

Board of Zoning Adjustment

Staff Report

January 24, 2022



Case No:	23-CUP-0040
Project Name:	Bolling Avenue Rehabilitation Home
Location:	2318 Bolling Avenue
Owner:	Omni Community Enrichment and Development
Applicant:	Damin Williams
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Molly Clark, Planner II

REQUEST

Conditional Use Permit to allow a rehabilitation home in the R-5 Single-Family Zoning District per Land Development Code (LDC) 4.2.31

Waiver from section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property

CASE SUMMARY/BACKGROUND

The subject property is located near the corner of Bolling Avenue and S 23rd Street. It is zoned R-5 Single Family and is in the Traditional Neighborhood Form District. There is an existing two-story residential structure that is 2,344 sq. ft. according to PVA. The existing single-family home has 5 bedrooms. The applicant is proposing to operate a rehabilitation home in the existing structure for 12 to 14 women. One bedroom will operate as an office while the 4 other bedrooms will be for the residents. There will be 24-hour supervision with staff present. Services offered will include the 12-step program, targeted case management, one on one behavioral health services with a clinical team and treatment from certified clinical therapist on site. The applicant will provide parking in the rear off of the existing alley and there is on-street parking on Bolling Avenue.

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.

STAFF FINDING/RECOMMENDATION

There are ten listed requirements, and the applicant will be asking for relief from item F regarding the number of beds/residents.

The applicant is proposing 12 to 14 beds although due to the size of each bedroom, staff is proposing a maximum of 10 beds.

The square feet of each bedroom:

Bedroom 1 – 225 sq ft
Bedroom 2 – 122.96
Bedroom 3 – 138.04
Bedroom 4 – 146.28

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

22-CUPPA-0366 – Pre-application for a conditional use permit for a rehabilitation home.

TECHNICAL REVIEW

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

INTERESTED PARTY COMMENTS

The applicant held a neighborhood meeting on January 11, 2023, and 2 people were in attendance.

Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT FOR A REHABILITATION HOME 4.2.31:

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: The subject site has 5 bedrooms but one bedroom will be used as an office for staff.

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 there are no other properties within 1,000 ft. of the subject property 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.

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 subject property is R-5 Single Family, The applicant has requested up to 14 women to be able to participate in the program at a time. The Board would need to grant relief to this standard to allow more than 4 residents. Staff recommends 10 residents due to the square feet of each bedroom. Without relief from this standard the CUP cannot be approved.

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: No new construction is 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 and approved the plan. The applicant is proposing 3 to 4 parking spaces in the rear and has 2 on-street spaces in the front. There appears to be plenty of on-street parking in the immediate area.

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: No signage is 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.

STAFF: Applicant has been informed of this requirement.

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.

STAFF: Applicant has been informed of this requirement.

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: Applicant has been informed of this requirement.

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 participating in long-term substance addiction treatment services.

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

STAFF: Maximum number of beds recommended by staff is 10 beds. Applicant is requesting 12 to 14 beds. Maximum number of employees is 3.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM SECTION 10.2.4 to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property:

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 Plan 2040 since the site is residential in design and appearance with no new proposed construction.

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 considering the applicant would have to remove a historical home to meet the required buffers.

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 a majority of the site making it unbuildable. The applicant is not proposing any new construction and the subject site remain residential in character.

REQUIRED ACTION

- **APPROVE** or **DENY** the **CONDITIONAL USE PERMIT** to allow a rehabilitation home in the R-5 single family zoning district.
- **APPROVE** or **DENY** the **WAIVER** from section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property buffer.

