

# Board of Zoning Adjustment

## Staff Report

July 8, 2019



<b>Case No:</b>	19CUP1002
<b>Project Name:</b>	Short Term Rental
<b>Location:</b>	1914 Decatur Drive
<b>Owner/Host:</b>	Jeffrey Hart
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10—Pat Mulvihill
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Coordinator

### **REQUEST**

Conditional Use Permit to allow short term rental of a single family dwelling that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

### **CASE SUMMARY/BACKGROUND**

The 0.238 acre site is located in the Bashford Manor neighborhood, north of the Newburg Road / Bashford Manor Lane intersection. The 3,500 square foot house was built in 1966 and has four bedrooms and an attached two car garage. Parking is available in the back and along the driveway. The applicant is requesting that guests not park on the street.

### **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 February 28, 2019. Seven people were in attendance. Discussion included notifying additional residents, AirBnB policies, not renting to locals, future meetings with neighbors, protection against human traffickers and house rules.

## **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. No exterior construction or alterations to the building or the site will be 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 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 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 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 applicant states that the house has four bedrooms which would allow for a total of ten 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 no 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**

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 structure is a single family dwelling.**

- 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.

**Parking is available in the two car garage, in the area behind the garage and the driveway.  
The applicant is requesting guests not park along Decatur Drive.**

- 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.***

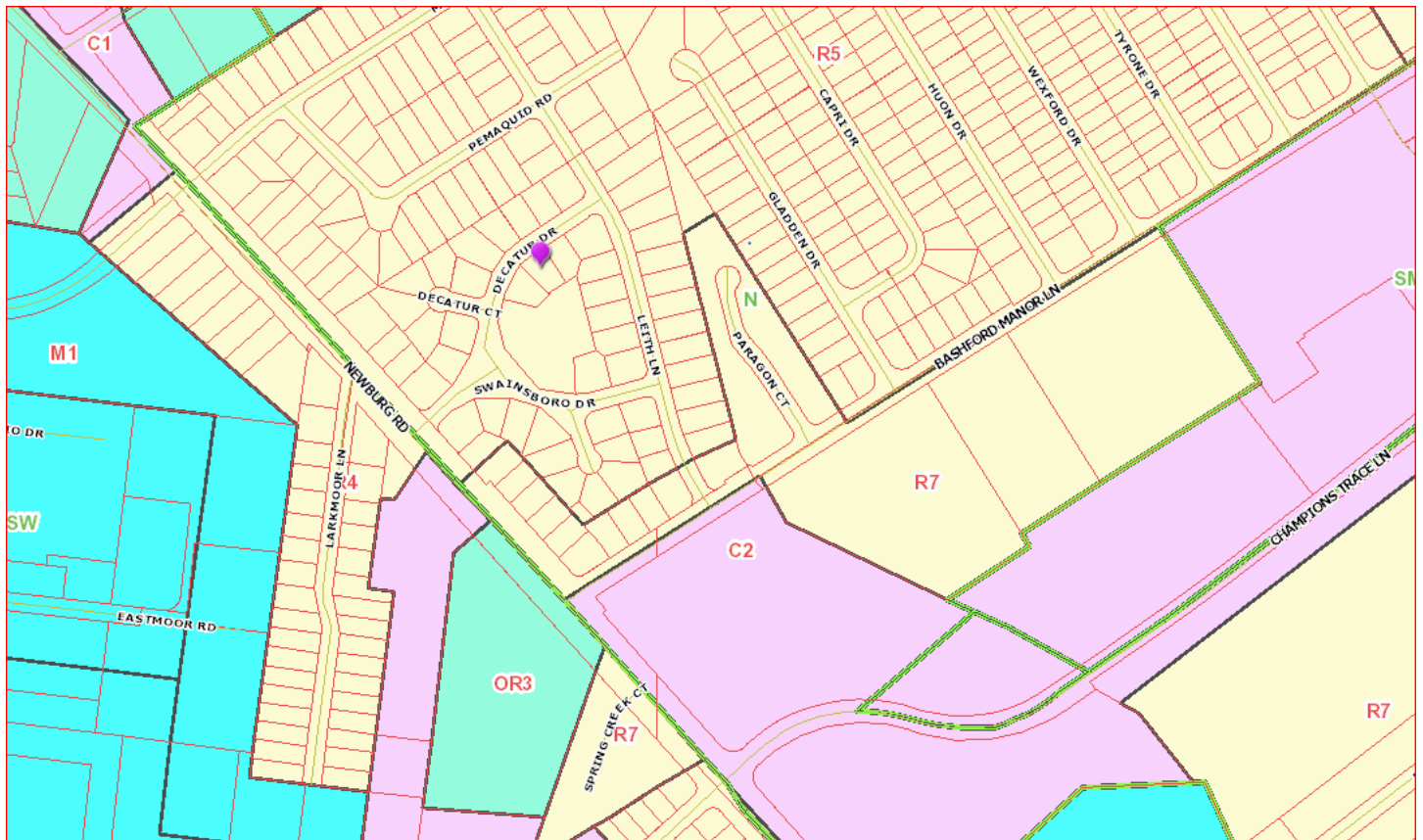
#### **NOTIFICATION**

Date	Purpose of Notice	Recipients
6/21/2019 6/27/2019	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
6/21/2019	Hearing before BOZA	Sign Posting

