

STAFF REPORT

Date: March 27, 2024

To: Mayor and City Council

Through: Doug Thornley, City Manager

Subject: Staff Report (For Possible Action): Case No. LDC24-00029 (Reno Axe) Appeal of the Planning Commission's decision to approve a request for a conditional use permit to allow an existing indoor recreation and bar use to operate live entertainment activities between the hours of 11:00 p.m. and 10:00 a.m. The ±0.321-acre site is located on the northeast corner of North Sierra Street and West First Street (100 North Sierra Street). The site is within the Mixed-Use Downtown – Riverwalk District (MD-RD) zone and has a Master Plan land use designation of Downtown Mixed-Used (DT-MU). An appeal was filed by Morten O. Homme II. Council may affirm, modify, or reverse the decision of the Planning Commission.

From: Carter Williams, Associate Planner

Department: Development Services - Planning

Summary:

The ±0.32-acre project site is located on the northeast corner of North Sierra Street and West First Street (100 North Sierra Street, Suite B2). This is a public hearing to consider an appeal of the Planning Commission's approval of a conditional use permit to allow an existing indoor recreation and bar use to operate live entertainment activities between the hours of 11:00 p.m. and 3:00 a.m. Although live entertainment is allowed by-right as an accessory use, it requires a conditional use permit if activity is to occur between the hours of 11:00 p.m. and 10:00 a.m. Existing uses within the space include indoor recreation (axe throwing) and a bar which are allowed by-right within the Mixed-Use Downtown – Riverwalk District (MD-RD). The key issue analyzed in this report is compatibility with surrounding uses. An appeal of the Planning Commission's decision has been filed (**Exhibit A**), and is described below:

- Morten O. Homme II appealed citing concerns regarding the potential for intoxicated, disorderly, and loud patrons and inadequate police presence and response downtown.

Council may approve the appeal and deny the project, approve the appeal and modify the conditions of approval, or deny the appeal and affirm the Planning Commission's decision to

approve the conditional use permit.

Alignment with Strategic Plan:

Economic and Community Development

Previous Council Action:

There is no recent Council action relevant to this item.

Discussion:

A detailed project analysis is provided in the attached Planning Commission staff report (**Exhibit B**). The Planning Commission discussion is summarized in the following points:

- The Planning Commission discussed the appropriateness of live entertainment uses downtown and how the proposed operation is consistent with other businesses in the vicinity.
- Discussion ensued regarding the need for extended hours of operation on Thursday. Most commissioners expressed support for maintaining extended hours though one commissioner disagreed citing concerns about the proximity of the use to residential uses.

Minutes from the February 7, 2024, Planning Commission public hearing are attached (**Exhibit C**). Seven members of the public spoke in opposition at the Planning Commission hearing citing concerns related to noise, inadequate police presence, and setting a precedence for other bars in the area. The applicant presented the project to the Ward 5 Neighborhood Advisory Board (NAB) on January 9, 2024. A number of concerns were raised related to noise impacts, public outreach to residential properties nearby, security measures, and fire safety.

Financial Implications:

None at this time.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law.

Recommendation:

Staff recommends Council review the letter of appeal and Planning Commission action and affirm, modify, or reverse the Planning Commission's decision.

Proposed Motion:

Below are proposed motions with the findings for affirmation, modification, or reversal of the Planning Commission decision.

Motion to Affirm Planning Commission Decision

(Denying the appeals and approving the conditional use permit)

Regarding the appeal of LDC24-00029 (Reno Axe), based on Council's review of the staff report, the record on appeal, and information presented at the public hearing for this appeal, and based on my ability to make all of the findings, I move to AFFIRM approval of the conditional use permit by the Planning Commission and DENY the appeals. The City Clerk is instructed to prepare and file an order.

Motion to Modify Planning Commission Decision

(Affirming the appeal and modifying the conditions of the conditional use permit)

Regarding the appeal of LDC24-00029 (Reno Axe), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal and MODIFY the decision of the Planning Commission as follows ____*. As modified, I can make all of the required findings as listed in the staff report, and I move to APPROVE the conditional use permit subject to conditions stated in the Planning Commission decision letter and as modified by Council. The City Clerk is instructed to prepare and file an order.

*Modifications to the conditions of approval outlined in the Planning Commission staff report are:
[List modifications]

Motion to Reverse Planning Commission Decision

(Affirming the appeal, reversing the Planning Commission decision, and denying the conditional use permit)

Regarding the appeal of LDC24-00029 (Reno Axe), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal, REVERSE the approval of the conditional use permit by the Planning Commission, and directly DENY the conditional use permit, based on the inability to make all the applicable findings. The City Clerk is instructed to prepare and file an order.

Findings:

General Review Criteria and Considerations: The decision-making body shall review all development applications for compliance with the applicable general review criteria stated below.

- (1) Consistency with the Reno Master Plan: The proposed development shall be consistent with the Reno Master Plan. The decision-making authority:
 - a. Shall weigh competing plan goals, policies, and strategies; and

- b. May approve an application that provides a public benefit even if the development is contrary to some of the goals, policies, or strategies in the Reno Master Plan.
- (2) Compliance with Title 18: The proposed development shall comply with all applicable standards in this Title unless the standard is lawfully modified or varied. Compliance with these standards is applied at the level of detail required for the subject submittal.
- (3) Mitigates Traffic Impacts: The project mitigates traffic impacts based on applicable standards of the City of Reno and the Regional Transportation Commission (RTC).
- (4) Provides Safe Environment: The project provides a safe environment for pedestrians and people on bicycles.
- (5) Rational Phasing Plan: If the application involves phases, each phase of the proposed development contains all of the required streets, utilities, landscaping, open space, and other improvements that are required to serve or otherwise accompany the completed phases of the project, and shall not depend on subsequent phases for those improvements.

Conditional Use Permit: In addition to meeting the criteria in Section 18.08.304(e), Approval Criteria Applicable to all Applications, the following findings shall be made prior to granting a conditional use permit:

- (1) The proposed location of the use is in accordance with the objectives of this Title and the purpose of the zoning district in which the site is located;
- (2) The proposed land use and project design is compatible with surrounding development;
- (3) The proposed land use and project design is consistent with applicable development standards;
- (4) Public services and facilities are available to serve the project, or will be provided with development;
- (5) The characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of use permitted in the surrounding area; and
- (6) The granting of the conditional use permit will not be materially detrimental to the public health, safety, or welfare. The factors to be considered in evaluating this application shall include:
 - a. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration, or illumination; and
 - b. Any hazard to persons and property.

Attachments:

Exhibit A – Appeal

Exhibit B – Planning Commission Staff Report

Exhibit C – Planning Commission Minutes

Reno Axe Appeal Legal Notice