

Board of Zoning Adjustment Staff Report

January 13th, 2014



Case No:	18027
Request:	Variance to allow an encroachment into the required Type B stream buffer
Project Name:	Kameri Auto Service Center
Location:	800 Outer Loop
Owner:	Sami Kameri
Applicant:	Sami Kameri
Representative:	Milestone Design Group Inc.
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Welch
Case Manager:	Christopher Brown, Planner II

REQUEST

- Variance from Chapter 4.8, Table 4.8.1 of the Land Development Code to allow encroachments into the required 50' middle and 25' outer zones of the Type B stream buffer

Variances

Location	Requirement	Request	Variance
Southern Ditch	100'	25'	75'

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-2/M-2
Existing Form District: Neighborhood
Existing Use: Vacant
Proposed Use: Auto Repair
Minimum Parking Spaces Required: 19
Maximum Parking Spaces Allowed: 37
Parking Spaces Proposed: 22
Plan Certain Docket #: 9-27-92

The applicant is proposing to construct a 2,750 SF building for an automotive repair use outside of the 25' streamside buffer along the Southern Ditch. The building is located within the minimum and maximum setbacks along Outer Loop and provides sufficient area for parking and maneuvering on the site. The building and a large portion of the parking area will encroach into the required 50' middle and 25' outer zones of the 100' type B stream buffer along the Southern Ditch. The 25' streamside buffer will be maintained. The stream buffer covers a large majority of the property with only a 30' strip of land along the Outer Loop ROW outside of the required stream buffer. The proposed location follows a similar encroachment that was granted on the adjacent property to the east at the intersection of Outer Loop and National Turnpike.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-2/M-2	N
Proposed	Auto Repair	C-2/M-2	N
Surrounding Properties			
North	Vacant	M-2	SW
South	Vacant	R-6	N
East	Automobile Sales	C-2	N
West	Vacant	M-2	N

PREVIOUS CASES ON SITE

9-27-92: A large portion of the subject property was rezoned from M-2, industrial, to C-2, commercial, to allow the vacant property to be used as an auto sales lot. The approved plan showed two tracts with 69,265 square feet of vehicular use area and one sales trailer on each lot.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 it maintains the 25' streamside buffer and does not encroach further than the pattern of encroachment on property to the east.

- (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 many lots existing in the general vicinity have similar encroachments at the same distance from the Southern Ditch with similar uses ranging from automotive repair to manufacturing.

- (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 use maintains the 25' streamside buffer on the subject property and minimizes the encroachment to area needed for the building and parking.

- (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 direct 25' streamside buffer is maintained on the site and the established pattern of encroachments in the vicinity is followed by the proposal.

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 almost the entire site is located within the 100' Type B 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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the stream buffer along the Southern Ditch creates a situation where almost the entirety of the site falls within the 100' type B stream buffer and any development would require encroachment into the designated stream buffer.

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 since the Southern Ditch was more recently categorized as a Type B stream buffer.

TECHNICAL REVIEW

- There are no outstanding technical review issues that need to be addressed.
- The proposal requires approval of a revised detailed district development and associated waivers by the Development Review Committee. The case is scheduled to be heard on January 15th, 2014.

STAFF CONCLUSIONS

The applicant is proposing a similar use to that which was proposed under the original rezoning from Docket 9-27-92. Since the original rezoning, the Southern Ditch has been categorized as a Type B stream buffer. The applicant will maintain the 25' streamside buffer and follow a similar pattern of encroachments within the general vicinity. The standard of review for the requested variance has been met. 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 as established in the Land Development Code.

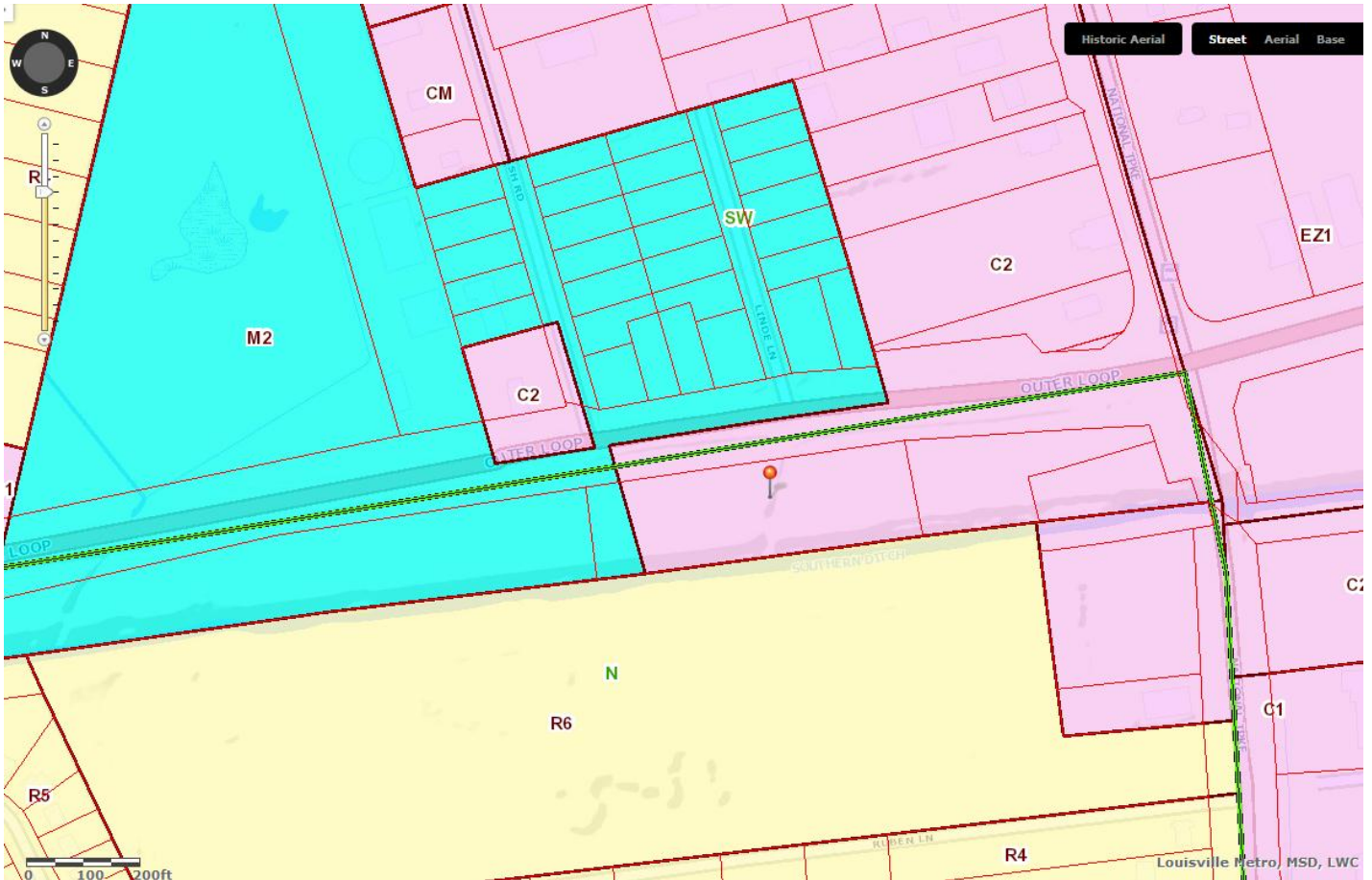
NOTIFICATION

Date	Purpose of Notice	Recipients
12/26/13	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District ___ Notification of Development Proposals
1/2/14	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

