

# Board of Zoning Adjustment

## Staff Report

March 2, 2020



|                          |  |
|--------------------------|--|
| <b>Case No:</b>          | 19-CUP-0284                                  |
| <b>Project Name:</b>     | Short Term Rental                            |
| <b>Location:</b>         | 214 East Saint Catherine Street              |
| <b>Owner/Applicant:</b>  | Dione Amirkhan                               |
| <b>Attorney:</b>         | Nick Pregliasco                              |
| <b>Jurisdiction:</b>     | Louisville Metro                             |
| <b>Council District:</b> | # 6 – David James                            |
| <b>Case Manager:</b>     | Steve Hendrix, Planning & Design Coordinator |

### **REQUEST**

Conditional Use Permit to allow short term rental of one dwelling unit of a duplex that is not the primary residence of the host in a Traditional Neighborhood Zoning District and Traditional Neighborhood Form District with an Additional Condition of Approval and relief from Item D. of the listed requirements.

### **CASE SUMMARY/BACKGROUND**

The 0.165 acre site is located on the south side of Saint Catherine Street between South Brook Street and South Floyd Street in the Old Louisville Neighborhood and approximately 20 feet from Interstate 65.

The 2,264 square foot duplex has units on the main and second floor. The applicant intends to have the short term rental and a long term rental. The 1,600 square foot short term rental unit will be on the first floor and has two bedrooms, allowing for six guests.

There are three parking spaces at the rear of the property and two parking spaces in front along East St. Catherine Street.

There is no Open Enforcement Case.

There are a total of five short term rentals within the 600 foot rule, but none on East St. Catherine Street and the closest one being owner occupied.

The applicant agrees to the condition that the subject Conditional Use Permit for short term rentals shall apply only to the dwelling unit located on the first floor at 214 East Saint Catherine Street. A modification of the Conditional Use Permit shall be required before short term rentals can be operated in the second floor unit, whether instead of or in addition to the first floor unit.

Since the host will not be living in either unit, relief from Item D. of the listed requirements is necessary.

### **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 November 26, 2019, with one person in attendance. The number of units was discussed.

## **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 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 short term rental dwelling unit has two bedrooms which would allow for six 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 four 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 has a short term rental and is owner occupied. The duplex will contain one long term rental unit and a short term rental unit. The applicant/owner lives at 1332 South Second Street which is approximately 3,330 feet away using the sidewalk. The applicant has requested relief from Item D.***
- 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 duplex.***
- 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 property has three on-site parking spaces and two parking spaces along East St. Catherine Street.***
- 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   |
|--------------------------|---------------------|--|
| 02/14/2020<br>02/12/2020 | Hearing before BOZA | 1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners<br>Registered Neighborhood Groups in Council District # 6 |
| 02/21/2020               | Hearing before BOZA | Sign Posting   |

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. 600 Foot Map
4. Neighborhood Meeting/Minute
5. Bedroom Pictures
6. Additional Condition of Approval
7. Relief Explanation Letter

## Zoning Map

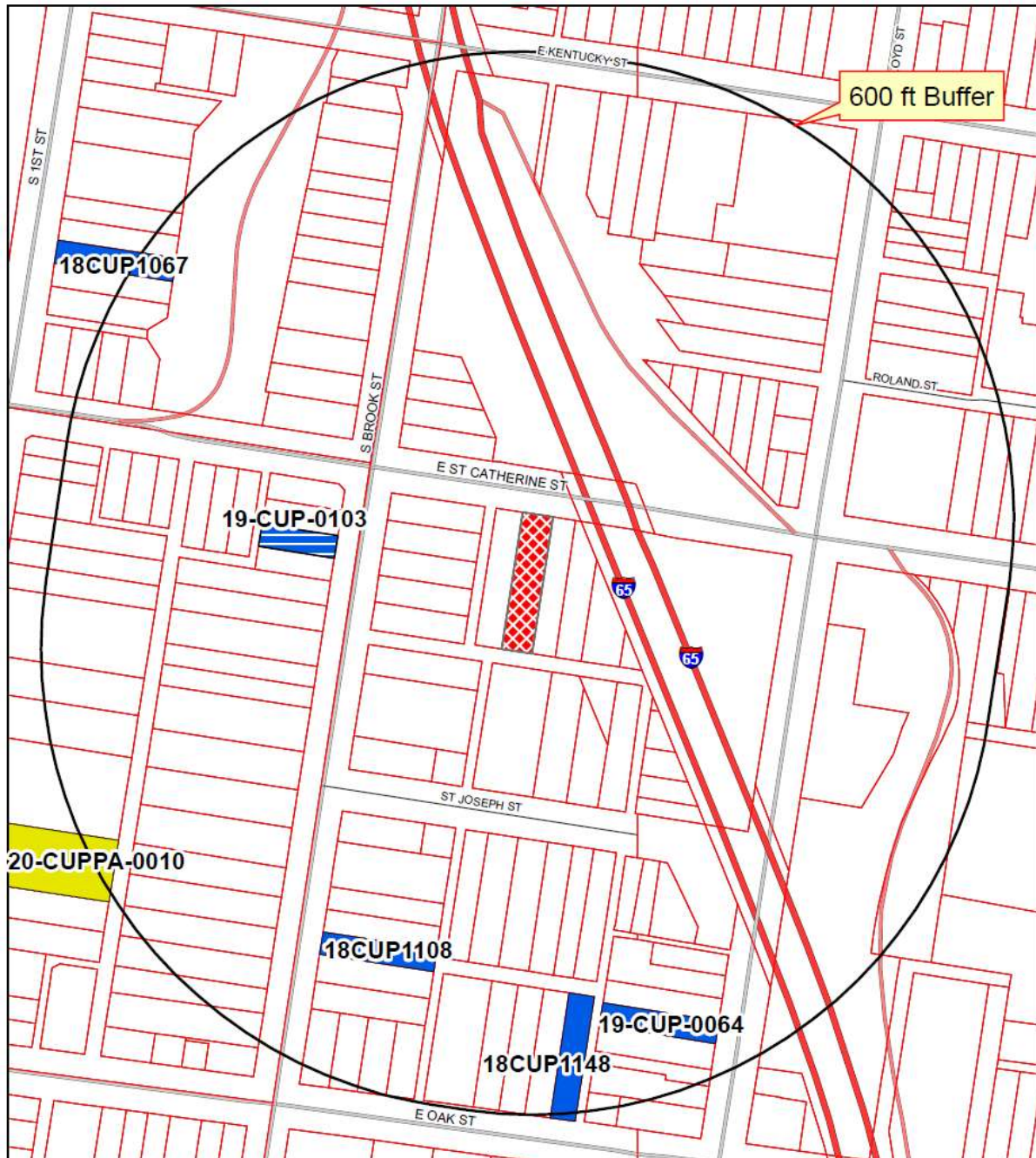


**Aerial Photograph**





Map Created: 02/19/2020

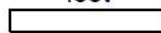


### Legend

- Buffer
- Subject Site
- Approved
- Host Occupied
- Pending

### Proximity Map Case # 19-CUP-0284

feet



175



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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.



11/26/19 NM

| Name          | Address         | Phone    | Email            |
|---------------|-----------------|----------|------------------|
| Helge Ullrich | 112 E. Broadway | 608-8006 | HHU3Mh@gmail.com |

RECEIVED

DEC 23 2019

## PLANNING & DESIGN SERVICES

1.9 - in CUP - 0.284



### Neighborhood Meeting Summary

A neighborhood meeting was held on Tuesday, November 26th at 7:00 p.m. at Shelby Park Community Center/AMPED at Shelby, 600 E. Oak Street. Those in attendance included the applicant's representatives, Nick Pregliasco, attorney with Bardenwerper, Talbott & Roberts, as well as the applicant and property owner, Dione Amirkhan, as well as one interested party, Helga Ulrich. Mr. Pregliasco explained the proposal and the fact that only one of the two units in the duplex is being requested for the CUP, and not both. Helga indicated a concern that the property was a three-unit complex and not a duplex, which is not eligible for a CUP. The applicant explained that she has just renovated the entire building spending in excess of \$175,000 on the renovations and it is definitely only two units and was renovated for two units. She also isn't even sure how it could be used for three units. This was the main concern addressed at the neighborhood meeting.

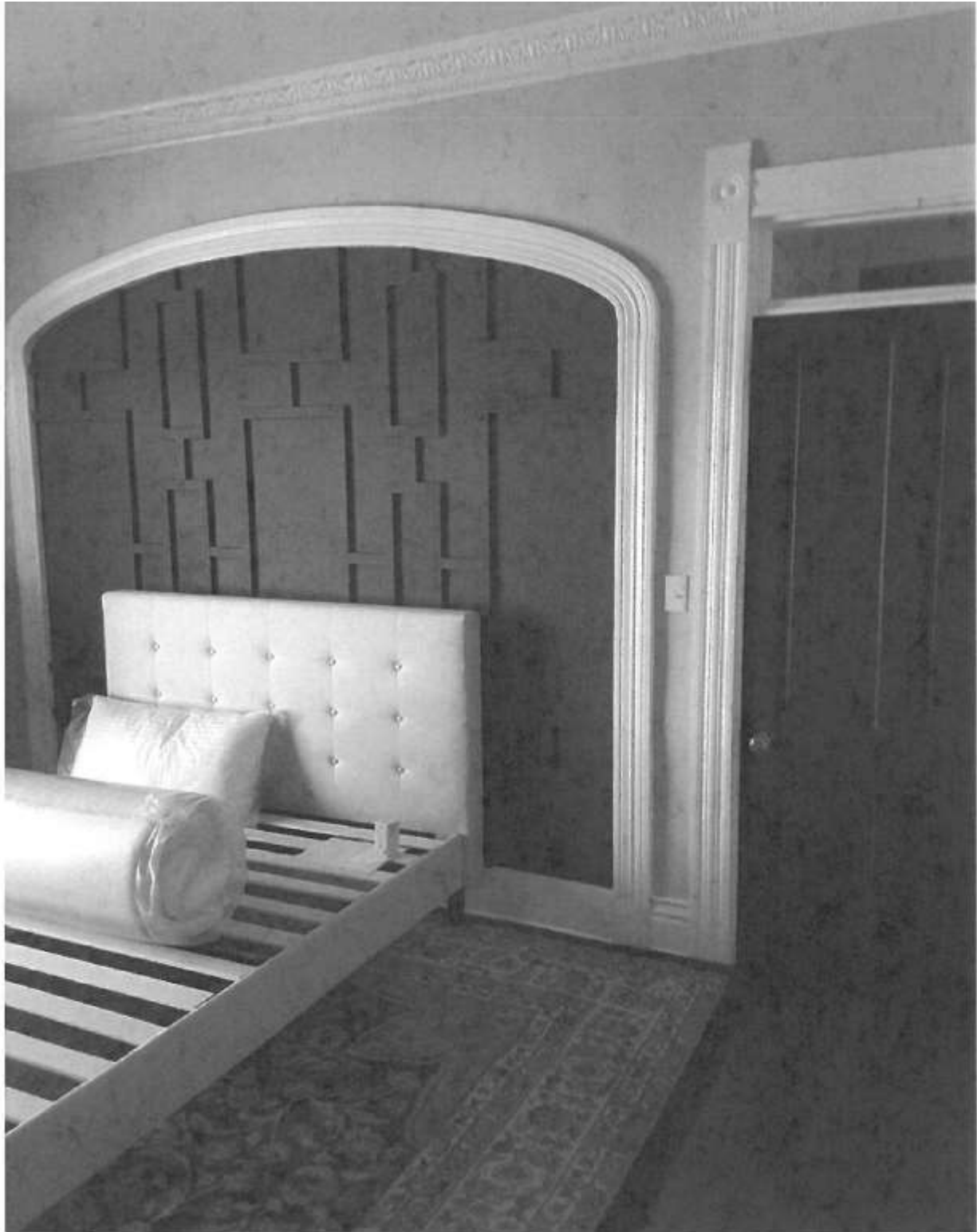
RECEIVED

DEC 23 2019

PLANNING &  
DESIGN SERVICES

19 - 1<sup>st</sup> CUP 1 - 0284











## **Additional Condition of Approval**

The subject Conditional Use Permit for short term rentals shall apply only to the dwelling unit located on the first floor at 214 East St. Catherine Street. A modification of the Conditional Use Permit shall be required before short term rentals can be operated on the second floor unit, whether instead of or in addition to the first floor unit.

**BARDENWERPER, TALBOTT & ROBERTS, PLLC**

ATTORNEYS AT LAW

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. FOURTHBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223  
(502) 426-6688 • WWW.BARDLAW.NET

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February 25, 2020

Steve Hendrix, Case Manager  
Louisville Metro Planning & Design Services  
444 S. Fifth Street, 3<sup>rd</sup> Floor  
Louisville, Kentucky 40202

Re: "Relief" from CUP requirement of Section 4.2.63(4)(D) with respect to short term rental  
CUPs withing 600' of the subject site – Case No. 19-CUP-0284

Dear Steve:

In addition to the Short Term Rental and Conditional Use Permit applications we are filing for this site, we are also requesting relief from the CUP requirements of Section 4.2.63(4)(D) with respect to short term rental CUPs withing 600' of the subject site.

The relief will not adversely affect adjacent property owners because the nearest cup (19-CUP-0103; 1104 South Brook Street) is 236/313\* feet from the subject site with two units (maximum of 6 guests with one off-street parking space and credit for one public space) which is far enough away that the two short term rentals will not compete for the limited supply of on-street parking. The subject site is fully parked with four off-street parking spaces and does not require credit for on-street parking. The next nearest STR CUP (18-CUP-1108; 1141 South Brook Street is 402/762\* feet from the subject site and similarly will not compete for on-street parking with the subject site. The third nearest STR CUP (18-CUP-1148; 227 East Oak Street is 460/1334\* feet from the subject site (3 blocks away) with three off-street spaces so available on-street is not adversely affected. 19-CUP-0064 is 482/941\* feet from the subject property with 3 off-street spaces. 20-CUP-0010; 1143 South First Street is 564/1708\* feet from the subject site. 18-CUP-1067; 1021 & 1023 South First Street is 553/874\* feet from the subject property. These last three properties are on the periphery of the 600' area and will not compete for on-street parking. All of these STR/CUPs are sufficiently far away from the subject site that there will be no congestion or noise nuisance impacts.

The relief will not violate the applicable Guidelines and Policies of the Plan 2040 Comprehensive Plan, specifically Housing Policy 3.11 encouraging repair and improvement of distressed properties; Policy 2.11 locating near multi-modal transportation services and Policy 1.16 rehabilitating existing housing stock.

The relief of the CUP regulation is the minimum necessary to afford relief to the applicant because these locations are fixed and not within the discretion or control of the applicant who is providing all required parking on site and is immediately adjacent to I-65, a factor acknowledged in several short term rental cases in the area.

No relief of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the subject site has only one unit of the two unit building available for a short term rental, the other unit occupied by a long term tenant. There will be no impact on the limited on-street parking in the area.