

# Board of Zoning Adjustment Staff Report

June 16, 2014



<b>Case No:</b>	14variance1002
<b>Project Name:</b>	The Shoppes at Gardiner Park
<b>Location:</b>	100 Flat Rock Road and 16411 Shelbyville Road
<b>Owner(s):</b>	Shoppes at Gardiner Park LLC
<b>Applicant:</b>	Shoppes at GardinerPark LLC
<b>Representative(s):</b>	Land Design and Development; Bardenwerper Talbott and Roberts
<b>Project Area/Size:</b>	11.2 Acres
<b>Existing Zoning District:</b>	C-1
<b>Existing Form District:</b>	Village
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19- Jerry Miller
<b>Case Manager:</b>	Julia Williams, AICP, Planner II

## REQUEST

- Variance to permit the buildings to exceed the maximum 25' building setback.

### Variances

Location	Requirement	Request	Variance
All Buildings	25'	Varies	Varies

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to retail, bank, office, gas station, convenience store, and grocery store uses on the C-1 zoned site within the Village Center Form District. 307 parking spaces are proposed on the former nursery and garden center site. The site is surrounded by R-4 zoning and single family uses on all sides with the exception of the C-1 zoned retention basin located northwest of the property and a church located at the corner of Eastwood Cutoff Road and Shelbyville Road.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	C-1	VC
<b>Proposed</b>	Grocery, Retail, Bank, Office, Gas Station	C-1	VC
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	R-4	VC
<b>South</b>	Single Family Residential	R-4	V
<b>East</b>	Single Family Residential	R-4	V
<b>West</b>	Single Family Residential	R-4	V

## PREVIOUS CASES ON SITE

9-106-84, Change in zoning from R-4 to C-1 for a greenhouse and retail garden center

9-44-05, Change in zoning from R-4 to C-1 for mixed commercial and office

8769, Revised District Development Plan with waivers and variances

13897, Amendment to Binding Element

13devplan1066, Revised Development Plan and Waivers were approved by the Planning Commission on May 15, 2014

## INTERESTED PARTY COMMENTS

None received pertaining to the variances requested.

## APPLICABLE PLANS AND POLICIES

- Cornerstone 2020
- Land Development Code
- Eastwood Neighborhood Plan (Approved November 2005)
  - On page 15 the plan recommends the site located in the Village Center to be a gateway to the Eastwood Neighborhood. The Village Center recommends “reduced building setbacks, parking in the rear, pedestrian connections, an architectural preservation district, and lighting signage and architectural standards.”
  - On page 16, the plan further indicates that the “proposed uses and design of the developments will be measured by the guidelines presented in the neighborhood plan.” Further on page 16 under the design category the Plan states “the scale and character of development in this portion of the center should maintain the village atmosphere with pedestrian scale design incorporating benches and awnings on storefronts. Buildings are placed closer to the street, with on street parking or parking in the rear of the building.”
  - Page 31 and 32 detail the recommended standards as follows:

Village Center Design Standards (Applies to Entire Village Center)	
a.	Retail commercial footprints should be limited to 35,000 square feet or less within the Eastwood Village Center. In exceptional circumstances in which it can be clearly and convincingly demonstrated that the proposed structure and use, site design and related development (i.e. parking and maneuvering) are consistent with the scale, design, and intent of the village center as described in Cornerstone 2020 and further elaborated upon in the Eastwood Neighborhood Plan, may a square footage greater than 35,000 be approved.
b.	Require Development Review Committee review for buildings with a footprint greater than 15,000 square feet
c.	Require new buildings to incorporate design features that are compatible and consistent with existing buildings to maintain the existing character of Eastwood
d.	Exterior building materials shall consist primarily of wood, brick and stone and shall incorporate design features of traditional village character such as paned windows
e.	Define outdoor spaces within existing and future public rights-of-way to create greens, squares, boulevards, and medians to maintain the rural atmosphere and to connect the greenways and parks throughout the village
f.	Require signs to be externally lit and constructed from more traditional materials (wood, metal, cloth, etc.)
Shelbyville Road Village Center Standards (Applies only to Shelbyville Road)	
l.	Minimize new entrances onto Shelbyville Road through the use of shared entrances and service drives, where feasible
m.	Promote cross access between compatible uses and use alleys and service drives for vehicular access to sites to promote rural atmosphere created by landscape setbacks and buffers along Shelbyville Road
n.	Designate pedestrian crossings at major intersections for safe connections across Shelbyville Road to provide pedestrian access to areas of the Village Center on both sides of Shelbyville Road

o. Design parking in pods or smaller areas broken by green space to reduce the impact of large asphalt parking lots and vehicles parked within the developments
p. Do not permit parking between buildings and Shelbyville Road frontage
q. Design buildings with more than one front façade to address frontage along Shelbyville Road as well as internal frontage served by rear or side access to parking as well as pedestrian cross-connections
r. Provide shared identification signs at access points to reduce the number of signs along Shelbyville Road
s. Maintain the 30 feet setback and 30 feet parkway buffer along Shelbyville Road with landscaping to provide buffer for commercial uses as well as to provide rural atmosphere
t. Require landscaping in parkway buffer to utilize native species and designs emulating the surrounding natural environment
u. Designate points on Shelbyville Road as gateways at the Village boundary and design gateway elements to create a sense of arrival

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: Having the buildings exceed the maximum setback will not adversely affect the public because there is sufficient pedestrian connectivity to and from the proposed structures. There is also a 3' wall proposed that will provide somewhat of a street wall in lieu of the all the buildings being located at the maximum setback. There is also a parkway and scenic corridor buffer that makes the buildings have to be setback outside the 25' maximum setback.

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

STAFF: The Neighborhood Plan indicates that parking should not be between the road and the buildings but the request has been mitigated by the 3' stone wall which will not alter the character of the area. There is some parking located between the proposed buildings and the setback. Those areas will be mitigated with the 3' wall and parkway/scenic corridor plantings. There are no other developments in the area to compare the setbacks as the other developments in the area are single family residential. The setbacks proposed would be compatible with the setbacks already granted for another portion of the site (bank and 8,448 sf retail).

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

STAFF: Pedestrian access from the public sidewalk to the principal structures is not compromised with the building locations. Pedestrian connectivity is found throughout the site. All uses are connected by a sidewalk or a marked pedestrian crossing.

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

STAFF: Allowing the buildings to be setback further than the maximum 25' lets the site comply with the scenic corridor and parkway requirements. The buildings are clustered around the perimeter of the site while the interior of the site is vehicle and pedestrian focused with the focal points and cemetery.

### 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 variances partially arise from the site being located on both a parkway and scenic corridor which both require greater setbacks than 25'. The site is unique in that it is the only commercially zoned land in the area and is within the Village Form which is a traditional form.

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 consequence of not granting the variance is that the proposal would have to seek waivers to permit the structures to encroach into the scenic corridor and parkway setbacks. Encroaching into these areas would affect the character of the roadways in this area since the buffers are currently complied with in other developments even though the other developments are single family and not commercial.

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: A variance would be necessary in any circumstance if the applicant were to want to comply with the parkway and scenic corridor setbacks.

### **TECHNICAL REVIEW**

All technical review comments have been addressed.

### **STAFF CONCLUSIONS**

The Board of Zoning adjustment will need to determine if the variances have been properly mitigated and determine if the proposal meets the recommendations of the Eastwood Neighborhood Plan.

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 a Variance established in the Land Development Code.

