

Planning Commission
Staff Report
May 24, 2023



Case No:	23-ZONE-0002
Project Name:	1801 Brownsboro Rd
Location:	Mellwood Tavern
Owner(s):	Mellwood Tavern LLC
Applicant:	Patrick Gregory
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- **Change in zoning** from C-1 to C-2
- **Detailed District Development plan**

CASE SUMMARY/BACKGROUND

The proposal is to rezone an existing non-conforming tavern to allow expansion on the site. The subject site contains .13 acres and is located at the intersection of Mellwood Ave and Brownsboro Rd.

STAFF FINDING

The proposed change in generally in keeping with the provision of the Comprehensive Plan. The proposed zoning district would allow for the expansion of a historic tavern in a location with adequate population to support more intense commercial uses. The District Development Plan is in compliance with the Land Development Code.

TECHNICAL REVIEW

MSD and Transportation Planning have approved the preliminary development plan.

REQUIRED ACTIONS

- **RECOMMEND** that Louisville Metro Council **APPROVE** or **DENY** the proposed **Change-in-Zoning** from C-1 to C-2.
- **APPROVE** or **DENY** the **District Development Plan with Binding Elements**

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

The site is located in the Traditional Marketplace Corridor Form District

The Traditional Marketplace Corridor is a form found along a major roadway where the pattern of development is distinguished by a mixture of low-to medium-intensity uses such as neighborhood-serving shops, small specialty shops, restaurants, and services. These uses frequently have apartments or offices on the second stories. Buildings generally have little or no setback, roughly uniform heights and a compatible building style. Buildings are oriented toward the street. Buildings typically have 2-4 stories. New development and redevelopment should respect the predominant rhythm, massing and spacing of existing buildings. However, at certain nodes taller buildings and more intense uses may be appropriate and may facilitate the creation of transit nodes.

There should be a connected street and alley system. New development should maintain the grid pattern and typical block size. Development density and intensity should support existing and future transit operations. If parking is provided, it should be either on-street or in lots at the rear of buildings. Consideration for elimination of parking minimums may be appropriate in certain locations. New development should respect this pattern. Flexible and shared parking arrangements are encouraged. A street capable of permitting on-street parking is usually necessary. Wide sidewalks, street furniture and shade trees should make a pedestrian-friendly environment that invites shoppers to make multiple shopping stops by walking, using bicycles or using transit. Providing access for pedestrians, transit and bicycle users is critical for the Traditional Marketplace form.

Attention to discreet signs can also help make this a very desirable form. A premium should be placed on compatibility of the scale, architectural style, and building materials of any proposed new development with nearby existing development in the corridor.

The site is within a Traditional Marketplace Corridor with a variety of commercial uses in the area. Brownsboro Rd is a major arterial roadway that provides ready access to employment opportunities, commercial services and amenities. Adequate population exists within the area to support more intensive commercial uses.

The proposal would allow a historic tavern to expand and utilize the site in a more efficient manner. The proposed development renovates and maintains a historic structure.

The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The does not contain any natural resources. The development would renovate and maintain a circa 1885 structure.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: There are no open space requirements pertinent to the current proposal.

- (d) 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;

STAFF: 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.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
3-30-23	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 13
5-8-23	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 13
5-8-23	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Comprehensive Plan Checklist
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Staff Plan 2040 Checklist

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

Traditional Marketplace Corridor: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	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.	✓	The zoning change would not represent an expansion of nonresidential uses into residential areas. The site is within a Traditional Marketplace Corridor with a variety of commercial uses in the area.
2	Land Use & Development Goal 1: Community Form	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.	✓	Brownsboro Rd is a major arterial roadway that provides ready access to employment opportunities, commercial services and amenities.
3	Land Use & Development Goal 1: Community Form	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	The proposed zoning district would not permit industrial development.
4	Land Use & Development Goal 1: Community Form	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	The proposed zoning would not permit industrial development or other hazardous uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Land Use & Development Goal 1: Community Form	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.	✓	The proposed zoning would not permit industrial development or other hazardous uses.
6	Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The proposed zoning or use would not create significant additional traffic and the use is existing on the subject site.
7	Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposal does not appear to add any significant additional noise-generating uses.
8	Land Use & Development Goal 1: Community Form	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	The proposed zoning would not permit industrial development.
9	Land Use & Development Goal 2: Community Form	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.	✓	The subject site is within an existing Traditional Marketplace Corridor with a wide variety of commercial uses.
10	Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The subject site is within an existing Traditional Marketplace Corridor with a wide variety of commercial uses.
11	Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them.
12	Land Use & Development Goal 2: Community Form	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing infrastructure.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The zoning district would allow for a wide variety of uses, including mixed residential and commercial uses.
14	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The development would allow a previously developed site to provide a mix of residential units and commercial uses.
15	Land Use & Development Goal 2: Community Form	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	NA	The subject site is not an outlot on a larger commercial development.
16	Land Use & Development Goal 3: Community Form	9. Encourage development that 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.	✓	The site is previously developed and does not contain distinctive natural features.
17	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site is previously developed and does not have potential hydric soils or erosion concerns.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Land Use & Development Goal 3: Community Form	11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The subject site is not along the Ohio River.
19	Land Use & Development Goal 3: Community Form	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The subject site is not in the flood plain.
20	Land Use & Development Goal 4: Community Form	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The structure is a two-and-a-half-story, masonry, traditional corner commercial building constructed circa 1885, with a modified storefront entry dating to the mid-20th century. It is also within close proximity to both the Clifton and Butchertown Historic Preservation District. The development allows this structure to remain in use as it has historically.
21	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The existing circa 1885 structure on the site will be maintained.
22	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The subject site is within and established Traditional Marketplace Corridor. The proposed zoning encourages transit oriented development and an efficient transportation system.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
23	Land Use & Development Goal 3: Mobility	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking.
24	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled.
25	Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed zoning would permit a mix of residential dwelling and neighborhood scale commercial uses that can help provide transportation and housing choice.
26	Land Use & Development Goal 3: Mobility	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed zoning district is consistent with multi-modal transportation goals.
27	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The subject site is well served by existing transportation networks.
28	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The subject site is well served by existing transportation networks.

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29	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	The subject site is well served by existing transportation networks.
30	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	The subject site is well served by existing transportation networks.
31	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utility service will be coordinated.
32	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Water service will be coordinated with Louisville Water Company.
33	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has reviewed and approved the preliminary development plan.
34	Land Use & Development Goal 1: Economic Development	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	NA	The proposed zoning would not allow industrial development.
35	Land Use & Development Goal 1: Economic Development	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	Brownsboro Rd is a Major Arterial roadway. The proposed zoning will not adversely impact traffic in the area.

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36	Land Use & Development Goal 1: Economic Development	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The proposed zoning would not allow industrial development.
37	Land Use & Development Goal 1: Economic Development	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	NA	The proposed zoning would not allow industrial development.
38	Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	The site does not have potential for erosion or other environmental concerns.
39	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	NA	The subject site is not within the floodplain.
40	Land Use & Development Goal 1: Livability	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The subject site is not within the floodplain. The proposed zoning would not allow for hazardous materials to be stored onsite.
41	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place.

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42	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support mixed income households.
43	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The subject site is within a Traditional Marketplace Corridor. The site is near a wide variety of services, amenities and employment opportunities.
44	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	Residents would not be displaced by the proposal.
45	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing.

4. Proposed 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. 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.
3. 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.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- c. The owner/applicant will secure a license agreement with Louisville Metro Public works or KYTC for stairs, awnings, furniture or any portions of the building to remain within the public right-of-way.
4. 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.
5. 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.