

Board of Zoning Adjustment
Staff Report
May 15, 2023



Case No:	22-CUP-0077
Project Name:	Accessory Dwelling Unit
Location:	9101 Walter Avenue
Owner(s):	3 Bears Ventures, LLC
Applicant:	Pamela Smith & Amber Willetts
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Heather Pollock, Planner I

REQUEST(S)

Conditional Use Permit to allow an Accessory Dwelling Unit in the R-4 Single Family zoning district and the Neighborhood form district. (LDC 4.2.3)

CASE SUMMARY/BACKGROUND

The applicant is requesting to use a portion of the existing 1st floor detached garage as an accessory dwelling unit. The footprint of the garage is 1,118 sq. ft. The proposed ADU will be 861 sq. ft. The remainder of the 1st floor is a single car garage used by the primary home. The accessory structure has a 2nd story that has external access only and will be used by the primary residence as storage. The primary residence is a one-story, single-family home with 1,596 sq. ft.

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

There are no related cases.

TECHNICAL REVIEW

Upon approval of the requested CUP, the owner/developer should contact Metro Emergency Services to have address assigned for the proposed accessory apartment.

INTERESTED PARTY COMMENTS

Two neighborhood meetings were held. The 1st was on February 14, 2022 and 20 people attended. The 2nd meeting was on March 24, 2022 and 18 people attended. Several interested party comments were received by staff and are attached to this 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 does not conflict with Comprehensive Plan policies.

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

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education, and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

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

Accessory dwelling units that do not meet the provisions of Section 4.3.27 may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. One ADU, either attached or detached is permitted per single family dwelling per lot.

STAFF: *The applicant has been informed of this requirement. The proposed accessory dwelling unit will occur on the 1st floor of the detached garage.*

B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater.

STAFF: *The proposed accessory dwelling unit will be 861 sq. ft. The applicant will need to request relief from this requirement.*

C. Location Requirements:

1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.

2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure.

STAFF: *The applicant has been informed of this requirement. The structure is existing and appears to meet all setback requirements.*

D. ADU Access:

1. For an attached ADU, an exterior staircase used to access a second story or higher ADU shall not be located on the front façade of the structure.

2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard.

STAFF: *The applicant has been informed of this requirement.*

E. Maximum Height:

1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.
2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not exceed the height of the principal structure.

STAFF: *The existing accessory structure is currently taller than the primary structure, relief will need to be requested.*

F. ADUs approved under this provision shall not be used as a short term rental.

STAFF: *The applicant has been informed of this requirement.*

G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the directors of Planning & Design Services and Codes & Regulations, or their designees. Any violations shall be resolved prior to approval.

STAFF: *The applicant has been informed of this requirement.*

H. Off-street parking shall meet the requirements of Chapter 9 of the LDC.

STAFF: *The applicant has been informed of this requirement. There are 2 existing driveways as well as a 1 car garage.*

I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A)

STAFF: *The applicant has been informed of this requirement.*

J. The owner of the property shall reside within either the principal or the accessory dwelling unit.

STAFF: *The applicant has been informed of this requirement. This property is owned by an LLC.*

K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations restricting accessory dwelling units.

STAFF: *The applicant has been informed of this requirement.*

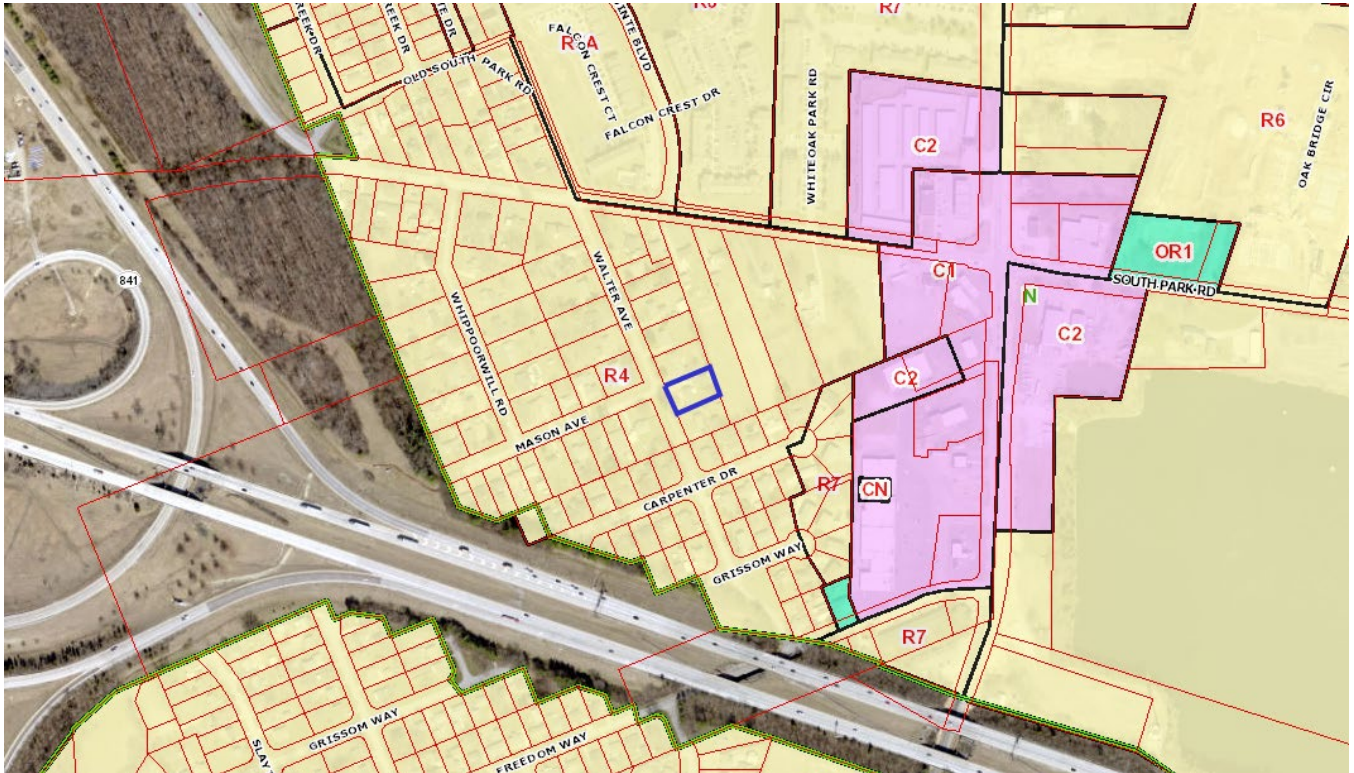
NOTIFICATION

Date	Purpose of Notice	Recipients
04/29/2023	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 24
05/04/2023	Hearing before BOZA	Sign Posting

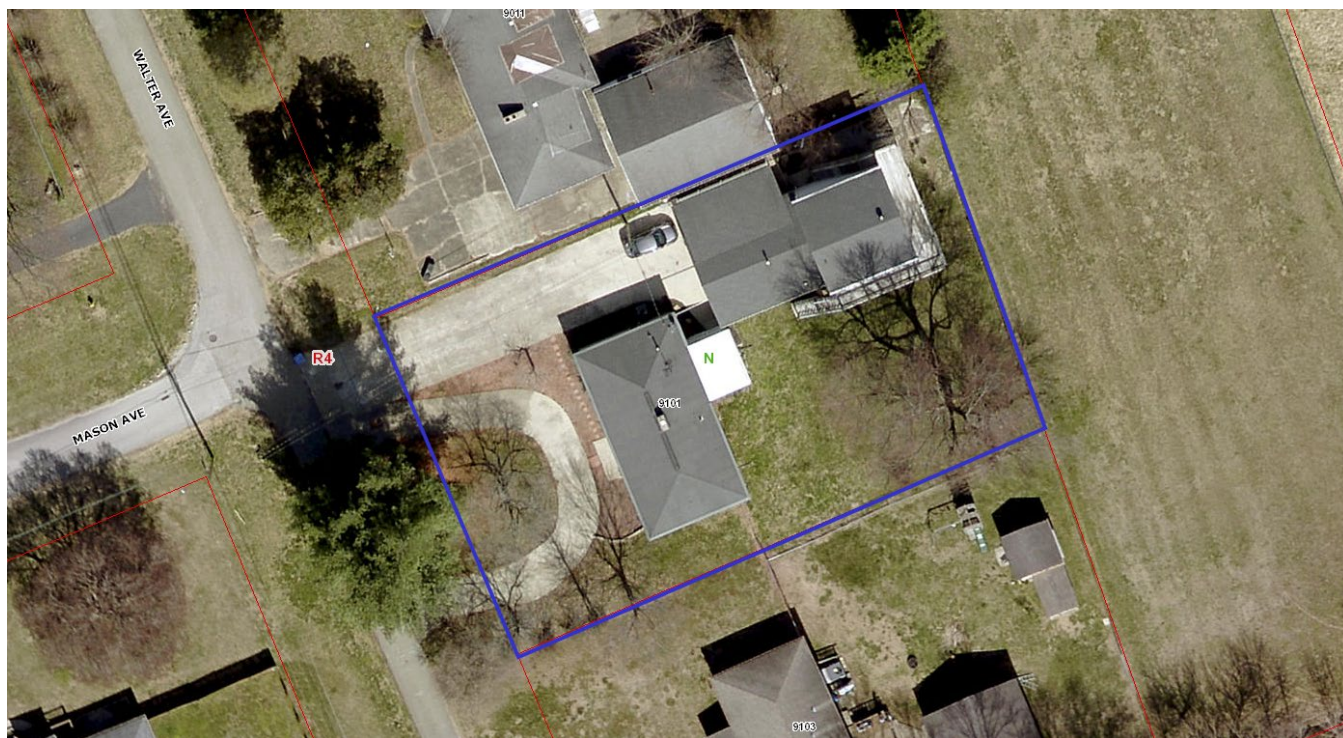
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Floor Plan
4. 2040 Checklist
5. Conditions of Approval
6. Site Photos

1. **Zoning Map**

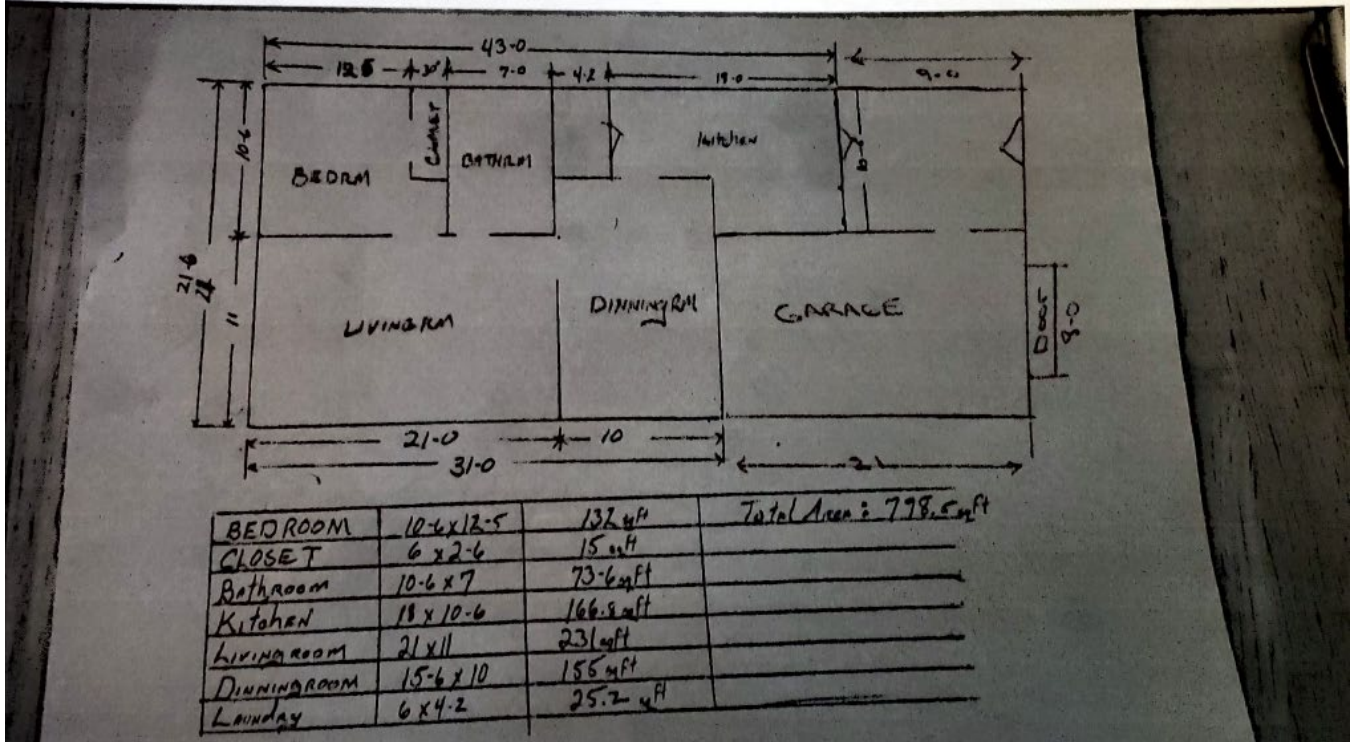


2. Aerial Photograph



3. Floor Plan

9101 Walter Ave, Louisville 40229



4. 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.	+/-	Proposed ADU will be in existing accessory structure. The structure is taller than other accessory structures in the area.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	Lot dimensions are compatible, existing accessory structure appears to meet setbacks.
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 the proposal and has comments.

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 the proposal and has no comments.
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	NA	Accessory structure is existing
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 the proposal and has no comments.

5. 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 an accessory apartment without further review and approval by the Board.

6. Site Photos



Front of subject property



To the left of subject property



Across street.