



PLANNING COMMISSION STAFF REPORT

MEETING DATE: June 28, 2021

AGENDA ITEM TITLE: Conditional Use – Downtown Street Patio at 136 E. 2nd Street

STAFF: Kathryn Dunleavy

REQUEST:

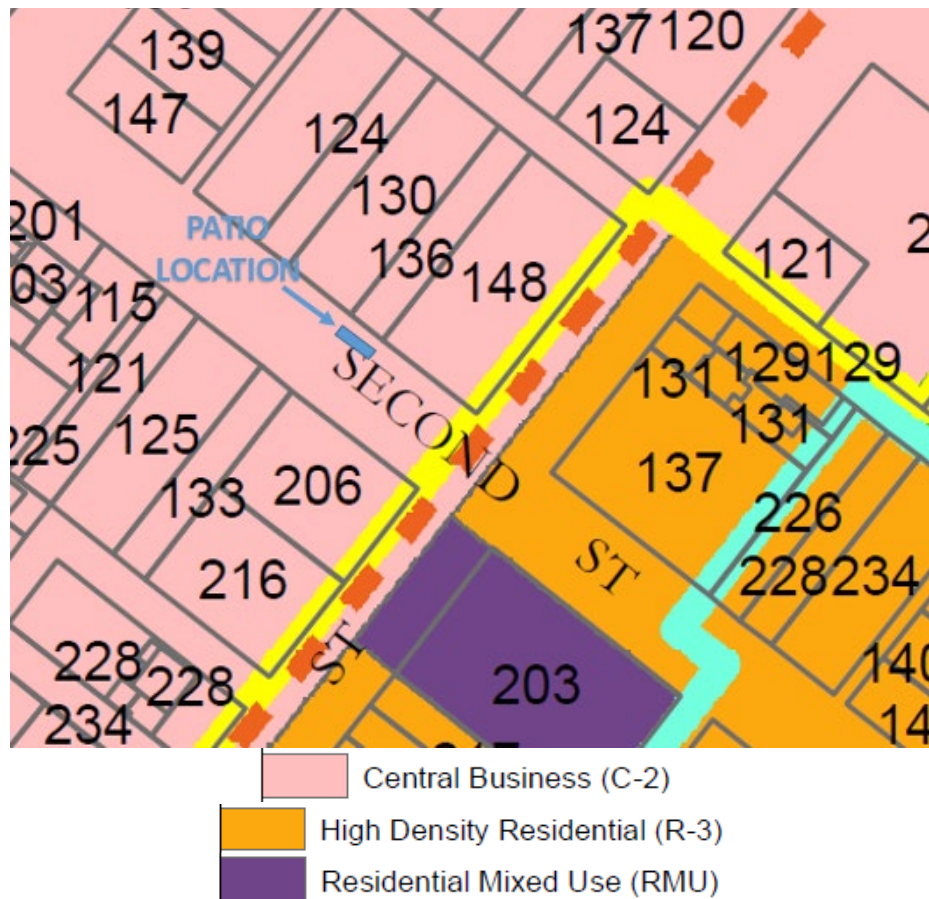
The applicant is requesting conditional use approval for a downtown street patio to be placed in Second Street in front of Tacos El Tapatio located at 136 E. Second Street, within the Central Business District (C-2), with a Central Business Economic Overlay (CBEO).

APPLICANT: Ramon Herrera Santana, owner of Tacos El Tapatio at 136 E. Second Street.



LOCATION:

The property is described as Lot 23 Block 22, City of Salida, Chaffee County, Colorado. This property is also known as 136 E. Second Street. Surrounding zoning includes Central Business District (C-2), High Density Residential (R-3) and Residential Mixed Use (RMU). Surrounding uses include retail, office, members' club, and residential.

**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 specific design standards for Downtown Street Patios as stated in Section 16-4-190 (r) of the Salida Municipal Code.



A. REVIEW STANDARDS SPECIFIC TO DOWNTOWN STREET PATIOS (Section 16-4-190 (r)): Section 16-4-190 (r) sets standards, but allows modifications by the approving body, the Planning Commission.

- (1) Siting and Use Standards. The use shall be subject to the condition below:
 - 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.
 - The applicant is keeping the business open year-round. As a condition of approval:
 - 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.
 - 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.
 - The proposed patio is nine (9) feet by twenty (20) feet. One (1) foot of the depth will be up on the curb, therefore the patio will not exceed eight (8) feet by twenty (20) feet within the roadway. The patio will not cover up the existing water meter or water shut off.
 - c. Ramps for accessibility shall be integral to the design and not present an obstacle within the sidewalk.

