



**AGENDA SECTION:** Public Hearing

The subject property is described as Lots 11-13, Block 21, City of Salida, Chaffee County, Colorado. This property is also known as 151 W. First Street.



## PROCESS:

The Salida Municipal Code, Chapter 16, specifies that Conditional Use applications be reviewed by the City of Salida Planning Commission at a public hearing after fifteen days public notice. The Planning Commission may make a decision to approve, approve with conditions, deny, or remand the application back to the applicant for modification.

The Planning Commission must find the use meets the review standards for a Conditional Use as stated in Section 16-4-110 of the Salida Municipal Code.

## OBSERVATIONS:



1. The applicant is requesting to utilize their courtyard to host an outdoor market and other possible events. This property is located in the Central Business (C-2) zone district, Central Business Economic Overlay (CBEO). Table 16-D, Schedule of Uses, does not identify outdoor retail or outdoor event space as a use; however, per 16-4-140 the proposed use may be considered a conditional use if determined to be substantially similar to a use specifically described. In this case, the Administrator has determined the use is substantially similar to temporary commercial activities.
2. This will be the 5<sup>th</sup> year that the applicant has utilized their courtyard space. The use of the space has been primarily an outdoor market over those years, with additional events being added in 2021. For 2022, in addition to an Artisan Market, the applicant may host a variety of other events and/or markets as the opportunity arises.
3. In previous years this request had been processed as a Limited Impact Review for a temporary commercial activity with more than 2 vendors and required additional permits and fees for a Multiple Vendor permit, as well as additional vendor fees on top of that permit. The Multiple Vendor Permit, established by Salida Municipal Code Chapter 6 and updated in 2019, is better

designed for individual, short-term events such as a weekend festival. This is a private courtyard space that will be used for both recurring and one-time events for the remainder of 2022, sometimes hosting multiple vendors and sometimes not. This permit allows us to consider all events under one Conditional Use Permit. It simplifies the process while still allowing for a public hearing.

Furthermore, in October of 2021, the Salida City Council approved a waiver of the vendor fees required by the Multiple Vendor Permit for the 2021 market.

4. New since 2021, an indoor eating and drinking establishment has opened and has obtained a liquor license which includes the subject courtyard. That venue's utilization of this courtyard is not subject to nor part of this Conditional Use Permit, as it is associated with a permitted indoor use.
5. The surrounding land uses are commercial and multi-family residential.
6. Staff has received public comment regarding potential conflicts with downtown residential uses. Please see attached comment letter.

### **REVIEW STANDARDS (Section 16-4-110. Conditional Uses.)**

- (a) General. Conditional uses are those land uses which are generally compatible with the permitted uses in a zone district, but which require site-specific review of their location, design, intensity, density, configuration and operating characteristics, and which may require the imposition of appropriate conditions, in order to ensure compatibility of the use at a particular location and mitigate its potentially adverse impacts. It is the intent of these regulations to provide a review of conditional uses so that the community is assured that any proposed conditional uses are suitable for the proposed location and are compatible with the surrounding land uses. Conditional uses are generally appurtenant to the property supporting the use; however, conditional use permits may also be made specific to the permit holder if appropriate under the circumstances.
- (d) Review Standards. An application for conditional use approval shall comply with the following standards. In addition an application for a conditional use must demonstrate compliance with any review standards particular to that use specified in Table 16-D.

**(1) Consistency with Comprehensive Plan.** The use shall be consistent with the City's Comprehensive Plan.

*Applicant's Response: The Sherman Market space is an open-air courtyard located in the middle of Salida's historic downtown. This space will be consistent with the City's Comprehensive Plan.*

The Sherman Market is consistent with the City's Comprehensive Plan, which identifies supporting local businesses, and to help retain and expand unique and independent local businesses, as a principle of the plan.

**(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.

*Applicant's Response: The Sherman Market meets all Zoning District Standards.*

The purpose of the Central Business District (C-2) zone district is to provide for the business and civic functions that make up the City's core. The Central Business District (C-2) 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.

The purpose of the Central Business Economic Overlay (CBEO) 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.

The activation of the courtyard at 151 West First Street with an outdoor market and events is compatible with the C-2 and CBEO districts. No structures are proposed.

Standards applicable to this conditional use are parking standards (addressed below in paragraph b.) and standards that apply to vendors on the property. The standards are identified as part of the outdoor vending permit and as a condition of approval, staff recommends that those standards shall apply here:

➤ All Vendors:

- a. The Applicant (Cate Kenny or assigns) shall provide the retail sales tax license numbers of all vendors to the City of Salida prior to any sales on site.
- b. All vendors shall remit appropriate sales tax to the State of Colorado and shall have their sales tax license visible at all times.

➤ Food Vendors:

- c. If the vendor is required to have a CDPHE license, the Applicant (Cate Kenny or assigns) shall submit to the City a copy of the 'License to Operate a Retail Food Establishment' prior to vending on this site.
- d. All food vendors will receive a minimum of one fire inspection prior to or during operation. An operable, certified fire extinguisher is required for operation on this site.
- e. All waste from activity must be removed and properly disposed of from the site on a daily basis. Any grease produced from food preparation must be disposed of in accordance with Chaffee County Health regulations.

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

Applicant's Response: *The Sherman Market has been granted permission to use Bank of the West's parking lot. See attached information.*

The parking agreement has changed since the applicant's submittal. The agreement is now with Hylton Lumber. Hylton Lumber is within 1/4 mile of this site and that is acceptable to staff. Table 16-J requires 1 parking space per 250 square feet of retail use. The Sherman Market courtyard is approximately 1,750 square feet, requiring 7 parking spaces. As a condition of approval:

- Should the use at Hylton Lumber change in the future, the parking agreement shall be re-visited by staff. If the required parking cannot be provided via a



parking agreement, the applicant shall pay the Business Occupier Fee applicable at that time.

No signs are included as part of this request. If the applicant would like to have any signage, the standards and permit requirements of Chapter 16 Article X, Sign Standards will apply.

**(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.

Applicant's Response: *The Sherman Market is appropriate to its proposed location and will be compatible with the character of neighboring uses & enhance the mixture of complementary uses and activities in the immediate vicinity. See attached information.*

The proposed uses shall be contained within the fence of the courtyard. As a condition of approval:

- No activity shall encroach into the 1st Street right-of-way.

**(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.

Applicant's Response: *The Sherman Market will not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking, or loading problems. See attached information.*

As conditions of approval:

- Vendors shall not block parking along First Street or G Street other than to temporarily load and unload.

**(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.

Applicant's response: *The Sherman Market will not create a nuisance or impact the surrounding properties. The Sherman Market will be respectful to noise, odors, vibrations, glare, and similar conditions.*

The City Council recently updated the amplified sound regulations and permit procedures. As a condition of approval:

- Any use of amplified sound shall comply with the City of Salida noise regulations as provided in Chapter 10, Article IX, Noise Control of the Salida Municipal Code in effect at that time.

The applicant can provide electricity from the Sherman Hotel if needed by vendors. As a condition of approval:

- Generators shall not be allowed.

**(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.

Applicant's response: *The Sherman Market provides adequate public facilities in place to serve the proposed use.*

The applicant has restroom facilities within the Sherman Building available for the vendors and customers.

**(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.

Applicant's response: *The Sherman Market will not cause deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features*

The proposed use is located within the existing courtyard of the Sherman Hotel and will not adversely affect environmental resources.

#### **REVIEW AGENCIES:**

Fire, Assistant Chief Kathy Rohrich: "Fire has no concerns at this time."

Police, Chief Russ Johnson: "No issues at this time from PD."

Public Works, Director David Lady: "No concerns."

#### **REQUIRED ACTIONS BY THE COMMISSION:**

1. The Commission shall confirm that adequate notice was provided and a fee paid.
2. The Commission shall conduct a public hearing.
3. The Commission shall make findings regarding the proposed use in order to ensure the use is consistent with the Comprehensive Plan, conforms to the Land Use Code, is appropriate to its location and compatible with neighboring uses, is served by adequate public facilities and does not cause undue traffic congestion or significant deterioration of the environment.

#### **RECOMMENDED FINDINGS:**

1. This application is consistent with the Land Use Code and the surrounding neighborhood.
2. The applicable review criteria for Conditional Use applications have been met.

#### **RECOMMENDED ACTION:**

Based on the above findings, staff recommends **APPROVAL** for the Conditional Use request for an Outdoor Market and Event Space in the Central Business (C-2) zone district and Central Business Economic Overlay (CBEO) district at 151 West First Street with the following conditions:

1. The Applicant shall be responsible for the following:

##### All Vendors:

- a. The Applicant shall provide the retail sales tax license numbers of all vendors to the City of Salida prior to any sales on site by that vendor.
- b. All vendors shall remit appropriate sales tax to the State of Colorado and shall have their sales tax license visible at all times.

