

Board of Zoning Adjustment

Staff Report

October 28, 2019



Case No:	19-CAT3-0015
Project Name:	CVS Pharmacy
Location:	400, 404, 412 and 416 418 E Broadway
Owner(s):	Five Star Development
Applicant:	Foresite Group
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Variance:**
 1. Variance from Chapter 5.2.1.C.6 (19-Variance-0034) to allow the structure to exceed the 0 foot front setback by 2 feet and the 0 foot street side setback by up to 9.2 feet.
- **Waivers:**
 1. Waiver from 5.2.1.C.2 (19-Waiver-0044) to not maintain a 3 story street wall for the length of each lot frontage.
 2. Waiver from 5.2.1.C.5 (19-Waiver-0044) to not maintain a street wall along the entire length of the lot frontage.
 3. Waiver from 5.5.1.B.1.A (19-Waiver-0044) to allow parking that is not entirely behind the principle structure.
- **Category 3 Development Plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 9,656 SF retail pharmacy at the intersection of S Preston St and Broadway in Downtown Louisville. The site is zoned C-2 in the Downtown form district and is currently occupied by two drive-thru restaurants, a small office building and associated parking.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The proposed development will result in a high quality commercial structure that is built to the corner of a major intersection at the periphery of Downtown. The waivers and variance will allow for a structure to be developed that is of a similar scale and type to other development in the immediate vicinity. The Category 3 development plan is in order and has been given preliminary approval by MSD and Transportation Planning staff.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

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 since the building will establish the corner of the lot with wide sidewalks to accommodate pedestrians.

- (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 since the building will still address the corner and is similar in scale to other development in the area.

- (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 since the development will be adequately buffered and screened.

- (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 since the building will still be developed on the corner and the setbacks will not be apparent from street level once the site is developed.

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: Preston Highway angles away from the subject site, resulting in the largest area of variance relative to the planned rectangular structure.

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 regulation would create an unnecessary hardship on the applicant as it would require the construction of a trapezoidal or other irregularly-shaped building rather than a rectangular structure.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

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

STAFF: The waiver will not adversely affect adjacent property owners as most properties in the immediate vicinity also do not maintain a 3 story street wall.

- (b) The waiver will not violate specific guidelines of the Comprehensive Plan and

STAFF: The waiver will not violate the Comprehensive Plan, as it will allow for the redevelopment of a previously developed site in a way that is consistent with development in the surrounding area.

- (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 as other site design standards will be met on the subject 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 will construct a masonry wall to maintain the site frontage at a pedestrian scale and provide additional screening for the parking lot.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

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

STAFF: The waiver will not adversely affect adjacent property owners as most properties in the immediate vicinity also do not maintain a 3 story street wall.

- (b) The waiver will not violate specific guidelines of the Comprehensive Plan and

STAFF: The waiver will not violate the Comprehensive Plan, as it will allow for the redevelopment of a previously developed site in a way that is consistent with development in the surrounding area.

- (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 as other site design standards will be met on the subject 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 will construct a masonry wall to maintain the site frontage at a pedestrian scale and provide additional screening for the parking lot.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

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

STAFF: The waiver will not adversely affect adjacent property owners as the parking area will be adequately screened.

(b) The waiver will not violate specific guidelines of the Comprehensive Plan and

STAFF: The waiver will not violate the Comprehensive Plan, as it will allow for the redevelopment of a previously developed site in a way that is consistent with development in the surrounding area. The parking area will be a significant improvement and contain less impervious surface than the current development on the subject site.

(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 as other site design standards will be met on the subject 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 will construct a masonry wall to maintain the site frontage at a pedestrian scale and provide additional screening for the parking lot.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Category 3 Development Plan**

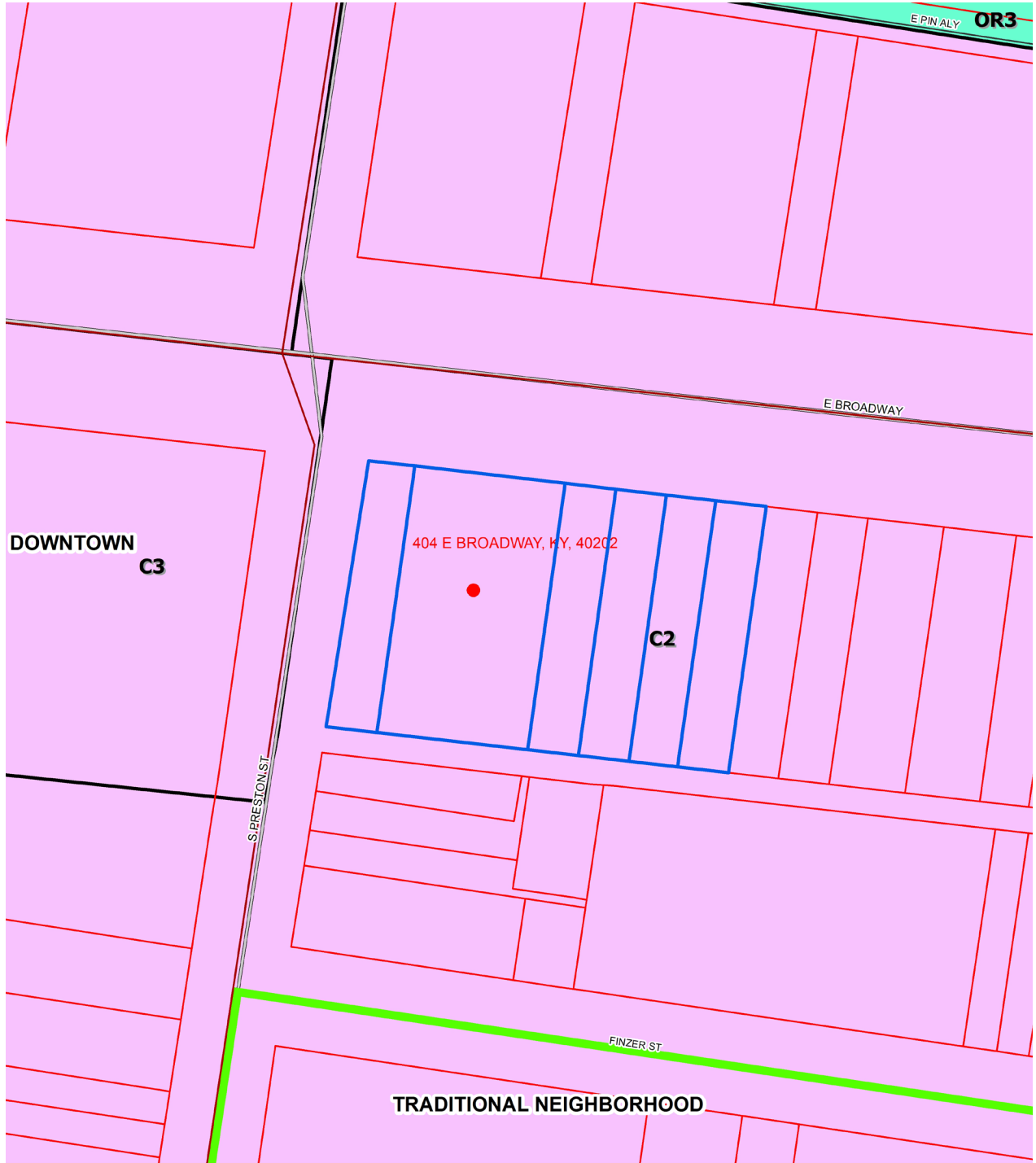
NOTIFICATION

Date	Purpose of Notice	Recipients
10-7-19	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
10-10-19	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

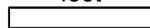
1. Zoning Map
2. Aerial Photograph

1. Zoning Map



19-CAT3-0015

feet



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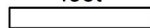
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2. Aerial Photograph



19-CAT3-0015

feet



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