

**Board of Zoning Adjustment**  
**Staff Report**  
August 3, 2020



<b>Case No:</b>	20-CAT3-0006
<b>Project Name:</b>	Apartments
<b>Location:</b>	2929 Magazine Street
<b>Owner(s):</b>	2929 Magazine St, LLC
<b>Applicant:</b>	LDG Development
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5 – Donna Purvis
<b>Case Manager:</b>	Lacey Gabbard, AICP, Planner I

**REQUESTS:**

1. **Variance** from Table 5.22 to allow buildings to encroach into the required setback (20-VARIANCE-0043)
2. **Variance** from Table 5.22 to allow the building to be 11.5 feet taller than permitted (20-VARIANCE-0043)
3. **Category 3 Development Plan**

**CASE SUMMARY/BACKGROUND**

The subject site is zoned EZ-1 Enterprise Zone in the Traditional Neighborhood form district. It is located on the block bounded by 29<sup>th</sup> Street, Magazine Street, Chestnut Street, and S 30<sup>th</sup> Street. The site is 4.07 acres.

The subject site is currently developed and used as an industrial printing facility, warehouse and office. The applicant is proposing the demolish the existing structures and develop the properties into a four-story apartment building with 283 one-, two-, and three-bedroom dwelling units surrounding an internal surface parking area accessed via Magazine Street. This would result in a density of 69.53 dwelling units per acre, and a reduction in total impervious area of 16,396 square feet.

The applicant has also submitted a variance request to exceed the maximum building height of 45 feet (or three stories) by 11.5 feet. A second variance request is to encroach into the required setbacks, resulting in the façade of the proposed structure being brought close to the existing sidewalk.

A street closure application (20-STRUCLOSUREPA-0007) has been submitted requesting closure of the unnamed alley that extends south from W Chestnut Street through the middle of the subject site. This case has not yet been docketed but will be heard at a later date.

**STAFF FINDINGS**

The Category 3 Development Plan and variance requests are compliant with the Land Development Code.

## **TECHNICAL REVIEW**

Public Works and MSD have provided preliminary approval.

## **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this proposal. Staff spoke with Councilwoman Donna Purvis on July 21, 2020 to answer questions regarding the proposed development.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM LDC TABLE 5.22 TO ALLOW BUILDINGS TO ENCROACH INTO THE REQUIRED SETBACK**

- (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, as there are no known threats in allowing the proposed building to be closer to the existing sidewalk. Placing buildings closer to the street is consistent with the goals and objectives of Plan 2040, as it creates a more appealing streetscape.

- (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 existing building on the subject site appears to be encroaching into the setback. Additionally, a structure on the adjacent property to the north of the subject site (2929 W Chestnut Street) also appears to be encroaching into the 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 because there are no known threats in allowing the proposed building to be located closer to the existing sidewalk. The proposed plan indicates the sight triangle on each corner of the proposed development is clear of obstructions.

- (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 there are existing structures in the vicinity of the subject site, as well as the existing building on the subject site, that appear to be encroaching into the setbacks. Additionally, Plan 2040 supports buildings being built out to the sidewalk.

## **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 any special circumstances, as the applicant is proposing to consolidate four separate parcels located on an entire city block in order to construct the proposed development.

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 the applicant would have to reduce the size of the proposed residential development in order to comply. Additionally, Plan 2040 supports building facades being built out to the sidewalk.

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, as the applicant has not yet developed the subject property.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.22 TO ALLOW THE BUILDING TO BE 11.5 FEET TALLER THAN PERMITTED**

- (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, as there are no known threats in allowing the proposed building to be taller than permitted.

- (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 the proposed building will only be 11.5 feet taller than the maximum building height of 45 feet permitted by the Land Development Code. Additionally, there is an existing structure in the vicinity of the subject site, the Elliott Park Apartments located at 650 S 29<sup>th</sup> Street, which is five stories tall and appears to exceed the 45 foot maximum building height.

- (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 there are no known threats in allowing the proposed building to exceed the maximum height.

- (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 there is an existing structure in the vicinity of the subject site which is also zoned EZ-1 in the Traditional Neighborhood form district and appears to exceed the maximum building height.

### **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.

The requested variance arises from any special circumstances, as the applicant is proposing to consolidate four separate parcels located on an entire city block in order to construct the proposed development.

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 the applicant would have to reduce the size of the proposed residential development in order to comply.

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, as the applicant has not yet developed the subject property.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variances**
- **APPROVE** or **DENY** the **Category 3 Development Plan**

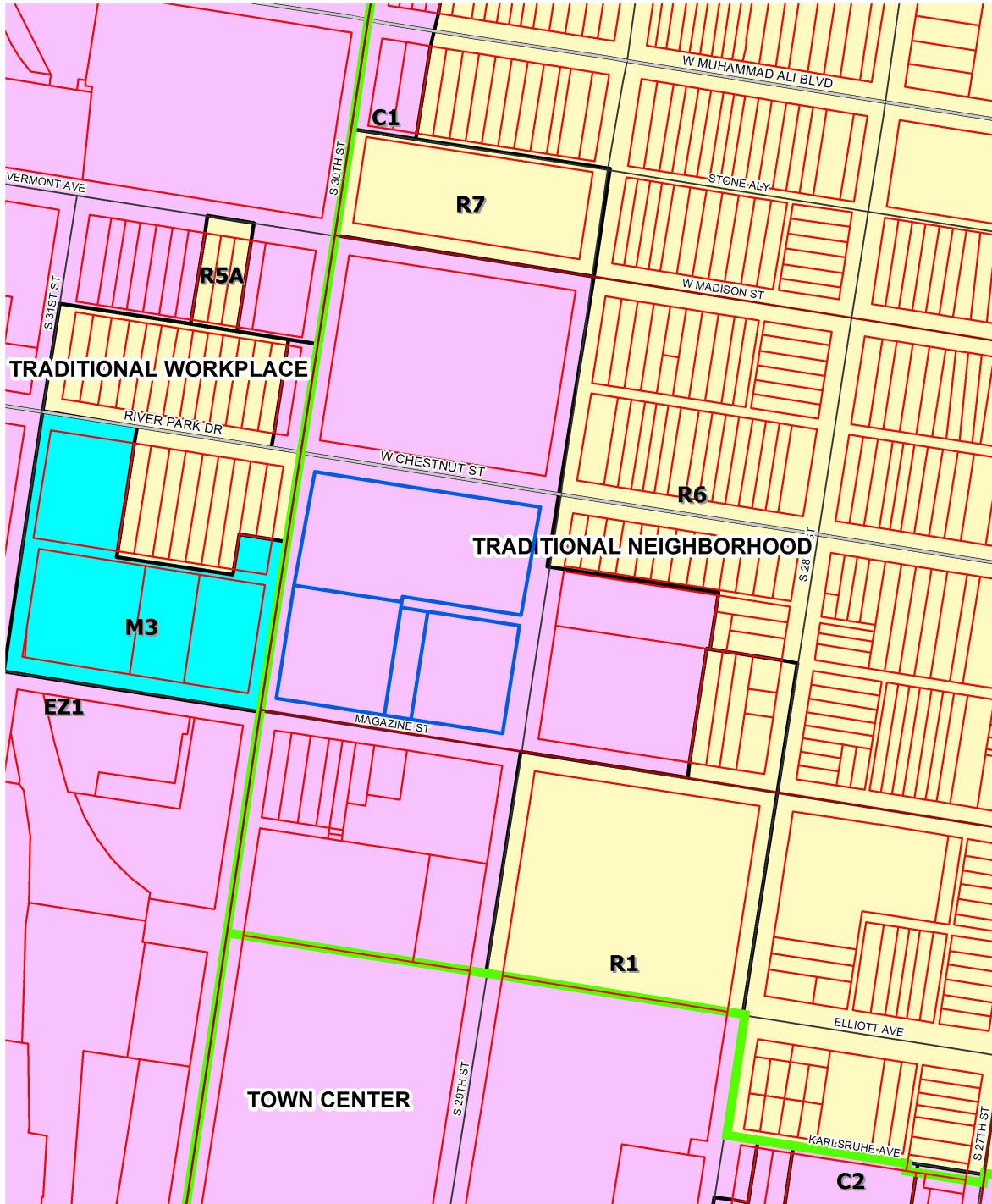
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8-3-20	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 5

**ATTACHMENTS**

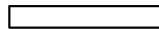
1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



**2929 MAGAZINE STREET**

feet



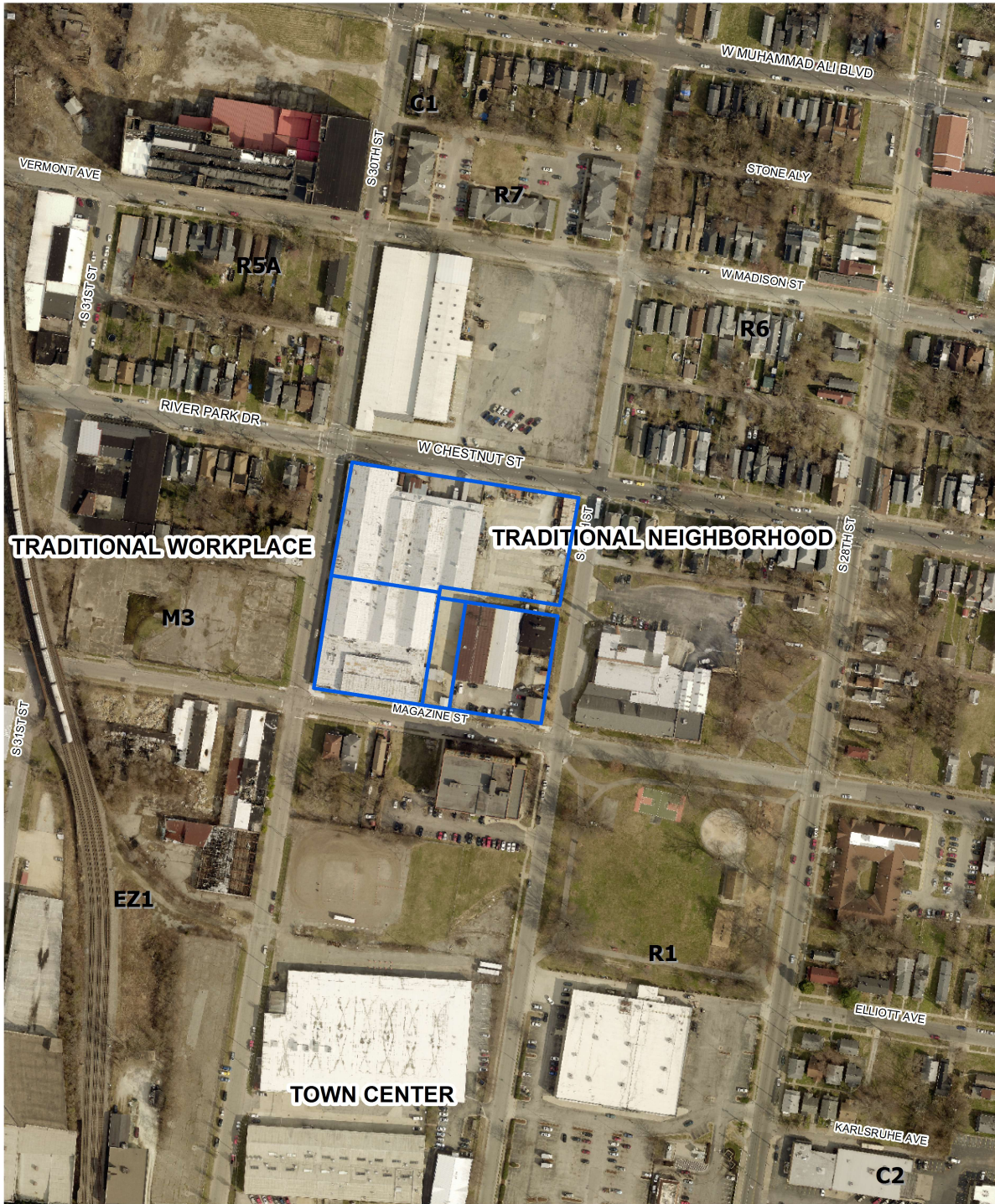
240

Map Created: 7/22/2020



Copyright (c) 2020, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



2929 MAGAZINE STREET  
feet



240

Map Created: 7/22/2020



Copyright (c) 2020, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.