

012

**PLANNING COMMISISON SITE PLAN
CONDITIONAL USE PERMIT – LATE HOURS**

CASE NUMBER: SPC-2014-0192A **PC Date:** January 27, 2015

PROJECT NAME: Odd Duck Late Hours Permit

ADDRESS: 1215 S. Lamar Blvd.

APPLICANT: DJB Investment Property LLC, (Judy Brizendine)
8 Wildwood Circle
Wimberly, TX 78676

AGENT: Jackson Walker LLP (Katherine Loayza)
100 Congress Ave. Suite 1100
Austin, TX 78701

CASE MANAGER: Nikki Hoelter **Phone:** 974-2863
Nikki.hoelter@austintexas.gov

NEIGHBORHOOD PLAN: Zilker

WATERSHED: West Bouldin Creek

PROPOSED DEVELOPMENT:

The applicant is requesting a conditional use permit to allow for a restaurant with a late hours permit. It's an existing 2,981 square foot restaurant with a 789 square foot deck and canopy with surface parking. The applicant plans for no site improvements, only to increase the hours of operation.

No modification to the building or impervious cover is associated with this site plan; the existing building and parking will be utilized and was reviewed and approved under site plan case number SP-2011-0141C Gibson Retail.

EXISTING ZONING: The zoning for site is CS-MU-V-CO, the restaurant (general) is a permitted land use within the CS, commercial services zoning district.

SUMMARY STAFF RECOMMENDATION:

Staff recommends approval of the conditional use permit. It's located in a predominantly commercial, restaurant, and retail area with multi-family nearby. The land use is not changing, but only requesting additional hours to remain open until 2am. Parking will not be affected, nor will site improvements be changed. The site is located at the corner of W. Gibson Street and South Lamar Boulevard. On the north side of Gibson Street is an existing cocktail lounge, which also has hours of operation until 2am.

The late hours permit would permit the establishment to remain open until 2am. Currently, it's only permitted to remain open until 11pm.

The proposed hours of operation will be Monday through Sunday, 11am to 2am. The restaurant complies with section LDC Section 25-2-808 – Restaurants and cocktail lounges,

(A)A restaurant (general) use must comply with the requirements of this subsection.

(1)The restaurant must contain kitchen facilities that are adequate for the preparation of the food to be sold. The adequacy of the kitchen facilities is based on the seating capacity of the restaurant and the type of menu offered.

- (2)The menu must provide a variety of entrees, a list of all food items for sale, and the price of each item.
- (B)A restaurant (general) use that serves alcoholic beverages must comply with the requirements of this subsection.
- (1)At least 51 percent of the gross income of a restaurant must be derived from the sale of prepared food.
- (2)An area within a restaurant devoted to the preparation, sale, and consumption of alcoholic beverages may not be operated or advertised under a name different from the restaurant. An outside sign, separate identification, or advertising for the area within the restaurant devoted to the preparation, sale, and consumption of alcoholic beverages must be incidental to and in conjunction with the restaurant use.
- (3)Live entertainment is permitted if the amplified sound does not exceed 70 decibels, measured at the property line of the licensed premises. In this paragraph, "premises" has the meaning ascribed to it in the Texas Alcoholic Beverage Code.
- (4)The building official may order a verified audit that includes documents submitted to taxing authorities. A person's failure to timely produce requested documents is prima facie evidence of a violation of this chapter.
- (C)A restaurant that requires a late-hours permit from the Texas Alcoholic Beverage Commission is a conditional use if:
- (1)Article 10 (*Compatibility Standards*) applies to the restaurant; and
- (2)Article 10 (*Compatibility Standards*) is not waived in accordance with Article 10, Division 3 (*Waivers*).
- (D)For a cocktail lounge or a restaurant with a late-hours permit:
- (1) all parking must be shown on the site plan that is required for a conditional use permit or compatibility standards waiver; and
- (2) compliance with the parking area setback described in [Section 25-5-146](#) (*Conditions Of Approval*) is required.

However the applicant has agreed to no amplified outdoor music, which would be permitted under the previously stated code section, (B)(3) This was a request made by the Zilker Neighborhood Association and the applicant agreed. With the request, the neighborhood supports the conditional use permit.

There are no single family residences zoned SF-6 or more restrictive within 200 feet of the restaurant. Additionally, compatibility standards effecting parking or screening will not be triggered. The site plan complies with all Land Development Code requirements.

SUMMARY COMMENTS ON SITE PLAN:

Land Use: The applicant is requesting a conditional use permit for an existing restaurant to remain open until 2am, a late hour's permit. The site plan for the development was approved in 2011, for a retail use, however changed early on to a restaurant land use. The restaurant has an existing outdoor deck as well as an area covered by canopies.

The site is located on South Lamar Boulevard, a core transit corridor, which as defined, are roadways with a mix of uses, dense population and on a roadway which encourages transit options. To the south is a multifamily retail development, to the north is a cocktail lounge, to the east is multifamily and to the west across Lamar is a restaurant, and mixed use development under construction.

Transportation: Access to the restaurant will remain from South Lamar. All parking will be on-site. The applicant submitted a correction to the existing approved site plan, Gibson Retail, SP-2011-0141C, to show the restaurant (general) land use, as well as obtaining an administrative waiver from LDC Section 25-6-478(F)(3), the minimum parking requirement shall be reduced by twenty (20) spaces which would reduce the parking requirement for this site to a total of 21 spaces and would be more than a 40% reduction from the parking reduction. Further, pursuant to LDC Section 25-6-478(G), the Director with

consultation with the Director of Public Works, grants a waiver in excess of 40% of the site's required parking.

One Car 2 Go space will be provided on-site. With the implementation of Imagine Austin, and other multimodal transportation options now available, staff determined the reduction in parking was reasonable. All transportation comments have been addressed.

Environmental: No site improvements are proposed, which will mean no environmental impact. This site is located in the West Bouldin Creek Watershed and subject to Urban Watershed regulations.

PROJECT INFORMATION: .539 acres site area

EXIST. ZONING: CS-MU-V-CO

ALLOWED F.A.R.: 2:1

MAX. BLDG. COVERAGE: 95%

MAX. (CS) IMPERVIOUS CVRG.: 95%

REQUIRED PARKING: 41

ACCESS: S. Lamar

EXISTING F.A.R.: .16:1

EXISTING BLDG. CVRG: 4,353 square feet

EXISTING IMPERVIOUS CVRG: 72%

PROVIDED PARKING: 23

SURROUNDING CONDITIONS:

Zoning/ Land Use

North:	CS1-V-CO – Cocktail lounge
East:	MF-6 – Multifamily
South:	CS-MU-V-CO – Retail/multifamily
West:	CS-V; CS1-V – Mixed use development

NEIGHBORHOOD ORGNIZATIONS:

107—Zilker Neighborhood Assn.
 127—Bouldin Creek Neighborhood Assn.
 300—Terrell Lane Interceptor Assn.
 428—Barton Springs/Edwards Aquifer Conserv Dist.
 498—South Central Coalition
 511—Austin Neighborhoods Council
 737—Bouldin Creek Neighbrhd Plan Team
 742—Austin Independent School District
 748—Bouldin Forward Thinking
 786—Home Builders Association of Greater Austin
 792—South Lamar Combined NPA
 943—Save Our Springs Alliance
 1032—CIM
 1037—Homeless Neighborhood Assn.
 1074—Bouldin Creek Neighborhood Planning Team
 1075—League of Bicycling Voters
 1107—Perry Grid 614
 1113—Austin Parks Foundation

