

**Board of Zoning Adjustment**  
**Staff Report**  
May 20, 2019



<b>Case No:</b>	18CUP1199
<b>Project Name:</b>	Short Term Rental
<b>Location:</b>	900 Texas Avenue
<b>Owner:</b>	Katy Ashford, LLC by Eric Carrico, Manager
<b>Applicant:</b>	John C. Talbott
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Coordinator

**REQUEST**

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

**CASE SUMMARY/BACKGROUND**

The 0.102 acre site is located on the southeast corner side of Texas Avenue and Alexander Drive in the Schnitzelburg neighborhood. The property is zoned R-5 and is within a Traditional Neighborhood Form District. The submitted floor plan shows four bedrooms, one of which is shown as an office but also has a bed. There are two bedrooms in the basement, but were not counted. The four bedrooms would allow for ten guests.

Two parking credits are located in front of the house along Texas Avenue and approximately six parking credits are located along Alexander Drive. The two car garage could also be used. The Board will need to confirm that guests will use Alexander Drive for parking as per the neighborhood meeting.

The property is within 600 feet of an existing short term rental ***17CUP1003, located at 933 Keswick Boulevard, approved on June 5, 2017. The applicant will need to justify relief from this listed requirement.***

**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 outstanding technical review items.

## **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on February 5, 2019, and four people attended. Concerns were listed as electrical and HVAC work, the privacy fence, occupancy rate, property management, house rules and parking preference.

## **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 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 applicant states that the residence has four bedrooms which will allow for ten 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 one property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host. The applicant will need to request relief to this provision in accordance with LDC Section 4.2.2.B. 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 dwelling unit is a single family residence.***
- 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 two on-street parking spaces along Texas Avenue and approximately six parking credits along Alexander Avenue, (the preferred side for parking as per Neighborhood Meeting).***
- 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.***

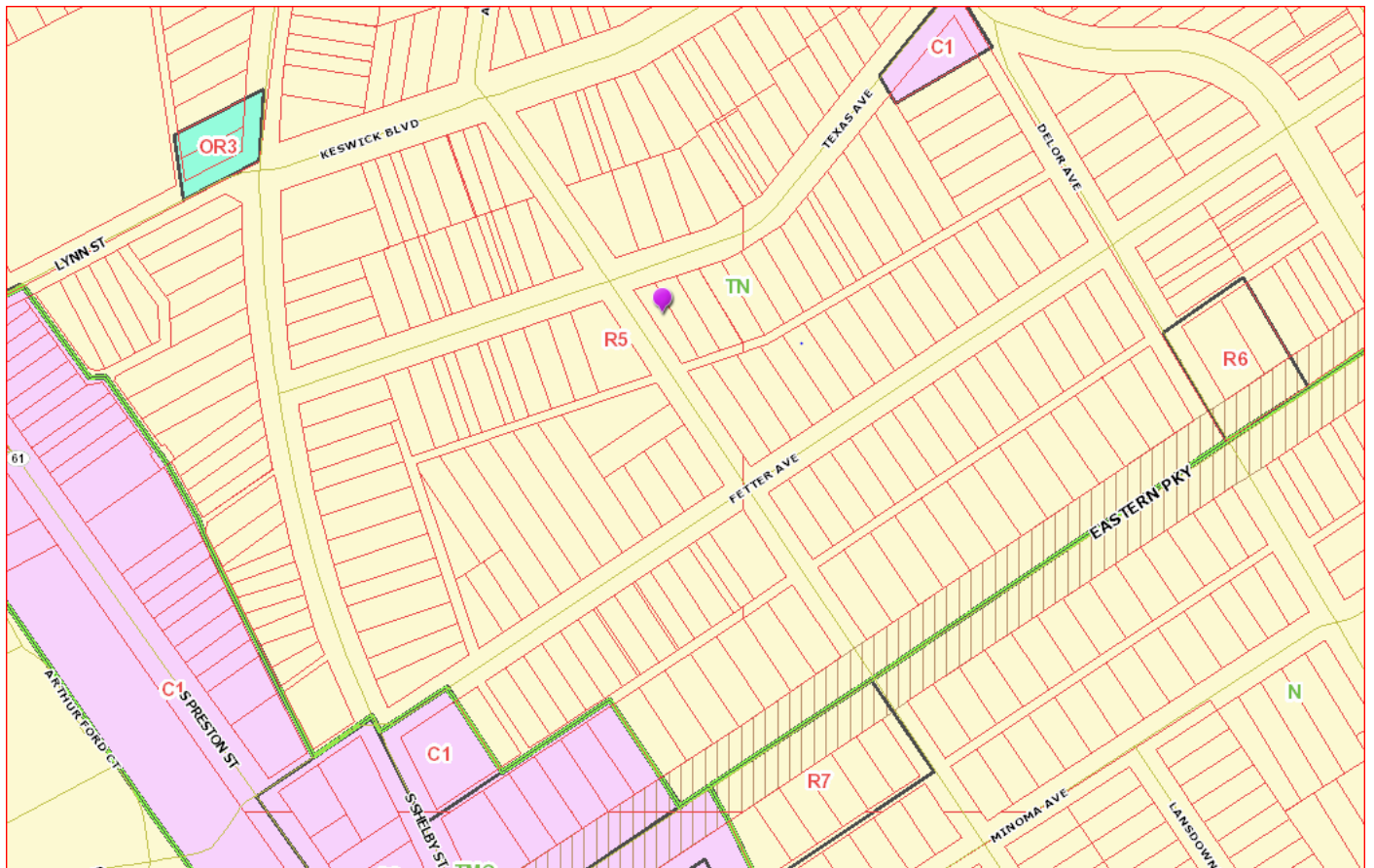
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5/3/2019 5/3/2019	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
5/2/2019	Hearing before BOZA	Sign Posting

