

Board of Zoning Adjustment Staff Report

May 2, 2016



Case No:	16DEVPLAN1001
Project Name:	Shalimar
Location:	1025 Broadway
Owner(s):	Stry Lenkoff Company
Applicant:	Sukh Bains, Shalimar Investments, LLC
Representative:	Ann Richard, Land Design & Development
Project Area/Size:	0.99 Acres
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

Variance #1: Front Setback

Variance from the Land Development Code, Section 5.2.3.D.3.a, to allow the building to exceed the maximum 15' setback.

Location	Requirement	Request	Variance
Front setback	15'	107'	92'

Waiver #1: Parking Location

Waiver of the Land Development Code Section 5.5.1.A.3.a and 5.9.2.C.4. to allow parking in front of the building and to allow the parking to be closer to the right-of-way than the building.

Waiver #2: Gas Pump Canopy Location

Waiver of the Land Development Code Section 5.5.1.A.5, to allow the gas pump canopy to be located between the building and the public street.

Waiver #3: Transition Zone Requirements

Waiver of Land Development Code Section 5.7.1.B.3.a, to allow the drive-thru lane to encroach into the required 15' rear buffer yard.

Waiver #4: Landscape Buffer Area (LBA)

Waiver of Land Development Code Section 10.2.10, to allow the required 15' Landscape Buffer Area, along the property perimeter adjacent to Esquire Alley, to be reduced to 10'.

Waiver #5: Building Façade/ Clear Windows

Waiver of Land Development Code Section 5.6.1.C.1, to not provide 50% glass along the north building façade.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a new 4,050 sf one story convenience store with drive thru, along with gas pumps and overhead canopy. This vacant property, zoned C-2 in the Traditional Marketplace Corridor Form District, is located on the north side of Broadway, between 10th and 11th Streets, directly across from the TARC Headquarters.

Since this site is located in a traditional form district, the proposed building is required to be located at the property line with a maximum setback of 15'. This site is also in a transition zone between more intense commercial uses and less intense residential uses. The applicant's layout does not comply with front setback requirements therefore, a variance is necessary. In addition, several waivers are also required allowing the proposed layout.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-2 in the Traditional Marketplace Corridor (TMC) Form District. It is surrounded by multi-family residential, commercial retail, restaurant, and institutional properties zoned R-7, C-2, and C-3 in the Traditional Neighborhood (TN) and Traditional Marketplace Corridor (TMC) Form Districts.

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant/Commercial	C-2	TMC
Proposed	Commercial Retail and Gas Station/ Convenience Store	C-2	TMC
Surrounding Properties			
North	Multi-family Residential	R-7	TN
South	Commercial and Institutional	C-3	TMC
East	Commercial/Retail	C-2	TMC
West	Restaurant	C-2	TMC

PREVIOUS and CURRENT CASES ON SITE

There are no previous cases.

INTERESTED PARTY COMMENTS

An inquiry was received from the adjacent property owner to the east. He was concerned about traffic leaving and entering the site so close to the traffic signal. He stated "there have been numerous accidents in front of his business".

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

Variance #1: Front Setback

Variance from the Land Development Code, Section 5.2.3.D.3.a, to allow the building to exceed the maximum 15' setback.

- (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 safe pedestrian access is provided from the public rights-of-way to the building entrance.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity since the site is located in a Traditional Form District that requires non-residential structures to be constructed close to the street with parking to the side and rear. There are a few properties in the vicinity that were constructed prior to the adoption of the regulation. However, the variance could create a precedence that will allow for the continuance of developments providing parking between the building and street.

- (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 safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulation since the proposed development can be built on the site while complying with the setback requirement. There are no physical site restrictions preventing compliance with the setback requirement.

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 does not arise from special circumstances that do not generally apply to land in the general vicinity or the same zone. There are other gas stations along Broadway with retail which have the building close to the street and the parking and canopy to the side. There are no physical site restrictions preventing compliance with the setback requirement.

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 not deprive the applicant of 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 setback requirement.

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 taken subsequent to the adoption of the zoning regulation from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #1: Parking Location

Waiver of the Land Development Code Section 5.5.1.A.3.a and 5.9.2.C.4. to allow parking in front of the building and to allow the parking to be closer to the right-of-way than the building.

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

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

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waivers are not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the waivers will violate specific guidelines and policies of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived.

- (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: Gas Pump Canopy Location

Waiver of the Land Development Code Section 5.5.1.A.5, to allow the gas pump canopy to be located between the building and the public street.

