



City of Colorado Springs

City Hall
107 N. Nevada Avenue
Colorado Springs, CO
80903

Meeting Minutes - Draft Downtown Review Board

Wednesday, February 5, 2020

8:30 AM

City Council Chambers

1. Call to Order

Present: 7 - Doug Hahn, Tiffany Colvert, Randy Case, Stuart Coppedge, Jim Raughton, Kristen Heggem and Shawn Gullixson

Excused: 2 - Aaron Briggs and Darsey Nicklasson

2. Approval of the Minutes

[DRB 20-057](#) Minutes for the December 4, 2019 Downtown Review Board meeting

Presenter:

Stuart Coppedge, Downtown Review Board Chair

Motion by Raughton, seconded by Colvert, to approve the December 4, 2019 Downtown Review Board minutes. The motion passed by a vote of 7:0:2:0

Aye: 7 - Hahn, Colvert, Case, Coppedge, Raughton, Heggem and Gullixson

Absent: 2 - Briggs and Nicklasson

3. Communications

Ryan Tefertiller, Urban Planning Manager

Mr. Tefertiller informed the board that Form-Based code scrubs will be on the agenda for the first and second quarters of this year and in front of the board for formal adoption by mid year.

Board Member Case asked to have an update from Colorado Springs Utilities (CSU) regarding the Drake Power Plant. Even though Drake is not in the Form-Based area, as things mature in that area, it would help the board have a better understanding of the plans and make informed decisions based on that information.

Mr. Tefertiller said CSU had two efforts going on that affect redevelopment in the Form-Based zone. One is the Drake Power Plant and the efforts for utility planning in that area. The other is the Downtown Utilities or Facilities Master Plan. The plan will identify where additional investments are needed to support redevelopment efforts. Mr. Tefertiller said he would work to get someone from CSU to speak about those items in an upcoming meeting.

4. CONSENT CALENDAR - None**5. UNFINISHED BUSINESS - None****6. NEW BUSINESS CALENDAR**

- 6.A. [CPC CU 19-00167](#) Postponement of an appeal of the Downtown Review Board's denial of a Form-Based Zone Conditional Use Development Plan for an on-premises medical marijuana cultivation operation located at 910 South Nevada Avenue, zoned FBZ-T1 (Form-Based Zone - Transition Sector 1).

(Quasi-judicial)

Presenter:

Peter Wysocki, Director, Planning and Community Development
Matthew Fitzsimmons, Planner II, Urban Planning Division

Communications:

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Mr. Tefertiller said CSU had two efforts going on that affect redevelopment in the Form-Based zone. One is the Drake Power Plant and the efforts for utility planning in that area. The other is the Downtown Utilities or Facilities Master Plan. The plan will identify where additional investments are needed to support redevelopment efforts. Mr. Tefertiller said he would work to get someone from CSU to speak about those items in an upcoming meeting.

Board Member Raughton asked if the board would be getting a presentation on the City's proposal for mass transit, bus corridor or high

speed corridor on Nevada Avenue running through the downtown area.

Mr. Tefertiller said there was a big public meeting about those efforts and that primarily the focus would be more on the North Nevada corridor and connecting that to downtown. Mr. Tefertiller said he would touch base with Mountain Metro to see if someone could bring some information forward on this subject.

Staff presentation:

Matthew Fitzsimmons, City Planning, presented a PowerPoint with the scope and intent of this project.

Questions:

Board Member Colvert said she appreciated the effort in trying to activate the front portion of the building because it would be needed, and is in a lot of ways a gateway to downtown, but was concerned with the front portion of the building being carved down to 800 square feet, which would only be about 13 feet deep and would not be sufficient for any retailer. Board Member Colvert asked to see a diagram of how that carve out would look.

Mr. Fitzsimmons said there was not a diagram showing the carve out and that the 13 foot carve out was the recommendation from the Downtown Partnership. Mr. Fitzsimmons said the applicant is willing to change the shape of it.

Board Member Coppedge asked if the mural was part of the Art on the Streets program and if it was a temporary mural. Mr. Fitzsimmons said he was unsure how the mural originated. Board Member Coppedge asked because the murals that are a part of the Art on the Streets program are not permanent and the artist has the right to paint over it. Mr. Fitzsimmons said it was painted right before the application, and had it not been painted, he would have requested a mural or something there to soften the wall.

Board Member Case asked if the business located at 1222 North Academy Boulevard would be a sister to this site or if a move to this site? The applicant indicated it would not be a move or a sister site and Mr. Fitzsimmons said the applicant would go into more detail.

Board Member Case asked the following questions:

- An operations snapshot of what a grow operation looks like
- Why the property is paved on both sides to the east at Nevada, and to the west at Tejon? What is the landscape history?
- Knows the railroad crossing is going through review and doesn't want landscaping to be torn up to accommodate the reorganization

Mr. Fitzsimmons said the railroad doesn't own the property and the realignment design is moving south with no design to move north towards the site. Board Member Case asked if the railroad was going to basically stay in the existing right of way and not move it. Mr. Fitzsimmons explained they want to eliminate the reverse turn and will flatten out the hump right above Mill Street, although the plan has not been formalized.

Mr. Tefertiller added while there has been significant planning and design of the replacement of the two bridges and the realignment of the rail, that project is extremely expensive and the earliest it would be funded would be 2025 as part of the PPRTA.

Board Member Case asked what the existing zone in the area was before the Form-Based Zone was implemented? Would the use have allowed for this type of grow?

Mr. Tefertiller said he believed the property was zoned C-6 prior to the creation of the Form-Based zone in 2009, and that C-6 would permit MMJ Dispensary grows and non-hazardous product manufacturing.

Board Member Heggem asked if there was a timeline attached to the retail space because it was likely the MMJ facility would be up and running and the retail commercial space would sit empty before finding a good tenant for that space.

Mr. Fitzsimmons explained they would be working with the Downtown Partnership to try and fill that space. Board Member Heggem said it was a concern to create this commercial space and then it remains empty.

Board Member Heggem asked for an explanation about a reference to Book 2219, Page 524 and the red zone that goes through. Mr. Fitzsimmons said that would be removed because it was not an easement and was just paperwork for buying or establishing the purchase of that property. Mr. Fitzsimmons further explained it was on one of the technical modifications to remove that reference.

Board Member Heggem pointed out there was a difference between the landscape plan and aerial view from the artist's rendering with screening the parking lot. Mr. Fitzsimmons said that was a mistake and was corrected with one of the technical modifications.

Board Member Colvert brought up the challenges of filling a retail space between 800 to 1200 square feet and wanted to know if it was actively being marketed by a commercial broker or if there were any letters of intent on the

space. She also questioned the economic feasibility of having a separate tenant in the store front since it would be a huge expense to separate utility meters. Board Member Colvert pointed out there was not an architectural drawing showing it was planned out and that if the applicant was the one who would be marketing the front of the store, it might remain empty for some time, which is not what the community wants. Board Member Colvert asked if the space sits vacant, what requirements would there be for the applicant to have to come back or would they be able to put in a medical dispensary?

Mr. Fitzsimmons said the applicant would not be able to put a dispensary in, but it was a great question of what happens if no one wants to rent it. Mr. Fitzsimmons acknowledged that there was not an answer to that, but you try to make it as attractive as possible and hopefully someone will come and see the potential.

Board Member Colvert asked for the applicant to answer if the space is actively being marketed and what sort of actual interest has been seen. Board Member Colvert pointed out that the east elevation showed murals to be installed at existing windows, which seems very temporary. Mr. Fitzsimmons said that reference would be removed.

Board Member Colvert said the existing painted concrete wall was to remain, but if the mural was part of the Arts on the Streets, or temporary, that something should be put back in its place. The site plan should show mural on that wall and not just concrete block wall.

Board Member Gullixson said he shared the same concerns with the development of the floor plan with the storefront and said it feels like it is being set up for a dispensary at some point. Board Member Gullixson also said it was hard for him to believe a business would want to be in that storefront with the likely odor the grow operation would cause throughout the building.

