

**Board of Zoning Adjustment**  
**Staff Report**  
March 16, 2020



<b>Case No:</b>	20-VARIANCE-0021
<b>Project Name:</b>	Cane Run Road Variance
<b>Location:</b>	4231 Cane Run Road
<b>Owner:</b>	JMAN, LLC
<b>Applicant:</b>	Derek Triplett – Land Design & Development, Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	1 – Jessica Green
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUEST**

- **Variance** from Land Development Code section 5.1.12.B.2.a and 5.5.5.A.1 to allow a principal structure to exceed the maximum infill front yard setback and an accessory structure to encroach into the required infill front yard setback

Location	Requirement	Request	Variance
Infill Front Yard (Accessory)	30 ft. to 81 ft.	17 ft.	13 ft.
Infill Front Yard (Principal)	30 ft. to 81 ft.	149 ft.	68 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned C-1 Commercial in the Suburban Marketplace Corridor Form District. It is located on the east side of Cane Run Road at the intersection with Hartlage Court and contains a one-story commercial structure. The site plan shows that three lots will be consolidated into one lot. The applicant is proposing to replace the existing commercial structure with a restaurant. The proposed principal structure would exceed the maximum infill front yard setback and an accessory structure would encroach into the minimum infill front yard setback.

**STAFF FINDING**

Staff finds that the requested variance is adequately justified and meets the standard of review.

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 sections 5.1.12.B.2.a and 5.5.5.A.1 to allow a principal structure to exceed the maximum infill front yard setback and an accessory structure to encroach into the required infill front yard setback.

**INTERESTED PARTY COMMENTS**

No interested party comments were received.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.12.B.2.a and 5.5.5.A.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 structure will need to be 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 there is another commercial structure across Hartlage Court with a similar setback.

- (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 structure will need to be 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 three properties will be consolidated into one and the property is in the Suburban Marketplace Corridor Form District. Suburban form districts allow for increased setbacks from front property lines. The encroachment into the minimum infill front yard setback is minimal.

**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 which do generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape to 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 the structures have the proposed locations due to parking, drive aisle, and pedestrian access constraints.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

