

MEMORANDUM

TO: Planning Board
FROM: Elaine McLaughlin, Case Manager
DATE: April 24, 2015
SUBJECT: Call Up Item: USE REVIEW to establish a 1,605 square foot restaurant, "Troovi Eatery & Juice Bar" in currently unoccupied retail space at Solana Apartments 3060 Pearl Parkway under case no. LUR2015-00025.

Background.

The small proposed restaurant is located in one of the currently unoccupied retail spaces of the Solana Apartments, on the southwest corner of Pearl Parkway and Junction Place, as shown in Figures 1,2, and 3.

The property is located within the MU-4 zoning district and within Boulder Junction. As anticipated in both MU-4 and Boulder Junction, a vertical mix of uses is planned. The MU-4 zoning district is defined in section 9-5-2, B.R.C. 1981 as follows:

"Mixed Use - 4: Mixed use residential areas generally intended for residential uses with neighborhood-serving retail and office uses; and where complementary uses may be allowed. It is anticipated that development will occur in a pedestrian-oriented pattern, with buildings built up to the street."

The Use Standards of the Land Use Code section 9-6-1, B.R.C. 1981 require a Use Review for "restaurants, brewpubs and taverns that are over 1,500 square feet in floor area" to operate in the MU-4 zoning district. Because the space is 1,605 square feet, it is subject to Use Review.

The current character of the surrounding area is changing based on recent construction and in turn, is becoming more active with pedestrians. The Solana Apartments are currently 95 percent leased and the Hyatt Hotel located within Depot Square across Pearl Parkway to the north recently opened for guests. The permanently affordable residential units of Depot Square are anticipated to open in the summer 2015. Pursuant to section 9-9-6, B.R.C. 1981, because the building is located within the Boulder Junction Access District (BJAD) there is no off-street parking requirement for non-residential uses in the MU-4 zoning district. There is ample public parking as

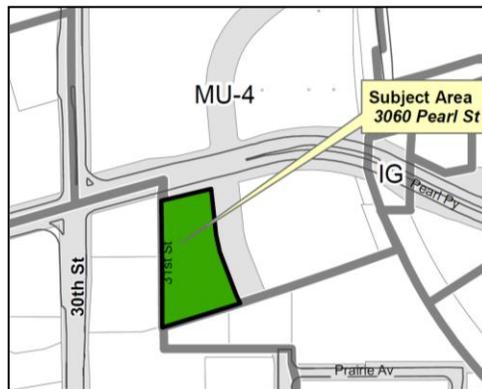


Figure 1: Mapped Location

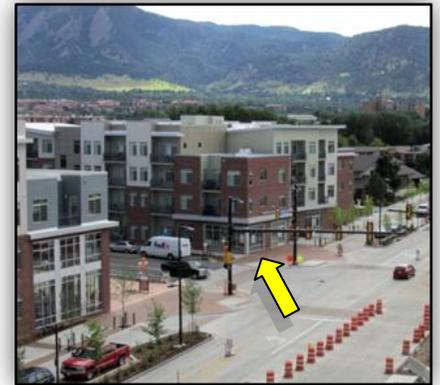


Figure 2: Aerial View



Figure 3: Street Level View of Site

well as on-street parking available nearby as well as the below grade parking within Solana, and the soon to be completed parking structure for Depot Square.

Proposed Project. The applicant is requesting approval of a Use Review to allow for a new restaurant, “Troovi Eatery and Juice Bar” which is proposed to be 1,605 square feet with 32 seats. The proposed hours of operation are from 6:30 a.m. to 9:00 p.m. seven days per week. Refer to **Attachment C** for *Applicant’s Proposed Plan and Management Plan*.

Analysis. The application was found to be in conformance with the Use Review criteria of the Land Use Code section 9-2-15, B.R.C. 1981. Attachment B is provided of the Use Review Criteria checklist.

Public Comment. Consistent with section 9-4-3, Public Notice Requirements, B.R.C. 1981, staff provided notification to all property owners within 600 feet of the subject location of the application, and a sign has been posted on the building by the applicant indicating the review requested. There were no comments received from the public regarding this application.

Conclusion. Per section 9-4-2, B.R.C. 1981, applications for Use Review are subject to call up by the Planning Board. This proposal was approved by Planning and Development Services staff on **April 24, 2015** (see Attachment A) and the decision may be called up before Planning Board on or before **May 8, 2015**. There is one Planning Board meeting within the 14-day call up period, on **May 7, 2015**. Questions about the project or decision should be directed to Elaine McLaughlin at (303) 441-4130 or mclaughline@bouldercolorado.gov.

Attachments:

- A. Signed Disposition
- B. Analysis of Use Review Criteria
- C. Applicant’s Proposed Plan and Management Plan



CITY OF BOULDER
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CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION: **APPROVED WITH CONDITIONS**
PROJECT NAME: **RESTAURANT USE REVIEW**
DESCRIPTION: **USE REVIEW to establish a 1,605 square foot restaurant in currently unoccupied retail space at the street level of Solana 3100 Pearl Apartments**
LOCATION: **3060 PEARL PARKWAY**
COOR: **N04W03**
LEGAL DESCRIPTION: **Lots 1, 3100/3200 Pearl Subdivision, as per the plat recorded January 25, 2012 at Reception No. 3198390, and as corrected by Affidavit of Correction recorded August 17, 2012 at Reception No. 3245179, County of Boulder, State of Colorado**
APPLICANT: **John Sponseller**
OWNER: **Pearl Street Apartments Investors LLC**
APPLICATION: **Use Review, LUR2015-00025**
ZONING: **MU-4**
CASE MANAGER: **Elaine McLaughlin**
VESTED PROPERTY RIGHT: **NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

Approved on: 4-24-2015
Date

By: [Signature]
David Driskell, Executive Director of Community Planning and Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: 5-08-2015

Final Approval Date: _____

Address: 3060 Pearl Parkway

Address: 3060 Pearl St.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND FINAL PLANS FOR CITY SIGNATURE MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans** prepared by the Applicant on January 30, 2015 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:
 - a. Size of the approved interior use shall be limited to 1,605 square feet.
 - b. The approved interior use shall be closed from 9:00 p.m. to 6:30 a.m., seven days per week.
 - c. Trash and bottles shall not be removed to outside trash containers between the hours of 10:00 p.m. and 8:00 a.m.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.
3. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following: the Development Agreement recorded at Reception No. 03133194 on February 14, 2011 and the Subdivision Agreement recorded at Reception No. 3198389 on January 25, 2012 in the records of the Boulder County Clerk and Recorder.

Address: 3060 Pearl Parkway

Address: 3060 Pearl St.

USE REVIEW CRITERIA

Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

Yes (1) Consistency with Zoning and Non-Conformity: The use is consistent with the purpose of the zoning district as set forth in [Section 9-5-2\(c\)](#), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The proposed restaurant is consistent with the intent of the Mixed Use -4 (MU-4) zoning which states, "generally intended for residential uses with neighborhood serving retail and office uses; and where complementary uses may be allowed."

Yes (2) Rationale: The use either:

Yes (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

The provision of a small restaurant within the Solana Apartments will provide a direct service and convenience to the residents of the apartments as well as those at Depot Square; within walking distance that will reduce auto trips.

_____ (B) Provides a compatible transition between higher intensity and lower intensity uses;

_____ (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or

_____ (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (e) of this section;

Yes 3) Compatibility: The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The small restaurant with operating characteristics for evening closure will be compatible in the residential context and have minimal negative impacts. The conditions of approval also require that the trash removal will occur only during daylight hours.

Yes (4) Infrastructure: As compared to development permitted under [Section 9-6-1](#), "Schedule of Permitted Uses of Land," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a non-conforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;

The infrastructure was established for Mixed Use in this location.

Yes (5) Character of Area: The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area;

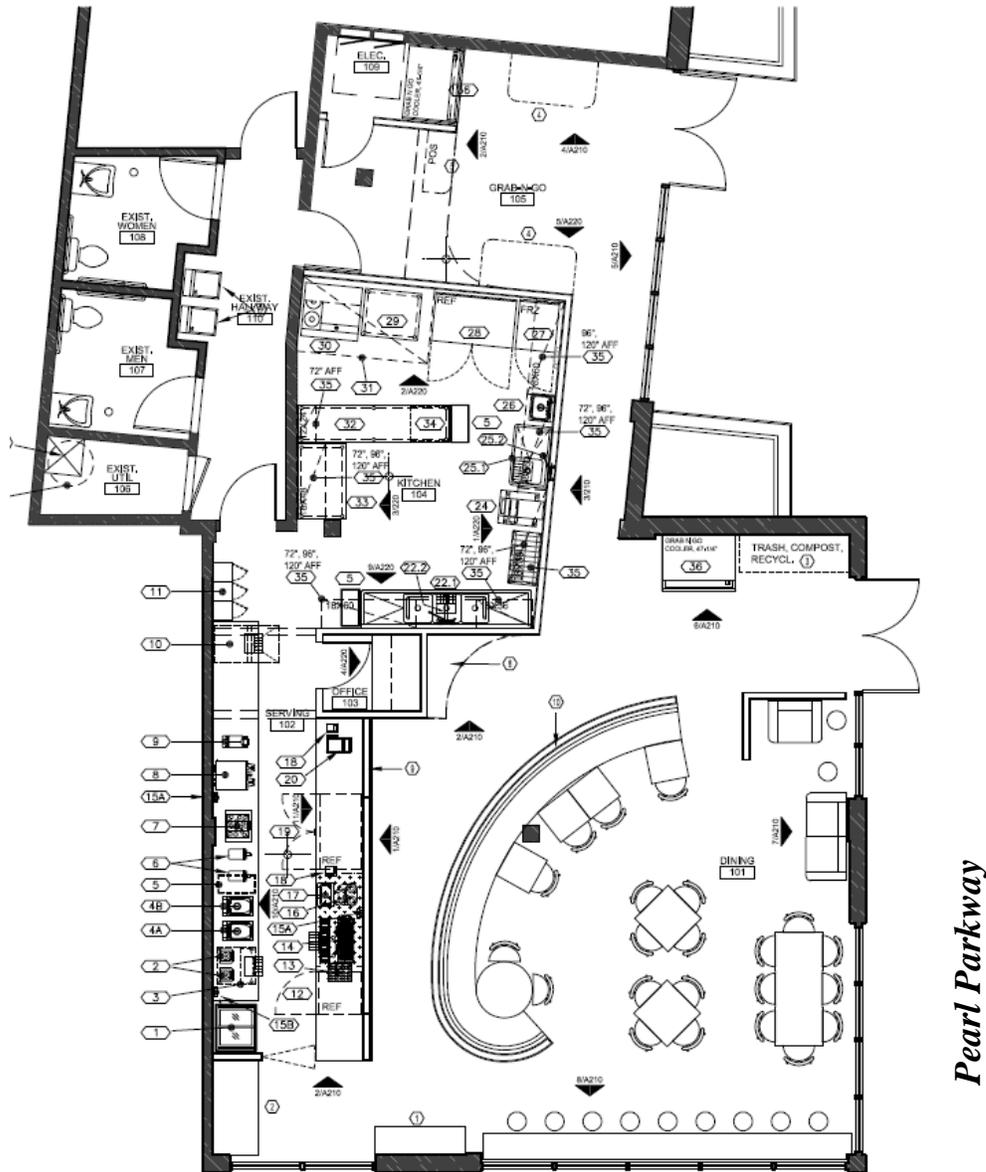
The small restaurant use will be compatible with, and enhance, the existing character of the mixed use area.

N/A (6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in [Subsection 9-5-2\(c\)\(1\)\(a\)](#), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

Not applicable: proposed use does not convert dwelling units to non-residential uses.

Management Plan for 3060 Pearl Restaurant (Troovi Eatery and Juice Bar)

- 1) Proposed Hours of operation: 6:30 a.m. to 9:00 p.m. (7 days per week)
- 2) Number of Employees: 3
- 3) Size of Restaurant: 1,605 square feet – an interior use only
- 4) Dining: Will offer Breakfast, lunch and dinner fare



Address: 3060 Pearl St.

Junction Place