ZONING CHANGE REVIEW SHEET

CASE: C14H-2017-0006
78 San Marcos Rezoning

H.L.C. DATE: April 24, 2017
P.C. DATE: May 9, 2017
May 23, 2017

ADDRESS: 78 San Marcos Street

DISTRICT: 3

AREA: 0.1423 ac. (6,198.59 s.f.)

OWNER: Carrie Altemus

AGENT: Thrower Design (A. Ron Thrower)

FROM: SF-3-NP

TO: LO-MU-H-NP

DESIRED DEVELOPMENT ZONE: Yes

NEIGHBORHOOD PLAN AREA: East Cesar Chavez

NATIONAL REGISTER HISTORIC DISTRICT: Willow-Spence

SUMMARY STAFF RECOMMENDATION:

Staff supports the rezoning request, with conditions. Staff supports a change from family residence-neighborhood plan (SF-3-NP) combining district zoning to limited office-mixed use-conditional overlay-historic landmark-neighborhood plan (LO-MU-CO-H-NP) combining district zoning. The building is recommended for local landmark designation in the East Austin Historic Survey (2016).

Staff recommends the property be limited to only the land uses permitted in neighborhood office-mixed use (NO-MU) combining district. This would result in the following LO land uses being prohibited on the property: Communication Services, Medical Offices exceeding 5,000 square feet, Medical Office less than 5,000 square feet, Off-site Accessory Parking, Personal Services, Club or Lodge, Convalescent Services, Cultural Services, and Hospital Service (Limited).

HISTORIC LANDMARK COMMISSION:

April 24, 2017: *RECOMMENDED TO GRANT HISTORIC LANDMARK DESIGNATION (H-) BASED ON HISTORIC ASSOCIATION AND COMMUNITY SIGNIFICANCE. (7-0) [T. Myers- 1st, K. Kock-2nd; A. Papavasiliou- Absent]*

PLANNING COMMISSION RECOMMENDATION:

May 23, 2017: *RECOMMENDED TO GRANT LO-MU-CO-H-NP ZONING AS RECOMMENDED BY STAFF, WITH THE FOLLOWING ADDITIONAL CONDITIONS: BUILDING HEIGHT SHALL BE LIMITED TO TWO STORIES OR 30 FEET (9-0) [N. Zaragosa - 1st, P. Seegar -2nd; F. Kazi, A. De Hoyos Hart, J. Schissler, J. Thompson, R. Mendoza, A. Teich, and T. White- Absent]*

May 9, 2017: *TO GRANT A POSTPONEMENT TO MAY 23, 2017, AS REQUESTED BY STAFF, ON CONSENT, (13-0) [J. Schissler- 1st, J. Vela-2nd]*

ISSUES:

The subject property contains two buildings: a main building and a residential unit over a carport. It appears that the main building was originally used as a neighborhood grocery store in the 1920s. The main building has primarily, but not continuously, been used for various commercial uses since that time. When the neighborhood was rezoned during the East Cesar Chavez neighborhood planning process (1998-2000), the property was being used by the Casa Guadalupe Catholic Center, which led to the property being designated as "Civic" on the Future Land Use Map (FLUM). Since religious assembly land use is permitted in SF-3-NP, there was no action to change the zoning at that time. ***Please refer to Exhibits A and B (Zoning Map and Aerial Map).***

For the purposes of this report, general information and discussion of the base zoning district change (from SF-3 to LO-MU) are presented first, followed by the requested historic landmark designation (H-).

DEPARTMENT COMMENTS:

Existing Conditions. The subject property is located at the southwest corner of Spence Street and San Marcos Street. The property is zoned SF-3-NP and contains two buildings: a main building and a residential unit over a carport. Across San Marcos Street, to the east, is Sanchez Elementary School, which is also zoned SF-3-NP. Properties immediately to the west and across the alley to the south are zoned SF-3-NP and developed with single family residences, as are the properties directly north, across Spence Street. At the northeast corner of Spence Street and San Marcos Street, northeast of the subject property, is a property zoned SF-3-NP that is also designated "Civic" on the FLUM. This property is the offices of Hightower & Associates. The remainder of the block to the northeast across consists of lots zoned SF-3-NP and SF-3-H-NP that are developed with single family residences. ***Please refer to Exhibits A and B (Zoning Map and Aerial Map).***

The nearest commercially zoned property is located northwest of the intersection of San Marcos Street and Holly Street. This property is zoned LR-MU-CO-NP and was previously used as a professional office. The structure currently appears to be unoccupied. The next closest non-residentially zoned property is located on the north side of Willow Street adjacent to the IH 35 Northbound frontage road. This property is zoned LO-MU-CO-NP and is undeveloped. Conditional overlays were applied to the LR-MU-CO-NP and LO-MU-CO-NP properties, as well as others in the neighborhood, during the neighborhood planning process. The details of those conditional overlays are listed on the Related Cases table in this report.

Zoning Background. This area was zoned in conjunction with the East Cesar Chavez Neighborhood Plan in 1998-2000. Properties throughout the neighborhood were granted zoning classifications that reflected the existing land uses and previous zoning on the sites. City records show that the property was being used by the Casa Guadalupe Catholic Center, which led to the property being designated as "Civic" on the Future Land Use Map (FLUM). Since the religious assembly land use is permitted in SF-3-NP, there was no action to change the zoning at that time.

Historic District. 78 San Marcos Street is located within the boundaries of the Willow Spence National Register Historic District. The Willow-Spence Streets Historic District is comprised of 68 buildings, 38 of which are contributing and 30 of which are noncontributing. There is a variety of structures in the district, including two churches, two stores, and one parsonage. The majority of buildings are single family residential. The base district of property may be rezoned without affecting the historic status of the property; however, physical improvements to the house or other structures may require additional permits or approvals. ***Please refer to Exhibit C (Historic District).***

HISTORIC LANDMARK REVIEW COMMENTS:

Architecture: One-story, rectangular-plan, front-gabled frame commercial building with a stepped parapet roof along the Spence Street (north) side of the building; cutaway corner at the corner of Spence and San Marcos Streets; plate-glass replacement windows.

