

MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director
Heidi Sowell, Assistant City Planner

FOR: Meeting of October 10, 2005

SUBJECT: Conditional Use Permit Application No. C-05-4
Pullman Four Square Church

DATE: October 6, 2005

Staff Report No. 05-22

BACKGROUND DATA

Applicant: Pullman Four Square Church.

Property Location: In the existing Cordova Theater, located at 135 N. Grand Avenue in the Central Business District (See Attachment A, Location and Zoning Map).

Applicant's Request: Establishment of a church (See Attachment B, Application C-05-4).

Property Zoning: C2 Central Business District.

Applicable Zoning Regulations: Section 17.70.030 states that churches are a conditional use in the C2 district.

Property Features: **Current Land Use:** Cordova Theater Building (vacant).

Lot Area: approximately 8,097 square feet.

Utilities: site is served by city water, sanitary sewer, and storm drain lines.

Topography: the area has been previously developed and the existing building encompasses the site.

Vegetation: none.

Adjacent Zoning and
Land Use:

North: C2 zoning district; commercial retail and multi-family dwellings;

South: C2 zoning district; commercial retail, restaurants and multi-family dwellings;

East: C2 zoning district; commercial retail, and multi-family dwellings;

West: C2 zoning district; hotel, multi-family dwellings and vacant commercial buildings.

Access:

North Grand Avenue, designated as a major arterial street in the Pullman Comprehensive Plan Arterial Street Plan Map.

Environmental Review:

This proposal was determined to be categorically exempt from the documentation requirements of the State Environmental Policy Act; therefore no environmental checklist was submitted for this project.

Comments of Affected
Agencies :

Department of Public Works: Stated a concern with parking, and noted that vehicular traffic related to a church in the downtown area will likely stress the capability of available parking to a greater extent than the theater it is replacing.

Protective Inspections Division: *No response.*

Department of Public Services: Commented that considerations should be given to the sound impacts on the adjacent apartments.

Fire Department: *No response.*

Police Department: Noted that no additional impact on police services is anticipated.

Pullman School District: *No response.*

Correspondence Received:

Comment letter dated September 30, 2005 from Yvonne Skinner, co-owner of Ric-O-Shay (See Attachment C).

Comment email letter dated October 3, 2005 from Mike Yates, on behalf of Combine Mall Building, LLC and Prune Orchard (See Attachment D).

Comment letter dated October 4, 2005 from Mitch Chandler (See Attachment E).

Comment letter dated September 12, 2005 from Matthew Root, President of Rain Shadow Research, Inc. (See Attachment F).

Comment letter dated September 15, 2005 from Michael Schad, CPA, representing Gordon W. Lamb and Company (See Attachment G).

Comment letter dated September 15, 2005 from Justin Rogers, Managing Member, CEO of H & R Development (See Attachment H).

Comment email letter dated October 6, 2005 from Susan Daniels (See Attachment I).

Comment email letter dated October 6, 2005 from Rob Grunewald (See Attachment J).

Comment email letter dated October 6, 2005 from Karen Kiessling (See Attachment K).

Hearing Notification:

Notice of Public Hearing mailed 9/29/05; Notice posted 9/29/05; Notice published 9/29/05.

PERTINENT PLANNING PROVISIONS

There are a number of provisions contained within the Comprehensive Plan and zoning code that relate to this conditional use permit application. These provisions, which are available for review at the city's web site (www.ci.pullman.wa.us), are referenced below.

Comprehensive Plan Goals LU3, LU5, and T1, and their respective policies.
Zoning Code Chapters 17.01, 17.70, 17.80 and 17.125.

ZONING CODE DEVELOPMENT STANDARDS

The following table compares applicable zoning code development standards to the characteristics of the subject proposal.

