

Louisville Metro Board of Zoning Adjustments
Staff Report
 August 3, 2015



Case No:	15VARIANCE1041 / 15DEVPLAN1083
Request:	Category 3 Plan, Waiver and Variances
Project Name:	Omni Louisville Hotel and Residences
Location:	400 South Second Street
Owner:	Louisville Metro Government
Applicant:	Omni Louisville LLC
Representative:	Omni Louisville LLC
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Brian Davis, AICP, Planning Supervisor

REQUESTS

- Category 3 Plan to construct a 1,136,201 square foot structure consisting of a hotel, apartments, retail and parking structure.
- Variance #1: Variance requested from Section 5.2.1, C.5, 6 and 7 to increase the maximum building setback of 0 feet to approximately 23.5 feet at the furthest point along the West Liberty Street property line.

Location	Requirement	Requested	Variance
Northern Property Line (along West Liberty Street)	0 feet	23.5 feet	23.5 feet

- Variance #2: Variance requested from Section 5.2.1, C.5, 6 and 7 to increase the maximum building setback of 0 feet to approximately 68 feet at the furthest point along the South Second Street property line.

Location	Requirement	Requested	Variance
Eastern Property Line (along South Second Street)	0 feet	68 feet	68 feet

- Variance #3: Variance requested from Section 5.2.1, C.5, 6 and 7 to increase the maximum building setback of 0 feet to approximately 5.9 feet at the closest point along the South Third Street property line.

Location	Requirement	Requested	Variance
Western Property Line (along South Third Street)	0 feet	5.9 feet	5.9 feet

- Waiver #1: Waiver requested from Section 5.2.1, D to accommodate having an innovative high-rise design that proposes two towers that are not stepped back at and above the 14th floor level.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-3

Existing Form District: Downtown

Existing/Proposed Use: Surface Parking/Hotel, Apartments, Retail & Parking Structure

The applicant is proposing the redevelop the 400 block of South Second Street, which is surrounded by South Second Street to the east, West Liberty Street to the north, South Third Street to the west, and West Muhammad Ali Boulevard to the south. The development is divided into two tracts: Tract 1 which is the focus of this application, and Tract 2 which will remain undisturbed for now. Tract 1 is currently home to a number of surface parking lots, the old Louisville Water Company building, and the remains of two other recently razed structures.

Tract 1 will feature a new 30-story tall structure containing approximately 1,136,201 square feet. The primary use will be the hotel, which will feature 600 rooms plus ancillary uses, 225 residential units, 22,316 square feet of market and retail space and an attached parking garage (number of spaces to be determined). The first 14 floors of the building will be for the hotel and ancillary uses, while the top 16 floors will be for the residential units.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Surface Parking	C-3	Downtown
Proposed	Hotel, Apartments, Retail & Parking Structure	C-3	Downtown
<i>Surrounding Properties</i>			
North	Hotel	C-3	Downtown
South	Commercial/Office	C-3	Downtown
East	Commercial/Office	C-2	Downtown
West	Commercial/Office	C-3	Downtown

PREVIOUS/ADDITIONAL CASES ON SITE

15DDRO1011 & 15DDRO1012: The Downtown Development Review Overlay Committee conducted a review of the design of the proposed structure/evaluation on the proposed relocation of the old Louisville Water Company building on July 15, 2015. The case was continued to July 29, 2015. A motion to approve 15DDRO1011 (regarding removal of the old Louisville Water Company building from the site) was approved by a vote of 6-2. A motion to approve 15DDRO1012 (regarding the design of the proposed Omni Louisville Hotel and Residences structure) was approved by a vote of 6-2.

15STREETS1006: There is an application to close the existing alley right-of-ways that are located within the development site. This application will proceed to the Planning Commission if/when the Category 3 plan is approved.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1: Variance requested from Section 5.2.1, C.5, 6 and 7 to increase the maximum building setback of 0 feet to approximately 23.5 feet at the closest point along the West Liberty Street property line

(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 because the proposed additional setback will allow for a wider sidewalk along the West Liberty Street frontage.

(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 proposed development will be compatible with nearby businesses, implement a high standard of design, will be in scale with surrounding development and will provide a wider than normal sidewalk to facilitate pedestrian circulation.

(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 additional setback will allow the sidewalk to be wider, provide more room for pedestrian maneuverability, and provide additional setback from vehicles traveling on the street.

(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 scale of the structure will make up for the additional setback, additional sidewalk width is being provided, the upper floors of the structure will extend over the proposed sidewalk and the structure will take up nearly the entire block.

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 applicant is developing the entire block, therefore creating a new setback on this portion only.

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 this would not allow the wide sidewalk to be constructed which would reduce the amount of area around some of the features which are being incorporated into the design.

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 applicant is proposing to redevelop the site, construction has not yet started.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2:
Variance requested from Section 5.2.1, C.5, 6 and 7 to increase the
maximum building setback of 0 feet to approximately 68 feet at the closest
point along the South Second Street property line**

(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 because the proposed additional setback will allow for a wider sidewalk along the South Second Street frontage.

(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 proposed development will be compatible with nearby businesses, implement a high standard of design, will be in scale with surrounding development and will provide a wider than normal sidewalk to facilitate pedestrian circulation.

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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 applicant is developing the entire block, therefore creating a new setback on this portion only.

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 this would not allow the wide sidewalk to be constructed which would reduce the amount of area around some of the features which are being incorporated into the design.

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 applicant is proposing to redevelop the site, construction has not yet started.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #3:
Variance requested from Section 5.2.1, C.5, 6 and 7 to increase the
maximum building setback of 0 feet to approximately 5.9 feet at the closest
point along the South Third Street property line**

(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 because the proposed additional setback will allow for a wider sidewalk along the South Third Street frontage.

(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 proposed development will be compatible with nearby businesses, implement a high standard of design, will be in scale with surrounding development and will provide a wider than normal sidewalk to facilitate pedestrian circulation.

(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 additional setback will allow the sidewalk to be wider, provide more room for pedestrian maneuverability, and provide additional setback from vehicles traveling on the street.

(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 scale of the structure will make up for the additional setback, additional sidewalk width is being provided, the upper floors of the structure will extend over the proposed sidewalk and the structure will take up nearly the entire block.

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 applicant is developing the entire block, therefore creating a new setback on this portion only.

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 this would not allow the wide sidewalk to be constructed which would reduce the amount of area around some of the features which are being incorporated into the design.

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 applicant is proposing to redevelop the site, construction has not yet started.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1:
Waiver requested from Section 5.2.1, D to accommodate having an
innovative high-rise design that proposes two towers that are not stepped
back at and above the 14th floor level.**

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

STAFF: The waiver will not adversely affect adjacent property owners since the development is taking place within its own city block.

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

STAFF: The waiver will not violate Cornerstone 2020 for several reasons. The proposed structure meets Guideline 3, Policy 1 regarding compatibility because the proposed use is compatible with surrounding uses as well as the scale and site design of nearby development and development within the Downtown Form District. Also, the proposed structure meets Guideline 3, Policy 11 which encourages higher density developments in appropriate areas.

- (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 applicant is proposing an innovative, two tower approach to the design 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 is incorporating two towers into the design of the structure, a variety of materials, as well as overhangs on the upper floors of the structure to provide visual interest.

TECHNICAL REVIEW

- Transportation Review has not stamped the development plan. There are ongoing discussions about right-of-way dedication along all three street frontages. Staff recommends the Board include a condition of approval that states the right-of-way issue should be cleared up prior to construction plan approval.
- With the exception of the proposed variances and waiver, the plan meets all other requirements.

STAFF CONCLUSIONS

The standards of review have been met for the requested waiver and variances on the site. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustments must determine if the proposal meets the standards for approving the variances, waiver and Category 3 plan.

