

**Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-13
AGENDA DATE: Thu 01/29/2004
PAGE: 1 of 1**

SUBJECT: C14-03-0168 - Nokonah - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 721-729 North Lamar Boulevard (Shoal Creek Watershed) from downtown mixed use-central urban redevelopment (DMU-CURE) combining district zoning to downtown mixed use-conditional overlay-central urban redevelopment (DMU-CO-CURE) combining district in order to change a condition of zoning. Zoning and Platting Commission Recommendation: To grant downtown mixed use-conditional overlay-central urban redevelopment (DMU-CO-CURE) combining district zoning. Applicant: Nokonah Partners Limited (Robert Trimble). Agent: LS Johnston Architects (Linda Johnston). City Staff: Glenn Rhoades, 974-2775.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guemsey

ZONING CHANGE REVIEW SHEET

CASE: C14-03-0168

Z.A.P. DATE: December 16, 2003

January 6, 2003

C.C. DATE: January 29, 2003

ADDRESS: 721-729 N. Lamar Blvd.

OWNER/APPLICANT: Nokonah Partners Ltd.
(Robert Trimble)

AGENT: LS Johnston Architects
(Linda Johnston)

ZONING FROM: DMU-CO-CURE

TO: DMU-CO-CURE

AREA: 1.004 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends the proposed change to DMU-CO-CURE, Downtown Mixed Use-Conditional Overlay-Central Urban Redevelopment Combining District. To allow medical, professional or administrative and business offices, in addition to the pedestrian oriented uses on the ground floor.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

December 16, 2003 – Motion made to send the case to Council without a recommendation approved (Vote: 6-2, J. Gohil and K. Jackson – nay, C. Hammond - absent). Another motion was made to rescind action and bring back to Commission on 1/6/03 was approved (Vote: 8-0, C. Hammond-absent).

January 6, 2003 – Pulled from the agenda, no action required. Case to be sent to Council without a recommendation (see minutes).

ISSUES:

The applicant wishes to change one of the conditions of zoning as approved with case C14-96-0119 (see attached). Item # 8 in the ordinance states: "The ground floor elevations along North Lamar Blvd. And West 9th Street shall be for retail uses." The owner would like to change item #8 to read: "The ground floor elevations along North Lamar Blvd. And West 9th Street shall be for pedestrian oriented uses and office." In addition, the applicant will prohibit cocktail lounges. No other conditions will be changed.

Pedestrian Oriented Uses as defined by the Code are as follows:

Art and Craft Studio (limited)	*Cocktail Lounge
Consumer Convenience Services	Cultural Services
Day Care Services (all types)	Food Sales
General Retail Sales (convenience and general)	Park and Recreation Services
Residential Uses	Restaurant (limited and general)
Other uses as determined by the Land Use Commission	

Staff has received letters of support from the Old Austin Neighborhood, the Downtown Commission, the Downtown Austin Neighborhood Alliance and the West End Austin Alliance (see attached).

* To be prohibited.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	DMU-CURE	Vacant Lease Space and Mixed Use
<i>North</i>	CS	Restaurant
<i>South</i>	CS	Office, Parking
<i>East</i>	CS	Office
<i>West</i>	CS-MU-CO-NP	Auto Sales

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

#018 – Old West Austin Neighborhood Association
 #057 – Old Austin Neighborhood Association
 #402 – Downtown Austin Neighborhood Association
 #511 – Austin Neighborhoods Council
 #623 – City of Austin Downtown Commission
 #998 – West End Austin Alliance

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-96-0063	MF-4 to CS-CURE	Approved CS-CURE. The CURE district modified the regulations for general retail sales convenience by allowing an F.A.R. of .18 to 1 and reducing parking requirements to 1 space per every 1,000 square feet (Vote: 8-0). 6/4/96.	Approved CS-CURE (Vote: 6-0). 6/6/96.
C14-96-0119	See attached ordinance.		
C14-01-0054	MF-3 to LO-MU	Approved LO-MU-CO. The CO requires 20% of the structure to remain residential (Vote: 6-3). 6/5/01	Approved LO-MU and deleted the 20% requirement (Vote: 7-0). 6/27/01.

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Lamar Boulevard	90'	50'	Arterial	N/A
Henderson	60'	Varies	Collector	N/A
9 th Street West	Varies	44'	Collector	2,127

CITY COUNCIL DATE: January 29, 2003

ACTION:

ORDINANCE READINGS: 1st

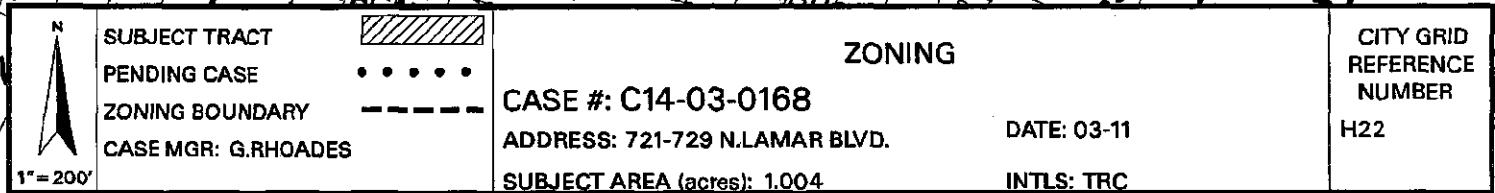
2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Glenn Rhoades

PHONE: 974-2775





STAFF RECOMMENDATION

Staff recommends the proposed change to DMU-CO-CURE, Downtown Mixed Use-Conditional Overlay-Central Urban Redevelopment Combining District. To allow medical, professional or administrative and business offices, in addition to the pedestrian oriented uses on the ground floor.

BASIS FOR RECOMMENDATION

Staff is recommending the proposed change because we believe it still meets the intent of the original approval by allowing uses that would make this project a mixed use building. The applicant simply wishes to add office as a potential use for this site.

EXISTING CONDITIONS

Site Characteristics

The property is currently developed with multifamily.

Transportation

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

The trip generation under the requested zoning is estimated to be 8,900 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). The proposed/existing uses on the site will generate a total of 1,964 trips per day.

The existing ordinance limits the site to 2,535 vehicle trips per day.

Capital Metro bus service is not available within 1/4 mile of this property.

There are existing sidewalks along Lamar Boulevard, Henderson and 9th Street West.

Impervious Cover

DMU zoning allows for 100% impervious cover.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal 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. Impervious cover is not limited in this watershed class. 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.

According to flood plain maps, there may be 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.

Right of Way

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

Water and Wastewater

The site is served with City water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or adjustments are required, the landowner will be responsible for all costs and providing. Also, the utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City's utility design criteria.

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

There is an existing site plan on this tract (SP-00-2005C). Any new development will be subject to compatibility development regulations. This site is within the Mopac Bridge Capitol View Corridor. Height restriction will be strictly enforced.

The site is subject to compatibility standards. Along the west property line, the following standards apply:

For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection. Additional design regulations will be enforced at the time a site plan is submitted.

MEMORANDUM

TO: Betty Baker, Chair and Members of the Zoning and Platting Commission

FROM: Dora Anguiano, Zoning and Platting Commission Coordinator
Neighborhood Planning and Zoning Department

DATE: January 6, 2004

SUBJECT: Zoning and Platting Commission Summary

Attached is a Zoning and Platting Commission summary, which will be forwarded to the City Council.

CASE # C14-03-0168

10. C14-03-0168 – NOKONAH PARTNERS LIMITED (Robert L. Trimble), By: LS Johnston Architects (Linda Johnson), 721 – 729 North Lamar. (Shoal Creek). **FROM DMU-CURE TO DMU-CURE. RECOMMENDED. City Staff: Glenn Rhoades, 974-2775.**

SUMMARY

Glenn Rhoades, staff – “The applicant is requesting to change conditions of zoning from DMU-CURE to DMU-CURE. As the ordinance stands now, the ordinance states that ground floor elevations along North Lamar Blvd. and W. 9th Street, shall be for retail uses and the owner wishes to change that item to read that the ground floor elevations along North Lamar Blvd and W. 9th Street, shall be for pedestrian oriented uses and office. In addition, the applicant has agreed to prohibit cocktail lounges, which are part of pedestrian oriented uses as defined by the code. Staff does recommend the proposed change; we do believe that it does meet the original intent of the ordinance, by providing provisions for a mixed-use building”.

Commissioner Baker – “I guess my problem was that it was requiring retail uses at street level, but there’s so many of these buildings which still remain vacant. But, I do have a problem when you call an office, the pedestrian oriented use”.

Mr. Rhoades – “What the ordinance would state, would be that the ground floor shall be for pedestrian oriented uses and offices. So it does differentiate”.

Commissioner Baker – “Okay, because to me an office is a destination”.

Michael Whalen, applicant – “The building in 1996 was proposed as a 120 foot residential mixed use building. There were intense negotiations with members of OWANA, including the President. There was ultimately an agreement that was reached with OWANA, dated November 22nd, 1996; and finally, in December of 1996, as a zoning ordinance took affect, in which retail uses.....(end of tape)....I want to emphasize that in 2001, before construction was completed, there was active work to try to market the ground floor space. As of December 16, at 7:35 p.m., the ground floor space remains empty. It is a cold, dark box; it is empty, there is nothing there and it will require tenant finish out that would be significant. Whole Foods is about to move to its new site; and there’s hope that the current Whole Foods location would be redeveloped; so we’re going to have significant construction on both sides of Lamar and 9th Street. Despite the active market, Nokonah has not filled any ground floor space; they need the flexibility to occupy this space and create the street frontage that everyone had originally hoped would be achieved by now. The zoning change would allow for an office use, a real estate brokerage company that would like to lease that space; to come and occupy that frontage in advance of the Lamar Street construction and the Whole Foods construction. In your packet, there are letters of support from the Old Austin Neighborhood Association; the person who signed that letter has spoken in favor of the change. The Downtown Commission, the Downtown Austin Neighborhood Association

and the West End Austin Alliance. Finally, the person most directly affected by this who lives across Lamar, directly across Nokonah, wrote in favor”.

Commissioner Pinnelli – “Has this space been offered for sale and for rental?”

Mr. Whalen – “Yes, it is a least opportunity that is now being looked at. It was offered for sale before and the opportunity is now for lease”.

Commissioner Cortez – “Where are they going to park?”

Mr. Whalen – “There’s parking in the building and it has been provided in the building. There’s plenty of parking and it meets all Code requirements”.

Commissioner Baker – “I have to say that it’s Lamar Blvd. and not Lamar Street”.

[laughter]

Mr. Whalen – “Excuse me, I meant Lamar Blvd”.

Commissioner Cortez – “I have another question; you have been trying to lease out retail for the last 3-years and have been unsuccessful; you don’t see that change in the next 2 or 3-years?”

Mr. Whalen – “One would hope; I guess construction from the river to 24th Street on Lamar Blvd. and the complete abandonment by Whole Foods, next door, in 2 to 4-year redevelopment project, I think it’s going to be very difficult in allowing for the flexibility for the city”.

Commissioner Jackson – “I want to clarify that by changing this to pedestrian and office uses, doesn’t preclude retail uses”.

Mr. Whalen – “No, absolutely not”.

Commissioner Jackson – “It just allows more flexibility”.

Mr. Whalen – “Yes, thank you”.

FAVOR

Ted Siff, Old Austin Neighborhood Association – Spoke in favor.

OPPOSITION

Laura Morrison – Spoke in opposition.

Commissioner Whaley – “Did Old West Austin come up with a fixed position and have a letter to support that; or did they opt not to support or ...”

Ms. Morrison – “We don’t have a letter; I’m here representing OWANA, to tell you that that opposition was voted on”.

Commissioner Whaley – “I’m just looking at the back-up and there’s letters from the Downtown Commission; from Old Austin Neighborhood; there’s quite a few letters all in support”.

Ms. Morrison – “We didn’t send a letter in; I apologize, we should have done that”.

Commissioner Donisi – “There’s a letter that we have the West End Austin Alliance; on the letterhead is the name of the person named Katherine Kragel, representing the Old West Austin Neighborhood Association; is that your association?”

Ms. Morrison – “It is and actually our representative to the West End, WEAA, is now Katy O’Neal and she in fact abstained on that vote; she did not vote to support this zoning change”.

Commissioner Jackson – “I know you say that you’re opposed to the change; given what the applicant is requesting, is your preference then just to stay empty?”

Ms. Morrison – “I don’t agree that’s the only option. If it requires subsidizing until the economy picks up; or until the Lamar reconstruction; that’s all part of doing business”.

Commissioner Jackson – “We can’t require them to subsidize it. It could sit there and conceivably just let it be empty”.

Ms. Morrison – “That would be his choice, yeah”.

Commissioner Jackson – “I’m asking you, is that a choice that you’re willing to accept?”

Ms. Morrison – “Yeah”.

Linda MacNeilage – Spoke in opposition.

Commissioner Martinez – “So you’re against any and all of pedestrian oriented uses?”

Ms. MacNeilage – “No, I’m very in favor of retail and pedestrian oriented uses; but not a change to office”.

Commissioner Jackson – “Now you want to keep retail in this property?”

Ms. MacNeilage – “Well, I’m talking about what the zoning has been when the neighborhood association agreed to the PUD’s. We believed that retail with residential above would be a viable option. Apparently, they found out that residential people did not want to live in these big projects and so it all went; not just from residential above and office below, but the entire project completely went office. With the area that’s going to be freed up, in terms of where Whole Foods currently is located and Book People is located, that that is actually going to be a theater area and that all of that is high end retail; that would actually make retail in this Nokonah Project more viable, yes”.

Dan Grappe – Spoke in opposition.

Daniel Traverso – Spoke in opposition.

Commissioner Donisi – “For all of you who have been familiar with this process; and you’ve seen the ways that things happen, it would seem to me a natural progression to put it in writing”.

Mr. Traverso – “We had a neighborhood meeting and it was unanimous; about 60 people showed up and we’re unanimously opposed to this”.

REBUTAL

Michael Whalen – “The zoning ordinance that was always part of the zoning application, so I’m not sure where that comes from. As far as a decision tonight about use of the space, in ways for it to be flexible to maximize opportunity and cold dark space, which is like a closed box; really, is one that we should take advantage of and I hope you would consider doing so tonight”.

Commissioner Pinnelli – “Do you know how the residence feel about having office space down there?”

Mr. Whalen – “One resident did indicate that he was in favor of the change. There hasn’t been a survey or anything else. At least one resident, in addition to the person that lives directly across the street, and looks at that particular space have both indicated that they’re in favor of it”.

Commissioner Jackson – “Any response to the comments about leasing and renting it?”

Mr. Whalen – “One of the problems is that it’s unfinished space; and a cost to finish it out is going to be high. So it’s going to take somebody that can finish out that space, in a nice tasteful way; and we found a tenant willing to do that after 2-years of looking. I can not speak to the efforts that have been made. I’d be happy to get documentation on all the contacts that have been made over the last 2-years in connection in trying to lease this space. I know that it has been actively on the market; it has lease signs on it”.

Commissioner Martinez and Gohil moved to close the public hearing.

1st MOTION

Commissioner Cortez – “I’d like to move to change DMU-CURE to DMU-CURE; but altering item 8 in the ordinance, to say that the ground floor elevations along North Lamar Blvd. and W. 9th Street shall be for pedestrian oriented uses”.

Commissioner Baker – “Staff, do we have in the Code, for pedestrian oriented uses a sufficient definition for it to stand; or does it need to be more explicit?”

Mr. Rhoades – “We do, it’s in the waterfront overlay section. We use that definition”.

Commissioner Baker – “Does it include offices?”

Mr. Rhoades – “It does not”.

Commissioner Cortez – “I’m also excluding cocktail lounges”.

Commissioner Baker – “You will not be including offices?”

Commissioner Cortez – “No”.

Commissioner Baker – “Okay, is there a second to the motion?”

No second.

2nd MOTION

Commissioner Baker – “Is there another motion?”

Commissioner Donisi – “I would move that we accept the staff recommendation”.

Commissioner Jackson – “I’ll second it”.

Commissioner Baker – “Commissioner Donisi, you’ve opened up a very wide door and I would hate to see 7,300 square feet of office space there in the 800 block of North Lamar. If you will refer to your packet; it says that the maximum FAR permitted should be 1.52:1 for administrative business office and professional office use. If you go to 8, it says that the ground floor elevation shall be for retail uses. Obviously, you’re allowing office uses in item #8, but somehow there needs to be a limitation to it. Can you help me?”

Commissioner Donisi – “I’m open to a suggestion”.

Commissioner Pinnelli – “I’d like to see some kind of limited office; if we’re going to do office at all”.

Commissioner Baker – “Are you saying limited office; rather than general office; or are saying limited office rather than general office. Or are you saying limited office as far as the square footage?”

Commissioner Pinnelli – “Limited office by square footage”.

Commissioner Baker – “Okay”.

Commissioner Pinnelli – “I would rather see more retail; I would rather open up more uses being retail and very much limit the office space that could be used in that area”.

Commissioner Baker – “Commissioner Donisi, would you like to pick a figure?”

Commissioner Donisi – “I’m hesitant to pick a figure because the intent of what I want to do is to allow Nokonah to try to be a little creative here and take advantage of the opportunity that they have. I’ve been an advocate for pedestrian oriented uses in the past and I’ve kind of taken some heat for that. I ranted on the Rainey Street issue and I lost; I was glad to have other people join me, but the point is that my intent is recognizing that that space is empty and recognizing that Nokonah has an opportunity to take advantage and get someone there. I want them to be able to take advantage of that; my concern is if I throw out a number, I’m not sure limiting what the Nokonah’s opportunities are”.

Commissioner Pinnelli – “My problem with it is that I don’t want to see 7300-feet of office space; I don’t want that to be what they get to put down”.

Commissioner Baker – “What is the square footage of this space that you’re currently considering?”

Mr. Whalen – “I’m trying to find that out. It’s about 6,000 square feet”.

Commissioner Baker – “So that’s basically the down stairs?”

Mr. Whalen – “Yes. One option is to allow for office to creep up the residential; and one thing would be to limit the pedestrian use or office, just to the ground floor. This lease would come up at some point and it would be open and available again”.

Commissioner Jackson – “I think we all want to reserve the option for retail. I would propose that we modify the motion that’s on the floor so that it can only be first floor office; and office can only be lease space. It can not be for sale space. Thus preserving the ability to convert it when Lamar gets there. Right now, they can sell that space and they can sell it for retail uses or they can lease it for retail uses. I’m not exactly sure how we would enforce this...”

Glenn Rhoades – “Mr. Jackson’s recommendation is something that could be done by restrictive covenant as opposed to a CO. Just wanted to tell you that”.

Commissioner Jackson – “I don’t think anyone favored it anyway; thank you”.

Commissioner Baker – “Will you repeat your motion, please?”

Commissioner Donisi – “My motion was to accept the staff recommendation; although it sounds like we need to fill in the blanks on some of this; but my intent was to give the folks of Nokonah the opportunity to take advantage of what I believe they may have the ability to enter some sort of lease for an office use. That was my motion and we probably need to ...I would be open to amendments, in order to pick up some friends along the way”.

Commissioner Jackson – “I seconded the motion. I want to make it a clear point that pedestrian oriented uses and office should be limited to the first floor only. I don’t want retail progressing up the building either”.

Commissioner Donisi – “I would offer that we could look at CO’s to make sure that we don’t have a dentist office there; or something like that”.

Commissioner Jackson – “We brought up the Rainey Street; the main discussion there was pedestrian uses; that’s what everybody wanted. All we’re doing is doing what everybody says they want. We’re talking about adding office”.

Commissioner Martinez – “Please repeat the motion”.

Commissioner Donisi – “I don’t know if I can. My motion was to accept the staff recommendation and to limit the office and pedestrian use to the first floor”.

Commissioner Baker – “I understand not having the retail going up the elevator; but I’m not sure that I have a real problem with office going up the stairs”.

Commissioner Jackson – “I think the neighborhood has a real problem going up the stairs, so I think we ought to limit it”.

Commissioner Baker – “You want to put a percentage on what you would limit the office; whether it be 40, 50 or 60%’ could you get something there that might give us a comfort level?”

Commissioner Jackson – “I think that’s arbitrary and we wouldn’t...”

Commissioner Baker – “Then you could have an entire floor of office; and that’s probably what you’ll have?”

Commissioner Jackson – “You can have an entire floor of 7300 square feet; it’s not that big”.

Commissioner Donisi – “I will modify my motion to accept the staff recommendation to allow for an office use on the first floor for the entire 7300 square feet; as well as pedestrian oriented use”.

Commissioner Baker – “Does your second remain Mr. Jackson?”

Commissioner Jackson – “Yes”.

Commissioner Cortez – “I understand the economic situation here; I am for allowing a little more flexibility to retail space by allowing pedestrian uses along the ground floor. I am not in favor of offices because I do think that pedestrian uses, not office, was the intent of the original agreement”.

