



Category 3 Plan Application

Louisville Metro Planning & Design Services

Case No.: 15DENPLAN1134 Intake Staff: AM

Date: 8/17/15 Fee: 1072.50

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

Project Description (e.g., retail center and office development, etc.): Category 3 Review to allow an apartment community

Project Name: _____

Primary Project Address: 1170 E. Broadway

Additional Address(es): 1172 E. Broadway

Primary Parcel ID: Block 21E, Lot 88

Additional Parcel ID(s): Block 21E, Lot 81

of Residential Units: _____ Commercial Square Footage: _____

Proposed Use: Multifamily Residential Existing Use: Vacant (fmr Catholic School)

Existing Zoning District: OR3 Existing Form District: Traditional Marketplace

Deed Book(s) / Page Numbers²: DB 9904, PG 509; DB 8150, PG 110; DB 7858, PG 42; DB 9983, PG 973

The subject property contains 3.26 +/- acres. Number of Adjoining Property Owners: 87

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 12650 Docket/Case #: 13CUP1012

Docket/Case #: B-14260-10 Docket/Case #: B-137-87 / B-156-98

CONTACT INFORMATION:

(see also additional signature pages)

Owner Information:

Entity or Individual Name: The Academy of Our Lady of Mercy

By: _____

Address 5801 Fegenbush Lane

City Louisville State KY Zip Code 40228

Phone: _____

E-mail: _____

Signature Michael C. Johnson, President
Name & Title

Plan Prepared by: Primary Contact _____

Print Name Jon Henney

Company Name: Gresham Smith & Partners

Address 101 S. 5th Street, Suite 1400

City Louisville State KY Zip Code 40202

Phone: 502.627.8937

E-mail: jon_henney@gspnet.com

Applicant Information:

Entity or Individual Name: Edwards Communities Development Company, LLC an Ohio limited liability company

By: Jonathan S. Wood, Vice President

Address 495 S. High Street, Suite 150

City Columbus State OH Zip Code 43215

Phone: 614.241.2070 ext. 309

E-mail: jwood@edwardscompanies.com

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~~CLERKING & AUTHORITY: Primary Contact~~ X
DESIGN SERVICES

Print Name William B. Bardenwerper

Company Name: Bardenwerper Talbott & Roberts, PLLC

Address 1000 N. Hurstbourne Parkway 2nd floor

City Louisville State KY Zip Code 40223

Phone: 502-426-6688

E-mail: wbb@bardlaw.net

CERTIFICATION STATEMENT: A Certification Statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Michael C. Johnson in my capacity as President
Representative/authorized agent/other

hereby certify that The Academy of Our Lady of Mercy is/are the owner(s) of the property which is the
name of LLC / corporation / partnership / association / etc.

subject of this application, and that I am authorized to sign this application on behalf of the owner.

Signature: Michael C. Johnson Date: 7/29/15

I understand that knowingly providing false information on this Application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010 et seq, knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his duty is punishable as a Class B misdemeanor.

15 DEVPAN 1134

CONTACT INFORMATION:

Owner Information:

Entity or Individual Name: Eagle Properties, Inc.

By: RODNEY CHOU

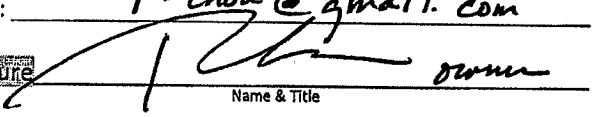
Address 2105 Club Vista Place

City Louisville State KY Zip Code 40245

Phone: 502-807-6888

E-mail: rvc@chou@gmail.com

Signature


Name & Title owner

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PLANNING &
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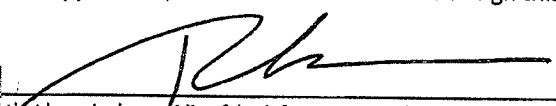
CERTIFICATION STATEMENT: A Certification Statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, RODNEY CHOU in my capacity as OWNER
Representative/authorized agent/other

hereby certify that Eagle Properties, Inc. is/are the owner(s) of the property which is the
name of LLC / corporation / partnership / association / etc.

subject of this application, and that I am authorized to sign this application on behalf of the owner.

Signature



Date: 7/29/15

I understand that knowingly providing false information on this Application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010 et seq., knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his duty is punishable as a Class B misdemeanor.

15DEVPIAN1134

CONTACT INFORMATION:

Owner Information:

Entity or Individual Name: MRI Holdings, LLC

By: Terry F. Malone

Address 1868 Campus Place

City Louisville State KY Zip Code 40299

Phone: 502-456-2096

E-mail: terry@malonesolutions.com

Signature *Terry F. Malone, Owner*
Name & Title

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CERTIFICATION STATEMENT: A Certification Statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Terry F. Malone in my capacity as Owner
Representative/authorized agent/other

hereby certify that MRI Holdings, LLC
name of LLC / corporation / partnership / association / etc. is/are the owner(s) of the property which is the

subject of this application, and that I am authorized to sign this application on behalf of the owner.

Signature: *Terry F. Malone* Date: 8-6-2015

I understand that knowingly providing false information on this Application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010 et seq., knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his duty is punishable as a Class B misdemeanor.

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CONTACT INFORMATION:

Owner Information:

Entity or Individual Name: Ventas Realty, Limited Partnership

By: Nick Jacoby

Address 10350 Ormsby Park Place, Suite 300

City Louisville State KY Zip Code 40223

Phone: _____

E-mail: _____

Signature 
Name & Title

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CERTIFICATION STATEMENT: A Certification Statement must be submitted with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Nick Jacoby in my capacity as Authorized Signatory
Representative/authorized agent/other

hereby certify that Ventas Realty, Limited Partnership is/are the owner(s) of the property which is the
name of LLC / corporation / partnership / association / etc.

subject of this application, and that I am authorized to sign this application on behalf of the owner.

Signature:  Date: 8/17/15

I understand that knowingly providing false information on this Application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010 et seq., knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his duty is punishable as a Class B misdemeanor.

15DEVPLAN/134



Land Development Report

July 28, 2015 12:47 PM

About LDC

Location

Parcel ID: 021E00880000
Parcel LRSN: 72425
Address: MULTIPLE ADDRESSES

Zoning

Zoning: OR3
Form District: TRADITIONAL MARKETPLACE CORRIDOR
Plan Certain #: NONE
Proposed Subdivision Name: NONE
Proposed Subdivision Docket #: NONE
Current Subdivision Name: NONE
Plat Book - Page: NONE
Related Cases: B-14260-10, B-137-87, 13CUP1012, 12650, B-156-98

Special Review Districts

Overlay District: NO
Historic Preservation District: NONE
National Register District: HIGHLANDS
Urban Renewal: NO
Enterprise Zone: YES
System Development District: NO
Historic Site: NO

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Environmental Constraints

Flood Prone Area
FEMA Floodplain Review Zone: NO
FEMA Floodway Review Zone: NO
Floodplain Ordinance Review Zone: NO
Conveyance Zone Review Zone: NO
FEMA FIRM Panel: 21111C0042E
Protected Waterways
Potential Wetland (Hydric Soil): NO
Streams (Approximate): NO
Surface Water (Approximate): NO
Slopes & Soils
Potential Steep Slope: NO
Unstable Soil: NO
Geology
Karst Terrain: YES

Sewer & Drainage

MSD Property Service Connection: YES
Sewer Recapture Fee Area: NO
Drainage Credit Program: CSO083 - Project(s) Value between \$.04 - \$1.5

Services

Municipality: LOUISVILLE
Council District: 4
Fire Protection District: LOUISVILLE #4
Urban Service District: YES

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Land Development Report

July 28, 2015 12:46 PM

About LDC

Location

Parcel ID: 021E00810000
Parcel LRSN: 8003033
Address: MULTIPLE ADDRESSES

Zoning

Zoning: OR3
Form District: TRADITIONAL MARKETPLACE CORRIDOR
Plan Certain #: NONE
Proposed Subdivision Name: NONE
Proposed Subdivision Docket #: NONE
Current Subdivision Name: NONE
Plat Book - Page: NONE
Related Cases: NONE

Special Review Districts

Overlay District: NO
Historic Preservation District: NONE
National Register District: HIGHLANDS
Urban Renewal: NO
Enterprise Zone: YES
System Development District: NO
Historic Site: NO

Environmental Constraints

Flood Prone Area
FEMA Floodplain Review Zone: NO
FEMA Floodway Review Zone: NO
Floodplain Ordinance Review Zone: NO
Conveyance Zone Review Zone: NO
FEMA FIRM Panel: 21111C0042E

