

# Board of Zoning Adjustment

## Staff Report

October 4, 2021



<b>Case No:</b>	21-CUP-0041 & 21-VARIANCE-0114
<b>Project Name:</b>	DHKG Ethiopian Church Addition
<b>Location:</b>	2216 Goldsmith Lane
<b>Owner(s):</b>	Debre Haile Kidus Gabriel ET
<b>Applicant:</b>	Debre Haile Kidus Gabriel ET
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent Ackerson
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

### REQUEST(S)

- **Conditional Use Permit** to allow a private institutional use
- **Variance** from Land Development Code (LDC) Section 5.3.2.C.2.a. to allow the placement of a proposed structure to exceed the maximum front yard setback

Location	Requirement	Request	Variance
Front Yard	275ft.	572ft.	297ft.

### CASE SUMMARY/BACKGROUND

The applicant is proposing to replace two existing buildings that are in disrepair with one new building for the specific use to provide a new facility to perform baptismal services. The new facility will provide eight rooms to provide the baptismal service for 4 men and 4 women. Currently the existing buildings on site do not have the required facilities to perform the baptismal services.

### STAFF FINDING / RECOMMENDATION

There are five listed requirements for the private institution use. The applicant will need relief from item A. Item B., and D. will be met. Item C. does not apply to this review and item E. may be discussed by the Board of Zoning Adjustment. 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 and Variance.

## **RELATED CASES**

**18CUP1143** Pre-Application for a private Institutional Use that was never completed.

## **TECHNICAL REVIEW**

None

## **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on January 28, 2021

## **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: The proposed improvements are 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?

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 proposed structure will be 15 feet from the south property line which is zoned Office Residential 2.***

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. ***A traffic study was not required by Transportation Planning.***

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. Off-street parking is not associated with this proposal. ***The remaining site will not be disturbed.***

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). ***The proposal will comply with the Metro Noise Ordinance.***

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. ***Hours of operation has not been provided by the applicant.***

## **21-VARIANCE-0041**

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.2.C.2.a**

- (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 proposed structure will be behind the existing church and not have visibility from Goldsmith Lane.

- (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 required screening/landscaping will be added along the side and rear yards.

- (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 because the structure must be constructed to comply with all building codes.

- (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 encroachment area will have significant screening/landscaping along the side and rear yards.

### **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 and is an irregularly shaped lot.

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 deprive the applicant of the reasonable use of the land since there is limited space for new construction due to the configuration of structures on site and its irregular shape.

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 are 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.

### **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 new development is compatible with the scale and site design of nearby 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.	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.	+	Transportation Planning has reviewed and approved the proposal.
14.	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).	+	Signage is not proposed for this use.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	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.	+	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 and approved the proposal.

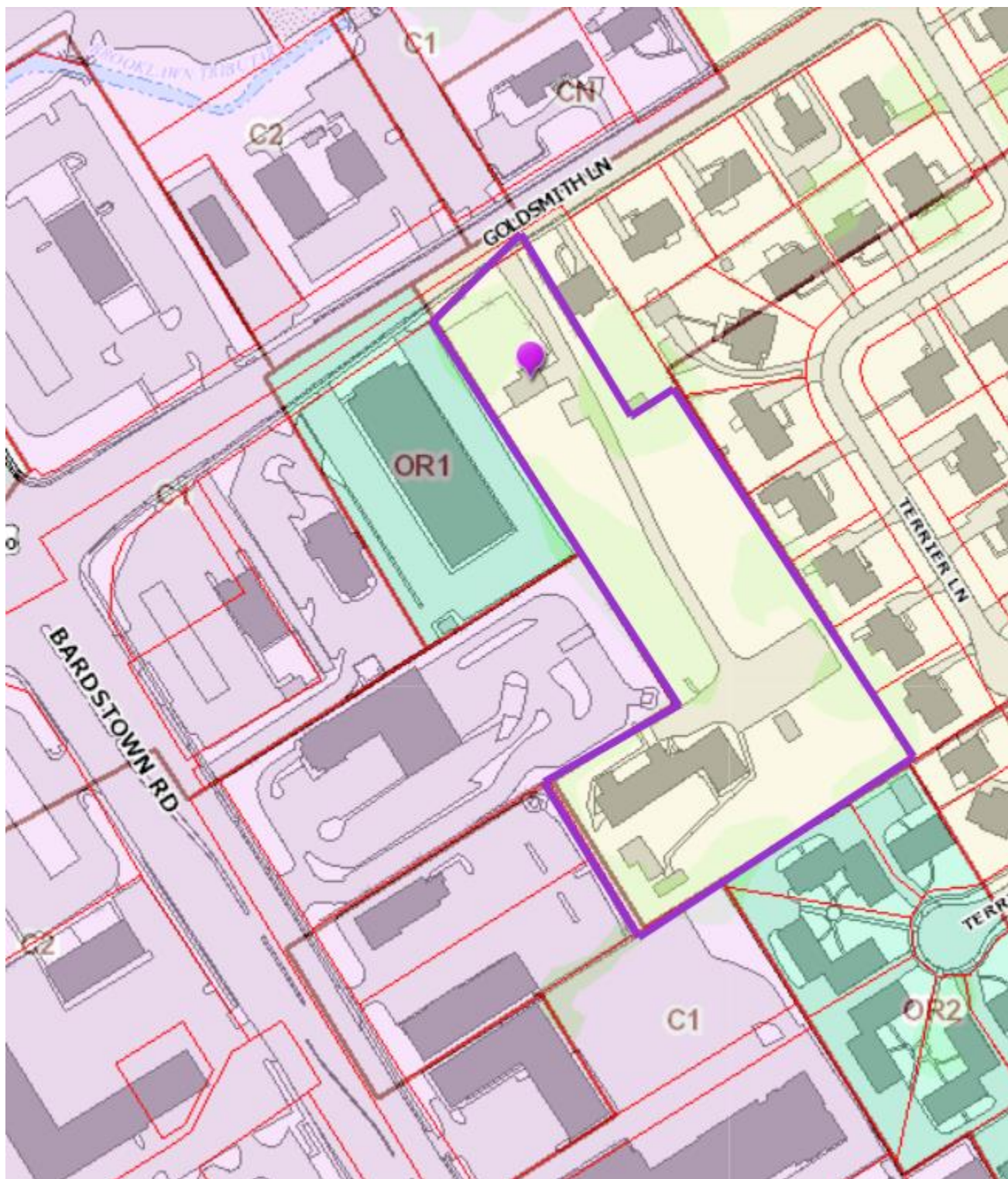
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
9/15/2021	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 26
9/20/2021	Hearing before BOZA	Sign Posting

### **ATTACHMENTS**

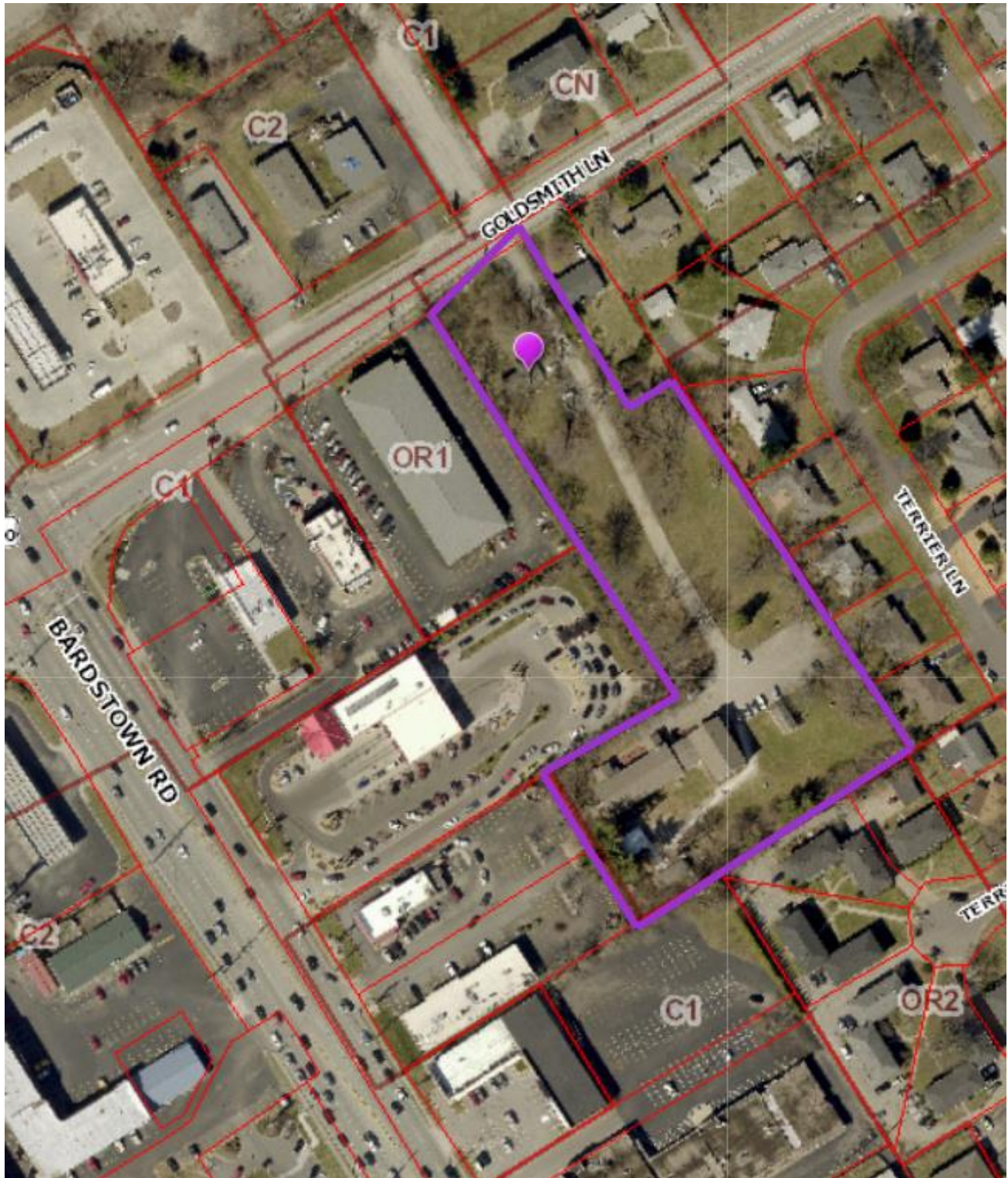
1. Zoning Map
2. Aerial Photograph
3. Conditions of Approval

1. **Zoning Map**



## 2. Aerial Photograph







**3. Conditions of Approval**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review 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.