

Board of Zoning Adjustment

Staff Report

January 13, 2014



Case No:	13Variance1055
Request:	Variance, Waivers
Project Name:	Kroger Fuel Station
Location:	4946 US Hwy. 42
Owner:	Swift Oil Co., Inc.
Applicant:	Kroger Mid-South Division
Representative:	Heritage Engineering, LLC.
Jurisdiction:	Louisville Metro
Council District:	7 – Tina Ward Pugh
Case Manager:	Latondra Yates, Planner II

REQUEST

- Variance of Section 5.2.4.C.3.a. of the Land Development Code (LDC) to allow the proposed fuel station to exceed the maximum 15-ft. setback;
- Waiver of Sec. 5.5.1.A.3.a. of the LDC to allow the proposed canopy and drive lanes to be located in front of the principle structure;
- Waiver of Sec. 10.3.5.A.1., Table 10.3.1 of the LDC to reduce the required 30-ft. Parkway Buffer along Hwy. 42 to 5 ft. and to not provide the required 3-ft. berm;
- Waiver of Sec. 10.3.5.A.1, Table 10.3.1 of the LDC to reduce the required 15-ft. Parkway Buffer along Holiday Manor Center from 15 ft. to 5 ft. and to not provide the required 3-ft. berm.

Variance

Location	Requirement	Request	Variance
Proposed fuel station	15 ft.	34.3 ft.	19.3 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Demolition of the existing fuel station and construction of a more modern fuel center with a kiosk is proposed.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-1 and in the Town Center (TC) Form District. Holiday Manor is to the north and east. The site transitions to the Neighborhood Form District (NFD) to the west, across Hwy. 42, where there are residential subdivisions. There is a bank to the south, across Holiday Manor Center.

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial	C-1	TC
Proposed	Commercial	C-1	TC
Surrounding Properties			
North	Commercial	C-1	TC
South	Commercial	C-1	TC
East	Commercial	C-1	TC
West	Single-family residential	R-4	NFD

RELATED CASES

None

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Land Development Code
 Cornerstone 2020 Comprehensive Plan- See checklist attached

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

(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 development is proposed in a manner that does not appear to impede sight distance. The circulation and access are also subject to Public Works approval.

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

STAFF: The variance not will alter the essential character of the general vicinity because the site is currently used as a gas station.

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

STAFF: The variance will not cause a hazard or nuisance to the public because the development is proposed in a manner that does not appear to impede sight distance. The circulation and access are also subject to Public Works approval. The development will also be buffered from adjacent residential through providing the required plantings.

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

STAFF: The variance will not allow an unreasonable circumvention of the zoning regulations given the limited lot area and that it is already being used as a gas station.

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 variance arises from the limited lot area and use of the lot as a fuel station.

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 because the lot is currently used as a gas station; and the applicant proposes to update the lot with a more modern fuel center.

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 the proposed development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 5.5.1.A.3.a. of the LDC to allow the proposed canopy and drive lanes to be located in front of the principle structure;**

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

STAFF: The waiver will not adversely affect adjoining property owners because of the similar commercial nature of adjacent properties to the north, south and east. Residential development to the west will be buffered through providing the required plantings.

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

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant because of the relatively small size of the lot for use as a fuel station and the fact that the lot is currently used as one.

(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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because of the relatively small size of the lot for use as a fuel station and the fact that the lot is currently used as one.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- Waiver of Sec. 10.3.5.A.1., Table 10.3.1 of the LDC to reduce the required 30-ft. Parkway Buffer along Hwy. 42 to 5 ft.;
- Waiver of Sec. 10.3.5.A.1, Table 10.3.1 of the LDC to reduce the required 15-ft. Parkway Buffer along Holiday Manor Center from 15 ft. to 5 ft.

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

STAFF: The waivers will not adversely affect adjoining property owners because the required plantings will be provided. However, providing the required buffer widths and berming would improve screening.

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

STAFF: The waivers violate some of the compatibility guidelines of Cornerstone 2020. Providing the required buffer widths and berming would improve screening. However, the required plantings are proposed within the buffers.

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

STAFF: The waivers appear to be the minimum necessary to afford relief to the applicant given limited lot area and the proposed use.

(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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because of the relatively small lot size and fact that it is currently used as a gas station.

TECHNICAL REVIEW

No outstanding technical review items

STAFF CONCLUSIONS

The variance and waivers meet 17 of the applicable guidelines of the Comprehensive Plan. Redevelopment of an existing commercial outlot that is located along a major thoroughfare is proposed. Access will be shared with adjacent commercial development and the site will be served by mass transit and sidewalks. The proposed building materials appear to be compatible with surrounding buildings.

The variance and waivers violate 6 of the guidelines. The proposed building exceeds the required setback, but appears to be compatible with others in the area. Waivers to significantly reduce the parkway buffers and eliminate the berm are requested. However, the required plantings are proposed within the buffers.

Six of the guidelines can be addressed during construction review, including submittal of lighting and signage details.

Staff's analysis of the standards of review support the granting of the variance.

Staff's analysis of the standards of review support the granting of the waiver to allow the proposed canopy and drive lanes to be located in front of the principle structure.

The waivers to reduce the required parkway buffers and eliminate the required berms meet some but not all of the standards of review for granting per staff's analysis on Page 5 of the staff report.

Based upon the information in the staff report, testimony and evidence provided, the Board of Zoning Adjustment must determine if the proposal meets the standards for approval of a variance and waivers established in the Land Development Code.

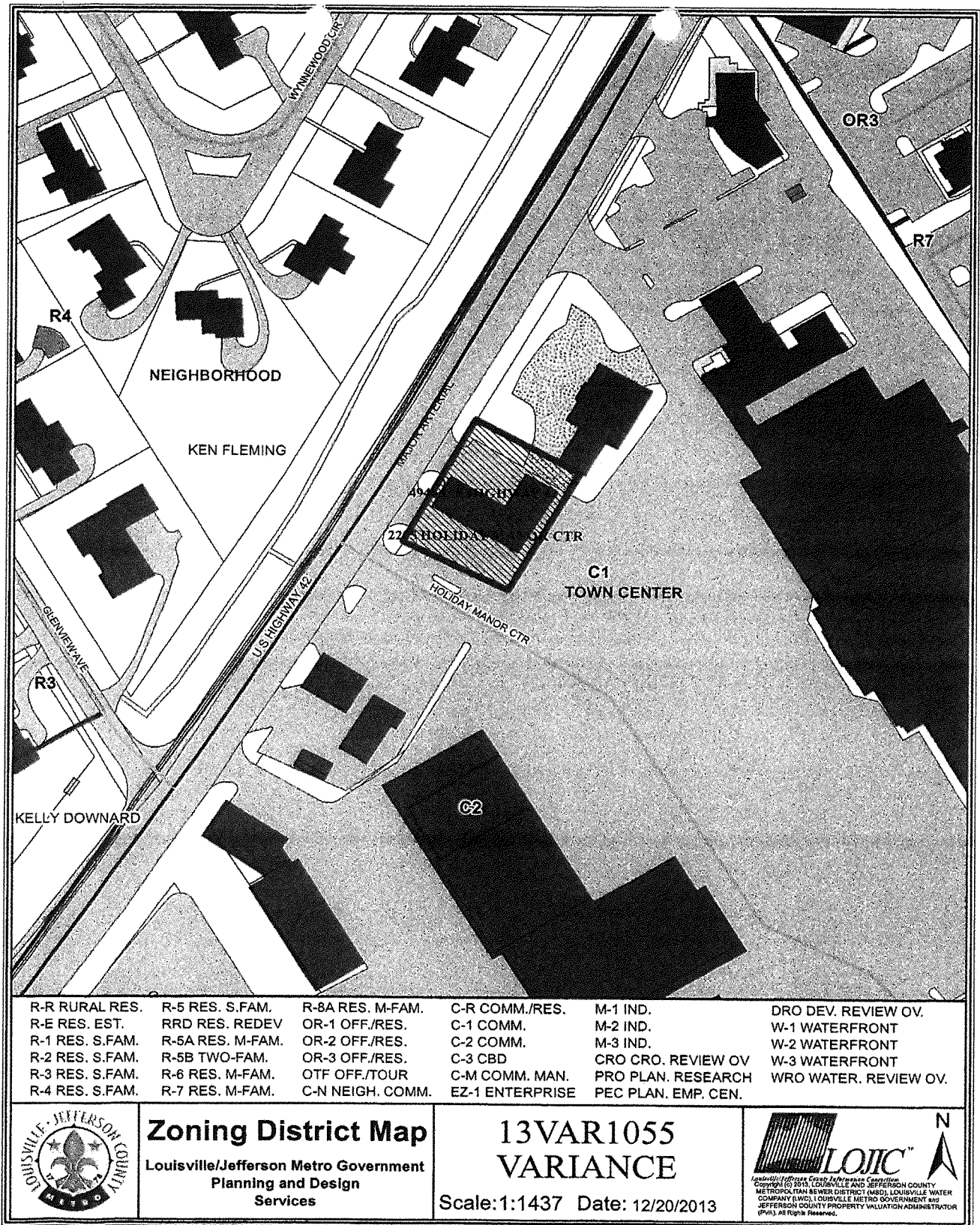
NOTIFICATION

Date	Purpose of Notice	Recipients
1/2/2014	BOZA Meeting	1 st and 2 nd tier adjoining property owners Neighborhood Notification

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Comprehensive Plan Checklist
6. Applicant's Justification Statements

1. Zoning Map



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
Services

13VAR1055
VARIANCE

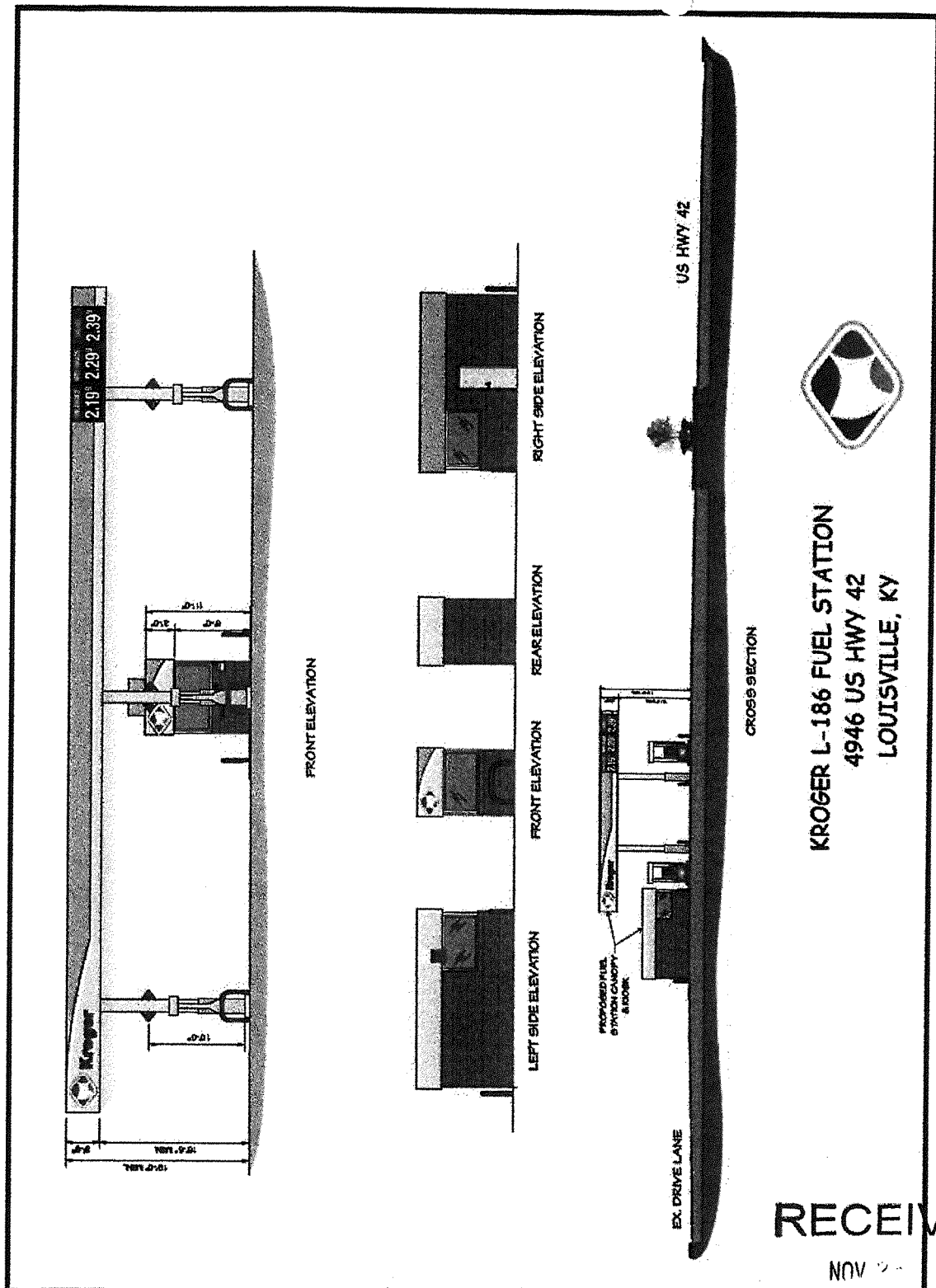
Scale: 1:368 Date: 12/20/2013



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3. Elevations



RECEIVED

NOV 22

PLANNING &

DESIGN DES
7-21-12

Cornerstone 2020 Comprehensive Plan Checklist

Town Center
Form District

Cornerstone 2020 Checklist

Case No.13Variance1055
Staff Findings

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Provision Finding	Pre-App. Comments	Final Finding	Final Comments
1	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.5: The proposal supports a compact mixture of moderately intense uses such as shopping, restaurants and offices, and may include civic uses such as libraries, government offices, police or fire stations and religious facilities.			✓	Redevelopment of an existing commercial outlet is proposed.
2	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.5: Buildings are located close to and oriented toward the street.			-	Proposed kiosk exceeds the maximum setback.
3	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.5: The proposal includes a high level of pedestrian, roadway, transit and bicycle access, and a connected street pattern.			✓	Existing sidewalks. Site is served by mass transit. Connected street pattern.
4	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.5: The proposal, if it is a high intensity use, is located in close proximity to a major thoroughfare with intensity of use decreasing toward the adjacent neighborhood.			✓	Site is located along a major thoroughfare.
5	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Town Center Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.			NA	
6	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.			NA	
7	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.			✓	Redevelopment of an existing commercial outlet is proposed.
8	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D4.1-4.4	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.			NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

Cornerstone 2020
ChecklistCase No.13Variance1055
Staff Findings

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-Adopt Finding	Pre-Adopt Findings	Final Finding	Final Comments
9	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.			NA	
10	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.			NA	
11	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.			✓	Proposed development will share access with adjacent commercial development.
12	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.			✓	Proposed development will share access with adjacent commercial development.
13	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.			✓	Existing sidewalks. Site is served by mass transit. Connected street pattern.
14	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.			✓	Proposed building materials appear to be compatible with that of surrounding buildings.
15	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.			✓	Proposed development will be located in the Town Center in an existing commercial area. Redevelopment of a commercial lot.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed- does not meet guidelines
NA not applicable

Comerstone 2020
Checklist

Case No.13/Variance1055
Staff Findings

#	Comerstone 2020 Guidelines & Policies	Comerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Finding	Post-App Findings	Final Finding	Final Comments
16	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.			NA	
17	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.			+/-	Subject to Public Works approval.
18	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.			+/-	Lighting details should be provided
19	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND is or near an activity center.			✓	Site served by mass transit and in an activity center.
20	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.			-	Waiver to reduce the pathway buffer widths and eliminate the required berm requested. However, the required plantings within the pathway buffers are proposed.
21	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.			-	Waiver to reduce the pathway buffer widths and eliminate the required berm requested. However, the required plantings within the pathway buffers are proposed.
22	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41-4.4	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.			-	Setbacks do not comply with LDC standards, but are similar to that of adjacent buildings.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

Case No. 13Variance1055
Staff FindingsCornerstone 2020
ChecklistTown Center
Form District

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-Adm Findings	Pre-Adm Comments	Final Finding	Final Comments
23	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.			+/-	Waiver to reduce the pathway buffer widths and eliminate the required berm requested. However, the required plantings within the pathway buffers are proposed. Lighting details should be provided.
24	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.			-	Waiver to reduce the pathway buffer widths and eliminate the required berm requested. However, the required plantings are proposed.
25	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.			NA	
26	Form Districts Goals D1-D4, Objectives D1.1, D2.1-2.5, D3.1- 3.3, D41.-4.4	Community Form/Land Use Guideline 3: Compatibility	A.26: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.			+/-	Sign details should be provided.
27	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.23/7: The proposal provides open space that helps meet the needs of the community as a complement of the development and provides for the continued maintenance of that open space.			NA	
28	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.			NA	
29	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.			NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

Case No.13Variance1055
Staff FindingsCornerstone 2020
ChecklistTown Center
Form District

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Finding	Pre-App Comments	Final Finding	Final Comments
30	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.			NA	
31	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.			NA	
32	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, steep or unstable slopes with the potential for severe erosion.			NA	
33	People, Jobs and Housing Goal K4, Objective K4.1	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.			NA	
34	Marketplace Strategy Goal A1, Objectives A1.3, A1.4, A1.5	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in existing subdivisions or adjacent to special infrastructure needs.			NA	
35	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.			✓	Proposed development is located in an activity center.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

Case No.13Variance1055
Staff FindingsCornerstone 2020
ChecklistTown Center
Form District

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-Advisory Findings	Pre-Advisory Comments	Final Finding	Final Comments
36	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.			NA	
37	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.			✓	Public Works construction approval required.
38	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.			✓	Site served by mass transit and existing sidewalks.
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.			NA	
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.			NA	
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.			✓	Required parking provided.

✓ exceeds guidelines

+/- more information needed

6

- does not meet guidelines
NA not applicable

Case No.13Variance1055
Staff FindingsCornerstone 2020
ChecklistTown Center
Form District

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Findings	Pre-App Findings	Final Finding	Final Comments
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.			✓	Site will share access with adjacent commercial developments.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.			NA	
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.			NA	
45	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.			NA	
46	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate for the environment, pedestrians, bicycles and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.			✓	Site served by mass transit and subwalks.
47	Livability Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully- developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.			+/-	Subject to construction approval.

+/- exceeds guidelines

✓ meets guidelines

+/- more information needed

7

- does not meet guidelines
NA not applicable

6. Applicant's Justification Statement

HERITAGE ENGINEERING, LLC

November 20, 2013

Planning and Design Services
Metro Government
444 South Fourth Street
Louisville, Kentucky 40202

Re: Variance Request – Letter of Explanation

Dear Staff:

On behalf of the Kroger Company we are submitting the attached Variance Request for a proposed Fuel Center on a 0.355 acre parcel located at 4942 US Hwy 42.

Site improvements include demolition of an outdated fuel center and construction of a modern Kroger Fuel Center with a Kiosk for payment and purchase of sundries and general merchandise. Construction of the fuel center is subject to a variance from Chapter 5, Part 2, Section 5.2.4.C.3.a and Chapter 10, Part 3, Section 10.3.5.A.1 – Table 10.3.1 of the Land Development Code. The requested variance will allow the proposed structures (Kroger Fuel Center with Kiosk) to be located with a greater maximum setback than permitted per code. Landscape plantings will be provided to comply with code.

Justifications for the requested variances are:

- The requested variance will not adversely affect the public health, safety or welfare because granting of the variance will allow for reconstruction of an outdated fuel center to a clean and modern fuel center to be operated by Kroger, a recognized grocery chain that will both operate and maintain the facility to ensure the facility is a community asset.
- The variance requested will not alter the essential character of the general vicinity as the proposed building setback will be compatible with nearby businesses while implementing the high standards of design associated with the Kroger grocery chain. In addition to being an anchor use for the nearby community who use the existing Kroger grocery, the property will be enhanced with landscape plantings as required for the subject property.
- Granting of the variance will not cause a hazard or a nuisance to the public as the proposed fuel center will update a currently outdated fuel center while enhancing both the corridor of Hwy 42 with a modern, clean and well maintained facility and provide a service to Kroger grocery customers.
- The development as proposed with the requested variance will not allow for an unreasonable circumvention of the zoning regulations as it will allow for the property to be rebuilt with a modern new facility that would otherwise not occur due to the general location of the property and limited uses in the vicinity of the subject property.

642 S. 4TH STREET, SUITE 100
LOUISVILLE, KENTUCKY 40202
PHONE: 502-562-1412 FAX: 502-562-1413

RECEIVED

NOV 25 2013

PLANNING &

DESIGN SERVICES

603 N. SHORE DR., UNIT 204
JEFFERSONVILLE, INDIANA 47130
PHONE: 812-280-8201 FAX: 812-280-8281

13VARIANCE1055

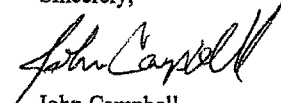
HERITAGE ENGINEERING, LLC

In addition to the justification as defined, please also take into consideration:

- The subject property is impacted by special circumstances such as the generally small parcel size associated with an outdated fuel center that was constructed prior to adoption of the current Land Development Code.
- Strict application of the provisions would limit the reuse of the property and not allow for a modern fuel center to be constructed.
- The proposed redevelopment of the property and need for the variance is not a result of actions taken by the applicant as the existing property was developed prior to the adoption of the Land Development Code and limits potential reuse of the property to a community serving establishment.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,



John Campbell

Encl. Application
Category 2B Development Plan

642 S. 4TH STREET, SUITE 100
LOUISVILLE, KENTUCKY 40202
PHONE: 502-562-1412 FAX: 502-562-1413

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HERITAGE ENGINEERING, LLC

November 20, 2013

Planning and Design Services
Metro Government
444 South Fourth Street
Louisville, Kentucky 40202

Re: Waiver Request – Letter of Explanation

Dear Staff:

On behalf of the Kroger Company we are submitting the attached waiver request for a proposed Fuel Center on a 0.355 acre parcel located at 4942 US Hwy 42.

Site improvements include demolition of an outdated fuel center and construction of a modern Kroger Fuel Center with a Kiosk for payment and purchase of sundries and general merchandise. Construction of the fuel center is subject to a waiver request from Chapter 5, Part 5, Section 5.5.1.A.3.a and Chapter 10, Part 3, Section 10.3.5.A.1 – Table 10.3.1 of the Land Development Code. The requested waivers will allow the proposed canopy and vehicle maneuvering areas to be located in front of the principle structure and allow for adequate onsite vehicle maneuvering.

Justifications for the requested waivers are:

- The requested waivers will not adversely affect adjacent property owners because granting of the waiver will allow for reconstruction of an outdated fuel center to a clean and modern fuel center to be operated by Kroger, a recognized grocery chain. As part of reconstruction, landscaping will be installed along Brownsboro Road where no landscaping currently exist today.
- The waiver requested will not violate the Comprehensive Plan as it will not alter the essential character of the general vicinity as the proposed building setback will be compatible with nearby businesses while implementing the high standards of design associated with the Kroger grocery chain. In addition to being an anchor use for the nearby community who use the existing Kroger grocery, the property will be enhanced with landscape plantings as required for the subject property.
- Granting of the waivers is the minimum necessary to afford relief to the applicant as the proposed fuel center will still allow for the property to be enhanced with landscape planting as required for the subject property while improving a currently outdated and closed fuel center with enhancements of the Hwy 42 corridor with a modern, clean and well maintained facility and provide a service to Kroger grocery customers.

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LOUISVILLE, KENTUCKY 40202
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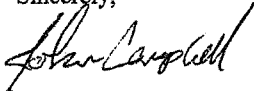
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HERITAGE ENGINEERING, LLC

- The development as proposed with the requested waivers will allow for the property to be rebuilt with a modern new facility that would otherwise not occur due to the general location of the property and limited uses the could occur on subject property. In addition strict application of the provisions would limit the reuse of the property and not allow for a modern fuel center to be constructed.

Thank you for your consideration; please advise us immediately if any additional information is needed.

Sincerely,



John Campbell

Encl. Application
Category 2B Development Plan

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