

Board of Zoning Adjustment

Staff Report

April 25, 2023



Case No:	23-VARIANCE-0004
Project Name:	NuLu Crossing
Location:	700 East Main St.
Owner(s):	Nick Campisano, NULU Central Station LLC
Applicant:	Martin Prus, Zyzo
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Kat Groskreutz, Planning & Design Coordinator

REQUESTS:

1. **Variance** of Land Development Code section 5.2.3.D.3.e to allow the building to exceed the maximum height allowed (23-VARIANCE-0004).

CASE SUMMARY/BACKGROUND

The subject site is zoned EZ-1 Enterprise Zone and in the Traditional Marketplace Corridor form district. It is located on the south side of E Main Street, in the southeast quadrant of the intersection with S Clay Street, in the NULU Review Overlay District (NROD). The subject site is surrounded by C-2 Commercial zoned parcels to the south, and M-2 Industrial and EZ-1 Enterprise zoned parcels to the north, east, and west.

The site is currently mostly vacant with one historic, 3-story masonry building on the northwest corner. The site previously contained an industrial complex of multiple buildings, including the warehouse structure known as the Service Tanks. After Overlay approval in 2019 of a similar sized mixed-use proposal, all but the one remaining building were demolished. A previous height variance request of 93' feet was also approved by BOZA for that 2019 development proposal, which was similar in use, massing, and size as the current proposal.

The applicant is proposing to construct a 300-unit, mixed-use apartment community with commercial retail and office uses. The applicant requests a variance from the 50-foot maximum building height or four floors (or five floors, with the LDC section 5.5.6 height incentive) to allow eight floors at 101'-4" feet tall.

Previous cases:

- 16DEVPLAN1165: Category 3 application to construct 272 apartments in a vacant warehouse in the EZ-1 zone.
- 19-CAT3-0010: Category 3 application to construct 305 apartments in a vacant warehouse in the EZ-1 zone.
- 19-VARIANCE-0010: requests a variance from the 50-foot maximum building height or four floors.

This proposal required an Overlay Permit application be submitted and approved by the NROD Committee. The overlay permit, 23-OVERLAY-0002, is being heard at the NROD meeting on April 25, 2023. It also required Category 3 development plan and a waiver request be submitted to be approved by DRC. The Cat3 plan (23-CAT3-0001) and waiver permit (23-WAIVER-0040) will be heard at a DRC meeting and is not yet docketed.

The Cat3 was initially tied to the variance and docketed to be heard at the joint NROD/BOZA hearing. After further review, it was determined the Cat3 plan is required to be tied to the waiver request.

STAFF FINDINGS

The variance is adequately justified and meets the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

At the time of this report, Staff has not received any public comment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.2.3.D.3.e TO ALLOW THE BUILDING TO EXCEED THE MAXIMUM HEIGHT ALLOWED

- (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 there other structures in the vicinity of the subject site (specifically, Main and Clay located at 637 E Main Street, AC Hotels at 725 E Market Street, and Martin on Main at 835 E Market Street) which appear to exceed 50 feet in height.

- (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 structures in the vicinity of the subject site which appear to exceed the 50-foot maximum height. The subject site is located at the border of the Traditional Marketplace Corridor form district and the Downtown form district, which allows buildings of greater height than currently proposed.

- (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 there appear to be other structures in the vicinity of the subject site which exceed 50 feet in 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 appear to be other structures in the vicinity of the subject site which exceed 50 feet in 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.

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 subject site is located on the border of the Traditional Marketplace corridor form district and the Downtown form district, and there are other structures in the vicinity of the subject site which appear to exceed the 50-foot maximum height.

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 the reduction in height would make the project financially infeasible.

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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance**

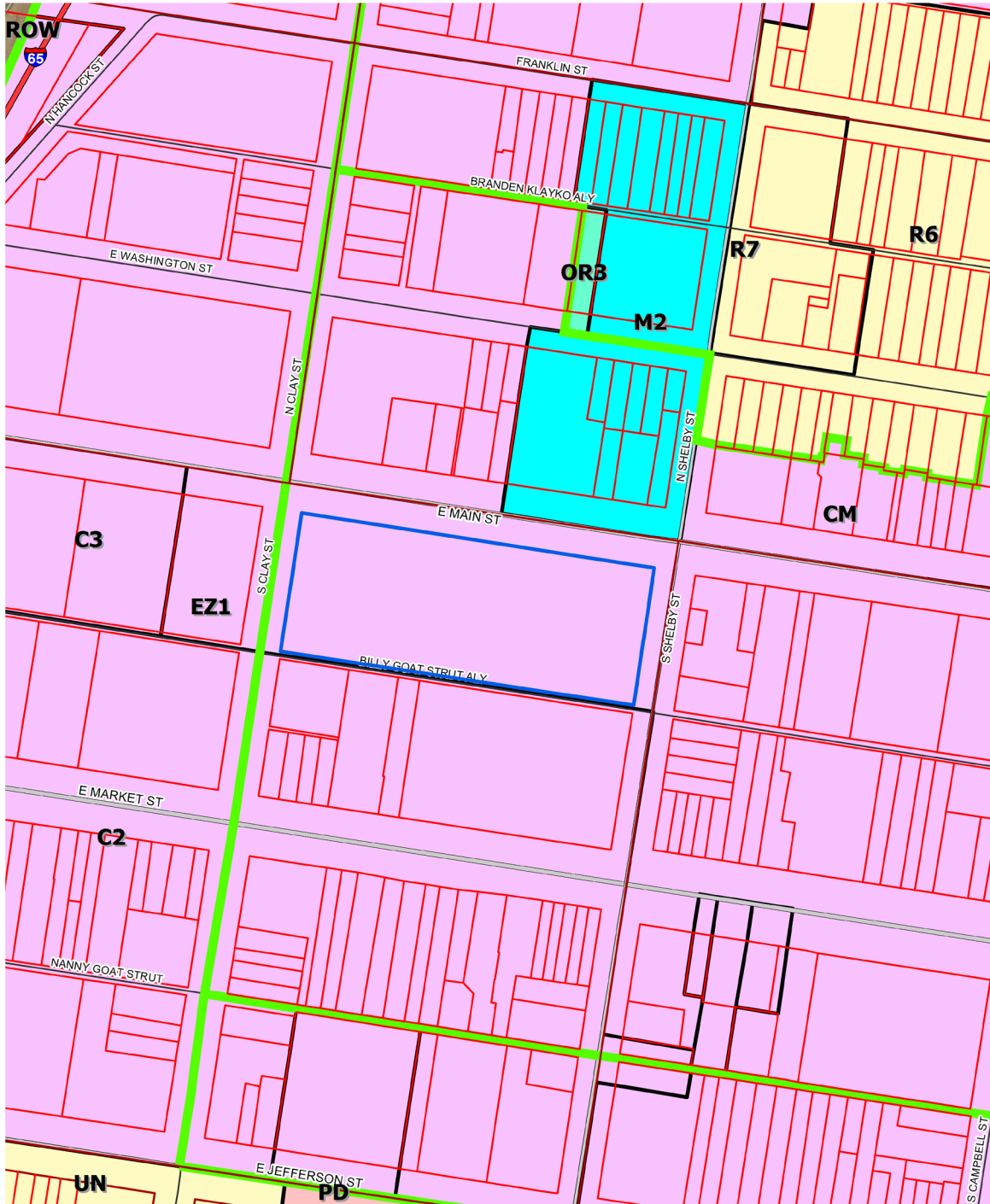
NOTIFICATION

Date	Purpose of Notice	Recipients
4-6-23	Joint Hearing before NROD Committee and BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



700 E MAIN STREET

feet



190

Map Created: 8/16/2019



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