


-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2016-0126
 LOCATION: 7100 US HWY. 290 W

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CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

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Board of Adjustment General/Parking Variance Application

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # C15-2016-0126 ROW # 11633483 Tax # 0408380113
TCAD ✓

Section 1: Applicant Statement

Street Address: 7100 US Highway 290 West, Austin, Texas

Subdivision Legal Description:

Lot 3, Block A, Scenic Brook West Commercial Subdivision, a subdivision in the City of Austin,
Travis County, Texas

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: GR-CO-NP (West Oak Hill)

I/We Terrence L. Irion on behalf of myself/ourselves as
authorized agent for Cielo Paso Oak Hill, L.P. affirm that on
Month October, Day 5, Year 2016, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☒ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: _____

Type of Structure: Commercial

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

Ordinance #94117-E limiting the total allowed FAR of 0.21 to 1 on the Property. We request an increase in FAR to 0.229 to 1. The platted property was 4.9722 ac. and the FAR allowed for a maximum of 45,483.7 sq.ft. of floor area. To date 43,200 sq.ft. have been developed. TXDOT condemned a portion of the property resulting in a reduction in the maximum square footage.

Section 2: Variance Findings

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 supporting documents.

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

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

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

There are existing structures on the Property which total 43,200 sq. ft. The original FAR on the platted property was 45,483.7 sq. ft. After the condemnation of the 0.4143 acre tract the maximum FAR would be reduced to 41,713 square feet if that right of way was not included in the determination of the ratio. As it stands, no additional structures may be built on the property if the condemned property is not included in the calculation. The Owner seeks to use 2283.7 sq. ft. floor area for a restaurant. This is the remaining square footage that would be allowed if the total platted property was included in the calculation, or if the FAR limitation was increased.

Hardship

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

Ordinance #94117-E is site specific. If the FAR limitations were not expressly set forth in the Ordinance then the Property would be subject to the same FAR restrictions as any other GR zoned property which is 1:1. If TXDOT had not taken a portion of the site years after Ordinance #94117-E was adopted, the surplus FAR would be 2,283.7 sq ft. Applicant also proposes to add water quality which is not currently available to the site which also reduces impervious cover.

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

Ordinance #94117-E is site specific and does not pertain to the general area where the Property is located.

Area Character

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

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The variance request is limited to the Ordinance which is specific to the Property and does not effect the surrounding area. Furthermore, the area adjacent to the Property is zoned GR without the FAR restrictions, and therefore the commercial structure being proposed could be constructed on the adjacent property and would not be subject to the Ordinance's FAR limitations.

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

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

N/a

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

N/a

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

N/a

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

N/a

Section 3: Applicant Certificate

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

Applicant Signature: [Signature] Date: 10/8/16

Applicant Name (typed or printed): Gabe Bruehl

Applicant Mailing Address: 105 W. Riverside, Ste. 110

City: Austin State: Texas Zip: 78704

Phone (will be public information): (512) 439-0400

Email (optional – will be public information): gabe@kbge-eng.com

Section 4: Owner Certificate

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

Owner Signature: [Signature] Date: 10/6/16

Owner Name (typed or printed): Tyler Buckler for Cielo Paso Oak Hill, L.P.

Owner Mailing Address: 6500 Montana Avenue

City: El Paso State: Texas Zip: 79925

Phone (will be public information): (512) 600-7902

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Terrence L. Irion

Agent Mailing Address: 1250 S. Capital of Texas Hwy, Bldg 3 Ste. 601

City: Austin State: Texas Zip: 78746

Phone (will be public information): (512) 615-6653

Email (optional – will be public information): terry.irion@sprouselaw.com

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

As stated above, the Property is subject to a conditional overlay that was provided in Ordinance #94117-E, which states that the FAR is 0.21 to 1 of the Property. A portion of the Property was condemned by Texas Department of Transportation. We are requesting that the FAR limitation be increased to 0.229 to 1 to allow for the additional square footage that would be allowed had the

Additional Space (continued)

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a portion of the property not been condemned. In the alternative, we are requesting that all of the Property described in the Ordinance's conditional overlay provision, including the condemned portion, be included when calculating FAR. The proposed additional floor area, calculated on the reduced site area after the condemnation increases from the allowed .21 to 1 to 0.229 to 1. We request a variance to allow the FAR to exceed the 0.21 to 1 to 0.229 to 1.

As a comparative argument, if any portion of the 45,483.7 square feet of floor area (as calculated by the FAR using the total acreage) were located in the condemned right of way, then the owner would be allowed to rebuild the portion taken on that portion of the property located outside of the right of way pursuant to Section 25-8-23 of the Austin City Code. This would allow for not only an increase in FAR, but also an increase in net site area impervious cover. As previously stated, the site area impervious cover will actually be reduced by this redevelopment, which will remove excess asphalt parking area and replace it with water quality pond area.

SAVE

