



DEPARTMENT OF
 DEVELOPMENT

Zoning Report

Site Information

Address	4881 KINGSHILL DR
Mailing Address	1360 E 9TH ST STE 300 CLEVELAND OH 44114-1730
Owner	BANDERA CENTER COURT LLC
Parcel Number	010019053
In Columbus?	Yes
County	FRANKLIN

Zoning Information

Zoning	1253, Multi-family, AR1, 1/25/1965, H-35
Historic District	None
Short North Special Parking Area	Out
Council Variance	None
Board of Zoning Adjustment (BZA) Variance	None
Commercial Overlay	None
Planning Overlay	None
Graphics Variance	None
Area Commission	None
Historic Site	No
Flood Zone	Out
Airport Overlay Environs	None

Pending Zoning Action

Zoning	None
Board of Zoning Adjustment (BZA) Variance	None
Council Variance	None
Graphics Variance	None

THE CITY OF COLUMBUS

Board of Zoning Adjustment Application

DEPARTMENT OF BUILDING AND ZONING SERVICES

757 Carolyn Avenue, Columbus, Ohio 43224 Phone: 614-645-7433 • www.bzs.columbus.gov

OFFICE USE ONLY

Application Number: BZA17-123 Date Received: 10 Oct 2017
Application Accepted by: [Signature] Fee: \$1900
Commission/Civic: NORTHLAND AC
Existing Zoning:
Comments:

TYPE(S) OF ACTION REQUESTED (Check all that apply):

- X Variance Special Permit

Indicate what the proposal is and list applicable code sections:

3312.49 Minimum number of parking spaces required to reduce parking from 495 to 460

LOCATION

Certified Address: 4881 Kingshill Drive City: Columbus Zip: 43229

Parcel Number (only one required): 010-019053

APPLICANT (If different from Owner):

Applicant Name: LUMA Property Group Phone Number: 216-765-2600 Ext.:

Address: 25800 Science Park Drive, Suite 100 City/State: Beachwood, OH Zip: 44122

Email Address: dave@lumapg.com Fax Number:

PROPERTY OWNER(S) Check here if listing additional property owners on a separate page

Name: Bandera Center Court LLC Phone Number: Ext.:

Address: 1360 E. 9th Street, Suite 300 City/State: Cleveland, OH Zip: 44114

Email Address: Fax Number:

ATTORNEY / AGENT (Check one if applicable): X Attorney Agent

Name: Jeffrey L. Brown Phone Number: 614-221-2555 Ext.:

Address: 37 W. Broad St., Suite 460 City/State: Columbus, OH Zip: 43215

Email Address: jlbrown@smithandhale.com Fax Number:

SIGNATURES (All signatures must be provided and signed in blue ink)

APPLICANT SIGNATURE LUMA Property Group By: [Signature]

PROPERTY OWNER SIGNATURE Bandera Center Court LLC By: [Signature]

ATTORNEY / AGENT SIGNATURE [Signature]

PLEASE NOTE: Incomplete information will result in the rejection of this submittal. Applications must be submitted by appointment. Call 614-645-4522 to schedule.



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AFFIDAVIT

STATE OF OHIO
COUNTY OF FRANKLIN

Being first duly cautioned and sworn (1) NAME Jeffrey L. Brown c/o Smith & Hale LLC
of (1) MAILING ADDRESS 37 W. Broad St., Columbus, OH 43215

deposes and states that (he/she) is the applicant, agent, or duly authorized attorney for same and the following is a list of the name(s) and mailing address(es) of all the owners of record of the property located at
(2) per ADDRESS CARD FOR PROPERTY 4881 Kingshill Dr.
for which application for a rezoning, variance, special permit or graphics plan was filed with the Department of Building and Zoning Services, on (3)

(THIS LINE TO BE FILLED OUT BY CITY STAFF)

SUBJECT PROPERTY OWNERS NAME AND MAILING ADDRESS (4) Bandera Center Court LLC
1360 E. 9th St., Suite 300
Cleveland, OH 44122

APPLICANT'S NAME AND PHONE # (same as listed on front application) LUMA Property Group
216-765-2600

AREA COMMISSION OR CIVIC GROUP OR CONTACT PERSON AND ADDRESS (5) Northland Community Council
Attn: Dave Paul
PO Box 297386
Columbus, OH 43229

and that the following is a list of the names and complete mailing addresses, including zip codes, as shown on the County Auditor's Current Tax List or the County Treasurer's Mailing List, of all the owners of record of property within 125 feet of the exterior boundaries of the property for which the application was filed, and all of the owners of any property within 125 feet of the applicant's or owner's property in the event the applicant or the property owner owns the property contiguous to the subject property:

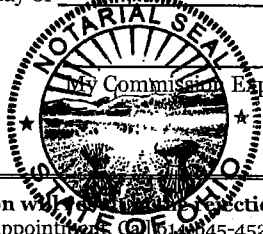
Table with 3 columns: (6) PROPERTY OWNER NAME, (6a) PROPERTY ADDRESS, (6b) PROPERTY OWNER MAILING ADDRESS. Includes multiple empty rows for listing owners.

(7) Check here if listing additional property owners on a separate page.

(8) SIGNATURE OF AFFIANT [Handwritten Signature]

Sworn to before me and signed in my presence this 9th day of October, in the year 2017

(8) SIGNATURE OF NOTARY PUBLIC [Handwritten Signature]



Notary Seal Here
Jackson B. Reynolds, III, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

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Please make checks payable to the Columbus City Treasurer

BZA17-123
4881 KINGSHILL DRIVE

OWNER

Bandera Court Center, LLC
26949 Chagrin Blvd.
Floor 203
Beachwood, OH 44122

APPLICANT

LUMA Property Group
25800 Science Park Drive
Beachwood, OH 44122

AREA COMMISSION

Northland Community Council
Attn: Dave Paul
PO Box 297386
Columbus, OH 43229

ATTORNEY

Jeffrey L. Brown
Smith & Hale LLC
37 West Broad Street, Suite 460
Columbus, OH 43215

SURROUNDING PROPERTY OWNERS

John P & Paula A Wetzel
"or current occupant"
4896 Kingshill Dr.
Columbus, OH 43229

Continental Capital Fund I Ltd
C/o Continental Real Estate
"or current occupant"
35 N. 4th St., Floor 4
Columbus, OH 43215-3635

Kingshill Apartments LLC
"or current occupant"
2360 Corporate Circle, Suite 460
Henderson, NC 89074

Donald E. Beck
"or current occupant"
1782 Ferris Road
Columbus, OH 43224

Swick Investments LTD
"or current occupant"
8570 Fallgold Lane
Westerville, OH 43082

Rodger A. Suver
"or current occupant"
3726 Mill Stream Dr
Hilliard, OH 43026

Judith K Beisler CO-TR
Thomas M Bullock CO-TR
"or current occupant"
PO Box 620159
Wordside, CA 94062

Daniel W. Galbraith
"or current occupant"
4220 Marland Rd.
Columbus, OH 43224-1901

Thomas E Nesley
"or current occupant"
9527 High Free Pike
West Jefferson, OH 43162

Steven M Maienza
"or current occupant"
369 Tipperary Loop
Delaware, OH 43015

Evanswood Drive Skating LLC
"or current occupant"
1317 E. Broad St.
Columbus, OH 43205

Kings Highlands
c/o Red Mortgage Capital Inc
"or current occupant"
1717 Main St., Suite 900
Dallas, TX 75201-4612

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STATEMENT IN SUPPORT OF VARIANCE(S)

APPLICATION #

3307.09 Variances by Board.

- A. The Board of Zoning Adjustment shall have the power, upon application, to grant variances from the provisions and requirements of this Zoning Code (except for those under the jurisdiction of the Graphics Commission and except for use variances under the jurisdiction of the Council). The board shall take into account all of the following facts and conditions when considering variances:
 1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance.
 2. Whether the variance is substantial.
 3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
 4. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, refuse service).
 5. Whether the property owner purchased the property with knowledge of the zoning restriction.
 6. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.
 7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- B. In granting a variance, the Board may impose such requirements and conditions regarding the location, character, and other features of the proposed uses or structures as the Board deems necessary to carry out the intent and purpose of this Zoning Code and to otherwise safeguard public safety and welfare.
- C. Nothing in this section shall be construed as authorizing the Board to affect changes in the Zoning Map or to add to the uses permitted in any district.

List all sections of Code to be varied and explain your reasoning as to why this request should be granted.

PLEASE NOTE: It is the applicant's responsibility to identify all variances required for the project. If any necessary variances are not included, a new application (and applicable fees) will be required.

I have read the foregoing and believe my application for relief from the requirements of the Zoning Code demonstrates practical difficulty as contemplated by that section, in the following ways (use separate page if needed or desired):

See attached sheet

Signature of Applicant

[Handwritten Signature]

Date

10/10/17

The applicant went thru a recent refinancing and a survey determined that the apartment complex is short on parking. Over the years, dumpster areas were re-worked and parking spaces were either occupied or removed. The applicant is seeking a variance to 3312.49 minimum number of parking spaces required to reduce the amount of required parking

The Board of Zoning Adjustment reviews variance requests under the standard of practical difficulties. The Ohio Supreme Court outlined the practical difficulties standard in the Duncan case. There are seven factors that make up the Duncan standards and the Ohio Supreme Court has emphasized that "no single factor controls a determination of practical difficulties. The key to the standards is whether the area zoning requirements, as applied to the property owner in question is reasonable:

1. The 1st Duncan factor – whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.

The property is currently an apartment complex and will continue to be an apartment. However, the number of dwelling units would not match the number of parking spaces.

2. The 2nd Duncan factor – whether the variance is substantial.

The requested variance is not substantial.

3. The 3rd Duncan factor – whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.

The essential character of the neighborhood would not be substantially altered nor would adjoining properties suffer a substantial detriment as a result of this variance. It is currently an apartment complex and will remain an apartment complex. The area is a mixture of apartments and warehouse uses.

4. The 4th Duncan factor – whether the variance would adversely affect the delivery of governmental services.

The granting of the variance would not adversely affect the delivery of governmental services. Utilities are available to the site. Police and fire protection are already provided to the current house.

5. The 5th Duncan factor – whether the property owner purchased the property with knowledge of the zoning restriction.

The applicant did not realize that there was an issue with the parking count until a recent refinancing effort raised that issue. Regardless, it is established Ohio law that "a property owner is not denied the opportunity to establish practical difficulties....simply because he purchased the property with knowledge of the zoning restrictions." *Duncan*, 23 Ohio St. 3d at 86.

6. The 6th *Duncan* factor – whether the property owner’s predicament feasibly can be obviated through some method other than a variance.

There is no other solution for the existing apartment complex.

7. The 7th *Duncan* factor – whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Finally, the spirit and intent behind the zoning resolution would be observed and substantial justice would be done by granting the variance. This proposed reduction is character with the neighborhood.

Given this analysis the applicant meets the Duncan factors establishing practical difficulties and the variances should be granted by the board.

luma-duncanfactors (clh)
10/9/17/17 S:Docs

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PROJECT DISCLOSURE STATEMENT

Parties having a 5% or more interest in the project that is the subject of this application.

THIS PAGE MUST BE FILLED OUT COMPLETELY AND NOTARIZED. Do not indicate 'NONE' in the space provided.

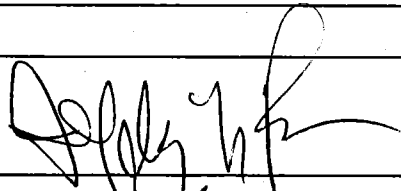
APPLICATION # _____

STATE OF OHIO
COUNTY OF FRANKLIN

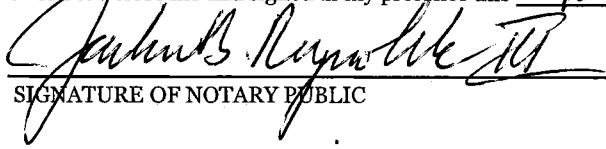
Being first duly cautioned and sworn (NAME) Jeffrey L. Brown, c/o Smith & Hale LLC
of (COMPLETE ADDRESS) 37 W. Braod Street, #460, Columbus, Oh 43215

deposes and states that (he/she) is the APPLICANT, AGENT, OR DULY AUTHORIZED ATTORNEY FOR SAME and the following is a list of all persons, other partnerships, corporations or entities having a 5% or more interest in the project which is the subject of this application and their mailing addresses:

NAME	COMPLETE MAILING ADDRESS
LUMA Property Group	25800 Science Pard Dr., #100, Beachwood, OH 44122
Bandera Center Court LLC	1360 E. 9th St., #300, Cleveland, OH 44114

SIGNATURE OF AFFIANT 

Sworn to before me and signed in my presence this 9th day of October, in the year 2017


SIGNATURE OF NOTARY PUBLIC



Notary Seal Here
Commission Expires
Jackson B. Reynolds, III, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

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