ZONING CHANGE REVIEW SHEET

CASE:
C14-2022-0103
4927 E. 5th Street

DISTRICT: 3

ZONING FROM: LI-CO-NP

TO: LI-PDA-NP

ADDRESS: 4927 East 5th Street

SITE AREA: 1.43 Acres

PROPERTY OWNERS:
4927 E. 5th LTD

AGENT:
Drenner Group, PC
(Amanda Swor)

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

STAFF RECOMMENDATION:
Staff supports the Applicant's request of LI-PDA-NP. The request includes the following modifications of the base LI zoning category (also shown in Exhibit C- PDA Summary and Exhibit.)
1. Site development standard modifications:
- Tract 2 Maximum Building Height: 75 feet
- Maximum Floor to Area Ratio (entire site): 3:1
2. Prohibited Uses: Adult oriented businesses, Basic Industry, Campground, Custom Manufacturing, General Warehousing and Distribution, Kennels, Laundry services, Light Manufacturing, Limited Warehousing and Distribution, Pawn shop services, Recycling Center, Residential treatment, Resource Extraction, Scrap and Salvage, Vehicle storage.
3. Conditional Uses: Agricultural sales and services, Automotive rentals, Automotive repair services, Automotive sales, Automotive washing (of any type), Building maintenance services, Commercial off-street parking, Construction sales and services Drive-in service as an accessory use to commercial uses, Equipment repair services Equipment sales.

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

PLANNING COMMISSION ACTION / RECOMMENDATION:
January 24, 2023:
January 10, 2023: To postpone to January 24, 2023, as requested by Neighborhood, on consent.

ISSUES:
The rezoning tract is immediately north of a property zoned CS-CO-NP that is primarily developed with a mix of office and commercial uses in several separate buildings. One building near the south property line of the rezoning tract had been used as a legal nonconforming residence but was converted to an office use in accordance with zoning and a certificate of occupancy (CO) in March 2011. The building was later rented out by the property owner for residential use which is not permitted in CS-CO-NP zoning. As information, if the residential use of the building was designated as an existing non-conforming land use per City Code would trigger compatibility standards on the rezoning tract, limiting setbacks, building heights and other site development standards.

Based on a preliminary review of information staff initially determined that the residential use of the building would trigger compatibility standards on the rezoning area. As further research was conducted, staff determined that the residential use of the building does not meet the criteria of an existing non-conforming land use and does not trigger compatibility requirements on the subject rezoning tract. ***Please see Exhibit D – Compatibility Standards Determination.***

CASE MANAGER COMMENTS:
The subject property is located on the southwest corner of East 5th Street and Spencer Lane. The LI-CO-NP property is currently used for limited warehousing and distribution. Immediately to the west is property zoned LI-CO-NP that is developed with cocktail lounge land use. Further west are properties zoned CS-CO-NP and LI-CO-NP that are developed with a mix of land uses including cocktail lounge and limited warehousing and distribution uses. Immediately south of the subject property is the property zoned CS-CO-NP that is described above in the Issues section. Across Spencer Lane to the east are properties zoned CS-CO-NP that are developed with automotive repair service uses. Across East 5th Street to the north are properties zoned CS-CO-NP, CS-V-CO-NP, CS-MU-CO-NP and LI-CO-NP. These properties are developed with a mix of uses including restaurant-general and limited warehousing and distribution uses. ***Please see Exhibits A and B—Zoning Map and Aerial Exhibit.***

The subject property is currently zoned LI-CO-NP with seven prohibited uses that are proposed to continue as prohibited. Additional land uses are proposed to be prohibited and conditional uses. These are listed under the Staff Recommendation section on Page 1 of this report. The proposed PDA would allow a 3:1 floor to area ratio (FAR), and an increase of height on a portion of the property to 75 feet closest to the corner of East 5th Street and Spencer Lane. The remainder of the property would remain unchanged at 60 feet. ***Please see Exhibit C- PDA Summary and Exhibit.***

Staff has received correspondence regarding the rezoning request. ***Please see Exhibit E-Correspondence.***

Staff supports the rezoning request. The request maintains all of the elements of the existing LI-CO-NP zoning and only increases two elements: increasing the FAR from 1:1 to 3:1 on the site and increasing the maximum building height from 60 to 75 feet on a portion of the

site. This will allow redevelopment of the site from a limited warehousing and distribution use to a multi-story office building. Increasing allowable building height has been supported by Planning Commission and City Council through zoning changes and proposed code amendments. The applicant has also agreed to prohibit and make conditional several of the more intense industrial land uses. This may reduce the impact that such uses often have and add a balance of intensities and densities in the area.

BASIS OF RECOMMENDATION:

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*
2. *Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.*
3. *Zoning should allow for reasonable use of the property.*
4. *The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.*
5. *Zoning changes should promote a balance of intensities and densities.*

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LI-CO-NP	Limited warehousing and distribution
North	CS-CO-NP, CS-V-CO-NP, CS-MU-CO-NP, LI-CO-NP	Limited warehousing and distribution, Restaurant-general
South	CS-CO-NP	Administrative office, Communication services, Duplex residential
East	CS-CO-NP	Automotive repair services
West	LI-CO-NP, CS-CO-NP, LI-CO-NP	Cocktail lounge, Limited warehousing and distribution, Cocktail lounge

NEIGHBORHOOD PLANNING AREA: Govalle-Johnston Terrace (Govalle)

TIA: Deferred to time of site plan, if triggered

WATERSHED: Colorado River

NEIGHBORHOOD ORGANIZATIONS:

Homeless Neighborhood Association
El Concilio Mexican-American Neighborhoods
Red Bluff Neighborhood Association
Austin Neighborhoods Council
Del Valle Community Coalition
Claim Your Destiny Foundation
Black Improvement Association
Friends of Austin Neighborhoods
Neighborhood Empowerment Foundation
Guadalupe Neighborhood Development Corporation
East Austin Conservancy
AISD
SELTexas
Austin Innercity Alliance
United East Austin Coalition
Del Valle ISD
Preservation Austin
Tejana Bilingual Community
PODER
Tejano Town

Southeast Austin Neighborhood Alliance
East Town Lake Citizens Neighborhood Organization
Buena Vista Neighborhood Association
Greater East Austin Neighborhood Association
Govalle/Johnston Terrace Neighborhood Plan Contact Team
Neighbors United for Progress
Sierra Club

AREA CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-2015-0043 Shady Lane Mixed Use	LI-CO-NP to CS-MU-V-NP	August 25, 2015: To grant CS-MU-V-CO-NP) with conditions 1. Max 2,000 vpd; 2. All residential land uses shall be conditional; 3. The following land uses shall be prohibited: AOB, hotel-motel, campground, kennels, laundry services, pawn shop svs, residential treatment, vehicle storage, agricultural sales and svs, automotive rentals, automotive repair svs, automotive sales, automotive washing (of any type), building maintenance svs, construction sales and svs, commercial off-street parking, equipment sales, limited warehousing and distribution, residential treatment, vehicle storage, laundry svs, and equipment repair svs. (8-3)	N/A – Case expired

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E 5th Street	Local Mobility - Level 2	84 feet	62 feet	44 feet	Yes	Bike Lane - Buffered	Yes
Spencer Lane	Local Mobility - Level 1	58 feet	50 feet	38 feet	No	No	Yes

OTHER STAFF COMMENTS:

ENVIRONMENTAL
EO1 Demonstrate that all proposed and existing permitted uses are compliant with 25-2-648.
EO2 Provide both the existing and proposed standards for the Development Standards exhibit.
EO3 Consider including the following development standards:
1. Provide building design that will reduce the potential for bird/building collisions by using glass with a reflectivity of 15% or less on all or part of the structure
2. Enhance City of Austin Dark Sky regulations by adding the following requirements for the tract:

-Require warm light: Low Kelvin rated lights (3000 Kelvin or less) are warm and emit less harmful blue-violet light than high Kelvin rated.
-Shielding: outdoor lighting shall be shielded so that the luminous elements of the fixture are not visible from any other property.
-Outdoor lighting fixtures are not allowed to have light escape above a horizontal plane running through the lowest point of the luminous elements. Prevent light trespass: Focus light on activity and use activity appropriate lighting.

SITE PLAN

SP 1. Site plans will be required for any new development other than single-family, two-family or duplex residential.
SP 2. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.
SP 3. This tract is already developed and the proposed zoning change is a footprint within the existing development. The applicant is responsible for requesting relocation and demolition permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.
SP 4. The site is located within Austin-Bergstrom Overlay {Controlled Compatible Land Use}. No use will be allow that create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between the airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the Austin-Bergstrom Airport. Height limitations and incompatible uses with each Airport Overlay zone are established in the Airport Overlay Ordinance. Airport Hazard Zoning Committee review may be required prior to Planning Commission Hearing.

TRANSPORTATION

ATD 1. Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements, will occur at the time of site plan application. The traffic impact analysis for this site is not required, the traffic generated by the proposal does not exceed the thresholds established in the City of Austin Land Development Code. [LDC 25-6-113].

ATD 2. The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for E 5th Street. It is recommended that 42 feet of right-of-way from the existing centerline should be dedicated for E 5th Street according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

ATD 3. The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for Spencer Lane. It is recommended that 29 feet of right-of-way from the existing centerline should be dedicated for Spencer Lane according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

ATD 4. The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
E 5th Street	Local Mobility - Level 2	84 feet	62 feet	44 feet	Yes	Bike Lane - Buffered	Yes
Spencer Lane	Local Mobility - Level 1	58 feet	50 feet	38 feet	No	No	Yes

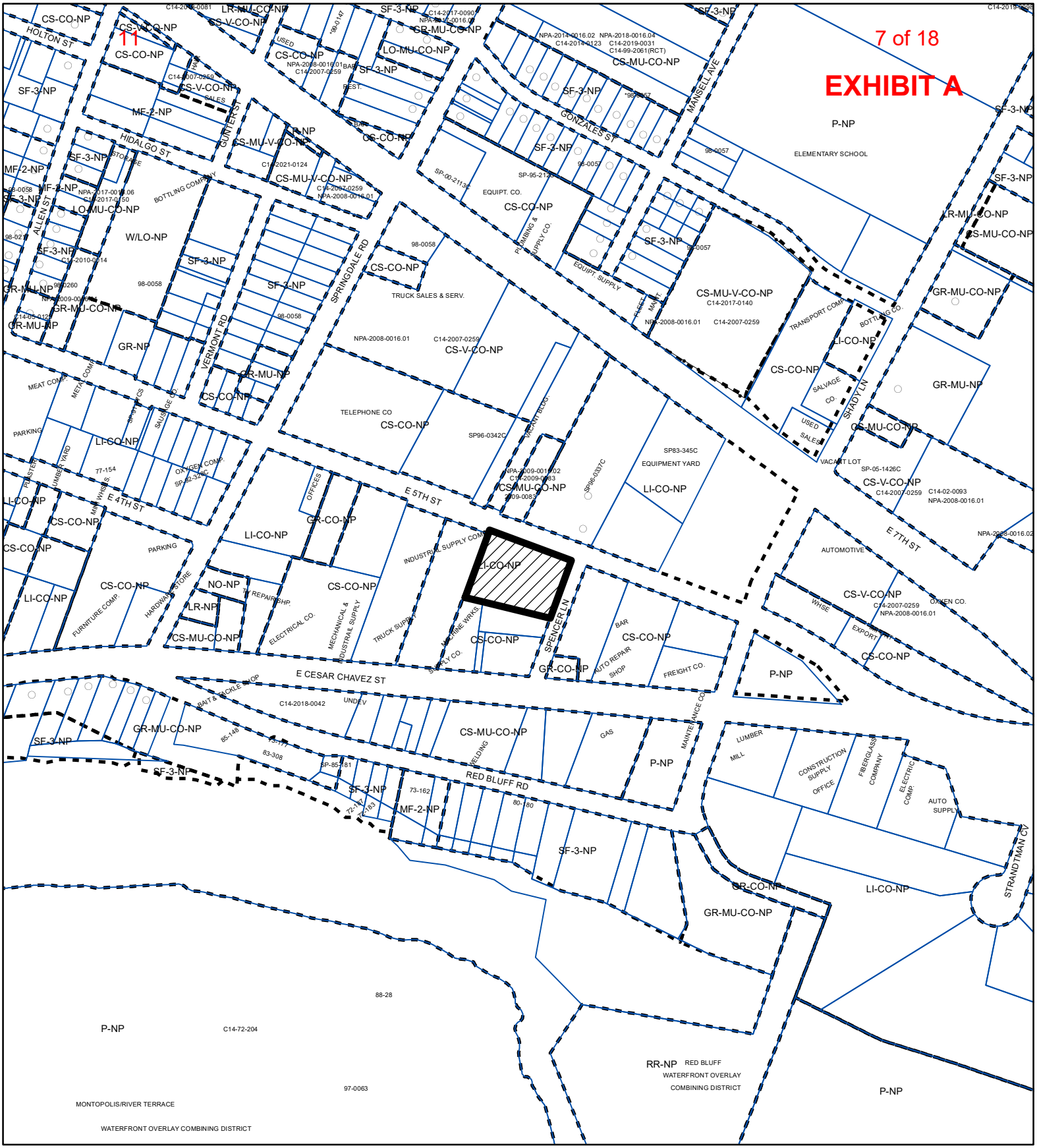
WATER UTILITY

1. 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. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. 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.

INDEX OF EXHIBITS TO FOLLOW

A: Zoning Map
B. Aerial Exhibit
C. PDA Summary and Exhibit
D. Compatibility Standards Determination
E. Correspondence

EXHIBIT A



ZONING

ZONING CASE#: C14-2022-0103

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1 " = 400 '

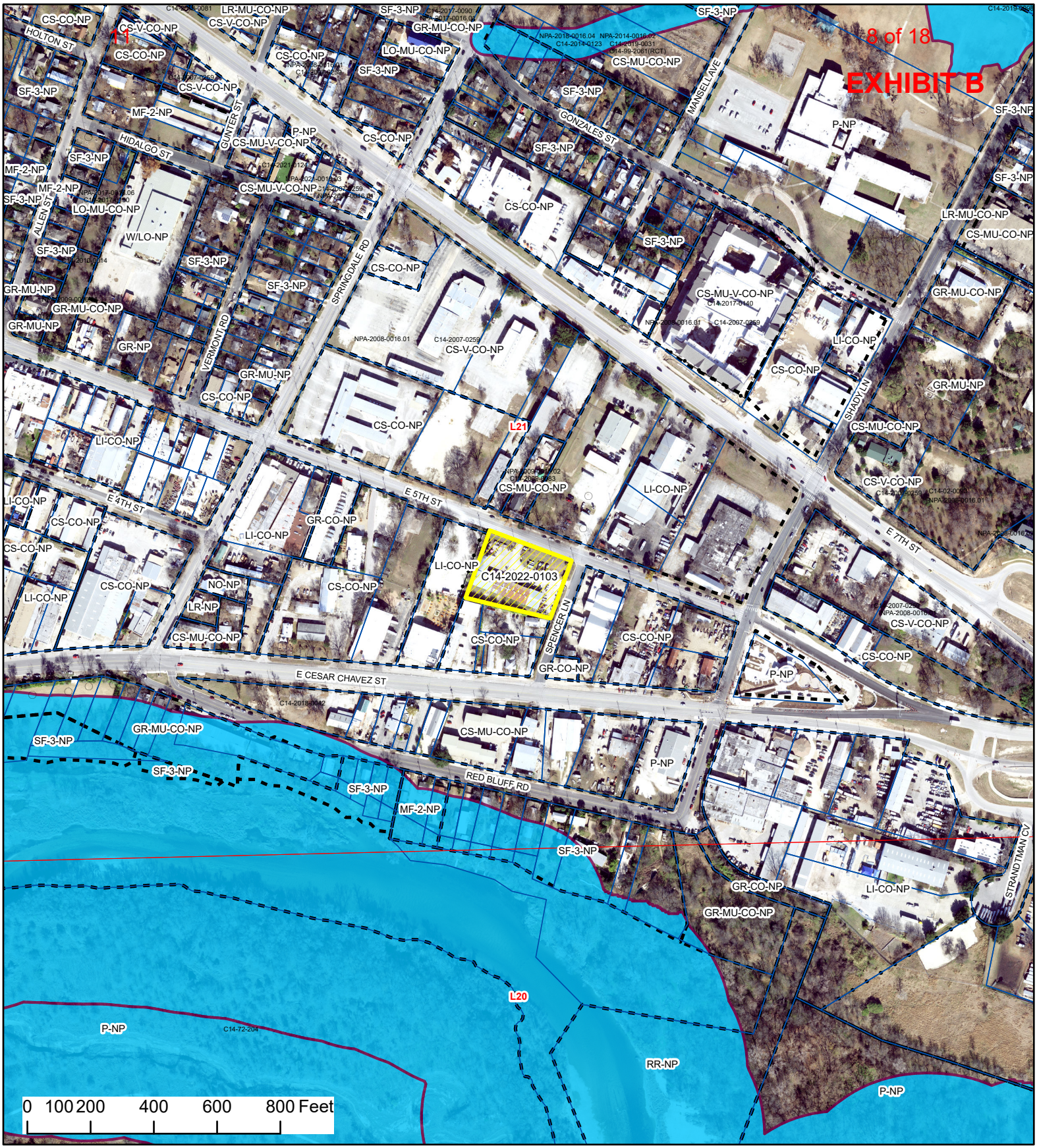
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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

CITY OF AUSTIN FOUNDED 1839

Created: 7/26/2022

EXHIBIT B



N

SUBJECT TRACT

ZONING BOUNDARY

PENDING CASE

CREEK BUFFER

4927 E. 5th Street

ZONING CASE#:	C14-2022-0103
LOCATION:	4927 East 5th Street
SUBJECT AREA:	1.43 Acres
GRID:	L21
MANAGER:	Heather Chaffin

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 FOUNDED 1839

Created: 1/3/2023

4927 E 5th Street | LI-PDA Development Standards

EXHIBIT C

LI-PDA Development Standards

Except as specifically provided below, the Property may be developed and used in accordance with the regulations established for the Limited Industrial Services (LI) base district and other applicable requirements of the City Code.

The following LI-PDA development standards are proposed for all permitted development across the site, unless specifically designated by tract number:

Max. Height (*metes and bounds attached*):
- Tract 1: 60 feet
- Tract 2: 75 feet

Max. FAR: 3:1
Max. Impervious Cover: 95%
Max. Building Coverage: 95%
Min. Setbacks
- Front Yard: 10 feet
- Street Side Yard: 10 feet
- Interior Side Yard: 0 feet
- Rear Yard: 0 feet

Prohibited Uses:

- Adult oriented businesses
- Basic Industry
- Campground
- Custom Manufacturing
- General Warehousing and Distribution
- Kennels Laundry services
- Light Manufacturing
- Limited Warehousing and Distribution
- Pawn shop services
- Recycling Center
- Residential treatment
- Resource Extraction
- Scrap and Salvage
- Vehicle storage

