

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

APPLICATION FOR ZONING EXCEPTION E-24-12

MAY 7, 2024

Location: 901 King Street
Southeast corner of King Street and College Street

Real Estate Number: 064197-0010

Zoning Exception Sought: An establishment which includes the retail sale and service of all alcoholic beverages including liquor, beer or wine for on-premises consumption in conjunction with a restaurant

Current Zoning District: Commercial/Community General-1 (CCG-1)
Planned Unit Development (PUD 2012-504)

Current Land Use Category: Community General Commercial (CGC)
Medium Density Residential (MDR)

Planning District: Northwest 5

Council District: District 7

Agent: Jessica Tyree
13966 Sound Overlook Drive North
Jacksonville, Florida 32224

Owner: Matt Rettner
IHOP-LKE-RMR, LLC
30 Church Street
New Rochelle, New York 10801

Staff Recommendation: **APPROVE WITH CONDITIONS**

GENERAL INFORMATION

Application for Zoning Exception **E-24-12** seeks to permit the on-premises consumption of all alcoholic beverages in conjunction with a restaurant. Based on that architectural plan the restaurant has 107 seats.

This parcel is located within the Commercial Character Area as designated by the Riverside

Avondale Zoning Overlay. This Overlay aims to maintain the commercial and residential areas as they historically existed and to aid in commercial development issues including, but not limited to, parking. It is also located in the Park and King Town Center Initiative area. A town center project was completed in 2008. The town center project provided finished on-street parking as well as streetscaping and sidewalks. The town center contains a mixture of tenants including professional offices, retail shops, a drug store, and several restaurants and bars.

Under the Riverside Avondale Zoning Overlay, there are parking credits for existing structures. Contributing Structures have a zero (0) parking requirement. The subject property was designated as a Contributing Structure in the overall with the approval of Ordinance 2012-541-E.

Exception E-19-16 and was approved by Planning Commission with three (3) conditions as follows:

1. The use shall be limited to a maximum of 151 total seats.
2. The hours of operation shall be limited to between 6:00 AM and 11:00 PM. The hours of operation shall be posted on the front of the restaurant.
3. There shall be no music or amplified sound outside.

A former tenant, Hamburger Mary's, submitted application **E-17-84** and was approved by Planning Commission with the addition of three (3) conditions as follows:

1. The use shall be limited to a maximum of 151 total seats.
2. The hours of operation shall be limited on Sunday-Wednesday from between 10:00 a.m. and 12:00 a.m. (midnight) and on Thursday-Sunday from between 10:00a.m. and 2:00 a.m. The hours of operation shall be posted on the front of the restaurant.
3. There shall be no music or amplified sound outside

Before Hamburger Mary's, Blind Rabbit submitted application **E-12-51** and was approved by Planning Commission with the addition of five (5) conditions as follows:

1. The use shall be limited to a maximum of 151 total seats.
2. The hours of operation shall be limited to between 6:00 AM and 11:00 PM. The hours of operation shall be posted on the front of the restaurant. Notwithstanding the limitation on hours of operation, the restaurant may remain open past 11:00 PM (to no later than 2:00 AM) on fifteen (15) days each year for special events.
3. There shall be no music or amplified sound outside.
4. A parking lot containing a minimum of 12 parking spaces shall be constructed and maintained on that certain property located at 2688 and 0 College Street (RE#s: 064231-0000 and 064230-00000). All such parking lot improvements shall be completely installed prior to issuance of a certificate of occupancy and/or commencement of use.
5. The structure located on the subject property shall be reclassified as a contributing structure prior to issuance of a certificate of occupancy and/or commencement of use.

DEFINITION OF ZONING EXCEPTION

According to Section 656.1601 of the Zoning Code, *exception* means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, could promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permissible in the zoning district as exceptions if specific provision for the exception is made in the Zoning Code and the uses are found by the Commission to be in conformity with the standards and criteria for granting the same contained in Section 656.131(c) thereof.

