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**Introduced:** 12/3/2002

**Bill No:** 2002-1160, **Version:** 2

**Committee:** Committee on Planning, Zoning & Land Use

**Status:** Passed Finally

Presented by Ms. Burns

**AS AMENDED**

Resolution approving a Conditional Use exception under Section 911.04.A.1 of the Pittsburgh Code, Title Nine, Zoning, Chapter 911 to John Wargo for authorization to occupy a portion of the first floor of an existing 2-story structure as an adult cabaret with an existing bar/restaurant to remain, located at 1807 Penn Avenue on property zoned "UI" Urban Industrial District, 2<sup>nd</sup> Ward.

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** Whereas, the Planning Commission of the City of Pittsburgh has made certain findings with regard to the Conditional Use Application for the proposed adult cabaret located at 1807 Penn Avenue;

Whereas, the Planning Commission of the City of Pittsburgh has recommended approval of this application for Conditional Use;

Whereas, City Council has reviewed the record of the Planning Commission and herewith adopts the findings and recommendation of the Planning Commission.

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** Upon a review of the record as provided by the Planning Commission of the City of Pittsburgh, it is herewith affirmed that the proposed adult cabaret located at 1807 Penn Avenue has properly met the Standards as provided in the Pittsburgh Code Section 922.06.E.1 and that the following criteria was considered:

- a) That the development will not create detrimental visual impacts, such that the size and visual bulk of the proposed development is determined to create an incompatible relationship with the surrounding built environment, public streets and open spaces and land use patterns;
- b) That the development will not create detrimental transportation impacts, such that the proposed development is determined to adversely affect the safety and convenience of residential neighborhoods or vehicular and pedestrian circulation in the vicinity of the subject tract, including traffic reasonably expected to be generated by the proposed use and other uses in the area given the existing zoning, existing land uses and proposed land uses in the area;

- c) That the development will not create detrimental transportation impacts, such that the proposed development will result in traffic volumes or circulation patterns that exceed the capacity of streets and intersections likely to be used by traffic to and from the proposed development;
- d) That the development will not create detrimental operational impacts, including potential impacts of hours of operation, management of traffic, servicing and loading operations, and any on-site operations associated with the ongoing functions of the use of the site, in consideration of adjacent and surrounding land uses which may have differing sensitivities to such operational impacts;
- e) That the development will not create detrimental health and safety impacts, including but not limited to potential impacts of noise, emissions, or vibrations from the proposed development, or functions within the proposed site which would otherwise affect the health or safety of others as a direct result of the operation of the proposed use;
- f) That the development will not create detrimental impacts on the future and potential development of parcels in the vicinity of the proposed site of the development; and
- g) That the development will not create detrimental impacts on property values.

Section 2. It is further stated that the following findings of the Planning Commission are herewith adopted:

- a. The proposed adult cabaret, accessory to existing bar/restaurant, will not create detrimental visual impacts as it will be located in an existing bar/restaurant structure and there will be no signs on the building or in any media that advertise the adult cabaret and no improvements will be made to the exterior of the structure to reflect the adult cabaret use;
- b. The proposed adult cabaret, accessory to existing bar/restaurant, will not create detrimental transportation impacts since the accessory use will not affect the current parking requirements for 1807 Penn Avenue or traffic impacts of 1807 Penn Avenue;
- c. The proposed adult cabaret, accessory to existing bar/restaurant, will not create detrimental transportation impacts that result in traffic volumes or circulation that exceed the capacity of streets and intersection since the proposed use will not affect the existing pedestrian and vehicular traffic generated by the uses at 1807 Penn Avenue;
- d. The proposed adult cabaret, accessory to existing bar/restaurant, will not create detrimental operational impacts on adjacent and surrounding land uses since all activities will be in an enclosed existing structure; the adult cabaret use proposed would not be

conducted in a manner that provides the observation of any performances from the bar/restaurant area of the building or from the sidewalk and public right-of-way; the seating capacity will not change from the existing use; the days and hours of operation will not change from the existing use; access to the building will remain the same as the existing use; and the use complies with the criteria for Adult Entertainment Uses as specified in 911.04.A.1(a) and 911.04.A.1(b).

- e. The proposed adult cabaret, accessory to existing bar/restaurant, use will not create detrimental health and safety impacts on surrounding properties since one uniformed police officer will be positioned at the entrance to 1807 Penn Avenue during hours of operation and one retired police officer will be positioned inside 1807 Penn Avenue between the area occupied by the restaurant/bar and the area used for the cabaret performers;
- f. The proposed adult cabaret, accessory to existing bar/restaurant, use will not create detrimental impacts on future and potential development in the vicinity since there will be no visible sign of the proposed adult cabaret use on the exterior of the building or advertised on the building or in any media; and
- g. The proposed adult cabaret, accessory to existing bar/restaurant, will not create detrimental impacts on surrounding property values because the Zoning Ordinance requires separation distances between adult uses and protected uses to prevent a saturation of adult entertainment uses; of which such saturation could affect property values.

Section 3. Under the provisions of Section 911.04.A.1 of the Pittsburgh Code, approval is hereby granted to John Wargo for authorization to occupy a portion of the first floor of an existing 2-story structure as an adult cabaret with an existing bar/restaurant to remain, located at 1807 Penn Avenue on property zoned "UI" Urban Industrial District, 2<sup>nd</sup> Ward, City of Pittsburgh in accordance with Conditional Use Application No. 708, which is on file in the office of the Zoning Administrator, Department of City Planning, and which is incorporated herein by reference thereto, and subject to the following conditions:

- 1. Operation of the restaurant and bar will continue in the one story structure fronting Penn Avenue, exclusively. The first floor of the two-story structure, attached to the rear of the building, will be used for adult cabaret performers.
  
- 2. The adult cabaret use will ~~not~~ be conducted in a manner that ~~provides the~~ does not permit observation of any performances from the bar/restaurant area of the building or from the sidewalk and public right-of-way. A door and/or partition, or any combination of physical barriers, including restrictive obstacles for the

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operation of the physical barrier, shall be used to prohibit a clear view into the adult cabaret performance area from the bar/restaurant.

3. The days of operation for 1807 Penn Avenue will be Tuesday through Sunday. The adult cabaret performances will only be on Wednesday through Saturday (coinciding with the operation of the bar/restaurant in the front portion of the building).
4. The hours of operation for the bar and restaurant at 1807 Penn Avenue will be from 6:00 p.m. to 2:00 a.m. Tuesday through Saturday and noon to 6:00 p.m. on Sunday. The adult cabaret performances, however, will only be from 8:00 p.m. to 2:00 a.m. on Wednesday through Saturday.
5. Access to 1807 Penn Avenue will remain from Penn Avenue. No access will be permitted from 18<sup>th</sup> Street. The sole access will be from Penn Avenue.
6. No signs will advertise the adult cabaret.
7. The owner or lessee will not advertise the adult cabaret in any manner on the building or off premises through any media.
8. Performers will not be able to be seen from outside the building.
9. Performers will not be able to be seen from the bar and restaurant in the one story portion fronting Penn Avenue.
10. One uniformed police officer will be positioned at the entrance to 1807 Penn Avenue during hours of operation.
11. One ~~retired police officer~~ employee of the owner/manager of the bar/restaurant at 1807 Penn Avenue ~~must be~~ will be positioned inside 1807 Penn Avenue between the area occupied by the restaurant/bar and the area used for the cabaret performers. This employee must be certified for security detail, law enforcement, or related occupation, or have a history of such certification.

THIS RESOLUTION IS APPROVED AND /OR VETOED PURSUANT TO CASE LAW WHALE'S TALE VS. CITY OF PITTSBURGH, 467 A.2.D665 (1983)