

**Board of Zoning Adjustment**  
**Staff Report**  
May 17, 2021



<b>Case No:</b>	21-VARIANCE-0026
<b>Project Name:</b>	730 E Market Street Variance
<b>Location:</b>	730 E Market Street
<b>Owner:</b>	Kaveh Zamanian, Green Building LLC
<b>Applicant:</b>	Charles Stephen Wendell, Mountain & River City, LLC
<b>Jurisdiction:</b>	Metro
<b>Council District:</b>	CD 4 – Jecorey Arthur
<b>Case Manager:</b>	Becky Gorman, Planning and Design Coordinator

**REQUEST:**

**Variance** from Land Development Code section 5.2.3.D.3.e to allow the proposed new building to exceed the maximum height by 30 ft for a maximum building height of 75 feet.

Location	Requirement	Request	Variance
Building height	45 ft	75 ft	30 ft

**CASE SUMMARY/BACKGROUND**

The subject site is zoned C-2 (Commercial) and within the Traditional Marketplace Corridor (TMC) form district. The site is part of the NuLu Review Overlay District. The applicant proposes the construction of a new 6-story hotel/bar which will fill the undeveloped parking lots on the subject site. The building's design and the use of the light brick color helps mitigate the height of the structure.

**STAFF FINDING**

The proposal will bring density and a more appropriate scale to the subject site which currently consists of surface parking and an undeveloped lot and will contribute to the character of the District. The design elements also help to mitigate the height difference, which otherwise, are proportional to the adjacent structures and fit the character of the general vicinity. Although this is TMC, NuLu is positioned closely to the Downtown Form District and is an appropriate location for new mid-rise medium density type buildings.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code from Section 5.2.3.D.3.e to allow the height variance of 30 feet.

**TECHNICAL REVIEW**

No technical review required.

### **INTERESTED PARTY COMMENTS**

None

### **RELATED CASES**

Case 21-OVERLAY-0003 21-CAT2-0002(administrative review and approval), and 21-PARKWAIVER-0003

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.3.D.3.e**

- (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. The structure will be constructed to comply with all building codes, including fire codes.

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

STAFF: The proposal will bring density and a more appropriate scale to the subject site lot and will contribute to the character of the District. The design elements of the new building are proportional to the adjacent structures and fit the character of the general vicinity. The design elements also help to mitigate the height difference.

- (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. The design elements help mitigate the height difference, otherwise the proposed structure is proportional to adjacent properties.

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

STAFF: The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the variance will be paired with a building design that will mitigate the impact of the appearance of the building's height. NuLu is positioned closely to the Downtown Form District and is an appropriate location for new mid-rise medium density type buildings.

### **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: This variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

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: A strict application of the provisions of the regulation would deprive the applicant of its reasonable use of the land and cause unnecessary hardship because a shorter building would limit the capacity of the hotel, which would make the project economically infeasible. Additionally, the height is mitigated through the design of the building and the open space on the west side of the development lessens the impact of the height, as well.

3. 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.

STAFF: This is a new proposal. The applicant is following proper procedures and the application is not an after-the-fact variance.

### **VARIANCE PLAN REQUIREMENT**

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

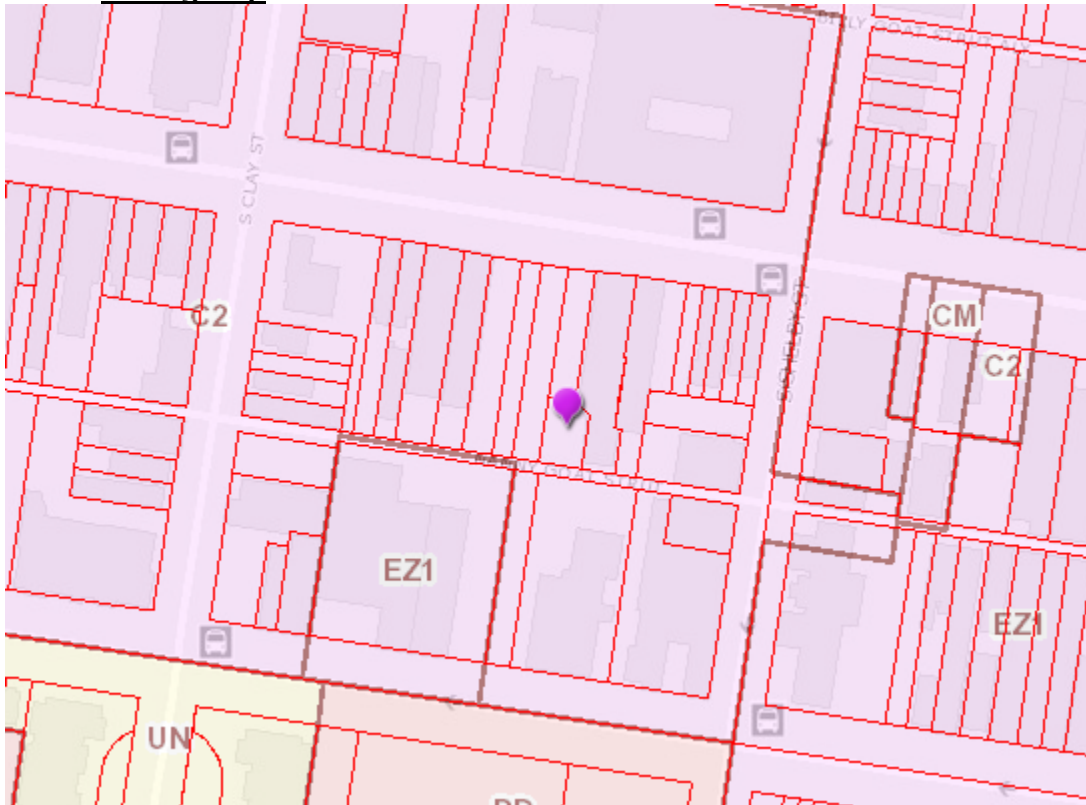
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
4/20/21	Joint Hearing before NuLu Review Overlay District Committee and BOZA Hearing Officer	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
4/23/21	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Renderings/Elevations
5. Site Photos

