

Louisville Metro Board of Zoning Adjustment – May 2, 2016  
Louisville Metro Development Review Committee – May 4, 2016

Docket Nos. 16VARIANCE1023 & 16DEVPLAN1025

Variance to allow Section 5.2.1.C.3 to allow the building to exceed the maximum 25' setback, with an associated Revised Detailed District Development plan and waiver 5.5.1.A.5 to allow a portion of the vehicle circulation between the building and the roadways to exceed the maximum building setback property located at 4170 Taylor Blvd and 1309 and 1311 Bluegrass Ave



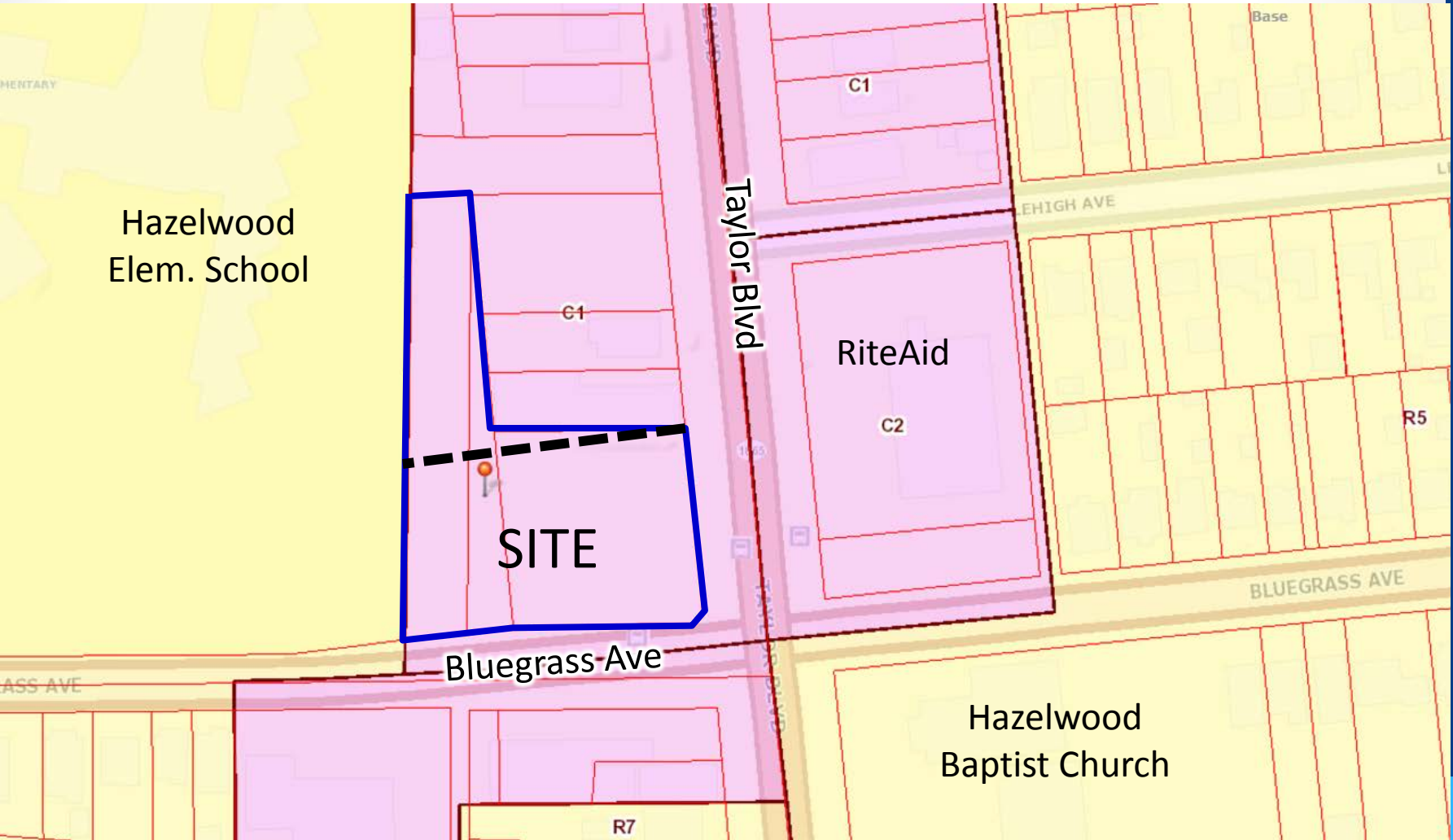
**Attorneys: Bardenwerper Talbott & Roberts, PLLC**

