

# CASE SUMMARY

APPLICATION TYPE: SPECIAL USE



**File Number:** 6-E-25-SU **Related File Number:**  
**Application Filed:** 4/28/2025 **Date of Revision:**  
**Applicant:** ROBERT SULLIVAN - TACO BELL OF AMERICA, LLC

## PROPERTY INFORMATION

**General Location:** Southwest corner of the intersection of Kingston Pike and Agnes Road  
**Other Parcel Info.:**  
**Tax ID Number:** 121 B A 013, 014 **Jurisdiction:** City  
**Size of Tract:** 0.94 acres  
**Accessibility:** Access is via Kingston Pike, a major arterial road with a 55-ft pavement width within a right-of-way which varies from 60 ft to 75 ft, and via Agnes Road, a local street with a 25-ft pavement width within a 35-ft right-of-way.

## GENERAL LAND USE INFORMATION

**Existing Land Use:** Public/Quasi Public Land, Commercial  
**Surrounding Land Use:**  
**Proposed Use:** Drive-through eating and drinking establishment **Density:**  
**Planning Sector:** West City **Plan Designation:** MU-SD / WC-1 (Mixed Use-Special District, Bearden Village)  
**Growth Policy Plan:** N/A (Within City Limits)  
**Neighborhood Context:** This area is characterized by retail and service-oriented commercial development along Kingston Pike, with high-frequency transit service. Bearden Elementary School is 750 ft to the northeast of the subject property.

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

**Street:** 5900 KINGSTON PIKE  
**Location:**  
**Proposed Street Name:**  
**Department-Utility Report:**  
**Reason:**

## ZONING INFORMATION (where applicable)

**Current Zoning:** C-G-1 (General Commercial)  
**Former Zoning:**  
**Requested Zoning:**  
**Previous Requests:**  
**Extension of Zone:**  
**History of Zoning:** This property was rezoned from C-G-3 to C-G-1 in August 2024 (7-N-24-RZ).

## PLAN INFORMATION (where applicable)

Current Plan Category: MU-SD / WC-1 (Mixed Use-Special District, Bearden Village)

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 a drive-through facility in the C-G-1 zoning district, subject to 10 conditions.

Staff Recomm. (Full):

1. Meeting the requirements of the City of Knoxville Zoning Ordinance, including but not limited to design standards in Article 5.4, sign standards in Article 13, and the landscape standards in Article 12.
2. Maintaining sight distance at all intersections per the requirements of the City of Knoxville Department of Engineering during permitting.
3. Prior to site disturbance permits being issued, except for those necessary to satisfy this condition, the applicant must conduct a preliminary site grading/stripping investigation ("investigation") of the property under the supervision of an archaeologist, credentialed by the Register of Professional Archaeologists (RPA), to assure that any unmarked graves on the site are identified and either left undisturbed or otherwise relocated in accordance with state law (Tennessee Code Annotated (TCA) Title 46, Chapters 4 and 8). The investigation area shall include the area south of the existing structure, between the "proposed cemetery limits" as shown on plan sheet C-111 and the eastern lot line of parcel 121BA013, 5902 Kingston Pike. In addition, the investigation must examine whether graves are located between the eastern row of headstones and the retaining wall adjacent to the proposed cemetery limits. Areas to be left undisturbed according to the final grading plan may be removed from the investigation area, unless otherwise recommended to be included by the archaeologist. Upon completion of the investigation, a report from the archaeologist must be provided to Planning staff for review and approval before any further site alteration. If grave sites are found within 10 ft of the proposed area of work (disturbance) or outside of the proposed cemetery limits, the limits of the cemetery must be expanded 10 ft outside of the gravesite(s), or the gravesite(s) must be relocated in accordance with state law.
4. Providing a 10-ft non-disturbance buffer around the perimeter of a gravesite(s) per TCA § 46-8-103. A "gravesite" is defined as a space of ground used for lawful interment of a deceased person (TCA § 46-8-102).
5. Providing a 6-ft deep by 10-ft wide concrete pad at the back side of the sidewalk and a seating amenity, such as a "Simme-Seat" or a bench, at the adjacent east-bound bus stop on Kingston Pike, with the location, construction details, and installation to be coordinated with Knoxville Area Transit (KAT) during permitting.
6. Implementing the recommendations of the Proposed Taco Bell Traffic Impact Study (TIS), GDP Group, May 2025, as required by the City of Knoxville Department of Engineering and the Tennessee Department of Transportation (TDOT) during permitting. If the TIS is further revised, it must be submitted to the Planning staff for review and approval by all applicable agencies.
7. Restricting the access to Kingston Pike to full-in and right-out only turn movements, with the design of the access to be meet the requirements of the City of Knoxville Engineering Department and TDOT during permitting.
8. Meeting all applicable requirements of the City of Knoxville Department of Engineering.
9. Meeting all applicable requirements of TDOT.
10. Meeting all other applicable requirements of the City of Knoxville Zoning Ordinance.

With the conditions noted above, this request meets the requirements of C-G-1 zoning, the principal use standards for drive-through facilities, and the criteria for approval of a special use.

Comments: This proposal is for a restaurant with a drive-through facility. Drive-through facilities require Special Use approval by the Planning Commission, but a restaurant without one is permitted by right. The subject property was rezoned from C-G-3 to C-G-1 in August 2024 (7-N-25-RZ). In September 2024, the City Council amended the commercial design standards in Article 5.4, applying the design standards to all C-G (General Commercial) subdistricts. Previously, the design standards only applied to the C-G-2 and C-G-3 subdistricts.

There is a cemetery in the southwest portion of the site and two existing structures: a former church with an annex and a former house that have both been converted for commercial use. The structures are to be demolished, and the cemetery is to be fenced, with pedestrian access provided in the northwest corner from the parking lot.

Drive-through facilities must meet the principal use standards outlined in Article 9.3.F., which specifies dimensional standards and locational requirements, and access restrictions and buffer requirements when adjacent to residential districts and certain sensitive uses (which does not include cemeteries). This proposal meets the principal use standards.

Access to the site is from Kingston Pike and Agnes Road. The traffic impact study (TIS) provided by the applicant evaluated the two access points, as well as the intersection of Agnes Road with Kingston Pike. The study concluded that the minimum intersection sight distance is obtained in both directions at each intersection, and no additional off-site improvements are recommended. The Kingston Pike access meets TDOT's minimum separation standard from a signalized intersection; however, due to the heavy congestion in this area and the site having side street access which will allow for a safer location to turn left onto Kingston Pike, staff recommends that the driveway access to Kingston Pike be restricted to allow full-in and right-out only turn movements.

A Knoxville Area Transit (KAT) bus stop is located in front of the subject property. Staff is recommending a condition to provide a concrete pad at the back of the existing sidewalk, large enough to accommodate the future installation of a bus shelter, which the developer has agreed to and shows on the site plan. In addition, the recommended condition requires the developer to provide a seating amenity, such as a "Simme-Seat" or a bench, to be installed in coordination with KAT. There is currently a retaining wall on the subject property, along the sidewalk, that provides a surface for waiting passengers to lean against or sit on, which will be removed as part of this project.

#### COMMERCIAL DESIGN STANDARDS (ARTICLE 5.4, TABLE 5-2)

The applicable design standards are listed below, along with notes regarding the project's compliance.

1) Building façades that abut a public right-of-way, excluding alleys, must not contain blank wall areas that exceed 30 linear feet, measured per story parallel to the street.

NOTE: The upper portion of the east elevation (facing Agnes Road) must come into compliance with the blank wall standard. See the rules of measurement for blank walls for how this can be accomplished (Article 2.4.A). Staff recommends that this be completed during permitting because this will not impact the layout of the drive-through facility.

