

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



**AGENDA ITEM NO.: Z-7
AGENDA DATE: Thu 03/25/2004
RCA TYPE: Ordinance
PAGE: 1 of 1**

SUBJECT: C14-03-0067 - Freedom Auto Sales - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1401 West Koenig Lane (Shoal Creek Watershed) from neighborhood commercial (LR) district zoning to general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Planning Commission Recommendation: To deny general commercial services-mixed use-conditional overlay (CS-MU-CO) district zoning. Applicant: Walter Leamons and Eugene Volcik. Agent: Lopez-Phelps and Associates (Amelia Phelps). City Staff: Glenn Rhoades, 974-2775.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guemsey

ZONING CHANGE REVIEW SHEET

CASE: C14-03-0067

P.C. DATE: May 14, 2003
May 28, 2003

C.C. DATE: August 28, 2003
February 26, 2004
March 25, 2004

ADDRESS: 1401 West Koenig Lane

OWNER/APPLICANT: Walter Leamons & Eugene Volcik

AGENT: Lopez Phelps & Assoc.
(Amelia Lopez-Phelps)

ZONING FROM: LR

TO: CS-MU-CO

AREA: .22 acres

SUMMARY STAFF RECOMMENDATION:

Staff does not recommend the proposed zoning change to CS-MU-CO, General Commercial Services-Mixed Use-Conditional Overlay district zoning. The conditional overlay would limit trips to 2,000 per day.

Staff believes that the existing LR, Neighborhood Office district zoning is more appropriate than the applicant's request.

PLANNING COMMISSION RECOMMENDATION:

May 14, 2003 – Postponed at the request of the staff to May 28, 2003 (Vote: 8-0, N. Spelman – on leave).

May 28, 2003 – Postponed at the request of the applicant to June 11, 2003 (Vote: 6-0, R. Pratt and M. Casias – absent, N. Spelman – on leave)

June 11, 2003 – To deny the request to CS-CO, General commercial Services-Conditional Overlay district zoning (Vote: 9-0).

ISSUES:

The applicant is requesting the proposed change in order to use the property for a used car lot. According to the owner, the property was used as a car lot in the past but was changed to a pharmacy for several years. At this time the property is being used as a car lot in violation of the City of Austin's Land Development Code. However, the red tag has been lifted

The subject tract is a part of the Koenig Lane Guidelines study area, which was adopted by the City Council on December 10, 1981, and revised May 22, 1982. The study recommends an orderly transition of parcels fronting Koenig Lane from Single Family to Office zoning (see attached guidelines).

The Brentwood Neighborhood Association has sent a letter in opposition of the proposed zoning case (see attached). In addition, several letters from nearby property owners have been submitted in support and are attached.

The subject tract is in the Brentwood-Highland Neighborhood Planning Area (BHNPA). A future land use map has been created for BHNPA and the existing LR zoning is being recommended for the subject tract by staff, the neighborhood planning team and Planning Commission.

If the zoning is granted staff recommends that 40 feet of right of way be dedicated from the center-line of Koenig Lane.

DEPARTMENT COMMENTS:

Staff has received 6 rezoning applications in the past year along Koenig in the immediate vicinity. In all 6 cases, staff has recommended and Council has approved office zoning.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LR	Auto Dealership
<i>North</i>	GR-CO LR	Auto Dealership Offices
<i>South</i>	LR SF-3	Vacuum Sales Single Family
<i>East</i>	LR CS	Service Station Auto Dealership
<i>West</i>	LO	Office

AREA STUDY: Koenig Lane Guideline Study

TIA: N/A

WATERSHED: Shoal Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

- #120 – Brentwood Neighborhood Association
- #283 – North Austin Neighborhood Alliance
- #470 – Koenig Lane Neighborhood Association
- #511 – Austin Neighborhoods Council

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-90-0016	LR to GR	To deny GR (Vote: 4-5). 4/24/90	Approved GR-CO. The CO prohibited all GR uses with the exception of auto sales and all LR uses. Allowed only 1 driveway to Koenig Lane. (Vote: 6-0). 8/2/90
C14-95-0080	SF-3 to LR	Approved LR-CO. The CO restricted certain commercial uses and limited any commercial development to the existing 2,300 square feet (Vote: 7-0). 10/17/95	Approved PC recommendation (Vote: 6-0). 10/3/96.

C14-98-0079	LR-CO to CS	Approved staff recommendation to deny the request (Vote: 9-0). 8/25/98/.	Expired
C14-99-0030	SF-3 to LO	Approved LO by consent. 3/16/99.	Approved PC recommendation (Vote: 6-0) 4/13/00

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
Koenig Lane	60'	Varies	Arterial	N/A
Woodrow	80'	Varies	Primary Collector	N/A

CITY COUNCIL DATE: August 28, 2003

February 26, 2004

ACTION: Postponed at the request of the applicant to 2/26/04 (Vote: 7-0).

Postponed at the request of the applicant to 3/25/04 (Vote: 6-0, D. Thomas-off dais).

