

ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0072

DISTRICT: 9

ADDRESS: 4209, 4213, 4215, and 4221 Avenue H

ZONING FROM: GR-HD-NCCD-NP and
MF-3-HD-NCCD-NP

TO: GR-HD-NCCD-NP

SITE AREA: approximately 0.5031 acres (approximately 21,836 sq. ft.)

PROPERTY OWNER: Hyde Park High Street, LLC (Jesse Lunsford)

AGENT: Winstead PC (Micah King)

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

STAFF RECOMMENDATION:

Staff recommends granting community commercial-historic district-neighborhood conservation combining district-neighborhood plan (GR-HD-NCCD-NP) combining district zoning. For a summary of the basis of staff's recommendation, see the *basis of recommendation* section below.

PLANNING COMMISSION or ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

October 24, 2023: Neighborhood Postponement to November 28, 2023

November 28, 2023: Planning Commission approved GR-HD-NCCD-NP with on consent. Motion by Commissioner Azhar, seconded by Commissioner Maxwell, unanimous.

CITY COUNCIL ACTION:

January 18, 2024: Case is scheduled to be heard by City Council

ORDINANCE NUMBER: N/A

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is currently being utilized for approximately 45 surface parking spaces on a lot encompassing approximately 18,000 sqft of impervious cover. There is also a 628 sqft commercial kitchen that services the Hyde Park Bar and Grill to the east across the alley.

The applicant is seeking to develop a new two-story building with a ground floor restaurant and retail space and an upstairs office available to rent.

The two lots zoned MF-3 have never had a multifamily use on them despite being rezoned for that use in 1966.

The applicant seeks to comply with existing height limitations, will not increase impervious cover, and the project will bring new landscaping and streetscape improvements to complement Hyde Park's walkability and green streetscapes.

The applicant seeks several changes to address neighborhood concerns and support established historical precedents including:

- Protection of a heritage tree in the City's ROW along Avenue H.
- Removal of curb cut to help with flooding along Avenue H, and have access to parking through the alley, ensuring visitors from Duval Street would not need to have vehicular access to/from the site via Avenue H.
- Allowing excess parking- it was important to many in the neighborhood to retain as much parking as possible off-street.
- Eliminate the minimum 5' setback on East 43rd Street- allowing the building to be in alignment with Quack's Bakery next door, for pedestrian frontage.
- Eliminate compatibility requirements on the south side of the property. The applicant owns the property to the south and is not opposed to this, which will allow a bit more off-street parking responsive to neighborhood concerns.
- The building will front East 43rd Street instead of Avenue H, which is a wider street given that it was the route for the original streetcar line.

BASIS OF RECOMMENDATION:

Zoning should allow for reasonable use of the property.

Hyde Park is one of Austin's most walkable historic neighborhoods. Auto-centric surface parking lots do not support walkability or the cherished historic character of this neighborhood that this current zoning classification strives to protect. It is not reasonable to deny rezoning to support a use that adds to the fabric of this neighborhood center, known as the Duval District by the Hyde Park NCCD, in a context-sensitive way.

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

The purpose statement of the districts being sought:

Community commercial- for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.

Historic district- for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.

Neighborhood conservation combining district- to preserve neighborhoods with distinctive architectural styles that were substantially built out at least 30 years before the date an application for an NCCD is filed.

Neighborhood plan- to allow infill development by implementing a neighborhood plan that has been adopted by the council as an amendment to the comprehensive plan.

The proposed zoning is consistent with the purpose statement of the district sought. There are other similar commercial uses present on East 43rd Street within the same block and the

proposed zoning respects major tenets of the historic district. While there is no future land use map for the Hyde Park Neighborhood Plan, greater than 50% of the subject tract is already zoned under the classification the applicant is requesting, thus it makes sense to apply that same zoning over the remainder of the subject tract to support the redevelopment of this surface parking lot. It is important to note that granting this rezoning will result in no residential or commercial displacement, and no demolition of historic structures.

The proposed zoning should promote consistency and orderly planning.

The intersection of Duval Street and East 43rd Street is a neighborhood center, known as the “Duval District” by the Hyde Park NCCD with a mix of more intense uses, restaurants, grocery stores, retail, and office. This rezoning request adds to this neighborhood center in a way that is context sensitive and respects the historic character of Hyde Park.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR-HD-NCCD-NP and MF-3-HD-NCCD-NP	Subject site is currently being utilized for approximately 45 surface parking spaces on a lot encompassing approximately 18,000 sqft of impervious cover. There is also a 628 sqft commercial kitchen that services the Hyde Park Bar and Grill to the east across the alley.
<i>North</i>	MF-3-HD-NCCD-NP (Across E. 43 rd St.)	A surface parking lot with approximately 45 parking spaces on a lot encompassing approximately 18,000 sqft of impervious cover.
<i>South</i>	SF-3-HD-NCCD-NP	A two-story residential duplex, approximately 2,400 sqft, with a portion built in 1925 and another portion built in 2017.
<i>East</i>	CS-HD-NCCD-NP and LR-HD-NCCD-NP	A one-story commercial strip center, approximately 5,300 sqft built in 1950. Current tenants include Julio’s Café, Fortress Shoe Store, and Quack’s 43 rd Street Bakery. A one-story commercial strip center, approximately 2,900 sqft built in 1955. Current tenants include Uncle Nicky’s Italian Restaurant and Antonelli’s Cheese Shop. A one-story restaurant, approximately 2,500 sqft built in 1924, currently the Hyde Park Bar and Grill.
<i>West</i>	SF-3-HD-NCCD-NP (Across Avenue H)	Four approximately 2,000 sqft units (duplexes) built in 2006. One, single-story, single-family home, approximately 1,120 sqft built in 1930, with a single story ADU of approximately 330 sqft also built in 1930.

NEIGHBORHOOD PLANNING AREA: Hyde Park Neighborhood Planning Area

WATERSHED: Waller Creek Watershed

SCHOOLS: A.I.S.D.

Lee Elementary School

Kealing Middle School

McCallum High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Lost and Found Pets, Austin Neighborhoods Council, Central Austin Community Development Corporation, Friends of Austin Neighborhoods, Friends of Hyde Park, Homeless Neighborhood Association, Hyde Park Neighborhood Assn., Hyde Park Neighborhood Plan Contact Team, Neighborhood Empowerment Foundation, North Austin Neighborhood Alliance, Preservation Austin, SELTexas, Sierra Club, Austin Regional Group

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2014-0035 (Adams House)	The applicant is proposing to modify the Hyde Park Neighborhood Conservation Combining District for the property located at 4300 Avenue G only, to modify floor-area-ratio (FAR) requirements.	05.13.2014 (PC) - Approved SF-3-H-HD-NCCD-NP to increase the max. FAR for 4300 Avenue G from 0.4 to 0.6 to 1. No other modification is proposed.	06.26.2014 – Approved SF-3-HD-NCCD-NP as PC recommended on all 3 readings

RELATED CASES:

None

ADDITIONAL STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 4221 AVENUE H. C14-2023-0072. Project: Hyde Park High Street. 0.501 acres from GR-HD-NCCD-NP and MF-3-HD-NCCD-NP to GR-HD-NCCD-NP. Hyde Park NP – No FLUM. Parking and Food Prep to Office, Restaurant, Retail, and Food Prep

Yes	Imagine Austin Decision Guidelines
	Complete Community Measures
	Imagine Austin Growth Concept Map: Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. Names of Activity Centers/Activity Corridors/Job Centers:
Y	Mobility and Public Transit: Located within 0.25 miles of public transit stop and/or light rail station.
Y	Mobility and Bike/Ped Access: Adjoins a public sidewalk, shared path, and/or bike lane.
Y	Connectivity, Good and Services, Employment: Provides or is located within 0.50 miles to goods and services, and/or employment center.
Y	Connectivity and Food Access: Provides or is located within 0.50 miles of a grocery store/farmers market.
	Connectivity and Education: Located within 0.50 miles from a public school or university.
Y	Connectivity and Healthy Living: Provides or is located within 0.50 miles from a recreation area, park or walking trail.
	Connectivity and Health: Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.)
	Housing Choice: Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
	Housing Affordability: Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
	Mixed use: Provides a mix of residential and non-industrial uses.
	Culture and Creative Economy: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	Culture and Historic Preservation: Preserves or enhances a historically and/or culturally significant site.
	Creative Economy: Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	Workforce Development, the Economy and Education: Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in a particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	Industrial Land: Preserves or enhances industrial land.
5	Total Number of "Yes's"

Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Waller 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.
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.

Fire

No Comments on Rezoning

PARD – Planning & Design Review

PR1: New commercial developments resulting from this rezoning may be required to pay parkland dedication fees to expand the City's parks system and facilities. Fees would only be required for a site plan or subdivision application submitted prior to January 1, 2024. Any commercial development application after January 1, 2024 will be exempt from the requirement.

Site Plan

SP 1. Site plans will be required for any new development other than single-family or duplex residential.

SP 2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

SP 3. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

Compatibility Standards

SP 4. The site is subject to compatibility standards. Along the South property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- for a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
- An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
- A landscape area at least 15 feet in width is required along the property line if tract is zoned MF-3, MF-4, MF-5, MH, NO, or LO.
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.
- Additional design regulations will be enforced at the time a site plan is submitted.

SP 5. This tract is already developed, and the proposed zoning change is a footprint within the existing development.

Transportation and Public Works Department – Engineering Review

ATD 1. A Neighborhood Traffic Analysis is required and will be performed for this project by ATD staff. Results will be provided in a separate memo. LDC 25-6-114. NTA requires three (3) consecutive 24-hour tube counts, preferably on Tuesday, Wednesday, and Thursday, during a non-holiday week when school is in session. Staff will contact the applicant to discuss the location of the tube counts. Results will be provided in a separate memo. LDC 25-6-114. NTA fees will be added in AMANDA. This comment will be cleared once the Memo is approved and the fees are paid.

ATD 2. The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for E 43RD ST. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for E 43RD ST according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E. 43 rd Street	Local Mobility – Level 2	84 feet	79 feet	39 feet	Existing 4-foot sidewalks	Wide Curb Lane (on-street)	Yes
Avenue H	Local Mobility – Level 1	58 feet	59 feet	28 feet	Existing 4-foot sidewalks	No	Yes

TIA: A Neighborhood Traffic Analysis (NTA) is required and will be performed for this project by ATD staff. Please find the Final NTA Memo as *exhibit D*.

Austin Water Utility

AW1. 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 AND ATTACHMENTS TO FOLLOW:

- A. Zoning Map
- B. Aerial Map

- C. Applicant's Summary Letter
- D. Final NTA Memo
- E. Correspondence from Interested Parties

HUSCH BLACKWELL

Micah King
Partner

111 Congress Avenue, Suite 1400
Austin, Texas 78701
Direct: 512-370-3468
micah.king@huschblackwell.com

May 24, 2023

Lauren Middleton-Pratt, Director
Planning Department
Street-Jones Building
1000 E. 11th Street, Suite 200
Austin, Texas 78702

Re: Request to Rezone the Parking Lot at 4221 Avenue H (Lots 1-7, Block 19, Hyde Park Addition) (the “Property”) for a Restaurant and Retail Use on the Ground Floor with an Office on the Second Floor (the “Project”)

Dear Lauren:

Please accept the attached rezoning application for the above-referenced Property, which comprises seven lots that have been used for decades as a parking lot plus a commercial kitchen for the Hyde Park Bar & Grill. Approval will allow for a new two-story building with a ground floor restaurant and retail space and an upstairs office available to rent for nearby professionals.

