

Board of Zoning Adjustment Staff Report

April 17, 2017



Case No:	17VARIANCE1017
Request:	Sign to exceed maximum height and setback to exceed maximum
Project Name:	Thornton's Gas Station
Location:	4170 Taylor Blvd
Owner:	Thornton's Inc.
Applicant:	Eric Tracy, Kimley-Horn & Associates
Representative:	Eric Tracy, Kimley-Horn & Associates
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Laura Mattingly, Planner II

REQUEST

- Variance from the Land Development Code Table 8.3.2 (Traditional Neighborhood) to allow an existing freestanding sign to exceed the minimum height of 6 feet, as shown on the sign elevations.
- Variance from the Land Development Code Section 5.5.1.A.2 to allow the proposed building to be located more than 5' from the rights of way of both Bluegrass Ave and Taylor Blvd, as shown on the development plan.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a 4,400 square foot gas station with detached gas canopy located at the corner of Bluegrass Avenue and Taylor Boulevard. This site, Tract 1 of the original re-zoning, was previously approved for a fast food restaurant, with the remainder of the site, Tracts 2 & 3, being approved for a convenience store and auto parts store. The site is now being reconfigured down to two tracts and the restaurant proposal removed. As this site is within a traditional form district, the proposed gas station site design does not comply with the Land Development Code requirements for setback and sign height.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	Traditional Neighborhood
Proposed	Commercial	C-1	Traditional Neighborhood
Surrounding Properties			
North	Vacant	C-1	Traditional Neighborhood
South	Auto Repair	C-2	Traditional Neighborhood
East	Retail and Office	C-1/C-2	Traditional Neighborhood
West	School	R-5	Traditional Neighborhood

PREVIOUS CASES ON SITE

- 14ZONE1037:** Rezoning from OR-2/C-2 to C-1 for a commercial retail development. A waiver was granted to allow parking to be in front of the building two and a variance was granted to allow building two to exceed the maximum setback.
- 16DEVPLAN1025:** Revised Detailed District Development plan for 2,866 SF restaurant on Tract 1 of original rezoning site, approved at DRC May 4, 2016.
- 16VARIANCE1023:** A variance for the building location was reviewed at the May 2, 2016 BOZA hearing.
- 16DEVPLAN1044:** Revised Detailed Development Plan for convenient store and auto parts store on tracts 2 and 3 of original rezoning site, approved at DRC April 6, 2016.

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Land Development Code
Comprehensive Plan

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from Table 8.3.2 (Traditional Neighborhood)

- (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 as the sign does not encroach into the right of way and does not obstruct vision from the right-of-way.

- (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 sign is similar in style to those in the immediate area.

- (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 sign does not encroach into the right of way, does not obstruct vision from the right-of-way and will comply with all lighting standards.

- (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 this type of signage is typical for gas stations and many other commercial establishments of similar nature.

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 height is needed to adequately alert and inform patrons.

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 create an unnecessary hardship on the applicant as the gas station would not be able to display all needed information and would not be visible to the extent needed by 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: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1 from Section 5.5.1.A.2 (Corner Lot Setbacks)

- (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 safe pedestrian access is provided from Bluegrass Avenue to the building entrance.

- (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 there are a few properties in the vicinity that were constructed prior to the adoption of the regulation and the variance is being mitigated by the shrubbery screen that will be provided along the perimeter at the corner and along both adjacent roadways.

- (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 safe pedestrian access is provided from the public right-of-way to the building entrance and as safe vehicular maneuvering has been provided.

- (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 regulation as the variance is being mitigated by the shrubbery screen that will be provided along the perimeter at the corner and along both adjacent roadways.

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 that do not generally apply to land in the general vicinity or the same zone, as gas stations cite an increase in safety issues with their buildings set close to public right-of-ways.

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 create an unnecessary hardship on the applicant as the layout of the site, which is standard for all Thornton's, would have to be completely reconfigured.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

TECHNICAL REVIEW

- The proposed development plan, 17DEVPLAN1010, was approved, along with all attached waivers, with the exception of the request to allow the continuous screen to be 18' instead of 3 feet, at the April 5, 2017 meeting of DRC.

STAFF CONCLUSIONS

The variances appear to be adequately justified and meet 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 standards for granting a variance established in the Land Development Code from section 8.3.2 to allow an existing sign to exceed the minimum height and from section 5.5.1.A.2 to allow the building setback to be more than 5 feet on both frontages.

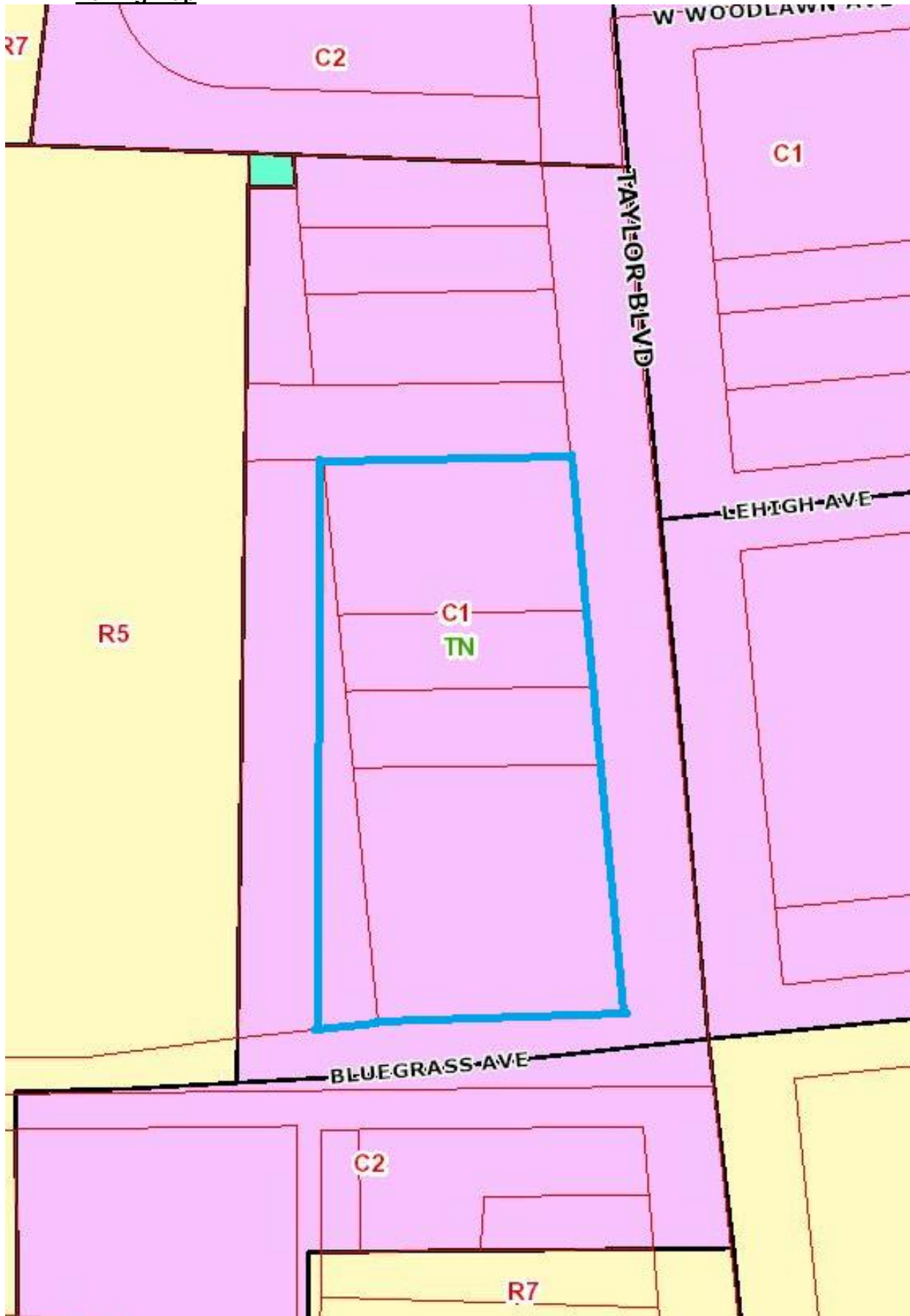
NOTIFICATION

Date	Purpose of Notice	Recipients
March 29, 2017	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 6 Notification of Development Proposals
March 30, 2017	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

