Board of Zoning Adjustment

Staff Report

August 7, 2017

Case No:	**16DEVPLAN1012**
Request:	**Amended Category 3 Development Plan**
Project Name:	**Chapel in the Woods**
Location:	**1407 Moser Road**
Owner:	**Southeast Christian Church of Jefferson County, Kentucky, Inc.**
Applicant:	**John D. Campbell, Heritage Engineering, LLC**
Jurisdiction:	**City of Middletown**
Council District:	**19 – Julie Denton**
Case Manager:	**Brian Mabry, AICP, Planning Supervisor**

REQUEST

- Amended Category 3 Development Plan

CASE SUMMARY

On April 18, 2016, BOZA approved a Category 3 Development Plan for construction of a chapel, education wing and fellowship wing for the subject property. In addition, BOZA approved the following waiver and variances:

- Partial Sidewalk Waiver: To not provide a sidewalk along a portion of Moser Road and the entire frontage along Watterson Trail.
- Variance #1: To allow the buildings to exceed the maximum front and street side setback.
- Variance #2: To allow the chapel to exceed the maximum building height.

Under the advice of Planning and Design Services Staff, the property owner's engineering firm has submitted a revised Category 3 plan for consideration by BOZA as a Business Item. The plan contains the following relevant changes compared to the plan approved in April 2016:

- Chapel reduced to 10,000 SF (previously 16,780 sf). This better protects the stream and trees at the rear of the proposed building by reducing the rear portion of the chapel closest to the line stream.
- Fellowship and Education wings with associated parking are now proposed to be constructed at a later date (Phase 2).
- Parking for the overall project is reduced by 25 spaces to 325 spaces. A detention basin was added near the entrance parking lot entrance in place of parking spaces to better detain water runoff and provide for more greenspace. The VUA is reduced by approximately 10,719 sf. The ILAs are increased overall.

STAFF FINDING

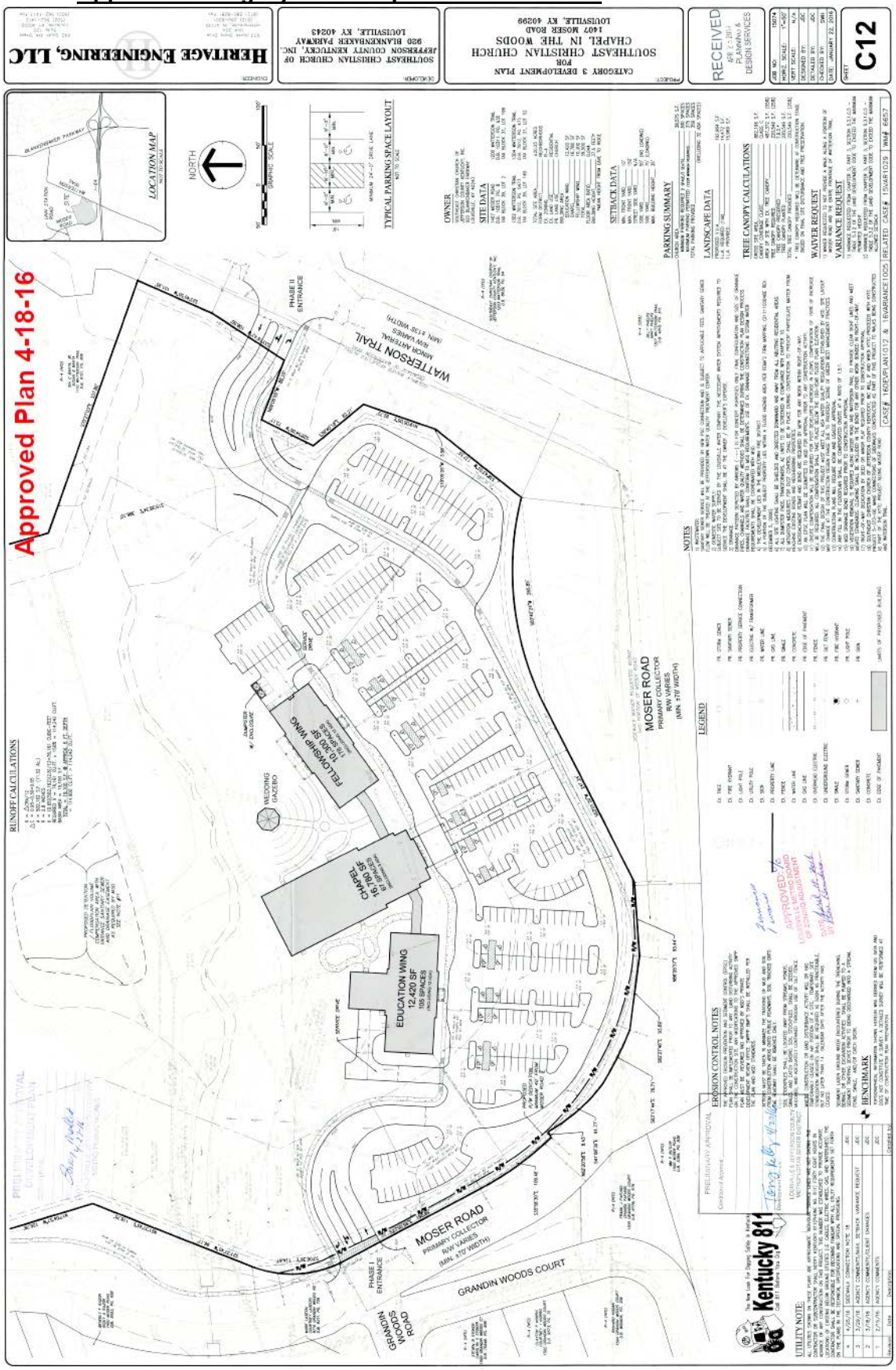
Staff finds that the proposed changes are minor in nature, that they are a decrease in intensity of the site, and that they should be approved by BOZA as a business item.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must approve or deny the amended Category 3 Development Plan.

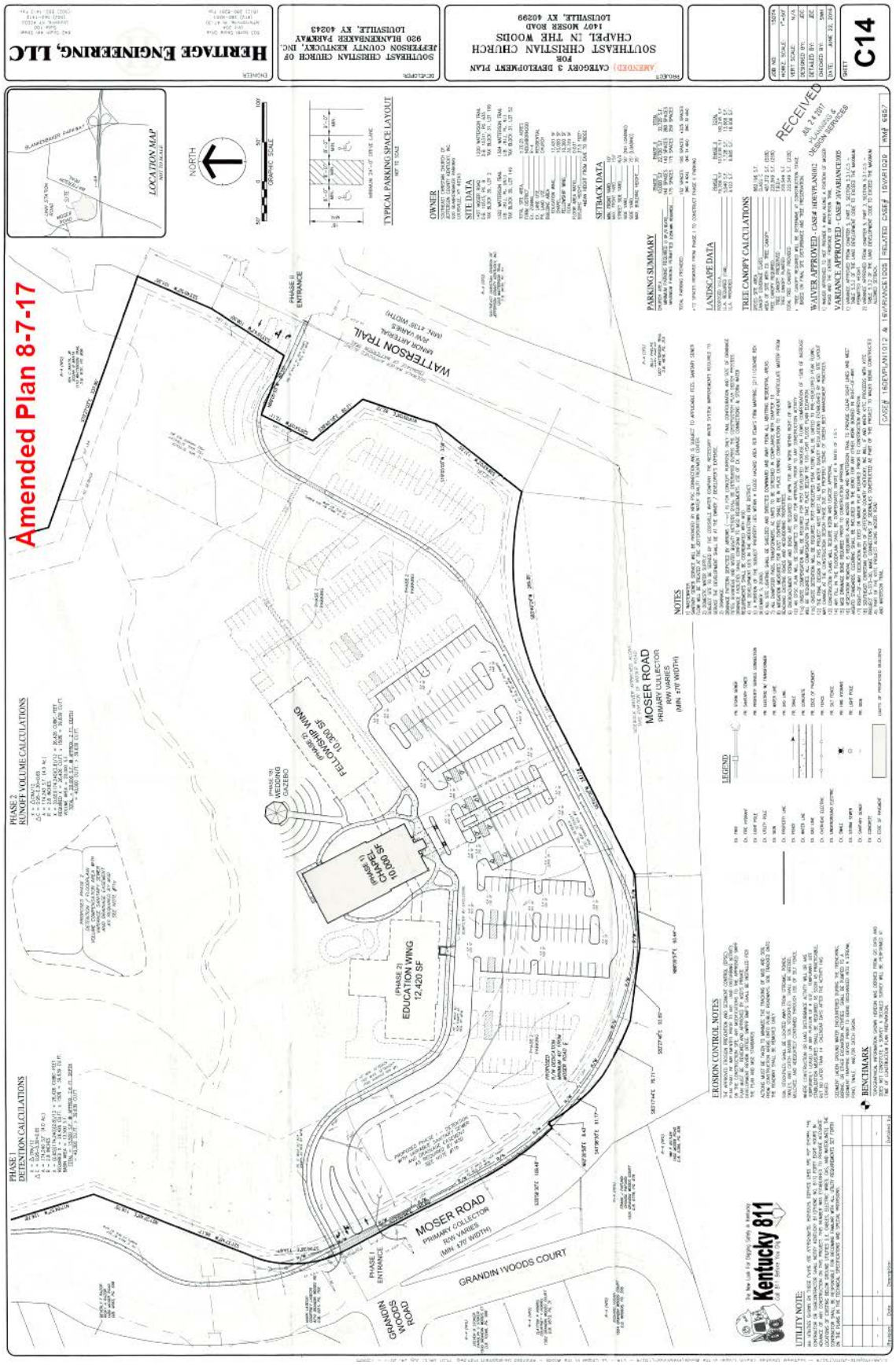
ATTACHMENTS

1. Approved Category 3 Development Plan 4-18-16
2. Amended Category 3 Development Plan 8-7-17
3. Minutes from 4-18-16 Hearing

1. Approved Category 3 Development Plan 4-18-16



2. Amended Category 3 Development Plan 8-7-17



3. Minutes from 4-18-16 BOZA Hearing

BOARD OF ZONING ADJUSTMENT MINUTES
APRIL 18, 2016

PUBLIC HEARING

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Request:	Variances from the LDC to exceed maximum height and maximum front setback along Moser Road. Partial Sidewalk Waiver along a portion of Moser Road and the entirety of Watterson Trail.
Project Name:	1407 Moser Road
Location:	1407 Moser Road
Owner:	Southeast Christian Church of Jefferson County, KY Inc.
Applicant:	Scott Hannah – Heritage Engineering
Representative:	Scott Hannah – Heritage Engineering
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:57:48 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen also responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
John Campbell, 642 S. 4th Street, Suite 100, Louisville, KY 40202
Jeff Conatser, 920 Blankenbaker Pkwy., Louisville, KY 40243

Summary of testimony of those in favor:

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01:09:11 John Campbell spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:33:22 Jeff Conatser spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:40:18 Board Members' deliberation

01:42:57 Public Hearing was re-opened to hear testimony from Tammy Markert.

01:43:00 Tammy responded to questions from the Board Members regarding traffic issues at Moser Road and Watterson Trail.

01:47:17 Board Members' deliberation

01:49:28 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution was adopted:

WAIVER from the LDC section 5.8.1.B to not provide a sidewalk along a portion of Moser Road and the entire frontage of Watterson Trail:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the sidewalk waiver requested will confom1to the Comprehensive Plan and intent of the Land Development Code as it will not alter the essential character of the general vicinity which has a rural setting along Moser Road and Watterson Trail. A portion of the right- of-way along Moser Road and Watterson Trail is heavily wooded with a 10 to 18-foot grade change within feet of the existing edge of pavement. Such severe grade change and limited space makes a walk within the public right-of-way unfeasible. An alternate walkway connection is proposed through the site allowing alternative safe pedestrian movements, and

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WHEREAS, the Board further finds that the site is designed in a way that promotes an alternate walkway connection from the residential neighborhood located to the west to the primary Southeast Christian Church Campus to the east, and

WHEREAS, the Board further finds that compliance with the regulations is not appropriate since it would greatly impact the roadside swales, heavily wooded area and steep slopes along the roadway providing for a less appealing transition to the nearby residential neighbors. In addition, providing a sidewalk connection along the public roadway is less appealing and secure because the Interstate-64 overpass does not provide for safe pedestrian travel to businesses and the connection from the neighborhood to the primary Southeast Christian Church campus is better served using the proposed internal walks within the site, and

WHEREAS, the Board further finds that the requested sidewalk waiver will not adversely affect adjacent property owners because granting of the waiver will allow for internal walks that provide a more direct connection from the neighborhood to the primary Southeast Christian Church while protecting the roadside swales, heavily wooded area and steep slopes along Moser Road and Watterson Trail. The existing rural streetscape that currently occurs along our frontage is of a greater benefit to the neighbors than a more suburban streetscape with roadside swales, trees and slopes removed for sidewalks, and

WHEREAS, the Board further finds that granting of the sidewalk waiver is the minimum necessary to afford relief to the applicant as the proposed sidewalk would greatly impact the roadside swales, heavily wooded area and steep slopes along Moser Road and Watterson Trail while not provided a safe connection to the businesses located on the opposite side of Interstate-64. Additionally, the Kentucky Transportation Cabinet has a planned project to widen Watterson Trail and realign Moser Road that when completed will include sidewalks along the portions of our project as well as completed sidewalks under the Interstate-64 overpass, and

WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners since a sidewalk is present on the western portion of Moser Road, North and South of the entrance/exit, ending approximately 408 feet south of the entrance/exit to Grandin Woods. Furthermore, the applicant is

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providing a sidewalk along the western side of Moser Road from their northern property line until the sidewalk recesses behind a right-of-way with a 10-18 foot grade and tree stand, and continues along the edge of the vehicular use area and ends at the public right of way on the southern side of the entrance/ exit along Watterson Trail, and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The site is designed to promote an alternate walkway connection (partially internal to the public right of way along a portion of Moser Road and the entirety of frontage along Watterson Trail) from the residential neighborhood/s located to the west of the primary Southeast Christian Church Campus is to the East, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since compliance with the regulations would greatly impact the roadside swales and steep sloped wooded right of way (topographic restraints). The applicant has attempted to provide connectivity/alternate access from west to east. In addition, providing a public sidewalk near the Interstate 64 overpass is more hazardous to pedestrians when connecting from the neighborhoods from the west to the east, where the primary Southeast Christian Church campus resides, and

WHEREAS, the Board further finds that 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 since proposed sidewalks would impact the roadside swales, wooded right of way, and slopes along Moser Road and Watterson Trail. Additionally, Interstate 64 limits the connectivity/safe pedestrian access to businesses located on the opposite side of I-64, and

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VARIANCE #1, Variance from the LDC, Section 5.3.1.C.5 and Table 5.3.2 to allow the building to exceed the maximum front and street side setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the additional setback from Moser Road and Watterson Trail will allow for a greater buffer distance from nearby residences, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposed church chapel will be architecturally compatible with the nearby neighborhood homes as it transitions to the primary campus of Southeast Christian Church, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed chapel (church) is located at a greater distance from public roads and nearby neighborhoods, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the added setbacks allow the scale of the church design to complement the existing neighborhood homes as it transitions into the main Southeast Christian Church campus, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the proposed development is located in between the main campus of Southeast Christian Church and a residential neighborhood, and

WHEREAS, the Board further finds that 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 since the LDC requirements would ask that the building be closer to the residential neighborhood as a result of the setback limits the ability to provide for transition (design) between the neighborhood and main Southeast Christian campus, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation

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from which relief is sought since the applicant has not constructed any aspect of the proposed development plan to date, and

WHEREAS, the Board further finds that the requested variances will not adversely affect the public health, safety or welfare because granting of the variance will allow for construction of the church roofs in a way that provides visual interest and transition from the more modem setting of the primary Southeast Christian Church campus to the residential neighborhoods to the west. Additionally, the variance to allow the church to exceed the maximum setback will provide for additional buffer between the church buildings and the nearby residential areas, and

WHEREAS, the Board further finds that the variances requested will not alter the essential character of the general vicinity as the proposed building will be compatible with nearby neighborhood while implementing a design that compliments the existing neighborhood homes as it transitions into the primary Southeast Christian Church campus. The additional setback will ensure the scale of the church transitions appropriately from the nearby residential areas, and

WHEREAS, the Board further finds that granting of the variances will not cause a hazard or a nuisance to the public as the proposed church is located internal to the property to ensure a generous setback from adjoining public roads and neighboring property, and

WHEREAS, the Board further finds that The development as proposed with the requested variances will not allow for an unreasonable circumvention of the zoning regulations as it will allow for the church roofs to be constructed in a way that provides visual interest while the added setback insures the scale of the church design compliments the existing neighborhood homes as it transitions into the primary Southeast Christian Church campus, and

WHEREAS, the Board further finds that the subject property is impacted by special circumstances such as the property is located between the existing neighborhood and the primary Southeast Christian Church campus, and

WHEREAS, the Board further finds that Strict application of the provisions would limit the ability to provide a transition design that blends the neighboring

residential design while transitioning to the primary Southeast Christian Church campus, and

WHEREAS, the Board further finds that the proposed development of the property and need for the variances are not a result of actions taken by the applicant as the proposed church is designed with a desire to provide a visually interesting design with the adjoining neighborhood while transitioning to the primary Southeast Christian Church campus, and

VARIANCE #2, Variance from the LDC, Section 5.3.1.C.5 and Table 5.3.2 to allow the building to exceed the maximum building height:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the request is for 2.5 feet higher than what is allowed in the form district. The roof height as proposed will be a more modern style which allows for transition from the residential neighborhoods to the east to the primary Southeast Christian Church campus to the west, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposed buildings have design/s that are similar in character to the existing neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed setback of the structures will be internal to the property, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed roof structures will only be 2.5 feet greater than the maximum height allowed in the form district, and

WHEREAS, the Board further finds that the requested variance does not arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the adjacent campus form district, where Southeast Christian Church is located, have heights exceeding those found in

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the Neighborhood form district where the Chapel in the Woods development is proposed, and

WHEREAS, the Board further finds that 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 since the proposed design would act as a transition that blends with both the residential neighborhood and with the existing Southeast Christian Church campus, and

WHEREAS, the Board further finds that 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 since the proposed design is a meshing of designs found in the Grandin Subdivision and designs found in the campus form district where Southeast Christian Church's main campus resides, and

WHEREAS, the Board further finds that the requested variances will not adversely affect the public health, safety or welfare because granting of the variance will allow for construction of the church roofs in a way that provides visual interest and transition from the more modem setting of the primary Southeast Christian Church campus to the residential neighborhoods to the west. Additionally, the variance to allow the church to exceed the maximum setback will provide for additional buffer between the church buildings and the nearby residential areas, and

WHEREAS, the Board further finds that the variances requested will not alter the essential character of the general vicinity as the proposed building will be compatible with nearby neighborhood while implementing a design that compliments the existing neighborhood homes as it transitions into the primary Southeast Christian Church campus. The additional setback will ensure the scale of the church transitions appropriately from the nearby residential areas, and

WHEREAS, the Board further finds that granting of the variances will not cause a hazard or a nuisance to the public as the proposed church is located internal to the property to ensure a generous setback from adjoining public roads and neighboring property, and

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WHEREAS, the Board further finds that the development as proposed with the requested variances will not allow for an unreasonable circumvention of the zoning regulations as it will allow for the church roofs to be constructed in a way that provides visual interest while the added setback insures the scale of the church design compliments the existing neighborhood homes as it transitions into the primary Southeast Christian Church campus, and

WHEREAS, the Board further finds that the subject property is impacted by special circumstances such as the property is located between the existing neighborhood and the primary Southeast Christian Church campus, and

WHEREAS, the Board further finds that strict application of the provisions would limit the ability to provide a transition design that blends the neighboring residential design while transitioning to the primary Southeast Christian Church campus, and

WHEREAS, the Board further finds that the proposed development of the property and need for the variances are not a result of actions taken by the applicant as the proposed church is designed with a desire to provide a visually interesting design with the adjoining neighborhood while transitioning to the primary Southeast Christian Church campus; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1012, does hereby **APPROVE** WAIVER from the LDC section 5.8.1.B to not provide a sidewalk along a portion of Moser Road and the entire frontage of Watterson Trail, VARIANCE #1, Variance from the LDC, Section 5.3.1.C.5 and Table 5.3.2 to allow the building to exceed the maximum front and street side setback, and VARIANCE #2, Variance from the LDC, Section 5.3.1.C.5 and Table 5.3.2 to allow the building to exceed the maximum building height, based on the staff report including the Standard of Review and Staff Analysis from page 3 through page 5, the presentation, the discussion, and the two documents from Heritage Engineering received March 31st.

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The vote was as follows:

Yes: Members Fishman, Turner, Bergmann, Howard, and Chair Allendorf
Absent: Member Tharp and Vice Chair Jarboe

01:53:47 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution was adopted:

Category 3 Plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the plan has met the Standard of Review; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Category 3 Plan, based on testimony, the Staff Report and the Site Plan.

The vote was as follows:

Yes: Members Fishman, Turner, Bergmann, Howard, and Chair Allendorf
Absent: Member Tharp and Vice Chair Jarboe