

Board of Zoning Adjustment
Staff Report
September 9, 2019



Case No:	19CUP1038
Project Name:	Bowman Short Term Rental
Location:	1427 and 1429 Rufer Ave.
Owner(s):	Jay Bowman
Applicant:	David Orange
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

Conditional Use Permit to allow short term rental of dwelling units that are not the primary residences of the owner/host in an R-5B 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 duplex. The applicant states unit 1 has three bedrooms that will allow a maximum number of eight guests and unit 2 has three bedrooms that will allow a maximum number of eight guests. The site has credit for one on-street parking and at least two parking spaces are located at the rear of the site.

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 April 15, 2019 and two people attended.

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 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 unit 1 has three bedrooms that will allow a maximum number of eight guests and unit 2 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 are 2 properties with approved conditional use permits allowing short term rentals that are 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 one on-street parking and at the applicant states that there are at least two parking spaces located at the rear of the site.***
- 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
6/20/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
6/21/2019	Hearing before BOZA	Sign Posting

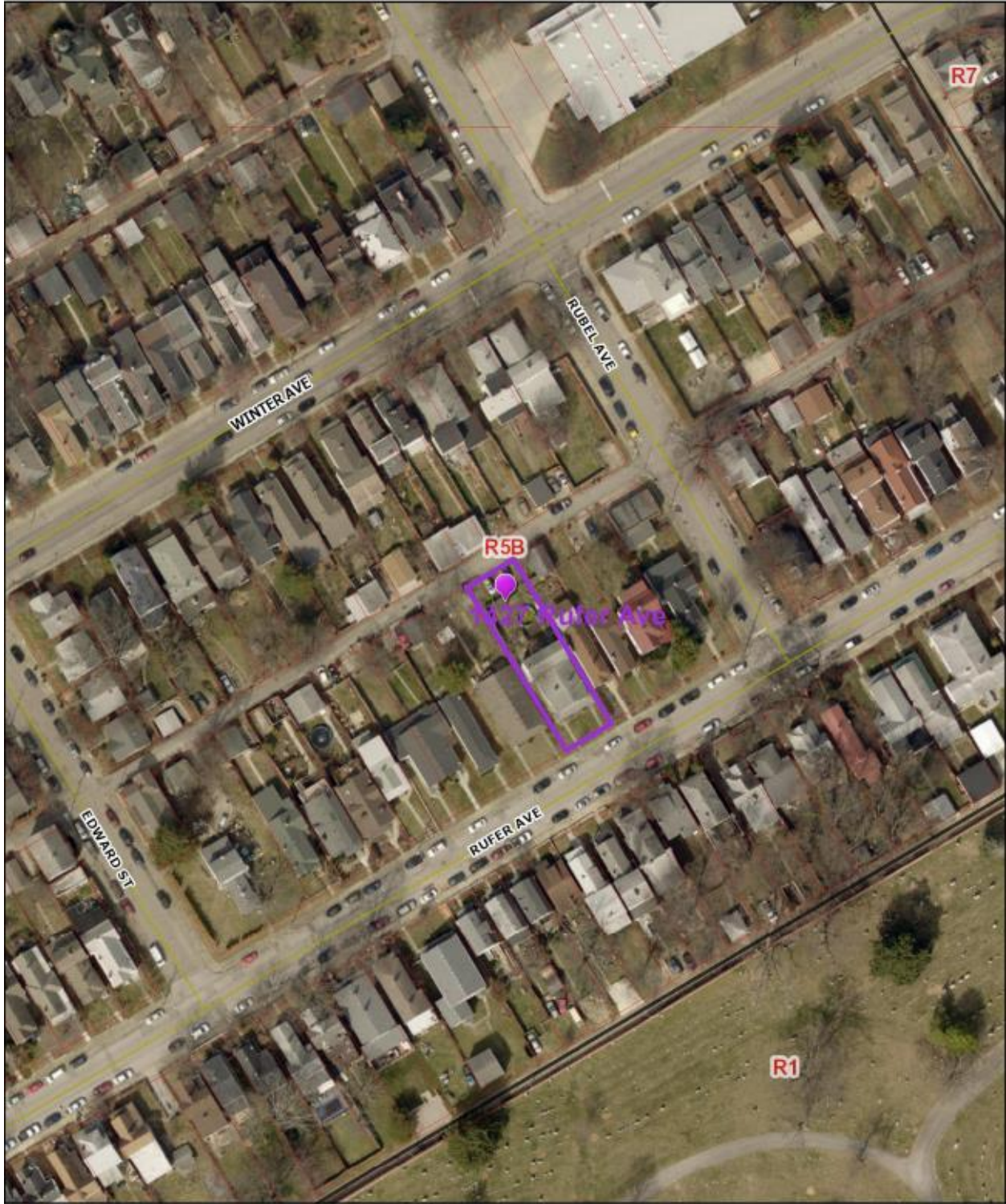
ATTACHMENTS

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

- 1. **Zoning Map**



2. Aerial Photograph



3. 600' Map

Map Created: 06/21/2019

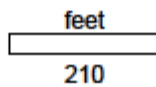


Legend

-  Subject Site
-  Approved
-  Buffer



**19CUP1038
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 Letter

June 28, 2019

19CUP 1038

Board of Zoning Adjustment,

I am writing you today to seek your gracious relief from the 600 ft rule as it pertains to my client's property, a duplex located at 1427 and 1429 Rufer ave. You all have seen me before you many times asking that you grant our conditional use permits to operate short term rentals in the city of Louisville, and we have strived to be role models in the following of the ordinance as set forth by the city. We have permits that were some of the first granted, and we have a track record of being great neighbors, maintaining wonderful homes for travelers to our fantastic city, and reporting as required to the revenue service, and following all rules set out in the ordinance.

Our justification for this relief is the current state of affairs of the home, and the condition in which it was purchased. My client purchased this home prior to any talk of a 600 ft rule, and if any property deserves relief it should be this one, for the following reasons;

- 1) The home immediately had to have a tree removed that had grown into the foundation and caused massive structural damage, which my client has taken care of at his own significant expense.
- 2) The neighbors have expressed a great deal of thanks for someone purchasing the home with the intent to remodel. This home is in such terrible shape it will incur a SIGNIFICANT expense to rehab. The only return that makes sense is the return that can be had on a short term rental, otherwise the home likely would not have been purchased by any investor and would likely be ruled uninhabitable.
- 3) Prior to the sale, neighbors informed us that the most recent tenant was someone who actively sold narcotics and was not shy about it. They're thankful that the next tenants won't do the same, and are more than willing to accept a short term rental to ensure that is the case.
- 4) The only permitted homes in this 600 ft cluster are spread out and currently under my management. I do not feel there is excessive saturation of legally operating homes in this area, and our record for maintaining fantastic homes, providing an excellent guest experience, as well as being good neighbors FIRST, should speak for itself!

My Best,

David Orange