

ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0020 (Morelos-Webberville CS-1)

DISTRICT: 3

ADDRESS: 2304, 2308, 2312 Morelos Street; 2237 Webberville Road

ZONING FROM: CS-CO-MU-NP

TO: CS-1-CO-NP (the footprint of CS-1 zoning may not exceed 3,500 square feet)

SITE AREA: 0.51 acres (22,327 square feet)

PROPERTY OWNER: Flying X Investments, LLC

AGENT: Thrower Design (Ron Thrower)

CASE MANAGER: Jonathan Tomko (512) 974-1057, jonathan.tomko@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends CS-1-CO-NP zoning with conditions. The footprint of CS-1 zoning **may not** to exceed 3,500 square feet.

It is recommended that all the restrictions in Conditional Overlay, established in Ordinance No. 011213-42 for this property remain. This includes the following ***prohibited*** uses: automotive sales, automotive rentals, commercial off-street parking, convenience storage, drop-off recycling collection facility, equipment sales, equipment repair services, campground, vehicle storage, laundry service and pawn shop services. The following are ***conditional*** uses: communications service facilities, building maintenance services, kennels, construction sales and services, limited warehousing and distribution.

PLANNING COMMISSION or ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

September 12, 2023: Neighborhood postponement to September 26, 2023

September 26, 2023: Planning Commission approved staff recommendation on consent

CITY COUNCIL ACTION:

October 19, 2023: Case is scheduled to be heard by City Council

ORDINANCE NUMBER:

N/A

ISSUES: N/A

CASE MANAGER COMMENTS:

The property being considered for rezoning encompasses four single family homes with commercial uses. It has access to Webberville Road to the west and Morelos Street to the south. 7th Street is just to the south, which is an ASMP Level 3 corridor, serviced by the #4 CapMetro Bus. There are two existing

bars on Webberville Road, Kitty Cohen's just to the west, and The Lost Well one block to the northeast. This location is within a 15-minute walk of the proposed green line stop at Pleasant Valley.

BASIS OF RECOMMENDATION:

Zoning should not constitute a grant of special privilege to an individual owner; Granting of the request should result in an equal treatment of similarly situated properties.

The property adjacent to the subject tract to the west has the CS-1 zoning as the applicant is requesting in this case. It is similarly situated and has access to both Webberville Road and Morelos Street. Granting this request would result in an equality treatment of a similarly situated property.

Zoning changes should promote compatibility with adjacent and nearby uses.

The parcel is completely surrounded by properties zoned CS-CO-MU-NP, the current zoning or CS-1-CO-MU-NP. This zoning change would result in siting CS-1 zoning where it is completely insulated from single family and other residential zoning categories. It would also allow an opportunity near transit resources for folks to visit a bar without driving.

Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.

The neighborhood has two bars on the east side of Webberville Road. This is further away from the single-family portion of the Blackshear-Prospect Hill neighborhood to the northwest. Morelos St. provides a place for more intensive uses, away from the neighborhood. There are traffic signals at Morelos St. and E. 7th St. and at Webberville Rd. and E. 7th St. Vehicular traffic can not easily cut through the neighborhood with this section of street grid.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-CO-MU-NP	Four single family home/commercial structures
<i>North</i>	CS-CO-MU-NP	A vacant lot
<i>South</i>	CS-CO-MU-NP	Valero gas station, two auto insurance offices, a thrift shop and a taco truck.
<i>East</i>	CS-CO-MU-NP	A vacant lot
<i>West</i>	CS1-CO-MU-NP and CS-CO-MU-NP	One single family home/commercial, and Kitty Cohen's a 1,048 square foot bar.

NEIGHBORHOOD PLANNING AREA: Central East Austin Neighborhood Combined Planning Area

WATERSHED: Lady Bird Lake Watershed

SCHOOLS: A.I.S.D.

Zavala Elementary School

Martin Middle School

Eastside Memorial High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Lost and Found Pets, Austin Neighborhoods Council, Blackshear-Prospect Hill, Central Austin Concerned Architects, Del Valle Community Coalition, East Austin Conservancy, El Concilio Mexican-American Neighborhoods, Friends of Austin Neighborhoods, Homeless Neighborhood Association, Neighborhood Empowerment Foundation, Neighbors United for Progress, Organization of Central East Austin Neighborhoods , Preservation Austin, SELTexas, Sierra Club, Austin Regional Group

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2009-0156 (Los Comales)	Rezone approximately 0.27 acres from CS-MU-CO-NP to CS-1-MU-CO-NP.	02.09.2010 PC: The motion to approve staff's recommendation to deny the request for CS-1-CO-MU-NP zoning; was approved by Commissioner Danette Chimenti's motion, Commissioner Kathryne Tovo second the motion on a vote of 5-3; Commissioners Mandy Dealey, Benjamin DeLeon and Dave Anderson voted against the motion (nay); Commissioner Jay Reddy was absent.	05.13.2010: a motion to deny the rezoning was approved on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
C14-2019-0074 (2202 Webberville Rd)	Rezone approximately 0.7267 acres from CS-MU-CO-NP to CS-MU-V-CO-NP	06.11.2019 PC: To grant CS-MU-V-CO-NP on consent, motion by Vice-Chair Kenny, seconded by Commissioner Azhar on a vote of 13-0.	06.20.2019: Approved CS-MU-V-CO-NP on Council Member Pool's motion, Council Member Harper-Madison's second on a 10-1 vote. Council Member Flannigan voted nay.
C14-2021-0011 (712 & 714 Pedernales St.	Rezone approximately 0.344	06.08.2021 PC: Motion by	07.29.2021: Ordinance No.

and 2409 Coronado St.)	acres from SF-3-NP to CS-MU-NP.	Commissioner Cox, seconded by Commissioner Llanes Pulido to grant GR-MU-CO-NP combining district zoning approved on a vote of 11-0. Commissioners Flores and Shieh absent. Conditions: - Property is limited to LR zoning district uses. - Restaurant uses are conditional uses of the Property	20210729-0138 for community commercial-mixed use-conditional overlay neighborhood plan (GR-MU-CO-NP) combining district zoning, with the following conditions that restaurant general and restaurant limited be permitted uses, not conditional uses, was approved on Council Member Pool's motion, Council Member Ellis' second on an 11-0 vote.
C14-2009-0041 (Central East Austin VMU Building (V) Zoning Opt-In/Opt-Out Process)	Request to add (V) zoning to selected tracts in the VMU overlay district.	08.25.2009 (PC): N/A	09.24.2009: Approved Ordinance 20090924-092 for V (7-0) on consent on Council Member Shades' motion, all 3 readings.

RELATED CASES:

N/A

ADDITIONAL STAFF COMMENTS:Urban Design

UD1: The properties 2237 Webberville Road, 2304 Morelos Street, 2308 Morelos Street, and 2312 Morelos Street are included in the Central East Austin Neighborhood Plan. Urban Design does not have any comments.

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Lady Bird Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

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

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

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

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

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

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

PARD – Planning & Design Review

PR1: Parkland dedication fees 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.

Site Plan

No comments

Austin Transportation and Public Works

ATD 1. A transportation assessment/traffic impact analysis shall be required at the time of site plan if triggered, when land uses and intensities will be known per LDC 25-6-113 and TCM 10.2.1.

EXISTING STREET CHARACTERISTICS:

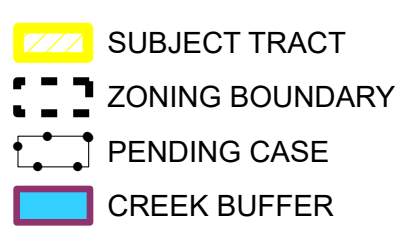
Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Morelos Street	Level 1	58'	60'	27'	No	No	Yes
Webberville Road	Level 1	58'	60'	40'	Yes	Yes	Yes

Austin Water Utility

No comments

INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

- A. Zoning Map
- B. Aerial Map
- C. Applicant's Summary Letter
- D. Correspondence from Interested Parties



Created: 3/14/2023

February 7, 2023

Mrs. Joi Harden
Interim Zoning Officer
City of Austin, Housing & Planning Department

RE: Rezoning – 2304, 2308, 2312 Morelos St. & 2237 Webberville Rd.

Dear Ms. Harden,

On behalf of the property owner of the above reference's properties, we submit the rezoning application herein. The property is in the City of Austin full purpose jurisdiction and collectively, is approximately a half-acre, east of the intersection of Morelos Street and Webberville Road. The land area is comprised of 4 tax parcels, represented by a portion of Lots 1 & 2, and all of Lots 3 & 4 of Block 6, of Lincoln Place a subdivision of Outlots 23 & 23-1/2, Division A, City of Austin. The tracts are individually and legally described as follows:

- **2237 Webberville Road:** N45FT LOT 1-3 BLK 6 OLT23&231/2 DIV A LINCOLN PLACE
- **2304 Morelos Street:** S105FT OF E40FT OF LOT 2 & s105FT OF W5FT OF LOT 3 BLK 6 OLT 23&231/2 DIV A LINCOLN PLACE
- **2308 Morelos Street:** S105FT OF E40FT OF LOT 3 BLK 6 OLT 23&231/2 DIV A LINCOLN PLACE
- **2312 Morelos Street:** LOT 4 BLK 6 OLT 23&231/2 DIV A LINCOLN PLACE

The properties are in the Central East Austin Planning Area and have a Future Land Use designation of *Mixed Use* and has *CS-CO-MU-NP* zoning designations. The request is to rezone only the base zoning district of the properties from *CS* to *CS-1*. The property will retain the *CO-MU-NP* overlays. The rezoning is specifically sought to accommodate a commercial liquor sales use. The *CS-1* zoning district is permitted in the *Mixed Use* FLUM category and therefore does not require a Neighborhood Plan Amendment.

The lot is currently developed with 3 single family homes, some of which will be repurposed for commercial use. The *CS-1* zoning district is consistent and compatible with the zoning of all immediately adjacent and surrounding properties that have either *CS-1* or *CS* base district zoning. The rezoning will allow for the desired use and is conducive to providing a variety of neighborhood services, within walking distance, and on an Imagine Austin Activity Corridor, an ASMP Transit Priority Network and the Project Connect "Cross Town Route."

Thrower Design respectfully requests a favorable recommendation, and we are available for questions or discussion as needed.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a wavy line at the end.

Victoria Haase

Email from Matthew Mielcarek to Heather Chaffin
Friday, March 31, 2023 8:51 AM

Hi Heather,

My family is writing to express opposition to the proposed rezoning of **2304, 2308, & 2312 Morelos Street and 2237 Webberville Road** from a general commercial services district to a commercial liquor sales district.

We have been long-term residents of this community and have seen firsthand the benefits of a family-friendly residential neighborhood. Our community is a safe and welcoming place for people of all kinds and our are concerned that the rezoning of these properties would have a negative impact.

We are particularly concerned about the potential increase in traffic, noise, and disturbance that would result from the rezoning. The addition of more establishments that sell alcohol would attract more people to the area, which would lead to an increase in traffic and noise. This would make it difficult for families to enjoy their homes and would create a safety hazard for children. I am also concerned about the potential for alcohol-related crime to increase in the area.

I urge you to reject the proposed rezoning of 2304, 2308, & 2312 Morelos Street and 2237 Webberville Road. The potential negative impacts to our neighbors outweigh any potential benefits. Thank you for your time and consideration.

Regards,

Matthew Mielcarek
2204 East 9th Street
Austin TX 78702

Email from Matthew Mielcarek to Jonathan Tomko
Wed 9/6/23 10:10am

Hi Jonathan,

I received your notice of public hearing for rezoning and wanted to resubmit a note regarding my family's opposition...

My family is writing to express opposition to the proposed rezoning of **2304, 2308, & 2312 Morelos Street and 2237 Webberville Road** from a general commercial services district to a commercial liquor sales district.

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people of all kinds and our are concerned that the rezoning of these properties would have a negative impact.

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I urge you to reject the proposed rezoning of 2304, 2308, & 2312 Morelos Street and 2237 Webberville Road. The potential negative impacts to our neighbors outweigh any potential benefits. Thank you for your time and consideration.

Regards,

Matthew Mielcarek
2204 East 9th Street
Austin TX 78702

Correspondence Re: Morelos-Webberville CS-1 (C14-2023-0020)

Email

From: Matthew Mielcarek

To: Jonathan Tomko

Wed 9/6/23 10:10am

Hi Jonathan,

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We are particularly concerned about the potential increase in traffic, noise, and disturbance that would result from the rezoning. The addition of more establishments that sell alcohol would attract more people to the area, which would lead to an increase in traffic and noise. This would make it difficult for families to enjoy their homes and would create a safety hazard for children. I am also concerned about the potential for alcohol-related crime to increase in the area.

I urge you to reject the proposed rezoning of 2304, 2308, & 2312 Morelos Street and 2237 Webberville Road. The potential negative impacts to our neighbors outweigh any potential benefits. Thank you for your time and consideration.

Regards,

Matthew Mielcarek

Email

From: OCEAN Contact Team

To: Jonathan Tomko, Todd Shaw, Claire Hempel

Tues 9/12/23 4:06pm

Dear Chair Shaw and Vice Chair Hempel,

Blackshear-Prospect Hill Neighborhood Association (BPHNA) and the Organization of

Central East Austin Neighborhoods (OCEAN) respectfully request postponement of Item 14, in today's Planning Commission meeting, to your October 24th meeting.

The applicant has not touched base with BPHNA since January 2022.

Many residents have expressed concern about introducing even more bar zoning in near East Austin and would appreciate the opportunity to speak with Mr. Thrower and his clients about what they envision for the site.

Thank you for considering our request to allow time for some meaningful engagement in this case.

Sincerely,
Jay Perrett
President, BPHNA
Nate Jones
President, OCEAN

Email

From: OCEAN Contact Team

To: Jonathan Tomko, Andrew Rivera, Todd Shaw, Claire Hempel

Tues 9/12/23 5:17pm

Hello,

Thanks to Mr. Tomko for this quick reply.

I am covering the OCEAN gmail account this afternoon and want to be sure that Mr. Rivera, the chair and vice chair are aware that there is a postponement request from OCEAN, the NPCT, and our member neighborhood association, Blackshear-Prospect Hill Neighborhood, where the subject tract of Item #14 is located.

Mr. Rivera, my understanding is that the OCEAN president (Nate Jones) can call in to the meeting this evening, if he may please be registered to speak for a postponement discussion. Please advise whether that is an option and what he should do?

The BPHNA president (Jay Perrett) is traveling for work, and Ms. Peterson is a sixty-year resident who cannot attend this evening.

My understanding is that no one has spoken to BPHNA about bar zoning, except that the topic was broached by Mr. Whellan at a meeting in January 2022. Since then, nothing. And this item is coming from a different consultant firm (Thrower Design).

That's all the information I have. Thank you all for considering the postponement request.

Best,
Tracy Witte
Secretary, OCEAN

PUBLIC HEARING INFORMATION	
<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>For additional information on the City of Austin's land development process, visit our website: www.austintexas.gov/planning.</p>	<p>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.</p> <div><p>Case Number: C14-2023-0020 Contact: Jonathan Tomko, 512-974-1057 Public Hearing: Sep 12, 2023, Planning Commission</p></div> <p>Alejandra Rosalinda Mender Your Name (please print)</p> <p>2404 E. 9th St Austin, Tx 78702 Your address(es) affected by this application</p> <p><i>[Signature]</i> 9-5-23 Signature Date</p> <p>Daytime Telephone: (512) 699-8009</p> <p>Comments: We are against the project moving forward. We are concerned our neighborhood will not be safe. We believe it will increase the possibility of drunk people walking or driving in our neighborhood. We believe it will not be safe for the children who attend Blackshear Elementary School that is located at 1712 E. 11th St Austin, Tx 78702.</p> <p>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</p>

Email
From: Patrick Davis
To: Jonathan Tomko
Tues 9/25/23 11:39am

Hi Jonathan,
I live near the request for rezoning is requested for 2304, 2308 and 2312 Morelos St, and 2237 Webberville Rd, and my family and I are very concerned about what this would do to our neighborhood.

We are all for (equitable) growth and evolution but not at the cost of our neighborhood!

I would kindly ask that the committee considers the negative impact this would have with regard to noise, traffic, crime, and drunken patrons -- and the signal it sends for further development in the area.

I would be happy to discuss further.

Thank you,

Patrick Davis

Email

From: Ted Hinckley

To: Jonathan Tomko

Tues 9/25/23 3:36pm

Hi Jonathan,

My name is Ted Hinckley, I live at 2413 E 10th St, Austin, TX 78702, a few blocks up the hill from the property in question requesting a change in zoning.

I would like to voice my opposition to this zoning change. Webberville already has a number of establishments that sell alcohol, adding more would effectively turn webberville from 7th to northwestern into a nightlife district.

While I welcome bars and restaurants, I do not want to see webberville turn into another Rainey st or 6th st. Given the proximity to residential neighborhoods, keeping the commercial use as-is is my preferred course of action.

Thank you for your time and consideration.

Ted

Email

From: Donna Hoffman

To: Jonathan Tomko

Tues 9/25/23 4:22pm

Hello Jonathan. Please record my comments on Case Number C14-2023-0020.

I oppose the bar zoning in this case and request the City Planning Dept. to reject the application.

There are already plenty of bars in this residential area. Another liquor license would impinge on the residential area and continue a trend of expanding the existing bar zones that are already available further down Webberville and further south and west on 6th Street.

I notice what looks like a bar Space Cowboy being built where there was a popular Mexican-American grocery store La Michoacana before on E. 7th near where this is proposed.

We don't need more bars. Austin has a drinking problem.

We need additional affordable housing, healthy food access, and transportation options, plus higher-paying jobs. Continuing to allow more bars will create a totally different character from what many neighbors are looking for in Blackshear-Prospect Hill neighborhood.

Please reject the application in C14-2023-0020.

Thank you.

Sincerely,

Donna Hoffman

Email

From: Jay Perrett

To: Jonathan Tomko

Tues 9/25/23 8:09pm

Hi Jonathan,

I am writing in opposition of the CS-1 Zoning for 2304, 2308 and 2312 Morelos St, and 2237 Webberville Rd.

As stated in the City of Austin Zoning Guide:

"Commercial Liquor Sales 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, and also includes liquor sales as a permitted use."

The lots in question are less than 300' from the New Lincoln Missionary Baptist Church, caddy corner (one lot over and two down) from five newly-built missing middle housing, and 250' from the new Axiom East apartments, in addition to the many single family homes within a stones throw of these properties.

This corner of our neighborhood already has a saturation of bars and establishments that serve liquor, and is at risk of becoming a bar district at the exclusion of other usage types. There is an abundance of bars in the Plaza Saltillo TOD, which is less than a half mile away

and served by public transportation, in addition to the other bar areas that surround our neighborhood.

Our neighborhood is a lively and welcoming part of the City, but does not wish to become a bar district or to be saddled with the downsides that additional bars will bring (loud noise next to homes, additional traffic on side streets, etc).

Thank you for your consideration.

Jay Perrett

Email

From: JR Mangum

To: Jonathan Tomko

Mon 9/25/23 11:31pm

Mr. Tomko,

As a long-time resident of Blackshear Prospect Hill, I am writing to voice my strong opposition to the request for more cocktail zoning in our neighborhood. This residential area is home to many families raising children, long time elderly citizens and established churches. We already have many bars in the area, and don't need or want more. I know I speak for many in our area when I say we want a healthy, family friendly environment in which to raise our children and care for our elders. We have established community gardens, informal dog parks, and are working to get a pocket-park installed to promote a wholesome, healthy environment. Having bars in the area, is not in keeping with what we want.

Owners Calvin Chen, [Jeff Van Delden](#), and Amir Rostami did not approach the neighborhood association, churches, or other area groups, as do many business owners who wish to be good neighbors. Instead, they hired lobbyists who were unaware of the owners intentions other than they wanted to tear down existing buildings (but couldn't specify which), put in a food trailer park with a trailer that serves liquor, and eventually open a brick and mortar bar. They have requested up to 3500 square feet of space for these bars.

The City of Austin Zoning Guide states "*Commercial Liquor Sales 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, and also includes liquor sales as a permitted use.*"

To restate, the City says businesses of this nature have operating characteristics that **are generally incompatible with residential environments**. We agree!

Please deny the request by Chen, Delden and Rostami, [Blackshear] Case Number: C14-2023-0020.

Thank you for your time. Please vote no.
JanetRuth Mangum,

Information about that zoning type from the City of Austin Zoning Guide:

Commercial Liquor Sales 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, and also includes liquor sales as a permitted use.



"What would life be if we had no courage to attempt anything?"
 Vincent Van Gogh