**Land Planners, Landscape Architects & Engineers: Foresite Group, Inc.**

# Index

1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Development Plan
5. Building elevations
6. Variance and Waiver Justifications

# Tab 1 LOJIC Zoning Map



Hazelwood  
Elem. School

Taylor Blvd

RiteAid

SITE

Bluegrass Ave

Hazelwood  
Baptist Church

Tab 2

Aerial photograph of the site and  
surrounding area



Hazelwood  
Elem. School

SITE

Taylor Blvd  
1865

Bluegrass Ave

RiteAid

LEHIGH

Hazelwood  
Baptist Church

C1

C1

C2

Tab 3

Ground level photographs of the site  
and surrounding area





View of site Taylor Blvd, looking south.





Bluegrass Ave

SITE

Taylor Blvd

View of site from Taylor Blvd, looking west.



View of site from Bluegrass Avenue and Taylor Blvd intersection.



View of site from Bluegrass Avenue, looking east towards Taylor Blvd.





View of site from Bluegrass Avenue, looking north.

# Tab 4

## Development Plan

**TAYLOR BOULEVARD**  
(KY HIGHWAY 1965)  
(VARIABLE R/W)  
PUBLICLY DEDICATED  
(11,810 VPD)

33M  
TOP=472.21  
BY W=463  
BY OUT=46

33  
TOP=472.20  
BY W=463  
BY OUT=46

CROSSINGS DRIVE

PROPOSED  
CROSS-ACCESS  
DRIVE

$N81^{\circ}45'29''E$  233.77'

$S07^{\circ}05'00''E$  139.85'

S LANDSCAPE BUFFER



**RESTAURANT**  
2,866 SF  
22 SPACES

25' BUILDING SETBACK (MAX)

S LANDSCAPE BUFFER

$S82^{\circ}36'31''W$  248.26'

T.B.M.  
TOP OF 1/2" REBAR  
ELEV = 473.61

**BLUEGRASS AVENUE**  
(VARIABLE R/W)  
PUBLICLY DEDICATED  
(15,780 VPD)

6' CHAIN LINK FENCE

$N00^{\circ}59'20''W$  136.93'

8' BUILDING SETBACK

15' LANDSCAPE BUFFER

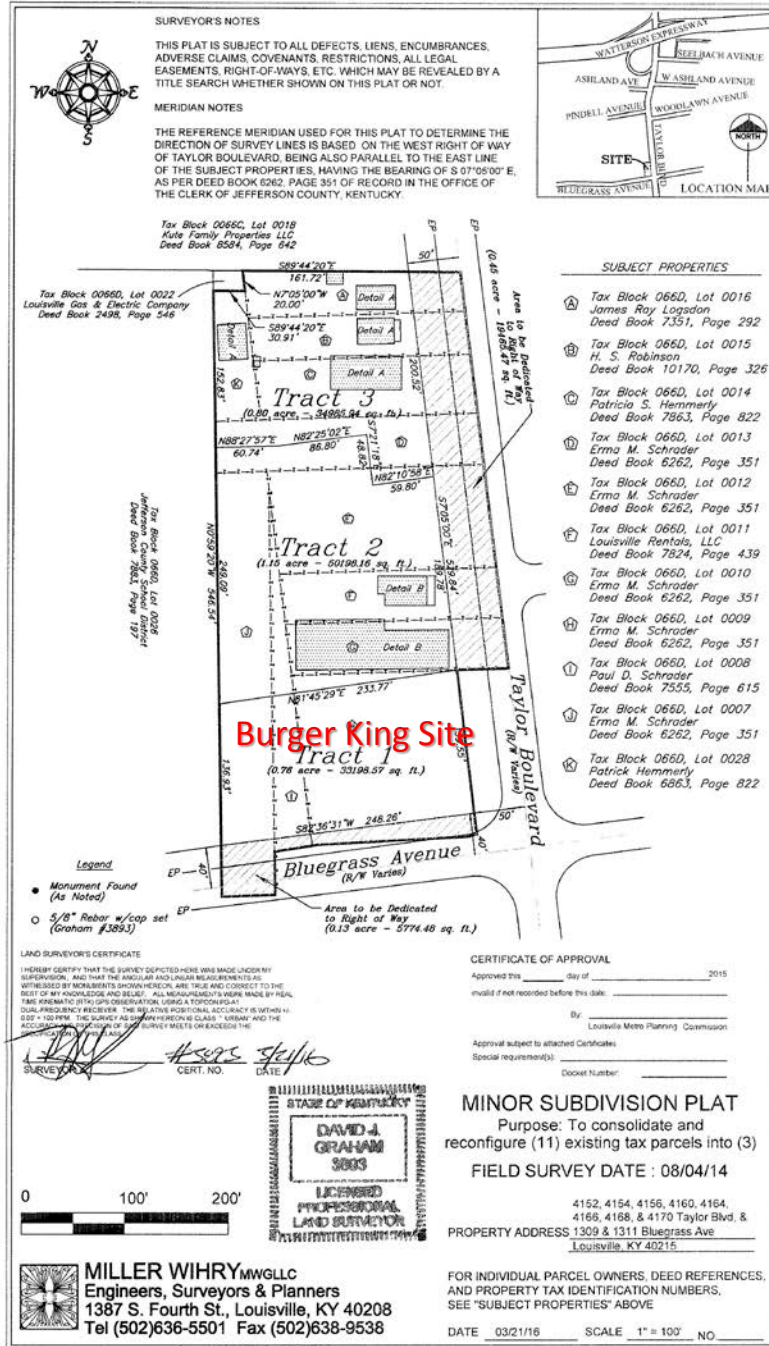
33M  
TOP=476.31  
BY W=463.14  
BY OUT=462.03

27' CLAY

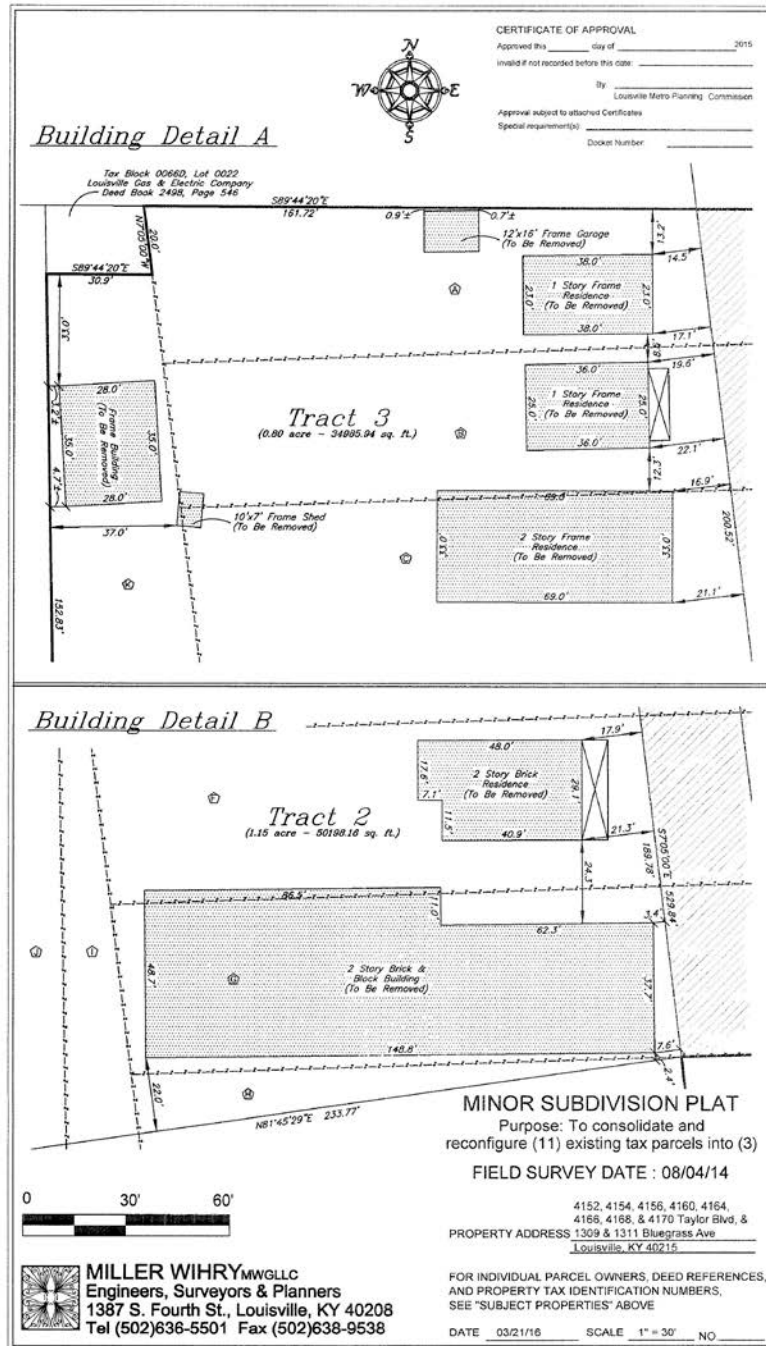
27' CLAY



# Minor Plat for north of the site and the balance of property



# Minor Plat for north of the site







12



ROC 60  
2,857 SF  
RESTAURANT  
FF 2,866 SF  
22 SPACES

Max. building setback line

S82°36'31"W 248.26'

S83°30'30"W 145.44'

CB  
TOP=472.47  
INV IN=469.02  
INV OUT=468.57



TAYLOR BOULEVARD  
(KY HIGHWAY 1965)  
(VARIABLE R/W)  
PUBLICLY DEDICATED  
(11,810 VPD)

BLUEGRASS AVENUE  
(VARIABLE R/W)  
PUBLICLY DEDICATED  
(15,780 VPD)

 RESTAURANT  
2,866 SF  
22 SPACES

3 ft. Screening  
Wall

5 ft. LBA

PROPOSED  
CROSS-ACCESS  
DRIVE

6' CHAIN LINK FENCE  
N00°59'20"W 136.93'

6' BUILDING SETBACK  
15' LANDSCAPE BUFFER

25' BUILDING SETBACK (MAX)

N81°45'29"E 233.77'

S07°05'00"E 139.85'  
5' LANDSCAPE BUFFER

