LR

PC C+O C3 3-15-1

# ORDINANCE NO. 20080131-135

**AN ORDINANCE AMENDING CHAPTER 25-2 OF THE CITY CODE TO AMEND SECTION 25-2-491 AND TO ADD SECTION 25-2-586 RELATING TO CERTAIN USES IN NEIGHBORHOOD COMMERCIAL (LR) DISTRICTS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The table in Section 25-2-491(C) *(Permitted, Conditional, And Prohibited Uses)* of the City Code is amended to indicate that the following uses are permitted in a neighborhood commercial (LR) district

(A) general retail sales (general);

(B) personal improvement services, and

(C) restaurant (general)

**PART 2.** Chapter 25-2 *(Zoning)* of the City Code is amended to add Section 25-2-586 to read·

**§ 25-2-586 REQUIREMENTS FOR CERTAIN USES IN A NEIGHBORHOOD COMMERCIAL (LR) DISTRICT.**

(A) This section applies in a neighborhood commercial (LR) district

(B) A personal improvement services use may not exceed 5,000 square feet of gross floor area

(C) This subsection applies to a general retail sales (general) use

(1) The gross floor area may not exceed 5,000 square feet

(2) Access to the site from a local street is prohibited

(D) This subsection applies to a restaurant (general) use

(1) A restaurant (general) use may operate only after 7 00 a m and before 11 00 p m

(2) An outdoor seating area may not·

(a) exceed 500 square feet of area, or

(b) be located within 50 feet of property with a single-family use or property zoned as a townhouse and condominium residence (SF-6) or more restrictive district

(3) Outdoor entertainment as an accessory use is prohibited

(4) Outdoor amplified sound is prohibited

(5) A drive-through facility is prohibited

**PART 3.** This ordinance takes effect on February 11, 2008

**PASSED AND APPROVED**

January 31, 2008 § Will Wynn
Mayor

**APPROVED:** David Allan Smith
City Attorney

**ATTEST:** Shirley A. Gentry
City Clerk

# ORDINANCE NO.

**AN ORDINANCE AMENDING SECTION 25-2-586 OF THE CITY CODE TO CORRECT A NUMBERING ERROR AND TO ADD A RESTRICTION ON MAXIMUM INDOOR FLOOR AREA TO THE REQUIREMENTS FOR A RESTAURANT (GENERAL) USE IN A NEIGHBORHOOD COMMERCIAL (LR) DISTRICT.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 25-2-586 (*Requirements for Certain Uses in a Neighborhood Commercial [LR] District*) is amended to read:

already Fixed (ok)

**§ 25-2-587 [~~25-2-586~~] REQUIREMENTS FOR CERTAIN USES IN A NEIGHBORHOOD COMMERCIAL (LR) DISTRICT.**

(A) This section applies in a neighborhood commercial (LR) district.

(B) A personal improvement services use may not exceed 5,000 square feet of gross floor area.

(C) This subsection applies to a general retail sales (general) use.

(1) The gross floor area may not exceed 5,000 square feet.

(2) Access to the site from a local street is prohibited.

(D) This subsection applies to a restaurant (general) use.

(1) The gross indoor floor area may not exceed 4,000 square feet.

needs to be added ↓ refer to Council transcripts from 1-31-2008

(2) [~~(1)~~] A restaurant (general) use may operate only after 7:00 a.m. and before 11:00 p.m.

(3) [~~(2)~~] An outdoor seating area may not:

(a) exceed 500 square feet of area; or

(b) be located within 50 feet of property with a single-family use or property zoned as a townhouse and condominium residence (SF-6) or more restrictive district.

(4) [~~(3)~~] Outdoor entertainment as an accessory use is prohibited.

(5) [~~(4)~~] Outdoor amplified sound is prohibited.

(6) [~~(5)~~] A drive-through facility is prohibited.

**PART 2.** This ordinance takes effect on _____, 2008.

**PASSED AND APPROVED**

§

§

_____, 2008 § _____

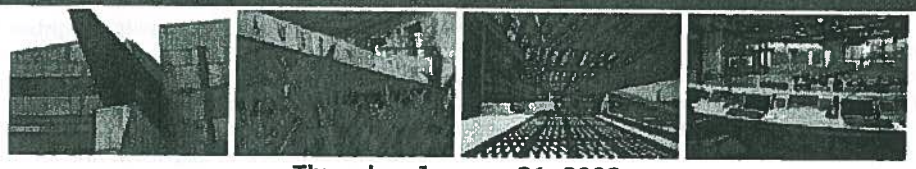
Will Wynn
Mayor

**APPROVED:** _____
David Allan Smith
City Attorney

**ATTEST:** _____
Shirley A. Gentry
City Clerk

A U S T I N C I T Y C O U N C I L

# AGENDA



**Thursday, January 31, 2008**

Back Print

**Public Hearings and Possible Actions**
**RECOMMENDATION FOR COUNCIL ACTION**

**ITEM No. 135**

**Subject:** Conduct a public hearing and consider an ordinance amending Chapter 25-2 of the City Code to add new permitted uses to the Neighborhood Commercial (LR) zoning district.

**Additional Backup Material**
(click to open)
- Planning Commission Action
- Ordinance

**For More Information:** Mark Walters, 974-7695; Sylvia Arzola, 974-6448.

**Boards and Commission Action:** Recommended by Planning Commission.

The Neighborhoood Planning and Zoning Department is recommending an amendment to Chapter 25-2 of the City Code to add three additional uses to the neighborhood commercial (LR) zoning district: General Retail Sales, Personal Improvement Services and Restaurant General.

This code amendment is being proposed in conjunction with the creation of two new land use categories for Future Land Use Maps (FLUMs): Neighborhood Commercial and Neighborhood Mixed-Use. These categories were created to differentiate between various intensities of retail and mixed-use. An analysis of the uses allowed in the Community Commercial (GR) zoning district indicated that the three proposed uses are appropriate for the Neighborhood Commercial (LR) zoning district if additional regulations are established to mitigate possible negative effects.

NPZD staff has reviewed zoning case history and has discovered that applicants seeking the above uses in an LR district have been required to apply for a zoning change to GR, but the uses allowed in the GR category have been considered neighborhood unfriendly. As a result, those cases eventually required the creation of a Conditional Overlay (CO) to prohibit all uses allowed in the GR zoning district with the exception of one of the proposed new uses, and without the additional requlations proposed in this code amendment to mitigate any possible negative effects.

The proposed new uses and their limitations in the LR district are as follows:

1. General Retail Sales–General (less than 5,000 sq/ft) - Allows the sale or rental of commonly used goods for personal or household use. This includes department stores, furniture stores, and those selling home furnishings, appliances, wallpaper, and floor-coverings. This use also includes auto parts stores that do not service vehicles or install parts. In addition to a size limitation, the amendment will require that access to the site should be directly from an arterial or collector street.

2. Personal Improvement Services (less than 5,000 sq/ft)- Allows for the provision of informational, instructional, personal improvement, and similar services of a nonprofessional nature. This use includes photography studios, driving schools, health or physical fitness studios, dance studios, and handicraft or

hobby instruction. A size limitation will allow neighborhood-compatible uses where they are currently not allowed.

3. Restaurant General (less than 4,000 sq/ft) - Provides opportunities for for smaller, neighborhood-scaled restaurants where presently there are none. In addition to a size limitation, the amendment will include several performance standards that will make the use compatible and complementary in scale and appearance with a residential environment: • Outdoor seating shall be limited to 500 sq/ft (this would allow approximately seven or eight tables) • Outdoor seating shall not be located adjacent to any single-family use or a single-family zoning district of SF-6 or more restrictive. • Hours of operation are 7:00 AM to 11:00 PM • No amplified music for outside seating • No outdoor entertainment • A drive-through accessory use is not allowed.

# Closed Caption Log, Council Meeting, 1/31/08 Excerpt

**Note:** Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. **These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes.** For official minutes, please contact the City Clerk at 974-2210.

THANK YOU MAYOR AND COUNCIL. I'M GOING TO INTRODUCE MARK WALTERS TO PRESENT ITEM 135.

MAYOR WYNN: THANK YOU. WELCOME, MR. WALTERS.