Historical Associations: Louis and Johanna Bonugli built this store and their adjacent home in 1925, after living across San Marcos Street at 1001 Spence Street for several years, where they operated a family grocery business that had been started by his widowed mother, Mary. Louis Bonugli was born in 1883 in Texas to an Italian-born father who was in the grocery business for many years. The first known Bonugli grocery business was on E. 6th Street in 1880; the family moved their homes and business to E. 1st Street (now Cesar Chavez Street) by 1900. Lewis [sic] Bonugli first appears in the 1900 U.S. Census as the 17-year old son of M. (Michael) and Mary Bonugli, who were living on E. 1st Street. Michael Bonugli was a grocer. Louis' older brother, Walter, was a clerk in the family grocery business, while Louis is listed as a day laborer.

By 1910, the family patriarch, Michael Bonugli, had passed away, and his widow, Mary Bonugli, was running the family grocery business at 1201 E. 1st Street, which was also her home. Louis Bonugli was living with his mother on E. 1st Street, but was working as a bottler for the Star Bottling Works, operated by Noyes D. Smith, who later went on to make his fortune in importing Oklahoma coal for Austin consumers. Louis' brother, Walter Bonugli, was the superintendent of the soft-drink bottling company. He lived two doors down from his mother, at 1205 E. 1st Street. Walter Bonugli continued his career in the soft-drink business, and later became a salesman for Swift & Company, a meat-packing company.

Louis Bonugli went into the family business, first with his aging mother, at her store at 1001-03 Spence Street, where his mother lived, and then in 1925, opening this store with his wife, Johanna. The Bonugli family remained in business here until 1970. Louis and Johanna Bonugli transferred the business to their son, Louis Bonugli, Jr., in 1954, a year before Johanna Bonugli passed away. The Bonuglis were typical small grocery owners of the time – they were associated with a national franchise, such as Rite-Way Stores in the 1930s, and Red and White Grocery Stores in the 1940s and 1950s. This affiliation allowed them greater buying power for national brands and products, and got them publicity in the newspaper ads for national brands. The Bonuglis continued as a major force in the neighborhood grocery business for many years – newspaper stories in the Austin American and Statesman detail Louis Bonugli's continued involvement with retail grocery associations in the city as well as charitable and civic events. That these neighborhood groceries held on through the 1950s and 1960s with the construction of large supermarkets, some even by chains such as Piggly-Wiggly and Red and White, is evidence of the importance of the Bonugli store and others like it in the history of Austin neighborhoods. The Bonugli family business remained at this site until around 1970. Dorothy Savage had a thrift shop here in the 1970s; in the 1980s, the building became a residential rental unit, and in the early 1990s, it was the Casa Guadalupe Catholic Center. Exhibits related to the property's history and uses are attached. ***Please refer to Exhibit D (Historic Exhibits).***

Correspondence related to the rezoning request is also attached. ***Please refer to Exhibit E (Correspondence).***

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	SF-3-NP	Commercial, Residential
North	SF-3-NP, SF3-H-NP	Single family residences
South	SF-3-NP	Single family residences
East	SF-3-NP	Public primary educational facility
West	SF-3-NP	Single family residences, Professional office

RELATED CASES:

NUMBER	REQUEST	COMMISSION	COUNCIL
C14-2015-0109	SF-3-NP to GO-MU-NP	N/A Withdrawn by Applicant	N/A Withdrawn by Applicant
C14-00-2024 808 Spence Street	SF-3 to NO	N/A Withdrawn by Applicant	N/A Withdrawn by Applicant
C14-00-2102 East Cesar Chavez Neighborhood Plan (Associated Zoning File)	SF-3 to SF-3-NP	PC: Approved as Recommended by Staff	12/14/2000: Council approved Ord No. 001214-20 with the following conditions on Tracts 68, 74, & 78. The following uses are prohibited uses on Tracts 68 and 74: Administrative and business offices, Agricultural sales and services, Automotive repair services, Adult oriented businesses, Automotive rentals, Automotive sales, Automotive washing (of any type), Business or trade school, Campground, Commercial off-street parking, Communications services, Consumer convenience services, Convenience storage, Drop-off recycling collection facilities, Equipment repair services, Exterminating services, Funeral services, General retail sales (general), Hospital services (limited), Indoor entertainment, Kennels, Limited warehousing and distribution, Maintenance and service facilities, Off-site accessory parking, Pawn shop services, Plant nursery, Research services, Restaurant (drive-in, fast food), Restaurant (general), Software development, Veterinary services, Outdoor entertainment, Transitional housing, Building maintenance services, Business support services, College and university facilities, Communications service facilities, Construction sales and services, Consumer repair services, Custom manufacturing, Electronic prototype assembly, Equipment sales, Financial services, General retail sales (convenience), Guidance services, Hotel-motel, Indoor sports and recreation, Laundry services, Local utility services, Medical offices (exceeding 5,000 s. f. of gross floor area), Outdoor sports and recreation, Personal improvement services, Professional office, Residential treatment, Restaurant (limited), Service station, Vehicle storage, Hospital services (general), Club or lodge, Transportation terminal. The following uses are conditional uses on Tracts 68 and 74: Art and craft studio (general), Congregate living, Cultural services, Medical office-not exceeding 5,000 square feet of gross floor area, Theater, Art and craft studio (limited), Counseling services, Food sales, Personal services, Pet services.
C14H-2009-0002 1001 Willow Street	SF-3-NP to SF-3-H-NP	HLC: 2/23/2009 PC: 2/23/2009 App. as Rec. by Staff	4/23/2009: Ord. No. 20090423-085 Approved as Recommended by Staff

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
San Marcos Street	56 ft.	30 ft.	Collector	No	No	Yes
Spence Street	50 ft.	30 ft.	Local	Yes	No	Yes

NEIGHBORHOOD ORGANIZATIONS:

Austin Neighborhoods Council
Waller Creek Conservancy
El Concilio Mexican-American Neighborhoods
East Cesar Chavez Neighborhood Planning Team
United East Austin Coalition
AISD
PODER
Tejano Town
Austin Heritage Tree Foundation
Preservation Austin
SELTexas
East Austin Conservancy
East Town Lake Citizens Neighborhood Organization
The Shore Condominium Association, Inc.
Friends of Rainey Street Historic District
Sierra Club, Austin Regional Group
Del Valle Community Coalition
Friends of Austin Neighborhoods
Downtown Austin Neighborhood Association
Friends of the Emma Barrientos MACC
Guadalupe Neighborhood Development Corporation
Rainey Business Coalition

CITY COUNCIL DATE/ACTION:

June 8, 2017:

May 18, 2017: *TO GRANT POSTPONEMENT REQUEST BY STAFF TO JUNE 8, 2017, ON CONSENT (11-0).*

ORDINANCE READINGS:

ORDINANCE NUMBER:

CASE MANAGER: Heather Chaffin

E-MAIL: heather.chaffin@austintexas.gov

PHONE: 512-974-2122

STAFF RECOMMENDATION:

Staff supports the rezoning request, with conditions. Staff supports a change from family residence-neighborhood plan (SF-3-NP) combining district zoning to limited office-mixed use-conditional overlay-historic landmark-neighborhood plan (LO-MU-CO-H-NP) combining district zoning.

Staff recommends the property be limited to only the land uses permitted in neighborhood office-mixed use (NO-MU) combining district. This would result in the following LO land uses being prohibited on the property: Communication services, Medical offices (exceeding 5,000 square feet), Medical offices (less than 5,000 square feet), Off-site accessory parking, Personal services, Club or lodge, Convalescent services, Cultural services, and Hospital service (limited).

The subject property was initially developed as a commercial use in the mid- to late- 1920s, and contained commercial land uses for most of its history. Additionally, the property is already developed with larger structures and paved areas than are permitted in SF-3 or NO zoning districts. The existing SF-3 zoning classification does not reflect the existing conditions that have been in place for decades. Rezoning the property to LO-MU (but limited to NO land uses) allows the property to come into a greater degree of compliance with site development regulations, as well as have a range of residential and low-intensity office and commercial uses.

The Bonugli Store building has great significance in representing the bygone era of "mom-and-pop" grocery stores that were once common in older Austin neighborhoods. These stores were fixtures in the neighborhoods they served, and the fact that this store remained in the same family for over 50 years is a testament to the importance of these neighborhood centers. Many of these stores were owned and operated by immigrant families, or their first-generation American children, and many of the early grocers in East Austin were Italians, like Michael Bonugli, the patriarch of this family. The Bonugli store retains a high degree of integrity, and is recognizable as a store, whereas many smaller grocery ventures were either located in a room of a private house, or in a small outbuilding. This building was built as a commercial building, with its cutaway corner and stepped parapet roof. Its identity is very significant in telling the story of the pattern of development in this old East Austin neighborhood and as the city as a whole. The building is recommended for local landmark designation in the East Austin Historic Survey (2016), and H- zoning is recommended for the property.

1. ***The proposed zoning should be consistent with the purpose statement of the district sought.***
City Code states that,
"Limited office (LO) district is the designation for an office use that serves neighborhood or community needs and that is located in or adjacent to residential neighborhoods. An office in an LO district may contain one or more different uses. Site development regulations and performance standards applicable to an LO district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment."

The existing and historic uses of the property demonstrate the property's use as office and commercial. By further reducing the land uses to Neighborhood Office (NO) uses, the property will have less intense uses occupying the property.

2. ***Zoning should allow for reasonable use of the property.***
Under the current SF-3-NP zoning, the main building, which has a commercial façade and finish out, could only be used for residential land use. Since the current land use and structures do not comply with SF-3 regulations, it

may not be possible to obtain permits for remodel or redevelopment of the property. Additional site information is needed to make this determination.

SITE PLAN

SP1. Site plans will be required for any new development other than single-family or duplex residential.

SP2. 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.

SP3. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

SP4. The site is subject to compatibility standards. Along the west property line, the following standards apply:

No structure may be built within 25 feet of the property line.

No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.

No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.

No parking or driveways are allowed within 25 feet of the property line.

A landscape area at least 25 feet wide is required along the property line. In addition, a fence, berm, or dense vegetation must be provided 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, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.

An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.

A landscape area at least 15 feet in width is required along the property line if tract is zoned MF-3, MF-4, MF-5, MH, NO, or LO.

A landscape area at least 25 feet in with is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.

Additional design regulations will be enforced at the time a site plan is submitted.

SP5. FYI- This site is located within the following overlays- National Register of Historic District Overlay, the East Cesar Chavez NP, and the Convention Center Conditional Overlay additional comments may be generated during the site plan review process.

TRANSPORTATION

TR 1. 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]

TR 2. Chad Crager, Urban Trails, Public Works Department and Nathan Wilkes, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

TR 3. Additional right-of-way maybe required at the time of subdivision and/or site plan.

TR 4. FYI – it does not appear that on-site parking is provided for the existing office. The on-site parking shall comply with the LDC and TCM parking requirements during the site plan application.

TR 5. Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
San Marcos Street	56 ft.	30 ft.	Collector	No	No	Yes
Spence Street	50 ft.	30 ft.	Local	Yes	No	Yes

ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Ladybird Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

2. Zoning district impervious cover limits apply in the Urban Watershed classification.

3. According to floodplain maps there is no floodplain within or adjacent to the project location.

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

5. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

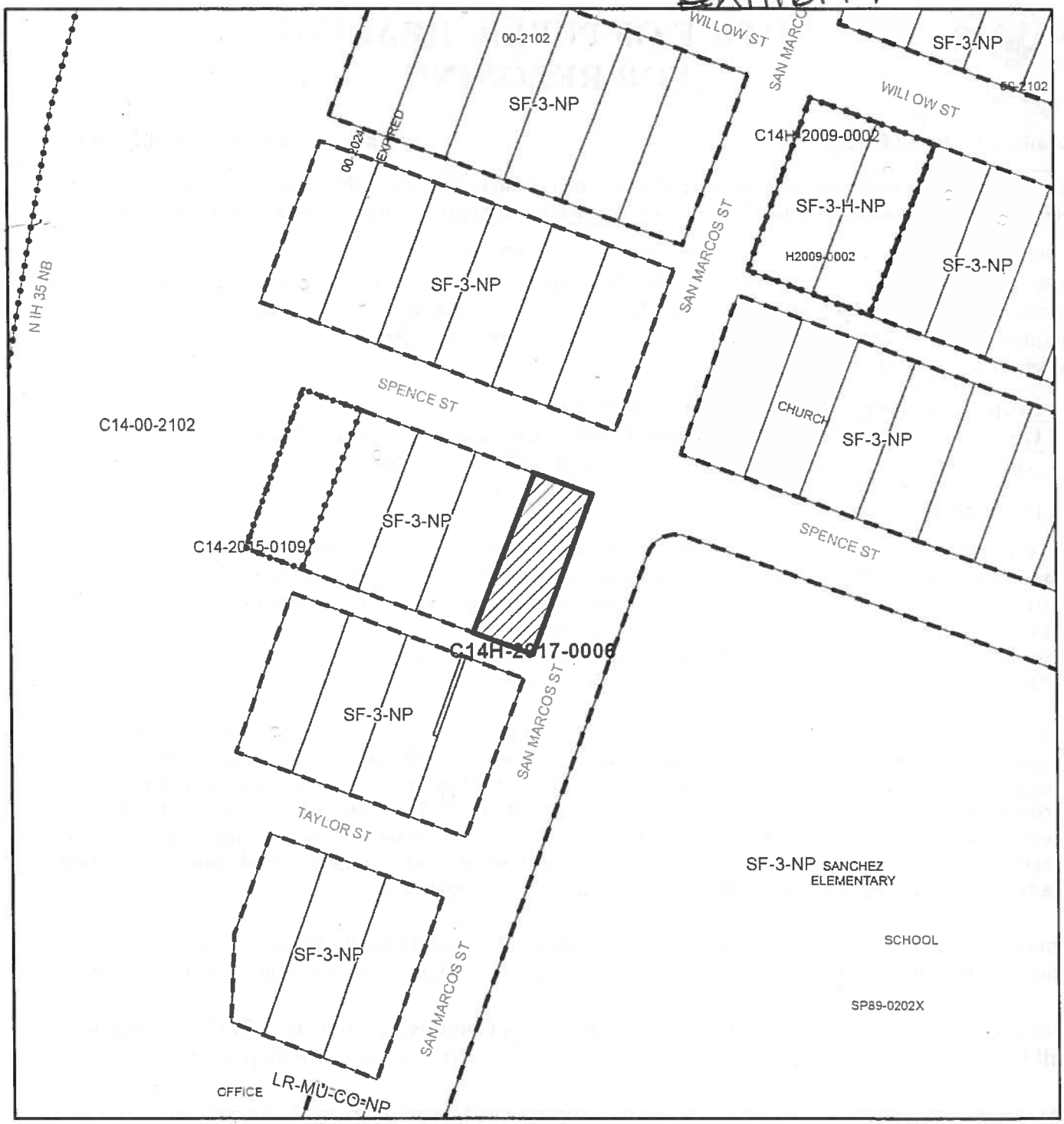
6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

WATER UTILITY

WW1. 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 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 the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. 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.

EXHIBIT A



ZONING

Case#: C14H-2017-0006

N

Subject Tract

Pending Case

Zoning Boundary

Railroads

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

1 " = 100 '

Created: 3/22/2017



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

CREEK BUFFER

1" = 100'

ZONING

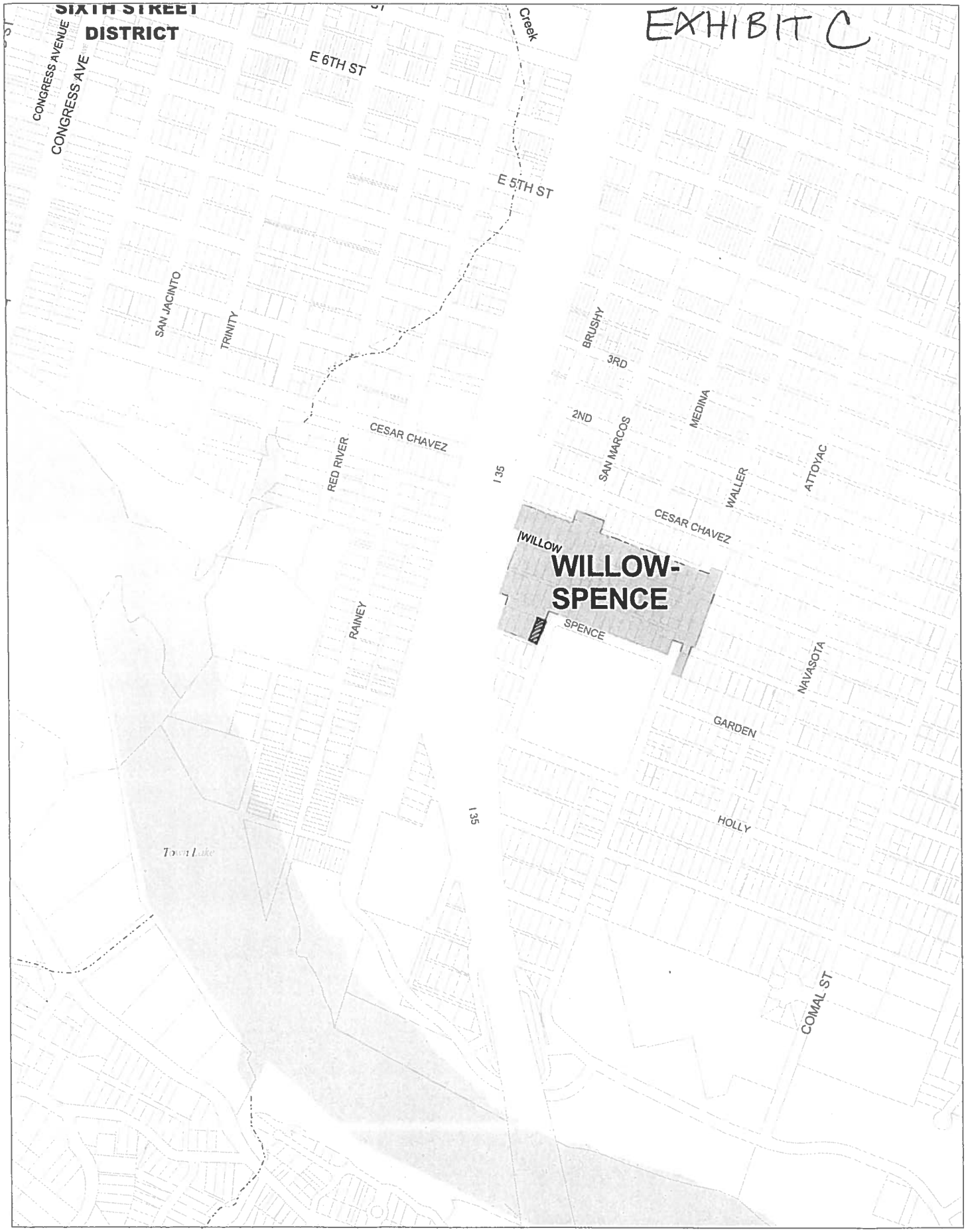
ZONING CASE#: C14-2017-0006
LOCATION: 79 SAN MARCOS ST.
SUBJECT AREA: .14 ACRES
GRID: J21
MANAGER: HEATHER CHAFFIN

CITY OF AUSTIN FOUNDED 1839

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National Register Historic Districts

EXHIBIT C



Willow-Spence

EXHIBIT D

76-78 San Marcos Street
ca. 1925

OCCUPANCY HISTORY
76-78 San Marcos Street

City Directory Research, Austin History Center
By City Historic Preservation Office
January, 2013

1992	76:	Ramon T. Guevara, renter Employed by Travis High School
	78:	Casa Guadalupe Catholic Center Rev. Elias Limon, pastor
1985-86	76:	Joel and Dora Almendaroz, renters No occupation listed
	78:	Jose A. and Mercedes Almenderez, renters Painter
1981	76:	Javier and Dora Almandarez, renters Laborer, Glastron Boat Company, 9108 Reid Drive.
	78:	Jose A. and Mercedes Almandariz, renters Employed by Castilian Cement (no listing in the directory). Also listed are Vicente and Trinidad Almandariz; neither had an occupation shown.
1977	76:	Rosalva Torrez, renter Homemaker Services for the Elderly
	78:	Dorothy's Thrift Shop, used clothing (Dorothy Savage, proprietor). NOTE: Dorothy Savage lived at 3203 French Place. Victor and Ascension Ramirez, renters Employed by Sta-Krisp Company, potato chips, 1623 Toomey Road.
1973	76:	Vacant
	78:	Dorothy's Thrift Shop, used clothing (Dorothy Savage, proprietor). A: Beatrice Gonzalez, renter No occupation listed
1968	76:	Frances Garcia, renter No occupation listed
	78:	Bonugli Red and White Grocery Louis M. Bonugli, Jr., proprietor
1965	76:	Vacant

	78:	Bonugli Red and White Grocery Louis M. Bonugli, Jr., proprietor James and Annie McCoy, renters U.S. Army
1962	76:	John and Catherine Mills, renters Salesman, Bruce Pie Company
	78:	Bonugli's Red and White Grocery and Market Louis M. Bonugli, Jr., proprietor Charles A. and Margie Barnett, renters Charles: U.S. Air Force Margie: Checker, Bonugli's Red and White Grocery and Market.
1959	76:	Vacant
	78:	Bonugli Red and White Grocery and Market Louis M. Bonugli, Jr., proprietor
1955	76:	Eugene T. and Ina M. Baker, renters U.S. Air Force
	78:	Bonugli's Red and White Grocery and Market Louis M. Bonugli, Jr., proprietor NOTE: Louis M., Jr. and Jewell Bonugli also lived on the premises.
1952	76:	Evelyn P. Schovajosa, renter Book-keeper, 1st Federal Savings and Loan, 917 Congress Avenue.
	78:	Bonugli's Grocery Louis M. Bonugli, proprietor NOTE: Louis M. and Johanna Bonugli lived at 80 San Marcos Street. NOTE: Louis M., Jr. and Jewell Bonugli lived at 78 San Marcos Street; he was the manager of Bonugli's Grocery.
1949	76:	Evelyn P. Schovajasa, renter Teller, 1st Federal Savings and Loan, 917 Congress Avenue.
	78:	Bonugli's Grocery Louis M. Bonugli, proprietor NOTE: Louis M. and Johanna Bonugli lived on the premises. NOTE: Louis M., Jr. and Jewell Bonugli also lived on the premises; he was a clerk at Bonugli's Grocery.
1947	76:	Strugaus H. and Rachel Womack, renters Division manger, Sears, department store, 900-02 Congress Avenue.
	78:	Louis and Johanna Bonugli, owners Grocery, but the address is shown as 909 Spence Street.

		Also listed is Louis Bonugli, Jr., a clerk at Bonugli's Grocery, 909 Spence Street.
1944-45	76:	Ned E. and Viola Lee, renters Manager, Bonugli's Grocery, 909 Spence Street. NOTE: Viola Lee was the daughter of Louis and Johanna Bonugli.
	78:	Louis and Johanna Bonugli, owners Grocery, 909 Spence Street.
1941	76:	Ned E. and Viola Lee, renters Deputy sheriff NOTE: Viola Lee was the daughter of Louis and Johanna Bonugli.
	78:	Louis and Joanna Bonugli, owners Grocery, 909 Spence Street Also listed is Louis Bonugli, Jr., a clerk at Bonugli's Grocery.
1939	76:	The address is not listed in the directory.
	78:	Louis and Joanna Bonugli, owners Grocery, 909 Spence Street Also listed is Louis Bonugli, Jr., a clerk at Bonugli's Grocery.
1937	78:	Louis and Joanna Bonugli, owners Grocery, 909 Spence Street Also listed is Louis Bonugli, Jr., a clerk at Bonugli's Grocery.
1935	78:	Louis and Joanna Bonugli, owners Grocery, 819 Spence Street – the former address for 909 Spence Street. Also listed is Louis Bonugli, Jr., a clerk at Bonugli's Grocery.
1932-33	78:	Louis and Joanna Bonugli, owners Grocery, 78 San Marcos Street. Also listed is Louis Bonugli, Jr., no occupation shown.
1930-31	78:	Louis and Johanna Bonugli, owners Grocery, 819 Spence Street Also listed are Viola Bonugli, a cashier at the P-K Sandwich Shop, 108 E. 7th Street, and across from the University of Texas on Guadalupe Street.
1929	78:	Louis and Johanna Bonugli, owners Grocery, 819 Spence Street. Also listed is Viola Bonugli, no occupation shown.
1927	78:	Louis and Johanna Bonugli, owners Grocery, 819 Spence Street.
1924	The address is not listed in the directory.	

NOTE: Louis and Johanna Bonugli are listed at 1001 Spence Street; they had a grocery business there. 1001 Spence Street would have been on the southEAST corner of Spence and San Marcos Streets; this building is on the southWEST corner.

BIOGRAPHICAL NOTES:

The 1940 U.S. Census shows Louis and Johanna Bonugli as the owners of the building at 78 San Marcos Street, which was worth $3,500. Louis Bonugli was 56, had been born in Texas, and was a grocery man. Johanna Bonugli was 49, had been born in Denmark, and had no occupation listed. With them lived their son, Louis Bonugli, Jr., 24, who had been born in Texas and was a clerk in a grocery store.

At 76 San Marcos Street lived Ned E. and Viola Lee, who rented the house. Ned E. Lee was 33, had been born in Texas, and was a deputy sheriff. Viola Lee was 28, had been born in Texas, and had no occupation listed.. They had a daughter, Latrelle Lee, 7, who had been born in Texas.

LEE-BONUGLI IS PRETTY WEDDING

In an early fall wedding solemnized Monday evening at the Ward Memorial Methodist church, Miss Viola Bonugli, daughter of Mr. and Mrs. Louis Bonugli, became the bride of Ned E. Lee of Austin with the Rev. H. H. Bain, pastor of the church, reading the ceremony.

The altar was banked with fern against which baskets of pink roses were placed, and similar floral decorations adorned the church.

The wedding music was played by Miss Dorothy Erwin at the organ, who also played the accompaniment for Mrs. Lyman J. Bailey's nuptial solo, "I Love You Truly."

The bride was attended by Miss Katherine Pinckney as maid of honor, who wore blue satin and carried pink roses, and by Misses Ruth Pinckney and Erna Guttman as bridesmaids. The bridesmaids' frocks were of satin, made with fitted bodice and long full skirts. Miss Pinckney's was of burnt orange and Miss Guttman's of peach, and both carried roses.

The bridegroom was attended by his brother, Ira Lee of Taylor, as best man, and the groomsmen were J. W. Nunnery and Ladner Nau.

The bride, who was given in marriage by her father, wore a model in white satin, fashioned in the new silhouette and with short lace jacket. Her tulle veil was caught at the head with orange blossoms, and she carried a bride's bouquet of white roses and lilies of the valley.

After the ceremony, a wedding reception was held at the home of the bride's parents, and later in the evening Mr. and Mrs. Lee left for a trip to Houston and Galveston. They will make their home in Austin.

Story on the wedding of Viola Bonugli and Ned E. Lee
Austin Statesman, September 8, 1931

The 1930 U.S. Census shows Louis and Johanna Bonugli as the owners of the structure at 78 San Marcos Street, which was worth $8,000. Louis Bonugli was 46, had been born in Texas to an Italian-born father and a Texas-born mother, and was a merchant.

Johanna Bonugli was 39, had been born in Denmark, and had no occupation listed. She had immigrated to the United States in 1899 and was a naturalized citizen. They had 2 children: Louis, Jr., 14; and Viola, 18. Both had been born in Texas and neither had an occupation listed. With them lived Johanna's mother, Dortha Harton, an 81-year old Danish-born widow, who had immigrated to the United States in 1899 and had no occupation listed. She was a naturalized citizen. There is no listing for any structure at 76 San Marcos Street in the census report.

The 1920 U.S. Census shows the Bonugli family living at 1001 Spence Street. Louis Bonugli was a merchant with a grocery store. No other family member had an occupation listed.

Johanna Bonugli died in 1955 in Austin; her death certificate shows her permanent address as 80 San Marcos Street. She was born in Denmark and was a housewife. His 1960 death certificate shows that Louis M. Bonugli, Sr. died on Christmas Day, 1960 at the Delwood Nursing Home. His permanent address is listed as 75 San Marcos Street. He was born June 30, 1883 in Austin to Michele Bonugli and Mary Walters, and was a retired grocery man. He was a widower.

Mrs. Bonugli Dies at Her Home Here

Mrs. Louis Bonugli Sr., 64, who for almost 40 years helped her husband operate the L. Bonugli Red & White Grocery and Market at 78 San Marcos, died early Saturday at her home next to the store.

Mrs. Bonugli came to Austin from Denmark with her family when she was nine years old and had lived here ever since.

The Bonuglis turned over the operation of the store to their son, Louis Bonugli Jr., a year and a half ago. They had started the store in that same spot.

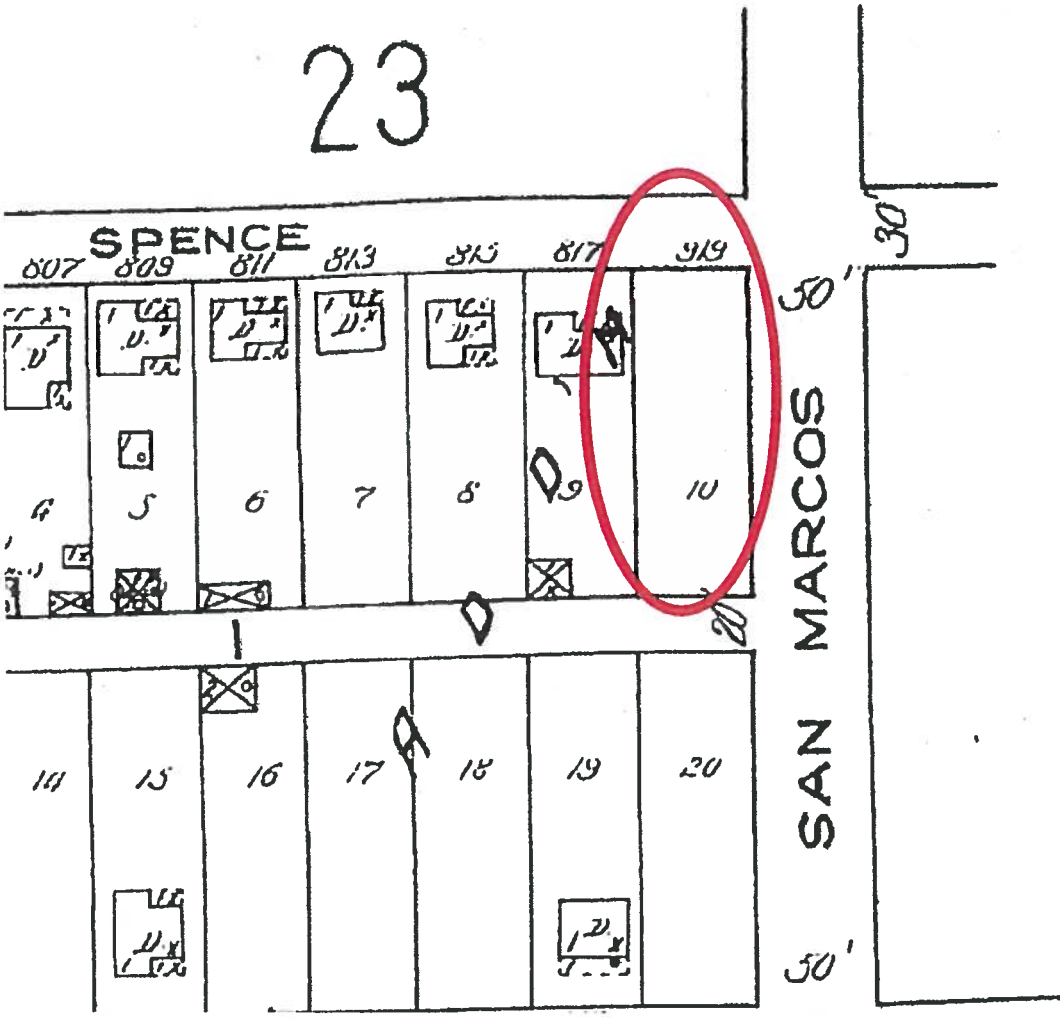
She belonged to Ward Memorial Methodist Church where she was active in church work, and to the Retail Grocers Auxiliary.

She is survived by her husband, Louis Bonugli Sr.; a daughter, Mrs. N. E. (Speedy) Lee; her son, Louis Bonugli Jr.; two grandchildren and two great grandchildren, all of Austin; three brothers, Chistian Harton of Austin, Peter Harton and Lauritz Harton, both of Danevang, Texas.

