

CITY OF COLORADO SPRINGS
DOWNTOWN REVIEW BOARD
Meeting Minutes

**The Downtown Review Board (DRB) held its regular meeting on
Wednesday, March 5, 2014
in the
City Council Hearing Chambers
107 N. Nevada Avenue, Suite 325
Colorado Springs, CO 80903**

The meeting was called to order by DRB Chair Whitley at 8:30am

MEMBERS PRESENT:

George Cruz
Ed Gonzalez
Daniel Hankins
David Neville
Dan Robertson
Michael Whitley

MEMBERS ABSENT:

Wayne Timura
Richard Guy
Gary Marchio

ALSO IN ATTENDANCE:

Mr. Peter Wysocki, Planning and Development Director
Mr. Ryan Tefertiller, Land Use Review Manager
Mr. Marc Smith, City Senior Attorney

1. APPROVAL OF THE MINUTES

Moved by Board member Cruz , seconded by Board member Robertson, to approve the February 5, 2014 meeting minutes. Motion carried 5-0 (Member Neville abstained due to absence during last meeting and Members Timura, Guy and Marchio absent).

2. COMMUNICATIONS

Mr. Tefertiller announced the DRB should expect to meet for the April 2 meeting.

3. CONSENT CALENDAR

None

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4. NEW BUSINESS CALENDAR - ITEM 4

STAFF PRESENTATION

Mr. Ryan Tefertiller, City Planning Manager, presented PowerPoint slides (Exhibit A). The resubmitted plan as of yesterday display the sidewalk being rerouted to allow the applicant to fully enclose the beer garden to control the alcohol consumption to comply with their liquor license requirements. Typical bar/tavern uses have been opposed by local downtown business owners due to the “dead hours” because those uses are closed during regular business hours during the day. The Downtown Premier Partners has recently been formed to address those “dead” hours of typical bar uses during the day; whereby those uses are typically only open during the later evening and early morning hours. The revised plan now displays 10 on-site parking stalls instead of the originally proposed nine (9) spaces.

Based upon revised plans received yesterday, all but three technical modifications have been addressed.

Member Cruz inquired of material and height of the enclosed patio area. Mr. Tefertiller explained the enclosed area will be a typical four-foot high picket fence. His discussion with the applicant requested refining and improving the fence material, perhaps a wrought-iron fence to complement the architecture of the building and the urban downtown area as well. The material that the DRB approves must be called out on the plan.

Member Cruz inquired of the six-foot wide sidewalk with ground plain. Mr. Tefertiller displayed the revised plan that shows two landscape beds will be preserved and picnic tables will be interspersed and ground plain will be the existing bisecting concrete and the rest of the beer garden would remain as turf. He suggested to the applicant to improve the ground plain treatment to avoid turf turning to mud during inclement weather.

Member Cruz felt staff also needs to address the patio area with a second emergency exit. Mr. Tefertiller agreed and would ensure that is called out on the plan as well.

Member Cruz suggested something such as planters should separate the sidewalk from the patio. Mr. Tefertiller stated there is just under eight feet between the face of the rail and the northeast sidewalk edge. The intent is for the sidewalk to meet City standards and make sure it’s wide enough for public use.

Member Neville inquired of a required amenity zone between the sidewalk and the use rather than abut the sidewalk to the patio area. Mr. Tefertiller suggested the amenity zone could be flipped to the other side of the site.

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Member Gonzalez inquired if City Engineering had concerns regarding the sidewalk attached to the patio area. Mr. Tefertiller stated their initial comments were open-ended with a request for further information. This plan meets City minimum standards. Mr. Tefertiller felt this attached sidewalk is justified for this short pedestrian length. Imposing the amenity zone and creating a detached sidewalk may require the applicant to remove the landscape beds in the patio area and possibly compromise the liquor license for the patio.

Member Gonzalez inquired how much interior seating does the tap room provide. Mr. Tefertiller deferred to the applicant.

