

## **SECOND/THIRD READING SUMMARY SHEET**

**ZONING CASE NUMBER:** C14-06-0157 (Pond Springs Plaza)

**REQUEST:**

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code, zoning the property locally known as 13233 Pond Springs Road from I-RR, Interim-Rural Residence District, zoning to GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 (shopping center), CS-1-CO, Commercial-Liquor Sales District, zoning for Tract 2 (bar area), and GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 3 (deck area).

The ordinance and public restrictive covenant reflect those conditions imposed by Council on 1<sup>st</sup> reading.

**PROPERTY OWNER:** The London Management Trust (Michael S. London)

**AGENT:** Vincent Gerard and Associates, Inc. (Vince Huebinger)

**DEPARTMENT COMMENTS:**

The property in question is currently developed with a commercial retail center that was recently annexed by the City of Austin (Annexation Case: C7A-05-014). The Pond Springs Plaza center currently contains a restaurant-general use (Jardin Corona Mexican Restaurant), retail sales-convenience uses (Q Fashions, Just Between Us Resale), personal services uses (Alterations/Cleaners, Family Clips Beauty and Barber Shop, Super Nails, Skin & Beyond), a cocktail lounge (Shenanigan's Night Club), an office use (Professional Real Estate Delivery Services), and a food preparation use (Courtney's Catering). The applicant is requesting permanent zoning to bring the existing uses on the site into conformance with the City of Austin Land Development Code use regulations.

The staff is recommending GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 and CS-1, Commercial-Liquor Sales-Conditional Overlay District, zoning for Tract 2. The proposed GR-CO zoning and CS-1-CO zoning footprint will be compatible and consistent with the surrounding uses because there is currently commercial zoning and commercial and industrial uses located to the south and east of this tract of land. The proposed GR-CO zoning for Tract 1 will permit the current restaurant, retail sales, personal services, office uses and the proposed CS-1-CO zoning for Tract 2 will permit the continuation of the cocktail lounge use on the property with a conditional use permit. This recommendation for permanent zoning will allow the existing land uses on the site to come into conformance with the City of Austin Land Development Code. GR-CO zoning and CS-1-CO zoning are appropriate for this location because the property meets the intent of the GR and CS-1 districts as it fronts onto an arterial roadway and will provide services to the residential areas to the north and west.

The applicant agrees with the City Council's recommendation at first reading.

**DATE OF FIRST READING/VOTE:**

December 7, 2006 / Approved the ZAP recommendation, striking the requirement for double door access from the bar (Tract 2) to the deck (Tract 3) and adding a condition for speakers be removed from the deck area (7-0).

**CITY COUNCIL DATE:** April 12, 2007

**CITY COUNCIL ACTION:**

**ASSIGNED STAFF:** Sherri Sirwaitis

**PHONE:** 974-3057

sherri.sirwaitis@ci.austin.tx.us

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-06-0157

**ZAP DATE:** September 5, 2006  
September 19, 2006  
October 3, 2006  
November 7, 2006

**ADDRESS:** 13233 Pond Springs Road

**OWNER/APPLICANT:** The London Management Trust (Michael S. London)

**AGENT:** Vincent Gerard and Associates, Inc. (Lee Small)

<b><u>ZONING FROM:</u></b> I-SF-2	<b><u>TO:</u></b> Tract 1: CS Tract 2: CS-1	<b><u>AREA:</u></b> 1.560 acres (67,990 sq. ft.) 0.154 acres ( 6,723 sq. ft.) Total: 1.714 acres (74,713 sq. ft.)
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### **SUMMARY STAFF RECOMMENDATION:**

Staff's recommendation is to grant GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 and CS-1-CO, Commercial-Liquor Sales-Conditional Overlay District, zoning for Tract 2 (a 6,723 sq. ft. suite within the existing shopping center). The conditional overlay would limit the site to uses that generate no more than 2,000 vehicle trips per day and prohibit Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing-of any type, and Service Station uses on the property.

### **ZONING & PLATTING COMMISSION RECOMMENDATION:**

9/05/06: 1st Motion: Approved staff's recommendation of GR-CO for Tract 1 and CS-1-CO for Tract 2, with additional condition to prohibit Pawn Shop Services, by consent (8-0, J. Shieh-absent); J. Martinez-1<sup>st</sup>, S. Hale-2<sup>nd</sup>.

2<sup>nd</sup> Motion: To rescind and reconsider 1<sup>st</sup> motion (6-0, J. Shieh-absent; T. Rabago, J. Martinez-off dias); J. Gohil-1<sup>st</sup>, K. Jackson-2<sup>nd</sup>.

3<sup>rd</sup> Motion: To postpone and place on the September 19, 2006 ZAP Agenda (6-0, J. Shieh-absent; T. Rabago, J. Martinez-off dias); J. Gohil-1<sup>st</sup>, K. Jackson-2<sup>nd</sup>.

9/19/06: Continued to October 3, 2006 by Zoning and Platting Commission (7-0, J. Martinez, J. Pinnelli-absent); S. Hale-1<sup>st</sup>, J. Shieh-2<sup>nd</sup>.

10/03/06: Postponed to November 7, 2006 by the applicant (7-0, K. Jackson, J. Pinnelli-absent); J. Martinez-1<sup>st</sup>, S. Hale-2<sup>nd</sup>.

11/07/06: Approved staff's recommendation of GR-CO zoning for Tract 1 (shopping center), CS-1-CO zoning for Tract 2 (bar area), and GR-CO zoning for newly created Tract 3 (deck area). The Commission added the following conditions to Tract 2:

- 1) Prohibit Adult Oriented Businesses;
- 2) To require double door access to the deck from the bar (if allowable by Code and Building Permit regulations);

- 3) To place permanent signage on the property at the driveway entries to restrict motorcycle parking in the rear/alleyway.
- 4) To place permanent signage along the fence/property line between the residential site to the west and the property in question designating the parking spaces in the rear/alleyway as, "Employee Parking Only".
- 5) To construct an 8-foot masonry/or sound retardant fence around the deck to mitigate sound emanating from the deck.

The Commission also placed the following conditions on Tract 3 (the deck area):

- 1) Place an 85 decibel limit (in accordance with LDC Sec. 9-2-4) on the deck to reduce noise emanating from the deck.
- 2) Restrict amplified sound on the deck.
- 3) Place permanent signage on the deck for noise mitigation.
- 4) Remove the pool table off of the deck.

Vote: (7-2, B. Baker, J. Martinez- No); J. Shieh-1<sup>st</sup>, S. Hale-2<sup>nd</sup>.

#### **DEPARTMENT COMMENTS:**

The property in question is currently developed with a commercial retail center that was recently annexed by the City of Austin (Annexation Case: C7A-05-014). The Pond Springs Plaza center currently contains a restaurant-general use (Jardin Corona Mexican Restaurant), retail sales-convenience uses (Q Fashions, Just Between Us Resale), personal services uses (Alterations/Cleaners, Family Clips Beauty and Barber Shop, Super Nails, Skin & Beyond), a cocktail lounge (Shenanigan's Night Club), an office use (Professional Real Estate Delivery Services), and a food preparation use (Courtney's Catering). The applicant is requesting permanent zoning to bring the existing uses on the site into conformance with the City of Austin Land Development Code use regulations.

The staff is recommending GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 and CS-1, Commercial-Liquor Sales-Conditional Overlay District, zoning for Tract 2. The proposed GR-CO zoning and CS-1-CO zoning footprint will be compatible and consistent with the surrounding uses because there is currently commercial zoning and commercial and industrial uses located to the south and east of this tract of land. The proposed GR-CO zoning for Tract 1 will permit the current restaurant, retail sales, personal services, office uses and the proposed CS-1-CO zoning for Tract 2 will permit the continuation of the cocktail lounge use on the property with a conditional use permit. This recommendation for permanent zoning will allow the existing land uses on the site to come into conformance with the City of Austin Land Development Code. GR-CO zoning and CS-1-CO zoning are appropriate for this location because the property meets the intent of the GR and CS-1 districts as it fronts onto an arterial roadway and will provide services to the residential areas to the north and west.

