

## ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0153

DISTRICT: 3

ADDRESS: 1307 and 1309 East 4<sup>th</sup> Street

ZONING FROM: TOD-NP (Live/Work Subdistrict)

TO: TOD-NP (TOD Mixed Use Subdistrict)

SITE AREA: approximately 0.29 acres (approximately 12,632 square feet)

PROPERTY OWNER: JLCC Interests, LLC

AGENT: Drenner Group, PC (Leah Bojo)

CASE MANAGER: Jonathan Tomko (512) 974-1057, [jonathan.tomko@austintexas.gov](mailto:jonathan.tomko@austintexas.gov)

### STAFF RECOMMENDATION:

**Staff recommends granting transit oriented development-neighborhood plan (TOD-NP) combining district zoning (TOD Mixed Use Subdistrict).** See the *basis of recommendation* section below for more information.

### PLANNING COMMISSION ACTION / RECOMMENDATION:

May 28, 2024: Neighborhood postponement request granted to June 11, 2024.

June 11, 2024: A motion to approve applicant's request and staff's recommendation for TOD-NP (TOD Mixed Use Subdistrict) for C14-2023-0153 - 1307 and 1309 East 4th Street was approved on Commissioner Anderson's motion and Commissioner Johnson's second, on a 9-0-1 vote with Commissioner Woods abstaining.

### CITY COUNCIL ACTION:

July 18, 2024: Postponed to August 29, 2024 at the request of the Neighborhood.

August 29, 2024: Applicant postponement request granted to October 10, 2024.

October 10, 2024: Applicant postponement request granted to November 7, 2024.

November 7, 2024: Case is scheduled to be heard by City Council.

### ORDINANCE NUMBER:

N/A

### ISSUES: N/A

### CASE MANAGER COMMENTS:

The subject tract is currently Office/Retail/Commercial built in approximately 1920 and 1947. To the north of the subject tract (across East 4<sup>th</sup> Street) is undeveloped land and a nightclub/bar (the historic Scoot Inn) built in approximately 1912, approximately 2,700 square feet east of the tract is a single-family home built in approximately 1909, of approximately 1,100 square feet. To the south of the subject tract are two newer duplexes and to the west of the subject tract is a single-family home built in approximately 1908, approximately 800 square feet.

The subject tract is less than 500 feet from the Plaza Saltillo Red Line Station. The property currently contains zero dwelling units per acre. Target residential densities to support robust fixed-route or dedicated transit in an urban center are within the range of 75 to 150 dwelling units per acre within ½ mile radius of the station area. Without an increase in density, and additional more intense mixed-use development as parcels redevelop within the station area, the CapMetro Red Line and associated connecting bus service may under-perform.

A review of the subdistrict map within the regulating plan indicated a substantial amount of property zoned TOD Mixed Use Subdistrict on the north side of the station area, much further away from the station area. The TOD Mixed Use Subdistrict is found more than 3 times as far away from the station as the subject tract. This distribution is not uniform and there is not a compelling reason to maintain this distribution given its proximity to the station.

#### **BASIS OF RECOMMENDATION:**

**The proposed zoning should be consistent with the purpose statement of the district sought.** Areas zoned (TOD-NP) TOD Mixed Use Subdistrict are located in the closest proximity to transit and is the highest density district designation within the Plaza Saltillo Station Area Plan. This subdistrict encourages urban-style development including active ground floor uses with commercial, office, or residential uses on the upper floors. Residential densities may exceed 45 units per acre if a specific level of affordable housing is provided. Moderate height bonuses allowing a total building height of 85 feet may also be granted with additional affordable housing.

**Zoning changes should promote compatibility with adjacent and nearby uses.** Staff recommends (TOD-NP) TOD Mixed Use Subdistrict zoning for the property based on the following considerations: 1) proximity to the Plaza Saltillo station; 2) it is consistent with the development that has been granted within the regulating plan, 3) it is reasonable given the changes in the area since the TOD Plan was adopted in 2008. There has been substantial redevelopment in the immediate area, 4) the rezoning would support goals in the Austin Strategic Housing Blueprint by providing more affordable housing within ¼ mile of high-frequency transit.

**Zoning should promote clearly identified community goals, such as creating employment opportunities or providing for affordable housing.** This rezoning case presents an opportunity as older properties within the station area begin to redevelop, to increase housing density and a mix of uses to a level that will support fixed route transit. This case can also support community goals by increasing a mix of uses which can support more employment opportunities and supports transit at the same time by providing more destinations within the station area. Lastly, the rezoning request also could result in additional income restricted affordable housing in exchange for a density bonus, or super density bonus. Income restricted housing units near transit achieve a deeper level of affordability due to their locational advantages, they can reduce what is typically a household's second largest expense, transportation costs.

#### **EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
<i>Site</i>	TOD-NP (Live/Work Subdistrict)	Office/Retail/Commercial built in approximately 1920 and 1947
<i>North (across 4<sup>th</sup> St.)</i>	TOD-NP (TOD Mixed Use Subdistrict)	Undeveloped land and a nightclub/bar (The Historic Scoot Inn) built in approximately 1912, approximately 2,700 square feet
<i>South</i>	SF-3-NP	Two newer duplexes
<i>East</i>	TOD-NP (Live/Work Subdistrict)	Single-family home built in approximately 1909, approximately 1,100 square feet
<i>West</i>	TOD-NP (Live/Work Subdistrict)	Single-family home built in approximately 1908, approximately 800 square feet

**NEIGHBORHOOD PLANNING AREA:** East Cesar Chavez and Plaza Saltillo Plaza TOD Station Area Plan

WATERSHED: Lady Bird Lake WatershedSCHOOLS: A.I.S.D.

Sanchez Elementary School

Martin Middle School

Austin High School

COMMUNITY REGISTRY LIST:

Austin Independent School District, Austin Lost and Found Pets, Austin Neighborhoods Council, Barrio Unido Neighborhood Assn., Capital Metro, Del Valle Community Coalition, East Austin Conservancy, East Cesar Chavez Neighborhood Association, East Cesar Chavez Neighborhood Plan Contact Team, El Concilio Mexican -American Neighborhoods, Friends of Austin Neighborhoods, Greater East Austin Neighborhood Association, Guadalupe Neighborhood Development Corporation, Homeless Neighborhood Association, Neighborhood Empowerment Foundation, Neighbors United for Progress, Plaza Saltillo TOD Staff Liaison, Preservation Austin, Red Line Parkway Initiative, SELTexas, Sierra Club, Austin Regional Group, Tejano Town

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2021-0138 (1400 E. 4 <sup>th</sup> Street)	The Applicant is proposing to rezone approximately 0.9983 acres from TOD-NP to TOD-NP, to amend the Base Maximum Building Height Map located on Figure 4-1 of the Regulating Plan to allow a base maximum building height of 85 feet.	Recommended	04.07.2022: Approved (TOD-NP) with a base maximum building height of 85 feet. Vote (9-1) Council Member Tovo voted nay. Council Member Harper-Madison was absent.
C14-2016-0051 (Plaza Saltillo Tract 6)	The applicant is proposing to rezone a tract of land from TOD-NP to TOD-NP-CURE.	Recommended	03.02.2017: Approved on 3 <sup>rd</sup> reading TOD-CURE-NP as amended (7-4). Those voting nay: Mayor Pro Tem Tovo, Council Members Alter, Houston and Pool.

C14-2016-0049 (Plaza Saltillo Tract 4/5)	Applicant is proposing to rezone the property from TOD-NP to TOD- NP-CURE.	Recommended	03.02.2017: Approved on 3 <sup>rd</sup> reading TOD- CURE-NP as amended (7-4). Those voting nay: Mayor Pro Tem Tovo, Council Members Alter, Houston and Pool.
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**RELATED CASES:**

NPA-2023-0002.02 - To amend specified properties within the East César Chávez (ECC) neighborhood plan and the Land Use and Design Concept Plan map(s) in the Plaza Saltillo TOD Station Area Plan **from** Live/Work Flex to TOD Mixed Use. The existing land use on the future land use map (FLUM) is Specific Regulating District. There is no proposed change to the future land use map.

**ADDITIONAL STAFF COMMENTS:****Urban Design**

UD1: The Plaza Saltillo Regulating Plan, adopted in 2008, included five TOD Subdistricts. The Property located at 1307 and 1309 E 4th Street is currently in the TOD Live/Work Flex Subdistrict:

**TOD Live/Work Flex** allows medium density residential development with or without commercial or light manufacturing space within the same structure. The Live/Work Flex Subdistrict is intended to be a predominantly residential area that allows for some specific non-residential use. Residential is a required use of this Subdistrict.

The applicant requests the Property be changed to the TOD Mixed Use Subdistrict:

**TOD Mixed Use** allowing the highest level of development activity in the TOD, ideally with a mix of ground floor commercial or other active uses with residential, commercial and/or office uses on the upper floors. In specific TOD Mixed Use locations, active edges are drawn to define the orientation of the buildings and the ideal location of retail frontage.

Considerations for changing the Property from Live/Work Flex to Mixed Use include:

- **Active Edge Standards.** Consider designating the frontage of the Property an Active Edge, or applying the Active Edge off-street parking standards, described in Section 5.7.2.B. The goal of Active Edge design standards is to ensure lively, activated frontages in areas with high pedestrian activity.
- **Wider sidewalks.** Changing the zoning subdistrict will not change the street designation, however, it may impact the pedestrian traffic on the street. A 5-foot clear zone (sidewalk) is not sufficient frontage for a TOD Mixed Use development.

