

## AGENDA



Thursday, May 21, 2009

**Item(s) to Set Public Hearing(s)**  
**RECOMMENDATION FOR COUNCIL ACTION****Item No. 41**

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**Subject:** Set a public hearing to consider an appeal by the Highland/Skyview Neighborhood Plan Contact Team represented by Damon Howze, of the Planning Commission's decision to approve a Conditional Use Permit to allow operation of an Adult Lounge located at 6406 N. IH 35, Unit 1100.

**Fiscal Note:** There is no anticipated fiscal impact. A fiscal note is not required.

**For More Information:** George Zapalac, 974-2725; Lynda Courtney, 974-2810

**Boards and Commission Action:** Planning Commission approved staff recommendation to approve the Conditional Use Permit with conditions. (Suggested date and time: June 11, 2009, 6:00 p.m., at Austin City Hall, 301 West Second Street, Austin, TX.)

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The request is an appeal of a Conditional Use Permit (CUP) for an Adult Lounge known as LaBare, located in the Lincoln Village Shopping Center at 6406 N. IH 35, Unit 1100. Staff recommended approval of the CUP application to the Planning Commission. It was subsequently approved by the Planning Commission on April 14, 2009 with conditions. The application meets the requirements of the Land Development Code Sec. 25-2-801, Adult-Oriented Businesses, including setback requirements. This section of the code also prohibits locating any adult-oriented business within 1000 feet from a lot on which a school, church, public park or playground, licensed day care, or another adult-oriented business is located, or where more than 50% of the lots within a 1000 foot radius are zoned or used for residential use. The zoning is CS-1, Commercial Services with alcohol use, which permits the use. The 1000 foot radius is measured from the midpoint of a line which joins the two most distant points on the boundaries of the lot. The CUP application also meets all provisions of the Land Development Code Sec. 25-5-145 concerning requirements for a Conditional Use Site Plan.

Mr. Damon Howze, representing the Highland/Skyview Neighborhood Plan Contact Team, is appealing the Planning Commission's decision to approve the CUP, on the basis of LDC Sec. 25-5-145(D), (Evaluation of Conditional Use Site Plan) that "a site plan may not adversely affect the public health, safety, or welfare, or materially injure property..."

Staff recommends denial of the appeal because the site plan complies with all applicable requirements.