

Board of Zoning Adjustment

Staff Report

November 4, 2019



Case No.	19CUP1037
Project Name	Oskar's Slider Bar
Location	3799 Poplar Level Road
Owner	Fred Dolt
Applicants	Solheim Huot Inc, by Elizabeth & Jesse Huot
Jurisdiction	Louisville Metro
Council District	10 – Pat Mulvihill
Case Manager	Steve Hendrix, Planning & Design Coordinator

REQUESTS

Conditional Use Permit for outdoor alcohol sales/consumption and indoor live entertainment for a restaurant in a C-1 zoning district (LDC 4.2.41)

CASE SUMMARY/BACKGROUND

The existing Oskar's Slider Bar is located on the lower level of the building that is on the north corner of the Poplar Level Road/ Trevilian Way-Belmar Drive intersection. The structure faces Trevilian Way and has offices on that level. The rear portion of the building that faces Poplar Level Road contains the restaurant. The 1,050 square foot patio area would be in front of the restaurant's entrance and have approximately five tables seating 20 people. Planters would separate the area from the parking lot. The current hours are Tuesday through Sunday 11:00am-10:00 pm with food being served until 10:00 pm on weekdays.

The indoor music-stage would be mobile and would be set up to the right of the entrance.

STAFF FINDING

The proposal meets the requirements of the CUP request.

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

TECHNICAL REVIEW

The development plan has been reviewed by the appropriate agencies, including Transportation Planning and MSD, and has received preliminary approval.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on April 18, 2019 with one invitee in attendance.

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 is consistent with the Comprehensive Plan.

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

STAFF: The proposal is compatible with surrounding uses and with the general character of the area.

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 proposed development is consistent with expectations for the property and does not substantially increase demands on public infrastructure and facilities. The proposal has received preliminary approval from MSD and Transportation Planning.

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/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District

Outdoor alcohol sales/consumption and 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 site plan shows defined boundaries for the outside dining area.

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: The area is not in the public right of way.

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: The outdoor dining area is not adjacent to the public right-of-way and will be located between the restaurant and a parking lot.

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 LDC 10.4 Implementation Standards.

STAFF: The outdoor dining area is not within 50 feet of a residentially zoned or used property. However, a sketch shows a six foot high wooden privacy fence in addition to the planters.

- E. This conditional use permit shall be limited to restaurant uses in 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 applicant has been informed of this requirement.

- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1:00 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: The applicant has been informed of this requirement.

- H. BOZA may require additional and more restrictive requirements than those listed above based on conditions at the specific location and characteristics of the specific restaurant.

STAFF: The Applicant has been informed of this condition.

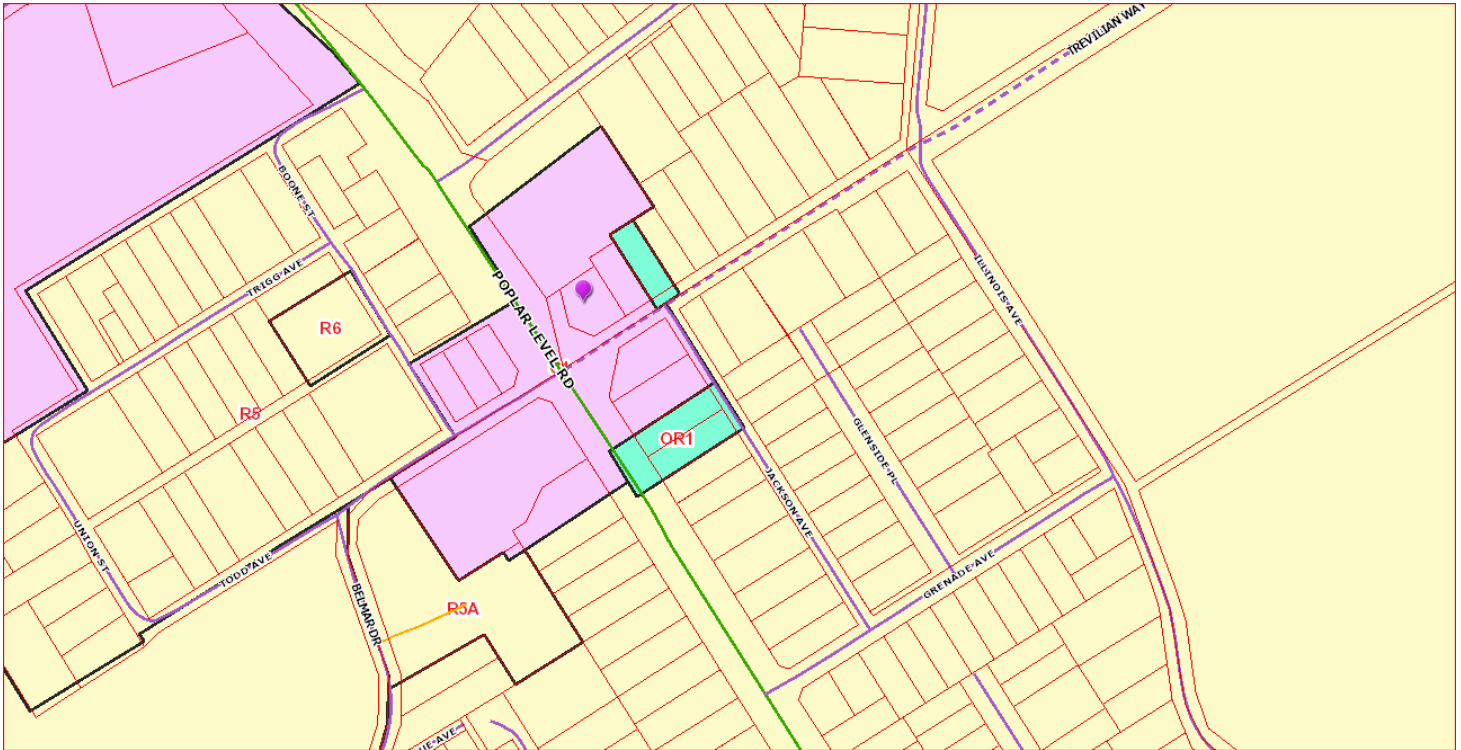
NOTIFICATION

Date	Purpose of Notice	Recipients
10/18/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners
10/18/2019		Registered Neighborhood Groups in Council District 10
