NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

NEIGHORHOOD PLAN: East Cesar Chavez

CASE#: NPA-2016-0002.01 **DATE FILED**: July 29, 2016

PROJECT NAME: 78 San Marcos St.

PC DATE: May 23, 2017
May 9, 2017
March 28, 2017
February 14, 2017
January 10, 2017

ADDRESS: 78 San Marcos Street

DISTRICT AREA: 3

SITE AREA: 0.14 acres

OWNER/APPLICANT: Carrie Altemus

AGENT: McLean & Howard, LLP (Jeff Howard)

TYPE OF AMENDMENT:

Change in Future Land Use Designation

From: Civic **To:** Neighborhood Mixed Use

Base District Zoning Change

Related Zoning Case: C14H-2017-0006
From: SF-3-NP **To:** LO-MU-H-NP

NEIGHBORHOOD PLAN ADOPTION DATE: May 13, 1999

PLANNING COMMISSION RECOMMENDATION:

May 23, 2017- Recommended for Neighborhood Mixed Use. [N. Zaragoza – 1st; P. Seeger – 2nd] Vote: 7-1 [K. McGraw nay. F. Kazi, A. De Hoyos Hart, J. Schissler, J. Thompson and T. White absent].

May 9, 2017 – Postponed on the consent agenda at the request of staff to the May 23, 2017 hearing date. [J. Schissler- 1st; J. Vela – 2nd] Vote: 10 – 0 [Commissioners K. McGraw, J. Thompson, and T. White absent].

March 28, 2017 – Postponed on the consent agenda at the request of staff to the May 9, 2017 hearing date. [K. McGraw-1st; P. Seeger-2nd] Vote: 12-0 [Commissioner T. White absent].

February 14, 2017- Postponed on the consent agenda to the March 28, 2017 hearing date at the request of the applicant. [A. De Hoyos Hart-1st; J. Vela-2nd] Vote: 10-0 [Commissioners S. Oliver, J. Shieh, and N. Zaragoza absent].

January 10, 2017 – Postponed on the consent agenda to the February 14, 2017 hearing date at the request of staff. [N. Zaragoza -1st; F. Kazi- 2nd] Vote:13-0.

STAFF RECOMMENDATION: Staff supports the applicant's request for Neighborhood Mixed Use land use.

BASIS FOR STAFF'S RECOMMENDATION: Staff supports the applicant's request for Neighborhood Mixed Use land use because the property has been used as a commercial/office use for many years and is a well-known historic, small-scale commercial element to the neighborhood.

1. Land Use, Zoning and Neighborhood Character

Neighborhood Vision: The neighborhood envisions commercial corridors that are safe and pedestrian-friendly. These corridors should be mixed use residential, commercial and include civic elements. Mixed residential and retail uses, such as stores with residences above are encouraged. Development should be compatible with the existing neighborhood, economically and environmentally sustainable and conducive to a blend of vibrant economic activity and quality of life. The neighborhood envisions open spaces, plazas and market places that contribute to friendly street activity. Compatible development is desired to preserve the beauty of the neighborhood and should accommodate existing families. They would like the barrier effect of IH-35 reduced and stronger connections between the East César Chávez Neighborhood and downtown should be developed. The neighborhood will work to retain the history, culture and diversity of the neighborhood and provide visual landmarks to highlight the history and cultural heritage.

Objective 2: **Encourage more retail and commercial services within walking distance of residents.**

Action 8. Change existing commercial "spot zoning" (nodes currently zoned LO, LR, CS and GR) in residential areas to mixed use. **Primary implementers: DRID**

Goal 2: Ensure that new structures and renovations are compatible with the existing neighborhood and protect homes from incompatible business or industry.

Primary resources: City of Austin and public and private sector.

Objective 1: Ensure that all new or redevelopment projects are compatible with the existing character of the area in scale, density, design, and parking.

Action 9. To ensure that all proposed development is compatible with the neighborhood DRID will provide development applicants with a copy of the adopted Neighborhood Plan. All development should be consistent with the Neighborhood Plan and compatible with the existing neighborhood. **Primary implementers: DRID**

Action 10. Protect all structures of historic significance from demolitions. Change the ordinance to include notification of affected registered neighborhood associations of the proposed demolitions. **Primary implementers: DRID**

LAND USE DESCRIPTIONS

EXISTING LAND USE ON THE PROPERTY

Civic - Any site for public or semi-public facilities, including governmental offices, policefire facilities, hospitals, and public and private schools. Includes major religious facilities and other religious activities that are of a different type and scale than surrounding uses.

Purpose

1. Allow flexibility in development for major, multi-functional institutional uses that serve the greater community;
2. Manage the expansion of major institutional uses to prevent unnecessary impacts on established neighborhood areas;
3. Preserve the availability of sites for civic facilities to ensure that facilities are adequate for population growth;
4. Promote Civic uses that are accessible and useable for the neighborhood resident and maintain stability of types of public uses in the neighborhood;

5. May include housing facilities that are accessory to a civic use, such as student dormitories; and

6. Recognize suitable areas for public uses, such as hospitals and schools, that will minimize the impacts to residential areas.

Application

1. Any school, whether public or private;

2. Any campus-oriented civic facility, including all hospitals, colleges and universities, and major government administration facilities;
3. Any use that is always public in nature, such as fire and police stations, libraries, and museums;
4. Civic uses in a neighborhood setting that are of a significantly different scale than surrounding non-civic uses;

5. An existing civic use that is likely or encouraged to redevelop into a different land use should NOT be designated as civic; and

6. Civic uses that are permitted throughout the city, such as day care centers and religious assembly, should not be limited to only the civic land use designation.

PROPOSED LAND USE ON THE PROPERTY

Neighborhood Mixed Use - An area that is appropriate for a mix of neighborhood commercial (small-scale retail or offices, professional services, convenience retail, and shopfront retail that serve a market at a neighborhood scale) and small to medium-density residential uses.

Purpose

1. Accommodate mixed use development in areas appropriate for a mix of residential uses and neighborhood commercial uses that serve surrounding neighborhoods; and

2. Provide transition from residential use to high intensity commercial or mixed use.

Application

1. Appropriate for areas such as minor arterials and collectors, small parcels along major arterials that abut single- family residential development, and areas in environmentally sensitive zones where high intensity commercial uses are discouraged; and

2. May be used as a transition from high intensity commercial and residential uses to single-family residential uses.

IMAGINE AUSTIN PLANNING PRINCIPLES

1. Create complete neighborhoods across Austin that provide a mix of housing types to suit a variety of household needs and incomes, offer a variety of transportation options, and have easy access to daily needs such as schools, retail, employment, community services, and parks and other recreation options.

    - ***The property has a commercial/office building and a garage apartment on the lot. It is near parks, other services and public transportation.***

2. Support the development of compact and connected activity centers and corridors that are well-served by public transit and designed to promote walking and bicycling as a way of reducing household expenditures for housing and transportation.

    - ***The property is located two blocks south of an activity corridor.***

3. Protect neighborhood character by ensuring context-sensitive development and directing more intensive development to activity centers and corridors, redevelopment, and infill sites.

    - ***The proposed zoning and land use is for a small-scale office use, which is compatible for this location.***

4. Expand the number and variety of housing choices throughout Austin to meet the financial and lifestyle needs of our diverse population.

    - ***The property has one residential use on the property and one commercial building, although the commercial building could possibly could be used as a residential use as well. The owner says she has no plans to build more residential uses.***

5. Ensure harmonious transitions between adjacent land uses and development intensities.

    - ***Staff believes the Neighborhood Mixed Use land use compatible for its location near a school and residential uses.***

6. Protect Austin's natural resources and environmental systems by limiting land use and transportation development over environmentally sensitive areas and preserve open space and protect the function of the resource.

    - ***The property is not located in an environmentally sensitive area.***

7. Integrate and expand green infrastructure—preserves and parks, community gardens, trails, stream corridors, green streets, greenways, and the trails system—into the urban environment and transportation network.

    - ***Not applicable.***

8. Protect, preserve and promote historically and culturally significant areas.

    - ***A zoning case has been filed for historic designation on the property. Please see zoning case C14H-2017-0006 for more information.***

9. Encourage active and healthy lifestyles by promoting walking and biking, healthy food choices, access to affordable healthcare, and to recreational opportunities.

    - ***Not directly applicable.***

10. Expand the economic base, create job opportunities, and promote education to support a strong and adaptable workforce.

