

## ZONING CHANGE REVIEW SHEET

CASE: C14-2021-0058  
Centro East

DISTRICT: 3

ZONING FROM: TOD-NP

TO: TOD-NP, to change a condition of zoning (As amended June 21, 2021)

ADDRESS: 1501, 1509 E. 6th Street & 1510 E. 5th Street

SITE AREA: 1.362 acres

PROPERTY OWNER:

6th & Onion East Master GP, LLP (Donald Reese)(Michael J. Whellan)

AGENT:

Armburst & Brown, PLLC

CASE MANAGER: Heather Chaffin (512-974-2122, [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov))

### STAFF RECOMMENDATION:

**Staff supports the Applicant's request for rezoning to TOD-NP to amend the Saltillo Plaza Transit Oriented District (TOD) Station Area Plan and Regulating Plan to allow a building height up to 90 feet.**

*For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

### PLANNING COMMISSION ACTION / RECOMMENDATION:

July 13, 2021: To grant TOD-NP, changing the maximum building height to 90 feet, on consent.

June 22, 2021: To grant postponement to July 13, 2021 as requested by Applicant, on consent.

June 8, 2021: To grant postponement to June 22, 2021 as requested by Staff, on consent.

### CITY COUNCIL ACTION:

August 26, 2021:

### ORDINANCE NUMBER:

**ISSUES:**

The Applicant proposes utilizing the Plaza Saltillo TOD Density Bonus tool which allows increased floor-to-area ratio (FAR) for developments that include affordable residential units or pays a fee-in-lieu to Housing and Planning Department (HPD). The Applicant has stated their intent to develop a mixed use project that includes multifamily, office and commercial land uses. They intend to provide on-site affordable multifamily units at 10% of the gross floor area per the TOD Density Bonus. To achieve the increased FAR, the Applicant requests increasing the building height from 60 feet to 90 feet. This includes updating the Station Area Plan (SAP) and Regulating Plan. The request also requires a Neighborhood Plan Amendment (NPA), which is being processed concurrent with the rezoning request (City File # NPA-2020-0002.02).

The rezoning request was originally filed requesting a maximum building height of 85 feet. After further discussions with the East Cesar Chavez Neighborhood Plan Contact Team (ECC NPCT), the Applicant revised the request to a maximum height of 90 feet due to variation in topography that affect calculations of building height under City Code. The Applicant has stated that they will enter into a private restrictive covenant to establish where the increased height will be located on the site.

**CASE MANAGER COMMENTS:**

The subject property is located between Onion Street and Comal Street and East 5<sup>th</sup> Street and East 6<sup>th</sup> Street. The property encompasses most of the block, with outparcels along Comal Street. The property is zoned TOD-NP, as are most surrounding properties. The property contains a vacant warehouse and parking lot. The outparcels to the east are developed with cocktail lounge and restaurant land uses. Across Comal to the east is a mixed use building with multifamily, personal services, restaurant and other commercial uses. This property is zoned TOD-CURE-NP. Across East 6<sup>th</sup> Street to the north are properties that are predominately developed with cocktail lounge uses. Across Onion Street to the west is property that is under construction with a proposed mix of office, commercial and restaurant uses. Directly south of the subject property, across East 5<sup>th</sup> Street is Plaza Saltillo Station.

***Please see Exhibits A and B- Zoning Map and Aerial Exhibit.***

Southwest of the subject property, extending from west from Onion Street to IH 35 are properties zoned TOD-CURE-NP. These properties, designated Tracts 1-6 on the Area Case Histories chart, were zoned together in 2016-2017 and utilized the CURE overlay to increase permitted building heights and modify other site development standards. The closest tract was granted a height increase to 68 feet; tracts closer to IH 35 were granted a mix of 68, 70, 80, and 125 feet of building height. Southeast of the subject property, at the northeast corner of 4<sup>th</sup> and Comal, is another property zoned TOD-CURE-NP that increased building height from 40 feet to 74 feet. The TOD-CURE-NP property that is east of the subject property did not utilize CURE to increase building height.

In August 2017, City Council approved a resolution to initiate code amendments to modify CURE, including removing the CURE overlay from east of IH 35. Consequently, the TOD Density Bonus is the only available tool to increase FAR or height. The maximum building height achievable using this tool is 90 feet, as requested by the Applicant. As stated in the

Issues section, the Applicant will provide on-site affordable multifamily units at 10% of the gross floor area per the Bonus program.

Staff supports the rezoning request. Increased density, a mix of land uses, and transit access are fundamental elements of Plaza Saltillo TOD. The regulating plan states that its purpose is, “to promote TOD principles intended to successfully integrate land use and transit by providing greater density than the community average, a mix of uses, and a quality pedestrian environment around a defined center; . . . to encourage development that serves people of all incomes and ages and provides a safe and welcoming environment for all types of households . . .” The proposed rezoning will allow greater density and provide housing opportunities for lower income residents. Multifamily housing at this location will benefit from direct access to transit, as well as walkable options for employment, services, and community amenities.

Staff has received correspondence in support of the request and describing the amended application. ***Please see Exhibit C- Correspondence.***

#### BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*
2. *The proposed zoning should be consistent with the goals and objectives of the City Council.*
3. *The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.*
4. *Zoning should promote clearly-identified community goals, such as creating employment opportunities or providing for affordable housing.*

TOD-NP zoning encourages increased density and locating residential land uses in close proximity to transit, employment and services. The Plaza Saltillo TOD, as adopted by Council, reflects their goals and objectives. The addition of affordable housing in the TOD also reflects Council goals, as well as Planning Commission policies. The mix of land uses and addition of affordable housing promotes clearly identified community goals.

#### EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	TOD-NP	Vacant warehouse
North	TOD-NP	Cocktail lounge
South	TOD-NP	Plaza Saltillo Station / Civic
East	TOD-NP	Multifamily, restaurant-limited and general, limited retail
West	TOD-NP	Office, commercial, restaurant (under construction)

NEIGHBORHOOD PLANNING AREA: East Cesar Chavez NP

CAPITOL VIEW CORRIDOR: No

TIA: Deferred to time of site plan

WATERSHED: Lady Bird LakeSCHOOLS:

Zavala Elementary School      Martin Middle School      Eastside Memorial High School

NEIGHBORHOOD ORGANIZATIONS:

East Austin Conservancy	Blackshear Prospect Hill
East Cesar Chavez Neighborhood Association	Austin Neighborhood Council
Friends of Austin Neighborhoods	Tejano Town
Greater East Austin Neighborhood Association	Neighbors United for Progress
Austin Lost and Found Pets	SELTexas
Del Valle Community Coalition	AISD
Capital Metro	Sierra Club
Bike Austin	Red Line Parkway Initiative
Homeless Neighborhood Association	Neighbors United for Progress
Preservation Austin	
Guadalupe Neighborhood Development Corporation	
East Cesar Chavez Neighborhood Planning Team	
Organization of Central East Austin Neighborhoods (OCEAN)	
Guadalupe Association for an Improved Neighborhood (GAIN)	
El Concilio Coalition of Mexican American Neighborhood Associations	

AREA CASE HISTORIES:

NUMBER / NAME	REQUEST	COMMISSION	CITY COUNCIL
C14-2021-0068 Fair Market Rezoning	TOD-NP to TOD-NP (increase height 60' to 85')	June 22, 2021: TBD	TBD
C14-2017-0105 4 East	TOD-NP to TOD-CURE-NP	11/14/2017: No recommendation	6/14/2018: To grant TOD-CURE-NP, increasing height from 40' to 74'
C14-2016-0049 Plaza Saltillo Tracts 4/5	TOD-NP to TOD-CURE-NP	1/10/2017: Grant as rec: The TOD density program establishes a maximum MFI level of 50%. Increase height from 60' (after density bonus) to 68' for a portion of Tract 1/2/3, Tract 4/5, and Tract 6.	3/2/2017: To grant as recommended by PC
C14-2016-0050 Plaza Saltillo Tracts 1/2/3	TOD-NP to TOD-CURE-NP	1/10/2017: Increase height from 60' (after density bonus) to 68 feet for a portion of Tract 1/2/3, Tract 4/5, and Tract 6. Increase height from 60' (after density bonus) to 70' for a portion of Tract 1/2/3. Increase height from	3/2/2017: To grant as recommended by PC with condition Tract 1 is limited to 70'

		60' (after density bonus) to 125' for office building on a portion of Tract 1/2/3.	
C14-2016-0051 Plaza Saltillo Tract 6	TOD-NP to TOD-CURE-NP	1/10/2017: Increase height from 60' (after density bonus) to 68 feet for a portion of Tract 1/2/3, Tract 4/5, and Tract 6. MFI levels up to 60%, including 30%, 50% and 60% MFI for Tract 6.	3/2/2017: To grant as recommended by PC
C14-2015-0054 901 East 901 and 917 E. 6 <sup>th</sup> Street	TOD-NP to TOD-CURE-NP	June 23, 2015: PC approved Staff rec. on consent (8-0) TOD-CURE-CO-NP. 1. max 2,000 v.p.d. 2. Veh access to 6 <sup>th</sup> prohibited 3. Storage rooms and restrooms inc 25-2-531	September 10, 2015: CC approved TOD-CURE-CO-NP as rec. on consent (11-0)
C14-2011-0091 Jaylee Limited (Arnold Oil) 1601& 1645 E. 6 <sup>th</sup> Street	TOD-NP to TOD-CURE-NP	August 27, 2013: PC approved Staff rec. on consent (8-0-1) TOD-CURE-NP: 1. Office Tract and MF Tract. 2. Tracts joined by a UDA and/or Shared Pkg Agreement. 3. Parking for both Tracts may be located on the MF Tract.	September 26, 2013: ORD NO. 20130926-100-CC approved TOD-CURE- NP as rec. on consent (11-0)

#### EXISTING STREET CHARACTERISTICS:

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E 5 <sup>th</sup> Street	80'	40'	Level 2	Yes	N/A	Yes
E 6 <sup>th</sup> Street	60'	40'	Level 2	Yes	N/A	Yes

#### ADDITIONAL STAFF COMMENTS:

##### Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Lady Bird 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.
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. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

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.

#### Site Plan

SP1. Any new development is subject to the Plaza Saltillo Transit-Oriented Development ordinance. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

#### Parks & Recreation

PR1: Parkland dedication will be required for the new residential units proposed by this development, multifamily with Plaza Saltillo TOD-NP zoning plus additional height, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended, as well as the Plaza Saltillo TOD Regulating Plan's Public Parks and Trails standards and requirements. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2). If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

#### Transportation

##### ASMP Assessment

Right of way dedication requirements for E 5th St and E 6th St were addressed with the recently approved subdivision of the site.

##### Transportation Assessment

This site must demonstrate compliance with the TIA approved with site plan SP-2019-0254C. TIA may be required amendment upon further review.

The adjacent street characteristics table is provided below:

Name	ROW	Pavement	Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E 5 <sup>th</sup> Street	80'	40'	Level 2	Yes	N/A	Yes
E 6 <sup>th</sup> Street	60'	40'	Level 2	Yes	N/A	Yes

#### Water Utility

AW1. 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

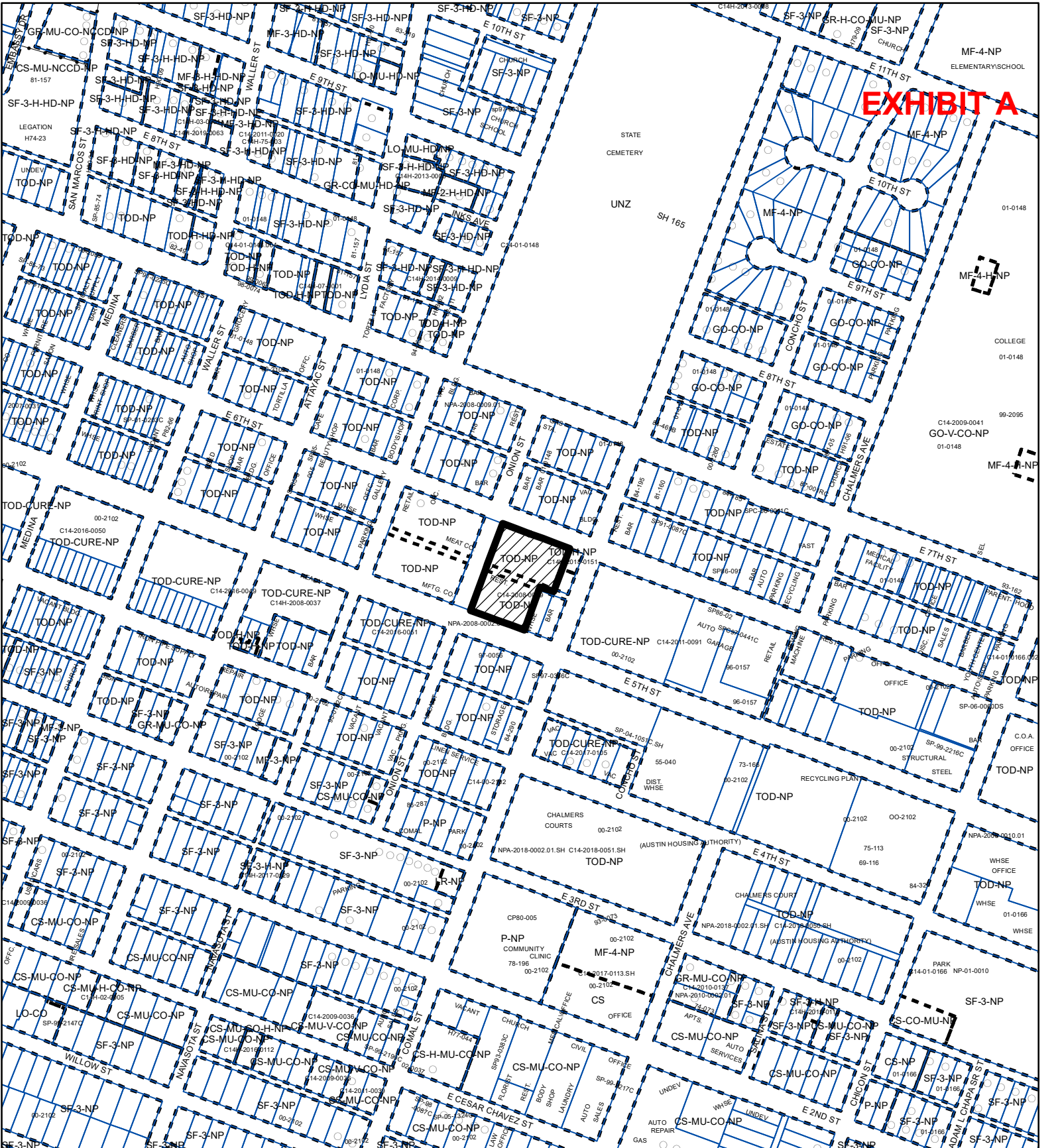
abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance. Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact Alberto Ramirez with Austin Water, Utility Development Services at 625 E. 10th St., 7th floor. Ph: 512-972-0211. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

#### INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Exhibit
- C. Correspondence



# EXHIBIT A



## ZONING

ZONING CASE#: C14-2021-0058

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 400'

