

ZONING BOARD OF ADJUSTMENT STAFF REPORT

February 28, 2022

ZBA-06-22

GENERAL INFORMATION

Property Owner () Petitioner (x)

Winter McFarland LLC

Requested Action and Purpose

Petition for a use variance to allow a bar/tavern that exceeds the maximum allowable occupancy of 100 occupants

Location and Existing Zoning

516 Greensboro Avenue. Zoned BC (DROD). (Council District 4)

Size and Existing Land Use

Approximately 0.08 acres, Commercial

Surrounding Land Use and Zoning

North: Vacant, BC (DROD)

East: Commercial, BC (DROD)

South: Commercial, BC (DROD)

West: Commercial, BC (DROD)

Applicable Regulations

Sec. 24-229. - Permitted, conditional and prohibited uses.

(b) *Restricted uses.*

- (1) *Bar/tavern.* The use of bar/tavern is a conditional use subject to review and approval by the city council within the D/R Overlay District's BC Central Business District and BN Neighborhood Commercial District, excluding property with Queen City Avenue frontage. The use is limited to one per block face and no closer in proximity than fifty (50) feet proximity to a like establishment, and subject to the conditional use criteria as outlined below.

- a. Along University Boulevard, between 21st Avenue and 28th Avenue, and along Greensboro Avenue, between the Black Warrior River and 7th Street, the use of bar/tavern is limited to one per block face and a maximum allowable occupancy not exceeding one hundred (100) occupants. Along University Boulevard and Greensboro Avenue outside of the boundaries mentioned, the use is prohibited.

SUMMARY

The petitioner is requesting a use variance to allow a bar/tavern that exceeds the maximum allowable occupancy of 100 occupants in the Downtown/Riverfront Overlay District. The proposal is for the expansion of Icon into the adjacent property, which was formerly a restaurant. Bars/Taverns that fall within the Downtown Riverfront Overlay District (DROD), with frontage along Greensboro and University, were prohibited before 2019. Icon was considered legal non-conforming at this time. However, City Council enacted Ordinance No. 8832, in July of 2019, to allow small bars/taverns in these areas, with conditions. One of these conditions includes the occupancy restriction of no more than 100 occupants. Per the City of Tuscaloosa Fire Marshal,

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expansion into the adjacent property will increase the occupancy of Icon, from 70 to 128 total occupants. There is an existing door connecting the properties from the interior, which allows for the additional 58 occupants. The petitioner has stated they will only utilize the dining area, and the existing kitchen area will not be used.

Office of Urban Development, Planning Division: No comment

Office of Urban Development, Code Enforcement: No comment

Office of Urban Development, Building and Inspections Division: No comment

Infrastructure and Public Services, Engineering Division: No comment

Fire and Rescue Department, Fire Administration: No comment



ZONING BOARD OF ADJUSTMENT

PETITION APPLICATION

Last Updated, July 2021

Please complete all of the following required fields:

Location of Petitioned Property

Address: 516 Greensboro Avenue Tuscaloosa, AL 35401 and 514 Greensboro Avenue Tuscaloosa, AL 35401

Property Owner

Name: Kubiszyn Communications & Investments LLC

Phone: 205-576-5505

Email: _____

Address: 1203 Dublin Circle Tuscaloosa, AL

ZIP Code: 35406

Petitioner (if different from owner)

Name: Winter McFarland LLC

Phone: 205-650-1400

Email: bwinter@winmclaw.com

Address: 205 McFarland Circle N

ZIP Code: 35406

The Petitioner requests the following item(s) from the Zoning Board of Adjustment:

A special exception is a conditional use which the zoning ordinance expressly permits under conditions specified in the zoning ordinance. A variance is a deviation from the regulations in the zoning ordinance which requires proof of an unnecessary hardship. An appeal is a formal challenge of the zoning officer's ruling.

☐ **Special Exception**

Commercial \$ 200.00 per lot

Residential \$ 50.00 per lot

☒ **Use Variance**

Commercial \$ 200.00 per lot

Residential \$ 50.00 per lot

☐ **Variance**

Commercial \$ 200.00 per lot

Residential \$ 50.00 per lot

☐ **Short-Term Rental** \$ 400.00 per lot

☐ **Appeal Zoning Officer's ruling** \$ 10.00 per lot

Briefly describe the variance, special exception, and/or appeal being requested. Include any related information, such as number of parking spaces, hours of operation, etc., related to your request.

The Petitioner proposes to expand the space available to its existing bar to the neighboring, and already connected, lot so it may add additional rooms in service of its patrons. Upon review of the City of Tuscaloosa's Municipal Code ("Code"), there is concern that the proposed expansion could potentially increase the bar's current maximum allowable occupancy of 70 occupants in excess of a maximum allowable occupancy of 100 occupants, which would not be permitted under Code section 24-229(b). To the extent that the proposed expansion would not conform to the relevant Code provisions, the Petitioner seeks a variance to allow the expansion of the bar into the neighboring space.

**PLEASE SUBMIT AN ELECTRONIC COPY OF THIS APPLICATION AND ANY
NECESSARY SUPPORTING MATERIALS TO:**

Office of Urban Development:
Planning Division

2201 University Boulevard, Annex III
Tuscaloosa, AL 35401

Email: zba@tuscaloosa.com

Answer the following for VARIANCE requests ONLY:

The petitioner must specifically state a hardship for the variance. Explain the ways in which the zoning regulation creates a hardship on the property. When a variance is at issue, the primary consideration is whether a literal enforcement of a zoning ordinance will result in unnecessary hardship. Explain any special circumstances or conditions that are peculiar to the land or buildings because of which a strict application of the ordinance would deprive the applicant of the reasonable use of such land or building.

There is high demand for entry into Icon and limited space. A literal enforcement of the zoning ordinance will ~~reinforce the compact nature of the establishment and prevent additional breathing room. To use the space~~ under a literal enforcement of the zoning ordinance would also require Icon to convert the nature of its business ~~entirely. Further, the establishment caters to members of the LGBTQ+ community-the only establishment in the~~ City of its kind. Preventing its expansion denies needed space to an under-served community.

Explain how the variance request is in harmony with the general purpose and intent of the regulations imposed by this ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Since its opening in 2010, Icon has proven itself a harmonious addition to downtown Tuscaloosa. It ~~provides unique forms of entertainment in the City and houses a productive business. A use variance~~ would allow it to further increase its capacity, and, in turn, increase its productivity and ~~revenue-generating capability. It will also provide comfort to existing patrons as well as new.~~

Answer the following for SHORT-TERM RENTAL requests ONLY:

Provide the number of bedrooms and bathrooms the property has. Provide how many adults you are requesting to rent to and how many vehicles you are able to park in your driveway or parking areas (parking on the street is not allowed). Typically, two adults are allowed per vehicle. Include the width and length of your driveway. A typical parking space is 9' wide by 20' deep. Tandem parking (one vehicle behind the other) of not more than two vehicles is allowed, and a garage can be used. Photos can be provided with this application showing the proposed parking.

- For all requests for any variance from or special exception to a zoning requirement pertaining to a dimensional requirement or the site, a scaled site plan and/or building elevation produced by a registered land surveyor, professional engineer, or architect shall be required.
- Requests for an exception from fence requirements must depict proposed location and design of fence.
- Any request which will not be represented by the property owner at the public hearing must be accompanied by a designation of agent form.

Certification of Applicant

I certify that the foregoing facts, to the best of my knowledge, are true and correct and that except for the exception, variance, or appeal requested in this petition, the proposed construction and use complies with all requirements for the zoning district in which the property is located. I recognize the City will send public notification and place a sign on the property with information for the public. This Petition will not be accepted until all required information is provided.

Print Name:

Kyle Richardson

Signature:

