

**PLANNING COMMISSION SITE PLAN
CONDITIONAL USE PERMIT APPEAL TO COUNCIL
REVIEW SHEET**

CASE NUMBER: SPC-2013-0169C **COUNCIL HEARING DATE:** 01/30/2014

PROJECT NAME: Little Woodrow's – Burnet

PROPOSED USE: Cocktail lounge

ADDRESS OF APPLICATION: 5425 Burnet Road

AREA: 5,440 square feet, part of 0.738-acre tract

APPLICANT: Jimmy Nassour
3839 Bee Cave Road, Suite 200
Austin, TX 78746

AGENT: Joe Longaro
Longaro & Clarke, LP
3839 Bee Cave Road, Suite 150
Austin, TX 78746
(512) 306-0228

CASE MANAGER: Christine Barton-Holmes, LEED AP Telephone: 974-2788
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APPEAL:

Co-applicants Rick Engel, Joseph Longaro, and Jimmy Nassour are appealing the Planning Commission's non-approval due to indecisiveness for the Conditional Use Permit and Waiver for Little Woodrow's.

EXISTING ZONING: CS-1-MU-V-CO-NP. The applicant is requesting a conditional use permit for a cocktail lounge within an existing restaurant, as well as the construction of an outdoor patio, and a variance for parking within 200' of residential uses.

PROPOSED DEVELOPMENT:

Construction of a new 657 sq ft deck/patio and a 1,830 sq. ft cocktail lounge use within an existing 4,753 sq. ft. building, with parking within 200' of residential uses.

Update for December 10, 2013 Hearing: Staff, neighborhood representatives, and the applicants met on November 1st and December 6th to discuss the variance and CUP requests. The applicants and neighborhood representatives continue to negotiate concerns related to noise and hours of operation.

DESCRIPTION OF VARIANCE:

Waiver request is as follows: LDC Section 25-5-146(B) As a condition of approval for a conditional use site plan, a parking area for a cocktail lounge or a restaurant with a late-hours

permit must be separated from a property used or zoned townhouse and condominium residence (SF-6) district or more restrictive by not less than 200 feet unless:

- (1) The lounge or restaurant is located within an enclosed shopping center; or
- (2) The Land Use Commission grants a variance from this requirement when the Land Use Commission approves the site plan.

SUMMARY STAFF RECOMMENDATION: Staff recommends approval of the conditional use permit and variance request. The site plan will comply with all requirements of the Land Development Code prior to its release.

PREVIOUS PLANNING COMMISSION ACTION: C14-2009-0055 – change in zoning from CS-MU-CO-NP to CS-MU-V-CO-NP; approved by Council 6-0 on September 7, 2009. C14-2012-0097 – change in zoning from CS-MU-V-CO-NP to CS-1-MU-V-CO-NP; approved by Council 5-2 on February 28, 2013. On December 10, 2013, the Planning Commission failed to obtain a quorum vote on a motion to deny the Conditional Use site plan and parking waiver (2-3-4-0) and a motion approve the item (3-2-4-0). No action was taken by the commission to approve or deny this item; therefore, the application was denied.

AREA STUDY: Brentwood/Highland Combined NPA

WATERSHED: Shoal Creek

APPLICABLE WATERSHED ORDINANCE: Current/ Comprehensive watershed ordinance

CAPITOL VIEW: Not in View Corridor

T.I.A.: Not Required

PROJECT INFORMATION:

ZONING: CS-1-MU-V-CO-NP

MAX. BLDG. COVERAGE: 95%

MAX. IMPERV. CVRG.: 95%

MAX HEIGHT: 60'

REQUIRED PARKING: 41

EXIST. USE: Office/retail

LIMITS OF CONSTRUCTION: 5,440 sq ft

PROPOSED BLDG. CVRG: 25.3%

PROPOSED IMP. CVRG: 94.7% - existing

PROPOSED HEIGHT: NA – existing single-story building

PROVIDED PARKING: 48

PROPOSED USE: Cocktail lounge

SUMMARY COMMENTS ON SITE PLAN:

Land Use: The applicant is requesting a conditional use permit to allow alcohol sales with a late hours permit at an existing building and two proposed deck/patios totaling 657 square feet, and parking within 200' of residential uses. The site is limited to a total area of 5,440 square feet of CS-1 uses per neighborhood agreement, with additional limitations imposed by parking compliance. The agreement as read into the Council minutes, included in the backup, also provides for screening and limited hours, to minimize the impact on adjacent single-family residential. Parking, which is existing, is located around the perimeter of the site. The parking adjacent to Clay Avenue will be signed "Employee Parking Only", to minimize the impact on that street. The rest of the parking is screened by buildings, or separated by Houston Street and Burnet Road, and other commercial uses, from the residential uses. The site plan will comply with all requirements of the Land Development Code and neighborhood agreement prior to its release. Staff recommends approval of the conditional use permit and variance request.

