



DEPARTMENT OF
**Planning &
Development**

Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 808
Detroit, Michigan 48226

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HEARING OFFICER:

Russell Baltimore, Planning and Development

ADVISORY CITY DEPARTMENT REPRESENTATIVES:

Eric Johnson, Buildings, Safety Engineering and Environmental

Jamie Murphy, City Planning Commission

Greg Moots, Planning and Development

Karen Gage, Planning and Development (not in attendance)

DATE: 05/04/2023

PDD CASE: SWA2023-00084

APPLICANT: 4 Tech Signs on behalf of Mad Nice

LOCATION: 4128 Second Ave.

Notices were mailed and published which contained the following information:

NOTICE OF HEARING

Sign waiver hearings will be both in person and on-line. **ON-LINE PUBLIC ATTENDANCE IS STRONGLY ENCOURAGED.** As pursuant to public health guidelines, the meeting room will be subject to space limitations, and there are NO additional opportunities for public viewing within the building.

TO OWNERS AND RESIDENTS OF PROPERTY WITHIN 300 FEET OF:

4128 Second Ave.

You are hereby notified that a hearing will be held online and in person at

2:00 PM on May 4, 2023, in Rm. 808 of the

Coleman A. Young Municipal Center, 2 Woodward Ave.

The link below is for this Teams meeting:

<https://www.microsoft.com/microsoft-teams/join-a-meeting>

Meeting ID: 293 798 038 54

Passcode: RqwoMt

Dial in number: 469-998-6602 US

Phone Conference ID: 768 689 768#

A public hearing for the Signage Waiver and Adjustments Ordinance was held on Thursday, May 4, 2023 @ 2:00pm by way of Teams.

Hearing Officer Baltimore called the hearing to order.

ADVISORY CITY DEPARTMENT REPRESENTATIVES PRESENT:

Greg Moots, Planning and Development

Eric Johnson, Buildings, Safety Engineering, and Environmental

Jamie Murphy, City Planning Commission

Summary of the proposed signage: Erect an internally illuminated (neon) 30" x 144" (30 sq ft) projecting sign.

Summary of the Waiver request, including citation and the extent to which the sign does not meet the regulation:

Two waivers are requested to:

1. Exceed the standard of Sec. 4-4-42(d), which permits a maximum of a six (6) sq. ft. sign, by twenty-four (24) sq. ft. (400%), and
2. To exceed the standards of Sec. 4-4-36(b)(2), which permits a maximum brightness of 40 nits between the hours of 10 p.m. to 6 a.m., by 40 nits (100%).

I. STATEMENTS FROM THE ADVISORY CITY DEPARTMENT REPRESENTATIVES:

Inspector Johnson described the need for a waiver for exceeding the size limit of allowed signs for a low-density residential sign district. He stated that Section **4-4-42(d)** states that: *"In any high-density residential/mixed use sign district or recreation/open space sign district, the area of a projecting sign must not exceed six square feet."* He also stated that Section **4-4-36 (b)(2)** states that: *"For any illuminated sign located in a high-density residential/mixed use sign district, luminance must not exceed 3,500 nits during the hours between 6:00 a.m. and the subsequent 10:00 p.m. and must not exceed 40 nits during the hours between 10:00 p.m. and the subsequent 6:00 a.m."*

Ms. Murphy stated that the CPC has no jurisdiction here because the development is in an SD2 district.

II. ARGUMENT FOR THE SIGNAGE WAIVER OR ADJUSTMENT FROM THE APPLICANT: Present from the Applicant: Representing the applicant: Mark Chalou, Chalou Design, 4 Tech Signs. The signage contractor argued that the allowable size for the size would be too small to be seen. He presented graphic depictions of an image of the building with the allowable size and with the proposed size. He also argued that because of the type of argon gas within the glass tubes, the sign would not exceed the permitted illuminance levels. He presented a printout of the different types of light that are produced by different types of gas, noting that the argon gas produces a lighter, silver white light as opposed to the bright orange of neon.

Mr. Baltimore stated that the ordinance was enacted to restrict and limit the proliferation of signage and visual clutter. The ordinance also tries to limit the amount of light pollution that emanates from signs to not be a detriment to neighboring residential properties.

III. PUBLIC COMMENTS: There were many people in attendance from the public. Two people were in-person and thirteen people were virtual.

