

# CASE SUMMARY

APPLICATION TYPE: USE ON REVIEW



**File Number:** 1-G-21-UR                      **Related File Number:**  
**Application Filed:** 11/30/2020              **Date of Revision:**  
**Applicant:** DANIEL D & KIMBERLY BITT OVERBEY

## PROPERTY INFORMATION

**General Location:** Southeast side of S. Northshore Dr., southwest side of Choto Rd.  
**Other Parcel Info.:**  
**Tax ID Number:** 162 M C 019                      **Jurisdiction:** County  
**Size of Tract:** 1 acres  
**Accessibility:** Access is via Choto Road, a minor collector with 20.9-ft of pavement width within 60-ft of right-of-way, and S. Northshore Drive, a minor arterial with 20.2-ft of pavement width within 88-ft of right-of-way.

## GENERAL LAND USE INFORMATION

**Existing Land Use:** Vacant  
**Surrounding Land Use:**  
**Proposed Use:** Restaurant (Eating & Drinking Establishment)                      **Density:**  
**Sector Plan:** Southwest County              **Sector Plan Designation:** NC (Neighborhood Commercial)  
**Growth Policy Plan:** Planned Growth Area  
**Neighborhood Context:** This is a suburban area consisting of predominantly single family detached houses developed in the PR zone. There is a commercial node across the street at the southeast quadrant of the Choto Road/S. Northshore Drive intersection developed in the CN zone.

## ADDRESS/RIGHT-OF-WAY INFORMATION (where applicable)

**Street:** 1615 Choto Rd.  
**Location:**  
**Proposed Street Name:**  
**Department-Utility Report:**  
**Reason:**

## ZONING INFORMATION (where applicable)

**Current Zoning:** CN (Neighborhood Commercial)  
**Former Zoning:**  
**Requested Zoning:**  
**Previous Requests:**  
**Extension of Zone:**  
**History of Zoning:** The property was rezoned in December 2020 from A to CN (10-D-20-RZ)

## PLAN INFORMATION (where applicable)

**Current Plan Category:**

Requested Plan Category:

**SUBDIVISION INFORMATION (where applicable)**

Subdivision Name:

No. of Lots Proposed:

No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

**OTHER INFORMATION (where applicable)**

Other Bus./Ord. Amend.:

**PLANNING COMMISSION ACTION AND DISPOSITION**

Planner In Charge: Mike Reynolds

Staff Recomm. (Abbr.): APPROVE the request for the Restaurant with approximately 4,990 sqft of floor area, as shown on the development plan, subject to 6 conditions.

Staff Recomm. (Full):

- 1) Meeting all applicable requirements of the Knox County Zoning Ordinance, including but not limited to the sign regulations (Section 3.90. – Signs, billboards, and other advertising structures).
- 2) Meeting all applicable requirements of Knox County Engineering and Public Works.
- 3) Meeting all applicable requirements of the Knox County Zoning Ordinance.
- 4) Meeting all applicable requirements of First Utility District regarding the installation of the dumpster enclosure, landscaping, and recreational amenities within the platted utility easement.
- 5) Installation of the landscaping shown on the development plan within 6 months of the issuance of an occupancy permit for this project, or posting a bond with the Knox County Dept. of Engineering and Public Works to guarantee its installation.
- 6) If the outdoor recreation amenities are illuminated for nighttime use, the lights must be dimmed or turn off no later than 10:00 pm and a lighting plan must be reviewed and approved by Planning Commission staff before being permitted for installation. These outdoor recreation amenities may be illuminated at a low illumination level for safety purposes without restriction of operation but must meet the site lighting standards of the CN (Neighborhood Commercial) zone district.

With the conditions noted, this plan meets the requirements for approval in the CN district, and the criteria for approval of a use on review.

Comments:

This proposal is for a restaurant without drive-through facilities that is approximately 4,990 sqft, which includes the enclosed and partially covered courtyard. The property was recently rezoned from A (Agricultural) to CN (Neighborhood Commercial) which allows restaurants as a "use permitted on review" (10-D-20-RZ). The building will include 1,950 sqft of conditioned space, which includes a retail area, service counter, indoor seating, kitchen, restrooms, and storage and administrative areas. The outdoor courtyard area will be approximately 3,040 sqft and will have the appearance of a fully enclosed space from the exterior but is only partially roofed. The courtyard will have walls with aluminum storefront systems and a roof that is integrated with the roof over the conditioned space. The CN zone has a maximum individual building or commercial establishment of 5,000 sqft, which will apply to both the conditioned and unconditioned portion of this building but not the outdoor amenity area.

There are recreational amenities proposed on the west and south sides of the site, including a half basketball court, bocce ball court, playground structure, and volleyball/pickleball court. These are accessory uses to the restaurant and are not allowed as standalone uses.

The CN zone has specific building setback and landscape standards when adjacent to a residential zone, which will be applicable along the west and south property lines. The existing trees along the south property line will remain with their location documented and supplemented with new landscaping as needed, which includes a continuous row of evergreen trees with two different species and other low-lying plantings (see sheet L101). In addition, a decorative metal fence will be installed along the property line.

The proposed restaurant use is an establishment that primarily sells beer for on-site consumption or packaged for off-site consumption; however, it also has a kitchen for food sales. The restaurant use in the CN zone specifically states that it includes uses in the NAICS (North American Industry Classification System) 722 code (Food Services and Drinking Places), which includes full-service restaurants, limited-service eating places, special food services, and drinking places (alcoholic beverages).

EFFECT OF THE PROPOSAL ON THE SUBJECT PROPERTY, SURROUNDING PROPERTY AND THE COMMUNITY AS A WHOLE

- 1) The access to the site will be from Choto Road which is a minor collector street and will be located approximately in the same location as the existing curb cut access to the property.
- 2) An extension of the existing sidewalk along the Choto Road frontage will be installed along the S. Northshore Drive frontage and connect to the existing sidewalk at the traffic circle.
- 3) The restaurant use could have business hours that extend past the typical bedtime for nearby residential uses. While the enclosed courtyard is located away from the residential to the south, some of the recreational amenity areas are near the south lot line and could be a disturbance if used late at night.

CONFORMITY OF THE PROPOSAL TO CRITERIA ESTABLISHED BY THE KNOX COUNTY ZONING ORDINANCE

- 1) With the stated conditions, the proposal meets the standards for development within a CN (Neighborhood Commercial) zoning district, and all other requirements of the Zoning Ordinance.
- 2) The proposed restaurant is consistent with the general standards for uses permitted on review, as outlined below:
  - a) The proposed development is consistent with the adopted plans and policies of the General Plan and Sector Plan.
    - The Southwest County Sector Plan was recently amended to NC (Neighborhood Commercial) which is intended for retail and service-oriented commercial uses intended to provide goods and services that serve the day-to-day needs of households, within a walking or short driving distance.
    - The NC sector plan designation recommends that automobile-oriented uses (e.g. gas stations or convenience stores) should be located on an arterial street at the edge of neighborhoods.
    - The proposed use is a combination of a retail store that sells beer and a restaurant. While the retail store isn't the same as a convenience store, the property is located on an arterial street (S. Northshore Dr), as recommended by the NC land use classification, and has access from a minor collector street (Choto Rd).
  - b) The use is in harmony with the general purpose and intent of the Zoning Ordinance.
    - The CN (Neighborhood Commercial) zone permits individual buildings or commercial establishments that are no more than 5,000 sqft. The proposed building is 4,990 sqft.
    - The CN zone has landscaping standards for parking areas and side and rear yards. The proposed landscape plan meets the CN zone standards.
    - The CN zone requires that site lighting be directed away from residential and agricultural zones and any public right-of-way. The attached plans do not show the site lighting but must document that this standard is being met during permit review.
  - c) The use is compatible with the character of the neighborhood where it is proposed.
    - The one-story building height and setback from the south and west property lines is compatible with the area.
    - The building has a modern, commercial design with a butterfly roof, large roof overhands, vertical wood siding, and large aluminum storefront windows around the courtyard. While the design of the structure is unique compared to other commercial and residential structures in this area, the use of wood siding and large glass walls helps to soften appearance of the structure.
  - d) The use will not significantly injure the value of adjacent property.
    - The use does not produce harmful noise, lights, fumes, odors, vibration, traffic, congestion, or other impacts that will significantly injure the value of adjacent property.
    - Staff is recommending a condition that any lighting for the recreational activity areas be dimmed or turn off no later than 10:00 pm. These areas may be illuminated at a low illumination level at any time for safety purposes.
  - e) The use will not draw additional traffic through residential areas.
    - The access to the site will be from Choto Road which is a minor collector street, so it will not draw additional traffic through residential areas.

**Action:** Approved **Meeting Date:** 1/14/2021

**Details of Action:**

**Summary of Action:** APPROVE the request for the Restaurant with approximately 4,990 sqft of floor area, as shown on the development plan, subject to 6 conditions.

**Date of Approval:** 1/14/2021 **Date of Denial:** **Postponements:**

**Date of Withdrawal:** **Withdrawn prior to publication?:**  **Action Appealed?:**

## ***LEGISLATIVE ACTION AND DISPOSITION***

**Legislative Body:** Knox County Board of Zoning Appeals

**Date of Legislative Action:**

**Date of Legislative Action, Second Reading:**

**Ordinance Number:**

**Other Ordinance Number References:**

**Disposition of Case:**

**Disposition of Case, Second Reading:**

**If "Other":**

**If "Other":**

**Amendments:**

**Amendments:**

**Date of Legislative Appeal:**

**Effective Date of Ordinance:**