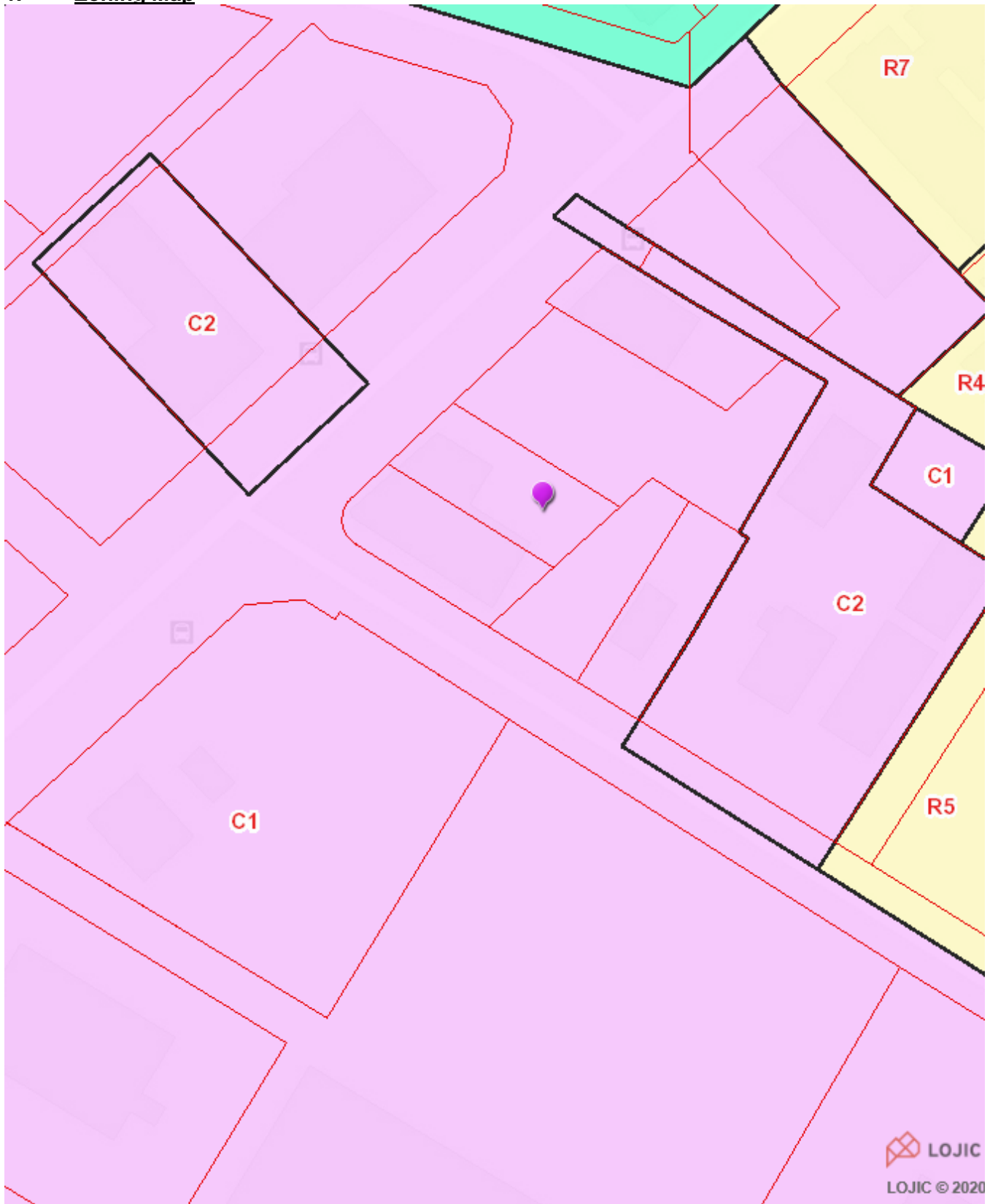
**NOTIFICATION**

Date	Purpose of Notice	Recipients
02/28/2020	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 1
03/06/2020	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

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

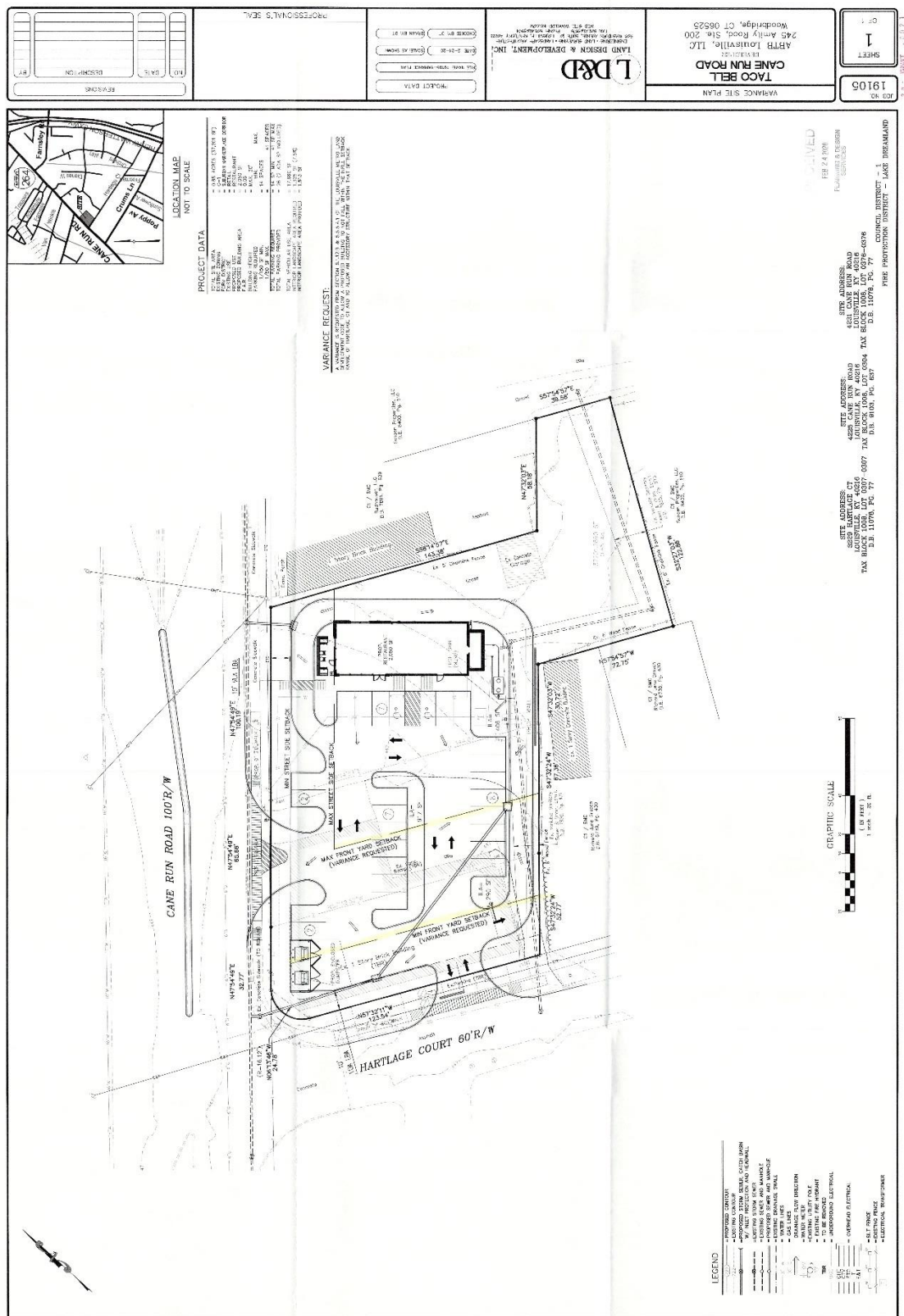
1. **Zoning Map**



2. Aerial Photograph



## Published Date: March 11, 2020



4. Site Photos



Existing site conditions.



Rear of property.