ZONING CHANGE REVIEW SHEET

CASE: C14-2019-0167 – 4530 E. Ben White Blvd DISTRICT: 3

ZONING FROM: SF-2-NP and CS-CO-NP TO: CS-MU-CO-NP

ADDRESS: 4530 East Ben White Blvd

SITE AREA: 12.44 acres

PROPERTY OWNER:
4539 East Ben White Associates LLC
(Trevor Belton, Authorized Signatory)

AGENT:
Coats Rose (John Joseph)

CASE MANAGER: Kate Clark (512-974-1237, kate.clark@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends denial of the applicant's request for General Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan (CS-MU-CO-NP) combining district zoning. *For a summary of the basis of staff's recommendation, see page 3.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

March 24, 2020 Scheduled for Planning Commission

CITY COUNCIL ACTION:

April 9, 2020 Scheduled for City Council

ORDINANCE NUMBER:

ISSUES

This property is located in the East Riverside/Oltorf Combined Neighborhood Plan (Parker Lane) and is currently identified as “commercial” on the future land use map (FLUM). The owner is requesting to change the FLUM to “mixed use” in order to construct a multifamily building. There is an existing neighborhood plan amendment (NPA) associated with this rezoning case (NPA-2017-0021.01). The owner has been working with the neighborhood plan contact team to come to an agreement with them in order to support of the FLUM change and rezoning of the property, see *Exhibit C: NPA and Owner Agreement*. Most of the items within the agreement will be incorporated into a private restrictive covenant. The only item within their agreement related to this rezoning case is a list of prohibited uses. The property is subject to a previous ordinance from 2000 (ordinance number: 000511-67) which included an extensive list of prohibited uses. The owner and neighborhood contact team have mutually agreed to carry over the following prohibited uses with this rezoning case:

Agricultural Sales and Service
Automotive Rentals
Automotive Repair Services
Automotive Sales
Automotive Washing (of any type)
Building Maintenance Services
Campground
Club or Lodge
Commercial Off-Street Parking
Communication Service Facilities
Community Recreation (private)
Community Recreation (public)
Construction Sales and Service
Convenience Storage
Counseling Services
Custom Manufacturing
Drop-Off Recycling Collection Facility
Employee Recreation (non-profit)
Equipment Repair Services
Equipment Sales
Funeral Services
Indoor Entertainment
Indoor Sports and Recreation
Kennels
Laundry Services
Local Utility Services
Maintenance and Service Facilities
Monument Retail Sales
Outdoor Entertainment
Outdoor Sports and Recreation
Pawn Shop Services
Pet Services
Residential Treatment
Safety Services
Scrap and Salvage
Theater
Transitional Housing
Transportation Terminal
Vehicle Storage
Veterinary Services

There are no uses included in this list that were not part of the original ordinance from 2000. If rezoning is approved, staff is recommending that the following uses be removed from this list for the following reasons:

- **Counseling Services**: is the use of a site for the provision of daytime counseling to neglected or abused children, 15 years of age or younger, or their managing conservators, who are referred by a governmental entity or other counseling service providers.

- **Local Utility Services**: this use cannot be prohibited or made conditional due to the potential to impede City's ability to place small utility poles and structures on property.
- **Scrap and Salvage**: this use is not permitted in CS base zoning; staff does not recommend prohibiting a use that would not be allowed anyway.

CASE MANAGER COMMENTS:

This property is located on the north side of E. Ben White Blvd along the westbound service road. It is undeveloped, approximately 12.44 acres in size and is primarily zoned CS-CO-NP combining district zoning with a small strip of SF-2-NP combining district zoning on the western and northern boundaries. The owner is requesting to add mixed use (MU) to their zoning to allow for multifamily uses.

Adjacent to the north of the property is the Country Club Creek Greenbelt, it is zoned SF-2-NP. Directly east of the property is a tract zoned GO-CO-NP which houses the Saint Peter Apostle Church and associated buildings. South of the property is E. Ben White Blvd. with a combination of P-NP and LI-NP south of E. Ben White Blvd. Adjacent to the west are properties zoned LO-CO-NP and SF-2-NP, both of which are undeveloped. Due to the existing greenbelt to the north and environmental features (floodplain and potential creek buffer) to the west, development on this property would have a natural buffer between it and the existing SF-2-NP zoned properties, see *Exhibit A: Zoning Map* and *Exhibit B: Aerial Map.*

BASIS OF RECOMMENDATION:

1. Zoning changes should promote compatibility with adjacent and nearby uses.

This property is located in southeast Austin near a predominately industrial area. The applicant is requesting CS-MU-CO-NP to allow for residential units (multifamily) to be permitted as a use on the property. Scott Stookey from the Austin Fire Department (AFD) has reviewed the site and its immediate surrounding area for hazardous materials. His assessment found hazardous materials on properties within 2,000 feet of the site. Two of the three risks meet recommended distance separation. One of the risks (Anhydrous Chlorine) does not meet the separation distance. Due to the risk assessment report, it was determined that allowing multifamily housing on this site would not be compatible with existing land uses. AFD's comments and risk assessment are included within *Exhibit D: AFD Hazardous Materials Assessment.*

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	SF-2-NP and CS-CO-NP	Undeveloped
North	SF-2-NP	Country Club Creek Greenbelt
South	NA (E. Ben White Blvd.)	Transportation (Highway)

	Zoning	Land Uses
East	GO-CO-NP	Church
West	LO-CO-NP and SF-2-NP	Undeveloped

NEIGHBORHOOD PLANNING AREA: East Riverside/Oltorf Combined (Parker Lane)

TIA: is deferred until site plan submittal.

WATERSHED: Country Club West (Suburban)

OVERLAYS: Residential Design Standards and Scenic Roadways (SH 71).

SCHOOLS: Del Valle ISD - Smith Elementary, Ojeda Middle and Del Valle High Schools.

NEIGHBORHOOD ORGANIZATIONS

Austin Independent School District
Austin Neighborhoods Council
Bike Austin
Burleson Road Heights Neighborhood
Crossing Gardenhome Owners Assn. (The)
Del Valle Community Coalition
Del Valle Independent School District
Dove Springs Proud
Friends of Austin Neighborhoods
Go Austin! Vamos Austin! 78744
Homeless Neighborhood Association
Neighborhood Empowerment Foundation
Onion Creek Homeowners Assoc.
Pleasant Valley
Preservation Austin
SELTexas
Sierra Club, Austin Regional Group
Southeast Austin Neighborhood Alliance
Southeast Combined Neighborhood Plan
Sunridge Homeowners Assn.

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2016-0069 5016-1/2 E Ben White Blvd Service Road Westbound	CS-CO-NP and GR-CO-NP to CS-MU-CO-NP and GR-MU-CO-NP	Approved CS-CO-NP for Tract 1; CS-MU-CO-NP for Tract 2 and GR-MU-CO-NP for Tract 3 w/ additional conditions.	Approved Planning Commission recommendation with additional conditions.
C14-2013-0106	GR-NP to CS-CO-NP	Approved CS-CO-NP (Tract 1) and GR-CO-NP (Tract 2).	Approved CS-CO-NP (Tract 1) and GR-CO-NP (Tract 2).

Number	Request	Commission	City Council
5016-1/2 E Ben White Blvd Service Road Westbound			
C14-05-0111 4600, 4604 E. Ben White Blvd. (Tract 222) to amend Parker Lane neighborhood plan combining district to add properties.	SF-2 to GO-CO-NP	Approved GO-CO-NP.	Approved GO-CO-NP.
C14-97-0018 4818 E Ben White Blvd.	SF-2 and GR to GR-CO	Approved GR-CO.	Approved GR-CO.

RELATED CASES:

C14-99-2108: rezoning from SF-2 to CS-CO. Conditional overly prohibited a set of land uses, limiting height of buildings to 636 feet above sea level and a maximum of 2,000 trips per day, Ordinance No. 000511-67.

East Riverside/Oltorf Combined Neighborhood Plan (Parker Lane Neighborhood Planning Area), NPA Ordinance No. 20061116-055.

EXISTING STREET CHARACTERISTICS:

Street	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
E Ben White	360’	335’ (Divided)	Level 5	yes	no	no

OTHER STAFF COMMENTS:

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Country Club West Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code (LDC). Under current watershed regulations,

development or redevelopment on this site will be subject to the following impervious cover limits:

Development Classification	*% of Gross Site Area*	*% of Gross Site Area with Transfers*
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

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

Site Plan

Site plans will be required for any new development other than single-family or duplex residential. 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. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted. Additional design regulations will be enforced at the time a site plan is submitted.

Compatibility Standards
The site is subject to compatibility standards due to proximity and adjacency of SF-2-NP zoning to the west and north. The following standards apply:

- No structure may be built within 25 feet of the property line to west and north.
- 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 to the west and north.
- Landscaping or screening is required along the west and north property lines in accordance with the screening requirements (Section 25-2-1006 and ECM 2.9.1.), Parking Design Standards (Section 25-6-563) and/or Screening Standards (Section 25.2.1066) to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 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.
- For a structure more than 300 feet but not more than 540 feet from property zoned SF-5 or more restrictive, 60 feet plus one foot for each four feet of distance in excess of 300 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 property in an SF-5 or more restrictive zoning district.
- 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.

Scenic Roadways
A portion of this site is within the Scenic Roadway Sign District. All signs must comply with Scenic Roadway Sign District regulations. Contact Viktor Auzenne at (512) 974-2941 for more information.

Demolition and Historic Resources
The applicant is responsible for requesting relocation and demolition permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

Residential Design Standards Overlay
This site is within the Parker Lane Neighborhood Planning Area. The site is subject to 25-2 Subchapter F. Residential Design and Compatibility Standards.

Transportation

At the time of submittal of any site plan on the Property, a traffic impact analysis (TIA) is required if the proposed development or uses on the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds 2,000 trips per day.

Austin Water Utility

The landowner intends to serve the site with City of Austin water utilities and an On-Site Sewage Facility. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

City wastewater service is not currently available to serve this tract. If service is desired, a Service Extension Request (SER) will need to be approved. For more information pertaining to the SER process and submittal requirements contact Alberto Ramirez with Austin Water, Utility Development Services at 625 E. 10th St., 7th floor, phone 512-972-0211. Austin Water reserves the right to make additional comments and to establish other requirements with the SER review.

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.

The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS TO FOLLOW

Exhibit A: Zoning Map

Exhibit B: Aerial Map

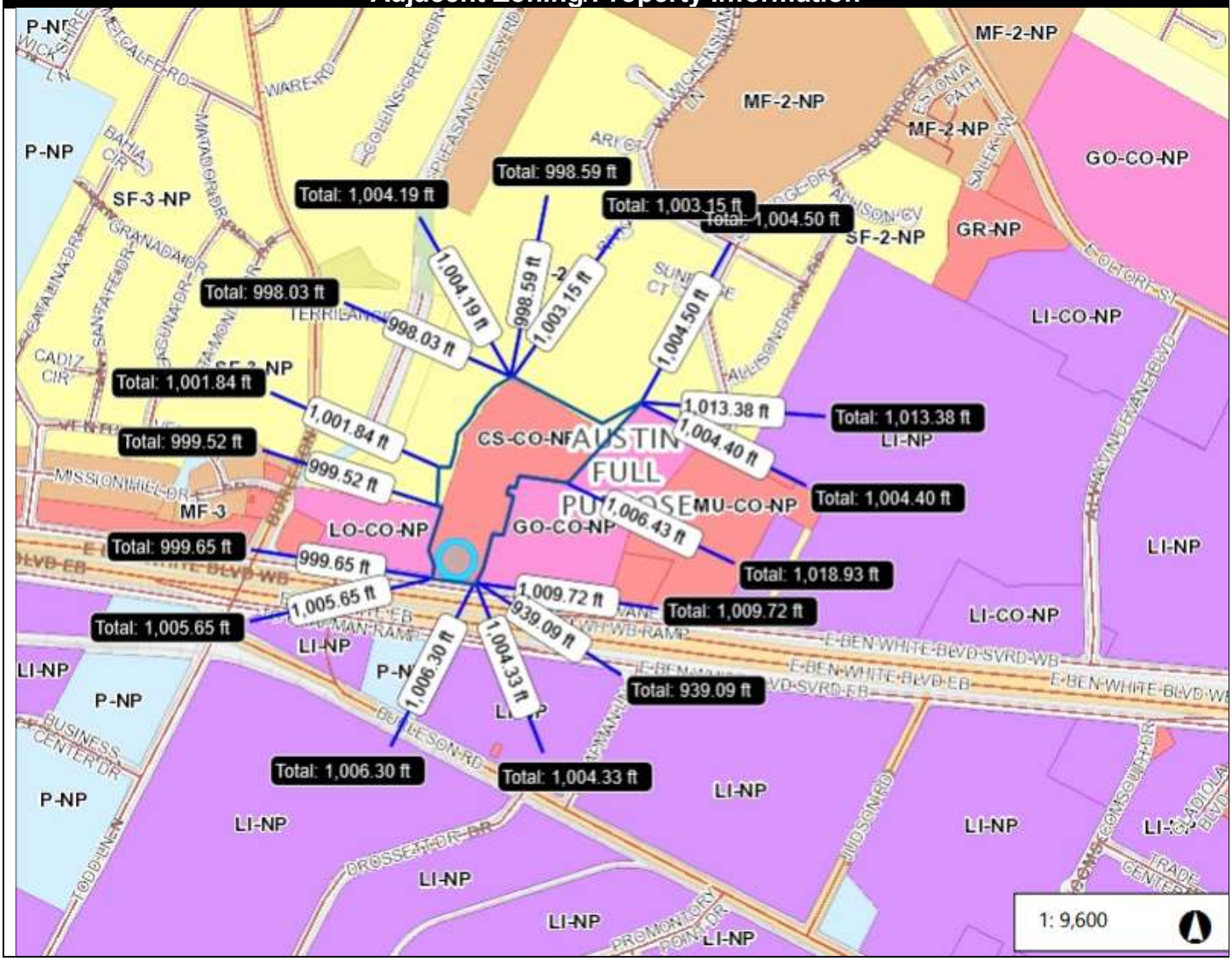
Exhibit C: NPA and Owner Agreement

Exhibit D: AFD Hazardous Materials Assessment

	ABOVEGROUND HAZARDOUS MATERIALS RISK AND CONSEQUENCE ASSESSMENT REPORT	
	Address: 4530 E. Ben White Blvd WB SR	**Case Number:** C14-2019-0167
	Project Name: 4530 E. Ben White Zoning	**Report Date:** December 30, 2019
	Prepared By: Scott Stookey, Engineer A, Hazardous Materials **Contact Information:** 512-974-0157 scott.stookey@austintexas.gov	

Project Information	
Case Manager	Kate Clark
Current Zoning	CS-CO-NP and SF-2-NP
Proposed Zoning	CS-MU-NP
Parcel Size	12.44 Acres

Adjacent Zoning/Property Information



ABOVEGROUND HAZARDOUS MATERIALS RISK AND CONSEQUENCE ASSESSMENT REPORT	
Address: 4530 E. Ben White Blvd WB SR	**Case Number:** C14-2019-0167
Project Name: 4530 E. Ben White Zoning	**Report Date:** December 30, 2019
Prepared By: Scott Stookey, Engineer A, Hazardous Materials **Contact Information:** 512-974-0157 scott.stookey@austintexas.gov	

Address Ranges within 1000 Ft.

Address Range(s)	Street	Address Range(s)	Street
2815-2921	Allison Dr.	3002-3038	Sunridge Dr.
4400-5204	E. Ben White Blvd EB &WB	4400-4406	Terrilance Dr.
3300-3406	Burleson Rd.	3701 ½	Todd Ln.
4501-4906	Burleson Rd.	2414	Ventura Drive
4602-4603	Rivka Cv		

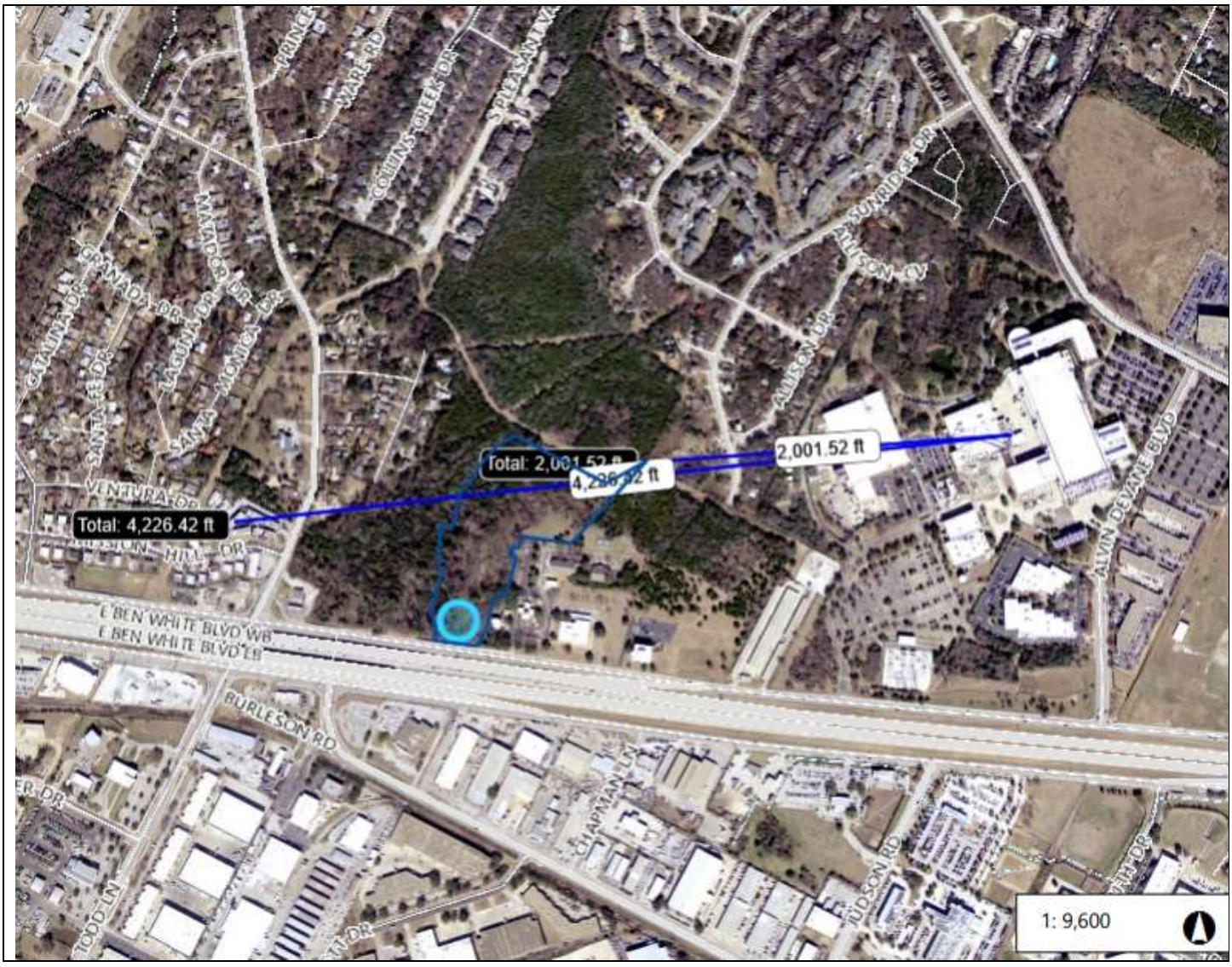
HMP Sites within 1000 Ft.

Business	Address	Zoning	HMP Type	Last Insp.	Concern?
United Rentals	4811 E. Ben White Blvd. EB	LI-NP	A	9/19	N
BMC Building Materials & Construction	5109 E Ben White Blvd. EB	LI-NP	B	12/17	N
Cypress Semiconductor	5204 E. Ben White Blvd WB	LI-NP	A	3/17	Y
Tire Shop	3800 Drossett Dr.	LI-NP	C	9/06	N
ORF Brewing	4700 Burleson Rd	LI-NP	B	2/19	N
Tex-Con Oil Company	4906 Burleson Rd	LI-NP	A	9/01	N

