

**Board of Zoning Adjustment  
Staff Report**  
August 7, 2017



<b>Case No:</b>	17VARIANCE1004
<b>Project Name:</b>	9903 Brownsboro Road
<b>Location:</b>	9903 Brownsboro Road
<b>Owner(s):</b>	Commonwealth Bank & Trust Co.
<b>Applicant:</b>	Commonwealth Bank & Trust Co.
<b>Representative(s):</b>	Stites & Harbison, PLLC
<b>Project Area/Size:</b>	2.74 acres
<b>Existing Zoning District:</b>	C-1
<b>Existing Form District:</b>	RC, Regional Center
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Joel P. Dock, Planner II

**REQUEST(S)**

- **Variance** of Land Development Code, section 5.3.3.C.2.b to reduce required 50 foot rear yard setback to 30 feet

**CASE SUMMARY**

Four uses, across three lots, having pedestrian and vehicular cross-connectivity and sharing a single access point to Brownsboro Road are proposed. The uses include a restaurant with drive-thru, coffee shop with drive-thru and outdoor patio, retail store, and bank with ATM and drive-thru queuing having a total combined square footage of 11,172 square feet and 117 parking spaces. Elevations show the usage of brick, stone, and paneling with doors and windows affording views into the businesses from the public street. The majority of the area requested for relief is adjacent to a residential open space lot and drive lane. A twenty-five foot landscape buffer area (LBA) is to be provided in the space of requested relief along the length of the rear property line.

**Previous Cases**

- 9-64-01: CIZ from R-4 & C-2 to C-1 (approved 3/7/02; revised 2/18/04 & 9/13/06)
- 8394: RDDDP for subject site only (approved 4/25/07)

**STAFF FINDING**

The requested variance appears to be adequately justified and meet the standard of review based on staff analysis in the staff report. The proposed development plan provides appropriate transitions between incompatible uses while also developing the property for the intended users. The twenty-five foot LBA within the area requested for relief will be planted at a planting density of 1.5 times the required amount.

## **TECHNICAL REVIEW**

A landscape waiver, amendment to general plan binding element, and revised detailed district development plan were presented to the Development Review Committee on August 2, 2017.

## **INTERESTED PARTY COMMENTS**

No comments pertaining to the variance were submitted.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

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

STAFF: The requested variance will not adversely affect the public health, safety, or welfare as the reduced area maintains a twenty-five foot landscape buffer area that aids in mitigating any potential noise, odor, or light omitted from the subject site. Additionally, an area of roughly twenty feet exists as an open space/drive lane between the rear of the subject site and two occupied residential building lots.

- (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 area as the request is being made at the rear of the property and all other components of this project are compatible with the requirements of the Land Development Code and Comprehensive Plan.

- (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 as required landscaping (planting and screening) is being provided in the area requested for relief which serves to mitigate any potential noise, odor, or light omitted from the subject site.

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

STAFF:

The requested variance would not allow an unreasonable circumvention of the zoning regulations as the minimum necessary relief has been requested to develop the site for the intended users while also maintaining desired levels of parking and cross connectivity.

## **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 does arise from special circumstances that do not generally apply to land in the general vicinity or same zone as the portion of the setback requested for relief is needed to accommodate drive lanes and cross connectivity between uses.

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 as all other LDC requirements are being met and appropriate transitions between the commercial and residential uses are being made.

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.

**REQUIRED ACTIONS**

- **Approve or Deny the Variance** of Land Development Code, section 5.3.3.C.2.b to reduce required 50 foot rear yard setback to 30 feet

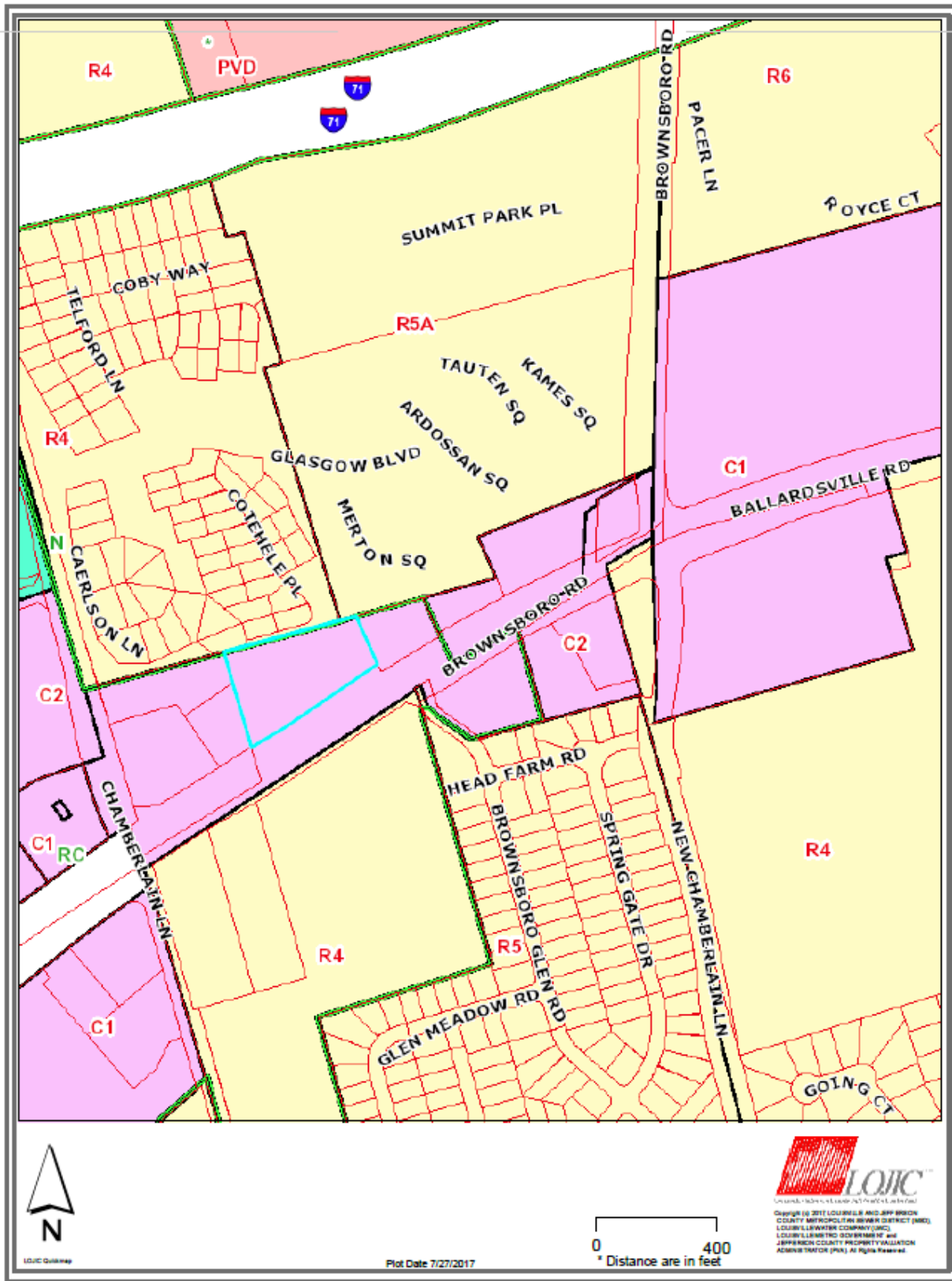
**NOTIFICATION**

Date	Purpose of Notice	Recipients
7/21/17	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 1

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**





2. Aerial Photograph

