

Louisville Metro Board of Zoning Adjustment
May 2, 2016

DOCKET NO. 16DEVPLAN1001
CATEGORY 2B, VARIANCE TO ALLOW THE
PROPOSED STRUCTURE TO EXCEED THE
MAXIMUM SETBACK AND WAIVERS OF DESIGN
CRITERIA ON PROPERTY LOCATED AT 1009,
1013, 1017, 1021 AND 1025 WEST BROADWAY

SHALIMAR INVESTMENTS, LLC
C/O SUKH BAINS

Attorneys: Bardenwerper Talbott & Roberts, PLLC

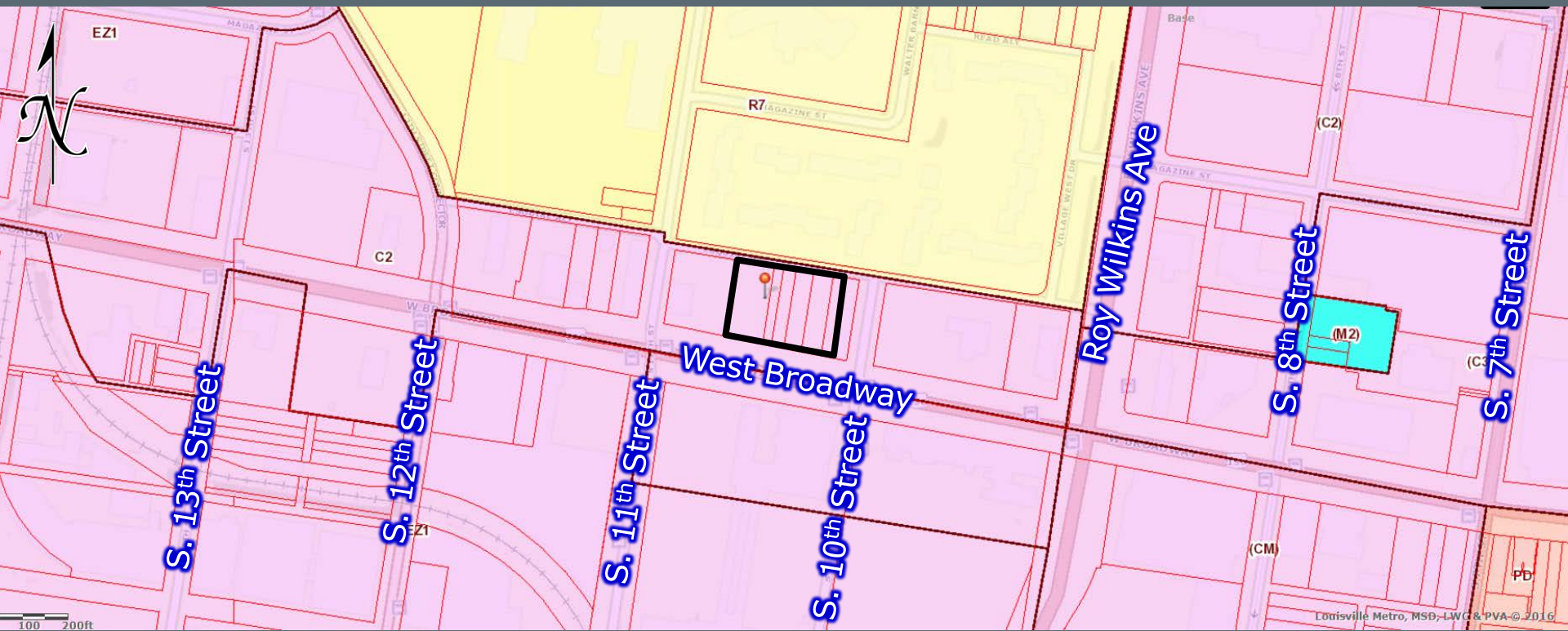
Land Planners, Landscape Architects & Engineers: Land Design & Development, Inc.

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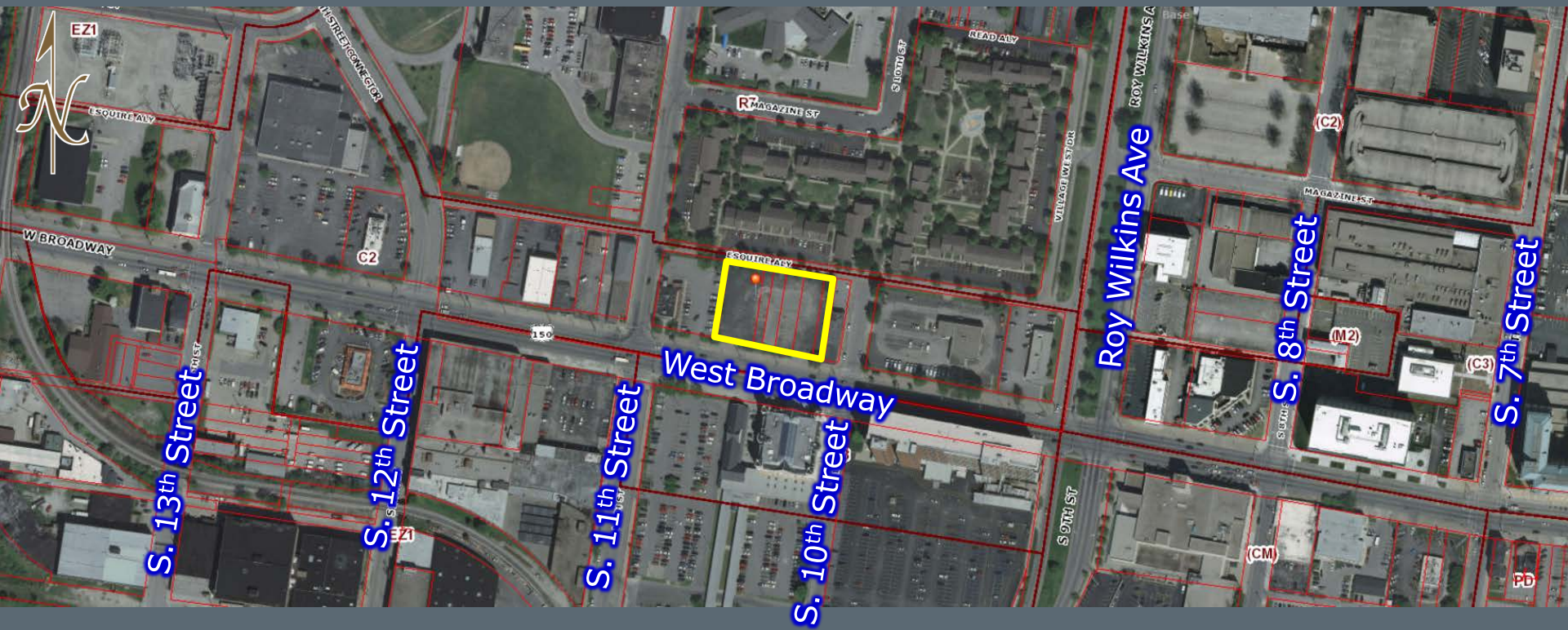
Tab 1 LOJIC Zoning Map





Tab 2

Aerial photograph of the site
and surrounding area





Tab 3

Ground level photographs of
the site and surrounding area



View looking east down West Broadway. TARC is to the right (south), site is to the left (north).



View looking west down West Broadway. TARC is to the left (south), site is to the right (north).



View of site from West Broadway looking north.



View of site from West Broadway looking north.



View of site from Esquire Alley looking southwest.

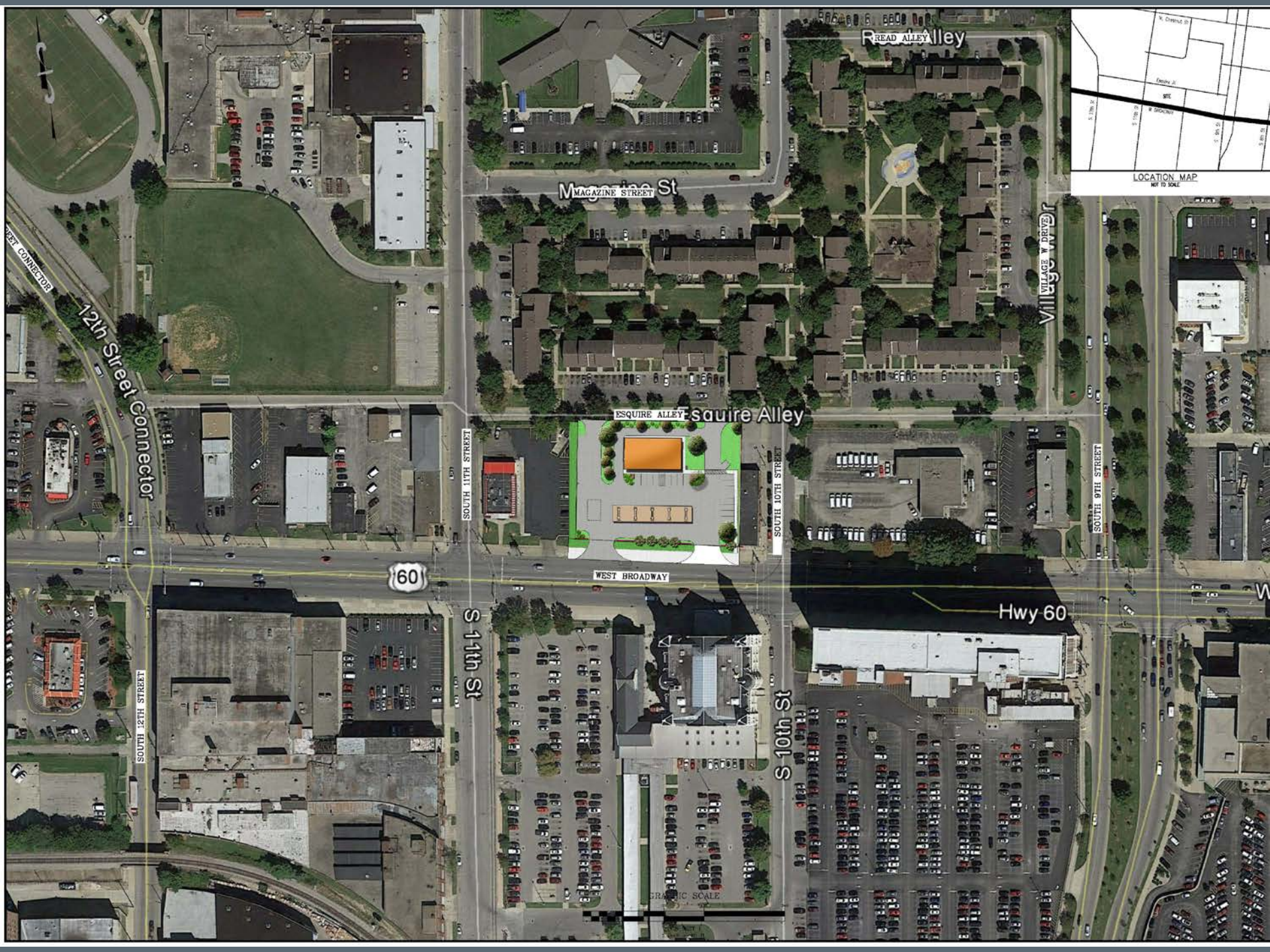


View of site from Esquire Alley looking southeast.



Tab 4

Development Plan



LOCATION MAP
NOT TO SCALE

Esquire Alley

Magazine St

Village W Drive

Esquire Alley Squire Alley

SOUTH 11TH STREET

SOUTH 10TH STREET

SOUTH 9TH STREET

60

WEST BROADWAY

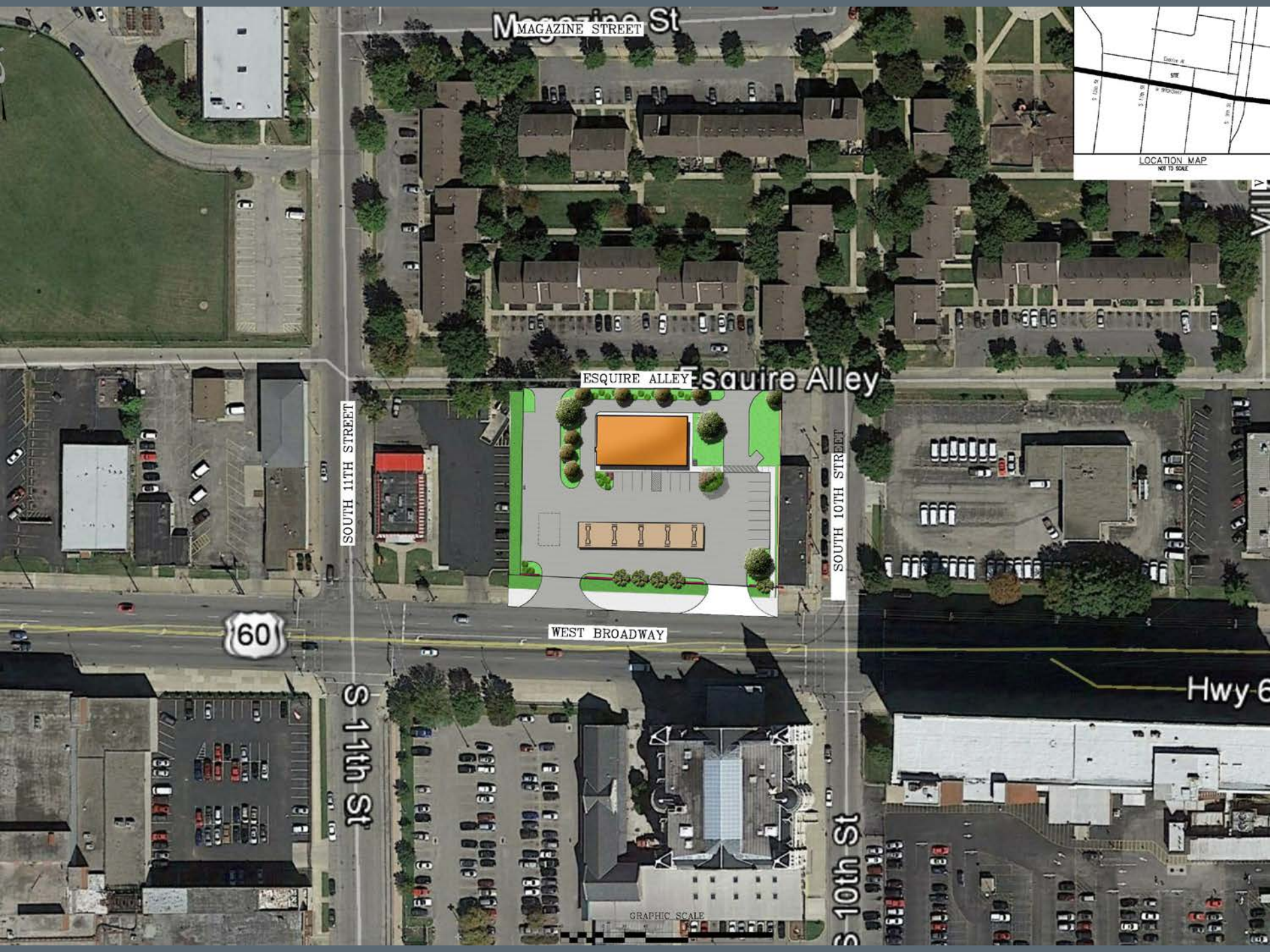
Hwy 60

S 11th St

S 10th St

SOUTH 12TH STREET

GRAPHIC SCALE



MAGAZINE STREET



ESQUIRE ALLEY

Esquire Alley

SOUTH 11TH STREET

SOUTH 10TH STREET

60

WEST BROADWAY

S 11th St

Hwy 6

S 10th St

GRAPHIC SCALE

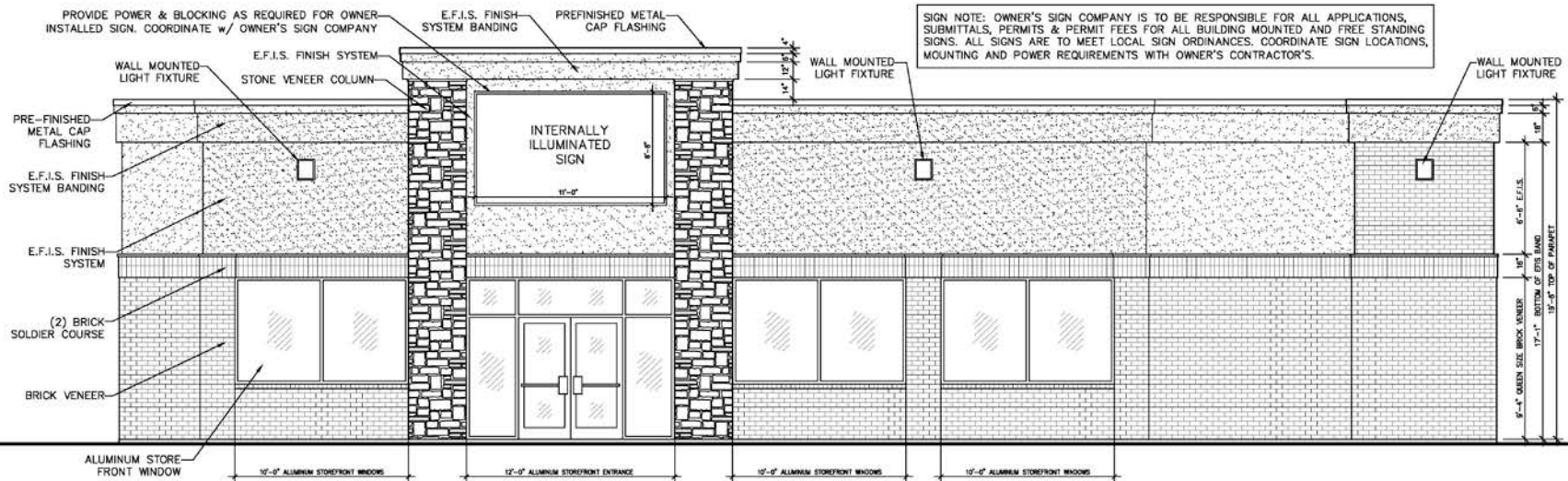
E-01687-1





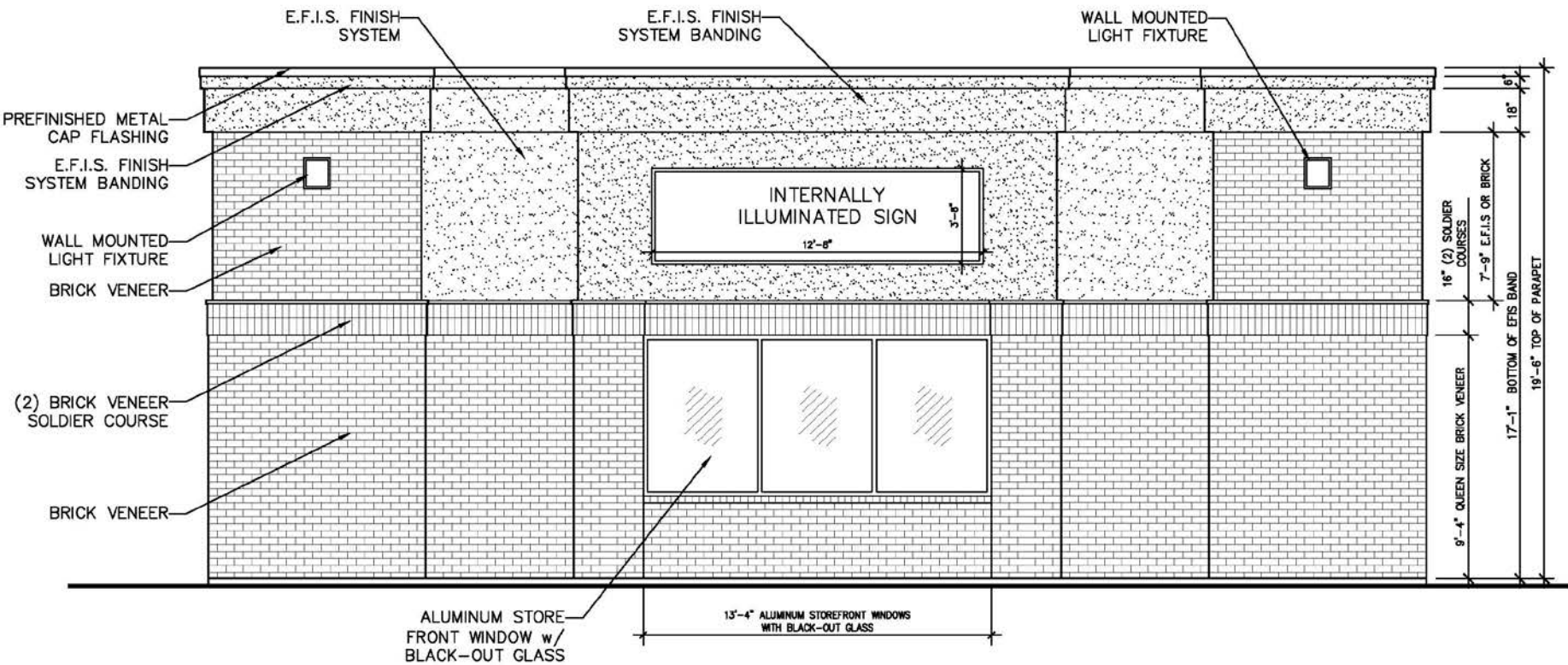
Tab 5

Building Elevation



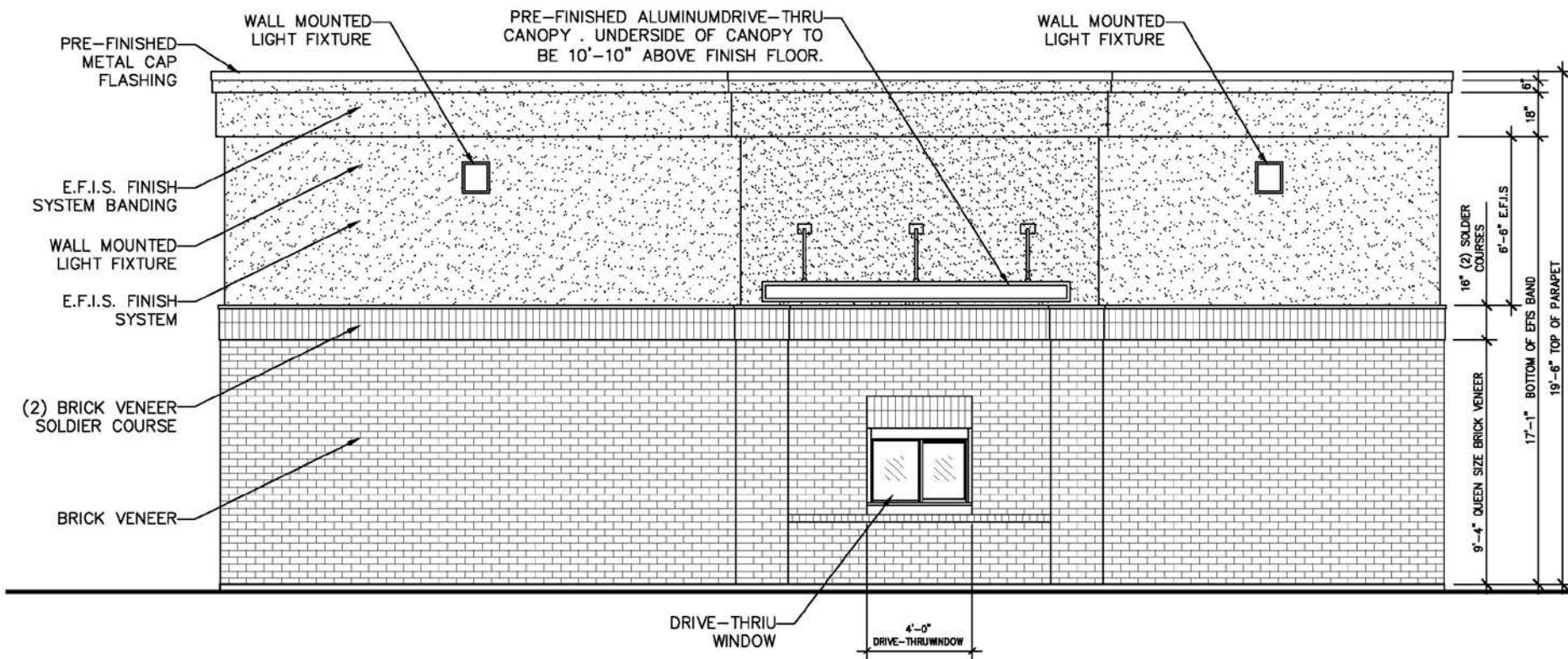
01 SOUTH ELEVATION - WEST BROADWAY

SCALE: 1/4" = 1'-0"



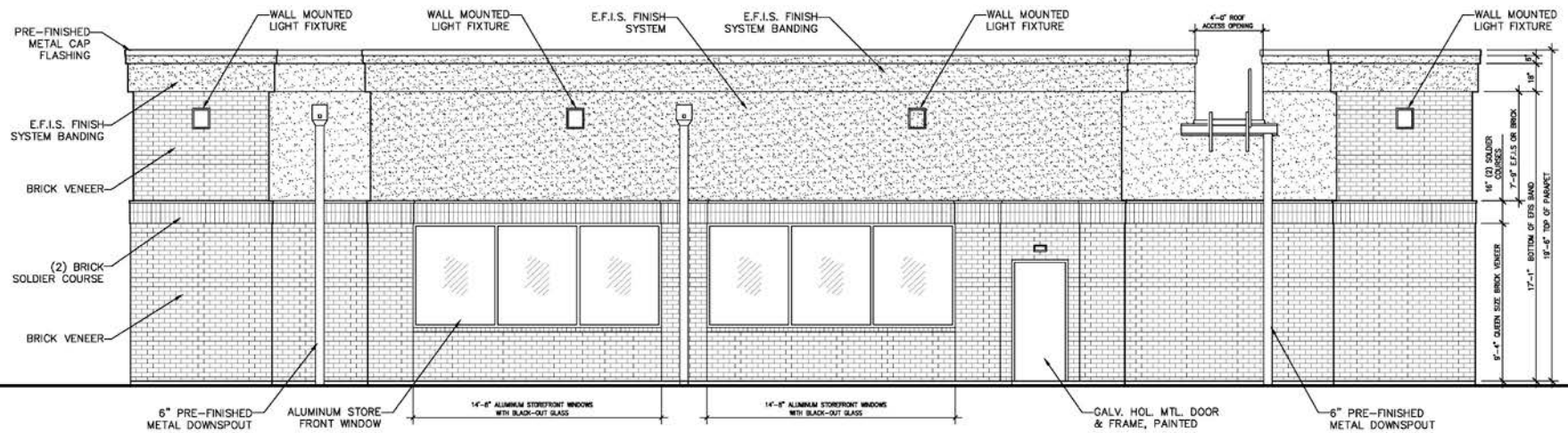
04 EAST ELEVATION - SOUTH 10th STREET

SCALE: 1/4" = 1'-0"



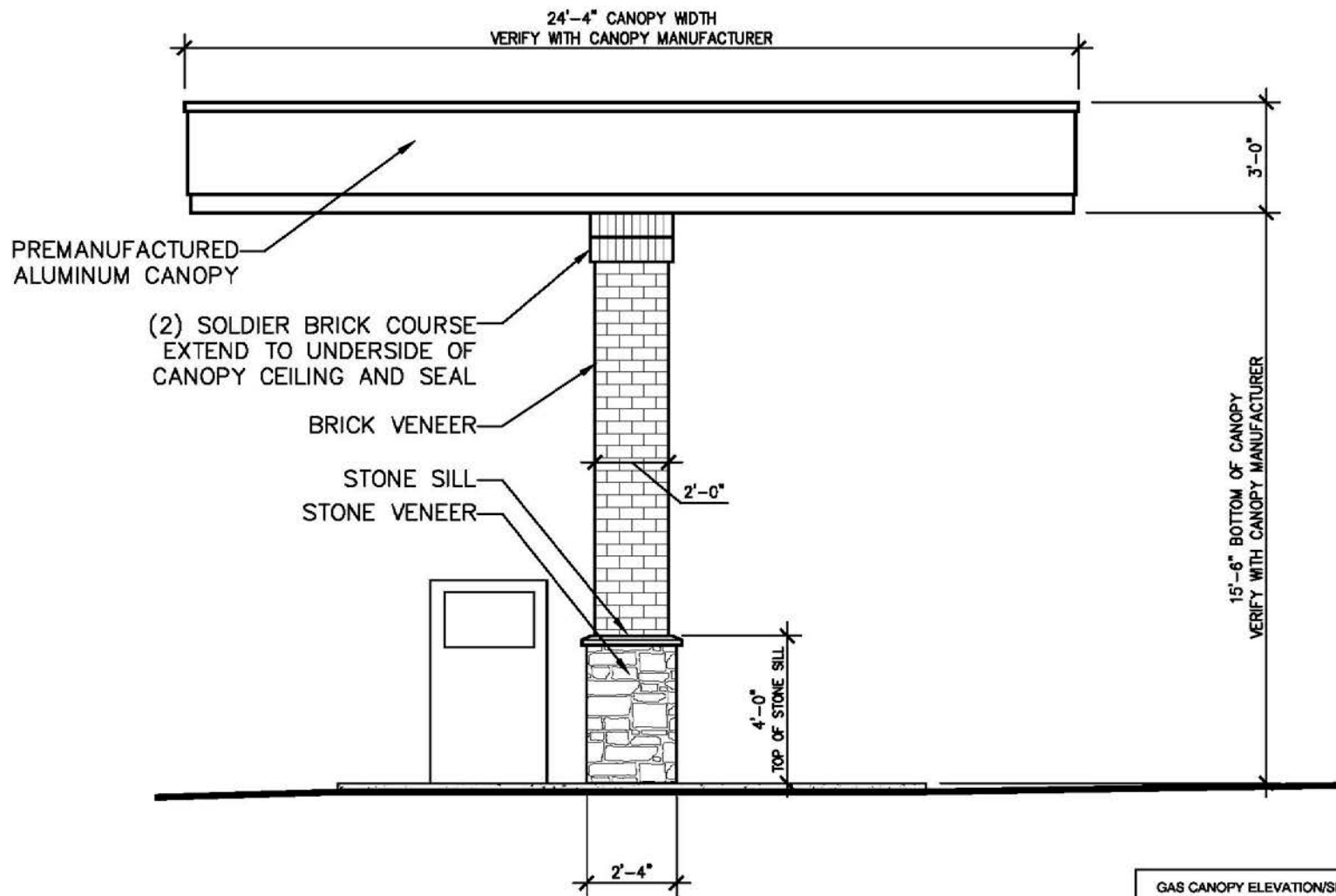
03 WEST ELEVATION – DRIVE THROUGH

SCALE: 1/4" = 1'-0"



02 NORTH ELEVATION – ESQUIRE ALLEY

SCALE: 1/4" = 1'-0"

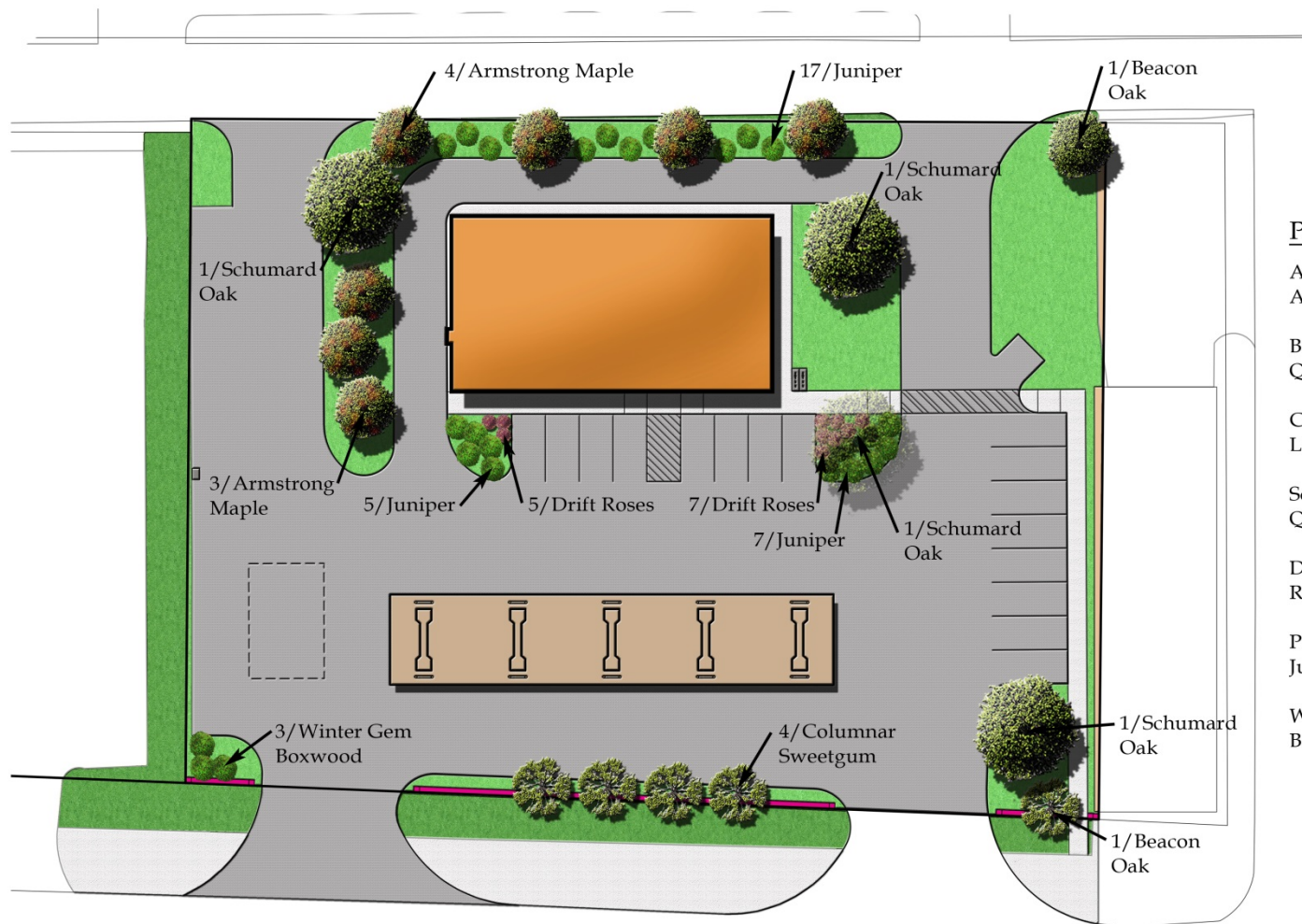


GAS CANOPY ELEVATION/SECTION
CONVENIENCE STORE
1025 WEST BROADWAY
Louisville, Kentucky
4/4/16



Tab 6

Proposed Landscaping



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



Tab 7

Waiver and Variance Justifications

VARIANCE REQUEST

1. A VARIANCE IS REQUESTED FROM THE LAND DEVELOPMENT CODE SECTION 5.2.3.D.3.a. NON-RESIDENTIAL/MIXED USE STRUCTURE SETBACK/BUILD TO LINE; TO VARY THE MAXIMUM 15' FRONT SETBACK/BUILD-TO LINE.

WAIVER REQUEST

1. A WAIVER IS REQUESTED FROM THE LAND DEVELOPMENT CODE (LDC), SECTION 5.5.1.A.3.a.; PARKING LOCATION; TO WAIVE THE RESTRICTION OF THE PARKING NOT ALLOWED IN FRONT OF THE BUILDING AND TO ALLOW THE PARKING TO BE CLOSER TO THE R/W THAN THE BUILDING.
2. A WAIVER IS REQUESTED FROM THE LDC, SECTION 5.5.1.A.5. GENERAL SITE DESIGN STANDARDS; TO WAIVE THE RESTRICTION TO THE GAS CANOPY BEING LOCATED BETWEEN THE BUILDING AND THE PUBLIC STREET.
3. A WAIVER IS REQUESTED FROM THE LDC, SECTION 5.7.1.B.3.a. TRANSITION STANDARDS; TO ALLOW THE ENCROACHMENT OF THE DRIVE-THRU LANE IN THE REQUIRED 15' REAR BUFFER YARD.
4. A WAIVER IS REQUESTED FROM THE LDC SECTION 10.2.10 VEHICULAR USE AREA LANDSCAPE BUFFER AREAS; TO REDUCE THE REQUIRED 15' LANDSCAPE BUFFER AREA AT THE PROPERTY LINE ALONG ESQUIRE ALLEY TO THE PROPOSED 10' LANDSCAPE BUFFER AREA.
5. A WAIVER IS REQUESTED FROM THE LDC SECTION 5.6.1.C, TO WAIVE THE 50% CLEAR WINDOWS AND DOORS ON THE REAR FACADE, FACING ESQUIRE ALLEY.



General Waiver Application

Louisville Metro Planning & Design Services

Case No.: 16 DEVPLAN(0001) Intake Staff: JL

Date: 01-04-16 Fee: 222

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- ☒ Landscape Waiver of Chapter 10, Part 2
- ☐ Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation of Waiver: Part 10: Vehicular Use Area Landscape Buffer Area waiver at rear property line.

Primary Project Address: 1025 West Broadway

Additional Address(es): 1021, 1017, 1013, 1009, & 1005 West Broadway

Primary Parcel ID: 013H00580000

Additional Parcel ID(s): 013H- 0062 & 0063 & 0064 & 0065 & 0066 -0000

Proposed Use: Gas/Convenience/Restaurant Existing Use: Vacant Paved Lot

Existing Zoning District: C-2 Existing Form: Trad. Marketplace

Deed Book(s) / Page: 5155/0158

The subject property 0.99 acres. Number of Adjoining Property 4

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ ☐ Yes ☒ No

If yes, please list the docket/case numbers:

Docket/Case #: _____ Docket/Case #: _____

Docket/Case #: _____ Docket/Case #: _____

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.**

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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General Waiver Application

Louisville Metro Planning & Design Services

Case No.: 16DEVPLAN1001

Intake Staff: (signature)

Date: 3/21/16

Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

☐ Landscape Waiver of Chapter 10, Part 2

☒ Other: Waiver of Section Chapter 5, Section 5.1.A.3.a Parking Location

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation of Waiver: Waiver to allow parking in front of the building and closer to the right-of-way than the bldg.

Primary Project Address: 1025 West Broadway

Additional Address(es): 1021, 1017, 1013, 1009, & 1005 West Broadway

Primary Parcel ID: 013H00580000

Additional Parcel ID(s): 013H- 0062 & 0063 & 0064 & 0065 & 0066 -0000

Proposed Use: Gas/Convenience

Existing Use: Paved Lot

Existing Zoning District: C-2

Existing Form District: Trad. Marketplace Corr.

Deed Book(s) / Page Numbers²: 5155/0158

The subject property contains 0.99 acres. Number of Adjoining Property Owners: 4

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ ☐ Yes ☒ No

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If yes, please list the docket/case numbers:

MAR 21 2016

Docket/Case #: _____

Docket/Case #: _____

Docket/Case #: _____

Docket/Case #: _____

PLANNING & DESIGN SERVICES

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.**

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.

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PLANNING & DESIGN SERVICES

16DEVPLAN/001



General Waiver Application

Louisville Metro Planning & Design Services

Case No.: 10DEVPLAN1001

Intake Staff: (signature)

Date: 3/21/16

Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

☐ Landscape Waiver of Chapter 10, Part 2

☒ Other: Waiver of Section Chapter 5, Section 5.1.A.5 General Site Design Standards

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation of Waiver: Waiver to allow the proposed gas pump canopy to be located between the bldg. and the public street.

Primary Project Address: 1025 West Broadway

Additional Address(es): 1021, 1017, 1013, 1009, & 1005 West Broadway

Primary Parcel ID: 013H00580000

Additional Parcel ID(s): 013H- 0062 & 0063 & 0064 & 0065 & 0066 -0000

Proposed Use: Gas/Convenience

Existing Use: Paved Lot

Existing Zoning District: C-2

Existing Form District: Trad. Marketplace Corr.

Deed Book(s) / Page Numbers²: 5155/0158

The subject property contains 0.99 acres. Number of Adjoining Property Owners: 4

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ ☐ Yes ☒ No

If yes, please list the docket/case numbers:

Docket/Case #: _____

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Docket/Case #: _____

Docket/Case #: _____

Docket/Case #: _____

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.**

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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110DEPLAN1001

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:

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.



Variance Application

Louisville Metro Planning & Design Services

Case No.: 16 DEVPLAN 1001

Intake Staff: JL

Date: 01-04-16

Fee: 625.50

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section Chapter 5, Part 2, Section 3 of the Land Development Code, to allow Variance from maximum 15' front setback/build to line.

Primary Project Address: 1025 West Broadway

Additional Address(es): 1021, 1017, 1013, 1009, & 1005 West Broadway

Primary Parcel ID: 013H-0058000

Additional Parcel ID(s): 013h- 0062 & 0063 & 0064 & 0065 & 0066 -0000

Proposed Use: Gas/Convenience/Restaurant

Existing Use: Vacant Paved Lot

Existing Zoning District: C-2

Existing Form: Trad. Marketplace

Deed Book(s) / Page: 5155/0158

The subject property: 0.99 acres.

Number of Adjoining Property: 4

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ ☐ Yes ☒ No

If yes, please list the docket/case numbers:

Docket/Case #: _____

Docket/Case #: _____

Docket/Case #: _____

Docket/Case #: _____

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16 DEVPLAN 1001

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.