The applicant agrees with the staff's recommendation.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	I-RR	Commercial Retail Center (Jardin Corona Mexican Restaurant, Alterations/Cleaners, Q Fashions, Family Clips Beauty and Barber Shop, Shenanigan's Night Club, Professional Real Estate Delivery Services, Courtney's Catering, Super Nails, Skin & Beyond, Just Between Us Resale)
<i>North</i>	County	Townhouses, Duplexes
<i>South</i>	I-RR, CS-CO	Office/Industrial/Warehouse uses(Roxie Drive Business Park- All Star Heating & Air, Bartz Paint & Drywall, Legacy Custom Decks, Hammerhead Bikes, Capital Screen, Centex Electric, Inc., Triumph Graphic Supply, Flynn Company, Maluski Woodworking, Texas Solar Source), Monument Sales use(Southwest Marble & Granite Works)
<i>East</i>	I-RR	Commercial Retail Center (Bum's Billiard's, Jonnie's Liquor, Hair Fashions, Clothing Care Cleaners, Kwik Wash Laundry, Egg Roll Express, Dominoes Pizza), Service Station (Shell)
<i>West</i>	County	Townhouses

**AREA STUDY:** N/A**TIA:** Waived**WATERSHED:** Lake Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:** N/A**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-06-0107	I-SF-2 to LI	6/20/06: Approved staff's recommendation for LI-CO zoning by consent (7-0, J. Gohil, S. Hale – absent)	7/27/06: Approved LI-CO district zoning (7-0); all 3 readings
C14-05-0143	I-RR to Tract 1: GR, Tract 2: CS-1	9/20/05: Approved GR-CO for Tract 1 and CS-1-CO for Tract 2, prohibit on-site consumption, limit to 2,000 vehicle trips per day (9-0)	10/27/05: Approved GR-CO zoning for Tract 1, CS-1-CO zoning for Tract 2 by consent (6-0, Alvarez-off dias); all 3 readings
C14-04-0157	I-RR to CS	11/2/04: Approved staff's recommendation of CS-CO zoning by consent (9-0)	12/02/04: Approved CS-CO (7-0); all 3 readings
C14-03-0169	I-SF-2 to CS-CO	12/16/03: Approved staff's recommendation for CS-CO by consent (8-0, C. Hammond-absent)	1/15/04: Approved PC rec. of CS-CO by consent (6-0, McCracken-off dias); all 3 readings

C14-02-0159	I-RR to GR-CO	10/29/02: Approved staff's recommendation of GR-CO zoning with the deletion of Congregate Living as a prohibited use, by consent (7-0, A. Adams-absent)	12/05/02: Granted GR-CO on all 3 readings (7-0), the CO limits site to less than 2,000 vehicle trips per day and prohibits the following uses: Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing (of any type), Commercial Off-Street Parking, Drop-Off Recycling Collection Facility, Exterminating Services, Funeral Services, Hotel-Motel, Indoor Entertainment, Indoor Sports and Recreation, Outdoor Entertainment, Outdoor Sports and Recreation, Pawn Shop Services, Research Services, Service Station, Theater, Guidance Services, Residential Treatment
C14-02-0158	I-RR to GR-CO	10/29/02: Approved staff's recommendation of GR-CO zoning with the deletion of Congregate Living as a prohibited use, by consent (7-0, A. Adams-absent)	12/05/02: Granted GR-CO on all 3 readings (7-0), the CO limits site to less than 2,000 vehicle trips per day and prohibits the following uses: Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing (of any type), Commercial Off-Street Parking, Drop-Off Recycling Collection Facility, Exterminating Services, Funeral Services, Hotel-Motel, Indoor Entertainment, Indoor Sports and Recreation, Outdoor Entertainment, Outdoor Sports and Recreation, Pawn Shop

			Services, Research Services, Service Station, Theater, Guidance Services, Residential Treatment
C14-01-0163	I-RR to CS-CO	12/11/01: Approved staff's recommendation of CS-CO zoning, adding a condition prohibiting vehicle storage (6-0, A. Adams, V. Aldridge-Left Early)	1/17/02: Approved CS-CO on 3 readings (6-0, Wynn out of room)
C14-01-0111	I-RR, SF-2 to GR	11/27/01: Approved staff rec. of GR by consent (8-0)	1/10/02: Postponed to 1/31/02 at the request of the applicant (7-0)  1/31/02: Approved GR on all 3 readings (6-0, Goodman-off dias)
C14-01-0074	I-RR to LI	6/19/01: Approved staff's alternate recommendation of CS-CO district zoning, with CO limiting the site to 2,000 vtpd, by consent (7-1, Cravey-Nay, Garza-Absent)	7/19/01: Approved CS-CO, all 3 readings
C14-99-2036	I-RR to GR	10/5/99: Approved GR-CO (7-1, RC-Nay) w/ only permitted GR use being a car wash and prohibiting the following uses: Automotive Rental, Automotive Repair Services, Automotive Sales, Business Trade School, Business Support Services, Commercial Off-Street Parking, Communication Services, Drop-Off Recycling Collection Facility, Exterminating Services, Funeral Services, Hotel-Motel, Indoor Entertainment, Indoor Sports and Recreation, Medical Offices, Outdoor Entertainment, Outdoor Sports and Recreation, Pawn Shop Services, Research Services,	11/4/99: Approved GR-CO (6-0); all 3 readings

		Restaurant (General), Theater, Hospital Services (General), Off-Site Accessory Parking	
C14-98-0238	I-RR to CS	2/2/99: Approved staff alternate rec. of CS-CO, limiting the site to 2,000 vtpd (8-0)	3/4/99: Approved CS-CO (7-0); all 3 readings
C14-98-0229	I-SF-2 to GR	1/19/99: Approved staff rec. of GR-CO, limiting the site to 2,000 vtpd	2/25/99: Approved PC rec. of GR-CO (7-0); all 3 readings
C14-98-0201	I-SF-2 to LI	12/8/98: Approved LI by consent (8-0)	1/7/99: Approved LI-CO w/ condition of 2,000 vehicle trips per day limit (7-0); all 3 readings
C14-98-0199		1/12/99: Approved GR-CO zoning, limiting the site to 2,000 vtpd	2/11/99: Approved PC rec. of GR-CO (5-0); all 3 readings
C14-98-0198	I-RR to GR	1/19/99: Approved staff rec. of GR-CO zoning, limiting the site to 2,000 vtpd (9-0)	2/25/99: Approved PC rec. of GR-CO (7-0), all 3 readings
C14-98-0167	I-SF-2 to CS	11/17/98: Approved staff alternate rec. of CS-CO, w/ 2,000 vehicle trips per day limit, by consent (9-0)	1/21/99: Approved CS-CO w/ conditions (7-0); all 3 readings
C14-98-0152	I-RR to CS	11/10/98: Approved staff alternate rec. of CS-CO, prohibiting adult oriented businesses, by consent (8-0)	12/10/98: Approved CS-CO, with CO limiting the site to 2,000 vtpd (7-0, 1 <sup>st</sup> )  2/25/99: Approved CS-CO (7-0, 2 <sup>nd</sup> /3 <sup>rd</sup> )
C14-98-0099	I-RR to CS	8/18/98: Approved CS-CO, w/ 2,000 vehicle trips per day limit, by consent (7-0)	10/8/98: Approved PC rec. of CS-CO w/ conditions (6-0); 1 <sup>st</sup> reading  12/10/98: Approved CS-CO w/ conditions (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings
C14-98-0097	I-RR to CS	8/18/98: Approved CS-CO, w/ conditions (7-0)	10/8/98: Approved PC rec. of CS-CO w/ 35 feet of deferred ROW dedication and 2,000 vehicle trips per day limit by consent (6-0); 1 <sup>st</sup> reading



			12/10/98: Approved CS-CO with conditions (7-0); 2 <sup>nd</sup> / 3 <sup>rd</sup> readings
C14-98-0096	I-SF-2 to LI-CO	8/18/98: Approved CS-CO w/ conditions (7-0)	10/8/98: Approved PC rec. of CS-CO w/ 35 feet of deferred ROW dedication and 2,000 vehicle trips per day limit by consent (6-0); 1 <sup>st</sup> reading 12/10/98: Approved CS-CO w/ conditions (7-0); 2 <sup>nd</sup> / 3 <sup>rd</sup> readings
C14-98-0036	I-SF-2 to LI-CO	4/14/98: Approved LI-CO w/ conditions of 2,000 vehicle trips per day limit, prohibiting Agricultural Sales and Service, Automotive Repair Services, Construction Sales and Services, Equipment Sales, Equipment Repair Services, Scrap and Salvage, Vehicle Storage, Basic Industry, Recycling Center, Resource Extraction, and Railroad Facilities (8-0)	5/14/98: Approved PC rec. of LI-CO w/ conditions (5-0); 1 <sup>st</sup> reading  1/21/99: Approved LI-CO w/ conditions (7-0); 2 <sup>nd</sup> / 3 <sup>rd</sup> readings

**RELATED CASES:** C7A-05-014 (Annexation Case)

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Roxie Drive	72'	30'	Collector	No	No	No

**CITY COUNCIL DATE:** December 7, 2006 **ACTION:** Approved the ZAP recommendation, striking the requirement for double door access from the bar (Tract 2) to the deck (Tract 3) and adding a condition for speakers be removed from the deck area (7-0).

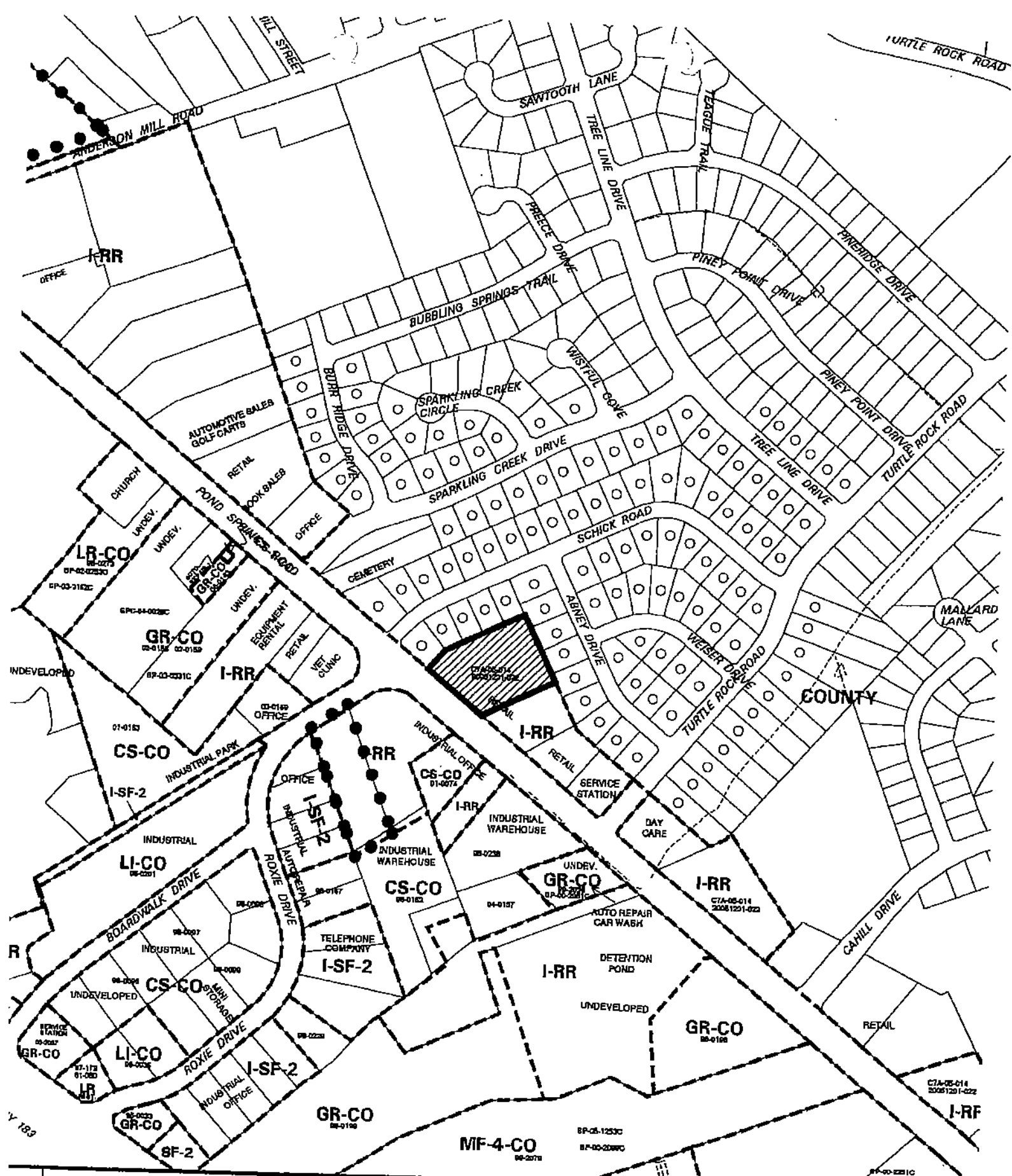
April 12, 2006 **ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup> 12/07/07      2<sup>nd</sup>      3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 974-3057  
sherri.sirwaitis@ci.austin.tx.us