S82°36'31"W 248.26'

27' CLAY

27' CLAY

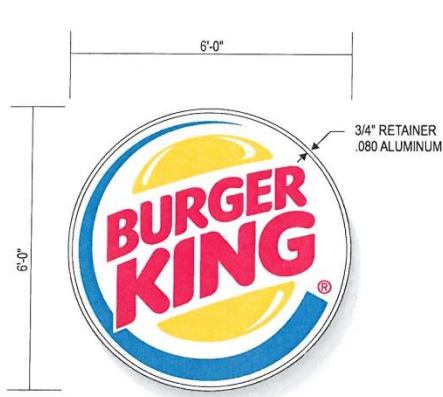
23MAY  
TOP=472.21  
BY W=463.22  
BY OUT=468.57

23  
TOP=472.21  
BY W=463.22  
BY OUT=468.57

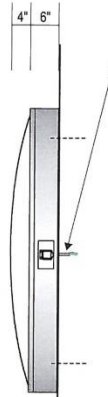
# Tab 5

## Building Elevation

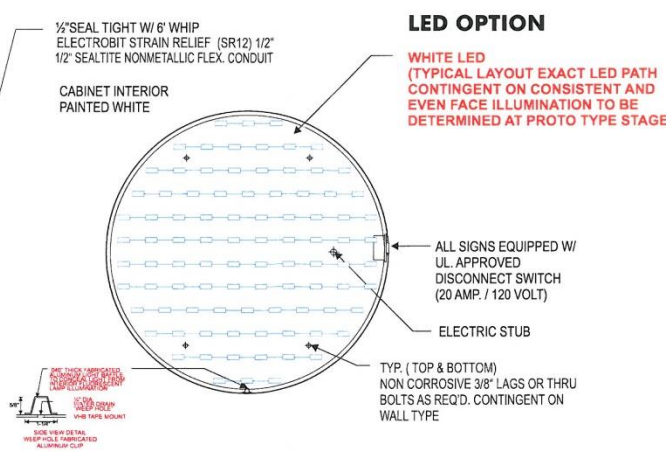




**FRONT ELEVATION**  
SCALE: 1/2"=1'-0"



**SIDE ELEVATION**  
SCALE: 1/2"=1'-0"



**OPEN CABINET DETAIL**  
SCALE: 1/2"=1'-0"

CABINET: TO BE FABRICATED OF ROLLED ALUMINUM FRAME W/ .080 BACKS & .063 RETURNS. WELDED CONSTRUCTION ALUMINUM INTERNAL BRACING. ACCESS INSIDE CABINET BY FACE REMOVAL. RETURNS TO BE .063 ALUMINUM ROLLED. RETAINERS TO BE ALUMINUM PAINTED BRUSHED ALUMINUM TO MATCH RETURNS. CABINET INTERIOR TO BE LINED W/ LIGHT ENHANCING FILM OR PAINT. ALL HARDWARE TO BE CORROSION RESISTANT.

