

ZONING CHANGE REVIEW SHEET

CASE: C14-2022-0168 (Jollyville Oak Liquor Cabinet) DISTRICT: 10

ADDRESS: 12029 and 12041 Jollyville Road

ZONING FROM: LO

TO: CS-1

SITE AREA: 0.893 acres

PROPERTY OWNER: Raju Malik and Sandeep Kaur

AGENT: Husch Blackwell LLP (Micah King)

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMEDATION:

Staff recommends denial of the applicant's request.

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:

February 7, 2023

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question consists of two undeveloped 0.893 acre lots that access Jollyville Road. Directly to the north, there is a retail center (Oak Knoll Village) that fronts onto U.S. Highway 183 (Research Boulevard). The tract of land to the west is undeveloped. The lots to the south, across Jollyville Road, are developed with single-family and duplex residences (Oak Forest Neighborhood). To the east, across Oak Knoll Drive, there is an office complex (Oak Knoll Plaza). In this case, the applicant is requesting CS-1 zoning to develop a cocktail lounge use with a cigar bar at this location.

The staff is recommending denial of the applicant's request for CS-1, Commercial Liquor Sales District, zoning. The proposed CS-1 zoning is not consistent with the US 183/Jollyville Road Area Study that was adopted by the City Council. The policy of a 120-foot strip buffer of LO zoning along the east side of Jollyville Road has been consistently applied to date to maintain a setback from commercial uses fronting U.S. Highway 183 to the residential and office uses to the west across Jollyville Road. In addition, the proposed zoning would contribute to an over zoning of the Commercial-Liquor Sales district in this area as there are already two CS-1 zoned parcels adjacent to this tract in the Oak Knoll Village Shopping Center to the north. One of these suites is already developed with a liquor sales use (Queen's Liquor) and the other is currently vacant.

The applicant does not agree with the staff's recommendation.

BASIS OF RECOMMENDATION:

1. *The proposed zoning should promote consistency and orderly planning.*

The proposed CS-1 zoning is not consistent with the US 183/Jollyville Road Area Study that was adopted by the Austin City Council in 1984. Therefore, the staff recommends denial of the request for CS-1 at this location and to maintain the 120-foot buffer of office zoning along Jollyville Road. The policy of a 120-foot strip buffer of LO zoning along the east side of Jollyville Road has been consistently applied to date to maintain a setback from the residential and office uses to the west across Jollyville Road.

The existing LO zoning provides a transition from the more intensive commercial uses fronting Research Boulevard/U.S. Highway 183 north to the residential uses on the western side of Jollyville Road.

2. *Zoning should not constitute a grant of special privilege to an individual owner; Granting of the request should result in an equal treatment of similarly situated properties.*

In 2021, the property owner directly to the west of this site requested a rezoning from GR and LO to GR-MU zoning through case C14-2021-0109 (12530 Research Blvd Future Project). The staff maintained our recommendation to preserve the 120-foot buffer area

of LO zoning along Jollyville Road in accordance with the US 183/Jollyville Road Area Study. The staff recommended adding an ‘MU’ combining district to the entire property (both Tract 1 and Tract 2) to permit the development of more residential uses in this area. The Zoning and Platting Commission and City Council approved the staff’s recommendation for LO-MU zoning for the 120-foot area fronting Jollyville Road (*please see Area Case Histories below*).

3. *Rezoning should not contribute to the over zoning of the area.*

The proposed CS-1 zoning would contribute to an over zoning of the Commercial-Liquor Sales district in this area as there are already two CS-1 zoned parcels adjacent to this tract in the Oak Knoll Village Shopping Center to the north. One of these suites is already developed with a liquor sales use (Queen’s Liquor) and the other is currently vacant.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO	Undeveloped, Shed
<i>North</i>	GR, CS-1	Retail Center (Oak Knoll Village: Shell Service Station, The Convenient Store, Yummi Tacos & More, Nail-A-Holic, Kelly Personal Training, Caspian Grill, Queens Liquor, Subway Sandwiches, AMZ Salon, Armstrong McCall Beauty Supply, Home Place Apartment Locating)
<i>East</i>	LO	Office (Oak Knoll Plaza)
<i>South</i>	SF-3	Single-Family and Duplex Residences (Oak Forest Neighborhood)
<i>West</i>	LO-MU	Undeveloped Area, Driveway

AREA STUDY: U.S. 183/Jollyville Road Area Study

(This Area Study designates the property in question for commercial/GR district uses. The U.S. 183 Study was approved by the City Council in November of 1978. The Area Study recommended that a 120-foot deep strip of land along Jollyville Road be zoned “O” Office zoning (which was converted to LO, Limited Office, in 1985) and that a 200 foot strip of land along the west side of Jollyville Road be zoned “A” Residence (which was converted to SF-3, Family Residence, in 1985). The policy of a 120-foot strip buffer of LO zoning along the east side of Jollyville Road has been consistently applied to date. The policy of SF-3 on the west side of Jollyville Road was never approved or implemented, and today the west side of Jollyville Road is primarily zoned office and multi-family, with the majority of office zoning being LO zoning. The recommendation for a 120-foot strip of LO zoning along the eastern portion of Jollyville Road was incorporated into the Jollyville Road Study, which was adopted in 1984).

TIA: Not Required

WATERSHED: Walnut Creek

SCHOOLS: Round Rock I.S.D.

NEIGHBORHOOD ORGANIZATIONS:

Austin Lost and Found Pets
Bull Creek Foundation
Friends of Austin Neighborhoods
Long Canyon Homeowners Association
Mountain Neighborhood Association (MNA)
Neighborhood Empowerment Foundation
North Oaks Neighborhood Association
SELTEXAS
Sierra Club, Austin Regional Group
TNR BCP- Travis County Natural Resources

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2021-0109 (12530 Research Blvd Future Project)	GR, LO to GR-MU	9/07/21: Motion to approve staff's recommendation of GR- MU zoning for Tract 1 and LO- MU zoning for Tract 2 (10-0, B. Greenberg-off the dais); C. Thompson-1st, J. Kiolbassa-2nd.	10/14/21: The public hearing was conducted and a motion to close the public hearing and approve the ordinance on first reading only to GR-MU combining district zoning for Tract 1 and LO-MU combining district zoning for Tract 2 was approved on Council Member Renteria's motion, Council Member Ellis' second on an 11-0 vote. 10/13/22: Approved 2nd/3rd readings on consent (9-0 vote, N. Harper-Madison and V. Fuentes-off the dais).
C14-2019-0097 (Abhyas Kendra 1 Inc. - Part 2: 12636 Research Boulevard South Bound, Building C, Suite C-108)	LR to GR	9/03/19: Approved staff's recommendation of GR zoning by consent (9-0); A. Denkler-1 st , E. Goff-2 nd .	10/03/19: The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20191003-088 for GR district zoning was approved on Council Member Alter's motion, Council Member Pool's second on a 10-0 vote. Council Member Harper- Madison was absent.

C14-2016-0036 (Abhyas Kendra 1 Inc.: Best Brains Franchise – Tutoring Center, 12636 Research Boulevard South Bound, Building C, Suite C-108)	LO to LR	6/21/16: Approved staff's recommendation for LR zoning by consent (11-0); A. Denkler-1 st , G. Rojas-2 nd .	8/11/16: The public hearing was conducted and a motion to close the public hearing and approve Ordinance 20160811-054 for neighborhood commercial (LR) district zoning was approved on consent on Mayor Pro Tem Tovo's motion, Council Member Pool's second on an 11-0 vote.
C14-2010-0176 (12636 Research Suite 109)	GR-CO to CS-1	12/07/10: Approved staff's rec. of CS-1 zoning on consent (5-0, Seeger, Tiemann-absent); Baldrige-1 st , Bourgeois-2 nd .	1/13/11: Approved CS-1 zoning on consent on all 3 readings (7-0); Spelman-1 st , Morrison- 2 nd .
C14-05-0060	GR-CO to CS-1-CO	6/21/05: Postponed indefinitely at the applicant's request (8-0, K. Jackson-absent); J. Martinez-1 st , J. Gohil-2 nd . 12/21/05: Case expired.	N/A
C14-99-0099	SF-3 to LI	6/29/99: Approved staff's alternate rec. of LI-CO, w/ 2,000 vtpd limit, by consent (8-0)	7/29/99: Approved PC rec. of LI-CO (6-0); all 3 readings
C14-98-0143	GR to CS-1	11/17/98: Approved LO (TR1) and CS-1-CO (TR2), prohibit Adult Oriented uses and limit development to 2,000 vtpd, by consent (9-0)	1/7/99: Approved PC rec. of LO (TR1) and CS-1-CO (TR2) w/conditions (7-0); 1 st reading 4/8/99: Approved retaining LO (TR1) and CS-CO on (TR2); (6-0); 2 nd /3 rd readings

RELATED CASES: N/A

OTHER STAFF COMMENTS:

Comprehensive Planning

Project Name and Proposed Use: 12029 JOLLYVILLE RD. C14-2022-0168.

Project: Jollyville Oak Liquor Cabinet. 0.89 acres from LO to CS-1. Vacant to 8,500 sq. ft. for a Liquor Store/Retail/Administrative Office

Yes	Imagine Austin Decision Guidelines
	Complete Community Measures
Y	Imagine Austin Growth Concept Map: Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. Name(s) of Activity Center/Activity Corridor/Job Center: Along Jollyville Road Activity Corridor
Y	Mobility and Public Transit: Located within 0.25 miles of public transit stop and/or light rail station.
	Mobility and Bike/Ped Access: Adjoins a public sidewalk, shared path, and/or bike lane.
Y	Connectivity, Good and Services, Employment: Provides or is located within 0.50 miles to goods and services, and/or employment center.
	Connectivity and Food Access: Provides or is located within 0.50 miles of a grocery store/farmers market.
	Connectivity and Education: Located within 0.50 miles from a public school or university.
	Connectivity and Healthy Living: Provides or is located within 0.50 miles from a recreation area, park or walking trail.
	Connectivity and Health: Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.)
	Housing Affordability: Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
	Housing Choice: Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
	Mixed use: Provides a mix of residential and non-industrial uses.
	Culture and Creative Economy: Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	Culture and Historic Preservation: Preserves or enhances a historically and/or culturally significant site.
	Creative Economy: Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	Workforce Development, the Economy and Education: Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	Industrial Land: Preserves or enhances industrial land.
3	Total Number of "Yes's"

Environmental

The site is located over the Edwards Aquifer Recharge Zone. The site is in the Walnut Creek 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 (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.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

Fire

No comments.

Parks and Recreation

Parkland dedication may be required for any new site plan or subdivision application resulting from this rezoning, consistent with City Code Title 25, Article 14. As of January 1, 2023, parkland dedication fees will apply to these types of applications proposing any applicable commercial uses.

Site Plan

General

A site plan will be required for any new development other than single-family, two-family or duplex residential.

Any new development is subject to the design standards in Subchapter E of the Land Development Code. Additional comments will be made when the site plan is submitted.

FYI: A person may not sell or engage in the business of selling an alcoholic beverage at a place of business located within 300 feet of a church, public school, or public hospital except as provided by the Texas Alcoholic Beverage Code (4-9-4).

