

Board of Zoning Adjustment

Staff Report

October 5, 2020



Case No:	20-CUP-0078
Project Name:	Produce Stand
Location:	1209 Flat Rock Road
Owner/Applicant:	Kim Shaw
Jurisdiction:	Louisville Metro
Council District:	# 19 –Anthony Piagentini
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST

Conditional Use Permit to allow the existing produce shed and garden as a commercial greenhouse operation.

CASE SUMMARY/BACKGROUND

The approximate half-acre site is located in far eastern Jefferson County near the Shelby County line. Mr. Kim Shaw, the owner and applicant has been living at this location for more than 26 years. Since that time, a produce stand has existed. According to Mr. Shaw, the stand began as a table and an ice bucket to receive payment. Today, there is an approximately 126 square foot shed and payment is made by a mail drop at the front door of his house. Mr. Shaw has a farm in Henry County where most of the vegetables are grown and then brought to 1209 Flat Rock Road. He also has fresh eggs that he picks up from area farmers. Besides vegetables; bread, cookies, rolls, brownies, jams, salsa are occasionally offered.

There is an existing partial asphalt driveway from Flat Rock Road, while the remainder is gravel. Although not a typical greenhouse proposal, staff determined the type of land use best fits under this classification.

The property owner at 1213 Flat Rock Road has noted that customers have backed onto her property and has resulted in damage to the yard.

STAFF FINDING / RECOMMENDATION

There are four listed requirements of the Land Development Code, 4.2.16, Commercial Greenhouses; Buffering/Screening, Setbacks, Freestanding Signs and Attached Signs. An existing wooden fence is located on the southern boundary, but no type of buffering/screening is along the driveway of the northern boundary. The produce shed is approximately 12.5 feet from the front property line and 20 feet from the existing Flat Rock Road pavement. There is no signage, except possibly a yard sign advertising fresh eggs. 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

None.

TECHNICAL REVIEW

MSD and Transportation are in the process of stamping the plan.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on February 11, 2020, at the site. Fifty-three, (53) people were in attendance. Discussion included the reason for the meeting, the service being provided and neighboring property damage. It appears that most were in support, except for the adjacent neighbor at 1213 Flat Rock Road who had concerns about yard damage.

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 meets all applicable policies of the Comprehensive Plan.

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 involves a small shed that is used to sell produce from the garden and from a farm the applicant owns in Henry County as opposed to a full-fledged greenhouse. The area is rural in character with subdivisions off Flat Rock Road.

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: MSD and Transportation are in the process of stamping the plan.

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

The proposal does not meet items A. and B. of the listed requirements.

4.2.16 Commercial Greenhouses/Plant Nurseries/Landscape Material Supply

Commercial Greenhouses/Plant Nurseries/Landscape Material Supply may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Buffers and Screening—Greenhouses and other structures as well as outdoor sales, display and storage of materials shall be buffered and screened in accordance with standards for commercial uses in Chapter 10, Landscaping, Screening, and Open Spaces. Parking lots shall be screened from adjacent properties in accordance with the provisions of the Development Code.
As noted above, a wooden privacy fence is located on the southern side of the property. The existing driveway is very close to the northern property line without room for any type of planting. A privacy fence could be installed along the side property line.
The applicant is requesting relief from this requirement.
The Board has the authority to determine what type of buffer/screening might be necessary.
- B. All buildings, structures and outdoor sales/display and storage of materials shall be at least 50 feet from the front and/or street-side property line and a minimum of 20 feet from any other property line.
The produce shed is 12.5 feet from the front property line and approximately 20 feet from the Flat Rock Road pavement.
The applicant is requesting relief from this requirement.
- C. Freestanding Signs – Only one freestanding sign shall be permitted. The freestanding sign shall not exceed 32 square feet in area per side and shall not exceed a height of 6 feet. The maximum height shall include any berm, landscape mound, or other manmade alterations above the surrounding ground level.
No freestanding sign exists on the property.
Staff is recommending no freestanding sign.
- D. Attached Signs – Only one attached sign shall be permitted. The one attached sign permitted shall be attached to the primary building only and no attached sign shall be permitted on any other buildings on the site. The attached sign shall not exceed 20 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building.
No attached signage exists on the property.
Staff is recommending no attached signage.

NOTIFICATION

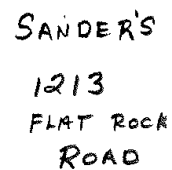
Date	Purpose of Notice	Recipients
09/18/2020 09/17/2020	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District
09/21/2020	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Picture
2. Site Plan
3. 2040 Checklist
4. Conditions of Approval

Picture





4. **2040 Checklist**

Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The shed is 126 square feet in the front yard and is appropriate for this type of land use.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	-	The shed is approximately 12.5 feet from the front property line which does not meet Code or the listed requirements for this Conditional Use. The applicant is requesting relief from this listed requirement.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.	+/-	Transportation Planning is in the process of reviewing and stamping the plan.
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).		No existing signage exists, except for yard signs. A 32 square foot freestanding sign no higher than 6 feet and a 20 square foot attached are allowed. Staff is suggesting no type of signage and that all yard signs be removed
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	+	Transportation Planning is in the process of reviewing and stamping the plan.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	
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).	+	MSD is in the process of reviewing and stamping the plan.

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 existing produce shed shall not be valid until further review and approval by the Board.