

## ZONING CHANGE REVIEW SHEET

CASE: **C14-2025-0038** – Oak Hill Apartments

DISTRICT: 8

ADDRESS: 5526 W US Highway 290

ZONING FROM: GR-CO-NP

TO: GR-MU-V-CO-DB90-NP

SITE AREA: 14.441 acres

PROPERTY OWNER: 5205 Acquisitions, LLC (Manny Farahani)

AGENT: Monte F. James, Attorney

CASE MANAGER: Marcelle Boudreaux (512-974-8094,  
marcelle.boudreaux@austintexas.gov)

### STAFF RECOMMENDATION:

**The Staff recommendation is to grant community commercial– vertical mixed use building – conditional overlay - density bonus 90 - neighborhood plan (GR-V-CO-DB90-NP) combining district zoning.**

**The Conditional Overlay would prohibit the following uses permitted within the GR base zoning district: Automotive repair services; Custom manufacturing; Exterminating services; Service station.**

**Staff recommends granting the applicant’s modification request to provide 50% of the required pedestrian-oriented commercial or civic space.**

### PLANNING COMMISSION ACTION / RECOMMENDATION:

**April 22, 2025:**

### CITY COUNCIL ACTION:

### ORDINANCE NUMBER:

### ISSUES:

In December 2023, Ordinance No. 20220609-080, Ordinance No. 20221201-056 and Ordinance No. 20221201-055 were invalidated. On March 11, 2024, Ordinance No. 20240229-073, was enacted to create the “DB90” combining district, which amended City

Code Title 25 (Land Development) to create a new zoning district for a density bonus program that grants 30 feet in height above the base zoning district, to a maximum of 90 feet, and modifies site development regulations including compatibility standards.

The Conditional Overlay to establish prohibited uses was established during the Neighborhood Plan rezonings for East Oak Hill. The conditions are requested by the applicant and recommended to be incorporated into this new rezoning by Staff.

The applicant proposes a mixed use development with residential use and ground floor commercial development (see summary letter attached). The granting of the -V and of the -DB90 combining districts each allows for residential use in combination with the GR base district commercial uses. The applicant's request for the -MU combining district designation is unnecessary for their intended purpose of development. Therefore, Staff recommends GR-V-CO-DB90-NP.

The DB90 requirements include that 75% of a building with frontage on a principal street to allow for pedestrian-oriented commercial or civic uses, however, the Ordinance also allows for modification to this requirement when the site abuts certain roadways. This site abuts the frontage road for US Highway 290, which is categorized as Highway - an eligible roadway type to request this modification. Sidewalks are present on the frontage road. The site's buildable area is limited due to creek buffer zone and floodplain at the northern portion of the site. On balance, a reduction will still require some pedestrian oriented space while allowing flexibility due to site constraints. Staff recommends granting the applicant's modification request to provide 50% of the required pedestrian-oriented commercial space.

On March 18, 2025, City of Austin staff sponsored a virtual community meeting to provide an opportunity for the neighborhood plan contact team, nearby residents, property owners, and any other interested parties to discuss the proposed development and the neighborhood plan amendment request.

#### CASE MANAGER COMMENTS:

The subject rezoning area is 14.441 acres, and is developed with some commercial uses, which are primarily vacant at the southern portion of the site closest to frontage road, however the site is primarily undeveloped. The rezoning area is situated on the northern side of US Highway 290 frontage road. To the east of the site is Administrative and Business Office use, Construction sales use, and undeveloped land (CS-NP; CO-CO-NP; IP-NP; RR-NP). To the north, with frontage onto Southwest Parkway, are Administrative and Business Office use and Professional Office use, and undeveloped land (LO-CO-NP; GO-CO-NP; LO-NP). To the west is Plant Nursery use and undeveloped land (GR-CO-NP). ***Please refer to Exhibits A (Zoning Map), A-1 (Aerial View).***

The site is less than ¼-mile from a Cap Metro bus stop, with two lines, accessible via existing sidewalks. This proposal is within the Monterey Oaks ETOD station area (Bus). The proposal includes affordable units, consistent with the "Encourage" ETOD typology. ETOD efforts should take advantage of the change occurring today to maximize community benefits

in redevelopment and infill opportunities and increase the number of people who can afford to live here, especially low-income households and communities of color.

The applicant is requesting community commercial – vertical mixed use building – mixed use – conditional overlay - density bonus 90 – neighborhood plan (GR-V-MU-CO-DB90-NP) combining district for a proposed development that would include multi-family units requiring an affordable component. A building constructed under vertical mixed use building (-V) or density bonus 90 (-DB90) standards allows for a mix of residential uses and commercial uses, and the result is typically retail, restaurants and offices on the ground floor, and residential units on upper levels. The overall project would consist of approximately 206 residential units and commercial.

A development utilizing the “density bonus 90” incentives is permitted with a base GR zoning district, and must include an affordability component for residential use in order to obtain incentives, including height maximum of 90 feet in the GR district (60 feet base plus 30 feet incentive) and relaxation of development and compatibility standards, such as FAR, setbacks and building coverage. There are several methods of satisfying DB90 development affordability requirements. There are two options for projects including rental units:

- 1) a minimum of 12% of the rental units in a building are affordable for a 40-year period for households earning 60% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; or
- 2) a minimum of 10% of the rental units are affordable for a 40-year period as described above for households earning 50% or less MFI.

There are two options of satisfying DB90 development affordability requirements which include ownership units:

- 1) a minimum of 12% of the units in a building are affordable for a 40-year period for households earning 80% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; or
- 2) an in-lieu-fee payment to the Housing Trust Fund, equivalent to the required percentage of the total residential units, including the mix of bedrooms required, at the rate set in the fee schedule at the time of final site plan submission.

The -V combining district allows for relaxation of some development standards, such as building coverage, setbacks and floor-to-area (FAR) ratio, in exchange for income-restricted housing; however, no additional height is incentivized. There are several methods of satisfying V development affordability requirements. There is one option for projects including rental units:

- 1) a minimum of 10% of the rental units in a building are affordable for a 40-year period for households earning 80% or less than the Austin-Round Rock Metropolitan Statistical Area MFI.

There is one option of satisfying V development affordability requirements which include ownership units:

- 1) a minimum of 5% of the residential units in a building are affordable for a 99-year period for households earning 80% or less than the Austin-Round Rock Metropolitan Statistical Area MFI; and

- 2) a minimum of 5% of the residential units in a building are affordable for a 99-year period for households earning 100% or less than the Austin-Round Rock Metropolitan Statistical Area MFI.

The property is located within the Oak Hill Combined (East Oak Hill) Neighborhood Plan Area, and is located within the NP area that was initiated by the City to zone and rezone certain tracts in 2008 (Ordinance No. 20081211-098). At that time, this site was rezoned from DR to GR-CO-NP. This request for the -V and the -DB90 combining districts continues to align with City objectives to increase density and affordability in exchange for relaxed development standards.

Staff's recommendation is GR-V-CO-DB90-NP. See more details in the Issues section.

#### BASIS OF RECOMMENDATION:

1. *The rezoning should be consistent with the policies and principles adopted by the City Council.*

City Council has provided policy and direction for having more residential density and increased affordability, as well as incentivizing vertical mixed use buildings throughout the City. This request is consistent with the "VMU2" option and Ordinance No. 20240229-073 (new DB90), which replaced the invalidated "VMU2" option.

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

Community commercial district (GR) is intended for office and commercial uses serving neighborhood and community needs, including both unified shopping centers and individually developed commercial sites, and typically requiring locations accessible from major traffic ways.

Vertical Mixed Use Building (V) combining district may be applied in combination with any commercial base zoning district and allows for a combination of office, retail, commercial and residential uses within a vertical mixed use building.

The Conditional Overlay (CO) combining district may be applied in combination with any base district. The district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties.

The proposed density bonus 90 (DB90) combining district, in exchange for providing affordable housing units and in combination with commercial base zoning districts, allows a mixture of office, retail, commercial, and residential uses with modifications of compatibility standards and site development regulations including increased building height.

The neighborhood plan (NP) district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

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

This rezoning authorizes a property to participate in a voluntary density bonus or incentive program that provides modifications to development regulations or other regulatory-related benefits in exchange for community benefits. In exchange for increased development potential, the development is required to comply with affordable housing requirements.

4. *Zoning changes should promote an orderly relationship among land uses.*

Staff recommends GR-V-CO-DB90-NP combining district zoning for the subject property based on the following considerations:

- 1) Recognizing the site's location adjacent to US Highway 290 frontage road;
- 2) The site adjoins a public sidewalk, shared path, and/or bike lane and is located within 0.25 miles of public transit stop and/or light rail station. Cap Metro rapid bus stops are a few hundred yards from the subject site;
- 3) The number of units and housing choice that could be produced would suit a variety of household sizes, incomes, and lifestyle needs of a diverse population in support of Imagine Austin and the Strategic Housing Blueprint; and
- 4) The applicant has successfully incorporated development details consistent with the intent of the "Encourage" ETOD typology.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO-CO-NP	Vacant and undeveloped
<i>North</i>	LO-CO-NP; GO-CO-NP; LO-NP	Administrative and Business Office use; Professional Office use; undeveloped land
<i>South</i>		US Highway 290
<i>East</i>	CS-NP; CO-CO-NP; IP-NP; RR-NP	Administrative and Business Office use; Construction Sales use; undeveloped land
<i>West</i>	GR-CO-NP	Plant Nursery; undeveloped land

NEIGHBORHOOD PLANNING AREA: Oak Hill Combined (East Oak Hill)

WATERSHED: Barton Creek. This site is within the Barton Springs Zone.

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS: Austin Independent School District

Oak Hill Elementary

Small Middle School

Austin High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Aviara HOA, City of Rollingwood, Covered Bridge Property Owners Association, Inc., East Oak Hill Neighborhood Association, Friends of Austin Neighborhoods, Oak Acres Neighborhood Association, Oak Hill Association of Neighborhoods (OHAN), Oak Hill Neighborhood Plan Contact Team, Oak Hill Trails Association, Save Barton Creek Assn., Save Our Springs Alliance, TNR BCP – Travis County Natural Resources

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2024-0040 – 5725 W US Hwy 290 EB	GR-NP to GR-DB90-NP	To Grant GR-DB90-NP, as staff recommended (5/28/24)	Apvd as Commission recommended (8/29/24)
NPA-2023-0025.01 – 5725 W US Hwy 290	Neighborhood Mixed Use to Mixed Use	To Grant Mixed Use, as staff recommended (5/28/24)	Apvd as Commission recommended (8/29/24)
NPA-2023-0025.02 – 5524 W US 290 Highway	Neighborhood Commercial to Mixed Use	Postponed, awaiting Rezoning application (August 8, 2023)	
C14-2013-0006 – Harper Park Residential	LO-CO-NP to LO-MU-CO-NP	To Grant LO-MU-CO-NP (CO with site development and some residential use prohibitions)	Apvd LO-MU-CO-NP, with additional CO (pertaining to site development) (12/12/13)
C14-2013-0137 – Austin Aquatics	GO-MU-CO-NP to GR-MU-CO-NP	To Grant GR-MU-CO-NP, as staff recommended (11/12/13)	Apvd as Commission recommended (12/12/13)
C14-2008-0129 – Oak Hill Combined Neighborhood Plan (East)			Apvd December 11, 2008

RELATED CASES:

NPA-2025-0025.01 – Request to change FLUM from Neighborhood Commercial to Mixed Use

ADDITIONAL STAFF COMMENTS:

Drainage

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City's Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

### Environmental

This site is located over the Edwards Aquifer Recharge Zone. The site is in the Barton Creek Watershed of the Colorado River Basin, which is classified as a Barton Springs Zone Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone.

Project applications at the time of this report are subject to the SOS Ordinance that allows 15% impervious cover in the recharge zone.

According to floodplain maps there is a floodplain within the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Water Quality Transition Zone and Critical Water Quality Zone exist within the project location.

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

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

Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site. Runoff from the site is required to comply with pollutant load restrictions as specified in Land Development Code.

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

Residential units that are certified affordable and income-restricted are exempt from the parkland dedication requirements per City Code § 25-1-601(D)(4). Parkland dedication will be required for any new market-rate residential units that may be proposed by this development, at the time of subdivision or site plan, per City Code § 25-1-601.

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [ann.desanctis@austintexas.gov](mailto:ann.desanctis@austintexas.gov). At the applicant's request, PARD can provide an early determination of parkland dedication requirements.

### Site Plan

Site plans will be required for any new development except for residential only projects with up to 4 units.



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

This site is located within 150 feet of a wildland area, in the Wildland Urban Interface (WUI). Please see this website for more information about construction in the WUI:

<http://www.austintexas.gov/departments/wildland-urban-interface-code>

#### *DB90 Rezoning*

This site must meet affordability minimums per LDC 25-2-652 to be eligible for DB90. A signed approval letter from the Housing Department will be required with site plan submittal.

US 290 W is the Principal Street for this site. Unless the requirements are modified per 25-2-652(F)(3)(e), any buildings fronting this street will be required to have 75% of the ground floor as commercial or civic uses. NOTE: A lobby serving a use other than a pedestrian-oriented commercial or civic space is not counted as a pedestrian-oriented commercial or civic place.

If a building includes a mix of uses, a non-residential use:

- may not be located above a residential use; and
- may not be located on or above the third story of the building.

#### Austin Fire Department

No comments.

#### Transportation

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
W US 290 HWY SVRD WB	Level 4	Coordinate with TxDOT		40'	Yes	Yes	Yes

#### 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



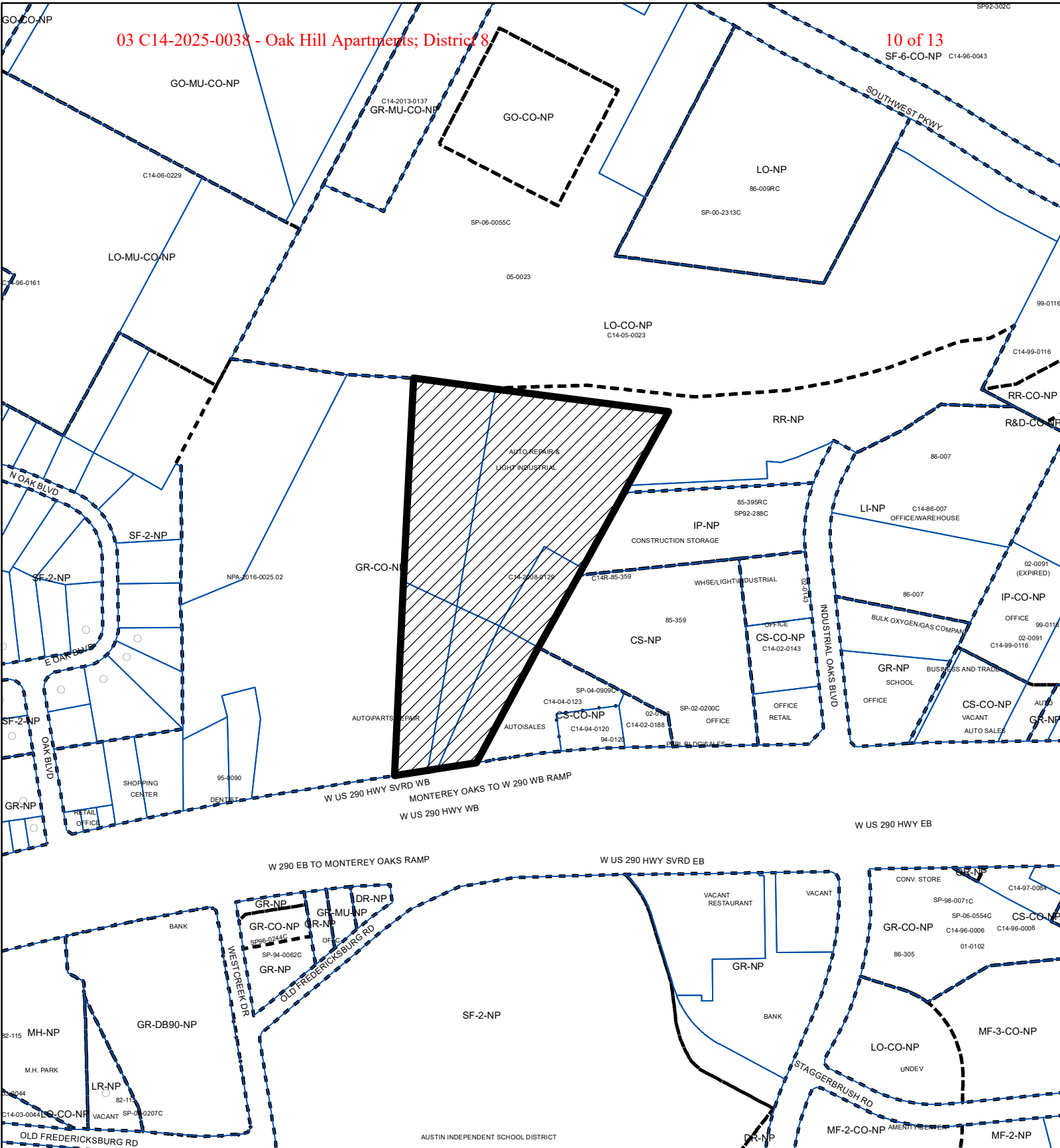
pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at [ser@austintexas.gov](mailto:ser@austintexas.gov).

