

Board of Zoning Adjustment
Staff Report
November 19, 2018



Case No:	18DEVPLAN1165
Project Name:	Churchill Downs Barn
Location:	3750 Oakdale Ave
Owner(s):	Louisville/Jefferson County Metro Government
Applicant:	Churchill Downs, Inc.
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Lacey Gabbard, Planner I

VARIANCES:

1. Variance of Section 4.4.9.A to allow the refuse disposal container to be located in the required 15 foot setback area
2. Variance of Section 5.1.7.D to allow the barn to encroach into the 15 foot setback

REQUEST: Establish nonconforming rights.

CASE SUMMARY/BACKGROUND

The applicant is proposing to build a barn on an OR-3 and R-7 zoned site and an administrative building on a C-1 and R-7 zoned site. These uses are not permitted in these zones unless nonconforming rights can be established per Kentucky Revised Statutes 100.253. A portion of the proposed barn site was rezoned from R-7 to OR-3 under docket 9-63-97. The original use for this part of the site was a church to be used as office space.

KRS.100.253:

(2) The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is the same or a more restrictive classification, provided, however, the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or expansion was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

STAFF FINDING

The requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

No technical review was undertaken.

INTERESTED PARTY COMMENTS

Staff has received no comment from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE OF LDC SECTION 4.4.9.A TO ALLOW THE REFUSE DISPOSAL CONTAINER TO BE LOCATED IN THE REQUIRED 15 FOOT SETBACK AREA

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners, as the dumpster faces Churchill Downs to the west and vacant properties to the north, and will be adequately screened per LDC requirements.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as this site will be minimally visible to the public.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) 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 on the applicant.

STAFF: 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 on the applicant because the side of this site where the refuse disposal container is located is not overly visible to nearby properties.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE OF LDC CHAPTER 5.1.7.D TO ALLOW THE BARN TO ENCROACH INTO THE 15 FOOT SETBACK

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the proposed barn is located on an angled street (South 4th Street), and only a small sliver

measuring approximately 50 feet of the proposed 180 foot western facade will encroach into the setback.

- (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 because there are several other barns located along this portion of South 4th Street on the opposite side of the road which are located in close proximity to the right-of-way. Also, the front setbacks on this site are being maintained.

- (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 because the proposed barn will be located approximately 20 feet from the right-of-way at its closest point. The encroachment does not appear to create any sight triangle or visual clearance issues.

- (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 because the proposed barn is encroaching into only a small portion of the setback.

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. This section of South 4th Street runs at an angle to Oakdale Avenue on the opposite side of the property, which creates an irregularly-shaped lot.

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 because the square footage of the proposed barn would have to be reduced or the building's footprint and interior would need to be altered.

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. The applicant is not responsible for the existing angle of South 4th Street.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variations**
- **APPROVE** or **DENY** the **Nonconforming Rights Request**

