

Board of Zoning Adjustment Staff Report

May 2, 2016



Case No:	16variance1023
Request:	Variance to permit the building to not be located more than 5' from the corner of Taylor Blvd. & Bluegrass Ave.
Project Name:	Burger King
Location:	1309/1311 Bluegrass Ave. & 4170 Taylor Blvd.
Owner:	Estate of Erma Shrader
Applicant:	Boos Development Group
Representative:	Miller Wihry; Bardenwerper Talbott and Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	15-Marianne Butler
Case Manager:	Julia Williams, RLA, AICP, Planner II

REQUEST

- Variance from 5.5.1.A.2 to permit the proposed building to be located more than 5' from the rights of way of both Bluegrass Ave and Taylor Blvd. as shown on the development plan.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a 2,866 sf. restaurant at the corner of Bluegrass Avenue and Taylor Boulevard. The restaurant is proposed to have a drive through which necessitates the request for the variance. A 3' wall is proposed along the frontage to screen the vehicle use area and to mitigate the variance request.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	TN
Proposed	Restaurant	C-1	TN
Surrounding Properties			
North	Office	C-1	TN
South	Commercial	C-2	TN
East	Commercial	C-1/C-2	TN
West	School	R-5	TN

PREVIOUS CASES ON SITE

16devplan1025- A revised detailed district development plan is proposed to be heard at the May 4, 2016 DRC meeting.

14zone1037- The property and the properties to the north were rezoned from OR-2 and C-2 to C-1 in 2015.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 since safe pedestrian access is provided from the public rights-of-way to the building entrance.

- (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. The site is located in a Traditional Neighborhood form district which requires non-residential structures to be constructed close to the street with parking to the side and rear. There are a few properties in the vicinity that were constructed prior to the adoption of the regulation. The variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways.

- (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 since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided.

- (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 regulation since the variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways.

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 that do not generally apply to land in the general vicinity or the same zone. There have been other similar variances granted in the general vicinity to allow a new non-residential building to be setback away from a street with parking between the building and the street. There are no physical site restrictions preventing compliance with the setback requirement. The variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways.

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 would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways.

3. The circumstances are 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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

TECHNICAL REVIEW

- All technical review comments have been addressed.

STAFF CONCLUSIONS

The variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways.

Based upon the information in the staff report, 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.

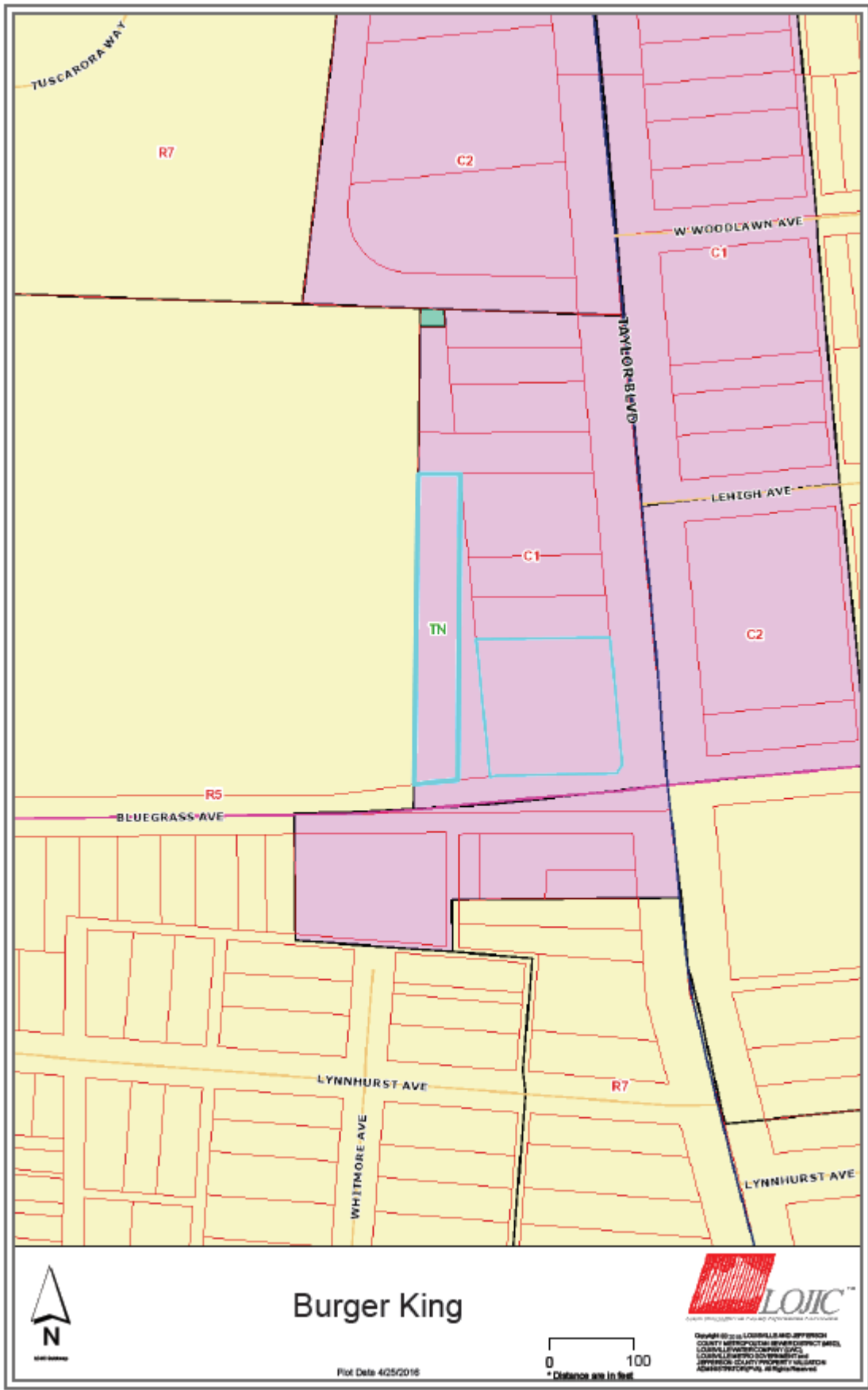
NOTIFICATION

Date	Purpose of Notice	Recipients
4/18/16	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 13 Notification of Development Proposals
4/14/16	Hearing before BOZA	Sign Posting on property
	Hearing before BOZA	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph

