

ZONING CHANGE REVIEW SHEET

CASE: C14-2015-0017 - 5204 FM 2222

Z.A.P. DATE: August 18, 2015

ADDRESS: 5204 FM 2222

DISTRICT: 10

OWNER/APPLICANT: The Dudley P. Prade Testamentary Trust & Prade Family Limited Partnership, Ltd. (Phil Mockford)

AGENT: Metcalfe, Wolff, Stuart & Williams, LLP (Michele Rogerson Lynch)

ZONING FROM: GO

TO: GR-CO

AREA: 0.041 acres (1812 sq. ft.)

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to grant Community Commercial-Conditional Overlay (GR-CO) Combining District zoning with the following conditions:

1. The Conditional Overlay will prohibit the following uses:

Automotive Rentals	Funeral Services
Automotive Repair	Pawn Shop Services
Automotive Sales	Pedicab Storage and Dispatch
Automotive Washing (of any type)	Service Station
Bail Bond Services	Hospital Services (General)
Consumer Repair Services	Hospital Services (Limited)
Drop-Off Recycling Collection Facility	Local Utility Services
Exterminating Services	

2. The Conditional Overlay will prohibit outdoor, amplified sound.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

August 18, 2015; *Approved Community Commercial-Conditional Overlay (GR-CO)
Combining District zoning, as recommended by Staff, by consent [S. Harris /
A. Denkler-2nd] (11-0).*

ISSUES:

The purpose of this zoning case is to rectify a compliance issue with zoning and permitting per a code violation issued to the restaurant located adjacent to the subject rezoning area (see Exhibit C). The restaurant erected an outdoor events tent on the west side of the restaurant building and on a portion of the property that is zoned general office (GO) district zoning. The tent replaced a covered patio that had been approved per a site plan correction in 1996. At the time, the tent was legally permitted and the owner was not aware of the zoning issue. Prior to receipt of the code violation, the space was used for private party functions where food and alcohol were served in association with the restaurant. The GO zoning district does not permit a restaurant use. Since having received the violation, the restaurant has submitted a zoning application for the tent area only and not the adjacent

lawn. Once the zoning is approved, the permitting violations for the tent can be applied for and resolved.

The Applicant, the Courtyard Home Owners Association, and Staff (DAC/Zoning/Code Enforcement) met on April 15, 2015 at the request of the HOA. The meeting was largely about the code enforcement issues that exist on the property and the Neighborhoods desire to better understand the Code Compliance process for addressing code violations and code complaints. Residents of the Courtyard HOA made multiple calls to 311 to report disturbance of noise associate with special events occupying the tent space as well as noise coming from customers who may wander onto the GO zoned property with food or drink in hand. The proposed conditional overlay noted above will apply to the tent area and will prohibit outdoor amplified sound.

DEPARTMENT COMMENTS:

The subject rezoning area is the footprint of an outdoor events tent that is erected on the west side of an existing commercial building that is occupied by County Line BBQ restaurant. The remainder of the GO zoned property is used for parking associated with the restaurant. The property has driveway access from FM 2222 on the north side of the property and backs up to a cove of Lake Austin on the south side of the property. The rezoning area is roughly located between the parking lot and the cove.

The Applicant has requested GR-CO combined district zoning in order to rectify the existing zoning code violation and return to using the tent for uses associated with the restaurant.

The subject property is in the Lake Austin Overlay, the Hill Country Roadways Overlay and the Scenic Roadway Overlay. While new development is not proposed on the site at this time, the various overlays, the location within a flood plain, and the watershed regulations that apply to this property would restrict new development appropriately, should the desire for redevelopment arise in the future. The rezoning area will be an extension of the existing restaurant use. The Applicant has agreed to restrict certain uses that would not be appropriate given the environmental sensitivity of the Lake Austin Overlay as well as the close proximity to residential uses on the north side of FM 2222 (Cat Mountain Neighborhood) and to the south (The Courtyard Community). Due to concerns of sound and noise associated with outdoor music and entertainment, the Applicant has agreed to a conditional overlay that will prohibit outdoor amplified sound. The proposed use is consistent and compatible with the uses of adjacent properties. Additionally, the subject zoning area is located on an arterial road and is near a major traffic intersection which is appropriate for the existing and proposed restaurant use. With the conditions proposed by the Applicant, Staff recommends the zoning change to GR-CO combined district zoning.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GO	parking & outdoor/green space associated with County Line BBQ restaurant
<i>North</i>	SF-2	Residential (Cat Mountain Neighborhood)
<i>South</i>	PUD	Residential (The Courtyard Community)
<i>East</i>	GR	Restaurant (County Line BBQ)
<i>West</i>	P	Austin Fire Station # 31

