

Board of Zoning Adjustment Staff Report

November 21, 2016



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|----------------------------------|---|
| Case No: | 16CUP1053 |
| Project Name: | None (Short Term Rental) |
| Location: | 2205 Wibben Ave. |
| Owner: | Kimberly Meehan |
| Host: | Kimberly Meehan |
| Representative(s): | Kimberly Meehan |
| Project Area/Size: | 3,337 square feet |
| Existing Zoning District: | R-5, Residential Single- Family |
| Existing Form District: | TN, Traditional Neighborhood |
| Jurisdiction: | Louisville Metro |
| Council District: | 8 – Tom Owen |
| Case Manager: | Brian Mabry, AICP, Planning & Design Supervisor |

REQUESTS

- Conditional Use Permit to allow short term rental that is not the primary residence of the host in an R-5 zoning district

CASE SUMMARY

The applicant proposes to conduct a short-term rental at the subject property. The short-term rental would be the sole use of the property, as the owner/applicant lives off-site but in the general neighborhood. Thus, a Conditional Use Permit is required.

SITE CONTEXT

The subject property is rectangular in shape and 28 feet in width. It is located on the north side of Wibben Avenue, east of Dundee Road and generally south of Bardstown Road. It is just south of the Bardstown Road overlay zoning district. The single-family dwelling on the property is approximately 1,000 square feet in floor area and has two bedrooms.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

| | Land Use | Zoning | Form District |
|--------------------------------------|---------------------------|--------|---------------|
| <i>Subject Property</i> | | | |
| Existing | Single-family residential | R-5 | TN |
| Proposed | Short Term Rental | R-5 | TN |
| <i>Surrounding Properties</i> | | | |
| North | Vacant | C-1 | TN |
| South (across Wibben Ave) | Single-family residential | R-5 | TN |
| East | Single-family residential | R-5 | TN |
| West | Single-family residential | R-5 | TN |

PREVIOUS AND ASSOCIATED CASES ON SITE

There are no previous cases on the site.

INTERESTED PARTY COMMENTS

As of the date of publication, Staff has received one written comment on the proposal. Please see Attachment 4.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code
Louisville Metro Code of Ordinances, Chapter 115, Sections 115.515 through 115.521

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with its surroundings because the request only involves allowing a short term rental within the existing single-family dwelling. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The subject property is in a developed area where public facilities are readily available. There were not any agency comments indicating that the property's existing public facilities are inadequate to serve a short term rental.

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

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

A short term rental of 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 a 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. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. Long term rental contracts are permitted on the property so long as the use remains single-family residential.
- 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 four individuals.

The applicant has been informed of this requirement. The dwelling has two bedrooms and so the maximum number of individuals permitted in the short term rental is eight. The applicant has no plans to add bedrooms to the structure.

- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.

The dwelling unit is a single-family residence.

- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.

The applicant has been informed of this requirement.

- F. Outdoor signage which identifies the short term rental is prohibited.

The applicant has been informed of this requirement.

- G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.

The applicant states in her application that the subject property does not have a front driveway or rear parking area, but that on-street parking is ample.

- H. 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.

- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

The applicant has been informed of this provision.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

