

CASE SUMMARY

APPLICATION TYPE: USE ON REVIEW

KNOXVILLE-KNOX COUNTY

M P C
METROPOLITAN
P L A N N I N G
C O M M I S S I O N

T E N N E S S E E

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File Number: 7-H-06-UR

Related File Number:

Application Filed: 6/6/2006

Date of Revision:

Applicant: MARK HEINZ

Owner:

PROPERTY INFORMATION

General Location: Southeast side of S. Northshore Drive, southwest of Wrights Ferry Road

Other Parcel Info.:

Tax ID Number: 133 L B 030 & 031

Jurisdiction: City

Size of Tract: 0.7 acres

Accessibility: Access is via S. Northshore Dr., a major arterial street with a 50' - 60' right-of-way and 22' pavement width.

GENERAL LAND USE INFORMATION

Existing Land Use: Restaurant

Surrounding Land Use:

Proposed Use: Outdoor seating for existing restaurant

Density:

Sector Plan: Southwest County

Sector Plan Designation: GC

Growth Policy Plan: Urban Growth Area

Neighborhood Context: This site lies at the edge of the Rocky Hill commercial development and is adjacent to a single family residential area.

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

Street: 7706 S Northshore Dr

Location:

Proposed Street Name:

Department-Utility Report:

Reason:

ZONING INFORMATION (where applicable)

Current Zoning: C-1 (Neighborhood Commercial)

Former Zoning:

Requested Zoning:

Previous Requests:

Extension of Zone:

History of Zoning: 1-NN-95-RZ (annexed into the city and rezoned to C-1), 1-E-98-UR (request for expanded restaurant, parking and outdoor seating area).

PLAN INFORMATION (where applicable)

Current Plan Category:

Requested Plan Category:

SUBDIVISION INFORMATION (where applicable)

Subdivision Name:

Surveyor:

No. of Lots Proposed: No. of Lots Approved: 0

Variances Requested:

S/D Name Change:

OTHER INFORMATION (where applicable)

Other Bus./Ord. Amend.:

MPC ACTION AND DISPOSITION

Planner In Charge: Kelley Schlitz

Staff Recomm. (Abbr.): DENY proposed outdoor seating area because of the detrimental impact upon nearby residences due to the noise and other nuisance factors associated with outdoor seating and drinking.

Staff Recomm. (Full):

Comments: The applicant is requesting approval of an outdoor seating area that will accommodate 20 new outdoor seats for an existing restaurant. Restaurants are a use on review in the C-1 (Neighborhood Commercial) zoning district. This property was previously approved (1-E-98-UR) for a restaurant with up to 132 indoor seats. Outdoor seating was requested at that time. That request was denied by MPC based on the argument that the outdoor seating would negatively impact residential property located within 100'-200' of the restaurant.

This new application, submitted on behalf of a different owner, is for approval of an outdoor patio and seating area located behind the existing restaurant. This outdoor patio and seating area have been constructed. This construction has taken place without the issuance of a building permit from the Knoxville City Building Inspection Office or MPC approval. Area residents have reported that the restaurant has been informally using the outdoor seating and patio area without MPC approval. If this request is denied, the owner will be required to cease the use.

The current parking configuration is out of compliance with the zoning regulations. In order to add seating capacity as requested, the applicant will be required to redesign the parking layout or request a variance from the Knoxville Board of Zoning Appeals in order to reduce the required number of parking spaces.

If the applicant were to revise their request and propose to relocate the outdoor seating area to the front of the building, directly along S. Northshore Dr. and further away from residential property, staff would be more inclined to recommend approval of this request. Due to the potential nuisance that the noise and activity of a patio could present to several residences that are located within 100' to 200' of the proposed seating area, staff is recommending denial of the outdoor seating area.

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

1. The proposed use of the property will impact surrounding residences as it adjoins residential property to the west and southwest.
2. The proposed addition will have minimal impact on local services since all utilities are in place to serve this site.
3. The proposed use of the property will not place any additional demand on schools and will have a minimal impact on street traffic.

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

1. The proposal is not consistent with many of the general standards for uses permitted on review: The use is incompatible with the residential character of adjoining properties to the west and southwest. The use could significantly impact and injure the value of nearby residential property. Due to the noise and activity associated with an outdoor patio and seating area along with the potential consequences resulting from the consumption of alcohol outdoors, staff believes that approval of this request could negatively impact neighboring property owners.
2. The proposal is consistent with all requirements for the C-1 zoning district.

3. The use will not draw additional traffic through residential areas.

CONFORMITY OF THE PROPOSAL TO ADOPTED PLANS

1. The Southwest County One Year Plan identifies this property for general commercial.
2. The current C-1 zoning of the property permits consideration of outdoor seating for a restaurant as a use on review.

MPC Action: Approved

MPC Meeting Date: 7/13/2006

Details of MPC action:

1. Submit a revised parking plan that meets all applicable requirements of the Knoxville Engineering Department and Knoxville Building Inspections Office.
2. Complete construction of a privacy fence located between the proposed outdoor seating area and nearby residential property.
3. Establish an evergreen buffer that includes cypress trees every 6 feet along the privacy fence and maintain it for approximately 1 year.
4. Place fill dirt along the back of the retaining wall.
5. The owner is responsible for any trash pickup along the driveway adjacent to the subject property.
6. Two Knoxville Utility Board (KUB) lights will be installed along the property line and maintained by the owner.
7. No bands or sound speakers will be permitted on the outside patio area.
8. In the event that the subject property is sold, the new owner will be required to come before MPC for approval of a use on review.
9. The sale of liquor will not be allowed on the outside patio area.
10. Meeting all applicable requirements of the Knoxville Zoning Ordinance.
11. Meeting all applicable requirements of the Knoxville Department of Engineering and Public Works.
12. Meeting all applicable requirements of the Knox County Health Department.

Summary of MPC action: APPROVE proposed outdoor seating area in the C-1 zoning district for up to 20 outdoor seats, subject to the following 12 conditions:

Date of MPC Approval: 7/13/2006

Date of Denial:

Postponements:

Date of Withdrawal:

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

LEGISLATIVE ACTION AND DISPOSITION

Legislative Body: Knoxville City Council

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: