

Board of Zoning Adjustment
Staff Report
January 7, 2019



Case No.	18CUP1142
Project Name	Private Institutional Use
Location	3345 Newburg Road
Owner/Applicant	Visually Impaired Preschool Services Inc.
Representative	Bardenwerper Talbott & Roberts PLLC
Jurisdiction	Louisville Metro
Council District	10 – Pat Mulvihill
Case Manager	Beth Jones, AICP, Planner II

REQUESTS

Conditional Use Permit for Private Institutional Use in a Single-Family Zoning District (LDC 4.2.65)

- Relief to permit parking within 30 ft of the property line (LDC 4.2.65.A.)

Waiver of required Perimeter Landscape Buffer Areas (LBAs) along the north and south property lines (LDC 10.2.4.B.6.)

CASE SUMMARY / BACKGROUND

The proposed parking area will serve the Visually Impaired Preschool located on an adjoining OR-3 site on Goldsmith Lane. The subject site and all adjoining properties are zoned R-5 Single-Family Residential in a Neighborhood form district.

The proposed parking will occupy a parcel with frontage on Newburg Road. It will be accessed via a proposed new access point on Newburg Road and an access easement with the adjoining commercial property.

The parking will be used by VIPS staff. The Newburg Road entrance will also be used by VIPS buses for pick-up and drop-off of students in the mornings and afternoons. A proposed cross access agreement with the adjoining commercial property will allow buses to enter off Newburg Road, cross into the adjoining commercial parking and exit onto Newburg Road via the existing access point. A gate, to be installed at the adjoining property line, will be kept locked except during the specific times it will be used by the bus traffic.

The applicant is requesting relief from Condition A of the requested CUP to allow parking to be located less than 30 ft from property lines adjacent to residential uses and district. The applicant also requests a waiver of required Perimeter Landscape Buffer Areas (LBA) along the north and south property lines.

STAFF FINDING

The proposed use, with the requested relief, meets the requirements of the requested CUP. The requested waiver is justified due to specific conditions on the site and the adjoining properties.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets standards as established by the Land Development Code for modifying the existing Conditional Use Permit.

TECHNICAL REVIEW

No technical issues remain to be resolved.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on November 5, 2018.

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 is consistent with Comprehensive Plan policies regarding Private Institutional Use in a Single-Family Zoning District.

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

STAFF: The proposed parking area is compatible with development in the vicinity and adequately mitigates potential negative impacts on adjoining residential 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 proposal will not create substantial additional public facility requirements for the site.

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

4.2.65 Private Institutional Use in a Single-Family Zoning District

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.

STAFF: The site is located within an R-5 zone. The applicant is requesting relief from this requirement along the north and south property lines. While the adjoining property to the north is zoned R-5, it is fully developed for commercial use. The southern property line is largely bordered by a residentially developed site already under the ownership of the applicant. Buffering and plantings will be installed to mitigate impacts on the two remaining residential sites at the east end of the subject property.

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

STAFF: A 6 ft privacy fence matching existing fencing on the VIPS site will be installed, beginning at the northeast corner of the subject site, proceeding west along the east boundary line and then south to Meadowcreek Drive. This will screen the site from all adjoining residential uses. Plantings will also be provided as required in the east portion of the site in the areas directly adjacent to these same residential uses.

A gate will be installed along the north property line at the access point to the adjoining commercial site. This will be closed and locked to prohibit cross-access except during specific times the site is in use by the buses.

- 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.

STAFF: The proposed parking area meets the location requirement of this condition. The plan has received preliminary approval from Transportation Planning.

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

STAFF: The applicant has been informed of this requirement.

- 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.

STAFF: The subject site will serve an institutional use with established hours of operation.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of required Perimeter Landscape Buffer Areas (LBA) (LDC 10.2.4.B.6.)

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

STAFF: The waiver will not adversely affect adjacent property owners since (1) the north perimeter is adjoined by fully-developed commercial properties; (2) the requirement will be met at the east and northeast boundary with a buffer area, plantings and privacy fencing; and (3) the residential property to the south is owned by the applicant.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts. Guideline 13, Policy 4 calls for ensuring appropriate landscape design

standards for different land uses within urbanized, suburban and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

- (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 providing the required buffering in the areas of the site adjoining residential uses.

- (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 is providing privacy fencing, buffering and plantings in the critical areas of the site to mitigate effects on adjoining residential properties.

