

SECOND/THIRD READINGS SUMMARY SHEET

CASE: C14-2023-0043 – 4201 South Congress

DISTRICT: 3

ADDRESS: 4201 South Congress Avenue

PROPERTY OWNER: 4201 S. Congress Ave Owner, LLC (Gavin Greenblum)

AGENT: Armbrust & Brown, PLLC (Ferris Clements)

CASE MANAGER: Nancy Estrada (512-974-7617, nancy.estrada@austintexas.gov)

REQUEST:

Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as 4201 South Congress Avenue (Williamson Creek Watershed). Applicant Request: To rezone from limited industrial service-neighborhood plan (LI-NP) district zoning; limited industrial service-conditional overlay-neighborhood plan (LI-CO-NP) combining district zoning to general commercial services-mixed use-vertical mixed use building-neighborhood plan (CS-MU-V-NP) combining district zoning.

CITY COUNCIL ACTION:

February 29, 2024:

February 1, 2024: *FIRST READING APPROVED AS PLANNING COMMISSION RECOMMENDED.*

VOTE: 11-0.

January 18, 2024: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO FEBRUARY 1, 2024.*

VOTE: 11-0.

ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0043 – 4201 South Congress

DISTRICT: 3

ADDRESS: 4201 South Congress Avenue

ZONING FROM: LI-NP; LI-CO-NP

TO: CS-MU-V-NP

SITE AREA: 5.515 acres

PROPERTY OWNER: 4201 S. Congress Ave Owner, LLC (Gavin Greenblum)

AGENT: Armbrust & Brown, PLLC (Ferris Clements)

CASE MANAGER: Nancy Estrada (512-974-7617, nancy.estrada@austintexas.gov)

STAFF RECOMMEDATION:

The Staff recommendation is to grant general commercial services – mixed use – vertical mixed use building – conditional overlay – neighborhood plan (CS-MU-V-CO-NP) combining district zoning. The Conditional Overlay will prohibit the following uses:

Alternative financial services	Adult-oriented businesses
Automotive rentals	Automotive sales
Automotive washing (of any type)	Bail bond services
Construction sales & services	Convenience storage
Equipment sales	Exterminating services
Funeral services	Monument retail sales
Pawn shop services	Service station
Vehicle storage	

For a summary of the basis of Staff's recommendation, see pages 2 - 4.

PLANNING COMMISSION ACTION / RECOMMENDATION:

December 12, 2023: APPROVED CS-MU-V-CO-NP DISTRICT ZONING AS STAFF RECOMMENDED

[J. MUSHTALER; F. MAXWELL – 2ND] (8-1), A. PHILLIPS – NAY; G. COX, J. CONNOLLY – ABSTAINED; N. BARRERA-RAMIREZ, P. HOWARD – ABSENT

November 28, 2023: APPROVED A POSTPONEMENT REQUEST BY STAFF to December 12, 2023

[A. AZHAR; F. MAXWELL – 2ND] (10-0), C. HEMPEL, A. WOODS – ABSENT; A. PHILLIPS – OFF THE DIAS

October 24, 2023: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO November 28, 2023*

[G. ANDERSON; F. MAXWELL – 2ND] (12-0), CHAIR SHAW – ABSENT

September 26, 2023: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO October 24, 2023*

[G. COX; A. AZHAR – 2ND] (10-0), VC HEMPEL, P. HOWARD, J. MUSHTALER – ABSENT

August 8, 2023: *Approved a POSTPONEMENT REQUEST by staff to September 26, 2023*

[A. AZHAR; F. MAXWELL – 2ND] (10-0), CHAIR SHAW, J. MUSHTALER – ABSENT; ONE VACANCY ON THE DIAS

CITY COUNCIL ACTION:

February 29, 2024:

February 1, 2024: *FIRST READING APPROVED AS PLANNING COMMISSION RECOMMENDED.*

VOTE: 11-0.

January 18, 2024: *APPROVED A POSTPONEMENT REQUEST BY THE NEIGHBORHOOD TO FEBRUARY 1, 2024.*

VOTE: 11-0.

ORDINANCE NUMBER:

ISSUES:

On April 19, 2023, City of Austin staff sponsored a virtual community meeting to provide an opportunity for the South Congress Combined neighborhood plan contact team, nearby residents, property owners, and any other interested parties to discuss the proposed development and the neighborhood plan amendment request.

The Neighborhood requested a postponement to the October 24, 2023 Planning Commission hearing in order to continue discussions with the applicant. The applicant was in agreement with the postponement request. Please see correspondence received at the end of the staff report.

CASE MANAGER COMMENTS:

The subject rezoning area is located at the intersection of South Congress Avenue and Industrial Boulevard, just south of Ben White Boulevard. The property is approximately 5.52 acres and is currently developed with one large industrial warehouse building that is occupied by numerous types of businesses. There are also two smaller commercial buildings

that are partially occupied. It is currently zoned limited industrial service – neighborhood plan (LI-NP) with a small portion of the site along the eastern boundary being zoned (LI-CO-NP).

Since the subject area is located along the South Congress Activity Corridor, it is surrounded by industrial business parks, commercial services, and multifamily. Directly to the north is a motel, credit union, medical office, auto services and a business park (LI-PDA-NP; CS-MU-NP). There are also railroad tracks adjacent to the northern boundary. To the east are industrial warehouse suppliers and sales (LI-CO-NP; LI-NP). Across South Congress Avenue to the west are auto sales and rentals and the Salvation Army Family Store & Donation Center. (CS-MU-NP; CS-MU-V-NP). To the south across Industrial Boulevard are auto services, auto/construction rentals, industrial uses, a self- storage facility, and multifamily residences (CS-MU-NP; CS-MU-V-NP; LI-NP; LI-PDA-NP). ***Please refer to Exhibits A (Zoning Map) and A-1 (Aerial Exhibit).***

South Congress Avenue is a core transit corridor. The South Congress Transit Center is located within one quarter of a mile northwest of the property. There is a Capital Metro bus stop on South Congress Avenue just west of the site. In addition, there are several bus stops located at the transit center. A Capital Metro bus route as well as a Rapid bus route are both accessible from this site.

The applicant is requesting to rezone the property to general commercial services – mixed use – vertical mixed use building – neighborhood plan (CS-MU-V-NP) combined district zoning. The proposed development would consist of a mixed use project. Adaptive reuse of the larger existing industrial building has been proposed in order to redevelop it into smaller buildings for office, restaurant, and retail use. The applicant is requesting the vertical mixed use building (-V) to develop residential units with affordable housing per the City of Austin requirements.

There is a planned Urban Trail adjacent to this site. The Bergstrom Spur, an urban trail and park facility for South Austin, will be developed along the northern property boundary. Access to the urban trail could be proposed from the redeveloped buildings being used for the office, restaurant, and retail spaces.

Staff is recommending general commercial services – mixed use – vertical mixed use building – conditional overlay – neighborhood plan (CS-MU-V-CO-NP) combining district zoning. The proposed Conditional Overlay would consist of the list of prohibited uses above. The Applicant is in agreement with the proposed Conditional Overlay that has been incorporated in the Staff recommendation.

BASIS OF RECOMMENDATION:

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The proposed general commercial services (CS) district zoning is intended for commercial or industrial uses that typically have operating characteristics or traffic service

requirements generally incompatible with residential environments. The mixed use (MU) district is intended to allow for office, retail, commercial and residential uses to be combined in a single development. The Vertical Mixed Use Building (V) combining district may be applied in combination with any commercial base zoning district and allows for a combination of office, retail, commercial and residential uses within a vertical mixed use building. The Conditional Overlay (CO) combining district may be applied in combination with any base district. The district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties. The neighborhood plan (NP) district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

2. *Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and collectors.*

General commercial services – mixed use – vertical mixed use building (CS-MU-V) zoning is appropriate for the subject property due to its location at the intersection of South Congress Avenue (major arterial) and Industrial Boulevard (collector street).

3. *The rezoning should be consistent with the policies and principles adopted by the City Council.*

City Council has provided policy and direction for having more intensive uses and additional residential density on major corridors as well as allowing vertical mixed use building (-V) combining district on core transit corridors.

4. *Zoning changes should promote an orderly relationship among land uses.*

Staff is recommending (CS-MU-V-CO-NP) combining district zoning for the subject property based on the following considerations:

- 1) Its location at an intersection of a major arterial street and collector, in addition to being located just south of Ben White Boulevard,
- 2) An urban trail is planned along the northern boundary of the proposed development,
- 3) Commercial uses would be available to serve residents of the adjacent areas, as well as the wider community,
- 4) There are numerous multifamily mixed use projects that are zoned (CS-MU-V) located all along South Congress Avenue to the south of the proposed site,
- 5) South Congress Avenue is a Core Transit Corridor, and this site is located within 0.25 miles of a transit center. It is currently served by Capital Metro bus routes, including a Metro Rapid Bus Route.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LI-NP; LI-CO-NP	Automotive sales; Single family residence; Undeveloped

<i>North</i>	LI-PDA-NP; CS-MU-NP	Motel; Credit unions; Food sales; Service station; Auto services; Manufacturing; Business park; South Congress Transit Center; Railroad tracks
<i>South</i>	CS-MU-NP; CS-MU-V-NP; CS-MU-V-CO-NP; LI-NP; LI-CO-NP; LI-PDA-NP	Auto sales/rentals; Construction rentals; Self-storage facility; Industrial supply; Multifamily
<i>East</i>	LI-CO-NP; LI-NP	Industrial warehouses, suppliers, & sales
<i>West</i>	CS-MU-NP; CS-MU-V-NP	Auto sales/rentals; Commercial services

NEIGHBORHOOD PLANNING AREA: South Congress Combined (East Congress)

WATERSHED: Williamson Creek – Suburban

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS: Austin Independent School District

Galindo Elementary School

Bedichek Middle School

Travis High School

COMMUNITY REGISTRY LIST:

Austin Neighborhoods Council

Austin Independent School District

Friends of Austin Neighborhoods

South Austin Neighborhood Alliance (SANA)

Homeless Neighborhood Association

Neighborhood Empowerment Foundation

Sierra Club, Austin Regional Group

South Congress Combined Neighborhood Plan Contact Team

Oldham Neighborhood Association

Austin Lost and Found Pets

Onion Creek HOA

Preservation Austin

SELTexas

Go Austin Vamos Austin 78745

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2020-0093 – 4329 South Congress Avenue	CS-MU-NP to CS-MU-V-NP	To Grant (10/27/2020) CS-MU-V-CO-NP	Apvd CS-MU-V-CO-NP as Commission recommended (10/10/2022)
C14-2020-0008 – 4302 South Congress Avenue	CS-MU-NP to CS-MU-V-NP	To Grant CS-MU-V- NP and conditions of R-O-W dedication on S Congress Ave.	Apvd CS-MU-V-NP as Commission recommended (5-7-2020).

C14-2019-0069 – 4315 South Congress Avenue	CS-MU-NP to CS-MU-V-NP	To Grant CS-MU-V-NP and conditions of R-O-W dedication on S Congress Ave.	Apvd CS-MU-V-NP as Commission recommended (8-8-2019).
C14-2017-0132 – 4515 South Congress Avenue; 134 Sheraton Ave	CS-MU-NP; CS-MU-CO-NP to CS-MU-V-NP	To Grant CS-MU-V- CO-NP w/CO for list of prohibited uses and 2,000 trips/day.	Apvd CS-MU-V-CO- NP Commission rec. but remove the –CO for the 2,000 trips/day limit (6-14-2018).
C14-2017-0133 – 4401 S Congress Rezoning	CS-MU-NP to CS-MU-V-NP	To Grant CS-MU-V- CO-NP w/CO prohibiting access to S Congress Ave and conditions of R-O-W dedication on South Congress Avenue	Apvd CS-MU-V-CO- NP as PC rec (3-8- 2018). Note: Staff deferred R-O-W dedication to site plan.
C14-2016-0106 – 4411 South Congress Avenue and 4510 Lucksinger Lane	CS-MU-NP to CS-MU-V-NP	To Grant CS-MU-V- NP w/addl conditions to provide 10% rental units at 60% MFI w/a unit mix reflecting the makeup of the units as the rest of the development.	Apvd CS-MU-V-CO- NP w/CO for 60’ height limit (4-13-2017).
C14-2016-0097 – 4714 South Congress Avenue	CS-MU-CO-NP to CS-MU-V-NP	To Grant CS-MU-V- NP w/addl conditions to provide 10% rental units at 60% MFI w/a unit mix reflecting the makeup of the units as the rest of the development.	Apvd CS-MU-V-CO- NP w/CO limiting height to 60’, on 1st Rdg (3-23-2017). NOTE: Case Expired
C14-05-0107 – East Congress Neighborhood Plan Area Rezoning	Proposed – Addition of -NP Combining District and change Base District Zoning on 36 tracts.	To Grant	Apvd to Add -NP Combining District (8/18/2005)

RELATED CASES:

NPA-2023-0020.01 – from Industry to Mixed Use for a portion of the property

ADDITIONAL STAFF COMMENTS:Drainage

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City's Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

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

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

At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

PARD – Planning & Design Review

Parkland dedication will be required at the time of subdivision or site plan application for new residential units proposed by this rezoning, mixed use-multifamily with CS-MU-V-NP, per City Code § 25-1-601, as amended. The intensity of the proposed development creates a need for over six acres of additional parkland, per requirements described in § 25-1-602; when over six acres, parkland must be dedicated – see § 25-1-605 (A)(2)(a). As such, land dedication shall be required, unless the land available for dedication does not comply with the standards for dedication. Any remaining fees in-lieu after dedication shall also be required.

The Parks and Recreation Department (PARD) would consider a small park toward satisfying the requirement at time of permitting (whether subdivision or site plan). The surrounding neighborhood areas are currently park deficient, defined as being outside walking distance to existing parks. The dedication would satisfy the need for additional parks along the Bergstrom Spur, a planned urban trail and park facility for South Austin.

Should there be any remaining fees in-lieu, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: thomas.rowlinson@austintexas.gov. At the applicant's request, PARD can provide an early determination letter of the requirements.

Site Plan

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

This site is located in the ADU Approximate Area Reduced Parking

This site is located in the East Congress Neighborhood Planning Area

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

Austin Transportation Department – Engineering Review

The Austin Strategic Mobility Plan (ASMP) calls for 165 feet of right-of-way for South Congress Avenue. It is recommended that 82.5 feet of right-of-way from the existing centerline should be dedicated for South Congress Avenue according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

There is a proposed Urban Trail adjacent to this site, the Bergstrom Spur along northern property boundary. The easement required is a minimum of 20 ft as this allows for a 12 ft trail (minimum trail width per the urban trails plan) and room for maintenance activity. This is the same for Tier I and Tier II trails.

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)
South Congress Avenue	Level 3 – Major Arterial	165'	113'	68'	Yes	Yes	Yes

A Traffic Impact Analysis is not required.

Austin Water Utility

No comments on zoning change.

The landowner intends to serve the site with existing City of Austin water utilities.

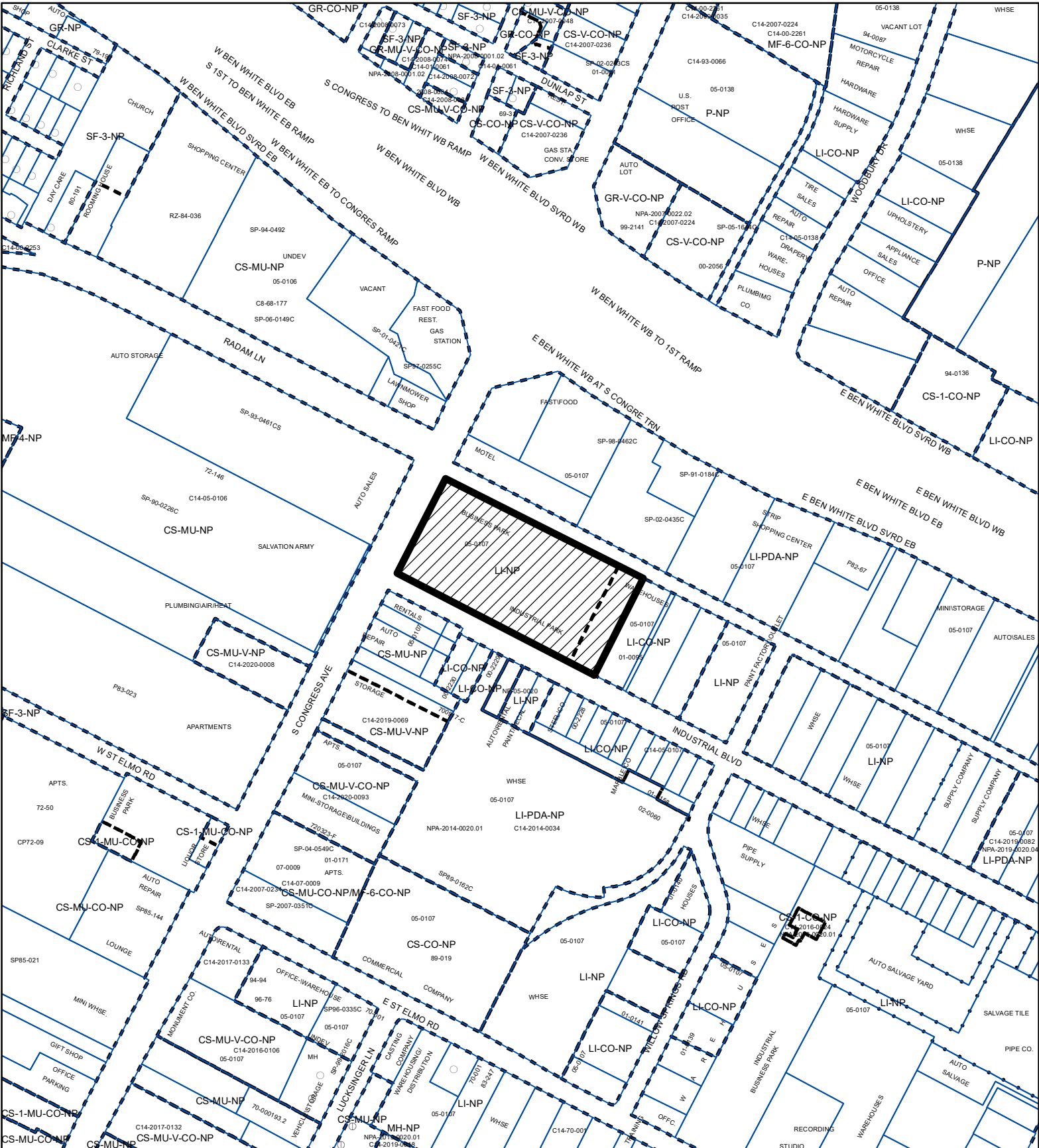
Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.




INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

Exhibit A: Zoning Map
Exhibit A-1: Aerial Map

Applicant's Summary Letter

Correspondence



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

ZONING

ZONING CASE#: C14-2023-0043

EXHIBIT A



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.





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Created: 4/7/2023



4201 South Congress

EXHIBIT A-1

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

ZONING CASE#: C14-2023-0043
 LOCATION: 4201 South Congress Ave
 SUBJECT AREA: 5.515 Acres
 GRID: H18
 MANAGER: Nancy Estrada



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Created: 5/24/2023

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

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

FACSIMILE 512-435-2360

FERRIS CLEMENTS
(512) 435-2337
fclements@abaustin.com

March 27, 2023

Rosie Truelove
Director, Housing & Planning Department
City of Austin
1100 E. 11th Street, Suite 200
Austin, Texas 78702

Re: Zoning Application for the Property (defined below) (the “**Application**”)

Dear Mrs. Truelove:

This letter is submitted on behalf of the owner in the above referenced Application. The area to be rezoned is comprised of 5.515 acres located at 4201 S. Congress Avenue, Austin, Texas 78745 (TCAD Parcel #0412040101) (the “**Property**”). The Property is in the South Congress Combined (East Congress) Neighborhood Plan (the “**Neighborhood Plan**”). Currently the proposed redevelopment is for the construction of a mixed-use development to be located on the Property (the “**Project**”).

In order to facilitate redevelopment of the Project, the applicant seeks to rezone the Property from Limited Industrial Service – Conditional Overlay – Neighborhood Plan (LI-CO-NP) and Limited Industrial Service – Neighborhood Plan (LI-NP) to General Commercial Services - Mixed Use – Vertical – Neighborhood Plan (CS-MU-V-NP).

The FLUM established by the Neighborhood Plan identifies the majority of the Property as Mixed Use, and a small portion of the Property as Industry. The applicant has submitted a separate neighborhood plan amendment application (NPA 2023-0020.01) requesting to change the FLUM on a portion of the Property from Industry to Mixed-Use in order for the FLUM to be consistent with (i) the FLUM for the majority of the Property, and (ii) future rezoning.

Thank you in advance for your time and consideration of this Application. If you have any questions or need additional information, please do not hesitate to contact me at (512) 435-2337.

ARMBRUST & BROWN, PLLC
Page 2

Very truly yours,

ARMBRUST & BROWN, PLLC


Ferris Clements

cc: Richard Suttle, Armbrust & Brown, PLLC
Gavin Greenblum, Redcar Properties
Vince Korth, Redcar Properties

DATE: January 15, 2024

TO: Maureen.Meredith@austintexas.gov, nancy.estrada@austintexas.gov

CC: Jose.Velasquez@austintexas.gov **Please ensure that our request is honored.**

FROM: South Congress Combined Neighborhood Plan Contact Team – SCCNPCT

Re: SCCNPCT Requesting **Postponement at the January 18, 2024 Austin City Council Meeting**
For Case Number: NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress Ave. - Cases: 88, 91.

Applicant: Ferris Clements

Dear City of Austin Planning & Zoning Departments, Maureen Meredith and Nancy Estrada.

We, the SCCNPCT, have been informed that the case NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress is scheduled to be heard at the January 18, 2024 City of Austin Council Meeting. We also want to speak about this case at City Council. Due to scheduled work we are unable to attend.

The SCCNPCT is requesting postponement to the above listed cases at the January 18, 2024 Austin City Council Meeting to the February 1, 2024 Austin City Council Meeting.

The SCCNPCT thus requests a postponement.

Thank you,
Mario Cantu, Chair
SCCNPCT

From: Ferris Clements
Sent: Friday, December 8, 2023 12:30 PM
To: Estrada, Nancy <Nancy.Estrada@austintexas.gov>; Meredith, Maureen <Maureen.Meredith@austintexas.gov>
Cc: Gavin Greenblum
Subject: RE: C14-2023-0043 / NPA-2023-0020.01 - 4201 South Congress Ave.
Importance: High

Nancy and Maureen,

Please include the email below in the backup for our items.

Thanks,
Ferris

From: Ferris Clements
Sent: Monday, November 27, 2023 3:03 PM
To: 'Estrada, Nancy' <Nancy.Estrada@austintexas.gov>; Meredith, Maureen <Maureen.Meredith@austintexas.gov>
Cc: Gavin Greenblum
Subject: RE: C14-2023-0043 / NPA-2023-0020.01 - 4201 South Congress Ave.

Nancy and Maureen,

Good afternoon. We have proposed a Letter Agreement with the SCCNPCT, but have yet to finalize anything. We have met with the neighborhood group via Zoom meetings on the following dates, as well as numerous phone calls and correspondence over the summer:

- April 18, 2023
- September 28, 2023
- October 5, 2023
- October 10, 2023
- October 30, 2023
- November 20, 2023

We have let the neighborhood group know that this site would be subject to the City of Austin's affordability requirements for –V. Because we are on a light rail corridor, we are subject to heightened affordability standards (highlighted below):

	VMU1	VMU2 – Option A	VMU2 – Option B
Rental Units (Not on Rail)			
Affordability Level	10% at 60% MFI	12% at 60% MFI	10% at 50% MFI
Length of Affordability	40 years	40 years	40 years
Rental Units (On Rail Line)			
Affordability Level	10% at 60% MFI	15% at 60% MFI	12% at 50% MFI
Length of Affordability	40 years	40 years	40 years
Ownership Units			
Affordability Level	10% at 80% MFI	12% at 80% MFI	-
Length of Affordability	99 years	99 years	-

The SCCNPCT has requested the Applicant commit to additional affordability standards in excess of the current City of Austin –V requirements, even though we are already subject to heightened affordability standards by being on a light rail corridor. The Applicant has repeatedly let the neighborhood know that this is something we cannot agree to.

Please let us know if you need any more information at this time.

Thanks,

Ferris

G. Ferris Clements, III

Associate

Armbrust & Brown, PLLC

100 Congress Avenue, Suite 1300

Austin, Texas 78701-2744

(512) 435-2337 - Direct

(512) 435-2360 - Facsimile

-----Original Message-----

From: Ferris Clements

Sent: Friday, October 20, 2023 7:26 PM

To: Meredith, Maureen <Maureen.Meredith@austintexas.gov>; Estrada, Nancy <Nancy.Estrada@austintexas.gov>

Cc: Gavin Greenblum

Subject: Re: Letter for Staff Report Regarding NPA-2023-0020.01_4201 S. Congress Ave.

External Email - Exercise Caution

Maureen and Nancy,

Please update our case file/staff report to reflect the following dates we have met with the Neighborhood Contact Team via Zoom since the last Planning Commission. These are an addition to our initial Zoom meeting with the neighborhood on April 18th, as well as numerous phone calls with Mario Cantu over the summer.

Zoom Meetings:

Thursday, September 28th

Thursday, October 5th

Tuesday, October 10th

We tried to schedule a meeting with the contact team this past week, but did not hear back from them regarding a time/date.

Thanks,

Ferris

On Oct 17, 2023, at 3:34 PM, Meredith, Maureen <Maureen.Meredith@austintexas.gov> wrote:

Ferris:

FYI, see attached and below.

Maureen

From: Howard Curtis

Sent: Tuesday, October 17, 2023 12:53 PM

To: Meredith, Maureen <Maureen.Meredith@austintexas.gov>

Cc: Estrada, Nancy <Nancy.Estrada@austintexas.gov>; Woods, Alice - BC <BC-Alice.Woods@austintexas.gov>; nadia.mojica.barrera@;

Gene Adams <Mario Cantu

Subject: Letter for Staff Report Regarding NPA-2023-0020.01_4201 S. Congress Ave.

External Email - Exercise Caution

Dear Maureen --

I am attaching a letter from Gene Adams and myself, both members of the Steering Committee of the Oldham Neighborhood Association, related to the proposed development at 4201 South Congress Avenue (NPA-2023-0020.01). My understanding is that a proposed zoning change for this property will be on the agenda of the October

24 Planning Commission meeting.

In preparing this letter expressing our current views on the matter, Gene Adams and I have been in consultation with Mario Cantu of the SCCNPCT. We wish to request, with Mr. Cantu's support, that his letter be included with the staff case report in preparation for the hearing.

Please feel free to contact me with any questions.

Best regards,

Howard Curtis
Steering Committee -- Oldham Neighborhood Association

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October 17, 2023

Dear Members, Austin Planning Commission:

We are members of the Steering Committee of the Oldham Neighborhood Association in South Austin. .

The Oldham Neighborhood is located immediately south of St. Elmo between South Congress Avenue and South First Street, and thus will be impacted by current and future development along South Congress between Ben White and Stassney.

Over the last six months, we have been working with Mario Cantu and other members of the South Congress Neighborhood Plan Contact Team (SCCNPCT) in discussions and negotiations with the developers' representatives for three major projects planned for the South Congress Corridor. These projects are located at 5400 South Congress (NPA2023-0020.02 and C14-2023-0034), 300/440/600 Industrial Boulevard (NPA2023-0020.03 and C14-2023-0046), and 4201 South Congress (NPA-2023-0020.01 and C14-2023-0043).

It has been our experience in these interactions that the developers at 5400 South Congress and at the Industrial Boulevard properties have proactively engaged with our SCCNPCT group, have taken serious account of our neighborhoods' concerns, and have worked to address these needs and requests, including concessions and accommodations.

Unfortunately, the same cannot be said for the developer that plans to create a mixed-use project at 4201 South Congress – Redcar, Ltd. of Santa Monica, California. Until the last several weeks, it has been difficult for the Contact Team to secure the participation of the developer's representative, Mr. Ferris Clements, in meetings with our group. While the developer has now agreed to SCCNPCT requests in certain areas, such as sidewalks and lighting, we believe that the commitments the developer has made are primarily those required by City of Austin building codes, and that the developer has not shown willingness to go beyond what the City requires of them.

There are three areas, in particular, where we think that Redcar and their representatives need to demonstrate more flexibility and a spirit of compromise in addressing neighborhood requests. Specifically –

- The SCCNPCT wants the developer to commit to the inclusion of affordable units in the proposed project that go somewhat beyond the levels currently required by the City, whether this would take the form of more affordable residential units, affordable retail space, or some combination of the two. The developer has shown no willingness to provide more than the required minimums.
- The SCCNPCT seeks a Parkland Donation from the developer -- funds that would enhance public parks in the South Congress Corridor, to support the growing population in the area that is a direct result of major residential developments. Thus far, the developer has refused to make such a commitment.

- The SCCNPCT has requested that the developer confirm their commitments to our neighborhoods through the execution of a restrictive covenant, which would bind future development of the property consistent with the agreements reached between the developer and the SCCNPCT, in return for the zoning change which the developer seeks from the City. The use of a restrictive covenant would be consistent with what other developers along the South Congress corridor have previously provided. However, Redcar and their representatives have refused to execute a restrictive covenant, arguing that they prefer a letter-of-agreement, and that an LoA should be sufficient for our purposes. It is our belief that an LoA is a weaker legal instrument than a restrictive covenant, in that it binds two parties rather than imposing conditions on the development of the property itself. It is quite possible, for example, that the terms agreed to in an LoA could be found invalid after the zoning change, should the developer sell the property to a third party.

Further, the circumstances the SCCNPCT finds itself in at this point in our negotiations with the developer and their representatives at 4201 South Congress raise issues of equity. Whereas other developers along the South Congress Corridor have been proactive in negotiating with the SCCNPCT and responding to our reasonable requests in the areas documented above, Redcar has thus far resisted doing so. For the Planning Commission to respond by approving the applicant's request for a zoning change at this juncture would create a situation that is unfair to the majority of developers. It will also undercut the credibility and leverage that the SCCNPCT can bring to the table in future interactions with the development community.

While the Oldham Neighborhood Association is just one of the member organizations of the SCCNPCT, unless circumstances change, we will be advising Mr. Cantu, on behalf of our neighborhood, that we cannot recommend that the SCCNPCT express support for the agreement with the developer of 4201 South Congress Avenue, on the terms that are currently being proposed to us by the developer and their representative.

Please feel free to contact us with questions, or if clarifications are needed.

Best regards,

Howard Curtis; Gene Adams
Steering Committee, Oldham Neighborhood Association

Cc: Mario Cantu, SCCNPCT; Alice Woods, Planning Commission – District 2; Nadia Barrera-Ramirez, Planning Commission – District 3

E-mail: hcurtistx@gmail.com
Cell: (512)-547-7116

**South Congress Cmb NPCT Postponement Request &
Applicant's Response**

DATE: September 19, 2023
TO: Maureen.Meredith@austintexas.gov, nancy.estrada@austintexas.gov
CC: Jose.Velasquez@austintexas.gov
FROM: South Congress Combined Neighborhood Plan Contact Team – SCCNPCT
Re: SCCNPCT Requesting Indefinite Postponement
Case Number: NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress Ave.

Dear Planning & Zoning Departments,

We, the SCCNPCT, were informed that this case - NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress - is scheduled to be heard at the September 26, 2023 Planning Commission meeting, and are requesting an indefinite postponement of this case to the City of Austin Planning and Zoning Dept.

On April 4, 2023, a notice from the City of Austin was received including detailing a planned Virtual Neighborhood Meeting with ways to participate on Wednesday, April 19, 2023 from 6:00p.m. – 7:30 p.m. At that time, the applicant had no information about the plans for the property information shared, concerns and issues from the neighborhood were not answered at that time. It was actually said that he “did not know or understand their scheme for this project”.

The SCCNPCT was repeatedly crystal clear about the process in place for reviewing cases in the area, including requesting details at least twice, via our standard questionnaire, to no avail. We, in fact reached out multiple times prior to the case being set for Planning Commission this week.

Please pass along to the City's Plan Amendment and Zoning Teams re: NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress about the issues resulting from that Virtual Neighborhood Meeting, including that information neighbors have been seeking is still unknown.

With several unanswered attempts to make contact since April, we, the SCCNPCT, are forced to seek an indefinite postponement on account of lack of information, intent, and any details regarding this case from the applicant. SCCNPCT still has not heard, nor met with the applicant to date.

Thank you,
Mario Cantu, Chair
SCCNPCT

From: Ferris Clements <>

Sent: Tuesday, September 19, 2023 5:25 PM

To: Meredith, Maureen <Maureen.Meredith@austintexas.gov>; Mario Cantu <mariocantu@>

Cc: Gavin Greenblum <>; rsuttle@; Estrada, Nancy <Nancy.Estrada@austintexas.gov>;

Velasquez, Jose <Jose.Velasquez@austintexas.gov>; Harden, Joi <Joi.Harden@austintexas.gov>;
Rivera, Andrew <Andrew.Rivera@austintexas.gov>

Subject: RE: SCCNPCT Requesting Indefinite Postponement Case Number: NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress Ave.

External Email - Exercise Caution

Mario,

We would be agreeable to an October 10th postponement request by the neighborhood group if this is acceptable with you all.

Thanks,
Ferris



From: Ferris Clements

Sent: Tuesday, September 19, 2023 11:17 AM

To: Mario Cantu <>; Meredith, Maureen <Maureen.Meredith@austintexas.gov>; Estrada, Nancy <Nancy.Estrada@austintexas.gov>; Velasquez, Jose <Jose.Velasquez@austintexas.gov>

Cc: Gavin Greenblum <>; rsuttle@[REDACTED]

Subject: RE: SCCNPCT Requesting Indefinite Postponement Case Number: NPA-2023-0020.01 - C14-2023-0043 - 4201 South Congress Ave.

Importance: High

Mario,

This is disconcerting as we have met with the neighborhood group as required by the City, and have had multiple conversations with you subsequent to that required neighborhood meeting. We are happy to provide the City evidence of these meetings/phone conversations if necessary. We filled out the neighborhood group's questionnaire as accurately as we could when received; however, many of these questions were not relevant to the entitlement process and instead dealt with site plan issues.

Our "intent" at this time, and subject to change, is to develop a mixed-used project on the Property.

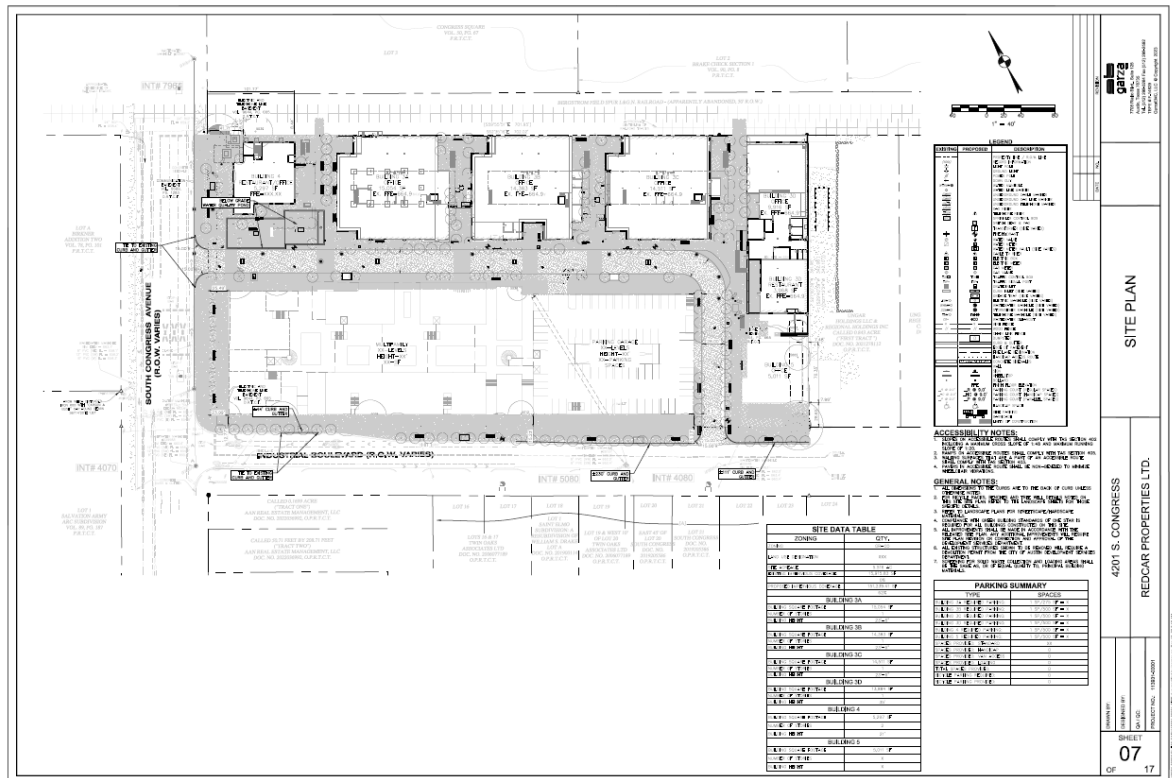
Attached is a copy of the proposed site plan for the project (which remains subject to change) – our team plans to submit this on Friday of this week. Note that we just received this from our engineers.

As you are aware, we have been trying to schedule a call with the SCCNPCT to discuss this case prior to Planning Commission. Note that I emailed you on 9/14/2023 trying to schedule a call, but we did not receive a firm date for this from the neighborhood.

Thanks,

Ferris

G. Ferris Clements, III
Associate
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
(512) 435-2337 - Direct
(512) 435-2360 - Facsimile
fclements@abaustin.com
www.abaustin.com



From: [Howard Curtis](#)
To: [Meredith, Maureen](#)
Cc: [Velasquez, Jose](#); [Estrada, Nancy](#); [Ferris Clements](#); [Oldham Neighborhood Association](#)
Subject: Support From Oldham Neighborhood Association for Postponement
Date: Thursday, September 21, 2023 9:56:13 PM

External Email - Exercise Caution

Dear Maureen:

I drafted the communication I am appending below before I saw a copy of Ferris Clements's message to Mario Cantu this afternoon, proposing a postponement of the developer's presentation to the Austin Planning Commission, regarding the potential project at 4201 South Congress, until October 10.

The willingness of the developer to accept a postponement is welcome and appreciated. However, in addition to agreeing to the postponement itself, I think that the developer's representatives and the SCCNPCT need to agree to what process will be pursued, and what issues addressed, between now and the date the developer makes their presentation to the Planning Commission.

In this context, I think the content of my original message remains relevant.

To me, the date of October 10 creates a tight deadline. But, if the developer's representatives and the SCCNPCT communicate frequently and work together in good faith in coming weeks, it is potentially achievable. I am personally willing and available to participate in the discussions as needed.

Please feel free to follow up with me with any questions, or for discussion. My contact points appear below, at the end of my original communication.

Best regards,

Howard Curtis
Steering Committee, Oldham Neighborhood Association

[Original Message -- H. Curtis to Maureen Meredith -- Drafted Sept. 21, 2023]

Dear Maureen:

This is Howard Curtis, a member of the Steering Committee of the Oldham Neighborhood Association (encompassing Garnett Street, Lareina Drive, and Southview in South Austin, south of St. Elmo and between South Congress and South First). Our neighborhood is located just south and west of the proposed new mixed-use development at 4201 South Congress (Case Number NPA-2023-0020.01 - C14-2023-0043).

As the member of the Steering Committee of our Neighborhood Association who has been most involved with the SCCNPCT over the past six months, I am writing to support the position taken by Mario Cantu in communication with your office that consideration of this project by the Austin Planning Commission should be postponed.

I would cite the following timeline:

-- On April 19, 2023, I participated in a virtual SCCNPCT meeting with developers' representatives for several proposed projects along the South Congress corridor, including Ferris Clements for 4201 South Congress. At this meeting, the applicant for 4201 South Congress was unable to provide essential information about the scope and content of their proposed project, nor to address the questions raised by neighborhood representatives (including me). Additional clarification and discussion were clearly indicated.

-- Since April 19, I don't believe any further online or in-person meetings have taken place involving the developer's representatives and the SCCNPCT, for the 4201 South Congress project.

-- This Tuesday, Sept. 19, Mr. Clements kindly provided SCCNPCT with a site-plan schematic for the 4201 South Congress this Tuesday, but this is only one week prior to the applicant's planned appearance before the Austin Planning Commission. This clearly does not provide the SCCNPCT sufficient time to respond, and to further engage with the developer. As well, the site-plan does not appear to contain some basic information, such as the proposed height of the multi-family building planned at 4201 South Congress.

-- I understand from Mr. Cantu that the applicant has not returned a completed SCCNPCT questionnaire regarding their plans, as requested by the SCCNPCT.

I believe that, at a minimum, the following process should be undertaken prior to the developer bringing their plans for 4201 South Congress before the Planning Commission:

-- The SCCNPCT and interested Neighborhood Associations (the Oldham Neighborhood Association is definitely interested) should be provided with time to review the site-plan that the applicant has now provided, and to develop a list of questions and requests (I would think one-two weeks would be adequate).

-- The SCCNPCT, with Neighborhood Association inputs, would then send a list of its initial questions and requests to the developer.

-- An in-person or virtual meeting between the SCCNPCT and the developer's representatives, to discuss and potentially negotiate these matters, would be scheduled and conducted, with follow-up interactions scheduled and conducted as needed.

-- Meanwhile, the developer's representatives would complete and return the requested questionnaire, with full answers, to the SCCNPCT.

In my view, only after the conduct and completion of such a process can the SCCNPCT provide useful, considered recommendations to the Planning Commission and City staff regarding the proposed project. For the Planning Commission to proceed with its consideration prior to receiving those inputs, is simply to ignore the neighborhoods that will

be affected by the proposed project.

For clarity, the Oldham Neighborhood Association does not oppose retail and residential development in the South Congress Corridor. Given population growth in Austin, and the fact that South Congress Avenue is a major north-south transportation conduit, such development is inevitable and in fact essential. However, such development should involve sincere consultations and negotiations between our South Congress neighborhoods and the developers who seek to build here.

For the above reasons, on behalf of the Steering Committee of the Oldham Neighborhood Association, I seek and support a postponement.

Best regards,

Howard Curtis
Steering Committee, Oldham Neighborhood Association

Cell: (512)-547-7116

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