DEVELOPMENT STANDARDS	ZONING CODE REQUIREMENTS	SUBJECT PROPOSAL
Lot Size	None	8,097 square feet
Lot Width	None	Approximately 116 feet wide
Maximum Gross Floor Area	None	11,200 square feet
Building Height	60 feet maximum	30 feet
Setbacks	None	Front: 0 ft. Rear: 0 ft. East: 0 ft. West: 0 ft.
Off-Street Parking	None	None

CONDITIONAL USE PERMIT REVIEW CRITERIA

In accordance with Zoning Code Section 17.125.020, a conditional use permit may be approved when all of the following findings can be made:

- (1) that the proposed use is consistent with the Comprehensive Plan;
- (2) that the proposed use, and its location, are consistent with the purposes of the zone district in which the use is to be located;
- (3) that the proposed use will meet all required yard, parking, and other material development standards of the Zoning Code unless otherwise varied in the approved conditional use permit;
- (4) that the use, as approved or conditionally approved, will
 - (a) be located on a site that is adequate in size and shape;
 - (b) be located on a site that has sufficient access to streets and highways adequate in width and type of surface to carry the quantity and quality of traffic generated by the proposed use;
 - (c) not have a significant adverse environmental impact on the adjacent area or the community in general;
 - (d) be compatible with surrounding land uses;
 - (e) be provided with adequate parking; and,
 - (f) be served by adequate public utilities and facilities.

STAFF ANALYSIS AND RECOMMENDATION

Planning staff is in favor of granting conditional approval of the applicant's request. With certain stipulations, it appears that the proposed use would be consistent with the Comprehensive Plan goal to "strengthen and enlarge the economic base of the community by providing commercial areas that offer a variety of goods and services in settings that are readily accessible and attractive," and the zoning code purpose to "accommodate those residential uses and community facilities and institutions that may compatibly locate in commercial areas." Those who have written to express opposition to this application state that commercial properties should be used for commercial purposes. However, churches are specifically listed as conditional uses in the C2 Central Business District; if there is interest in the community to prohibit all churches and other non-commercial activities in the downtown area, this matter should be the subject of a zoning code text amendment rather than an argument against this particular proposal.

The congregation of the Pullman Four Square Church meets on Sunday mornings from 10:00 a.m. to 12:00 noon. This congregation varies from 75 to 150 members depending on the time of the year. A youth group affiliated with the church meets on Wednesday evenings between 7:00 p.m. and 10:00 p.m. An office, staffed by one person, is open during business hours on the weekdays. Occasionally, certain members of the church meet for about an hour during the day on weekdays; currently, the number of participants at these meetings does not exceed roughly 15 people.

As shown in a previous section of this report, the proposal would meet all material development standards contained within the zoning code. The Cordova Theater building is listed on the National Register of Historic Places, but the church is not planning to make any exterior changes to the structure. The size and shape of the property appear to be adequate for the proposed use; the theater is equipped with 509 fixed seats. The conduct of church-related activities at this site is not expected to have any significant environmental impacts; the proposal is categorically exempt from the documentation requirements of the State Environmental Policy Act.

The streets in the vicinity of the subject property appear to be sufficient to accommodate the traffic expected for the proposed use. Based on the assumption that the average occupancy of each vehicle would be two persons, staff anticipates that a maximum of 600 vehicles trips would be generated by the church with its current congregation size. (A vehicle trip is a one-direction movement with the subject property being the origin or destination of the drive.) This additional traffic would be minimal given the average daily traffic count of 21,060 on Grand Avenue. Also, other public facilities, such as water and sewer utilities, seem to be adequate to serve the proposed use.

As indicated in the applicant's documentation, there are similarities between a church use and the Cordova movie theater that formerly occupied the subject building space. However, churches are characterized by a more consistent intense use of a site in comparison with a movie theater. The applicant states in its documentation that an estimated average of 1,350 people attended movies at the Cordova Theater each week. Assuming this figure is correct, it amounts to an average attendance of 84 people per movie showing (1,350 people/16 showings per week [two evening

shows each day plus two matinees on the weekend]). Thus, a church service with attendance of 150 members would be a 79 percent increase over the average attendance at a movie showing. Also, while weekday movie matinees are rare, some churches conduct heavily attended services (such as funerals) during business hours on weekdays. Thus, while the regular services of a church may be predictable, other concentrated activities associated with this type of use may not be.

