

Board of Zoning Adjustment

Staff Report

July 12, 2021



Case No:	21-CAT3-0011
Project Name:	835 E. Main Street
Location:	834-836 E. Washington Street & 817-843 E. Main Street
Owner(s):	NuLu East Main LLC
Applicant:	NuLu East Main LLC
Jurisdiction:	Louisville Metro
Council District:	4-Jecorey Arthur
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Waivers:
 1. Waiver from 10.2.4 to encroach no more than 10' into the 15' buffer required between the subject site and the adjacent R-6 properties (21-WAIVER-0032)
 2. Waiver from 10.2.4.B.3 to permit over 50% overlap of a sewer and drainage easement with a LBA
- Variances:
 1. Variance from Chapter 5.7.1.B.1 to permit the building height to be a maximum of 70' instead of the required 45' for a 25' variance (20-VARIANCE-0040)
 2. Variance from Chapter 5.7.1.B.2 to permit the building to encroach no more than 10' into the 15' rear yard setback for a 10' variance (21-VARIANCE-0089)
- Category 3 Development Plan

CASE SUMMARY/BACKGROUND

The proposal is for a 6-story mixed use development at the corner of E. Main Street, Campbell Street, and E. Washington Street. 140 dwelling units are proposed on floors 3-6 with commercial and parking garage proposed on floors 1-2. Entrances to the parking garage are along the E. Main and Campbell Street frontages.

A Certificate of Approval was approved at the Butchertown ARC meeting on June 16, 2021.

STAFF FINDING

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

TECHNICAL REVIEW

Butchertown Neighborhood Plan (2008)

INTERESTED PARTY COMMENTS

Please see attached citizen letters

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS #1 and #2

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

STAFF: The waiver will not adversely affect adjacent property owners since all the plant materials and screening will be provided on the site.

- (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 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 the Comprehensive Plan since all the plant materials and screening will be provided on the site.

- (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 all screening and planting requirements will still be met on site.

- (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 all the planting requirements and screening will still be met within the buffer.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1 Building Height

- (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 a portion of the building will be stepped back from the lower portions of the proposed building lessening the height adjacent to the existing residential area.

- (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 there are other multi-story buildings located in the area and all along E Main Street.

- (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 a portion of the building will be stepped back on top of the lower portions placing the tallest portions of the building further away from the adjacent existing residential.

- (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 tallest portion of the proposed building will be stepped back away from the existing residential properties.

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 other properties within the Traditional Marketplace Corridor in this area generally do not fall within a transition zone.

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 much of the lower level is a parking garage and the upper portions of the building will be residential and stepped back away from the existing residential lots.

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 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 Setback Encroachment

- (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 required screening and planting required in the buffer will be provided on 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 because the plantings and screening requirements within the buffer and along the property line shared with the existing residential lots will be provided.

- (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 plantings and screening requirements within the buffer and along the property line shared with the existing residential lots will be 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 regulations because the plantings and screening requirements within the buffer and along the property line shared with the existing residential lots will be provided.

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 other properties within the Traditional Marketplace Corridor in this area generally do not fall within a transition zone.

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 because the planting and screening requirements will be met on the site and will provide the buffer necessary to mitigate any affects of encroachments into the setback.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waivers from Chapter 10.2.4**
- **APPROVE** or **DENY** the **Building Height Variance**
- **APPROVE** or **DENY** the **Setback Variance**
- **APPROVED** or **DENY** the **Category 3 Development Plan**

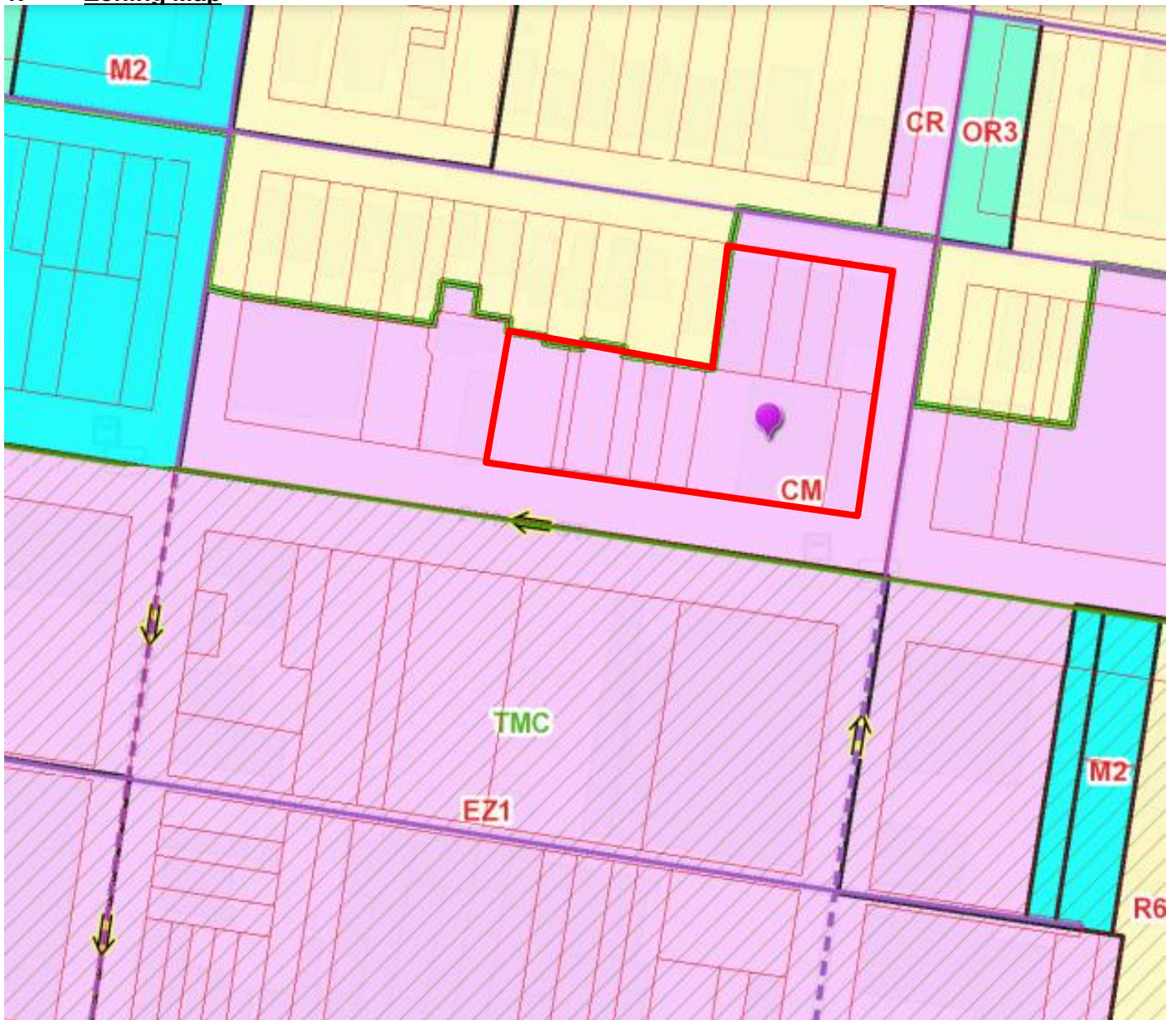
NOTIFICATION

Date	Purpose of Notice	Recipients
6/23/21	Hearing before BOZA on 7/12/21	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
6/17/21	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