NEIGHBORHOOD PLANNING AREA: N/A

TIA: Not Required

WATERSHED: Bull Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: Yes

NEIGHBORHOOD ORGANIZATIONS:

416 Long Canyon Phase II & III Homeowners Assn. Inc.
1228 Sierra Club, Austin Regional Group
742 Austin Independent School District
475 Bull Creek Foundation
1363 SEL Texas
1236 The Real Estate Council of Austin, Inc.
511 Austin Neighborhoods Council
1340 Austin Heritage Tree Foundation
425 2222 Coalition of Neighborhood Associations Inc
1507 NW Austin Neighbors
157 Courtyard Homeowner Assn.
1424 Preservation Austin
53 Northwest Austin Civic Association

SCHOOLS:

Highland Park Elementary Lamar Middle School McCallum High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-80-035, 6204 FM 2222	I-AA to GR		11/20/1980 – Apvd GR, first height and area.
C14-81-0020 – CITY OF AUSTIN (APPX 133AC)	I-AA and I-PUD to AA and PUD		4/16/1981 – Apvd AA and PUD.
C14-91-0015 – 5619 – TRACT D – Josie Champions; 5719 F.M. 2222	Tract 1 – SF-2 to RR Tract 2 – SF-2 to GR	6/25/1991 – Denied GR and RR	5/7/1992 – Apvd RR for Tract 1 and GR-CO for Tract 2. CO restricts development to a maximum of 70,000 sq. ft. of building space; prohibits automotive rentals, automotive repair services, automotive sales, automotive washing, exterminating services, financial services, medical offices, restaurants (drive-in, fast-food) service station, commercial off-

			street parking and off-site accessory parking.
C14-92-0134 – Champion Tract E; 5600-5760 F.M. 2222			5/13/1993 – Apvd GR-CO; CO restricts development to 50,000 sq. ft. of gross floor area, limits height to a maximum of 28 feet, restricts impervious cover to 42%, restricts development within 75 feet of bluff to the east property line, requires a 50foot undisturbed, vegetative buffer from the bluff at the east property line, prohibits free standing signs, prohibits the following uses: automotive rentals, automotive repair services, automotive sales, automotive washing, exterminating services, financial services, medical offices, restaurants (drive-in, fast-food) service station, commercial off-street parking and off-site accessory parking. Development on the property must conform to uses and intensities specified in the TIA dated February, 1991 by WHM Transportation Engineering.
C14-04-0115 - CHAMPION TRACT 5 (18.32 ACRES) AND (0.998 ACRES); FM 2222		10/19/2004 – Apvd GR-MU-CO	1/13/2005 – Apvd GR-CO; for setbacks, vegetative buffers, prohibits: vehicular access from Lakewood Drive, highly reflective materials, noise from mechanical equipment, structures more than 28ft in height, certain uses, drive-in service as accessory to restaurant. Exterior lighting must be shielded or hooded from adjacent property.

RELATED CASES:

The tract of land that includes the subject rezoning area of this zoning case was rezoned from SF-2 to GO by zoning case C14r-86-304. The zoning change was accompanied by a site plan for the restaurant use as per Ordinance No. 870409-H. An approved correction to the site plan in 1996 added a 625 sq. ft. covered patio in the area that is subject to this rezoning case.

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION	DAILY TRAFFIC
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RM 2222	Varies	MAU-4	Arterial	25,000
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CITY COUNCIL DATE:

September 10, 2015;

ACTION:

ORDINANCE READINGS: 1st

2nd

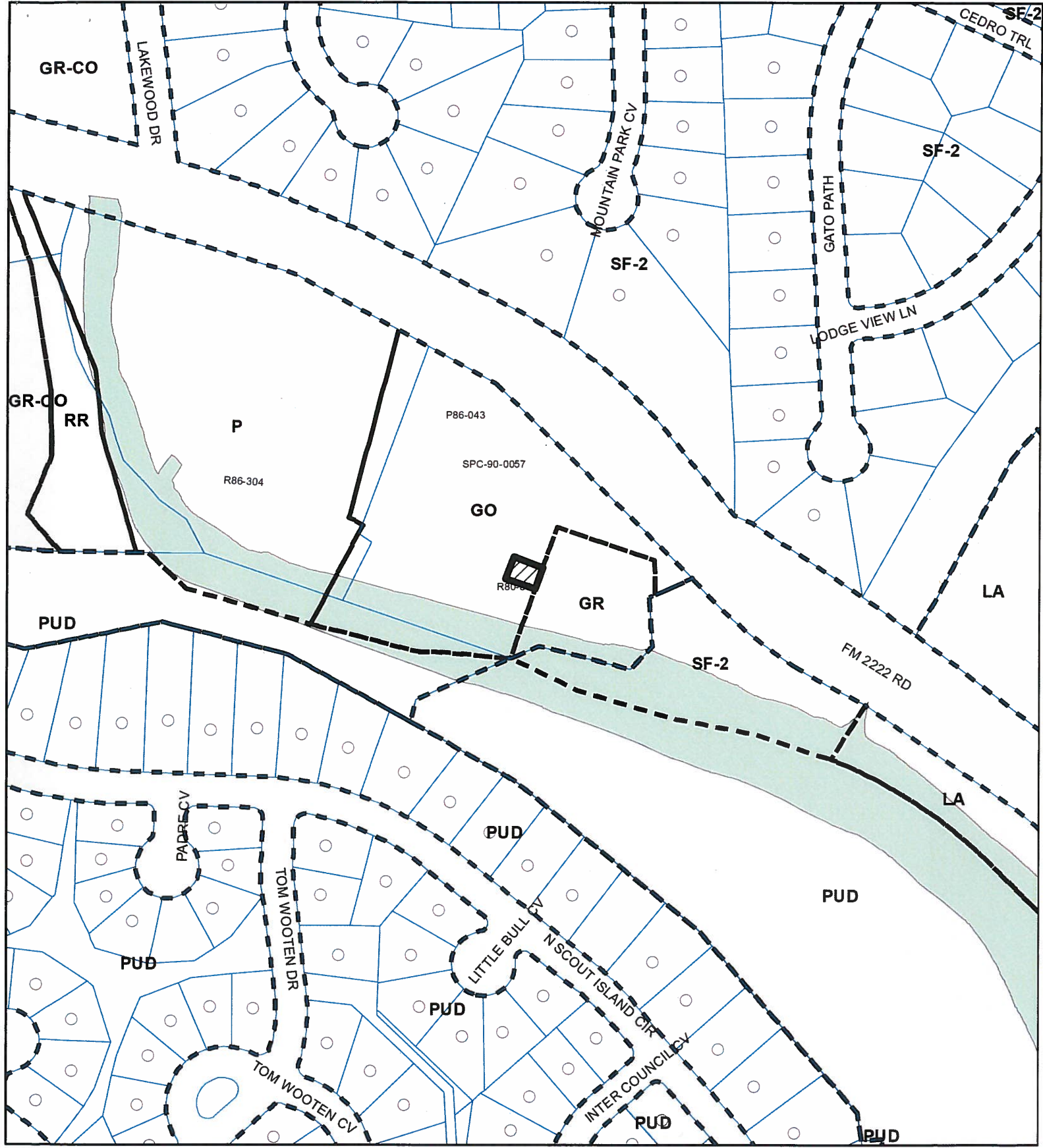
3rd

ORDINANCE NUMBER:

CASE MANAGER: Tori Haase

PHONE: 512-974-7691

EMAIL: tori.haase@austintexas.gov



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 200'

ZONING

CASE#: C14-2015-0017

Exhibit A

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.





ZONING

ZONING CASE#: C14-2015-0017
 ZONING CHANGE: GO to GR-CO
 LOCATION: 5204 FM 2222
 SUBJECT AREA: 0.041 ACRES (1812sq ft)
 MANAGER: TORI HAASE

Exhibit B-1



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



ZONING

ZONING CASE#: C14-2015-0017
 ZONING CHANGE: GO to GR-CO
 LOCATION: 5204 FM 2222
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 MANAGER: TORI HAASE

Exhibit B-2



N



1' = 400'

 Subject Property

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



City of Austin

Founded By Congress, Republic of Texas 1839
Code Compliance Department
P.O. Box 1088, Austin, Texas 78767 - 1088

Exhibit C

May 23, 2014

NOTICE OF VIOLATION

via Certified Mail #7013 2630 0002 0450 3859

Prade Dudley P Testamentary Trust and Prade Family Partnership Ltd
C/O Skeeter Miller
3702 Steck Ave
Austin, Texas 78759-8729

RE: **5204 RANCH RD 2222 78730**

Legally described as ABS 7 SUR 504 CHAMBERS T J ACR 3.2580
Zoned as GR/GO
Parcel Number 0140100701

Dear Prade Dudley P Testamentary Trust and Prade Family Partnership Ltd C/O Skeeter Miller:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

After receipt of this notice, you may not sell, lease, or give away this property unless you have provided the buyer, lessee, or other transferee a copy of this notice, and provided the name and address of the buyer to the Code Official. Also, it is a misdemeanor to rent this property if the code violation(s) on this property pose a danger to the health, safety and welfare of the tenants.

