

Board of Zoning Adjustment Staff Report

November 7, 2022



Case No:	22-CUP-0233
Project Name:	Greater Galilee Off-street Parking
Location:	4000 W. Broadway
Owner(s):	Greater Galilee Church of Louisville
Applicant:	Eric A. Johnson
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Joel Dock, AICP, Planning Coordinator

REQUEST(S)

- **Conditional Use Permit** for off-street parking area (LDC 4.2.39)
- **Variance** from LDC, Section 5.2.2 to reduce the setback for the following yards:

Yard	Required (ft.)	Proposed (ft.)	Variance (ft.)
Front	15	1.2	13.8
Side	5	2.5	2.5
Rear	5	2.5	2.5

- **Waivers:**
 1. **Waiver** of Land Development Code (LDC), Section 10.2.4 to waive the landscape buffer area along the west property line
 2. **Waiver** of LDC, Section 10.2.10 to waive the vehicle use area landscape buffer along 40th street and the rear alley as shown on the development plan
 3. **Waiver** of LDC, Section 5.5.1.3.a to not provide the 3' masonry wall for a surface parking lot

CASE SUMMARY

The applicant has requested a conditional use permit (CUP) for an off-street parking area to serve a private institutional use located on the opposite side of 40th Street from the subject property along W. Broadway. Thirteen parking spaces are proposed. The parking area will be partially covered with a freestanding canopy. The applicant intends to use this canopy to support basketball goals that can be lowered for use while the parking area is not in operation. This accessory function will require relief from item 'D' of the CUP standards. Due to requested variances, relief from the Board is also necessary from item 'C'.

STAFF FINDING

Except for lettered standard 'C' and 'D', the proposal appears to meet all other standards of the conditional use permit. The waivers and variances appear to be adequately justified based on staff's analysis contained in the standard of review. 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 established in the LDC for a Conditional Use Permit.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS

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

STAFF: The proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040.

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

STAFF: The proposal is compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance. The site was formerly a service station. Impervious surfaces, gravel, and structures occupied most of the lot. Structures have been removed. The lot has served as an area for transient parking of vehicles for the institutional use across 40th Street since before the removal of the station and continues to serve that function. The proposal will formalize the area for parking and provide safe separation between vehicles and the public sidewalk.

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: All 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 are available or will be provided.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

STAFF: The off-street parking area is immediately opposite 40th Street from the institutional use it is proposed to serve. A safe crossing is available at 40th Street where it intersects Broadway. Decorative fencing and landscaping will be provided to delineate the space from the public sidewalk and provide safety to pedestrians while the parking area is in use. A variance has been requested to allow for encroachment into multiple yards. While the proposal is to encroach into these yards, the development appears to result in a reduction in the current encroachment of pavement into the side and front yards resulting from the former service station. The street side yard will be restored with development. The proposal will improve and formalize the space for off-street parking. While not in use for parking, the development will also allow for the institution to use the space for recreational activities, including basketball, and be covered for these activities. Plans have been preliminarily approved by Louisville MSD and Transportation Planning.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (front, side, and rear yards)

- (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 as the proposed setbacks do not interfere with the safe movement of people or vehicles or result in noxious uses being located inappropriately within proximity to residences. The adjacent property is elevated and will be screened to prevent headlights that may shine in the direction of the residence at 4008 W. Broadway.

- (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. While the proposal is to encroach into these yards, the development appears to result in a reduction in the current encroachment of pavement into the side and front yards resulting from the former service station. Some landscaping will be provided and required screening will also be provided in these areas. The street side yard will be restored with development. The proposal will improve and formalize the space for off-street parking.

- (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 as the proposed setbacks do not interfere with the safe movement of people or vehicles or result in noxious uses being located inappropriately within proximity to residences.

- (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 as the requested setback does adversely impact public health, safety, or welfare and no hazards or nuisances are created. Further, it is consistent with the character of the area.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property formerly housed a commercial use in a residential zoning district and impervious surfaces occupy much of the current land. It is also lowered below the grade of the adjacent residence. For the proposed use to be successful and serve the intended purpose, encroachments like the former service station have been proposed. Such encroachment appears to be a reduction in the current built conditions along the front and side property lines.

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 deprive the applicant of the reasonable use of the land as the property could not be safely outfitted for off-street parking.

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: 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 no development has occurred.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1)

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

STAFF: The waiver will not adversely affect adjacent property owners as the reduction is consistent with existing conditions. The required landscape screen will be provided in the area and some landscaping. The property is also slightly elevated from the subject site, which assists in separating the residential use from the off-street parking area.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The reduced buffer is consistent with existing conditions. The required landscape screen will be provided in the area and some landscaping. The property is also slightly elevated from the subject site, which assists in separating the residential use from the off-street parking area.

- (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 as the subject property would not be able to be developed for the proposed use without relief from this landscape buffer which occupies nearly the entire width of the property.

- (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 strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the reduced buffer is consistent with existing conditions. The required landscape screen will be provided in the area and some landscaping.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2)

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

STAFF: The waiver will not adversely affect adjacent property owners as the encroachments formalize the space and provide proper functioning of the parking spaces and drive lanes.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The area of the VUA LBA towards the rear at the alley is the appropriate location for parking in traditional neighborhoods and no buffer appears necessary for an alley because of their use and function. The encroachment at the front is primarily for the drive lane providing access. Previously, access was open around the corner. The revision closes access across a sidewalk on the higher intensity road in exchange for a drive lane with an encroachment to 40th Street.

- (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.

- (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 strict application of the provisions of the regulation would create an unnecessary hardship on the applicant the request does not violate Plan 2040 or adversely impact adjacent residents.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (3)

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

STAFF: The waiver will not adversely affect adjacent property owners as the current conditions provide no vehicular control of the area and impervious surfaces extend from the existing adjacent rights-of-way. A delineation will be made along the parking lot in the form of a picket-style 3' tall fence and landscaping.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. A delineation will be made along the parking lot in the form of a picket-style 3' tall fence and landscaping.

- (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 as A delineation will be made along the parking lot in the form of a picket-style 3' tall fence and landscaping.

- (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 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). The applicant proposes landscaping and a 3' picket-style fence in lieu-of the masonry required. A combination of fence and landscaping could provide the same effect and there are no structures at or near the right-of-way that demand a masonry wall of similar architectural detail.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Conditional Use Permit** for off-street parking area (LDC 4.2.39)
- **APPROVE** or **DENY** the **Variances** from LDC, Section 5.2.2 to reduce the setback for the following yards:

Yard	Required (ft.)	Proposed (ft.)	Variance (ft.)
Front	15	1.2	13.8
Side	5	2.5	2.5
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- **APPROVE** or **DENY** the **Waivers**:
 1. **Waiver** of Land Development Code (LDC), Section 10.2.4 to waive the landscape buffer area along the west property line
 2. **Waiver** of LDC, Section 10.2.10 to waive the vehicle use area landscape buffer along 40th street and the rear alley as shown on the development plan
 3. **Waiver** of LDC, Section 5.5.1.3.a to not provide the 3' masonry wall for a surface parking lot

