

Board of Zoning Adjustment Staff Report

April 6, 2015



Case No:	15Variance1009
Project Name:	Value Place Hotel
Location:	3300 Preston Highway
Owner(s):	Carol David Gold, Joy Behr, and Stuart Yudofsky
Applicant:	TGC Development Group
Representative:	Deborah Bilitski, Wyatt, Tarrant & Combs
Project Area/Size:	1.87 Acres
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance: Setback

Variance from the Land Development Code, Section 5.3.2.C.2.a, to allow parking and vehicular maneuvering to encroach into the required setback, 65' from the street centerline, along the Preston Highway frontage.

Location	Requirement	Request	Variance
Front yard setback (north)	65' from Street Centerline	47'	18'

Waiver #1: Landscape Buffer Area (LBA)

Waiver of the Land Development Code, Section 10.2.4.B and 10.2.7 to allow the encroachment of proposed vehicular use area (pavement and curb) into the expressway (I-65) 15' landscape buffer area (LBA) along the western perimeter.

Waiver #2: Vehicular Use Area Landscape Buffer Area (VUALBA)

Waiver of the Land Development Code, Section 10.2.10 to allow the encroachment of proposed vehicular use area (pavement and curb) into the Preston Highway 15' vehicular use area landscape buffer area (VUALBA) along the eastern perimeter.

Waiver #3: Landscape Buffer Area (LBA)

Waiver of the Land Development Code Section 10.2.4.B to allow a 100% overlap of an utility easement, existing 25' Louisville Water Company, into the Preston Highway 15' VUALBA along the eastern perimeter.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to remove the existing structures to construct a 124 room, 4 story, extended stay hotel, Value Place, on the property located on the west side of Preston Highway. This proposed 45,500 square foot hotel is bound to the north by an active rail line; to the west by the I-65 interstate highway; to the south by commercial and multi-family; and to the east by commercial retail. This section of Preston Highway was recently part of a streetscape project funded by Councilman Dan Johnson and Deceased Councilman Jim King. The streetscape improvements included new sidewalks with a brick insert, new lighting fixtures, and street tree planting. Two of the existing street trees will be relocated to accommodate a new 6' x 12' concrete pad for a new TARC shelter and trash receptacle as a part of this project. However, the remaining street trees, lighting, and sidewalk improvements are to remain intact.

The applicant is requesting a variance allowing the proposed parking and vehicular area to be located in the front setback; and waivers allowing the proposed pavement to encroach into the required 15' landscape buffer areas (LBAs) along both the Preston Highway and I-65 frontage. The Applicant is also requesting a waiver to allow an existing utility easement to encroach 100% into the 15' VUALBA along Preston Highway. All required tree canopy, perimeter trees, interior trees and perimeter screening will be provided as required.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-1 in the Suburban Marketplace Corridor (SMC) Form District. It is surrounded by commercial, residential and institutional properties zoned C-1, R-3, and R-5 in the Suburban Marketplace Corridor (SMC), Neighborhood (N), and Campus (C) Form Districts.

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial retail	C-1	SMC
Proposed	Commercial hotel	C-1	SMC
Surrounding Properties			
North	Commercial retail, multi-family & single family residential	C-1& R-3	SMC & N
South	Commercial retail & multi-family	C-1	SMC
East	Commercial retail & single family residential	C-1 & R-3	SMC & N
West	I-65, & Institutional	R-5	C

PREVIOUS and CURRENT CASES ON SITE

Case # 2-7-15 - Category 2B Development Plan – Pending.

B-88-87 – A variance allowing the height of an existing billboard to be 63.5 feet which exceeds the maximum height of 35 feet by 28.5. Approved September 8, 1987

B-89-87 –A variance allowing the height of a billboard located on 3318 Preston Highway (previously 3322 and 3324 Preston Highway) to exceed the maximum height of 35 feet. Approved

INTERESTED PARTY COMMENTS

No interested party comments have been received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance: Setback

Variance from the Land Development Code, Section 5.3.2.C.2.a, to allow parking and vehicular maneuvering to encroach into the required setback, 65' from the street centerline, along the Preston Highway frontage.

- (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 the location of the parking and vehicular maneuvering area is following the established pattern of the vicinity. The adjacent properties including across the street all have parking located in front of the building and in the front setbacks. Also, a landscape buffer with tree and shrub plantings is being provided along Preston Highway to reduce the impact of the location of the parking.

- (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 parking and vehicular maneuvering area located in front of the building and in the front setback is the established pattern of the vicinity. The adjacent properties including across the street all have parking located in front of the building.

- (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 because buffer planting are proposed along the street frontage which will reduce the impact of the location of the parking and maneuvering areas. Plus parking in front of the building and in the setback is the established pattern of the vicinity.

- (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 because the building is meeting the setback requirements. Only the first row of parking spaces adjacent to the street is located in the setback. However, the location of the proposed parking is similar to parking on other surrounding properties.

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. This lot is an odd shape, angled adjacent to the rail road tracks to the north and I-65 to the west. In addition, neither the existing development on the subject site nor any of the development in the surrounding area meets the setback requirements from Preston Highway.

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 because 16 proposed parking spaces would be lost. This lost would deprive the applicant of the use of the land for the proposed development. The parking currently proposed is the minimum needed for the development to occur on this 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 the result of actions of the applicant. The current layout of the set does not honor the required setback or landscape buffer areas. However, this site is on a transit route which allows the parking to be reduced by 10% or 12 parking spaces. There is also an excess of pavement on the site which could be eliminated with a different layout and still provide the minimum parking requirements of 112 spaces.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #1: Landscape Buffer Area (LBA)

Waiver of the Land Development Code, Section 10.2.4.B and 10.2.7 to allow the encroachment of proposed vehicular use area (pavement and curb) into the expressway (I-65) 15' landscape buffer area (LBA) along the western perimeter.

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is providing the perimeter landscape plantings which meet the minimum requirements even with the encroachment of the proposed pavement.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 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. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. 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 pavement 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.

- (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 of the vehicular maneuvering area is the minimum necessary to allow the necessary parking to be provided. Plus the required tree and shrub plantings are being provided as required within the perimeter buffer.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #2: Vehicular Use Area Landscape Buffer Area (VUALBA)

Waiver of the Land Development Code, Section 10.2.10 to allow the encroachment of proposed vehicular use area (pavement and curb) into the Preston Highway 15' vehicular use area landscape buffer area (VUALBA) along the eastern perimeter.

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is providing perimeter landscape plantings which either meet the minimum requirements even with the encroachment of the proposed pavement. Plus the location of the parking is similar to the surrounding properties.

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

STAFF: The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. Even though there is encroachment of the pavement 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.

- (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 of the vehicular maneuvering area is the minimum necessary to allow the necessary parking to be provided. Plus the required tree and shrub plantings are being provided as required within the perimeter buffer.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #3: Landscape Buffer Area (LBA)

Waiver of the Land Development Code Section 10.2.4.B to allow a 100% overlap of an utility easement, existing 25' Louisville Water Company, into the Preston Highway 15' VUALBA along the eastern perimeter.

- (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. Also the existing trees located along the street frontage are to be preserved.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

TECHNICAL REVIEW

No Technical Review Items need to be addressed:

STAFF CONCLUSIONS

The Board of Zoning Adjustment must determine, based on the testimony and evidence provided at the public hearing, if the proposal meets the standard for the variance established in the Land Development Code; and the waivers do not violated the comprehensive plan and also meet the standards established in the Land Development Code

