

Zoning Ordinance Approval
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION



AGENDA ITEM NO.: 47
AGENDA DATE: Thu 06/17/2004
PAGE: 1 of 1

SUBJECT: C14-04-0039 - Detour - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 6705 U.S. Highway 290 West (Williamson Creek Watershed-Barton Springs Zone) from community commercial (GR) district zoning to commercial liquor sales (CS-1) district zoning. First reading on May 6, 2004. Vote: 7-0. Conditions met as follows: no conditions were imposed by Council of first ordinance reading. Applicant: Jack Lieberman. Agent: Jim Bennett. City Staff: Glenn Rhoades, 974-2775.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-04-0039

REQUEST:

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code, by zoning the property locally known as 6705 W. U.S. Hwy 290 from community commercial (GR) district zoning to commercial liquor sales (CS-1) district zoning.

DEPARTMENT COMMENTS

The applicant is proposing the change in order to use the site for a cocktail lounge.

Presently there are 3 units of the retail center that are zoned CS-1. The first is a 1,940 square foot unit that is used for a liquor store. The second is a 12,340 square foot unit that is used for a Goodwill store and the third is a 2,400 square foot restaurant. The entire retail center is comprised of 43,644 square feet, which means that 38% of the center is zoned for alcohol sales. If the proposed change is granted, the percentage rises to 41%.

APPLICANT: Jack Lieberman

AGENT: Jim Bennett

DATE OF FIRST READING/VOTE:

May 6, 2004 – Approved commercial liquor sale (CS-1) district zoning (Vote: 7-0).

CITY COUNCIL DATE:

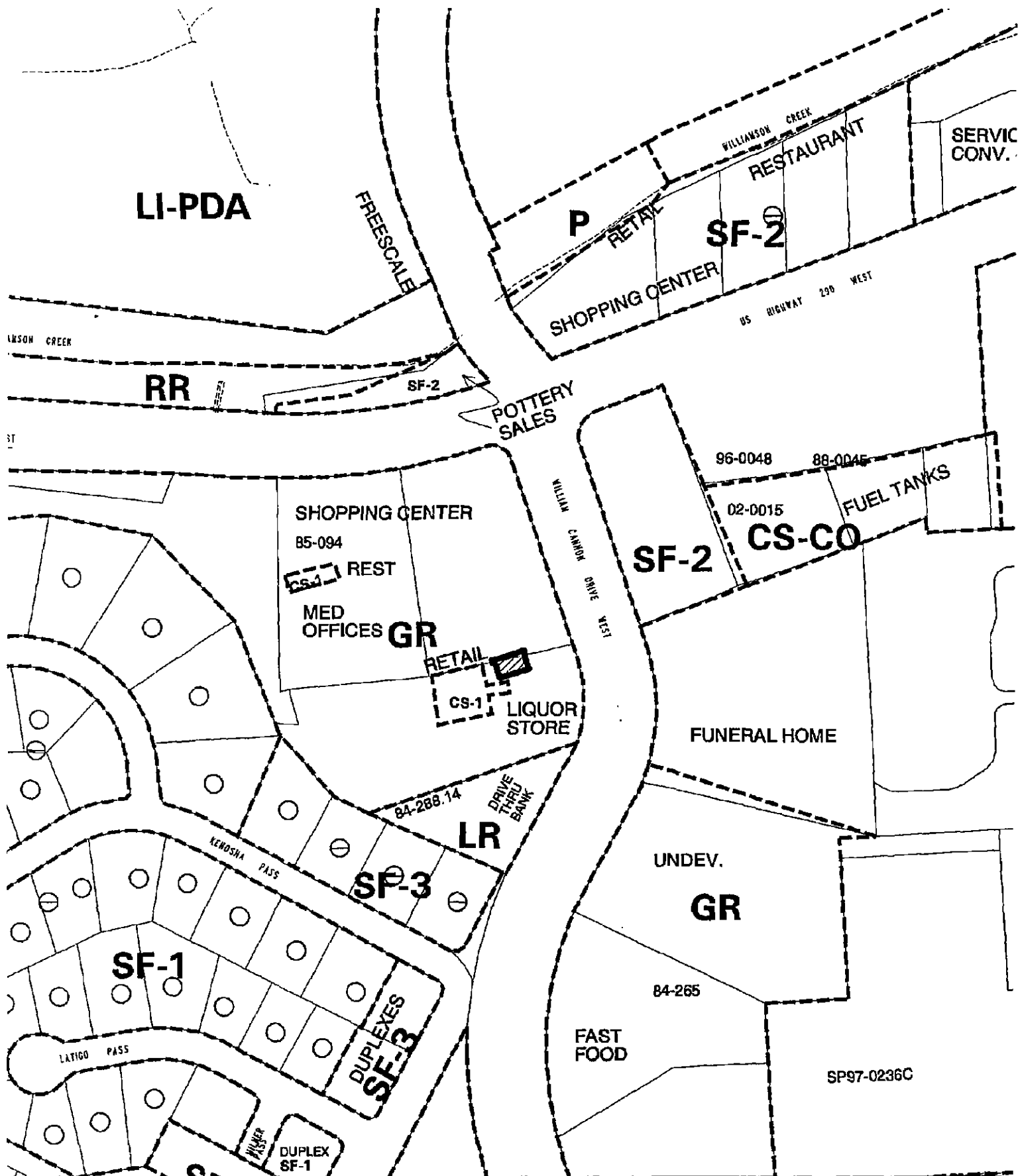
May 6, 2004 – Approved CS-1 in first reading only (Vote: 7-0).

