



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P19CU00002

BACKSTROM — E. CATALINA HIGHWAY

Type I Conditional Use – Adaptive Reuse (Personal Fitness & Hair Styling)

Background/Authority

Chapter 18.97, in accordance with Section 18.09.020.R of the Pima County Zoning Code, requires a Type I conditional use permit for an adaptive reuse on property zoned SR (Suburban Ranch). This particular request is to utilize an existing accessory structure on a residential property for appointment-only personal fitness training and hair styling. The property in question is approximately 3.5 acres in size and is located on the north side of Catalina Highway, approximately 1/2 mile northeast of its intersection with E. Tanque Verde Road.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on April 4, 2019. The owner/applicant presented the application to the Hearing Administrator and answered his questions on the matter. The owner/applicant confirmed that only the existing accessory structure would be used and that business would be conducted by appointment only.

Several members of the public attended the hearing, three (3) of whom chose to speak on the matter and express their opposition. Objections centered upon the use of their private easement for access to the subject property, the perceived resultant degradation of the easement's dirt driving surface that would occur, and the concern that incoming customers would miss the driveway entrance into the subject property and, instead, proceed northward on E. Morrill Way and thus impact the adjacent residents. Staff reported that they had received five (5) letters of opposition on the case (some of which were from the above speakers) and one (1) letter of support. After hearing all of the above, the Hearing Administrator thanked the attendees and closed the public hearing.

Hearing Administrator's General Comments

The Hearing Administrator does not share the position of the neighbors who spoke at public hearing that the proposed use of the subject property will have a significant negative impact upon the surrounding residents and neighborhood and severely degrade the existing dirt surface of the shared access easement that is E. Morrill Way. Reasonable, straightforward measures can be implemented to safeguard against same.

Also, it should be noted that characterizing the proposed use as an intensive commercial one is simply not accurate. The proposed business use here is by appointment only and does not rely upon traditional retail "drive-by" customer traffic. As such, the individuals going to and from the property for its fitness or stylist services will be part of a regular clientele that will know the location of the business and will not be one-time visitors who are unfamiliar and might become lost wandering through the neighborhood to the north.

All of this being said, it is the Hearing Administrator's hope that direct access from Catalina Highway can ultimately be achieved by this property owner, as this would clearly be the optimum solution for all concerned. In the event, however, that this cannot be achieved in accordance with applicable Department of Transportation access criteria, it is the Hearing Administrator's position that simple provisions are achievable for the minimal use of E. Morrill Way at its entrance to the subject property.

Required Standards and Findings

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.

The Comprehensive Plan (Pima Prospers) places the subject property within an area designated as *Low Intensity Urban 0.3 (LIU)*, the purpose of which is to, "designate low-intensity residential areas, together with other compatible uses."

The Hearing Administrator finds that this adaptive re-use is a generally low-intensity one that, when operated as proposed and with a clientele by appointment only, will not alter or materially harm the single-family residential character of the properties to the north and west on E. Morrill Way. As such, the proposed use is found to be appropriate in this specific location and not to be in conflict with the Comprehensive Plan.

2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.

The Zoning Code has built-in safeguards for the adaptive reuse of existing single-family residential structures, including limited aesthetic alteration of the structure's exterior, minimal parking allowances, access only to and from a major arterial, and generally maintaining the look and feel of a single-family residence. These standing Code prescriptions are found to be significant in safeguarding the surrounding properties. Additional *Special Conditions* have been crafted by the Hearing Administrator to address other particulars of this specific use.

3. It has adequate accessibility to the County road network.

The site has existing access to a private easement which connects directly to Catalina Highway approximately fifty feet (50') to the immediate south. Catalina Highway is a designated "major street" on the Pima County Major Streets & Routes Plan (MSRP). While access is found to be

adequate, it is the Hearing Administrator's hope that the owner/applicant can ultimately obtain access directly to/from Catalina Highway. Final determination on this point will be made by the Department of Transportation and subject to their adopted access criteria.

4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.

Sufficient on-site parking, loading, etc. is verified by staff during the routine permitting process.

5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.

The proposed use is found to not threaten the surrounding properties in any of the above ways, except for perhaps dust from the additional clients visiting the site. Standard Zoning Code requirements (i.e. setback, buffering, etc.), together with the supplemental *Special Conditions* crafted by the Hearing Administrator, are considered sufficient to address the matter.

6. Hours of operation will not be detrimental to adjoining residents.

Hours of operation are addressed in the *Special Conditions* crafted by the Hearing Administrator.

7. Landscaping will be fully in conformance with zoning code regulations.

Applicable landscaping requirements will be verified by staff during the permitting process.

Hearing Administrator's Decision

This application for a Type I conditional use permit for an adaptive reuse (personal fitness, hair styling), on property zoned SR, is hereby approved by the Hearing Administrator. This approval is subject to the *Standard Code Requirements* outlined below, as well as the supplemental *Special Conditions* crafted by the hearing administrator. Conditions of approval are therefore as follows:

Standard Conditions & Zoning Code Requirements

1. The proposed use shall conform with all requirements of Section 18.09.020.R (Adaptive Reuse) of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit is approved only for the internal use of the existing accessory building on the property. All personal training and/or hair styling activity shall occur only within this accessory building and not within the existing residence on the property. No outdoor activities are permitted and no other commercial uses (other than personal training and hair styling) are allowed.
2. All business conducted within the accessory building shall be by appointment only. No "drive-by" retail traffic or customers are allowed. The appointment-only nature of the clientele will help ensure that visitors are completely familiar with the property's location and thereby not become lost or wander through the existing neighborhood to the north and west.
3. It is expected that business shall generally be conducted during normal daytime business hours, and primarily from Monday through Friday, with the understanding that weekend hours are permissible

but will not be the primary business window. Other than this general expectation, no specific hours of operation are mandated. In the event that business hours recurrently occur outside of the above general timeframe (e.g. excessive weekend hours) and this causes issues with the surrounding residential neighbors, the Hearing Administrator reserves the right to revisit this *Special Condition* and prescribed more specific limitations on hours of operation.

4. Any expansion of the existing accessory building beyond ten-percent (10) of its existing size shall require a new conditional use permit application, public notice, public hearing, etc.
5. No formal Pima County Development Plan or review process is required. The owner/applicant shall provide a suitable and complete Site Plan for the property as part of their building permit set.
6. Site provisions for parking will be verified by staff during site plan review to ensure compliance with Section 18.09.020.R. The parking area shall be of durable surfacing, such as gravel, subject to acceptance by the Department of Transportation.
7. The owner/applicant shall seek approval from the Department of Transportation (DOT) for direct driveway access off of Catalina Highway. If such access is granted by DOT, then the applicant shall construct the new driveway and use it as the exclusive access for all business activities.
8. In the event that such access is denied by DOT due to limitations of its adopted separation criteria/standards, then the owner/applicant shall provide a new 3" thick gravel surface on E. Morrill Way, from the edge of the existing Catalina Highway asphalt apron to a point five feet (5') beyond the property's existing driveway off of E. Morrill Way. The new gravel will cover the entire width of the existing drivable surface only, not the entire width of the easement.

Appeal Procedures

The owner/applicant or any owner-of-record within the legal notification area can appeal this decision, which will result in a subsequent public hearing on this matter before the Pima County Board of Supervisors. The appeal must be filed, in writing, within thirty (30) days of the Hearing Administrator rendering his decision.

Any party interested in filing an appeal should contact Mr. Nicholas Coussoulis, Senior Planner, at phone number 520.724.9000. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.

Respectfully Submitted:



Jim Portner
Pima County Hearing Administrator

April 9, 2019
Date