

Staff Summary Report



Hearing Officer Hearing Date: May 19, 2009

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by **SPINATO'S PIZZA (PL090133)** located at 227 South Smith Road, Suite No. 101 for two (2) use permits.

DOCUMENT NAME: 20090519dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Hold a public hearing for a request by **SPINATO'S PIZZA (PL090133)** (Mark Schipper/Schipper Design Associates, applicant; University Smith Partners, property owner) located at 227 South Smith Road, Suite No. 101 in the GID, General Industrial District for:

ZUP09065 Use permit to allow the expansion of a restaurant.

ZUP09066 Use permit to allow an outdoor patio.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

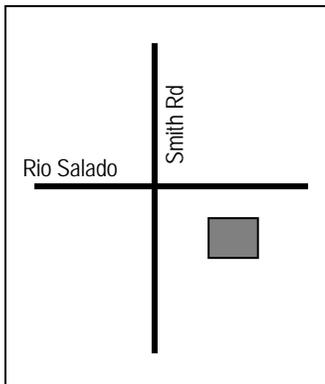
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



Spinato's Pizza is proposing an expansion of their restaurant and the addition of an outdoor patio area. The expansion and the patio require a use permit due to the underlying zoning district; GID, General Industrial District. To date, staff has received no public input regarding this request. Staff recommends approval of the use permits which comply with the approval criteria stated in ZDC, Part 6, and Section 6-308.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Site plan, floor plan, patio elevation and scope of work
- 4-5. Staff Photograph(s)

COMMENTS:

Spinato's Pizza is proposing an expansion of their restaurant and the addition of an outdoor patio area. The expansion will increase the indoor seating area and add ADA compliance restrooms. The patio will be a wood type deck suspended above an existing retention area. An updated retention plan will be required by the City of Tempe Engineering Department. The expansion and the patio require a use permit due to the underlying zoning district; GID, General Industrial District. To date, staff has received no public input regarding this request.

Use Permit

The Zoning and Development Code requires a use permit for the expansion of a retail use and the addition of an outdoor patio area in the GID, General Industrial District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There should be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - The expanded restaurant use with patio will not create a nuisance.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - This property is located in an industrial area and will not contribute to neighborhood deterioration or downgrade property values. The use is a convenience benefit to the surrounding businesses.
- d. Compatibility with existing surrounding structures and uses;
 - The business has been open at this location since 1987 without incident.

Conclusion

Staff recommends approval of the use permits which comply with the approval criteria stated in ZDC, Part 6, and Section 6-308.

REASON(S) FOR APPROVAL:

1. Traffic generated by this use should not be excessive.
2. This use will not result in the deterioration of the neighborhood or downgrading of property values.
3. The use appears to be compatible with the surrounding structures and uses.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. Obtain all necessary clearances from the Building Safety Division and Engineering Department.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.

HISTORY & FACTS:

November 17, 1987. The Hearing Officer approved a use permit for Spinato's Pizza to allow a retail use in the I-1, Light Industrial District, subject to conditions.

DESCRIPTION:

Owner – University Smith Partners
Applicant – Mark Schipper/Schipper Design Associates
Existing Zoning – GID, General Industrial District
Tenant space- 3560 s.f.
Outdoor Patio- 800 s.f.

**ZONING AND
DEVELOPMENT**

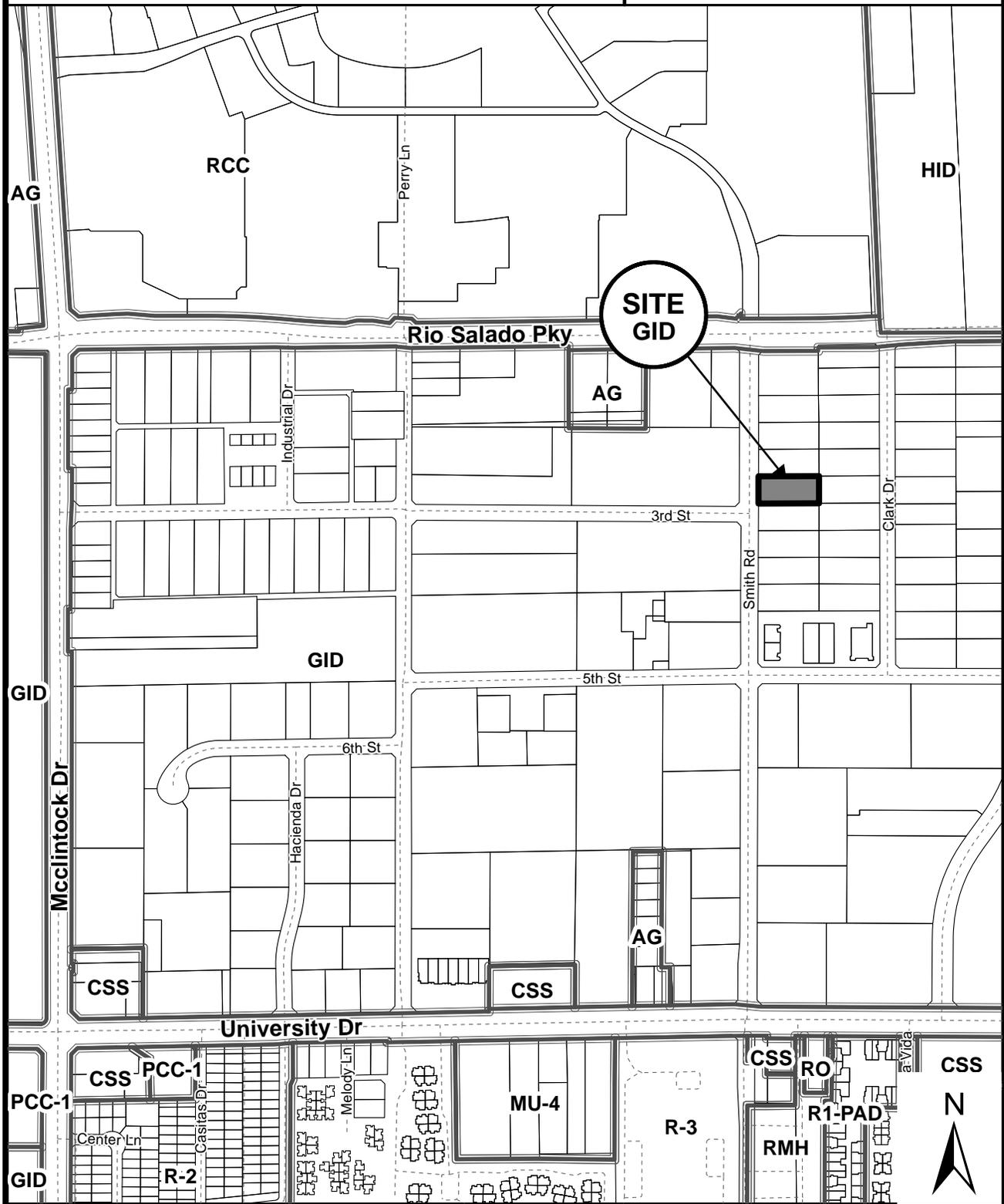
CODE REFERENCE:

Part 3, Chapter 2, Section 3-301: Permitted Uses in Office/Industrial Districts.

Part 6, Chapter 3, Section 6-308: Use Permit

SPINATO'S PIZZA

PL090133



Location Map



SPINATO'S PIZZA (PL090133)

PROJECT INFO

SCOPE OF WORK: USE PERMIT / PATIO DESIGN REVIEW
 TENANT: SPINATO'S PIZZA
 ADDRESS: 227 S SMITH RD, SUITE 101
 MEMPHIS, TN 38101
 PARCEL: #13237-022
 LEGAL: 1/2 AC. 112.24 AC. UNIVERSITY INDUSTRIAL PARK
 GOVERNING CODES: ALL WORK SHALL CONFORM TO ALL APPLICABLE
 GOVERNING REGULATIONS OF THE CITY AND
 COUNTY AND STATE AGENCIES.

ADMINISTRATIVE: TEMP. ADMINISTRATIVE CODE
 REGULATORY: 2008 IBC WITH NATIONAL MECHANICAL CODE
 ELECTRICAL: 2008 IBC WITH NATIONAL ELECTRICAL CODE
 ENERGY: 2008 IBC WITH NATIONAL ENERGY CODE
 ACCESSIBILITY: 2008 IBC WITH NATIONAL ACCESSIBILITY CODE
 FIRE: 2008 IBC WITH NATIONAL FIRE CODE
 OCCUPANCY TYPE: B
 OCCUPANCY CALC.: 3,580

EXITS REQUIRED: 3
 EXITS PROVIDED: 3
 STAIRS: 1
 STAIRWAY LIGHTS: N/A
 FIRE ALARMS: N/A
 FIRE EXTINGUISHERS: YES 1/1900 #1

