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**Planning & Zoning Commission
Agenda
Wednesday, February 1, 2023, 7:00 p.m.
Kirkwood City Hall
139 S. Kirkwood Road
Kirkwood, MO 63122
Posted January 27, 2023**

- I. ROLL CALL**
- II. APPROVAL OF THE JANUARY 18, 2023 MEETING MINUTES**
- II. UNFINISHED BUSINESS**
None
- III. NEW BUSINESS**
None
- IV. COMMISSION/STAFF (INTERNAL) ITEMS**
 - 1. PZ-10-23 STAFF-INITIATED ZONING CODE TEXT AMENDMENT – OUTDOOR DINING PARKING REQUIREMENT**
Staff Requesting Vote Consideration
 - 2. DEVELOPMENT PROJECT UPDATE**
- V. PLANNING AND ZONING SCHEDULE:**
 - 1. FEBRUARY 15 and MARCH 1, 2023 – 7:00 P.M.

Staff Liaison: Jonathan Raiche; Phone: (314) 984-5926; Email: RaicheJD@kirkwoodmo.org

Kirkwood Planning and Zoning Commission: Chairman Jim Adkins, Commissioners James Diel, David Eagleton, Ron Evens, Tom Feiner, Sandy Washington, Mary Lee Salzer-Lutz, Darrell Scott, and Allen Klippel.

Accommodation: The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD by calling 314-822-5802.



**CITY OF KIRKWOOD
PLANNING AND ZONING COMMISSION
MEETING MINUTES
JANUARY 18, 2023**

PRESENT:

Tom Feiner, Vice Chair
David Eagleton, Secretary/Treasurer
Ron Evens
Allen Klippel
Mary Lee Salzer-Lutz
Darrel Scott
Sandy Washington

ABSENT:

Jim Adkins, Chair

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, January 18, at 7:00 p.m. in the City Hall Council Chambers. Planning and Development Services Director Jonathan Raiche, Planner II Amy Lowry, and Permit Clerk Danielle Johnson also attended the meeting.

1. Vice Chair Feiner, called the meeting to order at 7 p.m. and informed the audience of the Speaker Cards and procedures for making comments regarding items on the agenda requiring Site Plan Review. Vice Chair Feiner announced that the Chair, Jim Adkins, was absent and his absence was excused.
2. Motion was made by Commissioner Eagleton and seconded by Commissioner Scott to approve the minutes for the December 21 meeting as written. The minutes were approved by seven of the eight members present, with Commissioner Diel abstaining from the vote.
3. **PZ-08-23 VEHICLE SALE & RENTAL & MAJOR SITE PLAN REVIEW – AUDI KIRKWOOD, 10230 MANCHESTER RD.**
(Subcommittee – Commissioners Evens and Klippel)

Planner II Amy Lowry provided the Commission with an update on the application since the item was introduced at the December 21 meeting including the existing legal non-conforming Vehicle Sales use. Ms. Lowry reminded the Commission that the site is approximately 1.5 acres and that the two lots have already been consolidated.

Ms. Lowry stated that the original transformer will be moved and there will be a second transformer added, both on the southwestern part of the site. Ms. Lowry

added also that one of the parking lot curb islands would be made a little larger than originally proposed so that there is room for a tree and a pedestrian walkway to the front of the building. Ms. Lowry presented the requested modifications on the perimeter landscaping, street frontage trees, curb islands, and the deficit of nine required parking spaces. She provided the following explanation of the applicant's justification for the modifications:

1. *Canopy trees are proposed at 2.5" caliper rather than the 2" caliper required and understory trees are proposed at 2" caliper rather than the 1.5" required. Fifty percent of all trees and shrubs will be Missouri Native plantings. The applicant is also providing 114 more shrubs than required and 143 grasses, perennials, and groundcovers.*
2. *The applicant is providing twice the amount of parking lot open space as required (including open space at the rear of the building beyond the 20' required buffer).*
3. *The existing vehicular access points will be reduced from five to two to promote safer vehicle and pedestrian circulation both on and off-site.*
4. *The applicant is providing a public sidewalk easement on-site to coordinate with the larger Route 100 plan. The sidewalk will be moved farther from Manchester Road than would be provided in the right-of-way – thus improving access and safety.*
5. *The proposed site plan reduces the impervious area on-site (currently almost 100%) and reduces storm water runoff to neighboring residential properties.*

Ms. Lowry explained that there were 12 review criteria for special use permit review and 19 criteria for site plan review that should be considered by the Commission.

Vice Chair Feiner asked if there was anyone from the public wishing to speak, but no public comments were made.

Commissioner Evens read the underlined sections of the Subcommittee Report recommending approval:

[INSERT REPORT]

Motion was made by Commissioner Scott and seconded by Commissioner Salzer-Lutz to approve **PZ-08-23** subject to the conditions in the subcommittee report. There being no comments or discussion, the eight members present unanimously approved the motion.

4. **DEVELOPMENT PROJECT UPDATE**

Mr. Raiche informed the Commission that the City Council approved the Greenbriar Hills Country Club proposal with a condition added for a post-construction sound test to verify compliance with St. Louis County's noise ordinance. Mr. Raiche also mentioned that the City Council held a public hearing

for Clark Animal Hospital on January 5 and a 1st reading is scheduled for January 19. A public hearing for the zoning code text amendments regarding recreational marijuana is scheduled before the City Council on January 19. Mr. Raiche also reported on a Minor Subdivision approval that occurred administratively, as allowed by code, for a 2-lot subdivision at 526 S. Fillmore Avenue. The Code requires that Staff report these approvals to the Commission throughout the year.

In response to questions from the Commission, Mr. Raiche indicated that the City has no plans to institute any sort of moratorium for marijuana-related businesses. Mr. Raiche also explained that the former Pi Pizza/Rico Mexican location is eligible to transfer its special use permit to another restaurant without Commission or City Council approval.

There being no further business, motion was made by Commissioner Diel and seconded by Commissioner Salzer-Lutz, to adjourn at 7:25 p.m. The next meeting will be held on February 1 at 7 p.m.

Tom Feiner, Vice Chair

David Eagleton, Secretary/Treasurer

Upon request, these minutes can be made available within three working days in an alternate format, such as CD, by calling 314-822-5822. Minutes can also be downloaded from the City's website at www.kirkwoodmo.org, then click on City Clerk, Boards & Commissions, Planning & Zoning Commission.

MEMORANDUM

TO: PLANNING & ZONING COMMISSION

FROM: JONATHAN D. RAICHE, PLANNING & DEVELOPMENT SERVICES DIRECTOR *ADR*

SUBJECT: PZ-10-23 STAFF-INITIATED TEXT AMENDMENT-OUTDOOR DINING PARKING REQUIREMENT

DATE: FEBRUARY 1, 2023

CC: AMY LOWRY, PLANNER II
CHRISTIE VOELKER, PLANNER I
JOHN HESSEL, CITY ATTORNEY



WHERE COMMUNITY AND SPIRIT MEET®

Over the past year or so, Staff has been approached by multiple existing and potential property/business owners that have expressed a desire to either add or expand outdoor dining areas for restaurants downtown. These inquiries have included at-grade patio seating as well as roof-top decks. One of the more difficult hurdles for these potential projects is the City's current parking requirements. Staff recommends reviewing this requirement in an effort to encourage additional activity in the pedestrian-oriented downtown area.

First, it is important to note that the city differentiates between outdoor dining space for restaurants that provide 12 seats or fewer as opposed to greater than 12 seats. The current code refers to 12 seats or fewer as Outdoor Seating and more than 12 seats as Outdoor Dining. Outdoor Seating (12 seats or fewer) is not required to provide additional parking anywhere in the City and this was the same under the previous Zoning Code.

