

**PLANNING COMMISSION MINUTES**  
**October 17, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1045**

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

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 Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:03:02 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle, Suite D, Louisville, Ky. 40223  
Diane Zimmerman, 9420 Bunsen Parkway, #225, Louisville, Ky. 40222

**Summary of testimony of those in favor:**

00:14:21 Mr. Blomquist discussed the following: there will be an 8 foot privacy fence with shrubbery at a 25 foot setback; a dumpster pad will be placed in back of the building; worked out right-in, right-out with Public Works; outdoor liquor sales request was removed; drainage to detention basin; will plant trees; and will provide sidewalk on north edge of property.

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00:31:00 Ms. Zimmerman summarized the Trip Generation Analysis and Crash Analysis.

**The following spoke in opposition to this request:**

Jane Summer Stambaugh, 7624 Buena Vista Court, Louisville, Ky. 40219  
Aaron Burnett, 5402 Monaco Drive, Louisville, Ky. 40219  
Emmett Patterson, 5416 Monaco Drive, Louisville, Ky. 40219  
Ron Hillison, 5213 Charmane Drive, Louisville, Ky. 40219  
Sherman Shields, 5408 Layno Road, Louisville, Ky. 40219  
Melissa House, 7625 Buena Vista Court, Louisville, Ky. 40219  
Mike Phillips, 7602 Buena Vista Court, Louisville, Ky. 40219  
Scott Bauer, 7621 Buena Vista Court, Louisville, Ky. 40219  
Pat Emly, 7406 Cooper Chapel Road, Louisville, Ky. 40229

**Summary of testimony of those in opposition:**

01:05:09 Ms. Stambaugh stated the following as reasons for being in opposition: noise will be intrusive as she has small children; dumpster may cause rodent issues; traffic study doesn't reflect weekends; loitering; blasting issues; and it's just not ideal for a residential area.

01:18:10 Mr. Burnett has been in construction for 32 years and has seen a lot of plans that look good on paper. Traffic has gotten worse over 14 years lived there. The new Walmart will add to an already bad situation. The traffic study is not valid. The street is private and the applicant should have to get everyone's permission.

01:22:13 Mr. Patterson said the traffic is horrible and the proposal will just add to it.

01:23:56 Mr. Hillison asked, "How will first responders get into the neighborhood when the intersections are blocked? Somebody's going to die."

01:25:08 Mr. Shields stated he's an engineer. The traffic situation is horrible now but will be worse with the proposal. "It's not a good fit for the neighborhood."

01:28:09 Ms. House lives directly across from the proposal. Blasting has messed up her foundation. "It's a traffic nightmare."

Also, Ms. House doesn't want additional cut-through traffic on her street. Put anything in there except something with a drive-through.

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01:35:33 Mr. Phillips has lived in the neighborhood for 49 years. It's very hard to get in and out of the neighborhood as it is. There is a safety issue.

01:36:47 Mr. Bauer said he's been hit about 15 times from people making U-turns. Chic-Filet empties their dumpster at 3:30 in the morning and putting something closer than them will be worse. "This is a bad lot in a bad spot and it will fail."

01:42:07 Ms. Emly owns and rents a house directly across from the proposal. Outer Loop traffic is outrageous from October through January, due to the holiday. The proposal is not good for the neighborhood.

01:45:00 Commissioner Brown remarked, "Speaking in my official capacity as Assistant Director of Metro Public Works, 444 S. 5<sup>th</sup> St. My agency is responsible for the public roads. Buena Vista is a publicly dedicated roadway so it is maintained by Metro Public Works. As far as storm debris removal, in severe events we will collect debris throughout but occasionally what happens is private property owners will bring storm debris to the public right-of-way, which is technically illegal dumping. There are conditions where we would not service public roads. If a tree fell on that road, we would be out there to remove it. We fill potholes and pave that road."

**Rebuttal**

01:51:14 Mr. Blomquist stated he doesn't know if they will be blasting, but doesn't think so. The applicant is willing to agree to several binding elements concerning: heavier screening; dumpster pick-up times; hours of operation; and an 8 foot concrete wall.

**Deliberation**

02:29:29 Planning Commission deliberation.

Commissioner Peterson stated he prefers CN. Also, he likes the concrete fence and eliminating the Buena Vista entrance/exit.

Commissioner Smith prefers CN and wants to strike a balance between the neighbors and the applicant.

Commissioner Brown agrees with a C-1 zoning change and said the noise can be handled by the Noise Ordinance.

Commissioner Lewis is concerned about the circulation of the drive-through, but agrees it should be commercial (CN or C-1).

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Commissioner Carlson stated the drive-through doesn't work. There needs to be a safe and efficient flow of traffic.

Commissioner Tomes stated the site is not R-4 property and agrees to closing Buena Vista and providing additional landscaping. The mason wall provided should be the best.

Chairman Jarboe said there needs to be a balance.

Mr. Baker, legal counsel, said the only question to be answered today is if the plan complies with the guidelines, not if you like or don't like the request. The committee does not want to re-design the proposal for the applicant.

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

03:11:58

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case No. 15ZONE1045 to the Land Development and Transportation Committee to a date uncertain to allow the applicant time to address the following: location of the speakers or menu boards associated with the drive-through; possible site design features to minimize the impact of the drive-through and vehicular use on the abutting residential properties; clarify hours of operation; remove the access of Buena Vista Ct.; and internal connectivity on the site to improve accessibility.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Jarboe, Lewis, Peterson, Smith and Tomes**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Howard, Kirchdorfer and Turner**