



BOARD OF ADJUSTMENT STAFF REPORT

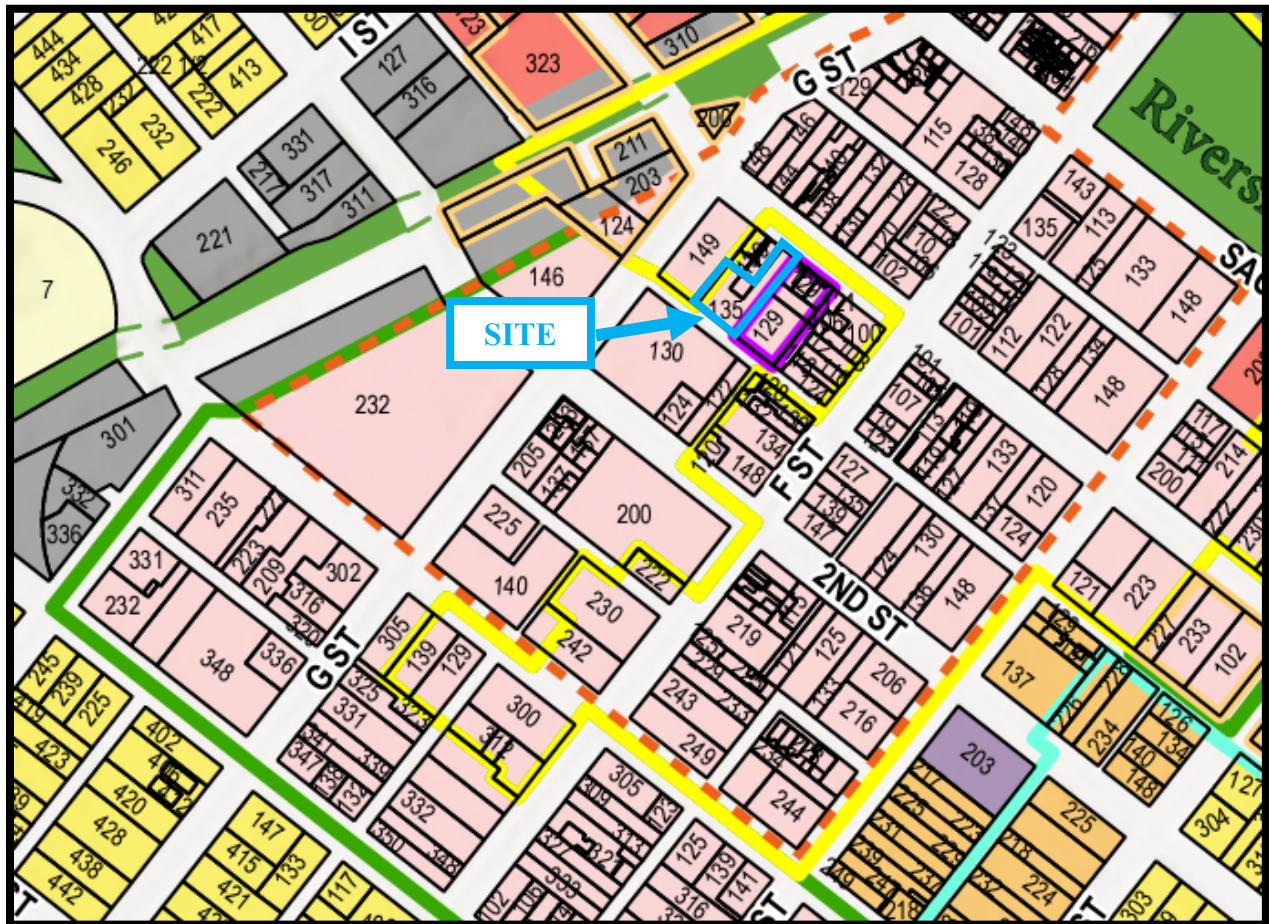
MEETING DATE: February 26, 2024
AGENDA ITEM TITLE: Sundry Variance Application -135 West First Street
AGENDA SECTION: Public Hearing

REQUEST: The request is to receive a variance from the maximum building height of 35 feet in the C-2 Central Business District. The applicant is requesting a maximum allowed height of 38 feet for the rear portion of the building and 40 feet for an elevator shaft towards the center of the building for ADA accessibility.

APPLICANT: The applicant is The Sundry, LLC, represented by Nathan Young.

LOCATION:

The subject property is legally known as Lockett/Sundry Boundary Line Adjustment Block 21, City of Salida, Chaffee County, Colorado. This property is also known as 135 West First Street.



PROCESS:

Variations are addressed in the City's Code of Ordinances, Section 16-4-180, Zoning Variations. Variations may be granted from the standards of the underlying zone district shall be authorized only for maximum height, minimum floor area, maximum lot coverage, maximum lot size, minimum setbacks and parking requirements.

The Board of Adjustment holds a public hearing after fifteen days advance notice of the hearing. The public hearing shall be held, at which any person may appear or be represented by agent or attorney. The Board, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance. The Board may make a decision to approve, approve with conditions, deny, or remand the application back to the applicant for modification.

OBSERVATIONS:

1. The subject property is located within the Central Business District (C-2), the Historic Protection Overlay District (HPO), and the Central Business Economic Overlay District (CBEO). Surrounding properties are also within the C-2 zone district and CBEO.
2. The purposes of the zone district and overlays for this property are as follows:



- a. The purpose of the Central Business District is to provide for business and civic functions that make up the City's core. The District has a strong pedestrian character and provides for concentrated commercial activity. It contains a mix of business, commercial and residential uses, and serves the needs of the entire community and of visitors to the community.
- b. The purpose of the Historic Protection Overlay is to provide for the protection of historic character in the areas surrounding the Downtown Historic District and to

ensure that downtown development is compatible with and enhances the historic, cultural and architectural heritage of the City.

- c. The purpose of the Central Business Economic Overlay is to establish standards to preserve and protect the downtown area as a viable commercial district, and to ensure that future development be designed and planned in a manner compatible with those goals.
3. In order to construct a theater with the desired features, such as unobstructed sightlines from the balcony seating area to the stage and screen, good accessibility for patrons, and one that meets the egress requirements, the applicants are requesting a variance from the 35 foot maximum height currently allowed by Code. The request is to be allowed 38 feet in height for the rear portion of the building (shown in purple below) and 40 feet for the elevator shaft for ADA accessibility (shown in blue).

REQUIRED SHOWING (Section 16-4-180(e)):

Variations from requirements of this Chapter shall be considered an extraordinary remedy. When considering, reviewing and deciding on whether to approve a variance application, the Board of Adjustment must find that all of the following criteria have been met:

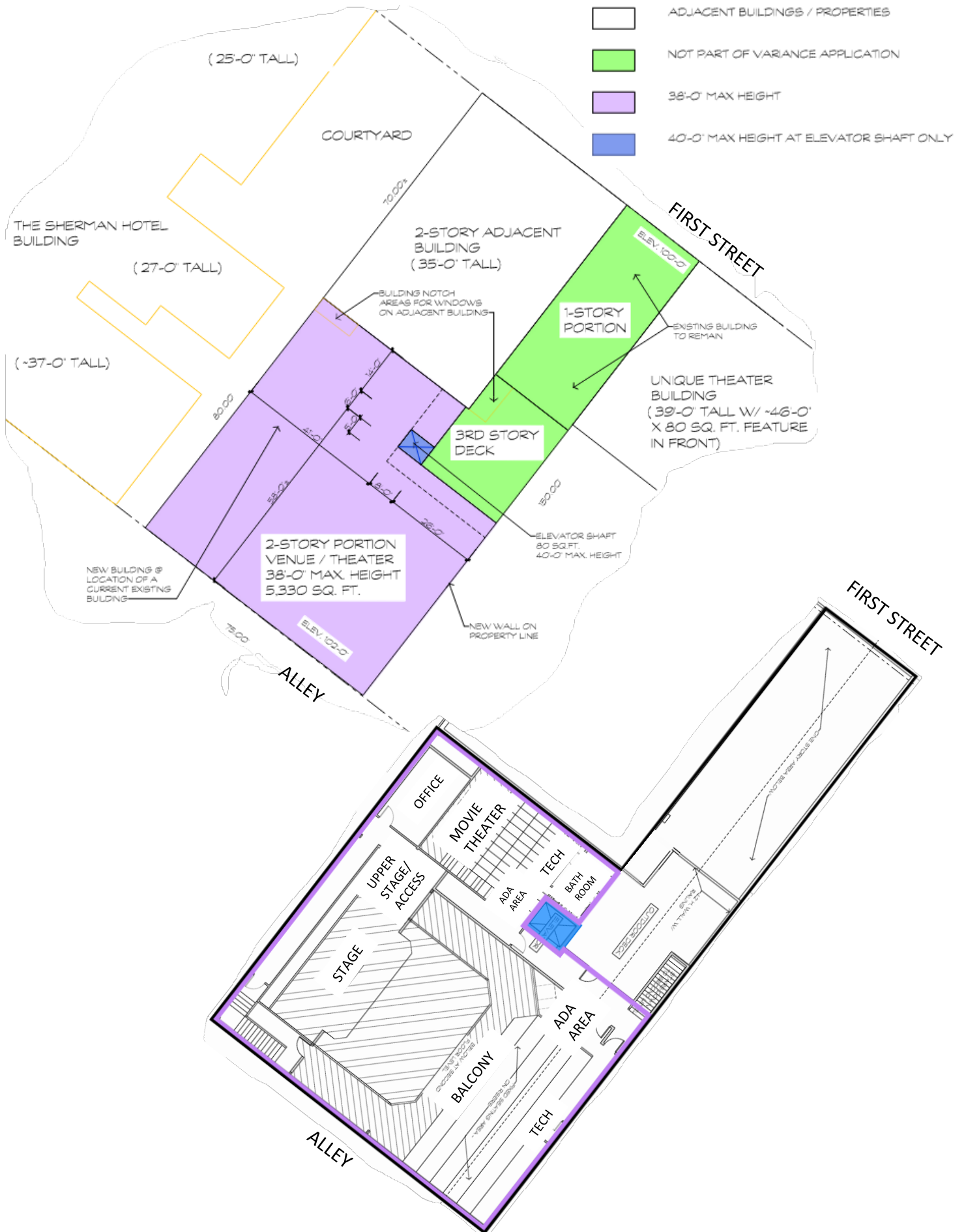
1. **Special circumstances exist such that strict application of the standards adopted in this Chapter would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional or peculiar limitations to the dimension, shape or topography of the property, such as slope, standing or moving water, wetlands, floodplain, rock features, narrowness, shallowness or irregular shape of a lot.**

Applicant's response: *The proposed project is a community oriented live performance venue with two movie theater areas located in the heart of the downtown. The neighbor to the east is the Unique which is 39'-0" tall for the main body with a raised center gable ~ 46'-0" tall. The west neighbor is a two story structure. The subject property is unique for new development in downtown Salida due to its large footprint.*

The subject property has a single 25'-0" lot street presence on First Street. It extends back 150'-0" to the alley. At ~70'-0" it expands its width to 75'-0" behind the neighboring two story building. From the front of the building on First Street to the alley the grade rises 2'-0". To measure building height the LUC definition is used - shown below:

Building height means the distance measured on a vertical plane from the average preconstruction or post-construction grade around the perimeter foundation of a building or structure, whichever is lower, to the highest point on the roof surface of the building or structure.

As a community venue with a higher public occupancy load, the exits are required to be on grade at both the front and rear exits. The venue is located in the back of the lot adjacent to the alley, so the floor in this section needs to be raised to the alley level. Per the LUC height definition, the height is measured on the average of the perimeter grade. In effect the project then loses 1'-0" of overall height for the venue area.



Staff Comments: The special circumstances are twofold; one, that due to the topography of the lot, the larger portion of the lot, which has the space to contain the venue, loses a foot of height based on how height is measured by the Code, and secondly, that this is a unique use with unique requirements to be a successful venue in the Central Business District. Special circumstances exist because a vibrant and functional theater and event venue has specific structural and accessibility needs to meet the expectations of today's audiences and to ultimately be successful.

2. The requested variance would not create a substantial detriment to the public good and would not substantially impair the intent and purpose of this Chapter, this Code or the City's Comprehensive Plan.

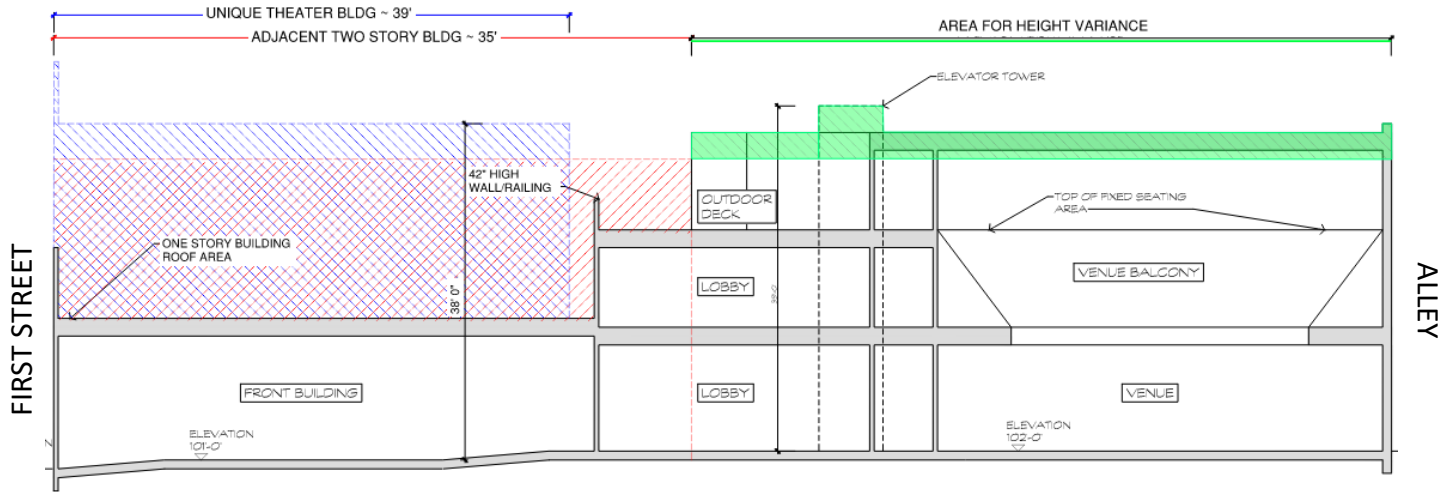
Applicant's response: *The C-2 Central Business District zone promotes concentrated commercial activity that serves the need of the community plus attracts visitors. A community centered indoor multi-purpose venue with an occupant load of 500 and movie theaters is the type of permitted use project that fits right in an active, vibrant downtown. The C-2 zone utilizes zero setbacks for density and a strong pedestrian character.*

Both will be maintained in the proposed project. The Sundry will remodel and update the First Street façade, restoring its historical features with a modern take to compliment the surrounding downtown buildings while maintaining a height that is within a few feet of the existing front. The pedestrian view from the sidewalk will be virtually the same. The rest of the project will replace the current rear portion of the building, starting ~70'-0" back from First Street. The requested height variance areas are located to the rear of the property and out of the public view corridors. See the attached Diagram XI, photos, and 3D views (X2 – X4).

Staff Comments: As stated above in the purpose statements of the three layers of zoning on this property, this proposal will not impair the intent and purpose of the Code, but rather, allow for the intent and purpose to be met in a viable way. This site is intended to provide for concentrated commercial activity that serves the needs of the entire community and of visitors to the community; to ensure development is compatible with and enhances the historic, cultural and architectural heritage of the City; and to ensure that future development is designed to preserve and protect the downtown area as a viable commercial district.

Policy E&S-I.2 of the Comprehensive Plan states that “Zoning should not be an impediment to the Downtown and other areas and should not restrict innovative commercial development.” This variance request will allow the applicant to meet the specifications necessary to provide a viable performance venue that enhances the commercial core of the City.

3. The requested variance would not result in significantly adverse impacts to the natural environment or to the surrounding properties and neighborhoods.



Applicant’s response: *The Sundry wants to be a good neighbor and respect the existing conditions of their neighbors as much as possible. For this reason, the taller portion of the project is set to the rear of the property, back from the sides of the neighboring buildings. The front ~70’-0” of the original one-story portion of the building will remain one-story. This allows the existing windows on the south side of the adjacent building to remain and maintain their emergency egress and natural light. This also minimizes any potential negative impact on the neighboring structures. Where the new structure will conflict with two existing neighbor’s windows in the rear, The Sundry building will jog in to allow a vertical light/ egress space for the windows. The Sundry owner has already come to an agreement on this with the owner of these two windows. Setting the taller portion of the building to the rear puts the majority of this section back behind the existing two-story neighbor. In between the front one-story section and the back higher venue section will be a two-story transition area with a rooftop deck.*

Staff Comments: The applicant has designed the project with the surrounding properties in mind. There is no requirement that the applicant preserve the adjacent building’s egress and natural light as they are allowed to build to 35 feet lot-line to lot-line. Adjacent historic buildings, as well as others in Downtown, are built to the same approximate height and have features in excess of the height requested, therefore the impacts on the neighborhood are akin to the current effects of existing historic buildings and features.

