

CITY OF AUSTIN APPLICATION TO BOARD  
OF ADJUSTMENT INTERPRETATIONS  
PART I: APPLICANT'S STATEMENT  
(Please type)

C15-2014-0158  
ROW 11247923  
Roll 0233100620  
(TEAD ✓)

STREET ADDRESS: 7501 N. Lamar

LEGAL DESCRIPTION: Subdivision –  
Northway Crest Sec. 2

Lot (s) 1 Block C Outlot \_\_\_\_\_ Division \_\_\_\_\_

ZONING DISTRICT: TOD-NP

WE, Katherine Loayza and Jim Nias on behalf of and as authorized Agents for  
Texas Loan Brokers I, LLP d/b/a Texas Title Loans affirm that on the 15th day of October,  
2014, do hereby apply for an interpretation hearing before the Board of Adjustment.

Planning and Development Review Department interpretation is: The Texas Title Loans use located  
at 7501 N. Lamar is not a legal, non-conforming Alternative Financial Services use because the  
Certificate of Occupancy issued in 1979, and reissued when Texas Title Loans moved in the  
premises in 2007, is no longer a valid Certificate of Occupancy.

We feel the correct interpretation is: The Texas Title Loans use located at 7501 N. Lamar is a  
legal, non-conforming Alternative Financial Services use because the Certificate of Occupancy  
issued in 1979, and reissued when Texas Title Loans moved in the premises in 2007, is still a  
valid Certificate of Occupancy.

**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.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that: The staff interpretation of what constitutes a valid Certificate of Occupancy ("CO") is based upon a relatively recent policy change that the CO must list a specific use category from the current Land Development Code ("LDC"), even if that was not the policy or practice when a CO was issued. A CO should not be considered to be automatically invalid just because it does not list a use category from the current LDC. If this is the case, then most of the commercial businesses that have existed in older spaces in Austin pursuant to COs issued over the years are also illegal.

When the present tenant occupied the premises in 2007, the CO was reissued based upon the original building permit and the zoning classification which was in place at the time of the original building permit and CO. Nothing has changed to warrant a new building permit or a new CO. There has been no change in the building use classification (B-2) under the applicable building codes since the original building permit. The 2003 IBC was adopted by the City effective as of January 1, 2006. The 2003 IBC classified financial services as Group B occupancy. There has been no change in the parking ratios or any utility or other site development requirements. (Refer to **Attachment A** for additional information on the history of the project.)

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because: The current tenant's use was in compliance with all applicable zoning regulations at the time that the current tenant occupied the premises, and the current tenant has been continuously in operation since 2007 with no Code violations or complaints from the neighborhood.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: The recognition that this use is a legal non-conforming use is treating this property the same as any other pre-existing use that was lawfully in existence before a code change was adopted. A denial of the legal non-conforming use will treat this property unfairly and not in accordance with the accepted practices and policies concerning Certificates of Occupancy at the time that this CO and building permit were issued in 1979 and the CO was reissued for this specific tenant in 2007.

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

Signed Katherine Loayza [Signature] Printed Katherine Loayza/Jim Nias

Mailing Address 100 Congress, Suite 1100

City, State & Zip Austin, Texas, 78701

Phone 512-236-2259

OWNER'S CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed



Printed

Joseph Todd Pearce

Mailing Address 12751 State Hwy. 1985

City, State & Zip Mabank, Texas 75156

Phone 214-989-6767



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

CASE#: C15-2014-0158  
Address: 7501 N LAMAR BOULEVARD



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.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 200'



Katherine P. Loayza  
(512) 236-2259 (Direct Dial)  
kloayza@jw.com

October 15, 2014

**Via Hand Delivery**

Ms. Leane Heldenfels  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

Re: Appeal of Use Determination and Board of Adjustment (B.O.A.) Interpretation  
For Texas Title Loans - 7501 N. Lamar Blvd.

Dear Leane:

I am submitting the appeal of the Use Determination Notice issued by the Planning and Development Review Department on October 1, 2014 regarding the request for a legal non-conforming Alternative Financial Services Use for the business referenced above. In addition, I am submitting the B.O.A. Interpretation application for the same use.

Please do not hesitate to contact me at 512-236-2259 should you have any questions regarding this appeal submittal.

Sincerely,

Katherine Loayza

Enclosure

# NOTICE OF APPEAL INFORMATION

Austin City Code 25-1-461 (see page 2 of 2 for appeal process)



## Planning and Development Review Department

Address of Property in Question 7501 N. Lamar Permit Number - NA-

Appellant Filing Appeal: Texas Loan Brokers I, LLC dba Texas Title Loans Relationship to Property - Tenant

Appellant's status as Interested Party - Applicant for Use Determination - Sec. 25-1-197 of the LDC

| Appellant Contact Information                             | Permit Holder Contact Information      |
|---|--|
| Name: Katherine Loayza & Jim Nias (Jackson Walker L.L.P.) | Name: Todd Pearah                      |
| Street 100 Congress Ave., Suite 1100                      | Street 12751 State Hwy 198S            |
| City Austin State TX Zip 78701                            | City Mabank State TX Zip 75156         |
| Telephone 512-236-2259                                    | Telephone 214-989-6767                 |
| E-Mail kloayza@jw.com / jnias@jw.com                      | E-Mail todd@txtitleloans.net           |
| Date of Decision Being Appealed: October 1, 2014          | Date Appeal is Filed: October 15, 2014 |

**Decision being appealed:** The Use Determination was made by the Planning and Development Review Department on October 1, 2014 that Texas Title Loans located at 7501 N. Lamar is not a legal non-conforming Alternative Financial Services use because the Certificate of Occupancy ("CO") issued in 1979 and reissued when Texas Title Loans moved into the premises in 2007 is not a valid CO. (See **Attachment A** for further background.)

**Reason the appellant believes the decision does not comply with the requirements of the Land Development Code (Title 25):** The Certificate of Occupancy ("CO") is still valid. No new work was required for the present tenant to occupy the existing lease space. There was no change in the Building Code Occupancy Group. There was no change in the parking ratios, utility requirements or other site development requirements. The City staff is interpreting the existing CO in light of their recently revised practices and policies, rather than the practices and policies in effect when the CO was issued in 1979 and reissued in 2007. They currently require that a CO must list a specific use category from the current Land Development Code. That was not always the case and previously issued COs should not be arbitrarily deemed invalid. Under that rationale, many if not most older COs would be illegal. (See **Attachment A** for further background.)

Hearing Date: Board or Commission:

Action on Appeal: Date of Action

Form Bldg 100 Page 1 of 2

**The applicant must complete page 2 of 2 and sign before this application of appeal is complete. The application will not be processed unless the applicant reads and signs page 2 of 2.**

## Appeal Process

You may appeal by following the following Land Development Code requirements. You must complete the form with all information required as listed below.

### ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

#### Division 1. Appeals.

##### § 25-1-181 STANDING TO APPEAL.

- (A) A person has standing to appeal a decision if:
- (1) the person is an interested party; and
  - (2) a provision of this title identifies the decision as one that may be appealed by that person.
- (B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

Source: Section 13-1-250; Ord. 990225-70; Ord. 030828-65; Ord. 031211-11.

##### § 25-1-182 INITIATING AN APPEAL.

An interested party may initiate an appeal by filing a notice of appeal with the responsible director or building official, as applicable, not later than:

- (1) the 14th day after the date of the decision of a board or commission; or
- (2) the 20th day after an administrative decision.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 031211-11.

##### § 25-1-183 INFORMATION REQUIRED IN NOTICE OF APPEAL.

The notice of appeal must be on a form prescribed by the responsible director or building official and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code.

10/14/2014 Katherine Loayza/JIM NIAS  
Date: Printed Name:

Katherine Loayza  
Signature:



**REQUESTS FOR INTERPRETATION  
(Appeal of an Administrative Decision)**

**REQUIRED ITEMS FOR A COMPLETE APPLICATION:**

The following items are required in order to file an application for interpretation to the Board of Adjustment.

- ☐ A completed application with all information provided. Additional information may be provided as an addendum to the application.
- ☐ Standing to Appeal Status: A letter stating that the appellant meets the requirements as an Interested Party as listed in Section 25-1-131(A) and (B) of the Land Development Code. The letter must also include all information required under 25-1-132(C).
- ☐ Site Plan/Plot Plan drawn to scale, showing present and proposed construction and location of existing structures on adjacent lots.
- ☐ Payment of application fee for residential zoning or for commercial zoning. See Current Fee Schedule (<http://www.austintexas.gov/departments/fees>) for Applicable Fees. Checks should be made payable to the City of Austin.

**An appeal of an administrative decision must be filed by the 20<sup>th</sup> day after the decision is made (Section 25-1-182). Applications which do not include all the required items listed above will not be accepted for filing.**

**If you have questions on this process contact Leane Heldenfels at**

**512-974-2202 or [leane.heldenfels@austintexas.gov](mailto:leane.heldenfels@austintexas.gov).**

**To access the Land Development Code, go to  
<http://www.austintexas.gov/departments/online-tools-resources>**

## **ATTACHMENT A**



## City of Austin

Founded by Congress, Republic of Texas, 1839  
Planning and Development Review Department  
One Texas Center, 505 Barton Springs Road 5<sup>th</sup> Floor  
P.O. Box 1088, Austin, Texas 78767  
(512) 974-3207

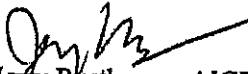
October 1, 2014

Jim Nias  
Jackson and Walker, LLP  
100 Congress Ave. Suite 100  
Austin, TX 78751

Dear Mr. Nias,

The City of Austin Planning and Development Review Department has reviewed the use determination submitted regarding the alternative financial services use known as Texas Title Loans located at 7501 N. Lamar Blvd. You argue that because a certificate of occupancy was issued in 1979 under a previous City Code that the use should be permitted in the TOD-NP zoning as a legal non-conforming use. Your position that the building was issued a CO for a zoning category, GR in 1979 rather than a use does not seem relevant at this time. In 2007 when the use was established at this address a change of use application should have filed changing the land use from retail to financial services. Had that occurred it could be considered a legal, non-conforming use as it would pre-date both the TOD zoning and the establishment of the Alternative Financial Services use. Because this did not occur at this time Texas Title Loans at 7501 N. Lamar is not considered a legal, non-conforming use.

Sincerely,

  
Jeff Rusthoven, AICP  
Manager  
Current Planning Division

Cc: Gregory I. Guernsey, AICP, Director, PDRD  
George Adams, Assistant Director, PDRD  
Brent Lloyd, Law Dept.

**C. USE DETERMINATION APPLICATION**

**PROJECT INFORMATION: DEPARTMENTAL USE ONLY**

|                                |                     |
|--------------------------------|---------------------|
| FILING DATE: _____             | FILE NUMBER: _____  |
| DUE DATE: _____                | CASE MANAGER: _____ |
| APPLICATION ACCEPTED BY: _____ |                     |

**APPLICANT INFORMATION**

|   |                               |
|---|-------------------------------|
| Texas Loan Brokers I, LLC d/b/a Texas Title Loans |                               |
| Name: c/o James M. Nias                           | Telephone: ( ) (512) 236-2350 |
| Address: 100 Congress Avenue, Suite 1100          |                               |
| City, State and Zip: Austin, Texas 78701          |                               |
| Email: jnias@jw.com                               |                               |

Address (if applicable) 7501 N. Lamar Blvd.

Is this determination in connection with a specific project? \_\_\_\_ Yes ☒ No

Case number of all related cases (if applicable) N/A

Description of proposed use Alternative Financial Services

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

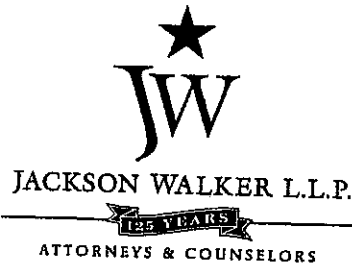
Land Use category sought (from LDC Chapter 25-2, Article 1. Zoning Uses):  
Legal Non-conforming Alternative Financial Services

Existing zoning TOD-NP

Case Manager or DAC staff member \_\_\_\_\_

Include any information for the director to use in consideration of the use determination, including but not limited to an explanation of the similarities, if any, of the use to other classified uses (include additional information and exhibits on separate page if necessary)

See attached correspondence.



James M. Nias  
(512) 236-2350 (Direct Dial)  
(512) 236-2002 (Fax)  
jnias@jw.com

July 2, 2014

Mr. Greg Guernsey  
Director  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

Re: Application for Use Determination for a legal non-conforming Alternative Financial Services use known as Texas Title Loans at 7501 N. Lamar Blvd.

Dear Mr. Guernsey:

This firm represents Texas Loan Brokers I, LLC d/b/a/ Texas Title Loans (principal Todd Pearah), which is the tenant of the building located at 7501 N. Lamar Blvd. We are submitting an application for a "Use Determination" pursuant to Austin Land Development Code ("LDC") Section 25-1-197 in regard to the existing Alternative Financial Services use at this location. We request that this existing use be determined to be a legal non-conforming use.

To refresh your memory about this, in January of 2013 Texas Title Loans attempted to register as a Credit Access Business ("CAB") with the City's Office of Telecommunications and Regulatory Affairs, as now required by Chapter 4-12 of the City Code. The CAB registration was denied on or about April 5, 2013. According to Martha Hernandez, Regulatory Monitor in the Office of Telecommunications and Regulatory Affairs, the denial was based on a determination by the Planning and Development Review Department that the certificate of occupancy ("CO") which was submitted with the CAB registration in accordance with the registration requirements was not a valid CO.

On May 31, 2013, there was a meeting in your office concerning the matter. The attendees included Katherine Loayza and myself from this firm, you, Chris Johnson of the Development Assistance Center, the then Building Official Leon Barba, Moses Rodriguez of the Code Compliance Department, and Assistant City Attorney Brent Lloyd by telephone. At the conclusion of that meeting, there was no formal decision issued. Instead, the suggestion was made to Ms. Loayza and me that the matter could possibly be resolved by obtaining variances from the City Board of Adjustment from the setback and spacing requirements which currently apply to Alternative Financial Services uses. We spent approximately a year pursuing that goal. The Board of Adjustment conducted its public hearing on the variance application at its April, 2014 meeting, but postponed action for a month in order to obtain more input from City staff. By the time the matter reappeared on the May, 2014 agenda of the Board of Adjustment, the

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Board had been advised by the City Law Department that the variance process was the wrong process and that the Board was without jurisdiction to act on the variance application. The variance case was postponed for another month. At its June, 2014 meeting, the Board went into an executive session with the Law Department, and when it came out of executive session, announced with no further opportunity for us to be heard that it would not take any action on the variance application. In between the May and June Board meetings, Ms. Loayza and I met with Assistant City Attorneys Brent Lloyd and David Sorola who indicated that a Section 25-1-197 Use Determination application to you was the appropriate process, with the possibility of an appeal of an adverse determination to the Board of Adjustment.

The following support a favorable determination that the existing use at this location is a legal non-conforming use.

(1) The building which has been the business location for Texas Title Loans since 2007 was constructed in 1979. The building permit was submitted on July 5, 1979 (Permit # 183447) for two commercial lease spaces addressed as 7501 and 7503 N. Lamar. A Certificate of Occupancy was issued on October 9, 1979 for that building permit indicating that the occupancy was "Lease Space Retail" (See Exhibit A).

(2) In October of 2007, Texas Title Loans entered into a lease to occupy the space at 7501 N. Lamar for its business which makes short-term car title loans and payday loans. On December 12, 2007 the Watershed Protection and Development Review Department staff re-issued the CO for this location under the original building permit #183447, at the request of H.M. Caskey who is the owner of the property (See Exhibit B). This action was taken by the owner to ensure that the tenant could lawfully occupy the space. Since the use of the property did not trigger a Building Code use and occupancy group change, the description of the use of the property remained the same in the re-issued CO, or "lease space retail." The specific use stated in the re-issued CO is: "1 story concrete (T.L.T. Wall) steel comm. Retail sales bldg." There was no secret about who the occupant was intended to be. A permit application for a sign specifically identifying Texas Title Loans was submitted less than a month later, with apparently no issues being raised about the adequacy of the CO.

(3) The zoning regulations in effect at the time of the 1979 building permit and CO issuance were contained in Chapter 45 of the City Code of 1967. The property was zoned "GR"-General Retail District under Chapter 45 at that time. It is very important to understand that under Chapter 45, the term "retail" referred to a zoning classification, NOT to a specific type of use category. There was no "retail sales" use category in the Code at that time. The flaw in the staff interpretation of the CO thus far has been to interpret it in light of definitions from today's LDC, rather than the Code which existed at the time of the issuance of the CO in 1979.

(4) As you know, the zoning regulations were cumulative under Chapter 45. Attached for your convenience (See Exhibit C) are Section 45-21, "LR" Local Retail Districts and Section 45-22, "GR" General Retail Districts. The GR zoning would have allowed all uses permitted in both LR and GR. The permitted uses in LR included financial services such as banks, as well as offices, and other local retail type uses, although there is no mention of a use category

Mr. Greg Guernsey  
July 2, 2014  
Page 3

specifically called "retail" or retail sales". Again, at the time, the term "retail" referred to a zoning classification, NOT a specific type of use category. Therefore, the occupancy described on the CO allowed the range of uses permitted in the GR zoning classification pursuant to the still active building permit at this location. The only reason to obtain a new CO would have been if the Building Code use and occupancy group classification had changed, which it would have for a few of the uses allowed in GR zoning under Chapter 45.

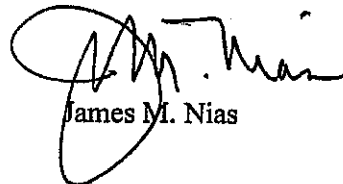
(5) There has been no "change of use" when evaluated under the standards applicable when the CO was issued. Moreover, the Building Code use and occupancy group classification did not change when Texas Title Loans moved in in 2007 and remains B-2. There was no change in parking requirements or utility related requirements when Texas Title Loans moved in in 2007.

(6) The thing which has changed is the zoning, both in terms of the creation of the Alternative Financial Services use category and its special site development criteria, and the recent change in zoning classification to TOD-NP. However, this established use should be considered as legally non-conforming as to both of these things.

(7) Finally, we would note that the amount of information which has been placed on a CO has varied over the years, as has the reference to the use or occupancy. Technically, a CO is supposed to indicate the Building Code use and occupancy group classification. However, it appears that staff is now looking for a current zoning use description to be reflected on COs, in addition to the use and occupancy group pursuant to the Building Code requirements. The fact that the CO in question does not specifically reference the exact current zoning use category does not make the existing use illegal. If the City takes that position, many if not a majority of the existing commercial business uses in Austin would be illegal.

For these reasons, and on the basis of fundamental fairness, we respectfully request a use determination that the existing Alternative Financial Services use located at 7501 N. Lamar Blvd. is a legal non-conforming use.

Sincerely,



James M. Nias

cc: Mr. Brent Lloyd, City of Austin Law Department  
Mr. David Sorola, City of Austin Law Department  
Ms. Katherine Loayza, firm



**EXHIBIT A**

Address: 7501 No. Lamar

Permit: 183447

Plat: 313

Lot: 17503

Block C

Subdivision:

Outlot -

NORTHWAY CREST SEC. 2

Fire Zone: 3

Use Dist. GR &amp; A 1st

Occupancy: 1) LEASE SPACE 2) RETAIL LACQUER

| 7-5-79 Ray Layout         | Framing                   | 10-9-79 Final | Commercial  |
|---------------------------|---------------------------|---------------|-------------|
| Foundation S              | Floor joist size & o.c.   | Bldg. Conn.   | Parking 21  |
| Front setback 36'         | ceiling joist size & o.c. | Room Vent. /  | Exits *     |
| Total & Min. side yard 47 | stud size & o.c.          | Stairs        | Exit lights |
| Side St. Yard 42          | W. Insulation             | Rails         | Fences      |
| Type Const. II            | Sheetrock                 | Attic Vent.   | Corridors   |
| Spec. Permit #            | Commercial Sheetrock      | Insulation    |             |
| BOA                       | Occup. Sep. 1 hr          | Hood Vent.    |             |
|                           | Thru out                  | Glass         |             |
|                           |                           | Deadbolts     |             |
|                           |                           | Fireplaces    | 7501-1599 # |
|                           |                           |               | 1-EXIT      |
|                           |                           |               | CLOSED      |

Owner: MR. H M CASKEY

Contractor: RAYMOND C. TURBS.

7503-1400# SALES AREA  
+ STORAGE  
1-EXIT

BID 2005 JUNE 77

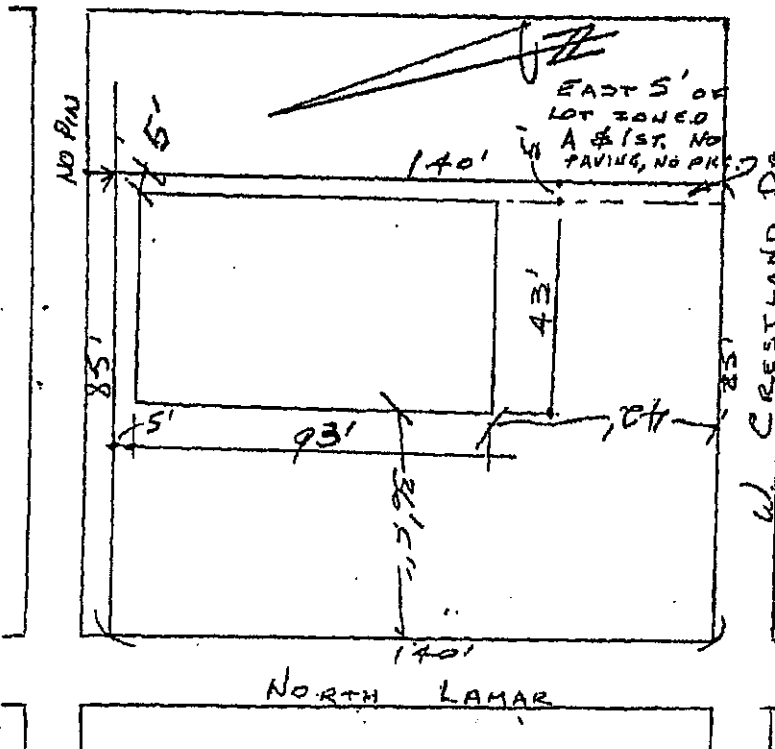


City of Austin

Clerk RARR.

Date: 7-2-77

Address: 7501 No. Lamar



193  
63  
279  
372  
3999  
2000

1 STORY CONCRETE (TILT WALL) &  
STEEL RETAIL SHOP BLDG.

Inspector:

Lot 1

Block C

Subdv. Northway Crest  
Sec. 2

**Certificate Of Occupancy**  
**No. 91495**

**DEPARTMENT OF BUILDING INSPECTION**  
**City of Austin, Texas**

Permit # 183447

Zoning GR & A & 1st.

Plat 313

THIS IS TO CERTIFY THAT THE BUILDING OR STRUCTURE AT THE ADDRESS LISTED BELOW HAS BEEN  
INSPECTED AND THE FOLLOWING OCCUPANCY THEREOF IS HEREBY AUTHORIZED.

Address 7501 N. Lamar

Use 1 story conc tilt wall & steel comm bldg Retail Sales Bldg.

Owner of Land Mr. H.M. Caskey

Owner of Improvements \_\_\_\_\_

Contractor Raymond Tubbs

Address P.O. Box 14140

Plumber A. Parks

No. of Gas Meters 1

Remarks \_\_\_\_\_

Date 10-9-79

By JJ

BUILDING OFFICIAL

BID #2008

OFFICE COPY

SEE REVERSE SIDE

|   |                      |                 |                 |
|---|----------------------|-----------------|-----------------|
| OWNER   | Mr. H.M. Caskey      | ADDRESS         | 7501 Lamar (N)  |
| PLAT  | 313                  | LOT             | 1               |
|   |                      | BLK             | C               |
| SUBDIVISION                                       | Northway Crest sec 2 |                 |                 |
| OCCUPANCY   | Lease Space retail & |                 |                 |
| BLDG. PERMIT #                                    | 183447               | DATE            | 7-2-79          |
|   |                      | OWNERS ESTIMATE | 68,000.00       |
| CONTRACTOR  | Raymond C. Tubbs     |                 | NO. OF FIXTURES |
| WATER TAP REC#                                    | G04424               | SEWER TAP REC#  | 89074           |
| 1 story concrete (T.L.T wall) steel comm & retail |                      |                 |                 |
| sales bldg.                                       |                      |                 |                 |
|   |                      |                 |                 |
|   |                      |                 |                 |

BID 2004

**EXHIBIT B**



12/12/2007

**REISSUED  
CERTIFICATE OF OCCUPANCY**

**WATERSHED PROTECTION AND DEVELOPMENT REVIEW DEPARTMENT  
CITY OF AUSTIN, TEXAS**

**BUILDING PERMIT NO. 183447**

**ORIGINAL DATE: 07/02/1979**

**LEGAL DESCRIPTION AS ON ORIGINAL DOCUMENT: Northway Crest Sec. 2**

**ZONING: Plat 313 Lot 1 Blk. C**

**THIS IS TO CERTIFY THAT, THE BUILDING OR STRUCTURE AT THE ADDRESS LISTED BELOW WAS INSPECTED AT THE TIME OF THE ORIGINAL DATE FOR COMPLIANCE WITH THE REQUIREMENTS OF THE AUSTIN CITY CODE FOR USE LISTED BELOW.**

**ADDRESS: 7501 North Lamar Blvd.**

**USE: 1 story concrete (T.L.T. Wall) steel comm. Retail sales bldg.**

**OWNER: H.M. Caskey**

**REMARKS: Lease space retail**

  
Leon Barba, Building Official

**BY: L.B.**

**PLEASE NOTICE**

**'NEITHER THE ISSUANCE OF THIS CERTIFICATE NOR THE INSPECTIONS MADE SHALL LESSEN THE RESPONSIBILITY OR LIABILITY OF ANY PERSON, FIRM OR CORPORATION, OWNING, OPERATING, CONTROLLING OR INSTALLING ANY APPLIANCE OR MATERIAL UPON THE PREMISES, OR DOING ANY WORK WHATSOEVER ON SUCH PREMISES.**

**THE CITY OF AUSTIN DOES NOT ASSUME ANY RESPONSIBILITY OR LIABILITY BY REASON OF THE INSPECTION, OR REINSPECTION, OF THE PREMISES; OR THE ISSUANCE OF THIS "CERTIFICATE OF OCCUPANCY"; OR BY REASON OF ANY APPROVAL OR DISAPPROVAL.'**

**EXHIBIT C**

Sec. 45-21. "LR" LOCAL RETAIL DISTRICTS.

In an "LR" local retail district no building or land shall be used and no building shall be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the uses enumerated in this section. The "LR" local retail district is designed for retail businesses of a local character, and wholesale establishments are not to be located within this district. Permitted uses are enumerated as follows:

- (a) Any use permitted in an "O" office district.
- (b) A bakery.
- (c) Banks, offices, wholesale sales offices and sample rooms.
- (d) Barbershops, beauty shops, and any other personal service shops.
- (e) Cafes, cafeterias, and restaurants in a building.
- (f) Camera shops and photographic supplies.
- (g) Cleaning and pressing shops.
- (h) Drugstores, soda fountains, soft drink stands, and candy and tobacco shops.
- (i) Gasoline service stations when a permit has been secured from the city council. (3-19-59.)
- (j) Grocery stores or grocery stores including the sale of beer and wine, as defined by state law, in unopened containers for off-premises consumption. (11-3-66.)
- (k) Ice vending stations.
- (l) Jewelry and optical goods.
- (m) Meat markets.
- (n) Nurseries and greenhouses.
- (o) Pickup stations for receiving and delivering of articles to be dyed or laundered, but no actual work shall be done on the premises.
- (p) Shoe repair shops.
- (q) Variety stores.
- (r) Washaterias or self-service laundries equipped with automatic washing machines, dryers and ironers of the type customarily found in a home, and where the customer may personally supervise the handling of his laundry.
- (s) Wearing apparel shops.
- (t) Signs, as provided in section 45-31.
- (u) Any other local retail use supplying the everyday shopping needs of the immediate neighborhood and subject to the following conditions:
  - (1) That it be conducted wholly within an enclosed building.
  - (2) That required yards be not used for display, sale or storage of merchandise, or for the storage of vehicles, equipment, containers or waste material.
  - (3) That all merchandise be first hand and be sold at retail on the premises.
  - (4) That there be no manufacturing or processing on the premises.
  - (5) That such use be not objectionable because of odor, excessive light, smoke, dust, noise, vibration, presence of vermin or rodents, or similar nuisances.
- (v) Uses by special permit only, which shall include the following:
  - (1) Trailer courts when in compliance with chapter 33. (3-19-59.)



(2) Uses permitted in the "GR" general retail district without a special permit, when located adjoining or across a public street or alley from a "GR" general retail or less restricted district.

(3) Veterinary hospital or clinic with hospital, clinic, surgical, and commercial dog kennel facilities, provided that: (781207-E)

a. All facilities including commercial dog kennels and runs are located within the building; and (781207-E),

b. The facility uses year-round central air systems; and,

c. The hospital or clinic is limited to the treatment of non-farm animals; and,

d. The facility does not produce a noise level in excess of 50 dB(A) at any property line (the "A" scale shall be used for reference), and no building or any part thereof is located closer than twenty-five feet to any property line abutting a "B" Residence or more restrictive use district. (731115-B.)

(4) A public stable or riding academy when located on a site of not less than ten acres.

(5) A drive-in theater located on a site of not less than ten acres and in compliance with sections 4-10 to 4-27. (3-19-59.)

(6) Motels when in compliance with chapter 33. (3-19-59.)

(7) An apartment dwelling group, in accordance with the provisions concerning apartment dwelling groups in section 45-19. (1-7-60.) (7-17-41; 3-19-59; 1-7-60; 661103-B.)

(8) Town houses, in accordance with the provisions concerning town houses in section 45-18 (g) (8). (731115-A.)

(9) Those uses permitted in an "O" office district by special permit under the same conditions as imposed in "O" office districts. (771006-L).

Sec. 45-22. "GR" GENERAL RETAIL DISTRICTS.

In a "GR" general retail district no building or land shall be used and no building shall be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the uses enumerated in this section. The "GR" general retail district is designed for retail businesses of general character, and wholesale establishments are not to be located in this district. Permitted uses are enumerated as follows:

- (1) Any use permitted in the "LR" local retail district.
- (2) Ambulance services.
- (3) Aquarium, bird, and pet shops.
- (4) An auto laundry, without boiler, heating, and steam cleaning facilities, in which all washing operations are carried on within a building.
- (5) An auto repair garage, where all work is conducted inside a building not including the open storage of vans, trailers, or trucks.
- (6) Auto seat covers and covering.
- (7) Cafes, cafeterias, and restaurants, with or without drive-in facilities, including the sale, dispensing and otherwise handling of alcoholic beverages, distilled spirits, liquors, wines, vinous liquors, ales, malt liquors, beer, and mixed beverages as those terms are defined in the Texas Liquor Control Act; Articles 666-667, Vernon's Texas Penal Code, direct to the consumer, for consumption on the premises, but not for resale; provided, that the sale of the above beverages is incidental and secondary to the sale of food and similar commodities for human consumption, and that such sale conforms to all the regulations of the state Liquor Control Act with reference to licenses and permits, time and manner of sale; and that the land or building is used at such location as a restaurant or cafe as defined in section 45-1; and that where food or refreshments are served on the premises, outside of the building and within fifty feet of a property line abutting an "O" office or more restricted district, a solid fence, dense hedge or other opaque barrier, not less than six feet high to within ten feet of a street line, is placed on the property lines where the property lines abut or adjoin such "O" office or more restricted district, or any land improved and used for residential purposes; and that where facilities are provided for any loudspeaker or other sound device to broadcast or play on the outside of the building any speech, songs, or instrumental music, the sound level at or beyond the property line shall not exceed fifty decibels. No food or drink may be served to vehicles parked on the public street. (11-3-66; 710610-A.)
- (8) Catering and wedding services.
- (9) Commercial billboards or advertising signs.
- (10) Craft and hobby shops, fix-it shops, bicycle repairs, saw filing, lawn mower sharpening; but without an outside garage.
- (11) Curtain cleaning shops.
- (12) Department stores; sporting goods, novelty, or toy shops.
- (13) Dyeing plants.
- (14) Electrical goods:
  - (a) Electronic wholesale distributors subject to the following limitations:

1. The distributor's place of business shall have no more than ten thousand square feet of floor area.

2. Sales by such distributor of household merchandise (as opposed to industrial merchandise) shall constitute at least eighty per cent of the business of such establishment. (6-11-64.)

- (15) Electrical repairing (domestic equipment and autos).
- (16) Exterminating companies.
- (17) Film developing and printing.
- (18) Furniture repairs and upholstering, with all storage and display within a building.
- (19) Frozen food lockers.
- (20) Hardware, paints, wall paper.
- (21) Household and office furniture, furnishings and appliances.
- (22) Repealed by Ordinance No. 740919-A.
- (23) Motels.
- (24) Motion picture theaters.
- (25) Office buildings.
- (26) Piano and musical instruments.
- (27) Commercial parking garages or any other automobile facility for parking of passenger cars and trucks of less than one-ton capacity only, where the rental of space is on an hourly, daily, weekly, or monthly basis.
- (28) Plumbing shops without warehouse facilities (to include store for ordinary repairs but not storage of materials for contracting work).
- (29) Rug cleaning shops, chemical type, where all cleaning operations are carried on within a building, where rugs are laid flat, the chemicals mixed with water and applied with a brush, and removed by vacuum cleaning, entirely without the generation of dust.
- (30) Seed stores.
- (31) Taxi dispatch offices.
- (32) Sale of new or used passenger cars and trucks of less than one-ton capacity. Vehicles shall be in operating condition and open display or storage areas shall be surfaced in accordance with the requirement for off-street parking spaces. Separate parts, motors, or other portions of vehicles shall be firsthand and sold at retail and shall be displayed or stored within an enclosed building. (3-19-59.)
- (33) Sale of new or used boats. Boats shall be in operating condition and open display or storage areas shall be surfaced in accordance with requirements for off-street parking spaces. Separate parts, motors, or portions of boats shall be firsthand and sold at retail and shall be displayed or stored within an enclosed building. (3-19-59.)
- (34) Accessory buildings and uses customarily incident to the uses enumerated in this section. No accessory use shall be construed to permit the keeping of articles or materials in the open or on the outside of the building.
- (35) Signs as provided in section 45-31.
- (36) Any other retail use, subject to the following conditions:
  - (a) That it is conducted wholly within an enclosed building.
  - (b) That required yards shall not be used for display, sale, or storage of vehicles, equipment, containers, or waste material.

(c) That all merchandise is firsthand and sold at retail on the premises. (10-4-56.)

(d) That there is no manufacturing or processing; except, that which is incidental and essential to an enterprise in which all merchandise is sold at retail on the premises.

(e) That such use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration, presence of vermin or rodents, or similar nuisances.

(37) Skating rinks or bowling alleys, when air conditioned and designed to reduce external noise to a minimum at the property line.

(38) Trampoline centers. (7-14-60.)

(39) Uses by special permit only, which shall include the following:

(a) Uses permitted in the "C" commercial district without a special permit, and when located adjoining or across a public street or alley from a "C" commercial or less restricted district.

(b) A veterinary hospital or clinic in accordance with the provisions of section 45-21 (v) (3). (731115-B.)

(c) A public stable or riding academy when located on a site of not less than five acres.

(d) Drive-in theaters when located on a site of not less than ten acres and in compliance with sections 4-10 to 4-27. (3-19-59.)

(e) Trailer courts when in compliance with chapter 33. (3-19-59.)

(f) An apartment dwelling group in accordance with the provisions concerning apartment dwelling groups in section 45-19. (1-7-60.) (7-17-41; 10-4-56; 3-19-59; 1-7-60; 6-11-64; 661103-B.)

(g) Town houses, in accordance with the provisions concerning town houses in section 45-18 (g) (8). (731115-A.)

(h) Those uses permitted in an "LR" local retail district by special permit under the same conditions as are imposed in "LR" local retail districts. (771006-L).

#### Sec. 45-22.1. "AV" Airport District

In an "AV" airport district, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

(1) Any use directly associated with the operation, service, fueling, repair, storage, charter, sales and rental of aircraft, and/or associated equipment.

(2) Assembly and sale of aircraft, air frames, aircraft engines, aircraft parts and associated components such as radios and navigational equipment.

(3) Airport customer service uses including, but not limited to, auto service stations, restaurants, bookstores, lounges, newsstands, dry cleaning, barbershops, secretarial services, drug stores, flower shops, gift shops, motels and hotels, and other uses and services of similar nature. (790419-I)

- ## Address Points

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. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.



Planning and Development Review Department  
P.O. Box 1088, Austin, Texas 78767  
One Texas Center, 505 Barton Springs Road  
Telephone: (512) 974-6370 Fax: (512) 974-2423

### Site Development Exemption Request

|   |                                 |  |
|---|---------------------------------|--|
| Site Address:   | 7439 N LAMAR                    | DA: 0010-00297   |
| Project Name:   | EEPAUN / EE MONEY               |  |
| Legal Description:  | Lot 1 BIKD Northway Crest Sec 2 |  |
| Zoning:   | TOD-NP                          |  |
| Existing Land Use(s):   | PAUN SALES                      | Watershed: Whetler   |
| Proposed Land Use(s):   | PAUN SALES / FINANCIAL SVCS     | Flood Plain? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Brief/General Description of the Development being sought:<br>Add FINANCIAL SVCS TO EXIST. E.C. |                                 |  |

Attach a detailed description of the proposed development in a memorandum or letter and a site plan or survey plan that graphically indicates, but is not limited to,:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> existing trees   | <input checked="" type="checkbox"/> limits of construction                           |
| <input checked="" type="checkbox"/> buildings  | <input checked="" type="checkbox"/> type of construction                             |
| <input checked="" type="checkbox"/> parking areas  | <input checked="" type="checkbox"/> location of construction                         |
| <input checked="" type="checkbox"/> roadways/streets   | <input checked="" type="checkbox"/> accessible parking                               |
| <input checked="" type="checkbox"/> all areas of impervious cover levels (existing & proposed) | <input checked="" type="checkbox"/> access route                                     |
| <input checked="" type="checkbox"/> erosion controls (i.e.: silt fencing, tree protection)     | <input checked="" type="checkbox"/> on-site sewage (septic) systems and drain fields |

1. Audrey Dodson (PRINT NAME) do hereby certify that I am the

☐ owner ☒ owner's agent (to act as the owner's agent, written authorization from the owner must be provided) of this described property, and in this capacity, submit this request for exemption from the site plan submittal requirements pursuant to Chapter 25-5-2 of the Austin City Code.

Furthermore, I certify and acknowledge that:

1. Although the proposed development does not require a formal site plan approval, it may require, prior to beginning any site work, the approval of the subdivision or issuance of a building, remodel, and/or demolition permit;
2. Although the proposed development complies with all applicable zoning regulations, it does not prohibit enforcement of restrictive covenants and/or deed restrictions;
3. The approval of this exemption request does not constitute authorization to violate any provisions of the Austin City Code.

NOTE:

According to Rick Angela, there is no CO for a use at 7439 N. Lamar, and there apparently never has been either a building permit or CO issued for this address.

The CO for 7435 N. Lamar does not list financial services as a use either.

KPL

# City of Austin, Texas



## CREDIT ACCESS BUSINESS

REGISTRATION # A20130091116A

Issued to the following location:

TEXAS EZPAWN LP  
7435 N LAMAR BLVD  
AUSTIN, TX 78752

EXPIRATION DATE: 8/19/2014

This certificate must be renewed annually

*Issued in accordance with provisions of Chapter 4-12 of the Code of the City of Austin.  
The Office of Telecommunications & Regulatory Affairs must be notified of all material change within 45 days of the change.*

*Rondelle M. Hawkins*

Rondelle Hawkins, Director

THIS CERTIFICATE MUST BE PROMINENTLY POSTED

Address: 7435 N. LAMAR Permit: 172455 Plat: 313  
 Lot: 2 Block D Subdivision: NORTHWAY CREST  
 Outlot: - SUBDIVISION  
 Fire Zone: 3 Use Dist. G-1 Occupancy: RETAIL STORE

| <u>5-25-78</u>         | <u>Layout</u> | <u>7-27-78</u>            | <u>Framing</u>  | <u>9-13-78</u>     | <u>Final</u> | <u>Commercial</u> |
|------------------------|---------------|---------------------------|-----------------|--------------------|--------------|-------------------|
| Foundation             | <u>2</u>      | Floor joist size & o.c.   |                 | Bldg. Conn.        |              | Parking <u>12</u> |
| Front setback          | <u>88</u>     | ceiling joist size & o.c. |                 | Room Vent.         |              | Exits             |
| Total & Min. side yard | <u>0</u>      | stud size & o.c.          | <u>2x4</u>      | Stairs             |              | Exit lights       |
| <u>St. Yard</u>        | <u>25'</u>    |                           | <u>2x6 16</u>   | Rails              |              | Fences            |
| <u>REAR</u>            |               |                           |                 | Attic Vent.        |              | Corridors         |
| Type Const.            | <u>TII</u>    | W. Insulation             |                 | Insulation         |              |                   |
| Spec. Permit #         |               | Sheetrock                 |                 | Hood Vent.         |              |                   |
| BOA                    |               | Commercial Sheetrock      |                 | Glass              |              |                   |
|                        |               | Occup. Sep.               | <u>1 Hr - 5</u> | Deadbolts          |              |                   |
|                        |               | Thru out                  |                 | Fireplaces         |              |                   |
|                        |               |                           |                 | <u>DANGER ROOM</u> |              |                   |

Owner: PETER W. JASIN Contractor: SUPERIOR

NO EXIT ON EAST 10' ON CROSSLAND. CONSTRUCTORS  
52x60 - 3360

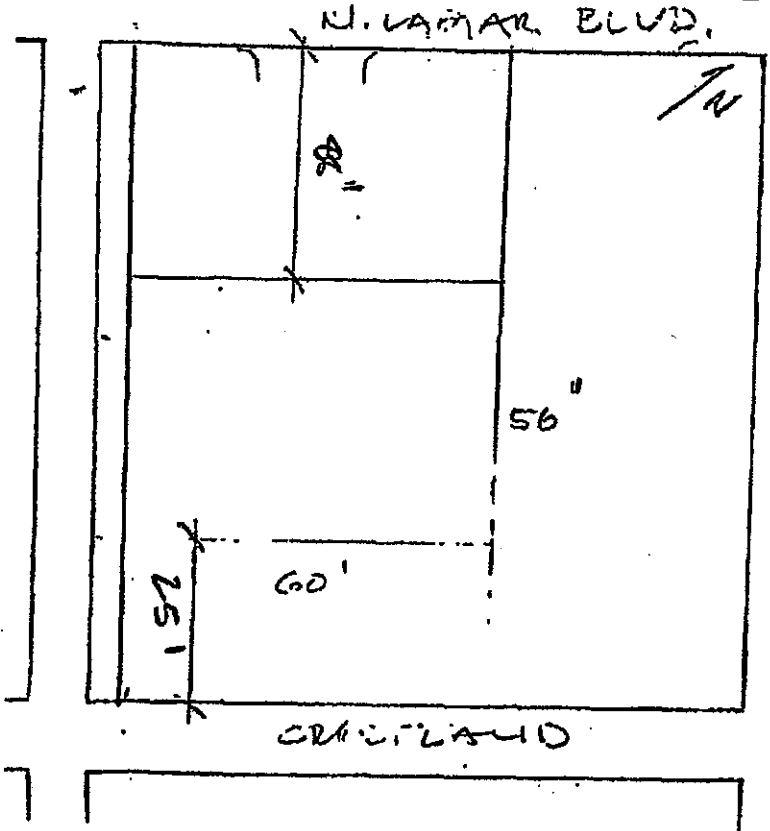
BID 2005 JUNE 77



City of Austin

Clerk RST Date 9/24/78

Address: N. LAMAR BLVD.



Inspector:



|                                 |                         |                 |                        |
|---------------------------------|-------------------------|-----------------|------------------------|
| OWNER                           | Peter W. Jasfn          | ADDRESS         | 7435 North Lamar Blvd. |
| PLAT                            | 313                     | LOT             | 2                      |
|                                 |                         | R/K             | D                      |
| SUBDIVISION                     | North Way Grant         |                 |                        |
| OCCUPANCY                       | Retail Store            |                 |                        |
| BLDG. PERMIT #                  | 172433                  | DATE            | 4-25-78                |
| OWNERS                          | ESTIMATE 48,000         |                 |                        |
| CONTRACTOR                      | Superior Con Structures | NO. OF FIXTURES | s/p                    |
| WATER TAP REC#                  | H 98671                 | SEWER TAP REC#  | 84406                  |
| One story stall from comm bldg. |                         |                 |                        |
|                                 |                         |                 |                        |
|                                 |                         |                 |                        |
|                                 |                         |                 |                        |

BID 2004



City of Austin

## CERTIFICATE OF OCCUPANCY

BUILDING PERMIT NO. 1984-016096 BP

ISSUE DATE: 01/08/1985

BUILDING ADDRESS: 7433 Lamar Boulevard North A 00000

LEGAL DESCRIPTION: Northway Crest Wallace Sur Block; Lot: L11 B1 D 2 & 10x60ft Jp Northway Crest Wallace Sur L11 B1 D 2 & 10x60ft Jp

**PROPOSED OCCUPANCY:**

C-1000 Commercial Remodel

Remodel - Repair Comm Bldg To Min Side 120 Days

BUILDING GROUP / DIVISION: B-2

REMODEL BUILDING SQUARE FOOTAGE: 0

SPRINKLER SYSTEM:

CODE YEAR:

CODE TYPE:

FIXED OCCUPANCY: 0

NON FIXED OCCUPANCY:

**CONTRACTOR:**

\*\*\*\*\* **CERTIFICATE OF OCCUPANCY** \*\*\*\*\*

THIS IS TO CERTIFY THAT THE BUILDING OR STRUCTURE AT THE ADDRESS LISTED ABOVE HAS BEEN INSPECTED FOR COMPLIANCE WITH THE REQUIREMENTS OF THE AUSTIN CITY CODE FOR THE GROUP AND DIVISION OF OCCUPANCY LISTED ABOVE.

NEITHER THE ISSUANCE OF THIS CERTIFICATE NOR THE INSPECTIONS MADE SHALL LESSEN THE RESPONSIBILITY OR LIABILITY OF ANY PERSON, FIRM OR CORPORATION.

OWNING, OPERATING, CONTROLLING OR INSTALLING ANY APPLIANCE OR MATERIAL UPON THE PREMISES OR DOING ANY WORK WHATSOEVER ON SUCH PREMISES.

THE CITY OF AUSTIN DOES NOT ASSUME ANY RESPONSIBILITY OR LIABILITY BY REASON OF THE INSPECTION OR REINSPECTION OF THE PREMISES, OR THE ISSUANCE OF THIS "CERTIFICATE OF OCCUPANCY", OR BY ANY REASON OF ANY APPROVAL OR DISAPPROVAL.

BUILDING CODE REVIEWER:

  
For Leo Barba, Building Official

**ATTACHMENT A**



## City of Austin

Founded by Congress, Republic of Texas, 1839  
Planning and Development Review Department  
One Texas Center, 505 Barton Springs Road 5<sup>th</sup> Floor  
P.O. Box 1088, Austin, Texas 78767  
(512) 974-3207

October 1, 2014

Jim Nias  
Jackson and Walker, LLP  
100 Congress Ave. Suite 100  
Austin, TX 78751

Dear Mr. Nias,

The City of Austin Planning and Development Review Department has reviewed the use determination submitted regarding the alternative financial services use known as Texas Title Loans located at 7501 N. Lamar Blvd. You argue that because a certificate of occupancy was issued in 1979 under a previous City Code that the use should be permitted in the TOD-NP zoning as a legal non-conforming use. Your position that the building was issued a CO for a zoning category, GR in 1979 rather than a use does not seem relevant at this time. In 2007 when the use was established at this address a change of use application should have filed changing the land use from retail to financial services. Had that occurred it could be considered a legal, non-conforming use as it would pre-date both the TOD zoning and the establishment of the Alternative Financial Services use. Because this did not occur at this time Texas Title Loans at 7501 N. Lamar is not considered a legal, non-conforming use.

Sincerely,

Jerry Rusthoven, AICP  
Manager  
Current Planning Division

Cc: Gregory I. Guernsey, AICP, Director, PDRD  
George Adams, Assistant Director, PDRD  
Brent Lloyd, Law Dept.

### C. USE DETERMINATION APPLICATION

#### PROJECT INFORMATION: DEPARTMENTAL USE ONLY

|                                |                     |
|--------------------------------|---------------------|
| FILING DATE: _____             | FILE NUMBER: _____  |
| DUE DATE: _____                | CASE MANAGER: _____ |
| APPLICATION ACCEPTED BY: _____ |                     |

#### APPLICANT INFORMATION

|   |                               |
|---|-------------------------------|
| Texas Loan Brokers I, LLC d/b/a Texas Title Loans |                               |
| Name: c/o James M. Nias                           | Telephone: ( ) (512) 236-2360 |
| Address: 100 Congress Avenue, Suite 1100          |                               |
| City, State and Zip: Austin, Texas 78701          |                               |
| Email: jnias@jw.com                               |                               |

Address (if applicable) 7501 N. Lamar Blvd.

Is this determination in connection with a specific project? Yes ☐ No ☒

Case number of all related cases (if applicable) N/A

Description of proposed use Alternative Financial Services

|  |
|--|
|  |
|  |
|  |
|  |

Land Use category sought (from LDC Chapter 25-2, Article 1. Zoning Uses):

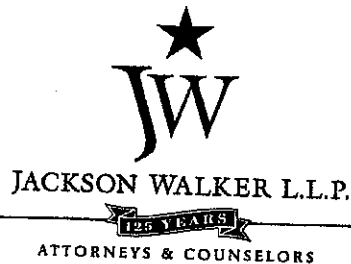
Legal Non-conforming Alternative Financial Services

Existing zoning TOD-NP

Case Manager or DAC staff member

Include any information for the director to use in consideration of the use determination, including but not limited to an explanation of the similarities, if any, of the use to other classified uses (Include additional information and exhibits on separate page if necessary)

See attached correspondence.



James M. Nias  
(512) 236-2350 (Direct Dial)  
(512) 236-2002 (Fax)  
jnias@jw.com

July 2, 2014

Mr. Greg Guernsey  
Director  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

Re: Application for Use Determination for a legal non-conforming Alternative Financial Services use known as Texas Title Loans at 7501 N. Lamar Blvd.

Dear Mr. Guernsey:

This firm represents Texas Loan Brokers I, LLC d/b/a/ Texas Title Loans (principal Todd Pearah), which is the tenant of the building located at 7501 N. Lamar Blvd. We are submitting an application for a "Use Determination" pursuant to Austin Land Development Code ("LDC") Section 25-1-197 in regard to the existing Alternative Financial Services use at this location. We request that this existing use be determined to be a legal non-conforming use.

To refresh your memory about this, in January of 2013 Texas Title Loans attempted to register as a Credit Access Business ("CAB") with the City's Office of Telecommunications and Regulatory Affairs, as now required by Chapter 4-12 of the City Code. The CAB registration was denied on or about April 5, 2013. According to Martha Hernandez, Regulatory Monitor in the Office of Telecommunications and Regulatory Affairs, the denial was based on a determination by the Planning and Development Review Department that the certificate of occupancy ("CO") which was submitted with the CAB registration in accordance with the registration requirements was not a valid CO.

On May 31, 2013, there was a meeting in your office concerning the matter. The attendees included Katherine Loayza and myself from this firm, you, Chris Johnson of the Development Assistance Center, the then Building Official Leon Barba, Moses Rodriguez of the Code Compliance Department, and Assistant City Attorney Brent Lloyd by telephone. At the conclusion of that meeting, there was no formal decision issued. Instead, the suggestion was made to Ms. Loayza and me that the matter could possibly be resolved by obtaining variances from the City Board of Adjustment from the setback and spacing requirements which currently apply to Alternative Financial Services uses. We spent approximately a year pursuing that goal. The Board of Adjustment conducted its public hearing on the variance application at its April, 2014 meeting, but postponed action for a month in order to obtain more input from City staff. By the time the matter reappeared on the May, 2014 agenda of the Board of Adjustment, the

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Mr. Greg Guernsey  
July 2, 2014  
Page 2

Board had been advised by the City Law Department that the variance process was the wrong process and that the Board was without jurisdiction to act on the variance application. The variance case was postponed for another month. At its June, 2014 meeting, the Board went into an executive session with the Law Department, and when it came out of executive session, announced with no further opportunity for us to be heard that it would not take any action on the variance application. In between the May and June Board meetings, Ms. Loayza and I met with Assistant City Attorneys Brent Lloyd and David Sorola who indicated that a Section 25-1-197 Use Determination application to you was the appropriate process, with the possibility of an appeal of an adverse determination to the Board of Adjustment.

The following support a favorable determination that the existing use at this location is a legal non-conforming use.

(1) The building which has been the business location for Texas Title Loans since 2007 was constructed in 1979. The building permit was submitted on July 5, 1979 (Permit # 183447) for two commercial lease spaces addressed as 7501 and 7503 N. Lamar. A Certificate of Occupancy was issued on October 9, 1979 for that building permit indicating that the occupancy was "Lease Space Retail" (See Exhibit A).

(2) In October of 2007, Texas Title Loans entered into a lease to occupy the space at 7501 N. Lamar for its business which makes short-term car title loans and payday loans. On December 12, 2007 the Watershed Protection and Development Review Department staff re-issued the CO for this location under the original building permit #183447, at the request of H.M. Caskey who is the owner of the property (See Exhibit B). This action was taken by the owner to ensure that the tenant could lawfully occupy the space. Since the use of the property did not trigger a Building Code use and occupancy group change, the description of the use of the property remained the same in the re-issued CO, or "lease space retail." The specific use stated in the re-issued CO is: "1 story concrete (T.L.T. Wall) steel comm. Retail sales bldg." There was no secret about who the occupant was intended to be. A permit application for a sign specifically identifying Texas Title Loans was submitted less than a month later, with apparently no issues being raised about the adequacy of the CO.

(3) The zoning regulations in effect at the time of the 1979 building permit and CO issuance were contained in Chapter 45 of the City Code of 1967. The property was zoned "GR"-General Retail District under Chapter 45 at that time. It is very important to understand that under Chapter 45, the term "retail" referred to a **zoning** classification, **NOT** to a specific type of use category. There was no "retail sales" use category in the Code at that time. The flaw in the staff interpretation of the CO thus far has been to interpret it in light of definitions from today's LDC, rather than the Code which existed at the time of the issuance of the CO in 1979.

(4) As you know, the zoning regulations were cumulative under Chapter 45. Attached for your convenience (See Exhibit C) are Section 45-21, "LR" Local Retail Districts and Section 45-22, "GR" General Retail Districts. The GR zoning would have allowed all uses permitted in both LR and GR. The permitted uses in LR included financial services such as banks, as well as offices, and other local retail type uses, although there is no mention of a use category



Mr. Greg Guernsey  
July 2, 2014  
Page 3

specifically called "retail" or retail sales". Again, at the time, the term "retail" referred to a zoning classification, NOT a specific type of use category. Therefore, the occupancy described on the CO allowed the range of uses permitted in the GR zoning classification pursuant to the still active building permit at this location. The only reason to obtain a new CO would have been if the Building Code use and occupancy group classification had changed, which it would have for a few of the uses allowed in GR zoning under Chapter 45.

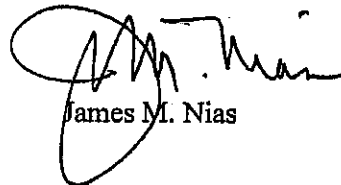
(5) There has been no "change of use" when evaluated under the standards applicable when the CO was issued. Moreover, the Building Code use and occupancy group classification did not change when Texas Title Loans moved in in 2007 and remains B-2. There was no change in parking requirements or utility related requirements when Texas Title Loans moved in in 2007.

(6) The thing which has changed is the zoning, both in terms of the creation of the Alternative Financial Services use category and its special site development criteria, and the recent change in zoning classification to TOD-NP. However, this established use should be considered as legally non-conforming as to both of these things.

(7) Finally, we would note that the amount of information which has been placed on a CO has varied over the years, as has the reference to the use or occupancy. Technically, a CO is supposed to indicate the Building Code use and occupancy group classification. However, it appears that staff is now looking for a current zoning use description to be reflected on COs, in addition to the use and occupancy group pursuant to the Building Code requirements. The fact that the CO in question does not specifically reference the exact current zoning use category does not make the existing use illegal. If the City takes that position, many if not a majority of the existing commercial business uses in Austin would be illegal.

For these reasons, and on the basis of fundamental fairness, we respectfully request a use determination that the existing Alternative Financial Services use located at 7501 N. Lamar Blvd. is a legal non-conforming use.

Sincerely,



James M. Nias

cc: Mr. Brent Lloyd, City of Austin Law Department  
Mr. David Sorola, City of Austin Law Department  
Ms. Katherine Loayza, firm

**EXHIBIT A**

Address: 7501 No. LAMAR Permit: 183447 Plat: 313  
 Lot: 17503 Block C Subdivision: NORTHWAY CREST SEC. 2  
 Outlot: -  
 Fire Zone: 3 Use Dist. GR & A 1st Occupancy: 1) LEASE SPACE 2) RETAIL LACQUER  
~~60' x 140' x 140' x 140' x 140' x 140'~~  
 7-5-79 <sup>Rev</sup> Layout Framing 10-9-79 Final Commercial  

|                        |            |                           |                       |             |          |                  |               |
|------------------------|------------|---------------------------|-----------------------|-------------|----------|------------------|---------------|
| Foundation             | <u>S</u>   | Floor joist size & o.c.   | <u>2x10</u>           | Bldg. Conn. |          | Parking          | <u>21</u>     |
| Front setback          | <u>36'</u> | ceiling joist size & o.c. | <u>2x10</u>           | Room Vent.  | <u>/</u> | Exits            | <u>2</u>      |
| Total & Min. side yard | <u>47</u>  | stud size & o.c.          | <u>2x10</u>           | Stairs      |          | Exit lights      | <u>2</u>      |
| Side St. Yard          | <u>42</u>  | W. Insulation             | <u>1/2" TILT WALL</u> | Rails       | <u>/</u> | Fences           | <u>/</u>      |
| Type Const.            | <u>II</u>  | Sheetrock                 |                       | Attic Vent. |          | Corridors        |               |
| Spec. Permit #         |            | Commercial Sheetrock      |                       | Insulation  |          |                  |               |
| BOA                    |            | Occup. Sep.               | <u>1 Hr</u>           | Hood Vent.  |          |                  |               |
|                        |            | Thru out                  |                       | Glass       |          |                  |               |
|                        |            |                           |                       | Deadbolts   |          |                  |               |
|                        |            |                           |                       | Fireplaces  |          |                  |               |
|                        |            |                           |                       |             |          | <u>7501-1599</u> |               |
|                        |            |                           |                       |             |          | <u>1-EXIT</u>    | <u>CLOSET</u> |

 Owner: MR. H M CASKEY Contractor: RAYMOND C. TURBS.

7503-1400 SALES AREA  
+ STORAGE  
1-EXIT

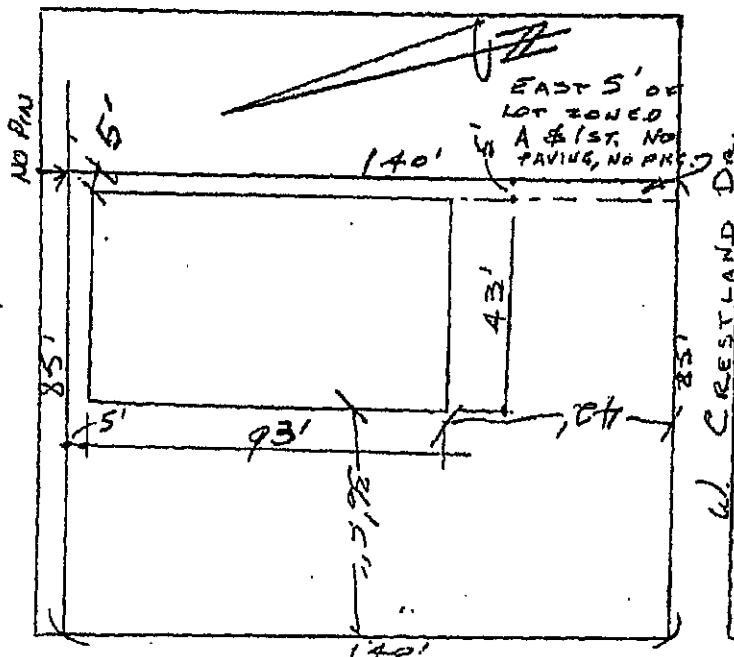
BID 2005 JUNE 77



City of Austin

Clerk RARR. Date 7-2-79

Address: 7501 No. LAMAR



NORTH LAMAR

193  
23  
279  
372  
3999  
2000

1 STORY CONCRETE (TILT WALL) & STEEL RETAIL SHOP BLDG.

Inspector:

Lot 1

Block C

Subdv. Northway Crest  
Sec. 2

**Certificate Of Occupancy**  
**No. 91495**

**DEPARTMENT OF BUILDING INSPECTION**  
**City of Austin, Texas**

Permit # 183447

Zoning GR & A & 1st.