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

STAFF: The requested waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-ways to the building entrance and since safe vehicular maneuvering has been provided.

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

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waivers are not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the waivers will violate specific guidelines and policies of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived.

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 & #4: Transition Zone Requirements/ Buffer Yard/ Landscape Buffer Area (LBA)

Waiver of Land Development Code Section 5.7.1.B.3.a, to allow the drive-thru lane to encroach into the required 15' Rear buffer yard; and Waiver of Land Development Code Section 10.2.10, to allow the required 15' Landscape Buffer Area, along the property perimeter adjacent to Esquire Alley, to be reduced to 10'.

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

STAFF: The waiver will not adversely affect adjacent property owners since 10' of buffer plantings will be provided to separate the new development from the existing residential development. This buffer planting also mitigates the encroachment of the drive thru lane into the required 15' Rear Buffer Yard.

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

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. There is minimum encroachment of the drive thru lane into the required Buffer Yard. All the required perimeter plantings, trees and shrubs, will be provided as required therefore, the waiver request does not violate the comprehensive plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment is minimal and all the plantings, trees and shrubs, are being provided in the 10 foot landscape area.

- (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 incorporated other design measures to compensate for non-compliance with the requirements to be waived. All the required plantings, trees and shrubs, will be provided along the perimeter.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Waiver #5: Building Façade/ Clear Windows

Waiver of Land Development Code Section 5.6.1.C.1, to not provide 50% glass along the north building façade.

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the applicant has provided simulated windows/glass and the required 75 percentage of façade animation along the rear.

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

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the façade and 50% of the façade along the street frontage be clear windows and doors. Since the applicant is providing simulated glass in addition to providing the required 75 percent animated features, the waiver request does not violate the comprehensive plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant has provided the required animated features to the façade and also provided simulated glass to mitigation the request.

- (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 incorporated other design measures, simulated glass in addition to the 75percent animated features, to compensate for non-compliance with the requirements to be waived.

TECHNICAL REVIEW

There are no technical review issues.

STAFF CONCLUSIONS

Based upon the information in the staff report, the analysis of the standards of review does not support the request to grant the variances for the building setbacks; does not support the request to grant the waivers to allow the parking in front of the building; or to allow the gas canopy between the building and the street.

However, the waiver requests to allow the encroachment of the drive thru lane into the 15' Buffer Yard; to allow the 15' buffer to be reduced to 10'; and to not provide the 50% clear window and doors are supported by the staff report and the analysis of the standards of review.

Therefore, 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 that the waivers do not violate the comprehensive plan and also meet the standards established in the Land Development Code

NOTIFICATION

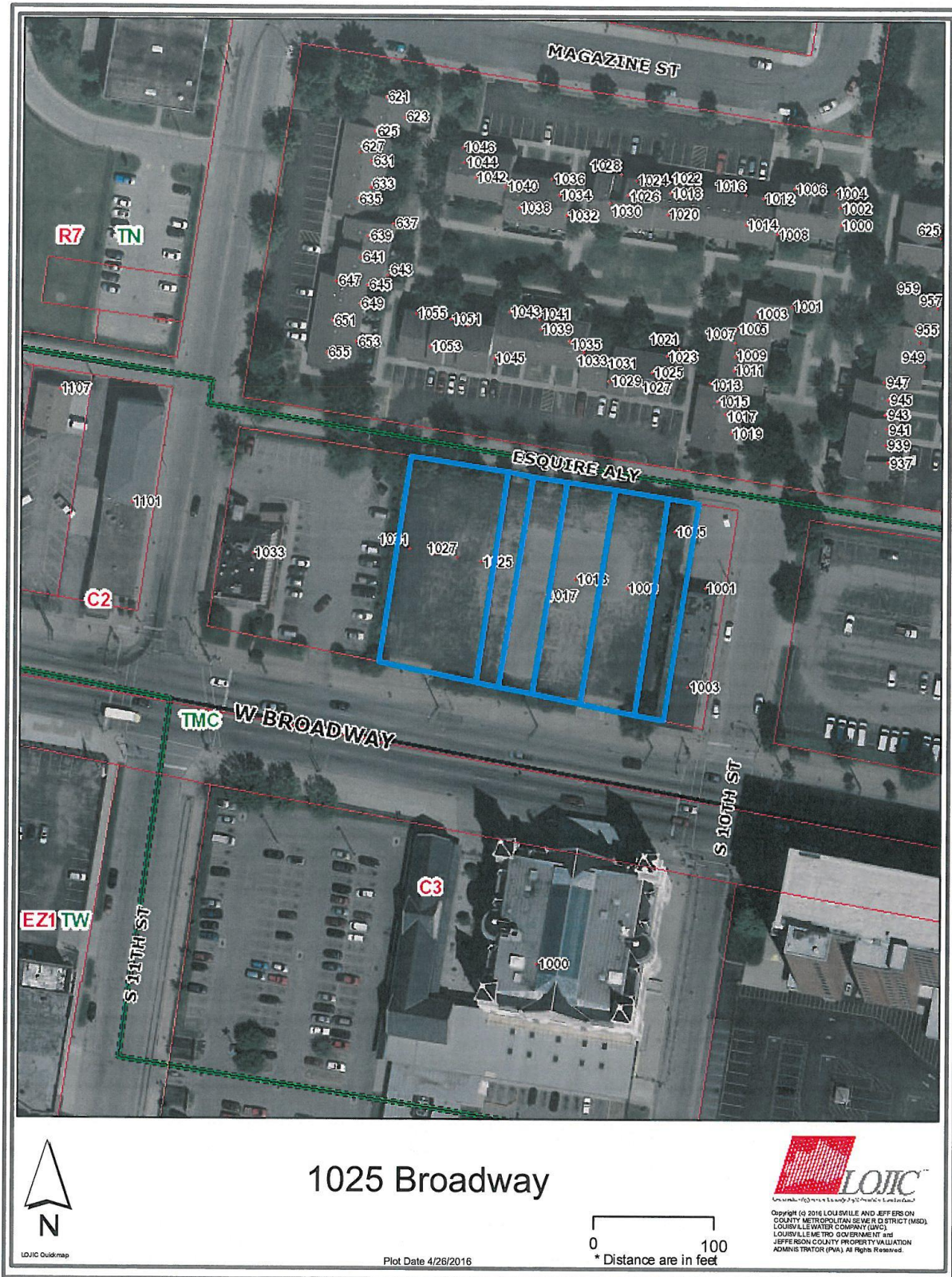
Date	Purpose of Notice	Recipients
04/20/2016	BOZA Hearing	Neighborhood notification recipients
04/21/2016	Sign Posting	Subject property
04/15/2016	BOZA Hearing	1 st tier adjoining property owners

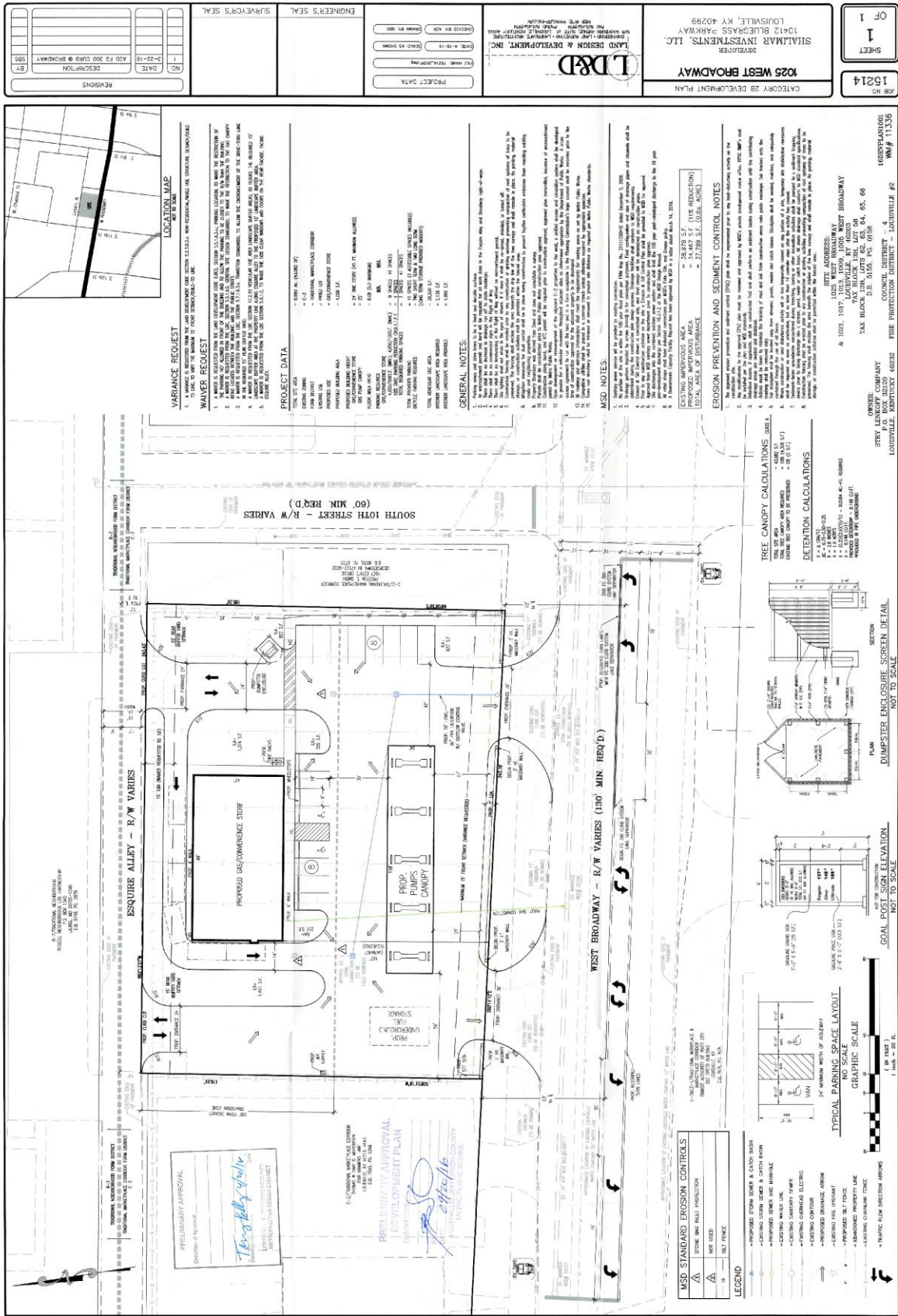
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Building Elevations
5. Landscape Exhibit
6. Applicant's Justification
7. Site Photographs

Attachment 1 - Zoning Map







NO.	DATE	DESCRIPTION	BY	CHKD.
1	10-15-15	DESIGN	TJK	

REVISIONS	NO. <td>DATE <td>DESCRIPTION <td>BY <td>CHKD. </td></td></td></td>	DATE <td>DESCRIPTION <td>BY <td>CHKD. </td></td></td>	DESCRIPTION <td>BY <td>CHKD. </td></td>	BY <td>CHKD. </td>	CHKD.
	1	10-15-15	DESIGN	TJK	

PROJECT DATA	PROJECT NO.	1025 WEST BROADWAY
	DATE	10-15-15
	SCALE	AS SHOWN
	DATE	10-15-15

ENGINEER'S SEAL	DATE	10-15-15
	SCALE	AS SHOWN
	DATE	10-15-15

SURVEYOR'S SEAL	DATE	10-15-15
	SCALE	AS SHOWN
	DATE	10-15-15

LAND DESIGN & DEVELOPMENT, INC.
 10412 BLUEGRASS PARKWAY
 LOUISVILLE, KY 40299

SHALIMAR INVESTMENTS, LLC.
 1025 WEST BROADWAY
 CATEGORY 2B DEVELOPMENT PLAN

CAN NO. 15214
 SHEET 1 OF 1

VARIANCE REQUEST
 1. A VARIANCE IS REQUESTED FROM THE LAND TREATMENT CODE SECTION 22.03.01.01, FOR RECONSTRUCTION OF EXISTING, SUBMITTED WAIVER REQUEST.

LOCATION MAP
 1. A LOCATION MAP IS ATTACHED TO THIS SUBMITTAL TO LOCATE THE PROJECT WITHIN THE CITY OF LOUISVILLE.

PROJECT DATA
 PROJECT NO. 1025 WEST BROADWAY
 DATE 10-15-15
 SCALE AS SHOWN
 DATE 10-15-15

GENERAL NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

MSD NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

EROSION PREVENTION AND SEDIMENT CONTROL NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

TREE CANOPY CALCULATIONS:
 TOTAL TREE CANOPY AREA = 1,234.56 SQ. FT.
 TOTAL AREA OF DISTURBANCE = 2,345.67 SQ. FT.

DETENTION CALCULATIONS:
 TOTAL DETENTION VOLUME = 123,456 CU. FT.
 TOTAL DETENTION AREA = 23,456 SQ. FT.

OWNER: SHALIMAR INVESTMENTS, LLC
PREPARED BY: LAND DESIGN & DEVELOPMENT, INC.
DATE: 10/15/15

PRELIMINARY APPROVAL
 DEVELOPMENT PLAN
 LOUISVILLE PLANNING DEPARTMENT

ESQUIRE ALLEY - R/W VARIES
SOUTH 10TH STREET - R/W VARIES (60' MIN. REQ'D.)
WEST BROADWAY - R/W VARIES (130' MIN. REQ'D.)