CONDITIONAL USE PERMIT REVIEW AND EVALUTATION CRITERA

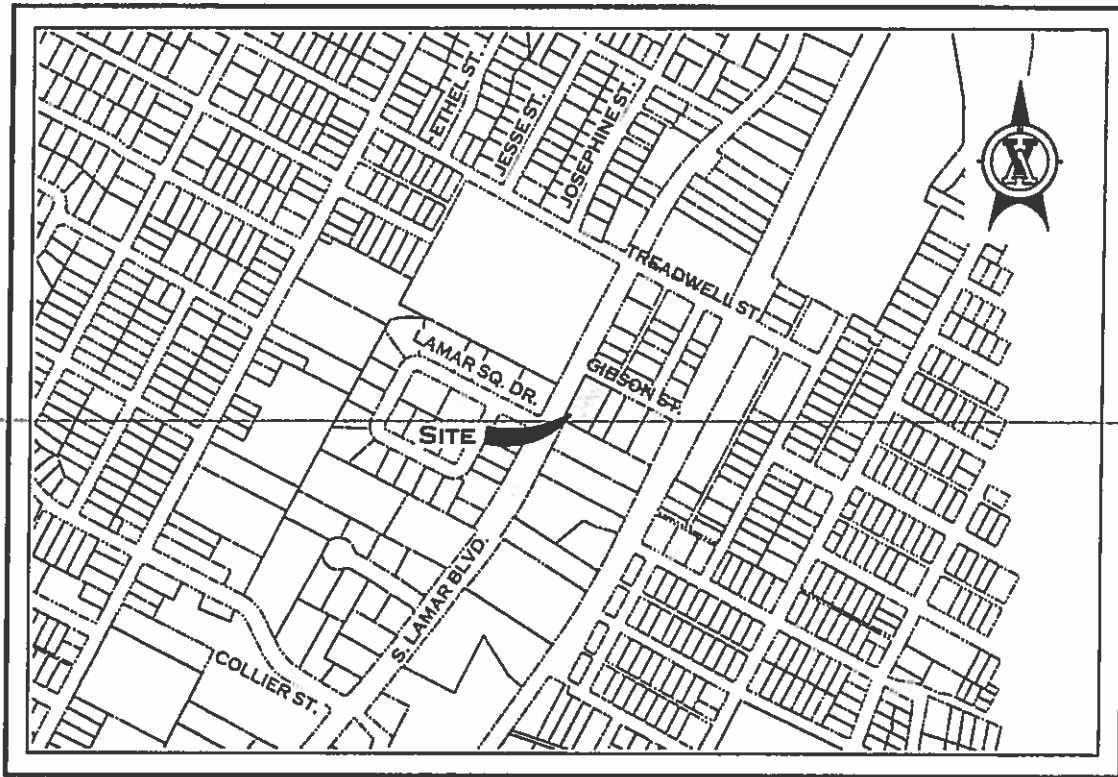
- A. The following evaluation is included to provide staff position on each point of the conditional use permit criteria. Section 25-5-145 of the Land Development Code states: "The Planning Commission shall determine whether the proposed development or use of a conditional use site plan complies with the requirements of this section. A conditional use site plan must:
- B.
1. **Comply with the requirements of this title;**
Staff Response: This site plan complies with all regulations and requirements of the Land Development Code.
 2. **Comply with the objectives and purposes of the zoning district;**
Staff Response: The existing restaurant use is required to obtain a conditional use permit if requesting late hours to remain open until 2am. Otherwise the existing restaurant is a permitted land use.
 3. **Have building height, bulk, scale, setback, open space, landscaping, drainage, access, traffic circulation, and use that is compatible with the use of an abutting site;**
Staff Response: The site plan will comply with all requirements of the zoning district and approved site plan. Compatibility Standards are not triggered from adjacent properties.
 4. **Provide adequate and convenient off-street parking and loading facilities; and**
Staff Response: The site plan complies with off-street parking and loading facility requirements.
 5. **Reasonably protect persons and property from erosion, flood, fire, noise, glare, and similar adverse effects.**
Staff Response: The site plan will comply with all requirements of the Land Development Code and reasonably protects the health, safety, and welfare of persons and property.
 6. **For conditional use located within the East Austin Overlay district, comply with the goals and objectives of a neighborhood plan adopted by the City Council for the area in which the use is proposed.** Staff response: The proposed project is not in the East Austin Overlay and complies with the goals of the Zilker Neighborhood Plan.
- C. In addition, a conditional use site plan may not:
7. **More adversely affect an adjoining site than would a permitted use;**
The restaurant will have no more impact on adjoining properties than other permitted CS, commercial services land uses or the existing restaurant.
 8. **Adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area; or**
Staff Response: The site plan does not adversely affect the safety and convenience of vehicular and pedestrian circulation.
 9. **Adversely affect an adjacent property or traffic control through the location, lighting, or type of a sign.** Staff Response: All signs and lighting will comply with the Land Development Code.

D. 25-5-145. A site plan may not adversely affect the public health, safety, or welfare, or materially injure property. If the Land Use Commission determines that a site plan has an adverse effect or causes a material injury under this subsection, the Land Use Commission shall identify the adverse effect or material injury.

§ 25-5-146 CONDITIONS OF APPROVAL.

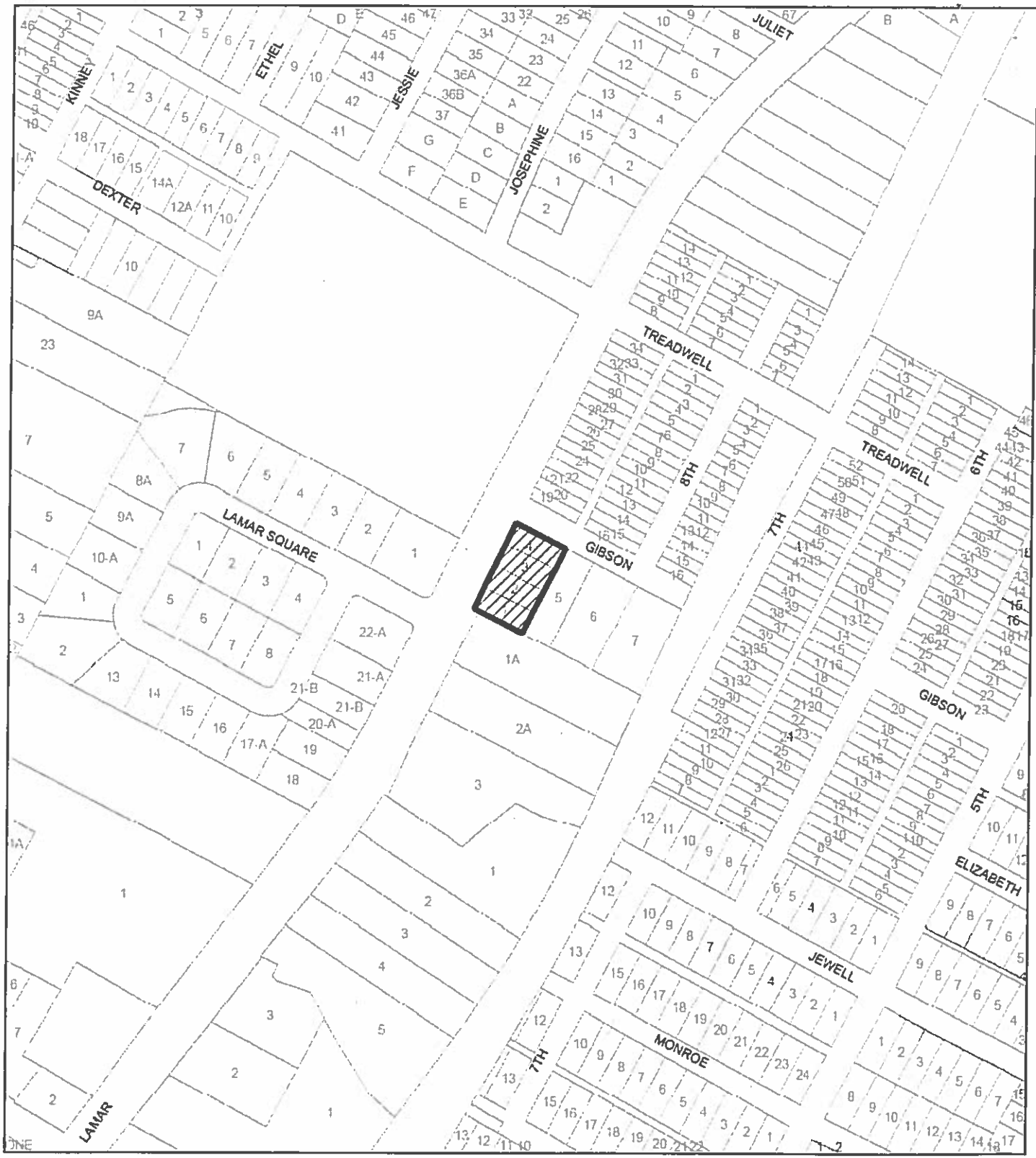
(A) To make a determination required for approval under Section 25-5-145 (Evaluation Of Conditional Use Site Plan), the Land Use Commission may require that a conditional use site plan comply with a condition of approval that includes a requirement for:



