

## STAFF REPORT

<b>Planning and Zoning:</b>	5/1/2023	<b>Staff Contact:</b>	Nathan Jones, Planning Manager
<b>City Council:</b>	5/23/2023	<b>E-mail:</b>	<a href="mailto:Nathanj@pflugervilletx.gov">Nathanj@pflugervilletx.gov</a>
<b>Case No:</b>	2023-3-SUP	<b>Phone:</b>	512-990-6346
<b>Legistar No:</b>	ORD-0713		

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**SUBJECT:** To receive public comment and consider an application for a Specific Use Permit for proposed use of Lounge within the Downtown District Overlay for an approximately 4,200 square-foot structure, located at 105 E Pecan Street, to be known as the East Pecan Cigar Specific Use Permit (2023-3-SUP).

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### SUMMARY OF THE REQUEST:

The applicant is requesting a Specific Use Permit (SUP) to allow for the Lounge use within the Downtown Overlay District. The applicant is proposing to use 4,200 square-feet of the existing structure as the proposed Lounge.

### LOCATION:

The subject property is located at 105 E. Pecan Street, at the intersection of 2<sup>nd</sup> and Pecan Street. The property is zoned General Business 1 (GB1) and is located within the Downtown District Overlay.

### HISTORY:

The subject property was included in the George Pfluger Addition that was originally platted in 1904 and has remained in its current configuration since that time. The majority of the existing structure has most recently been used as a barber shop. In 2019, the applicant enclosed a portion of the structure's eastern patio and refinished the interior. A Certificate of Occupancy (CO) was requested by the applicant and approved by city staff in 2020 for a retail use to sell tobacco products on site. Upon the issuance of the CO, the structure was occupied by the applicant and used as a cigar lounge. Per the Unified Development Code (UDC), the Lounge use is permitted by right in its base zoning district of General Business 1 (GB1). However, because the subject property is located within the Downtown District Overlay, the use requires a Specific Use Permit (SUP) in order to ensure compatibility with adjacent land uses.

### SURROUNDING ZONING AND LAND USE:

Adjacent	Base Zoning District	Existing Land Use
North	General Business 1 (GB1)	Professional Offices and Personal Services
South	Office (O)	
East	General Business 1 (GB1)	Bar/Tavern
West	Retail (R)	Retail Sales

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### **ASPIRE PFLUGERVILLE 2040 COMPREHENSIVE PLAN:**

The Aspire Pflugerville 2040 Comprehensive Plan identifies the future land use of this area as Mixed-Use Neighborhood and within the Central District Neighborhood District.

### **Future Land Use:**

Mixed-Use Neighborhood development incorporates different uses such as office, retail, commercial and residential in one area. Mixed-use development can be either vertical or horizontal. Vertical mixed-use describes a single structure with multiple uses within the structure. Typically retail or office is located on the ground floor while residential or office utilizes the upper floors. Horizontal mixed-use describes multiple uses next to each other in a single development or in close proximity. Uses can be located within a single structure, or in separate buildings adjacent to each other. These developments are intended to encourage users to not rely on vehicles and promote a pedestrian friendly experience. By mixing uses and having them in proximity, developments are more walkable than traditional suburban commercial development. These types of developments generally, incorporate amenities like plazas, public seating, and pedestrian features.

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### COMPATIBILITY OF NEW USES AND BUILDING TYPES

Primarily Residential		Primarily Nonresidential and Mixed-Use	
Agricultural	○○○	Mixed-Use, Neighborhood Scale	●●●
Cluster Subdivision	○○○	Mixed-Use, Community Scale	●●○
Single-Family, Large Lot	○○○	Mixed-Use, Regional Scale	○○○
Single-Family, Suburban Lot	○○○	Neighborhood Office and Commercial	●●○
Single-Family, Small Lot	●●○	Regional Office and Commercial	○○○
Accessory Dwelling Unit	●●●	Neighborhood Shopping Center	●●○
Townhome	●●●	Regional Shopping Center	○○○
Duplex	●●●	Light Industrial/Flex Space	○○○
Triplex/Fourplex	●●●	Heavy Industrial	○○○
Bungalow/Cottage Court	●●○	Civic/Recreation	●●●
Courtyard/Garden Apartment	○○○		
Urban Apartment	○○○		

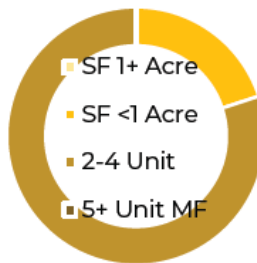
●●● Appropriate primary uses  
 ●●○ Conditional as primary uses  
 ○○○ Inappropriate use

**Figure 3.12. Mixed-Use Neighborhood**

Residential and Nonresidential Mix



Residential Type Mix



Nonresidential Mix



### Neighborhood District:

The Aspire Pflugerville 2040 Comprehensive Plan identifies the subject property as located within the Central District. This district includes the historic Downtown and Historic Colored Addition, surrounded by neighborhoods in linear fashion along Pecan Street. It is home to key City public facilities like the Pflugerville Public Library, and major school assets such as stadiums, offices, a high school and multiple school sites. Gilleland Creek is a green corridor supporting a variety of park experiences and trail connections. Much of the District is single-family residential, although FM 685/Dessau Road, Wells Branch Parkway and Pflugerville Parkway serve as significant economic opportunities that will involve unique infill-based approaches for compatibility character definition. The Pecan Street/FM 685 intersection presents an opportunity to integrate Downtown with these corridors, connect with Gilleland Creek and the MoKan rail corridor, and provide facilities for the City for years to come.

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**TRANSPORTATION:**

The Transportation Master Plan (TMP) identifies Pecan Street as an Urban 3-Lane road with an 80-foot right-of-way (ROW) at full buildout.



**BASE ZONING DISTRICT:**

The subject property is zoned General Business 1 (GB1). The General Business 1 (GB1) district is designed to accommodate a full range of retail and office uses with a city-wide and even regional trade area. These types of commercial uses are conducted wholly within an enclosed building. The uses in this district have operating characteristics and traffic service requirements compatible with typical office, retail, shopping, and high-density residential environments.

**DOWNTOWN DISTRICT OVERLAY:**

The subject property is located within the Downtown District Overlay. The Downtown District Overlay (DD) is intended to serve multiple purposes, including preservation and enhancement of the City's Downtown of historical, cultural, and architectural significance by providing for land use compatibility provisions and special development regulations which promote the historic preservation, compatible architectural character, scale, walkability, and economic viability of the area. In addition to the provisions in this Chapter, site circulation, parking, landscaping, and exterior lighting development standards, contained in this section of the Unified Development Code, shall apply to the overlay district. The Downtown District Overlay is separated into sub-districts in order to account for context-sensitive development regulations.

The subject property is located within the Downtown Core Subdistrict and immediately adjacent to the transitional Compatibility Zone. The Downtown Core Subdistrict is situated within the center of the Downtown District Overlay, whereby the applicable development requirements are specifically tailored to the existing gridded street pattern and redevelopment potential. The Downtown Core Subdistrict further provides for a Transitional Compatibility Zone (TCZ), which provides for specific development regulations relating to architecture, parking, site design, building height, and landscaping, to ensure improved compatibility with the surrounding residential neighborhood.

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### PURPOSE OF SPECIFIC USE PERMIT:

A Specific Use Permit (SUP) provides for a case-by-case review of the proposed land use to ensure compatibility with the surrounding uses as well as the Unified Development Code (UDC). A Specific Use Permit is similar to a zoning request in that the application is considered by public hearings and allows for the public, Planning and Zoning Commission, and City Council to review and consider the proposed request based on the specific criteria outlined in the UDC, which allows consideration for creating compatibility for uses that are allowed through a Specific Use Permit.

### PROPOSED SPECIFIC USE PERMIT:

The applicant is requesting consideration for the use of a Lounge within the Downtown District Overlay.

The Unified Development Code (UDC) defines these uses as follows:

*LOUNGE: A facility which offers patrons a relaxing environment where food, tobacco and alcohol may be consumed and purchased. A Lounge differs from a Bar/Tavern or Restaurant as a Lounge shall not receive more than 50% of its total sales from food and alcohol sales.*

The Lounge use is permitted by right within the base zoning district of GB1. However, the Downtown District Overlay includes a condition on the use that if it is located a minimum of 200-feet from single-family, detached, townhome or duplex uses, the use requires a Specific Use Permit (SUP). Additionally, the Lounge use is not permitted within the Transitional Compatibility Zone (TCZ).

If approved, the SUP would allow for the Lounge use to be permitted at the subject property. All other requirements of the UDC, including adherence to building and fire codes, would still apply to the structure.

### STAFF ANALYSIS:

Per Section 3.8.4 of the UDC, the Planning and Zoning Commission and City Council shall consider the following criteria in determining the appropriateness of the Specific Use Permit request. Staff has reviewed the applicant's proposal against the criteria and included its analysis below:

1. Whether the use is harmonious and compatible with its surrounding existing uses or proposed uses.

**Complies:** *The subject property is located immediately adjacent to an existing bar/tavern. Additionally, there are other restaurants and bar/taverns located within the downtown core. These uses create a space for people to gather and recreate. The definition of the Lounge use states that it is intended to be a place that promotes "a relaxing environment where food, tobacco and alcohol may be consumed and purchased." The Lounge use is less intense but compatible with Bar/Tavern and Restaurant uses. If approved, the proposed use would allow for another type of recreation for community members that is not currently available in the Downtown District Overlay.*

2. Whether the activities requested by the applicant are normally associated with the requested use.

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**Complies:** *The applicant intends to operate as a cigar lounge where patrons will be able to purchase and consume tobacco products onsite. These activities are directly identified in the definition of the Lounge use.*

3. Whether the nature of the use is reasonable; and

**Complies:** *The Lounge use is a reasonable use at the subject property. It is a less intense use than Bar/Tavern or Restaurant uses, which are commonly found east of the subject property in the Downtown District Overlay. The use may also act as an appropriate transition from these high traffic inducing recreational businesses to the retail and office located along Pecan Street west of the subject property and the residential uses located southwest of the subject property.*

4. Whether any adverse impact on the surrounding area has been mitigated.

**Complies:** *If approved, the SUP would grant the Lounge use to be permitted at the subject property. Other health, safety, and noise requirements would be regulated by the rest of the Unified Development Code, the Fire Code, the Building Code, and the Code of Ordinances.*

*The UDC details site design requirements for new and existing development within the Downtown District Overlay. The required parking ratio for a Lounge use is 1 space per 100 square-feet of use. Per UDC 4.5.1 G, at least 50 percent of the minimum number of required spaces for a development shall be provided off-site. There are approximately 12 designated parking spaces onsite with an additional unstriped parking area in the rear of the site.*

*The currently approved CO allows an occupancy limit of seven patrons. The occupancy limit could be increased as long as all Fire and Building Code requirements are met, for example the possible construction of additional bathrooms depending on the proposed occupancy. Any noise generated by the use would be regulated in conformance with the Noise Control ordinance of the City Code of Ordinances. Finally, the UDC regulates On-Site Special Events through a Temporary Use Permit process. Per the UDC, on-site special events shall be allowed provided they meet the following conditions:*

- a) The event holder shall have permission from the property owner to hold the special event on-site;*
- b) The special event shall not interfere with the safe and orderly movement of pedestrian or vehicular travel within public rights-of-way near the site and on-site;*
- c) The event holder shall provide for adequate health and sanitation facilities;*
- d) With the exception of property within the Downtown District Overlay where on-street public parking is available, special events shall provide for adequate off-street parking to accommodate the event and other temporary and primary uses on-site;*
- e) The operation shall be generally self-sufficient with regards to water, sewer, and electricity. Temporary connections to potable water and sanitary sewer are prohibited. Electricity shall be*

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*from a generator or an approved electrical outlet via an approved portable cord that is in conformance with the electrical code as adopted by the City.*

- f) Adequate on-site restroom facilities solid and waste containers shall be required; and*
- g) The duration of the special event shall be limited to a maximum period of seventy-two (72) hours, but no more than twelve (12) consecutive hours per day.*

*Finally, per UDC 4.7 J.4, where the fire marshal determines that an indoor or outdoor gathering of persons has an adverse impact on public safety through diminished access to buildings, structures, fire hydrants and fire apparatus access roads or where such gatherings adversely affect public safety services of any kind, the fire marshal shall have the authority to require the development of or prescribe a public safety plan that provides an approved level of public safety and addresses the following items:*

- 1. Emergency vehicle ingress and egress,*
- 2. Fire Protection,*
- 3. Emergency egress or escape routes,*
- 4. Emergency medical services,*
- 5. Public assembly areas,*
- 6. The directing of both attendees and vehicles, including the parking of vehicles,*
- 7. Vendor and food concession distribution,*
- 8. The need for the presence of law enforcement,*
- 9. The need for fire and emergency medical services personnel.*

**STAFF RECOMMENDATION:**

Staff finds that the request for the lounge use complies with all the approval criteria of the Specific Use Permit and that it meets the intent of the Comprehensive Plan and the Downtown District Overlay in conjunction with the sale and consumption of tobacco products.

Staff recommends approval of the SUP request with the following conditions:

Item	Conditions of Approval
1.	Lounge use is permitted within areas of the structure as indicated in Exhibit A – Location of Lounge Use.
2.	All on-site special events shall comply with UDC 4.7 – Temporary Uses, Structures, and Permits.
3.	The Lounge use shall comply with the Noise Control ordinance. All sound equipment shall be contained indoors.

**NOTIFICATION:**



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Notification letters were sent to property owners within 500-ft. of the proposed site. A sign was placed on the property and a public notice appeared in the newspaper. At time of staff report, there have been three inquiries.

**ATTACHMENTS:**

- Notification Map
- Exhibit A – Location of Lounge Use