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

Compatibility Standards

The site is subject to compatibility height standards due to the presence of SF-3 zoning to the south. Along the southern property line, the following standards apply:

- No structure in excess of two stories and 30 feet in height may be constructed within 50 feet of the property line of the compatibility-triggering property.
- No structure in excess of three stories and 40 feet in height may be constructed within 100 feet of the property line of the compatibility-triggering property.
- For a structure more than 100 feet but not more than 300 feet from property zoned SF-3, the height is limited to 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-3.
- For a structure more than 300 feet but not more than 540 feet from property zoned SF-3, the height is limited to 60 feet plus one foot for each four feet of distance in excess of 300 feet from the property zoned SF-3.
- Additional design regulations will be enforced at the time a site plan is submitted.

Transportation

The Austin Strategic Mobility Plan (ASMP) calls for 116 feet of right-of-way for Jollyville Road. It is recommended that 58 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 116 feet of right-of-way for Oak Knoll Drive. It is recommended that 58 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

Assessment of required transportation mitigation, including the potential dedication of right of way and easements and participation in roadway and other multi-modal improvements,

will occur at the time of site plan application. A traffic impact analysis is not required. The traffic generated by the proposal does not exceed the thresholds established in the Land Development Code.

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Cap Metro (within $\frac{1}{4}$ mile)
Jollyville Road	Level 3	116 feet	~95 feet	60 feet	No	Yes, (two-way)	Yes
Oak Knoll Drive	Level 3	116 feet	~89 feet	60 feet	Sidewalks are only on the opposing side of the road from the site	No	Yes

Water Utility

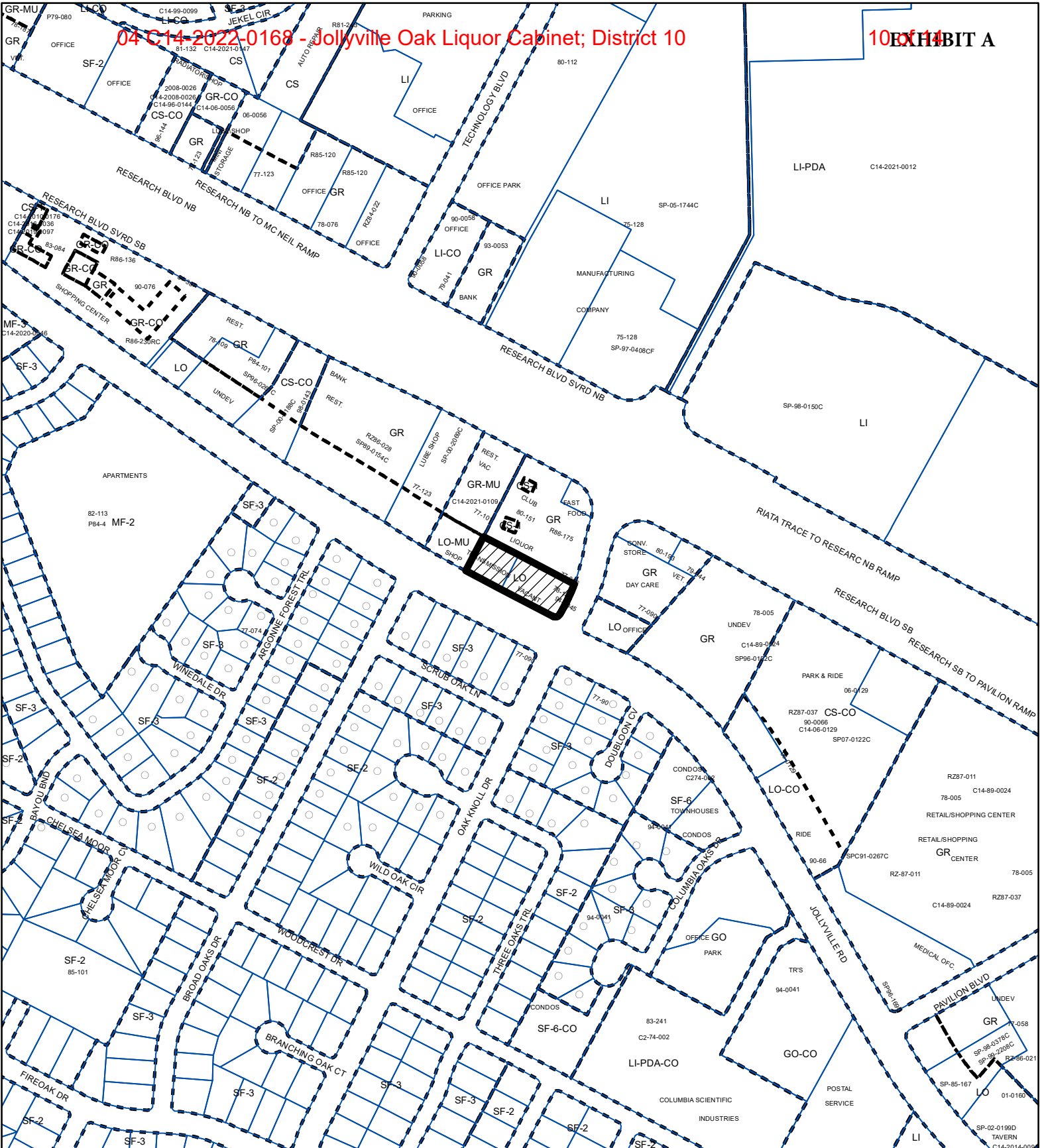
No comments on zoning change.