- (1) a special yard, open space, buffer, fence, wall, or screen;
- (2) landscaping or erosion;
- (3) a street improvement or dedication, vehicular ingress & egress, or traffic circulation;
- (4) signs;
- (5) characteristics of operation, including hours;
- (6) a development schedule; or
- (7) other measures that the Land Use Commission determines are required for compatibility with surrounding uses or the preservation of public health, safety, or welfare.



LOCATION MAP

MAPSCO PG. 614
MAPSCO GRID #MH21



 Subject Tract
 Base Map

CASE#: SPC-2014-0192A
 ADDRESS: 1215 S. LAMAR BLVD.



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

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STATE OF TEXAS
 DIVISION OF ARCHITECTURE
 600 WEST 26TH STREET, SUITE 1400
 AUSTIN, TEXAS 78705
 TEL: (512) 475-3100
 FAX: (512) 475-3101
 WEBSITE: www.tdi.state.tx.us

OWNER
 ODD DUCK RESTAURANT, LLC
 1201 S. LAMAR BLVD.
 AUSTIN, TEXAS 78704
 TEL: (512) 475-3100
 FAX: (512) 475-3101
 WEBSITE: www.oddduck.com

ARCHITECT
 VICKREY & ASSOCIATES, INC.
 1717 WEST 6TH STREET, SUITE 260
 AUSTIN, TEXAS 78704
 TEL: (512) 475-3100
 FAX: (512) 475-3101
 WEBSITE: www.vickrey.com

REGISTERED
 VICKREY & ASSOCIATES, INC.
 1717 WEST 6TH STREET, SUITE 260
 AUSTIN, TEXAS 78704
 TEL: (512) 475-3100
 FAX: (512) 475-3101
 WEBSITE: www.vickrey.com

PROJECT
 1201 S. LAMAR BLVD.
 AUSTIN, TEXAS 78704

PERMIT NUMBER 2014-001-001, SUBMITAL DATE: 05/20/2014

DATE 05/20/2014

PROJECT ADDRESS 1201 SOUTH LAMAR BLVD, AUSTIN, TEXAS 78704

PROJECT TYPE RESTAURANT

OWNER ODD DUCK RESTAURANT, LLC

ARCHITECT VICKREY & ASSOCIATES, INC.

REGISTERED VICKREY & ASSOCIATES, INC.

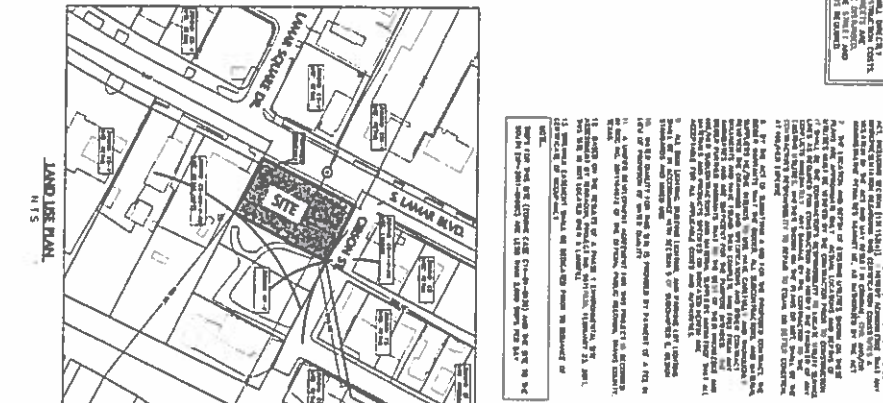
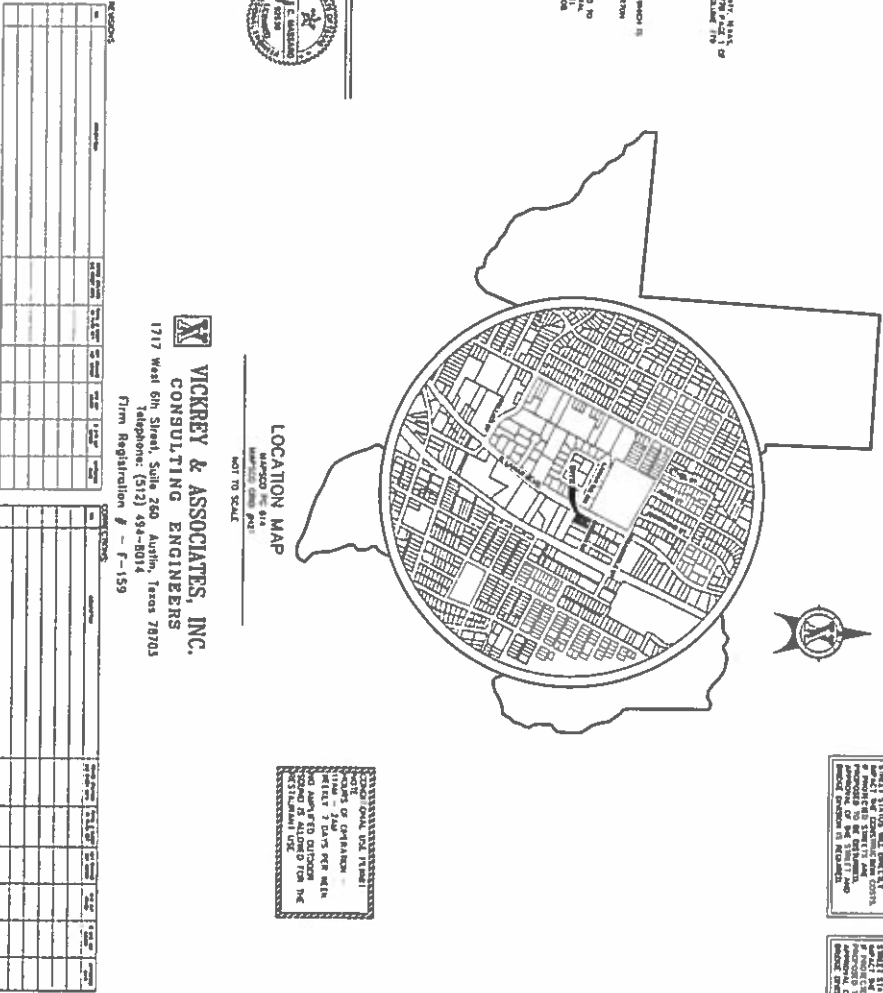
PROJECT 1201 SOUTH LAMAR BLVD, AUSTIN, TEXAS 78704

