

# Board of Zoning Adjustment

## Staff Report

March 17, 2021



<b>Case No:</b>	20-VARIANCE-0172/20-WAIVER-0134/20-WAIVER-0135
<b>Project Name:</b>	Pandher
<b>Location:</b>	6804 Shelbyville Rd
<b>Owner(s):</b>	GSD Petroleum
<b>Applicant:</b>	Sanjit Pandher
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	2 – Barbara Shanklin
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUEST(S)

- **Variance (20-VARIANCE-0172)** of Land Development Code section 5.1.12 to exceed the approximately 30-foot infill setback along Mile of Sunshine by up to 50 feet as shown on the proposed development plan. Variance of Land Development Code section 5.1.12 to exceed the approximately 73-foot infill maximum setback by up to 36 feet as shown on the proposed development plan.
- **Waivers (20-WAIVER-0134 and 20-WAIVER-0135)**
  1. Waiver of Land Development Code sections 5.5.2.B.1.a and 5.9.2.A.1.b to not provide direct pedestrian and vehicular connections to adjacent commercial development.
  2. Waiver of Land Development Code section 10.2.10 allow a parking lot to encroach into the required Vehicle Use Area Landscape Buffer Areas as shown on the proposed development plan.
  3. Waiver of Land Development Code section 10.2.12 to not provide all required Vehicle Use Area Internal Landscape Areas as shown on the proposed development plan.

### CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a gas station and convenience store development on a vacant site of approximately .78 acres. The site is zoned C-1 in the Neighborhood form district near the Okolona area of south-central Louisville Metro.

### STAFF FINDING

The variance requests and waiver number 1 are adequately justified and meet the standards of review. Waivers 2 and 3 are not adequately justified and do not meet the standards of review. The proposed setbacks will not negatively impact the surrounding area, as there are commercial uses with a variety of setbacks along Shepherdsville Rd. The position of the proposed drive-thru lane, dumpsters and other accessory uses on site would make it difficult to provide shared circulation towards adjacent sites. Those sites are occupied and there is not currently cross-connection. The landscape waivers are not adequately justified, as the lack of screening and ILAs would not be in keeping with the Comprehensive Plan requirements to break up large impervious areas and to buffer adjacent to public roadways.

## **TECHNICAL REVIEW**

The requests are associated with a Category 2-B development plan 20-CAT2-0031 currently under staff review. Transportation planning, KYTC and MSD have indicated preliminary approval of the associated development plan.

## **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this development.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE:**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health safety or welfare since provisions for safe vehicular and pedestrian traffic will be provided. The development will meet all building and safety codes.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the area has a varied commercial development pattern with a mix of setbacks.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since safe vehicular and pedestrian circulation in and around the site will be provided.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations since the development is in keeping with the development pattern in the area and allows for the redevelopment of an existing vacant commercial site.

## **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

2. 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.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: 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 they are requesting a variance along with a preliminary development plan.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1**

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will not adversely affect adjacent property owners, as the adjacent sites are already developed commercial sites and do not have cross connection with the subject site.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the comprehensive plan, as it will allow the redevelopment of an existing commercial site within an established activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public. Adequate pedestrian circulation between the sites is served via the public sidewalk network.

- c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

- d. Either: 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require significant redesign of the site to accommodate drive-thru, dumpsters, compressed air and other accessory services.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2**

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will adversely affect adjacent property owners, as adequate buffering and screening would not be provided around the development site.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will violate the comprehensive plan, specifically Community Form Goal 1, Policy 12 which states in part "Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians.

Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots...”

- c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant. The applicant could redesign portions of the site to provide required screening and minimize encroachments into required buffers.

- d. Either: 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant, as adequate screening and buffering is required of all parking areas adjacent to roadways.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 3**

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will adversely affect adjacent property owners, as adequate internal landscape islands will not be provided on the subject site.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will violate the Comprehensive Plan, particularly Livability Goal 1, Policy 38 which states “Encourage parking lot greenspace and stormwater management standards that enhance the communitywide tree canopy and minimize surface runoff.” Per Land Development Code 10.2.12 “Landscape areas shall be provided within all Vehicular Use Areas to break up large impervious areas and allow for a greater distribution of tree canopy coverage and to provide the opportunity: to capture parking lot stormwater runoff, thus increasing water quality: and retaining greater amounts of storm water on site through infiltration.” The waiver would be an unreasonable circumvention of this section.

- c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,

STAFF: The extent of the waiver of the regulation not the minimum necessary to afford relief to the applicant. All required ILAs and plantings should be provided on the subject site.

- d. Either: 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant, as all vehicle use areas are required to provide adequate internal landscaped areas.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **waivers**

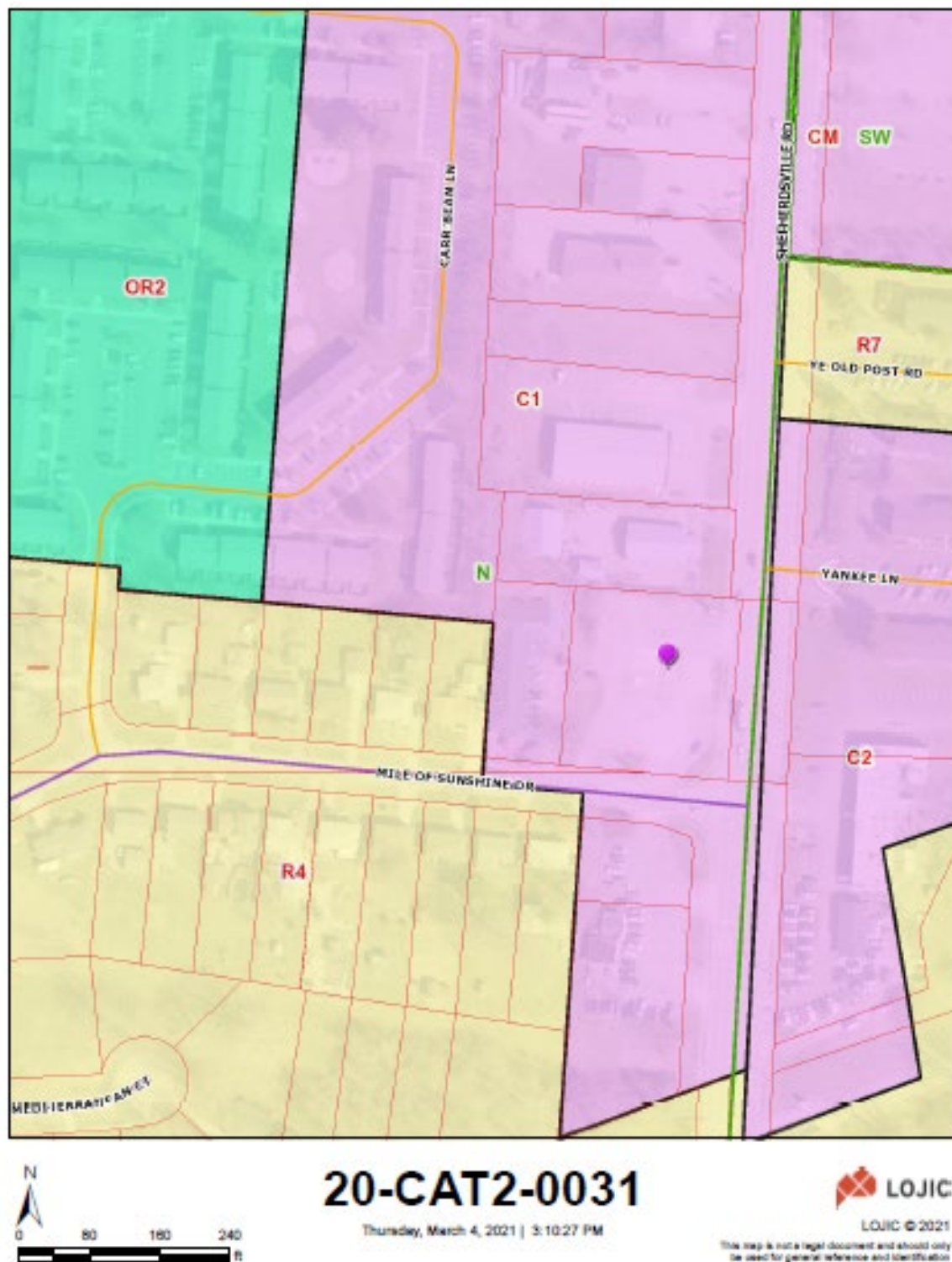
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3-1-20	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 2

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map





2. Aerial Photograph



**20-CAT2-0031**

Thursday, March 4, 2021 | 3:09:33 PM



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This map is not a legal document and should only be used for general reference and identification.