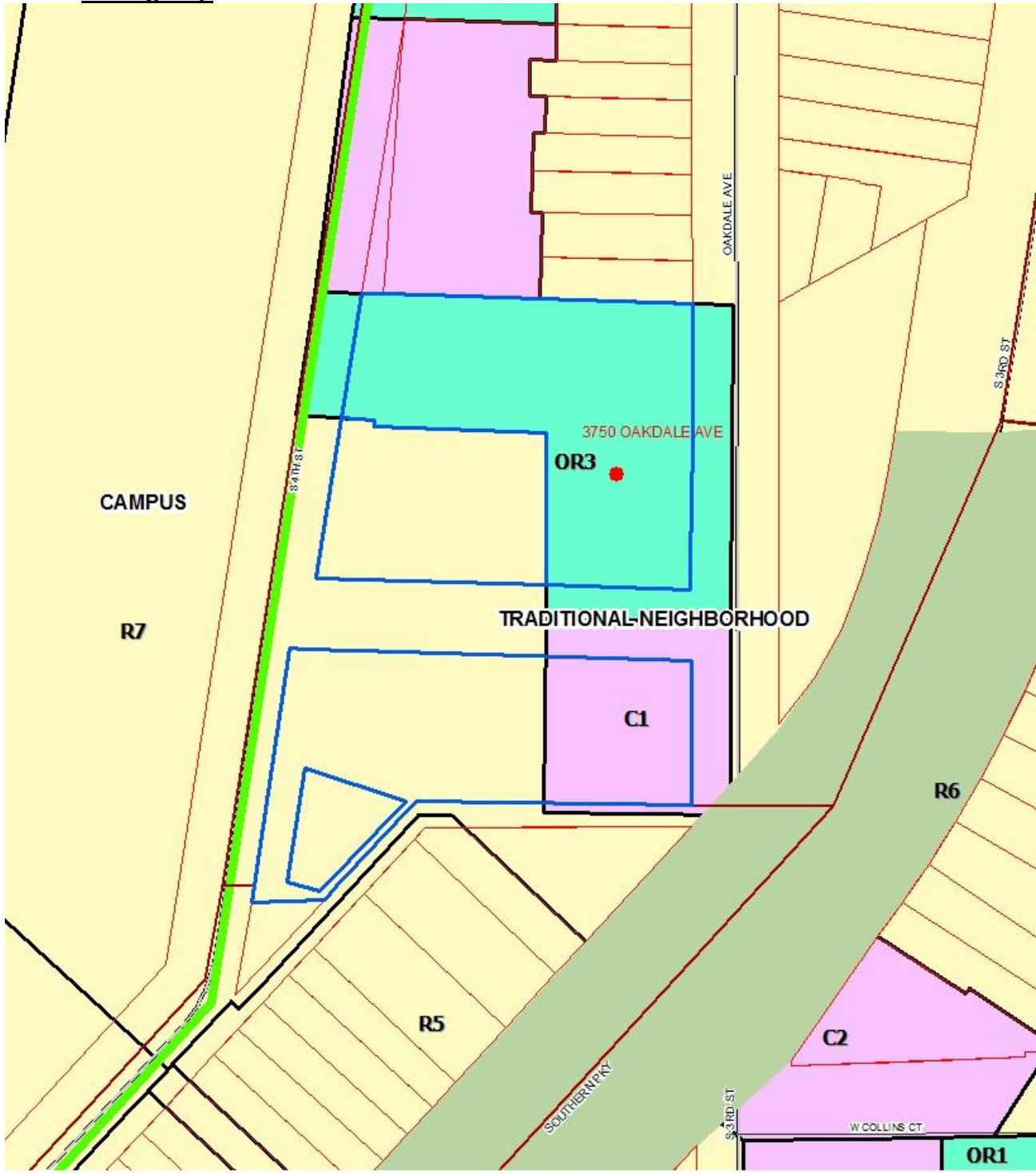
NOTIFICATION

Date	Purpose of Notice	Recipients
11-19-18	Hearing before BOZA	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 15

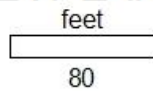
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**

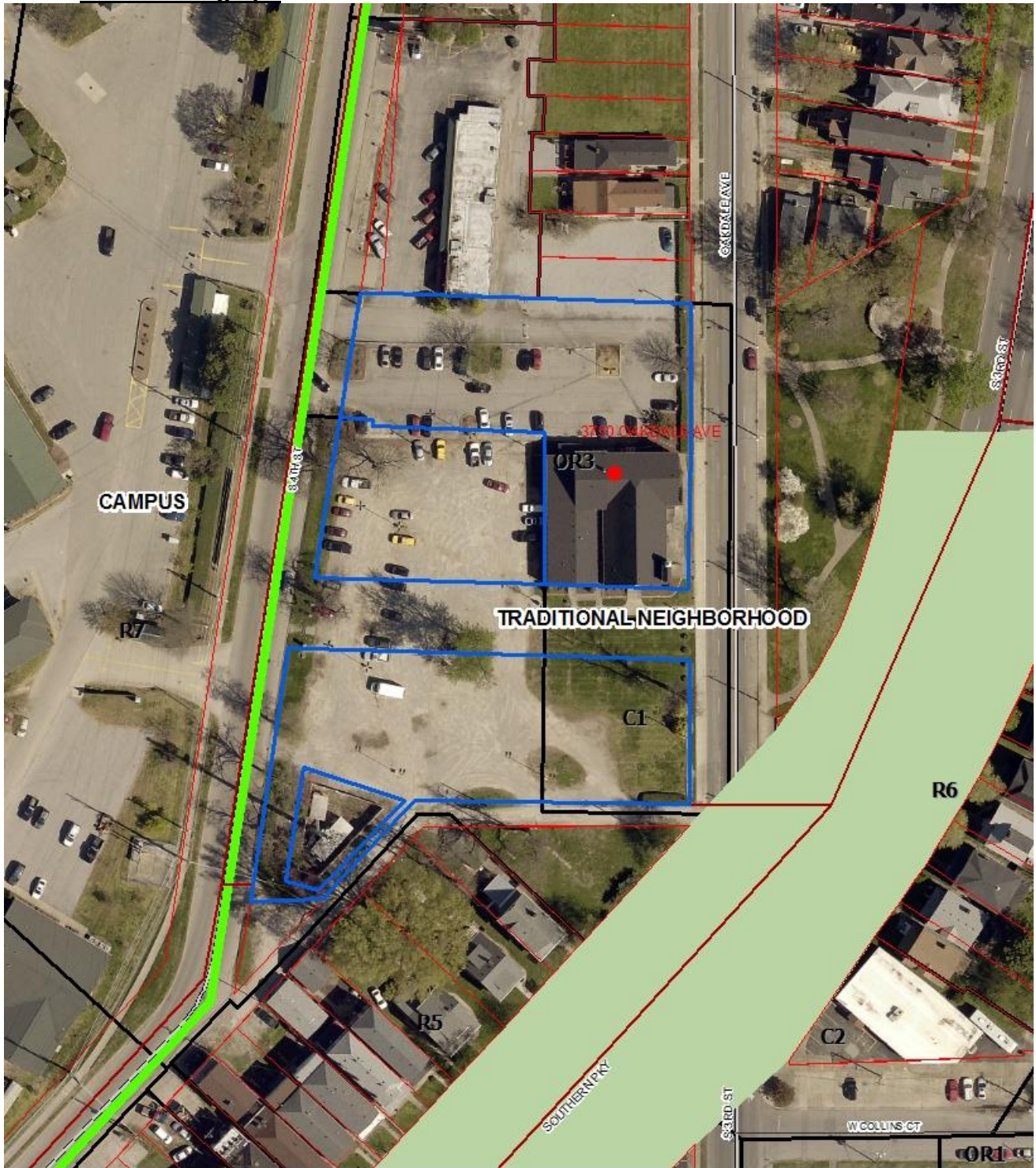


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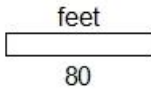


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2. Aerial Photograph



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