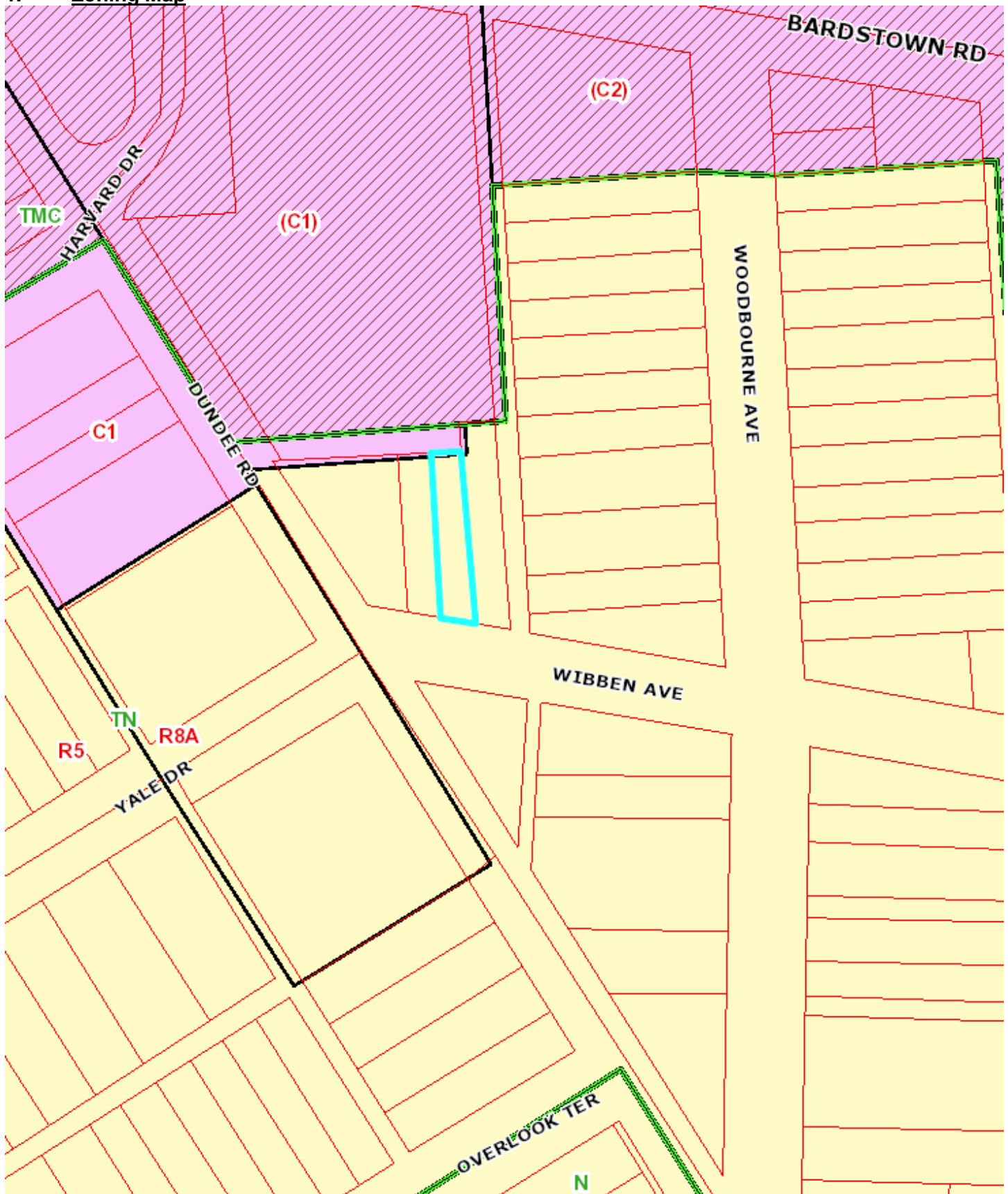
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|-------------|--------------------------|---|
| 11/4/16 | APO Notice | First tier and second adjoining property owners |
| 11/4/16 | APO Notice | Neighborhood notification recipients |
| 11/4/16 | Sign Posting | Subject Property |

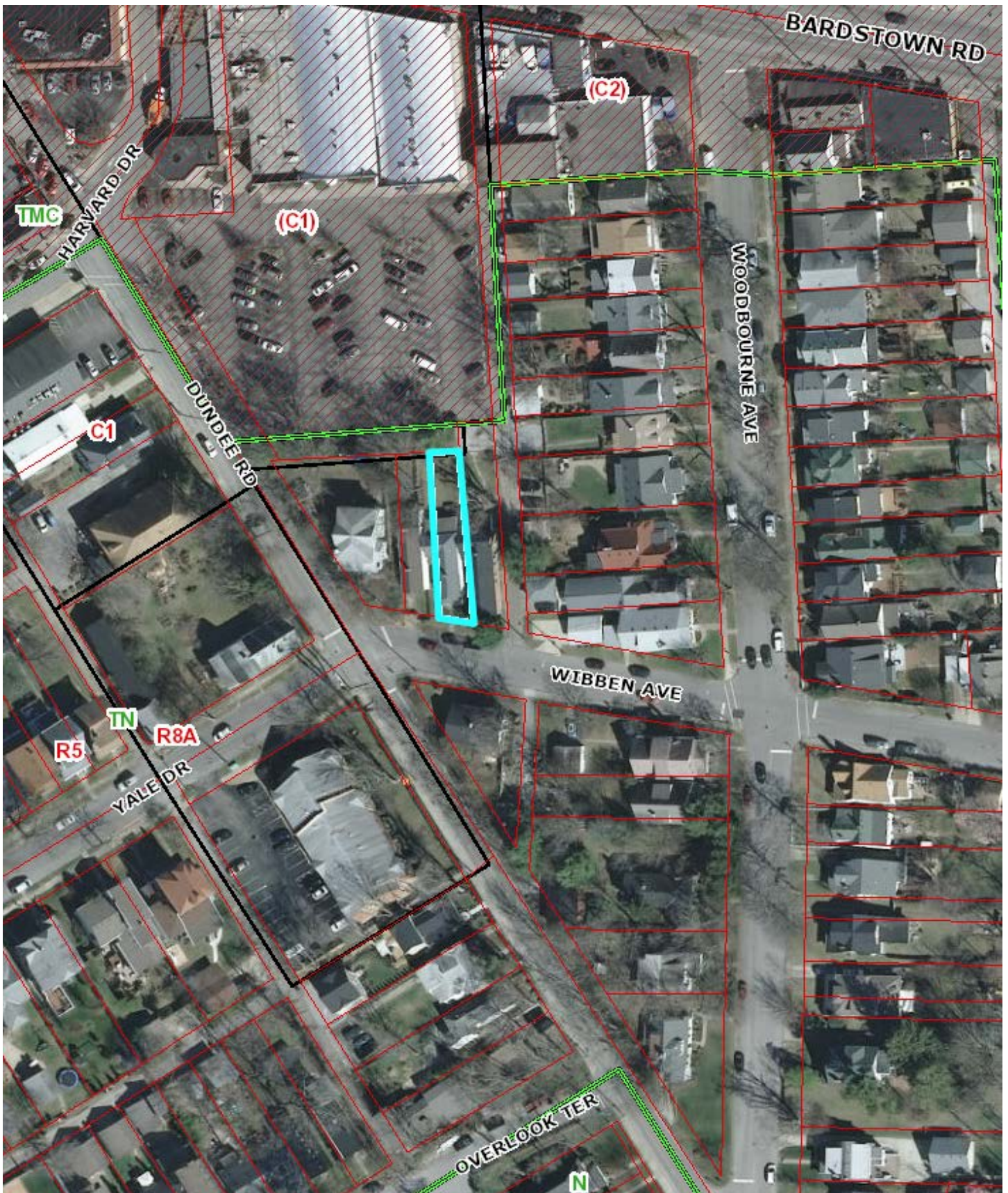
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Conditions of Approval
4. Interested Party Comments

1. Zoning Map



2. Aerial Photograph



3. **Conditions of Approval**

1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

4. Interested Party Comments

From: [Owen, Tom](#)
To: [Mabry, Brian K.](#)
Cc: [Long, Terra L.; sbrandoncoan@gmail.com](#)
Subject: Councilman Tom Owen's opposition to CUP for 2205 Wibben Avenue
Date: Tuesday, November 15, 2016 3:26:27 PM

Dear Members of Metro Louisville's Board of Zoning Adjustment:

Please add my voice to the opposition to the granting of a Conditional Use Permit at 2205 Wibben Avenue to allow for a non-owner occupied short term rental residence. Clearly in your early votes on this issue it is critical to pay attention to current resident's concerns about severely limited off- and on-street parking in the immediate area which is near a commercial district and the small lots where a goodly number of adjacent residents live. When our Metro Council crafted the current short term rental ordinance, I believe we intended that there ought to be a high hurdle for the granting of the CUP.

Please note that I deeply appreciate your service on BOZA and do not envy your search for the Wisdom of Solomon.

Tom Owen
8th District