

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



**AGENDA ITEM NO.: Z-17  
AGENDA DATE: Thu 09/29/2005  
PAGE: 1 of 1**

**SUBJECT:** C14-05-0103 - 3500 Jefferson Street, Unit 101 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3500 Jefferson Street, Unit 101 (Shoal Creek Watershed) from general commercial services (CS) district zoning to commercial liquor sales (CS-1) district zoning. Zoning and Platting Commission Recommendation: To grant commercial liquor sales-conditional overlay (CS-1-CO) combining district zoning, with conditions. Applicant: Live Oak Development, Inc. (Daniel W. Herd). Agent: Joe Wyman. City Staff: Jorge Rousselin, 974-2975.

**REQUESTING** Neighborhood Planning  
**DEPARTMENT:** and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

**ZONING REVIEW SHEET****CASE:** C14-05-0103**Z.A.P. DATE:** September 6, 2005  
September 20, 2005**ADDRESS:** 3500 Jefferson Street Unit 101**OWNER:** Live Oak Development, Inc.  
(Daniel W. Herd)**AGENT:** Joe Wyman**REZONING FROM:** CS (General Commercial Services district)**TO:** CS-1 (Commercial Liquor Sales district)**AREA:** 1,557 square feet (0.03 Acres)**ZONING AND PLATTING RECOMMENDATION:**

September 20, 2005:

APPROVED CS-1-CO ZONING.

- 300 VEHICLE TRIPS PER DAY;
- PRIVATE RESTRICTIVE COVENANT:
  - ROLLBACK TO CS ZONING IF USE CEASES;
  - LIMIT HOURS OF OPERATION; 8:00 A.M. TO 9:00 P.M. MONDAY – SAT.; 12:00 P.M TO 7:00 P.M SUNDAY;
  - LIMIT ALCOHOL SALES TO ONLY BEER AND WINE;
  - NO 3<sup>RD</sup> READING OF THE ORDINANCE UNTIL THE RESTRICTIVE COVENANT HAS BEEN FILED AND ON RECORD.

[K.J; J.M 2<sup>ND</sup>] (8-1) B.B – NAY**SUMMARY STAFF RECOMMENDATION:**

Staff recommends commercial liquor sales - conditional overlay (CS-1-CO) combining district zoning. The recommended conditional overlay will limit the vehicle trip generation to 300 trips per day.

**ISSUES:**

Since the Zoning and Platting Commission meeting of September 6, 2005, the applicant's representative has clarified their intention to sell beer and wine for both on-site and off-site consumption. The Staff supports the applicants proposed development and has modified its recommendation to allow liquor sales. As provided in a comment response from the Zoning Chair of the Bryker Woods Neighborhood Association, the neighborhood has offered support for this proposed development excluding the sale of liquor and limiting the hours of operation. A conditional overlay cannot restrict the sale of specific alcoholic beverages served at a cocktail lounge or sold at a liquor store (i.e. hard liquors vs. beer or wine). The Staff would not object to a private restrictive covenant between the property owners of the

subject property and the neighborhood which will address the issues of alcoholic beverages served and hours of operation.

**DEPARTMENT COMMENTS:**

The subject rezoning area is a 1,557 square feet lease space on the ground floor within the 35<sup>th</sup> at Jefferson Shopping Center. This portion of the shopping center fronts West 35<sup>th</sup> Street and Lawton Avenue. The applicant proposes to rezone the lease space to commercial – liquor sales (CS-1) district and occupy the lease space with a delicatessen-cocktail lounge that includes the sale of wine and beer (exceeding 51% alcohol sales) and thus falls under the cocktail lounge and liquor store uses. Staff recommends CS-1-CO zoning based on the following considerations:

- 1) The proposed use is compatible with the surrounding uses within the retail center and its corresponding CS zoning and other commercial development along West 35<sup>th</sup> Street;
- 2) Access will be taken to one arterial roadway;
- 3) Vehicle trip generations are recommended to not exceed 300 per day. Parking requirements will be met using the existing shopping center parking garage and reflected on the site plan process through the conditional use permit.

A conditional use permit for a cocktail lounge is pending for this property under case No. SPC-05-0016A.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CS	35 <sup>th</sup> at Jefferson Shopping Center
<i>North</i>	LO / CS	Doctor's Office / Shopping Center
<i>South</i>	LO / CS	Apartments / Gym
<i>East</i>	CS	Shopping Center / Offices / Cleaners / Service Sta.
<i>West</i>	LR	Print Shop / Souvenirs

**AREA STUDY:** N/A

**TIA:** Not required

**WATERSHED:** Shoal Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

185--Oakmont Heights Neighborhood Assn.

344--M.K. Hage

511--Austin Neighborhoods Council

742--Austin Independent School District

**SCHOOLS:**

Austin Independent School District

- Bryker Woods Elementary School
- O. Henry Middle School
- Austin High School

**RELATED CASES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-85-115	SF-3 to CS	06/04/85: PC Approved recommendation of CS with conditions. CO: Dedication of 35' of R.O.W. from centerline of W. 35 <sup>th</sup> Street and agreements between applicant and the Oakmont Heights and Bryker Woods Neighborhood Associations. (5-0);	09/26/85: Approved CS on all 3 RDGS.

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-72-140	O & A to C-2 & GR to allow for a package liquor store.	07/11/72: Approved Staff recommendation of C-2 and GR subject to a maximum area of 2, 500 square feet. (8-0)	08/03/72: Approved C-2 and GR subject to a maximum area of 2, 500 square feet. (5-0)
C14-96-0069	SF-3 to GR-MU-CO	07/23/96: PC Approved staff recommendation of GR-MU-CO. (6-0)	08/15/96: Approved GR-MU-CO. CO: No vehicular access to Kerby Ln.; Vehicular access to alley for emergency vehicles only; 2,000 vehicle trip limitation per day; Following uses prohibited: <ul style="list-style-type: none"> <li>- Automotive rentals</li> <li>- Automotive repair services</li> <li>- Automotive washing</li> <li>- Business or trade school</li> </ul>

			<ul style="list-style-type: none"> <li>- Commercial off-street parking</li> <li>- Communication services</li> <li>- Exterminating Services</li> <li>- Funeral Services</li> <li>- Hotel-motel</li> <li>- Indoor entertainment</li> <li>- Indoor sports &amp; recreation</li> <li>- Outdoor entertainment</li> <li>- Outdoor sports &amp; recreation</li> <li>- Pawn shop services</li> <li>- Research services (general)</li> <li>- Theater</li> <li>- Hospital services (general)</li> <li>- Drop-off recycling collection facility</li> </ul> <p>Permitted as a conditional use:</p> <ul style="list-style-type: none"> <li>- Community recreation (private, public)</li> <li>- Hospital services (limited)</li> <li>- Restaurant (drive-in, fast food)</li> </ul>
C14-99-0107	LO to LR-CO	08/03/99: PC Approved LR-CO excluding lot 4. (6-0)	<p>09/02/99: Approved LR-CO with conditions.</p> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Guidance services</li> <li>- Communications services</li> <li>- Consumer repair services</li> <li>- Financial services</li> <li>- Food sales</li> <li>- General retail sales (convenience)</li> <li>- Off-site accessory parking</li> </ul>

			<ul style="list-style-type: none"> <li>- Personal services</li> <li>- Pert services</li> <li>- Plant nursery</li> <li>- Restaurant (drive-inn, fast food)</li> <li>- Restaurant (limited)</li> <li>- Service station</li> </ul>
C14-00-2233	SF-3 to LO	07/20/04: Approved Staff recommendation of NO-MU-CO by consent. (6-0)	01/18/01: Approved NO-MU on all 3 readings. (6-0)

**ABUTTING STREETS:**

NAME	ROW	PAVEMENT	CLASSIFICATION
35 <sup>th</sup> Street	70'	Varies	Arterial
Lawton Avenue	50'	30'	Collector

**CITY COUNCIL DATE:** September 29, 2005**ACTION:****ORDINANCE READINGS:**1<sup>st</sup>2<sup>nd</sup>3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Jorge E. Rousselin, NPZD**PHONE:** 974-2975**E-MAIL:** [jorge.rousselin@ci.austin.tx.us](mailto:jorge.rousselin@ci.austin.tx.us)



TEXAS  
DEPARTMENT  
OF  
HIGHWAYS  
AND  
PUBLIC  
TRANSPORTATION  
  
**UNZ**

SPR-AT  
SPR-15A  
GO-OR  
VEHICLE WARE



SUBJECT TRACT  
PENDING CASE  
ZONING BOUNDARY  
CASE MGR: T.BOLT

**ZONING**  
  
CASE #: C14-05-0103  
ADDRESS: 3500 JEFFERSON ST UNIT  
301  
SUBJECT AREA (acres): 1.126

DATE: 05-07  
INTLS: SM

CITY GRID  
REFERENCE  
NUMBER  
H26

600 Feet

N MO-PAC NB EXPY



3500 Jefferson  
Unit 101

72-119  
SP-85-77 C

APARTMENTS

REALTOR  
GIFTS  
DENTIST

C14-03-03103

## **STAFF RECOMMENDATION**

Staff recommends commercial liquor sales - conditional overlay (CS-1-CO) combining district zoning. The recommended conditional overlay will limit the vehicle trip generation to 300 trips per day.

## **BASIS FOR RECOMMENDATION**

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

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

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property is part of an existing commercial shopping center with multiple CS uses and is compatible with existing commercial uses along West 35<sup>th</sup> Street.

***2. The proposed zoning should promote consistency, and orderly planning.***

The proposed change and recommended conditional overlay is compatible with the surrounding area by encouraging commercial uses to establish near major intersections and at commercial nodes where a variety of commercial uses are established. Furthermore,

- 1) The proposed use is compatible with the surrounding uses within the retail center and its corresponding CS zoning and other commercial development along West 35<sup>th</sup> Street;
- 2) Access will be taken to one arterial roadway;
- 3) Vehicle trip generations are recommended to not exceed 300 per day. Parking requirements will be met using the existing shopping center parking garage and reflected on the site plan process through the conditional use permit.

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## **EXISTING CONDITIONS**

### **Site Characteristics**

The subject rezoning area is a 1,557 square feet lease space within the 35<sup>th</sup> at Jefferson Shopping Center. This portion of the shopping center is on the ground floor and fronts West 35<sup>th</sup> Street and Lawton Avenue. Parking requirements will be met using the existing shopping center parking garage.

**Impervious Cover**

Maximum building cover and impervious cover is 95%. Maximum floor area ratio is 2:1. No changes to the allocated impervious cover are contemplated with the rezoning application

**Transportation**

- 0. No additional right-of-way is needed at this time.
- 0. The trip generation under the requested zoning is estimated to be 636 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 development of a 1,500sf Lounge/Deli will generate approximately 198 trips per day.
- 0. Because the access for this site is off of Lawton Avenue a residential collector it is recommended that the trips for the site be limited to 300 trips per day.
- 0. Capital Metro bus service is available along 35<sup>th</sup> Street.
- 0. 35<sup>th</sup> Street is classified in the Bicycle Plan as a Priority 1 bike route.
- 0. There are existing sidewalks along 35<sup>th</sup> Street and Lawton Avenue.

**Environmental**

- 0. 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.
- 0. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
- 0. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
- 0. According to flood plain maps, there is no flood plain within the project area.
- 0. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

**Water and Wastewater**

**WW 1.** The site is served with City water and wastewater utilities. If water or wastewater utility improvements, or system upgrades, or utility adjustment, or relocation are required, the landowner, at own expense, will be responsible for providing. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The utility construction must be inspected by the City.

**Site Plan and Compatibility Standards**

- 0.** The site is subject to compatibility standards. Along the west property line, the following standards apply:
  - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
  - 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.
- 1.** Cocktail lounge or restaurant with late-hours permit will require a conditional use permit site plan.

# MAP TO ACCOMPANY FIELD NOTES

SCALE: 1"=20'



## LEGEND

- CONCRETE MONUMENT FOUND
- 1/2" STEEL PIN FOUND (UNLESS NOTED)
- ⊕ 'X' FOUND
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R.O.W. RIGHT OF WAY

LAWTON STREET

CONC. CURB

BASIS OF BEARINGS  
VOL. 10745, PG. 1852

1.126 AC  
35TH AND JEFFERSON, LTD.  
VOLUME 11273, PAGE 377  
REAL PROPERTY RECORDS OF  
TRAVIS COUNTY, TEXAS

1557  
SQ. FT.

EXISTING BUILDING

OAKMONT HEIGHTS

VOL. 3, P.G. 147

P.O.B.  
P.O.C.

WEST 35th STREET

LINE TABLE		
LINE	BEARING	DISTANCE
L-1	N16°44'04"E	55.00
L-2	S73°36'56"E	28.14
L-3	S16°23'04"W	55.00
L-4	N73°36'56"W	28.48
L-5	N16°44'04"E	8.54
L-6	S76°27'52"E	54.81

PREPARED BY:  
**LENZ & ASSOCIATES, INC.**  
1714 FORT VIEW ROAD, SUITE 101  
AUSTIN, TEXAS 78704

PAGE 1 OF 1



## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-03-0103

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

September 6, 2005 Zoning and Planning Commission

☐ I am in favor  
☐ I object

JOYCE BASCIANO, Zoning Staff, CAPLE  
Your Name (please print) JOYCE BASCIANO

1907 W 34th ST Austin 78703

Your address(es) affected by this application

Joyce M Basciano

Signature

Date

9/5/5

Comments: After speaking with Jorge Rousselin, NPED, Ron Golding (Live Oak Development, Inc.), Nick Gonzalez (Lawson Consulting) and Karen Davis (wine bar owner and applicant) the Byke & Whitts N.A. will favor this rezoning request if the applicant offered conditional development limiting the sale of alcoholic beverages to wine and beer (NO LIQUOR) and setting a 9 PM business closing hour are placed on this property (Suite 101 3500 Jefferson).

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

City of Austin

Neighborhood Planning and Zoning Department

Jorge Rousselin

P.O. Box 1088

Austin, TX 78767-8810

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Case Number: C14-05-0103

Contact: Jorge Rousselin, (512) 974-2975

Public Hearing:

September 6, 2005 Zoning and Platting Commission

HELEN MISKELL

Your Name (please print)

1802 WEST 36TH ST, AUSTIN, TX 78731

Your address(es) affected by this application

Helen Miskell

Signature

Date

Comments: THE ZONING CHANGE TO A CS-1

COMMERCIAL - LIQUOR SALES DISTRICT

WOULD BE INCOMPATIBLE WITH THE

NEIGHBORHOOD ENVIRONMENT. THERE

IS AN ELEMENTARY SCHOOL NOT FAR

AWAY FROM THE PROPOSED LOCATION

OF THE PROPOSED ZONING CHANGE.

WE OAKMONTS HEIGHTS IS A LOVELY

QUIET NEIGHBORHOOD. DON'T

RUIN IT. THE PROPOSED CHANGE

WOULD LOWER PROPERTY VALUES.

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

City of Austin

Neighborhood Planning and Zoning Department

Jorge Rousselin

P. O. Box 1088

Austin, TX 78767-8810

RESTRICT ACCESS TO THE

STORE TO