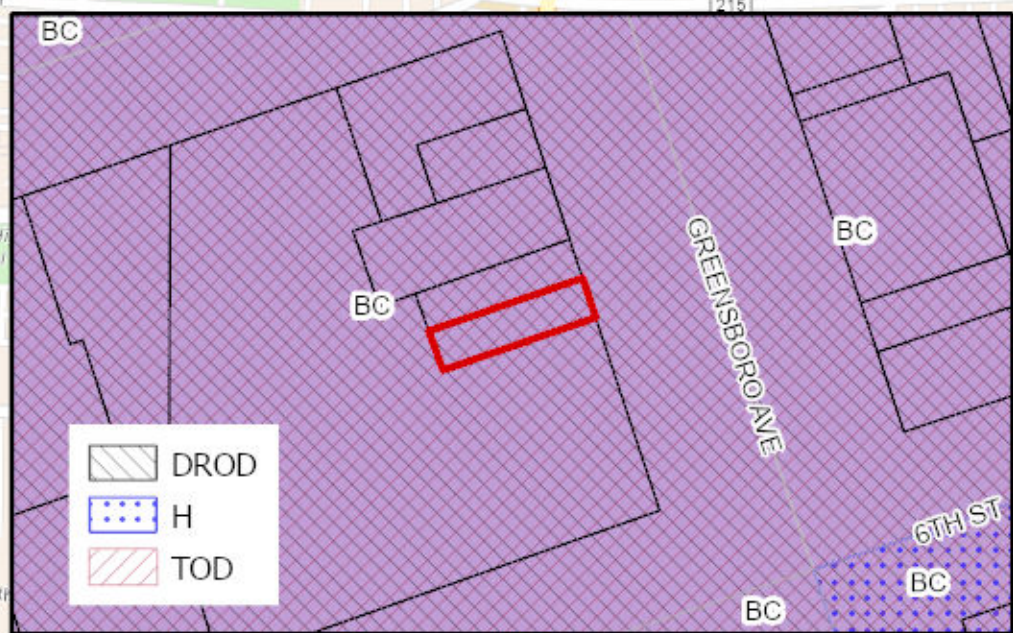
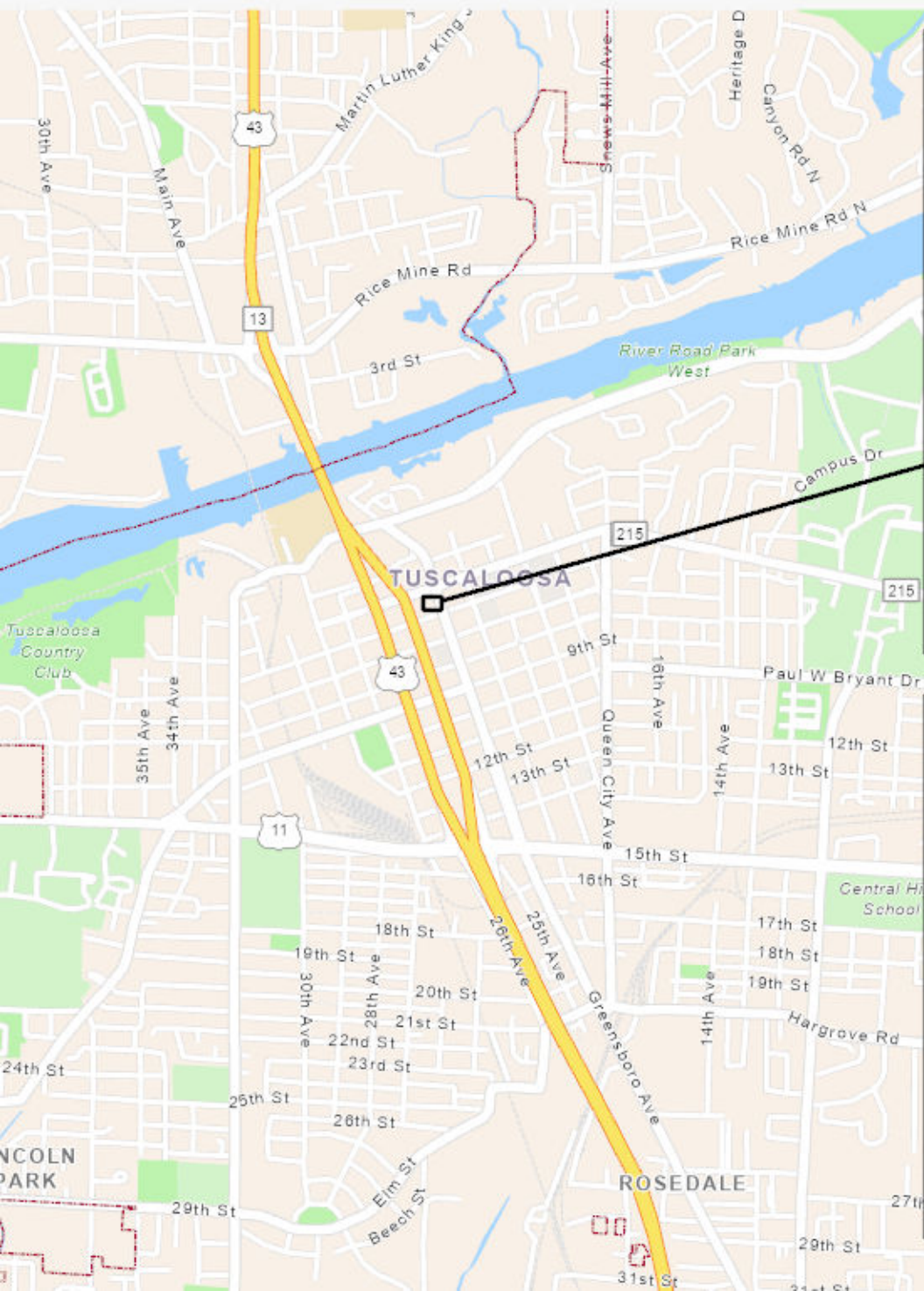
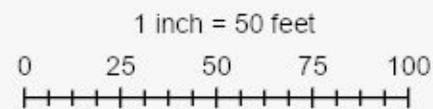


Date:

2-3-22



516 Greensboro Avenue





516 Greensboro Avenue

1 inch = 50 feet
0 25 50 75 100

N





ICON

FOR LEASE
LOFTS
2 BEDROOMS
(205) 657-3900
(205) 752-9020

NOTICE
THIS PROPERTY IS BEING
CONSIDERED FOR
VARIANCE/SPECIAL EXCEPTION
FROM ZONING REQUIREMENTS
FOR MORE INFORMATION CALL (205) 657-3900
OR
TAKE ANY INFORMATION DIRECT FROM THE SIGN BELOW
THIS SIGN IS THE PROPERTY OF THE CITY OF TUSCALOOSA
AND MUST NOT BE REMOVED WITHOUT AUTHORIZATION

516

Roll
Tide!

10' 0" MIN
DELIVERY
ZONE
11 AM - 3 PM
NO PARKING

