

Board of Zoning Adjustment

Staff Report

October 18, 2021



Case No:	21-CUP-0139
Project Name:	Flip the Script
Location:	432 S. 16 th Street
Owner:	leesha Watts
Applicant:	Duane Nathaniel – Flip the Script
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Zach Schwager, Planner I

REQUEST

Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district Land Development Code (LDC) 4.2.55 and a Landscape Waiver to not provide the perimeter landscape buffer areas.

CASE SUMMARY/BACKGROUND

The subject property is located on the southwest corner of S. 16th Street and Eddy Street and is 0.0701 acres. It is zoned R-6 Residential Multi-Family and is in the Traditional Neighborhood Form District. The structure is two stories, has 1,368 sq. ft. of finished space according to PVA, and has three bedrooms. The applicant is proposing to operate a transitional home in the existing structure for up to eight men and will have two staff members on site each morning and one at all other times. Applicants for the program are screened and reviewed by a team of professionals to determine what level of care is needed. Depending on the level of care, the participants must either attend classes three hours per day three days a week or two hours per day two days a week. There are no proposed additions to the existing structure. The subject property does not have any off-street or on-street parking spaces; however, the subject property is within 190 ft. of a TARC route and there is available parking in the area. The applicant has applied for a parking waiver for the required parking space that can be approved at staff level. The landscape waiver is for section 10.2.4 of the LDC, which requires a perimeter landscape buffer and screening adjacent to residentially zoned property. Staff is supportive of the landscape waiver and the applicant has installed a privacy fence along the affected property lines.

STAFF FINDING / RECOMMENDATION

There are 11 listed requirements and they will either be met, must be met, or need to be granted relief. The applicant will need relief from items D. and F. 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 a Landscape Waiver.

RELATED CASES

21-WAIVER-0114 – Landscape waiver to not provide perimeter landscape buffer areas along the southern and western property lines.

TECHNICAL REVIEW

The plan has received preliminary approval from Transportation Planning and MSD.

INTERESTED PARTY COMMENTS

Staff has received three emails in opposition to the proposed transitional home. They have been attached to the agenda item.

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?

There are 11 listed requirements and they will either be met, must be met, or need to be granted relief. Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements. This section does not apply to any Transitional Housing that may be permitted with special standards pursuant to Section 4.3.14 of this Land Development Code.

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: There are three bedrooms according to the applicant. Photos of the bedrooms are attached to the agenda item. Staff has inspected the bedrooms and they meet the occupation limitation requirements.

B. Transitional Housing shall be a temporary housing arrangement for its residents, with stays generally being less than two (2) years. Such housing is intended to serve residents as they transition into permanent housing.

STAFF: The applicant is aware of this requirement.

C. Transitional Housing shall have supervision of its residents, as well as structure and support services for its residents. Nonresidential uses and services that are not accessory to the Transitional Housing use shall not be carried out unless otherwise permitted and approved as a separate use. Transitional housing that serves as recovery housing should follow best practice industry standards and operational rules such as the National Alliance for Recovery Residences (NARR) standards.

STAFF: The transitional home will have two staff members on site every morning and one staff member at all other times.

D. When reviewing a conditional use permit application for Transitional Housing, 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 Transitional Housing 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: The applicant will need relief from this requirement as there is one other property with an approved conditional use permit for group housing within 1,000 ft. of the subject property (attached).

E. Transitional Housing 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.

F. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line.

STAFF: The applicant will need relief from this requirement as the existing structure is within 30 ft. of every property line. This relief is justified as these are existing site conditions and no new construction is proposed.

G. 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.

STAFF: The use requires one parking space and the subject property does not have any off-street or on-street parking spaces; however, the subject property is within 190 ft. of a TARC route and there is available parking in the area. The applicant has applied for a parking waiver for the required parking space that can be approved at staff level.

H. 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: The applicant has not proposed any signage.

I. Additional Single-Family Residential Zoning District Standards (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N):

1. Any building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with other residential architecture in the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.

2. Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
3. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).

STAFF: This section does not apply.

J. For a complete application submittal for any Transitional Housing 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;
2. The proposed maximum number of residents/beds and maximum number of employees;
3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas);
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
5. Rules of conduct and management plan.

In the event a conditional use permit for a Transitional Housing 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: This information has been provided by the applicant.

K. If Transitional Housing 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 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.

L. An active license of the Transitional Housing, as required by LMCO Chapter 115, shall be maintained. No transitional 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 of 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 Transitional Housing use, a new conditional use permit must be granted if required.

STAFF: The applicant is aware of this requirement.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 10.2.4

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

STAFF: The waiver will not adversely affect adjacent property owners as there are a variety of land uses in the general vicinity.

(b) The waiver will not violate specific guidelines of Plan 2040; and
 STAFF: Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to 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 and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states 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. The waiver request can be justified because there are no proposed additions to the structure on the property and the property is not large enough to reasonably provide the required landscaping.

(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 they are applying for the waiver to bring the existing site conditions into compliance.

(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: The strict application of the provision would deprive the applicant of the reasonable use of the land because the property is not large enough to install the required landscaping. The applicant is also proposing to keep the residential character of the property.

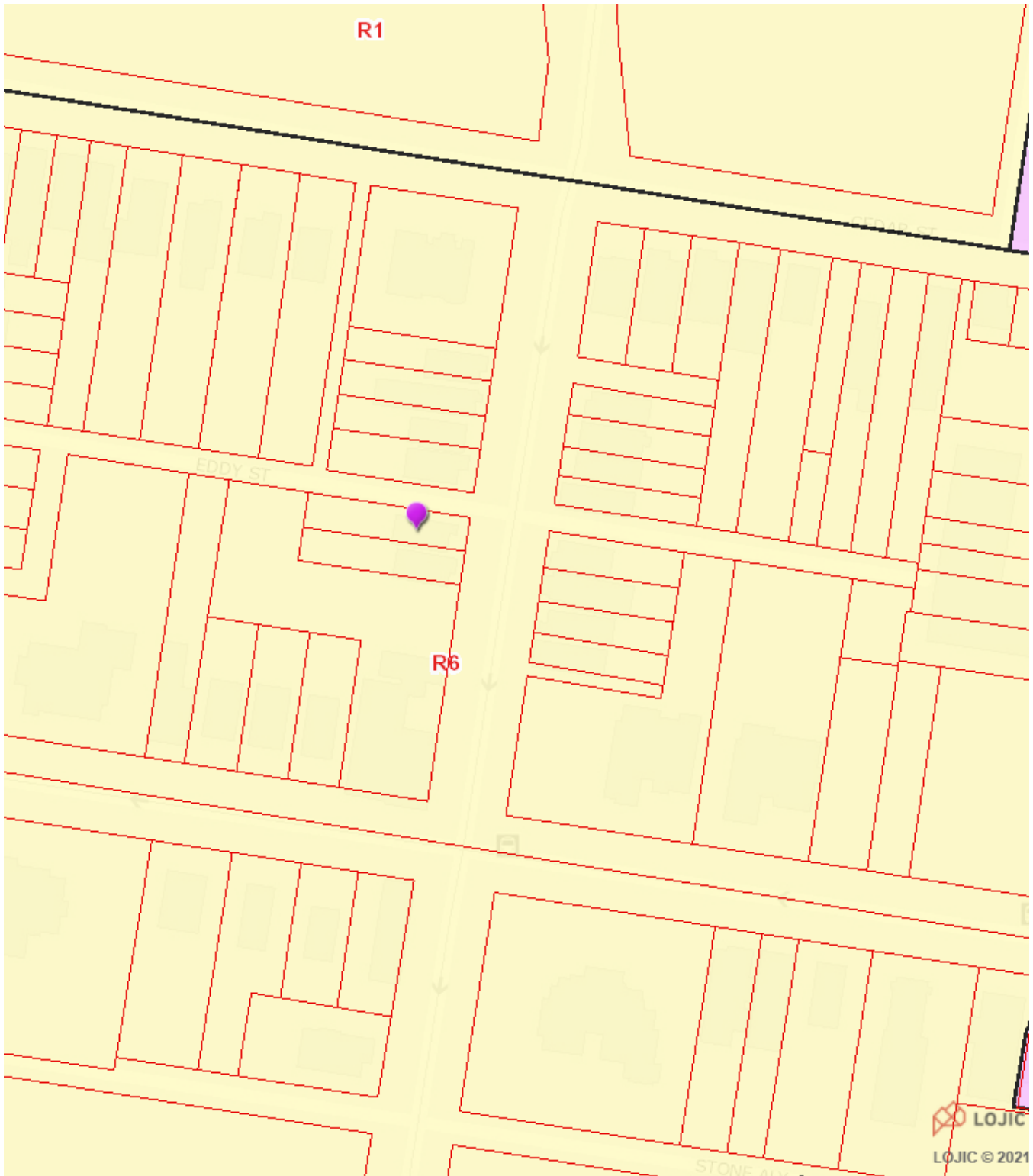
NOTIFICATION

Date	Purpose of Notice	Recipients
7/19/2021	Neighborhood Meeting	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
9/30/2021	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 4
10/1/2021	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. 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 operate a transitional home but is not proposing any new development.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	The existing structures meet the zoning and form district requirements. There are no proposed additions.

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 preliminarily 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).	+	The applicant has not proposed any signage.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning has reviewed and preliminarily 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.	+	All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	Lighting will be directed and focused away from surrounding residential uses.
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 preliminarily approved the proposal.

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 transitional home until further review and approval by the Board.
3. Prior to lawful commencement of the transitional 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 eight persons or the maximum allowed by the property maintenance code.