

# Board of Zoning Adjustment

## Staff Report

June 17, 2019



|                          |                                           |
|--------------------------|-------------------------------------------|
| <b>Case No:</b>          | 19devplan1088/19variance1052              |
| <b>Project Name:</b>     | Sports and Learning Complex               |
| <b>Location:</b>         | 3029 W. Muhammad Ali Blvd.                |
| <b>Owner(s):</b>         | Louisville Metro Government               |
| <b>Applicant:</b>        | Louisville Urban League                   |
| <b>Jurisdiction:</b>     | Louisville Metro                          |
| <b>Council District:</b> | 5- Donna Purvis                           |
| <b>Case Manager:</b>     | Julia Williams, AICP, Planning Supervisor |

### REQUEST(S)

- Variances:
  1. Variance from Chapter 5.2.5.C.4.B & 5.7.1.B.1 to permit a building height of 63' instead of the required 45' (18' variance).
  2. Variance from Chapter 5.5.1.A.3.a to permit parking to encroach approximately 14'+/- into the 25' setback along W. Muhammad Ali and W. Market Street as shown on the Development Plan.
  3. Variance from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not be within 0' and 5' from the corner of W Muhammad Ali and S. 30<sup>th</sup> Street.
- Waivers:
  1. Waiver from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not have a primary entrance along S. 30<sup>th</sup> Street or have the building be oriented toward a focal point.
  2. Waiver from Chapter 5.5.1.A.3.a to permit parking in front of the principal structure as shown on the development plan.
  3. Waiver from Chapter 5.5.1.A.3.a to not provide the required 3' masonry wall along W. Muhammad Ali and W. Market Street
  4. Waiver from Chapter 5.6.1.A, C, and D to not provide animating features along 50% of the S. 30<sup>th</sup> Street façade, to not provide clear windows and doors along the S. 30<sup>th</sup> Street façade, and to not vary the roofline.
  5. Waiver from 10.2.12 eliminate the maximum distance between ILAs as shown on the development plan.
- Category 3 development plan

### CASE SUMMARY/BACKGROUND

The proposal is for an indoor track facility and athletic field. 762 parking spaces are proposed to support the use. The site is zoned EZ-1 in the Traditional Workplace Form District. Transit is available along W. Market Street.

15DEVPLAN1108, 16DEVPLAN1048, & 16DEVPLAN1096: Previous case numbers related to the West Louisville Food Port

## **STAFF FINDING**

Staff finds that the proposal generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code.

## **TECHNICAL REVIEW**

Transportation Planning and MSD have preliminarily approved the proposal.

## **INTERESTED PARTY COMMENTS**

None received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1**

5.2.5.C.4.B & 5.7.1.B.1 to permit a building height of 63' instead of the required 45' (18' variance).

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

STAFF: The requested variance will not adversely affect public health safety or welfare since the building is located within its own block and away from residential development.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since the area over time has developed into a mix of residential, commercial, and residential. The dominant character is the traditional residential in the area but this block face between W. Market and W. Muhammad Ali does not have residential uses.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public since the structure is located where it is not in the vicinity to residential and the height will not interfere with the public ways.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structures are located mainly interior to the site and adjacent to the non-residential use to the east. There is also increased distance between the nearest adjacent residential and one of the 3 story structures.

## **ADDITIONAL CONSIDERATIONS:**

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

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since one of the proposed uses is an indoor track facility with raised seating which requires a taller building. The proposed building has an angled roof which accounts for some of the variance request.

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 reasonable use of the land since the current block is vacant and the height variance is mainly due to accommodating the raised seating within the building, not allowing the extra height could be a hardship for the proposed use permitted on the site.

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: 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.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2**

5.5.1.A.3.a to permit parking to encroach approximately 14' +/- into the 25' setback along W. Muhammad Ali and W. Market Street as shown on the Development Plan

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the proposed encroachment will be mitigated by the LBA and required screening and landscaping along both roadway frontages.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because the encroachment will be mitigated by plantings within the LBA. There are also phases to the overall development that will further decrease the impact of the parking within the setback making it less prominent in the future.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public because the proposed encroachment will be mitigated by the LBA and required screening and landscaping along both roadway frontages.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed encroachment will be mitigated by the LBA and required screening and landscaping along both roadway frontages.

#### **ADDITIONAL CONSIDERATIONS:**

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

STAFF: The requested variance does not arise from any special circumstances but the request is mitigated through the required LBA plantings and the future development proposed for the site.

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 create an unnecessary hardship on the applicant because it would shift the parking outside of the required LBA for the area unnecessarily increasing the LBA along the roadways.

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: 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.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #3**

5.5.1.A.1.a to permit the Phase 1 building to not be within 0' and 5' from the corner of W Muhammad Ali and S. 30<sup>th</sup> Street

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare since safe pedestrian access is provided from the public rights-of-way to the building entrance and the current proposal is part of a phased development where subsequent development will be placed within 0'-5' from the corners.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since the proposal is only for phase I of the overall site development where subsequent development will meet the required setbacks.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposed development is for phase I only where subsequent development will meet the required setbacks along both corners.

### **ADDITIONAL CONSIDERATIONS:**

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

STAFF: The requested variance arises from special circumstances that do not generally apply to land in the general vicinity or the same zone. The circumstance for the current variance is that the proposal is for phase I where other phases of the development will meet the required setbacks at the corners.

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 reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development is for phase I where other subsequent phases will meet the required setbacks.

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: 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.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1**

5.5.1.A.1.a to permit the Phase 1 building to not have a primary entrance along S. 30<sup>th</sup> Street or have the building be oriented toward a focal point

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

STAFF: The waiver will not adversely affect adjacent property owners since the site encompasses the entire lot. There is sufficient pedestrian access in and around the site as well as a large lawn amenity area that mitigates the request.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: Plan 2040 encourages large developments to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element. New development and redevelopment should be within the scale and site design of nearby existing development and with the pattern of development within the form district. The proposal is for phase I of the overall development. The amenity area acts as a focal point while not technically meeting the requirement. Other development on the site will meet the requirements.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there is sufficient pedestrian access in and around the site as well as a large lawn amenity area that mitigates the request.

- (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 measures that exceed the minimums of the district there is sufficient pedestrian access in and around the site as well as a large lawn amenity area that mitigates the request.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2**

5.5.1.A.3.a to permit parking in front of the principal structure as shown on the development plan

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance and additional development in phases will occur on the site reducing the need for the waiver.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: Plan 2040 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Ensures 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. Setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. New development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The proposal is for phase I of site development where subsequent phases will make the site more in compliance and reduce the need for the waiver.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are other phases of development that will occur that will reduce the need for the variance as well as sufficient pedestrian spaces and an amenity area that mitigate non-compliance.

- (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 measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived as there are other phases of the site to be developed and there is sufficient pedestrian access that mitigates the request.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3**

5.5.1.A.3.a to not provide the required 3' masonry wall along W. Muhammad Ali and W. Market Street

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

STAFF: The waiver will not adversely affect adjacent property owners since required landscaping will be provided for screening the parking from the adjacent right of way.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Screening and buffering to mitigate adjacent incompatible uses. Required landscaping will be provided for screening the parking from the adjacent right of way.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since required landscaping will be provided for screening the parking from the adjacent right of way. There is also a significant height difference between the sidewalk along W. Market and the site where the required wall would serve no purpose of screening.

- (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 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 since required landscaping will be provided for screening the parking from the adjacent right of way. There is also a significant height difference between the sidewalk along W. Market and the site where the required wall would serve no purpose of screening.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4**

5.6.1.A, C, and D to not provide animating features along 50% of the S. 30<sup>th</sup> Street façade, to not provide clear windows and doors along the S. 30<sup>th</sup> Street façade, and to not vary the roofline

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

STAFF: The requested waiver will not adversely affect adjacent property owners as the site occupies one lot with no properties directly adjacent to the site. There are street trees shown along 30<sup>th</sup> Street that will help mitigate the request.

(b) The waiver will not violate specific guidelines of Plan 2040

STAFF: Plan 2040 calls for the 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 type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features. There are some variations in materials and some clear glass at the street level but not enough to meet the 50% requirement. The street trees provided as indicated on the development plan are being used to mitigate the request.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed land use is affecting the building.

(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 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 since the proposed land use is affecting the building. Street trees along building are being used to mitigate the request.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER #5**

10.2.12 eliminate the maximum distance between ILAs as shown on the development plan.

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

STAFF: The waiver will not adversely affect adjacent property owners since the number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking.

(b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking.

- (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 measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) the number of trees and required square footage of ILAs will be in compliance. The location of the ILAs will still allow distribution of trees throughout the site to help with the heat island that is being created with the parking. Additional ILA square footage is provided.

#### **REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variance** from Chapter 5.2.5.C.4.B & 5.7.1.B.1 to permit a building height of 63' instead of the required 45' (18' variance).
- **APPROVE** or **DENY** the **Variance** from Chapter 5.5.1.A.3.a to permit parking to encroach approximately 14'+/-into the 25' setback along W. Muhammad Ali and W. Market Street as shown on the Development Plan.
- **APPROVE** or **DENY** the **Variance** from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not be within 0' and 5' from the corner of W Muhammad Ali and S. 30<sup>th</sup> Street.
- **APPROVE** or **DENY** the **Waiver** from Chapter 5.5.1.A.1.a to permit the Phase 1 building to not have a primary entrance along S. 30<sup>th</sup> Street or have the building be oriented toward a focal point.
- **APPROVE** or **DENY** the **Waiver** from Chapter 5.5.1.A.3.a to permit parking in front of the principal structure as shown on the development plan.
- **APPROVE** or **DENY** the **Waiver** from Chapter 5.5.1.A.3.a to not provide the required 3' masonry wall along W. Muhammad Ali and W. Market Street
- **APPROVE** or **DENY** the **Waiver** from Chapter 5.6.1.A, C, and D to not provide animating features along 50% of the S. 30<sup>th</sup> Street façade, to not provide clear windows and doors along the S. 30<sup>th</sup> Street façade, and to not vary the roofline.
- **APPROVE** or **DENY** the **Waiver** from 10.2.12 eliminate the maximum distance between ILAs as shown on the development plan.
- **APPROVE** or **DENY** the Category 3 development plan