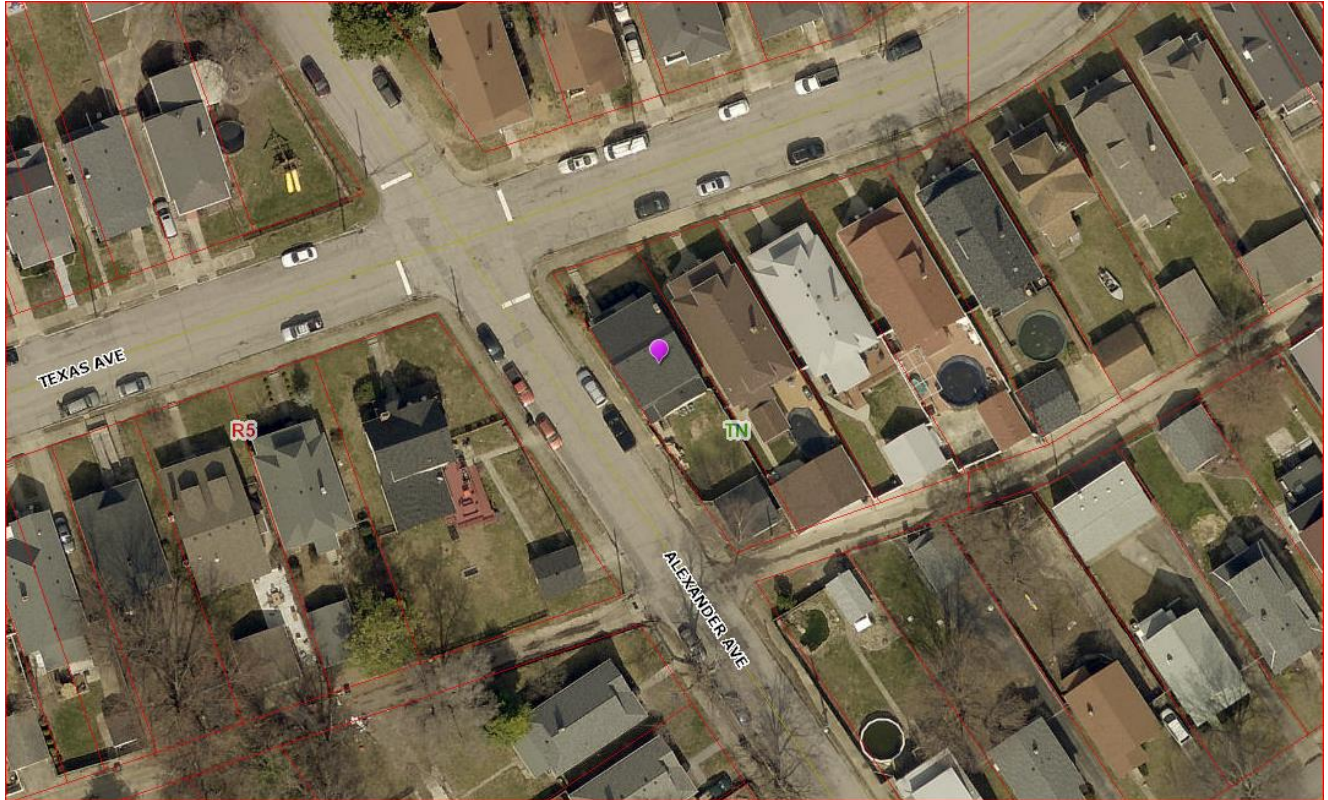
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Front of house
4. Neighborhood Meeting/Minutes
5. Floor Plan
6. Bedroom Pictures
7. 600 foot map

