

# Board of Zoning Adjustment Staff Report

December 19, 2022



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|--------------------------|--|
| <b>Case No:</b>          | 22-CUP-0315                              |
| <b>Project Name:</b>     | Senora Arepa's Restaurant                |
| <b>Location:</b>         | 117 St. Matthews Avenue                  |
| <b>Owner(s):</b>         | Louisville Timber & Wooden Products Co.  |
| <b>Applicant:</b>        | Forza Architecture, Inc. – Stephen Tracy |
| <b>Jurisdiction:</b>     | City of St. Matthews                     |
| <b>Council District:</b> | 9 – Bill Hollander                       |
| <b>Case Manager:</b>     | Joel Dock, AICP, Planning Coordinator    |

## REQUEST(S)

- **Conditional Use Permit** for outdoor alcohol sales in a C-1, commercial zoning district (Article 15, Sec. 42 – City of St. Matthews)

## CASE SUMMARY

The applicant has requested a conditional use permit (CUP) to allow for outdoor alcohol sales and consumption in association with a restaurant in the C-1, commercial zoning district. Prior to the proposal, the site operated as an ice cream/coffee shop with outdoor space. The patio area in question is 1,081 sq. ft. It is separated from the public right-of-way, and has its boundaries defined, using a concrete block wall and landscaping.

## STAFF FINDING

The conditional use permit is adequately justified based on staff's analysis contained in the standard of review.

## TECHNICAL REVIEW

- 22-PARKWAIVER-0010: Parking is provided off-site on property under the same ownership and will be jointly used. A waiver to reduce the required number of parking spaces is to be heard by the Planning Commission on Thursday, December 15, 2022.
- 17PARK1002: Parking waiver to reduce from 55 spaces to 39 spaces for an ice cream/coffee shop (Recommended for approval by the Planning Commission June 15, 2017; St. Matthews approved July 25, 2017).

## **STANDARD OF REVIEW FOR CONDITIONAL USE PERMITS**

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

Staff: The proposal is consistent with applicable policies of Plan 2040.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

Staff: The proposal is compatible with surrounding land uses and the pattern of the form district. Most exterior improvements were provided with the prior development on the site.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

Staff: The site is in an existing area of development and utilities would appear to be readily available.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

### 42.Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 and CN Zoning Districts

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-N and C-1 zoning districts with prior approval of a development plan by the City of St. Matthews City Council, upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries which must be shown on the site plan and on the property itself Dining and consumption activities shall occur only within the designated boundaries.
- B. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- C. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with Article 12 . (Implementation Standards). Any lighting associated with the outdoor dining area shall be directed down and away from adjacent properties.
- D. This conditional use permit shall be limited to restaurant uses in the C-N and C-1 that hold the following types of ABC licenses:
  1. Restaurant liquor and wine license by the drink for 100 plus seats;
  2. Restaurant wine license by the drink for restaurants with seating for 50 and receives at least 70 percent gross receipts from food sales

E. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 12:00 A.M. There shall be no outdoor electronic or other sound provided in outdoor areas, including but not limited to public address, radio, television, or other media.

F. The indoor entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99) and shall be in compliance with all applicable St. Matthews Noise Ordinances.

G. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

H. The Plan for any outdoor dining area not subject to detailed district development plan approval shall receive the approval of the City of St. Matthews City Council prior to approval of a conditional use permit by the Board of Zoning Adjustment

Staff: The proposal will comply with each of the listed standards for the conditional use permit and all conditions of approval.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Conditional Use Permit** for outdoor alcohol sales in a C-1, commercial zoning district (Article 15, Sec. 42 – City of St. Matthews)

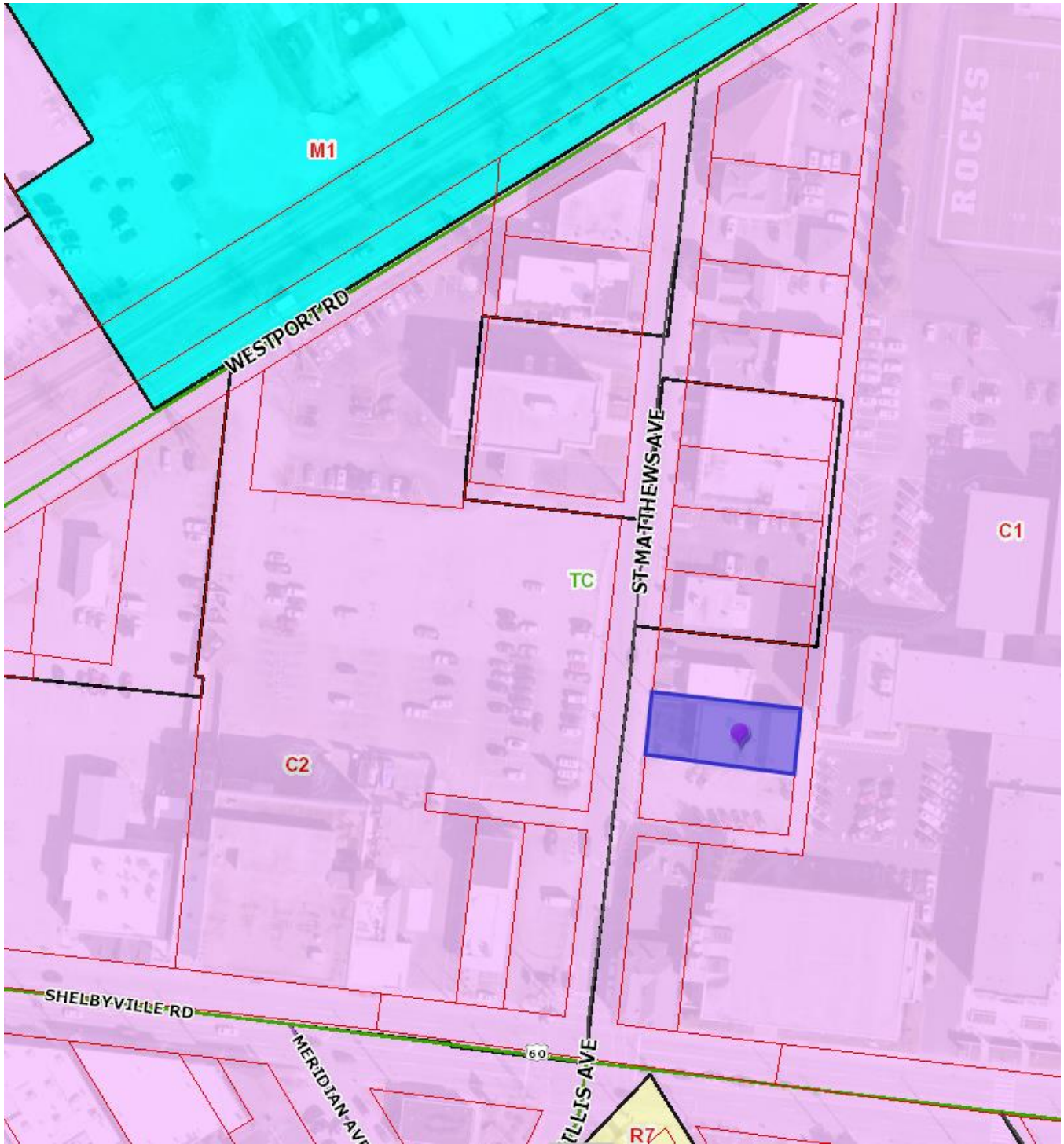
**NOTIFICATION**

| Date     | Purpose of Notice   | Recipients   |
|----------|---------------------|--|
| 11/29/22 | Hearing before BOZA | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and residents<br>Registered Neighborhood Groups in Council District 9 |

**ATTACHMENTS**

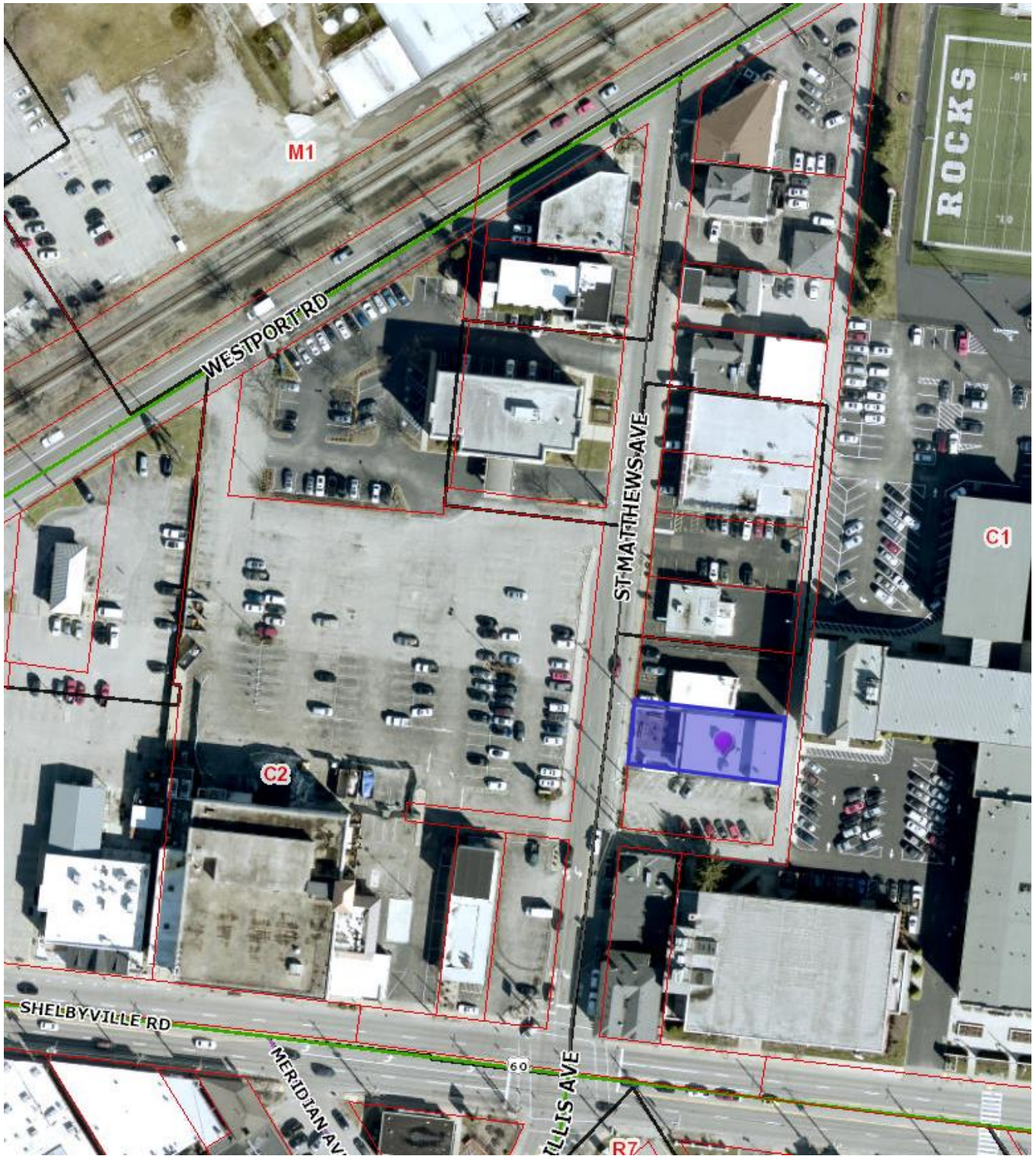
1. Zoning Map
2. Aerial Map
3. Proposed Conditions of Approval

1. Zoning Map





2. Aerial Map



**3. Proposed Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales until further review and approval by the Board.