

Board of Zoning Adjustment
Staff Report
January 13, 2020



Case No:	19-CUP-0222
Project Name:	Short Term Rental
Location:	210 East Magnolia Avenue
Owner/Applicant:	Jodie Bass
Attorney:	Sarah S. Almay
Jurisdiction:	Louisville Metro
Council District:	# 6--- David James
Case Manager:	Steve Hendrix, Planning & Design Coordinator

REQUEST

Conditional Use Permit to allow short term rental of the main house and within a proposed carriage house in a Traditional Neighborhood Zoning District and Traditional Neighborhood Form District.

CASE SUMMARY/BACKGROUND

The 0.183 acre site is located on the south side of Magnolia Avenue between South Brook Street and South Floyd Street in the Old Louisville Neighborhood. The property contains a 1,733 square foot single family dwelling with three bedrooms, a storage building and an uninhabitable structure at the rear. The applicant intends to replace the rear structure with a carriage house that will have a three car garage and a second floor studio apartment with two bedrooms.

The property will have a total of five bedrooms; three in the main house and two in the carriage house which will allow twelve guests.

The applicant intends to retain the main dwelling as the primary residence and utilize both the main house and the proposed carriage house to offset the cost of renovation and to generate income for required up-keep and improvements.

The property has 40 feet of street frontage along Magnolia Avenue, the area between the main house and the storage building and eventually one space of the three in the carriage house for parking. There is an Open Enforcement Case, ENF-Zon-19-000234, Active AirBNB that is not registered with the city.

There are three other Short Term Rentals within 600 feet of the subject site, one being "Approved Host".

The property is within the Traditional Neighborhood Zoning District and 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 one of the two dwelling units 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 of both units on the subject property.

A new Conditional Use Permit shall be required to allow for short term rental of any unit 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 2, 2019, with one invitee in attendance who had no complaints or concerns.

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. The applicant intends to replace the existing rear building with a carriage house.

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 units 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 main house has three bedrooms and the carriage house will have two bedrooms which will allow for twelve 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 are two 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, another property is "Approved Host". The property is within the Traditional Neighborhood Zoning District and is owner occupied. The applicant has agreed with the following condition:

The host of record for the short term rental shall maintain his or her primary residence in one of the two dwelling units 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 of both units on the subject property.

A new Conditional Use Permit shall be required to allow for short term rental of any unit 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 main dwelling and a rear structure that the applicant intends to replace with a carriage house.

- 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 40 feet of street frontage along Magnolia Avenue and has parking between the storage building and the rear structure. In the most recent correspondence, the applicant stated that the proposed carriage house will have three parking spaces, with one available for guests.

- 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.

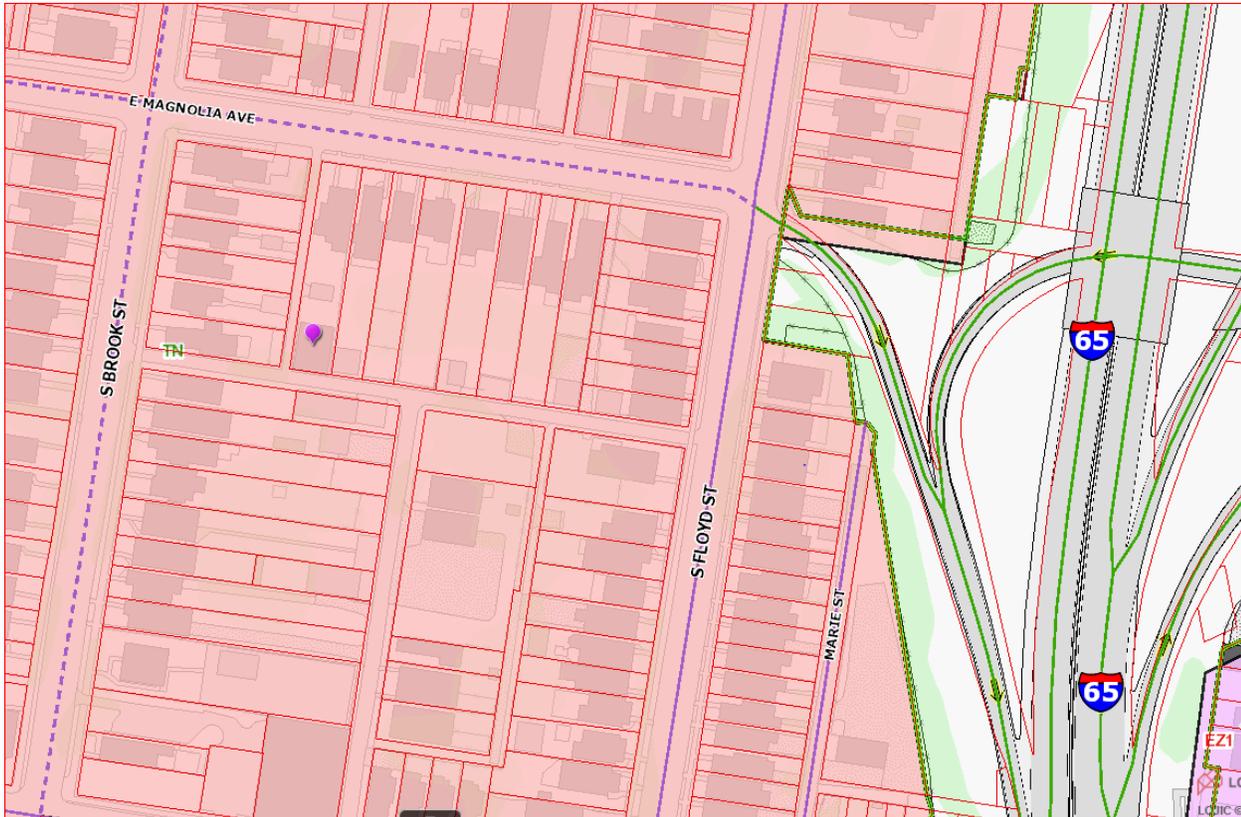
NOTIFICATION

Date	Purpose of Notice	Recipients
12/27/2019 12/27/2019	Hearing before BOZA	1 st and 2 nd 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. Bedroom Pictures
7. Additional Condition of Approval

Zoning Map



Aerial Photograph



Map Created: 01/08/2020

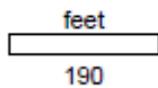


Legend

-  Subject Site
-  Approved
-  Approved/Host
-  Pending
-  Buffer



**19-CUP-0222
Proximity Map**



Copyright (c) 2018, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

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

MINUTES FROM COMMUNITY MEETING:

For 210 East Magnolia Ave

HELD at BURGER BOY - 1450 S Brook Street, 40208

October 2nd, 6:00 pm

My neighbor, Lawrence Muhammed was in attendance to show support. We reviewed my experience with the process and the requirements of Metro per the short-term rental application.

He expressed no complaints or concerns.

No one else was in attendance. I have attached a photo of Larry from that meeting.

Description of use: 210 East Magnolia Avenue

Single family dwelling with freestanding workspace/studio. 3 bedroom 1.5 bath

Proposed replacement of existing rear (uninhabitable structure) for new build carriage house. (maximum occupancy of 6) Accessory unit would be a two car garage with second floor studio apartment, separate access. 1-2 bedroom 1 bath (maximum occupancy of 4)

The property has an alley on two sides, with only one adjacent neighbor who is in support of the CUP.

Plan is to retain dwelling as primary residence, and depending on need, utilize short-term rental of either or both areas to help offset cost of renovation and generate income for required property up-keep and improvements.

I have well established experience with short-term rental, both as a host and traveler, and have a good understanding of what it takes to be successful and respectful of my community. I have a strong positive track record, both with visitors and neighbors and a great pride of place.





19 - CUP - 0222



19-1-CUP-0222

RECEIVED
OCT 23 2019
PLANNING &
DESIGN SERVICES

Additional Condition of Approval:

The host of record for the short term rental shall maintain his or her primary residence in one of the two dwelling units 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 of both units on the subject property.

A new Conditional Use Permit shall be required to allow for short term rental of any unit on the property that is not the primary residence of the host.