

Board of Zoning Adjustment

Staff Report

March 29, 2021



Case No:	21-VARIANCE-0013/21-WAIVER-0009/21-WAIVER-0011
Project Name:	Taco Bell
Location:	2801 W Broadway
Owner(s):	Mike Leonard
Applicant:	Mike Leonard
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Variance**
 1. **Variance** of Land Development Code section 5.5.1.A.2 to exceed the maximum 5-foot corner lot setback by up to 48 feet along W Broadway and up to 95 feet along S 28th St as shown on the development plan.
- **Waivers**
 1. **Waiver** (20-WAIVER-0009) of Land Development Code section 5.5.1.A.3.a to allow vehicular circulation in front of the structure.
 2. **Waiver** (20-WAIVER-0011) of Land Development Code section 10.2.10 to allow an existing retaining wall and curb to encroach into the required 5-foot Vehicle Use Area Landscape Buffer Area.

CASE SUMMARY/BACKGROUND

The applicant is proposing to demolish an existing fast food restaurant and construct an updated restaurant in a similar position on the subject site. The site is approximately .64 acres in the EZ-1 zoning district and Town Center form district. The subject site is within an area of mixed commercial development at the intersection of W Broadway and S 28th St in the Russell neighborhood of West Louisville.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The increased setbacks allow the building to be setback out of the combined sewer floodprone area of the site which is closest to the corner. The waivers would allow the applicant to utilize most of the existing parking areas on the site. The applicant has agreed to remove some parking in front of the site to accommodate required landscaping and screening along W Broadway.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

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

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed reduction does not impede the safe movement of pedestrians or vehicles.

- (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 site is situated in an area with similar uses and a variety of setbacks.

- (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 building will meet all required health and safety regulations and provisions for the safe circulation of vehicular and pedestrian traffic have been provided.

- (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 zoning regulations as the site development will fit in with similar uses in the surrounding area and the historic use of the subject site.

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 not generally applicable to land in the vicinity.

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 unreasonable hardship on the applicant, as they would have to construct inside the combined sewer floodplain area, and may incur significant costs towards engineering and on-site stormwater detention.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will not adversely affect adjacent property owners, as the applicant is reducing the amount of parking in front of the structure from existing conditions.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the comprehensive plan, as adequate screening and plantings will be provided in front of the site.

- c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

- d. Either: 1. 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 2. 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 strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the proposed site design is consistent with the historic use on the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will not adversely affect adjacent property owners, as the waiver allows existing conditions to remain that are not harmful to neighboring properties.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the comprehensive plan, as all required planting and screening will still be provided.

- c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

- d. Either: 1. 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 2. 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 strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would necessitate significant grading and engineering to move the retaining wall.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **Waivers**

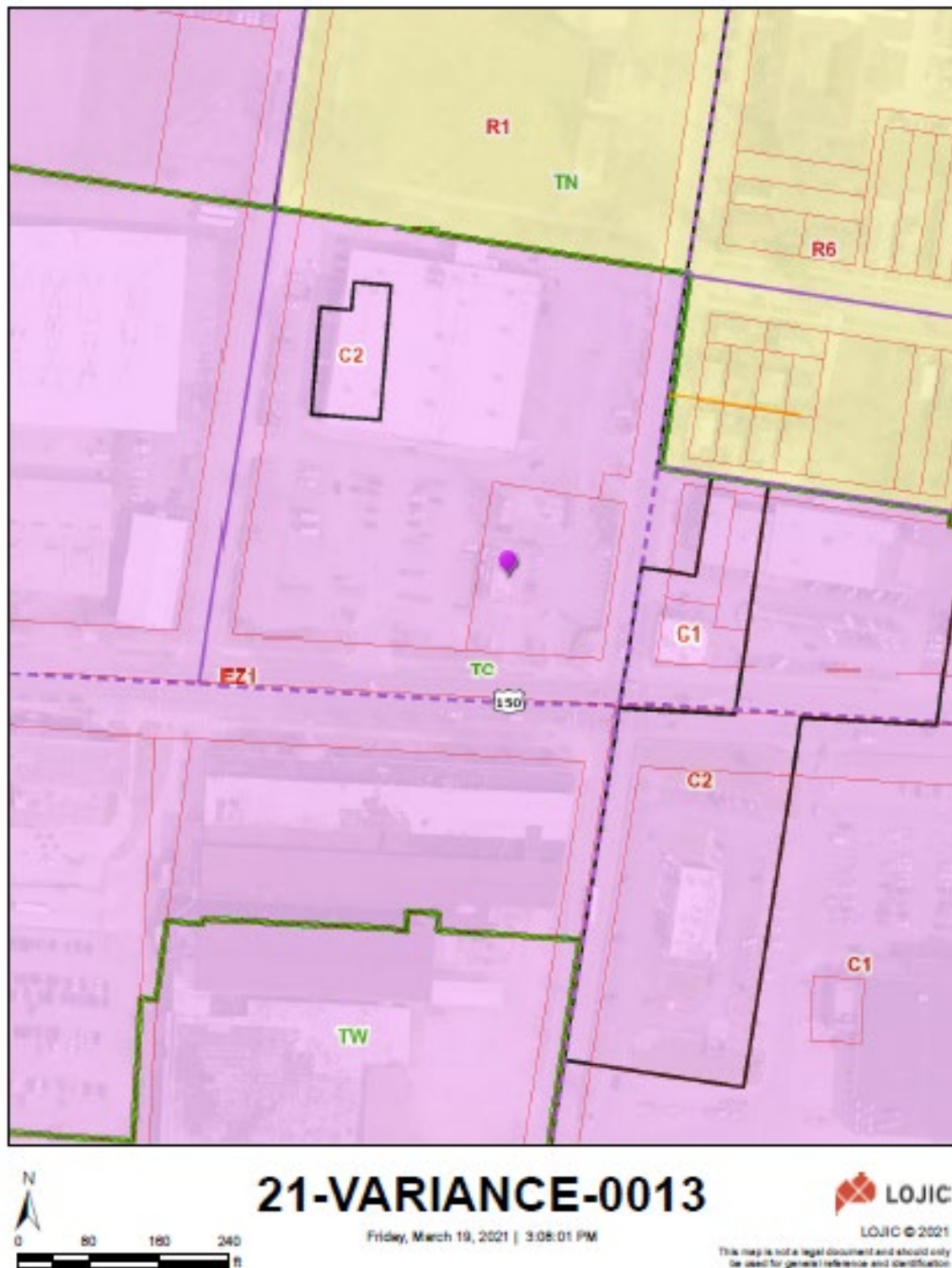
NOTIFICATION

Date	Purpose of Notice	Recipients
3-10-21	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 5
3-16-21	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph



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Friday, March 19, 2021 | 3:09:38 PM



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This map is not a legal document and should only be used for general reference and identification.