

# Board of Zoning Adjustment Staff Report

September 21, 2015



<b>Case No:</b>	<b>15DEVPLAN1108</b>
<b>Request:</b>	<b>Category 3 Review with Land Development Code variances and waivers</b>
<b>Project Name:</b>	<b>West Louisville Food Port</b>
<b>Location:</b>	<b>3029 West Muhammad Ali Blvd.</b>
<b>Owner:</b>	<b>Louisville/Jefferson County Metro Government</b>
<b>Applicant:</b>	<b>Seed Capital KY</b>
<b>Representative:</b>	<b>Kyle Galloway, Valenti Hanley &amp; Robinson PLLC Sabak, Wilson &amp; Lingo Inc.</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>5 – Cheri Bryant Hamilton</b>
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

## REQUEST

- Variance #1: Variance from Chapter 5.5.1.A.2 of the Land Development Code to allow the proposed building to not be built at the corner of South 30<sup>th</sup> Street and West Muhammad Ali Blvd
- Variance #2: Variance from Chapter 5.5.1.A.2 of the Land Development Code to allow the proposed building to not be built at the corner of South 30<sup>th</sup> Street and West Market Street
- Waiver #1: Waiver from Chapter 5.5.1.A.1.a of the Land Development Code to allow the proposed building to not be parallel to the street on both street sides
- Waiver #2: Waiver from Chapter 5.5.1.A.3.a of the Land Development Code to allow parking in front of the buildings with no 3' masonry wall
- Category 3 Plan

### Variance

Location	Requirement	Request	Variance
<b>S. 30<sup>th</sup> and W. Muhammad Ali Blvd.</b>	0'	30'	30'
<b>S. 30<sup>th</sup> and West Market St.</b>	0'	85'	85'

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: EZ-1, Enterprise Zone  
 Existing Form District: TW, Traditional Workplace  
 Existing Use: Vacant  
 Proposed Use: Food Port  
 Minimum Parking Requirement: 318  
 Maximum Parking Requirement: 1,587  
 Proposed Parking: 368  
 Plan Certain Docket #: None

The applicant is proposing to construct a 177,205 series of buildings that will contain a mix of office, retail, warehouse, agriculture and museum uses. The outdoor space will be programmed with a variety of uses and spaces that complement the proposed uses within the building ranging from an outdoor plaza at the terminus of Jefferson Street to a demonstration farm, edible garden and market plaza. The building will be a unique

diagonal design with orientation toward South 30<sup>th</sup> Street. The building will not be parallel to the street as required within the traditional form and the applicant has requested a waiver to permit the unique design. It will be setback 30' at its closest point from West Muhammad Ali Boulevard and 85' at its closest point from West Market Street. The site is within a traditional form district that requires a 0' setback from the corner ROW. Variances have been requested along both corner ROW intersections due to the extended setback. The corner at West Market Street and South 30<sup>th</sup> Street will contain a proposed market plaza that will create an interaction point with the street frontage. Along West Muhammad Ali Boulevard, a demonstration farm space and some associated site parking will be located near the ROW intersection with South 30<sup>th</sup> Street. In the same area along West Muhammad Ali Blvd., a small portion of the overall required parking will be located between the building and the street. The applicant has requested to waive the required 3' masonry wall to screen the parking with the required landscaping screening provided to meet the intent of the regulations. All other building design, parking and landscaping requirements of the Land Development Code will be met with the proposed Category 3 development plan.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Vacant	EZ-1	TW
<b>Proposed</b>	Food Port	EZ-1	TW
<b>Surrounding Properties</b>			
<b>North</b>	Industrial Commercial Single Family Residential	EZ-1 C-2 R-6	TW TN
<b>South</b>	Industrial	EZ-1	TW
<b>East</b>	Church Industrial Vacant Commercial Residential Single Family	R-6 EZ-1 C-1	TN TW TN
<b>West</b>	Railroad ROW	EZ-1	TW

**PREVIOUS CASES ON SITE**

There are no previous cases on the subject site.

**INTERESTED PARTY COMMENTS**

Questions, inquiries and phone calls regarding the case have been received by staff but no formal or direct comments have been submitted as part of the record on file. A petition was received by staff on September 4<sup>th</sup>, 2015. It referenced the previously related biodigester on the rear of the site that had been withdrawn at the time the petition was received.

**APPLICABLE PLANS AND POLICIES**

Land Development Code  
Cornerstone 2020

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES  
(Corner Setbacks)**

- (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 programmed outdoor space will be located along these street ROW intersections.

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

STAFF: The requested variances will not alter the essential character of the general vicinity since the proposed setbacks will follow a pattern of varying setbacks within the general vicinity of the subject site and significant features of the proposed use will be located at the ROW intersections.

- (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 variances will not allow an unreasonable circumvention of the zoning regulations since the proposed setbacks will follow a pattern of varying setbacks within the area.

#### 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 the size of the lot with three major street frontages makes it difficult to hold a 0' setback along both ROW intersections.

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 or create an unnecessary hardship on the applicant by not allowing the proposed structure on the site with accommodations for the proposed outdoor plazas and focal point facilities.

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 since the size of the lot and the multiple street frontages existed prior to the zoning regulation.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Building Orientation)**

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian and vehicular access will be provided from the public rights-of-way to the building entrance.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 2, policy 12 calls to encourage large developments in activity centers to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element. Guideline 3, policy 1 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 proposed building has orientation and layout toward South 30<sup>th</sup> Street with a focal point plaza located along the terminus of Jefferson Street and incorporates several public plaza spaces along the other two street frontages; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 to allow the layout of the building to incorporate the proposed uses within the needed square footage.

- (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 by requiring a parallel orientation toward the street frontage that could impeded the layout and needed incorporation of the uses with one another on the subject site.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Parking Location and No Masonry Wall)**

- (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.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure 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. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to 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. Guideline 9, policy 1 states that 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 waivers are compatible with the pattern of development within the form district since the majority of parking is located to the rear of the building and landscaping will be used to screen

the parking areas from the street frontages. The design and layout of the proposal heavily emphasize the ability for access via multiple modes of transportation; therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020.

- (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 the majority of the parking has been located to the rear of the structure with the structure being oriented toward South 30<sup>th</sup> Street and screening elements will be met using landscaping.

- (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 by eliminating the parking area along West Muhammad Ali Blvd and portions along West Market Street that are located to incorporate with the unique design and layout of the structure.

**TECHNICAL REVIEW**

- There are no outstanding technical review comments that need to be addressed.

**STAFF CONCLUSIONS**

The standard of review has been met for the requested variances and waivers. The designs of the site and building have incorporated elements that mitigate for the requested relief from the Land Development Code. All other Land Development Code requirements beyond the variances and waivers have been followed with the Category 3 development plan. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting variances, waivers and a Category 3 plan as established in the Land Development Code.

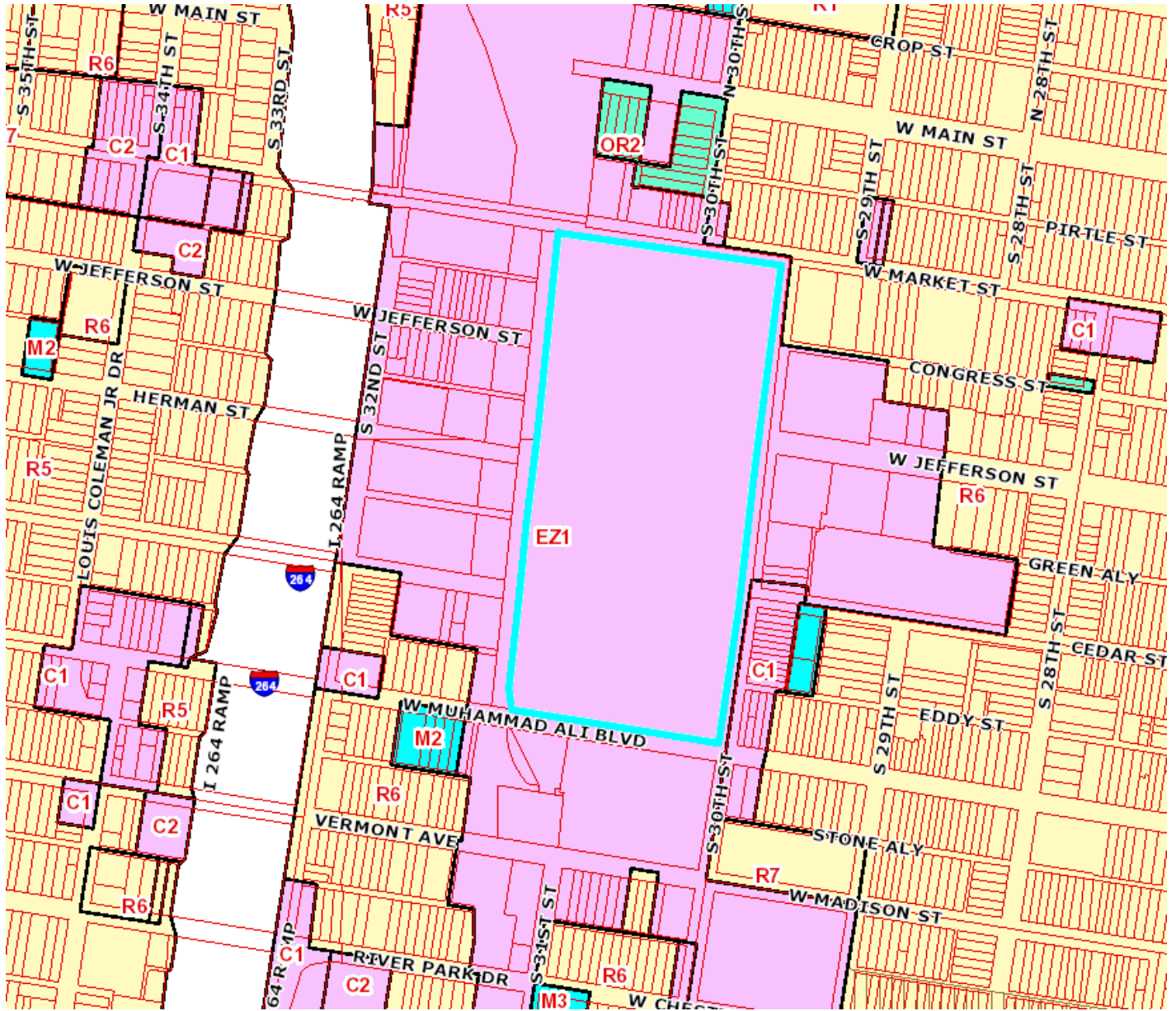
**NOTIFICATION**

Date	Purpose of Notice	Recipients
9/03/15	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at previous public hearing Subscribers of Council District 15 Notification of Development Proposals

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