##### Food Vendors:

- c. If the vendor is required to have a CDPHE license, the Applicant shall submit to the City a copy of the 'License to Operate a Retail Food Establishment' prior to vending on this site.
  - d. All food vendors shall receive a minimum of one fire inspection prior to or during operation. An operable, certified fire extinguisher is required.
  - e. All waste from activity must be removed and properly disposed of from the site on a daily basis. Any grease produced from food preparation must be disposed of in accordance with Chaffee County Health Department regulations.
- 2. Should the use at Hylton Lumber change in the future, the parking agreement shall be revisited by staff. If the required parking cannot be provided via a parking agreement, the applicant shall pay the Business Occupier Fee applicable at that time.
  - 3. No activity shall encroach on the 1st Street right-of-way.
  - 4. Vendors shall not block parking along 1st Street or G Street other than to temporarily load and unload.
  - 5. Any use of amplified sound shall comply with the City of Salida noise regulations as provided in Chapter 10, Article IX, Noise Control of the Salida Municipal Code in effect at that time.
  - 6. Generators shall not be allowed.
  - 7. This Conditional Use Permit is valid through the end of 2022. If the new Land Use Code does not address the proposed use for 2023, a new Conditional Use Permit shall be required.

**RECOMMENDED MOTION:**

That the recommended findings be made and the recommended action be taken.

BECAUSE THIS APPLICATION IS FOR A CONDITIONAL USE PERMIT, THE SALIDA PLANNING COMMISSION SHALL MAKE THE FINAL DECISION ON THIS APPLICATION. THE DECISION OF THE PLANNING COMMISSION MAY BE APPEALED WITHIN 15 DAYS OF THE DECISION BY AN AGGRIEVED PERSON AS SET FORTH IN SECTION 16-2-70 OF THE LAND USE CODE.

Attachments:

Application materials

Proof of Public Notice

Public Comment Letter

Reference Document: Current Conditions and Limitations for City of Salida Noise Permits



## GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112  
Salida, CO 81201  
Phone: 719-530-2626 Fax: 719-539-5271  
Email: [planning@cityofsalida.com](mailto:planning@cityofsalida.com)

### 1. TYPE OF APPLICATION (Check-off as appropriate)

- |  |   |
|--|---|
| <input type="checkbox"/> Annexation                      | <input type="checkbox"/> Administrative Review:<br>(Type) _____                             |
| <input type="checkbox"/> Pre-Annexation Agreement        |   |
| <input type="checkbox"/> Variance                        |   |
| <input type="checkbox"/> Appeal Application              | <input checked="" type="checkbox"/> Limited Impact Review:<br>(Type) <u>Conditional Use</u> |
| <input type="checkbox"/> Certificate of Approval         |   |
| <input type="checkbox"/> Creative Sign Permit            | <input type="checkbox"/> Major Impact Review:<br>(Type) _____                               |
| <input type="checkbox"/> Historic Landmark/District      |   |
| <input type="checkbox"/> License to Encroach             | <input type="checkbox"/> Other: _____   |
| <input type="checkbox"/> Text Amendment to Land Use Code |   |
| <input type="checkbox"/> Watershed Protection Permit     |   |
| <input checked="" type="checkbox"/> Conditional Use      |   |

### 2. GENERAL DATA (To be completed by the applicant)

#### A. Applicant Information

Name of Applicant: Cate Kenny

Mailing Address: \_\_\_\_\_

Telephone Number: 123 G st - Salida FAX: \_\_\_\_\_

Email Address: cate@theshermansalida.com

Power of Attorney/ Authorized Representative: \_\_\_\_\_  
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

#### B. Site Data

Name of Development: The Sherman Market

Street Address: 151 W 1st st - Salida

Legal Description: Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_ (attach description)

Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent \_\_\_\_\_ Date 3-23-22

Signature of property owner \_\_\_\_\_ Date 3-23-22





## CONDITIONAL USE APPLICATION & ADMINISTRATIVE CONDITIONAL USE

448 East First Street, Suite 112

Salida, CO 81201

Phone: 719-530-2626 Fax: 719-539-5271

Email: [planning@cityofsalida.com](mailto:planning@cityofsalida.com)

### A. TYPE OF CONDITIONAL USE REQUESTED (Refer to Schedule of Uses in Article IV of the Land Use Code)

Residential Zone Districts (Table 16-D): \_\_\_\_\_

Or

The Sherman Market

Commercial/Industrial Zone Districts (Table 16-D): \_\_\_\_\_

### B. DEVELOPMENT PROCESS (City Code Section 16-4-110)

1. Pre-Application Conference. Optional.
2. Submit Application.
3. Staff Review. Schedule Hearing, if required. Forward Report to Applicant and Planning Commission, if required.
4. Public Notice Provided For Hearing.
5. Public Hearing Conducted by Planning Commission and Action Taken.

### C. APPLICATION CONTENTS (City Code Section 16-3-60 for Admin. Conditional Use or 16-3-80 for Conditional Uses)

1. **General Development Application**
2. **Conditional Use Application**
3. **Site Plan.** A site plan of the subject property, showing existing and proposed features, buildings, roads, alleys, utilities, etc. which are relevant to the review of the application. The application will also indicate conformance with any applicable development standards for the proposed conditional use. **The copies shall only be accepted on 8½" x 11", 11" x 17" or 24"x 36" paper.**
4. **Surrounding Land Use.** Current land use of properties on all sides of the property and across the street(s) and alley.
5. **Public Notice- Conditional Use Applications requiring public noticing.**
  - ☒ a. **List.** A list shall be submitted by the applicant to the city of adjoining property owner's names and addresses. A property owner is considered adjoining if it is within 175 feet of the subject property regardless of public ways. The list shall be created using the current Chaffee County tax records.
  - ☒ b. **Postage Paid Envelopes.** Each name on the list shall be written on a postage-paid envelope. Postage is required for up to one ounce. Return address shall be City of Salida, 448 E First Street, Suite 112, Salida, CO 81201
6. **Other Information.** Staff may request additional information as deemed necessary to evaluate the impacts of the conditional use application. Mobile Home Parks and Recreational Vehicle Parks shall contain the additional information required in Section 16-4-190 of the Land Use Code.
7. **Vicinity Map.** 8 ½" x 11" map showing parcel's location in the City.
8. **Application Fee** \$500, cash or check made out to City of Salida, or \$250.00 for **Administrative Conditional Use application.**

**D. REVIEW STANDARDS** (If necessary, attach additional sheets)

An application for conditional use approval shall comply with the following standards.

**1. Consistency with Comprehensive Plan.** The use shall be consistent with the City's Comprehensive Plan.

The Sherman Market space is an open-air courtyard located in the middle of Salida's historic downtown. This space will be consistent with the City's Comprehensive Plan. See attached information.

**2. Conformance to Code.** The use shall conform to all other applicable provisions of this Land Use Code, 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 5, Use and Dimensional Standards.

The Sherman Market meets all Zoning District Standards. See attached information.

- b. **Site Development Standards.** The parking, landscaping, sign and improvements standards.

The Sherman Market has been granted permission to use Bank of the West's parking lot. See attached information.

- 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.

The Sherman Market is appropriate to its proposed location and will be compatible with the character of neighboring uses & enhance the mixture of complementary uses and activities in the immediate vicinity. See attached information.

- 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.

The Sherman Market will not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking, or loading problems. See attached information.

- 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.

The Sherman Market will not create a nuisance or impact the surrounding properties. The Sherman Market will be respectful to noise, odors, vibrations, glare, and similar conditions. See attached information.

- 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.

The Sherman Market provides adequate public facilities in place to serve the proposed use. See the attached information.

- 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.

The Sherman Market will not cause deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features. See attached information.



## What is the future of The Sherman Market Space?

The Sherman Market space is an open-air courtyard located in the middle of Salida's historic downtown. Salida is the largest historical district in Colorado and is one of two certified Creative Arts Districts as well. Our vision for this space is to give the community a unique space to create positive energy on the west side of First Street.

## How will The Sherman Market - 2022 benefit Salida?

Our initial markets (2017 & 2018) were a huge success! And in 2021 The Sherman Market grew by 50%. By popular demand, we have decided to offer a 2022 market. The 2022 Sherman Market will bring local & nationwide tourists to Salida. The Sherman Market will not only bring Sales Tax money to Salida, but will also bring income to local businesses, hotels, restaurants, shops, etc. Not to mention the creative & cultural benefits art brings to any community.

