

**MEMPHIS AND SHELBY COUNTY OFFICE OF PLANNING AND DEVELOPMENT
STAFF REPORT #**

CASE NUMBER: BOA 14-20 **B.O.A. MEETING:** May 28, 2014

DEVELOPMENT NAME: 3664 Spottswood BOA

LOCATION: 3664 Spottswood Avenue

OWNER OF RECORD/APPLICANT: Alele Ayanru

REPRESENTATIVE: Robert Browne

REQUEST: To allow apartments within the CMU-1 which do not meet sections 3.10.2B (minimum lot size), 8.3.10E(2) (pervious surface), 3.10.2 (side setback) and 4.5.2C (parking in front yard setback).

AREA: .15 acres

EXISTING LAND USE & ZONING: Commercial Mixed Use (CMU-1)

OFFICE OF PLANNING AND DEVELOPMENT RECOMMENDATION

Rejection

Staff Planner: Calvin Abram

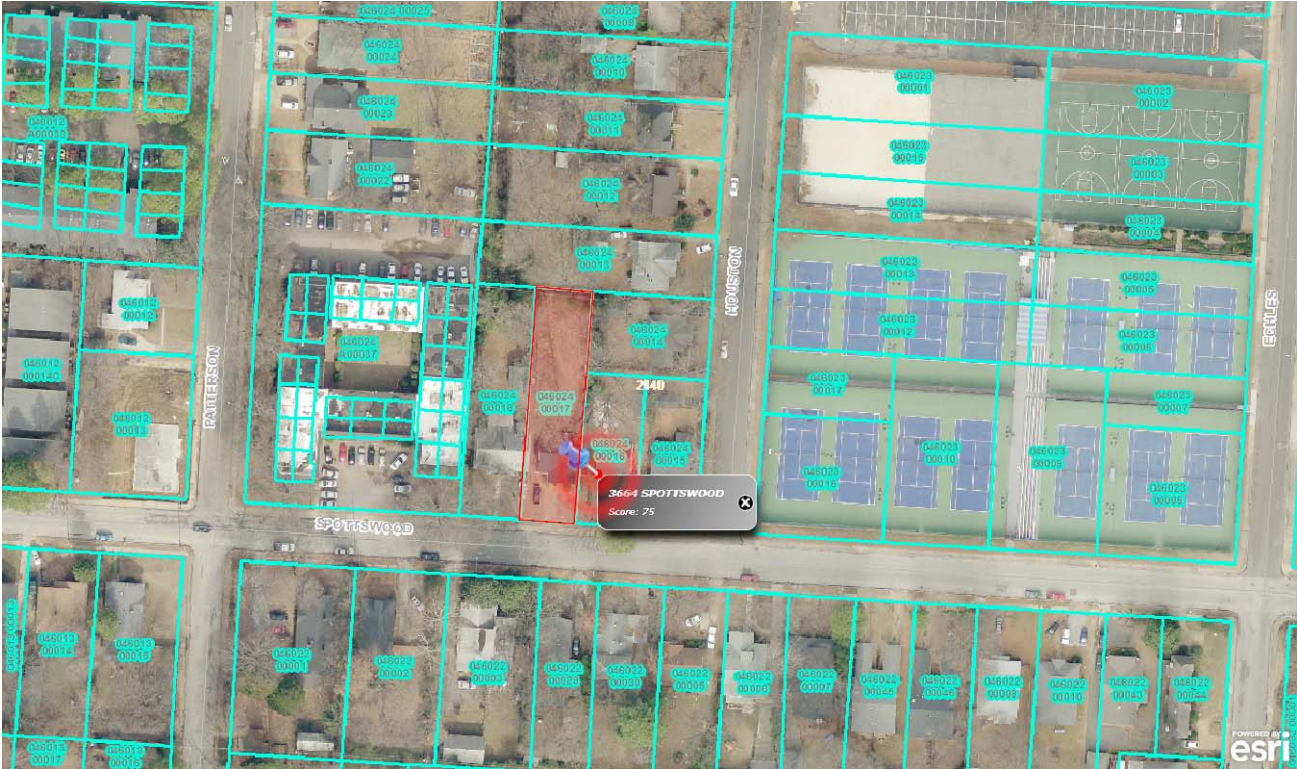
calvin.abram@memphistn.gov

CONCLUSIONS:

The applicant is requesting the following variances from the University District Overlay and the UDC: 1) Subsection 3.10.2B since the site fails to meet the minimum lot size of 10,000 square feet for an apartment in the CMU-1 zoning district, 2) subsection 8.3.10E(2) due to the crushed gravel in which the applicant is proposing to construct the parking surface, 3) section 3.10.2 because the site plan fails to meet the side yard setback of 10 feet and 4) subsection 4.5.2C since parking is not permitted in the required front setback.

Due to the surrounding single family homes, the applicant's ability to utilize the site as several businesses that would meet the intent of the UDC and the applicant failing to provide information that would support an impractical use of the property or a hardship that is not created by the applicant, the applicant does not display a hardship and the proposed plan will be inconsistent with the character and integrity of the community.

Aerial of Site



The subject site has frontage along Spottswood.

SURROUNDING LAND USES AND ZONING:

- North:** Single-family
- East:** CMP/Tennis courts
- South:** Single-family
- West:** Single-family

The commercial mixed use – 1 District is intended to provide for neighborhood serving commercial, office and employment uses. Residential uses are encouraged above the ground floor. Compatible nonresidential uses should be located within walking distance to the established residential neighborhoods they are designed to serve. Auto-oriented uses are not appropriate in this district. Typical retail uses vary from 1,000 to 15,000 square feet of ground floor area.

The applicant is requesting variances from the BOA being the subject property does not meet the intent of UDC Subsection 3.10.2B, since the site fails to meet the minimum lot size of 10,000 square feet for an apartment in the CMU-1 zoning district, subsection 8.3.11E(2), due to the crushed gravel in which the applicant is proposing to construct the parking surface with and section 3.10.2, because the site plan fails to meet the side yard setback of 10 feet and UDC subsection 4.5.2C, parking not permitted in the front setback.

Variances:

Minimum Lot Size:

The applicant is requesting to construct an apartment which would house four units totaling 10 bedrooms that will be approximately 3,288-square-feet. The existing lot is approximately 6,525 square feet; but, section 3.10.2 of the UDC requires a lot to consist of 10,000 square feet at minimum to construct an apartment within a CMU-1 zoning district. The primary structure is approximately 744-square-feet and the two-story addition as proposed potentially would encroach into the rear yard setback of the property and reduce the privacy the existing homes abutting the property are afforded to date.

Surface Parking Material:

The applicant proposes to provide a crushed gravel parking lot. As designed it would fail to be adequate for the site and not meet the acceptable materials used to construct a surface parking lot. All parking lots shall meet the design standards per the UDC and if a pervious material is preferred by the applicant, the material shall be similar to turf block or grasscrete. The existing site plan fails to allow adequate turning movements for two-way traffic and the 7-foot-wide drive aisles fail to meet the 10-foot-wide standard for drive aisles. The crushed gravel as proposed by the applicant fails to meet the approved materials to be used for a pervious surface.

Parking not permitted in the front yard setback:

The property located at 3664 Spottswood is located within the University District Overlay (UDO) and the overlay does not allow parking within its front yard setback. The property requires a 20-foot front setback and the applicant proposal fails to meet this requirement. The UDO does allow an exemption from the off-street parking requirements due to the high availability of the public transportation system; however, if the applicant chooses to provide parking to a site, it must meet the parking requirements as called out in Chapter 4.5 of the UDC. The applicant is proposing four units having a total of 10

bedrooms, when determining the necessary number of parking stalls required for this site, the applicant should provide six parking stalls. The applicant is proposing five parking stalls off-street and this would fail to meet the requirements of the UDC.





Property abuts
single family
residential



Apartment at
intersection of
Spottswood and
Patterson has 2
frontyards

STAFF ANALYSIS:

The proposal fails to meet the integrity and character of the surrounding land-uses. The proposal is not supported by the UDC Paragraphs 9.22.6A(2)

- Practical difficulties or undue hardship. By reason of the unusual characteristic found to apply in Paragraph 1, the strict application of any regulation found in this Code would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property;

RECOMMENDATION: Rejection

If the Board of Adjustment approves the application, Staff recommends the following conditions.

Conditions BOA14-20:

1. The applicant shall comply with the site plan and elevations as approved by OPD.
2. The applicant shall provide a landscape plan to OPD and comply with the plan.
3. The design and surface material of the parking lot shall comply with Chapter 4.5 of the UDC.
4. The applicant shall install a class III buffer at the sites east and west property line.
5. The applicant shall receive final approval for infrastructure improvements to the site from the City's Engineering Department.

GENERAL INFORMATION:

Street Frontage: Spottswood

Planning District: Memphis Midtown Development Dev

Zoning History: CMU-1

DEPARTMENTAL COMMENTS:

The following comments were provided by agencies to which this application was referred:

City Engineer: Comment received.

The City Engineer cannot adequately perform this variance review given the documents submitted and the lack of a legal survey. The proposed construction appears to abut public right of way and neighboring homes. There may be sewer and drainage lines in the construction area.

County Engineer: No comment received.

Memphis Fire Department: No comment received.

City Board of Education: No comment received.

OPD-Plans Development/Landmarks: No comment received.

OPD-Regional Services/Transportation: No comment received.

City Real Estate: No comment received.

OPD-Construction Code Enforcement: No comment received.

Memphis, Light, Gas & Water: Comment Received.

It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.

It is the responsibility of the owner/applicant to contact **TN-1-CALL @ 1.800.351.1111**, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.

It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.

It is the responsibility of the owner/applicant to comply with the **National Electric Safety Code (NESC)** and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.

Landscaping is prohibited within any MLGW easement or dedicated utility easement without prior MLGW approval.

It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.

o All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.

o All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.

It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

Memphis & Shelby County

Health Department:

No comments by the *Water Quality Branch & Septic Tank Program*.

Bell South/ATT:

No comment received.

MATA:

No comment received.

NEIGHBORHOOD ASSOCIATIONS NAMES: