

PLANNING COMMISSION REPORT
Regular Agenda – Public Hearing Item

PC Staff Report
08/22/16

ITEM NO. 2B SPECIAL USE PERMIT; MICROBREWERY; 706 E 23RD STREET

SUP-16-00262: Consider a Special Use Permit for a *Manufacturing and Production, Limited* use, to accommodate a microbrewery, located at 706 E 23rd Street. Submitted by Johnston Investments Company, LLC for Lawrence Brothers, LLC, property owner of record.

STAFF RECOMMENDATION: Planning Staff recommends approval of a Special Use Permit for a *Manufacturing and Production, Limited* use to be located at 706 E 23rd Street and forwarding the item to the City Commission with a recommendation of approval subject to the following conditions:

1. The following items shall be provided prior to the release of the site plan for processing of a building permit:
 - a. Executed site plan performance agreement.
 - b. Erosion control plan for the City Stormwater Engineer's approval.
 - c. Lighting spec sheets to insure building mounted fixtures are the lumen equivalent of lights less than 150 watt incandescent or that full cut-off fixtures are used.
2. Prior to the release of the Special Use Permit site plan, the applicant shall provide a revised drawing with the following changes:
 - a. Application of additional architectural treatment to the main entry to achieve visual prominence.
 - b. Revision of the access drive on E 23rd Street, if necessary, based on KDOT's review of the additional Traffic Information.
 - c. Addition of the following note, " Special Events on the property require approval of a Special Event Permit."
 - d. Addition of recording information (Book and Page Number) for the dedicated shared access easement.
 - e. Addition of the following note: "*The future building addition is shown for information purposes. A site plan will be submitted for approval prior to the construction of this addition.*"

Reason for Request: *"In the CS zoning, 'Manufacturing and Production, Limited' is only allowed by special use. CS zoning was required for the facility to have a tap room/bar."*

KEY POINTS

- The property was recently rezoned from the IG (General Industrial) District to CS to accommodate the proposed tap room/bar in addition to the microbrewery. The microbrewery would have been permitted by right in the IG District, with site plan approval; however, it requires approval of a Special Use Permit in the CS District.
- The subject property is not platted. Platting is required and a Preliminary Plat has been submitted in conjunction with the Special Use Permit application.

ASSOCIATED CASES

- Z-16-00154; Rezoning of the subject property from IG to CS. Approved by the City Commission on July 12, 2016 with the adoption of Ordinance No. 9262.
- PP-16-00261; Preliminary Plat for Johnston Addition, a one-lot subdivision. The plat was submitted concurrently with the Special Use Permit application and is also on the August Planning Commission agenda.

OTHER ACTION REQUIRED

- City Commission approval of Special Use Permit and adoption of related ordinance.
- Publication of Special Use Permit ordinance.
- Planning Commission approval of Preliminary Plat.
- Submittal and administrative approval of a Final Plat.
- City Commission approval of easements or right-of-way being dedicated on the Final Plat.
- Building permits obtained from Development Services Division prior to commencement of development activity.

PLANS AND STUDIES REQUIRED

- *Downstream Sanitary Sewer Analysis* – Fixture count analysis provided as the Downstream Sanitary Sewer Analysis was accepted by the City Utilities Engineer.
- *Drainage Study* – The drainage study dated 6-21-2016 met the specified requirements and was approved.
- *Traffic Study* – A 7-step Traffic Impact Study was provided and accepted by the City Engineer. KDOT requested additional traffic information, which was provided on August 10, 2016. The review of the additional information is not complete; however, KDOT indicated the purpose of the review was to insure the design of the access drive on E 23rd Street was appropriate.

ATTACHMENT

1. Site Plan
2. Traffic Impact Studies

PUBLIC COMMENT

- No public comment was received prior to the printing of this staff report.

| GENERAL INFORMATION | |
|---|--|
| Current Zoning and Land Use: | CS (Commercial Strip) District; vacant lumberyard, proposed use: microbrewery with tap room/bar and incidental retail sales and food truck permanently on the premises (<i>Manufacturing and Production, Limited; Bar or Lounge; General Retail Sales, and Fast Order Food</i>) |
| Surrounding Zoning and Land Use: | To the north: IG (General Industrial) District; <i>Light Wholesale Storage and Distribution and General Industrial</i> To the west: IG (General Industrial) District; <i>Construction Sales and Services and Manufacturing and Production, Limited</i> To the east: CS (Commercial Strip) District; <i>Car Wash, Light Equipment Repair</i> To the south: IG (General Industrial) and CS (Commercial Strip) south of K-10; <i>Veterinarian, Light Equipment Repair</i> (Figure 1) |

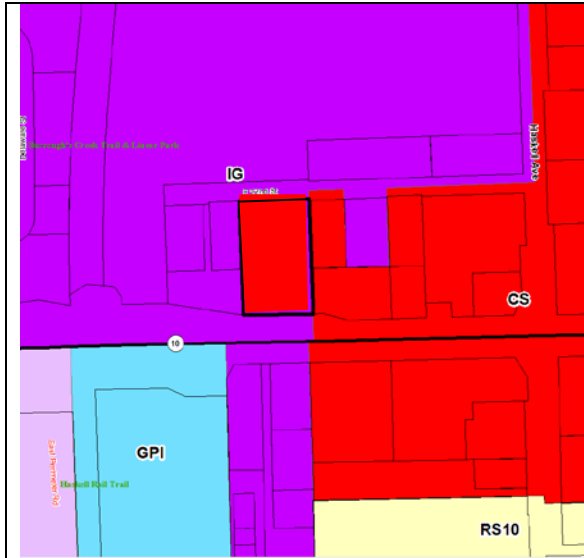


Figure 1a. Zoning in the area, subject property outlined.



Figure 1b. Land use/development in the area.

