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ZONING CHANGE REVIEW SHEET

CASE: C14-2010-0085

Z.A.P. DATE: August 3, 2010
August 17, 2010

ADDRESS: 13945 U.S. Highway 183 North

OWNER/APPLICANT: Northfork Plaza Shopping Center L.P. (Keith Heil)

AGENT: Drenner & Golden Stuart Wolff, LLP (Michele C. Haussmann)

ZONING FROM: GR **TO:** CS-1 **AREA:** 0.21 acres (9,291 sq. ft.)

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant CS-1, Commercial-Liquor Sales District, zoning.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

8/03/10: Postponed to August 17, 2010 at the applicant's request (6-0, T. Rabago-absent);
D. Tiemann-1st, C. Banks-2nd.

8/17/10: Pending

DEPARTMENT COMMENTS:

The site in question is a vacant suite within Northfork Plaza, a shopping center located at the northeast corner of U.S Highway 183 North and North FM 620 (State Highway 45). The applicant is requesting CS-1 zoning because they would like to develop a cocktail lounge (Fast Eddie's Pool Hall) within the existing retail center.

The staff is recommending the applicant's request for CS-1 zoning because the property in question meets the intent of the Commercial-Liquor Sales district. This tract of land fronts onto an arterial roadway, Research Boulevard (U.S. Highway 183). The proposed rezoning will be compatible with surrounding land uses as there are commercial and restaurant uses to the north, south, east and west of the site. The CS-1 district would allow the applicant to utilize vacant suite within an existing shopping center structure to allow for new commercial uses on the site. More intensive commercial zoning is appropriate for a retail center located at the intersection of two major retail highways within an area of concentrated commercial and retail development.

The applicant agrees with the staff recommendation.

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EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR	Vacant Suite within Northfork Plaza Shopping Center
<i>North</i>	GR, CH-PDA	Retail Shopping Center (Factory Mattress, Strait Music, Gold's Gym, Tan Etc, Sport Clips, Muang Thai Restaurant, Chair King)
<i>South</i>	GR, CS	Retail Shopping Center (Austin School of Music)
<i>East</i>	GR	Undeveloped
<i>West</i>	CS	Lakeline Mall Shopping Center

AREA STUDY: N/A

TIA: Waived

WATERSHED: Lake Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

Austin Monorail Project
Austin Parks Foundation
Davis Spring HOA
Davis Springs President
Homebuilders Association of Greater Austin
Homeless Neighborhood Association
League of Bicycling Voters
Sierra Club, Austin Regional Group

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2008-0091 (14000 Block of U.S. HWY 183 North)	GR-CO, CS to CH	5/20/08: Approved staff's recommendation for CH district zoning by consent (7-0, J. Martinez-absent); K. Jackson-1 st , T. Rabago-2 nd .	7/24/08: Approved CH district zoning by consent (5-0, Cole and Shade-off the dais)
C14-2007-0046 (14000 U.S. Highway 183 North)	DR to GR	6/05/07: Approved GR-CO with condition to prohibit Pawn Shops by consent (7-0, S. Hale, J. Martinez-absent); J. Pinnelli-1 st , J. Shieh-2 nd .	7/26/07: Approved GR-CO by consent on all 3 readings (6-0); J. Kim-1 st , B. Dunkerely-2 nd .
C14-05-0140 (U.S. HWY 183 North at Lakeline Mall Drive)	CS-1-CO to GR	9/06/05: Approved staff's recommendation of GR zoning by consent (9-0); J. Martinez-1 st , J. Gohil-2 nd .	10/06/05: Approved GR zoning by consent (7-0); all 3 readings
C14-05-0006 (Lakeline Mall Drive & Highway 183)	GR to CS-1	2/15/05: Approved staff's recommendation of CS-1-CO on consent with the following additional conditions: 1) Limit	3/10/05: Approved CS-1-CO on all 3 readings (7-0)

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North)		size of structure to 12,000 sq. ft., 2) Prohibit Pawn Shop Services, Commercial Blood Plasma Center, Exterminating Services, Restaurant (General) and Cocktail Lounge. Vote: (8-0, K. Jackson-absent)	
C14-04-0121 (13945 U.S. Highway 183 North)	DR, GR to GR	9/7/04: Approved staff's recommendation of GR zoning by consent (8-0, J. Martinez- absent); J. Gohil-1 st , T. Rabago- 2 nd .	9/30/04: Granted GR zoning (7-0); all 3 readings
C14-03-0048 (U.S. HWY 183 North and FM 620 Road North)	DR to GR	4/1/03: Approved staff's recommendation of GR zoning by consent (9-0); J. Martinez-1 st , J. Gohil-2 nd .	5/08/03: Granted GR on 3 readings (7-0)
C14-03-0046 (13945 U.S. Highway 183 North)	DR to GR	3/25/03: Approved staff's recommendation of GR zoning by consent (7-0, K. Jackson-not yet arrived, J. Martinez-absent); M. Whaley-1 st , J. Gohil-2 nd .	3/24/03: Granted GR on all 3 readings (6-0-1, Garcia-absent)
C14-01-0173	DR to GR	1/15/02: Approved GR-CO, w/ condition prohibiting Pawn Shops (8-0)	2/14/02: Approved GR-CO (7-0); all 3 readings
C14-00-2094	DR to GR	7/11/00: Approved staff rec. of GR-CO by consent (7-0)	8/17/00: Approved GR w/ conditions on 1 st reading (6-0, Goodman- absent) 8/31/00: Approved 2 nd /3 rd readings (6-0, KW-absent)
C14-00-2148	GO to GR	8/15/00: Approved staff rec. of GR by consent (7-2, RC/JM- Nay)	9/28/00: Approved GR (7-0); all 3 readings
C14-99-2110	DR, SF-2 to CS	3/28/00: Approved staff rec. of GR by consent (5-0)	5/18/00: Approved PC rec. of GR (6-0); all 3 readings

RELATED CASES: C14-04-0121, C14-03-0046 (Previous Zoning Cases)

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
US 183	400'	Varies	Arterial	58,000 ('00)

CITY COUNCIL DATE: August 26, 2010

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057,
sherri.sirwaitis@ci.austin.tx.us

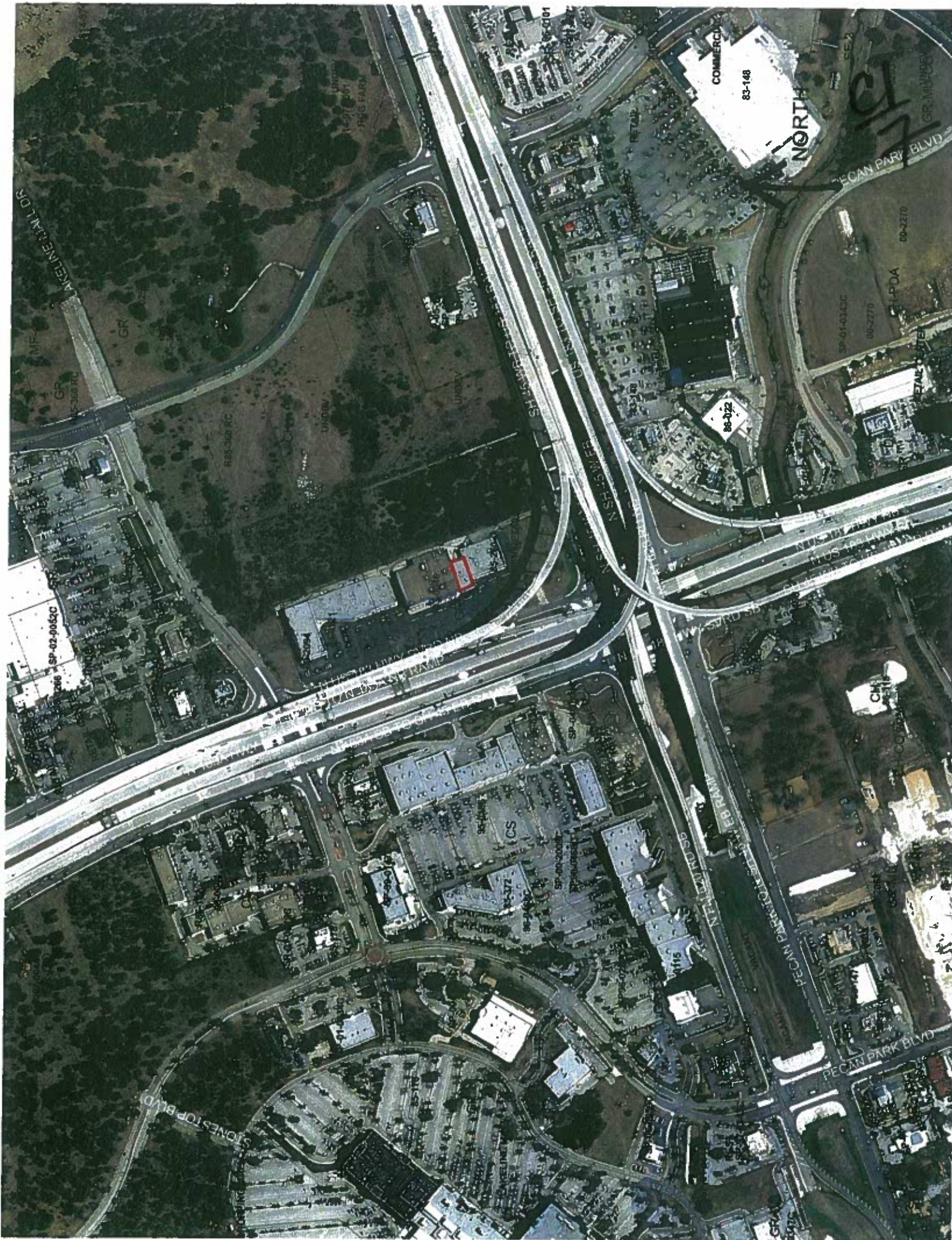
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 SUBJECT TRACT
 PENDING CASE
 ZONING BOUNDARY