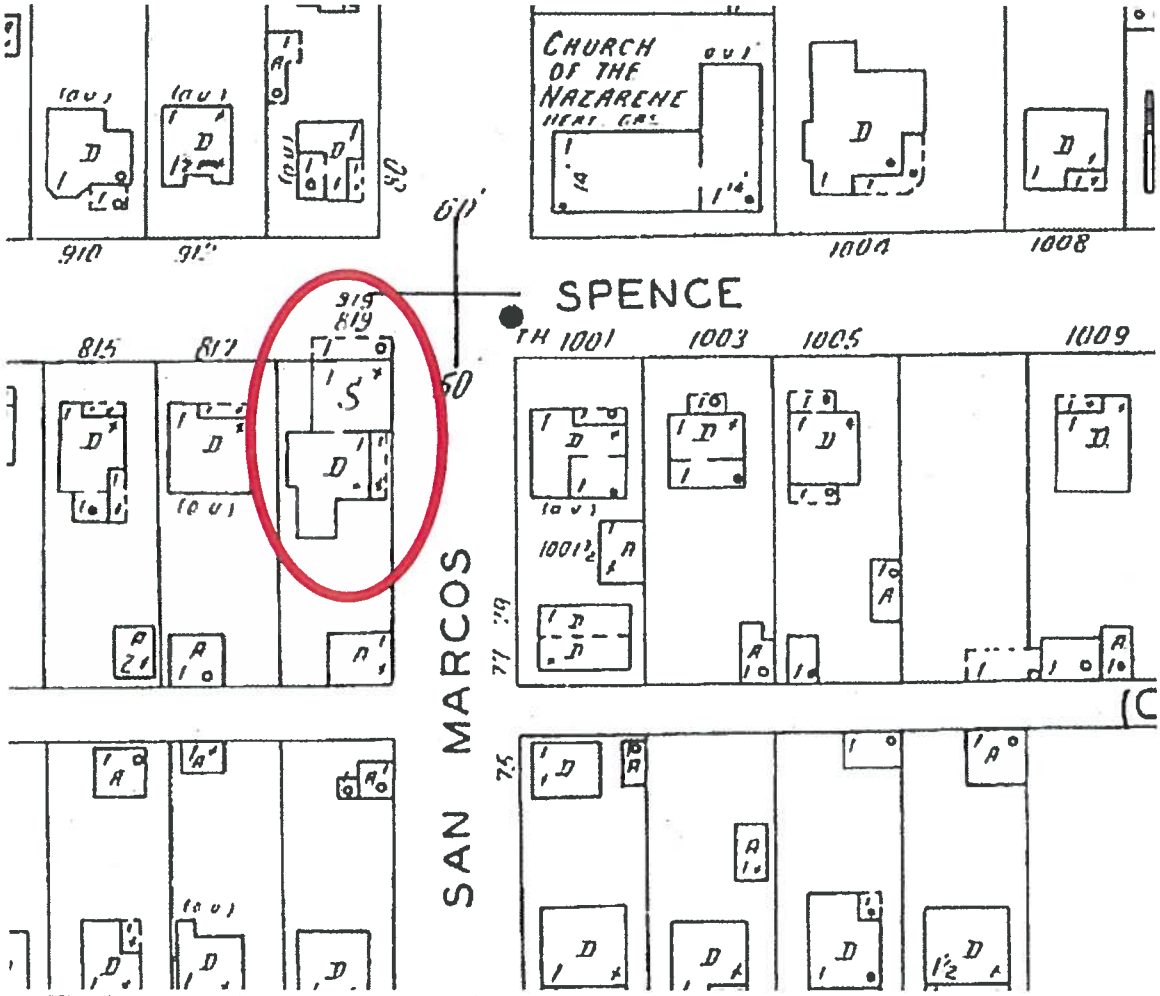
Funeral services will be held at Cook Funeral Home Sunday at 4:30 p.m. The Rev. Fred P. Bishop, will officiate, assisted by the Rev. Reginald Hardy of San Antonio and by the Rev. E. W. Wells of Dallas, formerly of Austin.

Burial will be in Capitol Memorial Gardens. Pallbearers will be Bill Harton, Hans Harton Jr., Verner Harton, Otto Harton and Elner Harton.

News story on the death of Johanna Bonugli
Austin American-Statesman, April 17, 1955



The 1922 Sanborn map shows the site of the current store and house as vacant.



The house and store appear on the 1935 Sanborn map with the old address of 819 Spence Street.

Thrower Design

510 S. Congress Avenue, Ste. 207
P. O. Box 41957
Austin, Texas 78704
(512) 476-4456

EXHIBIT E

January 25, 2017

Mr. Greg Guernsey
Director
Planning and Zoning Department
City of Austin
PO Box 1088
Austin, Texas 78767

RE: Rezoning, 78 San Marcos Street

Dear Mr. Guernsey,

This firm represents the owner of the property for the above referenced address. The following application for rezoning is being submitted and is associated with the NPA application, currently under review by the City of Austin, NPA-2016-0002.01.

The property is located in the East Cesar Chavez Neighborhood Planning Area, is a contributing structure to the Willow-Spence National Register Historic District, and has SF-3-NP zoning. The SF-3 zoning district does not conform to the longstanding commercial use of the site, established in the 1930's. The Owner wishes to rectify the non-conformity and also seek historic zoning so as to further protect the historic buildings onsite.

A rezoning to Neighborhood Office-Mixed Use-Historic Site-Neighborhood Plan (LO-MU-H-NP) is requested with this application. The LO-MU combining district will allow small scale offices uses that are neighborhood serving and will also allow the property to be used, in whole or part, for residential purposes. Additionally, the Historic Site (H) overlay will ensure that the historic structures will remain on the property which is congruent with the recommendations made in the most recent East Austin Historic Resources Survey, completed in 2016.

A successful rezoning to LO-MU-H-NP will benefit the community by providing certainty of future use of the property and will provides space for a compatible use that is neighborhood serving and

will substantially increase preservation of the character of the Historic District. With this, we respectfully request favorable consideration and support for the rezoning to LO-MU-H-NP.

Should you have any questions or need additional information, please contact me at my office.

Sincerely,

A. Ron Thrower

A. Ron Thrower



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

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.austintexas.gov/planning.

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: C14H-2017-0006
Contact: Heather Chaffin, 512-974-2122
Public Hearing: April 24, 2017, Historic Landmark Commission
May 9, 2017, Planning Commission
May 18, 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
Signature

4-7-2017
Date

Daytime Telephone: 512-476-0290

Comments:

If you use this form to comment, it may be returned to:
City of Austin
Planning & Zoning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

Received 4-12-2017

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.

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Case Number: C14H-2017-0006
Contact: Heather Chaffin, 512-974-2122
Public Hearing: April 24, 2017, Historic Landmark Commission
May 9, 2017, Planning Commission
May 18, 2017 Planning Commission

MARIA PALOMARES
Your Name (please print)

☐ I am in favor
☑ I object

80 SAN MARCOS ST AUSTIN TX 78702
Your address(es) affected by this application

maria Palomares 4/13/17
Signature *Date*

Daytime Telephone: (512) 478-8910

Comments: THIS IS A RESIDENTIAL NEIGHBORHOOD NOT A RETAIL SPACE. WE ALSO DO NOT WANT TO MAKE A PRECEDENT WHICH MAY ALLOW THE PROPERTY TO BECOME A RESTAURANT OR WORSE A BAR OR HOTEL. THIS IS A HISTORIC NEIGHBORHOOD FULL OF FAMILIES AND CHILDREN THIS IS NOT WHAT WE NEED

If you use this form to comment, it may be returned to:
City of Austin
Planning & Zoning Department
Heather Chaffin
P. O. Box 1088
Austin, TX 78767-8810

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