

Board of Zoning Adjustment Staff Report

November 7, 2022



Case No:	22-CUP-0280
Project Name:	3432 W. Market Street
Location:	3432 W. Market Street
Owner(s):	F&M, LLC
Applicant:	Fred Liggin
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Joel Dock, AICP, Planning Coordinator

REQUEST(S)

- **Conditional Use Permit** for Boarding House (LDC 4.2.11) with relief from items 'C' and 'J' of the standards

CASE SUMMARY

The applicant has requested a conditional use permit (CUP) for a boarding house to allow a maximum of 6 occupants in the R-7, multi-family zoning district. Four bedrooms are available for the residents and have the following sizes:

- 150 sq. ft.
- 192 sq. ft.
- 240 sq. ft.
- 375 sq. ft.

The standards of the CUP require that each resident be provided their own sleeping room and that each room meet 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 plus 50 sq. ft. for each additional occupant. Relief will be necessary from item 'C' of these standards to allow for the requested occupancy in relation to the number of available bedrooms.

Relief is also needed from item 'J' of these standards, which requires 1,000 feet of separation between a commercial boarding house, rehabilitation home, or transitional housing approved by a CUP. A rehabilitation home has been approved by a CUP at 3240 Herman Street, which is 800 feet from the subject property, see Attachment 3.

STAFF FINDING

Except for lettered standards 'C' and 'J' and where compliance will be required pending action on this application, the proposal appears to meet all other standards of the conditional use permit. 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

- The following cases are associated with the property:
 - 19CUP1032: CUP for Boarding House – withdrawn due to inactivity
 - 22-NONCONFORM-0018: Sufficient evidence to support the use of the property as a boarding house before October 2015 was not established. In October of 2015, commercial boarding house were excluded from the permitted uses of the R-7, multi-family district and now require a CUP.

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.

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?

Boarding Houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, TNZD (Neighborhood Center), and TNZD (Neighborhood Transition-Center) districts upon the granting of a Conditional Use Permit and compliance with the following requirements. This section does not apply to any Residential Lodging House that may be permitted with special standards pursuant to Section 4.3.24 of this Land Development Code.

- A. A Boarding House in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) Boarders. A Boarding House in a multi-family residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) or TNZD (Neighborhood Center/Neighborhood Transition-Center only) shall have a maximum of eight (8) Boarders. In a Boarding House that is owner-occupied, the owner and members of his or her Family shall not be considered Boarders.
- B. A Boarding House additionally classified as a Boarding Home by Kentucky Revised Statutes and/or Kentucky Administrative Regulations shall comply with the standards for the operation of

a Boarding Home, including but not limited to those provided in 902 KAR 20:350 and KRS Chapter 216B.

- C. Each Boarder shall have his or her own bedroom. Any such bedroom shall meet the current dimensional requirements and occupancy limitations set forth in LMCO Section 156.103.
- D. A Boarding House is for non-transient occupancy. The minimum intended stay for any Boarder shall be at least 30 consecutive days.
- E. A Boarding House may have a Boarder who manages the property and/or supervises the other Boarders on behalf of the property owner and/or operator. There shall not be any non-resident employee that works within the dwelling, with exception for employees that report to the property temporarily to address management or emergency issues.
- F. A Boarding House is a residential use. Nonresidential uses and services, including those that may be accessory, shall not be carried out within the dwelling unless otherwise permitted and approved as a separate use.
- G. There shall not be any outdoor signage which identified the Boarding House use.
- H. A Boarding House shall be in a location with reasonable access to public transportation.
- I. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted.
- J. When reviewing a conditional use permit application for a Commercial Boarding House, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to health, safety, or general welfare of the surrounding neighborhood. The property on which a Commercial Boarding House 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.
- K. A Boarding House shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws.
- L. For a complete application submittal for a Boarding House 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. Site plan and floor plans of any building subject to the use (showing the location and dimensions of all bedrooms);
 - 3. 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;
 - 4. The maximum number of Boarders; and
 - 5. Rules of conduct and management plan.

In the event a conditional use permit for a Boarding House is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code.

- M. The operator(s) of a Boarding House shall maintain a registry of Boarders, which shall document the terms of stay of each Boarder. This registry shall be made available for inspection by a Zoning or Code Enforcement Officer in order to determine the total number of Boarders residing in the Boarding House at a given time and whether or not a term of stay is transient or not. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.
- N. A Boarding House shall not operate until it has been issued a license pursuant to LMCO Chapter 115 and, if required, a registration or license from the Commonwealth of Kentucky pursuant to KRS Chapter 216B.
- O. Unlawful operation of a Boarding House without the required conditional use permit and/or license may constitute grounds for denial of an after-the-fact conditional use permit application for the Boarding House by the BOZA.
- P. If a Boarding House 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 with Section 11.5A.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 code. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- Q. An active license of the Boarding House, as required by LMCO Chapter 115, shall be maintained. No boarding 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 order to recommence any Boarding House use, a new conditional use permit must be granted if required.

STAFF: The applicant has demonstrated or will be required to provide compliance with each of the lettered standards above, except where relief is requested for items 'C' and 'J'. The boarding home is allowed a maximum of 8 boarders. The occupancy proposed meets this standard, but each occupant will not be afforded their own room and relief is necessary to grant the CUP. The occupancy limitations per LMCO 156 are met for each room having multiple occupants. A management plan and "rules of the house" agreement have been provided to support the application. The minimum intended stay is 30 days as required by the standards. The agreement indicates a month-to-month stay. The subject property has reasonable access to public transportation as it is situated along a roadway with sidewalks and transit service. Off-street parking from the rear alley and on-street parking along W. Market Street are both available.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Conditional Use Permit** for Boarding House (LDC 4.2.11) with relief from items 'C' and 'J' of the standards

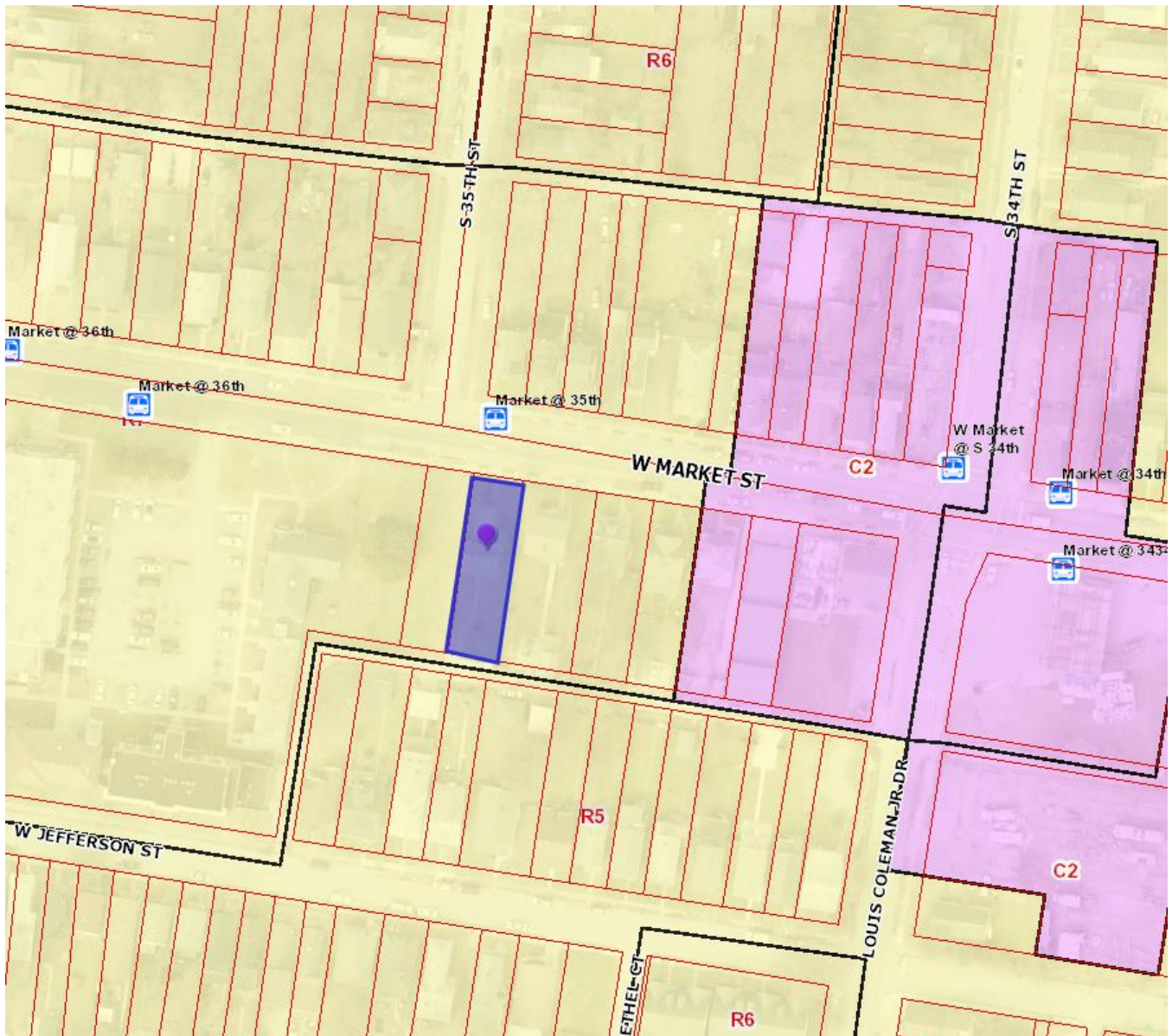
NOTIFICATION

Date	Purpose of Notice	Recipients
10/21/22	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and residents Registered Neighborhood Groups in Council District 5

ATTACHMENTS

1. Zoning Map
2. Aerial Map
3. Group Housing Location Map
4. Proposed Conditions of Approval

1. **Zoning Map**

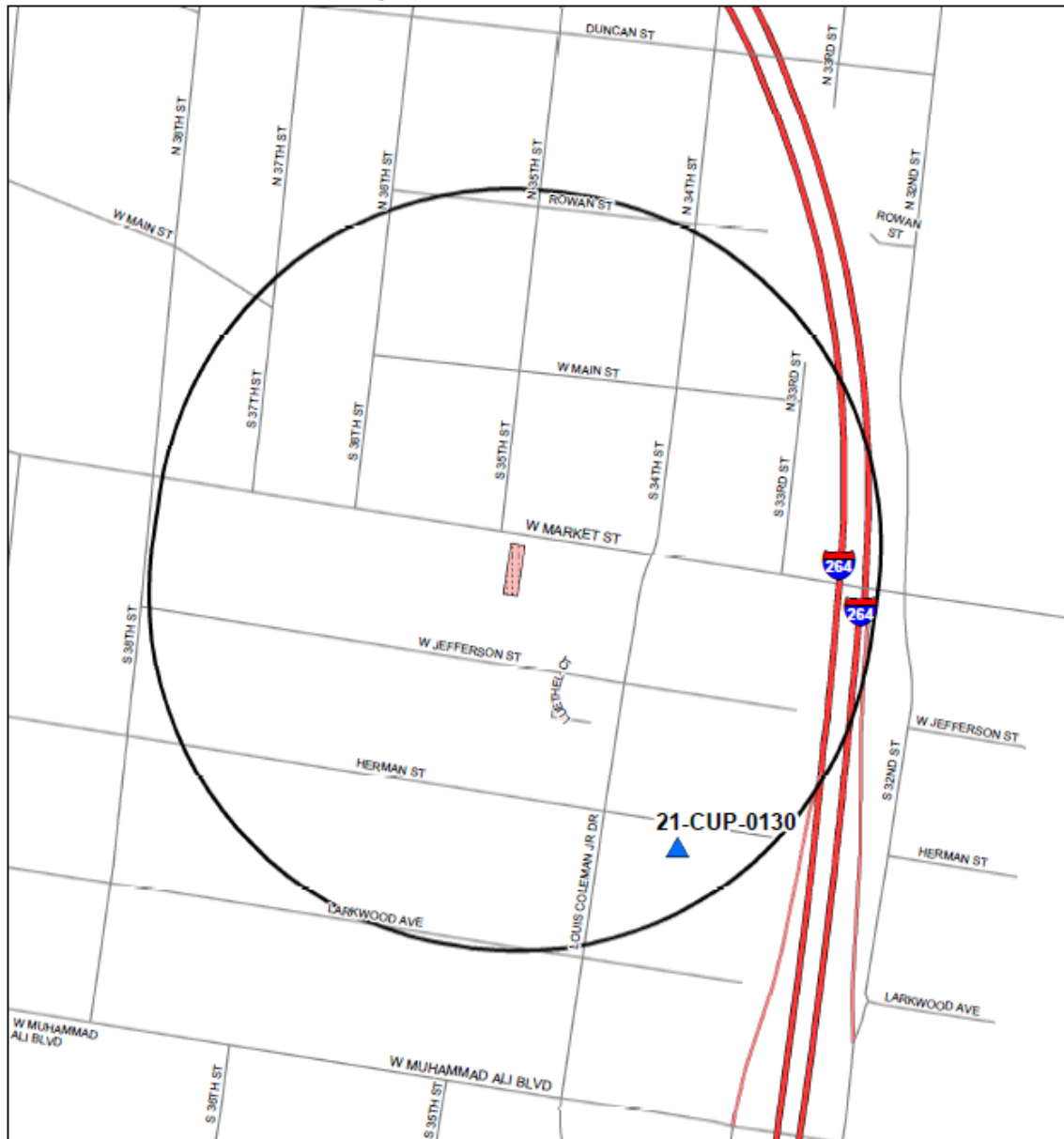


2. Aerial Map



3. Group Housing Location Map

Map Created: 08/17/2022



This map includes boarding and lodging houses, transitional housing, rehabilitation homes, and homeless shelters that have an approved conditional use permit. This map does not include transitional houses that are nonconforming uses, exist by right, pending applications, or unlawful uses.

Legend

-  Subject Site
-  Buffer
-  Rehabilitation

3432 W. Market St
22-CUPPA-0216

feet
390

 **LOJIC**
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COUNTY METROPOLITAN SEWER DISTRICT (MSD),
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ADMINISTRATOR (PVA). All Rights Reserved.

This map is subject to change upon the Board of Zoning Adjustment granting approvals to other Group Housing Conditional Use Permits.

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 a boarding house until further review and approval by the Board.
3. The maximum number of boarders 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.