

# Board of Zoning Adjustment Staff Report

May 16, 2016



<b>Case No:</b>	16VARIANCE1017
<b>Project Name:</b>	River City Bank
<b>Location:</b>	14000 Shelbyville Road
<b>Owner(s):</b>	River City Bank, Inc.
<b>Applicant(s):</b>	River City Bank, Inc.
<b>Representative(s):</b>	Lockett & Farley – Kelley Parker
<b>Project Area/Size:</b>	1.44 Acres
<b>Existing Zoning District:</b>	C-1, Commercial
<b>Existing Form District:</b>	N, Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Julie Denton
<b>Case Manager:</b>	Joel P. Dock, Planner I

## REQUEST

- **Variance** from the Land Development Code (LDC), section 5.3.1.C to allow the height of a proposed structure to exceed the maximum requirement.

Location	Requirement	Request	Variance
Height	Max. 25'	27'-5"	2'-7"

## CASE SUMMARY

The applicant is requesting a variance from LDC, section 5.3.1.C to allow the height of a proposed 1-story bank to be 27'-5", resulting in a variance of 2'7" from the maximum required height of 25'. The variance is being requested in association with a revised detailed district development plan (RDDDP), case 16DEVPLAN1065, for a proposed 3,500 SF bank located on Shelbyville Road, East of I-265. The RDDDP will be heard by the Development Review Committee (DRC) Wednesday, May 18, 2016. Access to the subject site is from Shelby Station Road which also provides primary access to a senior living/nursing home facility and future access to proposed commercial uses.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Partially Vacant (existing ATM)	C-1	N
<b>Proposed</b>	Bank	C-1	N
<b>Surrounding Properties</b>			
<b>North</b>	ROW/commercial/residential	PRD/C-1	N
<b>South</b>	Senior Living/Nursing Home	R-4	N
<b>East</b>	Auto Service Station	C-1	N
<b>West</b>	Senior Living/Nursing Home	R-4	N

## PREVIOUS CASES ON SITE

14ZONE1015: Rezoning from R-4 to C-1 (approved July 17, 2014).

### INTERESTED PARTY COMMENTS

Staff has not received any inquires or comments on the proposal.

### APPLICABLE PLANS AND POLICIES

Land Development Code (April 2016)

#### 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 variance will not adversely affect the public health, safety, or welfare as the proposed additional height does not appear to impact site lines for safe pedestrian or vehicular movement on nearby roadways.

- (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 site is surrounded by, and proposed to be surrounded by, a nursing facility and a mixture of commercial uses to which the architectural style of the proposed structure will be compatible.

- (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 proposed use and height necessary for the proposed architectural style of this use will provide a potential 1<sup>st</sup> order good or service to nearby residents and is connected by public sidewalks to other nearby establishments.

- (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 proposed style of architecture is compatible with surrounding uses within the immediate vicinity and the wider area, as well as being below the maximum height for residential uses within the same form district.

#### 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 variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as all non-residential uses under 5,000 SF within the Neighborhood form district are restricted to a maximum building height of 25 feet.

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 proposed style of architecture for the proposed bank is compatible with nearby uses. Additionally, the proposed height does not create any adverse risk to the public health, safety, or welfare or cause a nuisance to the public.

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.

### TECHNICAL REVIEW

The request has no outstanding Technical Review items at this time.

### STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets 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 standard for granting a variance established in the Land Development Code.

### Actions

- **APPROVE** or **DENY** the variance from LDC, section 5.3.1.C to allow the proposed structure to be 27'5".

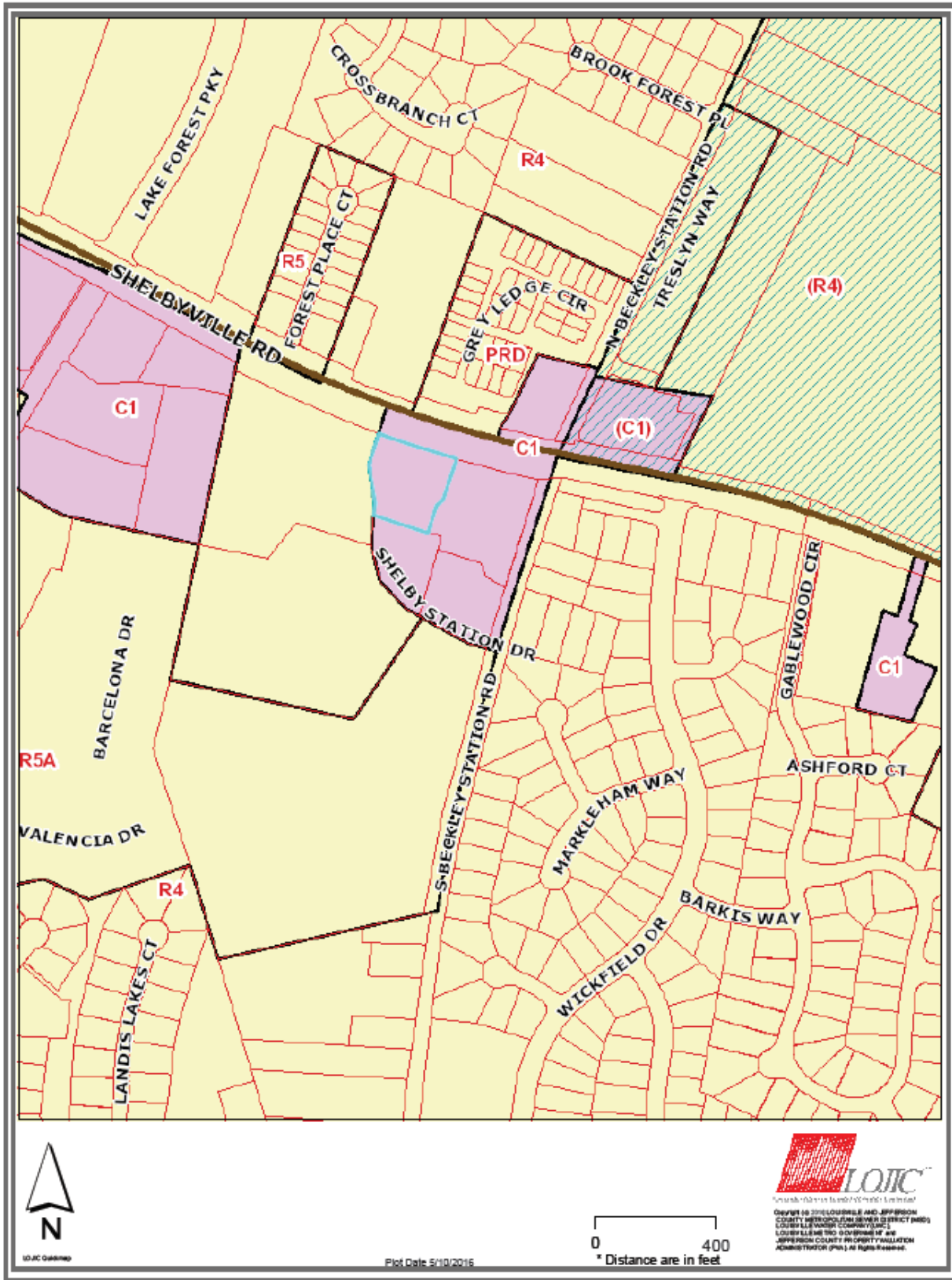
### NOTIFICATION

Date	Purpose of Notice	Recipients
4/28/16	BOZA	Adjoining property owners, applicant, representative, case manager, and registered users of Council District 19.

### ATTACHMENTS

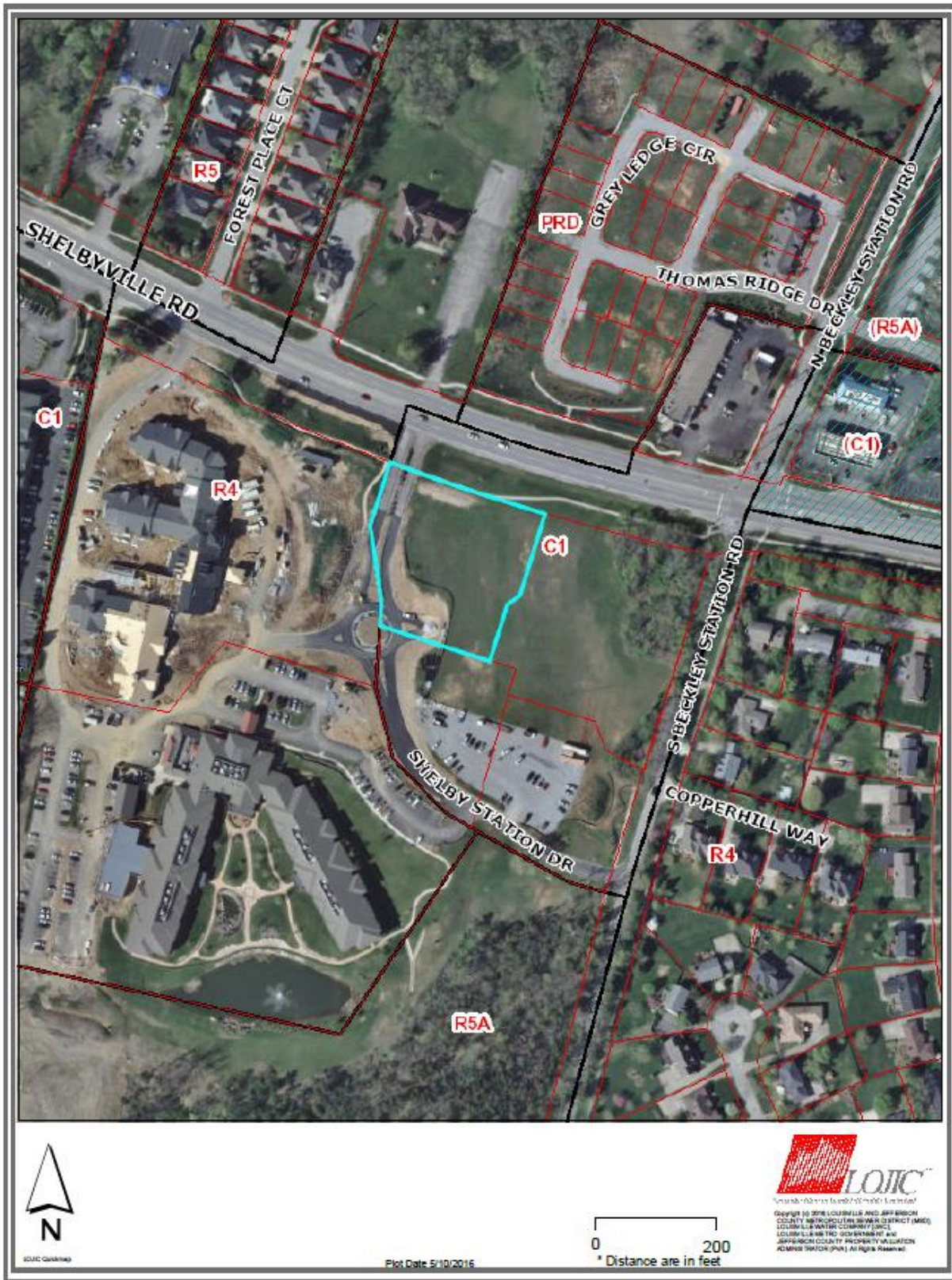
1. Zoning Map
2. Aerial Photograph
3. Binding Elements

1. **Zoning Map**





2. Aerial Photograph



### **3. Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. The appropriate variance shall be obtained to allow the development as shown on the approved district development plan.
  - e. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property

shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. The landscape plan shall be the essentially similar to the concept plan that was shown at the **July 17, 2014** Planning Commission public hearing.