

**SECOND/THIRD READINGS SUMMARY SHEET**CASE: C14-2022-0150DISTRICT: 1ADDRESS: 3117 and 3121 E. 12<sup>th</sup> StreetZONING FROM: CS-1-CO-NP; CS-CO-NP;  
CS-MU-V-CO-NPTO: CS-MU-V-CO-NPSITE AREA: approximately 1.0 acre or 43,560 sqftPROPERTY OWNER: 3121 E. 12<sup>th</sup> Horizontal Investors, LPAGENT: Armbrust & Brown (Michael J. Whellan)CASE MANAGER: Jonathan Tomko (512) 974-1057, [Jonathan.tomko@austintexas.gov](mailto:Jonathan.tomko@austintexas.gov))REQUEST:

Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 3117 and 3121 E. 12th Street from CS-1-CO-NP; CS-CO-NP; and CS-MU-V-CO-NP combining district zoning to CS-MU-V-CO-NP combining district zoning.

In accordance with Ordinance No. 020110-17 the conditional overlay would prohibit the following uses: adult oriented businesses, automotive washing (of any type), commercial off-street parking, construction sales and services, custom manufacturing, equipment sales, laundry service, maintenance and service facilities, service station, agricultural sales and services, campground, commercial blood plasma center, convenience storage, drop-off recycling collection facility, equipment repair services, limited warehousing and distribution, pawn shop services, vehicle storage and conditionally allow the following uses: automotive sales, guidance services, kennels, outdoor sports and recreation, exterminating services, hotel-motel, monument retail sales, and residential treatment.

Staff does not recommend carrying forward the height restriction of 40 feet for these tracts as a part of Ordinance No. 020110-17. This height restriction is too restrictive around a CapMetro rail station, level 2 ASMP roadway, and Imagine Austin Activity Corridor (Airport Blvd.). Maintaining this height restriction would deprive the neighborhood of much needed affordable housing, additional street level retail, and potentially the redevelopment of these underutilized parcels.

*Please see the basis of recommendation section below.*

PLANNING COMMISSION or ZONING AND PLATTING COMMISSION ACTION /  
RECOMMENDATION:

February 28, 2023: Staff Postponement until March 28, 2023

March 28, 2023: Staff Postponement until April 25, 2023

April 25, 2023: Staff Postponement until May 9, 2023

May 9, 2023: Neighborhood Postponement until May 23, 2023

May 23, 2023: Azhar, Connolly- PC Approved Staff Recommendation 9-0

PREVIOUS CITY COUNCIL ACTION:

July 20, 2023: Postponed at the Neighborhood's Request

August 31, 2023: Approved on first reading only on Council Member Harper-Madison's motion, Mayor Pro Tem Ellis seconded, approved without objection, with Council Member Vella off the dais.

September 21, 2023: Case is scheduled to be heard by Council

ORDINANCE NUMBER: N/A

ISSUES:

The applicant is proposing 110 multifamily dwelling units and 1,500 sqft of street level retail.

CASE MANAGER COMMENTS:

The applicant is seeking to clean up zoning on two underutilized parcels along the south side of East 12<sup>th</sup> Street, less than 500 feet from Airport Boulevard. The parcels lie within a ½ mile radius of the MLK Red Line Transit Stop which was not present when the Rosewood Neighborhood Plan was adopted in 2001. The Capital Metro Red Line began service in 2010 and will have additional public investment in transportation choices as a part of Project Connect.

By removing the CS-1 (Commercial – Liquor Sales) zoning and adding a mixed use combining district zoning and vertical mixed use building zoning the two parcels would have identical zoning to parcels immediately to the west.

VMU site development standards would provide opportunities to increase the income restricted affordable housing in this area that is vulnerable to displacement risk according to the Project Connect Anti-Displacement Maps and Dashboard. These opportunities to leverage inevitable redevelopment into positive community benefits are one of the reasons the neighborhood probably opted into VMU in 2009. However, these parcels are currently unable to provide those benefits without the -V. Adding mixed use is key to being so close to a major transit hub like the MLK Red Line Stop.

BASIS OF RECOMMENDATION:

**Change in conditions has occurred within the area indicating that there is a basis for changing the originally established zoning and/ or development restrictions for the property.**

This immediate area has experienced substantial development, redevelopment and displacement pressures since the Rosewood Neighborhood Plan was adopted in 2001. Over 2,000 income restricted and market rate apartment units have been developed in the MLK station area alone, Mueller is less than 1 mile from this site and the ACC Eastview Campus (also less than 1 mile from this site) has enlarged substantially since its opening in 1999. These major developments warrant a reevaluation of not only the zoning of this site, but the development restrictions previously imposed over two decades ago.

**Zoning changes should promote compatibility with adjacent and nearby uses**

The presence of CS-MU-V zoning on adjacent parcels reflects the immediate area's change to more intensive mixed-uses. This zoning change would promote compatibility with these uses along East 12<sup>th</sup> Street without promoting more intense zoning within the surrounding neighborhoods.

**Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors**  
 East 12<sup>th</sup> Street is designated as a local mobility - level 2 roadway according to the ASMP. This type of roadway functions as a major collector connecting neighborhoods to each other. By increasing the mix of uses along East 12<sup>th</sup> Street more car-oriented trips can be accommodated by other transportation modes within the immediate and surrounding areas.

**Zoning should promote clearly identified community goals, such as creating employment opportunities or providing for affordable housing**

This rezoning supports established community goals by supporting employment opportunities, increasing housing supply near transportation assets, and increasing the income restricted affordable housing supply in an area that is currently vulnerable to displacement risk.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
<i>Site</i>	CS-1-CO-NP; CS-CO-NP; CS-MU-V-CO-NP	Currently there is a 4,160 sqft building built in 1964. The remainder of the two lots is vacant
<i>North</i>	CS-MU-CO-NP	Predominantly single-family homes, despite the zoning category
<i>South</i>	MF-3-NP	Elm Ridge Apartments (130 apartment units built in 1968)
<i>East</i>	MF-3-NP	Vacant Lot being used for vehicle storage, General Auto Repair Engine and Transmission Exchange
<i>West</i>	CS-MU-V-CO-NP	Anderson Village Apartments (24 income restricted senior housing at or below 60% MFI)

**NEIGHBORHOOD PLANNING AREA:** Rosewood Neighborhood Planning Area

**TIA:** N/A

**WATERSHED:** Boggy Creek

**SCHOOLS:** A.I.S.D.

Oak Springs Elementary School

Kealing Middle School

Eastside Early College High School

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhood Council

Del Valle Community Coalition

East Austin Conservancy

Friends of Austin Neighborhoods

Homeless Neighborhood Association

Homewood Heights Neighborhood Association

Neighborhood Empowerment Foundation

Neighbors United for Progress

Preservation Austin

Residents of E 12<sup>th</sup> St  
 Rosewood Neighborhood Plan Contact Team  
 SELTexas  
 Sierra Club, Austin Regional Group

**AREA CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2013-0091	The applicant is proposing to rezone 2804 Sol Wilson (0.2684 acres) from CS-CO-NP to CS-MU-CO-NP.	Planning Commission (October 8, 2013) Approved CS-MU-CO-NP on consent agenda 8-0	Approved Ordinance 20131212-97 on consent (7-0)

**RELATED CASES:**

*C14-01-0150:* Rosewood Neighborhood Plan Combining District  
*Ordinance No. 020110-17:* Change the base zoning districts on 68 tracts of land, approximately 572 acres in Rosewood.  
*C14-2009-0106:* Rosewood Neighborhood Planning Area VMU (Opt-In/Opt-Out Process)  
*NPA-2022-0008.01:* 3117 and 3121 E. 12<sup>th</sup> Street Neighborhood Plan Amendment

**EXISTING STREET CHARACTERISTICS:**

<b>Name</b>	<b>ASMP Classification</b>	<b>ASMP Required ROW</b>	<b>Existing ROW</b>	<b>Existing Pavement</b>	<b>Sidewalks</b>	<b>Bicycle Route</b>	<b>Capital Metro (within ¼ mile)</b>
E 12TH ST	Local Mobility - Level 2	84 feet	60 feet	42 feet	Existing 5 feet sidewalks	Bike lane	Yes

**OTHER STAFF COMMENTS:**

**Site Plan Review:**

*General*

A site plan will be required for any new development other than single-family, two-family or duplex residential.

Any new development is subject to the design standards and multifamily density provisions in Subchapter E of the Land Development Code. Additional comments will be made when the site plan is submitted. SP3. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 ft. or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations. This site is subject to compatibility standards due to single family zoning and land uses to the north and west. Additional comments will be made when the site plan is submitted.

*Demolition*

In the event that demolition or relocation of existing buildings is proposed, the applicant is responsible for requesting demolition or relocation permits at the appropriate stage of the development process. The City Historic Preservation Office will review all proposed building demolitions and relocations. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

*Airport Overlay*

The site is located within Austin-Bergstrom Airport Controlled Compatible Land Use overlay. No use will be allowed that creates electrical interference with navigational signals or radio communications between airport and aircraft, makes it difficult for pilots to distinguish between the airport lights and others, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, creates bird strike hazards or otherwise in any way endangers or interferes with the landing, taking off, or maneuvering of aircraft intending to use the Austin-Bergstrom Airport. Height limitations and incompatible uses with each Airport Overlay zone are established in the Airport Overlay Ordinance. Airport Hazard Zoning Committee review may be required prior to Planning Commission Hearing.

*Neighborhood Planning Area*

This site is located in the Rosewood Neighborhood Plan. Please see the City's Neighborhood Plans and Resources webpage for a copy of the recommended design guidelines.

Environmental Review:

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. It is in the Desired Development Zone.

Zoning district impervious cover limits apply in the Urban Watershed classification.

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

Parks and Recreation Department (PARC) Review:

Parkland dedication will be required for the new applicable uses proposed by this development, multifamily and retail with CS-MU-V-NP-CO 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.

Austin Water Utility Review:

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.

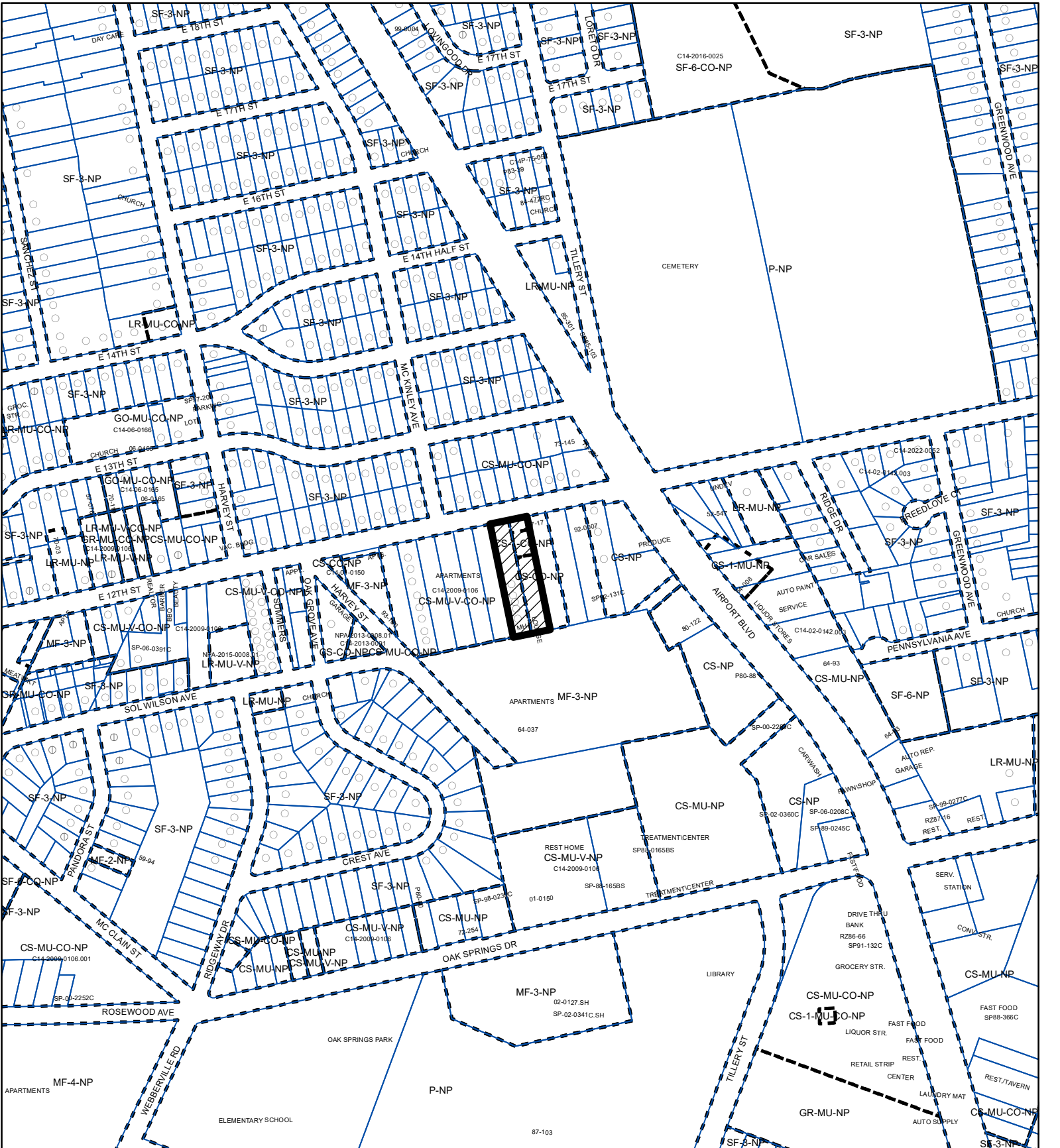
ATD Engineering Review:

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. The traffic impact analysis for this site is not required, the traffic generated by the proposal does not exceed the thresholds established in the City of Austin Land Development Code. [LDC 25-6-113].

The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for E 12TH ST. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for E 12TH ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

INDEX OF EXHIBITS TO FOLLOW




- A: Zoning Map
- B. Aerial Map
- C. Correspondence from Interested Parties



**ZONING**

**ZONING CASE#: C14-2022-0150**



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

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.

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

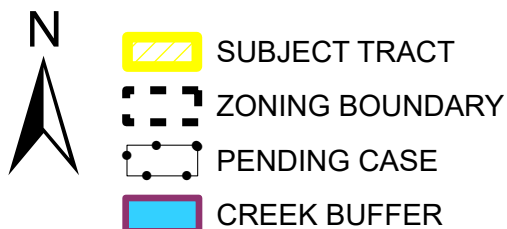


**Created: 10/19/2022**





## 3117 & 3121 E. 12th Street



ZONING CASE#: C14-2022-0150  
 LOCATION: 3117 & 3121 E 12th St  
 SUBJECT AREA: 1 Acres  
 GRID: L23  
 MANAGER: Jonathan Tomko



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Created: 5/2/2023



Dear Commissioners:

The Rosewood Neighborhood Contact Team held a special meeting March 29, 2023 to discuss the above item regarding 3117 and 3121 E. 12<sup>th</sup> Street. I understand that this item has been postponed until April 25. We feel it is important to share our concern with you prior to that date.

Our members appreciate the developer's idea of combined retail/commercial with multi-family housing in the same project. However, we have a serious concern about making a change to the Rosewood Neighborhood Plan that would remove the height restricted overlay. There is another property on East Twelfth Street which accomplished the same goals without requiring a change to our plan. Also, as we understand it, if we were to approve removing the overlay on these properties to permit greater height, that action would remove the overlay not only from the noted properties, but also from all properties on East Twelfth Street that are currently covered by the height restricted overlay. We cannot in good conscience approve a change that would apply to properties that may not even be inside the Rosewood Neighborhood Plan boundaries.

Therefore, we voted to support the most directly affected neighborhood, Homewood Heights, in opposing the proposed neighborhood plan amendment.

Sincerely,

Jane Rivera, Chair  
Rosewood Neighborhood Planning Area

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Email Sun. 05/14/2023 3:12pm  
To: Tomko, Jonathan; Meredith, Maureen  
From: Christensen, Ryah

Dear Commissioners,

I am writing to object to Armbrust & Brown's request to change the Neighborhood Plan on E.12th street.

On its surface, the developer / investor's request to change the zoning on 3117 and 3121 E.12th to VMU seems innocuous. But please consider the consequences of their request to remove the Conditional Overlay that is buried within the zoning request. Also consider our neighborhood's history with developers / investors using upzoning as an investment tool to increase their portfolios, and not a means to build actual affordable housing.

Granting this request will remove height restrictions for the whole E. 12th block and pave the way for future developers to build at a scale that is not in line with our neighborhood's goals to balance development with current residents' quality of life. It will also not necessarily lead to increased affordable housing in the area. Current property owners like Eureka holdings, who have amassed considerable property and increased entitlements on many occasions, have never built anything and seem to have no plans to do so. Armbrust & Brown, who is representing Geyser Group on this application, has let us know that their client has NO ACTUAL PLANS for the proposed housing development that they are using as leverage for this zoning / NP amendment request. Without an actual development plan, and without City requirements that zoning changes / NP amendments are contingent on realizing promised development AND fulfilling good faith promises made to neighborhoods in exchange for their support, there is no reason to believe that upzoning properties will solve any housing or underused land issues.

I hope that you will not grant the removal of the Conditional Overlay on the properties in question. I also hope that you will devise strategies that encourage investors / developers to actually develop the land they own in a manner that is respectful to their neighbors', and this City's, needs.

Thank you for your consideration,  
Ryah Christensen (20 year resident of Homewood Heights)

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Email Sun. 05/15/2023 11:43am  
To: Tomko, Jonathan; Meredith, Maureen  
From: Ahmed, Imad

Hello,

I live in the McKinley Heights neighborhood and my neighborhood association notified me about a city planning commission meeting this Friday to discuss the removal of Rosewood Neighborhood Plan's conditional overlay of a 40 foot maximum for building height in the area.

Unfortunately, I cannot attend this meeting as I am out of the country this Friday. But I did want to share my views as a resident of the area. What is important to me and many residents in the area is that the many empty and dilapidated lots on 12th street get utilized in a way that is beneficial for the community. I am therefore for the removal of the conditional overlay if we are reasonably certain that the development will begin soon. Increasing the height limit from 40 feet to 100 feet, not just for this property but for all the commercial properties on 12th street, will increase housing supply and bring more retail/office/restaurants to the area, which I think most of the residents in the area would love to see. We've seen denser development really benefit neighborhoods like Saltillo, South Lamar, South First, and South Congress, and I'd like to see the same for East 12th Street.

The re-zoning notification refers to a special meeting on March 29th where residents voted to oppose the proposed neighborhood plan amendment. I was at the meeting, and there were only a couple individuals who were very vocal in their opposition and swayed the others at the meeting. But based on my conversations with neighbors, I think those individuals are the minority -- most want to see more dense development in our area, which you'd likely get with the proposed neighborhood plan amendment.

Imad Ahmed

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Email Mon. 05/15/2023 8:37pm

To: Tomko, Jonathan; Meredith, Maureen

From: Jenny Grayson

Dear Jonathan and Maureen,

I am emailing you all to formally express my opposition to the proposed zoning changes for 3117-3121 E. 12 Street.

I am against the rezoning and the removal of the conditional overlay. We have a neighborhood plan for the area (that was approved by the city council) and allows building to be built up to 40 feet in our residential areas. Plenty of large developments have successfully built multi-use properties within this guideline, and allowing the conditional overlay to be removed could be cause for all of 12th street to turn into 100 foot buildings.

Furthermore, not the city nor the developer is responsible for infrastructure amendments. How will we manage the additional traffic? Pedestrian traffic? Bus stops? Stop lights? They also speak of low income housing, but only a small percentage of these units are required to be low income and usually aren't affordable to low income families. Low income units are limited to single bedroom units. Low income needs to be for families, and families cannot live in a one bedroom unit.

***For me, the main takeaway is that plenty of other multi-use buildings have abided by the Rosewood Neighborhood Plan and have successfully built, sold and leased units for mixed use.*** I am against the



amendment change and am here to tell you so. I will do my best to voice my opinion at the commission meeting this Friday.

Thank you,  
Jenny Grayson  
E 14th residents since 2010  
512-293-8819

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Email Fri. 05/19/2023 10:24pm  
To: Tomko, Jonathan; Meredith, Maureen  
From: Yasmin Eljirby

Hello,

Unfortunately I cannot attend the meeting on May 23rd regarding rezoning and removal of the rosewood neighborhood plan's conditional overall of 40 foot maximum. Since I cannot attend the meeting, I would like to make my views known. My hope for the area is to see it grow similarly to plaza saltillo. I would like the 40 foot maximum overlay to be removed and set to 100, but with an understanding that developers must begin building within a reasonable timeframe. This will require developers to move quickly and help resolve the issues E 12th street is currently facing. E 12th is currently home to many empty and decrepit lots that are being left unattended for years. These empty lots have become a hub for illegal activity.

Thank you,  
Yasmin Eljirby

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Email Mon. 05/22/2023 8:57am  
To: Tomko, Jonathan; Meredith, Maureen  
From: Chevale January

I've been living in this neighborhood for 33 years now and I'm against the zoning change bikes lanes / bus stops/ safety Rosewood plan regulates up to 40 ft. businesses have successfully built within 40 ft regulation and I don't wanna see people blocking driveways it's already no where to park on 12th street and neighborhoods with the new sidewalks.

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Email Sat. 05/20/2023 3:12pm  
To: Shaw, Todd; Meredith, Maureen; Estrada, Nancy; Rivera, Andrew; Harden, Joi; Tomko, Jonathan  
From: Tyler Myers

Hello,

I am writing in today to express my 100% support for items 7&8 at the upcoming planning commission meeting regarding the plan amendment and rezoning of 3121 E. 12th Street.

I'm am a current resident in this neighborhood and have been for many years. I believe this will be a valuable addition to the neighborhood and helps the city achieve many of its goals regarding affordable housing, housing with close proximity to transit, and creating walkable and livable neighborhoods.

Thanks for listening,

Tyler Myers

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Email Tues. 05/16/2023 10:54am

To: Meredith, Maureen; Tomko, Jonathan

From: Morgan Terrill

Hello,

I am against the rezoning and the removal of the conditional overlay. I understand neither the city nor the developer is responsible for infrastructure amendments. How will we manage the additional traffic (which has already gotten pretty bad)? Pedestrian traffic? Bus stops? Stop lights? They also speak of low income housing, but only a small percentage of these units are required to be low income and usually aren't affordable to low income families. There are plenty of other multi-use buildings that have abided by the Rosewood Neighborhood Plan and have successfully built, sold and leased units for mixed use. I am against the amendment change.

Morgan Terrill

3115 E 13th St 78702

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Email Tues. 05/23/2023 5:32pm

To: Meredith, Maureen; Tomko, Jonathan

From: Jenny Grayson

Hello,

I'm emailing you to oppose the requested zoning change for 3117 and 3121 E 12th Street.

Please see my letter below.

I have lived in McKinley Heights since 2010 and currently serve as the neighborhood president. I strongly oppose removing the conditional overlay from the Rosewood Neighborhood Plan. When I was looking for my long-term home, I considered the neighborhoods, their neighborhood plans for growth and development, traffic, public transportation, greenery, thoroughfares and more. One of the reasons why I moved to McKinley Heights was the progressive, thoughtful community plan known as the Rosewood Neighborhood Plan which was adopted by our city council in 2002.

The Rosewood Neighborhood Plan was designed with the goal of making East Austin affordable, walkable, shoppable, inclusive and scalable. Working under this plan and with the neighborhoods, a number of mixed-use businesses have successfully built to scale (up to 40 feet), rented or sold their housing units and have rented out business space on the first floor. I believe this is a replicable, scalable plan for our neighborhood, as did our city council when it approved and adopted the neighborhood plan. I encourage the planning commission to respect the homeowners wishes and not allow the conditional overlay to be removed. Doing so would set a dangerous precedent for developments to build up to 90 foot buildings all along 12<sup>th</sup> street – a 2 lane street that cannot accommodate the influx of traffic of all forms (pedestrian, bike, bus, and cars) that would accompany such large buildings.

Their rezoning petition requests CS-MU-V-CO-NP. Importantly, the city defines the code CS – or commercial service district - as being “intended predominantly for commercial and industrial activities of a service nature having operating characteristics or traffic services generally incompatible with residential environment.” Even in the city’s own words, you all agree that a “CS” code, or a commercial services code is incompatible with a residential environment, and 3117 and 3121 E 12<sup>th</sup> Street are surrounded by residential plots and neighbors. This land is in the middle of a neighborhood.

When the investors purchased 3117 and 3121 E 12<sup>th</sup> Street, they were aware of the Rosewood Neighborhood Plan and the conditions under which they could operate. They understood the conditional overlay capped building height at 40 feet, and they chose to purchase that property. Please make them adhere to our neighborhood plan just as you would any other resident in Rosewood area. This plan is in place for a reason, and having a commercial service in the middle of two neighborhoods is not safe and does not make sense.

In the Homewood Heights and McKinley Heights neighborhoods, a minimum of 43 properties are now owned by a single investment firm. At least half – or 23 - of those properties sit vacant and 6 are abandoned. This is not a request for a single landowner to remove a conditional overlay for building height. This is an organized takeover of the east side by large investment firms with lots of money and lots of time to wait. Wait for their property value to increase so they can flip it for a profit. Wait for East Austin residents to die so they can acquire more land. Wait for East Austin residents to get fed up and abandon their homes because we no longer live in a neighborhood – The removal of this conditional overlay will mean up to 90 foot buildings for all these properties along 12<sup>th</sup> street. As stated previously, more than half of the lots owned by a large developer in East Austin sit vacant and have for years. The conditional overlay is not preventing developers from building. Their desire to remove zoning, increase their property value, scoop up more properties in east Austin and leave them vacant to sell at a later date when their property value increases substantially is the source for their request. Please do not remove the conditional overlay!

12<sup>th</sup> Street is a two lane street – one lane in each direction – with bike lanes and recently added sidewalks. With the growth in Austin, residents are experiencing dangerous cars cutting through neighborhoods to avoid major thoroughfare traffic. For years, residents of McKinley Heights have been petitioning the city for speed bumps on Harvey Street, but apparently our streets aren’t unsafe enough to warrant an intervention. Cars cut dangerously through our neighborhood, from MLK Blvd to 12<sup>th</sup> Street or vice versa to avoid the congestion on Airport Blvd, speeding in excess of 40 mph, damaging vehicles, not slowing for pedestrians, and damaging the safety of our neighborhood psyche.

12<sup>th</sup> street at 5 PM is a nightmare. People heading from downtown use 12<sup>th</sup> Street to connect to Airport Blvd and then 183. The increased traffic flow is already straining the current infrastructure, and there’s no way to increase traffic flow on 12<sup>th</sup> street without knocking down homes. How will this already congested area hold an additional 110 residential units in such a small space. And please be aware that the 90 foot buildings won’t be limited to these two lots. Every lot on 12<sup>th</sup> street has the potential to build up to 90 feet if this conditional overlay is removed. This is not scalable and not appropriate for a neighborhood.

