

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: September 18, 2019

Item: West D Liquors 5014 EP True Parkway – Establish a liquor store in an existing tenant space – Shri Hari, LLC, DBA West D Liquors – PC-004471-2019

Requested Action: Approval of a Permitted Conditional Use Permit for a Liquor Store

Case Advisor: Kara Tragesser, AICP 

Applicant's Request: The applicant, Patel Nehalkumar, with permission from the property owner, Colby Interests Trust No. 2, is seeking approval to establish a 2,535 sq. ft. liquor store in an existing tenant space at 5014 EP True Parkway (see Attachment B – Location Map). The property is zoned Neighborhood Commercial within the Westbrook Planned Unit Development, the use is classified under SIC 592, Liquor Stores and is a Permitted Conditional Use in this zoning district.

City Council Subcommittee: This item was presented to the Development and Planning City Council Subcommittee on September 3, 2019. The Subcommittee was supportive of the request.

Staff Review and Comment: This request was distributed to other City departments and other agencies for their review and comment. The tenant space formerly was occupied by a restaurant. The parking availability was evaluated on the change in tenant. In the parking code there is a provision to calculate parking through a planned commercial center calculation. In this calculation office uses and restaurants occupying over 10% of the center are calculated at a higher ratio of spaces to square footage than the center ratio of 1 space for each 225 sq. ft. of gross area.

The property owner did not provide a current tenant list to enable the planned commercial center calculation to take place. So, staff looked at the change in use of the specific tenant space. In this case, parking ratios for a restaurant effective when the former restaurant was established were 1 space per 100 sq. ft. equaling 26 spaces. A retail store was calculated at 1 space per 225 sq. ft. equaling 13 spaces. The comparison between the two uses results in a reduction of the required parking by 50%. Staff feels that in this center the parking space requirement is eased with the reduction in required parking spaces that would have been reflected if we had done a planned commercial center calculation and supports the change in use of the tenant space.

Permitted Conditional Use Permit Findings: Mr. Patel's application for a Permitted Conditional Use Permit to establish a liquor store was reviewed by various City departments. Based upon that review and any conditions of approval, the following findings have been made on the proposed project:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare, and safety of the community.
4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that

either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.

5. The proposed development and use has met the requirements contained in the City Code in that this project was reviewed by various City Departments and public agencies and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the Zoning regulations and the Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

Staff Recommendations and Conditions of Approval: Based upon the review of the proposal, a finding of consistency with the goals and policies of the Comprehensive Plan, and compliance with the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution to approve the Permitted Conditional Use Permit to establish a liquor store (SIC 592) at 5014 EP True Parkway, subject to meeting all City Code requirements and regulations.

Noticing Information: On September 10, 2019, notice of the September 18, 2019, Board of Adjustment Public Hearing on this project was published in the Des Moines Register. Notice of this public hearing was also mailed to surrounding property owners within 370 feet of the subject property on September 5, 2019.

Applicant: Patel Nehalkumar
Shri Hari LLC
2704 Vine Street
West Des Moines IA 50265

Property Owner: Colby Interests Trust No 2
6581 University Avenue
Windsor Heights IA 50324

Attachments:

- Attachment A - Permitted Conditional Use Resolution
- Exhibit A – Conditions of Approval
- Attachment B - Location Map

Prepared by: K Tragesser City of West Des Moines PO Box 65320 West Des Moines, IA 50265-0320 515-222-3620
When Recorded Return to: City Clerk City of West Des Moines PO Box 65320, West Des Moines, IA 50265-0320

RESOLUTION – BOA-2019- 14

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING THE PERMITTED CONDITIONAL USE PERMIT (PC-004471-2019) FOR THE PURPOSE OF ALLOWING A LIQUOR STORE TO BE ESTABLISHED IN AN EXISTING TENANT SPACE AT 5014 EP TRUE PARKWAY

WHEREAS, pursuant to the provisions of Title 9, of the West Des Moines Municipal Code, the applicant, Patel Nehalkumar, with permission from Colby Interest Trust No 2, has requested approval for a Permitted Conditional Use Permit to establish a 5,325 sq. ft. liquor store at 5014 EP True Parkway and legally described as:

Legal Description of Property

Lot 1 except the east 222 feet thereof in Westbrook Plat 1, an official plat now in and forming a part of the City of West Des Moines, Polk County, Iowa

and

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

WHEREAS, on September 18, 2019, the Board of Adjustment held a duly-noticed public hearing to consider the application for Permitted Conditional Use Permit.

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report, or as amended orally at the Board of Adjustment hearing, are adopted.

SECTION 2. The PERMITTED CONDITIONAL USE PERMIT (PC-004471-2019) to allow a 5,325 sq. ft. liquor store at 5014 EP True Parkway is approved, subject to compliance with all the conditions in the staff report including conditions added at the Hearing, and attached hereto as Exhibit “A”, if any. Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on September 18, 2019.

Angie Pfannkuch, Chair

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on September 18, 2019, by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

ATTEST:

Recording Secretary

None

EXHIBIT A



West D Liquors 5014 EP True Pkwy



1: 1,128



Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

WGS_1984_Web_Mercator_Auxiliary_Sphere
© City of West Des Moines, Iowa

Legend

Addresses