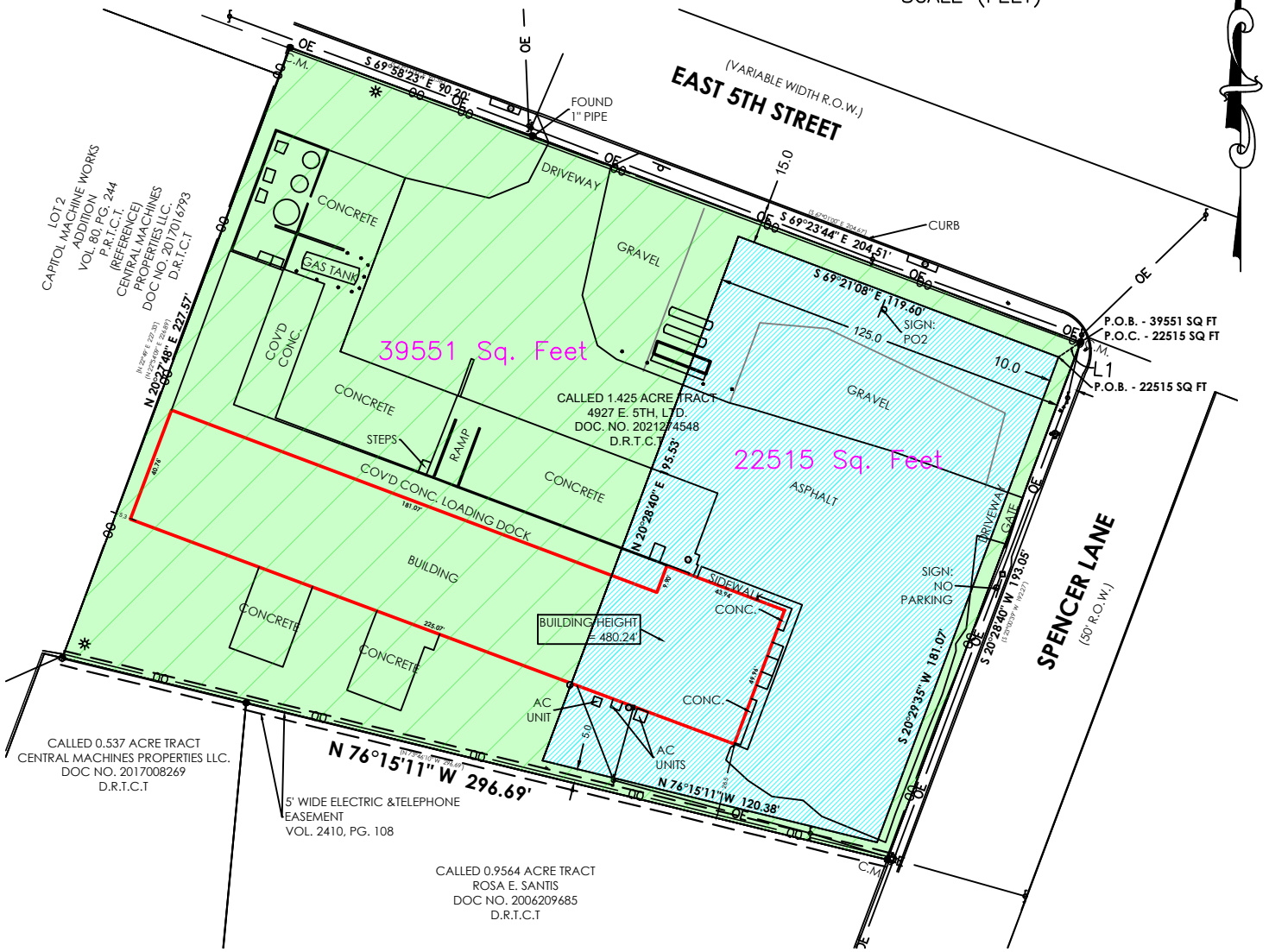
Conditional Uses:

- Agricultural sales and services
- Automotive rentals
- Automotive repair services
- Automotive sales
- Automotive washing (of any type)
- Building maintenance services
- Commercial off-street parking
- Construction sales and services
- Drive-in service as an accessory use to commercial uses
- Equipment repair services
- Equipment sales

NOTE: No other modifications to the site development standards are proposed at this time.

HEIGHT TRACTS EXHIBIT

0 30 60 120
SCALE (FEET)



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 55°54'41" W	9.32'

ZONING EXHIBIT

Tract 1
60' ZONE 39551 SQ. FT.

Tract 2
75' ZONE 22515 SQ. FT.

SURVEYOR NOTES:

THIS BOUNDARY SURVEY WAS COMPLETED WITHOUT ADDITIONAL RESEARCH TO DETERMINE IF OTHER MATTERS OF RECORD, IF ANY, MIGHT AFFECT THIS PROPERTY, SUCH AS EASEMENTS, SETBACKS, OR OTHER ENCUMBRANCES.

