

Board of Zoning Adjustment
Staff Report
 October 15, 2018



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|--------------------------|-------------------------------|
| Case No: | 18DEVPLAN1129 |
| Project Name: | Brownsboro Road Plaza |
| Location: | 10000 Brownsboro Road |
| Owner(s): | Hogan Holdings 42 LLC |
| Applicant: | Hogan Holdings 42 LLC |
| Jurisdiction: | Louisville Metro |
| Council District: | 17 – Glen Stuckel |
| Case Manager: | Dante St. Germain, Planner II |

REQUEST

- **Variance** from Land Development Code section 5.5.5 to allow a dumpster to encroach into the required 50-foot non-residential-to-residential rear yard setback.

| Location | Requirement | Request | Variance |
|-----------|-------------|---------|----------|
| Rear Yard | 50 ft. | 15 ft. | 35 ft. |

CASE SUMMARY/BACKGROUND

The subject property is currently developed with a one-story commercial structure, containing both retail and restaurant uses, with a single dumpster located to the north of the structure. The applicant proposes to construct a new, second dumpster pad and enclosure to the west of the structure, along the southern property line. The applicant requests approval of a variance from section 5.5.5 to allow the second dumpster, as an accessory structure, to encroach into the non-residential-to-residential rear yard setback of 50 feet, required by LDC section 5.3.3.C.2.b. The revised detailed district development plan and a waiver were reviewed by the Development Review Committee on September 19, 2018.

The property was re-zoned in 1996 from R-4 Single Family Residential to C-1 Commercial to permit construction of the existing retail/restaurant structure, under docket number 9-34-96. A revised plan was approved in 1998 to allow minor changes to the plan, under the same docket.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code from section 5.5.5 to allow a dumpster to encroach into the required non-residential-to-residential rear yard setback.

TECHNICAL REVIEW

The plan has received preliminary approval from all applicable agencies.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.5.5

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the existing building, which was constructed prior to the adoption of the current zoning regulations, encroaches into the setback by a similar amount as the proposed dumpster.

- (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 property is screened from the abutting residential use by a line of evergreen trees and a six-foot privacy fence.

- (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 as the proposed encroachment is similar to the encroachment of the existing building, which has caused no known hazard or nuisance.

- (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 the zoning regulations as the dumpster will be positioned next to a building which already encroaches into the rear yard setback, as it was constructed prior to the adoption of the current zoning regulations.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the property was fully developed prior to the adoption of the current zoning regulations, and there is no other location on the lot for a second dumpster which would not reduce parking on the lot below the minimum required for the use.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant's tenants to use a single dumpster, which has become insufficient for the property's uses.

3. 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.

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 the applicant is requesting the variance and has not begun construction.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**.

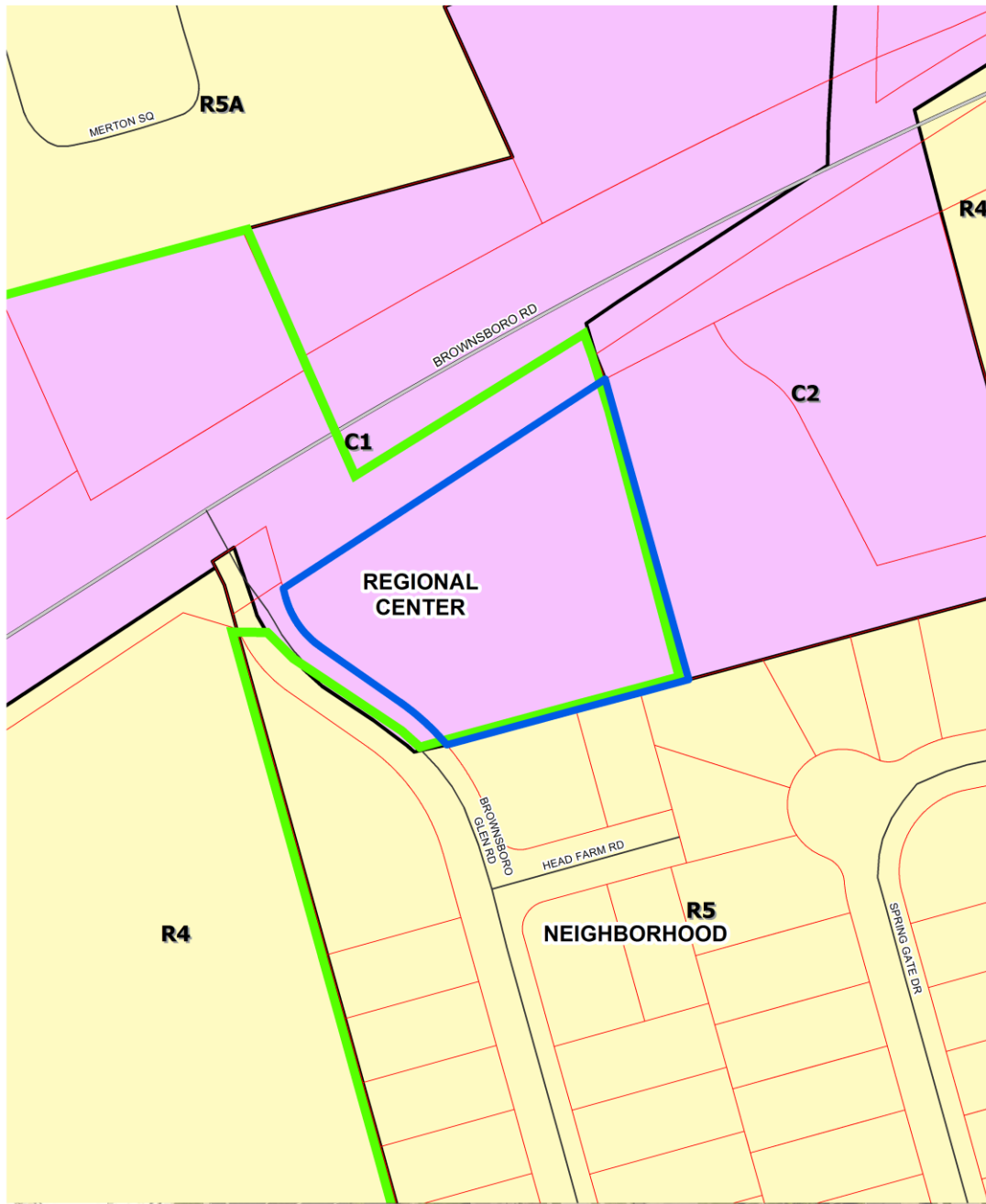
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|-------------------|--------------------------|---|
| 09/26/2018 | Hearing before BOZA | 1 st tier adjoining property owners Registered Neighborhood Groups in Council District 17 |
| 09/28/2018 | Hearing before BOZA | Notice posted on property |

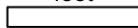
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



10000 Brownsboro Road
feet



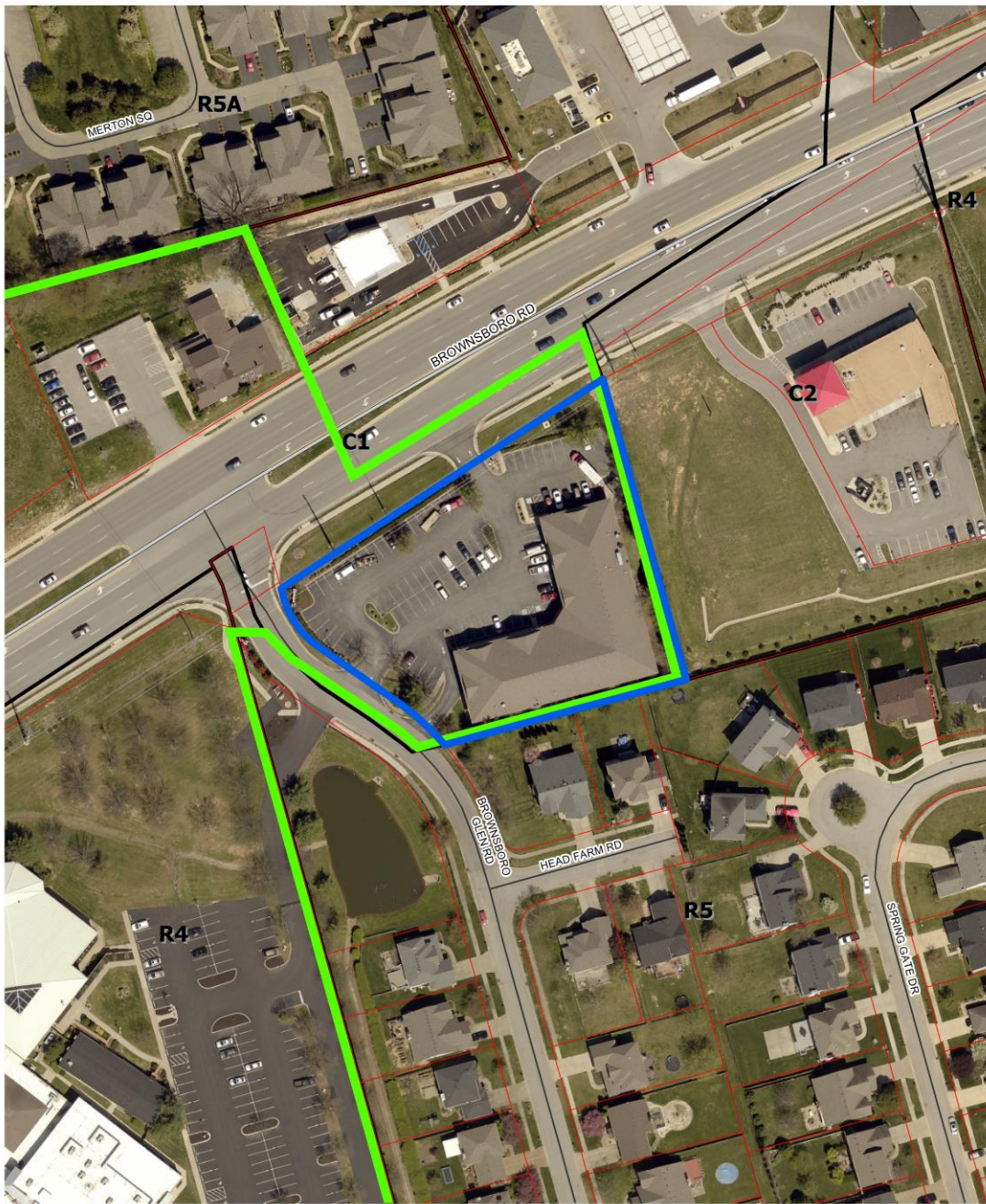
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Map Created: 9/12/2018

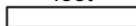


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2. Aerial Photograph



10000 Brownsboro Road
feet



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Map Created: 9/12/2018



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