

**Board of Zoning Adjustment
Staff Report**
May 21, 2018



Case No.	18CUP1034
Project Name	Home of the Innocents
Location	1100 E. Market Street
Owner	HOTI Realty II LLC
Applicant	HOTI Realty II LLC
Representative	Land Design & Development
Project Area	21.95 acres
Council District	4 – Barbara Sexton Smith
Case Manager	Beth Jones, AICP, Planner II

REQUEST

- Modification of a Conditional Use Permit (CUP) to permit an institutional use to be located within M-3 and EZ-1 zoning districts
 - Addition of new parking area (Area 1.A) near railroad track to add 35 spaces
 - Modification of previously approved parking area (Area 1.B) to change the configuration and add twelve spaces
- Variance to permit new parking area (Area 1.A) to encroach into the required 20 ft rear setback (LDC 5.3.5.C.3.c.)
- Variance to permit modified parking area (Area 1.B) to encroach into the required 50 ft public street setback (LDC 5.3.5.C.3.a.)

Location	Requirement	Request	Variance
Rear yard, Parking Area 1.A	20 ft	2 ft	18 ft
Public Street Setback, Parking Area 1.B	50 ft	40 ft 6 in	9 ft 6 in

CASE SUMMARY / BACKGROUND

This request is a modification of a CUP originally granted in 1998 and modified in 2000 (B-307-98), 2007 (Case No. 8612) and 2008 (Case No. 11912). The CUP under which the site plan was originally approved is no longer in existence.

The proposal modifies one previously approved parking area and creates another. The 21.95 acres site is triangular in shape. A boundary line running east to west across the property separates it into M-3 zoning at the north and EZ-1 at the south and the far eastern end. The site is located almost entirely in the Campus form district, with a small portion along the southern boundary in a Traditional Neighborhood district. It is bordered by E. Main Street to the north and S. Johnson Street, E. Market Street and Baxter Avenue to the west. The southern border follows roughly along the CSX railroad line.

The two proposed parking areas are located in two separate parcels, which will be consolidated prior to construction plan approval. The parking area to be modified is located at the far west of the site within

the M-3 zone. The configuration is being changed and twelve new parking spaces are to be added, increasing the lot from 31 to 43 spaces. The parking area to be added is located along the railroad tracks and includes 35 new parking spaces. Variances of required setbacks for both parking areas are required.

STAFF FINDINGS

The proposed modifications are compatible with surrounding land uses and meet all CUP requirements.

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 standards as established by the Land Development Code for modifying the existing Conditional Use Permit.

TECHNICAL REVIEW

The applicant will be required to consolidate the two parcels containing the subject parking areas prior to construction plan approval. No additional technical review items remain to be addressed.

INTERESTED PARTY COMMENTS

No neighborhood meeting is required for CUP Modification requests. Staff has received no written comments regarding the proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with Comprehensive Plan policies regarding compatibility with adjoining sites, mitigation of traffic effects and visual impact.

2. Is the proposal compatible with surrounding land uses and the general character of the area, including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposal is compatible with adjoining commercial and industrial uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The site currently adequately served by all required public facilities.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FOR PARKING AREA 1.A (LDC5.3.5.C.3.c.)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested reduction of the required rear yard will not adversely affect the public health, safety or welfare.

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

STAFF: The vicinity of the requested variance is a mix of commercial and industrial zoning and uses and the rear yard that is the subject of this request is adjacent to a railroad line.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The proposed construction will meet current construction requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light.

(d) The requested variance will not allow an unreasonable circumvention of zoning regulations.

STAFF: The proposed variance will not negatively impact adjoining 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 site of the proposed variance is along a railroad line.

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 proposed land use is reasonable and the development cannot take place without the variance.

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 existing lot was in place prior to the zoning regulation from which relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FOR PARKING AREA 1.B (LDC5.3.5.C.3.a.)

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested reduction of the required rear yard will not adversely affect the public health, safety or welfare.

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

STAFF: The vicinity of the requested variance is a mix of commercial and industrial zoning and uses which will not be negatively affected.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The proposed construction will meet current construction requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light.

(d) The requested variance will not allow an unreasonable circumvention of zoning regulations.

STAFF: The proposed variance will not negatively impact adjoining 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 site of the proposed variance is similar to setbacks on the remainder of the site.

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 proposed use of the land is reasonable and in character with the remainder of the site.

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.

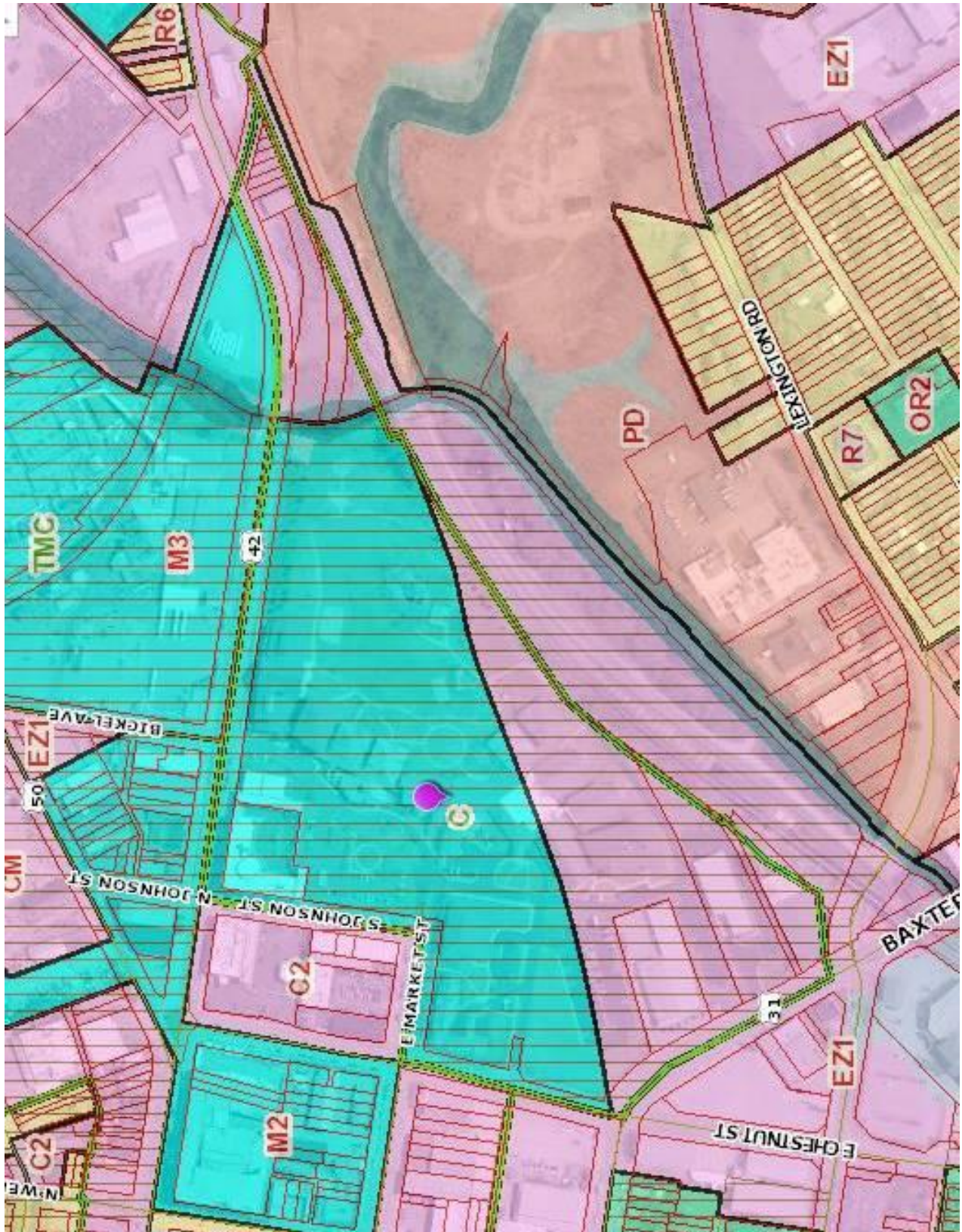
NOTIFICATION

Date	Purpose of Notice	Recipients
None Required	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 4
		Sign Posting

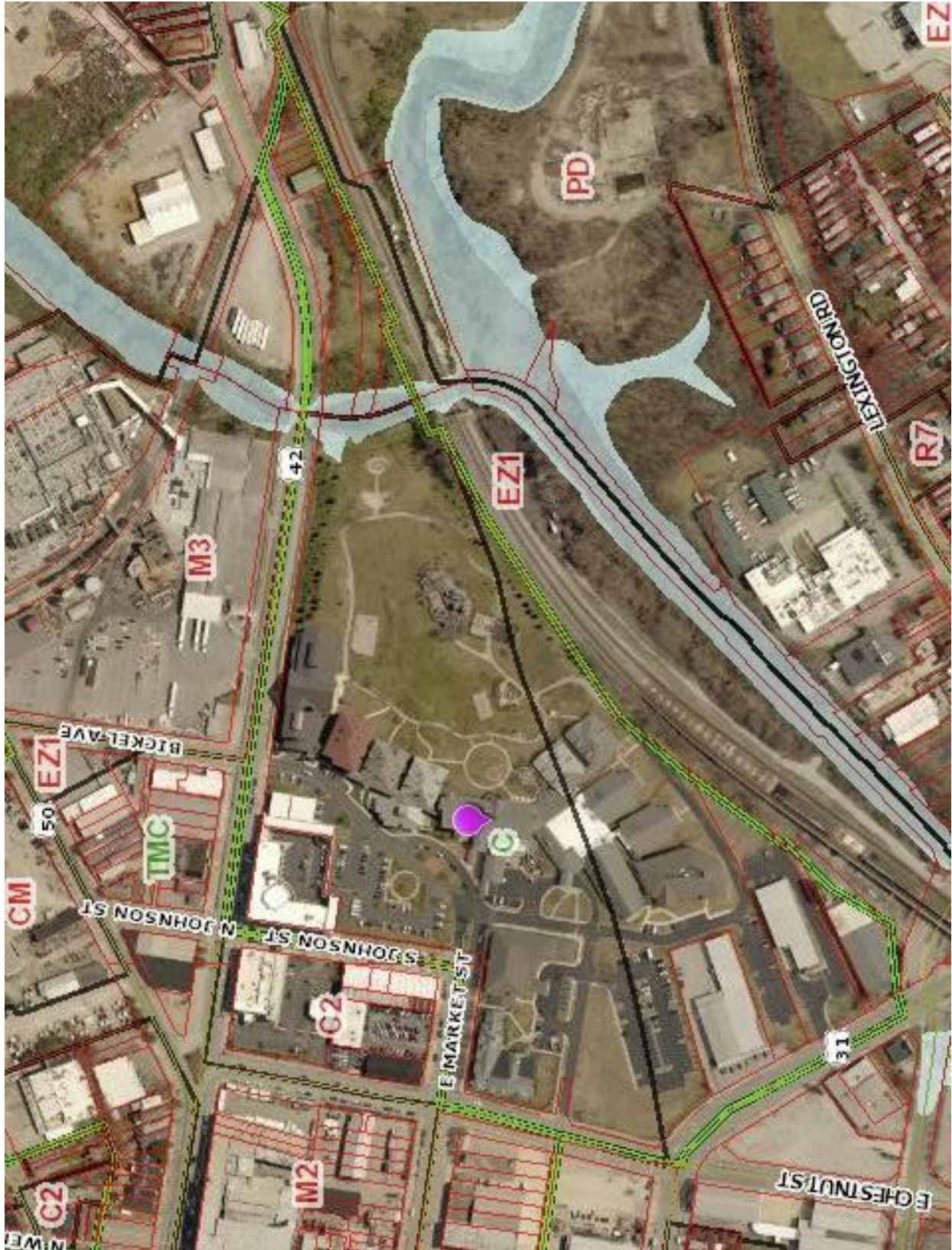
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Aerial Photograph of Modification Areas
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Aerial Photograph of Modification Areas



4. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review by and approval of the Board.
2. The Modified Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for the purposes approved herein without further review by and approval of the Board.
3. The applicant will consolidate the two parcels containing the subject parking areas prior to final construction plan approval.
4. All existing Conditions of Approval attached to the site shall remain in effect.