<p> </p> <p> <b>SUBJECT TRACT</b>   <b>PENDING CASE</b>   <b>ZONING BOUNDARY</b>   <b>CASE MGR: S.SIRWAITIS</b> </p>	<p align="center"><b>ZONING</b></p> <p> <b>CASE #: C14-06-0157</b>  <b>ADDRESS: 13233 POND SPRINGS RD</b>  <b>SUBJECT AREA (acres): 1.715</b> </p> <p> <b>DATE: 06-07</b>  <b>INTLS: SM</b> </p>	<p> <b>CITY GRID REFERENCE NUMBER</b>  <b>G37</b> </p>
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## STAFF RECOMMENDATION

Staff's recommendation is to grant GR-CO, Community Commercial-Conditional Overlay District, zoning for Tract 1 and CS-1-CO, Commercial-Liquor Sales-Conditional Overlay District, zoning for Tract 2 (a 6,723 sq. ft. suite within the existing shopping center). The conditional overlay would limit the site to uses that generate no more than 2,000 vehicle trips per day and prohibit Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing-of any type, and Service Station uses on the property.

## BASIS FOR RECOMMENDATION

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

"Community commercial (GR) district is the designation for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways."

GR-CO zoning is appropriate for this location because the property meets the intent of the GR district as it fronts onto an arterial roadway and provides services to the residential areas to the north and west.

"The Commercial-Liquor Sales (CS-1) district is intended for the development of a commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments."

CS-1 zoning is appropriate for a footprint within this existing shopping center because the property in question fronts onto and will take access from an arterial roadway, Pond Springs Road.

2. *The proposed zoning should promote consistency and orderly planning.*

The proposed GR-CO zoning and CS-1-CO zoning footprint will be compatible and consistent with the surrounding uses because there is currently commercial zoning to the south and east of this tract of land.

3. *Zoning should allow for reasonable use of the property.*

The requested GR-CO zoning for Tract 1 will permit the current restaurant, retail sales, personal services, office uses and the proposed CS-1-CO zoning for Tract 2 will allow for the continuation of the cocktail lounge use on the property with a conditional use permit. This recommendation for permanent zoning will bring the majority of the existing land uses on the site into conformance with the land use regulations set out in the City of Austin Land Development Code.

The current food preparation use on the property will become a conditional use if is discontinued for ninety (90) days or more.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The subject tract is developed with a commercial retail center that contains a restaurant-general use, retail sales-convenience uses, personal services uses, a cocktail lounge, an office use, and a food preparation use. There are townhouse and duplex uses to the north and west, commercial and industrial uses across Pond Springs Road to the south, and another commercial retail center with a service station to the east.

### **Impervious Cover**

The maximum impervious cover allowed by the CS-1 zoning district would be 95%. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

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

Development Classification	% of Net Site Area	% NSA with Transfers
Single-Family Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%
Commercial	65%	70%

In the Water Quality Transition Zones, impervious cover is limited to 30%.

### **Environmental**

The site is located over the North Edward's Aquifer Recharge Zone. It is in the Desired Development Zone. The site is in the Lake Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

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, it appears that the site is entirely developed, therefore there are no significant environmental features.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

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

### **Transportation**

No additional right-of-way is needed at this time.

The trip generation under the requested zoning is estimated to be 8,813 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Sidewalks	Bus Route	Bike Route
Pond Springs Road	100'	34'	Collector	No	No	No

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility adjustments, or utility relocation are required, the landowner, at own expense, will be responsible for providing. Also, the utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City utility design criteria. The utility construction must be inspected by the City. The landowner must pay all associated and applicable City fees.

### **Stormwater Detention**

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

### **Compatibility Standards**

No comments.

C 397152

October 26, 2006

Mr. John A. Leary  
8300 Tyndale Cove  
Austin, TX 78733

Re: Rezoning of 13233 Pond Springs Road, Austin  
Pond Springs Plaza – Shenanigans Nightclub

Mr. Leary,

I have appreciated the opportunities, most recently yesterday morning, to meet and discuss with you the objections you have raised regarding the smoking deck that Mr. Fischer constructed at the rear of the premises of Shenanigans. I was pleased to learn that the actions already taken by Mr. Fischer have substantially reduced the noise emanating from the deck. Among other things, Mr. Fischer has established motorcycle parking in the front of the building, far away from your properties.

I had not heard from you regarding your problems until after you had made a couple of appearances before the Planning and Zoning and Commission and objected to the zoning that we had requested to permit the continuation of the businesses that have been established at Pond Springs Plaza for over a decade. As I told you, I had not been attending the hearings because my wife is a cancer patient and her care and needs take up most of my time. She is treated every other week in San Antonio and the hearings have been taking place on the day that we get back in town after her treatments.

You stated that you own ninety some units in the area behind Pond Springs Plaza and presently have about five or six vacancies. From the tax records, I've been able to determine that you own 24 buildings, which would be 96 units if the buildings are all fourplexes. You also stated that you've had to reduce your rents by \$100 per month for the units that are adjacent to the deck but almost all of those units are leased.

I also wish to confirm the additional remedial actions that Mr. Fischer and I have offered to take, and which I re-offered during our meeting yesterday, to mitigate your problems.

Specifically, we offered to do the following:

1. Designate the parking spaces along your fence, across the driveway from the deck, as "employee only" parking.
2. Place reflective signs at the driveway entries to the rear of the building that state "no motorcycles." These signs have been ordered and will be installed soon.

3. Remove the pool table from the deck.

4. Construct a fence, with sound panels, around the deck to mitigate sound emanating from the deck. The obligation to construct the fence will be subject to obtaining all necessary city approvals, including those for allowing the deck to continue to be used as part of Shenanigans' business. We don't want the fence to cause the deck to become an enclosed area in which smoking would become prohibited.

As I informed you, our intent is to reduce the traffic, and prevent motorcycle traffic, around the rear of the building and to have the deck used mainly by smoking customers. These actions should result in further substantial reduction of the noise in the rear of the building.

I asked you yesterday, as I had before, if there was anything else we could do, other than shutting down the operation on the deck, which would prompt you to drop your objection to our rezoning request. You had nothing to suggest and nothing to offer.

If you should have any additional suggestions or solutions, I would be glad to discuss them with you.

Sincerely yours,

---

Michael S. London



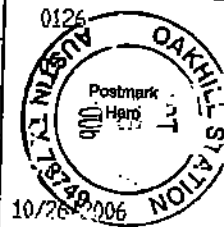
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**OFFICIAL USE**

Postage	\$	\$0.39
Certified Fee		\$2.40
Return Receipt Fee (Endorsement Required)		\$1.85
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$4.64



Sent To

Mr. John A. Leary  
8300 Tyndale Cove  
Austin, TX 78733

PS Form 3800, June 2002

See Reverse for Instructions