

# Board of Zoning Adjustment

## Staff Report

January 22, 2018



<b>Case No:</b>	17VARIANCE1079
<b>Project Name:</b>	Candlewood Suites Hotel
<b>Location:</b>	11350 Maple Brook Drive
<b>Owner(s):</b>	Dream Hospitality Inc. & KPM
<b>Applicant:</b>	BTM Engineering – Chris Brown
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	17 – Glen Stuckel
<b>Case Manager:</b>	Dante St. Germain, Planner I

**REQUEST**

- **Variance** from Land Development Code section 5.7.1.B.1 to allow a building to exceed 45 feet in height in a form district transition zone.
- **Variance** from Land Development Code section 5.3.3.C.2.b to allow a structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
<b>Building Height</b>	45 feet	53 feet	8 feet
<b>Rear Yard Setback</b>	50 feet	35 feet	15 feet

**CASE SUMMARY**

The subject property is located along Maple Brook Drive, a local-class private street, approximately 250 feet north of Chamberlain Lane, near the intersection of Chamberlain Lane and Westport Road. The site is 1.8 acres in area and is currently undeveloped. The applicant proposes to construct a new, 81-room Candlewood Suites-branded hotel on the property.

The lot to the immediate north-west of the subject property is in the Neighborhood Form District, while the subject property is in the Regional Center Form District. The entire property is subject to form district transition zone standards, per LDC sections 5.7.1.A and 5.7.1.B, resulting in a maximum allowable building height of 45 feet. The applicant proposes to construct a 53-foot-tall building, and requests a variance from LDC section 5.7.1.B.1 to allow the increased height.

Due to grade changes on the lot, a retaining wall will be needed along portions of the north and east sections of the property. The northern section of retaining wall is proposed to encroach into the required 50-foot transition zone rear yard setback. The applicant requests a second variance for this encroachment.

**STAFF FINDING**

Staff finds that the requested variances are adequately justified and meet the standard of review.

Based upon the information in the staff report, and 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 5.7.1.B.1 to allow a building to exceed the allowable height of 45 feet in a form district transition zone, and from section 5.3.3.C.2.b to allow a structure to encroach into the required rear yard setback.

### **TECHNICAL REVIEW**

- The plan has received preliminary approval from all applicable agencies.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received.

### **CASE BACKGROUND**

This property was rezoned in June 2001 from OR-3 Office Residential to C-1 Commercial under docket number 9-11-01. The rezoning case included portions of the property to the southwest of the subject property, and the intent at the time was to construct retail buildings. The planned retail buildings were never constructed on the subject site, and the property remains undeveloped at this time.

Case number 17DEVPLAN1198 is the related detailed district development plan. It is scheduled to be heard by the Land Development and Transportation Committee of the Planning Commission on January 25, 2018.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.7.1.B.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 variance represents a 17.8% increase in height over the height allowed by section 5.7.1.B.1, which is unlikely to be noticeable from adjoining properties.

- (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 development will continue a generally commercial character along, and in the immediate vicinity of, Chamberlain Lane.

- (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 adjoining lot closest to the proposed location of the building is currently buffered by wooded open space between the building and the residential structures. Additionally, the building will comply with the full required form district transition zone rear yard of 50 feet, with the majority of that space remaining wooded.

- (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 increase in height is relatively small over the height allowed by the zoning regulations, and considerable buffering exists between the proposed location of the building and the nearest residential structure.

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 because the lot is subject to form district transition zone standards.

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 by requiring the applicant to construct a building one floor shorter, which may make the development economically infeasible.

3. 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.

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 the variance and has not begun construction.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.3.C.2.b**

- (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 encroachment will be made by a retaining wall, not by the principal structure on the property.

- (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 retaining wall will be screened by a wooded buffer between the wall and the nearest residential structure.

- (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 retaining wall will be constructed according to building codes and it has received preliminary approval from MSD.

- (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 encroachment is needed in order to construct the principal structure outside the stream buffer around Hite Creek, which is located to the northeast of the 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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the property has steep slopes around the perimeter, and part of the property is within the Hite Creek stream buffer.

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 by requiring the applicant to shift the building on the lot to a less advantageous position with respect to the stream buffer and the necessary parking.

3. 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.

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 the variance and has not begun construction.

