

Board of Zoning Adjustment Staff Report

September 23, 2019



Case No:	18CUP1116
Project Name:	Indian Trail Prayer Hall
Location:	4804 E. Indian Trail
Owner(s):	LAICC, Inc.
Applicant:	LAICC, Inc.
Representative(s):	Mindel Scott
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Conditional Use Permit** for private institutional use in a single-family zoning district (4.2.65) with relief from items 'A' and 'C'
- **Waiver** of Land Development Code (LDC), section 10.2.4 to reduce the 35' Landscape Buffer Area (LBA) along east and north property lines to 15'
- **Variance** from LDC, section 5.3.2 to allow the proposed structure to be setback greater than 80' in the front yard along Unseld Boulevard and be variable as shown on the development plan

CASE SUMMARY

A conditional use permit for a religious institution along E. Indian Trail roughly ½ mile west of Newburg Road and adjacent to the Newburg Library and Community Center is proposed. The use is more approximately located at the intersection of E. Indian Trail and Unseld Boulevard. Two religious institutions are present on two corners at this intersection and single family housing is immediately north, across E. Indian Trail. The subject site is currently vacant. The project calls for a 5,200 sq. ft. prayer hall within a 12,750 sq. ft. facility with 94 parking spaces and detention/water quality area. Internal sidewalks will be provided with connection to the public sidewalk near the existing TARC stop (route # 23).

STAFF FINDING

The conditional use permit, waiver, and variance all appear to be adequately justified based on staff's analysis contained in the standard of review. The proposal is near major transportation facilities and transit corridors, employment centers, and sufficient residential population present or expected to support the use. The proposal is easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. All required tree canopy will be provided and the design is compatible with the surrounding area.

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 complies with Land Use and Development Goal 1: Community form as the proposal is near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The proposal complies with Land Use and Development Goal 2: Community form as the proposal is easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities and allows

for places of worship near places of activity located with sufficient residential population present or expected to support the 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 surrounding land uses as religious institutions are present at two corners of the same intersection and the subject property is easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities and allows for places of worship near places of activity located with sufficient residential population present or expected to support the use.

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: 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 will be provided. Pedestrian connectivity near a transit stop (route #23) is provided and internal walks are provided to provide safe internal pedestrian movement. A detention area is provided and MSD preliminary approval has been received.

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

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

The applicant is requesting relief from item 'A' to allow for drive lanes and parking to be located within the 30' setback. The north property line abuts a 50' "public area" separating the site from Indian Trail. A 15' LBA having 1 Type 'A' tree every 50' and a 6' continuous screen will be provided at each property line. Adjacent religious institutions have not been subjected to this requirement

and are not compliant with this requirement. Relief from item 'C' is necessary to allow parking to be provided with convenient access to the front entrance of the facility. There will be no parking between the facility and E. Indian Trail. Based on these factors the relief appears justified.

Traffic will be no more than can be expected for other religious institutions in the area. 94 off-street parking spaces are provided and the use is along an arterial roadway with TARC service. Hours of operation are determined by the specific hours of worship or other activities provided by the religious institution.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as a 15' LBA having 1 Type 'A' tree every 50' and a 6' continuous screen will be provided. Along E. Indian Trail an additional 50' of "public area" provides buffering against the roadway. Required Tree canopy will be as required by Ch. 10 of the LDC.

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

STAFF: Plan 2040 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Plan 2040 also calls for appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposal will include a 15' LBA having 1 Type 'A' tree every 50' and a 6' continuous screen. Along E. Indian Trail an additional 50' of "public area" provides buffering against the roadway. Required Tree canopy will be as required by Ch. 10 of the LDC. No structures will be encroaching upon the 35' LBA to be omitted.

- (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 parking must be provided to serve the religious institution and the full provision of the LBA would result in additional land needed for the religious institution. The "public area" provides additional buffering against the roadway and the adjacent land to the east is proposed for development by the same developer of the religious institution.

- (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 requested relief does not adversely affect adjacent property owners or violate specific guidelines of Plan 2040.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 requested setback does not impact the safe movement of vehicles or pedestrian in the area.

- (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 primary entrance is at or near the maximum setback and the design of the façade has recesses that cannot comply with the requirements of maximum setback contained in LDC 5.1.8 which requires 60% of the length of the façade to be at the setback before step-backs are permitted.

- (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 as the requested setback does not impact the safe movement of vehicles or pedestrian in the area. All pedestrian accommodations will be made as required.

- (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 primary entrance is at or near the maximum setback and the design of the façade has recesses that cannot comply with the requirements of maximum setback contained in LDC 5.1.8 which requires 60% of the length of the façade to be at the setback before step-backs are permitted.

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 variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the primary entrance is at or near the maximum setback and the design of the façade has recesses that cannot comply with the requirements of maximum setback contained in LDC 5.1.8 which requires 60% of the length of the façade to be at the setback before step-backs are permitted.

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 create an unnecessary hardship on the applicant as the primary entrance is at or near the maximum setback and the design of the façade has recesses that cannot comply with the requirements of maximum setback contained in LDC 5.1.8 which requires 60% of the length of the façade to be at the setback before step-backs are permitted.

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.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Conditional Use Permit** for private institutional use in a single-family zoning district (4.2.65) with relief from 30’ property line setback
- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 10.2.4 to reduce the 35’ Landscape Buffer Area (LBA) along east and north property lines to 15’
- **APPROVE** or **DENY** the **Variance** from LDC, section 5.3.2 to allow the proposed structure to be setback greater than 80’ in the front yard

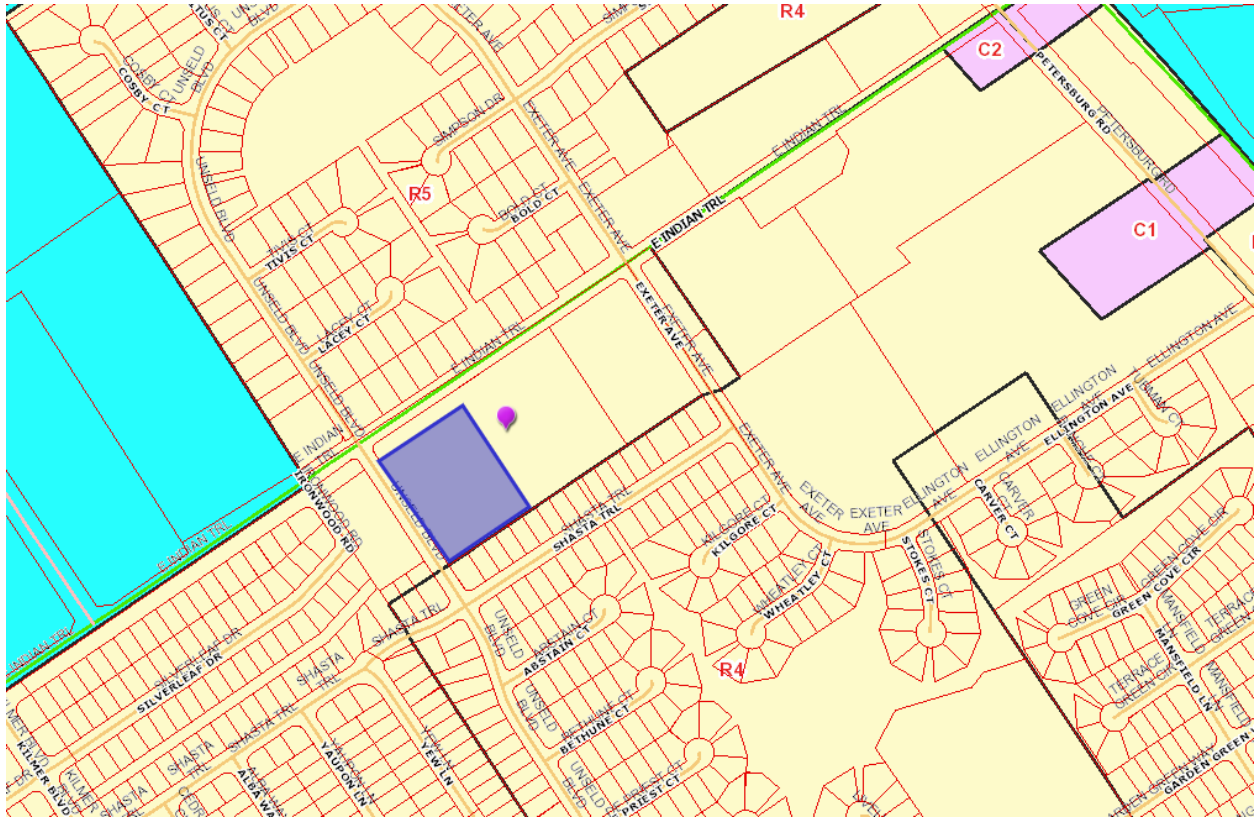
NOTIFICATION

Date	Purpose of Notice	Recipients
8/30/19	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 2
9/11/19	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



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 institution until further review and approval by the Board.

3. Prior to the issuance of a building permit, a 10' sidewalk easement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services

4. A 15' LBA having 1 Type 'A' tree every 50' and a 6' continuous screen shall be provided along the north and east property lines