



Legislation Details (With Text)

File #: O-1617-3 **Version:** 1 **Name:** Puebla Tacos Special Use
Type: Zoning Ordinance **Status:** Held in Council
File created: 7/26/2016 **In control:** City Council
On agenda: 12/13/2016 **Final action:**

Title: CONSIDERATION OF ORDINANCE O-1617-3 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 460 OF CHAPTER 22 OF THE CODE OF THE CITY OF NORMAN SO AS TO GRANT SPECIAL USE FOR A LIVE ENTERTAINMENT VENUE (OUTDOORS) IN THE C-3, INTENSIVE COMMERCIAL DISTRICT FOR LOT THREE (3), BLOCK TWENTY-TWO (22), NORMAN ORIGINAL TOWN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (305 EAST MAIN STREET)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Text File O-1617-3, 2. O-1617-3, 3. Location Map, 4. Staff Report, 5. Site Plan, 6. Pre-Development Summary, 7. 8-11-16 PC Minutes, 8. Letter of Protest, 9. Protest Map, 10. Statement from Opolis Sept 22, 11. Letter from Opolis Sept 22, 12. Photographs from Opolis

Date	Ver.	Action By	Action	Result
12/13/2016	1	City Council		
12/13/2016	1	City Council		
9/27/2016	1	City Council		
8/11/2016	1	Planning Commission		

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UPDATED INFORMATION: This application was tabled at the City Council meeting of September 27, 2016 and sent to the Community Planning and Transportation Committee (CPTC) for discussion to be returned to a City Council agenda upon a recommendation of the CPTC. The CPTC met regarding the definition of "Live Entertainment" in the Zoning Ordinance on October 27th and December 1. Their recommendation is that "Live Entertainment" is an indoor use only; therefore, a Special Use Permit for "Outdoor Live Entertainment" is not an allowed use. Amendments to the Zoning Ordinance will be brought forward to City Council to clarify the definition of "Live Entertainment". In addition a definition will be added for "Outdoor Music Venue". Outdoor entertainment will continue to be allowed as applicable under the Noise Variance Permit and the Special Event Permit.

SYNOPSIS: The applicants run an existing restaurant, Puebla Tacos y Tequileria, located at 305 E. Main Street. This general area of Main Street is zoned C-3, Intensive Commercial District and has often been referred to as the "Downtown Arts District", although never officially branded with the name. The applicants recently purchased this business, previously known as Tres' Cantina, and have continued the restaurant use as the previous owners had done in the last few years. The previous owner started the business in fall of 2011 and then in spring of 2012 they added approximately 790 square feet of back patio area to accommodate outdoor seating and live music. However, Special Use for the live entertainment use located on the back patio had never been granted for the site so the current owner/applicant is requesting Special Use for Live Entertainment to allow the use to continue and properly zone the site.

ANALYSIS: The uses listed in the Zoning Ordinance are often cumulative; for example, a use allowed by right in the C-1, Local Commercial District is allowed by right in the C-2, General Commercial District and again in the C-3, Intensive Commercial District. In addition, Special Uses in C-1 are allowed by right in the C-2 and C-3 Districts, except for mixed buildings and crematoriums attached to a funeral parlor or mortuary.

In the C-1 District a restaurant is an allowed use; a restaurant can have live entertainment and/or a dance floor as long as all such activity is fully within an enclosed building, provided the kitchen remains open with full food service whenever live entertainment is offered.

As previously outlined, due to the Zoning Ordinance being cumulative the live entertainment Puebla is providing to their guests would be an allowed use in the C-3 District if the activity was within the restaurant. However, what requires Puebla to request Special Use is the fact that their live entertainment venue is on the back patio, adjacent to the back alley.

Live Entertainment Venue is defined as “An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment and which may impose an admission charge or cover charge to observe that entertainment. Night clubs, bars and dance halls are typical uses within this category. This category shall not include, in any manner, any Adult Entertainment Establishment”. Puebla Tacos does not charge an additional fee/cover charge for the live entertainment.