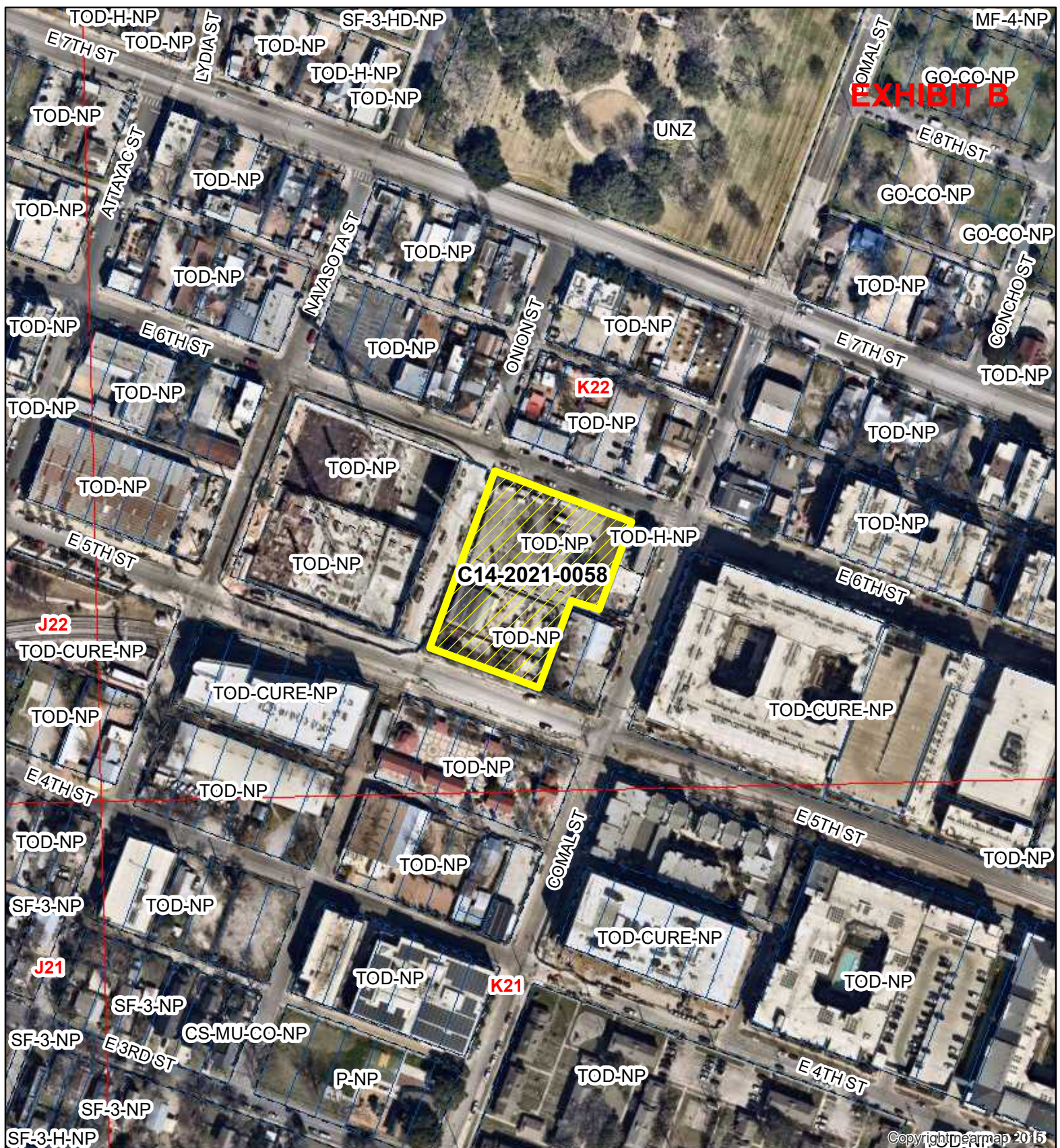
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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



Created: 4/7/2021





### Centro East

ZONING CASE#: C14-2021-0058  
 LOCATION: 1501 E 6th St  
 (aka 1509 E 6th St and 1510 E 5th St)  
 SUBJECT AREA: 1.362 Acres  
 GRID: K22  
 MANAGER: Heather Chaffin



C14-2021-0058

Creek Buffers

ZONING BOUNDARY

FULLY DEVELOPED FLOODPLAIN

1" = 200'

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





EXHIBIT C

June 01, 2021

Planning Commission, City of Austin

Via E-mail: [maureen.meredith@austintexas.gov](mailto:maureen.meredith@austintexas.gov), [Heather.Chaffin@austintexas.gov](mailto:Heather.Chaffin@austintexas.gov)

**RE: Plan Amendment Case: NPA-2020-0002.02  
Zoning Case #: C14-2021-0058**

Property Address: 1501 E. 6th Street (also known as 1509 East 6th Street and 1510 East 5th Street)

Dear Planning Commissioners,

Members of the ECC-NPCT attended the Virtual City Led Community Meeting regarding this project on the evening of September 24th and hosted a Special Meeting to further discuss this case following that event. In our Special Meeting, the applicant was able to quickly present building design reconsiderations that could produce the project at a height of 78 feet. We made good progress towards finding common ground between the applicant and the neighborhood. We trusted that given more time the expert team of architects and engineers on the applicants team would find ways to reduce the height of this project.

Our role is to preserve the integrity of our neighborhood plan and that of the Saltillo TOD. The Saltillo TOD was heavily researched, vetted, and considered by knowledgeable, capable folks. It's our plan. It's a smart plan, a good plan, one that feels good to the neighborhood, and one that says 60 feet is the appropriate height for buildings at this location.

Every 36 inches the ECC-NPCT gives away only adds 36 inches more to the next project's height increase request and our neighborhood suffers a slow "death by a thousand inches" if you will.

That said, as stewards of our neighborhood plan, projects that bring strong affordable housing components are welcomed and cannot be ignored. Increased height precedents have been established for projects that bring strong affordable housing and/or fee-in-lieu proposals to our team. Those precedents cap out at building heights of 75 feet.

The ECC-NPCT requested that the applicant seek solutions that cap the building height at 75 feet or less and we have requested that the applicant keep us informed of their progress. The applicant attended additional general meetings however no compromise on height was ever reached.

**On May 19, 2021 at a general meeting, the ECC-NPCT voted to support the applicant's proposal to amend the zoning height definition in this case to change the base maximum building height from 60 feet to 85 feet strictly contingent upon the delivery of family friendly affordable housing units as defined by the City of Austin Affordable Housing Development Incentive Policy for Transit Oriented Developments.**

This proposal is one of very few projects that come before the ECC-NPCT that add real value to the neighborhood by including critically needed affordable housing. We trust that the Planning Commission will keep the areas 75' height increase precedents in mind when vetting this decision. We recommend that the Planning Commission consider the applicant's proposal favorably.

*Page 2*

Sincerely,

*K Heaney*

**Kristen Heaney**

Chair

East Cesar Chavez Neighborhood Planning Team

CC:

ECCNPT *via e-mail*

Planning Commision *via e-mail*

Council Member Pio Renteria, *via e-mail*

# ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

FACSIMILE 512-435-2360

MICHAEL J. WHELLAN  
(512) 435-2320  
[mwhellan@abaustin.com](mailto:mwhellan@abaustin.com)

June 21, 2021

*Via email at [Heather.Chaffin@austintexas.gov](mailto:Heather.Chaffin@austintexas.gov) and [Maureen.Meredith@austintexas.gov](mailto:Maureen.Meredith@austintexas.gov)*

Heather Chaffin  
Maureen Meredith  
City of Austin

Re: Subject: 1501 E. 6<sup>th</sup> St. - Plan Amendment Case: NPA-2020-0002.02; Zoning  
Case C-14-2021-0058

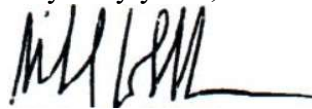
Dear Ms. Chaffin and Ms. Meredith:

Because we have engaged in further discussions with the East Cesar Chavez Neighborhood Planning Team, we would like to modify the Applicant's request in the above-referenced Neighborhood Plan Amendment and the Zoning Case to reflect ninety feet (90') of height, rather than eighty-five feet (85'). Independently, we have discussed entering into a private restrictive covenant with the neighborhood to restrict the height of the building to 85 feet as measured from the ground floor on E. 6<sup>th</sup> St. The combination of the site's slope and the way in which the City measures height necessitate this safeguard to ensure the building's proportions match those supported by the neighborhood.

We understand that the case will be postponed until the July 13, 2021 Planning Commission meeting and that we will be invoiced for the new notification.

Of course, I am happy to answer any questions.

Very truly yours,



Michael J. Whellan



June 23, 2021

Planning Commission, City of Austin

Via E-mail: [maureen.meredith@austintexas.gov](mailto:maureen.meredith@austintexas.gov), [Heather.Chaffin@austintexas.gov](mailto:Heather.Chaffin@austintexas.gov)

**RE: Plan Amendment Case: NPA-2020-0002.02  
Zoning Case #: C14-2021-0058**

Property Address: 1501 E. 6th Street (also known as 1509 East 6th Street and 1510 East 5th Street)

Dear Planning Commissioners,

The role of the East Cesar Chavez Neighborhood team is to preserve the integrity of our neighborhood plan and that of the Saltillo TOD. Both plans were heavily researched, vetted, and considered by knowledgeable, capable folks. They're our plans, smart plans, and plans that feel good to the neighborhood. They say that 60 feet is the appropriate height for buildings at this project's location.

That said, as stewards of our neighborhood plan, projects that propose strong affordable housing components in exchange for height variances are welcomed and cannot be ignored. Increased height precedents have been established for projects that bring strong affordable housing and/or fee-in-lieu proposals to our team. Those precedents cap out at building heights of 75 feet.

**On May 19, 2021 at a general meeting, the ECC-NPCT voted to support the applicant's proposal to amend the zoning height definition in this case to change the base maximum building height from 60 feet to 85 feet strictly contingent upon the inclusion of family-friendly units with a minimum of 2 bedrooms.**

**Furthermore, on June 17, 2021 at a general meeting, the parties clarified that support for an 85' height variance was strictly contingent upon the delivery of 10% of the gross square footage of affordable housing being committed to family friendly units with a minimum of 2 bedrooms.**

**Additionally, the ECC-NPCT voted to support a 90' height variance strictly contingent upon the delivery of 20% of the gross square footage of affordable housing being committed to family-friendly units with a minimum of 2 bedrooms. While the 90' zoning height would apply to the entire site, the building shall not be any taller than 85' height as measured from the ground floor elevation on E. 6th Street. The ECC-NPCT understands that a private Restrictive Covenant may be necessary to enforce the height limit on E. 6th Street.**

This proposal is one of very few projects that come before the ECC-NPCT that add real value to the neighborhood by including critically needed affordable housing. Additionally, it benefits from its location on a sloped site - the added height remains compatible with neighboring structures. This project only scratches the surface of the need for affordable units in our neighborhood and we hope to see more follow in its footsteps. We recommend that the Planning Commission consider the applicant's proposal favorably.

Sincerely,

*K Heaney*

**Kristen Heaney**

Chair

East Cesar Chavez Neighborhood Planning Team

CC:

ECCNPT *via e-mail*

Planning Commision *via e-mail*

Council Member Pio Renteria, *via e-mail*