HMP Sites with Chemicals of Concern

Business	Chemicals	Distance to Property	AFD Required Distance for Chemical	ERG Required Distance for Chemical	Meeting Distance Requirement?
Cypress Semiconductor	Anhydrous Hydrogen Fluoride	2,000 Ft.	Not Established	1,584 Ft. (Guide Pg. 125 & Table 1)	Yes (night release winds 6-12 MPH)
Cypress Semiconductors	Anhydrous Chlorine	2,000 Ft.	Not Established	4,224 Ft. (Guide Pg. 124 & Table 1)	No (night release winds 6-12 MPH)
United Rentals	2,500 Gallon Aboveground Gasoline & Diesel Storage Tank	795 Ft.	175 Ft.	NA	Yes

ABOVEGROUND HAZARDOUS MATERIALS RISK AND CONSEQUENCE ASSESSMENT REPORT	
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Recommend Approval for Zoning Change? ☐ Yes ☒ No

Supporting Information for Zoning Recommendations

AFD recommends this Zoning Change be denied. The applicant is requesting a Zoning Change (ZC) approval to CS-MU-NP and develop the parcel for approximately 280 dwelling/sleeping units in apartment buildings. The parcel is well within the Protective Action Distance (PAD) for a Toxic and Corrosive liquefied compressed gas. The source for the PAD value is the 2016 *Emergency Response Guidebook* prepared by the US Department of Transportation. The required 4,224 Ft. PAD is not met based on AFD's analysis.

	ABOVEGROUND HAZARDOUS MATERIALS RISK AND CONSEQUENCE ASSESSMENT REPORT	
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Attachments

Analysis of evaluated hazardous production materials

PROJECT NAME: 4530 E. Ben White Blvd Zoning Change
ADDRESS: 4530 E. Ben White Blvd WB SR
CASE NUMBER: C14-2019-0167
BASIS FOR REVIEW: 2016 *Emergency Response Guidebook* (US DOT PHMSA)

Hazardous Material	UN ID Nmbr.	ERG Guide Pg.	Transport Container	Time of Release	Wind Speed	Protective Action Distance
Anhydrous Chlorine	UN1017	124 + Table 1	Small cylinders	Night	6-12 MPH	0.8 mile (4,224 Ft.)
Anhydrous Hydrogen Fluoride	UN1052	125 + Table 1	Small cylinders	Night	6-12 MPH	0.3 mile (1,584 Ft.)
Anhydrous Ammonia	UN1005	125 + Table 1	Small cylinders	Night	6-12 MPH	0.2 mile (1,056 Ft.)

Prepared by FD1017 December 29, 2019

COATS | ROSE

A PROFESSIONAL CORPORATION

JOHN M. JOSEPH
DIRECTOR

JMJOSEPH@COATSROSE.COM
DIRECT: (512) 541-3593
FAX: (512) 469-9408

August 30, 2019

VIA EMAIL: mveatts@austin.rr.com

East Riverside/Oltorf
Neighborhood Plan Contact Team ("Team")
C/O Malcolm Yeatts

Re: Neighborhood Plan Amendment Case No. NPA-2017-0021.01
Address: 4530 E. Ben White Blvd., Austin, TX 78741

Dear Malcolm:

As you know I represent, 4530 East Ben White Associates, LLC ("Owner"), the owner of the above referenced property and am representing it in the pending Neighborhood Plan Amendment. I am providing this communication to you in an effort to outline an agreement between the Neighborhood Contact Team and Owner to secure the support of the Neighborhood Contact Team for the Neighborhood Plan Amendment and a concurrent zoning application to add "mixed use" to the current zoning, remove certain compatibility restrictions, add some permitted uses and set out a process for the conveyance of 1.1 acres for the purpose of a public hike and bike trail/Recreational Use Easement.

The following offer is an outline of a possible agreement.

Owner's Commitments

1. To allow the filing of the appropriate documentation conveying a non-exclusive easement, upon final approval of an ordinance fulfilling No. 2 below, of an approximate 1.1 acres site for a multi-purpose hike and bike trail along the north and west property boundary of the subject tract to the East Riverside/Oltorf Neighborhood Association (ERONA and EROC), as shown on the attached Exhibit "A".

2. Change the zoning of the property to CS-MU to allow between 36 and 54 units per acre of market rate residential rental properties allowing up to 5% of the units to be offered to families at 60% or less median family income, with height limited to 4 stories or 60 feet.

3. Support the amendment of the prohibited uses in Ordinance No. 000511-67 (Exhibit "B") to the following:

10/9/2019

Agricultural Sales and Service Automotive Rentals

Automotive Repair Services Automotive Sales

Automotive Washing (of any type)

Campground

Commercial Off-Street Parking

Construction Sales and Service

Drop-Off Recycling Collection Facility

Equipment Sales

Equipment Repair Services

Funeral Services

Indoor Sports and Recreation

Laundry Services

Monument Retail Sales

Custom Manufacturing

Community Recreation (private)

Employee Recreation (non-profit)

Local Utility Services

Residential Treatment

Transitional Housing

Outdoor Entertainment

Outdoor Sports and Recreation

Pawn Shop Services

Building Maintenance Services

Pet Services

10/9/2019

Convenience Storage

Theater

Vehicle Storage

Veterinary Services

Indoor Entertainment

Kennels

Scrap and Salvage

Club or Lodge

Communication Service Facilities

Community Recreation (public)

Counseling Services

Maintenance and Service Facilities

Safety Services

Transportation Terminal

4. As long as the same can be accomplished without the necessity for a formal site development permit application, make application to the City seeking the appropriate variances necessary to allow for the construction of a multi-purpose hike and bike trail along the north and west property boundary of the subject tract.

5. Make application for the waiver of compatibility standards along the east boundary of the property to allow for development within 25 feet of the east property line with a height limited to 4 stories or 60 feet.

6. Make application for the removal, or satisfactory amendment, of the compatibility restriction contained in zoning Ordinance No. 000511-67.

7. Make application for the removal of Note No. 2 on the Burleson-Ben White Subdivision Plat (Doc. No. 20010028) that states, "Development of this property is restricted to uses other than residential", (Exhibit "C").

8. Place in escrow, with an agreed upon title company or other escrow acceptable to the Owner and ERONA and EROC, the multi-purpose hike and bike trail easement upon the delivery to the agreed upon title company or other escrow acceptable to the Owner and ERONA

10/9/2019

and EROC, of the signed agreement with the neighborhood and official resolution of the East Riverside/Oltorf Neighborhood Plan Contact Team.

9. To dedicate, by appropriate means of conveyance, the easement referenced above upon the approval of the requested zoning, variances and the waiver of compatibility, whichever occurs last in time.

East Riverside/Oltorf Neighborhood Plan Contact Team Commitments.

1. To consider, approve, execute and deliver to the title company the agreement.

2. To support the pending Neighborhood Plan Amendment to Mixed Use.

3. To support a zoning application to change the current zoning to (either add "MU - mixed use" or change the current zoning to MF-4 with height limited to four (4) stories or sixty (60') feet.

4. To support the amendment of the prohibited uses listed in Ordinance No. 000511-67.

5. To support the removal of Note No. 2 on the Burleson-Ben White Subdivision Plat (Doc. No. 20010028) that states, "Development of this property is restricted to uses other than residential".

6. To support the removal or satisfactory amendment of the (church) compatibility restriction

7. Attend all board and commission meeting to support the applications.

8. Attend all Planning Commission meetings to support the applications.

9. Attend all City Council meetings to support the applications.

If this outline of the basic terms of an agreement is acceptable to the Team, please indicate by having the appropriate member indicate the Team's acceptance by signing in the place provided for that purpose below.

If you, or the Team, should have any questions please do not hesitate to contact me.

10/9/2019

Your cooperation is very much appreciated.

Very truly yours,

John M. Joseph

Accepted:
East Riverside/Oltorf Neighborhood Plan Contact Team

Malcolm Yeatts, its President CHAIR EROC CONTACT TEAM

August _____, 2019

October 9 2019



N

SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

CREEK BUFFER

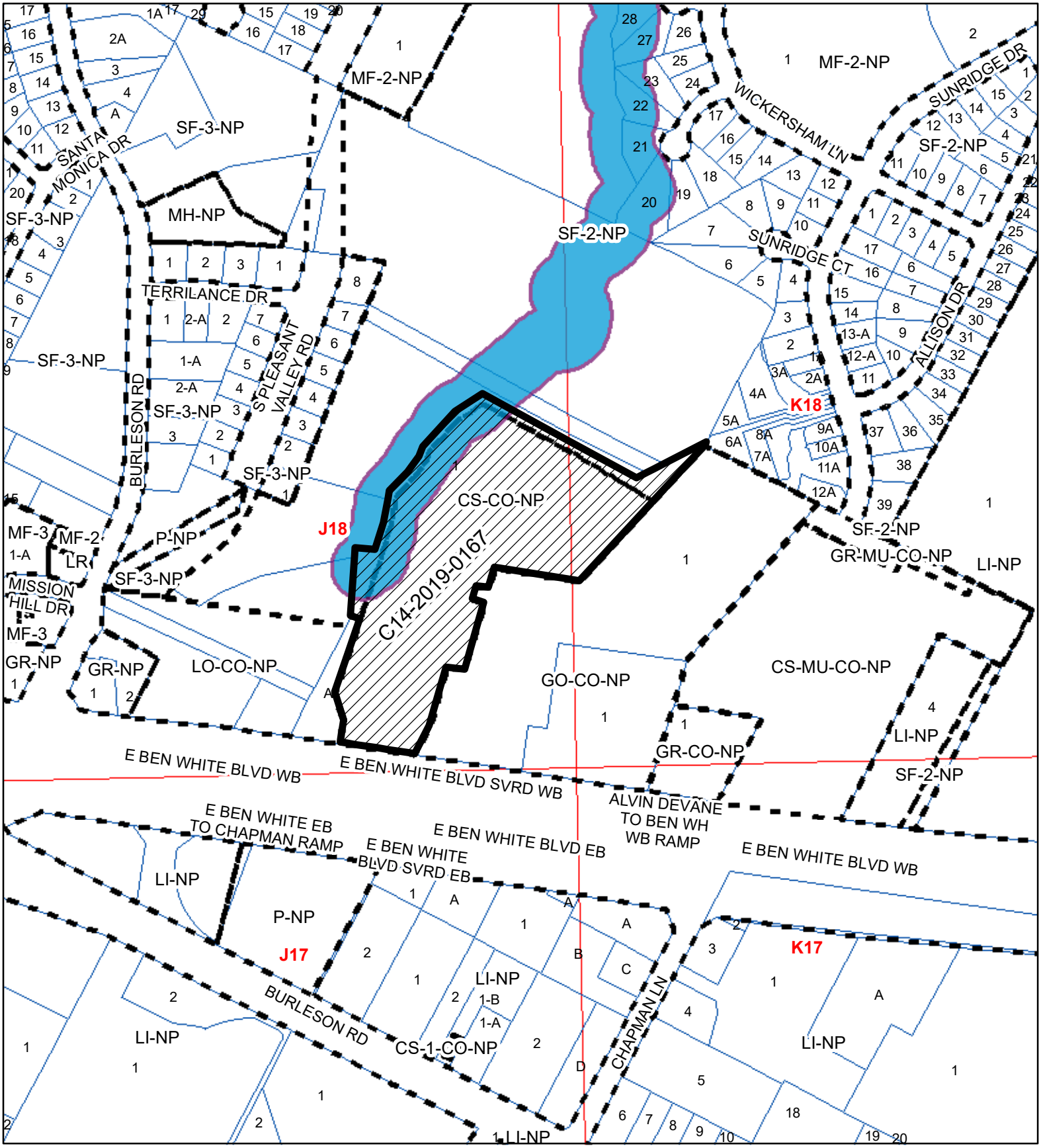
1" = 400'

4530 E Ben White Blvd Zoning

ZONING CASE#: C14-2019-0167
LOCATION: 4530 E Ben White Blvd
SUBJECT AREA: 12.4 ACRES
GRID: J18
MANAGER: KATE CLARK

CITY OF AUSTIN FOUNDED 1839

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



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SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

CREEK BUFFER

1" = 400'

4530 E Ben White Blvd Zoning

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