

Board of Zoning Adjustment Staff Report

September 12, 2016



Case No:	16CUP1023
Project Name:	None - Accessory Apartment
Location:	811 Fetter Avenue
Owners:	Companies Wood Properties, LLC
Applicant:	Companies Wood Properties, LLC
Representative(s):	Sarah Beth Sammons
Project Area/Size:	650 square feet
Existing Zoning District:	R-5, Residential
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST

- Conditional Use Permit to allow an accessory apartment in an R-5 zoning district.
- Approval of an alternative landscape plan.
- Variance to allow the accessory structure/use area to exceed the required 60 depth.

Location	Requirement	Request	Variance
Accessory structure/use area	60'	64'	4'

CASE SUMMARY

The applicant is proposing to build a one-story detached garage will that have an apartment attached. The garage will have a building footprint of 600 square feet and the apartment will have a footprint of 650 square feet. The total footprint will be 1,250 square feet.

SITE CONTEXT

The site is irregular in shape and located on the north side of Fetter Avenue between Alexander Avenue and South Shelby Street.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Residential	R-5	TN
Proposed	Residential	R-5	TN
<i>Surrounding Properties</i>			
North	Residential	R-5	TN
South	Residential	R-5	TN
East	Residential	R-5	TN
West	Residential	R-5	TN

PREVIOUS AND ASSOCIATED CASES ON SITE

There are no previous cases on the site.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on July 5th at 6:00 p.m. There were no attendees at the meeting.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR CONDITIONAL USE PERMIT**

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

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan. Guideline B.2 (Community Form), the proposal preserves the existing grid pattern of streets, sidewalks and alleys. Guideline A. 23 (compatibility), setbacks and building heights are compatible with those of nearby existing developments. The applicant will be proposing an alternative landscape plan.

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

STAFF: The proposal is compatible with surrounding land uses with respect to height, bulk, scale, intensity, lighting, and appearance.

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

STAFF: MSD and Transportation Planning have reviewed and approved the proposal. The Louisville Fire District #4 did not comment on the proposal.

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

Accessory Apartments 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. There are four requirements all have been met.

A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises.

B. The accessory apartment shall be no greater than 650 sq. ft. or 30% of the floor area of the principal residence, whichever is greater.

C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate.

D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
- 2 Traditional Neighborhood - at least one off-street space provided on the lot; and
3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the variance will allow a safe passage from the alley to the proposed garage.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since there are varying accessory structure/use areas and rear yards for detached garages in the surrounding neighborhood.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since the proposed structure is set this distance away from the rear property line due to the existing grading.

(d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment will not be noticeable from the street or alley and private yard will still be met.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the grade from the rear property line will not allow for safe ingress/egress to the garage.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the rear property would have to be graded if possible.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the grading has been the norm for many years.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Land Development and Transportation Committee must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

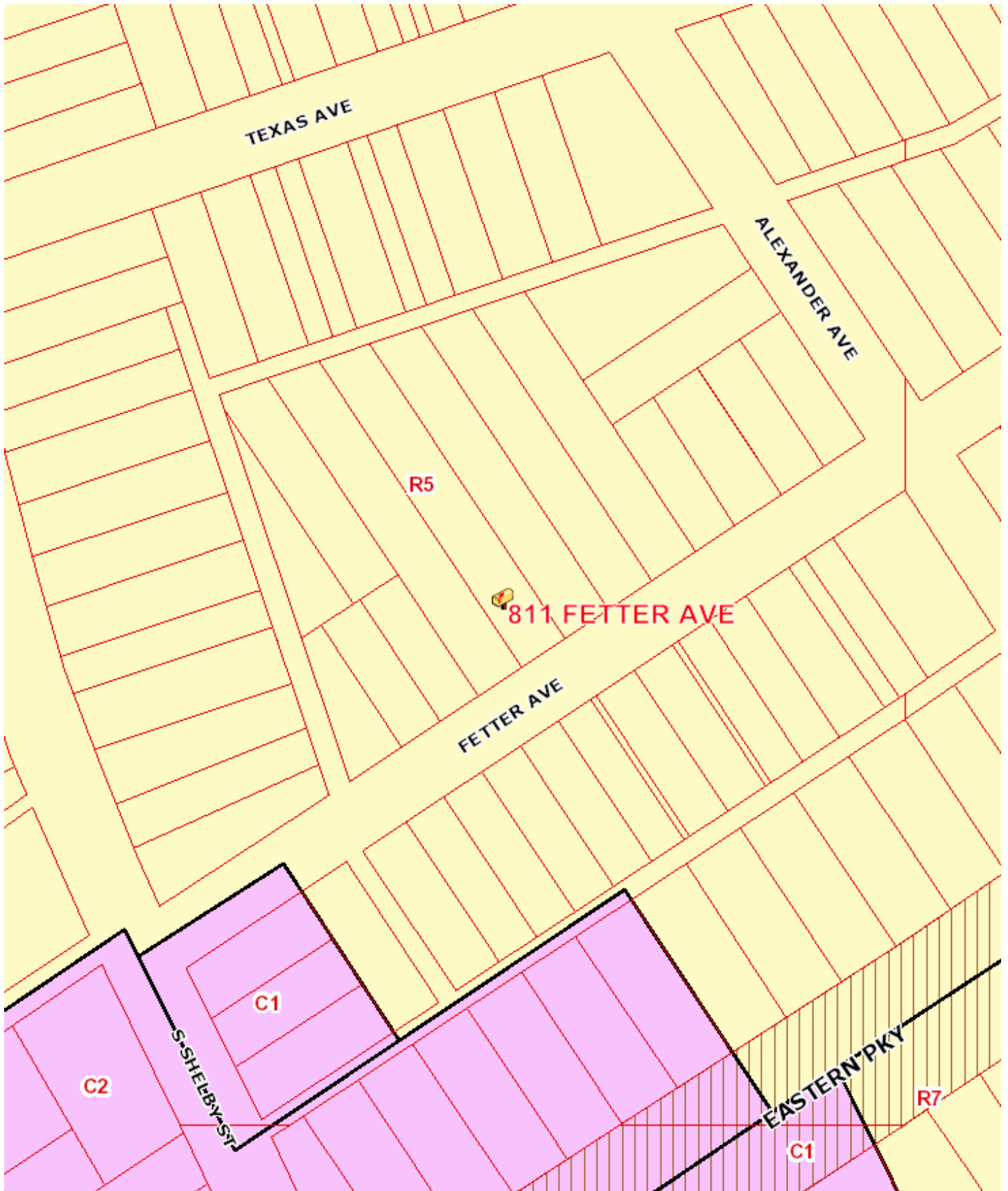
NOTIFICATION

Date	Purpose of Notice	Recipients
8/25/16	APO Notice	First tier adjoining property owners Neighborhood notification recipients
8/26/16	Sign Posting	Subject Property

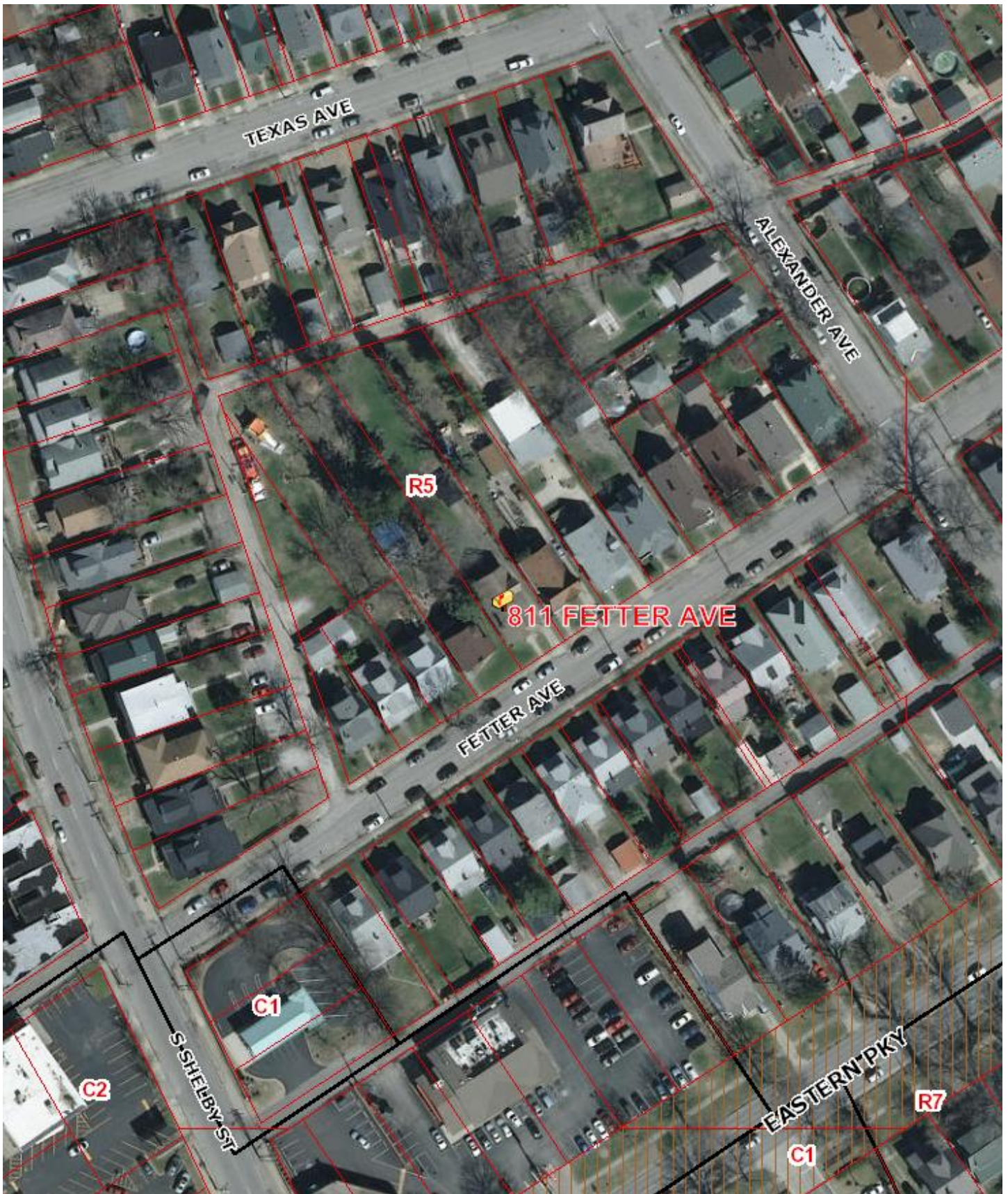
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Comments

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