10/10/2019	Hearing before BOZA Sign Posting	Neighbors

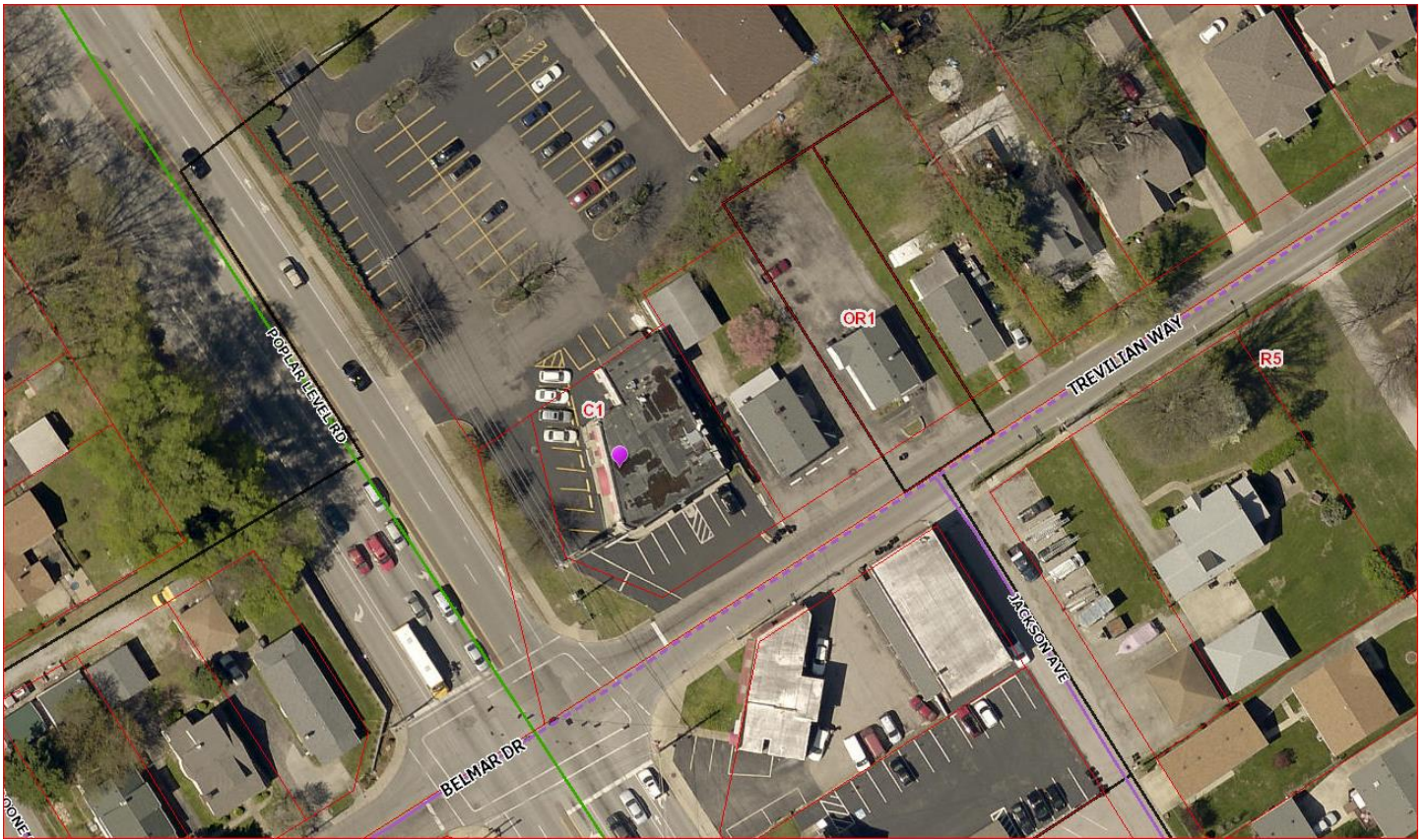
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Explanation Letter
5. Minutes
6. Screening Sketch
7. Plan 2040 Checklist
8. Conditions of Approval

Zoning Map



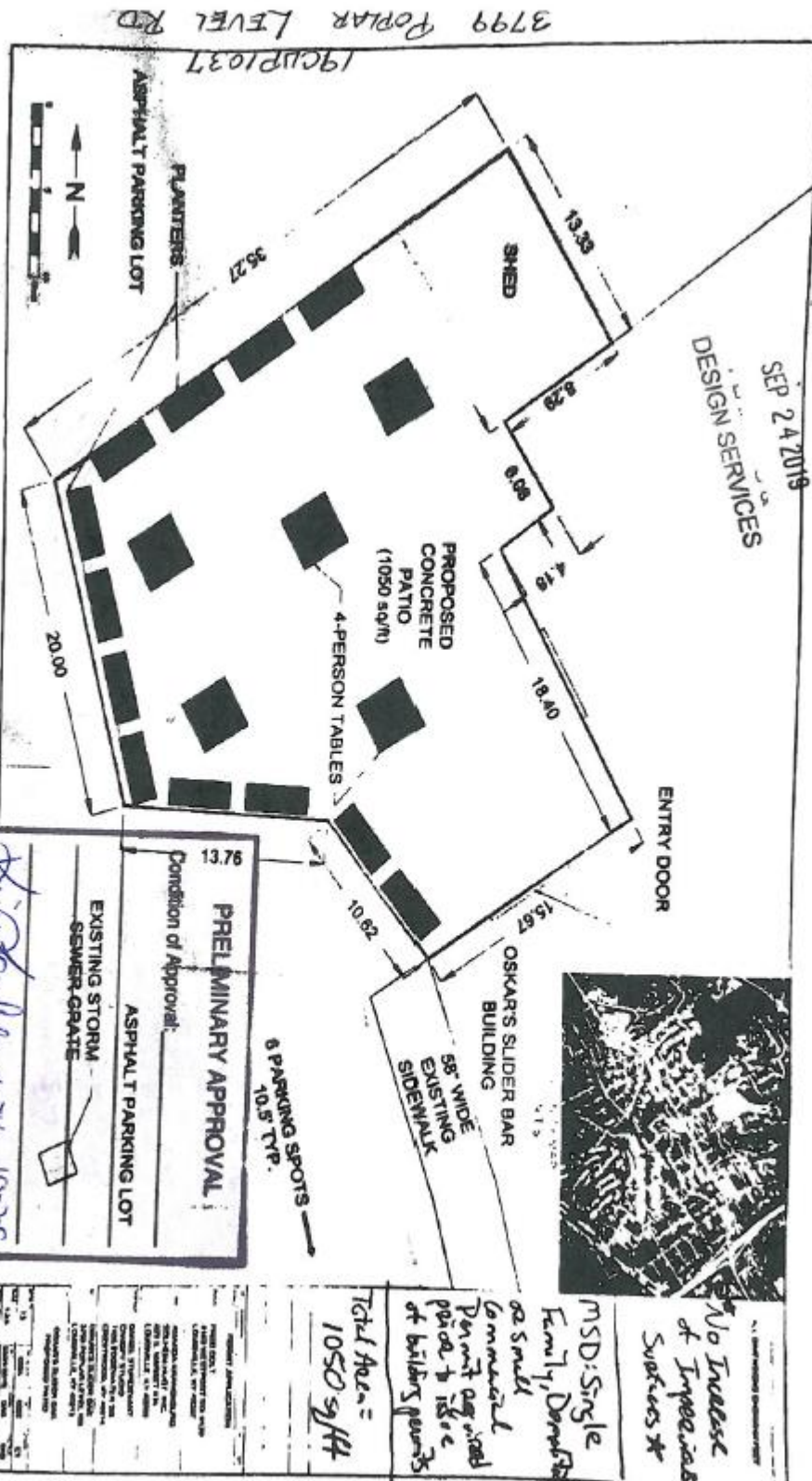
Aerial Photograph



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SEP 24 2019

DESIGN SERVICES



PRELIMINARY APPROVAL

Condition of Approval: _____

ASPHALT PARKING LOT

EXISTING STORM SEWER GRATE

13.76

6 PARKING SPOTS
10.5' TYP.

Development Review: *[Signature]* Date: 10-2-19

LOUISVILLE & JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT

MSD: Single Family, Duplex or small Commercial Permit required prior to issue of building permits

Total Area = 1050 sq/ft

No Increase of Impervious Surfaces *

NO.	REVISION	DATE
1	ISSUED FOR PERMITTING	10/2/19
2	REVISIONS TO PERMITTING	10/2/19
3	REVISIONS TO PERMITTING	10/2/19
4	REVISIONS TO PERMITTING	10/2/19
5	REVISIONS TO PERMITTING	10/2/19
6	REVISIONS TO PERMITTING	10/2/19
7	REVISIONS TO PERMITTING	10/2/19
8	REVISIONS TO PERMITTING	10/2/19
9	REVISIONS TO PERMITTING	10/2/19
10	REVISIONS TO PERMITTING	10/2/19



To Whom It May Concern:

Solheim Huot, Inc, d.b.a. Oskar's Slider Bar owned by Elizabeth and Jesse Huot and located at 3799 Poplar Level Road is requesting 4.2.41 Outdoor Alcohol Sales and Consumption and Indoor Live Entertainment for a restaurant in the C-1 Zoning District.

The plans are to build an outdoor patio that would allow patrons to dine and consume alcohol outside of our building. The patio would be poured concrete and seat around 20-25 guests at 5-6 tables. A barrier of planters would be placed around the perimeter of the patio. This patio would be attached to the building and not require any additional entrances to the building though would have an emergency exit to the parking lot. You would only be able to access the patio from inside the building. Our indoor music stage would be mobile and would be set up to the right of the entrance. Our current hours are Tues-Sun 11am-10pm with food being served until 10pm on weekdays.

Thank you,

Liz Huot
Owner

www.oskarssliderbar.com
3799 Poplar Level Rd, Louisville, KY 40213

ng Attendance Sheet

Name	Street Address	Zip	Phone	Email
Langley	1773 Palmer Dr	40213	299-4781	
Kauf	875 Maple Ave	40217	974-3202	
Kauf	875 Maple Ave	40217	A	
Kauf	875 E Market St	40206	502-741-6936	

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JUN 07 2019

Attendee Al Langley stopped by to ask about the location of the patio. We (Liz, Jesse and Amanda) discussed with him the location and how customers would enter/exit the patio.

