

ORDINANCE NO. 24-02-01-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE ZONING DISTRICT FOR LOT 8-C, LOT 9-C, AND LOT 10-C OF LAGO VISTA TRAVIS PLAZA, LOCATED AT 20811 DAWN DRIVE FROM THE C-1A “PROFESSIONAL OFFICE, NEIGHBORHOOD RETAIL” ZONING DISTRICT TO THE C-1A “PROFESSIONAL OFFICE, NEIGHBORHOOD RETAIL” ZONING DISTRICT WITH A SPECIAL USE PERMIT (SUP) APPROVAL FOR A “TATTOO PARLOR OR STUDIO” LOCATED IN SUITE 200; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the owner of Lot 8-C, Lot 9-C, and Lot 10-C of Lago Vista Travis Plaza, located at 20811 Dawn Drive has filed an application requesting the change in zoning of this property from the C-1A “Professional Office, Neighborhood Retail” zoning district to the C-1A “Professional Office, Neighborhood Retail” zoning district with a special use permit (SUP) approval for a “tattoo parlor or studio” located in Suite 200; and

WHEREAS, the Property currently resides within the corporate limits of the City of Lago Vista;

WHEREAS, after giving fifteen (15) days written notice to the owners of land in and within 200-feet of the area being rezoned, as well as having published notice to the public at least fifteen (15) days prior to the date of such hearings, the Planning and Zoning Commission and City Council each held separate public hearings on the proposed rezoning of the Property included in this Ordinance; and

WHEREAS, the Planning and Zoning Commission at its public hearing held on January 11, 2024 and the City Council at its public hearing held on February 1, 2024, have both reviewed the request and the circumstances of the Property, and find that a substantial change in the circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired; and

WHEREAS, the City, by and through its legislative discretion, has adopted a comprehensive plan for the City of Lago Vista, and having considered and reviewed such comprehensive plan, the City Council finds the rezoning approved herein is consistent with the comprehensive plan which shall not be interpreted as inconsistent with this rezoning; and

WHEREAS, the City desires that development within its corporate limits occur in an orderly manner in order to protect the health, safety, and welfare of its present and future citizens, protect property values and provide for the growth of the City’s tax base; and

WHEREAS, the City desires to control the development standards for the Property, protect third party property owners in the City, and to ensure the benefits of planned development and an enhanced tax base that are achieved through rezoning the Property; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Lago Vista to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact. The Planning and Zoning Commission and City Council find that this Ordinance satisfies the requirements of Section 6.105 and Section 13 of the City of Lago Vista Zoning Ordinance, codified under Ordinance No. 98-04-27-03, as amended (the “Zoning Code”).

Section 2. Enactment. The Zoning Ordinance and the Official Zoning Map and other applicable ordinances are hereby modified and amended by rezoning Lot 8-C, Lot 9-C, and Lot 10-C of Lago Vista Travis Plaza, located at 20811 Dawn Drive from the C-1A “Professional Office, Neighborhood Retail” zoning district to the C-1A “Professional Office, Neighborhood Retail” zoning district with a special use permit (SUP) approval for a “tattoo parlor or studio” located in Suite 200 as more fully described in **Exhibit “A,”** subject to the conditions described in **Exhibit “B.”**

Section 3. Repealer. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

Section 4. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Penalty. Any person, firm or corporation violating any of the provisions or terms of this Ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances, Section 1.109 General Penalty for Violations of Code; Continuing Violations of the City of Lago Vista, and upon conviction shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

Section 6. Publication Clause. The City Secretary of the City of Lago Vista is hereby directed to publish in the Official Newspaper of the City of Lago Vista the Caption, and Effective Date Clause of this Ordinance as required by Section 52.013 of the *Texas Local Government Code*.

Section 7. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below in accordance with the provisions of the *Texas Local Government Code* and the City's Charter.

Section 8. Change of Zoning Map. The City Manager is hereby authorized to and shall promptly note the zoning change on the official Zoning Map of the City of Lago Vista, Texas.

Section 9. Proper Notice and Meeting. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*.


AND, IT IS SO ORDERED.

PASSED AND APPROVED this 1st day of February, 2024.


Kevin Sullivan, Mayor



ATTEST:


Lucy Aldrich, City Secretary

On a motion by Councilor Prince, seconded by Councilor Smith, the above and foregoing ordinance was passed and approved.

EXHIBIT "A"

Tattoo Parlor or Studio Location (Suite 200)



Site Plan

EXHIBIT “B”

Conditions

The property shall be included in the C-1A (“Professional Office, Neighborhood Retail”) commercial zoning district with a special use permit (SUP) approval for a “tattoo parlor or studio” located in Suite 200 only, subject to compliance with the following conditions:

1. services shall be available by appointment only; and
2. the facility shall be open to the public for services between 10 AM and 6 PM on Sunday through Thursday and between 10 AM and 8 PM on Friday and Saturday.

**LAGO VISTA PLANNING AND ZONING COMMISSION
STAFF LAND USE REPORT – JANUARY 11, 2024**



P&Z CASE NO:	23-2571-R-REZ: 20811 Dawn Drive, Suite 200
APPLICANT:	Nikki and Mike O'Brien (Lago Vista Tattoo Co.)
LANDOWNER:	Borra Management LLC (Mike Zarchi)
LOCATION:	South side of Dawn Drive ± 240 feet east of Canyon Drive
ZONING:	C-1A to C-1A (SUP)
PROPOSED USE:	Tattoo parlor or studio in an existing multi-tenant building

GENERAL INFORMATION / LOCATION:

- On September 11, 2023, the Lago Vista Board of Adjustment denied an appeal by the applicant asserting that a "tattoo parlor or studio" was "reasonably similar, comparable, and compatible" with a studio operated by other types of visual artists and all other uses permitted by right in either of the C-1 "professional office" and "neighborhood retail" commercial zoning districts. On October 12, 2023, the Lago Vista Planning and Zoning Commission forwarded a recommendation to the Lago Vista City Council to include a "tattoo parlor or studio" as a use by right in the C-2, C-3, and LI zoning districts, and with a "special use permit" (SUP) in accordance with the provisions of Section 18 of Chapter 14 in either of the C-1 zoning districts. On November 2, 2023, the Lago Vista City Council agreed by adopting Ordinance No. 23-11-02-01.
- The applicant submitted this application on December 11, 2023, seeking a special use permit for Suite 200 of an existing building already in the C-1A "professional office and "neighborhood retail" zoning district at 20811 Dawn Drive. Although dangerously close to the deadline for inclusion on this agenda, the application fortunately did not require any complex documents. Nonetheless, the staff had to request a narrative describing the conditions that the applicant felt would ensure that this use would be compatible with the nearby existing developed and vacant residential property.
- The existing building in question fronts on the south side of the street with a municipal address of 20811 Dawn Drive. It is constructed on three separate lots within the Lago Vista Travis Plaza subdivision, the same subdivision that includes the current facility that serves as the Lago Vista City Hall. There are two similar vacant lots to the west of this location before reaching the public right-of-way known as Canyon Drive. According to the Travis County Appraisal District (TCAD) website, the facility was constructed in 1971 prior to the incorporation of the City of Lago Vista. The lack of a zoning ordinance with setback requirements would tend to explain why the building was allowed to be constructed across existing property lines instead of first requiring an amended plat.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The subject property was platted with shared access and parking that extends east from Canyon Drive past Thunderbird until reaching Municipal Complex Way that provides access to the Lago Vista Police Department facility. The City of Lago Vista supplemented that shared parking with additional "dive-in" parking within the Dawn Drive right-of-way. Directly across from the subject property on Dawn Drive are residences in a single-family residential zoning district. Although there are vacant lots on the north side of Dawn Drive, all are in a single-family residential zoning district until reaching the property much closer to Lohman Ford Road opposite the elementary school.
- South of the subject property, there is a band of lots on the north side of Bonanza Street and the east side of Thunderbird that are in the R-4 multifamily residential zoning district. On both the east and west ends of this residential area are properties currently owned by the City of Lago Vista that are being proposed for use as pocket parks by the Parks and Recreational Advisory Committee. This tends to lend credence to the importance that the community places on the continued viability of these residential properties, regardless of whether they are in a single or multifamily zoning district. As such, a serious discussion about potential conditions to be imposed on uses requiring a special use approval seems warranted, despite the fact that the proposed establishment will be contained within a multitenant facility.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- The bulk of the narrative submitted with the application is about the proprietors of the proposed establishment and their family members. Conversely this special use permit application is a specific type of zoning change that establishes property rights that are “attached to the land” and will remain in place regardless of who might operate the proposed facility. As a result, the only relevant information is about how the facility might be operated to ensure compatibility with the adjacent existing uses and development rights. That information can be found in the list near the bottom of the first page of the narrative. However, some of the items on that list are not relevant to the required zoning approval as explained in greater detail in the ordinance references below.
- Noise and public intoxication are addressed by other types of local regulations. Loitering and smoking within the proposed facility are preferences to be exercised at the discretion of the tenant and property owner and have little impact on the surrounding property. Instead, only two of the conditions proposed by the applicant are likely to have an impact on the adjacent existing or potential future uses (including mixed uses). Limiting services to patrons who have appointments will help ensure that peak demands will not exceed the limited capacity of the existing parking provisions. Limiting the hours of operation as proposed by the applicant will also help ensure that patronage will not unduly expose neighboring property to potential late night disturbances.
- Section 18.10 of Chapter 14 describes the purpose of the special use permit approval as “an opportunity for discretionary review of requests” that might have “the potential for an unexpected impact upon the health, safety, and welfare of the public.” In addition to providing an opportunity to review the design and location of any existing or proposed improvements, the procedure allows conditions to be imposed on the uses of those same existing or proposed improvements “to avoid, minimize or mitigate potentially adverse effects upon the community or other properties in the vicinity” and to deny requests “when it is apparent that a proposed use or structure will or may occasionally harm... the value, lawful use, and reasonable enjoyment of other properties in the vicinity of the proposed use or structure.”

POTENTIAL ALTERNATIVE RECOMMENDATIONS / DECISION:

- A. Recommend approval of the requested zoning change to add a special use permit approval to Suite 200 for a “tattoo parlor or studio” subject to the following conditions:
1. services shall be available by appointment only; and
 2. the facility shall be open to the public for services between 10 AM and 6 PM on Sunday through Thursday and between 10 AM and 8 PM on Friday and Saturday.
- B. Recommend denial of the request.
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23-2571-R-REZ

20811 Dawn Drive, Suite 200

Attachment 1

Application



CITY OF LAGO VISTA • DEVELOPMENT SERVICES
5803 THUNDERBIRD STREET • P.O. BOX 4727 • LAGO VISTA, TX 78645

Tel. (512) 267-5259

Fax (512) 267-5265

NOTE: Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

APPLICATION FOR ZONING DISTRICT CHANGE

Contact Person: Nicole O'Brien **Fee:** See Ordinance Appendix A (non-refundable)
Contact Phone: 312-206-9898 **Contact Email:** NikkiObrien2014@gmail.com
Property Owner(s):* Mike Zarchi, Borra Management
Owner's mailing address: _____

COMPLETE LEGAL DESCRIPTION OF SUBJECT PROPERTY

Subdivision, Section and Lot Number(s) if platted. Attach metes & bounds or equal description otherwise*

20811 Dawn Drive, Lago Vista, TX 78645

Municipal Address(es)* if applicable: _____

NATURE OF REQUEST

Current Zoning District(s): C-1 **Requested District:** _____

Purpose or Basis of Request* (if PDD, include whether concept and/or detail plan approval is sought):

SUP for tattoo studio at Dawn Drive location.

Additional individual(s) authorized to act on behalf of the property owner(s)* regarding this application:

Name of Agent: Nicole O'Brien **Email:** nikkiobrien2014@gmail.com

Mailing Address: 8603 Big Horn Cir, Lago Vista, TX 78645 **Phone:** 312-206-9898

NOTE: Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending a completion review. **PLEASE TAKE SPECIFIC NOTICE AND INCORPORATE OR ADDRESS ALL LOCAL ORDINANCE REQUIREMENTS IN YOUR APPLICATION.**

12.11.2023

Property Owner's signature(s)*

Date

***Attach additional sheets as required**

23-2571-R-REZ

20811 Dawn Drive, Suite 200

Attachment 2

Applicant Proposed Special Use Permit (SUP) Conditions

Date: December 11, 2023

To Whom It May Concern:

My husband Michael O'Brien and I are the owners of Lago Vista Tattoo Co. As we move forward with our application for a SUP at 20811 Dawn Drive, Lago Vista, TX 78645, we wanted to introduce ourselves and outline some recommendations that we feel would be beneficial to the city in consideration of a Special Use Permit.

For the past 20+ years, Mike has been a licensed tattoo artist and worked at several well-regarded tattoo shops across the country. As the years have progressed, he has built a solid clientele list from New York, New Jersey, Chicago, California, Las Vegas and within the last two years - the greater Austin area. At the risk of sounding smug, I'll tell you that they put their trust in Mike because they know he will provide quality work at a reasonable price, but most importantly, keep their health and safety as a top priority.

While we have moved around the country quite a bit, we have planted roots to raise our boys (8 and 5), here in Lago Vista because we absolutely love the people here. We are so passionate about this community after having lived in many over the last 10 years, that we are ready to establish our first Tattoo Studio, in the place we'd like to call our forever home.

For us, this not only means being honorable small business owners that follow the letter of the law, but also being active participants in the growth of Lago Vista, and giving back to the community where we see our boys raising their own families one day.

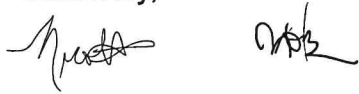
On that note, we'd like to propose some parameters around the SUP to better keep the building, business, and surrounding residents feeling safe and respected.

- Shop will be BY APPOINTMENT ONLY
- NO clients will be permitted to loiter in or around the studio
- Ideal hours in which we can operate (again by appointment only):
 - Sun - Thurs: 10am - 6pm
 - Fri - Saturday: 10am - 8pm
- No overtly loud music will be permitted
- No one will be allowed in the studio if they are under the influence of any substance
- No smoking or vaping will be permitted in the studio

In addition, we intend to follow the most state-of-the-art safety practices. We will operate in a manner that meets or exceeds all regulatory requirements. This approach is not intended to only meet legal obligations, but also to provide an ethical and transparent manner for the public to receive a safe, high-quality tattooing service.

I'm certain you'll find that Mike and I are respectful citizens of the community with the intention to provide a positive and safe experience for our clients, as well as a business with a forthcoming reputation that intends to build a positive relationship with the city and its constituents.

Sincerely,

Two handwritten signatures in black ink. The first signature on the left is 'Nikki' and the second signature on the right is 'Mike'.

Nikki & Mike O'Brien, Lago Vista Tattoo Co.