    - ***Not applicable.***

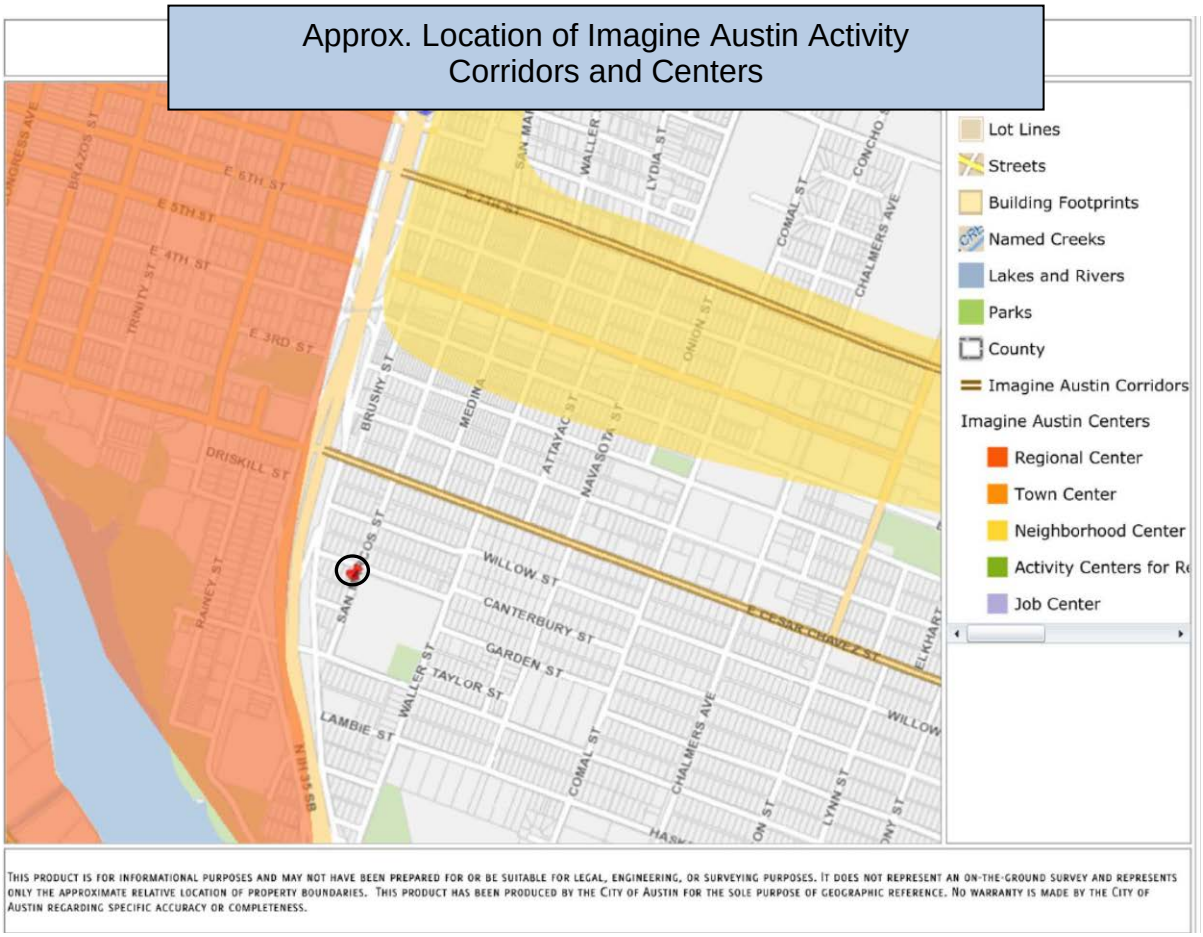
11. Sustain and grow Austin's live music, festivals, theater, film, digital media, and new creative art forms.

    - ***Not applicable.***

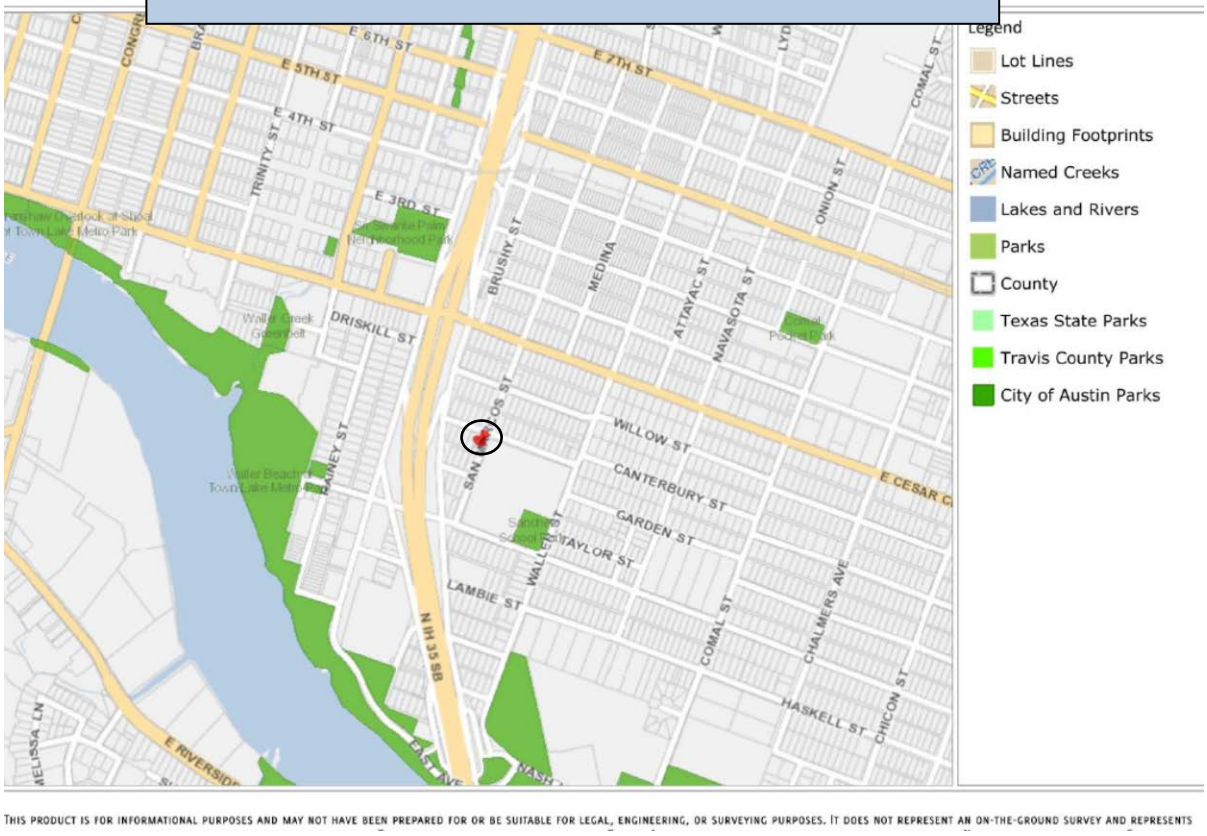
12. Provide public facilities and services that reduce greenhouse gas emissions, decrease water and energy usage, increase waste diversion, ensure the health and safety of the public, and support compact, connected, and complete communities.

    - ***Not directly applicable.***

Approx. Location of Imagine Austin Activity Corridors and Centers



Locations of Parks near the Property



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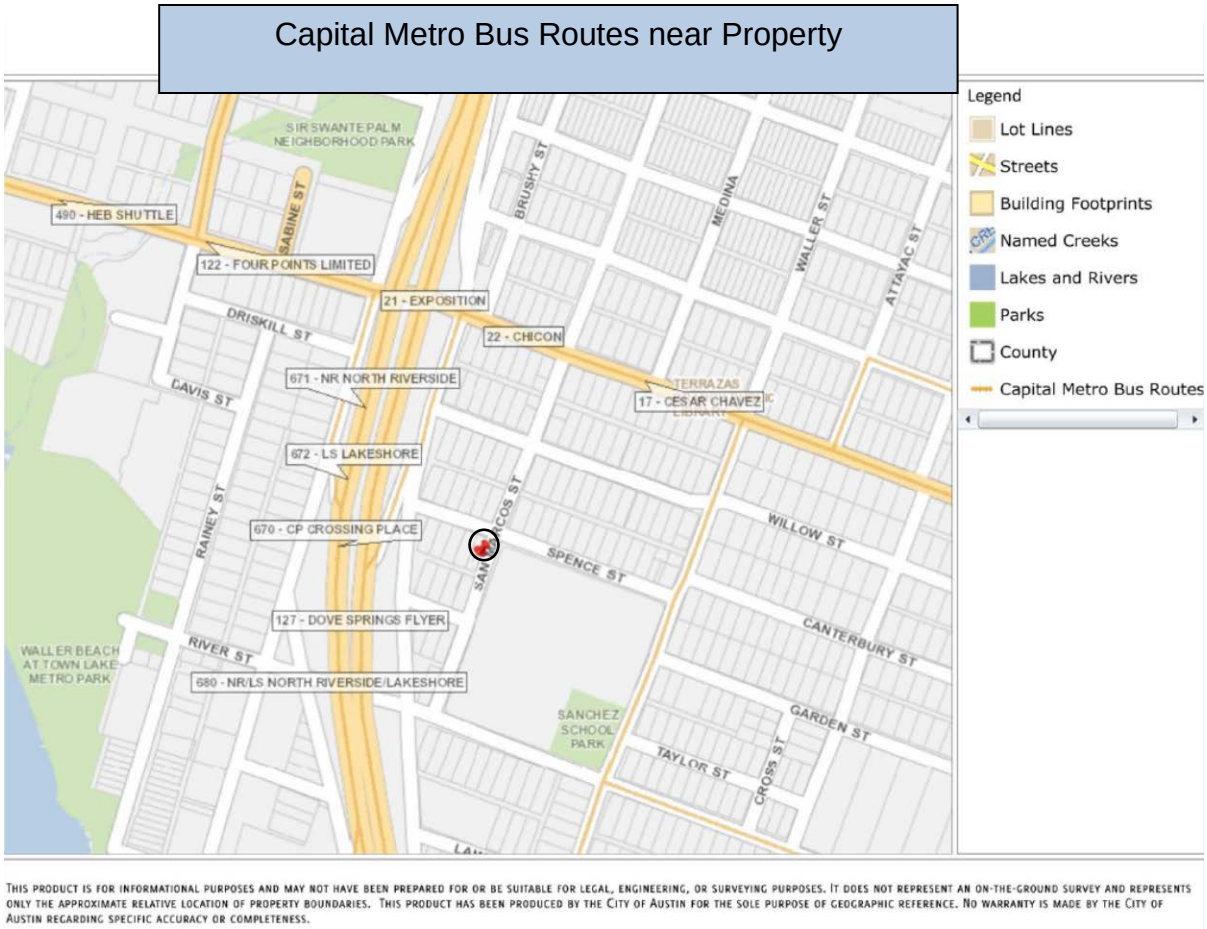
Capital Metro Bus Routes near Property



