

Board of Zoning Adjustment

Staff Report

December 19, 2022



Case No:	22-CUP-0245
Project Name:	Private Non-profit Club Conditional Use Permit
Location:	1915 W Market Street
Owner/Applicant:	Louisville Outlaws, INC.
Representative:	Dustin Harrig
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Molly Clark, Planner II

REQUESTS

- **Conditional Use Permit** to allow a private non-profit club in OR2 Office Residential zoning district.
- **Waivers:**
 1. A waiver from section Chapter 10 Part 2 of the Land Development Code to provide a 7 ft screen with an existing 7 ft wooden fence instead of an 8 ft screen, to eliminate a portion of the screen along the western property line, to provide half of the required plantings (Type A trees) and to allow an existing structure and proposed pavilion to encroach into the required 10 ft landscape buffer area. (22-WAIVER-0187)
 2. A waiver from section 5.5.1.A.3.a to not provide the required 3 ft masonry, stone or concrete wall. (22-WAIVER-0186)

CASE SUMMARY/BACKGROUND

The subject site is zoned OR2 Office Residential in the Traditional Marketplace Corridor Form District on .43 acres. The property contains an existing 2 ½ story building currently being used by a private non-profit club. This private non-profit club has existed at this location for decades and the proposed conditional use permit and waivers are to bring the subject site into compliance. The private non-profit club is proposing a pavilion to have a place where they could have fund raisers and meetings that would help charities that their organization supports.

There is one related property maintenance case under ENF-PMNT-22-011225 regarding garbage that has since been resolved and closed. The applicant states that they have issues of illegal dumping in the neighborhood.

STAFF FINDING / RECOMMENDATION

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. The applicant will need relief from item A on the conditional use permit for a private non-profit club.

TECHNICAL REVIEW

There are no technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on October 5, 2022. There were 6 attendees. Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal does not conflict with Comprehensive Plan policies.

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 existing building and proposed pavilion are compatible with surrounding development and land uses.

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: The subject property is served by existing public utilities and facilities. The proposal will not create additional requirements for the site.

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

STAFF: See the following;

4.2.43 Private Non-profit Clubs

Private non-profit 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, R-8A, OR-1, OR-2, or C-R or PTD Districts where such use is compatible in size and scale with the surrounding land uses upon the granting of a Conditional Use Permit.

- a. *All new buildings, structures, and facilities (except parking) shall be at least 30 feet from any property line.*

The existing building and the proposed pavilion will be encroaching in this required 30 ft setback. The applicant will need relief for both the Eastern, Southern and Western property lines. The subject site is located in a traditional neighborhood with small lot sizes which does not leave room to provide the full 30-foot setback on the eastern and western property lines. Demolishing the existing historical structure that encroaches into the 30 ft setback would create an unnecessary hardship on the applicant. Therefore, staff supports the request for relief.

- b. *Outdoor swimming pools shall be enclosed within a fence at least six feet high*

Not applicable.

- c. *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*

The applicant proposes to use the existing 7 ft fence to screen the parking lot from adjacent properties, therefore, the 5 ft requirement is met. An LDC waiver is proposed to reduce the height of the continuous screen in accordance with Chapter 10 of the LDC from 8 ft to 7 ft.

- d. *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 freestanding sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but not flashing.*

Signage will meet code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4. to provide a 7 ft screen, to eliminate a portion of the screen along the western property line, to provide half of the required plantings (Type A trees) and to allow an existing structure and proposed pavilion to encroach into the required 10 ft landscape buffer area, 22- WAIVER-0187:

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is proposing to still provide all screening and half of the required type A trees in the landscape buffer areas.

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

STAFF: The waiver will not violate the specific guidelines of Plan 2040.

- (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 since the applicant is still going to provide a 7 ft screen and half of the required type A trees in the required landscape buffer area. It would be an unnecessary hardship to have the applicant tear down an existing historical structure to meet the required 10 ft LBA.

- (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 will provide a 7 ft privacy fence that will be sufficient to screen the property from other adjacent properties. The elimination of the LBA is needed so the applicant can retain the existing historic structure on the site. The applicant will provide trees on the site but there is insufficient space on the property to provide the full tree requirement based on the location of the existing structures and parking on the site. The size of the lot further restricts the location of trees on the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.5.1.A.3.a. and 5.9.2.C.4. to allow the parking lot to be located in front of the building and to not provide a 3 foot masonry, stone or concrete wall (22-WAIVER-0141):

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

STAFF: The waiver will not adversely affect adjacent property owners since there are other properties next door and on the same block with parking on the side of their property that do not have a 3 ft masonry wall. The 3 foot masonry wall would also restrict access and maneuvering in the parking area.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the existing parking area is a very small space and a masonry wall will make parking and maneuvering difficult.

- (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

STAFF: The applicant has incorporated other design measures such as providing street trees along Market Street, preserving multiple trees throughout the site as well as providing a 7 ft screen on a majority of the site with an existing wood privacy fence.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **CONDITIONAL USE PERMIT** to allow a private non-profit club in OR2 Office Residential zoning district.
- **APPROVE** or **DENY the WAIVER** from 10.2 of the Land Development Code to provide a 7 ft screen, to eliminate a portion of the screen along the western property line and to provide half of the required plantings (Type A trees). (22-WAIVER-0187)
- **APPROVE** or **DENY** the **WAIVER** from 5.5.1.A.3.a to not provide the required 3 ft masonry, stone or concrete wall. (22-WAIVER-0186)

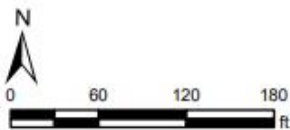
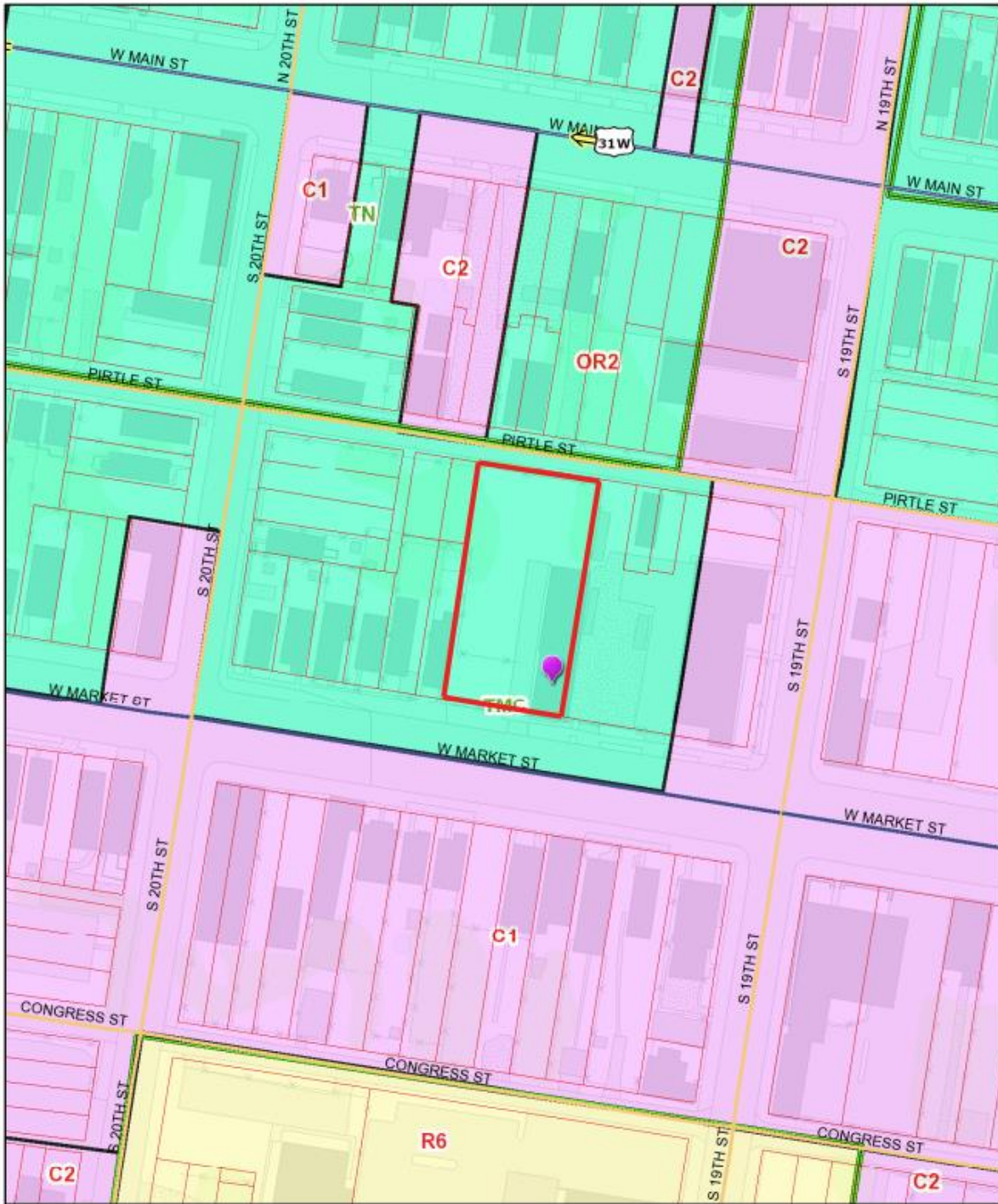
NOTIFICATION

Date	Purpose of Notice	Recipients
12/01/22	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District #5
12/06/22	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Plan 2040 Checklist
5. Conditions of Approval

1. **Zoning Map**



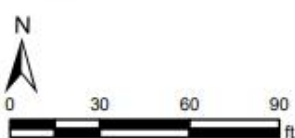
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This map is not a legal document and should only be used for general reference and identification

2. Aerial Photographs



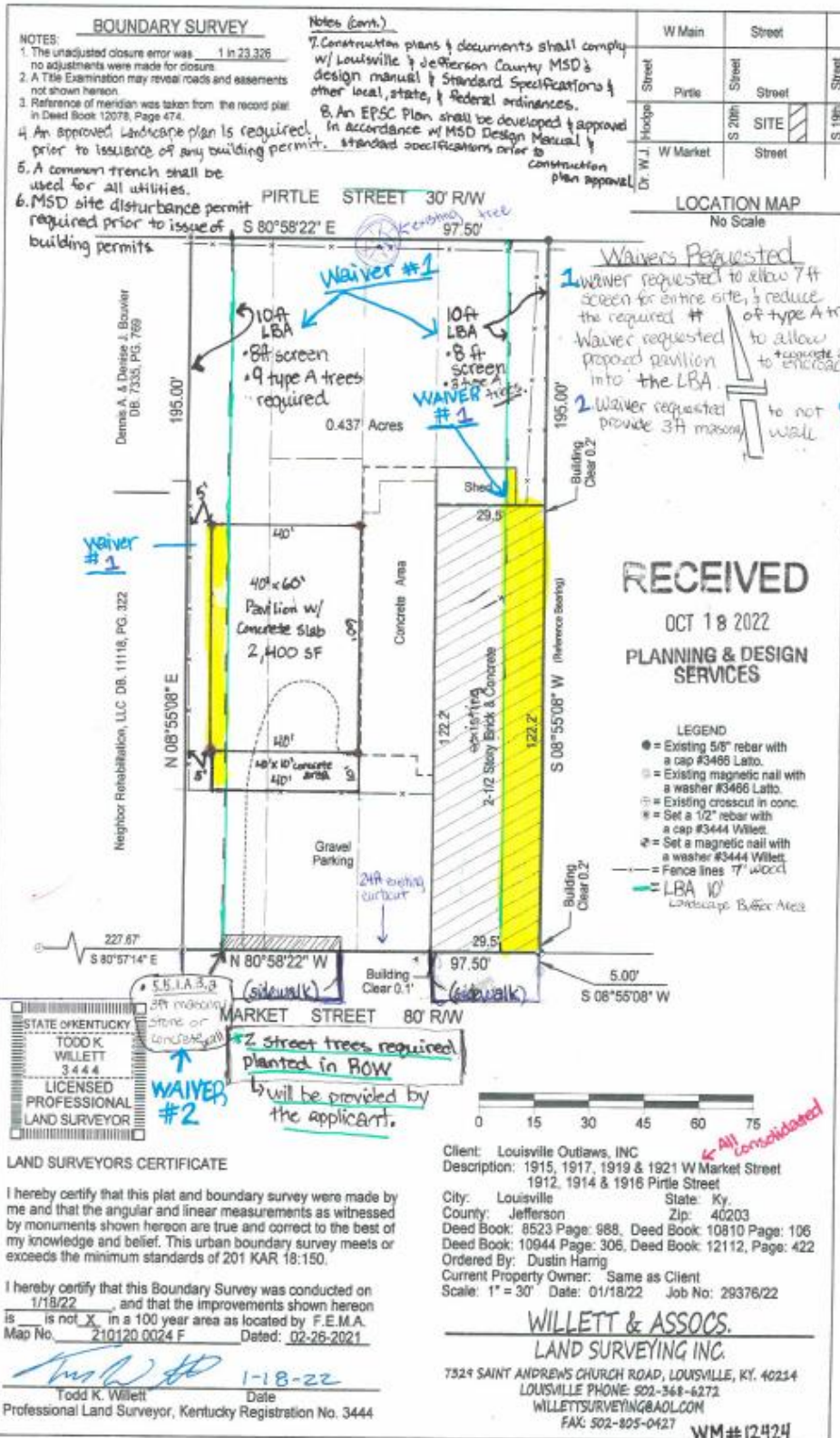
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3. **Site Plan**



4. 2040 Checklist

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The proposed pavilion and existing structure on the property are compatible with each other and with the neighborhood.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	-	The existing building and the proposed Pavilion will be within 30 feet of the eastern and western property lines. The applicant will need relief from item A of the conditional use permit standards.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+	The site currently has an off street parking area and will be adding street trees along Market Street which will improve the streetscape. The improvements and existing off street parking, there should be minimal impact on the neighborhood.
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	+	Signage will meet code.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation approval.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	Applicant will follow all noise ordinances.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	No new lighting is proposed.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD approval.

5. 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 non-profit club until further review and approval by the Board.
3. A landscape plan must be submitted to Planning and Design Services for review and approval before building permits can be issued.
4. Applicant will need to pave the existing gravel parking area within one year of approval of the conditional use permit.