylan.bahoosh@austintexas.gov

**Instructions:** You have received this document because your non-development Tree Ordinance Review Application has been denied. Please email your reviewer if you have any questions, concerns, or require additional information about these comments.

#### Comment:

- Damage to gutter does not constitute Imminent Hazard status. Recommend that options be explored to re-route gutter and/or notch eave. If this is impossible, provide details as to why to City Arborist.
- "Likely significant internal decay" is cited in report. Please provide all evidence to support this claim. Old wounds appear to have healed well and do not suggest that tree is compromised.
- Tree and building appear to have remained largely unchanged for 13 years at minimum per historic imagery. Has anything changed with tree or site to create heightened recent concern of "imminent hazard"?

**@AUSTINTEXASGOV** CAN'T RUN  
 FROM THIS INITIAL DENIAL  
 OF PERMIT.....EVER.

**@PROJECT\_VERITAS**

**@SIDNEYKPOWELL**

**@KXAN\_NEWS**

**@EPOCH.TIMES.ROMAN**

**@DC\_DRAIN0**

**@DANSCAVINO**

**@CITYOFAUSTINTEXAS**

**@STATESMAN**

**@AUSTINCITYPARKS**





Your Story 12m

Pantera - Walk



CAN'T ISSUE THE PERMIT  
BECAUSE OF A "CONFLICT".  
SORRY.

On Wed, Jun 24, 2021 at 10:00 AM Naomi Rotramel, Naomi  
<[Naomi.Rotramel@austintexas.gov](mailto:Naomi.Rotramel@austintexas.gov)> wrote:

@DANSCAVINO

@EPOCH.TIMES.ROMAN

@DC\_DRAIN0

Hello Mr. Sewell,

The tree permit was issued due to a conflict between the existing apartments and the tree in question. The issuance of that permit was before the zoning request and is consistent with what is allowed in the Land Development Code. Staff will provide this information to the appropriate Commission and City Council when they deliberate the zoning request.

@STATESMAN

@KVUENNEWS

Best regards,

@AUSTINTEXASGOV  
@CITYOFAUSTINTEXAS

Naomi Rotramel

City Arborist, Community Tree Preservation Division

ISA Certified Arborist & Municipal Specialist PN-1937AM

Tree Risk Assessment Qualified (TRAQ)

City of Austin Development Services Department

[6310 Wilhelmina Delco Rd., Austin, Texas 78752](http://6310.Wilhelmina.Delco.Rd.,Austin,Texas.78752)

<http://austintexas.gov/page/tree-reviews-and-permitting>



Facebook



Highlight



More

**Clark, Kate**

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**From:** Carey Rouse  
**Sent:** Wednesday, June 16, 2021 1:24 PM  
**To:** Clark, Kate  
**Subject:** C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

1725 toomey

I am the President of the HOA board for a condo complex within 500 ft of the existing property. I fully support the request for rezoning because the current building is a complete eyesore. As a president of the HOA it is important for me that our property values continue to rise and that will be the case if we can get a newer taller building to replace the one that's there now.

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**ARNOLD AND ASSOCIATES****ATTORNEYS AT LAW**

A PROFESSIONAL CORPORATION  
406 STERZING STREET, SUITE 300  
AUSTIN, TEXAS 78704-1027

PATRICE ARNOLD

email: [REDACTED]

(512) 472-8000  
Fax: (512) 474-7121

July 6, 2021

Planning Commission  
City of Austin

Re: 1725 Toomey Road, Application for Rezoning to MF-6  
Case Number C14-2021-0009

Dear Commissioners,

I own the 3-story office building at 406 Sterzing Street, located directly across the street from the subject property (the below photo of our building was taken from the curb along 1725 Toomey). Our family has owned and occupied 406 Sterzing for over 30 years.

I oppose the proposed zoning change that would increase the allowable building height to ten stories. In my opinion, a building this tall would be incompatible with the surroundings.

The allowed height should be no greater than that of the existing structures on Toomey Road and Sterzing Street. Such a height will allow the owner of 1725 Toomey reasonable use of the land, without overburdening or adversely affecting neighboring properties or creating an undesirable precedent.

Toomey and Sterzing are narrow interior streets, virtually abutting a public park. They can barely accommodate existing traffic, and are unsuitable to the extra vehicle load that such a dense development would create. I would not object to a building of this height on a wider street such as South Lamar Boulevard, but it is inappropriate for streets with the modest width of Toomey and Sterzing.

Sincerely,



---

PATRICE ARNOLD

**Clark, Kate**

---

**From:** James Kracht  
**Sent:** Friday, July 9, 2021 9:00 AM  
**To:** Clark, Kate  
**Subject:** Comments On Case #C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

Hello Kate,

I'm a resident at 1725 Toomey Road. As you know it is currently up to be rezoned to an MF-6 lot. I would like to submit my objection to this measure.

A few comments I'd like to leave on my objection:

Disregarding the history of this building that has stood since the 1960's; this apartment complex is one of the only affordable buildings along Barton Springs road. The price points of whatever planned development will happen after rezoning certainly haven't been released yet; but it will be safe to assume someone making the median income of this city won't be able to afford it. This is my most unemotional objection to the measure. That destroying the economic diversity of this neighborhood is not just morally wrong but statistically not great for the neighborhood as a social ecosystem.

I'm not inherently against changing the capacity of inhabitants on this lot. Austin faces a housing shortage, especially after the pandemic. But it's an **affordable** housing shortage. Building more tall "radiant garden cities" as Jane Jacobs would call them- facing inward and barring the street entry- will only serve to ruin this neighborhood. Zilker and Barton Springs belong to Austin and it's people. Not just it's rich people, and certainly not just tourists. An economically diverse neighborhood is a safer neighborhood afterall.

I would like to put forward that if the city decides to change the zoning of this lot, that it also passes with it a stipulation. That whatever development be spawned here (once we destroy a beautiful testament to what this neighborhood looked like in Austin's "Good ol' days") be forced into a contract demanding a large percentage of it's units be affordable housing. Or perhaps even a cap on the rent allowed to be charged if I were to lean further left.

Please don't let Zilker- and for that matter central south Austin- be walled off to the vast majority of people who live in this city. And please don't let Barton Springs road become like South Congress, a desert of a tourist trap.

Thanks for your time and consideration,  
James

**James T. Kracht**  
Video Editor  
512.786.3069 | Mobile  
[Jameskracht.com](http://Jameskracht.com)

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Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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: C14-2021-0009**

**Contact: Kate Clark, 512-974-1237**

**Public Hearing: July 13, 2021, Planning Commission**

Sarah H. Parks

Your Name (please print)

1717 Toomey, # 511, Austin 78704

Your address(es) affected by this application (optional)

Sarah H. Parks

Signature

☐ I am in favor  
☒ I object

7/11/21  
Date

Daytime Telephone (Optional): 713-501-5230

Comments: \_\_\_\_\_  
\_\_\_\_\_  
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If you use this form to comment, it may be returned to:  
City of Austin, Housing & Planning Department  
**Kate Clark**  
P. O. Box 1088, Austin, TX 78767

Or email to:  
**Kate.Clark@austintexas.gov**



**Clark, Kate**

---

**From:** J Petru  
**Sent:** Monday, July 12, 2021 6:59 AM  
**To:** Clark, Kate  
**Subject:** 1725 Toomey Road, Case Number: C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

Hi Kate. I'm not sure exactly whom to send my input to, but I received your contact information in the mail. May I ask that you share this email with the rest of the Planning Commission? (I'm sure they have lots of input from the community already).

My name is Jeff Petru. I'm a current property resident at Zilkr on the Park (next the 1725 Toomey Rd). I hope the Commission fully rejects the proposed changes requested by the developers of 1725 Toomey. Obviously the rules are in place to maintain the integrity of the neighborhood. The slippery slope of moving from a mid-rise community to a high-rise (high-density) community comes in small changes/exceptions to the rules. The vibrant, openness of the Zilkr neighborhood is under threat. Please ensure the existing rules are respected. We can keep the Zilkr neighborhood spirit intact with the Commission's support.

Thank you in advance of tomorrow meeting.

-Jeff

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Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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: C14-2021-0009**

**Contact: Kate Clark, 512-974-1237**

**Public Hearing: July 13, 2021, Planning Commission**

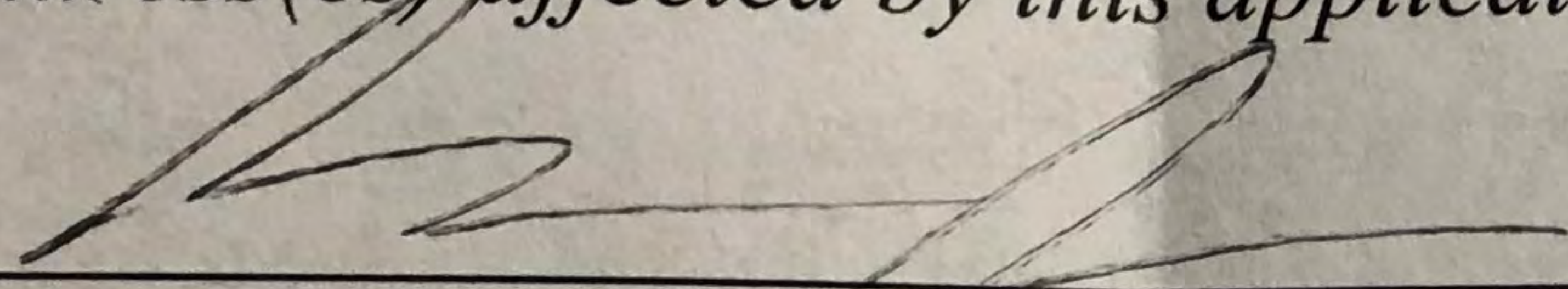
ROBERT PALM

Your Name (please print)

☐ I am in favor  
☒ I object

1717 Toomey # 533

Your address(es) affected by this application (optional)



Signature

7/12/2021

Date

Daytime Telephone (Optional): 512 921 4943

Comments: THE APPLICANT IS ASKING FOR

A ZONING DENSITY APPROPRIATE FOR

DOWNTOWN, BUT THIS AREA IS A

NEIGHBORHOOD - WITH BASEBALL FIELDS

ACROSS THE STREET AND JUST A

SHORT WALK TO ZILKER PARK. THE

HEIGHT WOULD BE DISRUPTIVE TO THE

CITY SKYLINE, THE TRAFFIC ON A SMALL

ROAD WOULD BE TOO MUCH. THIS IS A TERRIBLE

IDEA.

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

City of Austin, Housing & Planning Department

Kate Clark

P. O. Box 1088, Austin, TX 78767

Or email to:

Kate.Clark@austintexas.gov



**Clark, Kate**

---

**From:** Andie Haddad  
**Sent:** Monday, July 12, 2021 2:42 PM  
**To:** Clark, Kate  
**Subject:** Rezoning Request of 1725 Toomey Road

\*\*\* External Email - Exercise Caution \*\*\*

Hello,

I was notified of a request for rezoning of 1725 Toomey Road.

I am against the re-zoning of this property.

It is my understanding that this re-zoning will lead to new construction. Among other concerns, this brings noise pollution to a tranquil area.

Toomey is a narrow street that already houses multiple high rise buildings. An additional high rise building would overwhelm our small street with additional traffic and add further pollution to the nearby parks and trails.

This area is not in need of overprice generic corporate housing. We need to keep the historic apartments that currently reside on this land as they are.

This rezoning reeks of greed and is the antithesis of what I know Austin to be. The apartments on the land in question should be left alone. They provide an option to regular families who want to lease in this area; families who make Austin a wonderful community. New construction will only price median income families out of this area. There are plenty of apartments and condos in this area for the overpaid and overinflated tech transplants, the Barton Springs apartments add character and flexibility. We cannot bend to those that would seek to tear down our history.

The street of Toomey is also much narrower than other streets that would be better suited to large high-rise apartments. The larger building would be a blight on this street and would overcrowd the narrow street with too much traffic.

I am against this re-zoning.

My comments are available to be published as it relates to this issue.

Thank you,  
Andie

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**Clark, Kate**

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**From:** Amanda Autry  
**Sent:** Monday, July 12, 2021 3:12 PM  
**To:** Clark, Kate  
**Subject:** C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

Hi Kate,

This is the contact email that I was given about 1725 Toomey rd.

We just purchased a condo in this community this year. The reason that we purchased THIS home was because of the morning sun and our city view. Building a higher building would eliminate both for me causing actual damage to the value of our home but most importantly the quality of my life.

I sit on my porch every morning and watch the sun rise and in the evenings we sit out and look at our city view. An exemption to build a larger building would negatively impact our investment. This is my favorite thing about our home.

We aren't retired folks with an indispensable amount of money to just up and move to a new place. We methodically chose this place, spent our life savings on a down payment and I am inclined to do what I need to do to protect that.

If you have any questions for me please let me know.

Thanks.

--

**Amanda Autry**  
*Empowerment Experience Facilitator*  
Retreats | Meditation | Coaching  
P. 410-841-9370

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**Clark, Kate**

---

**From:** dfdubois  
**Sent:** Monday, July 12, 2021 4:08 PM  
**To:** Clark, Kate  
**Subject:** 1725 Toomey Road Exemption

\*\*\* External Email - Exercise Caution \*\*\*

Hello Kate,

My understanding is that the developers at 1725 Toomey are seeking an exemption for a larger, high density development. Sending this note to voice my objection to this. The rules related to this were put in place to help maintain the spirit of the neighborhood. The shift to a high density neighborhood would not be beneficial to the neighborhood or to Austin as a whole.

Thanks,  
Doug DuBois  
1900 Barton Springs Road  
Austin, TX 78704

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**Clark, Kate**

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**From:** casey jones  
**Sent:** Monday, July 12, 2021 12:01 PM  
**To:** Clark, Kate  
**Subject:** Case Number C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

Hi Kate

My name is Casey Jones, I live in the 1900 Barton Springs road building and was wondering if you had some time to talk through the proposed building at 1725 Toomey?

I had some questions about this process, reasons to vote no or yes on a site like this. It stands to eliminate some/all of the city view I have so I'm wondering how to go about voicing that concern and learning what type of impact one view actually would have.

Let me know your thoughts and if you've got some time to chat.

Thanks,  
Casey  
--

Casey Jones  
443.839.6507  
[REDACTED]

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**Clark, Kate**

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**From:** Dale Fuller  
**Sent:** Monday, July 12, 2021 5:48 PM  
**To:** Clark, Kate  
**Subject:** Case C14-2021-0009 related to 1725 Toomey Road

\*\*\* External Email - Exercise Caution \*\*\*

Dear Ms. Clark,

I am an owner of unit #3045 located at 1900 Barton Springs Road, Austin, Texas. The building is known as Zilkr on The Park. My unit faces the building located at 1725 Toomey Road. It is my understanding a potential developer of 1725 Toomey Road is requesting a zoning variance to exceed the current five floor zoning code.

I am opposed to this variance request as the code was developed for a reason, which should not be disregarded at this point. The Zilkr neighborhood is just that, a neighborhood- not a concrete jungle as you have in downtown Austin. Additional building height would block views, and subsequent additional residential units would increase traffic in an already congested area. Parking on Sterzing Road and Toomey road is already at capacity, and this variance would increase the number of vehicles looking for parking.

Respectfully,

Dale W. Fuller

--

Dale W. Fuller  
3845-5 Lander Road  
Chagrin Falls, Ohio 44022-1361  
216.789.9821

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**Clark, Kate**

---

**From:** Laura  
**Sent:** Monday, July 12, 2021 7:34 PM  
**To:** Clark, Kate  
**Subject:** High rise on toomey

\*\*\* External Email - Exercise Caution \*\*\*

The reason for hi rise is to bring more people in meeting more congestion. The area is congested enough the beauty will be destroyed if you allow this.

Sent from my iPhone

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**Clark, Kate**

---

**From:** Julie Johnson  
**Sent:** Monday, July 12, 2021 6:26 PM  
**To:** Clark, Kate  
**Subject:** C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

Hello Ms. Clark,

I am writing about the proposed high density complex at 1725 Toomey Rd. My husband and I own a condo at 1900 Barton Springs Rd. directly across Sterzing from the proposed complex. This area is already extremely hard to navigate with all the scooters, bikes, pedestrians, and cars. Adding a large increase of vehicles to that area will make it excessively dangerous. Also, the height restrictions on the buildings are in effect to keep with the feel of the neighborhood. The Planning and Zoning Commission has already allowed a complex to be in excess of the height restrictions on South Lamar. We believe this is the reason we are being bombarded with zoning request changes. Once the floodgates are opened there is no stopping the flow.

We are against this proposal. Thank you for your consideration.

Sincerely,  
Julie and Bill Johnson  
1900 Barton Springs Rd. #4030  
Austin, TX 78704  
512-589-6682

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## 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 participate in a public hearing, you are not required to participate. This meeting will be conducted online and you have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for information on how to participate in the public hearings online. 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).

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Case Number: C14-2021-0009

Contact: Kate Clark, 512-974-1237

Public Hearing: July 13, 2021, Planning Commission

SAMUEL S. HOUSTON JR.  
Your Name (please print)

1900 BARTON SPRINGS, RD  
Your address(es) affected by this application (optional)

SS Houston

Signature

7/12/20  
Date

Daytime Telephone (Optional): 512-658-1785

Comments: My wife and I object to the rezoning of this property to allow high density housing. The area is properly zoned at this time consistent with what we think is in order for our neighborhood. Please don't screw up our neighborhood with high density zoning. The city has messed it up enough already.

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

City of Austin, Housing & Planning Department

Kate Clark

P. O. Box 1088, Austin, TX 78767

Or email to:

Kate.Clark@austintexas.gov

☐ I am in favor  
☒ I object

City of Austin

JUL 15 2021

NHCD / AHFC

**Clark, Kate**

---

**From:** Suzanne DuBois  
**Sent:** Tuesday, July 13, 2021 9:55 AM  
**To:** Clark, Kate  
**Subject:** Regarding 1725 Toomey Development Request

\*\*\* External Email - Exercise Caution \*\*\*

Hello Kate,

It has come to my attention that the developers at 1725 Toomey are seeking an exemption for a large, high density development. I am sending this note to voice my objection. The rules related to housing in our neighborhood were put in place to help maintain a certain "spirit" for the neighborhood. A high density development would not be beneficial to the neighborhood or to Austin as a whole.

Sincerely,  
Suzanne DuBois  
[1900 Barton Springs Road](#)  
[Austin, TX 78704](#)

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**Case Number: C14-2021-0009**

**Contact: Kate Clark, 512-974-1237**

**Public Hearing: July 13, 2021, Planning Commission**

Lauren Goldstein

Your Name (please print)

Austin,

1717 Toomey Rd [REDACTED] TX 78704

Your address(es) affected by this application (optional)

[Signature]

Signature

7/13/21

Date

Daytime Telephone (Optional): 512-840-1761

Comments:

I would not only  
run the neighborhood  
but it also goes against the  
buildings that are already  
here who were not allowed  
to "skirt" the law to their  
benefit. NO!

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

City of Austin, Housing & Planning Department

**Kate Clark**

P. O. Box 1088, Austin, TX 78767

Or email to:

**Kate.Clark@austintexas.gov**

☐ I am in favor  
☒ I object

**Clark, Kate**

---

**From:** Neil Syme  
**Sent:** Tuesday, July 13, 2021 8:45 PM  
**To:** Clark, Kate  
**Subject:** Rezoning Toomey street

\*\*\* External Email - Exercise Caution \*\*\*

Hello

We're worried about the new rezoning that is being proposed 1725 toomey street. The heart and soul of this community is about the local and family feel to the area and I believe a very high rise and high occupancy building would seriously dilute this. Barton springs area is an Austin unique gem so anything that gets in the way of this should be resisted within reason.

Appreciate if this and others that I've spoken to that share this view is considered as part of the decision.

Thanks

Neil.

Sent from my iPhone

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**Clark, Kate**

---

**From:** MARY ROWLAND  
**Sent:** Thursday, July 15, 2021 6:05 PM  
**To:** Clark, Kate  
**Subject:** C14-2021-0009

\*\*\* External Email - Exercise Caution \*\*\*

Hello! Ms. Clark, This is not a high rise neighborhood and I live at Zilk on the Park and along with my neighbors we love the view of the Austin city skyline from our homes. When we purchased a place to call home we didn't expect to have a high rise in front of us! Please inform.

Thank you,  
Mary Rowland

Sent from my iPhone

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**Clark, Kate**

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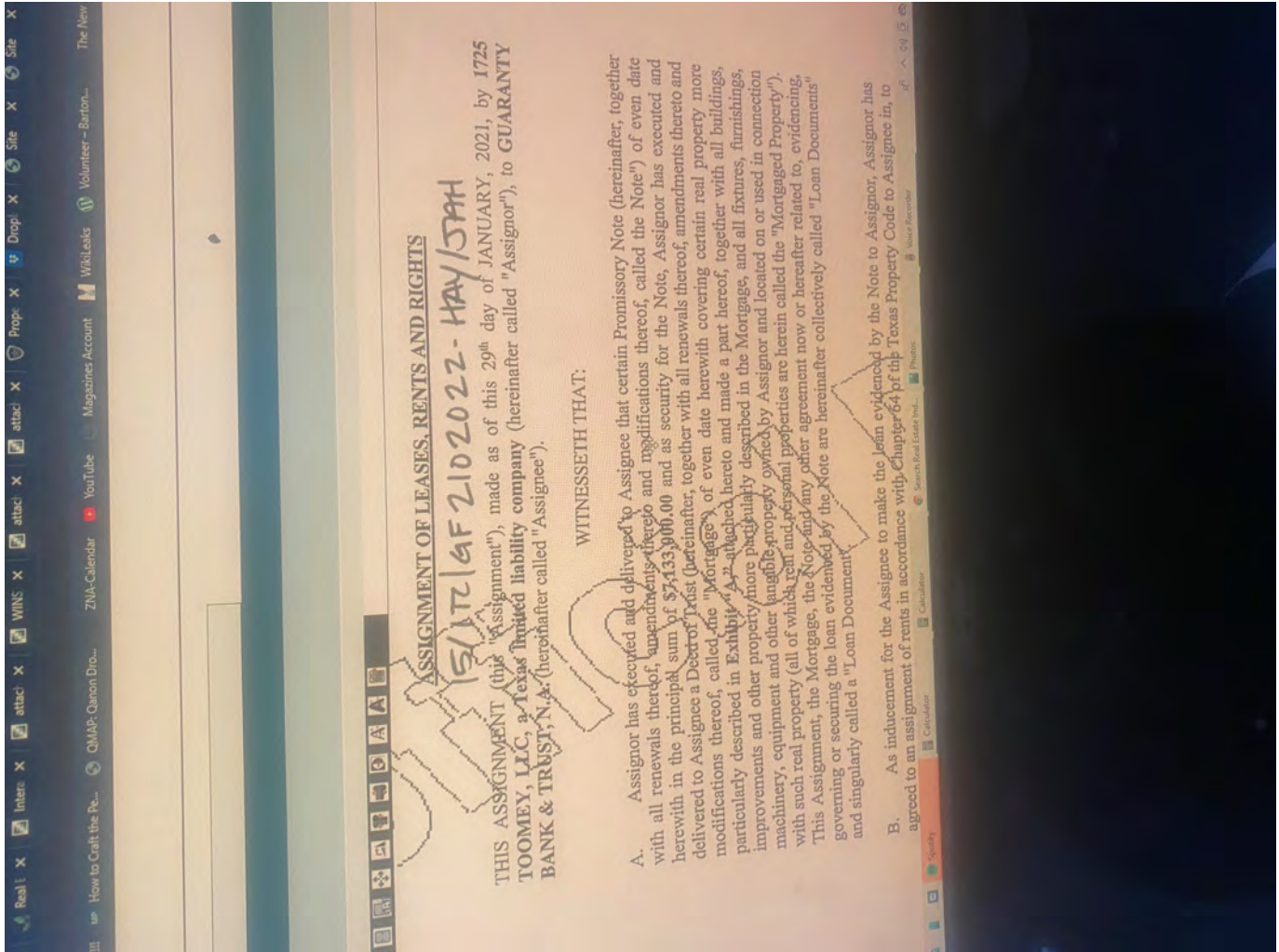
**From:** D Harry Sewell  
**Sent:** Tuesday, June 15, 2021 9:40 AM  
**To:** Clark, Kate  
**Subject:** Re: 1725 Toomey Rd. - Treegate

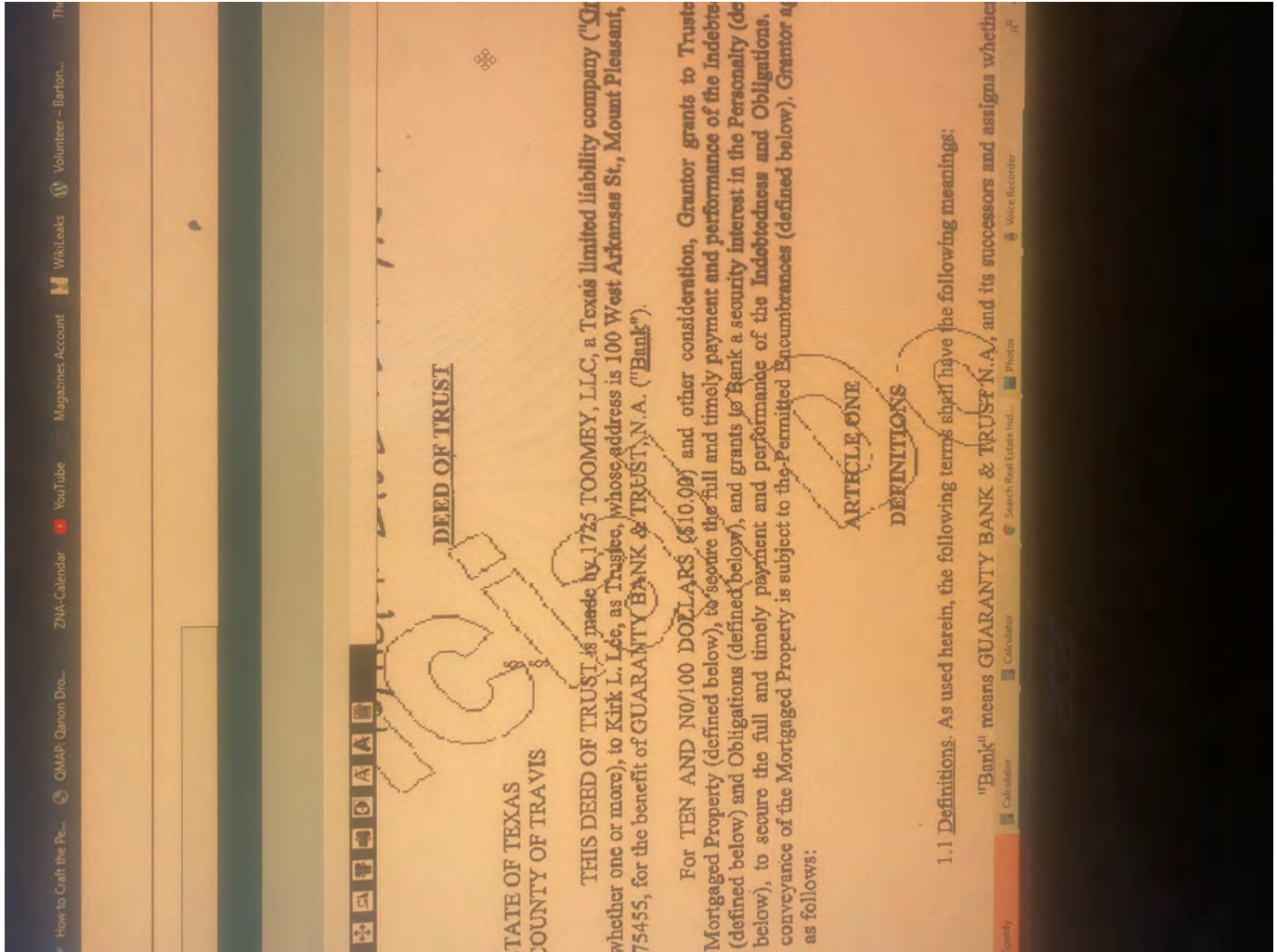
Good morning Kate,!!

Thank you again for your help and your patience with me. It speaks volumes!!! I saw the letter for Amanda to be an authorization agent, yes. But I havnt seen Greg Smith on the property in a while and so thought I'd check the deed and it appears the deed was transferred to a Kirk E. Lee, on the day the tree was cut oddly enough. Maybe I'm reading this wrong but see below:

But I hope you enjoy your vacation!! I promise to leave you alone lol. I'm sure everything will work out the way it's supposed to. Talk soon.

Have fun and be safe,  
Dan Sewell







On Tue, Jun 15, 2021 at 8:30 AM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Morning Dan,

The current owner or authorized agent must apply for the zoning change. For this zoning application the owner is listed as 1725 Toomey LLC. Greg Smith signed an agent authorization letter authorizing Amanda Swor with Drenner Group to be the agent for this case. To my knowledge the owner of the property has not changed, but I have requested verification from Ms. Swor to confirm this.

I am not sure what an "internet user" is. I see that 1725 Toomey LLC is listed as this on the AB+C site. My guess is that this is a term used for people that are not listed as the applicant but still part of the application. This seems to be consistent with other zoning cases.

On a separate note, I will be leaving for vacation tomorrow (Wednesday) afternoon. If you have any immediate questions please let me know today so that I may better assist you. Otherwise I will respond to them when I return to the office.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D Harry Sewell

**Sent:** Friday, June 11, 2021 7:59 PM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** Re: [1725 Toomey Rd.](#) - Treegate

Kate,

This is great information. Thank you very much for taking the time to do this, it is greatly appreciated and very helpful. July 13th is my birthday strangely enough. I'll remember to register thank you. My issue isn't with the rezoning as a whole, being a builder and all, so hopefully I don't have too many questions for you. I like researching on my own but somethings are hard to find, so thank you again.

I will speak to Amanda Swor next week. I'm starting to see what her role is in all this. I take it you don't have to be the owner of the property to apply for a rezoning request?

Lastly, what exactly is an "internet user" which is shown as Greg smith below the permit's "applicant" on the city's website (ab+c permit page)?

Who knew that the months after the tree cut, Greg smith was all over the property, finally introducing himself as The Owner to the tenants when in fact, he wasn't the owner anymore.

Going to "go out on a limb here" and say that Amanda Swor just happens to be the new owners representative also. Man it's like they planned this from the start.

Recap.

Must one own property to apply for rezoning? Appears not, so what is criteria for applying. Who can?

Internet user ?

Thank you!!!!!!!

On Thu, Jun 10, 2021 at 2:29 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Afternoon Dan,

We ask the applicant to state how many proposed units are planned because we have to inform the school districts depending on the number. Depending on that number we ask the school districts to provide an Educational Impact Statement (EIS) on the proposed project. The EIS is not an approval or denial of a rezoning request, but a summary of how the proposed project could affect the school system if developed. If one is required staff provides the summary in our staff backup.

Zoning staff does not consider the number of units outside of the EIS requirement because zoning applications are not accompanied with site plans. We comment on whether we think the zoning district is appropriate for an area. In this case, staff is recommending the MF-6 district because this request meets the district's Land Development Code definition. The details of the proposed development (unit count, setbacks, impervious cover, etc.) just aren't a part of the zoning review.

That being said, a part of the zoning application is a Traffic Impact Analysis (TIA) determination worksheet. This must be accompanied with all zoning applications and must be signed by the Austin Transportation Department (ATD). This worksheet tells the owner whether further review from ATD is required now (at time of zoning) or will be deferred until site planning/subdivision. I do not know what triggers a more detailed review for zoning, but if an applicant stated they were proposing an exorbitant amount of units, ATD may require additional review during the zoning process. In this case review for a TIA was deferred until the site planning stage when the land use and intensity will be finalized.

This rezoning case is planned to be scheduled for Planning Commission on July 13th. Speaker registration will not open for that meeting until the agenda is posted the morning of Friday, July 9th (usually around 10:00 AM). Once speaker registration opens, I will send out a copy of the agenda and instructions on how to register to speak. There will be another public hearing at City Council but that date has not been set. Once it is finalized, I will let you know. For that meeting I do not know if it will be virtual, in-person or a combination of the two. Speaker registration will be determined based on the type of meeting and I will let you know what that is once I have a better idea.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

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**From:** D Harry Sewell

**Sent:** Thursday, June 10, 2021 8:00 AM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** Re: [1725 Toomey Rd.](#) - Treegate

Kate,

Thank you for your response. It is very helpful and refreshing to see. I am sorry to be so brash it's just very frustrating.

I understand the applicant proposed 215 units, not the city. What I need to know is what the City (your team tasked with approving the permit request) feels about that number. You say a site planning review is needed to determine if it meets all criteria and I understand this is not a building permit. However, I am to believe that if MF-6 rezoning permit is approved, the 215 maximum unit number will be instated along with the MF-6.

Who assesses this number prior to approval? If no one does until a builder applies for a building permit (after rezoning) why is the question even asked during rezoning? Its seems more important, being in the title/header of the permit, then you lead on.

Simply put, if instead of the applicant putting 215 units let's say they put 5 trillion, who would say, "uhhh y'all can't do that" within your team or anyone at the city?

PS - could you send me the link to sign up to speak at public hearings please? There are only 2 right?

PSS - please understand my hesitation to speak with the owner's representative. I live on his property and I see what he does to things that stand in his way.

Thank you again however I'm still appalled by the arborist departments silence and now your departments refusal to acknowledge any wrong doing of a CURRENT rezoning applicant. I understand how much revenue this brings the city.

You know maybe Greg smith with [1725 Toomey Rd](#), LLC doesn't own this property anymore? I'll look into that. Regardless if there is a new owner already this particular rezoning request should be scrapped and started over. First Austin Properties do the ol' bait and switch on me? Be stupid for anyone else to buy a property in the middle of a rezoning review. Anyways.

Recap :

5 trillion units???

Link to sign up for public hearings, please ma'am.

Thank you Kate.

On Tue, Jun 8, 2021 at 6:38 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Evening Dan,

I am sorry if you feel I am not answering your questions fully, it is not my intention to be allusive. Please see my response below if you have any further questions, I would be happy to speak with you over the phone.

The MF-6 zoning district has been a part of the current Land Development Code (LDC) since the mid 1980's. It is not a new zoning district.

When someone applies for rezoning the application asks the applicant to provide a proposed number of residential units. The applicant for this rezoning case stated 215 units in their application. This number was chosen by the applicant, not city staff. Without going through a site planning process that incorporates all city requirements and standards I cannot tell you whether or not the owner would be able to achieve this number. If you would like to better understand how they reached 215, please follow up with Amanda Swor the applicant's agent. For your convenience I have copied her contact information below:

**Amanda W Swor, Director of Entitlements & Policy**

Drenner Group, PC | [200 Lee Barton Drive | Suite 100 | Austin, TX 78704](#)

512-807-2904 direct | 512-496-8573 cell | [aswor@drennergrouppc.com](mailto:aswor@drennergrouppc.com) | [www.drennergrouppc.com](http://www.drennergrouppc.com)

The site development standards for the MF-6 zoning district are as follows:

Minimum Lot Size (Square Feet)	8,000 Square Feet
Minimum Lot Width	50 Feet
Maximum Dwelling Units Per Lot	--
Maximum Height	90 Feet



Minimum Front Yard Setbacks	15 Feet
Minimum Street Side Yard	15 Feet
Minimum Interior Side Yard Setback	5 Feet
Minimum Rear Yard Setback	10 Feet
Maximum Building Coverage	70%
Maximum Impervious Cover	80%
Maximum Floor Area Ratio	--
Maximum Units Per Acre	--

Per Section 25-2-67 (*MULTIFAMILY RESIDENCE HIGHEST DENSITY (MF-6) DISTRICT DESIGNATION*) of the LDC, it lists the following definition for this district: Multifamily residence highest density (MF-6) district is the designation for multifamily and group residential use. An MF-6 district designation may be applied to a use in a centrally located area near supporting transportation and commercial facilities, an area adjacent to the central business district or a major institutional or employment center, or an area for which the high density multifamily use is desired.

As I previously stated zoning is not a permit to build. It determines the appropriate land uses and site development standards for a property. When staff looks at a rezoning case, we consider the requested zoning district's definition, current adopted city plans and the existing zoning and development patterns. While we do consider a zoning district's site development regulations as a part of our recommendation, we look at what the standard is in relation to the zoning district and its compatibility to surrounding zoning districts, not specifics characteristics to individual sites. Review of environmental constraints (floodplain, water quality, protected/heritage trees, etc.) are not a criteria for determining staff's recommendation for zoning cases. They (along with many other standards) are reviewed in great detail at the time of site planning.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D Harry Sewell

**Sent:** Tuesday, June 8, 2021 11:11 AM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Cc:** District 1 <[District1@austintexas.gov](mailto:District1@austintexas.gov)>; disteict3@austintexas.gov; District10 <[District10@austintexas.gov](mailto:District10@austintexas.gov)>; District 2 <[District2@austintexas.gov](mailto:District2@austintexas.gov)>; District 4 <[District4@austintexas.gov](mailto:District4@austintexas.gov)>; District 5 <[District5@austintexas.gov](mailto:District5@austintexas.gov)>;

District 6 <[District6@austintexas.gov](mailto:District6@austintexas.gov)>; District 7 <[District7@austintexas.gov](mailto:District7@austintexas.gov)>; District 8 <[District8@austintexas.gov](mailto:District8@austintexas.gov)>;  
[district9@austintx.gov](mailto:district9@austintx.gov)

**Subject:** Re: [1725 Toomey Rd.](#) - Treegate

Thanks Kate!

I've read the MF-6 in general, is a new type of classification and the first one was issued less than a year ago.

I remember seeing on the permit that 251 was the maximum unit amount (depending on unit size). So the the applicant is the one who determined that number is that correct?

I'd assume they got it by taking a potential structure that was built to the 65% maximum impervious coverage and the 90' height restriction to get a square footage; then divide by a typical unit size. Please confirm.

Lastly, an MF-5 does carry a maximum of up to 54 units per acre according to section 25.2.66 of the Austin code of ordinances. As a builder I will tell you that the difference between 251 units and 54 is monumental. To say a giant heritage protected tree wouldn't affect criteria for MF-6, specifically coverage as I've said from the start, is just wrong.

Since applicant is just an investor and no development is being proposed with his MF-6 request, if the tree was still there 65% maximum imperious coverage couldn't be mathematically achieved without cutting it down. This would bring the obvious choice to have to go MF-5 or get rid of the tree for 'development purposes.'. But there is no proposed development, not yet atleast, so he couldn't. So what the applicant did was the only thing that could be done. Too bad for him, I caught him.

City Council would have a tough time approving MF-6 with a heritage tree of such significance in the way. And trust me when I say the applicant never would have invested \$7.3 million in this property on such a gamble.

You have a keen way of not answering my questions. I asked if it would meet the criteria, not affect the criteria or requirements. And yes the City Council can vote however they want, regardless of the illegal shadiness of the applicant. Thanks, who knew?

Recap.

Applicant came up with 251 unit amount or did City?

Confirm impervious coverage and please enlighten me how a giant heritage tree could have nothing to do with classifying the multi-family development rezoning. Meeting.....the already established criteria not affecting it.

Mf-5 vs MF-6 and your knowledge on heritage trees being removed for development reasons, when there is no proposed development.

I do appreciate your diligent response times very much. Thank you. But nothing will change the fact the Arborist Department can't and will never be able to explain why they approved the tree removal of one of the most significant trees in Austin, it's applicant broke the law by lying through his teeth, and you have had all of that information since February 4th, when I told you about it. Assuming of course you didn't know about all of this prior to me. You're welcome by the way.

