

BARDELL WERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant: David Elder, Sr.

Owner: Triple T Shelbyville Rd Properties, LLC; William E. and Sharon Goodlet; and Goodwill Industries of Kentucky

Location: 101, 103 Marshall Dr. and 4425 Shelbyville Road

Proposed Use: Retail Center

Engineers, Land Planners and
Landscape Architects: Land Design & Development Inc.

Request: Zone Change from R-7 to C-1

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INTRODUCTION

This property has been one of the remaining decent size residential properties on Shelbyville Road surrounded by recent developments, and most recently the new BWM auto dealership across Marshall Drive. The properties have good access off Shelbyville Road and are already an “activity center” location because of the proximity to the surrounding commercial developments on both sides of Shelbyville Road. This rezoning involves a proposal to demolish three old apartment buildings and replace them with a Goodwill location. Two neighborhood meetings have been held and the neighbors in Beechwood Village appear primarily in favor of the plan with the efforts to reduce and mitigate various impacts to the residential areas.

GUIDELINE 1 – COMMUNITY FORM

The application complies with the Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services to serve the residential areas. The proposed use is at a scale appropriate for the nearby neighborhood and in appropriate locations along the major Shelbyville Road corridor. This small retail center is precisely what is contemplated by the Neighborhood Form District, which will replace the aged, multi-family housing, while at the same time provide much improved buffering from the higher intensity use and the busy Shelbyville Road corridor.

GUIDELINE 2 – CENTERS

The application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 of this Guideline as follows.

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The subject property adjoins the mixture of commercial, high-density residential apartment and single-family residential uses, placing it in the activity center that already exists in and around this location. With goods and services available in close proximity to the site and the residential uses mentioned above, this small retail center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this small center to work and shop. Others will find it a convenient stop on their ways home. The ingress and egress will be shifted to the major arterial of Shelbyville Road and shared with the other high-density residential apartments to reduce curb cuts and will also be easily accessible by pedestrian and alternative modes of transportation.

As an “activity center”, it is appropriately located along Shelbyville Road and Marshall Ave, and it is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center.

GUIDELINE 3 – COMPATIBILITY

The application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 20, 21, 22, 23, 24 and 28 of this Guideline as follows.

As set forth above, this is a small neighborhood-serving retail center. It will have an attractive look and feel in accordance with the style and design concepts accompanying this application and in a character consistent with nearby properties. No significant noise is anticipated as the retail portion is not anticipated to have any form of late hours, but to the extent any exists it will be mitigated by an eight-foot brick wall and landscaping buffering it from the single family residential properties. Lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines. Loading and delivery will be located and/or screened so as to minimize impacts on nearby properties. Signage will be in conformance with the LDC.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

The application complies with the Intents and applicable Policies 2, 5, and 6 of this Guideline as follows.

This site represents a small expansion at a high-traffic location to accommodate a retail center in an area already adjacent to an activity center and the major arterial of Shelbyville Road. The location has good access to transportation and where nuisances and activities of the use will not adversely affect adjacent areas with the impact mitigation provided. This use reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this retail center.

GUIDELINE 7, 8 AND 9 – CIRCULATION, TRANSPORTATION FACILITY DESIGN AND BICYCLE, PEDESTRIAN AND TRANSIT

The application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 as follows.

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This site is located at the intersection of the major arterial of Shelbyville Road and Marshal Drive, which has adequate traffic-carrying capacity for business growth. The road systems are adequate for this site and they address the issues on the DDDP accompanying this application. The DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines and provide adequate bicycle and pedestrian access to the adjoining residential areas. The DDDP must receive the preliminary stamp of approval from these agencies prior to public review.

GUIDELINES 10 - FLOODING AND STORMWATER

The application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline as follows.

MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off, all of which is addressed by this DDDP. Underground "honeycomb" water storage will be utilized on the site for detainage and MSD's preliminary stamp of approval will be required on the DDDP prior to public review.

GUIDELINE 11 – WATER QUALITY

The application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline as follows.

MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality. Construction plans for this center will require compliance with these regulations prior to obtaining building permits.

GUIDELINE 12 – AIR QUALITY

The application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline as follows.

As to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in and near an existing activity center.

GUIDELINE 13 – LANDSCAPE CHARACTER

The application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline as follows.

As the concept landscape plan will be included in the eventual landscape plan filed with DPDS post zoning approval, that this site will not just comply with, but rather exceed, LDC landscape requirements. And as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required.

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GUIDELINE 14 – INFRASTRUCTURE

The application complies with the Intents and applicable Policies 2, 3, 4, 6 and 7 of this Guideline as follows.

This DDDP will have underground storm water detainage, access to water and utilities already existing along Shelbyville Road, and will retain the utility easements to provide access for repair and maintenance.

* * *

For all of these and other reasons set forth on the Detailed District Development Plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

BARDENWERPER, TALBOTT & ROBERTS, PLLC
Bardenwerper Talbott & Roberts, PLLC
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223
(502) 426-6688

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Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of: Section 5.1.12.B.2.e to allow the development to encroach into the front and street side yard setback

1. The variance will not adversely affect the public health, safety or welfare because this trade-off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant. The applicant is going to construct an 8-foot brick wall to match the wall across Marshall Dr. at the new BMW site, along with providing matching landscaping, to make the site and entrance into Beechwood Village onto Marshall Dr. symmetrical on both sides of the street. Further the variance for the street side (facing Shelbyville Road) will not have any negative affect because the variance needed is created by the property having a very large right-of-way along Shelbyville Rd., which is much larger than most of the commercial sites in this area. Allowing the variance will allow the applicant to greatly enhance the entrance to the City of Beechwood Village with matching buffering and landscaping, which ultimately is the intent of the regulation and to have symmetry and consistency in the plan. Without this variance, the applicant could not commit to the wall and as much screening and landscaping.
2. The variance will not alter the essential character of the general vicinity because there remains a significant setback along Marshall Drive and, because of special landscaping commitments to the City of Beechwood Village made by this applicant, and an attractive streetscape along Marshall Drive. The off-set of added setback for added screening and landscaping results in a positive net benefit for Beechwood Village residents.
3. The variance will not cause a hazard or a nuisance to the public because both the "excess" of the Marshall Drive right-of-way and most of this property's street side yard will be intensively and attractively landscaped outside with an 8 foot tall brick screening structure in order to provide an attractive Marshall Drive streetscape and to eliminate views from Marshall Drive of the single family homes into the site.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning

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regulations because the City of Beechwood Village has requested the screen and landscape buffer described above and on the exhibits presented with this application to the Planning Commission at LD&T and public hearing.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Marshall Drive at Shelbyville Road that is presently affected by the proposed development with variances for this heavily landscaped and screened area, which apart from this screening and landscaping proposal, is an open view of an existing, already zoned car sales lot. Also, the brick wall will be constructed to isolate the commercial property from the single-family residential properties, making it much more important to match the “infill” site to the other commercial properties along Shelbyville Road, rather than the single-family homes separated by the landscaping and brick wall.
2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant. Without this variance, the applicant could not commit to as much screening and landscaping.
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering requests by the City of Beechwood Village in order to fully mitigate any potential adverse impacts.

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Variance Justification:

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Variance of: Section 5.3.1.C.5, Table 5.3.2 to vary the Side and Street-side minimum setbacks

1. The variance will not adversely affect the public health, safety or welfare because this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant. The applicant is going to construct an 8-foot brick wall to match the wall across Marshall Dr. at the new BMW site, along with matching landscaping, to make the site and entrance onto Marshall Dr. symmetrical on both sides matching the BMW site across the street, and further to extend the brick wall on the rear of the site to mitigate any impacts and shield the single-family homes from the commercial site and activity on Shelbyville Road. Further the variance for the street side (facing Shelbyville Road) and rear of the site will not have any negative affect because the variance need is created by the property having a very large right-of-way along Shelbyville Rd., which is much larger than most of the commercial sites in this area and simply because of the extension of parking, which will be properly buffered with landscaping. Allowing the variance will permit the applicant to greatly enhance the entrance to the City of Beechwood Village with matching buffering and landscaping, and also to protect the single family homes from the activity on Shelbyville Road. Without this variance, the applicant could not commit to the wall and as much screening and landscaping.
2. The variance will not alter the essential character of the general vicinity because there remains a significant setback along Marshall Drive and, because of special landscaping commitments to the City of Beechwood Village made by this applicant, an attractive streetscape along Marshall Drive. The off-set of added setback for added screening and landscaping results in a positive net benefit for Beechwood Village residents.
3. The variance will not cause a hazard or a nuisance to the public because both the “excess” of the Marshall Drive right-of-way and most of this property’s street side yard will be intensively and attractively landscaped outside of an 8 foot tall screening structure in order to provide an attractive Marshall Drive streetscape and to eliminate views from Marshall Drive of the single family homes into the site.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the City of Beechwood Village has requested the screen and landscape buffer described above and on the exhibits presented with this application to the Planning Commission at LD&T and public hearing.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Marshall Drive at Shelbyville Road that is presently affected by the proposed development with variances for this heavily landscaped and screened area, which apart from this screening and landscaping proposal, is an open view of an existing, already zoned car sales lot.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant. Without this variance, the applicant could not commit to as much screening and landscaping.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering requests by the City of Beechwood Village in order to fully mitigate any potential adverse impacts.

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General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of LDC Section 10.2.4 to not encroach into the 25 foot LBA for the rear and east side of parking area.

Explanation of Waiver:

1. The partial waiver for the 25' perimeter LBA along the rear and east side of the site for parking spaces should be granted as they will not adversely affect the adjacent property owners. An 8 foot brick wall is being constructed along the rear of the site, as requested by the City of Beechwood Village, mitigating any impacts to the rear and the waiver along the east side of the site for parking is to allow a building currently on the site to be removed, again mitigating any impacts. Additionally, trees and landscape buffering will be used to further mitigate any impacts.
2. The requested waivers will not violate the Comprehensive Plan for all the reasons set forth in the detailed Statement of Compliance, and also because all impacts are either mitigated or reduced by the construction of the 8 foot brick wall, the landscape buffering being utilized, and the removal of the building on the east side of the property for additional parking.
3. The extent of waivers of the regulations is the minimum necessary to afford relief to the applicant because the large right of way off of Shelbyville Road pushing the site further back and because of the effort to move the infill building as far away from the apartments on the east side and to still protect and buffer the other properties with the construction of the brick wall.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the efforts to accommodate the neighbors' request for the wall and to also keep the building as far away from the apartments which are not behind the wall causes the need for the parking to encroach into the landscape buffer otherwise required.

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General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 5.5.2 to omit the requirement for principal buildings and building entrances on a site to have entrances and glazing, display windows or widow views into the business.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners, but will rather benefit the adjacent residential property owners, because this location is situated at a corner with two public streets, the major arterial of Shelbyville Road and the neighborhood entrance of Marshall Drive, both having markedly different characteristics and purposes. The waiver from Section 5.5.2 is sought only for the side of the building facing Marshall Drive purposefully to create a park-like setting at the entrance to the neighborhood, mimicking the development approved for the opposite side of Marshall Drive, with sidewalks, trees, benches and a brick wall-like facade, again with the intention of buffering and shielding the residential uses from the commercial activity. The side of the building facing Shelbyville Road will comply with the window and glazing requirements as is intended. The purposes of this waiver is being requested to mitigate the impacts of the commercial activity from the neighborhood and adjacent residences, while at the same time greatly improving the entrance to the neighborhood along Marshall Drive.

2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application. The waiver complies with Compatibility Guideline 3 and all applicable Intents thereunder and specifically Policies 3.3, 3.8, 3.9, 3.21, and 3.22 because the most important value that the development should advance is to maintain compatibility with and reduce impacts to the adjacent neighborhood and to provide appropriate transitions between the residential and commercial uses, which is effectively done by allowing the park-like setting, without windows and glazing, along Marshall Drive.

3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant to accommodate and satisfy specific requests from Beechwood Village residents, preserving and improving the neighborhood setting along Marshall Drive, while at the same time providing a focal point and visual interest for the commercial use along the more heavily

travelled arterial of Shelbyville Road.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant and surrounding residential property owners because it would not allow the compensating factors to be incorporated into the development site to transition and reduce impacts between the differing property uses.

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