Plat 313

THIS IS TO CERTIFY THAT THE BUILDING OR STRUCTURE AT THE ADDRESS LISTED BELOW HAS BEEN  
INSPECTED AND THE FOLLOWING OCCUPANCY THEREOF IS HEREBY AUTHORIZED.

Address 7501 N. Lamar

Use 1 stry conc tilt wall & steel comm bldg Retail Sales Bldg.

Owner of Land Mr. H.M. Gaskey

Owner of Improvements \_\_\_\_\_

Contractor Raymond Tubbs

Address P.O. Box 14740

Plumber A. Parks

No. of Gas Meters 1

Remarks \_\_\_\_\_

SEE REVERSE SIDE

Date 10-9-79

BUILDING OFFICIAL

By JJ

BID #2008

OFFICE COPY

|   |                      |                 |                 |
|---|----------------------|-----------------|-----------------|
| OWNER   | Mr. H.M. Caskey      | ADDRESS         | 7501 Lamar (N)  |
| PLAT  | 313                  | LOT             | 1               |
|   |                      | BLK             | C               |
| SUBDIVISION                                       | Northway Crest sec 2 |                 |                 |
| OCCUPANCY   | Lease Space retail & |                 |                 |
| BLDG. PERMIT #                                    | 183447               | DATE            | 7-2-79          |
|   |                      | OWNERS ESTIMATE | 68,000.00       |
| CONTRACTOR  | & Raymond C. Tubbs   |                 | NO. OF FIXTURES |
| WATER TAP REC#                                    | G04424               | SEWER TAP REC#  | 89074           |
| 1 story concrete (T.L.T wall) steel comm & retail |                      |                 |                 |
| sales bldg.                                       |                      |                 |                 |
|   |                      |                 |                 |
|   |                      |                 |                 |

BID 2004

**EXHIBIT B**



12/12/2007

**REISSUED  
CERTIFICATE OF OCCUPANCY**

**WATERSHED PROTECTION AND DEVELOPMENT REVIEW DEPARTMENT  
CITY OF AUSTIN, TEXAS**

**BUILDING PERMIT NO. 183447**

**ORIGINAL DATE: 07/02/1979**

**LEGAL DESCRIPTION AS ON ORIGINAL DOCUMENT: Northway Crest Sec. 2**

**ZONING: Plat 313 Lot 1 Blk. C**

**THIS IS TO CERTIFY THAT, THE BUILDING OR STRUCTURE AT THE ADDRESS  
LISTED BELOW WAS INSPECTED AT THE TIME OF THE ORIGINAL DATE FOR  
COMPLIANCE WITH THE REQUIREMENTS OF THE AUSTIN CITY CODE FOR USE  
LISTED BELOW.**

**ADDRESS: 7501 North Lamar Blvd.**

**USE: 1 story concrete (T.L.T. Wall) steel comm. Retail sales bldg.**

**OWNER: H.M. Caskey**

**REMARKS: Lease space retail**

  
Leon Barba, Building Official

**BY: L.B.**

**PLEASE NOTICE**

**'NEITHER THE ISSUANCE OF THIS CERTIFICATE NOR THE INSPECTIONS MADE SHALL LESSEN THE  
RESPONSIBILITY OR LIABILITY OF ANY PERSON, FIRM OR CORPORATION, OWNING, OPERATING,  
CONTROLLING OR INSTALLING ANY APPLIANCE OR MATERIAL UPON THE PREMISES, OR DOING ANY  
WORK WHATSOEVER ON SUCH PREMISES.**

**THE CITY OF AUSTIN DOES NOT ASSUME ANY RESPONSIBILITY OR LIABILITY BY REASON OF THE  
INSPECTION, OR REINSPECTION, OF THE PREMISES; OR THE ISSUANCE OF THIS "CERTIFICATE OF  
OCCUPANCY"; OR BY REASON OF ANY APPROVAL OR DISAPPROVAL.'**

**EXHIBIT C**



Sec. 45-21. "LR" LOCAL RETAIL DISTRICTS.

In an "LR" local retail district no building or land shall be used and no building shall be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the uses enumerated in this section. The "LR" local retail district is designed for retail businesses of a local character, and wholesale establishments are not to be located within this district. Permitted uses are enumerated as follows:

- (a) Any use permitted in an "O" office district.
- (b) A bakery.
- (c) Banks, offices, wholesale sales offices and sample rooms.
- (d) Barbershops, beauty shops, and any other personal service shops.
- (e) Cafes, cafeterias, and restaurants in a building.
- (f) Camera shops and photographic supplies.
- (g) Cleaning and pressing shops.
- (h) Drugstores, soda fountains, soft drink stands, and candy and tobacco shops.
- (i) Gasoline service stations when a permit has been secured from the city council. (3-19-59.)
- (j) Grocery stores or grocery stores including the sale of beer and wine, as defined by state law, in unopened containers for off-premises consumption. (11-3-66.)
- (k) Ice vending stations.
- (l) Jewelry and optical goods.
- (m) Meat markets.
- (n) Nurseries and greenhouses.
- (o) Pickup stations for receiving and delivering of articles to be dyed or laundered, but no actual work shall be done on the premises.
- (p) Shoe repair shops.
- (q) Variety stores.
- (r) Washaterias or self-service laundries equipped with automatic washing machines, dryers and ironers of the type customarily found in a home, and where the customer may personally supervise the handling of his laundry.
- (s) Wearing apparel shops.
- (t) Signs, as provided in section 45-31.
- (u) Any other local retail use supplying the everyday shopping needs of the immediate neighborhood and subject to the following conditions:
  - (1) That it be conducted wholly within an enclosed building.
  - (2) That required yards be not used for display, sale or storage of merchandise, or for the storage of vehicles, equipment, containers or waste material.
  - (3) That all merchandise be first hand and be sold at retail on the premises.
  - (4) That there be no manufacturing or processing on the premises.
  - (5) That such use be not objectionable because of odor, excessive light, smoke, dust, noise, vibration, presence of vermin or rodents, or similar nuisances.
- (v) Uses by special permit only, which shall include the following:
  - (1) Trailer courts when in compliance with chapter 33. (3-19-59.)

(2) Uses permitted in the "GR" general retail district without a special permit, when located adjoining or across a public street or alley from a "GR" general retail or less restricted district.

(3) Veterinary hospital or clinic with hospital, clinic, surgical, and commercial dog kennel facilities, provided that: (781207-E)

a. All facilities including commercial dog kennels and runs are located within the building; and (781207-E),

b. The facility uses year-round central air systems; and,

c. The hospital or clinic is limited to the treatment of non-farm animals; and,

d. The facility does not produce a noise level in excess of 50 dB(A) at any property line (the "A" scale shall be used for reference), and no building or any part thereof is located closer than twenty-five feet to any property line abutting a "B" Residence or more restrictive use district. (731115-B.)

(4) A public stable or riding academy when located on a site of not less than ten acres.

(5) A drive-in theater located on a site of not less than ten acres and in compliance with sections 4-10 to 4-27. (3-19-59.)

(6) Motels when in compliance with chapter 33. (3-19-59.)

(7) An apartment dwelling group, in accordance with the provisions concerning apartment dwelling groups in section 45-19. (1-7-60.) (7-17-41; 3-19-59; 1-7-60; 661103-B.)

(8) Town houses, in accordance with the provisions concerning town houses in section 45-18 (g) (8). (731115-A.)

(9) Those uses permitted in an "O" office district by special permit under the same conditions as imposed in "O" office districts. (771006-L).

Sec. 45-22. "GR" GENERAL RETAIL DISTRICTS.

In a "GR" general retail district no building or land shall be used and no building shall be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the uses enumerated in this section. The "GR" general retail district is designed for retail businesses of general character, and wholesale establishments are not to be located in this district. Permitted uses are enumerated as follows:

- (1) Any use permitted in the "LR" local retail district.
- (2) Ambulance services.
- (3) Aquarium, bird, and pet shops.
- (4) An auto laundry, without boiler, heating, and steam cleaning facilities, in which all washing operations are carried on within a building.
- (5) An auto repair garage, where all work is conducted inside a building not including the open storage of vans, trailers, or trucks.
- (6) Auto seat covers and covering.
- (7) Cafes, cafeterias, and restaurants, with or without drive-in facilities, including the sale, dispensing and otherwise handling of alcoholic beverages, distilled spirits, liquors, wines, vinous liquors, ales, malt liquors, beer, and mixed beverages as those terms are defined in the Texas Liquor Control Act; Articles 666-667, Vernon's Texas Penal Code, direct to the consumer, for consumption on the premises, but not for resale; provided, that the sale of the above beverages is incidental and secondary to the sale of food and similar commodities for human consumption, and that such sale conforms to all the regulations of the state Liquor Control Act with reference to licenses and permits, time and manner of sale; and that the land or building is used at such location as a restaurant or cafe as defined in section 45-1; and that where food or refreshments are served on the premises, outside of the building and within fifty feet of a property line abutting an "O" office or more restricted district, a solid fence, dense hedge or other opaque barrier, not less than six feet high to within ten feet of a street line, is placed on the property lines where the property lines abut or adjoin such "O" office or more restricted district, or any land improved and used for residential purposes; and that where facilities are provided for any loudspeaker or other sound device to broadcast or play on the outside of the building any speech, songs, or instrumental music, the sound level at or beyond the property line shall not exceed fifty decibels. No food or drink may be served to vehicles parked on the public street. (11-3-66; 710610-A.)
- (8) Catering and wedding services.
- (9) Commercial billboards or advertising signs.
- (10) Craft and hobby shops, fix-it shops, bicycle repairs, saw filing, lawn mower sharpening; but without an outside garage.
- (11) Curtain cleaning shops.
- (12) Department stores; sporting goods, novelty, or toy shops.
- (13) Dyeing plants.
- (14) Electrical goods;
  - (a) Electronic wholesale distributors subject to the following limitations:

1. The distributor's place of business shall have no more than ten thousand square feet of floor area.

2. Sales by such distributor of household merchandise (as opposed to industrial merchandise) shall constitute at least eighty per cent of the business of such establishment. (6-11-64.)

- (15) Electrical repairing (domestic equipment and autos).
- (16) Exterminating companies.
- (17) Film developing and printing.
- (18) Furniture repairs and upholstering, with all storage and display within a building.
- (19) Frozen food lockers.
- (20) Hardware, paints, wall paper.
- (21) Household and office furniture, furnishings and appliances.
- (22) Repealed by Ordinance No. 740919-A.
- (23) Motels.
- (24) Motion picture theaters.
- (25) Office buildings.
- (26) Piano and musical instruments.
- (27) Commercial parking garages or any other automobile facility for parking of passenger cars and trucks of less than one-ton capacity only, where the rental of space is on an hourly, daily, weekly, or monthly basis.
- (28) Plumbing shops without warehouse facilities (to include store for ordinary repairs but not storage of materials for contracting work).
- (29) Rug cleaning shops, chemical type, where all cleaning operations are carried on within a building, where rugs are laid flat, the chemicals mixed with water and applied with a brush, and removed by vacuum cleaning, entirely without the generation of dust.
- (30) Seed stores.
- (31) Taxi dispatch offices.
- (32) Sale of new or used passenger cars and trucks of less than one-ton capacity. Vehicles shall be in operating condition and open display or storage areas shall be surfaced in accordance with the requirement for off-street parking spaces. Separate parts, motors, or other portions of vehicles shall be firsthand and sold at retail and shall be displayed or stored within an enclosed building. (3-19-59.)
- (33) Sale of new or used boats. Boats shall be in operating condition and open display or storage areas shall be surfaced in accordance with requirements for off-street parking spaces. Separate parts, motors, or portions of boats shall be firsthand and sold at retail and shall be displayed or stored within an enclosed building. (3-19-59.)
- (34) Accessory buildings and uses customarily incident to the uses enumerated in this section. No accessory use shall be construed to permit the keeping of articles or materials in the open or on the outside of the building.
- (35) Signs as provided in section 45-31.
- (36) Any other retail use, subject to the following conditions:
  - (a) That it is conducted wholly within an enclosed building.
  - (b) That required yards shall not be used for display, sale, or storage of vehicles, equipment, containers, or waste material.

(c) That all merchandise is firsthand and sold at retail on the premises. (10-4-56.)

(d) That there is no manufacturing or processing; except, that which is incidental and essential to an enterprise in which all merchandise is sold at retail on the premises.

(e) That such use is not objectionable because of odor, excessive light, smoke, dust, noise, vibration, presence of vermin or rodents, or similar nuisances.

(37) Skating rinks or bowling alleys, when air conditioned and designed to reduce external noise to a minimum at the property line.

(38) Trampoline centers. (7-14-60.)

(39) Uses by special permit only, which shall include the following:

(a) Uses permitted in the "C" commercial district without a special permit, and when located adjoining or across a public street or alley from a "C" commercial or less restricted district.

(b) A veterinary hospital or clinic in accordance with the provisions of section 45-21 (v) (3). (731115-B.)

(c) A public stable or riding academy when located on a site of not less than five acres.

(d) Drive-in theaters when located on a site of not less than ten acres and in compliance with sections 4-10 to 4-27. (3-19-59.)

(e) Trailer courts when in compliance with chapter 33. (3-19-59.)

(f) An apartment dwelling group in accordance with the provisions concerning apartment dwelling groups in section 45-19. (1-7-60.) (7-17-41; 10-4-56; 3-19-59; 1-7-60; 6-11-64; 661103-B.)

(g) Town houses, in accordance with the provisions concerning town houses in section 45-18 (g) (8). (731115-A.)

(h) Those uses permitted in an "LR" local retail district by special permit under the same conditions as are imposed in "LR" local retail districts. (771006-L).

#### Sec. 45-22.1. "AV" Airport District

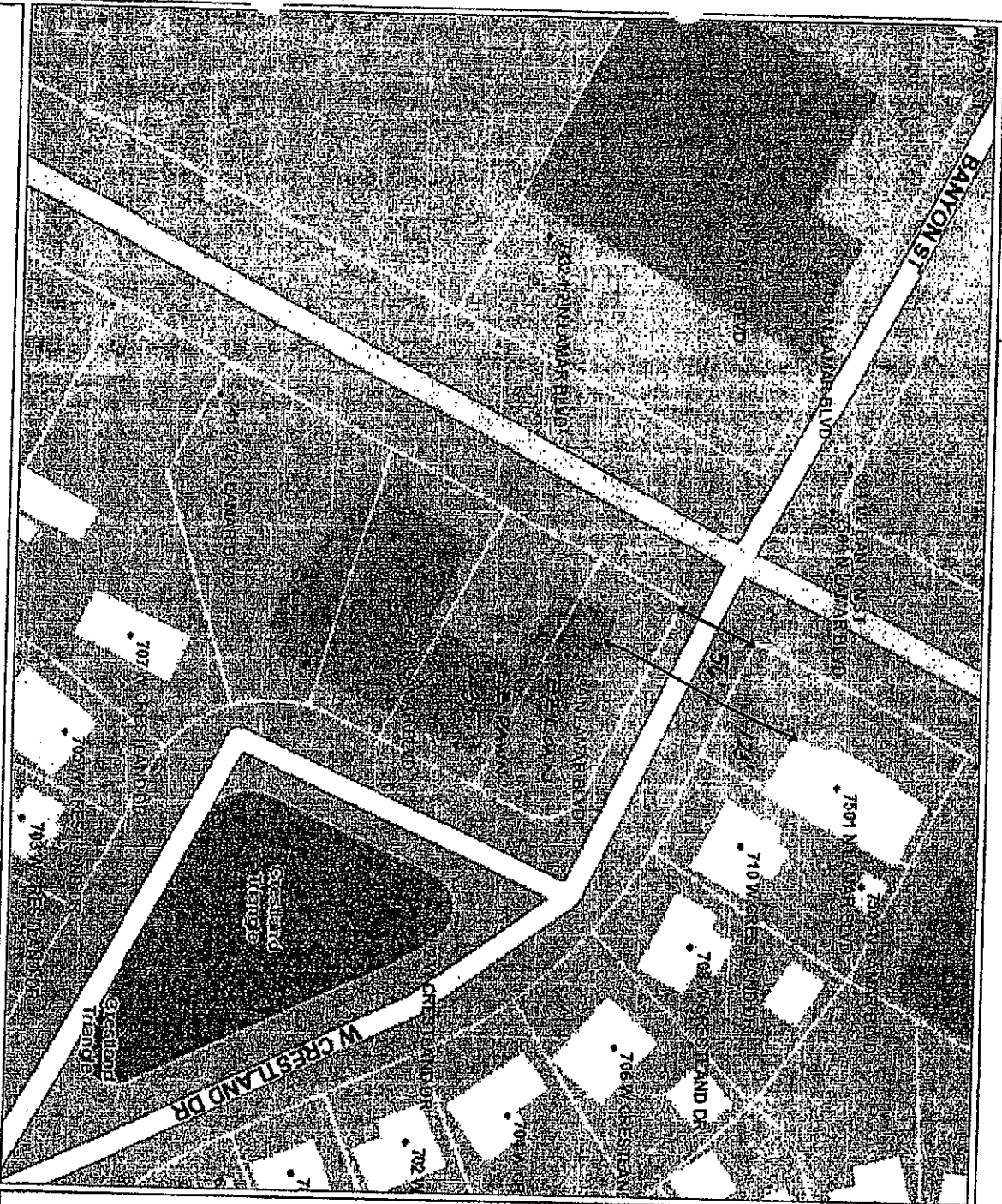
In an "AV" airport district, no building or land shall be used and no building shall be erected or structurally altered unless otherwise provided in this chapter, except for one or more of the following uses:

(1) Any use directly associated with the operation, service, fueling, repair, storage, charter, sales and rental of aircraft, and/or associated equipment.









(2) Assembly and sale of aircraft, air frames, aircraft engines, aircraft parts and associated components such as radios and navigational equipment.

(3) Airport customer service uses including, but not limited to, auto service stations, restaurants, bookstores, lounges, newsstands, dry cleaning, barbershops, secretarial services, drug stores, flower shops, gift shops, motels and hotels, and other uses and services of similar nature. (790419-1)

# EZ LOAN/EZ PAWN



## Legend

-  Lot Lines
-  Streets
-  Building Footprints
-  Named Creeks
-  Lakes and Rivers
-  Parks
-  County
-  Address Points

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. THIS PRODUCT HAS BEEN PRODUCED BY THE CITY OF AUSTIN FOR THE SOLE PURPOSE OF GEOGRAPHIC REFERENCE. NO WARRANTY IS MADE BY THE CITY OF AUSTIN REGARDING SPECIFIC ACCURACY OR COMPLETENESS.



Planning and Development Review Department  
P.O. Box 1088, Austin, Texas 78767  
One Texas Center, 505 Barton Springs Road  
Telephone: (512) 974-6370 Fax: (512) 974-2423

### Site Development Exemption Request

|  |                                   |              |   |
|--|-----------------------------------|--------------|---|
| Site Address:  | 7439 N LAMAR                      |              | DA-0010-0097  |
| Project Name:  | EZPAUN / EZ MONEY                 |              |   |
| Legal Description:   | Lot 1 BIKD Nondw Crest Sec 2      |              |   |
| Zoning:  | TOD - NP                          | Watershed:   | Weller  |
| Existing Land Use(s):                                      | PAUN SALES                        | Flood Plain? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Proposed Land Use(s):                                      | PAUN SALES / FINANCIAL SVCS       |              |   |
| Brief/General Description of the Development being sought: | Add FINANCIAL SVCS TO EXIST. B.C. |              |   |

Attach a detailed description of the proposed development in a memorandum or letter and a site plan or survey plan that graphically indicates, but is not limited to,:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> existing trees   | <input checked="" type="checkbox"/> limits of construction                           |
| <input checked="" type="checkbox"/> buildings  | <input checked="" type="checkbox"/> type of construction                             |
| <input checked="" type="checkbox"/> parking areas  | <input checked="" type="checkbox"/> location of construction                         |
| <input checked="" type="checkbox"/> roadways/streets   | <input checked="" type="checkbox"/> accessible parking                               |
| <input checked="" type="checkbox"/> all areas of impervious cover levels (existing & proposed) | <input checked="" type="checkbox"/> access route                                     |
| <input checked="" type="checkbox"/> erosion controls (i.e.: silt fencing, tree protection)     | <input checked="" type="checkbox"/> on-site sewage (septic) systems and drain fields |

I, Anders Dobson

(PRINT NAME)

do hereby certify that I am the

☐ Owner ☒ Owner's agent (to act as the owner's agent, written authorization from the owner must be provided) of this described property, and in this capacity, submit this request for exemption from the site plan submittal requirements pursuant to Chapter 25-5-2 of the Austin City Code.

Furthermore, I certify and acknowledge that:

1. Although the proposed development does not require a formal site plan approval, it may require, prior to beginning any site work, the approval of the subdivision or issuance of a building, remodel, and/or demolition permit;
2. Although the proposed development complies with all applicable zoning regulations, it does not prohibit enforcement of restrictive covenants and/or deed restrictions;
3. The approval of this exemption request does not constitute authorization to violate any provisions of the Austin City Code.

### NOTE:

According to Rick Argola, there is no CO for a use at 7439 N. Lamar, and there apparently never has been either a building permit or CO issued for this address.

The CO for 7435 N. Lamar does not list financial services as a use either.

KPL

# City of Austin, Texas



## CREDIT ACCESS BUSINESS

REGISTRATION # A20130091116A

Issued to the following location:

TEXAS EZPAWN LP  
7435 N LAMAR BLVD  
AUSTIN, TX 78752

EXPIRATION DATE: 8/19/2014

This certificate must be renewed annually

*Issued in accordance with provisions of Chapter 4-12 of the Code of the City of Austin.  
The Office of Telecommunications & Regulatory Affairs must be notified of all material change within 45 days of the change.*

*Rondelle M. Hawkins*

Rondelle Hawkins, Director

THIS CERTIFICATE MUST BE PROMINENTLY POSTED



Address: 7435 N. LAMAR

Permit: 172455

Plat: 313

Lot: 2

Block D

Subdivision:

Outlot -

NORTHWAY CREST  
SUBDIVISION

Fire Zone: 3

Use Dist. C-1

Occupancy:

RETAIL STORE

| 5-25-78                   | Layout | 7-27-78                      | Framing   | 9-13-78     | Final | Commercial  |
|---------------------------|--------|------------------------------|-----------|-------------|-------|-------------|
| Foundation                | 8      | Floor joist<br>size & o.c.   |           | Bldg. Conn. |       | Parking     |
| Front setback             | 88     | ceiling joist<br>size & o.c. |           | Room Vent.  |       | Exits       |
| Total & Min.<br>side yard | 0      | stud size<br>& o.c.          | 2x4<br>16 | Stairs      |       | Exit lights |
| St. Yard<br>REAR          | 25'    |                              |           | Rails       |       | Fences      |
| Type Const.               | III    | W. Insulation                |           | Attic Vent. |       | Corridors   |
| Spec. Permit #            |        | Sheetrock                    |           | Insulation  |       |             |
| BOA                       |        | Commercial Sheetrock         |           | Hood Vent.  |       |             |
|                           |        | Occup. Sep.                  | 1 1/2 - 5 | Glass       |       |             |
|                           |        | Thru out                     |           | Deadbolts   |       |             |
|                           |        |                              |           | Fireplaces  |       |             |
|                           |        |                              |           | DRENOUM     |       |             |

Owner: PETER W. JASIN

Contractor: SUPERIOR

CONSTRUCTORS

NO EXIT ON EAST 10' ON CROSSLAND.

