

ZONING CHANGE REVIEW SHEET

CASE: C14-2010-0167 (Weirdo's 1)

Z.A.P. DATE: December 7, 2010

ADDRESS: 12408 North Mopac Expressway Service Road South Bound

OWNER/APPLICANT: Sharon Ma / Weird Times, LLC (Jesse Fortney)

AGENT: Coats Rose Yale Ryman & Lee (John M. Joseph)

ZONING FROM: GR

TO: CS-1

AREA: 1.835 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant the applicant's request for CS-1, Commercial-Liquor Sales District, zoning.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

12/07/10: Approved CS-1-CO zoning, with condition to prohibit Adult Oriented Businesses (5-0, Seeger, Tiemann-absent); Baldrige-1st, Bourgeois-2nd.

ISSUES:

The property in question has received code compliance complaints. Please see the Notice of Violation Reports as they apply to this property in Attachment A.

DEPARTMENT COMMENTS:

The site under consideration is currently developed with a restaurant use, with an outdoor seating and entertainment area. The applicant is requesting to rezone the property because they would like to convert the restaurant into a bar (cocktail lounge use).

The staff recommends the applicant's request for CS-1 because the property in question meets the intent of the Commercial-Liquor Sales district as this tract of land fronts onto an arterial roadway, Mopac Expressway South Bound. The proposed rezoning will be compatible with surrounding land uses as there are commercial uses to the north, south and east of the site. The CS-1 district would allow the applicant to utilize an existing restaurant structure to allow for new commercial uses on the site.

The property in question is part of the North Lamar Area Study, which was approved by the City Council on October 3, 1985. The area study recommends Commercial land use for this site.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR	Restaurant (Weirdo's - Play, Drink, Eat, Live Music)
<i>North</i>	GR	Railroad Tracks, Parking
<i>South</i>	GR	Construction Sales and Services (KJ Construction Office), Undeveloped Area
<i>East</i>	GR	Parking Lot, Mopac Expressway, Retail Center (Chick-Fil-A Restaurant, Wendy's Restaurant, HEB Grocery Store, etc.)
<i>West</i>	RR	Outdoor Sports and Recreation (Baseball Field)

AREA STUDY: North Lamar Area Study**TIA:** Not Required**WATERSHED:** Walnut Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A**HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District
 Austin Monorail Project
 Austin Neighborhoods Council
 Austin Parks Foundation
 Homeless Neighborhood Association
 Home Builders Association of Greater Austin
 League of Bicycling Voters
 North Growth Corridor Alliance
 Northwood Neighborhood Association
 Sierra Club, Austin Regional Group
 Super Duper Neighborhood Objectors and Appeals Organization
 The Real Estate Council of Austin, Inc.
 Walnut Crossing Neighborhood Association

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-03-0160: 3100 West Parmer Lane	DR, RR to SF-2	12/16/03: Approved SF-2-CO zoning, with condition limiting the site to 38 residential units (7-1, J. Martinez-Nay, C. Hammond-absent); J. Cortez-1 st , M. Whaley-2 nd .	1/15/04: Approved ZAP rec. of SF- 2-CO by consent (6-0, McCracken- off dias); all 3 readings
C14-00-2145	IP to IP-CO	8/15/00: Approved staff rec. of IP-CO (8-0), with conditions that terms of 12/20/99 MTG/Agreement between applicant and neighborhood association be part of the zoning (8-0, SA-Off dias)	9/28/00: Approved IP-CO (7-0); 1 st reading

C14-93-0093	GR-CO to SF-6	8/17/93: Approved SF-6 (5-0)	9/2/93: Approved SF-6 (5-0); all 3 readings
C14-93-0049	DR to MF-2	6/29/93: Postponed indefinitely (8-0)	12/29/93: Administrative- Expired
C14-93-0046	SF-6 to MF-3	11/16/93: Postponed by staff/applicant to 11/30/93 (6-0)	11/18/93: Withdrawn by applicant
C14-85-149: The North Lamar Area Study Rezoning		12/15/98: Approved staff's rec. of restrictive covenant amendment (7-0)	1/14/99: Approved PC rec. of amending restrictive covenant w/conditions (7-0)

RELATED CASES: C14-85-149 – North Lamar Area Study Rezonings
C8-92-0112.0A - Subdivision

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Oneal Lane	64'	30'	Collector	No	No	No
Mopac	Varies	FWY 6	FWY	No	No	No

CITY COUNCIL DATE: January 13, 2011

ACTION:

ORDINANCE READINGS: 1st

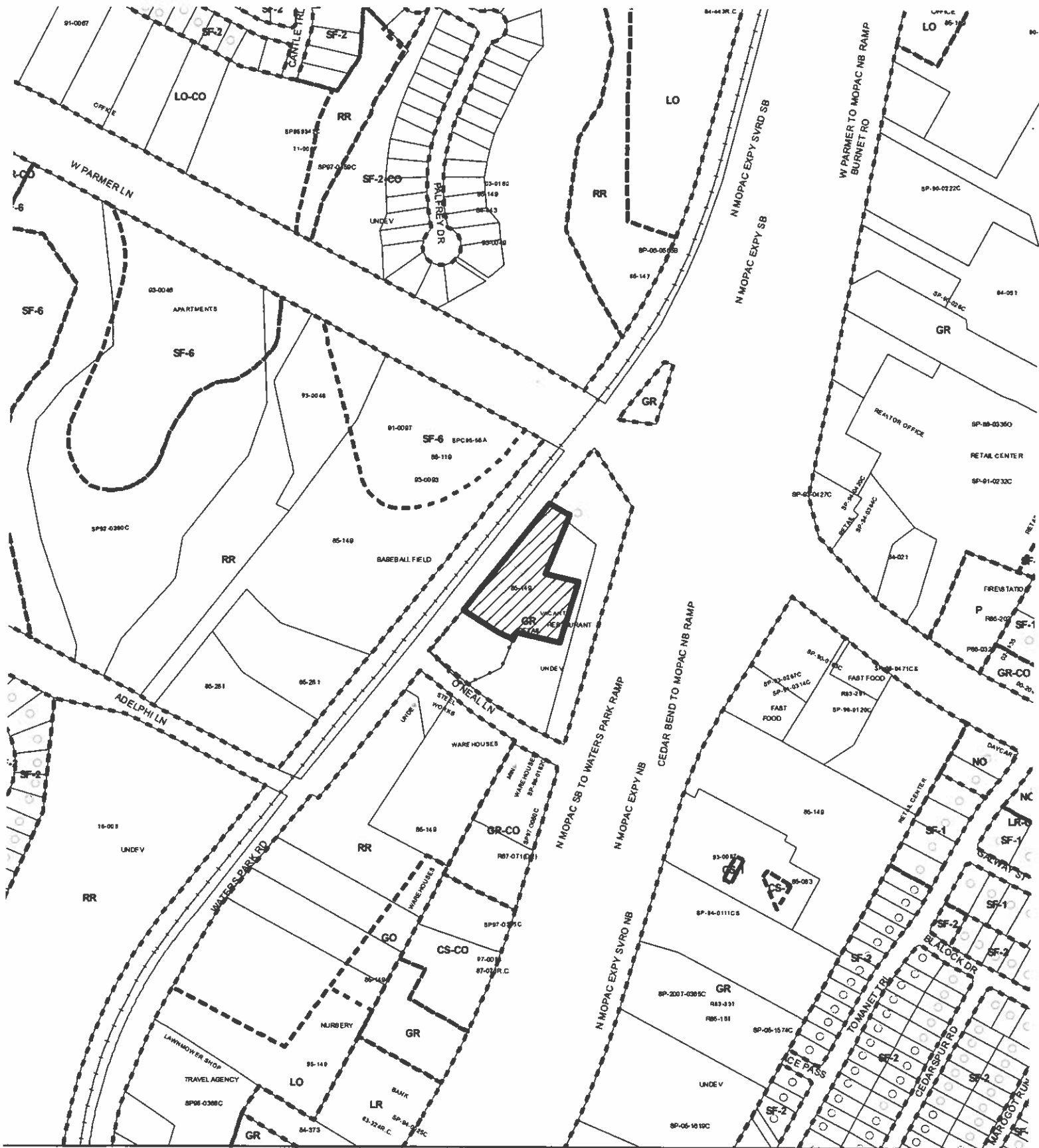
2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

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



ZONING

ZONING CASE#: C14-2010-0167

LOCATION: 12408 N MOPAC EXPY SVRD SB

SUBJECT AREA: 1.835 ACRES

GRID: L35

MANAGER: SHERRI SIRWAITIS



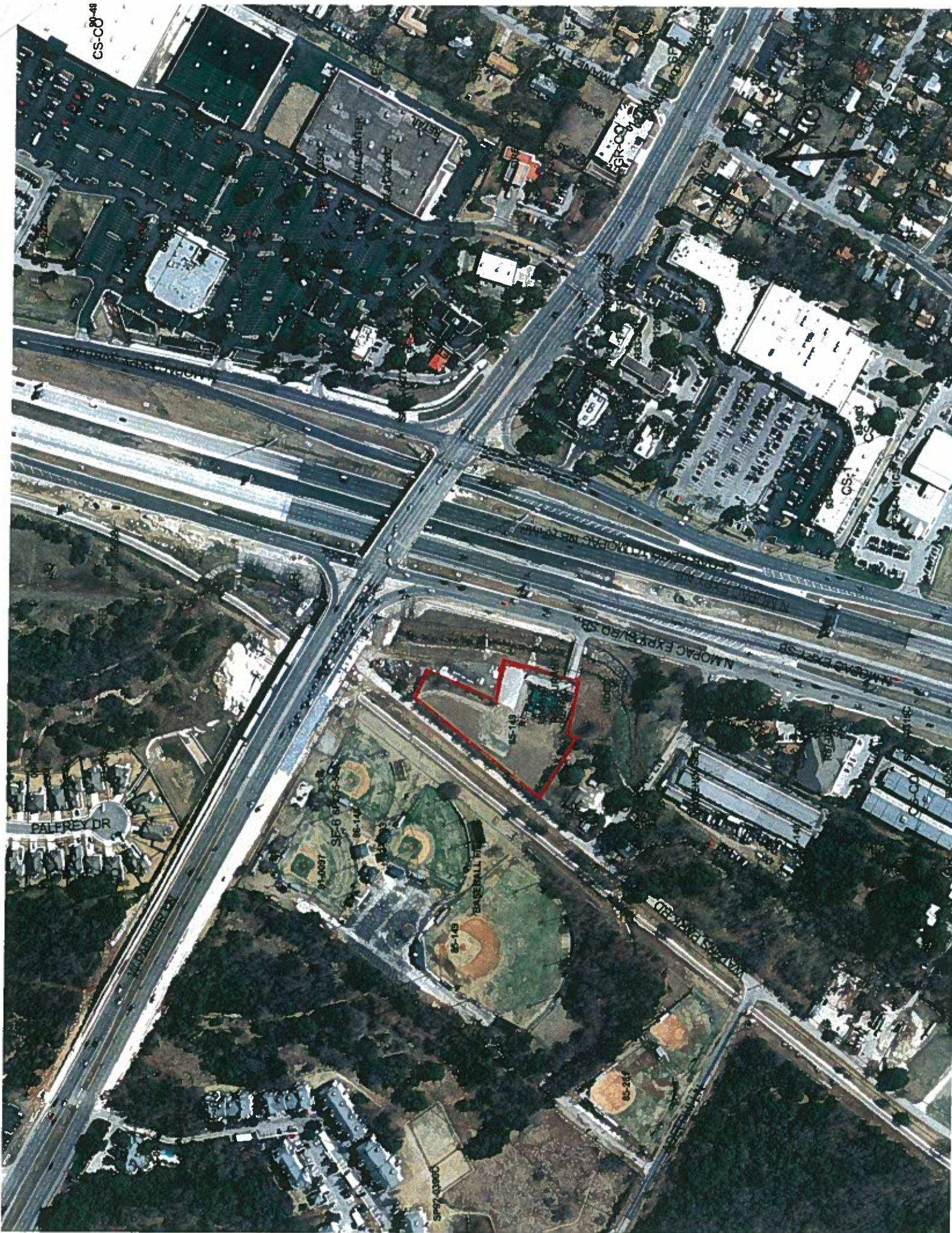
-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 400'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







STAFF RECOMMENDATION

The staff's recommendation is to grant the applicant's request for CS-1, Commercial-Liquor Sales District, zoning.

