

**Board of Zoning Adjustment**  
**Staff Report**  
July 24, 2017



<b>Case No:</b>	17VARIANCE1036
<b>Project Name:</b>	700 Central Ave.
<b>Location:</b>	700 Central Ave.
<b>Owners:</b>	Louisville / Jefferson County Metro Gov.; Churchill Downs, Inc.; AQ Properties, LLC
<b>Applicant:</b>	Ryan Jordan, Churchill Downs, Inc.
<b>Representative:</b>	Jon Baker, Wyatt, Tarrant & Combs, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	15—Marianne Butler
<b>Case Manager:</b>	Brian Mabry, AICP, Planning Supervisor

**REQUEST**

- **Variance** from LDC Section 4.4.3.A.1.a.i to allow fencing in the street side yard setback to exceed 42 inches in the Traditional Neighborhood form district and 48 inches in the Campus form district

Location	Requirement	Request	Variance
Fence in street side yard setback			
Traditional Neighborhood	42"	96"	54"
Campus	48"	96"	48"

- **Waiver** from LDC Section 10.2.12.B to allow more than 20 parking spaces between required Interior Landscape Areas

**CASE SUMMARY**

The applicant proposes to expand on the Churchill Downs facility with interior landscape islands and 4,350 parking spaces on approximately 37 acres of existing parking, vacant land, and existing structures immediately west of the race track. In addition, the proposal includes installing a fence along the western perimeter of the expansion. The applicant requests a variance because the height of the fence exceeds the maximum allowed fence height in a street side yard setback for the Campus and Traditional Neighborhood form districts. The applicant seeks a waiver because the existing and proposed parking area does not fully comply with the Interior Landscape Area (ILA) provisions of the LDC.

**STAFF FINDING**

Staff finds that the requested variance and waiver are adequately justified and meet the standard of review. If the BOZA approves the requested variance and waiver, such approval should be conditioned upon approval of case 17STREETS1012.

Based upon the information in the staff report, and 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 LDC from Section 4.4.3.A.1.a.i to allow fencing in the street side yard setback to exceed the maximum allowed height and for granting a waiver from Section 10.2.12.B to allow more than 20 parking spaces between required interior landscape areas.

## **BACKGROUND**

The area of the proposed expansion is bounded to the north by Central Avenue and to the south by Longfield Avenue. To the east is the racetrack, museum and other facilities associated with Churchill Downs. The expansion area is abutted to the west by mostly single-family residences along with various other uses, including, but not limited to, vacant, fuel sales, a religious building and retail.

An eight-foot tall fence is already in place adjacent to a portion of Longfield and Wizard Avenues. New fencing is proposed adjacent to Wizard, Queen, Warren, Thornberry, Bohannon and Central Avenues, Taylor Boulevard, and a proposed alley running partially between Bohannon Avenue and Taylor Boulevard. The existing fence is approximately 254 linear feet. The new proposed fencing is approximately 1,127 total linear feet. The existing and proposed fencing is eight feet in height and consists of black aluminum pickets.

Most of the existing and proposed parking area does not comply with the Landscape Buffer Area (LBA) spacing requirements of Section 10.2.12.B. A maximum of 20 spaces is required in any parking bay between any LBAs. The largest expanse of parking spaces with no interrupting ILAs on the site plan is at the south side of the existing parking area, where 111 spaces extend without ILAs. More typical on the plan, however, are expanses of 24 to 58 parking spaces without ILAs, and they are located on the north end of the subject area.

There have been several expansions at Churchill Downs over the years, including but not limited to the following more recent cases.

- 13DEVPLAN1028 – On September 9, 2013, the BOZA approved an expansion of nonconforming use rights including a rooftop garden, food court, and bar.
- 13VARIANCE1057- On December 13, 2013, the BOZA approved a variance to permit an LED video board to exceed the maximum height
- 14MOD1015 – On December 1, 2014, the BOZA approved an expansion of nonconforming use rights including 20 new owner suites.
- 17DEVPLAN1001 – On January 23, 2017, the BOZA approved an expansion of nonconforming use to construct a 3-story, 60,000 square-foot addition at the north end of facility.
- 17STREETS1012 - Request for street/alley closure for portions of Racine Ave, Homeview Dr, S 9th St, and two unnamed alleys on the western side of 700 Central Ave. This request is currently under review and will go to Metro Council for final decision.

## **TECHNICAL REVIEW**

- No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 4.4.3.A.1.a.i**

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

STAFF: The fence is proposed to improve the safety of the area and those who patronize Churchill Downs.

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

STAFF: The fence will improve the aesthetics of the general vicinity and any alteration of the general vicinity's character will be for the better.

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

STAFF: The placement and design of the fence does not appear to obstruct vision clearance at public street intersections. The spacing of the pickets of the fence are wide enough to not obstruct vision. Moreover, at the acute intersection of Thornberry Avenue and Bohannon Avenue, the proposed fence is setback from where the rights-of-way converge in order to provide additional clearance.

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

STAFF: A purpose of the fence is to increase safety and security for the racing facility and its patrons rather than to circumvent the zoning regulations in a way contrary to the purposes of such regulations.

#### **ADDITIONAL CONSIDERATIONS:**

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

STAFF: The facility is the only one in its general vicinity that attracts persons on a worldwide scale and warrants enhanced security measures.

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 inability to have enhanced security in the form of the fence would be detrimental to the operation of this world class facility.

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: Maximum fence height provisions for street side yard setbacks have been in place in the Land Development Code, or its predecessors, since at least 1987. The applicant's purchasing activity of the expansion area has taken place as recently as 2007.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The interior landscape areas are internal to the proposed development site, and not located along the perimeter of the development site where it is possible that a lack of landscaped areas could negatively affect abutting property owners.

