

ZONING CHANGE REVIEW SHEET

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CASE: C14-2011- 0043 – 753 Montopolis

P.C. DATE: June 14, 2011 (postponed by neighborhood)
June 28, 2011 (meeting cancelled)
July 12, 2011

ADDRESS: 753 Montopolis Drive

OWNER/APPLICANT: Babubhai Mohammad

AGENT: Rafiq B. Mohammad

ZONING FROM: CS-NP and CS-1-NP

TO: CS-1-NP and CS-NP

AREA: 0.041 acres (1,792 ft²)

SUMMARY STAFF RECOMMENDATION: Staff recommends approval of CS-1-NP (General Commercial Services – Liquor Sales – Neighborhood Plan) and CS-NP (General Commercial Services-Neighborhood Plan) district zoning.

DEPARTMENT COMMENTS: This property is currently developed with two commercial businesses; a liquor sales establishment and a convenience store/salon. The owner of the property has been contacted by the city of Austin and informed that the CS-1 property falls within 1000 feet of a religious assembly use and is therefore out of code compliance. The applicant seeks to exchange the zoning of the two similarly sized buildings to come into compliance with city and state guidelines regulating liquor stores.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-NP, CS-1-NP	Liquor sales, convenience store, salon
<i>North</i>	GR-NP	Undeveloped, Auto sales
<i>South</i>	GR-NP	Undeveloped, Church
<i>East</i>	SF-3-NP	Undeveloped, Single Family
<i>West</i>	GO-CO-NP	Church, Single Family

NEIGHBORHOOD PLAN: Montopolis Neighborhood Plan

TIA: Waived

WATERSHED: Carson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

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NEIGHBORHOOD ORGANIZATIONS:

- Vargas Neighborhood Association
- El Concilio coalition of Mexican American Neighborhood Associations
- Montopolis Neighborhood Association
- Montopolis Area Neighborhood Alliance
- Southeast Austin Neighborhood Alliance
- Riverside Meadows Homeowners Association
- Crossing Garden Homeowners Association

CASE HISTORIES

NUMBER	REQUEST	COMMISSION	COUNCIL
C14-01-0060	Montopolis Neighborhood Plan	Approved (7-2); 8/7/2001	Approved (6-1); 9/27/2001

BASIS FOR RECOMMENDATION

1. Zoning should allow for reasonable use of the property.

The existing zoning categories on the property will remain unchanged and allow the current uses to continue operating under compliance with regulatory requirements.

2. No change in conditions has occurred within the area indicating that there is a basis for changing the originally established zoning and/or development restrictions for the property.

The existing zoning and uses are not requested to change and will continue operation under existing standards.

EXISTING CONDITIONS

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 Country Club East 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:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
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 flood plain maps, there is no floodplain within, or adjacent to the project boundary.

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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.

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.

Water and Wastewater

If 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 the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. 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.

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:

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
Montopolis Drive	70'	40'	Collector	Not Available

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

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

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There are existing sidewalks along Montopolis Drive.

According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, bicycle facilities are existing and/or recommended along the adjoining streets as follows:

Street Name	Existing Bicycle Facilities	Recommended Bicycle Facilities
Montopolis Drive	Shared Lane	Bike Lane

Capital Metro bus service (route no. 350) is/are available along Montopolis Drive.

CITY COUNCIL DATE: June 23, 2011

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

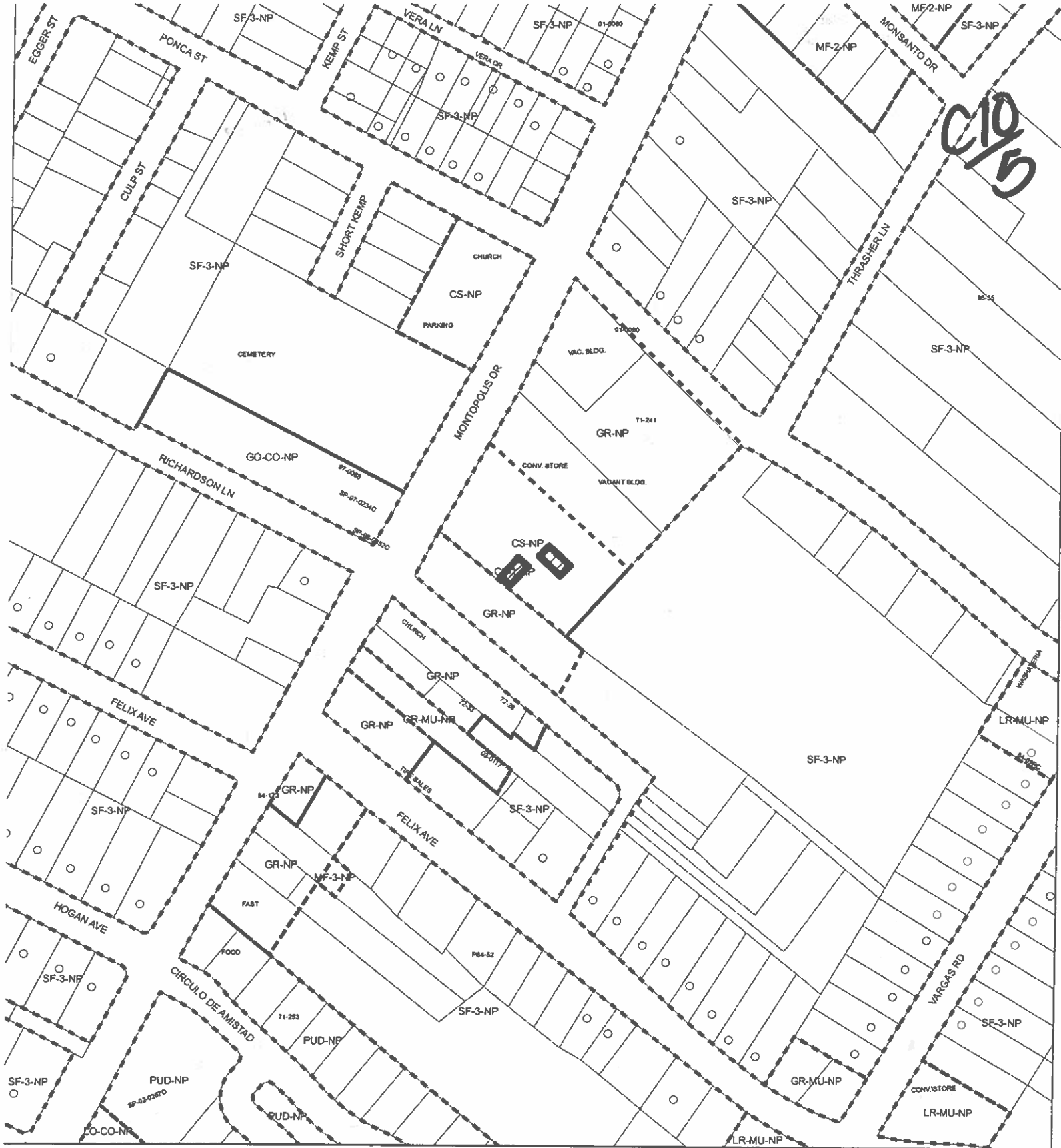
ORDINANCE NUMBER:

CASE MANAGER: Stephen Rye

PHONE: 974-7604

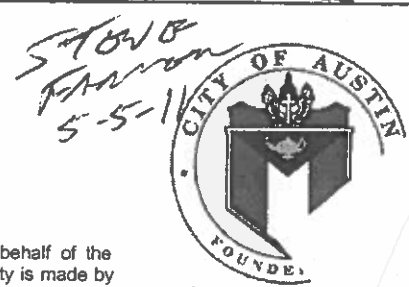
stephen.rye@ci.austin.tx.us





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ZONING

ZONING CASE#: C14-2011-0043
 LOCATION: 753 MONTOPOLIS DR
 SUBJECT AREA: 0.41 ACRES
 GRID: L19
 MANAGER: STEPHEN RYE



-  N
-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 200'

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.



SF-3-NP

SF-3-NP

MF-2-NP

SF-3-NP

SF-3-NP

PONCA ST

CS-NP

PARKING

SF-3-NP

SF-3-NP

GO/CO-NP

GR-NP

CS-NP

C-1-NP

GR-NP

VACANT BLDG.

CONV. STORE

MONTOPOLIS DR

RICHARDSON LN

SF-3-NP

GR-NP

GR-NP

GR-MU-NP

SF-3-NP

FELIX AVE

SF-3-NP

GR-NP

SF-3-NP

FELIX AVE

GR-NP

MF-3-NP

SF-3-NP

PUD-NP

PUD-NP

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PROPOSED
**ZONING
 CHANGE**
 PUBLIC HEARING

FOR FURTHER INFORMATION
 CONTACT:

PLANNING & DEVELOPMENT
 REVIEW DEPARTMENT
 ZONING REVIEW SECTION
 974-7668

Please reference file number
C14-2011-0043

City of Austin
 DO NOT REMOVE

5/5/2011





5/5/2011

Rye, Stephen

From: Gibbs, Carol
Sent: Monday, May 09, 2011 3:42 PM
To: Rye, Stephen
Subject: FW: C14-2011-0043 753 Montopolis Drive

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Stephen,

I see Del mistyped your email address... so in case he didn't re-send it, here it is...

Carol Gibbs / Neighborhood Advisor / Neighborhood Assistance Center
 City of Austin Planning & Development Review Dept.
 505 Barton Springs Rd., Rm. 530 Austin, TX 78704
 Phone: 512-974-7219 Fax: 512-974-2269
www.ci.austin.tx.us/neighborhood
Carol.Gibbs@ci.austin.tx.us

Please note: E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act

From: DElwingoss@aol.com [REDACTED]
Sent: Monday, May 09, 2011 3:37 PM
To: Setephen.Rye@ci.austin.tx.us
Cc: [REDACTED] Gibbs, Carol
Subject: C14-2011-0043 753 Montopolis Drive

I am contacting you to register my opposition to this proposed zoning change to permit the sale of liquor from this location. Just looking at the small map provided, the back of that liquor store will be right across the street from a Church. There are three churches adjacent to this location.

The St Edwards Baptist Church at the S.E. Corner of Ponca and Montopolis, another church at the south east corner of Richardson and Montopolis directly behind the proposed location for liquor store and another church at the north east corner of Richardson and Montopolis.

The largest empty tract of land east of this location has been purchased by Austin Habitat for Humanity and in the near future will be built out with homes for lower income families. This proposed zoning change would allow a liquor store right in the middle of three churches and in the heart of this neighborhood

I realize the Planning and Zoning Department doesn't concern itself with the crime in our neighborhood but as a Montopolis resident, I do. I look at the crime reported over a 48 hour period and most of it is drug and alcohol related, family violence, assault, aggravated assault, burglary of a vehicle, burglary of a residence, theft, DWI, robbery by assault, etcetera. While I understand that liquor is legal and a personal choice, I think the positioning of a liquor store is better suited along the East Riverside Corridor, Hwy 71 and/or Hwy 183 and not in the heart of what is a residential district.

Respectfully,

Delwin Goss
 6410 Ponca Street
 Austin, Texas 78741

[REDACTED]
 512-389-2133 H
 512-507-7615 C

"The world is moved along not only by the mighty shoves of its heroes, but also by the aggregate of the tiny pushes of each honest worker." - Helen Keller 1880-1968,

Rye, Stephen

From: Gregory McDaniel [REDACTED]
Sent: Friday, May 06, 2011 11:37 AM
To: Rye, Stephen
Subject: Ref Case # C14-2011-0043
Attachments: Why I do not want the liquor store.png

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Mr Rye.

I live on the corner of Ponca St and Thrasher Lane. There is a small open field between my home and the proposed liquor store that Mr Mohammad wants to open. There is a well worn path from the side walk in front of my home that leads directly to the area where he wants to sell liquor. (see the attachment) I already have a problem with the cans and bottles that are being discarded onto my side walk and thrown over my fence from persons that walk to the convenience store, purchase items, walk out of the store, open and consume the product as they walk back into the neighborhood and then throw the empty containers down onto the ground. People driving to the store often cut through the open field driving recklessly goint to the store, with their boom boom musci blasting and disrupting our neighborhood. Allowing liquor to be sold here will only add more traffic and problems.

My two teen age boys play foot ball and throw frizbies in our yard with their cousin and when the balls or disk go over the fence they have to go and get them. I have on 2 occasions in the last month found syringes with needles attached discarded onto the cities right of way between the street and my fence on the corner of Ponca St. Thrasher Lane. I have had to clean broken glass from the bottles that were smashed on the curb. I don't not want these items around us, and feel like allowing a liquor stor to open in this location will only add to my cleaning problems.

I am attaching a Ariel picture from google maps to show where my home is, and where the store it proposed to be located. PLEASE do not add to my problems by allowing a liquor store to open right in my front yard.

The file was modified with microsoft paint, so it should open with out a problem

Sincerely,

Greg McDaniel
617 Thrasher Lane
Austin, TX
78741
512-618-2349

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Greg McDaniel

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Greg McDaniel

5/9/2011

Rye, Stephen

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From: Rye, Stephen
Sent: Friday, June 10, 2011 8:58 AM
To: 'Jesse Palacios'
Subject: RE: Case Number: C14-2011-0043

Mr. Palacios,

Yes, that would be the case. Any business with commercial zoning of general retail (GR) or a higher category is allowed to sell beer and wine under the 51% provision by under TABC regulations. I agree that your concerns are valid and I encourage you to bring this to attention to the Planning Commission and City Council. I will include your comments in the staff report.

