

THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2012-0070 Drink Well Rezone

REQUEST: Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code rezoning the property locally known as 207 E. 53rd Street (Waller Creek Watershed) from Neighborhood Commercial, Conditional Overlay, Neighborhood Plan (LR-CO-NP) combining district zoning to Community Commercial, Conditional Overlay, Neighborhood Plan (GR-CO-NP) combining district zoning.

DEPARTMENT COMMENTS:

The applicant and the agent were present at the City Council meeting on September 27th for the hearing regarding their zone change request. The case was a “discussion” case and therefore was not on the consent agenda. When the item was heard both the agent and the applicant had left the Council Chamber to attend to other business. Since neither person was present, the Council passed the zone change request on “consent”, with the recommendation from the Planning Commission. The recommendation from the Planning Commission included a prohibition on “outdoor amplified sound”. The applicant and the agent were there to request that they not have to abide by the recommendation by the Planning Commission that prohibited outdoor amplified sound. Therefore the case is on the agenda for second reading so that the agent may address the Council with their concerns.

At the December 6th City Council meeting the applicant requested that the Planning Commission recommendation that “Outdoor Amplified Sound” be prohibited be removed from the Council recommendation. The Council requested additional input before approving the applicants request to remove the prohibition on music so they can have background music. The Council requested that the staff research any “Outdoor Amplified Sound” requests in the area. Staff has requested this information and discovered that there are no “Outdoor Amplified Sound” permits within one thousand feet of the zone change request. (see attached email) In addition Staff sent out an email to the neighborhood contact team advising them of the upcoming meeting to which there was no response. Direction was given to staff to bring the case back for final approval on January 17th, 2013.

APPLICANT: M & J Properties, L.L.C. (Michael Sanders)

AGENT: Vasquez Ventures, L.L.C. (Rick Vasquez)

DATE OF FIRST READING: September 27th, 2012

DATE OF SECOND READING: December 6th, 2012

CITY COUNCIL HEARING DATE: January 31st, 2013

CITY COUNCIL ACTION: The second reading of the ordinance for Community Commercial, Conditional Overlay, Neighborhood Plan (GR-CO-NP) combining district zoning was approved on Council Member Morrison's motion, Council Member Martinez' second on a 7-0 vote. Council wants additional input before approving the applicants request to remove the prohibition on music so they can have background music. Direction was given to staff to bring the case back for final approval on January 17th, 2013.

ORDINANCE NUMBER:

ASSIGNED STAFF: Clark Patterson

Patterson, Clark

From: Auzenne, Viktor
Sent: Monday, December 17, 2012 8:29 AM
To: Patterson, Clark
Subject: RE:

Clark:

At this time, no Outdoor Music Venue Permits have been issued within 1000 ft of this address. One temporary sound event permit was issued for a one day event in 2011.

I did receive an application for Outdoor Music Venue for 111 E North Loop Blvd several months ago; however the applicant has not meet the requirements to be granted a permit and I don't think they will be able to.

From: Patterson, Clark
Sent: Friday, December 14, 2012 2:09 PM
To: Auzenne, Viktor
Subject:

Viktor:

I had a zoning case that went to City Council last Thursday and the subject of "outdoor amplified sound" came up. In particular the Council wanted to know if any outdoor amplified sound permits have been issued within 1,000 feet of my zone change request. I need to know if any outdoor amplified sound permits have been issued within a thousand feet of 207 E. 53rd Street. I was told that you might be able to help me out. If you are not the person, then can you point me in the right direction. Is there a way to research this information? Thanks.

Clark Patterson, AICP
505 Barton Springs Road, 5th floor (visit)
P. O. Box 1088 (mail)
Austin, Texas 78767
512.974.7691 (talk)
512.974.6054 (fax)
clark.patterson@austintexas.gov (email)
www.cityofaustin.org (web)

ZONING CHANGE REVIEW SHEET

CASE: C14-2012-0070 Drink Well Rezone

P. C. DATE: 08/28/12

ADDRESS: 207 E. 53rd St.

AREA: 0.14496 acres

APPLICANT: M & J Properties, L.L.C.
(Michael Sanders)

AGENT: Vasquez Ventures, L.L.C.
(Rick Vasquez)

NEIGHBORHOOD PLAN AREA: North Loop

CAPITOL VIEW: No

T.I.A.: Waived – See the Transportation Reviewer's comments and Restrictive Covenant.

HILL COUNTRY ROADWAY: No

WATERSHED: Waller Creek

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: LR-CO-NP, Neighborhood Commercial, Conditional Overlay, Neighborhood Plan.

ZONING TO: GR-NP – Community Commercial, Neighborhood Plan.

SUMMARY STAFF RECOMMENDATION:

Staff recommends GR-CO-NP Community Commercial, – Conditional Overlay. The Conditional Overlay would prohibit the following uses, Agricultural Sales and Services, Automotive Rentals, Automotive Repair Services, Automotive Sales, Exterminating Services, Funeral Services, Hospital Services – General, Medical Offices (exceeding 5,000 square feet), Pawn Shop Services, Residential Treatment, Service Station and limit vehicle trips to not more than 2,000 per day. If the requested zoning is granted for this site, and then 43 feet of right-of-way from the existing centerline should be dedicated for 53rd Street according to the Transportation Plan [LDC, Sec. 25-6-51 and 25-6-55].

PLANNING COMMISSION RECOMMENDATION:

The motion to approve staff's recommendation for GR-CO-NP district zoning with the added condition of no outdoor amplified music, was approved by Commissioner James Nortey's motion, Commissioner Alfonso Hernandez seconded the motion on a vote of 9-0.

DEPARTMENT COMMENTS:

The property is currently developed with a one story restaurant. The zoning case is located within the boundaries of the North Loop Neighborhood Plan. The requested zoning change of LR-CO-NP TO GR-NP is consistent with a mixed use land use category as identified on the North Loop Future Land Use Map. The proposed use of the subject property is a general restaurant. This corridor is envisioned as developing as a lively, vibrant, mixed use corridor that is characterized by neighborhood-oriented commercial (primarily retail) uses on ground floors fronting North Loop/53rd St, with 1-2 stories of residential above. A concentration of retail uses on the ground floor is anticipated to be a catalyst for the desired increased street activity that is a feature of the vision for this strip. Enhancement of the existing character of diverse, locally owned, small businesses is also a key element of the future development of this area. It is anticipated that there will be a variety of uses that exist along this strip

including: restaurants; general retail; personal services such as beauty and barber shops, dry cleaners, and tailors; and personal improvement services such as photography studios, health and fitness studios. The North Loop Blvd/53rd St strip would also provide opportunities for administrative and business offices, smaller medical offices, financial services – although some of these uses may be best located on the second floor to maintain the primarily retail nature of the ground floor. There will also be places for other kinds of diverse uses such as: consumer repair (including musical instrument repair and jewelry repair); custom manufacturing (including ceramic studios and candle-making shops); plant nursery; and software development. These types of uses would be of a number and scale so as not to diminish from the predominant street level retail character. The statement in the Neighborhood Vision, ‘all functions of daily life within walking distance’ reflects the long-term goal for this area, which is seen as developing into the ‘heart’ or ‘core’ of the neighborhood.

Action 2.1 found on page 39 of the North Loop Neighborhood Plan states, “Rezone properties in the North Loop Blvd/53rd St District according to the following general principles: (1) Maintain existing commercial zoning but add the North Loop Blvd Conditional Overlay to all commercially zoned property in the North Loop Blvd/53rd St District; (2) Add (Neighborhood) Mixed Use Building (Smart Growth) to all commercially zoned properties in the North Loop Blvd/53rd St District; and (3) Add the North Loop Blvd conditional overlay.” The existing “commercial” zone will be maintained and the list of prohibited uses is incorporated into the staff recommendation. Additionally, the “Mixed Use Building” is already incorporated into the North Loop Neighborhood Plan.

BASIS FOR RECOMMENDATION:

1. The proposed zoning should be consistent with the goals and objectives of the City Council.

Granting GR-CO-NP, Community Commercial, Conditional Overlay, Neighborhood Plan District zoning would be in keeping with adopted neighborhood plan for the North Loop area.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	LR-CO-NP	Restaurant
NORTH	GR-CO-NP	Single family residential
SOUTH	SF-3-NP	Single family residential
EAST	LR-CO-NP	Office
WEST	CS-CO-NP	Car wash

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-96-0034	From LO to MF-3-CO	Approved MF-3-CO [Vote: 7-0]	Approved MF-3-CO [Vote: 7-0]

NEIGHBORHOOD ORGANIZATION:

- Austin Neighborhood Council
- Northfield Neighborhood Assoc.
- North Austin Neighborhood Alliance
- North Loop IBIZ District

SCHOOLS:

Ridgetop Elementary School, Lamar Middle School, McCallum High School

SITE PLAN:

Any development on this site will be subject to Subchapter E: Design Standards and Mixed Use, and additional comments will be made upon submittal of the site plan for review.

ENVIRONMENTAL:

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Waller 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.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. 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.
4. According to floodplain maps there is a floodplain within the project area.
5. 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.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

TRANSPORTATION:

1. The Austin Metropolitan Area Transportation Plan calls for 86 feet of right-of-way for 53rd Street. If the requested zoning is granted for this site, then 43 feet of right-of-way from the existing centerline should be dedicated for 53rd Street according to the Transportation Plan [LDC, Sec. 25-6-51 and 25-6-55].
2. 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].

3. Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
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53rd Street	50	MNR 4	Arterial	No	Yes	Yes
Avenue G	50	27	Local	Yes	No	No

CITY COUNCIL DATE: September 27th, 2012

ACTION:

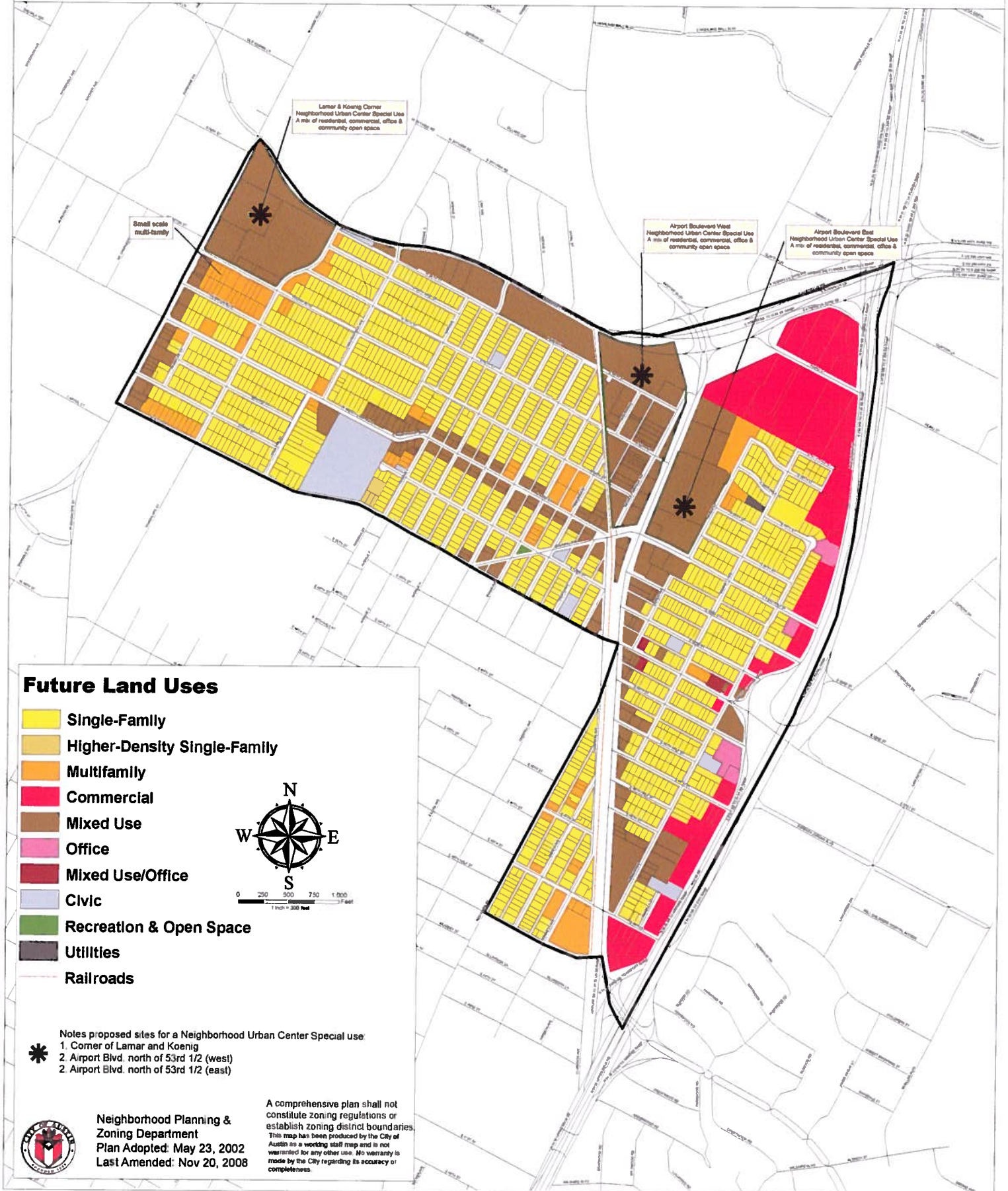
ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson
Clark.patterson@ci.austin.tx.us

