

# Board of Zoning Adjustment Staff Report

March 2nd, 2015



<b>Case No:</b>	<b>14VARIANCE1116</b>
<b>Request:</b>	<b>Variance to reduce the required rear yard, exceed the maximum building height and reduce the required open space</b>
<b>Project Name:</b>	<b>The Vinings Apartments</b>
<b>Location:</b>	<b>9500 Williamsburg Plaza</b>
<b>Owner:</b>	<b>JHS Vinings LLC</b>
<b>Applicant:</b>	<b>JHS Vinings LLC</b>
<b>Representative:</b>	<b>Blomquist Design Group LLC</b>
<b>Jurisdiction:</b>	<b>Hurstbourne</b>
<b>Council District:</b>	<b>18 – Marilyn Parker</b>
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

## REQUEST

- Variance #1: Variance from Chapter 5.4.1.G.1.c and 5.11.4.A of the 2006 Land Development Code to reduce the required open space from 10% to 6.9%
- Variance #2: Variance from Chapter 5.7.1.B.1 of the 2006 Land Development Code to allow the proposed buildings to exceed the maximum building height of 45' by 10' 7"
- Variance #3: Variance from Chapter 5.7.1.B.2 of the 2006 Land Development Code to allow parking and drive aisles to encroach into the required 15' rear yard

### Variations

Location	Requirement	Request	Variance
<b>Open Space</b>	10%	6.9%	3.1%
<b>Building Height</b>	45'	55' 7"	10' 7"
<b>Rear Yard</b>	15'	0'	15'

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-2/OR-3  
 Existing Form District: Town Center  
 Existing Use: Vacant  
 Proposed Use: Apartments  
 Minimum Parking Spaces Required: 239  
 Maximum Parking Spaces Required: 315  
 Parking Spaces Proposed: 253  
 Plan Certain Docket #: 13545

The applicant is requesting to construct three apartment buildings with a total of 159 dwelling units (29.78 du/acre). The subject properties are a mix of OR-3 and C-2 zoning. The parking on site will be provided to the side and rear of the buildings following the requirements of the Town Center form district. The applicant is requesting to a variance to allow the parking area to the rear of the buildings to encroach into the required 15' rear yard up to 15' at the closest point. The encroachment is the result of odd angles to the lot lines along the

rear of the property and the parking requirements for the site. The applicant is also requesting to reduce the open space requirement to 6.9% to allow the required parking and circulation to be met on the site. Recreational open space will be provided behind Building One. The applicant is requesting to allow the proposed buildings to exceed the maximum height. The buildings are within the 200' transition zone from the Neighborhood to Town Center form district which limits them to a 45' building height. The applicant is requesting the applicable general plan binding element amendment before the Land Development and Transportation Committee.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Vacant	OR-3/C-2	TC
<b>Proposed</b>	Apartments	OR-3/C-2	TC
<b>Surrounding Properties</b>			
<b>North</b>	Office	OR-3	TC
<b>South</b>	Condominiums	R-7	N
<b>East</b>	Restaurant	C-2	TC
<b>West</b>	Office	OR-3	TC

**PREVIOUS CASES ON SITE**

- 9-41-77: A change in zoning from R-9 to OR-3 was approved on a portion of the subject site.
- 13545: A change in zoning was approved to C-2 by the City of Hurstbourne based on a recommendation for approval from the Planning Commission for the larger development known as the Vinings. The subject site was identified as part of Lot 1 & 2 on the general district development plan.

**INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.

**APPLICABLE PLANS AND POLICIES**

2006 Land Development Code  
Cornerstone 2020

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES  
(Open Space/Rear Yard)**

- (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 since the encroachment is adjacent to a 10' screen wall that will be provided along the rear property perimeter and both reductions allow the required parking and circulation to be provided on the property.

- (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 since the buildings face the street and follow the required traditional form by locating the parking to the side and rear of the property.

- (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 since the encroachment is adjacent to a 10' screen wall that will be provided along the rear property perimeter and both reductions allow the required parking and circulation to be provided on the property.

- (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 since the reductions result from the need to meet the required building and parking placement as required within the traditional form while maintaining minimum required parking and proper circulation throughout the 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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone due to the odd size and shape of the lots.

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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing adequate parking and circulation from being provided on the site.

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 since the pattern of development for the area was established prior to the current proposal and the odd shaped lot existed prior to the current code regulations.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES (Building Height)**

- (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 since the buildings will be located along the roadway with sufficient separation and screening from the adjacent residential uses.

- (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 since it follows the pattern of varying building heights within the area.

- (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 since the buildings will be located along the roadway with sufficient separation and screening from the adjacent residential uses.

- (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 since it follows an established pattern of additional building height within the area.

**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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since additional height is permitted within the Town Center outside the transition zone and the odd shape of the lots determines the transition area.

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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by not allowing the need height for the layout of the proposed units.

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 since the odd shape of the lots led to the buildings being located within the transition zone and the buildings will be within the height range of Town Center form district properties.

**TECHNICAL REVIEW**

- The required waivers, amendment to binding elements and development plan were heard by LD&T on February 12<sup>th</sup>, 2015.
- The recommendations of LD&T require final approval by the City of Hurstbourne.

**STAFF CONCLUSIONS**

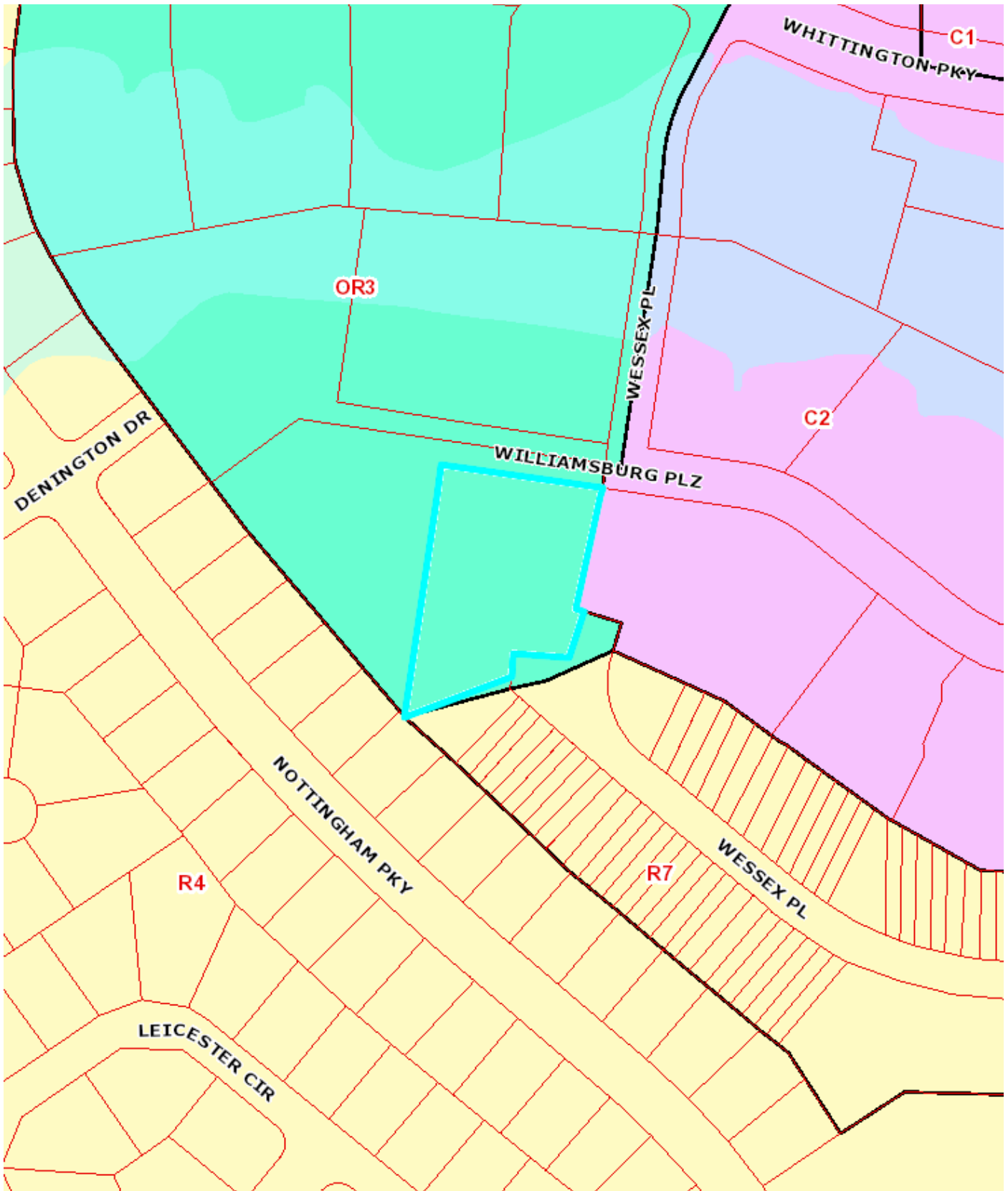
The standard of review for the requested variances has been met. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting variances as established in the Land Development Code.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
1/29/15	Hearing before BOZA	1 <sup>st</sup> tier APO of subject property Registered Interested Parties for Council District 18 Individuals that spoke at previous public hearings

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph

