

## LEXINGTON PLANNING COMMISSION

September 14, 2023 - 5:00 P.M  
 Rockbridge County Administrative Offices – First Floor Meeting Room  
 150 South Main Street, Lexington, VA 24450

### AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF THE AGENDA**
3. **APPROVAL OF MINUTES**  
Minutes from August 24, 2023\*
4. **CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA**
5. **NEW BUSINESS**
  - A. EC COA 2023-04: An application by Kimberly Hostetter for a Certificate of Appropriateness for new signage for Harmony Home Team by EXP Realty office at 637 A Waddell Street, (Tax Map #35-1-1), owned by H + C Rental, Inc.
    - 1) Staff Report\*
    - 2) Applicant Statement
    - 3) Public Comment
    - 4) Commission Discussion & Decision
  - B. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U).
    - 1) Staff Report\* and continued Commission Discussion
    - 2) Public Comment
6. **OTHER BUSINESS**
  - A. Zoning and Planning Report – If applicable
  - B. Key Annual PC Milestones: Ongoing. Remaining items:
    - 1) Zoning Text Amendments: Ongoing. Remaining items:
      - a. Cottage Housing
      - b. What else, if any?
    - 2) Comp Plan Review: Ongoing
    - 3) Major Project Update
7. **CITY COUNCIL REPORT**
8. **ADJOURN**

\*indicates attachment

## MINUTES

**The Lexington Planning Commission**  
**Thursday, August 24, 2023 – 5:00 p.m.**  
**Rockbridge County Administrative Offices – First Floor Meeting Room**  
**150 South Main Street, Lexington, VA 24450**

### Planning Commission:

Presiding: Pat Bradley, Chair  
 Present: John Driscoll  
 Jon Eastwood  
 Mary Stuart Harlow  
 Gladys Hopkins  
 Shannon Spencer, Vice-Chair  
 Leslie Straughan, Council Liaison

### City Staff:

Arne Glaeser, Planning Director  
 Kate Beard, Administrative Assistant

### CALL TO ORDER

Chair Bradley called the meeting to order at 5:00 p.m.

### AGENDA

The agenda was unanimously approved as presented. (S. Spencer / G. Hopkins)

### MINUTES

S. Spencer suggested the minutes from the August 10, 2023 meeting be amended to correct a grammatical error in one sentence and to identify Commissioner Harlow using the initials from both of her first names. The minutes were unanimously approved with those amendments. (S. Spencer / J. Eastwood)

### CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

### NEW BUSINESS

**A. CUP 2023-02: An application by Lorelei Pisha requesting approval of a conditional use permit to allow an educational facility, primary/secondary or family home daycare at 10 N. Lewis Street, (Tax Map # 25-4-B & #24-4-C), owned by Jonathan Pisha and Lorelei Pisha.**

- 1) Staff Report – Director Glaeser reported the applicant had requested a continuance until the September 28, 2023 meeting to allow her adequate time to engage a design professional to develop a life-safety plan for the property.
- 2) Applicant Statement – None
- 3) Public Comment – None
- 4) Commission Discussion & Decision – **S. Spencer moved to continue the public hearing for Conditional Use Permit number CUP 2023-02 until the September 28, 2023 Planning Commission meeting. L. Straughan seconded and the motion passed unanimously. (7-0)**

**B. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U.).**

1) Staff Report–

Noting the ordinance was now a full rough draft, Director Glaeser requested the Commission review the text with an eye toward producing a final draft that could be advertised for a public hearing. Considering the Use Matrix, there was general agreement to amend the *Accessory apartment* use to *Accessory Dwelling Unit – Attached* and to add *Accessory Dwelling Unit – Detached* as a conditional use in the R-1, R-2, R-M, and R-LC zoning districts.

A. Glaeser next read the purpose statement with the amendments recently proposed by L. Straughan. Commissioners Spencer and Driscoll argued in favor of keeping the statement simple and striking much of the text providing justifications for ADUs. L. Straughan said she had taken the language directly from the Comprehensive Plan and would recommend using it as she had found it helpful to be reminded of the rationale for allowing detached ADUs. P. Bradley said he also thought some explanation was helpful and thought referencing the Comprehensive Plan was appropriate. Following additional discussion, there was general agreement to strike “in a constrained market” and “cost burdened” from L. Straughan’s proposed purpose statement.

A. Glaeser then requested the Commission review the definitions included in the ordinance, adding that the Building Official and Fire Marshal would review and comment on the final draft of the ordinance before it was adopted. He asked the Commission to set a maximum occupancy for detached and attached ADUs. L. Straughan pointed out that in the residential districts there is a limit of 3 unrelated persons per household. P. Bradley voiced strong support for allowing a small family to reside in an ADU. Following discussion that considered a number of ways to address the issue of maximum occupancy of an ADU and whether to limit the number of unrelated people to a parcel or dwelling, there was general agreement to limit the occupancy of an ADU to two persons, and to make no change to the limit on unrelated individuals per dwelling. There was a general acknowledgement that public comment on the final draft could lead the Commission to make changes to the ordinance text.

Addressing the General Standards section, there was agreement to strike the second and third clauses from the first standard for the sake of clarity, and to amend the third standard to state the parcel must meet the minimum lot size for the zoning district. L. Straughan suggested the fourth standard include a provision requiring that both attached and detached ADUs meet the underlying development standards that apply to the primary dwelling, including the 25 foot rear yard setback requirement. She said she was uncomfortable allowing a new dwelling unit to so dramatically vary from existing zoning requirements and she expressed concern that the potential reduction in open rear yard space would fundamentally change the character of the city’s neighborhoods. She indicated she supported the flexibility of reduced setbacks for the conversion of existing structures but believed new dwelling units should adhere to current residential zoning standards. Commissioners Driscoll and Bradley pointed out that the Commission had already spent

considerable time discussing setbacks for ADUs and her proposal was a significant departure from the reduced setbacks envisioned in recent discussions and in the draft text. P. Bradley also noted that a 25 foot setback for new ADUs would make it all but impossible for most parcels to contain such a structure, and that the intent of this ordinance was to enable greater density and flexibility for smaller housing units. L. Straughan acknowledged the requirement would limit where new ADUs could be constructed but argued the regulations should be consistent with existing zoning. Responding to a question from S. Spencer, A. Glaeser reminded the Commission that Lexington's lot requirements make a distinction between accessory and primary structures and provide a significant allowance to rear yard setbacks for accessory structures. J. Eastwood remarked that his reading of the purpose statement led him to believe the discussion ought to focus on the reduced setback requirements included in the text. He noted the fundamental rationale was about expanding flexibility and housing supply in a constrained market and remarked that the City's ability to meet that goal was constrained by the standards that apply to primary residential structures. He said that while he understood the conflict between consistency and the other priority of expanding housing supply, the latter seemed more important to him than the former. G. Hopkins cited section 1.3 of the zoning ordinance to voice her opposition to increased density. After additional discussion, Chair Bradley called for an informal vote on the issue of setbacks for new detached ADUs. A majority of the Commission opposed the proposal to require new detached ADUs to comply with the lot standards for primary structures. The proposed requirement was therefore not added to the text. There was then general agreement to strike the fourth general standard included in the draft text.

Continuing the review of the General Standards section of the draft text, there was general agreement to retain standards 5 – 8 as written, to strike the standard about density calculations, and to add decks to the list of spaces excluded from the maximum floor area calculation. P. Bradley prefaced the deliberation about the two options for parking regulations by explaining that requiring the creation of an off-street parking space in every circumstance would disqualify many Lexington properties from having an ADU. After brief discussion there was general agreement to use the first, more lenient parking requirement option, with all three subparts.

Following discussion about the draft text for the Accessory Dwelling Unit – Attached standards section, there was consensus to strike the maximum allowable square footage and to cap the gross floor area of an attached ADU at fifty percent of the gross floor area of the principal structure in which it is located. The Commission also agreed to include the second standard as written.

Addressing the Accessory Dwelling Unit – Detached section, L. Straughan suggested striking the sentence intended to protect some percentage of the rear yard, as it was a protection not found elsewhere in the zoning ordinance. She also suggested adding a provision specifically allowing an ADU of up to 600 square feet no matter the size of the primary dwelling, to prevent an ADU associated with a small primary dwelling being restricted to an unlivable size. There was general support for those proposals. There was also general agreement to increase the maximum allowable gross floor area such to “not

exceed sixty percent of the gross floor area of the primary dwelling on the property nor more than the total of 1,000 square feet.”

- 2) Public Comment – Charles Aligood, 506 Cavalry Road, reminded the Commission of a conditional use permit recently approved to allow the off-street parking requirement for a short term rental to be satisfied off-site. He suggested that that parking provision be reviewed to determine whether it would be appropriate to include it in the ADU ordinance.

Staff said they would provide that language for the Commission’s review at the next meeting.

### **OTHER BUSINESS**

- A. Zoning and Planning Report – Director Glaeser reported the Threshold Housing Commission had held a public meeting on August 23<sup>rd</sup> to get public input on a CDBG Planning Grant to fund a windshield survey of Lexington’s housing conditions and city-wide needs assessment. He said the City would partner with the Central Shenandoah Planning District Commission to apply for the grant.
- B. Key Annual PC Milestones – J. Driscoll suggested there be a discussion added to the agenda of a meeting sometime later in the fall to determine the Commissions goals and priorities for the next year. Chair Bradley recommended having that discussion after the ADU ordinance has been finalized during a meeting with a light agenda.

### **CITY COUNCIL REPORT -**

L. Straughan reported City Council had not had a regular meeting since Planning Commission last met but had a work session earlier in the week during which they met with Davenport to discuss the financial plan for the next twenty years; City Manager Halasz announced he would retire in January and a search for his replacement would begin soon; and Public Works has begun work at Jordan’s Point adding accessible sidewalks, reworking one of the shelters and adding the base for the memorial to be installed in September.

### **ADJOURN**

The meeting was adjourned at 7:12 p.m. with unanimous approval. (J. Driscoll / S. Spencer)

---

P. Bradley, Chair, Planning Commission

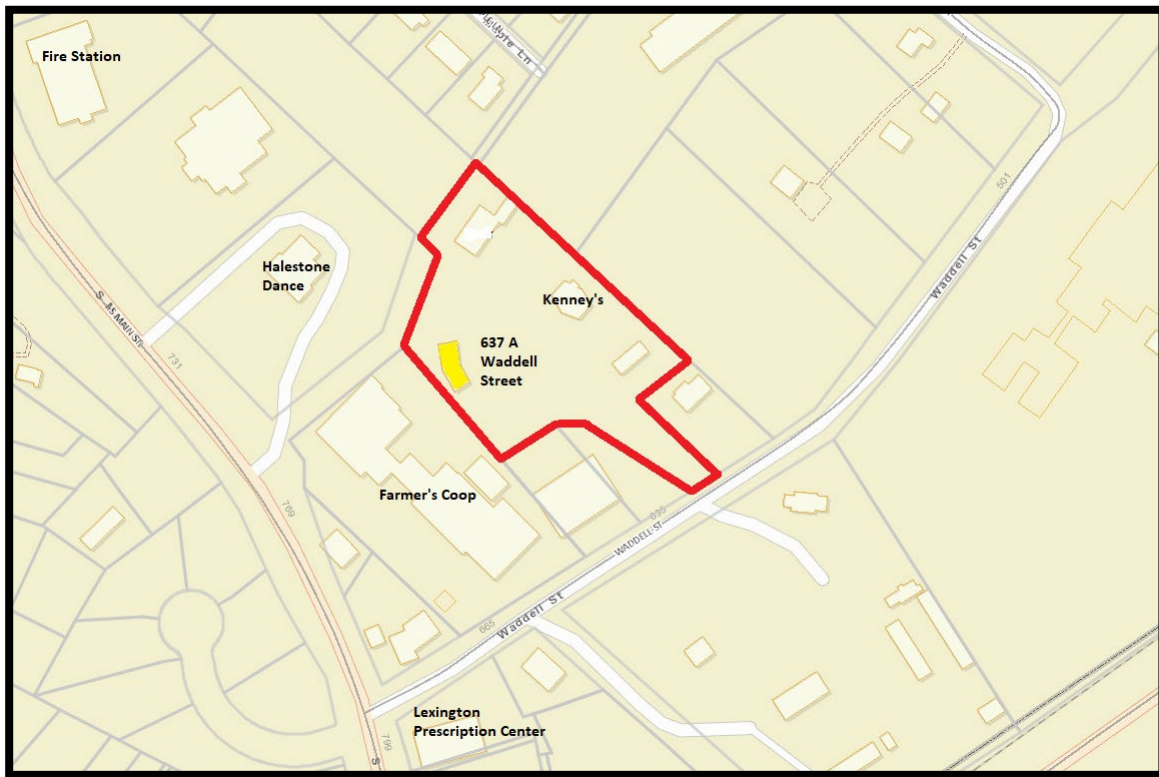
<b>Project Name</b>	Signage for Harmony Home Team by EXP Realty
<b>Property Location</b>	637 A Waddell Street
<b>Zoning</b>	Entrance Corridor Overlay District (EC), Commercial Shopping Centers (C-2) zoning district
<b>Owner/Applicant</b>	H + C Rental, Inc. / Kimberly Hostetter

---

### **OVERVIEW OF REQUEST**

This request is for two wall signs, one window sign, and one A-frame sign. The parcel is located in the Commercial Shopping Centers (C-2) zoning district and in the Entrance Corridor Overlay District (EC). The applicant is leasing a portion of an existing commercial building for a real estate office.

#### *location map*



*photograph of existing building*



*photograph from South Main Street*



### **APPLICABLE ZONING DISTRICT SECTIONS**

Section 420-3 of the zoning ordinance lists office as a permitted use by-right in the C-2 zoning district.



## **APPLICABLE SIGNAGE REGULATIONS**

Section 420-13.2 of the sign regulations requires a sign permit before a sign may be erected, constructed, posted, painted, altered, or relocated. The proposed wall signs, window sign, and A-frame sign therefore require review and approval.

Section 420-13.6 of the sign regulations allows one wall sign per business per street frontage and 1 square foot of display area is allowed for each lineal foot of building frontage. A minimum of 32 square feet is allowed, and the maximum wall sign size is 100 square feet. The applicant proposes an oval-shaped wall sign facing the front parking lot to be made of vinyl on a white painted wood or metal substrate with a maximum of 15 square feet in display area. The primary colors are blue and gold for the text and logo and a portion of the “X” in EXP is orange. The applicant proposes a second wall sign on the rear of the building that will be visible from South Main Street and this sign will be a maximum of 32 square feet in display area. The proposed text, logo, colors and materials are the same as those proposed for the wall sign on the front of the building.

Section 420-13.6 of the sign regulations allows any business located within a C-2 zoning district to display a window sign that is the lesser of 20% of the window area or 6 square feet. The window area for this portion of the building is sufficient to allow a window sign up to 6 square feet, and the applicant proposes a window sign that is 6 square feet in size. The sign will consist of blue, gold and orange adhesive-backed vinyl applied directly to the window’s exterior surface.

Section 420-13.6 of the sign regulations allows any business located within a C-2 zoning district to display an A-frame sign that is no more than 4 feet in height and with no more than 6 square feet of display area per side. A sign meeting these requirements is proposed and will contain the same blue, gold, and orange text and logo used for the window and wall signs.

None of the proposed signs will be illuminated.

## **APPLICABLE ENTRANCE CORRIDOR REGULATIONS**

Section 420-6.6.A requires a Certificate of Appropriateness be approved by the Planning Commission prior to 1) building permit issuance for exterior building modifications, 2) site plan approval, and 3) exterior color changes to a building or to a sign.

Section 420-6.7.B allows the Planning Commission to consider any architectural feature which influences appearance, such as, but not limited to, motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering.

Section 420-6.8 states all applications for certificates of appropriateness must satisfy the following design standards for landscaping, signage, architecture, site planning, and lighting. *Staff comments are provided in italics.*

- A. Landscaping.



- (1) Landscaping shall be used to soften the visual impact of development and enhance the appearance of the area.
- (2) Landscaping shall be sufficient to soften the visual effects of parking lots, reduce the effective visual mass of large buildings and provide screening between development, the street and surrounding lots.
- (3) Landscape buffers shall be provided adjacent to public streets of sufficient size to permit street trees and plantings to be installed to reduce the visibility into parking lots.
- (4) Landscaping shall be compatible with landscaping on adjacent properties.

**B. Signage.**

- (1) Each parcel shall have an overall sign plan which reflects a consistent style and specifies the size and color scheme for proposed signage. *The subject parcel also includes the Kenney's of Lexington restaurant and the Super Wheels used car dealership. An overall sign plan does not appear to exist on the subject parcel.*
- (2) Materials used in signs and their support structures should reflect the building served by the sign.
- (3) Sign colors should be harmonious with the building which they serve.

**C. Architecture.**

- (1) Materials, colors and general style of buildings within a development should be coordinated.
- (2) Heating and air-conditioning units, ventilation units, and mechanical equipment shall be screened from view from public streets.
- (3) Loading docks, trash containers and mechanical equipment shall be screened from view from public streets.
- (4) The effective visual mass of large buildings should be reduced by variations in roofline, building angles, dimensional relief, color, architectural detailing and landscaping.
- (5) Architectural styles, building and roofing materials, and colors shall be reflective of the traditional architecture of Lexington. This may be accomplished through building scale, materials and forms, all of which may be embodied in architecture which is contemporary as well as traditional.
- (6) Trademark buildings and related features shall be modified to meet these design standards.

**D. Site planning.**

- (1) Parking lot layouts shall respond to the topographic characteristics of the site.
- (2) The number of access points to parking lots from a street will be minimized and shall relate to other existing curb cuts whenever possible.
- (3) Parking lots will be interconnected on adjacent parcels whenever possible.
- (4) Small, landscaped and interconnected parking lots, rather than large, central parking lots, shall be encouraged.
- (5) Parking lots shall not dominate the image of a site.
- (6) Pedestrian access from the sidewalk into individual project sites, as well as within sites and between sites, shall be provided.

E. Lighting.

- (1) Lighting should be of uniform style for each project site.
- (2) Lighting should be contained within the site and designed to limit spillover and minimize the amount of light that is directed to the sky.
- (3) Light poles shall not exceed 24 feet in height.

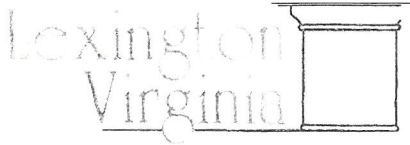
The Planning Commission may also consider any architectural feature which influences appearance, such as, but not limited to, motif and style, color, texture and materials, configuration, orientation, mass, shape, height and location of buildings, location and configuration of parking areas, landscaping and buffering.

**STAFF RECOMMENDATION**

Staff recommends approval of the proposed signage to the existing commercial building at 637 A Waddell Street.

**SUGGESTED MOTION**

I move to approve/deny the Entrance Corridor Certificate of Appropriateness application EC COA 2023-04 for two wall signs, a window sign, and an A-frame sign to be located at 637 A Waddell Street as proposed by the applicant.



Planning & Development Department  
300 East Washington Street  
Lexington, Virginia 24450  
Phone: (540) 462-3704 Fax: (540) 463-5310

www.lexingtonva.gov

## APPLICATION FOR CERTIFICATE OF APPROPRIATENESS – ENTRANCE CORRIDOR OVERLAY DISTRICT

### Applicant<sup>1</sup>

Name: Kimberly Hostetter Phone: 540.460.9182  
Company: Rockbridge Realtor  
DBA: Harmony Home Team Fax: \_\_\_\_\_  
Address: 1085 Red Mill Rd. Nat. Bri. Email: hostetterkimberly@gmail.com  
Applicant's Signature: [Signature] Date: 8-25-23

### Property Owner

Name: H&C Rentals Inc. Phone: 540-570-3731  
Address: P.O. Box 869 Buena Vista VA Email: machildress@cox.net  
Owner's Signature: Mary Ann Childress Date: 8/25/23  
President

### Architect/Designer

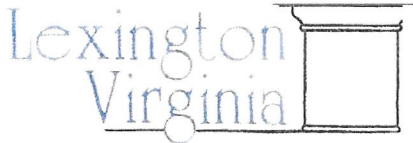
Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Company: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_ Email: \_\_\_\_\_

### Administration

Application is hereby made to the Lexington Planning Commission for a Certificate of Appropriateness (COA) to make repairs, alterations, or improvements in the Entrance Corridor in accordance with Chapter 28, Article XV of the Lexington City Code.

This document shall constitute a valid COA upon its completion and execution by the Chairperson or Acting Chairperson of the Planning Commission. The recipient of a COA is responsible for obtaining any and all other certificates and permits required by the Code of the City of Lexington through the Office of the Planning and Development Administrator.

1. Prior to submitting an application, the applicant is required to meet with staff for a pre-application meeting.



www.lexingtonva.gov

**Planning & Development Department**  
 300 East Washington Street  
 Lexington, Virginia 24450  
 Phone: (540) 462-3704 Fax: (540) 463-5310

**Proposal Information<sup>2</sup>** (attach list of properties if request includes multiple properties)

Address (or location description): 637 A Waddell St. Lexington

Tax Map: 35-1-1 Deed Book and Page #: 635/67

Acreage: 2.78 ac. Zoning (attach any existing conditions or proffers): \_\_\_\_\_

Property Doing Business As: \_\_\_\_\_

*2. Any application deemed incomplete by staff will not be accepted.*

**Alteration Description** (complete a City Sign Permit Application for sign alterations)

I. Please check action(s) for which this COA is requested:

- Remodeling or renovation of the exterior of a building
- Total restoration of the exterior of a building
- Removal of any architectural element
- Painting of any building exterior
- Cleaning of wall surfaces or architectural elements
- Repair of all surfaces or architectural elements
- Any removal, alternation, repair, or construction of amenities such as fences or walls
- Demolition of part or all of an existing building
- Moving a building (complete Part III)
- Construction of a new building (complete Part III)
- Construction of any addition to an existing building (complete Part III)

II. For **ALL** projects, please attach the following:

- Photographs or drawings from the site showing adjoining structures, streets, and sidewalks
- Scale drawings of the improvements
- Detailed drawings of significant decorative or architectural elements
- Indication of exterior lighting adequate to determine its character and impact on the public and adjoining properties
- Samples of exterior materials and paint colors to be used
- Any other documentation or visual aid necessary to determine compliance with § 420-141 of the Lexington City Code

III. For **NEW CONSTRUCTION**, please provide the above attachments in addition to the following:

- Dimensions, orientation, and acreage of each lot or plot to be built upon
- Layout of the project and its relation to surrounding structures
- Location of points of entry and exit for motor vehicles and internal vehicular circulation pattern and parking facilities
- The size, shape, and location of existing and proposed construction on the parcel
- Location of walls, fences, and railings, and the indication of their height and the materials of their construction



**Material Used:** Vinyl- synthetic resin or plastic consisting of polyvinyl chloride or a related polymer, used for wallpapers and other covering materials and for records.

\*\*provided by Ruthie at Vinyl Cuts in Buena Vista - please see attached sample of material.

**Harmony Home Team Color Code:**

**eXp Logo Color Code:** CMYK: 84 CMYK: 0

COLORS CODE



D7B740



0123B4

**Logo will be printed at 3x2 total**



Image is not to scale. Image will be cut from vinyl outlined in white for better visibility on the window.



*Image is not to scale*





*Image is not to scale*

Phone number decal on window will be 1 sq ft total

One additional 1 sq ft contact information may be added

Logo lettering and emblem will be outlined by Vinyl cuts in white for better visibility.





Wall sign. 32 sq ft maximum– realistically the sign would be in the range of 12 to 15 sq ft. Vinyl would be placed on a solid backing. Metal/Wood would be used for backing, painted white for best visual appearance. Image would either be placed between the window and front door or the two large windows. See below picture for example. Only 1 of these 2 would be used.





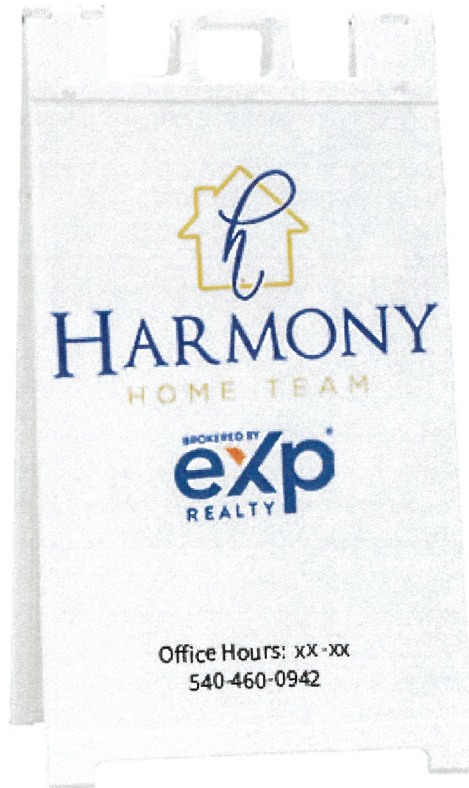


*image is not to scale*

Total image size would be 32 sq feet

*Image may benefit by having a white background for better visibility – see below for example. Vinyl would be placed on a metal or wooden oval object and secured to the wall.*





*Image is not to scale.*

Sandwich sign advertisement will be 6 sq feet on each side, no more than 4 ft in height

**Vinyl** will be used as referenced above for sandwich sign.

Sign may be made of any of the following items:

**Plastic** - Plastic is a material consisting of a wide range of synthetic or semi-synthetic organic compounds that are malleable and, therefore, can be molded into solid objects. Plasticity is the general property of all materials that involves permanent deformation without breaking.

**Wood** - Wood is an organic material with fibrous, heterogeneous and anisotropic texture produced from the tree, which is a living organism. Wood is one of the oldest building materials.





Metal Projection Sign – 12 sq ft  
Image is not to scale

*This image is for reference of Logo approved by Broker.  
We will not be using a projection sign.*



## Draft Accessory Dwelling Unit ordinance language (9.14.2023)

### Article III. Use Matrix.

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential- Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
Use Types								
Residential								
Accessory <del>apartment</del> Dwelling Unit - Attached			B	B	B	B	B	
<a href="#">Accessory Dwelling Unit - Detached</a>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B <sup>1</sup> , C <sup>2</sup>	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		



## §420-11.1. Residential Uses.

### 1. Accessory Dwelling Unit (ADU).

A. Purpose. In Lexington, accessory dwellings are intended to provide additional housing options. ~~in a constrained market.~~ Accessory dwelling units (ADUs) can benefit households with changing-family structures. ADUs also could generate supplemental income to ~~cost-burdened~~ homeowners, helping increase housing affordability for renters and owners alike. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance.

B. Definitions. The following words and phrases, as used in this subsection, shall have the following meanings:

“Accessory Dwelling Unit - Attached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

“Accessory Dwelling Unit - Detached” means a complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

C. General standards. Accessory Dwelling Units shall be subject to the following minimum standards:

(1) No more than one ADU shall be allowed per parcel. ~~, provided the parcel meets the minimum lot size and the structure meets the minimum setback requirements for the district. (with exceptions for C.(5), E.(9), and any others?)~~

(2) Accessory dwelling units must comply with all applicable building code regulations.

~~(3) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling~~ The parcel must meet the minimum lot size for the zoning district.

~~(4) The underlying zoning district development standards for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory dwelling unit in the calculation of these standards.~~

(5) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.

(6) The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit.

(7) The separate sale of an accessory dwelling unit is prohibited.

(8) Only one short term rental registration shall be allowed per parcel.

~~(9) Accessory dwelling units shall not be included in calculations of density.~~

(10) Allowable square feet for accessory dwelling units shall be calculated as the sum of the total horizontal areas of all floors of the building, measured from the interior faces of exterior walls. Rooms with structural headroom of less than 6' 6" shall not be counted, nor shall garage space, provided the area of the garage

does not exceed the counted floor area. Covered porches, decks, balconies, etc. shall not be counted unless they are enclosed, but shall not exceed 50 percent (50%) of the area of the counted floor area.

(11) Any accessory dwelling units shall comply with the following parking requirements:

- i. If no parking spaces exist prior to an application for approval of an ADU, 1 off-street space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
- ii. Where either 1 or 2 spaces exist prior to the issuance of the accessory dwelling permit, all such space(s) shall be maintained.
- iii. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

The following is the parking requirement language for short term rentals that allows for the elimination or reduction of off-street parking by conditional use permit when one of three criteria can be met. This language is provided here in response to a public comment at the last P.C. meeting and intended to avoid conflicts and ensure consistency with parking requirements where needed.

*Sec. 11.3.22.B.14. Off-street parking may upon the recommendation of the Planning Commission and made part of a conditional use permit by the City Council not be required or may be reduced in number for short term rentals located in the R-1, R-2, R-M, and R-LC zoning districts, provided:*

- a. The required off-street parking is provided in a remote parking lot which is within 500 feet measured along lines of public access from the principal use. A remote parking lot to satisfy this requirement for short term rentals shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article, or*
- b. The short term rental is located in a Residential Historic District where a streetscape would be marred by off street parking and there is support from adjacent property owners showing agreement to reduce or delete the requirement for off-street parking, or*
- c. Public parking is provided within 500 feet of the principal use and can reasonably provide the required off street parking.*

Staff is of the opinion that parking requirements for ADUs should not be reduced or eliminated due to parking in a remote parking lot that is within 500 feet from the principal use (see subsection a. above). Similarly, staff is of the opinion that parking requirements for ADUs should not be reduced or eliminated due to available public parking that is within 500 feet from the principal use (see subsection c. above). The Planning Commission may want to consider the value in reducing or eliminating parking for ADUs when located in a Residential Historic District where the streetscape would be marred by off street parking.

~~OR~~

~~(11) One parking space per accessory dwelling unit shall be required in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.~~

- D. Accessory Dwelling Unit – Attached standards. Attached Accessory Dwelling Units shall be subject to the following additional standards:
- (1) The gross floor area of an attached accessory dwelling unit may not exceed ~~forty (40)~~ fifty (50) percent of the gross floor area of the principal structure in which it is located. ~~nor more than the total of 750 square feet (possibly strike the square footage cap to allow flexibility for larger structures).~~
  - (2) No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley.
- E. Accessory Dwelling Unit – Detached standards. Detached Accessory Dwelling Units shall be subject to the following additional standards:
- (1) The gross floor area of a detached accessory dwelling unit may not exceed ~~forty (40)~~ sixty (60) percent of the gross floor area of the primary dwelling on the property nor more than the total of ~~800~~ 1,000 square feet. ~~Additionally, detached accessory buildings and structures cumulatively shall not occupy more than ?? percent of a rear yard.~~ Notwithstanding the sixty (60) percent requirement, a detached accessory dwelling unit may be at least 600 square feet in size and may be smaller at the property owner's discretion.



September 14, 2023 discussion to start here.

- (2) Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1 ½ stories in height.
- (3) Any detached accessory building approved after \_\_\_\_\_, containing an accessory dwelling shall comply with setbacks as follows:
  - i. For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen **(or ten)** feet to a side lot line or fifteen feet to a rear lot line;
  - ii. For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty **(or fifteen)** feet to a side lot line or twenty feet to a rear lot line; and
  - iii. When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley or side street.
- (4) No detached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to the date of the adoption of this ordinance.
- (5) A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.
- (6) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single family home.
- (7) A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit is permitted.
- (8) An accessory building in which the accessory apartment is located shall not be required to be separately metered for utilities from the principal single-family home.

- (9) Detached nonconforming accessory buildings with the exception of temporary structures such as gazebos existing prior to May 18, 2019, may be altered to make interior *(strike interior?)* alterations, whether structural or non-structural, in accordance with all requirements of Article 16, to create an accessory dwelling provided the detached accessory dwelling unit can meet the following additional requirements:
- 1) The maximum square footage of the accessory dwelling may not exceed that of the main dwelling.
  - ~~2) Maximum square footage of \_\_\_\_\_ (only so much can be used for the ADU)~~
  - 3) Any entrance to an ADU located on an alley must be at least 5 feet from the property line adjacent to the alley.
  - 4) Fenestration, including bay window encroachments, or mechanical/HVAC units must be at least 5 feet from the property line and in accordance with §4.2 unless it is located on a wall facing an alley or side street.
  - 5) Exterior doors must be at least 5 feet from the property line adjacent to an alley or side street and at least 10 feet from the property line in all other cases.
  - 6) ~~On interior lots ... the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line UNLESS the nearest wall of the accessory building is at least 15 feet from the nearest wall of the neighboring structure. If an ADU is located in an accessory building that is within the setback, no window or HVAC unit shall be located on the wall closest to the property line.~~
  - ~~7) On corner lots ...~~
  - ~~8) Some allowance for ADU reduced rear and/or side yard setback when adjacent to an "alley"~~
  - ~~9) Bigger setbacks to road than to alley (see Arlington County B.3.)~~
  - 10) There is no maximum height limit on a nonconforming accessory structure to be used as an accessory dwelling, however no additional height may be added to such a structure.
  - ~~11) Bay window additional allowance to encroach into setback (or just reference Article 4 that allows this additional encroachment for bay windows?)~~
  - ~~12) A post and beam structure such as a carport that is located within a yard setback may have exterior walls infilled between the posts and still comply with this section provided the all other standards found in this section can be met. (to allow carport and gazebo conversions)~~
  - 13) Except as otherwise provided in Section 420-16-1.C, a nonconforming accessory building may be changed to the accessory dwelling use in compliance with the standards contained in this section.

#### F. Administration.

- (1) Illegal accessory apartments in detached structures are required to seek approval for the detached accessory apartment through the conditional use permit and the accessory apartment must meet all requirements thereof.
- (2) *Legal nonconforming ADUs may continue to exist as is.*
- (3) Reiterate the accessory cannot be constructed without the primary dwelling existing on the parcel.

## §420-20.1. Definitions

### ACCESSORY APARTMENT

~~A residential use having the external appearance of a single family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet.~~

**ACCESSORY DWELLING UNIT - ATTACHED**

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

**ACCESSORY DWELLING UNIT - DETACHED**

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

**BUILDING ACCESSORY**

A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes unless the accessory building is in compliance with the detached accessory dwelling unit use and design standards in Section 11.1.1.

**DWELLING UNIT**

A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

September 7, 2023

Dear Arne and fellow Planning Commissioners,

I thought I would send a short note since I will miss the next two meetings and the final deliberations on Accessory Dwelling Units.

To put the P.C.'s work in context, we have been working together since January 2023 to craft an ADU zoning code appropriate to Lexington. We started this journey based on our Comprehensive Plan. There are at least ten references to ADUs in the Comprehensive Plan, notably the Housing Chapter, including the Planning Context, Needs Assessment and Strategies sections<sup>1</sup>. Footnoted below is the text Leslie suggested we draw from in our introduction to the ADU code.

One of the objectives in the Housing Chapter is 'to promote a variety of safe and affordable housing options for all of Lexington's residents'; this is supported by the strategy H.O. 1.2 'Review regulations allowing accessory dwelling units in separate structures in appropriate residential areas.' Hence, our efforts since January.

As a city, we lack land for future housing. As the Comp Plan notes, new residential construction is most likely to be realized through multi-family infill, rehabilitation and reuse of underutilized downtown buildings, and the addition of accessory dwelling units.

Drawing on the considerable research by Arne, Kate, and commissioners, we have debated the pros and cons of ADU zoning from numerous different jurisdictions and reviewed research and best practice guides from the American Planning Association, AARP, and other organizations. And we are nearly there with a draft code for review. Our proposed ADU code addresses the issues that usually arise with ADUs: compatibility (appropriately sized subordinate housing structure within a housing district); parking; heights and setbacks; process-conditional use permits; and lastly, setbacks and nonconforming uses.

On the setbacks under Section E Accessory Dwelling Unit item 3, I am in favor of the smaller side yard setback noted in yellow (10 feet in R1 and 15 feet in R2) because we are dealing with small structures. The reduction of the side setback by 5 feet in each case would provide more opportunities to build an ADU while still providing adequate setbacks. We have debated items 4-8 and they fit well as written.

- Item 9, Detached nonconforming accessory buildings, will be vital as we have noted in discussions this may be a source for future ADU requests. It might be best to keep the definition

---

<sup>1</sup> Accessory dwelling units are an increasingly common tool used to respond to housing demand in constrained markets. Where traditional zoning practices have limited single-family neighborhoods to one home per lot, accessory dwelling unit ordinances allow a second small dwelling to be constructed on the same grounds of a standard single-family home. In 2018, Lexington revised its zoning ordinance to allow the construction of accessory dwelling units in single family neighborhoods, provided they are attached to or located within the existing dwelling unit. The City should also explore the modification of zoning policies to allow detached accessory dwelling units to further expand rental opportunities. As an added benefit, accessory dwelling units can provide supplemental income to cost burdened homeowners, helping increase housing affordability for renters and owners alike.

simple and delete 'gazebos' so it would read 'with the exception of temporary structures'. Also agree with Arne's highlight to strike interior.

- On 9-1, consider adding the following or a variation in italics. *A nonconforming use shall not be expanded or moved to occupy a different or greater area of land or building than the use occupied when it became nonconforming.* The maximum square footage of the accessory dwelling may not exceed that of the main dwelling.
- Item 9-3, 9-4, while very detailed, do attempt to answer concerns raised in our discussions on the impact on neighbors.
- Item 9-10, the addition proposed in italics above may be cover this or leave it as is since it covers height.

As a Commission, we come to sound conclusions through our discussions and debates, and I am sorry I will miss the wrap-up sessions on ADUs, I know through your deliberation and support from Arne the Commission will come to a proposed text. As we have learned in our previous drafting of the zoning code, we can't cover all the bases and have learned the PC and the City Council can make amendments if the need arises.

On a personal note, some of the most interesting and attractive neighborhoods in other cities I have walked in or visited are ones where context sensitive infill occurs overtime, often with ADUs. Below is a link to a good article from Strong Towns on ADUs; I have included an excerpt below.

Thanks

John

ADUs are a way to gently and incrementally make a neighborhood less exclusionary. They are a relatively affordable rental option for those who do not wish to or have the resources to become homeowners. They are a valuable source of income for their landlords, who are usually established residents, as opposed to developers who may have no ties to the neighborhood or even the city. ADUs add pedestrians to the sidewalks, customers to local businesses, and dollars to the tax base that pays for city services. And they do all of this while making more efficient use of infrastructure that already exists.

ADUs are a quintessentially Strong Towns approach to urban growth and affordability issues: bottom-up, decentralized, incremental, scalable and adaptable. They exemplify the principle of steady, distributed neighborhood change as the antidote to sudden, disruptive neighborhood change.

Source: **If You're Going to Allow ADUs, Don't Make It So Hard to Build One**, Daniel Herriges  
<https://www.strongtowns.org/journal/2018/9/11/if-youre-going-to-allow-adus-dont-make-it-so-hard-to-build-one?format=amp>