

**NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET**

**NEIGHBORHOOD PLAN:** Greater South River City Combined

**CASE#:** NPA-2019-0022.02

**DATE FILED:** July 24, 2019 (Out-of-Cycle)

**PROJECT NAME:** 305 S. Congress PUD

**PC DATES:** December 14, 2021

October 27, 2020

May 26, 2020

December 17, 2019

**ADDRESSES:** 305 South Congress Avenue

**DISTRICT AREA:** 9

**SITE AREA:** 18.858 acres

**OWNER/APPLICANT:** Richard T. Suttle, Jr. Trustee

**AGENT:** Armbrust & Brown, LLC (Richard T. Suttle, Jr.)

**CASE MANAGER:** Maureen Meredith, Housing & Planning Dept.

**PHONE:** (512) 974-2695

**STAFF EMAIL:** Maureen.Meredith@austintexas.gov

**TYPE OF AMENDMENT:**

**Change in Future Land Use Designation**

**From:** Industry

**To:** Mixed Use

**Base District Zoning Change**

**Related Zoning Case:** C814-89-0003.02

**From:** PUD-NP

**To:** PUD-NP

The Applicant is proposing to amend the planned unit development to modify the permitted land uses and site development regulations.

**NEIGHBORHOOD PLAN ADOPTION DATE:**

September 29, 2005

**CITY COUNCIL DATE:**

Date pending

**ACTION:****PLANNING COMMISSION RECOMMENDATION:***December 14, 2021 –*

*October 27, 2020* – Approved Staff’s request for an indefinite postponement on the consent agenda. [C. Hempel– 1<sup>st</sup>; C. A. Azhar – 2<sup>nd</sup>] Vote: 11-0 [J. Shieh absent. One vacancy on the Commission].

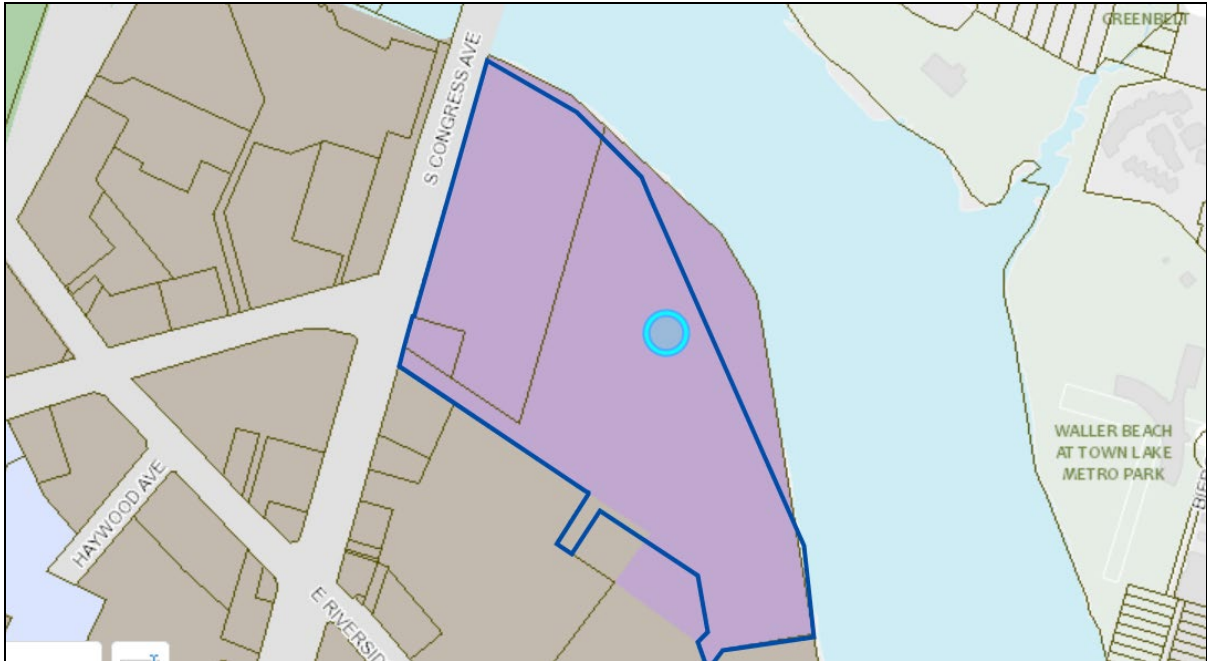
*May 26, 2020* – Approved Staff’s request for an indefinite postponement on the consent agenda. [C. Hempel – 1<sup>st</sup>; R. Schneider – 2<sup>nd</sup>] Vote: 12-0 [C. Llanes Pulido off the dais].

*December 17, 2019* – Approved on the consent agenda an indefinite postponement request made by staff. [P. Howard – 1<sup>st</sup>; Y. Flores – 2<sup>nd</sup>] Vote: 10-0 [Commissioners G. Anderson, C. Llanes-Pulido and T. Shaw off the dais].

**STAFF RECOMMENDATION:** Staff recommends the applicant’s request for Mixed Use land use.

**BASIS FOR STAFF’S RECOMMENDATION:** The property is an 18.86-acre tract of land that has been used as a printing and publishing facility for the Austin American Statesman newspaper. It is located on the south side of Lady Bird Lake and directly south of Downtown Austin. It is within the South Central Waterfront Overlay and the Greater South River City Combined Neighborhood Plan. The applicant proposes to change the land use on the future land use map from Industry to Mixed Use for office, retail, hotel, and residential uses, 4% of which will be affordable. To the west and south of the property is mixed use land use. The applicant’s request for mixed use land use is appropriate for this location. See FLUM map below. Mixed use land use is shown as brown on the map. Industry land use is shown as purple and Civic land use is shown as light blue.

Below are sections of the Greater South Austin Neighborhood Plan document that supports this request. The plan document mentions preservation of housing affordability and increasing housing types. The applicant proposes up to 1,378 residential units (55 units affordable) which will increase the housing options in the neighborhood and the city.



## Land Use and Historic Preservation

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Goal (A): Maintain the historic fabric and respect the established neighborhood character and natural assets.

Goal (C): Identify and develop criteria for density that result in a net benefit to the neighborhood.

***Objective: Preserve housing affordability and increase diversity of housing types.***

Recommendation C1: Identify areas where mixed use would enhance the livability of the neighborhoods and rezone accordingly. (NPZD)

Recommendation C2: Preserve existing multifamily housing. (SRCC)

Recommendation C3: Allow infill development to occur as indicated in Figure 7.10. (NPZD)

## Transportation

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Goal (D): Enhance the transportation network to allow residents to walk, bike, roll, ride, and drive safely.

***Objective: Improve pedestrian safety and mobility throughout the neighborhood.***

***Objective: Promote multi-modal approaches to improve mobility.***

Recommendation D27: Conduct a comprehensive transportation study of the neighborhood and develop recommendations to promote multi-modal transportation choices. (PW)

## **LAND USE DESCRIPTIONS**

### ***EXISTING LAND USE ON THE PROPERTY***

**Industry** - Areas reserved for manufacturing and related uses that provide employment but are generally not compatible with other areas with lower intensity use. Industry includes general warehousing, manufacturing, research and development, and storage of hazardous materials.

### **Purpose**

1. To confine potentially hazardous or nuisance-creating activities to defined districts;
2. To preserve areas within the city to increase employment opportunities and increased tax base;
3. To protect the City's strategic advantage as a high tech job center; and
4. To promote manufacturing and distribution activities in areas with access to major transportation systems.

### **Application**

1. Make non-industrial properties in areas with a dominant industrial character compatible with the prevailing land use scheme;



2. Where needed, require a buffer area for industrial property that abuts residentially used land;
3. Industry should be applied to areas that are not appropriate for residential or mixed use development, such as land within the Airport Overlay; 4. In general, mixed use and permanent residential activities are not appropriate in industrial areas. An exception may be the edge of an industrial area along the interface with an area in which residential activities are appropriate. Such exceptions should be considered case by case, with careful attention to both land use compatibility and design;
5. Industry should not be either adjacent to or across the road from single family residential or schools;
6. Use roadways and/or commercial or office uses as a buffer between residential and industry; and
7. Smaller scale “local manufacturing” districts may be appropriate in some locations to preserve employment opportunities and cottage industries of local artisans. In these areas, hazardous industrial uses (i.e. basic industry, recycling centers, and scrap yards) should be prohibited.

#### ***PROPOSED LAND USE ON THE PROPERTY***

**Mixed Use** - An area that is appropriate for a mix of residential and non-residential uses.

#### **Purpose**

1. Encourage more retail and commercial services within walking distance of residents;
2. Allow live-work/flex space on existing commercially zoned land in the neighborhood;
3. Allow a mixture of complementary land use types, which may include housing, retail, offices, commercial services, and civic uses (with the exception of government offices) to encourage linking of trips;
4. Create viable development opportunities for underused center city sites;
5. Encourage the transition from non-residential to residential uses;
6. Provide flexibility in land use standards to anticipate changes in the marketplace;
7. Create additional opportunities for the development of residential uses and affordable housing; and

8. Provide on-street activity in commercial areas after 5 p.m. and built-in customers for local businesses.

### **Application**

1. Allow mixed use development along major corridors and intersections;
2. Establish compatible mixed-use corridors along the neighborhood's edge
3. The neighborhood plan may further specify either the desired intensity of commercial uses (i.e. LR, GR, CS) or specific types of mixed use (i.e. Neighborhood Mixed Use Building, Neighborhood Urban Center, Mixed Use Combining District);
4. Mixed Use is generally not compatible with industrial development, however it may be combined with these uses to encourage an area to transition to a more complementary mix of development types;
5. The Mixed Use (MU) Combining District should be applied to existing residential uses to avoid creating or maintaining a non-conforming use; and
6. Apply to areas where vertical mixed use development is encouraged such as Core Transit Corridors (CTC) and Future Core Transit Corridors.

### ***IMAGINE AUSTIN PLANNING PRINCIPLES***

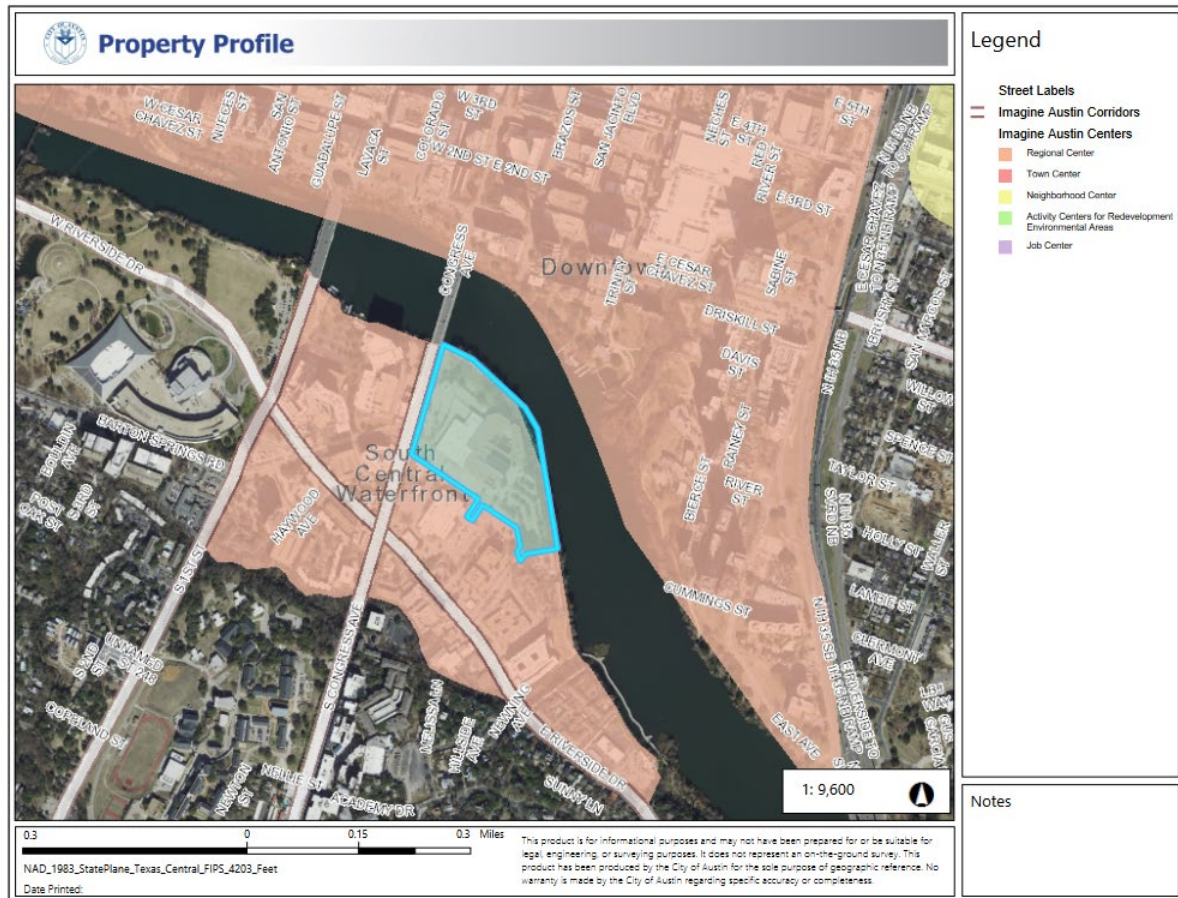
1. Create complete neighborhoods across Austin that provide a mix of housing types to suit a variety of household needs and incomes, offer a variety of transportation options, and have easy access to daily needs such as schools, retail, employment, community services, and parks and other recreation options.
  - ***The applicant proposes a mixed use development with retail, office, hotel and up to 1,378 residential uses, 4% will be affordable at 80% MFI for 40 years. The property is near public transportation, a range of retail and office uses are located along the major roadways South Congress Avenue and E. Riverside Drive.***
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 within the South Central Waterfront Regional Activity Center and south of the Downtown Regional Activity Center, as identified on the Imagine Austin Growth Concept Map. It is located on the east side South Congress Avenue and north of E. Riverside Drive which are activity corridors. The property is near public transportation and is in a walkable and bike-friendly environment.***

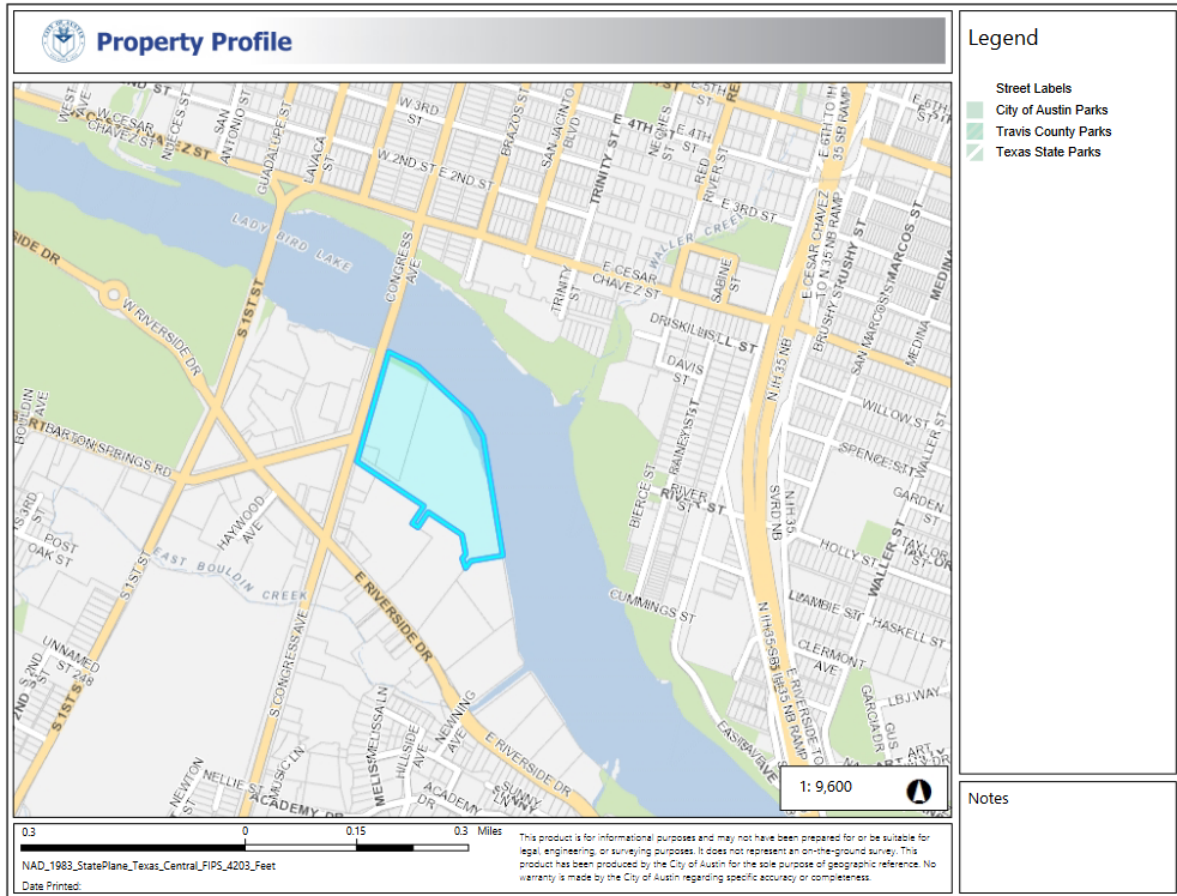
3. Protect neighborhood character by ensuring context-sensitive development and directing more intensive development to activity centers and corridors, redevelopment, and infill sites.
  - ***The property is within the South Central Waterfront Regional Activity Center and south of the Downtown Regional Activity Center. It is also on South Congress Avenue and north of E. Riverside Drive which are an activity corridors where mixed use developments are encouraged.***
4. Expand the number and variety of housing choices throughout Austin to meet the financial and lifestyle needs of our diverse population.
  - ***The development is proposed for up to 1,378 dwelling units, with approximately 55 units affordable.***
5. Ensure harmonious transitions between adjacent land uses and development intensities.
  - ***The current land use on the property is Industry, the proposed land use is Mixed Use. Directly to the west and south of the property is Mixed Use land use (shown in brown on the map below. Transitioning the property from Industry to Mixed Use is appropriate in this location.***



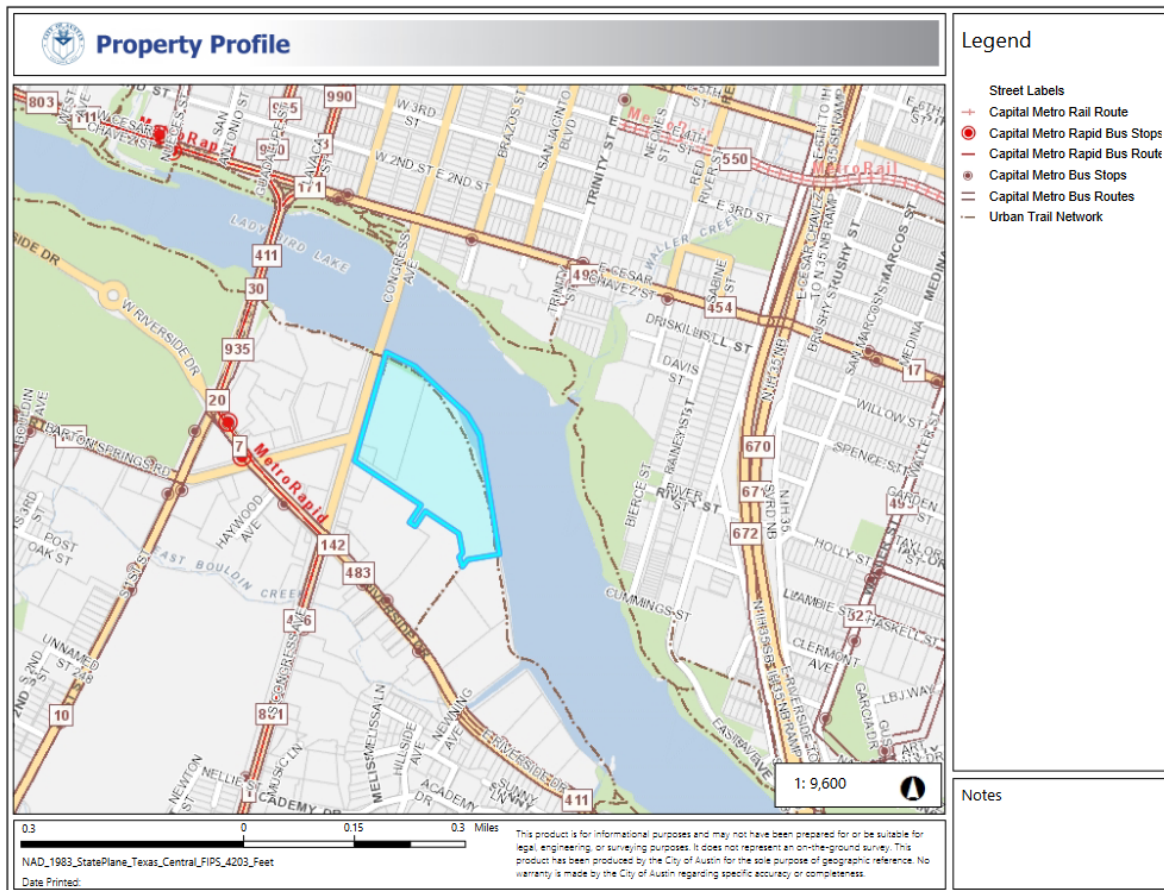
6. Protect Austin's natural resources and environmental systems by limiting land use and transportation development over environmentally sensitive areas and preserve open space and protect the function of the resource.
  - ***The property is not located in the Drinking Water Protection Zone.***
7. Integrate 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.
  - ***The proposed development will include water quality ponds and reconstructing 1700' liner feet of the hike and bike trail and will dedicate 6.54 acres of public parkland along Lady Bird Lake. See the zoning case report C814-89-0003.02 for more detailed information.***

8. Protect, preserve and promote historically and culturally significant areas.
  - ***To staff's knowledge there is no historic or cultural significance to this property.***
9. Encourage active and healthy lifestyles by promoting walking and biking, healthy food choices, access to affordable healthcare, and to recreational opportunities.
  - ***The property is in a walkable and bikeable area located near the Vic Mathias Shores at Lady Bird Lake Metro Park, the Roy and Ann Butler Hike and Bike Trail and the Long Center for the Performing Arts.***
10. Expand the economic base, create job opportunities, and promote education to support a strong and adaptable workforce.
  - ***The mixed use development is proposed to have up to 1,378 residential units, a 275-key hotel, 1,500,000 square feet of office space and 150,000 square feet of retail. This could create the opportunity for new job opportunities.***
11. Sustain and grow Austin's live music, festivals, theater, film, digital media, and new creative art forms.
  - ***The property is near downtown Austin where numerous music venues are located.***
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.
  - ***The property is not proposed as a public facility but will meet 2-Star Austin Energy Green Building Standards.***









## 305 South Congress Avenue

South River City, Austin, 78704

Commute to **Downtown Austin**

4 min
 14 min
 7 min
 27 min
 [View Routes](#)

[Favorite](#)
[Map](#)
[Nearby Apartments](#)

[More about 305 South Congress Avenue](#)

**Walk Score**  
**50**

**Somewhat Walkable**  
Some errands can be accomplished on foot.

**Transit Score**  
**66**

**Good Transit**  
Many nearby public transportation options.

**Bike Score**  
**90**

**Biker's Paradise**  
Daily errands can be accomplished on a bike.

[About your score](#)

## 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 24, 2019, which is out of cycle for neighborhood planning area located on the west side of IH-35. The month of February would normally be the out-of-cycle filing period. Jerry Rusthoven, Assistant Director of the Planning and Zoning Department at the time of filing, provided a memo to allow the out-of-cycle plan amendment and zoning change applications. The memo is provided in this report.

The applicant proposes to change the land use on the property from Industry to Mixed Use. The applicant proposes to amend the permitted land uses and site development regulations of the exist PUD zoning on the property. For more information, see the associated zoning case report for zoning case C814-89-0003.02.

**PUBLIC MEETINGS:** The ordinance-required community meeting was held on October 30, 2019. Approximately 222 community meeting notices were mailed to people who own property or have a utility account within 500 feet of the property, in addition to neighborhood and environmental groups who requested notification for the area on the Community Registry. Two staff members, Maureen Meredith and Alan Holt, attended the meeting. Four people associated with the application attended, Richard Suttle and Amanda Morrow from Armbrust and Brown, and Sander Mohn and Andy Pastor from Endeavor Real Estate Group. Five people from the neighborhood were also in attendance.

After the Richard Suttle gave a brief presentation, the following questions were asked.

***Q/C: I see Jerry Rusthoven wrote a memo saying the application was allowed to file out-of-cycle, but I don't see a memo from the Director of the Appropriate City Department that the Article 16 ordinance says is required. I want to see that letter.***

A: Existing PUD is not subject to current regulations

- (C) The director may accept an application regarding an individual property at a time other than as provided in Subsection (B) if the director determines that:
  - (1) prohibiting the filing would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect public health, safety, and welfare;
  - (2) a clerical error regarding the designated use of the subject property exists on the future land use map of the neighborhood plan or in the text of the plan;
  - (3) ***the person submitting the application has received a letter from the director of the appropriate City department stating that the project:***
    - (a) is not subject to current City environmental regulations, but is proposed to be developed under current City environmental regulations;***
    - (b) promotes the recruitment or retention of an employment center with 100 or more employees;
    - (c) is a S.M.A.R.T. Housing certified project in which at least 40 percent of the proposed units are reasonably priced as provided in Section 25-1-703(C) and (D) ( *Program Requirements* ); or
    - (4) council has initiated the application

***Q/C: You say in your Summary Letter that the Industry land use on the future land use map (FLUM) was put on the property in error. It was not an error.***

A: The assumption was made that industry was not the preferred future land use. There is future Mixed-Use land use all around the property with Industry on the river.

***Q: Our neighborhood passed a resolution saying we won't make a recommendation until the South Central Waterfront has community benefits in place. Why is the application done now? It's not ready to move forward.***

A. Like other properties in the Plan area, there comes a point where progress has to begin.

***Q/C: We have been looking for a Regulation Plan. We said no neighborhood would go for this without a regulation plan.***

A: We are going to try to march-on with the applications.

***Q: We want a chart that shows what's existing and what's proposed.***

A: We will get that to you. It's in the PUD file.

***Q: What about music and a sound barrier?***

A: We said we would talk about music and would be open to discuss this with you.

***Q: Will this be regulated under the TOD?***

A: No, it will be a PUD.

***Q: Have you done any testing on the site since it was an industrial use?***

A: We did an environmental survey and there was no recommendation for any environmental remediation.

***Q. The current industrial use does not generate many trips. Do you know how many trip the development will generate?***

A: We are still working on a traffic impact analysis. As far as current trips, we will provide that at a later date.

***Q/C. There was a purpose for industry land use on this property. The Austin American Statesman (AAS) had 600 employees, but only about 300 worked there. Congress Avenue is very backed-up with traffic trying to turn on E. Riverside Drive. Maybe you could try to get some rapid transit.***

A: We are in conversations with Capital Metro about reserving land to operate as a transit station for the Blue Line, but we don't know what mode it will be just yet.

***Q/C. Traffic around there is bad and AAS is not that busy.***

A: We are working on a traffic impact analysis.

***Q/C: We want the multifamily dwelling units created to be added to our expected contribution for our area.***

A: Our Master Plan currently contemplates about 1,378 residential units. Our Master Plan is subject to change based on market demand.

***Q. Will you have free parking? People will be parking in our neighborhood.***

A: Access to the parking will be controlled. Pricing for tenants and the public will be determined by the market.

***Q. Will you have underground parking? Are you concerned about flooding?***

A: Yes, we will have underground parking. Our structural engineers will be designing a parking structure that addresses the water table and Lady Bird Lake.

***Q. Have you discussed this with Watershed Dept.?***

A: Yes, and details will be worked out.

***Q. Have you received the Resolution from the South Central Waterfront Advisory Board?***

A. Yes, we received it.

***Q. Why are you building higher than the SCW Plan?***

A. Based on our analysis, 3.5 million gross square feet of density is required to create a project that both satisfies the community benefits outlined in the SCW Plan and is also financially viable. By placing the majority of the parking below grade, building taller and thinner buildings (rather than shorter and wider buildings as contemplated in the SCW Plan), and providing the land to extend Barton Springs Road on our site, we will be in a better position to realize the community benefits of improving access to and along the waterfront, connecting the city's street grid to the land in the South Central Waterfront District, creating a lively pedestrian environment and providing the land for a world class waterfront park accessible to everyone in our city.

***Q/C. You said you will need more capital to make the numbers work.***

A. Provided the zoning allows for the development of 3.5 million gross square feet on our site, an additional financial contribution from the city as contemplated in the SCWFD Plan would be required to fund the cost of the park and infrastructure (roads and utilities) on our site.

***Q/C. The transportation is not in place for you to build this, or what your Banker says to you need to build.***

A. Banks will provide construction financing for this project provided they conclude the developer has a high probability of paying off the loan or that the value of the improvements is sufficiently in excess of the loan amount. We are currently working on a Traffic Impact Analysis that will give more clarity to the effects on traffic from our development. We are also dedicating land to extend Barton Springs Road through our site to Riverside Drive, and reserving land for a future Cap Metro Blue Line Station.

**Applicant Summary Letter from Application**

December 14, 2021

**ARMBRUST & BROWN, PLLC**

ATTORNEYS AND COUNSELORS

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AUSTIN, TEXAS 78701-2744  
512-435-2300  
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Richard T. Suttle, Jr.  
(512) 435-2300  
rsuttle@abrustm.com

July 24, 2019

**VIA HAND DELIVERY**

Jerry Rusthoven  
Assistant Director  
City of Austin  
Planning and Zoning Department  
505 Barton Springs Road, 5<sup>th</sup> Floor  
Austin, Texas 78704

Re: Plan Amendment for 305 S. Congress Avenue

Dear Mr. Rusthoven:

This firm represents and this letter is written on behalf of the owner of the above referenced Property. We are submitting an application to amend the existing PUD associated with zoning case C814-89-0003 for property located at 305 S. Congress Avenue (the "Property").

**Background**

The existing Statesman PUD was approved in 1989. The permitted use within the Statesman PUD is Printing and Publishing. The other uses allowed within the PUD are Conditional Uses and are the uses described in the "L" zoning district and include a combination of office, retail and commercial uses. The permitted and conditional uses in the PUD are all Commercial uses under the code. There are no industrial uses permitted or conditional in the PUD or in the "L" zoning district.

**Greater South River City Neighborhood Plan FLUM**

The future land use map (the "FLUM") in the Greater South River City Neighborhood Planning Area ("GSR CNP") designates the Property (and existing PUD) as "Industry". The

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ARMBRUST & BROWN, PLLC

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designation appears to be in error because there are no industrial uses permitted or conditional on the Property, in the PUD, or in the “L” zoning district. Industrial use appears to be contrary to all of the previous plans, studies and recommendations for the shoreline of Ladybird Lake. The Land Development Code states that the “Use and development regulations applicable to an “L” district use are designed to ensure that the use is compatible and complimentary with the Town Lake environment”. Clearly the “Industry” designation on the FLUM was an error for future land uses.

#### South Central Waterfront Vision Framework Plan

In 2016 the City Council amended the Imagine Austin Comprehensive Plan when it adopted the South Central Waterfront Vision Framework Plan (“SCWP”). The SCWP calls for a mix of uses on the Property along with extensive waterfront parks and open space. While it appears the adoption of the SCWP amended previous plans in place, including the GSR CNP, there is language under “Regulatory Amendments” that indicates adoption of the SCWP “set in motion due process and the necessary steps to amend any existing plan affected”. We believe a plan amendment is not required because adoption of the SCWP amended the GSR CNP to correct the erroneous designation of the Property from Industry to Mixed Use and Open Space.

