

# Board of Zoning Adjustment

## Staff Report

June 5, 2023



<b>Case No:</b>	22-DDP-0133
<b>Project Name:</b>	Heartland Dental
<b>Location:</b>	100 Marshall Dr
<b>Owner(s):</b>	TT of B Louisville, Inc.
<b>Applicant:</b>	Heartland Dental
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Andrew Owen
<b>Case Manager:</b>	Jay Lockett, AICP, Planner II

### REQUEST(S)

- **Variance** from Land Development Code section 5.3.1 and Table 5.3.2 to permit the structure to encroach into the 10-foot front yard setback along Shelbyville Rd as shown on the development plan.
- **Variance** from Land Development Code section 5.1.12.B to permit parking and drive lanes to encroach into the infill street side yard setback along Marshall Dr as shown on the development plan.

### CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a single-story 4,880 SF dental office on approximately .76 acres. The site is located along Shelbyville Rd in the Beechwood Village area of Louisville Metro. The site will have access from Marshall Dr. The site was previously rezoned from R-7 to C-2 under docket 16ZONE1087 as a proposed expansion of the adjacent auto dealership but remains vacant.

### STAFF FINDING

The requests are adequately justified and meets the standards of review. The proposed development is consistent in scale and use with non-residential development in the Neighborhood form district, as well as the general vicinity. The applicant will provide all required screening and buffering around the site.

### TECHNICAL REVIEW

Transportation Planning and MSD have approved the preliminary development plan.

The Development Review Committee approved the Revised Detailed District Development Plan with Binding Elements at the April 19, 2023 meeting.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE:**

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

STAFF: The requested variances will not adversely affect public health safety or welfare as adequate screening and planting will be provided around the subject site where it abuts residential uses and public streets.

- (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 proposed development will provide a neighborhood serving commercial use that fits within the context of the Neighborhood Form District.

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

STAFF: The requested variances will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process.

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

STAFF: The requested variances will not allow an unreasonable circumvention of zoning regulations as all required screening and planting will be provided around the subject site.

## **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.

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 they would not be able to provide adequate parking to serve their use, while maintaining the full width of the buffer adjacent to residential zoning and public streets.

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 the applicant is requesting approval prior to construction.

**REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Variances**.

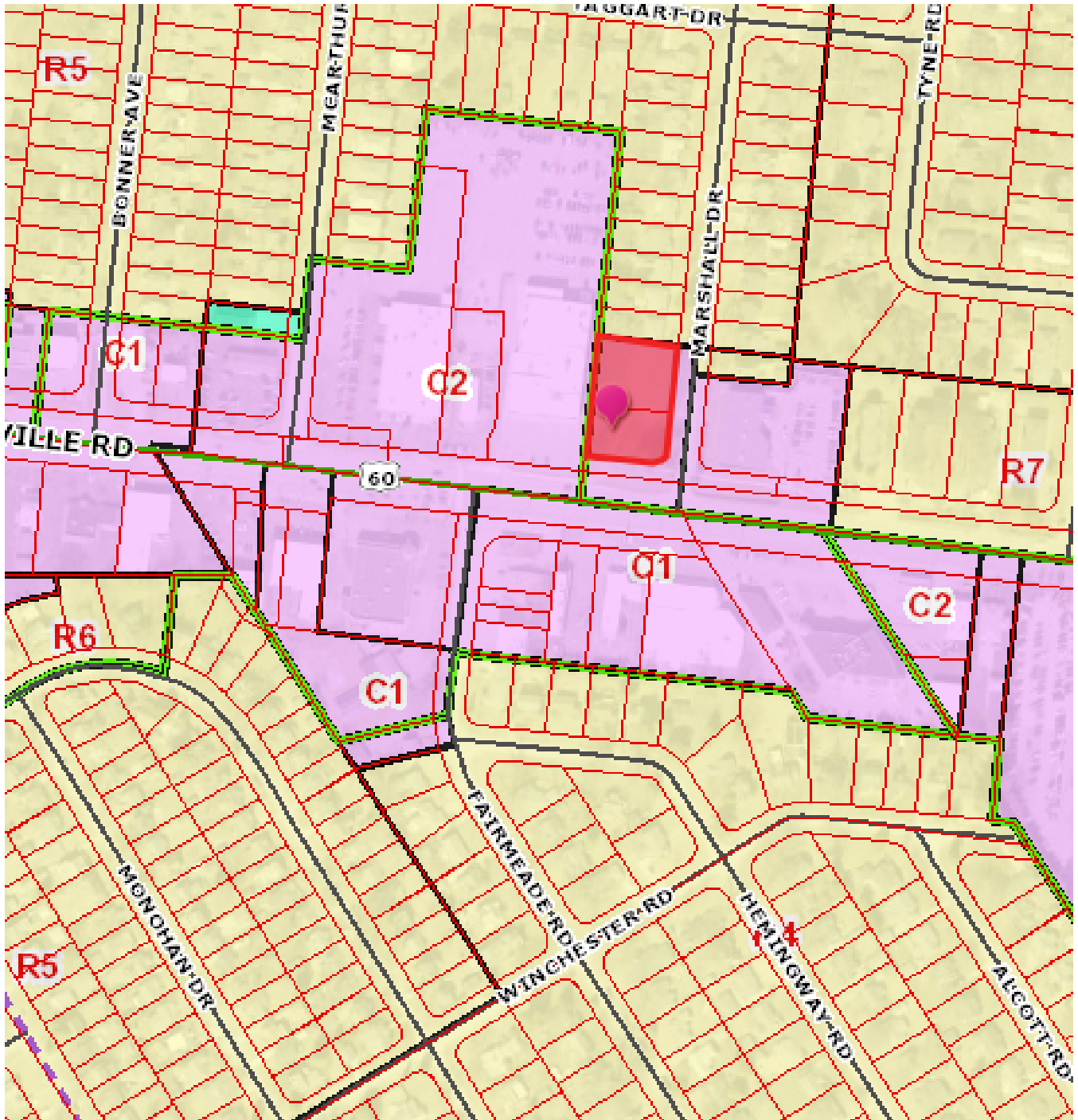
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5-18-23	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and residents Speakers at Planning Commission public hearing Additional recipients as required by the Binding Elements Registered Neighborhood Groups in Council District 9

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

