

## RESTRICTIVE COVENANT REVIEW SHEET

CASE NUMBER: HR-2021-085731 and HR-2021-085739

DISTRICT: 9

EXISTING ZONING: CBD-H

HISTORIC NAME: Grandberry Building (C14H-1986-0015) and Mitchell-Robertson Building (C14H-2004-0008)

ADDRESS: 907 and 909 Congress Avenue

SITE AREA: .169 acres

PROPERTY OWNER: H. Dalton Wallace

AGENT: Drenner Group, P.C. (Leah Bojo)

CASE MANAGER: Elizabeth Brummett (512-974-1264, [elizabeth.brummett@austintexas.gov](mailto:elizabeth.brummett@austintexas.gov))

### PROJECT BACKGROUND:

The applicant intends to carefully deconstruct, store, and reconstruct the building façades at 907, 909, and 911 Congress Ave. as part of a redevelopment project at a later date. The Grandberry Building (907 Congress Ave.) and Mitchell-Robertson Building (909 Congress Ave.) are historic landmarks. The building at 911 Congress Ave. is part of the Congress Avenue National Register historic district but has been too altered to be eligible for landmark designation.

Per the applicant, stabilization and repair of the building façades in place is not technically feasible due to the extent of their deterioration, including mortar loss, shear failures and racking, and the infeasibility of shoring the façades during construction of a new tower behind them. The project will ultimately result in accurate reconstruction of the three façades to match their historic appearance, reusing historic materials to the greatest extent possible and accurately replicating missing or damaged elements.

The Historic Landmark Commission raised concerns that the façades could remain in storage indefinitely, with an end result tantamount to demolition rather than reconstruction of these significant buildings. In response, the applicant proposes to place a restrictive covenant on the two historic landmarks, requiring reconstruction of the façades within three years of their deconstruction.

### STAFF RECOMMENDATION:

Approve execution of the restrictive covenant.

### HISTORIC LANDMARK COMMISSION ACTION / RECOMMENDATION:

#### **July 26, 2021:**

The Commission voted 11-0-0 to approve a certificate of appropriateness to deconstruct, store, and reconstruct the façade of 907 Congress Ave.; to retain the façade of 909 Congress Ave. in place and deny the certificate of appropriateness to deconstruct, store, and reconstruct the façade; and to comment on and release the plans to deconstruct, store, and reconstruct the façade of 911 Congress Ave, on a motion by Commissioner Koch, seconded by Commissioner Larosche. The applicant has appealed the denial of the certificate of appropriateness for 909 Congress Ave. to the Planning Commission. The case will be considered on August 24, 2021.

The Historic Landmark Commission's motion did not address the proposed covenant; however, in discussion, commissioners requested that staff return to the Commission with other legal mechanisms to establish a timeline for reconstruction and enforcement requirements if timely reconstruction does not occur.

### CITY COUNCIL ACTION:

#### **September 2, 2021:**

RESTRICTIVE COVENANT RECORDING NUMBER:

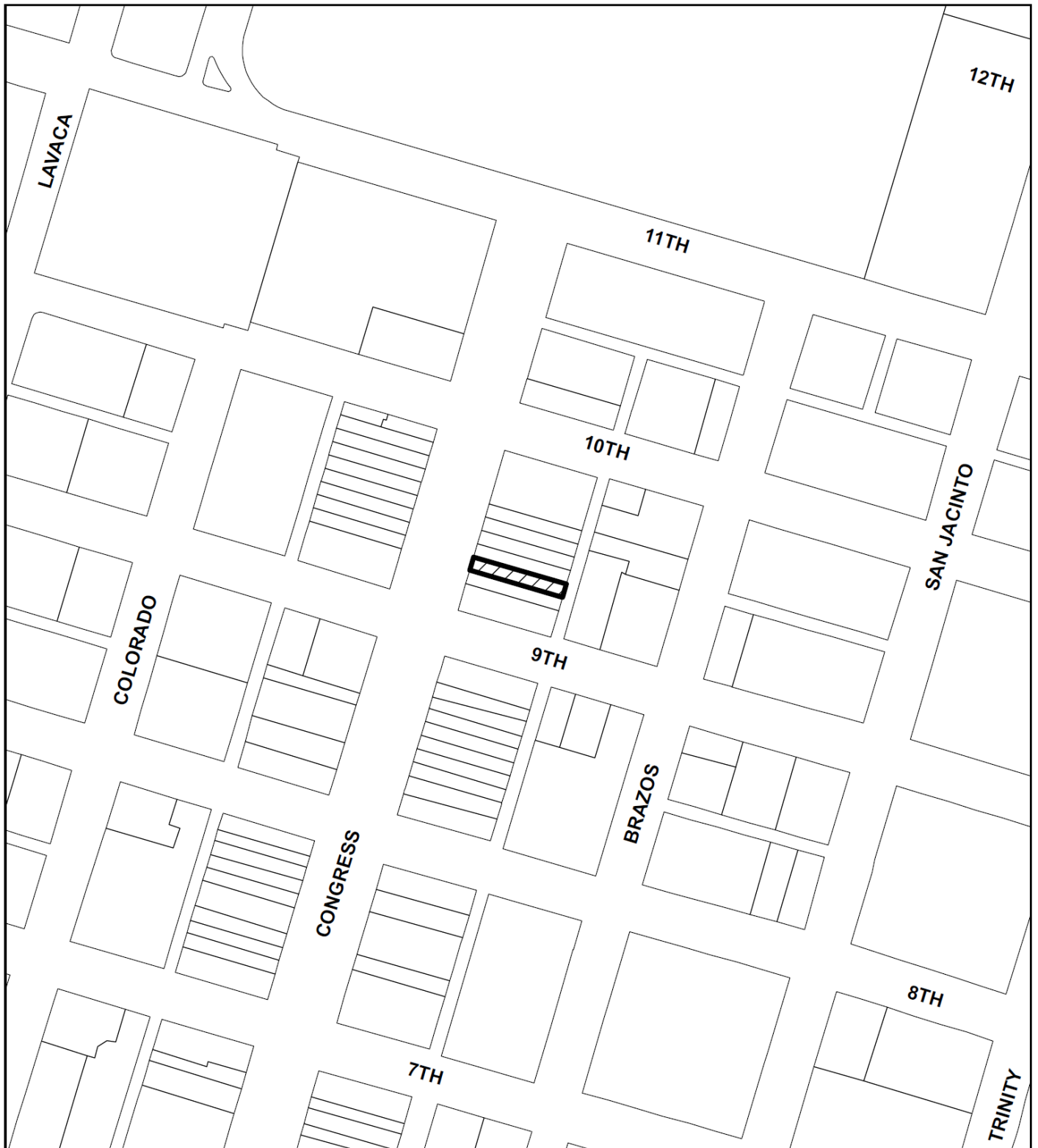
NEIGHBORHOOD ORGANIZATIONS: Austin Independent School District; Austin Lost and Found Pets; Austin Neighborhoods Council; City of Austin Downtown Commission; Downtown Austin Alliance; Downtown Austin Neighborhood Assn. (DANA); Friends of Austin Neighborhoods; Homeless Neighborhood Association; Neighborhood Empowerment Foundation; Preservation Austin; SELTexas; Sierra Club, Austin Regional Group

BASIS FOR RECOMMENDATION:

In accordance with Land Development Code [Chapter 25-11, Article 4, Division 2, Applications for Certificates](#), the Historic Landmark Commission issues certificates of appropriateness for work to historic landmarks, with consideration of how proposed work will affect significant architectural and historical features of a landmark. The Commission evaluates proposed work using the U.S. Secretary of the Interior's Standards for Rehabilitation, federal standards that guide historic preservation projects. While a certificate of appropriateness may specify how work is to be performed to meet these standards, it does not dictate a timeline for the project.

Tax Code [Chapter 11.1, Article 2, Partial Exemption for Historic Landmarks](#) establishes the parameters of the property tax incentive for historic landmarks. To be eligible for the tax exemption, landmarks must pass a periodic inspection conducted by City staff to establish that the property is being appropriately preserved and maintained and is in need of tax relief to encourage its preservation. [Section 11-1-28](#) indicates that a property that is rezoned to remove historic landmark designation is subject to additional tax equal to the amount of the tax exemption received over a maximum of five taxable years. Due to the condition of the buildings at 907 and 909 Congress Ave., they have failed the annual landmark inspection and been ineligible to receive the tax exemption in recent years. If the building façades were not reconstructed per the certificate of appropriateness, de-designation as landmarks could be considered, but this would not result in recapture of tax revenue.

In the interest of avoiding a prolonged period in which the historic building façades at 907 and 909 Congress Ave. remain in storage, the proposed restrictive covenant requires that the façades of these landmarks be reconstructed within three years of their deconstruction. The restrictive covenant has been reviewed and approved as to form by the Law Department. It is an appropriate legal instrument to supplement the requirements of the Land Development and Tax codes related to historic landmarks by establishing a timeline within which the requirements of the certificate of appropriateness must be fulfilled.



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

### NOTIFICATIONS

CASE#: HR 21-085731

LOCATION: 907 CONGRESS AVENUE

1" = 208'

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.

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SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

## NOTIFICATIONS

CASE#: C14H-2004-0008

LOCATION: 909 CONGRESS AVENUE

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1" = 292'





*Historic photograph of 909 Congress Ave. and 907 Congress Ave. (Texas State Optical sign), Historic Preservation Office files, no date.*





*907 Congress Ave. façade, Historic Preservation Office staff, May 2021.*





*907 Congress Ave. façade, Historic Preservation Office staff, May 2021.*





*909 Congress Ave. façade, Historic Preservation Office staff, May 2021.*