PHONE: 974-7691

North Loop Adopted Future Land Use Map



Land Use Actions for North Loop Blvd/53rd St.

- Action 2.1. Rezone properties in the North Loop Blvd/53rd St District according to the following general principles:
- Maintain existing commercial zoning but add the North Loop Blvd Conditional Overlay (See Action 2.2 for details) to all commercially zoned property in the North Loop Blvd/53rd St District
 - Add Mixed Use Building (Smart Growth) [Ordinance no. 000406-81] to all commercially zoned properties in the North Loop Blvd/53rd St District
 - Add the North Loop Blvd conditional overlay (see Action 2.2).

Note: This Neighborhood Plan supports single family zoned properties in the North Loop Blvd/53rd St District (see map on p.35) being rezoned to Neighborhood Commercial (LR) with Mixed Use Building (Smart Growth) if the property owner desires to do so.

- Action 2.2. Apply the following conditional overlay to all properties fronting or one lot back from North Loop Blvd/53rd St between Lerallynn and Airport Blvd (NPZD). (See map on page 35 for location. Please refer to zoning ordinance C14-02-0009 for specific details). The following uses are prohibited along this corridor:

Adult Oriented Businesses
Agricultural Sales and Services
Automotive Rentals
Automotive Repair Services
Automotive Sales
Campground
Commercial Blood Plasma Center
Construction Sales and Services (with the exception of those that have a site area of 8,000 square feet or less)
Convenience Storage
Equipment Repair Services
Equipment Sales
Exterminating Services
Funeral Services
Hospital Services – General
Kennels
Laundry Services
Limited Warehousing and Distribution
Medical Offices exceeding 5,000 square feet
Pawn Shop Services
Residential Treatment
Service Station
Transitional Housing
Transportation Terminal (except for uses associated with light rail should it occur in the future e.g. a light rail station or interchange)
Vehicle Storage

In addition to this the following uses are made conditional¹ along this corridor:

Congregate Living
Drive-in Services.

Please note that not all uses are permitted in all base districts. Please consult the zoning ordinance C14-02-0009 for details about permitted, prohibited, and conditioned uses on individual properties.

When considering the issuing of conditional use permits this Neighborhood Plan recommends consideration of the following factors:

- Compatibility with surrounding uses, particularly single family homes
- Potential for adverse impact on residential areas, especially in regard to traffic
- Compatibility of the proposed use with the Neighborhood Plan's vision for that area and for the neighborhood as a whole
- The existing number or concentration of a particular business type. (A key goal of the Neighborhood Plan is business diversity. It is hoped that no one type of business will dominate any particular section of the neighborhood).

Action 2.3. Review the conditional overlay detailed in Action 2.2. two years after the ordinance is adopted to assess impact (NPT).

Action 2.4. Work with future developers to encourage that low impact development strategies are incorporated into site design. Strategies include reduction of impervious cover, use of bio-retention/filtration landscapes, drainage swales, etc. (NPT, WPDR)

