

**Board of Zoning Adjustment
Staff Report**
May 20, 2019



Case No:	19VARIANCE1040
Project Name:	Hurstbourne Town Center
Location:	101 Whittington Parkway
Owner(s):	Viking Partners Hurstbourne
Applicant:	Viking Partners Hurstbourne
Representative(s):	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	City of Hurstbourne
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Variances**
 1. **Variance** of Land Development Code (LDC), section 5.2.4.C.3.a for building on Tract 5 to exceed the 15' SSY as shown on the development plan
 2. **Variance** of LDC, section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines as shown on the development plan

CASE SUMMARY

Revisions to a prior redevelopment proposal approved in April of 2018 are proposed. The conceptual redevelopment of the site remains relatively unchanged. The proposal is a mixed-use project bound by Hurstbourne Parkway, Whittington Parkway, and Shelbyville Road. Each new structure or set of structures associated with a particular use is proposed on an individual lot. Vehicular and pedestrian cross connectivity and shared parking will integrate the uses across each parcel.

Associated Cases

9-28-04: OTF to C-2 for PF Chang's restaurant (approved 8/19/04).
9-41-05: OTF to C-1 for northern portions of site. (approved 9/1/05; revised 9/14/06)
18DEVPLAN1127: RDDDP/Cat. 3 with waivers (approved 4/5/18)
18VARIANCE1022: Variances for setback to exceed the maximum on multiple tracts and for buildings not to be located at the corner (approved 4/16/18)
19DEVPLAN1065: DRC on 5/22 for RDDDP with waivers

STAFF FINDING

The variance requests appear to be adequately justified based on the staff analysis contained in the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

1. Section 5.2.4.C.3.a for building on Tract 5 to exceed the 15' SSY

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

STAFF: The requested variances will not adversely affect public health, safety, or welfare as the proposed structures do not impact the safe movement of vehicles or pedestrians, have sufficient pedestrian and vehicular connectivity, and are oriented around a central focal point.

- (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 as the proposed buildings are oriented towards the central roadway serving uses internally.

- (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 as the structures do not impact the safe movement of vehicles or pedestrians

- (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 as the Town Center form district calls for structures to be oriented towards the public roadway or central focal point. The structures are internally oriented towards a central roadway and have a high level of connectivity.

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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site is being wholly redeveloped from the previous uses which did not meet the standards established for the form district.

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 as the developer would not be able to develop as they see fit.

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 as appropriate relief is being requested from the Board of zoning Adjustment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

2. Section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines

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

STAFF: The requested variances will not adversely affect public health, safety or welfare as the additional setback requested along the right-of-way of two major arterial roadways in a suburban area allows for the safe provision of pedestrian space.

- (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 as the additional setback requested along the right-of-way of two major arterial roadways in a suburban area allows for the safe provision of pedestrian space.

- (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 as no impact to the safe movement of pedestrians or vehicles is being created.

- (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 as the additional setback requested along the right-of-way of two major arterial roadways in a suburban area allows for the safe provision of pedestrian space.

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 do not generally apply to land in the general vicinity or the same zone as all development in the form is required to comply with the regulation for which relief is sought.

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 as the developer would not be able to develop as they see fit.

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 as appropriate relief is being requested from the Board of zoning Adjustment.

REQUIRED ACTIONS

- **APPROVE or DENY** the following:
 1. **Variance** of Land Development Code (LDC), section 5.2.4.C.3.a for buildings on Tract 5 to exceed the 15' SSY as shown on the development plan
 2. **Variance** of Land Development Code (LDC), section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines as shown on the development plan

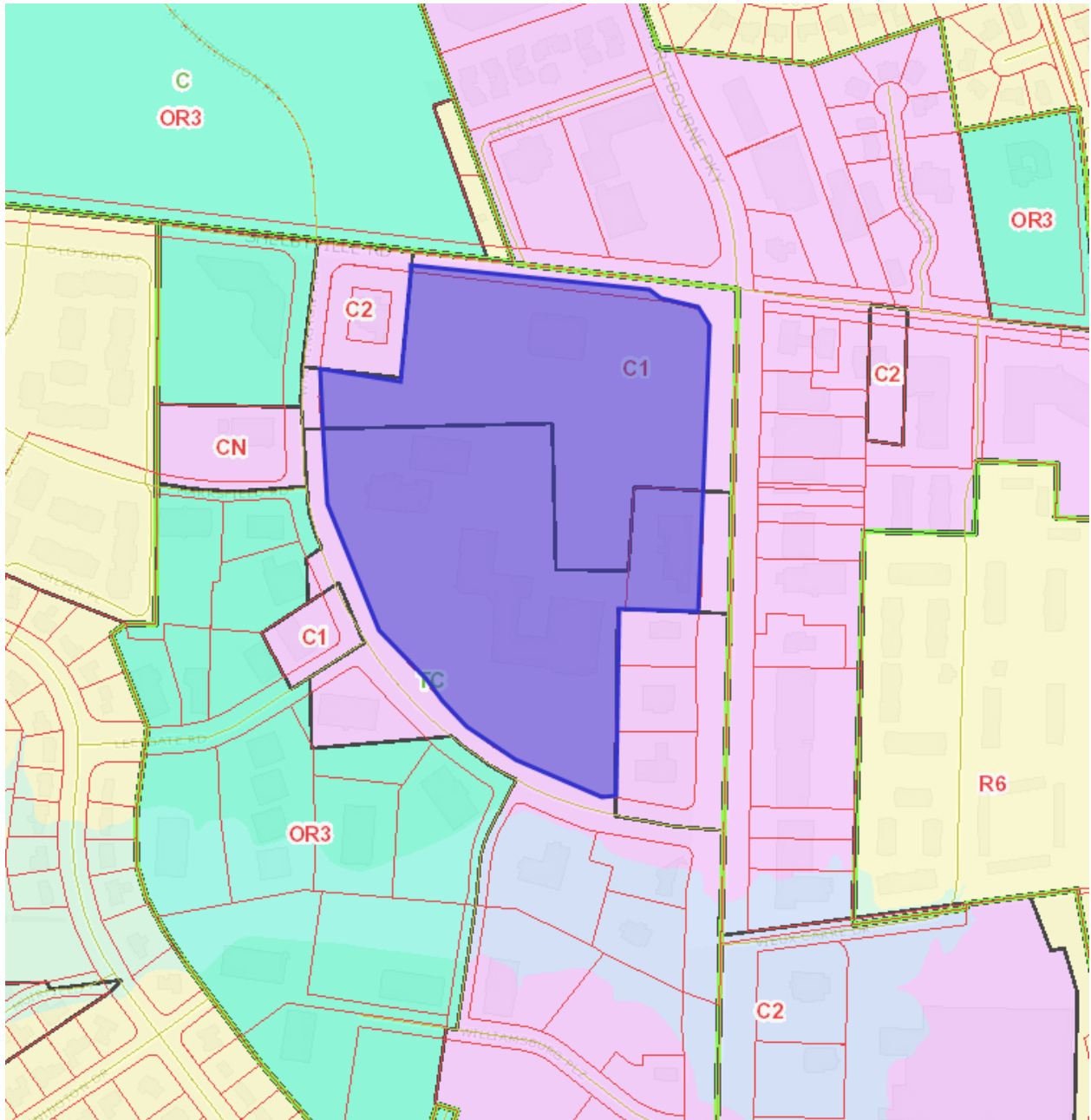
NOTIFICATION

Date	Purpose of Notice	Recipients
5/2/19	Hearing before BOZA	1 st tier adjoining property owners, Registered Neighborhood Groups in Council District 18

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph

