

Board of Zoning Adjustment Staff Report

April 7, 2014



Case No:	14VARIANCE1012
Request:	Variances to allow proposed buildings to exceed the maximum setback on Lots 4 (retail) and 7 (bank)
Project Name:	Shops of Forest Springs, Phase III
Location:	12911 – 13003 Factory Ln.
Owner:	Obannon Station, LLC
Applicant:	Obannon Station, LLC
Representative:	Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	David B. Wagner – Planner II

REQUEST

- Variance to allow the proposed retail building on Lot 4 to be 365' from the front property line instead of the maximum 80' allowed per Land Development Code (LDC) Table 5.3.2
- Variance to allow the proposed bank on Lot 7 to be 100' from the front property line instead of the maximum 80' allowed per Land Development Code (LDC) Table 5.3.2

Variances

Location	Requirement	Request	Variance
Front Yard (Maximum Allowed) Lot 4	80'	365'	285'
Front Yard (Maximum Allowed) Lot 7	80'	100'	20'

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This request is a joint proposal that goes along with a Revised Detailed District Development Plan (#14DEVPLAN1016) which was heard by the Development Review Committee (DRC) on April 2, 2014. The proposal is for Lots 4 and 7 of the Shops of Forest Springs Phase III development. A smaller 4,182 SF bank is proposed for the newly created Lot 7 instead of a previously proposed retail building and a larger 20,676 SF retail building is proposed on the residual Lot 4. The total building footprint will decrease from 27,375 SF to 24,858 SF.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1, C-2	Neighborhood
Proposed	Bank and Retail	N/A	N/A
Surrounding Properties			
North	Retail	C-1	Neighborhood
South	Single Family Residential	R-4/OR/OR-1	Suburban Workplace
East	Single Family Residential	R-5	Neighborhood
West	Car Wash/Vacant	C-1, C-2	Neighborhood

PREVIOUS CASES ON SITE

- 13DEVPLAN1073: RDDDP and Amendment to Binding Elements to allow the café, deli, and retail uses on Lot 6
- 13VARIANCE1035: Variance to allow the building to exceed the maximum front yard setback of 80' on Lot 6
- 15931: RDDDP and Amendment to Binding Elements to allow the restaurant on Lot 6
- 8696: Re-zoning from R-4 to C-1 & C-2

INTERESTED PARTY COMMENTS

Staff has not received any inquiries from interested parties.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: The granting of this variance will not affect the public health, safety or welfare because it still provides a majority of the berm along Factory Lane which will screen the parking in front of the building. In addition, a sidewalk connection is still being provided from the public sidewalk to all structures in the development to allow safe pedestrian circulation throughout the site.

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

STAFF: As stated above, all commercial buildings along this frontage are either at or beyond the maximum setback. In order to provide a single drive aisle with parking on both sides, and a 4' berm, the proposed bank building on lot 7 must be set back as shown on the plan.

With regard to the strip center on lot 4, this is consistent with the other retail centers in the direct vicinity. This center has been designed to have strip retail set back from the road with a series of outlots in front, just like the Kroger and the Shops part II. The Kroger Gas Station on lot 5, retail on lot 6 and bank on lot 7 all serve as outlots at or near the maximum setback for the strip center on lot 4. This is consistent with the exception listed under 5.1.9.C.1, except the outlot facades only make up 41% of the linear frontage, not the required 50%. This is partially due to the nature of the retail and partially due to the required detention area at the southeast corner of the site. If the detention area were removed from the existing frontage, the 50% requirement would be met.

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

STAFF: This variance will not cause a hazard or nuisance to the public. The intent of the regulations will still be met and a means for safe pedestrian and vehicular circulation is provided. In addition, by providing the wider landscape buffer along factory lane, more green space will be provided on site than is required.

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

STAFF: The applicant is mitigating this variance by:

- Providing a 4' berm when a 3' screen is all that is required
 - Providing a 24' buffer when a 10 or 15' buffer is all that is required
 - Providing shrubs for screening when there is a break in the berm
 - Providing a safe pedestrian connection from the public sidewalk to the principal structures
- Therefore, this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

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 south east corner of the property is the ideal location for a required detention area for this project. It is the lowest point on this site. It is away from the desirable intersection of LaGrange Road and Factory Lane and it is consistent with the design for detention areas on the rest of the surrounding retail. This means a portion of the frontage on Factory Lane is not developable. The exceptions to the maximum setback rule allow buildings to be set back beyond the maximum setback if outlot buildings with facades making up 50% of the frontage are provided. If it weren't for the detention area frontage, this regulation would be met. The location of the detention basin is a special circumstance that wouldn't generally apply to land in the general vicinity.

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 regulation would either:

- Cause the applicant to lose a significant number of prime parking spaces in order to provide the 15' landscaped area providing pedestrian access from the public sidewalk to the primary structure,
- Cause the applicant to lose a proposed tenant who is under contract to purchase lot 7, or
- Cause the applicant to redesign the site so that it is no longer consistent with the surrounding retail uses or compatible with the intent of the existing approved development plan.

Any of these would be an unnecessary hardship on the applicant.

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: This circumstance arises from the natural grading of the site (location of the detention basin), the design requirements of the proposed tenant for lot 7, and some existing utility conflicts in the area of the required berm. These circumstances are in no way the result of actions taken by the applicant.

TECHNICAL REVIEW

- Except for the Variance requests, the proposal complies with the requirements of the LDC.

STAFF CONCLUSIONS

The proposal allows the development to continue the pattern of development along Factory Lane and the previous phases of the Shops of Forest Springs. Landscaping and a screen in excess of the requirements of the LDC will be provided along the street frontage, including a berm.

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.

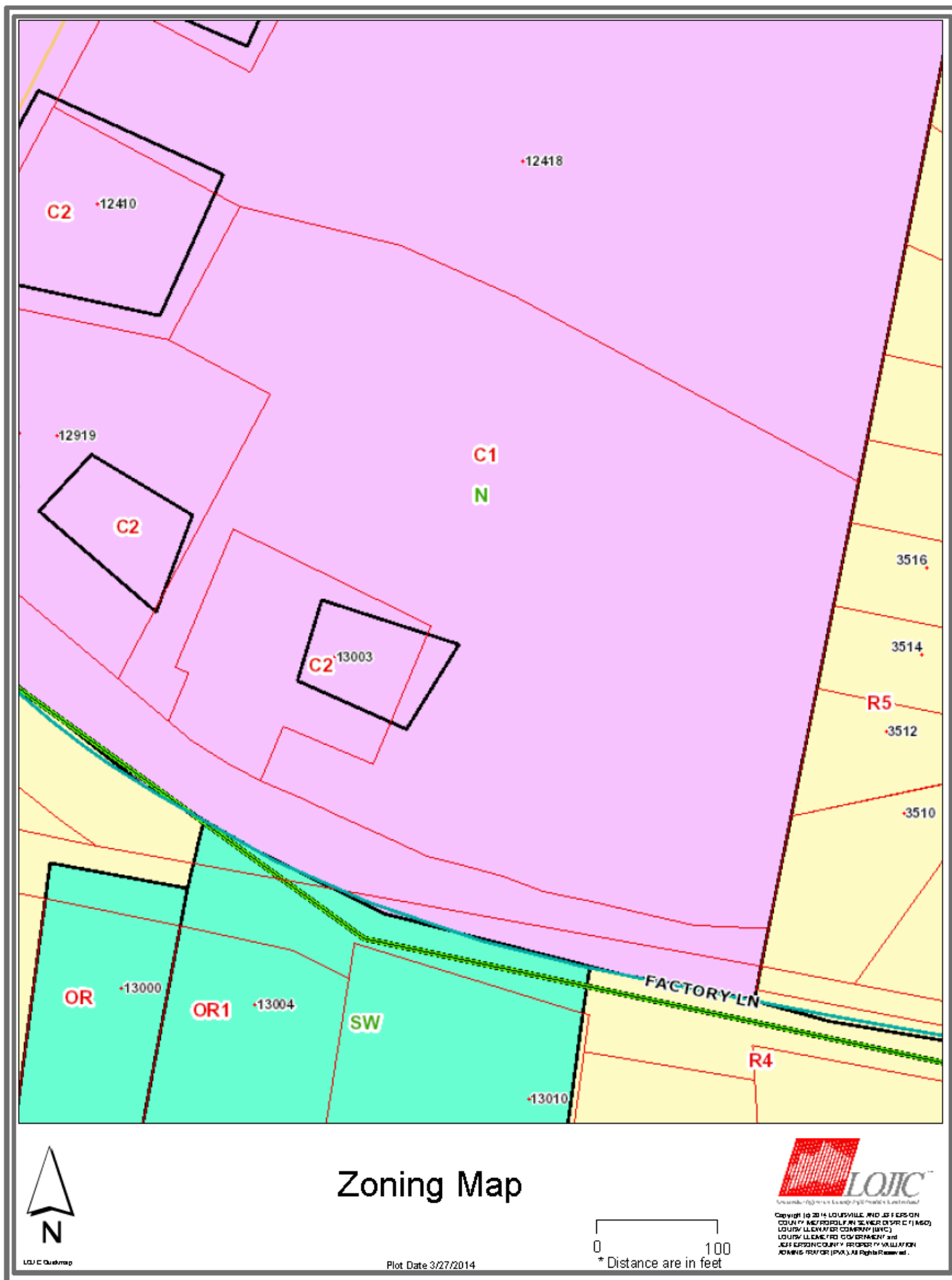
NOTIFICATION

Date	Purpose of Notice	Recipients
3/21/14	Hearing before BOZA	1 st tier adjoining property owners Subscribers to Council District 17 Notification of Development Proposals

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Applicant's Justification Statement



SABAK, WILSON & LINGO, INC.
ENGINEERS, LANDSCAPE ARCHITECTS & PLANNERS
THE HENRY CLAY • 608 S. THIRD STREET
LOUISVILLE, KY 40202
PHONE : (502) 584-6271 • FAX : (502) 584-6292

VARIANCE JUSTIFICATION STATEMENT

APPLICANT: OBANNON STATION, LLC.
LDC CHAPTER 5.3.1.C.5

The applicant is submitting a revised detailed district development plan for the Shops of Forest Springs, Phase 3. The purpose of this revision is to change the big box retail at the southeast corner to a bank on a separate lot (Lot 7) and make some revisions to the strip center. The subject property is located just east of the Thornton's Gas Station at the corner of LaGrange Road and Factory Lane.

As a part of the RDDP, the applicant is requesting a variance from LDC 5.3.1.C.5 to allow a portion of the proposed retail building on lot 7 to sit 21' feet beyond the maximum setback from Factory Lane, and to let the strip center on Lot 4 set 365' beyond the maximum setback from factory lane. All other buildings along this frontage on Factory Lane are either at or beyond the maximum setback, including the Thornton's Gas Station, the Kroger Gas Station and the proposed retail on Lot 6.

When this site was originally designed, it utilized the maximum setback exception under LDC 5.1.9.A.1 that allows a building to exceed the maximum setback if a 4' berm is provided along the right-of-way with a 15' landscaped area linking the public sidewalk to the principal structure. The required buffer and berm will still be provided along a majority of the Factory Lane Frontage, along with a sidewalk connection from the public sidewalk to the various structures on site. However, the 15' landscape area from the public sidewalk to the principal structure is no longer being provided.

As another means to mitigate this variance request, the applicant proposes a wider landscape buffer along Factory Lane than is required by the LDC. Per the VUA buffer regulations under LDC 10.2.10, a 15' landscape buffer would be required for lot 4 and a 10' landscape buffer would be required for lot 7. A 24' landscape buffer is being provided on both lots in order to accommodate a 4' berm. It is anticipated that existing utilities will require a break in this proposed berm. Where there is a break in the berm, shrubs will be planted to continue the visual screen.

With regard to the Supplemental Information, please note the following:

1. Explain how the variance:

a) Will not adversely affect the public health, safety or welfare.

The granting of this variance will not affect the public health, safety or welfare because it still provides a majority of the berm along Factory Lane which will screen the parking in front of the building. In addition, a sidewalk connection is still being provided from the public sidewalk to all structures in the development to allow safe pedestrian circulation throughout the site.

b) Will not alter the essential character of the general vicinity.

As stated above, all commercial buildings along this frontage are either at or beyond the maximum setback. In order to provide a single drive aisle with parking on both sides, and a 4' berm, the proposed bank building on lot 7 must be set back as shown on the plan.

PATRICK R. DOMINIK, Landscape Architect • DAVID J. SEDLAR, Civil Engineer • DENNIS L. KRAUS, Land Surveyor
ERIC W. PENLAND, Civil Engineer • JOSEPH S. MARSHALL, Civil Engineer

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With regard to the strip center on lot 4, this is consistent with the other retail centers in the direct vicinity. This center has been designed to have strip retail set back from the road with a series of outlots in front, just like the Kroger and the Shops part II. The Kroger Gas Station on lot 5, retail on lot 6 and bank on lot 7 all serve as outlots at or near the maximum setback for the strip center on lot 4. This is consistent with the exception listed under 5.1.9.C.1, except the outlot facades only make up 41% of the linear frontage, not the required 50%. This is partially due to the nature of the retail and partially due to the required detention area at the southeast corner of the site. If the detention area were removed from the existing frontage, the 50% requirement would be met.

c) Will not cause a hazard or a nuisance to the public.

This variance will not cause a hazard or nuisance to the public. The intent of the regulations will still be met and a means for safe pedestrian and vehicular circulation is provided. In addition, by providing the wider landscape buffer along factory lane, more green space will be provided on site than is required.

d) Will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The applicant is mitigating this variance by:

- Providing a 4' berm when a 3' screen is all that is required
- Providing a 24' buffer when a 10 or 15' buffer is all that is required
- Providing shrubs for screening when there is a break in the berm
- Providing a safe pedestrian connection from the public sidewalk to the principal structure

Therefore, this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

2. Additional consideration.

a) Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity; (Please specify/identify)

The south east corner of the property is the ideal location for a required detention area for this project. It is the lowest point on this site. It is away from the desirable intersection of LaGrange Road and Factory Lane and it is consistent with the design for detention areas on the rest of the surrounding retail. This means a portion of the frontage on Factory Lane is not developable. The exceptions to the maximum setback rule allow buildings to be set back beyond the maximum setback if outlot buildings with facades making up 50% of the frontage are provided. If it weren't for the detention area frontage, this regulation would be met. The location of the detention basin is a special circumstance that wouldn't generally apply to land in the general vicinity.

b) Explain how the 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.

The strict application of the regulation would either:

- Cause the applicant to lose a significant number of prime parking spaces in order to provide the 15' landscaped area providing pedestrian access from the public sidewalk to the primary structure,
- Cause the applicant to lose a proposed tenant who is under contract to purchase lot 7, or
- Cause the applicant to redesign the site so that it is no longer consistent with the surrounding retail uses or compatible with the intent of the existing approved development plan.

Any of these would be an unnecessary hardship on the applicant.

c) Are the circumstances are the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought.

This circumstance arises from the natural grading of the site (location of the detention basin), the design requirements of the proposed tenant for lot 7, and some existing utility conflicts in the area of the required berm. These circumstances are in no way the result of actions taken by the applicant.

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