



PLANNING & CODES

Planning and Zoning Commission Report ZC 03-18

A request for Zoning Change 03-18 was considered during a public hearing at the Planning & Zoning Commission meeting on April 10, 2018:

ZONING CHANGE request from Single Family Residential (R-1) to Neighborhood Commercial for property located at 628 S. Austin Street.

Ismael Segovia presented the staff report. He stated that the request is to change the zoning from Single Family Residential to Neighborhood Commercial. The property owner is proposing to use the structure as a counseling office which is not permitted in Single Family Residential District. Staff visited the site and identified that the subject property is adjacent to homes in residential single family zoned districts on all four sides. Mr. Segovia stated that staff recommends denial of the zoning change as the proposed use is not compatible with the surrounding residential properties. Staff feels that the rezoning could be deemed as spot zoning thus creating an opportunity for other incompatible uses to be permitted. Mr. Segovia gave a brief history overview of the property. He explained that prior to 2015 the zoning designation of "mixed use" was created in the 1989 and intended to be phased out. In 2014 the new Unified Development Code eliminated the "mixed use" zoning designation and the city began rezoning properties in "mixed use" districts. The City mailed letters to all property owners asking for their input on the city's recommendation of zoning the area as a residential district. The City did not receive a response by the original owner of the subject property. The City did move forward with the rezoning of the area to residential as recommended and supported by area properties. Since the rezoning, the surrounding properties have maintained the single family residential zoning. The single family residential homes along the eastern side of S. Austin have retained their single family zoning since the City adopted zoning in 1989.

Michelle Walzem, 524 Redberry, Seguin TX stated that she purchased the property because she believed it was commercial property and that is how the property was sold to her. The purpose of the property is strictly for counseling services. She said she worked for the Child Protective Services in Seguin and a year ago noticed that Seguin did not have counseling services available. Therefore, she decided to open an independent practice to serve the community in Guadalupe, Comal and Gonzales County. Ms. Walzem asked the Commission to grant the request. She stated they have spoken to the District Councilman, Brokers, Realtors and neighbors who stated that the property has never been used as a residence and they do not understand why the zoning cannot be changed. She said when title

paperwork was signed, she paid commercial taxes and the property was also surveyed as commercial. Upon applying for an inspection they were notified that the property was zoned single family residential.

Commissioner Engelke asked how parking and traffic would be handled.

Ms. Walzem explained that they have space for eight parking spaces. On any business day she would see up to eight clients. If an evening group service is provided there would be a maximum of 10 people and herself at a session. Ms. Walzem added that her goal is to expand and have two counselors which would double the clients.

Commissioner Spahn asked if they plan to bring the building up to code.

Ms. Walzem stated they would and that they knew the building and parking would need to be brought up to code.

Doug Walzem, 524 Redberry, Seguin TX stated they purchased the building as a commercial building. He said the building is ideal for the proposed use and want to move forward and see if the counseling will work out for them. He pointed out that the building has never been used as a residence.

The regular meeting was then recessed and a public hearing was held.

Isabel Lara, 1491 Range Land Road, Licensed Agent who sold the property to Mr. and Mrs. Walzem. Ms. Lara presented Mr. Ambers after he inherited the property. Ms. Lara stated the property has always been a commercial in their eyes. She said according to the CAD, the Ambers have always paid County not City commercial taxes. She stated that the property owners were mailed a mowing lien which the owners did not receive. Ms. Lara asked the Commission to support their request. She said they were not trying to mislead anyone.

Pamela Centeno pointed out that the property was never zoned Commercial. The structure was grandfathered and in 2014 the zoning was changed to Single Family Residential when the city adopted zoning for the first time. She explained that as long as the structure was occupied it was grandfathered. The Code of Ordinances states once the structure is vacant for a six months or more the structure is no longer grandfathered.

Dillon Amberson, 5725 Maxfly, Schertz, Texas gave a brief history of the his family owning the property and his intention to sell the property. He stated he felt the best thing to do was to sell the property to help someone get their business started. Mr. Amberson said he was always told the property was used as commercial.

Heath Anders, Anders Pearce Realty, 141 Bosque, Seguin stated he represents the Walzems. He said everyone involved in the process missed the fact that the property was zoned residential. The property was listed as commercial and everyone along the process had it listed as commercial. Mr. Anders stated he has

driven past the property and in his mind the property is commercial. He felt that if the property cannot be rezoned the structure will need to be torn down and rebuilt because you cannot turn the structure into a residence. Mr. Anderson stated he was in support of the request.

Fr. Dennis Darilik, Pastor of St. James Church said he would welcome a counseling facility as his neighbors. He said they have never had any problems with previous tenants. Fr. Dennis stated that counseling will be valuable to the community.

Esmeralda Luna, resides directly across the street asked if their taxes would increase or decrease. She asked if they would be notified if the business changed once the property was rezoned. Ms. Luna asked if they would be required to follow city policies. She had concerns regarding overflow of parking.

Pamela Centeno explained that the Guadalupe County Appraisal District sets the taxes on properties. She stated that property owners would not be notified once the zoning was approved and the business changed. Ms. Centeno explained that the use can change as long as it is allowed in Neighborhood Commercial and applicants are required to follow city ordinances.

The regular meeting was then recessed and a public hearing was held. There being no additional responses from the public the regular meeting reconvened.

After consideration of the staff report and all information given regarding Zoning Change 03-18 Commissioner Starcke moved that the Planning and Zoning Commission recommend approval to City Council of the Zoning Change Request to Neighborhood Commercial (NC). Commissioner Cuevas seconded the motion. The following vote was recorded:

RECOMMENDATION TO APPROVE ZONING CHANGE TO NEIGHBORHOOD COMMERCIAL

**MOTION PASSED
7-0-0**



Francis Serna
Planning Assistant



ATTEST: Ismael Segovia,
Assistant Director of Planning & Codes



PLANNING & CODES

Applicant:

Doug and Michelle Walzem
524 Redberry
Seguin, TX 78155

Property Owner:

Same as applicant

Property Address/Location:

628 S. Austin St.
Seguin, TX 78155

Legal Description:

Portion of Lot: 2, Blk 4, Acre
Lots

Lot Size/Project Area:

Approx. 0.401 acres

Future Land Use Plan:

Town Core 1

Notifications:

Mailed 03-29-2019
Newspaper 03-29-2018

Comments Received:

None

Staff Review:

Ismael B. Segovia
Asst. Director

Attachments:

- Location Map
- Existing Zoning Map
- Future Land Use Plan Map

REQUEST:

A Zoning Change request from Single Family Residential - 1 to Neighborhood Commercial.

ZONING AND LAND USE:

	Zoning	Land Use
Subject Property	R-1	Vacant building
N of Property	R-1	Residence
S of Property	R-1	Residence
E of Property	R-1	Residence
W of Property	R-1	Residence

SUMMARY OF STAFF ANALYSIS & RECOMMENDATION:

The property located at 628 S. Austin St is currently zoned Residential-1. The property owner is proposing to operate a counselling office on the lot. Staff did visit the site and noted that the subject property was adjacent to single family homes in residentially zoned districts on all four sides. Staff recommends denial of the zoning change to Neighborhood Commercial as the proposed use is not compatible with the surrounding residential properties. The rezoning could be deemed as spot zoning thus creating an opportunity for other incompatible uses to be permitted if the proposed use is ever changed to another Neighborhood Commercial use.

Planning Department Recommendation:	
	Approve as submitted
	Approve with conditions or revisions as noted
	Alternative
X	Denial

PLANNING DEPARTMENT ANALYSIS

SITE DESCRIPTION

The property is currently zoned Single-Family Residential 1. The property at 628 S. Austin St. houses a vacant one-story structure. The property owner is proposing to renovate and use the structure as a counselling office. The parking for the structure is proposed to be accessed off of S. Austin and in front of the structure.

CODE REQUIREMENTS:

According to the UDC's Section 3.4.3 Land Use Matrix, the Neighborhood Commercial zoning district would allow the 628 S. Austin St. property to be used for an office. However, the Single-Family Residential 1 zoning does not allow for office uses. If rezoned, the applicant will need to bring property and building into compliance with current city codes and regulations.

COMPATIBILITY WITH SURROUNDING LAND USE & ZONING:

The property is located in an established residential zoning district and surrounded by residential uses to the north, south, east and west. Before the 2015 rezoning of the property, the area had a zoning designation of "mixed use" which was created in 1989 and intended to be phased out. In 2014 the new Unified Development Code (UDC) eliminated the "mixed use" zoning designation. The city began rezoning properties in these "mixed use" areas following the adoption of the UDC. The city did this by communicating with property owners via letters being mailed asking their input on the city's recommendation of zoning the area as a residential district. The property owners surrounding the subject property recommended that their properties be zoned as residential since most of the neighborhood was already single-family residential units. The original property owner of the site was also sent a notice, but no response was provided. The city did move forward with the rezoning of the area to residential as recommended and supported by area properties. Since this rezoning, the surrounding properties have maintained this original zoning. Those single-family residential homes along the eastern side of S. Austin have retained their single-family zoning since the City adopted zoning in 1989.

There are two other zoning districts in the area. There is a public zoning district one lot over to the north where structures owned by the St. James Catholic Church are located. Churches, unlike other uses, are permitted to be placed within most zoning districts. There is also an area of neighborhood commercial to the south of the subject property. There is a single-family residential home and a roadway (E. Shelby) between the subject property and the neighborhood commercial district. The neighborhood commercial district was created during the same time as the zoning of the subject property in the same manner.

COMPREHENSIVE PLAN:

The property is located within the Town Core 1. This future land district is characterized as the town core area is determined by interplay between downtown commercial/retail/offices uses and residential/multi-family in and surrounding the district.

HEALTH, SAFETY, AND GENERAL WELFARE: (Protection & preservation of historical, cultural, and environmental areas.)

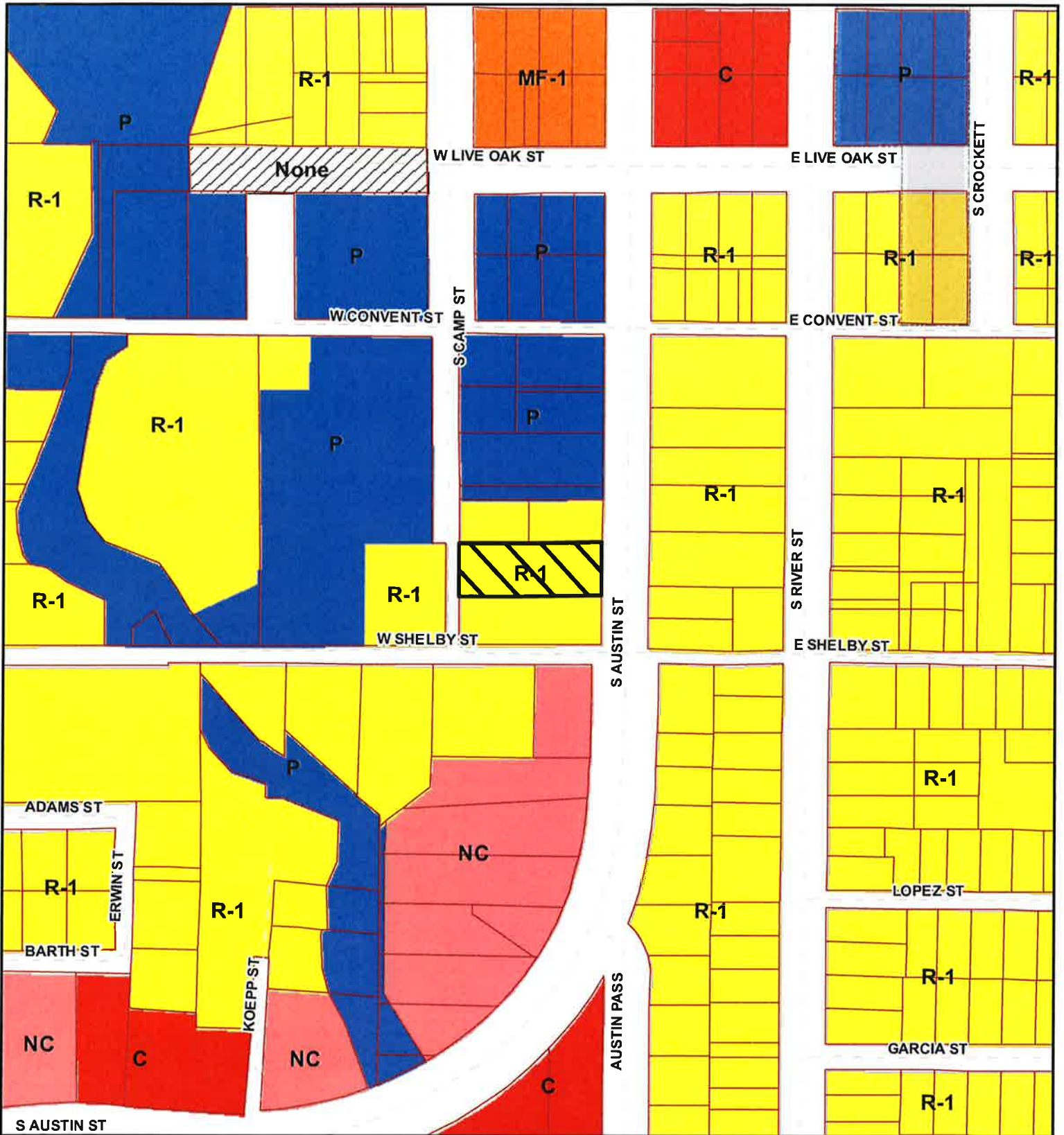
No health, safety or environmental issues have been identified for these properties.

TRAFFIC (STREET FRONTAGE & ACCESS):

The subject property fronts S. Austin Street and would be using the existing driveway as the access point. S. Austin Street is a TxDOT right-of-way.

ZONING MAP

03-18: 628 S Austin St



- | | | | |
|-------------------------------|------------------------------|----------------------------|------------------------------|
| A-R Agricultural Ranch | ZL Zero Lot Lines | MHP Manufactured Home Park | I Industrial |
| R-R Rural Residential | DP-1,2 Duplex | NC Neighborhood Commercial | P Public |
| S-R Suburban Residential | MF-1,2,3 Multi-Family | C Commercial | PUD Planned Unit Development |
| R-1 Single Family Residential | M-R Manufactured Residential | LI Light Industrial | |

This map is for information 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. The City of Seguin assumes no liability for errors on this map or use of this information.



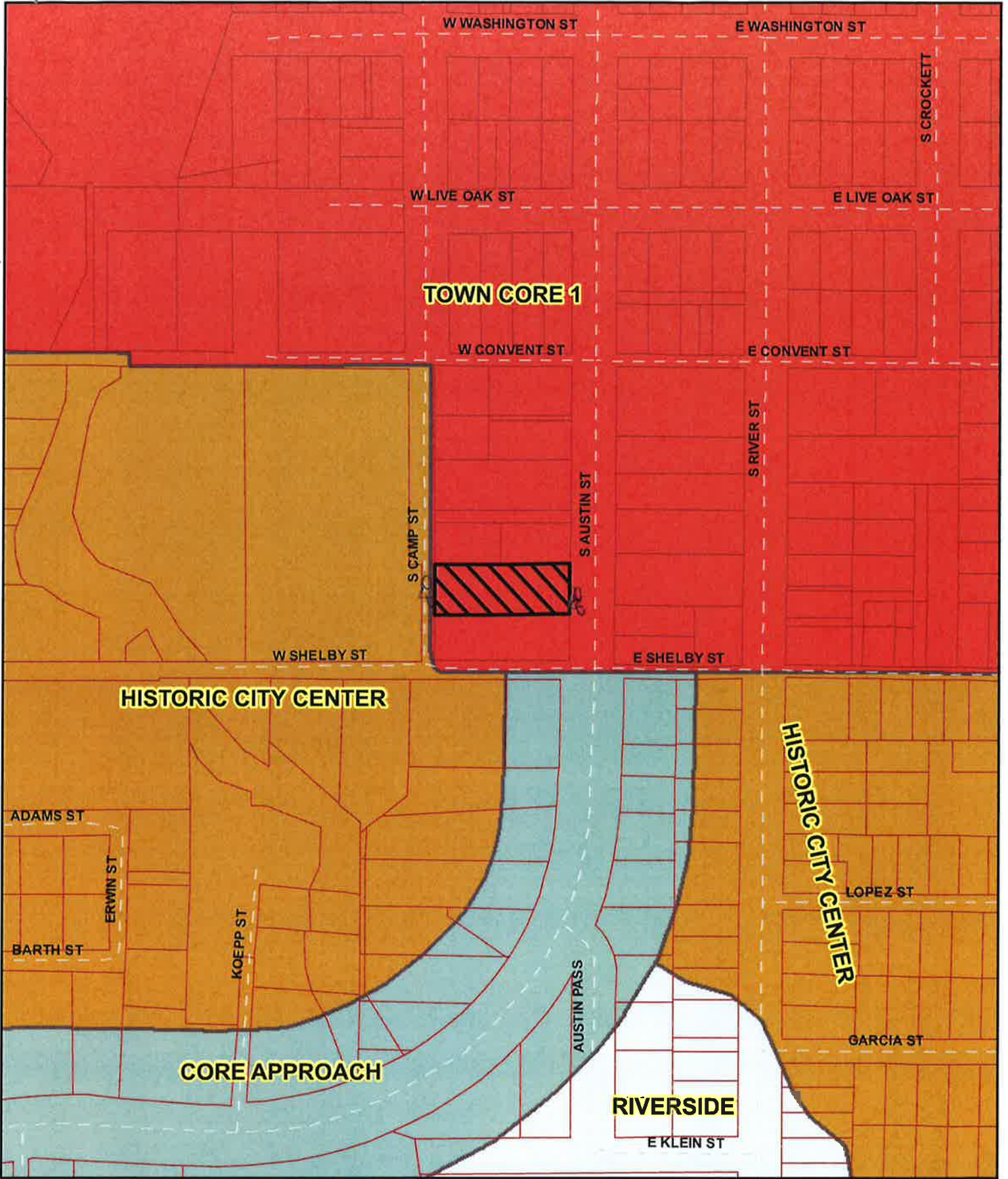
Site Location



Lot Lines

1 inch = 200 feet

Printed: 3/13/2018



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 **Site Location**
 **Lot Lines**

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