FYI: The landowner intends to serve the site with existing City of Austin water utilities and an On-Site Sewage Facility previously permitted.

Depending on future 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.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Map
- C. Applicant's Request Letter



ZONING

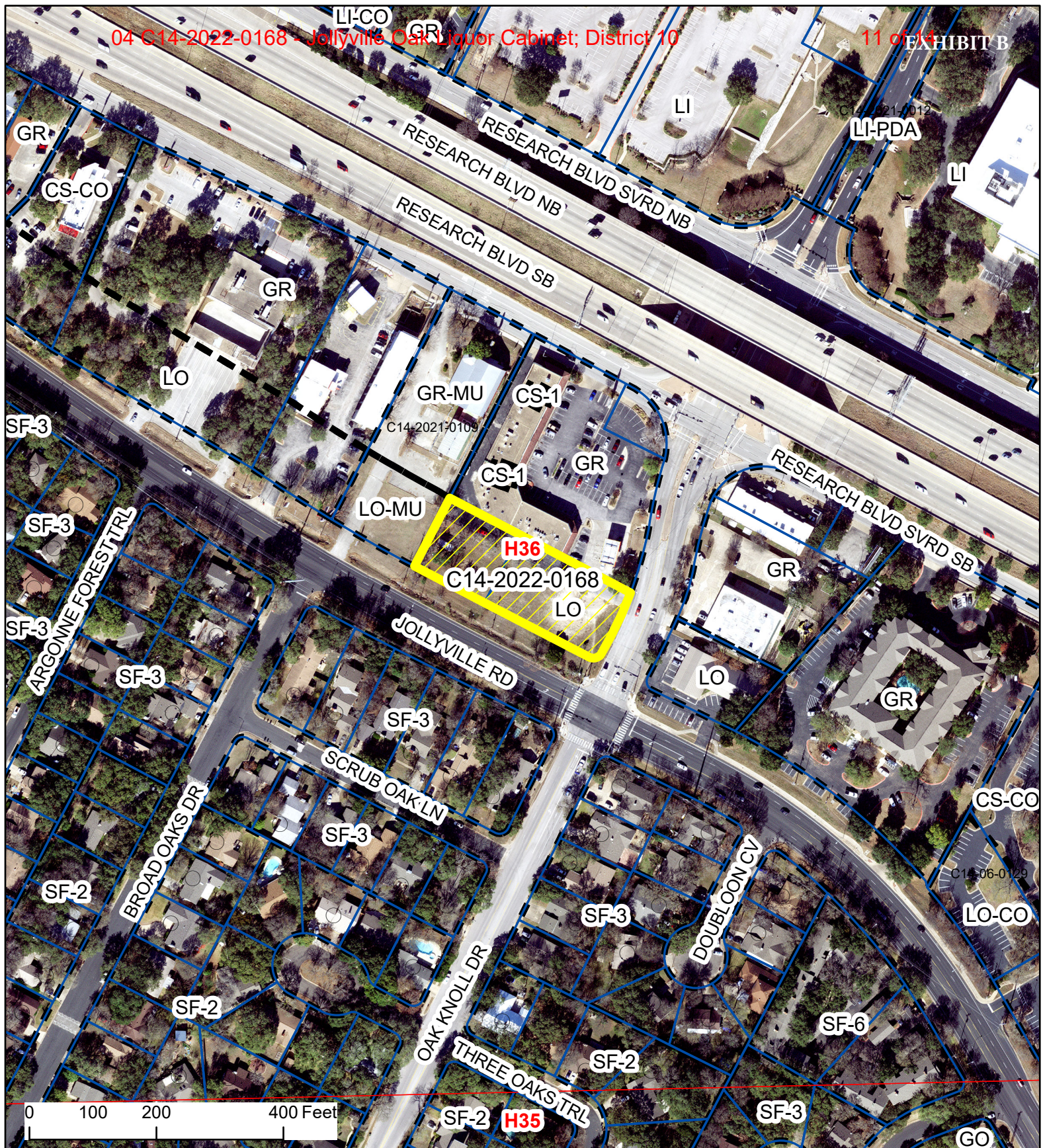
ZONING CASE#: C14-2022-0168



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Created: 12/7/2022



Jollyville Oak Liquor Cabinet



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

ZONING CASE#: C14-2022-0168
 LOCATION: 12029 and 12041 Jollyville Rd
 SUBJECT AREA: 0.89 Acres
 GRID: H36
 MANAGER: Sherri Sirwaitis



HUSCH BLACKWELL

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November 21, 2022

Rosie Truelove, Director
City of Austin Housing & Planning Department
The Street-Jones Building
1000 E. 11th Street, Suite 200
Austin, TX 78702

RE: Application to Rezone Property Located at 12029 and 12041 Jollyville Road,
Austin, TX 78759 (the “Property”) from LO to CS-1

Dear Mrs. Truelove:

Please accept the attached application to rezone the above-referenced Property from LO to CS-1 to allow for liquor store and an adjacent but separate cigar lounge on the ground floor, plus some administrative office space on the second floor.

Under its current zoning, the Property has been wasted space for decades as vacant land since at least the 1940s, in part due to the unintended consequences of a 120-foot office zoning buffer that should not be applied to the Property per zoning policies developed pursuant to Council direction.

In past zoning cases, the 1984 U.S. 183/Jollyville Road Area Study has been cited as a reason to maintain a 120'-wide strip of land zoned LO on the east side of Jollyville Road. However, the 1978 Planning Commission meeting minutes (which is when the study was drafted) regarding the study set forth zoning policies, including an exception that applies to the Property. As the minutes state:

The zoning policies which have been developed for the lands within the study area as a result of a number of zoning cases are as follows: (2) to scale down to “O” Office for tracts on the east side of Jollyville Road **not oriented to a major intersection.**”

The proposed CS-1 tract is on the east side of Jollyville Road; however, since it is “oriented to a major intersection” it falls within an exception. The Property is oriented to a major intersection since: (i) the ASMP designated the intersecting roadways as Level 3 roadways; (ii) the roadways at the intersection are signaled and have 4 lanes of regular travel, middle turn lanes, and bike lanes; and (iv) Jollyville Road is designated as an Imagine Austin Corridor; and (v) Jollyville Road is designated as a Future Core Transit Corridor.

Rosie Trulove
November 21, 2022
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In addition, the policy has not been implemented consistently. For example, in 1990, the City Council rezoned a 39-acre tract of land located just 250' to the east of the Property from LO to GR via Ordinance No. 901004-A. The policy also called for property adjacent to U.S. Hwy. 183 to be zoned to a maximum of GR, and yet Council has rezoned parts of that area (including in close proximity) to CS and CS-1. In addition, while the 120' buffer made sense in 1978 when the area was primarily undeveloped and rural, it no longer makes sense, as evidenced by the fact that the practical impact of the 120' LO buffer is that it has resulted in land within the buffer area not being developed for decades or being developed only as parking lots.

Also, note that the recently amended ASMP Street Network Table calls for the adjacent portion of Jollyville Road to be upgraded from its existing 5U cross section (4 travel lanes with a center turn lane) to a 4D future cross section (4 travel lanes with a raised median), in addition to converting the existing bike lanes into protected bike lanes and adding missing sidewalks.

Moreover, there is a significant buffer already provided since: (i) the plat requires a minimum 25' building setback along the adjacent roadways; (ii) Jollyville Road has +/- 100' of right-of-way and 116' is required per the ASMP's amended Street network Table; the only nearby SF-3 properties are across Jollyville Road, which are +/- 126' from the Property and separated by a Level 3 roadway, and those houses are oriented away from the Property toward a residential street further south.

For these reasons, we think that the proposed zoning is compatible with the adjacent uses and appropriate in scale and use given the existing and proposed roadway conditions. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Micah King" with a stylized flourish at the end.

Micah King

Exhibit:

- A. Planning Commission Minutes (May 1, 1978)

Planning Commission--Austin, Texas

May 1, 1978

3

C14-78-062 Numerous Owners: Interim "AA", 1st H & A to (by City of Austin) Proposed Appropriate Zoning Generally bounded to the north by Barrington Way, to the south by Great Hills Trail, to the east by U.S. 183, including Summit Oaks Subdivision and west by a 200-foot line west of and parallel to Jollyville Road and includes the Planned Industrial Area along Woodcrest Drive, up to Broad Oaks Drive, and incorporates the 20.74-acre tract of land south of Jollyville Road.

Marie Gaines of the Planning Department presented the staff report. She stated the City Council had instructed the Planning Department to study the subject area and to recommend appropriate permanent zoning. The following guidelines govern the recommendations: (1) to encourage a more comprehensive zoning approach to an area rapidly changing from a rural to an urban setting; (2) to recommend permanent zoning which will encompass previous zoning policies; and (3) to suggest a rational approach for land use which will minimize the number of zoning cases for this area. She discussed the area involved as well as the general land use and zoning. The zoning policies which have been developed for the lands within the study area as a result of a number of zoning cases are as follows: (1) to permit a maximum of "GR" General Retail for the lands fronting U.S. Highway 183, with more limited areas of more intense zoning to the interior of those tracts and to scale down to land fronting Jollyville Road; (2) to scale down to "O" Office for tracts on the east side of Jollyville Road not oriented to a major intersection; (3) to implement the zoning policy within the Summit Oaks Subdivision south of U.S. 183 for a maximum of "AA" Residence; (4) to implement the zoning plan approved by the City Council for the Summit Oaks Subdivision to the North of U.S. 183; and (5) to encourage single-family development in the predominantly undeveloped area west of Jollyville Road. The policy for Jollyville Road has been for "O" Office along the east side of Jollyville Road and "A" Residence is an appropriate scale down and buffer to the more intensive districts to the east.

The City Council and Planning Commission have expressed an interest in regulating the spacing of driveways along higher speed thoroughfares such as U.S. 183. The Urban Transportation Department is developing a proposal for ordinance revisions dealing directly with driveway spacing standards.

The future of existing uses will need to be considered. The Commission has two ways of dealing with them: (1) to allow these uses to continue as legal non-conforming uses; or (2) to recommend appropriate zoning for the existing uses where the identified use is considered consistent with