

## SECOND AND THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2021-0124 3535 E. 7<sup>th</sup> Street

DISTRICT: 3

REQUEST: C14-2021-0124 - 3535 East 7th Street - Conduct a public hearing and approve an ordinance amending City Code Title 25 by rezoning property locally known as 3501, 3509, 3511, 3525, 3535 East 7th Street and 621 Gunter Street (Boggy Creek Watershed). Applicant Request: To rezone from general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning, general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district zoning, and general commercial services-vertical mixed use building-conditional overlay-neighborhood plan (CS-V-CO-NP) combining district zoning to general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning. First reading approved general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning on February 17, 2022. Vote: 11-0. Owner/Applicant: Elena Herrera Family Bypass Trust, Ernesto B & Elena V. Herrera Living Trust, El Otro Lado, Inc. Agent: Drenner Group, PC (Amanda Swor). City Staff: Heather Chaffin, Housing and Planning Department (512) 974-2122.

DEPARTMENT COMMENTS: No comments at this time.

OWNER/APPLICANT: Elena Herrera Family Bypass Trust, Ernesto B & Elena V. Herrera Living Trust, El Otro Lado, Inc.

AGENT: Drenner Group, PC (Amanda Swor)

DATE OF FIRST READING: First reading approved on February 17, 2022.

CITY COUNCIL HEARING DATES/ACTION:

March 3, 2022:

February 17, 2022: To grant CS-MU-V-CO-NP as recommended by Planning Commission, on consent.

ORDINANCE NUMBER:

ASSIGNED STAFF: Heather Chaffin

e-mail: [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov)

## ZONING CHANGE REVIEW SHEET

CASE: C14-2021-0124  
3535 E. 7<sup>th</sup> Street

DISTRICT: 3

ZONING FROM: CS-CO-NP, CS-MU-CO-NP, CS-V-CO-NP      TO: CS-MU-V-CO-NP

ADDRESS: 3501, 3509, 3511, 3525, 3535 East 7th Street and 621 Gunter Street

SITE AREA: 1.69 acres

PROPERTY OWNERS:  
Elena Herrera Family Bypass Trust,  
Ernesto B & Elena V. Herrera Living Trust,  
El Otro Lado, Inc.

AGENT:  
Drenner Group PC  
(Amanda Swor)

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

STAFF RECOMMENDATION:

**Staff supports the Applicant's request for rezoning to CS-MU-V-CO-NP. The CO includes retaining the following prohibited and conditional land uses from the current zoning on the properties.**

- 1. The following land uses shall be prohibited: Adult oriented businesses, Campground, Kennels, Pawn shop services, and Vehicle storage.**
- 2. The following land uses shall be conditional: Agricultural sales and services, Construction sales and services, Limited warehousing and distribution, Building maintenance services, Laundry services, Equipment sales, and Equipment repair services.**

*For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

January 11, 2022: To grant CS-MU-V-CO-NP as recommended by Staff, on consent.  
December 14, 2021: To grant postponement to January 11, 2022, as requested by Neighborhood Plan Contact Team, on consent.  
November 9, 2021: To grant postponement to December 14, 2021, as requested by Neighborhood Plan Contact Team, on consent.

CITY COUNCIL ACTION:

February 17, 2022:

ORDINANCE NUMBER:

ISSUES:

The proposed rezoning is for several contiguous tracts along East 7<sup>th</sup> Street that have a mix of CS zoning designations with MU-, V-, and CO overlays. The rezoning request would keep previous conditional overlays and give the properties consistent zoning overall to allow cohesive redevelopment. The property is located on East 7<sup>th</sup> Street, a Future Core Transit Corridor designated by Code as suitable for Vertical mixed use building (V/VMU) development.

CASE MANAGER COMMENTS:

The subject property is located at the southwest corner of East 7<sup>th</sup> Street and Springdale Road. The property also has frontage on Hidalgo Street to the south and Gunter Street to the west. The CS-CO-NP, CS-MU-CO-NP, CS-V-CO-NP zoned parcels that are part of the rezoning request are developed with a range of land uses-- Restaurant- limited, Office, Limited warehousing and distribution and Automotive repair services. Across East 7<sup>th</sup> Street to the north are properties zoned CS-CO-NP and SF-3-NP that are developed with Restaurant-limited and general, Automotive repair services and Single family residential uses. Across Springdale Road to the east is Limited warehousing and distribution land use on CS-CO-NP and CS-V-CO-NP zoned lots. Across Hidalgo Street to the south are single family residences zoned SF-3-NP and Limited warehousing and distribution use on W/LO-NP property. ***Please see Exhibits A and B- Zoning Map and Aerial Exhibit.***

The Applicant has stated that they intend to build approximately 150 multifamily units with approximately 10,000 square feet of commercial and retail uses on the ground floor. If this is developed utilizing the Vertical mixed use (V/VMU) building tool, the development would be required to provide a portion of the residential units as affordable housing. As stated previously, the property is comprised of multiple lots. Two of those lots, 3501 and 3509 East 7<sup>th</sup> Street, opted into the V/VMU overlay when it was created in 2008. Properties that opted in at that time are required to provide 10% of residential units at 60% MFI; consequently 3501 and 3509 will still be required to comply with this requirement. For the remaining lots that are adding V/VMU with this request (3511, 3525, 3535 East 7th Street and 621 Gunter Street) must comply with current requirements. These lots will be required to provide 10% of units at 80% MFI if the V/VMU is utilized. ***Please see Exhibit C- Applicant Letter.***

Staff supports the rezoning request. The varied zoning designations on the site make redevelopment challenging, and a uniform zoning designation would make it much easier to develop as a single, cohesive project. The property's location on a Future Core Transit Corridor is suitable for V/VMU per Code, and the adjacent bike lanes and bus stop will provide convenient transportation options for the site. Adding V/VMU is consistent with properties to the east and west. Finally, the addition of affordable residential units on this site would be consistent with the goals of the City Council as outlined in the Strategic Housing Blueprint and other Council-approved actions.

**BASIS FOR RECOMMENDATION**

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*
2. *Granting of the request should result in an equal treatment of similarly situated properties.*
3. *The proposed zoning should be consistent with the goals and objectives of the City Council.*
4. *The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.*
5. *Zoning should promote clearly-identified community goals, such as creating employment opportunities or providing for affordable housing.*

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
Site	CS-CO-NP, CS-MU-CO-NP, CS-V-CO-NP	Restaurant- limited, Office, Limited warehousing and distribution, Automotive repair services
North	CS-CO-NP, SF-3-NP	Restaurant- limited and general, Automotive repair services, Single family residential
South	SF-3-NP, W/LO-NP	Single family residential, Limited warehousing and distribution
East	CS-CO-NP, CS-V-CO-NP	Limited warehousing and distribution
West	MF-2-NP, CS-V-CO-NP	Multifamily residential, Automotive repair services

**NEIGHBORHOOD PLANNING AREA:** Govalle/Johnston Terrace Combined

**TIA:** Deferred to time of site plan.

**WATERSHED:** Boggy Creek

**NEIGHBORHOOD ORGANIZATIONS:**

Homeless Neighborhood Association

SELTexas

Preservation Austin

Del Valle Community Coalition

Claim Your Destiny Foundation

Friends of Austin Neighborhoods

Neighborhood Empowerment Foundation

Guadalupe Neighborhood Development Corporation

Del Valle Community Coalition

El Concilio Mexican American Neighborhoods

African American Cultural Heritage District

Govalle/Johnston Terrace Neighborhood Plan Contact Team

ASD

Austin Inncity Alliance

Neighbors United for Progress

Sierra Club

Bike Austin

PODER

Friends of Northeast Austin

Black Improvement Association

East Austin Conservancy

United East Austin Coalition

**AREA CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2019-0031 Springdale Farm	CS-MU-CO-NP to CS-MU-CO-NP, to change a condition of zoning (Remove the following land uses from the list of prohibited uses: Restaurant (General), Restaurant (Limited), Convenience Retail, and Art Workshop; Add the following condition: The property shall be limited to 20 d.u./ acre.	7/9/2019: To grant CS-MU-CO-NP, on consent	8/8/2019: To grant CS-MU-CO-NP, on consent
C14-2018-0081 PAZ Veterinary	GO-NP to GR-NP	10/9/2018: To grant GR-NP, on consent	11/1/2018: To grant GR-NP, on consent
C14-2014-0123 Springdale Farm	CS-MU-CO-NP to CS-MU-CO-NP, to change a condition of zoning (to add Outdoor Entertainment as permitted use). Request amended to include: < 2,000 vehicle trips per day; allow Outdoor Entertainment. Hours for Outdoor Entertainment land use shall be limited to the following: Friday and Saturday: 10:00 AM-11:00 PM; Sunday through Thursday: 11:00 AM-10 PM. Outdoor Entertainment prohibited within 80 feet from used or zoned SF properties. Max 30 Outdoor Entertainment events/year. Prohibited land uses: Alternative Financial Services, Bail Bond Services, Pedicab Storage/Dispatch, and Guidance Services.: Hospital Services (General), Maintenance and Service Facilities, Art and Craft Studio (General), Automotive Rental, Automotive Repair Services, Automotive Sales, Automotive Washing (Of Any Type), Business or Trade School, Business Support Services, Campground, Commercial Blood Plasma Center, Commercial Off-Street Parking, Consumer Convenience Services, Consumer Repair Services, Convenience Storage, Drop-Off Recycling Collection Facility, Electronic	10/28/2014: To grant CS-MU-CO-NP with the following changes: the maximum number of outdoor entertainment events per year shall not be a condition of zoning, and may be addressed at time of conditional use permit; outdoor entertainment events, including set-up, shall not begin before 3:00 p.m. on school days; and the Decibel limit at the property line shall be 75 db max. (8-0)	12/11/2014: ORD NO. 20141211-147 Approved adding the following conditions: No. of events/year: < 50 people – no limit; 51 to 150 people – no more than 22 events; 150+ people – no more than 5 events. Hours of Events: Monday – Thursday - 3:00 p.m. to 8:00 p.m.; Friday - 3:00 p.m. to 9:00 p.m.; Saturday - 10:00 a.m. to 10:00 p.m.; Sunday - 10:00 a.m. to 8:00 p.m. No events over 150 will be allowed after 5:00 p.m. Amplified Sound Only permitted for 20 events of between 51 and 150 people, all other events are not amplified. Hours of amplified sound: Sunday through Friday from 10:00 a.m. to 8:00 p.m. and Saturday from 10:00 a.m. to 10:00 p.m. All sounds are limited

	<p>Prototype Assembly, Equipment Repair Services, Equipment Sales, Limited Warehousing &amp; Distribution, Exterminating Services, Community Recreation (Public &amp; Private), Financial Services, Food Sales, Funeral Services, General Retail Sales (Convenience), General Retail Sales (General), Kennels, Laundry Services, Monument Retail Sales, Off-Site Accessory Parking, Outdoor Sports and Recreation, Pawn Shop Services, Personal Improvement Services, Personal Services, Pet Services, Research Services, Restaurant (Drive-In, Fast Food), Restaurant (Limited, General), Service Station, Theater, Vehicle Storage, Veterinary Services, Custom Manufacturing, Club or Lounge, College and University Facilities, Congregate Living, Residential Treatment, Transitional Housing, Transportation Terminal, Hotel-Motel, Indoor Entertainment, and Indoor Sports and Recreation.</p>		<p>to no more than 75 decibels. No amplified sound will be permitted during the last five days of “Spring Festival Season” as defined in 9-2-1(12)S. Location of Events: No events are held within 80 feet from any property zoned or used for single family residential.</p> <p>11/20/2014: Approved on 1<sup>st</sup> reading only (5-1-1)</p>
<p>C14-2017-0090.SH Springdale Arts</p>	<p>SF-3-NP to GR-MU-NP (not recommended by Staff)</p>	<p>12/12/2017: To grant GR-MU-CO-NP (11-0). Conditions: NTA, Drive-in services prohibited; 8’ privacy fence &amp; 25’ veg. buffer on north property line; Max 3 stories/40’ height; Max 40% Comm’l uses; SF-5 and less intense uses only within 75 feet of the north property line; prohibited uses: Funeral svs, Pawn shop svs, Bail bond svs, Auto repair svs, Auto washing (of any type), Outdoor entertainment, Hospital svs (general), Residential treatment, Med offices &gt; 5,000 sf, Restaurant (general), Service station, Exterminating svs, Alt</p>	<p>02/15/2018: To grant GR-MU-CO-NP as rec by PC, Ord. 20180215-064</p>

		financial svcs, Auto rentals, Auto sales, Drop-off recycling collection facility Outdoor sports and rec, Hospital services (ltf), Hotel-motel, Offsite accessory parking, Restaurant (ltd), Theater	
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#### EXISTING STREET CHARACTERISTICS:

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
East 7 <sup>th</sup> Street	120'	50'	Level 3	Yes	Bike Lane	Yes
Springdale Road	65'	45'	Level 2	Yes	Bike Lane	No
Hidalgo Street	48'	30'	Level 1	No	None	No
Gunter Street	47'	27'	Level 1	Yes	None	No

#### ADDITIONAL STAFF COMMENTS:

##### Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code.
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 s.f. cumulative is exceeded, and on site control for the two-year storm.

##### Site Plan

SP 1 Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

SP 2 If a Vertical Mixed Use project is proposed, the project will need to provide affordable housing in accordance with Article 4 to receive the development standards relief. Please work with Housing and Planning on the affordable housing.

SP 3 The site is subject to compatibility standards. Along the south and northeast property lines, the following standards apply:

- No structure may be built within 25 feet of the property line.

- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
  - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
  - No parking or driveways are allowed within 25 feet of the property line.
  - A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- SP 4 Additional design regulations will be enforced at the time a site plan is submitted.
- SP 5 This property is within the Controlled Compatible Land Use Area defined by Chapter 241 of the Local Government Code. Development on this property is limited by Chapter 25-13 of the Austin City Code. Airport hazards as defined in Federal Aviation Regulations Part 77, as adopted by the City in Sections 25-13-23, are prohibited.

#### Parks & Recreation

PR1: Parkland dedication will be required for the new residential units proposed by this development, multifamily with CS-MU-V-CO-NP 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.

#### Transportation

##### ASMP Assessment

The Austin Strategic Mobility Plan (ASMP) calls for 92 feet of right-of-way for Springdale Road. It is recommended that 46 feet of right-of-way from the existing centerline should be dedicated for Springdale Road according to the Transportation with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

##### 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.



Street Characteristics

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
East 7 <sup>th</sup> Street	120'	50'	Level 3	Yes	Bike Lane	Yes
Springdale Road	65'	45'	Level 2	Yes	Bike Lane	No
Hidalgo Street	48'	30'	Level 1	No	None	No
Gunter Street	47'	27'	Level 1	Yes	None	No

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.

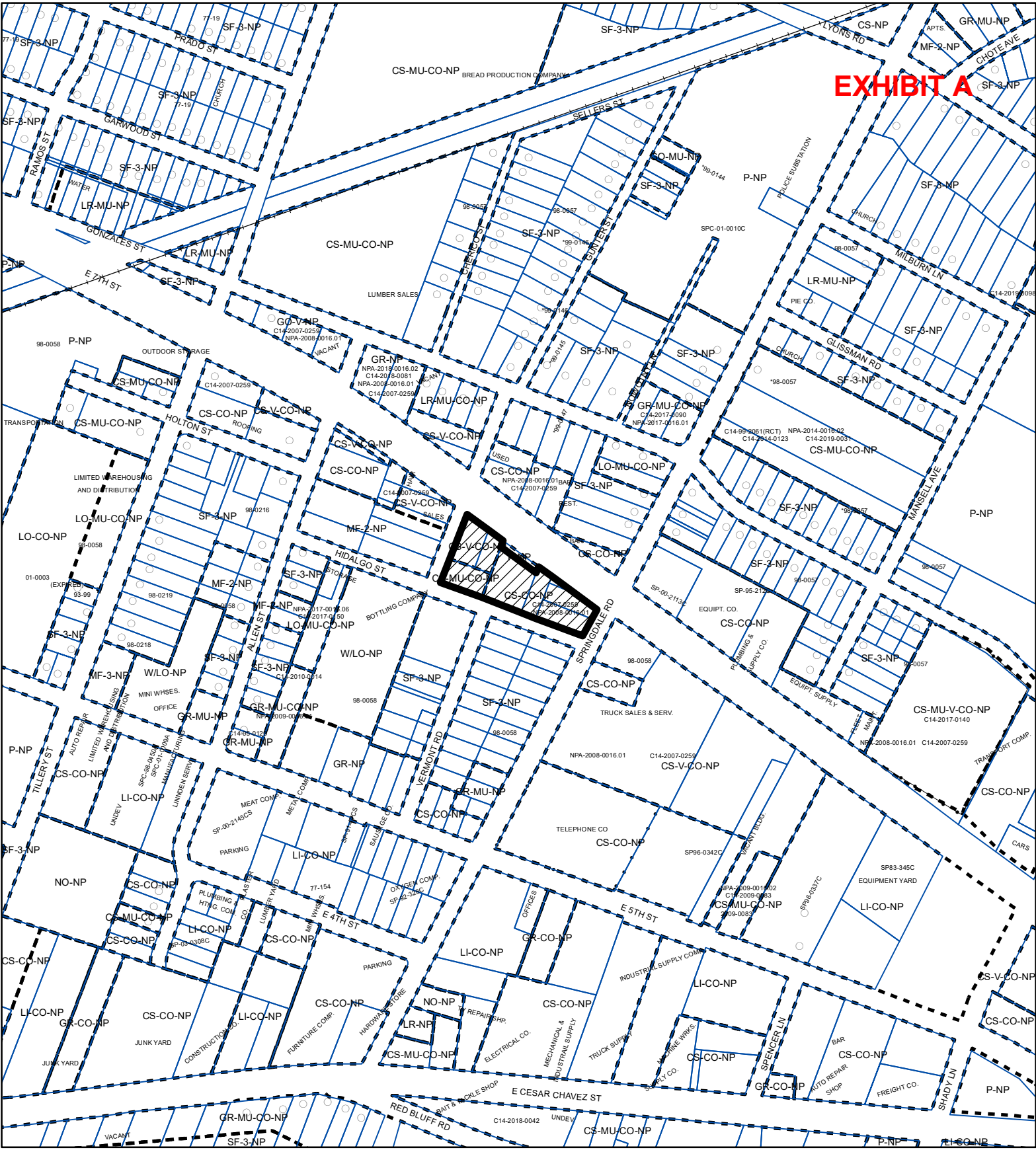
Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at [ser@austintexas.gov](mailto:ser@austintexas.gov).




The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Exhibit
- C. Applicant Letter

# EXHIBIT A



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

## ZONING

ZONING CASE#: C14-2021-0124

1" = 400'

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

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Created: 7/29/2021





### 3535 E 7TH STREET



C14-2021-0124

Creek Buffers

ZONING BOUNDARY

FULLY DEVELOPED FLOODPLAIN

ZONING CASE#: C14-2021-0124  
 LOCATION: 3501, 3509, 3511, 3525, 3535 East 7th St.  
 and 621 Gunter Street  
 SUBJECT AREA: 1.6912 Acres  
 GRID: L21  
 MANAGER: Heather Chaffin



1" = 100'

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.



Amanda W. Swor  
direct dial: (512) 807-2904  
aswor@drennergroupp.com

July 27, 2021

Ms. Rosie Truelove  
Housing and Planning Department  
City of Austin  
Street-Jones Building  
1000 E. 11<sup>th</sup> Street, Suite 200  
Austin, TX 78702

Via Electronic Delivery

Re: 3535 East 7<sup>th</sup> Street – Rezoning application for the 1.6912-acre piece of property located at 3501, 3509, 3511, 3525, 3535 East 7<sup>th</sup> Street and 621 Gunter Street, Austin, Travis County, Texas (the “Property”)

Dear Ms. Lucas:

As representatives of the owner of the Property, we respectfully submit the enclosed rezoning application package. The project is titled 3535 East 7<sup>th</sup> Street, consists of 1.6912 acres, and is located on the southeast corner of East 7<sup>th</sup> Street and Gunter Street. A portion of the Property is currently developed with restaurant, office, warehouse, vehicle service space, along with a portion of the Property being undeveloped.

The site is currently zoned CS-V-CO-NP, General Commercial Services – Vertical Mixed Use – Conditional Overlay – Neighborhood Plan, CS-MU-CO-NP, General Commercial Service – Mixed Use – Conditional Overlay – Neighborhood Plan, and CS-CO-NP, General Commercial Services – Conditional Overlay – Neighborhood Plan. The following conditional overlay applies to all tracts:

- The following uses are prohibited uses:
  - Adult oriented businesses
  - Campground
  - Kennels
  - Pawn shop services
  - Residential treatment
  - Vehicle storage
- The following uses are conditional uses:
  - Agricultural sales and services
  - Construction sales and services
  - Limited warehousing and distribution
  - Building maintenance services
  - Laundry Services
  - Equipment sales
  - Equipment repair services

The requested rezoning is from CS-V-CO-NP; CS-MU-CO-NP, and CS-CO-NP to CS-MU-V-CO-NP, General Commercial Services – Mixed Use – Vertical Mixed Use – Conditional Overlay – Neighborhood Plan, zoning district to create a comprehensive zoning district on the Property. The Vertical Mixed Use overlay is proposed to allow a residential development with up to 150 multifamily units, with up to 10,000 square feet of ground floor retail use on the Property. This rezoning request is not proposing an amendment to the existing conditional overlays.

The Property is located in City Council District 3 in the Full Purpose Jurisdiction of the City of Austin. The Property is located within the Boggy Creek urban watershed and is within the boundaries of South Govalle/Johnston Terrace Combined Neighborhood Planning Area with a Future Land Use Map (FLUM) designation of “Mixed Use” and “Commercial”. Per a memorandum prepared by Maureen Meredith dated July 23, 2021, a Neighborhood Plan Amendment (NPA) will be required for 3511, 3529, and 3535 East 7<sup>th</sup> Street. We have simultaneously filed a NPA application requesting a change to the FLUM from Commercial to Mixed Use with this rezoning application for the applicable properties.

A Traffic Impact Analysis (“TIA”) has been waived via a TIA waiver from Amber Hutchens dated July 21, 2021, with the note that a TIA determination is deferred until review of a site plan application when land use and intensity will be finalized.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Sincerely,

A handwritten signature in blue ink that reads "Amanda Swor". The signature is fluid and cursive, with the first name "Amanda" and last name "Swor" clearly distinguishable.

Amanda W. Swor

cc: Joi Harden, Housing and Planning Department (*via electronic delivery*)  
Heather Chaffin, Housing and Planning Department (*via electronic delivery*)