1307 & 1309 E 4th Street

	Current	Proposed
<b>Zoning</b>	Live/Work Flex subdistrict	TOD Mixed Use subdistrict
<b>Lot size</b>	0.29 acres	
<b>Height</b>	40 feet base max height (Figure 4-1) 60 feet with density bonus (4.3.3)	40 feet base max height (Figure 4-1) 60 feet with density bonus (4.3.3) 85 feet with super density bonus (4.3.4)
<b>Max FAR</b>	The maximum FAR is 2:1 unless a development bonus is granted (Section 4.2.8)	The maximum FAR is 2:1 unless a development bonus is granted (Section 4.2.8)
<b>Dev. Bonus</b>	Eligible for Density Bonus	Eligible for Density Bonus and Super Density Bonus
<b>Community Benefits</b>	The applicant/property owner shall be responsible for providing habitable space equal to 10% of the entire square footage of the development, with the option to provide additional affordable square footage. (Section 4.3.2.C)	See Section 4.3.2 Density Bonus and Section 4.3.4 Super Density Bonus
<b>Active Edge</b>	No	-
<b>Street Type</b>	E 4th Street is a TOD Local Street which requires a sidewalk no less than 10 feet in width, including a minimum of 5 feet for a planting zone and 5 feet for a clear zone.	-
<b>Setbacks</b>	For all properties within the TOD District, there are no minimum or maximum requirements for rear, interior side, or street side yard setbacks, except as required to comply with the building height and setback requirements in Subsection 4.2.10 Compatibility Standards. (Section 4.2.6.)	

<b>Maximum Impervious Cover</b>	95% maximum impervious coverage limit (4.2.4)	95% maximum impervious coverage limit (4.2.4)
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#### Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Lady Bird Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
3. According to floodplain maps there is no floodplain within or adjacent to the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.
7. 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.

#### Fire

No comments on rezoning

#### PARD – Planning & Design Review

PR1: Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with TOD Mixed Use, Plaza Saltillo zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov).

Site Plan

- SP1. Site plans will be required for any new development other than single-family or duplex residential.
- SP2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.
- SP3. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

***Compatibility Standards***

- SP4. The site is subject to compatibility standards. Along the South property line, the following standards apply:
- No structure may be built within 15 feet of the property line.
  - No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
  - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
  - No parking or driveways are allowed within 5 feet of the property line.
  - A landscape area is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
  - For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive.
  - An intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property.
  - Additional design regulations will be enforced at the time a site plan is submitted.
- SP5. This tract is already developed, and the proposed zoning change is a footprint within the existing development.

FYI, this case is within the East Cesar Chavez Neighborhood Plan.

Transportation and Public Works Department – Engineering Review

No comments on rezoning

EXISTING STREET CHARACTERISTICS:

<b>Name</b>	<b>ASMP Classification</b>	<b>ASMP Required ROW</b>	<b>Existing ROW</b>	<b>Existing Pavement</b>	<b>Sidewalks</b>	<b>Bicycle Route</b>	<b>Capital Metro (within ¼ mile)</b>
E 4 <sup>th</sup> Street	Level 1	58'	60'	28'	No	No	Yes

TIA: A traffic impact analysis is not required. The traffic generated by the proposal does not exceed the threshold established in the Land Development Code.

Austin Water Utility

No comments on rezoning

INDEX OF EXHIBITS AND ATTACHMENTS TO FOLLOW:

A. Zoning Map

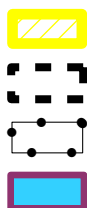
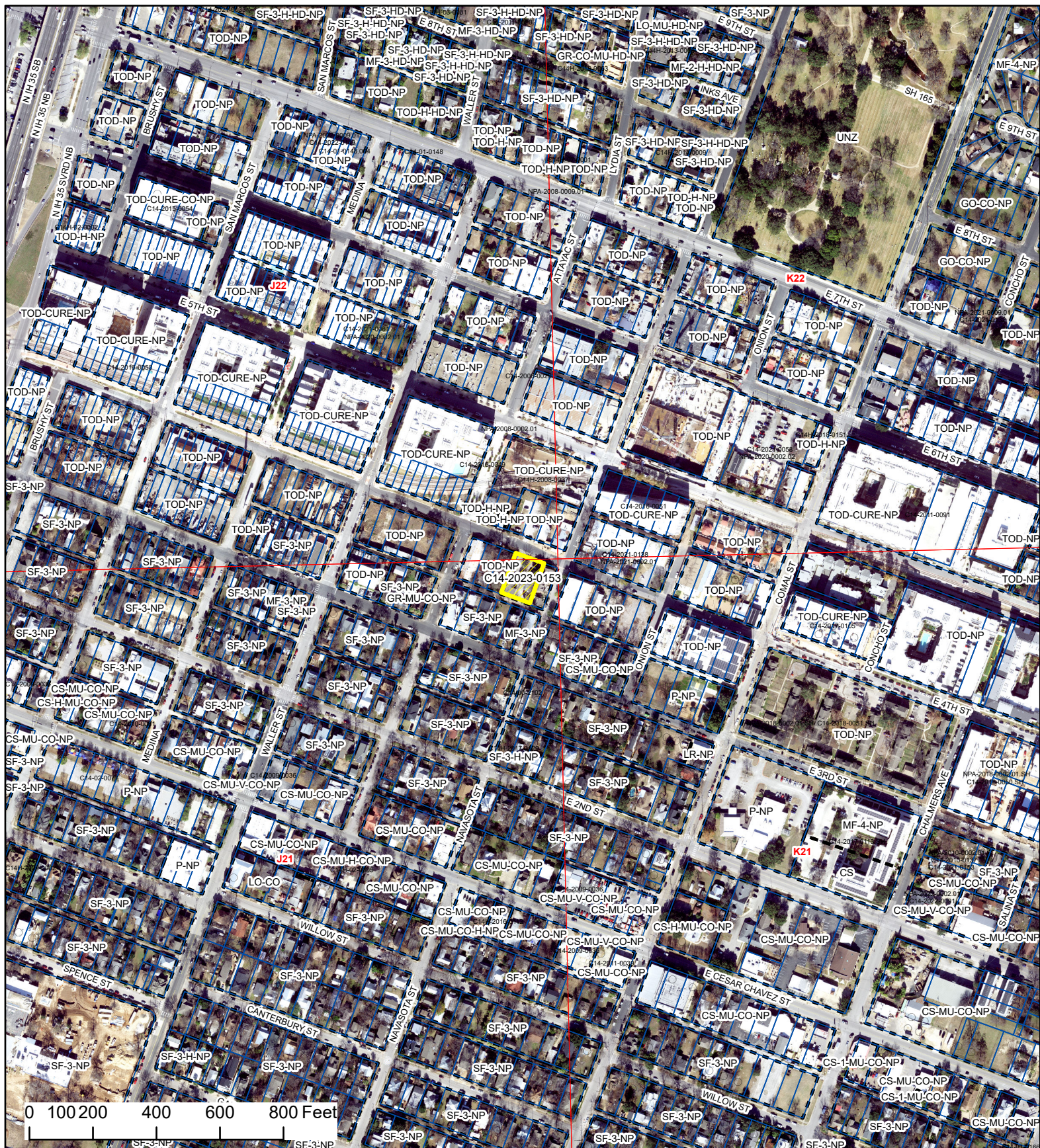
B. Aerial Map

C. Applicant's Summary Letter









SUBJECT TRACT



ZONING BOUNDARY



PENDING CASE



CREEK BUFFER

## 1307 and 1309 E 4th Street

ZONING CASE#: C14-2023-0153  
 LOCATION: 1307 & 1309 E 4th St  
 SUBJECT AREA: 0.29 Acres  
 GRID: J21  
 MANAGER: Jonathan Tomko



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Created: 1/24/2024



March 20, 2024

Ms. Lauren Middleton-Pratt  
Planning Department  
City of Austin  
1000 E 11<sup>th</sup> Street  
Austin, TX 78702

Via Electronic Delivery

Re: 1307 & 1309 E 4<sup>th</sup> Street – Rezoning and Neighborhood Plan correction letter for the approximately 0.2907-acre property located at 1307 & 1309 East 4<sup>th</sup> Street in the City of Austin, Travis County, Texas (the “Property”)

Dear Ms. Middleton-Pratt:

As representatives of the owner of the Property, we respectfully submit this letter to correct the affordability requirements stated in the applicant summary letter that accompanied the rezoning and Neighborhood Plan Amendment applications currently under review, assigned case numbers C14-2023-0153 and NPA-2023-0002.02, respectively, and were submitted on December 6, 2023.

The proposed change to the Plaza Saltillo Transit Oriented Development (TOD) Station Area Plan and Plaza Saltillo TOD Regulating Plan’s Land Use and Design Concept Plan designations from Live/Work Flex to TOD Mixed Use, will allow the Property to participate in the regulating plan’s density and height development bonus by reserving at least 15% of the total square footage of multifamily rental development as affordable habitable space at, or below, 50% of the area Median Family Income, as required by City of Austin Code.

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.

Sincerely,



Leah M. Bojo

cc: Joi Harden, Planning Department (*via electronic delivery*)  
Jonathan Tomko, Planning Department (*via electronic delivery*)  
Maureen Meredith, Planning Department (*via electronic delivery*)