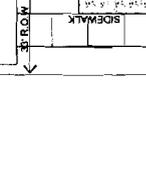
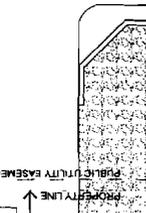
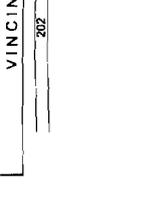
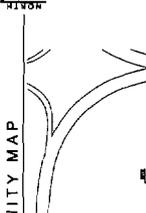
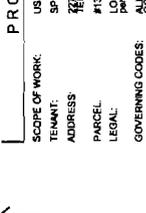
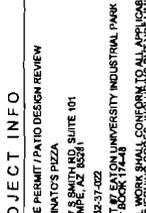
USE: RESTAURANT
 ALLOWANCE: (8/1000) 2,814 S.F. (8/1750) 28
 209 S SMITH RD 2,992 S.F. (8/1750) 28
 227 S SMITH RD 2,778 S.F. (8/1750) 28

TOTAL SPACES PROVIDED ON SITE FOR ALL BUILDINGS: 28
 ADDITIONAL PARKING SPACES PROPOSED: 28

TENANT: 227 S SMITH RD, SUITE 101
 C: 468.909.2920
 F: 901.492.1911
 REPRESENTATIVE: DEAN BUSK AND GUY VALE
 227 S SMITH RD, SUITE 104
 CONTACT: DEAN BUSK
 SCHIFFER DESIGN ASSOC.
 1000 W. WOODBURN
 MEMPHIS, TN 38103
 CONTACT: MARK SCHIFFER

CONTRACTOR: PATTERSON CIVIL CONSTRUCTION
 1000 W. WOODBURN
 MEMPHIS, TN 38103
 CONTACT: JEFFERSON DOLEY
 GOVERNING AGENCY: CLANKING DIVISION
 1000 W. WOODBURN
 MEMPHIS, TN 38103
 CONTACT: SHERRI LESSER

DESCRIPTION NARRATIVE
 NARRATIVE: REQUEST FOR USE PERMIT
 SPINATO'S PIZZA, 227 S. SMITH RD, #101 MEMPHIS, TN 38101
 THE SPINATO'S PIZZA RESTAURANT WAREHOUSE HAS BEEN IN OPERATION
 AT THIS LOCATION SINCE 1987. THE WAREHOUSE IS USED AS A CENTRAL
 DISTRIBUTION POINT FOR THEIR 3 ADDITIONAL LOCATIONS AND THE
 DINING SPACE PORTION CURRENTLY FEATURES 48 DINING SEATS.
 AT THIS TIME REMODELING IS REQUIRED FOR CODE COMPLIANCE AND
 THE ISSUANCE OF A RESTAURANT LICENSE AS PART OF THE
 REMODEL. THE CITY OF MEMPHIS IS REQUIRING THE CONSTRUCTION OF A
 DECK PATIO TO ACCOMMODATE THE RESTAURANT SPACE TO
 ACCOMPLISH THIS APPROXIMATELY 70 SEATS WILL BE
 ELIMINATED LEAVING ONLY 28.
 AS IT IS ECONOMICALLY NEARABLE TO OPERATE AT A PROFIT WITH 28
 SEATS, THE OWNER HAS REQUESTED THE CITY OF MEMPHIS TO
 ALLOW THE CONSTRUCTION OF A DECK OR PATIO TO THE AREA FOR THIS
 DECK PATIO WOULD BE LOCATED ON THE WESTERN SIDE OF THE
 EXISTING STRUCTURE WITH ACCESS VIA A NEW EXIT DOOR SAID
 DECK PATIO WOULD BE APPROXIMATELY 70 SEATS WILL BE
 SHOULD A USE PERMIT NOT BE AVAILABLE IT IS VERY LIKELY THAT THE
 OWNERS WOULD BE FORCED TO CEASE RETAIL OPERATIONS AT THIS
 LOCATION WHICH WOULD BE A SIGNIFICANT FINANCIAL LOSS OF REVENUE
 AND THE LAYING OFF OF 20+ EMPLOYEES



1 | PRELIMINARY SECTION AT PATIO
 SCALE: 1/4" = 1'-0"



SPINATO'S PIZZA

227 SOUTH SMITH ROAD, SUITE NO. 101

PL090133

FRONT OF BUSINESS





SPINATO'S PIZZA

227 SOUTH SMITH ROAD, SUITE NO. 101

PL090133

**PROPOSED LOCATION FOR OUTDOOR
PATIO**

