

Sponsored by: Council Members Bibb and Koskela

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO DIVERSIFIED DEVELOPMENT AND CONSTRUCTION, LLC TO ALLOW INDOOR RECREATION IN A HTCD/HIGH TECH CORRIDOR DEVELOPMENT DISTRICT, UNDER CERTAIN CONDITIONS, ON CERTAIN TRACTS OF LAND LOCATED AT 900 CALEDONIA DRIVE WITHIN THE CITY OF O’FALLON, MISSOURI.

WHEREAS, Diversified Development and Construction, LLC filed a request for a *Conditional Use Permit* on June 28, 2024 to allow indoor recreation in a HTCD/High Tech Corridor Development District at 900 Caledonia Drive within the City of O’Fallon, Missouri; and

WHEREAS, Appendix A of the *Zoning Code* provides that the proposed use is a *Conditionally Permitted Use* within the *HTCD/High Tech Corridor Development District*; and

WHEREAS, the request for a *Conditional Use Permit* was scheduled for a meeting of the Planning and Zoning Commission and public notice of the hearing, as required by Section 400.685 of the *Zoning Code*, was provided by: 1) notification of adjacent property owners, and 2) the posting of a sign on the subject property; and

WHEREAS, a Public Comment opportunity was held on August 1, 2024 by the Planning and Zoning Commission regarding this request and thereafter, the Planning and Zoning Commission recommended approval of the request and, further, recommended that the requested permit be subject to certain conditions; and

WHEREAS, a Public Comment opportunity was held on August 8, 2024 by the City Council regarding this request; and

WHEREAS, after consideration of the recommendation of the Planning and Zoning Commission and the testimony and evidence presented, the City Council makes certain findings set forth herein and, further, determines that the proposed *Conditional Use Permit* meets the standards described in the Municipal Code as long as the conditions set forth herein are met.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF O’FALLON, MISSOURI, AS FOLLOWS:

SECTION 1: It is the applicant’s responsibility to prove that the proposed conditional use meets each and every standard set forth in Section 400.325 of the Municipal Code. Furthermore, if any of the enumerated criteria is not met, a Conditional Use Permit should not be granted.

The City Council hereby finds, as long as the conditionally permitted use is operated and maintained in accordance with City Code and the permit conditions set forth in Section 2 of this Ordinance, that:

- 1. The proposed conditional use complies with all applicable provisions of the zoning regulations, including but not limited to intensity of use regulations, yard regulation, and use limitations; and

2. The proposed conditional use at the above-referenced location will contribute to and promote the welfare or convenience of the public; and
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located; and
4. The location, nature and height of buildings, structures, walls, and fences, the nature and intensity of the operation involved in or conducted in connection with it, the nature and extent of proposed landscaping and screening, and the location of the site with respect to streets giving access to it are such that the proposed conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable Zoning District regulations; and
5. Off-street parking and loading areas will be provided in accordance with the standards set forth in the zoning regulations; and
6. Adequate utility, drainage, and other such necessary facilities have been or will be provided; and
7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

SECTION 2: Pursuant to the provisions of *Article VII: Conditional Uses, of Title IV: Land Use, of the O’Fallon Municipal Code, a Conditional Use Permit* to allow indoor recreation in a HTCD/High Tech Corridor Development District at 900 Caledonia Drive within the City of O’Fallon, Missouri, is hereby approved, subject to the provisions of the *Municipal Code* and, additionally, the following *Conditions of Approval*:

1. The holder of this Conditional Use Permit shall be and remain fully licensed with the State of Missouri and the City of O’Fallon. Both licenses shall remain in good standing throughout the term of this conditional use permit.
2. This Conditional Use Permit is granted solely to the owners of Lava Island and Contender eSports. Should ownership transfer in the future, the new owner shall be required to apply for a transfer of a Conditional Use Permit through the Planning and Development Department.
3. This Conditional Use Permit shall be revoked upon: i) breach or failure to comply with the conditions of this permit, ii) disciplinary action or other action affecting the status of the holder’s state or city licenses, and iii) as otherwise provided by ordinance or other applicable law.
4. The occurrence of activities which are deemed to disturb the peace is defined in Title II. Public Health, Safety and Welfare of the Municipal Code shall prompt the City to revoke the Conditional Use Permit.
5. Should the Conditional Use cease operations for a period of one (1) year, the CUP shall be revoked.

SECTION 3: In acting upon this application, the Council has accepted into the record the Ordinances of the City of O’Fallon, Missouri, the *Comprehensive Plan* for the City of O’Fallon, Missouri, and the *Conditional Use Permit Application* and other records submitted by the applicant or gathered by the City relative to said application.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

First Reading: August 8, 2024

Second Reading: August 8, 2024

PASSED BY THE CITY COUNCIL FOR THE CITY OF O'FALLON, MISSOURI THIS 8TH DAY OF AUGUST, 2024.



Bill Hennessy

Presiding Officer

Attest:

Bess Bacher

Bess Bacher, City Clerk

APPROVED BY THE MAYOR FOR THE CITY OF O'FALLON, MISSOURI, THIS 8TH DAY OF AUGUST, 2024.



Bill Hennessy

Bill Hennessy, Mayor

Attest:

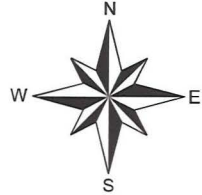
Bess Bacher

Bess Bacher, City Clerk

Approved as to Form:



Kevin M. O'Keefe

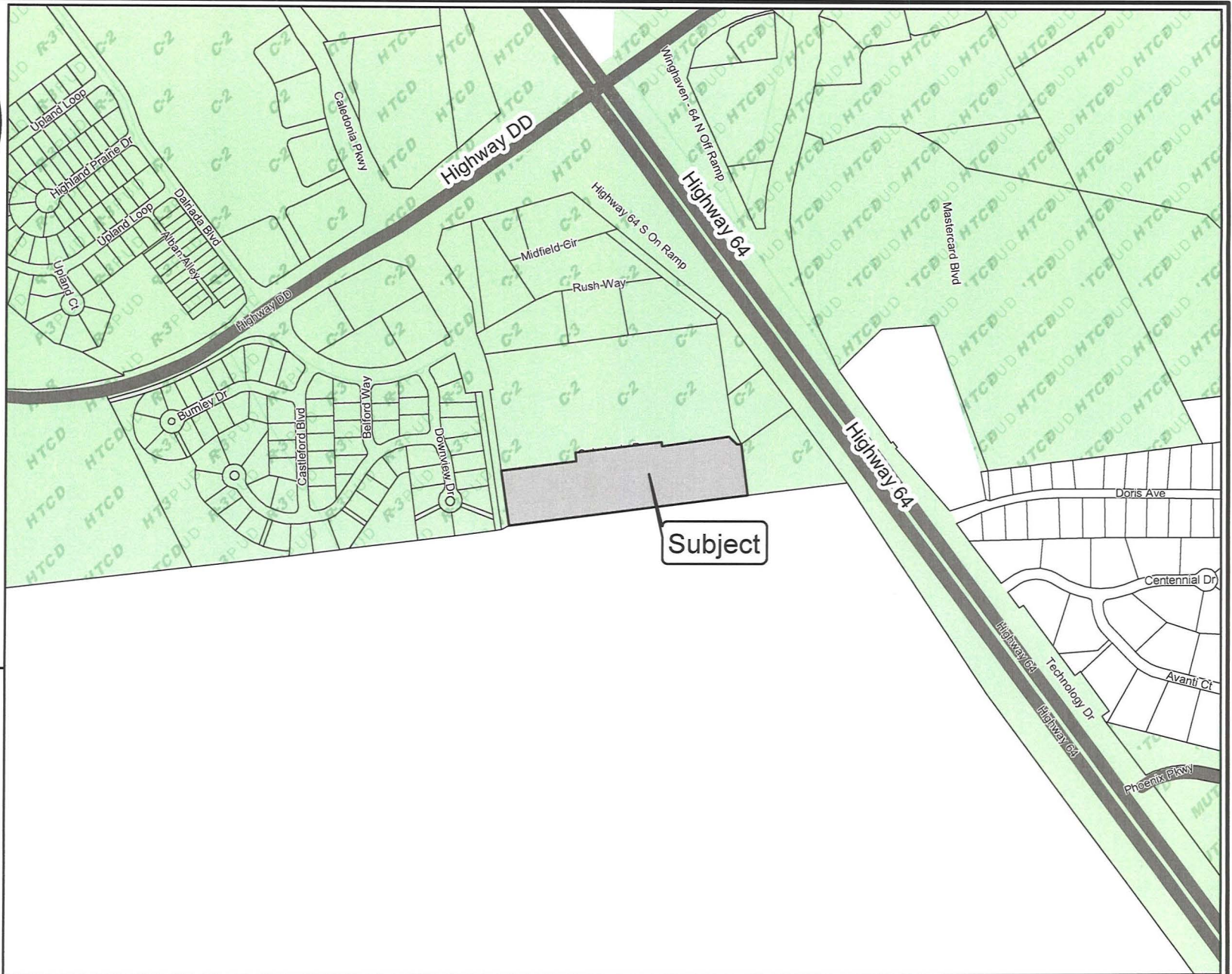
Kevin M. O'Keefe, City Attorney



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Legend

-  Subject Property Location
- R-1** Area Zoning Designation
-  O'Fallon City Limits



900 Caledonia Drive