

Board of Zoning Adjustment

Staff Report

July 10, 2023



Case No:	22-CAT3-0018; 23-CUP-0083; 23-VARIANCE-0038; 23-WAIVER-0047; 23-WAIVER-0048
Project Name:	Jefferson Court Warehouse
Location:	745 Jefferson Court; 3025-3031 Nelson Court
Owner(s):	Eric Bachelor – Bachelor Holdings, LLC.
Applicant:	Dinsmore & Shohl, LLP.
Jurisdiction:	Louisville Metro
Council District:	21-Betsy Ruhe
Case Manager:	Molly Clark, Planner II

REQUEST(S)

- **Conditional Use Permit from section 4.2.39 to allow off-street parking in the R5 zoning district (23-CUP-0083)**
- **Variances:**
 1. **Variance from Chapter 5.2.5.C.4.a to allow a proposed structure to exceed the maximum front yard setback of 25 feet with a proposed front yard setback of 97 feet. (23-Variance-0038)**
 2. **Variance from Chapter 5.2.5.B to exceed the maximum height of 45 feet with a 98 foot 2 story warehouse (23-Variance-0038)**
- **Waivers:**
 1. **Waiver from 10.2.4 and 10.2.3 to eliminate the property perimeter landscape buffer between R-5 and M-2 zoning district (23-Waiver-0047)**
 2. **Waiver from 10.2.10 to eliminate the 10ft VUA/LBA along Jefferson Court (23-Waiver-0047)**
 3. **Waiver from 5.5.1.A.3.a to allow parking to be located in front of the building (23-Waiver-0048)**
- **Category 3 Plan (22-CAT3-0018)**

CASE SUMMARY

This area was once known as Cardinal Subdivision for single family homes which was subdivided in 1925 but the subject site is currently vacant. This site is 6.55 acres in the M2 industrial zoning as well as R-5 single family residential and C1 commercial zoning in the Traditional Workplace form district. The applicant is proposing to construct a 2 story 100,000 SF warehouse with a proposed off-street parking area in the R-5 zoning district area of the subject site for employees, guests, and customers. This case is related to a street closure case under 23-STRCLOSURE-0014.

STAFF FINDING

The requests are adequately justified and meet the standard of review. The development is consistent with other industrial uses on adjacent properties and is near the airport. The category 3 plan is in order and has been approved by MSD and Transportation Planning staff.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on December 19, 2022 at the Fourth Presbyterian Church on 3016 Preston Highway and 9 people attended.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT under section 4.2.39 to allow off-street parking to be in the R5 residential zone:

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the following listed requirements.

A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

STAFF: Parking is located closer than 200 feet to the proposed warehouse. The applicant is also providing pedestrian connection from the parking area to the entrance of the proposed warehouse.

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

STAFF: There are no other surrounding residential properties. This site is surrounded by other industrial uses and commercial uses.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

STAFF: The proposed parking area will be outside of the minimum setbacks with landscape buffers being planted.

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

STAFF: The applicant is aware of this requirement.

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.

STAFF: The proposed plan has received preliminary approval from Transportation Planning.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

STAFF: The applicant has received preliminary approval from Transportation Planning.

G. Heavy truck parking/storage is not permitted under this section. This provision shall not be waived.

STAFF: Applicant is aware of this requirement. Heavy trucks maneuvering will be located in the M2 portion of the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1 from section 5.3.2.C.2.A, to permit the building to be setback more than 80' from all roadways:

(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 the building will be buffered where it is adjacent to commercial along the existing alley.

(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 since the proposal is consistent with other industrial uses in the 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 since the building will be buffered where it is adjacent to commercial.

(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 since the proposed warehouse will be consistent with the other industrial uses in the area.

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: There are some constraints with the R5 zoning being closer to the street than the M2 portions of the site. The applicant would have to rezone the R-5 portion in order to make parking in the rear possible.

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. To build the warehouse and put the parking in the rear, the applicant would need to apply for a rezoning for the R5 portion of the site.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought. The applicant has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2 from section 5.3.1.C.2 to allow the proposed building to be 98' instead of the required 45' maximum building height

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

STAFF: The requested variance will not adversely affect public health safety or welfare since the building will be located away from the closest low intensity commercial uses.

- (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 since the 2-story warehouse will be located next to other industrial uses and is consistent with the immediate area. It is also near the airport

- (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 since the proposed 2 story warehouse will be located next to other industrial warehouses with truck loading areas.

- (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 since the 2-story warehouse will be consistent with the adjacent industrial uses.

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 since this area was once a single family subdivision but now is surrounded by industrial development. The proposed warehouse will be consistent with the other adjacent industrial uses.

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 since the applicant needs space on the subject site for off-street parking and truck loading areas. The two stories height of the structure allows for better use of the land while still providing landscaping and other site design requirements.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1 from 10.2.4 and 10.2.3 to eliminate the property perimeter landscape buffer between R-5 and M-2 zoning district (23-Waiver-0047)

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The waiver will not adversely affect adjacent property owners, as it will be consistent with other adjacent industrial uses.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate Plan 2040 since the applicant is still providing landscaping on other portions of the site.

- c. The extent of 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 considering the applicant would have to rezone the R5 portion of the site in order to comply instead of using the off-street parking CUP in the R-5 area.

- d. Either: 1. 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 2. 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. The landscape buffer would interfere with the proposed parking area and there aren't any residential properties adjacent to the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2 from 10.2.10 to eliminate the 10ft VUA/LBA along Jefferson Court (23-Waiver-0047):

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

STAFF: The waiver will not adversely affect adjacent property owners since the subject site is primarily surrounded by other industrial developments. The applicant is still providing landscaping in other areas of the site.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The applicant's proposal is consistent with other industrial developments in the area.

- (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 since the applicant has limited area where they can place the off-street parking areas with the associated conditional use permit. The applicant is also providing a sidewalk with a pedestrian connection in the VUA/LBA area along Jefferson Court which encroaches into the landscape buffer area.

- (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 regulations would deprive the applicant of the reasonable use of the land because it would prevent the applicant from constructing an adequate pedestrian connection from the street to the entrance of the building.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3 of section 5.5.1.A.3.a. and 5.9.2.C.4. to allow the parking lot to be located in front of the building and to not provide a 3 foot masonry, stone or concrete wall (23-WAIVER-0048:

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

- (b) The waiver will not violate specific guidelines of Plan 2040;

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant would have to go through a rezoning in order to fix the zoning and move the building forward rather than use the CUP option to use the R-5 portion for parking.

- (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 applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. 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 since the proposed warehouse can only be built on the M2 portion of the site. The applicant has limited areas on where they can place employee, customer and guest parking.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Conditional Use Permit**
- **APPROVE** or **DENY** the **Variations**
- **APPROVE** or **DENY** the **Waivers**
- **APPROVED** or **DENY** the **Category 3**

NOTIFICATION

Date	Purpose of Notice	Recipients
06/23/23	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 21_
12/19/23	Neighborhood Meeting	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 21
06/28/23	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Plan
4. Proposed Renderings
5. Site Photos
6. Proposed Conditions of Approval

1. Zoning Map



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Thursday, June 29, 2023 | 1:38:33 PM

2. Aerial Photograph

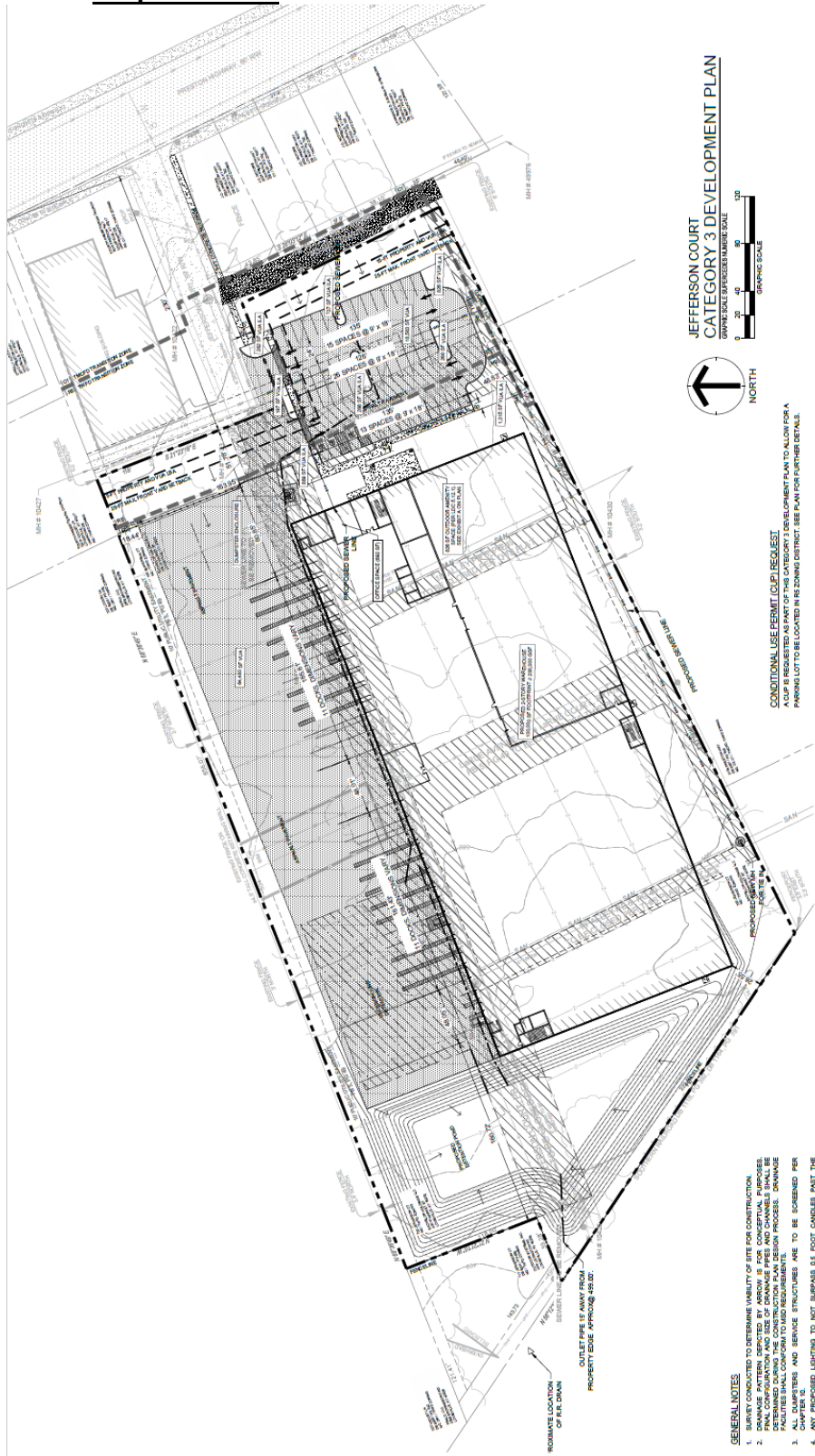


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3. Proposed Plan



JEFFERSON COURT
CATEGORY 3 DEVELOPMENT PLAN



CONDITIONAL USE PERMIT (CUP) REQUEST
 A CUP IS REQUIRED AS PART OF THIS CATEGORY 3 DEVELOPMENT PLAN TO ALLOW FOR A
 PARKING LOT TO BE LOCATED IN RE ZONING DISTRICT. SEE PLAN FOR FURTHER DETAILS.

- GENERAL NOTES**
1. SURVEY CONDUCTED TO DETERMINE VARIABILITY OF SITE FOR CONSTRUCTION.
 2. FINAL CONFIGURATION AND SIZE OF DRAINAGE PIPES AND CHANNELS SHALL BE DETERMINED BY A REGISTERED PROFESSIONAL ENGINEER IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS AND STANDARDS.
 3. ALL DUMPSTERS AND SERVICE STRUCTURES ARE TO BE SCREENED PER APPLICABLE REGULATIONS AND STANDARDS.
 4. ANY PROPOSED LIGHTING TO NOT SURPASS 65 FOOT CANDLES PAST THE PROPERTY LINE.



EXHIBIT A: DIAGRAM OF OUTDOOR AMENITY SPACE

4. Proposed Renderings





5. Site Photos





6. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off street parking until further review and approval by the Board.