

Planning Commission

Staff Report

October 1, 2020



Case No:	20-ZONE-0058
Project Name:	Rosewood Accessory Apartment
Location:	1616 Rosewood Avenue
Owner(s):	Amanda Donaldson
Applicant:	Concept Architects
Representative(s):	Ales C. Davis, PSC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-5, single-family to R-6, multi-family residential
- **Waiver** of Land Development Code (LDC), section 10.2.4 to omit the required 10-20' landscape buffer along the side property lines
- **Detailed District Development Plan**

CASE SUMMARY

A change in zoning from R-5, single-family to R-6, multi-family is requested to accommodate two dwelling units on the property. An accessory apartment is proposed at the rear of the property. Due to the current floor area ratio (FAR) in excess of the maximum for the district, a conditional use permit for an accessory apartment could not be approved and a zoning change to a district permitting the proposed FAR is needed. The proposed FAR is 0.74. The maximum for the district is 0.75. The change in zoning would allow for no more than two-dwelling units on the property.

STAFF FINDING

The proposal conforms to the land use and development policies of Plan 2040. The proposal helps to create appropriately zoned inclusive housing and provides alternative housing that is consistent with the character of the area. It encourages affordable and accessible housing in dispersed locations throughout Louisville Metro and does not result in the displacement of current residents.

The waiver and detailed district development plan appear to be adequately justified based on staff's analysis contained in the standard of review.

TECHNICAL REVIEW

- Land Development Code, section 2.1.3.E.2 allows for the density on lots created prior to March 8, 1963 to be rounded to the next whole number when it yields a fraction of equal to or greater than 0.8. In this case, the permitted density (17.42 du/ac) equates to a maximum density of 1.98 dwellings or a maximum of two-dwelling units on the property.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is located in the Traditional Neighborhood Form District

This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood- serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces

The proposed district provides for residential flexibility at an appropriate location within a walkable urban neighborhood and provides convenient access to a nearby major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro. These factors allow the proposed district to be easily accessible by bicycle, car, transit, pedestrians and people with disabilities.

The proposal ensures the continued inclusion of a variety of housing types, incomes, and inter-generational housing in a well-connected neighborhood and does not disrupt the balance of multi-family and single-family residential in the neighborhood. The proposed housing type is reflective of the greater area and provides alternative housing that is contextually appropriate for the character of the area. The proposal encourages affordable and accessible housing in dispersed locations throughout Louisville Metro and does not result in displacement of current residents. The proposal helps to create appropriately zoned inclusive housing.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the proposed accessory structure is consistent with the development patterns of the area and no additional landscaping is necessary for this limited intensity of development. The structure complies with all requirements for accessory structures in the traditional neighborhood.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development does not adversely impact adjacent properties as the development proposed is consistent with the Housing goals of Plan 2040 to provide inclusive housing in accessible locations. The inclusion of buffering would prevent the promotion of these housing goals on the development site. No visual intrusions would result as an accessory structure is permitted in the traditional form district in the area of a residential lot shown on the proposed development plan.

- (c) The extent of the 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 as the inclusion of buffering would prevent the promotion of inclusive housing in accessible locations. No visual intrusions would result as an accessory structure is permitted in the traditional form district in the area of a residential lot shown on the proposed development plan.

- (d) Either:

(i) 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

(ii) 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 create an unnecessary hardship on the applicant as the proposed structure is consistent with the requirements of the traditional neighborhood for accessory structures.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air

quality, scenic views, and historic sites will be conserved as the site development does not appear to adversely impact these features.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as all required setbacks are being provided from the alley.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided as the required rear yard is provided.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as accessory structures which may contain dwellings are present in the larger area and provide for inclusive housing in a well-connected neighborhood.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The proposed development plan conforms to Plan 2040 as the proposed land use helps to create inclusive and alternative housing consistent with the character of the area. The proposed development conforms to the requirements of transitional neighborhood residential site design.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-5, single-family to R-6, multi-family residential on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Waiver** of Land Development Code (LDC), section 10.2.4 to omit the required 10-20' landscape buffer along the side property lines
- **APPROVE or DENY** the **Detailed District Development Plan**