Member Cruz inquired if the applicant intends to keep all the trees. Mr. Tefertiller stated the plan does not show any trees being removed. The review letter included comments from Parks and Recreation Dept. and Forestry and dialogue will continue regarding the poor health of at least one of the trees for safety reasons. That may be required for removal.

Member Hankins inquired of the hours of operation. Mr. Tefertiller stated the revised plans state the hours of operation as Sunday–Thursday 11am–11pm, and Friday and Saturday from 11am–Midnight. Mr. Tefertiller would hope the applicant could be flexible with the hours should he need to stay open on a Thursday evening until midnight. Mr. Smith clarified that the note reflects intended hours of operation. There is case law that suggests the enforcement of hours of operation is not permissible. The State outlines specific hours of operation for establishments that allows liquor establishments to sell alcohol.

Mr. Tefertiller stated the applicant's intent is not to stay open until 2am. He suggested modifying the plan note allowing flexibility of hours if needed.

Member Hankins inquired of the trash enclosure location. Mr. Tefertiller referred to the slides and stated the trash area was not shown on the initial plan, but the revised plan now shows the trash dumpster at a 45-degree angle on what was the west facing parking stalls. The plan does not show an enclosure.

Member Robertson inquired about outdoor amplification restrictions. Mr. Tefertiller stated the revised plan does not show outdoor amplification, and the notes do not specifically restrict that amenity. The intent is to restrict outdoor amplification as requested by the adjacent neighbor.

APPLICANT PRESENTATION

Mr. Scott Simmons, Green Man Taproom owner, clarified the nature of the business. Mr. Simmons intends to have 44 craft beers on tap with higher prices that would attract a different demographic than a nightclub. He is applying for a revocable permit for the outdoor beer garden. He is open to upgrading the fence materials to match the building design. He is applying for a grant from the Downtown Development Authority and intends to install pavers in the patio area. He does not intend to stay open late. Indoor seating has been reduced to 80 and outdoor seating will be 80 seats on eight-foot long picnic tables with a total of 160 seats for the site.

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Member Whitley inquired if he has plumbing permits for the 160 occupants. Mr. Simmons replied yes.

Member Cruz inquired of the intended outdoor lighting. Mr. Simmons stated there are two existing street lamps outside the beer garden area and along the west side of the building for the parking area. The only lighting he plans to install is ambient lighting by means of string-type lighting.

Member Neville inquired of food service despite not having a kitchen facility. Mr. Simmons stated there is a kitchen as defined by the County Health Dept. and is basically making sandwiches because he does not intend to install fryers or other appliances to provide typical pub food.

Member Neville inquired if he will use food trucks. Mr. Simmons replied his issued State license is a hotel/food license requiring the site to manage the food inside the building and he is restricted from catering from an outside source.

CITIZENS IN FAVOR

1. Ms. Sarah Harris, Downtown Partnership, referred to page 11 of the agenda. She received the revised plans this morning and is still in support of the conditional use. The Partnership sees this as an anchor for this area. She had concerns regarding the ground plain treatment and the revocable permit for the realigned sidewalk along the east side of the building as it carries southward toward the beer garden. She was also concerned that the fence should architecturally match the building style.
2. Ms. Jenny Elliott, Downtown Development Group, felt this application would be a great addition to the neighborhood and redevelopment of the surrounding area.

CITIZENS IN OPPOSITION

None

APPLICANT REBUTTAL

None

DECISION OF THE DOWNTOWN REVIEW BOARD

Member Whitley felt this was a great applicant, but felt much information was missing due to the revised plan having been submitted the day prior to the meeting. He was not comfortable with the level of information submitted to the DRB, such as the missing trash dumpster, fence material, and food service requirements.

DRB debated if they could bifurcate the patio warrant from the conditional use permit.

Member Gonzalez felt the plan is not detailed enough to explain the hard surface uses and materials for the outdoor portion of the project. He suggested adding notes to the plan as conditional approval of the

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plan or postpone to the next meeting to provide review time of a final revised plan. There are too many unanswered questions. He felt the Form-Based Code was not met with the rerouted sidewalk abutting the street.