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IMAGINE AUSTIN GROWTH CONCEPT MAP

Definitions

Neighborhood Centers - The smallest and least intense of the three mixed-use centers are neighborhood centers. As with the regional and town centers, neighborhood centers are walkable, bikable, and supported by transit. The greatest density of people and activities in neighborhood centers will likely be concentrated on several blocks or around one or two intersections. However, depending on localized conditions, different neighborhood centers can be very different places. If a neighborhood center is designated on an existing commercial area, such as a shopping center or mall, it could represent redevelopment or the addition of housing. A new neighborhood center may be focused on a dense, mixed-use core surrounded by a mix of housing. In other instances, new or redevelopment may occur incrementally and concentrate people and activities along several blocks or around one or two intersections. Neighborhood centers will be more locally focused than either a regional or a town center. Businesses and services—grocery and department stores, doctors and dentists, shops, branch libraries, dry cleaners, hair salons, schools, restaurants, and other small and local businesses—will generally serve the center and surrounding neighborhoods.

Town Centers - Although less intense than regional centers, town centers are also where many people will live and work. Town centers will have large and small employers, although fewer than in regional centers. These employers will have regional customer and employee bases, and provide goods and services for the center as well as the surrounding areas. The buildings found in a town center will range in size from one-to three-story houses, duplexes, townhouses, and rowhouses, to low-to midrise apartments, mixed use buildings, and office buildings. These centers will also be important hubs in the transit system.

Job Centers - Job centers accommodate those businesses not well-suited for residential or environmentally- sensitive areas. These centers take advantage of existing transportation infrastructure such as arterial roadways, freeways, or the Austin-Bergstrom International airport. Job centers will mostly contain office parks, manufacturing, warehouses, logistics, and other businesses with similar demands and operating characteristics. They should nevertheless become more pedestrian and bicycle friendly, in part by better accommodating services for the people who work in those centers. While many of these centers are currently best served by car, the growth Concept map offers transportation choices such as light rail and bus rapid transit to increase commuter options.

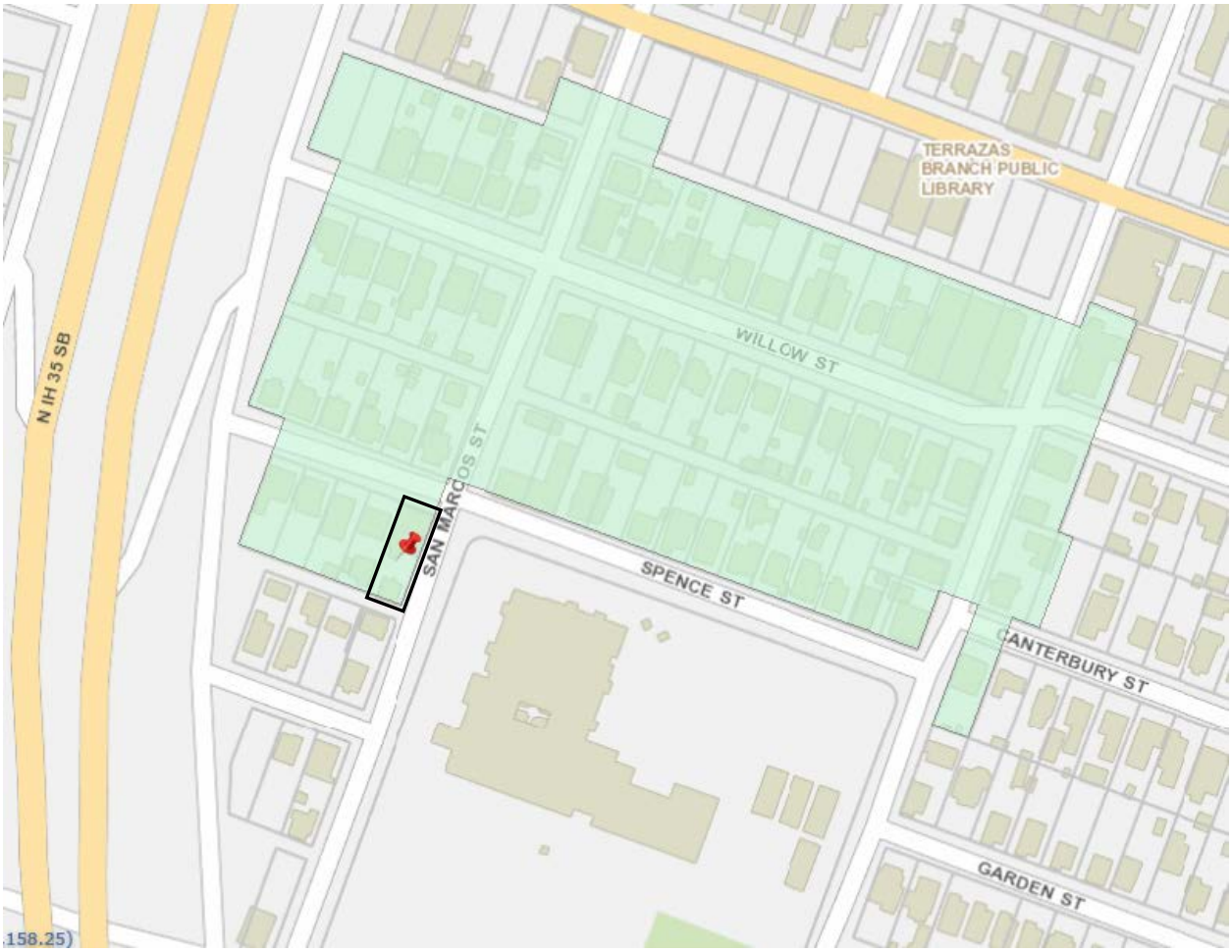
Corridors - Activity corridors have a dual nature. They are the connections that link activity centers and other key destinations to one another and allow people to travel throughout the city and region by bicycle, transit, or automobile. Corridors are also characterized by a variety of activities and types of buildings located along the roadway — shopping, restaurants and cafés, parks, schools, single-family houses, apartments, public buildings, houses of worship, mixed-use buildings, and offices. Along many corridors, there will be both large and small redevelopment sites. These redevelopment opportunities may be continuous along stretches of the corridor. There may also be a series of small neighborhood centers, connected by the roadway. Other corridors may have fewer redevelopment opportunities, but already have a mixture of uses, and could provide critical transportation connections. As a corridor evolves, sites that do not redevelop may transition from one use to another, such as a service station becoming a restaurant or a large retail space being divided into several storefronts. To improve mobility along an activity corridor, new and redevelopment should reduce per capita car use and increase walking, bicycling, and transit use. Intensity of land use should correspond to the availability of quality transit, public space, and walkable destinations. Site design should use building arrangement and open space to reduce walking distance to transit and destinations, achieve safety and comfort, and draw people outdoors.

BACKGROUND: The application was filed on July 29, 2016, which is in-cycle for neighborhood planning areas located on the east side of I.H.-35.

The applicant proposes to change the future land use map from Civic to Neighborhood Mixed Use for an office use.

The applicant proposes a zoning change from SF-3-NP to LO-MU-H-NP for a office use. For more information the zoning request and the history on the property, please see case report C14H-2017-0006.

The agent's Summary Letter says the property has been a commercial use since the 1930's and because of the commercial history of the property, the owner would like to rezone the property to an office zoning to allow the continued use on the property for an office use. The property zoning of LO-MU-H-NP would also allow the existing residential use on the property. The property is located in the Willow-Spence Historic District.



PUBLIC MEETINGS: The ordinance-required community meeting was held on October 6, 2016. Approximately 141 notices were mailed to people who live or own property within 500 feet of the property, in addition to neighborhood associations and environmental organizations who requested notification for the area. One member of the East Cesar Chavez Neighborhood Plan Contact Team attended the meeting, in addition to the property owner, Carrie Altemas; the property owner's agents, Jeff Howard and Ron Thrower; and one city staff member.

Jeff Howard, the owner's agent, said the owner would like to change the zoning from SF-3-NP to an office or commercial zoning to have a new tenant sign a lease. The issue is, because the property is zoned residential, tenants are reluctant to sign a lease for an office or commercial use. He said they are not sure what to rezone the property (Note: The zoning application had not been filed at the time of the community meeting), but the need the correct zoning for the site development standards. He said the building is grandfathered (non-complying structure), but the uses are not grandfathered. They do not want to demolish the building.

Q. What do you want to do with the building? The building has always been a commercial use.
A. Yes, it has always been a commercial use. Right now the tenants are a security company has been there for 2-3 years. They have 3 to 4 employees. They use the building to store security cameras. We only want small businesses in the building because of the limited parking.

Q. How big is the building?
A. The commercial building is about 2,584 square feet. The residential rental part, garage apartment, is about 728 sq. feet, all upstairs.

Q. There is no parking on the property.
A. There is a total of five parking spaces on the property

Q. If you get the property rezoned, do you plan to build on the property, for example, any plans for condos?
A. There are no changes planned. It's a charming 1930's building with hard wood floors. We don't want any changes. Historic zoning might be a possibility when we file the zoning case.

Comments:

- People in love the place and don't want to lose it. They remember when it was a grocery store.
    - Jeff Howard: When we file the zoning case, we will work with the neighborhood on prohibited uses.
- Neighbors are concerned about the parking uses. People are also concerned about the businesses that could be allowed there if it were rezoned. We don't want a business selling crack pipes or drug paraphernalia.

CITY COUNCIL DATE: June 8, 2017 **ACTION:**

CASE MANAGER: Maureen Meredith **PHONE:** (512) 974-2695

EMAIL: maureen.meredith@austintexas.gov

Summary Letter Submitted by the Applicant

Neighborhood Plan Amendment
SUMMARY LETTER

The buildings on the property located at 76 San Marcos and 78 San Marcos Street were built in approximately 1930 and consists of two separate buildings as shown on the enclosed survey. Part of the Willow-Spence Historic District, the property is located at the corner of San Marcos Street and Spence Street, across from the Sanchez Elementary School and diagonal from Austin Shakespeare theatre.

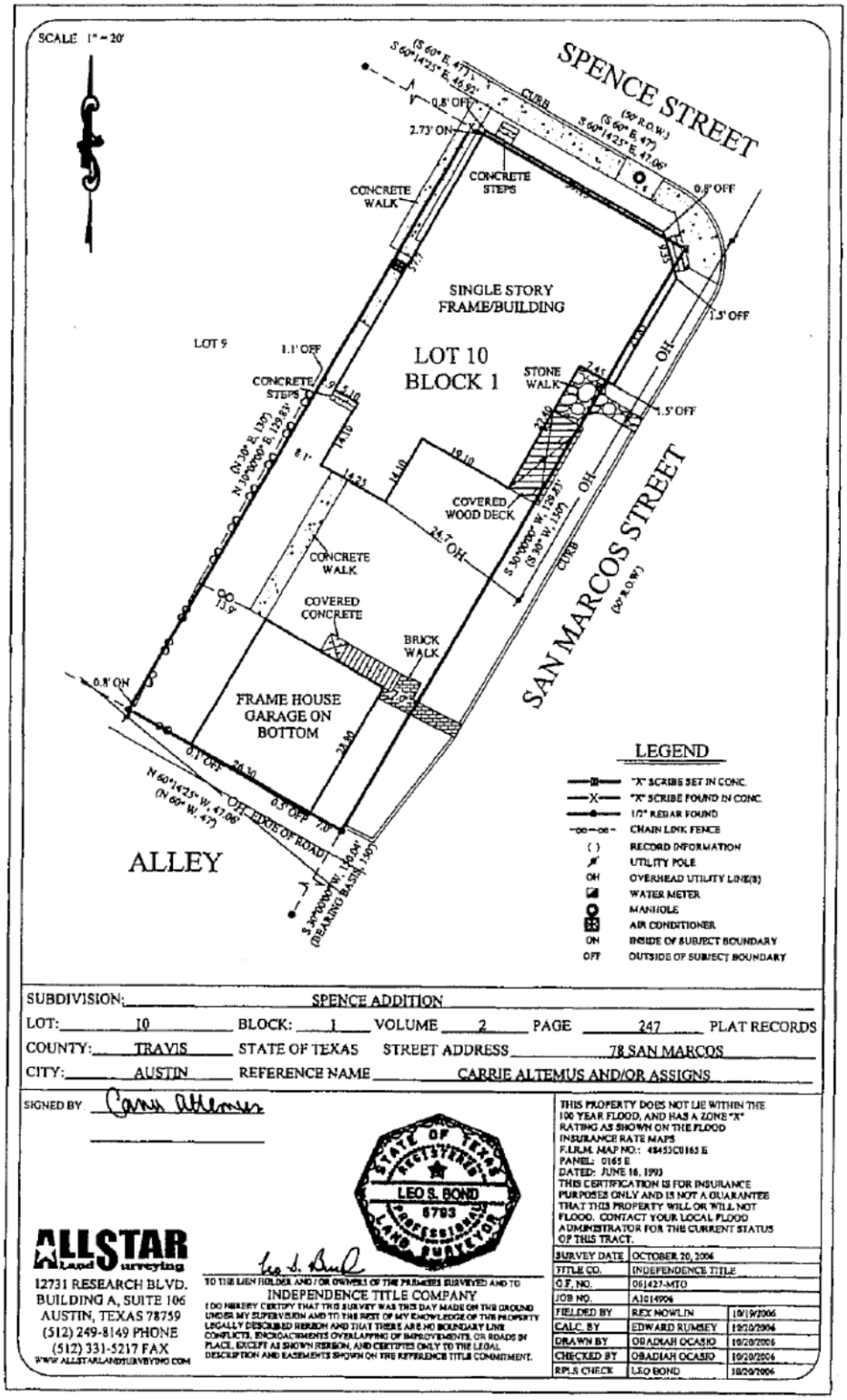
Louis Bonugli was the original owner of the property. In 1930, Mr. Bonugli established the Bonugli Grocery Store in the building on the corner and used the second building on the property as a residence. The site continued as a grocery store for over 35 years. After selling the property to Olga Schneider in 1974, and throughout the ownership of Juan Meza starting in 1999, the site continued its mixed use with an art gallery on the corner and residence in the second building. In 2007, the applicant purchased the property and also continued its mixed use as an art gallery and residence until acquiring new tenants who used the corner space as an office for a casting agency. The corner building has maintained its original design with only minor maintenance and remodeling over the years.

When the East Cesar Chavez Neighborhood Plan (NP) was considered in 1999, the property was correctly identified as a Commercial use as shown on Figure 2, page 4 of the NP based on its long-established commercial use. The Future Land Use Plan (FLUM) officially adopted in May 1999 labeled the property as a Civic use despite the years of history establishing the site as mixed with commercial on the corner and residential in the second building. Even though the applicant could argue that the designation of Civic in the FLUM is an error when the history of the property is taken into consideration, the applicant also feels the amendment meets the goals and objectives of the Neighborhood Plan.

The Neighborhood Plan stresses the importance of preserving the historic character of the planning area. This particular site maintains the original structural design as a store front. Designating the property as a mixed use would continue the low intensity office use of the corner building while providing for residential use in the second building. The change to the FLUM would not threaten the surrounding historic homes.

Pursuant to the Goals and Objectives related to Land Use, Zoning, and Neighborhood Character starting on page 25, the amendment would allow the appropriate mix of business and residential to continue in an already recognized mixed use location. The property use is compatible with the existing neighborhood in scale, density, design, and parking, just as it has for the past 85 years. Furthermore, as a building originally constructed to house commercial uses, renovation into a single family residence would lose the historical character of the structure.

The requested amendment to the FLUM would not result in an increase or negatively impact traffic in the neighborhood, would retain pedestrian accessibility, would preserve the established environment, and would continue to encourage economic development. Numerous other, similar corner sites within the Neighborhood Planning area are currently identified as mixed use on the FLUM including the corner of Holly Street and San Marcos Street, corner of Navasota Street and Holly Street, corner of Comal Street and Holly Street, and the corner of Chalmers Street and Holly Street. The only effect of this requested amendment to the Neighborhood Plan would be to create an accurate reflection of the current and ongoing use of the property as properly designated on the FLUM while upholding the rich history of the location.



SUBDIVISION: SPENCE ADDITION

LOT: 10 BLOCK: 1 VOLUME 2 PAGE 247 PLAT RECORDS

COUNTY: TRAVIS STATE OF TEXAS STREET ADDRESS 78 SAN MARCOS

CITY: AUSTIN REFERENCE NAME CARRIE ALTEMUS AND/OR ASSIGNS

SIGNED BY Carrie Altemus

STATE OF TEXAS REGISTERED LEO S. BOND 5793 PROFESSIONAL LAND SURVEYOR

THIS PROPERTY DOES NOT LIE WITHIN THE 100 YEAR FLOOD, AND HAS A ZONE "X" RATING AS SHOWN ON THE FLOOD INSURANCE RATE MAPS
F.I.R.M. MAP NO.: 48453C0165 E
PANEL: 0165 E
DATED: JUNE 16, 1993
THIS CERTIFICATION IS FOR INSURANCE PURPOSES ONLY AND IS NOT A GUARANTEE THAT THIS PROPERTY WILL OR WILL NOT FLOOD. CONTACT YOUR LOCAL FLOOD ADMINISTRATOR FOR THE CURRENT STATUS OF THIS TRACT.

SURVEY DATE	OCTOBER 20, 2006	
TITLE CO.	INDEPENDENCE TITLE	
G.F. NO.	061427-MTO	
JOB NO.	A1014906	
FIELDED BY	REX NOWLIN	10/19/2006
CALC. BY	EDWARD RUMSEY	10/20/2006
DRAWN BY	OBADIAH OCASIO	10/20/2006
CHECKED BY	OBADIAH OCASIO	10/20/2006
RPLS CHECK	LEO BOND	10/20/2006

ALLSTAR Land Surveying
12731 RESEARCH BLVD.
BUILDING A, SUITE 106
AUSTIN, TEXAS 78759
(512) 249-8149 PHONE
(512) 331-5217 FAX
WWW.ALLSTARLANDSURVEYING.COM

Leo S. Bond

TO THE LIEN HOLDER AND / OR OWNERS OF THE PREMISES SURVEYED AND TO INDEPENDENCE TITLE COMPANY

I DO HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE OF THE PROPERTY LEGALLY DESCRIBED HEREON AND THAT THERE ARE NO BOUNDARY LINE CONFLICTS, ENCROACHMENTS OVERLAPPING OF IMPROVEMENTS, OR ROADS IN PLACE, EXCEPT AS SHOWN HEREON, AND CERTIFIES ONLY TO THE LEGAL DESCRIPTION AND EASEMENTS SHOWN ON THE REFERENCE TITLE COMMITMENT.

M&H
McLEAN & HOWARD, L.L.P.
Real Property Lawyers

Barton Oaks Plaza, Building II
901 South MoPac Expy | Ste 225
Austin, Texas 78746
phone 512.328.2008
fax 512.328.2409
www.mcleanhowardlaw.com

May 19, 2017

Greg Guernsey, Director
Planning and Zoning Department
City of Austin
505 Barton Springs Road, 5th Floor
Austin, Texas 78703

via email

RE: C14H-2017-0006; 76 and 78 San Marcos Re-zoning Application

Dear Mr. Guernsey:

I am writing on behalf of Carrie Altemus, the owner of the property in the above-referenced re-zoning application. Specifically, I am writing to notify the City of Austin (the "City") of my client's right to continue the use of the property for commercial mixed-use purposes pursuant to the property's "non-conforming use" status. I am also writing to encourage the City to grant the reasonable zoning being requested by the applicant to avoid any possible legal disputes over such non-conforming status.

1. Background

The property comprising 76 San Marcos and 78 San Marcos is actually one lot currently zoned SF-3. There are two, detached structures located on the lot. As the City's Historic Preservation Officer Steve Sadowsky has confirmed in his report to the Historic Landmark Commission, the property was originally improved with a grocery store and storekeeper's residence **in 1925** by Louis and Johanna Bonugli. The establishment of commercial mixed-use, therefore, pre-dated the City's first zoning ordinance (adopted in 1931) by six (6) years. While it is not apparent if the current "SF-3" zoning was the result of that original 1931 zoning ordinance or a later enactment, it is clear that the property has a very, very long history as commercial mixed-use that pre-dated any zoning, and that the commercial mixed-use has been allowed to continue by the City for many, many years.

While a totally complete picture of all of its uses over the last 92 years is not possible, the property has been confirmed to have been used as a grocery store, used furniture store, used clothing store, thrift shop, multi-family residential, Catholic service center, art gallery, casting studio, and event services. In its entire 92-year history, the lot comprising 76 and 78 San Marcos has never been used for single-family or duplex residential. The main building on the property remains to this day the same building that served as Bonugli Grocery Store.

2. City Code Regarding Non-conforming Uses

Section 25-2-945 of the City Code does <u>not</u> provide that changing from one non-conforming use to another non-conforming use causes the loss of non-conforming status. Indeed, it is the inherent nature of commercial property that uses change over time as different businesses come and go. Under

Texas law, if a city's zoning ordinance does not penalize owners for shifting non-conforming uses, then changing non-conforming uses will not result in the forfeiture of non-conforming use status. *McDonald v. Board of Adjustment of San Antonio*, 561 S.W. 2d 218 (Tex. Civ. App. San Antonio 1978, no writ).

In addition, while Section 25-2-945 of the City Code provides that a non-conforming use may be abandoned if discontinued for more than ninety (90) consecutive days, not counting any temporary cessations for repairs or seasonal closures, there is no indication that the non-residential was ever discontinued for that period of time and it would be the City's burden to prove that discontinuation. Even if the use had been discontinued for more than 90 consecutive days, the City Code's 90-day abandonment rule is an arbitrary time period that is not supported by Texas law. Under Texas law, a non-conforming use is only abandoned if there is (1) a clear intent to abandon, and (2) some overt act that carries the implication of abandonment. *Town of Highland Park v. Marshall*, 253 S.W.2d 658 (Tex. Civ. App. Dallas 1950, writ ref'd n.r.e.). Numerous Texas cases have held that there is no abandonment even where the temporary cessation of the non-conforming use lasted many months or even several years. The history of the property in this case clearly demonstrates no intent to abandon and no overt action that implies such abandonment. The City has tacitly acknowledged this fact by not showing the property to be single-family residential on the Future Land Use Map (which shows "Civic" based on the Catholic service center use at the time) and by failing to seek any zoning conformance for many decades.

3. Conclusion

As a result of the application of Texas law to the facts related to the use of the property, it is clear that 78 San Marcos has non-conforming use status that may continue and may have different non-conforming uses utilized. It is further clear that the City would be estopped under Texas law to deny such continuance. However, the applicant has sought re-zoning to avoid any potential legal disputes that could arise. Re-zoning the property "LO-MU" as requested will bring the property into conformance with current office and residential uses, will end the non-conforming status thereby, and voluntarily preclude subsequent, more intensive retail uses. The "H" zoning will also ensure the preservation of the structure and historic character that have contributed to the neighborhood for the past 92 years.

In this way, the requested zoning ensures that the historic structure and benign commercial mixed-use that has existed on this site for 92 years can continue without loss of the building or expansion of non-compatible uses, AND that the City can avoid potential legal disputes. For these reasons, we hope the City will re-zone the property as requested by the applicant.

Thank you for your attention to this matter.

Sincerely,

Jeffrey S. Howard

cc: Ron Thrower
Carrie Altemus

Letter of Recommendation from the East Cesar Chavez Neighborhood Plan Contact Team

March 21, 2017
Planning Commission

City of Austin
RE: 78 San Marcos St., Amendment Request Future Land Use Designation, Case No. NPA-2016-0002.01

Dear Planning Commissioners:

I am writing on behalf of the East César Chavez Neighborhood Planning Team ("ECCNPT") in regards to the future land use designation amendment request of Jeff Howard, McLean & Howard, LLP for the property located at 78 San Marcos St.

The ECCNPT requests that you deny applicant's request to change the future land use designation from Civic to Neighborhood Mixed Use. The overwhelming opposition to this change (11 members opposed, 2 abstaining) results from the very real concern that such a change would result in commercial activities in the neighborhood at a location inappropriate for such activities.

Of greatest concern is the location is immediately across from Sanchez Elementary School. Any increase in commercial activity and associated traffic in such proximity to elementary school would be inappropriate. Additionally, the property is next to residential properties whose residents oppose such a future land use change. Though there are other properties nearby operating under the civic use designation, this commercial use would the first of it's kind in what is a residential neighborhood.

We there respectfully request that you deny the applicant's request.