Outdoor Seating and Outdoor Dining are both considered accessory uses and, under the current Code, accessory uses are exempt from parking requirements. However, an Outdoor Dining area would be required to provide additional parking if there is a roof covering the dining area because it is considered to be an expansion of the principal building per Section 25-45(12). The City's code already exempts existing buildings located in the downtown area from needing to provide additional parking when the land-use changes, but the code requires that additional parking be provided when an existing structure is expanded. The equivalent to Outdoor Dining under the previous Zoning Code included the following criteria:

- a. *Parking. That adequate off-street parking exists for the increased restaurant use or that additional adequate off-street parking is provided. The City Council may require additional off-street parking.*

It appears that over the course of the City's history, outdoor dining/seating has oscillated between whether parking was required or not. Currently, Outdoor Dining only requires additional parking when it is either covered by a roof. Staff believes that various amendments to the current zoning code should be considered to allow outdoor dining/seating areas to be covered by roof (not enclosed by walls), but not require additional parking requirements when the project is located within the pedestrian-oriented downtown area. This exemption would recognize the unique characteristics of a pedestrian-oriented area with an increased likelihood of patrons walking to the restaurants while also encouraging outdoor activity that generally helps generate interest and attract more users to a specific district.

Recommendation

Staff has identified three sections of Code, two in the Zoning Code and one in the Streets & Sidewalks chapter, that address this topic. The Planning & Zoning Commission does not typically review amendments

to sections of the Municipal Code outside of the Zoning/Subdivision Code; however, due to the interrelated nature of these sections, Staff wanted the Commission to be aware of changes that would be necessary in Chapter 20 as well as the Zoning Code (Chapter 25) if the amendments are supported. Revisions to these sections are provided in Exhibits A through C attached to this report. The following is an explanation of the proposed amendments.

Exhibit A: Chapter 25, Section 25-42(o); Standards for specific accessory uses and structures

There are a couple minor suggestions to this section to clarify existing language and also a more substantial suggestion in subsection 12. Subsection 12 is currently the provision that stipulates that Outdoor Dining and Outdoor Seating areas with a permanent roof or as part of expanding the existing building shall be treated as an expansion of the principal building. The proposed revision would specify that covering the area with a roof would mean that the area would be treated as an expansion of the principal building and therefore require parking. The reasoning behind this distinction is that a roof, with or without walls will greatly extend the use of an outdoor seating area. With these sort of physical modifications, the area would become much more like a year-round building addition. A cross-reference is also proposed in subsection 12 to reference a portion of the parking regulations, Section 25-63, that is proposed to include a specific exemption for Outdoor Dining areas in downtown Kirkwood that meet specific criteria.

Exhibit B: Chapter 25, Section 25-63; Parking, Access, and Mobility Standards -Applicability

In this section, a new subsection has been added under the “New Development” and “Expansions, reductions, and changes in use” portions of the section. The new subsections provide an exemption from parking requirements for outdoor dining areas that: 1) include seating for 49 or fewer individuals, 2) are located within the downtown Kirkwood area, and 3) are not enclosed by wall, glass, screen, vinyl wall, or similar enclosure.

Subsection (e) is also revised to clarify that although Outdoor Dining areas are considered accessory uses, they may still require parking under certain circumstances. This is referenced in Section 25-45(o)(12) and the revision is to remove a possible conflict between the two sections.

Exhibit C: Chapter 20, Section 20-95; Restaurant outdoor seating

This section of code is outside of the Zoning/Subdivision Code but it regulates things that can encroach into the public right-of-way. To be consistent with the Zoning/Subdivision Code’s reference to Outdoor Seating and Outdoor Dining on public sidewalks, this section was created. The section currently references a process by which a separate business license would be issued for an Outdoor Seating/Dining area; however, this has not been the practice of the City. These areas are tied to the business license of the attached restaurant establishment. There are various revisions proposed to reference the current requirement for a Special Use Permit for an Outdoor Dining are (greater than 12 seats). The section is also revised to reference that there are certain exceptions or exemptions from the City’s parking requirements.

While updating the process to reference the Special Use Permit process, Staff is also recommending that the existing renewal process be simplified with a renewal required after 1 year and subsequent renewals only required if the City Council includes requirements for periodic renewals in the conditions of the Special Use Permit.

Staff recommends that the amendments described above and attached to this memo be considered by the Planning & Zoning Commission to make a recommendation to the City Council. The Commission may either discuss and vote on these items as a Commission or assign a subcommittee to analyze the topic further and to provide a recommendation to the Commission.

Article V
Accessory Uses and Structures

§ 25-45 Standards for specific accessory uses and structures.
[Ord. No. 10702, 2-18-2021]

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of § 25-42.

...

- (o) Outdoor dining and outdoor seating.
- (1) Outdoor dining and outdoor seating areas shall be located on a private sidewalk, patio, porch, deck, or other surface adjacent to the principal building the dining is connected with. Outdoor dining and outdoor seating areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the seating area and the principal building.
 - (2) Outdoor dining and outdoor seating on public sidewalks may be permitted in accordance with § 20-95 of the Municipal Code.
 - (3) Outdoor dining and outdoor seating shall not be located within 10 feet of fire hydrants, Fire Department standpipe connections, fire escapes, bus stops, loading zones, mailboxes, or traffic signal stanchions.
 - (4) If no grade separation is provided between vehicular traffic and the outdoor dining or outdoor seating area, permanent railings or fencing shall be provided around the area. If the dining or outdoor seating area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
 - (5) If the outdoor dining or outdoor seating area is located on a sidewalk, the area shall be designed so there is a minimum of six feet of clearance adjacent to the dining or seating area to allow for safe pedestrian circulation. Such areas shall also not block any areas of ingress to or egress from the principal building.
 - (6) Outside entertainment, whether by band, orchestra, instrument, musician, singer, radio, television, loudspeaker, microphone, recital, or any other individual, group or mechanical device shall not be permitted for outdoor seating areas. Such activities may be permitted as part of an outdoor dining area if approved as part of the special use permit.
 - (7) Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
 - (8) Outdoor tables, chairs, umbrellas, furniture, and decorative items shall be of uniform design.
 - (9) Provision shall be made for appropriate lighting which will not disturb adjacent property or affect traffic on adjacent rights-of-way.
 - (10) Provisions ~~are~~ shall be made for adequate litter and trash control, including the providing and maintenance of trash receptacles. The outdoor area shall be kept clean and free of debris at all times.
 - (11) For outdoor seating areas, the hours of use are limited from 6:00 a.m. to 12:00 midnight except in the B-1 District, where it shall be limited from 7:00 a.m. to 10:00 p.m. For outdoor dining areas, the hours of use shall be approved as part of the special use permit.
 - (12) ~~Enclosing o~~Outdoor dining or outdoor seating areas that are covered either by a ~~permanent~~ roof ~~or to expand the existing structure~~ shall meet all the requirements of a building within the applicable zoning district and shall require review as an expansion of the principal building, as required by this Code. Outdoor Dining areas that are covered by a roof but that meet certain criteria found in Section 25-63 are exempt from providing additional parking.

Article IX
Parking, Access, and Mobility Standards

...

§ 25-63 Applicability.
[Ord. No. 10702, 2-18-2021]

Unless otherwise stated, the requirements of this article shall apply to all development and expansions as set forth in this section.

- (a) Time of review. Compliance with this article shall be reviewed as part of an application for a special use permit or site plan review, whichever review comes first. Where such reviews are not required, compliance shall be reviewed as part of an application for a building permit.
- (b) New development.
 - (1) The requirements of this article shall apply to all new development where there is the construction of a new structure or establishment of a new land use.
 - (2) New buildings that are constructed with a depth of less than 24 feet and provide the benefit of screening parking fields from street frontages and pedestrian passageways shall be considered liner buildings. Said liner buildings, which are constructed within the Downtown Master Plan Study Area, shall not be required to comply with the off-street parking, loading, or queuing lane requirements.
 - (3) Unenclosed outdoor dining areas that have seating for 49 or fewer individuals and that are located within the area bounded by Bodley Avenue to the north, Taylor Avenue to the east, Woodbine Avenue to the south, and Clay Avenue to the west, shall be exempt from additional parking, loading, and queuing requirements established in this article. Said unenclosed areas may be covered by a roof and may include a barrier with a maximum height of 42 inches; however, said areas shall not be enclosed by wall, glass, screen, vinyl wall, or any similar enclosure that exceeds 42 inches in height.
 - (34) The number of existing parking, loading, or queuing lanes may not be reduced below the minimum requirements established within this article.
- (c) Existing development. Off-street parking, loading, and queuing areas that are legally in existence on the effective date of this Code may not be reduced in size or number unless already exceeding the requirements of this article for equivalent new construction, in which cases, said spaces shall not be reduced below the number required by this article.
- (d) Expansions, reductions, and changes in use.
 - (1) The requirements of this article shall apply when an existing structure is expanded or enlarged, when there is an increase in the number of dwelling units within the building, or when there is a change of use that requires additional off-street parking, loading, or queuing lanes. In the case of expansions and enlargements, additional parking, loading, and queuing lanes are required to serve only the enlarged or expanded area.
 - (2) When an existing structure is reduced in size, when there is a reduction in the number of dwelling units within the building, or when there is a change of use that requires fewer off-street parking,

loading, or queuing lanes, the total number of spaces required by this article may be reduced, provided that the vehicular use area complies with this article.

(3) The change of use of any premises or the remodeling of any existing building within the area bounded by Bodley Avenue to the north, Taylor Avenue to the east, Woodbine Avenue to the south, and Clay Avenue to the west, shall be exempt from additional parking, loading, and queuing requirements established in this article. However, existing premises shall not decrease their existing parking, loading, or queuing lanes, including spaces leased to the City. New buildings and additions to existing buildings shall meet the parking, loading, or queuing requirements in this article.

(4) Unenclosed outdoor dining areas that have seating for 49 or fewer individuals and that are located within the area bounded by Bodley Avenue to the north, Taylor Avenue to the east, Woodbine Avenue to the south, and Clay Avenue to the west, shall be exempt from additional parking, loading, and queuing requirements established in this article. Said unenclosed areas may be covered by a roof and may include a barrier with a maximum height of 42 inches; however, said areas shall not be enclosed by wall, glass, screen, vinyl wall, or any similar enclosure that exceeds 42 inches in height.

(45) The requirements of this article shall also apply to the creation or expansion of any new parking lot or addition of loading or queuing lanes, regardless of if there are changes in the structure or use.

(e) Accessory uses. Accessory uses shall be exempt from the requirements of this article unless specifically required in Article IX, Parking, Access, and Mobility Standards. Outdoor Dining shall be exempt from the requirements of this article unless it is considered an expansion of the principal building per Section 25-45(o)(12) and is not eligible for exemptions listed in subsections (b) and (d) above.

...

Exhibit C

§ 20-95 **Restaurant outdoor seating.**
[Ord. No. 8208, 5-6-1993]

Restaurants may utilize the public sidewalk for outdoor seating under the following provisions:

- a. Seating for not more than 12. Restaurants in commercial districts may provide seating for not more than 12 on the public sidewalk contiguous to their restaurant facility under the following conditions:
 1. No permanent structures or paving are installed.
 2. No outdoor speakers or music shall be allowed.
 3. Outdoor tables, chairs, furniture and decorative items shall be of uniform design ~~and shall be removed from public property November 1 through March 31.~~
 4. Provisions shall be made for adequate litter and trash control, including the providing and maintenance of trash receptacles. The outdoor area shall be kept clean and free of debris at all times.
 5. Restaurant service equipment shall not be permitted outdoors.
 6. An unobstructed pedestrian walkway six feet wide shall be maintained on the public sidewalk between the tables, umbrellas, and the vehicle traffic way.
 7. The seating shall not obstruct any entry- or exitway of the building or adjacent buildings.
 8. Hours of sidewalk use are limited from 6:00 a.m. to 12:00 midnight except in B-1, where it shall be limited from 7:00 a.m. to 10:00 p.m.
 9. Provision shall be made for appropriate lighting which will not disturb adjacent property or affect traffic on adjacent rights-of-way.
- b. Seating for more than 12. Restaurants may apply ~~to the Director of Finance for a business license~~ for outdoor ~~seating dining~~ on the public sidewalk contiguous to their restaurant facility for more than 12 under the following procedures:
 1. The Planning and Zoning Commission and Public Services Department shall review the application and plans, taking into account the criteria of the Zoning Code for a Special Use Exception Permit (as applicable) and the following conditions:
 - a. Parking. That adequate off-street parking exists for the increased restaurant use. A determination of inadequate off-street parking shall be grounds for denial of the permit. This evaluation shall recognize any exceptions or exemptions included in the City's current parking requirements.
 - b. Outdoor speakers/music. Outdoor speakers or music shall not be permitted.
 - c. Outdoor furniture. Outdoor tables, chairs, furniture, and decorative items shall be of uniform design ~~and shall be removed from public property November 1 to March 31.~~
 - d. Lighting. Temporary lighting may be approved. Permanent lighting shall not be permitted.
 - e. Permanent structures. No permanent structures or paving shall be installed.

- f. Hours of operation. Hours of sidewalk use shall be from 6:00 a.m. to 12:00 midnight except in B-1 and residential districts, where it shall be limited from 7:00 a.m. to 10:00 p.m.
 - g. Litter control. Provisions are made for adequate litter and trash control, including the providing and maintenance of trash receptacles. The outdoor area shall be kept free of debris at all times.
 - h. Pedestrian walkway. An unobstructed pedestrian walkway at least six feet wide shall be maintained on the public sidewalk between the tables, umbrellas, and the vehicle traffic way.
 - i. Building obstructions. The seating-dining area shall not obstruct any entry- or exitway of the building or adjacent buildings.
 - j. Lighting. If approved, provision shall be made for appropriate lighting which will not disturb adjacent property or affect traffic on adjacent rights-of-way.
 - k. Other conditions. Any other conditions or provisions regarding public safety or health as determined by the Council.
2. The City Council shall review the Planning and Zoning Commission's and Public Services' recommendations and may, upon motion, ~~authorize a business license~~approve a Special Use Permit for the restaurant proprietor for outdoor seating-dining under the following provisions:
- a. Upon Council approval of a motion granting the application, the initial ~~license-permit~~ shall be issued ~~by the Director of Finance~~ for a one-year period. At the end of the first one-year period, said permit is subject to renewal by the City Council through consideration of a resolution without a requirement for a public hearing.
 - b. ~~After the initial one-year renewal, The license~~the permit is subject to renewal ~~on an annual basis as required within the conditions of the permit~~ after inspection and approval by the Public Services Department and Police Department, provided that the proprietor has conformed to the provisions of this section and the initial approval conditions, if any. In the event the Police Department or Public Services Department notifies the City Council in writing that the proprietor has failed to conform to any provisions of this section or approval conditions, then the Council, ~~upon written notification to the proprietor,~~ will consider said information during renewal review of the license-permit to determine if renewal is appropriate.
 - c. The initial and renewal ~~license-special use permit~~ fee for outdoor seating-dining shall be as set by the Council by resolution from time to time.
 - d. The ~~license-permit~~ may be revoked by the Council upon written notification by the Police Department or Public Services Department of a violation of this section or the approval conditions following a hearing.