23-2571-R-REZ

20811 Dawn Drive, Suite 200

Attachment 3

Site Plan

Dawn Drive



XD = Exterior Door
W = Window

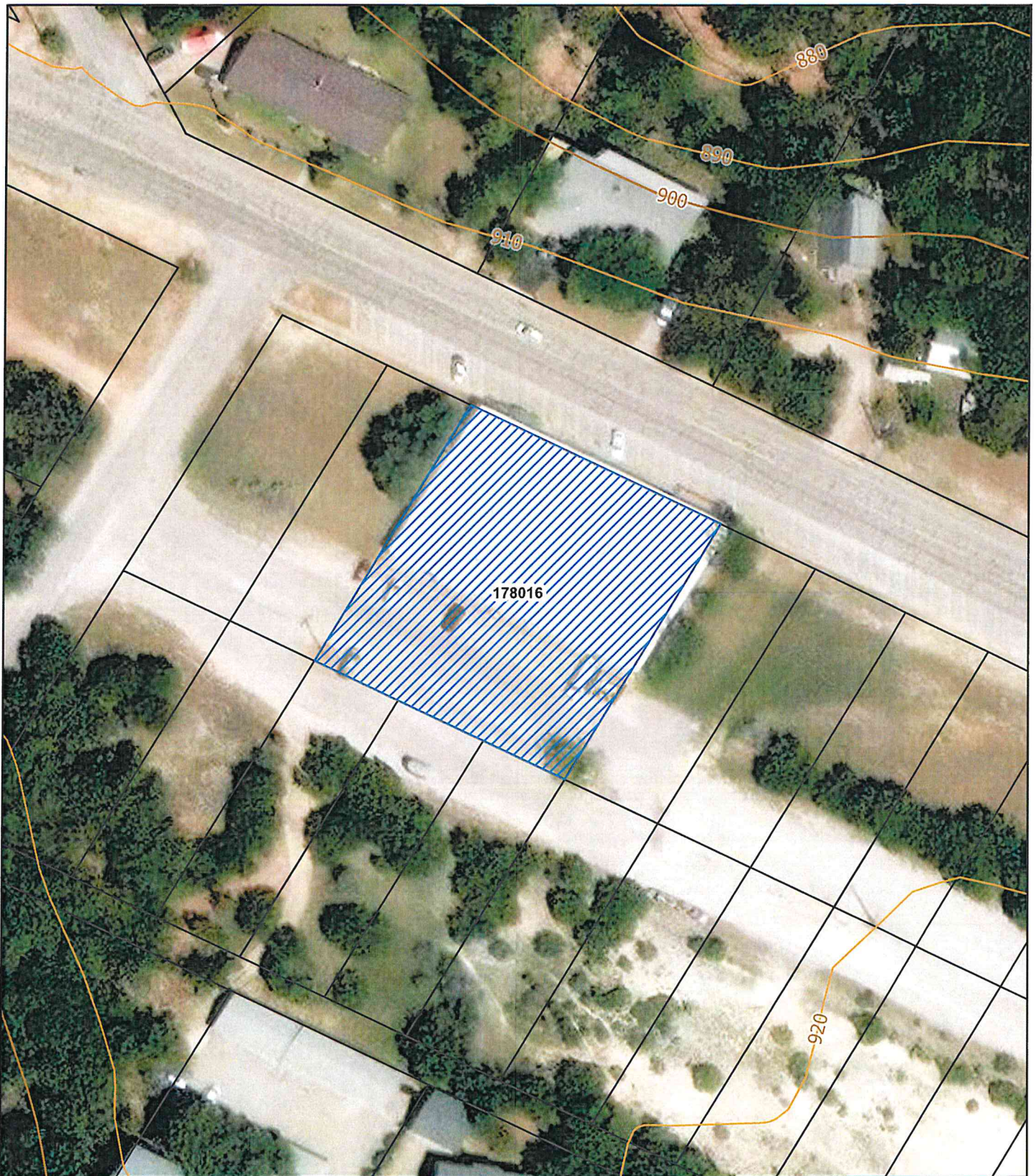
Site Plan

23-2571-R-REZ

20811 Dawn Drive, Suite 200

Attachment 4

Maps



Requestor

TCAD Parcels

TenFootContour

10 ft

50 ft

20811 Dawn Dr

Request Type	Zoning Change	Project	23-2571-R-REZ
Change Requested	C-1A to C-1A (SUP)	Date	12/19/2023
Map Purpose	Aerial / Topography	Drawn By	D Avetian
Coordinate System: GCS WGS 1984			

N

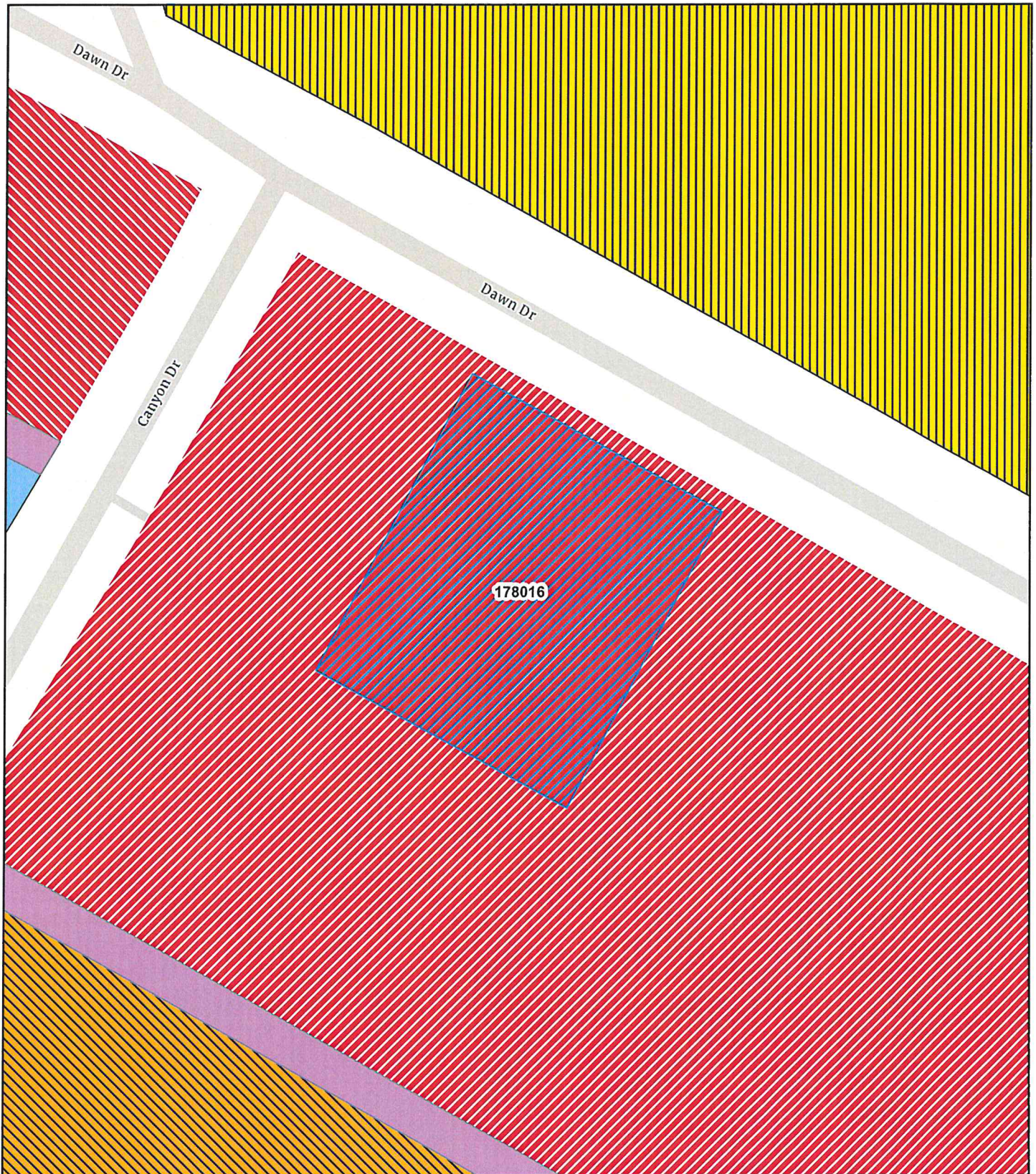
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40

80

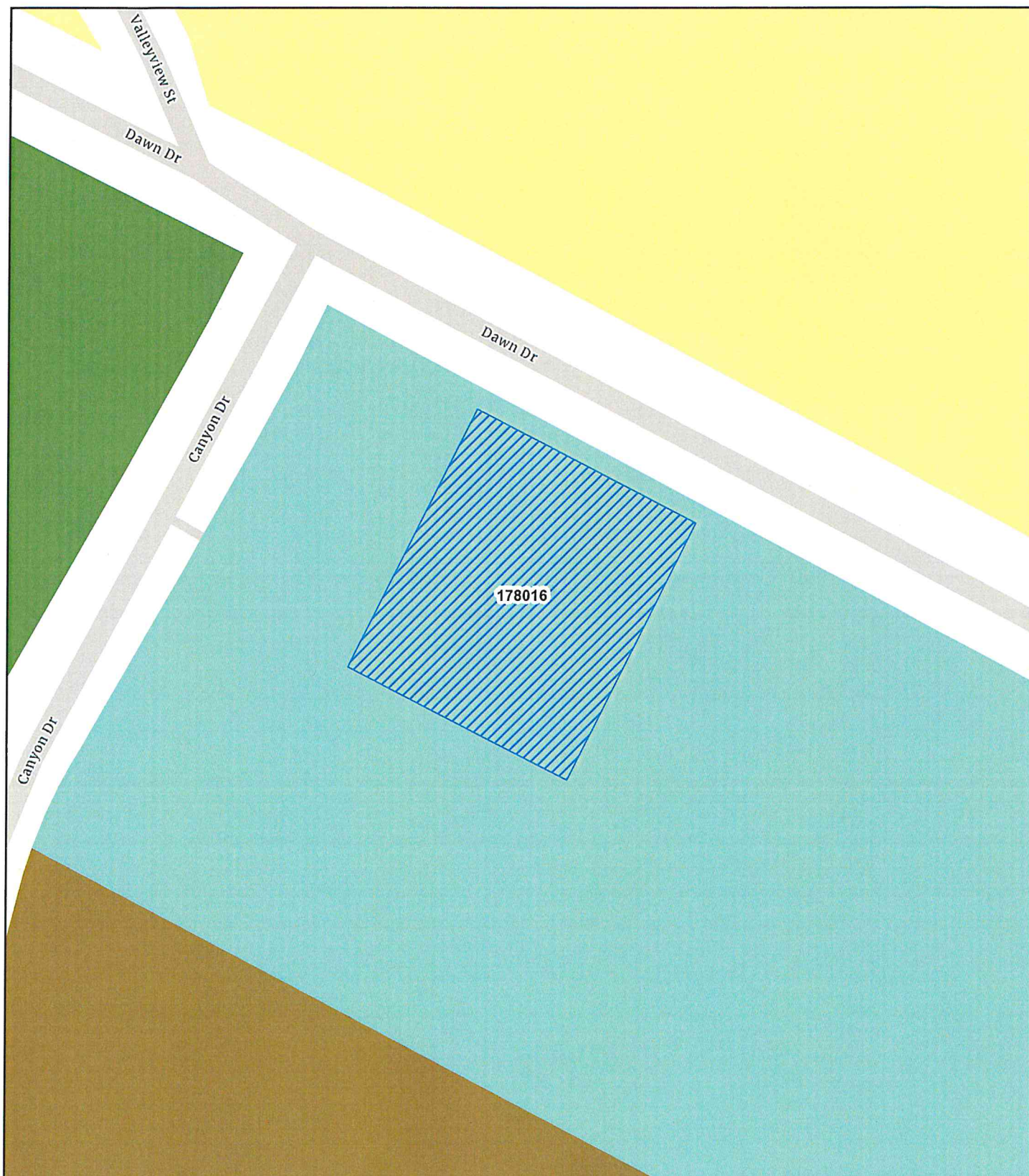
US Feet

0
33

Meters

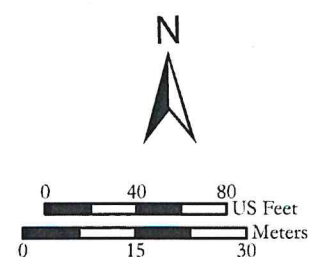


Zoning District Requestor C-1A C-1C P-2 R-1S,18B R-4 TR-1	20811 Dawn Dr				
	Request Type	Zoning Change	Project	23-2571-R-REZ	
	Change Requested	C-1A to C-1A (SUP)	Date	12/19/2023	
	Map Purpose	Existing Zoning	Drawn By	D Avetian	
	Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere				



-  Requestor
- Land Use Proposed**
-  High Density Residential
 -  Low Density Residential
 -  Mixed Use
 -  POA Park

20811 Dawn Dr			
Request Type	Zoning Change	Project	23-2571-R-REZ
Change Requested	C-1A to C-1A (SUP)	Date	12/19/2023
Map Purpose	Future Land Use	Drawn By	D Avetian
Coordinate System: NAD 1983 CORS96 StatePlane Texas Central FIPS 4203 Ft US			