- The applicant will have a portable temporary ramp available. Staff has found that the use of temporary ramps that can be moved have been the most effective on downtown street patios.
- d. Patios shall not be located at intersections of streets or alleys in such a way as to block appropriate sight triangles.
- The proposed location is not located at the intersection of a street, alley or other public right of way. However the adjacent lot has a private driveway along the lot line shared with Tacos El Tapatio. Although it is not a public alley, five (5) feet is the sight distance required at public alleys and at the request of Public Works, the patio is five (5) feet from the edge of the southeasterly lot line, adjacent to 148 E. Second Street. As a condition of approval:
 - The patio must be located a minimum of five (5) feet from the lot line shared with 148 E. Second Street.
- 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.
- 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.
- The patio is directly outside of the front door.
- g. Signage is not allowed on the patios except for customer menus and signage approved by the city for public purposes.
- 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.
- The patio is for a retail food and beverage establishment, Tacos El Tapatio, which is an allowed use for downtown street patios. Tacos El Tapatio currently operates until 9pm on weekdays and 10 pm on weekends. As a condition of approval:
 - Use of the patio shall not exceed 9pm on weekdays and 10pm on weekends.

- 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.
 - The applicant has provided a copy of an agreement with Kenneth Brandon, owner of Brandon/Ward Graphics at 206 E Street and within the C-2 District to provide one (1) dedicated off-street parking spot. This agreement has been made on a yearly basis. As conditions of approval:
 - The dedicated off-street parking spot at 206 E Street shall be signed for parking by Tacos El Tapatio employees or customers.
 - On a yearly basis, the applicant must submit an updated agreement to provide one (1) dedicated off-street parking spot in the C-2 District, or the applicant must pay the required business occupier fee.
- j. Installation of the Downtown Street Patio shall be approved by the Community Development Department.
 - The building permit process requires review and approval by the Community Development Department. As recommended by the Chaffee County Building Official and as a condition of approval:
 - The structure will require a building permit. It must be anchored so it will not move with wind pressure. The wind sail is to be removed in the winter.
- 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.
 - No other encroachment permits have been issued. As a condition of approval:
 - Applicant must maintain a minimum of five (5) feet clear on the sidewalk.
- 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.
 - As a condition of approval:
 - The conditional use shall be approved for one year from the date of approval, after which it must be reviewed by the Planning Commission and may be renewed for longer periods.

(2) Revocable License Required. Business owners who receive conditional use approval for downtown street patios will have to enter into a revocable license agreement with the City of Salida, as approved by City Council, prior to installation of the patio.

➤ As a condition of approval:

- Approval of a revocable license agreement and payment of required fees is required prior to installation of the patio.

RESPONSE FROM REFERRAL DEPARTMENTS AND AGENCIES:

Fire, Assistant Chief Kathy Rohrich: No concerns.

Police, Chief Russ Johnson: No comment. Staff also inquired if there have been any complaints regarding the existing temporary outside space. There have been none.

Public Works Director, David Lady: The site triangle for alleys requires a 5-ft offset and I would suggest we follow that. All else looks acceptable.

Chaffee County Building Official, Dan Swallow,

- 1) The structure will require a building permit.
- 2) The structure must be anchored to the earth so it will not move with wind pressure.
- 3) No snow load is specified on the structural plans. This indicates the engineer intends for the wind sail to be removed in the winter. Please confirm.

STAFF RECOMMENDATION:

Based on the above findings, staff recommends **APPROVAL** for the conditional use for the downtown street patio to be located in front of Tacos El Tapatio at 136 E. Second Street subject to the conditions listed below.

RECOMMENDED MOTION:

“I make a motion to approve the conditional use for the downtown street patio to be located in front of Tacos El Tapatio at 136 E. Second 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 must be located a minimum of five (5) feet from the lot line shared with 148 E. Second Street.
3. Use of the patio shall not exceed 9pm on weekdays and 10pm on weekends.
4. The dedicated off-street parking spot at 206 E. Street shall be signed for parking by Tacos El Tapatio employees or customers.
5. On a yearly basis, the applicant must submit an updated agreement to provide one (1) dedicated off-street parking spot in the C-2 District, or the applicant must pay the required business occupier fee.

6. The structure will require a building permit. It must be anchored so it will not move with wind pressure. The wind sail is to be removed in the winter.
7. Applicant must maintain a minimum of five (5) feet clear on the sidewalk.
8. The conditional use shall be approved for one year from the date of approval, after which it must be reviewed by the Planning Commission and may be renewed for longer periods.
9. Approval of a revocable license agreement and payment of required fees is required prior to installation of the patio.

Attachments:

Application Materials

Parking Agreement

Proof of Publication