Protected Waterways

Potential Wetland (Hydric Soil): NO
Streams (Approximate): NO
Surface Water (Approximate): NO

Slopes & Soils

Potential Steep Slope: NO
Unstable Soil: NO

Geology

Karst Terrain: NO

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PLANNING &
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Sewer & Drainage

MSD Property Service Connection: YES
Sewer Recapture Fee Area: NO
Drainage Credit Program: CSO083 - Project(s) Value between \$.04 - \$1.5

Services

Municipality: LOUISVILLE
Council District: 4
Fire Protection District: LOUISVILLE #4
Urban Service District: YES

15DEVPLAN1134

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

William B. Bardenwerper
Direct dial: 426-0388, ext. 135
Email: WBB@BARDLAW.NET

August 17, 2015

Case Manager
Louisville Metro Planning & Design Services
444 S. Fifth Street
Louisville, Kentucky 40202

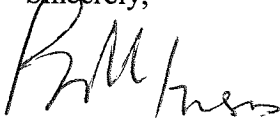
Re: Category 3, Variance and Minor Plat applications for property located at 1170 and 1172 E. Broadway, formerly known as Mercy Academy

Dear Case Manager:

The applicant, Edwards Communities Development Company, LLC, is herewith filing the above-referenced applications for the redevelopment of the former Mercy Academy on E. Broadway. Edwards is proposing an upscale apartment community consisting of a 4-story, nearly 200,000 sf apartment building containing 195 apartment units. There are two open space areas, both over 10,000 sf located interior to the site, surrounded by the apartment building. The variances are for the apartment building height and for setbacks around the new lot created for the existing medical office building.

The minor plat application is to divide the adjoining medical office building and parking garage lot reconsolidating the parking garage with the apartment building. The parking garage is a part of this application and will be used in part by tenants in the apartment community.

Sincerely,



William B. Bardenwerper

Cc: John Wood, Vice President, Edwards Companies, applicant/developer
Jon Henny and Amin Omidy, Gresham Smith & Partners

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15DEVPLAN1134



Variance Application

Louisville Metro Planning & Design Services

Case No.: 15DEVPLAN1134 Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section 5.2.2 Table 5.2.2 of the Land Development Code, to allow the building height of 60 ft, 4-stories.

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Primary Project Address: 1170 E. Broadway

Additional Address(es): 1172 E. Broadway

Primary Parcel ID: Block 21E, Lot 88

Additional Parcel ID(s): Block 21E, Lot 81

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PLANNING & DESIGN SERVICES

Proposed Use: Multifamily Res Existing Use: Vacant (fmr Catholic school)

Existing Zoning District: OR3 Existing Form District: Trad. Neighborhood

Deed Book(s) / Page Numbers²: DB 9904, PG 509; DB 8150, PG 110; DB 7858, PG 42; DB 9983, PG 973, DB 8150, PG 113; DB 8150, PG 116; DB 8150, PG 119; DB 8150, PG 122, DB 8150, PG 125; DB 8150, PG 128; DB 8127, PG 309

The subject property contains 3.26 acres. Number of Adjoining Property Owners: 87

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 12650 Docket/Case #: 13CUP1012

Docket/Case #: B-14260-10 Docket/Case #: B-113-87 / B-156-98

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.2.2, Table 5.2.2, to allow the building height to be 4-stories 60 ft, measured from the street entrance off Broadway.

1. The variance will not adversely affect the public health, safety or welfare because height is aesthetic issue, but in any event the adjoining existing parking garage and medical office building are also 4-stories, and the existing Mercy Academy building on site to the eave is approximately 53 ft above lowest adjacent grade, meaning top of the wall for about 56 ft measured from the street entrance off Broadway.

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2. The variance will not alter the essential character of the general neighborhood for the reasons set forth above, meaning that the height variance is for a new apartment building keeping with adjoining structures.

3. The variance will not cause a hazard or a nuisance to the public because this height variance does not represent a nuisance issue, but rather an aesthetic one.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this height variance is a very modest one, mostly reflecting the fact of higher ceilings in newer as opposed to in older buildings.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as referenced above, the adjoining medical office building and parking garage are nearly the same height or higher and because of higher ceilings in modern day buildings.

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2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would have to decrease floor heights in the building or eliminate a story, making the project impractical or financially infeasible.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result mostly of modern day building conditions which call for higher ceilings than in the past and also the result of compatibility with adjoining medical office building and parking garage structures.

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15DEVPLAN1134



Variance Application

Louisville Metro Planning & Design Services

Case No.: ISDEVPLAN1134 Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section 5.2.3.D.b of the Land Development Code, to allow the side yard to be reduced from 5 ft to 0 ft for Lot 1, Medical Office Bldg on the east side

Primary Project Address: 1170 E. Broadway

Additional Address(es): 1172 E. Broadway

Primary Parcel ID: Block 21E, Lot 88

Additional Parcel ID(s): Block 21E, Lot 81

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PLANNING & DESIGN SERVICES

Proposed Use: Multifamily Res Existing Use: Vacant (fmr Catholic school)

Existing Zoning District: OR3 Existing Form District: Trad. Neighborhood

Deed Book(s) / Page Numbers²: DB 9904, PG 509; DB 8150, PG 110; DB 7858, PG 42; DB 9983, PG 973, DB 8150, PG 113; DB 8150, PG 116; DB 8150, PG 119; DB 8150, PG 122, DB 8150, PG 125; DB 8150, PG 128; DB 8127, PG 309

The subject property contains 3.26 acres. Number of Adjoining Property Owners: 87

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 12650 Docket/Case #: 13CUP1012

Docket/Case #: B-14260-10 Docket/Case #: B-113-87 / B-156-98

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.2.3.D.b to allow the side yard to be reduced from 5ft to 0 ft for Lot 1, Medical Office building on the east side as a consequence of subdividing the medical office building from the parking garage into one lot and consolidating the parking garage and new apartment building into another lot.

1. The variance will not adversely affect the public health, safety or welfare because this variance is internal to the overall development, having no impact on any other properties.
2. The variance will not alter the essential character of the general vicinity because this variance is internal to the overall development, having no impact on any other properties.
3. The variance will not cause a hazard or a nuisance to the public because this variance is internal to the overall development, having no impact on any other properties.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this variance is internal to the overall development, having no impact on any other properties.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this variance is internal to the overall development, having no impact on any other properties.

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2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this variance is internal to the overall development, having no impact on any other properties. Disallowing this variance would render the project impractical.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this variance is internal to the overall development, having no impact on any other properties.

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DESIGN SERVICES

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Variance Application

Louisville Metro Planning & Design Services

Case No.: 15DEVPLAN184 Intake Staff: _____

Date: _____ Fee: _____

Applications are due on Mondays at 2:00 p.m. in order to be processed that week. Once complete, please bring the application and supporting documentation to: Planning and Design Services, located at 444 South 5th Street, Suite 300. For more information, call (502) 574-6230 or visit <http://www.louisvilleky.gov/PlanningDesign>.

Project Information:

This is a variance from Section 5.2.3.D.c.ii of the Land Development Code, to allow the rear yard to be reduced from 5 ft to 0 ft for Lot 1, Medical Office Bldg on the east side

Primary Project Address: 1170 E. Broadway
Additional Address(es): 1172 E. Broadway
Primary Parcel ID: Block 21E, Lot 88
Additional Parcel ID(s): Block 21E, Lot 81

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PLANNING & DESIGN SERVICES

Proposed Use: Multifamily Res Existing Use: Vacant (fmr Catholic school)
Existing Zoning District: OR3 Existing Form District: Trad. Neighborhood
Deed Book(s) / Page Numbers²: DB 9904, PG 509; DB 8150, PG 110; DB 7858, PG 42; DB 9983, PG 973, DB 8150, PG 113; DB 8150, PG 116; DB 8150, PG 119; DB 8150, PG 122, DB 8150, PG 125; DB 8150, PG 128; DB 8127, PG 309
The subject property contains 3.26 acres. Number of Adjoining Property Owners: 87

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: 12650 Docket/Case #: 13CUP1012
Docket/Case #: B-14260-10 Docket/Case #: B-113-87 / B-156-98

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.2.3.D.c.ii to allow the rear yard to be reduced from 5ft to 0 ft for Lot 1, Medical Office building on the east side as a consequence of subdividing the medical office building from the parking garage into one lot and consolidating the parking garage and new apartment building into another lot.

1. The variance will not adversely affect the public health, safety or welfare because this variance is internal to the overall development, having no impact on any other properties.

2. The variance will not alter the essential character of the general vicinity because this variance is internal to the overall development, having no impact on any other properties.

3. The variance will not cause a hazard or a nuisance to the public because this variance is internal to the overall development, having no impact on any other properties.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this variance is internal to the overall development, having no impact on any other properties.

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Additional consideration:

- ✓ 1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this variance is internal to the overall development, having no impact on any other properties.

15 DEVELOPMENT

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this variance is internal to the overall development, having no impact on any other properties. Disallowing this variance would render the project impractical.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this variance is internal to the overall development, having no impact on any other properties.

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15DEVPLAN1134

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance from Table 5.2.2 Traditional Form District Dimensional Standards as respects the typical requirement to satisfy the four basic components of a lot or building site, to wit: the public realm area, the principal area, the private yard area, and the accessory/use structure area whereby new and infill context development in the Traditional Forms are supposed to maintain this pattern except for non-residential and "mixed use" site design, which prior to this specific variance application, this applicant thought applied instead because of the office building component of this apartment building/garage structure/office building development plan.

1. The variance will not adversely affect the public health, safety or welfare because the location of the structure relative to the supposed required front setback is not a public health, safety or welfare issue but rather an aesthetic one that is fully addressed in the plans and building elevations submitted with this overall application.
2. The variance will not alter the essential character of the general vicinity because the existing long-vacant structures being replaced with this apartment community, which includes parking and office buildings, do not comply with this 5.4.1 design scheme, and neither do the hospital buildings which exists to the west of this site.
3. The variance will not cause a hazard or a nuisance to the public because the front setback location of the structures are not nuisance issues but rather aesthetic ones that are fully addressed in the plans and building elevations submitted with this overall application.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the site plan was designed as if it complied with the mixed use site design standards, which presumably this would be but for the lot lines around the office building, although the office building is a part of the development plan submitted with this overall application. The proposed front setback is not different than other buildings along this section of Broadway.

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Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this development plan is a great improvement over the long-vacant hodge-podge of buildings that have been constructed on this site over decades, which building also do not currently satisfy these Form District site design requirements, and neither to the hospital buildings next door. The front setback proposed for this project is similar to that of other buildings along Broadway.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would be unable to construct its apartment community in a sensible manner that it has already designed them based on its understanding and belief that the mixed use site design standards should apply instead.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a late DPDS staff interpretation that the mixed use design standards of Section 5.5.1 do not apply but apparently rather do the residential design standards of Section 5.4.1. That apparently results in a 15 ft setback which is greater than the site design proposed. Also, the circumstances of the present development of this site should have an influence on the granting of this variance for this improved use and design of this long-vacant site.

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SFP 04 2015
PLANNING &
DESIGN SERVICES

1520NE7030

Waiver

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance from the 5.4.1 Traditional Form District requirements as respects the typical requirement to satisfy the four basic components of a lot or building site, to wit: the public realm area, the principal area, the private yard area, and the accessory/use structure area whereby new and infill context development in the Traditional Forms are supposed to maintain this pattern except for non-residential and "mixed use" site design, which prior to this specific variance application, this applicant thought applied instead because of the office building component of this apartment building/garage structure/office building development plan.

1. The variance will not adversely affect the public health, safety or welfare because the location of the structures and open yard areas are not public health, safety or welfare issues but rather aesthetic ones that are fully addressed in the plans and building elevations submitted with this overall application.

2. The variance will not alter the essential character of the general vicinity because the existing long-vacant structures being replaced with this apartment community, which includes parking and office buildings, do not comply with this 5.4.1 design scheme, and neither do the hospital buildings which exist to the west of this site.

3. The variance will not cause a hazard or a nuisance to the public because the location of the structures and open yard areas are not nuisance issues but rather aesthetic ones that are fully addressed in the plans and building elevations submitted with this overall application.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the site plan was designed as if it complied with the mixed use site design standards, which presumably this would be but for the lot lines around the office building, although the office building is a part of the development plan submitted with this overall application.

Additional consideration:

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1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this development plan is a great improvement over the long-vacant hodge-podge of buildings that have been constructed on this site over decades, which buildings also do not currently satisfy these Form District site design requirements, and neither do the hospital buildings next door.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would be unable to construct its apartment community in the sensible manner that it has already designed them based on its understanding and belief that the mixed use site design standards should apply instead.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a late DPDS staff interpretation that the mixed use design standards of Section 5.5.1 do not apply but apparently rather do the residential design standards of Section 5.4.1. Also, the circumstances of the present development of this site should have an influence on the granting of this variance for this improved use and design of this long-vacant site.

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