Most units in this proposed hypothetical building will have multiple cars per household. If you’re hoping residents of this proposed development will use public transportation or the metro rail, don’t hold your breath. According to February 2023 ridership data found on the CapMetro website, ridership is stagnant on Bus route 6 – the E12th Street bus. If you think new residents will use the MetroRail, and assuming they work downtown, they would need to spend at least 45 minutes walking to the rail, waiting, riding and then walking to their final destination as opposed to driving their car downtown in 12 minutes or less. Traffic congestion in this area is already unsustainable, and we do not need 10 story buildings to add to the congestion.



Upzoning does not help the community. It increases land value, does nothing to positively impact housing needs or low income unit availability and increases taxes for residents - many of whom have been in the neighborhood since the 40's when McKinley Heights came into existence. These older residents may have an exemption saving them from the increased taxes, but it does nothing to help the family member who inherits the home. They will inherit a paid-for property that they cannot afford based solely on the assessed value of the land, and you will push minorities out of east Austin. If you approve this request, you are only hurting the homeowners who want to live in their neighborhood.

Finally, the community opposes this rezoning request. Please listen to us. In a recent poll among neighbors in McKinley Heights, along 12<sup>th</sup> street, 13<sup>th</sup> street and 14<sup>th</sup> streets – those who will be most impacted by a large building on 12<sup>th</sup> street – a majority of residents oppose the rezoning proposition and a minority of residents want to know more about the rezoning before confirming their stance.

As a homeowner who is in favor of development within the scope of the Rosewood Neighborhood Plan, I'm requesting that you all do not remove the conditional overlay for 3117 and 3121 E 12<sup>th</sup> St.

Thank you,

Jennifer Grayson

512-293-8819

3106 E 14th St

Austin TX 78702

Email Tues. 05/23/2023 4:08am

To: Meredith, Maureen; Tomko, Jonathan

From: Chelsea Collier

Dear Commissioners and Staff,

I am writing to express my opposition to two items before the Commission requesting: (1) a change to zoning ordinances and (2) a removal of the 40-foot height restriction which overwrites the Rosewood Neighborhood Plan.

I am opposing the request for these items because they impose drastic changes to the Rosewood Neighborhood Plan which was thoughtfully drafted after hundreds of volunteer hours of conversation and deliberation by long-term residents of our community. To suddenly overwrite this plan with very little communication between the city, the developer, and the community is reckless. The developer did come to one Homewood Heights neighborhood meeting but provided little in the way of information or intended use for the future development. They did discuss their profit margins.

I would like to see development in our neighborhood that adds amenities and housing (including affordable housing) but in a way that respects the character and history. The Eastside has long been impacted by gentrification and leaves evidence of those who benefited from but did not add to the evolution of this special community. We have a chance now to work with our neighbors and friends to address the gross inequities that are evident in past development. The proposed changes do not support thoughtful development and instead incentivizes missteps of the past - more expensive housing that greatly changes the physical character of the neighborhood, increases traffic, and developer profit.

I am an advocate for reasonable development that is the result of community input. I want developers to do well and run successful businesses but not at the expense of our neighbors.

**The current zoning and conditions are adequate and reflect a sensible balance of community interest and developer interest.**

I have seen far too much of Austin's public rights of way sacrificed for developer gain. All across this city, roads and sidewalks are carved by construction with massive buildings being erected to cater to high-priced elites. Personally I'm sad to see our city's character altered in this way but I also understand this may be appropriate for the downtown corridor. This is NOT appropriate for an Eastside residential area.

Please be community advocates and decide for responsible, equitable development that is in compliance with community parameters.

Sincerely  
Chelsea Collier  
D1 Resident  
2803 Sol Wilson, Austin, Texas 78702

References:

<https://services.austintexas.gov/edims/document.cfm?id=408938>

<https://services.austintexas.gov/edims/document.cfm?id=408944>

Rosewood Neighborhood Plan  
[https://www.austintexas.gov/sites/default/files/files/Housing\\_&\\_Planning/Adopted\\_Neighborhood\\_Planning\\_Areas/25\\_Rosewood/rosewood-np.pdf](https://www.austintexas.gov/sites/default/files/files/Housing_&_Planning/Adopted_Neighborhood_Planning_Areas/25_Rosewood/rosewood-np.pdf)

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Email Tues. 05/23/2023 7:50am  
To: Meredith, Maureen; Tomko, Jonathan  
From: Daniel Wells

Planning commissioners,

I am a resident of the Homewood Heights neighborhood and would like to voice my opposition to item 7 and 8 on tonight's planning commission agenda.

Please see the attached document for the justification for our opposition. We do not want to see this change to the Rosewood neighborhood plan and strongly oppose allowing 90ft tall buildings.

Thank you for your time and consideration,

Daniel Wells

Email Tues. 05/23/2023 4:06pm

To: Meredith, Maureen; Tomko, Jonathan

From: Homewood Heights Neighborhood Association President

Attached to this email is the Homewood Heights Neighborhood's statement regarding Items 7 & 8, as well as a land use inventory of our immediate area. Please include the text of the statement in the support materials.

At our April 2023 meeting neighbors voted unanimously in opposition for the reasons included.

If you have any trouble opening the attachments please let me know.

Christopher Page

President of the Homewood Heights Neighborhood Association

In 2022, a developer called Geyser Group purchased 3121 & 3117 E 12th Street. They're operating through Horizontal Investors LP with unnamed silent partners. They hired Michael Whellan, of Armbrust & Brown to seek higher entitlements immediately after acquiring the properties.

### **Zoning and Neighborhood Plan Amendment**

The uncontroversial part of Whellan's request is for uniform zoning across 3121 and 3117 E 12<sup>th</sup> (CS-MU-V-CO-NP [commercial service, mixed use, vertical, with a conditional overlay from the neighborhood plan]). The controversial part is Whellan's parallel request to amend the Rosewood Neighborhood Plan to eliminate a 40ft conditional overlay from their site.

Whellan's zoning application requests:

**“CS-General Commercial Services district** is intended predominantly for commercial and industrial activities of a service nature **having operating characteristics or traffic service requirements generally incompatible with residential environments.** **MU-Mixed Use combining district** is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development. **V-Vertical Mixed Use Building (V) combining district** may be applied in combination with any commercial base zoning district and allows for a combination of office, retail, commercial and residential uses within a vertical mixed use building. **CO- Conditional Overlay combining district** may be applied by requiring standards tailored to individual properties. **NP- Neighborhood Plan district** denotes a tract located within the boundaries of an adopted neighborhood plan.

Whellan's parallel NPA requests is to delete the component that makes his zoning application appear uncontroversial (CO-NP). ~~CO-NP~~ reverts land use to what the city itself defines as



“incompatible with residential environments.” The proposed zoning without the conditional overlay sets a base height of 60ft, allowed to increase by right to 90ft without residential compatibility via the VMU2 Ordinance adopted by the city in 2022.

The applicant seems ignorant to the meaning of our community’s conditional overlay. My understanding of the history of the Rosewood Neighborhood Plan, informed by lifelong residents and the documents authors, is as follows:

After Austin formally segregated the city in 1928 it mixed very intense land use into East Austin neighborhoods, particularly after the 1957 Industrial Overlay. Land use under the 1957 Industrial Overlay inappropriately positioned nuisance generating, high traffic, polluting, and industrial land uses directly next to families’ homes. Over time, those proximate but incompatible land uses were enshrined in the city’s zoning maps. After almost two years of effort and advocacy, residents from the Rosewood Neighborhood Contact Team successfully drafted their own neighborhood plan, adopted by the city in 2002 as an ordinance. It envisioned the compact, complete, walkable, inclusive community that the city is still trying to get other neighborhoods to catch up to today. One of its achievements was undoing incompatible land uses created by decades of discriminatory zoning, by establishing a residential scale of 40ft.

Whellan’s application to strip that conditional overlay is essentially a request to rewrite our community’s plan so that it suits a developer’s undesigned theoretical building. And it is fully theoretical. His team provided no specific information to the community and offered no community benefits. Also, his paperwork blankly lists 110 theoretical units for the property, indicating no interest in multi-bedroom units for families.

### **Community Opposition to the Developer’s Application**

Current residents have thoroughly considered and oppose the developer’s request to remove the conditional overlay. Residents met with Whellan’s team and thoroughly discussed the case. All community feedback was ignored. At the Homewood Heights Neighborhood Association’s April 2023 meeting, members voted unanimously in opposition to the removal of the conditional overlay. At a special called meeting of the Rosewood Neighborhood Contact Team, all voted in opposition, with one abstention.

### **Achievements of the Rosewood Neighborhood Plan**

The Rosewood Neighborhood plan undoes discriminatory base zoning, allows small lot amnesty, incorporates vertical mixed use, provided for literally millions of square feet of land for Austin’s most financially vulnerable residents, and prioritized balanced infill development. The 2020 Census confirms that the neighborhoods within in the Rosewood Neighborhood Plan are racially, economically, and even architecturally diverse.

The city’s adoption of The Rosewood Neighborhood Plan also gave *our community* the right to come together, review, and amend our Rosewood Neighborhood Plan. This is the opposite of that. The imbalance that Whellan’s advocating for has never been sought by our community, and through official votes at neighborhood meetings residents have expressed undivided opposition.

### **Traffic Hazard**

90ft scale is dysfunctional and unrepeatable in our community. 12<sup>th</sup> Street is a two-lane residential collector street lined with single family homes and residential-scaled multifamily and retail. More than doubling the scale of what's allowed will overwhelm purely residential streets in McKinley Heights and Homewood Heights with cut-through traffic. This would be particularly dangerous in Homewood Heights, where 3 streets leading to 12<sup>th</sup> Street were thoughtlessly eliminated (Harvey Street was vacated south of 12<sup>th</sup> St., Summers St. has been illegally fenced off, and an unofficial street at 3009 E 12<sup>th</sup> St. was legally fenced off).

Today, there's more than three times the reasonable traffic load, plus multifamily traffic to Elm Ridge Apartments, and cut-through traffic from drivers avoiding lights on Airport Blvd – all overwhelming a residential street without effective traffic calming measures (Oak Grove Ave on north, and Ridgeway Drive on the south). Multiple vehicle strikes have been witnessed and documented by residents. The list of anecdotal near-misses is too long to include. Consider, too, that these hazards exist already, when most of the entitlements on 12<sup>th</sup> Street haven't even materialized.

### **Entitlements Under the Rosewood Neighborhood Plan**

It's clear that Austin as a whole is plagued with challenges of affordability and access to housing. The Rosewood Neighborhood Plan has done nothing but solve those challenges since its inception.

Under the current Rosewood Neighborhood Plan market-rate, deeply affordable, and permanent supportive housing apartments have been constructed, both recently and in the past. Multiple developers have successfully built apartment buildings with ground floor retail under the current Rosewood Neighborhood Plan (2931 E 12<sup>th</sup> Street, 3007 E 12<sup>th</sup>). Numerous vacant sites on 12<sup>th</sup> Street, including 3117 & 3121 E 12<sup>th</sup> Street, allow the construction of new multifamily apartments and retail *today*. The Rosewood Neighborhood Plan works, and as noted above it was more progressive in 2002 than most neighborhoods are in 2023.

Application of the 12<sup>th</sup> Street conditional overlay was deliberate and narrowly tailored. The conditional overlay was not applied to properties with frontage on Airport Blvd, which was designed to facilitate a fundamentally different volume of people, commerce, and vehicles. On Airport Blvd, our neighborhood has a 130 unit deeply affordable multifamily site (1190 Airport Blvd). North of that is an empty site with no conditional overlay that Horizontal Investors must have overlooked. Go figure.

In 2022, Horizontal Investors understood the exact entitlements they purchased at 3121 and 3117 E 12<sup>th</sup>. They gambled that Whellan could stigmatize East Austin neighborhoods, exploit Austin's affordability problems (fueled mostly by other parts of the city), and lean on candidates they financially backed to extract more value than they paid for. We're literally listening to a boutique lawyer, hired by a couple that sold their company for \$280million, suggesting that East Austin is exclusionary, because they want their theoretical building more theoretically profitable, so that they can (in their own words) "stretch [their] influence further."

It's also plausible that this case is nothing more than a pretext for changing the entitlements on speculator-owned properties along 12<sup>th</sup> Street, owned by Whellan's other client. Geyser Group does not list the subject properties on its website. And the subject properties are roughly bookended by properties owned by the speculator and the Austin Housing Finance Corporation (1196 Airport Blvd to 3021 E 12<sup>th</sup> Street).

### **Development Under the Rosewood Neighborhood Plan**

An inventory of land use in our area shows that a speculative property buyer recently acquired 34 properties in the Homewood Heights Neighborhood (and another 9 properties in McKinley Heights). Of the properties in Homewood Heights, 21 parcels are vacant dirt, 6 more contain abandoned structures, and 4 are unimproved and selling alcohol. This is easily the largest barrier to new infill development, new multifamily housing, and the retail needs of our community. As stated previously, Whellan represents the owner of all those properties.

Whellan insists the Rosewood Neighborhood Plan must be amended to allow for the creation of affordable housing. That's untrue. His client is free to build affordable housing immediately at the scale established by the neighborhood. That would only add to the affordable housing our community already constructed at 3005 E 12<sup>th</sup> (New Milestones Foundation), 1190 Airport Blvd (Elm Ridge Apartments), 3000 Oak Springs (Terraces at Oak Springs PSH), 905 Bedford (Booker T Washington Terraces), 3107 E 12<sup>th</sup> (Anderson Village), 3001 Oak Springs (Oak Springs Villas Apartments), 1165 Airport Blvd (Integral Care PES), 2504 New York Drive (Mt. Carmel Apartments). Those properties are within a quarter mile radius and contain over 2 million square feet of land.

In addition to our numerous deeply affordable multifamily sites, most single-family homes in the neighborhood that can afford and physically accommodate an ADU have done so. New construction on single family lots is often a two-plex or four-plex.

### **Upzoning Study**

A senior Research Associate at the Urban Institute in Washington D.C., with a PhD in City Planning from MIT, Masters in City Planning from MIT, Masters of Science in Transportation from MIT, and BA in Architecture and Urban Studies from Yale, published a relevant study on upzoning in 2019. <https://yonahfreemark.com/wp-content/uploads/2019/01/Freemark-Upzoning-Chicago.pdf>

Freemark writes:

This study's key contribution is evaluating how the property market responds on the specific parcels where upzoning occurs. ... On the *specific parcels where upzoning occurs*, costs appear to go up for individual housing units. ... [N]o short-term impact on permit volume for new housing units. But I also find no medium-term effect—over five years—on construction permitting, a surprising result given commonly held expectations about how upzonings work. ... If the product of upzoning is no change in construction levels but increases in property transaction values, including for some existing housing units, this policy may have some negative consequences in upzoned neighborhoods that rapidly become more expensive. For a scholarly community generally focused on

improving affordability in the *regional* housing market through additional housing supply, this poses a challenge that requires further consideration of the varying, and potentially contradictory, impacts of upzoning. ... For those hoping to address affordability, they may need to look for other solutions (Freemark 2019).

Freemark also cites previous studies with similar findings:

High levels of allowed construction produced property speculation on land in cities like Los Angeles in the early twentieth century (Weiss 1987).

Angotti (2016) suggests that upzoning in New York was associated with higher property values, pricing out existing residents (Angotti 2016).

The research is directly relevant to what's occurring in our neighborhood. Entitlement changes, and even the prospect of entitlement changes, have created a frothy market packed with unproductive speculators.

Affordable	
Address	Entity
3005 E 12th St	Integral Care - New Milestones Foundation
1190 Airport Blvd	Elm Ridge Apartments
3000 Oak Springs Dr	Integral Care - Terraces at Oak Springs
905 Bedford St	HACA - Pathways at Booker T Washington Terraces
3107 E 12 ST TX 78702	Austin Housing Finance Corporation (Anderson Village)
3001 OAK SPRINGS DR TX 78721	Austin Housing Finance Corporation (Oak Springs Villas Apartments)
1165 AIRPORT BLVD TX 78702	Integral Care - Psychiatric Emergency Services
2504 NEW YORK DR TX	Mount Carmel Apartments
2900 Oak Springs	Geyser Group Project

\*Green is in Homewood Heights, Yellow borders Homewood Heights, Pink is one block away

Eureka in Homewood Heights	
Address	Entity
2606 ROSEWOOD AVE TX 78702	2016 Wolverine Way LP
2536 SOL WILSON AVE TX 78702	2020 SW DEAD END AVENUE LP
2915 E 12 ST TX 78702	2016 PIG PLACE LP
2909 E 12 ST TX 78702	2017 IT HURTS WHEN LP
2905 E 12 ST TX 78702	2017 IT HURTS WHEN LP
2903 E 12 ST TX 78702	2017 IT HURTS WHEN LP
1197 HARGRAVE ST TX 78702	CONVENIENCE LP
MC CLAIN ST TX 78702	2016 AUSTIN CREEK LANDS LP
2917 E 12 ST TX 78702	2017 ANACONDA AVE LP
2923 E 12 ST TX 78702	KB AROUND THE BLOCK LP
2925 E 12 ST TX 78702	ACQUISITION LP
2600 SOL WILSON AVE TX 78702	2017 CASTAWAY LP
2544 SOL WILSON AVE TX 78702	2017 BLACK BEARD LP
1194 Oak Grove Ave TX 78702	2017 SHAW GARAGE LP
3001 E 12 ST TX 78702	2017 PERRY TRACT LP
2804 SOL WILSON AVE	2017 HOBBS LP
2600 ROSEWOOD AVE TX 78702	2016 WOLVERINE WAY LP
2526 ROSEWOOD AVE TX 78702	2016 WOLVERINE WAY LP
2522 ROSEWOOD AVE TX 78702	2022 KIT WAY LAND LP
2518 ROSEWOOD AVE TX 78702	2022 KIT WAY LAND LP

