



Agenda
Planning Commission Meeting
Wednesday, July 22, 2015
City Hall Council Chamber | 505 Swift Boulevard

Commission Members: Chair Madsen, Vice-Chair Wallner and Commissioners Berkowitz, Boring, Clark, Palmer and Wise

Liaisons: Council Liaison Lemley
Staff Liaison Planning and Development Services Manager Simon

Regular Meeting - 7:00 p.m.

Welcome and Roll Call

Approval of Agenda: (Approved by Motion)

Approval of Minutes: June 24, 2015

Public Comments:

Public Hearing Explanation:

Unfinished Business - Public Hearing:

New Business – Public Hearing:

1. Applicant Presentations for 2016 CDBG Funding
- Michelle Burden, Housing Resources Specialist
2. Proposed Sidewalk Use License (SUL2015-100)
Applicant: Paper Street Brewing Company
Location: 701 The Parkway
- Rick Simon, Development Services Manager
3. Proposed Code Amendments - Binding Site Plans (Z2015-107)
Applicant: City of Richland
Location: Citywide
- Rick Simon, Development Services Manager

Communications:

Adjournment

The next Planning Commission Workshop is August 5, 2015

The next Planning Commission Meeting is Special Meeting August 5, 2015

This Meeting is broadcast live on CityView Channel 192 and online at CI.RICHLAND.WA.US/CITYVIEW

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PLANNING COMMISSION AGENDA ITEM COVERSHEET

Meeting Date: 07/22/2015

Agenda Category: New Business – Public Hearing

Prepared By: Michelle Burden, Housing Resources Specialist

Subject:

Applicant Presentations for 2016 CDBG Funding

Request:

Recommended Motion:

No action at this time. Deliberations will take place at the Special Meeting on August 5, 2015 in the Richland Community Center.

Summary:

Each applicant seeking 2016 CDBG funds must give a presentation to the Commission outlining the proposed use of funds and how the funds could benefit citizens in Richland.

Attachments:

1. 2016 CDBG Applicant Presentation Schedule

2016 CDBG PRESENTATION SCHEDULE

Richland Council Chambers – July 22, 2015

505 Swift Blvd. Richland WA

7:00 p.m. Planning Commission Roll Call and Procedural Review

TIME	APPLICANT NAME AND PROJECT	AMOUNT REQUESTED
HOUSING:		
7:10 p.m.	Luther Senior Center/Shalom Ecumenical Center (SEC) Luther Place Duplexes	\$ 75,000
PUBLIC SERVICE:		
7:20 p.m.	Senior Life Resources Meals on Wheels Program	\$ 8,500
7:30 p.m.	Elijah Family Homes Transition to Success Program	\$ 25,489
7:40 p.m.	The ARC of Tri-Cities Partners N Pals Program	\$ 10,000
7:50 p.m.	B/F Community Action Committee (CAC) Second Chance Center	\$ 20,000
8:00 p.m.	Hanford Reach Interpretive Center Youth Scholarships	\$ 20,000
PUBLIC FACILITY:		
8:10 p.m.	City of Richland, Public Works ADA Sidewalk Ramps	\$150,000
8:20 p.m.	City of Richland, Parks and Fac. Craighill Park Improvement	\$ 60,000
TOTAL REQUESTS 2016 CDBG FUNDS		\$ 368,989



PLANNING COMMISSION AGENDA ITEM COVERSHEET

Meeting Date: 07/22/2015

Agenda Category: New Business – Public Hearing

Prepared By: Rick Simon, Development Services Manager

Subject:

Proposed Sidewalk Use License (SUL2015-100)

Applicant: Paper Street Brewing Company

Location: 701 The Parkway

Request:

Recommended Motion:

Motion that the Planning Commission concur with the findings and conclusions set forth in Staff Report SUL2015-100 and approve the request for a sidewalk use license to operate a sidewalk café subject to conditions I - 14 as detailed in the attached staff report.

Summary:

The applicant is requesting a sidewalk use license in order to offer outdoor food and beverage service to its customers on the public sidewalk immediately adjacent to the business located at 701 The Parkway.

Attachments:

1. SUL2015-100 Paper Street Brewing Company

STAFF REPORT

TO: PLANNING COMMISSION
FILE NO.: SUL2015-100

PREPARED BY: RICK SIMON
MEETING DATE: JULY 22, 2015

GENERAL INFORMATION:

APPLICANT: PAPER STREET BREWING COMPANY

REQUEST: APPROVAL OF A SIDEWALK USE LICENSE TO AUTHORIZE THE
OPERATION OF A SIDEWALK CAFE

LOCATION: 701 THE PARKWAY

REASON FOR REQUEST

The applicant is requesting a sidewalk use license in order to offer outdoor food and beverage service to its customers on the public sidewalk immediately adjacent to the business located at 701 The Parkway.

FINDINGS AND CONCLUSIONS

Staff has completed its review of the application for a sidewalk use license SUL2015-100 and submits that:

Findings of Fact:

1. The Richland Comprehensive Plan designates the site as a part of the Central Business District land use category.
2. The site is located within the Parkway and other existing uses in the immediate vicinity are commercial businesses. The closest residential properties are located approximately 1,000 feet south of the site.
3. In 2009 the City adopted Ordinance 04-09 which created a new Central Business District (CBD) zoning classification. Among other items, the CBD zoning classification is intended to encourage the transformation of the CBD from principally a strip commercial auto-oriented neighborhood to a more compact development pattern with buildings oriented to the fronting street. Outdoor seating for cafes and restaurants is a specifically encouraged use within the CBD as stated in the purpose section of Section 23.22.010 of the Richland Municipal Code.
4. Richland Municipal Code Chapter 5.14 adopted in 2009, provides specific criteria for the issuance of sidewalk use licenses. The application meets these criteria as detailed below:

- a. Section 5.14.040(A)(1) provides that sidewalk use licenses may be issued to the owner of the adjoining property or business. The applicant is the owner of the Paper Street Brewing Company.
- b. Section 5.14.040(A)(2) requires that the proposed use of the sidewalk would not unreasonably impair passage to and fro by the public on the sidewalk. The application, as proposed would provide a sidewalk width along Lee Boulevard of 10 feet that would remain available for public use.
- c. Section 5.14.040(A)(3) requires proposed sidewalk café users to obtain approved food-service permits from the health department and liquor licenses from the State Liquor Control Board. The application includes a copy of a permit issued by the State Liquor Control Board. The recommended conditions of approval require that the applicant demonstrate to the City that required health department permits have been obtained prior to operation of the sidewalk café.
- d. Section 5.14.040(B)(1) provides the City authority to restrict the hours of operation and limit the number of table and chair placement. The recommended conditions of approval specify that the City may restrict the hours of operation if the sidewalk café results in noise problems.
- e. Section 5.14.040(B)(2) requires the applicant to maintain the sidewalk in a clean and safe condition. The recommended conditions of approval address this requirement.
- f. Section 5.14.040(B)(3) requires the applicant to clear the sidewalk as reasonably necessary to accommodate deliveries to nearby properties. The proposed design of the sidewalk café would not appear to impair adjoining businesses from receiving deliveries.
- g. Section 5.14.040(B)(4) provides the City authority to limit noise, lighting and placement of equipment for any sidewalk use license. The recommended conditions of approval identify that City standards for noise and lighting must be observed at all times and that no equipment shall be placed outside of the sidewalk café.
- h. Section 5.14.040(B)(5) requires the repair of damaged or failing improvements that present a public safety risk. The recommended conditions of approval require the applicant to maintain the facility in good repair at all times.
- i. Section 5.14.040(B)(6) requires indemnity documentation, insurance and surety instruments. The application materials presented to the City included a two million dollar certificate of liability insurance in favor of the City. The recommended conditions of approval require the applicant to sign a waiver holding the City harmless prior to the operation of the sidewalk café and require the posting of a financial surety, if such is deemed necessary by the Public Works Department.
- j. Section 5.14.040(B)(7) requires the City to establish the duration of the license and a renewal procedure. The recommended conditions of approval indicate that the license shall remain valid for a period of two years and can be renewed for additional two year terms administratively.

- k. Section 5.14.040(B)(8) requires that all furniture, equipment and other appurtenances remain clean, in good repair and slightly. The recommended conditions of approval note this requirement.
- l. Section 5.14.060 allows for liquor to be sold at a sidewalk café provided that such activity is permitted through the Washington State Liquor Control Board. The application submitted to the City included a May 13, 2015 correspondence from the Washington State Liquor Control Board authorizing outdoor liquor sales for Paper Street Brewing Company, dba Paper Street Alehouse.
- m. Section 5.14.070 requires a public hearing before the Planning Commission for a sidewalk cafe and requires that notice of the hearing be posted on the property, mailed to owners within 300 feet and advertised in the newspaper. Notice was mailed to owners within 300 feet on July 8th and was posted in the front window of Paper Street Brewing Company. A legal ad appeared in the Tri-City Herald on July 5th.
- n. Section 5.14.080 requires the sidewalk to be returned to its original pre-license condition at no cost to the City at the time that the license expires or the sidewalk use ceases. The recommended conditions of approval note this requirement.
- o. Section 5.14.090(A) requires the applicant to sign a release of liability form. The application form signed by the applicant includes this waiver and so satisfies this requirement.
- p. Section 5.14.100(B) requires the posting of a financial surety to ensure that the sidewalk is returned to its pre-license condition at the conclusion of the license. The recommended conditions of approval provide for the posting of a surety in an amount deemed sufficient by the City Public Works Director, if such surety is deemed necessary.
- q. Section 5.14.100(C) requires the applicant to have insurance that covers the proposed sidewalk use and names the City as an additional insured, providing \$1,000,000 of accident insurance. The conditions of approval note this requirement.
- r. Section 5.14.130 provides design and a placement standard for sidewalk use and specifies a maximum height of fencing of 36 inches. However, the Liquor Control Board requires a fence height of 42 inches. The recommended conditions of approval require a fence height of 42 inches.

Conclusion of Law

5. **The application, as conditioned, meets all the applicable requirements set forth in RMC Chapter 5.14 for sidewalk cafes.**

Overall Conclusion

6. **The application for a sidewalk use license meets City code requirements, is located appropriately in the CBD, given the nature of the existing uses adjacent to the site and should be approved.**

RECOMMENDATION

Staff recommends that the Planning Commission concur with the findings and conclusions set forth in Staff Report SUL2015-100 and approve the request for a sidewalk use license to operate a sidewalk cafe subject to the following conditions:

1. The railing to be placed on the sidewalk in front of the Paper Street Brewing Company shall provide an approximately 10 foot wide clear path of travel between the existing proposed railing that denotes the boundary of the outdoor café and the curb.
2. The applicant shall obtain required health department permits for outdoor food service and document to the City that required approval have been obtained prior to operation of the sidewalk café.
3. If the operation of the sidewalk café results in noise complaints from residents, and those complaints are determined to be valid by the City, the Planning Commission may conduct a public hearing and decide to restrict the hours of operation of the sidewalk café and/or may revoke the sidewalk use license.
4. The applicant shall at all times maintain the adjoining sidewalk in a clean and safe condition for pedestrian travel.
5. Any outdoor lighting installed to serve the sidewalk café shall meet the outdoor lighting standards as specified in RMC Chapter 23.58.
6. The applicant is responsible for installation of railing necessary to denote the boundaries of the sidewalk café. Said railing shall be maintained in good repair and any damaged or failing railing shall be promptly repaired.
7. The applicant shall comply with City noise standards of RMC 9.16.045 at all times.
8. No equipment shall be placed or stored outside of the railing of the sidewalk café at any time.
9. The license shall be valid for a period of two years from the date of its issuance. An application for license renewal may be reviewed and approved administratively by the Development Services Division for additional two year periods.
10. All furniture, equipment and other appurtenances that are placed within the sidewalk café shall be kept clean, in good repair at all times.
11. The applicant shall be responsible for enforcement of state regulations concerning smoking within 25 feet of the entrance to the building.
12. At the time the sidewalk use license expires or the sidewalk use ceases, the applicant shall return the sidewalk to its original, pre-license condition.
13. Prior to the operation of the sidewalk café, the applicant shall submit a plan to the City Public Works Department identifying how the fencing will be affixed to the sidewalk. The Public Works Department may determine that a financial surety is required to ensure that the sidewalk is returned to its pre-license condition. In such a case, the Department will determine the amount and form of the financial surety, which shall be posted prior installation of the improvements.
14. Railing height shall not exceed 42 inches in height and shall allow at least 50% visibility.

EXHIBITS

1. Vicinity Map
2. Application
3. Site Plan
4. Public Notice
5. RMC Chapter 5.14 – Sidewalk Use Licenses

ATTACHMENT A
(SUL2015-000)

SUPPLEMENTAL INFORMATION

PROPOSED DEVELOPMENT

The Paper Street Alehouse proposes to operate a sidewalk café adjacent to their business located at 701 The Parkway. The proposed café would be located directly south of their business and would enclose a portion of the sidewalk along Lee Boulevard.

The applicants propose to enclose approximately 9 and ½ feet of the public sidewalk within the enclosed café area, including some landscape areas. The café area would enclose the entire frontage of the Alehouse along Lee Boulevard, which is approximately 44 feet. The boundaries of the café would be established by the use of a 42 inch high railing that would enclose the café on all sides. Entrance into the café area would be from an existing door into the building. Placement of the railing would leave a sidewalk width of 10 feet for pedestrian use.

SPECIFIC CODE REQUIREMENTS

In 2009, the City adopted sidewalk use license regulations. This code provides a licensing requirement for the use of public sidewalks. Cafes, including those that serve alcohol, are among the list of uses that are permitted through the licensing regulations. The code includes specific requirements for insurance, requires that the applicant enter into a hold harmless agreement with the City and provides specific standards of operation. The code specifies that the Planning Commission will hold a public hearing and decide certain categories of sidewalk use licenses, including those that involve sidewalk cafes. A complete copy of the sidewalk use regulations is attached.

SITE DATA

Size: The subject site includes 44 feet of frontage along the public sidewalk.

Physical features: The portions of the sidewalk proposed for the sidewalk café are level and contain landscape planters that would be located adjacent to the proposed fence.

SURROUNDING ZONING AND LAND USE

Property immediately to the south consists of the Carol Woodruff Plaza. Beyond that is a vacant storefront. A law office is located immediately to the north. The entire Parkway is located within the CBD – Central Business District.

The stated purpose of the CBD zone is to encourage the transformation of the area from principally a strip commercial auto-oriented neighborhood to a more compact development pattern. RMC Section 23.22.010 states in pertinent part:

“The Central Business District is envisioned to become a center for housing, employment, shopping, recreation, professional service and culture. The uses and development pattern will be integrated and complementary to create a lively and self-supporting district. Medium rise buildings will be anchored by pedestrian oriented storefronts on the ground floor with other uses including housing on upper floors. Projects will be well designed and include quality building materials. Appropriate private development will be encouraged via public investments in the streetscape and through reduction in off-street parking standards. Uses shall generally be conducted completely within an enclosed building, except that outdoor seating for cafes, restaurants, and similar uses and outdoor product display is encouraged. Buildings shall be oriented to the fronting street or accessway, to promote a sense of enclosure and continuity along the street or accessway.”

ANALYSIS

The City adopted sidewalk use regulations in 2009 in part to provide for sidewalk uses that would increase public use, enjoyment and safety of public spaces. Sidewalk cafes can be a great way to encourage walking, add vitality to the street, and promote local economic development. The location of the site within the CBD zone is consistent with the proposed use as well. Outdoor seating for cafes, restaurants and similar uses is specifically encouraged within the purpose statement of the zone. Informal outdoor seating areas are already in place on some of the adjacent businesses, just to the north of the brewery. These seating areas are not enclosed with a rail and under the sidewalk use code provisions do not require an individual sidewalk use license. Given that the brewery will be serving alcohol, state liquor control regulations mandate that any outdoor seating spaces for this use would be enclosed with a railing. It appears that the sidewalk use regulations are working as originally anticipated, adding activity and vitality to the street frontages in the Parkway. The proposed Brewery application will simply add to this atmosphere.

The standards contained within the City sidewalk use regulations have been satisfied, provided that a list of recommended conditions is followed.

SUMMARY

The application for the use of a public sidewalk for a sidewalk café is consistent with the City's goals for the CBD zone and should be approved subject to compliance with all applicable standards contained in the City's sidewalk use regulations.

Jadwin Ave. - DOWN AVE

Personal Physical
Therapy

Ms. Rhoda's Wine
Garden

1-1198-302-0627-001

Unity Yoga of Tri-Cities

Paper Street Brewery

Subs N Jeans

1-98-302-0627-001 Stone Soup

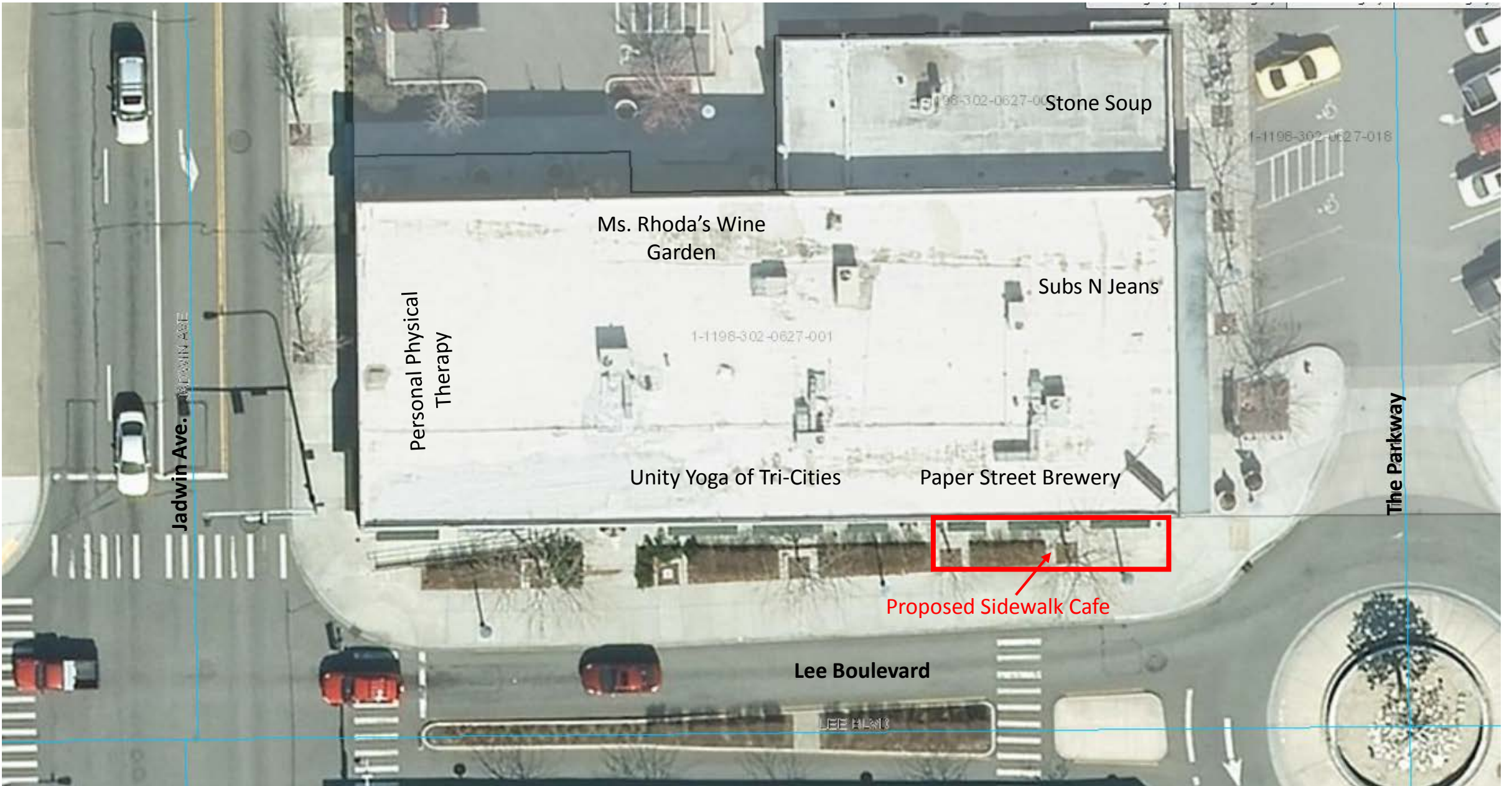
1-1198-302-0627-018

The Parkway

Proposed Sidewalk Cafe

Lee Boulevard

LEE BLVD



SIDEWALK USE LICENSE APPLICATION

Implementing RMC 5.14

\$200.00 application fee

Development Services Division
840 Northgate Drive
P.O. Box 190
Richland, WA 99352
Phone: (509) 942-
Fax: (509) 942-7764



Type of License: Sidewalk Cafe

Note to Applicants. Other permits or authorizations may be required depending upon the nature and scope of the proposed sidewalk use license.

This Section For Staff Use Only

Permit Number: SUL 2015-100

Date Received: 6/11/15

Fee: pd.

Receipt #:

Staff Contact:

PROJECT INFORMATION

Name of Project (if applicable):

Paper Street Brewing
701 The Parkway

Project Site Address

Parcel Number

OWNER

Name:

Robby Burns

Address:

Phone:

509.4

Fax:

e-mail:

APPLICANT

Name:

Robby Burns Paper Street Brewing

Address:

701 The Parkway

Phone:

509.430.6318

Fax:

e-mail:

PaperStAlehouse@gmail.com 509.713.7088

CONTACT

Name:

Robby Burns

Address:

Phone:

509.430.6318

Fax:

e-mail:

PaperStAlehouse@gmail.com

PROPOSED PROJECT DESCRIPTION

Please provide a brief description of the proposed sidewalk use including the desired space to be used, modifications to city infrastructure, equipment and/or furniture proposed, days and hours of operation, and any light or noise impacts that will be associated with the proposal. Use an additional sheet of paper if necessary.

Zoning Designation: CBD

Adjacent Land Uses (be specific including business names)

North:	<u>Subs : Jeans</u>
South:	<u>Road then Cindees</u>
East:	<u>Greenies</u>
West:	<u>Yoga Unity Yoga</u>

Check all that apply.

☒ Liquor will be served at a sidewalk cafe.

A liquor license must be obtained from the State of Washington that contemplates the sidewalk use area before a license may be issued by the City. Please attach. A private insurance policy naming the City as an additional insured and a hold harmless agreement are required for the duration of the license (see requirements below).

☒ Food and beverages will be served at a sidewalk cafe or vending cart.

A food and beverage license must be obtained from the Benton County Health Department that contemplates the sidewalk use area before a license may be issued by the City. Please attach. A private insurance policy naming the City as an additional insured and a hold harmless agreement are required for the duration of the license (see requirements below).

☒ The sidewalk or other City infrastructure will be modified.

A surety instrument may be required to ensure the return of City infrastructure to original, pre-license condition at the termination of the sidewalk use depending on the extent of modification proposed to City infrastructure. A private insurance policy naming the City as an additional insured and a hold harmless agreement are required for the duration of the license (see requirements below).

☐ The City's airspace will be used for signage, building elements, canopies, awnings, flags, or other private facilities.

Any proposed signage that is on or above City sidewalks, property or right of way must concurrently

apply for a sign permit. A sidewalk use license will not be issued until the associated sign permit is authorized. A private insurance policy naming the City as an additional insured and a hold harmless agreement are required for the duration of the license (see requirements below).

☐ Other, please describe.

Insurance Required

The licensee shall procure and maintain for the duration of the license and for 30 days following termination of the license, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the licensee, their agents, representative, employees or subcontractors. Licensee's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

The licensee shall provide a Certificate of Insurance and an *additional insured endorsement page(s)* evidencing: Commercial General Liability insurance written on an ISO occurrence basis for CG00 01 and shall cover liability arising from premises, operations, property damage, independent contractors and personal injury and advertising injury, with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate. The City shall be named as an additional insured on the insurance policy with respect to work performed by or on behalf of the Licensee and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance prior to issuance of the sidewalk use license. The Licensee's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

The Licensee's insurance shall be primary insurance with respect to the City and the City shall be given at least thirty (30) days prior written notice of an cancellation, suspension or material change in coverage.

Any payment of deductible or self-insured retention shall be the sole responsibility of the licensee.

This certificate must be submitted along with an original copy of the endorsement naming the City as an *additional insured* and be acceptable to the City prior to issuance of the sidewalk use license.

Hold Harmless Agreement Required

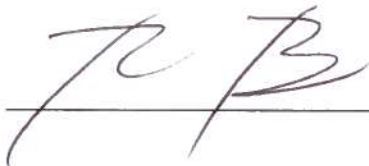
Licensee (applicant) shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of, or in connection with, their performance under this license, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this license is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the licensee and the City, its officers, officials, employees, and volunteers, the licensee's liability hereunder shall be only to the extent of the liabilities negligence. It is further specifically and expressly understood that the

indemnification provided herein constitutes the licensee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. The provisions of this section shall survive the expiration or termination of this license.

The parties mutually agreed upon this waiver. This indemnity provision shall not apply in the event any acts or omissions of the City were the sole cause of any such damage or injury. To the extent any of the damages referenced herein were caused by or resulted from the concurrent negligence of the City, its agents or employees and the licensee, its officers, or employees and the licensee, its officers, agents, and employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of the licensee, its officers, agents, and employees.