PROPOSED GAS/COMBUSTIBLE STORAGE
PROP. PUMPS CANOPY
PROP. STORAGE CANOPY

LEGEND
 - PROPOSED STORM SEWER & CATCH BASIN
 - EXISTING STORM SEWER & CATCH BASIN
 - PROPOSED DRIVEWAY
 - EXISTING DRIVEWAY
 - PROPOSED SIDEWALK
 - EXISTING SIDEWALK
 - PROPOSED FENCE
 - EXISTING FENCE
 - PROPOSED UTILITY TRENCH
 - EXISTING UTILITY TRENCH

TYPICAL PARKING SPACE LAYOUT
 GRAPHIC SCALE
 1 inch = 20 ft.

DUMPSTER ENCLOSURE SCREEN DETAIL
 NOT TO SCALE

GOAL POST SIGN ELEVATION
 NOT TO SCALE

SECTION
 NOT TO SCALE

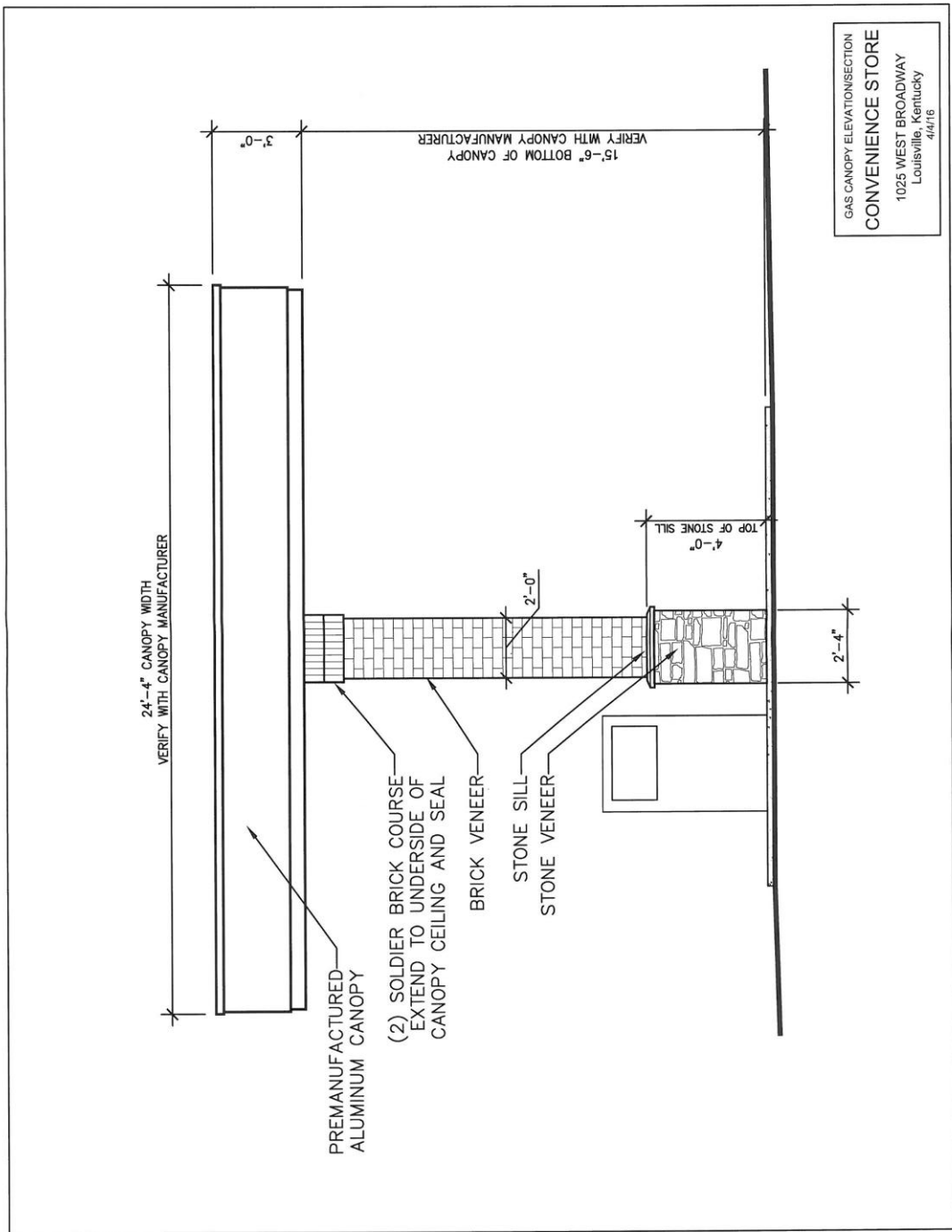
<p style="text-align: center;">KENTUCKY PROPERTY INVESTMENTS, LLC 14619 INSPIRATION COURT LOUISVILLE, KENTUCKY 40245 (502) 856-4825 FAX (502) 805-0529</p>	<p style="text-align: center;">CONVENIENCE STORE NEW BUILDING 1025 WEST BROADWAY LOUISVILLE, KY 40203</p>	<p style="text-align: center;">EDWARD EICHE ARCHITECT 10011 TUPENCE TRACE LOUISVILLE KENTUCKY 40223 (502) 797-1441 (502) 244-4965 FAX</p>	<p style="text-align: center;">A2.00 SHEET NUMBER</p>
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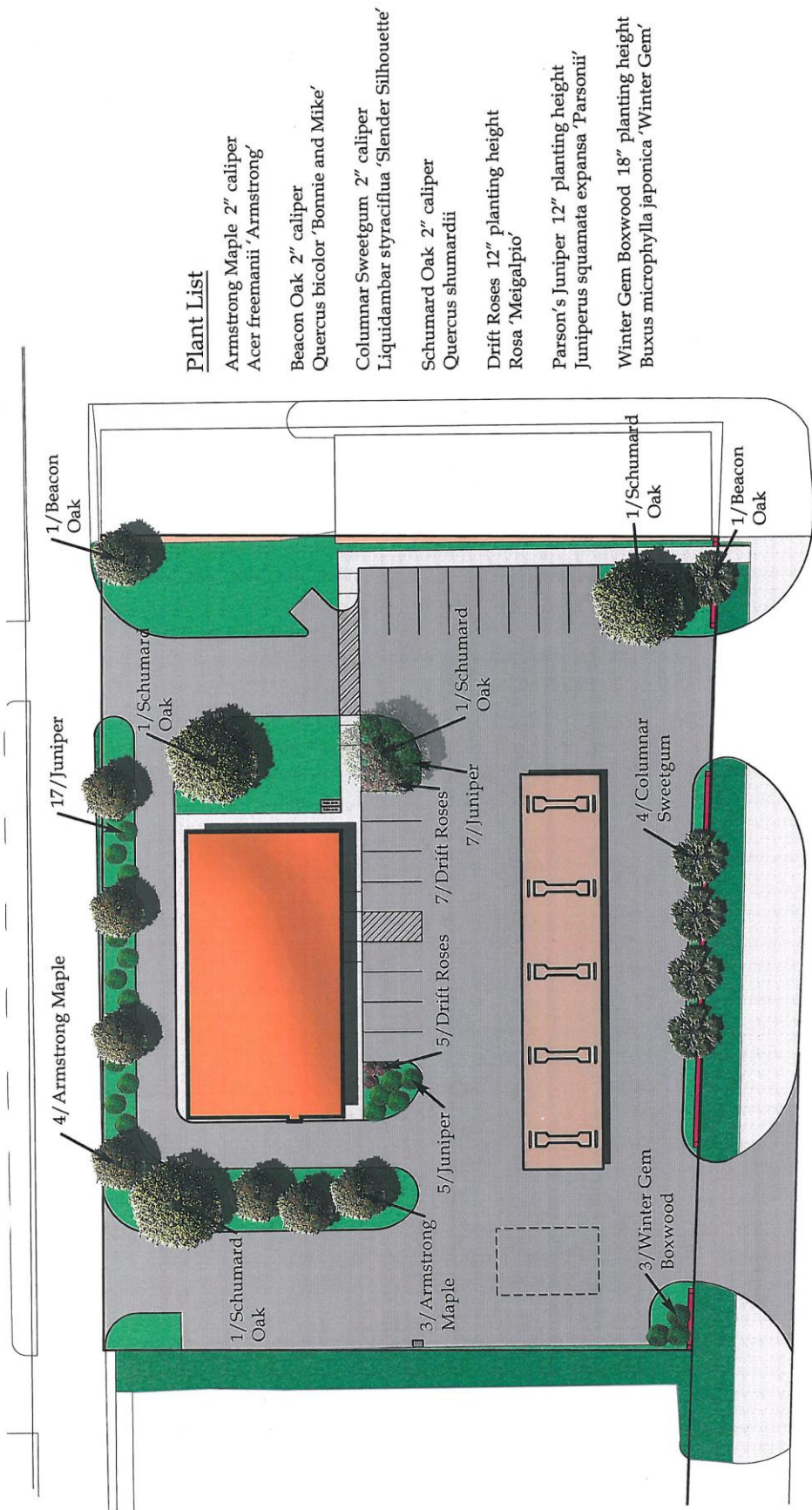
03 WEST ELEVATION – DRIVE THROUGH
SCALE: 1/4" = 1'-0"

