



Minutes of the Development Review Commission REGULAR MEETING May 28, 2024

Minutes of the Regular Meeting of the Development Review Commission, of the City of Tempe, was held in Council Chambers
31 East Fifth Street, Tempe, Arizona

Present:

Chair Andrew Johnson
Commissioner Don Cassano
Commissioner Barbara Lloyd
Commissioner Linda Spears
Commissioner Larry Tom
Alt Commissioner Rhiannon Corbett
Alt Commissioner Robert Miller

City Staff Present:

Ryan Levesque, Deputy Director, Community Development - Planning
Diana Kaminski, Senior Planner
Lily Drosos, Planner II
Lucas Jensen, Planner I
Joanna Barry, Administrative Assistant II

Absent:

Vice Chair Michelle Schwartz
Commissioner Joe Forte
Alt Commissioner Charles Redman

Hearing convened at 6:00 p.m. and was called to order by Chair Johnson

The following item was withdrawn by the applicant prior to Development Review Commission (DRC) meeting:

- ~~3) Request a Use Permit to allow a second story addition for **MCKENZIE RESIDENCE**, located at 2069 East Ranch Road. The applicant is Gayle McKenzie. (PL240089)~~
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The following items were considered for **Consent Agenda**:

- 1) Request a Use Permit to allow entertainment (live music) for **LUSH CAFE AND LOUNGE**, located at 7470 South Priest Drive. The applicant is Rosa Harrison. (PL240015)
- 4) Request a Use Permit to allow a six (6) foot high fence within the front yard setback for **JAMES MADISON PREPARATORY**, located at 5815 South McClintock Drive. The applicant is All Pro Fence Co. (PL240093)

Motion: Motion made by Commissioner Cassano to approve Consent Agenda and seconded by Commissioner Miller.

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, Corbett, and Miller

Nays: None

Abstain: None

Absent: Vice Chair Schwartz and Commissioner Forte

Vote: Motion passes 7-0

The following items were considered for **Public Hearing**:

- 2) Request a Use Permit to allow entertainment (singing, dancing, stand-up comedy, DJ, trivia/games) for **HIGH MAINTENANCE SMOKE SHOP**, located at 411 South Mill Avenue, Suite 103. The applicant is HMSS LLC. (PL240069)

PRESENTATION BY APPLICANT:

Jason Horn, owner/applicant, stated they would like to host events at their establishment such as bingo, karaoke, and some small bands.

Joey Horowitz, co-owner/applicant, gave a brief presentation on the request including how they believe it complies with the Use Permit criteria. He stated that the speakers will face away from all doors and that the doors will remain closed. Mr. Horowitz stated that the site is broken up into three areas, with the smoke shop in the front and the lounge and patio in the back. He stated they just want to use the lounge space. Mr. Horowitz stated that events are only open to members and are not ticketed. He advised that security will be hired for nights where there is high capacity.

Commissioner Miller noted that in the staff report it indicates that the applicant needs to also apply for a Use Permit to expand their current tobacco sales operation. He asked the applicants why they did not do both Use Permit requests at the same time. Mr. Horowitz stated that they had intended to do that, but it was mostly about getting the paperwork in at the right time, that they are not represented by lawyers, and it is their first time going through the process. Mr. Horowitz noted that in the staff report it states that even if they get approval tonight that it will not apply until the fence is complete and they can still apply for the second approval.

Commissioner Tom noted that the applicant stated it takes membership to get into the center/lounge area, and that a person could not just walk up and enter. He asked what the process is to obtain membership. Mr. Horowitz stated that they try to keep limited membership to the community of smokers rather than people who are just walking in off the street. He stated the requirements are in flux, but it is usually someone that is in the smoking industry or is around it and active with it on social media for a long period of time. Mr. Horn stated that they have memberships available on their website and they can also have access to if they visit the location. He stated that they have memberships that range from three visits within 90 days, some that are monthly, and those that can go towards weekends or weekdays based on someone's schedule. He stated that there may be more adjustments to membership in the future.

PRESENTATION BY STAFF:

Lily Drosos, Planner II, gave a brief overview of the request. She stated that a condition of approval in the original Use Permit stipulated that live entertainment would require a new Use Permit. Ms. Drosos advised that in February 2024 the business received a code violation for hosting live entertainment events such as poker and trivia, as well as intensification of the tobacco retailer use. She stated the applicant later applied for the Use Permit for live entertainment and the code violation was closed on March 12, 2024. Ms. Drosos emphasized that this Use Permit is only for live entertainment and that the applicant has filed an application for the intensification of the tobacco retailer/smoking lounge use which will allow a business to have a private club and allow members to bring their own cannabis and smoke in the lounge. She stated that distribution of marijuana from licensed members would not be permitted with that use. Ms. Drosos advised that Use Permit request is scheduled for the next DRC meeting.

Ms. Drosos stated that in April the business received a code violation for the installation of a patio railing without City approval, marijuana use/distribution/activity on the premises, intensification of the tobacco retailer use, and live entertainment without a Use Permit. She advised that this violation is currently open.

Ms. Drosos stated that a neighborhood meeting was not required, and that staff has received five comment cards, with three in opposition and two in support. She stated that staff is recommending a condition of approval that would require permits and clearances for the patio modification prior to the live entertainment Use Permit becoming effective. Staff is conditioning that the entertainment will be indoor only with windows and doors closed during the

event and with the speakers facing inward. Ms. Drosos stated that this Use Permit does not modify the previous one and that the expansion of the tobacco retailer use requires a separate Use Permit.

PUBLIC COMMENT: NONE

APPLICANT RESPONSE:

Mr. Horn apologized for the error that he made with the fence and stated there was some miscommunication with the City and he thought his previous plans allowed him to do it. He thanked staff for helping them through the process and allowing them to obtain a temporary permit.

COMMENTS AND DISCUSSION FROM THE COMMISSION: NONE

Motion: Motion made by Commissioner Spears to approve PL240069 and seconded by Commissioner Cassano.

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, Corbett, and Miller

Nays: None

Abstain: None

Absent: Vice Chair Schwartz and Commissioner Forte

Vote: Motion passes 7-0

- 5) Request a Use Permit to allow an expansion of an existing entertainment use for extended hours of operation between 2:00 a.m. and 6:00 a.m. for **DIMES CABARET**, located at 910 North McClintock Drive. The applicant is J & J Entertainment, LLC. **(PL240128)**

PRESENTATION BY APPLICANT:

Applicant requested that this item be continued to the June 25, 2024 DRC meeting so that they could address comments/concerns from the public.

Motion: Motion made by Commissioner Spears to continue PL240128 to the June 25, 2024 DRC meeting. Seconded by Commissioner Miller.

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, Corbett, and Miller

Nays: None

Abstain: None

Absent: Vice Chair Schwartz and Commissioner Forte

Vote: Motion passes 7-0

- 3) Request a Planned Area Development to modify development standards for building height, a Use Permit to exceed the maximum allowable parking, and a Development Plan Review for the addition of an approximately 160-foot-tall manufacturing and warehouse building on 42.5 acres for **PROJECT ELEVATE**, located at 1850 West Elliot Road. The applicant is Kimley-Horn. **(PL240051)**

PRESENTATION BY APPLICANT:

Bryan Wright, Kimley-Horn, gave a brief overview of the request. He stated that the traffic study indicated that there was no additional parking required. Mr. Wrigth stated that with the existing site plan and parking provided they are actually reducing the amount of parking on-site by 153 spaces. Mr. Wright stated that the intent of the amount of parking they are providing on-site is to optimize the operational ability of the site, circulation, and to bring other people into the site on a quarterly and monthly basis.

Chair Johnson asked if they are reducing the overall parking on the site. Mr. Wright stated that they were and provided a breakdown of the parking.

PRESENTATION BY STAFF:

Diana Kaminski, Senior Planner, provided a brief overview of the request. She stated that the existing facility includes buildings along Harl Avenue that will be removed. Ms. Kaminski stated that some of those buildings have a higher parking ratio than the new use. She stated that removing office space that is calculated at one space per 300 square feet and adding warehouse/manufacturing that has a much lower ratio for parking is part of the offset that has occurred with demolition and reconstruction for a new use. Ms. Kaminski went into further detail on the parking ratios.

Ms. Kaminski stated that a neighborhood meeting was required for the Planned Area Development component and was held on April 15, 2024. She stated that no members of the public attended the meeting, and that staff has not received any public inquiries or comments on the project. Ms. Kaminski went over the unique conditions of approval for the project.

Commissioner Miller asked if the applicant will be providing the required 66 bicycle parking spaces. Ms. Kaminski advised that they will and that the bicycle parking spaces would be located near the entrances to the building so they will be in a convenient location for employees.

Commissioner Miller noted that the property is located much lower than the freeway for a lot of its length and asked how far below grade the building will be. Ms. Kaminski stated that the top grade is 30 feet at one point and then it varies. She stated that on the south side it is ten feet lower and on the north side it drops down to where the retention basin is located so it gets a lot deeper.

PUBLIC COMMENT: NONE

COMMENTS AND DISCUSSION FROM THE COMMISSION: NONE

Motion: Motion made by Commissioner Miller to recommend approval of PL240051 and seconded by Commissioner Cassano.

Ayes: Chair Johnson, Commissioners Cassano, Lloyd, Spears, Corbett, and Miller

Nays: None

Abstain: None

Absent: Vice Chair Schwartz and Commissioner Forte

Vote: Motion passes 7-0

Staff Announcements: NONE

There being no further business the meeting adjourned at 6:42 p.m.

Prepared by: Joanna Barry, Administrative Assistant II

Reviewed by: Michelle Dahlke, Principal Planner