

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING**

FINDINGS AND DECISION

HEARING DATE: August 21, 2023
PROJECT NAME: 1612 Smith Place – Extra Occupancy
CASE NUMBER: FDP #230017
APPLICANT/OWNER: Laura Grant & Kevin Feldis
1814 Scenic Way
Anchorage, AK 99501
HEARING OFFICER: Lori Strand

PROJECT DESCRIPTION/BACKGROUND: This is a combined Project Development Plan/Final Development Plan to add Extra Occupancy as a permitted use in an existing single-family dwelling located at 1612 Smith Place, Parcel Number 9724206004 (the “Subject Property”) for up to four (4) tenant-occupants (the “Application”). The Subject Property will not be occupied by the Owner.

The Subject Property is used as a single-family dwelling and is zoned Low Density Mixed-Use Neighborhood (L-M-N). The Subject Property is surrounded on all sides by other single-family dwellings that are zoned L-M-N. The house was built in 1971 within the Glantz subdivision.

Staff recommend approval of the Application.

SUMMARY OF DECISION: Approved with conditions.

ZONE DISTRICT: Low Density Mixed-Use Neighborhood (L-M-N).

HEARING: The Hearing Officer opened the virtual hearing on Monday, August 21, 2023, at approximately 5:30 P.M. and reviewed the Order of Proceedings and Rules of Conduct for Administrative Hearings with the Applicant and members of the public present. The hearing was tabled from approximately 5:40 P.M. until 6:45 P.M. while staff resolved some technical issues with staff’s PowerPoint presentation. The virtual hearing was closed at approximately 7:05 P.M.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Development Review Staff Report prepared for 1612 Smith Place - Extra Occupancy (FDP #230017), attached hereto as **ATTACHMENT A** (the “Staff Report”). The attachments to the Staff Report are not attached to this decision but are a part of the record in this case.
2. Applicant Narrative.
3. Applicant PowerPoint presentation from the August 21, 2023 hearing.
4. Site Plan.

5. Interior Photos.
6. Parking Exhibit.
7. Written public comment from Francesca O'Brien opposing the Application.
8. A copy of Written Notice of Virtual Public Hearing dated July 28, 2023.
9. Confirmation of Publication (Ad# 0005796730) evidencing proof of publication of Notice of Hearing in the *Fort Collins Coloradan* on August 14, 2023.
10. A copy of the Planning & Development Services PowerPoint prepared for the August 21, 2023 hearing.
11. The City's Comprehensive Plan, the Land Use Code (the "Code"), and the formally promulgated ordinances and polices of the City are all considered part of the record considered by the Hearing Officer.
12. Rules of Conduct for Administrative Hearings.
13. Administrative (Type 1) Order of Proceedings.

TESTIMONY: The following persons testified at the hearing:

- | | |
|---------------------|--|
| From the City: | Arlo Schumann, City Planner |
| From the Applicant: | Laura Grant & Kevin Feldis, Owner |
| From the Public: | J.P. Clement, 1624 Smith Place, testified in support of the Application. |

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly posted, mailed, and published.
2. As required by City Council Ordinance 079, Series 2020 (the "**City Ordinance**"), the Hearing Officer, in consultation with City staff, determined that it was desirable to conduct the hearing by remote technology so as to provide reasonably available participation by parties-in-interest and by the public, consistent with the requirements of the City Ordinance, because meeting in person would not be prudent for some or all persons due to a public health emergency.
3. The Hearing Officer finds that the Application is consistent with the 2019 City Plan insofar as it expands housing options in existing neighborhoods.
4. Section 3.8.16(E)(1) of the Code permits an increase in applicable occupancy limits for single-family and two-family dwellings, pursuant to the issuance of a certificate of occupancy for use as an extra occupancy rental house in zones allowing such use. The Low Density Mixed-Use Neighborhood (L-M-N) zone district permits extra occupancy rental houses. Specifically, Section 4.5(B)(2)(a)(8) of the Code permits extra occupancy rental

houses with four (4) or more tenants in the L-M-N zone district, subject to administrative review.

5. Section 4.5(D)(9) of the Code provides that the maximum number of dwelling units defined as extra occupancy rental houses shall be depicted on an application for a project development plan and shall be limited to 25% of the total number of dwelling units of said plan. Mr. Schumann testified that the Glantz subdivision where the Subject Property is located was approved prior to adoption of this Section; as such, this requirement did not apply to the Glantz subdivision. Additionally, this Application is for a PDP/FDP for only one dwelling unit so this Section is inapplicable.
6. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - a. The Application complies with the applicable procedural and administrative requirements of Article 2 of the Code.
 - b. The Application complies with the applicable requirements of Article 3 of the Code. Specifically:
 - (i) Section 3.1.1 of the Code states that applications for extra occupancy rental houses on platted lots must comply *only with* the standards contained in Division 3.8 and Section 3.2.2(K)(l)(j) of the Code. However, Section 3.2.2(C)(4)(b) also specifically requires extra occupancy rental houses to provide a minimum of 1 bicycle parking space per occupant with 100% fixed bicycle racks. All applicable requirements are met.
 - (ii) The Application satisfies the bicycle parking requirements set forth in Section 3.2.2(C)(4) of the Code, in that five fixed bicycle spaces are provided in the rear yard of the Subject Property.
 - (iii) The Application complies with the off-street parking requirements set forth in Section 3.2.2(K)(1)(j) of the Code, in that three dedicated parking spaces are provided for the requested four (4) tenants.
 - (iv) The Application complies with the standards set forth in Section 3.8.28(A) of the Code for the maximum number of permissible residents and maximum percentage of parcels per block face that may be used for extra occupancy houses; 1,451 square feet of habitable floor space is provided for the four (4) tenants where 1,400 square feet is required and no other extra occupancy houses currently are located on the block face.
7. The Application's satisfaction of the applicable Article 2, 3 and 4 Code requirements is sufficiently evidenced by the Staff Report, the testimony at the August 21, 2023 public hearing, and materials accepted into the record.

DECISION

Based on the findings set forth above, the Hearing Officer hereby enters the following ruling:

The 1612 Smith Place - Extra Occupancy (FDP #230017) is approved for the Subject Property in the form submitted subject to the conditions that the Applicant/Owner maintain: (1) a wheel stop for the parking space located outside of the garage (the "Exterior Space") as shown on the Site Plan included in the record, and (2) landscaping along the southern property line between the Exterior Space and the adjacent property.

The Applicant/Owner is authorized to apply for a change of use building permit (to ensure that the Subject Property complies with all applicable City building and rental housing codes).

DATED this 25th day of August, 2023.



Lori Strand
Hearing Officer

ATTACHMENT A

Staff Report
1612 Smith Place - Extra Occupancy (FDP #230017)

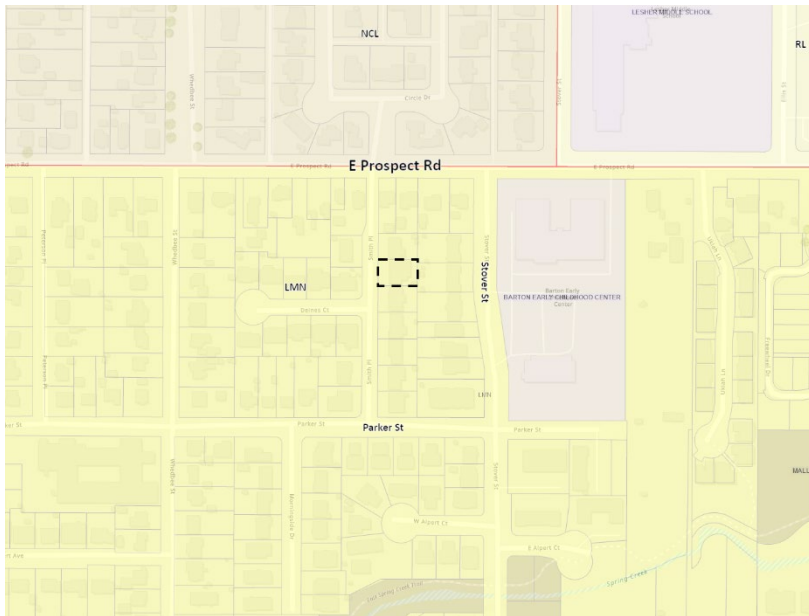
Administrative Hearing: August 21, 2023

1612 Smith Place - Extra Occupancy #FDP230017

Summary of Request

This is a combined Project Development Plan/Final Development Plan to add Extra Occupancy as an approved use for an existing single-family dwelling for four occupants.

Zoning Map



Next Steps

If approved by the Hearing Officer, the applicant will be eligible to apply for a Certificate of Occupancy, with building permit if needed for any interior changes to the building.

Site Location

1612 Smith Place in the Old Prospect neighborhood. Parcel #9724206004.

Zoning

Low Density Mixed Use Neighborhood (L-M-N).

Property Owner

Laura Grant
Kevin Feldis
1814 Scenic Way
Anchorage, AK 99501

Applicant/Representative

Same

Staff

Arlo Schumann, City Planner

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Staff Recommendation

Approval of FDP230017.

1. Project Introduction

A. PROJECT DESCRIPTION

A Site Plan lists 'Extra Occupancy' for the existing single-family dwelling and demonstrates compliance with the few Land Use Code standards that apply in this situation:

- The existing house, driveway and garage accommodate the proposed extra occupancy in terms of required floor area and parking. The only physical changes in the plan are to add a fixed bike rack.
- The property is within the LMN zoning district which permits the use subject to Administrative Review and hearing by a Hearing Officer.

B. DEVELOPMENT STATUS/BACKGROUND

1. Subject Property

The house was built in 1971 within the Glantz subdivision.

2. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)	Low Density Mixed-Use Neighborhood (L-M-N)
Land Use	Single-family dwellings on the adjacent block face	Single-family dwellings on the same block face	Single-family dwellings on the same block face	Single-family dwellings on the same block face

C. OVERVIEW OF MAIN CONSIDERATIONS

The considerations in this case are off-street parking, bicycle parking, and adequate square footage as is typical of extra occupancy proposals. The applicant resolved these issues by providing the necessary information to demonstrate the plan will meet the standards for extra occupancy rental use.

D. CITY OF FORT COLLINS LAND USE CODE & CITY PLAN

The Land Use Code's purpose statement per 1.2.2(A) is to ensure that all growth and development that occurs is consistent with this Code, City Plan, and its adopted components, including, but not limited to, the Structure Plan, Principles and Policies and associated sub-area plan.

The City's comprehensive plan (2019 *City Plan*) embodies the vision and values of the community for the future. It does not specifically address issues of occupancy.

A significant theme in the plan is encouraging more housing options in general. For example, Policy LIV 5.6 on p. 42 states: "EXISTING NEIGHBORHOODS: Expand housing options in existing neighborhoods (where permitted by underlying zoning) by encouraging: » Infill development on vacant and underutilized lots; » Internal ADUs such as basement or upstairs apartments; » Detached ADUs on lots of sufficient size; and » Duplexes, townhomes or other alternatives to detached single-family homes that are compatible with the scale and mass of adjacent properties."

The Structure Plan designates this neighborhood with the "Mixed Neighborhood" place type, which is characterized by single-family homes.

2. Land Use Code Article 2

A. PROJECT DEVELOPMENT PLAN PROCEDURAL OVERVIEW

1. Conceptual Review – CDR220037

A conceptual review meeting was held on June 8, 2023.

2. First Submittal

The PDP/FDP was submitted on June 14, 2023

3. Neighborhood Meeting

Pursuant to *LUC Section 2.2.2 – Step 2: Neighborhood Meetings*, a neighborhood meeting is not required for Administrative Hearing (Type 1) projects and no meeting was held.

4. Notice (Posted, Written and Published)

Posted Notice: June 28, 2023, Sign #803.
 Written Hearing Notice: July 28, 2023, 205 addresses mailed.
 Published Hearing Notice: August 14, 2023.

3. Land Use Code Article 3

Because the plan involves existing development which comports with the Land Use Code standards, only a few standards specific to Extra Occupancy pertain in this case.

A. DIVISION 3.2 – SITE PLANNING AND DESIGN STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.2.2 – Access, Circulation and Parking – General Standard	This code Section requires secure, convenient, efficient parking and circulation improvements that add to the attractiveness of the development. The only applicable standards are parking requirements for vehicles and bicycles. <ul style="list-style-type: none"> The plan provides specific required parking per the subsections noted below. 	Complies
3.2.2(C)(4) – Bicycle Parking Space Requirements	This subsection requires one bicycle parking space per bed, for a total of four spaces required. <ul style="list-style-type: none"> The applicant’s plans show the addition of a fixed outdoor rack for five bikes to be placed in the rear yard. 	Complies
3.2.2(K)(1)(j) – Required Number of Off-Street Spaces	Extra occupancy rental house uses are required to provide 0.75 parking spaces per tenant, rounded up to the nearest whole parking space, plus one (1) additional parking space if the extra occupancy rental house is owner-occupied. Three spaces are required in this case. <ul style="list-style-type: none"> Three spaces are provided. The applicant’s notes that the existing garage can accommodate two cars, and that a third parking space can be accommodated between the south edge of the garage door opening and the south property line. 	Complies

B. DIVISION 3.8 – SUPPLEMENTARY REGULATIONS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>3.8.16 – Occupancy Limits – Increasing the Number of Persons Allowed</p>	<p>Subsection (E)(1) states <i>“with respect to single-family and two-family dwellings, the number of persons allowed under this Section may be increased by the issuance of a certificate of occupancy for use as an extra occupancy rental house in zones allowing such use.”</i></p> <p>The proposed plan is to increase the occupancy of a single-family dwelling. If approved the applicant will submit a building permit application. Upon compliance with any building code and the approval of this application a new certificate of occupancy will be issued.</p>	<p>Complies via the proposed plan in the LMN zone</p>
<p>3.8.28 – Extra Occupancy Rental House Regulations</p>	<p>This Section contains requirements for extra occupancy in single-family detached dwellings. 350 square feet of habitable floor space is required for each tenant plus an additional 400 square feet if the dwelling is owner-occupied.</p> <ul style="list-style-type: none"> • 1,400 sq. ft. are required for the proposed four occupants; 1,451 sq. ft. comprise the habitable floor area of the existing dwelling. <p>No more than 25% of parcels on a block face may be approved for extra occupancy rental house use.</p> <ul style="list-style-type: none"> • No other Extra Occupancy Rental Houses are approved on the block face. 	<p>Complies</p>

4. Land Use Code Article 4

A. DIVISION 4.5 – LOW DENSITY MIXED-USE NEIGHBORHOOD DISTRICT (LMN)

The LMN zone district was created in 1997 as implementation of the City’s comprehensive plan and has been re-established in subsequent updates.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
4.5(A) - Purpose	<p>This Section states: <i>“Purpose. The Low Density Mixed-Use Neighborhood District is intended to be a setting for a predominance of low density housing combined with complementary and supporting land uses that serve a neighborhood and are developed and operated in harmony with the residential characteristics of a neighborhood. The main purpose of the District is to meet a wide range of needs of everyday living in neighborhoods that include a variety of housing choices, that invite walking to gathering places, services and conveniences, and that are fully integrated into the larger community by the pattern of streets, blocks, and other linkages. A neighborhood center provides a focal point, and attractive walking and biking paths invite residents to enjoy the center as well as the small neighborhood parks. Any new development in this District shall be arranged to form part of an individual neighborhood.”</i></p>	Complies as a part of the overall Glantz development
4.5(B) - Permitted Uses	<p>Extra occupancy rental houses with four or more tenants are permitted with review and a public hearing by an administrative hearing officer.</p>	Complies

5. Findings of Fact/Conclusion

In evaluating the request for 1612 Smith Place Extra Occupancy #FDP200017, staff makes the following findings of fact and conclusions:

1. The Plan complies per 1.2.2(A) with the pertinent provisions of the Land Use Code, City Plan and its adopted components.
2. The Project Development Plan/Final Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
3. The plan complies with pertinent standards located in Article 3 – General Development Standards.
4. The plan complies with Division 4.5 - Low Density Mixed-Use Neighborhood in Article 4.

6. Recommendation

Staff recommends that the Hearing Officer approve 1612 Smith Place Extra Occupancy #FDP200017 based on the Findings of Fact and supporting explanations found in the staff report.

7. Attachments

1. Applicant Narrative
2. Site Plan
3. Interior Photos
4. Parking Exhibit
5. Public Comment