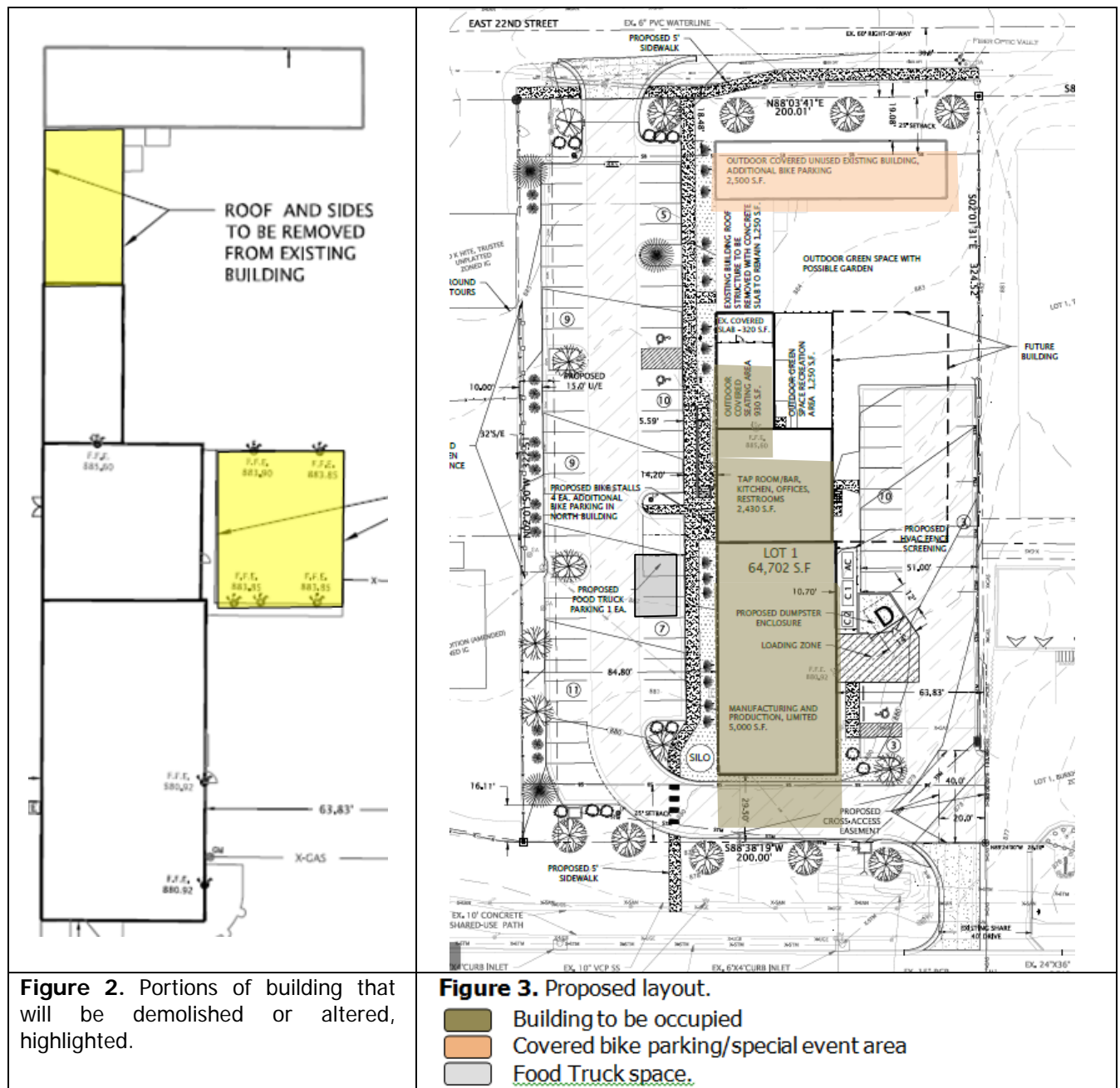
| SITE SUMMARY | Existing | Proposed | Change |
|------------------|----------------------|---|---------------|
| Land Use: | Vacant | <i>Manufacturing and Production, Limited; Bar/Lounge; General Retail Sales;</i> | Change in use |
| Land Area: | 64,702 sq ft | 64,702 sq ft | --- |
| Building Area: | 14,780 sq ft | 11,390 sq ft | -3,390 sq ft |
| Pavement Area: | 47,452 sq ft | 33,687 sq ft | -13,765 sq ft |
| Impervious Area: | 62,232 sq ft (96.2%) | 45,077 sq ft (69.7%) | -17,155 sq ft |
| Pervious Area: | 2,470 sq ft | 19,625 sq ft | +17,155 sq ft |

SUMMARY OF SPECIAL USE

The applicant proposes to renovate the former lumber yard on the site to house a microbrewery and taproom with the sale of beer for on-site consumption. Taprooms where product can be sampled before being purchased is typically considered an accessory use to a microbrewery. A taproom which includes the sale of alcohol for on-site consumption is classified as a *Bar* use and requires the appropriate zoning. Retail sales of branded merchandise is also being proposed; this would be classified as *General Retail Sales* but would be considered an accessory use to the bar. A small kitchen will be provided in the taproom, for appetizers and other items. Most of the food sales for the facility will be provided by a Food Truck. The site plan shows a dedicated parking area for the Food Truck on the west side of the building.

The small kitchen and the appetizers, or typical bar food, is considered an accessory use to a bar while the food truck is classified as *Fast Order Food*. The *Fast Order food* and *Bar/Lounge* uses are allowed in the CS District with site plan approval. The micro-brewery, classified in the Development Code as *Manufacturing and Production, Limited*, requires approval of a Special Use Permit in the CS Zoning District.

A future building is shown on the plans to illustrate the future plans for the property; however, the addition is not being approved with this plan. Additional review and approval is required before building permits would be issued for this improvement. The plan should note that the future building addition will require site plan approval.



The open-sided storage building to the north of the tap-room will be used for outdoor seating. Windows will be added to the west side of this portion of the building. A green wall, with plantings, will be added north of the seating area. A grass recreation area east of the outdoor seating area will be used for activities such as bocce ball, bean bag toss, etc. The open-sided building along the north side of the property will be retained and used for additional bike parking that may be associated with bicycle oriented events on the site. This may also be a location of outdoor music and other activities associated with Special Events. These events would require approval of a Special Event Permit. (Figure 3) This should be noted on the plan.

A Special Use Permit is intended to insure compatibility with adjacent residential uses. Section 20-1306(a), of the Development Code provides the following information on the review procedures for a Special Use:

"The process entails a public review and evaluation of the use's operating characteristic and site development features and is intended to ensure that proposed Special Uses will not have a significant adverse impact on surrounding uses or on the community at large."

The Development Code defines the *Manufacturing and Production, Limited* use as

"Establishments generally employing fewer than 20 persons, do not involve outside storage of materials, do not require Federal air quality discharge permits, are compatible with nearby residential uses because there are few or no offensive external effects, and are primarily engaged in one of the following: ...

(3) Manufacturing, processing, or packaging of small-scale food production operations with limited on-site retail sales. Typical uses include caterers, bakeries, bottling and beverage manufacturing operations." (Section 20-1739)

A *Manufacturing and Production, Limited* use is typically considered to be compatible with nearby residential use because there are few or no offensive external effects. The Special Use Permit review process allows the use to be reviewed and conditioned to insure there are few or no offensive external effects that would impact land uses in the area.

SITE PLAN REVIEW

Review and Decision-Making Criteria (20-1306(i), Development Code)

1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE

Applicant's Response:

"The request does comply with the applicable development code. Manufacturing and Production, Limited is allowed in the CS district as a special use."

The proposed use, a microbrewery, is classified in the Development Code as a *Manufacturing and Production, Limited* use. Standards that apply to this development include density and dimensional requirements in Article 6, parking in Article 9, landscaping in Article 10 and general development standards in Article 11. The following is a review of the change being proposed with this project for compliance with the Development Code.

DENSITY AND DIMENSIONAL STANDARDS

The property is not currently platted. Platting is required by Code prior to issuance of building permits. A preliminary plat was submitted concurrently with the SUP application and will also be considered by the Planning Commission at their August meeting.

| CS District Density and Dimensional Standards | | |
|--|-----------------|----------------------------------|
| STANDARD | REQUIRED | PROVIDED |
| Minimum Lot Area | 5,000 sq ft | 64,702 sq ft |
| Minimum Lot Width | 100 ft | 200 ft |
| Maximum Impervious Lot Coverage | 80% | 69.7% |
| Setbacks | | |
| Front | 25 ft | 29.5 ft |
| Side | 0 ft | 84.8 ft (west) / 63.83 ft (east) |
| Rear(double frontage) | 25 ft | 19.08 ft* |

*The Douglas County Appraiser's records indicate that the lumber storage shed was built in 1975. At that time, the property was zoned M-2 (General Industrial). This District required a 25 ft setback when the property abuts a street right-of-way and is across the street from a non-residential district. The structure was in compliance with the setback when it was constructed, but with the additional right-of-way being dedicated with the platting of the property it now encroaches into the required setback.

A deed described the property a certain distance from the 22nd Street right-of-way; however, the right-of-way was assumed and hadn't been formally dedicated. The additional right-of-way is being dedicated with the plat for this property. Section 20-1503 of the Development Code contains provisions for nonconforming structures, but notes that a building which encroaches into the setback due to the acquisition of right-of-way is not a nonconforming structure. The building is allowed to remain in this location and is not considered a nonconforming structure. This should be noted on the plan.

PARKING SUMMARY

| Use | Requirement | Required | Provided |
|--|--|---|--|
| <i>Manufacturing and Production, Limited</i> | 1 parking space per 1,000 sq ft of building area and 1 space per vehicle used in the business. | 5000 sq ft building and 3 vehicles: 8 spaces | 67 spaces, (plus 1 space reserved for the Food Truck) |
| <i>Bar/Lounge</i> | 1 parking space for 3 people based on maximum occupancy and 1 space for each employee on largest shift | 162 occupants and 5 employees: 59 spaces | |
| <i>General Retail Sales</i> | Ancillary use with the bar, no additional parking required | Ancillary to bar use: 0 spaces | |
| <i>Fast Order Food (Food Truck)</i> | No additional parking unless additional customer service area provided | No additional customer service area provided: 0 spaces | |
| TOTAL | | 67 spaces | |
| ADA parking | 3 spaces (1 van accessible) for lots with 51 to 75 spaces | 3 spaces, 1 van accessible | 3 spaces, 1 van accessible |
| Bicycle parking | 5 or 1 per 10 auto spaces | 8 spaces | 8 spaces |

LANDSCAPING / BUFFERYARD

Street trees are required at the rate of 1 tree per 40 ft of street frontage. Each street frontage is 200 ft; therefore, 5 street trees are required on E 22nd and on E 23rd Street each. The plan provides the required number of street trees.

The property is adjacent to CS District on the east and IG properties to the north, west, and south-across W 23rd Street/K10 Highway. A Type 1 Bufferyard is required between developments in the CS and IG Districts. (Figure 4)

The structure and use of the property is very similar to that on the surrounding properties. The property is separated from the property to the south by E 23rd Street/ K10 Highway right-of-way which is approximately 140 ft wide in this location. The bufferyard requirement along W 23rd Street/K10 Highway is administratively waived, due to the separation provided by the right-of-way. The property is separated from the property to the north by E 22nd Street right-of-way, 60 ft wide. Given the separation and the similar building types on each property, the bufferyard requirement is administratively waived on the north property line.

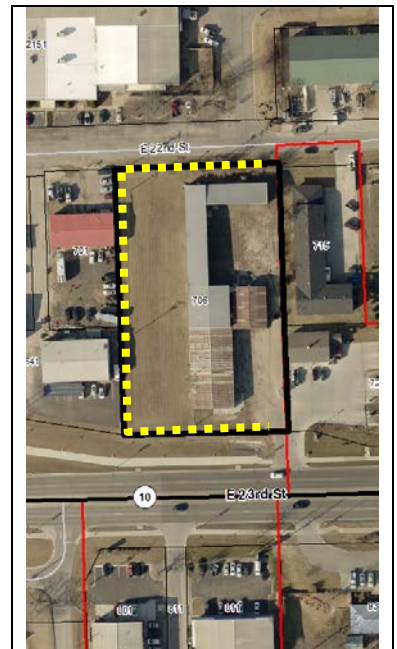


Figure 4. Type I Bufferyard (marked in yellow).

A bufferyard is required along west property line, Figure 5. Per Code, a 10 ft wide Type 1 Bufferyard requires 4 trees and 10 shrubs per 100 linear feet. The west property line is 322.51 ft in length, which would require 12 trees and 33 shrubs. A 10 ft wide bufferyard with a 6 ft tall wooden privacy fence in the open area between the buildings is proposed (Figure 5).

The unfenced area contains the sides of the adjacent buildings and parking areas. Given the mixed use nature of the subject property (Commercial and Industrial) and the fact that the buffer areas beyond the fence would be buffering adjacent parking areas; the 6 ft tall privacy fence and the planting of 4 bufferyard trees has been approved to meet the bufferyard requirement as Alternative Compliance. The waiver and Alternative Compliance approved for the bufferyards should be noted on the plan.



Figure 5. View to the west. Location of proposed privacy fence shown in red.

PARKING LOT LANDSCAPING

The perimeter and interior parking lot landscaping shown on the plan is compliant with Code requirements.

SITE COVERAGE.

The CS District permits a maximum of 80% of the site to be covered with impervious materials. Approximately 70% of the site will be covered with impervious materials. The proposed plan reduces the amount of impervious surface on the site by more than 25%.

LIGHTING

The lighting proposed with this project consists of three single head LED fixtures on 22 ft poles on 3 ft foundations and fourteen 42-watt lights mounted on the building near the entrances and along the building face. The lighting levels at the property line are compliant with the lighting standards in the Development Code. The parking lot lighting will be LED lights with full cut-off fixtures. In keeping with the industrial nature of the property, industrial style lighting is proposed for the building (Figure 6). The lighting utilizes a 32-watt fluorescent lamp. This emits 2,200 lumens of light, which is less the equivalent of a 150 watt incandescent bulb, 2,600 lumens; therefore, full cut-off fixtures are not required.



Figure 6. Building mounted lighting fixture.

ACCESS

The project will utilize the shared access drive on E 23rd Street/K10 Highway and will add a secondary access on E 22nd Street. The second access will provide an option for traffic entering and leaving the site and will provide a secondary access for emergency vehicles.

COMMERCIAL AND INDUSTRIAL DESIGN STANDARDS

The proposed project contains a mix of industrial and commercial uses which would require compliance with the Commercial and Industrial Design Standards in the *Community Design Manual*. However, as these uses are located within the same structure the Commercial Design Standards will be applied based on the commercial zoning of the property. The standards are intended to be applied on a case by case basis. Flexibility will be allowed with this project based on the mix of commercial and industrial uses and the reuse of an existing industrial building.

Part Three of the Commercial Design Standards pertains to infill and redevelopment projects. The following is a review of the standards provided in Part Three (Pages 2-39 through 2-51, *Community Design Manual*) Building elevations are provided in Attachment A. Standards are underlined and planning discussion follows in italics.

- Stormwater and Site Drainage developed as an attractive amenity. *Adequate stormwater management and drainage is being provided; however, due to the existing development of the site, room is not available to develop the detention area as an attractive amenity.*
- Streetscape and Neighborhood Transitions:
 - Fencing along a property line should be decorative using materials and accents which are compatible with the building design. *A short span of fencing is proposed for screening along the west property line. It will be a 6 ft tall wooden fence. While not decorative, this is compatible with the design of the building.*
 - Pedestrian connections into the site shall be clearly defined and continuous. *A walkway connects the facility with adjacent walkways on E 22nd and E 23rd Streets. Markings identify the crossing across the access drive near E 23rd Street.*
- Vehicular Access and Parking Areas. Access easements ensure that adjacent parcels have adequate access in the event that ownership changes. *An access easement for the shared access on E 23rd Street/K10*

Highway is being dedicated with the plat for the property. The recording information should be included on the plan.

Accessible parking spaces shall be located adjacent to walkways and at building entryways to minimize pedestrian-vehicle conflicts. All ADA spaces are adjacent to walkways so it is not necessary to cross drive aisles to access the building. Two ADA spaces are provided near the ramp to the tap room/bar. Another ADA space is proposed on the southeast corner of the microdistillery near the entry, for employee use.

- Pedestrian Access and Amenities

All internal pedestrian walkways of the commercial development shall be a minimum of 6 ft wide. The shape of the property and configuration of the existing development provide site constraints; therefore, 5 ft wide walkways are acceptable.

Pedestrian walkways should be provided along the full length of any building and along any façade abutting public parking areas. These walkways shall be separated from the building to provide an area for foundation plantings. A walkway is provided along the west side of the building with an area for foundation plantings, where the ADA ramp is not necessary. The east side is an area for overflow and employee parking. There is an entrance into the building directly from the parking lot on the east but a walkway is not provided along the back façade of the building. Given the small size of this parking lot and the fact that it will be used primarily for employees and company vehicles, the walkway is not required.

- Outdoor storage, Sales and Service Areas.

The dumpster is oriented to the northeast, out of view of the adjacent property and the right-of-way. The mechanical equipment will be screened on all visible sides with a fence.

- Landscaping

One-third of the plantings (excluding street trees and interior parking lot trees) shall be evergreen species. Evergreen or year-round plantings make up a large portion of the shrub plantings.

- Facades and Exterior Walls and Roofline.

As this project is reusing an existing industrial building, it is not possible to meet all the standards regarding the building façade and roofline. A variety of materials are used for the building exterior. Windows are provided for the taproom/bar and the outdoor seating area; however, windows are not included in the industrial portion of the building used for the microbrewery. A green wall, a wall covered with plantings, to the north of the outdoor seating area provides additional variety. The principal entry should be a prominent feature on the façade. Additional architectural measures or features should be added to the plan to increase the prominence of the entry to the taproom. With this condition, the proposed changes to the building comply with the standards to the degree that the mix of uses and the reuse of the building would permit.

Staff Finding – This use, as conditioned, complies with the applicable provisions of the Development Code.

3. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF

OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS

Applicant's Response:

"Yes, the adjacent properties are zoned IG or CS and are compatible with the proposed use."

The proposed use will utilize an existing structure that was built in the 1970s. The structure originally housed a lumber store with an open-sided storage shed. The structure has an industrial design and character, and the intent of the applicant is to maintain this character. The property is located along a principal arterial, E 23rd Street/K10 Highway; is adjacent to commercial zoning to the east and is surrounded on other sides by industrial zoning. The microbrewery is an industrial use that will be similar in nature and operational characteristics to other uses in the area. The Bar/taproom may have later hours than the other uses in the area, but as there are no nearby residences and the other uses would be closed at that time. Outdoor activity area is proposed, but it is located between the outdoor seating area and the back of the commercial property to the east.

Staff Finding – The proposed project contains both industrial and commercial uses that will be located in a pre-existing industrial style building. The proposed uses are compatible with the adjacent commercial and industrial land uses.

3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROPERTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED

Applicant's Response:

"No, a remodeled building with a vibrant business would increase the value of other property as opposed to the vacant dilapidated building that exists."

The lumberyard property has been vacant for several years. Development projects have been proposed for this site, but the additional process and cost of platting; in addition to site planning the use and possibly rezoning have deterred the applicants. This project will reuse the vacant lumber building and maintain/enhance the character of the area. The site improvements should have no negative effect, and would more likely have a positive effect, on the value of other property in the area.

Staff Finding – The reuse and rehabilitation of the existing structure on this property in addition to the landscaping and other site improvements should enhance the character of this area. This project is not expected to have any negative impact, and may have a positive impact, on property values in the area.

4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT

Staff Finding – As this is an infill redevelopment project, safety, transportation and utility facilities are currently available to serve the subject property. However, as E 22nd Street is not currently constructed with curb and gutter, the property owner may be asked to participate in future improvements if the street is improved by a benefit district in the future.

5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED

Staff Finding – The site plan will function as the enforcement document to assure that the maintenance and use of the property is consistent with the approval.

6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT

Applicant's Response:

"No, the proposed use is generally indoor and being food grade production will be quite sanitary."

The proposed use should have no adverse impact on the natural environment. The facility will reuse and rehabilitate a vacant building.

Staff Finding – The proposed use should have no adverse impact on the natural environment.

7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO, WHAT THAT TIME PERIOD SHOULD BE

Time limits are established on Special Use Permits to permit a periodic review to determine if the use remains compliant with the area. The microbrewery, being an industrial use, is very similar in nature to the other uses in the area. The use, as approved, should remain compatible with the area.

Staff Finding – The Special Use Permit is required for the limited industrial use due to the recent rezoning of the property. The proposed industrial use is very similar to other uses in the area. It would not be appropriate to place a time limit on the Special Use Permit.

CONCLUSION

Based on the findings in this report, and as conditioned, staff recommends approval of the proposed Special Use Permit.