Board of Zoning Adjustment
Staff Report
February 16, 2015

Case No:	14VARIANCE1025
Project Name:	Wal-Mart
Location:	1800 & 1824 W Broadway 744 Dixie Hwy 712-734 S 20th St. 713-735 Kendall Ct.
Owner:	Newbridge Development, LLC
Applicant:	Wal-Mart Real Estate Business Trust
Representative:	Wyatt Tarrant & Combs, LLP Carlson Consulting Engineers, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Joe Reverman, AICP

REQUESTS

- Variance from section 5.2.5.C.3 of the Land Development Code to allow the proposed building to exceed the maximum front yard setback of 25 feet along W Broadway for a total of 394 feet, a 369 ft variance.
- Variance from section 5.2.5.C.3 of the Land Development Code to allow the proposed building to exceed the maximum street side yard setback of 25 feet along Dixie Hwy for a total of 179 feet, a 154 ft variance.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site consists of 15.63 acres on the southwest corner of W Broadway and Dixie Hwy. The site also has frontage on S. 20th St., Anderson St. and Dr. W. J. Hodge St. (formerly known as S 21st St.). The Kentucky Transportation Cabinet has a project that proposes to realign Dixie Hwy at W Broadway so that it aligns with 18th St on the north side of W Broadway. This will create an approximately 2 acre property at the southwest corner or W Broadway and Dixie Hwy that will be retained by the developer and is not part of this proposal.

The site was formerly owned and used by the Phillip Morris Company. The adjacent property to the south is owned and used by the Brown-Forman Corporation.

Existing Zoning District: EZ-1, Enterprise Zone
Existing Form District: TW, Traditional Workplace
Existing Use: Vacant
Proposed Use: Wal-Mart
Minimum Parking Spaces Required: 309
Maximum Parking Spaces Allowed: 786
Parking Spaces Proposed: 619
Plan Certain Docket #: 9-10-76 & 9-79-84

The proposal is to construct a 154,722 sf Wal-Mart Supercenter on the site. The site is located in the Traditional Workplace Form District which has a maximum setback of 25 feet from the street. The applicant requests variances to allow the proposed structure to exceed this maximum setback along W Broadway and Dixie Hwy.

On January 29, 2015 the Planning Commission approved a Revised Detailed District Development Plan and waivers to allow the parking to be located between the building and W Broadway and Dixie Hwy, to allow the building to not have entrances facing both streets, and to reduce the amount of clear windows and doors along W Broadway and Dixie Hwy. A street and alley closure was also approved related to this proposal to close a portion of S. 20th St., south of Anderson St., a portion of Kendall Ct., south of Anderson St., and an unnamed alley south of Anderson St. All 3 streets and alleys closed were less than 80 feet in length and were on the south side of Anderson St. between S. 20th St. and Dr. W. J. Hodge St.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	EZ-1	TW
Proposed	Wal-Mart	EZ-1	TW
Surrounding Properties			
North	Commercial	C-1 & C-2	TMC
South	Office	EZ-1	TW
East	Vacant (Proposed YMCA)	EZ-1	TW
West	Commercial Residential	C-1 R-6	TMC TW

PREVIOUS CASES ON SITE

14DEVPLAN1036
Revised Development Plan, Land Development Code Waivers and Street and Alley Closures approved by the Planning Commission on January 29, 2015.

9-166-70
Rezoning from R-6 to R-9 on a portion of the subject site.

9-146-72
Rezoning from R-6 to C-1 on a portion of the subject site.

9-55-73
Rezoning from C-1 to C-2 on a portion of the subject site.

B-67-75
Conditional Use Permit (CUP) for an off-street parking lot on a portion of the subject site.

1-10-75
Street closure to close portions of Maple St., Colgan St. and unnamed alleys.

9-10-76
Rezoning from R-8, R-9 and C-2 to M-2 on a portion of the subject site.

9-79-84
Rezoning from R-6, C-1 and C-3 to M-2 on a portion of the subject site.

INTERESTED PARTY COMMENTS

Staff has received several emails and letters from citizens with concerns about the proposed suburban style design of this development. These letters and emails are being provided to the Planning Commissioners and Board of Zoning Adjustment members in advance of their consideration of the requests.

The week of the Planning Commission hearing, staff received a petition with 4,100 signatures in support of the Walmart development. Neither the number of signatures nor the residency of those signing the petition was verified by staff.

A group of local architects, represented by attorney Steve Porter, presented a proposal at the Planning Commission public hearing that would have additional outlot buildings along W Broadway in an effort to more closely comply with the Form District regulations.

TECHNICAL REVIEW

The site is located in the Traditional Workplace form district. Buildings and uses in the Traditional Workplace form district are encouraged to be located close to the street with parking mostly located off-street and behind buildings. Flexible and creative site design is encouraged in these areas to encourage reinvestment, rehabilitation and redevelopment along with a respect for the traditional pattern of development.

In general, buildings in the Traditional Workplace form district are required to be located near the street with parking and loading areas to the rear.

Variances

The applicant has requested variances from the Land Development Code to allow the proposed building to exceed the maximum 25 ft setback from W Broadway and Dixie Hwy. In reviewing a variance, the Board of Zoning Adjustment must consider the following factors.

(a) The requested variance will not adversely affect the public health, safety or welfare.

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

(c) The requested variance will not cause a hazard or nuisance to the public.

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

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.

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.

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.

The Board of Zoning Adjustment has final authority to act on the requested variances.

STAFF CONCLUSIONS

The proposed site design, including building and parking location, does not meet the intent of the Traditional Workplace form district. The excessive building setback with parking between the building and street is more indicative of a development in a suburban setting. Staff of Planning & Design Services has encouraged the applicant to redesign the plan to come more in compliance with the Traditional Workplace form district regulations. It appears that a more creative site design is possible that could more closely accomplish the goals of the form district, while providing for the parking needs of the development.

Staff finds that this site has a higher than average rate of pedestrian and transit usage than other areas of the city. There are existing transit routes on east and west bounds of W Broadway, as well as north and south bounds of Dixie Hwy. The addition of this development, along with the proposed YMCA across Dixie Hwy will likely increase transit and pedestrian use in the area.

Staff received several dozen emails from concerned citizens desiring an urban design for this project. Several people also spoke at the Planning Commission public hearing to this effect.

With that said, there has been a lot of support for this development from the community. The 4,100 signature petition, as well as the number of people that showed up at the Planning Commission public hearing in support of the proposal has been exceptional compared to most cases reviewed by the Planning Commission or Board of Zoning Adjustment.

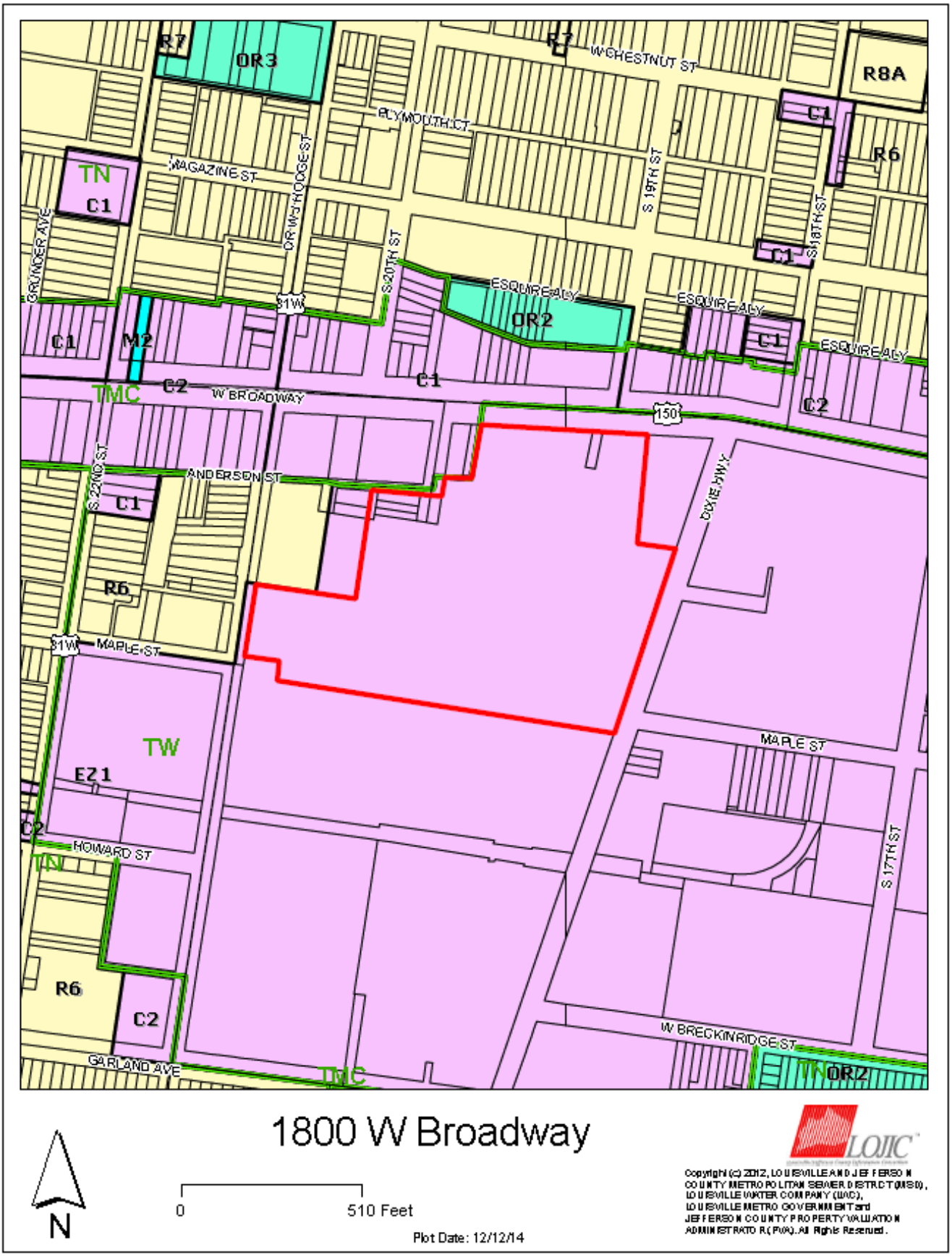
NOTIFICATION

Date	Purpose of Notice	Recipients
1/30/15	Hearing before BOZA	1st tier adjoining property owners
2/2/15	Hearing before BOZA	Subscribers of Council District 4 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map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ANDERSON ST
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DIXIE HWY
R6
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MAPLE ST
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MAPLE ST
EZ1
C2
HOWARD ST
TN
S 17TH ST
R6
C2
W BRECKINRIDGE ST
GARLAND AVE
TMC
TN
OR2
1800 W Broadway
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510 Feet
Plot Date: 12/12/14
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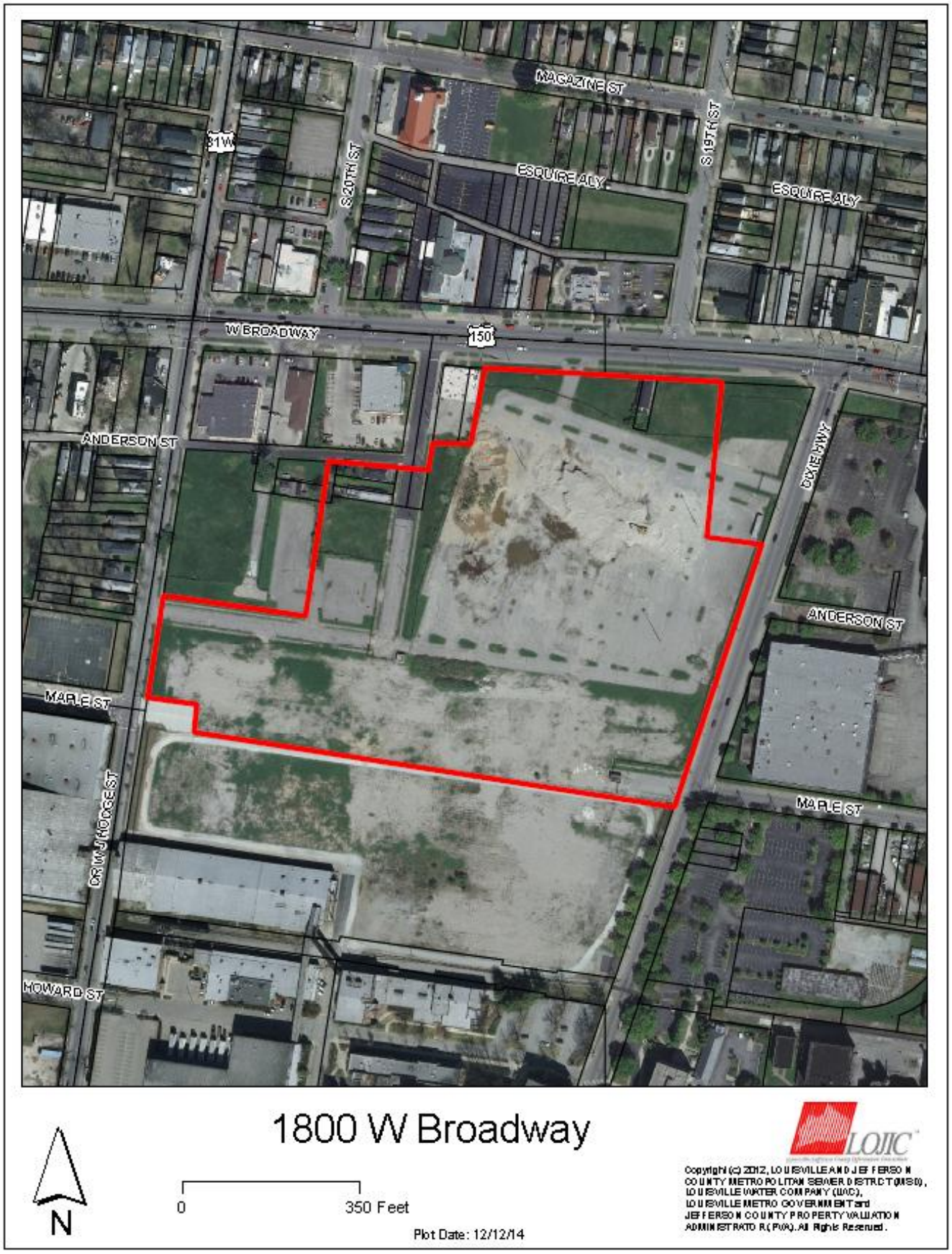
2. Aerial Photograph