

Planning Commission
Staff Report
December 17, 2020



Case No:	20-ZONE-0079
Project Name:	Page 89 House
Location:	531 E Kentucky Street
Owner(s):	Jennifer Terry
Applicant:	Jennifer Terry
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from U-N Urban Neighborhood to R-6 Multi-Family Residential
- **Waiver** from 10.2.10 to allow a Vehicular Use Area to encroach into the required VUA Landscape Buffer Area (LBA) (20-WAIVER-0115)
- **Conditional Use Permit** for a boarding and lodging house (LDC 4.2.11) (20-CUP-0109)
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located along E Kentucky Street between the intersections with S Hancock and S Jackson Streets. The applicant proposes to rezone the property and obtain a Conditional Use Permit to utilize the site as a boarding and lodging house.

The site is located in the Smoketown neighborhood and is within the study area for the Smoketown/Shelby Park Neighborhood Plan. The site was rezoned to U-N under an areawide rezoning at the recommendation of the neighborhood plan. This was accomplished under docket 9-81-02. The neighborhood is generally mixed-use, mostly single-family uses with some institutional uses and pockets of commercial nearby.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan. The request generally meets the requirements of the Land Development Code, with the exception of the requested waiver. Staff finds that the requested waiver is adequately justified and meets the standard of review. The Conditional Use Permit request meets the requirements of the Land Development Code.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

Smoketown/Shelby Park Neighborhood Plan (2002)

MSD and Transportation Planning have provided preliminary approval of the proposal.

The Smoketown/Shelby Park Neighborhood Plan has no specific recommendations for this site, except for recommending that it be reserved for residential uses and potentially zoned to U-N.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The site is located in the Traditional Neighborhood Form District

This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

The neighborhood is currently characterized by a mix of uses, including single-family, multi-family, institutional uses, and public open space, with small pockets of commercial located within two or three blocks of the site. The proposal to rezone the property with a Conditional Use Permit for a boarding and lodging house would increase the variety of housing options available in the neighborhood, with the possibility of small multi-family development in the future. Both the current boarding and lodging house proposal, and the small multi-family development that would be allowed in the future should ownership of the property change, are appropriate for the site and the neighborhood.

The proposed zoning district and site plan are generally in compliance with the plan elements and CHASE principles of Plan 2040.

All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.10

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the conditions of encroachment will be created with the zoning change. The current parking area for the site is in the same location with no known adverse effects. The parking is located in the rear off the alley, which is the customary location for parking in Traditional Neighborhoods.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages adequate buffering between uses which are of substantially different intensity or density. The proposed zoning district and proposed use are not substantially different in intensity or density compared with the intensity and density of the adjacent uses.

- (c) The extent of the 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 as it is infeasible to put the parking in any other location on the site. Parking off the alley is the customary location for parking in Traditional Neighborhoods.

- (d) Either:

(i) 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

(ii) 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: 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 because it would be impossible to fit parking on the site with the required LBAs.

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 any Comprehensive Plan policies. Plan 2040 encourages the provision of increased quantities of fair and affordable housing in Jefferson County. The proposed Conditional Use Permit would allow for small-scale housing in the form of a boarding and lodging house.

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 proposal is compatible with the surrounding land uses and neighborhood. A boarding and lodging house is a relatively low-intensity use and the single-family character of the existing structure is to be maintained.

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. Required parking is being provided and transit is available nearby.

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

4.2.11 Boarding and Lodging Houses

Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.

STAFF: The proposal is for 7 boarders.

B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility.

STAFF: The boarding and lodging house shall comply with this requirement.

C. Boarding and lodging houses shall not have any signage which identifies the use.

STAFF: No signage is proposed.

D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation.

STAFF: The site is located on E Kentucky Street, a primary collector at this location. Public transit is available one-half block from the site.

E. Sufficient on-site parking shall be provided as required by the Land Development Code.

STAFF: Parking is compliant with the Land Development Code.

F. All boarding and lodging houses shall comply with applicable building code and health department regulations.

STAFF: The boarding and lodging house shall comply with this requirement.

G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for boarding and lodging houses.

H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:

1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.);
2. Site plan and floor plans:
3. Rules of conduct and business management plan:
4. Support services to be provided and projected staffing level, if any;
5. Proposed maximum stay for each resident:
6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; and
7. Any Changes to the foregoing information submitted in connection with the Conditional Use permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.

STAFF: The proposed population to be served is women recovering from alcohol or substance abuse and dealing with other mental health issues. The boarding and lodging house shall comply with all other requirements.

I. The operator(s) of a boarding and lodging house shall maintain a registry of residents, which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

STAFF: The boarding and lodging house shall comply with this requirement.

J. Board of Zoning Adjustment shall, to the best of their abilities, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations.

K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood.

L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B.

STAFF: The applicant has begun the process to obtain a license from Codes and Regulations.

