



## PLANNING COMMISSION STAFF REPORT

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**MEETING DATE:** September 28, 2020

**AGENDA ITEM TITLE:** 2. Conditional Use – Downtown Street Patio at 118 North E Street

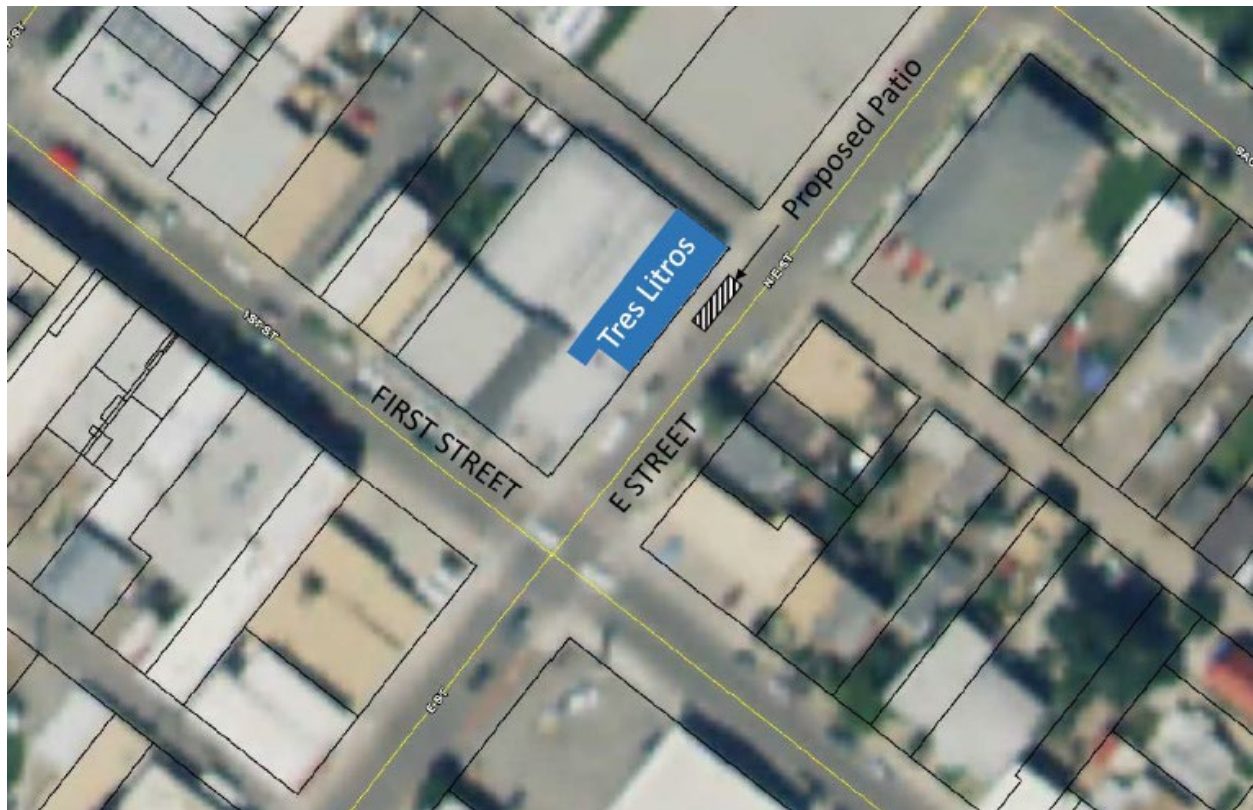
**STAFF:** Glen Van Nimwegen, Community Development Director