A major concern of planning staff with respect to this proposal is parking. As noted in an earlier section of this report, the applicant is not proposing to establish any off-street parking spaces for the church, nor is any such parking required for any uses located in the C2 Central Business District. The current church congregation size of 150 is expected to generate the need for about 75 parking spaces near the subject property for full member services. It is common knowledge that parking spaces in the downtown area are at a premium. However, a planning staff parking survey conducted on a recent Sunday morning (at 11:00 a.m.) showed that there were sufficient parking spaces available to accommodate these vehicles. The sites that would most likely be used for parking in the vicinity of the Cordova Theater are the parking lots at Neill Public Library, Cougar Plaza, and the southwest corner of Davis Way and Grand Avenue, and the on-street parking area on Grand Avenue between Davis Way and Main Street. Within these parking areas, staff found 81 available parking spaces in its Sunday morning count.

Staff's parking count on a recent weekday (at 3:00 p.m.) reflected a much more congested condition. Only 27 parking spaces were available at that time at the sites identified above. Another parking count on a recent weekday at 6:45 p.m. showed that demand for parking spaces in the area decreases after business hours end. This evening count found 38 spaces available at the survey sites.

From staff's perspective, unrestricted use of the theater building for church services at times other than weekday business hours would not adversely affect surrounding properties. Staff expects adequate parking to be available for Sunday and weekday evening church events without unduly harming the ability of other downtown users to locate parking within a reasonable distance of their destination. However, staff believes that use of the subject building for church activities during weekday business hours should be limited to ensure availability of parking spaces for those conducting business or residing downtown. Given the number of parking stalls available during the planning department's recent counts, staff suggests that a condition be applied to this permit to allow no more than 25 people to occupy the church facility between 6:00 a.m. and 6:00 p.m. on weekdays.

Another concern of planning staff related to this proposal is noise. Recently, the Pullman Four Square Church has conducted youth group activities in a downtown space called "Studio Ten Nine." At this location, the youth group has sponsored several concerts with amplified music, sometimes prompting complaints from downtown residents. Since the Cordova Theater space is directly below three apartments and directly adjacent to several other dwelling units, concerns have been expressed to staff that noise from church services could be a disturbance. In order to ensure that such noise is kept to a modest level, staff suggests a condition that the applicant abide by the

city's noise ordinance, which requires that sound levels among commercial properties not exceed 60 decibels.

Zoning Code Section 17.125.025 states that the Board shall determine at the time of issuing a conditional use permit whether or not said permit should be used by a subsequent user of the same property or if the permit should be personal. Given the sensitive nature of church uses in the subject structure, staff suggests that the permit in this case be deemed non-transferable to another party.

In conclusion, staff recommends that the proposed conditional use permit be approved, subject to the following conditions:

1. Between the hours of 6:00 a.m. and 6:00 p.m. each weekday, no more than 25 persons shall be allowed to occupy any portion of the subject premises at any one time.
2. The subject use shall control the level of noise emitted from its premises in order to comply with the Pullman noise ordinance. If two notices of infraction are issued to the applicant for violation of the city's noise regulations within any period of 365 consecutive calendar days, the city shall schedule a duly noticed public hearing before the Board of Adjustment to determine whether this conditional use permit should be allowed to continue, continue with additional conditions, or be revoked.
3. This conditional use permit shall not be transferable to another party. If the applicant discontinues use of the subject property and another party unaffiliated with the Pullman Four Square Church wishes to utilize the property for church services, said other party must apply for a new conditional use permit.

FINDINGS OF FACT AND CONCLUSIONS

The applicant has prepared findings of fact for the Board to review (See Attachment L). Planning staff has also prepared findings of fact and conclusions for consideration at the public hearing. Staff's findings and conclusions are incorporated in draft Resolution No. BA-2005-5 (See Attachment M).

Prior to making a decision to approve or deny a conditional use permit application, the Board must adopt findings of fact and conclusions which specify the basis for its decision. The Board may abstract findings and conclusions from the applicant, staff, public, or Board of Adjustment members.

