

# Board of Zoning Adjustment

## Staff Report

August 21, 2017



|                          |                                     |
|--------------------------|-------------------------------------|
| <b>Case No:</b>          | 17CUP1050                           |
| <b>Project Name:</b>     | Holy Trinity Catholic Church        |
| <b>Location:</b>         | 423 Cherrywood Road                 |
| <b>Owner:</b>            | Roman Catholic Church of Louisville |
| <b>Applicant:</b>        | Bruce Hines                         |
| <b>Jurisdiction:</b>     | St. Matthews                        |
| <b>Council District:</b> | 7 – Angela Leet                     |
| <b>Case Manager:</b>     | Beth Jones, AICP, Planner II        |

### **REQUEST**

Modification of a Conditional Use Permit for a minor earth fill to accommodate the enlargement/relocation of an existing detention basin

### **CASE SUMMARY/BACKGROUND**

The applicant proposes to modify the boundary of an existing 5.42 acre CUP for a minor earth fill, originally approved in December 1999, to accommodate a 0.14 acre enlargement/relocation of an existing detention area. This is made necessary by a planned addition of 28 parking spaces to be located at the site of the existing detention area, and the projected increase in runoff that will result from this addition and the development of a walking trail.

The 14.7 acre site is developed with a church and school building, a rectory and several outbuildings totaling 5.4 acres, parking, three outdoor athletic fields and a playground. It is adjoined on all sides by R-4 single-family residential development in a Neighborhood form district.

### **STAFF FINDING**

The request represents a 2.5% enlargement of an existing CUP and is necessary to prevent potential harm to adjacent and downstream properties. The plan has been reviewed by and received preliminary approval from MSD. In response to input at the neighborhood meeting, the applicant modified the precise location of the detention basin enlargement to be as far as possible from adjoining property owners.

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 modifying an existing Conditional Use Permit as established in the Land Development Code and make a recommendation to the City of St. Matthews.

### **TECHNICAL REVIEW**

All technical review items have been addressed and the plan has received preliminary approval.

### **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on May 30, 2017. Staff has received no additional 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 requested modification is consistent with Comprehensive Plan policies.

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 modification will not significantly alter existing conditions on the site or increase incompatibility with adjoining 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: Existing public facilities are adequate and will not be significantly impacted by the requested modification.

4. Does the proposal comply with the specific standards required to obtain the requested Conditional Use Permit?

STAFF: BOZA previously found adequate justification to grant the existing CUP (B-292-99). The modification request does not significantly alter the use of the property or increase incompatibility with adjoining land uses.

## **NOTIFICATION**

| Date      | Purpose of Notice    | Recipients  |
|-----------|----------------------|---|
| 6/14/2017 | Neighborhood Meeting | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 17 |
| 8/4/2017  | Hearing before BOZA  | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 17 |
| 8/4/2017  | Hearing before BOZA  | Sign posting on subject property  |

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Existing Conditions of Approval
5. Proposed Conditions of Approval

1. Zoning Map





2. Aerial Photograph



### 3. Cornerstone 2020 Checklist

- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#### NEIGHBORHOOD: NON-RESIDENTIAL

| #   | Cornerstone 2020<br>Plan Element or Portion of Plan Element   | Staff<br>Finding | Staff Comments  |
|---|---|------------------|---|
| Community Form/Land Use Guideline 1: Community Form |   |                  |   |
| 1   | B.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.  | NA               | The proposed modification is not a neighborhood center. |
| 2   | B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.  | NA               | The proposed modification is not high-intensity.        |
| Community Form/Land Use Guideline 2: Centers        |   |                  |   |
| 3   | A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.           | NA               | The proposed modification is not a neighborhood center. |
| 4   | A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.   | NA               | The proposed modification is not a neighborhood center. |
| 5   | A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.   | NA               | The proposed modification is not a neighborhood center. |
| 6   | A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.   | NA               | The proposed modification is not a neighborhood center. |
| 7   | A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.  | NA               | The proposed modification is not a neighborhood center. |
| 8   | A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.                           | NA               | The proposed modification is not a neighborhood center. |
| 9   | A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns. | NA               | The proposed modification is not a neighborhood center. |
| 10  | A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.   | NA               | The proposed modification is not a neighborhood center. |
| 11  | A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.   | NA               | The proposed modification is not a neighborhood center. |

| #  | Cornerstone 2020<br>Plan Element or Portion of Plan Element   | Staff<br>Finding | Staff Comments  |
|--|---|------------------|---|
| Community Form/Land Use Guideline 3: Compatibility |   |                  |   |
| 12   | A.2: The proposed building materials increase the new development's compatibility.  | NA               | No buildings are associated with the proposed modification.   |
| 13   | 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.  | ✓                | Proposed modification is not an expansion into a residential area.  |
| 14   | A.5: The proposal mitigates any potential odor or emissions associated with the development.  | NA               | No exceptional odor or emissions are expected.  |
| 15   | A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.   | NA               | Proposed modification does not create additional adverse impacts.   |
| 16   | A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.   | ✓                | Proposed modification will meet requirements for construction lighting and does not include permanent lighting. |
| 17   | 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.   | NA               | Proposed modification does not alter existing levels of intensity.  |
| 18   | 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.   | ✓                | Applicant has altered initial plan to keep new detention area as far as possible from adjoining properties.     |
| 19   | 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. | ✓                | Applicant has altered initial plan to keep new detention area as far as possible from adjoining properties.     |
| 20   | A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.   | NA               | Proposed modification does not include structures.  |
| 21   | 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.   | NA               | Proposed modification does not include parking, loading or delivery areas.                                      |
| 22   | 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.  | NA               | Proposed modification does not include parking areas.   |
| 23   | A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.   | NA               | Proposed modification does not include parking garage.  |
| 24   | A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.   | NA               | Proposed modification does not include signage.   |



| Community Form/Land Use Guideline 4: Open Space                                      |  |    |  |
|--|--|----|--|
| 25   | A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.  | NA | There are no open space requirements associated with the proposed modification.  |
| 26   | A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.  | NA | There are no open space requirements associated with the proposed modification.  |
| 27   | A.5: The proposal integrates natural features into the pattern of development.   | NA | There are no natural feature requirements associated with the proposed modification.   |
| Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources |  |    |  |
| 28   | A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.   | ✓  | There are no natural features of significance on the site. Site disturbance requirements of proposed modification are minor. |
| 29   | A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement. | NA | There are no existing historic or architectural features associated with the proposed modification.                          |
| 30   | A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.   | ✓  | There are no natural features of this type on the site. Site disturbance requirements are minor.                             |
| Marketplace Guideline 6: Economic Growth and Sustainability                          |  |    |  |
| 31   | A.3: Encourage redevelopment, reinvestment and rehabilitation in downtown, older and declining areas that is consistent with the form district pattern.  | NA | Proposed modification is not located within one of these areas.  |
| 32   | A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.   | NA | Proposed modification is not industrial use.   |
| 33   | A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.         | NA | Proposed modification is not commercial development.   |
| 34   | A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.                                       | NA | Proposed modification is not industrial use.   |
| Mobility/Transportation Guideline 7: Circulation                                     |  |    |  |
| 35   | A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.  | NA | Proposed modification does not require roadway improvements. MSD has issued preliminary approval of the detention area plan. |
| 36   | A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.   | NA | Proposed modification is not related to transportation.  |

|  |   |    |   |
|--|---|----|---|
| 37   | A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.                            | NA | Proposed modification is not related to transportation.                 |
| 38   | A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.  | NA | Proposed modification is not related to transportation.                 |
| 39   | A.10: The proposal includes adequate parking spaces to support the use.   | NA | Proposed modification is not related to transportation.                 |
| 40   | A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.   | NA | Not pertinent to proposed modification.                                 |
| Mobility/Transportation Guideline 8: Transportation Facility Design  |   |    |   |
| 41   | A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.   | NA | Not pertinent to proposed modification.                                 |
| 42   | A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.  | NA | Not pertinent to proposed modification.                                 |
| 43   | A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.  | NA | Not pertinent to proposed modification.                                 |
| Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit |   |    |   |
| 44   | 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.   | NA | Not pertinent to proposed modification.                                 |
| Livability/Environment Guideline 10: Flooding and Stormwater         |   |    |   |
| 45   | 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. | ✓  | Proposed modification has received preliminary approval from MSD.       |
| Livability/Environment Guideline 12: Air Quality                     |   |    |   |
| 46   | The proposal has been reviewed by APCD and found to not have a negative impact on air quality.  | ✓  | Proposed modification is not expected to result in air quality impacts. |
| Livability/Environment Guideline 13: Landscape Character             |   |    |   |
| 47   | A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.   | NA | Such conditions do not currently exist on site.                         |
| Community Facilities Guideline 14: Infrastructure                    |   |    |   |
| 48   | A.2: The proposal is located in an area served by existing utilities or planned for utilities.  | ✓  | The Proposed modification has received preliminary approval from MSD.   |
| 49   | A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.   | NA | Not pertinent to proposed modification.                                 |



|    |   |    |   |
|----|---|----|---|
| 50 | 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. | NA | Not pertinent to proposed modification. |
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#### **4. Existing Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.
2. A detention basin shall be constructed, per MSD requirements and in accordance with MSD standards, below the headwall and storm discharge pipe located at the lower end of the slope up from the Erskine and Scudder properties. To the extent that material is needed for a berm around the proposed detention basin or to further protect adjoining properties from surface water drainage flow, such material shall be removed from the top of the lower play field.
3. A landscape plan shall be implemented in strict accordance with the latest landscape plan produced at this public hearing. The landscaped area shall be a Tree Preservation Area and maintained as per the submitted landscape plan.
4. A minimum of 626 cubic yards of fill material shall be removed from the site entirely. No additional fill material shall be brought onto the site, only topsoil as noted below.
5. New topsoil shall be limited to six inches deep only and shall only be placed in the areas of the play fields themselves. Total topsoil delivered onto the site shall not exceed 1,553 cubic yards.
6. Landscaping shall be installed, weather permitting, during February and March 2002. Grading shall occur, weather permitting, during March and April 2002. Immediately upon completion of grading, weather permitting and topsoil being readily available, topsoil shall be brought in and placed on only the play field areas. Seeding shall occur in all disturbed areas. including in the topsoil, which disturbed areas are limited to the top of the slope, not the slope itself. All of the foregoing shall be completed by June 30, 2002 weather permitting. Seeding shall occur immediately following grading and delivery of topsoil, which topsoil is limited to the play field areas, as noted above. Overseeding may occur in the fall.
7. Soil erosion and sedimentation control measures shall be implemented in strict accordance with local ordinance and MSD best management practices.
8. A Construction Oversight Committee, comprised of members introduced at the public hearing, shall oversee implementation of the Conditional Use Permit plan in strict accordance with that plan and with these conditions of approval.
9. Trucks shall haul to and from the site only between the hours 8:00 A.M. - 5:00 P.M., Monday through Friday.
10. An inspector shall be on the site at all times when fill is removed and or topsoil is brought onto the site to certify the amounts of fill and topsoil removed and delivered.
11. The applicant shall submit a revised site plan showing the location of the detention basin and other conditions. No soil shall be disturbed until the revised site plan is approved by staff.
12. The site plan shall designate the Tree Preservation Area.
13. A letter from the Soil Conservation District shall be submitted to the Planning staff prior to any soil disturbance on the site.
14. No lights or permanent structures shall be erected on the play fields
15. The fill operation shall be conducted in accordance with the Best Management Practices (BMPs) for erosion, sediment, and drainage control as required by MSD.
16. No soil disturbance shall occur until a guarantee as provided for in article 15.D.27.e. in the amount of \$72,000 is posted with the Board.
17. All filling operations shall be completed no later than 9 months from this approval and all disturbed areas shall be stabilized within the time frame required by MSD.

18. The Conditional Use Permit shall be exercised as described in KRS 100.237 within one year 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 minor earth fill without further review and approval by the Board.

## **5. Proposed Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.
- ~~2. A detention basin shall be constructed, per MSD requirements and in accordance with MSD standards, below the headwall and storm discharge pipe located at the lower end of the slope up from the Erskine and Scudder properties. To the extent that material is needed for a berm around the proposed detention basin or to further protect adjoining properties from surface water drainage flow, such material shall be removed from the top of the lower play field.~~
- ~~3. A landscape plan shall be implemented in strict accordance with the latest landscape plan produced at this public hearing. The landscaped area shall be a Tree Preservation Area and maintained as per the submitted landscape plan.~~
- ~~4. A minimum of 626 cubic yards of fill material shall be removed from the site entirely. No additional fill material shall be brought onto the site, only topsoil as noted below.~~
- ~~5. New topsoil shall be limited to six inches deep only and shall only be placed in the areas of the play fields themselves. Total topsoil delivered onto the site shall not exceed 1,553 cubic yards.~~
- ~~6. Landscaping shall be installed, weather permitting, during February and March 2002. Grading shall occur, weather permitting, during March and April 2002. Immediately upon completion of grading, weather permitting and topsoil being readily available, topsoil shall be brought in and placed on only the play field areas. Seeding shall occur in all disturbed areas, including in the topsoil, which disturbed areas are limited to the top of the slope, not the slope itself. All of the foregoing shall be completed by June 30, 2002 weather permitting. Seeding shall occur immediately following grading and delivery of topsoil, which topsoil is limited to the play field areas, as noted above. Overseeding may occur in the fall.~~
- ~~7. Soil erosion and sedimentation control measures shall be implemented in strict accordance with local ordinance and MSD best management practices.~~
- ~~8. A Construction Oversight Committee, comprised of members introduced at the public hearing, shall oversee implementation of the Conditional Use Permit plan in strict accordance with that plan and with these conditions of approval.~~
- ~~9. Trucks shall haul to and from the site only between the hours 8:00 A.M. - 5:00 P.M., Monday through Friday.~~
- ~~10. An inspector shall be on the site at all times when fill is removed and or topsoil is brought onto the site to certify the amounts of fill and topsoil removed and delivered.~~
- ~~11. The applicant shall submit a revised site plan showing the location of the detention basin and other conditions. No soil shall be disturbed until the revised site plan is approved by staff.~~
- ~~12. The site plan shall designate the Tree Preservation Area.~~
- ~~13. A letter from the Soil Conservation District shall be submitted to the Planning staff prior to any soil disturbance on the site.~~
- ~~14. No lights or permanent structures shall be erected on the play fields~~
- ~~15. The fill operation shall be conducted in accordance with the Best Management Practices (BMPs) for erosion, sediment, and drainage control as required by MSD.~~
- ~~16. No soil disturbance shall occur until a guarantee as provided for in article 15.D.27.e. in the amount of \$72,000 is posted with the Board.~~
- ~~17. All filling operations shall be completed no later than 9 months from this approval and all disturbed areas shall be stabilized within the time frame required by MSD.~~
2. The Conditional Use Permit shall be exercised as described in KRS 100.237 within one year of the BOZA vote on this case. If the Conditional Use Permit is not so exercised, the proposed development shall not proceed without further BOZA review and approval.

3. All development shall be implemented in strict accordance with the existing landscaping plan as approved by the Board of Zoning Adjustment (BOZA) at its January 22, 2002 meeting (Docket No. B-257-01).