

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



**AGENDA ITEM NO.: Z-16
AGENDA DATE: Thu 03/24/2005
PAGE: 1 of 1**

SUBJECT: C14-04-0209 – Cawood Wholesale Liquor - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 307-503 Ferguson Dr. (Little Walnut Creek Watershed) from general commercial services – conditional overlay (CS-CO) combining district zoning and general commercial services (CS) district zoning to commercial –liquor sales –conditional overlay (CS-1-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant commercial – liquor sales - conditional overlay (CS-1-CO) combining district zoning. Applicant: Cawood Wholesale Liquors (Sam Cawood). Agent: Land Answers (Jim Witliff). City Staff: Thomas Bolt, 974-2755

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE: C14-04-0209

Z.A.P. DATE:

March 01, 2005

COUNCIL DATE

March 24, 2005

ADDRESS: 307-503 Ferguson Dr.

OWNER/APPLICANT: Cawoods Wholesale Liquor

AGENT: Land Answers, Jim Witliff

ZONING FROM: CS & CS-CO

TO: CS-1-CO

AREA: .62 acres

SUMMARY STAFF RECOMMENDATION: To approve the requested rezoning from CS & CS-CO to CS-1-CO with the following conditions: a trip limitation of less than 2000 trips per day, a building height limit of 40 feet (consistent with an existing restrictive covenant) and that the following uses would be prohibited: Cocktail Lounge and Liquor Sales,

ZONING AND PLATTING COMMISSION RECOMMENDATION:

APPROVED STAFF'S RECOMMENDATION OF CS-1-CO ZONING WITH CONDITIONS TO PROHIBIT; ADULT ORIENTED BUSINESSES, PAWN SHOPS, VEHICLE STORAGE, INDOOR ENTERTAINMENT, ON-SITE SALES OF ALCOHOL BEVERAGES, GUIDANCE SERVICES; EXTERMINATING SERVICES; AND INCLUDE ANY CONDITIONS SET OUT BY STAFF.
[J.M; J.P 2ND] (8-0) K.J – ABSENT

DEPARTMENT COMMENTS:

The subject property has in place a base district zoning that would allow for limited warehousing and distribution. However, the applicant is a liquor distributor subject to specific categories for permits to distribute alcohol mandated by the Texas Beverage and Alcohol Commission (TABC). Mr. Cawood cannot legally transfer his existing TABC permits to this property without obtaining a CS-1 zoning. A more detailed explanation can be found in the letter addressed to staff from Mr. Jim Witliff, agent representing Mr. Cawood.

The recommendation may seem inconsistent with listed permitted uses for CS-1 but the occupant does not wish to have either a retail liquor sales or cocktail lounge use established at this location. The City of Austin City Code specifically lists Liquor Sales and Limited Warehousing and Distribution as separately as permitted uses within the CS-1 district. Therefore by prohibiting the Liquor Sales the wholesale distribution would be allowed.

Liquor Sales use is the use of a site for the retail sale of alcoholic beverages for off-premise consumption. This use includes liquor stores and bottle shops.

Limited Warehousing and Distribution use is the use of a site for provision of wholesaling, storage, or warehousing services within an enclosed structure. This use includes wholesale distributors, storage warehouses, and moving or storage firms.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-CO & CS	Warehouse and Single family dwelling
<i>North</i>	CS	Undeveloped
<i>South</i>	I-SF-2	Single family and manufactured home residences
<i>East</i>	CS	Single family residence and contractor offices farther east
<i>West</i>	CS	Construction sales and services

AREA STUDY: North Lamar Area Study **TIA:** N/A**WATERSHED:** Little Walnut Creek **DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** N/A **HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:**

#103 Mockingbird Hill Neighborhood Association
#114 North Growth Corridor Alliance
#511 Austin Neighborhoods Council
#937 Taking Action Inc.

SCHOOLS:

McBee Elementary School
Walnut Creek Elementary School

CASE HISTORIES: N/A**RELATED CASES:**

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-85-060	From I-SF-2 to CS	Approved CS 04/02/1985	Approved CS-CO 06/30/88 (height limit of 40 feet)

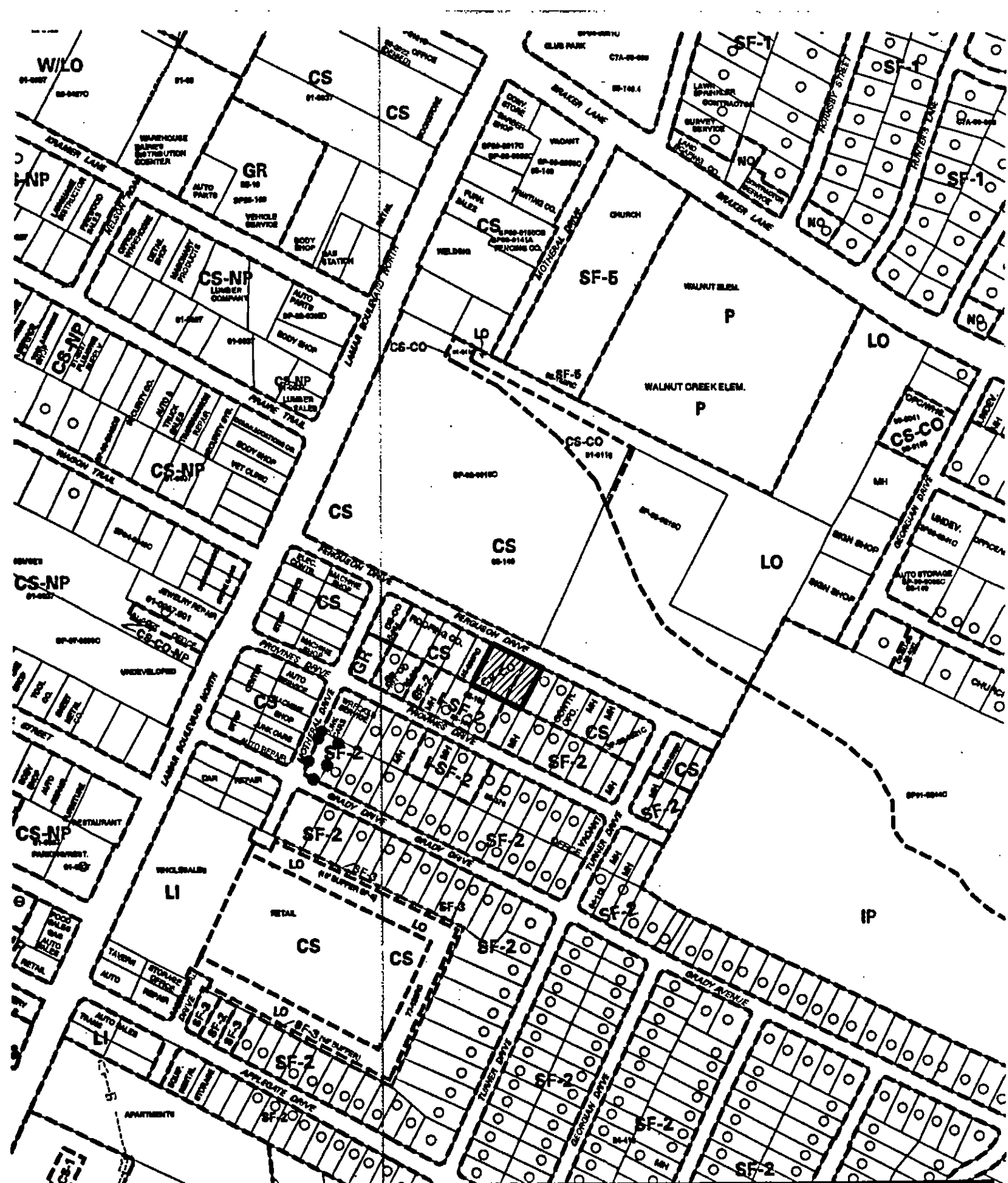
ABUTTING STREETS:





A TIA was previously approved for this case. No update was required because the density was not increasing and there were no changes made to the roadway facilities. Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

CITY COUNCIL DATE: March 24, 2005**ACTION:****ORDINANCE READINGS:** 1st 2nd 3rd**ORDINANCE NUMBER:**

CASE MANAGER: Thomas Bolt
Thomas.bolt@ci.austin.tx.us

PHONE: 512 974-2755



 1" = 400'	SUBJECT TRACT 	ZONING CASE #: C14-04-0209 ADDRESS: 307-503 FERGUSON DR SUBJECT AREA (acres): 0.620		DATE: 05-01 INTLS: SM	CITY GRID REFERENCE NUMBER M31
	PENDING CASE 				
	ZONING BOUNDARY 				
	CASE MGR: T. BOLT				



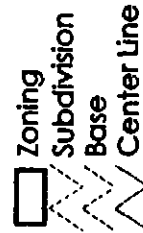
City of Austin

C14-04-0209

CAWOOD WAREHOUSE
307-503 FERGUSON DR.

REQUEST: FROM CS-CO & CS
TO CS-CO

OWNER: CAWOOD WHOLESALE LIQUO
(SAM CAWOOD)
AGENT: LAND ANSWERS
(JIM WITLIFF)



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STAFF RECOMMENDATION

To approve the requested rezoning from CS-CO & CS to CS-1-CO with the following conditions: a trip limitation of less than 2000 trips per day, a building height limit of 40 feet (consistent with an existing restrictive covenant) and that the following uses would be prohibited: Cocktail Lounge and Liquor Sales,

BACKGROUND

The subject property has in place a base district zoning that would allow for limited warehousing and distribution. However, the applicant is a liquor distributor subject to specific categories for permits to distribute alcohol mandated by the Texas Beverage and Alcohol Commission (TABC). Mr. Cawood cannot legally transfer his existing TABC permits to this property without obtaining a CS-1 zoning. A more detailed explanation can be found in the letter addressed to staff from Mr. Jim Witliff, agent representing Mr. Cawood.

BASIS FOR RECOMMENDATION

Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.

The nature of this request and subsequent staff recommendation for approval is based on the requirements of a state licensing authority and prohibition of certain uses recommended with this approval provide that this property can be used for the same type of occupancies on other properties located on this area along Ferguson Dr.

Granting of the request should result in equal treatment properties.

The Conditional Overlay prohibits uses unique to CS-1 that would be considered detrimental to the neighborhood and provides that a limited warehousing and distribution use may be established at this site consistent with other CS district zoning in the area.

EXISTING CONDITIONS

The property is currently developed with an office and residence. There are no current plans to redevelop the property at this time

Impervious Cover

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

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.

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.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Little Walnut 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.

Right of Way

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

Water and Wastewater

The landowner intends to serve the site with City water and wastewater utilities. The landowner, at own expense, will be responsible for providing the necessary water and wastewater utility improvements, offsite main extension, system upgrades, utility relocation, and utility adjustment to serve the site and land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water utility. The utility construction must be inspected by the City. The landowner must pay the associated city fees.

The landowner must pay the tap and impact fee once the landowner makes an application for a City water and wastewater tap permit.

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

There may be some compatibility standards associated with redevelopment of this site based on some single-family residences located on properties to the south.

Land ANSWERS

Development Planning Consultants

611 S. Congress Avenue, Suite 330
Austin, Texas 78704-1736
(512)416-6611 • Fax (512) 416-6610

landanswers@sbcglobal.net

February 1, 2005

Tom Bolt
City of Austin NPZ
P.O. Box 1088
Austin, TX 78767

RE: C14 - 04 - 0209, 307 - 503 Ferguson Drive

Dear Tom:

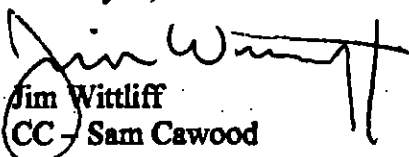
I have consulted with Mr. Cawood's TABC permit consultant, Michael Fannin of Fannin Licensing, and he has confirmed the CS-1 zoning requirement for this property. This is due to the fact that Sam Cawood holds a Package Store Permit (P), along with a Local Distributor's Permit (LP), which is subordinate to the Package Store Permit. Texas requires restaurants and bars to purchase their liquor from retail suppliers, in large part to assure that the transactions are taxable.

Michael Fannin has dealt with Greg Guernsey, Susan Walker and Shirley Brown numerous times in the past regarding TABC compliance with City of Austin zoning regulations. Mr. Cawood cannot legally transfer his existing TABC permits to the Ferguson Drive location without first obtaining CS-1 zoning. If we prohibit the possibility of retail liquor sales by adding a CO to prohibit Liquor Sales, Cocktail Lounge, and all General Retail Sales, we will assure that *this site can only be used for the warehousing and distribution of liquors*, and will never become a bar, nightclub, or retail liquor store. Michael Fannin strongly believes that this CS-1-CO zoning will meet TABC's minimum compliance requirements. Either you, Greg or Susan Walker are welcome to call Michael Fannin at 474-4159 to discuss this matter further.

It is imperative that we resolve this matter as soon as possible, because Mr. Cawood is already in the site plan engineering and design process. As we have discussed several times in the past month, we would be thrilled to be able to operate this business under the current CS zoning, but our expert sources state that CS zoning will not meet TABC's minimum permit requirements.

Please let me know if we need to meet to further discuss this, or how quickly we can get on a ZAP agenda.

Thank you,


Jim Wittliff
CC - Sam Cawood