

ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0064 (700 Dawson)

DISTRICT: 9

ADDRESS: 700 Dawson Road

ZONING FROM: SF-3-NP

TO: CS-MU-NP

SITE AREA: 3.76 acres

PROPERTY OWNER: Dawson Overlook, LLC (Terry and Mark Black)

AGENT: Armbrust & Brown, PLLC (Michael Whellan)

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends denial of the applicant's request for CS-MU-NP, General Commercial Services-Mixed Use-Neighborhood Plan Combining District, zoning.

PLANNING COMMISSION ACTION / RECOMMENDATION:

August 8, 2023: Postponed to August 22, 2023 at the staff's request by consent (12-0)

August 22, 2023: Postponed to September 26, 2023 at the applicant's request by consent (10-0, G. Anderson and A. Haynes-absent); A. Azhar-1st, A. Woods-2nd.

September 26, 2023: Postponed to October 10, 2023 at the neighborhood's request by consent (10-0, P. Howard, J. Mushtaler-absent); A. Azhar-1st, F. Maxwell-2nd.

October 10, 2023

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is a 3.76 acre platted lot that is currently developed with a vacant club and lodge use (former High Road on Dawson). To the north, there is a multifamily use (Park Terrace Apartments) zoned MF-3-NP and a small city park (Mary Dawson Pocket Park) zoned P-NP. The lots to the south and east are developed with single-family residences zoned SF-3-NP. The land to the west contains an undeveloped greenbelt area (West Bouldin Creek Greenbelt) zoned P-NP and a rail line. The applicant recently purchased this property with the intent to continue to operate a Club or Lodge use as a neighborhood gathering place at this location. The previous “Hight Road on Dawson” Elks Lodge use was conducted by utilizing a section of the Code that permits non-profit organizations to operate Club or Lodge use in residential zoning districts. This section would no longer apply to this property as the new Club or Lodge use would be a for profit business owned by the Black family. Therefore, the applicant is seeking commercial-mixed use zoning that will permit the use by right (*please see Applicant’s Request Letter -Exhibit C*).

The staff recommends denial of the applicant’s request for CS-MU-NP zoning. The site under consideration is located within a residential neighborhood and adjacent to residential zoning (MF-3-NP and SF-3-NP zoning) on three sides and P-NP zoning to the west. Therefore, the staff cannot support the applicant’s request for CS-MU-NP zoning, an intensive commercial-mixed category on Dawson Road, a Level 1/Residential street.

The applicant does not agree with the staff’s recommendation.

BASIS OF RECOMMENDATION:

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

General Commercial Services district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments.

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.

Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

The proposed CS-MU-NP is not consistent with purpose statement for the CS base district as the proposed zoning is not compatible with the surrounding residential environment. The property under consideration is located on a residential street or Level 1 roadway, as designated by the ASMP.

The Longe Range Planning staff is not recommending the proposed change from Multifamily Residential to the Mixed Use land use designation on the FLUM in the adopted neighborhood plan (NP) because it is not consistent with the goals of the Bouldin Creek Neighborhood Plan.

2. *The proposed zoning should satisfy a real public need and not provide special privilege to the owner.*

The proposed CS-MU-NP would be considered spot zoning in this area that is surrounded by residential and civic zoning patterns. The applicant is asking for a zoning change because the proposed use will not work within the existing residential zoning category through LDC Sec. 25-2-836 as the use is no longer operated as a nonprofit organization.

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

The requested change is to permit a commercial business on the site that is not compatible with the surrounding zoning/uses where access is limited and parking may overflow onto the residential street. In the conditions listed in LDC Section 25-2-836, a Club or Lodge Use that is located within a residential district must have vehicular access from a dedicated street with a right-of-way of at least 60 feet wide. Dawson Road currently has an existing ROW of 50 feet according the ASMP.

4. *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.*

The proposed CS-MU-NP zoning is located within a residential neighborhood on a Level 1 designated roadway/residential street, Dawson Road. Per the purpose statement of the base district, CS zoning is typically located at the intersection of major roadways (i.e.-two arterial roadways) to provide services that are available and accessible to the entire community/citywide.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-3-NP	Club or Lodge (Former High Road on Dawson
<i>North</i>	MF-3-NP, P-NP	Multifamily (Park Terrace Apartments), City Park (Mary Dawson Pocket Park)
<i>South</i>	P-NP, SF-3-NP	West Bouldin Creek Greenbelt, Single Family Residence, Undeveloped Lot, Single-Family Residences
<i>East</i>	SF-3-NP	Single-Family Residences
<i>West</i>	P-NP	West Bouldin Creek Greenbelt, Rail line

NEIGHBORHOOD PLANNING AREA: Bouldin Creek Neighborhood Planning Area

WATERSHED: West Bouldin Creek

SCHOOLS: Austin I.S.D.

Becker Elementary School
Fulmore Middle School
Travis High School

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
Austin Lost and Found Pets
Austin Neighborhoods Council
Bouldin Creek Neighborhood Association
Bouldin Creek Neighborhood Plan Contact Team
Bouldin Creek Zoning Committee
Friends of Austin Neighborhoods
Homeless Neighborhood Association
Perry Grid 614
Preservation Austin
SELTexas
South Central Coalition

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14H-2016-0099 (Dawson-Tinnin House: 905 Dawson Road)	SF-3-NP to SF-3-H-NP	11/08/16: Recommended the proposed zoning change from SF-3-NP to SF-3-H-NP. Vote: (12-0, Pineyro de Hoyos absent).	12/08/16: The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20161208-047 for family residence-historic landmark-neighborhood plan (SF-3-H-NP) combining district zoning was approved on Council Member Troxclair's motion, Council Member Zimmerman's second on a 10-0 vote. Mayor Pro Tem Tovo was absent.
C14-2016-0077 (Bouldin Court: 900 South 2nd Street)	GR-MU-CO-NP & SF-3-NP to SF-6-NP	10/25/16: Approved SF-6-CO-NP zoning on consent, with the following conditions: 1) Total residential dwelling units shall not exceed 30. 2) No Single Family Attached residential use allowed as defined in 25-2-772.	3/02/17: The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20170302-054 for townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning

		<p>3) Single-family detached residential structures shall not exceed 23 units.</p> <p>4) Total site impervious cover is 44.3%.</p> <p>5) Total building coverage shall not exceed 22%.</p> <p>6) Total FAR shall not exceed .3738 to 1.</p> <p>Vote: (12-0, J. Shieh-absent); J. Schissler-1st, N. Zaragoza-2nd.</p>	<p>was approved on Council Member Troxclair's motion, Council Member Flannigan's second on an 8-1 vote. Council Member Houston voted nay. Mayor Pro Tem Tovo recused herself. Council Member Kitchen was off the dais.</p>
C14H-2014-0004 (Leffingwell House: 910 Christopher Street)	SF-3-NP to SF-3-H-NP	8/26/2014: Approved staff's recommendation of SF-3-H-NP zoning (8-0, Chimenti-absent).	9/25/2014: The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20140925-131 for family residence-historic landmark-neighborhood plan (SF-3-H-NP) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

RELATED CASES:

NPA-2023-0013.02 – Associated Neighborhood Plan Amendment Case

OTHER STAFF COMMENTS:Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the West Bouldin 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 sq. ft. 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.

Fire

No comments.

Parks and Recreation

Parkland dedication may apply to any future site or subdivision applications resulting from this rezoning. As of January 1, 2023, new commercial uses are subject to parkland dedication requirements at the time of site plan and subdivision. If applicable, land will be required to be dedicated to expand West Bouldin Creek Greenbelt.

Site PlanGENERAL

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

The site is subject to compatibility standards. Along the north, south, west and east property lines, the following standards apply:

- a. No structure may be built within 25 feet of the property line.
- b. No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- c. No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- d. No parking or driveways are allowed within 25 feet of the property line.
- e. 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.

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

Transportation

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 58 feet of right-of-way for DAWSON RD. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for DAWSON RD according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for POST OAK ST. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for POST OAK ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
DAWSON RD	Local Mobility - Level 1	58 feet	50 feet	27 feet	Incomplete 4 feet sidewalks	Shared lane (on-street)	Yes
POST OAK ST	Local Mobility - Level 1	58 feet	40 feet	20 feet	No	No	Yes

Water Utility

No comments on zoning change.

FYI: The landowner intends to serve the site with existing City of Austin water utilities.

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. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Map
- C. Applicant's Request Letter
- D. Comments Received
- E. Postponement Request by the Neighborhood


$$1'' = 400'$$


Created: 5/17/2023



ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

May 15, 2023

Via emailJoi Hardin, Interim Zoning Officer
Housing and Planning Department
City of Austin
1000 E. 11th St.
Austin, Texas 78704

Subject: Rezoning request for 700 Dawson Rd. (the "Property")

Dear Ms. Hardin,

On behalf of Dawson Overlook, LLC, please accept the attached rezoning application for the Property.

For over 60 years, the Property operated as the 'High Road on Dawson,' a local club and Elks Lodge. Recently, it was sold to the Black family (as the owners of Dawson Overlook, LLC) – a local family and the owners and operators of Terry Black's Barbecue.

The Black family purchased the Property with the intent of creating a gathering place for neighbors and friends, consistent with the Property's history as the 'High Road on Dawson.' This application is the next step in that process. In February, the family filed a related neighborhood plan amendment case (NPA-2023-0013.02) to change the Property's Future Land Use Map designation from Multifamily to Mixed Use.

Now, the family is requesting an accompanying rezoning, from SF-3-NP to CS-MU-NP, a designation that will allow them to operate the Property as a 'club or lodge use. Historically, the prior owners operated the 'High Road on Dawson' through a narrow exception in the Land Development Code (Section 25-2-836) which allows non-profit organizations to operate club or lodge uses in residential zoning districts. However, this provision provides no such exception for businesses such as that run by the Black family – and would limit their ability to be involved in the Property's day-to-day operations.

The Black family takes a hands-on approach to their operations and plans to be closely involved in the daily operations of a revitalized club at 700 Dawson. They plan to continue to operate the Property as a pool club, with food and drink offerings and perhaps a new name and a new look – though with very little construction disruptions. (There will also not be a Terry Black's Barbecue location on the site.)

The requested CS-MU-NP zoning will allow the Black family to accomplish this vision while maintaining close control over the Property, so that they can ensure it continues to operate in a family-friendly and neighborhood-friendly manner. To that end, the family has already begun to engage with neighbors and with the Bouldin Creek Neighborhood Association to discuss this proposal and seek their input and feedback.

Thank you for your consideration. We believe that this case offers the city an important opportunity to maintain a unique community asset – and look forward to answering your questions and discussing this application further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael J. Whellan', with a stylized, flowing script.

Michael J. Whellan

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to participate in a public hearing, you are not required to participate. This meeting will be conducted both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:
<https://bit.ly/ATXZoningComment>.



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.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

Case Number: C14-2023-0064

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: August 8, 2023, Planning Commission

Alex Guerra

Your Name (please print)

610 Bouldin Ave

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

[Signature]

Signature

Date

Daytime Telephone (Optional):

(512) 442-0751 7-30-23

Comments:

Applicants "Mixed Use" request would result in increased traffic. Safety is a major concern. At present, traffic on Bouldin Ave and Dawson being diverted from South 1st and South Lamar has furthered our safety concerns. Parking on Bouldin Ave and Dawson only adds to safety concerns. Allowing "Mixed Use" would not support our neighborhood plan.

I request your serious consideration

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

City of Austin, Planning Department

Sherri Sirwaitis

P. O. Box 1088, Austin, TX 78767

Or email to:

sherri.sirwaitis@austintexas.gov

☐ I am in favor
☒ I object

Thank you!

PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to participate in a public hearing, you are not required to participate. This meeting will be conducted both online and in-person at which you will have the opportunity to speak FOR or AGAINST the proposed development or change. Contact the case manager for further information on how to participate in the public hearings. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

Staff is conducting a pilot program to receive case-related comments online which can be accessed through this link or QR code:
<https://bit.ly/ATXZoningComment>



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.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice. Correspondence and information submitted to the City of Austin are subject to the Texas Public Information Act (Chapter 552) and will be published online.

Case Number: C14-2023-0064

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: August 8, 2023, Planning Commission

Derek Landre
 Your Name (please print)

☐ I am in favor
☒ I object

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

Derek Landre
 Signature

7/31/23
 Date

Daytime Telephone (Optional): _____

Comments: There is already too much
traffic congestion in
this area

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

City of Austin, Planning Department

Sherri Sirwaitis

P. O. Box 1088, Austin, TX 78767

Or email to:

sherri.sirwaitis@austintexas.gov

From: [Bradford Patterson](#)
To: [Meredith, Maureen](#)
Cc: [Sirwaitis, Sherri](#); [Harden, Joi](#); [Michael Whellan](#); [Jody Zemel](#); [president](#); [wgstexas](#); [bsessa](#)
Subject: NPA-2023-0013.02 700 Dawson
Date: Tuesday, October 3, 2023 2:18:06 PM

External Email - Exercise Caution

The Bouldin Creek Neighborhood Plan Contact Team convened October 2, 2023 and passed the following motion on an 11-1 vote with 5 abstentions from eligible voters.

At this time, based on information currently available, the Bouldin Creek Neighborhood Plan Contact Team does not recommend the requested plan amendment from multifamily to mixed use.

As Chair, I conveyed to the owner representatives present and on the phone that should an agreement be reached with the Bouldin Creek Neighborhood Association and/or a significant portion of the nearby neighbors, we could call for a meeting to present new information and reconsider the contact team's position. It was noted that such a meeting would not be feasible prior to the October 10, 2023 Planning Commission meeting.

Twenty-seven participants signed-in with an additional owner representative joining via phone. One of the owners of the subject property and one other attendee declared their conflict of interest and recused themselves from voting.

This was the second meeting of the contact team to discuss the plan amendment. The team met previously on August 1, 2023 with 30 participants, both members and non-members at that meeting.

Brad Patterson, Chair

Bouldin Creek Neighborhood Plan Contact Team



September 19, 2023
Bouldin Creek Neighborhood Association

TO: Maureen Meredith, Sherri Sirwaitis
CC: Joi Harden, Bradford Patterson, Michael Whellan

RE: Request for Postponement - **NPA-2023-0013.02 and C14-2023-0064_700**
Dawson Rd. - Planning Commission Meeting – September 26, 2023

Dear Maureen and Sherri,

The Bouldin Creek Neighborhood Association requests a postponement of cases NPA-2023-0013.02 and C14-2023-0064 scheduled for the September 26, 2023, Planning Commission hearing to October 10, 2023.

The reason for the requested postponement is that we are still negotiating with the applicant and need extra time to work with the adjacent neighbors on these cases.

Thank you for your consideration.

Sincerely,

BCNA President, Thom Parker

BCNA Zoning Chair, Jody Zemel