June 17, 2004 -

ASSIGNED STAFF: Glenn Rhoades

PHONE: 974-2775

E-MAIL: glenn.rhoades@ci.austin.tx.us



	<p>SUBJECT TRACT</p> <p>PENDING CASE</p> <p>ZONING BOUNDARY</p> <p>CASE MGR: W. WALSH</p>	<p>ZONING</p> <p>CASE #: C14-04-0039</p> <p>ADDRESS: 6705 W US HWY 290</p> <p>SUBJECT AREA (acres): 0.038</p> <p>DATE: 04-04</p> <p>INTLS: SM</p>	<p>CITY GRID REFERENCE NUMBER</p> <p>C19</p>
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ORDINANCE NO. _____

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
PROPERTY LOCATED AT 6705 U.S. HIGHWAY 290 WEST FROM
COMMUNITY COMMERCIAL (GR) DISTRICT TO COMMERCIAL-LIQUOR
SALES (CS-1) DISTRICT.

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
change the base district from community commercial (GR) district to commercial-liquor
sales (CS-1) district on the property described in Zoning Case No. C14-04-0039, on file at
the Neighborhood Planning and Zoning Department, as follows:

A 0.04 acre (1,556 square feet) tract of land, more or less, out of the Thomas
Anderson Survey No. 17 in Travis County, the tract of land being more particularly
described by metes and bounds in Exhibit "A" incorporated into this ordinance,

locally known as 6705 U.S. 290 West, in the City of Austin, Travis County, Texas, and
generally identified in the map attached as Exhibit "B"

PART 2. This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

_____, 2004

§
§
§

Will Wynn
Mayor

APPROVED:

ATTEST:

David Allan Smith
City Attorney

Shirley A. Brown
City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

FOR ZONING PURPOSES ONLY

BEING A 0.04 OF AN ACRE (1,556 SQUARE FOOT) PARCEL OF LAND OUT OF AND PART OF THE THOMAS ANDERSON SURVEY NUMBER 17, SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 2 OF BLOCK A OF BRIAR CREEK AMENDED, A SUBDIVISION, AS DEPICTED BY THE INSTRUMENT RECORDED IN VOLUME 81, PAGE 344 OF THE PLAT RECORDS OF TRAVIS COUNTY AND A PORTION OF LOT 4 OF BLOCK A OF G.K. BECKETT ESTATE AS DEPICTED BY THE INSTRUMENT RECORDED IN VOLUME 6, PAGE 119 OF THE PLAT RECORDS OF TRAVIS COUNTY, THE AFOREMENTIONED 0.04 OF AN ACRE PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at 60d nail found for the northwesterly corner of Lot 3 and the northeasterly corner of Lot 4 of Convict Hill Section II, a subdivision, as depicted by the instrument recorded in Volume 77, Page 178 of the Plat Records of Travis County and in the southerly line of the aforementioned Lot 2;

THENCE, South 62 degrees 58 minutes 52 seconds East, along the southerly line of the aforementioned Lot 2, a distance of 65.50 feet to an iron rod found for the northwesterly corner of Lot 1 of the aforementioned Convict Hill Section II;

THENCE, within the interior of the aforementioned Lot 2 for the next two (2) courses as follows:

- 1.) North 56 degrees 15 minutes 22 seconds East, a distance of 386.48 feet to a cotton spindle found for an angle point in a called 0.3329 of an acre for City of Austin as described by the instrument recorded in Volume 9294, Page 32 of the Real Property Records of Travis County;
- 2.) North 63 degrees 25 minutes 01 seconds West, passing the northerly line of the aforementioned Lot 2 and the southerly of the aforementioned Lot 4 at a distance of 69.18 feet and continuing for a total distance of 74.89 feet to a point on a wall of a building for the POINT OF BEGINNING of the herein described parcel;

THENCE, North 30 degrees 21 minutes 34 seconds East, along the wall of a building, a distance of 1.10 feet to a point on the wall of a building;

THENCE, North 59 degrees 38 minutes 26 seconds West, along the wall of a building, a distance of 1.46 feet to a point on the wall of a building;

THENCE, South 30 degrees 21 minutes 34 seconds West, along the wall of a building, a distance of 1.10 feet to a point on the wall of a building;

THENCE, South 73 degrees 07 minutes 11 seconds West, along the wall of a building, passing the northerly line of the aforementioned Lot 2 and the southerly of the aforementioned Lot 4 at a distance of 38.68 feet and continuing for a total distance of 52.02 feet to a point on the wall of a building;

THENCE, South 16 degrees 52 minutes 49 seconds East, along the wall of a building, a distance of 4.90 feet to a point on the wall of a building;

THENCE, North 73 degrees 07 minutes 11 seconds East, along the wall of a building, a distance of 3.70 feet to a point on the wall of a building;

THENCE, South 16 degrees 52 minutes 49 seconds East, along the wall of a building, a distance of 26.27 feet to a point on the wall of a building for the center of the common wall of the aforementioned building;

THENCE, North 73 degrees 07 minutes 11 seconds East, along the center of the aforementioned common wall, a distance of 49.31 feet a point on the wall of a building;

THENCE, North 16 degrees 52 minutes 49 seconds West, along the wall of a building, passing the northerly line of the aforementioned Lot 2 and the southerly of the aforementioned Lot 4 at a distance of 26.64 feet and continuing for a total distance of 30.10 feet to the POINT OF BEGINNING of the herein described parcel and containing a calculated area of 0.04 of an acre (1,556 square feet) of land, more or less.

THIS LEGAL DESCRIPTION IS TO BE USED IN CONJUNCTION WITH THE ACCOMPANYING SURVEY PLAT (BY SEPARATE INSTRUMENT), ONLY.

This legal description is prepared from an on the ground survey, performed under my supervision, and is true and correct to the best of my knowledge.



