

ORDINANCE # 2019-331

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF WALDEN, R-1 RESIDENTIAL ZONE AND C-1 GENERAL COMMERCIAL ZONE TO VC-1 VILLAGE CENTER ZONE WITH CONDITIONS, AND MORE PARTICULARLY DESCRIBED AS HAMILTON COUNTY TAX MAP PARCELS 098-059(PART) AND 098F-A-001 THROUGH 005

WHEREAS, Tennessee Code Annotated (TCA) §13-7-201 allows for the zoning of territory within a municipality; and

WHEREAS, the Chattanooga-Hamilton County Planning Commission has certified zoning districts within the Town of Walden as provided for in TCA §13-7-202; and

WHEREAS, TCA §13-7-204 authorizes amendments to a zoning map; and

WHEREAS, in accordance with TCA §13-7-203 subsection (b), during a regularly scheduled meeting held August 12, 2019, the Chattanooga-Hamilton County Regional Planning Commission, considered the application of applicant LOP, LLC (“Applicant”), case no. 2019-0104 relating to the above tracts; and

WHEREAS, in accordance with T.C.A. §13-7-201 (b), in a county having a population of not less than 287,700, nor greater than 287,800 according to the 1980 federal census, or any subsequent federal census, the chief legislative body of any municipality is further authorized and empowered to rezone properties conditionally, where the agreed conditions are designed to ameliorate injuries created by the rezoning to surrounding property interests or to municipal interests; and

WHEREAS, the Chattanooga-Hamilton County Municipal Planning Commission recommended to the Town of Walden that the request to rezone as submitted be denied, but that the following be approved:

Rezone 9 acres to VC-1 Village Center Zone, and to waive the Development Regulations (1) through (5) of Section 4.05 Village Center Zone (e) Development Regulations, subject to the following conditions; 1) Amount of building area available for retail uses shall not exceed eighty percent (80%); 2) No more than one curb cut permitted onto Taft Highway; 3) Minimum building frontage on any public right-of-way or designated internal private street shall be sixty percent (60%); 4) Publicly accessible, centrally located open space shall be provided within the VC-1 Village Center Zone area; and 5) A site plan shall be provided to and approved by the Regional Planning Agency before building permits are approved by Hamilton County, per Article 4 Section E-2, indicating compliance with the conditions noted above; and

WHEREAS, in accordance with TCA §13-7-203, subsection (a) a public hearing was held with at least fifteen (15) days' notice being given prior to final reading of this ordinance;

NOW THEREFORE, BE IT ORDAINED by the Town of Walden, Tennessee as follows:

Section 1: That the following tract (“Subject Property”) be rezoned to Village Center Zone (VC-1):

Part of six unplatted tracts of land located in the **1800** block of Taft Highway and the 800 block of Timesville Road beginning at the southwest corner of Tax Map 098F-A-005 thence northeast 428.34 feet to a point, thence northeast 424.16 feet to a point, thence southeast 612.61 feet to a point in the north line of the **1800** block of Taft Highway, thence southwest along the north line of said highway 174.17 feet to a point, thence continuing southwest along said north line 212.15 feet to the southwest corner of Tax Map 098F-A-002, thence southwest along Timesville Road S 79° 07' 18" W a distance of 571.73 feet to the point of beginning and being described as Tracts 2 thru 4, 6 and parts of Tracts 1 and 5 in Deed Book 11483, Page 249, ROHC. Tax Map 098059 (part), 098F-A-001 thru 003, 005 and part of 098F-A-004 as shown on the attached map.

Section 2: That the Development Regulations of Section 4.05(e)(1)-(6) of the Walden Zoning Ordinance be waived as the conditions imposed in Section 3 of this address the same or similar policy concerns.

Section 3: The following conditions shall apply to the rezoning of the Subject Property:

1. Excluding the approved grocery store, the total square footage of retail for the remaining buildings shall not exceed 80% of the total leasable area.
2. No more than one curb cut is permitted on Taft Highway.
3. Minimum building frontage on Taft Highway right of way shall be 80%
4. Maximum building footprint of any one building shall not exceed 6,000 sq. ft. but a grocery store footprint will be allowed up to 44,000 sq. ft.
5. The applicant shall submit an open space protection plan for review and approval by the Board of Mayor and Aldermen (the “Board”) that designates at least 30% of the site area as protected open space and is consistent with the Phase II Site Plan submitted with applicant’s application to maintain such land in a natural state with no grading or clearing, including the permanent passive green space depicted along Timesville Road provided however the permanent passive green space along Timesville Road will be cleared and graded during construction and then landscaped per the site plan.
6. The grocery store and small shop retail structure will incorporate to the extent allowed by applicable permitting agency the architectural elements in design as shown on those certain architectural design renderings by Bob Franklin of Franklin Architects dated September 10, 2019 and attached as **Collective Exhibit A**. The grocery store building entry should be designed as a prominent feature of the building.
7. Prior to applying for building permits, applicant shall submit a general site plan addressing landscaping, architecture, signs, lighting and buildings and their proposed uses to the Regional Planning Agency, which will make recommendations to the Board. The site plan will then be subject to final approval of the Board, and

compliance with the approved site plan shall be enforceable as a condition imposed by this ordinance. Applicant will not apply for a building permit without an official communication from the Town indicating the Board's approval of the general site plan.

