

Board of Zoning Adjustment
Staff Report
December 7, 2020



Case No:	20-CUP-0133
Project Name:	Short Term Rental
Location:	1229 Garvin Place
Owner/Applicant:	Megan McClain
Jurisdiction:	Louisville Metro
Council District:	# 6 – David James
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST

Conditional Use Permit to allow short term rental of a dwelling unit in the TNZD that is the primary residence of the host.

CASE SUMMARY/BACKGROUND

The 0.154 acre site is located on the east side of Garvin Place between West Oak Street and West Ormsby Avenue in the Old Louisville neighborhood. The property is zoned TNZD and is within a Traditional Neighborhood Form District. The surrounding land uses include single family dwellings, commercial and The Puritan Apartments to the east. The 4,374 square foot structure is currently being used as a single family dwelling. The house has six bedrooms, allowing for 14 guests as a short term rental. However, the applicant has stated that only one to two bedrooms would be offered from time to time; the third floor bedroom and/or the first floor master bedroom with guests having access to certain common areas. Two to three parking spaces are available off the alley and the property has 33 feet of street frontage.

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.

TECHNICAL REVIEW

There are no technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on July 21, 2020 with three attendees, two were in support and the objections from the third attendee were addressed.

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. No exterior construction or alterations to the building or the site will be required.

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 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 or the Short Term Rental of a condominium unit that is 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 dwelling has six bedrooms, however only two bedrooms will be offered as short term rentals, allowing for a total of 6 guests.
- D. The property on which the short term rental 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.

The property is within the TNZD, therefore the 600 foot rule does not apply.

In addition, the applicant accepts the Condition of Approval that states this location will be their primary residence and if a primary residence is established at another location, then short term rentals must cease at 1229 Garvin Place.

- 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 structure is a single family dwelling.

- 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 property has two to three parking spaces off the alley and has 33 feet of street frontage.

- 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.

Additional Conditions of Approval

1. The Conditional Use Permit for this short term rental approval shall allow up to two bedrooms. A modification of the Conditional Use Permit shall be required to allow additional bedrooms.
2. The host of record for the short term rental shall maintain their primary residence in the dwelling unit on the subject property. In the event a primary residence is established on another property, short term rentals on the subject property must cease.

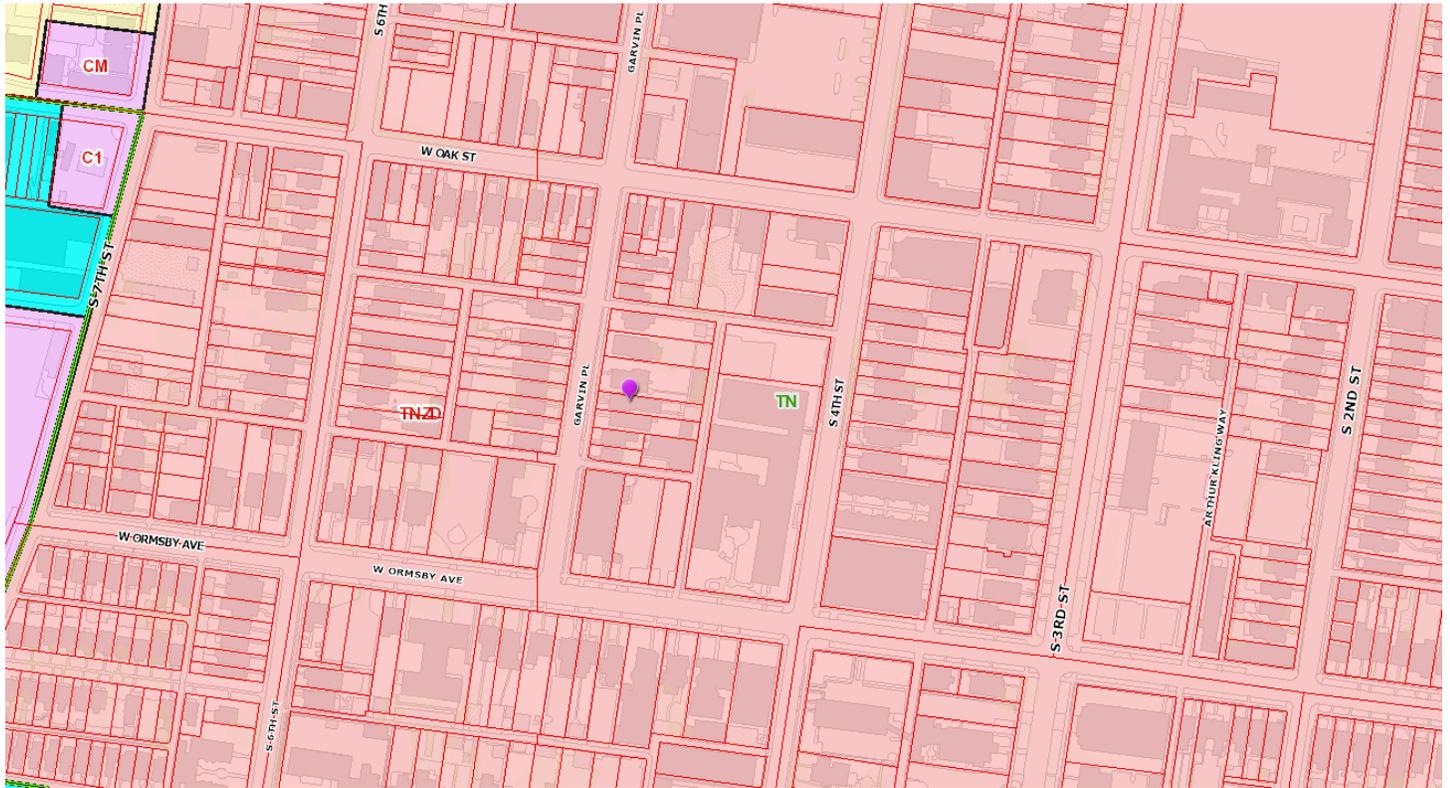
NOTIFICATION

Date	Purpose of Notice	Recipients
11/20/2020 11/17/2020	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District # 6
11/20/2020	Hearing before BOZA	Sign Posting

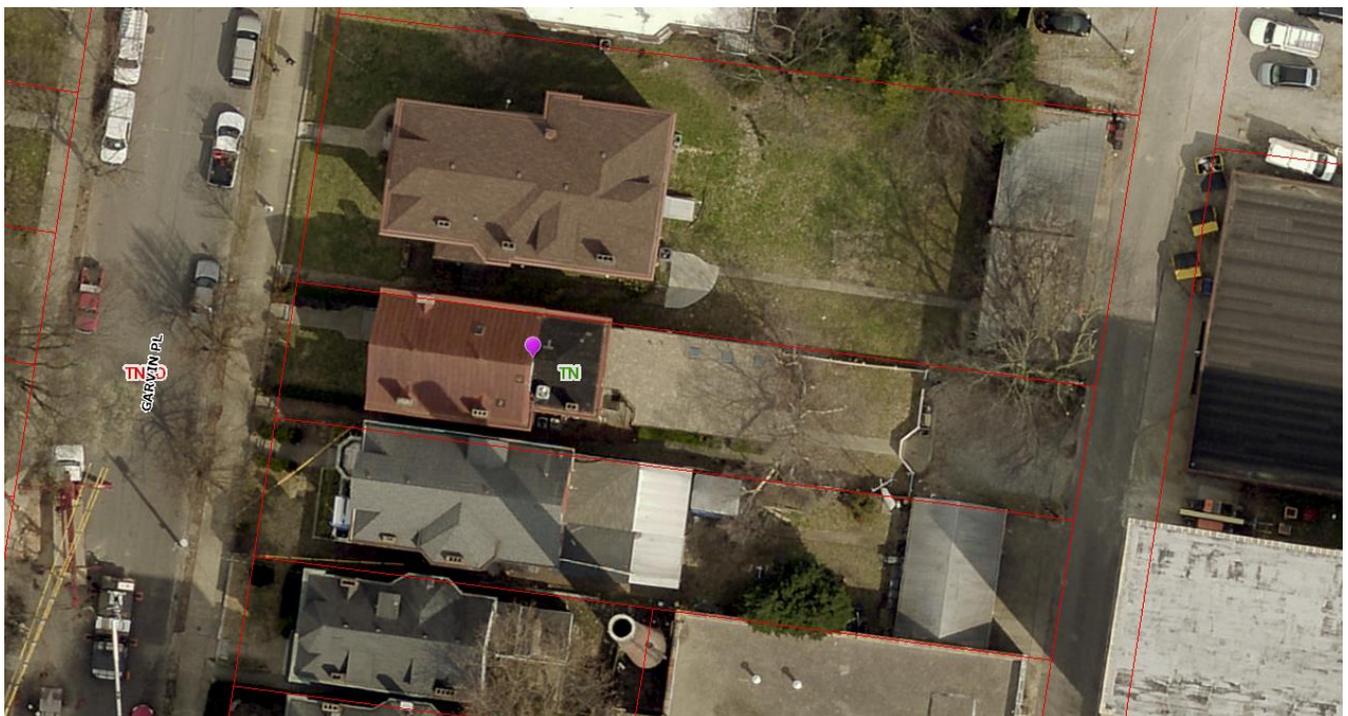
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 600 Foot Map
4. Neighborhood Meeting Minutes

Zoning Map



Aerial Photographs



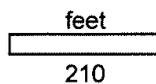


Legend

-  Subject Site
-  Approved
-  Approved/Host
-  Pending
-  Buffer



**20-CUP-0133
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.

Sign in Sheet CUP Meeting 7/21/20
1229 Garvin Place

Name

Address

6:00

Holjo, Ulrich

1124 Ormsby Ave

Emily Beauregard 1227 S 6th

Will Martin

1227 S. 6th st.

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Public Meeting re Conditional Use Permit for
Short Term Rental at 1229 Garvin Place
Minutes
July 21, 2020 at 6:09 p.m.

In attendance:

Helja Ulrich – 112+ Ormsby Ave.

Emily Beauregard – 1227 S. 6th Street

Will Martin – 1227 S. 6th Street

Ms. Ulrich objects to the conditional use permit. Stated that the property is a duplex and it is not permitted to be a short term rental. When told that the property is not a duplex she said it is not permitted to be a short term rental because you cannot rent rooms in a home. She said the property did not have sufficient square footage to qualify as a short term rental. Also stated that the Division of Planning listed the permit information under an incorrect address. Ms. Ulrich left the meeting when other attendees arrived.

Emily Beauregard and Will Martin both expressed that they are in favor of the conditional use permit and came to show their support. They expressed they are glad that the home is being well maintained.

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Responses to Concerns Raised Regarding
The Application for a Conditional Use Permit Allowing Short Term Rental at
1229 Garvin Place, Louisville, KY 40203

The concerns raised by Ms. Ulrich at the public meeting seem to be primarily based in a misunderstanding of the property and the proposal.

- The property is not a duplex.
- The property has just under 4,000 square feet which is ample room to share with short term renters.
- Per the regulations it is permissible to rent to guests on a short term basis, so I do not understand her statement that you cannot rent rooms in a home.
- I checked with Steve Hendrix who has been assigned to the case and he confirmed that the application has been filed appropriately.

Ms. Ulrich raised further concerns in an email to Mr. Hendrix

- She states that there is already a saturation of short term rental units in the area. She does not, however, provide any indication that there is a problem being caused by the short term rentals, nor does she indicate why my property should be treated differently than those already approved. Given that this property has ample off street parking and that it is owner occupied, there should be no additional harm from approving this conditional use permit.
- Her second concern is hard to follow, however, it seems to be based on that I want to rent out more than one room in the home at a time. While there are regulations limiting short term rentals to one renter at a time, there is no limitation that states that I can't rent out two rooms to the same renter.
- Also, she seems to have a question about whether renters will have access to a bathroom. All renters will have access to a bathroom in my home.
- Lastly, I do have a roommate with whom I share the house currently. She stays in the third floor bedroom. I believe this is what Ms. Ulrich is referencing when she says I want to "convert the long term rental into a short term rental." If this roommate leaves, I want to be able to rent that room on a short term basis, complying with all applicable regulations under the conditional use permit for the house and never having more than one short term renter in the house at a time.

Ms. Ulrich was not willing to listen to an explanation during the public meeting, nor was she willing to let me show her that the property is one dwelling unit or the setup of the areas that are to be rented. Ms. Ulrich did, however, have a zoning enforcement officer come to the property claiming I was illegally renting it. The zoning enforcement officer confirmed that the property is all one dwelling unit and that I am not using the property in any way that is not allowed under the regulations. Hopefully his response will help relieve some of her concerns.

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