J. McCormack
Tx. L.P.L.S. No. 5237

Revised Date

03-01-04

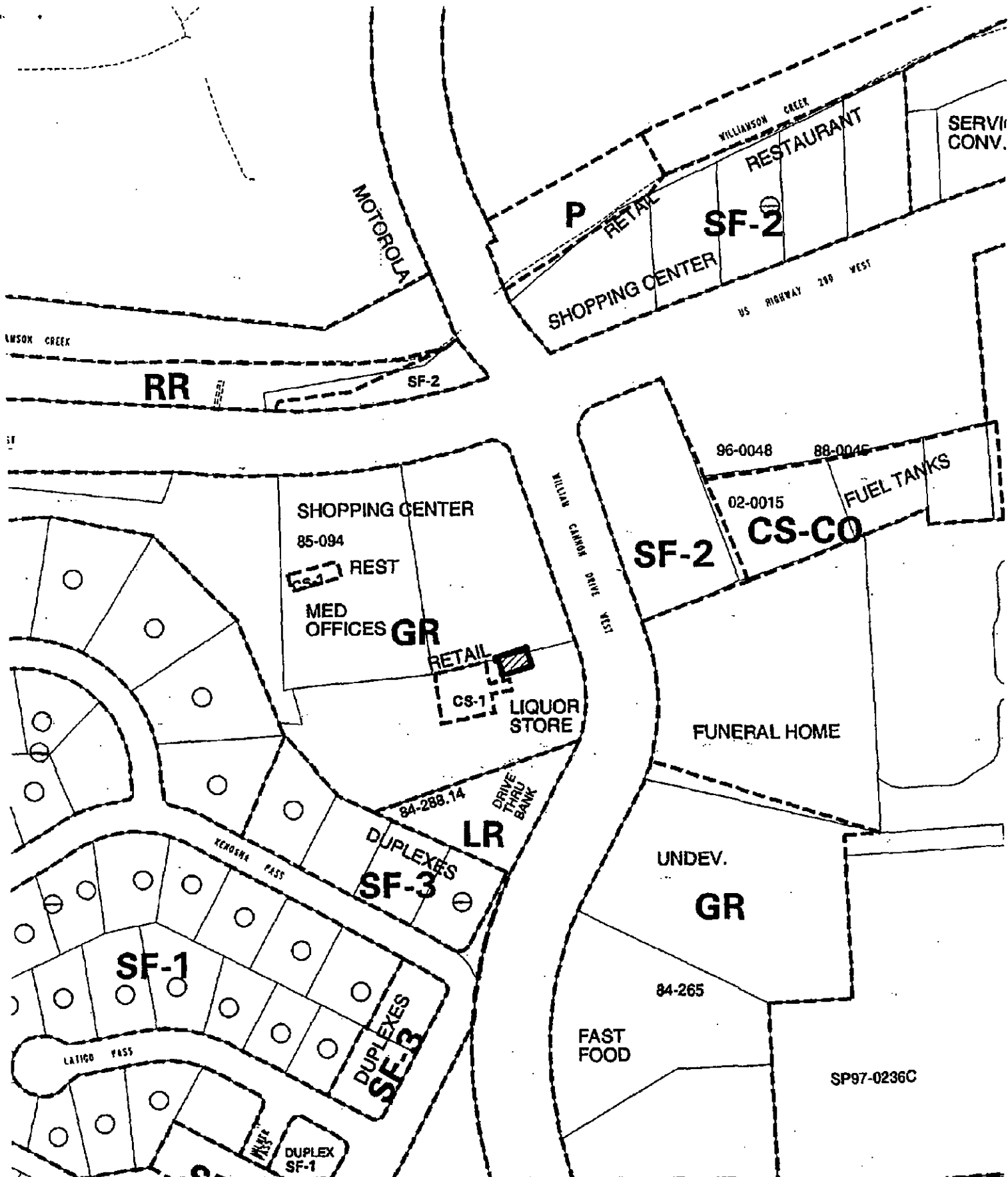
Job No.B011604_sketch_1







SKETCH TO ACCOMPANY FIELD NOTES

LEGEND

- 1/2" 800' P.M. ROAD
- 1/4" 400' P.M. ROAD
- 1/8" 200' P.M. ROAD
- 1/16" 100' P.M. ROAD
- 1/32" 50' P.M. ROAD
- 1/64" 25' P.M. ROAD
- 1/128" 12.5' P.M. ROAD
- 1/256" 6.25' P.M. ROAD
- 1/512" 3.125' P.M. ROAD
- 1/1024" 1.5625' P.M. ROAD
- 1/2048" 0.78125' P.M. ROAD
- 1/4096" 0.390625' P.M. ROAD
- 1/8192" 0.1953125' P.M. ROAD
- 1/16384" 0.09765625' P.M. ROAD
- 1/32768" 0.048828125' P.M. ROAD
- 1/65536" 0.0244140625' P.M. ROAD
- 1/131072" 0.01220703125' P.M. ROAD
- 1/262144" 0.006103515625' P.M. ROAD
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 1" = 200'	<p>SUBJECT TRACT </p> <p>PENDING CASE </p> <p>ZONING BOUNDARY </p> <p>CASE MGR: W. WALSH</p>	<p align="center">ZONING EXHIBIT B</p> <p>CASE #: C14-04-0039</p> <p>ADDRESS: 6705 W US HWY 290</p> <p>SUBJECT AREA (acres): 0.036</p> <p>DATE: 04-03</p> <p>INTLS: SM</p>	<p>CITY GRID REFERENCE NUMBER</p> <p>C19</p>
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ZONING CHANGE REVIEW SHEET

CASE: C14-04-0039

Z.A.P. DATE: April 6, 2004

C.C. DATE: May 6, 2004
June 17, 2004

ADDRESS: 6705 U.S. Highway 290 West

OWNERS: Jack Lieberman

AGENT: Jim Bennet

ZONING FROM: GR

TO: CS-1

AREA: .036 acres
(1,556 sq. ft.)

SUMMARY STAFF RECOMMENDATION:

Staff does not recommend the proposed change to Commercial Liquor Sales (CS-1) district zoning.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

To approve staff recommendation to deny the proposed change to commercial liquor sales (CS-1) district zoning (Vote: 7-0, K. Jackson – absent).

ISSUES:

The applicant is proposing the change in order to use the site for a cocktail lounge.

Presently there are 3 units of the retail center that are zoned CS-1. The first is a 1,940 square foot unit that is used for a liquor store. The second is a 12,340 square foot unit that is used for a Goodwill store and the third is a 2,400 square foot restaurant. The entire retail center is comprised of 43,644 square feet, which means that 38% of the center is zoned for alcohol sales. If the proposed change is granted, the percentage rises to 41%.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR	Retail Center, with Restaurants, Medical Offices and a Liquor Store
<i>North</i>	SF-2, RR	Pottery Sales
<i>South</i>	LR SF-3	Drive Through Bank Single-Family
<i>East</i>	SF-2 P-CO GR	Vacant Funeral Home Undeveloped
<i>West</i>	SF-1	Single Family

AREA STUDY: N/A

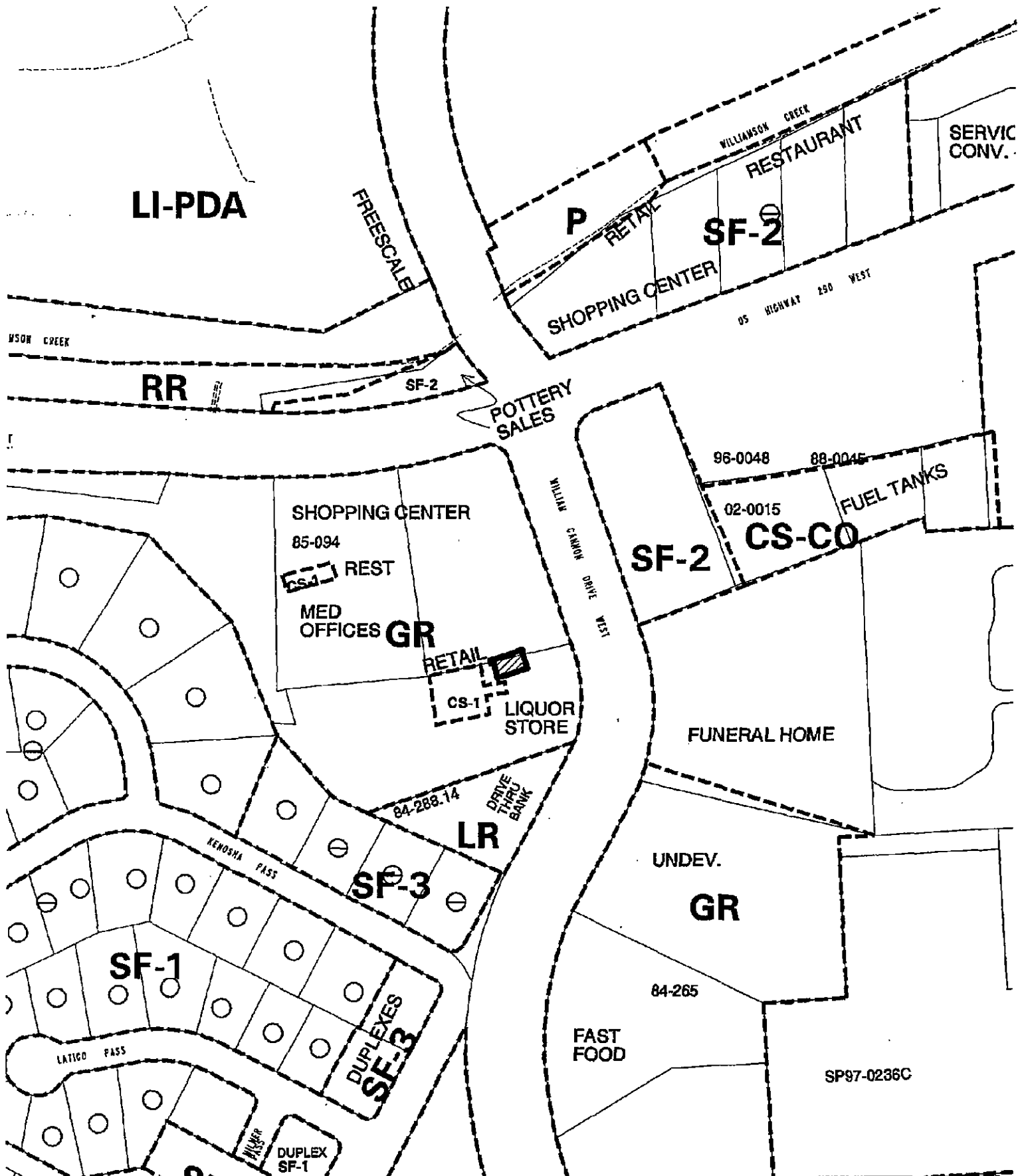
TIA: N/A





WATERSHED: Williamson Creek (BSZ)

DESIRED DEVELOPMENT ZONE: No

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A



 1" = 200'	SUBJECT TRACT  PENDING CASE  ZONING BOUNDARY  CASE MGR: W. WALSH	<div style="display: flex; justify-content: space-between;"> <div> CASE #: C14-04-0039 ADDRESS: 6705 W US HWY 290 SUBJECT AREA (acres): 0.036 </div> <div> ZONING DATE: 04-04 INTLS: SM </div> <div> CITY GRID REFERENCE NUMBER C19 </div> </div>
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City of Austin Infrastructure Support Services

Case C14-04-0039

Base



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Tue Apr 27 09:53:53 2004



STAFF RECOMMENDATION

Staff does not recommend the proposed change to CS-1, Commercial Liquor Sales district zoning.

BASIS FOR RECOMMENDATION

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

CS-1 – Commercial Liquor Sales is the designation for commercial and industrial uses incompatible with residential environments with the sale of alcohol being a permitted use.

The proposed zoning should allow for a reasonable use of the property.

