

# Land Development and Transportation Committee

## Staff Report

August 25, 2016



|                          |  |
|--------------------------|--|
| <b>Case No:</b>          | <b>15ZONE1045</b>  |
| <b>Request:</b>          | <b>Change in zoning from R-4 to C-1 on approximately 0.99 acres with a variance and waiver</b> |
| <b>Project Name:</b>     | <b>Outer Loop Restaurant/Retail</b>  |
| <b>Location:</b>         | <b>5103 Outer Loop</b>   |
| <b>Owner:</b>            | <b>DFWM Outer Loop LLC</b>   |
| <b>Applicant:</b>        | <b>DFWM Outer Loop LLC</b>   |
| <b>Representative:</b>   | <b>Blomquist Design Group LLC</b>  |
| <b>Jurisdiction:</b>     | <b>Louisville Metro</b>  |
| <b>Council District:</b> | <b>24 – Madonna Flood</b>  |
| <b>Case Manager:</b>     | <b>Julia Williams, RLA, AICP, Planning Supervisor</b>  |

### REQUEST

- Change in zoning from R-4 to C-1
- Variance to permit the encroachment of parking into the 30' setback along the north property line
- Waiver to permit the encroachment of parking into the 25' LBA along the north property line
- District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is located on the north side of Outer Loop at the intersection of Buena Vista Court. Outer Loop is a parkway and major arterial which contains a mix of commercial uses to the west and residential to the east. The majority of the Outer Loop corridor from the I-65 interchange to Shepherdsville Road is a mix of non-residential uses with major commercial activity centers around the Jefferson Mall and Jefferson Commons properties. To the north of the site, there are single family residential uses as part of the Buena Vista and Morningside Heights subdivisions.

The proposal for the subject site is a 5,400 SF restaurant and retail use with a drive thru. Parking is located to the east of the building with access from both Buena Vista Court and Outer Loop. Landscape buffers are being provided along all property perimeters and the parkway with the exception of the western perimeter adjacent to existing commercial uses.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

|                                      | Land Use  | Zoning     | Form District |
|--------------------------------------|---|------------|---------------|
| <b><i>Subject Property</i></b>       |   |            |               |
| <b>Existing</b>                      | Single Family Residential                             | R-4        | N             |
| <b>Proposed</b>                      | Restaurant/Retail                                     | C-1        | N             |
| <b><i>Surrounding Properties</i></b> |   |            |               |
| <b>North</b>                         | Single Family Residential                             | R-4        | N             |
| <b>South</b>                         | Single Family Residential                             | R-4        | N             |
| <b>East</b>                          | Single Family Residential<br>Multi-Family Residential | R-4<br>R-6 | N             |
| <b>West</b>                          | Mixed Commercial Center                               | C-1        | RC            |

## PREVIOUS CASES ON SITE

- 12129: A conditional use permit for off-street parking.

## INTERESTED PARTY COMMENTS

It is appalling enough that our houses & elementary school has to stare at tall weeds & a fence behind the monstrosity of Academy. The Okolona Library should have went there FOR THE COMMUNITY & THE CHILDREN!! This never would happen in front of Farmer, Stopher, or the grand Nortons Commons schools. Pulling out of our neighborhood St Buena Vista has been blinded by the property's fence for years. Now we have to pull out quickly into speeding traffic there and/or traffic going into Academy especially on the weekend blocks getting out of neighborhood. A traffic light must go there immediately. There is no way buses are going to get out there safely once Walmart goes in on Outer Loop!

I am disgusted but not surprised that Madonna Flood has a zoning position with zero previous experience. Rezoning has caused our neighborhood nothing but problems-discarded carts all over the neighborhood from Target, traffic preventing buses from getting out in a timely manner to Outer Loop, flooding as evidenced by April 2015, etc. It is time our neighborhood gets priority over strip malls. Please think of the children for once. Thank you.- Manette Gutterman

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

## STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

## STAFF ANALYSIS FOR REZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within

a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

### TECHNICAL REVIEW

- The variance for the encroachment into the 30’ setback along the north property line needs to be requested
- A revised plan modifying the raised median for the right in/right out along Buena Vista needs to be submitted.

### STAFF CONCLUSIONS

The proposal is ready for a public hearing date to be set.

