

**Board of Zoning Adjustment  
Staff Report**  
March 7, 2016



<b>Case No(s):</b>	15CUP1042
<b>Project Name:</b>	Texas Roadhouse Parking Expansion
<b>Location:</b>	3332 Old Outer Loop
<b>Owner(s):</b>	Texas Roadhouse Holdings, LLC
<b>Applicant(s):</b>	Texas Roadhouse Holdings, LLC
<b>Representative(s):</b>	Marisa Kolman
<b>Project Area/Size:</b>	0.6 acres
<b>Existing Zoning District:</b>	OR-1, Office Residential
<b>Existing Form District:</b>	N, Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	13 – Vicki Welch
<b>Case Manager:</b>	Jon E. Crumbie, Planning & Design Coordinator

**Deferred from February 15, 2016 BOZA**

**REQUESTS**

- Conditional Use Permit to allow off-street parking in an OR-1 zoning district.
- Waiver to reduce the required landscape buffer area along the north property line

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Waiver</b>
Old Outer Loop	10'	4.4'	5.6'

- Waiver to reduce the required landscape buffer area along the south property line

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Waiver</b>
South Property Line	25'	6.9'	18.1'

- Waiver to reduce the required landscape buffer area along the east property line

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Waiver</b>
East Property Line	25'	20'	5'

- Waiver to eliminate the 15-foot property perimeter landscape buffer area along the shared C-1 and OR-1 boundary line.

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Waiver</b>
Boundary Line	15'	0	15'

## CASE SUMMARY/BACKGROUND

Texas Roadhouse is proposing to add parking to service their existing location at 3322 Old Outer Loop. The site is currently occupied by a daycare facility that has been purchased by the applicant. The structure will be demolished and replaced by 58 parking spaces. Landscape waivers are also being requested.

## SITE CONTEXT

The site is rectangular in shape and located on the south side of Old Outer Loop. The existing structure on site will be demolished to add parking. The property has residential uses to the south and east, commercial use to the west, and Outer Loop to the north.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Daycare	OR-1	N
<b>Proposed</b>	Off-Street Parking	OR-1	N
<b>Surrounding Properties</b>			
<b>North</b>	Outer Loop		
<b>South</b>	Residential single Family	R-4	N
<b>East</b>	Residential Multi-Family	R-7	N
<b>West</b>	Commercial	C-1	N

## PREVIOUS CASES ON SITE

- 9699** A Revised Detailed District Development Plan and landscape waiver to allow 47 off-street parking spaces to serve the existing Texas Roadhouse. This request was approved by DRC on November 7, 2007.

## INTERESTED PARTY COMMENTS

Staff did received one phone call concerning the proposal. The person just wanted to know what was going.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS  
FOR CONDITIONAL USE PERMITS**

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan. Lighting plan has not been designed, but will be Land Development Code compliant. Landscape waivers will be requested.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The subject site is located in an area that abuts a residential neighborhood. This proposal will be compatible with the use to the east with respect to intensity, traffic, noise, drainage, lighting and appearance. Landscaping will be planted that will be code compliant.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The proposal has been reviewed by Public Works and MSD and both have approved the plan. The Okolona Fire Protection District did not comment on the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested? There are 6 requirements and 5 items will be met. Item C. will need to be modified.

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking. **OR-1 requires a 15 feet front yard. The proposed off-street parking will be 6 feet from the front property line. The modification will allow the parking to line up along Old Outer Loop.**

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for traffic engineering prior to the public

hearing on the Conditional Use Permit.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (North, South, East Property Lines)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since overall more landscaping will be provided than required by the Land Development Code.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the additional parking will allow patrons to park near the restaurant and not on neighboring residential streets. The reduction in landscape buffer areas will allow parking to be maximized.

- (d) Either:

**(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR**

**(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.**

STAFF: The applicant will incorporate more tree canopy and vehicle use areas than required by the Land Development Code.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (Zoning Line/West Property Line)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since the Conditional Use Permit site is simply overflow parking that will be landscaped to meet the Land Development Code.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since there is simply a zoning line between the parking areas.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the parking area would be greatly reduced.

#### **TECHNICAL REVIEW**

There are no outstanding technical review items.

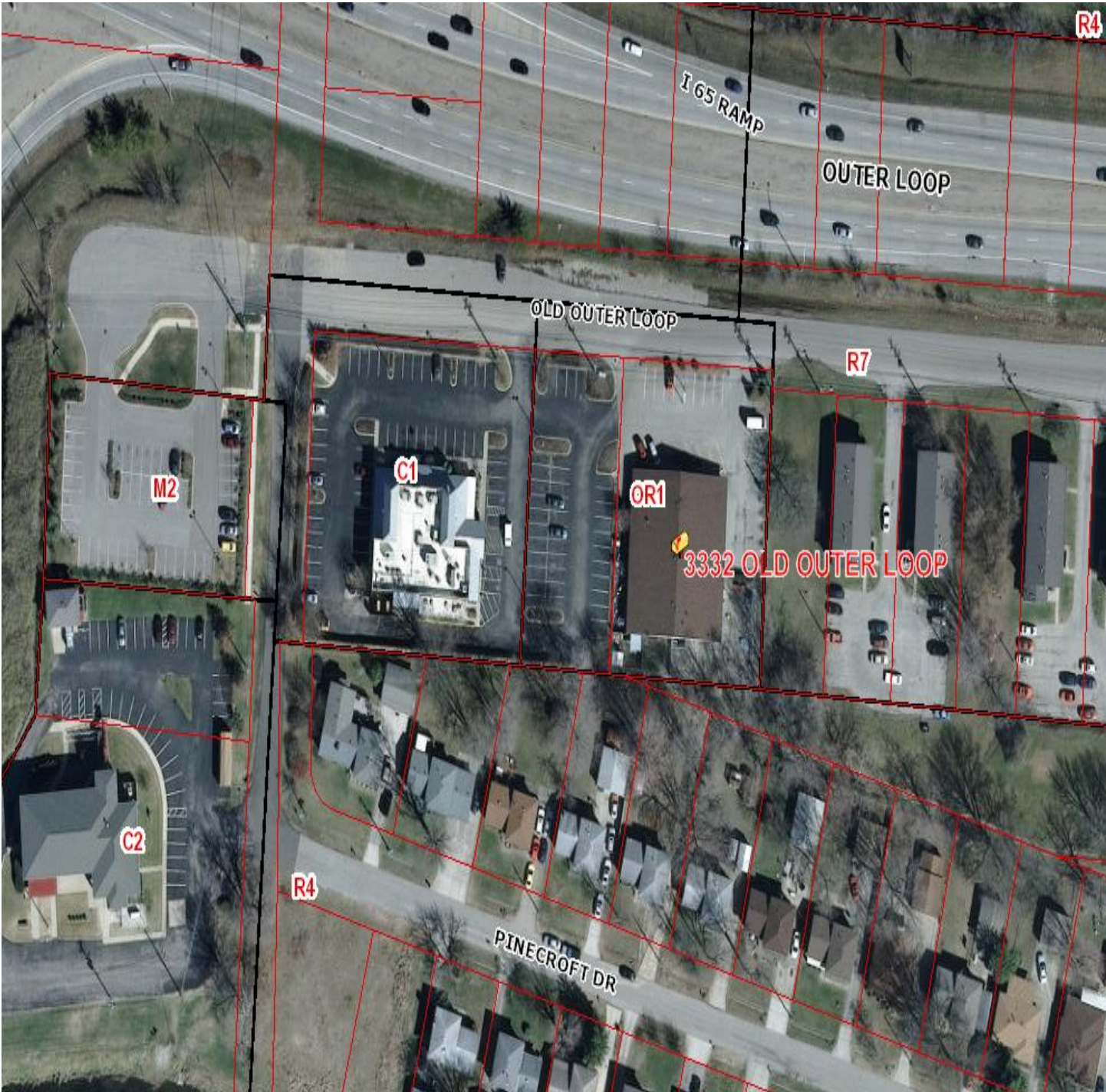
#### **STAFF CONCLUSIONS**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, BOZA must determine if the proposal meets the standards for granting the Conditional Use Permit as established in the LDC.

#### Attachments

1. Zoning Map
2. Aerial Map
3. Applicant's Justification Statement
4. Neighborhood meeting





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**Memorandum**

December 23, 2015

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To	Louisville Metro Planning & Design Services Staff 444 South 5 <sup>th</sup> Street, Suite 300 Louisville, KY 40202	Project	Texas Roadhouse Louisville, KY EAST PARKING ADDITION
		Project #	20150706.1
		From	Marisa Kolman
		Re	Texas Roadhouse Parking Expansion Narrative

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On behalf of our client, Texas Roadhouse, please accept this memorandum as our narrative statement required as part of the submittal for the conditional use permit and landscape waiver application process. Texas Roadhouse is proposing to add parking to service their existing location at 3322 Old Outer Loop. Due to the site zoning designation being OR-1, off-street parking is not a permitted use. A conditional use permit is required to permit the stand alone parking lot to serve the existing Texas Roadhouse.

The subject site is currently occupied by a daycare facility. Texas Roadhouse purchased this 0.62 site, and plans to demolish the current building and infrastructure to construct an additional parking area that would allow for 58 parking spaces. Along with pavement, grading and striping of the area, appropriate site lighting and landscaping are being proposed. Due to the existing site conditions and feasibility to allow for appropriate vehicular circulation within the parking area, landscape waivers to reduce required buffer yard widths will be necessary for the project as proposed in the enclosed site and landscape plans.

The following waivers from the landscape code are being requested:

- Waiver to reduce the required LBA along the south property line from 25 feet to 6.9 feet.
- Waiver to reduce the required LBA along the east property line from 25 feet to 20 feet.
- Waiver to reduce the required VUA along the north property line from 10 feet to 4.4 feet.

Currently there is no method of screening between the existing daycare and the adjacent properties. The waivers are to reduce the required yard widths, but the required landscape materials will be installed in order to completely screen adjacent property from the parking area. Screening materials include the 8 foot hedge screen along south and east property lines as well as a combination of trees as required by code. The north yard VUA width is continuing what currently exists for the restaurant parcel, the required 3 foot shrub row will be continued as well. Overall, the proposed landscape materials will improve the aesthetics of the existing site conditions while providing adequate screening measures beyond what exists at the site today.

In addition, a 37% tree canopy coverage is proposed while only a 20% tree canopy is required by code, and 2,382 SF of interior VUA landscape area is proposed while only 1,635 SF is required by code. In terms of additional design measures, the proposed landscaping for the site is exceeding code by double the minimum requirements.

Both staff and Texas Roadhouse operations have commented on the lack of parking becoming an issue in this area. Due to the success of the restaurant, customers are parking on the residential streets adding congestion to the neighborhood. The proposed parking lot layout is designed to maximum the number of parking stalls on site in order to alleviate this street congestion, but while providing adequate screening and improving overall aesthetics of the site.

Staff provided pre-application comments dated November 12, 2015 which we believe to have been addressed and depicted on the enclosed Conditional Use Permit Plan.

Should you have any questions or need additional information, please do not hesitate to contact myself at 224-310-5068 or via email at [mkolman@greenbergfarrow.com](mailto:mkolman@greenbergfarrow.com). Thank you for your consideration.

15CUP1042



**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

Currently there is no method of screening between the existing daycare and the adjacent properties. The waivers are to reduce the required yard widths, but the required landscape materials will be installed in order to completely screen adjacent property from the parking area. Screening materials include the 8 foot hedge screen along south and east property lines as well as a combination of trees as required by code. The north yard VUA width is continuing what currently exists for the restaurant parcel, the required 3 foot shrub row will be continued as well. Overall, the proposed landscape materials will improve the aesthetics of the existing site conditions while providing adequate screening measures beyond what exists at the site today.

**2. Will the waiver violate the Comprehensive Plan?**

The Comprehensive Plan depicts the existing Texas Roadhouse site and adjacent daycare parcel as commercial land uses. The waivers will not violate the Comprehensive Plan as required screening methods are being installed to address the different adjacent land uses.

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**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

Due to the success of the restaurant, they have a lack of parking issue resulting in customers parking on the residential streets adding congestion. The proposed parking lot layout is designed to maximum the number of parking stalls on site and alleviates street congestion for the neighboring residents. The yard widths being proposed are the maximum widths possible in order to achieve an adequate addition of parking stalls to serve the restaurant.

**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

The applicant is proposing a 37% tree canopy coverage while only 20% tree canopy is required by code, as well as a proposed 2,382 SF of interior VUA landscape area while only 1,635 SF is required by code. In terms of additional design measures, the proposed landscaping for the site is exceeding code by double the minimum requirements. If waivers were not approved to reduce the yard widths, onsite parking would not be maximized to its fullest benefit, resulting in the continuation of the vehicular congestion problem on neighboring streets.

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**Developer's Neighborhood Meeting**

***Meeting Date and Time:***

December 22, 2015 at 6 pm to 7 pm

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**Developer's Name:**

GreenbergFarrow (on behalf of Texas Roadhouse restaurant)

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**Location of Meeting:**

The UFCW 227 Louisville Home Office at 3330 Pinecroft Drive, Louisville, KY

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**Description of Proposal:**

Proposed parking lot expansion to service the existing Texas Roadhouse restaurant.

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**Subject Site Location:**

3332 Old Outer Loop, Louisville, KY 40219

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## Memorandum

December 23, 2015

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To	Louisville Metro Planning & Design Services Staff 444 South 5 <sup>th</sup> Street, Suite 300 Louisville, KY 40202	Project	Texas Roadhouse Louisville, KY EAST PARKING ADDITION
		Project #	20150706.1
		From	Marisa Kolman
		Re	Neighborhood Meeting Summary

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On behalf of our client, Texas Roadhouse, please accept this memorandum as our meeting summary required as part of the Neighborhood Meeting process for the conditional use permit. The Neighborhood Meeting was scheduled for Tuesday, December 22, 2015 from 6pm – 7pm. Certified mailings were sent to the list of property owners provided by City staff meeting the 10 day notice requirement. The meeting was held at the Local UFCW 227 at 3330 Pinecroft Drive in Louisville. There was no one from the public who attended the meeting, therefore an attendance sign in sheet was not included. Additionally, there are no anticipated issues or comments from the public.

Should you have any questions or need additional information, please do not hesitate to contact myself at 224-310-5068 or via email at [mkolman@greenbergfarrow.com](mailto:mkolman@greenbergfarrow.com). Thank you for your consideration.

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## Crumbie, Jon

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**From:** Sma0 <sma0@aol.com>  
**Sent:** Thursday, February 11, 2016 7:51 PM  
**To:** sean.renfroe@texasroadhouse.com  
**Cc:** Crumbie, Jon; larry@abramslaw.us  
**Subject:** Conditional Use Permit Application: Case No. 15CUP1042: Texas Roadhouse, 3332 Old Outer Loop

Dear Mr. Renfroe:

Thank you for taking the time to speak with me this morning and again this afternoon. As explained, I am the fiduciary for the E. V. Dulworth Trust A fbo Virginia O. Dulworth which owns the property on the Old Outer Loop between the subject property and Briarcliff Road. Our property shares a property line with 3332 Old Outer Loop. Currently we have fifty-six residential apartment units on this site with the following addresses: 3336, 3340, 3348, 3352, 3360, and 3364 Old Outer Loop and 7900 Briarcliff Road. Our first units were built in 1971, preceding the establishment of the Texas Roadhouse. We welcomed the addition of a good restaurant in the neighborhood and continue to do so.

Over the years, however, the parking situation has become a problem. We appreciate your acquisition of the property to the west of the Roadhouse for additional parking several years ago, and now applaud your acquisition of the existing day care property to the east at 3332 Old Outer Loop. Parking for your large customer base has been a challenge both for you and for us as your neighbors. We would hope that the Board of Zoning Adjustment would grant your application for a conditional use permit to add the much needed 67 parking spaces.

As we discussed, our issues with the Roadhouse have come from foot traffic which uses the back of our property and its parking lots as a trail to the Roadhouse. This trail has been unfettered as the fences which run behind both the roadhouse and the day care property have openings which allow for this particular traffic pattern and no north-south barrier to prevent it from being a popular route from the east (Briarcliff Road).

This morning in our conversation I proposed that Texas Roadhouse agree to construct a fence which would deter this foot traffic. Specifically, Texas Roadhouse would construct a wood fence on the south property line of 3332 Old Outer Loop which would be of the same material and height as the existing fence behind the current restaurant and parking. It would attach to the existing fence such that there would be no opening for pedestrians to access your property from the south side of the fence. In addition, Texas Roadhouse would continue this fence from the southeast corner of 3332 Old Outer Loop north toward the road as far as zoning regulations will allow. This "leg" of the fence is particularly important as it the deterrent to east-west foot traffic along our southern property lines, and it is a barrier to beer bottles and trash that are either blown or tossed onto our property from the subject property when it is used by TR customers.

It is my understanding that Texas Roadhouse has agreed to these fencing requests as I have detailed. If this is the case, please acknowledge the same to me by return email.

Again, I thank you for your quick and timely attention to this matter. Please feel free to contact me if you have any questions.

Virginia Dulworth Albert, Trustee  
712 Brookhill Drive  
Lexington, KY 40502-3313  
859-227-0299

**Crumbie, Jon**

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**From:** Sma0 <sma0@aol.com>  
**Sent:** Friday, February 12, 2016 2:29 PM  
**To:** sean.renfroe@texasroadhouse.com  
**Cc:** larry@abramslaw.us; Crumbie, Jon  
**Subject:** 3332 Old Outer Loop: Case Number 15CUP1042'

Dear Mr. Renfroe:

Thank you for your follow-up phone call this afternoon. I have checked my email, and my correspondence of last evening was sent to your correct address. You must be right. I have been relegated to spam. I do understand the limitations of regulations on the north-south fence. It is my understanding that Texas Roadhouse must stop the fence 15 feet from the road. Additionally, there is a limitation on how far an eight foot fence can be constructed on that eastern property line of 3332 Old Outer Loop. As we discussed, it would be my hope that the eight foot fence would be run north as far as allowed and stepped down to a four foot fence no sooner than is required by local ordinance.

Again, thank you for the call and letting me know that the February 15 meeting had been postponed till the 22nd or 29th. I await your email confirming our understandings.

Virginia Dulworth Albert  
712 Brookhill Drive  
Lexington, KY 40502-3313  
859-227-0299



## 15CUP1042

### **Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.