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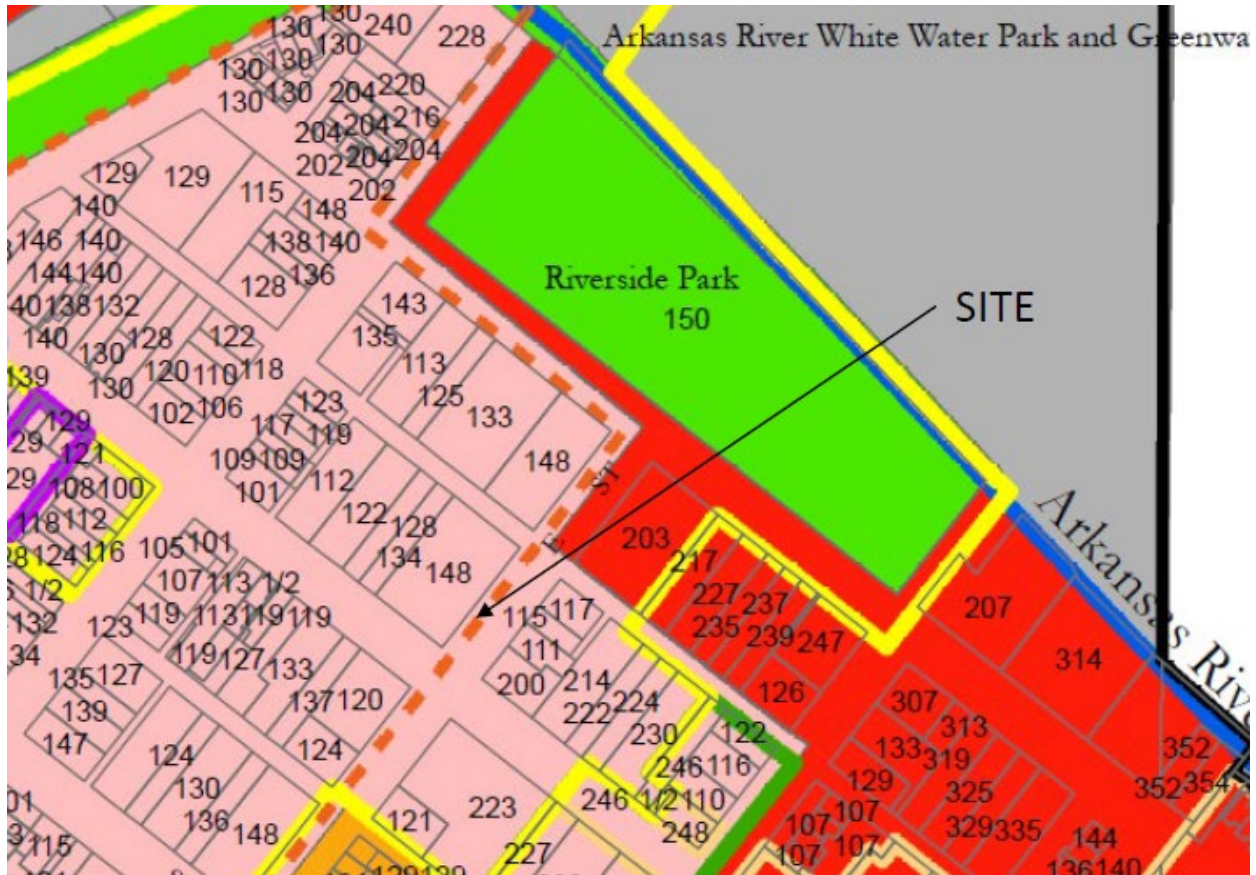
**REQUEST / BACKGROUND:**

The applicant is requesting conditional use approval for a downtown street patio to be placed in E Street in front of Tres Litros Beer Company located at 118 N. E Street. The conditional use is subject to the review standards of Section 16-4-190 (r) of the Salida Municipal Code.

**Applicant:** Jonas Harlow, owner of building located at 148 E. First Street, which includes the recently opened Tres Litros Beer Company.



**Surrounding Land Use and Zoning:** Central Business District (C-2) and Commercial (C-1) districts. Land uses within the proximity include retail and residential.



- Commercial (C-1)
- Central Business (C-2)

The Planning Commission must find the use meets the general standards for conditional uses of Section 16-4-110 and the specific design standards for Downtown Street Patios as stated in Section 16-4-190 (r) of the Salida Municipal Code.

**A. 16-4-110 STANDARDS FOR ALL CONDITIONAL USES:**

An application for conditional use approval shall comply with the following standards. Staff response is underlined.

- (1) **Consistency with Comprehensive Plan.** The use shall be consistent with the City's Comprehensive Plan.  
A: Principle E&S-I. Existing Businesses. Salida will retain and help expand unique and independent local businesses.
- (2) **Conformance to Code.** The use shall conform to all other applicable provisions of this Chapter, including, but not limited to:
  - a. Zoning district standards. The purpose of the zone district in which it is located, the dimensional standards of that zone district and any standards applicable to the particular use, all as specified in Article V.

b. Site development standards. The parking, landscaping, sign and improvements standards.

A: Downtown Street Patios are allowed through approval of a conditional use as a way to enliven the outdoor environment and promote economic vitality while protecting residents, businesses and visitors. The Code includes detailed standards for the use. Those standards are discussed in Section B of this report.

- (3) **Use Appropriate and Compatible.** The use shall be appropriate to its proposed location and be compatible with the character of neighboring uses, or enhance the mixture of complementary uses and activities in the immediate vicinity.

A: Section 16-4-190 (r) includes detailed standards for the use. Those standards are discussed below. The use has been allowed on a temporary basis due to recently adopted COVID-19 emergency protocols. These were enacted by Council to increase social distancing by allowing commercial businesses and restaurants to temporarily expand into the adjacent public right-of-way. There have been no complaints from surrounding businesses or residents about Tres Litros' temporary outdoor space.

- (4) **Traffic.** The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking or loading problems. Necessary mitigating measures shall be proposed by the applicant.

A: The standards included in Section 16-4-190 (r) address parking, traffic and sight distances. The proposed location is not within an existing on-street parking space as it is the driveway for the previous auto maintenance business.

- (5) **Nuisance.** The operating characteristics of the use shall not create a nuisance, and the impacts of the use on surrounding properties shall be minimized with respect to noise, odors, vibrations, glare and similar conditions.

A: The purpose of the specific review standards for downtown street patios is to ensure they do not become a nuisance or impact surrounding properties. As mentioned in (3), there have been no complaints since temporary patio allowed. The brewery is open until 10 pm on weekdays and 11 pm on weekends.

- (6) **Facilities.** There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies which the use would cause.

A: The proposed use will not negatively impact existing facilities.

- (7) **Environment.** The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.

A: The use will not negatively impact the environment.





**Prior to Tres Litros; circa 2012**

**B. 16-4-190 (r) REVIEW STANDARDS FOR DOWNTOWN STREET PATIOS:**

Section 16-4-190 (r) sets standards, but allows modifications by the approving body, the Planning Commission. Below is an evaluation of how the proposal meets, does not meet or exceeds the standards:

- a. Downtown Street Patios will be allowed year-round for businesses that are open year-round. If the business is not open year-round the patio shall be removed from the right-of-way from October 1 to May 1 of each year. It shall be the responsibility of the business owner to remove snow from the street on all sides of the patio that cannot be reached by city snow plows, within 24 hours of a storm event.

A: The applicant is keeping the business open year-round. Staff is recommending that snow removal be a condition of the approval.

- b. Patios shall not exceed a size of eight (8) feet by twenty (20) feet within the roadway. The structures may extend over the sidewalk up to one (1) foot. Any proposed roof or covers shall be shown as a part of the application. Patios cannot obstruct access to city infrastructure such as water meters, curb shut-offs, manholes and tree grates.

A: The proposed patio is 9 feet by 27 feet. One foot of the width will be up on the curb, so the width will meet the standard. No water meters or curb shut-offs will be covered by the patio.

The length of the patio exceeds the standard by seven feet. Staff recommends the Planning Commission approve the additional length because it will not reduce parking and is in a scale appropriate to the business frontage on E Street. Currently there is no parking in the street adjacent to the main garage door opening to the business. There are four spaces between First Street to the northeast and the Tres Litros' front door. The proposed patio will not eliminate any spaces on E Street. The business has 87 feet of frontage on E Street. Staff believes the additional length is justified as it does not impact parking and is only one-third of the business' frontage.

- c. Ramps for accessibility shall be integral to the design and not present an obstacle within the sidewalk.

A: Staff has found that the use of temporary ramps that can be moved have been the most effective on F Street. In addition, we are stipulating the patio not be installed until the curb cut

for the previous driveway is replaced by vertical curb and the existing sidewalk be flattened to better accessibility in this area. The city will perform the work.

- d. Patios shall not be located at intersections of streets or alleys in such a way as to block appropriate sight triangles.

A: The proposed location will be setback a minimum of 10 feet from the edge of the building at the alley. The Public Works Director has determined there is appropriate visibility around the patio.



### **Tres Litros Today**

- e. Once there is one (1) Downtown Street Patio established within a block to include both street frontages, an additional patio may only be allowed through the conditional use process if the additional review standard to Section 16-4-110 (d) is met:

8. Additional Downtown Street Patio per Block. The additional patio will allow vehicle movements in the street; pedestrian passage and not overly restrict parking within the block. It shall be the applicant's responsibility to provide justification that the additional patio meets this standard.

A: This is the only patio within the block.

- f. The location of the patio must be in proximity to the front door of the business being served within an existing parking space.

A: The patio is directly outside of front door and roll-up garage door in conformance with this standard. There are no parking spaces in this location.

- g. Signage is not allowed on the patios except for customer menus and signage approved by the city for public purposes.

A: There is no signage proposed on the patio.

- h. Use of the patios shall be for retail food and beverage establishments and retail establishments that serve specialty foods and beverages (e.g. ice cream shops, coffee houses, and bars/distilleries/brew pubs) located within buildings in the downtown. Alternative uses may be considered through the conditional use process if an additional review standard to Section 16-4-110(d) is met:

9. Alternative Uses for Downtown Street Patios. The alternative use meets the intent of the Downtown Street Patio program by enlivening the outdoor environment and promotes economic vitality while protecting the health, safety and welfare of residents, pedestrians, businesses, and visitors and by meeting the Siting and Use Standards above. The alternative use should have a high customer turnover; be an attraction; provide interest to pedestrian level views; and allowing the use of fresco adds to the intrinsic value of the use.

It shall be the applicant's responsibility to provide justification that the alternative use meets this standard.

A: The patio is to serve the Tres Litros Beer Company, which is an allowed use for downtown street patios.

- i. The applicant shall reduce the impact on parking in the downtown by providing a minimum of one (1) off-street parking space for customers or employees. The parking space shall either be owned or leased within the C-2 district. Verification shall be provided with the application. This requirement may be met by providing a fee-in-lieu of the parking space in an amount equal to and in addition to the lease amount as provided in the revocable license agreement. Proceeds will be dedicated to parking purposes for the downtown.

A: The proposed patio does not eliminate any existing on-street parking within the E Street right-of-way.

- j. Installation of the Downtown Street Patio shall be approved by the Community Development Department.

- k. A Downtown Street Patio may not be combined with encroachment permits for use of sidewalks in accordance with Section 11-4-20 of the Salida Municipal Code.

A: There are no other encroachments that have been permitted.

- l. The initial approval of a Downtown Street Patio shall be for one (1) year. After review by the approving body after the initial period, the conditional use permit may be renewed for longer periods.

A: Staff recommends the conditional use be approved for one year, then the applicants must return and repeat the process for an extension which could be for a longer interval.

#### **RESPONSE FROM REFERRAL DEPARTMENTS AND AGENCIES:**

- Salida Fire Department: Doug Bess, Fire Chief, responded "No concerns."
- Salida Police Department: Lieutenant Russ Johnson responded "Looks good to me." Staff also inquired if there have been any complaints regarding the existing temporary outside space. There have been none.

- Salida Public Works Department: Public Works Director David Lady has been working with the applicant regarding the best location for the patio and the changes to the concrete walkway in front of the overhead garage door. His review comments have been incorporated into the staff recommendation.

**STAFF RECOMMENDATION:**

Staff recommends the conditional use for the downtown street patio to be located in front of Tres Litros Beer Company at 118 N. E Street be approved subject to the conditions listed below.

**RECOMMENDED MOTIONS:**

“I make a motion to approve the conditional use for the downtown street patio to be located in front of Tres Litros Beer Company at 118 N. E Street, as submitted, subject to the following conditions:

1. It shall be the responsibility of the business owner to remove snow from the street on all sides of the patio that cannot be reached by city snow plows, within 24 hours of a storm event.
2. The patio may be 9 feet by 27 feet, with one foot of the width on top of the curb and sidewalk. The location of the patio must not restrict access to the existing tree grate. The location shall be a minimum of ten feet southwest of the alley and allow four on-street parking spaces on the northwest side of E Street as approved by staff.
3. The patio may not be installed until the City completes the installation of new vertical curb and sidewalk in front of the garage door.
4. Use of the patio shall not exceed 10 pm on weekdays and 11 pm on weekends.
5. The conditional use is approved for one year from the date of approval. After re-review by the Planning Commission, the conditional use permit may be renewed for longer intervals.
6. Approval of a revocable license agreement is required prior to installation of the patio.

**Attachments:**

Application

Section 16-4-190 (r)

Proof of publication