Staff believes that the existing GR zoning is a fair and reasonable use of the site. The proposed change is a part of an existing strip shopping center. At this time there are three existing CS-1 footprints. One of the sites is an existing liquor store and Goodwill center. The other is a restaurant. Staff believes that the existing CS-1 zoning is sufficient for a shopping center of this size.

While it may appear that the subject tract meets the purpose statement set forth in the Land Development Code, due to the amount of existing CS-1, staff feels that another footprint would over zone the existing shopping center.

EXISTING CONDITIONS

Site Characteristics

The site is currently developed with a retail shopping center, including restaurants, medical offices and a liquor store.

Transportation

The trip generation under the requested zoning is estimated to be 732 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]

There are existing sidewalks along William Cannon Drive.

William Cannon Drive is classified in the Bicycle Plan as a Priority Low Usability bike route.

Capital Metro bus service is available along William Cannon Drive directly across from the subject property.

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

15. C14-04-0034 – CITY OF AUSTIN – NEIGHBORHOOD PLANNING & ZONING DEPARTMENT, By: COA – Neighborhood Planning & Zoning Department (Sherri Gager), 8518 Fathom Circle. (Bull Creek / Rattan Creek). **FROM GO-CO TO MF-2. RECOMMENDED.** City Staff: Sherri Gager, 974-3057.

APPROVED STAFF'S RECOMMENDATION OF MF-2 ZONING; BY CONSENT.

[J.M; J.G 2ND] (7-0) K.J – ABSENT

16. C14-04-0035 – SHOAL CREEK PROPERTIES, LTD. (Fred G. Eppright), By: Land Strategies, Inc. (Paul W. Linehan), approximately 9300-9800 block of R.M. 620 North. (Bull Creek). **FROM I-RR TO SF-6. ALTERNATE RECOMMENDATION: SF-6-CO.** City Staff: Sherri Gager, 974-3057.

POSTPONED TO 05/18/04 (NEIGHBORHOOD)

[J.M; J.G 2ND] (7-0) K.J – ABSENT

17. C14-04-0038 – STACEY SHACKELFORD, By: Jim Bennett Consulting (Jim Bennett), 6001 Mountain Shadows Drive. (Williamson Creek). **FROM RR TO CS. ALTERNATE RECOMMENDATION: GR-CO.** City Staff: Annick Beaudet, 974-2975.

APPROVED STAFF'S RECOMMENDATION OF GR-CO ZONING.

[B.B; J.P 2ND] (6-1) M.W – NAY; K.J – ABSENT

18. C14-04-0039 – OAK HILL (Jack Lieberman), By: Jim Bennett Consulting (Jim Bennett), 6705 US Hwy. 290 West. (Williamson Creek). **FROM GR TO CS-1. NOT RECOMMENDED.** City Staff: Glenn Rhoades, 974-2775.

APPROVED STAFF'S RECOMMENDATION TO DENY THE ZONING REQUEST.

[J.M; J.P 2ND] (7-0) K.J – ABSENT

19. C14-04-0040 – CHOBAN & ASSOCIATES (Mary Ruth Plauche), By: Jim Bennett Consulting (Jim Bennett), 1707 South Lamar Blvd. (West Bouldin Creek). **FROM SF-3 TO CS-CO. RECOMMENDED.** City Staff: Annick Beaudet, 974-2975.

CONTINUED INDEFINITELY

[M.W; J.M 2ND] (7-0) K.J – ABSENT

M E M O R A N D U M

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: April 30, 2004

SUBJECT: Zoning and Platting Commission Summary

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

CASE # C14-04-0039

18. C14-04-0039 – OAK HILL (Jack Lieberman), By: Jim Bennett Consulting (Jim Bennett), 6705 US Hwy. 290 West. (Williamson Creek). **FROM GR TO CS-1. NOT RECOMMENDED. City Staff: Glenn Rhoades, 974-2775.**

SUMMARY

Glenn Rhoades, staff – “This is 43,644 square feet of space and 38% of it is being used for alcohol sales and if you add another site here, you’re looking at 41% of the property. Therefore, we do not recommend it; we feel that there’s sufficient CS-1 zoning here. If the applicant did decide to down zone the Goodwill site, we maybe able to recommend the proposed changed; however, at this time we cannot and the applicant is not agreeable to do so”.

Commissioner Baker – “You mean the applicant does not agree with staff?”

Mr. Rhoades – “It happens on occasion”.

Jim Bennett, applicant – “My client is trying to open up a 1400 square foot tavern in this commercial strip shopping center located at highway 290 and William Cannon Blvd.; a major thoroughfare. There is some CS-1 zoning on the property; a large part is being occupied by a Goodwill facility. There is a liquor store on this site, which is adjacent to this proposed 1400 square foot CS-1; and there’s a restaurant that has CS-1, for what reason, I’m not sure. We approached the owner about rolling back the CS-1 zoning for the Goodwill, the owner of the property was not agreeable to that. We were able to talk to the owner and tell him that perhaps we could rollback square foot per square foot....But nay! Your staff wanted all of it rolled back. So the owner of the property could not agree to that. It is only a 1400 square foot, his contract with the owner, prohibits any other CS uses during his 15-year contract on the property. None of the property is going to be used for CS-1 use, except for Mr. Sanchez’s property. I don’t believe you have anyone in opposition and we would request that relative to the parking, there is not sufficient parking to put in a bar where the Goodwill Store is, as well as a bar for this facility. There are two additional parking spaces after this proposed bar would go in. So there’s a parking problem should any other CS-1 use want to go in, other than retail. We would request that the commission look at this as being in a strip center, even if there’s existing CS-1”.

Commissioner Baker – “You’ve interchanged bar and liquor store. Is this going to be a 1400 square foot bar? Or 1400 square foot liquor store?”

Mr. Bennett – “Bar; on premise consumption”.

Commissioner Baker – “Very cozy. Mr. Rhoades what did you say about #’s”.

Mr. Rhoades – “Before I jump the gun, the liquor store that exist is a 1920 square feet. The Goodwill is 12,340 square feet.”.

Commissioner Baker – “And he’s asking for 1400 square feet”.

Commissioner Whaley – “The Goodwill is all CS-1?”

Mr. Rhoades – “It’s all CS-1”.

Mr. Bennett – “That’s about right and I believe it was done initially for a Walgreen’s at one time”.

FAVOR

No Speakers.

OPPOSITION

No Speakers.

Commissioner Martinez and Gohil moved to close the public hearing.

Commissioner Martinez – “I move to deny; so staff recommendation”.

Commissioner Pinnelli – “Second”.

Motion carried.

**COMMISSION ACTION:
MOTION:**

AYES:

ABSENT:

**MARTINEZ, PINNELLI
APPROVED STAFF’S
RECOMMENDATION TO DENY THE
ZONING REQUEST BY APPLICANT.
PINNELLI, GOHIL, MARTINEZ,
BAKER, DONISI, HAMMOND,
WHALEY.
JACKSON**

MOTION CARRIED WITH VOTE: 7-0.