M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The existing structure is proposed to be reused and maintained. No natural resources are evident on the site.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: No open space requirements are pertinent to the proposal.

- (d) The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design is compatible with the existing and future development of the area. The neighborhood is characterized by a mix of uses and zoning districts.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-6
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Conditional Use Permit** for a **Boarding and Lodging House**
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

NOTIFICATION

Date	Purpose of Notice	Recipients
10/29/2020	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
12/01/2020	Hearing before PC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
12/02/2020	Hearing before PC	Sign Posting on property
12/04/2020	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



531 E Kentucky Street

feet



160

Map Created: 11/3/2020

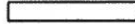


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2. Aerial Photograph



531 E Kentucky Street
feet



160

Map Created: 11/3/2020



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3. Staff Plan 2040 Checklist

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

Traditional Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The site is located one-half block from a transit corridor at S Jackson Street. The neighborhood is a mix of uses including several small activity centers.
2	Community Form: Goal 1	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	The proposed use is not substantially different in scale, intensity or density from adjoining uses.
3	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal re-uses an existing building on the site.
4	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.
5	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal re-uses an existing building on the site.
6	Community Form: Goal 4	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The proposal re-uses an existing building on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
7	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The neighborhood has several small activity centers and transit is available one-half block from the site.
8	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is via E Kentucky Street, a primary collector at this location.
9	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The site is accessible by bicycle, car, transit, pedestrians and people with disabilities.
10	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
11	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.
12	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.
13	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
14	Mobility: Goal 3	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No direct residential access to high speed roadways is proposed.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
15	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
16	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Louisville Water Company has approved the proposal.
17	Community Facilities: Goal 2	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 approved the proposal.
18	Livability: Goal 1	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	No natural resources are evident on the site. Street tree requirements will be met.
19	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	The site is not located on karst terrain.
20	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The site is not located within the regulatory floodplain.
21	Housing: Goal 1	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The existing structure is to be maintained, reflecting the Form District pattern. The proposed zoning district would permit an increase in the variety of housing in the neighborhood by permitting small-scale multi-family development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
22	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposal would support aging in place by permitting an increase in the variety of housing in the neighborhood. While the current proposal is for a boarding and lodging house, future small-scale multi-family development will be permitted by the proposed zoning district.
23	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The site is connected to the neighborhood and to the surrounding area. The proposal would permit mixed-income development.
24	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The site is located in proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as to amenities providing neighborhood goods and services.
25	Housing: Goal 3	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed zoning district would permit small-scale multi-family development, increasing the variety of ownership options and unit costs in Louisville Metro.
26	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No residents will be displaced by the proposed zoning district.
27	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning district would permit innovative methods of housing.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning

Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The residential character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission or it's designee:
 - i. roof line
 - ii. building material
 - iii. porch
 - iv. windows
5. No signage which identifies the boarding and lodging house shall be permitted on the site.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**Land Development and Transportation
Committee
Staff Report
November 12, 2020**



Case No:	20-ZONE-0079
Project Name:	Page 89 House
Location:	531 E Kentucky Street
Owner(s):	Jennifer Terry
Applicant:	Jennifer Terry
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from U-N Urban Neighborhood to R-6 Multi-Family Residential
- **Waiver** from 10.2.10 to allow a Vehicular Use Area to encroach into the required VUA Landscape Buffer Area
- **Conditional Use Permit** for a boarding and lodging house
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located along E Kentucky Street between the intersections with S Hancock and S Jackson Streets. The applicant proposes to rezone the property and obtain a Conditional Use Permit to utilize the site as a boarding and lodging house.

The site is located in the Smoketown neighborhood and is within the study area for the Smoketown/Shelby Park Neighborhood Plan. The site was rezoned to U-N under an areawide rezoning at the recommendation of the neighborhood plan. This was accomplished under docket 9-81-02. The neighborhood is generally mixed-use, mostly single-family uses with some institutional uses and pockets of commercial nearby.

STAFF FINDING

The proposal is ready for a public hearing date to be set.

TECHNICAL REVIEW

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The site is located in the Traditional Neighborhood Form District

This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

REQUIRED ACTIONS

- **Set the public hearing date.**

NOTIFICATION

Date	Purpose of Notice	Recipients
10/29/2020	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
	Hearing before PC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

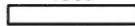
1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



531 E Kentucky Street

feet



160

Map Created: 11/3/2020

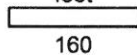


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2. Aerial Photograph



531 E Kentucky Street
feet



Map Created: 11/3/2020



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3. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The residential character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission or its designee:
 - i. roof line
 - ii. building material
 - iii. porch
 - iv. windows
5. No signage which identifies the boarding and lodging house shall be permitted on the site.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**Board of Zoning Adjustment Pre-Application
Staff Report**
March 9, 2020



Case No:	20-CUPPA-0036
Project Name:	Page 89 Boarding and Lodging Home
Location:	531 East Kentucky Street
Owner(s):	Jennifer Terry
Applicant:	Jennifer Terry
Jurisdiction:	Louisville Metro
Council District:	4 - Barbara Sexton Smith
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

Conditional Use Permit to allow a boarding and lodging home.

