



MEMORANDUM

TO: Mayor and City Council

FROM: Veronica Briseño, Assistant City Manager *Veronica Briseño*
Robert Goode, Interim Assistant City Manager *R. Goode*

DATE: August 28, 2023

SUBJECT: Life Safety and Permitting Issues at Nixta Taqueria

We know there is a great deal of public interest regarding the challenges currently involving Nixta Taqueria located at 2512 East 12th Street. This memo provides an update concerning the life safety and permitting challenges at the restaurant as well as immediate next steps to ensure the property is safe to operate. The safety of the customers, staff, owners and community is always our prime concern in all situations related to electrical, code, and permitting issues. We are committed to working with all parties involved to resolve the challenges and will continue prioritizing life safety issues.

Background

On August 16, 2023, an Austin Energy (AE) high heat alarm was triggered because an electric meter overheated at Nixta Taqueria. The building is divided into two suites and utilizes two meters. The AE technician found burned wires on the business owners' side of the meter and determined that the business was using too much amperage. This presents a severe risk of fire or explosion and a threat to public safety. Therefore, AE disabled one of the meters and left a Notice of Electrical Hazard with the business owner.

The next day, the business owner submitted an electric permit application to upgrade service. Austin Energy did not approve the application due to discrepancies with the information submitted. For example, amperage requirements were not consistent with the submitted diagrams. Accurate information is critical to ensure AE electric service levels meet the business' needs.

Current Status

The Development Services Department (DSD) recognizes that navigating the permitting process can be complex and strives to provide support and guidance throughout the process to help business and property owners understand these challenges while still prioritizing safety.

To identify a path forward, staff met with the business owners on site. During the site visit, the City's Chief Building Official noted the following life safety concerns beyond the electrical service issue initially identified by Austin Energy:

- **Structural integrity of the building's roof.** Three unpermitted air conditioning (AC) units are located on top of the building's roof. A structural review of the roof is necessary to ensure the roof is structurally sound, can sustain the weight of the AC units, and does not pose a danger of potentially collapsing.
- **Overload of the building's electrical system.** Due to the AC units and additional electrical components added outside of the building (e.g. lighting system, ceiling fans, outlets), the electric service requested to feed the property as well as the business owners' electric equipment are undersized for the amount of power they are drawing, creating an electrical hazard. For example, the damaged meter that was disabled by Austin Energy was connected to the restaurant's three unpermitted air-conditioning units. This condition created a potential risk for fire or explosion. The business' electrical system must be rebuilt to support its additional electrical needs. Once repairs are made on the business' side, Austin Energy's service wires to the building must also be upgraded to handle the expanded needs.
- **Fire safety due to outdoor expansion.** When the roof was extended to build an unpermitted outdoor area, the meters became enclosed under the roof extension and no longer meet safety clearance requirements. The Austin Fire Department needs to conduct an inspection to determine any changes to occupancy because of the outdoor expansion. Additional fire safety equipment may be required and another fire exit may need to be added.

The safety issues identified above are limited to what was visible outside of the building. The most significant issues are the result of unpermitted work and pose critical safety concerns to the restaurant's staff, customers, and the community. The last permitted activity on this site was in 2019 to install an outdoor grease trap. The inspection was performed by a plumbing inspector and focused on one area of the property's plumbing system. In 2022, Code Compliance inspectors responded to complaints of an ornamental fence that had fallen into the right of way. The Code Compliance inspector closed the case upon observing that the wall had been repaired and did not conduct a full site inspection. No other building or electrical permits have been issued or inspected between 2019 and August 2023.

While Nixta Taqueria is a tenant of the property, not the owner, it is possible that some of these issues may predate the business opening in 2019. Records reflect, however, that the restaurant's footprint has expanded since 2019.

Next Steps

Today, August 28, 2023, staff from DSD and AFD met on-site at Nixta Taqueria to discuss the business owners' next steps toward meeting building safety regulations and resuming operations.

Staff walked the entire property with the business owners and their architect who is developing architectural plans and a structural analysis of the building's roof and outdoor areas. The business owners are hiring a surveyor to begin the work needed for a site plan, as well as an engineer to perform load calculations and design a new electrical service for the property.

The load calculation and necessary documentation detailing the electrical requirements of the building will be reviewed by Austin Energy to ensure electric service levels meet the property's needs. The City's team is also analyzing the unpermitted work and developing a prioritization of the work based on the life/safety risks. Once the architectural plans and analyses are submitted, a cross-departmental team will review building plan submittals and conduct related inspections.

If you have any questions, please contact Brenda de la Garza, DSD Assistant Director, via email at Brenda.DeLaGarza@austintexas.gov, or via phone at 512-487-9815.

cc: Jesús Garza, Interim City Manager
 CMO Executive Team
 Bob Kahn, General Manager, Austin Energy
 José Roig, Director, Development Services Department
 Brenda de la Garza, Assistant Director, Development Services Department
 Joel Baker, Fire Chief, Austin Fire Department
 Stephen Truesdell, Division Chief Austin Fire Department

Attachment: Timeline and photos

**ATTACHMENT
TIMELINE & SITE PHOTOS**

June 2018 - Privacy fence and outdoor seating added. Still operating as Cultivo.



January 2019 - Health permits indicate change of owner to Nixta Taqueria on January 18, 2019

April 2022 – To right of building, outdoor covered seating and lighting added. To left of building, outdoor bar and more seating added – both covered by a structure connected to the main building.



August 16, 2023 – An Austin Energy (AE) high heat alarm was triggered because an electric meter overheated at Nixta Taqueria. Upon arrival, the AE technician found melted and frayed wires causing a threat to public health, safety, and property, which resulted in AE removing the meter.



Burned wires.