

PLANNING COMMISSION MINUTES
January 7, 202

PUBLIC HEARING
CASE NO. 20-ZONE-0081

Request: Change in Zoning from R-4 to C-1 with Detailed District Development Plan, Binding Elements, and Conditional Use Permit

Project Name: Taylorsville Road Restaurant

Location: 4508 Taylorsville Road

Owner: KST Properties LLC

Applicant: KST Properties LLC

Representative: Dinsmore & Shohl LLP

Jurisdiction: Louisville Metro

Council District: 11 – Kevin Kramer

Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONERS DANIELS, SEITZ AND SISTRUNK LEFT AND DID NOT VOTE ON THIS CASE

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

05:34:05 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report. A phone call was received after the publication of the staff report. The person was mainly concerned about the expansion of the activity center in the direction of the large lot to the west.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

05:44:35 Mr. Ashburner gave a power point presentation. There's a lot of commercial in the vicinity of the proposed site. There's an existing tree buffer along the

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property line and everything that can be preserved will be. The outdoor area will be buffered as well.

05:15:17 Ms. Richard said they do not show a sign on the plan because staff is directing that the sign be compatible with the Land Development Code requirement. There will be a sign on the subject site.

Deliberation

05:53:35 Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from R-4 to C-1

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis and the testimony heard today was adopted was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is adjacent to an existing activity center and would be an extension of the existing activity center; Taylorsville Road is a major arterial and transit corridor at this location; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC requirements; the proposed zoning district would not permit noxious odors, particulates or emissions; access to the site is via Taylorsville Road, a major arterial road; a privacy fence and landscaping will be provided to mitigate noise; the proposed zoning district would not permit industries which handle hazardous or flammable materials, or uses which are potentially offensive such as junkyards, landfills and quarries.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is adjacent to an existing activity center at the intersection; the site has appropriate access and connectivity via Taylorsville Road, a major arterial at this location; the proposed zoning district would permit a more compact pattern of development in an existing activity center; the proposed zoning district would permit a mixture of neighborhood-serving uses in an existing activity center; the proposed zoning district would permit residential

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and office uses above retail; the proposal is for re-use of an existing building to provide commercial uses; the proposal does not include underutilized parking lots; the proposed zoning district would permit appropriate design and scale that is compatible with existing nearby land uses. The site is an appropriate placement for neighborhood-serving commercial uses.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the majority of the site will remain undisturbed and tree canopy is provided; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not in a flood prone area. No karst features are evident on the site.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal reuses the existing structure.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district would allow higher intensity or density of uses. Taylorsville Road is a major arterial and transit corridor at this location, and the site is adjacent to an existing activity center.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Taylorsville Road, a major arterial road.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit a mixture of neighborhood serving businesses and services; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the site is located along Taylorsville Road, a transit corridor at this location; Transportation Planning has approved the proposal.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on a major arterial street.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit housing. The proposal would permit inter-generational mixed-income and mixed-use development; the proposed zoning district would permit housing. The site is in proximity to a multi-modal transportation corridor (Taylorsville Road) providing safe and convenient access to employment opportunities as well as within proximity to amenities providing neighborhood goods and services.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Mims, Peterson and Howard
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Seitz, Sistrunk and Lewis
ABSTAINING: Commissioner Clare

Conditional Use Permit to allow outdoor alcohol sales in a C-1 zoning district (LDC 4.2.41) (20-CUP-0117)

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the proposal does not conflict with any Comprehensive Plan policies. Plan 2040 describes the Neighborhood form district as having neighborhood-serving amenities, which the proposed conditional use permit would allow; and

WHEREAS, the proposal is compatible with the surrounding land uses and neighborhood. The area where alcohol will be served is relatively small and will be surrounded by a privacy fence; and

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WHEREAS, the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site. Required parking is being provided; and

WHEREAS, the boundaries of the outdoor dining area are marked on the site plan and will be delineated on site with an asphalt pad; and

WHEREAS, a privacy fence will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the restaurant will hold an appropriate liquor license; and

WHEREAS, the Louisville Metro Planning Commission further finds, the use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. The site will comply with this provision; and

RESOLVED, that the Louisville Metro Planning Commission does hereby Conditional Use Permit to allow outdoor alcohol sales in a C-1 zoning district (LDC 4.2.41) (20-CUP-0117) be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Seitz, Sistrunk and Lewis

ABSTAINING: Commissioner Clare

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the existing structure is proposed to be reused and maintained. Tree canopy will be preserved and provided; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, no open space requirements are pertinent to the proposal; and

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WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The site is adjacent to an existing activity center and the proposal will expand the activity center in a logical direction; and

WHEREAS, the Louisville Metro Planning Commission further finds, the development plan conforms to applicable guidelines and policies of the Land Development Code and the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
 7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Brown, Carlson, Mims, Peterson and Howard
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Seitz, Sistrunk and Lewis
ABSTAINING: Commissioner Clare