



Department of City Development
City Plan Commission
Redevelopment Authority of the City of Milwaukee
Neighborhood Improvement Development Corporation

Lafayette L. Crump
Commissioner

Vanessa L. Koster
Deputy Commissioner

Ald. Spiker
13th Ald. District

CITY PLAN COMMISSION ZONING REPORT

Ordinance File No. [220032](#) (development approval) and [220033](#) (deviation from overlay standards)

Location: 350 West Layton Avenue

**Applicant/
Owner:** 300 West, LLC (owner)

**Current
Zoning:** Local Business (LB1), Layton Plaza Development Incentive Zone (DIZ), established in 2004

Proposal: These files refer to two quick service restaurants with drive-through facilities at 350 West Layton Avenue, within the Layton Plaza Development Incentive Zone (DIZ) overlay, in the 13th Aldermanic District. The applicant has also requested a deviation from the performance standards of the DIZ.

As part of the development, the subject site will be divided into two lots. A Taco John's is planned for the west lot and Popeye's will be on the east. A certified survey map (CSM) has been drafted to divide the site into two lots for this development.

The site is currently the last undeveloped lot in the Layton Plaza DIZ, which was created in 2004 and establishes a permitted use list as well as performance (design) standards. Fast food/carry-out restaurants and drive-through facilities are both allowed per the overlay but subject to a public hearing and approval by the City Plan Commission.

Elements of the project that are under consideration by the commission include those that are prescribed by the performance (design) standards of the DIZ. Additionally, a request to deviate from specific DIZ performance/design standards requires a public hearing to be held before the commission.

Where the DIZ is silent on specific zoning standards, the base, LB1, zoning standards apply. If the proposal cannot meet the applicable LB1 zoning standards, Board of Zoning Appeals (BOZA) approval is also necessary. In this case, the proposal went before BOZA on May 5, 2022 for two items: proposal to exceed

the maximum allowed parking spaces based on the use and square footage of each building, and the front door orientation of each building. BOZA approved these variances.

Following are elements that the DIZ regulates, and demonstration of how the project meets these standards:

| DIZ Standard | Project Standard |
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| Front setback from Layton shall be a maximum of 75 feet. | Building setback from Layton Av. is approximately 66 feet for the eastern building (Popeye’s) and 75 feet for the western building (Taco John’s). Setback is consistent with neighboring parcels and provides space for landscaping and outdoor patio. |
| The minimum building setback from South 5th Street is 75 feet. | See deviation table below. |
| Provide direct pedestrian connections between sidewalks and building entrances and differentiate pedestrian and vehicular areas with crosswalks from parking areas to building entrances. | Direct pedestrian access is provided between the sidewalk on Layton Ave and both building entrances. These walkways, including locations where the path crosses vehicular areas in the parking lot, are paved in concrete to set them apart. |
| Driveways – 2 curb cuts are allowed along Layton. Maximum drive aisle must not exceed 30 feet in width. | One curb cut exists along Layton at the Golden Corral lot. One curb cut is proposed for this development along Layton Avenue, and will be 24 feet wide, meeting the DIZ standard. |
| Locate parking areas mid-block instead of at corners. Provide curbed islands with landscaping to visually divide the parking lot and provide pedestrian safety. At a minimum, provide 2 trees per curb island along the primary frontage. | Parking lot is located mid-block away from the corner. Curbed landscape islands and buffers are provided, along with designated pedestrian walkways. The required number of trees within the landscape islands has been provided. |
| Locate dumpsters and service areas where they are not visible from the public street and enclose/screen dumpsters appropriately. | Trash enclosure and delivery area are located at the back of each building and are not visible from Layton Avenue. Both enclosures are screened. |
| Light poles within parking areas may not exceed 25 feet in height and pedestrian areas may not exceed 12 feet in height. | All new drive aisle pole mounted fixtures will be installed on a 22’ square steel pole on top of a 3’ concrete base to match existing fixtures and poles. |

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| Maximum building height shall be 40 feet. | The maximum height for the proposed Popeye's building is approximately 23 feet. The proposed Taco John's has a maximum height of approximately 24 feet. |
| Variety in the building design is encouraged. Blank, unarticulated walls facing the street are not permitted. Modulate facades with articulated bays, windows and openings. | Both buildings have facades that are articulated in both depth and height. Multiple building materials are used and window patterns create visual interest on street facing facades. |
| Facades along the primary frontage (Layton Avenue) must contain the most architecturally significant materials and fenestration. | The Layton Avenue façade of Popeye's includes all brick materials, differentiated by color. This façade also has prominent glazing. Taco John's primary frontage façade has expansive glazing, prominent signage, a thin brick base and S. 5 th Street-facing massing element, and fiber-cement panel. |
| Up to 2 monument signs are permitted, and may not exceed 27 feet in height. Signs must incorporate a masonry base that coordinates with the building materials, and shall not exceed 200 square feet on each side. | See deviation table below. |

Deviation Request from Performance Standards:

The Layton Plaza DIZ overlay establishes permitted and prohibited uses, as well as design standards for developments within the overlay. The applicant is requesting to deviate from the standards noted below. Per the zoning ordinance, the following criteria must be met in order to allow a deviation:

1. The purpose of the overlay zone is met.
2. The deviation improves the aesthetics of the site.
3. If applicable, the deviation addresses one or more unique site factors that make application of the standard impractical.
4. The deviation is consistent with the comprehensive plan.

| DIZ Standard | Deviation Request and Justification |
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| Building Placement - The minimum building setback from South 5th Street is 75 feet. (DEVIATION) | A setback of approximately 17' – 6" is proposed for the Taco John's building. Criteria 1: The purpose of the overlay zone is met. The purpose of the Development Incentive Overlay on Layton Avenue is to create developments that complement the mixed-use |

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| | <p>character of the neighborhood and provide a visual buffer between the residential and industrial areas. This development introduces large landscaped areas around the perimeter of the site to serve as a visual buffer. Landscaping and an ornamental fence will be placed to define the street edge along South 5th St. The LB1 zoning district has a maximum 25' side setback and the building in question is set back approximately 17' from the property line.</p> <p>Criteria 2: The deviation improves the aesthetics of the site.</p> <p>The proposed design and functionality of the site is consistent with nearby businesses and properties along Layton Avenue. The design of the quick-service restaurant buildings, amenities for pedestrians and cyclists, easy vehicular access, and significant landscaping buffers on all street-facing sides of the property are intended to improve aesthetic appearance of the site. Increased glazing and durable masonry materials are used on the building facades to compliment the Layton Avenue commercial corridor's appearance.</p> <p>Criteria 3: If applicable, the deviation addresses one or more unique site factors that make application of the standard impractical.</p> <p>The lot in question is spacious enough to accommodate two quick service restaurants, but too large for just one restaurant. The applicant is proposing two restaurants to maximize the efficiency of the lot and avoid having a disengaged storefront appearance on the edges of the lot.</p> <p>Criteria 4: The deviation is consistent with the comprehensive plan.</p> <p>The purpose of overlay districts is to provide an opportunity to create compatible, pedestrian-friendly, and creative development projects. The building placement and overall site design includes pedestrian connections to adjacent properties and connections for vehicles. Sidewalks from the hotel and Golden Corral sites have been extended to the sidewalk on Layton Avenue to allow pedestrians to safely access the site. Vehicles will be able to enter and exit the site on Layton Avenue and 5th Street. The site design</p> |
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| | <p>utilizes strategies to accommodate two restaurants while enhancing the street edge on 5th Street.</p> |
| <p>Signage: Up to two monument-style signs are permitted in area A and off-premise signs are not permitted. (DEVIATION)</p> <p>One type A sign (not exceeding 4' in height and not exceeding the length of the canopy) identifying the name of the business is permitted. (STANDARD IS MET)</p> <p>Type A secondary wall signs not exceeding 3' in height and 51' feet in area permitted. Wall signs shall be integrated into the overall design of the building. Individual logos are permitted with architectural review by owner. (DEVIATION)</p> | <p>A deviation from 2 signage standards is requested:</p> <ol style="list-style-type: none"> 1. Allowance of one off-premise sign at the southwest corner of the site to benefit the Courtyard by Marriott to the north of the subject site. 2. Allowance of one building wall sign on the Popeye's building to exceed the maximum height of 3' for a secondary sign. The proposed sign will be 8'-4" in height. <p>The sign location within the DIZ overlay was overlooked, which prohibits off-premise signs. The proposed site plan shows that this sign remains intact while adding two monument signs for the new tenants closer to the new curb cut. The off-premise sign is 8'-6" feet in height and 51 square feet in area. It is constructed with metal panels. The proposed design shows that this sign remains intact while adding two monument signs for the new tenants.</p> <p>All secondary signage complies with the 3' height restriction and 51 square feet area requirement with one exception. The Popeyes "Love that Chicken" sign is a painted mural, which exceeds the height and area requirement, but remains consistent with the rest of the building signage. All of the Taco John's secondary signage meets the area and height requirements. The deviation resides in the quantity of wall signage as signage appears on all 4 facades.</p> <p>Criteria 1: The purpose of the overlay zone is met. The purpose of the overlay is to coordinate signage throughout the development and the material choices, colors, and height of each sign accomplishes this goal as demonstrated in the drawings. Materials and colors of the proposed signs match the building palettes and none of the signs dominate the facades in terms of size.</p> <p>Criteria 2: The deviation improves the aesthetics of the site.</p> |

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| | <p>Specific design decisions regarding height, area, and materials were made in order to create consistency between the two tenants and the rest of the Layton Avenue commercial corridor. Each sign is integrated into the overall design of the building.</p> <p>Criteria 3: If applicable, the deviation addresses one or more unique site factors that make application of the standard impractical.</p> <p>The Courtyard Marriot signage was approved and installed before our current design submittal, which creates hardship on the new tenants as they try and create an identity for their restaurants. Based on site location, all 4 sides of each building are highly visible to the public. Therefore, signage on all four facades is appropriate in this case.</p> <p>Criteria 4: The deviation is consistent with the comprehensive plan.</p> <p>Only one monument sign is being proposed for each tenant. We believe this strategy is consistent with the comprehensive plan in that both monument signs meet the requirements set forth in the DIZ overlay standards and tenant signage is integrated into the overall design.</p> |
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Adjacent Land Use:

These sites are located on Layton Avenue, which is a primarily commercial corridor. In addition to various quick service restaurants nearby, a Golden Corral Buffet is located to the east of the site, and a Courtyard by Marriott hotel is located to the north. Adjacent properties along Layton Avenue consist of Local Business (LB1), Industrial Light (IL1), and Planned Development zoning districts. Properties to the north of the adjacent sites are within Single Family (RS5) zoning districts.

Consistency with Area Plan:

The proposed development at 5th and Layton is partially consistent with the area plans. Both the Southeast Side Area Plan, adopted by the Common Council in 2008 and the Aerotropolis Plan, adopted by the Common Council in 2017 as an update to the Southeast Side Area Plan, recommend mixed-use commercial and residential uses at this site. Both Plans envision this site as part of the larger effort to redevelop Layton Avenue as a town center by promoting denser retail development and discouraging single-story retail development with parking towards the street. For example, the plan states that development should include higher-density retail, office, and residential uses, which will result in an increase of workers and residents available to support the proposed hospitality uses.

DCD acknowledges that this vision for a town center has been slow to develop and that the market may not be ripe for extensive retail and mixed use at this location. While the proposed use of two fast food restaurants with drive throughs is not entirely consistent with the plan recommendation, it should be noted that the building design, landscaping and pedestrian connections shown in the proposed development do move forward the plan's recommendations to promote higher quality architectural building design and sustainable site design.

Previous City

Plan Action:

6/21/2004 – Ordinance establishing a Development Incentive Zone (DIZ) and the change in zoning from Industrial Light (IL1) to Local Business (LB2), on land located on the Northeast Corner of South 5th Street and West Layton Avenue, in the 13th Aldermanic District. (FNs 040067 & 040155)

12/08/08 – City Plan Commission approved the site plan and building elevations for the construction of a 4 story, 119 room Courtyard by Marriott hotel at 300 West Layton Avenue, relative to a Development Incentive Zone known as Layton Plaza, established by Section 295-1007.0007 of the Milwaukee Code, in the 13th Aldermanic District.

3/13/17 – City Plan Commission approved the site plan and building elevations for a Golden Corral Restaurant and a request to deviate from the overlay standards at 306 (AKA 300) West Layton Avenue, relative to a Development Incentive Zone (DIZ) overlay known as Layton Plaza, established by Section 295-1007.0007 of the Milwaukee Code, in the 13th Aldermanic District.

Previous Common

Council Action:

7/27/2004 – Ordinance establishing a Development Incentive Zone (DIZ) and the change in zoning from Industrial Light (IL1) to Local Business (LB2), on land located on the Northeast Corner of South 5th Street and West Layton Avenue, in the 13th Aldermanic District. (FNs 040067 & 040155)

Recommendation:

Since the proposed development is substantially compliant with the DIZ overlay standards, and the requested deviations enhance the build-out of the Layton and 5th Street corner and aesthetics of the site, staff recommends that the City Plan Commission approves File No. 220033 (relating to the deviation) and conditionally approves File No. 220032 (overall development approval). The recommended condition for File No. 220032 is for the applicant to revise the narrative to note how they will address means for directing traffic from the site south to Layton as opposed to north on S. 5th Street.