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

Commercial-liquor sales (CS-1) district is the designation for a commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments. Liquor sales is one of the permitted uses in a CS-1 district.

The property in question fronts onto and takes access from North Mopac Expressway, a major arterial roadway.

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

The proposed rezoning will be compatible with surrounding land uses because there are commercial uses to the north, south and east of the site.

The applicant's request is consistent with the commercial land use designation for this property in the North Lamar Area Study.

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

The proposed re-zoning of the site to the CS-1 district would allow the applicant to utilize an existing restaurant structure to allow for additional commercial uses on the site. The CS-1 zoning district would allow for a fair and reasonable use of the site because the property in question meets the minimum lot requirements for the proposed zoning designation.

The CS-1 zoning is appropriate for this location because of the frontage of this property on an arterial roadway. The proposed CS-1 zoning area is surrounded by commercial uses.

EXISTING CONDITIONS

Site Characteristics

The subject tract is currently developed with a restaurant use that contains an outdoor seating and entertainment area (Weirdo's). The property to the north of this contains the parking area for this development. To the south, there is a Construction Sales and Services business (KJ Construction) and a convenience storage use (North Mopac Mini Storage). To the east is additional parking area and the frontage road for Mopac Expressway Southbound. The tracts of land to the west are developed with baseball fields.

According to GIS information, there is floodplain at the northeast corner of this site. The floodplain area is primarily 100-year floodplain that is part of the Walnut Creek Tributary.

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:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

Note: The most restrictive impervious cover limit applies.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, 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 a floodplain within the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine the exact location of the boundaries. No development is permitted in the Critical Water Quality Zone, while impervious cover is limited to 30% in the Water Quality Transition Zone.

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

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

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.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Oneal Lane	64'	30'	Collector	No	No	No
Mopac	Varies	FWY 6	FWY	No	No	No

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 any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. If improvements are needed a water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. 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.

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

Define area of cocktail lounge by shaded area on site plan. Refer to certified field notes and define boundaries of CS-1 zoning footprint.

A Cocktail Lounge and Outdoor Entertainment are both Conditional Uses in CS-1 zoning, and a Conditional Use Site Plan permit will require approval from a Land Use Commission.



City of Austin

Founded By Congress, Republic of Texas 1839
Code Compliance Department
P.O. Box 1088, Austin, Texas 78767 - 1088

July 29, 2010

Ma Sharon
12700 Tomanet Trl
Austin, Tx 78727-4219

NOTICE OF VIOLATION
via Certified Mail # 7010 0290 0001 4211 3535

RE: 12408 N MO-PAC EXPRESSWAY
Legally described as LOT 1 GREAT WALL SUBD
Zoned as GR
Parcel Number 0262131301

Dear Ma Sharon:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

After receipt of this notice, you may not sell, lease, or give away this property unless you have provided the buyer, lessee, or other transferee a copy of this notice, and provided the name and address of the buyer to the Building Official. Also, it is a misdemeanor to rent this property if the code violation(s) on this property pose a danger to the health, safety and welfare of the tenants.

If you have any questions, please contact me by telephone at 512-974-1921 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en 512-974-1921 de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Ownership Information

According to the real property records of Travis County, you own the real property described in this notice. If you no longer own this property, you must execute an affidavit stating that you no longer own the property and stating the name with the last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to our office not later than the 20th day after the date you receive this notice. If you do not submit an affidavit, it will be presumed that you own the property described in this notice, even if you do not.

An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit may be mailed to:

Attachment A

City of Austin
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767

Additionally, if this property has other owner(s), please provide me with this information.

Failure to Correct

If a violation is not corrected, any existing site plan, permit, or certificate of occupancy may be suspended or revoked by the City. If the site plan, permit or certificate of occupancy is suspended or revoked, the utility service to this property may be disconnected.

If the violation continues, the City may take further legal action to prevent the unlawful action as authorized by State law and may seek civil injunctions or penalties in State court.

For dangerous or substandard buildings, the City may also take further action to require the vacation, relocation of occupants, securing, repair, removal or demolition of a building.

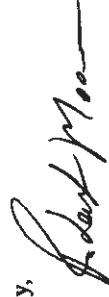
If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767

Sincerely,



ROBERT MOORE, Code Enforcement Inspector
Code Compliance Department
Case CV-2010-056818

INVESTIGATION REPORT

Investigator: ROBERT MOORE
Case: CV-2010-056818
Address: 12408 N MO-PAC EXPRESSWAY
Zoned as GR

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the Required Remedy Summary will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 974-2380. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

STRUCTURE MAINTENANCE

Code Section: Dangerous Structural (§302.8)
Description of Violation: The building or structure, or any portion thereof, because of no building permit construction is likely to partially or completely collapse.
Date Observed: June 30, 2010
Required Remedy: Obtain a building permit and engineers letter of stability.
Status: Not Cleared

Required Remedy Summary

Letter/ Report from Engineer Required in 15 days

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

If the Required Remedy Summary requires a permit, the Development Assistance Center located at 505 Barton Springs Road can assist you with any questions. When the required remedy is demolition, you are strongly encouraged to go to the Development Assistance Center for more information concerning current ordinances which may limit or restrict future development of your property after the demolition.

Appeal

Any structure maintenance issue indicated in this report may be appealed to the Building and Standards Commission. A lodging establishment licensee may also appeal the denial of an application for an operating license, the suspension of an operating license, and the issuance of this notice to the Building and Standards Commission.

The appeal must be filed not later than 20 days after the date of this notice and contain the following information:

- a brief statement as to why the violation is being appealed;
- any facts that support the appeal;
- a description of the relief sought; and
- the reasons why the appealed notice or action should be reversed, changed, or set aside.

An appeal may be delivered in person to our office located at 1520 Rutherford Lane or mailed to:

Building and Standards Commission
c/o Code Compliance Department
P.O. Box 1068
Austin, Texas 78767

LAND USE

Code Section: Building Permit Requirement (§25-11-32)

Description of Violation: Commercial construction performed without required permit(s).

Status: Not Cleared

Date Observed: June 30, 2010

Required Remedy: Obtain a Building and Electrical Permit for BMX platform and soundstage.

Code Section: Site Plans Required (§25-5-1)

Description of Violation: A person may not develop or use property prior to obtaining an approved and released site plan/site plan exemption.

Date Observed: July 29, 2010

Status: Not Cleared

Required Remedy: Acquire a siteplan or siteplan exemption.

Code Section: Restaurant and Cocktail Lounges (§25-2-408)

Description of Violation: A restaurant in a GR zone that serves alcoholic beverages must at least sell 51% of prepared food.

Date Observed: July 29, 2010

Status: Not Cleared

Required Remedy: Restrict alcohol sales to 49% of total sales and provide quarterly receipts.

Required Remedy Summary

Obtain a Building Permit in 15 days

Obtain an Electrical Permit in 15 days

Discontinue prohibited use in 7 days

Obtain a site plan or site plan exemption in 15 days

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

Appeal

No appeal is available for land use issues. However, a person may appeal a Stop Work Order to the City of Austin's Building Official. A written appeal must be filed no later than 3 days after the posting of the Order and contain:

- the name and address of the appellant;
- a statement of facts;
- the decision being appealed; and
- the reasons the decision should be set aside.

An appeal may be delivered in person to the Office of the Director of the Planning and Development Review Department located at 505 Barton Springs Road or mailed to:

Building Official
Planning and Development Review Department
P.O. Box 10888
Austin, Texas 78767



City of Austin

Founded By Congress, Republic of Texas 1839
Code Compliance Department
P.O. Box 1088, Austin, Texas 78767 - 1088

August 12, 2010

NOTICE OF VIOLATION
via Certified Mail #7010 0290 0001 4211 4341

Cecelia Alice Fortney
23296 Nameless Road
Leander, Texas 78641

RE: 12408 N MO-PAC EXPRESSWAY
Legally described as LOT 1 GREAT WALL SUBD
Zoned as GR
Parcel Number 0262131301