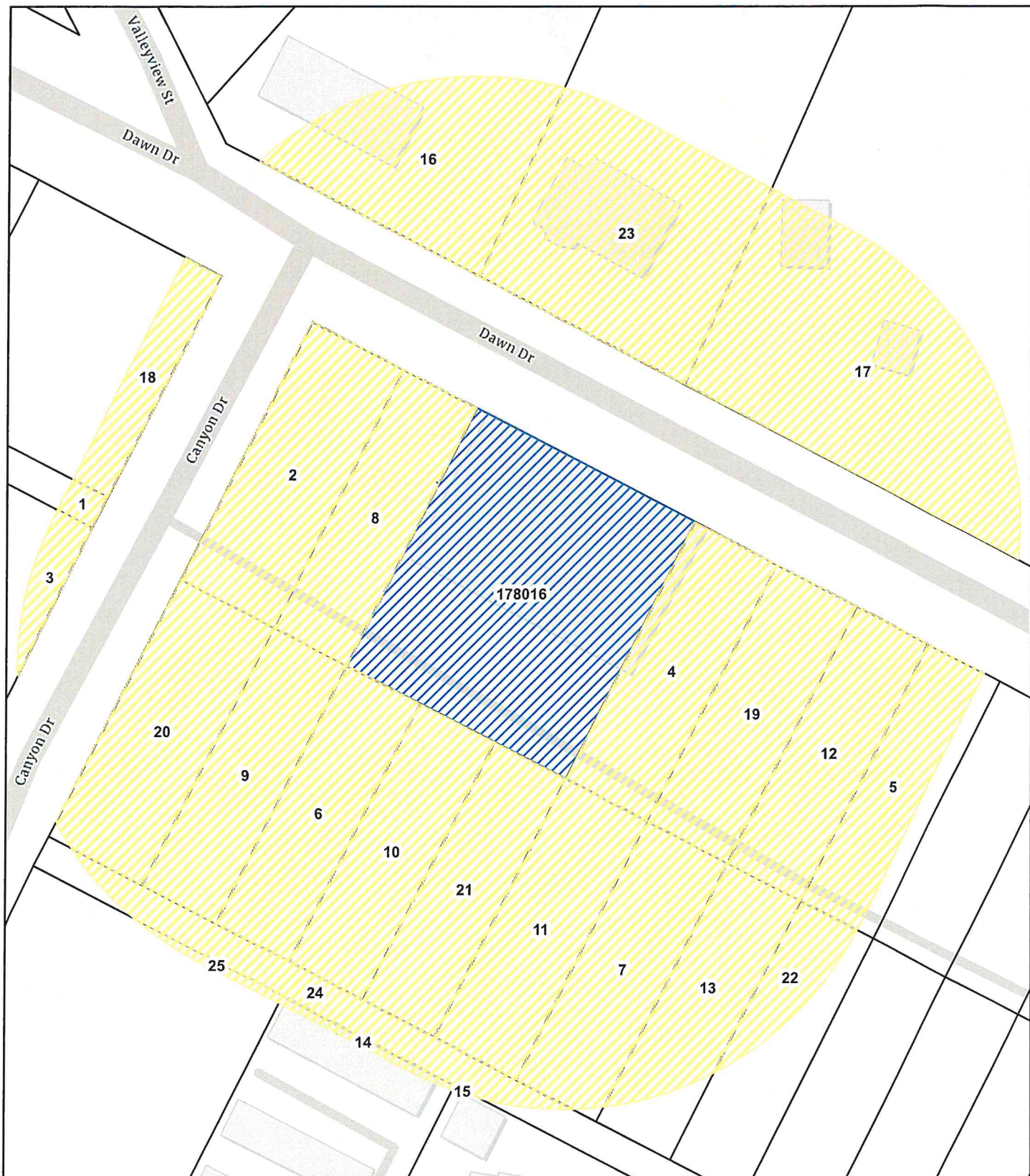


23-2571-R-REZ

20811 Dawn Drive, Suite 200

Attachment 5

Notice Comments



<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div> Notification Boundary</div> <div> Requestor</div> <div> TCAD Parcels</div> </div>	20811 Dawn Dr				<div style="text-align: center;"> <div style="font-size: 2em; margin-bottom: 10px;">N</div> <div style="display: flex; justify-content: center; align-items: center; gap: 10px;"> <div style="display: flex; align-items: center; gap: 5px;"> <div style="width: 20px; height: 10px; background: linear-gradient(to right, black 50%, white 50%); border: 1px solid black;"></div> <div style="width: 20px; height: 10px; background: linear-gradient(to right, black 50%, white 50%); border: 1px solid black;"></div> <div style="width: 20px; height: 10px; background: linear-gradient(to right, black 50%, white 50%); border: 1px solid black;"></div> </div> <div style="display: flex; align-items: center; gap: 5px;"> <div style="width: 20px; height: 10px; background: linear-gradient(to right, black 50%, white 50%); border: 1px solid black;"></div> <div style="width: 20px; height: 10px; background: linear-gradient(to right, black 50%, white 50%); border: 1px solid black;"></div> <div style="width: 20px; height: 10px; background: linear-gradient(to right, black 50%, white 50%); border: 1px solid black;"></div> </div> <div style="display: flex; align-items: center; gap: 10px;"> <div style="text-align: center;">0 40 80 US Feet</div> <div style="text-align: center;">0 15 30 Meters</div> </div> </div> </div>
	Request Type	Zoning Change	Project	23-2571-R-REZ	
	Change Requested	C-1A to C1-A (SUP)	Date	12/19/2023	
	Map Purpose	Notification Boundary	Drawn By	D Avetian	
	Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet				