

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



<b>Case No:</b>	19-CUP-0232
<b>Project Name:</b>	Short Term Rental
<b>Location:</b>	5309 Westhall Avenue
<b>Owner/Applicant:</b>	Villehomes LLC, by Luke Neubauer
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	# 21 – Nicole George
<b>Case Manager:</b>	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 host in a R-4 Zoning District and Neighborhood Form District.

**CASE SUMMARY/BACKGROUND**

The 0.279 acre site is located on the east side of Westhall Avenue just east of Iroquois Park and New Cut Road in the Kenwood Hill Neighborhood. The single family dwelling has approximately 1,264 square feet and the applicant has submitted pictures of four bedrooms which will allow for ten guests. The property has an approximate 100 foot long driveway which widens at the garage. The applicant has stated that no parking will be allowed on the street.

No other Short Term Rentals with a Conditional Use Permit are within 600 feet of the subject site. There is NOT an Open Enforcement Case.

**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 29, 2019, with two neighbors and District Representative Nicole George in attendance. The applicant stated that no parking would take place on the street. Other discussion included monitoring the property and the numbers of guests. The applicant stated that the neighbors seemed supportive.

## 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 has submitted pictures of 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 was no other 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.***
- 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 an approximate 100 foot long driveway that widens at the garage. No parking is to take place on the street.***
- 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.***

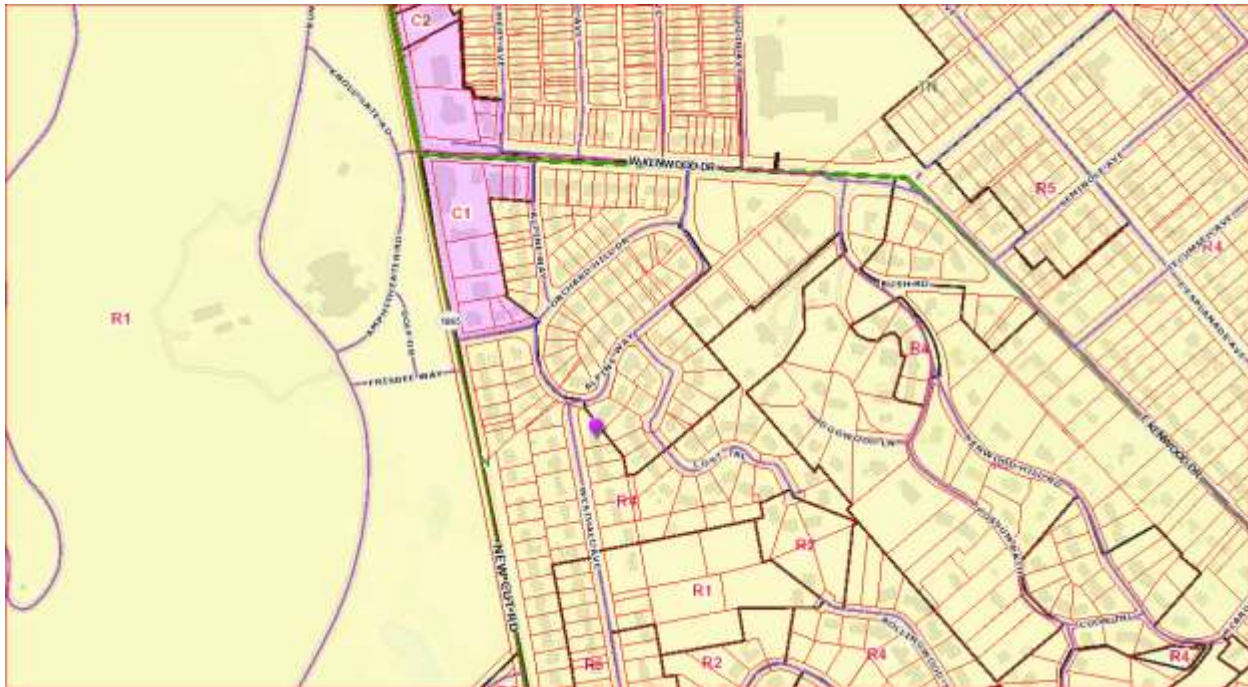
**NOTIFICATION**

Date	Purpose of Notice	Recipients
12/27/2019 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 # 21
01/03/2020	Hearing before BOZA	Sign Posting

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. 600 Foot Map
4. Explanation Letter
5. Neighborhood Meeting/Minutes
6. Bedroom Pictures

# Zoning Map



**Aerial Photograph**



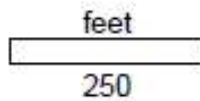
Map Created: 01/08/2020



**Legend**

-  Buffer
-  Subject Site

**Formal Proximity Map  
19-CUP-0232**



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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Letter of Explanation for Proposed Development

This request is for a Conditional Use Permit to be able to rent 5309 Westhall Ave as a short term rental. The entire property will be available for rent as one dwelling unit. The property will have ability to hold 10 guests. Parking will be 5 off street spots in the driveway of the house and in the garage. The house has 4 bedrooms and has just recently been renovated. Christina is a full time real estate agent and Luke is a full time real estate investor mainly holding long term rental properties and flipping houses, but we have short term rentals as well.



Summary of Neighborhood meeting for 5309 Westhall Ave

Meeting Date: 10/29/2019 at 7:30pm

2 Neighbors and the District Representative Nicole George showed up to the meeting. First question was about parking and concern regarding parking on the street. We made it clear that there will not be any parking on the street allowed and that cars will be required to park in the driveway. There is plenty of driveway parking for this property. Next question was about the way that we would be monitoring the property. We explained that we would be installing motion sensed cameras with a security system and noise level monitors. The next question was about how many guests would be allowed, and we explained that it would be 10 guests. Next question was about the garbage and the leaves. We explained that we would have weekly lawn care and make sure that either guests or management company take out the garbage every week. Neighbors seemed supportive of the plan and I gave them my cell phone number in case there were any questions or concerns that came up in the future.

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NOV 04 2019  
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Neighborhood Meeting 5309 Westhall Ave 40214

Luke Newbauer	115 Waverly Ct 40206	502 296-0599
Nick Georg	4517 Southern Pkwy	502 644-8230
Walt Jackson	5316 Lost Tr.	338-4235
Phyllis Senn	5302 Westhall Ave	439-1863

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