

Board of Zoning Adjustment

Staff Report

February 6, 2023



Case No:	22-MVARIANCE-0001
Project Name:	9903 Brownsboro Road
Location:	9903 Brownsboro Road
Owner(s):	BR Investors, LLC
Applicant:	Bowman Consulting Group Ltd
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Clara Schweiger, Planner I

REQUEST(S)

- A modified variance of Land Development Code section 5.3.3.C.2.b to further reduce the rear yard setback from 30' to 8' for a variance of 22' on lot 3.

CASE SUMMARY/BACKGROUND

The applicant is proposing three uses across three lots, having pedestrian and vehicular cross-connectivity and sharing a single access point to Brownsboro Rd. The three uses being proposed are two restaurants, an office, and retail on three separate lots in the C-1 Zoning District and Regional Center form district with the total site area being 2.74 acres and a combined square footage of approximately 14,200 square feet. On lot 3 a dumpster enclosure and a drive thru lane are encroaching into the 30' rear yard setback, requiring a variance. In 2017 a revised detailed district development plan (17DEVPLAN1019) was approved with a variance to reduce the rear yard setback from 50' to 30'.

STAFF FINDING

Staff finds that the proposal meets the standard of review based on the staff analysis in the staff report. The planting requirements in the property perimeter LBA along the rear of the site are being met.

TECHNICAL REVIEW

A Revised Detailed District Development Plan (22-DDP-0097) and two waivers will be heard at the February 9th Land Development and Transportation Meeting.

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments for this case.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 there was already a variance approved for the drive thru lane and dumpster enclosure to encroach into the rear yard setback with a previous plan, and the applicant is providing all required plantings in the landscape buffer area near the drive thru lane and dumpster enclosure.

- (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 variance is being requested at the rear of the property.

- (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 planting and screening is being provided in the area requested for relief which serves to mitigate any potential hazard or nuisance to the public.

- (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 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 arises 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 planting and screening is still being provided to screen the commercial use from the residential properties adjacent to the site.

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:

- **APPROVED** or **DENY** the **Modified Variance**

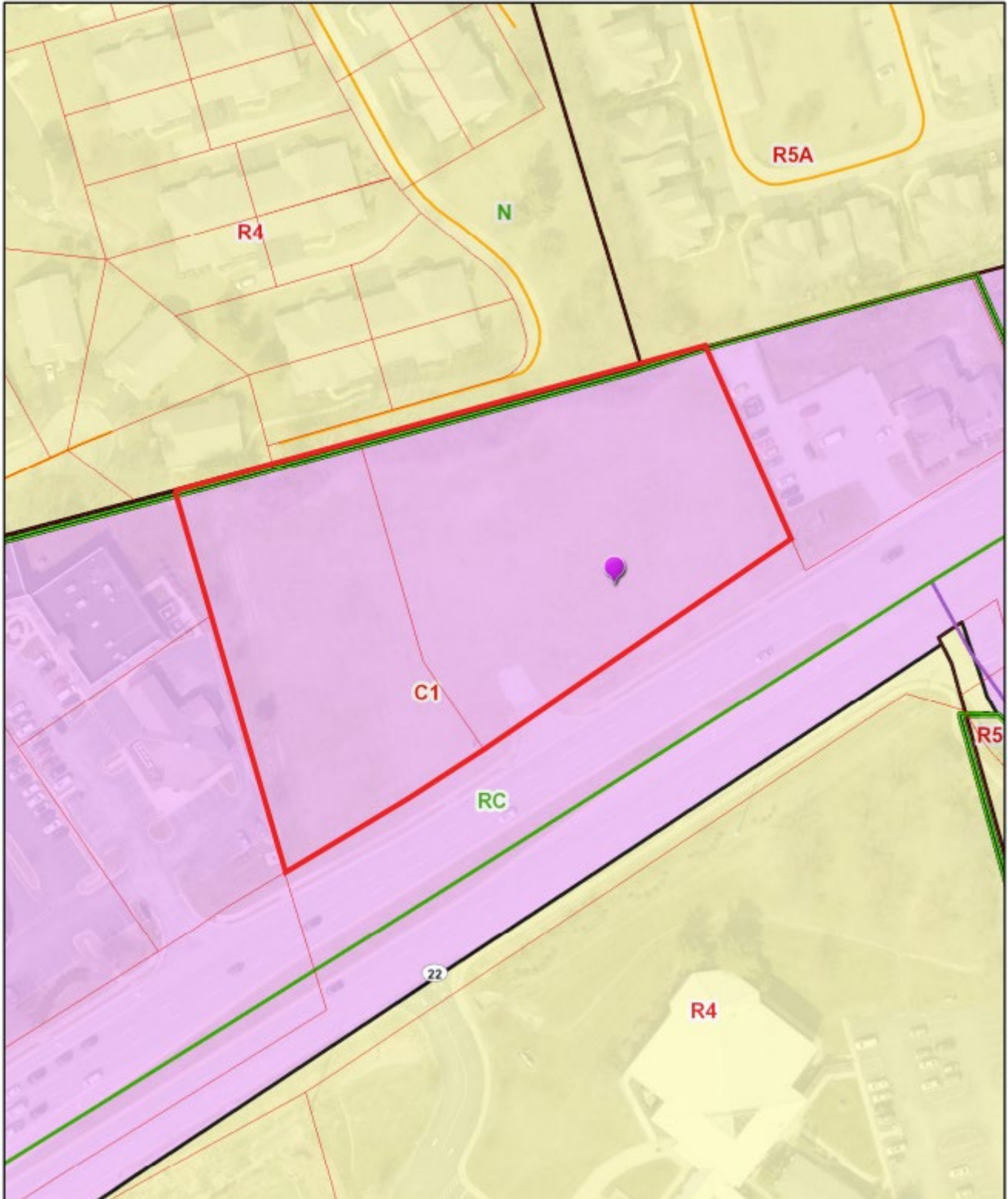
NOTIFICATION

Date	Purpose of Notice	Recipients
1/19/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 17

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