This letter attempts to explain the Property’s history and vision and the impetus for the rezoning. Then, you will find a summary from a member of our design team, architect Karen McGraw, who is a long-time neighborhood resident and advocate who served as Chair of the Hyde Park Neighborhood Planning Team at the time that it created the Hyde Park Neighborhood Plan and who helped create the Hyde Park NCCD and other NCCDs. The summary details the requested amendments to the NCCD (which would only apply to the Property, and not to the entire NCCD) that are needed to accomplish the Project due in part to the last six decades of planning efforts and associated regulations that have combined to create multiple sets of rules on different parts of the Property even though it has long functioned as a single commercial site.

If approved, the rezoning will facilitate a more accessible Austin with the ability to work, shop, or dine by walking or biking to and from home.

Summary of Proposed Rezoning and Issues with Current Designations

The rezoning would amend the applicable Hyde Park Neighborhood Conservation Combining District (the “NCCD”) ordinance, Ord. No. 020131-20, as amended (the “NCCD Ordinance”) to amend the permitted uses, modify some site development regulations, and make the Property consistently within the NCCD’s Duval District. It would also rezone two of the lots from base MF-3 zoning to GR-HD-NCCD-NP zoning to match the zoning on the other five lots.

As such, the rezoning would bring order to a site whose various planning designations have led to so much confusion that some City maps and zoning verification letters have shown base GR zoning throughout the entire Property (in addition to the 1994 site plan for the parking lot, which shows

GR zoning throughout). Similarly, City maps do not clearly show by what majority amount the Property is in the Duval District, and approval would make the designation clear and consistent.

Note that the two lots zoned MF-3 have never had a multifamily use despite being rezoned for it in 1966. Instead, their longstanding use is commercial. The building on those lots is an off-site kitchen for the Hyde Park Bar & Grill, and it previously served as a building materials warehouse as far back as circa 1959 (see *Exhibit A*). Moreover, even if they were to be combined, the two lots would not satisfy the minimum lot size requirements for multifamily under existing zoning.

The Permitted Uses

Office is already a permitted use of the Property. The rezoning would allow for a Restaurant Limited or General use and make Off-Site Accessory Parking and Commercial Off-Street Parking permitted instead of conditional uses so that the Property can generate income to help offset property taxes until the Property is able to be redeveloped, which will take time given the requirement to secure: (i) a Certificate of Appropriateness from the Historic Landmark Commission, (ii) site plan approval, and (iii) a building permit (and, it would make no sense to keep the requirement to get a Conditional Use Permit for the parking lot to have paid parking, as there is already an approved site plan for the parking lot, and allowing free parking would force the owners to subsidize parking for others at their own expense unless they were to block access).

The Historic District Requirements for New Construction

Note that we are also not seeking any change to – and are subject to the requirements of – the Hyde Park Local Historic District, which the City Council approved via Ordinance No. 20101216-093 (the “Historic Zoning Ordinance”). The Historic Zoning Ordinance requires compliance with its Preservation Plan and Design Standards and mandates that any new commercial structure be reviewed by the Historic Preservation Office and the Historic Landmark Commission (the “HLC”), which must vote to issue a Certificate of Appropriateness before any site plan may be approved. To issue a Certificate of Appropriateness, the HLC must hold a public hearing and determine that the proposed structure complies with the Historic Zoning Ordinance’s requirement that, “New commercial buildings in Hyde Park shall adhere to the historic patterns of Hyde Park commercial structures.” The building must also “Use rectangular masonry designs with double door entries covered by an awning and appropriate fenestration.”

Additional Rules and Features

We are not seeking any change to the applicable Neighborhood Plan. In addition, the Project must comply with the City Code’s Subchapter E Design Standards to ensure compatibility. The Project also does not propose any variance from the Board of Adjustment. We will also comply with the existing height limitations, will not cause any increase to the existing amount of impervious cover, and the Project will feature new landscaping and streetscape improvements.

Additional Benefits

- A. Heritage Tree: There is a heritage tree in the City's right-of-way along Avenue H that we will design around with a replacement sidewalk that cuts into the Property to avoid the 1/2 Critical Root Zone.
- B. Flooding and Ingress and Egress: There is a longstanding issue with flooding on Avenue H where the existing driveway to the Property is located. We would remove this curb cut and prevent future flooding. In consultation with City Staff, the ingress/egress would be moved to the alleyway on E. 43rd Street, and so visitors coming from Duval Street would not need to enter the residential area to access the Property.

Parking and Building Location

- A. Several changes are intended to address parking and move the building away from the residential area and toward the commercial area, as follows:
 - a. Allow excess parking: The NCCD Ordinance stipulates that no excess parking is allowed on certain properties, which is a provision that was meant to discourage the demolition of buildings to construct parking lots. If the minimum parking requirements are eliminated, then this amendment would allow on-site parking.
 - b. Eliminate the minimum 5' setback on E. 43rd Street: This will allow the building to align with Quack's Bakery next door and provide a cohesive pedestrian experience.
 - c. Eliminate the compatibility requirements on the south side of the Property: This will allow us to provide parking in a small part of the compatibility setback triggered by the duplex property to the south, which has common ownership.
 - d. Have the building front on E. 43rd Street: This will allow the public entrance to face the Fresh Plus parking lot instead of facing Avenue H, thus providing additional protection for the residential neighbors, and providing continuity of the adjacent, existing commercial area. This is also a more appropriate location for the front given the exceptionally wide amount of public right-of-way along E. 43rd Street (which is 20 feet wider than other nearby east-west streets at 80 feet, as E. 43rd Street was part of the route for the original streetcar line).

