

Board of Zoning Adjustment

Staff Report

August 8, 2019



Case No.	18CUP1180
Project Name	Short Term Rental
Location	120 N. Bellaire Avenue
Owner/Applicant/Host	Thomas Fawbush Jr.
Jurisdiction	Louisville Metro
Council District	9 – Bill Hollander
Case Manager	Beth Jones, AICP, Planner II

REQUEST

Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63)

CASE SUMMARY / BACKGROUND

The applicant proposes to conduct short-term rental at a duplex residence on the site. As neither unit is the primary residence of the host, a Conditional Use Permit is required.

The site is located on the west side of N. Bellaire Avenue between Burnett Avenue north of Frankfort Avenue. It and all adjoining properties to the north, south and west are zoned R5-A Multi-Family Residential. Properties to the north and west are in residential use; the property to the south is a church. Properties to the east are zoned R-6 Multi-Family Residential, in residential use, and C-1 Commercial, in commercial use. All adjoining residential properties are located within a Traditional Neighborhood form district; the commercial properties are in a Traditional Marketplace Corridor form district.

The site is developed with a residence, currently operating as a duplex, and a garage. The first floor unit includes two bedrooms on the first floor; up to six guests are permitted. The second floor unit has one bedroom; up to four guests are permitted. LDC standards credit the site with one on-street parking space along the property frontage. A two-vehicle garage at the rear of the site will not be available for guest use.

PVA lists the existing structure as a duplex residence, which is permitted in the R-5A zone. The site exceeds density standards, however, and cannot accommodate two dwelling units. Non-conforming rights for the duplex use must be established.

STAFF FINDINGS

Staff recommends continuance of the case until such time as the non-conforming rights issue can be resolved.

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

No technical issues remain to be resolved.

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 Comprehensive Plan policies.

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 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 are 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 does not appear to create substantial additional requirements for the site.

4. Does the proposal comply with 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 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.

STAFF: 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.

STAFF: 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.

STAFF: The first floor unit includes two bedrooms on the first floor; up to six guests are permitted. The second floor unit has one bedroom; up to four guests are permitted.

- 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.

STAFF: As of the date of this report, there are three properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft of the subject property (see Attachment 3). This is the second of two cases being considered at this hearing regarding two neighboring properties (120 and 122 N. Bellaire), each of which is a non-conforming duplex residence. If the previous case (122 N. Bellaire) has been approved, it would result in an additional existing short-term rental within 600 ft of the site for consideration in this case, bringing the existing total to four.

- 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.

STAFF: The existing structure is a duplex residence, which is permitted in the R-5A zone. The site exceeds density standards, however, and cannot accommodate two dwelling units. Non-conforming rights for the duplex use must be established.

- F. Food and alcoholic beverages shall not be served by the host to any guest.

STAFF: The applicant has been informed of this requirement.

- G Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

STAFF: 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.

STAFF: LDC standards credit the site with one on-street parking space along the property frontage. A two-vehicle garage at the rear of the site will not be available for guest use.

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

STAFF: 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.

STAFF: The applicant has been informed of this requirement.

- K. Prior to commencement of any short term rental on the subject property, the host shall resister 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.

STAFF: 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.

STAFF: The applicant has been informed of this requirement.

NOTIFICATIONS

Date	Purpose of Notice	Recipients
4/29/2019	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 6
7/19/2019	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 6 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proximity Map

1. Zoning Map

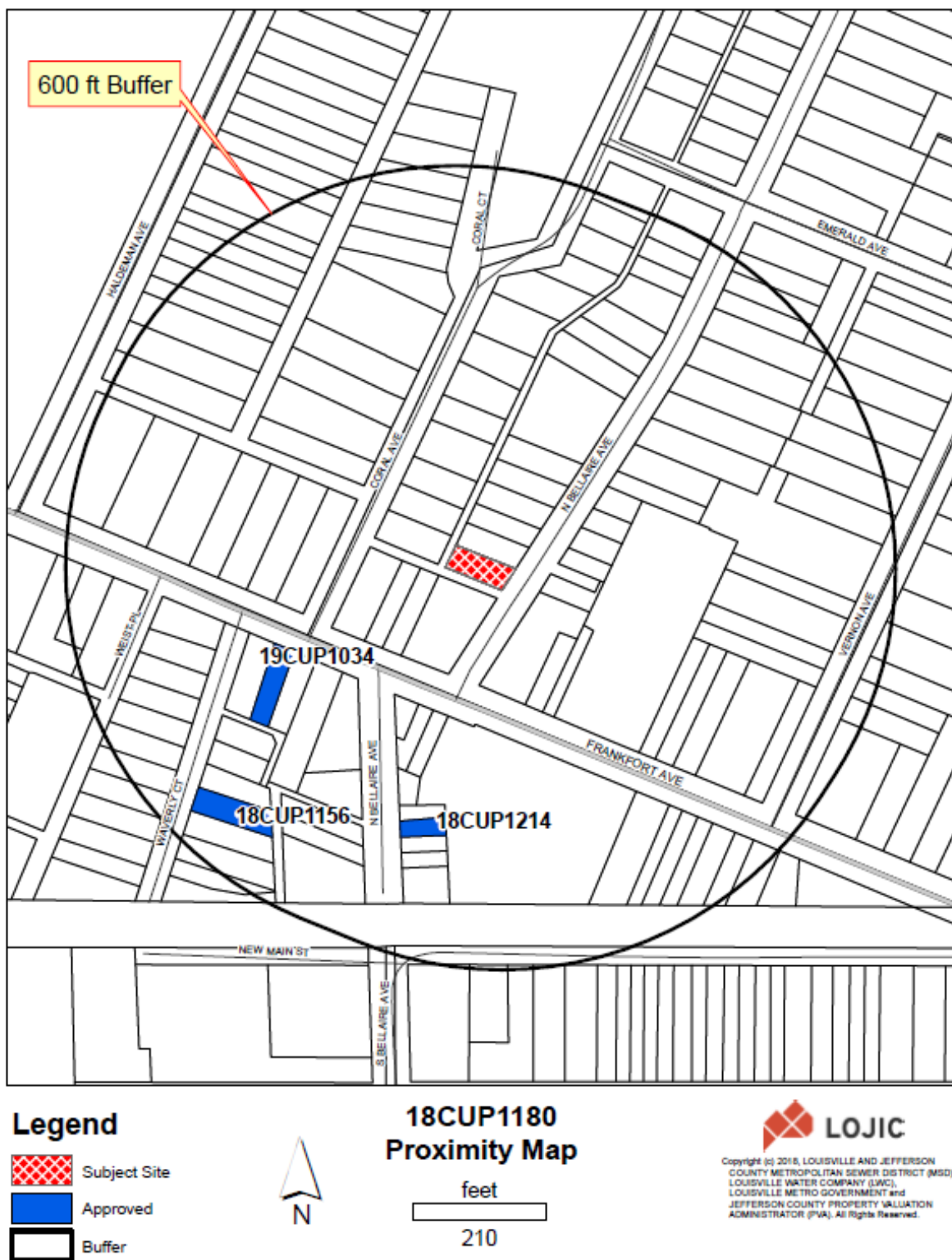


2. Aerial Photograph



Proximity Map

Map Created: 07/25/2019



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