

Board of Zoning Adjustment Staff Report

July 16, 2018



Case No:	18DEVPLAN1046
Project Name:	Pilot Bulk DEF Facility
Location:	2326 Ralph Ave.
Owner(s):	Pilot Travel Centers LLC.
Applicant/ Representative(s):	Quincy Curtis – Core States Group
Project Area/Size:	2.40 acres (104,544 sq. ft.)
Zoning:	EZ-1
Form District:	Traditional Workplace
Jurisdiction:	City of Shively, KY
Council District:	3 – Mary Woolridge
Case Manager:	Ross Allen – Planner I

REQUEST(S)

- Request Approval of **Variance** from (Shively, KY) LDC 5.2.5.C.4.a to allow the proposed 1-story (27 ft. $\frac{3}{4}$ in.) to exceed the 25 ft. maximum front setback at its farthest point by approximately 155 ft. south of the property line along Ralph Ave.

Location	Requirement	Request	Variance
Front Setback (maximum allowed)	25 ft.	180 ft.	155 ft.

- Request Approval of a **Waiver #1** from (Shively, KY) LDC 5.8.1.B/5.9.2.A.1.b.i to not provide a sidewalk along the Ralph Ave. frontage for an approximate distance of 566 ft. and to not provide a clearly defined safe pedestrian access from the Ralph Ave. right of way to the non-residential building entrances.
- Request Approval of a **Waiver #2** from (Shively, KY) LDC 5.5.1.3.a to allow the parking/maneuvering area to be within the front setback and located closer to the right of way than the principal structure.

CASE SUMMARY/BACKGROUND

The subject site is a triangular paved and concreted EZ-1 zoned parcel located approximately 1,700 feet west of Dixie Highway on the south side of Ralph Ave. in southwestern Jefferson County. The site is currently vacant having a loading ramp as found on the southern property line closest to existing train tracks. The site is bounded by Ralph Ave. to the north, railroad tracks to the south, and another EZ-1 zoned parcel to the east, with Mr. Roof Louisville occupying that parcel. Both the subject site and the eastern parcel, Mr. Roof Louisville, share a common enclosure, six ft. to eight ft. tall along the Ralph Ave. frontage.

The owner intends to construct a 9,625 sq. ft. (175 ft. by 55 ft.); one story (27 ft. $\frac{3}{4}$ in.) Diesel Exhaust Fluid (DEF) storage and distribution facility with a 5 ft. setback from the rear property line adjacent to the railroad tracks, a 134 ft. setback from the eastern property line, and a 180 ft. setback, at the farthest point of the proposed structure, from the front property line on the 2.4 acre site. The proposed structure having a setback of 180 ft. exceeds the 25 ft. maximum setback, as allowed by Shively, KY LDC within the Traditional

Workplace Form District, resulting in a variance. The applicant will also require two waivers, the first waiver to not provide a sidewalk along the Ralph Ave. frontage and a second waiver to allow the vehicular maneuvering area to be located to the front of the proposed structure and within the 25 ft. maximum setback along Ralph Ave. The existing 129 ft. wide ingress/egress is found in the northwestern corner of the parcel along Ralph Ave. and will remain in that location. East of the ingress/egress there is a 465 ft. long by 12 ft. wide verge along Ralph Ave. that the applicant plans to use as a Landscape Buffer Area (LBA) for screening the Vehicular Use Area (VUA) from Ralph Ave. Additionally, the owner intends to propose a 148.8 ft. long by 8.37 ft. wide LBA along the eastern property line extending to another entrance which allows access between the eastern parcel and the subject site. Staff is unsure as to whether a cross access agreement is in place to allow either Mr. Roof Louisville or Pilot Travel Centers to traverse across separate property.

Related Cases: None on the subject site as located at 2326 Ralph Ave.

STAFF FINDING / RECOMMENDATION

- **Recommendation to the City of Shively, KY to Approve/Deny the proposed Category 2B Development Plan.**
- **Variance** from (Shively, KY) LDC 5.2.5.C.4.a to allow the proposed one story (27 ft. $\frac{3}{4}$ in.) to exceed the 25 ft. maximum front setback at its farthest point by approximately 155 ft. south of the property line along Ralph Ave. Existing docks run parallel to the train tracks along the southern property line and are pre-existing with the applicant/owner locating the proposed structure parallel to the train tracks for delivery and distribution purposes as associated with the DEF Storage Facility.
- **Waiver #1** from (Shively, KY) LDC 5.8.1.B/5.9.2.A.1.b.i to not provide a sidewalk along the Ralph Ave. frontage for an approximate distance of 566 ft. and to not provide a clearly defined safe pedestrian access from the Ralph Ave. right of way to the non-residential building entrances. The subject site and surrounding area are of an industrial nature with large vehicles/trucks maneuvering along Ralph Ave. The property owner would forgo the VUA LBA if required to provide a sidewalk. Additionally, sidewalks are not present from the intersection of Dixie Hwy and Ralph Ave. along the northern or southern side and a generally not found in the vicinity.
- **Waiver #2** from (Shively, KY) LDC 5.5.1.3.a to allow the parking/maneuvering area to be within the front setback and located closer to the right of way than the principal structure. Existing docks run parallel to the train tracks along the southern property line and are pre-existing with the applicant/owner locating the proposed structure parallel to the train tracks for delivery and distribution purposes taking place to the front of the structure facing Ralph Ave. Parking and or Vehicular maneuvering areas are not uncommon to the front of existing structures in the general vicinity.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<u>Subject Property</u>			
Existing	Commercial – vacant	EZ-1	Traditional Workplace
Proposed	Commercial – Industrial, Storage/Distribution Center	EZ-1	Traditional Workplace
<u>Surrounding Properties</u>			
North	Industrial / Commercial	EZ-1	Traditional Workplace
South	RR ROW and Industrial	EZ-1	Traditional Workplace
East	Commercial – Mr. Roof Louisville	EZ-1	Traditional Workplace
West	Residential / Industrial / Commercial	EZ-1, M-2, CM	Traditional Workplace

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily stamped the development plan.

INTERESTED PARTY COMMENTS

Staff has not received any comments from interested parties.

APPLICABLE PLANS AND POLICIES

Land Development Code (LDC August 2017a)
Comprehensive Plan (Cornerstone 2020)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from (Shively, KY) LDC 5.2.5.C.4.a to allow the proposed 1-story (27 ft. $\frac{3}{4}$ in.) to exceed the 25 ft. maximum front setback at its farthest point by approximately 155 ft. south of the property line along Ralph Ave.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The applicant has stated that “there will be no known adverse effects to health, safety, or welfare.” Many structures along Ralph Ave. within the Traditional Workplace Form District exceed the maximum setback with one exception the Kellogg Plant as located at 2287 Ralph Ave. is approximately 18 feet from the right of way line which is within the maximum setback as allowed by Shively, KY LDC. The occurrence of not being within the maximum setback along this portion of Ralph Ave. is a normal occurrence rather than an exception to the LDC. The subject site is gated which may be addressed with the City of Shively, KY Fire Dept.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The applicant has stated, “The area is industrial and directly across the street is an industrial building that is setback approximately 80 feet from the street with parking in front of it.” The applicant is correct in that directly north of the subject site across Ralph Ave. Continuum Transportation, a trucking company, has an existing structure which sets back approximately 62 ft. from the right of way line and does have employee/visitor parking along the frontage within the 25 ft. maximum setback and being on an EZ-1 zoned parcel within the Traditional Workplace Form District. The applicant’s request to exceed the maximum setback is not out of character within the general vicinity.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states, “The variance would not cause any known hazards or nuisances to the public.” The entrance to the site is located in the northwestern corner of the parcel and provides a depth of approximately 96.4 ft. allowing for any semi-tractor trailers the ability to traverse across the un-signalized rail road tracks and enter the main gated entrance from an eastern or western travelling direction along Ralph Ave.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states “the building location along the existing rail line is essential to the operation of the facility.” Staff finds that the variance to exceed the maximum setback allows the proposal to utilize the existing infrastructure on site, namely the railroad tracks which are parallel along the rear of the property.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone.

STAFF: The applicant states "The building location along the existing rail line is essential to the operation of the facility. The operation requires offloading liquids from the rail line directly into the building and then offloading into tanker trucks. This site was chosen for its rail line access."

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 and create an unnecessary hardship on the applicant because "without the building located along the rail line, it would not be serviceable for the intended use."

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: No, 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 applicant needs immediate access to the rail line, but does not need a building that would be large enough to extend to the required setback requirements." The maximum setback would require that the applicant place the proposed building closer to Ralph Ave. and restrict the ability of the applicant to use the existing dock as found along the rear of the parcel being closer to the rail lines.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1 from (Shively, KY) LDC 5.8.1.B/5.9.2.A.1.b.i to not provide a sidewalk along the Ralph Ave. frontage for an approximate distance of 566 ft. and to not provide a clearly defined safe pedestrian access from the Ralph Ave. right of way to the non-residential building entrances.

- (a) How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?

STAFF: The waiver will not adversely affect adjacent property owners as the applicant states "There is not another sidewalk within half a mile of the property, and this property is located within a predominantly industrial area with little to no foot traffic. This does not violate the Comprehensive plan or LDC in comparison to adjacent and other surrounding properties."

- (b) Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The applicant states "there is not another sidewalk within half a mile of the property and this property is located within a predominantly industrial area with little to no foot traffic." The subject site is located 1,700 ft. west from Dixie Highway along Ralph Ave. Moving west from Dixie Hwy. there are R-7 zoned

parcels with multi-family dwellings bounded by M-1 zoned parcels to the west as adjacent to the EZ-1 zoned parcels. The R-7 zoned parcels in particular may be accessed from Dixie Hwy via Clinton Place or Gillette Ave leading to Ramsey Ave. but Ralph Ave. is the most direct route to the multi-family dwellings but is approximately 600 ft. farther east on Ralph Ave. Last, the site is enclosed with a six ft. – eight ft. fence restricting the access to the proposed structure from the right of way and as proposed has a large vehicular maneuvering area between the right of way and the proposed structure.

(c) What impacts will granting of the waiver have on adjacent property owners?

STAFF: The applicant states “there will be no impact to adjacent property owners.” The subject site is bounded on the north by EZ-1 zoned parcels used by Continuum Transportation for trucking transportation/logistics and the Kellogg Company, directly to the east by Mr. Roof Louisville (sharing the same enclosed fence as the subject site) and to the south by rail road tracks. If the applicant were required to provide a sidewalk then a dedication of right of way would need to be dedicated along with a reduction of approximately five ft. of the existing 13 ft. green verge along the subject site frontage reducing the vehicular use area landscaping buffer area (VUA LBA) to approximately 8 ft.

(d) Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

STAFF: The applicant has stated in the justification “without the building located along the rail line, it would not be serviceable for the intended use.” A vast majority of the site is existing conditions with the exception of the proposed DEF Storage Facility found along the rear parcel line along the railroad tracks. If the applicant were required to provide a sidewalk then a dedication of right of way would need to be dedicated along with a reduction of approximately five ft. of the existing 13 ft. green verge along the subject site frontage reducing the vehicular use area landscaping buffer area (VUA LBA) to approximately eight ft. Additionally, the closest residential, R-7 multi-family dwellings, are approximately 588 ft. east (towards Dixie Hwy.) of the subject site along Ralph Ave. with R-5 residentially zoned parcels being to the west of the subject site by approximately 1,228 ft.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2 from (Shively, KY) LDC 5.5.1.3.a to allow the parking/maneuvering area to be within the front setback and located closer to the right of way than the principal structure.

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

STAFF: The applicant states “there will be no adverse effects to adjacent property owners.”

(b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The subject site is similar in character to the surrounding structures in the general vicinity having parking/maneuvering areas to the front of the structures.

Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. The subject site in this instance is a triangular lot with existing infrastructure on the site which the applicant intends to use in the proposal. The proposed building height, 27 ft. $\frac{3}{4}$ in., is less than the permissible height, 45 ft., as allowed by the Traditional Workplace form district. Therefore, the requested waiver will not violate

specific guidelines and policies of Cornerstone 2020. The applicant has stated “ther will be no known violations to the comprehensive plan.”

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The applicant states “sine the building is required to be adjacent to the rail line the loading docks (trucks) must be located in the front of the building. Trucks will park along the front of the building and use an exterior pipe connection to load or unload fluids. The overhead doors are not used for regular loading or unloading of supplies but only occasionally and for maintenance.” Staff finds that as a result of the lot shape, triangular, and the existing docks as adjacent to the rail line and to be re-used in the proposal results in the building being setback farther than would be allowed in the form district and/or zoning type. However, the general vicinity other existing structures have setbacks that exceed the maximum allowed and parking/maneuvering to the front of the existing structures as found in the general vicinity.

- (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 applicant states, “Without the building located along the rail line it would not be serviceable for the intended use.” The applicant has stated in many instances of the justification that the access to the rail lines is paramount for the intended DEF Storage Facility. The Rail lines are found along the rear of the lot/parcel and result in existing infrastructure on the subject site being re-used/repurposed for the receipt of DEF and storage/distribution.

REQUIRED ACTIONS

Approve/Deny the proposed Category 2B Development Plan as a recommendation to the City of Shively, KY.

Approve/Deny Variance from (Shively, KY) LDC 5.2.5.C.4.a to allow the proposed 1-story (27 ft. $\frac{3}{4}$ in.) to exceed the 25 ft. maximum front setback at its farthest point by approximately 155 ft. south of the property line along Ralph Ave.

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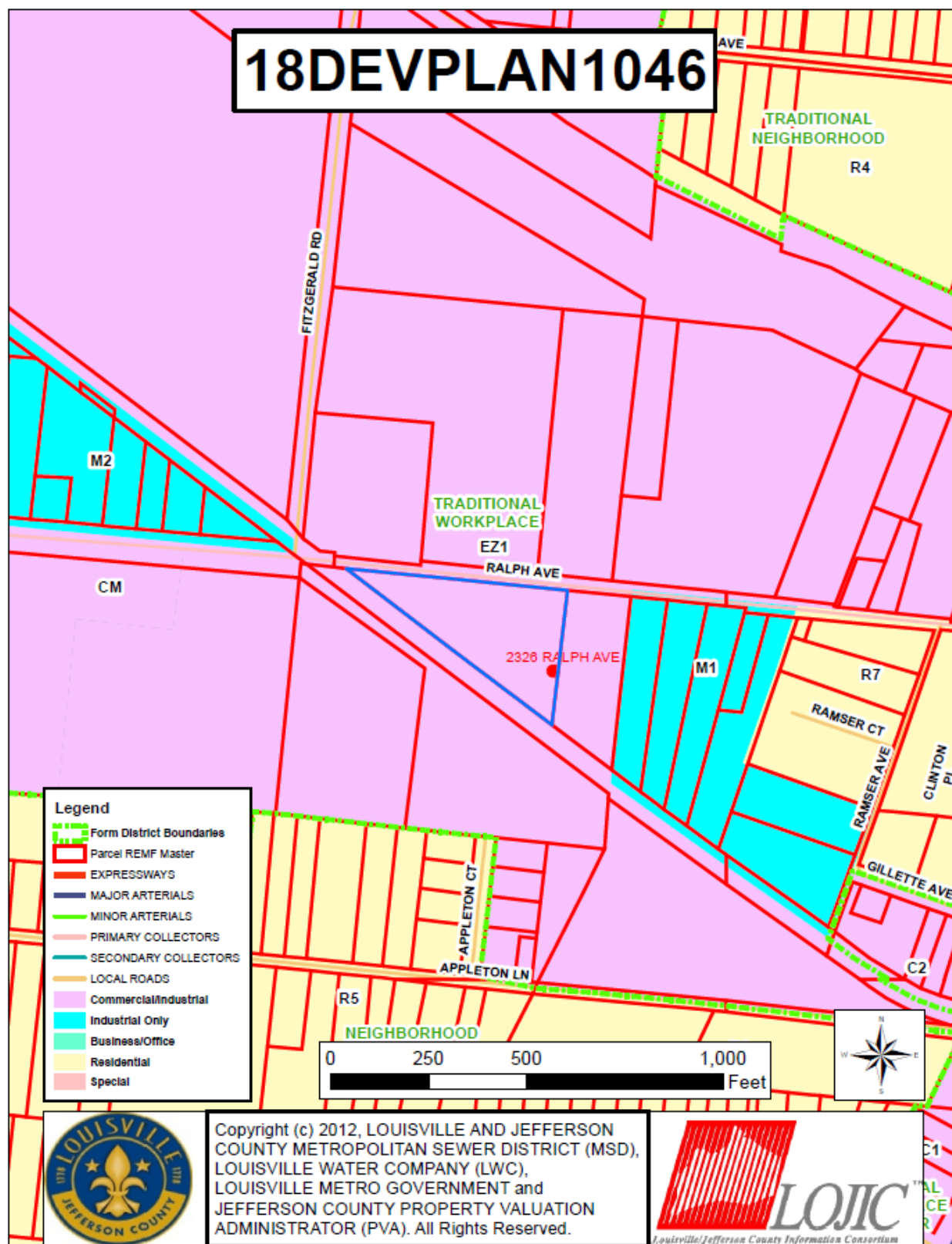
NOTIFICATION

Date	Purpose of Notice	Recipients
June 29, 2018	Posting of Variance Sign	Subject property located at 2326 Ralph Ave.
July 16, 2018	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 3 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