8. Applicant shall submit as part of the site plan package a delineation of the proposed sidewalk lanes, widths and materials. All sidewalks shall maintain a minimum horizontal depth of 8 feet on public rights of way. Internal pedestrian lanes shall maintain a minimum depth of 6 feet.
9. All ground mounted light fixtures within parking areas shall be no higher than 30 feet. Light fixtures for pedestrian areas shall not exceed 15 feet in height. All light fixtures must be full cut-off (shielded) except for pedestrian lighting that has a lamp lumens not to exceed 9,500. Parking lot lighting shall be controlled so that light does not exceed zero-foot candles when measured at property lines shared with any adjacent lots either used or zoned as residential. All flood light fixtures must either be aimed down at least 45 degrees or shielded. Lighting under vehicle canopies must be less than 24 maintained foot candles and be designed to prevent off-site glare.
10. Any activity triggering a stormwater or land disturbing permit is required to incorporate runoff reduction measures designed, constructed and maintained, to manage (infiltrate, evapotranspire, harvest and/or use), at a minimum, the first one (1.0) inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation, with no discharge from the project site to surface waters. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters. The applicant is responsible for demonstrating compliance with this standard from a certified engineer.
11. Interior parking islands shall be planted with large shade trees at a minimum rate of one tree per six parking spaces. An interior parking island must be provided every 10 spaces (no more than 10 continuous parking spaces without a landscaped island or peninsula). Each required island must be planted with at least one large shade tree. All planted trees must have an expected maturity height of 35 feet. Installed trees shall have a minimum caliper of two (2) inches as measured from two and one-half (2½) feet above grade level. Each interior island or peninsula shall be planted with

- grass or other living ground cover material. Each interior island shall have a minimum width of thirteen feet and a minimum planted area of 400 square feet. Each interior peninsula shall have a minimum width of thirteen feet and a minimum planted area of 200 square feet. The owner will be responsible for replacing dead landscaping and trees in perpetuity.
12. Along all public rights of way, a street yard with a minimum depth of 8 feet be provided and planted with trees at a minimum rate of 1 tree per 35 linear feet. Trees may be grouped, but no closer than 20 feet apart. Trees shall have an expected mature canopy height of at least 35 feet. Installed trees shall have a minimum caliper of two (2) inches as measured from two and one-half (2½) feet above grade level. The landscape yard shall consist of grass or other living ground cover material.
 13. No pole mounted signs are permitted. All free-standing signs shall be ground mounted with a maximum height of 6 feet, and a maximum width of 8 feet. All signs shall be externally illuminated. No internally illuminated signs are permitted. Ground mounted signs must be of masonry or stone material. As provided in Condition 7 above, Applicant shall submit a signage plan for review and approval by the Board that meets these standards.
 14. All exterior building materials shall consist of masonry, brick or wood. Applicant shall submit a materials palette for review and approval by the Board.
 15. Applicant or any successor in interest shall pay for a traffic impact study prepared by an engineer selected by the Board and will be responsible for paying for or otherwise providing improvements to Taft Highway or the Timesville Road intersection to address any substantial impact identified by the study, or any subsequent study, subject to approval by the Tennessee Department of Transportation
 16. Architectural elevations will not have blank walls visible from any right of way and will be subject to final approval by the Board. No retaining wall shall be over four (4) feet in height nor visible to residents of Timesville Road.
 17. All buildings will be substantially completed within ninety (90) days from the substantial completion of the grocery store.

18. Upon approval of the final plat, the owner will complete the donation of the land shown on the plat plan to the Town by deed, dedication or other appropriate conveyance.
19. The requirements of Section 5.01 of the Walden Zoning Ordinance apply to the development of the Subject Property. With respect to wastewater treatment, Applicant, any successor in title, or any future developer in contract with Applicant or a successor, must obtain at their cost and provide to the town of Walden a complete soil analysis, not simply a perc test, to determine if onsite sewage treatment is possible and present to the town of a TDEC or other appropriate permitting entity permit forty-five (45) days before development (soil disturbance of any kind) begins. Further, Applicant, any successor in title, or any future developer must also provide to the town expert analysis that wastewater will not impair the headwaters of any receiving waterway, Read's Creek or Middle Creek, and will not cause the e coli counts to increase. Applicant, any successor in title, or any future developer shall post a bond in the amount fixed by Section 5.01 (c) of the Walden Zoning Ordinance to cover remediation of the land, subject to the proposed wastewater treatment facility, for any potential failure of the wastewater treatment facility.
20. The parking area may not be used for the sale of vehicles, storage of recreational vehicles, or outdoor storage of merchandise or goods not otherwise allowed under the Town Zoning Ordinance.
21. Hours of operation of all commercial businesses shall be limited to 7:00 a.m. to 11:00 p.m. No deliveries by large trucks or similar activities shall take place between the hours of 11:00 p.m. and 6:00 a.m. No refuse collection shall take place between the hours of 8:00 p.m. and 8:00 a.m.
22. 75% of all parking lot lights must be turned off between the hours of 11:30 p.m. and 6:30 a.m.
23. All dumpsters and mechanical units must be screened (by fencing or otherwise in a manner approved by the Board) so they are not visible from any public right-of-way or from any adjacent properties either used or zoned as residential and noise from mechanical units shall be controlled with mufflers or other suitable noise-suppression devices.

