

**CITY OF JEFFERSONTOWN
JEFFERSON COUNTY, KENTUCKY**

ORDINANCE NO. 1294, SERIES 2013

**AN ORDINANCE RELATING TO A CHANGE IN ZONING FROM C-1
COMMERCIAL TO C-2 COMMERCIAL, FOR PROPERTY LOCATED
AT 3910 RUCKRIEGEL PARKWAY, AND BEING LOCATED IN THE CITY
OF JEFFERSONTOWN, KENTUCKY**

WHEREAS, the City Council, City of Jeffersontown, Kentucky has received and considered the evidence at the Public Hearing held by the Louisville Metro Planning Commission ("Planning Commission") and the recommendations of the Planning Commission and its staff as set out in the minutes and records of the Planning Commission; and,

WHEREAS, the City of Jeffersontown's Technical Review Committee has reviewed the record as transmitted from the Planning Commission, and has otherwise determined that the development plan complies with the Land Development Code and is otherwise lawful; and

WHEREAS, the City Council, City of Jeffersontown, having reviewed testimony and evidence in connection with the public hearing held in this matter, having further heard arguments of interested parties, having reviewed the staff report and the file of case number 18619, as well as the Applicant's justification and findings of facts, now finds that these materials support the approval of the proposed change in zoning from C-1 Commercial to C-2 Commercial; and,

WHEREAS, the City Council, City of Jeffersontown, Kentucky, finds the proposed zoning change is compatible with the surrounding Form District; and,

WHEREAS, the City Council, City of Jeffersontown, Kentucky, finds the justification and findings of fact support the approval of the detailed development plan and the testimony, evidence, and information heard at the Public Hearing supports the approval of the detailed development plan;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF JEFFERSONTOWN, KENTUCKY, AS FOLLOWS:**

SECTION 1. That the above property located within the City of Jeffersontown, Kentucky, and more particularly described in the minutes and records of the Planning Commission in Docket No. 18619, is hereby changed from C-1 Commercial to C-2 Commercial zoning provided, however, that said property and the use thereof shall in perpetuity be subject to the following binding elements set forth in Section 2 hereof.

SECTION 2. The within property rezoned shall be subject to the following binding elements, to wit:

1. The development shall be in accordance with the approved district development plan, and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior review from the Planning Commission and approval by the City of Jeffersontown.
2. The development shall not exceed 5, 650 square feet of gross floor area.
3. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 32 square feet in area per side and 5 feet in height. No sign shall have more than two sides.
4. Prior to the applicant requesting a certificate of occupancy, the applicant shall construct a sidewalk on Ruckriegel Parkway and a pedestrian connection to the building.
5. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. Before any permit (including but not limited to building, patio, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan shall receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan of screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured and recorded to create the joint entrance with the adjoining lot to the southeast. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- e. The Conditional Use Permit granted under case number B-12763 shall be abandoned within one year of final approval of the change in zoning.
8. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in activity on the site and shall advise them of the content of these binding elements. The property owner/developer shall ensure their compliance with these binding elements.
11. There shall be no outdoor music (live, piped, radio, television or amplified) or outdoor PA system exceeding 10 decibels above the normal ambient background level audible beyond the property line, all in accordance with LRC 99.01-99 and/or KRS 224.30-195, certified by a third party sound expert/engineer at maximum volume of the system.
12. A landscape sound barrier shall be erected on the site immediately surrounding the patio to adequately diminish sound from travelling beyond acceptable range from the point of origin.
13. Additional sound protection shall be installed in the rafters of the patio on this site to adequately diminish sound from travelling beyond acceptable range from the point of origin.
14. Sound and lighting equipment installed on this site shall be installed in the rafters of the patio only, directed downward and away from nearby residential properties, directed toward the building. No additional, outside or third-party sound, instrument, including drums (other than acoustic guitar) and/or lighting equipment shall be used for any outdoor purposes.
15. Any outdoor entertainment beyond typical outdoor dining shall cease at 11:00 P.M.
16. The only C-2 use will be restricted to a restaurant with outdoor entertainment. All other uses in C-2 will be prohibited.

17. All binding elements and/or conditions of approval set forth herein are accepted in total without exception by the entity requesting approval of these development items.

INTRODUCED AND READ AT A MEETING OF THE CITY COUNCIL OF THE CITY OF JEFFERSONTOWN, KENTUCKY AT A MEETING HELD ON THE 10th DAY OF August, 2013.

READ, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JEFFERSONTOWN, KENTUCKY AT A MEETING HELD ON THE 20th DAY OF August, 2013.

VETOED:

APPROVED:

BILL DIERUF, MAYOR

BILL DIERUF, MAYOR

DATE: _____

DATE: 8/23/2013

ATTEST:

Bill Fox
BILL FOX, CITY CLERK