

**Staff Report  
Board of Adjustment  
March 14, 2023**

**Request:** The applicant is requesting a variance from the Unified Land Development Code (ULDC), Article III. Division 1. Table 3-1 “Property Development Standards” to allow a new single-family dwelling to encroach 5 feet into the minimum required street side setback of 15 feet.

**Applicant:** Ricardo Chelala

**Owner:** Prezenza Corporation, LLC

**Subject Property:** 2000 New Jersey Street

**Parcel Information:**

Zoning: Mixed Residential at Low to Medium Densities (SF2)  
Use: Vacant

**Surrounding Properties Information:**

North: Mixed Residential at Low to Medium Densities (SF2);  
West: Mixed Residential at Low to Medium Densities (SF2);  
East: Goose Creek CISD and ST Joseph’s Catholic Church (SF2);  
South: Mixed Residential at Low to Medium Densities (SF2).

**Background:**

According to ULDC, Article III, Division 1, Table 3-1. Property Development Standards, a minimum street side setback of 15 feet is required in SF2 zoning district. The applicant is requesting a variance to construct a single-family dwelling that is setback 10 feet from the street side property line. The subject property is located at the southwest corner of New Jersey Street and Kentucky Street with a lot area of 0.11 acres.

The applicant is proposing to build a one story 25-foot wide single-family dwelling with a 10-foot setback from Kentucky Street right of way. However, the applicant will be in conformity with other SF2 development standards such as: 25-foot front yard setback (minimum 15 feet in the code); 5-foot side yard setback from adjacent property to the west, 47 feet rear yard setback (which exceeds the minimum 10-foot rear yard setback), and approximately 33% lot coverage (maximum of 60% in the code). See figure 2. proposed site plan.

The subject property is located within the boundaries of East Baytown subdivision, and is surrounded by single-family dwellings from north, south and west. The majority of properties fronting New Jersey Street have 40-foot lot widths and 125-foot lot depths including corner lots. The original structure on the subject property was demolished in 2021 and the property is currently vacant. Due to the narrow lot widths, existing dwellings in this subdivision have substandard setbacks compared to ULDC development standards. For example, an existing dwelling located at 2001 New Jersey Street (built in 1930) across the street from the subject property has approximately 7-foot street side setback to Kentucky Street right of way, and shares

the same characteristics as the subject property with respect to its location as a corner lot, lot frontage, and lot size.

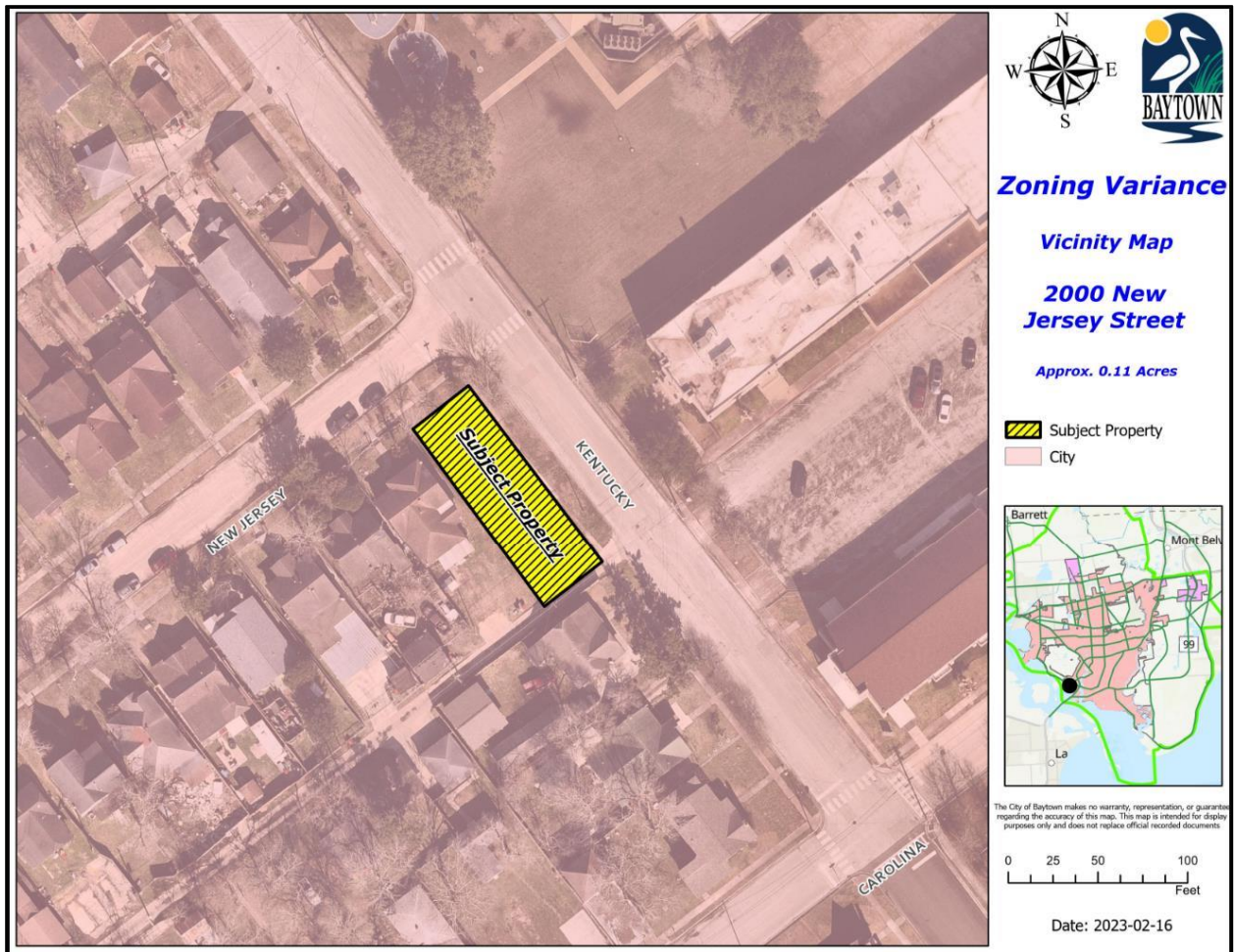


Figure 1. Vicinity Map

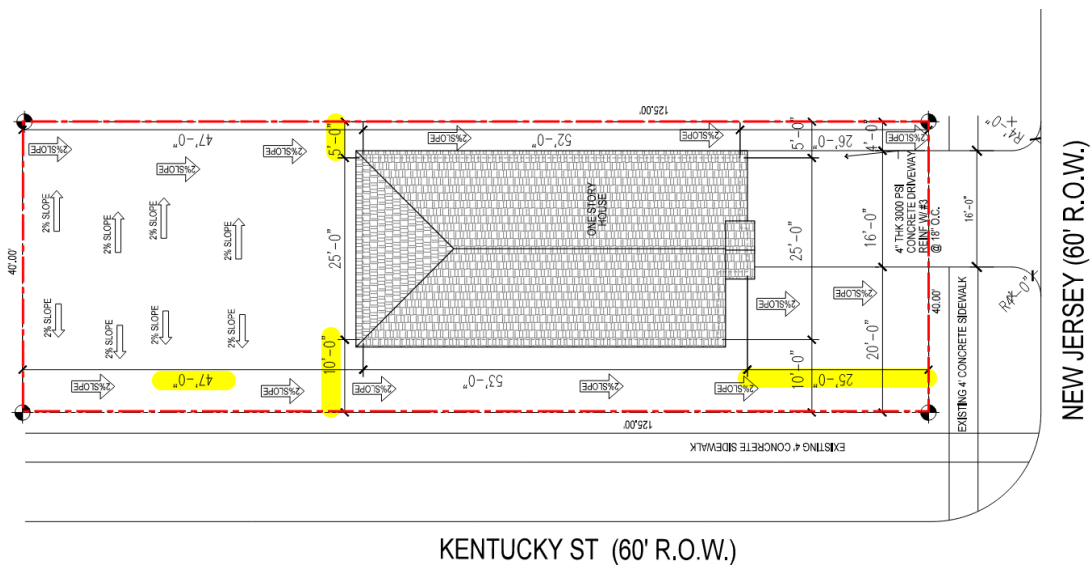


Figure 2. Proposed Site Plan

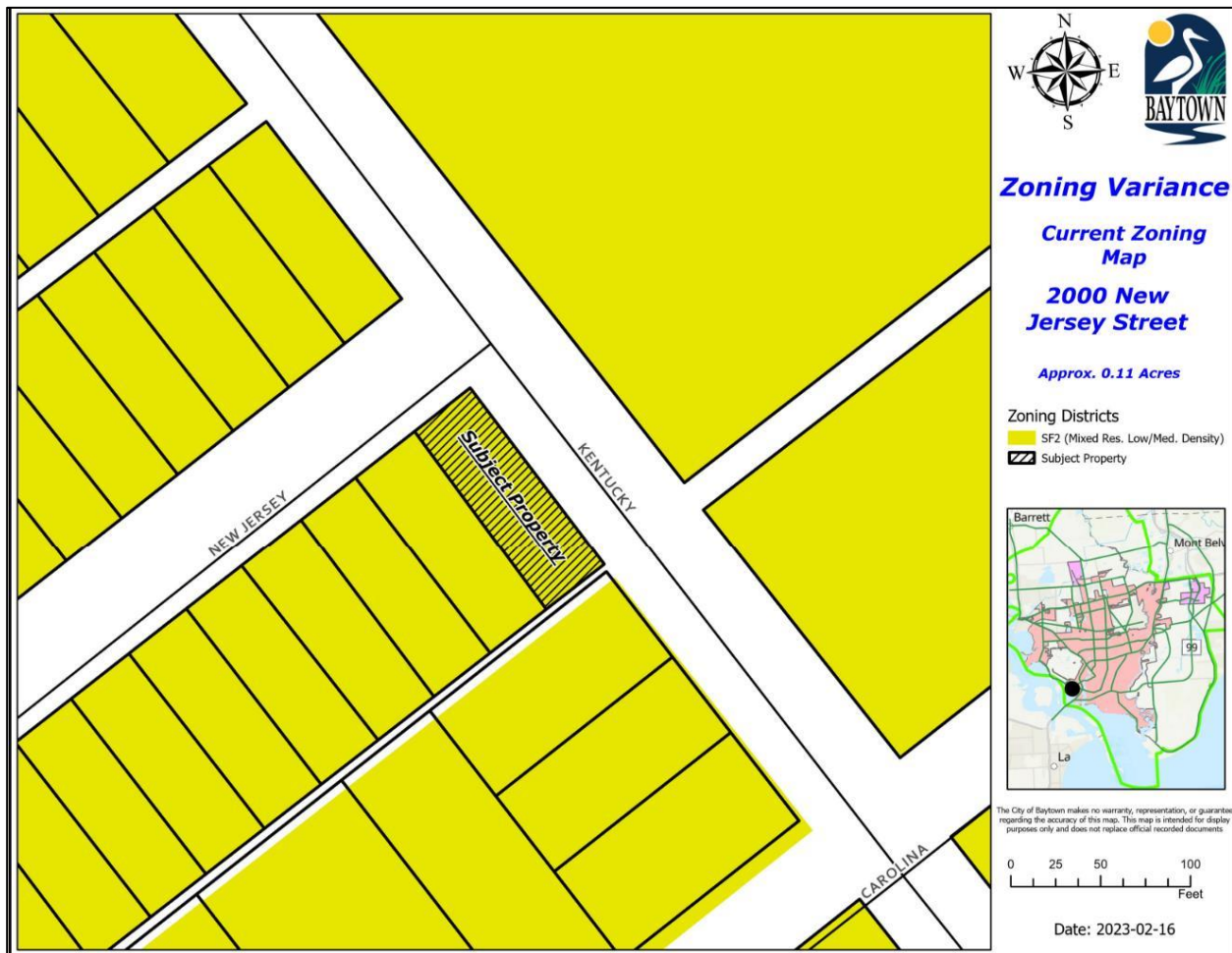


Figure 3. Current Zoning Map

### **Variance Criteria – Section 1.29(c), ULDC**

The board of adjustment may grant a variance when the applicant demonstrates that the variance request will meet all the criteria below:

**1. Ensures the same general level of land use compatibility as the otherwise applicable standards;**

The requested variances to reduce five feet from the minimum required street side setback along Kentucky Street will not affect the general level of land use compatibility. The subject property is a corner lot in SF2 zoning district, and a residential dwelling is a permitted use; moreover, the proposed 10-foot street side setback on Kentucky Street is considered in line with the existing 7-foot street side setback of the corner property across the street from the subject property (located at 2001 New Jersey Street).

**2. Is not a hardship of the applicant's own making;**

A corner lot with 40-foot wide lot frontage makes it difficult to comply with all development standards in SF2. If all applicable development standards were to be applied, the lot would not accommodate the proposed 25-foot-wide residential home and the space for living area within the structure would be reduced. The applicant is proposing to keep the required

setbacks from neighboring properties such as the five-foot side yard setback to adjacent property to the west and an ample rear yard setback to adjacent property to the south.

3. **Does not adversely affect adjacent land uses and the physical character of uses in the neighborhood in which the exception is sought because of inadequate buffering, screening, setbacks and other land use considerations;**

It is not anticipated that the proposed one-story, single-family dwelling will have any adverse impact to the neighborhood character. The original dwelling on the subject property as well as the dwelling across the street share a street side setback of approximately 7 feet along Kentucky Street, and the subject property is the only vacant corner lot along Kentucky Street. The proposed 10-foot street side setback along Kentucky Street will not adversely affect adjacent land uses nor would it affect the physical character of uses in the neighborhood.

4. **Does not adversely affect property values of adjacent properties in any material way and will improve the property value of the property for which the exception is sought;**

It is not anticipated that property values of adjacent properties will be adversely affected by the requested variance. The original structure (built 1940) had approximately 7-foot street side setback and was demolished in 2021. The subject property has been vacant since, and a new residential dwelling will add value to the subject property as well as neighboring properties.

5. **Furtheres the goals and vision of the city as set forth in the comprehensive plan, the vision statement, and an applicable neighborhood plan or redevelopment plan adopted by the city council;**

The requested variances further the 2040 Comprehensive Plan's strategies which allow, promote, and incentivize a variety of housing types for both infill development and new development. The subject property lies within the boundaries of the Revitalization Incentive Zone (RIZ). The RIZ program promotes economic development, encourages the rehabilitation of affordable housing, and stimulates an increase in property values by providing various incentives to eligible participants. The proposed infill development of a vacant property furthers the goals and visions of the RIZ programs and improve property values within the neighborhood.

6. **Is generally consistent with the purposes and intent of this ULDC;**

The requested variance is considered consistent with the intent of the Code and will not be injurious to the surrounding neighborhood or otherwise detrimental to the public welfare or safety. The proposed residential dwelling is a permitted use by ULDC and the proposed one-story dwelling will be compatible with the surrounding structures. Given the substandard lot frontage and setbacks in this subdivision, the proposed five-foot reduction of street side setback will not be recognizable from the public realm.

7. **Is needed as special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same district and are not merely financial;**

The East Baytown subdivision was created in 1930 with lot frontage of 40 feet across the subdivision including corner lots. Existing dwelling conditions do not conform to today's ULDC standards in SF2 such as 1) 50-foot lot frontage; 2) 5-foot side setback; and 3) 15-foot street side setback. In addition to similar corner lots' substandard setbacks, the original single-family structure, erected in 1940 and was demolished in 2021, had a 7-foot street side

setback. Given the narrow frontage of the subject property, the proposed 10-foot street side setback will bring the subject property closer to compliance with ULDC development standards compared to existing properties' setback condition.

8. **Is necessary as literal interpretation and enforcement of the terms and provisions of the dimensional standards would deprive the applicant of rights commonly enjoyed by landowners in the same district and would cause an unnecessary and undue hardship;**

The literal interpretation of today's code would deprive the applicant of rights commonly enjoyed by others in the same area and would create an unnecessary hardship for the applicant. East Baytown subdivision, created back in 1930s, has corner properties with 37- and 40-foot frontage such as the subject property and the property located at 2001 New Jersey Street; such corner lots existed since the creation of the subdivision, and will be burdened by today's development standards in SF2 zoning district that was created for a minimum of 50-foot lot frontage.

9. **Is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and which would carry out the spirit of this ULDC and would result in substantial justice;**

April 13, 2013 was the effective date of the ULDC. Development standards such as minimum 15-foot street side setback requirement is relatively associated with a lot frontage of minimum 50 feet in SF2. Applying ULDC street side setback requirement to the 1930 subdivision with 40-foot corner lots would not carry out the spirit of the ULDC. The proposed 5-foot street side setback reduction in this subdivision is the minimum action to make possible a reasonable use of the land, and would not be contrary to the public interest.

10. **Will bring the existing and proposed structure closer into compliance with the zoning regulations of this ULDC, or will otherwise improve or enhance public health, safety or welfare.**

The variance request will bring the proposed dwelling closer into compliance with the ULDC's development standards; the variance would allow the applicant the reasonable use of the property in accordance with the ULDC's public health, safety, and welfare requirements. It should be noted that the subject property is the only vacant lot along Kentucky Street, and the proposed reduction to street side setback in this infill development would not impact the character of the neighborhood nor would it increase the level of noncompliance existing in this area.

**Recommendation:**

Staff recommends approval.