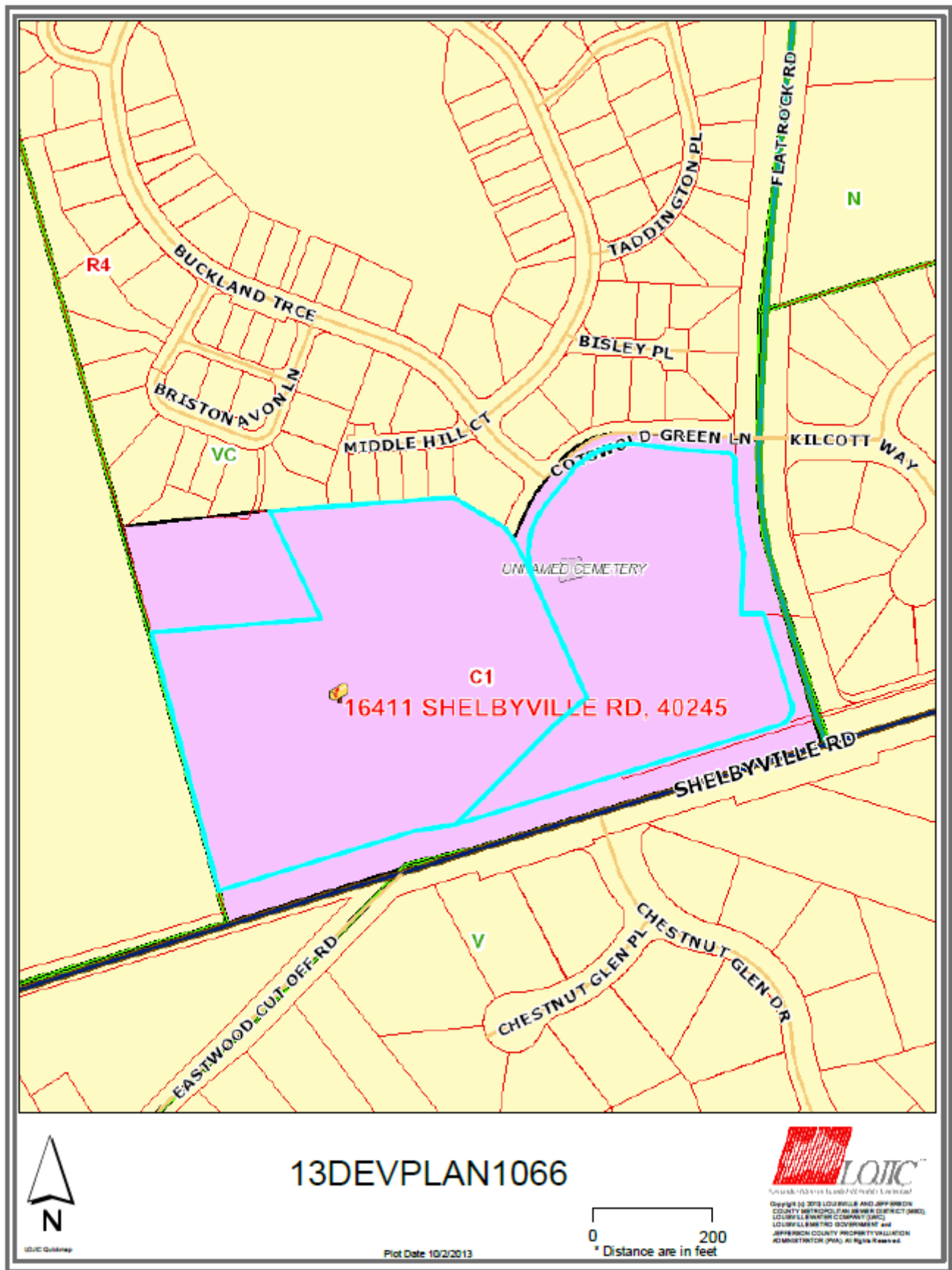
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
1/17/14	Hearing before BOZA on 2/3/14	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
6/2/14	Hearing before BOZA on 6/16/14	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Applicant's Justification Statement

Attachment 1: Zoning Map





Attachment 2: Aerial Photograph



**Attachment 3: Applicant's Justification Statement**



## Louisville Metro Planning & Design Services VARIANCE SUBMITTAL REQUIREMENTS

### SUPPLEMENTAL INFORMATION SHEET

In order to justify approval of any variance, the Board considers four criteria. Please answer all of the following four items. (Use additional sheets, if needed.) **All questions must be answered.** A response of yes, no & N/A is not acceptable.

This is an application for (Section of the Code) 5.2.2 to allow the proposed building location to exceed the 25' maximum front building setback

Reason for request because most of the buildings require either circulation around the buildings because of drive-thrus or circulation and parking in front of the buildings in order to attract tenants. Without this Shelbyville Road side parking, there will be no tenants for this previously approved shopping center, especially given that the grocery store has shrunk in size to what was originally requested by many area interests and neighbors and thus is now better situated at the rear of this site instead of at the southwest corner.

1. Reasons that the granting of the variance:

- a) Will not adversely affect the public health, safety or welfare because this variance is an aesthetic one, which can be addressed through a high level of Shelbyville Road frontage screening and buffering through landscaping.
- b) Will not alter the essential character of the general vicinity because there are no other retail sites in the general vicinity or area and indeed no sites that are likely to be developed for retail use, except possibly a small open area immediately to the west of this site. Therefore, this development plan is not out of character with other existing retail development.
- c) Will not cause a hazard or a nuisance to the public because the requested variance does not propose anything that would constitute a hazard or nuisance. Rather it pertains to aesthetics which can be addressed through Shelbyville Road frontage landscaping, screening and buffering.
- d) Will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an attractive overall site plan whose aesthetics are not diminished by the added setback

2. Additional consideration:



- a. The variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated above, there is no other nearby retail center to which this can be compared.
- b. 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 because this Center has been years in the making, Gardiner Park residents in particular are anxious to see something built, and these are the tenants with their building plans that this applicant has.
- c. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather are a consequence of the mix of tenants and their building designs and circulation requirements.