

Board of Zoning Adjustment

Staff Report

September 14, 2020



Case No:	20-VARIANCE-0045
Project Name:	Gray and Clay
Location:	708-726 E Gray Street
Owner(s):	LDG Land Holdings, LLC
Applicant:	Michael Gross, LDG Development, LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Variance** from Table 5.22 to allow buildings to encroach into the required front and rear setbacks
2. **Variance** from Table 5.22 to allow the building to exceed the maximum 45 foot allowed height by 10 feet

CASE SUMMARY/BACKGROUND

The subject site is in the C-2 Commercial zone in the Traditional Marketplace Corridor form district. The subject site is currently used as surface parking. The subject site is located east of S Clay Street and south of E Gray Street on approximately 0.81 acres. It is surrounded by a variety of zoning districts, including OR-2, C-3, and C-2.

The applicant is proposing to construct a 97,704 square foot, four-story apartment building with 94 dwelling units. There is an associated development plan for this subject site, 20-CAT2-0018, which is staff approvable. The Board of Zoning Adjustment does not act on this request.

The proposed development also includes a second tract of properties on the opposite (north) side of Gray Street, on which the applicant is proposing to construct a four-story apartment building with 250 dwelling units and an underground parking garage, with previously approved variances (under 18ZONE1052) to exceed the maximum 45 foot building height by ten feet and to encroach into the required setbacks on all sides. Parking is proposed to be shared between the subject site and the associated site to the north. This second tract is proposed under 20-DDP-0023, which was approved by the Development Review Committee on August 19, 2020. The Board of Zoning Adjustment does not act upon this request.

STAFF FINDINGS

The variance requests are compliant with the Land Development Code.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM LDC TABLE 5.22 TO ALLOW BUILDINGS TO ENCROACH INTO THE REQUIRED FRONT AND REAR SETBACKS

- (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, as there are no known threats in allowing the proposed building to be closer to the existing sidewalk. Placing buildings closer to the street is consistent with the goals and objectives of Plan 2040, as it creates a more appealing streetscape.

- (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 associated site to the north already has an approved variance for the structure to encroach into the setbacks on all sides of the building. Additionally, it appears that several buildings in the vicinity of the subject site are built to, or close to, the setback.

- (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 there are no known threats in allowing the proposed building to be located closer to the existing sidewalk. There are no issues with sight triangles since the subject site is not located on the corner.

- (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 there are existing structures in the vicinity of the subject site that appear to be encroaching into the setbacks, and the proposed structure to the north of the subject site has an approved variance to encroach into the setbacks on all sides. Additionally, Plan 2040 supports buildings being built out to the property line.

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, as the applicant is proposing to consolidate several separate parcels in order to construct the proposed development.

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 the applicant would have to reduce the size of the proposed residential development in order to comply. Additionally, Plan 2040 supports building facades

being built out to the sidewalk, and the associated site to the north already has an approved variance to encroach into the setbacks.

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, as the applicant has not yet developed the subject property.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.22 TO ALLOW THE BUILDING TO EXCEED THE MAXIMUM 45 FOOT ALLOWED HEIGHT BY 10 FEET

- (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, as there are no known threats in allowing the proposed building to be taller than permitted.

- (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 as the proposed building will only be 10 feet taller than the maximum building height of 45 feet permitted by the Land Development Code. Additionally, the associated site to the north has an identical, approved variance to exceed the maximum allowed building height of 45 feet by 10 feet.

- (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 there are no known threats in allowing the proposed building to exceed the maximum 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 the associated site to the north has an identical, approved variance to exceed the maximum allowed building height of 45 feet by 10 feet. Additionally, there is a nearby structure, St. Martin of Tours Catholic Church at 635 S. Shelby Street, which appears to exceed 45 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.

The requested variance arises from any special circumstances, as the applicant is proposing to consolidate and develop ten parcels that span approximately half a city block along Gray Street between Clay and Shelby Streets.

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 the applicant is proposing to provide higher ceilings within the dwelling units, and they would like the height of the proposed building on the subject site to be consistent with the height of the proposed building to the north.

