

Board of Zoning Adjustment
Staff Report
April 24, 2023



Case No:	23-CUP-0010
Project Name:	Trinity High School Tennis Courts
Location:	150 Sears Avenue
Owner(s):	Trinity High School Foundation
Applicant:	Trinity High School Foundation
Jurisdiction:	City of St. Matthews
Council District:	9 – Andrew Owen
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Variations:**
 - #1: from Article 9, Section 9.1.B.1.a to permit a fence to exceed 4’ in height in the front yard setback (requested: 6’, required: 4’, variance of 2’) (23-VARIANCE-0006)
 - #2: from Article 9, Section 9.1.B.1.a to permit a fence to exceed 4’ in height in the street side yard setback (requested: 10’, required: 4’, variance of 6’) (23-VARIANCE-0007)
- **Conditional Use Permit** for Private Proprietary Club (Article 15.D.12)

CASE SUMMARY

The subject site is located in the City of St. Matthews at the intersection of Sears Avenue and Oechsli Avenue, and consists of one parcel partially developed as athletic practice fields. The applicant proposes a tennis court facility on a portion of the site. Private proprietary clubs include tennis centers in the City of St. Matthews Development Code.

The site on which the Conditional Use Permit area is proposed was rezoned, and is subject to binding elements, under docket 9-83-80. The site was R-6 and was rezoned to R-9 (currently OR-3) for an office building. The proposal was not constructed. The site was subject to a revised detailed district development plan in 1982 under the same docket number, to allow the site to be used as a practice field.

A Revised Detailed District Development Plan and two waivers were recommended to the City of St. Matthews for approval by the Development Review Committee on March 15, 2023.

STAFF FINDING

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. Staff finds that the requested variances are adequately justified and meet the standard of review.

TECHNICAL REVIEW

PRIVATE PROPRIETARY CLUB: Buildings and related facilities established for the recreational or other common interests of the members or users, which buildings and facilities are operated as a business, commercial activity, or for profit, but not including buildings and facilities established for activities listed in these regulations as adult entertainment activities.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 9.1.B (#1)

- (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, because the structure must be constructed to comply with all building codes, including fire codes. The proposed fence will be setback far enough from the street intersection to not obstruct vision clearance.

- (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 fence is required by the Conditional Use Permit being requested, and the site is already in use as athletic practice fields.

- (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 the proposed fence will not obstruct vision clearance associated with vehicles at the intersection.

- (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 fence is standard height for a privacy fence.

ADDITIONAL CONSIDERATIONS:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

STAFF: The requested variance arises from special circumstances which do generally apply to land in the general vicinity or the same zone because, although the property is regular in shape, it is proposed to be used for tennis courts, which requires a Conditional Use Permit and a fence.

- b. The strict application of the provisions of the regulation would deprive the applicant of 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 height of the fence is required by the Conditional Use Permit to protect the adjacent residential property.

- c. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations.

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 fence has not been constructed and the applicant is requesting the variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 9.1.B (#2)

- (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, because the structure must be constructed to comply with all building codes, including fire codes. The proposed fence will be chain link and will not obstruct sight lines.

- (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 fence is required to contain tennis balls, and the site is already in use as athletic practice fields.

- (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 the proposed fence will not obstruct vision clearance associated with vehicles at the intersection.

- (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 fence is required to contain tennis balls from leaving the courts and entering the street.

ADDITIONAL CONSIDERATIONS:

- a. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.

STAFF: The requested variance arises from special circumstances which do generally apply to land in the general vicinity or the same zone because, although the property is regular in shape, it is proposed to be used for tennis courts, and the fence will contain the tennis balls and prevent them from leaving the courts.

- b. The strict application of the provisions of the regulation would deprive the applicant of 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 height of the fence is needed in order to make the tennis courts safe to use.

- c. Such special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations.

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 fence has not been constructed and the applicant is requesting the variance.

STANDARD OF REVIEW FOR CONDITIONAL USE PERMITS

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

Staff: The proposal is consistent with Plan 2040. The site is already in use as athletic practice fields. The proposed use is similar in intensity to the existing use.

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 the area and form district as the current use of the site is athletic practice fields. The use of the site will not significantly change.

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: MSD and Transportation Planning have approved the site plan prior to docketing of the case.

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

Private proprietary clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, RRD, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF and C-R Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

a. All new buildings, structures and facilities shall be at least 30 feet from any property line.

Staff: The applicant requests relief from this requirement.

b. Roads and parking areas shall be surfaced with a hard and durable material and properly drained.

Staff: The applicant shall comply with this requirement.

c. Off-street parking shall be provided in a ratio of one space for every 100 square feet of floor area in the building(s). The Board shall determine the number of spaces required for facilities which are not located within a building.

Staff: Parking is being provided in compliance with the ratio for tennis courts (4-6 spaces per court).

d. Swimming pools shall be enclosed within a fence at least six feet high.

Staff: This requirement is not applicable.

e. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.

Staff: The applicant shall comply with this requirement.

f. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

Staff: The applicant shall comply with this requirement.

g. Landscaping treatment of the buildings and grounds shall be provided to harmonize with the district in which it is located.

Staff: The applicant shall comply with this requirement.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variances**
- **APPROVE** or **DENY** the **Conditional Use Permit**

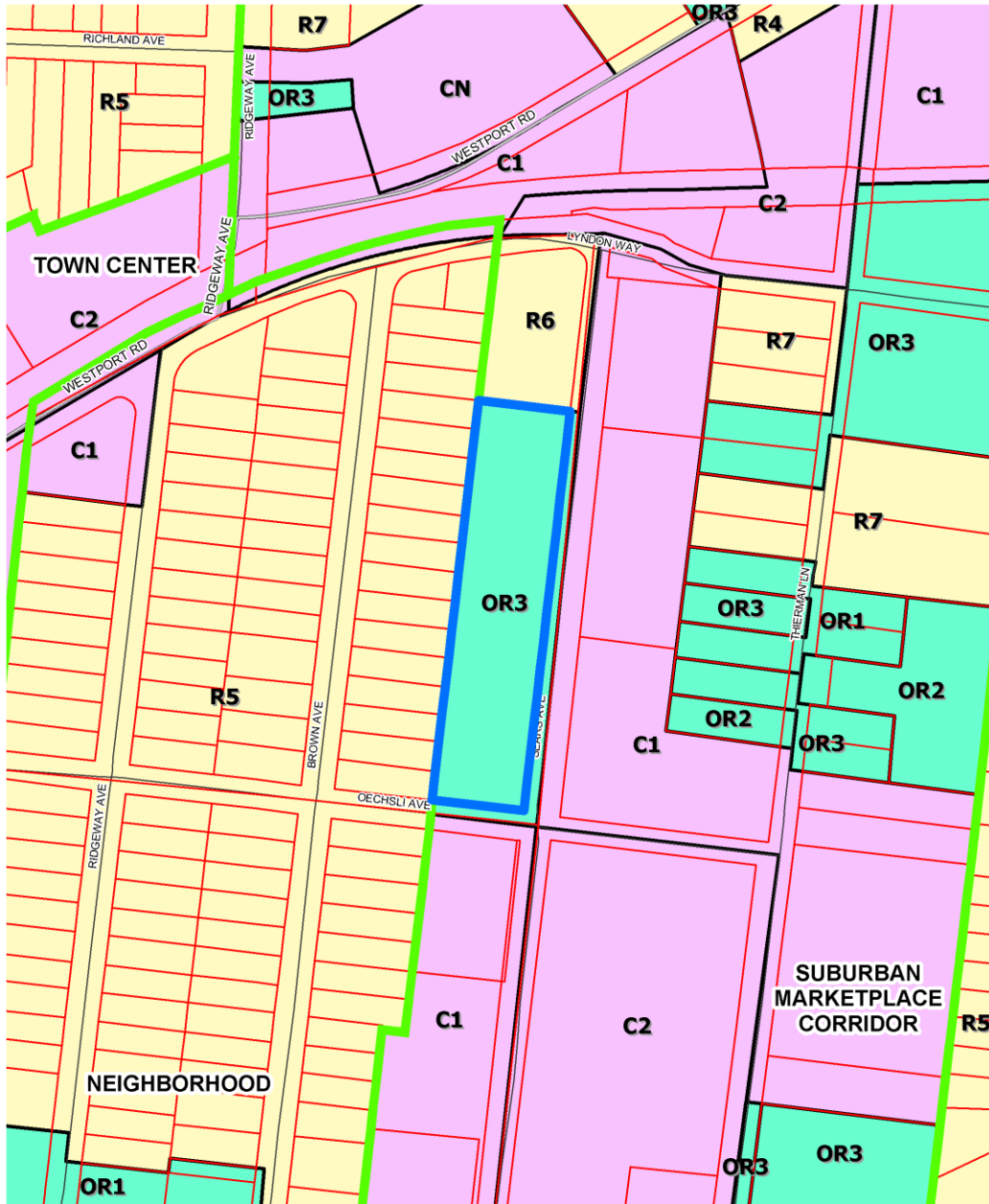
NOTIFICATION

Date	Purpose of Notice	Recipients
04/07/2023	Hearing before BOZA	1 st & 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 9
04/12/2023	Hearing before BOZA	Sign posting on property

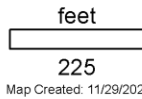
ATTACHMENTS

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

1. Zoning Map



Sears Ave Tennis Courts



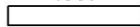
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2. Aerial Map



Sears Ave Tennis Courts

feet



225

Map Created: 11/29/2022



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3. Proposed 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 a private proprietary club until further review and approval by the Board.
3. The Conditional User Permit shall not be valid unless and until the Revised Detailed District Development Plan and required waivers are approved by the City of St. Matthews.