

17APPEAL1004

Appeal of a Staff Determination

201 S. Birchwood Ave.



Board of Zoning Adjustment Public Hearing

Chris French, AICP, Planning & Design Supervisor

February 4, 2019

Request

Appeal of a staff determination issued by the Planning Director concerning a revocation of a Short Term Rental registration at 201 S. Birchwood Ave.

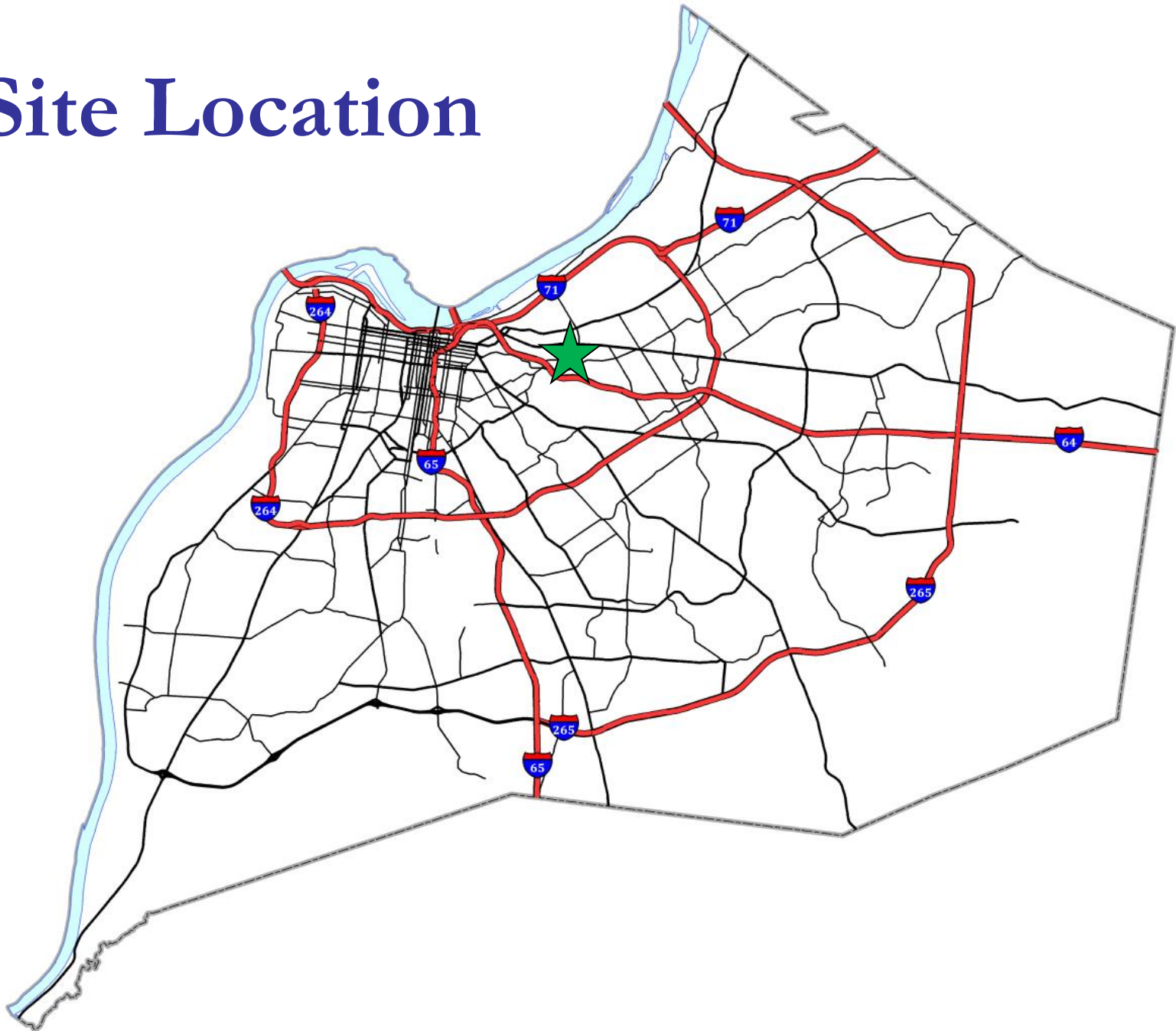
Case Summary/Background

- The Short Term Rental registration was issued on February 2, 2017
- Short Term Rental registration revoked on July 14, 2017
- The revocation of the Short Term Rental registration was based on evidence submitted to Planning and Design Services that the subject property was not the primary residence of the host
- Appeal was filed in a timely manner by the Appellant
- 18CUP1103 is a related case – CUP for Short Term Rental for the subject property was denied by BOZA
- Appeal case was delayed until the Board acted on the CUP case
- The building is currently a duplex, with Mr. David (the appellant) claiming residency on one of the units
- As the CUP was denied (which would have allowed rentals in both units regardless of host residency), any decision to recognize a dwelling unit as Mr. David's primary residence would allow him to receive a new registration for only the unit in which he resides

Case Summary/Background

- As set forth in Louisville Metro Land Development Code (LDC) Sec. 11.7.3, pursuant to Kentucky Revised Statutes (KRS) 100.257 and 100.261, the Board shall hear an appeal of a decision of an administrative official.
- A full analysis by staff of the Appellant's basis of appeal and submitted evidence is provided within the staff report
- Staff does not believe that the Appellant has provided sufficient evidence that the Planning Director erred in the revocation of the Short Term Rental registration on July 14, 2017

Site Location



Zoning/Form Districts

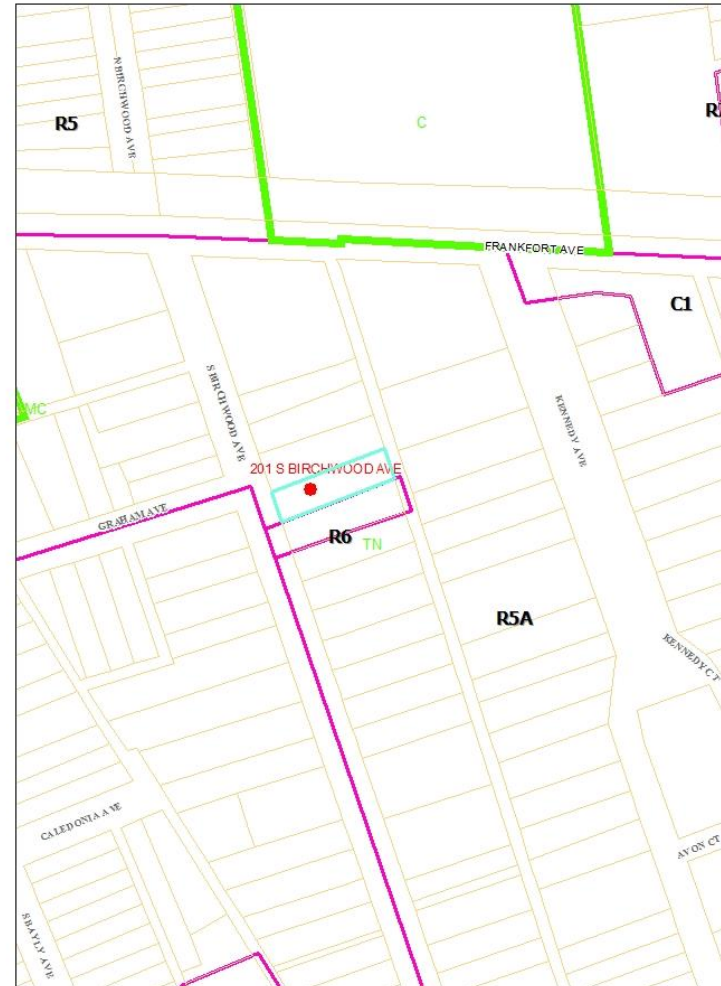
Subject Property: R5A/TN

North: R5A/TN

South: R6/TN

East: R5A/TN

West: R5/TN



1 inch = 170 feet

17APPEAL1004
201 S. Birchwood Avenue



Aerial Photo/Land Use



1 inch = 106 feet

17APPEAL1004
201 S. Birchwood Avenue



17APPEAL1004



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Standards of Review

KRS 100.257 - The board of adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation. Such appeal shall be taken within thirty (30) days.

Based upon the file of this case, this staff report, and the evidence and testimony submitted at the public hearing, the Board must determine:

1. Was the property at 201 S. Birchwood Avenue the primary residence of the appellant (host) on the day of date the Short Term Rental registration was revoked (July 14, 2017)?
2. In order to address a future short term rental application, is the 201 S. Birchwood Avenue property the primary residence of the Appellant today?