ORDINANCE READINGS: 1st

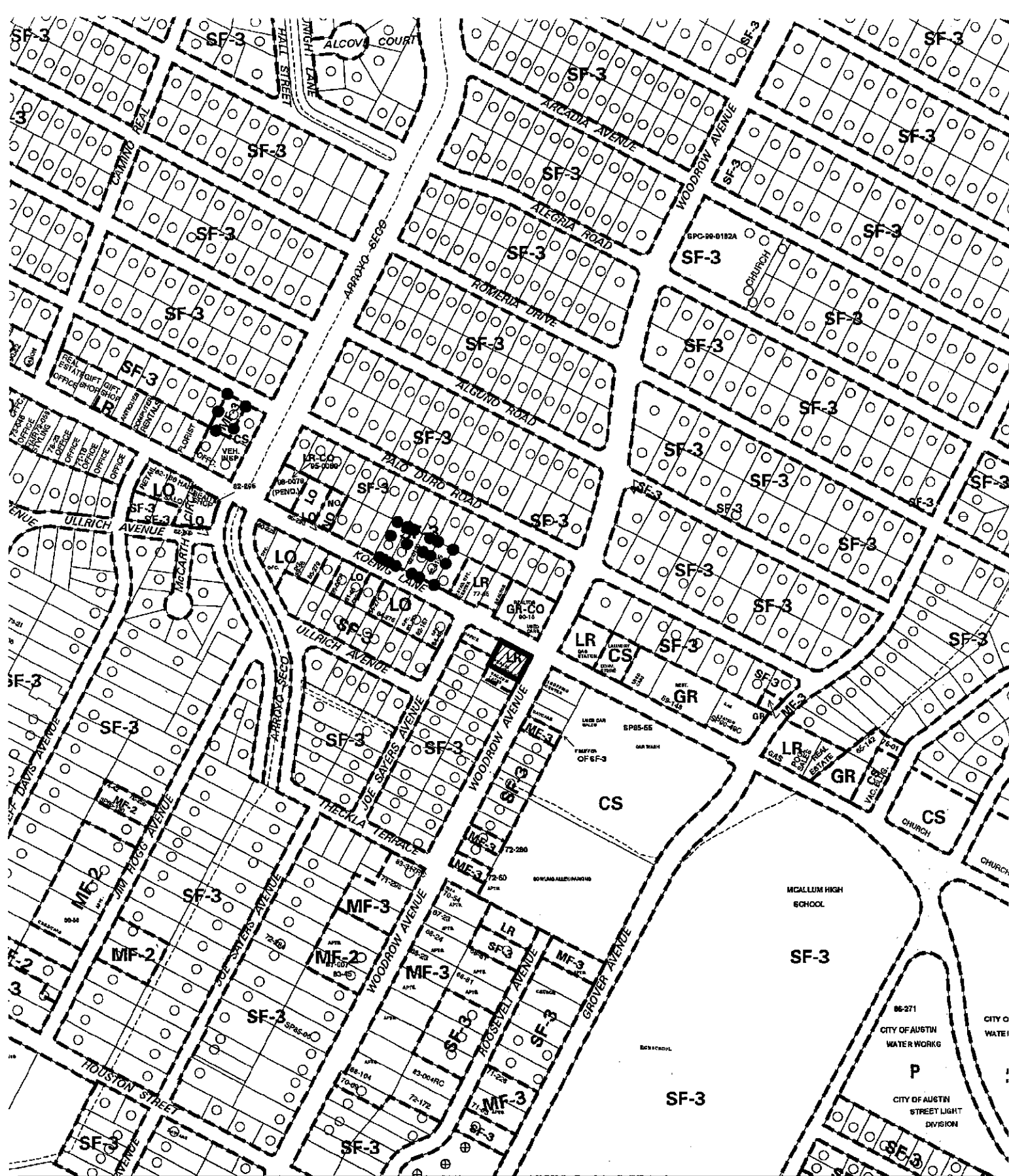
2nd





3rd

ORDINANCE NUMBER:

CASE MANAGER: Glenn Rhoades

PHONE: 974-2775



 1" = 400'	SUBJECT TRACT		ZONING CASE #: C14-03-0067 ADDRESS: 1401 W KOENIG LANE SUBJECT AREA (acres): 0.220	DATE: 03-04 INTLS: SM	CITY GRID REFERENCE NUMBER J27
	PENDING CASE				
	ZONING BOUNDARY				
	CASE MGR: G. RHOADES				



STAFF RECOMMENDATION

Staff does not recommend the proposed zoning change to CS-MU-CO, General Commercial Services-Mixed Use-Conditional Overlay district zoning. The conditional overlay would limit trips to 2,000 per day.

BASIS FOR RECOMMENDATION

Zoning and land use should transition downward not upward adjacent to residential and office development. Since the property abuts office and single-family zoning to the west and southwest and is across the street from CS, Commercial Services zoning, staff believes the existing LR, Neighborhood Commercial zoning is more appropriate than CS. According to the zoning map, the more intense zoning is to the east of Woodrow Avenue, with only one very restricted GR-CO zoned property on the western side.

The introduction of more intense zoning, may result in future requests further to the west along Koenig Lane. The GR zoned property to the north (case C14-90-0016) was approved in August of 1990. At the time it was not recommended by staff and several conditions were imposed on the zoning. The zoning to the north allows only one GR use, auto sales and all LR uses. In addition, it was recommended that the zoning be rolled back to LR if the auto sales use ever ceases.

At present, the subject tract is a part of the Brentwood-Highland Neighborhood Planning Area. In addition, it is in the Koenig Lane Study Guidelines area (see attached). Without the benefit of the neighborhood plan being completed, staff must recommend consistent with the existing Koenig Lane Study, which recommends office zoning. In the past year, staff has received 6 zoning cases between Burnet Road and Woodrow Avenue. In each case, staff has recommended LO, Limited Office and NO, Neighborhood Office consistent with the Koenig Lane Study. Two of the cases were approved for office zoning by the Zoning and Platting Commission and by City Council on all three readings. The other four were approved for office zoning on first reading but are awaiting roadway dedication in order to go back to Council for final ordinance approval.