I've been beyond patient, but this is the part of the story where I start to get loud.

Dan.

On Tue, Jun 8, 2021 at 8:42 AM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Morning Mr. Sewell,

Staff does not grant zoning requests and I cannot speak for the actions that City Council may take. However, I can tell you that whether the tree is present or not would not affect the criteria or code requirements for the MF-6 base district. If the tree was still standing on the property, the City Council could vote to approve MF-6 zoning.

The MF-6 base district does not have a maximum unit cap per acre. Without going through a site planning process or knowing the type of units to be constructed, I cannot tell you the maximum number of units that could be built on the property.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D Harry Sewell

**Sent:** Monday, June 7, 2021 6:37 PM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** Re: [1725 Toomey Rd.](#) - Treegate

Ms. Clark,

Would applicant get approved for MF-6 if the tree was still there? And if so, what would the maximum number of units be if not 251?

On Mon, Jun 7, 2021 at 2:36 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Mr. Sewell,

Yes, the applicant could still apply for MF-6 base zoning if the tree was still there. The only site requirements that need to be met for this district is to have a minimum lot size of 8,000 square feet and a minimum of 50 feet for the lot width.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

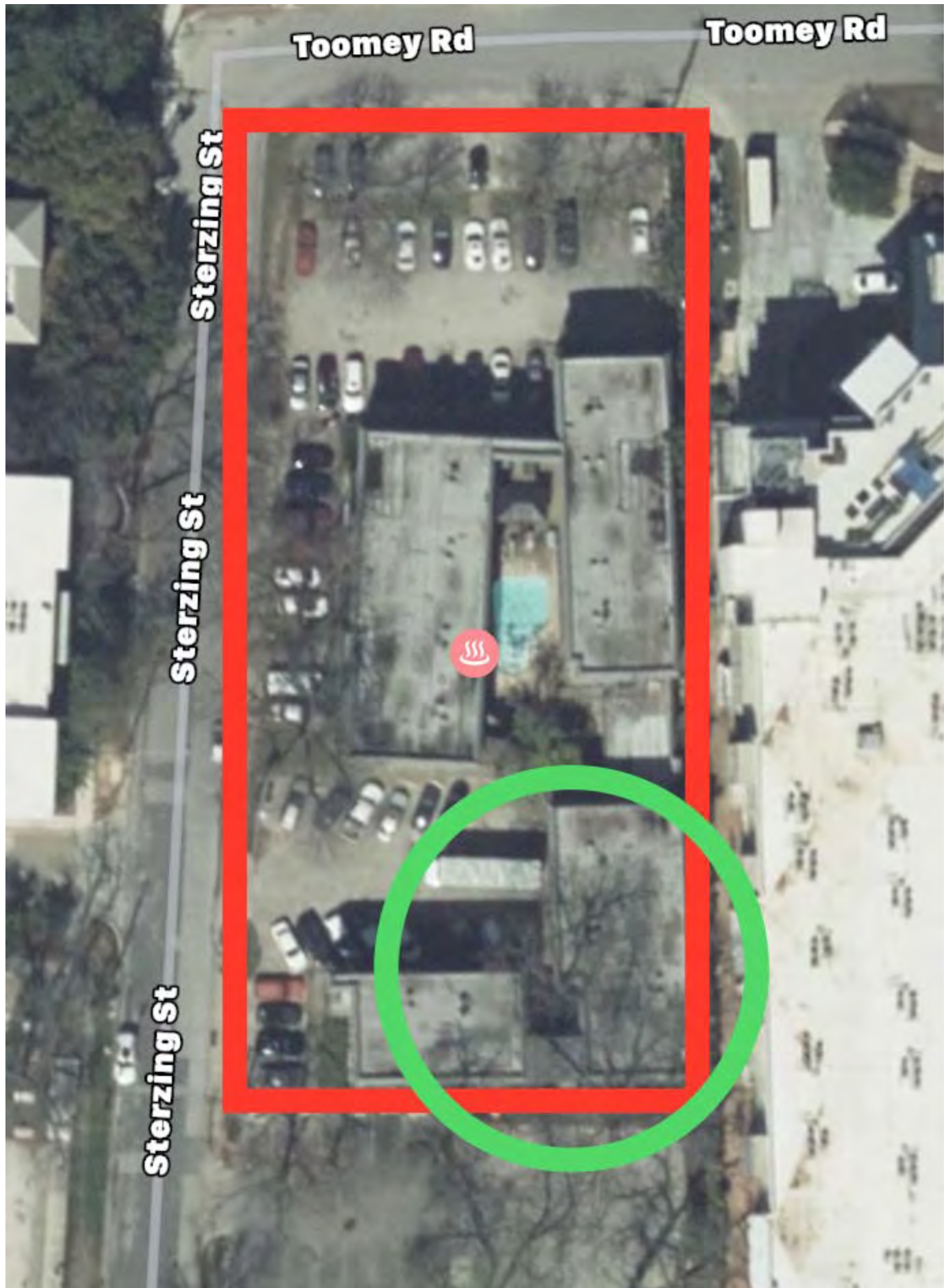
**From:** D Harry Sewell  
**Sent:** Monday, June 7, 2021 1:57 PM  
**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>  
**Cc:** Bahoosh, Dylan <[Dylan.Bahoosh@austintexas.gov](mailto:Dylan.Bahoosh@austintexas.gov)>; Rotramel, Naomi <[Naomi.Rotramel@austintexas.gov](mailto:Naomi.Rotramel@austintexas.gov)>  
**Subject:** Re: [1725 Toomey Rd.](#) - Treegate

Kate,

Fine. I know what I have to do then. Could you answer one last thing for me, please?

Could the criteria/requirements needed for an MF-6 overlay be achieved if the heritage tree (shown below) was still there, in the permit/case for rezoning of [1725 Toomey Rd.](#) ?





On Mon, Jun 7, 2021 at 12:06 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Morning Mr. Sewell,

A permit to remove a protected or heritage tree from a property and an application to rezone a property are separate and not related review processes. How a tree is removed from a property is an issue for our City Arborist Department and is not part of the zoning review. Zoning is not a permit to build, but a determination of the appropriate land uses and site development standards for a property. Our zoning staff recommendation is based on the existing zoning pattern in the area and whether a requested district is compatible with that zoning pattern and complies with our city adopted plans. In this particular case, removal of a tree on this property would not have any bearing on meeting the criteria for the MF-6 zoning district.

If you have additional or other zoning related questions, please let me know. If your questions are related to the tree that was removed on the property, please continue to follow up with Naomi and Dylan.

**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D Harry Sewell

**Sent:** Saturday, June 5, 2021 12:02 PM

**To:** Bahoosh, Dylan <[Dylan.Bahoosh@austintexas.gov](mailto:Dylan.Bahoosh@austintexas.gov)>; Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>; Rotramel, Naomi <[Naomi.Rotramel@austintexas.gov](mailto:Naomi.Rotramel@austintexas.gov)>

**Subject:** [1725 Toomey Rd.](#) - Treegate

\*\*\* External Email - Exercise Caution \*\*\*

Naomi,

Did you know that you can't issue a heritage tree removal permit for non-development reasons in the city of Austin because of a quote "conflict" like your email stated to me?

Kate - Did you know that if someone illegally removes a tree so their property can meet the criteria needed for an MF-6 overlay and you had prior knowledge of such allegations, you cannot approve the rezoning request? Did you also know that an MF-6 overlay, here just off Barton Springs Rd. is worth \$20 million?

Dylan - Did you know that your initial denial of the most recent tree removal permit here at [1725 Toomey rd.](#) is the work of an honest man who is good at their job? I'm sure you do, you wrote it. Do you know how or why it somehow magically got approved, or are you being kept in the dark like I am?

I'm not sure why you've yet to return a single one of my emails. I can only speculate, based off an honest initial assessment, you're being told to be quiet and were also told/forced to approve the permit, but I don't know. Don't care really, the trees dead. And right now I'm giving everyone a chance to blame no one but the sole orchestrator of this event and him alone, for falsifying information to the city. As I said, I don't care what was done within your department in regards to how it got approved. And I know y'all can't explain it in an email, or you would have already done it. I want justice for the tree that's it. I can't just let something like that happen right in front of me, I can't. And I won't.

No claims or photos of structural damage were resubmitted after your initial denial of the removal. Because there isn't any. The building was designed and built around the tree. There was no imminent hazard. Couldn't approve it based off the resubmitted scans either, regardless of their "possible decay" claims which also turned out to be a lie (have photos). Almost every assessment detail submitted to you (drainage, existing conditions etc) was also a lie by the submitter. If you missed it and made a mistake that's all it is, is a mistake. Based off a bunch of lies given to you by the guilty party. No one is blaming you and no one else needs to be blamed, is how it stands in my eyes right now.

I don't know of another grove in Austin with an equal historical significance as this Pecan one. And with a heritage status protection under the law of this municipality, in which all the citizens of the municipality agree to adhere to, a small part of that tree, in a way, belonged to all of us Austinites. And unfortunately, it is irreplaceable.

All - I was hoping this wouldn't drag on this long and 1725 Toomey, LLC would either be held accountable for their actions or y'all would convince me and the over 1,000 viewers of Treegate in 13 different countries that I'm wrong. Neither has happened.

Assume I blind copied all your directors, The DA's, AG's and governor's office. Please. Because your silence on this matter is beginning to speak volumes and I'm beginning to feel as if I need to. So much so, I might have already done it.

Holla back,

D. Harry Sewell

**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](mailto:cybersecurity@austintexas.gov).

## 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 participate in a public hearing, you are not required to participate. This meeting will be conducted both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. 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 the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and may be published online.

