

Board of Zoning Adjustment
Staff Report
 October 26, 2020



Case No:	19-CUP-0177, 20-CUP-0135, 20-CUP-0052, and 20-VARIANCE-0025
Project Name:	The Venue
Location:	10300 Lower River Road
Owner(s):	Valley Hope Center, LLC
Applicant:	Valley Hope Center, LLC
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

Conditional Use Permit to allow a private proprietary club, private institutional use, short term rental, and variance

- **Variance** from Land Development Code (LDC) table 5.3.2 to allow proposed structure to exceed the maximum 80 feet front yard setback

Location	Requirement	Request	Variance
Front Yard Setback	80 feet	510 feet	430 feet

CASE SUMMARY/BACKGROUND

The owner currently leases the existing church building to other local church groups who can't support a church of their own. Weddings and other special events take place in the existing church. The owner is proposing to construct a freestanding structure for weddings, related off-street parking and a single family residence that will be owner occupied. The applicant requests approval to conduct short term rentals at the subject property. The subject property is developed with one structure that is a single-family residence. The applicant states that the residence has three bedrooms that will allow a maximum number of twelve guests since the property is over 2 acres. There is ample parking onsite to accommodate the use.

STAFF FINDING / RECOMMENDATION

19-CUP-0177 (Private Proprietary Club)

There are four listed requirements for the private proprietary club, item B. and C. do not apply, item D. will be met, and the applicant is requesting relief from item A. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

20-CUP-0135 (Private Institutional Use)

There are five listed requirements for the private institutional use, and four will be met. The applicant will be asking for relief of item C. Based upon the information in the staff report and the testimony and

evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

20-CUP-0052 (Short Term Rental)

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

RELATED CASES

Minor Subdivision Plat

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on June 19, 2019 and at least four people attended not including the applicants. A second neighborhood meeting was held on January 8, 2020 and no one attended except the applicants.

19-CUP-0177 (Private Proprietary Club)

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 meets all applicable policies of the Comprehensive Plan.

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

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and 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: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

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

4.2.44 Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, **R-4**, R-5, U-N, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the

granting of a Conditional Use Permit. Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

A. All new buildings, structures and facilities shall be at least 30 feet from any property line. ***The existing residential single family structure on site is 20.5 feet from the north property line.***

B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. ***A swimming pool is not proposed for this request.***

C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. ***Recreation areas and play fields are not proposed for this request.***

D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but nonflashing. ***The applicant has been informed of this requirement.***

20-VARIANCE-0065 (Wedding Chapel)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.2

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the structure will be located away from residential uses.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the structure will be part of an existing development.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public as the structure will be situated away from residential uses.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the structure will be behind the existing structures on site.

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 requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site has been developed before the request.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship as the applicant would have to move the structure closer to the front which would cause ingress/egress to be moved and/or modified.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the property was developed before the proposal.

20-CUP-0135 (Private Institutional Use)

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 meets all applicable policies of the Comprehensive Plan.

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

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and 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: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

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

4.2.65 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. **The off-street parking along the north property line is adjacent to C-1 zoning.**

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **The proposal has been approved by Public Works/Transportation Planning. Transportation Planning did not request a traffic study.**

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. **Existing off-street parking is located in front of the existing sanctuary.**

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

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.

2040 Checklist

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The applicant is proposing to build new buildings on site. The new development will be compatible with the scale and site design of nearby existing development.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	Setbacks, lot dimensions and building heights are compatible with nearby developments.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	<p>Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.</p>	+	Transportation Planning has reviewed and approved the proposal.
14.	<p>Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).</p>	+	All signage will be Land Development Code compliant.
17.	<p>Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	+	Transportation Planning has reviewed and approved the proposal.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	The proposal will follow the noise ordinance.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	All lighting will be Land Development Code compliant.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	+	MSD has reviewed the proposal and approved the proposal.

20-CUP-0052 (Short Term Rental)
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 does not conflict with Comprehensive Plan policies.

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

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and 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: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

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

4.2.63 Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is the primary residence of the host in a R-R,

R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. ***The applicant has been informed of this requirement.***
- B. The dwelling unit shall be limited to a single short term rental contract at a time. ***The applicant has been informed of this requirement.***
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. ***The subject property is 8.5 acres. The applicant states that the residence has three bedrooms that will allow a maximum number of twelve guests.***
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.***
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***
- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***There is ample parking onsite.***
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***

- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. ***The applicant has been informed of this requirement.***

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. ***The applicant has been informed of this requirement.***

- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. ***The applicant has been informed of this requirement.***

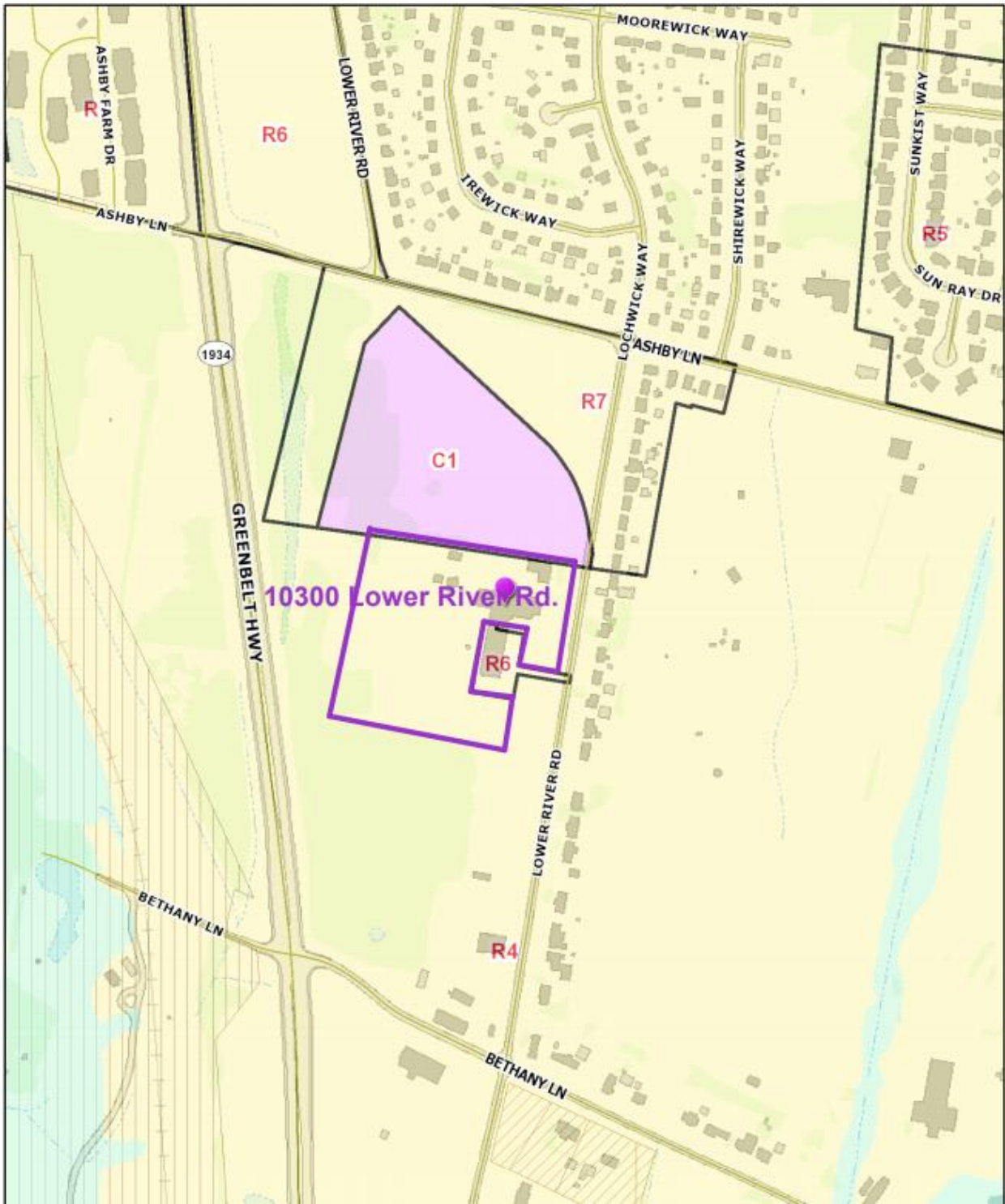
NOTIFICATION

Date	Purpose of Notice	Recipients
10/12/2020	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 14
10/12/2020	Hearing before BOZA	Sign Posting

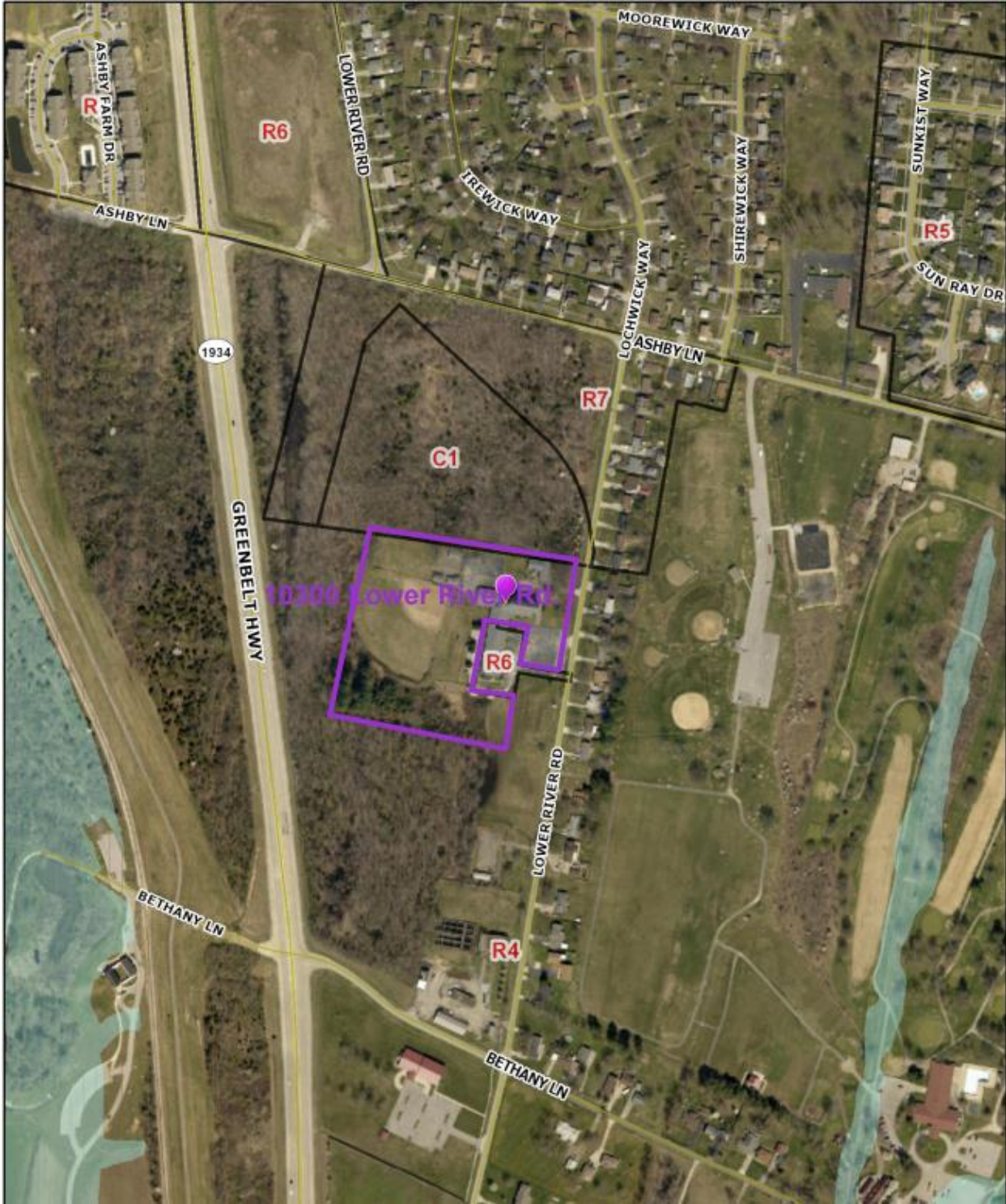
ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. 600' Map
- 4. Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph





3. 600' Map (20-CUP-0052)

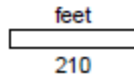
Map Created: 02/26/2020



Legend

-  Buffer
-  Subject Site

**Proximity Map
Case #19-CUP-0177**



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This map is subject to change upon the Board of Zoning Adjustment granting approvals to other Short Term Rental Conditional Use Permits.



4. Conditions of Approval

19-CUP-0177

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private proprietary club until further review and approval by the Board.

20-CUP-0135

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institutional use until further review and approval by the Board.

20-CUP-0052

1. The conditional use permit for this short term rental approval shall allow up to three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.