

# PLANNING COMMISSION REPORT



Meeting Date: October 9, 2024  
General Plan Element: *Land Use*  
General Plan Goal: *Create a sense of community through land uses*

## ACTION

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### Paloma 7-UP-2023

#### Request to consider the following:

1. A recommendation to City Council regarding a request by owner for approval of a conditional use permit for a bar in a new +/- 1,532 square foot building with Central Business, Parking District, Downtown Overlay (C-2/P-3 DO) and Parking District, Downtown Overlay (P-2 DO) zoning, located at 4439 N. Saddlebag Trail.

#### Goal/Purpose of Request

The owner requests approval to operate a bar on the site. The property owner received Development Review Board approval to construct a new building (11-DR-2022) and said building is presently under construction.

#### Key Items for Consideration

- Conditional Use Permit Criteria
- Noise mitigation
- Parking provided by a combination of historical Downtown Overlay credits, P-3 credits, remote parking and in-lieu credits
- Availability of remote parking confirmed
- Nearest residence located approximately 375 feet northeast of subject site
- One written comment from nearby property owner received

## OWNER

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Ryan Jocque  
(310) 213-4971

## APPLICANT CONTACT

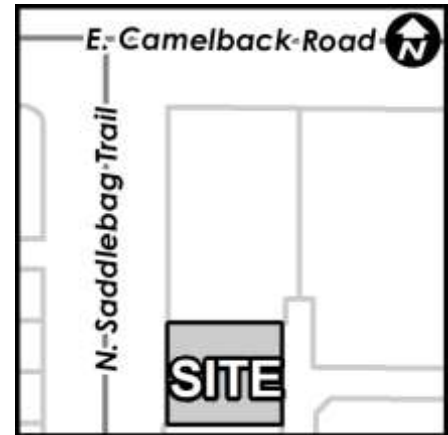
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Robert W Leavitt  
Jeffrey Craig Miller  
(480) 290-1685

## LOCATION

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4439 N Saddlebag Tr



## BACKGROUND

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### Old Town Character Area Plan (OTSCAP)

The OTSCAP designates the subject site as Downtown Multiple-Use, which encourages a “mix of uses and activities through the development of mutually supportive uses”.

### Zoning

The site was annexed into the city in 1959 (Ord. #78) and assigned Central Business (C-2) zoning, which allows bars subject to approval of a conditional use permit. In 2003, the Downtown Overlay was adopted and placed over the property. No other zoning activity has taken place since.

### Context

Located on the east side of N. Saddlebag Trail, approximately 125 feet south of E. Camelback Road, the site is situated in an area occupied by a variety of commercial uses of varying intensity. The nearest residence is located approximately 375 feet northeast of the site however, Old Town is designated as Multiple Use by the OTSCAP so new residential could be constructed in the vicinity in the future. The balcony for this establishment faces west toward other commercial uses, though there is exposure to the north as well, making noise mitigation a priority. Please refer to context graphics attached.

### Adjacent Uses and Zoning

- North: Surface Parking (privately owned), zoned D/DMU-3 PBD DO
- South: Bar, zoned D/DMU-3 PBD DO
- East: Restaurant/Bar, zoned D/DMU-3 PBD DO, and Office, zoned C-3/P-3 & P-2 DO
- West: Bar, zoned D/DMU-3 PBD DO

### Other Related Policies, References:

- Scottsdale General Plan 2001, as amended
- Old Town Character Area Plan
- Zoning Ordinance
- 11-DR-2022: Approved a new two-story commercial building

## APPLICANT’S PROPOSAL

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### Development Information

- Existing Use: N/A (new building presently under construction)
- Proposed Use: Bar
- Parking Required: 34 spaces (1 space for every 120 square feet of gross floor area + 1 space for every 200 square feet of patio or balcony)
- Parking Provided: 35 spaces (4 on-site spaces, 9 P-3 credits, 17 remote spaces and 5 in-lieu parking credits)
- Floor Area: 1,532 square feet of indoor floor area, 4,296 square feet of patio/balcony area

## IMPACT ANALYSIS

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### Conditional Use Permit

Conditional Use Permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and City Council has found as follows:

- A. That the granting of such Conditional Use Permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council’s consideration shall include, but not be limited to, the following factors:

**1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.**

- The establishment is located in an area with uses of similar intensity, including bars and restaurants, and the nearest residence is approximately 375 feet northeast of the subject site. No live entertainment is proposed. The bar itself is relatively small at 1,532 square feet, however, a large 4,296 square foot patio/balcony is also proposed. The balcony faces west toward other commercial uses, though there is exposure to the north as well. During review of the DRB case, staff coordinated with the property owner to incorporate noise mitigation measures as part of the building design, specifically for the north edge facing the residential to the north (refer to Attachment #4). Additionally, a stipulation requiring any external speakers on the balcony to be oriented in toward the establishment and directed downward is included as part of this report. It should be noted that the property to the north is part of the Scottsdale Collection Planned Block Development (PBD, 9-ZN-2020). At this location, a building up to 96 feet in height can be constructed as part of the PBD approval, which when built could further screen noise from residential properties to the north. No damage or nuisance from noise, smoke, odor, dust, vibration or illumination is anticipated.

**2. Impact on surrounding areas resulting from an unusual volume or character of traffic.**

- The proposed use is consistent in intensity with other establishments in the area and parking complies with ordinance requirements. This request is not anticipated to

generate a significant increase in volume of vehicular traffic that would affect existing traffic patterns on surrounding streets.

**B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.**

- This establishment is located in the Entertainment District, which is occupied by uses of similar intensity, including bars and restaurants, and the nearest residence is approximately 375 northeast of the site. The characteristics of the proposed use are reasonably compatible with uses in the surrounding area.

**C. The additional conditions specified in Section 1.403.C (bar), as applicable, have been satisfied.**

**1. The use shall not disrupt existing balance of daytime and nighttime uses.**

- The proposed hours of operation are 5:00 PM to 2:00 AM Monday-Friday, and 10:00 AM to 2:00 AM Saturday and Sunday. These hours of operation are typical for most of the establishments in the Entertainment District, with a few exceptions. This request is not anticipated to disrupt the balance of daytime and nighttime uses.

**2. The use shall not disrupt pedestrian-oriented daytime activities.**

- The proposed building includes a large balcony on the 2<sup>nd</sup> level and a smaller ground level patio, both of which will encourage interaction between pedestrians on the street and patrons of the establishment. This request is not anticipated to disrupt pedestrian-oriented daytime activities.

**3. If the site is located within the Downtown Overlay district then:**

- a. The use shall not encourage displacement of daytime retail uses unless it can be demonstrated that the proposed use shall promote diversity of first floor uses along the street.**
  - This new building was designed for food and beverage services and will not displace any daytime retail uses.
- b. The required parking for the use shall be within six hundred (600) feet of the property and shall not be separated from the property by a major or minor arterial street.**
  - There are four parking spaces on-site. The applicant has also secured 17 remote parking spaces on various properties, all within 600 feet of the subject site. None of the spaces are separated from the site by a major or minor arterial street. Assurance of Remote Parking Agreements have been executed and availability of spaces confirmed by staff.

**4. If the use is located within five hundred (500) feet of a residential use or district then:**

- a. The use shall not adversely impact residential uses.**
- b. The use shall provide methods of buffering residential uses.**

- This site is located approximately 375 feet from the nearest residential use and no live entertainment is proposed. While the proposed 2<sup>nd</sup> level balcony is oriented toward the west, there is exposure to the north, which faces residential on the north side of E. Camelback Road. Noise mitigation was integrated into the building design along the north edge as part of the DRB process that should help to minimize noise intrusion on the residential to the north.
5. **An active management and security plan shall be created, approved, implemented, maintained, and enforced for the business.**
    - The Police Department has reviewed the proposal and sees no reason to delay the application from going through the process of approval to obtain the required conditional use permit. Further review of the Public Safety Plan (PSP), and associated refuse control plan, will be conducted upon issuance of the Certificate of Occupancy.
  6. **The applicant shall create a written exterior refuse control plan for approval by the City.**
    - The Police Department has reviewed the proposal and sees no reason to delay the application from going through the process of approval to obtain the required conditional use permit. Further review of the Public Safety Plan (PSP), and associated refuse control plan, will be conducted upon issuance of the Certificate of Occupancy.
  7. **The applicant shall demonstrate how noise and light generated by the use shall be mitigated.**
    - This site is located approximately 375 feet from the nearest residential use and no live entertainment is proposed. While the proposed 2<sup>nd</sup> level balcony is oriented toward the west, there is exposure to the north, which faces residential on the north side of E. Camelback Road. Noise mitigation was integrated into the building design along the north edge as part of the DRB process that should help to minimize noise intrusion on the residential to the north. All proposed lighting was reviewed as part of the DRB process for compliance with the city's Exterior Lighting Policy.
  8. **The applicant shall demonstrate that the use shall meet required parking and shall not exceed capacity for traffic in the area.**
    - A total of 34 spaces is required for the proposed bar use. There are 4 spaces on-site, 9 P-3 credits, 17 spaces provided remotely and 5 in-lieu credits. The site is close to E. Camelback Road, which is classified as a Minor Arterial. In recent years, the street network in the Entertainment District has been converted to one-way only to promote a safer pedestrian environment.
  9. **After hours establishments must maintain a valid after-hours establishment license.**
    - No after-hours activities are proposed as part of this application.

### Public Safety

The Police Department has reviewed the proposal and sees no reason to delay the application from going through the process of approval to obtain the required conditional use permit. Further review

of the Public Safety Plan (PSP), and associated refuse control plan, will be conducted upon issuance of the Certificate of Occupancy. As with any project that contributes to growth, the fire department and police department continually anticipate and evaluate resource needs for the city's budget process.

### **Community Involvement**

The City of Scottsdale promotes public participation in the development of the built environment and has used multiple public outreach methods. The applicant has also complied with the city's suggested best practices for public outreach by sending written notification to all property owners within 750 feet of the subject site. To date, one written comment has been received by staff and is attached to this report.

## **STAFF RECOMMENDATION**

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### **Recommended Approach:**

Staff recommends that the Planning Commission find that the Conditional Use Permit criteria have been met, and make a recommendation to City Council for approval of a conditional use permit for a bar in a new +/- 1,532 square foot building with Central Business, Parking District, Downtown Overlay (C-2/P-3 DO) and Parking District, Downtown Overlay (P-2 DO) zoning, located at 4439 N. Saddlebag Trail, per the attached stipulations.

## **RESPONSIBLE DEPARTMENT**

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### **Planning and Development Services**

Current Planning Services

## **STAFF CONTACT**

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Principal Planner  
480-312-4306  
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**APPROVED BY**

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Greg Bloemberg, Report Author

9/10/2024

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Date



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Tim Curtis, AICP, Current Planning Director  
Planning Commission Liaison  
Phone: 480-312-4210      Email: tcurtis@scottsdaleaz.gov

9/12/2024

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Date



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Erin Perreault, AICP, Executive Director  
Planning and Development Services  
Phone: 480-312-7093      Email: eperreault@scottsdaleaz.gov

09/13/2024

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Date

**ATTACHMENTS**

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1. Context Aerial
2. Resolution No. 13245
  - Exhibit 1: Aerial Close Up
  - Exhibit 2: Stipulations
  - Exhibit A to Exhibit 2: Floor Plan
  - Exhibit 3: Additional Conditions
3. Applicant's Narrative
4. Noise Mitigation Exhibit
5. Zoning Map
6. Community Involvement
7. City Notification Map