PERMIT NUMBER 2014-001-001, SUBMITAL DATE: 05/20/2014

CONDITIONAL USE PERMIT FOR LATE HOURS

ODD DUCK RESTAURANT

- NO SITE WORK -
 1201 S. LAMAR BLVD.
 AUSTIN, TX 78704
 SUBMITAL DATE: 05/20/2014



VICKREY & ASSOCIATES, INC.
 CONSULTING ENGINEERS
 1717 West 6th Street, Suite 260 Austin, Texas 78704
 Telephone: (512) 494-8014
 Firm Registration # - F-159

NO.	DATE	REVISION	BY	CHKD.

INDEX OF SHEETS

SHEET NO.	TITLE
1	COVER SHEET
2	PERMIT APPLICATION
3	REVISIONS/AMENDMENTS

1. The applicant shall provide a copy of the Conditional Use Permit to the City of Austin, Texas, Department of Public Works, 1717 West 6th Street, Suite 260, Austin, Texas 78704.

2. The applicant shall provide a copy of the Conditional Use Permit to the City of Austin, Texas, Department of Public Works, 1717 West 6th Street, Suite 260, Austin, Texas 78704.

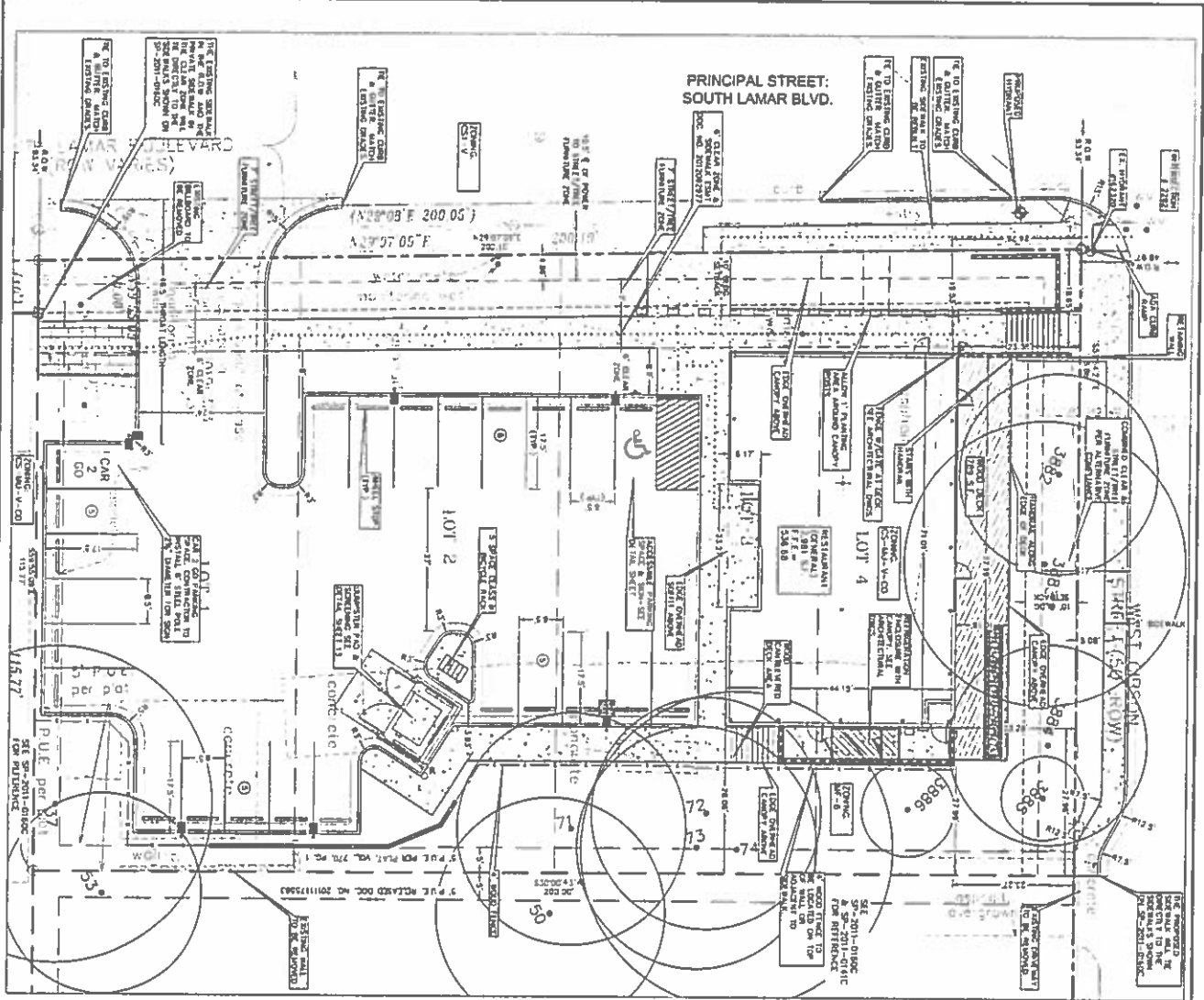
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COVER SHEET
 ODD DUCK RESTAURANT
 1201 SOUTH LAMAR BLVD.
 AUSTIN, TEXAS 78704

