

The Planning Commission held a public hearing on April 29, 2024. One resident from the Villas of Asbury spoke in support of the application during the hearing with the understanding that there could be restrictions placed on the hours of operation to lessen impacts on the adjacent neighborhood. Additionally, one adjacent property owner submitted a letter that has been included in the council packet providing feedback on the fast-food land use and concerns with lighting from vehicles in the drive through. Staff provided clarification regarding screening for lighting and a recommendation on hours of operation if the application were to be approved.

After discussion, the Planning Commission voted 7-0 to recommend approval of the rezoning to the C-1 District including permitting the fast-food land use (on Lot 1 only) with a restriction on the hours of operation that are consistent with Caribou Coffee's business practice. The Planning Commission also recommended approval of the preliminary site development plan with stipulations regarding the requested building setback and architecture waivers, traffic circulation and screening requirements.

The Planning Commission recommendation of approval of RZ23-0013 includes the following stipulations for consideration by the City Council:

- A. Approval of the C-1 District with the following stipulations:
 - 1. The following uses are prohibited:
 - a) *Fast-Food or Carryout Restaurants (Prohibited on Lot 2 only)*
 - b) *Animal Care Facilities with Outdoor Kennels*
 - c) *Any Distance Restricted Businesses, as listed in Olathe Municipal Code Chapter 5.43*
 - 2. Hours of operation for the 'Restaurant, Carryout, or Fast Food' use on Lot 1 are limited to 5:00 am to 8:00 pm daily.
- B. Approval of the Preliminary Site Development Plan with the following stipulations:
 - 1. A waiver is granted from UDO 18.20.130.B to decrease the minimum front yard setback from 20-feet to 15-feet and to reduce the minimum frontage buildout from 50% to 30% along 159th Street as shown on the preliminary site development plan dated April 1, 2024.
 - 2. A waiver is granted from UDO 18.15.020.G.8.b to decrease the minimum glass requirement from 25% to 20% on the primary facades for Lot 1 as shown on the elevations dated April 1, 2024.
 - 3. A revised preliminary site development plan is required for Lot 2 prior to submittal of a final site development plan.
 - 4. Revised access and traffic circulation for Lot 1 will be provided with final site development plans as required by the City Engineer.
 - 5. Exterior ground-mounted or building mounted equipment including but not limited to, mechanical equipment, utilities' meter banks and coolers must be screened from public view with three (3) sided landscaping or an architectural treatment compatible with the building architecture.

The attached Ordinance (Attachment C) reflects the amendments to the rezoning stipulations as

recommended by the Planning Commission for City Council consideration.

FINANCIAL IMPACT:

None

ACTION NEEDED:

1. Approve Ordinance No. 24-18 for a rezoning to the C-1 District as recommended by the Planning Commission (4 positive votes required).
2. Deny Ordinance No. 24-18 for a rezoning to the C-1 District (five positive votes required).
3. Return the application to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to approve or disapprove (4 positive votes required).

ATTACHMENT(S):

- A. Planning Commission Packet
- B. Planning Commission Minutes
- C. Ordinance No. 24-18