

**Board of Zoning Adjustment
Staff Report**
March 16, 2015



Case No:	15Variance1005
Project Name:	Dollar General
Location:	13725 & 13705 Dixie Highway
Owner(s):	Susan Cox
Applicant:	Same as Owner
Representative:	Clifford Ashburner, Wyatt, Tarrant & Combs
Project Area/Size:	1.209 Acres
Jurisdiction:	Louisville Metro
Council District:	14 - Cindi Fowler
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance: Setback

Variance from the Land Development Code, Section 5.3.2.C.2.b, to allow parking and vehicular maneuvering to encroach into the 25' setback along the northern perimeter.

Location	Requirement	Request	Variance
Side yard setback (north)	25 feet	0 feet	25 feet

Waiver #1: Building Design

Waiver of the Land Development Code, Section 5.5.2.A.1, to not provide the required display windows and windows affording views into the business along the Dixie Highway Frontage.

Waiver #2: Building Design

Waiver of the Land Development Code, Section 5.6.1.B.1.a, to not provide the required 60% ground level animating features along the Dixie Highway frontage.

Waiver #3: Building Design

Waiver of the Land Development Code, Section 5.6.1.C.1, to not provide the required 50% of the street level wall surface consisting of clear windows and doors along the Dixie Highway frontage.

Waiver #4: Interior Landscape (ILA)

Waiver of the Land Development Code, Section 10.2.12, to allow more than 120 foot maximum distance between Interior Landscape Areas (ILA).

Waiver #5: Landscape Buffer Area (LBA)

Waiver of the Land Development Code, Section 5.3.2.C.2.b and 10.2.10, to allow vehicular parking, and maneuvering to encroach into the required 25' setback and 5' LBA along the northern perimeter.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to build a new 9,100 square foot Dollar General with 27 parking spaces and a side loading area on two parcels located south of the Gene Snyder Freeway adjacent to Dixie Highway. The property is bounded by Dixie Highway on the west and an active rail line on the east. The existing structures located on the southern parcel will be removed to construct the new development. The building design requirements, display windows, 50% clear glass and 60% animated features, are not being provided along the Dixie Highway street frontage of the building. The applicant is requesting all of these building design requirements be waived.

A 25 foot setback and a 5 foot landscape buffer are required along the northern perimeter due to the adjacent property being used as residential. This perimeter setback and buffer area is intended to be clear of all development. A variance is necessary to allow the parking to encroach into the required setback and a waiver if necessary to allow the drive lane to encroach into the required landscape buffer area. All of the required tree and buffer plantings will be provided in the perimeter landscape buffers and interior landscape areas with the exception of one interior landscape island, which the applicant is requesting to be allowed to eliminate with a waiver. The elimination of this interior landscape island increases the distance between ILA by more than the allowable 120 feet.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-2 in the Suburban Marketplace Corridor (SMC) Form District. It is surrounded by commercial, residential and vacant properties zoned C-1, C-2, and EZ-1 in the Suburban Marketplace Corridor (SMC) and Neighborhood (N) Form Districts.

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Commercial	C-2	SMC
Proposed	Commercial	C-2	SMC
<i>Surrounding Properties</i>			
North	Single-family Residential & Commercial	C-2 & C-1,	SMC
South	Commercial	C-2 & EZ-1	SMC & N
East	Commercial	EZ-1	N
West	Commercial & Vacant	C-1 & C-2	SMC

PREVIOUS and CURRENT CASES ON SITE

Case # 2-52-14 - Category 2B Development Plan – Pending.

Case # 14LSCAPE1189 – Landscape Plan - Pending.

INTERESTED PARTY COMMENTS

No interested party comments have been received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance from the Land Development Code, Section 5.3.2.C.2.b, to allow parking and vehicular maneuvering to encroach into the 25' setback along the northern perimeter.

- (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 parking and vehicular maneuvering area is necessary to allow future access to the commercial property to the north. The 25 foot setback requirement is necessary due to the northern property currently being used as residential even though it is zoned for commercial use. Plus the new development is providing buffer plantings between the properties to lessen the impact of the new commercial development on the adjacent property. However, the applicant should consider constructing a fence adjacent to the pavement to physically separate the two properties until the northern property were to be developed.

- (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 the area is currently a mixture of residential, commercial, and industrial uses. The adjacent property to the north is being used as a single family residence but is zoned commercial, indicating that in the future this residential property could be a commercial development. However, to reduce the possibility of traffic accessing the development from the northern property a fence could be installed at the end of the pavement where there are no buffer plantings being proposed.

- (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 location of the parking and maneuvering areas will not affect the ability to develop the property to the north. Plus buffer plantings are proposed along the remainder of the northern perimeter where the pavement is not being proposed. The addition of a fence would ensure a physical separation of the two properties and eliminate unwanted access through the northern property to the development prior to the northern property being developed as a commercial use.

- (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 the pavement is being required by Public Work to allow access to future development on the adjacent northern property. The 25 foot setback requirement would be eliminated if and when the northern property develops as a commercial use.

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 because the adjacent property is zoned commercial but is being used as residential; therefore the 25 foot setback is required to reduce the impact of the commercial development on the single family use. When and if the northern property develops commercially then the setback requirement would be eliminated. However, prior to the redevelopment of the northern property a physical barrier between the two properties would eliminate unwanted traffic through the northern property to the proposed development.

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 because two parking spaces would be lost and the access to the northern property would be eliminated.

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. The setback requirement is a result of the residential use being adjacent to the commercial zoning. Since the subject property is zoned for commercial use and the adjacent property is also zoned for commercial use it is unfortunate for the applicant that the northern property is a residential use therefore the setback applies.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #1: Building Design

Waiver of the Land Development Code, Section 5.5.2.A.1, to not provide the required display windows and windows affording views into the business along the Dixie Highway frontage.

- (a) The waiver will adversely affect adjacent property owners; and

STAFF: The requested waiver will adversely affect adjacent property owners since the building design requirement for display windows and windows affording views into the business are not being provided this makes for an uninteresting building which is perceived to be un-attractive and un-inviting. Suburban buildings should not be built using a lesser design standard. The adverse effect of the lack of display windows and very little animation to the façade is that precedence is being established for future development in this area to not meet the building design requirements.

- (b) The waiver will violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of display windows, and windows affording views into the business along the Dixie Highway frontage. This waiver could create a precedence that will allow for the continuance of developments to not provide the required building design. The waiver is not compatible with the pattern of development within the form district, and there do not appear to be

physical restraints preventing compliance with the regulations to be waived. Therefore, the waiver will violate specific guidelines and policies of Cornerstone 2020.

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

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived.

- (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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #2: Building Design

Waiver of the Land Development Code, Section 5.6.1.B.1.a, to not provide the required 60% ground level animating features along the Dixie Highway frontage.

- (a) The waiver will adversely affect adjacent property owners; and

STAFF: The requested waiver will adversely affect adjacent property owners since the building design requirement to animate 60% of the façade is not being provided. Suburban buildings should not be built using a lesser design standard. The adverse effect of very little animation to the façade is that precedence is being established for future development in this area to not meet the building design requirements.

- (b) The waiver will violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the frontage. The waiver is not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the waiver will violate specific guidelines and policies of Cornerstone 2020.

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

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived.

(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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #3: Building Design

Waiver of the Land Development Code, Section 5.6.1.C.1, to not provide the required 50% of the street level wall surface consisting of clear windows and doors along the Dixie Highway frontage.

(a) The waiver will adversely affect adjacent property owners; and

STAFF: The requested waiver will adversely affect adjacent property owners since the building design requirement to provide clear glass and doors along 50% of the wall surface at street-level is not being provided. Suburban buildings should not be built using a lesser design standard. The adverse effect of very little animation to the façade is that precedence is being established for future development in this area to not meet the building design requirements.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide clear glass and doors allowing light and views into the building along no less than 50% of the wall surface at street-level. The waiver is not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the waiver will violate specific guidelines and policies of Cornerstone 2020.

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

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived.

- (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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER Waiver #4: Interior Landscape (ILA)

Waiver of the Land Development Code, Section 10.2.12, to allow more than 120 foot maximum distance between Interior Landscape Areas.

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is reducing the heat effects of the proposed pavement by using reflective concrete instead of asphalt. Therefore one of the intents of interior landscape islands is being met. However, interior landscape islands are also intended to breakup large expanses of impervious pavement and allow a greater distribution of tree canopy, which provides other benefits including a reduction of runoff. The applicant is proposing a detention basin to capture the site runoff. Therefore the adjacent properties will not be affected by the additional storm water generated by the additional pavement and the reduction of one interior landscape island.

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

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. Since this site does not contain any existing interior tree canopy there are no trees or tree canopy to be preserve.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all but one interior landscape island is being provided. Plus the tree canopy and perimeter tree planting requirements are all being met for all other landscape and buffer requirements.

- (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: Considering the total number of trees being provided on the site around the perimeter the applicant is exceeding the minimum requirements for the tree canopy and overall tree planting. Plus the use of concrete pavement to reduce heat is also in excess of the minimum.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #5: Landscape Buffer Area (LBA)

Waiver of the Land Development Code, Section 5.3.2.C.2.b and 10.2.10, to allow vehicular parking and maneuvering to encroach into the required 25' setback and 5' LBA along the northern perimeter.

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is providing extensive perimeter landscape plantings which either meet or exceed the minimum requirements. The proposed encroachment of the vehicular parking and maneuvering is necessary to provide access to the adjacent property for future development, which benefits the adjacent property owner.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The encroachment of the vehicular maneuvering area is necessary to allow for future access to the adjacent property. However, the applicant is providing plantings which are in excess of the required tree and shrub plantings for the perimeter buffers. Plus the tree canopy requirements are being fulfilled for the site.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment of the vehicular maneuvering area is the minimum necessary to allow the required access to the adjacent property for future development. Plus the required tree and shrub plantings are being provided as required within the perimeter buffer except where the pavement is encroaching.

- (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: Considering the total number of trees being provided on the site around the perimeter the applicant is exceeding the minimum requirements for the tree canopy and overall tree planting for the development site. Plus the use of concrete pavement to reduce heat is also in excess of the minimum.

TECHNICAL REVIEW

Technical Review Items which need to be addressed:

1. Provide and show appropriate pedestrian connections to/from/within site.
2. Incorporated KYTC review and comments into plan requirements.
3. Include bicycle parking requirements on plan and in the parking summary.

All of these items shall be incorporated into the development plan prior to final approval and transmittal.

STAFF CONCLUSIONS

Based upon the information in the staff report, the analysis of the standards of review do support the request to grant the variance to allow 100% encroachment of the parking and vehicular maneuvering into the required 25 foot setback; the landscape waiver to allow the interior island areas to be more than 120 feet apart; and the landscape waiver to allow the vehicular maneuvering pavement to encroach into the 5 foot LBA. However, the building design waivers are not supported by the staff report and the analysis of the standards of review.

Therefore, 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 violated the comprehensive plan and also meet the standards established in the Land Development Code

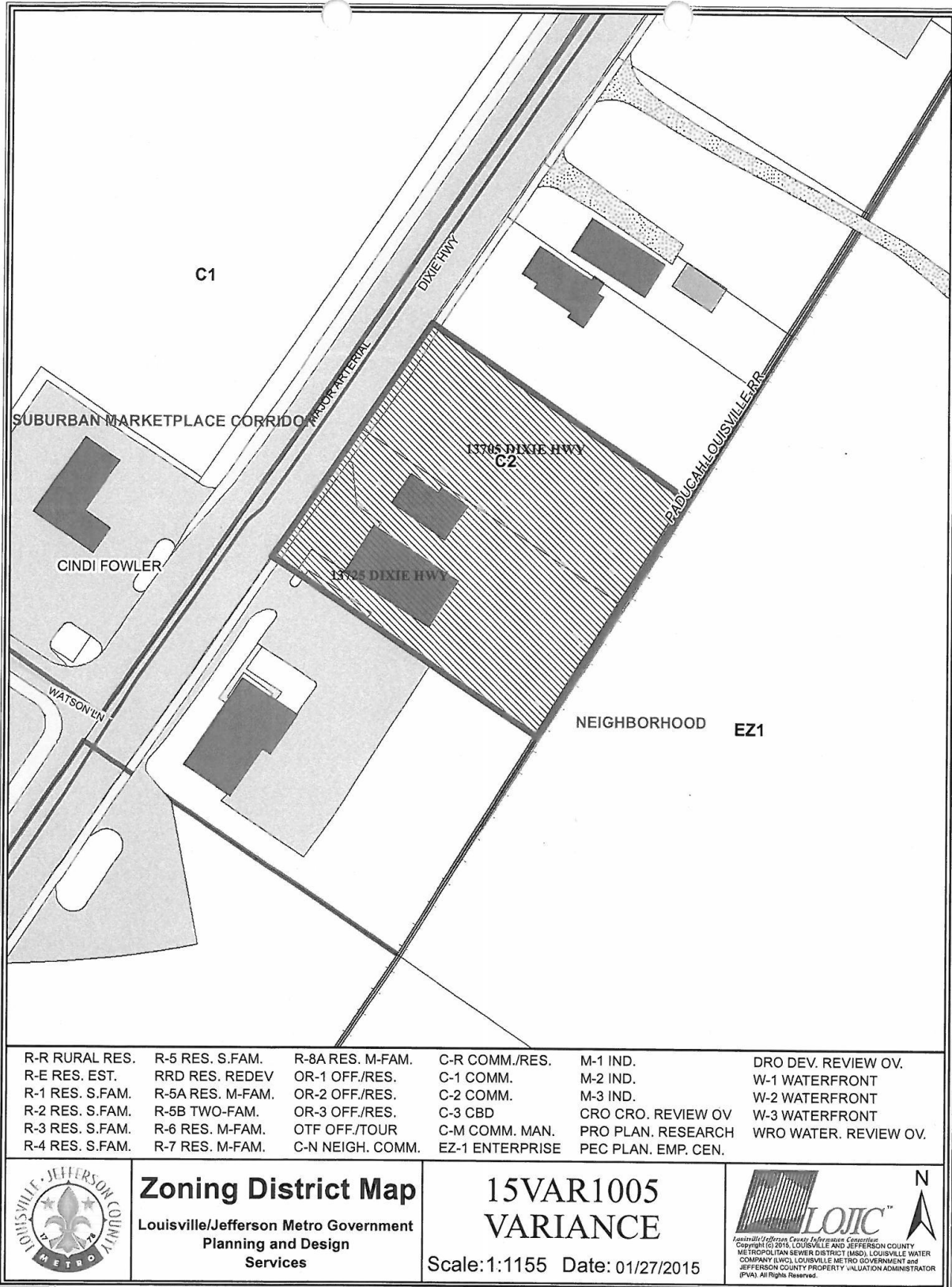
NOTIFICATION

Date	Purpose of Notice	Recipients
02/26/2015	BOZA Hearing	Neighborhood notification recipients
02/27/2015	Sign Posting	Subject property
02/27/2015	BOZA Hearing	1 st tier adjoining property owners

ATTACHMENTS

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

Attachment 1 - Zoning Map



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. GEN.	



Zoning District Map
 Louisville/Jefferson Metro Government
 Planning and Design
 Services

**15VAR1005
 VARIANCE**

Scale: 1:1155 Date: 01/27/2015



Attachment 2 - Aerial Photo



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



Zoning District Map
 Louisville/Jefferson Metro Government
 Planning and Design
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**15VAR1005
 VARIANCE**

Scale: 1:543 Date: 01/27/2015



Attachment 5 – Applicant’s Justifications

Variance Justification

**Susan Cox
13705 & 13725 Dixie Highway
VARIANCE JUSTIFICATION**

January 26, 2015

The variance will not adversely affect the public health, safety or welfare. The subject property is located along south Dixie Highway, is zoned C-2 and is in the Suburban Marketplace Corridor Form District. The subject property is bounded to the east by a railroad track and to the north and south by commercially zoned properties. The property to the south is vacant and owned by the Riverport Authority. The property to the north is used as a residence. The residential use to the north will likely change to a commercial use in the near future. The variance arises from the setback required between residential and commercial uses in spite of the zoning of either property.

The proposed development includes vehicular connections to the properties to the north and south, indicating Metro Public Works’ belief that these properties will become commercial at some point in the near future. The proposed variance is a small (3.9’) encroachment into the required side yard. Should the property to the north of the subject property develop commercially, the variance would no longer be necessary.

The proposed variance will not alter the character of the general vicinity. The area is a mixture of residential, industrial and commercial uses. The subject property contains a home but is zoned C-2 and is in the Suburban Marketplace Corridor, indicating that commercial uses should be predominant in the area. The variance only arises because the commercially zoned property to the north of the subject property is used as a residence.

The variance will not cause a hazard or nuisance to the public. The proposed building will observe a setback of 21.1 feet. The location of the variance should not affect the ability to develop the property to the north, and the proposed development is providing access to the property through a vehicular connection.

The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposed variance is a small deviation from the required setback, and the property to the north of the subject property is zoned C-2. When it develops commercially, the variance will no longer be necessary.

The variance arises from special circumstances, including the fact that the subject property and the property to the north are both identically zoned, both bounded by Dixie Highway and an active railroad track and are both in the Suburban Marketplace corridor. The property to the north is used residentially but is set up to be redeveloped commercially in the near future.

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15VARIANCE1005

The strict application of the requirements of the zoning ordinance would deprive the property owner of the reasonable use of its property by imposing a permanent design solution for what is likely a very temporary condition.

The circumstances are not the result of the applicant's actions subsequent to the adoption of the commercial to residential setback requirement but are instead the result of the anomalous residential use along this stretch of Dixie Highway.

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Building Design Waiver

Susan Cox
13705 & 13725 Dixie Highway
DESIGN WAIVER JUSTIFICATION

March 6, 2015

The applicant, SC Development, LLC proposes to construct a Dollar General store on south Dixie Highway. The property is bounded by Dixie Highway on the west and a rail line on the east. The property is in the Suburban Marketplace Corridor Form District, is zoned C-2 and is surrounded by C-2 zoned property to the north and south. The applicant proposes to use less than 50% clear glazing for the street facing façade, requiring a waiver of Sections 5.5.2.A.1 and 5.6.1.C.

The proposed waiver will not adversely affect adjoining property owners. The proposed Dollar General store will provide a central entrance and vestibule which will be all glass and will provide windows at a height that will allow for inventory to be stored below. The area surrounding the property has virtually no sidewalks, creating an auto-centric corridor where the elimination of some glazing will not have as negative an impact as it might in a more pedestrian friendly area.

The waiver will not violate the Comprehensive Plan for the reasons stated above and because the applicant is providing an extensive amount of landscaping along Dixie Highway to make the overall site attractive.

The extent of the waiver is the minimum necessary to afford the applicant relief. The applicant is providing glazing where it is appropriate and where it can be accommodated. Dollar General stores use interior wall space for inventory storage, and the glazing will be above the inventory.

The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant in this case. The thought behind the minimum glazing requirement is to provide more pedestrian friendly stores with a high level of design facing the street. Here, through the use of some glazing and landscaping, the store will still have an attractive façade facing Dixie Highway. But the design will match the context of the area, a major arterial roadway with little pedestrian infrastructure or traffic.

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Landscaping Waiver

LANDSCAPE WAIVER JUSTIFICATION STATEMENT

SC DEVELOPMENT, LLC
13705 & 13725 Dixie Highway

March 6, 2015

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SC Development, LLC is applying for a waiver of the interior landscape area ("ILA") requirements of the Land Development Code in order to not provide one ILA and to allow greater than 120' between ILA's as required by LDC 10.2.12. SC Development, LLC is also applying for a waiver to allow an access drive to encroach into the required 5' LBA along the north property line of the subject property. For the reasons stated herein, the requested waivers comply with the Cornerstone 2020 Comprehensive Plan and the criteria for granting waivers and, therefore, should be approved.

The requested waivers will not adversely affect the adjacent property owner. Although a reduction in the ILA is requested, the applicant is providing nearly 2.5 times the required tree canopy and is providing extensive perimeter landscaping. The applicant's proposed encroachment for the access drive will provide access to the property to the north, benefitting the owner in the future. In addition, the applicant will construct the parking area out of concrete, reducing the heat island impact often associated with parking areas. Therefore, the requested waivers will not adversely affect the adjacent property owner.

The requested waivers comply with the Cornerstone 2020 Comprehensive Plan. The proposed use is consistent with the Suburban Marketplace Corridor in that it is a single story building surrounded by landscaping sandwiched between Dixie Highway and an active rail line and will offer a commercial use that serves the surrounding neighborhood. The proposed development will provide access to both the property to the north and south. Finally, the proposed development will also provide sidewalks to allow for pedestrian access to the site from surrounding properties and the parking lot has been designed to allow for safe truck maneuvering and unloading, as well. For all of the foregoing reasons, the requested waivers will not violate the Cornerstone 2020 Comprehensive Plan.

The requested waivers are the minimum necessary to afford relief to the applicant because the proposal is for the development of a Dollar General store on a mostly vacant parcel of property, one that currently contains no existing interior or exterior landscaping. The applicant will provide most of the required amount of interior landscape areas, and significant LBA's in areas other than those reserved for access, which will only serve to benefit the surrounding properties. Furthermore, the proposed development incorporates a tree canopy far in excess of the requirements set forth in the LDC. Finally, in order to develop the site as proposed while providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested landscape waiver is required.

Absent the waivers, the applicant would be deprived of the reasonable use of the land. The applicant is committed to developing a retail store that carries a variety of products that are used on a regular basis by those who reside in the neighborhood.

However, in order to develop this store in a cost effective manner and do so while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested landscape waivers are required. Therefore, the strict application of the provisions of the regulation would prevent the applicant from developing the property as proposed.

For the foregoing reasons, the applicant respectfully requests approval of a waiver of Section 10.2.12 of the LDC to reduce the required ILA, and Sections 5.3.2.C.2.b and 10.2.10 to allow the proposed access drive to encroach into the required LBA.

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Attachment 6- Site Photos



Northern portion of the site



Middle portion of the site



Southern portion of the site



From the southern perimeter looking north along Dixie Highway



Looking from the vacant portion of the site toward the rear (railroad tracks)



Looking south from northern perimeter toward the existing structures



From the northern perimeter looking south along Dixie Highway



Rear of the site looking north from the southern perimeter