

STAFF REPORT

13

CASE NUMBER: P.D. 08-322 **L.U.C.B. MEETING:** November 13, 2008

DEVELOPMENT NAME: SOUTH PERKINS PLANNED DEVELOPMENT, 5TH AMENDMENT

LOCATION: East side of Perkins Road; +/-241 feet north of Spottswood Avenue

COUNCIL DISTRICTS: DISTRICT 5-SUPER DISTRICT 9, POSITIONS 1, 2, & 3

OWNERS/APPLICANTS: Frank N. Stanley, III & Harry Day

REPRESENTATIVE: Farris, Bobango, Branan, PLC-Homer Branan, III

REQUEST: Planned development amendment to allow a restaurant with a maximum seating capacity of seventy-five(75) seats.

AREA: 1.35 Acres

EXISTING LAND USE & ZONING: One-story office building currently governed by P.D 00-333.

SURROUNDING LAND USES AND ZONING:

North: Dentist office in South Perkins Planned Development, 2nd Amendment(P.D. 00-308).

East: Office Park in Audubon Office Park Planned Development(P.D. O-102.).

South: Single family home and interior design shop in South Perkins Planned Development, 2nd Amendment(P.D. 00-308).

West: Vacant lot, single family home and Theatre Memphis in Single Family Residential (R-S10 & S15) District.

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION:

Approval with Conditions

Staff: Brian Bacchus

Email: brian.bacchus@memphistn.gov

CONCLUSIONS:

- 1. The request is for a planned development amendment to allow a restaurant with a maximum seating capacity of seventy-five(75) seats to be located in a structure once used for office at 680 South Perkins Road.**
- 2. Any expansions or alterations to structures within this Outline Plan require site plan approval by the Land Use Control Board and should be limited in scope in order to maintain the urban residential design and appearance along South Perkins Road.**
- 3. This overall development plan is primarily office development compatible with surrounding land use and zoning and any new land use should be specific and limited due to location, lot size and the ability to provide adequate parking to the rear of buildings.**
- 4. This request for limited retail commercial adjacent to similarly approved land use is supported so long as expansions and alterations do not combine lots for one business establishment or land use.**
- 5. This request for a restaurant land use with limited seating is supported so long as expansions and alterations do not combine lots for one single business establishment or land use. The parking shall be as illustrated on the site plan and allowed to encroach north onto adjacent property to accommodate parking requirements for the restaurant.**

OUTLINE PLAN:



VICINITY MAP
NOT TO SCALE

LANDSCAPE SCREENING SOLUTIONS

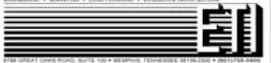


CASE #
SITE PLAN
690 & 680 SOUTH PERKINS ROAD
5TH AMENDMENT TO SOUTH PERKINS P.D. (00-333) MEMPHIS, TENNESSEE

SITE DATA	
PROPOSED RESTAURANT	30
PARKING PROVIDED	16
PARKING OFF-SITE	14
RESTAURANT HANDICAP	2

TOTAL AREA: 1.35 AC.
WARD 57, BLOCK 14, & PARCEL No. 00009
WARD 57, BLOCK 14, & PARCEL No. LE2633
No. OF LOTS: 2

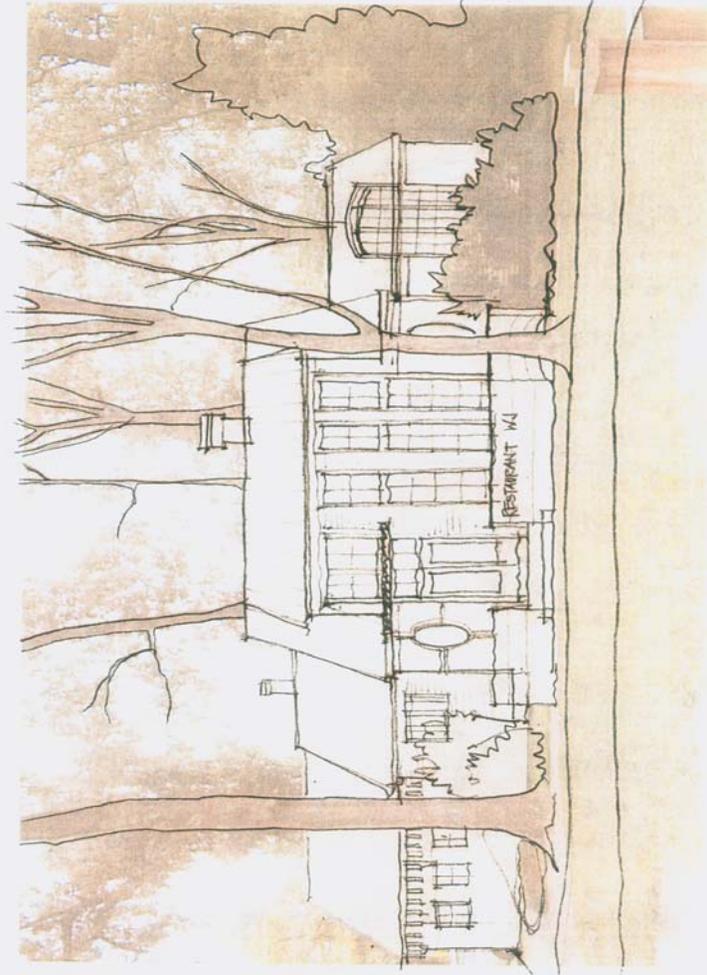
100 YEAR FLOOD ELEV.: N/A
DEVELOPED BY:
WALLY JOE
6410 POPLAR AVE., STE. 900
MEMPHIS, TENNESSEE 38119

PREPARED BY:


DATE: 9/30/08 ETI Job No. 07060-10 Sheet 1 of 1

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ELEVATION PLAN:

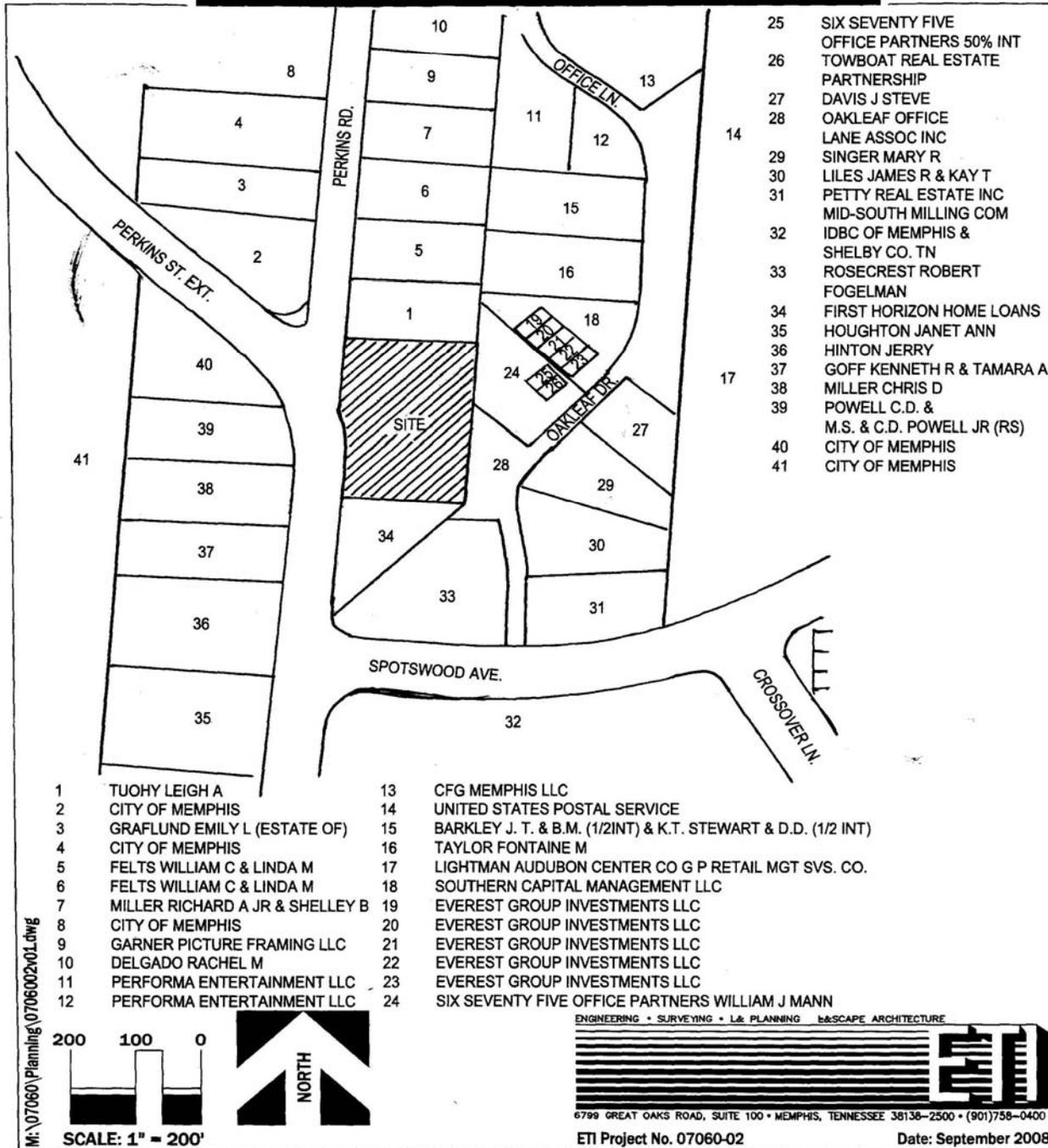


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Restaurant 690 South Perkins

OWNERSHIP MAP:

O.P.D. Case Number P.D. 08-322



STAFF ANALYSIS:

Site Description

The subject property is located on the east side of S. Perkins Road; just south of Southern Avenue in east Memphis within boundaries of the Poplar Corridor Area Study and the Quince Planning District. The existing buildings were once one-story wood frame single family homes, but have been converted to office land uses by approved planned developments.

The lots were originally approved for primarily residential and office land use in R-S15 and O-G District zoning. The subject properties are directly adjacent to properties used and approved for interior design shops, including very limited and specific retail commercial land uses also approved by planned development. The lot is located within a tier of lots to the east side of South Perkins governed by South Perkins Planned Development(P.D. 06-333).

Area Overview

The land use to the west is single family homes and vacant lots in the R-S10 District and Theater Memphis across Perkins Road. Directly south of the site and across Spottswood Avenue is Audubon Business Campus developed as an office park. The site is bordered on the north primarily by small scale business establishments that are governed by this planned development with regard to use, bulk and other conditions.

The land use to the east is primarily office development in Oakleaf Lane Planned Development(PD O-102 AM). The Audubon Square Shopping Center with a Target Store, including accessory retail shops are farther east along Spottswood Avenue. The Audubon Business Center to the south was designed to be compatible with its location near residential neighborhood properties.

Urban Residential Design vs. Expansions & Alterations

The request is for a planned development amendment to allow a restaurant with a maximum seating capacity of seventy-five(75) seats to be located in a structure once used for office at 680 South Perkins Road. An office building approved by this plan is also party to this application to allow additional parking for the restaurant. A retail home interior store is approved for 670 South Perkins Road and a bed and breakfast at 710 South Perkins Road located in the same building with an antique store.

Any expansions or alterations to structures within this Outline Plan require site plan approval by the Land Use Control Board and should be limited in scope in order to maintain the urban residential design and appearance along South Perkins Road. The size of these lots were originally platted for a residential subdivision and should be maintained in urban residential design and not allow combining of lots for one single land use.

This overall development plan is primarily office development compatible with surrounding land use and zoning and any new land use should be specific and limited due to location, lot size and the ability to provide adequate parking to the rear of buildings. The residential appearance of single family homes shall be maintained with all parking to the rear of the building and not disturb front yard open spaces. Additional landscaping and screening shall be provided, exclusive of all easements, including overhead wires. This is an established residential area with structures converted to office land use directly across from single family homes.

This request for a restaurant land use with limited seating is supported so long as expansions and alterations do not combine lots for one single business establishment or land use. The parking shall be as illustrated on the site plan and allowed to encroach north onto adjacent property to accommodate parking requirements for the restaurant. The balance of the parking to the rear of the building and other design features and modifications shall maintain the urban residential design and appearance prevalent throughout the planned development.

RECOMMENDATION: Approval with Conditions

OUTLINE PLAN CONDITIONS: *[**Bold-italic-underlined items indicate amendments**]*

I. Uses Permitted:

- A. Any use permitted by right or administrative site plan review in the General Office(O-G) and Single Family Residential(R-S15) Zoning Districts. Additionally, a retail home interior store is permitted at 670 South Perkins Road; an antique store and bed & breakfast is permitted at 710 South Perkins Road; and a retail frame shop is permitted at 630 South Perkins Road **and a restaurant shall be permitted at 690 South Perkins Road with additional parking for the restaurant at 680 South Perkins Road as illustrated on the Outline Plan.**
- B. 650 and 660 S. Perkins Road: Any use permitted by right or administrative site plan review in the General Office(O-G) district, including the following:
 - 1. Interior Design/Home Furnishings/Antiques
 - 2. Music or Dancing Academy
 - 3. Gift Shop
 - 4. Knitting/Yarn Shop
 - 5. Rug/Carpet/Flooring Gallery
 - 6. Consignment/Re-sale Shop
 - 7. Flower/Plant Shop
 - 8. Jewelry Shop
 - 9. Arts and Crafts Gallery
 - 10. Fabric Shop
 - 11. Clothing/Bridal Boutique
 - 12. Gourmet/Specialty Foods
 - 13. Day Spa
- C. A detailed site plan shall be submitted prior to this application being forwarded to the legislative body illustrating on-site parking to the rear of the building and other design features to maintain the urban residential design and appearance.

II. Bulk Regulations:

- A. Bulk regulations of the Single Family Residential(R-S15) Zoning District shall apply.
- B. All structures shall maintain a residential appearance.
- C. **Maximum restaurant seating capacity shall be seventy-five(75) seats.**

III. Access, Parking and Circulation:

- A. Required parking shall be provided in the rear yard. Parking in the front yard is prohibited.
- B. Existing curb-cuts shall be preserved providing the building footprint is not altered.
- C. The following access improvements shall be required if any of the building footprints are modified:
The design, number and location of curb cuts to be approved by the City Engineer. Nonconforming curb cuts to be modified to meet current City Standards or closed with curb, gutter and sidewalk.

D. An additional curb-cut shall be permitted at 690 South Perkins Road as illustrated on the Outline Plan with minimal pavement for one-way circular traffic in the front yard.

IV. Landscaping, Screening and Lighting:

- A. Plate A-1, A-2, A-3 or an equivalent subject to the approval of the Office of Planning and Development shall be provided along South Perkins Road.
- B. Required landscaping shall be provided exclusive of all easements and shall not conflict with any easements, including overhead wires.
- C. All refuse containers shall be screened from public view and shall be located in the rear yard.
- D. Lighting shall be a maximum of 20 feet high and shall be directed so as not to glare onto residential property.

V. Signs: Sign regulations shall be in accordance with the Single Family Residential Zoning District(R-S15).

VI. Other: Any alterations to the exterior of buildings or building footprints shall require Site Plan Review before the Land Use Control Board.

VII. All final plans shall include the following:

- A. The Outline Plan Conditions.
- B. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.
- C. The exact location and dimensions, including height of all buildings, parking areas, lighting in parking areas, landscaping and screening.
- D. Number of parking spaces.
- E. Illustrations of all proposed signage.

- F. The location and ownership of any public and private easements.
- G. A statement conveying all common facilities and areas to a property owners association for ownership and maintenance purposes.
- H. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm-Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City Engineer. The storm-water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City Engineer's Office. Such maintenance shall include, but not be limited to: removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.

P.D. 08-322 (formerly P.D. 06-333)
South Perkins Planned Development, 5th Amendment

GENERAL INFORMATION:

Street Frontage: South Perkins Road-----+/-100 linear feet.

Planning District: Quince

Zoning Atlas Page: 2140

Zoning History:

The equivalent of the Single Family Residential(RS-10/R-1) District dates to February, 1954 District Map, but more likely dates to the annexation of the site in 1950 by the City of Memphis.

On October 9, 1997 the Land Use Control Board recommended approval of the South Perkins Planned Development(PD 97-347) for office and commercial uses. On May 5, 1998 the Memphis City Council concurred with the Board's recommendation and approved the application subject to conditions as recommended.

The City Council on May 5, 1998 also approved deletion of the Residential Corridor along South Perkins Road north of Park Avenue upon recommendation of the Land Use Control Board.

On November 9, 1999 the Land Use Control recommended an amendment to the planned development to permit use of 710 South Perkins Road as a bed and breakfast facility. The Memphis City Council concurred with this recommendation on December 21, 1999.

In April, 2000 an amendment was approved for a frame shop and a new 2,543 sq. ft. addition to the rear of the building at 630 S. Perkins Road.

In May, 2005 an amendment was approved for a consignment/re-sale shop and limited retail land use, including a new 1,052 sq. ft. addition to the rear of the building at 650 S. Perkins Road.

In October, 2006 an amendment was approved for additional limited O-G District land uses at 650 and 660 S. Perkins Road.

DEPARTMENTAL COMMENTS:

The following comments were provided by agencies to which this application was referred:

City Engineer:

1. Standard Subdivision Contract as required in Section 500 of Subdivision Regulations.

Sewers:

2. City sanitary sewers are available at developer's expense.
3. The developer shall extend sanitary sewers through the site to serve upstream properties.

Curb Cuts/Access:

4. The City Engineer shall approve the design, number and location of curb cuts.
5. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

Drainage:

6. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Subdivision Regulations and the City of Memphis Drainage Design Manual.
7. The developer should be aware of his obligation under 40 CFR 122.26(b)(14) and TCA 69-3-101 et. seq. to submit a Notice of Intent (NOI) to the Tennessee Division of Water Pollution Control to address the discharge of storm water associated with the clearing and grading activity on this site.

Site Plan Notes:

8. All parking areas and driving aisles to be paved with asphalt or concrete.
9. The width of all existing off-street sewer easements shall be widened to meet current city standards.
10. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plat.
11. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comments.

City Real Estate: None.

Memphis & Shelby County Health Department: No comment.

City Board of Education:

The subject property does not appear to be adjacent to any property which has been identified as belonging to Memphis City Schools (MCS). No identifiable impact on MCS' school-aged population nor MCS' property interests. The school aged children in this area are zoned to the following schools:

Sea Isle Elementary- 94.6% capacity
Colonial Middle - 40.2% capacity
White Station High- 111.3% capacity

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water:

MLGW has reviewed the referenced application, and has no objection, subject to the following comments:

- **It is the responsibility of the owner/applicant** to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- **It is the responsibility of the owner/applicant** to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- **It is the responsibility of the owner/applicant** to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- **Landscaping is prohibited** within any MLGW utility easement. No trees, shrubs or permanent structures will be allowed within any MLGW utility easements.
- **It is the responsibility of the owner/applicant** to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc
- **It is the responsibility of the owner/applicant** to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- **It is the responsibility of the owner/applicant** to contact the appropriate MLGW engineering area to determine if system improvements may be required and any related cost:
 - MLGW Engineering - **Residential Development:** 528-4858.
 - MLGW Engineering - **Commercial Development:** 367-3343.
- **It is the responsibility of the owner/applicant** to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

AT&T/Bell South: AT&T has no comment.

Memphis Area Transit Authority (MATA): No comments received.

OPD-Regional Services:

Perkins Road Ext is on the Long Range Transportation Plan consisting of 80 feet of right-of-way, 60 feet of pavement and no proposed improvements. South Perkins Road is not a major road.

OPD-Plans Development: No comments.

Neighborhood Associations/Organizations:

Colonial Acres Neighborhood Assoc.: No comment received as of 11/7/08.

Staff: bb

Wally Joe
Proposed additional conditions
November 4, 2008

1. The restaurant shall open for customer business no earlier than 11:00 a. m. and close no later than 11:00 p. m. on Monday through Saturday, and open for business no earlier than 10:00 a. m. on Sunday and close no later than 10:00 p. m. on Sunday. No new customers will be permitted after the closing times above.
2. Any restaurant at this location shall be required to have at least 50 percent of its annual gross sales from food.
3. No alcoholic beverages shall be sold earlier than 11:00 a. m. Monday through Saturday nor sold later than 11:00 p. m. No alcoholic beverages shall be sold earlier than 10:00 a. m. or later than 10:00 p. m. on Sunday.
4. The restaurant shall be open for lunch and dinner only.
5. Valet parking availability shall be required on site.
6. No modification to the parking area as depicted on the approved site plan shall be permitted without site plan approval by the Office of Planning and Development (OPD). OPD shall notify all property owners within 500 feet of the property prior to permitting any parking area modification. Any notified property owner may, by written notice to OPD within 10 working days of notification, request that the Land Use Control Board hear the application for modification.
7. No removal of trees shall be permitted without an amendment to the Planned Development except that diseased trees made be removed provided a replacement tree a minimum of three (3) inch caliper with a height of 14 to 16 feet shall be planted in the same general location.
8. Any parking lot lighting shall not be located higher than the eave of the building and shall be directed away from any residential property. Lighting shall not be greater than one (1) foot candles at the property line.
9. Any lighting in the front portion of the site shall be no greater than four (4) feet in height. Building façade lighting and landscape lighting in the front yard shall be residential in character and directed away from residential property.
10. Either a free standing ground mounted sign a maximum of 12 square feet in area with a maximum height of five (5) feet and a setback of 15 feet from the right-of-way, or an attached sign a maximum of 12 square feet in area is permitted.
11. No bands or speakers shall be permitted outdoors, except for weddings, anniversaries and similar occasions with low volume non-amplified instruments.

12. Any garbage containment shall be totally enclosed. No open dumpsters shall be permitted. Garbage pick-up service by a private company shall be at least twice per week or more frequently if necessary. The garbage containment area shall be kept in a clean and neat condition at all times.

13. All companies delivering goods to the site shall be notified that deliveries shall be restricted between the hours of 9:00 a. m. and 5 p. m. Monday through Saturday, and that deliveries shall be specifically prohibited on Sunday. Notice of the days and hours of deliveries shall also be posted on the property.

Letter from Adjacent Property Owner:

OVERVIEW AND ISSUES

**690 S PERKINS RD ISOUTH PERKINS PD,
5TH AMENDMENT PROPOSAL:**

The property at 690 S Perkins is currently Zoned R-S10, Single Family Residential with Minimum 10,000 SF Lot.

Any other use of this property is strictly controlled by the South Perkins PD, 4th Amendment.

Usage in this PUD is by inclusion not exclusion. All included usages are now, and have been since the PUD's inception, low impact and operational in the 9am to 5pm timeframe.

A restaurant is not an included usage under the South Perkins PD, 4th Amendment.

The addition of "restaurant" as an inclusive usage in this PUD is not acceptable.

An amendment that is *specific* to this parcel, 690 S Perkins RD, within the South Perkins PD, that is *specific* to allow only a restaurant developed by Wally Joe could be supported if additional operational and site issues previously discussed are addressed in the proposed amendment.

Site and Operational issues:

- Valet parking required with all parking in the rear of the property. No front property parking allowed.
- No alterations to the quantity or location of parking spaces can be made without an additional application to amend the PUD.
- No additional removal of trees allowed without an additional application to amend the PUD.
- Define hours of operation to allow last patron to enter by 11:00pm

- Site lighting, including parking lot is to be low intensity bollard height, building fayade lighting or landscape lighting. Intent is to prevent light pollution to the adjacent residential areas.
- Signage size and location is restricted to low monument sign that is either externally lighted or uses back lighted channel letters. No pole signs or building signs.
- No exterior bands or speakers allowed. Exceptions can be quantified for weddings, receptions with low volume nonamplified instruments.
- Submit landscaping plan as part of proposed PUD Amendment Application.
- Provide garbage containment that is shielded from view and that is sealed, not open dumpster, with daily pickup to control odor, rodents, and migration of the significant animal population residing in Audubon Park. (Garbage pickup is currently weekly by the city using residential containers and not acceptable for this type of usage)
- Kitchen to be located to the rear of the property with all deliveries to be at the rear.
- Restrict the hours of deliveries to between 9am to 5pm Monday through Saturday and to specifically prohibit Sunday deliveries