



# Zone Change Report

## Case #PUDA23-0002

*Planning Commission Date: March 5, 2024*

*City Council Date: April 1, 2024*

### **GENERAL INFORMATION**

<b>PROJECT NAME</b>	Reunion PUD Amendment No. 6
<b>LOCATION</b>	18494 E. 104th Ave. (SWC of E. 104th Ave. and Tower Rd.)
<b>SITE SIZE</b>	1.48 Acres
<b>CURRENT ZONING</b>	PUD (Reunion)
<b>APPLICANT</b>	Terracina Design
<b>OWNER(S)</b>	18494 104th LLC
<b>CASE PLANNER</b>	Michael Rosso

### **REQUEST**

Approval of the Reunion PUD Zone Document Amendment No. 6 to modify allowed uses, including the addition of marijuana uses, create setback requirements for a single medical marijuana center and retail marijuana store, and institute new and modified development standards for the 1.48-acre lot.

### **BACKGROUND**

This undeveloped property is currently part of Parcel 4-F of the Reunion PUD Amendment No. 1, which is designated in the PUD as “Mixed-Use”, and allows for a variety of commercial and residential uses on the property. Because residential uses are technically allowed on the property, and due to the fact that there are other properties within 1000 feet of the subject property which are zoned agricultural, residential, and mixed-use, a marijuana dispensary would not be allowed on this site with respect to the current LDC distancing requirements. Therefore, this PUD Amendment proposes to create its own distancing requirements that would allow a dispensary to exist on the site, while also attempting to be in keeping with the intent behind the distancing requirements. The proposed PUD Amendment hopes to accomplish this by proposing a 500-foot distancing requirement from existing residential uses, instead of having a requirement from properties that are simply zoned agricultural, residential, or mixed-use, but do not contain residential uses.

Additionally, the proposed PUD Amendment No. 6 would substantially reduce the number of allowed uses on this property, removing all residential uses, as well as some more intense commercial uses. Currently, a gas station would be allowed by right on the property, a car wash could be allowed as a conditional use, and an auto repair shop could be allowed as a use by

permit. None of the aforementioned uses would be permitted uses on the property if this PUD Amendment were to be approved. For a side-by-side comparison of the currently allowed uses and the uses that this PUD Zone Document Amendment (hereafter referenced more simply as 'PUD Amendment') proposes to allow, please refer to both pages of Figure 5 at the end of this report.

Please note that if PUD Amendment No. 6 is approved, it would only apply to this specific 1.48-acre site at the corner of E. 104<sup>th</sup> Avenue and Tower Road.

### **ADDITIONAL INFORMATION**

There is a proposed PUD Development Permit (PUDP23-0007) which is currently under review for this site. The plan consists of one commercial building, approximately 12,000 sf. in size, with units for five individual tenants, including a restaurant and a combined medical marijuana center and retail marijuana store. The marijuana tenant space cannot exceed 2,500 square feet. According to the most recent submittal of the development plan, the site will also provide thirty (30) percent more parking than is required, which should mitigate any parking issues that the new development could cause for the existing commercial development that surrounds the site.

This proposed PUD Amendment also proposes several development standards for the site that exceed Land Development Code (LDC) requirements. Regarding architectural requirements, the PUD Amendment institutes a requirement that at least 45% of the wall area of the building facade(s) shall be fenestration (i.e. windows, doors, or faux windows), where the LDC has no such requirement. In addition, the PUD amendment requires significantly more façade treatments than are required for similar commercial development by the LDC. Furthermore, the proposed PUD Amendment will require a gathering space on site with several amenities, which is not required at all by the LDC. Finally, although the LDC does not require a sustainability element, the PUD Amendment proposes several sustainability requirements that will have site design impacts, as well as impacts to how the proposed commercial structure will be built and operated.

### **COMPREHENSIVE PLAN (CP) CONSISTENCY**

The subject property is designated as Commercial on the Future Land Use Map, which is consistent with the current PUD zoning. The proposed PUD Amendment would eliminate all currently allowed residential uses on the property, meaning that if the PUD Amendment were approved, the lot would be in even greater compliance with the Comprehensive Plan. Furthermore, this case is supported by Fiscal Stability Goal (Goal FS 2) in the Comprehensive Plan, which strives to retain/increase the employment base. The proposed development plan is for a commercial building with several individual tenants, which will bring new jobs and tax revenue to the City. Therefore, the request appears to be consistent with the comprehensive plan.

