

Board of Zoning Adjustment
Staff Report
January 24, 2022



Case No.	21-CUP-0197
Project Name	Garden Cottage
Location	171 Pennsylvania Avenue
Owner	Claudia Foulkes
Applicant	Claudia Foulkes
Jurisdiction	Louisville Metro
Council District	9 – Bill Hollander
Case Manager	Zach Schwager, Planner I

REQUEST

Conditional Use Permit to allow an accessory dwelling unit (ADU) to be used as a short term rental (Land Development Code (LDC) 4.2.3 and 4.3.27).

CASE SUMMARY / BACKGROUND

The applicant proposes to convert an existing detached garage into an ADU and use it as a short term rental. Therefore, a Conditional Use Permit is required. However, if the short term rental is denied (21-CUP-0196), this CUP is no longer needed.

The site is located on the east side of Pennsylvania Avenue at the intersection of Pennsylvania Avenue and Field Avenue and is in the Crescent Hill neighborhood. It is in the R-5 Residential Single-Family Zoning District and the Traditional Neighborhood Form District and is surrounded by R-5 and R-1 Single-Family properties. It is surrounded by single-family and public uses. There is an existing detached garage that the applicant is proposing to convert into an ADU with one bedroom, a living room, kitchen, and full bathroom.

PVA lists the existing structure as a single-family residence. The applicant has shown that there will be one bedroom in the ADU. LDC standards credit the site with one on-street parking space and there is parking for three cars in the driveway. In addition, there appears to be available parking in the area.

STAFF FINDINGS

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

21-CUP-0196 – Conditional Use Permit for a short term rental that is not the primary residence of the host.

TECHNICAL REVIEW

Transportation Planning and MSD have reviewed and preliminarily approved the plan.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal is consistent with Comprehensive Plan policies.

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: When appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site are required.

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 does not appear to create substantial additional requirements for the site.

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

4.2.3 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. All special standards outlined within Section 4.3.27 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.27 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would retain the accessory nature of the dwelling unit.

STAFF: The applicant has provided justification.

4.3.27 Accessory dwelling units may be permitted in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts that permit residential use in accordance with the following standards:

A. One ADU, either attached or detached is permitted per single family dwelling per lot.

STAFF: This item is met.

B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater.

STAFF: This item is met.

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.

STAFF: This item is met.

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.

STAFF: This item is met.

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.

STAFF: This item is met.

F. ADUs approved under this provision shall not be used as a short term rental.

STAFF: The applicant has applied for a short term rental Conditional Use Permit, therefore, a Conditional Use Permit is required for the ADU.

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.

STAFF: The applicant has been informed of this requirement.

H. Off-street parking shall meet the requirements of Chapter 9 of the LDC.

STAFF: This item is met.

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)

STAFF: This item does not apply.

J. The owner of the property shall reside within either the principal or the accessory dwelling unit.

STAFF: This item is met.

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.

STAFF: This item does not apply.

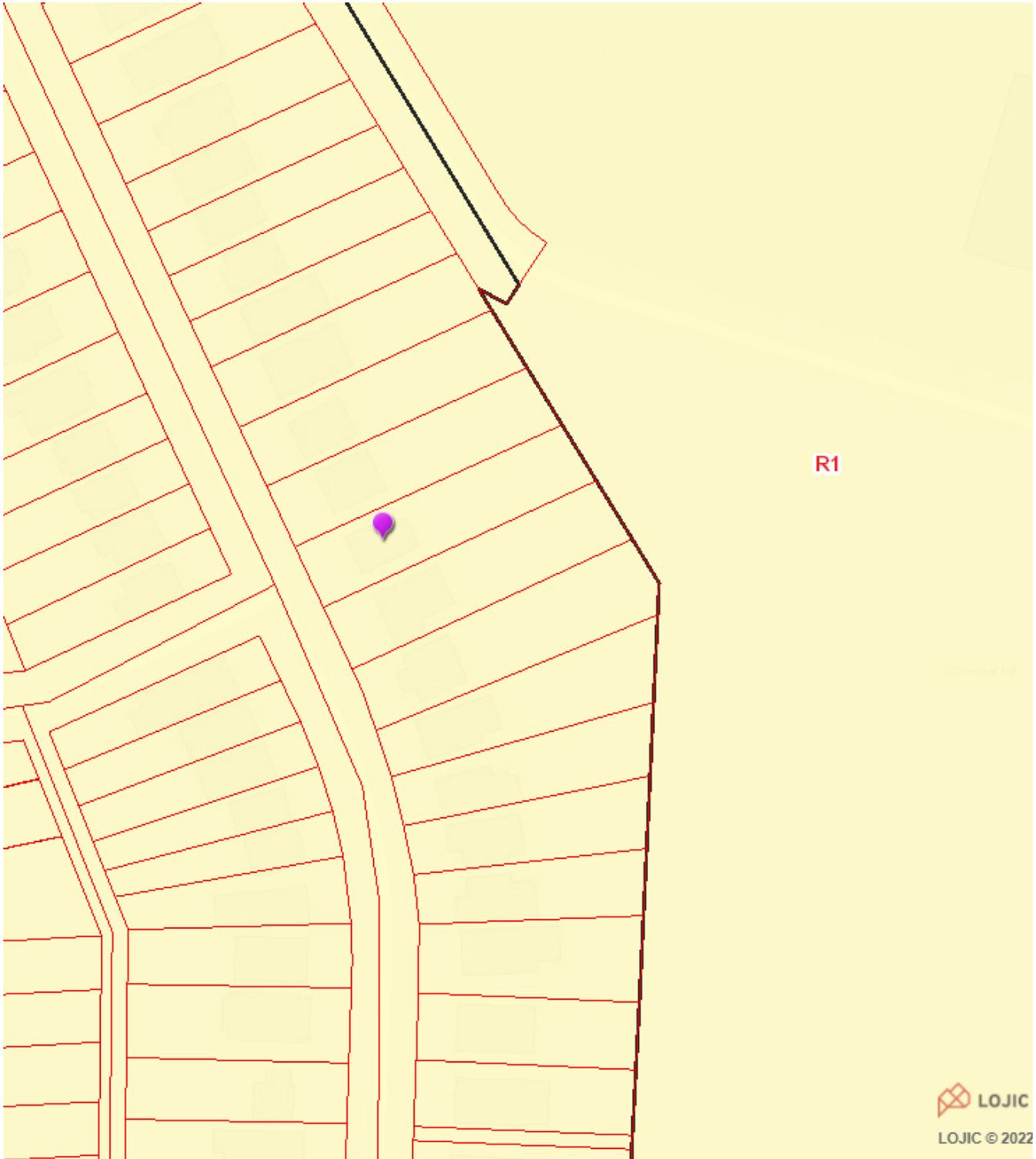
NOTIFICATIONS

Date	Purpose of Notice	Recipients
9/9/2021	Neighborhood Meeting	1st and 2nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 9
1/9/2022 1/10/2022	Hearing before BOZA	1st and 2nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 9 Sign Posting

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. 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 ADU without further review and approval by BOZA.

3) The applicant is required to contact Louisville Metro Emergency Services to have a unique address assigned to the accessory apartment.