

Board of Zoning Adjustment

Staff Report

July 16, 2018



Case No:	18CUP1032
Project Name:	4 Seasons Restaurant
Location:	8402 Hudson Lane
Owner(s):	Dimit LLC
Applicant:	Elka Todorova
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Dante St. Germain – Planner I

REQUEST

- **Conditional Use Permit** to allow outdoor alcohol sales in the C-1 Commercial zoning district

CASE SUMMARY/BACKGROUND

The applicant requests approval to sell and serve alcohol in an outdoor setting in the C-1 Commercial zoning district. The subject property is located near the intersection of Hudson Lane and Bardstown Road, in the Suburban Marketplace Corridor form district. The seating area is immediately adjacent to the building and delineated with a fence. The subject property is currently in use as a restaurant.

STAFF FINDING

The applicant has provided the required documentation, has held a neighborhood meeting and has been informed of the standards and regulations specific to use of the property for outdoor alcohol sales.

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Land Development Code for a Conditional Use Permit.

RELATED CASES

No related cases are on file.

TECHNICAL REVIEW

- The plan has received preliminary approval from all applicable agencies.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on May 12, 2018 and one person attended.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal does not conflict with any Comprehensive Plan policies.

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 development. The proposed outdoor alcohol sales will take place approximately 60 feet from the nearest residential property and on the opposite side of the restaurant structure.

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 subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

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

4.2.41 Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district 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.

STAFF: The proposal complies with this requirement.

B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.

STAFF: This provision does not apply.

C. 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.

STAFF: This provision does not apply.

D. 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 the Chapter 10, Part 4 (Implementation Standards).

STAFF: This provision does not apply.

- E. This conditional use permit shall be limited to restaurant uses in the 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 100 and receives at least 70 percent gross receipts from food sales
- STAFF: The subject property has a NQ2 Retail Drink full restaurant ABC license. ABC no longer issues licenses by the number of seats.
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- STAFF: The applicant has been informed of this requirement.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- STAFF: This provision does not apply.
- H. 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.
- STAFF: The Board must determine if additional requirements should apply.

