

Board of Zoning Adjustment

Staff Report

February 6, 2023



Case No:	23-CUP-0008
Project Name:	Elderserve
Location:	631 S 28 th Street
Owner:	Elderserve, Inc.
Applicant:	Elderserve, Inc.
Representative:	Frost Brown Todd, LLP
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Chris French, AICP, Planning Supervisor

REQUEST

Conditional Use Permit to allow an adult care center in the R-6 zoning district and Traditional Neighborhood form district.

CASE SUMMARY/BACKGROUND

The applicant proposes to use an existing building and existing parking for an adult care center use. A similar use was conducted on the property when it was owned by the State of Kentucky. The applicant proposes no changes to the building or the property.

STAFF FINDING/RECOMMENDATION

There are seven listed requirements and the applicant will be asking for relief from items D, G and E. 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

No related cases

TECHNICAL REVIEW

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

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

A neighborhood meeting was held on January 4, 2023; 10 people attended the meeting.

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: The existing structure and land use are 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 conditional use permit plan.

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

Child and Adult Care Centers may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, PRD, R-7, TNZD, M-1, M-2, and M-3 districts upon granting of a Conditional Use Permit and in compliance with the listed requirements:

A. Existing Residential Structure

1. The structure shall remain, or property improved so that the exterior design and ornamentation is residential in character and compatible with the immediately surrounding neighborhood and form district(s).

Staff Analysis: Not applicable

2. Should the structure remain, there shall be no alterations or improvements which would impair future use of the structure as a primary residence.

Staff Analysis: Not applicable

3. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage.

Staff Analysis: Not applicable

4. Outdoor activities shall be limited to the rear yard, except that corner lots may utilize the street side yard. No play equipment in excess of 4' in height is allowed in the required street side yard of the form district.

Staff Analysis: Not applicable

B. Industrial Zoning Districts

1. Child care centers on the same development site as a use permitted within the M-1, M-2, and M-3 zoning districts that do not meet the provisions of Section 4.3.11 of this LDC:
- a. All special standards outlined within Section 4.3.11 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.11 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would ensure the public health, safety, and welfare of staff and children.

Staff Analysis: Not applicable

2. Areas designated for outdoor activity shall not be located within 200 feet of any area used for heavy truck idling, loading, or the operation of other heavy equipment.

Staff Analysis: Not applicable

3. Review by the Air Pollution Control District (APCD) shall be required. APCD may impose conditions as necessary to protect human health and the environment.

Staff Analysis: Not applicable

- C. Drainage Control – Preliminary plan approval must be received by the Louisville Metro Sewer District (MSD).

Staff Analysis: The plan has been preliminarily approved by MSD.

- D. Fence – A fence shall enclose all areas for outdoor activity.

Staff Analysis: The outdoor area is a courtyard that is located in the center of the building. A fence is not needed to enclose this area; however, relief is needed to this standard. Staff supports relief because of the location of the outdoor area.

- E. Signs – In residential zoning districts, there shall be allowed one non-illuminated attached business sign not to exceed 4 square feet in area, regardless of the form district. No changing image signs shall be permitted.

Staff Analysis: Two freestanding sign structures are located on the property adjacent to 28th Street. Only one of the sign structures is used. The other sign has no signage located on the structure. The sign that is used is approximately 20 square feet and 6 feet in height. Relief from this standard is required for the size of the sign. Staff recommends that relief be granted for the existing sign to be utilized with a condition of approval that the only sign on the property shall be a freestanding sign not to exceed 20 square feet and 6 feet in height.

- F. Hours – No outdoor activities shall occur between the hours of 9 P.M. and 7 A.M., except for pick-up/drop-off.

Staff Analysis: The applicant has been notified of this standard.

- G. Buildings – All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.

Staff Analysis: The existing structure needs relief from this standard because the structure does not meet the setback requirements of the Traditional Neighborhood form district. Staff supports the

relief from the standard because the location of the existing building is compatible to the surrounding area.

H. The use shall be in compliance with all applicable regulations as administered by the Kentucky Cabinet for Health and Family Services.

Staff Analysis: The applicant has been notified of this requirement.

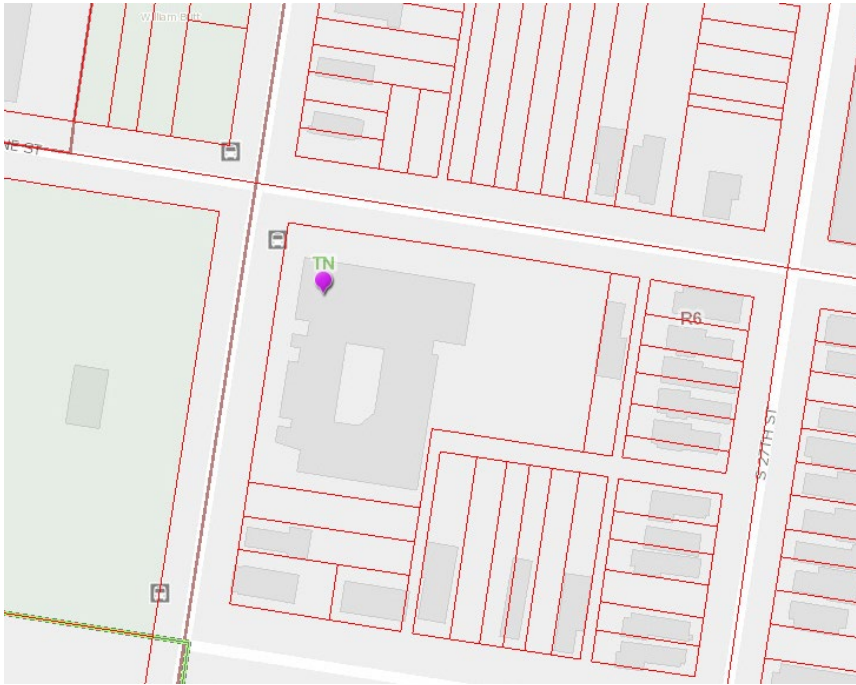
NOTIFICATION

Date	Purpose of Notice	Recipients
01/19/2023	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District
01/26/2023	Hearing before BOZA	Sign Posting

ATTACHMENTS

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

1. **Zoning Map**



2. **Aerial Photograph**



3. 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. The only sign allowed on the property shall be one freestanding sign not to exceed 20 square feet in area and 6 feet in height.