



## MEMORANDUM

**To:** Mayor and City Council

**From:** City Attorney

**Date:** December 14, 2021

**Reference:** Correction ordinance to ordinance number 91500-A-765 (Correction)

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### Introduction:

Staff was recently contacted by a potential purchaser of the property (Smoothie King, Donut City and Dry Cleaners) at 205 N. Denton Tap Road. Their attorney had some concerns related to the allowable uses on the property after reviewing the ordinance that was originally passed by Council in April 2021. The language of the ordinance was being interpreted to limit future uses to only allow two restaurants with specific hours of operation; whereas the intent was to allow two restaurant uses with specific hours **in addition to all other uses allowed within the base Commercial District Zoning**. In order to alleviate any future concerns regarding future non-restaurant uses we have corrected the language in Section 2 of the original ordinance to read (changes below):

**SECTION 2.** That the Property ~~will~~**may** be used, developed, and maintained for Commercial uses ("**Baseline Uses**") and as an 875 square foot restaurant and a 1,400 square foot restaurant with a drive thru window, as defined and provided in the Code of Ordinances, as set forth in the Detail Site Plan, Exhibit B ("**Additional Uses**"), subject to the following development regulations for the approved Additional Uses on the site:

A. ~~Allowing~~ Two restaurant uses ~~(Donut City and proposed Smoothie King)~~ **are allowed** on the Property.

B. The speaker on the menu board **for the drive thru** shall face to the south and shall be shielded to direct the sound away from the residential properties to the west. The sound from the speaker **for the drive thru** ~~of the~~ menu board shall not exceed 60 decibels as measured at the west property line.

C. Hours of operation for the ~~respective uses~~ **Additional Uses**, as **permitted herein** shall not exceed the following:

South restaurant – 10 am to 8 pm on Sunday, 7 am to 9 pm Monday – Friday  
and 8 am to 9 pm on Saturday.

North restaurant – 6 am to 12 pm. Tuesday – Sunday (closed Monday

...

**Analysis:**

The proposed correction ordinance does not alter, redistrict or expand any provisions of the original ordinance but merely clarifies the Council's revised Planned Development regulations. The current owner is agreeable to the changes.

**Legal Review:**

Agenda item was reviewed by Robert Hager on December 7, 2021

**Fiscal Impact:**

None

**Recommendation:**

We recommend passage of the correction ordinance.

**Attachments:**

Correction Ordinance

Current Ordinance