

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

**CASE NUMBER:** BOA 14-20      **B.O.A. MEETING:** June 25, 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**

Approval with Conditions

Staff Planner: Calvin Abram

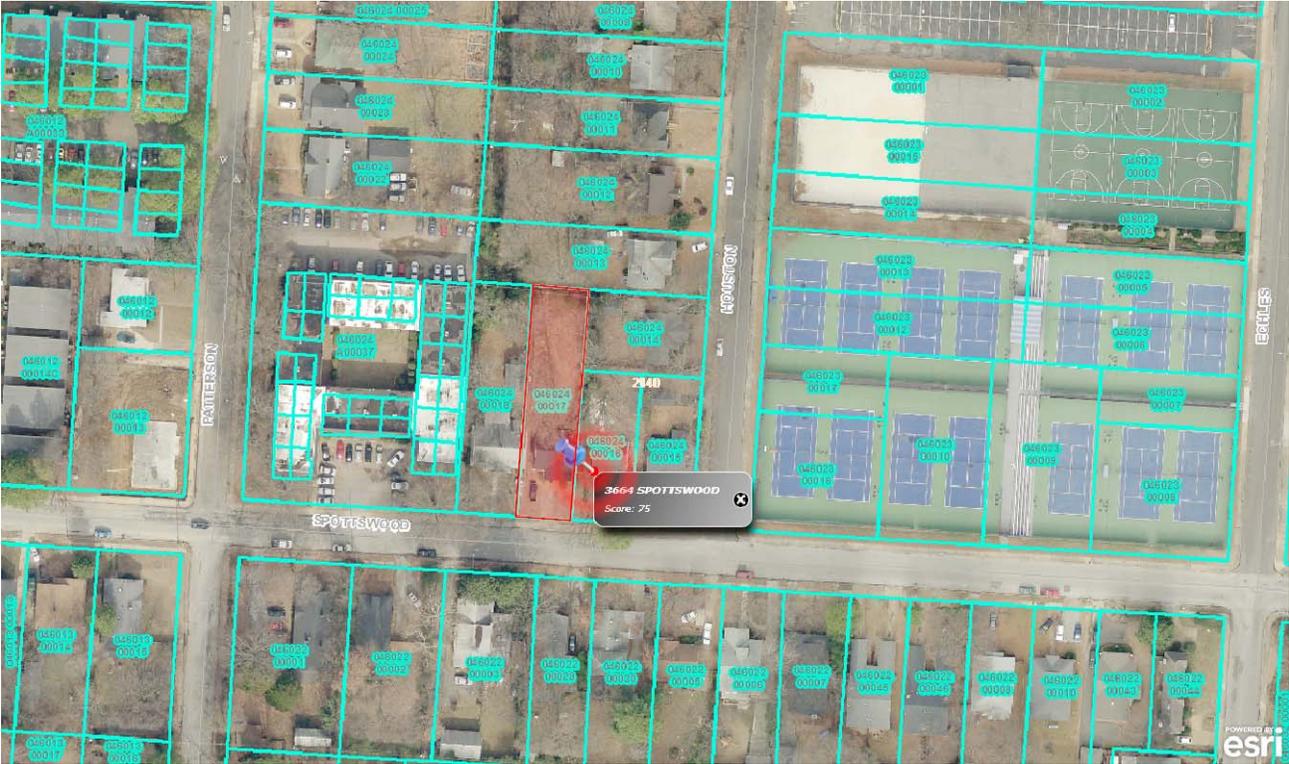
calvin.abram@memphistn.gov

**CONCLUSIONS:**

On May 28, 2014, the applicant was 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.

Since the May BOA, the applicant has submitted a proposal that is more aligned with the character and integrity of the community. The applicant decided to remove off-street parking to the site and is requesting a variance to allow a modified Class III buffer and additionally to allow an apartment on a lot less than 10,000 square-feet.

# 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 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.

**May 28, 2014 Variances requested:**

**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.

**June 25<sup>th</sup> Board of Adjustment Variances requested:**

**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.

**Variance from S-11 Streetscape Plate:**

Section 4.3.3 of the UDC identifies the S-11 streetscape plate to be constructed in front of properties zoned CMU-1. The surrounding community does not comply with the S-11 streetscape plate; therefore, OPD Staff recommends requiring the applicant to adhere to this portion of the UDC would not be consistent with the character of the surrounding community.

**Class III Buffer:**

Section 4.6.5 of the UDC identifies a Class III buffer shall be installed between an apartment zoned CMU-1 and a residential use property. The applicant is requesting a variance from this portion of the code to allow a modified Class II buffer. This buffer will have a varying width from six-feet on the property's western boundary to seven-feet on the northern and eastern boundaries. The applicant will install additional trees in the landscape buffer to allow the abutting residences the continued privacy of their property.

**Loading and Unloading:**

The applicant is requesting the continued use of the existing driveway to the property. The driveway will be brought to the City standards and will only be used to allow residents to move into and out of the apartment building and at no time shall it be used for parking to the site.





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: Approval with Conditions

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 prior to receiving a building permit and comply with the site plan as approved by OPD.
3. The applicant shall not install windows facing the apartment's northern, eastern or western sides. Sky lights shall be allowed above the second story of the apartment.
4. The applicant shall improve the existing driveway to be used for loading and unloading for the apartment building only. At no time shall overnight parking be allowed in the loading/unloading area for vehicles or storage.
5. The applicant shall install a modified class III type "B" buffer at the sites north, east and west property line. The buffer shall include a six-foot-height shadow boxed wooden fence (fencing shall not encroach into front yard), a six-foot-wide planting buffer on the sites western boundary, a seven-foot wide planting buffer on the eastern and northern boundaries. Each buffer shall be planted with more trees than the UDC calls for. The additional trees shall consist of trees which maintain year round foliage and a height that will afford abutting properties to maintain privacy.  
The City Engineer will require a full set of engineered plans, signed and sealed by a registered engineer in the State of Tennessee on this project.
6. No building permit shall be granted until a full set of engineered plans are approved by the City Engineer.
7. The City Engineer shall approve the design, number and location of curb cuts.
8. Standard Subdivision Contract may be required per Article 5.5.5 of the Unified Development Code.
9. City sanitary sewers are available at developer's expense.
10. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.

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11. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
12. The width of all existing public off-street easements shall be widened to meet current city standards.
13. Required landscaping shall not be placed on sewer or drainage easements.
14. Drainage improvements, including on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.
15. The following note shall be placed on the final plat of any development requiring on-site storm water detention facilities: The areas denoted by "Reserved for Storm Water Detention" shall not be used as a building site or filled without first obtaining written permission from the City and/or County Engineer. The storm water detention systems located in these areas, except for those parts located in a public drainage easement, shall be owned and maintained by the property owner and/or property owners' association. Such maintenance shall be performed so as to ensure that the system operates in accordance with the approved plan on file in the City and/or County Engineer's Office. Such maintenance shall include, but not be limited to removal of sedimentation, fallen objects, debris and trash, mowing, outlet cleaning, and repair of drainage structures.
16. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the site plan.

**GENERAL INFORMATION:**

**Street Frontage:** Spottswood

**Planning District:** Memphis Midtown Development Dev

**Zoning History:** CMU-1

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**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:**