#### Out-of-Cycle Neighborhood Plan Amendment

While we do not agree a plan amendment is necessary, we understand there may be some ambiguity between the plans and for the avoidance of confusion, we are filing an out of cycle amendment to the GSR CNP along with the PUD amendment application. Pursuant to 25-1-804 we request a plan amendment (i) to correct the clerical error of Industry designation on the FLUM to Mixed Use. Uses associated with Industry have never been contemplated in any modern plans, recommendations or zoning designations for this Property. The map designation “Industry” is defined in the map designations as “Areas reserved for manufacturing and related uses that provide employment but are generally not compatible with other areas with lower intensity use. Industry includes general warehousing, research and development and storage of hazardous materials” No part of this designation fits the Property and therefore the designation on the map is in error; (ii) prohibiting the filing would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect the public health, safety and welfare. The applicant is attempting to opt in to the SCWP. The uses proposed in the application are consistent with the SCWP adopted by the City Council. The only process available to the applicant to implement the SCWP is the PUD amendment process and related Plan amendment, if required; and (iii) the current PUD is not subject to current City environmental regulations, but the amended PUD as proposed will be under current City environmental regulations.

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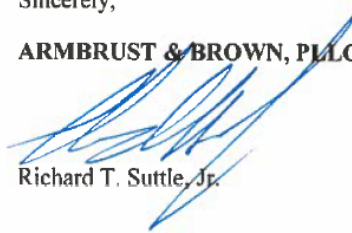
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Conclusion

For the reasons stated above, please accept the PUD amendment application along with the Plan amendment application for the Property. If you have any questions or comments please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, PLLC



Richard T. Suttle, Jr.

cc: Mark Rosenbaum  
Anne Lofye  
Andy Pastor  
Kirk Rudy  
Jamil Alam  
Bryce Miller  
Amanda Morrow

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**Out-of-Cycle Letter Authorization from Asst. Dir.  
PAZ Dept. Jerry Rusthoven**



**MEMORANDUM**

**To:** DSD Intake

**From:** Jerry Rusthoven, AICP, Assistant Director. Planning and Zoning Dept. *JK*

**Subject:** Statesman Submittal

**Date:** July 24, 2019

Armbrust and Brown Law Firm is requesting that the Austin American Statesman property PUD zoning case be allowed to be submitted outside of neighborhood plan amendment cycle. Because the project today is not required to meet current environmental regulations but the amended PUD will under 25-2-804 this application should be allowed to be submitted.



**Letter of Recommendation from Greater South River  
City Combined Neighborhood Plan Contact Team**

**From:** Elloa Mathews

**Sent:** Tuesday, December 7, 2021 4:41 PM

**To:** Shaw, Todd - BC <BC-Todd.Shaw@austintexas.gov>; Llanes, Carmen - BC <bc-Carmen.Llanes@austintexas.gov>

**Cc:** Meredith, Maureen <Maureen.Meredith@austintexas.gov>; Halley, Shannon <shannon.halley@austintexas.gov>; Clark, Kate <Kate.Clark@austintexas.gov>

**Subject:** NPA-2019-0022.02 305 S. Congress

\*\*\* External Email - Exercise Caution \*\*\*

Dear Chair Shaw and Commissioner Llanes Pulido,

Attached please find the GSRCC NPCT comments on the above referenced case.

Also attached to this email is a copy of the Floodplain Reviewer notes on this case's 25 year floodplain issues that existed pre-Atlas 14 adoption.

I am requesting that these notes be entered into the back up on the case as well as the zoning case on this site.

Thank you for your service to the citizens of Austin.

Elloa Mathews

Acting Chair

Greater South River City NPCT

December 7, 2021

Todd Shaw, Chair Austin Planning Commission and Carmen Llanes Pulido, D9 Planning Commissioner

RE: NPA-2019-0022.02 for 305 S. Congress Ave

Dear Chair Shaw and Commissioner Llanes Pulido,

The Greater South River City NPCT has not had a chance to review the voluminous input from the South Central Waterfront Advisory Board to the Planning Commission on this case.

Since the SCW Regulating Plan has not been adopted and the applicant is seeking increased entitlements, the NPCT's 2019 opposition to the FLUM amendment has not changed.

The current Land Use was not an error as is asserted by the applicant. As I told him in July 2019 on a phone call, the Statesman owners requested that the land use remain Industrial during our 2005 Neighborhood Plan process.

When the applicant requested that staff grant an out of cycle FLUM amendment in July 2019 and stated a hardship, the out of cycle application was administratively approved without notice to the NPCT.

The rationale given later by Jerry Rusthoven for the administrative approval was that under PUD regulations, the site would be held to higher environmental standards.

In October 2019, at a meeting held by the Planning Department at which the applicant watched the Astros in the MLB playoffs on his phone, neither the applicant nor two staff members could supply answers to how those higher environmental standards would be met.

As well, the floodplain and flooding issues at the site have not been addressed as is documented by the attached comments from the FloodPlain Reviewer. And the flooding concerns in the Reviewer notes were made prior to the Atlas 14 adoption.

In the two intervening years, no less than the South Central Waterfront Advisory Board, the City of Austin Environmental Commission, the Parks Board and the Austin City Council have discussed the SCW Regulating Plan.

As recently as 2017 the SCW Regulating Plan was 80% complete. Taxpayer dollars were dedicated to the salaries of several planners who have worked on this plan for years. An outside economist was also hired with taxpayer dollars to determine the value of the requested increased entitlements and what the ROI for the taxpayer should be.

All these governmental bodies have agreed that the proposal has not met the requirements of the SCW Regulating Plan. Yet the applicant has asked for even more entitlements than in 2019 when the NPCT opposed the change in FLUM.

Until the SCW Regulating Plan is adopted and the applicant proves they can meet the higher environmental standards, there is no change to the NPCT position.

Thank you for your service to the citizens of Austin.

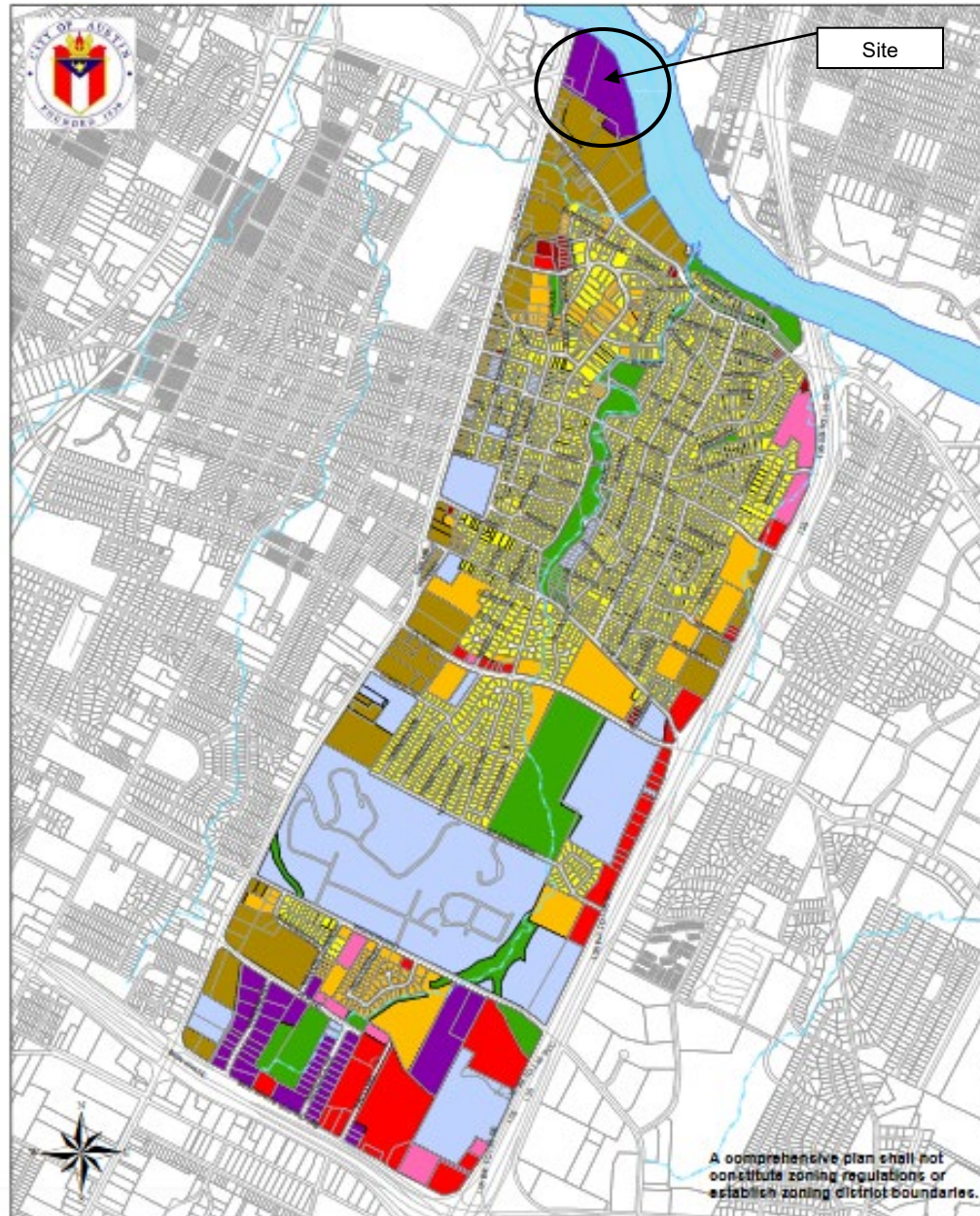
Elloa Mathews, Acting Chair Greater South River City NPCT

### Floodplain Review – Katina Bohrer – 512-974-3558

Reviewer Notes: site is located on the southeast corner of South Congress and the Colorado River (the old Statesman site). Proposed PUD amendment includes a large swath of proposed parkland along the current hike and bike trail which currently fully encompasses the 100-yr floodplain. The 100-year floodplain ranges from 440.87 at the upstream end of the site to 440.51 at the downstream end, similarly, the 25-year ranges from 432.57 to 432.17. Per included plan sheets, the shore line elevation is 429. Because site is along the Colorado River, it is not impacted by proposed Atlas 14 floodplain regulations. See internal network folder for more information.

- FP1. Per letter provided by Armbrust & Brown, PLLC, the applicant proposes to alter the LDC and the International Building code to allow development within the 25-year and 100-year floodplains. Floodplain review does not agree to this proposed code alteration for the following reasons:
- a. It is unclear what is being provided in return which is superior to code as is required by PUD requirements.
  - b. LDC Sections 25-7-93, 94, 95, and 96 all allow development within the floodplain therefore altering the LDC and the IBC to allow development within the floodplain is unnecessary. It is possible, however, that the applicant already has plans which have not been shared with this reviewer. Additional guidance or comments may be provided once additional clarification by the applicant has been supplied.
- FYI: Updated Atlas 14 floodplain regulations will not affect this site as it is adjacent to the Lady Bird Lake which is specifically being excluded from proposed code alterations. Applicant may learn more about Atlas 14 at <http://austintexas.gov/atlas14>
- FYI: As the applicant does not propose to change code outside of allowances of development within the floodplain, other floodplain regulations are expected to be met (e.g. no adverse impact, structurally able to withstand flood forces, finished floor and safe access requirements, etc.). Floodplain regulations which are to be met will be whatever requirements are valid on the date of permit application.





## Greater South River City Neighborhood Planning Area Future Land Use Map

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.

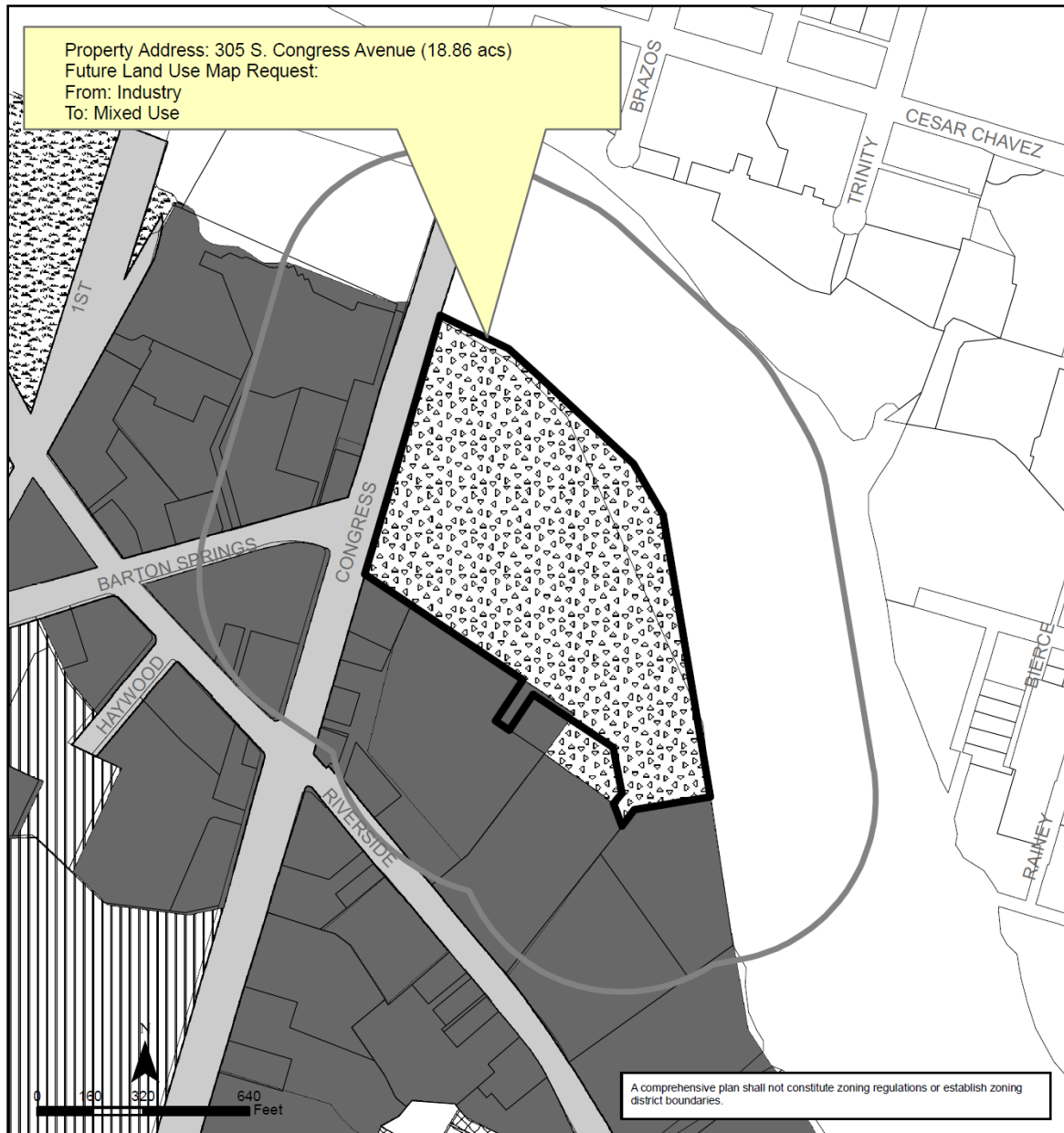
This product has been produced by the Planning and Zoning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Date Adopted: 11/29/05

Last Modified: 3/31/2017

0 750 1,500 3,000  
Feet  
1 in = 1,256 ft

Future Land Use Map	
	Civic
	Commercial
	Industry
	Mixed Use
	Mixed Use/Office
	Multi-Family
	Office
	Recreation & Open Space
	Single-family
	Transportation



**Greater South River City (South River City)  
 Combined Neighborhood Planning Area  
 NPA-2019-0022.02**

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 completeness.



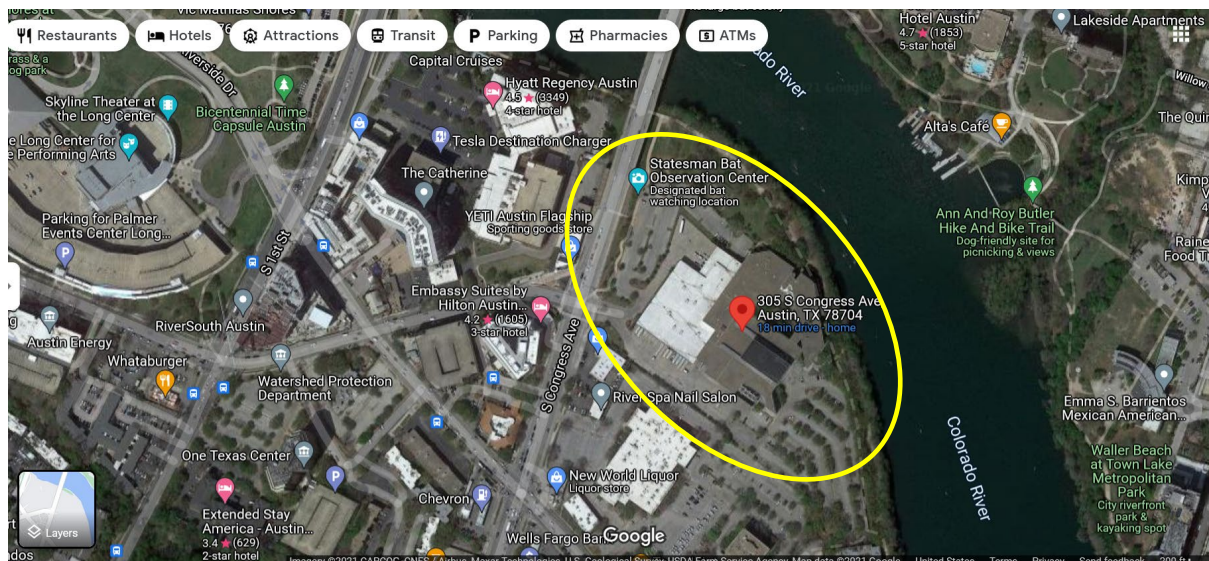
City of Austin  
 Housing and Planning Department  
 Created on 10/6/2021, by: MeeksS

**Future Land Use**

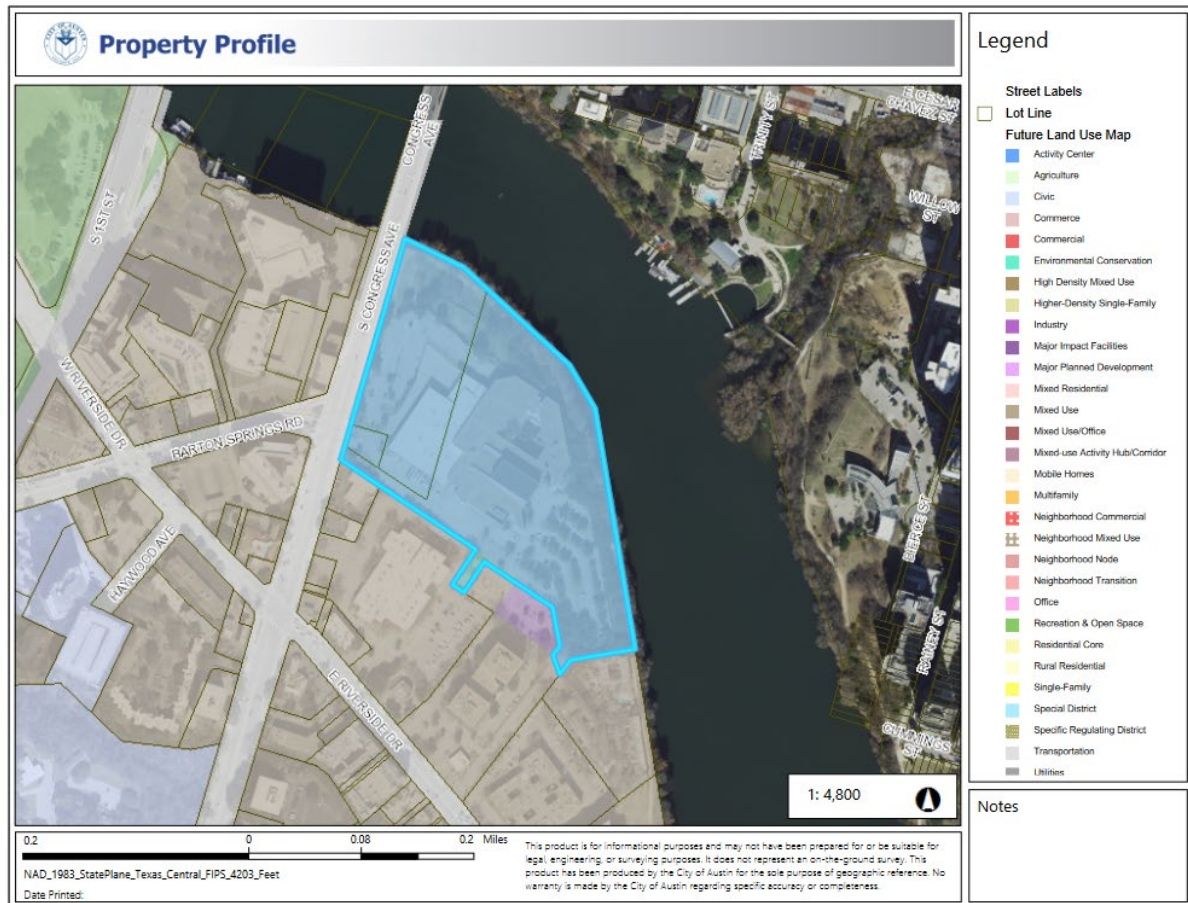
500 ft. notif. boundary	Multi-Family
Subject Tract	Recreation & Open Space
Civic	Single-Family
Industry	Transportation
Mixed Use	



