

USE REVIEW WRITTEN STATEMENT

Submit with your application.

For your convenience, this form is also available as an electronic form on the Planning and Development Services web site at www.boulderplandevlop.net . You may type in your responses in the electronic form, and then print it to attach to your written statement.

KEY INFORMATION

Please provide the following information. Please type or print complete, detailed responses. Please also select use categories from the Boulder Revised Code Land Use Charts (Section 9-6-1(d)).

EXISTING

Use of existing building and land:

mercantile

PROPOSED

Proposed use of buildings and land:

restaurant with residential
above

Hours of operation:

11am-10pm varies based on
tenant

Hours of operation:

M-F 11am-11pm

Sat-Sun 7am-11pm

Number of employees:

(Please indicate full and part time)

10-20 approx - no current data

Number of employees:

(Please indicate full and part time)

32

Estimated number of trips to site per day:
(Please indicate mode of transportation used to reach the site.)

NA

Estimated number of trips to site per day:
(Please indicate mode of transportation used to reach the site.)

the site is served by the downtown network of parking, bus and pedestrian network

Uses on adjacent / surrounding properties:

The west side of pearl is comprised of similar restaurants retail and residential.

Narrative

In the space provided below or in an attached letter, please type or print a narrative describing the proposal in specific detail. Only one written narrative is necessary per development project.

The project replaces the rather unremarkable one story glass shop building originally constructed in the late 50's. The project infills the corner of this missing tooth of downtown with a project in scale with the surrounding density and will provide a vibrant streetscape for Pearl Street pedestrians. This is accomplished with a project that respects the historic grid and alignments in the area and provides a handsome two story façade solution with a modest third floor stepped back.

The program will consist of a premier restaurant user at the first floor that animates the streetscape with a corner patio space recessed for the Pearl Street pedestrians. The upper floors consist of four desirable condominiums that provide access to the many amenities of downtown and views to the south/west flatirons.

The use review is limited to the proposed 5,500 sq restaurant. The restaurateur currently operates two successful Downtown establishments, and is very sensitive to neighborhood issues, including deliveries, trash, noise controls, employee parking behavior, and hours of operation.

CRITERIA

In the space provided below, please indicate how the proposal will meet the Use Review criteria.

- 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, "Zoning Districts Established", B.R.C. 1981, except in the case of a non-conforming use;

The proposed restaurant use is consistent with the surrounding area.

- 2. **Rationale.** The use either:

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

The proposed restaurant will provide an alternate selection to the current wealth of restuarant choices along west pearl street which is now the center of Boulder's dining experience.

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

The proposed use is set back at the corner to provide a gracefull transition to the lower intensives density to the west.

- (C) Is necessary to foster a specific city policy, as expressed in the BVCP, including without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate location, and group living arrangements for special populations; OR
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- (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (e) of this section.
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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 the nearby properties;

The modest size restaurant is in scale with other restaurant in the area and is intended as fine dining with hours that would not intrude on the surrounding area.

4. **Infrastructure.** As compared to development permitted under Section 9-6-1, "Permitted Uses of Land", 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 or adversely affect the infrastructure of the surrounding area, including without limitation, water, wastewater, and storm draining utilities and streets.

Existing utilities area already serving the area and will not be significantly impacted to existing utilities. The project will also be involved with improvements to both the pearl and ninth streetscapes.

5. **Character of Area.** The use will not change the predominant character of the surrounding area.

The project is in filling a missing link at the corner to bring it into scale and character of the surrounding area.

6. **Conversion of Dwelling Units to Non-Residential Uses.** 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 9-6-1(d), 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.

ADDITIONAL CRITERIA FOR MODIFICATION TO NON-CONFORMING USES:

A non-conforming use is described as any use of a building or use of a lot that is not permitted under Section 9-6-1, "Schedule of Permitted Uses of Land", B.R.C. 1981, but excludes a conforming use in a non-standard building or on a non-standard lot; a legal existing use that has been approved as a conditional use or a use review use, or a use approved pursuant to a valid special review or a use review approval. A non-conforming use also includes an otherwise conforming use, except a single dwelling unit on a lot, that does not meet the parking and residential density requirements, including, without limitation, the requirements for minimum lot area per dwelling unit; useable open space per dwelling unit, or required off-street parking requirements for Section 9-6-1, "Schedule of Bulk Requirements", B.R.C. 1981.

1. **Reasonable Measures Required:** The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the non-conformity upon the surrounding area, including without limitation objectionable conditions, glare, visual pollution, noise pollution, air emissions, vehicular traffic, storage of equipment, materials and refuse, and on-street parking, so that the change will not adversely affect the surrounding area;

The project orients to the south and pearl street where restaurant activity already exist. Additionally, we have recessed the outdoor patio area to further reduce impact on the surrounding area.

2. **Reduction in Non-Conformity / Improvement of Appearance:** The proposed change or expansion will either reduce the degree of non-conformity of the use or improve the physical appearance of the structure or the site without increasing the degree of non-conformity;
The projects aesthetics will be greatly improved with the current design without adding additional con-conforming elements.
3. Compliance with this Title / Exceptions: The proposed change in use complies with all of the requirements of this title:

(A) Except for a change of a non-conforming use to another non-conforming use; and

(B) Unless a variance to the setback requirements has been granted pursuant to Section 9-2-3, "Variances", B.R.C. 1981, or the setback has been varied through the application of the requirements of Section 9-2-14, "Site Review", B.R.C. 1981; and

Existing setbacks will be varied though our separate site review and and are not necessarily associated with the restaurant use.

4. **Cannot Reasonably be Made Conforming:** The existing building or lot cannot be utilized or made to conform to the requirements of Chapters 9-6, 9-7, 9-8, and 9-9, "Use Standards", "Form and Bulk Standards", "Intensity Standards", and "Development Standards", B.R.C. 1981; and

The existing building/ use is being demolished at which point the
proposed use is the most appropriate use for this area.

5. **No Increase in Floor Area Over Ten Percent:** The change or expansion will not result in an increase in floor area of more than ten percent of the existing floor area.

The restaurant floor area is what is currently under review with in
site review.

6. **Approving Authority May Grant Zoning Variances:** The approving authority may grant the variances permitted by Subsection 9-2-3(d), B.R.C. 1981, upon finding that the criteria set forth in Subsection 9-2-3(h), B.R.C. 1981, have been met.

Any variances are being covered in site review for this project.