

ORDINANCE NO. 5431

AN ORDINANCE OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY, BY GRANTING A CONDITIONAL USE PERMIT ON LAND DESCRIBED IN EXHIBIT "A", BEING APPROXIMATELY 0.4683 ACRES, AND BEING LEGALLY DESCRIBED AS LOT 1 AND LOT 2, BLOCK 38, ORIGINAL TOWN PLAT, DENISON, TEXAS, AND BEING IDENTIFIED AS GRAYSON COUNTY APPRAISAL DISTRICT PROPERTY ID NOS. 143046 AND 143047, DENISON, TEXAS, AND COMMONLY REFERRED TO AS 221 N. AUSTIN AVE, DENISON, TEXAS, TO ALLOW BAR AND MOBILE FOOD UNIT AS USES IN ITS ZONING CLASSIFICATION OF LOCAL RETAIL DISTRICT WITH COMMERCIAL HISTORIC OVERLAY AND AUSTIN AVENUE OVERLAY; PROVIDING CONDITIONS FOR THE CONDITIONAL USE PERMIT TO REMAIN EFFECTIVE; PROVIDING THAT SUCH TRACT OF LAND SHALL BE USED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPREHENSIVE ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY; PROVIDING A PENALTY OF UP TO \$2,000 PER VIOLATION; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS ADOPTED WAS LAWFULLY HELD IN ACCORDANCE WITH THE TEXAS OPEN MEETINGS ACT; PROVIDING NO VESTED INTEREST/REPEAL, UNLAWFUL USE OF PROPERTY, REPEALING, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Denison, Texas (hereinafter referred to as "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the "City Council") adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City, which governs the use and development of land in the City (the "Zoning Ordinance"); and

WHEREAS, Chapman, Inc. ("Owner") owns Lot 1 and Lot 2, Block 38, Original Town Plat, Denison, Grayson County, Texas, identified as Grayson County Appraisal District Property ID Nos. 143046 and 143047, Denison, Texas, and commonly known as 221 N. Austin Avenue, Denison, Texas, and as more particularly described and depicted in **Exhibit "A"**, attached and incorporated as if fully set forth herein (the "Property"), and has made this application under the provisions of the Zoning Ordinance of the City of Denison for a conditional use permit to allow a Bar and Mobile Food Unit as uses on the Property, which has a zoning district classification of Local Retail District with Commercial Historic Overlay and Austin Avenue Overlay, as depicted

by Site Plan in **Exhibit “B”**; and

WHEREAS, Owner has identified Delish Hospitality Inc, d/b/a Slush Premium Daiquiris, as lessor of the Property that will be utilized for the Bar and Mobile Food Unit uses; and

WHEREAS, Owner has designated Heather LaRosa, of Slush Premium Daiquiris, to act in the capacity of Owner as agent for submittal, processing, representation, and/or presentation of the application, and as the principal contact person for responding to all requests for information; and

WHEREAS, the Comprehensive Zoning Ordinance of the City allows for Bar and Mobile Food Unit uses in the Local Retail District with the Commercial Historic Overlay and Austin Avenue Overlay with the grant of a Conditional Use Permit; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before the City Council at which the City Council considered the requested zoning change, the recommendation of the Planning and Zoning Commission, and among other things, the character of the land and its suitability for particular uses, and compatibility with surrounding uses, with a view of encouraging the most appropriate use of land in the City, and the City Council does hereby find that the rezoning approved hereby accomplishes such objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein, are found to be true, and are adopted a legislative findings of the City Council.

SECTION 2. Conditional Use Permit Approved. Chapter 28 of the Code of Ordinances of the City, the same being the City’s Comprehensive Zoning Ordinance, is hereby amended to reflect the Conditional Use Permit (“CUP”) authorizing Bar and Mobile Food Unit as uses approved in the Local Retail District with Commercial Historic Overlay and Austin Avenue Overlay for the Property, subject to all Applicable Regulations (defined below) and to the following conditions:

A. Uses.

The following use of Bar shall be permitted in accordance with the conditions of the CUP with such use being defined as:

Bar: An establishment primarily devoted (seventy-five (75) percent) to the serving of alcoholic beverages for on-premises consumption and in which the service of food is only incidental to

the consumption of such beverages.

The following use of Mobile Food Unit shall be permitted in accordance with the conditions of the CUP with such use being defined as:

Mobile food unit: A mobile food unit shall be defined herein as a unit designed to be readily movable and from which food or beverages are prepared and offered for sale.

- B. Applicable Regulations. In addition to the specific requirements set forth in this Ordinance, this CUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Comprehensive Zoning Ordinance and those regulations governing the Local Retail District, Austin Avenue Overlay District and the Commercial Historic Overlay District (“Applicable Regulations”). The CUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Comprehensive Zoning Ordinance.
- C. The Mobile Food Unit use shall be limited to the area as depicted as Option “#2” in **Exhibit “B”**.
- D. Acquisition and compliance with all state and local permits.
- E. There shall be no parking spaces required in addition to the existing six (6) parking spaces, located in the parking lot, drive-thru lane, and escape lane, as described and depicted in **Exhibit “B”**.
- F. Property is not a “designated food truck park” for purposes of applying relevant regulations located within the City’s Code of Ordinances.

SECTION 3. Failure to Comply/Expiration/Transferable. All terms of this CUP shall be complied with prior to issuance of a certificate of occupancy. This CUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the applicable regulations, as they exist or may be amended; or
- B. Any improvements, the Property, uses or structures regulated by this CUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate conditional use permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the

effective date of this Ordinance; or

- E. A use for which this CUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this CUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This CUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Section 28.9 "Nonconforming Uses and Structures".

SECTION 4. Zoning Map and Code Requirements. The Zoning Map of the City, adopted by Section 28.3 of the Code of Ordinances, and on file in the office of the Director of Development Services is hereby amended to reflect the conditional use permit. The Property shall be developed and used in accordance with all applicable City, state, and federal laws, as they exist or may be in the future amended, including but not limited to building codes, fire codes, and all accessibility standards as required by law.

SECTION 5. No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed or amended by the City Council in the manner provided for by law.

SECTION 6. Unlawful Use of Property. It shall be unlawful for any person, firm, association, entity or corporation to make use of the Property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person, firm, association, entity, or corporation to construct on said Property and building that is not in conformity with the permissible uses under the City's Zoning Ordinance and this Ordinance.

SECTION 7. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, phrase or word thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases and words be declared unconstitutional or invalid.

SECTION 8. Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 9. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 10. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 11. Open Meeting. That it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Section 551.041, Texas Government Code.

PASSED AND APPROVED BY THE CITY COUNCIL ON THE 20th DAY OF JANUARY 2026.



ROBERT CRAWLEY, MAYOR

ATTEST:



Christine Wallentine, City Clerk



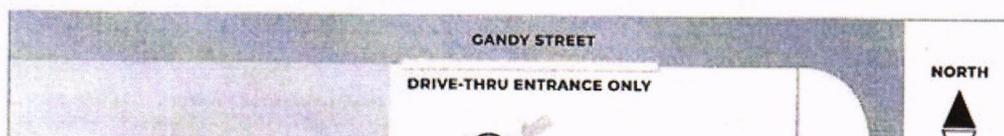
EXHIBIT "A"

Property Description and Depiction

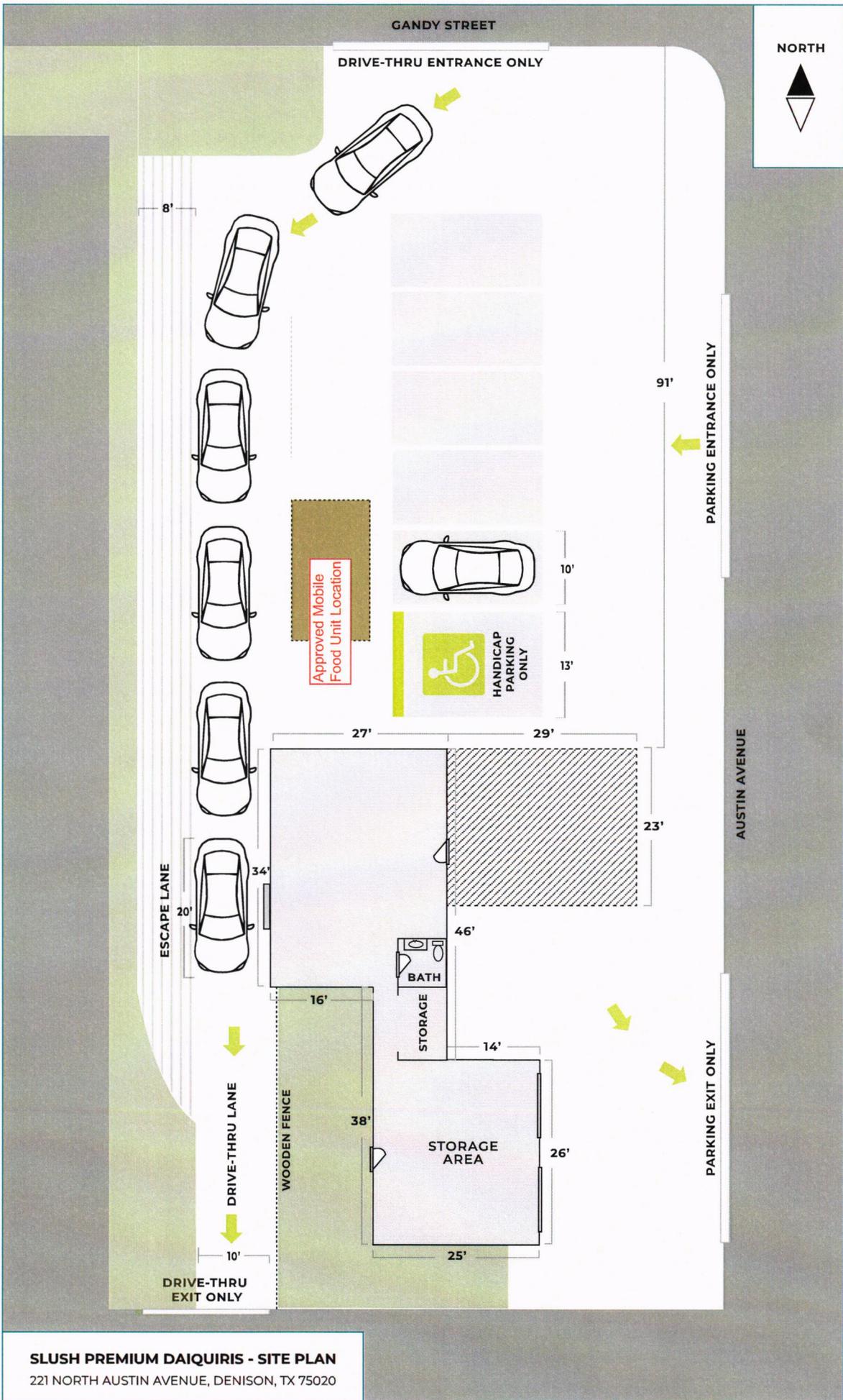
Being Lot 1 and Lot 2, Block 38, Original Town Plat, Denison, Grayson County, Texas, and commonly known as 221 N. Austin Avenue, Denison, Texas.



EXHIBIT "B"



Site Plan



SLUSH PREMIUM DAIQUIRIS - SITE PLAN

221 NORTH AUSTIN AVENUE, DENISON, TX 75020