

Development Review Committee

Staff Report

May 24, 2023



Case No:	23-WAIVER-0026
Project Name:	Sethi Station
Location:	2124 W Market St
Owner(s):	Sethi Properties, LLC
Applicant:	Sethi Properties, LLC
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	John Michael Lawler, Planner I

REQUEST(S)

- **Waivers:**

1. Waiver from LDC Section 5.5.1.A.3.a to allow parking in front of the principal structure and to not provide a 3' masonry, stone, or concrete wall adjacent to the streets (23-WAIVER-0026 & 23-WAIVER-0029).
2. Waiver from LDC Section 5.5.1.A.5 to allow a detached canopy for a gas station to be between the principal structure and the public street (23-WAIVER-0030).
3. Waiver from LDC Section 5.5.2.A.3.b to allow the applicant to not provide vehicular access to/from the alley (23-WAIVER-0031).
4. Waiver from LDC Section 5.6.1.C.1 to allow a commercial establishment to not have 50% of wall surfaces at street level consisting of clear windows and doors (23-WAIVER-0032).
5. Waiver from LDC Section 10.2.10 to allow the applicant to not provide ILA within the vehicle use area (23-WAIVER-0027).
6. Waiver from LDC Section 10.2.10 to allow encroachment into the required LBA (23-WAIVER-0028).

CASE SUMMARY/BACKGROUND

The applicant is proposing a 5,500 square foot building with convenience store and retail space for 2 additional tenants. The proposed uses would be situated along Congress Street. The customer entrance will face W. Market Street. The canopy for the gas station is situated near the southeast corner of Market Street & 22nd Street between the primary structure and the street. Access to the site is provided along W Market Street at the northeast corner of the property and along S 22nd Street.

The applicant is requesting several waivers for both site design and landscape requirements. The Board of Zoning Adjustment approved a variance, Docket 15VARIANCE1015, to allow the building to be set back more than 5' from the corner of W. Market & 22nd Streets, as well as a waiver to allow parking in front of the building. The current setback requirement, parking location, and proposed building are the same as in the previous request.

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 development plan.

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. The front parking will be adequately mitigated through required buffering. The proposed masonry wall adds to the site's aesthetic appeal and allows for proper separation of the pedestrian areas along the rights-of-way with the vehicle use area on the site.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. 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. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The proposal meets each of these guidelines as the parking will not adversely affect adjacent property owners or the safe and efficient movement of pedestrians or vehicles. Proposed landscaping buffers and masonry walls as shown on the applicant's development plan will provide sufficient buffering of the parking from the roadway. The parking will also be buffered from adjoining residential properties by the proposed building and landscape buffer areas.

- (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 there are physical constraints preventing compliance with the regulations to be waived. With three frontages along rights-of-way, the site constrains where buildings, structures, and vehicular use area may be placed.

- (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 create an unnecessary hardship on the applicant because of the constraints on the site, imposed by fronting three rights-of-way, that prevent compliance with this part.

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 since the canopy being provided in front of the building will be screened from adjacent residential uses by the proposed convenience store, and through the use of landscape buffer areas. The proposed masonry wall also helps separate the canopy and related vehicle use area from the roadway.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. 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. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The gas canopy being in front of the proposed structure allows for the most safe and efficient movement of vehicles and related traffic through the site, including fueling trucks.

- (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 there are physical constraints related to having three frontages along rights-of-way preventing compliance with the regulations to be waived.

- (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 because of the physical constraints on the site imposed by having three frontages along rights-of-way.

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 safe and efficient access to the site will be provided for all forms of transportation.

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

STAFF: Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. 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. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. There are physical constraints on the site that would not allow access to be taken off the alley. This is a unique lot with three frontages along rights-of-way. Transportation also expressed concern over this site having primary access from the alley. Fueling trucks require large turning radii.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are physical constraints preventing compliance with the regulations to be waived.

- (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 create an unnecessary hardship on the applicant since the proposed development cannot be built on the site while complying with the requirements requested to be waived. There are unique challenges presented by the three frontages that this lot has along public rights-of-way.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4:

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

STAFF: The requested waiver will not adversely affect adjacent property owners because the applicant is providing additional mitigation in the form of architectural and landscaping treatments as shown on the applicant's renderings.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. This waiver would not violate the Comprehensive Plan since the applicant is proposing measures to mitigate the effects of non-compliance with this part. Additional architectural and landscaping treatments will be provided to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District.

- (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 not the minimum necessary to afford relief to the applicant since there are no physical constraints preventing compliance with the regulations to be waived. The windows can be provided if the applicant changed the interior layout of the structure.

- (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.

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

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

STAFF: The waiver will not adversely affect adjacent property owners as the applicant is providing interior landscaping areas within their VUA. All other landscape buffering will be provided, and this site has physical constraints due to having three frontages along public rights-of-way that limit where structures and VUA can be placed.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. The ILA currently proposed by the applicant will help curb the urban heat island effect, while helping to minimize visual intrusions into the roadway and the adjacent residential properties. The ILA provided will not meet the minimum requirements, but the intent of the guidelines is being met on a site with several physical constraints by providing landscaping and a partial masonry wall.

- (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 they have significant physical constraints imposed by their frontage along three public rights-of-way.

- (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 create an unnecessary hardship on the applicant since the proposed development cannot be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #6:

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

STAFF: The waiver will not adversely affect adjacent property owners as the landscape buffer area will only have a small intrusion for the purpose of installing a bike rack and the landscape requirements will still be met.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. 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. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. The waiver of this requirement for the bike rack is justified as it enables the site to be used by multiple types of transportation with only minimal intrusion into the LBA.

- (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 landscape buffer areas can still be provided along 93% of the remaining boundary.

- (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 not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. However, 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 since the intrusion is for critical infrastructure and the result of physical constraints related to having three frontages along public rights-of-way.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waivers**

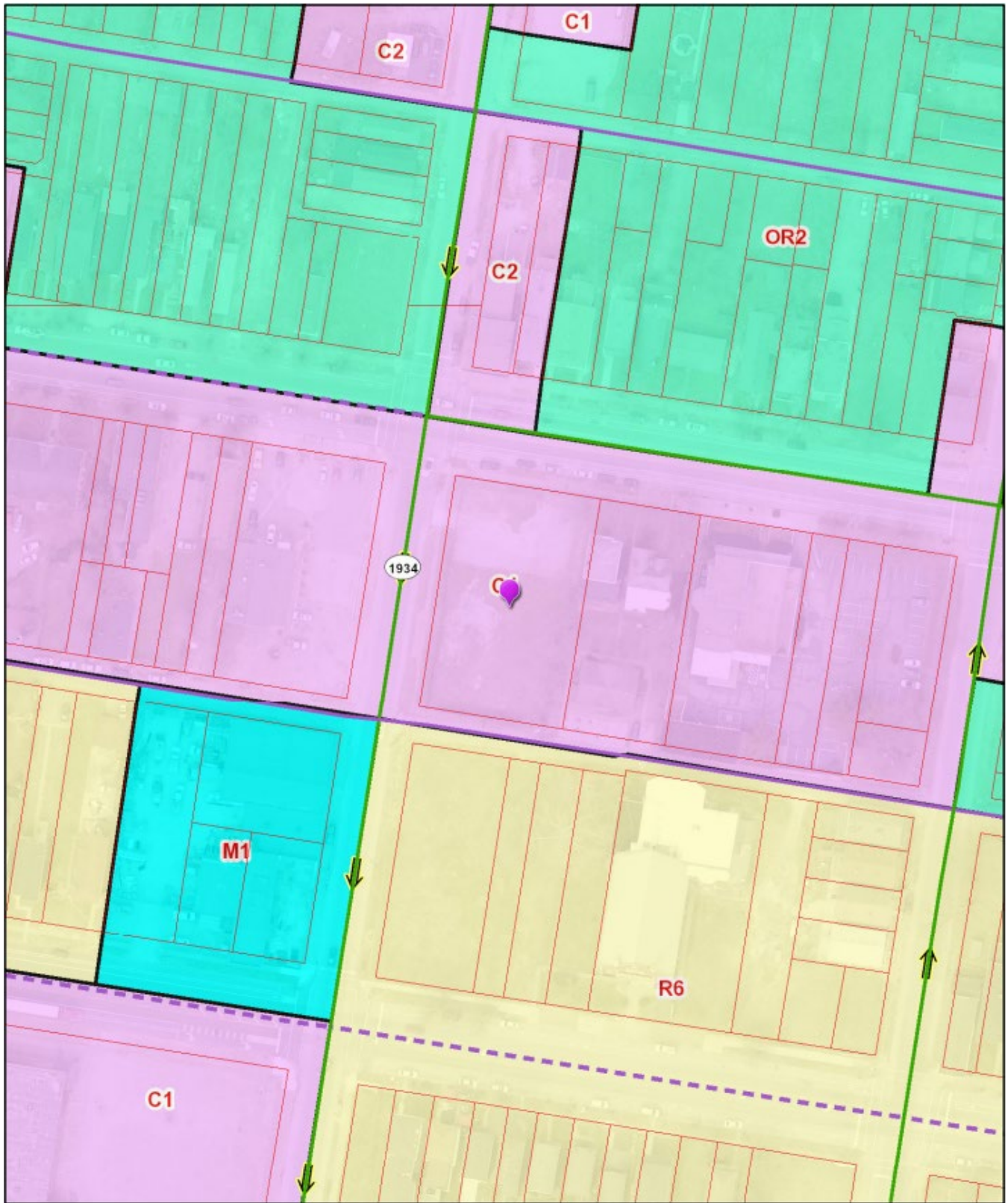
NOTIFICATION

Date	Purpose of Notice	Recipients
4/6/2023	Hearing before DRC on April 19, 2023	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 5

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