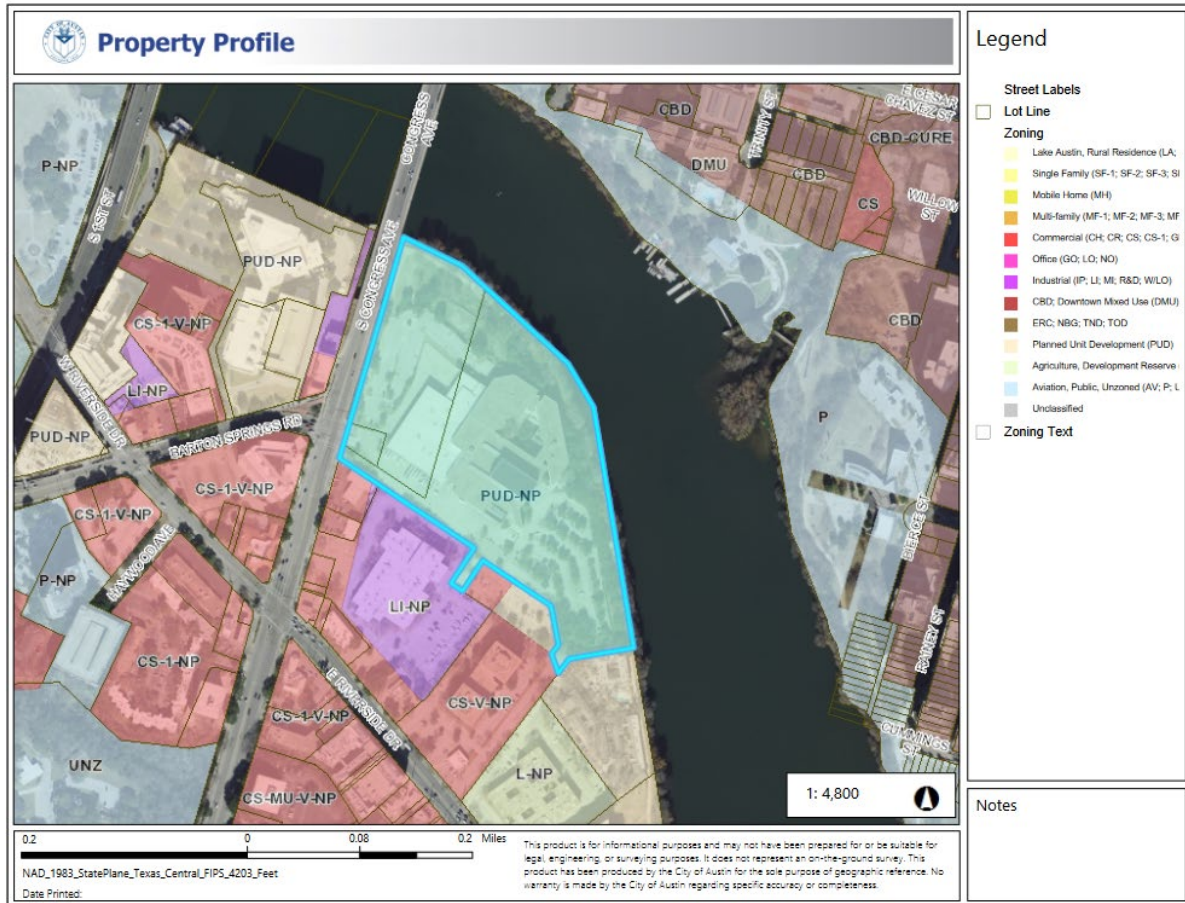


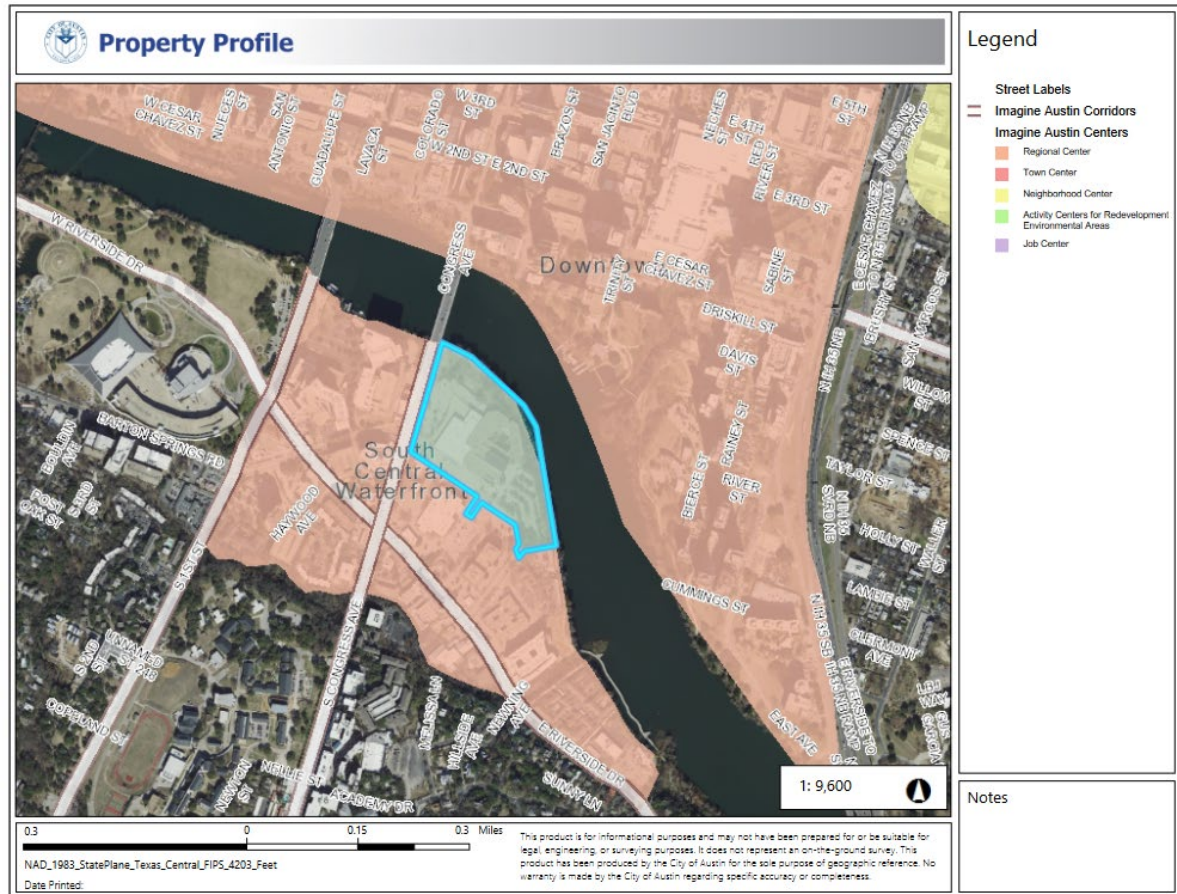












Applicant's Presentation at the Oct. 30,  
2019 Community Meeting

# A Vision for 305 S. Congress Avenue

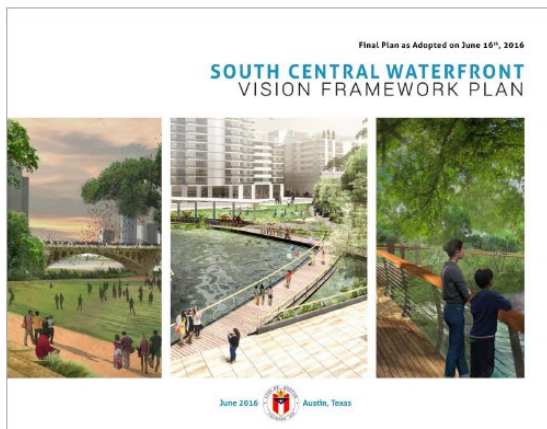
◆ ENDEAVOR  
Real Estate Group

Armbrust & Brown  
ARCHITECTS

SOM

CMG

## Building on the South Central Waterfront Vision





## Building on the South Central Waterfront Vision

### Goals:

1. Enhance connections to and along the waterfront
2. Expand open space and creating great public places
3. Establish a lively, attractive pedestrian environment
4. Provide new affordable housing throughout District



3

## Existing Conditions



4

## South Central Waterfront Planning Area

The 305 S. Congress site represents

**18.86 acres**

of the 118 acres of the South Central Waterfront District

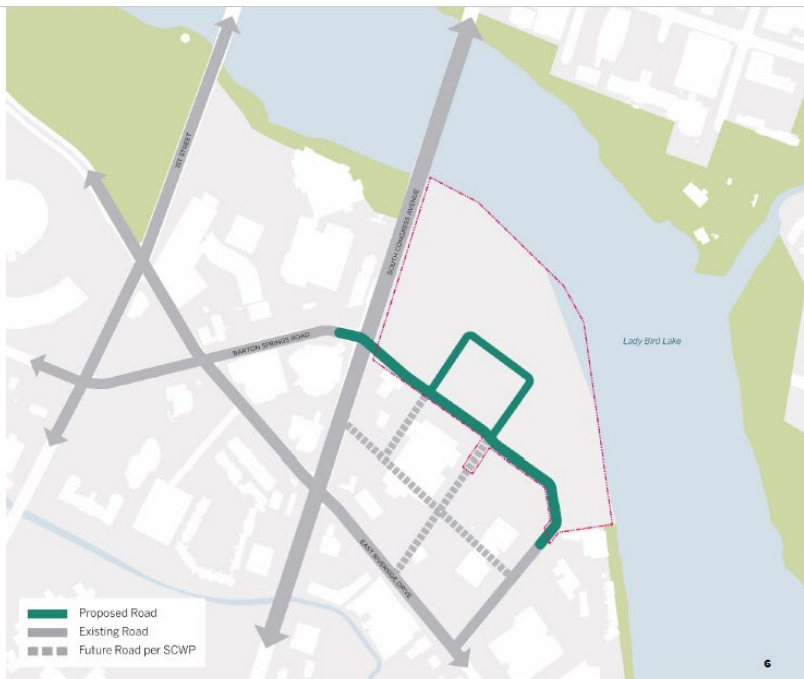
The site is **16%** of the SCW District



**South Central Waterfront Goal**  
Enhance connections  
to and along the waterfront

## Anticipate future street extensions

- Position the site to engage future roadway extensions per the South Central Waterfront Plan





**South Central Waterfront Goal**  
Enhance connections  
to and along the waterfront

## Leverage future transit access and improved mobility options

- Expand the bike network in and around the site
- Link to the existing Butler Trail
- Integrate access for future bike connections planned in the South Central Waterfront Plan
- Plan to receive the potential Waller Creek pedestrian lake crossing
- Coordinating with Cap Metro and Project Connect integration



**South Central Waterfront Goal**  
Enhance connections  
to and along the waterfront

## Link people to the site, the waterfront, and across the Lake

- Establish a porous park welcoming to the community
- Integrate a pedestrian oriented place prioritizing walkability

### Total Public Realm Land Area

- Park and Plazas 8.7 acres
- Boardwalk Park 0.6 acres
- Barton Springs 1.6 acres
- Internal Loop Road 1.6 acres
- **Total Public Realm 12.5 acres**

- Development area represents 6.4 acres / 34% of site

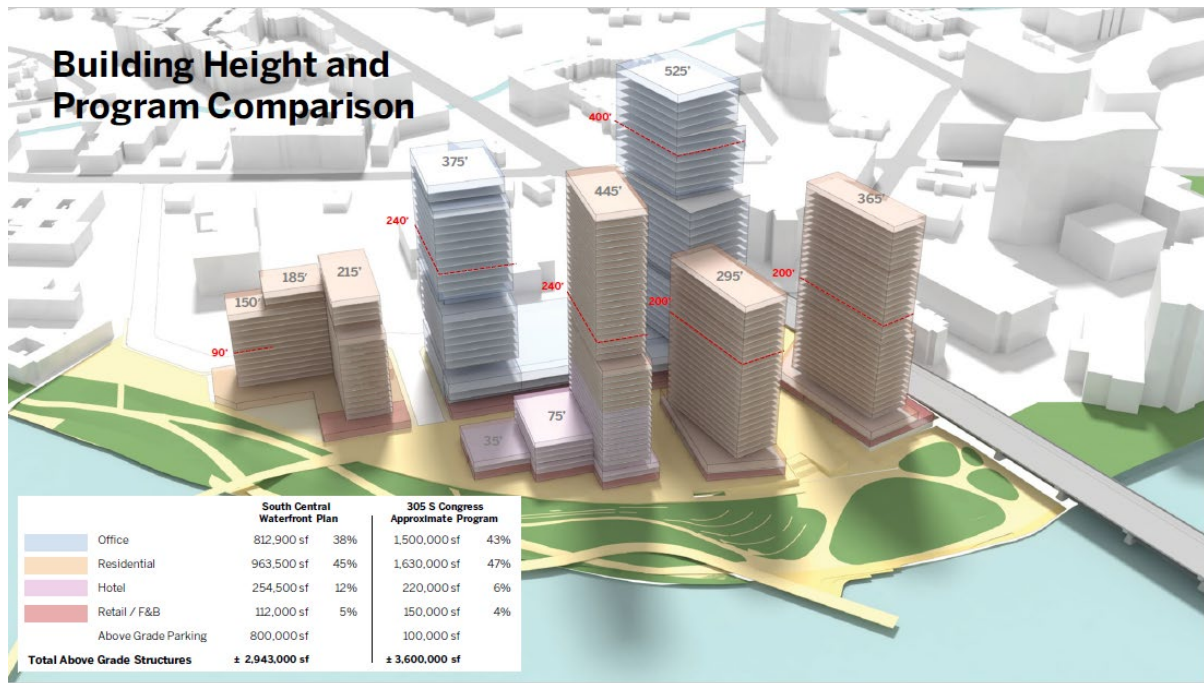




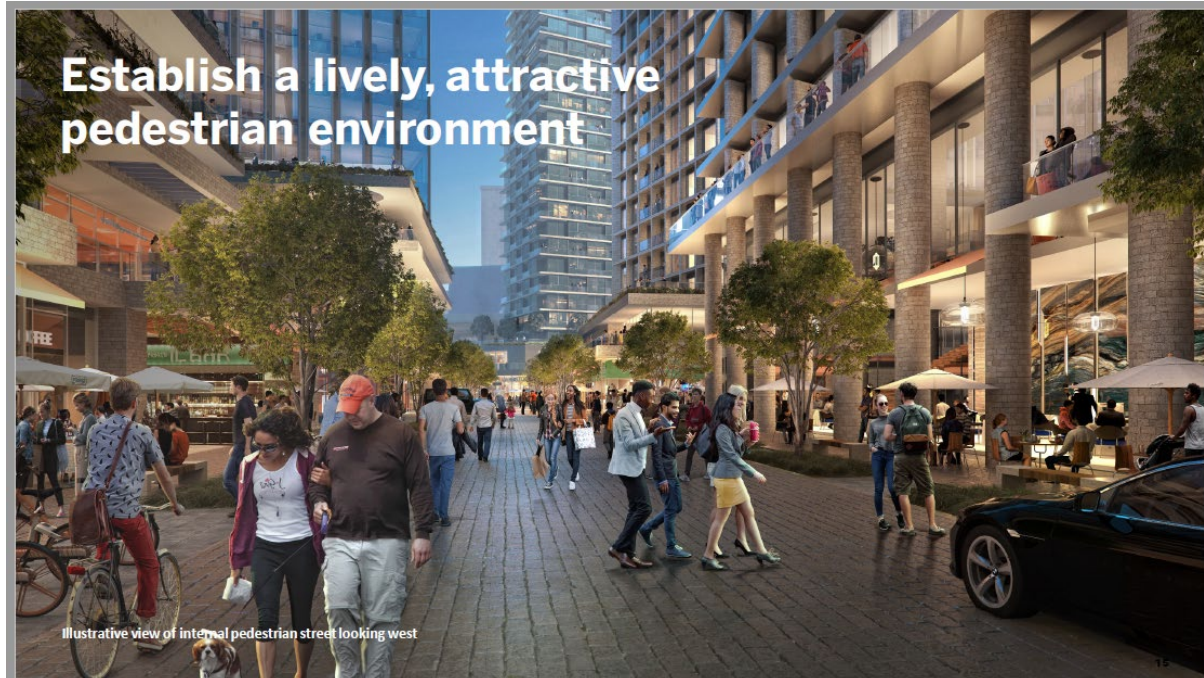




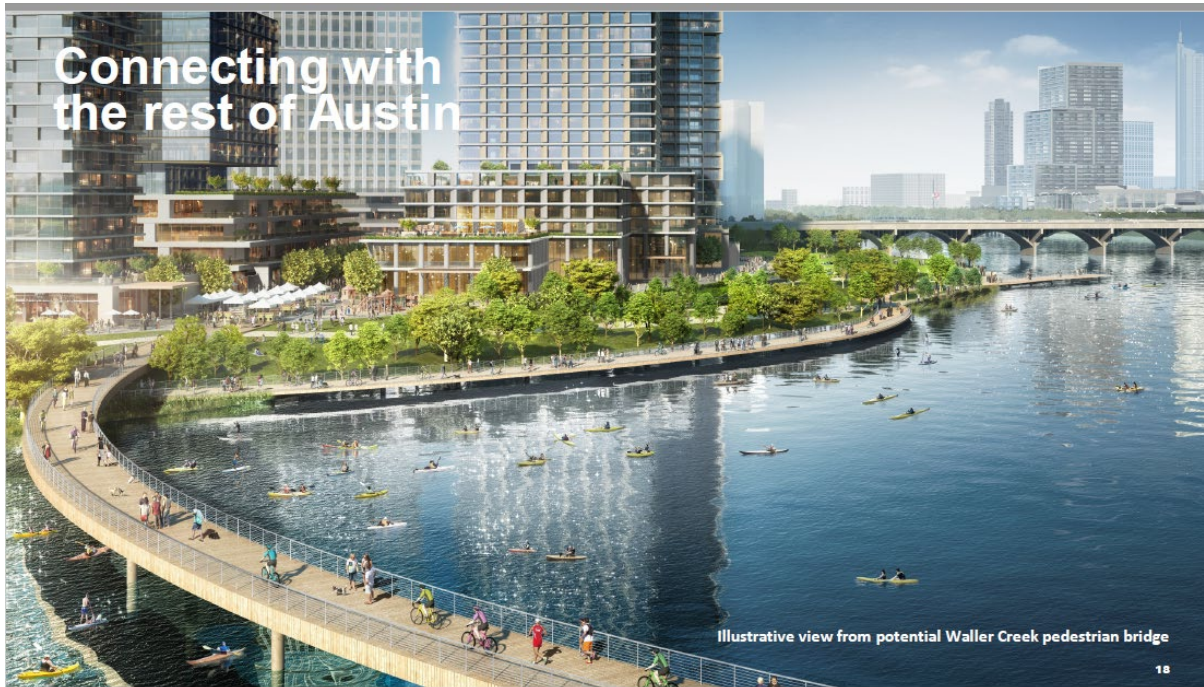












## Correspondence Received



South River City Citizens Inc.  
P O Box 40632  
Austin TX 78704  
[www.srccatx.org](http://www.srccatx.org)

Eric Cassady, President  
Dan Fredine, Vice President  
Oliver Caruso, Treasurer  
Mary Friedman, Secretary  
Carol Martin, Membership Secretary

Austin City Council  
City Hall  
301 W. 2nd St.  
Austin, TX 78701

June 8, 2019

**RE: South Central Waterfront Vision Framework Plan Implementation**

Dear Mayor Adler and Council Members:

With the news that master developer, Endeavor, will soon announce its plans for the largest parcel in the South Central Waterfront, the Austin American Statesman tract, South River City Citizens urges the immediate and unimpeded implementation of the South Central Waterfront Vision Framework Plan <<http://www.austintexas.gov/department/lady-bird-lake-waterfront-special-project>> as adopted by the Austin City Council in June 2016.

Public private partnerships, financial tools, and governance must be in place in order to insure that the vastly increased development entitlements, which would allow buildings as tall as 400' in an area currently zoned for 60', result in community benefits which include open space, affordable housing and green infrastructure.

Our neighborhood association has devoted many years to the South Central Waterfront Initiative yet remains uncertain about the value of our participation if the city cannot implement the plan it adopted.

Sincerely,

Eric Cassady  
President

CC: Spencer Cronk

1. That City staff grant no entitlements to 305 S. Congress other than those permitted by the Plan until the updated Plan has been adopted by City Council.
2. That City staff allow SRCC to have review and input into the proposed updated Plan before it is adopted by City Council.
3. That City staff work with SRCC towards a Statesman PUD amendment that complies with the adopted updated Plan and that ensures adequate community benefits for any additional entitlements.

Voted this 2nd of September, 2019.

SRCC continues to believe that the partnerships, tools and governance established by the South Central Waterfront Vision Framework Plan are essential to the success of this project for all stakeholders.

Thank you for your time and attention to this matter.

Sincerely,



Eric Cassady  
President

CC: Jerry Rusthoven, Asst Director Planning & Zoning  
Fayez Kazi, Planning Commission Chair  
Carmen Llanes Pulido, District 9 Planning Commissioner  
Kate Clark, Planning Commission Case Manager  
Alan Holt, Planning and Zoning Department  
Richard T. Suttle Jr., Armbrust & Brown, PLLC



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Austin City Council  
City Hall  
301 W. 2nd St.  
Austin, TX 78701

September 16, 2019

RE: SRCC resolution regarding the proposed administrative amendment to City Ordinance No. 890720-E, known informally as the Statesman PUD, located at 305 S. Congress Avenue, Austin, Texas.

Dear Mayor Adler and Councilmembers,

On September 2, 2019, the South River City Citizens Neighborhood Association voted to adopt the following resolution regarding the proposed Statesman PUD amendment:

#### RESOLUTION OF THE SRCC

A Resolution regarding the proposed administrative amendment to City Ordinance No. 890720-E, known informally as the Statesman PUD, located at 305 S. Congress Avenue, Austin, Texas.

Whereas, on June 16, 2016, the City Council adopted the South Central Waterfront Vision Framework Plan (the Plan), a land redevelopment plan that includes 305 S. Congress and that had input and approval by the South River City Citizens Neighborhood Association (SRCC); and

Whereas, the proposed amendment requests building heights and densities that significantly exceed those allowed by the Plan; and

Whereas, City staff is in the process of updating certain aspects of the Plan that may change how the proposed amendment does or does not comply with it, and the proposed updated Plan is scheduled to be available in the fall 2019.

Now, therefore, SRCC resolves to support the following positions:

**From:** Paula Kothmann

**Sent:** Tuesday, December 17, 2019 11:20 AM

**To:** Meredith, Maureen <Maureen.Meredith@austintexas.gov>; Clark, Kate <Kate.Clark@austintexas.gov>

**Cc:** Paula Kothmann

**Subject:** Opposition to zoning and PUD requested change

\*\*\* External Email - Exercise Caution \*\*\*

Dear Ms. Meredith and Ms. Clark:

SRCC has voted to oppose any change in zoning for 305 S. Congress at this time.

We are also waiting for a Traffic Impact Analysis.

I do not expect that the item will be discussed today but in case it does I will be opposing and I will have backup materials to post to the Web site.

Thank you,

Paula Kothmann



South Central Coalition ( ANC sector 7) Resolution Concerning:

Proposed Planned Unit development (PUD) amendment for 305 South Congress (Austin American Statesman site) by the Endeavor Real Estate Group and the Atlanta based Cox family.

Whereas: The construction of the Austin Hyatt Hotel in the early 1980's on the south shore of then Town Lake resulted in city wide concerns about the scale and location of new buildings that could negatively encroach on the scenic vistas and open space along the Colorado River corridor, and

Whereas: The Austin City Council established The Town Lake Task Force that recommended the 1985 Town Lake Corridor Study adopted by the City Council on October 24, 1985, calling for zoning changes that " Improved zoning in the Town Lake Corridor ..." and

Whereas: This recommendation adopted by the City Council on July 17, 1986, resulted in the City of Austin's "Waterfront Overlay Combining District" ( WO) that clearly defined the site development standards for all properties along the river corridor and

Whereas: The purpose of the WO zoning change was to "provide a more harmonious interaction and transition between urban development and the parkland and shoreline of Town Lake and the Colorado River." The site development standards for new construction called for stepping back from the water's edge and for building to step down so as to respect the scenic vistas around the lake front.

Whereas: The WO called out the base zoning (maximum heights and primary and secondary setbacks) to achieve the protection of the scenic vistas and open space that was recognized as the most important community asset. However the WO also included the recognition of other community goals that could possibly be achieved with density bonus provisions to allow for more development if these additional community benefits ( more open space, affordable housing, community access to parkland, etc) are provided but also included absolute maximum heights and minimum allowable setbacks for the shore line, and

Whereas: The City Council authorized the creation of the "Town Lake Park" Comprehensive plan in 1987 that stated that " Building massing should demur to open spaces, avoiding clashes of scale."

Whereas: The 1999 "plain English and non-substantive" rewrite of Austin Land Development Code resulted in the removal of the density bonus provisions and the absolute height limits. Due to this error the City Council subsequently appointed the "Waterfront Overlay Task Force" which recommended that the maximum height limits and primary and secondary setbacks from the shoreline be re-established. These provisions were then re-instated into the zoning code by City Council Action.

Whereas: The South Central District is a part of the Waterfront Overlay Ordinance and a community task force was created to review the planning for this sub district and made recommendations to allow additional building heights and massing in excess of the WO density

bonus provision if the entire district was governed by a “regulating and financial plan” as part of a comprehensive plan for the sub district, and

Whereas the project developers are requesting even more height and massing without the associated regulating and financial plan in place.

Therefore, be it resolved that the South Central Coalition of Neighborhoods recommends to the South Central Waterfront Advisory Group that they withhold any recommendations on the 305 S. Congress PUD amendments until such time as the regulating plan and financial plan have been completed and adopted by the city Council.

Be it further resolved that the South Central Coalition of Neighborhoods recommends to the Austin Planning Commission that they defer action on any PUD amendment request for the 305 S. Congress project until the regulation and financial plans are completed and adopted by the City Council.

Resolution approved this day, Saturday, July 13, 2019.

**From:** Russell Fraser

**Sent:** Monday, October 26, 2020 11:38 AM

**To:** Rivera, Andrew <Andrew.Rivera@austintexas.gov>

**Cc:** Tovo, Kathie <Kathie.Tovo@austintexas.gov>; Holt, Alan <Alan.Holt@austintexas.gov>; Clark, Kate <Kate.Clark@austintexas.gov>; Meredith, Maureen <Maureen.Meredith@austintexas.gov>

**Subject:** 305 S Congress Zoning Change hearing scheduled for 10/27/2020.

\*\*\* External Email - Exercise Caution \*\*\*

Mr. Rivera, I'm a member of the South River City Citizens (SRCC) neighborhood association, also chair of the Planning and Zoning Committee of that association, where the subject project is located, and I request that you add my personal comments to the hearing input, in addition to the related documents that you have should have already received from Wendy Todd, our SRCC SCWAB representative.

I do not plan to speak, but I am against any zoning change discussion or action until the following steps are completed:

- Briefly, SRCC urges immediate and unimpeded implementation of the SCW Vision Framework as adopted by Council in June 2016. "The financial and governance tools must be in place to ensure that the vastly increased development entitlements result in community benefits."<sup>1</sup>
- South Central Coalition of Neighborhoods resolution that the "Planning Commission defer any action on any PUD amendment request for 305 S. Congress project until regulation and financial plans are completed and adopted by the City Council."<sup>2</sup>

Russell Fraser

507 Lockhart Dr  
Austin, TX 78704  
512-771-9736

**PUBLIC HEARING COMMENT FORM**

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

City of Austin  
Housing and Planning 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-2019-0022.02  
**Contact:** Maureen Meredith, Ph: 512-974-2695  
**Public Hearing:** Oct 27, 2020 - Planning Commission

☒ I am in favor  
☐ I object

JOE WILLIE McALLISTER

Your Name (please print)

201 BARTON SPRINGS ROAD

Your address(es) affected by this application

Joe McAllister

Signature

10-21-20

Date

Comments: I HAVE ULTIMATE  
CONFIDENCE THAT THIS WILL  
BE A LANDMARK PROJECT,  
WHICH ALL OF US WILL  
APPRECIATE FOR THE MANY  
MANY YEARS TO COME.

**From:** Paula Kothmann  
**Sent:** Tuesday, December 17, 2019 11:55 AM  
**To:** Clark, Kate <Kate.Clark@austintexas.gov>; Walters, Mark <Mark.Walters@austintexas.gov>; PaulaKothmann Properties <PaulaKothmann@austintexas.gov>  
**Cc:** Meredith, Maureen <Maureen.Meredith@austintexas.gov>  
**Subject:** Re: Opposition to zoning and PUD requested change

Thank you, Ms. Clark and Mr. Walters:

Attached please find a recap of the meeting that we had Oct 30 and some follow-up questions and concerns. I'd like this backup to be placed for both Item #1 and Item #2 for tonight, since it concerns both, and I plan to be there this evening to present for both items in case it is called. Please verify that I've met the noon deadline.

Kind regards,

Paula Kothmann

December 17, 2019

Re: SRCC Neighborhood Association opposition to requests by 305 S. Congress Ave.

Dear Mr. Rusthoven:

I am following up on our meeting called by Planning and Zoning designed to receive Community Input on Oct 30, 2019. Below please find notes, which should be included in the record.

Recently, Kevin Shunk presented to the SRCC that the development along Lady Bird Lake will be exempt from the ban on development in the Atlas 14 floodplain and recommended that we "buy flood insurance" even as our beloved Venice suffers \$1B in damages.

We have sent a note to the Mayor demanding to know about this alleged exemption and we are fighting that decision and carefully monitoring the current level of run off in order to prepare for any evidence of more run off that affects our property. The City cannot show favoritism to a developer over the rights of property owners, who may demand compensation if their properties are damaged. The City has a duty to protect its citizens and their property from harm, such as from flooding.

1) Mr. Rusthoven, we were surprised that you were not in attendance since your office called the meeting. We were given little notice and no one asked our input on dates.



2) We asked the applicant to provide the letter from City staff to which you refer as the reason for accepting an out-of-cycle application. Please forward to us the letter that YOU received stating that the project is not subject to environmental regulations, such as the setback from the water.

(3) the person submitting the application has received a letter from the director of the appropriate City department stating that the project:

(a) is not subject to current City environmental regulations, but is proposed to be developed under current City environmental regulations;

(3) the person submitting the application has received a letter from the director of the appropriate City department stating that the project:

(a) is not subject to current City environmental regulations, but is proposed to be developed under current City environmental regulations;

4) Mr. Suttle, you wrote in your application that you believed that "industry" was a clerical error and I asked why, since you are aware that there was a printing press on the site, which is "industry". You stated, "I'm an attorney." ???

I do not ask any of my attorneys to falsify information on my behalf, nor do I allow them to do so, and I retain some of the best attorneys in the state. Please correct any misstatements in your application using actual facts. Volunteers have the right to have honest information from which to make recommendations.

5) Past President Gretchen Otto stated that SRCC, the neighborhood most impacted by the proposed project, will not consider any amendments until the SCW regulating plan is in place.

4) She also asked about the great difference in the capacity proposed in your PUD amendment. You explained that the project would not make economic sense if the owner limited its capacity to the current plan. The volunteers emphasized that economic profit is not considered a "hardship," which must be stated in the record of this meeting, so what is the hardship noted in your application?

5) We asked about the progress of the regulatory plan, and Alan explained that his consultants are working on the figures. Alan, exactly what kind of figures are the consultants working on for this project? Are they updating the costs of the "Community benefits" such as the proposed new boardwalk (by the way, there's already a boardwalk there, opening in 2014)? Exactly how much is this project costing the City, Alan? Please send the hours and fees for all consultants working on this project and another report for the Snoopy PUD aka Hooter's PUD.

6) Alan explained how we could help the project.??? We reminded him that he has the duty to ensure that the development must follow the laws and respect the property owners already there.

7) I asked Andy Pastor about parking. He stated that they plan to charge, which means that people will park in front of our houses. Amanda didn't seem to know how close we live to this tract.

8) I asked Andy Pastor what plans the project has to ensure that the concerts planned do not disturb the residents, just like he was asked several months ago when his response was "we studied how to prevent affecting the bats." He offered no update. See note regarding a concert after 11pm on a Sunday:

H12:11

AM (17 hours

ago)

**Hillary Bilheimer [SouthRiverAustin]**

to SouthRiverAustin

There was an EDM festival at the Statesman. It was so loud at our house as well. I just typed "Austin Rave November 17" into google at around 11pm because we were so baffled.

Mr. Rusthoven, we expect you to address our valid concerns and work to protect the homeowners affected by this proposed development. Our neighborhood, SRCC, already voted unanimously to deny any change in FLUM, neighborhood plan, or zoning.

You should have received notice from our President. If anyone feels that I misheard what was said, please send your evidence to the contrary and I will gladly apologize. My goal is transparency.

Regards,

Paula Kothmann

Homeowner, Travis Heights and Bouldin Creek, two neighborhoods impacted heavily