Dear Cecelia Alice Fortney:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

If you have any questions, please contact me by telephone at 512-974-1921 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en 512-974-1921 de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Failure to Correct

If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767

Sincerely,

Robert Moore, Code Enforcement Inspector
Code Compliance Department
Case CV-2010-056818

INVESTIGATION REPORT

Investigator: ROBERT MOORE

Case: CV-2010-056818

Address: 12408 N MO-PAC EXPRESSWAY

Zoned as GR

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the Required Remedy Summary will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 974-2380. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

STRUCTURE MAINTENANCE

Code Section: Dangerous Structural (§302.8)

Description of Violation: The BMX structure, or any portion thereof, because of no building permit construction is likely to partially or completely collapse.

Date Observed: June 30, 2010

Status: Cleared

Required Remedy: Obtain a building permit and engineer's letter of stability or remove structure.

Code Section: Electrical Violations (§1001.5)

Description of Violation: Electrical wiring is exposed, not installed to code, and not maintained in a safe condition.

Date Observed: August 6, 2010

Status: Not Cleared

Required Remedy: Obtain proper permitting and inspections.

Code Section: Dangerous Code Violation (§302.13)

Description of Violation: The structures are constructed, maintained, and exist in violation of specific requirements or prohibition(s) applicable to such structures provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or any law or ordinance of this jurisdiction.

Date Observed: August 6, 2010

Status: Not Cleared

Required Remedy: Acquire proper permitting and inspections.

Required Remedy Summary

Obtain Proper Permitting and Inspections in 15 days

Obtain Proper Permitting and Inspections in 15 days

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If the Required Remedy Summary requires a permit, the Development Assistance Center located at 505 Barton Springs Road can assist you with any questions. **When the required remedy is demolition**, you are strongly encouraged to go to the Development Assistance Center for more information concerning current ordinances which may limit or restrict future development of your property after the demolition.

Appeal

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- a description of the relief sought; and
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An appeal may be delivered in person to our office located at 1520 Rutherford Lane or mailed to:

Building and Standards Commission
c/o Code Compliance Department
P.O. Box 1088
Austin, Texas 78767

LAND USE

Code Section: Building Permit Requirement (§25-11-32)

Description of Violation: Commercial construction performed without required permit(s).

Date Observed: June 30, 2010

Status: Not Cleared

Required Remedy: Obtain the proper building permits and inspections as required.

Code Section: Site Plans Required (§25-5-1)

Description of Violation: A person may not develop or use property prior to obtaining an approved and released site plan/site plan exemption.

Date Observed: July 29, 2010

Status: Not Cleared

Required Remedy: Acquire a site plan or site plan exemption.

Code Section: Restaurant and Cocktail Lounges (§25-2-808)

Description of Violation: A restaurant in a GR zone that serves alcoholic beverages must at least sell 51% of prepared food.

Date Observed: July 29, 2010

Status: Not Cleared

Required Remedy: Restrict alcohol sales to 49% of total sales and provide quarterly receipts.

Required Remedy Summary

Obtain a Site Plan or Site Plan Exemption in 15 days

Obtain Proper Permitting and Inspections in 15 days

Discontinue Prohibited Use in 7 days

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

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**Building Official
Planning and Development Review Department
P.O. Box 1088
Austin, Texas 78767**

STATEMENT BY NORTHWOOD NEIGHBORHOOD ASSOCIATION
REGARDING CASE # C14-2010-0167 (Zoning Change for Weirido's)

The Northwood Neighborhood is located on the northwest side of Parmer at Mopac, across Parmer Lane from Weirido's. Our neighborhood consists of approximately 600 homes. While we do not have serious concerns about the proposed zoning change, we remain concerned about noise coming from the location. As you probably know, Weirido's recently received a live music venue permit. Should this zoning change be approved, we will be interested in the site plan required for the Conditional Use Permit, to ensure that outdoor or other activities do not substantially increase noise.

Thank you for your consideration and service to the citizens of Austin.

Cheryl Vanek, President
Northwood Neighborhood Association
(512) 244-4368