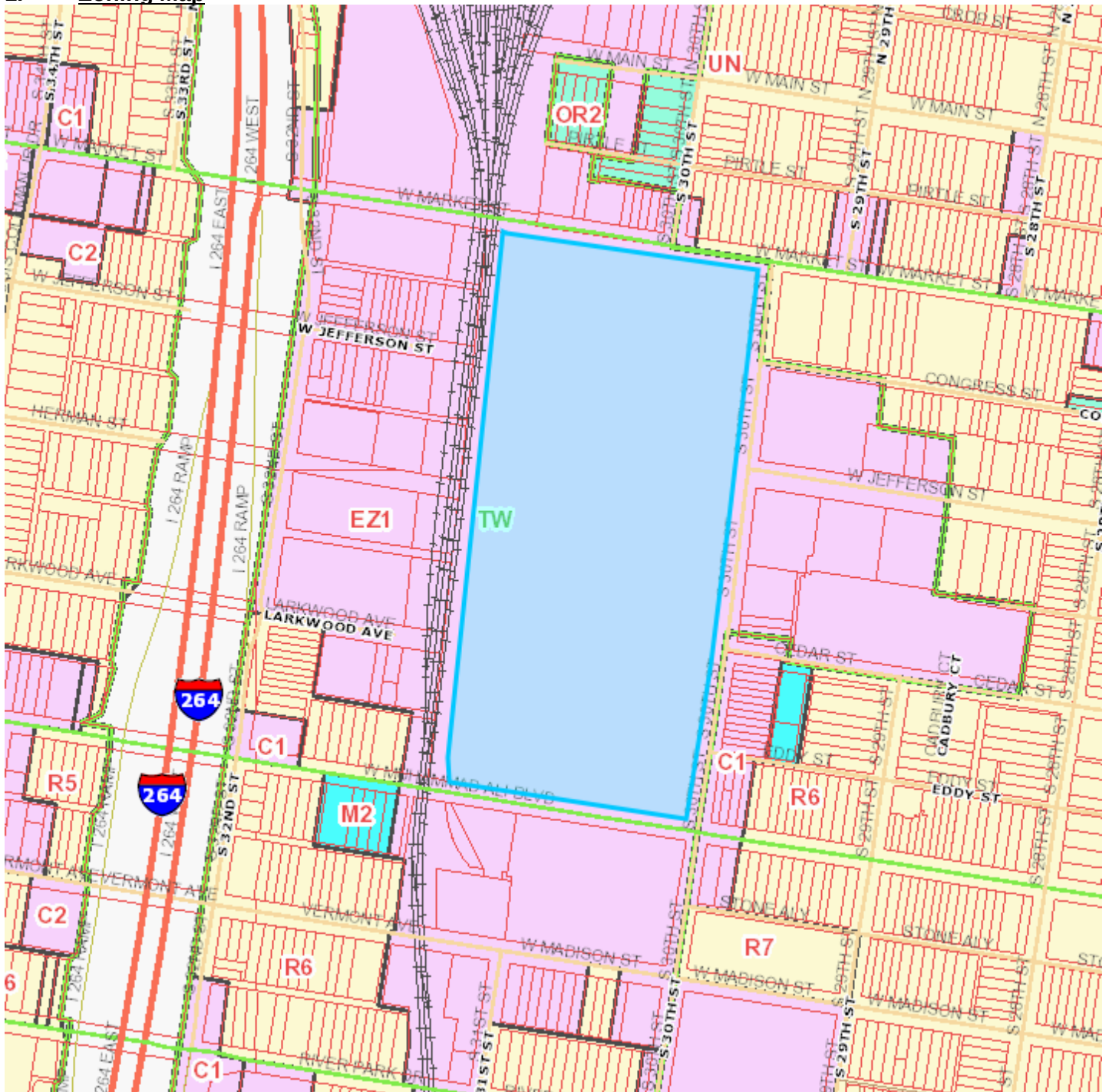
**NOTIFICATION**

| Date    | Purpose of Notice                    | Recipients                                                                                             |
|---------|--------------------------------------|--------------------------------------------------------------------------------------------------------|
| 5/31/19 | Hearing before BOZA on June 17, 2019 | 1 <sup>st</sup> tier adjoining property owners<br>Registered Neighborhood Groups in Council District 5 |
|         | Hearing before BOZA                  | Sign Posting on property                                                                               |

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

# 1. Zoning Map



## 2. Aerial Photograph

