



## Meeting Minutes - Final Downtown Review Board

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Wednesday, August 4, 2021

8:30 AM

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### 1. Call to Order

#### Rollcall

**Present:** 9 - Hahn, Vice Chair Colvert, Chair Case, Raughton, Heggem, Nicklasson, Mikulas, Lord and Kuosman

### 2. Approval of the Minutes

**2.A.** [DRB 21-459](#) Minutes for the June 30, 2021 Downtown Review Board meeting.

Presenter:

Randy Case, Chair of the Downtown Review Board

**Motion by Lord, seconded by Nicklasson, that this Minutes be approved Approve the minutes for the June 30, 2021 Downtown Review Board meeting. The motion passed by a vote of**

**Aye:** 9 - Hahn, Vice Chair Colvert, Chair Case, Raughton, Heggem, Nicklasson, Mikulas, Lord and Kuosman

### 3. Communications

Ryan Tefertiller - Urban Planning Manager

### 4. CONSENT CALENDAR - None

### 5. UNFINISHED BUSINESS - None

### 6. NEW BUSINESS CALENDAR

**6.A.** [DRB DP 14-00008-A1 MN21](#) A Minor Amendment to the Carter Payne Development Plan together with a Parking Warrant to allow three off-street parking stalls where 24 stalls are required.

Presenter:

Ryan Tefertiller, Planning Manager, Planning and Community Development Department

**Staff presentation:**

Ryan Tefertiller, Urban Planning Manager, presented a PowerPoint with the scope and intent of this project.

**Proposal:**

- Retain and improve outdoor seating implemented during pandemic
- Re-route public sidewalk around seating area
- Reconfigure off-street parking for ADA stalls

**Application:**

- Amendment to previously approved plan
- Warrant for parking
  - Increased outdoor seating, together with
  - Decreased off-street parking supply
  - Request: 3 stalls where 24 are required
- Other FBC standards are met

**Analysis:**

- Recent pandemic has increased the value of outdoor seating for restaurants and bars
- Form-Based Code and Experience Downtown Master Plan support increased activity in the public realm
- Use of new railings, gates and ground plane treatment will improve aesthetics
- Public sidewalk to be reconstructed around the area
- Ample on-street parking available adjacent to the site
- Numerous multi-modal transportation options
- Warrants require consideration of five criteria:
  - Is the requested Warrant consistent with the intent of the Form-Based Code?
  - Is the requested Warrant, as well as the project as a whole, consistent with Section 4 - Design Guidelines of the form-based code?
  - Is the requested Warrant reasonable due to the proposed project's exceptional civic or environmental design?
  - Is the requested Warrant consistent with the Downtown Master Plan?
  - Is the requested Warrant consistent with the City's Comprehensive Plan?

**Recommendation:**

Recommend approval of the proposed Development Plan Amendment with a Parking Warrant based on the findings that the project meets the required Warrant criteria.

**Technical Modifications****Applicant Presentation:**

Jeff Zearfoss, owner, was present to answer any questions or concerns.

**Questions of Staff:**

Board Member Colvert said overall, she is in support of this project predominantly based on the surplus of on street parking nearby. However, because there's so many of these other temporary outside dining permits that were issued that are expiring, she was curious what the thoughts are on this

creating precedent, because she thought about take home and those kind of parklets that are coming out. Obviously, that's not feasible long term. Board Member Colvert asked if Mr. Tefertiller anticipated those businesses coming to the Downtown Review Board for a similar type of permanent option?

Mr. Tefertiller said he thought it would be rare that other similar users have as much opportunity for significant outdoor dining as the Carter Payne. Carter Payne's existing availability of lot coverage, as well as the expansive amount of public right away from curb to property line is rare. There are not many businesses that have that much opportunity for outdoor seating. Most downtown restaurants and businesses have much higher lot coverage, and very limited ability to retain outdoor seating long term.

Board Member Nicklasson said by shifting the sidewalk, it definitely shifts the flow of things and asked if the properties to the north were going to end up having to do something similar.

Mr. Tefertiller explained he has worked with Public Works and ADA, and they are comfortable with the single property shift. Mr. Tefertiller shared that his hope is that the properties to the north at some point in time redevelop, and if they do, there would be a good conversation about the best use of that public right of way, or potentially whether it makes sense to do a partial vacation and skinny-ing Pueblo up a bit.

Board Member Heggem and Chair Case asked about the amenity zone and if there were any requirements for the applicant. Mr. Tefertiller explained he had a technical modification that said to clarify the ground plane treatment of the amenity zone to ensure consistency with the Form-Based Code to ensure he could continue to work with the applicant regarding the amenity zone. There were several other comments about parking, landscaping needs, and trees that were addressed by Mr. Tefertiller.

Mr. Tefertiller said this is a six foot amenity zone between curb and sidewalk, which is wide enough and often used for new trees. There is the opportunity to plant new trees in that zone between the sidewalk and the curb, but he was not sure that's exactly what was needed or what would be the final outcome. If the board felt like a couple trees were needed in that area, then that could happen with coordination with Forestry to make sure there's adequate separation from the existing trees. We also want to make sure that new trees are irrigated. So, there's additional considerations there as far as getting irrigation on in the amenity zone. But those are all considerations that that we can look at.

Board Member Hahn said it would be nice if the curb cut that provides the access to handicap would show on this plan. Mr. Tefertiller agreed and said he would get that clarified.

Board Member Kuosman asked if the city reviewed the plan from an accessibility perspective, both the mulch as the full ground cover and the past two restrooms. Mr. Tefertiller explained ADA accessibility on a private site is the responsibility of the operator, the project architect and then Regional Building reviews and they would make sure that the outdoor seating area is accessible.

Board Member Colvert asked if there were any bicycle racks on this plan, and Mr. Tefertiller said there was not a bicycle rack in the plan, but he believed there was one at the corner of Weber and Pueblo.

**Questions of Applicant:**

Board Member Lord asked Mr. Zearfoss to address landscaping and the bike racks.

Mr. Zearfoss said there is an existing bike rack on the southern most corner of the property that is a functional piece of art. It was constructed by several members of the Carter Payne team in consultation with Steve from Concrete Couch. Mr. Zearfoss also stated that pre-COVID, there was funding for a Pike Ride space at the location, but he was unsure about the funding now. There are Pike Ride locations about a half block west and about a block to the northwest at Pioneers Museum.

For landscaping, Mr. Zearfoss said they have committed to the maintenance of the existing trees on the property moving forward. All the trees on the property will remain as part of this project. The plan is to take the sidewalk that is routed between the trees and the building and re-route it around the trees. City Forestry has been consulted to ensure the spacing of the sidewalk relative to the trees is sufficient to not cause any long term damage to the ridge structures. There are no final details as to the landscaping plan for the new six foot amenity zone, but Mr. Zearfoss said they were committed to working with Mr. Tefertiller in the technical modifications of that.

Board Member Nicklasson asked if the landscaping was all mulch because she did not see any shrubbery or flowerbeds. Mr. Zearfoss said the landscaping is currently all mulch, but it is not intended as a long term solution. They are looking to maintain as much pervious cover on the space as it relates to issues such as stormwater and runoff.

Board Member Hahn commented that the ADA handicap ramp looked to be in pretty rough shape, and Mr. Zearfoss said the goal is to work with the architect and general contractor to move that process along before the temporary exemption on outdoor dining expires.

Board Member Colvert asked if there had been any pushback from customers or adjacent property owners regarding the temporary use of that space and eliminating some parking, as well as if they would be upgrading outdoor dining tables? Mr. Zearfoss said they have not received any pushback. During the day, the parking is largely used by city, county, and court employees. Those parking spaces are usually available the evening hours when Carter Payne is just opening. As to the outdoor tables, Mr. Zearfoss said they ordered new tables back in February and just got them delivered and set up the prior week of the meeting.

Board Member Heggem discussed the mulch and the challenges with the weather and keeping it maintained and off the sidewalk and asked if Mr. Zearfoss had thought of that. Mr. Zearfoss admitted that over the last year and

a half, his staff had become adept at sweeping the mulch back onto the patio. He agreed that a metal edging of some sort along the edge of the sidewalk would help to keep the mulch in place and was amenable to exploring other options for ground cover.

**Supporters:**

N/A

**Opponents:**

N/A

**Rebuttal:**

N/A

**Discussion and Decision of the Downtown Review Board:**

Board Member Nicklasson said her biggest concern is the amenity space. Typically, the details of the amenity space come in the plans that are presented to the Downtown Review Board and she would like some sort of indication of what will be happening in the six-foot amenity space and what are the requirements if any in the Form-Based code.

Mr. Tefertiller said Section 2.8.4 of the Form-Based code titled Amenity Zone, provides three different options for amenity zones. There is the planter type, narrow type, or wide type. With a 6-foot wide amenity zone, this project falls into the narrow amenity zone. It allows a range of different materials: breeze, rock, mulch, and granite. It does not call for pavers and tree grades, which is more in the planter style. It does allow for a fair bit of flexibility. It doesn't specifically list shredded bark mulch, but in the past, staff has used a little bit of flexibility to make sure that we're doing something appropriate. If the board feels that we should be looking at rock versus grass versus bark mulch, or if the board felt like sod or turf was the appropriate approach, that could be looked at as well. So, there is code, but staff has used flexibility and discretion in the past to allow appropriate designs of amenity zones.

Board Member Nicklasson commented it would be rock mulch that holds in place much better than bark. Mr. Tefertiller said breeze or rock mulch are specifically mentioned in the code as the types of materials normally seen in narrow amenities.

Board Member Raughton said rock mulch could turn into weapons and break windows depending on the clientele, and Mr. Tefertiller pointed out the maximum size of the rock mulch could only be three-quarter inch and it's more of a gravel. Board Member Raughton said that was the direction he did not want to go in because that is exactly what can be picked up and thrown.

Chair Case asked if the board was satisfied with the technical modifications listed or if there were additional technical modifications needed. Board Member Lord, who made the motion to approve said he was comfortable with the Form-Based code with no need for any additional technical modifications.

**Motion by Lord, seconded by Vice Chair Colvert, to approve the Carter Payne Amendment with a Parking Warrant based upon the findings that the application**

complies with the criteria for a Warrant found in Section 5.4 of the Form-Based Code, subject to compliance with the following technical plan modifications:

**Technical and Informational Modifications to the Form-Based Zone Development Plan Amendment:**

1. Address minor plan items including: add the file number to page 2 of the plan; correct the second tax schedule number; and remove the words "A2 bar" from the parking table's lower level classification.
2. Add a note to the plan stating, "Street trees within the fenced area will be maintained by the abutting property owner."
3. Adjust labels and leaders to clarify that the new public sidewalk is 6 feet wide and that the amenity zone between the sidewalk and the curb is also 6 feet wide.
4. Clarify the ground plane treatment of the amenity zone to ensure consistency with the Form-Based Code.
5. Confirm that City Stormwater Staff has accepted or waived a drainage memo for the property.

The motion passed by a vote of 9:0:0

**Aye:** 9 - Hahn, Vice Chair Colvert, Chair Case, Raughton, Heggem, Nicklasson, Mikulas, Lord and Kuosman

## **7. Informal Updates/Presentations**

Staff Overview of Major Downtown Projects

Presenter: Ryan Tefertiller

## **8. Adjourn**