

# Board of Zoning Adjustment

## Staff Report

February 3, 2020



<b>Case No:</b>	20-VARIANCE-0004
<b>Project Name:</b>	Bristol Bluffs Circle Variance
<b>Location:</b>	6015 Bristol Bluffs Circle
<b>Owner:</b>	Bristol Bluffs, LP
<b>Applicant:</b>	Cliff Ashburner – Dinsmore & Shohl, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Zach Schwager, Planner I

### REQUEST

- **Variance** from Land Development Code table 5.3.1 to allow multi-family structures to exceed the maximum height (35 ft.) by three feet (38 ft.).

Location	Requirement	Request	Variance
Height	35 ft.	38 ft.	3 ft.

### CASE SUMMARY/BACKGROUND

The subject property is zoned R-4 Residential Single Family and R-6 Residential Multi-Family and is in the Neighborhood Form District. It is located on the south side of Gellhaus Lane east of Billtown Road. The site was rezoned in 2007 and a revised detailed district development plan was approved in 2016 for the multi-family portion of the property. The developer showed 35 ft. as the maximum height on the approved development plan as well as the construction plans for the nine multi-family structures. These structures were built to 38 ft., therefore, a variance is required.

### STAFF FINDING

Staff finds that the requested variance is justified and meets the standard of review. The applicant has not proposed any mitigation for this after the fact variance. Staff recommends that the variance be approved conditioned upon some form of mitigation acceptable to the Board, such as additional tree canopy.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of granting a variance established in the Land Development Code from table 5.3.1 to allow nine multi-family structures to exceed the maximum height by three feet.

### TECHNICAL REVIEW

No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

Staff has spoken to the legislative aid for council district 20, Angela Webster, multiple times over the phone and through email. The council district is concerned about how the variance came to be required, as the approved development plan and construction plans show the height of the structures to be 35 ft.

## **RELATED CASES**

09-036-06 – Rezoning from R-4 Residential Single Family to R-6 Residential Multi-Family for a portion of a 26-acre site

16DEVPLAN1107 – Revised Detailed District Development Plan for the multi-family portion of the site

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1**

- (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 as the buildings have been constructed to comply with all building codes, including fire codes.

- (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 as the structures have already been built and the rezoning and development plan have been approved by Louisville Metro Planning Commission.

- (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 as the buildings have been constructed to comply with all building codes, including fire codes.

- (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 as the variance request is less than 10% of the requirement and qualified for a non-public hearing.

## **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does arise 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 as the subject property is similar in size and topography to other surrounding properties.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as they would have to demolish the existing multi-family structures.

3. The circumstances are not 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 as the structures were built taller than the approved plans show.

### **VARIANCE PLAN REQUIREMENT**

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

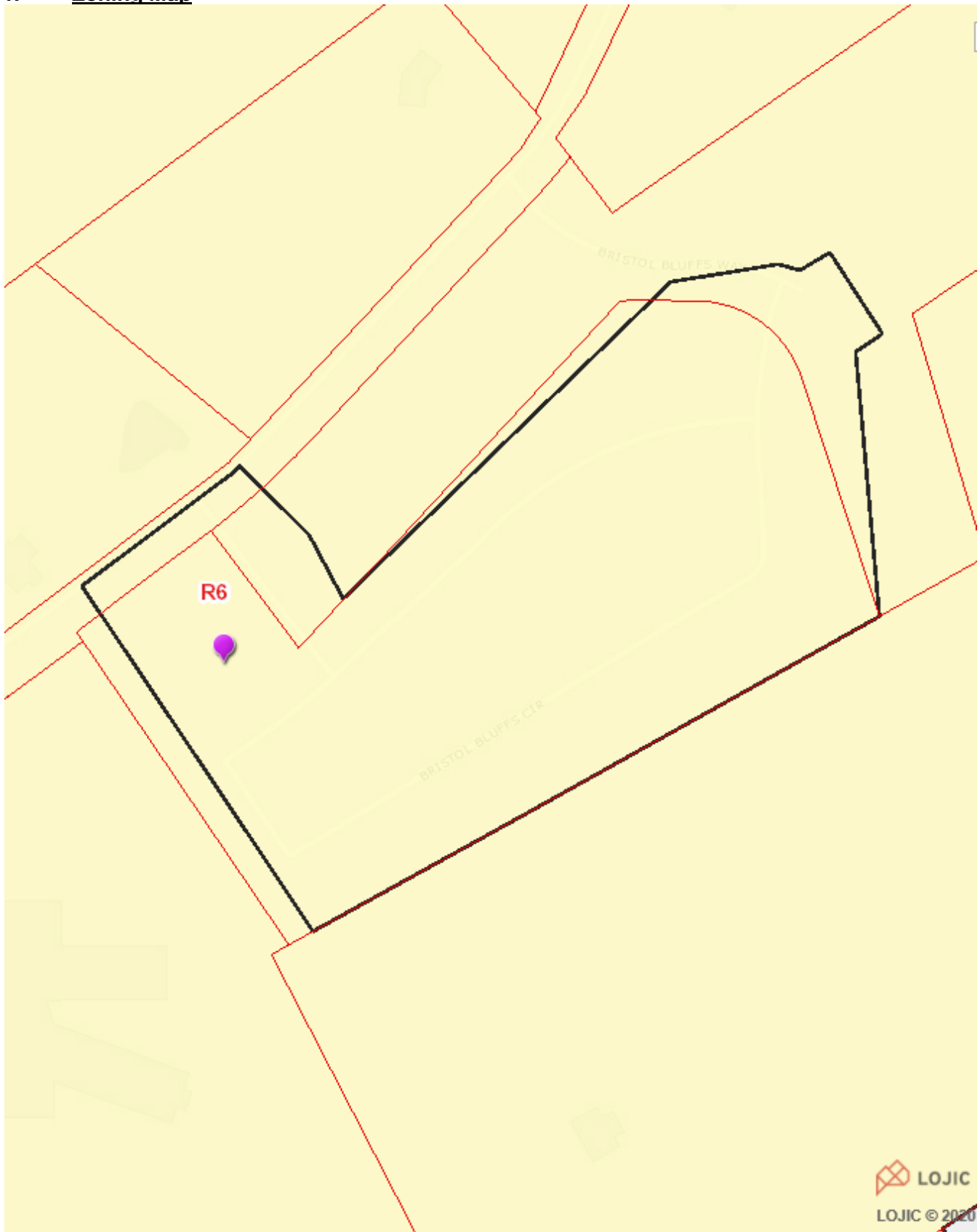
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
1/17/2020	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 20
1/24/2020	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photos

1. **Zoning Map**

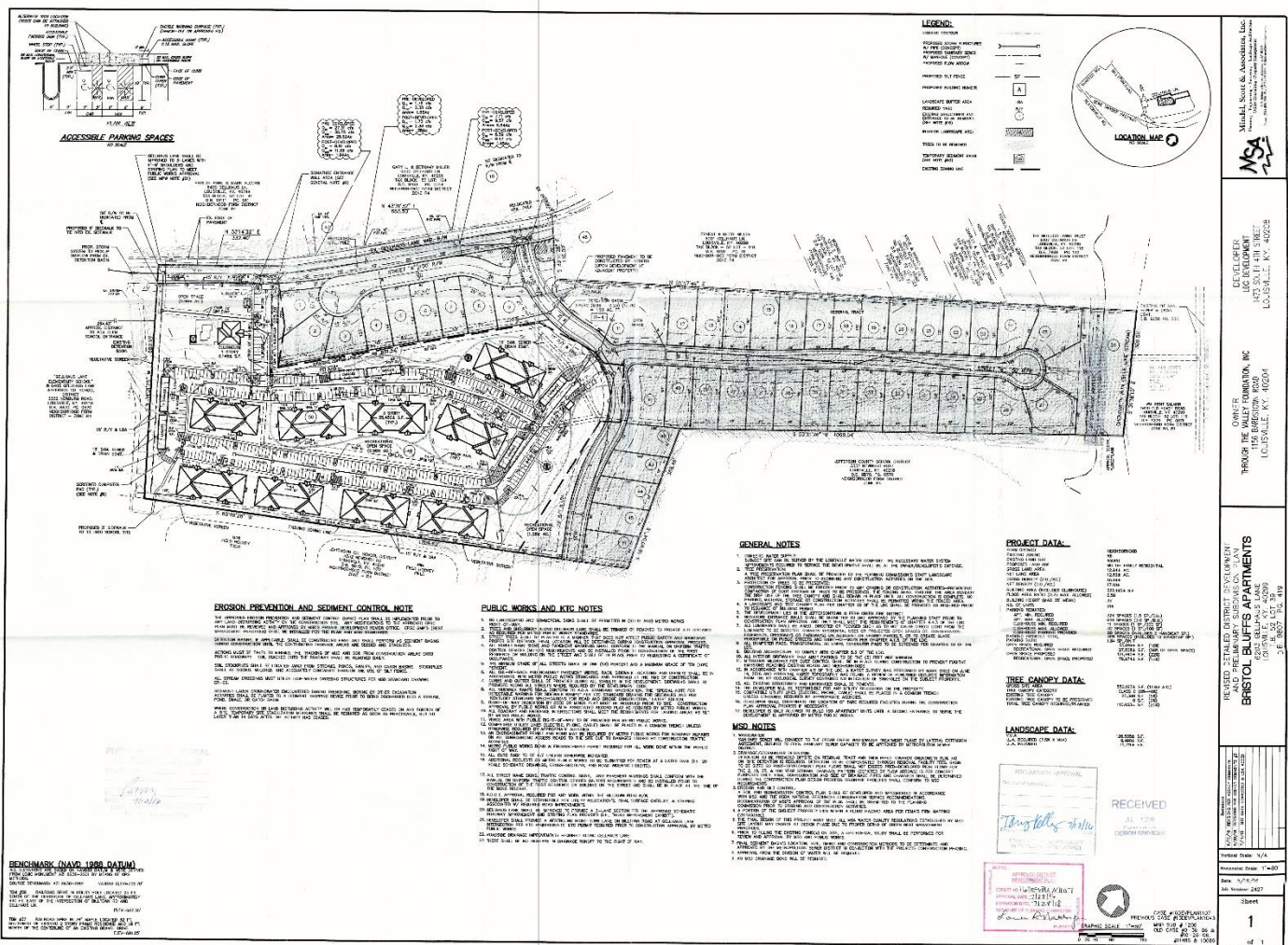


## 2. Aerial Photograph

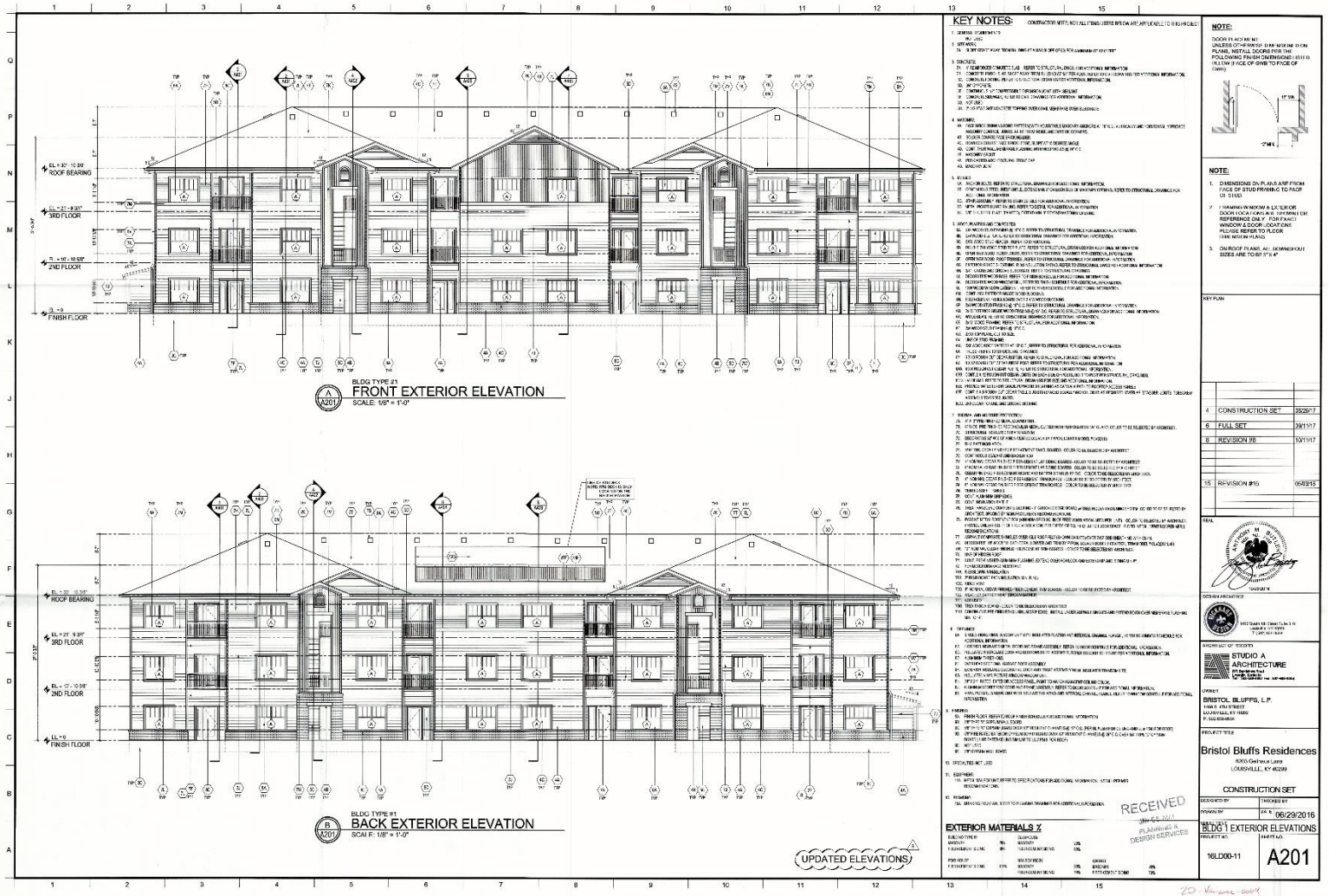




### 3. Site Plan



#### 4. Elevations





5. **Site Photos**



Front of subject property.



Jan 24, 2020 at 1:30:26 PM  
6013-6449 Gallhaus Ln  
Louisville KY 40299  
United States



Front of subject property.



Variance area.



Jan 24, 2020 at 1:33:31 PM  
6019 Bristol Bluffs Cir  
Louisville KY 40299  
United States



Variance area.



Variance area.