

RESULTS OF PUBLIC MEETING BOARD OF ADJUSTMENT

Pursuant to A.R.S. Section 38-431.02, notice was hereby given to the members of the **BOARD OF ADJUSTMENT** and to the general public, that the **BOARD OF ADJUSTMENT** held a meeting open to public on **Thursday, June 1, 2023 at 12:00 p.m.**

The Board of Adjustment was held in-person and virtually.

The results of the meeting were as follows:

RESULTS

- | | | | | | | | | | | | | | | | | | | | | | |
|---------------------|--|-------------------|---|------------------|--------------|-----------|------------------------|------------------|-----------|-----------|---|---------------------|-----------------------------|------------|--------------|-----------------|--|--------|--|--|---------------------------------------|
| No Action | A. Approval of Minutes – May 4, 2023
Approval of Minutes – May 23, 2023

<i>No minutes were ready for review.</i> | | | | | | | | | | | | | | | | | | | | |
| Approved | B. Approval of Agenda – June 1, 2023

<i>(James/Hill - Vote of 7-0).</i> | | | | | | | | | | | | | | | | | | | | |
| | C. Requests for Continuance and/or Withdrawal | | | | | | | | | | | | | | | | | | | | |
| Continued | <table border="0"><tr><td style="vertical-align: top; padding-right: 20px;">1. Application #:</td><td>ZA-350-20-7 (1-Year Review) (Auto Continued to July 6, 2023)</td></tr><tr><td>Existing Zoning:</td><td>DTC-McDowell</td></tr><tr><td>Location:</td><td>509 West McDowell Road</td></tr><tr><td>Quarter Section:</td><td>12-27(G8)</td></tr><tr><td>Proposal:</td><td>1) Use permit to allow a microbrewery (Roses by the Stairs Brewing). Use permit required.
2) Use permit to allow outdoor liquor service accessory to a microbrewery. Use permit required.
3) Use permit to allow liquor retail sales. Use permit required.</td></tr><tr><td>Ordinance Sections:</td><td>1204.D.Table, 1204.D.Table,</td></tr><tr><td>Applicant:</td><td>1204.D.Table</td></tr><tr><td>Representative:</td><td>Jordan Ham, Roses by the Stairs Brewing, LLC</td></tr><tr><td>Owner:</td><td>Jordan Ham, Roses by the Stairs Brewing, LLC</td></tr><tr><td></td><td>Erick Harrell, 509 West McDowell, LLC</td></tr></table> | 1. Application #: | ZA-350-20-7 (1-Year Review) (Auto Continued to July 6, 2023) | Existing Zoning: | DTC-McDowell | Location: | 509 West McDowell Road | Quarter Section: | 12-27(G8) | Proposal: | 1) Use permit to allow a microbrewery (Roses by the Stairs Brewing). Use permit required.
2) Use permit to allow outdoor liquor service accessory to a microbrewery. Use permit required.
3) Use permit to allow liquor retail sales. Use permit required. | Ordinance Sections: | 1204.D.Table, 1204.D.Table, | Applicant: | 1204.D.Table | Representative: | Jordan Ham, Roses by the Stairs Brewing, LLC | Owner: | Jordan Ham, Roses by the Stairs Brewing, LLC | | Erick Harrell, 509 West McDowell, LLC |
| 1. Application #: | ZA-350-20-7 (1-Year Review) (Auto Continued to July 6, 2023) | | | | | | | | | | | | | | | | | | | | |
| Existing Zoning: | DTC-McDowell | | | | | | | | | | | | | | | | | | | | |
| Location: | 509 West McDowell Road | | | | | | | | | | | | | | | | | | | | |
| Quarter Section: | 12-27(G8) | | | | | | | | | | | | | | | | | | | | |
| Proposal: | 1) Use permit to allow a microbrewery (Roses by the Stairs Brewing). Use permit required.
2) Use permit to allow outdoor liquor service accessory to a microbrewery. Use permit required.
3) Use permit to allow liquor retail sales. Use permit required. | | | | | | | | | | | | | | | | | | | | |
| Ordinance Sections: | 1204.D.Table, 1204.D.Table, | | | | | | | | | | | | | | | | | | | | |
| Applicant: | 1204.D.Table | | | | | | | | | | | | | | | | | | | | |
| Representative: | Jordan Ham, Roses by the Stairs Brewing, LLC | | | | | | | | | | | | | | | | | | | | |
| Owner: | Jordan Ham, Roses by the Stairs Brewing, LLC | | | | | | | | | | | | | | | | | | | | |
| | Erick Harrell, 509 West McDowell, LLC | | | | | | | | | | | | | | | | | | | | |