DATE: 05/20/2014
 SUBMITAL DATE: 05/20/2014

PREPARED FOR: ODD DUCK RESTAURANT, LLC
 PROJECT: 1201 SOUTH LAMAR BLVD, AUSTIN, TEXAS 78704

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 CONSULTING ENGINEERS
 1717 WEST 6TH STREET, SUITE 260
 AUSTIN, TEXAS 78704
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Legend

- PROPOSED LINE
- EXISTING LINE
- PROPERTY LINE
- EXISTING LINE
- PROPOSED LINE
- EXISTING LINE
- PROPOSED LINE
- EXISTING LINE

Site Data Exhibit: ODD DUCK RESTAURANT

1201 SOUTH LAMAR BLVD. AUSTIN, TEXAS 78704

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY SITE PLAN	03/20/2014	JHM
2	FINAL SITE PLAN	04/25/2014	JHM
3	AS-BUILT		

VICKREY & ASSOCIATES, INC.
CONSULTING ENGINEERS

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PH: 512.391.1111 FAX: 512.391.1112
WWW.VICKREY-ENGINEERS.COM

PROJECT NO: 1401-0001
SHEET NO: 1 OF 1

NO.	DATE	DESCRIPTION
1	03/20/2014	PRELIMINARY SITE PLAN
2	04/25/2014	FINAL SITE PLAN
3		

Hoelter, Nikki

From: Loayza, Katherine <kloayza@jw.com>
nt: Monday, January 05, 2015 1:53 PM
o: Hoelter, Nikki
Subject: FW:Odd Duck Zilker Neighborhood Support

Nikki,

Please see the email below from David King regarding the Zilker Neighborhood support for the late hours permit.

Thanks,

Katherine

Katherine P. Loayza
Land Use Consultant
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
(512) 236-2259
(512) 236-2002 (fax)
<mailto:kloayza@jw.com>

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From: David King [<mailto:dking@austin.rr.com>]
Sent: Monday, July 21, 2014 9:46 PM
To: Jason James
Cc: Sam Hellman-Mass; Loayza, Katherine
Subject: Re: odd duck

Hello Jason,

The Zilker Neighborhood Association (ZNA) Zoning Committee recommends that the Odd Duck work with City Planning Development and Review Department staff to add a condition prohibiting amplified outdoor sound to the conditional use permit (CUP) at the Odd Duck restaurant located at 1201 S. Lamar.

If the CUP includes a condition that prohibits amplified outdoor sound, the ZNA Zoning Committee will recommend that the ZNA not oppose the CUP.

Respectfully,

David King
Bill Neale
ZNA Zoning Committee Co-Chairs