If you have any questions, please contact me by telephone at 512-974-1921 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en 512-974-1921 de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Ownership Information

According to the applicable records of the County, you own the real property described in this notice. If you no longer own this property, you must execute an affidavit stating that you no longer own the property and stating the name with the last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to our office not later than the 20th day after the date you receive this notice. If you do not submit an affidavit, it will be presumed that you own the property described in this notice, even if you do not.

An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit

may be mailed to:

**City of Austin
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767**

Additionally, if this property has other owner(s), please provide me with this information.

Failure to Correct

If a violation is not corrected, any existing site plan, permit, or certificate of occupancy may be suspended or revoked by the City. If the site plan, permit or certificate of occupancy is suspended or revoked, the utility service to this property may be disconnected.

If the violation continues, the City may take further legal action to prevent the unlawful action as authorized by State law and may seek civil injunctions or penalties in State court.

For dangerous or substandard buildings, the City may also take further action to require the vacation, relocation of occupants, securing, repair, removal or demolition of a building.

If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

**City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767**

Sincerely,



Robert Moore, Code Compliance Inspector
Code Compliance Department
Case CV-2014-053783

INVESTIGATION REPORT

Investigator: Robert Moore
Case: CV-2014-053783
Address: 6204 RANCH RD 2222 78730
Zoned as GR/GO

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the **Required Remedy Summary** will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 978-4000. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

LAND USE

Code Section: Building Permit Requirement (§25-11-32)
Description of Violation: **A required electrical permit was not obtained for the tent addition on the rear decking.**
Date Observed: May 20, 2014 Status: Not Cleared
Required Remedy: **Obtain a required electrical permit for the tent.**

Code Section: Building Permit Requirement (§25-11-32)
Description of Violation: **A required building permit was not obtained for the pavilion addition on the west side of the restaurant.**
Date Observed: May 20, 2014 Status: Not Cleared
Required Remedy: **Obtain a required building permit for the pavilion.**

Code Section: Building Permit Requirement (§25-11-32)
Description of Violation: **A required electrical permit was not obtained for the pavilion addition on the west side of the restaurant.**
Date Observed: May 20, 2014 Status: Not Cleared
Required Remedy: **Obtain a required electrical permit for the pavilion.**

Code Section: Building Permit Requirement (§25-11-32)
Description of Violation: **A required building permit was not obtained for the sound stage on the West end of the property.**
Date Observed: May 20, 2014 Status: Not Cleared
Required Remedy: **Obtain a required building permit for the sound stage.**

Code Section: Building Permit Requirement (§25-11-32)
Description of Violation: **A required electrical permit was not obtained for the sound stage on the West end of the property.**
Date Observed: May 20, 2014 Status: Not Cleared
Required Remedy: **Obtain a required electrical permit for the sound stage.**

Code Section: Building Permit Requirement (§25-11-32)

Description of Violation: **A required electrical permit was not obtained for the exit light power supply cord that is installed underground near the North West end of the property.**

Date Observed: May 20, 2014

Status: Not Cleared

Required Remedy: **Obtain required electrical permit for the underground exit light supply cord.**

Code Section: Site Plans Required (§25-5-1)

Description of Violation: **An approved site plan exemption was not obtained for the pavilion and sound stage located at the west end of the property.**

Date Observed: May 20, 2014

Status: Not Cleared

Required Remedy: **Obtain an approved site plan exemption for the pavilion and sound stage.**

Code Section: Building Permit Requirement (§25-11-32)

Description of Violation: **A required building permit was not obtained for the foyer addition near the entrance of the restaurant.**

Date Observed: May 20, 2014

Status: Not Cleared

Required Remedy: **Obtain required building permit for foyer addition.**

Code Section: Building Permit Requirement (§25-11-32)

Description of Violation: **A required electrical permit was not obtained for the foyer addition near the entrance of the restaurant.**

Date Observed: May 20, 2014

Status: Not Cleared

Required Remedy: **Obtain required electrical permit for foyer addition.**

Code Section: Building Permit Requirement (§25-11-32)

Description of Violation: **A required building permit was not obtained for the tent addition on the rear decking.**

Date Observed: May 20, 2014

Status: Not Cleared

Required Remedy: **Obtain a required building permit for the tent.**

Required Remedy Summary

Address Noted Violations in 21 days.

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

Appeal

A person may appeal a Stop Work Order to the City of Austin's Code Official. A written appeal must be filed no later than 3 days after the posting of the Order and contain:

- the name and address of the appellant;
- a statement of facts;
- the decision being appealed; and
- the reasons the decision should be set aside.

An appeal may be delivered in person to Code Compliance Department located at 1520 Rutherford Lane, Building 1-Security Desk or mailed to:

**Code Official
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767**

STAFF RECOMMENDATION

The Staff's recommendation is to grant Community Commercial-Conditional Overlay (GR-CO) Combining District zoning with the following conditions:

1. The Conditional Overlay will prohibit the following uses:

Automotive Rentals	Funeral Services
Automotive Repair	Pawn Shop Services
Automotive Sales	Pedicab Storage and Dispatch
Automotive Washing (of any type)	Service Station
Bail Bond Services	Hospital Services (General)
Consumer Repair Services	Hospital Services (Limited)
Drop-Off Recycling Collection Facility	Local Utility Services
Exterminating Services	

2. The Conditional Overlay will prohibit outdoor, amplified sound.

BASIS FOR RECOMMENDATION

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.*
- 2. Zoning changes should promote compatibility with adjacent and nearby uses.*
- 3. Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

Community Commercial (GR) district zoning is designated for office or other commercial use that serves the neighborhood and community needs and that generally is accessible from major traffic ways. The proposed restaurant use is consistent with the purpose of the GR zoning district and is compatible with the uses on adjacent properties. Additionally, the subject zoning area is located on an arterial road and is near a major traffic intersection which is appropriate for the existing and proposed restaurant use.

EXISTING CONDITIONS

Site Characteristics

The subject rezoning area is 1812 square feet out a larger tract (3.25 acres) approximately located in the area of the south east corner of Loop 360 and FM 2222. The rezoning area is 60 feet north of a Lake Austin cove. The site is developed with a temporary outdoor events tent. While new development is not being proposed at this time, there does not seem to be any topographic constraints or trees that would be impacted in the area proposed for rezoning.

Impervious Cover

GO district zoning allows for a maximum of 80% impervious cover. GR allows for a maximum of 90% impervious cover. However because this site is located in a Water Supply Suburban Watershed and is in the Drinking Water Protection Zone, watershed regulations will determine the impervious

cover maximums for redevelopment of this lot. Note: The most restrictive impervious cover limit applies.

Comprehensive Planning – Kathleen Fox, 512-974-7877

This zoning case is located on the south side of FM 2222 on a property that includes a large bbq restaurant and only involves .041 acres of this site. The subject property is not located within the boundaries of an existing neighborhood planning area. Surrounding land uses includes single family housing to the north and south, a fire station to the west, and a parking lot to the east. The proposal is restaurant use with limited trips per day.

Imagine Austin - The comparative scale of the site relative to other adjoining commercial uses along FM 2222, as well as the site not being located along an Activity Corridor or within an Activity Center as identified on the Imagine Austin Growth Concept Map this case falls below the scope of Imagine Austin, which is broad in scope, and consequently the plan is neutral on the proposed rezoning.

Environmental – Mike McDougal, 512-974-6380

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Bull Creek Watershed of the Colorado River Basin, which is classified as a Water Supply Suburban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone.
2. Under the current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

Development within a Water Quality Transition Zone is limited to 18%.

3. According to floodplain maps there is a floodplain within or adjacent to the project location. Based upon the location of the floodplain, offsite drainage should be calculated to determine whether a Water Quality Transition Zone and Critical Water Quality Zone exist within the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

6. Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.
7. At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

Transportation – Ivan Naranjo, 512-974-7649

- TR1: No additional right-of-way is needed at this time.
- TR2. A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]
- TR3. RM 2222 Lane is classified in the Bicycle Plan as Bike Route No. 419.
- TR4. Capital Metro bus service (Route No. 122) is available along RM 2222.
- TR5. There are no existing sidewalks along RM 2222.

Water and Wastewater – Neil Kepple, 512-972-0077

FYI: The site is currently served with City of Austin water and wastewater utilities. If redeveloped the landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, water or wastewater easements, utility relocations and or abandonments required by the proposed land use. Depending on the development plans submitted, water and or wastewater service extension requests may be required. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

Storm Water Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Storm water Management Program if available.

Site Plan and Compatibility Standards – Michael Simmons-Smith, 512-974-1225

1. This site is subject to the Hill Country Roadway Corridor Ordinance (Low Intensity) as per LDC Section 25-2-1103.

2. Development on this site will be subject to Subchapter E: Design Standards and Mixed Use.