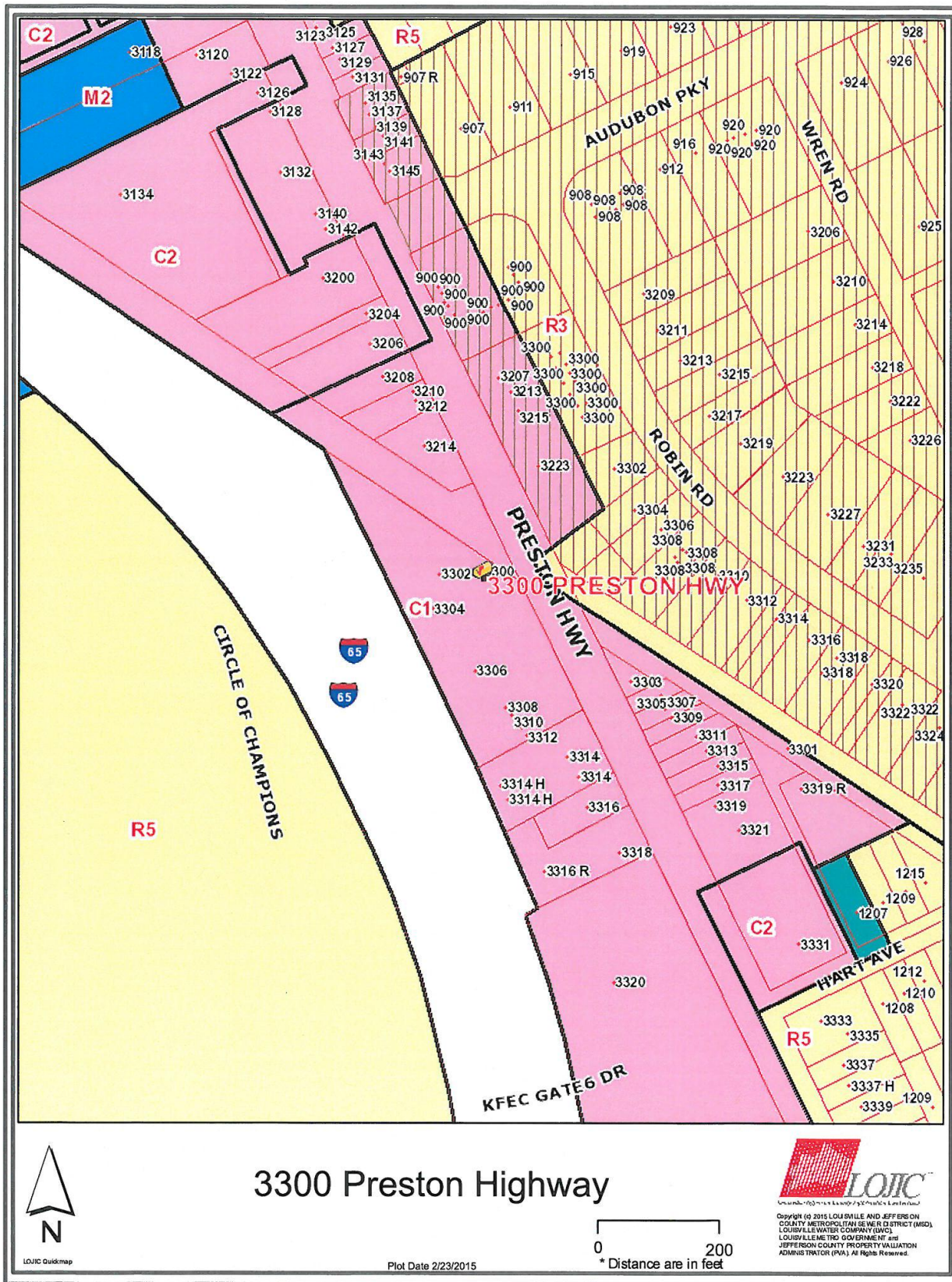
NOTIFICATION

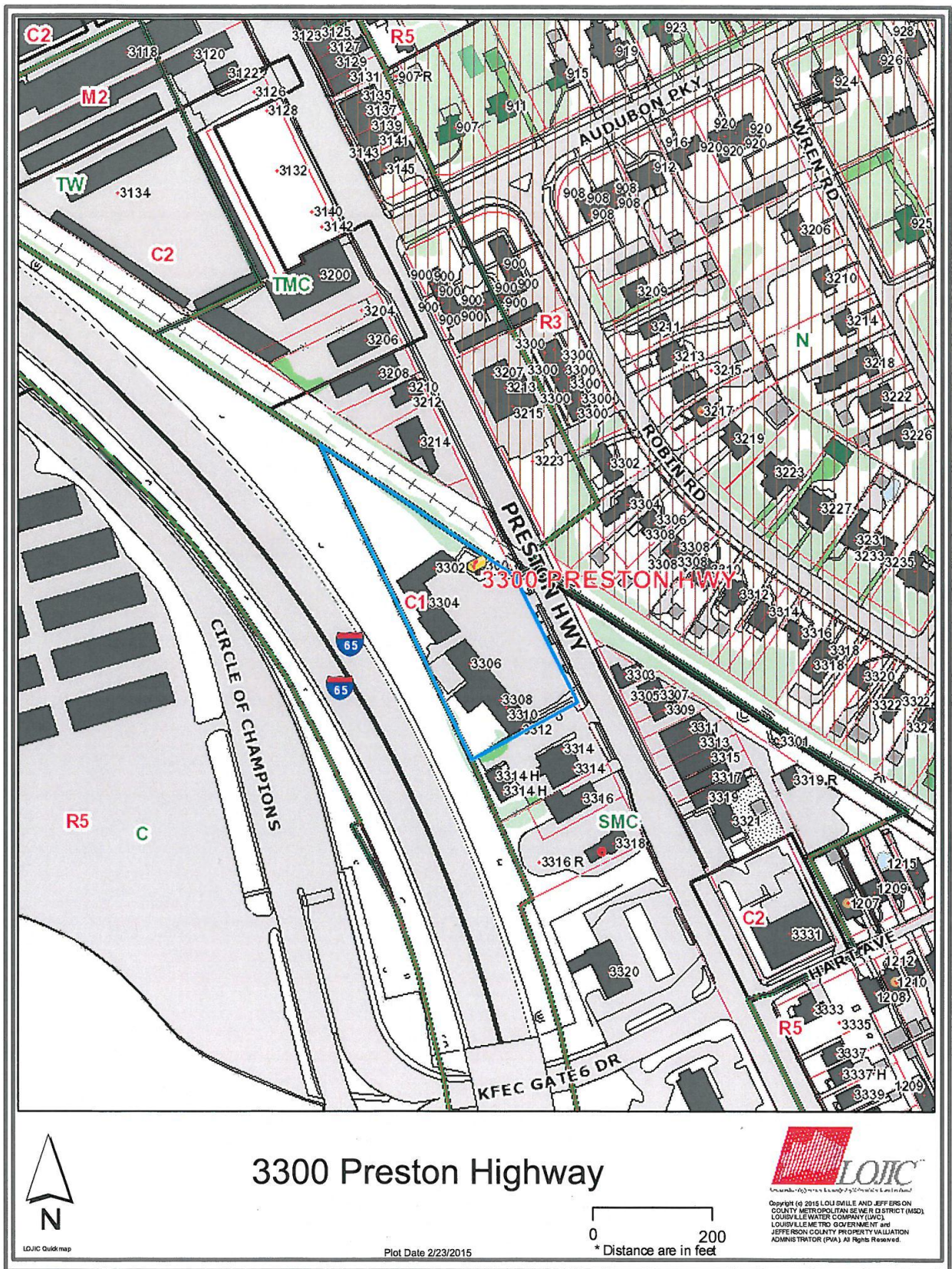
Date	Purpose of Notice	Recipients
03/19/2015	BOZA Hearing	Neighborhood notification recipients
03/20/2015	Sign Posting	Subject property
03/20/2015	BOZA Hearing	1 st tier adjoining property owners

ATTACHMENTS

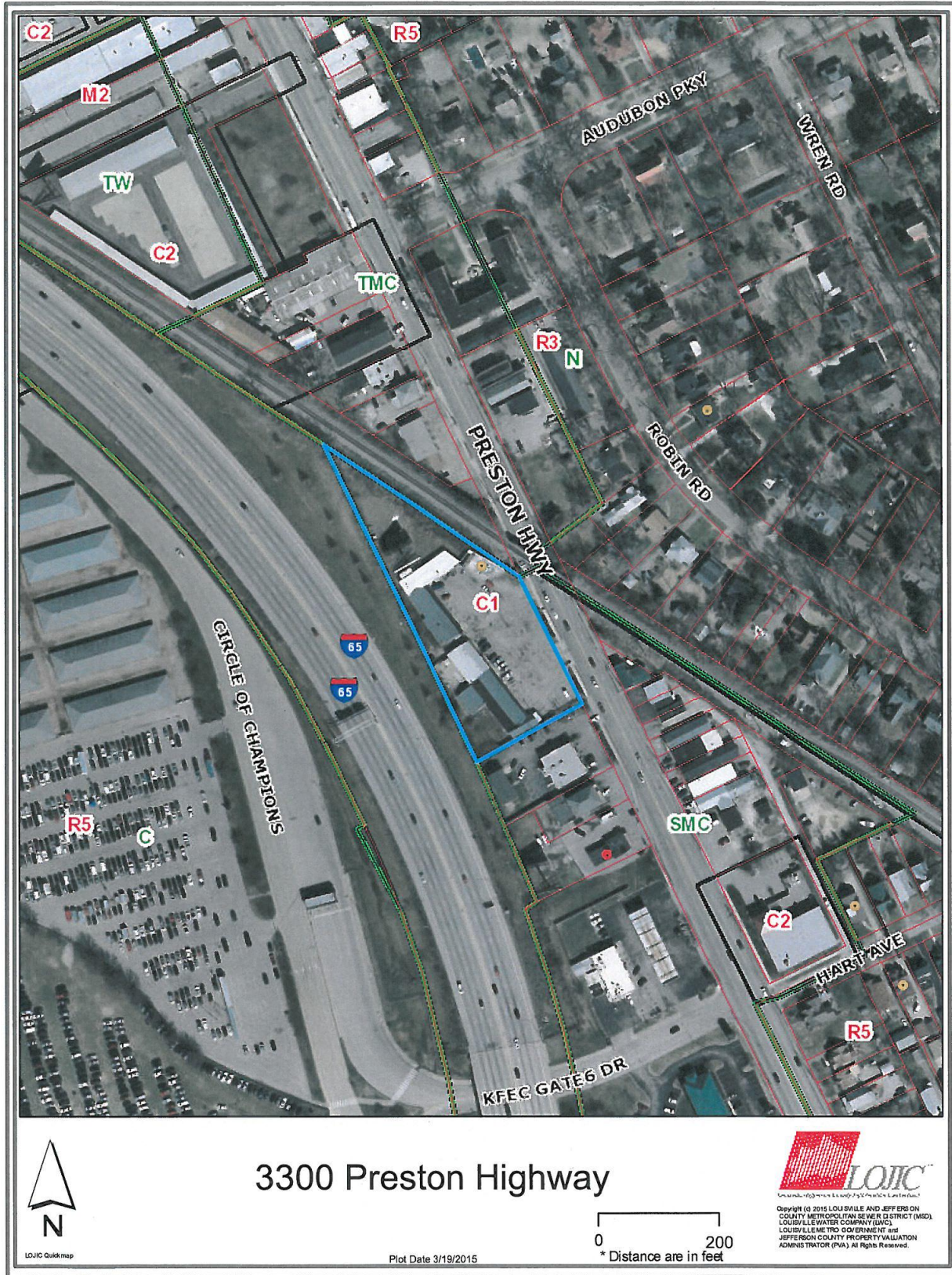
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Building Elevation
5. Concept Landscape Planting Design
6. Applicant's Justification
7. Site Photographs