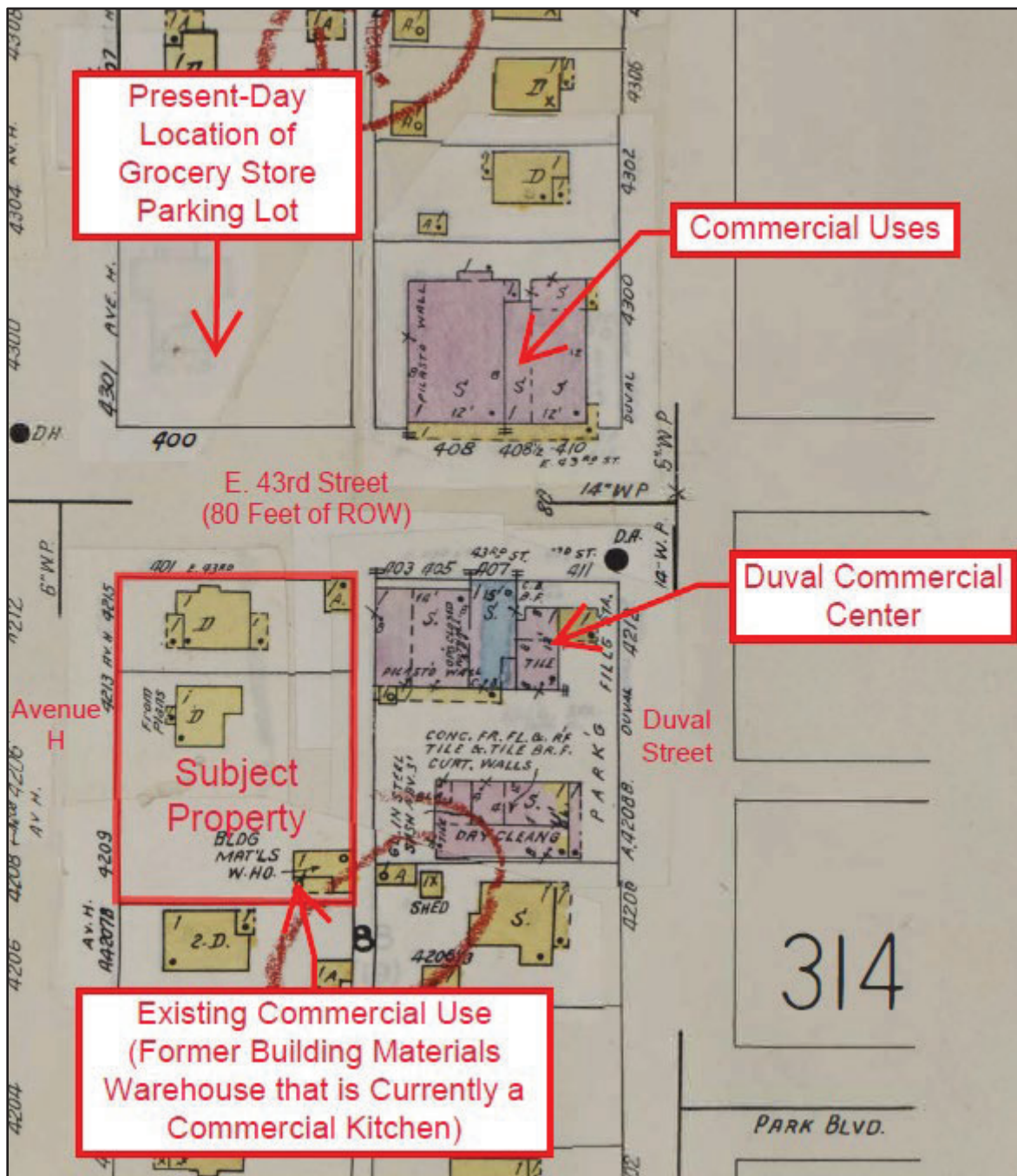
Thank you for your assistance, and please let me know if you require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Micah King" with a stylized flourish at the end.

Micah King

Exhibit A:
Annotated Excerpt from the 1962 Sanborn Fire Insurance Map (Drawn Circa 1959)



Zoning Changes Requested for Hyde Park High Street Project

4221 Avenue H Street - Austin, Texas 78751

(Lots 1-7, Block 19 of the Hyde Park Addition No. 1)

Current Base Zoning of **GR-HD-NCCD-HP** for lots 1-5 will not change.
Change base zoning of MF3-HD-NCCD-NP on lots 6 & 7 to **GR-HD-NCCD-NP**.

Amending the Hyde Park NCCD (Ord. No. 020131-20, as amended) as follows:

1. Amend Part 6. Permitted and Conditional Uses.
 - Section 1. Column B applies to property at the following locations: add 4221 Avenue H.
 - Section 2. add
 - i. Commercial off-street parking and Off-site accessory parking are permitted uses at 4221 Avenue H. (Currently conditional)
 - j. Restaurant use is permitted and limited to 2,500 SF at 4221 Avenue H
 - k. Food preparation is permitted at 4221 Avenue H (existing commercial kitchen).
2. Amend Part 7. General Provisions
 - Section 1.
Add - A building located at 4221 Avenue H may front on E. 43rd St.
 - Section 9. Add – Parking using pervious pavement is permitted in the Avenue H setback for 4221 Avenue H.
 - Section 12. Add except for . . . 4221 Avenue H (permit excess parking)
3. Amend Part 10. Duval District.
 - Section 1. Site Development Standards.
 - a. Increase maximum FAR at 4221 Avenue H from .5/1 to .75/1.
 - b. Increase max. building cover at 4221 Avenue H from 50% to 55%.
 - c. Permit the existing setbacks for the existing commercial kitchen (4' at side setback and 1.3' at alley) at 4221 Avenue H to remain and the building to be reconstructed on its current site.
4. Add to Part 10. Duval District
 - 2.c. The minimum street yard setback from E. 43rd St. for 4221 Avenue H is 0'.
 - 4.c. Notwithstanding any provision in this section, a setback may not be less than five feet except at 4221 Avenue H (see 10.2.c.)
 16. There are no compatibility requirements between the duplex at 4207 Avenue H and the site at 4221 Avenue H.
5. Amend Map Exhibit B – Proposed Subdistricts - to show that lots 1-7 are all included in the Duval District.

Micah King, Shareholder

401 Congress, Suite 2100

Austin, Texas 78701

direct dial: 512.370.2814

email: mking@winstead.com

November 27, 2023

Lauren Middleton-Pratt, Director
Planning Department
c/o Jonathan Tomko, Case Manager
Street-Jones Building
1000 E. 11th Street, Suite 200
Austin, Texas 78702

Re: Amendment to the Rezoning Request for Hyde Park High Street, LLC (the “Owner”) of Property Located 4209, 4213, and 4215 Avenue H (a/k/a 4221 Avenue H) (the “Property”); Case C14-2023-0072 (the “Rezoning Application”)

Dear Lauren:

Please accept this letter as the Owner’s request to amend the Rezoning Application for the above-referenced Property. We are making these amendments pursuant to a compromise agreement by the Hyde Park Neighborhood Plan Contact Team (the “Contact Team”), which voted to support the rezoning request with certain amendments. As such, our amendments are as follows:

1. Total maximum square footage for a building or buildings combined is 12,500 sq. ft. (excluding the structure with the existing “Food Preparation” use);
2. A restaurant use is limited to a single restaurant with a maximum of 1,500 sq. ft.
3. A commercial building shall front on E. 43rd Street and no primary entrance for a commercial use is allowed to front on Avenue H unless otherwise required.
4. We withdraw our request to eliminate the minimum setback on E. 43rd Street and change the standard setbacks on Avenue H.

Thank you for your assistance, and please do not hesitate to contact me should you require anything further.

Sincerely,

Micah King

CC: Joi Harden and Jonathan Tomko (via email)



MEMORANDUM

To: Micah King
CC: Bryan Golden, AICP
FROM: Matiur Rahman, Ph.D., P.Eng.
DATE: August 3, 2023
SUBJECT: Hyde Park High Street NTA (C14-2023-0072)

The proposed development consists of 9,100sf of office, 2,500sf of restaurant, 1,480sf of retail, and 778sf of food preparation building. The site is a 0.5-acre tract on the Southeast Corner of E 43rd ST and Avenue H as shown in Figure 1 below. This site proposes access to 43rd Street which is a level 2 street. The Transportation Development Services (TDS) division has conducted an NTA and offers the following comments.



Figure 1: Site Location

Roadways

The project proposes access onto E 43rd ST only, identified as a level 2 street in the ASMP. The right-of-way along E 43rd ST is about 80 feet in the vicinity of the site. There is approximately 40 feet of pavement width, curb and gutter, and sidewalk along E 43rd ST. It functions as a 35 mph street, with parking allowed on both sides, and two unstriped travel lanes. The ASMP calls for 84 feet of right-of-way for E 43rd ST.

Trip Generation and Traffic Analysis

Based on the Institute of Transportation Engineer's Trip Generation Manual, 11th Edition, the proposed development will generate 704 vehicle trips per day. See Table 1 for a detailed breakdown of the trip generation.

Table 1 - Trip Generation

Land Use	ITE Code	Size	Unadjusted Trip Generation
<u>Proposed</u>			
Office	710	9,100 SF	144
Restaurant	932	2,500 SF	268
Retail	822	1,480 SF	292
Food Preparation	-	778 SF	-
TOTAL PROPOSED			
NET TRIPS			704

24-hour traffic volumes were collected at two points, see Figure 2 below, on E 43rd ST on April 4th, 5th, and 6th, 2023.

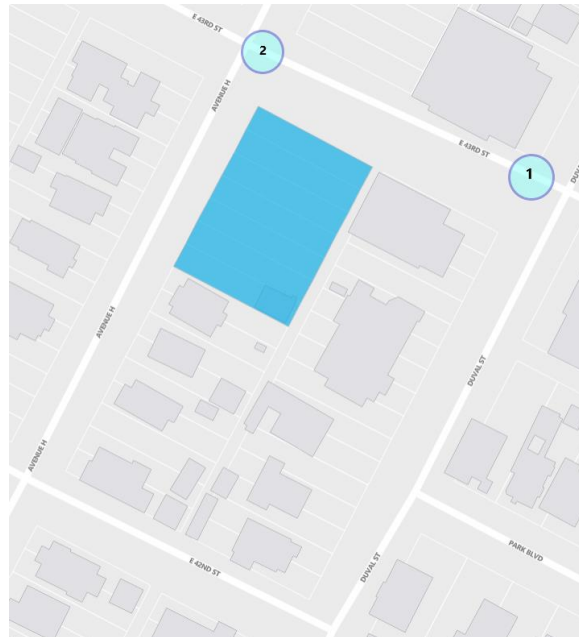


Figure 2: Tube count locations

Table 2 provides an assumed trip distribution for the proposed land uses. This development proposes access onto E 43rd ST.

Table 2 – Trip Distribution

Street	Expected Trip Distribution (Percentage)	Expected Trip Distribution (vpd)
E 43 rd ST (Location 1)	50%	352
E 43 rd ST (Location 2)	50%	352

Table 3 represents a breakdown of traffic on E 43rd St: existing traffic, proposed site traffic, and total traffic after development.


Table 3. Traffic Summary

Street	Existing Traffic from Counts (vpd)	Site Traffic added to Roadway (vpd)	Total Future Traffic (vpd)
E 43 rd ST (Location 1)	1,747	352	2,099
E 43 rd St (Location 2)	945	352	1,297

According to Section 25-6-116 of the Land Development Code (LDC), streets which have 40 feet or wider pavement width are operating at an undesirable level if the average daily traffic volume for such a roadway exceeds 4,000 vehicles per day. E 43rd ST is currently operating at desirable levels and will continue operating at desirable levels with the addition of site traffic.

This assessment is based on the proposed uses and access; any changes in these assumptions may require an updated NTA at the time of site plan. This NTA does not grant nor guarantee approval of proposed driveway type or locations. Driveway type and locations will be reviewed at the time of site plan stage when more detailed information is available. Please note that any building permit(s) associated with this development are subject to the Street Impact Fee (SIF) program. SIF calculation shall be performed during the Site Plan review and fee will be collected at the time of building permit. For SIF related information, please visit City's SIF website (<https://www.austintexas.gov/departments/street-impact-fee>).

Please contact me at (512) 978-1699 if you have questions or require additional information.
Sincerely,



Matiur Rahman, P.Eng.
Austin Transportation Department

Email from: Barbara Gibson

To: Andrew Rivera and Planning Commission Members

Tuesday October, 24, 2023 2:34PM

Dear Chair Shaw and Members of the Planning Commission,

As chair of the Hyde Park Neighborhood Plan Contact Team, I am writing to communicate the official position of the Hyde Park Neighborhood Plan Contact Team regarding the proposed rezoning for the Hyde Park High Street project (Item 12 on your October 24 agenda),

The Hyde Park Neighborhood Plan Contact Team voted to support the following compromise position, which the developers have agreed to verbally:

- 12,500 SF total new development (not including the commercial kitchen that exists at the south east corner of the property);
- Included within this maximum development may be a single restaurant whose total floor area does not exceed 1500 SF;
- All commercial entrances and activity shall be oriented towards 43rd St. and not oriented towards Avenue H;
- * Developers will respect a 5' setback on 43rd St and the standard setbacks as currently applied on Ave H.

Per our Contact Team bylaws, the motion to support the above compromise was approved by a 2/3s majority of voting members present at the Contact Team's regularly scheduled quarterly meeting on October 23, 2023.

Please let me know if you have any questions. As always, thank you for your consideration and your volunteer service to the community.

Best,

Barbara Gibson

Chair, Hyde Park Neighborhood Plan Contact Team

Mr. Jonathan Tomko
Zoning Application Case Manager

Regarding Case Number: C14-2023-0072

Dear Mr. Tomko,

Re: Request for Postponement of Zoning Application Hearing

I am writing on behalf of the immediate neighbors of the property under the current zoning application being reviewed by the Austin Planning and Zoning Commission, which I believe is currently scheduled for October 24th. We would like to kindly request a postponement of the scheduled hearing for this application.

The reasons for this request are threefold:

Ongoing Negotiations: We are still in the midst of discussions with the applicant regarding certain facets of the zoning application. Both parties are working towards potential compromises that will take into account the concerns and wishes of the immediate neighbors and the developer. We are hopeful that these negotiations will yield modifications to the current application, making it more acceptable for all parties involved. We believe that granting us a postponement will be beneficial towards finding a potential compromise between the applicant and the neighborhood.

The next Hyde Park Neighborhood Contact Team Meeting is on October 23rd. The recommended changes to the NCCD are scheduled for action and to be voted on at this meeting. The results of this will be too late to be included in the packet provided to the PC before the meeting, and in any event, the result of that vote and discussion may very well result in additional changes to the zoning application which we would like to be made before the hearing by the Planning Commission.

Hyde Park Neighborhood Association's (HPNA) Review: It is essential for the HPNA to weigh in on the final application, and the next meeting is scheduled for Monday, November 6, 2023. We hope to at least have a discussion at this meeting of the outcome of the Contact Team meeting, and we have requested that it be scheduled for a vote as well.

The neighborhood's main objective is to ensure that any development or change is in the best interests of all the stakeholders. By granting this postponement, we will have a better opportunity to collaboratively reach an outcome that respects and benefits all participants.

Thank you for your understanding and patience. Please do not hesitate to reach out if you need further information or if there's any other way we can facilitate the process.

Regards,

Nickolas van Bavel

Nick van Bavel
4208 Avenue H
512-680-1168

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Case Number: C14-2023-0072
Contact: Jonathan Tomko, 512-974-1057
Public Hearing: Oct 24, 2023, Planning Commission

Matt Desloge - development committee
Your Name (please print)

☒ I am in favor
☐ I object

Friends of Hyde Park NA
Your address(es) affected by this application

[Signature]
Signature

10/16/23
Date

Daytime Telephone: _____

Comments: _____

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

Letter of Support

Hyde Park High Street Rezoning

4209, 4213, and 4215, 4221 Avenue H

Case C14-2023-0072

Dear Planning Commissioners and Council Members:

I am a resident of Hyde Park and am writing to express my support for the Hyde Park High Street rezoning to allow for a restaurant, office, and retail. This location is immediately west of Duval Center / Quack's and is part of the commercial area hub that is centered on E. 43rd Street and Duval. This site has been an asphalt parking lot with a commercial kitchen for Hyde Park Bar and Grill for many years. The parking lot could be put to better use, promote walkability, and enhance the complete community aspects of Hyde Park through the proposed project. Thank you for your consideration and support.

Sincerely,

Signed:

Name:

John Lawry

Address:

4300 Avenue F

Austin TX 78751

Letter of Support

Hyde Park High Street Rezoning

4209, 4213, and 4215, 4221 Avenue H

Case C14-2023-0072

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Sincerely,

Signed: Katie VigneryName: KATIE VIGNERYAddress: 4300 Avenue F
Austin TX 78751

Email from Stephen Gonzalez
To Jonathan Tomko
Tuesday 10.17.2023 8:48PM

Letter of Support
Hyde Park High Street Rezoning 4209, 4213, and 4215, 4221 Avenue H
Case C14-2023-0072

Dear Planning Commissioners and Council Members:

My name is Stephen Gonzalez. I am a long serving member of the Hyde Park Neighborhood Association Steering Committee, and live on Avenue H, several blocks from the property in question. I am also in my second term as the Bond Oversight Commissioner for District 9, so I have some familiarity with the current state of land use redevelopment and pedestrian improvements in this city.

I want to express my support for the Hyde Park High Street rezoning to allow for a restaurant, office, and retail for a multitude of reasons, the least of which is that the current usage is a dangerous eyesore. If you'll allow me a few lines to rant, its historical usage as a "free" parking lot invites the worst drivers in the city to circle the block for ages waiting for a "free" parking spot to open up. I am primarily a cyclist and pedestrian commuter. With 3 toddlers it is difficult, but I make it work around the neighborhood with a large high-visibility orange colored Wonderfold Wagon. One evening this past December, while pushing the kids across the CLEARLY marked pedestrian walkway across 43rd street on the West side of Duval, an elderly lady (whom I had observed circling the parking lot and exiting and re-entering looking for parking) ran the stop sign and hit my wagon full of children at a slow speed. My wife and I were SHOCKED, and upon confronting the woman were told the predictable story of "It was dark, I couldn't see you, I was looking for parking and focusing on that." Imagine an evening out looking at Christmas Lights turning into an auto vs pedestrian event due to the entitlement of "free" parking.

The plans for the redevelopment have a paid parking component and create better ingress/egress for the property with clearly enhanced pedestrian improvements. These are all good things to help shift the burden of car-centric culture back onto drivers. Nobody is entitled to "free" parking on someone else's private property. If one is too cheap to pay for parking, they shouldn't be going out to eat. If one is too lazy to park a few blocks away, they should stay at home and overpay for Doordash. I fully expect that Avenues H & G will implement paid parking to fund further pedestrian improvements, much like the scheme on South Congress' adjacent streets. These two paid parking schemes will undoubtedly dilute whatever resulting street parking the opposition fears, with the added bonus of funding a more vibrant and walkable neighborhood, not to mention increased ridership for CapMetro as well as the Orange Line when built.

Further, improving this property will be a good thing for the whole neighborhood. For proof, ask yourself this simple hypothetical question: "If this was my neighborhood, would I rather have a prime corner block devoted to free parking for people who don't live here, or another award-winning restaurant and café within walking distance?"

Thank you esteemed Commissioners and Councilmembers for your consideration in this matter and I know that you will find many more residents along Avenue H that feel the same way.

Sincerely,

Stephen Gonzalez
3814 Avenue H

Email from Chris Wooster
To: Jonathan Tomko
Wednesday 10.28.2023 9:41AM

Letter of Support
RE: Hyde Park High Street Rezoning 4209, 4213, and 4215, 4221 Avenue H

Dear Planning Commissioners and Council Members,

I'm a local resident in Hyde Park writing to voice support for the Hyde Park High Street project's request for rezoning of the property at the corner of Avenue H and 43rd street. While I current serve as a member of the Hyde Park Neighborhood Association's Steering Committee active in local issues, this letter is a personal one.

Replacing this aged parking lot with a more neighborhood-friendly usage with amenities, shops, and small business offices seems long overdue. The thriving success of the former post office site nearby is ample evidence the community wants a more progressive view of development in the neighborhood, similar to the ambitions the Hyde Park High Street project have shared in public meetings to date.

I'm confident most of the people using that lot have no idea it's private property, and has been "free" to park due to the good grace of its owners and local businesses who have paid for spots in the lot. The owners of the lot should have the right to redevelop it. Indeed, I'm grateful they're taking on the task of improving the neighborhood's services and meeting spots.

I strongly encourage you to approve the rezoning request for this project, and thank you for considering it among the city's needs for a more open-minded approach to land use.

Sincerely,



4700 Red River St, 78751

Email from Brendan Wittstruck
To: Jonathan Tomko
Wednesday 10.18.2023 10:40AM

RE:
Hyde Park High Street Rezoning 4209, 4213, 4215 & 4221 Avenue H
Case C14-2023-0072

Dear Mr. Tomko, Planning Commissioners and Council Members,

I am writing to express my support for the rezoning application at 4209, 4213, 4215 and 4221 Avenue H. I am a resident of Hyde Park and serve on the Hyde Park Neighborhood Association Steering Committee, although I am writing on my own behalf.

The zoning changes requested by this project will serve to better integrate it into the existing neighborhood commercial fabric of the cherished Duval Center, and in doing so presents an opportunity for this project to best provide value and vitality to Hyde Park residents.

The applicant has appeared at HPNA meetings, Steering Committee meetings, Design Review Committee meetings and Contact Team meetings on multiple occasions and at this point has no doubt invested hundreds of hours in collaborating with community members on the project. The applicant also has a sterling track record of developing high-quality projects that are warmly received in their communities.

Having a surface parking lot in the heart of one of Austin's most vibrant central neighborhoods is at this point a gross misuse of a neighborhood asset, and I am confident that this project will inject vitality into Duval Center and subtly encourage residents to visit the project on foot or bicycle instead of using a car. This will contribute--if in baby steps--to Austin's ambitious and necessary mode-shift and climate action goals.

This rezoning request is an integral part of moving a good project forward, and I want to share my support in the strongest terms.

Thank you,
Brendan Wittstruck
4808 Red River Street Unit B

PUBLIC HEARING INFORMATION

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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.

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Case Number: C14-2023-0072

Contact: Jonathan Tomko, 512-974-1057

Public Hearing: Oct 24, 2023, Planning Commission

Nancy Hohengarten

Your Name (please print)

4114 Avenue H 78751

Your address(es) affected by this application

[Signature]

Signature

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

10-13-23

Date

Daytime Telephone: 512-554-6428

Comments: I believe this development
will be an asset to the neighborhood.

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

PUBLIC HEARING INFORMATION

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Case Number: C14-2023-0072

Contact: Jonathan Tomko, 512-974-1057

Public Hearing: Oct 24, 2023, Planning Commission

CORINNE MAY

Your Name (please print)

4312 DUVAL ST Austin, TX

Your address(es) affected by this application

Corinnemay

Signature

☐ I am in favor
☒ I object

10/17/23

Date

Daytime Telephone: 919.522.5615

Comments: I am opposed to further commercial development of my neighborhood. Construction of roads and repairs is already regular and disruptive. This neighborhood cannot comfortably accommodate new major traffic. Go lease space on N. Lamar to achieve corporate goals.

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

Letter of Support

Hyde Park High Street Rezoning
4209, 4213, and 4215, 4221 Avenue H
Case C14-2023-0072

Dear Planning Commissioners and Council Members:

I am a resident of Hyde Park and am writing to express my support for the Hyde Park High Street rezoning to allow for a restaurant, office, and retail. This location is immediately west of Duval Center / Quack's and is part of the commercial area hub that is centered on E. 43rd Street and Duval. This site has been an asphalt parking lot with a commercial kitchen for Hyde Park Bar and Grill for many years. The parking lot could be put to better use, promote walkability, and enhance the complete community aspects of Hyde Park through the proposed project. Thank you for your consideration and support.

Sincerely,

Signed: 

Name: Lloyd Cates

Address: 4410 Avenue D

You may return the letter via email to the case manager at Jonathan.Tomko@austintexas.gov or to the contacts below. For more information, please contact:

For questions:

Jesse Lunsford, Hyde Park High Street, (512) 415-5475 jesse@raineyventures.com

Micah King (512) 351-1106 Micah.King@huschblackwell.com

Karen McGraw (512) 917-1761 karenmcgrawarch@gmail.com

Email from Riti Marsha
To Jonathan Tomko
Thursday 10/10/2023 12:33 PM

Letter of Support
Hyde Park High Street Rezoning 4209, 4213, and 4215, 4221 Avenue H
Case C14-2023-0072

Dear Planning Commissioners and Council Members:

My name is Marsha Riti and have lived as a renter in Hyde Park and Hyde Park adjacent neighborhoods since 2001. In 2020 my little family was able to purchase the house we were renting. I have always worked hard to be part of my community and create a safe space for all my neighbors, property owners and renters alike. I am a member of the Hyde Park Steering Committee, the vice president of Sunshine Community Gardens, a recent board member of Hope Food Pantry, and I lead the Emergent Environmentalist Club at Russell Lee Elementary School where my daughter attends third grade. My opinions are my own but my history and involvement in the community impacts my opinions.

I wanted to express my support for the rezoning of Hyde Park High Street. Not all developers are alike but these specific developers have worked diligently with the neighbors and business owners to create a design that will bring value and a greater sense of community to the neighborhood. The redevelopment will create high quality spaces for businesses to thrive and will be a valuable third space for neighborhood residents and members of the greater Austin community.

For example, I just recently found out that the annual Arts Market was not able to use their original location in the Hyde Park Fresh Plus parking lot which was distressing for the organizers. Thankfully Ray Brimble and Jesse Lundsford of Hyde Park High Street Development have graciously donated the use of their parking lot for the Art Market on Dec 9th. The market will coincide with activities provided by Quack's Bakery and a sidewalk sale by Fortress Shoes. The developers want this space to work for the community and businesses, helpful actions like this reinforce a sense of community and belonging.

Also, as an avid commuter cyclist I have no attachment to parking with the exception of ADA parking. I am deeply concerned about the climate crisis and our reliance on individual vehicles. So leaving the parking lot as is, is not my preference. Communities should be for people not cars.

As an aside, I am not happy with our current public transportation system and bicycling / pedestrian safety. No one should wait more than fifteen minutes for a bus or train and there are large sections of Austin that are underserved in terms of access to close public transit or even sidewalks. When I am in neighborhoods near I-35 or on the east side of town it's hard to not notice the lack of sidewalks. I support the redevelopment of parking lots and removal of parking requirements, however, addressing public transport, bicycle lanes, and pedestrian needs has to happen in tandem.

Thank you for your time,
Marsha Riti
4208 Ave B

Email from Chris Carty
To Jonathan Tomko
Thursday 10/10/2023 1:34pm

I am writing to register my opposition to this rezoning. The project in question does not fit in Hyde Park. It is too large for the current character of the neighborhood. The developer is planning to build office space that is not needed in this city as we have thousands of square feet of available office space that is currently not leased and is vacant. They also plan to build a space for a large restaurant and retail space. They also do not have a viable plan for parking for all of the future office, retail and restaurant workers nor for the restaurant patrons. This will force patrons and workers to park on the surrounding narrow neighborhood streets. This is in addition to the cars that use the current parking lot and will be forced to park elsewhere due to the development. The developer does not seem to care about the impact that the project will have on the neighbors' lives. In addition, the plans call for the building to sit very close to 44th street and will make it difficult for pedestrians to walk especially given the increase in the number of pedestrians that this project will bring to the neighborhood. I urge the Planning Commission to deny the application for rezoning and ask the developer to redesign an more appropriately sized project with an more appropriate mix of uses.

Best regards,
Chris Carty
4316 Duval St.
Austin, Texas 78751

Email from Bennett Maddox
To Jonathan Tomko
Friday 10/20/2023 1:34pm

Dear Planning Commissioners and Council Members:

I want to express my support for the rezoning of the property mentioned above. I'm a resident of Hyde Park and live on Avenue H. I have two children under the age of 4 and believe that this developer has been thoughtful with their plans for this development, putting the neighborhood's interest at the forefront.

Bennett Maddox

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Case Number: C14-2023-0072

Contact: Jonathan Tomko, 512-974-1057

Public Hearing: January 18, 2024, City Council

David Whitworth

Your Name (please print)

303 E 42nd St.

Your address(es) affected by this application

W. J. W.

Signature

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

Date

1/2/24

Daytime Telephone: 512-294-5139

Comments: Don't be afraid to apply some planning principles to the zoning entitlements you grant. Make this a positive contribution to the area with public facing pedestrian oriented uses. The last minute compromise at the NPCT meeting (in a voting member) was a little quick and might not have the wisdom of impartial city planning Dept. We reigned in the restaurant size but thanks

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

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Jonathan Tomko

P. O. Box 1088

Austin, TX 78767-8810

the only part of this project the public will get to use.