GOOD EVENING, MAYOR AND COUNCIL. MARK WALTERS, NEIGHBORHOOD PLANNING AND ZONING. I'M HERE TO PRESENT AGENDA ITEM NO. 135, WHICH WOULD BE TO AMEND CHAPTER 25-2 OF THE CITY CODE TO ADD THREE NEW USES TO THE NEIGHBORHOOD COMMERCIAL OR L.R. ZONING DISTRICT. THOSE THREE NEW YOOZ WOULD BE GENERAL RETAIL SALES, LESS THAN 5,000 SQUARE FEET, AND THAT WOULD ALLOW FOR THE SALE OF FURNITURE STORES, THOSE STORES SELLING HOME FURNISHINGS, OR THE -- THE SALE OF AUTO -- AUTOMOBILE PARTS BUT NOT THE INSTALLATION OF THOSE PARTS. THE SECOND USE WOULD BE PERSONAL IMPROVEMENT SERVICES, LESS THAN 5,000 SQUARE FEET, AND THAT WILL ALLOW FOR PHYSICAL FITNESS STUDIOS, MARTIAL ARTS STUDIOS, YOGA STUDIOS, PILATES STEWED YO, LEARN 35,000 SQUARE FEET. THE THIRD USE, RESTAURANT, LESS THAN 4,000 SQUARE FEET, WOULD ALLOW A RESTAURANT THAT SELLS ALCOHOL INCIDENTAL TO FOOD IN LR ZONING DISTRICT. CURRENTLY YOU CANNOT HAVE A RESTAURANT IN LR ZONING WHERE YOU CAN HAVE AN ADULT BEVERAGE WITH YOUR MEAL, BUT YOU CAN HAVE A DRIVE-THROUGH RESTAURANT OPEN 24 HOURS A DAY, WOULD BE A 5,000-SQUARE-FOOT PAD BUT YOU COULDN'T HAVE A 12,000-SQUARE-FOOT RESTAURANT AND HAVE A GLASS OF WINE. THIS IS ALLOW FOR SMALL NEIGHBORHOOD RESTAURANTS IN LR ZONING. THE PLANNING COMMISSION RECOMMENDED THE FIRST TWO USES, THE PERSONAL IMPROVEMENT SERVICES AND THE GENERAL RETAIL SALES GENERAL AND HAD NO RECOMMENDATION ON THE RESTAURANT LESS THAN 4,000 SQUARE FEET. ALSO, WITH THE RESTAURANT LESS THAN 4,000 SQUARE FEET, THERE ARE SOME PERFORMANCE MEASURES THAT HAVE TO BE MET. AMONG THOSE IS OUTDOOR SEAT SHOULD BE LIMITED TO 500 SQUARE FEET. OUTDOOR SEATING SHOULD NOT BE LOCATED ANY CLOSER 50 FEET TO A SINGLE-FAMILY USE. THE HOURS OF OPERATION WOULD BE LIMITED TO 7:00 IN THE MORNING TO 11:00 IN THE EVENING. NO AMPLIFIED SOUND OUTSIDE, NO MUSIC OR LOUD SPEAKERS, NO OUTDOOR ENTERTAINMENT AS AN ACCESSORY USE, SO IT WOULD BE JUST A

DINING ONLY, NO OUTDOOR ENTERTAINMENT, NO PERFORMANCE, AND A DRIVE-THROUGH ACCESSORY USE WOULD NOT BE ALLOWED. AND THAT'S -- THERE'S AN ORDINANCE PREPARED AND IS READY FOR ALL THREE READINGS. THAT'S THE END OF MY PRESENTATION, IF YOU HAVE ANY QUESTIONS.

MAYOR WYNN: THANK YOU, MR. WALTERS. QUESTIONS OF STAFF, COUNCIL? COMMENTS? I JUST APPRECIATE STAFF OBVIOUSLY AS RETAILING CONTINUES TO CHANGE AND AS WE DO A BETTER JOB OF GETTING MORE LOCALLY OWNED SMALL BUSINESSES BACK INTO OUR NEIGHBORHOODS, THIS IS WHAT STAFF SHOULD BE DOING, IS MAKING SURE WE HAVE THE FLEXIBILITY WITHIN OUR CODE, SO WE APPRECIATE THAT WORK.

THANK YOU, MAYOR.

---

MAYOR WYNN: ARE THERE ANY CITIZENS WHO WOULD LIKE TO GIVE US TESTIMONY ON THIS ITEM NO. 135 REGARDING NEIGHBORHOOD COMMERCIAL ZONING -- AMENDING THE NEIGHBORHOOD ZONING DISTRICT□□□□□□□□ DISTRICT? HEARING NONE I'LL ENTERTAIN A MOTION. MOTION BY COUNCIL MEMBER MCCRACKEN, SECONDED BY THE MAYOR PRO TEM TO CLOSE THE PUBLIC HEARING AND APPROVE THIS AMENDED ORDINANCE AS PRESENTED BY STAFF. FURTHER COMMENTS? COUNCIL MEMBER KIM? KIM CEM.

KIM: I KNOW THAT SOME PEOPLE ARE CONCERNED ABOUT THE RESTAURANT USE BECAUSE OF THE TRAFFIC AND I WAS WONDERING IF TO MAKE A MOTION, DO IT LIKE THE PLANNING COMMISSIONS AND EXCLUDE THAT. THE RESTAURANT USE. THE PLANNING COMMISSION HAD NO RECOMMENDATION FOR THAT, THE RESTAURANT USE.

MAYOR WYNN: SO MS. WALKER, HELP ME AT LEAST BEFORE I EVEN ASK -- TO CONSIDER THAT.

THE POINT -- THIS ONE ITEM WAS BEFORE THE PLANNING COMMISSION. THEY TRIED TO ATTACH ADDITIONAL CONDITIONS, AND EVERY TIME THEY WENT THROUGH TWO DIFFERENT ITERATIONS OF A VOTE TRYING TO ATTACH DIFFERENT CONDITIONS, TRYING TO ATTACH SOUND, INTERNAL SOUND, DISTANCE FROM THE FRONT DOOR OF THE ESTABLISHMENT, AND THEY COULDN'T COME UP WITH A DEFINITIVE VOTE. THERE WAS ALWAYS A LOSING SIDE. THEY COULDN'T GET A MAJORITY OF VOTES FOR THAT. SO THE TONE OF THE VOTE WAS NOT TO EXCLUDE IT BUT TO COME UP WITH EXTRA CONDITIONS, AND THEY COULDN'T WITH UP WITH A CONSENSUS. SO THAT WAS THE NATURE OF THE VOTE FOR THE PLANNING COMMISSION.

MAYOR WYNN: OKAY.

DOES THAT ANSWER YOUR QUESTION?

MAYOR WYNN: THAT HELPS ME. COUNCIL MEMBER KIM, ARE YOU STILL --

KIM: YEAH, I'D LIKE TO GIVE THEM MORE TIME, IF THERE ARE SOME CONDITIONS THEY NEED, I GUESS I NEED TO HEAR THOSE. SO I WON'T SUPPORT THIS ON ALL THREE READINGS, BUT I'M OPEN TO LOOKING AT OTHER WAYS WE CAN ADDRESS THOSE ISSUES.

MAYOR WYNN: AND MS. WALTERS, THE PLANNING COMMISSION COULD ALWAYS INITIATE ANY CODE AMENDMENT AND BRING IT TO COUNCIL AT ANY TIME IN THE FUTURE, CORRECT?

THAT IS CORRECT.

MAYOR WYNN: OKAY. SO FURTHER -- THE MOTION AND SECOND ON THE TABLE. FURTHER COMMENTS? HEARING NONE, ALL THOSE IN FAVOR PLEASE SAY AYE.

AYE.

MAYOR WYNN: AYE. OPPOSED? MOTION PASSES ON ALL THREE READINGS WITH A VOTE OF 6-1 WITH COUNCIL MEMBER KIM VOTING NO.

THANK YOU.

***Planning Commission Minutes***

**ORDINANCE AMENDMENT**

| | | |
|---|---|---|
| 3. | **Ordinance Amendment:** | **C20-07-015 - Additional Uses for the Neighborhood Commercial (LR) Zoning District** |
| | Owner/Applicant: | City of Austin Neighborhood Planning and Zoning Department |
| | Agent: | City of Austin Neighborhood Planning and Zoning Department |
| | Request: | Amend Chapter 25-2 of the City Code to add three new permitted uses to the Neighborhood Commercial (LR) zoning district.<br>• General Retail Sales–General (less than 5,000 sq/ft)<br>• Personal Improvement Services (less than 5,000 sq/ft)<br>• Restaurant General (less than 4,000 sq/ft) |
| | Staff Rec.: | **Recommended** |
| | Staff: | Mark Walters, 974-7695, mark.walters@ci.austin.tx.us<br>City of Austin Neighborhood Planning and Zoning Department |

***• GENERAL RETAIL SALES–GENERAL (LESS THAN 5,000 SQ/FT) – APPROVED STAFF'S RECOMMENDATION.***

***• PERSONAL IMPROVEMENT SERVICES (LESS THAN 5,000 SQ/FT) – APPROVED STAFF'S RECOMMENDATION.***

***• RESTAURANT GENERAL (LESS THAN 4,000 SQ/FT) – NO RECOMMENDATION FROM PLANNING COMMISSION; FORWARD TO COUNCIL WITH NO ACTION.***

***[M.DEALEY, S.KIRK 2ND] (7-0) D.SULLIVAN – ABSENT***