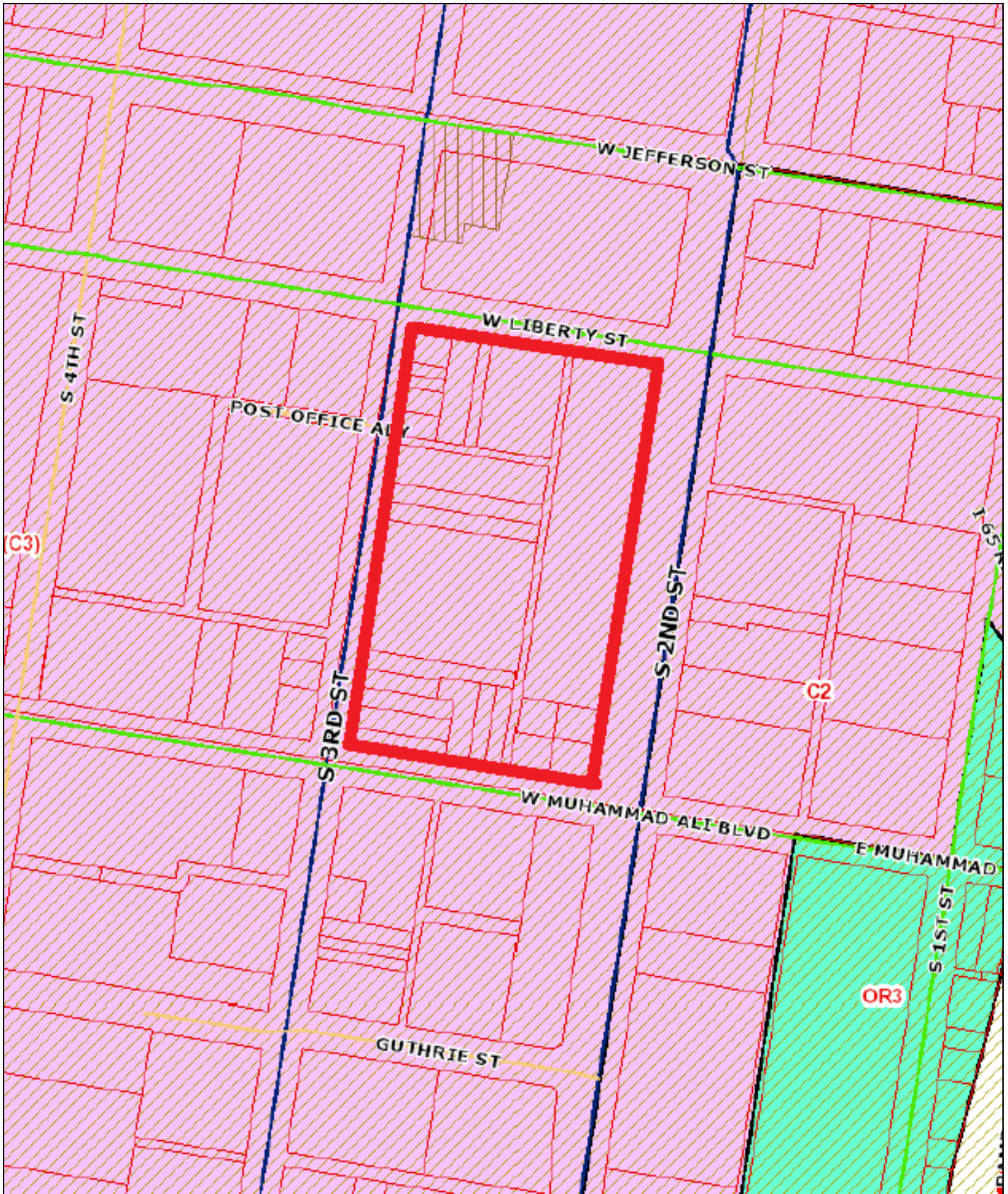
NOTIFICATION

Date	Purpose of Notice	Recipients
6/30/2015	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
7/20/2015	On July 20, 2015 the Board of Zoning Adjustments and Appeals continued the case to August 3, 2015. No new/additional notice was required.	

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Proposed Conditions of Approval

1. Right-of-way dedication along all street frontages shall be resolved prior to construction plan approval.