56X60-3360

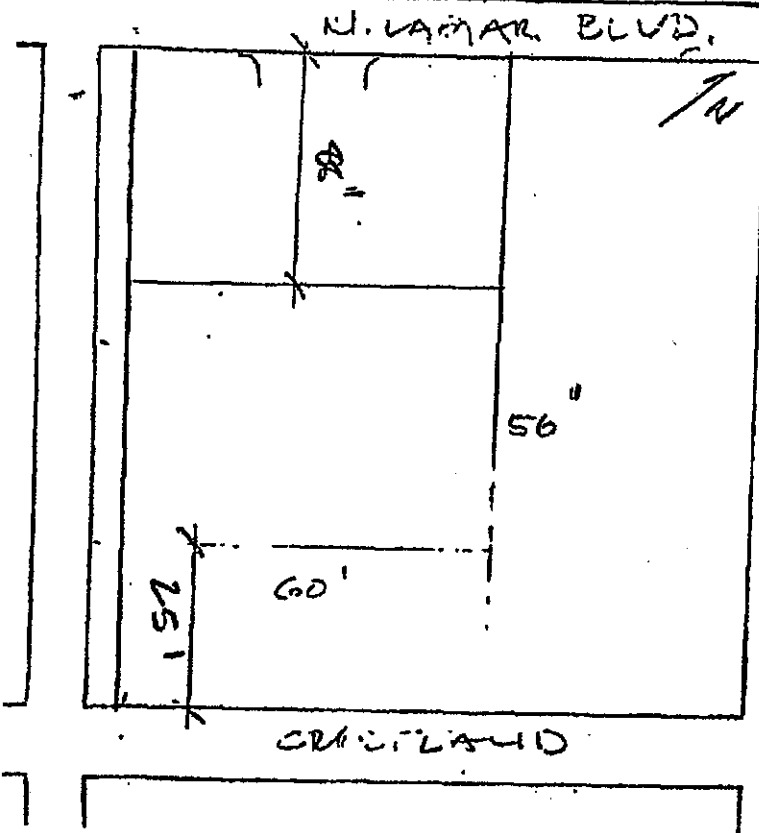
BID 2005 JUNE 77



City of Austin

Clerk PST Date 9/24/78

Address: N. LAMAR - 31.1.



Inspector:

OWNER Peter W. Jasen ADDRESS 7435 North Lamar Blvd.  
PLAT 313 LOT 2 R/K D  
SUBDIVISION North Way Grant  
OCCUPANCY Retail Store  
BLDG. PERMIT #172433 DATE 4-25-78 OWNERS ESTIMATE 48,000  
CONTRACTOR Superior Con Structures NO. OF FIXTURES 6/P  
WATER TAP REC# R 98671 SEWER TAP REC# 84406  
One story steel frame comm bldg.

BID 2004



City of Austin

## CERTIFICATE OF OCCUPANCY

BUILDING PERMIT NO. 1984-016096 BP

ISSUE DATE: 01/08/1985

BUILDING ADDRESS: 7431 Lamar Boulevard North A 00000

LEGAL DESCRIPTION: Northway Crest Wallace Sur Block: Lot L41 B1 D 2 & 10x50ft Jp Northway Crest Wallace Sur L41 B1 D 2 & 10x50ft Jp

**PROPOSED OCCUPANCY:**

C-1000 Commercial Remodel

Remodel - Repair Comm Bldg To Min Size 120 Days

BUILDING GROUP / DIVISION: B-2

REMODEL BUILDING SQUARE FOOTAGE: 0

SPRINKLER SYSTEM:

CODE YEAR:

CODE TYPE:

FIXED OCCUPANCY: 0

NON-FIXED OCCUPANCY:

CONTRACTOR:

\*\*\*\*\* **CERTIFICATE OF OCCUPANCY** \*\*\*\*\*

THIS IS TO CERTIFY THAT THE BUILDING OR STRUCTURE AT THE ADDRESS LISTED ABOVE HAS BEEN INSPECTED FOR COMPLIANCE WITH THE REQUIREMENTS OF THE AUSTIN CITY CODE FOR THE GROUP AND DIVISION OF OCCUPANCY LISTED ABOVE.

NEITHER THE ISSUANCE OF THIS CERTIFICATE NOR THE INSPECTIONS MADE SHALL EXEMPT THE RESPONSIBILITY OR LIABILITY OF ANY PERSON, FIRM OR CORPORATION.

OWNING, OPERATING, CONTROLLING OR INSTALLING ANY APPLIANCE OR MATERIAL UPON THE PREMISES, OR DOING ANY WORK WHATSOEVER ON SUCH PREMISES.

THE CITY OF AUSTIN DOES NOT ASSUME ANY RESPONSIBILITY OR LIABILITY BY REASON OF THE INSPECTION OR REINSPECTION OF THE PREMISES, OR THE ISSUANCE OF THE "CERTIFICATE OF OCCUPANCY", OR BY ANY REASON OF ANY APPROVAL OR DISAPPROVAL.

BUILDING CODE REVIEWER:

  
For Leo Barba, Building Official

Excerpt from the February 28, 2012 Planning Commission hearing regarding the Alternative Financial Services Code Amendment C2O-2011-037:

Jeff Jack: "The existing offices, these businesses, are they then forced to move?"

Robert Heil: "No, they would not be forced to move."

Jeff Jack: "So they're going to be grandfathered in as non-conforming uses?"

Robert Heil: "Or they could be legal non-conforming uses, depending on....but they would not be forced to move."

permit from the payment of other fees that are prescribed by law.

**108.6 Refunds.** The building official is authorized to establish a refund policy.

## SECTION 109 INSPECTIONS

**109.1 General.** Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

**109.2 Preliminary inspection.** Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

**109.3 Required inspections.** The building official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10.

**109.3.1 Footing and foundation inspection.** Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

**109.3.2 Concrete slab and under-floor inspection.** Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

**109.3.3 Lowest floor elevation.** In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Section 1612.5 shall be submitted to the building official.

**109.3.4 Frame inspection.** Framing inspections shall be made after the roof deck or sheathing, all framing, fireblocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

**109.3.5 Lath and gypsum board inspection.** Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before

any plastering is applied or gypsum board joints and fasteners are taped and finished.

**Exception:** Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

**109.3.6 Fire-resistant penetrations.** Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

**109.3.7 Energy efficiency inspections.** Inspections shall be made to determine compliance with Chapter 13 and shall include, but not be limited to, inspections for: envelope insulation *R* and *U* values, fenestration *U* value, duct system *R* value, and HVAC and water-heating equipment efficiency.

**109.3.8 Other inspections.** In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

**109.3.9 Special inspections.** For special inspections, see Section 1704.

**109.3.10 Final inspection.** The final inspection shall be made after all work required by the building permit is completed.

**109.4 Inspection agencies.** The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

**109.5 Inspection requests.** It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

**109.6 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

## SECTION 110 CERTIFICATE OF OCCUPANCY

**110.1 Use and occupancy.** No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

**110.2 Certificate issued.** After the building official inspects the building or structure and finds no violations of the provi-

## ADMINISTRATION

sions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

**110.3 Temporary occupancy.** The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

**110.4 Revocation.** The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

## SECTION 111 SERVICE UTILITIES

**111.1 Connection of service utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

**111.2 Temporary connection.** The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

**111.3 Authority to disconnect service utilities.** The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure

or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

## SECTION 112 BOARD OF APPEALS

**112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

**112.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

**112.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

## SECTION 113 VIOLATIONS

**113.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**113.2 Notice of violation.** The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

**113.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**113.4 Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

## CHAPTER 3

# USE AND OCCUPANCY CLASSIFICATION

### SECTION 301 GENERAL

**301.1 Scope.** The provisions of this chapter shall control the classification of all buildings and structures as to use and occupancy.

### SECTION 302 CLASSIFICATION

**302.1 General.** Structures or portions of structures shall be classified with respect to occupancy in one or more of the groups listed below. Structures with multiple uses shall be classified according to Section 302.3. Where a structure is proposed for a purpose which is not specifically provided for in this code, such structure shall be classified in the group which the occupancy most nearly resembles, according to the fire safety and relative hazard involved.

1. Assembly (see Section 303): Groups A-1, A-2, A-3, A-4 and A-5
2. Business (see Section 304): Group B
3. Educational (see Section 305): Group E
4. Factory and Industrial (see Section 306): Groups F-1 and F-2
5. High Hazard (see Section 307): Groups H-1, H-2, H-3, H-4 and H-5
6. Institutional (see Section 308): Groups I-1, I-2, I-3 and I-4
7. Mercantile (see Section 309): Group M
8. Residential (see Section 310): Groups R-1, R-2, R-3 as applicable in Section 101.2, and R-4
9. Storage (see Section 311): Groups S-1 and S-2
10. Utility and Miscellaneous (see Section 312): Group U

**302.1.1 Incidental use areas.** Spaces which are incidental to the main occupancy shall be separated or protected, or both, in accordance with Table 302.1.1 or the building shall be classified as a mixed occupancy and comply with Section 302.3. Areas that are incidental to the main occupancy shall be classified in accordance with the main occupancy of the portion of the building in which the incidental use area is located.

**Exception:** Incidental use areas within and serving a dwelling unit are not required to comply with this section.

**302.1.1.1 Separation.** Where Table 302.1.1 requires a fire-resistance-rated separation, the incidental use area shall be separated from the remainder of the building with a fire barrier. Where Table 302.1.1 permits an automatic fire-extinguishing system without a fire barrier, the incidental use area shall be separated by construction capable of resisting the passage of smoke. The partitions

shall extend from the floor to the underside of the fire-resistance-rated floor/ceiling assembly or fire-resistance-rated roof/ceiling assembly or to the underside of the floor or roof deck above. Doors shall be self-closing or automatic-closing upon detection of smoke. Doors shall not have air transfer openings and shall not be undercut in excess of the clearance permitted in accordance with NFPA 80.

**TABLE 302.1.1  
INCIDENTAL USE AREAS**

| ROOM OR AREA  | SEPARATION <sup>a</sup>   |
|---|---|
| Furnace room where any piece of equipment is over 400,000 Btu per hour input  | 1 hour or provide automatic fire-extinguishing system   |
| Rooms with any boiler over 15 psi and 10 horsepower   | 1 hour or provide automatic fire-extinguishing system   |
| Refrigerant machinery rooms   | 1 hour or provide automatic sprinkler system  |
| Parking garage (Section 406.2)  | 2 hours; or 1 hour and provide automatic fire-extinguishing system  |
| Hydrogen cut-off rooms  | 1-hour fire barriers and floor/ceiling assemblies in Group B, F, H, M, S and U occupancies. 2-hour fire barriers and floor/ceiling assemblies in Group A, E, I and R occupancies. |
| Incinerator rooms   | 2 hours and automatic sprinkler system  |
| Paint shops, not classified as Group H, located in occupancies other than Group F   | 2 hours; or 1 hour and provide automatic fire-extinguishing system  |
| Laboratories and vocational shops, not classified as Group H, located in Group E or I-2 occupancies   | 1 hour or provide automatic fire-extinguishing system   |
| Laundry rooms over 100 square feet  | 1 hour or provide automatic fire-extinguishing system   |
| Storage rooms over 100 square feet  | 1 hour or provide automatic fire-extinguishing system   |
| Group I-3 cells equipped with padded surfaces   | 1 hour  |
| Group I-2 waste and linen collection rooms  | 1 hour  |
| Waste and linen collection rooms over 100 square feet   | 1 hour or provide automatic fire-extinguishing system   |
| Stationary lead-acid battery systems having a liquid capacity of more than 100 gallons used for facility standby power, emergency power or uninterrupted power supplies | 1-hour fire barriers and floor/ceiling assemblies in Group B, F, H, M, S and U occupancies. 2-hour fire barriers and floor/ceiling assemblies in Group A, E, I and R occupancies  |

For SI: 1 square foot = 0.0929 m<sup>2</sup>, 1 pound per square inch = 6.9 kPa, 1 British thermal unit per hour = 0.293 watts, 1 horsepower = 746 watts, 1 gallon = 3.785 L.

a. Where an automatic fire-extinguishing system is provided, it need only be provided in the incidental use room or area.