

Development Review Committee

Staff Report

May 6, 2015



Case No:	15WAIVER1007
Request:	Waivers of the Land Development Code to allow an existing sanitary sewer and drainage easement to encroach 100% into the required 15' Landscape Buffer Area (LBA).
Project Name:	Zaxby's
Location:	4918 Dixie Highway
Owner:	Dixie Associates
Applicant:	North Dixie –Cornerstone, LLC
Representative:	Ann Richard, Lan Design & Development
Jurisdiction:	Louisville
Council District:	3 – Mary Woolridge
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Waiver of Section 10.2.4.B to allow an existing sanitary sewer and drainage easement to encroach 100% into the required 15' Landscape Buffer Area (LBA) along the Dixie Highway frontage.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 3,850sf drive-thru restaurant on an out-parcel of an existing shopping center located on the east side of Dixie Highway. The restaurant site is currently part of a larger development proposing a new Kroger and fuel station. The proposed out parcel/lot will be created by minor plat prior to construction of the proposed restaurant. Sufficient parking will be provided on the subject site. Construction of a new building requires a 15' Landscape Buffer Area (LBA) be provided along the Dixie Highway frontage. This landscape waiver is requested to allow an existing easement to encroach into the required 15' LBA located along the frontage of Dixie Highway. The applicant will be providing the required screening and tree plantings.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The property is zoned C-1 and C-2 in the Suburban Marketplace Corridor Form District. This property is surrounded by C-2, R-4, and R-7 commercial and residential properties in the Suburban Marketplace Corridor and the Neighborhood Form District.

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Commercial	C1 & C2	SMC
Proposed	Commercial	C1 & C2	SMC
<i>Surrounding Properties</i>			
North	Commercial, Office, Vacant, & Multi-family residential	C-2, R4, & R7	SMC & N
South	Commercial, Multi-family Residential	C-2 & R-7	SMC & N
East	Single Family Residential	R-7 & R-4	N
West	Commercial across Dixie Highway	C-2	SMC

CURRENT CASES ON SITE

- 2-19-15 Category 2B Development Plan proposing new building and parking lot associated with this application. Approval pending.
- 15Devplan1050 Proposed new Kroger and fuel station also located at 4913 Dixie Highway. Approval pending.

INTERESTED PARTY COMMENTS

No comments have been received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver of Section 10.2.4.B to allow an existing sanitary sewer and drainage easement to encroach 100% into the required 15' Landscape Buffer Area (LBA) along the Dixie Highway frontage.

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

STAFF: The waiver will not adversely affect adjacent property owners since the easement is existing. Plus the required buffer and trees plantings are being provided.

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

STAFF: Guideline 3, policy 9 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. 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. Even though there is encroachment of the easement into the landscape buffer area, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers. Plus the tree canopy requirements are being fulfilled for the site. Therefore the waiver will not violate the comprehensive plan.

- (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 easement is an existing condition. Plus even with the encroachment of the easement into the landscape buffer area, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers. Plus the tree canopy requirements are being fulfilled for the site.

- (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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the development of the site is utilizing the existing pavement to provide the required parking if the pavement were to be removed the applicant would lose 14 parking spaces along the front of the parcel.

TECHNICAL REVIEW

No technical review items to address.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting a LDC Waiver established in the Land Development Code.

