

# Board of Zoning Adjustment Staff Report

August 1, 2016



<b>Case No:</b>	16VARIANCE1048
<b>Request:</b>	Existing sign to exceed maximum height and area and waivers for sign style and LED
<b>Project Name:</b>	Shell Sign
<b>Location:</b>	1123 S Floyd Street
<b>Owner:</b>	Mark Young, TA Operating, LLC
<b>Applicant:</b>	Sherrri Hartsell, Florida Centerline Group
<b>Representative:</b>	Sherrri Hartsell, Florida Centerline Group
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James
<b>Case Manager:</b>	Laura Mattingly, Planner I

## REQUEST

- Variance from the Land Development Code Table 8.3.2 (Traditional Neighborhood) to allow an existing freestanding sign to exceed the minimum height and area.

Location	Requirement	Request	Variance
Sign height	6 ft.	30 ft.	24 ft.
Sign area	32 SF	172 SF	140 SF

- Waiver #1 from LDC section 8.2.1.D.6 to allow LED signs to be located within 300 feet of residentially zoned properties.
- Waiver #2 from LDC Section 8.3.3.B.9 to allow a freestanding pole-style sign in the Traditional Neighborhood Form District, where only Columnar or Monument style signs are permitted.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The existing Shell gas station, located at the intersection of S. Floyd Street and E. St. Catherine Street, is re-facing the existing freestanding sign along S. Floyd Street. The sign is situated at the north end of the property. The location, height and total area of the sign face are to remain unchanged. The sign currently consists of the Shell logo, gas prices, and a MinitMart sign. The proposed changes will add an ATM sign and will change the Regular and Diesel gas price signs to LED.

The size, height and style of the sign has been “grandfathered” but is now losing that status due to the addition of the LED signs; therefore, the sign size, style and LED requirements must all be reviewed before BOZA and brought into compliance with the granting of a variance and waivers to allow the proposed changes. There is a second “grandfathered” sign on site. This sign is remaining unchanged and is therefore maintaining this status.

**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>	Commercial	C-2	Traditional Neighborhood
<b>Proposed</b>	Commercial	C-2	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Commercial	OR-2, C-2	Traditional Neighborhood
<b>South</b>	Interstate	NA	NA
<b>East</b>	Interstate Ramp	NA	NA
<b>West</b>	Interstate	NA	NA

**PREVIOUS CASES ON SITE**

None

**INTERESTED PARTY COMMENTS**

No comments were received from concerned citizens.

**APPLICABLE PLANS AND POLICIES**

Land Development Code  
Comprehensive Plan

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES from  
Table 8.3.2**

- (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 sign does not encroach into the right of way and does not obstruct vision from the right-of-way.

- (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 sign has existed on this site since 1998 and this intersection is commercial in character, due to this site, a second convenient store across St. Catherine, as well as the I-65 interchange at this location.

- (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 sign does not encroach into the right of way and does not obstruct vision from the right-of-way and will not change size or location.

- (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 height and area of the sign have existed as is since the sign was erected and the applicant now seeks to bring the non-conforming status into compliance.

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 or the same zone as this sign was erected before the current zoning regulations.

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 as the applicant would have to remove the sign and build a new sign that might negatively affect advertising for the Shell station and also increase the costs to the applicant significantly.

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 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 proposing a change that requires a waiver of the LED requirements, causing the sign to lose its legally non-conforming status.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 8.2.1.D.6 to allow LED signs to be located within 300 feet of residentially zoned properties.**

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

STAFF: The waiver will not adversely affect adjacent property owners as it is surrounded by interstate and another commercial establishment.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 28 calls for signs that are compatible with the form district pattern and contribute to the visual quality of their surroundings. These guidelines are not violated as the proposed sign with LED portion is similar to the sign for the convenient store across St. Catherine and is an improvement on the aesthetics of the current sign. In addition, the regulations for LED lighting will mitigate any possible intrusions on the nearby residential properties.

- (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 the proposed LED portion of the sign is the only change that requires a waiver.

- (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 and would create an unnecessary hardship on the applicant as the use of LED for displaying gas prices is a current standard for many gas stations and the denial of this waiver may cause this site to lose potential customers.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 8.3.3.B.9  
to allow a freestanding pole-style sign in the Traditional Neighborhood Form  
District, where only Columnar or Monument style signs are permitted.**

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

STAFF: The waiver will not adversely affect adjacent property owners as it is surrounded by interstate and another commercial establishment.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 28 calls for signs that are compatible with the form district pattern and contribute to the visual quality of their surroundings. These guidelines are not violated as the proposed sign is similar to the gas station sign across St. Catherine and will be an improved aesthetic over the current sign.

(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 the style of the sign has been in place since 1998 and is not being changed.

(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 and would create an unnecessary hardship on the applicant as the denial of the waiver for sign style would require the current sign to be removed and rebuilt, facing the applicant with increased costs.

**TECHNICAL REVIEW**

- No technical review required.

**STAFF CONCLUSIONS**

The variance and waivers appear to be adequately justified and meet the standard of review.

- 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 a variance established in the Land Development Code from section 8.3.2 to allow an existing sign to exceed the minimum height and area; and waivers from LDC sections 8.2.1.D.6 and 8.3.3.B.9 to allow an LED sign to be located within 300 feet of residential and for the existing sign to not be columnar or monument style.

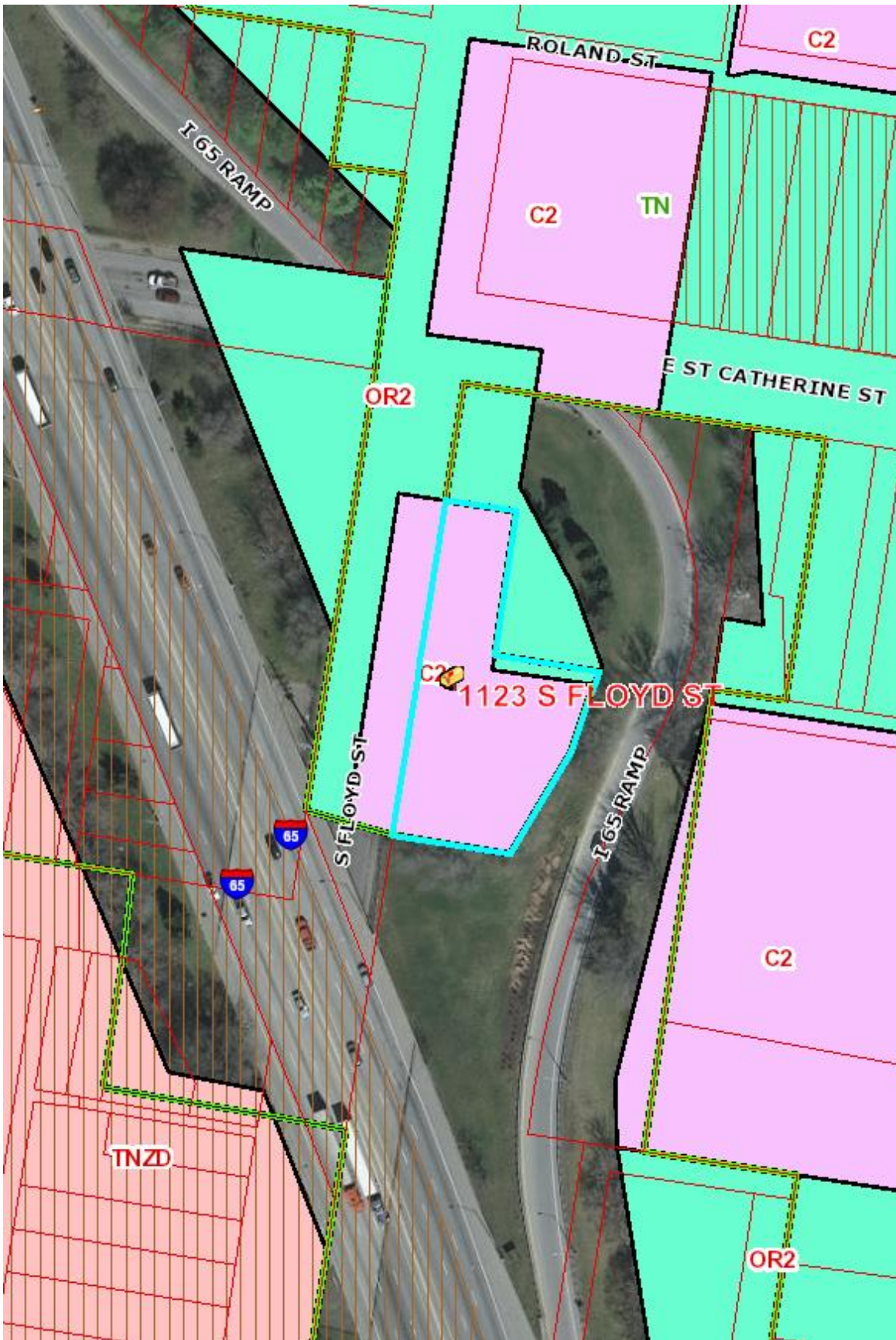
**NOTIFICATION**

Date	Purpose of Notice	Recipients
July 13, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owner and the three residential properties within 300 feet Subscribers of Council District 6 Notification of Development Proposals
July 15, 2016	Sign Posting for BOZA	Sign Posting on property

**ATTACHMENTS**

- Zoning Map
- Aerial Photograph

1. Zoning Map



2. Aerial Photograph