### **NEIGHBORHOOD MEETING**

A neighborhood meeting for this proposal was held on Wednesday, January 24<sup>th</sup> from 6:00pm to 7:30pm at the Bison Ridge Recreation Center. The applicants mailed letters notifying property

owners in a 2,500-foot radius of the neighborhood meeting. Approximately 32 individuals attended the open house style meeting. The vast majority of attendees appeared to be either neutral or vocally in favor of the request, with a good deal of excitement around the marijuana dispensary itself and the fact that the proposed PUD Amendment would guarantee a restaurant on the site. Two couples voiced opposition to the project, with concerns regarding property values, safety, and just general opposition to the marijuana use.

## **PROJECT ANALYSIS**

### **Road Network Impacts**

The subject property is located at the intersection of E. 104<sup>th</sup> Ave. and Tower Road, which are both principal arterial roadways. According to the City's Transportation Master Plan, "Principal arterials provide relatively high speed, unimpeded, citywide connections." The Master Plan goes on to say that "future development should provide internal street systems and limit or prohibit individual direct access to the arterial." The proposed development for this site will not be providing any new connections to either E. 104<sup>th</sup> Avenue or Tower Road, thus complying with the intent of principal arterial roadways as set forth in the Transportation Master Plan. Instead, access to the subject property will be via an existing private drive, which connects to Yampa Street and Tower Road. The City's Development Review Engineering division has reviewed this PUD Amendment request and had no concerns.

### **Overall Analysis**

Staff have determined that the lot in question will be able to meet all of the standards set forth by this proposed PUD Amendment, as well as any City standards and LDC requirements not covered by the PUD. It is also important to note that marijuana licensing through the City Clerk's Office would still be a subsequent requirement, should this PUD Amendment be approved.

The proposed PUD Amendment has been reviewed by all relevant Development Review Team agencies, including: Planning, Development Review Engineering, Economic Development, Energy, Equity, and the Environment (E3), South Adams County Water and Sanitation District, City Clerk's Office, GIS, Parks, South Adams County Fire Department, School District 27J, United Power and Xcel Energy. At this time, there are no outstanding concerns from any of the aforementioned referral agencies related to this request.

## **ZONE CHANGE APPROVAL CRITERIA**

A decision for this case must be based on the following criteria from Sec. 21-3251(3) of the Land Development Code. A PUD zone document may be approved only if:

**(a): The PUD zone document is consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city, or reflects conditions that have changed since the adoption of the comprehensive plan;**

The proposed PUD Amendment would eliminate all currently allowed residential uses on the property, meaning that if the PUD Amendment were approved, the lot would be in even greater compliance with the Comprehensive Plan, which designates this area as

“Commercial”. Furthermore, this case is supported by Fiscal Stability Goal (Goal FS 2) in the Comprehensive Plan, which strives to retain/increase the employment base. For a more detailed description of how this criterion is met, please refer to the “Comprehensive Plan Consistency” Section on Page 2 of the Zone Change Report. *Therefore, it can be found that this application **meets Criteria (a).***

**(b): The PUD zone document is consistent with any previously reviewed PUD concept schematic;**

*Not Applicable.*

**(c): The PUD:**

**Criteria (c)(i): Addresses a unique situation, confers a substantial benefit to the city, or incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District) and represents an improvement in quality over what could have been accomplished through strict applications of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; unique architecture or design, or increased choice of living and housing environments; or**

The proposed PUD Amendment addresses the unique situation of allowing a marijuana business to exist in closer proximity to existing agricultural, residential, and mixed-use zoning, even though the actual existing residential uses are well over 500 feet from the subject property. This is accomplished by proposing a 500-foot distancing requirement from existing residential uses, instead of having a requirement from properties that are simply zoned agricultural, residential, or mixed-use, but do not contain residential uses. Furthermore, the proposed PUD Amendment also proposes several development standards for the site that exceed Land Development Code (LDC) requirements. For a more detailed description of how this proposal represents an improvement in quality over what could be accomplished by applying LDC standards, please refer to Paragraph 2 of the “Additional Information” Section on Page 2 of the Zone Change Report.

In addition to addressing a unique situation and proposing an improved quality of development, this PUD Amendment also achieves the purposes set out in Code Sec. 21-4370. Per that code section, **the PUD district is further intended to:**

**(a) Promote more economical and efficient use of land while providing a harmonious grouping of a variety of land uses;**

The proposal meets this criterion by, through the proposed PUD Development Permit that is dependent on this PUD Amendment, proposing a single structure to house multiple proposed uses, and then activating the area saved with a well-programmed gathering space.

**(b) Promote innovative design of residential areas and allow for greater densities when additional site amenities are included in the development;**

*Not Applicable.*

- (c) Create physical connections between existing and proposed developments in order to achieve an integrated community with common open space, transportation, transit, and public service networks; and**

The proposal meets this criterion by, again through the proposed PUD Development Permit, proposing vehicular and pedestrian connections to the surrounding commercial developments that already exist.

- (d) Allow for innovative development projects that assist in the implementation of the comprehensive plan and not as a device to circumvent development regulations, standards, and good planning practice.**

The proposal meets this criterion by proposing innovative and enhanced design requirements in excess of what is required by the LDC. The PUD Amendment also proposes to eliminate residential uses, which are currently allowed, from the property which will bring the site into greater compliance with the “Commercial” designation that is assigned to the property by the City’s Comprehensive Plan.

*Therefore, it can be found that this application **meets Criteria (c)**, by way of **meeting Criteria (c)(i)**.*

**Criteria (c)(ii): The PUD is required to avoid completely prohibiting a legal, permitted business use within the city;**

*Not Applicable.*

**(d): The PUD complies with all applicable city standards not otherwise modified or waived by the city;**

The proposed PUD Amendment complies with all applicable city standards not otherwise modified or waived by the city. *Therefore, it can be found that this application **meets Criteria (d)**.*

**(e): The PUD is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features;**

Through the proposed PUD Development Permit, which is dependent on this PUD Amendment, the site will provide vehicular and pedestrian connections to the surrounding commercial developments that already exist. *Therefore, it can be found that this application **meets Criteria (e)**.*

**(f): To the maximum extent feasible, the proposal mitigates any potential significant adverse impacts on adjacent properties or on the general community;**

As discussed in greater detail in Paragraph 2 of the “Additional Information” Section on Page 2 of the Zone Change Report, the proposed PUD Amendment also proposes several development standards for the site that exceed Land Development Code (LDC)

requirements. These development standard improvements cover the areas of site design, architecture, and sustainability, and should all work together to mitigate, to the maximum extent feasible, any potential significant adverse impacts on adjacent properties or on the general community. *Therefore, it can be found that this application meets Criteria (f).*

**(g): Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development;**

Through their review of this proposal, the City's Development Review Engineering Division, South Adams County Fire Department, and South Adams County Water and Sanitation District, did not identify any issues with the proposed PUD Amendment in relation to the subject property's ability to provide sufficient public safety, transportation, and utility facilities and services. *Therefore, it can be found that this application meets Criteria (g).*

**(h): As applicable, the proposed phasing plan for development of the PUD is rational in terms of available infrastructure, capacity, and financing; and**

*Not Applicable.*

**(i): The same development could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications.**

This proposal could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications. *Therefore, it can be found that this application meets Criteria (i).*

## **CONSIDERATIONS FOR DISCUSSION**

### **The PUD Amendment:**

1. Would bring the site into greater consistency with the Comprehensive Plan, due to the removal of all residential uses.
2. Proposes many site design, architectural, and sustainability standards which go above and beyond anything that the LDC requires of similar development.
3. Proposes a pared-down list of allowed uses, consisting of a relatively small number of highly desirable commercial uses.
4. Would prohibit several more intensive commercial uses, such as gas stations, car washes, and auto repair shops that are approvable per the existing Reunion PUD Amendment No. 1 that currently governs this site.
5. Would guarantee a restaurant on the site.
6. Would allow a single medical marijuana center and retail marijuana store to be developed on this site, occupying a maximum of 2,500 square feet. Currently the City only has marijuana retail facilities located south of E. 72<sup>nd</sup> Avenue.
7. Would result in the development of this site, which has remained vacant.

## **POTENTIAL MOTIONS**

### **Planning Commission Motions**

1. Approval
  - a. I move that the Planning Commission enter a finding that the requested **PUD Zone Document Amendment** for the property located at **18494 E. 104th Avenue**, contained in case **PUDA23-0002**, meets the criteria of the Land Development Code and based upon such finding, recommend that the City Council approve the PUD Amendment.
2. Denial
  - a. I move that the Planning Commission enter a finding that the requested **PUD Zone Document Amendment** for the property located at **18494 E. 104th Avenue**, contained in case **PUDA23-0002**, fails to meet the criteria of the Land Development Code and based upon such finding, recommend that the City Council deny the PUD Amendment.
3. Continuance
  - a. I move that the Planning Commission continue the public hearing of the requested **PUD Zone Document Amendment**, for the property located at **18494 E. 104th Avenue**, contained in case **PUDA23-0002**, to:
    - i. The next regularly scheduled Planning Commission hearing; or
    - ii. A date certain.

### **City Council Motions**

1. Approval
  - a. I move that the City Council enter a finding that the requested **PUD Zone Document Amendment** for the property located at **18494 E. 104th Avenue**, contained in case **PUDA23-0002**, meets the criteria of the Land Development Code and based upon such finding, approve the PUD Amendment.
2. Denial
  - a. I move that the City Council enter a finding that the requested **PUD Zone Document Amendment** for the property located at **18494 E. 104th Avenue**, contained in case **PUDA23-0002**, fails to meet the criteria of the Land Development Code and based upon such finding, deny the PUD Amendment.
3. Continuance
  - a. I move that the Planning Commission continue the public hearing of the requested **PUD Zone Document Amendment**, for the property located at **18494 E. 104th Avenue**, contained in case **PUDA23-0002**, to:
    - i. The next regularly scheduled City Council hearing; or
    - ii. A date certain.

Figure 1. Zoning Map

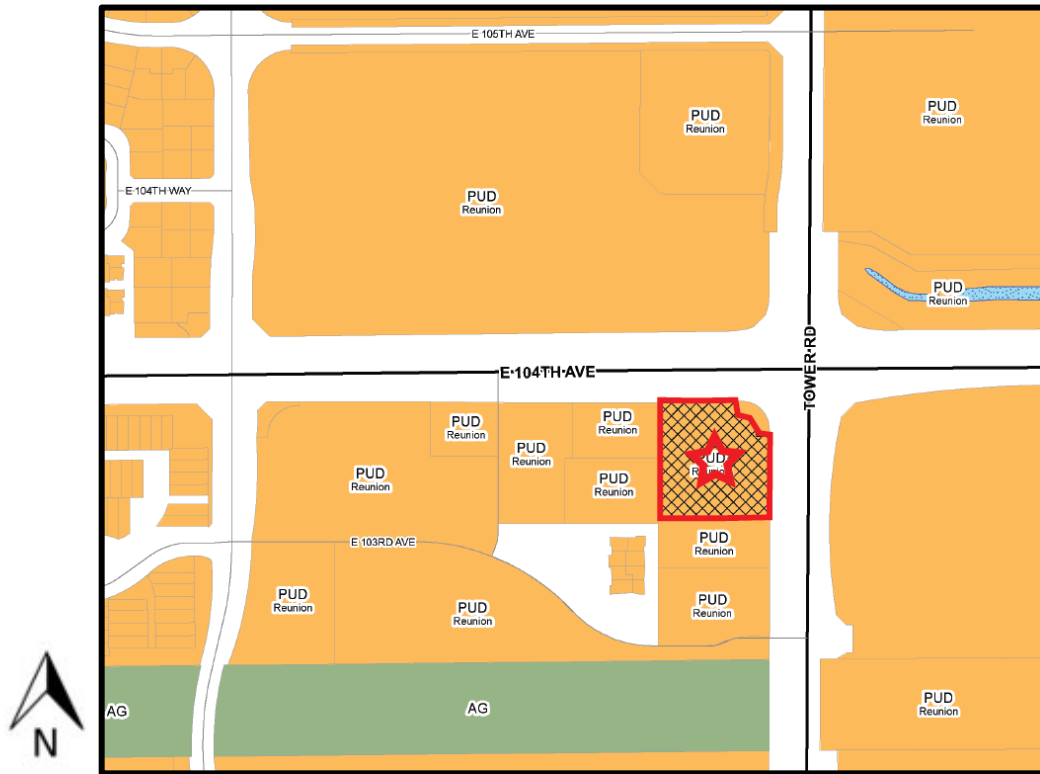
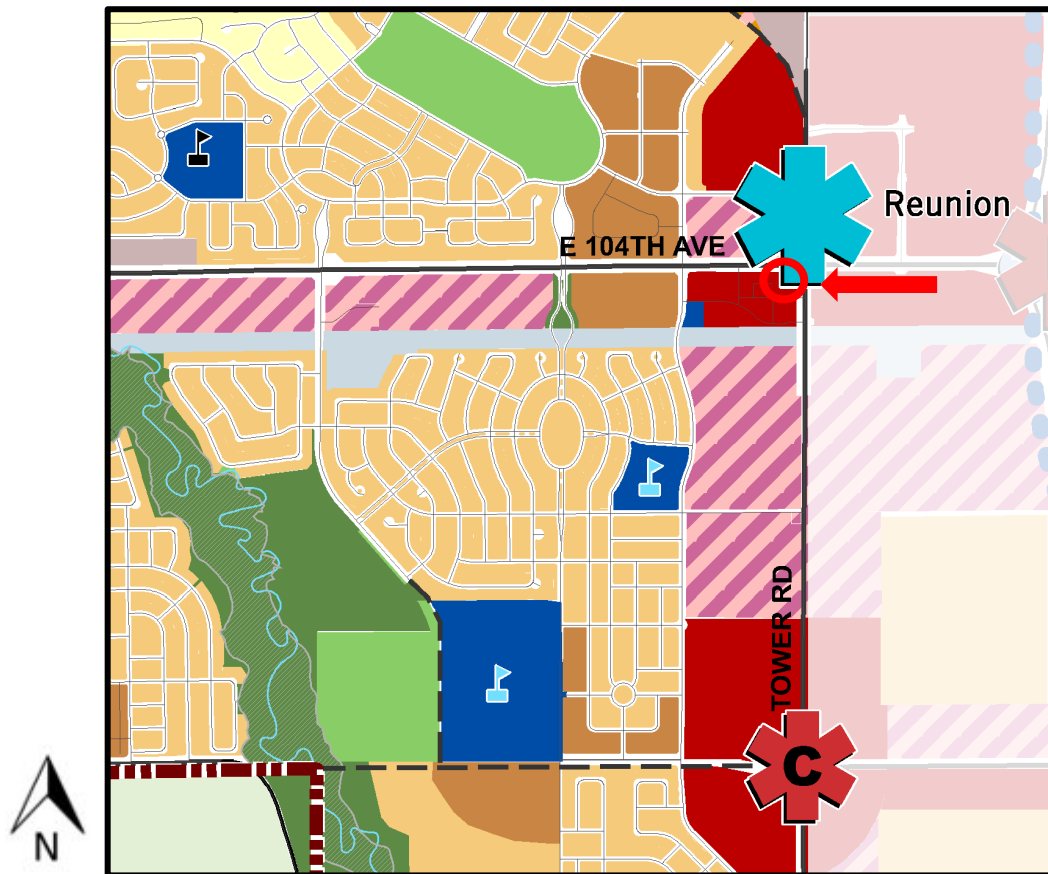


Figure 2. Future Land Use Plan





**Figure 3. Aerial Map**



**Figure 4. Site Photos**



Current view of subject property facing NW from the eastern property boundary along Tower Rd.



**Figure 4. Site Photos (continued)**



Current view of subject property facing SW from the intersection of E. 104<sup>th</sup> Ave. and Tower Rd.



Current view of subject property facing east from the SW corner of the subject site

**Figure 5. Use Tables**

<b>Allowed uses per the current Reunion PUD Amendment #1</b>	<b>Allowed uses per this proposed Reunion PUD Amendment #6</b>
Single-family detached dwelling	Veterinary offices or clinics
Single-family attached dwelling	Bar or tavern
Multi-family dwelling	Brewpub
Apartment buildings exceeding 50 ft. in height (use by permit)	Catering services
Public parks and public recreation centers / facilities	Restaurant with drive-thru/up
Private parks and private open space	Restaurant without drive-thru/up
Public and private schools	Tasting room
Public and private colleges, universities, vocational and trade schools (use by permit)	Bank or financial institution
Churches and religious institutions	Liquor Store *(See Note 2 below)
Libraries	All other similar [food and beverage sales] uses (e.g., delicatessen, retail bakery, specialty food market, coffee shop)
Museums	Business or professional offices (including medical/dental office/clinics)
Private lodges and clubs	Courier services
Public and private golf courses and related uses	Massage therapy office/clinics
Gardening and cultivation of land, supplementary to the primary residential use.	Hair and nail salon
Public gardening and similar cultivation of land	Instructional services, studios
Home occupations (in compliance with the Commerce City zoning ordinance)	Health clubs
Child care center	Retail store
Care home	Thrift/consignment store
Group home	Medical marijuana center / Medical marijuana store *(See Note 3 below)
Non-profit membership clubs	Retail marijuana store *(See Note 3 below)
Bed & breakfast	Microbrewery
Office / General office	Micro-winery
Medical and dental offices / clinic	
Art or craft studio	
Stores less than 40,000 sq. ft.	
Stores greater than 40,000 sq. ft. but less than 80,000 sq. ft.	
Commercial use (maximum 2,000 sq. ft.)	
Restaurants	
Eating and drinking establishments, excluding drive-in type	
Eating and drinking establishments, including drive-in type	

**\*Cells highlighted red are currently allowed uses, but not allowed uses per the proposed PUD Amendment**

**THIS TABLE CONTINUES ON THE NEXT PAGE**

Allowed uses per the current Reunion PUD Amendment #1 (continued)	Allowed uses per this proposed Reunion PUD Amendment #6 (continued)
Liquor stores	
Banks and financial institutions (including ATMs)	
Print shops and duplicating services	
Small theatre for live performances (300 seats maximum) (use by permit)	
Theaters, limited to 2 screens, not including 'drive-in' (cinema-type)	
Theaters. not including 'drive-in' (cinema-type)	
Hotels and motels	
Radio and television broadcasting facilities (use by permit)	
Public or governmental communication centers, radio or television broadcasting stations, and private land mobile radio service, special emergency radio services (etc.) (use by permit)	
Broadcasting & recording facilities	
Fire stations and ambulance services	
Animal hospitals (excluding outdoor kenneling)	
Kennels or catteries (use by permit)	
Recyclable materials collection facilities (use by permit)	
Public utility installations, excluding substations	
Public transportation terminals (use by permit)	
Car pool lots / park and ride	
Public parking lots (limited to a maximum of 50 spaces per lot)	
Amusement establishments, indoor only (i.e. bowling alley, arcades, etc.) (use by permit)	
Public utility substations (conditional use)	
Oil & gas wells (conditional use)	
Governmentally-owned or operated buildings or uses (conditional use)	
Car washes (conditional use)	
Rental of motor vehicles, campers, boats, motorized equipment and accessories for such vehicles (conditional use)	
Gasoline service stations, including car wash and small convenience store (gasoline pumps shall be set back a minimum of 40 ft. from property lines and need not be enclosed in a structure)	
Automotive sales, new and used, in operating condition, limited to vehicles up to 15,000 GVW, not including junk motor vehicles, limited to 100 (conditional use)	
Automotive repair garage limited to services of 15,000 GVW (use by permit)	
	<p><b>Notes (for Reunion PUD Amendment #6):</b></p> <ol style="list-style-type: none"> <li>1. This development shall have at least 2,000 sq. ft. allocated to a restaurant use.</li> <li>2. A liquor store is only permitted if no marijuana use exists on site.</li> <li>3. Only <u>one combined</u> medical/retail marijuana store is allowed on site, and that use is limited to a maximum of 2,500 sq. ft.</li> <li>4. Uses not listed in the above table are prohibited.</li> </ol>