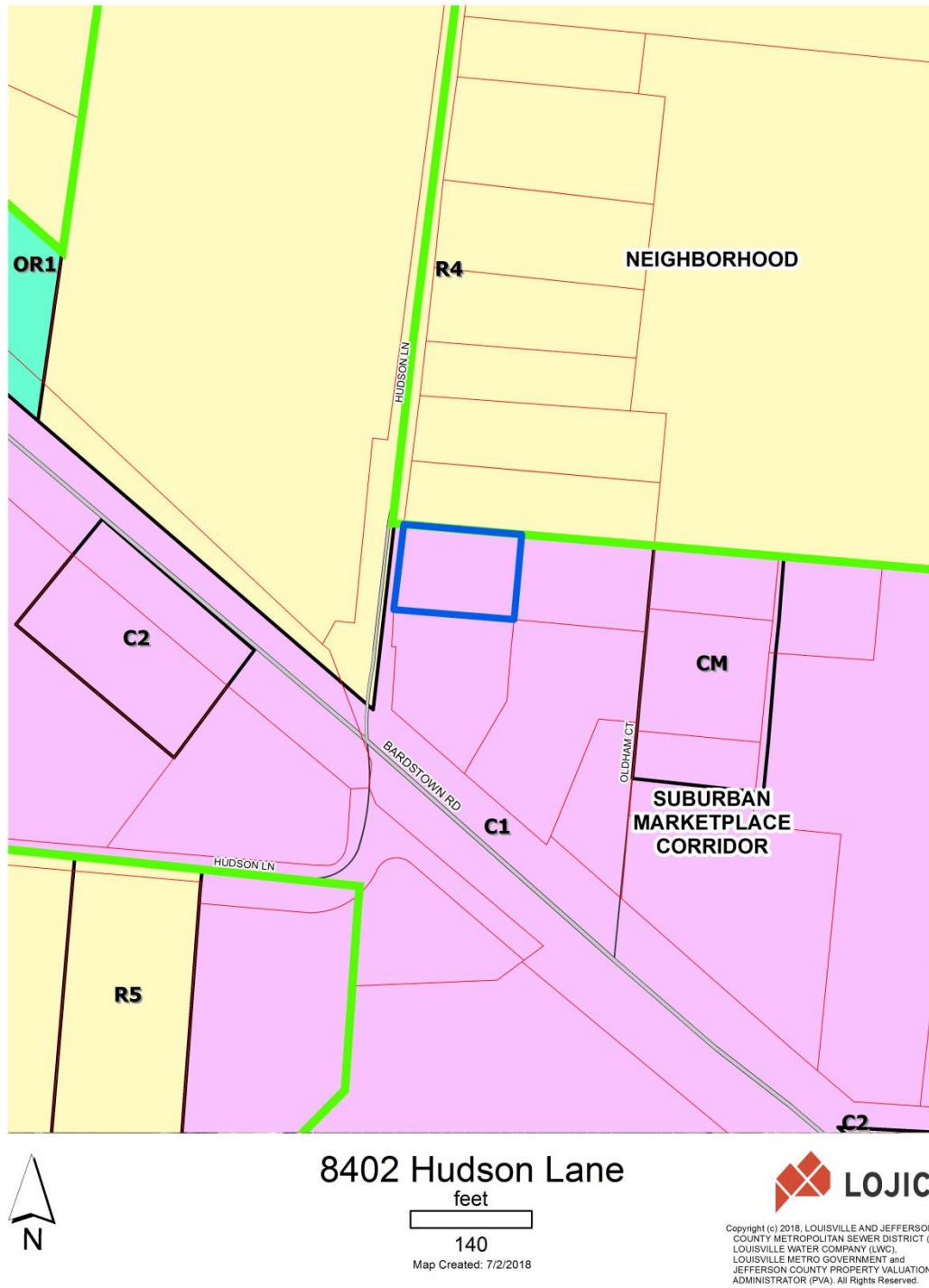
NOTIFICATION

Date	Purpose of Notice	Recipients
06/18/2018	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 22
06/29/2018	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



8402 Hudson Lane
feet

140

Map Created: 7/2/2018



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COUNTY METROPOLITAN SEWER DISTRICT (MSD),
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JEFFERSON COUNTY PROPERTY VALUATION
ADMINISTRATOR (PVA). All Rights Reserved.

3. Cornerstone 2020 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
1	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	NA	No changes to the existing development site plan are proposed.
2	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	✓	The subject site is served by sidewalks from Bardstown Road.
3	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses.	NA	No changes to the existing development site plan are proposed.
4	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts.	✓	No changes to the existing development site plan are proposed.
5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code.	✓	The subject site is located entirely within the Suburban Marketplace Corridor form district.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
6	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Suburban Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal does not create a new center.
7	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	The subject site is not retail in nature.
8	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	NA	No changes to the existing development site plan are proposed.
9	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The subject site is already located in an existing activity center.
10	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	No changes to the existing development site plan are proposed.
11	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is not a large development and constitutes a small expansion of an existing use.
12	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	NA	No changes to the existing development site plan are proposed.
13	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	NA	No changes to the existing development site plan are proposed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
14	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The subject site is second-tier to Bardstown Road and is served by sidewalks from Bardstown Road.
15	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No changes to the exterior of the existing building are proposed.
16	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	No expansion of the existing use toward the adjacent residential use is proposed.
17	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	NA	No changes to the existing development site plan are proposed.
18	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The subject site is located in an existing activity center and is a second-tier property to Bardstown Road.
19	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	NA	No changes to the existing development site plan are proposed.
20	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The subject site is located in an existing activity center.
21	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	NA	No changes to the existing development site plan are proposed.

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22	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	The outdoor alcohol sales area is buffered from the adjoining residential use by the restaurant structure and 60 feet of distance.
23	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	NA	No changes to the existing development site plan are proposed.
24	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	NA	No changes to the existing development site plan are proposed.
25	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	NA	No changes to the existing development site plan are proposed.
26	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking garage is proposed.
27	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	NA	No new signs are proposed.
28	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	No changes to the existing development site plan are proposed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
29	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	No changes to the existing development site plan are proposed.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	No natural features are present on the site.
31	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	No natural features are present on the site.
32	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	The proposal uses an existing structure.
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	No wet or highly permeable soils or steep slopes are present on the site.
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The site is not located in downtown.
35	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The subject site is not industrial in nature.
36	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	The subject site is located in an existing activity center and is second-tier to a major arterial road.

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37	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The subject property is not industrial in nature.
38	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA	No changes to the existing street layout are proposed.
39	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	NA	No changes to the existing development site plan are proposed.
40	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	No changes to the existing street layout are proposed.
41	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	NA	No changes to the existing street layout are proposed.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The plan provides 27 parking spaces on site.
43	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	No changes to the current circulation pattern are proposed.
44	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	No changes to the existing street layout are proposed.

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45	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	The subject property is second-tier to Bardstown Road to the south and has lower-density development to the north.
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	No changes to the existing street layout are proposed.
47	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	Sidewalks are provided from Bardstown Road to the subject property.
48	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blueline streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	The proposal has received MSD approval.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has reviewed the plan and has not commented.
50	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	No changes to the existing development site plan are proposed.
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The plan has received preliminary agency approval.
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	No changes to the existing development site plan are proposed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Analysis
53	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The plan has received MSD approval.

4. 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 and consumption without further review and approval by the Board.