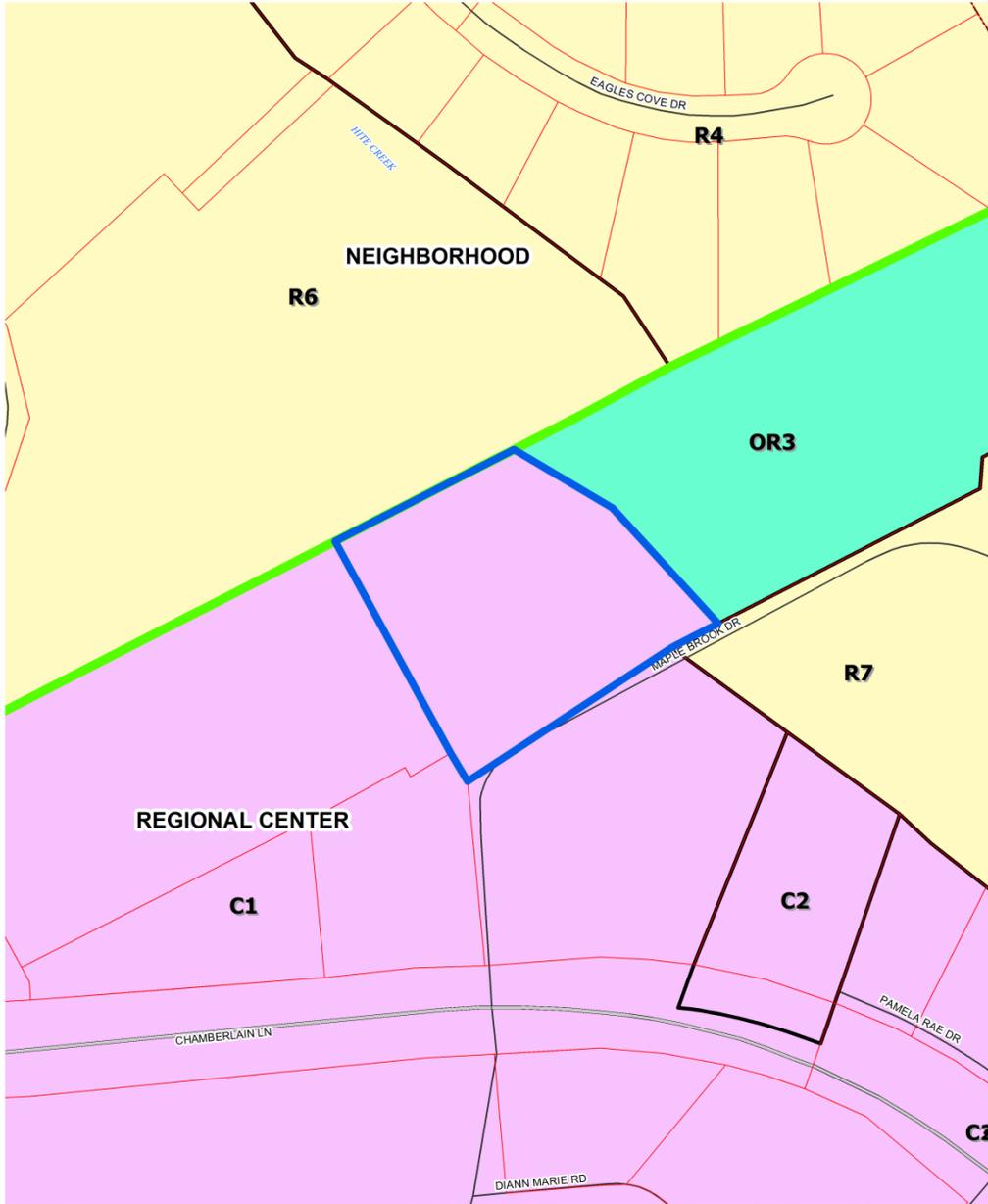
## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>01/03/2018</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 17
<b>01/05/2018</b>	Hearing before BOZA	Notice posted on property

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Site Photos

1. Zoning Map



11350 Maple Brook Drive  
feet

140  
Map Created: 1/4/2018



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2. Aerial Photograph



11350 Maple Brook Drive  
feet



140  
Map Created: 1/4/2018



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4. Elevation



**A FRONT ELEVATION**  
3/32" = 1'-0"



**B LEFT ELEVATION**  
3/32" = 1'-0"



**C RIGHT ELEVATION**  
3/32" = 1'-0"



**D REAR ELEVATION**  
3/32" = 1'-0"

RECEIVED  
OCT 23 2017  
PLANNING &  
DESIGN SERVICES

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2807 WESTVIEW ROAD  
COURTNEY, KY 40303  
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C.R. STONE ARCHITECT  
CORPORATION, PLLC

PRELIMINARY

ELEVATIONS  
CANDLEWOOD SUITES  
NEW HOTEL  
13350 Maple Brook Drive  
LOUISVILLE, KY 40241

CRS  
SCALE AS SHOWN  
A2.0  
19 OCT 17  
RAM 012

17 DEVPLAN 4199

5. Site Photos



The front of the subject property.



The property to the left of the subject property.



The property to the right of the subject property.



The property across Maple Brook Drive.



The wooded areas which are to be largely preserved which will screen the proposed retaining wall.