ZONING CHANGE REVIEW SHEET

CASE: C14-2012-0051 – Felter Lane Hot Bodies **Z.A.P. DATE:** July 3, 2012
July 17, 2012
August 7, 2012

ADDRESS: 4134 Felter Lane

OWNER/APPLICANT: Michael Kuhn **AGENT:** KPP International (Eleftherios "Lefty" Karamolegkos)

ZONING FROM: I-RR **TO:** CS-1 **AREA:** 0.5150 acres (22,433.40 square feet)

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant commercial – liquor sales – conditional overlay (CS-1-CO) combining district zoning. The Conditional Overlay limits the development of the property to 2,000 trips per day over the existing land uses.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

July 3, 2012: *APPROVED A POSTPONEMENT REQUEST BY AN ADJACENT PROPERTY OWNER AND THE BUILDER OF AN ADJACENT SUBDIVISION TO JULY 17, 2012 [S. BALDRIDGE; S. COMPTON – 2ND] (4-0) B. BAKER, J. MEEKER, G. ROJAS – ABSENT*

July 17, 2012: *MEETING CANCELLED; RESCHEDULED FOR AUGUST 7, 2012*

August 7, 2012: *APPROVED CS-1-CO DISTRICT ZONING, AS STAFF RECOMMENDED [G. ROJAS; P. SEEGER – 2ND] (5-0) S. BALDRIDGE, J. MEEKER – ABSENT*

ISSUES:

Representatives for an adjacent property owner and the builder of an adjacent subdivision requested postponement until July 17, 2012.

DEPARTMENT COMMENTS:

The subject zoning area is developed with an adult cabaret use within the Travis Business Park, and zoned interim – rural residence (I-RR) district. Travis Business Park has access to Burleson Road by way of Felter Lane which is a private driveway used by all of the businesses. There are commercial uses, light manufacturing and undeveloped land to the north (LI-CO; LI-PDA-NP), office/warehouse uses to the east and south (I-RR; LI-CO), and undeveloped land to the west (County). Several commercial and office/warehouse uses within Travis Business Park were zoned LI-CO in May 2012 (C14-2012-0027). For

reference, McKinney Falls Parkway is approximately one-half mile to the east. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

Travis Business Park and adjacent land to the east was annexed into the City limits on December 19, 2011. According to City records, the adult cabaret use has existed since July 2002; since its operation precedes annexation, it is a legal use of the property. An *adult cabaret* use is a permitted use in the CS, CS-1, CBD, DMU and CH zoning districts. An *adult lounge* use is a conditional use in the CS-1 district. The CS-1 zoning district allows for the sale of alcohol, while the CS district does not. The Applicant proposes to zone the property to the commercial – liquor sales (CS-1) district consistent with the existing use and would also allow for the sale of alcohol to occur. Staff recommends the Applicant's request based on the following considerations: 1) the proposed use is compatible with the surrounding uses and zoning, and there is sufficient separation from residential development; and, 2) access is taken to a major arterial roadway.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	I-RR	Adult cabaret
North	LI-CO; LI-PDA-NP	Auto repair; Office/warehouse/manufacturing; Undeveloped (north side of Burleson Rd.)
South	LI-CO	Office/warehouse
East	I-RR; LI-CO; County	Office/warehouse; Door company; Undeveloped
West	County	Undeveloped

AREA STUDY: N/A

TIA: Is not required

WATERSHED: Onion Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

SCHOOLS:

The subject property is within the Del Valle Independent School District.

NEIGHBORHOOD ORGANIZATIONS:

96 – Southeast Corner Alliance of Neighborhoods
511 – Austin Neighborhoods Council
627 – Onion Creek Homeowners Association
634 – Montopolis Area Neighborhood Alliance
688 – Southeast Neighborhood Plan – COA Liaison
774 – Del Valle Independent School District
786 – Home Builders Association of Greater Austin
1037 – Homeless Neighborhood Association
1075 – League of Bicycling Voters
1200 – Super Duper Neighborhood Objectors and Appealers Organization
1224 – Austin Monorail Project
1228 – Sierra Club, Austin Regional Group

1236 – The Real Estate Council of Austin, Inc. 1258 – Del Valle Community Coalition
1316 – Southeast Combined Neighborhood Plan Contact Team
1340 – Austin Heritage Tree Foundation 1363 – SEL Texas

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2012-0027 – Felter Lane Road Rezoning – Felter Ln. at Burleson Rd.	I-RR; I-SF-2 to LI	To Grant LI-CO w/CO for 2,000 trips per day over the existing land uses	Apvd. as ZAP Commission recommended (5-24-12).
C14-02-0128.03 – Southeast Combined Neighborhood Plan (Southeast) Rezonings – Ben White/SH 71 on the north, U.S. 183 on the east, Burleson Rd. on the south, and Montopolis Dr. on the west	Rezoning of 24 tracts of land	To Grant	Apvd. (10-10-02).
C14-02-0198 – Telecom Office Park – 7001 Burleson Rd.	I-RR to LI-PDA	Apvd. Staff rec. of LI-PDA w/PDA for add'l permitted uses, prohibits certain uses, 2,000 trips, subj. to LI stds. unless developed with multi-family in which case MF-2 stds. apply, 25' buffer between residential and commercial/ industrial uses	Apvd. LI-PDA (8-7-03).
C14-02-0117 – Telecom Office Park – 4101 Smith School Rd.	I-RR to LI-PDA	Apvd. Staff rec. of LI-PDA w/PDA for 2,000 trips, add'l permitted uses, restricted uses with multi-family devt., subj. to LI stds. unless developed with multi-family in which case MF-2 stds. apply, 25' buffer between residential and commercial/ industrial	Apvd. LI-PDA (3-20-03).

		uses, and prohibits certain uses	
C14-00-2041 – Lockheed Tract – 6800 Burleson Rd.	DR to LI	Apvd. Staff rec. of LI with conditions	Apvd. LI-PDA, LI-CO and RR-CO for area in the floodplain (3-8-01).

RELATED CASES:

This property was annexed into the Full-Purpose Jurisdiction on December 19, 2011 (C7a-11-001).

The property is platted as a portion of Lot 2, Joe K. Smith Subdivision, recorded in October 1971 (C8s-71-213). There are no site plan applications on the property.

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Daily Traffic
Burleson Road	130 feet	2 @ 24 feet	Major Arterial	6,685
Felter Lane	N/A – Private	40 feet	Private Collector	Not Available

- Burleson Road is classified in the Bicycle Plan as Bike Route No. 72.
- Capital Metro bus service (Route No. 328) is available along Burleson Road.
- There are no existing sidewalks along Burleson Road and Felter Lane.

CITY COUNCIL DATE: August 2, 2012 — **ACTION:** Approved a Postponement request by Staff to August 23, 2012 (7-0).

August 16, 2012 — Case did not appear on the meeting agenda and will be renotified.

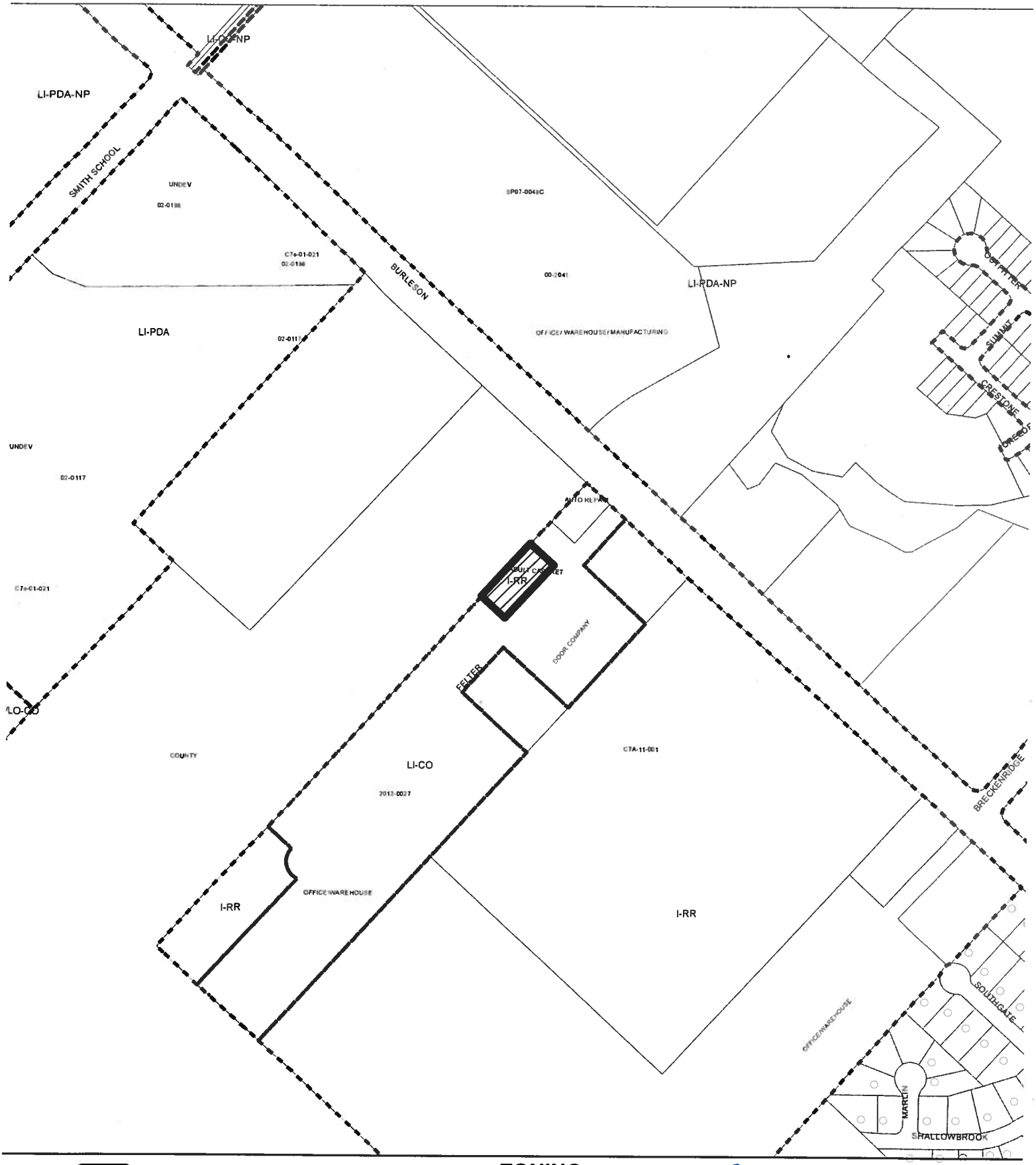
August 23, 2012 — Approved a Postponement request by Staff to September 27, 2012 (6-0, Council Member Spelman – off the dais).

September 27, 2012

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Wendy Rhoades **PHONE:** 974-7719
e-mail: wendy.rhoades@austintexas.gov



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 400'

ZONING

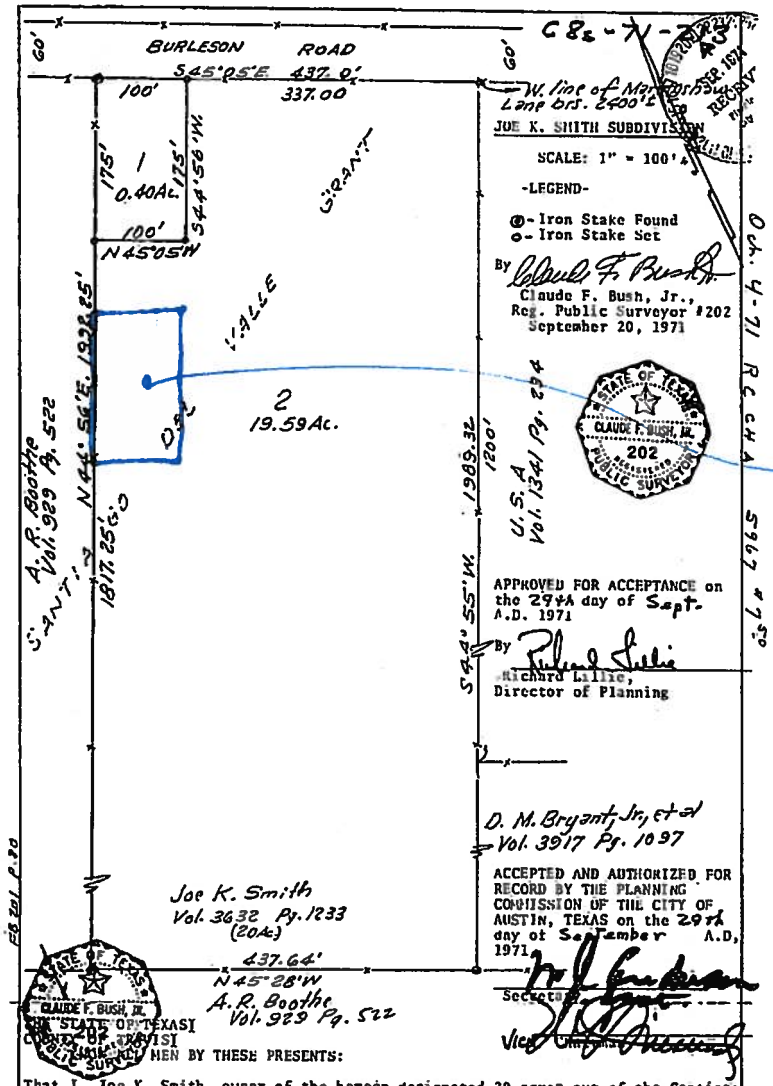
ZONING CASE#: C14-2012-0051

EXHIBIT A

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made

SP07-0048C
LI-PDA
C7a-01-021
02-0198
00-2641
OFFICE
WAREHOUSE/
MANUFACTURING
LI-PDA-NP
02-0117
BURLESON RD
BURLESON ROAD
AUTO
REPAIR
I-RR
FELTER 3
DOOR COMPANY
FELTER LN
COUNTY
C7A-11-001
2013-0027
I-RR
OFFICEWAREHOUSE
I-RR
EXHIBIT A-1
NORTH



THE STATE OF TEXAS]
COUNTY OF TRAVIS]

KNOW ALL MEN BY THESE PRESENTS:

That I, Joe K. Smith, owner of the hereon designated 20 acres out of the Santiago Del Valle Grant, Travis County, Texas, being the same land conveyed to me by deed recorded in Volume 3632, Page 1233 of the Deed Records of Travis County, Texas, do hereby adopt this plat as my subdivision to be known as JOE K. SMITH SUBDIVISION, subject to any easements or restrictions heretofore granted.
WITNESS MY HAND this the 20th day of September, A.D. 1971.

Joe K. Smith

THE STATE OF TEXAS]
COUNTY OF TRAVIS]

Before me the undersigned authority on this day personally appeared Joe K. Smith, known to me to be the person whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same as his act and deed for the purposes and consideration therein expressed.
WITNESS MY HAND AND SEAL OF OFFICE this the 20th day of September, A.D. 1971.

Virgil Waggoner
Notary Public in for Travis County, Texas
MY COMMISSION EXPIRES JUNE 1, 1973

SEPTIC TANK NOTE:

Each house constructed in this subdivision shall be connected to a septic tank with a capacity of not less than 750 gallons and with a drain field of not less than 150 ft. and shall be installed in accordance with regulations of the city-county health officer and shall be inspected and approved by such officer. This restriction is enforceable by the City of Austin-Travis County Health Unit and/or the developer.

In approving this plat by the Commissioners Court of Travis County, Texas, it is understood that the building of all streets, roads or public thoroughfares or any bridges or culverts necessary to be placed in such streets, roads or other public thoroughfares shall be the responsibilty of the owner and/or developer of the tract of land covered by this plat in accordance with plans and specifications prescribed by the Commissioners Court of Travis County, Texas, and said court assumes no obligation to build any of the streets, roads or other public thoroughfares or any bridges or culverts in connection therewith.

THE STATE OF TEXAS]
COUNTY OF TRAVIS]

I, Doris Shropshire, County Clerk of Travis County, Texas, do hereby certify that on the 4 day of Oct. A.D. 1971, the Commissioners Court of Travis County, Texas, passed an order authorizing the filing for record of this plat and that said order has been duly recorded in the minutes of said court in Book 3 Page 384.
WITNESS MY HAND AND SEAL OF OFFICE this the 4 day of Oct. A.D. 1971
Doris Shropshire, County Clerk, Travis County, Texas.
By L. Ramirez Deputy

FILED FOR RECORD on the 4 day of Oct A.D. 1971 at 10:30 o'clock A M
Doris Shropshire, County Clerk, Travis County, Texas.
By Linda Wacker Deputy

THE STATE OF TEXAS]
COUNTY OF TRAVIS]

I, Doris Shropshire, clerk of the County Court within and for the County and State aforsaid, do hereby certify that the foregoing instrument of writing with its certificate of authentication was filed for record in my office on the 4 day of October A.D. 1971 at 10:30 o'clock A M and duly recorded on the 4 day of October A.D. 1971 at 10:32 o'clock A M in the Plat Records of Travis County, Texas in Book 56 Page 26
WITNESS MY HAND AND SEAL OF OFFICE the date last written above.

EXHIBIT B
RECORDED PLAT

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant commercial – liquor sales – conditional overlay (CS-1-CO) combining district zoning. The Conditional Overlay limits the development of the property to 2,000 trips per day over the existing land uses.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

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

The commercial – liquor sales (CS-1) zoning district is intended for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use.

2. Zoning changes should promote an orderly and compatible relationship among land uses.

Staff recommends the Applicant's request based on the following considerations: 1) the proposed use is compatible with the surrounding uses and zoning, and there is sufficient separation from residential development; and, 2) access is taken to a major arterial roadway.

EXISTING CONDITIONS

Site Characteristics

The subject zoning area contains an adult cabaret use. There appear to be no significant topographical constraints on the site.

Impervious Cover

Within the Onion Creek watershed, the maximum impervious cover allowed by the CS-1 zoning district would be 80%, which is a consistent figure between the watershed and the zoning regulations.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the Onion Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

Development Classification	*% of Net Site Area*	*% with Transfers*
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to floodplain maps there is no floodplain within or adjacent to the project boundary.

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

No trees are located on this property. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

Site Plan

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

No Adult-Oriented Business may be located within 1000 feet of a school, church, park, day-care facility, residential neighborhood, or another adult-oriented business.

The sale of alcohol is not a permitted use for an adult cabaret.

Transportation

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

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 over the existing land use. [LDC, 25-6-117].

Water / Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

SPEC Systems & Processes Engineering Corporation
6800 Burleson Rd., Bldg. 320 • Austin Texas 78744-2306
Telephone: 512-479-7732 • Fax: 512-494-0756
E-mail: info@spec.com • URL: http://www.spec.com

June 27, 2012

By Email
Wendy.Rhoades@austintexas.gov

CITY OF AUSTIN
Planning & Development Review Department
Wendy Rhoades
P.O. Box 1088
Austin, Texas 78767-8810

Case Number: C14-2012-0051
Contact: Wendy Rhoades, 512-974-7719
Public Hearing: July 3, 2012, Zoning and Platting Commission
August 2, 2012, City Council

Re: **Objection** to the Proposed Zoning Change with Respect to the Above-Referenced Case.

To City Council and the Zoning and Platting Commission:

Systems & Processes Engineering Corporation ("SPEC") and its wholly-owned subsidiary, Oban Holdings Inc., **strongly object** to the application of KPP International (dba Hot Bodies) for a zoning change from I-RR (Rural Residence district) to CS-1 (Commercial-Liquor Sales district).

SPEC is a small high-tech business. By way of importance, it should be noted that according to Dr. Chad Moutray, Chief Economist for the Office of Advocacy of the U.S. Small Business Administration, "Small business drives the American economy." SPEC has its corporate headquarters and operates its business at 6800 Burleson Road, which is directly across the street from the entrance to the property that the applicant (*i.e.*, Hot Bodies, a sex oriented business) is seeking to rezone as a Commercial-Liquor Sales district. SPEC purchased its place of business at 6800 Burleson Road in 2006 in reliance on the fact that the property across the street was <u>not</u> zoned for liquor sales.

As is widely accepted fact, the availability of alcohol statistically and significantly increases crime. *See e.g.*, Kwabena Byimah-Brempong & Jeff Racine, *Alcohol Availability and Crime: A Robust Approach* (Aug. 2003) (at the time of their study, Byimah-Brempong was a Professor of Economics at the University of South Florida and Program Director of Economics at the National Science Foundation and Racine was with the Department of Economics and Center for Policy Research); Kathryn Steward, *How Alcohol Outlets Affect Neighborhood Violence*, Prevention Research Center of the Pacific Institute for Research and Evaluation (where Ms. Steward's study found that an increase in providers of alcohol increase violent crime -- her study also found that the density of alcohol outlets is directly related to other problems such as drinking and driving, higher rates of motor vehicle-related pedestrian injuries, and child abuse and neglect); *Alcohol and Violent Crime: What is the Connection? What Can Be Done*, US Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (Apr. 2006)

