

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2008-0117 / Rey de Bastos

**P.C. DATE:** November 25, 2008  
October 28, 2008  
September 23, 2008  
August 12, 2008  
July 8, 2008

**ADDRESS:** 5811 Manor Road

**OWNER:** Rey de Bastos, (Bernardo Segura Lujano and Angel Albiter Puebla) 512-968-8933

**AGENT:** LOC Consultants, LLP (Sergio Lozano Sanchez) 512-499-0908

**ZONING FROM:** GR-MU-CO-NP                      **TO:** CS-1-MU-CO-NP

**SITE AREA:** 1.85 acres (80,586 square feet)

**SUMMARY STAFF RECOMMENDATION:** The staff recommendation is denial of the requested rezoning from GR-MU-CO-NP (Community Commercial – Mixed Use – Conditional Overlay – neighborhood plan) district zoning to CS-1-MU-CO-NP (Commercial Liquor Sales – Mixed Use – Conditional Overlay – Neighborhood Plan) district zoning.

**SUMMARY PLANNING COMMISSION RECOMMENDATION:**

On November 25, 2008: PC approved staff's recommendation to **DENY** the request for CS-1-MU-CO-NP district zoning; was approved by Commissioner Jay Reddy's motion, Commissioner Mandy Dealey second the motion on a vote of 8-0; Commissioner Paula Hui was off the dais.

(The item was postponed by the Pecan Springs-Springdale Hills Neighborhood Association on July 8, 2008, jointly by the applicant and the Pecan Springs-Springdale Hills Neighborhood Association on August 12, 2008 and September 23, 2008 and by the applicant on October 28, 2008).

**ISSUES:** The applicant would like to discuss the staff recommendation.

**DEPARTMENT COMMENTS:** The 1.85-acre site is currently zoned GR-MU-CO-NP (Community Commercial – Mixed Use – Conditional Overlay- Neighborhood Plan) district zoning. This tract fronts Manor Road. The existing CO prohibits auto uses and pawn shop services. The site is currently developed with a single story restaurant/bar called Rey de Bastos.

The applicant wishes to rezone the property to CS-1-MU-CO-NP (Commercial Liquor Sales – Mixed Use – Conditional Overlay – Neighborhood Plan) in order to bring the property in compliance with City Code. The Land Development Code, Chapter 25-2-808(B)(1) (Restaurant and Cocktail Lounges), states that a restaurant (general) use that serves alcoholic beverages must have at least 51 percent of its gross income derived from the sale of prepared food. The restaurant currently has over 51 percent of its total sales from alcohol sales. The restaurant has been working with the City of Austin's Code Inspectors and has made modifications such as its hours of operation. The restaurant/bar now opens earlier and closes earlier as well as the addition of more tables to encourage food sales. With these adjustments, Rey de Bastos is still out of compliance, and is requesting a zoning change which would allow the establishment to be in compliance of City Code.

After evaluation, it was determined that the current zoning is appropriate due to the proximity to residential areas. Staff believes that an increase in zoning would be incompatible with the character of the surrounding residential properties. Additionally there is an existing liquor store with CS-1-NP district zoning approximately 400 feet away from the subject property. The existing liquor store and the proximity of this site to an established residential neighborhood suggest that an increase in zoning is inappropriate.

**EXISTING ZONING AND LAND USES:**

|              | <b>ZONING</b> | <b>LAND USES</b>          |
|--------------|---------------|---------------------------|
| <i>Site</i>  | GR-MU-CO-NP   | Restaurant                |
| <i>North</i> | GR-MU-CO-NP   | Apartments                |
| <i>East</i>  | MF-3-NP       | Apartments                |
| <i>South</i> | GR-MU-CO-NP   | Single Family Residence   |
| <i>West</i>  | GR-MU-CO-NP   | Tax Office / Auto Service |

**NEIGHBORHOOD PLAN AREA:** Pecan Springs-Springdale      **TIA:** Is not required

**WATERSHED:** Fort Branch      **DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No      **SCENIC ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

Pecan Springs – Springdale Neighborhood Assn.  
 PODER People Organized in Defense of Earth & Her Resources  
 Home Builders Association of Greater Austin  
 Austin Neighborhoods Council  
 Mueller Neighborhoods Coalition  
 East MLK Neighborhood Plan Contact Team  
 Keep the Land  
 Anberly Airport Assn.  
 Sweeney Farms Neighborhood Organization  
 Old Patton Sweeney Homestead Neighborhood  
 Park-Hills Neighborhood Association  
 Windsor Park – Pecan Springs Heritage Neighborhood Association  
 Austin Parks Foundation

**CASE HISTORIES:**

| <b>NUMBER</b>    | <b>REQUEST</b>                                                 | <b>COMMISSION</b>                                                                                       | <b>COUNCIL</b>                                                              |
|------------------|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| C14-2008-0057.SH | Tract 1 from SF-6-NP to MF-3-NP; Tract 2 from SF-6-NP to LR-NP | Planning Commission voted 6-3 in favor of MF-3-NP and LR-NP (the applicant's request) on June 10, 2008. | Case withdrawn by applicant prior to Council hearing on September 25, 2008. |

**ABUTTING STREETS:**

| Name       | ROW | Pavement | Classification  | Daily Traffic          |
|------------|-----|----------|-----------------|------------------------|
| Manor Road | 80' | 44'      | Arterial (MAU4) | 10,050 (Travis County) |

- There are existing sidewalks along Manor Road.
- Manor Road is classified in the Bicycle Plan as a Priority 2 bike route.
- Capital Metro bus service (route no. 20) is available along Manor Road.

**CITY COUNCIL DATE:** January 29, 2009**ACTION:****ORDINANCE READINGS:** 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Joi Harden**PHONE:** 974-2212**E-MAIL:** [joi.harden@ci.austin.tx.us](mailto:joi.harden@ci.austin.tx.us);



From: GR-MU-CO-NP  
To: CS-1-MU-CO-NP

## **BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

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

CS-1-CO-NP – Commercial Liquor Sales (CS-1) district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments, and also includes liquor sales as a permitted use. After evaluation, it was determined that the current zoning of GR (Community Commercial) zoning district is appropriate due to the proximity to residential areas.

- 2. Zoning changes should promote an orderly and compatible relationship among land uses.*

The existing zoning allows for reasonable use of the site while maintaining the character of the surrounding area.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The subject property consists of 1.85-acres that is currently developed with a single story restaurant/bar. This tract has frontage on Manor Road which is an arterial.

### **Impervious Cover**

The maximum impervious cover allowed by the CS-1 zoning district is 95%.

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Fort Branch Creek 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.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area.

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

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

### **Transportation**

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

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].

There are existing sidewalks along Manor Road.

Manor Road is classified in the Bicycle Plan as a Priority 2 bike route.

Capital Metro bus service (route no. 20) is available along Manor Road.

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

### **Site Plan Review**

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

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.

Any new development will be required to comply with Subchapter E, Commercial Design Guidelines.

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2008-0117

Contact: Joi Harden, 512-974-2122

Public Hearing:

July 8, 2008 Planning Commission

SAM C. HIGGINS, JR.

Your Name (please print)

5907 MANOR RD #101

Your address(es) affected by this application

Sam C Higgins

Signature

6-28-08

Date

Comments: TO HAVE A ESTABLISHMENT THAT

SERVE LIQUOR WHENE THERE ARE

CHILDREN TRAVELING OR PRESENT

WOULDN'T BE CARING AND BENEFICIAL

I ALSO THINK THERE ALREADY

LIQUOR IN THE NEIGHBORHOOD

A FAMILY RESTAURANT WOULD BE NICE

OR BETTER SCENE

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Joi Harden

P. O. Box 1088

Austin, TX 78767-8810

☐ I am in favor  
☒ I object

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Case Number: C14-2008-0117

Contact: Joi Harden, 512-974-2122

Public Hearing:

July 8, 2008 Planning Commission

Carlos McGill

Your Name (please print)

5709 Sandhurst Circle Austin Tx 78723

Your address(es) affected by this application

*Carlos McGill*

Signature

Date

6/30/08

☐ I am in favor  
☒ I object

Comments: *This area needs something that is good for the neighborhood. This doesn't seem to be as positive thing for the area.*

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Joi Harden

P. O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-2008-0117

Contact: Joi Harden, 512-974-2122

Public Hearing:

July 8, 2008 Planning Commission

Your Name (please print)  
David E. Golden

2803 Sweeney Lane Austin, TX  
Your address(es) affected by this application 78723

David E. Golden  
Signature 7/1/2008  
Date

☐ I am in favor  
☒ I object

Comments: I believe the petitioner is  
already operating illegally as a bar. They  
also have very loud music which we here  
at night in our bed room.

I strongly oppose the new  
zoning requested. We already have  
problems in the neighborhood with drugs +  
prostitutes. We also have had many wrecks  
at Sweeney Lane + Meador Rd.

