



**SHAWN M. SPALDING**  
DIRECT DIAL: (502) 568-5457  
shawn.spalding@skofirm.com

500 WEST JEFFERSON STREET  
SUITE 2000  
LOUISVILLE, KY 40202-2828  
MAIN: (502) 333-6000  
FAX: (502) 333-6099

January 9, 2023

Louisville Metro Planning & Design  
444 South 5<sup>th</sup> St, Suite 300  
Louisville, KY 40202

RE: Conditional Use Permit and Revised District Development Plan  
for 150 Sears Avenue

Dear Members of the Board of Zoning Adjustment:

On behalf of Trinity High School Foundation, Inc., a Kentucky non-profit corporation (the "Applicant"), we request approval of (i) a conditional use permit, (ii) front and side yard variances for fences, and (iii) a revised district development plan for a portion of the property located at 150 Sears Avenue, Louisville, Jefferson County, Kentucky (the "Property") to allow Applicant's development of a tennis practice facility. The Property is used by Applicant and Trinity High School ("Trinity") as practice field for various sports with the only structure being a small utility shed in the southwest corner used for storage. The Applicant is proposing to construct a sports facility comprised of five standard tennis courts, small accessory building, parking lot, and underground detention basin (the "Development"). The Development will better enable Trinity's ability to provide necessary and convenient practice facility options to its students and will eliminate Trinity's reliance on third-party site arrangements and related scheduling administration.

The Property is zoned OR-3 and bounded by R-5 to the West, R-6 to the North, C-1 to the East and South, and C-2 on the southeast corner adjacent to the Property. In its currently vacant state, the Property acts as a transition between the commercial properties leading to and from Shelbyville Road and the adjacent residential neighborhood. The Development is compatible with surrounding land uses and the general character of the area and help improve the transition between uses. The use of the proposed tennis courts will be limited throughout the year. The tennis season officially runs from mid-February through May, and Applicant expects light off-season use together with potential summer youth camp opportunities. Currently, Trinity estimates approximately 15 students participate in tennis each year. Traffic generated by the Development is expected to be substantially lower than a typical OR-3 user. Traffic is also kept relatively low due to the Property's proximity to Trinity's main campus, which allows for students and coaches to access the Property by a short walk or bike ride. The overall development will have a minimal impact on the surrounding community with the proposed robust underground water detention basin providing a clear benefit above existing conditions.

### **Conditional Use Permit Application**

The Applicant is requesting a conditional use permit for a proprietary club as authorized by Section 2.3.4(B) of the Land Development Code. The requested conditional use permit is

limited to the southern portion of the Property as shown on the Site Plan, with the remaining area of the Property continuing to function as a vacant grass field for occasional sports practice use. As the proposed use is merely a modification of the types of athletic activities that are already occurring accessory to Trinity's use of the Property, the Applicant is quite confident in stating that the proposal meets the purpose and intent of the LDC, is compatible with the surrounding land uses and the general character of the area, and all necessary public facilities are adequate and available to serve the proposed use.

Further, this request complies with the Plan 2040 Comprehensive Plan for Louisville Metro (the "Comprehensive Plan") for the reasons outlined below. Primarily, the proposed development is consistent with the historical use of the Property as a practice area for Trinity sports and provides a positive infill development of the currently vacant lot that minimally impacts adjacent property. The Development is limited to only five (5) tennis courts and does not call for the use or installation of either overhead lighting or a built-in public address or other sound amplification system. The facility use will therefore be limited to use during daylight hours, predominately in the spring and summer months. All necessary public facilities and services, including roads, sanitary sewers, stormwater facilities, utilities, refuse collection, police and fire protection, are available and adequate to serve the proposed use. A site plan has been submitted with this application which reflects the existing facilities, parking, and access to the Property.

More specifically, the proposed project meets the following Goals and Objectives of the Comprehensive Plan:

**4.1 Community Form Goal 1: Guide the form and design of developments to respond to distinctive physical, historic, and cultural qualities.**

1. The Development helps to foster the health and prosperity of the surrounding properties by encouraging pedestrian use and movement between the Property and Trinity's main campus, thus reducing vehicular traffic in the area. (Objective c)
2. The Applicant has been or will be meeting with members of the community to discuss the Development and ways of best adapting to the needs of all parties. (Objective e)
3. The Development will be effective and beneficial infill development that revitalizes an underutilized property. (Objective f)

**4.1 Community Form Goal 2: Encourage sustainable growth and density around mixed-use centers and corridors**

1. The Property is currently zoned OR-3 and acts as a "transition" parcel between the predominately residential areas west of the Property and non-residential uses to the North, South, and East. The Development therefore encourages a more compact pattern between the residential and commercial activity centers in the area and provides a cost-effective infrastructure investment (Objectives a and c).
2. The Development promotes a diverse land use when compared to the surrounding uses and promotes walkability within the area. (Objective b)
3. The Development calls for compliant off-street parking, together with public sidewalk improvements and appropriate traffic controls that effectively promote safe mobility options that strengthen connectivity within the area. (Objective d)

**4.1 Community Form Goal 3: Enhance neighborhoods by protecting and integrating open spaces, watersheds and other natural resources.**

1. The Development effectively utilizes the natural slope of the Property to effectively manage the movement of water toward the underground detention basin (Objective

- a).
2. The Development preserves a substantial open space on the Property and continues its use as a maintained grass field (Objective c).

**4.2 Mobility Goal 3: Encourage land use and transportation patters that connect Louisville Metro and support future growth**

1. The Property is within the area providing a mix of uses and the Development proposes to contribute to the varied mix of already established uses. (Objective a)
2. The Development promotes walkability within the area using sidewalk improvements and the flow of students between Trinity’s main campus and the Property. (Objective b)
3. The Development promotes improved air quality in the surrounding area by reducing the amount additional vehicle trips of student and faculty users from Trinity’s main campus to the Property in lieu of a third-party site nearby. (Objective e)

**4.4 Economic Development Goal 1: Provide an economic climate that improves growth, innovation, investment, and opportunity for all.**

1. The Development proposes to put the Property to a better use through the creation of tennis courts thereby expanding the number of sports able to use to the Property. (Objective d)

**4.5 Livability Goal 1: Protect and enhance the natural environment and integrate it with the build environment as development occurs.**

1. As discussed above, the Development will implement new sidewalk infrastructure for increased accessibility around the Property and decrease vehicle trips through pedestrian movement between Trinity and the Property. (Objective a)

**4.5 Livability Goal 4: Integrate sustainability and resilience in community planning processes.**

1. The Development and the Property’s proximity to Trinity provides multi-modal transportation options between each site (e.g., walking, cycling, vehicle, etc.). (Objective a)
2. The Development and related water detention basin are designed to promote a healthy use of water around the site through the efficient management of stormwater and related runoff. (Objective b)

**Variance Application – Front Yard Fence**

The Applicant is requesting a variance from Section 9.1.B.1.a. of The Louisville Metro Land Development Code (April 1, 2001) and Section 4.4.3.A.1.a.i of the Land Development Code for All of Jefferson County, Kentucky to allow a privacy fence to exceed the maximum 4-foot height within the Front Yard Setback. Specifically, we request to vary the 4-foot front yard requirement two (2) feet for a 6-foot privacy fence to be located along the property line between the Property and 201 Brown Avenue as shown on the Site Plan. To be clear, the proposed variance is not for fencing along the entire frontage of Oechsli Avenue, just along the western property line.

The front yard variance will not adversely affect the public health, safety or welfare. The variance amounts to an increase in the permissible fence height by only two (2) feet and is very limited in scope. The additional height will improve the safety and welfare of the public by creating additional screening in the rear yard of an adjacent property and the area of the variance functions

more as a side or rear yard than a front yard due to the adjacent lot layout. The variance will not alter the essential character of the general vicinity as the proposed fencing will be in keeping with similar forms of fencing utilized by both the residential and commercial users in the general vicinity. The variance will not cause a hazard or nuisance to the public as the site will be secured to promote public safety and for the benefit of our neighbors as well as Trinity. The proposed improvements with the development of the Property will also improve site drainage for the entire area.

The proposed variance is not an unreasonable circumvention of the requirements of the zoning regulations because it increases the allowable fencing height by only two feet, the standard height for privacy, and matches the height of several neighboring property fences. Our request also arises from special circumstances, which do not generally apply to land in the general vicinity due to the unique dimensions and grading of the Property requiring location of the tennis courts on the Property as provided in the Site Plan to facilitate efficient water management solutions. Strict application of the regulation would deprive the applicant reasonable use of the land by imposing an unreasonable and detrimental reduction in the fencing height used to improve our neighbor's screening and aesthetic appeal. Finally, the Applicant is requesting this variance prior to development of the Property, and the circumstances are not the result of actions of actions of the Applicant taken subsequent to the adoption of the regulation from which relief is sought.

#### **Variance Application – Side Yard Fence**

The Applicant is requesting a variance from Section 9.1.B.1.a. of The Louisville Metro Land Development Code (April 1, 2001) and Section 4.4.3.A.1.a.i of the Land Development Code for All of Jefferson County, Kentucky to allow a 10-foot chain link fence to exceed the maximum 4-foot height within the Street Side Yard Setback. Specifically, we request to vary the 4-foot street side yard requirement six (6) feet for a 10-foot chain link fence to be located along the Sears Avenue side yard as shown on the Site Plan.

The variances will not adversely affect the public health, safety or welfare. Adequate sightlines and space for pedestrian improvements are provided along Sears Avenue in the site plan, and the pedestrian improvements will substantially improve public safety by providing sidewalks where none exist currently. The variances will not alter the essential character of the general vicinity. The fencing around the property that will be in keeping with similar forms of fencing utilized by both the residential and commercial users in the general vicinity with the fencing style and height is standard for a tennis facility use. The variances will not cause a hazard or nuisance to the public as the site will be secured to promote public safety and minimize any tennis balls coming into public areas. The proposed improvements with the development of the Property will also improve site drainage for the entire area.

The variance is not an unreasonable circumvention of the requirements of the zoning regulations because adequate spacing for sightlines and public improvements are provided by the site plan. The variance arises from special circumstances, which do not generally apply to land in the general vicinity due to the proposed use. unique dimensions and grading of the Property requiring location of the tennis courts on the Property as provided in the site plan, and to facilitate efficient water management solutions that will benefit the area. The playing area within the fence also necessitates minimum spacing for reasons of safety and standard practices for the sport. Strict application of the regulation would deprive the applicant reasonable use of the land by materially reducing the usable area within the allowable fencing, thereby decreasing the total number of courts available for play. A reduction in the already modest site plan proposal would

risk the financial justification for the facility and severely limit Trinity's ability to adequately accommodate the needs of students. Finally, the Applicant is requesting this variance prior to development of the Property, and the circumstances are not the result of actions of actions of the Applicant taken subsequent to the adoption of the regulation from which relief is sought.

### **Revised District Development Plan Application**

To comply with the LDC rules and regulations governing the Property, the Applicant is also required to request a revision to the District Development Plan for our proposed use of the Property. The proposal is in compliance with Comprehensive Plan and Land Development Code, subject to the foregoing conditional use permit and variance applications.

There are no natural resources on the property, including trees and other living vegetation (except grass), steep slopes, water courses, flood plains, soils, air quality, scenic views, or historic sites. The Site Plan provides safe and efficient vehicular and pedestrian transportation provided both within the development and the community with the 25-space parking lot only utilizing a single curb-cut to and from Sears Avenue to facilitate vehicular traffic and parking. The Site Plan also provides a 5-foot pedestrian sidewalk that will run the length of Sears Avenue. Trinity is providing ample open space to meet the needs of the proposed development. The tennis facility is predominately an outdoor facility with a single multi-use building providing restrooms, storage, and small concession window. The tennis facility is limited to only a portion of the overall Property, the balance of which will remain an open grass field utilized by Trinity for sports practice.

The overall site design and proposed tennis facility is compatible with the existing and projected future development of area. The Site Plan provides adequate drainage facilities on the subject site to prevent drainage problems from occurring on the subject site or within the community. The site plan utilizes the natural slope of the property to effectively manage the movement of water toward the underground detention basin that will be installed by Applicant.

As part of a previous approval for the Property, there were binding elements regarding additional reviews before development and dedication to the public right-of-way. There will need to be revisions to the below binding elements as part of the new development plan application:

1. ~~Before alterations are made to the site the plan must receive reapproval from the Water Management Section of the Jefferson County Department of Public Works and Transportation.~~ (Satisfied by this RDDP application)
2. ~~There shall be no further development of the site until a revised district development plan is approved by the Planning Commission. Such plan shall be subject to additional binding elements as allowed by the Zoning Regulations.~~ (Satisfied by this RDDP application)
3. The property owner shall dedicate 10' of additional right-of-way to Sears Avenue **sufficient** to provide a total of 60'. Dedication shall be by minor subdivision plat and shall occur within 6 months of approval of the **revised** district development plan. (Per the RDDP, the Sears Avenue ROW is +/-58'. The Applicant shall dedicate an amount of Right of Way as is required by Metro Louisville Public Works)

In summary, this well-designed project upholds the goals of the Comprehensive Plan, is an appropriate development of an underutilized parcel, enables a teaching institution with a long

history in the area to better serve its students, and accomplishes all this in a way that will not have an adverse impact on the surrounding areas. As such, it is quite clear that the proposed conditional use permit complies with the Comprehensive Plan and, together with the proposed variances and revised district development plan, the project complies with the Land Development Code.

We look forward to attending a public hearing to make a complete presentation of this application and request your favorable consideration.

Sincerely,

Stoll Keenon Ogden PLLC

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Shawn Spalding