

FILE NO.: Z-9303

NAME: Cigar Republic Short-form PCD

LOCATION: Located at 1315 Breckenridge Drive

DEVELOPER:

Joseph C. Miller
414 E Capitol #104
Little Rock, AR 72201

OWNER/AUTHORIZED AGENT:

Ronald C Boshears – Owner
Joseph C. Miller - Agent

SURVEYOR/ENGINEER:

White-Daters and Associates
24 Rahling Circle
Little Rock, AR 72223

AREA: 1.28-acres NUMBER OF LOTS: 1 FT. NEW STREET: 0 LF

WARD: 4 PLANNING DISTRICT: 2 – Rodney Parham CENSUS TRACT: 22.04

CURRENT ZONING: C-3, General Commercial District

ALLOWED USES: General Retail

PROPOSED ZONING: PCD

PROPOSED USE: Add private club as an allowable use

VARIANCE/WAIVERS: None requested.

A. PROPOSAL/REQUEST/APPLICANT'S STATEMENT:

The applicant is requesting a rezoning of the site from C-3, General Commercial District to PCD, Planned Commercial Development District, to add a private club as an allowable use. The applicant is seeking to rezone the site to allow the

transitioning of the current restaurant use into a private club cigar lounge. The applicant is proposing to apply to the State of Arkansas for a liquor license for a private club to allow the sale of alcohol without a restaurant license and also to allow the business to be excluded from any potential smoking bans the City may choose to explore in the future. There are no exterior changes proposed to this location that would affect the surrounding community. The hours of operation are proposed from 10 am to midnight daily. There will be no loud music or bands.

B. EXISTING CONDITIONS:

This area is developed with a mixture of uses including commercial, office, multi-family and single-family. The area to the east of the site is an apartment complex located along Old Forge Drive. There are single-family homes located north of this site within the Colony West Subdivision. There is a bank located south of this site along North Rodney Parham Road and a service station located to the southwest at the intersection of North Rodney Parham Road and Breckenridge Drive. Breckenridge Drive is a commercial street complete with curb, gutter and sidewalk.

C. NEIGHBORHOOD COMMENTS:

All property owners located within 200-feet of the site along with the Treasure Hill Property Owners Association and the Colony West Home Owners Association were notified of the public hearing. There is no contact information for the Sturbridge Property Owners Association listed in the City of Little Rock's neighborhood contact listing.

D. ENGINEERING COMMENTS:

PUBLIC WORKS CONDITIONS:

No comment.

E. Utilities/Fire Department/Parks/County Planning:

Little Rock Water Reclamation Authority: Sewer available to this site. Environmental Assessment Division, EAD, review required if food service on site. Contact Little Rock Water Reclamation Authority for additional information.

Entergy: Entergy does not object to this proposal. There do not appear to be any conflicts with existing electrical utilities at this location. Service is already being provided to both structures on this property via overhead service lines.

Contact Entergy in advance to discuss electrical service requirements, or adjustments to existing facilities (if any) as this project proceeds.

Centerpoint Energy: No comment received.

AT & T: No comment received.

Central Arkansas Water:

1. All Central Arkansas Water requirements in effect at the time of request for water service must be met.
2. A Capital Investment Charge based on the size of meter connection(s) will apply to this project in addition to normal charges. This fee will apply to all connections including metered connections off the private fire system.
3. The facilities on-site will be private. When meters are planned off private lines, private facilities shall be installed to Central Arkansas Water's materials and construction specifications and installation will be inspected by an engineer, licensed to practice in the State of Arkansas. Execution of a Customer Owned Line Agreement is required.
4. Due to the nature of this facility, installation of an approved reduced pressure zone backflow preventer assembly (RPZA) is required on the domestic water service. This assembly must be installed prior to the first point of use. Central Arkansas Water requires that upon installation of the RPZA, successful tests of the assembly must be completed by a Certified Assembly Tester licensed by the State of Arkansas and approved by Central Arkansas Water. The test results must be sent to Central Arkansas Water's Cross Connection Section within ten days of installation and annually thereafter. Contact the Cross Connection Section at 501.377.1226 if you would like to discuss backflow prevention requirements for this project.
5. Fire sprinkler systems which do not contain additives such as antifreeze shall be isolated with a double detector check valve assembly. If additives are used, a reduced pressure zone back flow preventer shall be required

Fire Department: No comment.

Parks and Recreation: No comment received.

County Planning: No comment.

F. Building Codes/Landscape:

Building Code: Project is subject to full commercial plan review and approval prior to issuance of a building permit. For information on submittal requirements and the review process. This project will require fully developed Architectural, Structural, Civil and MEP Plans. Contact a commercial plans examiner: Curtis Richey at 501.371.4724; crichey@littlerock.gov.

Landscape:

1. Any new site development must comply with the City's landscape and buffer ordinance requirements.
2. Any existing vehicular use area that does not meet current code requirements may continue as nonconforming until such time a building permit is issued to rehabilitate a structure on the property exceeding fifty (50) percent of the current replacement cost of the structure. At such time fifty (50) percent of the existing vehicular use area shall be brought into compliance with the landscape ordinance requirements and shall continue to full compliance on a graduated scale based upon the percentage of rehabilitation cost.
3. The City Beautiful Commission recommends preserving as many existing trees as feasible on this site. Credit toward fulfilling Landscape Ordinance requirements can be given when preserving trees of six (6) inch caliper or larger.

G. Transportation/Planning:

Rock Region Metro: The site is located near Rock Region Metro Route #8, the Rodney Parham Route.

Planning Division: This request is located in Rodney Parham Planning District. The Land Use Plan shows Commercial (C) for this property. The Commercial category includes a broad range of retail and wholesale sales of products, personal and professional services, and general business activities. Commercial activities vary in type and scale, depending on the trade area that they serve. The applicant has applied for rezoning from C-3 (General Commercial District) to PCD (Planned Commercial Development) to allow for a private club.

Master Street Plan: East of the property is Breckenridge Drive and it shown as a Collector on the Master Street Plan. The primary function of a Collector Road is to provide a connection from Local Streets to Arterials. This street may require dedication of right-of-way and may require street improvements for entrances and exits to the site.

Bicycle Plan: There is a Class III Bike Route shown on Breckenridge Drive. These bike routes require no additional right-of-way, but either a sign or pavement marking to identify and direct the route.

H. SUBDIVISION COMMITTEE COMMENT: (March 14, 2018)

The applicant was present representing the request. Staff requested the applicant provide the location of any proposed dumpsters. Staff also questioned if there were changes proposed to the signage. Staff questioned if there would be any live entertainment within the patio area.

Landscaping comments were addressed. Staff stated any existing vehicular use areas which did not comply with the current code were to be upgraded based on the percentage of upgrades to the building, if the rehabilitation cost of the building exceeded 50 percent of the replacement cost of the structure.

Staff noted the comments from the various other departments and agencies. Staff suggested the applicant contact the departments or agencies directly with any questions or concerns. There were no more issues for discussion. The Committee then forwarded the item to the full Commission for final action.

I. ANALYSIS:

The applicant submitted a revised cover letter to staff addressing most of the technical issues associated with the request raised at the March 14, 2018, Subdivision Committee meeting. The applicant has indicated there will not be live entertainment on the patio. He has also indicated there will not be a change to the approved signage plan and the hours of dumpster service will be limited to 7 am to 6 pm Monday through Friday.

The request is a rezoning of the site from C-3, General Commercial District to PCD, Planned Commercial Development District, to convert the existing restaurant into a private club, cigar lounge. Cigar Republic is proposing an over-21 smoking establishment. Based on the revenue stream produced from food service the applicant must seek from the State of Arkansas Alcohol Beverage Control Commission a private club license.

The zoning ordinance defines a private club with dining or bar service as a group of people associated or formally organized for a common purpose, interest or pleasure. Facilities include dining or bar accommodations, none of which are available except to members or their guests. The separation requirements for private clubs is to be determined by the Planning Commission so as not to adversely impact the neighborhood. Private club review shall consider the following additional requirement: (a) A private club shall not be located within seven hundred fifty (750) feet of the following: (1) A church or other religious facility. (2) A sexually-oriented business as defined by Chapter 17 of the Code of Ordinances. (3) A public or private elementary, secondary or postsecondary school, a day care center or any facility that operates programs for children or youth. (4) Any single-family or multifamily residential use, except a hotel or motel, or a residential use that is within a unified development that contains both the private club and the residential use.(b) For the purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of a building or structure proposed for occupancy as a private club to the nearest property line of any use listed in subsection (a). There is a multi-family development located immediately east of the site. There are single-family homes located to the north and south of this site within 750-feet.

The applicant is proposing to limit the approval of the private club to his sole ownership. The applicant states if the lease is broken or the building is sold then any future owner would be required to request approval of their use via a revision to the approved PCD, Planned Commercial Development zoning. The approval of a change in license for the private club would also be required from the State Alcohol Beverage Control Commission.

The applicant has indicated there will be no exterior changes to the building and the ambiance will be virtually unchanged. The applicant indicates there are five (5) to six (6) employees. There will be no loud music playing inside or outside the building due to the fact this is not the atmosphere for a successful cigar lounge. The applicant notes there will not be live music events on the deck/patio.

The applicant notes the hours of operation are from 11 am to midnight seven (7) days per week. He notes on weeknights with little customer traffic the business may close earlier. He notes the request is not to allow a 5 am private club.

Although the business will no longer be a full service restaurant there will be limited food service available. The kitchen will remain intact which would allow the owner to provide food service. The applicant notes food service could also be in the form of catered food or from a food truck service which would set-up in the parking lot. All food truck operations will operate within the guidelines for mobile canteen units established by the planning department of the City.

The applicant notes the request for the private club license is to allow him to control his environment. He states the most common complaint for a cigar bar is the smoke infiltration into neighboring commercial tenants. He states with this stand-alone building and private parking lot this will not be the case with this establishment.

As of this writing staff is continuing to review the proposed request and the potential impact of the request on the nearby neighborhoods. Staff recommendation will be provided at the Commission's Public Hearing.

J. STAFF RECOMMENDATION:

Staff recommendation forthcoming.

PLANNING COMMISSION ACTION:

(APRIL 5, 2018)

The applicant was present. There were registered objectors present. Staff presented the item with a recommendation of approval.

Mr. Joe Miller, the applicant, addressed the Commission on the merits of his request. He stated the request was for a cigar lounge only. He stated his business was a high end retail use. He stated he desired to serve drinks with the cigars. He stated his humidor

would be 700 square feet. He stated with the use being a private club he could more closely control and monitor the clientele. He stated the demographic age was persons 35 to 60 years of age. He stated the business plan was not for loud music but a more relaxed atmosphere. He stated the business would be a place for business men and women to meet to entertain guest and clients. He stated the building was 47 years old with a triple net lease. He stated there was little incentive for the property owner to sell the building for at least two (2) more years. He stated he was willing to buy the building and make a substantial investment into the property for his use. He stated the only significant exterior changes would be painting the parking lot and cleaning the back of the building. He stated he had five (5) to six (6) employees. He stated the Breckenridge Neighborhood Association had indicated they were supportive of the request. He stated he wanted to work with the neighborhood and be a good neighbor in the community.

Mr. Jeremy Bowen addressed the Commission in support of the request. He stated he lived in Colony West Subdivision and was in support of the cigar lounge. He stated the area did not need any more vacancies. He stated the business would be a quiet business and an asset to the neighborhood. He stated he felt the use should be allowed.

Mr. Dickson Flake addressed the Commission in support of the request. He stated his firm represented the current owner. He stated if Mr. Miller chose to keep the kitchen he was able to reuse the building without the rezoning approval. He stated with the private club there would be more restrictions and control on the business which could be enforced by the City. He stated the approval was common sense. He stated with the approval of the private club limited to Mr. Miller and limited to a cigar lounge this was the most control the neighborhood and the City could expect without giving up anything.

Ms. Miriam Piccolo addressed the Commission in opposition of the request. She stated she did not like the idea of the club being exclusionary. She stated she felt the business should include all races, incomes and genders. She stated she did not want to live in an area which was not inclusionary of all people.

Mr. David Bolick addressed the Commission in opposition of the request. He stated he was in real estate and was on the Colony West Property Owners Association. He stated the subdivision had previously been in decline. He stated the homeowners association was only collecting \$100.00 per year for the membership which was used to maintain the pool, parks and common areas. He stated the dues had been raised to \$200.00 per year to allow for proper maintenance to the common facilities which allowed the Homeowners Association sufficient funds to maintain and enhance the subdivision. He stated once this occurred the subdivision began to turn-around and the homes and the subdivision was a very desirable area of the City to live. He stated the cigar lounge would be located at the main entrance to the subdivision. He stated the neighborhood was a middle class neighborhood and the cigar lounge would be marketed to an upper end cliental. He stated the previous restaurant failed due to the restaurant being an upscale establishment and the neighborhoods not supporting the business. He stated this was not an upscale spot. He stated he felt the reason the applicant was looking at this location was due to the price of the land and building and not as the best location to serve his clientele. He stated he had taken a poll of the 470 homeowners of the subdivision on both Next Door and Facebook. He stated he questioned if the residents supported the use. He stated

originally there was overwhelming opposition to the request. He stated the opposition had decreased. He stated the area was a single-family neighborhood and did not feel the use of the property as proposed was a benefit to the subdivision.

Annie Depper addressed the Commission in opposition of the request. She stated the residents had put so much into the neighborhood to bring property values up that to allow the use would cause concerns. She stated she did not want to see the building vacant but felt a vacant building was better than allowing the wrong thing to occupy the space.

Mr. Miller stated he had been looking at the project for over two (2) years. He stated he wanted a standalone building because the biggest complaint with a cigar lounge was the smoke and the impact on adjacent tenants. He stated he could open today if he chose to keep the restaurant open. He stated he wanted the private club to allow him to place limits on his clientele. He stated it was not exclusionary because if a membership was purchased all would be allowed. He stated with the private club he could ensure an upscale lounge.

There was a general discussion by the Commission concerning membership dues and amenities that would be offered. Mr. Miller stated lockers would be provided and each locker would be a \$100.00 per month. He stated anyone could come off the street and purchase a cigar in the retail portion of the business. He stated to be allowed a mixed drink then the person would be required to purchase a membership.

A motion was made to approve the request including all staff recommendations and comments. The motion carried by a vote of 11 ayes, 0 noes and 0 absent.