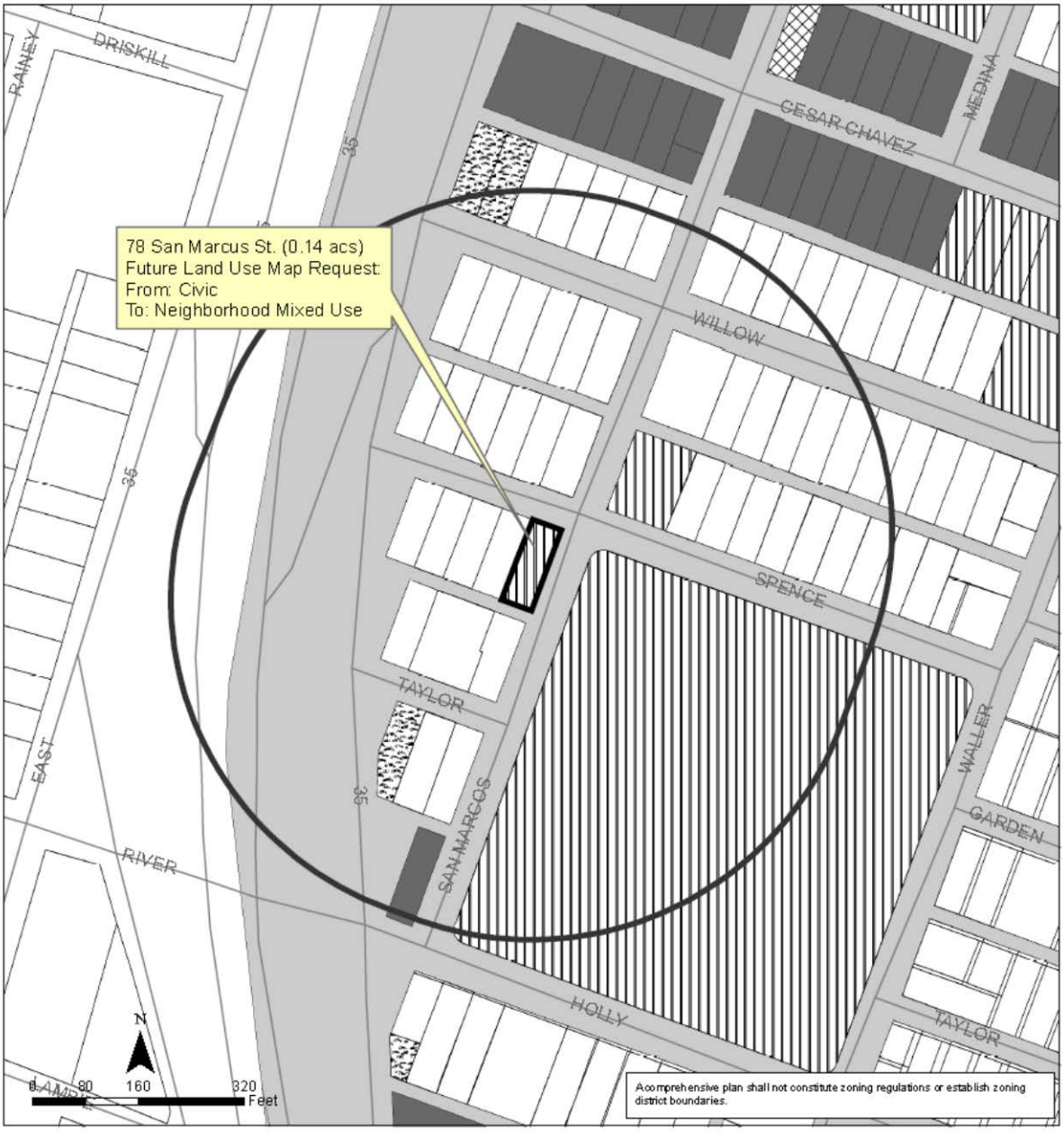
Sincerely,

Jose Valera

Jose Valera
Chair, ECCNPT

1


Site
East Cesar Chavez
Neighborhood Plan
Future Land Use Map
Neighborhood Gateway
Produced by City of Austin
Planning & Development
Review Department
Updated: 8/27/2015
A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.
Single-Family
Multifamily
Commercial
Mixed Use
Civic
Recreation & Open Space
Specific Regulating District
N
W
E
S
NECHES
SABINE
RED RIVER
RAINEY
EAST RIVER
SAN MARCOS
BRUSHY
DRISKILL
WALLER
MEDINA
ATTAYAC
NAVASOTA
ONION
COMAL
CONCHO
CHICON
CHALMERS
SALINA
ADAM L CHAPA SR
ELKHART
ROBERT T MARTINEZ JR
ANTHONY
LYNN
MILDRED
LYDIA
LAMAR
CESAR CHAVEZ
WILLOW
SPENCE
CANTERBURY
GARDEN
TAYLOR
LAMBIE
CLERMONT
FLORES
HOLLY
HASKELL
RIVERVIEW
JESSE E SEGOVIA
NASH HERNANDEZ SR
EDGECLIFF
TRAVIS HEIGHTS
HARWOOD
RIVERSIDE
3RD
4TH
5TH
6TH
7TH
8TH
9TH
10TH
11TH
2ND
35
165



East Cesar Chavez Neighborhood Planning Area
NPA-2016-0002.01

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 and Development Review for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

City of Austin
Planning and Zoning Department
Created on 8/2/2016, by: meredithm

Future Land Use

- 500 ft. Notif. Boundary
- Subject Property
- Single-Family
- Multi-Family
- Mixed Use
- Specific Regulating District
- Civic
- Recreation & Open Space
- Transportation