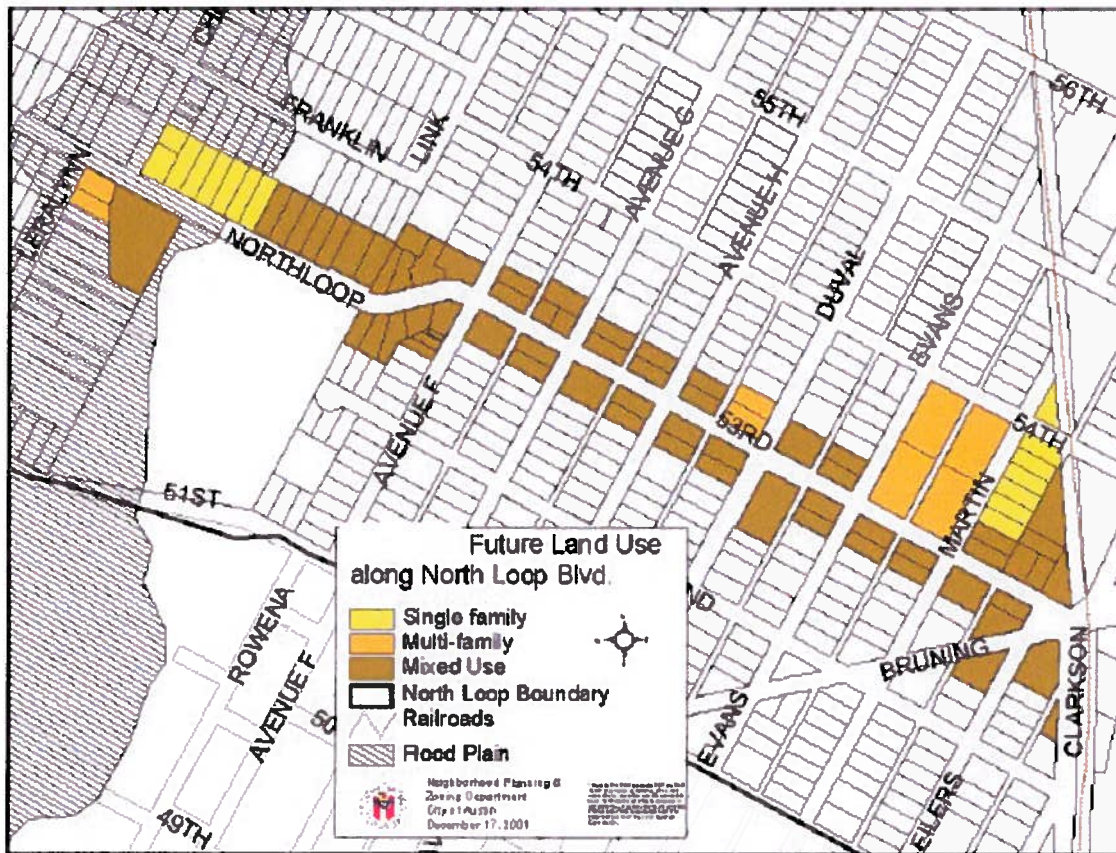
¹ Making a use conditional with a Conditional Overlay (CO) means that existing businesses in these categories can continue to operate; however their ability to expand would be affected by the CO. New businesses in these categories would be subject to the restrictions in the CO. Existing businesses can expand, improve, or alter their structures up to 20% of the value of the structure *annually* without having to submit a "conditional use permit" (CUP). This includes both exterior and interior work. If an expansion or improvement exceeds 20% in a given year, then a CUP would be required. A site plan would be required for an expansion (adding more than 1,000 sq. ft.) even if the use were not conditional; however the difference is that most site plans are administratively approved. A CUP (site development) would require a public hearing and Planning Commission approval.

Through the CUP process, specific criteria are used to determine if a new use or expansion is appropriate and ways to ensure that compatibility with the neighborhood is addressed. The review process and cost of CUPs vary by the size of the project and whether construction is required.

It is not the intent of the North Loop Neighborhood Planning Team to close down existing businesses but rather they view the CUP process as a way to give greater consideration to potential impacts and ensuring that any expansion of existing businesses, or the introduction of new businesses, is done in a way that considers neighborhood interests.

North Loop Blvd/53rd St (including the North Loop Commercial Center)

The map below shows the area referred to as the North Loop Blvd/53rd St district. It extends from Leraynn in the west to Airport Blvd in the east, and includes all property either fronting North Loop Blvd/53rd St or properties one lot back from this roadway. As shown on the map the district also includes commercially zoned properties that extend further back from the main North Loop/53rd roadway. This map shows the proposed future land uses of this area.



Patterson, Clark

From: Rob ~~bishop@centralia.net~~
Sent: Saturday, July 21, 2012 9:37 AM
To: Patterson, Clark
Subject: re: C14-2012-0070

We received the application for rezoning for 207 E 53rd Street. In a short time, our quiet family neighborhood has gone from a place where our children could ride bikes on the street to a parking lot for customers entering and exiting the new businesses. That property was built with a full understanding of the zoning. It is not acceptable to create a less family friendly situation.

We are strongly opposed to decreasing restrictions for zoning.

Beth and Rob Bishop

Charles D. Sowell

5209 Ave G.
Austin, Tx 78751-2023

08/21/2012

CITY OF AUSTIN
Planning & Development Review Department
Clark Patterson
505 Barton Springs Road
Austin, Tx 787__

Case Number: C14-2012-0070
Project Location: 207 E 53rd St.

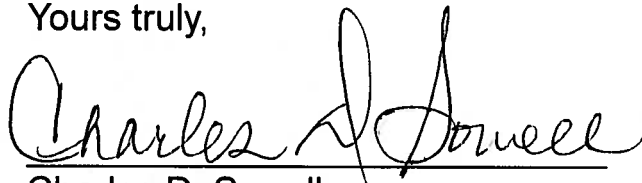
Clark Patterson:

Attached Please find my objection to the zoning change for "DRINK WELL American Pub". Just a fancy name for a "BAR".

I'm mailing my objection as well as I've e-mailed the same. This residence has been in the Sowell name since 1953. This "BAR" has made a nice neighborhood into a nightmare.

Again, I'm attaching my objection to this mailing & also e-mailed the same. Per 1 of the neighbors... it is too late to object in writing to the planning commission... as this Notice wasn't sent in time...why? Probably because it is to be approved.

Yours truly,


Charles D. Sowell

Cc:
attachments

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.austintexas.gov

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: C14-2012-0070

Contact: Clark Patterson, 512-974-7691

**Public Hearing: Aug 28, 2012, Planning Commission
Sep 27, 2012, City Council**

CHARLES D. SOWELL

Your Name (please print)

5209 AVENUE G AUSTIN, TX 78751

Your address(es) affected by this application

Charles D. Sowell *08/21/2012*
Signature *Date*

Daytime Telephone: (512) 217-6823

I, Charles D. Sowell do TOTALLY OBJECT to this
Comments: "BAR" Drink Well American Pub & to the request
of REZONING, Michael & Jessica has turned a Very Nice
Neighborhood into a NIGHTMARE. With the zoning change
the hours will probably want to be changed like a regular
"BAR". The TRAFFIC CONGESTION IS TERRIBLE. FROM 4:00p.m.
Til 11:00p.m. (7) Day a WEEK. MICHAEL & JESSICA have NO
RESPECT FOR THE NEIGHBORHOOD. NONE WHATSOEVER.
There use to be families, couples, singles that walk their
dog(s).. push their babies in strollers, ride bicycles etc.
Now, very few do this probably afraid of getting hit or run
over. The "BAR" has produced alot of traffic & the whole
Block(s) are coved with cars. THE Residences don't have
a chance of company, cause the "BAR" people have taken all
the residential PARKING. There has been a lot of Driveway
Blocking. APD DID patrol 5200 Block of Avenue G, Saturday
there was a car blocking my neighbors drive...& APD DID
have the car Towed.

AGAIN, I, CHARLES D. SOWELL DO TOTALLY OBJECT.

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

City of Austin

Planning & Development Review Department

Clark Patterson

P. O. Box 1088

Austin, TX 78767-8810

PUBLIC HEARING INFORMATION

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Case Number: C14-2012-0070

Contact: Clark Patterson, 512-974-7691

Public Hearing: Aug 28, 2012, Planning Commission

Sep 27, 2012, City Council

David Nellis

Your Name (please print)

101 E. Northrop Blvd.

Your address(es) affected by this application

David Nellis Sept 4, 2012

Signature

Date

Daytime Telephone: 512-552-6664

Comments: Gentlemen/Sadies Northrop Blvd between Airport and N Lamar has been for years (50 plus) a mixed use neighborhood. Following WIT returning to the above and behind their storefronts, today for different reasons we find need for the same thing. (Economy poor) (Increased neighborhood crime) (Single unit households) (Longer work days) I favor the requested zoning change.

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

City of Austin

Planning & Development Review Department

Clark Patterson

P. O. Box 1088

Austin, TX 78767-8810

David Nellis
Prop. owner