2) All buildings must have a public entrance from the sidewalk along the primary building frontage. Public entrances must be visually distinctive from the remaining portions of the façade along which they are located.

NOTE: A sidewalk is provided from the Kingston Pike frontage and the entrances are located in a large, glass storefront systems that are visually distinctive from the other portions of the façade.

3) Building materials and visual elements used on the primary building frontage must continue on all building façades that are visible from a public right-of-way.

NOTE: The south (rear) elevation is visible from Agnes Road, but only marginally. It is clad in a vertical metal wall panel with an open metal frame at the parapet level as a visual element. These wrap around the side elevations.

4) The ground floor of the front façade that abuts a public-right-of-way, excluding alleys, must maintain a minimum transparency of 30 percent, measured between two and ten feet in height.

NOTE: The front façade, facing Kingston Pike, has 37 percent transparency.

5) Sites must be designed to ensure safe pedestrian access from the public right-of-way, and safe pedestrian circulation within the development.

NOTE: A pedestrian connection is provided from Kingston Pike to the main entrance of the restaurant.

#### BEARDEN CHRISTIAN CEMETERY

The cemetery is located to the rear of the former church and annex structure at 5902 Kingston Pike.

The cemetery is named after the original church on the site, Bearden Christian Church, which was established in the 1880s. The existing church structure is believed to have been constructed in 1925 in the same location as the original. The cemetery was active between the early 1880s and 1920s.

According to the Tennessee Historical Commission, "all human remains — whether modern or prehistoric — are protected under state law. Most of the state's cemetery laws can be found in Tennessee Annotated Code (TCA) Title 46, Chapters 4 & 8 and in precedents set by the *Walter Hines v. State of Tennessee* (1911) decision." Descendants have the perpetual right to visit any Tennessee cemetery in which their ancestor(s) are buried. A 10-ft non-disturbance buffer is required around gravesites. Desecration of a burial or cemetery is a Class E felony, and the disinterment of a dead body, corpse, or human remains without legal authority is a Class A misdemeanor. State law also has a process for relocating gravesites and entire cemeteries. For additional information about the laws governing cemeteries and burial sites, see Exhibits E and F from the Tennessee Historical Commission.

There is limited historical information about the Bearden Christian Cemetery available online, particularly regarding the precise locations of the gravesites. The earliest aerial photography available on KGIS with the necessary resolution to view headstones and compare their locations with those of other years is from 1985. A comparison of the headstone locations in aerial images from 1985, 2016, and 2020 is provided in Exhibit C, showing that the easternmost headstones were relocated west, thereby shrinking the perceived area of the cemetery. In Exhibit D, the proposed site plan is overlaid on the 2020 aerial image, showing that several headstones were located outside the proposed cemetery boundary prior to 2020. In addition, it is common in older cemeteries associated with churches to have the gravesites oriented west to east, with the headstone on the west end. If that is true for this cemetery, the retaining wall on the east side of the cemetery is within the 10 ft non-disturbance buffer around a gravesite and must be moved further to the east.

Because it is unknown if the location of the headstones shown in aerials before 2019 are the actual locations of gravesites, or the orientation of the gravesites in relation to the headstones, staff is recommending a condition that preliminary grading/stripping of the site be performed under the supervision of a professional archaeologist, and a report must be submitted to Planning staff before any further site alteration. If gravesites are found within 10 ft of, or outside of, the proposed cemetery boundary, the boundary must be moved 10 ft outside of the gravesites, or the gravesites must be relocated in accordance with state law.

#### STANDARDS FOR EVALUATING A SPECIAL USE (ARTICLE 16.2.F.2.)

1) THE USE IS CONSISTENT WITH ADOPTED PLANS AND POLICIES, INCLUDING THE GENERAL PLAN AND THE ONE-YEAR PLAN.

A. The One Year Plan and Sector Plan designation for this parcel is MU-SD, WC-1 (Bearden Village). This special mixed use district references the Bearden Village Opportunities Plan (2001), which recommends transitioning the Bearden area to a more pedestrian-oriented, mixed-use district. The recommendations for pedestrian-oriented development, however, were centered around the Homberg Place area to the east. The subject property is in the "Kingston Pike Corridor", which recommends orienting buildings toward the sidewalk with parking to the rear, incorporating a mix of uses, tree plantings along sidewalks and within parking lots, and reducing parking requirements (see Exhibit G). Since 2001, the zoning code has been updated, tree plantings and reduced parking have been codified, and the C-G-1 district has design standards intended to promote mixed-use development in a pedestrian-oriented environment. The structure is oriented toward the street, as recommended, but the parking is to the side of the structure, and the exit lane of the drive-through passes between the front of the building and Kingston Pike. In addition, the building will be elevated above the Kingston Pike sidewalk, separated by a retaining wall set back 10 ft from the sidewalk.

2) THE USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THIS ZONING CODE.

A. The C-G zoning district is intended to provide for a heterogeneous mix of retail, personal service, office and residential uses within and along Knoxville's commercial nodes and corridors. Drive-through facilities require special use approval by the Planning Commission.  
B. With the recommended conditions, the proposed restaurant with a drive-through facility meets the C-G-1 district standards and the principal use standards for drive-through facilities (Article 9.3.F).

3) THE USE IS COMPATIBLE WITH THE CHARACTER OF THE NEIGHBORHOOD WHERE IT IS PROPOSED, AND WITH THE SIZE AND LOCATION OF BUILDINGS IN THE VICINITY.

A. The proposed 1-story structure is consistent with the other 1-story structures on this block of Kingston Pike.  
B. With the proposed conditions, the cemetery will be retained and protected, and the site will be investigated for gravesites outside of the proposed cemetery boundary before site development begins.

4) THE USE WILL NOT SIGNIFICANTLY INJURE THE VALUE OF ADJACENT PROPERTY OR BY NOISE, LIGHTS, FUMES, ODORS, VIBRATION, TRAFFIC, CONGESTION, OR OTHER IMPACTS DETRACT FROM THE IMMEDIATE ENVIRONMENT.

A. The proposed use is required to comply with Article 10 of the City of Knoxville Zoning Ordinance, which regulates impacts. Section 10.2 regulates lighting, while noise, dust and pollution, odors, fire hazards, and other similar concerns are regulated in Section 10.5.  
B. This portion of Kingston Pike is heavily congested during peak travel times in the morning, evening, and early afternoon during the school year for pick up at Bearden Elementary School. The proposal includes a full-access driveway to Kingston Pike and Agnes Road. The Kingston Pike access meets TDOT's minimum separation standard from a signalized intersection; however, due to the heavy congestion in this area and the site having side street access which will allow for a safer location to turn left onto Kingston Pike, staff recommends that the access to Kingston Pike be restricted to allow full-in and right-out only turn movements.

5) THE USE IS NOT OF A NATURE OR SO LOCATED AS TO DRAW SUBSTANTIAL ADDITIONAL TRAFFIC THROUGH RESIDENTIAL STREETS.

A. The proposed drive-through facility only has access to non-residential streets.

6) THE NATURE OF DEVELOPMENT IN THE SURROUNDING AREA IS NOT SUCH AS TO POSE A POTENTIAL HAZARD TO THE PROPOSED USE OR TO CREATE AN UNDESIRABLE ENVIRONMENT FOR THE PROPOSED USE.

A. No known uses immediately surround the subject site that pose a potential hazard or undesirable environment for the proposed use.

**Action:** Approved with Conditions

**Meeting Date:** 6/12/2025

**Details of Action:**

**Summary of Action:** Approve the request for a drive-through facility in the C-G-1 zoning district, subject to 10 conditions.

**Date of Approval:** 6/12/2025

**Date of Denial:**

**Postponements:**

**Date of Withdrawal:**

**Withdrawn prior to publication?:** ☐ **Action Appealed?:**

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

**Legislative Body:**

**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:**