Member Cruz suggested a list of concerns the applicant should address on the plan as discussed by the DRB:

1. Fencing elevation and materials
2. Landscaping along west sidewalk
3. Show trash (dumpster) enclosure details
4. Restrict audio/visual use in beer garden
5. Clarify ground cover treatment for beer garden
6. Note the hours of operation
7. Note there is no exterior lighting upgrades in beer garden area
8. Align existing southern sidewalk with offsetting sidewalk as discussed by Downtown Partnership
9. Address if the existing tree remains or is removed
10. Add emergency exit(s) in beer garden

Member Robertson inquired if the beer garden was essential to opening or operating his business were the DRB to separate the beer garden from the conditional use decision today. Mr. Simmons was open to what is expedient to open his business. His original business plan was based upon the interior building use only, and the beer garden use was added later. He is agreeable to continue discussions regarding the beer garden use and amenities.

Member Cruz inquired if DRB separated beer garden from today's approval if the applicant would be prepared to present a revised plan for the beer garden during the next regularly scheduled meeting on April 2, 2014. Mr. Simmons confirmed he'd be prepared.

Moved by Member Robertson, seconded by Member Cruz, to approve **Item No. 4-File No. DRB DP 14-00008**, the conditional use development plan and parking warrant based on the findings that the conditional use criteria empowered by Section 2.5.4 and the warrant criteria found in Section 5.4 of the Downtown Colorado Springs Form-Based Code will be substantially met once the following technical modifications are made and the applicant must return to the DRB's April 2, 2014 meeting to address the beer garden issues listed below and until such time no exterior use or improvements of beer garden use may be initiated until details of the beer garden are reviewed and approved by DRB at the April 2, 2014 public hearing:

Technical Modifications to the Development Plan:

1. Add the file number and sheet numbers to all plan sheets
2. Gain approval of a revocable permit for all private encroachments into the public right-of-way; add a note to the plan referencing the permit and calling out encroachments.
3. Improve the plan data to include: applicant and owner information, zone district, building type, frontage type, square footage of the property and the building, and add a note referencing the requested warrants.

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4. Call out the proposed hours of operation.
5. Provide parking data including: the required parking ratio, the number of stalls required and provided, and add a note referencing the adjacent on-street stalls in Pueblo Ave.
6. Clarify the proposed improvements associated with the beer garden including: the dimensions of the patio area, the proposed landscaping, the ground plane, a detail of the fencing/railing including the method of attachment to the ground, any proposed lighting and audio equipment.
7. Add a note restricting outdoor amplification within the beer garden area.
8. Label the re-routed sidewalk as meeting City standards.
9. Document and label any public and private easements.
10. Add a note referencing the proposed parking warrant.
11. If food trucks are to be included as part of the general business operation, clarify the likely location for service ensuring that on-site parking stalls are still useable.
12. Note that signage is not approved by this plan and that a separate sign permit must be obtained for any new signage.
13. Modify the landscape sheet to add utility information and address the comments from the City's Landscape Architect as described in the February 20, 2014 review letter **(FIGURE 5)**.
14. Add the following note to the development site plan: "All curb, gutter, pedestrian ramps and sidewalk posing a safety hazard or exhibiting excessive deterioration along Pueblo Avenue and Weber Street adjacent to the site will need to be removed and replaced. An on-site meeting can be set up with the City Engineering Inspector, to determine what, if any improvements are required. The inspector can be reached at 385-5977."

Beer Garden Issues:

1. Fencing elevation and materials
2. Landscaping along west sidewalk
3. Show trash (dumpster) enclosure details
4. Restrict audio/visual use in beer garden
5. Clarify ground cover treatment for beer garden
6. Note the hours of operation
7. Note there is no exterior lighting upgrades in beer garden area
8. Align existing southern sidewalk with offsetting sidewalk as discussed by Downtown Partnership
9. Address if the existing tree remains or is removed
10. Add emergency exit(s) in beer garden

Mr. Tefertiller suggested including language in the motion that no exterior use or improvements of beer garden use may be initiated until details of the beer garden are reviewed and approved by DRB at the April 2, 2014 public hearing.