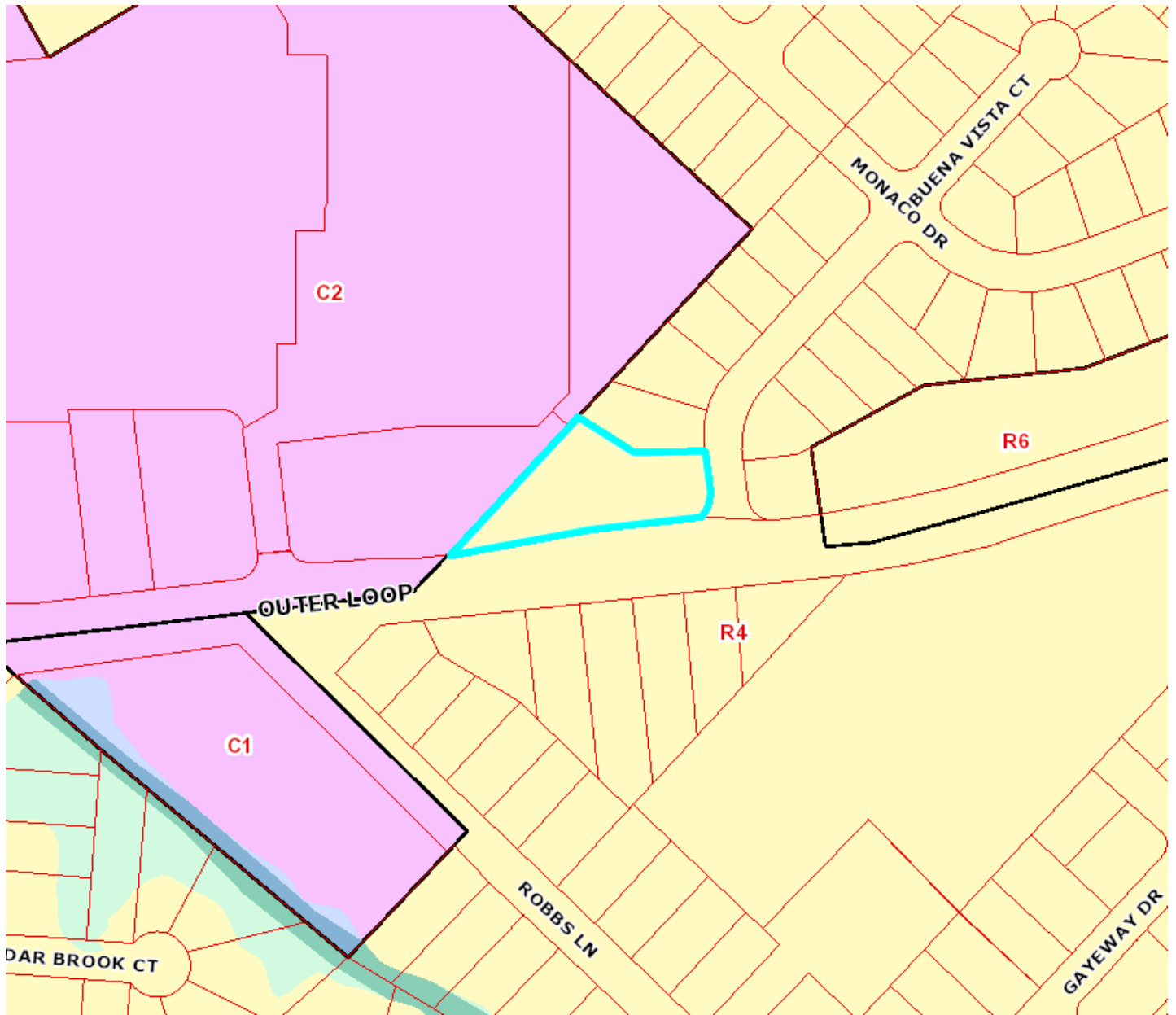
### NOTIFICATION

| Date    | Purpose of Notice   | Recipients   |
|---------|---------------------|--|
| 8/11/16 | Hearing before LD&T | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Subscribers of Council District 24 Notification of Development Proposals |
|         | Hearing before PC   | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Subscribers of Council District 24 Notification of Development Proposals |
|         | Hearing before PC   | Sign Posting on property   |
|         | Hearing before PC   | Legal Advertisement in the Courier-Journal   |

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



**3. Proposed 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. The development shall not exceed 5,400 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - 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 for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The property owner shall provide a cross over access easement if the property to the west is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.