# Zoning Map



**Aerial Photograph**



**Front of house**



### Neighborhood Meeting Summary

A neighborhood meeting was held on Tuesday, February 5<sup>th</sup> at 7:00 p.m. at Zion Church/Redeemer PCA located at 1310 E. Burnett Ave, in the fellowship hall. Those in attendance included the applicant's representatives, John C. Talbott, attorney with Bardenwerper, Talbott & Roberts, and the applicant, Eric Carrico.

The meeting began with Mr. Talbott showing overviews and aerials of the area, displaying the zoning districts and nearby development, such as social and entertainment venues. This property has been operated as a short term rental and the application is being made to bring it in compliance with the current Metro Louisville ordinances and regulations. The neighbor immediately adjacent to the property inquired about the electrical and HVAC work being permitted. The applicant advised that he would provide her with the information she was seeking. This same neighbor also expressed some concern and complaint about the privacy fence separating her property from the applicant's property. At the neighbor's request, the applicant agreed to remove the privacy fence which had been installed by a prior owner.

The neighbors asked many questions, such as the occupancy rate at the property and how the property was managed. The applicant explained that he has outdoor cameras installed that are motion activated and save any film for 30 days. He also agreed to restrict the rental to only out of town guest, to prevent the concern that the home could be rented by locals for parties or nefarious behavior. One of the attendees refused to provide any basis of concern but it was apparent she was not in favor of the CUP.

The applicant, Mr. Carrico, explained that the rules that all tenants have to submit to includes that there is no outside noise after 10:00 pm. The "house rules" were shown to the attendees which emphasize the noise restrictions and other various rules, such as limitation on guest, no overnight guests, no parties, etc.

Upon directly asking the closest neighbor about noise or other disturbances, she acknowledged that overall the use was not a disruption in terms of noise. However, she did ask the applicant to have renters park on the side, rather than the main street.

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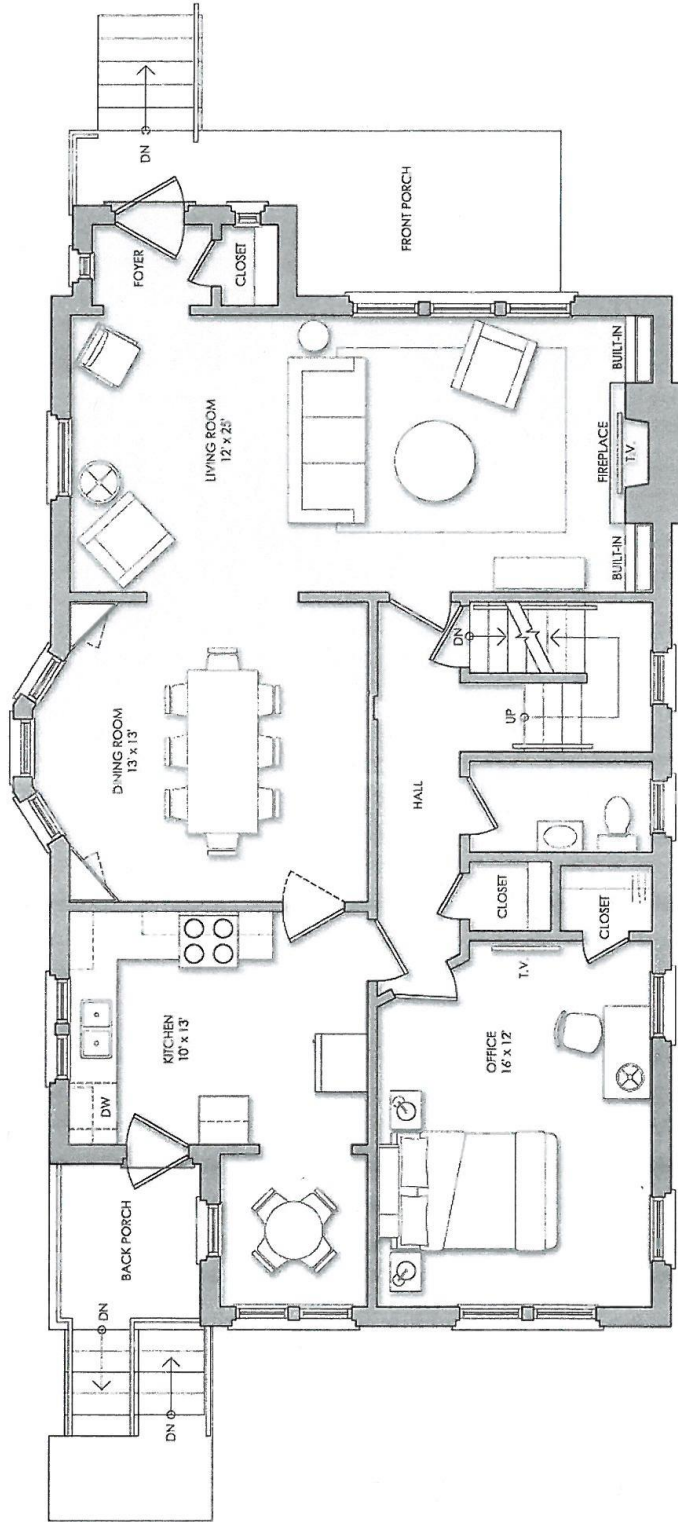
# Developer's Neighborhood Meeting

**Meeting Date and Time** February 5, 2019 @ 7:00 pm **Developer's Name** Katy Ashford, LLC c/o Eric Carrico  
**Location of Meeting** Zion Church/Redeemer PCA, 1310 E. Burnett Ave  
**Description of Proposal** Proposed Conditional Use Permit to allow a short-term rental  
**Subject Site Location** 900 Texas Ave

## NEIGHBORS IN ATTENDANCE

NAME	ADDRESS	ZIP CODE	EMAIL ADDRESS
✓ JUSTIN KIRCHNER ETHA Lechleiter	902 Texas Ave	40217	boejum46@att.net ellecho1@yahoo.com
✓ CATH WESTMEIER	849 FETTER AVE	40217	CARYNBABLE@GMAIL.COM
Tony Fulks	wasn't present		
✓ Sara Nay Fettner Geoff Wohl (not present)	601 W. Jefferson St. "	40204 "	Sara.feltner@louisvilleky.gov geoff.wohl@louisville.ky.gov

PLEASE WRITE LEGIBLY

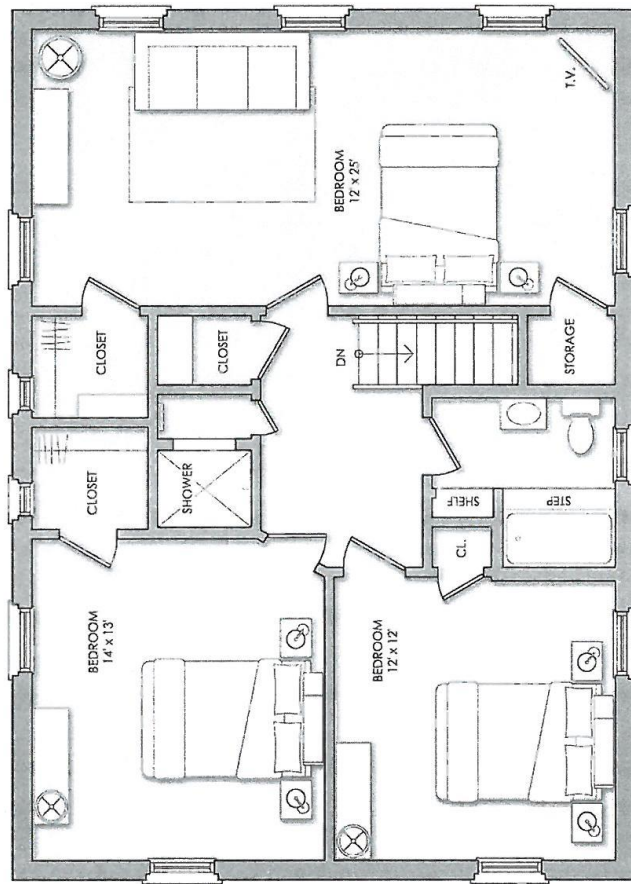