NOTIFICATION

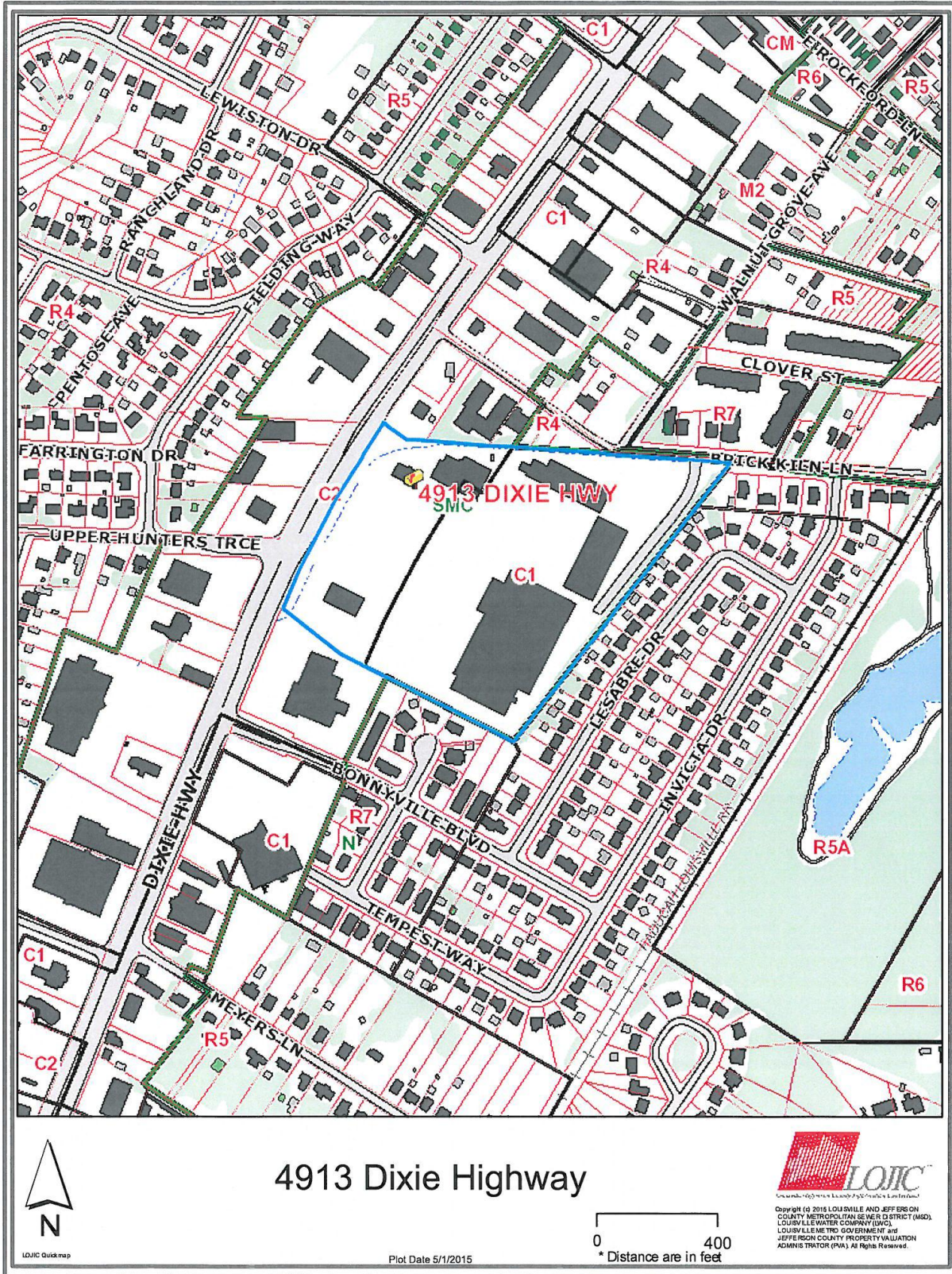
Date	Purpose of Notice	Recipients
04/24/2015	Notification for DRC	Subscribers of Council District 24 Notification of Development Proposals
04/24/2015	Notification for DRC	1 st tier adjoining property owners

ATTACHMENTS

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

ATTACHMENTS

Attachment 1: Zoning Map



Attachment 2: Aerial Photographs



Attachment 3: Applicant's Justification

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?

It will not because the applicant is proposing to provide the required landscaping

2. Will the waiver violate the Comprehensive Plan?

It will not because the applicant is proposing to provide the required landscaping and the intent of the Comprehensive Plan will be met.

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

It is the minimum necessary because the required landscaping will be provided and the buffer area will be provided and there will be no conflict with the easement infrastructure.

