

City of Colville

ZONING BOARD OF ADJUSTMENT

April 24, 2013

MINUTES

The Colville Zoning Board of Adjustment met on Wednesday, April 24, 2013, in the Council Room at City Hall. Chairman Chris Montgomery called the meeting to order at 9:30 a.m. with a quorum present.

MEMBERS PRESENT: Daron Tate, Chris Montgomery, and Pearl Mance. MEMBERS ABSENT: Two vacancies exist. STAFF PRESENT: Director of Building & Planning Jim Lapinski, Assistant Planner Melinda Lee, and Building Official Bob Cleaver. OTHERS PRESENT: Carl (Henry) Anderson, Jr., Quinell Anderson, and Thomas Webster. RECORDING SECRETARY: Susan Davis.

MINUTES OF PREVIOUS MEETING

The minutes of the previous meeting of July 13, 2012 had been distributed to each member prior to the meeting. Pearl Mance moved and Daron Tate seconded the motion that the minutes be approved as written. Roll Call Vote: Pearl Mance – yes; Chris Montgomery – yes; Daron Tate – yes. Motion carried unanimously.

PUBLIC HEARING

Subject: Conditional Use Permit Application #1-13
Applicant: Dominion Distillery by Carl Anderson, Jr.
Location: 116 N. Main Street
Request: To allow a micro-distillery to make handcrafted spirits, sell retail, and offer sampling on-site, in the C-2 (Central Business) District, pursuant to Table 17.12.070 and Chapters 17.84 and 17.108 of the Colville Zoning Ordinance

Chairman Chris Montgomery convened the scheduled public hearing to consider a request for a conditional use permit by Carl Anderson, Jr., representing Dominion Distillery. The Chairman reviewed the request and outlined the hearing procedure. None of the Board members had a conflict of interest with the appearance of fairness requirements. There were no objections from the audience to any of the Board members participating in the hearing process. Chairman Montgomery asked if any Board members had engaged in communications with either proponents or opponents outside the hearing on the issue to be heard and there were none. The Chairman declared the public hearing open and requested the staff report.

Assistant Planner Melinda Lee presented the staff report, which had been distributed to each Board member and the applicant prior to the meeting (attached hereto and made a part of these minutes). She explained that Carl (Henry) Anderson, Jr. submitted an application for the small-scale production of artisan spirits with associated sampling and retail sales of these products. They estimate the production of 2000 cases the first year; within 3 to 5 years, they expect to be producing up to 5000 cases per year. The owner of the building and the existing ground-level business, Thomas Webster, is a partner in this enterprise. An application for the production of these beverages is pending through the Washington State Liquor Control Board.

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As outlined in the staff report, Ms. Lee explained that the property is located at 116 N. Main Street. The processing will take place in the basement of the building, below the Webster Law Office. The site is in the C-2 (Central Business) District, which requires the approval of a conditional use permit for the “bottling and processing of beverages” before the use is allowed. The conditional use permit application is a Type III review process, pursuant to Chapters 17.84 and 17.108 of the Colville Zoning Ordinance, which includes an evaluation through the State Environmental Policy Act (SEPA), including a minimum 14 day public comment period and a public hearing before the Zoning Board of Adjustment.

Ms. Lee reviewed the staff analysis and site evaluation pointing out that the site is an existing building that encompasses the entire lot. The applicant proposes to initially utilize approximately 1700 square feet of the west half of the basement. The additional 1700 square feet contained within the east half of the basement is available for storage and future expansion. The applicant is requesting the entire 3400 square feet be considered for this action.

The purpose of the C-2 (Central Business) District is to serve the “majority of commercial, retail businesses, and professional uses forming the central activity center of the city”. The surrounding uses are commercial in nature, including general retail and professional services. Some second story residential uses can also be found in the vicinity. The Alpine Theater, which is located directly south of this property, is on Colville’s Local Historic Register.

Melinda explained that this district allows 100% lot coverage. Off-street parking facilities are not required in the C-2 District. There is diagonal on-street parking along Main Street and a number of public parking lots, which are managed by the Colville Parking Commission, are located in the vicinity. This site is also located within the Pedestrian Core Area, which caters to pedestrian traffic along Main Street, providing easy storefront access. The proposal has direct access to Main Street through an entrance door that leads patrons downstairs into the facility. There is also access to the facility from the alley, with a staircase just inside the rear entrance of the law office, leading down to the basement.

It was noted that the applicant had a pre-application meeting with the Technical Review Committee to determine the feasibility of the proposed project. After determining that the use had the potential to be allowed through the conditional use permit process, the City Building Official conducted a site visit to give a preliminary evaluation of the site according to building codes, safety, and access issues. The applicant had indicated up front that they are prepared to relocate to a larger facility if their production exceeds 5000 cases per year.

Melinda presented the conditional use permit provisions for Type III applications as contained in Chapters 17.84 and 17.108 of the Zoning Ordinance. As a conditional use, a determination by the Board can be made to assure that the use is so designed and so used that it will not have a detrimental effect upon surrounding properties and that the use is consistent with the Zoning Ordinance and Comprehensive Plan.

An environmental checklist was completed and submitted on March 22, 2013, pursuant to WAC 197-11. The Technical Review Committee reviewed the submittal on March 26, 2013 and no issues were identified that would require special consideration or mitigation. Following the 14 day public comment period, a Determination of Nonsignificance (DNS) was issued on April 18, 2013.

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Public notification was provided pursuant to Chapter 17.112 of the Colville Zoning Ordinance. Four comments were received (attached hereto and made a part of these minutes). Melinda summarized the comments as follows:

- Chris Cairns, The Pawn Shop, 111 S. Main Street, expressed safety concerns relative to the distillation process.
- Barbara O'Hair, Main Street Floral, 104 N. Main Street, expressed safety concerns relative to the distillation process.
- The Department of Ecology (DOE) commented on potential wastes that the facility may produce.
- The NE Tri-County Health Department noted that a food service permit may be needed for the tasting room operation.

Ms. Lee presented the following staff findings based on the criteria outlined in Chapter 17.84 of the Zoning Ordinance:

FINDINGS:

1. *The project is consistent with the City of Colville Comprehensive Plan and meets the requirements and intent of the Colville Zoning Ordinance, including the type of land use, and the density/intensity of the development, and the protection of critical areas, if applicable.*

The proposal is consistent with the Comprehensive Plan. It aligns with Goal 1.a by “concentrating urban/commercial growth within the core of the city to the maximum extent possible”, by utilizing existing facilities within the central business core. It also aligns with Goal 1.b by “developing and enhancing the downtown area to demonstrate the vital atmosphere of a small town”. The building, parking, and access are all existing and are compliant with applicable ordinances. Bottling and processing of beverages is allowed with the approval of a conditional use permit. No environmental issues or critical areas are involved.

2. *The project will not be unduly detrimental to the use of properties in the project vicinity.*

The use of the property will have to meet applicable building and fire safety codes, by obtaining required permits. The site is located within the Central Business District and is separated from general residential uses with other commercial ventures. It is compatible with the pedestrian nature of other retail and service-oriented businesses on Main Street.

There appears to be no primary uses within the vicinity that may be affected by the operation of a micro-distillery at this location. The applications to the State Department of Liquor Control, Department of Ecology, and the Northeast Tri-County Health Department will address issues such as proximity of alcoholic sales to schools or religious institutions; the discharge of wastewater from the distillation process; and the sale of sample beverages on site.

The patronage expected from this proposal will not be detrimental to the existing uses along Main Street; rather, it is expected to contribute to the economy by increasing traffic to the downtown core.

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- 3. The project makes adequate provision for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services and environmental protection.*

The proposal is in an existing structure. All amenities, street access and circulation, emergency services, storm drainage, and utilities are already in place. There are no environmental issues expected, as the distillation process is fully contained within the basement. The State Department of Ecology has been contacted to determine if any additional, special permitting may be required.

- 4. The project adequately mitigates impacts identified through the SEPA review process, if applicable.*

The City of Colville's Technical Review Committee reviewed the proposed project for adverse environmental impacts on March 26, 2013. No impacts were identified that required mitigation during the SEPA review. A Notice of Application, SEPA Review, and Public Hearing was issued on March 29, 2013, and a Determination of Nonsignificance was issued April 18, 2013, following the public comment period. Comments which were received regarding this proposal were considered by staff in making this determination.

- 5. The project is beneficial to the public health, safety and welfare and is in the public interest.*

The distillation process is considered very safe, as described by the applicant. The applicant has contacted other applicable regulatory agencies to ensure compliance with their laws and requirements; relating to proximity to certain other land uses and special handling of the beverages and waste material from the distillation process. The Building Official has indicated that this is considered a Class 3-A processing, which is not hazardous. For example, the flash point for the processing of beverages is 140° and the applicant proposes to keep everything under 60°. The use will add a new element to the central business core and will compliment them rather than detract from them, which is in the public interest for maintaining vitality in the central business core.

Ms. Lee stated staff concludes that the applicant has satisfied the conditional use criteria. Therefore, staff recommends approval of this request subject to the following conditions:

1. This conditional use approval shall expire April 24, 2014, unless a building permit has been issued and substantial construction has taken place or the use has commenced. A written request for up to a one (1) year extension may be approved by the Administrative Official if the Administrative Official finds the facts on which the Conditional Use Permit was approved have not changed substantially.
2. If the use authorized under a Conditional Use Permit ceases or is interrupted for six (6) consecutive months or more, then a new Conditional Use Permit will be required.

Chairman Montgomery reviewed the public comments which raised safety concerns and requested further clarification from Building Official Bob Cleaver. Based on research, Mr. Cleaver advised that the occupancy classification of the micro-distillery would be F-1, which is a factory-type occupancy. The law office upstairs would be a B-occupancy. The Building Code does not require fire separation between the F-1 and the B occupancies. Because of the size of the operation, a fire sprinkler would not be required until it exceeded 12,000 square feet. The alcohol itself is classified as a Class 3-A combustible liquid, not

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a flammable liquid. For example, the flash point for the processing of beverages is 140° and the applicant proposes to keep everything under 60°. Mr. Cleaver expressed the opinion that because of the type of system being used, there are no explosion problems. He stated he did not see any insurmountable building code issues that can't be addressed.

Daron Tate pointed out the operation would be in the basement, which is an enclosed space. In the event of a malfunction, he questioned whether the vapors are heavier than the air and what kind of ventilation will be provided.

Tom Webster, owner of Dominion Distillery, explained that if there is a broken connection vapor will condense and will drop to the floor. Carl (Henry) Anderson, applicant, agreed with Mr. Webster and stated they will be putting venting into place that goes up to the roof. In case there is such a failure they will be able to kick that on and evacuate anything out. The vapors are not dangerous or explosive and as it vents out it will not affect the environment. Mr. Cleaver concurred and stated he would not anticipate it anymore dangerous than breaking a pallet of consumable alcohol in a liquor store. He stated the regulations for flammable, combustible liquids do not apply to alcohol stored in wooden casks or barrels.

Chris Montgomery asked staff if there are any issues with discharge into the sewer system per DOE's comments. Jim Lapinski advised that the Technical Review Committee, including the Municipal Services Administrator, reviewed the proposal and there were no issues identified. Mr. Anderson advised that they communicated with DOE and were told a discharge permit will not likely be needed; but they requested a letter identifying compounds and chemicals that would be going into the sewer system to ensure proper PH balance prior to discharge.

Pearl Mance requested clarification from Bob Cleaver concerning the issuance of building permits as it relates to the proposal. Mr. Cleaver confirmed that the conditional use permit must be approved before he can issue any permits.

Mr. Montgomery asked Mr. Cleaver if disability access is an issue for the subject building. Bob explained that barrier-free access is encouraged, but because the building is less than 3000 sq. ft., he did not believe it is mandated. He stated that the state of Washington acknowledges that there are existing buildings that are above and below grade level that you can't just write them off and say you can't use them – you do the best you can. The building is a little bit larger than that but the applicant is only using a portion - the remaining portion is being used by the law offices and access is provided from the upstairs. Tom Webster stated if there is ever a way to comply with ADA, they would try to do that but it might be cost prohibitive. Bob Cleaver stated it should be noted that the occupant load in this proposal would be relatively small – it is going to be limited to working staff and then a small product tasting area similar to what is done in micro-breweries, i.e. 270 sq. ft.

Pearl Mance asked Mr. Webster if other permits are required in order to sell their products to bars and restaurants. Tom responded that their business plan is to focus on selling wholesale directly to bars and restaurants and limiting the distributorship, which is a great benefit to the businesses. Their hope is that then the distributors will come to them to buy their spirits. Tom Webster stated this is only the second micro-distillery application in Eastern Washington. He stated they offer economic gain to other food service businesses in the area and attract tourists as well to visit the tasting room and observe the process.

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It was noted that no other petitions or communications were received relative to the issue being heard.

At this time Chairman Montgomery asked to hear from anyone wishing to speak for the request.

Applicant Carl (Henry) Anderson, Jr., 454 Gold Creek Loop, Colville, WA, advised he will be the head distiller at the proposed facility. He explained that he designed and built the equipment that will be used, noting that his unique system has a water jacket around the kettle with electronic heating elements in it so it is indirect heat. He reviewed the distilling process and stated that he has incorporated safety checks, which include pressure relief valves and automatic shut off valves. He felt that the Main Street location is an opportunity to draw tourists who are attracted to small scale spirits, which could also be beneficial to other local businesses. Mr. Anderson added that they can also use products from local farmers in the production of their spirits. The distillery will focus on putting out limited production, seasonal products providing a good variety for people to enjoy for certain holidays. Mr. Anderson advised if they ever need a larger facility they can still continue to use this location, including the tasting room. He stated their license will allow them to have more than one location.

Mr. Webster explained that with this process they have great avenues for growth. If they patent the still, there may be another opportunity for a manufacturer to make distillation equipment similar to other local manufacturers like Hewescraft, Hearth & Home, or Colmac.

Pearl Mance asked what is meant by the term “artisan”. Mr. Webster explained that they would be manufacturing spirits but it is more of an artwork – taking pride in distilling a quality product that is not made in haste in large batches.

Seeing no members of the public, Chairman Montgomery closed the public testimony portion of the hearing and opened it to Board discussion and dispensation.

Chris Montgomery moved that the Board approve Conditional Use Permit #1-13, based on the staff's findings #1, #2, #3, #4, and #5, beginning on Page 4 of the staff report, subject to the conditions of approval, #1 and #2, on Page 6, with the following additional conditions:

3. Must comply with all Northeast Tri-County Health District requirements.
4. Must comply with all Department of Ecology waste discharge requirements.
5. Must comply with any requirements of the City of Colville Municipal Services Director.
6. Must comply with the Washington State Liquor Control Board requirements.
7. Must comply with all building requirements from the Colville Building Official.

Daron Tate seconded. Pearl Mance – yes; Chris Montgomery – yes; Daron Tate – yes. Motion carried (3-0).

Chairman Montgomery advised the applicant that a letter will be sent out confirming the action taken by the Board.

Communications & Public Presentations: There were none.

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OLD BUSINESS: There was no old business to be presented.

NEW BUSINESS: There was no new business to be presented.

REPORTS: There were no reports.

ADJOURNMENT

As there was no further business to come before the Board, Chris Montgomery moved and Pearl Mance seconded that the meeting be adjourned. There were no objections and the meeting was adjourned at approximately 10:40 a.m.