

**FINAL - May 14, 2019 Planning Commission Agenda Question and Answer Report**

5. **Plan Amendment:** [NPA-2018-0005.01 - 1501 Airport Commerce; District 3](#)  
Location: 1501 Airport Commerce Drive; Montopolis NP Area, Carson Creek Watershed  
Owner/Applicant: W2 Hill ACP II LP  
Agent: Drenner Group (Amanda Swor)  
Request: Commercial to Mixed Use land use  
Staff Rec.: **Not recommended**  
Staff: [Jesse Gutierrez](#), 512-974-1606  
Planning and Zoning Department
6. **Rezoning:** [C14-2019-0029 - 1501 Airport Commerce Dr; District 3](#)  
Location: 1501 Airport Commerce Drive; Montopolis NP Area, Carson Creek Watershed  
Owner/Applicant: W2 Hill ACP II, LP  
Agent: Drenner Group, PC (Amanda Swor)  
Request: CS-CO-NP to CS-MU-CO-NP  
Staff Rec.: **Not recommended**  
Staff: [Sherri Sirwaitis](#), 512-974-3057  
Planning and Zoning Department

**Question:** Commissioner Seeger

AO-3 does not permit residential use for air traffic safety reasons. 25-13-45 (B)(3) indicates residential use acceptable if property is in a neighborhood plan prior to 12/31/2001.  
o if the residential use is determined permissible, would COA be in violation of any federal airport hazard rules?  
o if above is yes, what is the extent of the ramifications?  
o can airport hazard rules be grandfathered?

**Response:** Pending; The applicant has requested a postponement. Staff will research the inquiry and provide a response when the item is rescheduled.

7. **Plan Amendment:** [\*\*NPA-2018-0021.01 - 5101 East Oltorf; District 3\*\*](#)  
 Location: 5101 East Oltorf Street; East Riverside/Oltorf Combined (Parker Lane) NP Area, Country Club West Watershed  
 Owner/Applicant: Charitable Holdings, II (Michael Nellis)  
 Agent: Armbrust & Brown, PLLC (Richard T. Suttle, Jr. and Ferris Clements)  
 Request: Commercial to Mixed Use land use  
 Staff Rec.: **Not recommended**  
 Staff: [Kathleen Fox](#), 512-974-7877  
 Planning and Zoning Department
8. **Rezoning:** [\*\*C14-2018-0080 - 5101 East Oltorf; District 3\*\*](#)  
 Location: 5101 East Oltorf Street; East Riverside/Oltorf Combined (Parker Lane) NP Area, Country Club West Watershed  
 Owner/Applicant: Charitable Holdings, II (Michael Nellis)  
 Agent: Armbrust & Brown, PLLC (Richard T. Suttle, Jr.)  
 Request: GR-CO-NP to CS-MU-CO-NP  
 Staff Rec.: **Recommendation of CS-CO-NP**  
 Staff: [Wendy Rhoades](#), 512-974-7719  
 Planning and Zoning Department

**Question:** Commissioner Shaw

For Item C-08, I will have questions for AFD and staff familiar with the cited regulations from US DOT at the meeting. Among other questions I may have, I would want to know if the City can allow residential development within this buffer and what liabilities would the city take on if we approve this zoning to include residential development.

**Answer:** Staff

The US DOT's Emergency Response Guide is not based on any federal laws, but rather is a recommendation to local jurisdictions. The DOT is required to provide this information under the Hazardous Materials Act. The information provided is based on studies prepared by the National Institute for Science and Technology (NIST), ARGONNE National Labs, and compiled response information and procedures taken from the experience of other agencies. AFD follows the recommendations outlined in the DOT guide, and thus, Staff is unable to recommend residential development at this location because the separation distance cannot be met.

The Staff recommendation to deny the Applicant's request for -MU is not binding on the Commission or City Council.

**Question:** Commissioner Seeger

Questions relative to AFD Risk Assessment:

- o once risk assessment completed by AFD, can the determined outcome be waived?
- o can the US Department of Transportation override a waived determination?
- o summary indicates “part 3 waives requirements of Sec. 2-2-3, 5, 7” what is waived?
- o are all the current prohibited uses carried forward? 10’ buffer?
- o are there other similar circumstances (distance and volume of hazardous stored chemicals) where the 1,056’ limitation been waived?

**Answer:** Staff

1) No.

2) No, The US DOT’s Emergency Response Guide is not based on federal law, but is a recommendation to local jurisdictions based on studies done by the National Institute for Science and Technology (NIST), ARGONNE National Labs, and compiled response information and procedures taken from the experience of other agencies.

3) This statement is taken from the Council approved ordinance dated July 24, 1997: “The Council waives the requirements of Sections 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance”. These code sections were standard ordinance language for zoning cases at the time; Section 2-2-3 was titled *Reading of Ordinances*, Section 2-2-5 was *Format of Proposed Ordinance*, and Section 2-2-7 was *Passage Procedure for Ordinances*. The above statement allowed for passage of multiple ordinance readings to occur at a single Council meeting, rather than requiring separate ordinance readings on different Council dates. Around 2004, this statement was removed and replaced with the following: “Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the community commercial (GR) base district and other applicable requirements of the City Code.”

4) No, the Applicant wishes to remove all of the prohibited uses listed in the 1997 ordinance except for food sales, restaurants, service station, and drive-in services as an accessory use, and has not indicated a desire to retain the 10’ buffer.

5) Not to my knowledge.

**11. Plan** [NPA-2019-0027.01 - Twin Liquors-Maudies; District 10](#)

**Amendment:**

Location: 2608 W. 7th Street; Central West Austin Combined NP Area, Johnson Creek Watershed  
Owner/Applicant: TASC Properties (Tracy S. Livingston)  
Agent: Thrower Design (A. Ron Thrower)  
Request: Neighborhood Commercial to Mixed Use land use  
Staff Rec.: **Recommended**  
Staff: [Maureen Meredith](#), 512-974-2695  
Planning and Zoning Department

**12. Rezoning:** [C14-2019-0043 - Twin Liquors Maudies; District 10](#)

Location: 2606, 2608, and 2610 W. 7th Street, 703 Newman Drive; Central West Austin Combined NP Area, Johnson Creek Watershed  
Owner/Applicant: TASC Properties LP (Tracy Livingston)  
Agent: Thrower Design (Ron Thrower)  
Request: CS-NP on Tract 1 and CS-1-NP on Tract 2 to CS-1-NP on Tract 1 and CS-NP on Tract 2  
Staff Rec.: **Recommended**  
Staff: [Scott Grantham](#), 512-974-3574  
Planning and Zoning Department

**Question:** Commissioner Seeger

o when is a previously submitted Neighborhood Plan considered late, if significantly changed?  
o this request changed the requested use and more than doubled the area of change. Should these changes be considered significant enough to hold the plan amendment change to next cycle?

**Answer:** Staff

- 1) As long as an application has been submitted in the open filing period, whether it's February or July, we allow applicants to amend their applications. Consistent with past practice, if the area has expanded or the FLUM change request has been modified, we send out new Notice of Filing to people who live or own property within 500 feet notifying them of the revised application.
- 2) After the Applicant for Twin Liquors/Maudies amended their application, we sent out a new Notice of Filing informing the people who live or own properties within 500 feet of the revised application. In general, applicants might amend applications for various reasons. For example, after input from surrounding property owners at the ordinance-required community meeting an applicant might decide to amend their application based on this input. We have never previously considered an amended application as a "new" application

that would require an applicant to withdraw their application and possibly lose their application fees and then be required to resubmit a new application a year later. The application fees that could potentially be lost would be for an NPA application \$4,739.28. For a Zoning application the fees run between \$7,212.40 for less than 0.25 acres up to \$11,258.00 for an area greater than 15 acres, plus \$150.80 for every acre over 15 acres

- 13. Rezoning:**                    [C14-2019-0056 - Moore's Crossing Mixed Use; District 2](#)  
Location:                        7012 Elroy Road; Moore's Crossing MUD, Dry Creek East  
    Watershed  
Owner/Applicant:            SR Development Inc. (Bill Gurasich)  
Agent:                            Alice Glasco Consulting (Alice Glasco)  
Request:                        SF-2; SF-4A; MF-2; GR-CO to MF-4 for Tracts 1, 2 and 4; GR for  
    Tract 3  
Staff Rec.:                     **Recommended**  
Staff:                            [Wendy Rhoades](#), 512-974-7719  
    Planning and Zoning Department

**Question:** Thompson

Can you provide more information about C13 and why it is on our agenda rather than ZAP? I realize we've seen some of these PUD/MUD's before, I just wanted to understand how this issue came to us.

**Answer:** Staff

Development applications within a Municipal Utility District are reviewed by the Planning Commission according to Water and Wastewater section of the Land Development Code. Specifically, Section 25-9-155 (*Review of Petition by City Employees*) identifies the Planning Commission as one of the reviewing bodies for the creation of a MUD and Section 25-9-156 (*Review by Certain Boards and Commissions*) states that: "Each board and commission identified in 25-9-155(C)(5) shall review the petition and prepare a recommendation on the petition". Subsequent development applications (such as rezoning cases) for properties within a MUD fall under the purview of the Planning Commission.