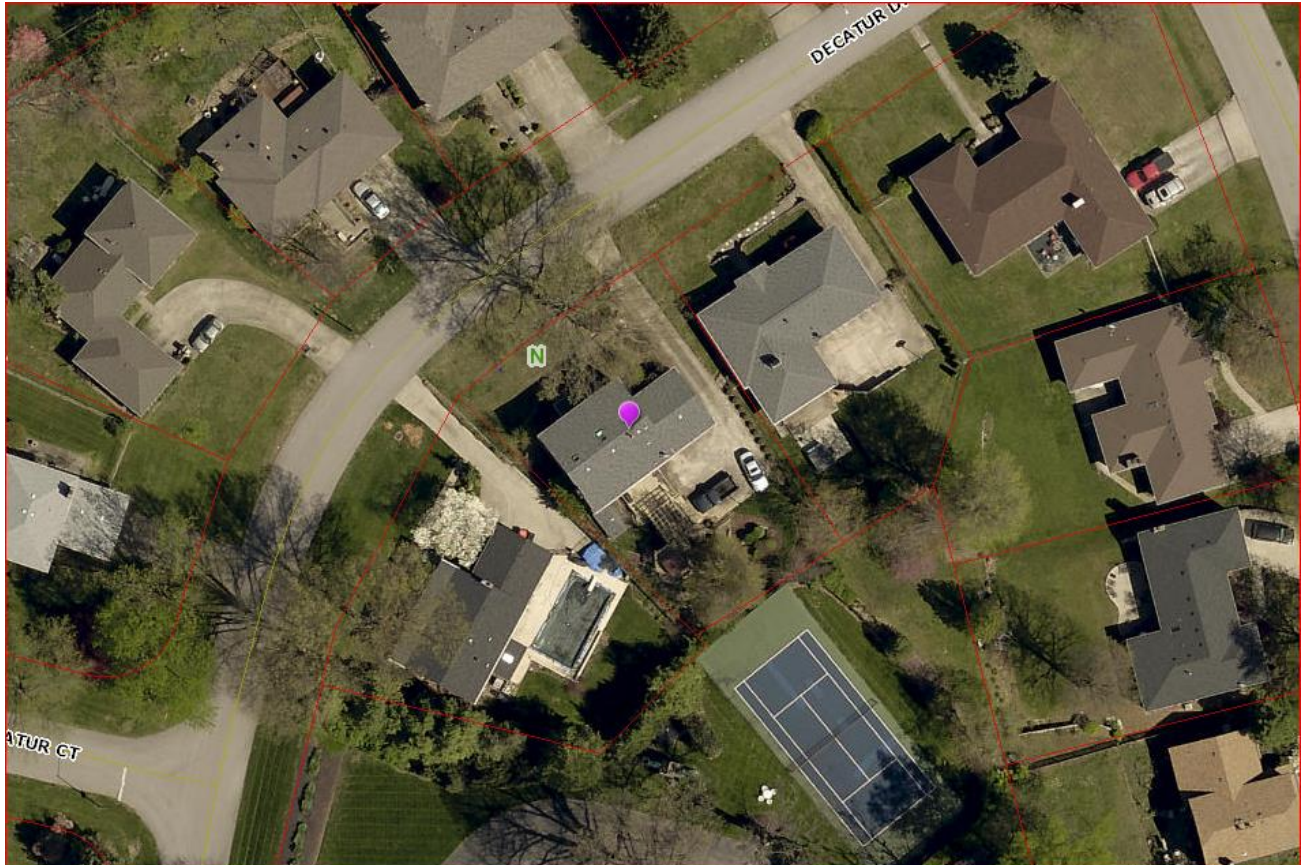
#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Front of the house
4. Neighborhood Meeting/Minutes
5. Floor Plan
6. Bedroom Pictures

## Zoning Map



## Aerial Photograph





Front of house / driveway



Letter of Explanation for the Proposal at 1914 Decatur Drive  
Conditional Use Permit for Short Term Rental

My name is Jeffrey Hart and I am the owner of the residence at 1914 Decatur Drive. My occupation is Manager of Corporate Reporting at American Commercial Barge Lines. I am a certified public accountant registered in the state of Kentucky.

I am submitting an application for a Conditional Use Permit to use this property as a short-term rental. The home is approximately 3,500 square feet and contains 4 bedrooms. There is an attached garage facing the backyard, which will be open for guests to use. There's additional parking for approximately 2 cars in the driveway behind the home and another few cars in the same driveway as it wraps around the side of the home. However I do not envision many cars parked in that part of the driveway. Most will be out of sight. Additionally, one of my house rules will be that no parking is allowed on the road.

There is only one dwelling, which will be rented to the guest that books it. To be clear, the entire house will be rented to the same guest, (not rented by room).

Jeffrey Hart  
1914 Decatur Drive  
Louisville, KY 40218

502-641-5061

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2/11/2019

To the Adjoining Property Owners and Neighbors expressing interest in this area,

I am the owner of the residence at 1914 Decatur Drive and I plan to submit an application for a Conditional Use Permit to use this property as a short-term rental.

In accordance with the procedures of Louisville Metro Planning and Design Services, I have been directed to invite you to discuss this proposal before an application can be filed. This will be an informal meeting to give you the opportunity to review the proposed plan and discuss the proposal with me. This meeting will be held in addition to the established public meeting procedures of the Planning Commission and/or the Board of Zoning Adjustment.

The meeting to discuss this proposal will be held on:

Date & Time: 2/28/2019 at 6:30 PM

Location: 1914 Decatur Drive, Louisville, KY 40218

At this meeting, I will explain the proposal and then discuss any concerns you may have. I encourage you to attend this meeting and to share your thoughts.

Jeffrey Hart

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## 1914 Decatur Drive Neighborhood Meeting Concerns and Resolutions

Monica Edmonds and Linda Ising (two tier 3 property owners were at the meeting and want to be included on future mailings and notifications). I promised I will add them to all future communications. I have included both of them on the mailing labels provided in the formal application.

1. Linda Ising at 3501 Decatur Court
2. Monica Edmonds at 1919 Decatur Drive

Others mentioned I should include anyone on the same road as me on future mailings. I included an additional 3 property owners on the mailing labels to ensure they're notified of the formal application too.

Monica Edmonds and Holly Radcliff asked me to research how AirBnB protects against felons and sex offenders and update Monica Edmonds and Holly Radcliff. I completed this research and texted/emailed it to both of these people. Through my research, I determined:

- AirBnB states that if they have enough information to identify a guest who lives in the USA (which I will require), they will check public state and county criminal records and state and national sex offender registries for criminal convictions and sex offender registrations. This will help ensure those type of people can't book a listing. They specifically say, "Users with serious criminal histories may be removed or referred for further review if our checks show convictions within a certain time period. Less serious convictions will never result in removal (such as disorderly conduct or marijuana possession). Some other crimes may result in removal for a period of 14 years (such as felony burglary or felony larceny) or seven years (such as fraud or property damage) from the date of conviction. Severe crimes may result in removal for a longer period of time or even permanently (such as murder, terrorism, rape or child molestation)."
- Additionally, I have found that AirBnB allows hosts such as myself to only accept guests who have completed a government issued ID verification and I will demand this from every AirBnB guest.

Jim suggested not allowing locals to rent the property because they're likely to use it for a party. I thought this was a great idea agreed. I will not rent the property to anyone local.

Cheryl suggested holding a meeting with neighbors every 6 months to address any concerns and prevent any issues. I thought this was a great idea agreed.

Vivian asked if I would notify the board she is against the permit (did not specify why) I agreed.

Others suggested another meeting if/when it is approved. I agreed to this as well.

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Some attendees mentioned I should include house rules to protect kids playing and skateboarding in the neighborhood and to also watch for walkers at all hours. I agreed. I added the rule by stating "Please drive slow and be careful to avoid children playing or locals walking in the neighborhood."

The main concern that was brought up throughout the meeting was how to protect against human traffickers, felons, and any other potential criminals. There are parents with children who live in the neighborhood and they understandably want to ensure their family is safe. I let everyone know that I share everyone's concern about bad guest and I'll do everything possible to prevent them. In addition to the measures AirBnB takes to remove bad users from their platform, I also said I would screen guests by only allowing those with a high rating (likely between 4 and 5 stars) to book a stay. I also informed them I had 4 outdoor security cameras (none indoor of course) I can monitor remotely. These solutions will be mentioned in the listing and will act as a deterrent. Lastly, my property is an upscale property where the price will limit who can stay.

Holly noted that there isn't a complete fence around the backyard so pets should not be allowed. I said that I will not allow any dangerous animals but pets like cats will be allowed.

I explained I have my own money invested in the house both before and after making improvements and the last thing I want is to see it damaged. I also said I will charge a high amount to prevent bad guests.

They asked why I chose the area and I told them being next to Yum headquarters, the airport, the Expo Center, and somewhat close to the Bourbon trail are all reasons why I chose the location.

I brought up common complaints such as parking, parties, and guests loitering and smoking on the porch. Then I explained that the driveway is sufficient to hold all vehicles, no parties will be allowed, and no guests will be allowed to smoke on the front porch.

They wanted to know that I wasn't interested in making a quick buck and I assured them I'm involved for the right reasons. My goal is to build a long-lasting way for tourists to stay in our city in a safe and responsibly managed short term rental.

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# Please Sign In

Conditional Use Permit Meeting on 2/28/2019

Jeffrey Hart  
1914 Decatur Drive  
Louisville, KY 40218

	Name	Contact Info (Email or Phone)
1	Cheryl Spencer	
2	Nolly Radloff	
3	Linda Ising	
4	Jim Tino	
5	Monica Edmonds	
6	Louise Tino	
7	Vilma Turner	
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