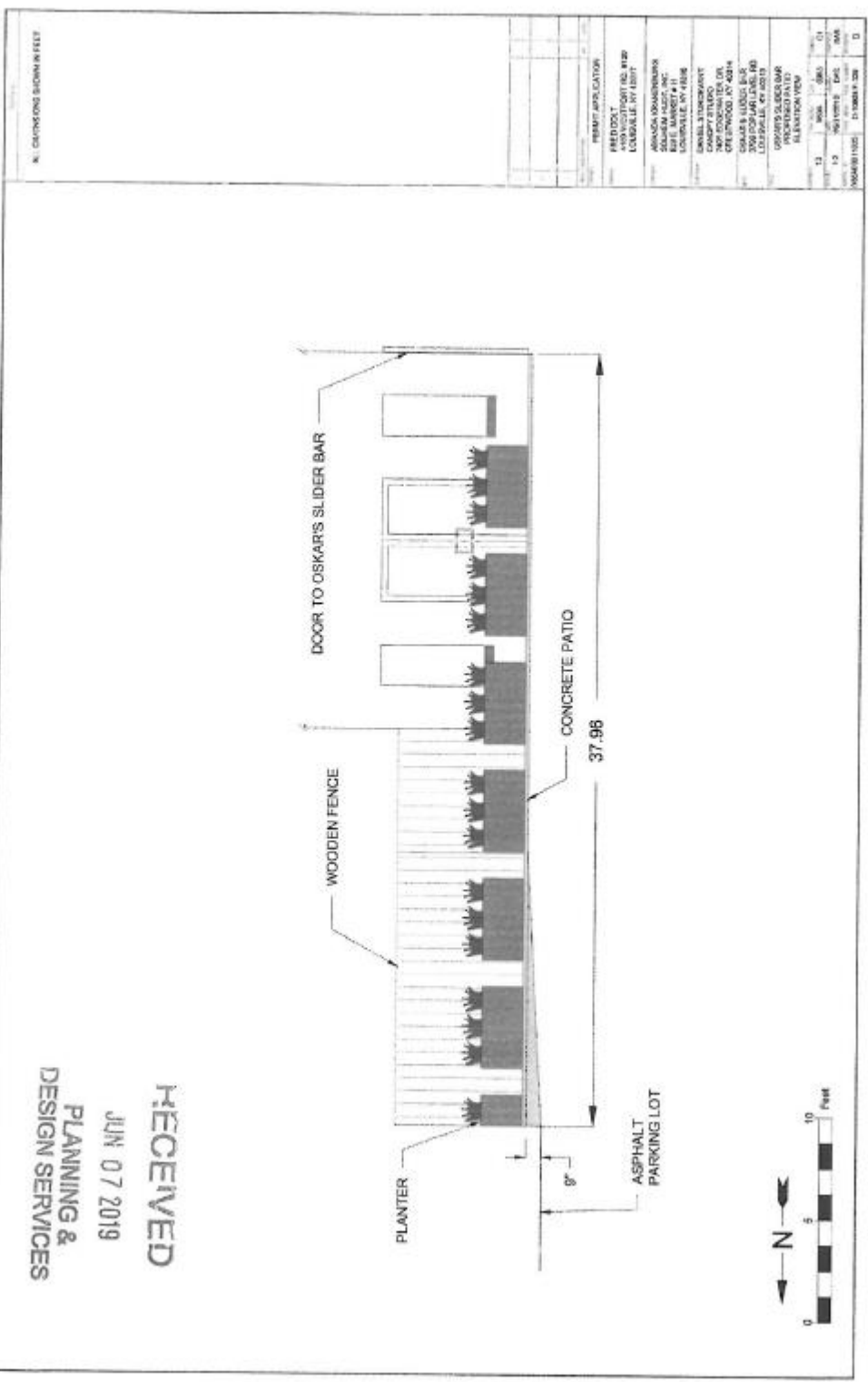
Al also asked about the live music. One of his tenants is a truck driver and sleeps odd hours. It was explained to Al that we would need a specific permit for live music. Also, that if music was to be played, we would finish by 10 pm and adhere to any public noise ordinance.

No other attendees by those invited.

Jesse Hoot - owner
Liz Hoot - owner
Amanda Krenenburg - Director

79 SEP 10 5 11 AM '19

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JUN 07 2019
PLANNING &
DESIGN SERVICES



ALL DIMENSIONS SHOWN IN FEET

NO.	DATE	DESCRIPTION	BY
1			
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PERMIT APPLICATION
 PROJECT: 190110010121
 LOCATION: 190110010121
 COUNTY: 190110010121
 CITY/TOWNSHIP: 190110010121
 SUBDIVISION: 190110010121
 SHEET: 190110010121
 TOTAL SHEETS: 190110010121
 DATE: 190110010121
 DRAWN BY: 190110010121
 CHECKED BY: 190110010121
 APPROVED BY: 190110010121

PLAN 2040 CHECKLIST

- + Meets policy
- **Does not meet policy**
- +/- Meets/does not meet some portion of policy
- NA Not applicable
- INS Addl information needed

Policy	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form: Goal 1			
2.1	Evaluate the appropriateness of a land development proposal in the context of: 2.1.1. the description, character and function of the Form District designated for the area in which the subject site is located; 2.1.2. the intensity and density of the proposed land use or mixture of land uses; 2.1.3. the effect of the proposed development on the movement of people and goods; and 2.1.4. the compatibility of the proposed use or uses with surrounding uses including the relationship of the use, mass, scale, height, materials, building footprint, orientation, setback and design of the proposed building or buildings with that of surrounding buildings.	+	1,050 square foot patio area for outdoor dining and alcohol consumption Using existing paved area Buffered by existing buildings and topography
2.4	Plans, studies and strategies legislatively developed subsequent to the adoption of Plan 2040 supplement and represent the specific application of Plan 2040 goals, objectives and policies. Specific recommendations found in plans and strategies adopted after Plan 2040 are intended to take precedence over more general guidelines of the Comprehensive Plan.	NA	
2.5	Plans, studies and strategies adopted subsequent to Cornerstone 2020 but prior to Plan 2040 may continue to represent specific application of Plan 2040. The Planning Director or their designee shall make a formal determination in cases where the plan has not been re-adopted by the affected legislative body.	NA	
2.6	Plans, studies and strategies adopted prior to the adoption of Cornerstone 2020 shall not be used as official policy until such plans are updated and re-adopted. However, such plans, studies and strategies may be used for planning evidence if no update has been completed or adopted.	NA	
3.1.1	Downtown (1.3.1.1, page 40)		
3.1.2	Traditional Neighborhood (1.3.1.2, page 40-41)		
3.1.3	Neighborhood (1.3.1.3, page 41)	*	
3.1.4	Village (1.3.1.4, page 41-42)		
3.1.5	Town Center (1.3.1.5, page 42)		
3.1.6	Regional Centers (1.3.1.6, page 42-43)		
3.1.7	Traditional Marketplace Corridor (1.3.1.7, page 43)		
3.1.8	Suburban Marketplace Corridors (1.3.1.8, page 43-44)		
3.1.9	Traditional Workplace (1.3.1.9, page 44)		
3.1.10	Suburban Workplace (1.3.1.10, page 44)		
3.1.11	Campus (1.3.1.11, page 44)		
3.1.12	Urban Center Neighborhood (1.3.1.10, page 44-45)		
3.1.13	Conservation (3.1.13, page 45)		
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	Site plan shows 5 tables accommodating 20 people Separated by planters.

Policy	Plan Element or Portion of Plan Element	Staff Finding	Comments
5.	Allow a mixture of densities as long as their designs are compatible. Adjacent residential areas in different density categories may require actions to provide an appropriate transition between the areas. Examples include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	NA	
6.	Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	NA	
7.	Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	NA	
8.	Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	NA	
9.	Ensure an appropriate transition between uses substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	+	Buffered by existing buildings and topography
10.	Mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners.	NA	
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	Subject area is more than 50 feet from residential use/zoning.
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	NA	
13.	Integrate parking garage facilities into their surroundings and provide an active, inviting street-level appearance.	NA	

Policy	Plan Element or Portion of Plan Element	Staff Finding	Comments
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	NA	
15.	When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	NA	
16.	Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	NA	
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	NA	
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	The existing buildings and topography will serve as built in buffers. Current hours of operation are Tuesday through Sunday from 11:00 am to 10:00 pm.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	NA	
20.	Mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces.	NA	
21.	Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	NA	
22.	Require industrial development to store, handle and dispose of all hazardous materials in a safe and environmentally sound manner and to meet all air emission, industrial and solid waste disposal standards and to prevent contamination of groundwater and surface streams.	NA	
23.	Mitigate adverse noise and lighting impacts and other nuisances of transportation facilities, services, and operations by considering site design solutions such as screening/ buffering, greater distance separation, changes in elevation such as placing the facility below grade. Establish and enforce accepted standards to protect residential areas from adverse impacts of noise, lighting and other nuisances. Design transportation facilities, including rail lines and aviation facilities, to mitigate adverse noise, lighting and other nuisance impacts on residential uses.	NA	
28.	Promote mixed use development especially when redevelopment of large office and retail centers are being redeveloped. Redevelopment of these sites may include residential uses and prioritize pedestrians, bicyclists and transit users to minimize automobile usage	NA	
Community Form: Goal 2			
1.	Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	NA	
Community Form: Goal 3			

Conditions of Approval

1. All development shall be in accordance with the approved site plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for outdoor alcohol sales/ consumption and indoor live entertainment for a restaurant in the C-1 zoning district without further review and approval by BOZA.