

# Board of Zoning Adjustment Staff Report

January 9, 2017



<b>Case No:</b>	16VARIANCE1094
<b>Request:</b>	Variance to allow a freestanding sign to exceed the allowed square footage in a Regional Center Form District.
<b>Project Name:</b>	Sign Variance
<b>Location:</b>	8001/8003 Shelbyville Rd.
<b>Area:</b>	15.52580 acres
<b>Owner:</b>	Jay Middleton OR Steve Kelly – Toyota S/S
<b>Applicant:</b>	Rob DeLeeuw - Derby City Sign and Electric
<b>Representative:</b>	Rob DeLeeuw - Derby City Sign and Electric
<b>Jurisdiction:</b>	City of Lyndon
<b>Council District:</b>	18 – Marilyn Parker
<b>Case Manager:</b>	Ross Allen, Planner I

## REQUEST

- **Variance:** from the Land Development Code (City of Lyndon Feb. 2016) section 8.3.3, table 8.3.2 Regional Center to allow a proposed replacement sign to exceed the **area** of a freestanding sign on an arterial road with 4 lanes or less with a single tenant. **AND** a **Variance:** from the Land Development Code (City of Lyndon Dec. 2015) section 8.8.3, table 8.3.2 Regional Center to allow a proposed replacement sign to exceed the **height** of a freestanding sign on an arterial road with 4 lanes or less with one tenant.

Location	Requirement	Request	Variance
<b>Area (Regional Center Form District)</b>	<b>100 sf.</b>	<b>298 sf.</b>	<b>198 sf.</b>
<b>Height (Regional Center Form District)</b>	<b>24 ft.</b>	<b>28.67 ft.</b>	<b>4.67 ft.</b>

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to replace an existing Toyota/Scion freestanding sign located at 8003 Shelbyville Rd., the Toyota at Oxmoor Car Dealership. The replacement sign will be in the exact dimensions of the existing sign and will simply have a Scion logo removed. The new sign will have only a Toyota Logo that will be internally lit. The Land Development Code for the City of Lyndon (Dec. 2015) allows for a sign height of 24 feet and 100 square feet in area within a Regional Center Form District, for a commercial land use for a single tenant located on an arterial street with more than 4 lanes. The subject site is bounded by a Oxmoor Mazda the west, a PNC bank branch and Oxmoor Automotive Oil Change to the south, a Speedway Gas Station and a PNC Bank Branch ATM Drive-thru to the east, and Brookside Apartment Homes to the north.

**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>	Commercial	C-2	Regional Center
<b>Proposed</b>	Commercial	C-2	Regional Center
<b>Surrounding Properties</b>			
<b>North</b>	Commercial	R-5A/R-6	Neighborhood
<b>South</b>	Residential Single Family/Vacant	C-2	Neighborhood
<b>East</b>	Commercial	C-1/C-2	Regional Center
<b>West</b>	Commercial	C-1	Regional Center

**PREVIOUS CASES ON SITE**

- 11246: A Revised Detailed District Development Plan and Landscape waivers. (Approved 9/12/2008)**
- 11483: A variance for a structure to exceed the maximum setback and a variance sign to exceed the maximum height and area, sign was approved by staff. (Approved 9/19/2008)**
- 12540: A minor plat to consolidate two lots. (Approved 4/26/2010)**
- 13236: Auto Car dealer zoning, no case file found, processed on 9/17/2009.**
- 13DEVPLAN1118: Approved District Development Plan for proposed inventory and storage lot to the rear of 8003 Shel.**
- 18169: A Change in zoning from R-5A Multi-family residential to C-2 commercial to allow an automobile dealership storage area. (Approved 2/1/2013)**

**INTERESTED PARTY COMMENTS**

No comments were received from concerned citizens.

**APPLICABLE PLANS AND POLICIES**

Land Development Code (City of Lyndon Feb. 2016)

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from LDC (City of Lyndon Feb. 2016) section 8.8.3, table 8.3.2 Regional Center for a freestanding sign on an Arterial, with more than 4 lanes and having a single tenant to exceed the area and height requirements.**

- (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 since the existing sign is to be upgraded with a new look (i.e. the SCION logo will be removed). The proposed sign will be the same size as the old and have the same footings.

- (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 upgraded sign will be the same height and area as is the current sign that is being replaced.

- (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 proposed replacement sign is not in the public right of way and all work to be performed will happen on private 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 zoning regulations since the proposed replacement sign is the same in height and area as the existing sign.

**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 which that generally apply to land in the general vicinity or the same zone since there are other car dealerships in the vicinity, Mazda at Oxmoor being the closest in proximity.

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 reasonable use of the land since the proposed replacement sign is used to advertise to the public. If the variance were to be denied it would limit the dealerships ability to advertise along Shelbyville Rd.

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 because the existing sign has been in place since 2008 as shown in case file B-11483-08. The applicant is seeking to request the variances in order to comply with the current LDC regulations.

**TECHNICAL REVIEW**

- None

### STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. 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 granting a variance as established in the Land Development Code (Feb. 2016) from section 8.3.3, table 8.3.2 Regional Center to allow a proposed replacement free standing sign to exceed the area by approximately 198 sf. and the height by approximately 4.67 feet on an arterial road with 4 lanes or less and having a single tenant, in the City of Lyndon.

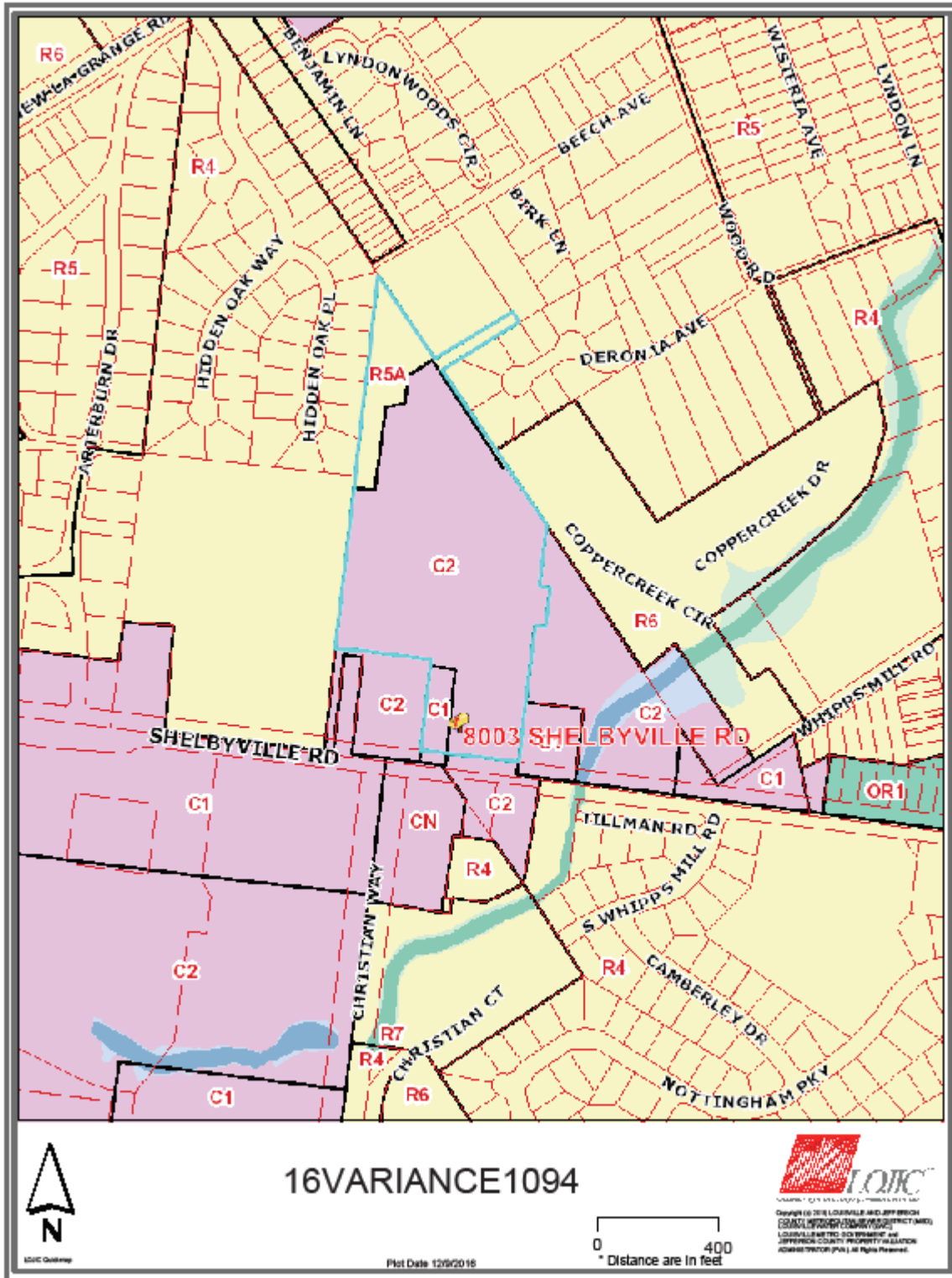
### NOTIFICATION

Date	Purpose of Notice	Recipients
Jan. 9, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 18 Notification of Development Proposals
December 22, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Binding Elements (Approved District Development Plan) – not applicable to the subject site regarding the sign.

1. Zoning Map





2. Aerial Photograph



3. **Binding Elements (Approved District Development Plan) – not applicable to the subject site regarding the sign.**

Binding Elements  
Hearing Date April 4, 2007

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 71,907 square feet of gross floor area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
4. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
5. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
  - a. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which (all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan) shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost thru natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.
  - b. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.