The planning staff does not see this case as one in which we are granting the property owner the right to sell liquor. This property has had those entitlements since the implementation of the Montopolis neighborhood plan in 2001. Since we are dealing with existing land uses, we feel it is appropriate to recommend that the applicant be allowed to adjust his current zoning in order to come into compliance.

Thank you,

Stephen

Stephen Rye
City of Austin
Planning and Development Review Department
Current Planning Division
(512) 974-7604
(512) 974-6054 fax

From: Jesse Palacios [redacted]
Sent: Thursday, June 09, 2011 10:34 PM
To: Rye, Stephen
Subject: RE: Case Number: C14-2011-0043

Mr. Rye,

I am impressed by the promptness in your response and its clarity and thoroughness. Thank you! Does this mean that as long as the convenience store's receipts don't exceed 51% of its sales, we will now have two businesses in the same retail strip selling alcoholic beverages?

Respectfully,

Jesse Palacios

Subject: RE: Case Number: C14-2011-0043
Date: Thu, 9 Jun 2011 15:24:57 -0500
From: Stephen.Rye@ci.austin.tx.us
To: jtpalacios@ci.austin.tx.us

6/14/2011

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Mr. Palacios,

The owner is requesting a zoning change in order to sell liquor. He is currently operating outside of the necessary zoning requirements and has been cited. As long as he has a zoning case pending, the citation is also considered pending.

The convenience store already has the correct zoning to sell beer and wine, as long as the sales do not exceed 51% of the receipts.

You are correct in that the applicant is seeking to swap the zoning categories on the property to be in compliance with zoning regulations. You are also correct that our map need to be updated. The vacant building is actually the auto sales use on the corner of Montopolis and Ponca.

Staff has recommended the change based on the fact that the requested zoning already exists on the site. Since the uses will not change, the existing zoning categories have been determined to be an appropriate land use for the property.

Let me know if you need any additional information or clarification.

Thanks,

Stephen Rye
City of Austin
Planning and Development Review Department
Current Planning Division
(512) 974-7604
(512) 974-6054 fax

From: Jesse Palacios [mailto:jpalacios@cityofaustin.gov]
Sent: Thursday, June 09, 2011 3:17 PM
To: Rye, Stephen
Subject: Case Number: C14-2011-0043

Mr. Rye,

Two questions for you regarding the request for rezoning of the property at 753 Montopolis Drive:

- (1) I take it that the owner of the property is requesting a Zoning Change so that he can sell liquor at the above address. Is that correct? If so, can he sell liquor prior to the official zone change? A liquor store at that site has been in operation for over a month now.
- (2) Should the change occur does this mean that the convenience store in the same retail strip will no longer be licensed to sell beer and wine since I see what appears to be a flip-flop of designations?

The map on the reverse side of the Notice of Public Hearing we have received is confusing. It needs to be updated; the "conv. store" designation appears to be outside the subject tract area when in reality, at least the way I read the Notice, it is one of the two subject tracts. Where is the "vacant bldg."? Is it referring to the laundry mat that's been there for several years now?

I am opposed to the liquor store because of the traffic that has compounded the use of the field between the strip mall area and Ponca St to the north. It is an open field and drivers have already created rutted paths to and from Ponca St where they jump the curb. During rainy times this area becomes a pool of water and remains there for days. When it dries it becomes dusty and a shortcut for pedestrians.

I am also opposed to the liquor store because I don't believe we need an additional alcohol retailer in this residential neighborhood. This is an economically disadvantaged neighborhood; making it easier for area residents to spend their hard-earned wages on liquor. This reminds me of the opposition to the proposed horsetrack between Montopolis and the split at Highways 71 and 183 several years ago. Not at the same level, I concede, but the same effect.

6/14/2011

Your response prior to the hearing on the 14th will be appreciated.

Respectfully,

Jesse Palacios

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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.ci.austin.tx.us/development

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: C14-2011-0043
 Contact: Stephen Rye, 512-974-7604
 Public Hearing: June 14, 2011, Planning Commission
 July 28, 2011, City Council

FRANK T MONREAL
 Your Name (please print)

309 Bonnett St.
 Your address(es) affected by this application

I am in favor
 I object

Patrick Monreal
 Signature

6-19-11
 Date

Daytime Telephone: 636-6807

Comments: Plot of people have constructed me
and do not want a liquor store in our
neighborhood, I will only have a negative
impact. I am very upset that this store
is open before getting the proper permit.
That only shows the disrespect this owner
has for this neighborhood!
 Frank Monreal
 District Neighborhood Assoc.

If you use this form to comment, it may be returned to:

City of Austin
 Planning & Development Review Department
 Stephen Rye
 P. O. Box 1088
 Austin, TX 78767-8810