Case Number: C14-2021-0009

Contact: Kate Clark, 512-974-1237

Public Hearing: July 29, 2021, City Council

Sarah Ellis

Your Name (please print)

1717 Toomey Rd

Your address(es) affected by this application (optional)

Sarah Ellis

Signature

<input type="checkbox"/>	I am in favor
<input checked="" type="checkbox"/>	I object

07/16/2021

Date

Daytime Telephone (Optional): 281.799.8951

Comments:

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

City of Austin, Housing & Planning Department

Kate Clark

P. O. Box 1088, Austin, TX 78767

Or email to:

Kate.Clark@austintexas.gov



**Clark, Kate**

---

**From:** David Piper  
**Sent:** Tuesday, July 20, 2021 11:17 AM  
**To:** Clark, Kate  
**Subject:** 1725 Toomey--Further backup material  
**Attachments:** Loopnet- 1725 Toomey for sale.pdf

\*\*\* External Email - Exercise Caution \*\*\*

Kate,  
Can you add these "for sale" screen shots of 1725 Toomey Rd into the backup material? Thank you for your time.

Dave

**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](mailto:cybersecurity@austintexas.gov).

7-11-21

The screenshot shows a web browser window displaying a LoopNet listing. The address bar shows the URL: loopnet.com/Listing/1725-Toomey-Rd-Austin-TX/23496077/. The page header includes the LoopNet logo, a menu icon, and an 'Advertise' button. The main heading is '1725 Toomey Rd - Barton Springs Apartments', followed by the subtext '40 Unit Apartment Building Offered at \$23,000,000 in Austin, TX'. Below this, there is an 'EXECUTIVE SUMMARY' section. The text on the left states: 'Current CS zoning will allow for short term rental on all existing units with rents around \$300 per night. This could put potential gross income at \$4m per year. Ground up development for 204-225 unit High'. The text on the right states: 'rise. 40 units existing with income ~\$55,000 per month. Please email Peyton Smith at peytongsmith48@gmail.com for additional information.' To the right of the summary is a contact box for 'First Austin PROPERTIES' with a phone number '512-736-7241' and a red 'Contact' button. The Windows taskbar at the bottom shows the time as 11:30 AM on 7/9/2021.

loopnet.com/Listing/1725-Toomey-Rd-Austin-TX/23496077/

Imported From Fire...

Menu

LoopNet

Advertise

## 1725 Toomey Rd - Barton Springs Apartments

40 Unit Apartment Building Offered at \$23,000,000 in Austin, TX

### EXECUTIVE SUMMARY

Current CS zoning will allow for short term rental on all existing units with rents around \$300 per night. This could put potential gross income at \$4m per year. Ground up development for 204-225 unit High

rise. 40 units existing with income ~\$55,000 per month. Please email Peyton Smith at peytongsmith48@gmail.com for additional information.

First Austin PROPERTIES

512-736-7241

Contact

11:30 AM 7/9/2021

7-13-21

The screenshot shows a web browser window displaying a LoopNet listing. The address bar shows the URL: loopnet.com/Listing/1725-Toomey-Rd-Austin-TX/23658073/. The page header includes the LoopNet logo, a menu icon, and an 'Advertise' button. The main heading is 'Barton Springs Apartments | 1725 Toomey Rd', followed by the subtext '35,267 SF of Retail Space Available in Austin, TX'. Below this, there is a breadcrumb trail: 'Retail Space / Texas / Austin / 1725 Toomey Rd, Austin, TX 78704'. The main content area features two images: a photograph of the building on the left and a site map on the right. The site map shows the building's location relative to surrounding streets, including Charles Steiner Street, William Road, and Toomey Road. The Windows taskbar at the bottom shows the time as 12:21 PM on 7/13/2021.

1725 Toomey Rd, Austin, TX 78704

loopnet.com/Listing/1725-Toomey-Rd-Austin-TX/23658073/

Imported From Fire...

Menu

LoopNet

Advertise

## Barton Springs Apartments | 1725 Toomey Rd

35,267 SF of Retail Space Available in Austin, TX

Retail Space / Texas / Austin / 1725 Toomey Rd, Austin, TX 78704





12:21 PM 7/13/2021

7-13-21

1725 Toomey Rd, Austin, TX 78701 x +

loopnet.com/Listing/1725-Toomey-Rd-Austin-TX/23658073/

Imported From Fire...


Menu     [Advertise](#)


## Barton Springs Apartments | 1725 Toomey Rd


35,267 SF of Retail Space Available in Austin, TX

### HIGHLIGHTS

- High rise land, 39260 SF ground lease to build estimated 215 units.



 512-736-7241

 [Contact](#)

### ALL AVAILABLE SPACE(1)

Display Rental Rate as \$/SF/YR ▾

SPACE	SIZE	TERM	RATE	SPACE USE	CONDITION	AVAILABLE
1st Floor	35,267 SF	1-30 Yrs	\$35.15 /SF/YR	Retail	-	Now ▾

12:22 PM 7/13/2021

## 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 participate in a public hearing, you are not required to participate. This meeting will be conducted both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. 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.

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Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and may be published online.

**Case Number: C14-2021-0009**

**Contact: Kate Clark, 512-974-1237**

**Public Hearing: July 29, 2021, City Council**

*Joseph Orr*  
Your Name (please print)

*1717 Toomey #238*  
Your address(es) affected by this application (optional)

*[Signature]* *7.29.21*  
Signature Date

Daytime Telephone (Optional): \_\_\_\_\_

Comments: *Functionally Obsolete*  
*existing structure*  
*very desirable residential area*  
*use appropriate.*

☒ I am in favor  
☐ I object

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

City of Austin, Housing & Planning Department

**Kate Clark**

P. O. Box 1088, Austin, TX 78767

Or email to:

**Kate.Clark@austintexas.gov**

**Clark, Kate**

---

**From:** D. Harry Sewell  
**Sent:** Wednesday, July 21, 2021 4:01 PM  
**To:** Clark, Kate  
**Subject:** Re: 1725 Toomey rd.

Kate,

Thank you!! I am hoping to have a response from the Department of Labor, Occupational Safety and Health Administration (OSHA) very soon, as to whether they will be investigating the tree removal operation on 2.4.21 and 2.5.21 that took place directly above our heads. Being OSHA 30 certified my whole career, and as witness with supporting footage I can't see why they wouldn't, but who knows with Feds.

I was hoping to have a response by now to accompany my request but you can consider this my formal request and ask the applicant for an extension to the August 24th date.

Again, your knowledge, transparency and efficiency is not only refreshing, but admirable.

Thank you.

On Wed, Jul 21, 2021 at 3:43 PM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Dan,

If you would like to request a postponement you would send the request to me. This can be done with an email or written as a letter and attached to an email (your preference). While it does not have to be on a specific form, you would need to include the reason(s) you are requesting the postponement and the date to which you would like to postpone the case to. The following are the next two available Planning Commission meeting dates: August 10<sup>th</sup> and August 24<sup>th</sup>.

After I receive your request I would let the applicant know and they would either agree or not to the postponement. If they agreed then this case would be offered on the consent agenda for postponement by the neighborhood (all requests from the public are classified as "the neighborhood") like at the last meeting. If they disagreed with your request, then this case would become a discussion postponement at next Tuesday's meeting. A discussion postponement allows both parties (yourself and the applicant) to speak to the postponement request. You may not discuss the rezoning case, just why you want the case to be postponed. The Planning Commission would then vote on whether to postpone or hear the case that evening. If they vote to postpone then the case is postponed to the specified date, if they vote to hear it then the case is heard that evening. If it was decided that the case will be heard, you would have another opportunity to speak on the case about the rezoning request.

While the deadline for a postponement is the Monday prior to the meeting (in this case Monday, July 26<sup>th</sup>), the earlier you can send me your request the better. If you have any further questions, please let me know.



**Kate Clark, AICP, LEED AP**

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D. Harry Sewell

**Sent:** Wednesday, July 21, 2021 3:18 PM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** [1725 Toomey rd.](#)

\*\*\* External Email - Exercise Caution \*\*\*

Kate,

Good afternoon. Hope you are well. Sorry to bother you again just need to know how I would go about formally requesting an additional extension to the rezoning hearing now set for July 26th. Do I just ask the applicant in an email or is there any kind of template I can fill out?

Thanks Kate!!!

Trying my hardest to find this stuff on my own and not bug you I promise !!!!!

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**Clark, Kate**

---

**From:** D. Harry Sewell  
**Sent:** Friday, August 13, 2021 10:29 AM  
**To:** Clark, Kate  
**Subject:** Re: 1715 Toomey rd. - Rezone

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Kate,

Understood, thank you. I was hoping since the sign was scheduled to be out on site February 5th and wasn't until February 24th the general public would be owed these days which is why a posting date is issued from the start and exists in the first place. I assume there is some sort of legality to the fact that the sign must be put up and the public must receive X amount of days before the hearings. Not sure.

I will for sure need the original issued post date to remain on record as it is why the applicant's client waited to remove the tree until the day before it was scheduled to be posted on site. Had the sign gone up before he executed the tree permit, myself or anyone would have looked up the rezone permit, seen the tree permit and easily been able to stop it's removal.

Let me know.

Thanks so much Kate!

On Fri, Aug 13, 2021 at 8:27 AM Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)> wrote:

Good Morning Dan,

For zoning cases we are required by code to only post a sign on the property once. We place these signs when the zoning case is filed, we do not repost signs before/after Planning Commission or City Council meetings. Because of this, I make sure to remind people when a case is coming up on a Planning Commission and/or City Council agenda so they can sign up to speak or attend.

This rezoning case is scheduled to be heard by the Planning Commission on August 24<sup>th</sup> and City Council on August 26<sup>th</sup>. If you would like additional time, at this point the only way is to request that the case be postponed at either Planning Commission or City Council. The postponement process is the same for either meeting.

Please let me know if you have any further questions.

Kate Clark, AICP, LEED AP

*Senior Planner*

**City of Austin | Housing and Planning Department**

Mailing Address: P.O.Box 1088, Austin, Texas 78767

**Tel:** 512-974-1237

**Email:** [kate.clark@austintexas.gov](mailto:kate.clark@austintexas.gov)

---

**From:** D. Harry Sewell

**Sent:** Thursday, August 12, 2021 5:27 PM

**To:** Clark, Kate <[Kate.Clark@austintexas.gov](mailto:Kate.Clark@austintexas.gov)>

**Subject:** [1715 Toomey rd.](#) - Rezone

\*\*\* External Email - Exercise Caution \*\*\*

Kate the Great!

How are you, hope all is well. Wanted to run something by you. Now, since you've been the best to work with I don't want this to in anyway negatively effect you but I have to ask since the rezoning sign was not put up on site 20 days after its originally scheduled date, how does a request to have the planning commission itself add 20 days onto the August 24th scheduled start?

Again, I do not want to put this on you and in anyway shape or form have this negatively effect you so let me know your thoughts.

I have initiated dialogue with my city council rep who has already been informed of the transgressions performed by Greg Smith w/ 1725 Toomey LLC and have the arborist department 'in my corner' so to speak but every extra day would be helpful! Thank you.

D. Harry Sewell

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**Clark, Kate**

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**From:** Jim Karabaic  
**Sent:** Monday, August 23, 2021 10:35 PM  
**To:** Clark, Kate  
**Subject:** opposition to rezoning of 1725 Toomey Road property

\*\*\* External Email - Exercise Caution \*\*\*

Hello Ms. Clark,

I am submitting this letter in opposition to the proposed 'rezoning' of the property at 1725 Toomey Rd. I have been a resident here for many years, and I believe the 'rezoning' of this property will only worsen a safety issue that we are already dealing with.

As you may know, there are several 'events' held throughout the year at Zilker Park and the surrounding grounds. Whenever we have one of these events such as ACL Festival, Blues on the Green, The Trail of Lights, etc, we experience a large traffic jam all along our streets (Toomey Road and Sterzing avenue). The safety concern is this: With cars packing both sides of the road and traffic at a standstill (it's like a full parking lot with cars barely moving for hours at a time), there is absolutely NO WAY that the city would be able to get a fire truck down here, or an EMS vehicle, or a police officer. When we are 'blocked in' by these (already existing) traffic jams, we are at grave risk - if we were in need of the services of the Austin Fire Department, the Austin EMS, or the police. Rezoning this property and increasing the population here (fivefold) will only make it much worse.

The current number of units here is about forty. The proposal for 'rezoning' includes a request for up to 215 units here. This is simply going to make the location even more 'unsafe', because it will just lead to even more cars and more crowding.

Does the City of Austin have plans to completely 'relocate' the Austin City Limits Music Festival or the Blues on the Green, or the Trail of Lights? Do they have a plan to use the 'Starflight Helicopter here? Will it land in the baseball fields?

Finally, there is a legitimate concern to preserve at least some 'affordable housing' in the downtown Austin area. The people who live here are teachers, nurses, airline pilots, and state workers. My neighbors are hard working people, and we are not millionaires. This area already has several high rise buildings in which the rents start at \$2,000.00 a month and go up from there. New condos start selling at 1.5 MILLION dollars. None of my hard working middle class neighbors - none of us - could possibly afford to live here if all the housing follows suit.

Please take these concerns into your decision - making process. Please help keep this neighborhood safe and affordable for hard working middle class Austinites like the residents who choose to live here. Thank you, James Karabaic, unit #300, at 1725 Toomey Road.

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**Clark, Kate**

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**From:** Justin Huse  
**Sent:** Monday, August 23, 2021 12:55 PM  
**To:** Clark, Kate  
**Subject:** Letter of Opposition and Handouts

\*\*\* External Email - Exercise Caution \*\*\*

Kate,

My name is Justin Huse and I currently live in Barton Springs Apartments on 1725 Toomey Road. I am writing this to inform you that I am vehemently opposed to rezoning this property, item B-7 on the PC agenda. This wonderful apartment complex has existed since the 1970's and represents one of the last bastions of old Austin on Barton Springs Road. I myself have been fortunate to call this place home for over six years, while some of my neighbors have lived here for decades. As a native Austinite, I urge you to not allow this home for so many to be destroyed just to have gaudy overpriced condos replace it. Please let us continue to live in the place we call home.

Sincerely,  
Justin Huse

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**Clark, Kate**

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**From:** [REDACTED]  
**Sent:** Tuesday, August 24, 2021 11:06 AM  
**To:** Rivera, Andrew; Clark, Kate  
**Subject:** Opposition to rezoning 1725 Toomey Rd, B-7 PC agenda

\*\*\* External Email - Exercise Caution \*\*\*

Hello,

I am writing in opposition to the rezoning of 1725 Toomey Rd. Austin 78704, item B-7 on the PC agenda for the hearing on Aug 24, 2021.

There are many reasons to oppose this: environmental impacts, displacement of residents, traffic chaos, public safety, removal of heritage trees, and simply keeping Austin weird.

The tiny streets of Toomey and Sterzing are already impassable during major events or even busy weekends at the park. This is a MAJOR safety issue that has concerned many residents for years. Emergency vehicles would not be able to get through, and the streets are way too tiny to handle even the existing traffic on a regular basis, especially during any festivals or events or weekends when many in the city want to be at the park. There is also a great deal of runoff from car pollution into the sensitive creek and Edwards aquifer.

Many of the residents at 1725 Toomey Rd are long-term local Austinites who help to keep Austin's culture what it is. There is a severe shortage of any even somewhat affordable housing in the Zilker/Barton Springs area. The problem of displacement is not something Austin should want to be known for, and there are already many high rises in the area. People don't want more.

There are two endangered salamanders nearby and the creek pollution from urban runoff is already getting extremely bad. This sensitive area should not be heavily developed. The more natural feels contributes much to Austin's culture and reputation.

The removal of a heritage tree specifically for this rezoning process was very questionable, and will be publicized broadly if the rezoning occurs partly for that. (See information from Dan Sewell)

Many (almost all) local residents don't want to see Austin become like Dallas. Austin needs a bit of its quirky old heritage and culture found in places like the Barton Springs Apt complex to keep its Austin vibe. This is a trait that makes the city more valuable and more desirable for people.

Please don't choose to displace all the lovely folks from their homes at 1725 Toomey Rd. It would be devastating for some. These are good people who are valuable and respected citizens in the community.

Keep Austin Weird!

Thank you for truly considering all the very real and dangerous impacts this rezoning would cause.

Much appreciated!

Sincerely,



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**Clark, Kate**

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**From:** David Borden  
**Sent:** Tuesday, August 24, 2021 11:50 AM  
**To:** Clark, Kate  
**Subject:** Opposition to Rezoning of 1725 Toomey Road

\*\*\* External Email - Exercise Caution \*\*\*

Hi Kate,

I am in opposition to to the rezoning of 1725 Toomey Road. I believe that the rezoning will cause undue safety concerns for the residents and neighboring communities. One example is an emergency vehicle can not get through during high traffic, especially on the corner that 1725 is located on.

Thank you

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08/23/2021

To: Planning Commissioners

To Whom It May Concern:

I am writing a Letter of Opposition regarding the rezoning of 1725 Toomey Road (Item B-7 on the PC agenda), which I am vehemently against.

The Barton Springs Apartment, a building occupied by long-time tenants, including teachers, the elderly, and the disabled, such as me, is the type of lower income housing that is so desperately needed right now, as the gentrification of Austin washes away Texan culture and Texans themselves. But the Barton Springs Apartment also houses new tenants, who pay higher prices than older residents, as well. In other words, this building serves as an example of compromise in the great city of Austin, -- not allowing lower income residents to be dislocated or even possibly homeless, but also welcoming the new residents who can afford (and do not mind) paying the market value price of their apartments due to the great location. I have no doubt that the new owner could gain a better profit by simply remodeling half of the building or creating an extension, for fancier and more competitive apartments to offer for the highest price they wish to new tenants. It is clear that the current tenants who pay higher rents are aware of the older residents that pay lower rents, and, again, they understand and co-habit peacefully and happily. Demolishing this building would not only be costly, but it would also be a tragedy to the native Austin nature (trees) and eco system that exists here.

Furthermore, as Austin rapidly changes, it is urgent to hold on to its history, giving it value, and keeping reflections of Austin past to understand Austin future. Barton Springs Apartment, built in 1967, gives us a story – the story of Austin – in every detail. The foundation of the building is phenomenal and unlike anything built today, which is why I once again argue that the owners have not considered more creative profitable solutions in taking advantage of what already exists, in their desperate urge to make a return on their investment. But, demolishing this beloved

building, and destroying this peaceful and well-known corner of Austin is certainly not the solution.

All I ask is for your committee to consider negotiations and other solutions, and also consider the hazard of having a high rise with hundreds of units. We've recently seen in the news buildings collapse, and one has to wonder if this little corner of Toomey Road even has the capacity or space for such a project.

Yours,

M. N.



From: Mark Menn (apt. 211)

Opposition to Rezoning and Demolition of Barton Springs Apartment 1725 Toomey Rd.

To the committee,

I, Mark Menn, have been a tenant of 1725 Toomey Road for thirty years as an affordable housing tenant, before and after retirement. I have the following points for my opposition to rezone and demolish Barton Springs Apartments:

1. Affordable Housing Availability Barton Springs Apartment: provides affordable housing for working class and student tenants. Zilkr on the Park and Coldwater / Condo apartments on both sides of the Barton Springs Apartments are already present with luxury units with several vacancies. By retaining Barton Springs Apartments affordable housing will remain available.
2. Traffic and Safety: With 5 baseball fields, Zack Theater, existing condos/apartments, and Zilker Park events; traffic and safety are already at a breaking point.
3. Culture of the Neighborhood: Barton Springs Apartments has four heritage pecan trees at the North parking lot on Toomey Road. These trees should be preserved since they produce the best pecans every two or three years. They were planted in the 1960s by the original owner when the apartments were named Casa Pecana.

I do not have an email address; therefore, this letter is being transcribed and transmitted through my neighbor.

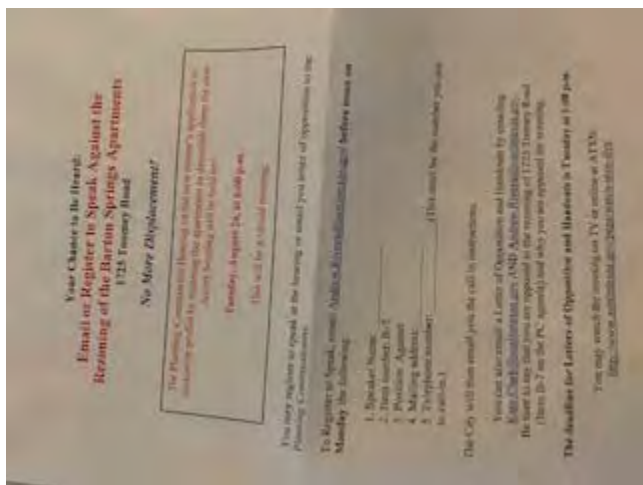
Thank you.

Mark Menn

**From:** Catherine Frels  
**Sent:** Tuesday, August 24, 2021 1:24 PM  
**To:** Clark, Kate; Rivera, Andrew  
**Subject:** 1725 Toomey Rd — opposed to rezoning

\*\*\* External Email - Exercise Caution \*\*\*

Sincerely,  
Catherine Frels



Catherine Frels  
Authentic Leadership & Communication  
Facilitator-Coach/Writer-Performer  
Phone: 646-653-2337  
LinkedIn: Catherine-Frels-1585825

*Developing Scientists of the Mind*

*and Acrobats of the Heart. Because the WAY we work IS our work!*

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## LETTER OF OPPOSITION

Re: Letter of Opposition to Rezoning Case C14-2021-0009 for the Property at 1725 Toomey Rd.

Dear City Staff, Commissioners, Mayor, and City Council Members:

The HOA Board of Directors for the Barton Place Condominiums *oppose* the proposed MF-6 zoning of the property since it would allow for a level of density that is inappropriate for the surrounding area. Barton Place Condominiums, comprised of 270 condominiums at an aggregate valuation of at least \$150 Million, is located just over 500 feet from the subject property, and will be directly, materially, and negatively impacted by this change if approved.

Approval would exacerbate traffic issues for our residents and other nearby residents, visitors, and businesses, and public buildings, including the new Dougherty Arts Center, which is planned to be constructed on Toomey Road across the street from the subject property.

The increased traffic would also impact future residents, visitors, and employees at the nearby Taco PUD and Schlotzsky's PUD developments, which per the Austin Transportation Department will generate a combined 5,000 new average daily vehicle trips, and so there will not be roadway capacity remaining after they are constructed. The proposed zoning would also allow for a level of density that will worsen the traffic congestion and vehicle queue issues for people trying to access our City's beloved ZACH Theater, Butler Fields, Umlauf Sculpture Garden, Barton Springs Pool and Greenbelt, and Zilker Park.

For the above reasons, we oppose rezoning the property to MF-6. Our strong preference is that any structure be restricted to no more than 60', which is the maximum height allowed for most properties in the surrounding area, and is taller than existing nearby structures.

Thank you for your consideration.

Sincerely,

Becky Taylor, Chair

Future Development Committee, HOA Board of Directors

The Barton Place Condominiums

**Clark, Kate**

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**From:** D. Harry Sewell  
**Sent:** Thursday, August 26, 2021 5:16 PM  
**To:** Clark, Kate  
**Cc:** District 5  
**Subject:** Treegate Austin - 1725 Toomey Rezone "Issues" per Agenda

\*\*\* External Email - Exercise Caution \*\*\*

Kate,

Please release all of our correspondence over the last 7 months and have it listed as opposed in Exhibit C: Correspondence Received of The Agenda, where all written or emailed comments in opposition or in favor are classified. And if you think that's way too many, please just pick your favorite few.

I'm not exactly sure what to think of your "issues" section as fully described on Page 2 of the agenda which states there was an approved tree removal permit that was "separate from and prior to this rezoning case."  
Why is this an issue?

I'd hate to think I'm the issue. Arborist Department has an issue with the approval of that permit and publicly has stated such. Zilker Neighborhood Association Incorporated has added Treegate to their list of reasoning also. I am clueless as to why none of that is listed, since you brought up trees.

As a side note I'd get with the Arborist or Building Department to correct some of the terminology in paragraph 3 of the same Issues section but not a big deal, just saying.

Recap:

Release our correspondence - Please confirm if this can be done or if I need to write another specific email.  
Rezone "Issues" - Please explain why tree permit was mentioned in such detail but arborist department's statement that they never would of approved the permit had they known of the rezoning that followed just a week a half after it's approval, is not. Because that is the issue.

Thank you,

D. Harry Sewell

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## 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 the 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. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and may be published online.

**Case Number: C14-2021-0009**

**Contact: Kate Clark, 512-974-1237**

**Public Hearing: September 14, 2021, Planning Commission  
September 30, 2021, Cabildo municipal**

*Amy Carter*

Your Name (please print)

*1717 Toomey Rd #533 Austin, TX 78704*

Your address(es) affected by this application (optional)

☐ I am in favor  
☒ I object

*[Signature]*

Signature

*09/05/2021*

Date

Daytime Telephone (Optional):

Comments:

*We have a hard enough time driving down our street. I'd love to see a new building, but no more than 5 floors.*

*I object the rezoning of 1725 Toomey.*

*- Thank You!*

If you use this form to comment, it may be returned to:  
City of Austin, Housing & Planning Department

**Kate Clark**

P. O. Box 1088, Austin, TX 78767

Or email to:

**Kate.Clark@austintexas.gov**

B-3

97 of 99

**EDUCATIONAL IMPACT STATEMENT***Prepared for the City of Austin*Austin  
Independent  
School District**PROJECT NAME:** 1725 Toomey**ADDRESS/LOCATION:** 1725 Toomey Road**CASE #:** C14-2021-0009☐ NEW SINGLE FAMILY☐ DEMOLITION OF MULTIFAMILY☒ NEW MULTIFAMILY☐ TAX CREDIT

# SF UNITS: \_\_\_\_\_ **STUDENTS PER UNIT ASSUMPTION**

Elementary School: \_\_\_\_\_ Middle School: \_\_\_\_\_ High School: \_\_\_\_\_

# MF UNITS: 215 **STUDENTS PER UNIT ASSUMPTION**

Elementary School: .01 Middle School: .007 High School: .01

**IMPACT ON SCHOOLS**

The student yield factor of 0.027 (across all grade levels) for apartment homes was used to determine the number of projected students. This factor was provided by the district's demographer and is based on other market rate multifamily complexes built within the area since 2005.

This site has an existing 40-unit complex, which will be demolished. There are no current AISD students that reside at this site. The proposed 500-unit multifamily development is projected to add approximately 6 students across all grade levels to the projected student population. It is estimated that of the 6 students, 2 will be assigned to Zilker Elementary School, 2 to O. Henry Middle School, and 2 to Austin High School.

The percent of permanent capacity by enrollment for School Year 2025/26, including the additional students projected with this development, would be within the optimal utilization target range of 85-110% at Zilker ES (97%) and Austin HS (101%), and below the target range at O. Henry MS (68%). The projected additional students at O. Henry would not offset the anticipated decline in student enrollment. All of these schools will be able to accommodate the projected additional student population from the proposed development.

**TRANSPORTATION IMPACT**

Students within the proposed development attending O. Henry MS will qualify for transportation. Students attending Zilker ES or Austin HS will not qualify for transportation unless a hazardous route condition is identified.

**SAFETY IMPACT**

There are not any identified safety impacts at this time.

**Date Prepared:** 02/11/2021**Executive Director:**

DocuSigned by:

Ben Wilson

38E0989C305B4F8...

**EDUCATIONAL IMPACT STATEMENT***Prepared for the City of Austin*Austin  
Independent  
School District**DATA ANALYSIS WORKSHEET****ELEMENTARY SCHOOL: Zilker**

ADDRESS: 1900 Bluebonnet Lane

PERMANENT CAPACITY: 460

MOBILITY RATE: +13.6%

**POPULATION (without mobility rate)**

<b>ELEMENTARY SCHOOL STUDENTS</b>	<b>2020-21 Population</b>	<b>5- Year Projected Population (without proposed development)</b>	<b>5-Year Projected Population (with proposed development)</b>
Number	390	386	388
% of Permanent Capacity	85%	84%	84%

**ENROLLMENT (with mobility rate)**

<b>ELEMENTARY SCHOOL STUDENTS</b>	<b>2020-21 Enrollment</b>	<b>5- Year Projected Enrollment (without proposed development)</b>	<b>5-Year Projected Enrollment (with proposed development)</b>
Number	443	444	446
% of Permanent Capacity	96%	97%	97%

**MIDDLE SCHOOL: O. Henry**ADDRESS: 2610 West 10<sup>th</sup> St.

PERMANENT CAPACITY: 945

MOBILITY RATE: -1.5%

**POPULATION (without mobility rate)**

<b>MIDDLE SCHOOL STUDENTS</b>	<b>2020-21 Population</b>	<b>5- Year Projected Population (without proposed development)</b>	<b>5-Year Projected Population (with proposed development)</b>
Number	939	657	659
% of Permanent Capacity	99%	70%	70%

**ENROLLMENT (with mobility rate)**

<b>MIDDLE SCHOOL STUDENTS</b>	<b>2020-21 Enrollment</b>	<b>5- Year Projected Enrollment (without proposed development)</b>	<b>5-Year Projected Enrollment (with proposed development)</b>
Number	925	636	638
% of Permanent Capacity	98%	67%	68%



# EDUCATIONAL IMPACT STATEMENT

Prepared for the City of Austin

Austin  
Independent  
School District

<b>HIGH SCHOOL:</b> <b>Austin</b>
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ADDRESS:    1715 W. Cesar Chavez St.

PERMANENT CAPACITY:    2,247

MOBILITY RATE:    +11.5%

POPULATION (without mobility rate)			
HIGH SCHOOL STUDENTS	2020-21 Population	5- Year Projected Population (without proposed development)	5-Year Projected Population (with proposed development)
Number	2,110	2,037	2,039
% of Permanent Capacity	94%	91%	91%

ENROLLMENT (with mobility rate)			
HIGH SCHOOL STUDENTS	2020-21 Enrollment	5- Year Projected Enrollment (without proposed development)	5-Year Projected Enrollment (with proposed development)
Number	2,353	2,269	2,271
% of Permanent Capacity	105%	101%	101%