

BOARD OF ADJUSTMENT MEETING MINUTES

BOA_AF_09-20-2023

Chairperson Pfannkuch called to order the September 20, 2023, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa, and electronically through Zoom.

Roll Call: Blaser, Christiansen, PfannkuchPresent
Cunningham, Stevens.....Absent

Item 1 – Consent Agenda

Item 1a – Minutes of August 16, 2023

Chairperson Pfannkuch asked for any corrections to the meeting minutes of August 16, 2023. Hearing none, Chair Pfannkuch declared the minutes approved as presented.

Item 2 – Old Business

There were no Old Business items.

Item 3 – Public Hearings

Item 3a – XCaret Club and Lounge, LLC (aka Kaos Club), 2700 University Ave, Suite 200 – Approval of a Permitted Conditional Use Permit to establish an Event Venue land use – Denny Elwell Company – PC-006180-2023

Chairperson Pfannkuch opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary stated that the notice was published on September 8, 2023, in the Des Moines Register.

Moved by Board Member Christiansen, seconded by Board Member Blaser, the Board of Adjustment accepted and made a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Christiansen, PfannkuchYes
Cunningham, Stevens.....Absent

Motion carried.

Jorge Oscar Sanchez, XCaret Club & Lounge, 2700 University Ave, Suite 200, presented his request for Event Center us. He informed that the Club was approved for permitted conditional use one year ago and there have been no issues. They are requesting another conditional use permit for another year, to continue the business as it is.

Chairperson Pfannkuch asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Emani Brinkman, Development Services Associate Planner, stated the City is recommending approval of the conditional use permit for a one-year time period with two conditions of approval. Mr. Sanchez will be required to submit another request for conditional use permit prior to the expiration date of 09/20/2024, allowing for adequate review time by Staff.

Planner Brinkman informed that Club Ambia, XCaret Club, and Kaos Club are not allowed to operate

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until a sign permit has been obtained. XCaret currently has a sign advertising their business which does not have a sign permit and is therefore illegal. The club will need to obtain a sign permit, as the second condition of approval for the conditional use permit.

Chair Pfannkuch clarified that the Board is only approving the use. Assistant City Attorney Jessica Grove affirmed that only the use as an event venue is being approved. She noted that this is what was presented to the Board a year ago, and it is the same bifurcated process, where the Use is approved by the Board of Adjustment, and if there is a liquor license, it is reviewed by City Council. Club Ambia, the new owner of the Club, was approved for a liquor license last night at Council.

Ms. Grove explained that the reason for the one-year condition. The City recently revised the Bar/Liquor Ordinance, BYOB or Bar-only restricts customers to 18 and Older. If you are a bar/restaurants and your food sales are not more than your alcohol, you have to have minors out at 9 PM. The police department had received some complaints that there was the potential of selling of alcohol at this location when it did not have a liquor license, however nothing came of that. But the Police Department is recommending that the use be limited to one year to see how the new establishment runs. With the liquor license, since there will be no food sales, customers must be 21 and older. This is what it is today.

Attorney Grove added that with the liquor license there are exception certificates which are not the same as event center use approved by the Board of Adjustment. Those exception certificates require approval by the Police Department.

Chairperson Pfannkuch asked for continued discussion or a motion and a second for this item.

Board Member Blaser made a motion to approve the item.

Board Member Christiansen noted that the owner was not represented, so the Board could not ask the owner if they had reviewed the conditions and were in agreement with them.

Attorney Grove affirmed that the condition of one year will apply regardless because it is an event venue that hasn't changed. Regarding the Sign, that might be a question for Mr. Sanchez if he knows the answer. She stated that the current unpermitted sign is for XCaret. Club Ambia is the name provided for the liquor license operation and she didn't know if the XCaret sign would stay up or not, given the change of business name. Ms. Grove concluded that any sign for the business would require a permit.

Planner Brinkman inserted that on Monday, September 18, the owner of Club Ambia and Mr. Sanchez were emailed the staff report including conditions of approval on Monday and Staff did not receive any comment back from them.

Moved by Board Member Blaser, seconded by Board Member Christiansen, the Board of Adjustment adopted a resolution to approve the conditional use permit with conditions.

Vote: Blaser, Christiansen, PfannkuchYes
Cunningham, Stevens.....Absent

Motion carried.

Item 3b – 838 83rd Street, Zoning Exception – Motion to Withdraw VAR 006191-2023

Chair Pfannkuch noted that there was a memo on the dais requesting the withdrawal of item 3b.

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Moved by Board Member Christiansen, seconded by Board Member Blaser, the Board of Adjustment accepted the withdrawal.

Vote: Blaser, Christiansen, PfannkuchYes
Cunningham, Stevens.....Absent

Motion carried.

Item 4 – New Business

There were no New Business items.

Item 5 – Staff Reports

The next meeting is scheduled for October 4, 2023.

Development Coordinator asked if the Board had any questions pertaining to a City Council workshop earlier this week providing an update on the Zoning Code which is in the process of being updated through an outside consulting firm. There were no questions.

There was a brief discussion regarding a presentation the City Manager’s office can present if the Board is interested pertaining to the impact of State legislation on the City budget. Those Board Members who were present agreed that they would like to hear the presentation, however Chair Pfannkuch and Board Member Christiansen will be absent at the next meeting. A meeting time will be determined.

Item 6 – Adjournment

Chairperson Pfannkuch asked for a motion to adjourn the meeting.

Moved by Board Member Blaser, seconded by Board Member Christiansen, the Board of Adjustment meeting adjourned at 5:45 PM.

Angie Pfannkuch, Chair

Jennifer Canaday, Recording Secretary