One comment letter was received from the neighborhood and is included in the packet.

4. The granting of the request is the minimum variance necessary for reasonable use of the property or building and the least deviation required from the applicable zoning standard to afford relief.

Applicant's response: *The majority of the project will be a live multi-use performance venue. The second level balcony in the venue will double as the larger movie theater with a fixed seating area. A small movie theater with fixed seating will also be located on the second level. Assembly buildings for performance and entertainment require more volume and ceiling height to best provide occupant sightlines to the stage or screen from the seats. To minimize the number of structural columns to allow for larger clear spans for better sightlines, it requires that the structural ceiling and floor members be taller. Also, the mechanical ductwork and fire suppression systems need to serve the area but stay above the view corridors for clear sightlines to the stage. Since the lot has the 2'-0" grade difference from front to back it is the rear venue portion that deals with the loss of 1'-0" from the overall building height maximum. To maintain a proper exit plan, the rear exits need to be on grade with the alley. In effect the variance request for 38'-0" will net the rear portion of the building a 37'-0" overall height. This extra space will allow The Sundry to maintain proper exiting at the alley grade level and a proper line of sight for the public's viewing pleasure.*

Assembly buildings are also required to be accessible. Per accessibility codes, accessibility should be fair and equitable to all of the occupants. Fixed seating areas are required to have accessible seating in the rear 60% of the area. Being able to take the elevator up to the top of the venues will best accommodate the accessible seating areas, allowing for fair and equitable direct travel access. The accessible seating areas at the top of the venues will be at the same level as the roof deck over the two story section of the building. Therefore, the same elevator access will accommodate fair and equitable accessibility to this roof deck for all occupants.

Elevators have a required clear overhead dimension from their last stop of ~12'-7" before a roof system. This makes it impossible to bring an elevator into a lower height compliance in a building of this use. The requested height variance for the 80 sq. ft. of the elevator shaft is 40'-0". As discussed above, this will actually give the elevator 39'-0" to work with. The elevator is located in the center of the project. This shaft will not be visible from the ground level from either First Street or the alley.

Staff Comments: This is the minimum variance needed to create this type of venue with the required accessibility.

REVIEW AGENCY COMMENTS:

Public Works, David Lady – No Concerns

Assistant Fire Chief, Kathy Rohrich – No concerns at this time.

Chaffee County Building Department, Chad Chadwick – No concerns or comments until building plan submittal for examination.

Xcel Energy, Sterling Waugh – No Concerns

Atmos Energy, Dan Higgins - No Response

REQUIRED ACTIONS BY THE BOARD:

1. The Board shall confirm that adequate notice was provided and a fee paid.
2. The Board shall conduct a public hearing.
3. The Board shall make findings that points 1 through 4 of the above section are met by the applicant.

RECOMMENDED FINDINGS:

1. That the variance request is in conformance with Section 16-4-180 (e), Required showing, because special circumstances exist, the variance will not create a substantial detriment, the variance will not result in significantly adverse impacts, granting of the variance request is the minimum variance necessary and is in keeping with the general purposes of the Code.

STAFF RECOMMENDATION:

Staff recommends the Board of Adjustment **APPROVE** the Sundry Variance request to receive a variance from the maximum height of 35 feet to allow up to 40 feet in height for the elevator shaft only, and up to 38 feet in height for the rear portion of the venue.

RECOMMENDED MOTION: “I make a motion to approve the Sundry Variance request as it meets all the review standards for a Zoning Variances, subject to the following condition.

BECAUSE THIS APPLICATION IS FOR A VARIANCE, THE SALIDA BOARD OF ADJUSTMENT SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. THE DECISION OF THE BOARD OF ADJUSTMENT MAY BE APPEALED WITHIN 15 DAYS OF THE DECISION AS SET FORTH IN SECTION 16-2-70 OF THE LAND USE CODE.

Attachments: Application materials
Proof of Publication
Citizen Comment Letter