

**Board of Zoning Adjustment**  
**Staff Report**  
January 13, 2020



<b>Case No:</b>	19-CUP-0235
<b>Project Name:</b>	Short Term Rental
<b>Location:</b>	101 West Ormsby Avenue
<b>Owner:</b>	Ken Herndon
<b>Applicant:</b>	Chill House, Alexandria Bolton
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	# 6--- David James
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Coordinator

**REQUEST**

Conditional Use Permit to allow short term rental of the single family dwelling in a Traditional Neighborhood Zoning District and Traditional Neighborhood Form District.

**CASE SUMMARY/BACKGROUND**

The 0.090 acre site is located on the northwest corner of the West Ormsby Avenue/ South First Street intersection in the Old Louisville Neighborhood. The property contains a 3,234 square foot single family dwelling with three bedrooms. This would allow for eight guests. The owner intends to rent on the weekends. The property has approximately 33 feet of street frontage along West Ormsby Avenue and 120 feet along South First Street, therefore, ample parking.

There is NOT an Open Enforcement Case.

There are four other Short Term Rentals within 600 feet of the subject site.

The property is within the Traditional Neighborhood Zoning District and is owner occupied. The applicant has agreed to the following condition:

**The Host of record for the short term rental shall maintain his or her primary residence in the dwelling unit on the subject property.**

**In the event that the Host establishes primary residence on another property, he or she must immediately cease conducting short term rentals on the subject property.**

**A new conditional use permit shall be required to allow for short term rentals on the property that is not the primary residence of the Host.**

### **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 October 14, 2019, with three invitees in attendance. A discussion was made about the intended operators.

Mr. Hendon stated that both immediate neighbors expressed support and that there was no ill effects from a nearby short term rental operated by Chill House.

### **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 applicant states that the house has three bedrooms.***
- 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 are four properties 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 property is within the Traditional Neighborhood Zoning District and is owner occupied. The applicant has agree with the following condition:***

**The Host of record for the short term rental shall maintain his primary residence in the dwelling unit on the subject property.**

**In the event that the Host establishes primary residence on another property, he must immediately cease conducting short term rentals on the subject property.**

**A new conditional use permit shall be required to allow for short term rentals on the property that is not the primary residence of the Host.**

- 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 property has 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 site is located on the corner of West Ormsby Avenue and South First Street and has approximately 150 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.***

**NOTIFICATION**

Date	Purpose of Notice	Recipients
12/30/2019 12/27/2019	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 6
01/03/2020	Hearing before BOZA	Sign Posting

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. 600 Foot Map
4. Neighborhood Meeting/Minutes
5. Explanation Letter
6. Letters of Support
7. Bedroom Pictures
8. Additional Condition of Approval

**Zoning Map**



**Aerial Photograph**





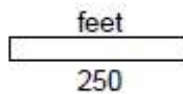
Map Created: 01/08/2020



**Legend**

-  Buffer
-  Subject Site
-  Approved
-  Pending

**Formal Proximity Map  
19-CUP-0235**



This map is subject to change upon the Board of Zoning Adjustment granting approvals to other Short Term Rental Conditional Use Permits.



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# Owner-Occupied Short Term Rental Application

101 West Ormsby Avenue

## Letter of Explanation

RECEIVED  
NOV 05 2019  
PLANNING DEPARTMENT

To Whom It May Concern:

This is a letter requesting relief from the 600 ft rule requirement (4.2.63 D) and to grant a Conditional Use Permit allowing my property at 101 West Ormsby Avenue to be marketed as an owner-occupied short term rental property on weekends.

- Owner: Ken Herndon Properties LLC
- Occupation: Self-employed Placemaking Consultant and a Real Estate Agent with Jan Scholtz Realtors
- 101 West Ormsby Avenue is a single family dwelling, with 3 bedrooms and 3.5 bathrooms and is currently occupied by two residents with one car each.
- For the STR, the entire home will be available for rental on weekends only.
- Bookings and direct servicing of renters will be handled by experienced property managers, Chill House on my behalf who have operated a property nearby for many months. I and my two immediate neighbors have closely observed that property and have noted no problems with its operation or condition.
- I have also made arrangements, on STR-occupied weekends, to be staying on Zorn Avenue at a condo owned by an out-of-town friend and, if needed, will be 15 minutes away from my primary residence at 101 West Ormsby.
- I have resided at 101 West Ormsby for 15 years and, during that time, have rarely had trouble parking directly in front of my home as many buildings immediately adjacent to my property have been returned to single family homes after having been divided into multiple apartments for decades, therefore reducing the need for parking.
- Further, regarding parking, I have also sought and received permission from the owner of 100 West Ormsby (letter attached), who has four off-street parking spaces, to allow renters at my home to have access to those spaces as needed.
- I am also providing letters of support from both of my immediate neighbors to the west at 103 and 105 West Ormsby (attached).

19-CUP-0235

**101 West Ormsby Avenue  
Neighborhood Meeting  
Monday, October 14, 6pm, Burger Boy Diner**

*Attendees: (sign-in sheet attached)*

Helga Ulrich, 112 East Ormsby Avenue

Kylie Spivak, 248 Kennedy Ave, #1

Ivan D Rodriguez, 248 Kennedy Ave, #1

Ken Herndon, 101 W Ormsby Ave

*Minutes prepared by Ken Herndon*

The meeting began at 6:03pm

Ms. Ulrich expressed a concern about Chill House, the company Mr. Herndon has chosen to operate his home as an owner-occupied AirBNB. Ms. Ulrich claimed that Chill House was in violation of ordinances on the other properties they manage but declined to share those documents with Ms. Spivak and Mr. Rodriguez present. Ms. Spivak challenged Ms. Ulrich's assertions and offered to meet with her to discuss them privately.

Mr. Herndon stated that he had spoken with his immediate neighbors at 103 and 105 W Ormsby personally in addition to mailing to the required list. He said that the immediate neighbors expressed support for his application and neither he nor they had noticed any ill effects from the nearby STR property owned by Anne McMichael and operated, on Ms McMichael's behalf, by Chill House.

Mr. Herndon asked Ms. Ulrich to share the name of the Metro person she had filed complaints with so that he could speak to them directly about the complaints. Ms. Ulrich declined to provide the name and offered to do so outside of the public meeting.

The meeting adjourned at 6:30pm

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NOV 05 2019  
PLANNING & DESIGN  
SERVICES

19-CUP-0235

SHORT TERM RENTAL MEETING  
MONDAY, OCTOBER 14, 6:00 PM  
BURGER BOY DINED

SIGN-IN SHEET

<u>Name</u>	<u>Address</u>
Helga Umanah	112 E Dinsby Ave
Kylie Spivak	248 Kennedy Ave Apt. 1 40206
Juan D. Rodriguez	248 Kennedy Ave - Apt. 1 40206
Ken Gumbert	101 W. Owsley Ave 40203

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NOV 05 2019

DESIGN

November 2, 2019

To Whom It May Concern:

This letter is presented in support of Ken Herndon's application to operate an Owner Occupied Short Term Rental (STR) at 101 West Ormsby Avenue, next door to our home, 103 West Ormsby Avenue.

We understand that the STR will be operated by Chill House on Ken's behalf. They operate another STR near our home which has been well maintained in the many months of operation and we have noted no adverse effects on our block.

Ken takes immaculate care of his property, is very considerate of all neighbors and we have no doubt he will continue this standard of care while operating an owner occupied STR.

Scott and I fully support the approval of Kens application.

Very Sincerely,

Yvette and Scott Morris  
103 West Ormsby Avenue  
Louisville, Ky 40203  
(502) 712-3913  
[Ykm1965@yahoo.com](mailto:Ykm1965@yahoo.com)

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To Whom it may concern,

This letter is in support of Ken Herndon's application to receive permission to operate an Owner-Occupied Short Term Rental(STR) at 101 West Ormsby Ave, 2 doors down from my home at 105 West Ormsby Ave.

I understand that the STR will be operated by Chill House for Mr. Herndon, the same service operates another STR near our home. That property is well maintained and has had no adverse affects on our block.

Ken has been a great neighbor for the past 15years and has always taken great care of his property and I am confident that he will continue to maintain the highest standard of care for his property and our block.

Please feel free to call me if you have any questions or concerns,

Thank you for your time,



Kenny and Christy Stewart

105 West Ormsby Ave

502.548.6787

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NOV 05 2019

To Whom It May Concern:

I am writing in support of Ken Herndon's application for Short Term Rental at his property located at 101 West Ormsby Avenue. I am a property owner directly across the street, at 100 West Ormsby Avenue. My property has 4 off-street parking spaces located off the alley, directly across the street from Mr. Herndon's proposed Airbnb. I have agreed to let any guests utilize these off street parking spots if needed.

Sincerely,



Ann McMichael  
Property owner 100 West Ormsby

RECEIVED



# Owner-Occupied Short Term Rental Application

101 West Ormsby Avenue



Master Bedroom



Third Floor Bedroom



Third Floor Bedroom

**Additional Condition of Approval:**

The Host of record for the short term rental shall maintain his primary residence in the dwelling unit on the subject property.

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A new conditional use permit shall be required to allow for short term rentals on the property that is not the primary residence of the Host.