

Captioning Transcript of Planning and Zoning Committee Meeting - November 15, 2022

"Chair Flood"

Good afternoon and welcome to Planning and Zoning Committee. I'm Council Woman Madonna Flood Chair of the Committee I'm joined by my Vice Chair Councilman Scott Reed and by Council Member Bill Hollander Council Member Kevin triplet Council Member Nicole George Council Member Robin Engel we're also joined by Council Woman Amy Holton Stewart. She has a case on today's docket that she has a vote on. Also this meeting's being held pursuant to 61.806 and council rule. 5, a Council Member Jecorey Arthur has an excused absence

Items number 4 and 5 will not be heard today.

1st item is an ordinance related to the zoning of property located at 4,922 Brownsboro, containing approximately 6.600 acres and be in a little metro case number 22. 00061. Louisville metro case number twenty two zero zero six one

Motion to approve Committee Member Engel and seconded by Committee Member Triplett

Properly, moved and 2nd, we're ready for discussion.

"Brian Davis"

Good afternoon Brian Davis Louisville Metro Planning and Design. This is planning commission docket number 2261.

For 4,922, Brownsboro Road, the property located at 4,922 Brownsboro road in metro Council district. 7, this is an outline of the existing property in question. You can see the property is currently vacant.

I used to have a single family home on it that was removed several years. Back, but currently vacant surrounded by residential, and the applicant is proposing to an office use on the site. an office use on the site This is the zoning map here so you can see the property here in the center is owned primarily are for there is a portion up on the on the on the.

On the corner of the property, which we'll discuss here in a few moments, but the app is proposing to change the entire site to.

So, the request before he has to change zoning from there was a conditional use permit for a medical clinic, slash urgent care facility and then the detailed plan. So, the site is currently undeveloped. The proposals for 2, new office buildings to include an urgent care center. The.

Previous case on the site was 17 zone 1025 on that case a portion of it was zoned from to and for a proposed bank and then the rezoning case included a, for senior living in the rear.

And the applicant is abandoning that conditional use permit. use permit So this is a look at the site from Brownsboro road into the property. Here's another view into the site from cross gate lane.

And of you into the site from Warrington way.

So this is the previously approved plan, um.

You can see the, the bank located up at the intersection of Warrenton and brownsboro road and then the senior living facilities proposed for the rear of the property.

The applicants now proposing 2 office buildings that are located up towards the branch road. Frontage.

With the rest of the site being reserved for parking and then left left. This is a rendering that was provided by the app going at the planning commission, hearing that show what the post office buildings will look like.

After we conducted our neighborhood meeting on March 32, 2022, the land development transportation committee was on August 11, 2022 in the planning commission public hearing was on October 6, 2022 no spoken opposition and there was a motion to recommend approval the changes only from our foreign by vote of 8 to 0.

a motion to recommend approval the changes only from our foreign by vote of eight to zero

That's all I have, let's have any questions for me.

"Chair Flood"

Councilwoman Nicole George

"Committee Member George"

Thank you chair I see in the binding elements 1 of them being that the owner and developer will maintain the transit stop and empty. The trash receptacle is needed. Is that something we often see in a binding element?

"Brian Davis"

Sometimes it comes up, there was a I know there was a hard stop shown on the previously approved plan and so, that was something that staff had asked about and they haven't been agreed to do on this 1.

"Committee Member George"

okay. Is it? I mean, I'm just is it. How did we get the developer to agree?

This was kind of my question

"Brian Davis"

staff just asked them in this case. Yeah, it wasn't.

"Committee Member George"

Yep, okay well, I'd like to see more of those in district 21. Thank you.

"Travis Fiechter"

I can provide this a little bit of context. If you're like Councilwoman George Travis Fiechter Assistant County Attorney. Like, Brian said, I must have just asked here, but it's, it's pretty common when new talk stops are proposed.

On on a site and so oftentimes, when a site's being redeveloped, uh, we might take a look at those, but it wasn't something that was done sort of looking forward years ago.

But now it's a pretty common thing, especially when, like I said, a new sponsor post, asked the developer to empty the trash and clean the clean, the stop itself. So, I think that as far as the properties redevelop, we'll see that more and more.

"Chair Flood"

Thank you our office had been in contact with the Councilwoman McCraney that was in her district, she'd asked us to hold it last time and then I haven't heard back about this time, but we are really under the gun with, um,

you know, we only have like, 2 more meetings, or actually 1 more zoning meeting.

Before we go on break and then 2 more council meetings. So.

If there's not any other questions, I'll entertain a vote to.

Entertain a vote that way. If there's any questions she can reach out to me.

In between time.

Go ahead and do that. And, um.

I do.

[Vote Taken]

Without objection voting is closing, there are 6 yes votes 1 not voting, and it'll go to old business at our next council meeting,

"Chair Flood"

moving on to item number 2.

Is an ordinance relating to the properties located at 7,813,561,781,778 97,821 manslick road and 773 6 and 7745th street road containing approximately 21.8 acres and being a Louisville metro case number 21 zone. 0 1 3 9.

seventy eight twenty one manslick road and seven hundred and seventy three six and seven seven hundred and forty two third street road containing approximately twenty one point eight acres and being a Louisville metro case number twenty one zone zero one three nine

Motion to approve Committee Member Engel, 2nd by Vice Chair Reed Properly moved in 2nd, we've also been joined by Council Woman Cassie Chambers Armstrong

Go ahead.

"Brian Davis"

All right, this is planning commission docket number, 21 zone 109 for the panics of.

The subject site, 780378or97813, 7817 789 7821basicroadaswellas7736 and 7745th street road located metro Council district 25. this is an outline of all the properties that are part of the application. You can see them outlined in yellow.

thirty six and seventy seven forty two third street road located metro council district twenty five this is an outline of all the properties that are part of the application you can see them outlined in yellow They are currently used for residential agricultural use, proposed, uses to continue to.

To use it for residential the zoning on the size currently are for.

They are requesting, you can see that the area is surrounded by our 5.

you do have an a site located immediately to the South, which has a commercial portion to the as well.

So, the requested changes only from our 4 to 5.

The site is partially developed with single thing. Residences. The residents are mostly being preserved on the residual tracks.

So, the, in all, you have 8 portions of 8 different parcels that are being developed.

With the gross area of about 21.8 acres net density for the development is 4.7812 years per acre. They are proposing 83 single family lots on the subdivision plan, which you'll see here momentarily.

the subdivision plan which you'll see here momentarily

On the development plan, there's also a connection to the future plan right away from the southern track, which is the Buddha blessed temple site, which includes the temple and a proposed townhome development on it.

There are some unstable's unstable soils on the site, which were identified in the geo tech report and there are some binding elements regarding the soils that were included.

So this is a site flow looking from the mastic roadside into the site, the property stretch all the way across over 3rd Street road also. So, this is a view from 3rd Street road, looking into the site.

So this is the development plan that was proposed and reviewed by the planning commission that's republic hearing.

So you've got a front end domain growth, fringe on 3rd Street road, and then you can see the proposed that goes down to the South to tie into that proposed development for the attract there on the South.

And again, they are proposing single family homes on on, on the.

Uh, all the parcels within the, the development.

Conducted their neighborhood meeting on June 15, 2022 land development transportation committee meeting was on September 22nd and then the planning commission conduct, the public hearing on October 20th, 2022 no 1 spoken opposition to the request and the planning commission approve the motion to recommend approval of the change in zoning from our 4 to 5 by 7. 0. in zoning from our four to five by seven zero

And it's all that I have any questions for me.

"Chair Flood"

I don't have a question, but I do have a binding element that I would like to submit.

And I'll read that it's our standard binding element about, um.

Changing in the structures, the building height, the density and the development plan, and the binding elements that would come back to eventually to the metro Council. So it's going to be binding element.

Number 19, any significant increases to the proposed structures increases in building high number of units number of buildings, and the increase in density of the property, any changes in the use of the property, which directly or indirectly require a public hearing before the planning commission or subcommittee thereof, and or any amendments to the.

Binding elements, other than the addition of new binding elements changing to binding elements that merely update the public hearing, updating a previous version of this binding element to reflect the current language shall be reviewed before the planning commission and with final action,

to be determined by the metro council and I move that binding element.

Any discussion on the binding element Kevin was your,

[Motion by Chair Flood and seconded by Committee Member Triplett]

"Committee Member Triplett"

Thank you chairwoman, but, uh, not on the binding element. No.

"Chair Flood"

Okay.

I'll come right back to you. Sure. Are those in favor of the binding element chain? Signify by saying, aye aye.

That was opposed by, like, signs hearing none, the motion carries Councilman Triplett

"Committee Member Triplett"

Thank you. I, I didn't know if Council Woman Holton Stewart would chime in, but my question is simply the unstable soil is not a concern.

For for the, for the planning commission, or for anyone on this body. I mean,

"Brian Davis"

it was it was enough of a concern to add the binding elements about them having to have a.

A qualified consultant there on site.

To oversee construction, but.

You know, it's not a type of soul. You absolutely have to avoid. You just have to be careful.

