

Board of Zoning Adjustment
Staff Report
November 4, 2019



Case No:	19-CUP-0136
Project Name:	Short Term Rental
Location:	1211 Rogers Street
Owner/Applicant:	Brent Wesley
Jurisdiction:	Louisville Metro
Council District:	# 4---Barbara Sexton Smith
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in a R-6 Zoning District and Traditional Neighborhood Form District.

CASE SUMMARY/BACKGROUND

The 0.09 acre site is located on the northwest side of Rogers Street between Baxter Avenue and Eastern Cemetery in the Irish Hill Neighborhood. The applicant intends to renovate the existing 1,156 square foot, single family dwelling to a three bedroom, three bath house with a detached garage that will have a room and bathroom above it, for a total of four bedrooms and four bathrooms. The applicant intends to rent out two bedrooms of the house for short term rentals and live in the other part of the home. The applicant is applying for the Conditional Use Permit, since in the future, this may not be his primary residence. The site plan for the proposal shows a two car garage with two parking spaces in the driveway and one parking credit available on the street.

There is no Open Enforcement Case.

There is one other Short Term Rentals within 600 feet of the subject site and the applicant has submitted a justification letter.

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 August 5, 2019, with three invitees in attendance.

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. Renovation is scheduled to take place, if approved.

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 dwelling will eventually have four bedrooms which would 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, there is one property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property. The applicant has requested relief to the provision in accordance with LDC Section 4.2.2.B.

If the Board does not grant relief, the applicant 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 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 applicant states there is one on street parking space and two off-street parking spaces.

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.

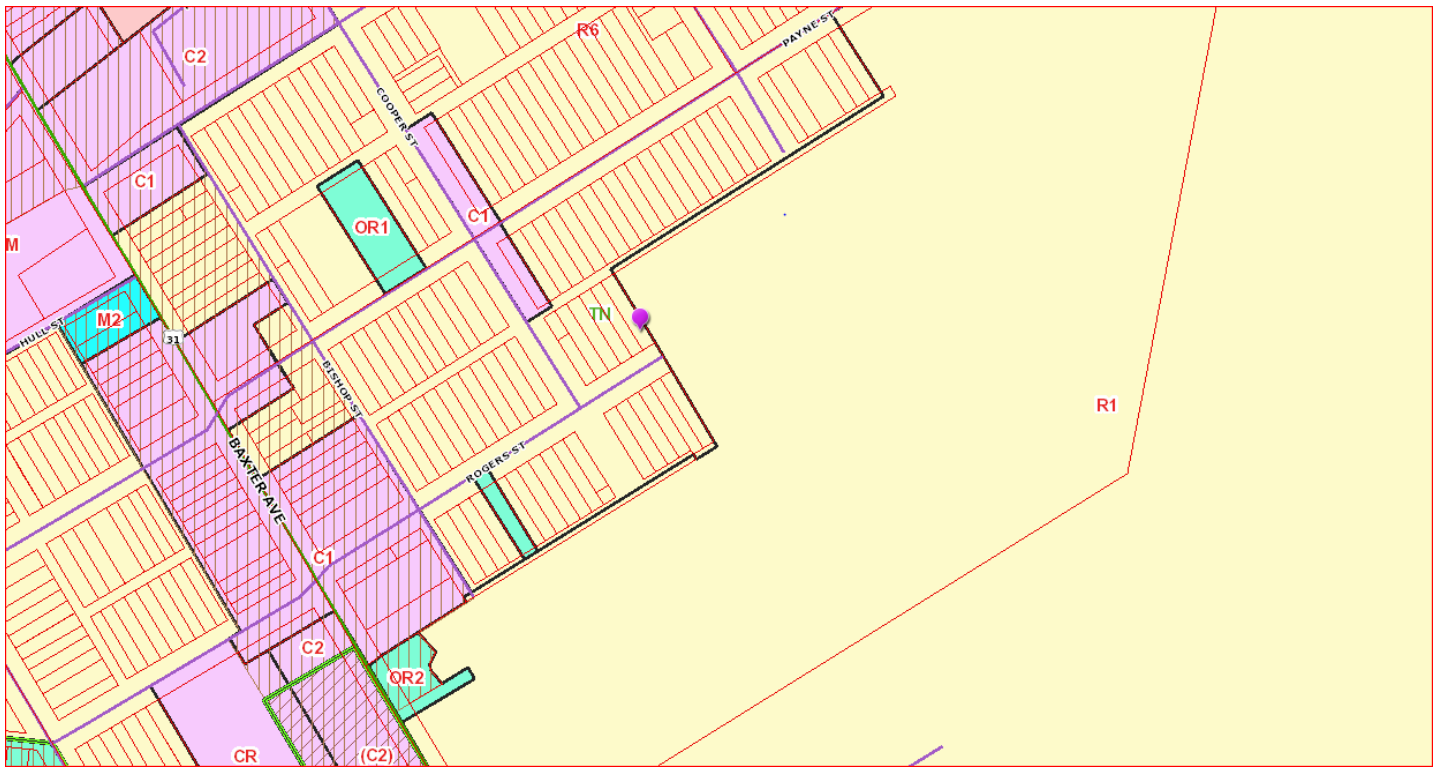
NOTIFICATION

Date	Purpose of Notice	Recipients
10/19/2019 10/18/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
10/23/2019	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 600 Foot Map
4. Explanation Letter, Relief Request, Neighbor’s Support
5. Neighborhood Meeting/Minutes
6. Site Plan
7. Floor Plan

Zoning Map



Aerial Photograph

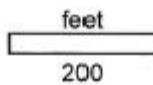




- Legend**
- Subject Site
 - Approved
 - Pending
 - Buffer



**19-CUP-0136
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.

August 23, 2019

Louisville Metro Planning and Design Services,

My name is Brent Wesley. I live at 1211 Rogers Street. I own a landscape design and build company located in downtown Louisville. I have been a lifetime resident of Louisville and a resident of the Highlands for 20 years. I have lived in the Irish Hill neighborhood for 10 years. I have watched all of the changes and growth that have come to the Irish Hill Neighborhood over the last decade.

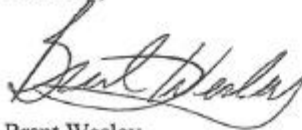
Currently, my home at 1211 Rogers Street is a one bedroom and one bath house. My plans are to remodel the property to be a three bedroom, three bath house with a detached garage. The garage will have a room and bathroom above it, for a total of four bedrooms and four bathrooms. I have one on street parking spot and two off street parking spots, with the potential for more.

After the renovation, my plans are to rent out two bedrooms of the house for short term rentals. I will be living in the other part of the home so it will be owner occupied. I am applying for a Conditional Use Permit to operate a short term rental because in my future plans, this may not be my primary residence.

My residence is unique in the neighborhood in that it is on a dead end street, literally. My property adjoins Eastern Cemetery (16 acres). Eastern Cemetery adjoins Cave Hill Cemetery (296 acres). Cave Hill Cemetery adjoins Cherokee Park (409 acres). Therefore, this property adjoins 700 acres in the city which makes it a very unique property. There will only be neighbors on one side of the property. Even though this street is a dead end, the alley is a thoroughfare. Another unique feature of my home is that it is surrounded by commercial property only two hundred feet away on Cooper and Payne and at the end of Rogers street is a significant amount of commercial property on Baxter Avenue.

I am making a large investment in the neighborhood, significantly larger than the other applicants that have applied near my property. The other applicants are not residents of this neighborhood. I have a relationship with the neighbors and neighborhood and would be easily accessible should a problem arise with the neighbors. This, I feel, makes me the best choice for a Conditional Use Permit in the Irish Hill neighborhood.

Sincerely,



Brent Wesley

RECEIVED
AUG 27 2019
PLANNING &
DESIGN SERVICES

October 27, 2019

RE: Request for Relief from Item D of the Listed Requirements for Short Term Rentals
1211 Rogers Street, Louisville, KY 40204

Louisville Metro Planning and Design Services,

My name is Brent Wesley, and I am requesting relief from Item D of the Listed Requirements for Short Term Rentals for 1211 Rogers Street.

I realize there was a CUP property at 1222 Payne Street approved on October 21, 2019. Although this property is within 600 feet, I believe my property is unique and should also be approved for the following reasons:

- My house is located on a different street than the previously approved property. However, 1211 Rogers Street is on a dead end street and the alley where guests will be parking and entering the property, is a thoroughfare.
- My property has one on-street parking spot and two off-street parking spots.
- My property is unique in that there will only be neighbors on one side since it is the last home on a dead end street adjoining Eastern Cemetery on one side.
- The property is surrounded by commercial businesses, restaurants, etc. on Cooper and Payne within a short walk with many additional commercial properties on Baxter and Rogers within 600 feet.
- Although this property is currently owner occupied, I am asking for relief because it will not be in the future.
- I am making a significant investment in the Irish Hill Neighborhood and would appreciate your help in protecting my business investment for the future.

I would appreciate your consideration in this matter.

Sincerely,

Brent Wesley

Hendrix, Steve

From: Jill Fox <jillfoxx13@gmail.com>
Sent: Monday, October 28, 2019 7:06 PM
To: Hendrix, Steve
Subject: Case # 19-CUP-0136

CAUTION: This email came from outside of Louisville Metro. Do not click links or open attachments unless you recognize the sender and know the content is safe

Good evening Steve,

I wanted to let you know that I spoke to Brent Wesley about his plans for his short term rental permit. We discussed the application for the CUP and my concerns. He sent me his building plans and explained his long term strategy.

I have no opposition to him being granted the CUP.

Sincerely,

Jill Fox
1209 Rogers st. Louisville, KY 40204

Minutes of Meeting

Location: Ciao Ristorante, 1201 Payne St. Louisville, KY 40204

Attendees:

Brent Wesley, 1211 Rogers St., Louisville, KY 40204
Jill Fox, 1209 Rogers St, Louisville, KY 40204
Bill Carner, 1210 Rogers St, Louisville, KY 40204
Mary Ceridan, 1210 Rogers St, Louisville, KY 40204

The meeting was called to order at 6:00PM, August 21, 2019.

Mr. Wesley advised the purpose of the meeting was to present his proposal to operate a short term rental located at 1211 Rogers St, Louisville, KY 40204. He asked those present if they had any question regarding this proposal.

Ms. Fox and Mr. Carner asked if this was going to be owner occupied short term rental. Mr. Wesley responded that it will be owner occupied for the present but may not be in the future.

Ms. Ceridan and Mr. Carner asked how this will affect the properties at 1222 and 1217 Payne St, Louisville, KY 40204 whose owners are also applying for a Conditional Use Permit.

Mr. Wesley stated that the City of Louisville will only allow one short term rental within the 600 foot area.

Further comments:

- 1211 would be the best location due to the following factors:
- Mr. Wesley (1211) is a long time resident of the neighborhood
 - the owners of 1217 and 1222 are not residents
 - 1211 is on a dead end street with potentially more parking in the master plan
 - 1222 would be 3 bedrooms allowing the Louisville 10 occupancy maximum which could potentially create numerous problems such as lack of parking and lower per person occupancy rates, etc.

Per Mr. Carner said several other residents not present at the meeting had expressed to him that they had no objection to Mr. Wesley's request for a Conditional Use Permit, as he would be easily accessible to them should any problems arise.

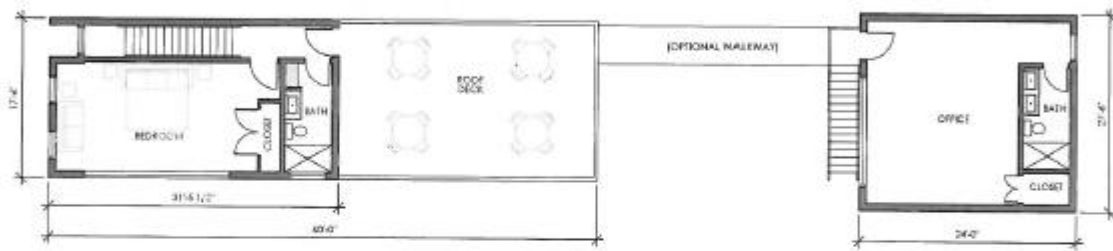
The meeting ended at 6:35PM.

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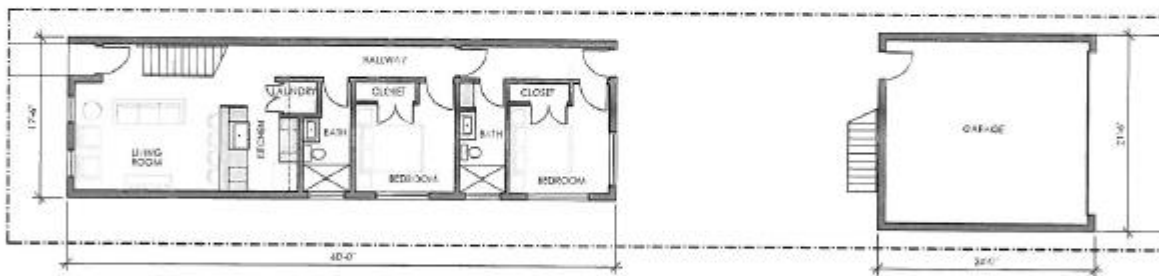
AUG 27 2019

DESIGN SERVICES

79 CUP 0136



02 SECOND FLOOR PLAN
SCALE: 1/8"=1'-0"



01 FIRST FLOOR PLAN
SCALE: 1/8"=1'-0"



FLOORPLAN	
NO. 002 FLOOR PLAN DATE: 08/20/19	SK-02B
<small> PROJECT: 19-CUP-0136 DRAWN BY: [Name] CHECKED BY: [Name] DATE: 08/20/19 </small>	