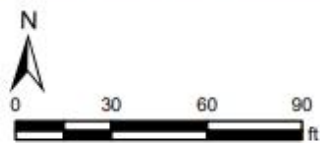
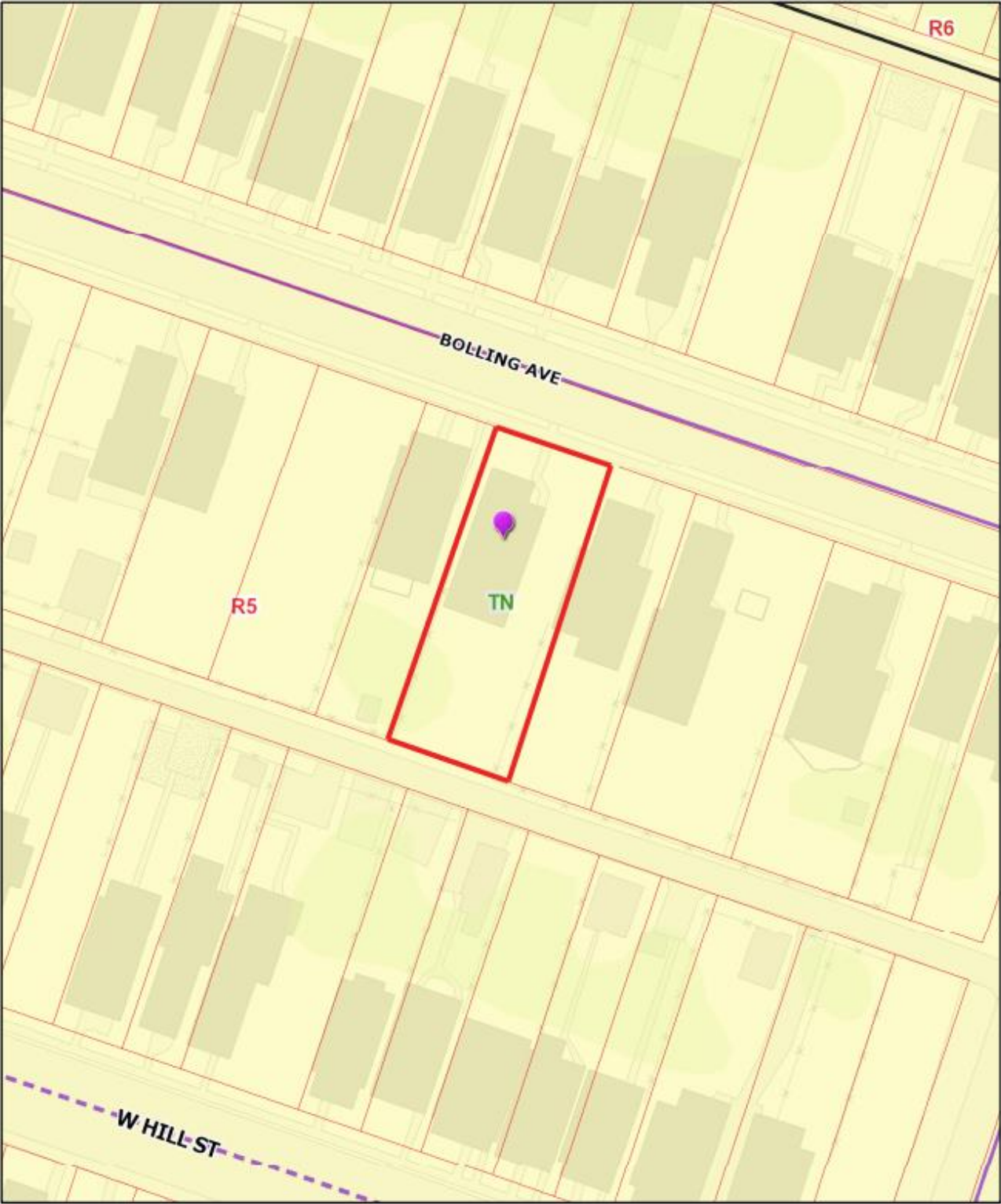
NOTIFICATION

Date	Purpose of Notice	Recipients
4-28-23	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 6
4-19-23	Hearing before BOZA	Sign Posting

ATTACHMENTS

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

1. Zoning Map



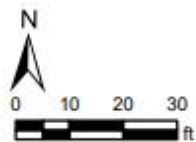
Wednesday, April 26, 2023 | 9:55:59 AM



LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification

2. Aerial Photograph



Wednesday, April 26, 2023 | 10:00:24 AM



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3. Plan 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 rehabilitation 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.
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.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
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.
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 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 13 persons, or the maximum allowed by the property maintenance code (the persons include 10 residents and 3 staff members).