

## ZONING CHANGE REVIEW SHEET

CASE: C14-2021-0120 – Rezoning Liquor Store

DISTRICT: 2

ZONING FROM: GR-CO

TO: CS-1

ADDRESS: 3131 East SH 71 Service Road Westbound, Suite 200

SITE AREA: 0.023 acres (1,000 square feet)

APPLICANT: 3131 East 71 LLC (Najib F. Wehbe)

AGENT: Hector Avila

CASE MANAGER: Wendy Rhoades (512-974-7719, [wendy.rhoades@austintexas.gov](mailto:wendy.rhoades@austintexas.gov))

### STAFF RECOMMENDATION:

**The Staff recommendation is to grant commercial - liquor sales – conditional overlay (CS-1-CO) combining district zoning. The Conditional Overlay prohibits automotive repair services, automotive washing (of any type), and pawn shop services. For a summary of the basis of Staff's recommendation, see page 2.**

### ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

**September 1, 2021:**

### CITY COUNCIL ACTION:

**October 14, 2021:**

### ORDINANCE NUMBER:

### ISSUES:

The Applicant is in agreement with the Staff recommendation.

### CASE MANAGER COMMENTS:

The subject rezoning area is a 1,000 square foot unoccupied lease space at the east end of a recently constructed commercial development that contains a service station and a food sales use, and is located on the East SH 71 westbound service road at its intersections with Cheviot Lane and Royster Avenue. The property was annexed into the City in September 2001 and zoned community commercial – conditional overlay (GR-CO) district by a 2008 case. The Conditional Overlay limited development to 2,000 vehicle trips per day, and prohibits automotive repair services, automotive washing, and pawn shop services. In 2018, the property was rezoned to remove the Conditional Overlay that established a 2,000 vehicle trip limit, and the list of prohibited uses remains intact.

The property is located just outside of the Airport Overlay Zone-3 district, also known as the ½ mile buffer. There are residential uses to the north and east (I-SF-2; LO-MU); and commercial uses, including a concrete pad for a former restaurant (limited) and auto-related uses to the west (GR; GR-CO; CS-CO). *Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).*

The Applicant proposes commercial – liquor sales (CS-1) district zoning in order to occupy the lease space with a liquor sales use. The approved site plan shows driveways to East SH 71 service road, Royster Avenue and Cheviot Lane.

**BASIS FOR RECOMMENDATION**

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

The commercial – liquor sales (CS-1) zoning district is intended for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use. The Conditional Overlay (CO) combining district may be applied in combination with any base district. The district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties.

2. *The proposed zoning should allow for a reasonable use of the property.*

The Staff recommends the Applicant’s request for CS-1 zoning based on its frontage on the East SH 71 service road, location within a commercial building, and compatibility with adjacent commercial zoned properties to the west. The Conditional Overlay continues to prohibit automotive repair services, automotive washing (of any type), and pawn shop services on the property.

**EXISTING ZONING AND LAND USES:**

|              | ZONING           | LAND USES   |
|--------------|------------------|---|
| <i>Site</i>  | GR-CO            | Service station; Food sales; Two vacant lease spaces  |
| <i>North</i> | I-SF-2           | Single family residences; Two-family residence; Triplex; Manufactured home                  |
| <i>South</i> | Not Applicable   | Westbound service road and main lanes of East SH 71   |
| <i>East</i>  | I-SF-2           | Single family residences; Vehicle and incidental storage; Undeveloped                       |
| <i>West</i>  | GR-CO; GR; LO-MU | Concrete pad for a former restaurant (limited); Single family residences; Automotive repair |

AREA STUDY: Not Applicable

TIA: Is not required

WATERSHED: Colorado River – Suburban

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: Yes, East SH 71

SCHOOLS:

The subject property is within the boundaries of the Del Valle Independent School District.

NEIGHBORHOOD ORGANIZATIONS:

511 – Austin Neighborhoods Council                      627 – Onion Creek Homeowners Association  
 774 – Del Valle Independent School District                      1005 – Elroy Neighborhood Association  
 1195 – Imperial Neighborhood Association                      1228 – Sierra Club, Austin Regional Group  
 1258 – Del Valle Community Coalition                      1363 – SEL Texas  
 1530 – Friends of Austin Neighborhoods                      1550 – Homeless Neighborhood Association  
 1616 – Neighborhood Empowerment Foundation                      1774 – Austin Lost and Found Pets

AREA CASE HISTORIES:

| NUMBER  | REQUEST             | COMMISSION  | CITY COUNCIL  |
|---|---------------------|---|---|
| C14-2019-0094 –<br>Rosales Residence<br>– 3012 and 3014<br>Meldrum Road   | I-SF-2 to GR        | To Grant LO-MU  | Apvd LO-MU as<br>Commission<br>recommended<br>(10-17-2019).         |
| C14-2017-0111 –<br>3059 Hwy 71 East                                       | SF-2 to CS          | To Grant CS-CO w/CO<br>for a 15’ vegetative<br>buffer along Meldrum<br>Rd, prohibits access to<br>Meldrum Rd, and<br>prohibits a list of uses | Apvd as Commission<br>recommended<br>(11-9-2017).                   |
| C14-2015-0034 –<br>Sonic Drive In #21<br>- Del Valle – 3115<br>E SH 71 WB | I-SF-2 to GR        | To Grant  | Apvd (6-11-2015).   |
| C14-2008-0235 –<br>Downstream 973-<br>Mary Street – 3100<br>Mary St       | I-SF-2 to GR        | To Grant LR-CO w/<br>conds of add’l r-o-w on<br>FM 973  | Apvd LR-CO w/CO<br>prohibiting access to<br>Mary St<br>(4-23-2009). |
| C14-2008-0232 –<br>Downstream 973 –<br>3026 South FM 973<br>Rd            | I-SF-2; RR to<br>LO | To Grant LO-CO w/<br>conds of add’l r-o-w on<br>FM 973  | Apvd LO-CO w/CO<br>for 2,000 trips / day<br>(4-23-2009).            |
| C14-05-0017 –<br>Highway 71 – 3103<br>E SH 71 East                        | I-SF-2 to GR-<br>CO | To Grant GR-CO  | Apvd GR-CO w/CO<br>for 2,000 trips / day<br>(4-7-2005).             |
| C14-01-0186 –<br>State Highway 71   | I-SF-2; RR to LI    | To Grant CS-CO with<br>added conditions   | Apvd CS-CO w/CO<br>for 15’ vegetative                               |

|  |                     |                       |   |
|--|---------------------|-----------------------|---|
| <p>East 3039 – 3039-3101 E SH 71</p>                                     |                     |                       | <p>buffer along Meldrum Rd., prohibit adult businesses, B &amp; B residential (Groups 1&amp;2); campground, cocktail lounge, commercial blood plasma center, custom mfg, funeral services, hotel-motel, indoor/outdoor entertainment, indoor / outdoor sports and recreation, marina, pawn shops, scrap &amp; salvage, special use historic, stables, theater, vehicle storage (5-16-2002).</p> |
| <p>C14-01-0075 – Shave Ice Stand – 3201 E SH 71</p>                      | <p>I-SF-2 to GR</p> | <p>To Grant GR-CO</p> | <p>Apvd GR-CO w/CO for 2,000 trips / day (7-19-2001).</p>   |
| <p>C14-01-0027 – High Performance Automotive – E SH 71 at Cheviot Ln</p> | <p>I-SF-2 to GR</p> | <p>To Grant GR-CO</p> | <p>Apvd GR-CO w/CO for 2,000 trips / day (4-19-2001).</p>   |

RELATED CASES:

The rezoning area is a portion of Lots 3 and 4, Block 2, A.L. Royster Addition, a subdivision filed in April 1946 (C8-1946-1741).

The property was annexed into the City limits on September 6, 2001 (C7a-01-002).

Council approved GR-CO zoning on the property on February 12, 2009 (C14-2008-0244 – Najib 0.7). On June 14, 2018, Council approved rezoning to remove the 2,000 daily vehicle trip limit because a Traffic Impact Analysis (TIA) prepared with a previous administrative site plan was approved for 4,341 vehicle trips per day and covers more intensive development than the approved and released 2018 site plan described below (C14-2018-0036 – East SH 71 Rezoning).

An administrative site plan for a service station and one-story, 27-foot tall convenience store with adjacent retail space and parking, detention and utilities was approved and released on March 12, 2019 (SP-2018-0144C – 3131 E SH 71 Convenience Store).

EXISTING STREET CHARACTERISTICS:

| Name                 | Existing ROW | ASMP Required ROW | Pavement | ASMP Classification | Sidewalks | Bicycle Route | Capital Metro (within ¼ mile) |
|----------------------|--------------|-------------------|----------|---------------------|-----------|---------------|-------------------------------|
| Royster Avenue       | 54 feet      | 50 feet           | 23 feet  | Level 1 (Local)     | No        | No            | Yes                           |
| East SH 71 Westbound | 160 feet     | Defer to TxDOT    | 54 feet  | Level 5 (Highway)   | Yes       | Yes           | Yes                           |

OTHER STAFF COMMENTS:

Comprehensive Planning

This rezoning case is located on the northeast corner of the Bastrop Highway/SH 71 and Cheviot Lane, on a property that is approximately 1.18 acres in size, which contains a shopping center with two retail bays. The property is not located within the boundaries of an area with an adopted neighborhood plan. Surrounding land uses include a single-family houses to the north; to the south is SH 71; to the east is a junk car lot and undeveloped land; and to the west is a vacant commercial building and a collision repair shop. The proposal is to rezone the smaller 1,000 square foot retail bay to CS-1 for a liquor store.