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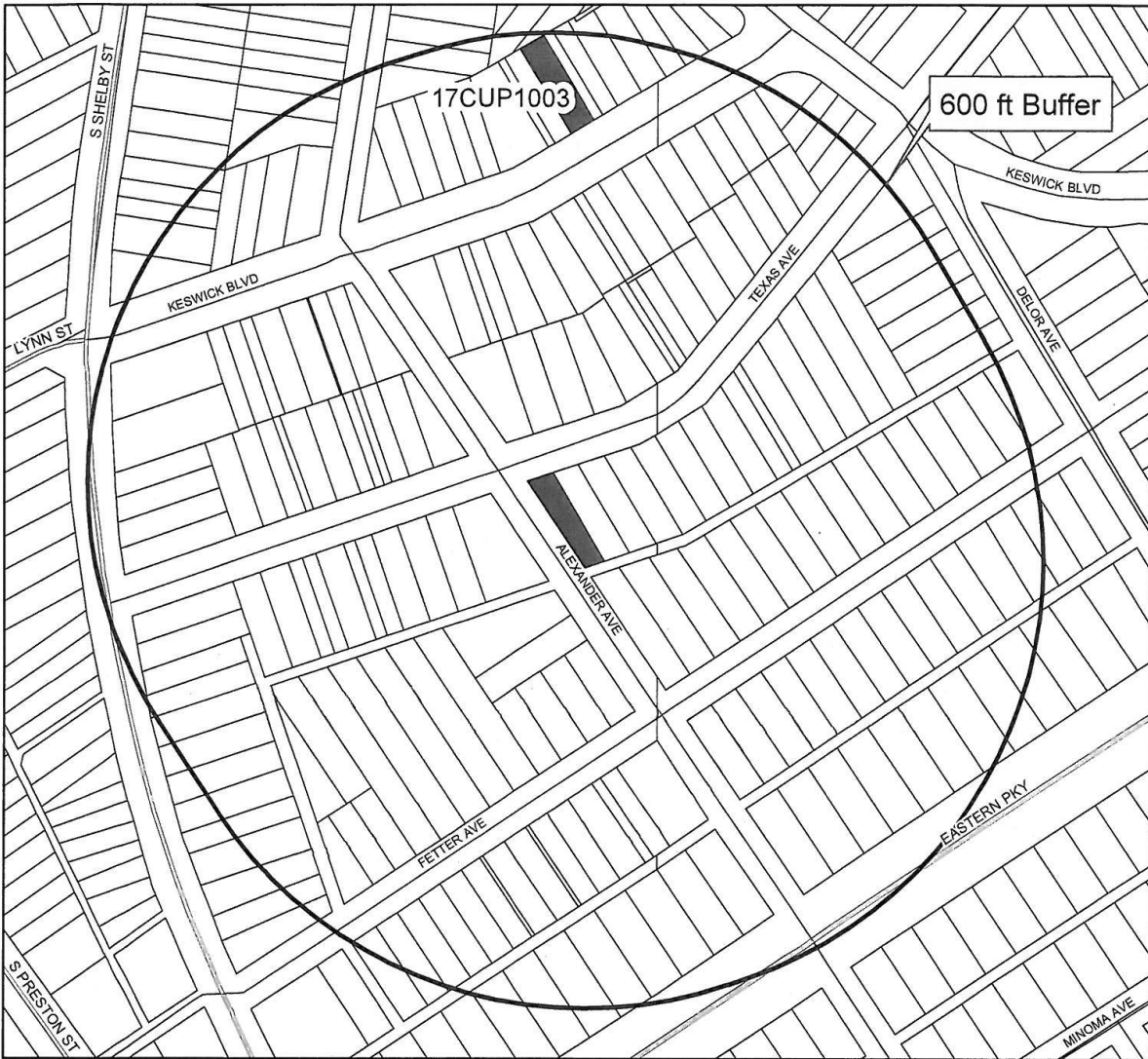
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Map Created: 05/13/2019



KRS 100.237




(6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected within any county containing a city of the first class or a consolidated local government, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice shall be by first-class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:

(a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or

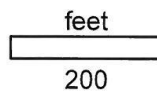
(b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

**Legend**

-  Buffer
-  Subject Site
-  Approved



**Pre-App Map  
Case # 18CUP1199**



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