Environmental: The site is in the Shoal Creek watershed, which is within the Desired Development Zone. There is no increase in impervious coverage and no known Critical Environmental Features are located within the limits of construction.

Transportation: Current vehicular access is available from Burnet Road, Houston Street, and Clay Avenue. Employee-only parking is accessed from Clay Avenue. Parking is existing and available on site.

SURROUNDING CONDITIONS: Zoning/ Land use

North: CS-MU-V-CO-NP/CS-MU-CO-NP (Commercial retail, then warehousing)

East: CS-MU-CO-NP/SF-3-NP (Office/warehousing, Clay Ave, then single-family residential)

South: CS-MU-V-CO-NP (Houston St, then commercial retail & office)

West: CS-1-MU-V-CO-NP/CS-1 (Burnet Rd, then commercial, then single-family)

<u>Street</u>	<u>R.O.W.</u>	<u>Surfacing</u>	<u>Classification</u>
Burnet Rd	60'	40'	Major arterial
Houston St	50'	30'	City collector
Clay Ave	45'	30'	Local street

NEIGHBORHOOD ORGANIZATIONS:

Allandale Neighborhood Association
Austin Heritage Tree Foundation
Austin Independent School District
Austin Monorail Project
Austin Neighborhoods Council
Bike Austin
Brentwood Neighborhood Association
Brentwood Neighborhood Plan Contact Team
Central Austin Community Development
Highland/Skyview Neighborhood Plan Contact Team
Homeless Neighborhood Association
North Austin Neighborhood Alliance
Preservation Austin
Real Estate Council of Austin, Inc
SEL Texas
Sierra Club, Austin Regional Group
Super Duper Neighborhood Objectors and Appealers Organization
Sustainable Neighborhoods
5702 Wynona Neighbors

CONDITIONAL USE PERMIT REVIEW AND EVALUATION CRITERIA

D. 25-5-145. A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.

§ 25-5-146 CONDITIONS OF APPROVAL.

(A) To make a determination required for approval under Section 25-5-145 (Evaluation of Conditional Use Site Plan), the Land Use Commission may require that a conditional use site plan comply with a condition of approval that includes a requirement for:

- (1) a special yard, open space, buffer, fence, wall, or screen;

- (2) landscaping or erosion;
- (3) a street improvement or dedication, vehicular ingress & egress, or traffic circulation;
- (4) signs;
- (5) characteristics of operation, including hours;
- (6) a development schedule; or
- (7) other measures that the Land Use Commission determines are required for compatibility with surrounding uses or the preservation of public health, safety, or welfare.

CONDITIONAL USE PERMIT REVIEW AND EVALUTATION CRITERA

The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states: “The Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section.

A conditional use site plan must:

- 1. Comply with the requirements of this title;** Staff response: This application complies with the requirements of this title.
- 2. Comply with the objectives and purposes of the zoning district;** Staff response: This application complies with the objectives and purposes of the zoning district.
- 3. Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that are compatible with the use of an abutting site;** Staff response: This application is compatible with the abutting sites in all of these cases. This application falls within the regulations of the cocktail lounge ordinance (LDC 25-2-808 (c)(1)) regarding cocktail lounges as a conditional use.
- 4. Provide adequate and convenient off-street parking and loading facilities;** Staff response: Adequate parking and loading facilities have been provided.
- 5. Reasonably protect persons and property from erosion, flood, fire, noises, glare, and similar adverse effects;** Staff response: The proposed project does not contribute to any of these adverse effects.
- 6. For conditional use located within the East Austin Overlay district, comply with the goals and objectives of a neighborhood plan adopted by the City Council for the area in which the use is proposed.** Staff response: The proposed project is not in the East Austin Overlay district.

A Conditional Use Site Plan May Not:

- 1. More adversely affect an adjoining site than would a permitted use;** Staff response: The site plan will conform with all regulations and standards established by the Land Development Code. This proposed site plan does not more adversely affect an adjoining site than would a permitted use.

2. **Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area;** Staff response: Access is limited into the site, and surrounding vehicular circulation in the area of the project is not anticipated to have any detriment to safety or convenience.

3. **Adversely affects an adjacent property or traffic control through the location, lighting, or type of signs;** Staff response: No signage or lighting is proposed that would affect adjacent properties or traffic control.