ILLUMINATION (INTERNAL): BY WHITE LED MOUNTED TO BACK PANEL. ALL HARDWARE & CONNECTIONS TO BE TO BE UL APPROVED

ELECTRIC: 120 VOLT 20 AMP PRIMARY ELECTRIC CIRCUITS BROUGHT TO BASE OF SIGN AND FINAL CONNECTION BY BUYER

FACE: TO BE .177" CLEAR SOLAR GRADE POLYCARBONATE W/ UV INHIBITOR VACUUM FORMED TO CREATE CONVEX DOME SHAPE. DECORATION GRAPHICS TO BE 3M OR ORACAL TRANSLUCENT VINYL ON 2ND SURFACE W/ WHITE SPRAYED DIFFUSER.



**LEFT SIDE ELEVATION** Not To Scale



**RIGHT SIDE ELEVATION** Not To Scale



**FRONT ELEVATION** Not To Scale



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**Legal Disclaimer**

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**Project Information**

<b>BURGER KING</b>		
<b>Custom Exterior Signage Systems</b>		
File PG3 S-1-1 LED 5FT - R6	Design <b>DJS</b>	Date <b>1/1/10</b>

Tab 6

## Variance & Waiver Justifications

### **Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.2.1.C.3 of the Land Development Code to allow the building to exceed the maximum 25' setback.

1. The variance will not adversely affect the public health, safety or welfare because the building is only approximately 8 feet further away from Taylor Boulevard than the 25' maximum setback and the proposed one story medical office building on Tract #2 directly to the West in 14ZONE1037 was granted a variance to exceed the 25' Maximum Building Setback from Taylor Boulevard to be located 130' from Taylor Boulevard.

2. The variance will not alter the essential character of the general vicinity because as stated above, the same Variance was granted on Tract #2 to the west of this site and the variance is only approximately 8 feet further away from Taylor Boulevard than the 25' maximum setback. Further, the property directly across Taylor Boulevard exceeds the 25' maximum setback as does multiple other properties in very close proximity.

3. The variance will not cause a hazard or a nuisance to the public because the additional building setback is the minimum necessary to allow a drive through lane to circle the building as required for the proposed Burger King restaurant use. In addition, the applicant is proposing both landscaping and a 3 foot screening wall close to the property line as shown on the Development Plan to mitigate the effects of the requested variance.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the requested variance is the minimum request necessary for the proposed Burger King restaurant use. Further, the applicant is proposing a 3 foot screening wall and landscaping to mitigate the effect.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated above, the property directly across Taylor Boulevard exceeds the 25' maximum setback as does multiple other properties in very close proximity.

2. Strict application of the provisions of the regulation would deprive the applicant of the

reasonable use of the land or would create unnecessary hardship because the additional building setback is the minimum necessary to allow a drive through lane to circle the building as required for the proposed Burger King use. The building would only be 8 feet further away and mitigation measures are being taken to lessen the impact, including a screening wall and landscaping.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather, the result of the existing condition of the area and the other building setbacks.

### **General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver from LDC 5.5.1.A.5 to allow a portion of the vehicle circulation between the building and the roadways to exceed the maximum building setback.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because only an extremely small portion of the drive thru lane will exceed the maximum building setback, being a sliver of the drive lane on Bluegrass Avenue and a triangular portion along Taylor Boulevard. Given the small scope of the request it will not be a noticeable deviation. Indeed the setbacks, location of drive thru lane, landscaping and 3 foot screening wall are not out of keeping with other site layouts and building designs in the area.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because of the size of the proposed lot and need for a drive thru lane as required by the Burger King restaurant use. The drive thru is located where it assures the safest circulation pattern.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because varying layouts proposed for this site were widely tested and reviewed with the safety of the customers in mind. The small area of the waiver request is critically important to Burger King's ability to use the property.