

VARIANCE JUSTIFICATION

LDC TABLE 5.3.2 DIMENSIONAL STANDARDS: NON-RESIDENTIAL USES SETBACK FROM RESIDENTIAL USES

OM3, LLC – WAWA FUELING STATION AND CONVENIENCE STORE 12408 and 12412 TAYLORSVILLE ROAD

February, 2024

The Applicant, OM3, LLC, is requesting approval of a formal zoning application to change the zoning designation of the property located at 12408 and 12412 Taylorsville Road, Louisville, KY 40299 (the "Property") from its current R-4, Single-Family Residential zoning district to C-1, Commercial, to allow construction and operation of a Wawa fueling station with eight (8) fueling stations containing a total of sixteen (16) fueling pumps and a 5,919 square feet convenience store space on a portion of the Property (the "Proposal"). Per the Detailed District Development Plan drafted by Kimley-Horn and Associates, Inc. (the "Plan"), the total Property area is 4.71 acres and the Wawa site is approximately 2.88 acres of the Property (the "Site"). The Property lies within the Neighborhood Form District and fronts both Taylorsville Road, a major arterial roadway, and Sweeney Lane, a local roadway, that provides a connection for private properties to Taylorsville Road. Sweeney Lane is also subject of a study to determine where the Urton Lane Corridor will be extended, including Sweeney Lane being a potential pathway for the Urton Lane extension, which, if that were to occur, would transition Sweeney Lane's current roadway classification into a higher level of classification.

In conjunction with the Plan, the Applicant is requesting variance relief from Table 5.3.2. of the Land Development Code ("LDC") to allow a minor encroachment of approximately two hundred sixty square feet (260 sq. ft.) of vehicular use area in one area of the site into the 30' non-residential to residential setback, where the Property abuts 3830 Sweeney Lane, a property zoned R-4, single-family residential (the "Variance"). This particular section of vehicular use area will not be utilized often (a few times a week to manage the dumpster) and, therefore, will most often resemble unoccupied and unobstructed pavement, which is permissible to be within the required setback. The neighboring and most affected property is owned by AFB Properties, LLC, the entity which also owns 12404 Taylorsville Road, the property abutting the Property to the west that was recently rezoned to C-1, commercial, for the construction and operation thereon of an animal hospital. For the reasons stated herein, the requested variance meets the criteria for granting variances set forth in KRS 100.243 and, therefore, should be approved.

The Variance will not adversely affect the public health, safety or welfare because the minor encroachment will not be noticeable from the abutting property, especially behind landscaping planted between the encroachment and the neighboring property. Moreover, the encroaching pavement will not often be occupied by vehicles, which, when viewed from the most affected party, will appear most often as an unobstructed area of the Property. Because the Variance affects a corner in the rear of the Property away from any public rights-of-way or curb cuts thereto, the Variance will not interfere with sight lines for motorists or pedestrians traveling to/from the Property or along public rights-of-way.

The Variance will not alter the essential character of the general vicinity because the minor amount of vehicular use area within the required setback will not be easily visible from the affected neighboring property nor from public rights-of-way. The pavement area will most often be unoccupied and unobstructed from the ground upward and screened by plantings.

The Variance will not cause a hazard or nuisance to the public because the area of the setback being encroached upon will be screened from the vacant residentially-zoned property to which it is nearest.

The Variance will not allow an unreasonable circumvention of the requirements of the LDC because Plan 2040 encourages flexible and creative site design and the minor encroachment of pavement triggering the need for variance relief from the LDC is necessary to allow safe, efficient management of the enclosed dumpster on the Property and in an area where the dumpster enclosure is most screened from the public rights-of-way.

The Variance arises from special circumstances, which do not generally apply to land in the general vicinity, because the Property resembles a reverse lowercase "r" and where the top half of the property is wider than the lower half and at the point where the property gets wider, it creates a corner setback area into the Property that creates a design challenge for where on the Property to best place the enclosed dumpster so that it is mostly screened from public rights-of-way. The spot on the Site where the enclosed dumpster is located is the ideal spot for the dumpster to be screened from public view and for the dumpster not to be an impediment to vehicles and pedestrians navigating the Site, nor absorb too much area to deplete necessary parking on the Property.

The strict application of the 30' non-residential to residential setback requirement in this rear corner of the Property would deprive the Applicant of the reasonable use of the land and create an unnecessary hardship on the Applicant because the minor request for variance relief from the required setback of 30' on the Site will not adversely impact

public safety or create a hazard or nuisance to anyone and will allow for safer, more inconspicuous management of the refuse dumpster on the Property. When considering that the variance relief does not cause negative impacts on neighboring properties or create unsafe conditions on the Property, the strict application of the non-residential to residential setback requirement would deprive the Applicant of the reasonable use of the Property.

The circumstances are not the result of actions taken by the Applicant subsequent to the adoption of the LDC setback regulation as it applies to the Site because development has yet to occur and the Applicant is hereby requesting relief from the 30' LDC setback provision.

101489854.1

VARIANCE JUSTIFICATION

LDC SECTION 5.3.1.C.5 & TABLE 5.3.2 DIMENSIONAL STANDARDS: NON-RESIDENTIAL USES OM3, LLC – WAWA FUELING STATION AND CONVENIENCE STORE 12408 and 12412 TAYLORSVILLE ROAD

November, 2023

The Applicant, OM3, LLC, is requesting approval of a formal zoning application to change the zoning designation of the property located at 12408 and 12412 Taylorsville Road, Louisville, Kentucky 40299 (the "Property") from its current R-4, Single-Family Residential zoning district to C-1, Commercial to allow construction and operation of a Wawa fueling station with eight (8) fueling stations containing a total of sixteen (16) fueling pumps and a 5,919 square foot convenience store space on a portion of the Property (the "Proposal"). Per the Detailed District Development Plan drafted by Kimley-Horn and Associates, Inc. (the "Plan"), the total Property area is 4.71 acres and the Wawa site is approximately 2.88 acres of the Property (the "Site"). The Property lies within the Neighborhood Form District and fronts both Taylorsville Road, a major arterial roadway, and Sweeney Lane, a local road that is also slated to become part of the Urton Lane Corridor, which, when that occurs, will most certainly increase the street's classification and traffic capacity.

In conjunction with the Plan, the Applicant is requesting variance relief from Table 5.3.2 of the Land Development Code ("LDC") to allow the convenience store building to exceed the 80-foot maximum on both street side Taylorsville Road and Sweeney Lane setbacks. The Applicant seeks variance relief from the Taylorsville Road setback to allow the convenience store to be 165 feet from Taylorsville Road – 85' of variance relief (the "Taylorsville Road Setback Variance"); and variance relief from the Sweeney Lane setback to allow the convenience store to be 83.1 feet from Sweeney Lane – 3.1' of variance relief (the "Sweeney Lane Setback Variance"). For the reasons stated herein, the requested variance meets the criteria for granting variances set forth in KRS 100.243 and, therefore, should be approved.

TAYLORSVILLE ROAD SETBACK VARIANCE

The proposed variance will not adversely affect the public health, safety or welfare because the Site fronts Taylorsville Road on a corner property and adjacent to the east of C-1-zoned property. The Site proposes a restricted right-in-right-out only curb cut onto Taylorsville Road and the request for variance relief will not interfere with sight lines for

motorists or pedestrians traveling Taylorsville Road or for vehicles making turns from either the neighboring C-1 property or from Sweeney Lane onto Taylorsville Road.

The Taylorsville Road Setback Variance will not alter the essential character of the general vicinity because the surrounding area contains a mixture of uses and site designs where properties contain structures that exceed the maximum setback by various distances from Taylorsville Road, including the Circle K fueling station and convenience store directly across Taylorsville Road from the Property, which sits approximately 195' from Taylorsville Road. For fueling stations with associated c-stores, such as the one the Applicant proposes here (and the existing station across Taylorsville Road), site design requires more generous vehicular use areas to provide space for vehicles to safely and efficiently navigate around the fueling canopy, from the fueling canopy to the c-store, and for safe truck maneuvering while delivering fuel and goods inventory for the c-store. Indeed, the site design for fueling stations with c-store require specific lane width requirements for fuel delivery to the Site, as well as maneuvering areas for trucks loading/unloading inventory at the c-store building, all while customer vehicles are present and navigating the Site for their respective temporary destinations. Thus, while the c-store fronts the Taylorsville Road corridor, the fuel pumps, the fuel tanks underground where buildings cannot be built atop of them, some parking for the c-store, and the various vehicular use areas must be placed in the setback area between the c-store and Taylorsville Road. All these components add up to having to push the c-store building back on the Site, beyond the Taylorsville Road maximum setback. Incidentally, the existing residential structures on the Site are currently setback similar distances to what the proposed Wawa c-store will be on the Site.

The variance will not cause a hazard or nuisance to the public because the proposed development of the Site will provide for sufficient vehicular use and parking areas while maintaining safe, clear sight lines for motorists and pedestrians traversing Taylorsville Road and those maneuvering the internal areas of the Site.

The Taylorsville Road Setback Variance will not allow an unreasonable circumvention of the requirements of the LDC because Plan 2040 encourages flexible and creative site design along with a respect for the pattern of development in the surrounding area in order to encourage reinvestment, rehabilitation and redevelopment of underutilized property. The Proposal represents a large investment on a corner property of a major thoroughfare and another roadway that is scheduled to become another major thoroughfare in the future. The variance relief being requested here is similar to the amount of relief the store across the street would need to provide a safe, functional site design for a fueling station with convenience store and the amount of parking necessary for the Wawa is larger because of the customer demand for its fresh foods and larger supply of convenience items. Here with this current application, the

Property will be adequately served by pedestrian connections and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the LDC requirements. Therefore, the Proposal accommodates different modes of transportation.

The variance arises from special circumstances, which do not generally apply to land in the general vicinity, because the Applicant proposes to develop the Site as a modern fueling station and c-store, which, although the fueling canopy will meet the maximum setback, the c-store needs adequate room behind the fuel canopy to be positioned so that vehicular maneuvering and truck delivery are safely accommodated without disruption. Similarly, vehicular use areas are also needed between Taylorsville Road and the fuel canopy for vehicles to safely enter and exit the Site and, once onsite, make driving decisions to access the fuel pump, the c-store, and/or parking. Should the proposed variance be denied, then it is unlikely that a Wawa fueling station with convenience store would be constructed on the Site.

The strict application of the maximum setback requirement would deprive the Applicant of the reasonable use of the land and create an unnecessary hardship on the Applicant because the request for variance relief from the maximum setback of 80' on the Site will not adversely impact public safety or create a hazard or nuisance to anyone. As mentioned, there is a commercial property located directly across the street from the Property with a similar use and similar site design in terms of its applicable setback from Taylorsville Road, and placing such a burden on the Site would prevent the proposed Wawa, a highly popular commercial user newly branching into the Louisville Metro area, from locating on the Site. When considering that the variance relief does not cause negative impacts on neighboring properties or create unsafe conditions, the strict application of the maximum setback requirement would deprive the Applicant of the reasonable use of the Property.

The circumstances are not the result of actions taken by the Applicant subsequent to the adoption of the LDC setback regulation as it applies to the Site because no development has yet to occur and the Applicant is hereby requesting relief from the 80' maximum setback provision.

SWEENEY LANE SETBACK VARIANCE

The proposed variance will not adversely affect the public health, safety or welfare because the Site fronts Sweeney Lane where Sweeney Lane intersects with Taylorsville Road, making it a corner property, and the two access points on Sweeney Lane will both provide more than sufficient site distance visibility for motorists and pedestrians entering/exiting the site or traveling along Sweeney Lane, and the variance to allow the

structure to exceed the maximum Sweeney Lane setback, albeit by only a little bit, will cause zero obstruction to said visibility and will not impede the safe movement of pedestrians or vehicles on Sweeney Lane or on the Site.

The Sweeney Lane Setback Variance will not alter the essential character of the general vicinity because the amount of relief being requested is minor and allows the convenience store building to afford better vehicular maneuverability upon entering the site from Sweeney Lane, which, at the point of access, the driver faces a decision to drive forward or turn left or right, and that added space creates a safe site design for vehicular movements on the site between Sweeney Lane and the convenience store. As for site design aesthetics, the Property has a slanted eastern property line that as it runs northward, it follows a southwest to northeast plane. Therefore, unless the east-facing façade is constructed in the same slanted manner as the property line it faces, as that property line runs northward, the property line will move away from the east façade of the convenience store, thereby creating more distance between the northern part of the convenience store than its southern portion. The convenience store better relates to Taylorsville Road and the east-west plane it is on, but the convenience store would need to be turned on the site clockwise a few degrees for it to be parallel with Sweeney Lane or the convenience store's eastern-facing façade would need to be designed and constructed on a slanted plane to avoid triggering the setback variance. And, just as with the Taylorsville Road Setback Variance, the site design for fueling stations with a c-store requires specific lane width requirements for fuel delivery to the Site, as well as maneuvering areas for trucks loading/unloading inventory at the c-store building while customer vehicles are present on the Site. The Applicant will install landscaping and tree plantings throughout the site, which will contribute positively to the Sweeney Lane streetscape and breakup any straight views of the Site from the perspective of pedestrian and drivers traversing Sweeney Lane.

The variance will not cause a hazard or nuisance to the public because the proposed development of the Site will provide for sufficient vehicular use and parking areas while maintaining safe, clear sight lines for motorists and pedestrians moving along Sweeney Lane and those maneuvering the internal areas of the Site.

The Taylorsville Road Setback Variance will not allow an unreasonable circumvention of the requirements of the LDC because Plan 2040 encourages flexible and creative site design along with a respect for the pattern of development in the surrounding area in order to encourage reinvestment, rehabilitation and redevelopment of underutilized property. The Proposal represents a large investment on a corner property of a major thoroughfare and another roadway (Sweeney Lane) that is scheduled to become another major thoroughfare (Urton Lane) in the future. Here, the Applicant

proposes a Sweeney Lane setback that will not unreasonably circumvent the Land Development Code requirements because the proposed Sweeney Lane setback allows for site design that provides safe, adequate driving lanes internal to the Site for both customer vehicles and trucks that bring fuel and goods to the Site.

The variance arises from special circumstances, which do not generally apply to land in the general vicinity, because the Applicant proposes to develop the Site as a modern fueling station and c-store, which require wider drive aisles on the Site to accommodate both trucks and cars and necessary parking for customers to safely access without having to circle the Property to locate and possibly wait for a parking space to become available.

The strict application of the maximum setback requirement would deprive the Applicant of the reasonable use of the land and create an unnecessary hardship on the Applicant because the modest request for variance relief from the maximum setback of 80' on the Site will not adversely impact public safety or create a hazard or nuisance to anyone and will allow for safer vehicular movements when entering, exiting and, when onsite, navigating the Property. When considering that the variance relief does not cause negative impacts on neighboring properties or create unsafe conditions, the strict application of the maximum setback requirement would deprive the applicant of the reasonable use of the Property.

The circumstances are not the result of actions taken by the Applicant subsequent to the adoption of the LDC setback regulation as it applies to the Site because development has yet to occur and the Applicant is hereby requesting relief from the 80' maximum setback provision.

WAIVER FROM LAND DEVELOPMENT CODE SECTION 10.2.4
ALLOWING MINOR PORTION OF 25-FOOT PROPERTY
PERIMETER LANDSCAPE BUFFER AREA ONSITE TO BE OCCUPIED
BY PAVEMENT NEEDED FOR APPROACH TO DUMPSTER
ENCLOSURE FOR LOADING/UNLOADING

OM3, LLC
WAWA

CASE No. 23-ZONE-0081:
12408 AND 12412 TAYLORSVILLE ROAD, LOUISVILLE, KENTUCKY 40299

The Applicant, OM3, LLC, is requesting approval of a formal zoning application to change the zoning designation of the property at 12408 and 12412 Taylorsville Road, Louisville, Kentucky 40299 (the "Property") from its current R-4, Single-Family Residential zoning district to C-1, Commercial to allow construction and operation on a portion of the Property of a Wawa fueling station with eight fueling stations, 16 fueling pumps and a 5,919 square foot convenience store space (the "Proposal"). Per the Detailed District Development Plan drafted by Kimley-Horn and Associates, Inc. (the "Plan"), the total Property area is 4.71 acres and the Wawa site is approximately 2.88 acres of the Property (the "Site"). The Property lies within the Neighborhood From District and fronts both Taylorsville Road, a major arterial roadway, and Sweeney Lane, a local road that is also slated to become part of the Urton Lane Corridor, which, when that occurs, will most certainly increase the street's classification and traffic capacity.

In conjunction with the Plan, the Applicant is requesting waiver relief from Section 10.2.4 and Table 10.2.3 of the Land Development Code ("LDC") to allow a minor encroachment of 550 square feet of pavement into the perimeter landscape buffer area located in the southwest corner of the Site, as shown in more detail on the Plan (the "Waiver"). This particular area of encroaching pavement is necessary for the approach to the dumpster enclosure where a garbage truck will service the dumpster onsite. For the reasons stated herein, the requested Waiver complies with the Plan 2040, A Comprehensive Plan for Louisville Metro ("Plan 2040") and the criteria for granting waivers and, therefore, should be approved.

The requested Waiver will not adversely affect adjacent property owners because all required landscape planting material will be provided between and around the encroaching pavement, thereby meeting the intent behind the LDC's perimeter LBA requirement.

The Waiver complies with Plan 2040 for all of the reasons set forth in the Applicant's compliance statement submitted with its proposed zoning application, including that the Proposal for the Property will be landscaped with plantings and canopy trees and that an LBA between the proposed building improvements and the neighboring residential property

will be established and maintained to keep a continuous landscape screen and buffer along the perimeter of the Site. Plan 2040 encourages screening and buffering in transition areas, between form districts and use districts that might allow disparate intensities of development and uses. Plan 2040 also calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Here, the Applicant will provide the required screening material between the proposed C1, Commercial use district for the Property and the unused R-4, Single-Family Residential zoned property to the southwest of the Site. Therefore, whether the adjacent property is developed residentially or as something else, the Applicant will install all plantings required to be within the LBA to screen and buffer the dumpster enclosure from the neighboring property.

The extent of the Waiver of the LDC regulation is the minimum necessary to afford relief to the Applicant because it will provide the ample space necessary for garbage trucks to safely approach the dumpster enclosure while also providing the landscape buffer planting material required by the LDC for the Property's perimeter. The intent of applicable LDC Section is to provide a compatible relationship, namely via screening and buffering, between commercial uses and residential uses in Suburban Form Districts, the applicable Form in this case being the Neighborhood Form District. With the Applicant able to provide the required plantings onsite between the encroaching pavement and the perimeter property line, compatibility between the two properties as envisioned by the LBA regulations will be achieved, and, therefore, the Waiver is the minimum necessary to afford relief to the Applicant for development of the Proposal on the Property.

The strict application of zoning regulation requirements would deprive the Applicant of a reasonable use of the land and create an unnecessary hardship on the Applicant because the Applicant can provide the required plantings to screen and buffer the Proposal from the adjacent R-4, Single-Family Residential Property. If the Applicant were forced to slide the encroaching pavement east and outside of the LBA area, the area where the future vehicular connection between the Site and the portion of the Property to the south would be squeezed to where said connection would no longer be feasible. Therefore, given that the Applicant will be adhering to the requirements for perimeter planting in the LBA, it would create an unnecessary hardship on the Applicant if the Site was forced to be reworked because the Applicant's ability to install an important future cross-connection between adjoining properties would be frustrated.

LDC WAIVER JUSTIFICATION STATEMENT

LDC Section 5.6.1.C.1 – Non-Residential Building Window Design Standards

**OM3, LLC
WAWA**

**CASE No. 23-ZONE-0081:
12408 & 12412 TAYLORSVILLE ROAD, LOUISVILLE, KY 40299**

The Applicant, OM3, LLC, is requesting approval of a formal zoning application to change the zoning designation of the property located at 12408 & 12412 Taylorsville Road, Louisville, KY 40299 (the "Property") from its current R-4, Single-Family Residential zoning district to C-1, Commercial, to allow construction and operation on a portion of the Property of a Wawa fueling station with eight fueling stations and 16 fueling pumps and a 5,919 square feet of convenience store space (the "Proposal"). Per the Detailed District Development Plan drafted by Kimley-Horn and Associates, Inc. (the "Plan"), the total Property area is 4.71 acres and the Wawa site is approximately 2.88 acres of the Property (the "Site"). The Property lies within the Neighborhood From District and fronts both Taylorsville Road, a major arterial roadway, and Sweeney Lane, a local road that is also slated to become part of the Urton Lane Corridor. As other similar convenience store and convenience store/fueling station locations in Jefferson County have successfully done to allow for specific window glazing requirements on their street-facing facades, the applicant here must also request a waiver of LDC Section 5.6.1.C.1's window design standards for the Proposal on this Property so that undesirable views into the convenience store that would display the back of shelving, various storage areas, interior cabinets, break rooms/office, machinery, etc. are appropriately covered from the public. LDC Section 5.6.1.C.1 requires the proposed building to contain 50% clear windows and doors at street level on the building's street-facing facades along both Sweeney Lane and Taylorsville Road. For the reasons stated herein, the requested waiver complies with the criteria for granting waivers and, therefore, should be approved.

The building design locates one main entrance to the building along the Taylorsville Road façade; the door and windows associated with the customer entrance, as well as the majority of window surfaces on the Taylorsville Road façade, will have clear glazing, offering views into the building. A secondary rear entrance is located on the façade opposite Taylorsville Road, which is not a street-facing façade. In addition, at least four (4) windows will face Sweeney Lane, two-thirds of each window will have transparent glazing, while the bottom third will have darker glazing to not allow views into the back of the dishwasher storage and coffee bar equipment. The non-transparent windows will utilize spandrel glazing. Because the building is a retail store designed for customers to shop for various goods available on shelves, counters and refrigerators throughout the store, including along the interior of the store's outer walls, the use of clear-glass windows along certain areas of the exterior walls would provide views looking into the building of the back

of shelves or of appliances. There will also be extensive landscaping and tree plantings along the Taylorsville Road and Sweeney Lane frontages in front and to the east of the building, providing additional visual interest to the site and breaking up the building facades with natural elements, especially when viewing from street level as a pedestrian, cyclist or driver.

The requested waiver to allow less than 50% clear windows at street/pedestrian level will not adversely affect adjacent property owners because both the Sweeney Lane and Taylorsville Road building facades will have attractive street-facing façade designs, comprised of a mix of quality building materials and outfitted with windows features. Some of these street-facing windows will have darker glazing to block views into the store interior where certain store programs are positioned that would present unattractive features of the store's interior, such as dishwasher storage, coffee bar equipment, the back of shelving, etc. Other windows on the street-facing facades will have transparent glazing for views into the store, however. The difference between the two will hardly be detectable, if at all, to adjoining property owners and whether the adjoining property owner is viewing a darker or lighter glazed window from a distance will have no adverse effects on that adjoining property owner. The proposed Wawa convenience store building, when viewed from an adjoining property, will have animating architectural features typical of a retail building fronting a commercial corridor and, importantly, compatible with the surrounding uses in the area.

The requested waiver will not violate Plan 2040, A Comprehensive Plan for Louisville Metro, because Plan 2040's Goal 1, Policy 4 encourages new development and redevelopment be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the [Neighborhood] Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed design of the building meets the comprehensive plan because it will be constructed of quality design and building materials and achieve compatibility along the Taylorsville Road corridor. The proposed development represents a significant investment in the vitalization of a corner property that is slated in the future to be a well-trafficked intersection once Sweeney Lane becomes the extension to the Urton Lane corridor. The fact drivers and pedestrians passing by the commercial property will be unable to detect whether the building's windows afford views into the building will not erode the quality of the building's design, look and feel; for, architecturally, the windows will appear exactly as windows, thereby achieving visual interest of the street-facing façade through its animating features, respectively. For the foregoing reasons, the proposed building window design waiver complies with Plan 2040.

The requested waiver is the minimum necessary to afford relief to the Applicant because compliance with this building design requirement is not possible due to the interior layout of the convenience store's floorplan and if the Applicant were required to install clear windows in certain areas along these street-facing facades, then unattractive views into the store would become part of the building's design, which should be avoided. Said views would not provide a benefit to the store or the passerby, nor serve any legitimate function. Consequently, the strict application of the window design regulation

would deprive the Applicant of the reasonable use of the land and would create an unnecessary hardship on the Applicant because it would prevent the Applicant from using all of its interior space for merchandise and other operational functional support, making the proposed building less efficient and raising the costs of the overall site development just for the purpose of providing clear views into the commercial building. The proposed site design, building design, added pedestrian connections, and tree canopy plantings will be a significant improvement over the existing site conditions and the proposed building design incorporates architectural animating features and variation in building materials along its street-facing facades, complementing the affected streetscape. If the waiver here were to be denied, then it would require a significant redesign of the building's floor plan, which would jeopardize the project altogether.

For the foregoing reasons, as well as the reasons stated in the justification statements submitted with the Applicant's formal zoning application, OM3, LLC respectfully requests approval of waiver relief to allow the proposed building to not contain 50% clear windows at street level along the Taylorsville Road and Sweeney Lane building facades.

PARKING WAIVER PURSUANT TO LAND DEVELOPMENT CODE
SECTION 9.1.16.A TO ALLOW MORE THAN THE MAXIMUM
REQUIRED PARKING ON THE SITE

OM3, LLC
WAWA

CASE No. 23-ZONE-0081:
12408 AND 12412 TAYLORSVILLE ROAD, LOUISVILLE, KY 40299

The Applicant, OM3, LLC, is requesting approval of a formal zoning application to change the zoning designation of the property located at 12408 and 12412 Taylorsville Road, Louisville, Kentucky 40299 (the "Property") from its current R-4, Single-Family Residential zoning district to C-1, Commercial to allow construction and operation of a Wawa fueling station with eight fueling stations and 16 fueling pumps and a 5,919 square foot convenience store on a portion of the Property (the "Proposal"). Per the Detailed District Development Plan drafted by Kimley-Horn and Associates, Inc. (the "Plan"), the total Property area is 4.71 acres and the Wawa site is approximately 2.88 acres of the Property (the "Site"). The Property lies within the Neighborhood From District and fronts both Taylorsville Road, a major arterial roadway, and Sweeney Lane, a local road that is also slated to become part of the Urton Lane Corridor, which, when that occurs, will increase the street's classification and traffic capacity. The Property is approximately three quarters of a mile west of the Gene Snyder Freeway.

In conjunction with the Detailed District Development Plan for the Proposal on the Property, as drafted by Kimley-Horn and Associates, Inc. (the "Plan"), submitted alongside the Applicant's formal zoning application, the Applicant is requesting parking waiver approval pursuant to Section 9.1.16 of the Land Development Code ("LDC") to provide more parking spaces (52 non-EV parking spaces) on the Site than the maximum parking permitted for the use as set forth in the LDC (24 parking spaces), as shown in more detail on the Plan (the "Parking Waiver"). Submitted in support of the Parking Waiver is a Wawa Parking Analysis, dated October 18, 2023, compiled by Traffic Planning and Design, Inc. (the "Parking Study"), which looked at active Wawa stations in Pennsylvania and Delaware to assist in deriving a forecast for the Proposal's parking needs for the Site. Because of the reasons stated herein, the requested Waiver complies with the Plan 2040, A Comprehensive Plan for Louisville Metro ("Plan 2040") and the criteria for granting parking waivers as set forth in Chapter 9 of the LDC and, therefore, should be approved.

