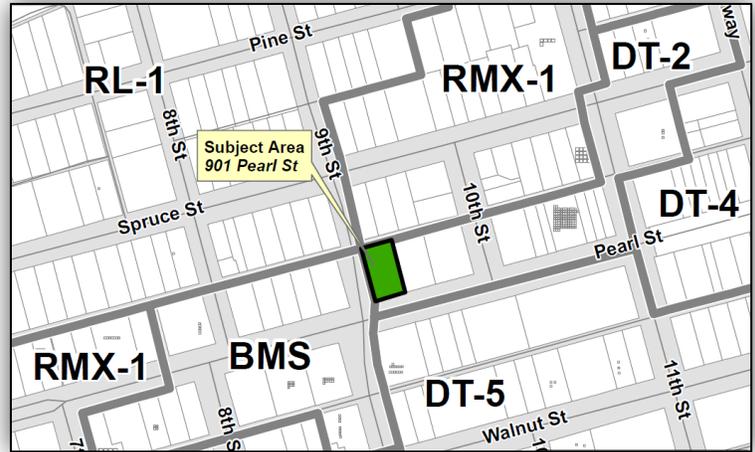


MEMORANDUM

TO: Planning Board
FROM: Elaine McLaughlin, Case Manager
DATE: April 4, 2014
SUBJECT: Call Up Item: Administrative
USE REVIEW for a 4,740 square foot
restaurant and an outdoor patio over
300 square feet in size, closing no later
than 11:00 p.m.as a part of the new
three story mixed use building
approved October 2013 under
separate case no. LUR2013-00039

ADDRESS: 901 Pearl
PROJECT NAME: 901 Pearl Use Review for Restaurant
CASE NO: LUR2013-00047



Summary: The approximately one-half acre site is located within the Regional Business land use of the Boulder Valley Comprehensive Plan and the Downtown – 2 (DT-2) zoning district at the northwest corner of 9th and Pearl streets. An administrative Site Review was approved on Oct. 15, 2013 for a three story mixed use building with ground floor restaurant and retail and upper story residential. A link to the memo is found [here](#). Under the DT-2 zoning, a restaurant with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district requires Use Review. Staff finds that the proposed application meets the Use Review Criteria (see [Attachment D](#)). The proposal was approved by staff on **April 4, 2014** and the decision may be called up before Planning Board on or before **April 18, 2014**. Refer to [Attachment A](#) for Notice of Disposition. There is one Planning Board hearings scheduled during the call-up period on **April 17, 2014**.

Proposed Project: The local restaurant owner/operator is proposing a new 4,740 square foot restaurant within the approved 901 Pearl building, a perspective sketch is shown below in Figure 1 illustrating the location of the restaurant and outdoor dining within the building. Included in the restaurant are 126 interior seats, 14 interior lounge/bar seats, and 36 outdoor seats. Figure 2 illustrates the floor plan for the restaurant. Refer to [Attachment B](#) for the larger format floor plan and applicant's complete management plan describing the restaurant. The overall operating characteristics planned is that of a "white tablecloth" dining restaurant. The hours of operation proposed are as follows:

- Lunch (11am-4pm Monday-Friday)
- Dinner (4pm-11pm Everyday)
- Happy Hour (3pm-6:30pm Everyday)
- Brunch (9am-3pm Sat-Sun)



Figure 1:
Perspective Drawing looking northeast from 9th and Pearl Streets illustrating location of restaurant and outdoor dining area

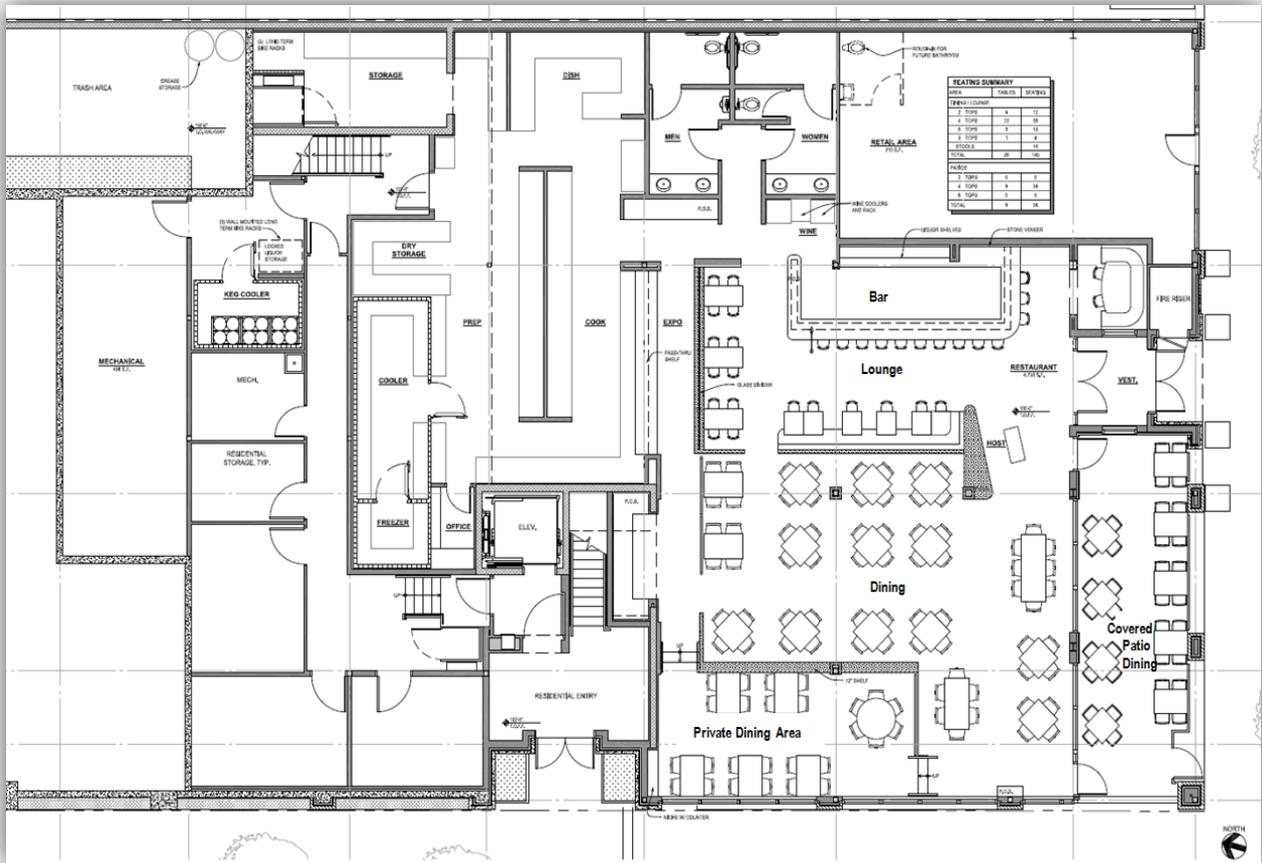


Figure 2:
Proposed Floor Plan of Restaurant

Boulder Valley Comprehensive Plan (BVCP) Designation: In keeping with the majority of the central business district of downtown Boulder, the subject property is designated Regional Business under the BVCP. As noted on Page 67 of the BVCP,

“Within these areas are located the major shopping facilities, offices, financial institutions, and government and cultural facilities serving the entire Boulder Valley and abutting Communities. These areas will continue to be refurbished and upgraded and will remain the dominant focus for major business activities in the region.”

Consistent with the planning context of a “business district” the proposed mixed use project with provision of the restaurant at the ground floor with a transitional use of residential above is consistent with this Regional Business-designated land. The surrounding land uses also include Regional Business, where the DT-5 zone is located to the south and southeast; Mixed Residential where the RMX-1 zone district is located to the north; Low Density residential corresponding to the RL-1 zone to the northwest; and General Business corresponding to the Business Main Street (BMS) zone to the west.

Zoning Context: Located in the DT-2 zone district, the subject property is at an interface of five different zone districts. The DT-2 district permits up to a 2.0 FAR. Across Pearl Street is the DT-5 zone district, considered the most intensive district with the largest scale buildings in the downtown, allowing up to a 2.7 FAR and where heights of up to fifty five feet are anticipated; whereas, across 9th Street to the west, the BMS zone has a maximum FAR of 1.0. The RMX-1 zoning district to the north, across the alley is a mixed residential density district where and the RL-1 diagonally to the west across 9th Street is primarily low density residential district with single family detached dwelling units at low densities. The DT-2 zone district typically has a mix of one-, two-, and three-story structures along with a mix of uses, including ground floor retail and restaurants, with office and residential above.

Neighborhood Comments.

Refer to **Attachment C** for comments received and a summary of the Good Neighbor Meeting. The comments specific to the proposed restaurant use were primarily with regard to adequate parking, although one comment indicated concern about intoxicated persons and noise. A neighborhood meeting was held on Sept. 16, 2013 where there were eight neighbors in attendance and overall, the neighbor comments at the meeting were complementary of the building design and proposed restaurant use. Questions that were discussed during the meeting included restaurant management including hours of operation, potential for noise, and duration of construction impacts. The restaurant manager described that the operators of the restaurant are local and live nearby and indicated that any concerns that come up can be directly addressed to the management and operators.

Analysis. Refer to **Attachment D** for the Use Review Criteria analysis. To summarize the analysis, the location of the site on West Pearl, which is predominately commercial in nature, will be enhanced by the proposed restaurant use. Given the planned operating characteristics of the restaurant (that of a “white tablecloth” restaurant with limits on hours of operation) the new restaurant will help to activate the “Regional Business” BVCP-designated site that today is vacant and underutilized. The vertical mixed use nature of the proposed project provides a good transition from the activity along Pearl Street, to the Mixed Residential areas to the north, by placing the active restaurant use along the active streetscape of Pearl Street. With the rear of the building planned for residential structured parking on the ground floor and two stories of residential above, the proposed project will transition from higher intensity uses to lower intensity uses, as is required as a rationale by the Use Review criteria.

There is no parking required for the restaurant as the site is located within the Central Area Improvement District (CAGID) that provides several parking structures and on-street parking in close proximity, with a total of approximately just under 2,000 parking spaces within ¼ mile radius of the site. With a strong horizontal mix of uses in the downtown, the site is also within walking distance for several hundred downtown residential dwelling units, and several hundred downtown employers. The applicant will also be providing EcoPasses to employees of the restaurant, with bus service provided to a number of stops within two blocks of the site, serving a number of bus routes including the HOP, DASH, SKIP, CLIMB, 205, 119, Y, 208, 225, AB, BV, and several others. Refer to Attachment D for the Use Review Criteria Analysis that provides greater detail of the parking and bus service in the area.

Conditions of Approval. The conditions of approval are based on the floor plan dated April 2, 2014 and management plan dated April 3, 2014 and include restrictions on the number of seats, hours that the restaurant is closed and limits on both the hours for removal of trash and bottles as well as hours for deliveries. Exhaust fan placement and orientation, away from residential uses, is also a condition of approval .

Conclusion.

The proposal was *approved* by staff on **April 4, 2013** and the decision may be called up before Planning Board on or before **April 18, 2014**. There is one Planning Board hearing scheduled during the call-up period on **April 17, 2014**. Questions about the project or decision should be directed to the Case Manager, Elaine McLaughlin at (303) 441-4130 or at the following email address: mclaughline@bouldercolorado.gov.

Attachments

- A. Signed Disposition
- B. Floor Plan and Management Plan
- C. Comments Received and Neighborhood Meeting Summary
- D. Use Review Criteria Analysis



CITY OF BOULDER
Community Planning & 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: **901 PEARL RESTAURANT USE REVIEW**
DESCRIPTION: **Use Review for a 4,740 square foot restaurant and an outdoor patio over 300 square feet in size, closing no later than 11:00 p.m.**
LOCATION: **901 PEARL ST**
COOR: **N03W07**
LEGAL DESCRIPTION: **See Attached Exhibit A**
APPLICANT: **JIM BRAY**
OWNER: **901 ELDRIDGE INC.**
APPLICATION: **Use Review, LUR2013-00047**
ZONING: **DT-2**
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: APRIL 4, 2014
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: APRIL 18, 2014

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 the approved floor plan dated April 2, 2014 and management plan dated April 3, 2014** 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 restaurant is operated in compliance with the following restrictions:
 - a. Size of the restaurant shall be limited to 5,000 square feet. The seating area in the restaurant shall have a maximum of 140 indoor seats and there shall be a maximum of 36 exterior patio seats.
 - b. The restaurant shall be closed from 11:00 p.m. to 8:00 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.
 - d. Food, supply, and beverage deliveries made in the alley shall not block parking spaces of adjacent property owners and shall not be made before 8:00 a.m.
 - e. Exhaust fan motors shall be mounted inside the building and exhaust ducts shall be placed on the roof and oriented to the south (away from adjacent residential uses).
2. The Applicant **shall not expand or modify the approved use**, except pursuant to Subsection 9-2-15(h), B.R.C. 1981.

Exhibit A: Legal Description

Legal Description:

TRACT 313 LESS E 0.97 FT 25-1N-71 1374622 12/93
BCR SPLIT TO ID 1382/LOT LINE ADJ 1/94

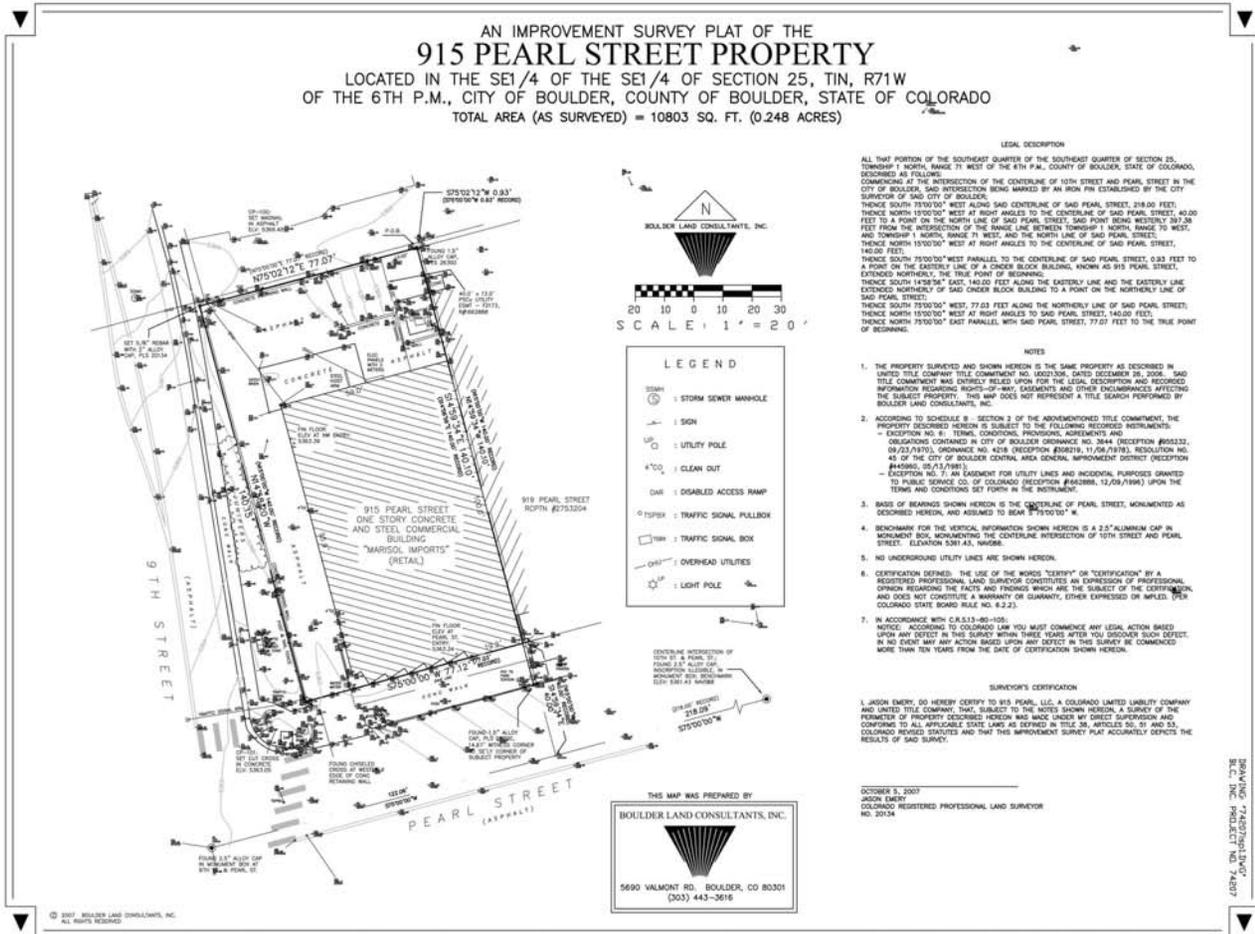
Sec-Town-Range:

25-1N-71

Subdivision:

TR, NBR 158, 160, 162

AN IMPROVEMENT SURVEY PLAT OF THE
915 PEARL STREET PROPERTY
LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 25, T1N, R71W
OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
TOTAL AREA (AS SURVEYED) = 10803 SQ. FT. (0.248 ACRES)



LEGAL DESCRIPTION

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF 9TH STREET AND PEARL STREET IN THE CITY OF BOULDER, SAID INTERSECTION BEING MARKED BY AN IRON PIN ESTABLISHED BY THE CITY SURVEYOR OF SAID CITY OF BOULDER;

THENCE SOUTH 78°00'00" WEST ALONG SAID CENTERLINE OF SAID PEARL STREET, 218.00 FEET;

THENCE NORTH 15°00'00" WEST AT RIGHT ANGLES TO THE CENTERLINE OF SAID PEARL STREET, 40.00 FEET TO A POINT ON THE NORTH LINE OF SAID PEARL STREET, SAID POINT BEING WESTERLY 307.38 FEET FROM THE INTERSECTION OF THE RANGE LINE BETWEEN TOWNSHIP 1 NORTH, RANGE 70 WEST, AND TOWNSHIP 1 NORTH, RANGE 71 WEST, AND THE NORTH LINE OF SAID PEARL STREET;

THENCE NORTH 15°00'00" WEST AT RIGHT ANGLES TO THE CENTERLINE OF SAID PEARL STREET, 142.00 FEET;

THENCE SOUTH 75°00'00" WEST PARALLEL TO THE CENTERLINE OF SAID PEARL STREET, 0.83 FEET TO A POINT ON THE EASTERLY LINE OF A CONCRETE BLOCK BUILDING, KNOWN AS 915 PEARL STREET, EXTENDED NORTHERLY TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 14°58'54" EAST, 142.00 FEET ALONG THE EASTERLY LINE AND THE EASTERLY LINE OF SAID PEARL STREET;

THENCE NORTH 75°00'00" WEST, 77.03 FEET ALONG THE NORTHERLY LINE OF SAID PEARL STREET;

THENCE NORTH 15°00'00" WEST AT RIGHT ANGLES TO SAID PEARL STREET, 142.00 FEET;

THENCE NORTH 75°00'00" EAST PARALLEL WITH SAID PEARL STREET, 77.03 FEET TO THE TRUE POINT OF BEGINNING.

- NOTES**
1. THE PROPERTY SURVEYED AND SHOWN HEREON IS THE SAME PROPERTY AS DESCRIBED IN UNITED TITLE COMPANY TITLE COMMITMENT NO. 10022306, DATED DECEMBER 28, 2006. SAID TITLE COMMITMENT WAS EXPLICITLY RELIED UPON FOR THE LEGAL DESCRIPTION AND RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY. THIS MAP DOES NOT REPRESENT A TITLE SEARCH PERFORMED BY BOULDER LAND CONSULTANTS, INC.
 2. ACCORDING TO SCHEDULE B, SECTION 2 OF THE ABOVEMENTIONED TITLE COMMITMENT, THE PROPERTY DESCRIBED HEREON IS SUBJECT TO THE FOLLOWING RECORDED INSTRUMENTS:
 - EXCEPTION NO. 41: TERMS, CONDITIONS, PROVISIONS, AGREEMENTS AND OBLIGATIONS CONTAINED IN CITY OF BOULDER ORDINANCE NO. 2844 (DECEMBER 18/2012, 03/23/1978), ORDINANCE NO. 4238 (DECEMBER 11/28/1978), RESOLUTION NO. 45 OF THE CITY OF BOULDER CENTRAL AREA GENERAL IMPROVEMENT DISTRICT (DECEMBER 14/1988, 05/17/1981);
 - EXCEPTION NO. 7: AN EASEMENT FOR UTILITY LINES AND INCIDENTAL PURPOSES GRANTED TO PUBLIC SERVICE CO. OF COLORADO (DECEMBER 18/1988, 12/09/1998) UPON THE TERMS AND CONDITIONS SET FORTH IN THE INSTRUMENT.
 3. BASIS OF BEARINGS SHOWN HEREON IS THE CENTERLINE OF PEARL STREET, MONUMENTED AS DESCRIBED HEREON, AND ADJUSTED TO BEAR 15°00'00" N.
 4. BENCHMARK FOR THE VERTICAL INFORMATION SHOWN HEREON IS A 2.5" ALUMINUM CAP IN MONUMENT BOX, MONUMENTING THE CENTERLINE INTERSECTION OF 10TH STREET AND PEARL STREET. ELEVATION 5261.43, MGS88.
 5. NO UNDERGROUND UTILITY LINES ARE SHOWN HEREON.
 6. CERTIFICATION DEFINED: THE USE OF THE WORDS "CERTIFY" OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS AND FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED, (PER COLORADO STATE BOARD RULE NO. 8.2.2).
 7. IN ACCORDANCE WITH C.R.S.13-90-105:

SURVEYOR'S CERTIFICATION

I, JASON EMERY, DO HEREBY CERTIFY TO 915 PEARL, LLC, A COLORADO LIMITED LIABILITY COMPANY AND UNITED TITLE COMPANY THAT, SUBJECT TO THE NOTES SHOWN HEREON, A SURVEY OF THE PREMISES OF PROPERTY DESCRIBED HEREON WAS MADE UNDER MY DIRECT SUPERVISION AND CONFORMS TO ALL APPLICABLE STATE LAWS AS DEFINED IN TITLE 26, ARTICLES 20, 21 AND 23, COLORADO REVENUE STATUTES AND THAT THIS IMPROVEMENT SURVEY PLAT ACCURATELY DEPICTS THE RESULTS OF SAID SURVEY.

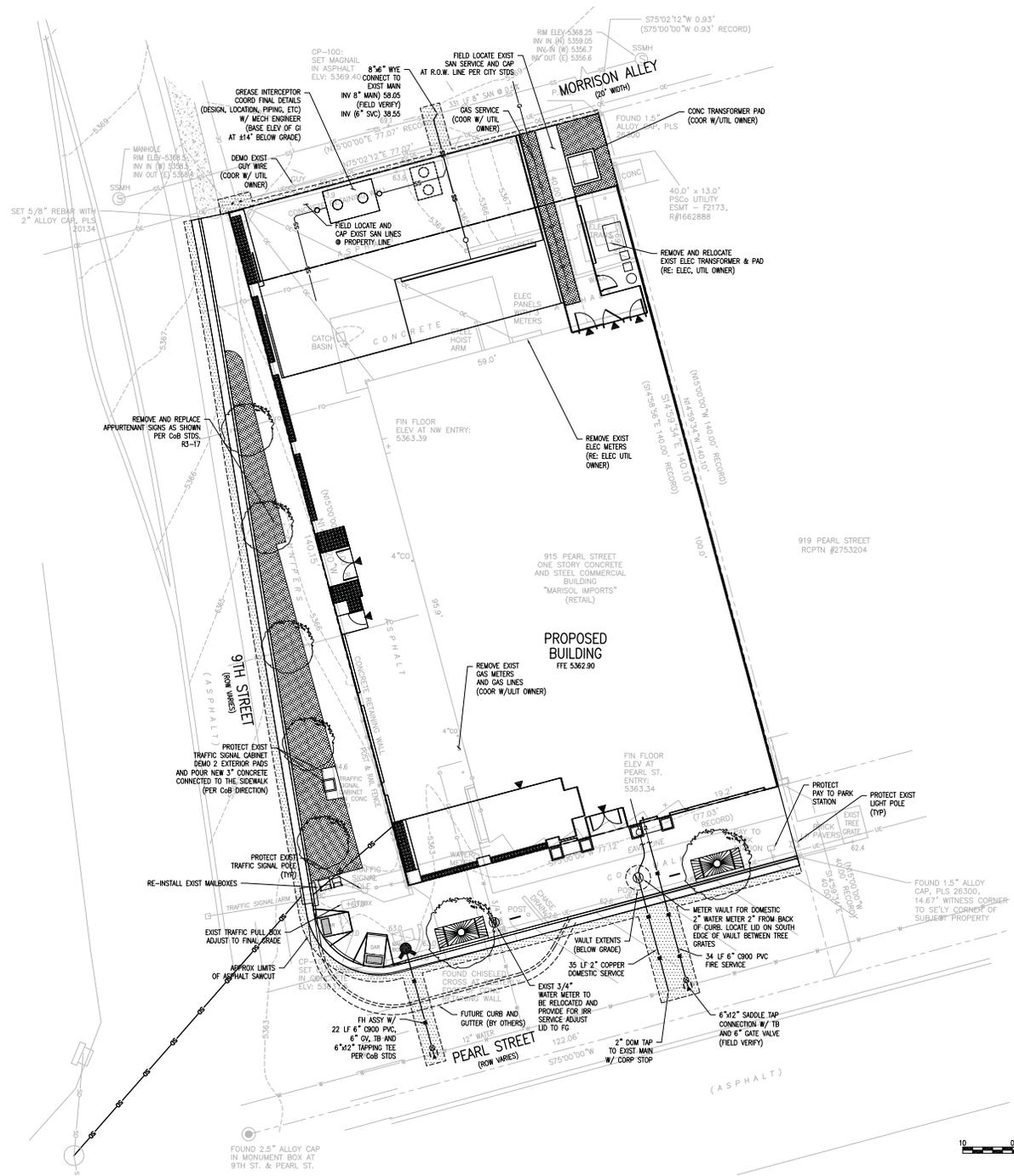
OCTOBER 5, 2007
JASON EMERY
COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 20704

THIS MAP WAS PREPARED BY
BOULDER LAND CONSULTANTS, INC.
5690 VALMONT RD., BOULDER, CO 80301
(303) 443-3616

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ALL RIGHTS RESERVED

DRAWING: "AS-BUILT" DATE: 7-28-07
B.L.C. INC. PROJECT NO. 7487

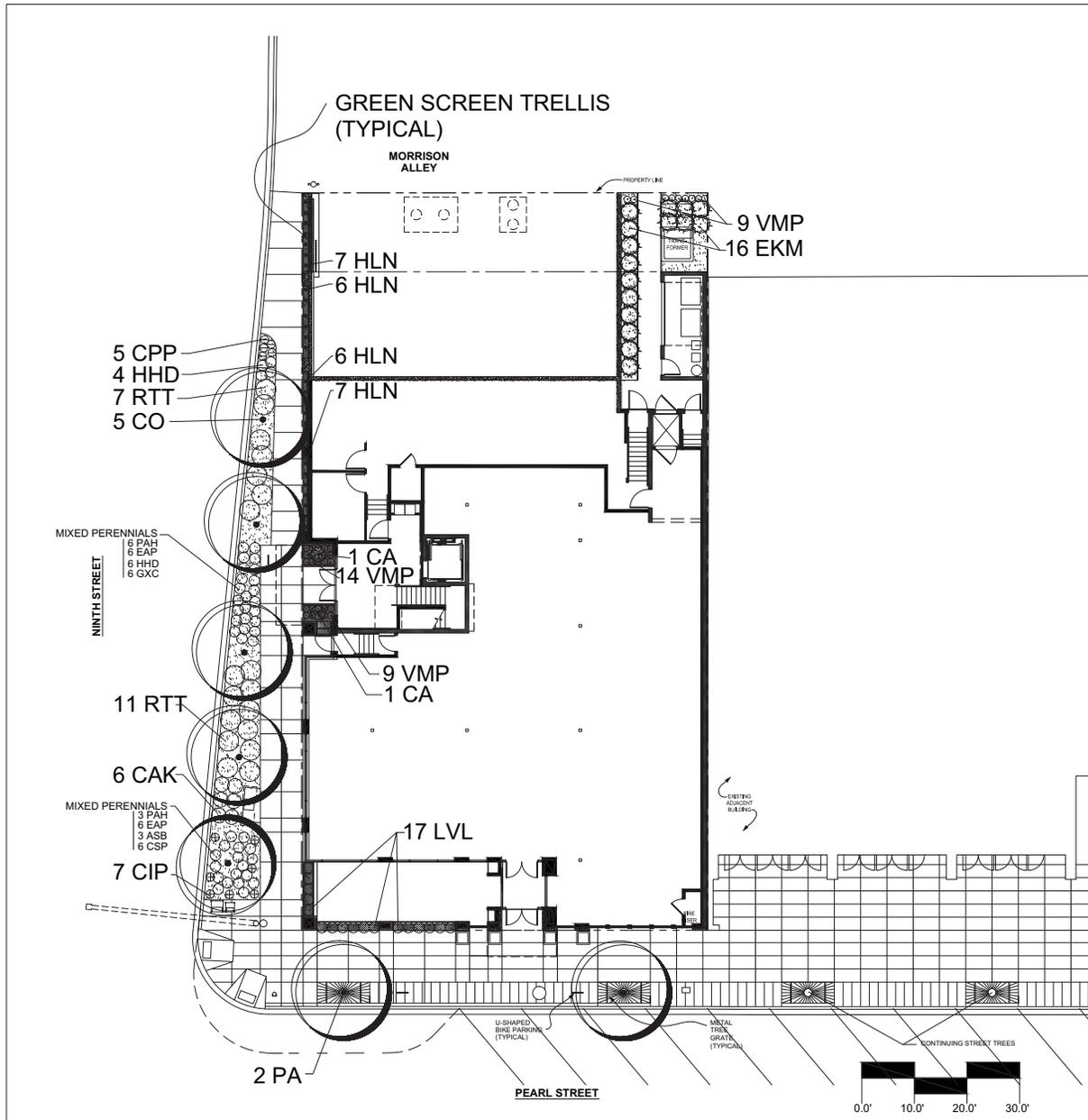
PROJECT NO.	20330
REV. DATE	7-28-13
REVISION	
SHEET TITLE	SITE SURVEY
SHEET NUMBER	C0



DATE:	11/20/23
PROJECT NO.:	202309
DATE DATE:	7-18-21
REVISION:	8-18-21
	8-27-21

PROJECT TITLE
**PRELIMINARY
UTILITY PLAN**

C2.0



PLANT LIST

note: plant quantities provided as a courtesy only. If discrepancy between plan and plant count exists, plan takes precedence

W	High water	18-20 gallons per s.f. per season
M	Moderate water	10 gallons per s.f. per season
L	Low water	0-3 gallons per s.f. per season
V	No additional irrigation water needed after establishment	

QTY	KEY BOTANIC NAME	COMMON NAME	SIZE	H2o
SHADE TREES:				
5	CO CELTIS OCCIDENTALIS	WESTERN HACKBERRY	3"	L
2	PA PLATANUS X ACERIFOLIA	LONDON PLANE TREE	3"	M
7	TOTAL TREES			
SPECIMEN SHRUBS:				
2	CA CARAGANA ABORESCENS 'PRIDOLA'	WEEPING SIBERIAN PEASHRUB	15"	L
			STANDARD	
DECIDUOUS SHRUBS:				
17	LVL LIGUSTRUM VULGARE LINDSE	LINDSE PRIVET	#5	L
18	RTT FRAX TRELOSA	THREE LEAF SUMAC	#1	L
EVERGREEN SHRUBS:				
16	EKM BUONIVISUS KLAUSCHOVICA 'MANHATTAN'	BOUNYBUS MANHATTAN	#5	M
53	TOTAL SHRUBS			
PERENNIALS AND GROUND COVERS:				
3	ASB ARTEMISIA STELLERIANA 'SILVER BROCADE'	SILVER BROCADE SAGE	#1	L
6	CAK CALAMAGROSTIS ACUTIFLORA 'KARL FORESTER'	FEATHER REED GRASS	#1	L-M
7	CIP CALLIRHOE INVOLUCRATA	RAIRIE WINKUPS	#1	L
5	CSP CERASTIOTHOSA PLUMBAGINOIDES	PLUMBAGO	#1	L
6	CSP CALYLOPHYS SERRULATUS 'PRAIRIE LOD'	PRAIRIE LOD SUNDROPS	#1	L
12	EAP ECHINACEA ANGSTIFOLIA	PURPLE PRAIRIE CONE FLOWER	#1	L
8	GXC GERANIUM X CANTABRIGENSE 'BROKOVY'	BROKOVY C. CRANESBILL	#1	L-M
10	HHD HIBISCUS CALLIS 'HYPERION'	DAFFLULLY YELLOW	#1	L
26	HLN HUMULUS LUPULUS NEMOEGANUS	NATIVE HOP VINE	#1	L
9	PAH PENNESETUM ALOPECUROIDES	HAMBLEN FOUNTAIN GRASS	#1	L-M
32	VMP VINCA MINOR	PERIWINKLE	#1	L

- LANDSCAPE NOTES**
- THE FOLLOWING SPECIFICATIONS ARE MEANT TO MEET OR EXCEED THE CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARDS. WHERE DISCREPANCIES OCCUR, THE CITY STANDARDS SHALL TAKE PRECEDENCE.
 - THERE ARE NO MAJOR TREES OR SHRUBS EXISTING ON THE SITE TO BE SAVED. ALL EXISTING VOLUNTEER TREES AND EXISTING SHRUBS ARE TO BE REMOVED.
 - ALL TREE GRATES TO MATCH SPECIFIED TREE GRATES ALONG PEARL STREET.
 - ELECTROMAGNETIC SPECTRUM LIGHT BARRIERS APPROPRIATE FOR PHOTOSENSITIVE PLANTS SHALL BE USED IN LIGHT FIXTURES WHERE PLANTINGS ARE UNDER THE BUILDING AND NOT EXPOSED TO ANY NATURAL SUNLIGHT (NE CORNER OF BUILDING).
 - ALL NEW AT-GRADE PLANTING BEDS SHALL BE MIXED WITH A SOIL MIXTURE COMPOSED OF 1/3 ORGANIC COMPOST, 1/3 EXISTING TOPSOIL, AND 2/3 PLANTERS MIX TO A MINIMUM DEPTH OF 18".
 - ALL NEW ABOVE-GRADE PLANTERS SHALL BE BACKFILLED WITH A SOIL MIXTURE COMPOSED OF 1/3 ORGANIC COMPOST, 1/3 CLEAN TOPSOIL, AND 2/3 PLANTERS MIX. ALL DRAINAGE SPECIFICATIONS SHALL TAKE PRECEDENCE OVER LANDSCAPE SPECIFICATIONS. SEE CIVIL ENGINEERING PLANS FOR DRAINAGE SPECIFICATIONS.
 - ALL NEW DECIDUOUS TREES SHALL BE STAGED ACCORDING TO CITY OF BOULDER DESIGN AND CONSTRUCTION STANDARDS.
 - ALL NEW SHRUB BEDS SHALL RECEIVE A 1" LAYER OF MULCH OR ORGANIC COBBLER MULCH WITH NO FERTILIZER UNDERLAY.
 - THE PROPERTY OWNER SHALL MAINTAIN THE LANDSCAPING PLAN AS ORIGINALLY APPROVED AND PROVIDE FOR REPLACEMENT OF PLANT MATERIALS THAT HAVE DIED OR HAVE OTHERWISE BEEN DAMAGED OR REMOVED, AND MAINTENANCE OF ALL NON-LIVE LANDSCAPING MATERIALS INCLUDING, BUT NOT LIMITED TO, FENCING, PAINTING, AND REPAIRING WALLS FOR A PERIOD OF FIVE YEARS FROM THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF COMPLETION.
 - TAGS THAT IDENTIFY THE BOTANICAL OR COMMON NAME OF THE PLANT MATERIAL SHALL BE ON ALL TREES AT THE TIME OF FINAL INSPECTION.
 - NO TREES SHALL BE PLANTED WITHIN 10' OF A WATER OR SEWER LINE. NO SHRUBS OR TREES SHALL BE PLANTED WITHIN A 10' RADIUS AROUND FIRE HYDRANTS.

- IRRIGATION NOTES**
- A COMPLETE AUTOMATIC IRRIGATION SYSTEM SHALL BE DESIGNED AND INSTALLED TO COVER ALL NEW PLANTING BEDS.
 - MOISTURE SENSING DEVICES SHALL BE INSTALLED TO MONITOR AND/OR MANAGE THE IRRIGATION SYSTEM.
 - THE IRRIGATION SYSTEM SHALL BE DESIGNED SUCH THAT TREE, SHRUB AND PERENNIAL BEDS WITH DIFFERENT EXPOSURES AND DIFFERENT WATER NEEDS SHALL EACH BE ON SEPARATE ZONES.
 - SYSTEM SHALL FOLLOW CITY OF BOULDER SPECIFICATIONS.

PROJECT DATA

	TOTAL
TOTAL LOT SITE	10,803 S.F.
ROYAL PARKING	N/A
LOT PARKING	N/A
ROYAL AREA	N/A
NOT COVERED BY BUILDING OR PARKING LOT	1,063 S.F.
TREES PER 1500 S.F.	REQUIRED: 1, PROVIDED: 0
C.O.B. STANDARD 9-9-12	
5 SHRUBS PER 1500 S.F.	REQUIRED: 5, PROVIDED: 33
C.O.B. STANDARD 9-9-12	
NOT APPLICABLE TO THIS PROJECT	
TOTAL NUMBER OF STREET TREES PEARL ST.	2
C.O.B. STANDARD 9-9-13	2
TOTAL NUMBER OF STREET TREES NINTH ST.	5
C.O.B. STANDARD 9-9-13	5

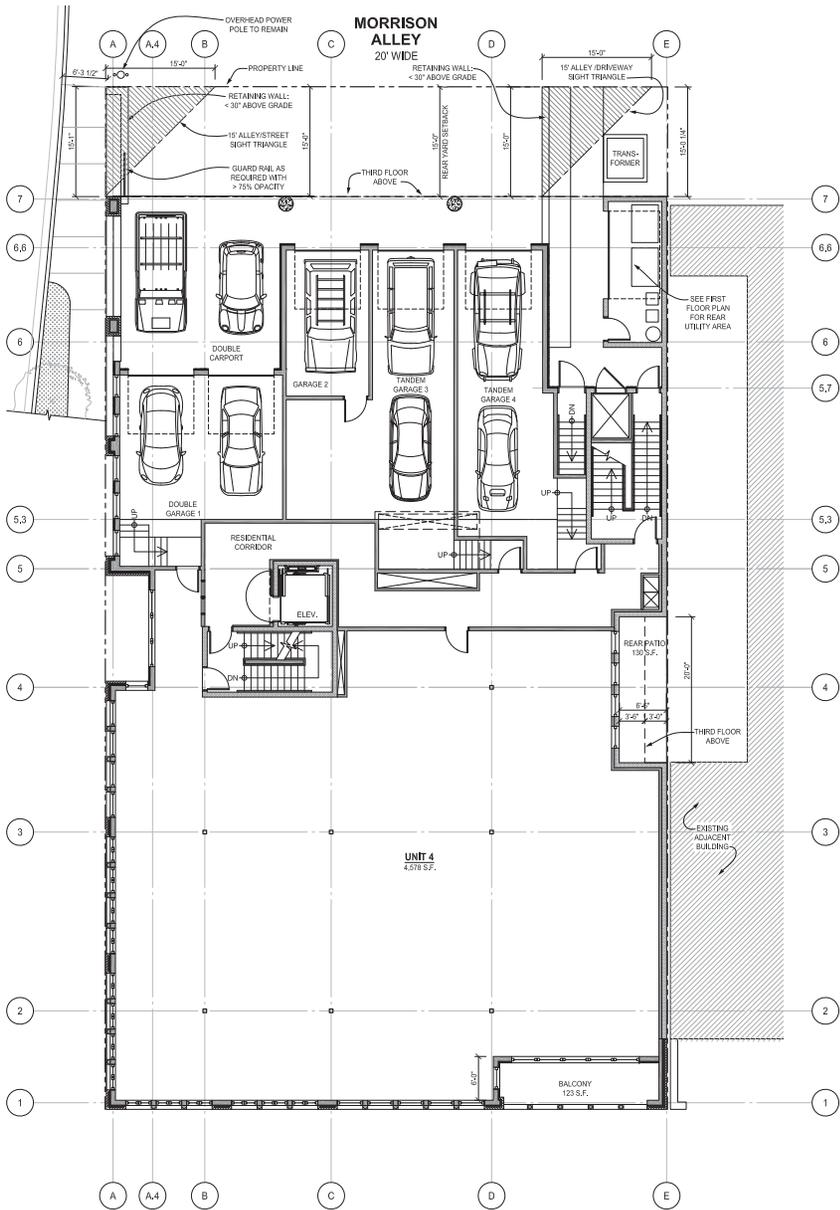


TOTAL QUANTITY OF TREES	REQUIRED	PROVIDED
8	8	7

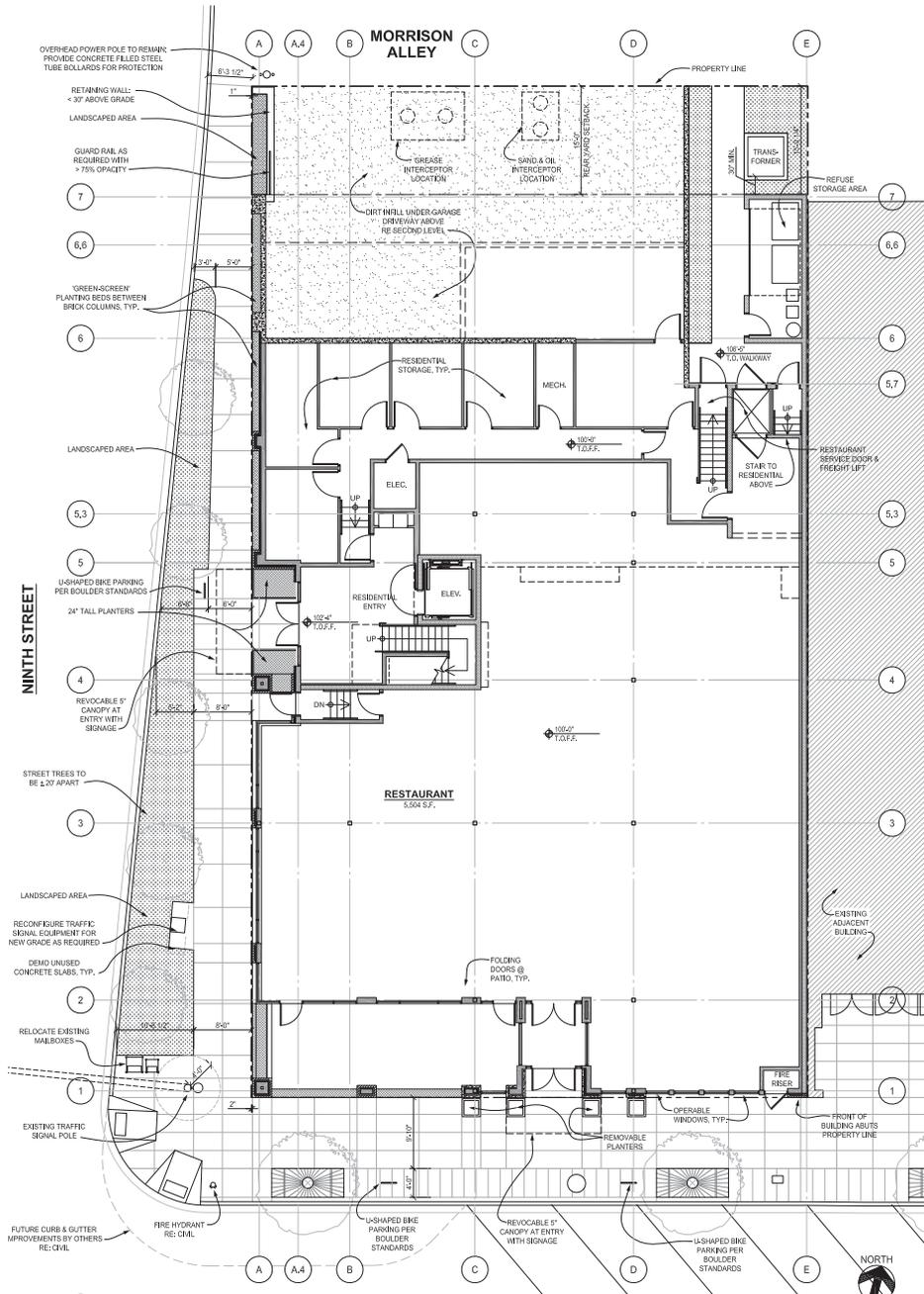
TOTAL QUANTITY OF SHRUBS	REQUIRED	PROVIDED
5	5	53



DATE:	LUB2011-00038
PROJECT NO:	2011009
ISSUE DATE:	7-15-13
REVISION:	8-19-13
	8-27-13
SHEET TITLE	
LANDSCAPE PLAN	
SHEET NUMBER:	
L1.1	



2 SECOND FLOOR / PARKING PLAN
A2.1 1/8" = 1'-0"

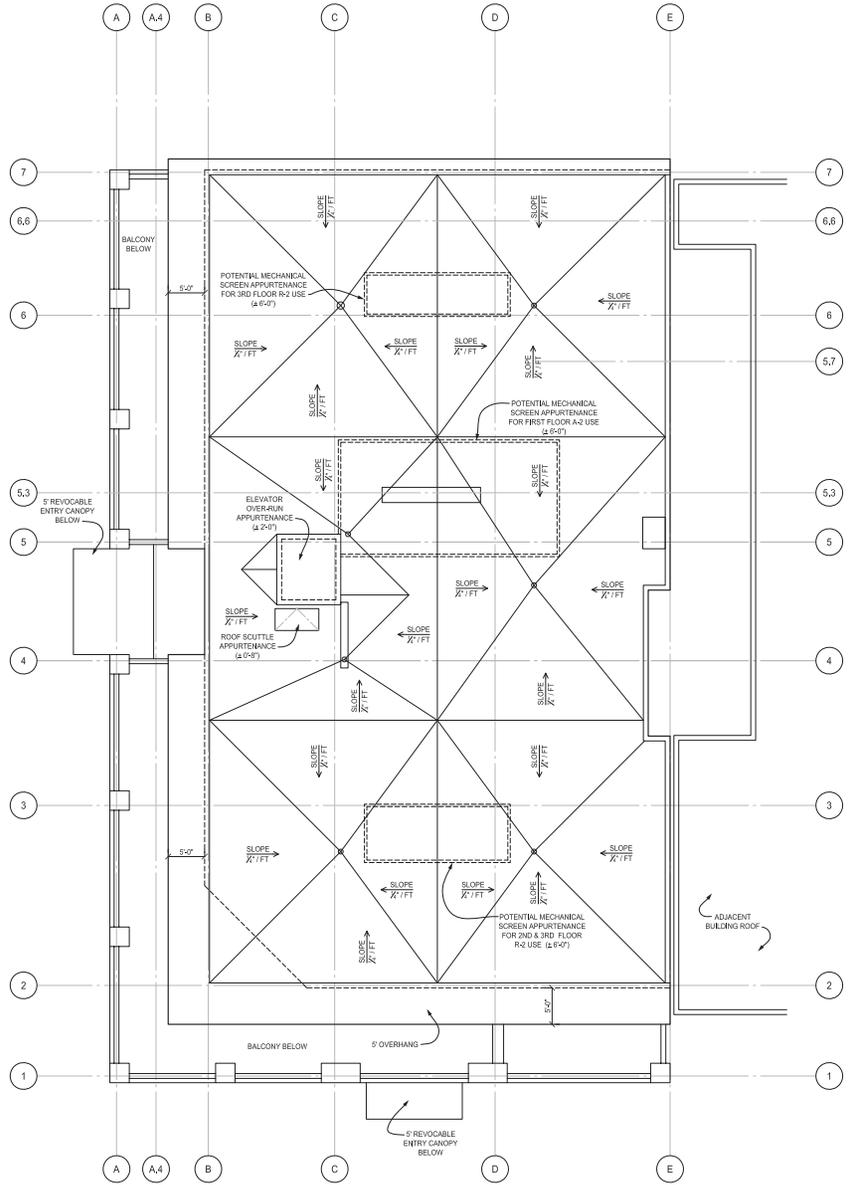
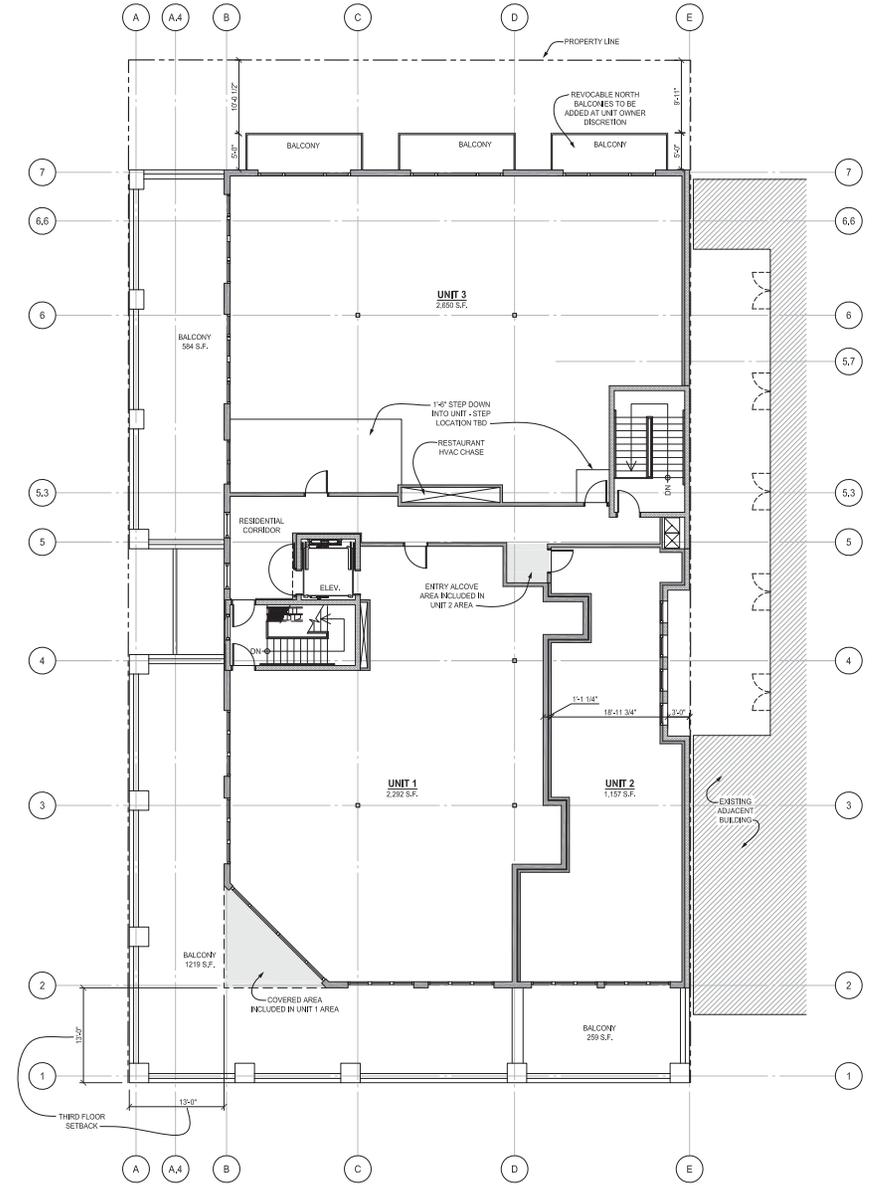


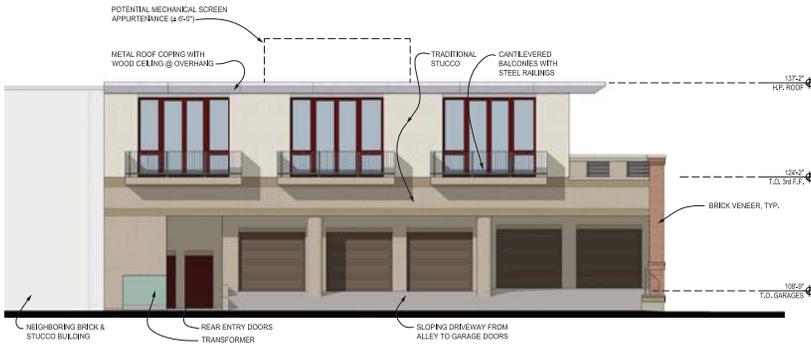
1 SITE / FIRST FLOOR PLAN
A2.1 1/8" = 1'-0"

OFFICE	11/25/2013-2/20/2014
PROJECT NO.	201300
DESIGNED BY	7/15/13
REVISED BY	8/19/13
DATE	9/27/13

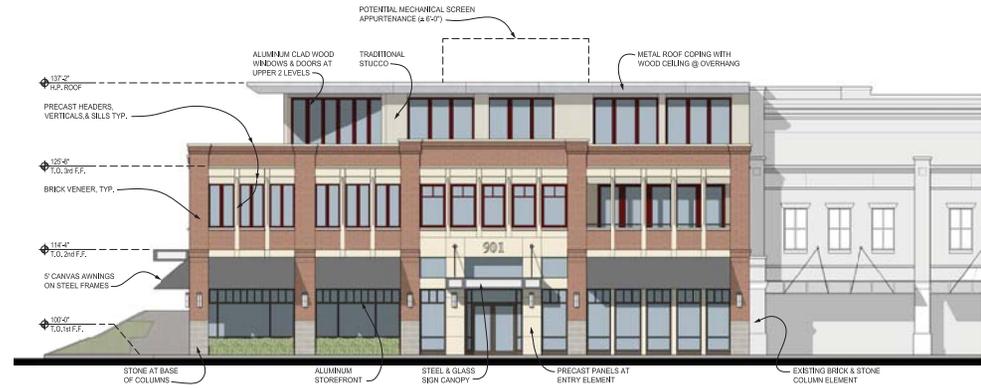
SHEET TITLE:
SITE / FIRST & SECOND FLOOR PLANS

SHEET NUMBER:
A2.1





3 NORTH ELEVATION (ALLEY)
A3.1 1/8" = 1'-0"



2 SOUTH ELEVATION (PEARL STREET)
A3.1 1/8" = 1'-0"



1 WEST ELEVATION (9th STREET)
A3.1 1/8" = 1'-0"

OFFICE	11452013-20032
PROJECT NO.	201300
DATE	7-15-11
REVISION	8-16-11
	9-27-11

SHEET TITLE:
EXTERIOR ELEVATIONS
SHEET #/ARC

A3.1

SOLAR ACCESS AT 2 P.M.

Roof Element	Building Height Above Grade	Shadow Length	Elevation Start	Elevation End	Change In Elevation	Reduced Height	Reduced Shadow Length
A	36.1	97.4	64	67.4	3.4	32.7	86.6
B	36.3	96.1	63.8	64	0.2	36.1	95.6
C	36.3	96.1	63.8	69.1	5.3	31	82
D	36.3	96.1	63.8	69.2	5.4	30.9	81.7
E	36.3	96.1	63.8	69.9	6.1	31.2	82.5
F	35.3	93.4	64.8	70.4	5.6	29.7	79.9
G	31.1	82.3	66.1	68.1	2	31.1	82.3
H	38	95.3	64.1	68.3	4.2	31.8	84.2
I	38	95.3	64.1	68.5	4.4	31.6	83.8
J	38	95.3	64.1	68.4	4.3	31.7	83.9
K	28.1	74.4	63.5	66.9	3.4	24.7	68.4
L	27.8	73.5	63.8	63.9	-0.9	28.1	74.4
M	25.2	66.8	66.4	63.9	-2.5	27.7	73.3
N	24.9	63.8	66.7	65.4	-1.3	26.2	68.4
O	23.6	62.5	66	70.2	2.2	21.4	56.6
P	11.7	30.9	65.9	63.8	-2.1	13.8	36.8
Q	11.7	30.9	65.9	63.9	-2	13.7	36.3

SOLAR ACCESS AT NOON

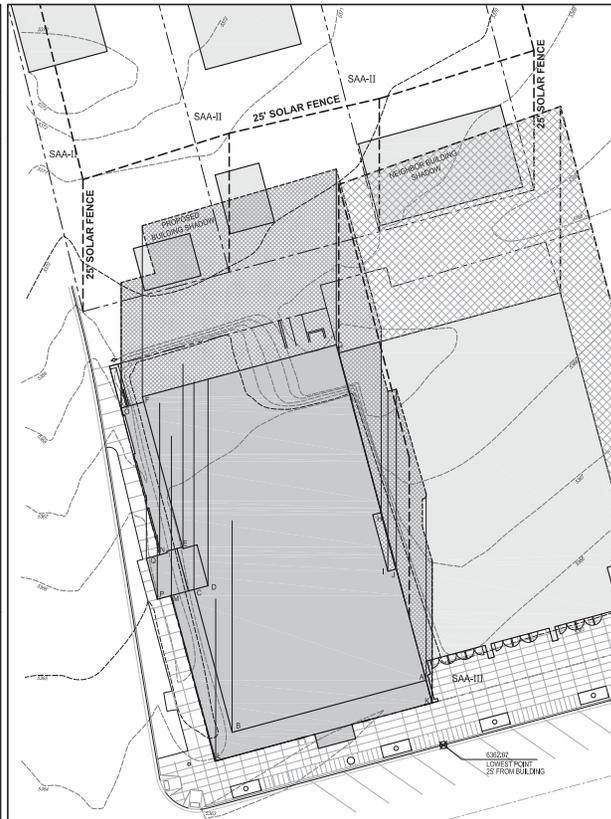
Roof Element	Building Height Above Grade	Shadow Length	Elevation Start	Elevation End	Change In Elevation	Reduced Height	Reduced Shadow Length
A	36.1	72.2	64	66.1	2.1	32	64
B	36.3	72.6	63.8	64.7	0.9	35.4	71.8
C	36.3	72.6	63.8	64.6	0.8	35.5	71
D	36.3	72.6	63.8	64.7	0.9	35.4	70.8
E	36.3	72.6	63.8	69	5.2	31.1	63.2
F	35.3	71.6	64.8	70.8	6	29.3	58.6
G	31.1	62.3	66.1	70.1	4	30.1	60.2
H	38	72	64.1	68.8	4.5	31.5	63
I	38	72	64.1	68.3	4.2	30.8	61.6
J	38	72	64.1	68.3	4.2	30.8	61.6
K	28.1	56.2	63.5	67.3	3.8	24.3	46.6
L	27.8	55.6	63.8	63.8	0	27.8	55.6
M	25.2	50.4	66.4	64.3	-2.1	27.3	54.6
N	24.9	49.8	66.7	65.6	-1.1	26	52
O	23.6	45.2	66	70.1	4.1	21.5	43
P	11.7	23.4	65.9	66.6	0.7	11	22
Q	11.7	23.4	65.9	66.8	0.9	10.8	21.6

SOLAR ACCESS AT 10 A.M.

Roof Element	Building Height Above Grade	Shadow Length	Elevation Start	Elevation End	Change In Elevation	Reduced Height	Reduced Shadow Length
A	36.1	97.4	64	63.9	-0.1	36.2	95.9
B	36.3	96.1	63.8	66.7	2.9	33.4	88.3
C	36.3	96.1	63.8	69.9	6.1	31.2	82.5
D	36.3	96.1	63.8	66.7	2.5	33.4	82.8
E	36.3	96.1	63.8	66.6	2.5	33.5	80.7
F	35.3	93.4	64.8	71	6.2	29.1	77
G	31.1	82.3	66.1	71.4	5.3	28.1	77
H	38	95.3	64.1	69.8	5.7	30.3	80.2
I	38	95.3	64.1	67	2.9	33.1	87.6
J	38	95.3	64.1	67.5	3.4	32.8	86.3
K	28.1	74.4	63.5	63.5	0	28.1	74.4
L	27.8	73.5	63.8	66.8	3	28.8	86.2
M	25.2	66.8	66.4	67.7	1.3	23.9	63.2
N	24.9	63.8	66.7	66.2	-0.5	23.4	61.9
O	23.6	62.5	66	70.3	4.3	21.3	56.4
P	11.7	30.9	65.9	66.2	0.3	11.4	30.1
Q	11.7	30.9	65.9	66.7	0.8	10.9	28.8



SHADOW ANALYSIS - 2 P.M.
 SCALE: 1" = 20'



SHADOW ANALYSIS - 12 NOON
 SCALE: 1" = 20'



SHADOW ANALYSIS - 10 A.M.
 SCALE: 1" = 20'

Lot Is Zoned DT-2 - Solar Access Area III



FLOOR AREAS

RESTAURANT	
DINING AREAS	2,023
SERVICE AREAS	2,715
TOTAL	4,738

OUTDOOR PATIO	400
MECHANICAL ROOM (UNINHABITABLE)	448

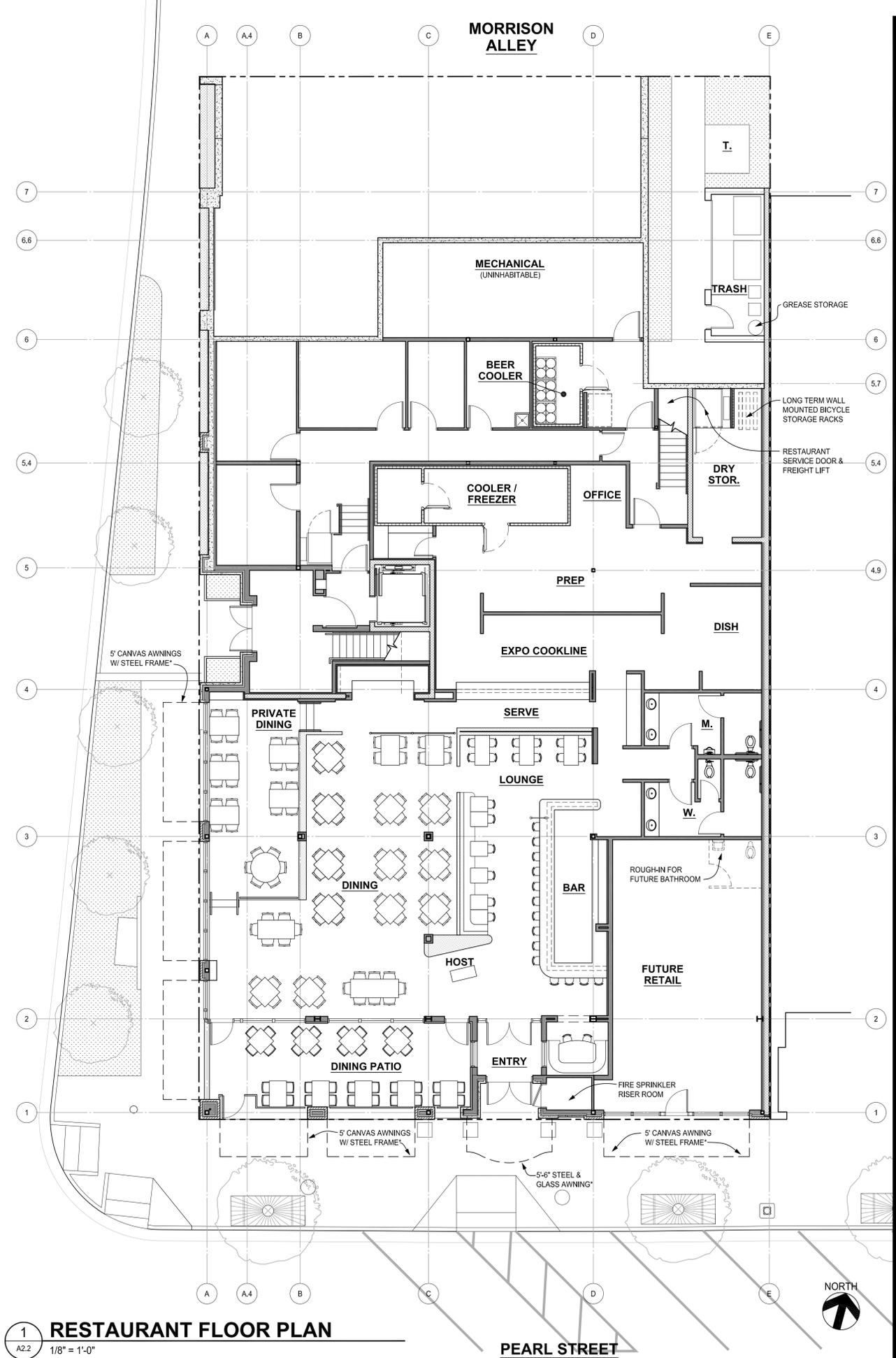
RETAIL SPACE	810
RETAIL AREA	

RESTAURANT SEATING SUMMARY

DINING AREAS	96
BAR / LOUNGE	44
OUTDOOR PATIO	36
TOTAL	176

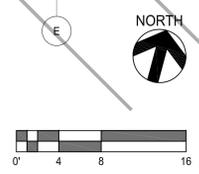
NOTE:
* ALL CANOPIES AND AWNINGS TO BE REVOCABLE AND SUBMITTED FOR UNDER SEPARATE PERMIT.

NINTH STREET



1 RESTAURANT FLOOR PLAN
A2.2 1/8" = 1'-0"

PEARL STREET



LUR NO:	LUR2013-00047
PROJECT NO:	201322
ISSUE DATE:	9-3-13
REVISIONS:	1-10-6-13
	2-1-27-14
	3-13-14
	4-2-14

RESTAURANT FLOOR PLAN

SHEET NUMBER:

A2.2

Management Plan for 901 Pearl

Management Summary

We have assembled an experienced and invested group of like minded, long term thinking managers. Our formula for success is based on gratitude to our guests, to our employees and to our community. We will have world class cuisine at a good value being served in a beautiful setting but the real cornerstone to our restaurant group is service. How the guest is treated from moment one to moment done.

Estimated # of Employees

130 (Winter/Spring) -150 (Summer/Fall). Most of these will be hourly positions with an avg. of 30-40 hour per week. The pay scale for hourly positions will range from 22K-52K per year. We will also have 9-10 salaried positions with a pay scale of 38k-90k per year.

Management Structure

Director of Operations

General Manger

Executive Chef

AGM/Bar Manger

Executive Sous Chef

Floor Manager 1

Sous Chef 1

Floor Manager 2

Sous Chef 2

Hourly FOH Manger

Hourly BOH Manager

Hours of Operation

Monday-Friday 11am -11pm

Saturday – Sunday 9am -11pm

Concept

Upscale Italian restaurant with exceptional food, service, & ambiance. Simple, elegant, and approachable. Dinner entrees will range from \$14-\$34 and lunch entrees from \$8-\$18. Appetizers and salads from \$5-\$12, desserts from \$6-\$9, wines by the glass from \$7-\$15. The look and feel of the restaurant is intentionally designed to differentiate itself from our other two locations (Brasserie Ten Ten and The Mediterranean Restaurant) while still staying true to some core principles such as 'above and beyond' service and 'more than you expect' value

Ownership

Operating restaurants in the area for more than 2 decades the Joe & Peg Romano have always been gracious and responsible employers. Extremely local- living a few blocks away from the proposed location Joe and Peg Romano are upstanding, active members of the community. Their thinking and goals for the neighborhood parallel the general population since they have been in the area for almost 40 years.

Community Responsibilities

We are proud to provide an exciting new gathering place for the local community. We fully understand and embrace the responsibilities that come along with that privilege. Including but not limited to:

- **Parking-** All employees will be offered eco-passes making public transportation a far more attractive proposition for them. We offer these passes in our other two locations and the majority of our staff traveling in from outside the downtown area takes advantage of this program. We will validate parking for our guests that use parking garage facilities. We will also put a written suggestion on both our menus and our website asking for courtesy when using on-street non-metered parking. We will also make known in that text that violators will be towed at their expense.
- **Alcohol Service & Consumption-** We as a group could not take this more seriously. We make clear our policy of absolute zero tolerance for underage drinking or over serving a guest from the very first day of training and constantly reinforced this concept through-out their tenure with us. Each employee who serves alcohol is TIPS certified within 90 days of their hire date and recertified as required. All managers also receive advanced training on how to recognize and how to resolve alcohol related issues.
- **Food Handling-** All managing chefs are Serve-Safe certified. All line and prep chefs go through a comprehensive serve safe curriculum as well. All safe food handling practices are strictly monitored, documented and enforced.

- Giving Back- We are grateful to be members of the local business community. It is in the very fabric of our business plan to look for opportunities to give back. We have the ability to do this through things such as food drives for flood and fire victims, gift certificates for local fund raisers, food donations or a free venue to gather for those in need.

A Typical Day

- 6:00am- 2 Prep and 1 AM Sous chefs will arrive. This crew will be responsible for all prep and receiving for the day's business. They will write the daily specials. They will assess the back of house close from last night, assuring all cleanliness, food handling, and security standards have been satisfied. Proper handling of all trash and recycling from the previous day's business will also be their responsibility.
- 9:00am- 3-4 line chefs will arrive. This is the primary AM line crew responsible for setting-up and executing Lunch/Brunch back of house service.
- 1 opening front of house manager will arrive at this time as well. They will assess the front of house close from last night, assuring all cleanliness and security standards have been satisfied. They will be responsible for financial reconciliation of yesterday's business, going to the bank for deposits and petty cash replenishment. They will set up all staffing and front of house operations for the day.
- 1 bartender will also arrive at this time to stock and prepare the bar for AM service
- 10:00am 5 servers arrive for opening side work and the pre-shift meetings. This group will be responsible for executing lunch/brunch service.
- 11:00am Lunch service begins
- 3:00pm Happy Hour begins
- 1 PM Sous chef and 1 Jr. Sous chef will arrive. This crew is responsible for PM specials. They will work the PM line and conduct all back of house PM operations. They will also be the responsible party in charge of closing the restaurant and assuring all cleanliness, food handling, and security standards have been satisfied.
- 4-5 line chefs will arrive. This is the primary PM line crew responsible for setting-up and executing dinner back of house service.

- 4:00pm Lunch service concludes, dinner service begins, and happy hour continues.
- 6-7 servers arrive for opening side work and the pre-shift meetings. This group will be responsible for executing dinner service and closing the restaurant.
- 2 bartenders will arrive at this time to stock and prepare the bar for PM service. 1 of the two will be here until close of the restaurant.
- 2 Cocktailers will arrive for opening side work and the pre-shift meetings. This group will be responsible for executing cocktail service and closing the restaurant.
- 1 Front of house closing manager and 1 floor manager will arrive at this time. Responsible for the operation and adherence to all policies for PM service. The closing FOH manager will be the last person in the building every night (excepting the cleaning crew). They are ultimately responsible for the overall overnight security of the restaurant
- 6:30pm Happy hour concludes
- 11:00pm Dinner service concludes
- 12:30am Employee clean up and breakdown is complete and all hourly employees are out of the building.
- 1:00am All admin/office duties are complete. Facility is secured and the closing FOH salaried manager- the last employee in the building leaves.
- 1:30am The cleaning crew arrives and will take 3-4 hours to clean the location assuring everything is off and secure before leaving.
- 4:00am Building is vacant

C. Comments Received and Neighborhood Meeting Summary

From: Sybil Smith [mailto:sybilgsmith@gmail.com]
Sent: Monday, September 16, 2013 11:55 AM
To: McLaughlin, Elaine
Subject: 901 Pearl

Dear Ms. McLaughlin,

Thank you for your prompt response to my email concerning 901 Pearl. I put some time and effort into that email and did some research before hand.

I wish that the notice of project review had stated that the proposed buildings rear wall would be set back as required and the exception referred to an existing retaining wall.

I reviewed the Downtown Urban Design Guidelines and attempted to find a description of the DT-2 zoning designation. I realize that 38 feet is use-by-right but 3 stories are not. It would have made more sense to require all downtown development to go through a review process. Allowing 38 feet in height but not 3 stories implies that 2 stories are desirable while 3 stories are not. That aside, I feel that 901 Pearl is NOT a location appropriate for a 3-story building.

There are 4 instances of buildings greater than 2 stories in this DT-2 zoned area: the building adjacent to 901 Pearl on Pearl, the "Darth Vader Building" between 10th and 11th on Pearl, the city parking garage at 11th and Spruce, a small "pop-up" on the roof of the Shonkwiler Building on the 10th Street side. The Shonkwiler Building is the only sympathetic building of the four.

Corner lots are an opportunity to provide view corridors. Street intersections provide, at least visual, open space. The building on the south east corner of Pearl and 9th is a good example of the problems created by 3-story buildings: very icy sidewalks, no more Flatirons view and a not very successful commercial level. Do we really want an urban tunnel like the 16th Street Mall in Denver?

I know that this location was once approved for 3 stories and 39 feet. I believe that it had to have City Council approval because of strong opposition from the community. I hope that the City Council will be reviewing this proposed project as well. Better yet, that experience has taught that massing at intersections does more harm than good to the Downtown Boulder experience.

I am in favor of a vibrant downtown area and I think the unique location, full of light and air, with occasional views of the Flatirons and amid historic neighborhoods, keeps people coming.

In regard to the restaurant proposal. Are any of the restaurants you mention in DT-2 zoning? The Med is next to a parking garage. The Cheesecake Factory is in the same block as a parking garage. And Fresca has it's own parking lot. I really don't know about Ted's Montana Grill. How close are these restaurants to RL-1 and RMX-1 zoned areas? Bacaro, in DT-2 zoning, is already an established noise problem for surrounding neighborhoods.

I will not be attending the Good Neighbor meeting on Monday. It is a waste of time. A developer's job is profit for their investors. The City Planners and the Planning Board 's job is to represent the best interests of the community. I believe you will do this and I wish you luck.

Sincerely,

Sybil Gillett Smith

From: Kit Horton [<mailto:kit@horton.com>]
Sent: Friday, September 13, 2013 12:15 PM
To: McLaughlin, Elaine
Cc: Sandy Hale; Jim Best; Lofton Henderson; Martin Boone
Subject: FW: 901 Pearl Street Site and Use Review

Hi Elaine,

Our neighbor, Sybil, has summed up the concerns of the neighbors on Spruce Street.

This restaurant will be huge and a detriment to the character of the transition zone into our neighborhood. As Sybil stated, this proposed restaurant is more suited to a mall-like location where parking is not a concern. There is no really convenient parking for this very large restaurant, other than the residential streets adjacent to it, namely Spruce, where we already suffer the problems associated with illegal parking and intoxicated patrons.

Further, the massive height of the building, as it abuts the alley between Pearl and Spruce, will negatively impact the view of the properties on the corners of Spruce and 9th Streets, not to mention the increased ice hazard for the parking area for the property located at the southeast corner of 9th and Spruce.

We received a notice of a "Good Neighbor" meeting to be held at the existing building at 901 Pearl on Monday. But I want our objections made clear before that meeting.

Best regards,

Katherine Horton
838 Spruce Street

Date Submitted: September 18, 2013
Submitted By: Tonya Dalhaus

Facilitators: Clay Fong, Tonya Dalhaus

Address/Property Description: 901 Pearl St. Boulder, CO

Date and Time: September 16, 2013

Location: 915 Pearl St. Boulder, CO

Good Neighbor Meeting
RE: Site Review Submittal for the Mixed use Development at 901 Pearl St. Boulder Co.

Background/meeting summary:
Neighbors to the 901 Pearl St. address, expressed concerns regarding the mixed used development project proposed for the site. The site will contain both residential units and a restaurant. Developers, architects and restaurant general manager were at the meeting to answer any questions and concerns regarding the development.

Neighbors raised questions regarding the following:

1. Concerns about the restaurant regarding seating capacity, hours, and targeted demographic: *Maximum capacity will be 220 though the restaurant is looking to stay in the 180 range to create a quieter, more conversational atmosphere. The restaurant will be considered elegant and distinctly different attracting a more mature and sophisticated demographic, interested in peaceful dining. Plates will range from \$18-32, with wine \$8-12 per glass. The name has yet to be chosen but "Perla" is in the running. Restaurant will be open from 11am-10p M-F and Sundays 11am- 9p. A weekend brunch may start at 9am Sundays.*
2. Location of dumpsters and trash management: *Trash will be kept in enclosed trash receptacles behind the building.*
3. General concerns about parking and traffic mitigation; customers and contractors using privately owned, marked traffic spaces located behind the building on Spruce St.; overflow parking taking up spaces in residential areas; and impact of construction on traffic flow and access to alleyway: *The restaurant will offer validated parking for customers. The restaurant will also be vigilant in reminding people to park respectfully. Added notice and disclaimers on menus will be used to help reinforce appropriate parking. The city is currently looking at ways to increase parking in the downtown Boulder area. During construction employees cells will be given to local residents so that issues can be immediately addressed. Signs will be posted for construction parking in areas that won't inhibit local traffic. "Just in Time" deliveries will be practiced to decrease construction traffic. Residents wishing to petition for posted parking blocks are welcome to submit an application. The general waiting time is 3-4 months.*
4. Impact of delivery trucks coming to the restaurant on local traffic and obstruction of alley way: *Deliveries will be made in the alley. The delivery zone is a setback area allowing ample room for cars to pass.*
5. Impact of the new sidewalk on bike path: *Will not impact.*
6. Proposed number of condo units: *5 units will house 4 families (one family has purchased 2 units).*
7. How will the affordable housing requirement be met?: *cash*
8. The length of project and building time frame: *The project is to take 8-9 months starting the end of 2013. The restaurant will hope to open in September of 2014.*
9. General inquiries as to garage windows and lower access: *The garage windows are real windows. Sound proof technology will be installed to mute sounds coming from the building. The side walk will be widened with a slight grade giving access to the lower level. It is not a drive in access.*
10. Type of material used to create outside columns: *Material is still undetermined but columns will be stone like and unpolished. Design application meets required guidelines.*
11. Visibility and noise of mechanics on the roof: *5x5x5 HVAC and exhaust fans will be corralled on the roof in 3 clusters to minimize obstructing the view. The fan is an up blast creating vertical air flow. The fan noise is comparable to a residential fan.*
12. General Comments: *Attractive building, nice design.*

Case #: LUR2013-00047

Project Name: 901 Pearl Restaurant

Date: March 31, 2014

USE REVIEW CRITERIA

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

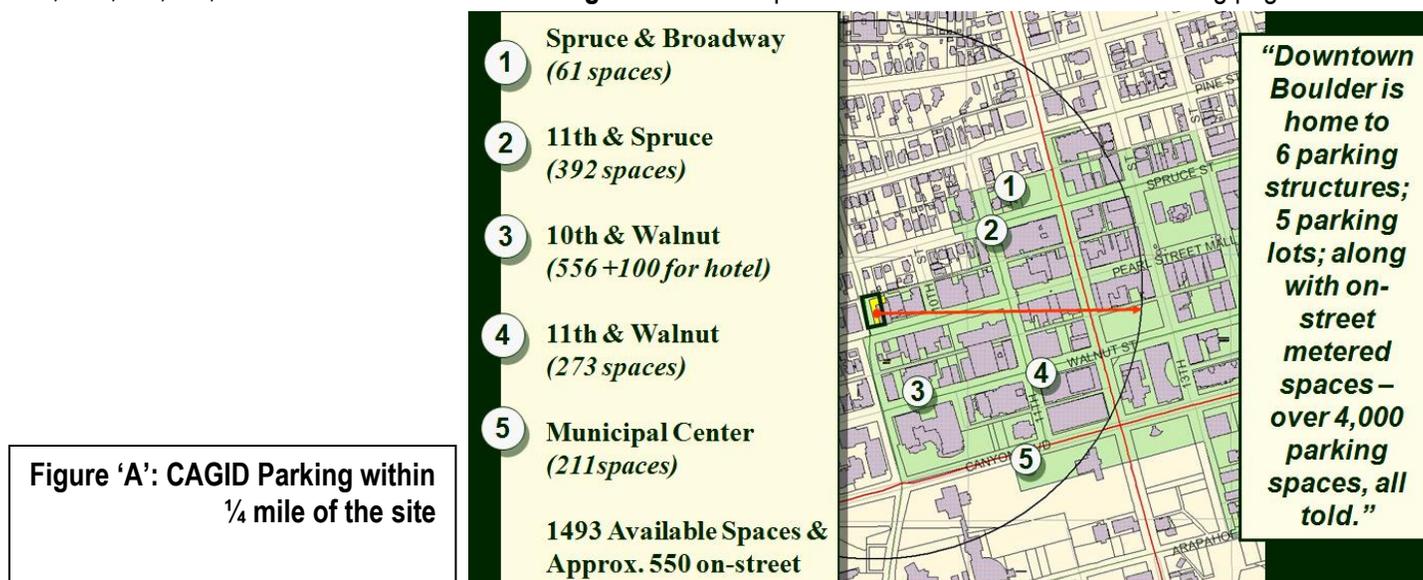
√ (1) **Consistency with Zoning and Non-Conformity:** The use is consistent with the purpose of the zoning district as set forth in **Section 9-5-2(c), "Zoning Districts Purposes," B.R.C. 1981**, except in the case of a non-conforming use;

The proposed project is located in the DT-2 zoning district that is defined under section 9-5-2, B.R.C. 1981 as,

"A transition area between the downtown and the surrounding residential areas where a wide range of retail, office, residential and public uses are permitted. A balance of new development with the maintenance and renovation of existing buildings is anticipated, and where development and redevelopment consistent with the established historic and urban design character is encouraged."

The proposed project is consistent with the zoning as it is on a ground floor furthest away on the property from the nearby residential, with residential units between the restaurant and the RMX-1 zoning district across the alley. The building is located within the Central Area Improvement District (CAGID) that provides several parking structures and on-street parking in close proximity to serve the restaurant as shown in the **Figure 'A'** the CAGID parking, with a total of approximately just under 2,000 parking spaces nearby. With a strong horizontal mix of uses in the downtown, the site is also within walking distance for several hundred downtown residential dwelling units, and several hundred downtown employers.

The applicant will also be providing EcoPasses to employees of the restaurant, with bus service provided to a number of stops within two blocks of the site, serving a number of bus routes including the HOP, DASH, SKIP, CLIMB, 205, 119, Y, 208, 225, AB, BV, and several others. Refer to **Figure 'B'** bus map of downtown Boulder on the following page.





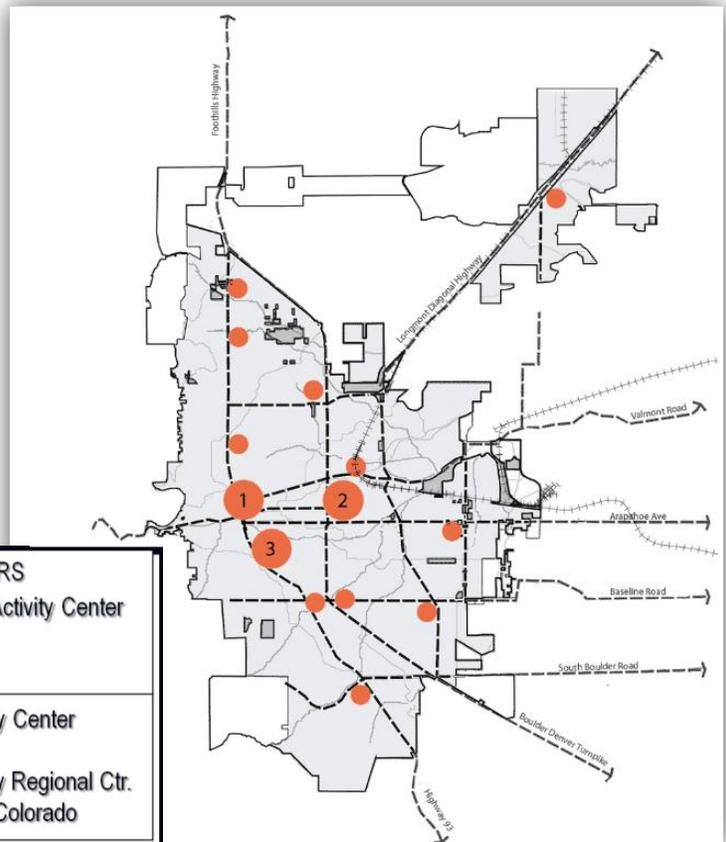
**Figure 'B':
Bus Map of Downtown Boulder illustrating bus routes within ¼ mile radius of the site**

✓ (2) **Rationale:** The use either:

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

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

The site is located within one of three Boulder Valley Comprehensive Plan designated, "regional activity centers" as shown in Figure C.



**Figure 'C':
Boulder Valley Comprehensive Plan
Designated Regional Activity Centers**

ACTIVITY CENTERS	
●	Neighborhood Activity Center
	Planning Area I
---	City Limits
1	Regional Activity Center 1-Downtown
2	Regional Activity Center 2-Boulder Valley Regional Ctr.
3	Regional Activity Center 3-University of Colorado

A shown in Figure D, the site is located at the juncture of several different BVCP land uses: “Regional Business” land use along Pearl Street and toward the south and east; “General Business” to the west, “Low Density Residential” to the northwest, and “Mixed Density Residential” directly north. As such, the mixed use building has a ground floor restaurant that is in the front of the building next to the active streetscape of Pearl Street; with residential condominiums two stories above and parking at the alley. The residential and parking for residential are planned to be nearest to the residential to the north. Therefore the vertical mix of uses provides a compatible transition between higher intensity and lower intensity uses.

**Figure ‘D’:
Boulder Valley
Comprehensive Plan
Land Use Map of Site and
Surroundings**



_____ (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;

√ (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 restaurant will serve to activate the first floor streetface for the new mixed use building. In the context, with restaurants to the east and directly adjacent, the activity of the restaurant is compatible in the context. The applicant has prepared a management plan that addresses mitigation of impacts to nearby properties including hours of operation that are limited to 11:00 p.m. and no outdoor speakers. The conditions of approval include the following restrictions specifically oriented toward impacts:

- Trash and bottles shall not be removed to outside trash containers between the hours of 10:00 p.m. and 8:00 a.m.
- Food, supply, and beverage deliveries made in the alley shall not block parking spaces of adjacent property owners and shall not be made before 8:00 a.m.
- Exhaust fan motors shall be mounted inside the building and exhaust ducts shall be placed on the

roof and oriented to the south (away from adjacent residential uses).

√ (4) **Infrastructure:** As compared to development permitted under [section 9-6-1](#), "Schedule of Permitted Land Uses," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a nonconforming 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 for the existing building is already in place and has been for decades. The restaurant will not create an impact to infrastructure in a downtown area that is already well served.

√ (5) **Character of Area:** The use will not change the predominant character of the surrounding area;

West Pearl is predominately commercial in nature as is the existing property. Because the restaurant is at the streetface for the new mixed use building, the use will enhance the predominate character of West Pearl street by activating a space that today is vacant and underutilized.

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.