EXISTING CONDITIONS

Site Characteristics

The site is presently occupied with an auto dealership.

Transportation

The Austin Metropolitan Area Transportation Plan calls for 80 feet of right-of-way for Koenig Lane. If the requested zoning is granted for this site, then 40 feet of right-of-way from the existing centerline should be dedicated for Koenig Lane according to the Transportation Plan. [LDC, Sec. 25-6-51 and 25-6-55]

The trip generation under the requested zoning is estimated to be 2,357 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).

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]

Woodrow is classified in the Bicycle Plan as a Priority 1 bike route.

Capital Metro bus service is available along Woodrow (Route #5).

Impervious Cover

The maximum impervious cover allowed under CS zoning is 95%.

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. It is in the Desired Development Zone. 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 is no flood plain within the project area.

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

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

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.

Water and Wastewater

The site is served with City water and wastewater utilities. If water or wastewater utility improvements, or relocation, or adjustment, or system upgrades are required, the landowner will be responsible for all costs and for providing. Also, the utility plan must be reviewed and approved by the City of Austin Water and Wastewater 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

The site is subject to compatibility standards along that portion of the western property line abutting the single-family lot that fronts on Joe Sayers Ave.

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed on this lot.
- No parking or driveways are allowed within 25 feet of the property line
- A landscape area at least 25 feet in width is required along the property line if the tract is zoned LR, GO, GR, L, CS, CS-1, or CH.
- 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.

Navarro Joly 5-33, 34 40-01670
86-320 R.C.
84-005
83-194 R.C.

December 14, 1981
Revised May 20, 1982

KOENIG LANE GUIDELINES

The Planning Commission and City Council may wish to allow zoning changes to D-1 on Koenig Lane when all of the conditions below have been met. These criteria and guidelines allow and plan for an orderly transition from single-family residential to "bungalow office" only when:

1. Traffic volumes are in excess of 17,500 vehicles/day.
2. Lots must front Koenig Lane.
3. Lots must be contiguous to a residential area.
4. Less than 20% percent of the housing units are owner-occupied.
5. The Planning Commission has determined that the entire block is suitable for "D-1" zoning.

In no way are these guidelines designed to encourage or endorse uses that do not meet the applicability requirements. Neither are they to be used to encourage or endorse violation of deed restrictions. These guidelines encourage a thorough site plan review, and discourage zoning changes that will be detrimental to adjoining property owners.

These guidelines shall be made applicable to all lots on the affected street that have been granted zoning changes since June 1, 1981, and on all lots on the street that have been granted zoning changes, prior to that date, on a voluntary basis.

The objectives and guidelines below are carefully designed:

1. To plan for an orderly transition of parcels fronting Koenig Lane from "A" to "D-1" through cooperative efforts between landowners and residents in the area. Further, zoning and special permits for "CR", "LR", "B" or "BB" will not be favorably considered and will be strongly discouraged.
2. To maintain the character and natural ambience of the existing residential area by preserving the existing structures, trees and vegetation and assuring the compatibility of office and residential uses along the street through the use of the specific design guidelines below:
 - a. No building should be higher than 25 feet.
 - b. Encourage the compatibility of sign and building color schemes and building materials. The use of highly reflective surfaces on buildings should be prohibited.
 - c. At least 50% of the land area between the front of the building and the property line should be covered by vegetation.
 - d. No tree greater than 7" in diameter should be removed or destroyed without the approval of the Planning Commission.

- e. No portable building and no more than one permanent storage building should be permitted.
 - f. No building should be closer than 10 feet to the rear property line.
3. To protect the adjacent residential area from nuisances brought on by adjacent parking, noise, light and any other infringements of a disruptive nature:
 - a. All exterior lighting shall be hooded or shielded so that the light source is not directly visible from adjacent properties.
 - b. No sign should be self lit, but may be lit with an indirect lighting source. All signs shall be attached flat against a building wall. No signs may have moving parts. No mobile signs should be permitted on the premises for the purpose of advertising.
 - c. Buffers for an area directly abutting the rear property line should have an average depth of 10 feet consisting of shrubs, grass or other vegetation. A continuous hedge with a minimum height of two feet should be planted and maintained if there is parking in the front yard.
 - d. No parking space should be closer than 5 feet to the back property line.
 4. To reduce traffic problems:
 - a. The reduction of the number of driveways should be encouraged.
 - b. Each 300 sq. ft. of interior building space should require one parking space and each additional 300 sq. ft. or fraction thereof should require one parking space. Provided, however, that the parking requirements should comply with all other City parking requirements. Further provided that the Planning Commission may waive one parking space if the installation of the parking space would necessitate the destruction of a tree or the violation of the buffer requirement.
- **5. To assure appropriate driveway design:
- a. Existing structures can utilize the existing driveway modified to provide a minimum 10' curb radius.
 - b. Additions or structural alterations to the existing building that increases the gross floor area to 2000 square feet or larger will require the existing driveway be upgraded to City standards with a minimum approach of 25'.
 - c. New structures will require an appropriate sized commercial driveway constructed to City standards.

The procedures are:

1. Adopt an ordinance and map which identify the area between Burnet Road and Airport on Koenig Lane for which these guidelines shall apply and for which site plan review and approval by Planning Commission City Council shall be required. The site plan review requirements should apply to all zoning change requests, construction of buildings and any major structural alterations on a lot. (A major structural alteration is any change in support members of a building, e.g. girders, beams, etc. exceeding 8 feet).
2. Continued participation of the Koenig Lane area merchants and residents with City Staff on design criteria for possible widening of Koenig Lane in the future.

*Amended by City Council action on December 10, 1981.

**Amended by City Council action on April 22, 1982.

Approval of Minutes of: July 28, 1981
September 1, 1981

COMMISSION ACTION: Shipman/Ley

MOTION: Approve minutes of July 28, 1981 and September 1, 1981.

Ayes: Wendler, Quintanilla, Ley, Bodemann, Shipman, Manning.

Absent: Martinez, Snyder

Absent: Dixon, Snyder

MOTION CARRIED BY A VOTE OF 7-0

R1400-81-008 ROLLBACK REQUEST
Consider rollback request
by Covalle Improvement Assn.

STAFF REPORT

Mr. Lillie stated the Covalle Improvement Association is requesting a zoning rollback area study for the Covalle Area. The area is bounded by Airport Boulevard, East Seventh Street, Oak Springs Drive, and Webberville Road.

The staff recommends the Commission accept the request.

COMMISSION ACTION: Shipman/Manning

MOTION: Accept Request (consent).

Ayes: Wendler, Quintanilla, Ley, Bodemann, Shipman, Manning.

Absent: Martinez, Snyder

Absent: Dixon

MOTION CARRIED BY A VOTE OF 8-0

PRELIMINARY
SUBJECT TO APPROVAL

C10-81-003 DISCUSSION OF KOENIG LANE
GUIDELINES
(Continued from August 25, 1981)

STAFF REPORT

Mr. Lillie stated the staff suggested modifications to the proposal which was submitted by the neighborhood association. The neighborhood association disagrees with the staff modifications.

Alan McMurtry, stated the intent is to establish guidelines. Hopefully the Planning Commission will use these guidelines and will inform future applicants that zoning will not be recommended unless they comply with these guidelines. The neighborhood also hopes that they will be used as a framework for creating similar guidelines along all streets which face the possibility of increased traffic and zoning changes. There are three areas in which the neighborhood disagrees: (1) there should not be any special permits allowed; (2) delete the word "discouraged" for "shall" or "should"; exterior lighting "shall" be hooded; (3) the neighborhood would like the guidelines to read "the Planning Commission shall require and review site plans for compliance with guidelines", the business community would like the guidelines to read "The Planning Commission shall require and review site plans for substantial compliance with the guidelines".

Maurice Kubena, stated he and Alan McMurtry basically agree with the guidelines. He hoped these guidelines will encourage citizens to adopt these guidelines for other areas of Austin.

Michael Merrill, stated he did not feel an applicant should be denied a special permit if he is in compliance with the guidelines.

A citizen who did not identify herself, said the general concern is to clean up the area.

David Bodenman suggested the Planning Staff review these guidelines and impose them on other streets similar to Koenig Lane.

COMMISSION ACTION: Bodenman/Wendler

ACTION: Approve guidelines. In no way are these guidelines designed to encourage or endorse office use on streets that do not meet the applicability requirements to encourage or endorse violation of deed restrictions, to reduce the thoroughness of site plan review, or to encourage zoning changes to the obvious detriment of adjoining property owners. These guidelines shall be made applicable to all lots on the affected street that have been granted zoning changes since June 1, 1981, and on all lots on the street that have been granted zoning changes since June 1, 1981, and on all lots on the street that have been granted zoning changes, prior to that date, on a voluntary basis.

- (1) Plan for an orderly transition of parcels fronting Koenig Lane from "A" to "O-1" through cooperative efforts between landowners and residents in the area. Further, no special permit for "LR, "B" or "BB" will be allowed.
- (2) Maintain the character and natural ambiance of the existing residential area by preserving the existing structures, trees and vegetation and assuring the compatibility of office and residential uses along the street:
 - (a) No building should be higher than 25 feet.
 - (b) Encourage the compatibility of sign and building color schemes and building materials. The use of highly reflective surfaces on buildings should be prohibited.
 - (c) At least 50% of the land area between the front of the building and the property line should be covered by vegetation.
 - (d) No tree greater than 7" in diameter should be removed or destroyed without the approval of the Planning Commission.
 - (e) No portable building and no more than one permanent storage building should be permitted.
 - (f) No building should be closer than 10 feet to the rear property line.
3. Protect the adjacent residential areas from nuisances brought on by adjacent parking, noise, light and any other infringements of a disruptive nature:
 - (a) All exterior lighting should be hooded or shielded so that the light source is not directly visible from adjacent properties.
 - (b) No sign should be self lit, but may be lit with an indirect lighting source. All signs should be attached flat against a building wall. No signs may have moving parts. No mobile signs should be permitted on the premises for the purpose of advertising.

(c) Buffers for an area directly abutting the rear property line should have an average depth of 10 feet consisting of shrubs, grass or other vegetation. A continuous hedge with a minimum height of two feet should be planted and maintained if there is parking in the front yard.

(d) No parking space should be closer than 10 feet to the back property line.

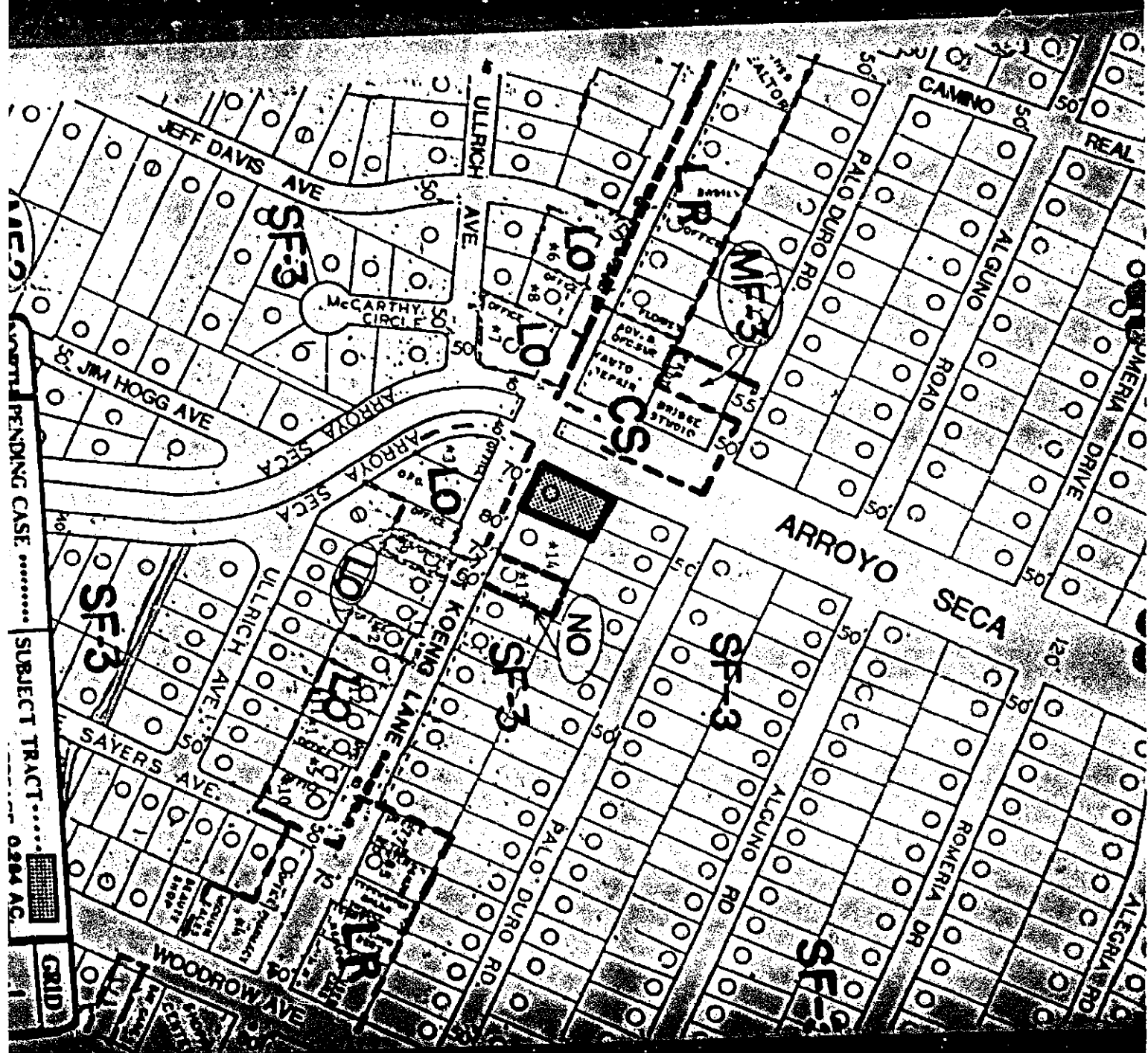
4. Reducing traffic problems:

(a) The reduction of the number of driveways should be encouraged.

(b) Each 300 sq. ft. of interior building space should require one parking space and each additional 300 sq. ft. or fraction thereof should require one parking space. Provided, however, that the parking requirements should comply with all other City parking requirements. Further provided that the Planning Commission may waive one parking space if the installation of the parking space would necessitate the destruction of a tree or the violation of the buffer requirement.

B. CRITERIA

1. Traffic volumes in excess of 17,500 vehicles/day.
2. Lots must front Koenig Lane.
3. Lots must be contiguous to a residential area.
4. Less than 50 percent of the housing units are owner-occupied.
5. The Planning Commission has determined that the entire block is suitable for "O-1" zoning.



PENDING CASE
SUBJECT TRACT
0204 AC

Rhoades, Glenn

From: Rfbrock@aol.com
Sent: Monday, August 18, 2003 1:30 PM
To: Thomas, Danny; Wynn, Will; Slusher, Daryl; Goodman, Jackie; Alvarez, Raul; Dunkerley, Betty; McCracken, Brewster; Bui, Tina; Briseno, Veronica; Rusthoven, Jerry; Aguilera, Gloria; Allen, Josh; Frazier, Sandra; Matthew.Curtis@ci.austin.tx.us
Cc: brentwood-steering@yahoogroups.com; Block, Brian
Subject: File Number: C14-03-0067 1401 W. Koenig Lane
Mayor And Council Members,

The Brentwood Neighborhood Association - Steering Committee would like you all to know that we **oppose** the upzoning request at 1401 W. Koenig Lane (File Number: C14-03-0067 Posted Hearing Date: 08/28/03).

This upzoning request is subsequent to a COA Code Enforcement **citation** for an **illegal use** (auto sales) at 1401 W. Koenig Lane. The citation for the **illegal use** was the direct result of a citizen initiated complaint.

We believe this request for **CS-MU-CO** zoning is inconsistent with Neighborhood Planning recommendations to date. Additionally, we want you to know that our opposition to this upzoning request is supported by City Staff, and a 7-2 majority of the Planning Commission.

We are hopeful that you will not reward this applicant's disregard for the LDC with a less restrictive zoning category than the **LR** zoning they already have. Although **LR** zoning does not allow **auto sales**, **LR** zoning does afford this applicant plenty of **profitable land use options**.

Thank you for your consideration of the collective positions of the Brentwood Neighborhood Association, City of Austin Staff, Neighborhood Planning recommendations to date, and the Planning Commission Majority which are all in opposition to this upzoning request at 1401 W. Koenig Lane.

Sincerely,

Richard Brock
Brentwood Neighborhood Association - President
1904 Ulrich AVE
Austin, TX 78756
(512) 458-3677

8/20/2003

March 15, 2003

City of Austin Watershed Protection Department
ATTN: Glenn Rhoades, Case Manager
505 Barton Springs Rd.
Austin, Texas 78704
512-974-2680

RE: Koenig Lane Zoning –
Freedom Auto Sales

Dear Mr. Rhoades;

We would like to offer our support for the above zoning request based on the following reasons:

1. Koenig Lane and Woodrow Avenue is a commercial intersection, which has had commercial development for years;
2. The primary businesses at this intersection are Auto Sales/ Auto Service related businesses
3. The existing businesses provide a service to the immediate community, and have provided such services for past years;
4. Based on the limited lot size for this request, the amount of traffic would not create a detriment to the commercial tenants, immediately surrounding this site, including the business across the street on either side of Koenig Lane.
5. We believe this is an appropriate use for this site, and should not be considered in the same manner as the "office sites" which have been presented to City Council during the past several months.

We believe when our properties are under consideration under the (in process) Neighborhood Plan, that our long standing and existing uses should be taken into consideration by the City Planning Review Staff, as well as the Zoning and Platting Commission and/or Planning Commission and the City Council.

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

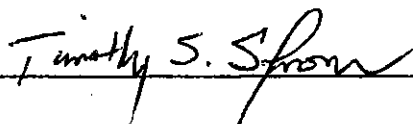


Name DAVID VINHAIS
Company C-MART / ICEHOUSE
Address 1308 KOENIG LANE
City state zip AUSTIN TX 78756
Phone / fax (512) 452-5549

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,



Name
Company
Address 5804 WOODROW AVE
City state zip AUSTIN TX 78756
Phone / fax 452-1780

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,



Name

Company

Address

City state zip

Phone / fax

KIRBY COMPANY OF AUSTIN

5808 WOODROW AVENUE

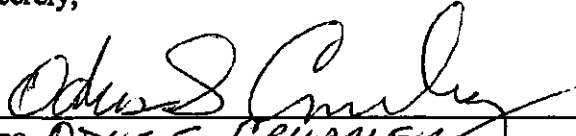
AUSTIN, TX 78756

(512) 453-7353

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,


Name ODUS S. CRUMLEY
Company ODUS REALTY
Address 1408A KOENIG LN.
City state zip AUSTIN, TX 78756
Phone / fax (512) 454-4541

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

David Watkins

Name *David Watkins*
Company *Watkins Insurance Group*
Address *1406 W. Koenig Ln.*
City state zip *Austin, Texas 78756*
Phone / fax

452-8877 452-0999

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,



Name Jim Sinclair - Business Mgr.

Company Sandra C. Sinclair, DDS. (General Dentistry)

Address 1405 W. Koenig Ln.

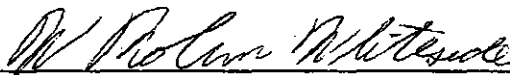
City state zip Austin, TX 78756

Phone ~~+fax~~ (512) 467-0655

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.


Sincerely,


Name W. RODIN WHITESIDE
Company WHITESIDE MOTORS
Address 1480 W. HOENIG LA
City state zip AUSTIN TX 78756
Phone / fax 458-5631 458-5660

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.


Sincerely,

 Jim Olmstead First Texas Honda
Name 1301 W. KOENIG LN
Company AUSTIN, TX 78756
Address 512-458-2511
City state zip 512-458-1842
Phone / fax

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,



Name CARLA SAUNDERS

Company

Address 5807 WOODROW AVE.

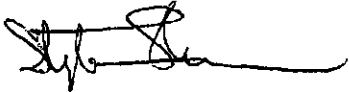
City state zip AUSTIN, TX 78756

Phone / fax

We ask that you consider the true merits of the case and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated,

Sincerely,

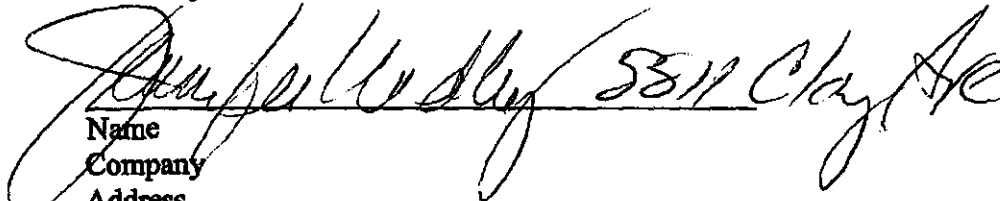
A handwritten signature in black ink, appearing to read 'Steph Sheridan', with a long horizontal flourish extending to the right.

Stephanie Sheridan
5806 Woodrow Ave.
Austin, TX 78756
512-453-2810
512-453-7410 Fax

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

 5811 Clay Ave 78752

Name

Company

Address

City state zip

Phone / fax

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

Patricia Fromett

Name

Company

Address

City state zip

Phone / fax

5007 Clay Ave
Ctastin, Texas 78056
453-3202

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

Mrs. Bonnie Gortier

Name

Company

Retired

Address

1708 Tellico Ave.

City state zip

Austin, Texas 78756-1202

Phone / fax

512-454-7189

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,



Name

Company 1704 Villach Ave

Address

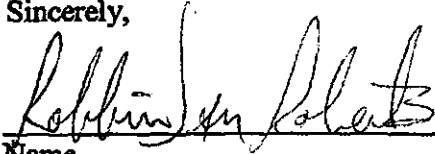
City state zip Austin, TX 78756

Phone / fax 451-0723

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,



Name

Company

Address

City state zip

Phone / fax

ROBBIN ROBERTS
1804 ULRICH AVE
AUSTIN, TX 78756
451-6789

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

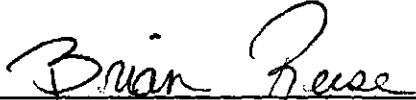


Name ODUS S. CRUMLEY
Company OWNER DUPLEX ONE BLOCK NORTH OF SUBJECT
Address 1400 PALO DURO
City state zip AUSTIN, TX 78757
Phone / fax 454-4541

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Brian Reese". The signature is written in dark ink and is positioned above a horizontal line.

Name

Company

Address

City state zip

Phone / fax

We ask that you consider the true merits of the case, and as an appropriate request of the property owner. Members of the business community in this area request your consideration of our concerns equally, since we are also property owners, taxpayers and voters, just as the neighborhood associations are.

Your time and consideration of this letter and the applicant's request would be greatly appreciated.

Sincerely,

G. Cruz T Lopez SR 1405 W 51 ST
Name

Company RESIDENT
Address

City state zip

Phone / fax 45 24517

- 6. Rezoning: C14-03-0067 – Freedom Auto Sales**
Location: 1401 West Koenig Lane, Shoal Creek Watershed, Brentwood NPA
Owner/Applicant: Walter Leamons
Agent: Amelia Lopez-Phelps
Request: LR to CS-MU-CO
Staff Rec.: **NOT RECOMMENDED**
Staff: Glenn Rhoades, 974-2775, glenn.rhoades@ci.austin.tx.us
Neighborhood Planning & Zoning Dept.

Glenn Rhoades, Neighborhood Planning & Zoning Dept., made the staff presentation.

PUBLIC HEARING

For

Amelia Lopez-Phelps, applicant's agent, presented the case.

Tim Davis (owner, Freedom Auto Sales): We are averaging 10 cars per month [in response to concerns about the business generating heavy traffic]. From Joe Sayers north, it is a highly commercialized area. We would like to protect the other end of Koenig Lane, which is unique. This is a good location for the business, as 20% of the business is from people in the neighborhood. The other percentage is through advertising (which the location on Koenig Lane lends itself to—people driving by). We do no mechanics, no repairs. We are strictly a sales company and support a lot of businesses in that community. We live & shop in th area.

Robin Whiteside (owner, Whiteside Motors across the street from Freedom Autosales): I went through the same process. Had been a car lot for fifteen years and only found out later that it was an illegal use. Had to do many things to get it passed. In 1990 there was a Texaco station beside me; it changed hands and was rebuilt as a convenience store. I now pick up three times more trash from my lot that I ever did before. I see Freedom Auto Sales as a nice, clean car lot. I think they would be an asset to the community; the more business that you have in a certain area, the better it is for all the businessmen.

Against

Richard Brock (President, Brentwood Neighborhood Association): The current use, car sales, is not allowed in LR. The neighborhood association turned this illegal use in; nothing I have heard from the neighborhood so far would indicate that they would support upzoning in this case.

Response to Commissioner's Questions:

- I cannot answer whethre the neighborhood desire to downzone all autosales in the area. I understand there is a strong business association, and they may have definite ideas that are different from the residents. It is my understanding that existing businesses could remain even if properties were downzoned, so of course I would like to see a downzoning of the Honda ownership and maybe a conditional overlay.
- Aware that if the property remains LR, the neighborhood could get another use that may not be attractive to it, such as a chain store. Have considered this in comparison to what could be got from this case (promise of landscaping, etc. and is willing to take the chance.

- There is not a scenario in which can conceive some auto sales being acceptable on this site. This is an aspect of Koenig Lane that we do not want to see expanding.
- Asked to state what he specifically dislikes about the project, Mr. Brock stated that he objects to the shift in the balance that exists on the street. I do not want the scale to start tipping and escalating. Of all times, when were in the neighborhood planning process, I think we should at least try. It is a waste of LR. I'm not against the natural desire to make money, nor am I against small businessmen in this climate. By not allowing that use, I think we will see better uses there—things that have been discussed in the neighborhood plan. We are willing to take a chance.

Armstrong: Visited first focus workshop, and I remembered that each group had business owners participating. This is one of the best workshops I have seen in terms of diversity of participation.

Don Leighton-Burwell (Neighborhood Zoning Committee Chair, Architect): Only zoning case not recommended by staff on the agenda this evening. Anything allowed in LR would also be allowed in GR or CS. We fought another zoning case on used car lots. This is the gateway to our neighborhood. Have lost Taco Bell, Safety, Schlotzky's, Half Price Books. Koenig Lane is our gem. To allow this to encroach on the west side of Woodrow is a travesty. Fabric and livability of our neighborhood is at stake.

