

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2008-0093 – Continental Club Rezoning    **P.C. DATE:** June 10, 2008\*  
June 24, 2008  
**C.C. DATE:** July 24, 2008

**ADDRESS:** 1313 & 1315 S. Congress Ave.

**OWNER/APPLICANT:** The Continental Club (Stephen Wertheimer)

**AGENT:** Land Answers (Jim Wittliff)

**ZONING FROM:** CS-V-NCCD-NP                      **TO:** Tract 1: CS-1-V-CO-NCCD-NP  
Tract 2: CS-1-V-CO-NCCD-NP

**AREA:** .095 Acres

### **REQUESTED CONDITIONAL OVERLAY:**

Tract 1: 1315 S. Congress Avenue (Continental Club – main building)

1. The following uses of the property shall be prohibited:
  - a. Adult-Oriented Business
  - b. Automobile Rentals
  - c. Auto Repair Services
  - d. Automobile Sales
  - e. Automotive Washing (of any type)
  - f. Service Station
  - g. Vehicle Storage

Tract 2: 1313 S. Congress Avenue (Art gallery space + tattoo shop)

1. Liquor Sales shall be limited to a maximum of 1700 square feet.
2. The following uses of the property shall be prohibited:
  - a. Adult-Oriented Business
  - b. Automobile Rentals
  - c. Auto Repair Services
  - d. Automobile Sales
  - e. Automotive Washing (of any type)
  - f. Service Station
  - g. Vehicle Storage

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends the applicant's request to rezone the subject properties to CS-1-V-CO-NCCD-NP.

### **PLANNING COMMISSION RECOMMENDATION:**

June 10, 2008: The Planning Commission unanimously voted approval of the applicant's request for CS-1-V-CO-NCCD-NP by consent. \*The case was improperly noticed and must be reheard by the Planning Commission.\*

June 24, 2008: The Planning Commission unanimously voted approval of the applicant's request for CS-1-V-CO-NCCD-NP by consent. [Vote: 8-0; M. Dealey – 1<sup>st</sup>; J. Reddy – 2<sup>nd</sup>]

### **DEPARTMENT COMMENTS:**

The 0.095-acre property is currently zoned CS-V-NCCD-NP (Commercial Services – Vertical Mixed-Use – Neighborhood Conservation Combining District – Neighborhood Plan) combining district zoning. The applicant intends to rezone the property to CS-1-V-NCCD-NP (Commercial Services – Liquor Sales – Vertical Mixed Use - Neighborhood Conservation Combining District – Neighborhood Plan) combining district zoning.

The subject property is currently developed with two separate buildings. The building located on Tract 1 at 1315 S. Congress Avenue is the current home of the Continental Club, a live-music venue that has been in operation since 1957. Though the property presently lacks the proper zoning, the club legally sells liquor under the state's 'grandfathering' clause [Chapter 245, Texas Local Government Code].

The Continental Club operates an art gallery space in the upstairs of the adjacent building (tract 2 – 1313 S. Congress). The art gallery connects to the Continental Club via an enclosed staircase towards the back of the building. Because this space was not part of the original club, it does not qualify for the same grandfathering provision as the rest of the club and needs the rezoning to continue serving liquor. The art gallery's liquor sales were shut down earlier this year by a random sweep conducted by the City's Fire Marshall.

This rezoning application would legalize the art gallery's liquor sales use. The applicant has agreed to limit liquor sales on tract 2 (1313 S. Congress) to a maximum of 1700 square feet, which essentially limits the use to one story of the current building. Each floor is approximately 1700 square feet. This will prohibit the ground floor space of 1313 S. Congress ever being converted into a cocktail lounge or other liquor sales use.

Access to the property is taken from Congress Avenue. A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CS-V-NCCD-NP	Cocktail Lounge; Tattoo Shop; Art Gallery
<i>North</i>	CS-V-NCCD-NP	Restaurants
<i>South</i>	CS-V-NCCD-NP; CS-1-V-NCCD-NP	Retail; Restaurant; Pet Services
<i>East</i>	CS-MU-V-NCCD-NP; MF-4-NCCD-NP	Apartment; Single-Family Residences
<i>West</i>	CS-V-NCCD-NP; CS-1-V-NCCD-NP	Hotel; Restaurants

**AREA STUDY:** Greater South River City Citizens  
Neighborhood Planning Area

**TIA:** Waived

**WATERSHED:** East Bouldin Creek

**DESIRED DEVELOPMENT ZONE:** YES

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

### **NEIGHBORHOOD ORGANIZATIONS:**

- Austin Neighborhoods Council
- Austin Independent School District
- South Central Coalition
- South River City Citizens Association
- Barton Springs / Edwards Aquifer Conservation District
- 1124A Regal Row
- Terrell Lane Interceptor Association
- Home Builders Association of Greater Austin
- CIM
- Homeless Neighborhood Association

### **SCHOOLS:**

- Travis Heights Elementary School
- Fulmore Middle School
- Travis High School

### **CASE HISTORIES:**

#### **C14-2007-0236 – Greater South River City VMU Opt-in / Opt-Out**

The vertical mixed-use opt-in / opt-out process was completed for the Dawson Neighborhood Planning Area on January 10, 2008. Most of the properties within the area were included for all of the additional bonus provisions allowed by the vertical mixed-use overlay. The neighborhood set the affordability level at 60% MFI to take advantage of the dimensional standards waiver.

PC: Approved neighborhood recommendation (VMU); (8-0)

CC: Approved Planning Commission recommendation (7-0)

#### **C14-05-0139 – Greater South River City Neighborhood Plan**

The Greater South River City Combined Neighborhood Plan (GSRCCNP) comprises two neighborhood planning areas: South River City and St. Edwards. The plan was initiated by City Council on November 6, 2003 and adopted as part of the Austin Tomorrow Comprehensive Plan on September 29, 2005 (C14-05-0138). The boundaries of the planning area are: Town Lake to the north, Interstate Highway 35 on the east, Ben White Boulevard on the south, and South Congress on the west.

#### **C14-85-351- Fairview Park NCCD**

The Fairview Park Neighborhood Conservation Combining District was adopted by the Austin City Council on August 07, 1986. This property is part of the NCCD and is subject to the regulations set forth in Ordinance No. 19860807-H.

### **ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
S Congress Ave	114'	90'	Arterial	Yes	Yes	14 Travis Heights
Park Lane	45'	26'	Collector	No		1 North Lamar
						483 Night Owl
						450 Dillo

**CITY COUNCIL DATE:** Pending

**ACTION:** N/A

**ORDINANCE READINGS:** 1st

2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Robert Levinski

**PHONE:** 974-1384

## **STAFF RECOMMENDATION**

Staff recommends approval of the applicant's request for CS-1-V- CO-NCCD-NP (Commercial Services – Liquor Sales – Vertical Mixed Use – Conditional Overlay - Neighborhood Conservation Combining District – Neighborhood Plan) combining district zoning.

## **BASIS FOR RECOMMENDATION**

1. *Granting of the request should result in an equal treatment of similarly situated properties.*
2. *Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.*

The subject property fronts South Congress Avenue, a major arterial and core transit corridor, immediately outside of the Central Business District (CBD), where commercial uses and liquor sales are most appropriate. There are several CS-1 zoned properties along South Congress Avenue, which are part of the historic "SoCo District". On one property, the applicant is continuing its liquor sales use that has been in operation since 1957, which does not result in any significant impact on the surrounding neighborhood.

## **EXISTING CONDITIONS**

### **Site Characteristics**

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.

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the East Bouldin 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.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area.

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

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

### **Transportation**

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

No additional right-of-way is needed at this time.

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. 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.









June 4, 2008

Dear Chair Sullivan and Planning Commissioners,

Re: Case Number C14-2008-0093

The South River City Citizens Neighborhood Association (SRCC) voted unanimously at our June 2 General Membership meeting to support the zoning change from CS-V-NCCD-NP to CS-1-V-CO-NCCD-NP for the properties at 1315 and 1313 S. Congress Avenue. We understand that the CO will restrict the property at 1313 S. Congress such that only the square footage of the upper floor of the structure will be eligible for liquor sales use and that adult bookstore and automotive uses will not be allowed for either property.

SRCC is supporting this zoning request only under very unique circumstances and would not normally support an up-zoning of this type. We remain concerned and are strongly against South Congress turning into an entertainment district which is highly inappropriate given the adjacency to single-family homes. However, the Continental Club is a much loved iconic local business in our neighborhood that has been in operation since 1957. Its historic nature as part of the neighborhood is referenced in the Greater South River City Citizens Neighborhood Plan. The current zoning of CS is not consistent with the (grandfathered) cocktail lounge use and this zoning change would bring it up to conforming status. We are supporting this up-zoning only because it is an existing iconic historical local business with an existing grandfathered use and an owner who has a proven record of being supportive of the neighborhood and considerate of the nearby single-family neighbors. The owner, Steve Wertheimer, is interested in pursuing historic zoning on the property and SRCC is very much in favor of and excited by that prospect.

Sincerely,

Jean Mather  
Co-President, SRCC

Joe Arriaga  
Co-President, SRCC



## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

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.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

**Case Number: C14-2008-0093**

**Contact:** Robert Levinski, 512-974-1384

**Public Hearing:**

June 10, 2008 Planning Commission

June 18, 2008 City Council

☐ I am in favor  
☒ I object

Your Name (please print)

Lorrie Todd

Your address(es) affected by this application

1402 Nickerson

Signature

Date

Comments:

June 08

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

City of Austin

Neighborhood Planning and Zoning Department

Robert Levinski

P. O. Box 1088

Austin, TX 78767-8810

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☒ I am in favor  
☐ I object

Your Name (please print)

Connie Todd

Your address(es) affected by this application

1300 Nickerson and/or 1403 S. Long.

Signature

Date

Connie Todd 7 June 08

Comments:

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