**Connectivity**

There is a new public sidewalk is situated along this portion of the SH 71 frontage road. A CapMetro transit stops appears 500 feet away on GIS but no public transit stop is seen on Google Map along this portion of SH71, which is a state highway. Mobility and connectivity options are below average in the area.

**Imagine Austin**

The property is located not located by an Activity Center or along an Activity Corridor. The following policies taken from Chapter 4 of the Imagine Austin Comprehensive Plan:

- **LUT P3.** Promote development in compact centers, communities, or **along corridors** that are connected by roads and transit that are designed to encourage walking and bicycling, and reduce health care, housing and transportation costs.
- **LUT P4.** Protect neighborhood character by directing growth to areas of change that includes designated redevelopment areas, corridors and infill sites. Recognize that different neighborhoods have different characteristics and new and infill development should be sensitive to the predominant character of these communities.

- **HN P11.** Protect neighborhood character by directing growth to areas of change and ensuring context sensitive infill in such locations as designated redevelopment areas, corridors, and infill sites.

Based upon other commercial uses along this corridor, but below average mobility and connectivity options in the area, the proposed project partially supports the policies of the Imagine Austin Comprehensive Plan.

Drainage

The developer is required to submit a pre- and post-development drainage analysis at the subdivision and site plan stage of the development process. The City’s Land Development Code and Drainage Criteria Manual require that the Applicant demonstrate through engineering analysis that the proposed development will have no identifiable adverse impact on surrounding properties. There is a regional water quality / detention facility that will serve this site, therefore onsite drainage facilities will not be provided.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Colorado River Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.

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 Gross Site Area</i> | <i>% of Gross Site Area with Transfers</i> |
|--|-----------------------------|--|
| Single-Family<br>(minimum lot size 5750 sq. ft.) | 50%                         | 60%  |
| Other Single-Family or Duplex                    | 55%                         | 60%  |
| Multifamily                                      | 60%                         | 70%  |
| Commercial                                       | 80%                         | 90%  |

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding 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 requires water quality control with increased capture volume and control of the 2-year storm on site.

### Impervious Cover

Within the Colorado River watershed, the maximum impervious cover allowed by the *CS-1 zoning district is 80% (90% with transfers)*, which is based on the more restrictive *watershed* regulations. The amount of impervious cover shown on the approved site plan for this property is 71.4 percent.

### PARD – Planning & Design Review

There are currently no parkland requirements for uses other than residential and hotel. Given that the application is for CS-1, liquor sales, there would not be parkland dedication requirements or parkland impacts at the time of site plan or subdivision.

### Site Plan

Site plans are required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

Any new development is subject to Subchapter E. Design Standards and Mixed Use.

### **Compatibility Standards**

The site is subject to height compatibility standards.

- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of property zoned SF-5 or more restrictive.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, height limitation is 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property line.
- For a structure more than 300 feet but not more than 540 feet from property zoned SF-5 or more restrictive, 60 feet plus one foot for each four feet of distance in excess of 300 feet from the property zoned SF-5 or more restrictive.

### **Airport Overlay Zone**

- The site is located within the Controlled Compatible Land Use Area. No use will be allowed that create electrical interference with navigational signals or radio communications between airport and aircraft, make it difficult for pilots to distinguish between the airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the Austin-Bergstrom Airport. Height limitations and incompatible uses with each Airport Overlay zone

are established in the Airport Overlay Ordinance. For more information, contact Kane Carpenter, Airport Planner at 512-530-6621. Approval from ABIA is required prior to site plan approval.

### **Scenic Roadway**

This site is within the Scenic Roadway Sign District. All signs must comply with Scenic Roadway Sign District regulations.

### **Transportation**

The Austin Strategic Mobility Plan (ASMP), adopted April 11, 2019, calls for 50 feet of right-of-way for Royster Avenue and right-of-way for SH 71 is deferred to TxDOT. A traffic impact analysis is not required for this case.

In 2016-17, TxDOT added toll lanes east of Presidential Boulevard (approximately 1 mile west of this site) to Onion Creek, and also reconstructed the East SH 71 frontage roads including five miles of shared use for improved pedestrian and bicycle access.

### **Water / Wastewater**

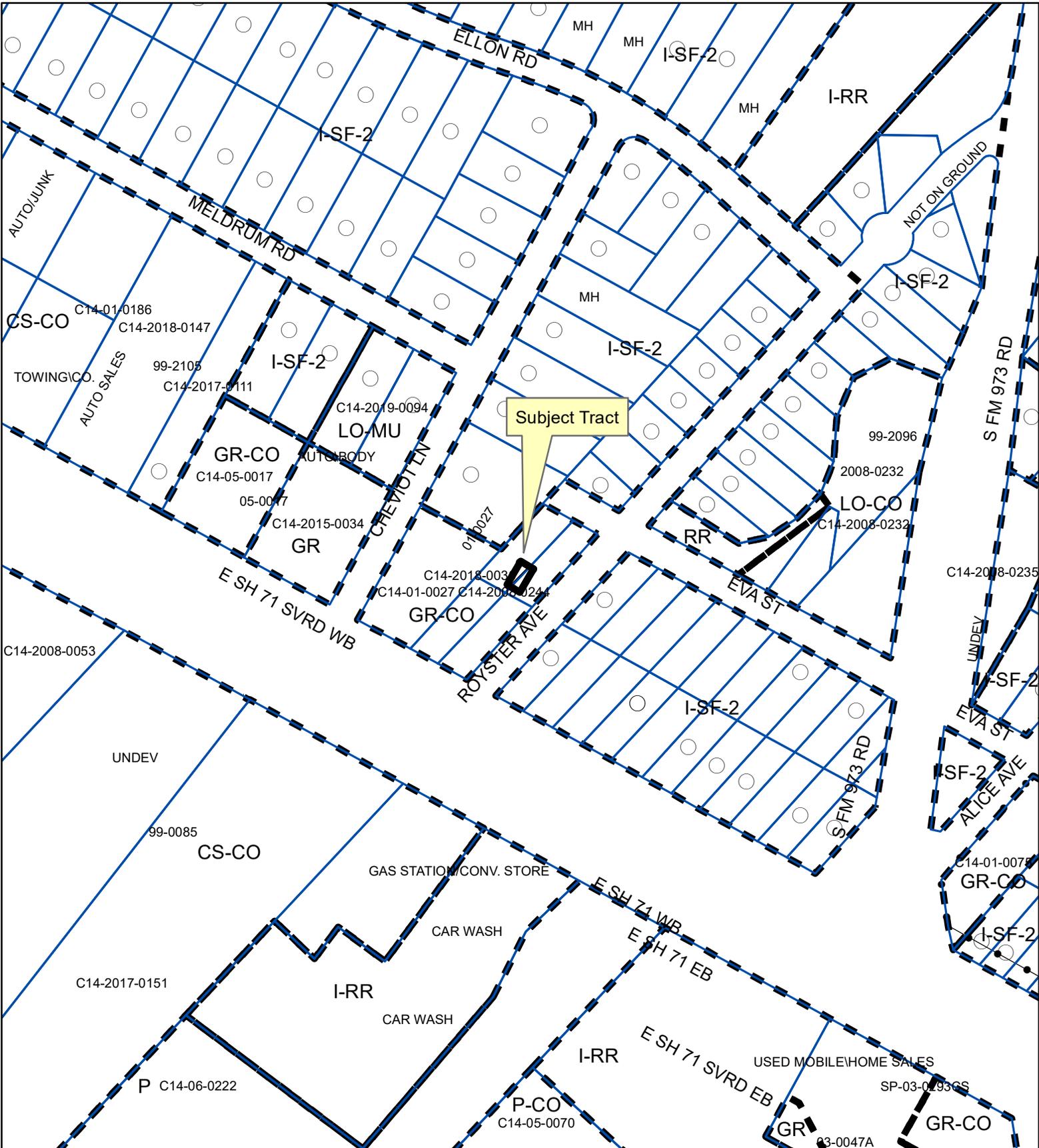
The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

Depending on the development plans submitted, water and or wastewater service extension requests may be required. 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.

### **INDEX OF EXHIBITS TO FOLLOW:**

- A: Zoning Map
- A-1: Aerial Map



**ZONING**

Exhibit A

ZONING CASE#: C14-2021-0120



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 200'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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1" = 50'

-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

**Rezoning Liquor Store**

**Exhibit A - 1**

ZONING CASE#: C14-2021-0120  
 LOCATION: 3131 East SH 71 Service Road Westbound, Suite 200  
 SUBJECT AREA: 0.0229 Acres  
 GRID: P17  
 MANAGER: Wendy Rhoades



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