In Opposition:

Sara Kazyak: wanted to see other options for the signage. Felt that there is no need for a larger sign since the restaurant seems to be well attended.

Kayleigh Long: representing the Springfield Lofts condominium association. Feels that the application does not satisfy the 1st, 4th, and 5th criteria of the ordinance for a waiver.

- (1) *That, without the requested waiver or adjustment, the sign would be subject to one or more practical difficulties that would substantially hinder the communicative potential of the sign; (she argued that Mad Nice doesn't have a problem bringing in customers since there is not a prime dinner reservation for 2 available until May 26th (3 weeks out).*
- (4) *That the requested waiver or adjustment will not have a detrimental effect on the privacy, light, or air of the premises or neighboring premises; she stated that the association has concerns that the added light from the sign will have a detrimental effect on neighboring properties by increasing light pollution.*
- (5) *That the requested waiver or adjustment will not substantially affect the use or development of the subject premises or neighboring premises; she stated that this restaurant has already caused extreme traffic and parking problems in the area and the restaurant has not corrected these problems.*

Lori Clark: voiced concerns about the light from the sign staying on past 10pm.

Alex Johnston: echoed Kayleigh Long's points about not satisfying the criteria of the ordinance. She also voiced concerns about Mad Nice bringing increased traffic, congestion, and blocking bicycle lanes which creates an unsafe environment. She voiced concerns about noise. She raised a point that the sign does not meet requirements of **Sec. 4-4-36(c) Orientation (1)** which states that *"Any internally illuminated sign that is within 150 feet of and visible from one or more residential dwelling units in a low-density residential sign district... must be oriented to direct light away from all such units."*

Jason Peet: representing the El Moore, is concerned about the impact of the sign on the neighbors. Asked to remove the waiver for the brightness since the presenter stated that the argon gas will not exceed the illumination requirements.

Zain Mikho: Welcomed the commercial use and restaurant. Has concerns about the type of sign being proposed. He feels that the higher end restaurants in the area do not have illuminated signs. Hoped that the applicant would model this signage after other restaurants like Shewolf and Selden Standard that have non-illuminated, painted signs.

Matthew Turlin: agreed with Ms. Long's points about not meeting the criteria for a waiver. Feels this sign would have a negative impact on neighbors.

- (6) *That the requested waiver or adjustment will not substantially impair, detract from, or otherwise affect the aesthetic value of the subject premises or neighboring premises; agrees with Mr. Mikho, the applicant should model its sign after other restaurants in the area.*
- (7) *That the requested adjustment will not in any way increase the potential for distraction to, obstruct the flow of, or otherwise harm pedestrians or motor vehicles passing within view of, the sign; The restaurant has had a negative impact on the neighboring properties.*

Chris Mendoza: Agrees with Ms. Long's points. Stated concerns about using Woodward Ave theaters and Bronx Bar signage as examples of what they would like to do. Feels they should follow the example of Selden Standard.

Brittany Stoeckel: Voiced complaints about the noise coming from Mad Nice. She stated that she can hear bass emanating from the restaurant well past 1:00am. She voiced concerns about the sign being illuminated past the 10pm restriction. She reiterated the concerns about negative traffic impacts for pedestrians and bicyclists.

Ambivalent:

Renard Monczunski – more concerned about the sidewalk being blocked and overabundance of valet stacking.

In Favor: No one spoke in favor of the proposed signage.

Correspondence Opposed:

1. We received a letter from the Springfield Lofts Condominiums Association Board of Directors authorizing Kayleigh B. Long to act and speak on behalf of the Association.

2. We received a letter from an anonymous (concerned resident) opposed to the signage and concerned by:
 - a. "Unwarranted dress code policy."
 - b. "Commandeering valet."
 - c. "Oversized, over-lit, out-of-character and potentially distracting neon signage."
3. Sara Kazyak (4202 Second Ave, Apt. 10) wrote to express her "concerns and strong opposition against the proposed signage and waiver request." She sighted:
 - a. "Mad Nice has caused significant traffic challenges, with parking for other residences and businesses."
 - b. She has "witnessed steady customer traffic throughout the week during both the afternoon and evening hours, indicating that the business is thriving, even without any additional signage."
 - c. She argued that "the proposed signage by Mad Nice would detract from the overall historic aesthetic appeal of the community, disturb residents of the area with additional sign brightness, and serve as an additional distraction for drivers."
4. Pragathi Pathanjeli (4202 Second Ave, Apt. 10) wrote to "stand strongly AGAINST granting the proposed waivers filed by Mad Nice for new signage outside of their business that exceeds the current size and brightness standards."
5. Brittany Stoeckel (4134 Second Ave) wrote via email to complain about the noise level and disruptive valet parking at Mad Nice. She provided a photo of the valet stacking in front of Mad Nice that was three rows deep. (This was sent to Dave Bell, Director of BSEED as well.)

Correspondence in support:

1. Midtown Detroit, Inc. provided a letter of support "for allowing a size exemption for the currently proposed signage for Mad Nice at 4120 Second Avenue." They provided the following reasons:
 - *This is the only proposed sign for the restaurant. Given the large frontage of the building, we feel that it is not excessive.*
 - *The sign is located in an appropriate location above the entrance.*
 - *The sign has been approved by the Historic District Commission.*
 - *The signage material has been deemed appropriate for the district. (By the HDC)*

Response from the applicant: Mark Chalou responded to the complaints stating that this sign will not exceed the illuminance standards required by the ordinance. He stated that this is more of an artistic proposal.

IV. ACTION OF THE HEARING OFFICER:

DENIED

We have reviewed the applicant's proposal for a waiver to exceed the standard of **Sec. 4-4-42(d)**, which permits a maximum of a six (6) sq. ft. sign, by twenty-four (24) sq. ft. (400%); and to exceed the standard of **Sec. 4-4-36(b)(2)**, which permits a maximum brightness of 40 nits between the hours of 10 p.m. to 6 a.m., by 40 nits (100%). In our interpretation of the ordinance, this application does not satisfy the following criteria set forth in:

Sec. 4-4-22. - Waivers and adjustments to sign standards.

- (j) The Director of the Planning and Development Department, or the Director's designee, may approve a petition for a waiver or adjustment only upon finding that such waiver or adjustment satisfies all of the following:
 - (1) *That, without the requested waiver or adjustment, the sign would be subject to one or more practical difficulties that would substantially hinder the communicative potential of the sign;*

The applicant presented an argument that was based more on the artistic merit of the proposed signage rather than the actual communicative potential of the sign.

- (2) *That the requested waiver or adjustment is necessary to address all practical difficulties referenced in Subsection (j)(1) of this section as no form of alternative signage, in accordance with this chapter, could effectively eliminate all such practical difficulties;*

The applicant failed to present an argument that there are no other forms of signage that could be used to facilitate the message presented by the proposed signage.

- (4) *That the requested waiver or adjustment will not have a detrimental effect on the privacy, light, or air of the premises or neighboring premises;*

The proposed internally illuminated, argon gas sign does not satisfy the requirements of **Sec. 4-4-36. (c)(1)** which states that “Any internally illuminated sign that is within 150 feet of and visible from one or more residential dwelling units in a low-density residential sign district, a high-density residential/mixed use sign district, or a recreation/open space sign district must be oriented to direct light away from all such units.”

- (6) *That the requested waiver or adjustment will not substantially impair, detract from, or otherwise affect the aesthetic value of the subject premises or neighboring premises;*

Many neighboring residents voiced their concerns about the negative effect this illuminated sign would have on their premises. We agree that the internally illuminated sign would have a negative impact on the neighboring residential dwelling units.

V. APPEALS OF ADMINISTRATIVE DECISIONS

For any petition that is approved, approved with conditions, or denied, notice of the opportunity to appeal the decision of the Director of the Planning and Development Department, or the Director's Designee, as authorized by **Section 4-4-23** of the **Detroit City Code** and the deadline by which such appeal must be made, as well as a certificate of the right to appeal in a form acceptable to the **Department of Appeals and Hearings** within **30 days of receipt** of the determination letter.

You can find a copy of the certificate of right to appeal here:

<https://detroitmi.gov/sites/detroitmi.localhost/files/2020-12/DAH-right%20to%20appeal%20certificate-PDD%20sign%20waiver-ADMINISTRATIVE%20APPEAL-2020.pdf>

Sincerely,

A handwritten signature in black ink, appearing to read 'Russell Baltimore', with a long horizontal line extending to the right.

Russell Baltimore

Assistant Director Design Review

Planning and Development Department

c: K. Gage
G. Moots
E. Johnson
J. Murphy