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

STAFF: Cornerstone 2020, Guideline 13, Policy A, Tree Canopy, calls for the creation and/or preservation of tree canopy as a valuable community resource. The applicants request the waiver not in order to provide no tree canopy, but instead to provide a reduced amount over an expansive area to be redeveloped.

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

STAFF: The applicant proposes to provide ILAs on this redeveloped site, but not with the spacing frequency required by Chapter 10 of the LDC. In fact, the square footage of proposed ILAs exceed the required square footage of ILAs established in Chapter 10.

- (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 has incorporated other design measure that exceed the minimums of Chapter 10 of the LDC in that the proposal, which does not trigger tree canopy requirements, exceeds such requirements. In addition, the square footage of proposed ILAs exceed the required square footage of ILAs established in the Chapter 10.

## **NOTIFICATION**

Date	Purpose of Notice	Recipients
07/07/2017	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9
07/07/2017	Hearing before BOZA	Notice posted on property

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos
5. Recommended Condition of Approval

17NONCONFORM1020 / 17VARIANCE 1036

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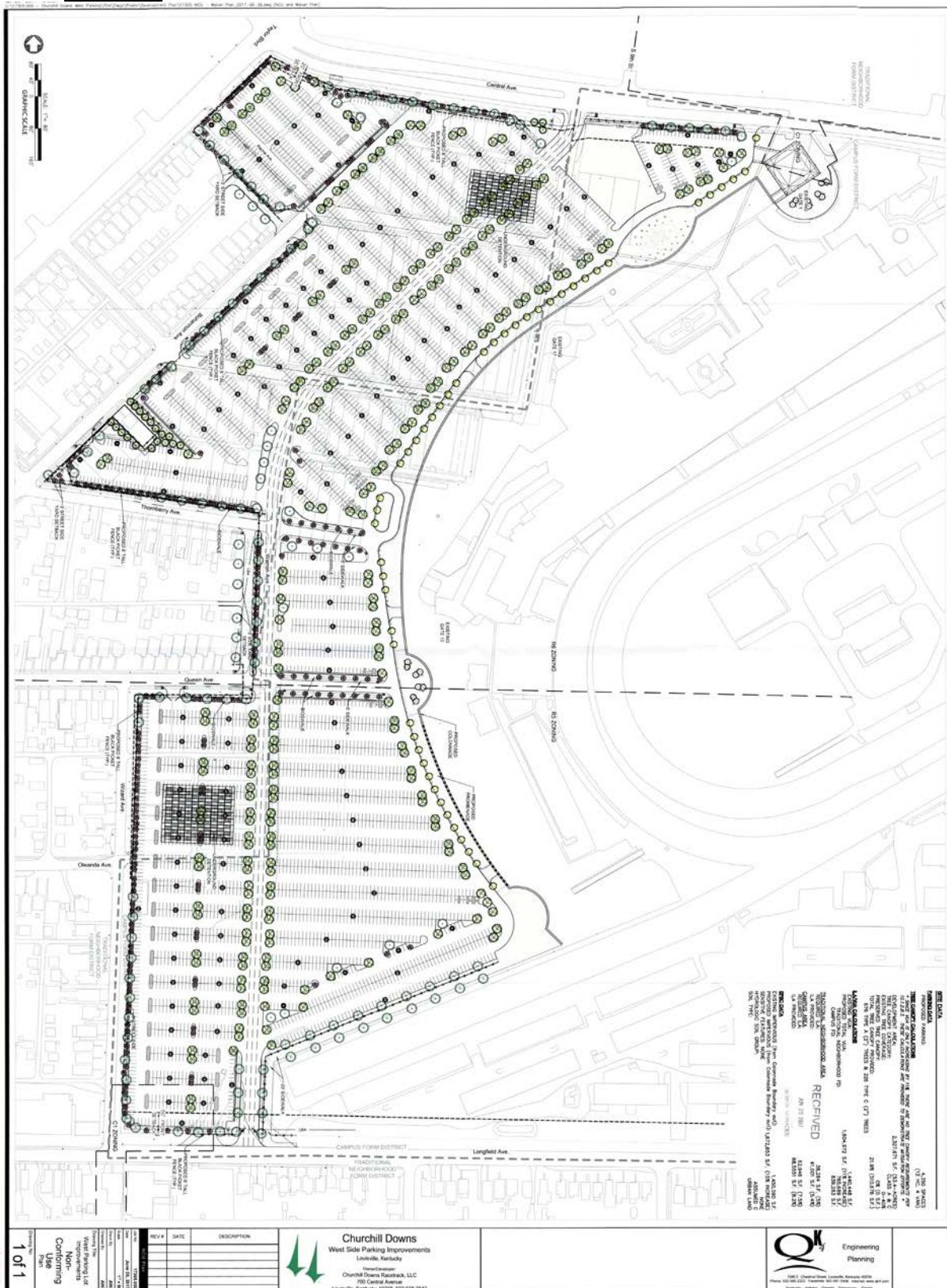
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0 400  
\* Distance are in feet

Plot Date 7/3/2017

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### 3. Site Plan



4. **Site Photos**



Existing 8' metal picket fence at Wizard Avenue and Longfield Avenue



Typical existing parking area to be redeveloped as new parking at Warren and Thornberry



Typical residential block across from proposed expansion along Bohannon Avenue



Intersection of Bohannon and Homeview looking toward Churchill Downs

**5. Recommended Condition of Approval**

1. Approval of 17VARIANCE1036 is conditioned upon final approval of case 17STREETS1012.