

# Board of Zoning Adjustment

## Staff Report

May 6, 2019



<b>Case No:</b>	19DEVPLAN1009
<b>Project Name:</b>	Old Dominion Freight Expansion
<b>Location:</b>	1400 Louis Coleman Jr Dr and 3515 W Magnolia Ave
<b>Owner(s):</b>	Old Dominion Freight Line, Inc.
<b>Applicant:</b>	Old Dominion Freight Line, Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	1 – Jessica Green
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUEST(S)

- **Variance** of Land Development Code section 5.5.1.A.1.2 to allow a structure to exceed the maximum 5 foot setback by up to 215 feet as shown on the development plan.
- **Waivers**
  1. Waiver of Land Development Code section 5.5.1.A.3.a to permit the proposed parking lot to be located closer to the right-of-way than the primary structure.
  2. Waiver of Land Development Code section 5.5.1.A.4.b to allow loading docks to be located on the façade facing West Magnolia Ave.
  3. Waiver of Land Development Code section 5.5.1.A.3.d to not provide a vehicular connection to the adjacent property to the west.
  4. Waiver of Land Development Code section 5.9.2.A.3.d to not provide a pedestrian connection to the Louis Coleman Jr Dr right-of-way.
- **Category 3 Development Plan**

### CASE SUMMARY/BACKGROUND

The applicant is proposing to expand an existing 21,000 SF freight transfer facility by approximately 21,200 SF. The site is located at the intersection of Louis Coleman Jr Dr and West Magnolia Ave in the Parkland neighborhood of western Louisville Metro. The area of expansion is currently a vacant freight transfer facility that is proposed to be demolished. The site is located within the EZ-1 zoning district and the Neighborhood Form district. The area surrounding has a mixture of uses, with other medium to heavy industrial uses east and west of the site, single family residential to the north, and a public park to the south. The site has been continuously used for freight transfer and trucking since at least 1966, and the variance and waiver requests are largely a result of the subsequent adoption of the form district standards which created nonconformance with the Land Development Code.

### STAFF FINDING

The requests are adequately justified and meet the standards of review.

## **TECHNICAL REVIEW**

The Planning Director has approved a request to allow barbed wire at a height of 7 feet adjacent to residential zoning districts per Land Development Code section 4.4.3.A.4.d.

The Planning Commission will consider a request to amend the 200 foot setback requirement from residential uses not zoned EZ-1 per Land Development Code section 2.6.1.A.1 along the northern property line at the May 9, 2019 Planning Commission meeting.

## **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this request.

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

- (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 and welfare as all applicable building codes will be followed for the site.

- (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, as there are several other industrial uses in the area with similar setbacks. A significant portion of the variance is associated with the existing condition of the site, and is triggered by the proposed expansion.

- (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, as all required screening and buffering will be provided on site.

- (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, as the subject site already has setbacks that do not conform to current regulations.

## **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 special circumstances.

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 the reasonable use of the land, as it would make expansion of the business nearly impossible.

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: Portions of the site existed in the current state well before the adoption of current regulations. The request would allow for the expansion of the site for the same use.

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

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

STAFF: The waiver will not adversely affect adjacent property owners, as all required screening and buffering will be provided.

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

STAFF: Community Form goal 1, policy 12 states that we should ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. The parking lot is proposed to the rear and side of the subject site, which is consistent with form district standards. All required screening and buffering will be provided.

- (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 is the minimum necessary to afford relief to the applicant.

- (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 create an unnecessary hardship on the applicant, as it would prevent expansion the continued use of the site in a manner consistent with the existing development pattern.

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

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

STAFF: The waiver will not adversely affect adjacent property owners as all required screening and buffering will be provided.

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

STAFF: Community Form goal 1, policy 12 states that we should ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. The site has had loading docks facing the street since it was constructed. Significant improvements to the screening and planting along the site will be provided with this proposal.

- (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 is the minimum necessary to afford relief to the applicant.

- (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 create an unnecessary hardship on the applicant, as it would prevent expansion the continued use of the site in a manner consistent with the existing development pattern.

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

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

STAFF: The waiver will not adversely affect adjacent property owners, as industrial uses are unlikely to have a need for shared circulation, and often have exceptional security needs that preclude connection between sites.

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

STAFF: The waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The nature of development in this area is industrial and many sites are secured with fences. It is unlikely that anyone will have business at multiple abutting sites and would need to take advantage of connections between sites.

- (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 is the minimum necessary to afford relief to the applicant.

- (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, as the proposed use has exceptional security needs that necessitate a fenced perimeter and it is unlikely that anyone will have business at multiple sites.

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

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

STAFF: The waiver will not adversely affect adjacent property owners, as there is an adequate sidewalk network around the subject site to accommodate pedestrian movement and access to the primary entrance.

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

STAFF: The waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The proposal is unlikely to generate any pedestrian traffic, as the site is to be used exclusively for the storage of trucks and transfer of freight. The proposed use of a freight transfer facility needs a fenced perimeter for security, which would prevent the creation of the required pedestrian connection.

- (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 is the minimum necessary to afford relief to the applicant.

- (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, as the proposed use has exceptional security needs that necessitate a fenced perimeter and will not generate any pedestrian traffic.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Category 3 Development Plan**

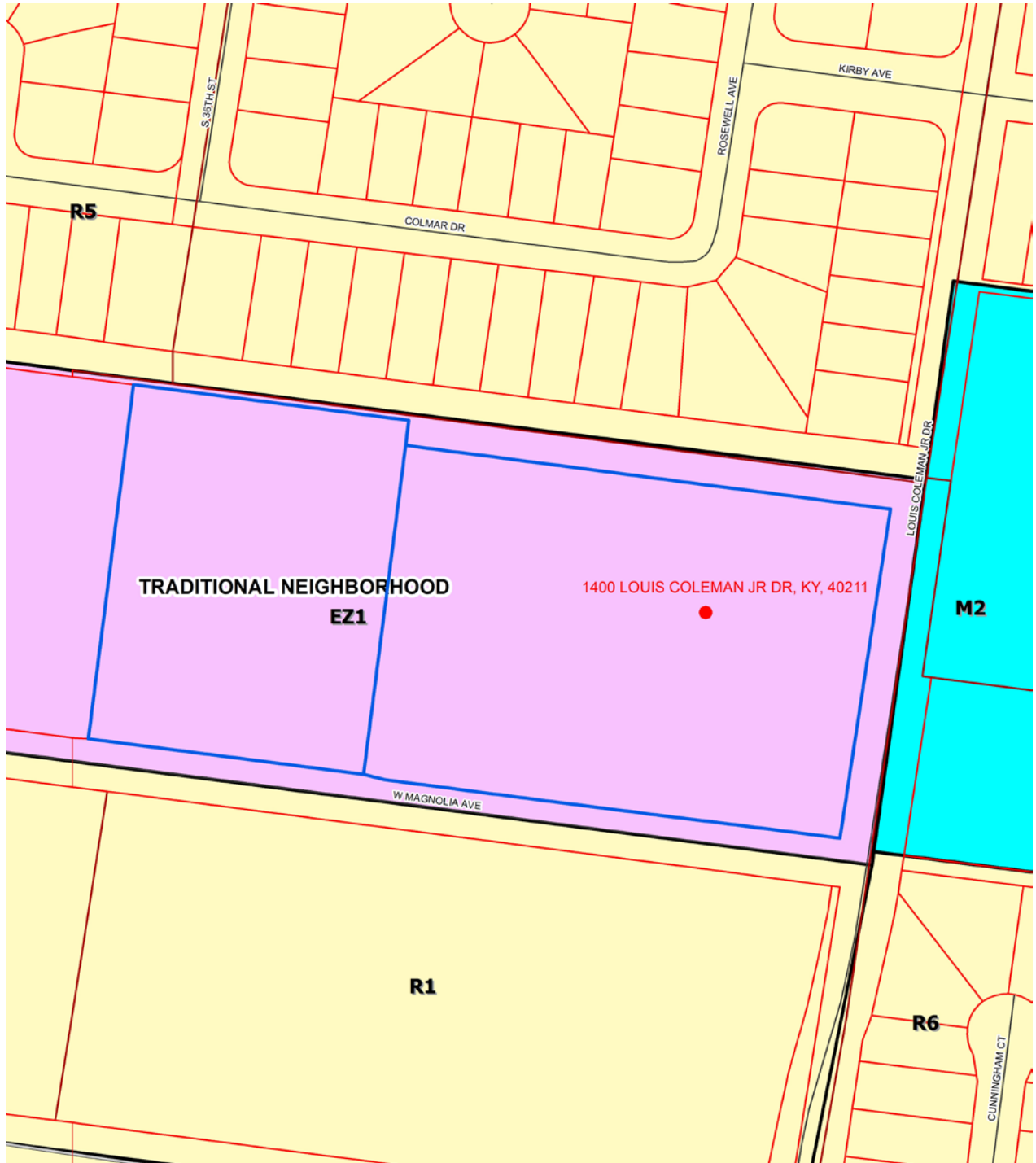
**NOTIFICATION**

Date	Purpose of Notice	Recipients
4-19-19	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 1

**ATTACHMENTS**

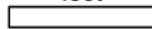
1. Zoning Map
2. Aerial Photograph

1. Zoning Map



19DEVPLAN1009

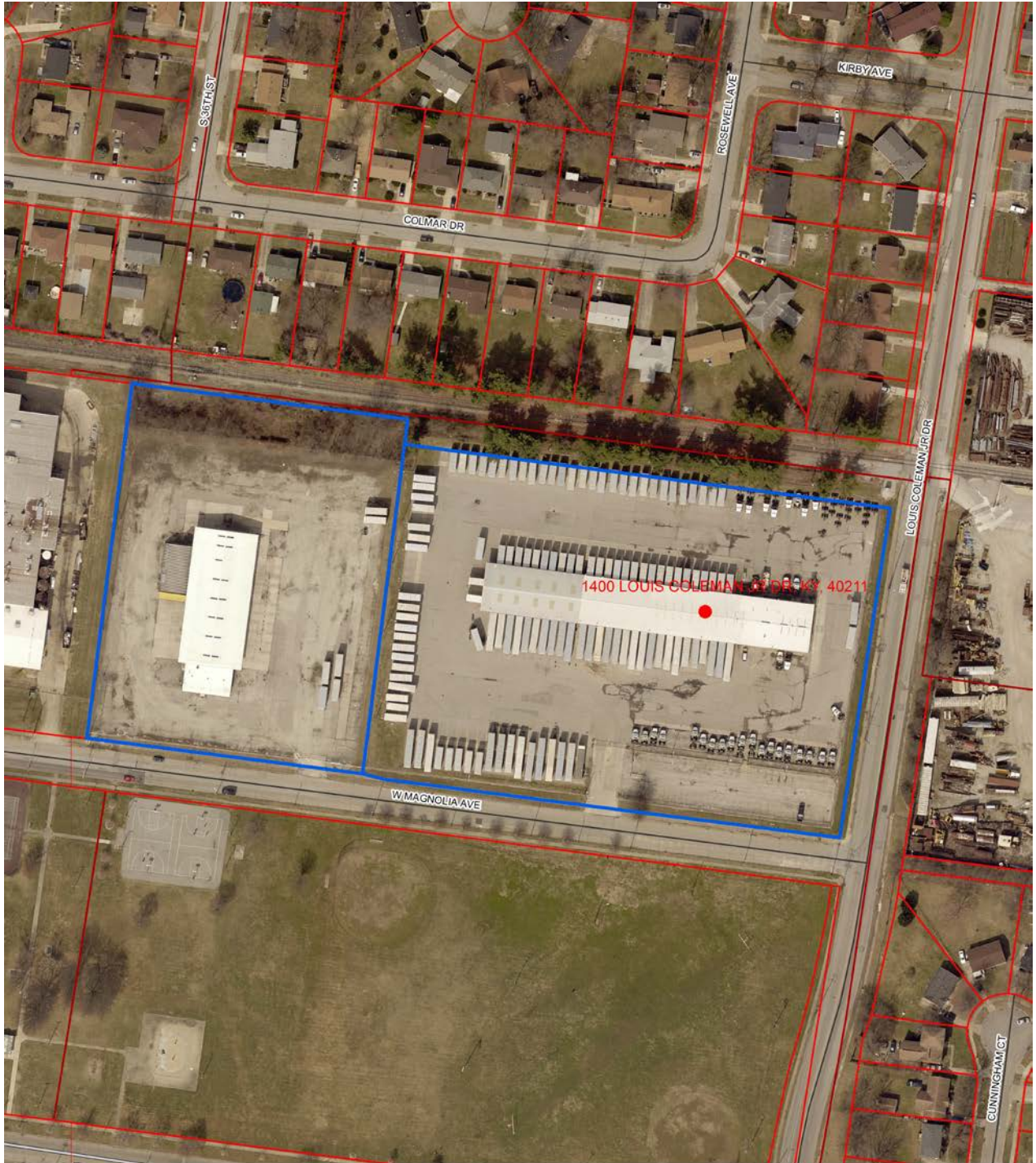
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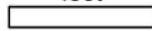
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2. Aerial Photograph



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feet



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