STANDARDS, CRITERIA AND FINDINGS

Pursuant to the provisions of Section 656.131(c) of the Zoning Code, the Commission shall grant an exception only if it finds from a preponderance of the evidence that the exception meets, to the extent applicable, the following standards and criteria:

(i) *Will the proposed use be consistent with the Comprehensive Plan?*

Yes. The site is located in the Community/General Commercial (CGC) land use category of the Urban Development Area. Community/General Commercial in the Urban Area is intended to provide compact development in a nodal and corridor development patterns while promoting existing and future commercial uses. Sites that abut a roadway classified as an arterial or highway on the Functional Highway Classification Map are preferred for CGC designations. Principal uses include: Commercial retail sales and service establishments including auto sales; Restaurants; Hotels and motels; Offices, Business and Professional Offices including veterinary offices. The proposed use is consistent with the CGC land use category.

The site is located in a Historic District and within an Urban Development Area, The property is located at the intersection of a collector and principal roadway.

Objective 3.2

Continue to promote and sustain the viability of existing and emerging commercial and industrial areas in order to achieve an integrated land use fabric which will offer a full range of employment, shopping, and leisure opportunities to support the City's residential areas.

The proposed use is consistent with previous uses in the same unit along King Street.

Policy 3.2.1

The City shall promote development of commercial and light/service industrial uses in the form of nodes, corridor development, centers or parks.

The subject property is located within the Park and King Town Center Initiative area and the Commercial Character area of the Riverside/Avondale Zoning Overlay both of which promote commercial activity along King Street.

The request is to allow for the sale and service of all alcoholic beverages in conjunction with a restaurant. Restaurants are allowed in the CGC land use category. The Park and King Town Center has a mix of uses including bars, restaurants, bakeries, and commercial retail stores. The grant of this exception would further the *2045 Comprehensive Plan* by facilitating the infill of existing commercial property and promoting the sustainability of the Park and King Town Center.

- (ii) *Will the proposed use be compatible with the existing contiguous uses or zoning and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values, and existing similar uses or zoning?*

Yes. The subject property is an existing commercial structure in the Park and King Town Center Initiative. The town center has a mixture of tenants including, but not limited to, professional offices, retail shops, and several restaurants. The space is proposed to be utilized as a 151 seat restaurant and there are restaurants in the area with full liquor licenses for on-premises consumption. The grant of this exception will allow the restaurant to serve liquor to patrons.

Additionally, this is located within a designated Commercial Character Area of the Riverside Avondale Zoning Overlay. The intent of the Overlay was to maintain the residential neighborhoods and historic commercial areas, as well as to prevent the encroachment of Commercial uses into residential areas. By approving this exception and maintaining the concentration of commercial uses to the Commercial Character Areas, it is in keeping with the intent of the Overlay.

The structure opens onto the commercial corridor, King Street. Additionally, the site is primarily surrounded by other commercial properties as part of the Commercial Character Area within the Riverside Avondale Zoning Overlay. Contiguous land use categories, zoning districts, and property uses are as follows:

Adjacent Properties	Land Use Category	Zoning District	Current Property Use
North	MDR	RMD-B	Residential
East	CGC/MDR	CCG-1/PUD	Parking lot
South	CGC	CCG-1	Commercial/Restaurant/Pub
West	CGC	CCG-1	Commercial/Office

Given the historic nature and pattern of development in the area, the public interest in promoting commercial infill and the intent of the Riverside Avondale Zoning Overlay, the Planning & Development Department finds that the proposed on-premises sale and service of all alcoholic beverages in conjunction with the existing restaurant would be appropriate for the Park and King Town Center.

- (iii) *Will the proposed use have an environmental impact inconsistent with the health, safety, and welfare of the community?*

No. It is the opinion of the Planning & Development Department that the addition of on-premises liquor sales in conjunction with the restaurant will have a minimal environmental impact, if any.

- (iv) *Will the proposed use have a detrimental effect on vehicular or pedestrian traffic, or parking conditions, and will not result in the creation or generation of traffic inconsistent with the health, safety and welfare of the community?*

No. The subject property has a history of being a restaurant serving liquor. The lot behind the subject property was rezoned (2012-504) in order to create a new parking lot with 13 parking spaces available for patrons as well as on-street parking on College Street and King Street.

Enhancements were made to pedestrian walkways and vehicular parking areas due to the Park and King Town Center Initiative to address the need for pedestrian and vehicular improvements along this corridor.

Permitting on-premises sales and service of all alcoholic beverages in conjunction with a restaurant will not generate additional traffic above and beyond that generated by the previous restaurants nor will it be inconsistent with the traffic generated by the other tenants in the town center or by nearby commercial properties.

- (v) *Will the proposed use have a detrimental effect on the future development of contiguous properties or the general area?*

No. The proposed exception will not have a detrimental effect on the future development of the surrounding area. The subject property has been used as a restaurant for over seven years. The request is consistent with infill of commercial uses within the Commercial Character Area of the Riverside Avondale Zoning Overlay.

- (vi) *Will the proposed use result in the creation of objectionable or excessive noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses or zoning in the vicinity?*

No. The exception seeks the sale and service of all alcoholic beverages in conjunction with a restaurant located within a shopping strip and town center. The proposed use will not create objectionable or excessive noise, lights, vibrations, fumes, odors, dust, or physical activities inconsistent with the existing surrounding development as the structure opens onto King Street, which is the Commercial Character Area corridor and has no openings for customers on College Street or the rear of the structure, fronting residential uses. As conditioned in this report, if approved the establishment will not be allowed to have any outside amplified sound.

- (vii) *Will the proposed use overburden existing public services and facilities?*

No. The proposed use will not overburden existing public services or facilities. The proposed sales and service of alcoholic beverages will not increase demand of public services greater than what has historically been available to the site.

- (viii) *Will the site be sufficiently accessible to permit entry onto the property for fire, police, rescue and other services?*

Yes. The subject property has road frontage along King and College Streets, and the site also has alley access. The structure fronts King Street with a zero lot line, directly emptying onto the sidewalk along the east side of King Street. The site plan depicts sufficient access to permit entry onto the property for fire, police, rescue, and service vehicles.

- (ix) *Will the proposed use be consistent with the definition of a zoning exception and meet the standards and criteria of the zoning classification in which such use is proposed to be located?*

Yes. As more fully set forth in the foregoing findings and conclusions, the proposed use is consistent with the definition of a zoning exception and is incidental to the principal use, a restaurant. The proposed use also meets the criteria set forth in Sec. 656.399.13(8):

The following additional criteria shall be considered by the Planning and Development Department, the Local Planning Agency, and the City Council when evaluating any land use or zoning application within the Riverside/Avondale Zoning Overlay District:

- (a) *Whether the proposed rezoning is consistent with a the Riverside/Avondale Zoning Overlay District and the historic district regulations;*

The proposed use is consistent with the Riverside/Avondale Zoning Overlay District and historic district regulations. The same use has been at the location for over eight years.

(b) Whether the rezoning will negatively affect or alter the character of the character area or corridor;

Not applicable, not a rezoning.

(c) Whether the rezoning and subsequent future development would result in the destruction of natural resources such as wetlands, protected trees or exceptional specimen trees; and

The site is already developed and would not result in the destruction of natural resources.

(d) Whether the rezoning would have a negative affect on any contributing structures within the Riverside Avondale historic district, historic landmark or landmark site.

This site is a contributing structure and has served the same use for over eight years.

SUPPLEMENTARY INFORMATION

Upon visual inspection of the subject property on **March 26, 2019**, the Planning and Development Department staff observed that the required Notice of Public Hearing signs were posted.



RECOMMENDATION

Based on the foregoing findings and conclusions, the Planning and Development Department recommends that Application for Zoning Exception E-24-12 be **APPROVED WITH THE FOLLOWING CONDITIONS:**

- 1) The use shall be limited to a maximum of 151 total seats.
- 2) The hours of operation shall be limited to between 6:00 AM and 11:00 PM. The hours of operation shall be posted on the front of the restaurant.
- 3) There shall be no music or amplified sound outside.