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.





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STAFF RECOMMENDATION

The staff's recommendation is to grant CS-1, Commercial-Liquor Sales District, zoning.

BASIS FOR RECOMMENDATION

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

The Commercial-Liquor Sales (CS-1) district is intended for the development of a commercial or industrial use of a service nature that has operating characteristics or traffic service requirements that are incompatible with residential environments.

This tract of land is located with a retail center that takes access to a U.S. Highway 183 North, a major arterial roadway.

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

The proposed rezoning will be compatible with surrounding land uses because there are commercial and restaurant uses to the north, south and east of the site. The tracts of land to the west of this site, across U.S. Highway 183 North, comprise the Lakeline Mall Shopping Center.

3. *Zoning should allow for reasonable use of the property.*

The proposed re-zoning to the CS-1 district would allow the applicant to utilize a vacant suite within an existing retail shopping center to develop new commercial uses on the site.

4. *Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

This property in question is located at the intersection of and two arterial roadways, U.S. Highway 183 and FM 620. More intensive commercial zoning is appropriate for a retail center located at the intersection of two major retail highways within an area of concentrated commercial and retail development.

EXISTING CONDITIONS

Site Characteristics

The property under consideration is currently developed as a retail shopping center.

Environmental

The site is located over the North Edwards Aquifer Recharge Zone. It is in the Desired Development Zone. The site is in the Lake Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain 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.

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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.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

Impervious Cover

The maximum impervious cover allowed by the CS-1 zoning district would be 95%. However, because the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
Single-Family Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%
Commercial	65%	70%

In the Water Quality Transition Zones, impervious cover is limited to 30%.

Note: The most restrictive impervious cover limit applies.

Site Plan/Compatibility Standards

This site is not subject to compatibility development regulations.

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.

Transportation

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

This site is within the area covered by State legislation (S.B. 1396). Under this legislation, the City may not "deny, limit, delay, or condition the use of development of land...because of traffic or traffic

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operations that would result from the proposed use of development of the land.” A traffic impact analysis is not required for any development within this area, and traffic issues may not be considered in the approval of the application.

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
US 183	400'	Varies	Arterial	58,000 ('00)

There are existing sidewalks along US 183.

US Highway 183 is classified in the Bicycle Plan as a Priority 2 bike route.

Capital Metro bus service is available along US 183.

Water and 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.

Sirwaitis, Sherri

From: Judith Goldman [REDACTED]
Sent: Monday, August 02, 2010 12:26 PM
To: Sirwaitis, Sherri
Subject: Public Hearing on Application for Rezoning - Case # C14-2010-0085

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To Sherri Sirwaitis
Case Manager
City of Austin
Land Use Commission

Re: Case # C14-2010-0085

Request for Zoning Change from GR to CS-1

We are the owners of the former Bennigan's Restaurant property (13995 N US 183 Highway) and located within 500 feet of the proposed Fast Eddie's. We object to the rezoning request for the following reasons:

1. The purpose of zoning districts is to separate incompatible uses in order to reduce conflicts between property owners, to protect property values, and to promote the general welfare of the area. Granting the proposed rezoning violates all of these public welfare purposes.
2. The applicant purchased the property with knowledge of the permissible existing zoning uses, which are many and extensive and has not demonstrated that the property cannot be utilized under the existing zoning, nor submitted any hardship to justify a variance from existing zoning. The current zoning permits many uses, such as offices and commercial uses serving neighborhoods and community needs, and includes restaurants but does not allow cocktail lounges.
3. An upgrade in zoning affects all other nearby properties, especially one in which the applicant proposes that the primary use of the rezoned property will be consumption of alcoholic beverages. In effect, the applicant is proposing to be allowed to operate a cocktail lounge, which also has increased noise as an attendant use.
4. Under CS-1 zoning a cocktail lounge is a conditional use. There are not many of these which are permitted, as these establishments are not good for the general welfare and inhibit the uses of neighboring properties.
5. Under the Austin City Code Section 25-2-4(B), a "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, while a "Restaurant General" use is the use of a site for the preparation and retail sale of food and beverages and includes sale and on-premises consumption of alcohol as an accessory use. Food sales is considered the principal use as long as it is at least 51% of gross revenue. See Section 25-2-808. Very few properties are zoned to allow use as a cocktail lounge, due to impact on the welfare of the community and nearby uses. Any bar which proposes that more than half of its revenue will come from sale and consumption of alcohol will negatively impact its neighbors, most of which are commercial family shopping or restaurants, such as Target. A cocktail lounge so close to these establishments will not promote the overall health of the area and will definitely affect the leasability of our nearby, currently vacant commercial property which had been leased as a Bennigan's restaurant (with alcohol sales incidental to food sales).

Our property has been vacant for almost 2 years and it will be much harder to find a tenant for our property if there is a rezoned use nearby which allows a noisy cocktail lounge. The value of our property will plummet even further if a neighboring property, currently zoned for community use, is rezoned to permit a conditional use for cocktail sales.

6. There is no need for a rezoning of the project location, as other neighboring and

currently vacant and available properties already enjoy a CS-1 zoning. However, none of these properties are zoned to permit the conditional use of a cocktail lounge.

Judith Goldman
Deborah Zahrt

LJR Austin Properties LLC

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August 11, 2010

Ms. Betty Baker, Chair
Austin Zoning and Platting Commission
c/o Ms. Sherri Sirwaitis
Neighborhood Planning and Zoning Department
P.O. Box 1088
Austin, TX 78767-1088

Re: Case number C14-2010-0085

Dear Madam Chair and Members of the Commission,

The NASWC Zoning Committee was contacted by Ms. Haussmann, Agent for the property, to discuss their request to rezone a tenant space on the property to CS-1 to allow for Fast Eddie's to open a pool hall/cocktail lounge. We have reviewed the information provided by the Agent at our meeting with her and subsequent correspondence, visited the Fast Eddie's location in Round Rock, and discussed their corporate policy and practices with one of the owners.

While not opposed to Fast Eddie's per se, we are concerned that rezoning this space to CS-1 would be a draw for other CS-1 businesses, several of which are adult-oriented businesses and not compatible with our neighborhood community. In addition, two of the current tenants in this shopping center cater to youth: Strail Music and Austin School of Music.

Therefore, we respectfully request that should CS-1 zoning district be recommended by this Commission and granted for this space, a Conditional Overlay be placed that will prohibit the following uses:

- Drop-Off Recycling Collection Facility
- Adult-Oriented Business
- Bail Bond Services
- Commercial Blood Plasma Center
- Transitional Housing
- Adult Lounge

We also ask that should the Owner apply for Rezoning of other tenant spaces in the Northfork Plaza Shopping Center that such a Conditional Overlay would serve as a guideline in reviewing future cases.

Your consideration of our concerns is very much appreciated.

Sincerely yours,

Cathy Mandell

Cathy Mandell
Chair, NASWC Zoning