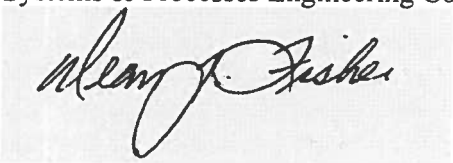
("Alcohol consumption is not only linked to acts of violence, but to the escalation of violence and the resulting severity of injuries"). In this regard, any increase in crime is unconscionable, but especially to the extent of an increase in Hot Bodies' already existing record of criminal related incidents – *see e.g.*, the arrest of a Hot Bodies' stripper and her boyfriend who were charged with the murder and aggravated robbery of a Hot Bodies' customer back on April 13, 2010. Austin Legal, *Strippers: Club Patron Who Was Found Dead Had Been Lewd, Rude*, http://www.statesman.com/blogs/content/shared-gen/blogs/austin/courts/entries/2011/06/08/; *see also* KVAN.Com, *Men Warned of Dangerous Liaisons*, http://www.kxan.com/dpp/news/crime/kxan-men-warned-of-dangerous-liaisons.

Hot Bodies is located in an area that is a mixture of residential and light industrial. In fact, a low-income housing subdivision (*i.e.*, Lennar's Colorado Crossing Subdivision) is across the street from Hot Bodies. Consequently, the character of the surrounding property is either residential/family oriented or is commercial/industrial office space. Hot Bodies itself is an anomaly in this area. Therefore, rezoning Hot Bodies' property to allow it to sell liquor would be completely against the character of the area in general and would increase crime against the area residents. Does the City Council want to be responsible for increasing the crime and violent crime against families (in particular against innocent women and children) and against responsible tax-paying businesses for the sole reason of allowing a sex oriented business to sell liquor, who by the way purchased/leased such property subject to such liquor zoning restrictions and has been allegedly operating for several years with such zoning restrictions? Because of these reasons and the reason that such rezoning, if approved, would significantly reduce the surrounding property values, SPEC is **strongly opposed** to Hot Bodies' application for rezoning. Such rezoning, if approved, would be unconscionable, an unnecessary departure from the general character of the surrounding property, harmful to the current use and enjoyment of the surrounding property, arbitrary and capricious, and unduly prejudicial towards the sole interests of a sex oriented business against the overall interests and character of the surrounding property.

If you should have any questions or comments regarding SPEC's objection to the proposed rezoning, please do not hesitate to contact me at (512) 479-7732.

Very truly yours,

Systems & Processes Engineering Corporation



Dean J. Fisher,
General Counsel

SPEC Systems & Processes Engineering Corporation
6800 Burleson Rd., Bldg. 320 • Austin Texas 78744-2306
Telephone: 512-479-7732 • Fax: 512-494-0756
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July 3, 2012

By Email
Wendy.Rhoades@austintexas.gov

CITY OF AUSTIN
Planning & Development Review Department
Wendy Rhoades
P.O. Box 1088
Austin, Texas 78767-8810

Case Number: C14-2012-0051
Contact: Wendy Rhoades, 512-974-7719
Public Hearing: July 3, 2012, Zoning and Platting Commission
August 2, 2012, City Council

Re: Supplement to **Objection** to the Proposed Zoning Change with Respect to the Above-Referenced Case.

To City Council and the Zoning and Platting Commission:

In clarification of and as a supplement to the objection letter dated June 27, 2012 to the City of Austin from Systems & Processes Engineering Corporation ("SPEC"), please know that SPEC's objection relates only to the proposed "CS-1" zoning change, and not to a "CS" District Designation zoning change. Given that Hot Bodies has operated as a sex oriented business in its current location for several years, SPEC is not objecting at this time to any zoning change that would prevent Hot Bodies from continuing its current operation (although SPEC does believe that such isolated business is detrimental to and not in the best interests of the area/community in general). SPEC is only objecting to the CS-1 District Designation that would potentially allow Hot Bodies to broaden the scope of its business and to operate differently than before (*i.e.*, commercial liquor sales) which is significantly out of character from the surrounding property.

According to Section 211.004 of the Texas Local Government Code, zoning regulations must be designed to: (1) lessen congestion in the streets; (2) secure safety from fire, panic, and other dangers; (3) promote health and the general welfare; (4) provide adequate light and air; (5) prevent the overcrowding of land; (6) avoid undue concentration of population; or (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements. Rezoning Hot Bodies into a CS-1 District Designation does not promote health and general welfare and does not secure safety from other dangers. In fact, rezoning Hot Bodies to a CS-1 District Designation would make the area less safe and be fundamentally detrimental to the health and general welfare of the community in general because, as mentioned in SPEC's objection letter dated June 27, 2012, an increase in providers of alcohol increases violent crime. Therefore, zoning Hot Bodies to a CS-1 District Designation (which does not meet any of the criteria of Section 211.004) would be against the spirit and intent of the Texas Local Government Code.

In conclusion, SPEC is against any zoning change that would allow Hot Bodies to sell alcohol which heretofore has not been a part of Hot Bodies' business operations at such location.

If you should have any questions or comments regarding SPEC's objection to the proposed rezoning, please do not hesitate to contact me at (512) 479-7732.

Very truly yours,

Systems & Processes Engineering Corporation

Dean J. Fisher,
General Counsel

SPEC Systems & Processes Engineering Corporation
6800 Burleson Rd., Bldg. 320 • Austin Texas 78744-2306
Telephone: 512-479-7732 • Fax: 512-494-0756
E-mail: info@spec.com • URL: http://www.spec.com

June 27, 2012

By Email
Wendy.Rhoades@austintexas.gov

CITY OF AUSTIN
Planning & Development Review Department
Wendy Rhoades
P.O. Box 1088
Austin, Texas 78767-8810

Case Number: C14-2012-0051
Contact: Wendy Rhoades, 512-974-7719
Public Hearing: July 3, 2012, Zoning and Platting Commission
August 2, 2012, City Council

Re: **Request for Postponement** of the Zoning and Platting Commission's Scheduled Public Hearing from July 3, 2012 to July 17, 2012.

To the Zoning and Platting Commission:

In order that Systems & Processes Engineering Corporation ("SPEC") may attend the public hearing with respect to the above-referenced proposed zoning change, SPEC respectfully requests that the hearing as scheduled be postponed for two weeks – from July 3, 2012 to July 17, 2012.

The zoning change, as proposed, would directly impact SPEC, who has its corporate headquarters and operates its business at 6800 Burleson Road, which is directly across the street from the entrance to the property that the applicant (*i.e.*, Hot Bodies, a sex oriented business) is seeking to rezone as a Commercial-Liquor Sales district.

In that the public hearing is currently scheduled on the eve of one of the United States' most important National Holidays, a low turn out from others, who might have otherwise attended due to the critical nature of the proposed zoning change, is highly likely. Therefore, given this reason and the reasons mentioned above (*i.e.*, the proposed zoning change directly impacts SPEC and SPEC is unable to attend the pubic hearing as scheduled), SPEC respectfully requests the Zoning and Platting Commission to grant SPEC's request for postponement.

If you should have any questions or comments regarding this matter, please do not hesitate to contact me at (512) 479-7732.

Very truly yours,

Systems & Processes Engineering Corporation

Dean J. Fisher,
General Counsel

LENNAR®

July 2, 2012

City of Austin
Planning & Development Review Department
Wendy Rhoades
P.O. Box 1088
Austin, Texas 78767-8810

Case Number: C14-2012-0051
Contact: Wendy Rhoades, 512-974-7719
Public Hearing: July 3, 2012, Zoning and Platting Commission
August 2, 2012, City Council

Re: **Request for Postponement** of the Zoning and Platting Commission's Scheduled Public Hearing from July 3, 2012 to July 17, 2012.

To the Zoning and Platting Commission:

In order that Lennar Homes ("Lennar") may attend the public hearing with respect to the above-referenced proposed zoning change, Lennar respectfully requests that the hearing as scheduled be postponed for two weeks – from July 3, 2012 to July 17, 2012.

The zoning change, as proposed, would directly impact the Colorado Crossing single family residential community. This 928 unit City of Austin approved SMART Housing development is a first time buyer, young family oriented neighborhood which is directly across the street from the entrance to the property that the applicant (*i.e.*, Hot Bodies, a sex oriented business) is seeking to rezone as a Commercial-Liquor Sales district.

Lennar respectfully requests the Zoning and Platting Commission postpone this agenda item to July 17, 2012.

If you should have any questions or comments regarding this matter, please do not hesitate to contact me at (512) 531-1375.

Sincerely,

Ryan Mattox
Lennar Homes

12301 Research Blvd. • Building IV • Suite 450 • Austin, TX 78759 • Phone: 512-418-0258 • Fax: 512-418-0478

Rhoades, Wendy ryan.mattox@lennar.com

From: Dean J. Fisher <fisher@spec.com>
Sent: Tuesday, July 03, 2012 10:27 AM
To: Rhoades, Wendy
Cc: Ryan Mattox
Subject: Re: Case #C14-2012-0051 -- Objection & Postponement
Attachments: Rezoning - Public Hearing2.pdf

Dear Ms. Rhoades:

Attached in pdf format is a supplement to the previous objection letter that I emailed to you on June 26, 2012 in regards to Case Number C14-2012-0051. Please provide the attached letter to the appropriate regulatory parties along with the previous letters that I emailed to you.

Also, with respect to the letter dated June 26, 2012 requesting postponement of the scheduled Zoning and Platting Commission's public hearing on July 3, 2012, please know that SPEC will not be able to attend, which is one of the reasons that SPEC is seeking postponement. In fact, it strains one's due process rights to have a party show up on the date and time of a scheduled hearing to argue postponement when the reason for the postponement was that the party could not appear at such time -- if a party can appear at such time to argue postponement then it can show up for the originally schedule hearing. In any event, SPEC's request is more than reasonable, especially considering that the hearing is scheduled on the very eve of the 4th of July, a national holiday.

Thank you for your assistance and attention to this matter.

Very truly yours,

==========

Dean J. Fisher
Corporate Counsel
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Austin, Texas 78744 USA
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e-mail: fisher@spec.com
Web: http://www.spec.com

At 11:26 AM 6/27/2012, Dean J. Fisher wrote:

Dear Ms. Rhoades:

Attached in pdf format, I have attached two letters in regards to Case Number C14-2012-0051. The first letter is an objection to the proposed zoning change in Case Number C14-2012-0051, and the second letter is a request for postponement for the currently scheduled Zoning and Platting Commission's public hearing on Case Number C14-2012-0051 from July 3, 2012 to July 17, 2012. Please timely deliver these letters to the appropriate parties (i.e., the City Council and the Zoning and Platting Commission).

If you should have any questions or comments regarding this matter or the attached letters, please do not hesitate to contact me.

Thank you sincerely for your attention to and help with this matter.

Very truly yours,

==========

Dean J. Fisher
General Counsel
Systems & Processes Engineering Corporation (SPEC)
6800 Burleson Rd., Building 320
Austin, Texas 78744 USA
Voice: (512) 479-7732 or 479-SPEC
Fax: (512) 494-0756
e-mail: fisher@spec.com
Web: http://www.spec.com

Rhoades, Wendy

From: Dean J. Fisher <fisher@spec.com>
Sent: Wednesday, June 27, 2012 11:26 AM
To: Rhoades, Wendy
Subject: Case #C14-2012-0051 -- Objection & Postponement
Attachments: Rezoning - Public Hearing.pdf; Rezoning - Postponment.pdf

Dear Ms. Rhoades:

Attached in pdf format, I have attached two letters in regards to Case Number C14-2012-0051. The first letter is an objection to the proposed zoning change in Case Number C14-2012-0051, and the second letter is a request for postponement for the currently scheduled Zoning and Platting Commission's public hearing on Case Number C14-2012-0051 from July 3, 2012 to July 17, 2012. Please timely deliver these letters to the appropriate parties (i.e., the City Council and the Zoning and Platting Commission).

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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.austintexas.gov

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: C14-2012-0051
Contact: Wendy Rhoades, 512-974-7719
Public Hearing: July 3, 2012, Zoning and Platting Commission
August 2, 2012, City Council

Dave Pfeifer, President CLDC Texas, LLC
Your Name (please print)

☐ I am in favor
☑ I object

7103 Burleson Rd, Austin TX
Your address(es) affected by this application

Signature 7/23/12 *Date*

Daytime Telephone: 907.274.8638

Comments:

If you use this form to comment, it may be returned to:
City of Austin
Planning & Development Review Department
Wendy Rhoades
P. O. Box 1088
Austin, TX 78767-8810