Board Member Gullixson wanted to know what it meant that the applicant promises to go above and beyond the standards to eliminate the smell. Will the odor be completely eliminated? Will our downtown area or corridor be filled with the odor on a windy day? How does a marijuana grow fit into the Downtown Master Plan? Board Member Gullixson said he didn't think it would be right to approve this to simply fill a space and that a warehouse doesn't truly activate the building.

Mr. Fitzsimmons said one of the main concerns for the Downtown Partnership was the corridor to downtown and the activation of the storefront and the landscaping. Mr. Fitzsimmons said he believed those items were taken care of by having the storefront and landscaping. The Downtown Partnership went

from not supporting the project at all to supporting it because they saw what was being proposed would be the strongest element of that neighborhood for the gateway. That includes the fact that the grow would not be seen and hopefully not smelled. Mr. Fitzsimmons said the space has been vacant for over a year and was a hard space to rent.

Mr. Fitzsimmons said this project works within the Experience Downtown Master Plan because it activates an area that has been hard to activate and produces a landscaped area that would not be landscaped with a permitted use.

Board Member Gullixson said he understood there was only so much detail that could be provided at this point, but when he hears "hope and promise" he gets nervous. Board Member Gullixson said in his mind, this project is not activating the space but simply putting something in it with consequences of the smell and odor from this building and the surrounding area. Board Member Gullixson said he could not support something on a hope of a promise and would like those things addressed.

Board Member Case asked if signage was addressed with the applicant or some of the surrounding property owners? Mr. Fitzsimmons said the signage was not addressed with the owner because the current sign is grandfathered in and they would need to keep it or it would never be allowed again if removed. The applicant would not be utilizing the sign since he would not be advertising the grow. The sign would be used for whatever activates the storefront. Mr. Fitzsimmons added that this application does not deal with the signage and it would be a separate application.

Chair Coppedge asked for clarification of the ownership of the building, is this a lease, and would the owner be leasing the storefront or will it be subleased by the applicant?

Mr. Fitzsimmons explained the Bonicelli Brothers owned the building and would be leasing it to the applicant.

Chair Coppedge said he was pretty sure the storefront section would not require a second exit, but it would require ADA restroom access. If the storefront and grow operation share a bathroom, is there a security issue there? Chair Coppedge asked for a more detailed explanation of those kinds of issues because this is making a relatively small project extremely complex.

Applicant Presentation:

Randy Tuck, explained the intent of this project and presented some photographs of the inside of the building. Mr. Tuck expressed this project could

be done in such a way that it is not noticeable.

Mr. Tuck addressed the following concerns:

- The size of the storefront space being too small, security concerns with the grow, and who would rent such a small space
 - Not intended for a full-sized store but a little mini-mart for holistic sales or hemp sales
 - The retail area would be sealed off from the grow apparatus
 - There will be an egress point for people to get from the front location (retail space) out the building
 - There is a door on the west side where there could be an egress point with a hallway that leads from the retail area out of the building
- Odor/Smell of the cannabis grow
 - Each grow room will have its own charcoal filtration system
 - In addition, the main exhaust has its own charcoal filtration before it goes out into the environment
 - The only time the plants start to smell is at the flowering stage
 - Promised to put as many “scrubbers” in that are necessary to mitigate the smell
 - The retail space will not have the cannabis odor because of the filtration system and the room will be sealed off
- The mural
 - Had the understanding that the tenant before the last tenant had the mural put on the building
 - If current mural is not appropriate for the gateway would be willing to put another mural in its place

Additional Questions:

Chair Coppedge asked Mr. Tefertiller if the other grows and dispensaries in the downtown area were approved administratively or are they outside the Form-based zone?

Mr. Tefertiller explained the current standards within the Form-based code permit dispensaries, medical marijuana centers, as a permitted use throughout the Form-based Zone. Grows and nonhazardous product manufacturing require a conditional use. Mr. Tefertiller said he believed this was the first conditional use for either a grow or nonhazardous product manufacturing within the Form-based Zone. Around 2016, there were a series of citywide code changes for dispensary grows and both hazardous and nonhazardous product manufacturing. At that time, the Form-based Code was updated to stay consistent with other commercial and mixed use zones throughout the city. Mr. Tefertiller believed all of the grows that exist within the Form-based Zone were

established before those standards were in place so they are legal nonconforming as far as the conditional use requirement is applicable.

Mr. Tefertiller added that while centers are permitted uses, they do need to meet citywide buffer requirements. There is a separation requirement from other dispensaries, as well as from childcare providers, schools, and drug and alcohol treatment facilities. Mr. Tefertiller explained this facility is currently within that thousand-foot buffer from a drug and alcohol treatment facility, so without a variance or warrant, there could not be a retail component established within this building.

Mr. Tuck commented that they would never want to put a dispensary there and have no interest in doing so.

Board Member Colvert stated she personally had no problem with the use. Board Member Colvert questioned if this use was actually activating the gateway into downtown. The smell does have an impact on the neighborhood, but activation is key. Board Member Colvert stressed that activation is more than putting up landscaping, it's having activity. Board Member Colvert still had the question of whether or not the retail (storefront) space was actively being marketed, as well as if the space was being subleased, since it would be even harder to find a tenant for that space?

Mr. Tuck said he would be looking towards Downtown Partnership and working with Mr. Fitzsimmons to try to find something.

Board Member Colvert explained to Mr. Tuck that a commercial broker was needed to find a tenant for that space, and that in order for this project to get approved, the board would need more information on the type of retail tenant that could potentially activate that space. Based on all the logistical things with the bathrooms, splitting utilities, parking, and being a sublease, it will be an uphill battle to get a tenant.

Mr. Tuck informed Board Member Colvert that he was going to sublease it and already had someone who would take the space. Board Member Colvert asked Mr. Tuck to share what type of use that is because it would help the board in their determination.

Mr. Tuck said he was not aware he would need to share that information right now and said he could have had those people come to the meeting. He said they have several different possibilities of leasing that space out. Mr. Tuck pointed out that several businesses in the area have multi-use and that he could find someone to activate the front part of his space.

Board Member Colvert agreed there are users who would take the space, but the economics are going to be hard to get the rent where it needs to be to get a tenant to take the space. Board Member Colvert said having a sublease is a challenge for a lot of retail tenants. Board Member Colvert also said she was confused because Mr. Tuck said he did have someone willing to take the space and him sharing information would help the Downtown Review Board approve the project. Board Member Colvert asked again who would be the tenant.

Mr. Tuck said it would be a hemp, kind of holistic, natural component type product, so like: lotions, creams, or hemp products. Another business that would take the space are doctors' offices that are in this industry.

Board Member Colvert said she has seen deals die where the economics didn't work because the tenant improvements were so great that the rent does not substantiate that. Board Member Colvert reiterated her concern that the space would sit vacant for a number of reasons.

Mr. Tuck said he would be happy to provide the board with a list of prospects. He also shared that he was willing to do whatever was needed to make the space leasable, accessible and safe for whoever goes in the space and believed with it being in the downtown quarter, people would want to lease it.

Board Member Colvert said her concern the whole time was the activation and that if Mr. Tuck could help the board feel more confident with that, great, but going back to what Board Member Gullixson expressed about a lot of hope and promises, it was just hard to conceive where there was not a concrete plan for the actual activation.

Board Member Heggem asked Mr. Tefertiller to clarify the thousand foot radius and whether a dispensary would be allowed. Mr. Tefertiller went over the information again stating a dispensary would not be allowed since there is a treatment facility located within the 1000 foot buffer.

Board Member Heggem asked Mr. Tuck if he was going to have a corridor going down the west side of the building for an egress, as well as the all the ventilation, wouldn't putting a corridor there block the ventilation. Mr. Tuck answered that all the ventilation would be up in the ceiling and would not interfere with the corridor.

Board Member Heggem asked Mr. Tuck to speak on the four different rooms and if each room has its own ventilation. Mr. Tuck explained that the plants do not begin to smell until they are in the flowering stage and that the four sealed rooms are for the plants that are flowering. In each of those rooms will be big charcoal scrubbers with a fan on them, and then all the air in that room is

sucked down into those fans through those scrubbers and pushed back out. So it is turning the air over, scrubbing it, and putting it right back in the room, 24-hours a day.

Supporters:

None

Opponents:

David Carlton, part of an ownership group that purchased some companies from Mike Bonicelli in 2018

- Not a supporter or opponent
- Just gathering information
- Ownership group of Nevada Auto Sales
- Does not believe he has enough information to say he is for or against
- Shares the concerns about the smells
- Asked why some marijuana grows smell when the systems Mr. Tuck spoke about are supposed to be in place
- Does not want customers coming to their lot if there is going to be a smell
- Doesn't know what kind of retail store could go in with only five parking spots

Questions:

Board Member Case asked Mr. Tuck if the downtown location was important for his business. Mr. Tuck explained the difficulties of finding a place that would allow a grow operation. This building was considered because of the possible conditional use, the owner was okay with it, and if we would be able to address all the items that were necessary.

Board Member Case asked Mr. Tuck to speak on what his current businesses were and their location. Mr. Tuck said they were located at 1222 North Academy for almost five years but had difficulties with the owners not addressing things, so eventually ended up at 5156 North Centennial Boulevard, which is where the current dispensary is located.

Board Member Case asked in terms of operations, what was the snapshot of his businesses? Mr. Tuck said there are four owned licenses. One license is for the dispensary on Centennial, and one license is for the grow that is currently before the board. There is also a grow and a MIP, which is an approved fusible product license at East El Paso and Cimarron. Mr. Tuck explained it is like a lab where we process other people's products into other entities, whether to smoke or use them for drinking or eating products.

Board Member Case said he thought he heard Mr. Tuck say the location of this particular site was not sensitive to the building and that he could have the grow in other places if he could find a building that would allow it. Mr. Tuck said that was correct if he could find one that would allow it, but because of the timeframe of the application, if this location was not approved, they would lose the license.

Board Member Case asked from the standpoint of activity at this location, which is one of the criteria, what would that look like with the people coming and going, as well as deliveries?

Mr. Tuck explained it would only take a couple of people to maintain it, as it will all be automated. As far as deliveries are concerned, the only product leaving the store would be after it is harvested, cultivated and packaged, which would be every couple of weeks.

Board Member Case made the comment to Mr. Tuck that he really wasn't moving to this location because it was downtown, but only because the building was available. Mr. Tuck said that was exactly right and that it would be a shame if this project was not approved because he would end up losing the license, which he has had since 2009.

Board Member Case asked Mr. Tuck if he had spoken to Colorado Springs Utilities (CSU) about the capacity of the existing underground system to take on more power, as well as if he had thought about using solar power on the building?

Mr. Tuck said he had an electrician that was going to do all the work and that the power supply would be upgraded. Mr. Tuck said they were going to use the power off of the pole, which can take up to 800 amps, and that is what would be used. As far as solar, Mr. Tuck said it has been considered but really depends on how long they would be located in that building.

Board Member Case asked if signage was needed? Mr. Tuck said they would not be needing signage, but signage might be needed for the retail space in the front.

Board Member Case asked Mr. Tefertiller if the Bonicelli Brothers had some master plan for this area. Mr. Tefertiller said he was not aware of any working plans or marketing plans.

DISCUSSION AND DECISION OF DOWNTOWN REVIEW BOARD:

Board Member Raughton said in his role on the Planning Commission that grow operations have not represented the problems that have been seen with

dispensaries. He did not share the concerns of other board members because of the filtration system. Board Member Raughton said he would be supporting this project because it is good to have a developer or retailer who was interested in converting it, making it an attractive building, and making this part of the gateway to the downtown.

Board Member Gullixson thanked Mr. Tuck for his time and told him he was clearly committed to the community. He agreed that the industry was here to stay and would only grow. Board Member Gullixson said the board had to approach this through responsible decision making and how would that look in the community. Board Member Gullixson did not think this project would fit within the vision of what the downtown should be. He expressed that he did not want that to diminish the work Mr. Tuck for the community, but said he could not support this project.

Board Member Heggem said she agreed with Board Member Gullixson in that this was the gateway into the City and there were big plans for the area even though they had not come to fruition yet. Everybody who is involved in the downtown has a long term vision, and this area is critical because it is one of the gateways to our City. Board Member Heggem expressed that she was not against this business because it is part of living in Colorado. She was happy that a dispensary would not be allowed due to the 1000-foot buffer. Board Member Heggem said this was not the best use for this building, and this kind of grow operation could easily be in other parts of the city. Board Member Heggem said without a lease or a prospective tenant with a signed letter of intent to activate the front space, she would not be supporting this project.

Board Member Case thanked Mr. Tuck for his work with this project. The three criteria the board looks at are the surrounding neighborhood, intent of zoning and the comprehensive plan. For the comprehensive plan, Board Member Case does not believe the use would create activity to the building and believed the use would be better for another location. Board Member Case added the saturation in the area of similar businesses was a concern for him as well.

Board Member Colvert said she echoed what many of the other board members had to say, especially Board Member Gullixson. Board Member Colvert explained this project failed to meet two out of the three criteria, and she would not be supporting the project.

Board Member Hahn said he was conflicted with the industry as a whole, but said the impact on the surrounding neighborhood would not attract a lot of attention and the mitigation of the environmental sounded effective. In terms of physical impact on the neighborhood, Board Member Hahn said it was somewhat moderated, but he agreed with some of the other comments in

terms of what this location could be, given the prominent visual presence.

Chair Coppedge asked if the approval or disapproval of the project was tied to the applicant or to the property. City Attorney Ben Bolinger said it is tied to the property.

Chair Coppedge expressed that he was totally neutral on the industry. He explained that the license timing was not the board's problem and would not impact the decision. Chair Coppedge said there were a lot of words in this application, but it was difficult to understand the details of what really would be done. He pointed out there was not an architect, a landscape architect in the downtown, or even a civil engineer who could draw planting plans. There were things that could have been done from a professional standpoint that would have clarified a lot of things.

Chair Coppedge said it sounded like the second stage filtration system was actually going to be on the outside of the building, but none of that was drawn on the west elevation. From an activation standpoint, the grow would not have anything to do with activating the site, and would only be the retail space in the front that would bring some life to the site. Chair Coppedge said he was concerned about the redevelopment of the area and the conditional use going in perpetuity because potentially other developers might not want to develop an area that has a grow operation right there. Chair Coppedge said this was a difficult vote to make.

Mr. Tefertiller addressed the board to lay out the different options the board could make in this situation.

- Approve the application with the technical modifications
- Approve with the technical modifications, as well as additional modifications from the board
- Deny the application
- Postpone or continue the application to the next meeting allowing the applicant to have the next couple of week to address some of the concerns that have been expressed

Board Member Raughton motioned to postpone the vote until the next meeting with Board Member Case seconding the motion.

Board Member Colvert said it was important to point out the reasons for postponement and what else needed to happen in the meantime.

Chair Coppedge said for a postponement, the board would need details on several unanswered questions like what would be done to the front of the building (without owning the building) and who is making the promise to upgrade

the signage. It is the lack of firm data that or commitment from people who actually own the building. These are things that the board needs to understand in order to protect downtown.

Board Member Heggem listed some of the things that needed to be addressed:

- further developed plans to be able to see the ventilation system on the west side
- How is it going to look?
- More professional landscape idea with the extension that shows the screening of the parking lot
- Show ADA requirements are being met
- A floor plan that reflects the retail space

Board Member Case added:

- A map of where the other grows are located to address the saturation topic
- A commitment from Colorado Springs Utilities that they can actually do this
- A copy of the lease
- Where the applicant is operating now and how this base would operate with those others

Board Member Heggem wanted to know if the board could get more information from Downtown Partnership as to any plans, any vision, what have they done to envision this gateway for this part of town? Board Member Heggem was concerned if the applicant made all these improvements and it did not fit with the Downtown Partnership's vision.

Mr. Tefertiller commented that a letter was passed out from Downtown Partnership that described some of the gateway improvements that are planned for the area, including sidewalks, some architectural or artistic treatments on the big retaining wall on the east side of Nevada Avenue, landscaping improvements and others. Mr. Tefertiller said if the item was postponed, additional visuals or staff could be made available.

Board Member Gullixson said he did not think giving an additional month would make the project fit any of the three criteria. It is not activating the space nor accomplishing what the community wants to see downtown. Board Member Gullixson said he did not want to waste the applicants time and wanted to know what Mr. Tuck's thoughts were on a postponement.

Mr. Tuck said he understood the concerns but it would take him time to get a contractor or an engineer to have something drawn up. Mr. Tuck said he was

willing to do whatever he needed to do to make this work. Mr. Tuck mentioned that the building had not been leased for a while and that he would be making improvements to the site. Mr. Tuck asked to have a definite list of what the board wanted to see if this item gets postponed.

Board Member Raughton said he saw this as a significant improvement in terms of the tax base, in terms of the economy and the appearance of that gateway. Board Member Raughton said he would support this project as it stands.

The motion for the postponement failed.

Chair Coppedge said as part of the discussion for approval of the project, additional criteria or technical modifications could be added to the motion. City Attorney Ben Bolinger confirmed that technical modifications, which are generally things that should be shown on the document, or conditions of approval could be added that would become part of the zoning requirements.

Chair Coppedge asked if there were any technical modifications that anyone would like to add?

Board Member Case said he was trying to be helpful to both the applicant and to the community. Denying an approval motion today still leaves the project hanging out there and doesn't give the applicant anything to go on.

City Attorney, Ben Bolinger, explained that anything that was quasi-judicial could be appealed to council. When a conditional use is denied, the applicant or the owner of the property would be barred from bringing a similar application for a year, unless that is waived by the director of the planning department and there are specific criteria for waiving that.

Board Member Case said that was what he was getting at, if there is a denial or a failure of this motion, then would this hearing be done today?

Chair Coppedge asked if the applicant could appeal to council? Mr. Bolinger answered that it would be at the applicant's discretion to appeal to council, but if the motion failed, the hearing today would be finished.

Board Member Case said a lot of information was presented to the applicant on a variety of issues that the applicant could take forward if he chooses to appeal. If it came back to the Downtown Review Board as a postponement, since the board spent a lot of time on this already, it would help the board to have more information. Board Member Case said he did share Board Member Gullixson's thought that he was not sure the application would get him past the activation of

the property for the sake of the Downtown Master Plan. As some have already said, the proj

Motion by Raughton, seconded by Case, to postpone to the March 4, 2020 DRB meeting.

The motion failed by a vote of 3:4:2:0

Aye: 3 - Case, Raughton and Heggem

No: 4 - Hahn, Colvert, Coppedge and Gullixson

Absent: 2 - Briggs and Nicklasson

Motion by Raughton, seconded by Coppedge, to approve a conditional use development plan for a medical marijuana grow (MMJ) within the Form-Based Zone - Transition Sector 1 (FBZ-T1) located at 910 South Nevada Avenue based upon the findings the request complies with the conditional use review criteria in City Code section 7.5.704 once the technical modifications listed in the Staff report are complete.

Technical modifications to the Conditional Use plan:

1. Finalize landscaping plants and perimeter - landscaping should extend to the curb cut on the SE side.
2. Revise the plan to show proposed facade improvements on the parapet.
3. Edit or remove the Book and Page reference on the east side of the property per the Surveyor's comments.
4. Show ADA route from the parking space to the door and indicate that it does not exceed a 2% slope.
5. Renumber the pages to include the 4th page.
6. Include a note on the plan where the odor filters will be located.
7. Update the plan's parking calculations for FBZ:
 - a. Grow = 1 Stall per 1000 Square feet,
 - b. Store = 1 Stall per 500 Square feet,
8. Update the plan to show all existing utilities per CSU review comments.

The motion failed by a vote of 2:5:2:0

Aye: 2 - Coppedge and Raughton

No: 5 - Hahn, Colvert, Case, Heggem and Gullixson

Absent: 2 - Briggs and Nicklasson

7. Adjourn