BASIS OF BEARING IS NAD83 TEXAS STATE PLANE COORDINATES, CENTRAL ZONE

DATE OF FIELDWORK: 10/11/21

LEGAL DESCRIPTION

PROPOSED ZONING PARCELS
OUT OF A CALLED 1.425 ACRE TRACT
CONVEYED TO 4927 E. 5TH, LTD.,
AS SHOWN ON DOC. NO. 2021274548
OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS.

SHERWOOD SURVEYING & S.U.E.
UTILITIES | RESIDENTIAL | COMMERCIAL | INDUSTRIAL
6477 FM 311, P.O. BOX 992 TBPELS FIRM#10044200
SPRING BRANCH, TEXAS 78070
PHONE (830) 228-5788 FAX (830) 885-2170

DATE: 05/24/2022	DRAWN BY: RG	PROJECT No. 21AQU003

STATE OF TEXAS REGISTERED
RICHARD A. GOODWIN
4069
PROFESSIONAL LAND SURVEYOR

SURVEYORS CERTIFICATE

I, RICHARD A. GOODWIN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, REGISTRATION NUMBER 4069, HEREBY STATE THAT DURING THE MONTH OF OCTOBER, 2021, A SURVEY OF THE REAL PROPERTY SHOWN HEREON WAS MADE UPON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

5-25-2022

RICHARD A. GOODWIN — DATE
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 4069

EXHIBIT D

Mr. Morales,

As a follow up to Heather Chaffin's email on Friday, October 7, 2022, additional information related to development approvals on the property has been brought to Staff's attention and resulted in a change in our determination. Based on a search of the City's building permit records, the existing residential use is no longer a permitted use of the property and does not trigger the application of compatibility standards to the property to the north located at 4927 East 5th Street that is under review for rezoning to the LI-PDA-NP district (C14-2022-0103). Below is a description of the City's permit and zoning records in chronological order.

According to the City's building permit records, the residence at 412 Spencer Lane was moved onto the property in July 1954 (see first attachment). The property was rezoned from LI to the CS-CO-NP district in March 2003 as part of the Govalle Neighborhood Plan rezonings (C14-02-0183 – Ordinance No. 030327-11a, Tract 59n). While the CS base district does not allow for residential use, the residence existed at the time when zoning was cumulative in the City of Austin and therefore, it was a legal (non-conforming) use of the property. Residential use is assumed to have continued as a legal use until a site plan exemption application was filed and approved by the City on March 25, 2011 (DA-2011-0279 – East Austin Colonial Development Project II). The address on the site plan exemption application is listed as 4926 East Cesar Chavez Street and Building D is the residence previously addressed as 412 Spencer Lane (DA-2011-0279, named as East Austin Colonial Development Project II). As shown on the attached approved site plan, Building D was approved for a one-story office building, one unit, totaling 847 square feet. Subsequent to City approval, the site plan exemption allowed for a change of use from multifamily to an office use. City permit records show that a final building inspection for Building D was issued on March 6, 2013 for change of use and remodel from Multi-Family Apartment to an administrative / business office (leasing office) (2011-094193 BP). A link to the building permit application is below and references the site plan exemption application:

Interactive Development Review Permitting and Inspection | AustinTexas.gov - The Official Website of the City of Austin

The residence was a legal (non-conforming) use of the property and triggered the application of compatibility standards until City permits were finalized for an office use. However, at the time the residential use ceased and the office use was established through the City-approved site plan exemption and building permit applications, the legal status of the residential use also ceased.

Based on the tenant lease that you provided, the existing structure has been reoccupied for residential use. However, as stated above, residential use is no longer a legal use and therefore is not a permitted use under CS-CO-NP zoning. In the absence of rezoning approval to a district that permits residential use, the residential use would not trigger the application of compatibility standards on the adjacent property to the north at 4927 East 5th Street that is proposed for rezoning to the LI-PDA-NP district. This is the basis for our determination that compatibility standards no longer apply.

I regret that Staff did not conduct thorough research of the previous permit approvals for 4926 East Cesar Chavez Street and provide a correct determination on October 7, 2022.

Please contact me with any additional questions about this matter.

Sincerely,

Wendy Rhoades
Principal Planner
Housing and Planning Department
512-974-7719

Amanda Swor
aswor@drennergroup.com
512-807-2904

DRENNER GROUP

EXHIBIT E

July 1, 2022

Ms. Rosie Truelove
Housing and Planning Department
City of Austin
1000 E 11th Street
Austin, TX 78702

Via Electronic Delivery

Re: 4927 E. 5th Street – Zoning and neighborhood plan amendment application for the approximately 1.42-acre property located at 4927 E. 5th Street in Austin, Travis County, Texas (the "Property")

Dear Ms. Truelove:

As representatives of the owner of the Property, we respectfully submit the enclosed zoning and Neighborhood Plan Amendment (NPA) application packages. The project is titled 4927 E. 5th Street and is approximately 1.42 acres of land, at the southwest corner of 5th Street and Spencer Lane. The Property is located in the full purpose jurisdiction of the City of Austin.

The Property is currently zoned LI-CO-NP (Limited Industrial Services – Conditional Overlay – Neighborhood Plan). The requested rezoning is from LI-CO-NP to LI-PDA-NP (Limited Industrial Services – Planned Development Area – Neighborhood Plan). The Property is currently developed with a basic industry use, locally known as Precision Oxygen & Supply Company.

The purpose of the rezoning is to redevelop the intense industrial site use into a professional office building with ground-floor pedestrian-oriented uses, including clean industrial creative and maker space uses, that support the surrounding neighborhood.

The proposed amendments to the LI base zoning district are to allow for a 3:1 floor to area ratio (FAR), and an increase of height on a portion of the Property to 75 feet. The remainder of the Property shall remain at a 60-foot height maximum, per LI zoning. The restrictions from the Conditional Overlay ("-CO") implemented by the neighborhood plan have been carried over with this LI-PDA-NP request. The proposed amendments to the base zoning development standards and use restrictions are also accompanied with this letter, including an exhibit identifying the height areas as Tracts 1 and 2.

The Property is within the Govalle/Johnston Terrace Neighborhood Planning Area, adopted March 27, 2003. A Neighborhood Plan Amendment (NPA) to the Future Land Use Map is not required for the proposed land use, however when we met with the Neighborhood Contact Team on May 16, 2022, we agreed to change the FLUM designation from Industry to Commercial. Should the Property not be developed with an office use, this change to the FLUM will allow the neighborhood to participate as a stakeholder to any alternatively proposed land uses.

The Traffic Impact Analysis ("TIA") has been waived until site plan, per the attached TIA determination waiver dated June 24, 2022, and executed by Justin Good.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very Truly Yours,

Amanda Swor

Amanda Swor

cc: Heather Chaffin, Housing and Planning Department *(via electronic delivery)*
Joi Harden, Housing and Planning Department *(via electronic delivery)*
Jerry Rusthoven, Housing and Planning Department *(via electronic delivery)*

From: Ponciano Morales III < >
Sent: Friday, December 2, 2022 10:58 AM
To: Truelove, Rosie < >
Cc: Daniel Llanes ; Rhoades, Wendy <Wendy.Rhoades@austintexas.gov>; Harden, Joi <Joi.Harden@austintexas.gov>
Subject: Re: 4927 Setbacks

Thank you Director Truelove for your response.
My comments that I shared in my previous email has to do with the City's understanding of what "use" represents.
I completed understand that Ms. Santis had the property reclassified for "Office" use, but as previously stated the current "use" is "residential" per the signed lease agreement Ms. Santis submitted to you.

Therefore I am not appealing your decision, I am simply stating that the City's writing on what triggers setbacks are "zoning" and "use", and the Ms. Santis Property current use is "residential".

Thank you.

On Fri, Dec 2, 2022 at 10:39 AM Truelove, Rosie <Rosie.Truelove@austintexas.gov> wrote:
Ponciano & Daniel,

I appreciate you bringing this up to me — and for allowing me the opportunity to review the situation.

In this case, I understand the request to be a question of if the duplex on your property triggers compatibility setbacks in the adjacent property that is proposing development.

When you all first asked the question, staff assumed the duplex was a residence and was a legal non-conforming use, as is quite common in various parts of Austin, and with that simple analysis stated that it *would* trigger the setbacks. Upon further analysis, staff became aware that the official use of that property was changed from residential to office and that changed the answer — office use does *not* trigger setbacks for the adjacent property. While the confusion is unfortunate, I agree with staff's final interpretation of the situation.

Additionally, I have to note that this is not an "appealable" aspect of the code and there is no additional information or actions staff can provide — the facts dictate the outcomes on this one.

Again, thanks for the opportunity to review the situation.

Best,
Rosie

From: Daniel Llanes < >
Sent: Tuesday, November 29, 2022 6:01:58 PM
To: Truelove, Rosie <Rosie.Truelove@austintexas.gov>
Cc: Ponciano Morales III < >; Nellie Tenhet < >; Rhoades, Wendy <Wendy.Rhoades@austintexas.gov>
Subject: Re: 4927 Setbacks

Hi Director Truelove,

Hope you are well and safe these days. I am writing to ask if at all possible, for you to respond to Mr.Morales by the end of the day this coming Friday. The Govalle/Johnston Terrace Neighborhood Plan Contact Team will be reviewing this case on Saturday, Dec. 3rd, and this info would help greatly in determining the outcome our decision regarding this case.

thanks,

Daniel Llanes, Chair
G/JTNP Contact Team
512-431-9665
……...

On Nov 22, 2022, at 2:57 PM, Ponciano Morales III < wrote:

Director Truelove,

Ms. Rosa Santis, owner of the property at 412 Spencer has requested I follow up with you in regards to the email we received from Wendy Rhoades on 11/4/22.
When Ms. Santis approached your department through Heather Chaffin, it was understood the setback requirements were guided by "zoning" or by "use".
In reading the guideline about "use" we did not see any qualifiers, just plain "use".

Therefore Ms. Santis would like to appeal the decision reached by Wendy Rhoades that a setback is not required by the developers of 4927 East 5th, since Ms. Santis has been using her property at 412 Spencer as a residence.
And we submitted lease agreements to back that up. So the "use" should guide the setback requirements, "use" without any qualifiers.

Can you revisit this situation with your staff and let us know why the decision to require setbacks at 4927 East 6th was reversed?

Thank you Director and here is wishing you a very Happy Thanksgiving!

--
Ponciano Morales III, Architect, PLLC
(512) 799-7803 cell
(512) 986-5581 home

From: Ponciano Morales III <
Sent: Friday, November 4, 2022 2:15 PM
To: Rhoades, Wendy <Wendy.Rhoades@austintexas.gov>; Nellie Tenhet; Daniel Llanes; Truelove, Rosie <Rosie.Truelove@austintexas.gov>
Cc: Chaffin, Heather <Heather.Chaffin@austintexas.gov>; Harden, Joi <Joi.Harden@austintexas.gov>
Subject: Re: Setbacks requirement -- Response email

Wendy,

This is indeed a very sad day having received your email in regards to the setback requirements for 4927 East 5th, since it was October 7, 2022 that we received the email from Heather stating that setbacks for 4927 East 5th would be required.
I cannot help but think that someone got to your department to reach this conclusion as stated in your email.
I am including the owner Ms. Rosa Santis in this email, via her secretary Nellie Tenhet and Daniel Llanes who has been involved with the Community on this rezoning of 4927 East 5th in hopes that they might reach out to you and your Director Rosie Truelove and hopefully the Mayor as well to get the bottom of this since the October 7, 2022 email that we received from Heather.

A Sad Day, a very Sad Day!

Thank you for letting us know that the City can turn around given certain conditions.

On Fri, Nov 4, 2022 at 1:22 PM Rhoades, Wendy <Wendy.Rhoades@austintexas.gov> wrote:
Mr. Morales,

As a follow up to Heather Chaffin's email on Friday, October 7, 2022, additional information related to development approvals on the property has been brought to Staff's attention and resulted in a change in our determination. Based on a search of the City's building permit records, the existing residential use is no longer a permitted use of the property and does not trigger the application of compatibility standards to the property to the north located at 4927 East 5th Street that is under review for rezoning to the LI-PDA-NP district (C14-2022-0103). Below is a description of the City's permit and zoning records in chronological order.

According to the City's building permit records, the residence at 412 Spencer Lane was moved onto the property in July 1954 (see first attachment). The property was rezoned from LI to the CS-CO-NP district in March 2003 as part of the Govalle Neighborhood Plan rezonings (C14-02-0183 – Ordinance No. 030327-11a, Tract 59n). While the CS base district does not allow for residential use, the residence existed at the time when zoning was cumulative in the City of Austin and therefore, it was a legal (non-conforming) use of the property. Residential use is assumed to have continued as a legal use until a site plan exemption application was filed and approved by the City on March 25, 2011 (DA-2011-0279 – East Austin Colonial Development Project II). The address on the site plan exemption application is listed as 4926 East Cesar Chavez Street and Building D is the residence previously addressed as 412 Spencer Lane (DA-2011-0279, named as East Austin Colonial Development Project II). As shown on the attached approved site plan, Building D was approved for a one-story office building, one unit, totaling 847 square feet. Subsequent to City approval, the site plan exemption allowed for a change of use from multifamily to an office use. City permit records show that a final building inspection for Building D was issued on March 6, 2013 for change of use and remodel from Multi-Family Apartment to an administrative / business office (leasing office) (2011-094193 BP). A link to the building permit application is below and references the site plan exemption application:

Interactive Development Review Permitting and Inspection | AustinTexas.gov - The Official Website of the City of Austin

The residence was a legal (non-conforming) use of the property and triggered the application of compatibility standards until City permits were finalized for an office use. However, at the time the residential use ceased and the office use was established through the City-approved site plan exemption and building permit applications, the legal status of the residential use also ceased.

Based on the tenant lease that you provided, the existing structure has been reoccupied for residential use. However, as stated above, residential use is no longer a legal use and therefore is not a permitted use under CS-CO-NP zoning. In the absence of rezoning approval to a district that permits residential use, the residential use would not trigger the application of compatibility standards on the adjacent property to the north at 4927 East 5th Street that is proposed for rezoning to the LI-PDA-NP district. This is the basis for our determination that compatibility standards no longer apply.

I regret that Staff did not conduct thorough research of the previous permit approvals for 4926 East Cesar Chavez Street and provide a correct determination on October 7, 2022.

Please contact me with any additional questions about this matter.

Sincerely,
Wendy Rhoades
Principal Planner
Housing and Planning Department
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