



**NOTICE OF A REGULAR MEETING
OF THE ZONING COMMISSION
OF THE CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, FEBRUARY 23, 2022
6:00 P.M.**

Notice is hereby given that the Zoning Commission of the City of Sunset Valley, Texas, will hold a regular meeting on Wednesday, the 23rd day of February 2022 at 6:00 P.M. in the Council Chambers, City Hall, 3205 Jones Road, Sunset Valley, Texas.

Due to current COVID-19 restrictions and Travis County Order 2022-01, the number of public participants allowed into the Council Chambers may be limited. Masks are strongly recommended. The public is encouraged to leave public comments via Open Town Hall here: <https://www.opentownhall.com/11654>. The comments will be read by the Zoning Commissioners. Additionally, the public may livestream the meeting using this link: <https://www.sunsetvalley.org/livestream>

On this date, the following items will be discussed, to wit:

1. Call to Order
2. Citizen/Public Comments
3. Consider approval of the minutes from the January 26, 2022 regular meeting.
4. Public Hearing to consider a request for a Special Use Permit to operate a restaurant within the NC (Neighborhood Commercial) District under Section 150.101 of the Land Development Code at 6405 Brodie Lane.
5. Zoning Commission recommendation to the City Council regarding a request for a Special Use Permit to operate a restaurant within the NC (Neighborhood Commercial) District under Section 150.101 of the Land Development Code at 6405 Brodie Lane.
6. Public Hearing to consider a request for a Special Use Permit for alcoholic beverages to be sold in a restaurant for on-premise consumption under Section 150.103(A) of the Land Development Code at 6405 Brodie Lane.
7. Zoning Commission recommendation to the City Council regarding a request for a Special Use Permit for alcoholic beverages to be sold in a restaurant for on-premise consumption under Section 150.103(A) of the Land Development Code at 6405 Brodie Lane.

8. Discussion and possible recommendation to the City Council for approval of proposed regulations for Short-term Rental Registration.
9. Adjourn

A quorum of the City Council may attend the meeting, however, no official action by the City Council shall be taken.

I certify that the above notice of meeting was posted at City Hall, 3205 Jones Road, Sunset Valley, Texas, on Friday the 18th day of February 2022 at 6:00 P.M.

Matt Lingafelter
Matt Lingafelter
City Secretary



MINUTES OF A REGULAR MEETING
OF THE ZONING COMMISSION
OF THE CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, JANUARY 26, 2022
6:00 P.M.

Commissioners Present:

Robert Skewis, Chair
Miguel Huerta, Vice Chair
Brant Boozer
John Frick
Robert Reetz

Staff Present:

Sylvia Carrillo, City Administrator
Matt Lingafelter, Asst. to the City Administrator
Veronica Rivera, City Attorney

1. Call to Order

Chair Skewis called the meeting called to Order at 6:02 P.M.

2. Citizen/Public Comments:

- Joe Koizen (for Agenda Item #4)

3. Consider approval of the minutes from the November 17, 2021 called meeting.

Commissioner Reetz made a motion to approve the minutes, seconded by Commissioner Frick; all voted in favor and the motion carried.

4. Public Hearing to consider a request for a Zoning Change at 6405 Brodie Lane from SF (Single Family Residential) to NC (Neighborhood Commercial).

Chair Skewis opened the Public Hearing at 6:07 PM

Sylvia Carrillo, City Administrator, gave a brief presentation. At the request of the Commissioner, Staff summarized the Open Town Hall comments, both current and from the canceled December 15th meeting.

Presentation by the Applicant and their representatives, on the proposed Botanical Garden and Café Eatery at 6405 Brodie Lane:

- Gary McIntosh, Executor of the Betty Grubbs Estate

THIS IS NOT A TRANSCRIPT OF THE MEETING. A RECORDING OF THIS MEETING IS ON THE CITY'S WEBSITE.

- Jody Conradt, UT Women's Athletics Coach
- Justin Trubiana, Applicant
- Cameron Campbell, Landscape Architect
- Blayne Stansberry, Engineer
- Michael Whelan, Land Use Attorney
- Tom Trubiana, Applicant

Citizen/Public Comments:

- Roger Edmondson
- Donny Hurwitz (letter read)
- Scott Draker
- Melissa Gonzales

Chair Skewis closed the Public Hearing at 7:57 P.M.

5. Zoning Commission recommendation to the City Council regarding a request for a Zoning Change at 6405 Brodie Lane from SF (Single Family Residential) to NC (Neighborhood Commercial).

The Commission discussed the conditions required for a zoning change as set forth by the Land Development Code, including public health and safety, utilities and infrastructure, and traffic conditions. The Commission discussed some of the potential issues with the applicant, and also with the neighboring family to the east of the proposed development, the Drakers. The Drakers, at 759 Oakdale oppose the zoning change and the proposed development.

Vice Chair Huerta made a motion, seconded by Commissioner Reetz, to recommend approval of the Zoning Change at 6405 Brodie Lane to the City Council, subject to the following voluntary conditions proposed by the applicant, and as discussed with the Zoning Commission:

- 10' fence along the east boundary of the property
- Limiting operating hours to 11 pm
- Dark sky lighting presented in the
- Security fence around the property
- Add additional trees (native evergreen trees) to contribute to the vegetative buffer
- Recommendation to review utilities at the platting stage
- Work with the Drakers between now and platting of the property
- At the platting stage, ensure adequate traffic circulation, which may or may not include installing a turning lane on Brodie

Commissioners Boozer, Frick, Huerta and Reetz voted in favor, and Chair Skewis voted against. With four votes in favor, the motion carried.

6. Adjourn

Vice Chair Huerta made a motion to adjourn, seconded by Commissioner Reetz; all voted in favor and the meeting adjourned at 8:42 P.M.

DRAFT

COMMISSION MEETING DATE: FEBRUARY 23, 2022



ZONING COMMISSION AGENDA ITEM #4-5

STAFF PREPARER/CONTACT INFORMATION: Matt Lingafelter, Asst. to the City Admin.
mlingafelter@sunsetvalley.org

SUBJECT: SPECIAL USE PERMIT

DESCRIPTION:

4. Public Hearing to consider a request for a Special Use Permit to operate a restaurant within the NC (neighborhood Commercial) District under Section 150.101 of the Land Development Code.
 - a. Open Hearing
 - b. Presentation
 - c. Public Comments
 - d. Close Hearing

5. Zoning Commission recommendation to the City Council regarding a request for a Special Use Permit to operate a restaurant within the NC (neighborhood Commercial) District under Section 150.101 of the Land Development Code.

BACKGROUND: The subject property is 6405 Brodie Lane, the southernmost property in Sunset Valley on the east side of Brodie Lane. The unplatted, 4.976-acre tract is now zoned as Neighborhood Commercial, after approval by City Council on February 1st. The property is owned by the Estate of Betty Grubbs; the applicants, Justin and Thomas Trubiana, are proposing a Botanical Garden Café and Eatery. The applicants and their representatives presented their conceptual plan to the Zoning Commission in January and the City Council in February.

A review of the Special Use Permit application has been completed by staff, and a memo has been prepared and attached with the supplemental materials.

A Notice of Public Hearing was posted at City Hall, published in the Austin Chronicle, and notices mailed to property owners within 500 feet of 6405 Brodie Lane. As of February 18th, no written comments have been received.

APPLICABLE CODE SECTIONS: 150.101; 150.102

SUPPORTING MATERIALS PROVIDED:

- [STAFF MEMO 02.18.22](#)
- [APPLICATION & MATERIALS SUBMITTED 11.22.21 \(LINK\)](#)
- [APPLICANTS' PRESENTATION 01.26.22 \(LINK\)](#)
- [SUP LETTER FROM APPLICANT 02.18.22](#)
- [TRAFFIC ENGINEER SUMMARY 02.17.22](#)
- [UPDATED CONCEPTUAL SITE PLAN](#)

COMMISSION MEETING DATE: FEBRUARY 23, 2022



ZONING COMMISSION AGENDA ITEM #6-7

STAFF PREPARER/CONTACT INFORMATION: Matt Lingafelter, Asst. to the City Admin.
mlingafelter@sunsetvalley.org

SUBJECT: SPECIAL USE PERMIT

DESCRIPTION:

6. Public Hearing to consider a request for a Special Use Permit for alcoholic beverages to be sold in a restaurant for on-premise consumption under Section 150.103(A) of the Land Development Code.
 - a. Open Hearing
 - b. Presentation
 - c. Public Comments
 - d. Close Hearing

7. Zoning Commission recommendation to the City Council regarding a request for a Special Use Permit for alcoholic beverages to be sold in a restaurant for on-premise consumption under Section 150.103(A) of the Land Development Code.

BACKGROUND: The subject property is 6405 Brodie Lane, the southernmost property in Sunset Valley on the east side of Brodie Lane. The unplatted, 4.976-acre tract is now zoned as Neighborhood Commercial, after approval by City Council on February 1st. The property is owned by the Estate of Betty Grubbs; the applicants, Justin and Thomas Trubiana, are proposing a Botanical Garden Café and Eatery. The applicants and their representatives presented their conceptual plan to the Zoning Commission in January and the City Council in February.

A review of the Special Use Permit application has been completed by staff, and a memo has been prepared and attached with the supplemental materials.

A Notice of Public Hearing was posted at City Hall, published in the Austin Chronicle, and notices mailed to property owners within 500 feet of 6405 Brodie Lane. As of February 18th, no written comments have been received.

APPLICABLE CODE SECTIONS: 150.101; 150.102; 150.103(A)

SUPPORTING MATERIALS PROVIDED:

- [STAFF MEMO 02.18.22](#)
- [APPLICATION & MATERIALS SUBMITTED 11.22.21 \(LINK\)](#)
- [APPLICANTS' PRESENTATION 01.26.22 \(LINK\)](#)
- [SUP LETTER FROM APPLICANT 02.18.22](#)
- [TRAFFIC ENGINEER SUMMARY 02.17.22](#)
- [UPDATED CONCEPTUAL SITE PLAN](#)

FEBRUARY 18, 2022



CITY COUNCIL & ZONING COMMISSION MEMO

ZONING COMMISSION MEETING DATE: February 23, 2022

CITY COUNCIL MEETING DATE: March 8, 2022

STAFF PREPARER: Matt Lingafelter, mlingafelter@sunsetvalley.org

RE: 6405 Brodie Lane – Special Use Permit Applications

APPLICANTS: Thomas Trubiana and Justin Trubiana

OVERVIEW: The subject property is 6405 Brodie Lane, the southernmost property in Sunset Valley on the east side of Brodie Lane. The unplatted, 4.976-acre tract is now zoned as Neighborhood Commercial, after approval by City Council on February 1st. The property is owned by the Estate of Betty Grubbs; the applicants, Justin and Thomas Trubiana, are proposing a Botanical Garden Café and Eatery. The applicants and their representatives presented their conceptual plan to the Zoning Commission in January and the City Council in February.

The Zoning Change was approved by Council on 02.01.22 with the following conditions:

- 10-foot fence along the east boundary of the property
- Limiting operating hours to 11 pm
- Dark sky lighting as presented by the applicant
- Security fence around the property
- Adding additional trees to contribute to the vegetative buffer
- Work with the Drakers between now and platting of the property
- At the platting stage, ensure adequate traffic circulation, which may or may not include installing a turning lane on Brodie
- Engaging a Traffic Engineer for a traffic study
- Ensuring that water runoff conditions from the property to 759 Oakdale Drive have improved from the current conditions

SPECIAL USE PERMIT APPLICATIONS: When the applicants submitted their zoning change application and supplemental materials, they also submitted two Special Use Permit Applications, one for operating a restaurant within the Neighborhood Commercial District, and the second for the sale of alcoholic beverages for on-premise consumption. These Special Use Permits could not be considered by either the Commission or the Council until and unless the Zoning Change was approved.

The applicants' project falls within a land use permitted within the NC designation by a special use permit. The following chart, found in Section 150.164, outlines land uses and development standards for the NC district.

Permitted Uses – Neighborhood Commercial	By special use permit	Site Requirements	Supplementary Requirements
<p>1. Retail, Limited as listed in § 150.161.</p> <p>2. Those uses permitted in O Neighborhood Office and SF Single Family Residential.</p>	<p>1. Medical-related professional offices</p> <p>2. Veterinary services</p> <p>3. Restaurants</p> <p>4. Beer and wine sales in a retail use</p> <p>5. Banks and savings and loans</p> <p>6. Alcoholic beverage sales in restaurants</p>	<p>General Requirements</p> <p>Minimum Lot Size: 1.0 acre</p> <p>Minimum Lot Width at Front Setback Line: 120 ft.</p> <p>Minimum Street Frontage:</p> <p>Standard Lot: 120 ft.</p> <p>Cul-de-Sac Lot: 60 ft.</p> <p>Minimum Lot Depth: 300 ft.</p> <p>Minimum Floor Area: 1,000 ft squared</p> <p>Maximum Floor Area per building: 15,000 ft squared</p> <p>Maximum Impervious Cover Not to Exceed Allowable under Watershed Provisions of this Code</p> <p>Primary Use and Structure Minimum Setbacks</p> <p>Front: 50 ft.</p> <p>Side: 20 ft.</p> <p>Rear: 30 ft.</p> <p>Maximum Height: 35 ft.</p>	<p>Other Requirements by Reference to the Following Provisions of this Codes, as Amended:</p> <p>1. Wastewater System Provisions of this Code</p> <p>2. Watershed Provisions of this Code</p> <p>3. Landscaping and Buffering Provisions of this Code</p> <p>4. Sign and Outdoor Lighting Provisions of this Code with the stipulation that all outdoor lighting shall be directed away from neighboring properties (i.e., either up to light tree canopies or down to light ground but not horizontal away from a building).</p> <p>5. Subdivision Provisions of this Code.</p> <p>6. All other applicable ordinances as amended.</p> <p>Architectural Requirements:</p> <p>1. No flat roofs</p> <p>2. Varied, multiple pitched roofs</p> <p>Minimum Off-Street Parking:</p> <p>1. See Table 1.</p> <p>Compatibility and Buffering Standards:</p> <p>1. 100-foot landscaped setback. See section § 150.105(B).</p>

		Parking Lot and Other Impervious Cover: Minimum Setbacks: Front: 50 ft. Side: 20 ft. Rear: 30 ft.	
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SPECIAL USE PERMIT FOR A RESTAURANT IN NEIGHBORHOOD COMMERCIAL

To the best of staff's knowledge, this is the first Special Use Permit application to operate a restaurant within NC in the City's history. Sunset Valley has a very small number of Neighborhood Commercially-zoned properties, and most only contain office buildings, not retail and/or restaurants.

Unlike other Special Use Permit applications that the Commission and Council frequently review, including alcohol permits, there are no specific criteria presented in the Land Development Code that are applicable to restaurants within the NC Special Use Permit.

However, this Special Use Permit request would be subject to the general criteria applicable to all Special Uses and Temporary Special Uses, set forth in [150.102](#). Staff has provided comments addressing each criterion.

§ 150.102 GENERAL CRITERIA APPLICABLE TO ALL SPECIAL USES AND TEMPORARY SPECIAL USES.

A proposed special use or temporary special use must comply with the following criteria:

- A. The appearance, size, density and operating characteristics of the proposed special use are subject to the effective compatibility and buffering standards set forth in § [150.105\(B\)](#)
 - o The specifics set forth in 150.105(B) and the Table in 150.105(C) would be addressed during the site plan approval and building permit approval process. However, the applicants are requesting a variance to the landscaping buffer to the property to the north, which is the city-owned

Gault Life Estate. The property is currently zoned Single Family Residential, although it was purchased by the City with “Green Tax” funds with the intent to change its zoning to park or greenspace. The applicants have a Public Hearing before the Board of Adjustment on March 2nd – the [Notice can be viewed here](#), and the [application can be viewed here](#).

- B. The proposed use will not have an adverse effect on the value of surrounding properties nor impede their property development
 - o A majority of residents on Oakdale support this development, and the property neighboring to the north, although owned by the City, the current resident and her family approve of the development. However, the neighbors directly to the east at 759 Oakdale, the Drakers, oppose the development. The applicants have been working with Drakers to try and mitigate their concerns
- C. The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his property or operation of his business;
 - o See above. Additionally, the applicants have been directed by the City Council to ensure that any nuisance factors, including sound, lights, smell, would be mitigated. As a condition to the Zoning Change, the applicants have agreed to limit operating hours of the café/eatery to 11 pm. The applicants have also proposed employing the use of a sound engineer, although this was not a part of the conditions for approval of the zoning change. Sound, smell and lighting would all be addressed in permitting based on the tables in 150.105(C).
- D. The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood
 - o Traffic conditions for this development have been a concern of both the Commission and the Council. The applicants have employed a traffic engineer to complete a traffic study (not a formal TIA) for the development. The applicants are to ensure adequate traffic circulation, which may or may not include installation of a turning lane coming south off Brodie Lane. At the time of publication, a draft traffic study has been submitted to the City. Upon initial review, it does not appear to require any additional turning lanes but did address ingress and egress out of the property. The City Engineer will review and provide comment, however,

the level of traffic, less than 1000 trips per day, does not generate additional ROW or dedication.

- E. The proposed use complies with all other applicable provisions of this Code and other ordinances and regulations
 - o Again, staff would ensure that the Land Development Code and all other applicable codes and regulations would be adhered to before site plan approval, building permit approvals, and finally a Certificate of Occupancy.
- F. The special use shall be operated either by the owner or lessee of improved property on which the special use is located or by another pursuant to a written agreement with such owner or lessee.
 - o The applicants do not currently own the property, but they are under contract to purchase, and they are applying with the permission of the current owner, the Betty Grubbs Estate.

STAFF RECOMMENDATION: Staff, based on input from the Council, would recommend approval of the Special Use Permit to operate a restaurant within NC, subject to:

- o All conditions that have been previously placed on the development by Council
- o Approval of the Landscape Buffer Variance by the BOA on March 2nd
- o Any additional conditions (within reason) as recommended by the Zoning Commission or City Council

All Sunset Valley, Austin Fire, Austin Public Health, and any other applicable codes or regulations would be adhered to during the site plan approval, building permit approval, and before a Certificate of Occupancy is issued by the City.

SPECIAL USE PERMIT FOR ALCOHOL SALES FOR ON PREMISE CONSUMPTION

In addition to the Special Use Permit application to operate a restaurant, the applicants have also submitted a Special Use Permit for the sale of alcoholic beverages for on-premise consumption. Of all Special Use Permit requests that come before the Commission and the Council, this use is the most frequently requested. However, this request is unique in that 1) it falls within the Neighborhood Commercial Zoning district and 2) the site has not yet been developed.

The General Criteria discussed for the Restaurant Special Use Permit Application would also be applicable to the Alcohol Special Use Permit Application. In addition to the General Criteria applicable to all Special Uses, the Land Development Code also sets forth

Specific Criteria in 150.103(A) applicable to the Special Use for the sale of alcoholic beverages for on-premise consumption. Staff has provided comments addressing each criterion.

§ 150.103 SPECIFIC CRITERIA APPLICABLE TO INDIVIDUAL SPECIAL USES AND TEMPORARY SPECIAL USES.

(A) Alcoholic beverages sold in a restaurant for on-premise consumption and for off-premise consumption in growlers.

- 1) The restaurant where the alcoholic beverage is proposed to be sold is not located within 300 feet of a church or school as measured by state law
 - o The development is not located within 300 feet of a church or school

- 2) The restaurant where the alcoholic beverage is proposed to be sold is not located on property, two or more sides of which abut property in a residential zoning district
 - o This condition does present an issue, being-that the north and east sides of the property are zoned single-family residential. However, as previously discussed, the property to the north is the city-owned Gault Life Estate, and was purchased by the City in 2009 with the intention of being zoned as greenspace. Staff consulted with legal, who indicated that according to 150.101(1)(2) Council may approve the Special Use Permit with the modification of this condition.

- 3) The gross receipts derived from the sale of alcoholic beverages shall not exceed 49% of the gross receipts derived from all sales
 - o In discussion with the applicants, staff was assured that the gross receipts from the sale of alcohol will not exceed 49% of the gross receipts from all sales. Should that turn out to not be the case, the City may petition TABC that the permit be revoked. (check to see if this is the case?)

- 4) The sale and use of growlers shall be in compliance with all applicable federal, state, and local health and safety law. The sale of an empty growler shall not count as a sale of alcohol beverage for the purpose of determining the percentage of gross receipts derived from the sale of alcoholic beverages.
 - o Applicants will comply with all laws and regulations pertaining to growlers

- 5) Sales of alcoholic beverages in a growler shall be limited to sales of beverages with a percentage of alcohol not higher than 15% by volume.
 - o Applicants will comply with all laws and regulations pertaining to growlers

STAFF RECOMMENDATION: Staff would recommend approval of the Special Use

Permit for alcoholic beverages sold in a restaurant for on-premise consumption and for off-premise consumption in growlers, subject to the following conditions:

- Approval of the Special Use Permit to operate a restaurant within NC (and applicable conditions)
- The Applicant shall provide the City with copy of an approved permit from the Texas Alcoholic Beverage Commission, issued to the legal entity that will be operating the restaurant, prior to the release of City permit.

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

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512-435-2300

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MICHAEL J. WHELLAN
(512) 435-2320
mwhellan@abaustin.com

February 18, 2022

Via Email

City of Sunset Valley
3205 Jones Rd.
Sunset Valley, TX 78745

Re: Special use request for the botanical garden café and eatery project at 6405 Brodie Ln.

Dear Members of the Zoning Commission and the City Council of Sunset Valley:

On behalf of Gary McIntosh, Independent Executor of the Estate of Betty Grubbs (the "Owner") and the Trubiana Family and Vazquez Family (the "Applicants"), we respectfully request special uses for restaurant and alcoholic beverage sales at 6405 Brodie Ln. (the "Property").

The Applicants are in the process of seeking the approvals needed to build and operate a botanical garden café and eatery at the Property (the "Project"). The Project would serve as a peaceful outdoor community gathering place where Sunset Valley residents could relax and enjoy culturally diverse food and drinks, provided by local, women-owned businesses.

Earlier this year, the Applicants brought forward the first major approval for the Project: a request to designate the Property for Neighborhood Commercial zoning. The explicit purpose of this rezoning was to allow the Applicants to request the restaurant and alcoholic beverage sales special uses needed for the Project. Zoning Commission recommended this request and City Council ultimately approved it.

Now, with Neighborhood Commercial zoning in place on the Property, the Applicants are following through on their commitment to return to Zoning Commission and City Council with a request for the aforementioned special uses.

Additionally, based on discussion at Zoning Commission and at City Council, the Applicants have hired a traffic engineer to evaluate the Project, estimate traffic and circulation patterns, and provide a professional opinion regarding transportation design. The Applicants have fully

incorporated this study's findings into the Project's design. The traffic engineer's letter is attached for reference.

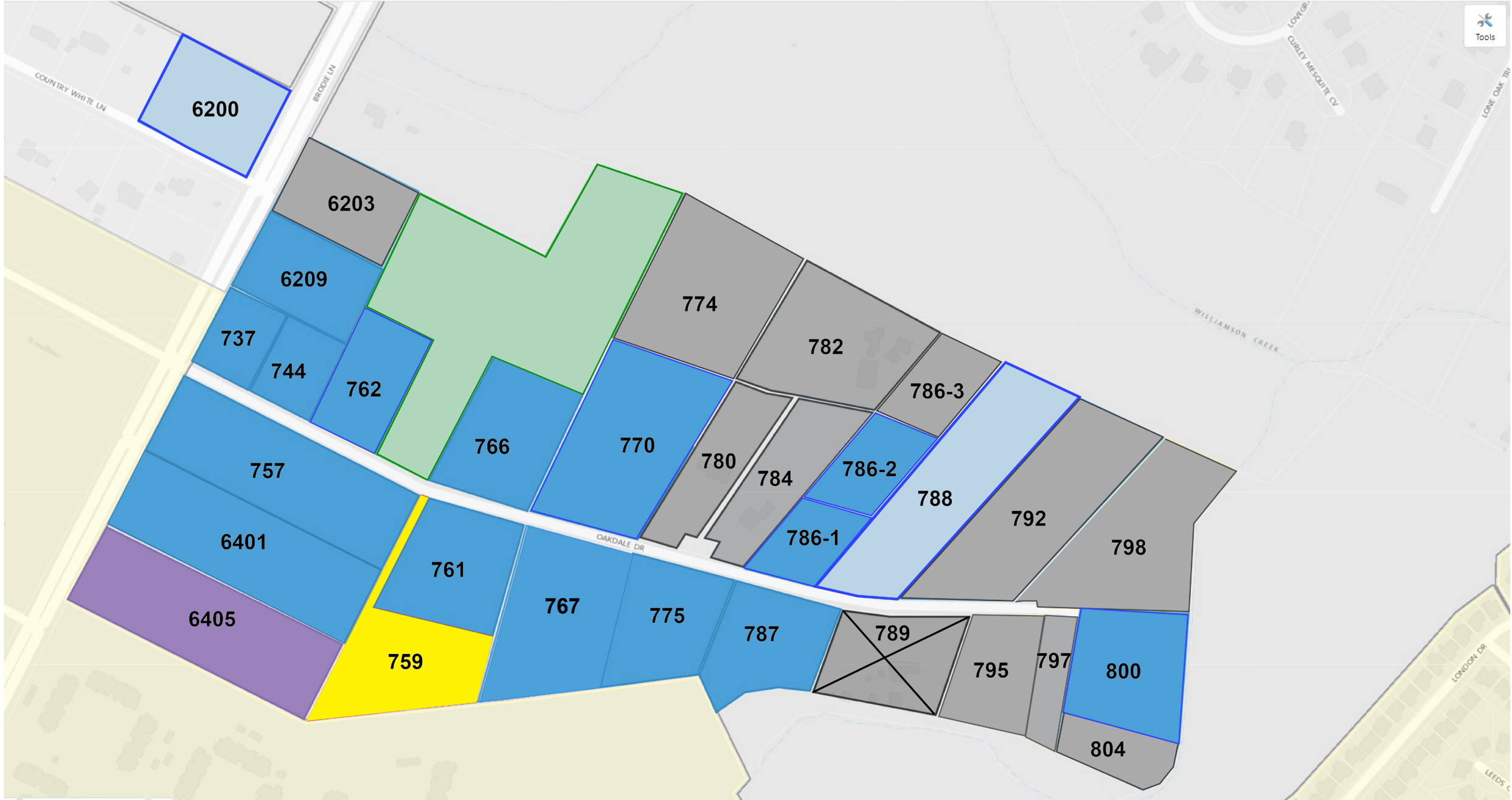
We appreciate the opportunity to bring this unique vision for a botanical garden café and eatery to Sunset Valley – and appreciate the extraordinary support the Project has garnered among Sunset Valley residents. We respectfully ask for your approval. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Whellan", with a long horizontal flourish extending to the right.

Michael J. Whellan

Local Neighborhood Support



- Supports Project - Signature / Written Post
- Supports Project - Verbal
- Currently Opposed
- Project Site
- Nature Trails
- No Response
- Vacant / Abandoned Homesite



BOE Consulting Services, LLC.
9901 Brodie Lane 160-303, Austin, Texas 78748

February 17, 2022

Attention: **Ms. Blayne Stansberry, P.E.**
Stansberry Engineering
P.O. Box 132
Manchaca, Texas 78652

Dear Ms. Stansberry,

Reference: **6405 Brodie Lane – Sunset Valley, Travis County, Texas**

The following letter provides a summary of the traffic evaluation that we have performed for the proposed Botanical Garden Café and Eatery to be located at 6405 Brodie Lane in Sunset Valley, Travis County, Texas. We have evaluated the proposed development’s anticipated trip generation, access, and general traffic operations.

TRIP GENERATION

The proposed development will provide neighbors a unique opportunity to gather in a location that is enriched by a green setting to enjoy local eateries in a park like setting. The development is planned to include three (3) permanent structures that will consist of kitchen’s only serving food, two detached/covered seating areas, and a café that will serve beverages and provide additional seating. The trip generation for this development has been evaluated utilizing the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition. Based on the standard definitions of land uses per the ITE Trip Generation Manual, the Fast Casual Restaurant IET land use has been utilized for this evaluation. The ITE definition and other backup materials have been included as an attachment to this letter for reference. **Table 1**, below, provides a summary of the trip generation which is based on the land use and density of the development:

Table 1 - Unadjusted Trip Generation Summary

ITE Code	ITE Land Use	Size		24-Hour Daily Volume	AM Peak Hour			PM Peak Hour		
					Enter	Exit	Total	Enter	Exit	Total
930	Fast Casual Restaurant	9,067	s.f.	881	6	6	13	63	51	114
Total Proposed Trips				881	6	6	13	63	51	114

The 24-Hour Daily Volume is defined as the total trips entering and exiting the site over a 24-hour period. As can be seen in **Table 1** above, 441 trips would enter the site and 440 trips would exit the site over a 24-hour period. The AM Peak Hour is defined as 7-9am and the PM Peak Hour is defined as 4-6pm. Otherwise known as rush hour traffic.

SITE ACCESS

Access to the site will be achieved via one (1) site driveway to Brodie Lane at the northern edge of the property limits. In order to minimize operational delays along Brodie Lane, it is recommended to limit access to one driveway. When more driveways are introduced, more delay can be introduced to the through-put volumes along Brodie Lane. Additionally, as there is a raised median within Brodie Lane, the access will be restricted to right-in/right-out movements. A median break is not recommended for this driveway access as access management is important to the Brodie Lane corridor which is evident with median breaks provided in key locations. This development has proposed one driveway which is the most effective design from a traffic operations perspective. Since there is only one point of access, the throat depth of the driveway has been lengthened beyond code minimum to approximately 100' to allow for vehicles turning in from Brodie Lane to have storage internal to the property which further reduces the potential for impacts to Brodie Lane.

PARKING

Looking to the interior of the development, the parking field layout has been designed such that it allows for an efficient counterclockwise directional flow. The majority of the drive aisles are proposed to be 25 feet which allows for fluid traffic flow through the parking field. Further, the number of parking spaces provided balances the need to meet the anticipated demand with the with the environment in mind. Landscape islands have been provided which accommodate the preservation of trees and natural vegetation, and a large garden pathway is preserved in the middle of the parking loop.

TRIP DISTRIBUTION

From an overall traffic distribution perspective, we have assumed that patrons of this site will access the site utilizing US 290 to Brodie Lane, US 290 to Mopac, Mopac to William Cannon Dr, William Cannon to Brodie Lane. A summary of the potential directional traffic patterns is provided below:

- To/From the North
 - Traveling from north Brodie Lane, a patron would travel southbound along Brodie Lane to the median break located at the HEB's northern driveway along Brodie Lane to perform a U-Turn movement, then travel north to turn right into the site driveway. There is a median break located at Allegro Lugar Street; however, a left-turn bay does not exist within the median; therefore, u-turns should not be allowed in this location. This is a similar restriction of movement to the various median breaks further north along the main retail corridor of Brodie Lane within Sunset Valley. Those traveling from the general north direction are more likely to utilize Mopac to travel south, exit William Cannon Drive to then get to Brodie Lane and turn right into the site.
 - Leaving the development to travel back towards north Brodie Lane, a patron would simply turn right out of the site and continue northbound along Brodie Lane.

- To/From the South

- Traveling from south Brodie Lane, a patron would travel northbound along Brodie Lane and turn right into the site.
- Leaving the development to travel back towards south Brodie Lane, a patron would be required to turn right and travel north along Brodie Lane to the intersection of Brodie Lane and Ben Garza Lane which is a signalized intersection. A U-Turn would then be performed in order to continue traveling southbound along Brodie Lane.

With our distribution assumption and the estimated trip generation identified in Table 1, of the 63 entering trips 31 trips would be coming from north Brodie Lane and 31 trips would be coming from south Brodie Lane during the PM Peak Hour. Based on the ESRI traffic data maps which are dated December 7, 2021, traffic volumes along Brodie Lane just north of William Cannon Drive reflected 31,330 Average Daily Trips (ADT's). Comparing the estimated daily trips of the proposed development to the total volume of traffic captured in 2021, the proposed development accounts for approximately 2.7 percent of the total traffic volumes traveling along Brodie Lane. We have included the traffic data map from ESRI as an attachment to this letter.

Upon completion of our evaluation, we believe that the proposed development will have a negligible impact on the roadway system, and the access proposed will further limit any impacts to Brodie Lane. We appreciate your review of our evaluation, and please feel free to contact us should you have any questions or need any additional information.

Sincerely,

BOE Consulting Services, LLC



Bobak J. Tehrany, P.E.

President

Phone: 512.632.7509

bobak@bo-engineering.com

02/17/2022



Land Use: 930

Fast Casual Restaurant

Description

A fast casual restaurant is a sit-down restaurant with no (or very limited) wait staff or table service. A customer typically orders off a menu board, pays for food before the food is prepared, and seats themselves. The menu generally contains higher-quality, made-to-order food items with fewer frozen or processed ingredients than at a fast-food restaurant. Most patrons eat their meal within the restaurant, but a significant proportion of the restaurant sales can be carry-out orders. A fast casual restaurant typically serves lunch and dinner; some serve breakfast. A typical duration of stay for an eat-in customer is 40 minutes or less. Fine dining restaurant (Land Use 931), high-turnover (sit-down) restaurant (Land Use 932), and fast-food restaurant without drive-through window (Land Use 933) are related uses.

Additional Data

The fast casual restaurant study sites included in this land use did not have a drive-through window.

The technical appendices provide supporting information on time-of-day distributions for this land use. The appendices can be accessed through either the ITETripGen web app or the trip generation resource page on the ITE website (<https://www.ite.org/technical-resources/topics/trip-and-parking-generation/>).

The sites were surveyed in the 2010s in Minnesota, South Carolina, Washington, and Wisconsin.

Source Numbers

861, 869, 939, 959, 962, 1048

6405 BRODIE LANE
TRIP GENERATION RATE/EQUATION TABLE

ITE Trip Generation Manual 11th Edition - Rate/Equation Table*

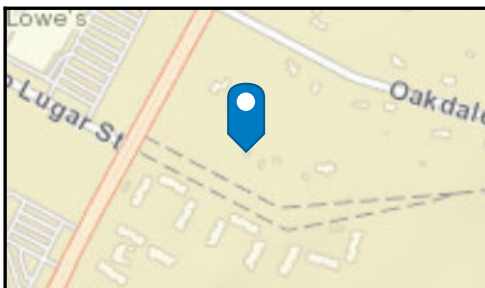
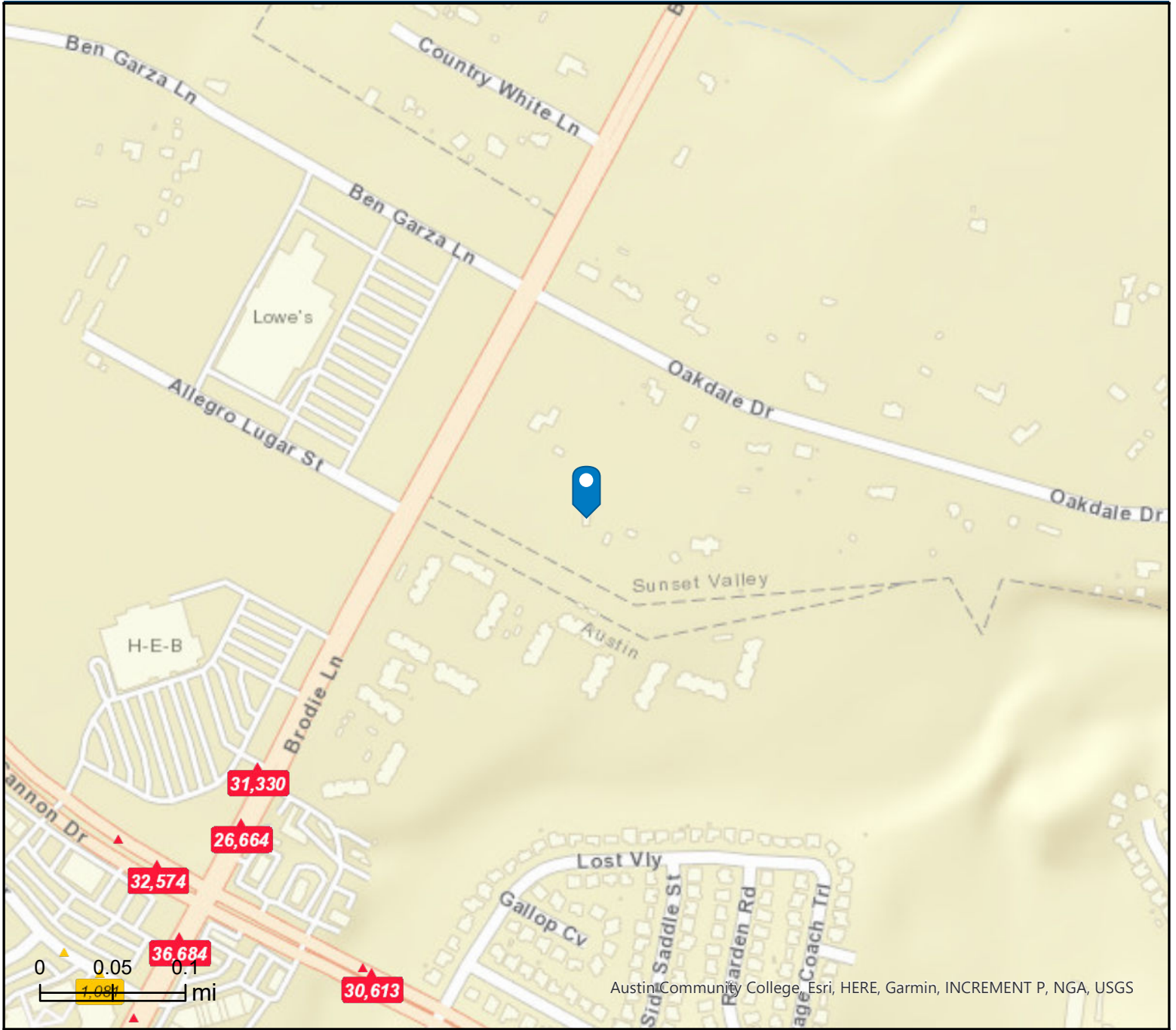
ITE Code	Land Use	Variable	24-Hour Daily Volume Rate or Eq	AM Peak Hour			PM Peak Hour		
				% Ent	% Ext	Rate or Eq	% Ent	% Ext	Rate or Eq
930	Fast Casual Restaurant	S.F	97.14	50%	50%	1.43	55%	45%	12.55

6405 BRODIE
TRIP GENERATION SUMMARY

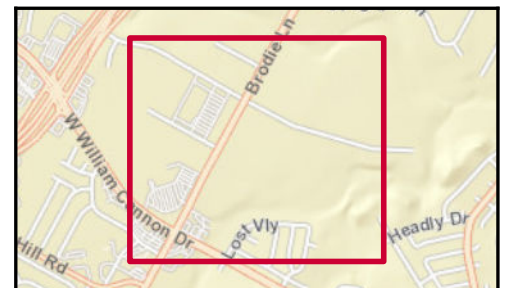
SUMMARY OF UNADJUSTED TRIP GENERATION

ITE Code	ITE Land Use Description	Size		24-Hour Two-Way Volume	AM Peak Hour			PM Peak Hour		
					Enter	Exit	Total	Enter	Exit	Total
930	Fast Casual Restaurant	9,067	s.f	881	6	6	13	63	51	114
Total Proposed Development				881	6	6	13	63	51	114

