

FILE NO.: Z-8817-A

NAME: Stone's Throw Brewery Revised Short-form PD-C

LOCATION: 402 East 9th Street

DEVELOPER:

Theron Cash
Stone's Throw Brewing, LLC
7 Creekside Court
Little Rock, AR 72211

SURVEYOR:

Brooks Surveying, Inc.
20820 Arch Street Pike
Hensley, AR 72065

AREA: 0.092 acres

NUMBER OF LOTS: 1 lot

FT. NEW STREET: 0 LF

CURRENT ZONING: PD-C

ALLOWED USES: Brewery, Retail and Residential

PROPOSED ZONING: Revised PD-C

PROPOSED USE: Allow the addition of an outdoor patio, increase the number of seats allowed inside and amend the days and hours of operation

VARIANCE/WAIVERS: None requested.

BACKGROUND:

Ordinance No. 20,688 adopted by the Little Rock Board of Directors on January 22, 2013, rezoned the site from R-4A to PD-C. The approval allowed a portion of an existing building as a Microbrewery. The outward appearance and form of the property was to remain unaltered. 1,900 square feet of the building was dedicated to production and storage of beer and malt beverage. This included all consumables and equipment required.

A small portion of the space was planned to be used as a small tasting room, with a limited retail function, to be used in conjunction with brewing tours, as required in State regulations. In the tasting room small samples of product were to be given after the tour, with opportunity to buy packages for off premise consumption, as well as by-the-glass sales. Within the area 750 square feet was to be brewery production, 320 square feet for keg cleaning, 235 square feet for storage and cooler space, 360 square feet for the tasting room and 110 square feet for the tasting bar. A maximum occupancy of 20 customers within the bar area was proposed. The hours of operation for the tour and retail aspect of the business was limited.

There were no set days and hours of operation but it was anticipated the Brewery business would not be open more than five (5) days per week with the hours between 2 pm and 9 pm. Special tasting events were proposed with no more than 12 per year. The events would be during normal business hours on the weekends. During weekday events the applicant stated they would be open until 9 pm.

A. PROPOSAL/REQUEST/APPLICANT'S STATEMENT:

The applicant is now proposing a revision to the approved PD-C to add additional seating capacity and amend their days and hours of operation. The current approval allows the business to operate five (5) days per week and close by 9 pm. The applicant is requesting to operate seven (7) days per week from 11 am to midnight.

The tasting room seating capacity currently approved is limited to 20 seats. The applicant has indicated since opening in August 2013 they have enjoyed a good deal of success. The result is the tasting room is at capacity almost every hour the business is open. The applicant is requesting to amend the PD-C for the seating capacity in an effort to serve more patrons. The applicant is requesting to increase the tasting room capacity from 20 to 28 seats. The applicant is also requesting the addition of outdoor seating, (patio). The outdoor patio area contains approximately 715 square feet. This area would accommodate 30 additional seats.

The applicant is also requesting to add additional floor area to the approval of the PD-C. The commercial space located next door to the Brewery is leased to a vintage business. The Brewery has the first-right-of-refusal on this commercial space. The applicant is requesting should the next door commercial space become available they be allowed to incorporate this area into their Brewery square footage. This would include an additional 240 square feet of floor area and 15 seats.

B. EXISTING CONDITIONS:

This area contains a mixture of uses including the Arts Center, a high rise multi-family building, offices and single-family homes. There are two (2) large churches in the area, a homeless day center and retail uses. The building was

constructed as a non-residential building and has housed a number of uses over the years. The Brewery and an vintage retail shop are located on the lower level and a residence on the upper level. There is a graveled parking lot to the north of the building which provides parking for the building. The site is located within the MacArthur Park Historic District which as specific development criteria related to parking lots.

C. NEIGHBORHOOD COMMENTS:

As of this writing, staff has received a few informational phone calls from area residents. All property owners located within 200 feet of the site, the MacArthur Park Property Owners Association and the Downtown Neighborhood Association were notified of the public hearing.

D. ENGINEERING COMMENTS:

PUBLIC WORKS CONDITIONS:

1. A 20 foot radial dedication of right-of-way is required at the intersection of East 9th Street and Rock Street.
2. Obtain a franchise agreement from Public Works (Bennie Nicolo, 371-4818) for the private improvements located in the right-of-way. The franchise permit must be approved by Board of Directors action.
3. Repair or replace any curb and gutter, or sidewalk (access ramp) that is damaged or not in conformance in the public right-of-way and remove old driveway curb cuts prior to the proposed seating expansion. Contact Vince Floriani, Civil Engineering, at 501.371.4817 for required items to be replaced.

E. SUBDIVISION COMMITTEE COMMENT: (February 18, 2015)

The applicant was present. Staff presented an overview stating the request was to allow a revision to the existing PD-C zoning to increase the hours of operation and increase the number of seats allowed for the business. Staff stated the only modification to the site was to allow tables and benches to be placed within an outdoor patio area.

Public Works comments were addressed. Staff stated a radial dedication of right of way was required at the intersection of East 9th and Rock Streets. Staff stated a franchise agreement to allow the use of the right of way for the outdoor patio area would require approval by the Board of Directors.

There were no more issues for discussion. The Committee then forwarded the item to the full Commission for final action.

F. ANALYSIS:

There were no outstanding technical issues associated with the request in need of addressing via a revised site plan. The applicant is requesting approval of a revision to their PD-C zoning to add additional seating capacity within the building and outdoor seating and extend the days and hours of operation. The current approval allows the business to operate five (5) days per week. The business is to close by 9 pm. The applicant is requesting to extend the hours of operation to allow the business to operate seven (7) days per week from 11 am to midnight.

The tasting room contains approximately 775 square feet of floor area and has a seating capacity per the approved PD-C of 20 seats. The applicant is seeking approval to increase the seating capacity of the tasting room from 20 to 28. In addition to the increase in seats within the tasting room the applicant is requesting to allow an area of outdoor seating, (patio). The outdoor patio area contains approximately 715 square feet and will accommodate 30 additional seats.

The patio area would be fenced in accordance with ABC and MacArthur Park Historic District requirements. The fence will utilize wooden barrel planters already in place. A short pole will be placed in each planter and chains or other chord type material will be strung between each pole to form a barrier.

The applicant is requesting to add additional floor area to the approval of the PD-C. The commercial space located next door to the Brewery is leased to a vintage business. The Brewery has the first-right-of-refusal on this commercial space. The applicant is requesting should the next door commercial space become available they be allowed to incorporate this area into their Brewery square footage. This would include an additional 240 square feet of floor area and 15 seats.

Typically parking is calculated based on square footage and not on the number of seats available. The existing 760 square feet of floor area would require seven (7) parking spaces. The addition of the 715 square foot patio would require seven (7) additional spaces and should the applicant secure the retail space to incorporate into the floor area and additional two (2) parking spaces would be required. A total of sixteen (16) parking spaces would be required to serve the building should the applicant expand into the retail space.

The lease agreement with the owner allows the business access to five (5) parking spaces and should the retail lease space become available two (2) additional spaces would become available. The applicant states twenty-six (26%) percent of their business is from walk-in customers. (Nearly 7,500 walk-in pints of a total of 28,000 pints sold since August 1, 2013.) The applicant states the outdoor seating will essentially double the seating capacity of the business but the outdoor seating would only be useful seasonally and in fair weather

conditions. The applicant states during this time the customers are more likely to walk or ride bicycles to the patio which would lessen the impact on parking.

The zoning ordinance states eating places (inside, with drive-in service and without drive-in service) are permitted to have an area of outdoor dining subject to compliance with the following provisions:

- a. The area of outdoor dining shall not be located in the public right-of-way nor shall it obstruct pedestrian movement, fire lanes, access to any business or areas designated for access by the physically impaired.
- b. The number of seats in the area of outdoor dining shall not exceed fifty (50) percent of the number of seats within the eating place.
- c. On-site parking shall be provided for the area of outdoor dining based on the parking space per square foot requirement for restaurants established in Section 36-502.
- d. Compliance with applicable state and county health regulations.
- e. The area of outdoor dining shall not be located between the building occupied by the eating place and adjacent residentially zoned or used properties.

Staff has concerns with the application as filed. The request includes outdoor dining adjacent to residentially zoned and used property. The primary zoning around the property is R4A. To the west of the site is a high rise residential building and there are a number of single-family homes located within this general area. In addition staff has concerns with the applicant's proposal to increase the available seating. Staff's concerns are two-fold, one the available parking and two the number of outdoor dining seats. The applicant is providing seven (7) parking spaces of a total of sixteen (16) spaces which would typically be required to serve the use. The request includes to double the number of seats outdoors, which the ordinance typically does not allow. The ordinance states the number of outdoor seats shall not exceed the number of indoor seating by more than fifty (50) percent. Staff also has concerns with the days and hours of operation. The applicant is seeking approval to allow the business to operate until midnight seven (7) days per week. Staff does not feel the request as proposed is appropriate for this location.

G. STAFF RECOMMENDATION:

Staff recommends denial of the request as filed.

PLANNING COMMISSION ACTION:

(MARCH 12, 2015)

The applicant was present. There were no registered objectors present. Staff presented the item with a recommendation of denial.

Mr. Ian Beard addressed the Commission on the request. He stated since the staff write-up had been completed he and his partners had secured parking off-site to accommodate nine (9) additional cars. He stated a number of the customers were walk-ins. He stated the brewery tracked this because customers were given a discount if they walked or biked to the business. He stated since the brewery had opened the neighborhood was safer. He stated the neighborhood was not walkable before the business opened. He stated now with the customer activity the residents felt and were safe and secure. He stated the business had added value back to the neighborhood.

He stated the business was amenable to amending the request for the days and hours of operation. He stated the business was comfortable with Monday through Friday from 4 pm to 10 pm and Saturday and Sunday from 11 am to 10 pm. He stated the business would like the opportunity to continue to host events, no more than 12 per year with a closing time of midnight. He stated sporting events were the primary concern since the super bowl game or Razorback games that went into overtime were not finished before 10 pm.

He stated they were willing to limit the number of outdoor seats to 20. He stated there were a number of establishments around town that provided outdoor seating adjacent to residentially zoned and used property. He stated by limiting the hours this should lessen the impact on the adjacent residential properties.

Deputy City Attorney Cindy Dawson questioned the applicant if he was amending his application. Mr. Beard stated he was amending his application. Mr. Beard stated this was an amendment to his application.

Staff repeated the amendments for the record. Staff stated the hours of operation were limited to 4 pm to 10 pm Monday through Friday, from 11 am to 10 pm Saturday and Sunday and limited to 12 events per year which allowed the established to be open to 12 pm. Staff stated the number of outdoor seats was limited to 20 seats. Staff stated the approval was tied to the applicant's continued lease of the nine (9) parking spaces located across 9th Street.

A motion was made to approve the request subject as amended to include the hours of operation from 4 pm to 10 pm Monday through Friday, from 11 am to 10 pm Saturday and Sunday and to allow 12 events per year which ended by midnight, limiting the outdoor seating to 20 seats and the continued use and lease of the nine (9) parking spaces located across East 9th Street. The motion was seconded and the motion carried by a vote of 9 ayes, 0 noes, 1 absent and 1 recusal (Commissioner Jennifer Martinez Belt).