



October 19, 2006

Dear Council Member

My name is Grant Foster and my business is located at 507 West 18th Street, in the downtown business district. I own a retirement and estate planning firm located at this address. I have owned this property since 1984.

I am writing regarding the application by Mr. Darryl Mobley, representing Oasis in West Campus for a change in zoning for 1801-1805 Nueces Street (Zoning case C14-06-0158, PH72 on the Thursday Council agenda). It is my understanding that some property owners in the area have met with Mr. Mobley expressing their concerns of the business owners in the neighborhood, but were unable to reach any resolution regarding the use of the property.

It is my understanding that Mr. Mobley has not expressed what his plans are for the property. We have not seen any plans for the building. We are concerned about the size, use of space, (i.e. office, retail, condo) and parking availability. Because of the size of the parcel and particularly the width, it will be impossible for there to be more than 10-12 parking spaces on site. After talking to other neighbors, it is my understanding that a five-story 60' building could be built on this site totaling 15,000 square feet. If that's the case, there is no way 10-12 parking spaces would properly address the needs of a building this size.

If the project was office and retail, there would not be enough onsite parking. If the retail were to be a restaurant or cocktail lounge, we believe the parking in our neighborhood would be overly stressed. It is my understanding that Mr. Mobley has refused a conditional overlay prohibiting such establishments. We are also concerned that the sale of alcohol and the possibility of having live music would adversely affect our businesses and the condominium residents in close proximity to the project.

Our neighborhood, as you know, is in the central business district, but the profile is nothing like downtown, where there is significant residential foot traffic. Our area is made up of small business owners, with property zoned GO. Our GO zoning requires us to have one parking space per 275 square feet. If the applicant is granted a change in use, he would have parking variances available to him of up to 60%!

In closing, we are very concerned that a change in use of the property and a lack of parking for the project will put a burden on an already stressed street parking environment. We are located between the University of Texas and ACC. Students park in our area both day and night. We feel that any project taking a disproportionate amount of street parking is inappropriate. Since most of my clients come to my office and park on the street, this could cause an undue hardship for my business. We can't support Mr. Mobley's change in use until you know what the plans to do. Therefore, I urge you to support the neighbors' petition and vote NO on this change in use.

Sincerely,

Grant Foster, CLU, ChFC, LUTCF, RFC, AEP, CSA

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MEMORANDUM

DATE: 19 October 2006
FROM: Donna D. Carter for Darryl Mobley, Applicant
TO: City Council
SUBJECT: 1801 Nueces St, Austin, Texas
Zoning Case No. **C14-06-0158**

#72

Concerns Expressed by Phyllis Warner and Scott Sayers

PROHIBITED ZONING USES The following commercial uses shall be prohibited:

§ 25-2-4 COMMERCIAL USES

(15) **COCKTAIL LOUNGE** use is the use of a site for retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, and similar uses, other than a restaurant use as that term is described in this section.

Agreed.

(39) **LAUNDRY SERVICES** use is the use of a site for the provision of laundering, dry cleaning, or dyeing services other than those classified as personal services. This use includes bulk laundry and cleaning plants, diaper services, and linen supply services.

Agreed.

(40) **LIQUOR SALES** use is the use of a site for the retail sale of alcoholic beverages for off-premises consumption. This use includes liquor stores and bottle shops

Agreed that the site will not be used for a liquor store or bottle shop

(47) **PAWN SHOP SERVICES** use is the use of a site for the lending of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of the property.

Agreed

(60) **RESTAURANT (GENERAL)** use is the use of a site for the preparation and retail sale of food and beverages and includes the sale and on-premises consumption of alcoholic beverages as an accessory use.

And

(61) **RESTAURANT (LIMITED)** use is the use of a site for the preparation and retail sale of food and beverages and excludes the sale of alcoholic beverages for on-premises consumption. Restricted to only allowing a restaurant serving non-alcoholic beverages, sandwiches and soups prepared on site.

Disagree Applicant agrees to limited size for food sales activity (as stated in retail size

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limitation) but would like to preserve the ability to sell alcoholic beverages by the glass for on-premise consumption only with purchase of food.

The following uses and activities were included as prohibited uses. It is assumed that the uses are specific and do not prohibit the entire use category as defined in Title 25, Chapter 25 - 2 of the Land Code.

1. Tattoo and Paraphernalia Shop

Agreed.

2. No more than 800-900 ft. retail space

Agree to no more than 1200 net square feet of retail space.

Rationale. Retail space will be limited to ground floor, which will be limited by access to and the provision of parking. Most of the possible 6300 square feet footprint will be taken up with stairs, corridor, parking and other building service requirements. Should the applicant end up with slightly more than the agreed to SF in this CO, it would be wasted space.

Additionally, there are spaces such as toilets, janitors' closets and the like that will be included in the finish-out permit that if included in this square footage would render the retail option useless. This, in turn, reduces the potential for a true mixed use project.

The next three issues potentially limit future options as our urban areas and tenants' use of a mixed use facility evolve. Business models which may require multi tenants, multi delivery options will require a dialog within the context of community standards to help fill the gaps of service, convenience, workspace and domicile that service utilizing our existing land code.

3. No more than 2 retail tenants

Disagree. *Austin is in a state of transition, and as such, our urban form is also in a state of change. The increase in mixed use projects in more dense surroundings, may well call for changes in business models to be successful. The size will dictate what can be successfully put into the space, but a model may well have several vendors or activities that take their wares elsewhere. How will this be monitored? Will a d/b/a be a violation?*

4. No delivery businesses

Disagree. *Again, the new downtown, the new University area will dictate different business models. Would a bicycle courier business be a violation? A vendor who delivers food, documents, or catalog items to clients downtown be exempt? Would either such business be harmful to the existing business or residential neighbors?*

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5. No live music

***Disagree** There are provisions in Title 9, Chapter 9-2 for controlling sound and noise. The residential component of this project and the adjacent residential neighborhood, prohibit amplified sound. This prohibition would prohibit **any** live music, an acoustic guitar player, violinist, flutist, etc that would be allowed in one's home.*

6. No drive-through businesses

Agreed.

Petitioners Concerns

Concerns have been expressed about the amount and nature of retail and the provision of parking. The applicant, too, has those concerns because the proposed project will only be successful if the built square footage and uses works with the amount of parking that will be provided.

The applicant is in favor of the on street parking being provided as a shared resource for all the property Owners and agrees that all on - street parking should be metered to help effectively manage this community resource. The project will effectively provide two additional on street parking spaces.

"We favor the proposed change in principle, but are concerned about parking. We are writing to request that the City require the developer to provide sufficient parking on-site to meet the increase in demand that will be generated by the proposed development." Phyllis and David Warner

Applicant agrees this is a valid concern and will provide sufficient parking for the proposed uses based on the proposed mix and physical plan. We are in agreement with our neighbor with one exception. One tool in the urban development toolbox is the provision of offsite parking, by agreement with nearby private property owners and the applicant does not want to take that possibility off of the table at this time. We would reserve the right to enter into off site agreements.

The time to determine the correct amount of parking, within the ranges offered by the land code, is when the mix of uses is known, at the time of site plan and development permit approval. We assume that neighborhood representatives and adjacent property owners will have an opportunity to comment at this point in the process as well. It is our belief that a table of possible uses and combinations of uses, with the appropriate percentages cannot reasonably be prepared at this time. The applicant assumes that these will be determined by *City staff in conjunction with our professional transportation and parking consultants*, to meet the increase in demand that will be generated by the identified uses under a mixed use scenario.