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Agreed by Member Robertson to include Mr. Tefertiller's suggestion in his original motion along with the beer garden review is postponed to the April 2, 2014 DRB meeting (see motion above).

Member Cruz felt the plan met the review criteria for the conditional use.

Member Gonzalez felt the five criteria in FBC Section 5.4 are met.

Motion carried 6-0 (Members Timura, Marchio and Guy absent).

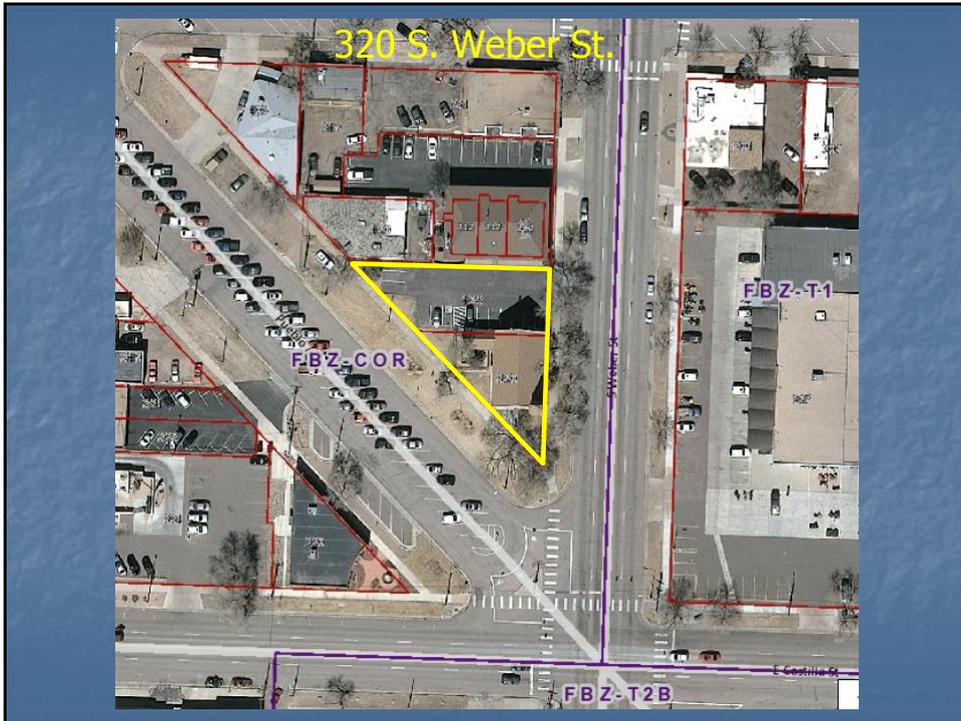
Meeting adjourned at 10:10am

Downtown Review Board March 5, 2014

DRB DP 14-00008
Green Man Taproom

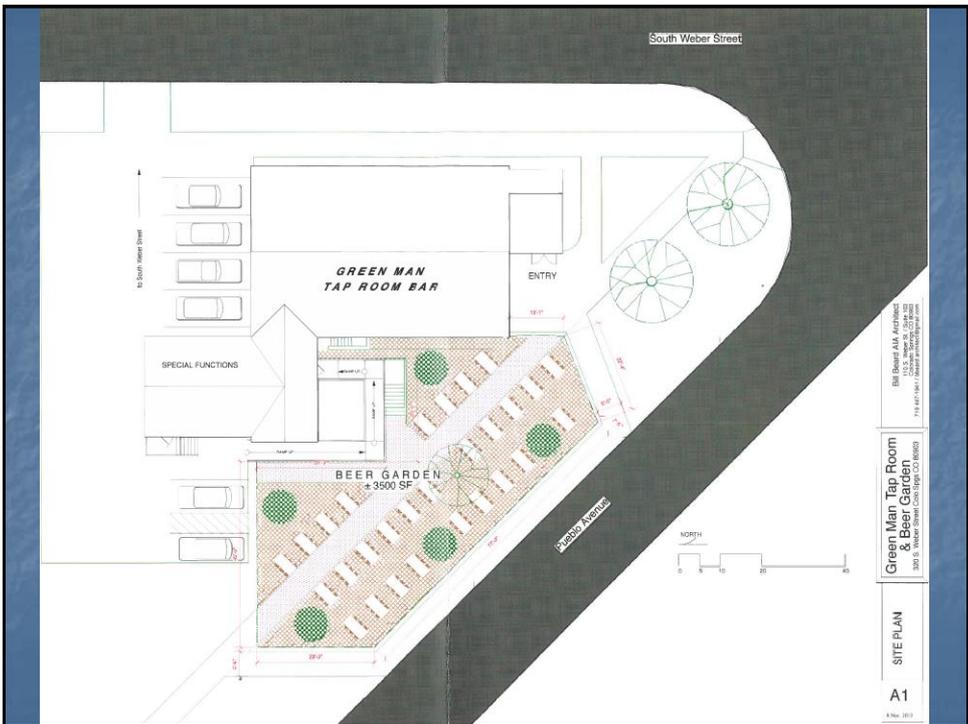
Background

- Proposed use considered a "bar" – expect greater than 50% revenue from alcohol
 - Bars require a conditional use in the FBZ
- Property zoned FBZ-COR
- Lot size = 11,250 sf
- Historic 3,475 sf church on property
- 9 private on-site parking stalls



Proposal

- Convert existing building to bar
 - Conditional Use Permit needed from the DRB
- Construct significant outdoor patio
 - Mostly in ROW – revocable permit
- Change of use together with new outdoor seating creates parking deficiency
 - Parking Warrant needed from the DRB



Item: 4
Exhibit: A
DRB Meeting: March 5, 2014

FBZ Regulations

- FBZ is generally use neutral, emphasizing building form over internal use
 - Most uses are permitted throughout the FBZ
 - Exceptions include: industrial, human services, auto repair, others
- Bar uses require conditional use approval
- Bars are an appropriate urban use, but their placement/location justifies case-by-case analysis

Downtown Bars

- Bars / nightclubs downtown have been a topic of debate in recent years
 - Safety: police resources, violence, etc.
 - Cleanliness: sidewalks, alleys, public spaces
 - Noise: impacts to nearby residential uses
 - Daytime: often closed during retail hours
- Formation of "Downtown Premier Partners" to mitigate impacts
 - Improvement in recent years

Conditional Use Criteria

- Conditional Uses evaluated with 3 criteria:
 - That the value and qualities of the neighborhood are not substantially injured
 - Consistent with intent & purpose of zoning code to promote public health, safety, and general welfare
 - Consistent with the City's comprehensive plan

Relief

- Relief needed for insufficient parking
- Relief can only be granted by the DRB
- Bars use restaurant parking ratio
 - 1 stall per 250 sf of building/patio space
- 9 on-site stalls provided where 28 are required
- Significant on-street parking in Pueblo Ave. right-of-way



Warrant Criteria

- Five criteria for the granting of a Warrant
 - Consistent with intent of FBC
 - Section 4 – Design Guidelines
 - Reasonable – exceptional civic or environmental design
 - Consistent with Imagine Downtown MP
 - Consistent with Comprehensive Plan
- Substantial compliance required

Warrant Criteria - Analysis

- Criteria 1 – FBC promotes infill, re-use of existing buildings
 - Especially historic buildings
- Criteria 2 –Design Guidelines:
 - Architectural detail
- Criteria 3 – Exceptional design
- Criteria 4 and 5 – Entertainment Uses encouraged in the Downtown Core; Historic building preservation

Recommendation

- Approve the conditional use together with the parking warrant, with technical modifications based, on the fact that the application substantially complies with the required criteria and standards.
 - Technical Modifications listed in Staff report

Questions?