The proposed use of this facility fits with the neighborhood/downtown area and as stated the patio area is small, approximately 790 square feet. There is a back bar with seating for 6 and approximately 6 tables. There is seating on the stage/raised area, which is removed when live entertainment is provided. The majority of uses surrounding this particular facility are commercial businesses, which are predominantly day-time occupancies.

As with other downtown businesses which are zoned C-3, there are no on-site parking requirements. Main Street provides on-street parking, Crawford Street has some on-street parallel parking and a nearby parking lot is available.

IMPACTS: An adjacent business, Opolis, received Special Use for a Nightclub in fall of 2003; this allowed for live entertainment. The Special Use for Nightclub was for the building located at 113 Crawford Street. In the fall of 2012 Opolis received a second Special Use for Bar, Lounge or Tavern. This second Special Use included the existing building and an area to the south of the building which included a new patio area. Based on staff research, the staff report to the Planning Commission indicated that Opolis had a garage door on the south side of their building which they open when they have music venues; this garage door allowed patrons to sit on the patio area while listening to music. Staff reviewed the two prior applications for Special Use at Opolis and the “overhead door/garage door” was shown on the plans reviewed and approved by Planning Commission and City Council. The information provided in the staff report to Planning Commission was based on the floor plans submitted with past applications, anecdotal information from people in attendance at shows and pictures of concerts at Opolis on their website where the doors are open during performances.

At the Planning Commission meeting the owners of Opolis addressed the Commissioners with comments and concerns with this application and impacts it may have on their adjacent business. In response to comments in the staff report, the owner, Andrew Nunez, stated they do not have a garage door on the south side of the building, adjacent to the patio. Mr. Nunez stated what they have a standard metal hinged door, equipped with a self-closure mechanism. Mr. Nunez also stated that at one time they did keep their door open but after they were asked to close it they no longer leave the doors open when they have music venues performing at Opolis. In response to the comments by the owner of Opolis, after the Planning Commission meeting, staff drove by the business and there is no longer a garage door/overhead door on the south side of the building.

There is concern on the part of the Opolis owners that the two businesses impact one another when each has an event on the same night.

OTHER AGENCY COMMENTS:

PRE-DEVELOPMENT MEETING - PD NO. 16-11 - MEETING JULY 28, 2016

Comments from the adjacent property owner attending the meeting

- The owners of Opolis, Andy and Marian Nunez, are opposed to this request. They support the right for

someone to rezone their property and respect the City's process to do so but feel the approval of this request will negatively impact their business.

- Andy Nunez stated the City has a generous allowance for issuing permits to have outdoor entertainment, 7 permits annually, and feels that is adequate. Andy stated on the nights they have an event and open their garage door, whether it be an art show or live music, his clients sitting on the patio are being "force fed" the music from Puebla, on the nights they do have an event. Andy prefers background music on a patio.

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PARK BOARD: Commercial uses do not require parkland dedication.

PUBLIC WORKS: The property is platted; utilities, streets and sidewalks are existing. Approval of this Special Use will not require any modification to the site which would require additional public improvements.

STAFF RECOMMENDATION: This request is a minor change to the existing use for Puebla Tacos y Tequileria. The applicants are not requesting any additional square footage so the occupant load will stay the same. Other than the permission to have occasional outdoor live entertainment, the use of this facility will not change. Staff supports this request for Special Use for Live Entertainment and recommends approval of Ordinance O-1617-3.

Approval of this request does not release the applicant from the requirements of the City of Norman Noise Ordinance. The applicant will be responsible for application to the City of Norman Police Department for a Noise Permit if they will be exceeding the current allowable decibels. This request is to allow for outdoor live entertainment.

Planning Commission, at their meeting of August 11, 2016, recommended adoption of this ordinance by a vote of 7-1.