

EDGEWATER PLANNING AND ZONING COMMISSION

RESOLUTION NO. PC 2015 - 04

A RESOLUTION CONDITIONALLY APPROVING AN AMENDMENT TO THE SITE DEVELOPMENT PLAN FOR 2501 SHERIDAN BOULEVARD, EDGEWATER, COLORADO, TO CONSTRUCT A ROOF TOP DECK AND ASSOCIATED IMPROVEMENTS

WHEREAS, the City of Edgewater, Colorado ("City") has received an application and related documents from GDB Holdings LLC, dba Joyride Brewing Co., with the consent of property owner Atlas Real Estate Group (the "Applicant"), to amend the previously-approved site development plan for 2501 Sheridan Boulevard, Edgewater, Colorado (the "Property") to construct a roof top deck and associated improvements (the "Application"); and

WHEREAS, pursuant to Edgewater Municipal Code ("Code") Sections 17-4-90 and 17-4-40, the Application must be reviewed and acted upon by the Edgewater Planning and Zoning Commission (the "Commission"); and

WHEREAS, pursuant to and in accordance with Code Sections 17-4-40(c) and (d), after due and proper notice, the Commission conducted public hearings on the Application on July 1 and August 26, 2015, at which times the Applicant and all other interested parties were given the opportunity to be heard; and

WHEREAS, based upon the testimony and evidence received at such hearing and after its consideration of the approval criteria set forth in Code Section 17-4-40(e), the Commission finds that the Application should be conditionally approved, as set forth in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF EDGEWATER, COLORADO:

Section 1. Approval Criteria: Sections 17-4-90(2) and 17-4-40(e) of the Edgewater Municipal Code establish the following approval criteria for amendments to approved site development plans that are not "minor" in nature:

- (1) Whether all applicable provisions of this Code have been met.
- (2) Whether the project is compatible with the Design Standards, if applicable.
- (3) Whether the following are arranged so that traffic congestion is avoided, pedestrian and vehicular safety and welfare are protected, adequate fire protection can be provided and adverse impacts on adjacent property, including noise, glare, odors, vibration and fumes, are mitigated or eliminated:

- a. Location of buildings, structures and improvements;
- b. Vehicular ingress and egress;
- c. Internal vehicular circulation;
- d. Setback lines;
- e. Height of buildings;
- f. Service facilities;
- g. Walls;
- h. Open space and landscaping; and
- i. Sidewalks.

(4) Whether proposed signs will interfere with traffic or limit visibility.

(5) Whether water and sewer systems are adequate to serve the project.

(6) Whether stormwater runoff problems are compounded because of the project.

(7) Whether curb cuts onto arterial and collector streets will be kept to a minimum and placed in safe locations.

Section 2. Findings: The City of Edgewater Planning and Zoning Commission hereby enters the following findings:

GDB Holdings LLC, dba Joyride Brewing Co., with the consent of property owner Atlas Real Estate Group (the "Applicant"), has filed an application to amend a previously-approved site development plan ("SDP") for 2501 Sheridan Boulevard, Edgewater, Colorado (the "Property") to construct a roof top deck and associated improvements (the "Application") on the Property.

After due and proper notice, the Commission opened a public hearing on the Application on July 1, 2015. At that time, the Commission accepted the following documentary evidence:

1. Staff Report from Patty McCartney, City Planner, dated June 3, 2015, including all attachments thereto:
 - A. SDP Application
 - B. Letter of Intent
 - C. Project Description
 - D. Traffic Analysis

- E. Noise Study
- F. Western States Fire Protection Company Letter
- G. Wheat Ridge Fire Protection District Letter
- H. Amended Site Development Plan

2. Staff Report: Addendum from City Planner McCartney, dated July 1, 2015, including all attachments thereto:

- I. Updated Noise Impact Analysis Report dated May 28, 2015
- J. Revised Amended Site Development Plan dated June 17, 2015
- K. Copy of City Council approved Site Development Plan
- L. Copy of Ordinance No. 2015-05 (concerning unreasonable noise)

3. Staff Report: Second Addendum from City Planner McCartney, dated July 1, 2015, including all attachments thereto:

M. Joyride Brewing – Clarification Letter for Updated City of Edgewater Noise Code, dated June 30, 2015

On July 1st, Planner McCartney presented her staff reports and testified that the Application failed to satisfy three of the relevant approval criteria. On July 1st, the Application proposed the following amendments to the existing SDP:

- Construction of a 930 square foot ground level patio on the west side of the existing building, enclosed on the west side by a ten foot (10') fence, for which the Applicant obtained conditional approval from the City of Edgewater Board of Adjustment on March 18, 2015. Approval of the ten foot tall fence was conditioned upon the Applicant obtaining final City approval of a site development plan amendment “that permits the location of a rear yard patio in the area proposed to be bounded by the fence.”
- Construction of a 1,500 square foot roof top patio deck and trellis.
- Roof top access paths and exterior stairways to the ground level.
- Removal of planter boxes on Sheridan Boulevard and 25th Avenue.
- Modify three (3) windows and three (3) garage doors to six (6) garage doors on the 25th Avenue elevation.
- Relocate existing rear parking spaces to accommodate a new loading zone.

McCartney testified that the Application failed to meet two of the approval criteria. First, she testified that the project is not compatible with applicable Design Standards, specifically, Sheridan Boulevard Design Standard B8., concerning exterior building materials. The Property is located on the corner of Sheridan Boulevard and 25th Avenue and, as such, is subject to both the 25th Avenue Design Standards and Sheridan Boulevard Design Standards. Sheridan Boulevard Design Standard B8. requires that exterior building materials be consistent with existing building architecture and allowed design standard material. The existing building materials and architecture include stucco walls with brick detailing and aluminum or painted metal clad windows and doors. The proposed roof top

deck design materials include a stucco wall with brick cap detail and treated natural wood trellis system and railing. The proposed treated wood material of the roof top deck trellis, railing and stairway is inconsistent with the stucco and metal materials and design elements of the existing building.

Next, McCartney testified that the project is not configured in such a manner that the adverse impacts of noise on adjacent properties are adequately mitigated. An updated Joy Ride - Noise Impact Analysis Report prepared by D.L. Adams Associates (Attachment I) dated May 28, 2015 provides additional information and further analysis of the proposed SDP Amendment expansion for the outdoor patio area and roof top deck. The noise study analyzes the ground level patio noise sources for people only and the roof top deck noise sources includes people and four sound system loudspeakers. Eight locations including the building roof and property lines were used to measure existing data and model noise impacts for the proposed project.

The Clarification Letter and Update Noise Impact Analysis Report (Attachment M) dated June 30, 2015 indicates that there will be an increase of decibels to the residential properties located North West of the property. Table 6 of the report and clarification letters shows an increase of noise levels to the residential receiver locations that would result in a total decibel level of 54.5 at receptor location E, 54.6 at receiver location F and 56.3 at receiver location G. This scenario analyzes the average noise level of the proposed rooftop deck and patio with the average traffic and baseline noise levels.

Table 8 of the report (Attachment M) shows a 1.8, 3.6 and 3.9 increase in decibel levels to the receiver locations E, F and G respectively (all located at residential property lines). This would give a total decibel level of 56.2, 57.1 and 58.9 for receptors E, F and G respectively. The same table shows the baseline of 54.4, 53.5 and 55 for the above mentioned receptor locations respectively. Table 8 of this analysis uses a scenario where the noise level from the roof top deck and patio are at a maximum noise level and combined with the average noise levels of traffic and baseline noise levels.

McCartney noted that the residential premise receptors location G in Table 6 (average proposed project noise level with average traffic and baseline noise level) and all residential receptor locations in Table 8 (maximum proposed project noise level with maximum traffic and baseline noise level) are not only increasing the level of noise but also beyond the allowable thresholds for noise pursuant to the Code. As such, the proposed project is expected to exceed the maximum allowable decibel levels set forth in the Code and to adversely impact adjacent properties.

After McCartney testified on July 1st, Grant Babb spoke on behalf of the Applicant. He testified that the treated wood materials are proposed for the rooftop elements due to structural issues. He testified that the stucco or brick elements would be difficult to install on the rooftop because of their weight. Babb testified that the Applicant could wrap the rooftop wood elements in commercial-grade plastic that could be matched to the existing building color, preserve the wood against weather elements and increase fire-resistance of those improvements.

David Manley, P.E., of D.L. Adams Associates, testified on behalf of the Applicant. Manley performed noise studies of the proposed project and prepared the two noise analyses before the Commission on July 1: Staff Report Attachments “E” and “I.” Manley testified that he believed that the noise created by Sheridan Boulevard should be subtracted from the total noise measurements in and around the Property to determine permissible noise levels under the City’s noise regulations. Manley explained that this is how other jurisdictions interpret their noise regulations and that he believed it was unfair to hold a business accountable for ambient noise that it does not create.

City Ordinance No. 2015-05, which amended Edgewater City Code (“Code”) Section 10-14-10, establishes objective decibel limits for properties within the City, beyond which noise is deemed to be *per se* unreasonable and prohibited. Manley testified that, at certain locations and at certain times, the ambient noise levels at the Property already exceed the permissible maximum decibel limits imposed by the Code. Legal staff clarified that, when that is the case, the Code provides that the existing ambient noise level becomes the new “baseline” noise level that cannot be exceeded by a new noise source. Code Section 10-14-10(d)(3) provides:

“When it is determined that the background sound pressure level at the receptor premises equals or exceeds the maximum allowable sound pressure level specified in Table A, then the background sound pressure level is the standard that cannot be exceeded by the noise source.”

Manley testified that he could model what sort of site modifications would be necessary for the proposed project to meet Code Section 10-14-10, but he was unaware of the ordinance and how the City was interpreting it.

Next, interested members of the public provided the following testimony: Kathryn Hunt, who resides at 2514 Ames Street, testified that she wrote a letter of support and is generally in favor of the project. However, she expressed concern over the testimony concerning the potential noise impacts and said she was concerned about music, loudspeakers and the “emergency” egress route from the deck being used for people to generally congregate. Hunt said people could just hang out and drink on the egress route and look into her backyard. Caroline and Jeffery High, who reside at 2512 Ames Street, also expressed concerns about noise. Ms. High testified that she already hears noise on her property emanating from back patio “corn hole” games at the brewery. She also testified that Mr. Babb told her that the plan was for a 50 maximum capacity roof top deck and she notes that the plans allow an occupancy of 62. Ms. High also expressed concern that the roof top emergency egress could be used simply to gather, not just for emergency purposes, and requested that such a restriction be imposed.

Babb addressed the public comment by testifying that there would be no live music on the roof top deck, only recorded music; the emergency egress is intended for just that and will be so restricted; a 50 maximum capacity for the deck is acceptable; and the Applicant was willing to do whatever necessary to comply with the City’s noise ordinance.

After the hearing was closed on July 1st, the Commission deliberated and moved to continue the hearing for the purpose of gathering more information that it deemed relevant to its decision. The Commission directed the Applicant to provide the following additional information prior to the continued hearing date: (1) amended plans to indicate how the rooftop emergency egress route will be restricted; (2) clarify internal inconsistencies in the Application documents concerning the height of the sound barrier wall and clarify any other internal inconsistencies; (3) provide options and noise analysis models that demonstrate how the project may be modified to meet the City's noise standards; and (4) clarify and/or modify the material to be used for the rooftop trellis and railing in such a way that meets the City's Design Standards.

After due and proper notice, the Commission reconvened the public hearing on August 26, 2015. The Commission accepted the following documentary evidence:

4. Staff Report: Third Addendum, from City Planner McCartney, dated August 26, 2015, including all attachments thereto:

N: Joyride Brewing SDP Amendment Resubmittal Description.

O. Joyride Brewing-Updated Noise Impact Analysis Report, dated August 5, 2015

P. AZEK Building Material information.

Q. Revised SDP Amendment

R. Wheat Ridge Fire Protection District Referral Comment Letter, dated August 17, 2015

5. Email from Kathryn Hunt, dated August 26, 2015.

6. Email from Chad Johnson, City Building Official, dated August 24, 2015.

7. June 29, 2015 letter from Kali Palin and Carley Janda, 2076 Ingalls Street.

At the August 26th hearing, Planner McCartney explained that, since the July 1 hearing on the Application, the Application had been amended in the following ways:

- Removal of ground floor patio area for public use and replaced with grain storage and employee break area.
- Roof top patio square footage increased from 1,500 square feet to 2,219 square feet
- Removal of rooftop patio speakers
- Increase height, width and design of rooftop patio wall to an eleven (11) foot wall along the north and west side of the roof top patio area.
- Fully enclosed stairway from first floor to rooftop patio area.
- Rooftop patio trellis and railing material wrapped with a plastic/pvc material painted to match the color of the existing stucco (Attachment P).

McCartney testified that the ten foot high fence indicated on the site plan was conditionally approved by the Board of Adjustment upon approval of the backyard ground floor patio area. Given the abandonment of the ground floor patio area, the Board's

approval of the fence height variance is nullified. Therefore, McCartney noted, she recommended that the ten foot high fence on the plan be either removed or lowered to meet the maximum permissible height under the Code (six feet). McCartney further testified that the new proposed rooftop deck and trellis materials are compatible with the existing building materials and architecture. The amended submittal proposes to wrap the previously untreated wood materials with a plastic/pvc composition material painted to match the color of the stucco wall.

McCartney testified about the updated noise analysis (Attachment O). The updated analysis identified adjacent noise receptor locations (A through E) and analyzed those locations to measure existing data and model noise impacts of the proposed project. The updated analysis determined the existing noise measurements (Table 1) between the hours of 6:00 pm and 9:00 pm and model noise measurements (Table3). The modeled noise measurements were created by a 3D model mapping program based on the environment, noise source and receiver locations.

The updated noise analysis recommended design modifications to mitigate noise impacts of the proposed project to include: non-public use of outdoor patio area, no music loudspeakers on the roof top deck, increase the wall height of the roof top deck a minimum of 11 feet above the finished deck surface, and enclose the stairwell access from the interior of the business to the roof top deck. The noise analysis further notes that these noise mitigation efforts are projected to satisfy the City's noise ordinance only until 10 p.m., after which the City's permissible decibel limits decrease and the roof top deck noise sources would be projected to violate those lowered limits. As such, McCartney recommended a condition of approval that the rooftop deck be open to the public only between the hours of 11 a.m. and 10 p.m.

Grant Babb once again provided testimony on behalf of the Applicant. He testified that he had no objections to the conditions of approval recommended by McCartney's staff report.

Caroline High, 2512 Ames Street, testified that she was concerned that the packet of materials she received to review prior to the meeting was different than the packet being discussed. She testified that she didn't feel informed enough to provide good feedback and to evaluate the proposed project. Chair Hing offered High the opportunity to review the plans while others gave testimony and to return to offer comment after she was done, if she wished. Pauline York testified in support of the project, saying that a roof top deck would be an asset to Edgewater. Jared Hertig testified that he is a 9-year Edgewater resident and that he supports the project. Hertig said that Sheridan Boulevard is a busy, noisy street and those who live near it should expect some level of noise, like those who move into the DIA area.

Babb addressed the public comment by explaining that the actual noise generated by the project should not exceed the projected noise levels in the study because the study used a maximum occupancy that he never expected to achieve or exceed. Babb also stated that, if the project were approved, he projected to construct it and open it in the

Spring of 2016.

Chair Hing closed the public hearing and the Commission deliberated. The Commissioners discussed how the amended site plan incorporated those elements of the updated noise analysis that predicted the project to be compliant with the City's noise requirements. Chair Hing noted that the updated noise analysis made certain recommendations concerning the material that should be used to construct the roof top sound barrier wall and she would like to see the use of that material to be a condition of approval, if the Commission approved the Application.

Section 3. Decision: Based on the foregoing findings, the Commission hereby **CONDITIONALLY APPROVES** the Application from GDB Holdings LLC, dba Joyride Brewing Co., with the consent of property owner Atlas Real Estate Group, to amend the previously-approved site development plan for 2501 Sheridan Boulevard, Edgewater, Colorado to construct a roof top deck and associated improvements, with the following **CONDITIONS**:

1. The roof top deck area shall only operate between the hours of 11 a.m. to 10 p.m.
2. The rear yard outdoor area shall not be enclosed by a ten foot high fence and all fencing shall comply with the maximum fence height requirements of the City Code.
3. The ground level rear yard outdoor area shall be redesigned to the original loading area and parking spaces of the approved SDP and shall not be utilized as an expanded business or public use area.
4. Outdoor storage is not permitted.
5. The sound barrier wall on the roof top deck shall be constructed of a fiber-cement exterior siding product such as HardiePanel with a density greater than 80 pounds per cubic foot and shall have no gaps between panels so that the wall provides a contiguous solid surface to block sound.
6. The sound barrier wall shall measure eleven feet (11') in height *excluding* any trellis or other detailing that may exceed the height of the solid wall.
7. Access to all emergency egress routes from the roof top deck shall be controlled by an emergency-only, alarm-activating, restricted access door, with emergency access hardware approved by the City building official and Wheat Ridge Fire Protection District.

Section 4. Nothing in this conditional approval operates to eliminate the requirement that the Applicant obtain all other approvals, permits, licenses and authorizations of any kind necessary to construct and occupy the proposed improvements, including but not limited to building permits, and nothing in this Resolution constitutes

approval of any such requirement other than the amended SDP.

INTRODUCED, READ and ADOPTED this 2nd day of September, 2015.

/s/ Karen Hing, Chair

ATTEST:

/s/ Beth A. Hedberg, MMC
City Clerk and Clerk to the Commission