N/A  
 2935 E 12 ST TX 78702  
 2612, 2614, 2616 SOL WILSON AVE TX 78702  
 2943 E 12 ST TX 78702  
 2949 E 12 ST TX 78702  
 2949 E 12 ST TX 78702  
 2706 SOL WILSON AVE TX 78702  
 2529 SOL WILSON AVE TX 78702  
 2525 SOL WILSON AVE TX 78702  
 2521 SOL WILSON AVE TX 78702  
 905 MC CLAIN ST TX 78702  
 1196 AIRPORT BLVD TX 78702  
 1164 RIDGEWAY DR TX 78702  
 3021 E 12 ST TX 78702

2016 KB AROUND THE BLOCK LP  
 2021 12TH COMMUNITY COMMERCIAL LP  
 2017 WATERMELON LP  
 2019 TAYLOR LP  
 2017 PINK PANTHER LP  
 2017 PINK PANTHER LP  
 2017 PINK PANTHER LP  
 2017 PIRATE BOOTY LP  
 PENGUIN PARK LP  
 2018 LAND FUND I EAST AUSTIN LP  
 2018 LAND FUND 1 EAST AUSTIN LP  
 2021 END OF AIRPORT LP  
 2021 RIDGEWAY LAND LP  
 2016 AARDVARK PARK LP

Eureka in McKinley Heights	
Address	Entity
3010 E 12 ST TX 78702	2016 GRIZLEY LP
2920 E 12 ST TX 78702	2017 KERMIT LP
2916 E 12 ST TX 78702	2016 CAPTAIN JACKSON LP
2910 E 12 ST TX 78702	2017 CALVIN LP
2906 E 12 ST TX 78702	2016 GORILLA GROUNDS LP
2904 E 12 ST TX 78702	2021 EAST 12 HOUSING ACQUISITION LP
2902 E 12 ST TX 78702	2017 HAMBONE LP
2925 E 13 ST TX 78702	2017 GARFIELD LP
3023 E 13 ST TX 78702	2017 HAMBURGLAR LP

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Planning Commissioners,  
 Email Tues. 05/23/2023 9:31am  
 To: Meredith, Maureen; Tomko, Jonathan  
 From: Chelsea Brooks

As a resident who will be directly affected by the developer's request, I strongly oppose items 7 and 8 for several crucial reasons:

1. **Developer Acquisition:** In 2022, the Geyser Group, along with undisclosed silent partners, purchased the properties at 3121 and 3117 E 12th Street. Since then, they have been pushing for higher entitlements, showing little regard for our community's well-being.
2. **Rosewood Neighborhood Plan Amendment:** The developer's request involves amending the Rosewood Neighborhood Plan, specifically by eliminating a 40ft conditional overlay from their site. This conditional overlay was carefully implemented to ensure compatibility with residential environments, and removing it would jeopardize the character and livability of our community.



3. **Disregard for Community Input:** The developer's actions have demonstrated a blatant disregard for community feedback. Despite thorough discussions and unanimous opposition from residents, their requests have been pushed forward, completely ignoring our concerns and preferences.
4. **Historical Significance:** The Rosewood Neighborhood Plan was meticulously crafted by residents and adopted by the city in 2002. It aimed to rectify the discriminatory zoning practices of the past, promoting a compact, inclusive, and walkable community. The proposed changes by the developer would undermine the achievements of our neighborhood plan and rewrite our community's vision to solely serve their profit-driven interests.
5. **Traffic Hazards:** Granting the requested entitlements would lead to an overwhelming increase in traffic on 12th Street, a predominantly residential area. The current scale of development is already straining our streets, and doubling the allowed height without effective traffic calming measures would pose serious safety risks to residents. Numerous accidents have already occurred due to the existing traffic issues.
6. **Successful Implementation of Rosewood Neighborhood Plan:** The Rosewood Neighborhood Plan has proven its effectiveness in addressing affordability and housing access challenges. It has facilitated the construction of both market-rate and deeply affordable housing, promoting diversity and balanced development. The plan has been ahead of its time since 2002, and there is no need for drastic amendments.
7. **Speculative Motives:** The developer's intentions appear driven by speculative motives rather than genuine concern for our community. Their disregard for our neighborhood's unique history and needs, along with their failure to provide any community benefits, raises questions about their true intentions and the potential exploitation of our neighborhood for their own gain.
8. **Negative Market Effects:** Studies on upzoning have highlighted negative consequences, such as increased property values and the displacement of existing residents. The market has become flooded with speculative investors, driving up property prices and further exacerbating affordability challenges. Allowing the requested entitlement changes would only exacerbate this issue.

As a resident directly impacted by these proposed changes, I implore decision-makers to prioritize our community's well-being, respect our neighborhood plan, and reject items 7 and 8. Our neighborhood's character, safety, and inclusivity are at stake, and it is crucial that our voices are heard and respected.

Thank you,  
Chelsea Brooks

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Email Tues. 05/23/2023 7:50am

To: Meredith, Maureen; Tomko, Jonathan

From: Daniel Wells

Planning commissioners,

I am a resident of the Homewood Heights neighborhood and would like to voice my opposition to item 7 and 8 on tonight's planning commission agenda.

Please see the attached document for the justification for our opposition. We do not want to see this change to the Rosewood neighborhood plan and strongly oppose allowing 90ft tall buildings.

Thank you for your time and consideration,

Daniel Wells

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Email Tues. 05/23/2023 11:56am

To: Meredith, Maureen; Tomko, Jonathan

From: Mary Hill

RE: CASE: C14-2022-0150

CASE: NPA-2022-0008.01

3117-3121 E. 12th Street

Dear Commissioners,

I oppose the request to change the zoning and amend the Rosewood Neighborhood Plan to remove the 40 foot Height restriction.

We already have a Rosewood Neighborhood Plan that imagined what we need in our community. That plan has been reviewed by our community and still reflects what we want and need here. The developer has shown no willingness to consider the neighbors or consider the impact on our community.

Why would the city allow anyone to walk up and undo what they accepted and what the neighborhood wants and needs?

There are already places built under the current required zoning. Why should we allow a change without any guarantees to the neighborhood let alone any plans to demonstrate the gains they promise but never have to build?

This commission has a duty to current homeowners and residents to protect our ability to remain in our neighborhood and to refuse this attempt to raise profits at the expense of our taxes and displacement.

Mary Hill

Homewood Heights Resident

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Email Tues. 05/23/2023 11:58am

To: Meredith, Maureen; Tomko, Jonathan

From: Emma Horvath

Hello,

I am a resident and constituent that votes in the Homewood Heights area. I am writing to oppose the request to change the zoning and amend the Rosewood Neighborhood Plan to remove the 40 foot Height restriction.

Our neighborhood wants to grow and welcome new developers to build buildings and services to preserve the character of our neighborhood. To those ends, neighbors empowered community leaders to engage with the city to develop a broad and thoughtful plan to designate parcels of land in balanced relation to the needs of our community. This plan is progressive and predicted our need for growth and development according to the terms the city agreed with. We can see building in our neighborhood under current zoning entitlements that resulted in positive, balanced development.

But now the city is evaluating a request by a developer to build beyond the entitlements already predicted in the codified plan. In fact, in addition to arguing that they know the needs of the city and community better than the Neighborhood authors of the our carefully crafted plan, the applicant lawyer wants to amend the Rosewood Neighborhood Plan to delete restrictions so they get permission to build higher. Specifically, Whellan's application to strip the conditional overlay in the original neighborhood plan is essentially a request to rewrite our community's plan so that it suits a developer's undesigned theoretical building. And it is fully theoretical. His team provided no specific information to the community and offered no community benefits.

This commission has a duty to current homeowners and residents to protect our ability to remain in our neighborhood. In line with that duty, I call on the planning commission to deny amendments to the Rosewood Neighborhood Plan and the current zoning contained therein.

Note - Our neighborhood president, Christopher Page, has written a more extensive report that I fully agree with. In case more evidence and detail is needed to back my opposition, please reference his submission.

Emma Horvath  
Resident of Homewood Heights

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Email Tues. 05/23/2023 12:59pm  
To: Meredith, Maureen; Tomko, Jonathan  
From: Scott Collier

Dear Commissioners and Staff,

I am writing to express opposition to two items before the Austin Planning Commission today 5/23/2023 as follows:

Agenda item 7. CASE: NPA-2022-0008.01 amendment to the Rosewood Neighborhood Plan.  
Agenda item 8. CASE: C14-2022-0150 a change to zoning and

I am asking the Commission to disapprove these items because they impose drastic changes to the Rosewood Neighborhood Plan ("Rosewood NP" as linked below) and allow for irresponsible development for uses not compatible with the surrounding primarily residential area where I live as a property owner. The Rosewood NP was thoughtfully drafted and adopted after hundreds of volunteer hours of conversation and deliberation by long-term residents of our community working with City of Austin leaders. The Rosewood NP allows for significant infill development, and the current 40-foot height restriction permits neighborhood appropriate 3-story development that would provide high density residential and mixed use developments, several of which have been successfully built in recent years. To suddenly overwrite this plan with so little input from those of us in the impacted residential community would be reckless. Furthermore, the applicant for these changes has been vague and evasive about plans for development should their requests be granted, admitting that they have engaged no architect to design anything, and preserving their right to flip the real estate to another owner after they get these valuable zoning changes and neighborhood plan amendments. There is no good reason to grant their requests as there are already financially lucrative ways to develop on this land given the existing zoning and height restrictions, and there are serious warning flags that to grant the requests would be an irresponsible decision that generates wealth for real estate speculators to the detriment of the surrounding community. **The current zoning and conditional overlay are adequate and reflect a sensible balance of community interest and developer interest.**

To be clear, I am not expressing NIMBY opposition to development on these or other vacant parcels in the area. I would like to see development in our neighborhood that adds amenities and housing, but in a way that respects the character and history. The Eastside has long been impacted by gentrification and leaves evidence of those who benefited from but did not add to the evolution of this special community. The proposed changes do not support thoughtful development and instead incentivize expensive housing that greatly changes the physical character of the neighborhood, increases traffic, and developer profit.

Sincerely  
Scott Collier, 2803 Sol Wilson, Austin, Texas 78702

References:  
Rosewood Neighborhood Plan:  
[https://www.austintexas.gov/sites/default/files/files/Housing\\_&\\_Planning/Adopted%20Neighborhood%20Planning%20Areas/25\\_Rosewood/rosewood-np.pdf](https://www.austintexas.gov/sites/default/files/files/Housing_&_Planning/Adopted%20Neighborhood%20Planning%20Areas/25_Rosewood/rosewood-np.pdf)

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Email Tues. 05/23/2023 1:15pm  
To: Meredith, Maureen; Tomko, Jonathan  
From: Amber Orr

RE: CASE: C14-2022-0150  
CASE: NPA-2022-0008.01

## 3117-3121 E. 12th Street

I oppose any amendment of the requirements of the Rosewood Neighborhood Plan for the parcels located at 3117 and 3121 E. 12th Street. I oppose any development higher than the 40 feet specified and I oppose any changes to the current zoning of the parcels. The onus should be placed squarely on the shoulders of the applicant to provide a plan that specifically grants protection and compatibility for this site with guarantees to the community in which it sits and serves. We already have a workable plan. Why would we allow anyone to amend it without a promise to develop something specific that serves the community?

Our neighborhood wants to grow and welcome new developers to build buildings and services that preserve the residents and character of our neighborhood. To those ends neighbors empowered community leaders to engage with the city to develop a broad and thoughtful plan to designate parcels of land in balanced relation to the needs of our community.

In fact, as opposed to the way it has been negligently characterized in the staff documents, *the Rosewood Neighborhood Plan IS the City of Austin Zoning Plan*. This plan is progressive and predicted our need for growth and development according to the terms the city not only agreed with, but also adopted. Rather than being an old document made irrelevant based on growth or Austin's revisioning, the Rosewood Neighborhood Plan had the foresight to include exactly the type of criteria that city is using now to imagine future land use. It is amended as the city amends things, like the Oak Springs corridor and in fact, the neighborhood carefully considered it again with regard to this very proposal and unanimously voted to uphold it.

We know that it is relevant and that it works because we can already see building in our neighborhood under current zoning entitlements that reflect balanced development. Our neighborhood hold quite a few lots where the theoretical proposal of the applicant could be built today under the current zoning. Appropriate, compatible development is the very reason we look to any zoning at all.

But now the city is evaluating a request by a developer to build beyond the entitlements already predicted in the codified neighborhood plan. In addition to arguing that they know the needs of the city and community better than the Neighborhood authors of our carefully crafted plan, the applicant lawyer wants to *amend* the Rosewood Neighborhood Plan to delete restrictions so they get upzoning to what they know will maximize their clients profits by allowing developers to build higher and make more money on a piece of property they bought and in all likelihood will resell for a hefty profit. Residents and former residents here already know all too well that allowing for this change in characterization will result in more expensive dirt and higher taxes jeopardizing home ownership and zero benefit to the very residents it will displace if we don't point out how it is inconsistent with *sustaining* our community.

Furthermore, coming into this area to reauthor the Neighborhood's plan and press profit under the guise of cleaning up zoning and bringing eight imaginary affordable units at best *ignores* the history of east Austin and attempts to use notions of density and compatible use of land against a neighborhood that has already been unjustly burdened and damaged by years of racist allocation. East Austin already has multiple new housing units of different varieties, is one of the most dense areas of what are deemed deeply affordable units and vacant lots already zoned to allow for affordable residential units.

What we need are appropriate commercial services that serve the needs of residents and provide affordable housing for families and residents that preserve the character and history of Rosewood, Homewood Heights, East 12th Street and East Austin. This is one of only a few parcels kept commercial in the plan and may have purposefully been designated that way in order to preserve an opportunity for a purely commercial space that brings services and job opportunities within reach of residents. If zoning a parcel for commercial use is deemed incompatible with residential neighbors then how can the community ever leverage any development of a real grocery store or community meeting space or hair salon or restaurant or any anticipated walkable benefits? Does that not make this lot crucial to the longevity and walkability and quality of this entire corridor?

Confounding the issue of cleaning up zoning and removing a height restriction is an attempt to cater to the interests of outside investors whose sole intent is to profit off of our community without any consideration of it's character or current residents or taxpayer constituents. The applicant has exhibited an unwillingness to engage the stakeholders who will be directly impacted by the changes to zoning and especially amending the height restriction to allow 60-90 feet buildings along E 12th and other streets next to and across from single family homes simply because they are deemed to be nearby a busy road or the city has added bus stops.

The notion that we are under pressure to add residential or developmental density is one that mischaracterizes this community. We already have more new housing density than other zip codes across Austin. Residents are building ADUs and lots are no longer redeveloped as single family homes but duplexes and up.

Changing zoning at the whim of an applicant results in unjust and irreversible harm to the community that cannot be allowed to continue. There is nothing but zoning and community engagement to stop someone from buying parcels, rezoning them and reselling them for a massive profit or holding them undeveloped resulting in blight. These parcels are currently being used for commercial services right now.



I am a resident and constituent that votes in this area. I call on the planning commission to deny amendments to the Rosewood Neighborhood Plan and the current zoning contained therein.

Amber Orr  
Homewood Heights Resident

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Email Tues. 05/23/2023 1:35pm  
To: Meredith, Maureen; Tomko, Jonathan  
From: Stephen Gershon

I oppose the request to change the zoning and amend the Rosewood Neighborhood Plan to remove the 40 foot height restriction. Our neighbors and broad community carefully put together this wise plan to develop the neighborhood appropriately and protect the residents who live here. The developer has shown no willingness to consider the neighbors or consider the impact on our community.

Without evidence that they have a plan to first protect our residents and second to improve our lives in this community, neither the applicant nor any other developer should be allowed more enhanced entitlements or amendments to make money at our expense.

For the city to green-light such a proposal simply because an expensive lawyer asks would be the exact opposite of the reason for careful planning that the city encouraged and approved, and that goes against the rights of our community.

The current zoning on this land adequately provides for something to be built here that brings jobs, services and improvement to our area that will enhance balanced development. There are already places built under the current required zoning. Why should we allow a change without any guarantees to the neighborhood, let alone any plans to demonstrate the theoretical gains they promise but never have to build.

This commission has a duty to current homeowners and residents to protect our ability to remain in our neighborhood and to refuse this attempt to raise profits at the expense of our taxes and displacement.

Thank you.

Stephen Gershon  
Resident and voter

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Attached to this email is the Homewood Heights Neighborhood's statement regarding Items 7 & 8, as well as a land use inventory of our immediate area. Please include the text of the statement in the support materials.

At our April 2023 meeting neighbors voted unanimously in opposition for the reasons included.

If you have any trouble opening the attachments please let me know.

Christopher Page  
President of the Homewood Heights Neighborhood Association

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Commissioners -

I am writing to object to Aembrust & Brown's request to change the Neighborhood Plan on E 12th Street.

As a mother of a toddler (and a dog), I walk our neighborhood twice a day, every day. Almost every time, I have to gather the three of us on someone's lawn to avoid speeding cars -- we've requested speed bumps and 4 way stops for years -- in areas where we don't have sidewalks. This plan would add more traffic, overwhelming residential streets without effective traffic calming measures.

We have affordable housing in our neighborhood and on our Plan, and I don't believe this would bring more. There are no current plans from Geyser Group, Mr Whellan informed us. Much of our neighborhood is currently owned by Eureka holdings, also represented by Whellan, and every lot they own is either abandoned or empty. Huge properties that are the entrance to our lovely neighborhood, surrounded by chain link fences, covered in weeds and trash- for years. No plans to develop anything beneficial to our community.

I am very much in support of new development. But it should be to scale. Encouraging developers and investors to actually build to better our community and this city, is what I/we would like to see.

The removal of the Conditional Overlay on the properties in question will only further the portfolio of developers who do not listen to the neighborhoods they destroy.