ACTION REQUESTED

- A. Establish rules of procedure and ask Appearance of Fairness questions.

- B. Accept staff report.
- C. Take testimony on the request for a conditional use permit.
- D. Adopt, by motion, Findings of Fact.
- E. Adopt, by motion, Conclusions.
- F. Move to approve or deny the granting of the conditional use permit. If the motion is to approve, the same motion should include any conditions the Board wishes to apply.

ATTACHMENTS

- “A” Location and Zoning Map
- “B” Conditional Use Permit Application C-05-4
- “C” Comment Letter from Yvonne Skinner, co-owner of Ric-O-Shay
- “D” Comment Email Letter from Mike Yates
- “E” Comment Letter from Mitch Chandler
- “F” Comment Letter from Matthew Root, President of Rain Shadow Research, Inc.
- “G” Comment Letter from Michael Schad, CPA
- “H” Comment Letter from Justin Rogers, Managing Member, CEO H & R Development
- “I” Comment Email Letter from Susan Daniels
- “J” Comment Email Letter from Rob Grunewald
- “K” Comment Email Letter from Karen Kiessling
- “L” Applicant’s Findings of Fact
- “M” Draft Resolution No. BA-2005-5

MEMORANDUM

TO: Pullman Board of Adjustment

FROM: Pete Dickinson, Planning Director
Heidi Sowell, Assistant City Planner

FOR: Meeting of October 10, 2005

SUBJECT: Conditional Use Permit Application No. C-05-5
Blind Squirrel Tavern

DATE: October 7, 2005

Staff Report No. 05-23

BACKGROUND DATA

Applicant: Jack Lyon, representing Blind Squirrel, LLC.

Property Location: In the existing Adams Mall located at 600 NE Colorado on College Hill (See Attachment A, Location and Zoning Map).

Applicant's Request: To establish a “tavern, bar, cocktail lounge” (See Attachment B, Application C-05-5 and Attachment C, Tenant Improvement Plan).

Property Zoning: C1 Neighborhood Commercial District.

Applicable Zoning Regulations: Section 17.70.030 states that taverns, bars, and cocktail lounges are designated as conditional uses in the C1 zoning district.

Property Features:

Current Land Use: Adams Mall building, Papa Johns Pizza and an off-street parking area.
Lot Area: approximately .82 acres.
Utilities: site is served by city water, sanitary sewer, and storm drain lines.
Topography: site slopes gently from west to east and moderately from north to south.
Vegetation: trees, shrubs and grasses around the existing building and parking area.

Adjacent Zoning and Land Use:

North: R4 High Density Multi-Family Residential zoning district, Kappa Sigma Greek Residence;
South: R4 zoning district, multi-family dwellings, Theta Xi, and Alpha Chi Omega Greek Residences;
East: R4 zoning district, Sigma Phi Epsilon, Kappa Alpha Theta, and Delta Chi Greek Residences, and one single family residence;
West: R4 zoning district, Kappa Psi and Kappa Delta Greek

Residences.

Access: NE Monroe Street, designated as a local access street in the Pullman Comprehensive Plan and NE Colorado Street, designated as a secondary arterial street in said map.

Environmental Review: This proposal was determined to be categorically exempt from the documentation requirements of the State Environmental Policy Act; therefore no environmental checklist was submitted for this project.

Comments of Affected Agencies :

Department of Public Works: No comments.

Protective Inspections Division: Commented that two exits are required off of the west patio and if the proposed fence is to block these exits the location is not permitted in the International Building Code (IBC) without the installation of gates with “panic hardware”.

Department of Public Services: Commented that considerations should be given to the need for additional parking in the area.

Fire Department: *No response.*

Police Department: Noted that impact on police services may be high, depending on the policies and practices of the tavern management; stated that the previous tavern caused substantial impact on police service and doubling the number of persons in the facility may result in a larger impact on services; and commented that parking problems (congestion in the parking lot and the streets surrounding the block) were common and these may amplify with the increase in the number of patrons visiting the establishment.

Pullman School District: *No response.*

Correspondence Received: Comment letter dated October 5, 2005 from Edwina Barnsley (See Attachment D).

Hearing Notification: Notice of Public Hearing mailed 9/29/05; Notice posted 9/29/05; Notice published 9/29/05.

Case History: The most recent tavern to occupy the subject property was the Shakers establishment. The business was originally certified as an “eating establishment”, which was allowed in the C1 zoning district. In 2000, the city learned that Shakers instead should be classified as a “tavern, bar and cocktail lounge”

because entry was denied to minors after 7:00 p.m. At that time, the city required Shakers to apply for a conditional use permit. The Board of Adjustment conducted a public hearing on the matter on September 18 and October 2, 2000. At the conclusion of the public hearing, the Board decided to deny the subject conditional use permit application due to testimony regarding disruptive activity at the establishment. The decision was appealed to the Whitman County Superior Court and, on May 29, 2001, Judge David Frazier reversed the decision, remanding the case to the Board with instructions to issue the conditional use permit, subject to the imposition of reasonable conditions. A public hearing was held before the Board in accordance with the Superior Court judge's remand order on September 17 and October 1, 2001, and the Shakers conditional use permit was approved subject to seven conditions. The conditions limited expansion of the use, allowed for revocation of the conditional use permit with loss of the liquor license, and allowed for suspension of the permit for infractions of city noise regulations, Liquor Control Board provisions and occupancy rules. The Blind Squirrel has been permitted to operate under the Shakers conditional use permit; however, the area of tavern use is limited to the square footage (5,490 gross square feet) allowed under said permit.

PERTINENT PLANNING PROVISIONS

There are a number of provisions contained within the Comprehensive Plan and zoning code that relate to this conditional use permit application. These provisions, which are available for review at the city's web site (www.ci.pullman.wa.us), are referenced below.

Comprehensive Plan Goals LU3, LU4, LU5, and T1, and their respective policies.
Zoning Code Chapters 17.01, 17.70, 17.80 and 17.125.

ZONING CODE DEVELOPMENT STANDARDS

The following table compares applicable zoning code development standards to the characteristics of the subject proposal.

DEVELOPMENT STANDARDS	ZONING CODE REQUIREMENTS	SUBJECT PROPOSAL
Lot Size	5000 square feet	35,719 square feet
Lot Width	50 feet	Approximately 100 feet wide

Maximum Gross Floor Area	35,719 square feet	19,288 square feet
Building Height	35 feet	20 feet
Setbacks	Front: 5 ft. Rear: 0 ft. East: 0 ft. West: 0 ft.	Front: 30 ft. Rear: 0 ft. East: 0 ft. West: 0 ft.
Off-Street Parking	78 stalls total; 46 stalls for proposed tavern	38 stalls

CONDITIONAL USE PERMIT REVIEW CRITERIA

In accordance with Zoning Code Section 17.125.020, a conditional use permit may be approved when all of the following findings can be made:

- (1) that the proposed use is consistent with the Comprehensive Plan;
- (2) that the proposed use, and its location, are consistent with the purposes of the zone district in which the use is to be located;
- (3) that the proposed use will meet all required yard, parking, and other material development standards of the Zoning Code unless otherwise varied in the approved conditional use permit;
- (4) that the use, as approved or conditionally approved, will
 - (a) be located on a site that is adequate in size and shape;
 - (b) be located on a site that has sufficient access to streets and highways adequate in width and type of surface to carry the quantity and quality of traffic generated by the proposed use;
 - (c) not have a significant adverse environmental impact on the adjacent area or the community in general;
 - (d) be compatible with surrounding land uses;
 - (g) be provided with adequate parking; and,
 - (h) be served by adequate public utilities and facilities.

