

**Board of Zoning Adjustment  
Staff Report  
April 17, 2017**



<b>Case No:</b>	17DEVPLAN1011
<b>Project Name:</b>	Convenience Store / Restaurant
<b>Location:</b>	1101 Fairdale Road
<b>Zoning:</b>	C-1 & R-4
<b>Form Districts:</b>	Suburban Workplace
<b>Owner:</b>	IRJ, LLC
<b>Applicant:</b>	Axis Investments LLC
<b>Representative:</b>	Sarah Sammons, Land Design & Development Inc
<b>Project Area/Size:</b>	3.41 acres
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	13 – Vicki Aubrey Welch
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Supervisor

**REQUESTS**

A variance is needed since the proposed placement of the structure along National Turnpike exceeds the 80 foot maximum setback.

A waiver is needed since the design of the building along Fairdale Road does not include an entrance, 5.5.2.A.1.

Variance from the Land Development Code, 5,3,1,C.5. (Table 5.3 .2.).

Location	Requirement	Request	Variance
National Turnpike (street side)	80 foot maximum setback	132 feet	42 feet

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The site is located on the northeast corner of the National Turnpike/Fairdale Road intersection. The property has an odd shape, is approximately 3.41 acres, has a C-1 zoning classification at the corner and an R-4 designation on the remainder which is mostly wooded. A vacant automobile repair shop occupies the corner which will be removed and replaced with an approximate 3,000 square foot convenience store and 1,500 square foot restaurant. All of the development takes place within the C-1 zoned portion. The rest of the property will remain wooded.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant Auto repair shop	C-1	Suburban Workplace
<b>Proposed</b>	Convenience store & restaurant	C-1	SW
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Dwelling	R-4	SW
<b>South</b>	Wooded Area	C-1	Village
<b>East</b>	Wooded Area, Single Family Dwellings	C-1, R-4	SW, Village
<b>West</b>	Wooded Area	C-1	Village

## PREVIOUS and CURRENT CASES ON SITE

None.

## INTERESTED PARTY COMMENTS

No comments have been 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 variance will not adversely affect the public health, safety or welfare, because the placement of the convenience store, the gas pumps and circulation pattern are typical of what the public is accustomed to seeing.

- (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 because most of the other commercial establishments along this side of National Turnpike exceed the 80 foot maximum.

- (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 because the general public is accustomed to this type of configuration.

- (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 because this type of layout provides for a safe traffic circulation for a convenience store.

## 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, since the applicant is placing all of the 4,488 square foot development, (convenience store/restaurant) on the existing less than an acre C-1 zoned portion of the 3.41 acre site and at the same time having a safe traffic flow.

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 create an unnecessary hardship on the applicant, since the site design would have to change and the traffic flow would not function.

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 subsequent to the adoption of the zoning regulations, but the design allows for such a land use and one that is functional and safer.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver of the Land Development Code, Section 5.3.1.C.5. (No entrance facing Fairdale Road)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners, since two of the properties are vacant, one will have an existing wooded area that will serve as a buffer and the existing dwelling to the north will have a 25 foot landscape buffer area. The Fairdale Road building entrance would have been on the south side of the property.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020, since the Fairdale Road side of the building has various materials, shapes and colors which prevent a blank wall. This particular corner is within a Suburban Workplace Form District, while the others are within a Village.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: Having only one entrance for convenience stores is typical which is probably a result of a desired floor plan and safety concerns. This particular store will have their entrance on the National Turnpike side of the building.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since the interior floor plan of the convenience store would have to be changed and possibly the security of the store would be reduced.

## TECHNICAL REVIEW

No Technical Review Items need to be addressed:

## STAFF CONCLUSIONS

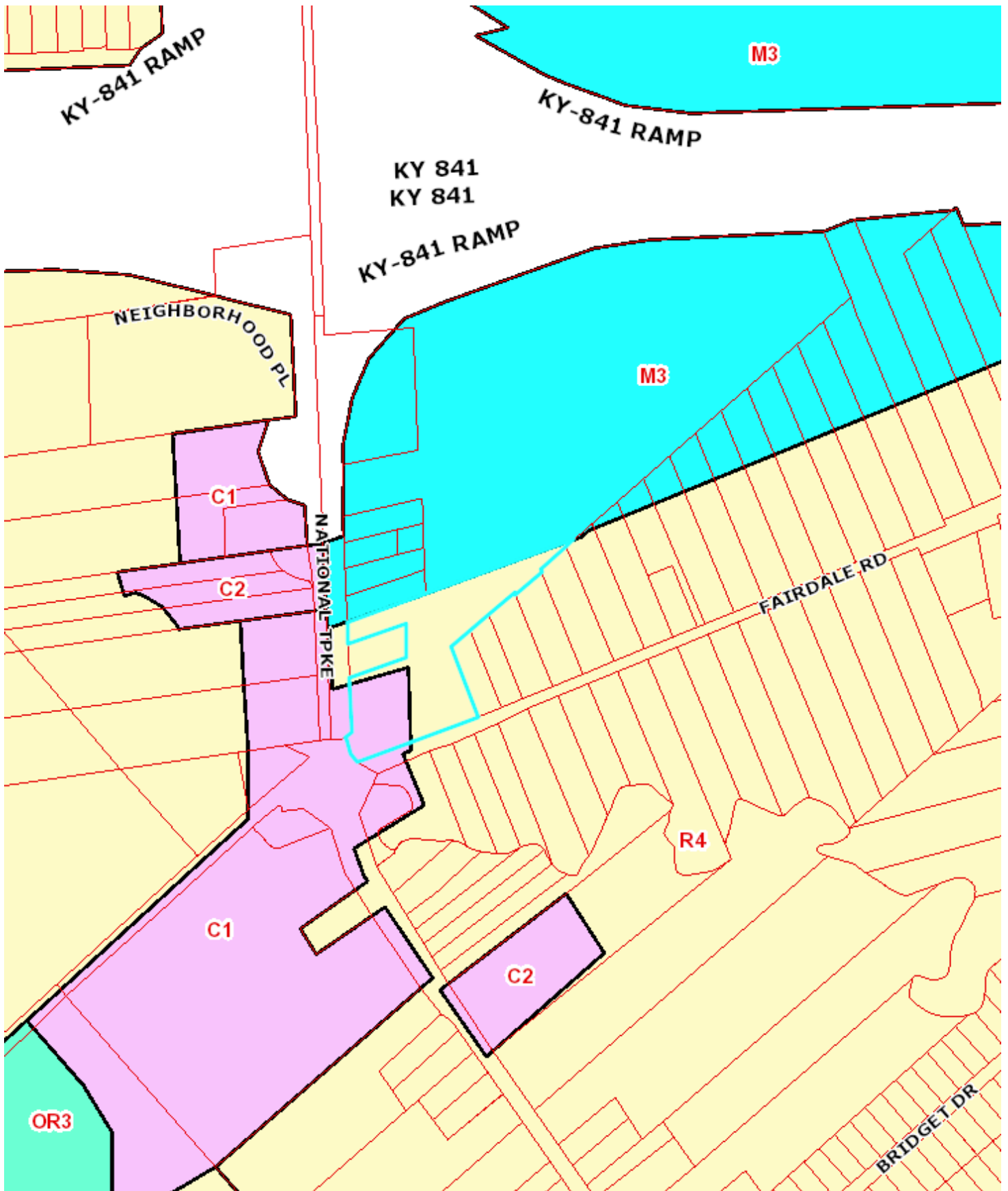
The variance and waiver applications appear to be adequately justified. The Category 2B Review has been reviewed by staff and is subject to the variance and waiver being approved. The Board of Zoning Adjustment must determine, based on the testimony and evidence provided at the public hearing, if the proposal meets the standard for the variance established in the Land Development Code; and the waivers do not violate the comprehensive plan and also meet the standards established in the Land Development Code

## NOTIFICATION

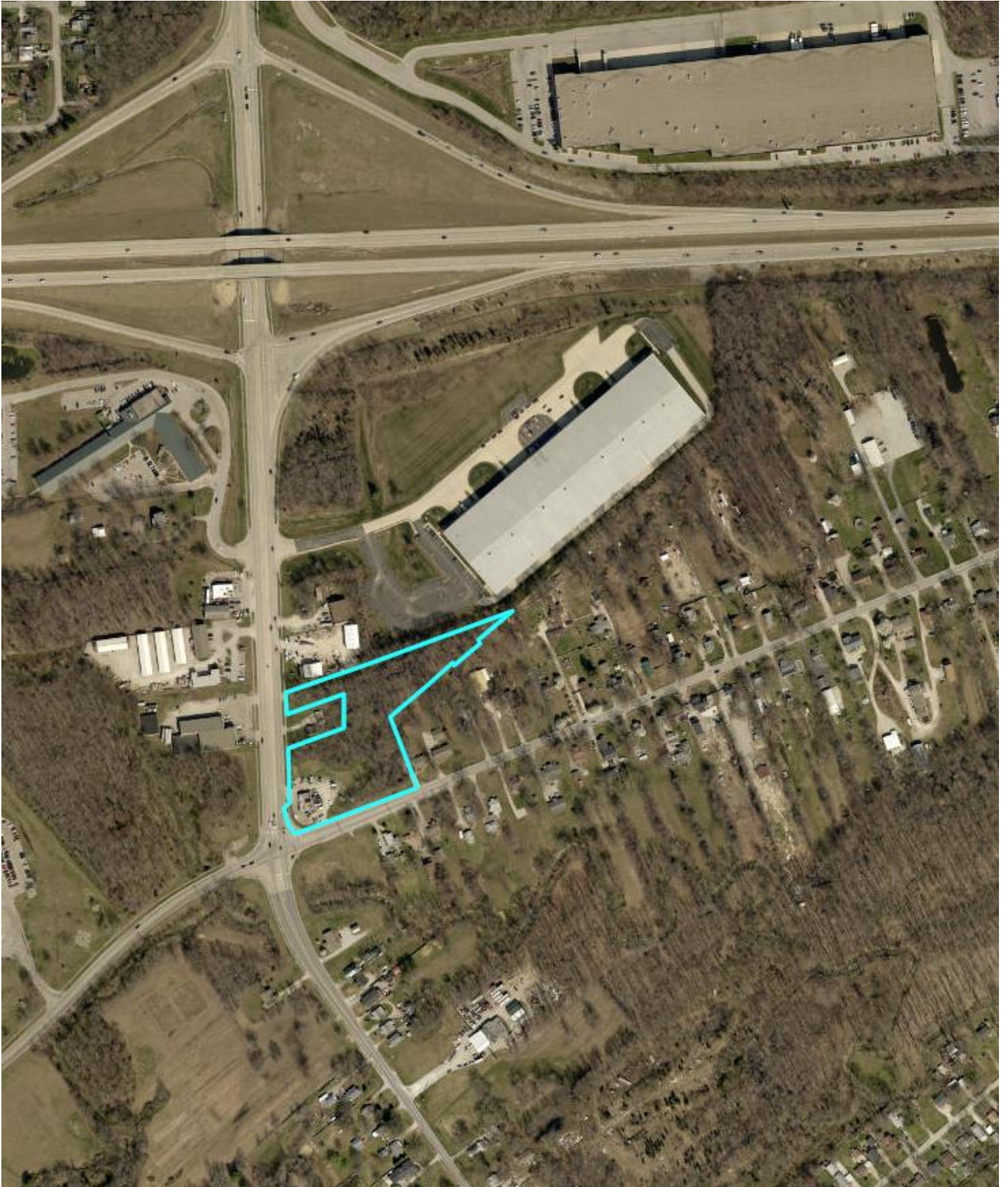
Date	Purpose of Notice	Recipients
04/06/2017	BOZA Hearing	Neighborhood notification recipients
03/29/2017	Sign Posting	Subject property
03/31/2017	BOZA Hearing	1 <sup>st</sup> tier adjoining property owners

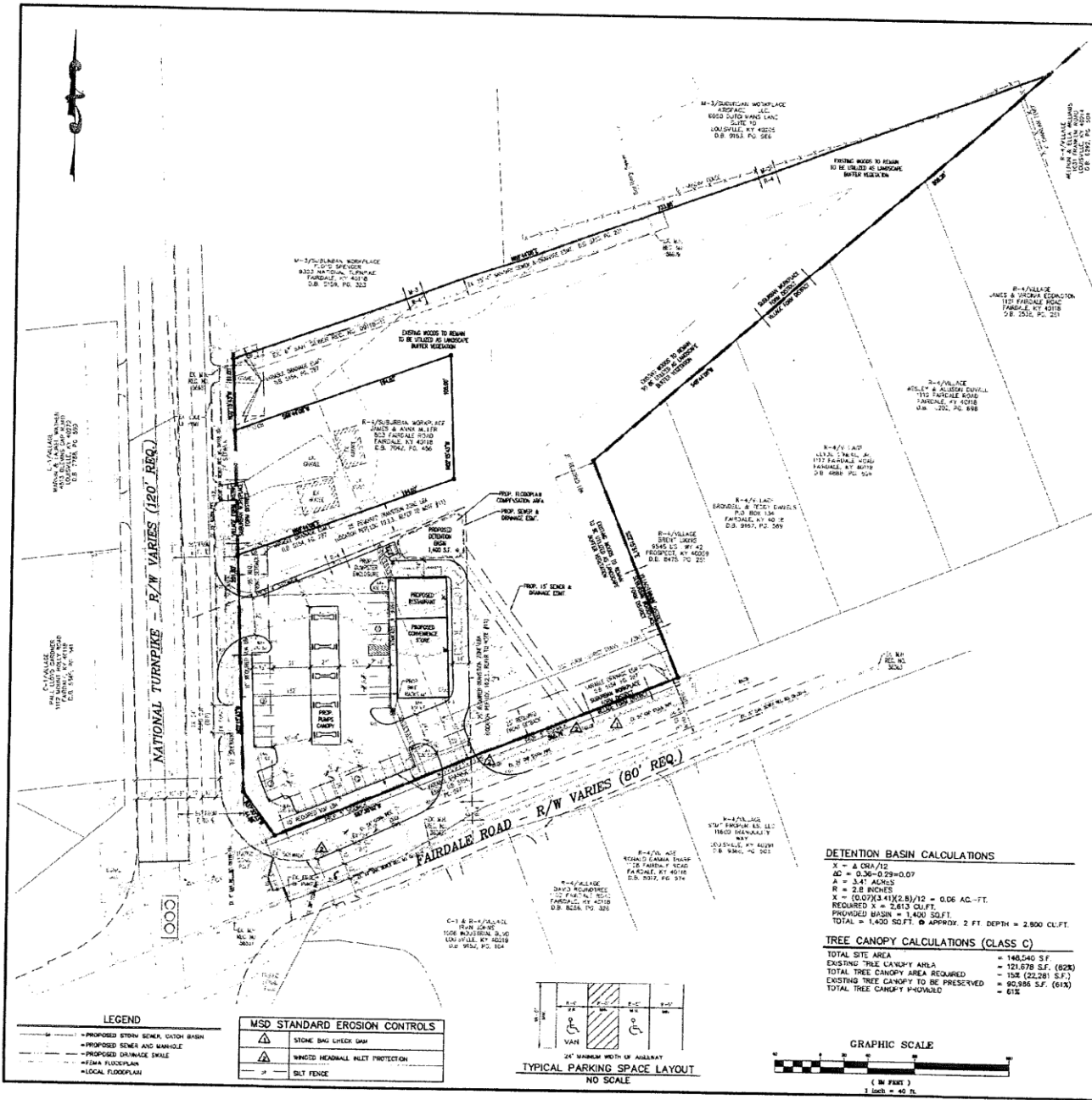
## ATTACHMENTS

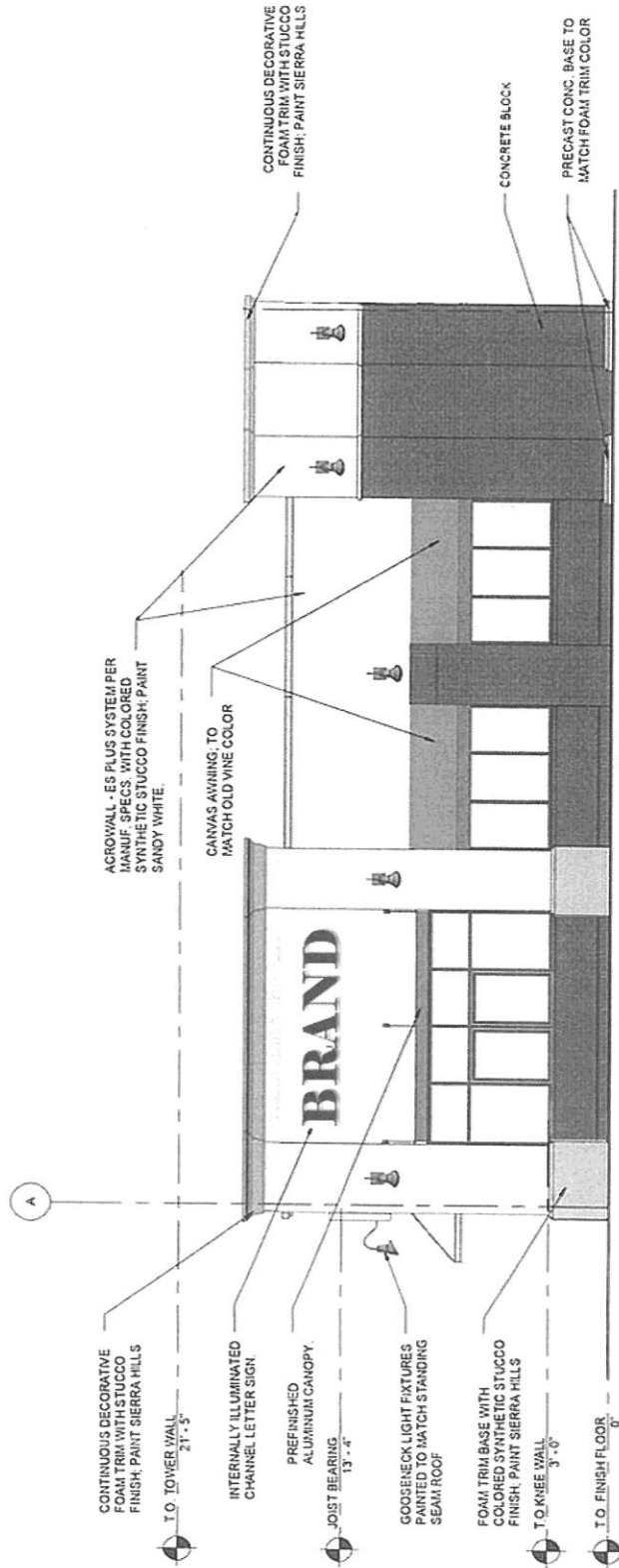
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Building Elevations
5. Applicant's Justification



Attachment 2 - Aerial Photo





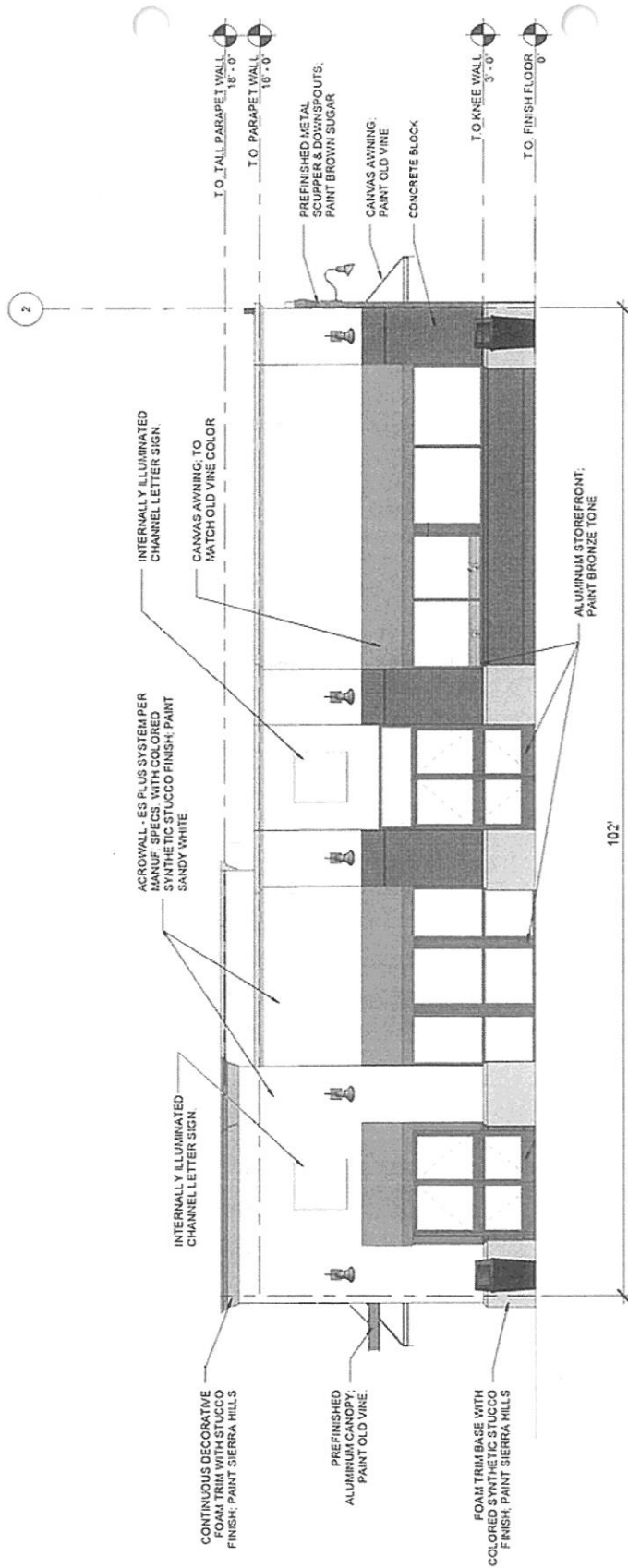


1 SOUTH ELEVATION - FACING FAIRDALE ROAD  
3/16" = 1'-0"

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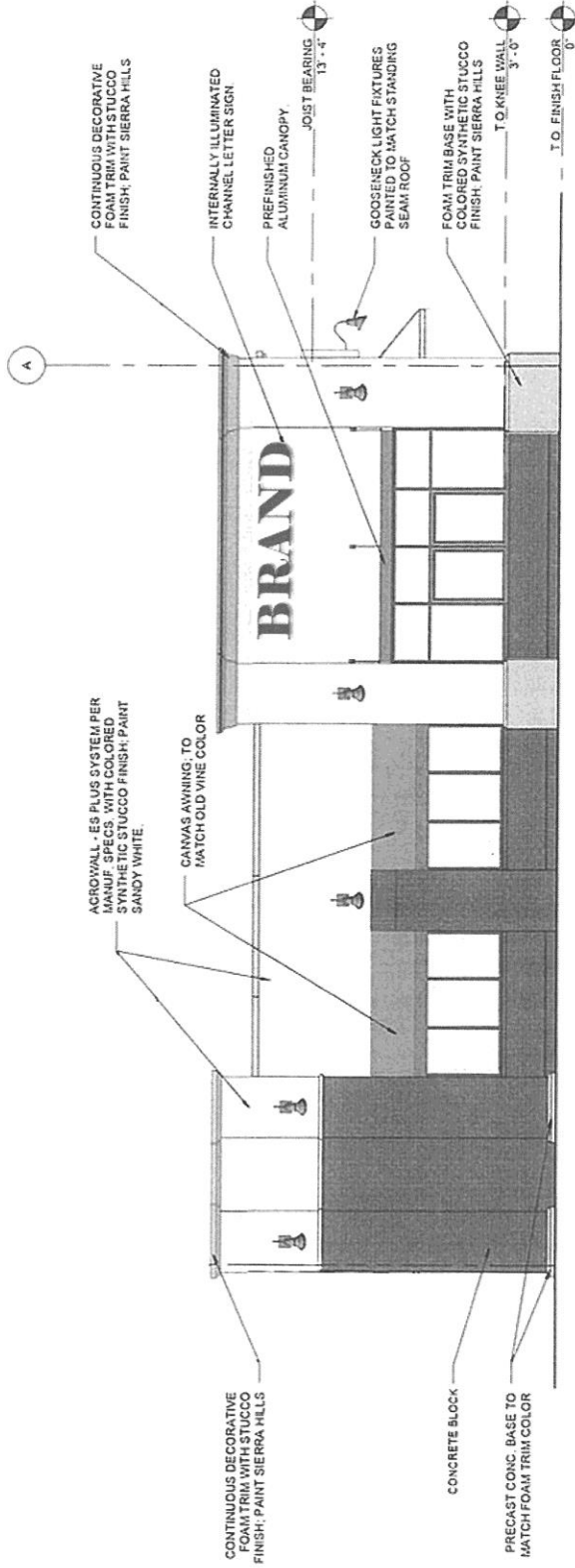




2 WEST (FRONT) ELEVATION - FACING NATIONAL TURNPIKE  
3/16" = 1'-0"

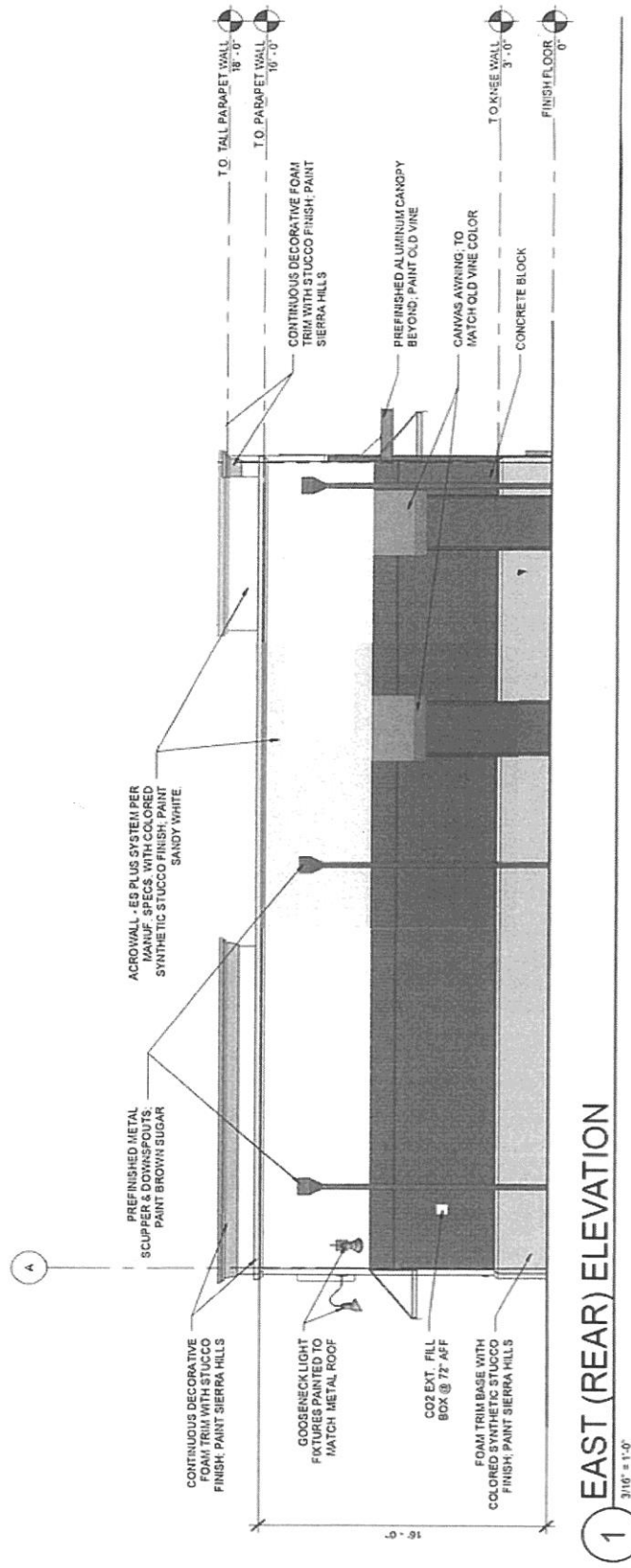
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1 NORTH ELEVATION  
3/16" = 1'-0"

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1 EAST (REAR) ELEVATION  
 3/16" = 1'-0"

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**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.

**1. Explain how the variance will not adversely affect the public health, safety or welfare.**

The variance will not adversely affect public health, safety, or welfare. The building being setback further on a corner will actually improve visibility at the intersection.

**2. Explain how the variance will not alter the essential character of the general vicinity.**

The variance will not alter the essential character of the general vicinity, many of the surrounding businesses are setback further than 80'.

**3. Explain how the variance will not cause a hazard or a nuisance to the public.**

The variance will not cause a hazard or nuisance, the building being setback further at the corner will allow for greater visibility and a better aesthetic.

**4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.**

Were this site not in a Form District Transition Zone the maximum setback would be 275' from the front and street-side property lines. The proposed development is almost at a distance where the transition zone would not apply.

*Additional consideration:*

**1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).**

Due to the nature of gas station development the gas canopy is generally located between the roadway and the primary structure. This standard gas station development/design standard pushes the building further than the 80' maximum transition zone setback distance.

**2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.**

A strict application of the regulation would create a development that does not look like similar gas station developments. Which would in turn signal to drivers that it may not be a gas station.

**3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?**

The circumstances are not the result of actions by the application subsequent to the adoption of the regulation.

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**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.**

**1. Will the waiver adversely affect adjacent property owners?**

The waiver will not adversely affect adjacent property owners, the waiver is for alteration of the required building façade and not the site design.

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**2. Will the waiver violate the Comprehensive Plan?**

The waiver will not violate the Comprehensive Plan, the land use is the same as previously developed and the waiver is for the building façade only.

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

The waiver is the minimum necessary to afford relief to the applicant. The proposed development is requesting a waiver due to the extra requirement for safety for such developments. The proposed gas station prefers a single entrance for increased safety. The layout of the standard gas station floor plan makes it prohibitive to have a door on the corner, as an alternative.

**4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

The strict application of the regulation would cause unnecessary hardship on the applicant due to the increase safety concerns and a non-standard floor plan for the proposed development.