

**Board of Zoning Adjustment
Staff Report**
August 17, 2015



Case No:	15VARIANCE1048
Request:	Variations to allow reductions in the required setbacks
Project Name:	Liquor Palace
Location:	4002 Preston Highway
Owner:	Kentucky Property Investments LLC
Applicant:	Kentucky Property Investments LLC
Representative:	Garber – Chilton Engineers and Land Surveyors Inc
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Variance #1: Variance from Chapter 5.3.2.C.2.b of the Land Development Code to allow pavement and dumpster to encroach into the required 25’ side and rear yard setbacks
- Variance #2:

Variance

Location	Requirement	Request	Variance
Side Yard Setback	25’	10’	15’
Rear Yard Setback	25’	17’	8’

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1
 Existing Form District: Suburban Marketplace Corridor
 Existing Use: Vacant Business
 Proposed Use: Liquor Store
 Minimum Parking Requirement: 11
 Maximum Parking Requirement: 19
 Proposed Parking: 12
 Plan Certain Docket #: 9-103-85

The applicant is requesting to construct a 2,818 SF building on the existing three parcels that will be consolidated along Preston Highway. The applicant will be providing one space above the minimum number of parking spaces and a drive thru area that will allow the minimum 7 spaces of queuing for traffic. As a result of the access, parking area and location of the dumpster, a reduction in the required 25’ side and rear yard are required for the proposal. The 25’ yard setback results from the location to adjacent residentially zoned properties. The side yard along the south property perimeter is adjacent to a non-residential use located on residentially zoned property. The rear yard setback is adjacent to vacant residentially zoned properties along Lupino Court. Only one residence was constructed along the west side of Lupino Court. The reduction in the required yards will not adversely affect residentially zoned properties as identified within the Land Development Code.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant Business	C-1	SMC
Proposed	Liquor Store	C-1	SMC
Surrounding Properties			
North	Aldi	C-1	SMC
South	Office	R-5	SMC
East	Retail	C-1	SMC
West	Vacant	R-5	SMC

PREVIOUS CASES ON SITE

9-103-85: A change in zoning from R-4 to C-1 was approved to allow a retail use on the subject site.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES
(Side and Rear Yard Setbacks)**

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

STAFF: The requested variances will not adversely affect the public health, safety or welfare since the encroachments will be buffered from adjacent properties with required landscape areas.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variances will not alter the essential character of the general vicinity since the encroachments will follow the established pattern along the Preston Highway corridor and will reduce the existing amount of pavement on the subject sites.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variances will not cause a hazard or nuisance to the public since the encroachment will be buffered from adjacent properties with required landscape areas.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variances will not allow an unreasonable circumvention of the zoning regulations since the reductions will maintain additional setback area beyond the existing pavement on the site.

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 variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone due to the extent of pavement covering the subject sites.

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 the reasonable use of the land or create an unnecessary hardship on the applicant by not allowing the development to meet the minimum parking requirement and have access as shown from Preston Highway.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the pattern of development for the area was established prior to the current proposal and the existing pavement was in place on the subject sites.

TECHNICAL REVIEW

- The required waivers, amendment to binding elements and development plan need to be scheduled and heard by the Development Review Committee or Land Development and Transportation Committee.

STAFF CONCLUSIONS

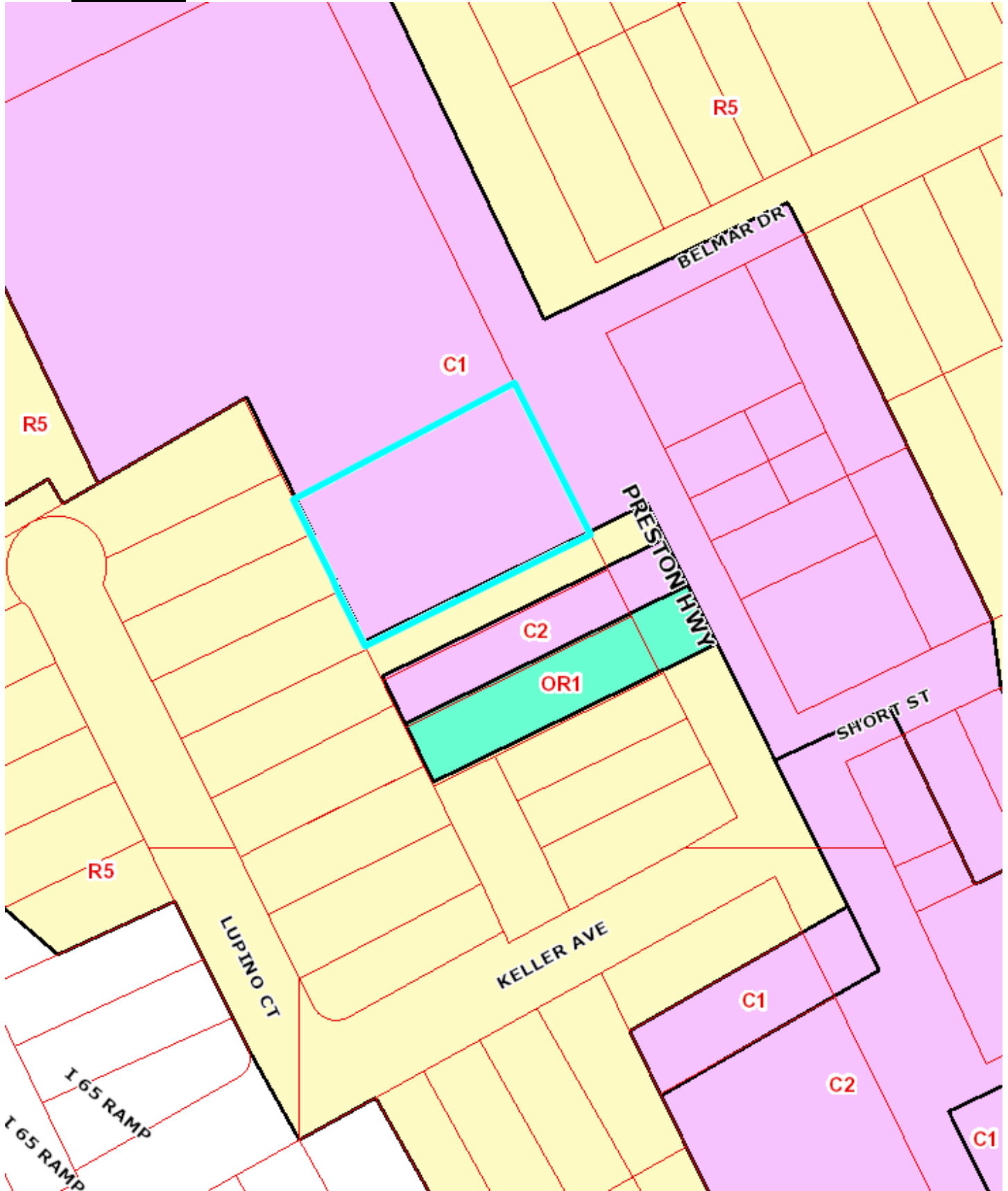
The standard of review for the requested variances has been met. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting variances as established in the Land Development Code.

NOTIFICATION

Date	Purpose of Notice	Recipients
8/3/17	Hearing before BOZA	1 st tier APO of subject property Registered Interested Parties for Council District 21 Individuals that spoke at previous public hearings

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph

