

MEMORANDUM

TO: Planning Board
FROM: Chandler Van Schaack, Case Manager
DATE: February 4, 2016
SUBJECT: **Call Up Item:** USE REVIEW (LUR2016-00007): Request to allow for a parking lot as a principal use at 2206 Pearl St. in the MU-3 zone district. The call-up period expires on **February 10, 2016.**

Process Summary.

The owner of 2206 Pearl wishes to enter into a shared parking agreement with the owner of the proposed restaurant, "River and Woods," at 2328 Pearl (included in the current call-up packet under case number LUR2015-00087) to provide off-site parking for restaurant customers. The Applicant for 2328 Pearl, where John's Restaurant was formerly located, is required to enter into a parking agreement in order to receive approval of a proposed 21-seat outdoor dining area (see LUR2015-00087 for complete proposal). Per the definition of "parking lot" found in section 9-16, B.R.C. 1981, leasing parking spaces to provide off-site parking for another use constitutes operating a parking lot as a second principal use. Per section 9-6-1, B.R.C. 1981, a parking lot in the MU-3 zone requires approval of a Use Review to operate. This application is intended to be considered in conjunction with the Use Review application for River and Woods Restaurant at 2328 Pearl St (LUR2015-00087).

Background. 2206 Pearl is a roughly 20,000 square foot lot located in Central Boulder near the intersection of Pearl and 22nd St. The site is zoned MU-3 (Mixed Use -3), which is defined as "Areas of the community that are changing to a mixture of residential and complementary nonresidential uses, generally within the same building" per section 9-5-2(c)(2)(C), B.R.C. 1981. To the east and west of the subject site along Pearl Street between 18th and 24th is a corridor of MU-3 zoning commonly known as the "East Pearl" area, which contains a variety of retail, restaurant and office uses mixed with residential uses. To the north and south of the East Pearl corridor are primarily residential uses, with the area to the south containing primarily high density residential uses, and the area on the north side of the corridor containing a mix of high and mixed- density residential uses. Please refer to **Figure 1** for a Vicinity Map.

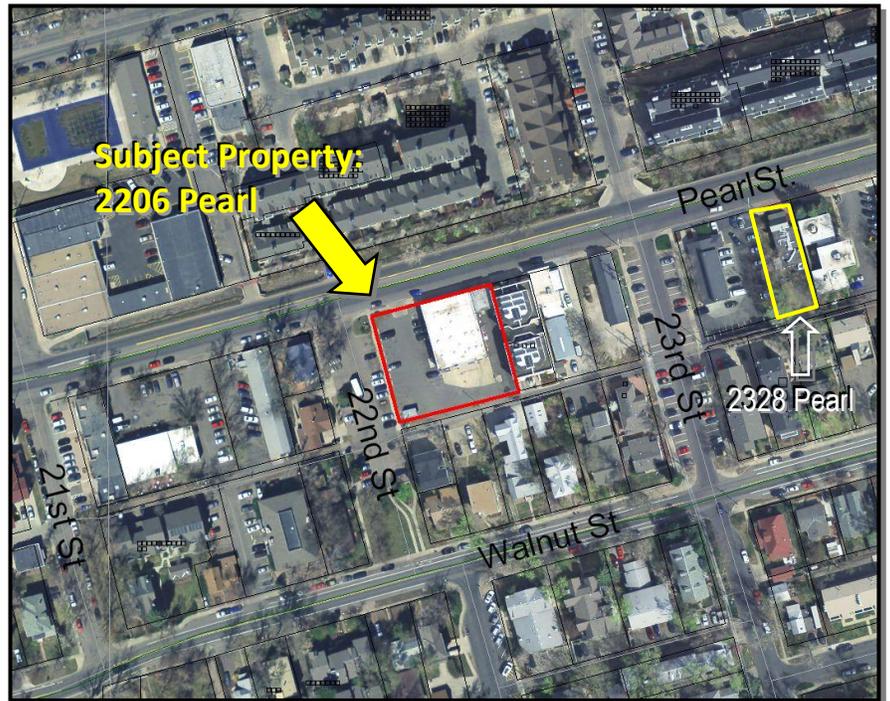


Figure 1: Vicinity Map

There are two existing buildings on the 0.45-acre subject site totaling roughly 5,500 sq. ft. in floor area. The 2206 Pearl building totals approximately 5,000 square feet in floor area and contains two tenants, OZ Architecture and SmartBeds, with OZ Architecture being the primary tenant. The adjacent building (2210 Pearl) comprises only about

500 square feet of floor area and currently contains a retail photo shop and gallery. City records indicate that the subject building was constructed in 1963 and was originally used as a construction equipment rental store. In 2009, planning board approved a Use Review for 2206 Pearl for "Pete's Electric Bikes," an electric bicycle retail store and bike repair shop; however, shortly thereafter the approved use relocated to a different tenant space two blocks to the east. In 2013, a Use Review was approved to allow for an office use, Made Movement, to operate as the primary tenant in the space. Since that time, OZ Architecture has replaced Made Movement as the primary tenant, and is currently operating consistent with the restrictions set forth in the previous approval.

The subject property contains a large surface parking lot to the south and east of the building (see **Figure 1**). The existing buildings have a parking requirement of 18 spaces. There are currently 18 striped spaces located on the lot on the west side of the building, as well as a large unstriped parking area wrapping around the south side of the building that can accommodate 12 additional parking spaces (see **Attachment C** for Parking Plan).

Project Proposal. The applicant is proposing to enter into a shared parking agreement with the owner of the proposed River and Woods restaurant at 2328 Pearl St. to provide off-site parking for restaurant customers. The proposed agreement would provide 12 spaces during daytime weekday business hours (11:00 a.m. to 5:00 p.m.) and 24 parking spaces for use by the restaurant during weekday evening hours (after 5:00 p.m.) and on weekends (9:00 a.m. to 11:00 p.m.). The conditions of approval for the River and Woods restaurant use (LUR2015-00087) require such a parking agreement in order to allow for a new 21-seat outdoor dining area, which would add seats while diminishing on-site parking at 2328 Pearl. OZ Architecture, the primary tenant and lessor of the parking area to the west of the building, has approved the proposed agreement, as have the other two tenants who currently park to the south of the building (See **Attachment C** for Applicant's Written Statement and Management Plan). The proposal does not include any exterior modifications to the site or building aside from signage that would be added to delineate reserved restaurant parking. Given that there are 30 existing parking spaces on-site, the proposed parking agreement will not impact the required parking for the existing uses.

Public Comment. Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. Staff has received one comment in support of the proposal.

Analysis. The proposal was found to be consistent with the Use Review criteria pursuant to subsection 9-2-15(e), "Criteria for Review," B.R.C. 1981. Refer to **Attachment B** for the complete Use Review analysis.

Conclusion. Staff finds that the proposed project meets the relevant criteria of section 9-2-15, "Use Review," B.R.C. 1981 (refer to **Attachment B**). The proposal was **approved** by staff on **January 27, 2016** and the decision may be called up before Planning Board on or before **February 10, 2016**. There is one Planning Board hearing scheduled during the required 14 day call-up period on **February 4, 2016**. Questions about the project or decision should be directed to the Case Manager, Chandler Van Schaack at (303) 441-3137 or at vanschaack@bouldercolorado.gov

Attachments:

- A. Signed Disposition
- B. Analysis of Use Review Criteria
- C. Applicant's Proposed Parking Plan and Written Statement



CITY OF BOULDER
Community Planning and Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

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: 2206 Pearl Shared Parking Lot
DESCRIPTION: Use Review for parking lot as a second principal use.
LOCATION: 2206 Pearl St.
COOR: N03W05
LEGAL DESCRIPTION: Lots 4, 5 and 6, Block 77, East Boulder, County of Boulder, State of Colorado
APPLICANT: Josh Dinar
OWNER: 2206 Pearl LLC
APPLICATION: Use Review, LUR2016-00007
ZONING: MU-3
CASE MANAGER: Chandler Van Schaack
VESTED PROPERTY RIGHT: NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.

APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS: None

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

Approved On: 1.27.16
Date

By: 

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: 2.10.16

Final Approval Date: 2.11.16

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND THE 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, Boulder Revised Code 1981) 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 the 2206 Pearl Street Parking Plan** prepared by the Applicant on January 28, 2016 and the **written statement** dated January 12, 2016 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. The Applicant shall operate the business in accordance with the Management Plan dated January 11, 2016 which is attached to this Notice of Disposition.
2. 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:
 - a. The Development Agreement recorded January 27, 2014 at Reception No. 03363685
 - b. Planning Department Disposition dated October 23, 2014 (Use Review #LUR2014-00079)
3. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.

January 11, 2016

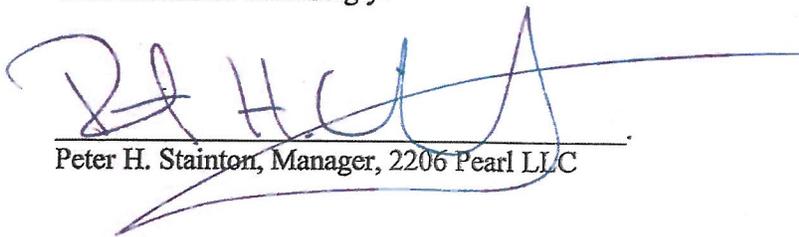
Management Plan 2206 Pearl Site/Parking Agreement:

2206 Pearl, LLC, A Colorado Corporation, has executed a lease agreement with Eat at Home, LLC, dba River and Woods Restaurant at 2328 Pearl Street, Boulder, CO 80302, for the parking lot on the west side of the site located at 2206 Pearl St, Boulder, CO 80302. The parking lot lease will allow customers of River and Woods to park in any of the 12 spaces on the western side of the lot, facing 22nd Street, during weekday hours. The lease will also allow customers of River and Woods to park in any available space in the entire 24-space lot after 5pm weekdays and all day on the weekends.

Management Plan:

OZ Architecture is the primary current lessee of the property at 2206 Pearl St, Boulder, CO 80302. This is primarily a satellite office for OZ, housing 8-10 employees sporadically during business hours. The formal hours of the business are 9am-5pm weekdays. While OZ rarely has all 8-10 employees on site at any one time, the 12 spaces that face the building on the east side of the lot are more than adequate to hold all employees, and are all that are required during business hours. After hours and on weekends, there is no need for employee parking and the lot is completely free to be utilized for restaurant customers.

In the unlikely case that more of the lot will be required for a special occasion, OZ will contact the restaurant directly to make sure that appropriate arrangements are made to alert customers accordingly.



Peter H. Stainton, Manager, 2206 Pearl LLC



FourStar On The Hill
1310 College Ave, Suite 310
Boulder, CO 80302
303.449.0064
www.FourStarOnTheHill.com

FourStar Boulder
1938 Pearl Street, Suite 200
Boulder, CO 80302
303.440.8200
www.FourStarRealty.com

FourStar Denver
1423 South Pearl Street
Denver, CO 80210
303.999.3876
www.FourStarDenver.com



USE REVIEW CRITERIA

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

(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 owner of 2206 Pearl wishes to enter into a shared parking agreement with the owner of the proposed restaurant, "River and Woods," at 2328 Pearl (case number LUR2015-00087) to provide off-site parking for restaurant customers. Per the definition of "parking lot" found in section 9-16, B.R.C. 1981, leasing parking spaces to provide off-site parking for another use constitutes operating a parking lot as a second principal use. Per section 9-6-1, B.R.C. 1981, a parking lot in the MU-3 zone requires approval of a Use Review to operate. This application is intended to be considered in conjunction with the Use Review application for River and Woods Restaurant at 2328 Pearl St (LUR2015-00087).

(2) **Rationale:** The use either:

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

By providing off-site parking for the proposed "River and Woods" restaurant, the proposed parking lot would reduce potential adverse impacts to the surrounding neighborhood. The proposed restaurant at 2328 Pearl would include only one parking space where 24 are required by the parking standards for the MU-3 zone. Therefore, providing parking at 2206 Pearl St. would reduce potential parking spillover impacts from the restaurant site.

(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 (f) of this section;**

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 location, size, design, and operating characteristics of the proposed change to the existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties. The applicant is proposing to enter into a shared parking agreement with the owner of the proposed River and Woods restaurant at 2328 Pearl St. to provide off-site parking for restaurant customers. The proposed agreement would provide 12 spaces during daytime weekday business hours (11:00 a.m. to

5:00 p.m.) and 24 parking spaces for use by the restaurant during weekday evening hours (after 5:00 p.m.) and on weekends (9:00 a.m. to 11:00 p.m.). The existing parking area is oversized compared to the required parking for the existing uses on the site (18 parking spaces are required and there are at least 12 additional unstriped parking spaces in the paved parking area for a total of 30 spaces), so the proposed use of 12 spaces during daytime business hours would not impact the required parking for the existing uses. In addition, the applicant has provided a management plan (see Disposition included as **Attachment A**) which states that the existing businesses do not use the parking lot after 5:00 p.m. or on weekends, so the provision of 24 spaces during those times will also not impact the existing businesses.

The parking agreement and associated management plan would allow the River and Woods restaurant to take advantage of the existing parking surplus on-site and would also reduce the potential negative impacts caused by restaurant customers utilizing on-street parking in front of other businesses.

✓ **(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 proposed shared parking agreement would utilize only existing paved parking spaces and would not include any other changes to the site or building. No infrastructure improvements are required, and the proposed parking area would not cause any additional strain on existing infrastructure.

✓ **(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; and

The proposed parking agreement would allow for the redevelopment and expansion of the former John's Restaurant at 2328 Pearl St. The former restaurant, "John's," was a highly popular fine dining establishment that was frequented by residents from the surrounding area for nearly 40 years. While the use has been discontinued for over a year, the existing building has remained in place, and has therefore remained a part of the aesthetic character of the neighborhood. The proposed restaurant would occupy the existing building and would similarly be intended to provide a small-scale fine dining establishment within walking distance of several residential neighborhoods. Given the previous restaurant's long history as a neighborhood fixture, the replacement of that use with a new restaurant use occupying the same building will not change the predominant character of the area. No changes to the existing site or building at 2206 Pearl are proposed, so the parking lot use will not change the predominant character of the surrounding 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.

2206 Pearl St. Shared Parking Plan - LUR2016-00007 - 01.28.2016

FOUND #4 REBAR WITH ALUMINUM CAP LS 2149 IN RANGE BOX

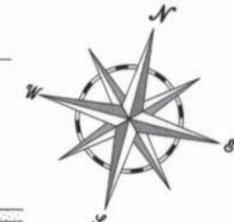
Pearl Street

BASIS OF BEARINGS
N 75°01'38" E 381.35'(M) 380'(R)

INTERSECTION AT 23RD STREET
FOUND #4 REBAR WITH ALUMINUM CAP LS 2149 IN RANGE BOX

Lots 4, 5 and 6, Block 77, EAST BOULDER, located within the Southeast Quarter of Section 30, Township 1 North, Range 70 West of the 6th P.M., County of Boulder, State of Colorado
Sheet 1 of 1

12 parking spaces to be reserved for restaurant customers (30 total existing spaces)



Scale: 1" = 10'
U.S. SURVEY FEET
CONTOUR INTERVAL = 1 FOOT

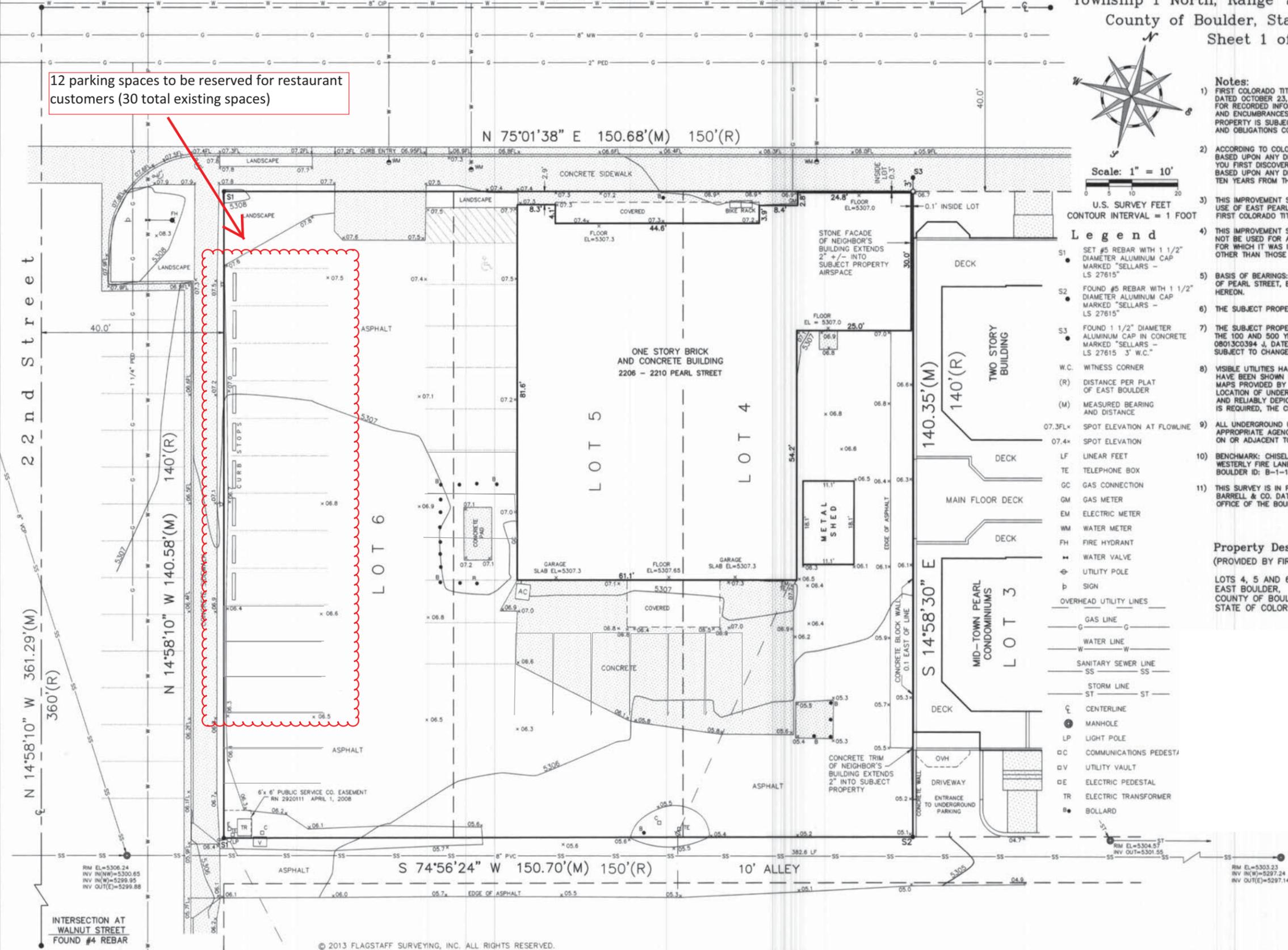
Legend

- S1 SET #5 REBAR WITH 1 1/2" DIAMETER ALUMINUM CAP MARKED "SELLARS - LS 27615"
- S2 FOUND #5 REBAR WITH 1 1/2" DIAMETER ALUMINUM CAP MARKED "SELLARS - LS 27615"
- S3 FOUND 1 1/2" DIAMETER ALUMINUM CAP IN CONCRETE MARKED "SELLARS - LS 27615 3' W.C."
- W.C. WITNESS CORNER
- (R) DISTANCE PER PLAT OF EAST BOULDER
- (M) MEASURED BEARING AND DISTANCE
- 07.3FL+ SPOT ELEVATION AT FLOWLINE
- 07.4+ SPOT ELEVATION
- LF LINEAR FEET
- TE TELEPHONE BOX
- GC GAS CONNECTION
- GM GAS METER
- EM ELECTRIC METER
- WM WATER METER
- FH FIRE HYDRANT
- WV WATER VALVE
- U UTILITY POLE
- p SIGN
- OVERHEAD UTILITY LINES
- G GAS LINE
- W WATER LINE
- SS SANITARY SEWER LINE
- ST STORM LINE
- C CENTERLINE
- MP MANHOLE
- LP LIGHT POLE
- OC COMMUNICATIONS PEDESTAL
- UV UTILITY VAULT
- OE ELECTRIC PEDESTAL
- TR ELECTRIC TRANSFORMER
- B BOLLARD

- Notes:
- 1) FIRST COLORADO TITLE COMPANY CASE NUMBER 100846 DATED OCTOBER 23, 2013 AT 5:00 P.M. WAS ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY IS SUBJECT TO ALL TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS CONTAINED WITHIN THE TITLE POLICY.
 - 2) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
 - 3) THIS IMPROVEMENT SURVEY PLAT HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF EAST PEARL, LLC, A COLORADO LIMITED LIABILITY COMPANY AND FIRST COLORADO TITLE COMPANY.
 - 4) THIS IMPROVEMENT SURVEY PLAT AND THE INFORMATION HEREON SHOULD NOT BE USED FOR ANY ADDITIONAL OR EXTENDED PURPOSE BEYOND THAT FOR WHICH IT WAS INTENDED AND MAY NOT BE USED BY ANY PARTIES OTHER THAN THOSE TO WHICH IT IS CERTIFIED.
 - 5) BASIS OF BEARINGS: ASSUMED NORTH 75°01'38" EAST ALONG THE CENTERLINE OF PEARL STREET, BETWEEN THE SURVEY MARKERS SHOWN AND DESCRIBED HEREON.
 - 6) THE SUBJECT PROPERTY CONTAINS 21,167 SQUARE FEET (0.486 ACRES).
 - 7) THE SUBJECT PROPERTY IS LOCATED IN UNSHADED ZONE X, OUTSIDE OF THE 100 AND 500 YEAR FLOOD PLAINS, PER FLOOD INSURANCE RATE MAP 08013C0394 J, DATED DECEMBER 18, 2012. FLOOD INFORMATION IS SUBJECT TO CHANGE.
 - 8) VISIBLE UTILITIES HAVE BEEN SHOWN HEREON. UNDERGROUND UTILITIES HAVE BEEN SHOWN HEREON BASED UPON VISIBLE SURFACE EVIDENCE AND MAPS PROVIDED BY THE CITY OF BOULDER AND XCEL ENERGY. THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION MAY BE NECESSARY.
 - 9) ALL UNDERGROUND UTILITIES SHOULD BE FIELD LOCATED BY THE APPROPRIATE AGENCY PRIOR TO ANY CONSTRUCTION OR DIGGING ON OR ADJACENT TO THE SUBJECT PROPERTY.
 - 10) BENCHMARK: CHISELED CROSS AT INTERSECTION OF SIDEWALK AND WESTERLY FIRE LANE AT WALNUT STREET & 22ND STREET. CITY OF BOULDER ID: B-1-1, ELEVATION = 5307.42 FEET, NAVD 88 DATUM.
 - 11) THIS SURVEY IS IN PART BASED UPON A SURVEY PREPARED BY DREXEL, BARRELL & CO. DATED MAY 17, 2006 FILED AS LS-08-0193 IN THE OFFICE OF THE BOULDER COUNTY LAND USE DEPARTMENT.

Property Description
(PROVIDED BY FIRST COLORADO TITLE COMPANY)

LOTS 4, 5 AND 6, BLOCK 77, EAST BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.



16971A-1.DWG NOVEMBER 21, 2013

INTERSECTION AT WALNUT STREET
FOUND #4 REBAR

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Written Statement

Date: 1.12.2016

Project: Use Review for Shared Parking Lot as second principal use at 2206 Pearl St.

Case #: LUR2016-00007

USE OF EXISTING BUILDING AND LAND

Existing: 2206 Pearl, LLC is an office building with three tenants: OZ Architecture, Smart Beds, LLC and Green Side Up Gallery.

Proposed: Same, but River and Woods Restaurant will lease unused parking from OZ Architecture only. Existing parking for Smart Beds, LLC and Green Side Up Gallery will be unaffected.

HOURS OF OPERATION

Existing: OZ Architecture hours are 9:00am to 5:00pm on weekdays. No weekend hours.

Proposed: River and Woods will lease 12 parking stalls on the west side of the lot before 5pm on weekdays. After 5pm on weekdays and all weekend long, 24 stalls will be provided for use by River and Woods customers.

NUMBER OF EMPLOYEES

Existing: OZ Architecture employees fluctuate between 8 and 10.

Proposed: Same, no change to building use.

USES ON ADJACENT / SURROUNDING PROPERTIES:

Auto service, Offices, Multifamily Residential

NARRATIVE

River and Woods will provide Boulder with a community dining experience in an iconic restaurant location, embracing both the long and proud history of the building and the neighborhood in which it is located. The restaurant will offer creative twists on both traditional comfort food and on family recipes sourced from the community itself.

In this use review application we are proposing to utilize the existing parking lot at 2206 Pearl for off-site restaurant parking. We will make clear via on-site signage which of the spaces referenced above, under "Hours of Operation," are reserved for restaurant parking.

We are eager to provide parking for the River and Woods Restaurant, which will revitalize an abandoned building with a new use that will be of great benefit to the community.

caddis architecture, planning, etc.

1510 Zamia #103 ☐ Boulder, CO 80304 ☐ tel 303.443.3629 ☐ info@caddispc.com ☐ www.caddispc.com