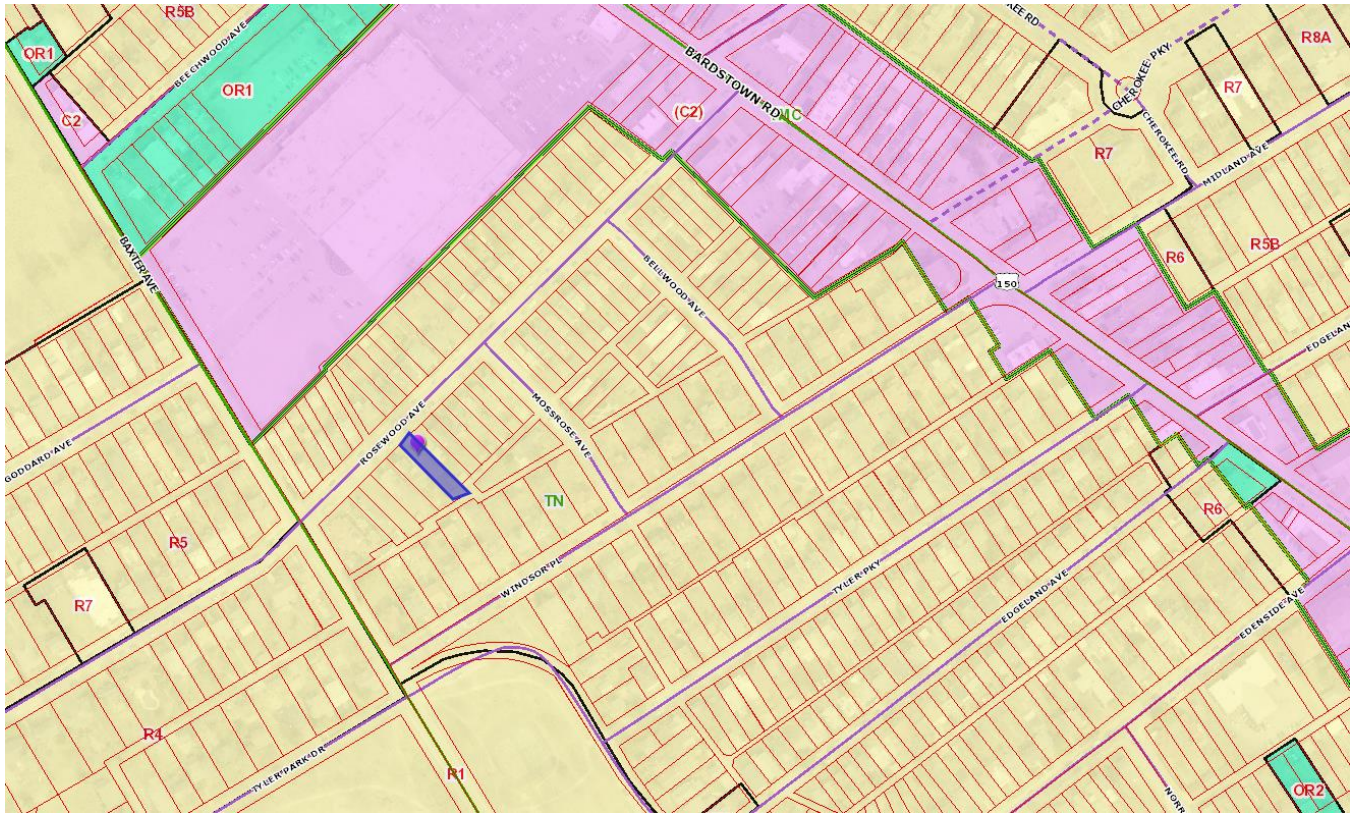
NOTIFICATION

Date	Purpose of Notice	Recipients
8/13/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
9/15/20	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
9/15/20	Hearing before PC	Sign Posting on property
9/16/20	Hearing before PC	Legal Advertisement in the Courier-Journal