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, as the applicant has not yet developed the subject property.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variances**

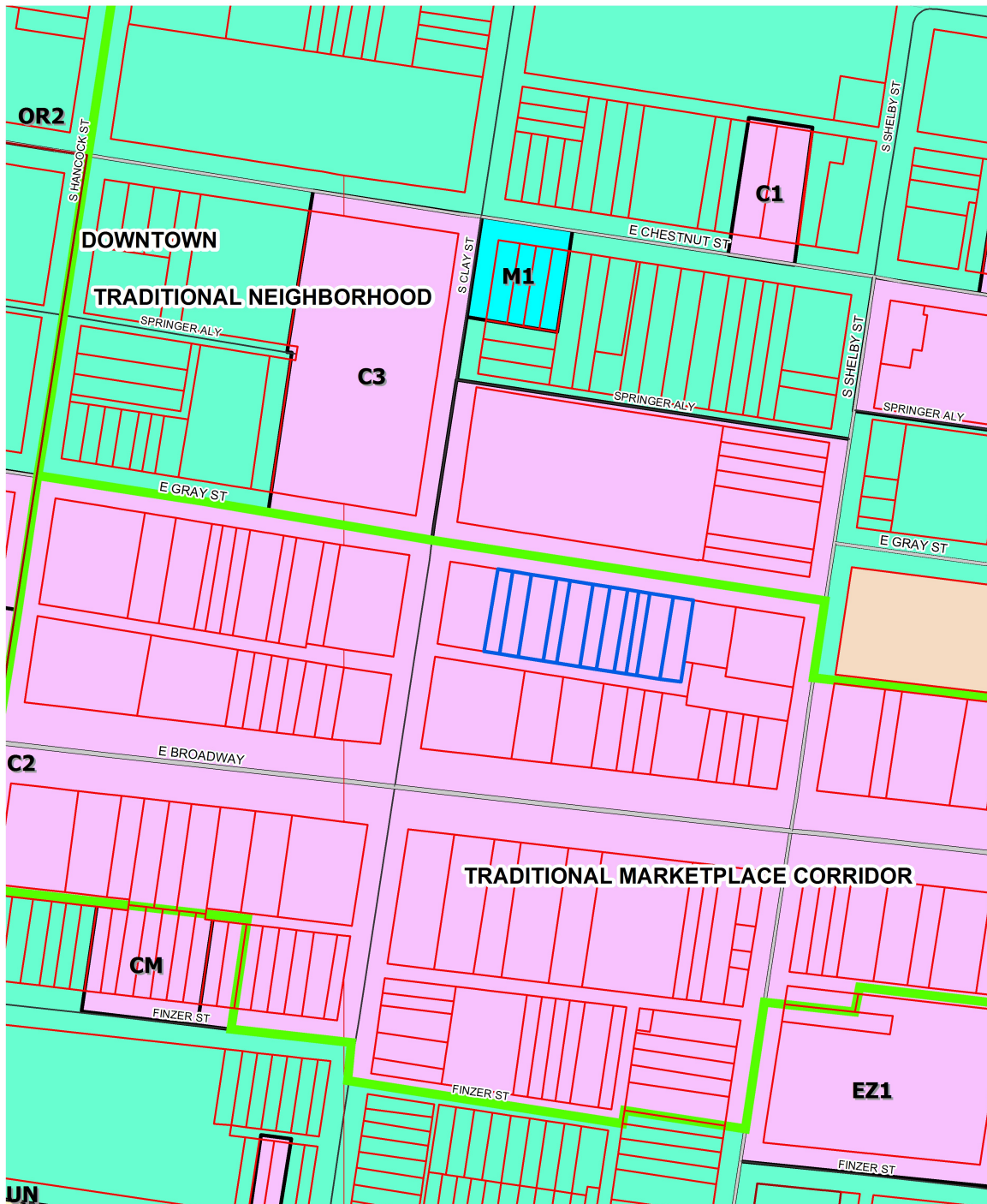
NOTIFICATION

Date	Purpose of Notice	Recipients
9-14-20	Hearing before BOZA	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 4