David Holt: I consider CS zoning an onerous zoning. Property is surrounded by residential homesites. It is not appropriate to have CS or GR zoning at intersection with a neighborhood collector.

Rebuttal

Amanda Lopez-Phelps, agent.

Responses to Commissioner's questions:

- Owner bought the property when it was a pharmacy; knowing that this parcel had automotive uses since the 1940's to mid-80's, the client assumed that automotive uses were allowed . Took the seller's word for it.
- Client has not bought the property yet; he was closing when it was red tagged.
- Pharmacy closed in December 2002.

Public hearing closed at 7:29 p.m.

(Motion: Sullivan, 2nd: Spelman. 9 – 0).

Motion: Denial

(Motion: Sullivan, 2nd: Medlin).

Sullivan: I am familiar with the area having lived in it and commuted through it by bicycle. It has great potential for some small retail or office use, so it does'nt have to go to CS to be a valuable lot. The pharmacy that was there was probably an ideal use, because you need a use like that close to a residential neighborhood. But still, I think there would be some use more likely to be used by neighborhood residents, like a laundromat, small convenience store, etc.

Medlin: They have not purchased the property; it is not too late to undo this. I don't believe GR would be in the interest of the neighborhood, since they are working on the neighborhood plan. It is adjacent to single family, and I don't think that GR is a good juxtaposition. For those of use who remember Koenig as a residential street, it is difficult to see this happening

**Substitute motion: GR with conditions limiting impervious cover.
(Motion: Casias, 2nd: Moore).**

Casias: Looking at adjacent zoning, this is not inconsistent with existing zoning. This is not an upzoning of the character of that particular intersection. This lot is not empty; we have a small business owner who lives in the area and provides a service. It is conceivable that someone could purchase property and not fully know what is allowed, based on the complexity of zoning overlays, etc.

Moore: Is a small business, there is substantial support, there are no strong arguments against (there are preferences for other uses. That isn't quite strong enough for me to not allow this to happen. If the neighborhood group had come with a coffee shop that actually wanted to buy the property, it would be convincing. Otherwise, not strong enough for me.

**Substitute motion for GR with conditions limiting impervious cover fails.
(Vote 2 – 7; Moore and Casias in favor.)**

Motion to deny stands.

Casias: I cannot vot for that motion. We're talking about less than a quarter acre, a small business. The neighborhood plan is in its infancy, so we don't have neighborhood plan other than what has been brought to us by individuals here tonight. I understand there was a history of how the owner came to operate here; they were closed down on another thoroughfare as a result of another downzoning on their property. This is a good place to put it.

Spelman: I am in support of this motion, but not so much because of what the neighbors said, but because the zoning itself is inappropriate next to SF-3. We don't want to zone based on what a person wants but rather zone the property itself. Sometimes there can be exceptions, and I was willing to listen. I am afraid I'm not convince. The business isn't an established business; it hasn't been a car lot for over 20 years.

Armstrong: I am supporting the motion because code enforcement is meaningless if we treat it like any other zoning case.

Pratt: As Commissioner Medlin noted, the neighborhood plan is in its early pages. I think the neighborhood should be given an opportunity to determine how they would like to see their neighborhood develop. The property has not been purchased so it would not be a financial loss.

Riley: I would just add that I hope the business owner involved in this case will actively participate in the neighborhood planning process. I would hope that working through the process you could find a site that would be agreeable to everybody.

Casias: The fact that there is single family adjacent to a single use is not a reason to deny CS zoning. That is why we have compatibility standards.

RECOMMEND DENIAL.

(Motion: Sullivan, 2nd: Moore. Vote: 7 – 2; Casias & Moore against.)

- 7. Subdivision:** *Reconsideration of and possible action on the Planning Commission's decision on May 14, 2003 regarding Case No. C8-03-0033.OA.SH - Pleasant Valley Courtyards (S.M.A.R.T. Housing)*
- Location:** 5411 East St. Elmo Road, Williamson Creek Watershed, Franklin Park NPA
- Owner/Applicant:** Pleasant Valley Courtyards Housing, L.P.
- Agent:** Bury & Partners, Inc. (James B. Knight, P.E.)
- Request:** Variance to Section 25-4-33 (b), Original Tract Requirements
- Staff Rec.:** **NOT RECOMMENDED**
- Staff:** Javier Delgado, 974-7648, javier.delgado@ci.austin.tx.us
Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us
Watershed Protection & Development Review Dept.

POSTPONED by consent until 6/25 (per staff's request).

(Motion: Sullivan. 2nd: Spelman. Vote: 8 – 0; Pratt off dais.)

- 8. Subdivision:** **C8-03-0078.OA.SH - The Viewpoint At Williamson Creek Phases I & II**
- Location:** Viewpoint Dr. Nuckolis Crossing Rd., Williamson Creek Watershed, Southeast Austin Combined Planning Area NPA
- Owner/Applicant:** Stassney Crossing
- Agent:** Lockwood Engineer (Fred Lockwood)
- Request:** Statutory Disapproval
- Staff Rec.:** **NOT RECOMMENDED**
- Staff:** Javier Delgado, 974-7648, javier.delgado@ci.austin.tx.us
Bill Andrews, 974-7649, bill.andrews@ci.austin.tx.us
Watershed Protection & Development Review Dept.

RECOMMEND DENIAL by consent.

(Motion: Sullivan. 2nd: Spelman. Vote: 8 – 0; Pratt off dais.)