

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

Request: Change in Zoning from R-4 to C-1 with Detailed District Development Plan and Binding Elements, and Variance and Parking Waiver

Project Name: WaWa Vaughn Mill Road

Location: 7601 Vaughn Mill Road

Owner: Gilezan Properties

Applicant: Gilezan Properties

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 23 – Jeff Hudson

Case Manager: Dante St. Germain, AICP, Senior Planner

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in the Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

01:57:35 Dante St. Germain provided an overview of the request and presented a PowerPoint presentation. St. Germain responded to questions from Commissioners (see recording for details).

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St, Louisville, KY 40202

Nick Laning, 1218 Montgomery Ave, Nashville, TN 37207

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

Summary of testimony of those in favor:

02:09:33 Cliff Ashburner spoke in support of the request and presented a PowerPoint presentation. Ashburner responded to Commissioner questions pertaining to neighborhood plans and clarified where those plans lie when it comes to Cornerstone 2020 and Plan 2040. Ashburner broke down what Wawa provides as a company and the

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

screening that will be provided for the adjoining properties (see recording for detailed presentation)

02:19:41 Nick Laning spoke in support of the request and presented a PowerPoint presentation. Laning stated by putting the canopy close to Outer Loop it would put a lesser impact on the surrounding area and away from the residential properties. Laning responded to Commissioner questions pertaining to medians. Laning stated that trucks will be able to make the right turn into the parking lot, but no one would be able to turn left in or out due to the non-mountable curb (see recording for detailed)

02:24:53 Dianne Zimmerman stated a traffic study was conducted and that the right turn lane was not required for the eastbound approach on Outer Loop or northbound approach on Vaughn Mill Rd (see recording for details)

02:32:57 Dante St. Germain responded to Commissioner questions regarding sidewalks and greenway and the pedestrian access along Outer Loop (see recording for details)

02:34:59 Cliff Ashburner responded to Commissioner questions pertaining to the lighting adjoining the residential area that is located on the back side of the store and who would be contracted on delivering the fuel or if Wawa uses its own employees to deliver fuel (see recording for details)

02:43:44 Nick Laning responded to Commissioner questions pertaining to where the fuel trucks will be parked while unloading fuel and if there will be blasting to excavate to get holes deep enough for the onsite fuel tanks (see recording for details)

The following spoke in neutral to the request:

John Torsky, Councilman Jeff Hudson Office, 601 W Jefferson St, Louisville, KY 40202

Summary of testimony of those in neutral:

02:49:18 John Torsky spoke in neutral to the request. Torsy stated that Councilman Hudson believes Neighborhood plans are important and supports those plans (see recording for details)

The following spoke in opposition to the request:

None

02:50:32 Dante St Germain read binding element number nine into the record

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

9.Improvements to Vaughn Mill RD and Outer Loop as shown on the development plan and shall be completed prior to issuance of Certificate of Occupancy (see recording for details)

02:51:15 Cliff Ashburner read binding element number ten. (10. All property owners within 500 ft of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre blasting surveys. Any homeowners who opt to have a pre blast survey conducted shall be provided copies of all materials resulting from that survey, including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky blasting regulations) (see recording for details)

02:52:22 Laura Ferguson read binding element number eleven. (11. The applicant shall provide an access plan to all vendors and suppliers including directing the access for eastbound deliveries shall be from Outer Loop) (see recording for details)

Deliberation

02:57:28 Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Office of Planning website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in zoning from R-4 Single Family Residential to C-1 Commercial

03:00:38 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff's conclusion that the case was compatible with the comprehensive plan, evidence, and testimony heard today, was adopted.

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the zoning change would not represent an expansion of non-residential use into a residential area. Adjacent properties along E Woodlawn Ave are zoned and used similarly to the proposal. The site is adequately served by existing transportation networks and is within an established commercial and industrial development area. Transit service is available to the site along E Woodlawn Ave.

WHEREAS, the proposal meets Community Form: Goal 2 because the site is within an established industrial and commercial activity center. Appropriate access and connectivity exist

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

to allow the development within the context of the Traditional Neighborhood form district. The site has transit service available.

WHEREAS, the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features. It is not within the floodplain or any other environmentally sensitive areas.

WHEREAS, the proposal meets Community Form: Goal 4 because although demolition of the existing structure is proposed, review by Historic Preservation staff has determined the structure to not be eligible for the National Register and therefore not subject to the wrecking ordinance.

WHEREAS, the proposal meets Mobility: Goal 1 because the site fits within the context of the Traditional Neighborhood form. The site is in proximity to a variety of commercial uses and employment opportunities. Transit service is available to serve the site.

WHEREAS, the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity.

WHEREAS, the proposal meets Mobility: Goal 3 because the proposed zoning would allow for additional employment opportunities that fits within the context of the Traditional Neighborhood form and encourages walking and biking by employees and customers. Sidewalks in front of the site are to be reconstructed, with existing curb cuts removed.

WHEREAS, the proposal meets Community Facilities: Goal 2 because all necessary utilities are available at the subject site. Utility service will be coordinated with all appropriate agencies.

WHEREAS, the proposal meets Economic Development: Goal 1 because the site is served directly by TARC along Woodlawn Ave, a minor arterial roadway. The site is adequately served by existing transportation networks and is within an established commercial and industrial development area.

WHEREAS, the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns. The site is not within the floodplain.

WHEREAS, the proposal meets Housing: Goal 2 because residents would not be displaced by the proposal.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4 Single-Family Residential to C-1 Commercial.

The vote was as follows:

YES: Commissioners Mims, Carlson, Kern, Sistrunk, Cheek, Pennix, Fischer and Howard

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

Variance from 5.1.12.B.2.e.i.1 to permit a principal structure to exceed the maximum infill setback (Outer Loop frontage required: 40', requested: 158.1', variance: 118.1'; Vaughn Mill Road frontage required: 30', requested: 86.4', variance: 56.4') (23-VARIANCE-0134)

03:01:32 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted.

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the increase in setback will either improve or have no impact on sight lines, and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the essential character of the general vicinity is residential with varying setbacks, rather than a regular street wall, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the increase in setback will not present a hazard or nuisance, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is needed in order to situate the fueling canopy in front of the convenience store, which is the usual configuration of a gas station, and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site is currently undeveloped and could be re-developed with any configuration, and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the variance is needed in order to rezone the property for the desired use, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time; now, therefor be it

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from 5.1.12.B.2.e.i.1 to permit a principal structure to exceed the maximum infill setback (Outer Loop frontage required: 40', requested: 158.1', variance: 118.1'; Vaughn Mill Road frontage required: 30', requested: 86.4', variance: 56.4') (23-VARIANCE-0134)

The vote was as follows:

YES: Commissioners Mims, Carlson, Kern, Sistrunk, Cheek, Pennix, Fischer and Howard

Parking Waiver to exceed maximum allowed parking (23-PARKWAIVER-0012)

03:02:52 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted.

WHEREAS, Mobility Goal 3 Policy 14 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site-by-site basis. On-site parking standards should reflect the availability of on street and public parking, and

WHEREAS, the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions by arranging the parking on the site to maximize the provided parking, and

WHEREAS, the parking study provided for the other Wawa sites studied demonstrate that the needed parking cannot be provided within the LDC limitations, and

WHEREAS, the requested parking will provide the minimum required to supply parking necessary for employee and customer parking as per the parking study performed. Additionally, a portion of the parking is to be reserved for electric vehicle recharge stations; now, therefore be it

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Parking Waiver to exceed maximum allowed parking (23-PARKWAIVER-0012)

The vote was as follows:

YES: Commissioners Mims, Carlson, Kern, Sistrunk, Cheek, Pennix, Fischer and Howard

Detailed District Development Plan with Binding Elements

03:03:42 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted.

WHEREAS, the site is mostly cleared, and few natural resources exist on the site currently. Required tree canopy will be provided, and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan, and

WHEREAS, no open space provisions are pertinent to the request, and

WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the overall site design is in compliance with existing and planned future development in the area. The proposal would provide neighborhood-serving commercial development along a major arterial road, and

WHEREAS, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested variance and parking waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan is not in compliance with the recommendations of the Highview Neighborhood Plan; now, therefore be it

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with Binding Elements **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Outer Loop right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Vaughn Mill Road as shown on the site plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

- e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2024, Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. A certificate of occupancy must be received from the appropriate code enforcement department 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.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors, and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The sidewalk along Outer Loop shall be placed in a recorded public easement prior to requesting a certificate of occupancy.
9. Improvements to Vaughn Mill RD and Outer Loop as shown on the development plan shall be completed prior to issuance of Certificate of Occupancy.
10. All property owners within 500 ft of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre blasting surveys. Any homeowners who opt to have a pre blast survey conducted shall be provided copies of all materials resulting from that survey, including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky blasting regulations.
11. The applicant shall provide an access plan to all vendors and suppliers including directing the access for eastbound deliveries shall be from Outer Loop.

The vote was as follows:

PLANNING COMMISSION MINUTES
February 15, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0058

YES: Commissioners Mims, Carlson, Kern, Sistrunk, Cheek, Pennix, Fischer and Howard