

## SECOND/THIRD READINGS SUMMARY SHEET

CASE: C14-2023-0107 (Berkman Mixed-Use)

DISTRICT: 4

ADDRESS: 6405 Berkman Drive

PROPERTY OWNER: 6405 Berkman TX, LLC

AGENT: Thrower Design (Victoria Haase)

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

REQUEST: Second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 6405 Berkman Drive from townhouse and condominium residence-neighborhood plan (SF-6-NP) combining district zoning; to community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning.

### PREVIOUS CITY COUNCIL ACTION:

January 18, 2024: Approved community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning on 1st reading with staff amendments on Council Member Qadri's motion, Council Member Ellis' second (Vote: 11-0).

## ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0107 (Berkman Mixed-Use)

DISTRICT: 4

ADDRESS: 6405 Berkman Drive

ZONING FROM: SF-6-NP

TO: GR-MU-CO-NP (as amended)

SITE AREA: approximately 0.8650 acres (approximately 37,679 sq. ft.)

PROPERTY OWNER: 6405 Berkman TX, LLC

AGENT: Thrower Design (Victoria Haase)

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

### STAFF RECOMMEDATION:

Staff does not support the Applicant's request of GR-MU-NP for this property and offers an alternate recommendation of LR-MU-CO-NP. See the *basis of recommendation* section below for more information.

### PLANNING COMMISSION ACTION/RECOMMENDATION:

December 12, 2023: Planning Commission approved applicant's request for GR-MU-NP, motion by Commissioner Connolly, seconded by Commissioner Anderson. Commissioner Haynes, Phillips and Mushtaler voted nay. Commissioner Cox abstained. (7-3-1)  
Commissioner Barrera, Ramirez and Howard absent.

### CITY COUNCIL ACTION:

January 18, 2024: Case approved on 1st reading only, Vote: 11-0.

February 29, 2024: Case is scheduled to be heard by Council on 2nd and 3rd readings.

### ORDINANCE NUMBER:

N/A

### ISSUES:

Applicant amended request on December 13, 2023 after Planning Commission vote to include a conditional overlay prohibiting several uses (see letter of request in *Exhibit D*): automotive rental, automotive repair services, automotive sales, automotive washing (of any type), bail bonds services, business or trade school, business support services, commercial off-street parking, communications services, drop-off recycling collection facility, exterminating services, food preparation, funeral services, hotel-motel, indoor entertainment, indoor sports and recreation, outdoor entertainment, outdoor sports and recreation, pawn shop services, research services, theater, hospital services-general, service station, medical offices exceeding 5,000 square feet.

**CASE MANAGER COMMENTS:**

The subject property is located on the east side of Berkman Drive approximately 750 feet north of Wheless Lane and directly to the east of where Ashberry Drive intersects with Berkman Drive. The property is zoned SF-6-NP and also has frontage on Hickman Drive to the east a level 1 local mobility ASMP corridor which functions as a neighborhood street.

The property immediately to the north is also zoned SF-6-NP and is developed with ten townhomes. Directly to the south is a fire station, zoned P-NP, and two duplexes zoned SF-3-NP. Approximately 400 feet to the south is undeveloped property zoned GR-MU-CO-NP facing Berkman Drive and townhouse/condominium land uses (zoned SF-6-NP) facing Hickman Avenue, see C14-2018-0037 in the *area case histories* section below.

To the west across Berkman Drive are single family homes zoned SF-3-NP, and also to the east across Hickman Drive are several blocks of SF-3-NP being utilized as single-family homes.

**BASIS OF RECOMMENDATION:****Zoning changes should promote compatibility with adjacent and nearby uses.**

Staff is offering the recommendation of LR-MU-CO-NP to promote compatibility with adjacent and nearby uses. Hickman Avenue is a level 1 ASMP corridor and as a neighborhood street does not have the capacity for more intense zoning categories like GR. A GR community commercial district designation generally is accessible from major traffic ways § 25-2-98. GR zoning typically has a transitional buffer between it and lower-level single family zoning categories.

**Granting of the request should result in an equal treatment of similarly situated properties.** Staff is offering the recommendation of LR-MU-CO-NP as it is consistent with staff's previous position in a similar rezoning case on this street C14-2018-0037 (see *area case histories* section below). The concerns raised in that case are still valid today. Berkman Drive is not an Imagine Austin Corridor suitable for a substantial amount of GR zoning, and access to Hickman Avenue, a level 1 ASMP neighborhood street, from intensive zoning categories is a concern.

**Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.**

LR-MU-CO-NP would promote an appropriate transition between adjacent and nearby zoning districts. The nearest GR zoning districts in the vicinity of this site are near the intersection of U.S. 290, and Berkman Drive to the north, at Berkman Drive and Glenvalley Drive to the south (C14-2018-0037 in *area case histories*), and at the signalized intersection of Berkman Drive and Briarcliff Boulevard to the south. In all three instances there is MF zoning serving as a buffer between a portion of the more intensive GR and less intensive SF zoning categories.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
<i>Site</i>	SF-6-NP	Single family home built in 1946, approximately 1,200 square feet

<i>North</i>	SF-6-NP	Approximately ten newer townhomes
<i>South</i>	P-NP and SF-3-NP	#18 Austin Fire Station and two duplexes built in 1972, each approximately 1,700 square feet
<i>East</i>	SF-3-NP	Three single family homes (across Hickman Avenue), built in the 1960s, approximately 1,000-2,000 square feet each
<i>West</i>	SF-3-NP	Two single family homes (across Berkman Drive), built in the 1960s, approximately 1,000-2,000 square feet each

NEIGHBORHOOD PLANNING AREA: University Hills/Windsor Park Neighborhood Planning Area

WATERSHED: Fort Branch Watershed

SCHOOLS: A.I.S.D.  
Harris Elementary School  
Webb Middle School  
Northeast High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Lost and Found Pets, Austin Neighborhoods Council, Del Valle Community Coalition, Friends of Austin Neighborhoods, Friends of Northeast Austin, Homeless Neighborhood Association, Neighborhood Empowerment Foundation, Neighbors United for Progress, Preservation Austin, Responsible Growth for Windsor Park, SELTexas, Sierra Club, Austin Regional Group, Windsor Park Neighborhood Association, Windsor Park Neighborhood Plan Contact Team

AREA CASE HISTORIES:

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2022-0104 (Berkman Residential)	The Applicant is proposing to rezone approximately 0.86 acres from SF-6-NP to MF-5-NP.	01.10.2023: To grant MF-5-CO-NP with the condition that building height is limited to 45 feet. (9-1) J. Shieh- 1st, A. Azhar- 2nd. Y. Flores off the dais. G. Anderson nay. P. Howard absent. One vacancy	03.09.2023: MF-5-NP approved on Councilmember Vela's motion, Councilmember Qadri's second on an 8-0 vote. Councilmember Alter abstained, Councilmember Fuentes and Harper-Madison were off the dais.
C14-2018-0037 (Berkman Terraces)	The Applicant is proposing to rezone 1.28 acres from LR-	10.23.2018: Staff recommendation: LR-MU-NP; Planning	11.15.2018: First reading approved on November 15, 2018. Vote: 11-0

	MU-NP and SF-6-NP to GR-MU-NP.	Commission motion to grant applicant's request for GR-MU-CO-NP <i>with conditions</i> : 40 feet of height/3 stories, vehicular access to Hickman prohibited, prohibited and conditional land use restrictions.	<p>12.13.2018: Amendment to strike vehicular access prohibition to Hickman Avenue on a 6-2 vote Those voting aye were Council Members Casar, Flannigan, Garza, Kitchen, Pool and Troxclair. Those voting nay were Mayor Pro Tem Tovo and Council Member Houston. Mayor Adler and Council Member Alter were off the dais. Council Member Renteria was absent.</p> <p>(GR-MU-CO-NP) combining district zoning was approved as amended above on Council Member Casar's motion on a 7-1 vote. Council Member Houston voted nay. Mayor Adler and Council Member Alter were off the dais. Council Member Renteria was absent.</p>
C14-06-0018 (6203 Berkman Drive)	The Applicant is proposing to rezone 0.5 acres from SF-3 to LR-MU.	09.26.2006: Approved Staff Recommendation for LR-MU zoning Commissioner Riley, 2 <sup>nd</sup> by Commissioner Moore (7-0)	11.30.2006: Approved LR-MU zoning (5-0) McCracken and Kim off the dais

		Commissioner Reddy and Stegeman absent	
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RELATED CASES:

NPA-2023-0023.02 – Amend the FLUM from Higher Density Single Family to Mixed Use

ADDITIONAL STAFF COMMENTS:Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Fort Branch 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: Parkland dedication will be required for the new applicable uses proposed by this development, mixed use residential with GR-MU-NP zoning, at the time of subdivision or site plan, per City Code § 25-1- 601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

#### 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.

SP 4. The site is subject to compatibility standards. Along the South, East, and West 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.
- No parking or driveways are allowed within 25 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 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. FYI This site is in the Windsor Park Neighborhood Plan

SP 6. FYI This site is in the Residential Design Overlay

#### 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. Please contact Mustafa Wali to determine tube locations. He can be reached at [Mustafa.Wali@austintexas.gov](mailto:Mustafa.Wali@austintexas.gov). 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.”

**Comment Cleared – Trip count revised, no NTA is required at this time but could change at site plan if trip counts are revised.**

ATD 2. The Austin Strategic Mobility Plan (ASMP) calls for 72 feet of right-of-way for Berkman Dr. It is recommended that 36 feet of right-of-way from the existing centerline should be dedicated for Berkman Dr. according to the ASMP with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

ATD 3. The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for Hickman Ave. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for Hickman Ave according to the ASMP 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)
Berkman Dr.	Level 2	72'	50'	42'	Yes	Yes	Yes
Hickman Ave.	Level 1	48'	52'	28'	Yes	No	Yes

Austin Water Utility

AW1. No comments on zoning change.

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

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

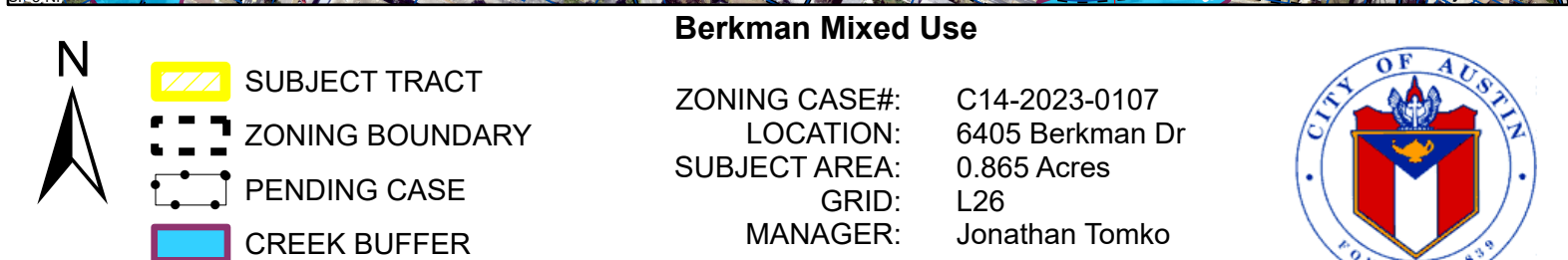
**INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:**

- A. Zoning Map
- B. Aerial Map
- C. Applicant's Summary Letter
- D. Applicant's 12/13/23 Letter Requesting Conditional Overlay









**Created: 10/31/2023**



August 30, 2023

Ms. Lauren Middleton-Pratt  
Director, Planning Department  
City of Austin  
1000 E 11<sup>th</sup> Street  
Austin, TX 78702

***Via Electronic Delivery***

Re: Rezoning Application – 6405 Berkman Drive; Berkman Mixed Use

Dear Ms. Middleton-Pratt:

On behalf of the Owner(s) of the property referenced above, we respectfully submit the enclosed Rezoning application. The subject land is an un-platted lot of approximately 0.849 acres. The lands are located within Council District 4, represented by “Chito” Vela and are in the Windsor Park Neighborhood Planning Area.

The lot has *Higher-Density Single-Family* future land use designations and is zoned “SF-6-NP”. A Neighborhood Plan Amendment application is currently under review, requesting to amend the FLUM to *Mixed Use* designation which will allow the rezoning of the property from SF-6-NP to GR-MU-NP to allow for infill mixed use development consisting of residential and commercial, retail or office uses.

Allowing this site to develop under the provisions of GR-MU is an opportunity for development that helps to achieve the City’s sustainability goals by giving opportunities for complete communities with residential units in proximity to commercial uses that can serve residents by foot, bike, or bus rather than personal automobile. The property has frontage on Berkman Drive, with existing Capitol Metro bus service. Infill development at this location will take pressure off sprawling development and will contribute improvements and upgrades to non-existent or aging infrastructure.

We respectfully request support for the requests made. Please contact our office should you have need for additional information. Thank you for your time and attention to this application.

Kind regards,

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

Victoria Haase

cc: Joi Harden, Housing & Planning Department (*via electronic delivery*)

December 13, 2023

Ms. Lauren Middleton-Pratt  
Director, Planning Department  
City of Austin  
1000 E 11<sup>th</sup> Street  
Austin, TX 78702

***Via Electronic Delivery***

Re: APPLICATION AMENDMENT – 6405 Berkman Drive; Berkman Mixed Use – C14-2023-0107

Dear Ms. Middleton-Pratt:

On behalf of the Owner(s) of the property referenced above, we amend the application to request GR-MU-CO-NP zoning.

We request that the following uses be prohibited in a Conditional Overlay:

- Automotive Rental
- Automotive Repair Services
- Automotive Sales
- Automotive Washing (of any type)
- Bail Bond Services
- Business or Trade School
- Business Support Services
- Commercial Off-Street Parking
- Communication Services
- Drop-Off Recycling Collection Facility
- Exterminating Services
- Food Preparation
- Funeral Services
- Hotel-Motel
- Indoor Entertainment
- Indoor Sports & Recreation
- Outdoor Entertainment
- Outdoor Sports & Recreation
- Pawn Shop Services
- Research Services
- Theater
- Hospital Services – General
- Service Station
- Medical Offices exceeding 5,000 sq. ft.

Kind regards,



Victoria Haase

cc: Jonathan Tomko, Joi Harden - Planning Department (*via electronic delivery*)