



STAFF REPORT
BOARD OF ADJUSTMENT
For the August 19, 2015 meeting

TO: Board of Adjustment
FROM: Sheena Nuetzman, Planning Director
SUBJECT: CUP02-15, conditional use permit request for property at 6555 University Avenue

GENERAL INFORMATION

Applicant: Herbert Garrison
3818 8th Place
Des Moines, Iowa 50313

Application Date: June 30, 2015
Location: 6555 University Avenue- formally Front Row
Zoning: TC, Town Center
Proposed use: Bar and vaporizer shop

Requested Action: Action on conditional use permit application

QUICK SUMMARY

The purpose of this item is to review the conditional use permit request. The applicant is currently operating a vaporizer shop out of the building at 6555 University Avenue with a tobacco license. He was formally conducting the same business in the Apple Valley shopping center. Since the move, the applicant is now requesting a bar use as the building has been in the past. The former Front Row bar has been operating as a legal non-conforming use, as a conditional use permit was never required at the time the business started. Our current code requires a conditional use permit for a bar (i.e. cocktail lounge) and since there is no existing conditional use permit to transfer and now new ownership, a conditional use permit must be obtained.

APPLICABLE SECTIONS

The existing business is proposing two uses associated with the building. The first use, being the vaporizer shop, is defined in the Zoning Ordinance as General Retail Services (small) which includes the sale of tobacco products. This use permitted by right in the Town Center District. The second use; bar, is defined in the Zoning Ordinance as Cocktail Lounge, which is use permitted as a conditional use.

167.07 COMMERCIAL USE TYPES.

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

16. General Retail Services (Small and Large Scale).

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras,

photographic services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; retail sales of pets; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

A. General retail services (small scale) include facilities with no more than 10,000 square feet in a single establishment or 30,000 square feet within a multiple-tenant common development.

7. Cocktail Lounge. A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

177.03 CONDITIONAL USE AND SPECIAL USE PERMIT PROCEDURES.

1. Purpose.

The Conditional Use and Special Use Permit Procedures provide for Planning Commission review and discretionary Board of Adjustment action for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

2. Administration.

The Planning Commission shall review and evaluate each application and transmit its recommendation to the Board of Adjustment. The Commission recommendation should include whether or not to approve or disallow the project and any suggested conditions if approval is recommended. The Board of Adjustment shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

3. Application Requirements.

An application for a permit may be filed with the Zoning Administrator by the owner of a property or the owner’s authorized agent. The application shall include the following information:

- A. Name and address of the applicant.
- B. Owner, address, and legal description of the property.
- C. A description of the nature and operating characteristics of the proposed use.
- D. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies.
- E. A written statement as to how the proposed project fits within the character of the neighborhood and that meets the intent of the City’s comprehensive plan.

4. Review Process.

- A. The Planning and Zoning Commission, following proper notice, shall hold a public hearing on each permit and, following such public hearing, shall recommend action to the Board of Adjustment.
- B. The Board of Adjustment, after publication and public hearing, shall act on the permit, choosing to approve or deny the project.

5. Criteria for Review.

The Planning Commission and the Board of Adjustment shall review the application based on the criteria established in Table 177-1 and conformance with applicable regulations in this Zoning Code.

6. Scope of Planning and Zoning’s Authority.

The Planning and Zoning Commission shall review and make recommendations to the Board of Adjustment based on the criteria established in Table 177-1 and based on compatibility with the surrounding neighborhood.

The Commission shall forward recommendations including whether or not to approve or deny the permit. If approval is recommended, the Commission shall include suggested conditions for the conditional or special use permit.

STAFF ANALYSIS

Land Use Compatibility		Staff Comments
Height and Bulk	Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.	No issues.
Setbacks	Development should respect pre-existing setbacks in surrounding area. Variations	No issues.

	should be justified by site or operating characteristics.	
Building Coverage	Building coverage should be similar to that of surrounding development if possible. Higher coverage should be mitigated by landscaping or site amenities.	No issues.
Frontage	Project frontage along a street should meet minimum frontage requirements and provide reasonable exposure for the development.	No issues.
Parking and Internal Circulation	Parking should serve all structures with minimal conflicts between pedestrians and vehicles.	Off-street parking requirements are exempt in the TC zoning district. The applicant currently has 2 parking stalls for the building.
Parking and Internal Circulation	All structures must be accessible to public safety vehicles.	No issues.
Parking and Internal Circulation	Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.	No issues.
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved.	Board of Adjustment can recommend landscaping if desired, although there are currently no landscaping areas in the front of the building.
Building Design	Architectural design and building materials should be compatible with surrounding areas or highly visible locations	The Board of Adjustment can recommend building improvements if desired.
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations.	No issues.
External Traffic Effects	Project design should direct nonresidential traffic away from residential areas.	Not applicable.
Operating Hours	Projects with long operating hours must minimize effects on surrounding residential areas.	Bar hours
Outside Storage	Outside storage areas must be screened from surrounding streets and less intensive land uses.	Staff would recommend clean-up of the items being stored in the back of the building as outside storage is prohibited in the zoning code beyond three days. – This has been cleaned since the last P&Z Commission meeting.
Stormwater Management	Development should handle storm water adequately to prevent overloading of public storm water management system. Development should not inhibit development of other properties. Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	Not applicable.
Utilities	Project must be served by utilities.	No issues.
Comprehensive Plan	Projects should be consistent with the City Comprehensive Development Plan	The Comprehensive Plan does not address a specific use for the property; it designates the area as Town Center- “the mixed use nucleus at 66 th & University.”

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission met on July 22, 2015 to review the conditional use permit. The Commission recommended approval of the conditional use permit with staff's recommendations as stated below. The applicant had informed the Commission at the July meeting the items in the rear had already been removed.

STAFF RECOMMENDATIONS:

Staff recommends approval of the conditional use permit. The Board of Adjustment can provide additional conditions to the permit for the site if desired.





Outside storage areas in back of building