UNLISTED ACCESSORY USE DETERMINATION
445 BROADWAY STREET – GRID WORKSPACE, INC.

PROPOSAL FOR ACCESSORY COMMON MEETING SPACE WITH ALCOHOL SERVICE

On September 18, 2017, Grid Collaborative Workspaces applied for a zoning determination whether its proposal to include common meeting space with alcohol service with its already permitted primary Office use would be allowed as an “unlisted accessory use” under Denver Zoning Code, Section 11.10.1.

The “subject property” is three floors (20,146 sf) of a building located at 445 Broadway, Denver, CO, which is zoned C-MS-8, and is occupied by a single tenant, Grid Collaborative Workspace. Community Planning and Development (CPD) issued a zoning permit (permit #2016-Zone-0008571) on December 22, 2016, for the subject property allowing its use (of the entire space) for primary Office use.

According to the applicant, Grid Workspace’s business model is to provide “collaborative, shared-office workspace available to its members.” A variety of office space are available to “members” at different price points, but all “members” have access to a network of shared spaces, such as communal spaces with couches, small gathering and eating spaces, and community (shared) work spaces.

The specific proposal is to operate a small common meeting space on the main level of the subject property where alcohol could be served to “members” of the collaborative workspaces. A copy of the subject property’s floor plan for the main level, showing the common meeting space with alcohol service (labeled “bar” on the floor plans), is attached to this letter determination (excerpt shown below).
According to the applicant, the intent is to use the common meeting space with alcohol service to provide alcoholic beverages to office members at member events, including networking events, seminars, pitch competitions, membership drives, and similar activities. Some events will be free for office “members” while others may include a fee. The applicant states that it does not intend to establish or operate an “eating/drinking establishment” primary use, as that is defined in the DZC, although such use is permitted by the C-MS-8 zoning. Rather this common meeting space is intended as incidental, secondary, and minor in scale/scope to the primary office use of the subject property.

**APPLICABLE RULES**

In the C-MS-8 zone district, accessory uses incidental to primary nonresidential land uses but not specifically listed in the applicable Use & Parking Table may be allowed according to the provisions of DZC, Section 11.10.1, “Unlisted Accessory Uses.” Section 11.10.1 states the Zoning Administrator shall determine and impose limitations on accessory uses not otherwise listed as permitted according to the procedures and review criteria stated in DZC, Section 12.4.6, Code Interpretations and Determination of Unlisted Uses.

In addition to the general review criteria stated in DZC, Section 12.4.6., to allow such unlisted accessory use, the Zoning Administrator must also find that the use is “common and customary to a specific use by right” and that the use “is incidental to the specific use by right.” DZC §11.10.1.1.B.

**ANALYSIS**

**IS THE COMMON MEETING SPACE WITH ALCOHOL SERVICE INCIDENTAL TO THE SUBJECT PROPERTY’S PRIMARY OFFICE USE?**

In terms of physical scale, the floor area occupied by the proposed common meeting space with alcohol service is relatively small (the area labeled “bar” on the main level floor plans occupies approximately 250 square feet) compared with the total primary Office floor area (including other small common meeting spaces) totaling nearly 20,000 square feet. In terms of operation and activity, the proposed common meeting space with alcohol service is intended to be used infrequently for alcohol service, reserved primarily for special events scheduled throughout the calendar year (versus an every-day type of activity).

I find that the proposed accessory use – a small common meeting space with alcohol service – is incidental or secondary to the specific primary Office use permitted in the subject property.

**IS THE COMMON MEETING SPACE WITH ALCOHOL SERVICE COMMON AND CUSTOMARY TO THE SUBJECT PROPERTY’S PRIMARY OFFICE USE?**

An unlisted accessory use must be common and customary relative to the permitted primary use, in this case the primary Office use. In many primary Office uses, particularly in private professional offices, service of alcohol at regularly scheduled events (e.g., holiday office parties, networking events, lectures/seminars with guest speakers, etc.) is common and customary. The Office use at the subject property operates differently from the private office example because membership to the collaborative office workspace is open to the public, and because alcohol will be served by the workspace operator.
(landlord) rather than by an individual Office tenant. However, these differences are primarily immaterial to the point that the incidental sale or service of alcohol in conjunction with the primary Office use is substantially similar in impact and effect to the private office example. The applicant also offered local examples of collaborative or co-working office spaces in Denver where the workspace operators offer alcohol within their facilities (Galvanize and WeWork), like the proposed accessory use – alcohol service – at the subject property.

I find that the proposed accessory use – a small common meeting space with alcohol service – is common and customary to the specific primary Office use permitted in the subject property.

IS THE COMMON MEETING SPACE WITH ALCOHOL SERVICE CONSISTENT WITH THE INTENT OF THE DZC, THE URBAN CENTER NEIGHBORHOOD CONTEXT, AND THE MAIN STREET ZONE DISTRICT?

According to the review criteria for Code Interpretations and Determination of Unlisted Uses in DZC, Section 12.4.6.4, an unlisted accessory use must be shown to be consistent with the intent of the zoning code, and with the intent of the subject neighborhood context and zone district.

Here, allowing common meeting space in an Office setting, with limited and incidental alcohol service, supports several of the over-arching purposes of the Denver Zoning Code, particularly goals promoting development of a mix of uses in the city’s urban centers and along its transit corridors – like Broadway – that can serve surrounding residential neighborhoods. In this case, where the C-MS-8 zoning would allow the mixing of multiple primary uses, including office, residential, and eating/drinking places, at the subject property, the allowance for mixing the existing primary Office use with a similar accessory use would similarly advance goals of mixing uses and increasing activity on Broadway.

More specifically, the intent of the Urban Center neighborhood context (the “C” in the zone district name) and the specific C-MS-8 zone district is to promote and preserve a relatively high intensity and mix of use and structures up to 8 stories tall. Ground-floor active uses in new developments are not only encouraged, but are mandated. Office use, including associated accessory meeting spaces, qualifies as a “street level active use” required in the C-MS-8 zone district by the Main Street zoning permitted building form standards. Here, a ground-floor accessory common meeting space with alcohol service would similarly qualify as a street level active use, and would satisfy the intent that new uses promote street level activation.

I find that the proposed accessory use – a small common meeting space with alcohol service – is consistent with the intent of the DZC and with the intent of the Urban Center neighborhood context and the C-MS-8 zone district.

IS THE CHARACTER AND IMPACT OF A COMMON MEETING SPACE WITH ALCOHOL SERVICE SIMILAR IN NATURE, FUNCTION, AND DURATION TO OTHER USES PERMITTED IN THE C-MS-8 ZONE DISTRICT?

In determining whether to permit an unlisted use, the Zoning Administrator must find that the “proposed use has a character and impact that are similar in nature, function, and duration to the other uses permitted in the zone district(s).” DZC, §12.4.6.4.B.1. The Zoning Administrator must assess all
relevant characteristics of the proposed use, including (as applicable): typical volume and type of sales; types of items sold; transportation requirements; related storage needs; types of structures associated with the use; parking requirements; external effects on surrounding properties; and any other potential impacts on adjacent properties compared to impacts from other uses permitted in the zone district.

In this case, an accessory common meeting space with alcohol service use, which serves the primary Office users, is similar or typical in terms of services provided and external effects or adverse impacts to many other uses permitted in the C-MS-8 zone district. The proposed accessory use is essentially a private bar/drinking place, and will be incidental both in physical scale and in scope of operations compared to the primary Office use served. In comparison, the C-MS-8 zoning would allow the operation of a primary restaurant or bar at the subject property or at neighboring properties, which would be open to the public and have few limits on scale or scope of operations. In fact, according to the applicant, the liquor license required to operate the proposed accessory use will prohibit alcohol consumption outdoors at the licensed premises, whereas a primary bar or restaurant use could be established in the same zone district with substantial accessory outdoor patios and serving areas for both food and drink.

A number of permitted, listed accessory uses in the C-MS-8 zone district could arguably have greater potential for external effects (such as noise or glare) or impacts on surrounding properties (such as increased traffic generation or sales volume) than the proposed accessory common meeting space with alcohol service use, such as conference facilities accessory to a permitted hotel use, outdoor gardens, keeping of animals, outdoor eating/serving areas or outdoor entertainment accessory to restaurants or bars, outdoor retail sale and display, and limited outdoor storage.

I find that the character and impact of an accessory common meeting space with alcohol service are similar in nature, function, and duration to other uses permitted in the C-MS-8 zone district.

CONCLUSION AND REASONABLE CONDITIONS

Based on the evidence provided by the applicant in its September 18, 2017, letter application for determination of an unlisted use (attached to this memo) and on the analysis above, I find that that the addition of common meeting space with alcohol service is allowed as an accessory use that is incidental, common, and customary to a primary Office use, specifically where the primary Office use is organized as “co-working” or “shared” work spaces.

As allowed by DZC, Sections 11.10.1 and 12.4.6, the Zoning Administrator may attach reasonable conditions to the allowance of an unlisted use. Accordingly, the following conditions shall attach to the allowance for accessory common meeting space with alcohol service:

1. The subject unlisted accessory use shall be called “common meeting space with alcohol service” and may be allowed, subject to these conditions, in all Mixed Use Commercial Zone Districts that allow the primary use of “Eating and Drinking Establishment.”
2. A “common meeting space with alcohol service” shall be allowed as accessory to a primary “Office, All Others” (Non-Medical/Non-Dental) use and where such primary Office use is designed and operated for co-working or shared workspaces. “Co-working or shared workspace” shall mean a physical work environment where independent workers, not
necessarily employed by the same organization, have the same (shared) access to some or all work spaces and amenity areas (the latter may include restrooms, fitness areas, eating areas, lounges, meeting rooms, common kitchens, and the like).

3. A zoning permit shall be required to establish or expand an accessory “common meeting space with alcohol service.”

4. The accessory “common meeting space with alcohol service” use shall be established and operated within a Completely Enclosed Structure.

Approved by:

[Signature]

Tina Axelrad, Zoning Administrator

Date: October 13, 2017
Applicant / Property / Owner Information
Applicant Name: THE GRID- COLLABORATIVE WORKSPACES
matt kennan
Owner Name: HENRY WORTH LLC
Tenant Name: 445 N Broadway
Project Address(es): 445 N Broadway

Zone Lot Master Address
Address:

Zone Lot Master Accela Record #:

Applicable Zoning Code:
Denver Zoning Code

Zoning Permit Final Action:
Approved w/Conditions 12/22/2016
Approved By: Ron Jones
zoning permit shall expire upon revocation and/or expiration of off-street parking lease agreement dated 01 01 15. subject to limitations of 10.4.4.5
9000 sq. feet Office on 1st floor, new 9000 sq. feet Office in basement , new 2146 sq. feet Office 2nd floor.

Reference to Approved Plans and Conditions:
Site Development Plan: No
SDP Record #: SDP Project Name:
Zoning Approved Plan Set as Part of Permit: No
Zoning Approval Letter: No

Valuation:

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PERMITTED SCOPE OF WORK

Permitted Use(s):

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<th>Use #</th>
<th>Type of Request</th>
<th>Legal Status of Use</th>
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<tr>
<td>1</td>
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<td>2</td>
<td>Expansion of Use</td>
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Permitted Structure(s):

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<th>Type of Structure</th>
<th>Building Form</th>
<th>Admin. Adjustment</th>
<th>Variance</th>
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Permitted Accessory Fence/Wall/Retaining Wall Structure(s):
Type of Request: None
Remarks:
Permitted Sign(s):
  Type of Request: None
  Remarks:

Permitted General Site Improvement(s):
  Type of Request: None
  Remarks:

Standard Notes:
ground floor change of use from retail sales, al others to office, all others- no change in parking requirement.
expansion into unoccupied basement space(9000 sq. ft), new 2nd floor space(2146 sq. ft) parking req. = 14 spaces.
osp requirement via 10.4.4.5(off-site parking) met with lease agreement for osp spaces at 433 Broadway( to expire 12 31 2019)
zoning approval subject to keeping lease in place/ compliance with 10.4.4.5

Disclaimers:
1. The construction and/or operation described herein shall be accomplished in strict compliance
   with this Zoning Permit, the zoning regulations of the City and County of Denver, and with all
   other applicable ordinances and regulations. Any change in construction and/or operations may
   require changes to the existing permit, or require issuance of new or additional permits. If
   inspection reveals work beyond or different from what was permitted and shown on the
   zoning-approved plan set, the City shall act to ensure all violations are corrected, including
   exercising its right to stop work through suspension or revocation of this zoning permit.

2. Zoning Permits issued in error by the City, or issued in reliance on a permittee's material
   misrepresentation of fact, will be subject to enforcement action, including but not limited to
   cease and desist orders, suspension, or revocation of the Zoning Permit.

3. This Zoning Permit is subject to expiration per the zoning regulations of the City and County of
   Denver. All final inspections shall be made on all final items of work before occupancy is
   permitted.

4. Appeal rights are set forth in the zoning regulations of the City and County of Denver.

Internal Use

Inspector ___________________________ Date ___________________________