

Case No.: 46-2023

Decision Date: 6/6/2023

Hearing History:

Hearing 06/06/2023

**BOARD OF ADJUSTMENT ZONING APPEALS  
CITY AND COUNTY OF DENVER  
201 West Colfax Avenue, Department 201  
Denver CO, 80202**

**PREMISES AFFECTED:** 4999 West 44th Avenue  
**LEGAL DESCRIPTION:** Lots 17 To 24 Inclusive, Block 27, Berkeley 02192

**APPELLANT(S)** 4979 West 44th Ave., LLC -Ari Stutz, 4751 Broadway Street, Denver, CO 80216,  
**Filed By:** Devil's Cup Coffee - Alex Brahl, 4999 West 44th Avenue, Denver, CO 80212

**APPEARANCES:**

**APPELLANT:** Alex and Ashley Brahl, 10546 Sundial Rim Road, Highlands Ranch, CO 80126  
Steve Longman, 2053 South Humboldt Street, Denver, CO 80210  
John DiMattia, 5062 West 44th Avenue, Denver, CO 80212  
Ari Stutz, 2525 South Milwaukee Street, Denver, CO 80210  
Macey Pearman, 8030 Marshall Circle, Arvada, CO 80003  
Power of Attorney Filed  
Statement of Authority Filed  
Petition of Support - One Hundred Twenty Three (123) Signatures

**FOR THE CITY:** Ron Jones, Zoning Representative  
Adam Hernandez, Senior Assistant City Attorney  
Community Planning and Development Staff Report (Anna Valdez, May 31, 2023)

**SUBJECT:**

Request for a Zoning Permit with Special Exception Review to operate / maintain an Outdoor Eating and Serving Area accessory to an Eating and Drinking Establishment within 50 feet of the boundaries of a protected district, in a U-MX-2 DO-8 zone

**ACTION OF THE BOARD:**

The request for A ZONING PERMIT WITH SPECIAL EXCEPTION REVIEW (ZPSE) IS GRANTED under Section 12.4.9.3 D.Z.C., to allow the Applicant to operate an Outdoor Eating and Serving area accessory to an Eating/Drinking establishment within 50 feet of a protected district, according to the plans (Exhibit 6), the testimony at the hearing, and with the following conditions: 1. Patio hours of operation shall run in line with the hours of the Primary Use but that the patio may be open no later than 10:00 pm Sunday through Thursday and 11:00 pm Friday and Saturday, 2. Applicant agrees to address any concerns of the adjacent property owners or occupants in a timely manner, and that there must be a contact person listed to direct concerns to, 3. Amplified music is permitted up to 55 decibels, in line with the hours of operation for the patio, and 4. Failure to abide by the conditions of this permit may result in the rescission of the permit. Questions about this decision may be addressed to Austin Keithler at the Board of Adjustment, (720) 913-3050. NOTE: The Board-approved plans may be picked up at the Board of Adjustment's office, 201 West Colfax Avenue, Dept. 201, Denver, CO 80202, 720-913-3050. These approved plans MUST be submitted to the Development Services Log-In counter when applying for final construction permits for this project.

BOARD OF ADJUSTMENT FOR ZONING APPEALS  
Ignacio Correa-Ortiz, Chair

*Austin Keithler*

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Austin E Keithler, Director

**THIS ACTION BY THE BOARD OF ADJUSTMENT IS NOT A ZONING OR BUILDING PERMIT. YOU SHOULD CONTACT/RECONTACT THE ZONING AND BUILDING DEPARTMENTS BEFORE BEGINNING CONSTRUCTION, TO DETERMINE WHETHER ADDITIONAL LAWS OR REGULATIONS APPLY TO YOUR PROJECT AND TO OBTAIN THE NECESSARY PERMITS.**