ATTACHMENTS

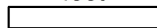
1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



708-726 E GRAY STREET

feet



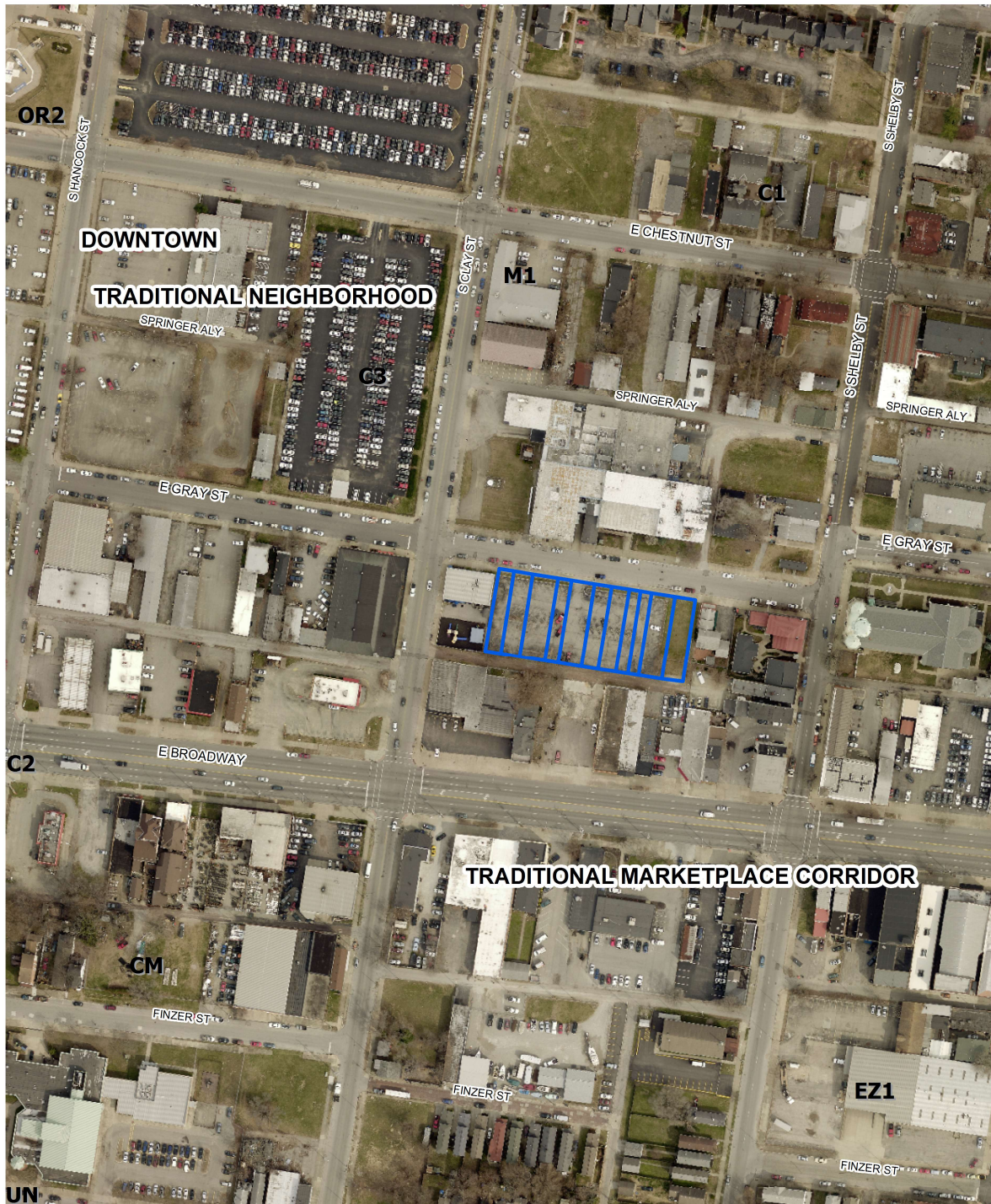
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Map Created: 8/25/2020



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3. Aerial Photograph



708-726 E GRAY STREET

feet



190

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