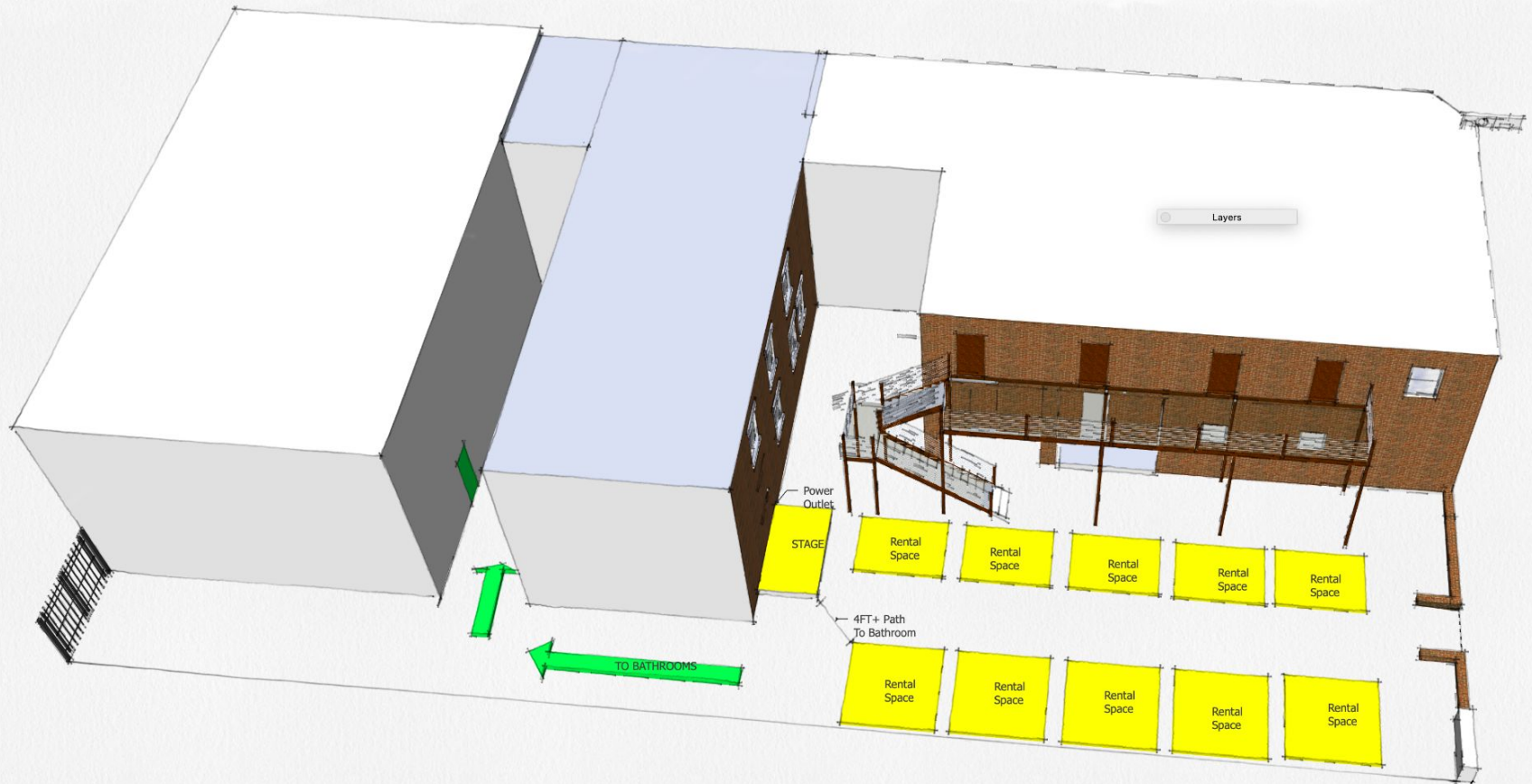
## The Sherman Market 2022 model

The Sherman Market will operate from May 28th, 2022 – Dec 31st 2022.

## The Sherman Market Signage

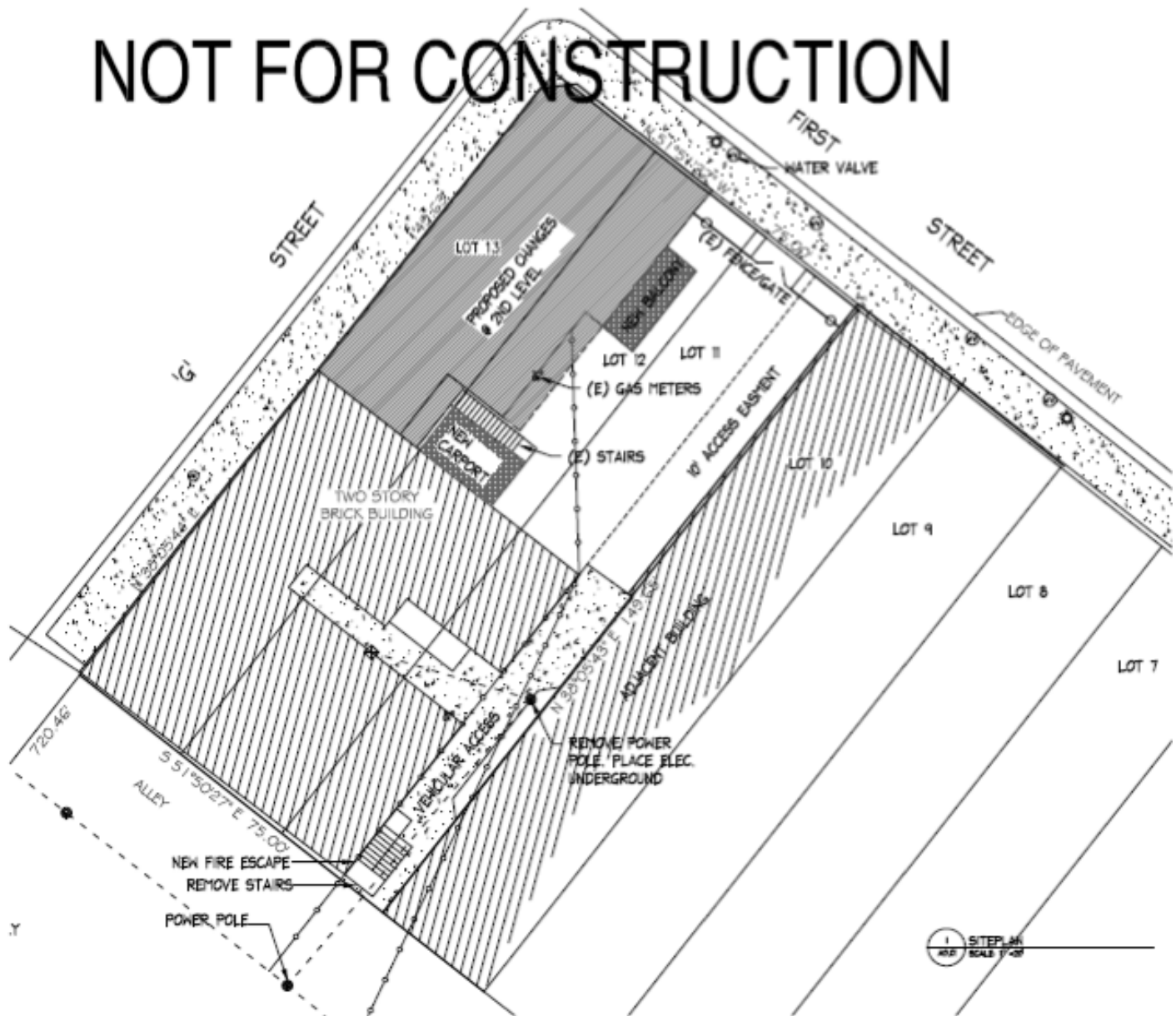
The Sherman Market signage will meet the requirements stated in the City Code.