Thank you,  
Beth Hoyt

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Email Tuesday 05/23

From: Jasmin Wynd

To: Jonathan Tomko and Maureen Meredith

Dear Mr. Tomko and Ms. Meredith,

I am writing to express my **strong opposition to the proposed zoning change for 3117 and 3121 E 12th St (C14-2022-0150).**

As a homeowner residing at 2912 E 12th St, located just down the street from the properties in question, I am deeply concerned about the potential impacts on our community if the zoning request was granted. The current conditional overlay, established as part of the Rosewood Neighborhood Plan, plays a vital role in maintaining the affordability, walkability, livability, and inclusivity of East Austin. Removing this overlay to allow building heights of up to 60 feet, and potentially up to 90 feet, would undermine the integrity and character of our

neighborhood. The developer's claim of being unable to develop the land under the current height restriction is unfounded. Existing mixed-use buildings along 12th Street successfully operate within the 40-foot limit, demonstrating that adherence to the neighborhood plan is feasible.

As homeowners, we invested in this neighborhood with the understanding that zoning regulations would be upheld. Changing the zoning for this property sets a dangerous precedent, potentially leading to a proliferation of 90-foot buildings along 12th St. Such a transformation would erode the very essence of our residential environment. Texas values the rights of property owners, and the current zoning and conditional overlay were put in place to protect those rights. By allowing the proposed zoning change, we risk compromising the values and interests of our neighborhood. It would open the floodgates for taller buildings and would undermine the principles of property ownership that we hold dear. It sets a dangerous precedent that threatens the rights of homeowners all along 12th St.

Additionally, the proposed development's location on E12th street, a two-lane road that has been neglected by the city for years, raises significant infrastructure and safety concerns. Our neighborhood lacks the capacity to support the anticipated increase in pedestrian, bicycle, and vehicular traffic. With the elimination of parking requirements for businesses, questions arise regarding the provision of adequate parking, preservation of bike lanes and bus stops, and overall traffic management. The strain on our limited infrastructure would be unsustainable, particularly if multiple 90-foot buildings are approved. As a mother, I am particularly worried about the safety of my children and the children of our neighborhood. Walking down the road should not pose unnecessary risks due to increased traffic and congestion caused by an oversized development.

My husband, Scott, and I will be at the zoning case hearing tonight to stand in opposition. We implore you both to consider the detrimental consequences on our community. Thank you for your attention to this matter. We appreciate your commitment to public service, and trust that you will help influence this decision in order to protect the best interests of our neighborhood. Should you require any further information or wish to discuss this matter in more detail, please do not hesitate to contact me.

Sincerely,

**Jasmin Wynd**

(512) 507-3106

2912 E 12th Street.



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Email 05/23/23

From Homewood Heights Neighborhood Association President

To: Andrew Rivera, Maureen Meredith, and Jonathan Tomko

Andrew, please have these available as slides for the Homewood Heights Neighborhood presentation.

-  [1 2020 Census - New Housing Production.png](#)
-  [2 Affordable Housing Nearby.png](#)
-  [3 Inaccuracies in City's Zoning Land Use Invent...](#)
-  [4.png](#)
-  [5 90ft scale mockup.png](#)
-  [6 Homes Susceptible to Displacement.png](#)
-  [7 Recent NPA Inventory.png](#)

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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 or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2022-0150  
 Contact: Jonathan Tomko, 512-974-1057  
 Public Hearing: July 20, 2023, City Council

*Vicki Zamosky*  
 Your Name (please print)

315 E 14th St

Your address(es) affected by this application

*[Signature]*  
 Signature

7/19/23  
 Date

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_  
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☐ I am in favor  
☒ I object

If you use this form to comment, it may be returned to:  
 City of Austin  
 Planning Department  
 Jonathan Tomko  
 P. O. Box 1088  
 Austin, TX 78767-8810



Email from Adam Bailey

To: Maureen Meredith, John Lawler, Jonathan Tomko

Date: 08/30/23 9:47am

Dear City Staff,

I am writing in opposition to agenda items 113 and 114 on the August 31st city council meeting regarding cases NPA 2022-0008.01 & C14-2022-0150.

I am not writing in opposition of development, but I am writing in opposition to development that is not community informed or community supported. As a resident, I do not feel like the applicant has made reasonable contact with residents to listen to our feedback and concerns, and I am eager to negotiate terms for growth that are replicable, scalable and community-centered. I attended the initial zoning review hearing and there the developer was not able to outline any plan specifics, just that they wanted the land use changed set for in the Rosewood Neighborhood Plan.

Although we have asked for more progressive action items related to affordability, environmentalism, traffic-mitigation, etc, the applicant has stated they will only abide by the minimum standards enforced by the city. Since this case will set the precedent for zoning and mixed-use development along the entire 12th Street corridor, we demand developers be more receptive, thoughtful, community-conscious and community supported.

As a resident of McKinley Heights, I ask that you vote in opposition of agenda items 113 and 114 and allow our neighbors to have a voice in the development of their neighborhood.

Thank you,  
Adam Bailey  
3002 E16th Street

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Email from Imad Ahmed

To: Council Member Harper Madison, John Lawler, Sharon Mays, Jonathan Tomko, Maureen Meredith

Date: 8/30/23 11:48am

Council Member Harper-Madison and staffers,

I am emailing you to voice my support for items 113 and 114 on the 8/31 city council agenda. Specifically, I support the rezoning request for 3117-3121 E. 12th Street. I have registered to speak at the hearing in favor of the zoning request. However, as I'm on vacation in Chicago with my family, I may not be available or have adequate cell service when it is my turn to speak.

I think higher and denser construction in an urban neighborhood like ours is a good thing. Higher population density will likely bring more retail (restaurants, grocery stores, coffee shops, etc) and walkability, as we've seen in neighborhoods like Mueller, Saltillo, and South Congress. Moreover, I think the best way to address Austin's housing affordability issues is to increase supply to match demand by allowing for higher and denser construction. Most of the neighbors I've spoken to feel the same way and would support less restrictive zoning that would

encourage denser housing and more retail.

I do know that the heads of the McKinley Heights and Homewood Heights neighborhood associations have very opposed to this zoning change and asked people to voice their opposition. Although I'm sure these individuals mean well, I think they are misguided and I don't believe they represent our neighborhood. We have no HOA fees and I haven't heard anything about an association election since I moved here. The vast majority of neighbors I speak to do not even realize a neighborhood association exists. And the last homeowner meeting I was aware of had 4 attendees, 2 being my spouse and I.

Sandwiched between Mueller and Saltillo and right next to the MLK red line station, I think our neighborhood has a lot of potential to be grow into a vibrant live/work/play community. Please support this rezoning request to help encourage the development we'll need to achieve that vision!

Imad Ahmed  
512-680-4032

Sent from my iPhone

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Email from Ginger Stieber

To: John Lawler, Jonathan Tomko, [mckinleycliffordsanchez@gmail.com](mailto:mckinleycliffordsanchez@gmail.com),  
[homewoodheightsneighborhood@gmail.com](mailto:homewoodheightsneighborhood@gmail.com), Maureen Meredith  
Thursday 8/31/23 7:14 AM

Dear City Staff,

I am writing in opposition to agenda items 113 and 114 on the August 31st city council meeting regarding cases NPA 2022-0008.01 & C14-2022-0150.

I am not writing in opposition of development, but I am writing in opposition to development that is not community informed or community supported. As a resident, I do not feel like the applicant has made reasonable contact with residents to listen to our feedback and concerns, and I am eager to negotiate terms for growth that are replicable, scalable and community-centered.

Although we have asked for more progressive action items related to affordability, environmentalism, traffic-mitigation, etc, the applicant has stated they will only abide by the minimum standards enforced by the city. Since this case will set the precedent for zoning and mixed-use development along the entire 12th Street corridor, we demand

developers be more receptive, thoughtful, community-conscious and community supported.

As a resident of McKinley Heights, I ask that you vote in opposition of agenda items 113 and 114 and allow our neighbors to have a voice in the development of their neighborhood..

Thank you,  
Ginger Stieber  
3011 E 18th 1/2 St

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Email from Yasmin Eljirby

To: Council Member Harper-Madison, John Lawler, Sharon Mays, Maureen Meredith and Jonathan Tomko

Thursday 8/31/23 8:55AM

Dear City Council Members:

I am submitting this letter in support of the rezoning application for 3117-3121 E. 12th Street, items 113 & 114 on the 8/31 city council agenda. I am a nearby neighbor and I have met with the property owners. I support the proposed zoning change that allows for the redevelopment of the site. I understand that the developer is working to bring additional housing to the area. My belief and hope is that additional housing would help promote more neighborhood retail in the area, such as restaurants, coffee shops, and other establishments that serve as amenities to residents like myself.

I am aware that the home owners association (HOA) in my neighborhood is opposed to the zoning changes. I appreciate the HOA, however I do not believe the HOA speak for the neighborhood as a whole, and instead focus on the wants of a select few.

I have attended one homeowners association meeting, one out of the two or three meetings that have been scheduled since I moved into the neighborhood over a year ago. Unfortunately HOA outreach, engagement, and communication is extremely low. I haven't heard of or received a single survey or poll conducted by the home owners association on this matter. In fact, The majority of neighbors on my street and other streets nearby that I have personally spoken to are not opposed to the zoning changes, and welcome the growth it would bring to our community. Because of this, I doubt the HOA's insight into the neighborhoods wants or needs.

I appreciate that the developer has reached out to me and others, including my neighbors, to explain the development and answer questions. I hope that you will support their rezoning request.

Sincerely,

Yasmin Eljirby  
317-414-9044