

CASE # CL8-2012-0003
ROW # 10692982

TP-0211090402

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 2015 Manor Road

LEGAL DESCRIPTION: Lots 7, 8, and the west 63.2 feet of Lot 6, Block 15, Outlot 46, Division D, Johns C. R. Subdivision

I/We Richard T. Suttle, Jr. with Armbrust & Brown, PLLC on behalf of myself/ourselves as authorized agent for Quander Management LLC affirm that on November 17, 2011, I, hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

Maintain the existing parking facility on the Property. The variances required to maintain the existing parking facility "as is" are as follows:

1. Section 25-2, Subchapter E, §2.2 (and related Section 25-2-1006), §2.3, §2.6, and §3.2 for sidewalks, planting zones, clear zones, utilities, furniture, building placement, parking, corner site, landscape buffer, connectivity, screening, and pedestrian frontage provisions to allow existing conditions to remain.
2. Section 25-2-1007 for landscape islands and trees in parking lots to allow existing conditions to remain.
3. Section 25-2-1008 for irrigation requirements so that the existing amount of landscaping and related irrigation is the required amount.
4. Sections 25-2-1062, 25-2-1066, and 25-2-1067 for compatibility requirements not to apply to the portion of the property abutting the alley to allow existing conditions to remain.

in a CS-MU-V-NP district.
(zoning district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The existing building on this site was constructed in 1949 as a residence. Through the years, the building became an office, daycare, and in 1996 became a restaurant for the first time. During the last 15 years, multiple other restaurants along Manor Road have opened, which has made parking difficult in this part of town due to the reuse of existing buildings for restaurants and the lack of available property solely for parking. Compliance with multiple sections of the commercial design standards, landscape island requirements in parking lots, irrigation requirements in an urban watershed, and compatibility standards would significantly decrease the number of parking spaces that are allowed on the Property.

Compliance with the portions of the Commercial Design Standards related to sidewalks, planting zones, clear zones, utilities, furniture, building placement, parking, corner site, landscape buffer, connectivity, screening, and pedestrian frontages would reduce the site area and remove parking spaces for the site.

The purpose of the landscape island variance and irrigation variance are to maintain the existing landscaped area and related irrigation, so that additional landscaping areas and irrigation are not required. If additional landscaping areas and irrigation were needed, it would require the loss of additional parking spaces on the site.

The compatibility variance is to maintain the existing condition, in which the parking lot is only 20 feet away (instead of 25 feet away) from the SF-3 zoned property to the south. An existing alley is located between this Property and the SF-3 zoned property to the south, as shown in Exhibit A.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

The VIVO's restaurant is located in an existing building constructed in 1949 as a residence. The design standards for site layouts and the requirements for parking have changed significantly in the past 60 years. In order to sustain the viability of commercial uses in older urban areas, variances are required. Since a reduction to the number of parking spaces is not desirable from the perspective of either the restaurant or surrounding neighborhood associations, the Applicant is requesting variances to other sections of the City's code to meet current parking lot design regulations. It is our desire to provide the required number of parking spaces for the use.

(b) The hardship is not general to the area in which the property is located because:

The VIVO's restaurant is located next to two adjacent empty lots, which can be used conveniently to provide parking. However, meeting all of the current Commercial Design Standards, landscape area requirements, irrigation requirements, and compatability standards would significantly reduce the number of parking spaces that could be located on the Property. Other restaurants in older buildings in this neighborhood must seek parking from blocks away, or do not provide code required parking. Those restaurants located in buildings constructed from the 1980s to the present have a greater chance of including code required parking, since they are newer buildings and parking requirements were more strict.

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

it will not affect the look and feel of the existing building constructed in 1949. According to aerials, the lots that are proposed to be used for parking have been empty since the 1970s. Parking has occurred on all or part of these lots for 30 years.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

N/A

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 100 Congress Avenue, Suite 1300

City, State & Zip Austin, TX 78701

Printed Richard T. Suttle, Jr, Armbrust & Brown, PLLC

Phone 512-435-2300

Date November 22, 2011

OWNERS CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed See Attached Authorization Letter Mail Address _____

City, State & Zip _____

Printed Quander Management LLC. Phone _____ Date _____

August 3, 2011

City of Austin
Neighborhood Planning and Zoning Department
505 Barton Springs Road, 5th Floor
Austin, Texas 78704

Re: Cause Nos. 6553453, 6553469, 6553486, 6553517, 6553538, 6553661, 6553664, 6553732, 6553741, and 6553746 (collectively, the "Violations") and the Improved Property Commercial Lease, as amended, (the "Lease") dated 11/4/02 by and between Quander Management, L.L.C. ("Landlord"), and Vivo Restaurant Group, Inc. ("Tenant") for the property locally known as 2015 Manor Road, Austin, Texas 78722, and more particularly described as the West 63.2 feet of Lot 6 and all of Lots 7-8, Block 15, Outlot 46, Division D, Johns CR Subdivision (the "Property")

Dear Ladies and Gentlemen:

The undersigned is the owner of the above-referenced Property. The undersigned Landlord executed the Lease with Tenant. Under the terms of the Lease, Tenant may not permit the leased premises (as defined in the Lease) to be used for any activity that violates any applicable law, regulation, zoning ordinance, restrictive covenant, governmental order, owners' association rules, tenants' association rules, Landlord's rules or regulations. Tenant made these improvements that caused the Violations and is obligated, at its sole cost and expense, to modify or alter the improvements to cure the Violations. The Property would then comply with any applicable law. As has previously been communicated, the undersigned Landlord authorizes Tenant to cure the Violations caused by Tenant. It is acknowledged that Armbrust & Brown, PLLC, the attorneys representing Tenant will act as agent for Tenant in connection with curing the Violations and bringing the Property into compliance with any applicable law.

Subject to the terms of the Lease, Tenant, and its agents, Armbrust & Brown, PLLC and Ron Thrower of Thrower Design, are authorized to process the Site Plan submitted with this letter and any variances to the Board of Adjustment, until this authorization is terminated by the undersigned. This authorization letter is meant to supplement the previous authorization letter that Landlord provided to you in January 2009.

Copies of all correspondence or comments concerning curing the Violations should be provided to the undersigned in care of (i) Peter Cesaro, Graves Dougherty Hearon & Moody, P.C., 401 Congress Ave., Suite 2200, Austin, Texas 78701 and (ii) Quander Management L.L.C., c/o Arthuree Quander, 8320 Summerwood Drive, Austin, TX 78759-8225.

Sincerely,



Quander Management, L.L.C.

By Arthuree L. Quander
Arthuree Quander, Manager



BOARD OF ADJUSTMENTS

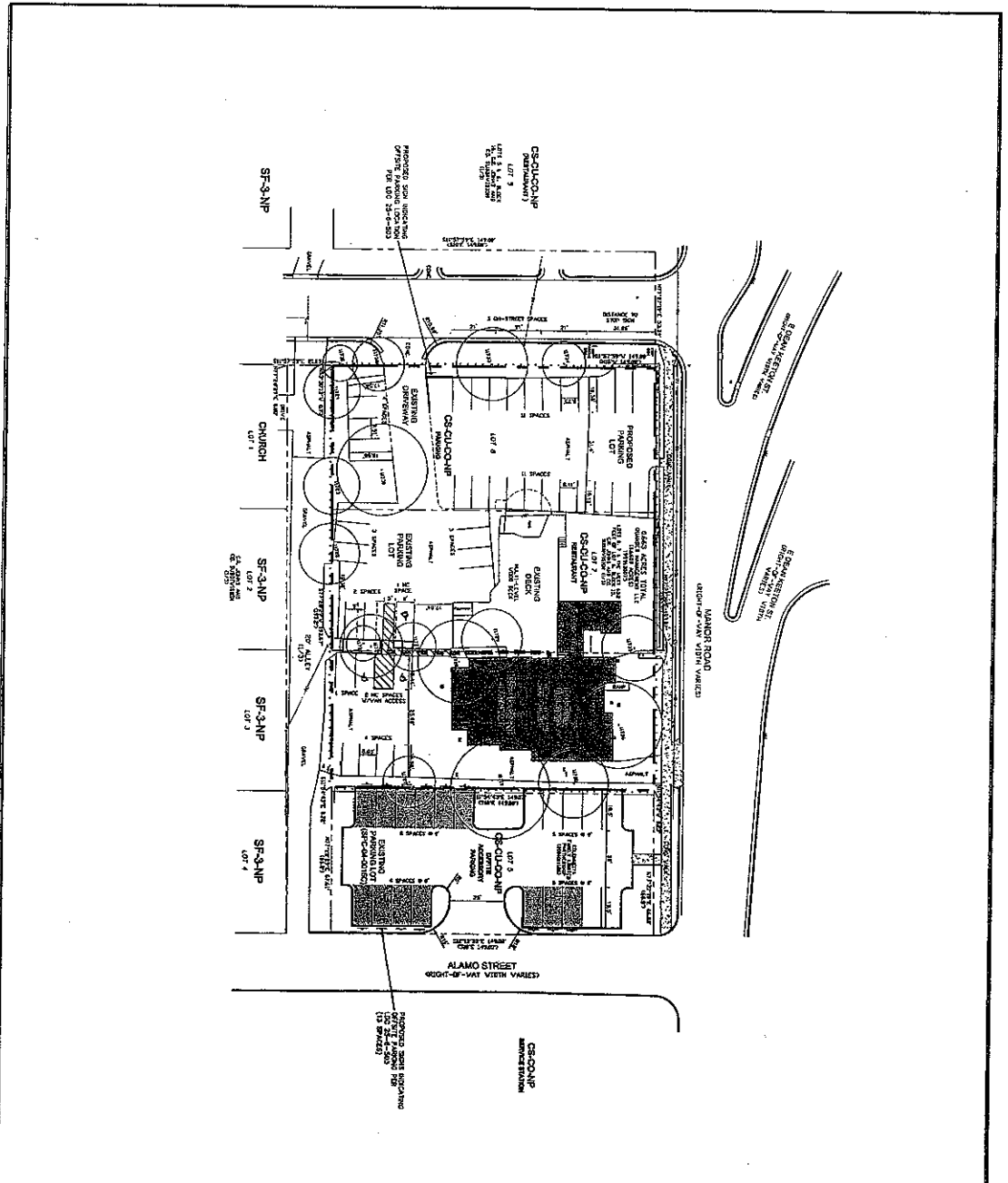


-  SUBJECT TRACT
-  ZONING BOUNDARY

CASE#: C15-2012-0003
 LOCATION: 2015 MANOR RD
 GRID: K23
 MANAGER: SUSAN WALKER



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.



NOTES

1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT AND THE STATE OF TEXAS.
2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND THE STATE OF TEXAS.
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LEGEND

--- EXISTING ROAD

--- PROPOSED ROAD

--- EXISTING DRIVEWAY

--- PROPOSED DRIVEWAY

--- EXISTING SIDEWALK

--- PROPOSED SIDEWALK

--- EXISTING UTILITY

--- PROPOSED UTILITY

--- EXISTING EASEMENT

--- PROPOSED EASEMENT

SCALE: 1" = 20'

SCALE IN FEET

0 10 20 30 40 50

AMERICAN DESIGN GROUP

CONSULTANTS

10000 WEST 10TH AVENUE, SUITE 100

DENVER, COLORADO 80231

TEL: 303.755.1234

FAX: 303.755.1235

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WWW.THROWERDESIGN.COM

VIVO'S PARKING

2015 MAJOR ROAD

AUSTIN, TEXAS 78722

SITE PLAN APPROVAL

DATE: _____

BY: _____

PROJECT NO. _____

DATE: _____

SITE PLAN

DATE: _____

BY: _____

PROJECT NO. _____

DATE: _____