



**CITY OF COLLEYVILLE
PLANNING AND ZONING
COMMISSION WORKSESSION
AGENDA**

100 Main Street, Colleyville, Texas, 76034

MONDAY, MAY 22, 2023

Executive Conference Room - Third Floor
6:15 p.m.

1. CALL TO ORDER

2. PRESENTATION AND DISCUSSION

- 2a** Consideration of a Special Use Permit for a reduction in parking for the property being Lot 1, Block 1, of the Corley Subdivision, located at 5409 Colleyville Boulevard

3. ADJOURNMENT

I hereby certify this agenda was posted on City Hall bulletin boards *Wednesday, May 17, 2023* by 5:00 p.m.

Jacquelyn Reyff
Planning Manager

A quorum of any Colleyville board, commission, or committee may be present at this meeting. Any matter on this agenda may, at the discretion of the governing body, be opened for public comment and discussion.

If you plan to attend this public meeting and have a disability that requires special accommodations, please advise the City Secretary at least 48 hours in advance at 817.503.1133, and reasonable accommodations will be made to assist you.



CITY OF COLLEYVILLE PLANNING AND ZONING COMMISSION WORKSESSION BRIEFING

Agenda Number 2a

Agenda Date 5/22/2023

Number

Type Presentation and Discussion

Department Community Development

Title

Consideration of a Special Use Permit for a reduction in parking for the property being Lot 1, Block 1, of the Corley Subdivision, located at 5409 Colleyville Boulevard

Explanation

The applicant is requesting a Special Use Permit (SUP) to allow for a reduction in parking at 5409 Colleyville Boulevard to allow for a new restaurant use. The subject property is zoned CC-2 and generally located on the east side of Colleyville Boulevard, near the intersection of Church Street. The subject property is a platted lot and currently shares the lot with an auto repair business. A reduction in parking is allowed in the CC-2 Shopping Center district with the approval of an SUP. The applicant has provided documentation of a shared parking agreement with adjacent properties, to include Truist Bank, for the use of some of their parking.

Recommendation

Attachments

1. Aerial
2. Zoning
3. FutureLandUse
4. Pictometry
5. StreetView Photo
6. Parking Agreement 1
7. Parking Agreement 2

Aerial Map



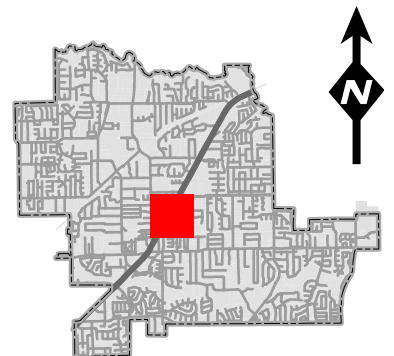
ZC23-012

5409 Colleyville Blvd

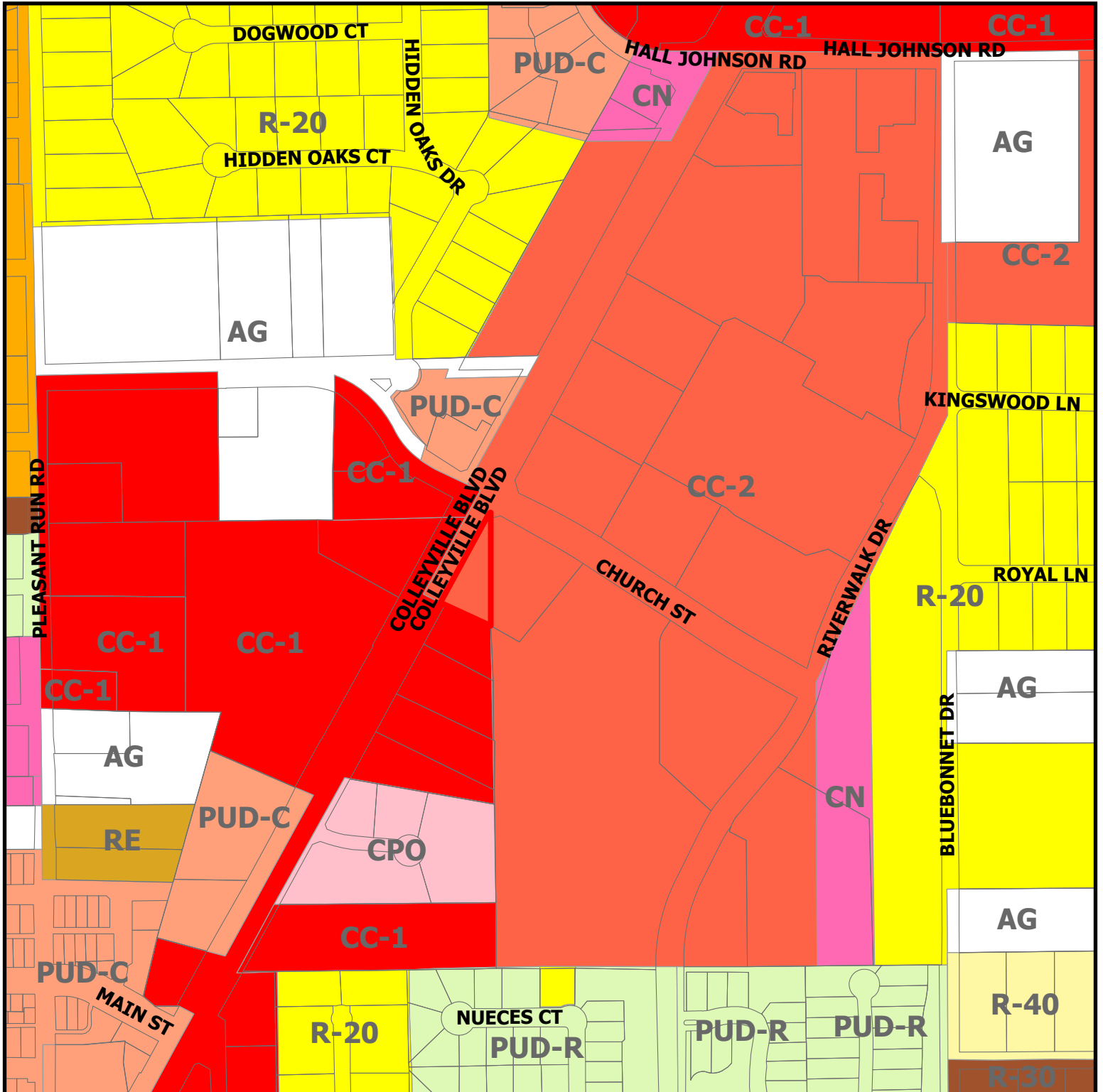
DISCLAIMER:

This map and information contained in it were developed exclusively for use by the City of Colleyville. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of Colleyville, its officials or employees for any discrepancies, errors, or variances which may exist.

 Subject Property



Zoning Map

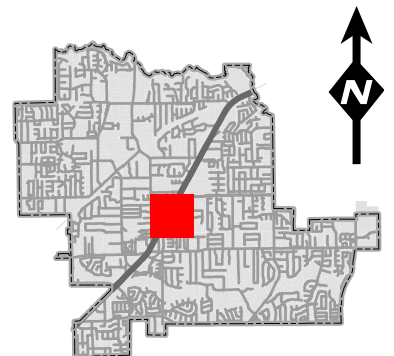


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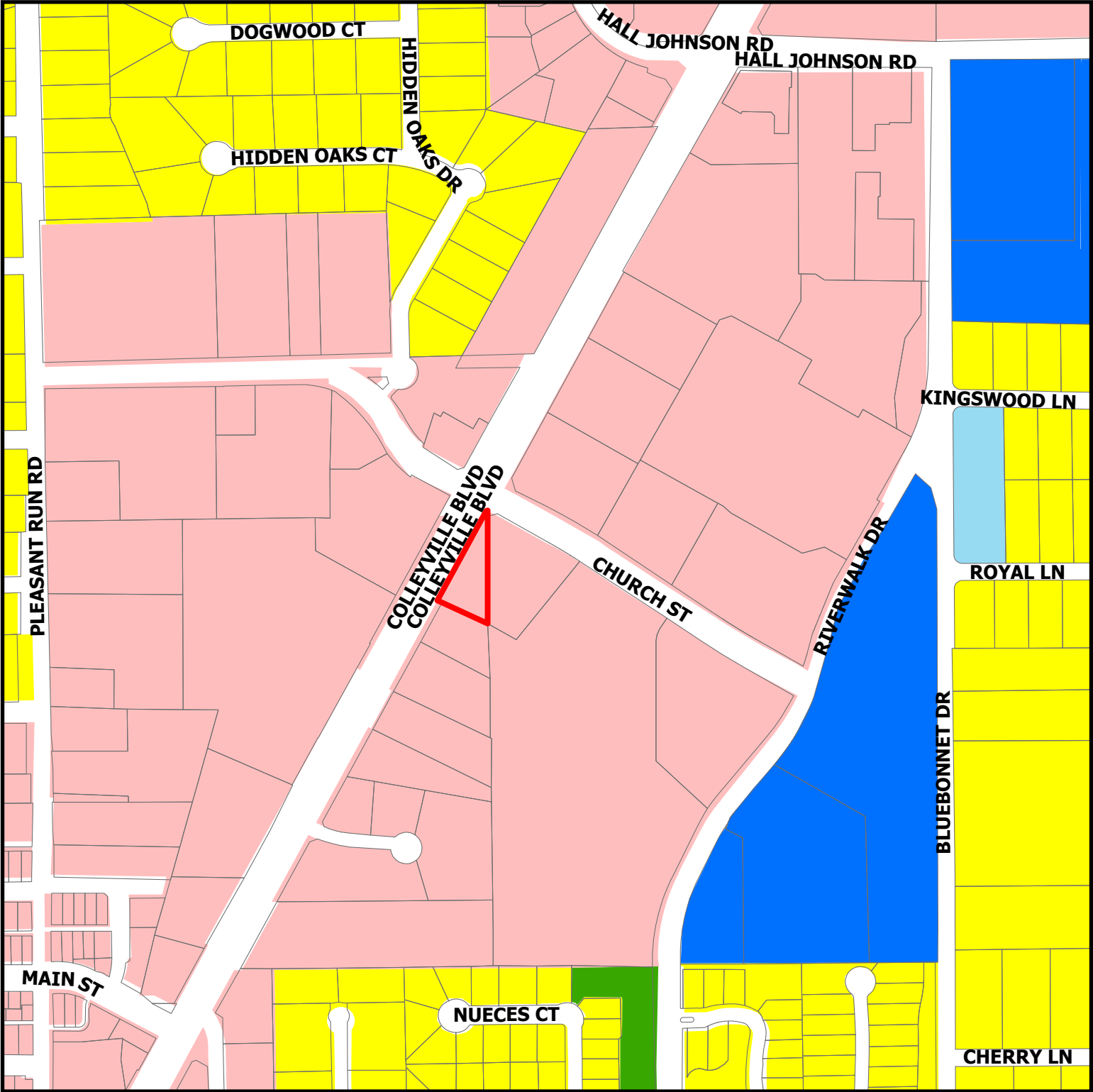
5409 Colleyville Blvd

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 Subject Property



Future Land Use Map

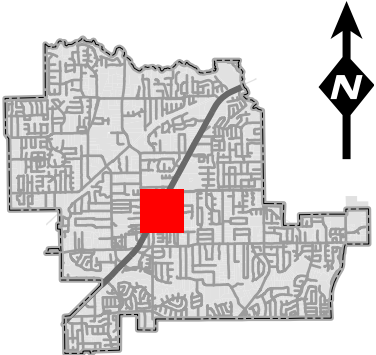


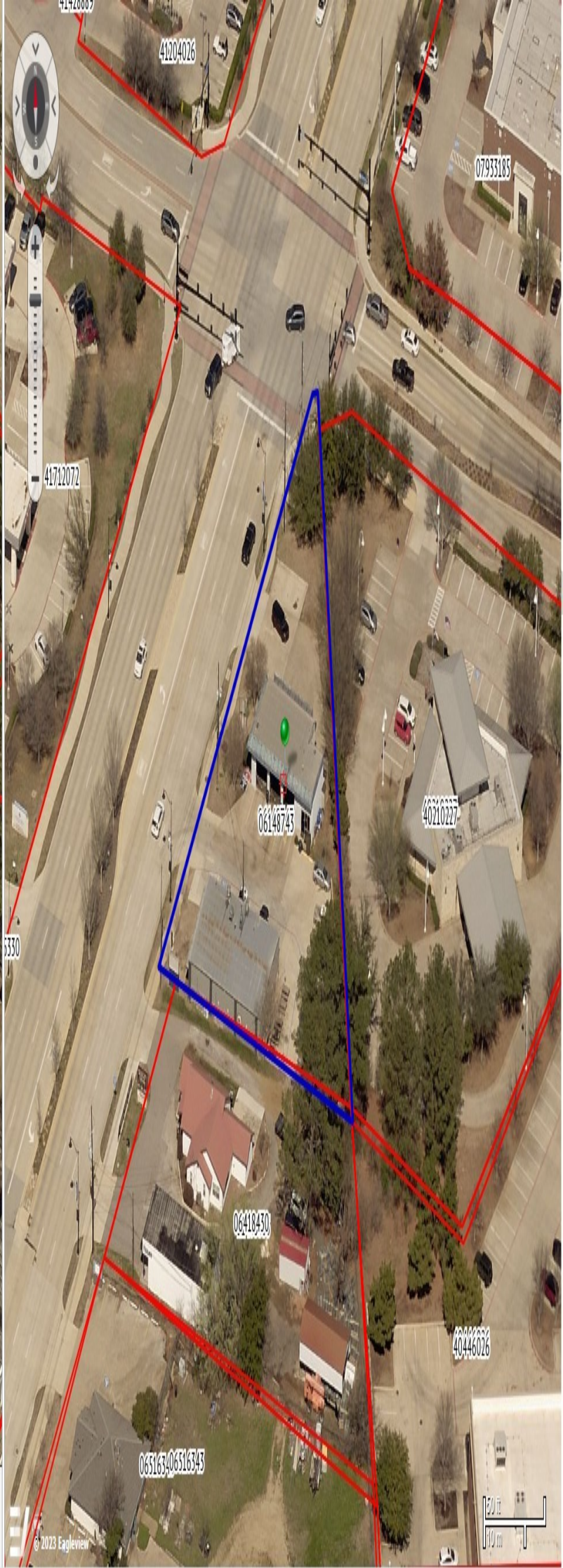
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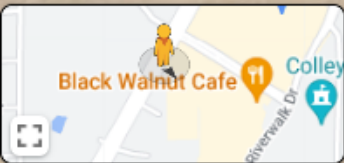
5409 Colleyville Blvd

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- | | |
|---------------------------|-------------------|
| Residential | Open Space; Parks |
| Institutional | Water Body |
| Colleyville Blvd Corridor | Subject Property |







Address: 1201 Church Street
Colleyville, TX 76034
Property ID #: 100838

PARKING LICENSE

THIS PARKING LICENSE (this "License"), dated as of the Effective Date (as hereinafter defined) between **TRUIST BANK**, a North Carolina banking corporation (the "Licensor"), and **CAJUN BISTRO CAFÉ & MARKET**, a Texas limited liability corporation (the "Licensee"), provides:

RECITALS

WHEREAS, Licensor is the owner of certain property located at 1201 Church Street, Colleyville, Texas (the "Property"), as shown in **Exhibit A** attached hereto and incorporated herein by reference;

WHEREAS, Licensee is the owner of certain property located at 5409 Colleyville Boulevard, Colleyville, Texas ("Licensee's Property"), as shown in **Exhibit A**; and

WHEREAS, Licensee desires to use a portion of Licensee's parking spaces located on the Property and a certain portion of the Property for access to and from the parking spaces for the benefit of Licensee's Property, and Licensor has agreed to license a portion of the parking spaces and the access area, all as more particularly described below.

THAT for and in consideration of the mutual promises and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensee and Licensor hereby agree as follows:

1. **Recitals.** The Recitals to this License are hereby incorporated by reference.
2. **License.** Licensor hereby grants to Licensee the revocable, non-exclusive right and license to use up to nine (9) unreserved parking spaces located in the parking lot of the Property, which parking spaces are depicted on **Exhibit B**, attached hereto and incorporated herein by reference (the "Parking Spaces"), subject to the terms and conditions herein provided. In addition, Licensor hereby grants to Licensee the revocable, non-exclusive right and license to use the area located between the Property and Licensee's Property, where Licensee previously installed steps (the "Steps" for the purpose of ingress and egress to the Parking Spaces, which area is depicted on **Exhibit C** attached hereto and incorporated herein by reference (the "Steps Improvement Area"), subject to the terms and conditions herein provided. The Parking Spaces and Steps Improvement Area are collectively herein referred to as the "License Area." The License Area is for use by Licensee and its employees, customers and invitees seven (7) days a week, from 6:00 pm to 12 am. (local time), for the purposes set forth in this License.
3. **Term.** The term (the "Term") of this License shall be for one (1) year commencing on March 20, 2023 (the "Commencement Date") and terminating on March 31, 2024 (the "Expiration Date"), unless earlier terminated or extended as provided herein. The Term shall automatically renew for consecutive one (1) year terms (each a "Renewal Term") unless Licensor or Licensee elects not to renew with written notice to the other party at least sixty (60) days prior the expiration of the then current Term. This License may be terminated by Licensor or Licensee, with or without cause, at any time upon sixty (60) days' prior written notice to the other party and in accordance with the terms and conditions of this License. Upon the termination of this License, and the refunding by Licensor to Licensee of the portion of the License Fee prorated through the date of termination, neither party shall have any further rights or obligations hereunder (except as specifically provided herein) after the termination of this License.

4. Payments.

(a) License Fee. Licensee shall pay to Licensor an annual license fee of \$1,200.00 (the "License Fee") for use of the License Area. The License Fee shall be due and payable in all events, in advance, without notice, deduction, abatement or offset of any amount or for any reason whatsoever, delivered to Licensor simultaneously with Licensee's execution of this License, and thereafter delivered no later than ten (10) days prior to the commencement of any Renewal Term. Payments shall be delivered to Licensor at the address provided in Section 24 below or such other address as Licensor may direct in writing. In the event the License is terminated as provided herein and Licensee is not in default, the License Fee shall be prorated through the date of termination. In the event for any reason whatsoever, any payment of the License Fee is not received by Licensor within five (5) calendar days after the due date thereof, a late fee of five (5%) percent of such payment shall be assessed and payable to Licensor. Licensee's obligation to pay the License Fee for the period prior to the effective date of any termination of this License shall survive the termination of this License. Upon the execution of this License and as an express condition of the effectiveness hereof, Licensor shall provide to Licensee a duly executed Form W-9, in customary form.

(b) Sales and Use Tax. In the event any federal, state or local law requires the payment of a tax or assessment based on the amount of the License Fee to be paid by the Licensee hereunder, or in any other manner subjecting the License Fee to any other form of tax by whatever name it may be designated, such tax shall be the obligation of and shall be paid by the Licensee to the licensor upon receipt of notice from the Licensor that such obligation is due.

5. Use and Occupancy. Licensee shall have the revocable, non-exclusive right and license to use the Parking Spaces for the purpose of parking passenger vehicles such as an automobiles, vans, and light pick-up trucks, and for no other purpose. Licensee shall have the revocable, non-exclusive right and license to use the Steps Improvement Area for the purpose of ingress and egress to the Parking Spaces. Licensee shall not: (i) be permitted to park any automobiles overnight in the Parking Spaces; (ii) use the License Area for any illegal or improper purposes; (iii) use the License Area in violation of any policies of insurance now or hereafter written on the Property in which the License Area is located or which will increase the rate of premium thereof; or (iv) permit any noise, disturbance or nuisance whatsoever in the License Area detrimental to same or annoying to Licensor or the adjoining property owners. If (x) Licensee uses the License Area in contravention of the terms and provisions of this License, (y) Licensee parks in any area on the Property outside of the Parking Spaces at any time, or (z) Licensee breaches the terms of this License, Licensor shall have the right, in its sole discretion, to have any and all vehicles or other personal property located in the License Area or on the Property removed, including without limitation by way of towing, at Licensee's sole cost, risk and expense.

6. Acceptance. Licensee accepts the License Area in its "as is, where is" condition and acknowledges that Licensor has not made and does not make any representations or warranties regarding the condition of the License Area, the parking lot, or their suitability for the permitted purpose hereunder. Further, Licensee acknowledges that (i) no obligation as to the repairing, adding to, or improving said License Area or parking lot has been assumed by Licensor; and (ii) no alteration, improvement or renovation shall be made by Licensee to the License Area.

7. Permitting, Maintenance and Removal.

i. Parking Spaces. Licensor, at its expense, shall maintain and keep in good, sound and clean condition the Parking Spaces and the parking lot during the Term, and will not suffer or permit any strip or waste of the Parking Spaces and the parking lot. Maintenance shall include the pick-up and disposition of all trash and debris of any nature from the parking lot area. Any damages committed by Licensee or Licensee's employees, or invitees shall be reported immediately to Licensor, and Licensor shall

provide its own vendor to correct the damage(s) at Licensee's expense.

ii. **Steps Improvement Area.** Licensee, at its expense, shall: (i) cause the Steps to be properly permitted no later than sixty (60) days from the Effective Date of this License; (ii) maintain and keep in good, sound and clean condition the Steps Improvement Area including the Steps during the Term; and (iii) promptly remove the Steps upon termination of this License for any reason, as set forth in Section 14 below.

8. **Signs.** Licensee shall not attach, letter or paint any signs to or upon the License Area without the written consent of Licensor. Licensor, however, reserves the right to attach, letter or paint any sign to or upon the License Area as Licensor sees fit.

9. **Insurance.** Licensee shall obtain and maintain during the term of this License, at its sole cost and expense, a policy of commercial general liability insurance on an "occurrence basis" against claims for personal injury including bodily injury and death and broad form property damage, operations hazards, and contractual liability in limits not less than Two Million and 00/100 Dollars (\$2,000,000.00) inclusive. The policy shall name Licensor as an additional insured and shall provide that it can only be amended or terminated upon thirty (30) days prior written notice to Licensor. Licensee shall deliver to Licensor an original certificate of insurance evidencing such coverage within two (2) business days following execution of this Agreement. All required insurance policies shall contain language that the insurance policy may not be canceled without thirty (30) days prior written notice to Licensor. Licensee shall deliver to Licensor evidence of such insurance upon the execution of this License and provide Licensor with copies of all renewals thereof at least thirty (30) days prior to the termination of the existing policies. All insurance policies shall be issued by companies licensed to do business and in good standing in the State in which the Property is located.

10. **Default.** In the event Licensee shall fail to comply with any term, provision or condition of this License and Licensee does not cure such failure to Licensor's satisfaction within twenty-four (24) hours after notice thereof from Licensor, Licensor shall have the right to immediately terminate this License by providing written notice thereof to Licensee. Upon revocation or termination of this License, Licensee, at its sole cost and expense, shall surrender the License Area to Licensor in good and clean condition and order.

11. **Indemnification.** Licensee shall indemnify, defend and hold Licensor, and its affiliated companies, officers, directors, employees, tenants and agents (the "Indemnified Parties"), harmless from and against any and all claims for liability, costs, claims, losses, injury, death, damages, judgments or expenses (including reasonable attorneys' fees) incurred or suffered by the Indemnified Parties as a result of or in connection with (i) any death, personal injury or property or business damage in, on or about the License Area and the Property, including the building and any improvements located thereon, caused in whole or in part by Licensee, its employees or invitees, (ii) the use of the License Area by Licensee, its employees or invitees, (iii) any default by Licensee under the terms and conditions of this License and (iv) any act or omission of Licensee, its employees or its invitees. This provision shall survive any expiration or termination of this License.

12. **Licensor's Liability.** Licensor shall not be responsible for any defect or change in the condition of the License Area or the Property, or the failure to make any repairs to the License Area or the Property, or for any resulting damage to person or property occurring in the License Area or on the Property, or the acts or omissions of tenants or licensees on the Property. All personal property of Licensee and its invitees in, on or about the License Area and the Property shall be and remain at Licensee's sole risk and Licensor shall not be liable for damage to any such property as a result of theft or misplacement nor for any death, injury, loss or damage to persons or property occurring in the License Area or in, on or near the Property, the building and improvements thereon.

13. Relocation. Licensor reserves the right to relocate all or any portion of the License Area, if necessary, at any time, in connection with Licensor's operations on the Property.

14. Surrender. Upon revocation or termination of this License, Licensee, at its expense, shall surrender possession of the License Area to Licensor in good and clean condition and order. Licensee shall remove the Steps upon revocation or termination of this License, no later than the last day of the Term or within five (5) days of notice of revocation or termination occurring prior to the expiration of the Term. Any personal property remaining in the License Area after any such revocation or termination shall become the personal property of Licensor, who shall be entitled to remove, tow, sell or otherwise dispose of such personal property.

15. Assignment And Sublicense. Licensee shall not assign, sublicense or otherwise transfer its interests in this License.

16. Attorney's Fees and Costs. If either party is in default under this License necessitating the other party to incur attorney's fees to enforce the terms of this License, the party deemed to be at fault in any court action pertaining to a default under this License shall be liable for and pay the prevailing party in such litigation, all reasonable attorneys' fees and costs incurred by the prevailing party including not only those at the trial court level, but all appellate and post judgment proceedings.

17. Assumption of Risk by Licensee. Licensee assumes all risks of any damage to Licensee's property in connection with this License.

18. Entire Agreement. This License and any exhibits attached hereto set forth the entire agreement between the parties hereto with respect to Licensee's right to use the License Area. There are no promises, agreements or understandings, whether oral or written, between the parties regarding such matters other than as set forth in this License. Any amendment or modification to this License shall not be binding upon either party unless such amendment or modification is reduced to writing and signed by both parties. This License does not create a partnership, agency or joint venture relationship between Licensor and Licensee for any purpose.

19. Captions. The captions of the sections of this License are not part of the context of this License and shall be ignored in construing this License. They are intended only as aids in locating various provisions of this License.

20. Severability. Each provision contained in this License shall be independent and severable from all other provisions hereof and the invalidity of any such provision shall in no way affect the enforceability of the other provisions hereof.

21. Governing Law; Venue. This License shall be governed by and construed in accordance with the laws of the jurisdiction in which the Property is located without regard to conflict of laws principles. The venue for any proceeding pertaining to this License shall lie in the County in which the Property is located.

22. Binding Effect. This License shall be binding upon and shall inure to the benefit of Licensor and Licensee, and their respective legal representatives, successors and assigns, if permitted.

23. Notices. All notices and communications under this License required to be in writing shall be signed by a duly authorized representative of the party sending the same and shall be deemed effective when delivered by electronic mail or personally or on the next business day after being sent by a guaranteed

overnight delivery service (such as Federal Express or UPS) or on the third (3rd) day after being sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Licensors: Truist Bank
 Attn: Lease Administration
 101 N. Cherry Street, Suite 710
 Winston-Salem, NC 27101
 Re: Property ID #100838
 Email: RealEstateServices-LeaseAdministration@truist.com

If to Licensee: CAJUN BISTRO CAFÉ & MARKET
 Attn: Sptin Miftari
 5409 Colleyville Blvd,
 Colleyville, TX 76034
 Email: robertmartin0528@gmail.com

Either party may change its address by giving written notice of such change to the other party in the manner provided herein. Until any such written notice is actually received, the most recent address of record shall be deemed to continue in effect for all purposes.

24. No Brokers. Licensors and Licensee represent and warrant to each other that there are no claims for brokerage commissions or finder's fees in connection with the execution of this License. Licensors and Licensee agree to indemnify, defend and hold the other party harmless from and against all liabilities, expenses, fees, commissions and/or costs (including reasonable attorneys' fees) arising from any such claims asserted by anyone claiming by, through or against the indemnifying party.

25. No Partnership. Nothing contained in this License shall be construed as creating a partnership or joint venture between Licensors and Licensee.

26. Authorization. Each party to this License hereby represents that this License has been duly authorized, executed and delivered by all necessary action on behalf of such party, constitutes the valid and binding agreement of such party and is enforceable in accordance with its terms.

27. Waiver of Jury Trial. Licensors and Licensee hereby waive, to the extent permitted by law, the right to trial by jury in any action or proceeding or counterclaim between the parties hereto, or their successors or permitted assigns, arising out of or in any way connected with this License or any of its provisions, Licensee's use or occupancy of the Parking Spaces and/or any claim of injury or damage.

28. OFAC Disclosure. Licensee represents and warrants to Licensors (i) that neither Licensee nor any person or entity that directly or indirectly owns any interest in Licensee nor any of its officers, directors or managing members is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including Executive Order 13224 (the "Executive Order") signed on September 24, 2001 and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental action, (ii) that Licensee's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time, the "Money Laundering Act"), and (iii) that throughout the Term of this License, Licensee shall comply with the Executive Order and with the Money Laundering Act.

29. Counterparts. This License may be executed in any number of separate counterparts by the parties hereto, each of which, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument. Any signature page from any such counterpart may be attached to any other counterpart to complete a fully executed counterpart of this License. Signatures to this License (or to any assignment or amendment to this License) transmitted in a commonly accepted electronic format that reproduces an image of the actual executed signature page shall be deemed a binding original and shall have the same legal effect, validity, and enforceability as a manually executed counterpart of the document to the extent and as provided for in the Federal Electronic Signatures in Global and National Commerce Act and the applicable state law based on the Uniform Electronic Transactions Act. In no event shall any party be obligated hereunder unless and until this License has been fully executed and delivered by all parties hereto.

30. Effective Date. "Effective Date" shall mean the last day that this License is executed by both Licensors and Licensee as set forth on the signature page hereof.

31. Time of the Essence. Time shall be of the essence as to all periods and time referred to in this License and all special provisions pertaining thereto, if any.

32. Non-Recording of License. This License shall not be recorded, and any recordation thereof by Licensee shall automatically terminate the License without notice.

33. Automatic Rescission. This Amendment shall be automatically rescinded and shall be null and void in the event this Amendment has not been fully-executed and delivered by all parties hereto within thirty (30) days after the date this Amendment is executed by the first of the parties to execute on the signature page hereof, TIME BEING OF THE ESSENCE.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Licensee and Licensor have executed or caused this License to be executed on their behalf by their duly authorized representatives as of the Effective Date.

LICENSOR:

TRUIST BANK,
a North Carolina banking corporation

By: [Signature]
Name: Ryan Schvartz
Title: Vice President
Date: 5/11/23

LICENSEE:

CAJUN BISTRO CAFE & MARKET

By: [Signature]
Name: Spencer Mifflin
Title: _____
Date: 04/25/2023

ACKNOWLEDGEMENTS

State of

County of Cherokee

This instrument was acknowledged before me on May 1, 2023 (date) by Ryan Schvetz,
Vice President (name of officer), (title of officer) of TRUIST BANK, a North Carolina banking
corporation, on behalf of said corporation.

(Personalized Seal)



Kay Covey
Notary Public's Signature

Exhibit A

Depiction of Licensor's Property and Licensee's Property

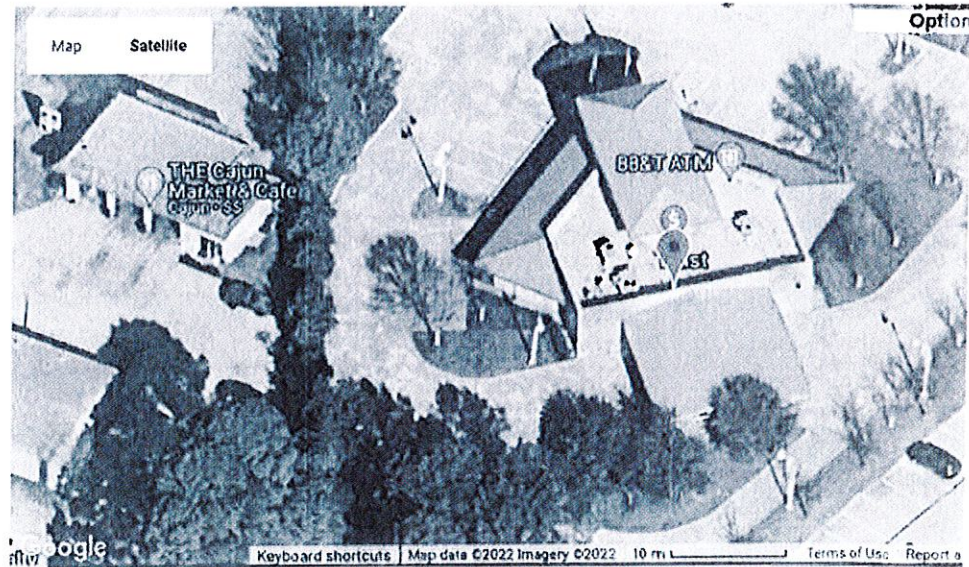
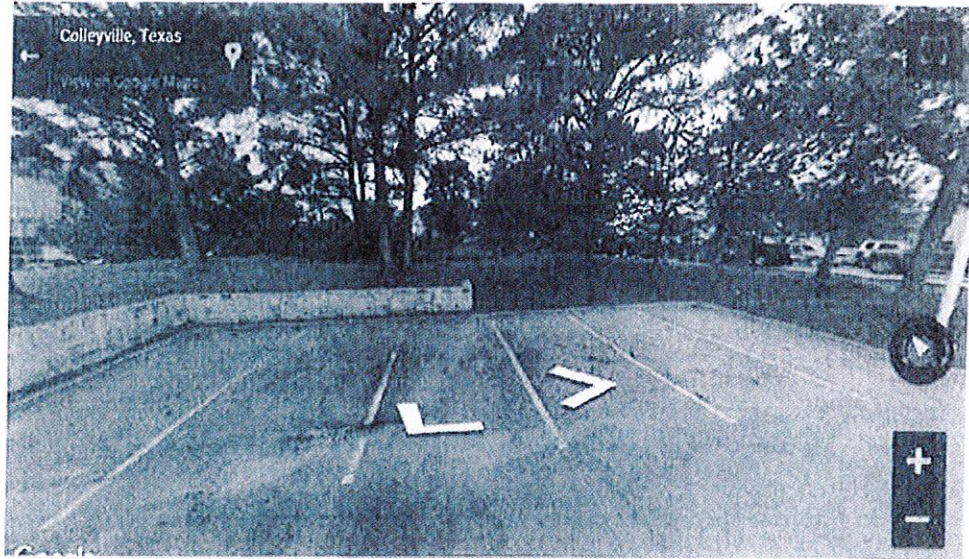


Exhibit B

Parking Spaces

Depiction of 6 of 9 Parking Spaces

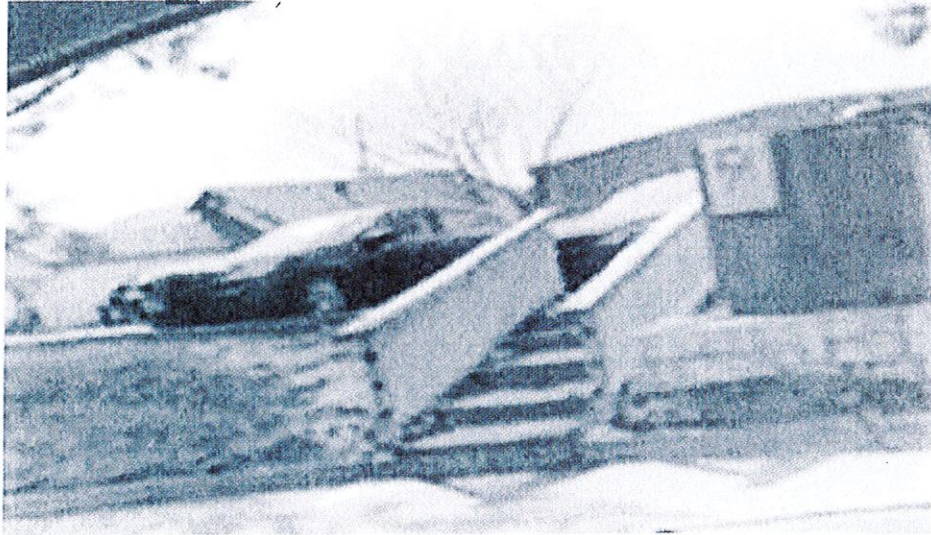


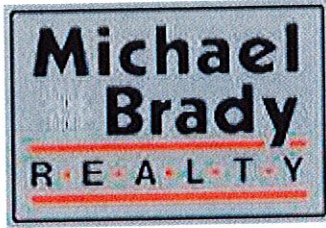
Depiction of 3 of 9 Parking Spaces



Exhibit C

Depiction of the Steps





December 13th, 2022

RE: Overflow parking for The Cajun Bistro Café & Market

This is to confirm that I am allowing overflow parking in our parking lot for the Cajun Bistro Café & Market located next door at 5409 Colleyville Blvd.

We are willing to work with them to help them be successful in their new business.

Seline and Tim are the type of Business owners that Colleyville needs more of.

Please feel free to contact me if you have any questions or concerns.

Thanks,

A handwritten signature in black ink, appearing to read "Michael Brady", with a large, stylized flourish at the end.

Michael Brady, Broker/Owner