

Board of Zoning Adjustment

Staff Report

June 7, 2021



Case No:	21-CUP-0059
Project Name:	Damico Short Term Rental
Location:	1815 Newburg Road
Owner(s):	Diane Damico
Applicant:	Diane Damico
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers-Armstrong
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-5 zoning district and Neighborhood Form District.

CASE SUMMARY/BACKGROUND

The applicant requests approval to conduct short term rentals at the subject property. The subject property is developed with one structure that is a duplex. The applicant will live in the first floor unit and states that the second floor unit has one bedroom that will allow a maximum number of four guests. The applicant states that there is a detached garage, carport and driveway to provide off-street parking.

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

21-CUP-0058 An application for a conditional use permit to allow an accessory apartment. The Board of Zoning Adjustment will review this proposal on June 7, 2021.

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on April 7, 2021 and at least two people attended not including the applicants.

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.

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 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 subject property is smaller than two acres. The applicant states that the residence has one bedroom that will allow a maximum number of four 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, within 600' of the subject property, there is one property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.***
- 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 applicant has been informed of this requirement.***
- 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 applicant states that there is a detached garage, carport and driveway to provide off-street parking.***
- 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.***

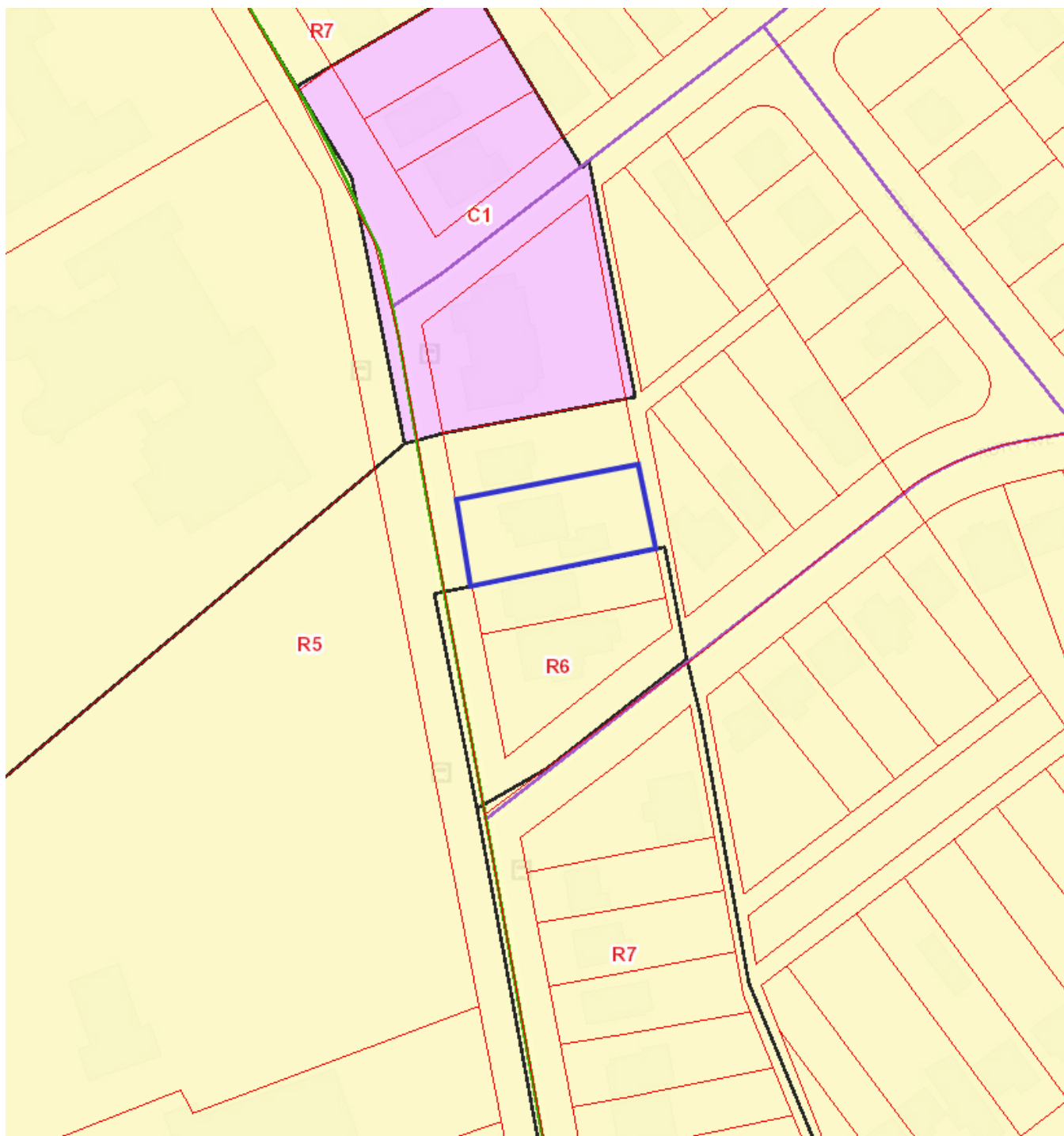
NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/2021	Hearing before BOZA	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
5/24/2021	Hearing before BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. 600' Map
4. Justification Statement
5. Condition of Approval

1. **Zoning Map**



2. Aerial Photograph



3. 600' Map

Map Created: 04/28/2021



Legend

- Buffer
- Subject Site
- Registered

Proximity Map Case #21-CUP-0059

feet
180



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.



4. Justification Statement

~~21-CUP-0059~~
For ~~21-CUP-0059~~ and ~~21-CUP-0058~~
21-CUP-0059

I understand that there is a STR some blocks away which is within 600' by the backyard property lines. However, I feel that I can justify why my STR should be allowed.

I currently have a STR permit but I know that if I convert my home to a duplex, I need to change the license to a different category. But I plan to remain living in the downstairs of my home even after converting the upstairs to a separate dwelling. I bought my home to live down the street from my family and will continue to do so. As this is my primary and only residence, I will not be an absentee host.

I realize that if I ever *did* need to move, I would not be allowed to operate a STR here under the CUP I'm applying to here.

The plan for the upstairs dwelling is one bedroom with a sitting area, a full bath, and a micro kitchen.

There is more off-street parking than needed (on my property there are three spaces off the alley and a driveway on the side of the house.)

Additionally, the neighborhood is more 'commercial' than residential (out of 20 properties on my Tier 1 and 2 lists only 25% of them are owner-occupied homes). The other properties include an apartment building, restaurant, a church campus and single-family rental homes.

I've kept my neighbors informed of the CUPs (both formally and informally) and the only response I've had from them is positive and encouraging.

Because of covid, I wasn't comfortable sharing my home and that's why I decided to create a separate, exterior stairway. There won't be any other major changes to the structure or property. I will stay active in renting and monitoring my home and guests.

I believe I've addressed most issues that typically come up when considering whether to allow a STR, even one that may be near another. I will continue to be a good neighbor and will expect my guests to be as well. I hope you'll approve the changes I'd like to make.

Sincerely,

Diane Damico

5. Condition of Approval

1. The conditional use permit approval for this short term rental shall be allowed up to one bedroom. A modification of the conditional use permit shall be required to allow additional bedrooms.
2. 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.