04 EAST ELEVATION – SOUTH 10th STREET
SCALE: 1/4" = 1'-0"

02 NORTH ELEVATION – ESQUIRE ALLEY
SCALE: 1/4" = 1'-0"

01 SOUTH ELEVATION – WEST BROADWAY
SCALE: 1/4" = 1'-0"





Plant List

- Armstrong Maple 2" caliper
- Acer freemanii 'Armstrong'
- Beacon Oak 2" caliper
- Quercus bicolor 'Bonnie and Mike'
- Columnar Sweetgum 2" caliper
- Liquidambar styraciflua 'Slender Silhouette'
- Schumard Oak 2" caliper
- Quercus shumardii
- Drift Roses 12" planting height
- Rosa 'Meigalpio'
- Parson's Juniper 12" planting height
- Juniperus squamata expansa 'Parsonii'
- Winter Gem Boxwood 18" planting height
- Buxus microphylla japonica 'Winter Gem'



LAND DESIGN & DEVELOPMENT, INC.
ENGINEERING • LAND SURVEYING • LANDSCAPE ARCHITECTURE • LAND PLANNING

Proposed Landscape Plan

16DevPlan1001

Attachment 6 – Applicant’s Justifications

Variances #1: Front Setback

Variance #1
5.2.3.D.3.a.

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The variance requested allows the proposed gas/convenience/restaurant building to be located where convenience store buildings are universally located, behind the gas pump canopy. Varying from the maximum build-to line will not adversely affect the public health, safety, or welfare.

2. Explain how the variance will not alter the essential character of the general vicinity.

The existing character of the general vicinity is mixed commercial, often with parking in front or to the side of the buildings. The proposed development does not alter this character of the surrounding area and sets the building where the traveling public expects a gas station to be.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The variance will not cause a hazard or nuisance due to the proposed development being laid out on the site where the traveling public expects a gas station to be located and where the gas canopy’s lighting is blocked from the residential area to the north of the site by the proposed bldg.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

If the variance is requested it will not allow an unreasonable circumvention of the requirements, many buildings along the West Broadway corridor are of equal setback to what is being proposed and is where the traveling public anticipates the layout and location of a gas station.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

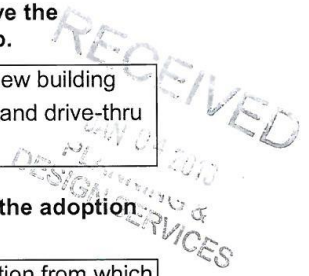
Due to the nature of gas/service stations the gas pump canopy is generally located in front of the gas/service station building. There are no other gas/service stations in the vicinity, the closest one has a setback greater than what is being requested by this proposed development.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

Were the developer to follow the strict application of the code, the construction of a new building would not be allowed due to the universal site design principles for gasoline stations and drive-thru restaurants.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

The circumstances are the result of applicant actions after the adoption of the regulation from which a variance is being requested.



16DEVPLAN1001

Waiver #1: Parking Location

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.**

E.S.I.A. 3.9 Parking

1. Will the waiver adversely affect adjacent property owners?

The waiver allows the proposed development to construct the gas station in the typical gas station layout. There are at least two existing gas/service stations on West Broadway that have this same typical layout. The waiver will not adversely affect adjacent property owners, due to the proposed layout matching existing service stations in the area and setting up the proposed gas station in the layout format familiar to the vehicular traffic user.

2. Will the waiver violate the Comprehensive Plan?

The waiver is within the guidelines of the Comprehensive Plan by allowing the proposed development to create a compatible and supporting use for the surrounding neighborhood and corridor, safe on-site vehicular circulation, and connections to other uses.

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

To meet the required parking while keeping the standard gas station layout which the vehicular user finds typical and easy to maneuver, and allowing the proposed development to utilize the two existing curb cuts on West Broadway and two new curb cuts on Esquire Alley; the waiver is the minimum necessary to give relief to the applicant.

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 this section of the LDC would create an unnecessary hardship on the applicant due to the dimensions of the lot and the standard layout of gas/service stations. Altering the layout of the gas station to place the parking to the sides of the building would necessitate altering the existing curb cuts from West Broadway and would create unsafe vehicular and pedestrian traffic within the site and from the site to West Broadway.

RECEIVED

MAR 21 2016

PLANNING & DESIGN SERVICES

16DEVPLAN1001

Waiver #2: Gas Pump Canopy Location

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.**

5.5.1.A.5 Gas Canopy

1. Will the waiver adversely affect adjacent property owners?

The waiver allows the proposed development to construct the gas station in the typical gas station layout. There are at least two existing gas/service stations on West Broadway that have this same typical layout. The waiver will not adversely affect adjacent property owners, due to the proposed layout matching existing service stations in the area and setting up the proposed gas station in the layout format familiar to the vehicular traffic user.

2. Will the waiver violate the Comprehensive Plan?

The waiver is within the guidelines of the Comprehensive Plan by allowing the proposed development to create a compatible and supporting use for the surrounding neighborhood and corridor, safe on-site vehicular circulation, and connections to other uses.

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

In order for the applicant to keep both existing curb cuts open for vehicular circulation and easing access on and off the site, to allow the proposed uses for the development, and to offer to the public the standard gas/service station site layout which the driving public finds typical for developments of this type, the waiver must be utilized to give relief to the applicant.

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 this section of the LDC would create an unnecessary hardship on the applicant due to the dimensions of the lot and the standard layout of gas/service stations. Altering the layout of the gas station to place the canopy and related gas pumps to the side of the building would necessitate altering the existing curb cuts from West Broadway and would create unsafe vehicular traffic within the site and from the site to West Broadway.

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Waivers #3 & 4: Transition Zone Requirements & Landscape Buffer Area (LBA)

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.**

Buffer Yard

5.7.1.B.3.A

~~#02.~~

1. Will the waiver adversely affect adjacent property owners?

The waiving, thus reduction of the required 15' landscape buffer area along the rear property line adjacent to Esquire Alley will not adversely affect the adjacent property owners, a landscape buffer will be provided at the proposed width of 10 ft., with required landscaping installed at 1.5 times the required number.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan, the proposed use still fits within the proposed "ideals" for the surrounding area and brings needed services to the neighborhood.

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

Due to the dimensional requirements of the proposed gas/service station, the site's depth, and the existing building conditions of the site the required 10' landscape buffer area along the front of rear property lines cannot both be met within the property perimeter. The applicant is meeting the 10' required landscape buffer area along the front property line adjacent to West Broadway and the required dimensions for the proposed gas/service station does not allow for enough space to also provide the rear 10' landscape buffer area.

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 applicant is reducing the existing pavement on the site. The proposed site design reduces the amount of impervious area on the subject site, giving more of a landscape "buffer" area on the east side of the site and increasing the site's existing landscape area along Broadway. The remaining area along Esquire alley will be approximately the same width as the existing landscape island at the adjoining Russell Neighborhood Ltd. Partnership property.

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Waiver #5: Building Façade/Clear Windows

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.

Waiver of: Section 5.6.1.C to waive the 50% clear windows and doors on the rear façade, facing Esquire Alley

Explanation of Waiver:

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A. The waiver will not adversely affect adjacent property owners because no one is adversely impacted by the failure to provide windows of the exact size and kind that the Code demands on the backside of the proposed building along an alley adjoining an apartment community parking lot. Furthermore any adverse impacts are mitigated by the landscaping the applicant is providing as shown on the proposed landscape plan accompanying this application.

B. The waivers will not violate applicable Guideline 1 and applicable Guideline 3, Policies 1, 2, 3 and 4 pertaining to design compatibility relative to the Traditional Marketplace Form District because, as stated above, the portion of the building for which the waiver is requested is for the back of the building along an alley adjoining an apartment building parking lot. Moreover, the rest of the building design will comply with the Traditional Marketplace design regulations, as those elevations constitute fronts and sides where the impacts would be evident if not design compliant. Furthermore, landscaping can enhance the look of the rear of the building in a way to off-set rear building design compliance.

C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because all other aspects of this building design as required by the Code are being met, except for the waiver justified above.

D. 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 because merchandise has to be displayed within the store somewhere and a back wall is an obvious location to do so. Landscaping can mitigate building design impacts, if any, resulting from the grant of this waiver.

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Attachment 7- Site Photos



Site from Broadway looking NW



Broadway Looking North



Looking from Site toward SE – TARC



Looking East from site toward West Grocery



Looking SE from site



Looking South from site toward Alley - Multi-family



Looking South from site toward Alley – Multi-family



Looking SW from site entrance toward Indi's Restaurant parking