

Board of Zoning Adjustment

Staff Report

January 27, 2020



Case No:	19-CUP-0207
Project Name:	Schneider Short Term Rental
Location:	1814 Bonnycastle Avenue
Owner(s):	Steven Schneider
Applicant:	Jonathan Klunk
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon Crumbie, Planning & Design Coordinator

This case was continued from the December 16, 2019 Board of Zoning Adjustment meeting because the applicant was out of the country.

REQUEST(S)

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

CASE SUMMARY/BACKGROUND

The applicant requests approval to conduct short term rentals at the subject property. The subject property is developed with one structure that is a single-family residence. The applicant states that the residence has four bedrooms that will allow a maximum number of ten guests. The site has credit for on-street parking and there appears to be ample parking along the street. The applicant states that there is one space located on site.

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.

RELATED CASES

None

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on October 9, 2019 and at least one person attended besides the applicant.

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.

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 substantial 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 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 subject property is smaller than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of eight 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 are two properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the 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 applicant has been informed of this requirement.***
- 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 on-street parking and there appears to be ample parking along the street. The applicant states that there is one space located on site.***
- 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
12/05/2019	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
12/05/2019	Hearing before BOZA	Sign Posting

ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. 600' Map
- 4. Justification

- 1. **Zoning Map**



2. Aerial Photograph



3. 600' Map

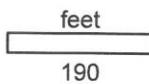


Legend

-  Pending
-  Approved
-  Subject Site
-  Buffer



**19-CUP-0207
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.

4. Justification Statement

January 14, 2020

City of Louisville
Department of Develop Louisville
44 South 5th Street, Suite 300
Louisville, KY

Attention: Mr. Jon Crumbie

Sent Via email: Jon.Crumbie@Louisvilleky.gov

RE: CUP Application for 1814 Bonnycastle Avenue

Dear Mr. Crumbie,

I, along with my wife Cindy, are the owners of the above listed property. This letter is intended to introduce ourselves to you and explain our intent in applying for a CUP at our property as well as discuss the approval merits.

Our application should not be confused with that of an absent owner simply using a property for investment purposes. We are happy to be property owners in Louisville and consider it our home away from home. We greatly enjoying being there any time we can. We spent over a year searching and trying to buy the perfect house, making offers on several before finally getting to purchase our property in October of last year.

We are not just occasional visitors. We have two daughters that play field hockey for the University of Louisville. Our oldest daughter has played for three years there and has one more year and our youngest three more years still. Our oldest daughter is also considering U of L's medical school as her next step in education. Our daughters will be the managers of any rental activity as well as the cleaning crew after a rental.

We intend to occupy our property once a month on average and far more than that during the field hockey Fall and Spring seasons, the holiday season and Derby season. We also expect to occupy our property much more once we have retired in a few years, maybe even full time.

This past fall field hockey season we spent 15 days in the property in October and 18 days in November. We will be occupying the property regularly during the spring season this year and have plans to be in Louisville for 12 days over Derby week this year when we are bringing three couples to join us for the Derby.

Our primary intent is to limit our properties use to family, friends and other sports families of the University of Louisville. We are not looking to rent the property continuously, however, would like the opportunity to occasionally offer it to new people visiting Louisville.

We are of the belief that it is better for there to be occasional occupancy, than for the property to sit unattended when we are not able to visit.

We have met many of our great neighbors and discussed our ideas with them and not a single one has voiced an objection to us. Our next-door neighbor has been helping us improve the property by re-landscaping the front yard, converting it from the overgrown jungle it was, to what will become a nice grass lawn. I understand this is being done with constant approval being expressed from our neighbors walking by.

We understand there is a 600-foot limitation rule that applies to our CUP application and our property does not meet the criteria. We also understand this rule was very controversial when it was recently implemented less than a year ago.

Some points to consider regarding this criterion and our property:

- If our property was located just four properties to the West, it would fully comply with the 600-foot rule.
- Behind our property there already exists 4 large two story apartment buildings full of rental units.
- Our property is located very close the Business and Entertainment corridor of Bardstown Road and few minutes' walk to the major intersection of Eastern Parkway and Bardstown Road.
- When considering a 600-foot radius' around the two existing properties with CUP's nearby, the CUP density is 0.5% (2 out of 390 properties) currently. Adding ours and including a 600' radius around it, would increase density to only 0.6% (3 out of 470 properties). This is hardly an overconcentration by any reasonable standard.
- The two current CUP's near our property eliminated the equal property rights of approximately 390 other properties.
- The two exiting CUP's proximity mean that not a single house on our block/street can comply with the rule.
- Our property would have easily complied with the previous Ordinances' 400-foot recommendation.
- The 600-foot rule, strictly enforced, denies property owners the same rights as other property owners merely by being second to apply for approval.

We are happy to consider any conditions of approval that will help mitigate the circumstances of our approval.

We are looking forward too many, many years as owners of our property in Louisville and hope that that is made more possible by approval of our application.

Sincerely,

Steve and Cindy Schneider