Commissioner Pinnelli – “About the Rainey Street, there was more than just the retail. There was more to that case that is not being spoken about. My problem with this is that 6000 square feet of office space leaves 1300 retail. It’s not going to be temporary, it’s going to be permanent”.

Commissioner Martinez – “If we collectively recall Rainey, we all saw that case differently; and rather than say that it succeeded or didn’t, the important thing is that we’re going back and revisiting and asking and having the wisdom to say “what was that about?”

Commissioner Donisi – “I wanted to clarify what Commissioner Pinnelli said because my motion is beyond the 6000; it’s the whole first floor, so if you didn’t like the 6000, you’re probably not going to like the whole first floor. I like to make a persuasive argument that I think is very important for us to fight for pedestrian oriented uses downtown”.

Motion failed (4-4).

3rd MOTION

Commissioner Martinez – “Move to send to Council with no recommendation”.

Commissioner Baker – “Second”.

Commissioner Jackson – “I don’t think we have to have a motion to send it to Council”.

Commissioner Baker – “We don’t, but we normally do”.

Motion passed. (6-2).

Item was brought back to the table at a later time in the evening; after a ZAP break was taken.

4th MOTION

Commissioner Jackson – “Can I ask that we reconsider case C14-03-0168?”

Commissioner Baker – “You want to make a motion to rescind?”

Commissioner Jackson – “I’d like to make a motion to reconsider the case we heard based on the fact that the applicant is willing to limit the office to 4500 square feet; and on that basis, I would ask that we reconsider”.

Commissioner Donisi – “Second”.

Commissioner Baker – “All in favor of reconsideration, please say aye”.

Aye. (5-3)

Commissioner Baker – “We will reconsider; may I suggest that since the other side has gone home that we renotify and reconsider and set the date for January 6, 2004. Would that be your motion?”

Commissioner Jackson – “I did have trepidation about the other side being gone. However, I do not want to go through the whole public hearing again, because I don’t think anything is going to change on their side”. “We closed the public hearing; we took no action, we didn’t come up with any recommendation; we didn’t even come up with a recommendation to send it forward to Council”.

Commissioner Baker – “May I suggest then that we schedule it on the January 6 agenda for action only; and notify for that hearing?”

Commissioner Jackson – “Okay”.

Commissioner Baker – “All in favor for rescheduling it for action only to January 6, please say aye”.

Aye.

Motion carried.

**COMMISSION ACTION:
MOTION:**

**JACKSON, DONISI
MOTION MADE TO APPROVED
DMU-CURE-CO ZONING.
[J.D; K.J 2ND] (4-4) MOTION FAILED.**

**MOTION MADE TO SEND TO CITY
COUNCIL WITH NO
RECOMMENDATION.
[J.M; B.B 2ND] (6-2) J.G; K.J – NAY; C.H
– ABSENT**

**MOTION MADE TO RECONSIDER
PREVIOUS ACTION (ABOVE)
[K.J; J.D 2ND] (5-3)**

**MOTION MADE TO CONTINUE TO
01/06/04 (ZAP)
FOR ACTION ONLY; PUBLIC
HEARING CLOSED;
WITH RENOTIFICATION.**

AYES:

**PINNELLI, GOHIL, MARTINEZ,
JACKSON, WHALEY, BAKER,
DONISI, CORTEZ
HAMMOND**

ABSENT:

MOTION CARRIED WITH VOTE: 8-0.

ORDINANCE NO. 961121-Q

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE CITY CODE AS FOLLOWS:

0.9834 ACRE TRACT OF LAND OUT OF THE RAYMOND SUBDIVISION, FROM "CS" GENERAL COMMERCIAL SERVICES DISTRICT AND "GO" GENERAL OFFICE DISTRICT TO "DMU-CURE" DOWNTOWN MIXED USE DISTRICT-CENTRAL URBAN REDEVELOPMENT-COMBINING DISTRICT, LOCALLY KNOWN AS 721-729 NORTH LAMAR BOULEVARD, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Zoning Map established by Chapter 13-2-22 of the City Code is amended to change the base zoning district from "CS" General Commercial Services district and "GO" General Office district to "DMU-CURE" Downtown Mixed Use district-Central Urban Redevelopment-combining district on the property (the "Property") described in File C14-96-0119, as follows:

0.9834 acre tract of land out of the Raymond Subdivision, in the City of Austin, Travis County, Texas, the tract of land being more particularly described by metes and bounds in Exhibits "A" and "B" incorporated into this ordinance,

locally known as 721-729 North Lamar Boulevard, in the City of Austin, Travis County, Texas, and as more particularly identified in the map attached as Exhibit "C".

PART 2. The Property within the boundaries of the combining district established by this ordinance is subject to the following conditions:

1. The maximum Floor to Area ratio (F.A.R.) permitted shall be 7:1.
2. The maximum Floor to Area ratio (F.A.R.) permitted shall be 1.52:1 for Administrative and Business Office use and Professional Office use.
3. The maximum height permitted on that portion of the Property more particularly described by metes and bounds in Exhibit "B" (the "View Corridor Property") is 546 feet Mean Sea Level.

4. The maximum height permitted is 120 feet on the Property not within the View Corridor Property.

5. A minimum 90 percent of any gross floor area above the height of 60 feet shall be for condominium residential use.

6. The maximum impervious cover permitted is 97 percent.

7. The minimum site area required is 350 square feet per residential unit.

8. The ground floor elevations along North Lamar Boulevard and West 9th Street shall be for retail uses.

9. There shall be no vehicular access from the Property to Lamar Boulevard. All vehicular access to the Property shall be from other adjacent public streets or through other adjacent property.

10. Notwithstanding any other provision of the Land Development Code applicable to the Property on the effective date of this ordinance or at the time an application for approval of a site plan or building permit is submitted, no site plan for development of the Property, or any portion of the Property, may be approved or released, and no building permit for construction of a building on the Property, may be issued if the completed development or uses authorized by the proposed site plan or building permit, considered cumulatively with all existing or previously authorized development and uses of the Property, generates traffic exceeding the total traffic generation of 2,535 vehicle trips per day.

11. There shall be no height variances from the Compatibility Standards set forth in Chapter 13-2, Article VI, Division 4, for the first two-thirds of the Property located along 9th Street from Lamar Street eastward.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the "DMU" base district and other applicable requirements of the Land Development Code.

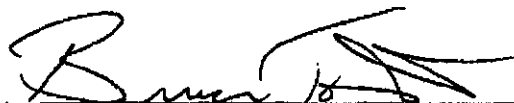
PART 3. The Council waives the requirements of Sections 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

PART 4. This ordinance takes effect on December 2, 1996.

PASSED AND APPROVED

November 21, 1996.

§
§
§



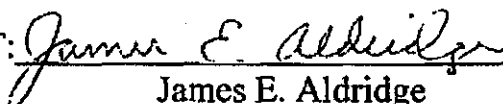
Bruce Todd
Mayor

APPROVED:

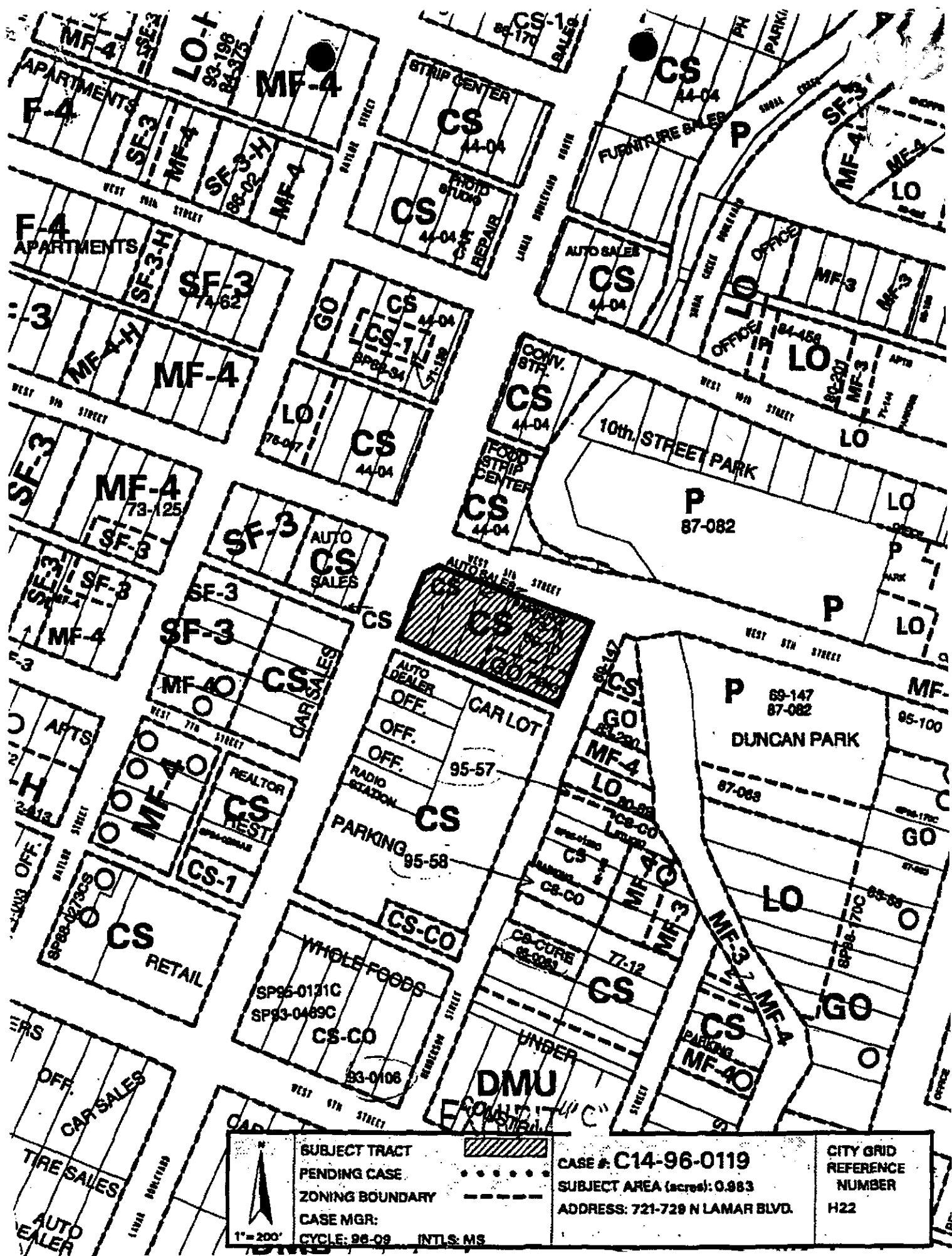


Andrew Martin
City Attorney

ATTEST:



James E. Aldridge
City Clerk



Old Austin Neighborhood

1800 Palmer Plaza
Austin, Texas 78703-3032

512-477-6816
tedsiff@earthlink.net

December 7, 2003

Mayor and City Council
City of Austin
P.O. Box 1088
Austin, Texas 78767

Re: Case Number C-14-03-0188 - a request to amend the
ground floor use restrictions of the zoning ordinance of
The Nokonah Condominium at 9th Street & Lamar Blvd.

Dear Members of the Planning Commission and Mayor and City Council Members:

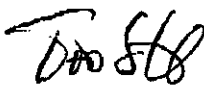
I am writing you as the President of the Old Austin Neighborhood Association (OAN), which has represented the residents of Austin's original residential neighborhood for more than 25 years. Our boundaries are between Town Lake & 15th Street and Lamar & Guadalupe. We have advocated for preserving the residential character of our neighborhood since 1976.

It has come to our attention that The Nokonah Partners has requested that its zoning ordinance be amended to allow "pedestrian oriented uses and office use" on the ground floor of The Nokonah, as opposed to just retail uses. The Old Austin Neighborhood strongly supports this amendment. In light of market conditions, the anticipated lengthy reconstruction of Lamar Boulevard and the eventual increase in retail uses within the adjoining 6th & Lamar "Market District," the amendment is a reasonable response to all of these conditions. We think the proposed amendment will result in an empty storefront becoming an active, pedestrian friendly.

It is OAN's understanding that The Nokonah Condominiums' 100 households support this amendment. We agree with them that the proposed change substantially complies with the intent and spirit of original zoning ordinance. It also does nothing to preclude retail use of the ground floor space if and when there is market demand for it.

Please grant the requested variance.

Sincerely,



Ted Siff, President
Old Austin Neighborhood Association

M E M O R A N D U M

TO: Mayor Will Wynn and City Council Members
Members of the Zoning & Platting Commission

FROM: Jeb Boyt, Vice-Chair
Downtown Commission

DATE: December 8, 2003


RE: File Number: C14-03-0168

At its monthly meeting on Wednesday, December 3, 2003, the Downtown Commission unanimously agreed to support the request by Nokonah Partners to amend the above referenced zoning ordinance to allow "pedestrian oriented uses and office uses" on the ground floor of The Nokonah Condominiums. The Commission believes that this proposed use substantially complies with the intent and spirit of the original zoning ordinance and does nothing to preclude retail use of this space in the future.

We appreciate your consideration of this information.

Respectfully,

Jeb Boyt, Vice-Chair
Downtown Commission





d a n a
Downtown Austin Neighborhood Association

December 10, 2003

Members of the Planning Commission
Mayor and Members of the City Council

Re: File Number: C14-03-0168

The Steering Committee of the Downtown Austin Neighborhood Association ("DANA") met Monday, December 6, 2003 and unanimously agreed to support the request by Nokonah Partners to amend the above referenced zoning ordinance to allow "pedestrian oriented uses and office uses" on the ground floor of The Nokonah Condominium. The Steering Committee believes that this proposed use substantially complies with the intent and spirit of the original zoning ordinance and does nothing to preclude it's ultimate retail use once the market demand is there.

Thank you for your ongoing support of our efforts to build a better downtown.

Sincerely,

Cid Galindo, President



**WEST END
AUSTIN
ALLIANCE**

Board Members:

President

Melissa Gonzales

Managing Officer

Trading Company

Vice President

Michelle McDonald

Jones, Lang & Assocs

Secretary

David Rockwood

CDRAM

Treasurer

Perry Lorenz

Whit Hanks

WHH Hanks Properties

Kent Collins

Genao Development

Patricia Bauer-Slate

Sweet's Hill Building

Catherine Crago

Old West Austin

Neighborhood Association

John Kunz

Whetson Rowland

and Vidas

Ted Siff

Old Austin

Neighborhood Association

David Vitanza

Austin Marketplace

Evan Williams

Joseph & Williams

Earl Swisher

Lawrence Group Architects

Steve Bercu

BookPeople

**TO: MEMBERS OF THE PLANNING COMMISSION
MAYOR AND MEMBERS OF THE CITY COUNCIL**

FROM: WEST END AUSTIN ALLIANCE

SUBJECT: CASE NUMBER C-14-03-0168

DATE: DECEMBER 9, 2003

The West End Austin Alliance ("WEAA") is a unique organization of Real Estate, Business and Neighborhood interests on the western edge of Austin's Central Business District. At the November Board Meeting the vote was unanimous to support the request, referenced above, to amend the zoning ordinance at The Nokonah Condominium to allow "pedestrian oriented uses and office uses" on the ground floor. We believe that, given the market conditions and the coming, lengthy reconstruction of Lamar Blvd., the request is reasonable. The proposed use will activate the vacant street front and be pedestrian friendly. Please call with any questions you may have.

Thank you.

Sincerely,

Melissa Gonzales,

President

P.O. BOX
684928
AUSTIN
TEXAS
78768-4928



City of Austin, Neighborhood Planning & Zoning Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

NOTICE OF ZONING & PLATTING COMMISSION PUBLIC HEARING FOR A PROPOSED ZONING CHANGE

Este aviso es para informarles de una junta pública tocante a un cambio en el uso de la propiedad indicada así abajo. Si quiere una copia de este aviso en español, hable al teléfono (512) 974-2680.

Mailing Date of this Notice: December 5, 2003
Mailing Date of First Notice: November 20, 2003

File Number: C14-03-0168

ADDRESS AND/OR LEGAL DESCRIPTION OF PROPOSED ZONING CHANGE (See Map) 721 – 729 North Lamar

PROPOSED ZONING CHANGE:

FROM: DMU-CURE Downtown Mixed Use district is intended for areas on the periphery of CBD classifications in the central core area, permitting a variety of uses compatible with downtown Austin and allowing intermediate densities as a transition from the commercial core to surrounding districts. Site development regulations are intended to permit combinations of office, retail, commercial, and residential uses within a single development. CURE--Central Urban Redevelopment Combining District is intended for combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses.

TO: DMU-CURE Downtown Mixed Use district is intended for areas on the periphery of CBD classifications in the central core area, permitting a variety of uses compatible with downtown Austin and allowing intermediate densities as a transition from the commercial core to surrounding districts. Site development regulations are intended to permit combinations of office, retail, commercial, and residential uses within a single development. CURE--Central Urban Redevelopment Combining District is intended for combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses.

OWNER: Nokonah Partners Limited (Robert L. Trimble)

PHONE: (214) 855-2160

AGENT: LS Johnston Architects (Linda Johnson)

PHONE: (512) 478-4952

ZONING & PLATTING COMMISSION HEARING DATE: December 16, 2003 TIME: 6:00 PM

LOCATION: 505 Barton Springs Road, One Texas Center 3rd Floor, Training Room #325, Austin

If you have any questions concerning this notice, please contact Glenn Rhoades at the City of Austin, Neighborhood Planning & Zoning Department, (512) 974-2775. Office hours are 7:45 a.m. to 4:45 p.m. Please be sure to refer to the File Number at the top of the page when you call. See enclosed sheet for more information on public hearings.

You may send your written comments to the Zoning & Platting Commission Assistant, Neighborhood Planning & Zoning Department, P. O. Box 1088, Austin, TX 78767-8835.

File # C14-03-0168-GR

Zoning & Platting Commission Hearing Date: 12/16/2003

Name (please print) Philip Spertus

Address 901 W 9th St. #1101

- ☒ I am in favor
(Estoy de acuerdo)
☐ I object
(No estoy de acuerdo)

{Date-Time}

**Allen & Susan Doss
1007 West 9th Street
Austin, TX 78709**

**Mr. Glenn Rhoades
Neighborhood Planning & Zoning Dept.
City of Austin, 3rd Floor
505 Barton Springs Road
Austin, TX 78704**

**VIA FACSIMILIE
512-974-6054 (Fax)**

**RE: File # CI4-03-0168
729 North Lamar**

Dear Mr. Rhoades:

We support the request by Nokonah Partners, Ltd. to amend the zoning ordinance for The Nokonah Condominium to allow for "pedestrian oriented uses and office uses" on the ground floor. However, our support is contingent upon a written stipulation that "cocktail lounges" and "adult oriented businesses" be a prohibited use.

My wife and I live at 1007 West 9th Street, the first home west of Lamar and directly across the Street from the Nokonah. We are the nearest residence to the subject property and our homestead looks out directly over the space proposed for change. We are, in fact, the only home that can view the street level space.

We believe that allowing this amendment to their zoning, with the two above restrictions, does not detract in any way from a vibrant and safe pedestrian oriented street. Thank you.

Best Regards,



**Allen & Susan Doss
512-925-8836**

**cc: Linda Johnston
512-4784972 (Fax)**



City of Austin, Neighborhood Planning & Zoning Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

NOTICE OF ZONING & PLATTING COMMISSION PUBLIC HEARING FOR A PROPOSED ZONING CHANGE

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Mailing Date of this Notice: December 5, 2003

File Number: C14-03-0168

Mailing Date of First Notice: November 20, 2003

ADDRESS AND/OR LEGAL DESCRIPTION OF PROPOSED ZONING CHANGE (See Map) 721 - 729 North Lamar

PROPOSED ZONING CHANGE: - Retail

FROM: DMU-CURE Downtown Mixed Use district is intended for areas on the periphery of CBD classifications in the central core area, permitting a variety of uses compatible with downtown Austin and allowing intermediate densities as a transition from the commercial core to surrounding districts. Site development regulations are intended to permit combinations of office, retail, commercial, and residential uses within a single development. CURE-Central Urban Redevelopment Combining District is intended for combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses.

TO: DMU-CURE Downtown Mixed Use district is intended for areas on the periphery of CBD - classifications in the central core area, permitting a variety of uses compatible with downtown Austin and allowing intermediate densities as a transition from the commercial core to surrounding districts. Site development regulations are intended to permit combinations of office, retail, commercial, and residential uses within a single development. CURE-Central Urban Redevelopment Combining District is intended for combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses.

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PHONE: (214) 855-2160

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LOCATION: 505 Barton Springs Road, One Texas Center 3rd Floor, Training Room #325, Austin

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You may send your written comments to the Zoning & Platting Commission Assistant, Neighborhood Planning & Zoning Department, P. O. Box 1088, Austin, TX 78767-8835.

File # C14-03-0168-GR

Zoning & Platting Commission Hearing Date: 12/16/2003

Name (please print) H. Allen Doss

Address 1007 West 9th Street

☒ I am in favor
(Estoy de acuerdo)
☐ I object
(No estoy de acuerdo)