

Development Review Committee

Staff Report

April 14, 2021



Case No:	20-ZONE-0082
Project Name:	Circle K Landscape Plan & Waiver
Location:	404 & 406 Mt. Holly Road
Owner(s):	Macs Convenience Stores LLC, Harold Smith Jr.
Applicant:	Circle K
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Review** of Landscape Plan to determine compliance with Condition of Approval (21-LANDSCAPE-0025)
- **Waiver** from 5.5.1.A.3.a to omit the required 3-foot masonry wall between parking and the principal street (21-WAIVER-0028)

CASE SUMMARY/BACKGROUND

The subject site is located near the roundabout intersection of Mt. Holly Road with Fairdale Road, and consists of three contiguous parcels. It is currently developed with a gas station/convenience store on two parcels, and a restaurant on the third. The applicant requested that the restaurant parcel be rezoned from R-4 to C-1 in order to redevelop the site with a new 5,200 square foot convenience store and gas station. The other two parcels were already zoned C-2 and have remained C-2.

The Fairdale fire station is located to the west. Commercial uses are located at the intersection to the north. Single-family residential abuts the site to the south and east.

This property is located in the study areas for the Fairdale Neighborhood Plan, and the related Fairdale Village Center plan. The Fairdale Village Center plan Big Idea #9: Design Standards would encourage a pedestrian-friendly, "Fairdale-feel" design to the site.

The rezoning request was heard at the Planning Commission on January 21, 2021, and Planning Commission recommended approval to Metro Council with the following condition of approval:

The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

Metro Council approved the rezoning request on February 25, 2021 with this condition of approval retained. The applicant therefore comes to the Development Review Committee for review of the landscape plan to determine compliance with the condition of approval.

The applicant additionally requests a waiver to omit the masonry wall between parking and the principal street as required by LDC section 5.5.1.A.3.a.

STAFF FINDING

The proposed landscape plan is in compliance with Chapter 10 of the Land Development Code. The Development Review Committee must determine if the plan is in compliance with the condition of approval. Staff finds that the waiver is adequately justified and meets the standard of review provided that the landscape plan is approved.

TECHNICAL REVIEW

Land Development Code (2021)

Fairdale Neighborhood Plan (2006)

Fairdale Village Center Plan (2018)

INTERESTED PARTY COMMENTS

No interested party comments related to the landscape plan or waiver have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.5.1.A.3.a

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners the required wall is between the parking and the principal structure.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 describes the Village Center form district as comprising a small-scale village center with a mixture of uses, and the Fairdale Village Center Plan encourages a pedestrian-friendly, "Fairdale-feel" site design. Provided that the landscape plan is found to be compliant with the condition of approval, the waiver would be in compliance with Plan 2040.

- (c) The extent of the 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 as the location in front of the property where the wall would normally be placed is being used to provide additional landscaping to comply with the condition of approval.

- (d) Either:
(i) 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
(ii) 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: 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 because it would be difficult to comply with the condition of approval and provide the masonry wall together.

REQUIRED ACTIONS

- **APPROVE** or **REJECT** the **Landscape Plan**
- **APPROVE** or **DENY** the **Waiver**

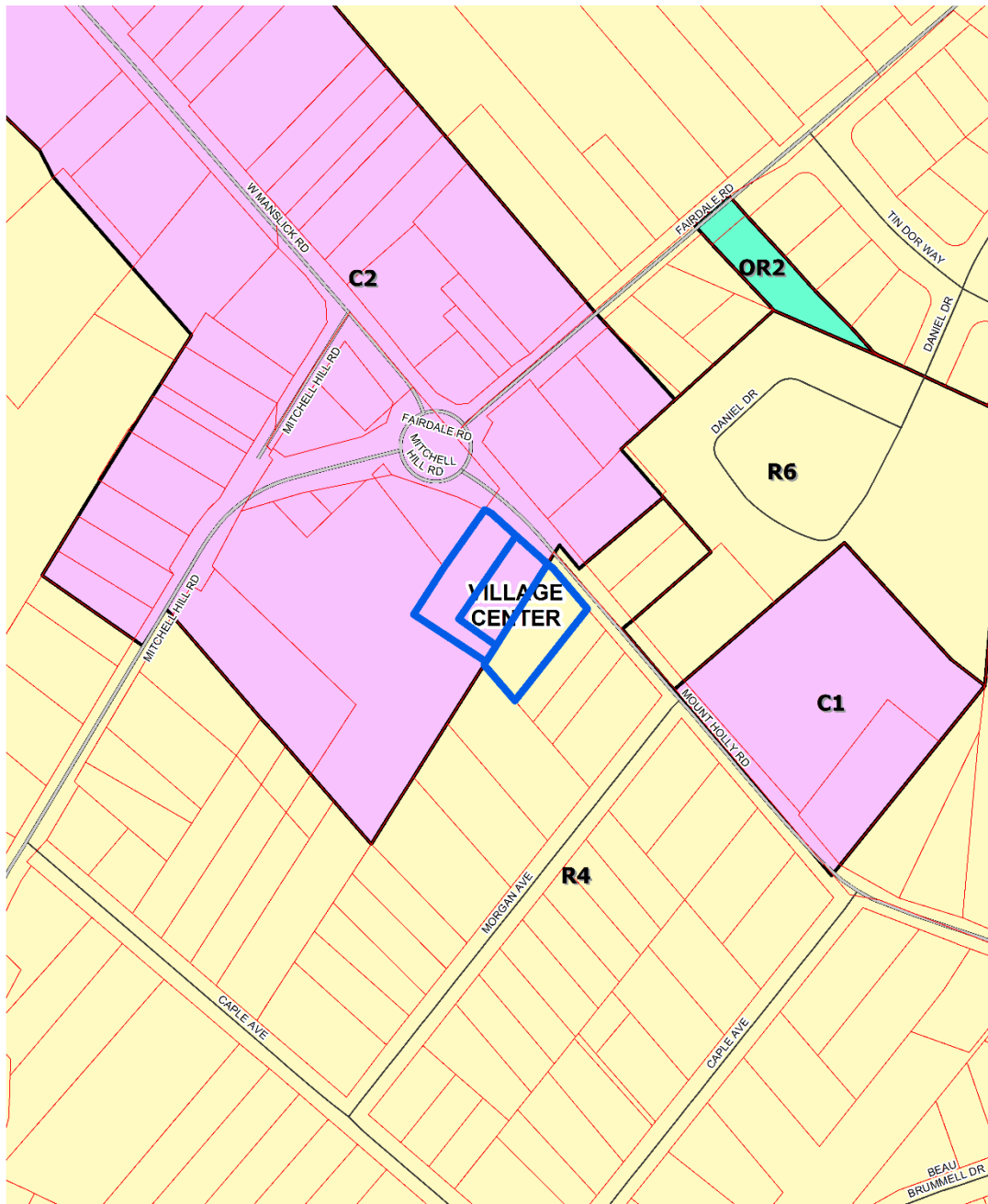
NOTIFICATION

Date	Purpose of Notice	Recipients
03/31/2021	Hearing before DRC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 13

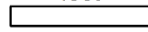
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Binding Elements and Condition of Approval

1. Zoning Map



404 & 406 Mt Holly Road
feet



220

Map Created: 8/14/2020

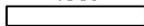


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2. Aerial Photograph



404 & 406 Mt Holly Road
feet



220

Map Created: 8/14/2020



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3. Binding Elements and Condition of Approval

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.
 - 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 10, 2020 Land Development and Transportation Committee 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. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
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.

Condition of Approval

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.