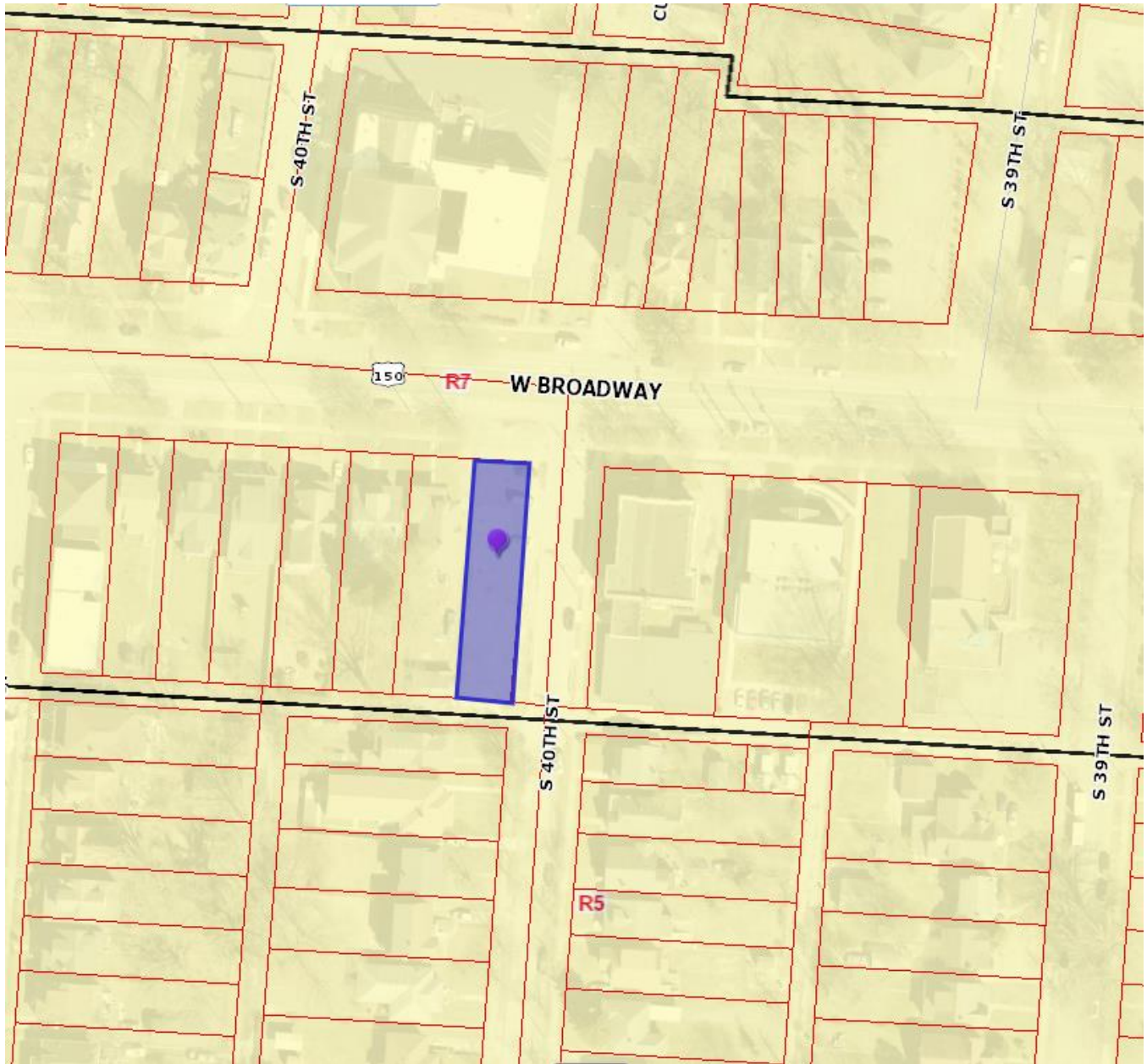
NOTIFICATION

Date	Purpose of Notice	Recipients
10/21/22	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 5

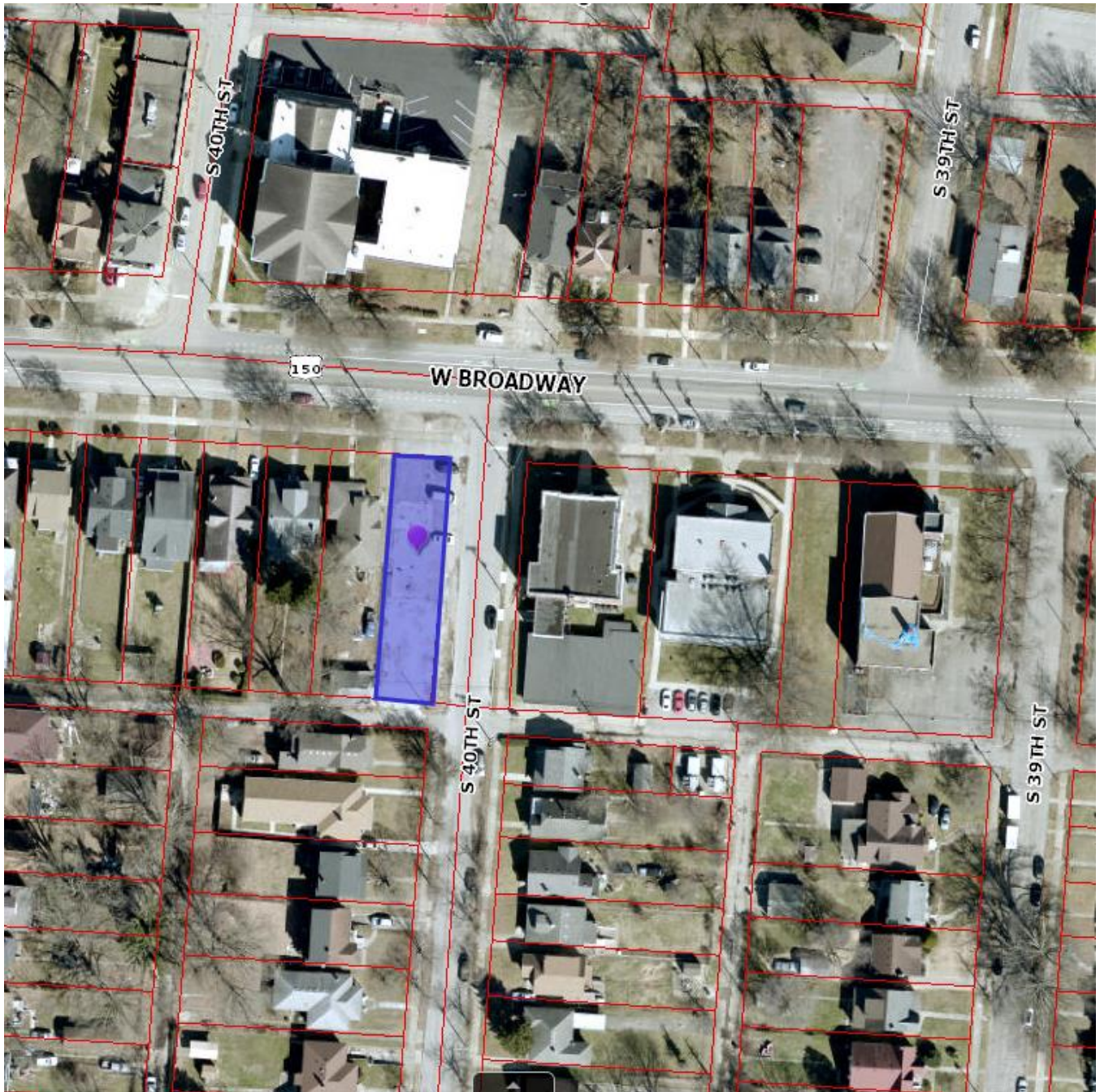
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Map



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 and approval by the Board.
2. The 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 off-street parking until further review and approval by the Board.