

Board of Zoning Adjustment

Staff Report

October 16, 2017



Case No:	17CUP1059
Project Name:	Accessory Apartment
Location:	15501 Floydsviue Place
Owner:	Tom and Leslie Lovelace
Applicant:	Tom and Leslie Lovelace
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Beth Jones, AICP, Planner II

REQUEST

Conditional Use Permit for an Accessory Apartment (LDC 4.2.3)

CASE SUMMARY/BACKGROUND

The applicant proposes to construct a free-standing accessory dwelling on a parcel within an R-R Rural Residential zone/Neighborhood form district. The 5.02 acre parcel is currently developed with a single-family residence and an outbuilding accessed via a driveway off of Floydsviue Place, a private road. It is adjoined by RR properties of similar or larger size on all sides, some developed with single-family residences and some vacant.

The proposed 780 sq ft accessory apartment is a single story and includes an attached carport. It will be located 60 ft west of the existing dwelling unit and 42 ft north of the south property line. Vehicular access will be via an extension of the existing driveway and a covered walkway will connect the two structures.

STAFF FINDING

The proposed development is consistent with the Comprehensive Plan and compatible with adjoining development.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a Conditional Use Permit as established by the Land Development Code.

TECHNICAL REVIEW

All technical review items have been addressed and the plan has received preliminary approval.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on April 11, 2017; there were no attendees. Staff has received no additional comments.

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 is consistent with the Comprehensive 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 and appearance?

STAFF: The proposal is consistent with surrounding 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 site is not currently served by MSD and the proposed development will require an additional septic system. The Louisville Metro Department of Public Health and Wellness has reviewed the proposal and approved this additional septic system, with specific stipulations that will be included as Conditions of Approval.

4. Does the proposal comply with the specific standards required to obtain the requested Conditional Use Permit?

4.2.3. Accessory Apartments 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:

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.

STAFF: The applicant has been informed of this requirement. The principal and accessory buildings are under the same ownership.

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.

STAFF: The proposed accessory apartment is 21% of the principal residence floor area and meets this requirement.

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.

STAFF: The applicant has been informed of this requirement. The proposed accessory apartment building is one-story and does not exceed the height of the existing primary structure, according to the applicant.

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.

STAFF: Existing site development includes a three-vehicle garage and paved area sufficient to accommodate two vehicles. The proposed accessory apartment includes an additional driveway space and a one-vehicle attached carport.

NOTIFICATION

Date	Purpose of Notice	Recipients
9/22/2017	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 19
9/28/2017	Notice of BOZA Hearing	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 19 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Checklist

- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

NEIGHBORHOOD: RESIDENTIAL

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form			
1	B.3: The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood.	✓	Proposal creates a new housing type for the neighborhood.
2	B.3: If the proposal is classified as high density (greater than 12 dwelling units per acre), it is located on a major or minor arterial or in a location that has limited impact on adjacent low or moderate density developments.	NA	
3	B.3: If the proposal introduces a new housing type to the neighborhood, it is designed to be compatible with nearby land uses.	✓	New accessory apartment building will be compatible with the existing principal dwelling.
4	B.3: Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets.	NA	
Community Form/Land Use Guideline 2: Centers			
5	A.1. Locate activity centers within the Neighborhood Form District at street intersections with at least one of the intersecting streets classified as a collector or higher, AND one of the corners containing an established non-residential use.	NA	Proposal is not a Center.
6	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	
7	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	NA	
8	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	NA	
9	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	NA	

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
10	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	NA	
11	A.8/11: Allow centers in the Neighborhood form district that serve the daily needs of residents and that are designed to minimize impact on residents through appropriate scale, placement and design.	NA	
12	A.10: Encourage outlot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such outlot development should provide street-level retail with residential units above.	NA	
13	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	NA	
14	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	NA	
15	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	NA	
16	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	NA	
17	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	NA	
Community Form/Land Use Guideline 3: Compatibility			
18	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	Proposal meets CUP requirements regarding size and scale.
19	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	Proposed building materials are compatible with the existing dwelling unit on site.
20	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	Proposal is compatible with the existing dwelling unit on site and with neighboring development. It is not expected to create a nuisance or require exceptional transition mitigation.
21	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	NA	Proposal is not expected to create significant traffic impacts.
22	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	NA	Proposal is not expected to create significant lighting impacts.
23	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	NA	

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	NA	
25	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	Proposal is intended to house elderly parent of owner of existing primary residence.
26	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	✓	Proposal creates inclusive housing that is compatible with the primary residence.
27	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	NA	
28	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	NA	
29	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Proposal meets LDC and CUP requirements.
Community Form/Land Use Guideline 4: Open Space			
30	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	No open space requirements are associated with the proposal, but significant open space will remain on the site.
31	A.4: Open space design is consistent with the pattern of development in the Neighborhood form district.	NA	
32	A.5: The proposal integrates natural features into the pattern of development.	✓	Proposal is not expected to create significant impacts on existing natural features.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources			
33	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	Proposal is not expected to create significant impacts on existing natural features.
34	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	These conditions do not exist on the site.
35	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	These conditions do not exist on the site.
Mobility/Transportation Guideline 7: Circulation			
36	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA	

#	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
37	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	
38	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	NA	
Mobility/Transportation Guideline 8: Transportation Facility Design			
39	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	
40	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	NA	
41	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit			
42	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	NA	
Livability/Environment Guideline 10: Flooding and Stormwater			
43	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has issued preliminary approval of the proposal.
Livability/Environment Guideline 13: Landscape Character			
44	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	Proposal is not expected to create significant impacts on existing natural features.
Community Facilities Guideline 14: Infrastructure			
45	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	-	Proposal is served by all public utilities except sewage.
46	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	
47	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	-	MSD has issued preliminary approval of the proposal. A second sewage disposal system is required. Louisville Metro Health and Wellness has approved the proposal with conditions which are included within the Conditions of Approval.

Community Form/Land Use Guideline 4: Open Space			
25	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	There are no open space requirements associated with the proposal.
26	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	There are no open space requirements associated with the proposal.
27	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no natural feature requirements associated with the proposal.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources			
28	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	There are no natural features of significance on the site. Site disturbance requirements of proposal are minor.
29	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	There are no existing historic or architectural features associated with the proposal.
30	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	There are no natural features of this type on the site. Site disturbance requirements are minor.
Marketplace Guideline 6: Economic Growth and Sustainability			
31	A.3: Encourage redevelopment, reinvestment and rehabilitation in downtown, older and declining areas that is consistent with the form district pattern.	NA	Proposal is not located within one of these areas.
32	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	Proposal is not industrial use.
33	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	NA	Proposal is not commercial development.
34	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	Proposal is not industrial use.
Mobility/Transportation Guideline 7: Circulation			
35	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	Proposed Binding Element requires applicant to provide a left turn lane on Factory Lane.
36	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Proposal provides adequate parking for vehicles and bikes.

37	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	Not appropriate to proposal.
38	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Proposal provides adequate parking for vehicles and bikes.
39	A.10: The proposal includes adequate parking spaces to support the use.	✓	Proposal provides adequate parking for vehicles and bikes.
40	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	Not appropriate to proposal.
Mobility/Transportation Guideline 8: Transportation Facility Design			
41	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	Not appropriate to proposal.
42	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Proposed Binding Element requires applicant to provide a left turn lane on Factory Lane.
43	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	Not appropriate to proposal.
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit			
44	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	Proposal provides adequate parking for vehicles and bikes.
Livability/Environment Guideline 10: Flooding and Stormwater			
45	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	Proposal has received preliminary approval from MSD.
Livability/Environment Guideline 12: Air Quality			
46	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	Proposal is not expected to create significant air quality impacts.
Livability/Environment Guideline 13: Landscape Character			
47	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	Such conditions do not currently exist on site.
Community Facilities Guideline 14: Infrastructure			
48	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	-	Site is not served by MSD. The proposal has received preliminary approval from MSD.
49	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Site is adequately served.

50	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	Site is not served by MSD. The proposal has received preliminary approval from MSD.
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4. Conditions of Approval

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for an Accessory Apartment without further review and approval by BOZA.
3. A Certificate of Occupancy shall not be issued until such time as the following requirements are met:
 - a. A separate onsite sewage disposal permit shall be obtained from the Department for Public Health and Wellness for a second sewage disposal system to service the accessory apartment, as there is not sufficient repair area available to replace the existing system (Permit #S97-46) to enable it to serve both residences.
 - b. A note shall be added to the deed to ensure no further subdivision of the property until such time as sanitary sewer service becomes available. A copy of the amended deed shall be submitted to Develop Louisville.