

**Board of Zoning Adjustment**  
**Staff Report**  
March 19 2018



<b>Case No:</b>	17CUP1087
<b>Project Name:</b>	None
<b>Location:</b>	2211 Longest Avenue
<b>Owner(s):</b>	Jocelyn Gonzalez
<b>Applicant:</b>	Christopher Payne
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Brandon Coan
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

**REQUEST(S)**

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-5B zoning district.

**CASE SUMMARY/BACKGROUND**

The applicant requests approval to conduct short term rentals at the subject property. The subject property is developed with a single- family dwelling unit. The applicant intends to rent the dwelling unit for tenancies of less than 30 days.

**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**

**17APPEAL1003** In October 2017, Appeal of a Zoning Notice of Violation issued by Planning and Design Services finding that the short term rental is in violation of Section 4.2.63 of the Land Development Code. The Board determined that the property was not the primary residence of the host.

**17APPEAL1002** In June 2017, a nearby property owner appealed the administrative registration of the property of the short term rental based on her belief that the subject property is not Mr. Payne's primary residence. Legal counsel subsequently advised Planning and Design Services Staff that the appellant did not have standing to appeal under Kentucky Revised Statutes.

**17PM15650** In June 2017, Planning and Design Services Zoning Enforcement received a complaint that Mr. Payne was hosting a short term rental, on property that was not his primary residence, without a Conditional Use Permit. Zoning Enforcement investigated the complaint and issued a Zoning Notice of Violation on July 26, 2017.

**17PM6372** In April 2017, Planning and Design Services Zoning Enforcement received a complaint that Mr. Payne was operating a conventional bed and breakfast without a Conditional Use Permit. Zoning Enforcement investigated the complaint and, upon learning that he was instead operating a short term rental, requested Mr. Payne register the property as a short term rental. He registered the short term rental on June 5, 2017.

## **TECHNICAL REVIEW**

There are no outstanding technical review items.

## **INTERESTED PARTY COMMENTS**

A neighborhood meeting was held on November 3, 2017 and seven people attended.

## **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: The proposal is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed.

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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. ***The applicant states that the residence has 3 bedrooms, but it appears that there are 2 bedrooms with a loft; the applicant will allow a maximum of 8 guests. The Property Maintenance Code, Chapter 156 states the following:***
- D. Bedroom requirements. Every bedroom shall comply with the following requirements:
  - 1. Area for sleeping. Every bedroom occupied by one person shall contain at least 70 square feet (6.5 mm) of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 mm) of floor area for each occupant thereof.
  - 2. Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not-serve as the only means of egress from other habitable spaces except in units that contain fewer than two bedrooms.
  - 3. Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
  - 4. Prohibited occupancy. No person shall use any kitchen, nonhabitable or public space for sleeping purposes, nor shall food be prepared or cooked in any room used for sleeping purposes, except in an efficiency apartment. In an efficiency apartment, that portion of the room designated for sleeping purposes shall not be within ten feet of that portion of the room designated for cooking purposes. The ten feet shall be calculated as the shortest straight line distance between the sleeping area and the stove. The ten feet requirement shall not be a violation when the ten feet distance is separated by a permanent divider wall of a height of at least 50% of the height of the room.
  - 5. Other requirements. Bedrooms shall comply with the applicable provisions of this chapter including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this section, the plumbing facilities and water-heating facilities requirements of this chapter; the heating facilities and electrical receptacle requirements of this chapter; and the smoke detector and emergency escape requirements of this chapter.

- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest. **Recent AirBnB.com reviews shows alcohol and food being provided by the host.**
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The site has 1 on-street parking space and does not appear to have on-site parking spaces.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

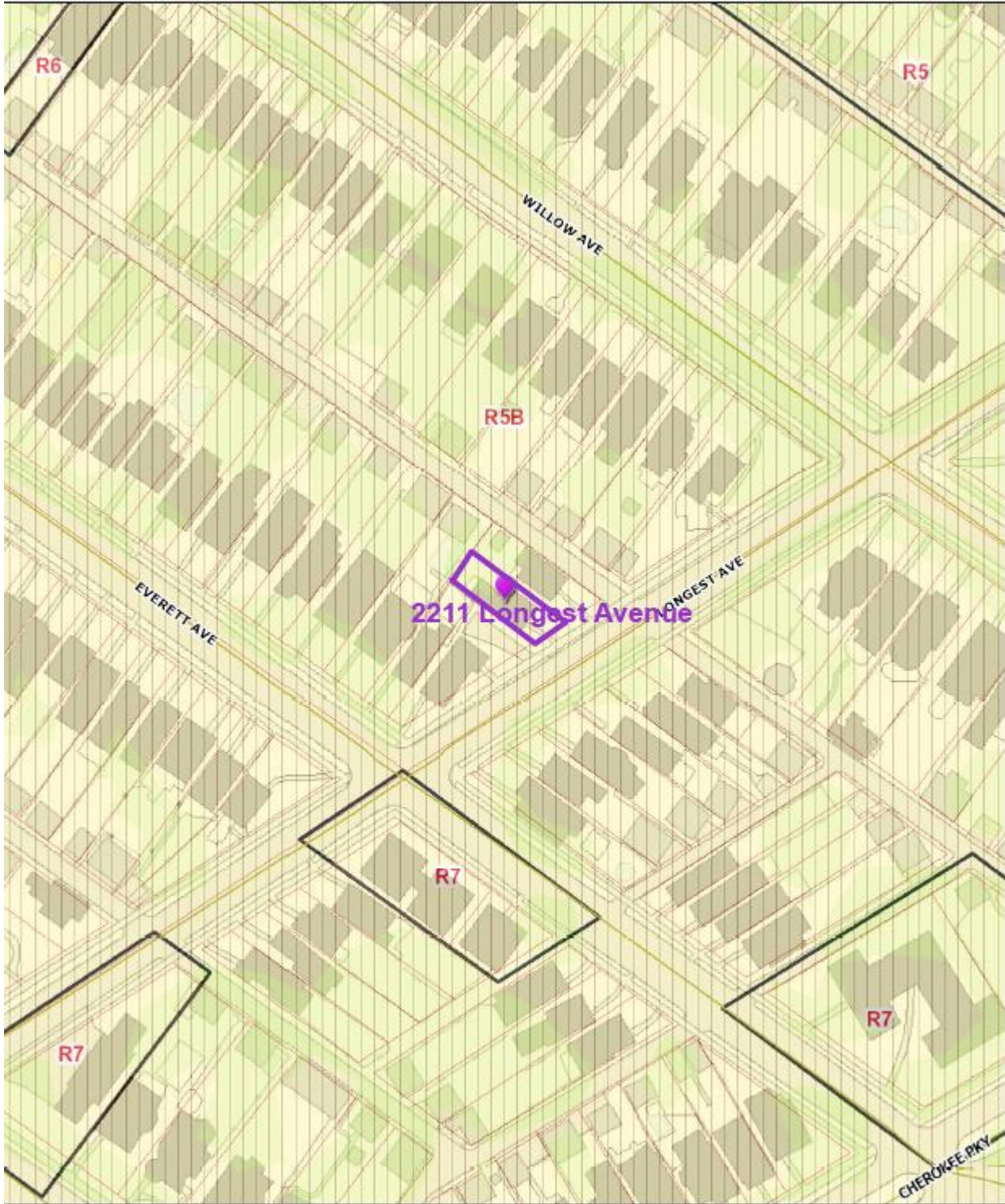
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3/2/2018	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 8
3/2/2018	Hearing before BOZA	Sign Posting

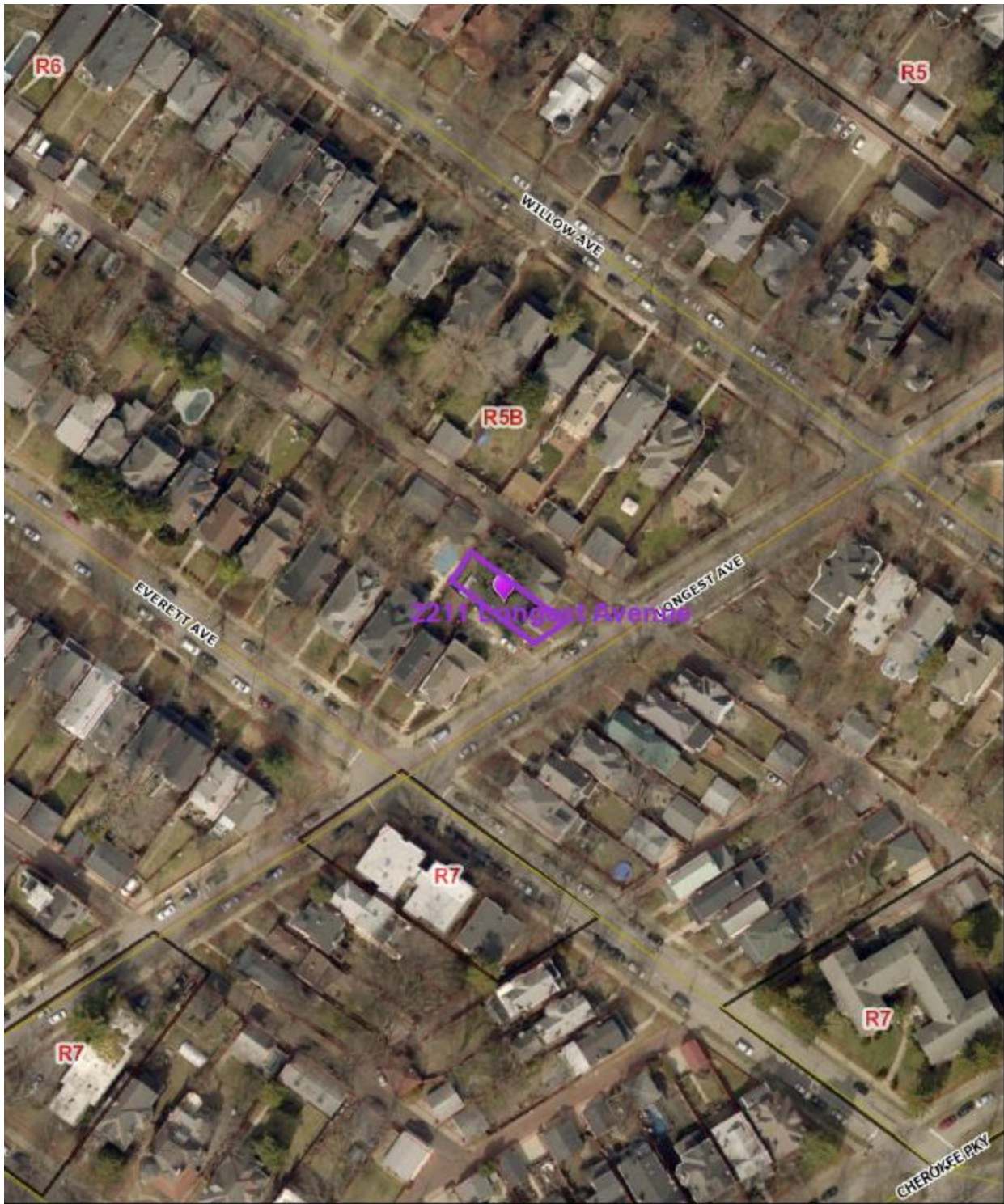
**ATTACHMENTS**

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Conditions of Approval

- 1. **Zoning Map**



2. Aerial Photograph



**3. Conditions of Approval**

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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