

# Board of Zoning Adjustment

## Staff Report

October 16, 2023



<b>Case No:</b>	23-VARIANCE-0123
<b>Project Name:</b>	Outer Loop Retail Center
<b>Location:</b>	4807 Outer Loop
<b>Owner(s):</b>	Jefferson Anchor S LLC
<b>Applicant:</b>	Jefferson Anchor S LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24 – Madonna Flood
<b>Case Manager:</b>	Ethan Lett, Planner I

**REQUEST(S)**

- **Variance** from Land Development Code, Section 5.3.3.C.2.a to allow the principal structure to be exceed the 275’ maximum front setback by 160’
- **Waiver** from LDC Section 10.3.5.A.1 to allow an existing access road to encroach into the 30’ parkway buffer
- **Category 3 Development Plan**

Location	Requirement	Request	Variance
Front Setback	275.0 ft.	435.0 ft.	160.0 ft.

**CASE SUMMARY/BACKGROUND**

The proposal is for a 103,000 sq. ft. retail center with associated parking, fuel center, and outdoor amenity areas. The development site is part of the Jefferson Mall located off the Outer Loop commercial corridor. The existing department store will be demolished, and the proposed building will be constructed in its place and will connect to the mall. A variance request accompanies the development plan to allow the proposed building to exceed the maximum 275’ front setback by 160’. The parking lot will be improved to incorporate additional buffering, interior landscape areas, and tree canopy on the site. Vehicular access is provided from an existing access road connected to Outer Loop and Jefferson Blvd. A new sidewalk spanning the parking lot will provide a pedestrian connection to the building from Outer Loop. A waiver request is included to allow the access road to encroach into the 30’ Outer Loop parkway buffer.

**STAFF FINDING**

Staff finds that the requested variance, waiver, and proposed plan are adequately justified for approval based on staff’s analysis contained in the standard of review. The category 3 development plan meets or exceeds the requirements of the Land Development Code.

## **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 placement will match that of the existing building.

- (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 this area is characterized by shopping centers with large parking lots and buildings placed far back from the roadway.

- (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 building will be constructed in the same location of the existing building which allows for greater space between the residential neighborhood across the street than would otherwise be provided if the structure complied with the regulation.

- (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 other properties in the vicinity observe similar setbacks and site layout. The proposed layout will be in keeping with the existing character of the area.

### **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: This lot is subject to existing circumstances as it is connected to an existing shopping mall and compliance with the regulation would disrupt the connectivity of the proposed structure to the rest of the existing mall and would alter the vehicular circulation within the site.

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 create an unnecessary hardship on the applicant as they would be required to reconfigure the existing parking lot and vehicular circulation between the proposed building and the existing mall.

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: While the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, the existing mall was developed prior to the adoption of the regulation, so the building that is being replaced by this proposal was not subject to the regulation.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The waiver will not adversely affect adjacent property owners since the encroachment is an existing condition and the access road works to reduce traffic on the main thoroughfare.

(b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policy 17 calls for mitigating adverse impacts of traffic from proposed development on nearby existing communities. Mobility Goal 3, Policy promotes joint access and circulation systems for development sites comprised of more than one building or lot. The encroaching road provides access to the existing mall and the existing outlet developments. Providing circulation within this activity center reduces traffic congestion on the main thoroughfare and works to minimize potential negative impacts on properties adjacent to the main thoroughfare.

(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 encroachment is an existing condition and all required plantings will still be provided.

(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 and would create an unnecessary hardship on the applicant since the encroachment is an existing condition and removal or relocation of the existing access road would disrupt vehicular circulation both to the existing mall and to the adjacent properties which rely on that road as their primary means of vehicular access.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variance** from LDC Section 5.3.3.C.2.a to allow the principal structure to exceed the 275' maximum front setback
- **APPROVE** or **DENY** the **Waiver** from LDC Section 10.3.5.A.1 to allow an existing access road to encroach into the 30' parkway buffer
- **APPROVE** or **DENY** the **Category 3 Development Plan**

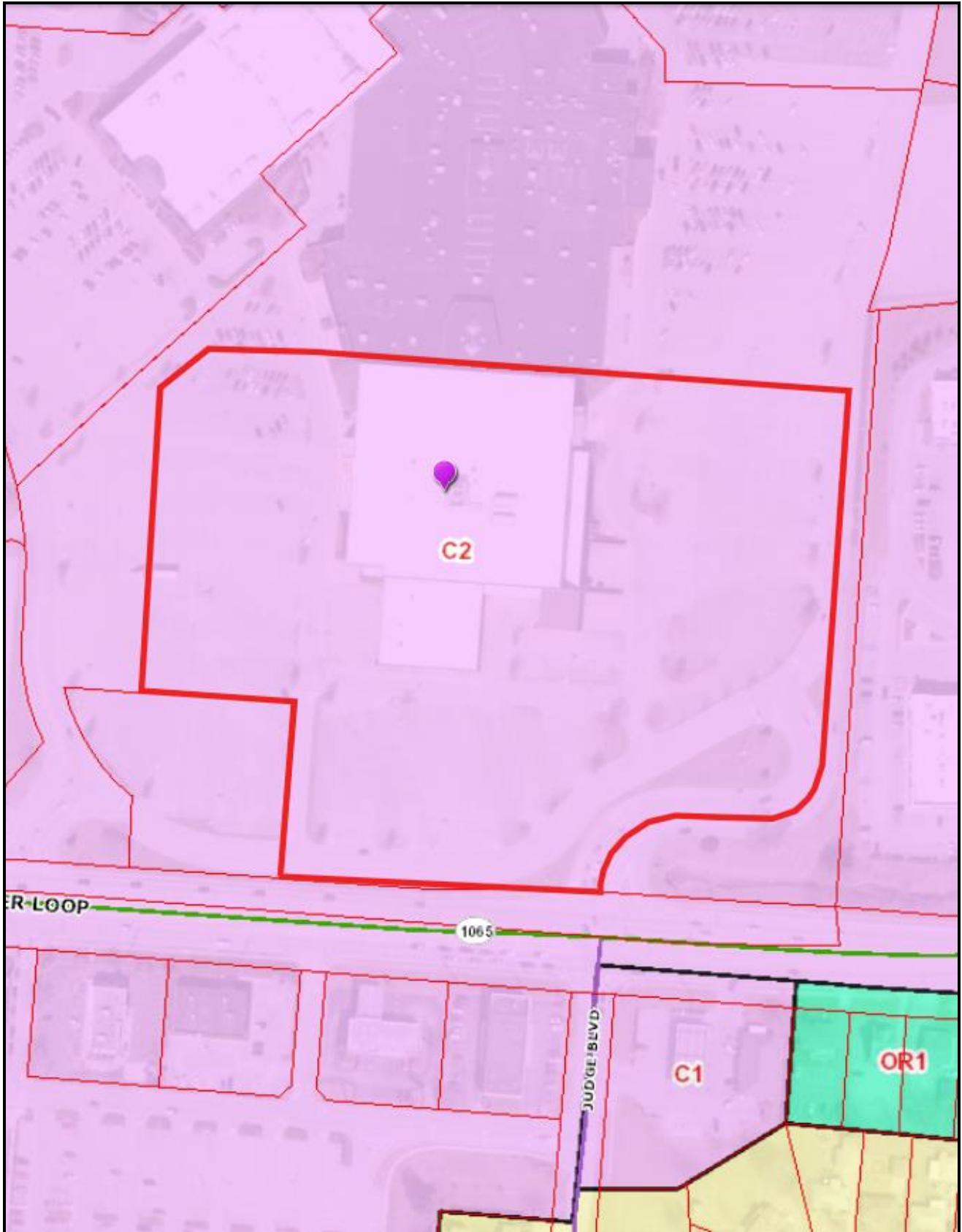
**NOTIFICATION**

Date	Purpose of Notice	Recipients
9/29/2023	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 24

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