# The Sherman Market - 2022

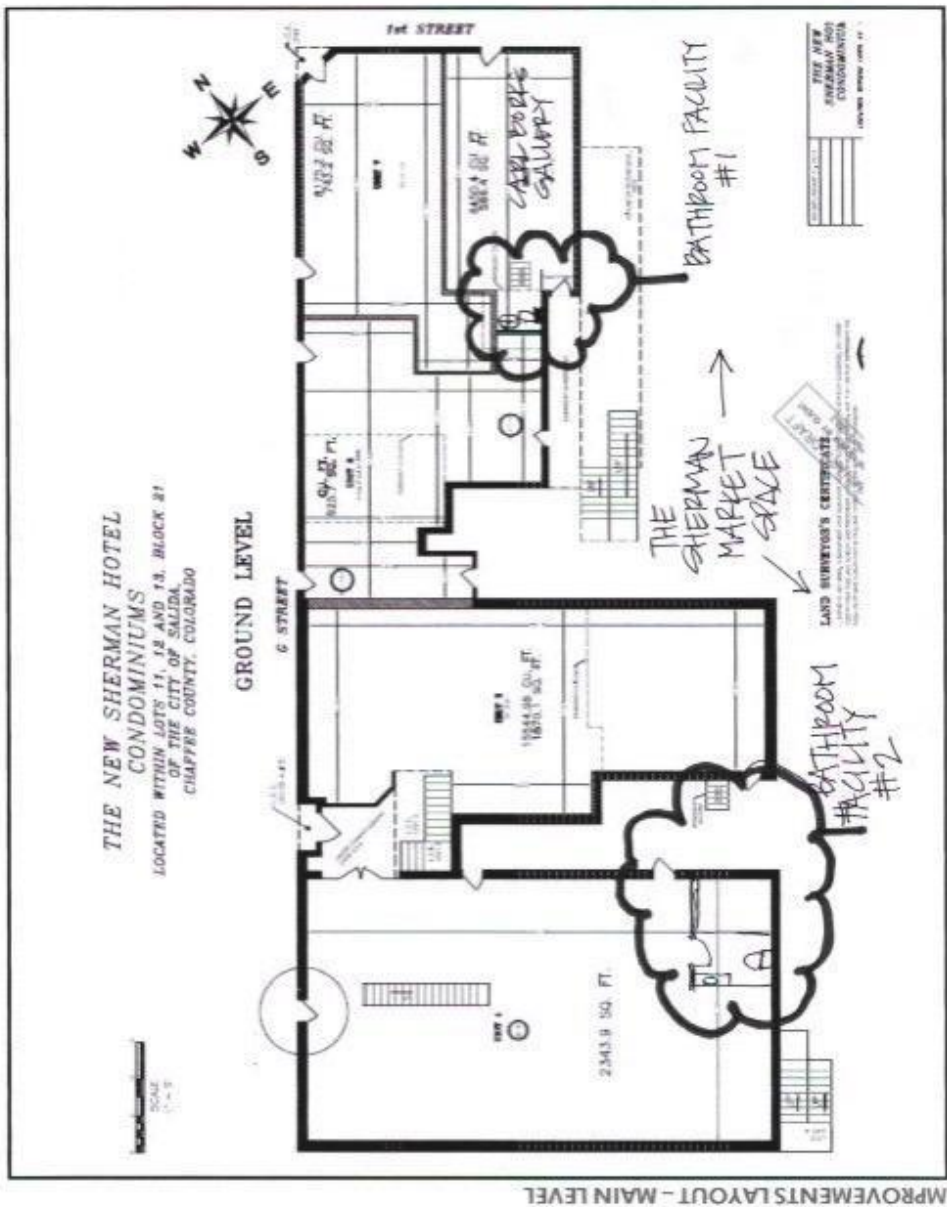




NOT FOR CONSTRUCTION



## The Sherman Market Bathroom Plan:





348 H Street  
Salida, CO 81201

[hylton@hyltonlumber.com](mailto:hylton@hyltonlumber.com)  
[hyltonlumber.com](http://hyltonlumber.com)

(719) 539-4895  
(719) 539-2937 (Fax)

Wednesday, April 20, 2022

To whom it may concern,

We are very happy to accommodate the Sherman Market in anyway possible. You are more than welcome to use Hylton Lumber's parking lot for any activities you may need such as the Market for Artist and Artisans. Please let us know when you would need access to the parking lot and if there is anything you will need from us.

If you have any questions, please don't hesitate to to contact me below.

Mike Gross  
LLC Manager  
348 H St  
Salida, Co 81201  
719-539-4832

**PUBLIC NOTICE**  
**NOTICE OF PUBLIC HEARING BEFORE**  
**THE PLANNING COMMISSION FOR**  
**THE CITY OF SALIDA CONCERNING A**  
**CONDITIONAL USE APPLICATION**  
**TO ALL MEMBERS OF THE PUBLIC**  
**AND INTERESTED PERSONS: PLEASE**  
**TAKE NOTICE:** that on April 25, 2022 at  
or about the hour of 6:00 p.m., a public  
hearing will be conducted by the City of  
Salida Planning Commission at City Council  
Chambers, 448 East First Street, Suite 190,  
Salida, Colorado and online at the following  
link: <https://attendee.gotowebinar.com/rt/1909092342220683277>

The applicant, Cate Kenny of The  
Sherman Hotel LLC, is requesting approval  
for a Conditional Use Permit for Outdoor  
Market and Events on a piece of property  
known as Lots 11-13, Block 21, City of  
Salida, Chaffee County, Colorado. This

property is also known as 151 West First  
Street.

The general purpose of the application is  
to ensure the compatibility of the proposed  
outdoor market and events use within  
a Central Business (C-2) zone district.  
Interested persons are encouraged to attend  
the public hearing. Further information on  
the application may be obtained from the  
Community Development Department, (719)  
530-2631.

\*Please note that it is inappropriate to  
personally contact individual City Councilors  
or Planning Commissioners, outside of  
the public hearing, while an application is  
pending. Such contact is considered ex  
parte communication and will have to be  
disclosed as part of the public hearings  
on the matter. If you have any questions/  
comments, you should email or write a letter  
to staff, or present your concerns at the  
public meeting via the above GoToWebinar  
link so your comments can be made part of  
the record.

Published in The Mountain Mail April 8, 2022

**Merrell Bergin**  
**PO Box 868**  
**Salida, CO 81201-0868**  
**mberginco@gmail.com**

April 18, 2022

Kathryn Dunleavy  
Planner  
City of Salida  
448 East 1<sup>st</sup> Street  
Salida, CO 81201

Via Email: [kathryn.dunleavy@cityofsalida.com](mailto:kathryn.dunleavy@cityofsalida.com)  
Re: Conditional Use Permit: The Sherman Hotel, LLC  
Discussion points for Planning and Zoning Hearing April 25, 2022

Kathryn,

Thanks for speaking with me about the pending Conditional Use Permit for the Sherman Hotel, LLC. I had a follow up conversation with applicant Cate Kenny that clarified some of the intentions for this permit.

As you indicated, this differs from the previous multi-vendor permits from the three prior years. Those permits were specific to approximately a dozen dates- certain with designated hours of operation. The 2022 notice of hearing contains neither for the proposed market and at this point it is unknown the extent and duration of the business operations in the courtyard.