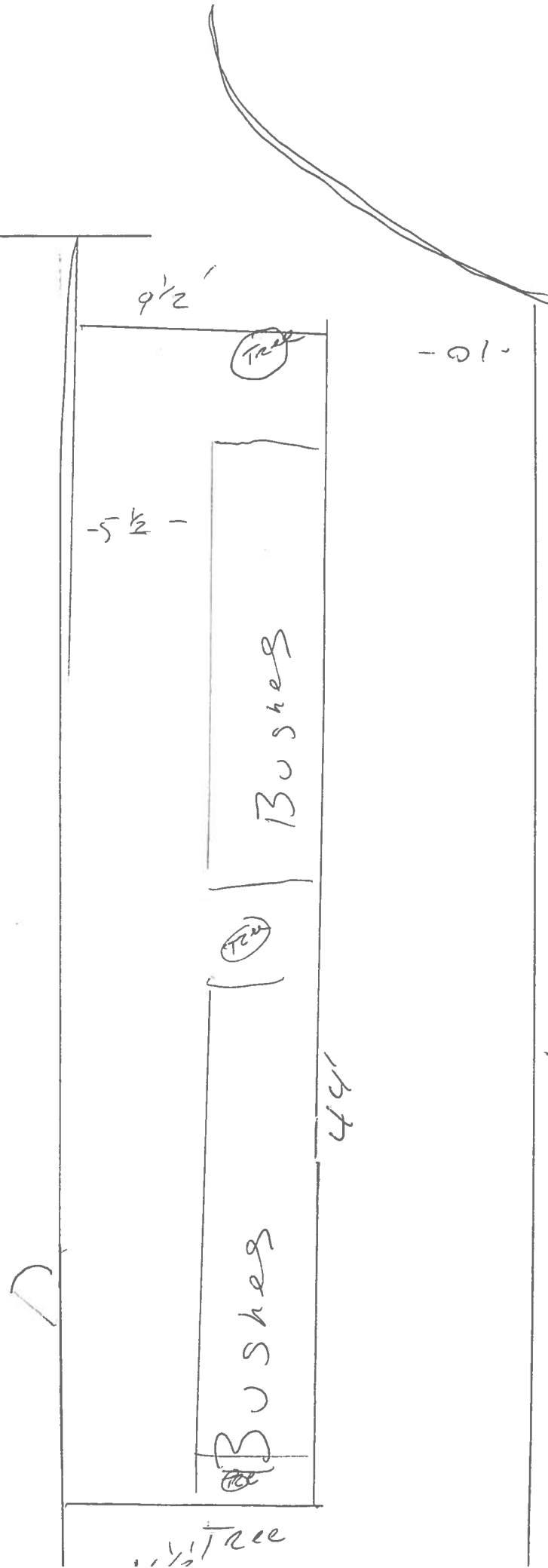
No vested rights. It is understood and agreed by the licensee that the permission to occupy the above described public place hereby contemplated is wholly of a temporary nature, vests no permanent rights whatsoever, and that upon thirty (30) days notice, posted on the premises, or by publication in the official newspaper, or without such notice, in case such use or occupation shall become dangerous or such structure shall become unsecured or unsafe, or shall not be constructed, maintained or used in accordance with the approved conditions of approval, the same may be revoked and the structures and obstructions ordered removed.

I certify that the information furnished by me is true and correct to the best of my knowledge, agree to hold the City harmless as specified herein, acknowledge that the proposed sidewalk use provides no vested rights, and that I will provide the necessary private insurance certificate prior to issuance of the sidewalk use license.

Signature:  Date: ~~10~~ 6/11/15

The Parkway

Paper Street
Brewing





CITY OF RICHLAND **NOTICE OF APPLICATION** **AND PUBLIC HEARING (SUL2015-100)**

Notice is hereby given that Paper Street Brewing filed an application for a Sidewalk Use License to permit outdoor seating for the restaurant located at 701 The Parkway. The sidewalk seating area is proposed to be located immediately in front of the restaurant space. Required pedestrian passage would be provided between the parking lot and the proposed outside seating area.

The Richland Planning Commission, on Wednesday, July 22, 2015, will conduct a public hearing and review of the application at 7:00 p.m. in the Richland City Hall Council Chambers, 505 Swift Boulevard. All interested parties are invited to attend and present testimony at the public hearing.

Any person desiring to express his/her views or to be notified of any decisions pertaining to this application should notify Rick Simon, Planning Manager, 840 Northgate Drive, P.O. Box 190, Richland, WA 99352. Comments may also be faxed to (509) 942-7764 or emailed to rsimon@ci.richland.wa.us. Written comments should be received no later than 5:00 p.m. on Tuesday, July 14, 2015 to be incorporated into the Staff Report. Comments received after that date will be entered into the record at the hearing.

Copies of the staff report and recommendation will be available in the Development Services Division Office, and at the Richland Public Library beginning Friday, July 17, 2015.

The proposed application will be reviewed in accordance with the regulations in RMC Title 5.14 Sidewalk Use Licenses.

RICK SIMON,
PLANNING MANAGER



Chapter 5.14

SIDEWALK USE LICENSE

Sections:

- [5.14.010](#) Definitions.
- [5.14.020](#) License required.
- [5.14.030](#) Application.
- [5.14.040](#) Uses allowed.
- [5.14.050](#) Terms and conditions.
- [5.14.060](#) Liquor.
- [5.14.070](#) Public hearing required for sidewalk use license.
- [5.14.080](#) Return of sidewalk to original condition.
- [5.14.090](#) Release of liability, surety and insurance.
- [5.14.100](#) Sidewalk condition.
- [5.14.110](#) Vested rights not created.
- [5.14.120](#) Compensation.
- [5.14.130](#) Design and placement standards.

5.14.010 Definitions.

“Air space” means the vertical area above city sidewalks or right-of-way that is projected upon by private signs, building elements, canopies, awnings, flags, banners, antennas, or overhead pedestrian walkways.

“Allowed merchandise” are products permitted for sale in the adjoining zoning district.

“Decoration” refers to privately owned objects placed on city-owned sidewalks including, but not limited to, seasonal ornament displays, lighting, flags, landscape planters and artwork.

“Merchandise display” means to place objects for sale by an adjoining, licensed business operating on private property on a city-owned sidewalk.

“Newsstands and mail services” are facilities intended to distribute newspapers, magazines and other literature or other facilities providing mail and package drop-off services.

“Sidewalk cafe” means an open-air seating area on a public sidewalk provided by an eating or drinking establishment located on the adjoining property and delineated by a fixed, semi-permanent enclosure such as a rail, wall or other partition.

“Sidewalk furniture” means any temporary and unaffixed improvements used as seating, tables, weather protection, or signage.

“Surety instrument” means a performance bond supplied by a licensee to guarantee the return of city property in an original, prelicense condition.

“Vending cart” is a nonmotorized cart used to prepare, store and sell food products. [Ord. 09-09].

5.14.020 License required.

The community development department will issue licenses for limited use of the city’s sidewalks and airspace. It shall be unlawful to utilize city sidewalks and rights-of-way, and air space over the sidewalks and rights-of-way, without a license. Decoration, merchandise display, sidewalk furniture, newsstands and mail services are not subject to the license requirement but remain subject to the remaining standards of this chapter. [Ord. 09-09].

5.14.030 Application.

An application for a sidewalk use license shall be made available from the community development department. A completed application including all necessary supporting plans and diagrams will initiate a maximum 60-day review period. There will be a \$200.00 fee for the license. [Ord. 09-09].

5.14.040 Uses allowed.

Subject to the conditions and limitations set forth in this chapter, the city will allow use of city-owned sidewalks or fee simple public property, by property or business owners for newsstands and mail services and by adjoining property or business owners for merchandise display, decoration, sidewalk cafes, sidewalk furniture, vending carts, and air space intrusions. In no circumstance will uses or encroachments be allowed within right-of-way or fee simple property utilized by vehicular traffic. [Ord. 09-09].

5.14.050 Terms and conditions.

A. The community development department may issue a sidewalk use license only if:

1. The applicant is the owner of the adjoining property or business or is a designated representative, except for newsstands and mail service applications;
2. The proposed use would not unduly and unreasonably impair passage to and fro by the public on the sidewalk for which the license is sought and is consistent with the design standards contained herein; and
3. Proposed sidewalk cafe users obtain an approved food-service establishment permit issued by the Benton-Franklin health department and a liquor license by the State of Washington Liquor Control Board, if applicable, and that said permits include the sidewalk use area, prior to issuance of a sidewalk use license.

B. The community development department may include in the license such terms and conditions as the department may deem appropriate to satisfy applicable local, state and federal standards in addition to: general compatibility of the proposed sidewalk with the existing neighborhood, special events, and public access, high visual quality; and facilitation of a harmonious relationship between the public and private sectors. Conditions attached to a license approval may include, but are not limited to, the following:

1. Restrictions as to the number and placement of tables and chairs and as to the hours and dates of use;
2. Provisions that the licensee shall maintain the adjoining sidewalk in a clean and safe condition for pedestrian travel;
3. A requirement that the licensee clear the sidewalk as may be reasonably necessary to accommodate deliveries to adjacent or other nearby properties;
4. Regulations upon lighting and illumination of the sidewalk cafe; limitations upon noise; and restrictions upon the placement of equipment;
5. The prompt repair of damaged or failing improvements that present a safety risk to the public;
6. Collection of indemnity documentation, insurance, and/or surety instruments as contained herein;
7. Duration of the license and renewal procedure;

8. A requirement that furniture, equipment, and other appurtenances related to sidewalk uses remain clean, in good repair and sightly.

C. Unless expressly authorized by the city no pavement shall be broken, no sidewalk surface disturbed, and no permanent fixture of any kind shall be installed in or on sidewalk area in connection with a sidewalk use.

D. The community development department may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit not sooner than 10 calendar days following written notice of intent to suspend or revoke the license. Suspension or revocation of a sidewalk use license is appealable to the city manager consistent with RMC [5.04.560](#). [Ord. 09-09].

5.14.060 Liquor.

Liquor, as defined in RCW [66.04.010](#)(16), as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized in both the sidewalk use permit and provided for in this chapter and by permit of the Washington State Liquor Control Board, and not otherwise. [Ord. 09-09].

5.14.070 Public hearing required for sidewalk use license.

Proposed sidewalk cafes and use of public air space shall require a public hearing. Notice of public hearing shall be published at least once in the official newspaper of the city. In addition, written notice shall be mailed to the owner or owners of the property involved, and to all property owners of record within a radius of 300 feet of subject property pursuant to a title insurance company report required by RMC [23.70.190](#). Both published and mailed notices shall be given at least 10 days in advance of the public hearing. The notice of hearing shall also be affixed to the property to be clearly seen from the proposed sidewalk use area at least 10 days in advance of the public hearing.

The notice of a public hearing required in this chapter shall at a minimum contain: the name of the applicant; the nature of the proposed use including a diagram clearly delineating the sidewalk, pedestrian circulation, proposed outdoor seating area, any fence, wall or partition wall, any proposed overhead projections into the city's air space, and adjoining buildings; and description of the affected property, which may be in the form of either a vicinity map or written description, reasonably sufficient to inform the public of its location; the date, time and place of the hearing; a statement that all interested persons may appear and provide testimony and the location where information may be examined prior to the hearing.

The planning commission shall conduct an open record public hearing and shall issue a decision by a recorded motion, which shall incorporate the findings of fact of the commission and the reasons for its action; and the motion shall refer expressly to the maps, description and other matters intended by the commission to constitute approval. The planning commission's findings of fact shall be based on: general compatibility of the proposed sidewalk use with the existing neighborhood, special events and pedestrian access; coordination with state and local regulations for liquor consumption and food establishments, and assurance that the public is protected via appropriate insurance and surety instruments.

Any sidewalk use license decision made by the planning commission shall be subject to appeal to the city council. [Ord. 09-09].

5.14.080 Return of sidewalk to original condition.

The licensee shall return the sidewalk to original, prelicense condition at no cost to the city at the time a license expires or the sidewalk use ceases. [Ord. 09-09].

5.14.090 Release of liability, surety and insurance.

A. Release of Liability. All persons utilizing the city sidewalk for air space, sidewalk cafe, and/or vending carts shall release the city from liability on a form available from the community development department in writing and acknowledged by the applicant, to hold and save the city free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk use. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon 30 days' notice, posted on the premises, or by publication in the official newspaper of the city, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the improvements shall be removed by the licensee immediately or by the city using associated surety instrument, if any, at the discretion of the community development director or designee.

B. Surety Instrument. Certain sidewalk uses will require the licensee to post a surety bond to ensure the return of the sidewalk to an original, prelicense condition.

C. Insurance. Sidewalk cafes shall in addition to releasing liability and providing a surety instrument also extend private commercial building insurance to include the sidewalk use area allowed in an associated license and name the city of Richland as an additional insured and provide \$1,000,000 of

accident coverage per incident. Said insurance shall include a provision prohibiting cancellation or reduction in coverage of policy except upon 30 days' prior written notice to the city. The amount of insurance coverage may be adjusted annually by the city and notice of such adjustment shall be given in writing to the licensee. A sidewalk use license for a sidewalk cafe will be revoked if the necessary private insurance does not remain in full effect.

The community development director shall require such release of liability, license, surety instrument and/or private insurance as follows (Y = yes and N = no):

Type of Use	Release of Liability	License Required	Surety Instrument	Private Insurance	Public Hearing
Air Space	Y	Y	N	Y	Y
Decoration	N	N	N	N	N
Newsstand and Mail Services	N	N	N	N	N
Merchandise Display	N	N	N	N	N
Sidewalk Cafe	Y	Y	Y*	Y	Y
Sidewalk Furniture	N	N	N	N	N
Vending Cart	Y	Y	N	Y	N

* If substantial modifications are made to city property, that are undesirable if the use ceases. Surety instrument, if required, shall be 115 percent of the estimated cost to revert the improvement to a prelicense, original condition as determined by the city engineer.

[Ord. 09-09].

5.14.100 Sidewalk condition.

The applicant shall comply with the terms and conditions of the sidewalk use license issued and maintain the sidewalk clean and free of debris, refuse, stains, and in a safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the community

development director or other appropriate city officer such as the chief of police or fire chief or their authorized representatives for matters of public safety, health and welfare. [Ord. 09-09].

5.14.110 Vested rights not created.

The grant of sidewalk uses pursuant to this chapter shall be subject always to the city's ownership of the right-of-way and the public health, safety, convenience and necessity. Grant of a sidewalk use shall not constitute a street vacation. No vested rights shall be created by grant of any sidewalk use. Such limitation shall be prominently displayed on all permits issued pursuant to this chapter. [Ord. 09-09].

5.14.120 Compensation.

Authorized sidewalk uses benefit the public by offering an active and pleasing streetscape environment and no compensation is therefore required. [Ord. 09-09].

5.14.130 Design and placement standards.

A. Exceptions. Sidewalk uses are expected to meet these design standards except in cases where special accommodation is made by the city via contract, special event permit, or other approval.

B. Pedestrian Clear Area. Sidewalk uses shall be placed so as to maintain at least five feet in width of unobstructed pedestrian travel and no more than 30-degree changes of direction around uses. The pedestrian clear area does not include the radius for the door openings of buildings.

C. Separation from Curb. Sidewalk uses may be placed adjacent to buildings and not closer than two feet from the curb and shall accommodate the pedestrian clear area. In all cases, the intersection sight distance, as required in Chapter [12.11](#) RMC, shall be met.

D. Fencing. Unless otherwise determined by the community development director, any containment of outdoor cafes shall be limited to 36 inches high maximum and shall allow at least 50 percent visibility.

E. Overhead Use of City Airspace. No projection of private building elements, signage, antennas, flags, banners, awnings, canopies, or overhead pedestrian walkways shall occur lower than 10 feet as measured vertically from sidewalk grade and shall meet Washington State Department of Transportation clearance standards for particular street classifications.

F. Allowable Sidewalk Use Area. Only portions of the sidewalk that directly adjoin a property for which a license is sought are eligible for use, except sidewalks used for newsstands and mail services.

G. Any vending cart shall be removed from the city right-of-way daily.

H. Newsstands and mail delivery services shall not: impair loading; hinder egress from parked vehicles; open toward the roadway if located on the curbside of the sidewalk; obscure signage; be fastened to any public utility poles, signs or equipment; contain advertising other than that which relates exclusively to the publication sold or distributed; or be used for purposes other than the sale and distribution of such publications. [Ord. 09-09].



PLANNING COMMISSION AGENDA ITEM COVERSHEET

Meeting Date: 07/22/2015

Agenda Category: New Business – Public Hearing

Prepared By: Rick Simon, Development Services Manager

Subject:

Proposed Code Amendments - Binding Site Plans (Z2015-107)

Applicant: City of Richland

Location: Citywide

Request:

Recommended Motion:

Motion that the Planning Commission concur with the findings and conclusions set forth in Staff Report (Z2015-107) and recommend to the City Council adoption of the proposed new section to the Richland Municipal Code – RMC 24.14.110 – Rescission.

Summary:

Recently, an applicant who had used the City's binding site plan process had a need to vacate a binding site plan after it had been recorded and discovered that there is no process set forth in City code to authorize a vacation. Staff has proposed adding a new section 24.14.110 to provide for the rescission of a recorded binding site plan.

Attachments:

1. Z2015-107 Code Amendments - Binding Site Plans

STAFF REPORT

TO: PLANNING COMMISSION
FILE NO.: Z2015-107

PREPARED BY: RICK SIMON
MEETING DATE: JULY 22, 2015

GENERAL INFORMATION:

APPLICANT: CITY OF RICHLAND Z2015-107

REQUEST: TEXT AMENDMENTS TO CHAPTER 24.14 – BINDING SITE PLAN,
ADDING A PROVISION AUTHORIZING THE RECISSION OF A
BINDING SITE PLAN.

LOCATION: CITYWIDE

REASON FOR REQUEST:

Recently, an applicant who had used the City's binding site plan process had a need to vacate a binding site plan after it had been recorded and discovered that there is no process set forth in City code to authorize a vacation. Staff has proposed adding a new section 24.14.110 to provide for the rescission of a recorded binding site plan.

FINDINGS AND CONCLUSIONS

Staff has completed its review of the proposed amendments to the city's wireless communication facilities regulations and submits that:

1. Chapter 24.14 of the RMC regulates the division of property through a binding site plan, which is an alternative process to the division of land for commercial and industrial properties;
2. State law, through RCW 58.17.035 authorizes cities to establish binding site plans as an alternative method of land division and requires that provisions be put in place for the vacation of binding site plans;
3. The City's existing code does not contain currently contain provisions for the vacation of a binding site plan;
4. The proposed amendments to RMC Chapter 24.14, through the adoption of a new section 24.14.110 would provide the City with a means of vacating a binding site plan through an administrative process;

5. Based upon the above findings and conclusions, the adoption of a new section to the RMC – Section 24.14.110 providing for the vacation of a binding site plan is in the best interest of the community of Richland.

RECOMMENDATION

Staff recommends the Planning Commission concur with the findings and conclusions set forth in Staff Report (Z2015-107) and recommend to the City Council adoption of the proposed new section to the Richland Municipal Code – RMC 24.14.110 – Rescission.

ATTACHMENTS

- A. Supplemental Information
- B. RMC Chapter 24.14

SUPPLEMENTAL INFORMATION

CURRENT SITUATION

The City has a long established practice of dealing with binding site plans that involves a two-step process. The first step involves the recording of a “general binding site plan”. A general binding site plan is created following approval by the City through a public hearing process. The general binding site plan identifies the boundaries of the land included in the binding site plan and establishes the configuration of future streets and utility corridors. Often, the general binding site plan shows proposed lot boundaries, but the lots are not actually created by the general binding site plan. Much of the time, the size and configuration of commercial lots are dictated by the specific user. So, lots are not created until a specific buyer can reach agreement with the developer on a specific parcel configuration. Then the developer would record a “specific binding site plan”. The specific binding site plan would identify the dimensions of the particular lot or lots that it is creating; would identify any needed utility and access easements and would specify any conditions that the City requires as a pre-condition of development of the particular lot(s).

The City’s current binding site plan ordinance does not clearly identify the distinctions between general and specific binding site plans, so some re-write of the regulations is needed. Staff plans to address this issue later this year. However, an immediate need for code revision has been identified with the recording of the Veneto Villaggio Binding Site Plan in the Badger Mountain South master planned community. In 2014, the Planning Commission approved this binding site plan application to create a total of 40 commercial lots. A general binding site plan recorded last fall showed the potential configuration of all 40 lots. However, a mistake was made in that the document was not specifically labeled as a “General Binding Site Plan”. The result is that the Benton County Assessor is now considering those lots as legal lots of record and will value the property accordingly for purposes of property tax collection. It was neither the applicant’s nor the City’s intention to create these lots. The applicant therefore is seeking to vacate or rescind the binding site plan. The City code, as it currently exists makes no provision for the vacation of an existing binding site plan.

Beyond the applicant’s need to limit the tax burden for the lots included in this binding site plan, the City also has reason to seek resolution to this situation. As it was intended to only be a general binding site plan, the Veneto Villaggio binding site plan did not include the survey of lot corners, nor did it identify easements needed for the future extension of City utilities. The result is that lots of record have been created without surveys and without necessary easements.

STATE AUTHORITY

State law provides for binding site plans as an alternative method of land division to the subdivision process. RCW 58.17.035 in pertinent part states:

A city, town, or county may adopt by ordinance procedures for the divisions of land by use of a binding site plan as an alternative to the procedures required by this chapter. The ordinance shall be limited and only apply to one or more of the following: (1) The use of a binding site plan to divisions for sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040(4); (2) divisions of property for lease as provided for in RCW 58.17.040(5); and (3) divisions of property as provided for in RCW 58.17.040(7). Such ordinance may apply the same or different requirements and procedures to each of the three types of divisions and shall provide for the alteration or vacation of the binding site plan, and may provide for the administrative approval of the binding site plan.

State law requires that a binding site plan ordinance provide for the vacation of a binding site plan, but it does not provide any specific guidance into how a binding site plan is to be vacated, leaving the City with flexibility to determine the best process for considering vacations.

State law, through RCW 58.17.212, provides more specific guidance as to how a subdivision is to be vacated, calling for the signatures of all parties having an ownership interest in the portion of the subdivision that is subject to the proposed vacation. It also requires a public hearing before the legislative body.

PROPOSED CODE AMENDMENT

Staff has drafted the following language to be added to the City code:

24.14.110 Rescission

A. The city may rescind all or a portion of a general or final binding site plan upon the request of the owner or owners of a legal lot or lots subject to a recorded binding site plan; provided, that any portion of a binding site plan which is rescinded shall be considered to be configured as it was immediately prior to the time that the binding site plan was recorded.

B. Signatures of the owners of those portions of a binding site plan which are not proposed to be altered by an amendment or rescission are not required on the amended binding site plan or application for rescission.

ANALYSIS

The draft amendment would implement a simple process to provide for the vacation of a binding site plan through an administrative process. The code would require the signatures of all parties that have an ownership interest in the portion(s) of the binding site plan to be vacated. Once vacated, the property would revert to the configuration of parcels that existed prior to the binding site plan.

SUMMARY

The proposed amendments to the City's regulations pertaining to the vacation of a binding site plan are necessary both to comply with the state law contained in RCW 58.17.035 and to provide a mechanism that will allow for the vacation of a binding site plan that is currently lacking in the City code.

Chapter 24.14

BINDING SITE PLAN PROCEDURE

Sections:

- [24.14.010](#) Purpose and scope.
- [24.14.015](#) Definitions.
- [24.14.020](#) Overview of procedures.
- [24.14.030](#) Preliminary site plan procedures.
- [24.14.040](#) Application for binding site plan approval.
- [24.14.050](#) Content of binding site plan.
- [24.14.060](#) Review procedures for large properties.
- [24.14.070](#) Review procedures for small properties.
- [24.14.080](#) Requirements for design and bonding of improvements.
- [24.14.090](#) Commercial and industrial subdivisions and binding site plan.
- [24.14.100](#) Appeals.

24.14.010 Purpose and scope.

The purpose of this chapter is to establish procedures for public review of the division of commercial and industrial land which are less cumbersome and more flexible than traditional subdivision and short subdivision procedures, while fulfilling the purpose of this code as set forth in this title. This chapter shall apply to every division of commercially or industrially zoned land into two or more parcels for the purposes of sale, lease, or other transfer of ownership, except for those land divisions exempted in this title, and except when the land is to be platted. [Ord. 47-94].

24.14.015 Definitions.

A. Administrator. The city manager or his designee shall be responsible for the administration and enforcement of this code. [Ord. 47-94].

24.14.020 Overview of procedures.

The general procedures for processing a binding site plan shall consist of the following steps:

- A. Preparation and submittal of a preliminary site plan (optional) for review by affected city departments and other appropriate agencies;
- B. Submittal of an application for binding site plan processing:
 - 1. For a lot containing less than 200,000 square feet in surface area, administrative review and action on the binding site plan;
 - 2. For a lot containing 200,000 square feet or more in surface area, review and recommendation by the technical advisory committee and review and action by the physical planning commission;
- C. Approval by the city engineer of appropriate engineering design plans for streets and other public improvements and either construction of improvements or provision of bonding or other legally sufficient assurance of improvement as required;
- D. Approval of the binding site plan by the administrator; and
- E. Recording of binding site plan with the Benton County auditor. [Ord. 47-94].

24.14.030 Preliminary site plan procedures.

A. Preliminary Site Plan Procedures – Optional. It is the applicant’s option whether or not to apply for preliminary site plan review. Preliminary site plans should be filed for properties that have not been previously divided under the binding site plan procedure or for properties for which additional dedications, easements, covenants, or other restrictions may be required. The preliminary site plan procedure is intended to assist applicants in understanding code provisions and to inform them of any dedications, easements, covenants, or other restrictions that may be required on the binding site plan. Being so informed, applicants may be able to avoid revisions to the binding site plan and delays in division of property.

Properties for which a binding site plan has already been filed and for which few, if any, additional requirements will be imposed on the binding site plan may, but need not, apply for preliminary site plan review.

B. Request for Review.

1. A letter requesting a preliminary binding site plan review and meeting shall be filed with the administrator at least 15 days prior to the binding site plan file deadline for properties containing more than 200,000 square feet of surface area. Fifteen copies of the preliminary site plan shall be submitted with the letter of request.

2. A letter requesting a preliminary binding site plan review by the administrator for properties containing less than 200,000 square feet shall be filed at least 10 working days prior to a request for review under RMC [24.14.070](#), Review procedures for small properties. Fifteen copies of the preliminary site plan shall be submitted with the letter of request.

C. Contents of Preliminary Site Plan. The preliminary site plan shall be a sketch drawing which shall contain sufficient information to describe:

1. The location and boundaries of the property to be divided;
2. The general outline of the property division desired;
3. The locations of existing streets and other rights-of-way;
4. The desired location of driveway accesses onto public thoroughfares and the desired location and pattern of circulation corridors for the entire parcel to be divided; and
5. The general location, arrangement, and size of existing and proposed buildings, yards, outdoor sales areas, and parking areas.

D. Referral. The administrator shall, within three working days of the date that the request for preliminary site plan review is received, transmit to the following departments and divisions at least one copy of the map:

1. Engineering division;
2. Water and waste utilities subdepartment;
3. Electrical engineering;
4. Planning division;
5. Fire and emergency services department;
6. Building safety and inspection division; and
7. Energy resources division.

E. Response from Affected Departments. Each affected department/division shall provide a written response to the administrator outlining comments or recommended modifications to the preliminary

site plan or indicating that no comments or recommendations are forthcoming. Such written response shall be delivered to the administrator either prior to or at the preliminary site plan meeting.

F. Preliminary Site Plan Meeting. At the time of referral to other departments, the administrator shall schedule a preliminary site plan meeting to be attended by the departments receiving the preliminary site plan. Such meeting shall be held not less than three or more than five working days from the date of preliminary site plan referral. The written recommendations of the various departments for revision of the preliminary site plan or inscriptions that will be required on the binding site plan should be discussed at such meeting and if modifications to the preliminary site plan are agreed to at the meeting, the administrator shall act on it as modified. A written summary of the meeting shall be prepared by the administrator.

G. Findings and Action by the Administrator. Following the aforesaid site plan meeting, the administrator shall evaluate the preliminary site plan according to the following criteria:

1. Appropriateness of the locations and dimensions of driveway accesses to public thoroughfares, and interior circulation corridors as evaluated against design criteria and appropriate city regulations;
2. Conformance of the circulation patterns shown on the preliminary site plan with thoroughfare plans and circulation patterns established or proposed for the area in which the binding site plan is proposed;
3. Conformance with planned or existing utilities and storm drainage; and
4. General compatibility with planned and existing land uses in the surrounding area.

After evaluating the preliminary site plan against the above criteria, the administrator shall prepare a recommendation for any modifications required by the preliminary site plan and inscriptions (easements, dedications, covenants, etc.) that will be required on the binding site plan.

H. Notification to Applicant and Further Action. The administrator shall formally notify the applicant by letter as to the findings and recommendations of the preliminary site plan meeting within three working days from the date of the meeting. Copies of the written recommendations and comments from the departments and the preliminary site plan meeting summary will be attached to this letter to provide the applicant with a complete record. The letter shall also indicate filing deadlines, fees, procedural steps, and the anticipated schedule for processing a binding site plan application. A copy of the letter, including attachments, shall be forwarded to all affected departments or agencies that have reviewed the preliminary site plan. [Ord. 47-94].

24.14.040 Application for binding site plan approval.

Prior to the division of commercial or industrial land, a binding site plan application shall be filed. If the property to be divided is 200,000 square feet or more in surface area, application for binding site plan approval shall be filed with the administrator at least 30 calendar days prior to the physical planning commission meeting at which the application is to be considered. The application shall include:

A. A completed application form;

B. Fifteen copies of the binding site plan prepared by a registered professional land surveyor and one set of letter size (eight and one-half inches by 11 inches) or legal size (eight and one-half inches by 14 inches) reductions of the binding site plan;

C. For properties containing over 200,000 square feet in surface area, a report from a title insurance company showing:

1. Ownership of the property involved;
 2. Easements, exceptions and restrictions of record;
 3. A list of names and addresses of owners of property within 300 feet of the property involved, exclusive of the public rights-of-way and other property owned by the applicant; and
 4. A key map showing the property involved and delineating the adjacent property exclusive of the public rights-of-way with each parcel that is shown numbered to correspond with the ownership report.
- D. For properties containing less than 200,000 square feet in surface area, a report from a title insurance company showing:
1. Ownership of the property involved; and
 2. Easements, exceptions, and restrictions of record.
- E. Application fee as required by RMC [19.80.020](#). [Ord. 47-94; Ord. 13-96].

24.14.050 Content of binding site plan.

The binding site plan shall consist of a cover sheet, if necessary, containing approvals, conditions, certificates, and inscriptions; and a scaled drawing(s) representing the parcel to be divided. The cover sheet is necessary only if the binding site plan contains more than one sheet. All sheets shall be drawn in permanent black ink on sheets of stabilized drafting film measuring 24 by 36 inches, and with a two-inch margin on the left edge and a one-inch margin on all other edges. The drawing shall be drawn at an appropriate decimal scale such that it is not cramped or illegible. The cover sheet and drawing shall contain the following:

A. Content of Cover Sheet. The cover sheet shall contain the following information and inscriptions:

1. At the top of the sheet, the title "Binding Site Plan No. (number) of (year)" followed by the name of the proposed binding site plan. If the land to be divided is a portion of a larger property for which a binding site plan has previously been recorded, the name shall be "a portion of...." followed by the name of previously recorded binding site plan;
2. Sufficient data to readily determine and reproduce on the ground the bearing and length of every line described below, for which an exact location is known, with all dimensions shown to the nearest one hundredth of a foot, curves described by length of arc, radius, and central angle, with all angles and bearings shown in degrees, minutes, and seconds;
3. Location by section, township, and range to the nearest quarter section;
4. Legal descriptions of all the lots, parcels, or tracts of land within the boundaries of the parcel as they are proposed to be divided at the time of binding site plan approval application; and
5. Inscriptions setting forth appropriate limitations and conditions for use of the land; and
6. Certificates, dedications, and approvals substantially in conformance with Plate No. 2 of this reference made a part of this code and set forth at the end of this chapter and any other certificates and approvals required by the administrative official.

B. Content of Binding Site Plan Drawing(s). The binding site plan drawing(s) shall contain the following information:

1. At the top of the sheet, the title and name of the binding site plan as provided in subsection (A)(1) of this section;
2. Location by section, township, and range to the nearest quarter section;
3. Scale of drawing, date, and north arrow;
4. Existing topography of the land indicated by contour lines at two-foot intervals or less;
5. The boundary line of the binding site plan which contains the entire parcel which is to be divided, and the line of all existing buildings, streets, roads, rights-of-way, easements, lots, blocks, tracts, etc., within or adjacent to the property to be divided;

6. The locations of all proposed streets, roads, rights-of-way, easements, etc.;
7. The lines of the lot divisions proposed at the time of binding site plan application;
8. The exact location, width, and name or purpose of existing and proposed streets, roads, alleys, walks, utility, access control, or other easements, driveway accesses onto public streets, open spaces, etc., except that where exact locations and dimensions are not known at the time of binding site plan application, general locations shall be shown and appropriate limitations and conditions shall be referenced to and contained within inscriptions on the binding site plan cover sheet;
9. Preliminary engineering plans including but not limited to water, sewer, power, street lighting, roads, storm drainage and sidewalks;
10. Sufficient data to readily determine and reproduce on the ground the bearing and length of every line described above, for which an exact location is known, with all dimensions shown to the nearest one hundredth of a foot, with curves described by length of arc, radius, and central angle, with all angles and bearings shown in degrees, minutes and seconds; and
11. The location of all streams, ponds, wetlands, or other bodies of water, prominent topographic features, sensitive areas, or other significant natural features on the site which affect or might be affected by the division or development of the land. [Ord. 47-94; Ord. 23-03].

24.14.060 Review procedures for large properties.

For properties containing 200,000 square feet or more in surface area, the following procedures shall apply:

A. Referral to Technical Advisory Committee and Other Involved Agencies. The administrator, within three working days of binding site plan application, shall transmit a copy of the binding site plan to each member of the technical advisory committee and to all other agencies required by this code. The transmittal of the binding site plan shall be under cover of a letter or memorandum scheduling a meeting of the technical advisory committee and shall stipulate the time and place of such meeting.

B. Written Response from the Technical Advisory Committee Member and Other Agencies Required. Written comments, recommendations, or requirements from the technical advisory committee members, or other involved agencies, shall be delivered to the administrator either prior to or at the technical advisory committee. Failure to provide such written response to the administrator shall constitute an assumption that the proposed binding site plan is acceptable to the department or agency not responding and, therefore, there is no need to comment.

C. Technical Advisory Committee Meeting. The technical advisory committee meeting shall convene at the stipulated time and place, and shall be attended by regular committee members, other involved agencies, and the applicant and/or applicant's representatives. The administrator shall serve as moderator of the meeting and shall prepare a written report summarizing the recommendations of the committee.

D. Public Hearing Notice Requirements. The administrator, upon receipt of a binding site plan application, shall schedule a public hearing before the hearing examiner. Notice of such hearing shall be given in accordance with the following requirements:

1. Notice shall be published in the official newspaper of the city, not less than 10 calendar days prior to the date of public hearing before the hearing examiner;

2. Written notice shall be mailed to owners of record of property within 300 feet of property involved, exclusive of public rights-of-way, at least 10 calendar days prior to the public hearing before the hearing examiner; and

3. All hearing notices shall include a legal description of the location of the proposed binding site plan and either a vicinity sketch or a location description in nonlegal language or both.

E. Referral to Hearing Examiner. The administrator shall forward the binding site plan to the hearing examiner at least five days prior to the public hearing. The following information shall be forwarded along with the binding site plan:

1. A copy of the notice of public hearing;
2. A copy of the preliminary binding site plan letter including attachments;
3. A copy of the technical advisory committee summary report; and
4. A report of the administrator's analysis, findings, and recommendation.

F. Hearing Examiner Public Hearing, Consideration, Findings, and Action. The hearing examiner shall conduct the public hearing on the binding site plan at the scheduled time and shall afford a reasonable opportunity for testimony both for and against the application to be heard. In addition to the testimony received, the hearing examiner shall consider all written and oral information made available and shall determine if the binding site plan makes adequate provision for the public health, safety, and welfare, and will be in the best interest of the citizens of the city and in accordance with the design criteria of this code.

After due consideration of all testimony, information, and criteria, the hearing examiner shall adopt such findings as it deems appropriate and, on the basis of such findings, shall approve, approve with modifications, or deny the application for binding site plan.

Upon approval, the applicant shall record the binding site plan with Benton County. [Ord. 47-94; Ord. 27-14 § 1.01].

24.14.070 Review procedures for small properties.

For properties containing less than 200,000 square feet in surface area, the following procedures shall apply:

A. Referral to City Departments and Divisions. Within three working days of the filing of a binding site plan application, the administrator shall transmit a copy of the binding site plan to the water and waste utilities subdepartment, electrical engineering, planning, engineering, building safety and inspection divisions, and the fire and emergency services department. The transmittal of the binding site plan shall be under cover of a memorandum scheduling a meeting of the affected departments and divisions within 10 working days following the filing of a binding site plan application and shall stipulate the time and place of such meeting.

B. Written Response from Affected Departments. Written comments and recommendations or requirements from affected departments shall be delivered to the administrator either prior to or at the binding site plan meeting. Failure to provide such written response shall constitute an assumption that the binding site plan is acceptable to the department not responding and, therefore, there is no need to comment.

C. Binding Site Plan Meeting. The binding site plan meeting shall convene at the stipulated time and place and shall be attended by affected departments and the applicant and/or representatives of the

applicant. The administrator shall serve as moderator of the meeting and shall prepare a written report summarizing the recommendations of the meeting. A copy of the summary report shall be forwarded to each affected department and to the applicant or representative of the applicant no later than three working days from the date of the binding site plan meeting.

D. Consideration and Action by the Administrator. The administrator, within a period of three working days from the date of the binding site plan meeting, shall consider all information provided and determine if the application for binding site plan makes adequate provisions for the public health, safety, and welfare, and will be in the best interest of the citizens of the city and in accordance with the design criteria of this code. After due consideration of the above, the administrator shall approve, approve with modifications, deny, or return the binding site plan application to the applicant.

The administrator may return the application for binding site plan to the applicant without taking action on it when additional information or modifications are required. After an application is resubmitted, the administrator may refer the application to affected city departments and divisions and schedule a second binding site plan meeting according to the procedure previously set forth for referral and meeting, or the administrator may take action on the binding site plan application resubmittal. The administrator shall act to approve, conditionally approve, or deny the application for the binding site plan; however, the administrator may, with the applicant's consent, return the binding site plan to the applicant without taking action on it.

Upon approval, the applicant shall record the binding site plan with Benton County.

E. Appeal. Any action by the administrator may be appealed to the hearing examiner in accordance with the requirements set forth in RMC Title [19](#) for Type I permit application. [Ord. 47-94; Ord. 13-96; Ord. 27-14 § 1.01].

24.14.080 Requirements for design and bonding of improvements.

Prior to affixing of a signature of approval on the binding site plan by the administrator, the applicant shall upon the decision of the city engineer either have included specific conditions on the face of the binding site plan with regard to the timing of bonding or construction of public infrastructure improvements within the proposed rights-of-way or easement areas or have prepared and submitted to the city engineer, and the city engineer shall have approved detailed engineering and design plans for any required streets, utility systems, storm drainage systems, and street lighting systems, or other required improvements, in accordance with the applicable specifications and standards of the city and other involved utility agencies. Irrigation system designs, site grading, and other such designs or plans that may be required by law or that were specifically required as conditions of binding site plan approval shall be submitted concurrently for the city engineer's review and approval. Furthermore, bonding or other legally sufficient assurance of installation of required improvements shall be provided as required in Chapter [24.12](#) RMC, subdivision procedures. Following the affixing of all required signatures, the binding site plan shall be filed for record in the office of the Benton County auditor.

When binding site plans are approved in areas where a master plan including preliminary engineering has been reviewed and approved by all departments and the city council, the administrator shall allow recording of the binding site plan, provided specific conditions have been included on the face of the binding site plan noting that the master plan shall be the basis for controlling the location and size of all

utilities and roads and that a building permit shall not be issued for site development until all detailed engineering plans are submitted and approved by the city and are either constructed or bonded or otherwise conditioned. [Ord. 47-94].

24.14.090 Commercial and industrial subdivisions and binding site plan.

In addition to the design criteria found elsewhere in this chapter, commercial and industrial property proposed to be divided under the binding site plan provisions of this title shall be evaluated according to the following criteria:

A. Streets. Where necessary to meet the criteria for length and width of commercial and industrial blocks or where shown on the comprehensive plan, access streets shall be dedicated to the public. The design and improvement of commercial and industrial streets shall conform to the applicable criteria and standards for streets elsewhere in this code. In addition, they shall be designed and improved in a manner sufficient to accommodate the types of vehicles and volume of traffic expected as determined by the city engineer. The city engineer may require commercial or industrial access streets to be developed to a greater width than required for residential access streets. Where it is proposed that frequent truck and bus traffic will share roadways with passenger vehicles, turning radii shall be such that encroachment of trucks and buses into adjacent lanes is minimized.

B. Access Roadways. In addition to any required public streets, private roadways or traffic aisles shall provide access to lots created such that the traffic generated by ultimate development within the boundaries of the property to be divided will be separated from through traffic on collector and arterial streets. The number of intersections of commercial and industrial access roadways with collector and arterial streets shall be minimized.

1. Except for driveway entrances of corner lots, the number of intersections of private streets and traffic aisles with arterial streets on any one street frontage of any block shall be limited to one for every 400 feet of street frontage, or portion thereof, on that side of the block, except where specifically permitted by the reviewers;

2. Corner lots shall be permitted a maximum of two driveway entrances for each street frontage and all driveway entrances shall be at least 25 feet from the right-of-way line of an intersecting street;

3. Corner lots shall have access to the access roadways for other lots in the block as described in this section;

4. As nearly as is practicable, intersections of access roadways with public streets, including driveway entrances, shall be evenly spaced; and

5. All access roadways shall be a minimum of 20 feet in width and shall be designed and improved in a manner sufficient to accommodate the type of vehicles and volume of traffic expected as determined by the city engineer.

C. Trails, Walkways, and Paths. Safe and convenient pedestrian and bicycle access shall be provided from public streets to commercial and industrial lots as determined by the reviewers.

D. Utilities and Storm Drainage. Utility plans and storm drainage plans shall be reviewed and approved by the utilities and public works group and community and development services group prior to approval of any binding site plan.

E. Blocks. Block length shall normally not exceed 2,000 feet or be less than 600 feet. Block width shall normally not exceed 1,000 feet or be less than 300 feet. When staff or the commission review and

approve a detailed site plan containing specific location of building and design of traffic aisles and parking areas, or when special circumstances are found to exist, they may waive this requirement. [Ord. 47-94; Ord. 31-03].

24.14.100 Appeals.

Any action taken by the hearing examiner on a binding site plan application may be appealed to the city council in accordance with the requirements set forth in RMC Title [19](#) for a Type II permit application. [Ord. 47-94; Ord. 13-96; Ord. 27-14 § 1.01].

New Section:

24.14.110 Rescission

- A. The city may rescind all or a portion of a general or final binding site plan upon the request of the owner or owners of a legal lot or lots subject to a recorded binding site plan; provided, that any portion of a binding site plan which is rescinded shall be considered to be configured as it was immediately prior to the time that the binding site plan was recorded.***
- B. Signatures of the owners of those portions of a binding site plan which are not proposed to be altered by an amendment or rescission are not required on the amended binding site plan or application for rescission.***