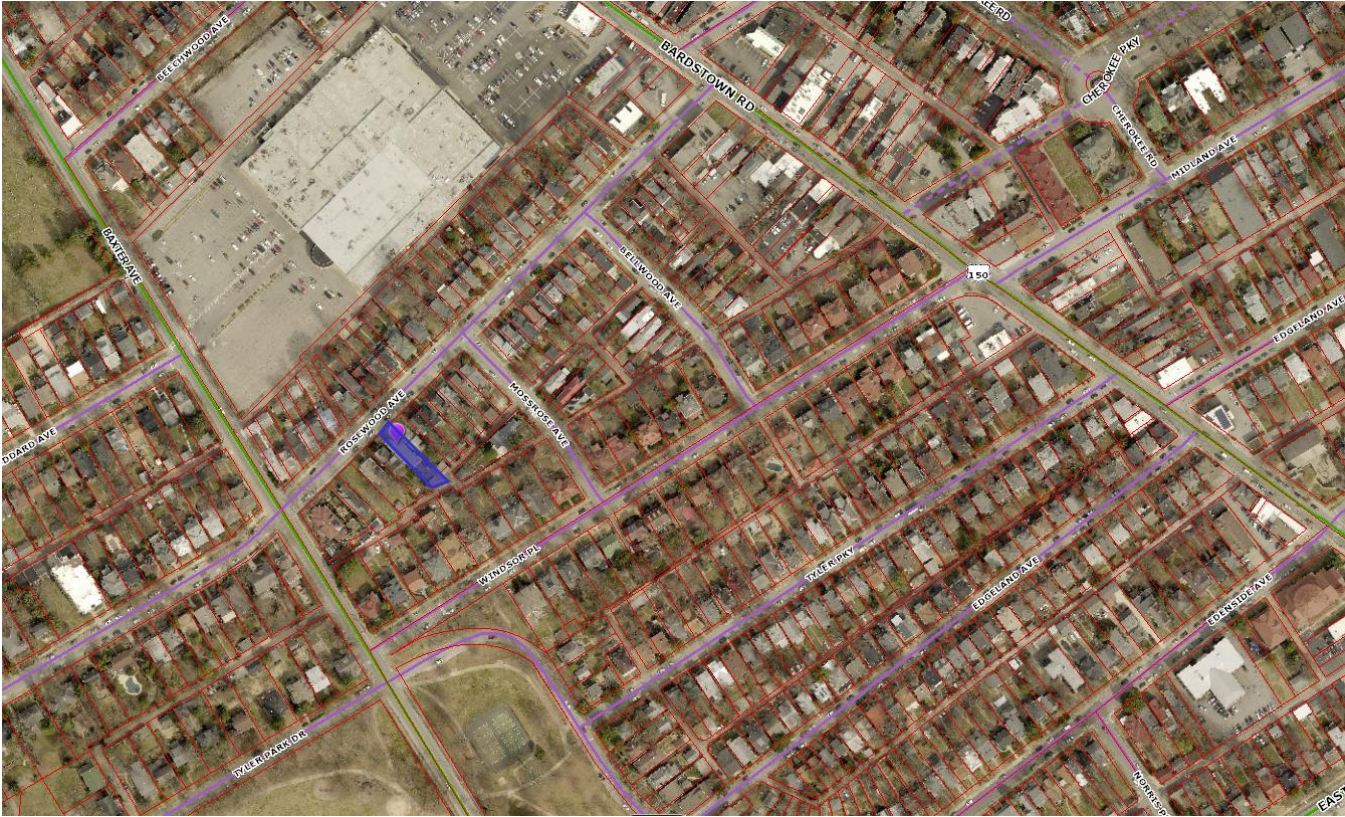
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Traditional Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as adjacent uses and surrounding land uses are similar in intensity and density to the proposed district. The proposed density allows no more than 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal provides for residential flexibility at an appropriate location within proximity to a wide variety of services and amenities
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal preserves existing structures that contribute to the character of the area and allows for the introduction of flexible and alternative housing styles.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The proposal contributes to the character of the area by allowing for the introduction of flexible and alternative housing styles.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is obtained through public roads crossing similar densities transitioning from the commercial corridor.
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is a well-connected and walkable urban neighborhood near a major transit corridor.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Existing roadway infrastructure, in conjunction with multi-modal transportation options is adequate to support a wide range of densities.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Additional improvements to the transportation network are not required of this proposal.
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Existing transportation facilities and services are adequate to support the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	No transportation improvements would appear to be occurring along Rosewood Avenue that impact the subject property or greater area.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No access to high speed roadways is provided.
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal is in an area served by existing utilities or planned for utilities. The subject site is in the urban services district.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is in the urban services district.
17	Land Use & Development 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).	✓	An adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided.
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	The proposed development provides alternative housing that is contextually appropriate for the character of the area.
19	Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No vulnerable geologic features appear to be present within the area of development.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The proposed zoning district does not appear to disrupt the integrity of the floodplain. Preliminary approval has been received by MSD

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposal ensures the continued inclusion of a variety of housing types in a well-connected neighborhood and does not disrupt the balance of multi-family and single-family residential in the neighborhood. The proposed housing type is reflective of the greater area.
22	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed district allows for a variety of housing options in a well-connected urban neighborhood with a variety of amenities. The subject site is located close to shopping and transit routes, and medical and other supportive facilities.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed district allows for a variety of housing options including mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.
24	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. It is located within proximity to transit corridors and commercial corridor.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposal helps to create appropriately zoned inclusive housing as the proposed density allows 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed district allows for an appropriate level of density in an area that is well-connected for multi-modal transportation.
27	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposal helps to create appropriately zoned inclusive housing as the proposed density allows 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 1, 2020 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. The accessory structure/apartment shall not be used for short-term rental.