Ms. Kenny and I discussed the increasing number of year-round, private residences on F and G Streets between First and Second and well as numerous STRs that surround our properties. While a 24/7 mix of commercial and residential uses brings vibrancy and sales tax revenues to the downtown core, I reminded Ms. Kenny that too much of a good thing leads to inevitable conflicts. We are already seeing considerable pushback from residential owners with music emanating from First, G, and West Sackett Street. The relevant example is LoDo Denver, where sports bars, rooftop decks and amplified music overwhelmed residential neighborhoods. We are rapidly approaching this here.

In our block alone, our F Street residence of 18 years now looks northwest onto two STR's with decks and firepits. West of that, The Sundry (former Storyville Cinema) plans a ground level entertainment venue with a possible rooftop deck. To the south, plans are underway for two expanded, mixed-use buildings on West Second, both with second-floor or rooftop potential. A block further west, the Residences at Salida Bottling Plant still face an uphill battle, exceeding building heights and allowing for "rooftop access", which we expect will turn into a place for a few owners to party with their own outdoor music. All are surrounding with a direct line of sight to neighboring residences and potential echoes reflecting from the Sherman's open air courtyard. I want to be clear that we have taken steps to meet early on with each and every owner of these projects, in the spirit of developing good-neighbor relations and will continue

to work with them to form a downtown community. Ms. Kenny and I also discussed the February Mardi Gras courtyard event held by one of the Sherman tenants (The Velvetten). The noise level exceeded a measured 95 dB A on the street and the low frequency dance beat rattled windows in our building.

I bring up this background to show that there are significant quality of life issues to be raised as downtown continues to infill. While our building was the first to make a significant investment and kick off this downtown renaissance, we are also realistic as to its growth potential. We all need to take a big picture view of it, value the future and not just "let it happen."

A primarily day time retail use of the Sherman property adds to the richness of downtown and provides opportunities for local creatives that complements existing brick and mortar businesses; the tide that rises all boats"... Amplified music, within reasonable sound levels and daytime to early evening hours is also a draw that reasonably accommodates the quiet enjoyment due to neighbors.

I ask that the Planning Commission consider the following discussion points, place appropriate, enforceable guardrails around expanded business use and especially to coordinate with the City Administrator and Council on one of the most pressing issues involved in this application - amplified sound permits.

**Requested conditions for this application with annual Commission review:**

1. A timeframe for operation, between May 1- September 30 with specific add-ons for Fall holidays
2. Operations to cease no later than 10:00 p.m., excepting designated special event days/hours – FiBArk, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving
3. Public safety is paramount: heaters allowed, but no fire pits, smoking or vaping.
4. Nighttime music limited to Fridays and Saturdays, with amplified noise level and frequency range comparable with other sound permits. Cessation by 10:00 p.m.
5. No laser or strobe lights
6. With the loss of the First Street city parking lot, the applicant should make some provision for patron parking; perhaps a valet service, using the Salida public lot at Safeway or by arrangement with adjoining banks.

From my conversation with the applicant, I believe there will be a good faith effort to work with neighbors, and I realize that the applicants now are full time residents of their building, so we share common interests. Having said that, this is a unique conditional use with precedence being set. It is in all our interests to thoroughly consider the right to quiet enjoyment of adjoining residences and businesses and help ensure that applications like this rest on more than simply a handshake, as ownership inevitably changes.

I will appear at the hearing on April 25 and look forward to receiving the full application packet on April 22. Any additional specific comments will also be emailed early on the 25<sup>th</sup> but I wanted to get these general thoughts to the Commission and in their packets, for reflection in advance.

Merrell Bergin

Tel.303-601-1785



## City of Salida Noise Permits:

---

The following is an excerpt from the current Noise Permit Application available from the City Administrator's Office. One note of clarification – currently, a noise permit can be granted between November 1 to May 1, but only by City Council following a public hearing.

The following conditions and limitations are applicable to all noise permits:

- No noise is permitted after 10:00 PM, unless specifically authorized by the City Council following a public hearing. No noise is permitted after midnight on the Fridays and Saturdays of Memorial Day weekend, 4<sup>th</sup> of July weekend, and Labor Day weekend. No noise is permitted after midnight on the Thursday, Friday, and Saturday during the FIBArk festival.
- No noise is authorized in excess of the maximum limit of 85 dB(A), as measured from any point along the property line or within the property line of the receiving premises. Measuring devices shall be those specifically utilized by the City of Salida.
- All amplification equipment shall be arranged so as to minimize the disturbance to neighboring properties, and permittees shall take reasonable measures to baffle or reduce noise impacts to neighbors.
- No outdoor amplified sound shall be permitted between November 1 through May 1.
- A maximum of sixty (60) amplified sound permits may be granted to same location during a single calendar year, unless additional permits are specifically authorized by the City Council following a public hearing.