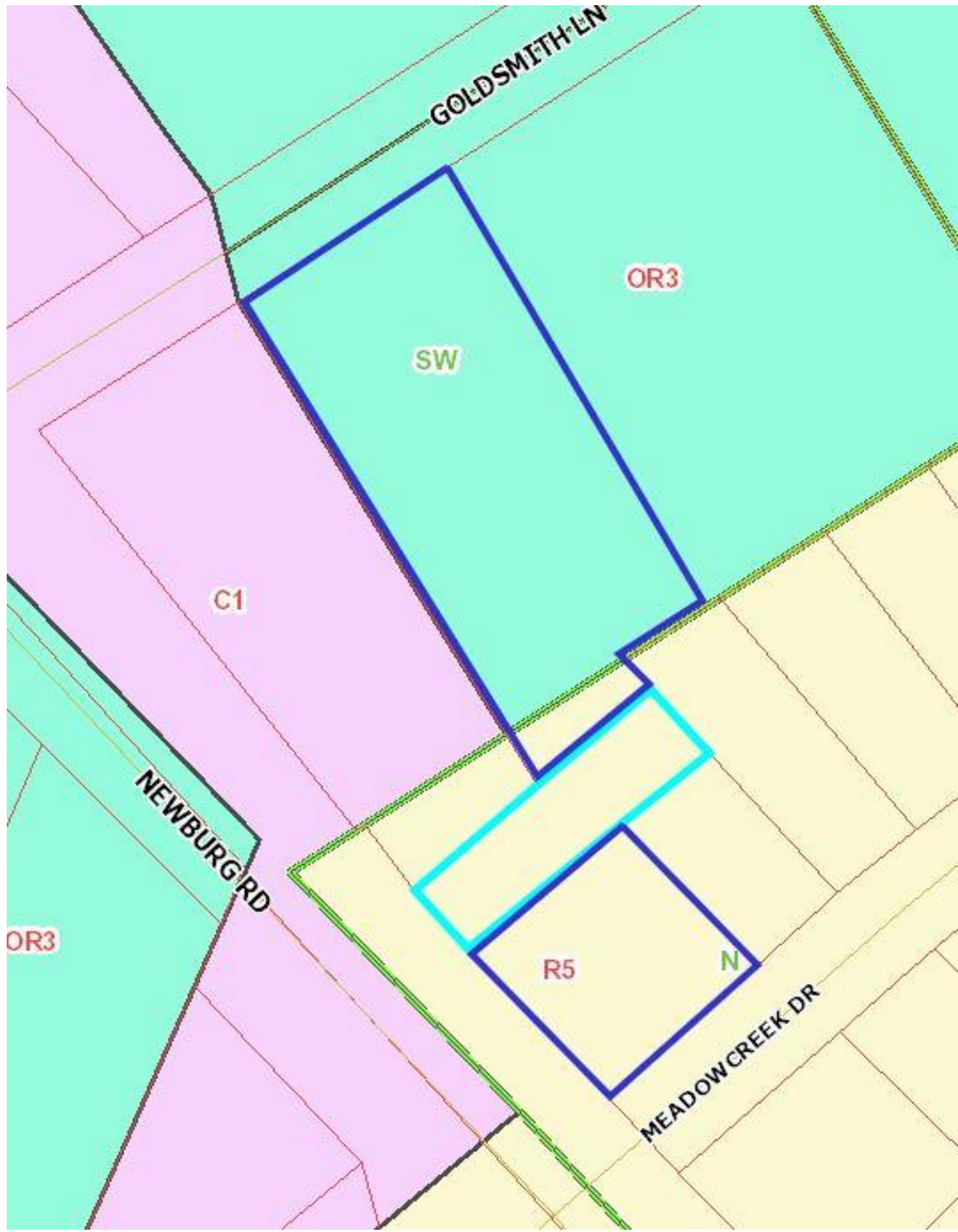
NOTIFICATION

Date	Purpose of Notice	Recipients
11/5/2018	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 10
12/21/2018	BOZA Hearing	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 10
		Sign Posting

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. 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 by and approval of 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 Private Institutional Use in a Single-Family Zoning District without further review by and approval of the Board.
3. The subject parcel shall be consolidated by deed with the primary parcel at 1906 Goldsmith Lane prior to construction plan approval.
4. A cross-access agreement between the subject parcel and the parcel at 3337 Newburg Road shall be executed prior to construction plan approval.