

Board of Zoning Adjustment

Staff Report

December 6, 2021



Case No:	21-CUP-0130
Project Name:	Divine Steps Sober Living Home
Location:	3240 Herman Street
Owner(s):	Carlos and Lucretia Garrett
Applicant:	Carlos and Lucretia Garrett
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

- **Conditional Use Permit** to allow a rehabilitation home
- **Waiver** from Land Development Code (LDC) Section 10.2.4. to eliminate the required property perimeter landscape buffer area

Location	Requirement	Request	Waiver
Perimeter of Property	15ft.	0	15ft.

CASE SUMMARY/BACKGROUND

The applicant is proposing to operate a rehabilitation home for women over the age of 18.

STAFF FINDING / RECOMMENDATION

There are ten listed requirements and the applicant will be asking for relief from item F. Item G. does not apply since this site is not located in a nonresidential zoning district. 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 landscape waiver.

RELATED CASES

20-CUPPA-0099

A proposal for a short term rental that is not the primary residence of the host. An application was submitted on August 3, 2020, by a prior owner of the property. The proposal did not proceed.

TECHNICAL REVIEW

On November 5th, 2021, staff inspected the residence and observed the following:

Downstairs – Kitchen, dining room, laundry room, full bath, office, and 2 bedrooms. Bedrooms #1 and #2 measure approximately 9.5' x 13'.

Upstairs – 2 full bathrooms and 6 bedrooms. Bedroom #3 and #4 measured approximately 11' x 13'. Bedrooms #5 and #6 measured approximately 10' x 13'. Bedrooms #5 and #6 are single occupancy for the house monitors. Bedrooms #7 and #8 measure approximately 10' x 13'.

Basement is for storage only. A privacy fence surrounds the backyard.

INTERESTED PARTY COMMENTS

Neighborhood meeting was held on May 26, 2021, and no one attended the meeting except the applicants.

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?

Rehabilitation Homes may be allowed in any zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code.

STAFF: Staff observed eight bedrooms and they appear to meet the occupation limitation requirements.

B. Nonresidential uses and services, excluding those that are accessory to the Rehabilitation Home use, shall not be carried out unless otherwise permitted and approved as a separate use.

STAFF: The applicant is aware of this requirement.

C. When reviewing a conditional use permit application for a Rehabilitation Home, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to the health, safety, or general welfare of the surrounding neighborhood. The property on which a Rehabilitation Home is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated.

STAFF: As of the date of this report, within 1,000' of the subject property, there are no properties with an approved conditional use permit allowing another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use.

D. A Rehabilitation Home shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws.

STAFF: The applicant is aware of this requirement.

E. A Rehabilitation Home shall provide appropriate 24-hour supervision of its residents and adequate support services for its residents.

STAFF: The rehabilitation home will provide 24-hour supervision of its residents and adequate support services.

Bedrooms

F. Additional Residential Zoning District Standards:

1. A Rehabilitation Home in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) residents. The maximum number of residents of a Rehabilitation Home in a multi-residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) shall be determined by the BOZA.

STAFF: The applicant will be asking for relief of the maximum number of four (4) residents. The residence has 8 bedrooms, but only six will have double occupancy. Two will be single occupancy used

by the house monitors. Under the current configuration the residence could house 14 residents including the house monitors.

2. Any building in which the Rehabilitation Home use is situated shall be residential in design and appearance.

STAFF: The rehabilitation home is residential in design and appearance.

3. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to established residential uses shall increase side yards by 10 feet for each story over two (2).

STAFF: New construction is not proposed.

4. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted.

STAFF: Transportation Planning has reviewed the proposal and determined that there are two parking spaces available along Herman Street. There will be one employee on site at all times and the applicants have agreed to add an additional parking space along the rear yard with access from the alley if the proposal is approved. There will be a total of 3 parking spaces.

5. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted.

STAFF: Signage is not proposed.

G. Additional Nonresidential Zoning District Standards:

1. The maximum number of residents of a Rehabilitation Home in a nonresidential zoning district shall be determined by the BOZA.

2. The parking requirements for the use are set forth in Chapter 9 of this Land Development Code. The BOZA may require additional or restrict parking if warranted.

3. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted.

STAFF: Item G. does not apply. The property is not located in a nonresidential zoning district.

H. For a complete application submittal for any Rehabilitation Home conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any;

STAFF: Women over the age of 18 receiving professional care for drugs and/or alcohol abuse, and/or required to stay at the subject facility as a condition of their parole for a past convictions.

2. The maximum number of residents/beds and maximum number of employees;

STAFF: Maximum number of beds will be sixteen and the maximum number of employees on site at any given time shall be one.

3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas);

STAFF: Floor plans have been provided by the applicant.

4. A written statement, plans, and/or permits indicating how any building subject to the application meets or will be adapted to meet all applicable building codes for the use if approved; and

STAFF: The applicant is aware of this requirement.

5. Rules of conduct and management plan. In the event a conditional use permit for a rehabilitation home is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code.

STAFF: The applicant has submitted the rules of conduct and management plan.

I. If a Rehabilitation Home with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12 month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance with Section 11.5A.6 of this Land Development Code. 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.

STAFF: The applicant is aware of this requirement.

J. An active license of the Rehabilitation Home, as required by LMCO Chapter 115, shall be maintained. No such housing may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change in ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Rehabilitation Home use, a new conditional use permit must be granted if required.

STAFF: The applicant is aware of this requirement.

21-WAIVER-0146

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 10.2.4.B.1.

a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The waiver will not adversely affect adjacent property owners, as there is no new development of the site.

- b. The waiver will not violate the Comprehensive Plan; and.

STAFF: The waiver will not violate the comprehensive plan since the site is residential in design and appearance and is only approximately 40 feet wide and 0.14 acres.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. All other requirements of the Land Development Code will be met except the landscape waiver requested.

- d. Either: 1. 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 2. 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. The landscape buffer would take up more than half of the site.

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 proposal will be in an existing structure.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
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 since it is an existing structure.
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.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and approved the proposal.
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.