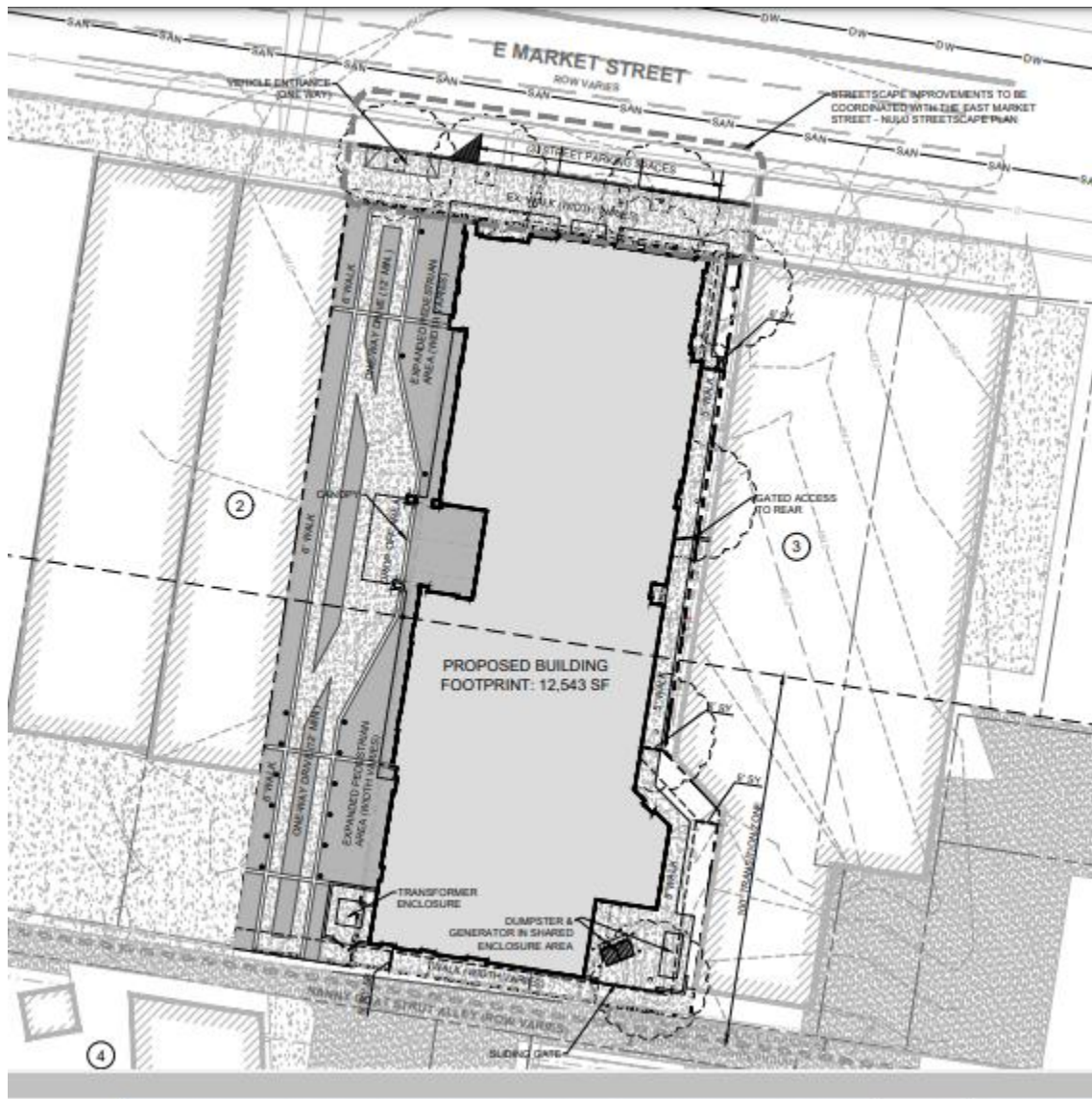
1. **Zoning Map**



2. **Aerial Photograph**



### 3. Site Plan





#### 4. Renderings



Proposed new 6-story hotel at 730 E Market Street



Proposed new 6-story hotel at 730 E Market Street



5. Site Photos



726, 728, 730, and 730R E Market Street  
Staff photo



724 E Market Street  
Staff photo





The Green Building, 732 E Market, and the subject site  
Staff photo



Adjacent building at 720 E Market Street  
Google street view 2019



Subject site and adjacent buildings looking southwest  
Staff photo