

**Board of Zoning Adjustment**  
**Staff Report**  
August 7, 2023



<b>Case No:</b>	23-CUP-0132
<b>Project Name:</b>	Accessory Dwelling Unit
<b>Location:</b>	2101 St. Xavier Street
<b>Owner(s):</b>	Sun Laing, LLC
<b>Applicant:</b>	Richard D. Pantoja
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5 – Donna Purvis
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUEST(S)**

- Conditional Use Permit to allow an Accessory Dwelling Unit in the UN Single Family zoning district and the Traditional Neighborhood form district. (LDC 4.2.3)

**CASE SUMMARY/BACKGROUND**

The applicant proposes to convert the 2<sup>nd</sup> story of the existing single-family home into a 652.5 sq. ft. accessory dwelling unit. The existing unit on the 1<sup>st</sup> floor is 1200 sq. ft.

**STAFF FINDING / RECOMMENDATION**

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.

**TECHNICAL REVIEW**

- Upon approval of the requested CUP, the owner/developer should contact Metro Emergency Services to have the address assigned for the proposed accessory apartment.

## 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 does not conflict with Comprehensive Plan policies.

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. The proposal will not create substantial additional requirements for the site.

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

Accessory dwelling units that do not meet the provisions of Section 4.3.27 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. One ADU, either attached or detached is permitted per single family dwelling per lot. ***The applicant has been informed of this requirement. The applicant is proposing an attached ADU.***

B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater. ***The proposed ADU will occupy 652.5 sq. ft. of the 2<sup>nd</sup> floor.***

C. Location Requirements:

1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.
2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure. ***The attached ADU will occupy the 2<sup>nd</sup> floor of the existing principal structure.***

D. ADU Access:

1. For an attached ADU, an exterior staircase used to access a second story or higher ADU shall not be located on the front façade of the structure.
2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard. ***The applicant has been informed of this requirement. The existing staircase to access the 2<sup>nd</sup> story is interior.***

E. Maximum Height:

1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.
2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not

exceed the height of the principal structure. **The proposed ADU will occupy the 2<sup>nd</sup> story of the principal structure.**

F. ADUs approved under this provision shall not be used as a short term rental. **The applicant has been informed of this requirement.**

G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the directors of Planning & Design Services and Codes & Regulations, or their designees. Any violations shall be resolved prior to approval. **The applicant has been informed of this requirement.**

H. Off-street parking shall meet the requirements of Chapter 9 of the LDC. **The applicant has been informed of this requirement. There is no off-street parking available; however, there is ample on-street parking available in the area.**

I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A) **The applicant has been informed of this requirement. This is an existing structure.**

J. The owner of the property shall reside within either the principal or the accessory dwelling unit. **The applicant is requesting relief to the provision in accordance with LDC Section 4.3.27. Metro Council, during the approval process for the ADU regulation, adopted this standard to ensure that the ADU would remain accessory to the principal structure on the property and that the ADU would be appropriately maintained. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved. The applicant's justification as to why relief should be granted is attached to this agenda item.**

K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations restricting accessory dwelling units. **The applicant has been informed of this requirement.**

#### REQUIRED ACTIONS

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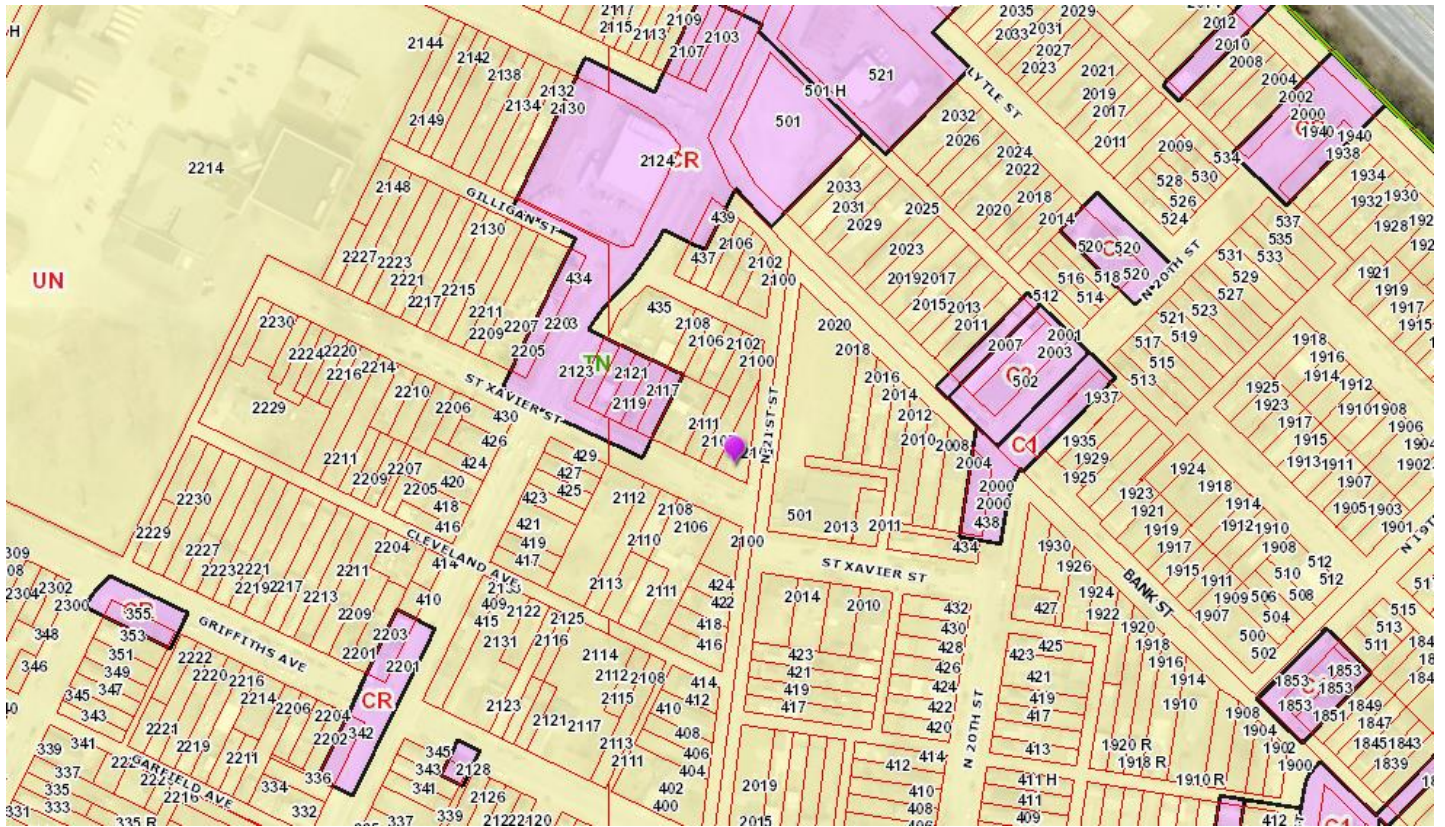
#### NOTIFICATION

Date	Purpose of Notice	Recipients
7/24/2023	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining properties
7/24/2023		Registered Neighborhood Groups in Council District 5
7/26/2023	Hearing before BOZA	Sign Posting

#### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Floor Plan
4. Conditions of Approval
5. Site Photos

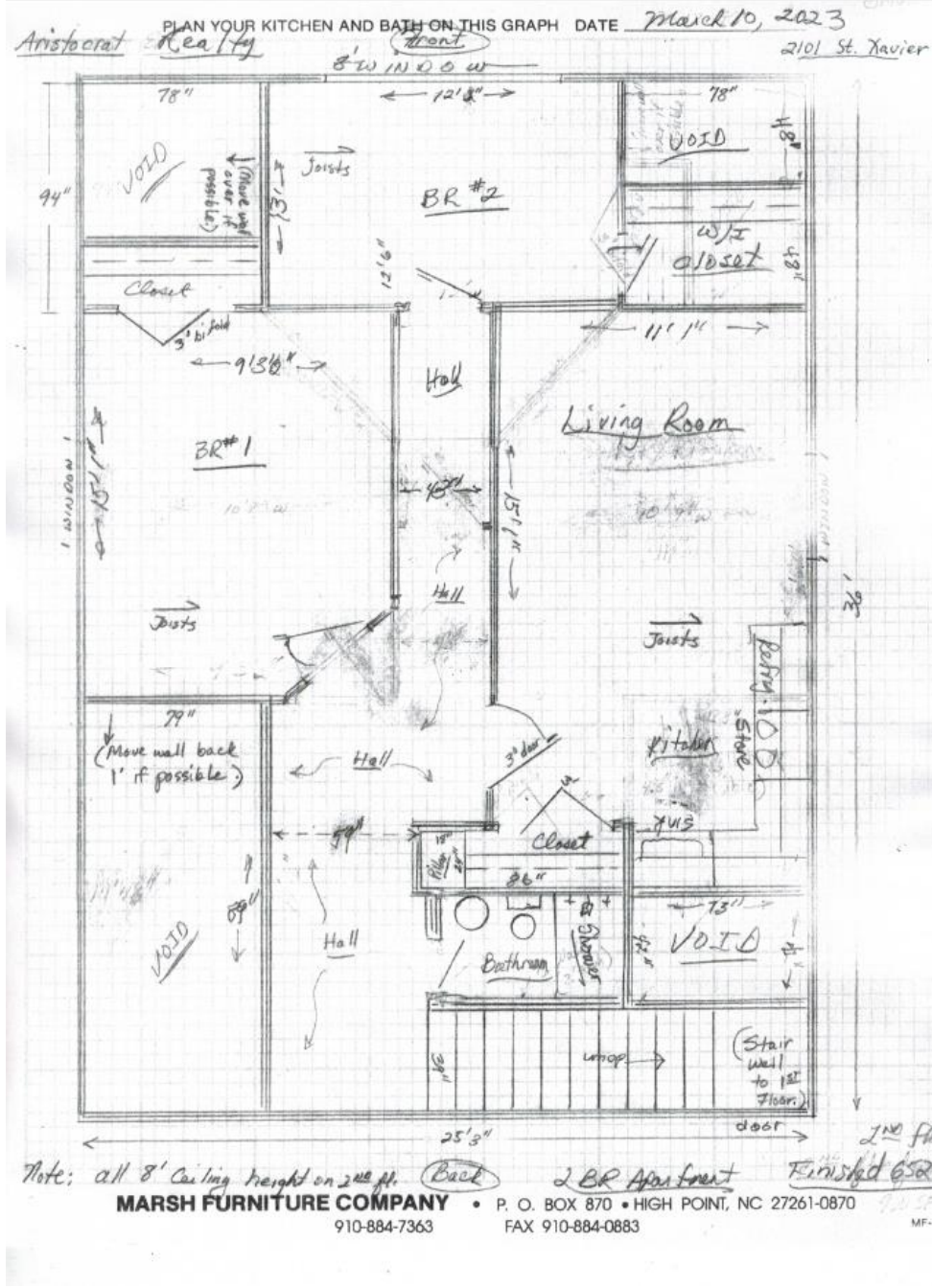
1. Zoning Map



2. Aerial Photograph



### 3. Floor Plan



**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 an accessory apartment without further review and approval by the Board.



**5. Site Photos**



Front of subject property.



Rear of subject property.



To the right of the subject property.



Across the street from the subject property.



To the left of the subject property.