City records indicate the site is served by an On-Site Sewage Facility (OSSF). With the change of use, the owner must connect the site to city wastewater service through the cutover process. For more information pertaining to the wastewater cutover process, contact the AW OSSF team at [OSSF@austintexas.gov](mailto:OSSF@austintexas.gov) or call (512)-972-0050. The cutover process may also initiate a required review by the Industrial Waste Division depending on building usage.

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

Exhibit A: Zoning Map  
Exhibit A-1: Aerial Map

Applicant's Summary Letters



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

ZONING

ZONING CASE#: C14-2025-0038



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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

Created: 3/6/2025







**Monte F. James**

Attorney at Law



March 10, 2025

Via Email: [marcelle.boudreaux@austintexas.gov](mailto:marcelle.boudreaux@austintexas.gov)

Marcelle Boudreaux  
Planner Senior  
Planning Department, City of Austin

Re: Re-zoning Case: C14-2025-0038; 5206 W U.S. Highway 290, Austin, TX 78735

Dear Ms.Boudreaux:

5205 Acquisitions, LLC ("Owner") is seeking a zoning change for the above-referenced property ("Property") from GE-CO-NP to GR-MU-V-DB90-CO-NP.

The Owner is unable to meet the commercial ground-floor space requirement found in LDC 25-2-652 (F) (3) (b) and respectfully requests a site-specific modification, as outlined in 25-2-652 (F) (3) (e). Owner requests the commercial space requirement of 75% ground floor commercial space for the building frontage along the principal street (U.S. Highway 290) be reduced to at least 50% (30% would be much more appropriate for the Property). The justification for this reduction is that U.S. Highway 290 is an urban roadway pursuant to 25-2-652 (F) (3) (e) (i) and is a busy divided highway, not conducive for commercial usages due to access. Owner respectfully requests an approved modification to the commercial / civic space requirements be incorporated into the re-zoning ordinance.

Thank you for your attention to this matter. Please call or email me with any questions.

Sincerely,

/s/ Monte F. James  
Monte F. James

**Monte F. James**

Attorney at Law



March 10, 2025

Maureen Meredith  
City of Austin

Re: Neighborhood Plan Amendment Summary Letter

Dear Ms. Meredith:

Please allow this letter to serve as 5205 Acquisitions, LLC's revised Summary Letter.

5205 Acquisitions, LLC ("Owner") intends to develop a 206-unit apartment complex at 5526 W U.S. Highway 290, Austin, TX 78735. Owner has filed it Zoning Application to change the zoning from GE-CO-NP to GR-MU-V-CO-DB90-NP, with the request to carry over the Conditional Overlay (CO) from the Neighborhood Plan.

In order to effectuate the zoning change, Future Land Use Map (FLUM) amendment to the Oak Hill Combined Neighborhood Plan is required from Neighborhood Commercial to Mixed Use.

Sincerely,

*/s/ Monte F. James*  
Monte F. James