STAFF ANALYSIS AND RECOMMENDATION

From planning staff's perspective, the applicant's request would meet the relevant conditional use permit criteria of the zoning code if certain conditions are applied to the proposed use. The subject property seems to be of adequate size and shape for a tavern. The streets in the area appear to be

adequate to accommodate the vehicular traffic that would be generated by the proposal; the primary street used to access Adams Mall is Colorado Street, which is designated as a secondary arterial in the Comprehensive Plan. All other public operations and facilities, including water and sewer lines, appear to be sufficient to serve the subject use. Also, the planned tavern is not expected to create a significant environmental impact; the proposal has been found to be categorically exempt from the documentation requirements of the State Environmental Policy Act.

As noted in the “ZONING CODE DEVELOPMENT STANDARDS” section of this report, the subject proposal meets all material development standards with the exception of off-street parking requirements. For the most part, this discrepancy between proposed and required parking stalls is accepted by the city as a legal nonconformity (an arrangement that does not comply with current code standards but is allowed to continue without adjustment because it was legally established at a previous point in time). The existing parking at the subject property was legally established when the building on the site was converted to commercial use. Now, when a use is proposed for the Adams Mall property, it is only required to establish additional off-street parking stalls if it is using space that had not been occupied previously, or if it is using space formerly occupied by a business with a less intense off-street parking requirement. The interior portions of the proposed Blind Squirrel tavern would occupy space that was utilized by the Shakers tavern and Body Magic health club. Since the zoning code states that health clubs have the same off-street parking requirements as taverns (one stall per 200 square feet of net floor area), staff believes the Blind Squirrel tavern should be able to use this interior space without creating additional parking stalls.

In contrast, the applicant’s proposal to use the 1,090-square-foot “west patio” area for tavern use would generate the need for additional parking stalls. This space is newly created and has not been used previously for any activity. By code, six extra parking spaces would be required for tavern use of this patio. The applicant is not proposing to establish any additional parking stalls. In order to allow for tavern use of any patio area on the subject property, the Board must grant a variance for parking in conjunction with this conditional use permit application [as allowed under Zoning Code Subsection 17.125.020(3)].

The applicant indicates in its proposed findings of fact that a substantial number of tavern patrons would walk to the site. While planning staff agrees that some patrons would walk, staff’s observations at this location and others on College Hill indicate that many tavern customers do drive to their destination. However, even if the applicant’s assertion is accepted as accurate, the city should then consider a zoning code text amendment to reduce parking space requirements across the board for all C1 Neighborhood Commercial zoning districts in the city. As the Board has discussed in previous cases, a variance is not the proper remedy to effect a change that applies to all properties within the same zoning district—the opportunity for a variance exists to grant relief from unnecessary burdens placed on a specific property due to its extraordinary physical characteristics. The subject parcel has no such extraordinary characteristics.

In addition to the potential parking problems created through tavern use of the west patio area, staff believes such use of this area should be disallowed based on noise considerations as well. One of

the issues raised in the testimony about the Shakers tavern was that sounds generated by that business were disturbing to surrounding residents. Staff recalls that this testimony was regarded as somewhat surprising since it is generally understood that there are a number of noise sources in this portion of College Hill. Nevertheless, the testimony about the excessive noise level at Shakers, which had no outdoor seating, was repeated by several participants at that public hearing. The proposed introduction of outdoor patio seating into a neighborhood that has expressed concern about tavern noise levels in the past appears to staff to be inappropriate. While outdoor tavern activity may be suitable in some circumstances (perhaps in a C3 General Commercial district where the bar is surrounded by other commercial uses), planning staff is opposed to such an arrangement at the subject property.

For many of the same basic reasons explained above, planning staff recommends against the establishment of the proposed "beer garden." The applicant notes in its proposed findings of fact that the beer garden would, by zoning code standards, generate the need for seven parking spaces, while at the same time, it would consume seven parking spaces by occupying space in the parking lot at the subject property. To compensate, the applicant proposes to close the 3,240-square-foot "dance club" section of the tavern during times when the beer garden is open. Apart from the administrative difficulties this could create (planning staff may be called upon periodically to ensure that the dance club section is, in fact, completely closed off while the beer garden is open), the practical effect of this proposal is exacerbation of an already nonconforming parking situation. The limited number of parking spaces that exist at the Adams Mall property are a valuable commodity not just for the applicant, but for all the other tenants in the building as well. In planning staff's view, it is unsound land use policy to authorize the removal of these parking stalls, even if the arrangement occurs on an infrequent basis. Staff also opposes the establishment of this beer garden based on the likelihood that this outdoor activity would increase noise levels for the neighborhood, a concern addressed in the foregoing paragraph.

The "Case History" segment of this report chronicles the discordant record of the previous tavern that occupied the Adams Mall. The applicant has no association with the owner of the Shakers tavern, and obviously, it should not be judged on the activities of the previous owner. However, the applicant is proposing a 60 percent increase in interior tavern floor space over what was utilized for the Shakers tavern. And this expansion is proposed to occur in a neighborhood that has historically expressed trepidation over tavern uses regardless of their size or management; over the years, the city has received statements of concern related to the Cougar Cottage and Valhalla taverns located within a few blocks to the east of the subject property. For these reasons, planning staff recommends that, approximately one year after the applicant initiates operations under the requested conditional use permit, the Board conduct a public meeting to determine if the terms of said permit should be retained or modified.

Zoning Code Section 17.125.025 states that the Board shall determine whether a conditional use permit is transferable to a party other than the applicant. Given the importance of responsible tavern management in maintaining a compatible relationship with surrounding property owners and residents, planning staff believes that the permit in this instance should not be transferable to

another party. Also, to ensure that there is no confusion about the limits imposed by this conditional use permit on tavern floor area, planning staff believes this matter should be cited as a condition.

With the application of the above-referenced conditions, staff believes that the applicant's request would be consistent with pertinent comprehensive plan and zoning code objectives to accommodate commercial developments that cater to surrounding residents and are designed to be compatible with the neighborhood. Therefore, planning staff recommends that this conditional use permit application be approved, subject to the following conditions:

1. No outdoor use, service, or consumption of alcohol shall be allowed for the tavern authorized by means of this conditional use permit; at all times, use, service, and consumption of alcohol associated with said tavern shall be conducted within the interior walls of the Adams Mall building.
2. Within 12 to 15 months after the initial certificate of occupancy is issued to the applicant for operation of the proposed use under this conditional use permit, the Board of Adjustment shall conduct a public meeting to review said permit and determine if the terms and conditions of said permit should be retained or modified.
3. The tavern use allowed under this conditional use permit is limited to 8,835 gross square feet of floor area within the interior of the Adams Mall building; no expansion beyond this amount of floor area is allowed without the granting of a new conditional use permit for the expanded use.
4. This conditional use permit shall not be transferable to another party. If the applicant discontinues use of the subject property and another party unaffiliated with the Blind Squirrel, LLC wishes to utilize the property for operation of a tavern, said other party must apply for a new conditional use permit.

FINDINGS OF FACT AND CONCLUSIONS

The applicant has prepared findings of fact for the Board to review (See Attachment E). Planning staff has also prepared findings of fact and conclusions for consideration at the public hearing. Staff's findings and conclusions are incorporated in draft Resolution No. BA-2005-6 (See Attachment F).

Prior to making a decision to approve or deny a conditional use permit application, the Board must adopt findings of fact and conclusions which specify the basis for its decision. The Board may abstract findings and conclusions from the applicant, staff, public, or Board of Adjustment members.

ACTION REQUESTED

- A. Establish rules of procedure and ask Appearance of Fairness questions.
- B. Accept staff report.
- C. Take testimony on the request for a conditional use permit.
- D. Adopt, by motion, Findings of Fact.
- E. Adopt, by motion, Conclusions.
- F. Move to approve or deny the granting of the conditional use permit. If the motion is to approve, the same motion should include any conditions the Board wishes to apply.

ATTACHMENTS

- “A” Location and Zoning Map
- “B” Conditional Use Permit Application C-05-5
- “C” Blind Squirrel Tenant Improvement Plan
- “D” Comment letter from Edwina Barnsley
- “E” Applicant’s Findings of Fact
- “F” Draft Resolution No. BA-2005-6