Appellant: Andie Abkarian, Roosevelt Action Association

Continued

2. Application #: **ZA-567-22-2 (Continued from April 6, 2023) (Continued to August 3, 2023)**
- Existing Zoning: R1-18
Location: 5917 East Anderson Drive
Quarter Section: 37-41(M11)
Proposal: Variance to allow 28% lot coverage. Maximum 25% permitted.
Ordinance: 610.B.Table
Sections:
Applicant: Alan Christensen, A Christensen Architect, LLC
Representative: Alan Christensen, A Christensen Architect, LLC
Owner: Norman M. and April D. Kvalvik, Trust
Appellant: Jeffrey Gross, Berry Riddell

Continued by motion to August 3, 2023

(Beuerlein/James - Vote of 7-0).

D. Items for Consideration

**Overtured
ZAHO with
stipulations**

3. Application #: **ZA-89-23-6**
- Existing Zoning: RE-24
Location: 4601 East Arcadia Lane
Quarter Section: 18-38(H11)
Proposal: Variance to reduce the front yard (west) setback to 9 feet. Minimum 30 feet required.
Ordinance: 606.B.2
Sections:
Applicant: Fred and Debra V. Beaty
Representative: Fred and Debra V. Beaty
Owner: Fred and Debra V. Beaty
Appellant: Fred and Debra V. Beaty

Overtured the Zoning Adjustment Hearing Officer's decision and approved the variance with the following stipulations:

- 1) **THE APPLICANT HAS 18 MONTHS TO APPLY AND PAY FOR BUILDING PERMITS.**
- 2) **PER THE PLAN DATE STAMPED JUNE 1, 2023 PERTAINING TO THE BUILDING SETBACKS ALONG THE NORTH PERIMETER (ARCADIA LANE) AND WEST PERIMETER (46TH STREET) OF THE SITE.**

(Hill/Beuerlein - Vote of 4-3) (Eigo, Graham, James)

**Overtured
ZAHO with
stipulations**

4. Application #: **ZA-553-22-2**
 Existing Zoning: R1-10
 Location: 6127 East Carolina Drive
 Quarter Section: 35-42(L12)
 Proposal: Use permit to allow a home occupation (cooking school) that generates traffic. Use permit required.
 Ordinance: 608.E.3.h.1
 Sections:
 Applicant: Cassandra Ayres, Berry Riddell, LLC
 Representative: Cassandra Ayres, Berry Riddell, LLC
 Owner: Connie Kirchner, Love Nest Trust
 Appellant: Cassandra Ayres, Berry Riddell, LLC

Overtured the Zoning Adjustment Hearing Officer's decision and approved the use permit with the following stipulations:

- 1) **A REVIEW SHALL OCCUR AT THE MARCH 7, 2024 BOARD OF ADJUSTMENT HEARING.**
- 2) **THE PROPERTY OWNER SHALL COMMUNICATE TO ALL CLASS ATTENDEES THAT PRIVATE VEHICLES SHOULD NOT UTILIZE ON-STREET PARKING ON EAST CAROLINA DRIVE, EXCEPT FOR THE AREA IMMEDIATELY ADJACENT TO THE SUBJECT PROPERTY, AND SHOULD INSTEAD UTILIZE PARKING ON THE LOT, ON NEARBY ADJACENT 62ND STREET, OR OTHER OPTIONS.**
- 3) **THE TOTAL DURATION OF CLASSES PER WEEK IS LIMITED TO 8 HOURS.**
- 4) **NO CLASS SHALL HAVE NO MORE THAN 12 STUDENTS.**

(Hill/Graham - Vote of 5-2) (Beuerlein, Dodds).

**Overtured
ZAHO**

5. Application #: **ZA-446-22-7**
Existing Zoning: DTC-West Evans Churchill
Location: 1005 North 2nd Street
Quarter Section: 12-29(G8)
Proposal: **1)** Use permit to allow outdoor liquor service as an accessory to a bar/restaurant. Use permit required.
2) Variance to reduce the minimum building setback along Roosevelt Street to 0 feet. Minimum 5 feet required.
3) Variance to allow required parking to be located on another lot up to 520 feet away. 300 feet required.
4) Use permit to allow a bar. Use permit required.
Ordinance Sections: 1204.D, 1215.F, 702.A.4.a.(1), 1204.D
Applicant: Nick Wood, Snell & Wilmer
Representative: Nick Wood, Snell & Wilmer
Owner: HSG Roosevelt & 2nd Street LLC
Appellant 1: Sean Johnson, Evans Churchill Community Association
Appellant 2: Kenny Barrett, Roosevelt Row Merchant Association

Overtured the Zoning Adjustment Hearing Officer's decision and denied the use permits and variances.

(Hill/Eigo - Vote of 7-0).

**Upheld ZAHO
with a
modification,
an additional
stipulation,
and deletion
of
Stipulations
1, 5, and 11**

6. Application #: **ZA-36-23-7**
Existing Zoning: A-1 RSIO, A-2 RSIO
Location: Northeast corner of 7th Avenue and Elwood Street
Quarter Section: 6-27(E8)
Proposal: Use permit to allow development within 500 feet of the Rio Salado Habitat Restoration Project. Use permit required.
Ordinance Sections: 655.E.4
Applicant: George Pasquel III, Withey Morris PLC
Representative: George Pasquel III, Withey Morris PLC
Owner: Sky Harbor BP Realty Company LLC

Appellants: George Pasquel III, Withey Morris
PLC
Victor Vidales, SoPho Convening

Upheld the Zoning Adjustment Hearing Officer's decision and approved the use permit with a modification, an additional stipulation, and deletion of Stipulations 1, 5, and 11:

- ~~1) The location of the proposed Rio Salado Park Drive shall maintain a minimum setback from the north property line of at least 80-feet, or equal to the width of the proposed roadway, whichever is the greater.~~
- 2) 1) ***A minimum 40-foot-wide landscape setback shall be provided along the north property line shared with the Rio Salado Habitat Restoration Area, except as noted in stipulation #1. AN AVERAGE 40-FOOT-WIDE LANDSCAPE SETBACK SHALL BE PROVIDED ALONG THE PROPERTY LINE SHARED WITH THE RIO SALADO HABITAT RESTORATION AREA. THIS LANDSCAPE SETBACK SHALL BE PLANTED WITH MINIMUM 2-INCH CALIPER TREES, PLANTED 20 FEET ON CENTER OR IN EQUIVALENT GROUPINGS, AND FIVE 5-GALLON SHRUBS PER TREE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.***
- 3) 2) ***Plant materials in the required landscape setbacks along the Rio Salado Habitat Restoration Area shall be limited to those listed on the "Approved Plants and Top-Dressing Application for Development Adjacent to the Rio Salado" plant list, or as approved by the Planning and Development Department.***
- 4) 3) ***All buildings shall have a minimum 80-foot building setback from the northern property line along the Rio Salado Habitat Restoration Area.***
- ~~5) Buildings between Rio Salado Park Drive and Rio Salado Habitat Restoration Area shall not exceed 30 feet in height. All other buildings south of Rio Salado Park Drive shall comply with Ordinance 626.H, for Commerce Park District Standards.~~
- 6) 4) ***Fencing, walls, and screening material within all setback areas or visible from a public street shall have a finished appearance and contain decorative elements including not but not limited to adobe, glass, metal (including rusted metal), stone (stone***

veneer), wood, or other material consistent with a natural environment, as approved by the Planning and Development Department.

- ~~7)~~ 5) There shall be no outdoor storage, sheds, shipping containers or accessory structures north of the Rio Salado Park Drive. Any outdoor storage south of Rio Salado Park Drive shall be completely screened from public view as approved by the Planning and Development Department.
- ~~8)~~ 6) All uncovered surface parking lot areas shall be landscaped with minimum 2-inch caliper drought-tolerant shade trees. Landscaping shall be dispersed throughout the parking area and achieve 25% shade at maturity, as approved by Planning and Development Department.
- ~~9)~~ 7) To mitigate emission of glare into the Rio Salado Habitat Restoration Area, all outdoor lighting shall be appropriately shielded as approved by the Planning and Development Department.
- ~~10)~~ 8) A minimum of two public pedestrian pathways shall be provided on this site, connecting to the public pathway on the adjacent Habitat Restoration Area. The pathways shall connect Rio Salado Park Drive to the Rio Salado Habitat Restoration Area, as approved, or modified by the Planning and Development and Parks and Recreation Department. These pathways shall be maintained by the property owner.
- ~~11)~~ ~~Sidewalks, bikeways, and pathways shall be detached a minimum 5-feet from driveways, roadways, and parking areas. This separation space shall be landscaped in accordance with stipulation 3 above.~~
- ~~12)~~ 9) On-street parking is not allowed on Rio Salado Park Drive between Central Avenue and 7th Avenue.
- ~~13)~~ 10) The developer shall work with the Street Transportation Department to design a vertically protected two-way cycle track on the north side of Rio Salado Park Drive between Central Avenue and 7th Avenue, connecting to a pedestrian crossing on Central Avenue, as approved by the Street Transportation Department.
- ~~14)~~ 11) 2 years to apply and pay for building permits.
- 12) EXCEPT FOR WALLS USED TO SCREEN LOADING AREAS, OPEN FENCING COMPRISED OF WROUGHT IRON OR OTHER SIMILAR MATERIAL

OR COMBINATION THEREOF, SHALL BE USED ON ANY FENCING GREATER THAN 4 FEET TALL IF INSTALLED WITHIN 100 FEET OF A PUBLIC STREET, HABITAT RESTORATION AREA, OR THE ADJACENT CITY-OWNED PARCEL NO. 113-01-005C. FENCING SHALL BE CONSIDERED OPEN IF A MINIMUM OF 75% IS OPEN, EXCLUDING PILLARS OR PIERS.

(Eigo/Beuerlein - Vote of 6-1) (Hill).

E. Other Business

- | | |
|------------------|---|
| No Action | 7. Update on next Board of Adjustment agenda. |
| No Action | 8. Update on pending appeals of the Board of Adjustment. |
| No Action | 9. Q & A: Procedure and Process - Board of Adjustment case law. |
| No Action | 10 The Board may vote to go into Executive Session pursuant to A.R.S Section 38-431.03.A.3. for the purpose of receiving legal advice regarding any of the above Items A-E. |

Adjourned F. Adjournment

For further information, please call Julie Garcia in the Planning and Development Department at 602-495-7029 or contact us via electronic mail at pdd.boardofadjust@phoenix.gov. This electronic mail address will not accommodate zoning enforcement/violation complaints.

This publication can be made available in alternate format upon request. To request a reasonable accommodation, please contact Angie Holdsworth at 602-495-5622, TTY: Use 7-1-1.

June 2, 2023