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Joi Harden

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Austin, TX 78767-8810

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Case Number: C14-2008-0117

Contact: Joi Harden, 512-974-2122

Public Hearing:

July 8, 2008 Planning Commission

☐ I am in favor  
☒ I object

Cinderella Kay Golden  
Your Name (please print)

1803 Sweeney Lane  
Your address(es) affected by this application

Cinderella Kay Golden 7/1/08  
Signature Date

Comments:

Play music very loud on  
Friday & Saturday and Sunday night  
and people park in front of my  
house some time that go over  
this fence

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Joi Harden

P. O. Box 1088

Austin, TX 78767-8810



**Pecan Springs ♦ Springdale Hills**  
NEIGHBORHOOD ASSOCIATION  
"Showing We Care"

October 19, 2008

Planning Commission – City of Austin  
Attn: Dave Sullivan, Chairman  
505 Barton Springs Road  
Austin, TX 78704

RE: Zoning case C14-2008-0117 located at 5811 Manor Road

Dear Chairman and Commissioners:

On September 13, 2008, PSSNA came to discuss, consider and take possible action regarding case C14-2008-0117 located 5811 Manor Road.

After an opening discussion of the above item by the membership present, a proposal was made to the membership to take one of two actions regarding the proposed zoning change at 5811 Manor Road.

The options were; vote to oppose the zoning change being considered at 5811 Manor Road, or vote in favor of the proposed zoning change being considered at 5811 Manor Road.

A motion to oppose the project was made and seconded. A vote was taken and twenty four (24) votes were cast to OPPOSE the project, and no votes were cast in favor of the development.

Over the past four months, we have held numerous discussions and meetings with the owner and agent and unfortunately have not been able to reach a consensus regarding the proposed up-zoning.

At this time, it has become mutually apparent that it is time for an up or down vote on this proposed zoning change.

We are respectfully requesting that you honor the wishes of those of us that live in this area and DENY the applicants request for re-zoning.

Sincerely,

DeWayne Lofton, President  
Pecan Springs/Springdale Hills  
Neighborhood Association

**P.O. Box 14206 \* Austin, TX 78761 \* (512) 461-8563 \* [pssnapresident@yahoo.com](mailto:pssnapresident@yahoo.com)**

**Harden, Joi**

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**From:** PSSNA President [pssnapresident@yahoo.com]  
**Sent:** Sunday, October 26, 2008 1:32 PM  
**To:** Tracy Atkins; Perla Cavazos; Mandy Dealey; Chris Ewen; Paula Hui; Sandra Krik; Jay Reddy; Clint Small; Dave Sullivan  
**Cc:** Stephanie Tsen; PSSNA President PSSNA President; Harden, Joi; Sergio Lozano-Sanchez  
**Subject:** Case C14-2008-0117 \* 5811 Manor Rd  
**Attachments:** 5811 Manor Rd - Planning Commission.doc

Dear Chairman and Commissioners:

I write to you today on behalf of PSSNA regarding the above referenced zoning case. Please be advised that PSSNA opposes the proposed zoning change.

We have been in discussion with the agent over the past four months, but have not been able to come to a consensus on the zoning change.

Our concerns regarding the proposed zoning are, but not limited to;

1. The fact that they are operating outside of the current zoning parameters, and have been cited by code enforcement for such violations.
2. Loud and excessive music at hours beyond what is acceptable.
3. Parking in the right of way and blocking the sidewalk in a dimly lit area.
4. Operating beyond the hours allowed under the current zoning.
5. Reports of violence and/or police activity.

We have shared these concerns with the agent and they in turn have been proposed to the owner. While they have attempted to address some of our concerns, we believe that their efforts to meet these concerns are temporary in nature and will terminate once the up-zoning is obtained.

We have been unable to determine a method by which the neighborhood could guarantee that the owner would continue to honor the work and commitments made in this process. Therefore, we are respectfully OPPOSING the zoning change and would seek your support in doing same.

The City of Austin staff have also opposing this zoning change for reasons that they do not believe that the increased zoning level is appropriate for this area, and we agree with that assessment as well.

In conclusion, I will be out of the town on work related business on October 28, 2008, when this case is heard. I'm attempting to get a neighborhood representative there, but I thought that it was important for me as president to let you know our official position on this issue.

10/28/2008

In the event that we are unable to attend the meeting, we would appreciate the attached letter being read into the record and a official notation made that we OPPOSE this zoning change.

I want to thank you in advance for your consideration in this matter.

Sincerely,

DeWayne Lofton, President

PSSNA

10/28/2008