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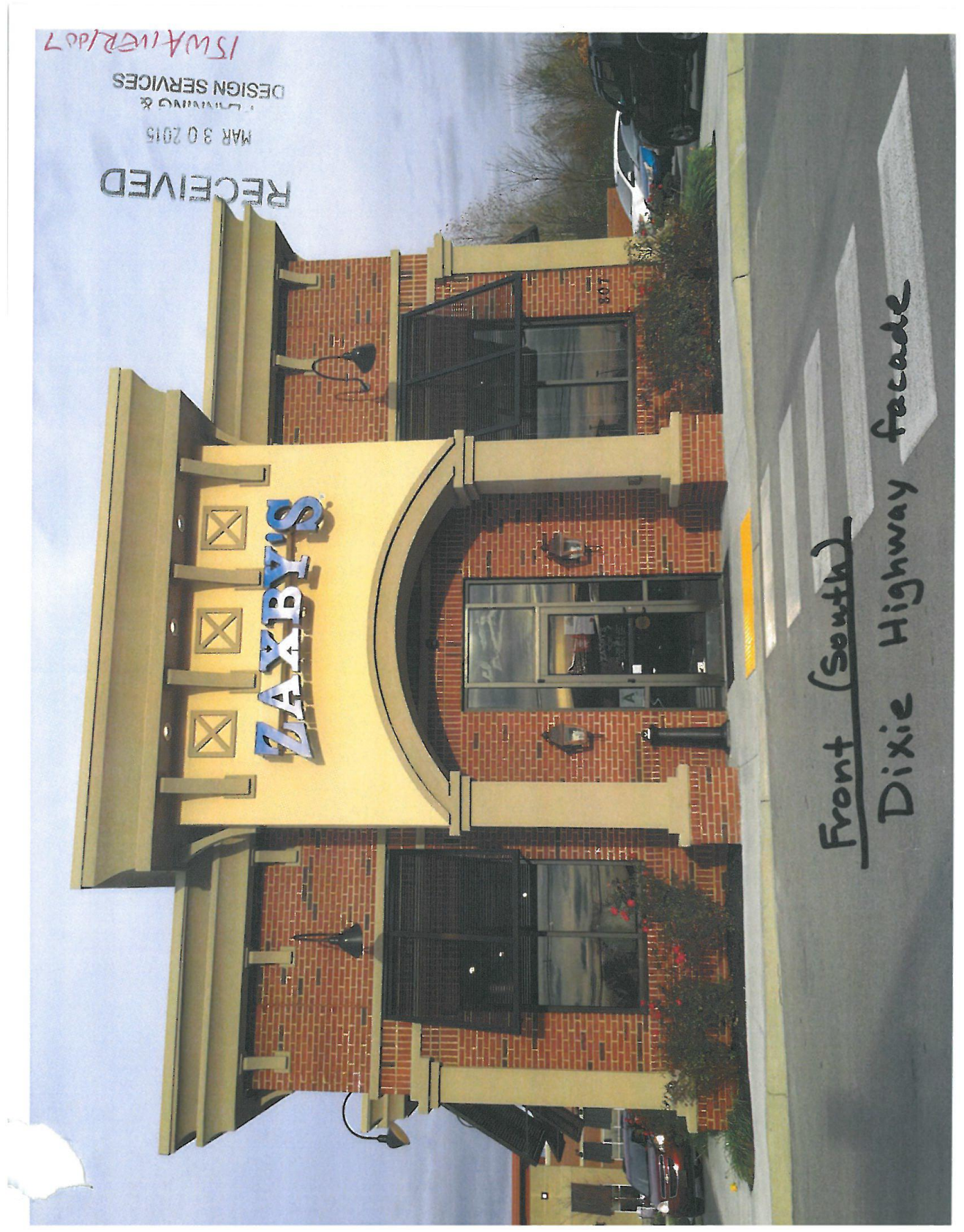
PLANNING &
DESIGN SERVICES

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 will deprive the applicant of the ability to develop the site by utilizing the existing pavement. It will deprive the applicant from the developing the property at all because only by utilizing the existing pavement can the site be developed for a Zaxbys because the parking needs of the greater development dictates how large the Zaxbys parcel can be.

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Attachment 5: Elevations



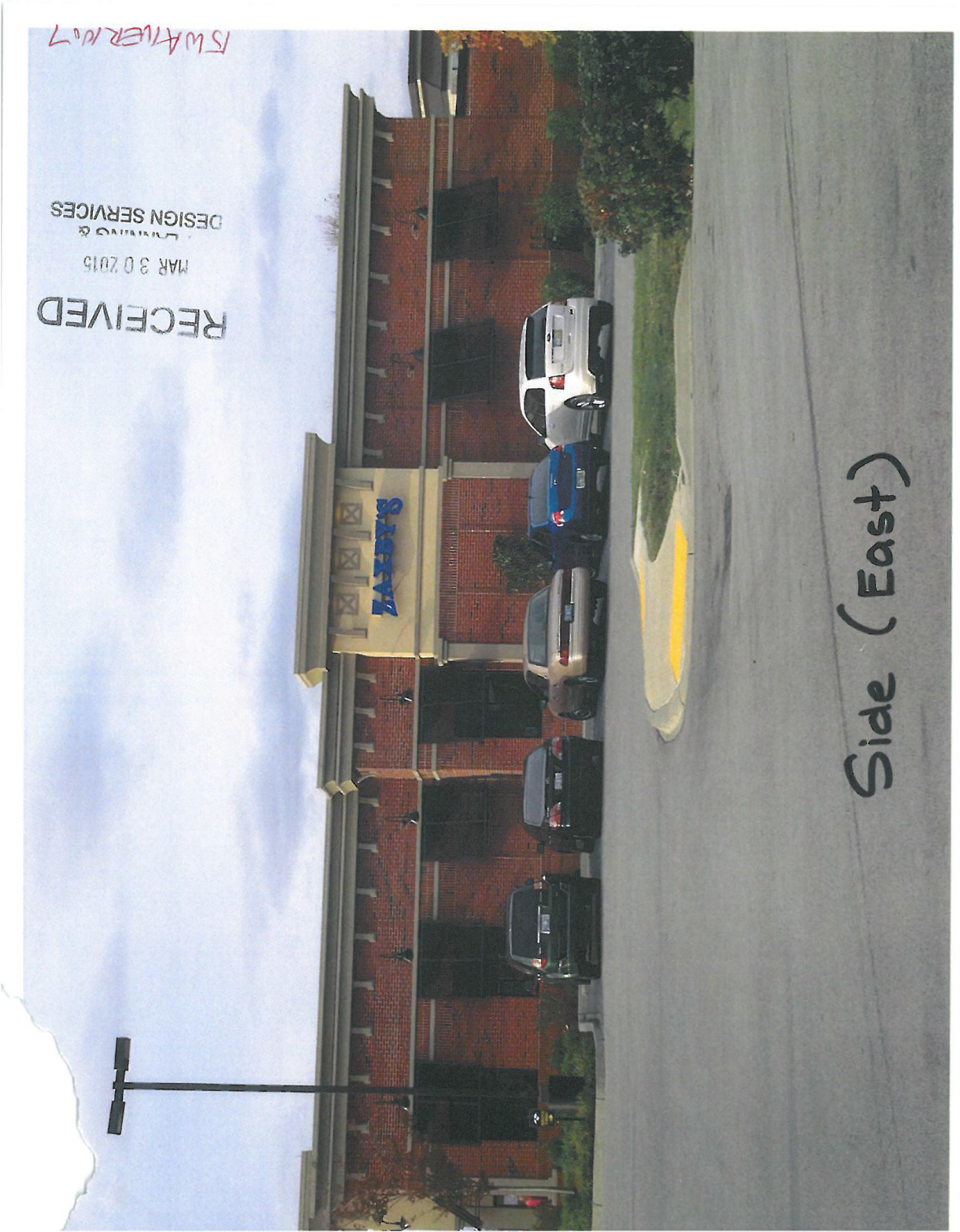
Rear (north)

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Side (East)

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Side (West)