

**Board of Zoning Adjustment
Staff Report**
July 21, 2014



Case No:	14Variance1050
Project Name:	New Birth Church of Louisville
Location:	3301 Linda Ln. and 3926 Cane Run Rd.
Owner(s):	New Birth Church of Louisville, Inc.
Applicant:	Same
Representative(s):	Jim Griffin, Evans/Griffin, Inc.
Jurisdiction:	Louisville Metro
Council District:	1 – Attica Scott
Case Manager:	Latondra Yates, Planner II

REQUEST

- Variances of Sec. 5.5.1.A.2 of the LDC to allow the proposed addition to not be built at the corner. The requested setback from Linda Ln. is 22.62 ft., at its closest point, a variance of 22.62 ft. The requested setback from Cane Run Rd. is 306 ft., a variance of 306 ft.;
- Waiver of Sec. 5.5.1.A.3.a. of the LDC to not provide the required 3-ft. wall in front of the parking along Cane Run Rd. and Linda Ln.;
- Waiver of Sec. 5.5.1.A.3.a. of the LDC to allow parking in front of the building;
- Waiver of Sections 10.2.4 and 10.2.7 of the LDC to not provide the plantings and screen within the 15-ft. expressway buffer.

Variance

Location	Requirement	Request	Variance
Linda Ln.	0 ft.	22.62 ft.	22.62 ft.
Cane Run Rd.	0 ft.	306 ft.	306 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The variances and waivers are associated with a Category 2B review (docket No. 2-4-14) for expansion of the church, including consolidation of two lots, construction of a 2-story 14,736 sf. addition and approximately 76 additional parking spaces.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned C-2 and M-2 in the Traditional Workplace Form District (TWFD) Neighborhood Form District. I-264 runs northwest of the site. Industrial is to the northeast and commercial is to the southwest. The site transitions to the Neighborhood Form District (NFD) to the southeast, across Cane Run Rd, where there is residential property zoned R-5.

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Church	C-2/M-2	TWFD
Proposed	Church expansion	C-2/M-2	TWFD
<i>Surrounding Properties</i>			
North	I-65 / Industrial	ROW/M-2	ROW/M-2
South	Commercial	C-2	TWFD
East	Single-family residential	R-5	NFD
West	Commercial	C-2	TWFD

PREVIOUS CASES ON SITE

2-4-14, Category 2B Review for church expansion.

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Cornerstone 2020 – See checklist attached
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- **Variances of Sec. 5.5.1.A.2 of the LDC to allow the proposed building addition to not be built at the corner.**

The requested setback from Linda Ln. is 22.62 ft., at its closest point, a variance of 22.62 ft.

The requested setback from Cane Run Rd. is 306 ft., a variance of 306 ft.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variances will not adversely affect the public health, safety or welfare because the addition will be built at the rear of the lot, away from adjacent residential.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The variances will not alter the essential character of the general vicinity because there are surrounding non-residential uses of with similar layouts.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The variances will not cause a hazard or nuisance to the public because the required LBAs are proposed along both frontages.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variances will not allow an unreasonable circumvention of the zoning regulations because there are surrounding non-residential uses with similar layouts.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The variances arise from the request to construct the church expansion.

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 provision of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the existing building creates challenges to the layout of the remainder of the site.

3. The circumstances are 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 the result of the request for construction of the church expansion.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 5.5.1.A.3.a. of the LDC to allow parking in front of the building.**

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

STAFF: The waiver will not adversely affect adjacent property owners because the required LBAs are proposed along both frontages.

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

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant given the location of the existing church and need to meet the minimum parking requirement.

- (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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship given the location of the existing church and need to meet the minimum parking requirement.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sec. 5.5.1.A.3.a. of the LDC to not provide the required 3-ft. wall in front of the parking along Linda Ln. and Cane Run Rd.**

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

STAFF: The waiver will not adversely affect adjacent property owners because the required LBA will be provided. However, providing the required wall would better mitigate the parking in front of the building.

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

STAFF: The waiver meets the guidelines of Cornerstone 2020. However, providing the required wall would provide additional mitigation for the location of the parking in front of the building.

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

STAFF: The waiver is not the minimum necessary to afford relief to the applicant because it appears that the required wall could be provided. However, the required LBA is proposed.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship because It appears that the required wall could be provided. However, the required LBA is proposed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

- **Waiver of Sections 10.2.4 and 10.2.7 of the LDC to not provide the plantings and screen within the 15-ft. expressway buffer.**

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

STAFF: The waiver will not adversely affect adjacent property owners because the required there are existing trees and screening from the expressway. The expressway also sits higher than the site.

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

STAFF: The waiver meets the applicable guidelines of Cornerstone 2020.

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

STAFF: The waiver is the minimum necessary to afford relief to the applicant given the location of the existing church which poses challenges to the location of the addition.

- (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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship given the location of the existing church which poses challenges to the location of the addition.

TECHNICAL REVIEW

No outstanding technical review items.

STAFF CONCLUSIONS

The waivers meet 27 of the applicable guidelines of the Comprehensive Plan.

Six additional guidelines, including submittal of signage and lighting details, if proposed, can be addressed during construction review.

Staff's analysis of the standards of review supports the granting of the variances. The variances will not adversely impact adjacent properties because by exceeding the setbacks, the addition will be further away from residential across Cane Run Rd. The required LBAs are proposed along Linda Ln. and Cane Run Rd.

Staff's analysis of the standards of review supports the granting of the waiver to allow parking in front of the building. The location of the existing church poses challenges to location of the expansion and additional required parking.

Staff's analysis of the standards of review supports the granting of the waiver to not provide the required 3-ft. wall along Cane Run Rd. and Linda Dr. Providing the required 3-ft. walls might better mitigate the variances to not build at the corner, and might help better screen the parking from both frontages, particularly the residential across Cane Run Rd. However, the required LBAs are proposed.

Staff's analysis of the standards of review support the granting of the waiver to not provide the required plantings and screen within the 15-ft. expressway buffer. There are existing trees and screening that provide adequate screening within the buffer. The expressway also sits higher than the site.

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 the standards for granting variances and waivers as established in the Land Development Code.

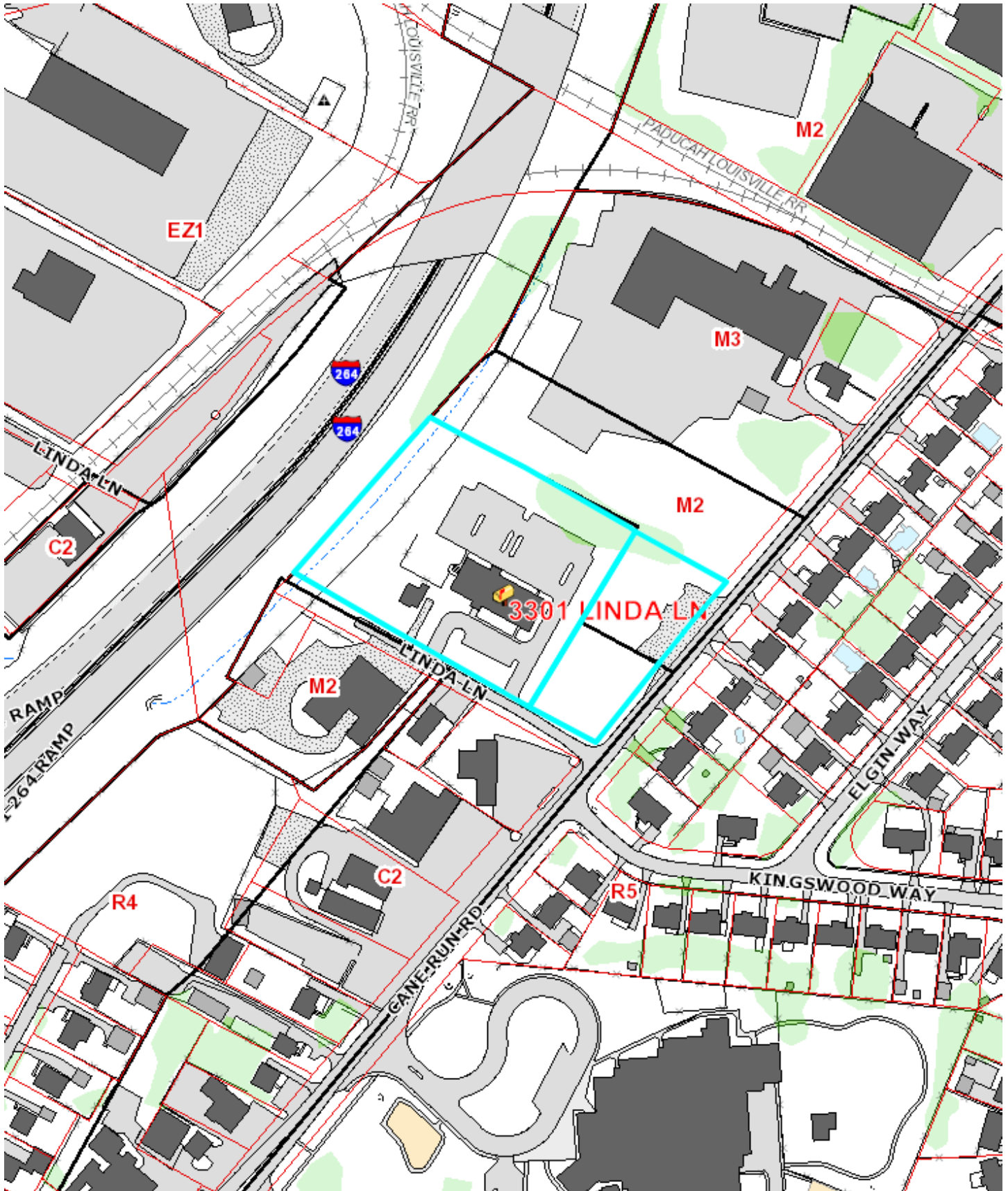
NOTIFICATION

Date	Purpose of Notice	Recipients
6/17/2014	BOZA Hearing	1 st and 2 nd tier adjoining property owners
6/20/2014	Sign Posting	On property

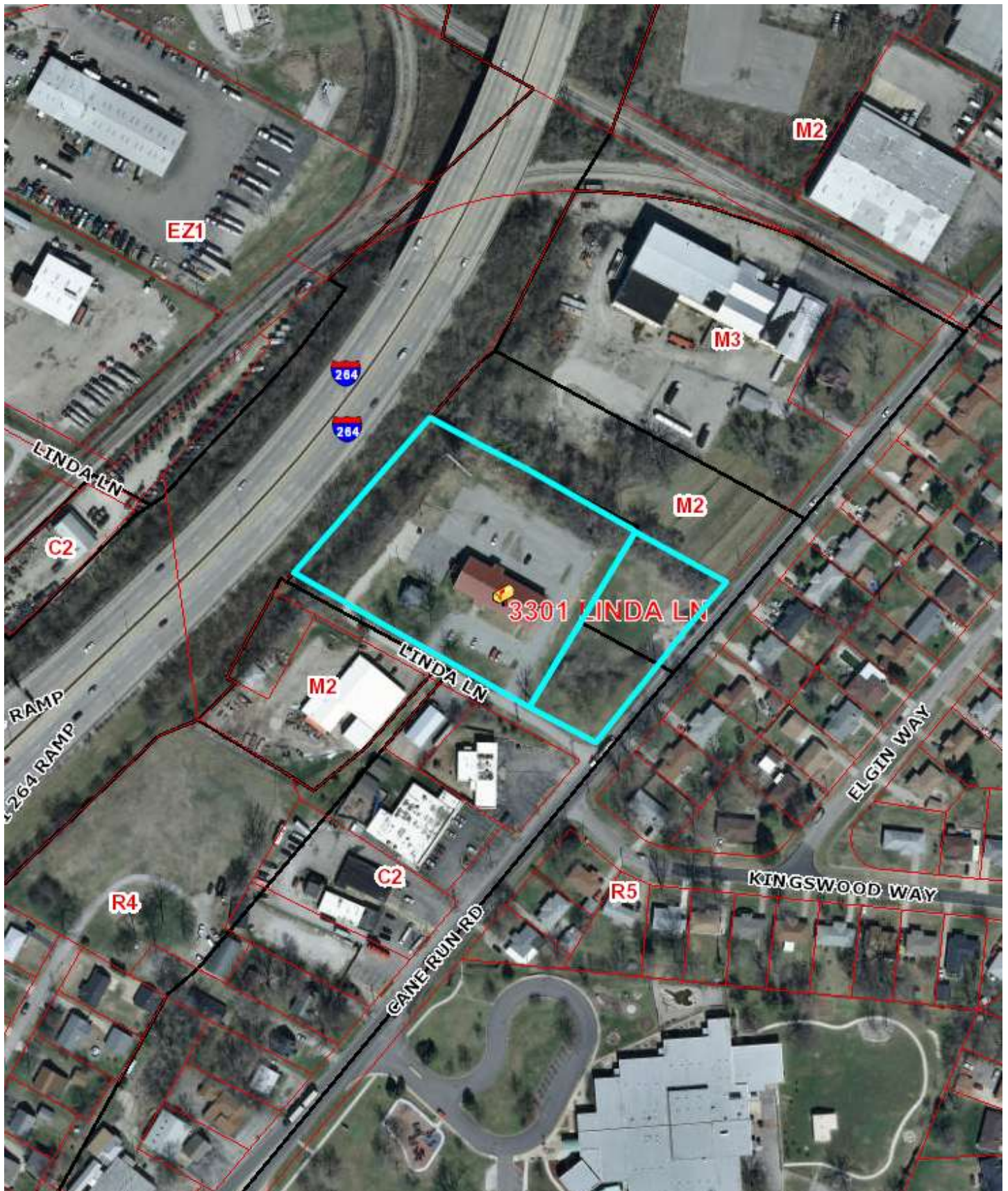
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Staff Checklist
6. Applicant's Justification Statements

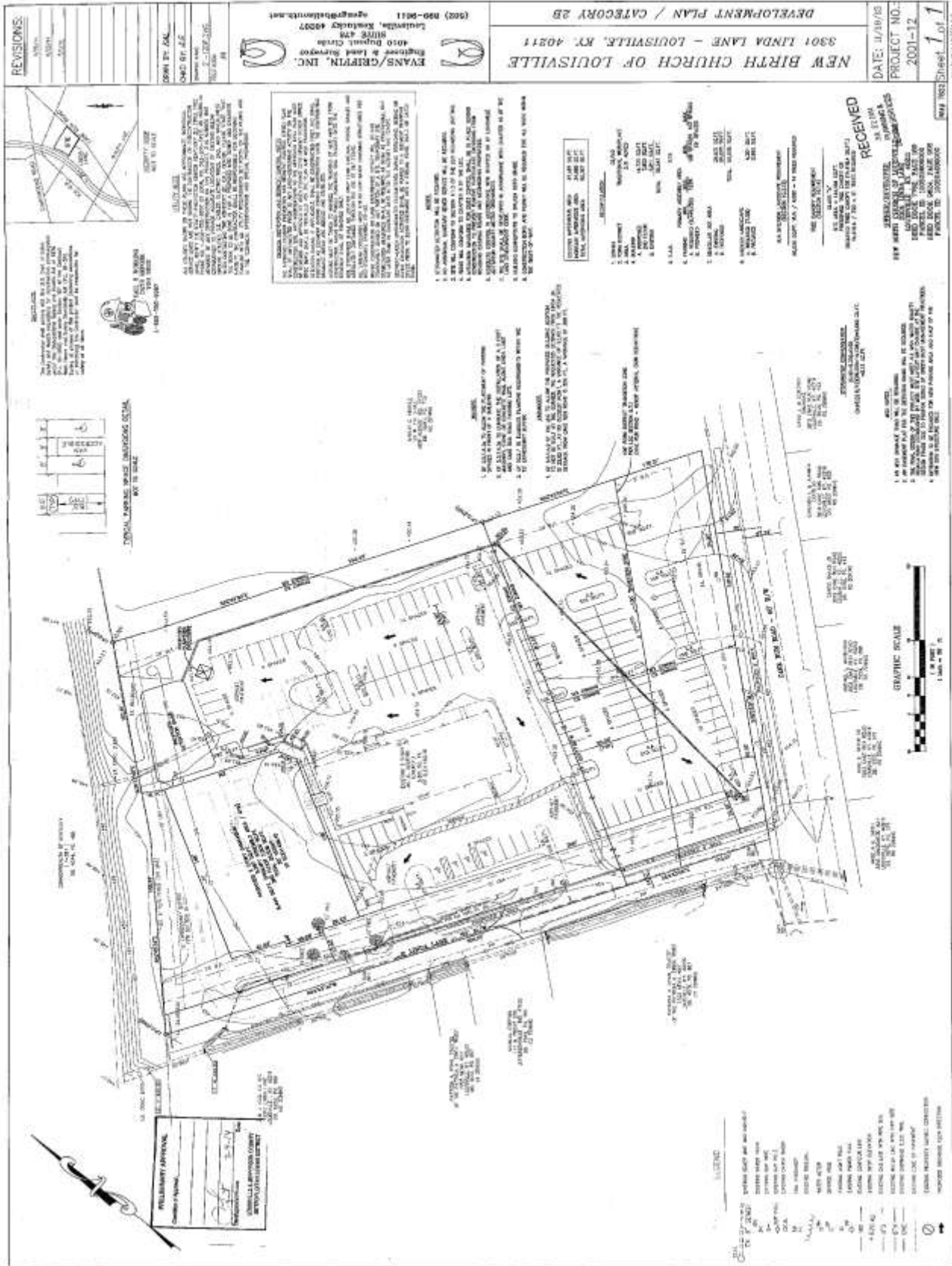
1. Zoning Map



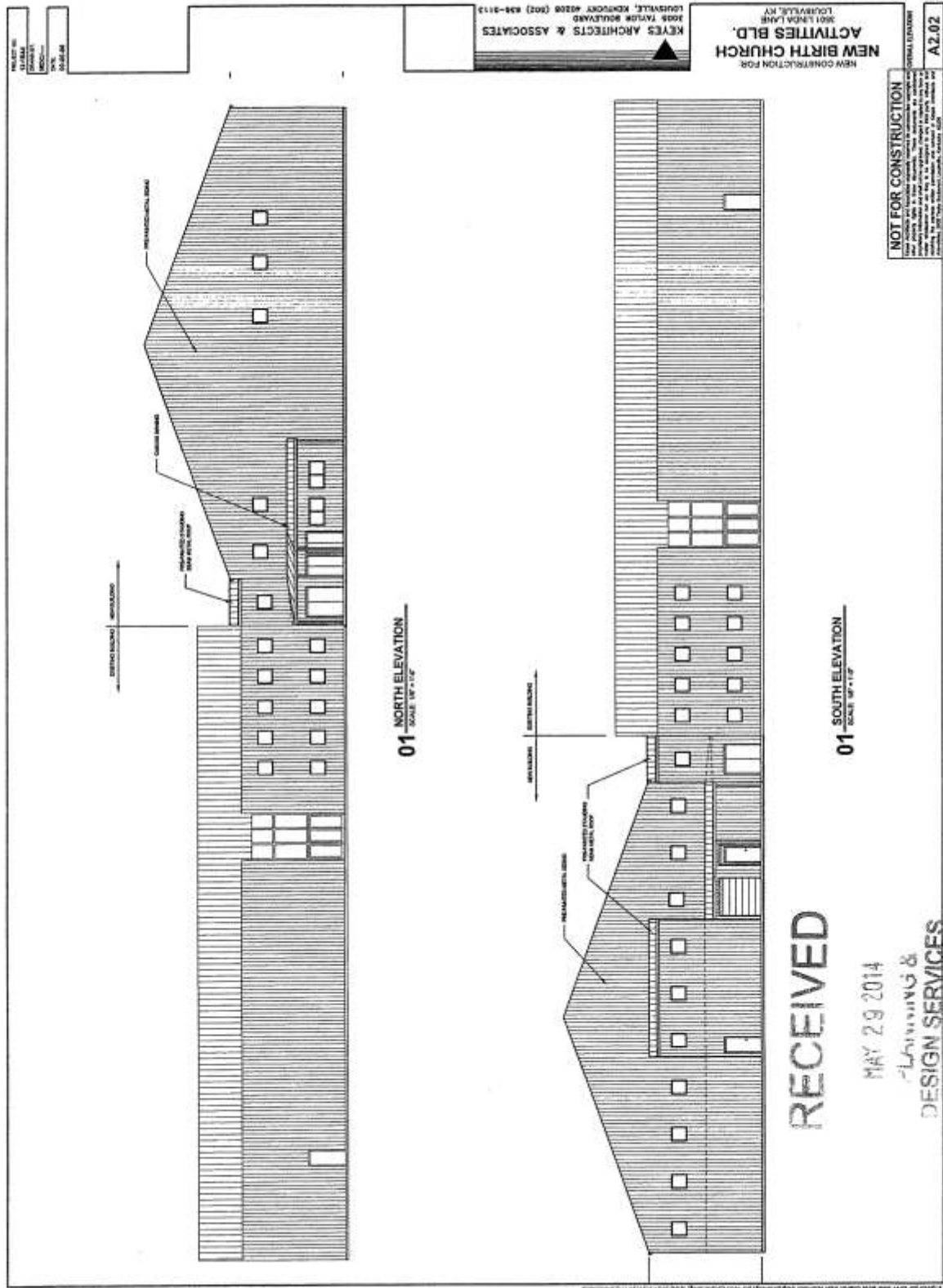
2. Aerial Photo

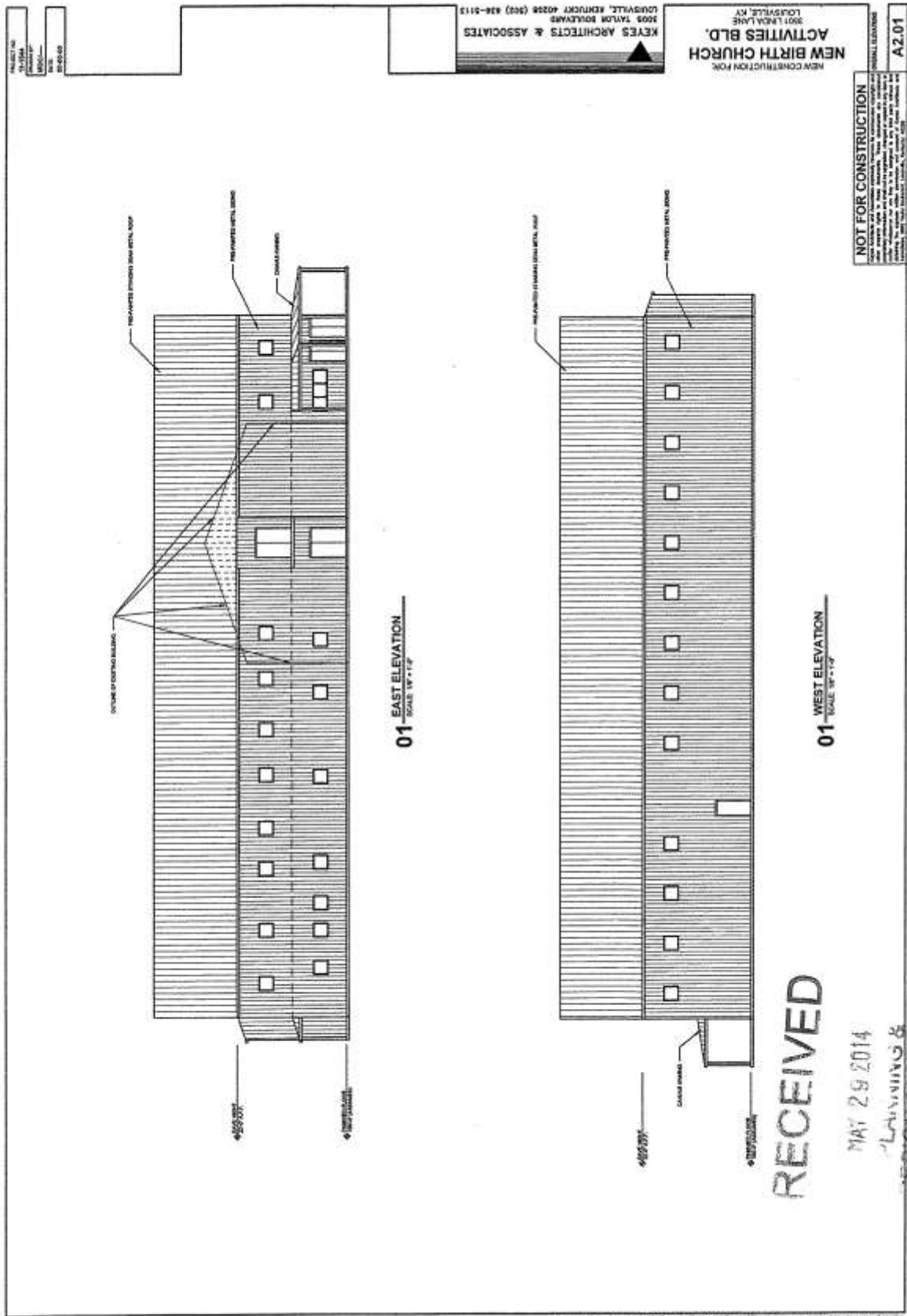


3. Site Plan



4.





4. Cornerstone 2020 Comprehensive Plan Checklist

1	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal respects the existing grid street pattern and provides for alley access if consistent with adjacent development.	√	The existing street pattern will be observed.
2	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal supports access to public transportation.	√	The required sidewalks are proposed.
3	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal includes on-street or rear parking areas.	√	Waiver requested to allow parking in front of the building. Providing the wall would provide additional mitigation for the location of the parking. However, the required LBA is proposed.
4	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal provides adequate buffering between potentially incompatible non-residential uses where necessary.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking. Existing trees and vegetation appear to be adequate as screening for the expressway buffer. The expressway also sits higher than the site.
6	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	The proposed building materials appear to be compatible with the surrounding structures in the area.
7	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	Expansion on an existing commercial/industrial lot proposed.
1	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal respects the existing grid street pattern and provides for alley access if consistent with adjacent development.	√	The existing street pattern will be observed.
2	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal supports access to public transportation.	√	The required sidewalks are proposed.

3	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal includes on-street or rear parking areas.	√	Waiver requested to allow parking in front of the building. Providing the wall would provide additional mitigation for the location of the parking. However, the required LBA is proposed.
4	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal provides adequate buffering between potentially incompatible non-residential uses where necessary.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking. Existing trees and vegetation appear to be adequate as screening for the expressway buffer. The expressway also sits higher than the site.
6	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	The proposed building materials appear to be compatible with the surrounding structures in the area.
7	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	Expansion on an existing commercial/industrial lot proposed.
8	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	Plan has dust mitigation note normally required by APCD.
9	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	Plan has Transportation Planning Review Team preliminary approval.

10	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	+/-	Lighting details should be provided, if proposed.
11	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	Site has TARC service.
12	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking. Existing trees and vegetation appear to be adequate as screening for the expressway buffer. The expressway also sits higher than the site.
13	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking. Existing trees and vegetation appear to be adequate as screening for the expressway buffer. The expressway also sits higher than the site.
14	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	Variance requested to allow the building to exceed the maximum setbacks. However, the proposed structure height appears to be compatible with adjacent non- residential structures.
15	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1- 3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking.

16	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking.
18	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	+/-	Details should be provided for any proposed signage.
14	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	Variance requested to allow the building to exceed the maximum setbacks. However, the proposed structure height appears to be compatible with adjacent non-residential structures. By exceeding the setbacks, the addition will be further away from residential across Cane Run Rd.
15	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking.
16	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	The required LBAs are proposed. Providing the wall would provide additional mitigation for the location of the parking.
18	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	+/-	Details should be provided for any proposed signage.

24	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	√	Plan has MSD preliminary approval.
31	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	The required sidewalks are proposed. The site has TARC service.
34	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	The required parking is proposed.
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	The required sidewalks are proposed.
40	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	+/-	Subject to MSD construction review.
43	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Site served by existing utilities.

44	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	+/-	Subject to construction review.
45	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	+/-	Subject to construction review.

5. Applicant's Justification Statements

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

5.5.1.A.2 variance will not adversely affect since the safe zone between structures and Linda Lane/Cane Run Road will be increased.

2. Explain how the variance will not alter the essential character of the general vicinity.

5.5.1.A.2 variance will not alter the essential character of the general vicinity since the proposed expansion location is similar to the existing neighborhood conditions.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

5.5.1.A.2 variance will not cause a hazard or a nuisance to the public since the proposals fit the character of the neighborhood.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

5.5.1.A.2 The variance would not create an unreasonable circumvention of the zoning regulations since the proposal is a better fit to the existing development.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

5.5.1.A.2 The general character of the neighborhood does not match the intention of the development code. The proposed site layout is consistent with existing development.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

5.5.1.A.2 Strict application of the provisions would create a hardship to the applicant by not allowing the desired site layout.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

5.5.1.A.2 The circumstances are the results of the applicant taken after adoption of the development code. However, the applicant is working toward a site serviceable to the church community and consistent with the neighborhood.

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

10.2.4.A The waiver will not adversely affect the adjacent property owners since the required plantings will be provided on-site.

5.5.1.A.3a The waiver will not adversely affect the adjacent property owners since adequate plantings will be provided for screening.

2. Will the waiver violate the Comprehensive Plan?

10.2.4.A. The waiver will not violate the Comprehensive Plan. In compliance with Guideline 3, the parking and circulation areas will be buffered with the required plantings.

5.5.1.A.3a The required plantings will be provided and the setbacks from Linda Lane and Cane Run Road will be compatible with nearby properties.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

10.2.4.A & 5.5.1.A.3a The extent of the waiver of the regulation is the minimum necessary to afford relief since the required plantings will be provided between the parking lot and the public streets.

4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

10.2.4.A & 5.5.1.A.3a The strict application of the provisions would create an unnecessary hardship since the required planting will be provided. The site layout and building size is necessary for a successful expansion.

RECEIVED
MAY 29 2014
PLANNING &
DESIGN SERVICES

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

The waiver will not adversely affect the adjacent property owners since the total frontage is the Watterson Expressway where existing conditions will remain.

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan. Access to the site will not change. Tree canopy requirements will be met.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver of the regulations is the minimum necessary to afford relief since there is ample existing vegetation in the Watterson Expressway Right of Way.

4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

The strict application of the provisions of the regulations would deprive the applicant use of the land and would require the placement of plantings in an area where an ample amount exist in the Watterson Right of Way.

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