ZONING

Case#: C14-2017-0006

N

Subject Tract

Pending Case

Zoning Boundary

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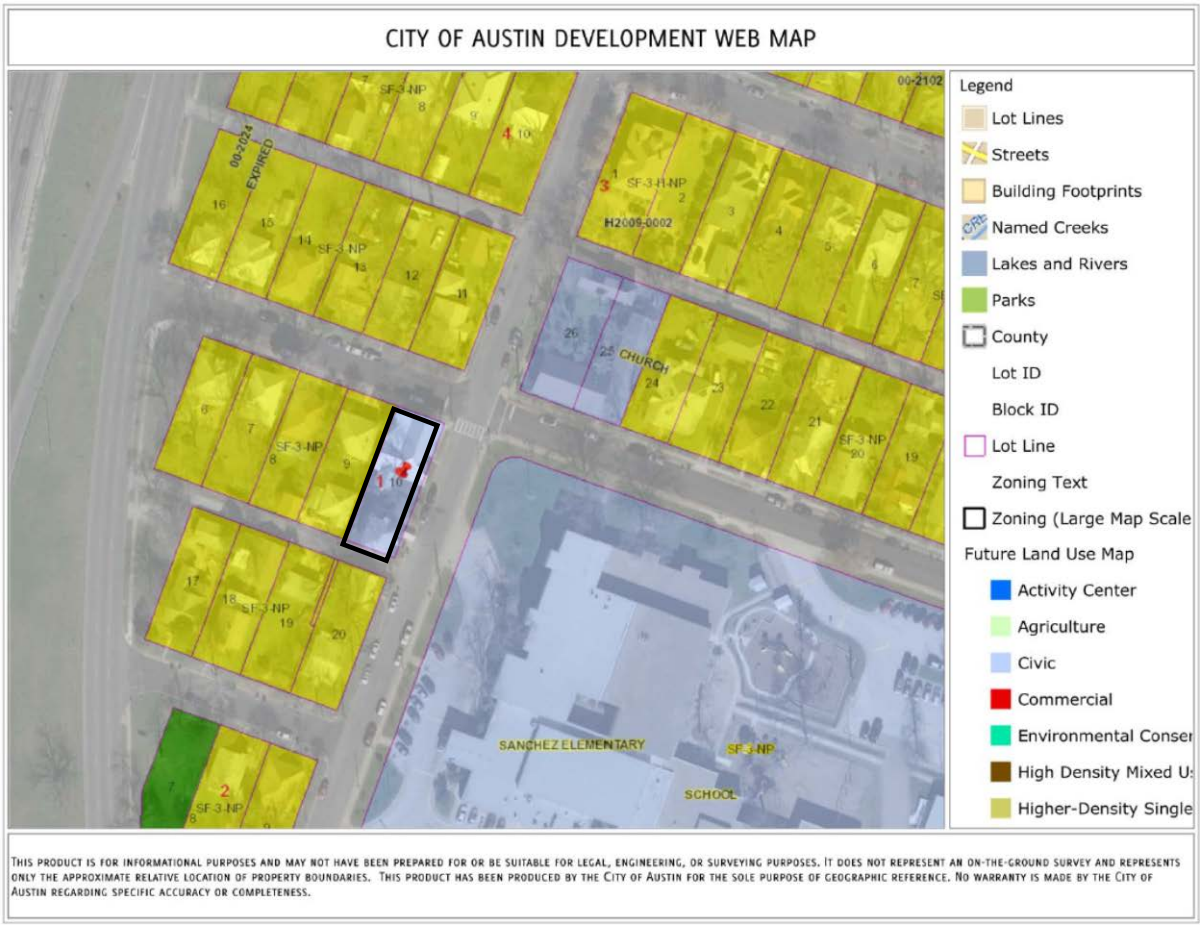
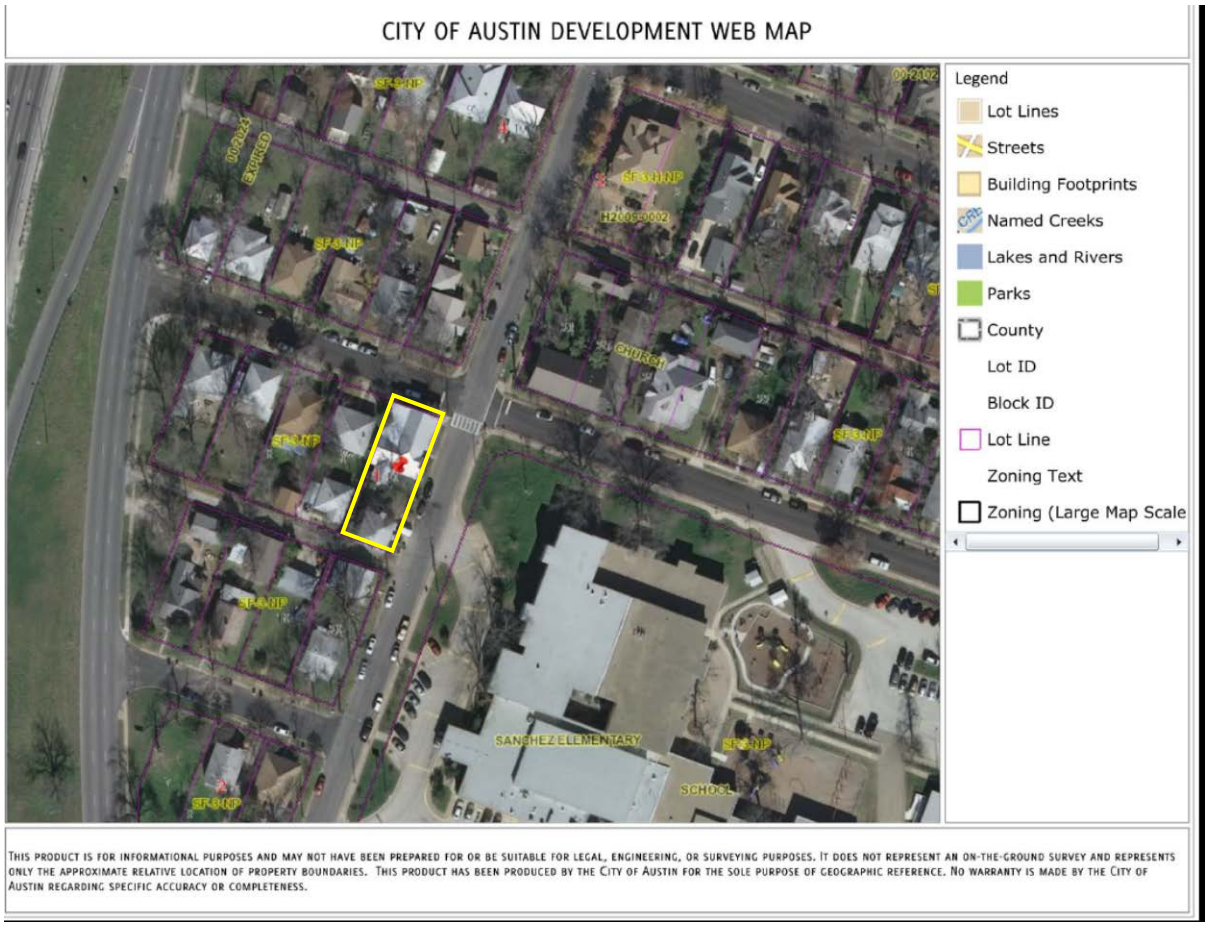
1 " = 100 '

Created: 1/27/2017


CITY OF AUSTIN DEVELOPMENT WEB MAP
Legend
Lot Lines
Streets
Building Footprints
Named Creeks
Lakes and Rivers
Parks
County
Lot ID
Block ID
Lot Line
Zoning Text
Zoning (Large Map Scale
Future Land Use Map
Activity Center
Agriculture
Civic
Commercial
Environmental Conser
High Density Mixed U
Higher-Density Single
SF-3-NP
SF-3-H-NP
H2009-0002
C00-2024
EXPIRED
C00-2102
CHURCH
SANCHEZ ELEMENTARY
SCHOOL
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 CITY OF AUSTIN 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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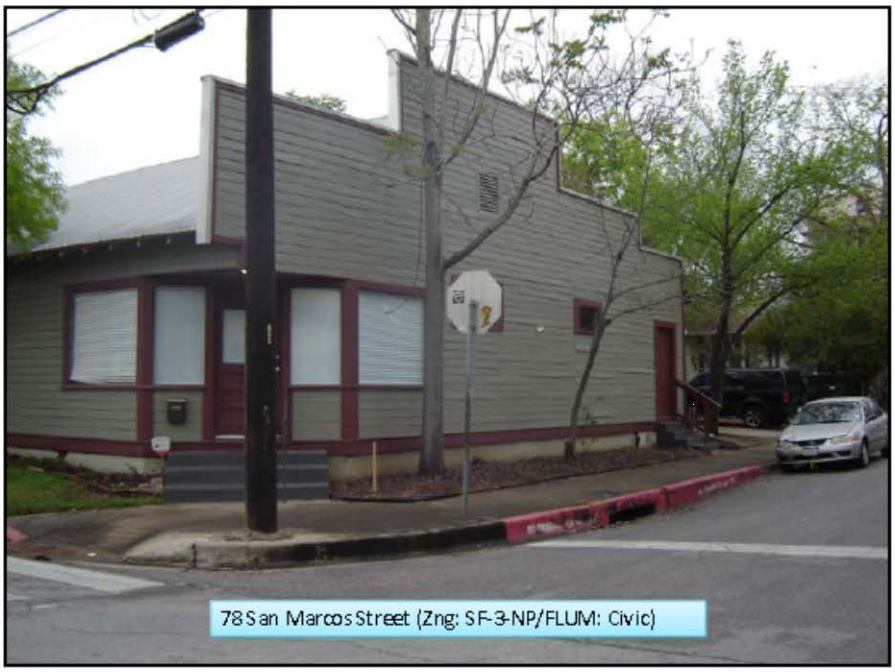

78 San Marcos Street (Zng: SF-3-NP/FLUM: Civic)

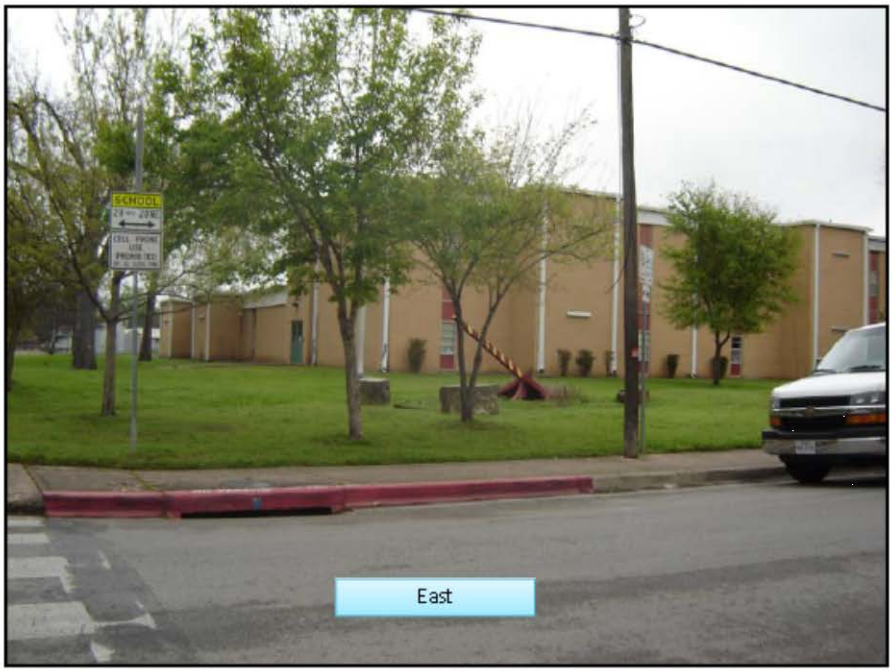

78 San Marcos St. (Zng: SF-3-NP/FLUM: Civic)


78 and 76 San Marcos Street (SF-3-NP/Civic FLUM)


76 San Marcos St. (Zng: SF-3/FLUM: Civic

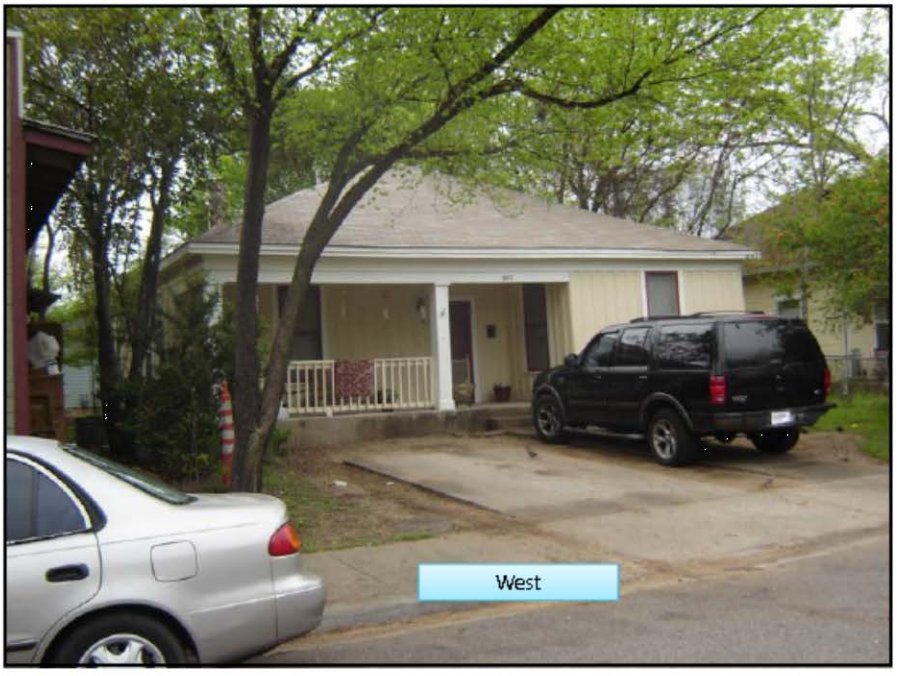

North


North east


SCHOOL
East


South


South


West

PUBLIC HEARING COMMENT FORM

If you use this form to comment, it may be submitted to:
City of Austin
Planning and Zoning Department
Maureen Meredith
P. O. Box 1088
Austin, TX 78767-8810

If you do not use this form to submit your comments, you must include the name of the body conducting the public hearing, its scheduled date, the Case Number and the contact person listed on the notice in your submission.

Case Number: NPA-2016-0002.01
Contact: Maureen Meredith, Phone: 512-974-2695
Public Hearings: Jun 8, 2017, City Council

MONA SANCHEZ
Your Name *(please print)*

☑ I am in favor
☐ I object

301 W. 2nd STREET, AUSTIN 78701
Your address(es) affected by this application

Mona Sanchez — 05-23-17
Signature — Date

Comments: Liason to the Downtown Commission

PUBLIC HEARING COMMENT FORM

If you use this form to comment, it may be submitted to:
City of Austin
Planning and Zoning Department
Maureen Meredith
P. O. Box 1088
Austin, TX 78767-8810

Rec'd 4/23/17

If you do not use this form to submit your comments, you must include the name of the body conducting the public hearing, its scheduled date, the Case Number and the contact person listed on the notice in your submission.

Case Number: NPA-2016-0002.01
Contact: Maureen Meredith, phone: 512-974-2695
Public Hearing: Jan 10, 2017, Planning Commission

Arthur N. Jacob
Your Name *(please print)*

☐ I am in favor
☒ I object

1011 Willow St.
Your address(es) affected by this application

Arthur N. Jacob — 12-19-2016
Signature — Date

Comments:

Applicant Criteria Worksheet Submitted by the Applicant's Agent

NPA – 2016-0002.01
78 San Marcos Street

Provide this information with your plan amendment application.

Taken From: Article 16: Neighborhood Plan Amendment Ordinance

§ 25-1-810 - RECOMMENDATION CRITERIA.

(A) The director may not recommend approval of a neighborhood plan amendment unless the requirements of Subsections (B) **and** (C) are satisfied.

(B) The ***applicant*** must demonstrate that:

(1) the proposed amendment is appropriate because of a mapping or textual error or omission made when the original plan was adopted or during subsequent amendments;

Does this criterion apply to your proposed plan amendment application?__X_Yes ___ No

If there was a mapping error, explain here and provide documentation: __The property has a long history of non-residential uses including office, church, grocery, furniture store, Thrift shop & art gallery. The structure is not suited for residential use.

(2) the denial of the proposed amendment would jeopardize public health, safety, or welfare;

Does this criterion apply to your application? ___Yes ____No

If this condition applies, explain here

(3) the proposed amendment is appropriate:

(a) because of a material change in circumstances since the adoption of the plan; **and**

(b) denial would result in a hardship to the applicant;

Does this criteria apply to your application?___Yes ___No

If yes, explain here

(4) the proposed project:

(a) provides environmental protection that is superior to the protection that would otherwise be achieved under existing zoning and development regulations;

1

Does this criterion apply to your application?___Yes ___No

If yes, explain here_____

or

(b) promotes the recruitment or retention of an employment center with 100 or more employees;

Does either one of these criterion apply to your application?_____Yes ____No

If yes, explain here_____

(5) the proposed amendment is consistent with the goals and objectives of the neighborhood plan;

List the goals and objectives from the plan that you feel support your plan amendment request, along with your rationale for why it meets these goals/objectives. Use separate document if necessary:_____

(You can find the plan document here: *http://austintexas.gov/page/adopted-neighborhood-planning-areas-0)*

or

(6) the proposed amendment promotes additional S.M.A.R.T. Housing opportunities.

Is this a S.M.A.R.T. Housing project? ____Yes ____No

If yes, explain here and provide the letter from Neighborhood Housing and Community Development_____

(C) The applicant must demonstrate that:

(1) the proposed amendment complies with applicable regulations and standards established by Title 25 (Land Development), the objectives of Chapter 25-2 (Zoning), and the purposes of the zoning district proposed for the subject property;
https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE)

The property has a long history of non-residential uses including office, church, grocery, furniture store, Thrift shop & art gallery. The structure is not suited for residential use.

_____
_____
_____
_____
_____

and

(2) the proposed amendment is consistent with sound planning principles. (See attached)

3

LAND USE PLANNING PRINCIPLES

You can find the Guide to Land Use Standards here:
http://www.austintexas.gov/department/neighborhood-planning-resources)

Please DESCRIBE how your proposed plan amendment request will meet these principles. If you believe a principle does not apply to your proposed plan amendment application, write "Not applicable".

1. Ensure that the decision will not create an arbitrary development pattern;
Provide your analysis here: The structure was built as a non-residential structure in 1930 and predates the 1931 comprehensive zoning ordinance of the City of Austin.

2. Ensure an adequate and diverse supply of housing for all income levels;
Provide your analysis here: Not applicable

3. Minimize negative effects between incompatible land uses;
Provide your analysis here: The structure has been inplace since 1930 and has always been adjacent to residential. The long time frame of commercial uses occupying the structure serves that the uses are compatible.

4. Recognize suitable areas for public uses, such as hospitals and schools that will minimize the impacts to residential areas;
Provide your analysis here: Not applicable

5. Discourage intense uses within or adjacent to residential areas;
Provide your analysis here: The structure has been used for various commercial uses over the past 86 years. Options are open to limiting obnoxious commercial uses at the time of zoning.

6. Ensure neighborhood businesses are planned to minimize adverse effects to the neighborhood;
Provide your analysis here: The size of the structure is, and always has been, neighborhood oriented & will not lead to any additional impact to the neighborhood.

7. Minimize development in floodplains and environmentally sensitive areas;
Provide your analysis here: Not applicable

8. Promote goals that provide additional environmental protection;
Provide your analysis here: Not applicable

9. Consider regulations that address public safety as they pertain to future developments (e.g. overlay zones, pipeline ordinances that limit residential development);
Provide your analysis here: Not applicable

10. Ensure adequate transition between adjacent land uses and development intensities;
Provide your analysis here: The structure has been around for 86 years with a variety of commercial uses. Appropriate compatibility standards will apply.

11. Protect and promote historically and culturally significant areas;
Provide your analysis here: The owner does not desire to remove the structure.

12. Recognize current City Council priorities; (Look at the Imagine Austin Comprehensive Plan Document found here: http://austintexas.gov/department/imagine-austin-download-center. Appendix E. Framework for Decision Making, pages A-57 through A-58.)
Provide your analysis here: Natural & Sustainable – Compact and walkable spaces. Livable – within ½ mile of school, library, train station and park.

13. Avoid creating undesirable precedents;
Provide your analysis here: NA

14. Promote expansion of the economic base and create job opportunities;
Provide your analysis here: NA

15. Ensure similar treatment of land use decisions on similar properties;
Provide your analysis here: Not many properties interior to neighborhood exist with the long history of commercial uses.

16. Balance individual property rights with community interests and goals;
Provide your analysis here: NA

17. Consider infrastructure when making land use decisions;
Provide your analysis here: NA

18. Promote development that serves the needs of a diverse population.
Provide your analysis here: NA