(a) The Parking Waiver is in compliance with the Comprehensive Plan; and

Plan 2040 calls for development to accommodate all modes of transportation which, except for access to transit, the development will furnish by installing sidewalks along its frontages with Taylorsville Road and Sweeney Lane, as well as connections from those

sidewalks to areas internal to the Site, including the convenience store; the Applicant will also provide bike parking for those living or working nearby who can safely bike to the Property. Plan 2040's Guideline 7, Policy 10 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. On-site parking standards should reflect the availability of on-street and public parking.

The immediate area, despite in recent years attracting a good number of new residences, both single- and multi-family dwellings, remains heavily dependent upon vehicular trips, especially given the lack of transit service to nearby areas. With this Property so close to the Gene Snyder Freeway, the fact that Taylorsville Road is a major arterial roadway that provides the most direct access from/to the Gene Snyder from the Property, and the fact that Sweeney Lane is to become the Urton Lane extension in the future, it is safe to say the Proposal on the corner Property will be very popular with motorists. There is no on-street parking in the surrounding area, however, and the property adjacent to the west was most recently approved for commercial zoning to support an animal hospital and without parking available to share with a neighboring fueling station. Thus, ample parking must be provided onsite and enough parking to accommodate peak hour commuters without those commuters having to circle the Site hunting for open spaces to park.

(b) 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; and

The Applicant is proposing the number of parking spaces it finds, through the study of existing Wawa stores, will best accommodate the proposed use on the Property so that it can operate safely and efficiently while also minimizing driver frustrations. Wawa attracts many customers for its fresh foods prepared daily. Therefore, the Wawa acts as a fueling station, convenience mart, and fast food restaurant without the drive thru all as one land use. The parking demand for the Proposal requires a higher supply on the Site and there is no adjacent use at this time with which it would make sense for the Proposal to share parking.

(c) The requirements found in Table 9.1.3B do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use and the requested increase is the minimum needed to so.

Per the Parking Study prepared by Traffic Planning and Design, Inc. ("TPD"), the maximum parking occupancy observed for a typical Wawa ranges from 7.70 to 8.62 parking spaces per 1,000 square feet. In order to avoid driver frustration when circulating the parking lot looking for a parking space, TPD typically suggests providing a parking supply which provides a surplus above and beyond the observed/calculated parking occupancy when determining the number of off-street parking spaces to be furnished onsite. For this purpose and this type of use (retail/service), TPD typically suggests a 10% parking surplus be employed.

As previously discussed, Wawa operates as a number of uses combined into one. For just a fueling station within a suburban form, LDC Table 9.1.3B suggests a maximum requirement of 1 onsite space per 250 sf. ($5,919/250 = 23.676$ spaces or, rounding up, 24 parking spaces). The Applicant currently reflects the 24 maximum parking count as the maximum allowed per the LDC. For convenience shopping, Table 9.1.3B suggests a 1 parking space per 200 square feet maximum allotment; and, for restaurant use, Table 9.1.3B suggests an even higher maximum of 1 parking space per 100 square feet. Thus, the Applicant believes a more accurate parking space demand for the Site is better reflected by a mix of land uses operating on the Site contrasted with the single land use of a fueling station.

Together as a Wawa use, Traffic Planning and Design, Inc. suggests to apply a range of 7.70 to 8.62 parking spaces per 1,000 square feet. The Proposal includes a 5,919 square foot building. Applying the suggested ratio of parking spaces to every 1,000 square feet in the proposed building creates a range of 45.576 to 51.022 spaces. Add the 10% surplus above and beyond the observed/calculated parking occupancy to combat driver frustration onsite, then the range of onsite parking spaces to provide climbs to 50.133 to 56.121 spaces. As a result, the Applicant's requested maximum of 52 (non-EV) spaces falls within this suggested range of onsite parking spaces and is the minimum needed above what is suggested by LDC Table 9.1.3B to do so.

101389917.1