CASE SUMMARY/BACKGROUND

The women who will reside at the residence will be struggling with and receiving treatment for one or more of the issues as listed: mental health, life skills, substance use disorders or lack of a safe or sober environment. The use will not provide treatment for any of the issues, however; it will be a requirement for all residents to be enrolled in a treatment center in the area. The use will have one house manager and up to seven residents.

STAFF FINDING / RECOMMENDATION

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

None

TECHNICAL REVIEW

The applicant if possible, should talk to Fire District #2 and Inspections, Permits, and Licenses to see what improvements to the residence need to be made and what permits will be needed.

INTERESTED PARTY COMMENTS

A neighborhood meeting will be held.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF:

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:

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:

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

4.2.11 Boarding and Lodging Houses Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.

B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility.

C. Boarding and lodging houses shall not have any signage which identifies the use.

D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation.

E. Sufficient on-site parking shall be provided as required by the Land Development Code,

F. All boarding and lodging houses shall comply with applicable building code and health department regulations.

G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for boarding and lodging houses.

H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:

1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.);
2. Site plan and floor plans;
3. Rules of conduct and business management plan;
4. Support services to be provided and projected staffing level, if any;
5. Proposed maximum stay for each resident;
6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; and
7. Any Changes to the foregoing information submitted in connection with the Conditional Use permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.

I. The operator(s) of a boarding and lodging house shall maintain a registry of residents, which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

J. Board of Zoning Adjustment shall, to the best of their abilities, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations.

K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood.

L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B.

M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment.

NOTIFICATION

Date	Purpose of Notice	Recipients
	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Comments from Agencies
5. Proposed Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Checklist

- + Meets policy
- Does not meet policy
- +/- Meets/does not meet some portion of policy
- NA Not applicable
- INS Additional information needed

Policy	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form: Goal 1			
2.1	Evaluate the appropriateness of a land development proposal in the context of: 2.1.1. the description, character and function of the Form District designated for the area in which the subject site is located; 2.1.2. the intensity and density of the proposed land use or mixture of land uses; 2.1.3. the effect of the proposed development on the movement of people and goods; and 2.1.4. the compatibility of the proposed use or uses with surrounding uses including the relationship of the use, mass, scale, height, materials, building footprint, orientation, setback and design of the proposed building or buildings with that of surrounding buildings.	+	The proposed use will be in an existing structure and primary residential area.

Policy	Plan Element or Portion of Plan Element	Staff Finding	Comments
3.1.3			
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 proposed use will be in an existing structure and primary residential area.
10.			
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The structure is existing so the setbacks are well established.
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.	-	Staff does not know where off-street parking will be located.
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).	-	Staff does not know if signage is proposed.
16.			
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	-	Transportation Planning has reviewed the proposal and has comments.
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	Proposal will follow the Louisville Metro 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

4. Agency Comments

Recommendations and/or Comments:

Should you have any questions or require additional information, please contact me at (502) 569-3600, extension 2269 or by email at epruitt@lwcky.com

Sincerely,



Eric R. Pruitt
Engineering Planner II
Louisville Water Company
550 S. 3rd Street
Louisville, Ky 40202
502.569.3600x2269

February 21, 2020
Mr. Jon Crumbie, Case Manager
Louisville Metro Planning & Design Services
444 South 5th Street, Suite 300
Louisville, KY 40202



**RE: Louisville Water Company Review
IARC Committee – Docket No. 20-CUPPA-0036
Conditional Use Permit Pre-Application**

Dear Mr. Crumbie,

The following documents were submitted to LWC for review and comment:

- ~ Agency Notification Memorandum, dated February 18, 2020
- ~ Site Plan, dated January 17, 2020

LWC has the following comments regarding the documents presented for review.

- LWC has adequate infrastructure in place to supply the development as proposed.

Nearest Water Main Location: 531 E Kentucky Street

Nearest Water Main Size: 16 inches Pressure Zone: 660

- LWC does not have the adequate infrastructure in place to supply the development as proposed. See comments below for greater detail.
- Water main sizing, layout in the development, and supply plans should be coordinated with LWC's New Development and Distribution Extensions Department.
- Fire hydrant flow tests should be requested to verify the available pressure and flow rates at the nearest existing fire hydrants.
- Easements designated exclusively to the Louisville Water Company will be needed to access and maintain existing water facilities. Louisville Water Company must approve easement document(s) before closure may take place.
- LWC has no objections to the document(s) as presented.

5. Proposed 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 boarding house without further review and approval by the Board.
3. Prior to lawful commencement of the boarding and lodging home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