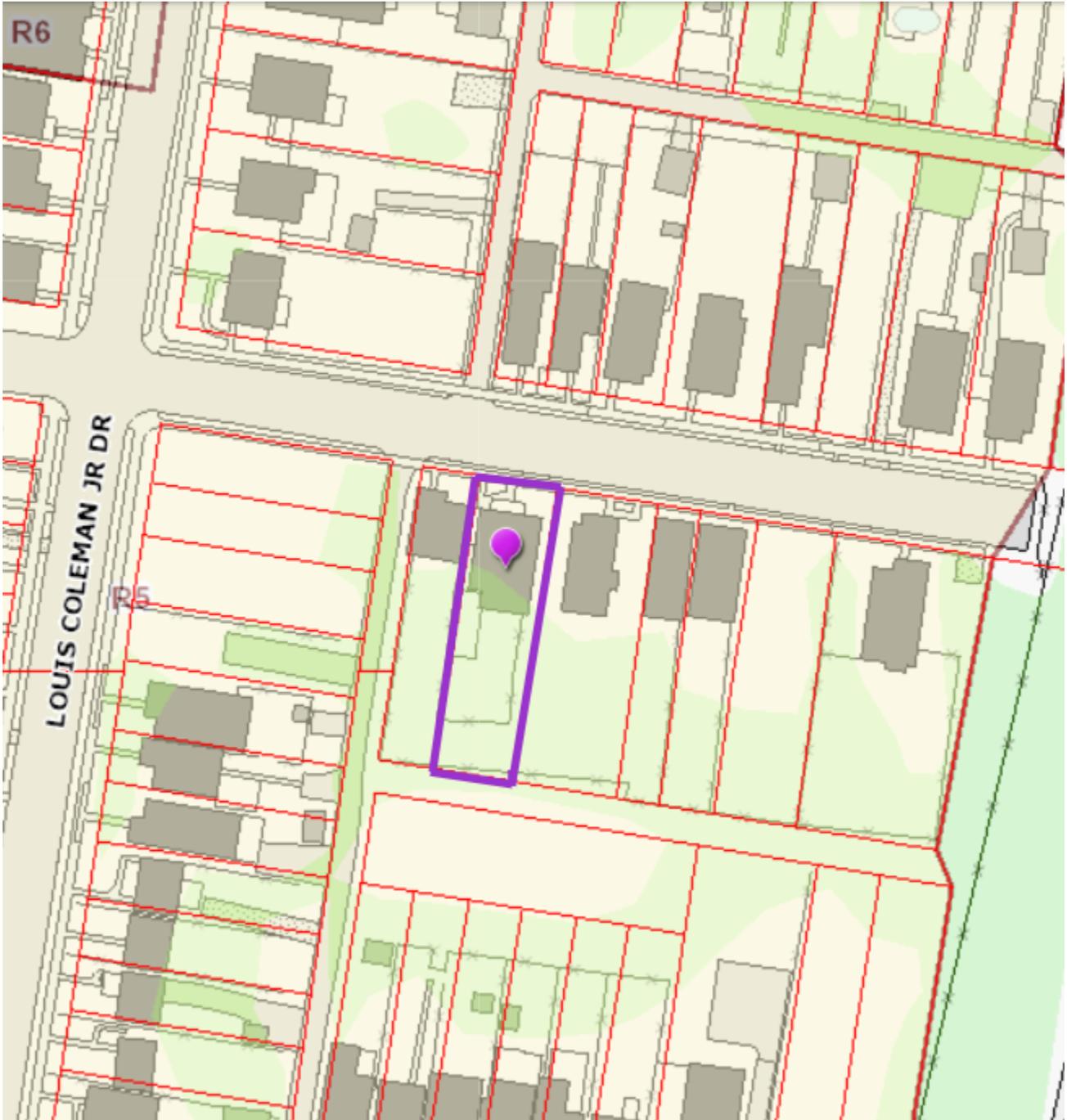
NOTIFICATION

Date	Purpose of Notice	Recipients
11/17/2021	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 5
11/18/2021	Hearing before BOZA	Sign Posting

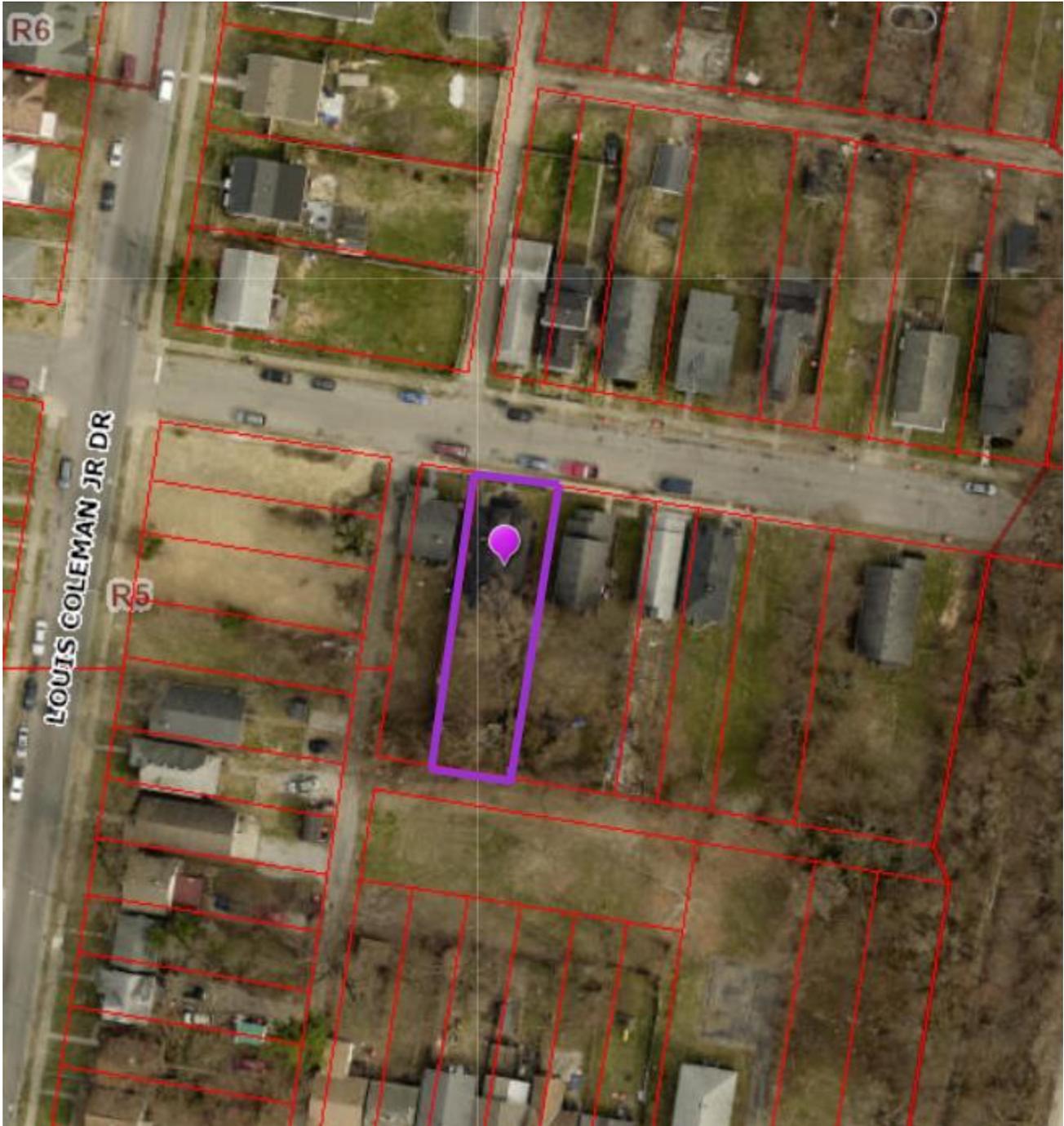
ATTACHMENTS

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

1. Zoning Map

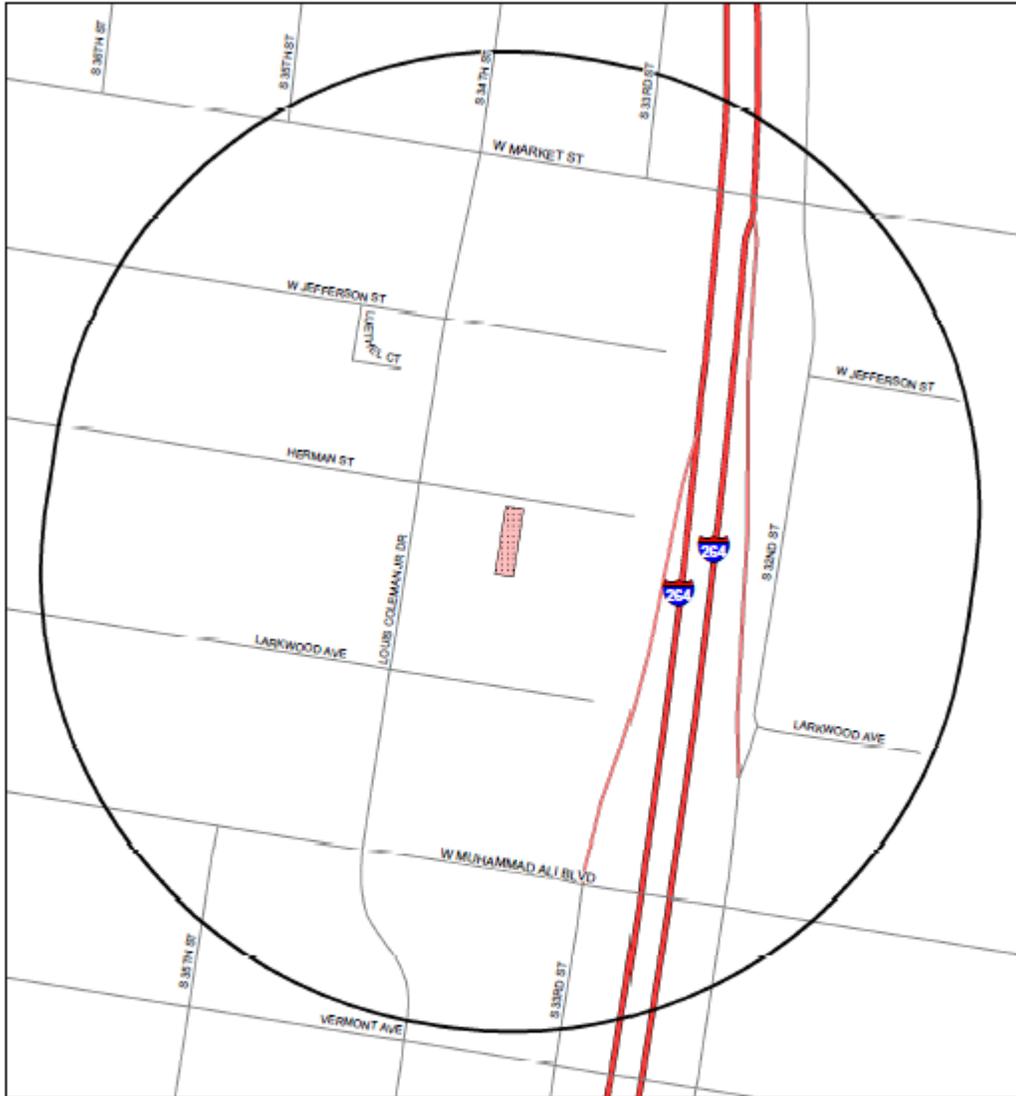


2. Aerial Photograph



3. Proximity Map

Map Created: 11/05/2021

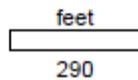


This map includes boarding and lodging houses, transitional housing, rehabilitation homes, and homeless shelters that have an approved conditional use permit. This map does not include transitional houses that are nonconforming uses, exist by right, pending applications, or unlawful uses.

3240 Herman St
21-CUP-0130

Legend

-  Subject Site
-  Buffer



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This map is subject to change upon the Board of Zoning Adjustment granting approvals to other Group Housing Conditional Use Permits.



4. 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 rehabilitation home use until further review and approval by the Board.
3. Prior to lawful commencement of the rehabilitation home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.
4. Maximum full time occupancy shall be limited to sixteen persons, or the maximum allowed by the property maintenance code.