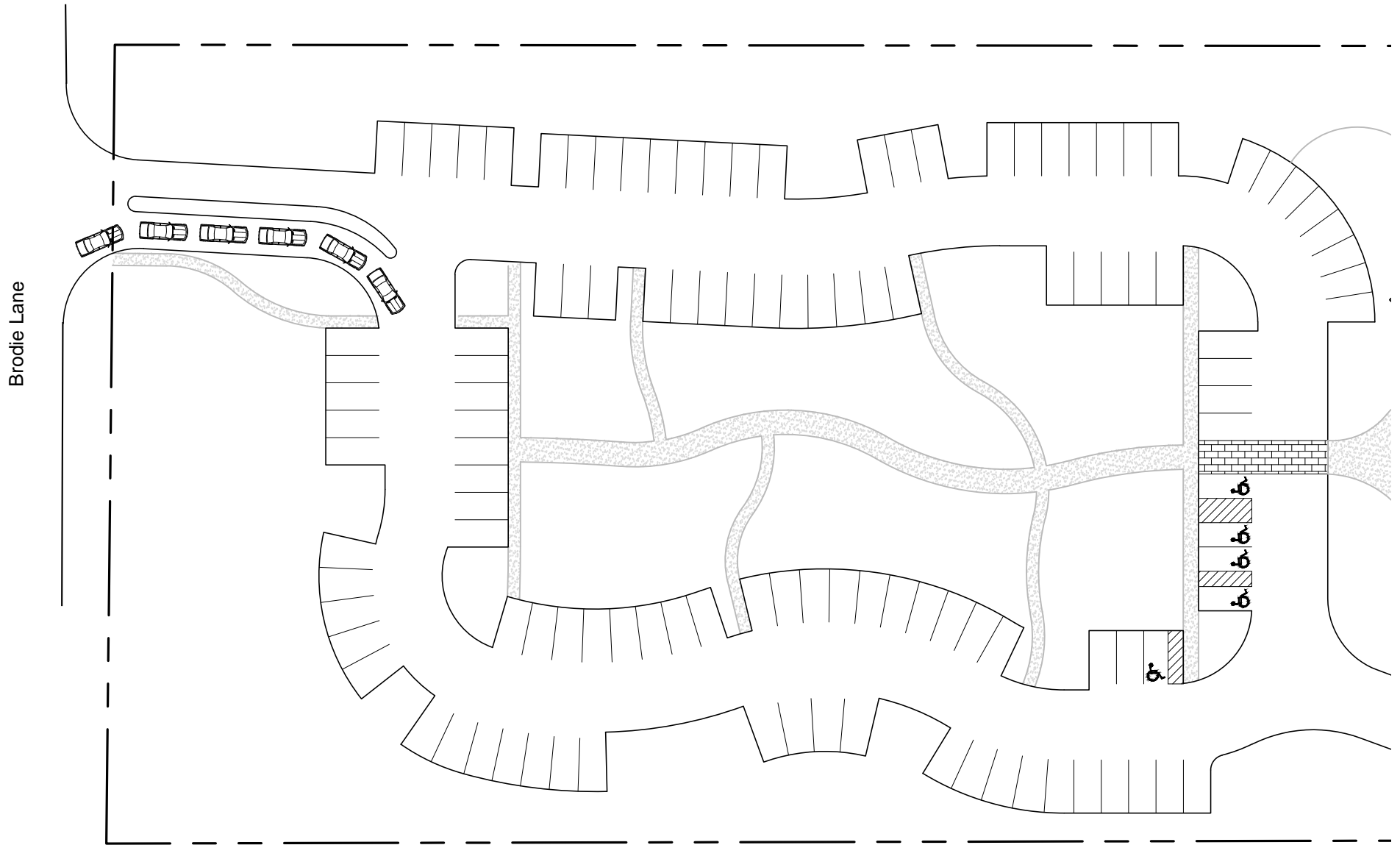
¹This table was populated utilizing the criteria set by the ITE Trip Generation Handbook defining when a rate is to be utilized versus an equation.

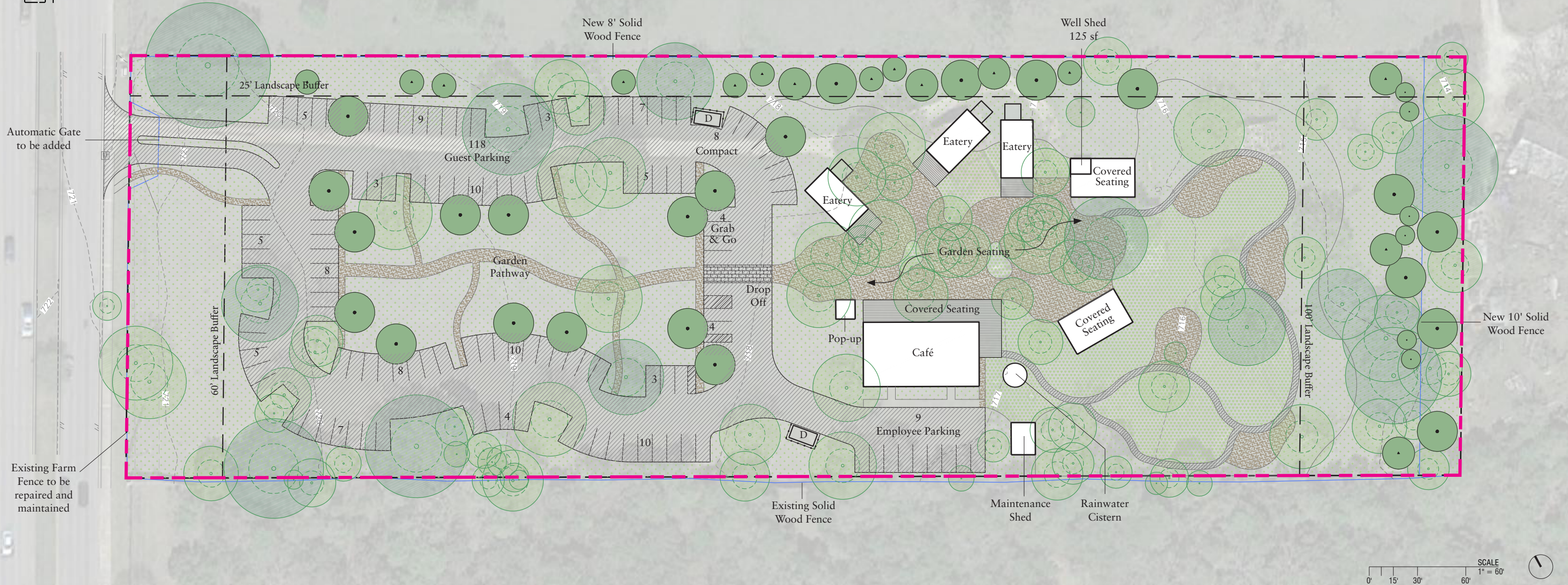


- Average Daily Traffic Volume**
- ▲ Up to 6,000 vehicles per day
 - ▲ 6,001 - 15,000
 - ▲ 15,001 - 30,000
 - ▲ 30,001 - 50,000
 - ▲ 50,001 - 100,000
 - ▲ More than 100,000 per day



Botanical Garden Cafe & Eatery
6405 Brodie Lane
Parking Field Layout





Proposed Site Plan

Impervious Coverage Calculations

Total Site Area	4.98 ac	
Impervious Coverage		
Buildings & Covered Porches	7,272 sf	3.4%
Covered Outdoor Seating	1,920 sf	0.9%
Parking/Paved Area	48,576 sf	22.4%
Storage/Other	444 sf	0.2%
TOTAL	58,212 sf	26.8%
Eaves	3,226 sf	1.5%
Cistern Pads	450 sf	0.2%
TOTAL	61,888 sf	28.5%

- Property Line
- Asphalt
- Decomposed Granite
- Botanical Garden
- Meadow
- Mown Meadow Path

- Proposed Tree
- Existing Trees
- Non-protected Tree (<10")
- Protected Tree (10"-23.9")
- Heritage Tree (24"+)

Michael Hsu
Office Of Architecture

CAMPBELL LANDSCAPE ARCHITECTURE

stansberry engineering co.

COMMISSION MEETING DATE: FEBRUARY 23, 2022



ZONING COMMISSION AGENDA ITEM #8

STAFF PREPARER/CONTACT INFORMATION: Sylvia Carrillo, City Administrator.
SCarrillo@sunsetvalley.org

SUBJECT: SHORT TERM RENTALS

DESCRIPTION: Discussion and possible recommendation to the City Council for approval of proposed regulations for Short-term Rental Registration.

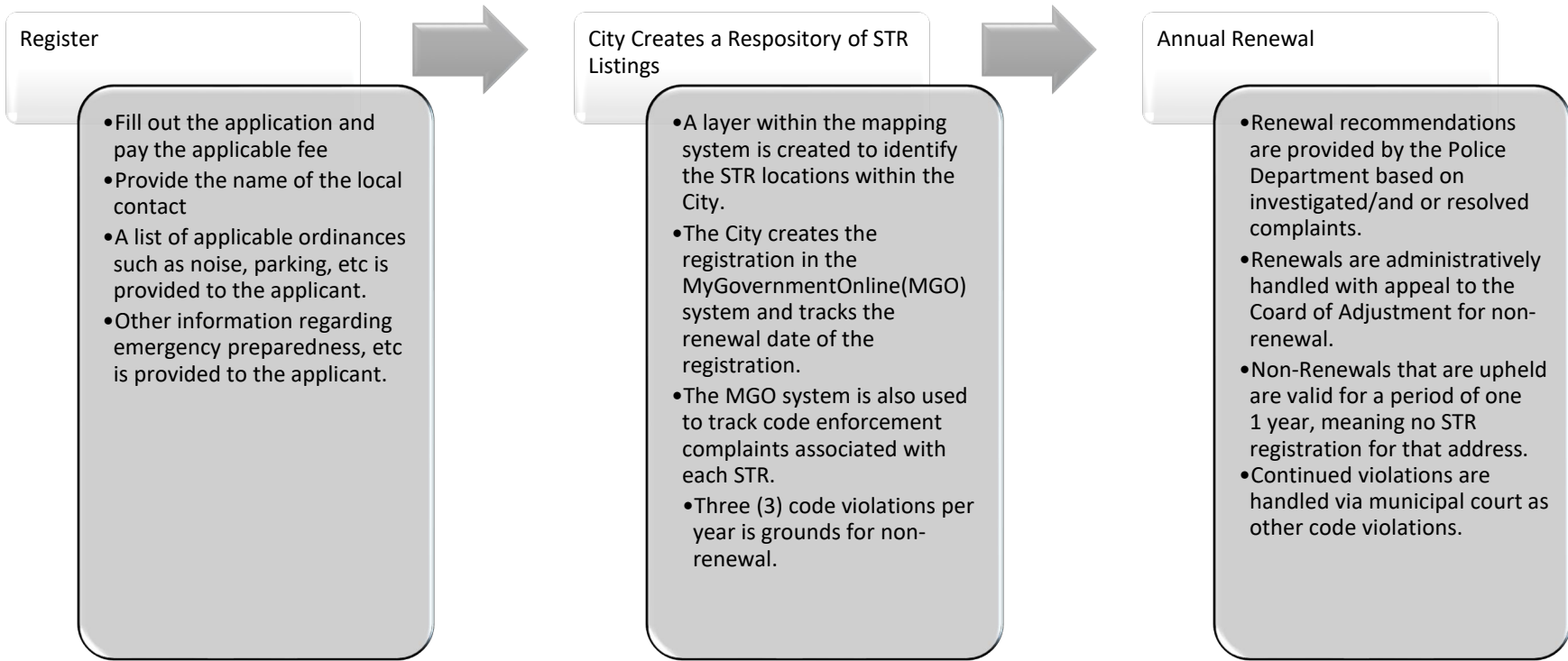
BACKGROUND: The Zoning Commission was directed by the Mayor and City Council to discuss the possible regulation of short-term rentals (STRs) in the City of Sunset Valley. At the July meeting, the Commissioners directed staff to bring back regulations from other cities with a variety of stringency to their regulations of short-term rentals (STR). Upon further review by Legal, while a Special Permit process cannot be used to regulate the STRs, a simplified permit process can be adopted as a matter of public safety and information.

Attached with this agenda item is a process chart of the potential process for registration and permitting of Short-term rentals, as well as possible registration and regulatory requirements.

STAFF RECOMMENDATION: Approve the STR regulations as presented which create a process, a fee, and methods for revocation and appeal.

SUPPORTING MATERIALS PROVIDED: YES

- STR REGISTRATION PROCESS CHART
- PROPOSED REGULATIONS



ARTICLE -- . SHORT TERM RENTAL¹

Sec. -- . Purpose and applicability.

The purpose of this division is to establish regulations for the registration and use of short term rentals for single family living units. The requirements of this division apply only to short term rentals, as defined herein, located in residential and historic zoning districts established under the city's Zoning Ordinance, Chapter 12 of Code of Ordinances. Nothing in this division, however, shall be construed to be a waiver of the requirement to assess and collect hotel occupancy taxes for any residential rental for less than 30 consecutive days, or any other applicable provision of the Sunset Valley Code of Ordinances.

Sec. --. Definitions.

Advertise means the written, audio, oral or other methods of drawing the public's attention whether by brochure, written literature or on-line posting to a short term rental in order to promote the availability of the short term rental.

Host means the person, firm, corporation, partnership or association, assigned the duty and responsibility by the owner to manage or rent the residence for a short term rental.

Hotel occupancy tax means the hotel occupancy tax as defined in the Sunset Valley Code of Ordinances and Chapter 3 of the Texas Tax Code.

Local emergency contact means an individual other than the applicant, who resides within 20 miles of the subject property, and who is designated by the owner/applicant to act as the owner's authorized agent if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable on a 24-hour basis, have access to the short term rental property, and be authorized by the owner to act in the owners absence to address any complaints, disturbances, and emergencies.

Owner means the person who, in accordance with the most recently recorded deed, deed of trust, security instrument, trust instrument, affidavit of heirship, muniment of title or other similar document indicating title to real property recorded in the Official Public Records of Travis County, Texas, is vested in, the ownership, dominion or title of real property, including, but not limited to:

- (1) The owner of a fee simple title;
- (2) The owner of a life estate;
- (3) The purchaser named in an executory contract for conveyance entered in compliance with title 2, chapter 5, subchapter D of the Texas Property Code, as amended, and recorded in the Official Public Records of Dallas County, Texas if required by V.T.C.A., Property Code § 5.076, as amended; or
- (4) A mortgagee, receiver, executor or trustee in control of real property.

Person means an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or community entity.

Primary residence means the usual dwelling place of the applicant's residential dwelling and is documented as such by at least two of the following: motor vehicle registration, driver's license, Texas State Identification card, voter registration, property tax documents, or utility bill. For purpose of this chapter, a person may have only one primary residence.

Short term rental (STR) is defined as "the rental of any residence or residential structure, or a portion of a residence or residential structure for a period of less than 30 days". The term does not include:

- (1) A unit that is used for a nonresidential purpose, including an educational, health care, retail, restaurant, banquet space, or event center purpose or another similar use;
- (2) A bed and breakfast; or
- (3) A hotel/residence hotel.

Single-family residence means a single-family residence as referred to in this article which includes the following:

- (1) One-family dwelling (detached): A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract;
- (2) One-family dwelling (attached): A dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate wall and which is designed for occupancy by one family and is located on a platted separate lot, delineated by front, side and rear lot lines;
- (3) Two-family dwelling: A single structure designed and constructed with two dwelling units under a single roof for occupancy by two families, one in each unit; and
- (4) Condominium: The separate ownership of single dwelling units in a multiple unit structures with common elements and;
- (5) Multi-family dwelling or apartment: Any building or portion of a building, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units.

Residential districts: Includes the following districts: SF- Single Family or any Planned Development District defined as a residential use in the Code of Ordinances.

Short term rental license means the license issued by the building official or their designee pursuant to this article.

Sec --. Short Term rental registration requirements.

- A. No person shall hereafter advertise, offer to rent or rent, lease, sublease, license or sublicense a residential property within the city as a short term rental for which a registration has not been properly made and filed with the City of Sunset Valley. Registration shall be made upon forms furnished by the city for such purpose and shall specifically require the following minimum information:
 1. Name, address, phone number and e-mail address of the property owner(s) of the short term rental property.
 2. Verification of that this short term rental property is the applicant's property.
 3. Name, address, phone number and e-mail address of the designated local emergency contact.
 4. The maximum number of occupants permitted for the dwelling unit is three times the number of bedrooms per the Texas Property Code, Section 92.010.
 5. A submission of a sketch floor plan of the dwelling with dimensioned room layout.
 6. Site plan/survey of the property indicating maximum number of vehicles that can be legally parked on the property, without encroaching onto street, sidewalks or alleys; other public rights-of-way or public property.

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7. Property owner must submit complete list of all rentals advertised on all hosting sites.
 8. Name, address, e-mail address, and telephone number of the resident owner, nonresident owner, property manager, resident manager, local emergency contact, and mortgagee, if there is a mortgage against property.
 9. Trade name of resident owner or nonresident owner.
 10. Names and addresses of all registered agents should the parties named in this subsection be corporations.
 11. Zoning classification(s).
 12. Acknowledgement of receipt of a copy of this article and agreement to comply with all provisions of this article as a condition to receiving and maintaining a short-term rental license.

Sec. -- . Inspection required.

- A. Upon registration and renewal, and prior to the first rental occupant of a short term rental property, after such registration and renewal, the owner is required to schedule an inspection of the residential structure with the City of Sunset Valley to determine compliance with the minimum property standards in the Code of Ordinances.
 1. If only a portion of the premises is offered for rent, then that portion plus shared amenities and points of access shall be inspected.
 2. If, upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for violation to be corrected prior to its occupancy.

Sec. ---. Restrictions on short term rentals.

- A. *External signage.* There shall be no external on-site or off-site advertising signs or displays indicating the property is s short term rental.
 - B. *Limit on occupants allowed.*
 1. There shall be a maximum occupancy of three persons per bedroom, including adult and children.
 - C. *Limits on number of vehicles.* There shall be a maximum of one motor vehicle per bedroom, or maximum number of motor vehicle that can be accommodated within the garage and driveway, without extending over the public rights of way (alleys and sidewalks) whichever is less.
 - D. *Advertisement and contracts.* Any advertisement of the property as a short term rental and all rental contracts must contain language that specifies the allowed maximum number of occupants and maximum number of vehicles.
 - E. *Other restrictions.* It is unlawful:
 1. To operate or allow to be operated a short term rental without first registering the property in which the rental is to occur with the city in accordance with this article;
 2. To advertise or offer a short term rental without first registering the property in which the rental is to occur with the city in accordance with this article; documented advertisement of the subject property as a short term rental, online or offline, shall be considered evidence of a violation of this ordinance;
 3. To operate a short term rental that does not comply with all applicable city and state laws and codes;
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4. To operate a short term rental that does not comply with all applicable city and state laws and codes;
 5. To operate a short term rental without paying the required hotel occupancy taxes;
 6. To offer or allow the use of a short term rental for the sole or primary purpose of having a party venue;
 7. To fail to include a written prohibition against the use of a short term rental for having a party in every advertisement, listing, or other publication offering the premises for rent.
 8. Permit the use of the short term rental for the purpose of: housing sex offenders; operating a structured sober, recovery or other purpose living home or similar enterprise; selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code; or operating as a sexually oriented business.

Sec. -- Brochure and safety features.

- A. *Informational brochure.* Each registrant operating a short term rental shall provide to guests a brochure that includes:
 1. The registrant's 24 hour contact information;
 2. The host's 24 hour contact information if the property owner is not within the city limits when guests are renting the premises;
 3. Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and trash collection schedules;
 4. Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire and emergency medical services providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates.
- B. *Safety features.* Each short term rental registrant shall provide in the premises working smoke detectors in accordance with adopted codes and at least one working carbon monoxide detector and alarm, and one working fire extinguisher. The premises shall, otherwise comply with applicable Codes of Ordinance including but not limited to Building and Fire Codes.

Sec. --. Notification of approval of short term rental.

Within ten days of the approval of a short term rental registration or renewal, a notice will be sent to all property owners within 200 feet of the property, and shall include the 24-hour complaint line, and pertinent information about this article.

Sec. ---. Registration term, fees, and renewal.

- A. All registrations approved under this chapter shall be valid for a period of one year from the date of its issuance.
 1. The fees for registration of a short term rentals shall be as established by resolution of the city council and may include the following:
 - a. The initial registration fee,
 - b. A late fee of twice the established the fee, and
 - c. Senior exemption or other exemption.
- B. Upon receipt of an application for renewal of the registration, the City Administrator or their designee may deny the renewal if there is reasonable cause to believe that:

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1. The registrant has violated any ordinance of the city, or any state, or federal law on the premises or has permitted such a violation on the premises by any other person; or
 2. There are grounds for suspension, revocation, or other registration sanction as provided in this article.

Sec. --. Inspections; re-inspections; suspension and revocation of license.

- (a) *Inspections; access.* The resident owner, nonresident owner, resident manager and property manager, as a condition to the issuance of a short-term rental license required by this article, shall consent and agree to permit and allow the city's building official or their designee to make the following inspections of the short-term rental when and as needed to ensure compliance with this article:
 - (1) Right and access to inspect all portions of the premises and structures located on the premises that are not dwelling units, including, but not limited to, all storage areas, detached garages, and swimming pools, upon reasonable advance notice being given to the resident owner, nonresident owner, property manager or resident manager;
 - (2) Right and access to inspect all unoccupied dwelling units upon giving reasonable notice to resident owner, nonresident owner, resident manager or property manager;
 - (3) Right and access to inspect all occupied dwelling units when, upon receipt of reliable information, the building official or their designee has reason to believe that violations of the ordinances of the city or state law exist that involve serious threats to life, safety, health and property; and
 - (4) Before the short-term rental license and any renewal of the short-term rental license is approved, and before the rental of any single-family residence as a short-term rental under this article, the resident owner, nonresident owner, resident manager or property manager shall request an inspection and make the single-family residence available for inspection by the building official or their designee. The building official or their designee and the resident owner, nonresident owner, resident manager and property manager shall agree on a reasonable date and time for the requested inspection.
 - (b) *Admission to premises.* The building official or their designee may enforce the provisions of this article upon presentation of proper identification to the occupant in charge of the short-term rental and may enter, with the occupant's permission, any short-term rental between the hours of 8:00 a.m. and 6:00 p.m.; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, the building official or their designee may enter the short-term rental referenced in subsection (a) of this section at any time and upon presentation of identification and the occupant's permission shall not apply. Whenever the building official is denied admission to inspect any short-term rental under this provision, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection.
 - (c) *Reinspection.* If any of the inspections authorized by this article require a second reinspection due to noted violations, then a reinspection fee of \$75.00 shall be paid prior to the second reinspection.
 - (d) *Suspension or revocation of license.* Failure of an owner to comply with the provisions of this article after receipt of written notice of the violation from the building official or their designee setting out the violations and the time allowed to rectify the violations, the short-term rental license authorized by this article issued to the owner may be suspended or revoked by the community development department.
 - (e) *Reinstatement.* Any person requesting a reinstatement or reissuance of a short-term rental license that has been suspended or revoked shall be required to apply for and receive a new short-term rental license issued under this article as a condition precedent to the reissuance or reinstatement of the certificate of occupancy.
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Sec. ---. Revocation/appeal.

- A. Permit maybe denied and/or revoked by the city administrator or designee upon a finding by the noncompliance with any provisions of this article or violations of the Zoning Ordinance, or other applicable city codes.
- B. A permit holder may be subject to revocation of their permit if there are three or more violations within a twelve-month period of this article or other safety, health and welfare ordinances of the city.
- C. The Administration department or their designee, shall issue a notice of violation of any provision of this article or violations as provided herein. Such notice shall include the date, time and synopsis of the facts surrounding such violation.
- D. An applicant or permit holder who wishes to appeal the denial or revocation of a permit under this article, shall file an appeal with the Board of Adjustment for reinstatement of a denied or revoked permit.
- E. The Board of Adjustment shall conduct an evidentiary hearing, take testimony and receive any documented evidence to determine whether the decision of city manager or designee should be upheld or overturned.
- F. At the hearing, the board of adjustment shall receive a testimony and evidence to contest the decision to deny or revoke a permit.
- G. The board of adjustment upon completion of a hearing, shall upon a majority vote of four-fifths of the board overturn the decision of the city administrator or designee.
- H. After a permit under this article has been revoked an owner may not reapply until after a six months of any revocation or appeal.
- I. All decisions of the board of adjustment under this article shall be deemed final.

Sec. ---. Fees.

All fees for registration, inspection or renewal, including any late fees or exemptions, as provided in this article, shall be as established by resolution of the city council.

Sec. ---. Presumption; presentation of documents or affidavit.

- (a) *Presumption.* It shall be a rebuttable presumption that a single-family residence that is occupied by one or more person(s) who are not the owner is being occupied pursuant to an agreement between the owner and the occupant(s) of the single-family residence wherein the occupant(s) have agreed to lease said residence from the owner.
- (b) *Presentation of documents or affidavits.* Any resident owner or nonresident owner claiming that the owner is not required to obtain a short-term rental license pursuant to this article shall, not later than five business days following receipt of a written request of the building official or their designee or, in the case of an appeal filed pursuant to section --- of this article deliver to the City Administrator a true and correct copy of any agreements, documents of title, letters of administration, letters testamentary, executory contracts for conveyance (also known as "contracts for deed"), affidavits, or other documents that establish to the satisfaction of the community development department that a landlord/tenant relationship does not exist between the owner and the occupant(s) of the single-family residence. Unless an extension of the time for delivery of such documents or affidavits is granted by the building official or their designee or city administrator, as the case may be, the failure of the owner to present the requested documents within the time provided by this subsection (b) shall result in the presumption described in subsection (a) above, becoming irrefutable.

Sec. --. Violations and penalties.

Violation of this ordinance upon conviction shall be punished by a fine not to exceed the sum of \$2,000.00 for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

DRAFT