Attachment 1 - Zoning Maps

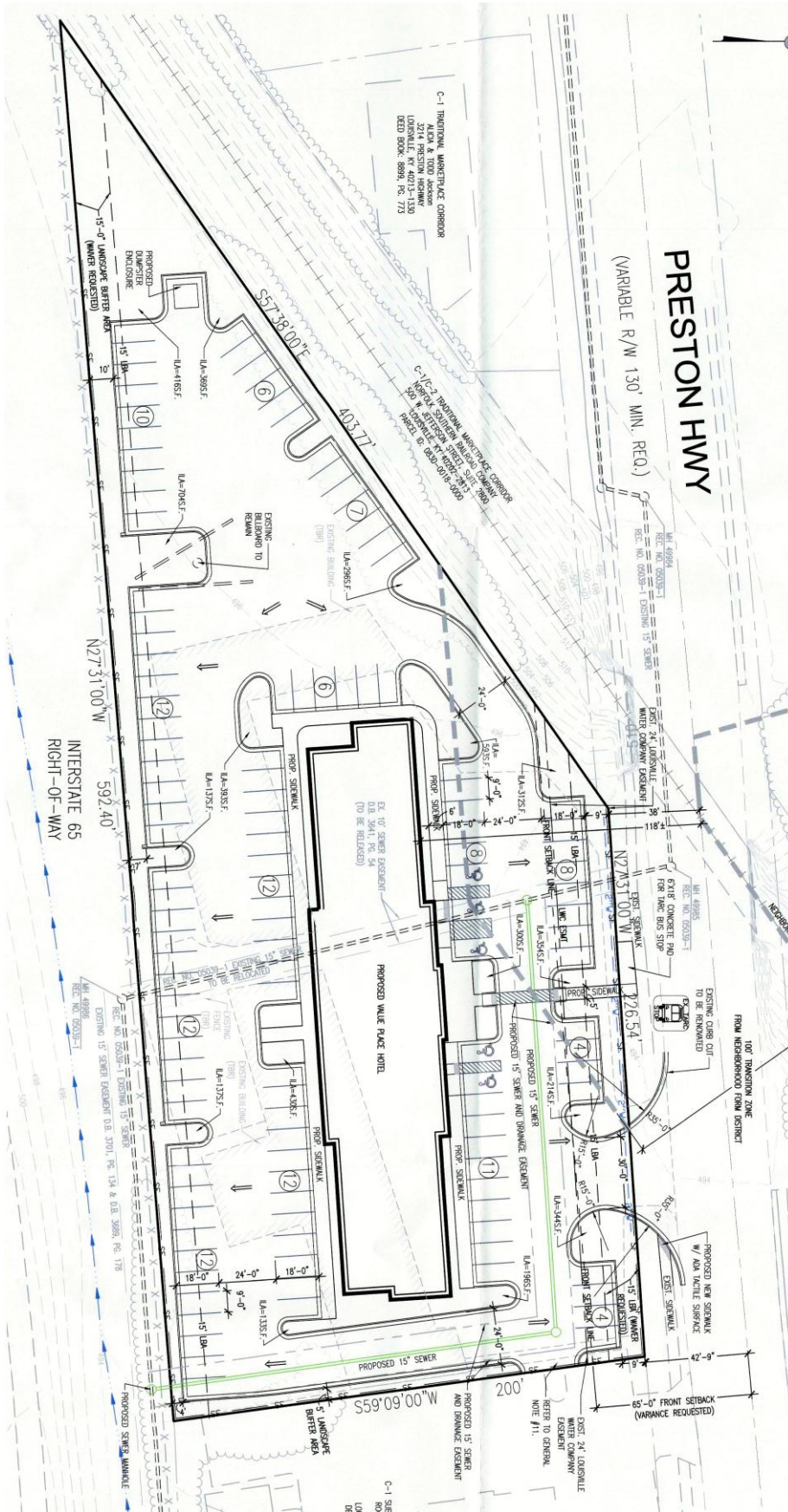


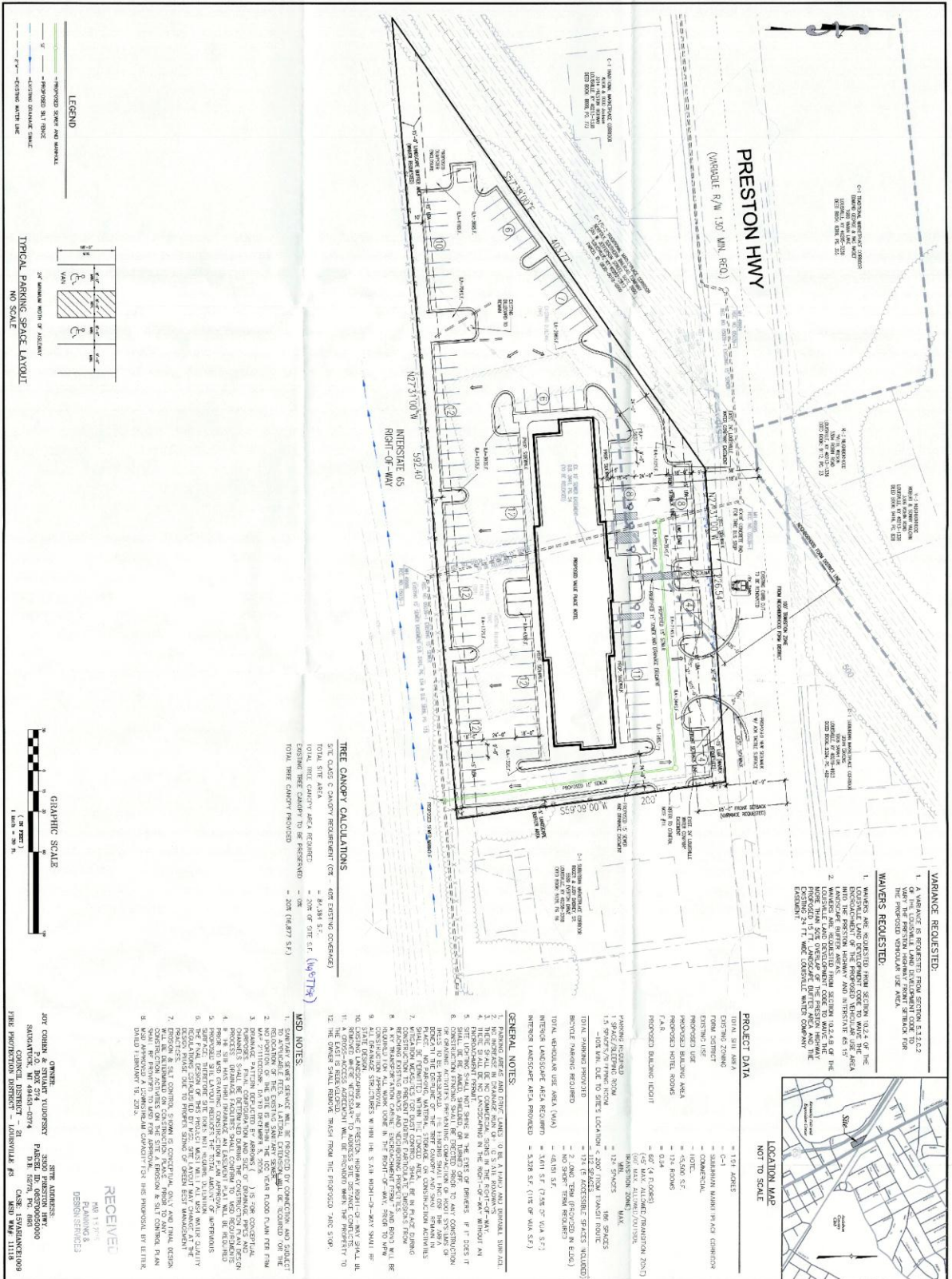


Attachment 2 - Aerial Photo



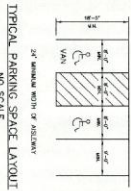
Attachment 3 - Site Plan





LEGEND

- PROPOSED DRIVE AND DRIVEWAY
- PROPOSED SIDE DRIVE
- EXISTING DRIVEWAY
- EXISTING DRIVEWAY
- EXISTING DRIVEWAY



VARIANCE REQUESTED:

- A VARIANCE IS REQUESTED FROM SECTION 21.2.02 USES OF THE PRESTON HIGHWAY FRONT SETBACK FOR THE PROPOSED VEHICULAR USE AREA.
- THE PROPOSED VEHICULAR USE AREA IS LOCATED WITHIN THE FRONT SETBACK FOR THE PROPOSED VEHICULAR USE AREA.
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WARRANTY REQUESTED:

- WARRANTY IS REQUESTED FROM SECTION 21.2.02 USES OF THE PRESTON HIGHWAY FRONT SETBACK FOR THE PROPOSED VEHICULAR USE AREA.
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PROJECT DATA

LOT AREA: 151 ACRES
 DISTRICT: C-1
 ZONING: COMMERCIAL
 PROPOSED BUILDING AREA: 45,000 SF
 PROPOSED HOTEL ROOMS: 124 ROOMS
 F.A.R.: 0.34
 PROPOSED DRAINAGE (COURT): 607 (4.00) SQ. FT. (PROPOSED TRANSDUCER 2012) (SEE PLAN, ATTACHED/OTHER SHEETS)

PARKING REQUIRED

1. 124 SPACES
 2. 124 SPACES
 3. 124 SPACES
 4. 124 SPACES
 5. 124 SPACES
 6. 124 SPACES
 7. 124 SPACES
 8. 124 SPACES
 9. 124 SPACES
 10. 124 SPACES
 11. 124 SPACES
 12. 124 SPACES

GENERAL NOTES

- THE PROPOSED VEHICULAR USE AREA IS LOCATED WITHIN THE FRONT SETBACK FOR THE PROPOSED VEHICULAR USE AREA.
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TREE CANOPY CALCULATIONS

3.0% TREE CANOPY REQUIREMENT (OR 4% EXISTING COVERAGE)

TOTAL SITE AREA: 151 ACRES
 EXISTING TREE CANOPY TO BE PRESERVED: 208 (16,877 SF)
 TOTAL TREE CANOPY PROVIDED: 208 (16,877 SF)

MSD NOTES:

- STAKEOUT SHALL BE PROVIDED BY THE CONTRACTOR AND SUBJECT TO APPROVAL BY THE CITY ENGINEER.
- NO PORTION OF THE SITE IS WITHIN THE 100 YEAR FLOOD PLAIN PER THE 2012 FLOOD INSURANCE RATE MAP.
- PROPOSED VEHICULAR USE AREA IS LOCATED WITHIN THE FRONT SETBACK FOR THE PROPOSED VEHICULAR USE AREA.
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MSD 11/17/15
 PLANNING & DESIGN SERVICES

JOY CHEN & PARTNERS ARCHITECTS
 3800 BRECKENRIDGE BLVD.
 SUITE 200
 LOUISVILLE, KY 40218
 (502) 451-1118

JOB NO. 15019
 SHEET 1 OF 1

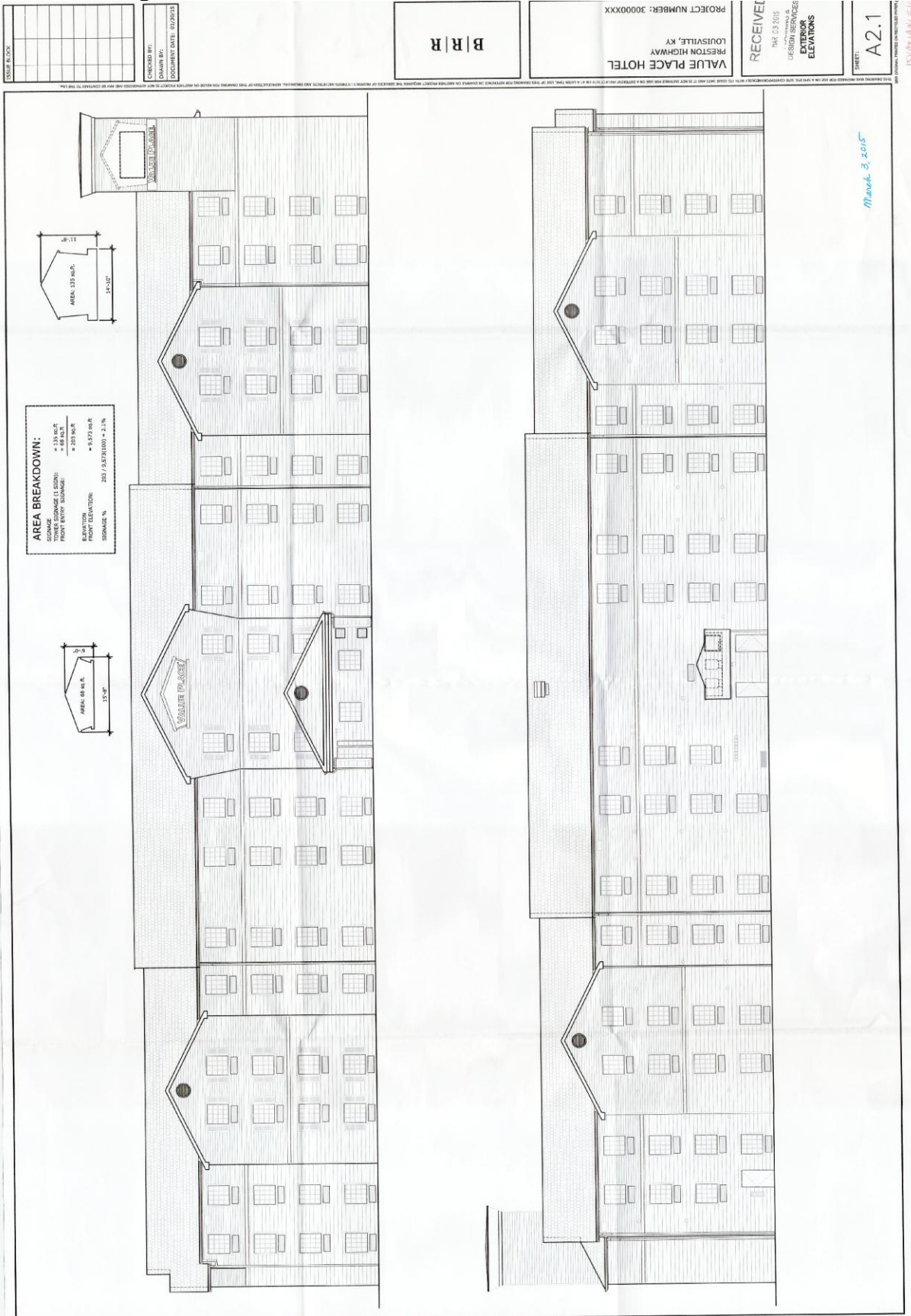
CATEGORY 2B DEVELOPMENT PLAN
VALUE PLACE HOTEL
 3300 Preston Highway, Louisville, KY
 DEVELOPER:
 TGC Development Group
 125 N. Emporia, Suite 202
 Wichita, Kansas 67202
 316.266.9088

L&D
 LAND DESIGN & DEVELOPMENT, INC.
 ENGINEERING AND ARCHITECTURAL SERVICES
 125 N. EMPORIA, SUITE 202
 WICHITA, KANSAS 67202
 316.266.9088

PROJECT DATA	
FILE NAME:	15019_000.dwg
DATE:	3/17/2015
CHECKED BY:	AK
SCALE:	AS SHOWN
THROW BY:	MS

REVISIONS		
NO.	DATE	DESCRIPTION
1	3/17/15	ISSUE FOR PERMITS

Attachment 4 – Building Elevations





VARIANCES REQUESTED

1. A Variance is requested from Section 5.3.2.C.2 of the Louisville Land Development Code to vary the Preston Highway front setback for the proposed vehicular use area.

WAIVERS REQUESTED

1. Waivers are requested from Section 10.2.4 of the Louisville Land Development Code to waive the encroachment of the proposed vehicular use area into the Preston Highway and Interstate 65 (15) fifteen foot wide landscape buffer areas.
2. Waivers are requested from Section 10.2.4.B of the Louisville Land Development Code to waive the more than 50% overlap of the Preston Highway proposed (15) fifteen foot wide landscape buffer area and the existing (24) twenty-four foot wide Louisville Water Company easement.



OWNER:
 JOY COHEN & STUART YUDORSKY
 3800 PRESTON HWY
 SAUCATUCK, MI 49483-0974
 COUNCIL DISTRICT - 21
 PRESTON DISTRICT - LOUISVILLE #3

SITE ADDRESS:
 3800 PRESTON HWY
 SAUCATUCK, MI 49483-0974
 PLAT D.M. 0276, P.C. 883000
 CASE: 15VARIANCE1009
 MSD MAP# 11118

VARIANCE JUSTIFICATION STATEMENT

TGC Development Group

3300 Preston Highway

February 9, 2015

The applicant, TGC Development Group, is seeking approval of a Category 2B Development Plan to construct a 45,500 square foot extended stay hotel on the property located at 3300 Preston Highway (the “Subject Property”). The Subject Property is zoned C-1 Commercial and is in the Suburban Marketplace Corridor Form District. The Subject Property is bordered by railroad tracks to the north, I-65 to the west, and commercially-zoned properties to the east and south. In conjunction with the proposed redevelopment of the Subject Property, the applicant is requesting a variance from Section 5.3.2.C.2.a. of the Land Development Code to allow the proposed parking area to encroach into the required 65-foot front setback from the center line of Preston Highway. For the reasons stated herein, the requested variance complies with KRS 100.243 and, therefore, should be approved.

The requested variance will not adversely affect the public health, safety, or welfare or alter the essential character of the general vicinity because the existing parking area on the Subject Property currently extends up to the front property line. Further, none of the surrounding properties along Preston Highway observe a 65-foot setback from the center line of Preston Highway. All of the nearby properties in the immediate vicinity have parking areas and/or buildings constructed right up to the Preston Highway right-of-way.

The proposed new hotel on the Subject Property will meet the setback requirement; only the first row of parking spaces will be located within the required front yard. The proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot landscape buffer area along Preston Highway, installation of interior landscape areas per LDC requirements, and an attractively-designed new building, all of which will be a significant improvement over the existing site conditions and will enhance the aesthetic character of the Preston Highway corridor. Therefore, the requested variance will not cause a hazard or nuisance to the public and will not allow an unreasonable circumvention of the regulations.

Special circumstances exist that do not apply to land in the same zone in that the Subject Property is odd-shaped, angled lot adjacent to railroad tracks to the north and I-65 to the west. In addition, neither the existing development on the Subject Property nor any developments on properties in the surrounding area meet the setback requirement from Preston Highway. These circumstances are not the result of the actions taken by the applicant since the adoption of the Land Development Code. Finally, if the variance is not granted, the applicant will lose a significant amount of usable area on the subject property and will be unable to redevelop the property as proposed. For this reason, and because the proposed parking area is consistent with the pattern of development on the immediately surrounding properties and will not adversely affect other nearby properties,

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the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship.

LANDSCAPE WAIVER JUSTIFICATION STATEMENT

**TGC DEVELOPMENT GROUP
3300 PRESTON HIGHWAY
February 9, 2015**

**RECEIVED
FEB 09 2015
PLANNING &
DESIGN SERVICES**

The applicant, TGC Development Group, is seeking approval of a Category 2B Development Plan to construct a 45,500 square foot extended stay hotel on the property located at 3300 Preston Highway (the "Subject Property"). The Subject Property is zoned C-1 Commercial and is in the Suburban Marketplace Corridor Form District. The Subject Property is bordered by railroad tracks to the north, I-65 to the west, and commercially-zoned properties to the east and south. In conjunction with the proposed redevelopment of the Subject Property, the applicant is requesting a waiver of LDC Section 10.2.4.B. to allow an existing 24-foot water line easement to overlap the landscape buffer area along Preston Highway by more than 50%, and to reduce the perimeter landscape buffer area along Preston Highway and I-65. As explained herein, the requested waivers comply with the criteria for granting waivers set forth in the Land Development Code and, therefore, should be approved.

The requested waivers will not adversely affect adjacent property owners because there is currently no landscape buffer along Preston Highway on the Subject Property, and none of the immediately surrounding properties provide a landscape buffer along Preston Highway. With railroad tracks to the north and I-65 to the west, there are no adjoining property owners in those areas that would be impacted by the requested waiver. The development will be extensively landscaped throughout, and will meet or exceed the minimum interior landscaping and tree canopy requirements of the Land Development Code. In addition, there is a significant amount of excess right-of-way along I-65 adjacent to the Subject Property with grass and trees, which further mitigates the impact of the requested landscape waiver along the west property line.

The requested waiver will not violate the Comprehensive Plan because the proposed use is appropriate for the Suburban Marketplace Corridor Form District, which is characterized by a mixture of medium to high intensity uses. The proposed development is located along Preston Highway, a major arterial with transit service. A clearly defined pedestrian access is provided from Preston Highway immediately adjacent to an existing TARC stop. As mentioned, the development will be extensively landscaped and will meet or exceed the minimum interior landscaping and tree canopy requirements of the Land Development Code. The proposed building incorporates a high level of architectural design, and outdoor lighting and signage will comply with Land Development Code requirements. Therefore, the proposed development will create no adverse traffic, noise, lighting, or other impacts to surrounding properties.

The requested waivers are the minimum necessary to afford relief to the applicant because the existing water line easement along I-65 cannot be relocated. In addition, the Subject Property is an odd-shaped, angled lot adjacent to railroad tracks to the north and I-65 to the west, presenting certain site design challenges. The number of proposed parking spaces is almost at the minimum required by the Land Development Code, and is certainly

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the minimum the applicant needs to serve the proposed development. If the waivers are not granted, the applicant will lose a significant amount of usable area on the Subject Property, will not be able to provide the minimum parking required by the LDC, and will be unable to redevelop the Subject Property as proposed.

The applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect). The proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot landscape buffer area along Preston Highway where none currently exists on the Subject Property. In addition, perimeter and interior landscape areas and tree canopy will be provided per LDC requirements. That, coupled with an attractively-designed new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of the Preston Highway corridor.

Attachment 7- Site Photos



Frontage of subject site along Preston Highway looking north



Looking north toward rail road tracks across the subject site



Looking northwest toward I-65 across the subject site



Looking west toward I-65 across the subject site



Looking west toward I-65 across the subject site



Southern perimeter of the subject site looking toward adjacent property



Southern perimeter of the subject site



Existing screen fence along perimeter of adjacent property to the south



Looking north along the rear of the existing buildings/ I-65 is to the Left behind the existing vegetation



Looking east from the I-65 right of way toward the rear of the existing buildings



Looking south along the I-65 right of way/ Rear of the subject site is to the left



Looking north along the I-65 right of way/ Rear of the subject site is to the right



Looking north from the I-65 right of way toward the rear of the subject site/Existing buildings are behind the existing vegetation



Looking south along Preston Highway frontage/ Existing trees and street scape



Looking south along Preston Highway frontage/ Existing street scape and plantings/ Location of proposed improved bus stop



Existing entrance to subject site from Preston Highway



Looking north along Preston Highway frontage/ Existing street scape, plantings, and moral/ Location of proposed improved bus stop



Existing businesses (looking east) across the street (Preston Highway) from the subject site



Existing businesses (looking east) across the street (Preston Highway) from the subject site



Existing businesses (looking southeast) across the street (Preston Highway) from the subject site



Existing businesses (looking south) from the subject site



Existing businesses (looking further south) of the subject site