

# Board of Zoning Adjustment Staff Report

September 25, 2023



|                          |                                      |
|--------------------------|--------------------------------------|
| <b>Case No:</b>          | 22-CUP-0350                          |
| <b>Project Name:</b>     | MaSire Care                          |
| <b>Location:</b>         | 1450 Cypress Street                  |
| <b>Owner(s):</b>         | House of True Faith & Strength, LLC  |
| <b>Applicant:</b>        | Paris Shannon                        |
| <b>Jurisdiction:</b>     | Louisville Metro                     |
| <b>Council District:</b> | 1 – Tammy Hawkins                    |
| <b>Case Manager:</b>     | Joel Dock, AICP, Planning Supervisor |

## REQUEST(S)

- **Conditional Use Permit** for Transitional Housing with relief from item 'D' (LDC 4.2.55)

## CASE SUMMARY

The applicant has requested a conditional use permit (CUP) for transitional housing to allow a maximum of 6 occupants in the R-5, single-family residential zoning district. The conditional use permit is required because the maximum occupancy allowed by the special standards of Land Development Code, Section 4.3.14 do not allow for more than 3 occupants in single-family districts. Three (3) bedrooms are available for the residents – 2 occupants in each room – and have the following sizes:

- 132 sq. ft.
- 126 sq. ft.
- 120 sq. ft.

The CUP standards require that each room meet the minimum dimensional and occupancy limitations established by LMCO, Chapter 156. Each sleeping room meets the minimum occupancy limitations of 70 sq. ft. for each room and 50 sq. ft. for each occupant.

The requested CUP will need relief from item 'D' of the standards because of rehabilitation home is located within 1,000' of the subject property. The rehab home is located 875' from the subject site at 2318 Bolling Avenue. The CUP for this property was approved on May 15, 2023, case 23-CUP-0040.

## STAFF FINDING

The conditional use permit, including relief from item 'D' appears to be adequately justified for approval based on staff's analysis contained in the standard of review.

## TECHNICAL REVIEW

- **Transitional Housing** - A temporary residential living arrangement for persons participating in a program that provides supportive services (such as counseling, education, training, etc.) to help them achieve personal independence. Staff is available as needed. Transitional Housing is not a Boarding House, Family Care Home, Homeless Shelter, Rehabilitation Home, Residential Care Facility, or any other use more specifically defined in this Land Development Code. These

facilities are not subject to the Uniform Residential Landlord and Tenant Act as set forth in KRS Chapter 383.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMITS**

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

STAFF: The proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040, which calls for safe and affordable housing opportunities and related supportive services throughout Louisville Metro to serve the homeless population and those in need of housing, including but not limited to, rent assistance, transitional housing, and shelters. The Plan calls for allowing supportive housing to be available for individuals entering or re-entering society upon their exit from residential care facilities, correctional facilities, foster care or similar institutions. The proposal is for transitional housing. No exterior changes are proposed which alter the essential character of the general vicinity and the proposal is in a walkable neighborhood with access to public transit

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 proposal is 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. No improvements are being made to the exterior of the residence that alter the compatibility with the surrounding area. The property is situated along a roadway with sidewalks and transit service.

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: All 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 are available or will be provided.

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

Transitional Housing may be allowed in any zoning district upon 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 limitation required by LMCO and any applicable building, fire, or life safety code.

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.

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.

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.

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.

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.

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.

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.

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).

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 II.5A.1 of this Land Development Code.

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 II.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.

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

STAFF: The applicant has demonstrated or will be required to provide compliance with each of the lettered standards of the conditional use permit, except where relief is necessary for item 'D'. Relief is necessary due to the proximity of a conditional use permit approved for group housing at 2318 Bolling Ave, which is 875' from the subject property. The property at 2318 Bolling operates a rehabilitation home which is distinguished from transitional housing as a more intensive use on the property and provides supportive services for individuals that may need transitional housing upon their re-entry into society from the rehabilitation home.

## **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Conditional Use Permit** for Transitional Housing with relief from item 'D' (LDC 4.2.55)

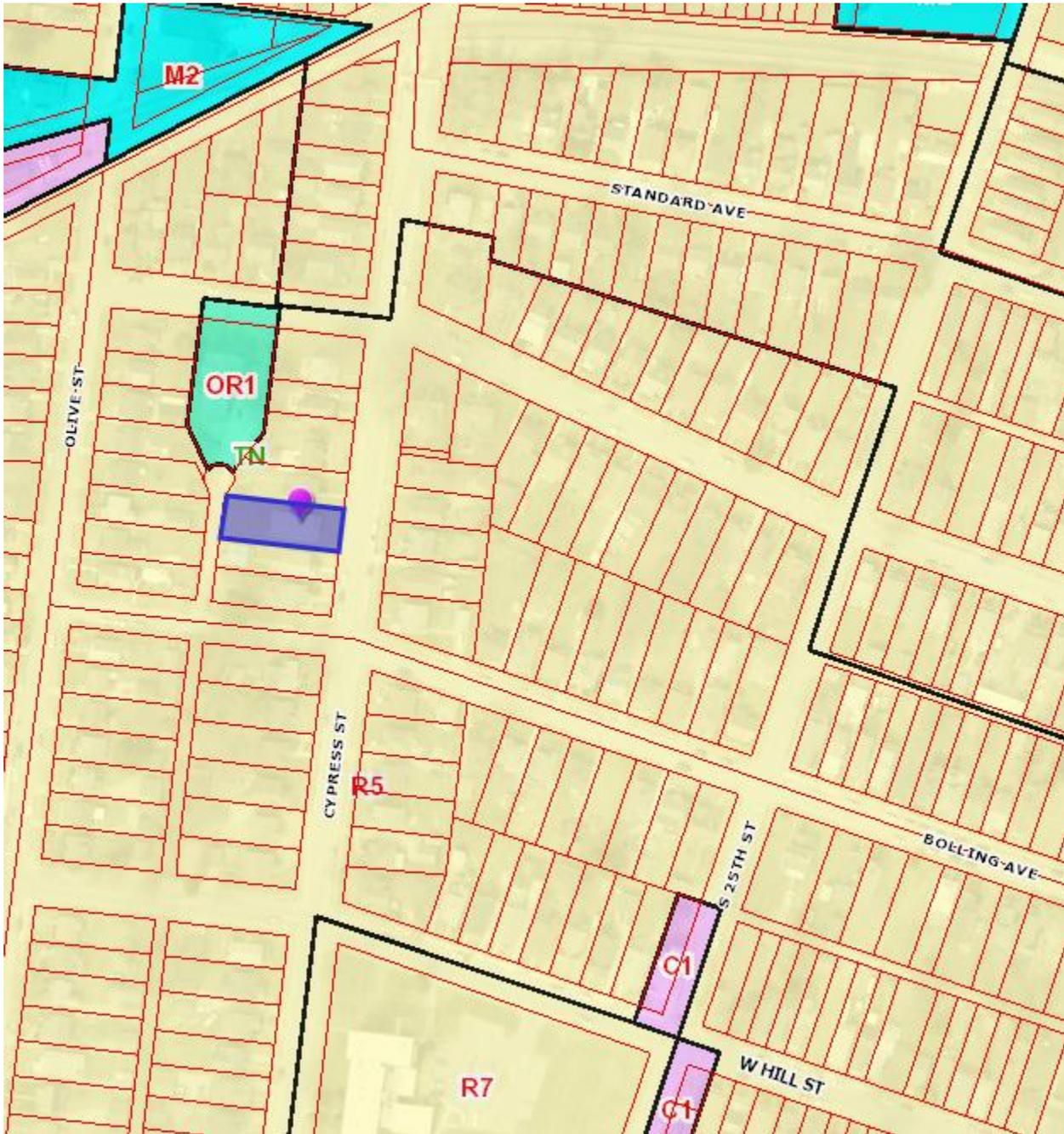
## **NOTIFICATION**

| Date    | Purpose of Notice   | Recipients   |
|---------|---------------------|--|
| 9/11/23 | Hearing before BOZA | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and residents<br>Registered Neighborhood Groups in Council District 1 & 6 |

## **ATTACHMENTS**

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

1. Zoning Map



2. Aerial Map



**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 transitional housing until further review and approval by the Board.
3. The maximum number of occupants shall not exceed 6, unless prior approval is received by the Board of Zoning Adjustment
4. An active license for the Boarding House, as required by LMCO Chapter 115, shall be maintained.