

Board of Zoning Adjustment Staff Report

October 6th, 2014



Case No:	14CUP1029
Request:	Modified Conditional Use Permit with Variance
Project Name:	Thorntons
Location:	4500 South Third Street
Owner:	Thorntons Inc.
Applicant:	Thorntons Inc.
Representative:	Glenn Price, Frost, Brown, Todd Land Design and Development
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Variance #1: Variance from 5.2.2.C.1.a and Table 5.2.2 of the Land Development Code to allow the proposed building addition to exceed the maximum 25' front yard setback by 60'
- Modified Conditional Use Permit under Chapter 4.2.40 of the Land Development Code to permit off-street parking on R-5 zoned property

Variations

Location	Requirement	Request	Variance
Southern Heights Avenue	25'	85'	60'

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1/R-5, Commercial with Off-Street Parking on Residential
 Proposed Zoning District: C-1/R-5, Commercial with Off-Street Parking on Residential
 Existing Form District: TN, Traditional Neighborhood
 Existing Use: Gas Station
 Proposed Use: Gas Station
 Minimum Parking Spaces Required: 7
 Maximum Parking Spaces Allowed: 40
 Parking Spaces Proposed: 34
 Plan Certain Docket #: 9673

The applicant is requesting to construct a 1,021 SF addition to the existing 3,108 SF structure on the site as part of their renovation. The addition will be located beyond the existing setback of the structures on the site. It will be located 85' from the Southern Heights Avenue ROW resulting in the needed 60' variance. The additional parking spaces proposed on the western portion of the site require the modified conditional use permit for off-street parking on the R-5 lot. The previous approved plan with Conditional Use Permit had 3 parking spaces on the R-5 zoned lot with a 25' landscape buffer and berm to the west. The modification will have 13 parking spaces with a 25' landscape buffer. There will be an 8' vinyl privacy fence located along the property line to screen the proposed additional parking spaces.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Gas Station	C-1/R-5	TN
Proposed	Gas Station	C-1/R-5	TN
Surrounding Properties			
North	Commercial Residential	C-1	TN
South	Residential	R-5	TN
East	Vacant	R-5	TN
West	Residential	R-5	TN

PREVIOUS CASES ON SITE

9673: The Planning Commission approved a rezoning from R-5 to C-1 on a portion of the subject site with a Conditional Use Permit to allow off-street parking and maneuvering area on an R-5 lot with setback variances and waivers to eliminate alley access, allow parking and gas canopy between the building and the street and no customer entrance facing Southern Heights Avenue.

INTERESTED PARTY COMMENTS

A resident contacted staff about concerns with the property regarding property maintenance along the rear alley.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan. It will follow the existing pattern and form established under Guideline 1, Community Form, on the site with ingress and egress points at curb cuts along both street frontages. Alley access to the site as required within the traditional form had been previously waived so screening will be provided along the rear alley from the parking area. The compatibility of the parking area has been enhanced in accordance with Guideline 3, Compatibility, by maintaining a 25' landscape buffer along the western property perimeter with 8' screening of the parking and maneuvering area. This lessens the impact of the non-residential expansion into an established residential area. The parking area also follows the previously approved conditional use permit by not going beyond the 25' landscape buffer area. Under Guideline 7, Circulation, the additional parking will allow parking that supports the use on the subject sites while also providing means for multiple modes of transportation to the building with a sidewalk connection from South 3rd Street along the row of proposed parking spaces.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with the surrounding land uses and maintains the current use of the parcel in an expanded form. It is compatible with the general character of the area by maintaining the required setbacks, buffering and following the drainage and lighting requirements on the parcel.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: All necessary public facilities are provided to serve the proposed use.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Off-Street Parking Areas

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for traffic engineering prior to the public hearing on the Conditional Use Permit.

STAFF: There are 6 items in the listed requirements for off-street parking and all 6 will be complied with according to the applicant's proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 addition will be located to the rear of the existing structure and not impede access to the building.

- (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 addition follows the established pattern of extended setbacks on the subject site.

- (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 addition is to the rear of the site and maintains the extended setbacks previously established on the subject site.

- (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 the established pattern of additional building setback on 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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since additional building setback had previously been granted for the existing structure on the subject site.

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 requiring construction of the addition at the 25' maximum setback line and not following the established building pattern 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 building pattern of the site had been previously established by prior approved variances.

TECHNICAL REVIEW

- No technical review issues need to be addressed.

STAFF CONCLUSIONS

The standards of review have been met for the site. 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 standard of review for a Conditional Use Permit and variance as established in the Land Development Code.

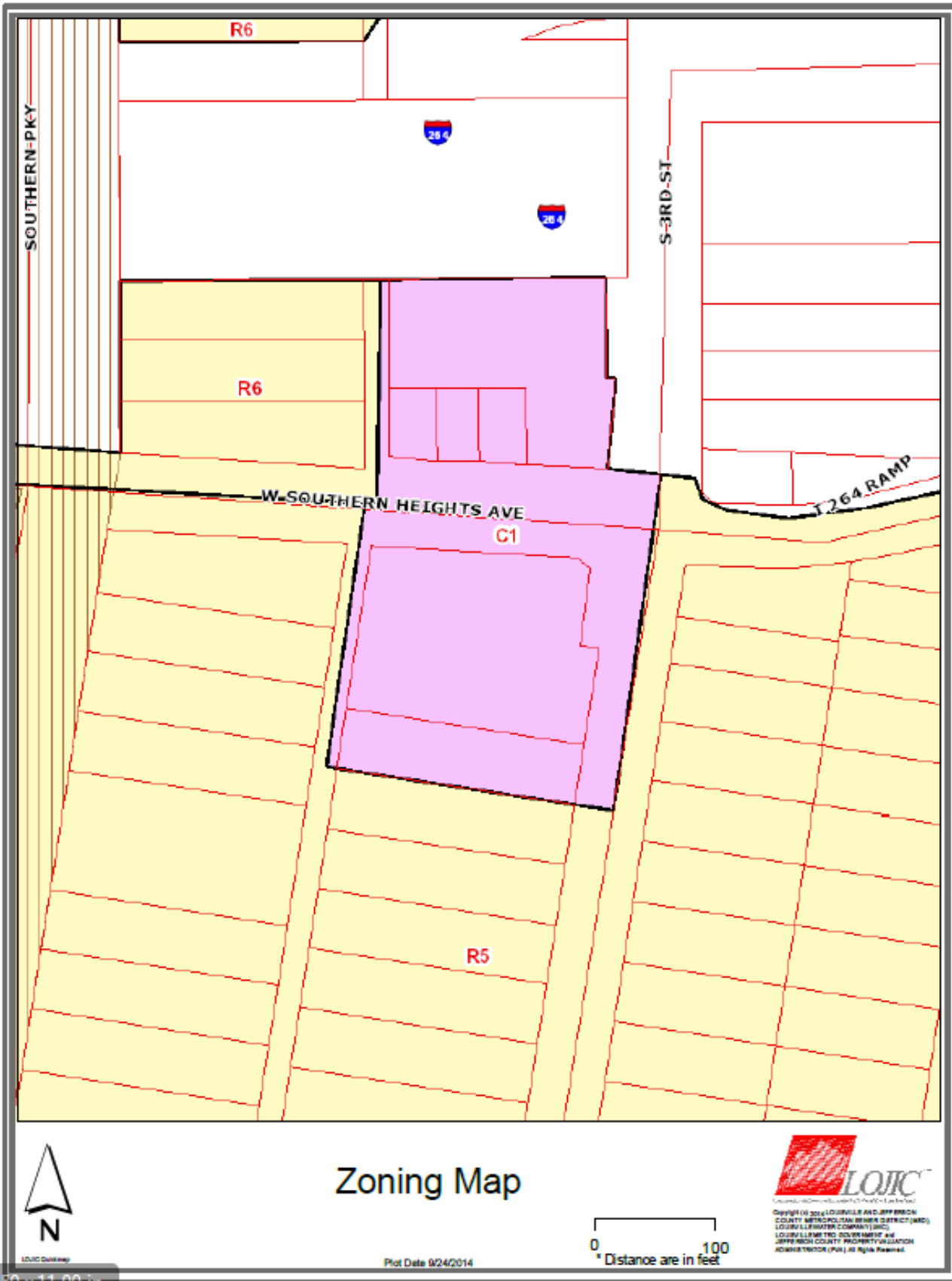
NOTIFICATION

Date	Purpose of Notice	Recipients
9/17/14	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals
9/17/14	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals
9/19/14	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



3. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.