

Board of Zoning Adjustment
Staff Report
January 6, 2020



Case No:	19-CUP-0216
Project Name:	The Third Space Short Term Rental
Location:	3322 Wizard Avenue
Owner(s):	Madelle and William Gunter
Applicant(s):	Madelle and William Gunter
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood Form District.

CASE SUMMARY/BACKGROUND

The applicant requests approval to conduct short term rentals at the subject property. The subject property is developed with a one structure that is a single- family residence. The applicant states that the residence has three bedrooms that will allow a maximum number of eight guests. The site has credit for on-street parking and there appears to be ample parking along the street. The applicant states that there are two spaces in front of the residence and two at the rear.

STAFF FINDING / RECOMMENDATION

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

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on September 16, 2019 and at least five people attended not including the applicants.

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 does not conflict with Comprehensive Plan policies.

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: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

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 will not create substantial additional requirements for the site.

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

4.2.63 Short Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. ***The applicant has been informed of this requirement.***
- B. The dwelling unit shall be limited to a single short term rental contract at a time. ***The applicant has been informed of this requirement.***

- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. ***The subject property is smaller than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of eight guests.***
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there is 1 property with an approved conditional use permit allowing short term rental that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If provided, the applicant's justification for this relief is attached to this report. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.***
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***
- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***The site has credit for on-street parking and there appears to be ample parking along the street. The applicant states that there are two spaces in front of the residence and two at the rear.***
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning

Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. ***The applicant has been informed of this requirement.***

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. ***The applicant has been informed of this requirement***

- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. ***The applicant has been informed of this requirement.***

NOTIFICATION

Date	Purpose of Notice	Recipients
12/17/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 15
12/19/2019	Hearing before BOZA	Sign Posting

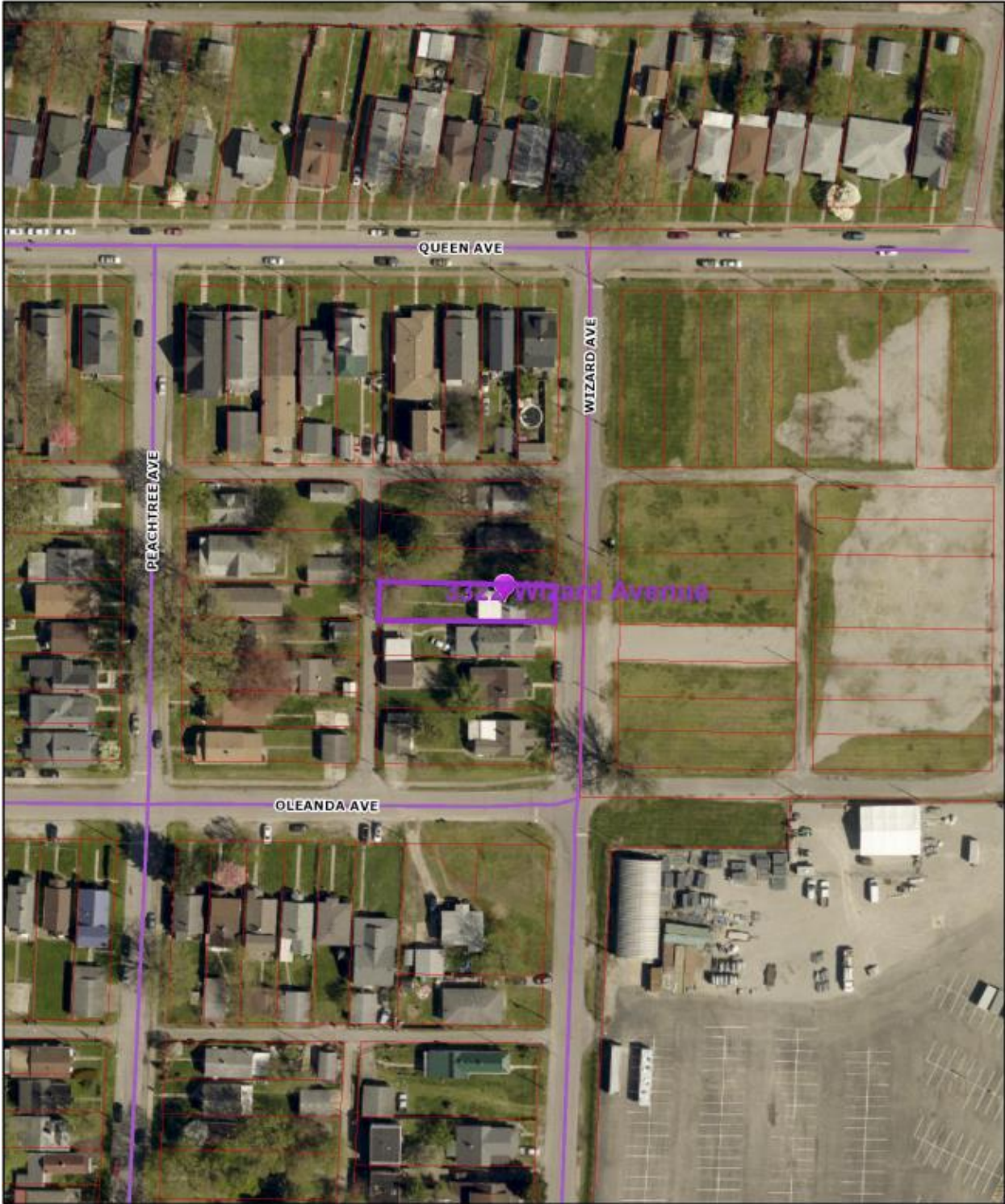
ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. 600' Map
- 4. Justification Statement

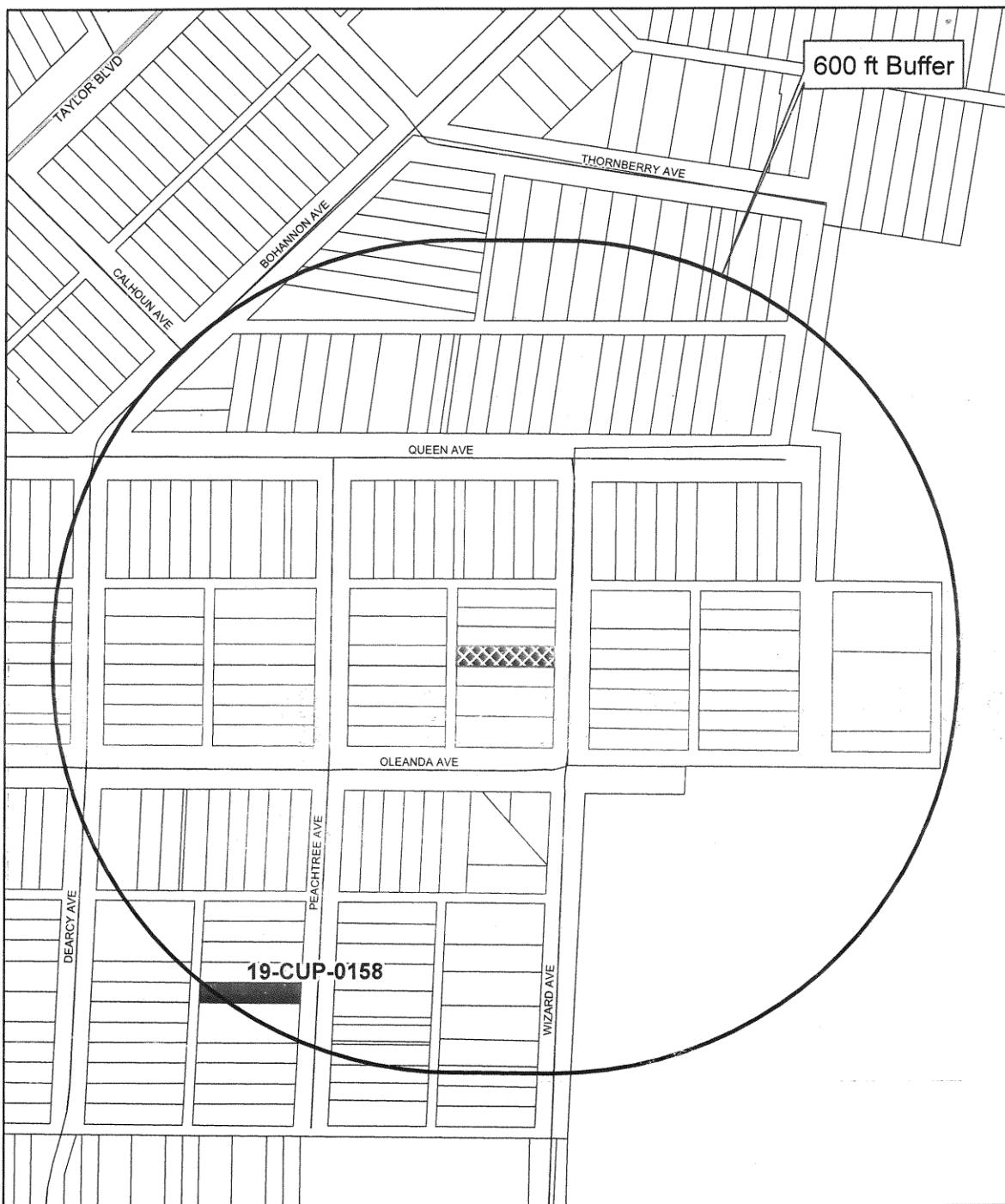
- 1. **Zoning Map**






2. Aerial Photograph



3. 600' Map

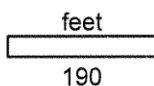


Legend

-  Subject Site
-  Approved
-  Buffer



19-CUP-0216 Proximity Map



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This map is subject to change upon the Board of Zoning Adjustment granting approvals to other Short Term Rental Conditional Use Permits.

4. Justification Statement

Our home at 3322 Wizard Ave. has been in the family for over 50 years and has been passed down several generations. With the home being so close to historical Churchill Downs we have experienced many Kentucky Derby's and made a lot of out of town friends. Over the years while not physically moving, our home has gotten closer and closer to Churchill Downs due to their expansion. Our home now has a view and something that very few other homes in the city of Louisville or World for that matter can offer, which is essentially "beach front" property with Churchill Downs being right across the street. We are so close that while sitting on our living room couch we can see the races on their 10 story jumbo TV in the infield. From the years past we have allowed friends and family to stay with us in our home for events such as the Kentucky Derby, Breeder's cup, concerts etc. It has been communicated to us by many that they would love to be able to stay so close to Churchill Downs for a tourist type visit throughout the year and especially the Kentucky Derby. This along with several failed attempts to attain good tenants ultimately lead to our decision to offer our home to visitors and tourists via the short term rental. We figure we have something to offer that not many other homes do and for the horse racing fan it's an awesome experience to be able to look out the front window and see things like thoroughbreds doing their 4am morning work outs. We had begun this journey in April 2018 of renovating and creating a "Derby" themed home and started operating Late 2018. We had received nothing but positive feedback about the good horse racing and Churchill Downs vibes. We had received a lot of positive feedback from the neighbors prior to our neighborhood meeting and even a few more during our neighborhood meetings. Neighbors think it's a great way to keep the neighborhood in better shape as our home has been maintained a whole lot better than it did with tenants. Neighbors feel other owners should consider doing the same to their property instead of traditional renting due to the location. We understand the 600' rule has been put in to place to protect neighbors privacy and overall well-being however the one within 600' radius of our home is a couple of blocks over and partially outside of that radius and does not have quite what our home has to offer visitors to Louisville. Since we have been in the neighborhood over 50 years we still stay in contact with several long standing neighbors and still have a neighborhood watch type relationship. We all want to protect that and our family always keeps that in mind when renting to anyone be it long term or short term. Approving our Short Term Rental Permit will not negatively impact our neighborhood and at a minimum will enhance it in multiple ways.