

# Board of Zoning Adjustment Staff Report

February 15, 2016



<b>Case No:</b>	<b>16VARIANCE1000</b>
<b>Request:</b>	<b>Variations to encroach into multiple required yards</b>
<b>Project Name:</b>	<b>Glenmary Pointe Apartments</b>
<b>Location:</b>	<b>11304 Professional Park Drive</b>
<b>Owners:</b>	<b>Orthober Custom Homes, Pleasants Mason Group, LLC &amp; South Louisville Pediatrics</b>
<b>Applicant:</b>	<b>Orthober Custom Homes</b>
<b>Representative:</b>	<b>Blue Stone Engineers PLLC</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>22 – Robin Engel</b>
<b>Case Manager:</b>	<b>Laura Mattingly-Humphrey, Planner I</b>

## REQUEST

- Variance #1: Variance from Chapter 5.3.1, Table 5.3.1 of the Land Development Code to allow parking to encroach into side yard setbacks on Tract #1.
- Variance #2: Variance from Chapter 5.3.1, Table 5.3.2 of the Land Development Code to allow an existing structure and parking to encroach into the 30’ non-residential to residential setback along the southern and eastern property lines of Tract #2.
- Variance #3: Variance from Chapter 5.3.1, Table 5.3.2 of the Land Development Code to allow an existing structure and parking to encroach into the 30’ non-residential to residential setback along the northern and western property lines of Tract #3
- Variance #4: Variance from Chapter 5.3.1, Table 5.3.2 of the Land Development Code to allow an existing structure and parking to encroach into the 30’ non-residential to residential setback along the western and southern property lines of Tract #4.

### Variance #1

Location	Requirement	Request	Variance
Side Yards	3’	0’	3’

### Variance #2

Location	Requirement	Request	Variance
Side and Rear Yards	30’	0’	30’

### Variance #3

Location	Requirement	Request	Variance
Front and Side Yards	30’	0’	30’

### Variance #4

Location	Requirement	Request	Variance
Front and Side Yards	30’	0’	30’

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

Existing Zoning District: OR-1  
 Existing Form District: Neighborhood  
 Existing Use: Office/Vacant  
 Proposed Use: Office/Apartments  
 Plan Certain Docket #: 9-34-01

The applicant is requesting to construct nine two-story apartment buildings on Tract 1, as well as create 3 new tracts of land on which there are existing office buildings. The parking on Tract 1 encroaches into the required 3 foot side yard setback. Due to the new lot lines being drawn, the existing office buildings and the associated parking areas encroach into the required 30' non-residential to residential setbacks on all three new tracts.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Office/Vacant	OR-1	N
<b>Proposed</b>	Office/Apartments	OR-1	N
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	R-4	N
<b>South</b>	Single Family Residential	R-4	N
<b>East</b>	Landscaping Company Offices/Vacant	R-4	N
<b>West</b>	Patio Homes/ Single Family Residential	R-4	N

**PREVIOUS CASES ON SITE**

9-31-04: A re-zoning from R-4 Single Family Residential to OR-1, Office Residential was approved by the Planning Commission on September 2, 2004. The original proposal was for 14 one-story office buildings.

12659: Revised District Development Plan to combine two of the office buildings into one, approved by the Development Review Committee on June 24<sup>th</sup>, 2009.

**INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.

**APPLICABLE PLANS AND POLICIES**

Land Development Code  
 Cornerstone 2020

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1  
 (Side Yard Setbacks on Tract 1)**

- (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 parking is an existing condition and the lot lines will not be physically marked to obstruct any parking or visibility.

- (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 division of lots is within the existing development and parking location is not changing from the originally approved plan. In addition, the parking is typical for similar developments within this form district.

- (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 parking is in compliance with parking standards and there are no obstructions in visibility caused by the variance.

- (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 encroachments are a result of new lot lines being drawn for financing and conveyance purposes.

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 which do not generally apply to land in the general vicinity or the same zone as they are a result of new lot lines being drawn for financing purposes in order to further develop this, otherwise mostly vacant property.

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 the reasonable use of the land or create an unnecessary hardship on the applicant as the applicant would have to erect buffers and lose parking spots that are needed for the development.

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 indeed the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought but the actions are reasonable and justified in order to develop the property.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES #2, 3 & 4  
(30' Non- Residential to Residential Setbacks on Tracts 2, 3, &4)**

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

STAFF: The requested variances will not adversely affect the public health, safety or welfare as the non-residential structures and parking already exist, the new lot lines will not be physically marked and the tracts are only being created for financial purposes.

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

STAFF: The requested variances will not alter the essential character of the general vicinity as the division of lots is within the existing development and the basic layout of the development is not changing.

- (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 residential and non-residential uses are both permitted within the OR-1 zone and would be in compliance if the new lot lines were not being drawn.

- (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 encroachments are a result of new lot lines being drawn for financing and conveyance purposes.

#### 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 which do not generally apply to land in the general vicinity or the same zone as they are a result of new lot lines being drawn for financing purposes in order to help create a mixed use development.

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 the reasonable use of the land as the newly created tracts are allowing the further development of this property.

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 indeed the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought but the actions are reasonable and justified in order to develop the property.

#### **TECHNICAL REVIEW**

- The required waivers and development plan will be heard by the Development Review Committee on February 17<sup>th</sup>, 2016. A condition of approval will be that a Joint Parking Agreement be submitted to satisfy the parking required for Tract 1.
- The required minor plat to create the new tracts has been submitted by the applicant and is currently under staff review.

#### **STAFF CONCLUSIONS**

The standard of review for the requested variance has been met. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must

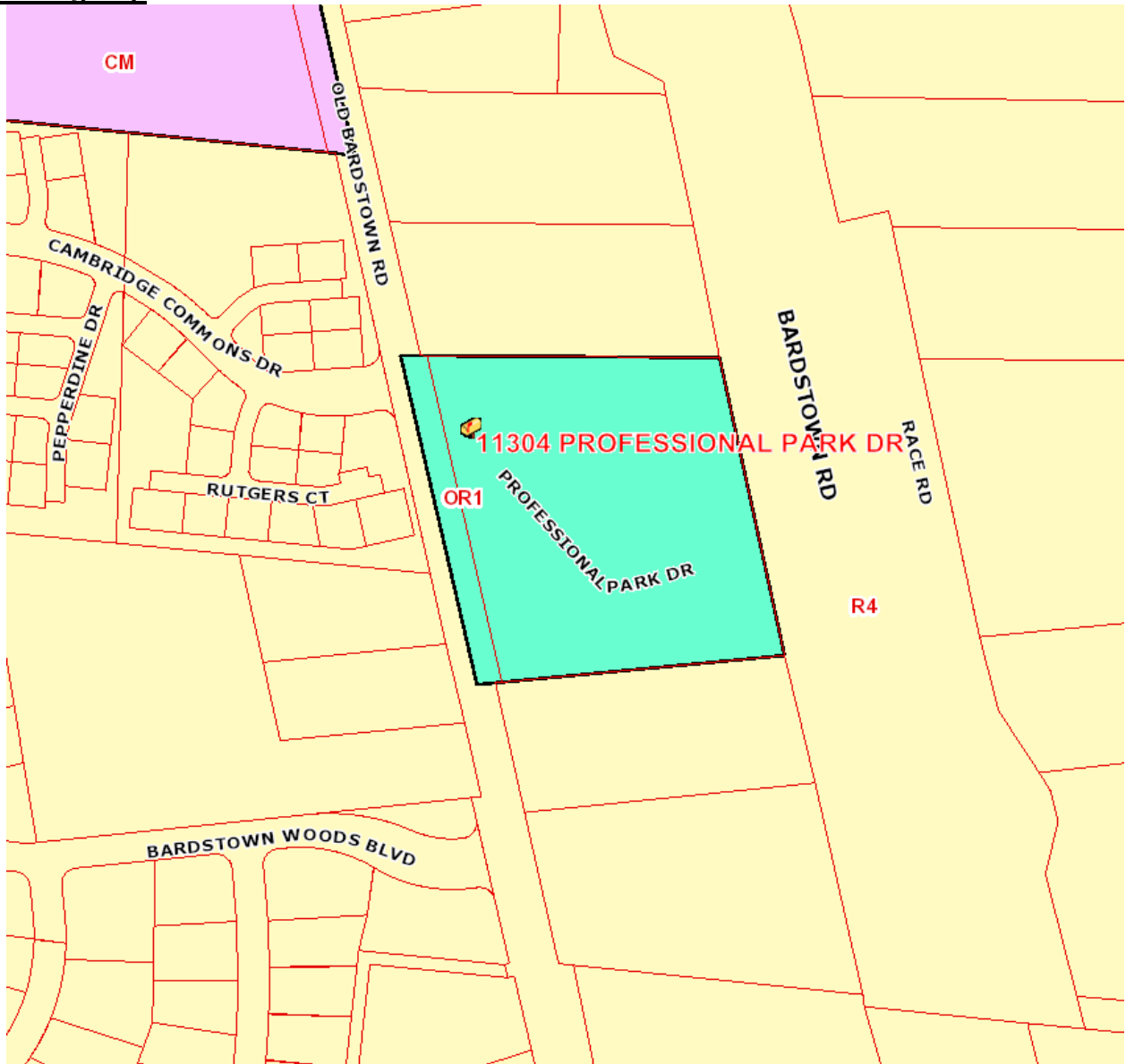
determine if the proposal meets the standards for granting variances as established in the Land Development Code.

### NOTIFICATION

Date	Purpose of Notice	Recipients
1/29/16	Hearing before BOZA	1 <sup>st</sup> tier APO of subject property Registered Interested Parties for Council District 22

### ATTACHMENTS

1. **Zoning Map**



2. Aerial Photograph