When constructing on it and so I think that that is how the binding elements came to be.

"Committee Member Triplett"

Very well, thank you.

"Council Member Holton Stewart"

And I might chime in Councilman Triplett that there are similar, um, subdivisions that that are.

Uh, in place already, just to the North, and just to the east of this proposal.

Um, so it, it fits in, um, you know, the plan, uh, the planned area and, uh, seems to, uh, they seem to have followed through with this, um, in a, in a very responsible way. So, um.

It, you know, the developments all around, it are very similar.

"Chair Flood"

But the last 2 binding elements.

Specifically address the unstable soil on that, and they seem pretty strict on on what's going to be required.

I'm going to have to remember those when it comes to the Karst areas in my area because of the.

Sync calls and things that I worry about. So I think these are 2 great by email or someone keep those in my pocket.

You have any further questions or concerns Council Woman Holton Stewart did you have anything else you wanted to add?

"Council Member Holton Stewart"

No, just what I said previously that, you know, they they have, um.

Applied for this, the applicants and and have, uh, you know, pursue this in a very responsible way, have been very open and, um, and have communicated well with their, their neighbors and, um, with our office.

And so I would, um.

You know, just like to offer my support.

"Chair Flood"

Yeah, I noticed even on the plan that they had some elements on there, that kind of pertained to the binding elements too. That sometimes you don't.

Don't see on zoning changes like this. Okay. Council Woman Holton Stewart does have a vote on this. So if you will go ahead and open

"Travis Fiechter"

Madam chair. Sorry if I might jump in real quick assistant county attorney, and I apologize.

This is, I think the 1st time we've looked at the new binding on the language with the subdivision case, and I should have thought about this ahead of time. But.

It only just popped into my head. Um, so that 1st clause, the any significant increases to the Pro structures.

Increase the building height number units number of buildings.

That's really more suited to commercial development. We don't know exactly what the heights of these houses are going to be, the kind of standard range, but that can get a little bit messy for residential development.

And really, I think the density that next clause, and then changes in use really cover.

What we're looking for, so so that staff doesn't get confused. This doesn't get unnecessary flagged on some homeowner that just, you know, building a house that already fits the regulations.

My recommendation would be to strike that 1st clause, um, and just start the standard binding element at an increase in density.

And proceed from there I hope that makes sense. I don't think this allows the, the, the, the property owner to do anything. That's.

Toward, uh, it's just this is like I said, mostly better suited for commercial development.

"Chair Flood"

So do we need to reread that into the record the correct way?

"Travis Fiechter"

Yes, I can do that. So, like I said, it was the 1st clause, so it would instead read any increase in density in the property, any changes in use on the property, which directly or indirectly require a public hearing before the planning commission.

Or a subcommittee thereof, and, or any members to the binding elements, other than 1, the additional binding elements. 2 changes to binding elements, merely update the public hearing date.

Or 3 updating a previous version of this binding element.

To reflect the current language shall be reviewed before the planning commission with final actions to be determined.

By Metro Council

"Chair Flood"

and I move that change and mining element number 19.

[Motion Chair Flood and seconded by Committee Member Engel]

Properly moved and 2nd, any discussion.

Saying that all those in favor of the amendment to, by the nominal 19 signify by saying, aye.

Aye, those opposed by light hearing none, the motion passes.

So now we have the amended document in front of us. If you will call. Open the voting and then call the row.

[Vote Taken]

Without objection voting is closing, there are 7 yes votes and this will be on old business at our next council meeting.

Thank you moving on to item number 3 in ordinance related to the zoning of property located at 1140 Cherokee road, containing approximately 0.3493 acres and being local metro case number 22. 00097.

local metro case number twenty two zero zero zero nine seven

Motion to approve Triplett. Moved by Councilman Triplett and 2nd by Councilman Engel. We're ready for discussion.

"Brian Davis"

This is a plane crash docket number 2297 for 1140 Cherokee road.

The property located at 140 Cherokee road located metro Council district 8 the, um.

It says vacant if there is no, there is not a use in the existing structure. Now, it's briefly used as a, as a church in Africa proposing to renovate the building for residential use.

The, uh, properties currently is owned with a, and they are proposing to change that are 8 a, the site is located in the traditional neighborhood form district.

You can see it, the property across the alley has along the corridor and then you have primarily with some multi family, uh, scattered about a nearby.

On the road as a request to the changes only from a proposal is the construct of the 19 multi family dwelling units by renovating the vacant church. The subject site contains approximately point 3, 4 acres.

It is located in the Cherokee triangle area of local metro within the traditional neighborhood formed district.

This is the development plan that was provided by the applicant so yeah, Cherokee wrote here Patterson Avenue here and then the bardstown road is further off to the map South.

And so you have the, uh, the structure with the existing or the parcel with the existing structure here located.

And identified as parcel 1, and then the applicant has an adjoining parking lot that will be used to help provide parking for the residents in the post units.

This is an elevation that was provided by the applicant just the.

Current elevations that are, that are currently.

Under the view part of the Cherokee triangle regulations.

This is the subject site here, so you can see the, uh, the property.

This is looking at the property from the corner and then this is looking at the, the rear of the property.

And this is the parking lot that they applicant has included on the development plan that will again be used for parking for the residential units.

The neighborhood meeting the applicant conducted that on December, 20 at 2021 land development transportation committee had their meeting on September 22nd, 2022.

In the planning commission, public hearing was on October should be. October 20th sorry about that 2022 1 person spoken opposition and then the motion to recommend approval the change zoning from our 5 beat a pass by vote of 70. that's all. I have listed any questions for me.

"Chair Flood"

Councilman Cassie Chambers Armstrong, this is in your district. Did you want to address this?

"Council Member Chambers Armstrong"

Madam chair, just to say that, I don't have any concerns with this. I believe the opposition was around parking and drainage and for reviewing it seems like there's an adequate plan around parking. This is an area. We just did a study that showed that we need more housing and some more density, and so hopeful that this will accomplish those goals. So I will be voting in support.

"Chair Flood"

I recently got to see a church where someone renovated it for housing and it was very amazing to take an old church like that and to renovate it to residential use.

It was if I can find the pictures, I'm going to bring them in and show you all because it was 1 of the most amazing renovations I've ever seen on using an older building and that the church was probably 100 years old but it was amazing. amazing

What can be done any questions or comments from other council members saying none we're ready for a vote.

[Vote Taken]

Without objection voting is closing, there are 7 yes votes and this will go to old business at our next council meeting. Thank you Council Woman Armstrong

I don't number 4 is going to be held and the next item.

With the zoning change is going to be item number.

6, we're going to move to that item.

And it was table, so the motion will be after I read it until the record is to unstable. It it is item 6 an ordinance relating to the revised district development plan for the properties located at 10,702 and 13 801, English station. Excuse me?

English villa draft, containing approximately 1.3 acres and being a louisville metro case number 2275. point three acres and being a global metro case number twenty two hundred and seventy five

Motion to, properly moved by Councilman Engel 2nd, by Councilman Triplett we're ready for discussion.

I think you were, were you going to address some issues that were brought up by council members?

Councilman Kramer's office, his aide sent me an email saying that you were going to go over something today, but I thought you covered it.

Well, last time,

"Brian Davis"

yeah, I don't have anything else to add other than Middletown because the site is split.

You know, there was a binding element that said if if the site was to be used as a drive through restaurant, and it had to come to metro Council.

And so that's why we're here with this development plan. And again, the site was split. So, part of.

It's pretty well split down the middle of and half of it's in Louisville metro half is in Middletown. There were some questions about, I think, the drive through and its location and proximity to Shelbyville Road in the parkway buffer.

There is just a small area of that drive through that is within the parkway buffer. So that that was 1 of the waiver requests and, you know, there is no access from Shelbyville wrote into the site.

Uh, all the access has to come from English to drive and then the, which is kind of like a package road along with Shelbyville road. So I think that takes care of all the concerns that they had. Middletown will be taking.

The taking considering the plan at their December meeting. So that is the timeline timeline for their review of this. And that's all the updates that I have.

"Travis Fiechter"

Uh, Madam chair, I can, I spoke with Scott Harrington about this issue, and he had a couple questions. He wanted me to ask Brian just, I guess the public was aware and such. So with your leave.

Uh, Brian, could you talk a little bit about that access again? So obviously there's a.

There's an UN uncivilized access immediately to the East, I believe and then I signalize 1 farther east and then 1 to the West as well.

"Brian Davis"

Right. I did not get that far out. No, I didn't go that far out. Yeah, so you do have 1 signal and like you said.

You have 11 intersection that's currently uncivilized. Other is signalize and, you know, so you don't have so.

Travel will become an either 2 or from those.

Yeah, go ahead and do your next question.

"Travis Fiechter"

So, I mean, you all would anticipate and transportation staff would anticipate that those signals intersections probably the primary points of access.

To get the English Villa drive revenue, coming through that and signalize 1.

In the middle of a Shelbyville,

"Brian Davis"

correct? Yes. Yeah.

"Travis Fiechter"

And obviously that left turn if you're heading.

Western Shelbyville will be pretty difficult coming across multiple ends to get in here,

"Brian Davis"

right? Yeah, that's going to be a tough movement. Uncivilized the intersection that's for sure.

"Travis Fiechter"

Gotcha.

And the other 1 you wanted me to ask you to talk about, was what sort of plannings will be required along the South.

Property line, uh, particularly with regard to the drive through lane and the, the, uh, speaker there.

"Brian Davis"

Well, so there is a 15 foot landscape buffer area that is, um, uh, included along that. Uh, so they would need to provide.

The planning and I don't know the details on that, but that would be something they would have to submit to staff for review.

So we would review that landscape buffer area with between the drive through and English villa drive and so.

You know, they, they did not request any kind of waiver, indicate any difficulties with putting planes in that location. So we'll review that and that's on the Louisville side portion of the site. So it will meet the, our chapter 10 requirements.

As far as landscape and buffering goes right?

"Travis Fiechter"

So yeah, and I should clarify obviously a landscape plan is not available generally this early in the process,

"Brian Davis"

right?

"Travis Fiechter"

They didn't request any waivers or variances right in that area, right?

"Brian Davis"

Yeah. The only way it was for that tiny little.

Portion of the the access road that was cutting into the parkway buffer, but but even up front, they were going to be able to meet the parkway buffer requirements.

Regardless of that waiver's though. Great.

"Travis Fiechter"

Those are the only questions I was asked to ask and I was not requested apparently, by any elements in response to them. I think they're going to review this meeting since the council was not able to make it, but on the whole, they indicated they were supportive of the project.

And that's all

"Chair Flood"

I have my email from Scott Harrington said there was no additional binding elements and this is kind of a split. It's in Kevin Kramer's district and Anthony Piagentini district, and both were supportive of it. They were excited to be getting in their new district.

Any other questions or comments on the case.

[Vote Taken]

Without objection voting is closing, there are.

6, yes, votes and 1 not voting and then I go to old business at our next council meeting.

Our last.

Discussion piece will be item number.

7, and it is an ordinance amending the law metro land development code, relating to, you.

Outdoor dining case number 22 LDC. 0. 0. 0. 6.

Motion to move Triplett. 2nd properly moved by Councilman Triplett and 2nd by Councilman Engel. The reason we are redoing this as, you know that when Covance started we gave, um.

Restaurants the ability to do some outdoor dining in hopes to saving our restaurants and then we had.

Last year, at this time we had to we extended it till the end of this year. So this is something that will have to be act upon.

Asap because the other ordinance, it has a debt drop dead date of December, the 31st of this year. So I'll turn it over to Mr. Haberman

"Joe Haberman"

Good afternoon Joe Haberman planning and design services. So I have a quick presentation to kind of go over what we did with this. But that's a good opening.

Let me get started.

Um, so.

As a council indicated, we looked at this as, um.

Some permanent solutions to some of the ideas that we put forth in that temporary permanent that basically.

State enforcement or application of a lot of land development codes that we found were.

Preventing some people from doing outdoor seating areas that.

They would like to namely parking lots and areas that might otherwise be restricted for development like a required setback.

So, with that counsel also put in place some guidelines. So that was kind of the baseline that we used.

As we look through this, which of those guidelines were working.

And where where there's some areas needed for improvement.

And just generally speaking about the guidelines that.

Have existed, they were there for life safety and grass and.

Purposes the ones that relate the zoning.

There are also some reinforcing building code requirements and things like that for 10th.

So, 1, interesting thing though, about the sunset, I defer to Travis, but.

It said 30 days from December 31st. So I think we could interpret that.

We have a little bit more time if that helps Council.

And decision making with this ordinance, it has some unique language for its sunset.

"Chair Flood"

The only the only obstacle is that, um, we.

Redo all the committees in January and so it would might be hard to.

If we can act on it before the end of the year, I think it would be purposeful for and give us time to get it out to some of the restaurants in the area. I know. There's a couple that I need to hand it out to too. But if we have a big issue with it.

It is what it is.

"Joe Haberman"

Oh, sorry. Joe,

"Chair Flood"

no worries.

"Joe Haberman"

So, looking at the land development code, how is it currently regulated? So, if you look for this term outdoor dining, you're not going to find it. The term is just not used. So.

We have been regulating it effectively as an accessory area. So we used to restaurants.

And to a lesser extent to other uses, that might have food service, such as a tavern.

And just in case, you don't know the regulatory difference between a restaurant and a tavern.

Under our code is based on the receipts.

If 50% of the revenue comes from alcohol, it's a tavern. If 50% comes from food.

It's a restaurant, so right now the way outdoor dining is kind of viewed, because it's not really defined it. It.

Typically is subject to setbacks in a lot of context.

And I'll note that the physical attributes of outdoor dining, because it can exist in different forms, which I'll just show you some of the ways we looked at it can be on a deck. It can be under a gazebo. It could be on the balcony.

Some of those physical attributes that have nothing to do with it being outdoor dining.

Can prompt a regulatory requirements such as setbacks and.

And building permits, so, um.

Generally speaking with it.

I'll just go to this 1 restaurants are permitted.

Effectively where you think they would be permitted in the commercial districts as well as our industrial districts.

Some special standards, but if you note, they're not permitted in residential districts, although we certainly have a lot of restaurants that are in residential areas. A lot of those are nonconforming.

And that's something that we looked at specifically, because when you look at nonconforming use provisions that are.

Mostly guided by state law, you can't expand and outdoor dining can be viewed.

As an expansion we also have a limitation on.

Outdoor alcohol sales for.

A restaurant that is in that zone district needs a conditional use permit to do that.

As I mentioned outdoor dining areas are typically subject to setbacks and those can vary. So I can't just provide them to you because it's going to depend on the zoning.

The form in the context of a particular restaurant.

And right now we have a minimum parking requirement for restaurants, which is 1 space per 500 square feet.

Of area, and, um, in the traditional areas, and then 1000 square feet of area in the suburban areas.

So, but outdoor dining isn't expressly noted or exempted from that requirement. So it could be interpreted that it's subject to that requirement.

So, I just kind of show you some photos just more for contacts if you want to come back because of how we looked at it.

This is how most people typically see outdoor dining downtown.

I'll note that in most cases seating, like, this is within the right away and this ordinance will not.

Have any impact on that, because that's regulated by Metro code and some other provisions.

However, and a lot of these cases, the buildings aren't built right to the front setback line. So they might be partially.

And that right away and partially on private property. So, in those contexts, we would need to approve it under both ordinances.

Here's an example of where somebody adaptive reuse the old parking area. This garage bar, so that kind of took that area and turned it into outdoor dining so that we looked at that.

Here's another context to where they built the outdoor dining area specifically for that purpose. We looked at that.

Um, Here's an example of a temporary outdoor dining area that is not really intended to be a permanent solution. So we looked at that.

Then finally, this is the kind of idea that was created during the cove where people could just use their parking lots as a quick and easy way to expand outwards.

To have safe, outdoor dining areas so this is an example.

Of where they used a parking space or a parking area for their outdoor down.

So, looking at all those, um, a lot of these were the reasons for the temporary ordinance to provide relief. So this is more reinforcing the ideas of why there were barriers and people were having trouble.

So, these are mostly cited by restaurant owners, but staff looked into each of them. The 1st, is to set back requirements.

Many people just fine that setback requirements are cumbersome, and not necessary for outdoor dining.

The parking requirements, if you require parking outdoor dining, it kind of crunches you from 2 ways. 1st, you have to provide it.

But then you also take away space that might be otherwise available for that outdoor dining area.

And then that can require adding parking parking agreements or parking wavers.

The temporary activity permits, which are basically are special permits for special events.

Have a lot of limitations, but the big 1 is the time limitation.

You're capped at 10 days if you're in a residential zoning district or 30 days, if you're in a non residential zoning district.

So, that's not really a long term solution. That's more for a very.

Short special event, um, the CUP requirement for outdoor alcohol sales that I mentioned before.

And the fact that nonconforming restaurants are limited in how they can expand.

So, what we are recommending.

1st, define outdoor dining.

It's kind of a new use, although remain an accessory use.

Under this ordinance, we just felt the need to define it. So it's clear what it is and what it isn't.

And then we are proposing to regulate this.

A new accessory use in 2 ways.

1st, as a temporary outdoor dining area very similar to how we do it.

Now.

They've codifying that within the land development code to the extent that we can.

And also, just as a permanent area that a restaurant may use year round.

And I'll note again that this does not apply to outdoor dining areas in public, right away as if council want to look at that issue.

You'll probably have to look at some other ordinances and work with public works on how to.

How to change any provisions if that's what we're looking to do?

So, for the temporary areas, what we did in this ordinance is we took a lot of the guidelines that were in place and added some other provisions and created a new seasonal outdoor dining area.

Permit that is good for up to 6 months in a calendar year. So this reason for the 6 months, if it's more than 6 months, it's hard to argue from a legal perspective.

That it is temporary, so that's that, um.

Reasoning for that 6 month requirement, but.

This would allow a restaurant to.

Come in each year and expand.

To outdoor dining without having to meet a lot of requirements because it's temporary.

And then they just return it to its state when department goes away.

And we added a lot of standards in there.

To ensure that it's compatible with neighboring uses, including something similar to what we did with short term rentals, which is if there are a number of complaints about that particular outdoor dining area.

We can resend a special apartment and not issue it in subsequent years.

So there's some protections in place.

If the outdoor dining area becomes problematic.

But the big part about this is it's a way around the nonconforming use.

Um.

Restrictions of expansion, because this, since it's temporary, we can allow a restaurant in an area that has.

Zoning doesn't allow it to expand without or dining with this particular provision.

For the year round changes, we looked at the setbacks and we made sure that outdoor dining could be located and required setbacks along.

As the physical improvement doesn't require setback variance already. So if it's on the ground level on a patio, and now you can go into a setback.

But if you're on a deck balcony or.

Have a, or some kind of structure that structure would still need.

Set back variance. So there's still some protections there, but they could start the outdoor dining immediately and.

If they're on ground level and built the gazebo, as they work through it.

We clarified that there is no minimum parking requirement for outdoor dining.

So long as there was indoor dining that I'd make sure that there's some parking on site, because they would be required in theory to have some for the indoor dining.

We added some standards, so basically, we made it permitted with special standards. A lot of those are similar to what we put in place for the temporary.

And then we removed the conditional use requirement for alcohol sales and, and.

Recommendation is backed by some data that is in the attachments.

Long story short I don't think we've ever denied 1 of those conditional use permits and we've had.

Quite a number come before the board of zoning adjustment. So.

We left the standards in place so that there's.

Set standards, people would continue, you have to meet, but we're not making them go through that conditional use process.

And again, that only applies to C1.

So, with that, the planning commission reviewed the ordinance and recommended approval with 8 members voting 2.

Amend the code to allow the changes 1 extension. That was a new member.

And 1, absent member, and I'd be happy to answer any questions.

"Chair Flood"

Councilman Engle

"Committee Member Engel"

Thank you Madam chair there. There's a lot to absorb here quite frankly. And actually I'm pretty excited and I do want to thank whoever actually drafted this thing. And so I've got a couple comments and a couple questions Madam chair if that's okay.

Um, again, 1st off, uh.

You know what we did for the, the, the restaurant industry was outstanding.

I don't think they've recovered quite frankly and so I would be for.

It even further extension to get our hands around this thing.

Did we say that I know you touched on this real quick? Let me be clear with 30 days from the end of this year. Is that when this does sunset January 31st is at the official date.

"Travis Fiechter"

That's right. Yes, that's correct.

"Committee Member Engel"

And and that date was chosen, because just because we're kind of coming to the end of.

What we perceived as the end of the sort of pandemic or

"Travis Fiechter"

so I think the 1st, time around this was chosen, it was done for.

Like, 6 months or so real early Kobe, and it kept getting extended and I think that was just sort of the latest version. I don't know there was a great deal of thought into that specific date other than into the calendar year. Plus some was probably a good location.

"Committee Member Hollander"

Yep, it might have been tied to certain days after the end of the emergency declaration. By the governor

"Joe Haberman"

30 days from the date the state of emergency was to be lifted and then we extended it when the state of emergency was lifted. And we decided we needed more time.

"Committee Member Engel"

Perfect, thank you. Okay so continuing on.
So, we can, I mean, we, we have the opportunity to extend the extension. I mean, the current extension is that correct? Or not?

"Travis Fiechter"

Um, so we could, I will say that when this was being discussed internally.
There was a fair amount of discussion of these are sort of land development code.
Changes tweaks, they are temporary, it's an emergency, but obviously they didn't go through the sort of more formalized process. The land development code amendments normally go through right? Recommendation to the planning commission, public hearings, et cetera. Um, now, Covid was an extraordinary thing.
It was a state of emergency I think that in theory, as we come farther and farther away from that, we could see a challenge that would sort of strike. Now. I don't know who wouldn't necessarily bring that challenge. But, in theory, the ground under which we felt comfortable approving those without the regular process is vanishing. So, at some point, it's going to need a landed on the amendment or fall away. Sure. No problem.

"Committee Member Engel"

And again, that's not a deal breaker.
I just making suggestions because I don't believe the restaurant industry is quite frankly beyond the pandemic last massive losses. And so I'm just out here to support in any way what we can do to support this industry. If possible with that.
I wanted to ask the.
Kentucky restaurant association was there dialogue with.
With that group, as we, as, as our team drafted this new, this new language in any way.

"Joe Haberman"

There was no no direct dialogue. We did work with the number of restaurant owners as we address these issues, including the 40, some odd ones that received temporary apartments. We were kind of asking them about their experience.
What worked what didn't but not with the association though.

"Committee Member Engel"

And does the state, uh, the, uh.
Did I hear, do we have is does the state any type of regulations that we have to be concerned about going forward with this with this current, the previous language and the current language in any way?

"Joe Haberman"

Other than the zoning limitations in 100, this only applies to the private.

Land not necessarily to right away, which they might have some regulations if it's a state right away that would apply. But I believe this is consistent with all state law that we're aware of. That would be applicable.

"Committee Member Engel"

Madam Chair I'm kind of winding down here again. Total support of, of what that I see. At least from the outset here. I don't know if we're if we're prepared to vote on this thing today.

If we are, that's great if we or if there's going to be more dialogue I didn't know what where we were.

"Chair Flood"

So I think that and.

The discussion actually began in January of this year, myself and Emily Lou, and some of our staff that we needed to, since people were really enjoying outdoor dining.

I mean, everybody you talk to, it seems like, man, this is something we really need to take a look at because some of the restaurants I know it saves 1 of the restaurants in my area from even closing the doors because they were able to have outside outdoor dining,

so we decided to make changes to where they, where people could.

To a more outdoor dining, since it became such a big hit. That's 1 positive thing. I think that came out of Covid, is that it kind of brought together.

There's a new way of doing business that maybe people didn't think about, or, you know, really want to.

What to do at that time and now it just became such a catch on for a lot of people. I don't know. How about dining in your in your district? I mean.

Have you had a lot of experience with talking to your restaurant owners? It'd be a lot of good things about it.

"Committee Member Engel"

I'd be a total proponent to say that the outdoor dining has really turned this community around now.

Listen, I mean, Councilman Hollander and Council Woman Cassie Chambers Armstrong, and they have the restaurants.

I mean, they've got a lot of restaurants up, you know, I mean, they would have be more apt to comment on on that, but I, I see outdoor dining as just a plus just a very, very great opportunity to

"Chair Flood"

and I agree with you. It's going to take awhile, I think.

Restaurants to pull completely around, especially you have covid hit and then we have.

The prices of food, you know, everybody said to make some adjustments to their menu list or price, it's just to cover.

You so, you know, they are sitting there wondering.

Now, what can we do to improve the situation?

Anybody else have any questions? Yes councilman. Hollander. Sorry.

"Committee Member Hollander"

I was just going to say. I agree with Councilman Engel. I think I think experience has been great and I'm very glad, but we move quickly on this. I do want to point out for anybody who missed this in the slides that this does not affect.

You know, this has changed the land development code. It does not affect use of public right of way for outdoor dining. The only concern frankly that I've heard about this in not about this change, because it doesn't affect it is.

Blocking sidewalk, so we have to be careful about that. Obviously, we have to keep ADA accessibility on sidewalks, and we've had a few issues with that. And but those are really Pre covid too.

I mean, we've always had some outdoor dining on Frankfurt Avenue, and occasionally chairs get a little bit too close to the sidewalk and particularly my blind and visual impaired constituents to have trouble. 1. obviously, we have to be careful about that. But I think this is great.

I don't have any other questions or concerns.

"Chair Flood"

Hmm.

Don't have anyone in the queue anybody um.

The a tenant, virtually do you have any comments or questions?

"Vice Chair Reed"

Madam Chair, I'm sure I was trying to queue in, but, um.

Couldn't no, I think this is really good and, um, there are 2 or 3 restaurants in Norton Commons that quite frankly were saved by this.

So, um, I'm in full support.

"Chair Flood"

Any other questions or comments, then, do you feel comfortable to vote on this today? I see.

Yes, yes head shaking. Ok, then we'll entertain a vote.

[Vote Taken]

Without objection, voting and closing there are 6 yes votes and 1 not voting and this can go.

Can this go to consent calendar or should it go to old business?

Land development changes it can go to consent, but if you all want to talk about it.

Business assigned to I, I think, for our colleague's sake, maybe old business would be worthy of a short discussion. Yeah not a problem that we met. My thought if anybody's.

Whatever, okay, then we'll send it to old business and then if.

If they want to change it back to consent at a later time before we get there to the council meeting, they can do that. Okay.

I know you had there was a lot of work that went into this, so I really appreciate all the hard effort.

Joe, I think it came up with a better and a great product that the restaurants will be onboard with too.

Okay, there is no other business in front of this committee. The other 2 items are to be held. So, without objection we are adjourned.