



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: December 16, 2024

Re: 806 Boulder Drive – STR Conditional Use Permit (Case # 16-2025)

## Executive Summary

Approval of this request would grant a conditional use permit (CUP) for the operation of a 210-night short-term rental (STR) with a maximum of 8 transient guests. The dwelling unit proposed for STR purposes is not the applicant's principal residence. The dwelling is a registered "long-term" rental with a certificate expiring in June 2027. The dwelling has previously used as an STR for a total of 80 nights since November 2023 to the present. The subject property is zoned R-1 (One-family Dwelling) and is addressed as 806 Boulder Drive.

## Discussion

Cara Massie (agent), on behalf of Massie Holdings LLC (owners), seeks approval of a Conditional Use Permit (CUP) to allow 806 Boulder Drive to be used as a short-term rental for a maximum of 8 transient guests and up to 210-nights annually pursuant to Sec. 29-3.3(vv) and Sec. 29-6.4(m) of the Unified Development Code. The 0.22-acre site is zoned R-1 (One-family Dwelling), is located northeast of Campus View Drive approximately 310-feet east of intersection of UMC Drive and Boulder Drive, and is addressed 806 Boulder Drive.

The subject dwelling is a 4-bedroom, 2.5 bath single-family home with an attached 2-car garage. A site-specific evaluation found that the existing driveway serving the dwelling is capable of supporting 2 UDC compliant off-street parking spaces. The dwelling is not the owner's principal residence; however, is currently a licensed "long-term" rental with a certificate expiring in June 2027. The dwelling has been used since November 2023 to the present as an STR for a total of 80 nights.

Pursuant to Sec. 29-3.3(vv)(1)(ii)(B) of the UDC, prior to the "legal" use of the dwelling as an STR the owners must be granted the requested CUP which would authorize its use on a nightly basis. A single regulatory violation was identified from May 1, 2024 that was associated with the operation of a rental property without a Certificate of Compliance (COC). This violation was resolved on May 28, 2024. It is worth noting that no compliant record exists aside from this single regulatory violation with respect to this dwelling being used as an STR.

If this request were granted, the conditional use permit would constitute the property owners "one and only" STR license inside the city's municipal limits. The submitted STR application identified a "designated agent" to address regulatory issues when the dwelling is being used as an STR which is different from this application's representation. The agent representing this application is part of the property's ownership interests and is not a local Boone County resident.



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Following issuance of the required CUP, the owners will be required to comply with the requirements of Chapter 22, Article 5 (Rental Unit Conservation Law) and Chapter 13 (Business Licensing) of the City Code. Additionally, following the issuance of the STR Certificate of Compliance and Business License, the owner will be required to remit accommodation taxes pursuant to the requirements of Chapter 26 (Taxation) of the City Code.

Per the submitted STR application and supplemental CUP questions, the dwelling is sought to be used for a maximum of 210-nights annually as an STR. The requested 210-nights is consistent with the limitations established by Sec. 29-3.3(vv) of the UDC. When not in use as an STR, the owners have indicated the dwelling would be occupied by a family member who is an active Airman in the US Air Force and a student at the University of Missouri. The application did not provide a duration of such occupancy annually given this variability of the family members required serve in the Air Force.

As stated, the owner seeks to use the 4-bedroom home for a maximum of 8 transient guests. This desired occupancy is consistent with the occupancy permitted per Sec. 29-3.3(vv) with respect to occupancy loads given the stated square footage of bedrooms/sleeping spaces. Final determination of transient occupancy will be established following a dwelling unit specific evaluation in accordance with the provisions of Chapter 22, Article 5 of the City Code.

Furthermore, full regulatory compliance with the provisions of Sec. 29-3.3(vv), Chapter 13, and Chapter 26 of the City Code, respectively, will be confirmed prior to issuance of a STR Certificate of Compliance and/or Business License. The maximum occupancy and authorized rental "nights" associated with the dwelling will be shown on the issued STR Certificate of Compliance and must appear on any website listing upon which the dwelling is offered for rental.

The site is accessed from Boulder Drive via a traditional driveway approach. Boulder Drive is a residential street that has sidewalks along both sides and permits on street parking. Given the transient guest occupancy the Commission recommended that approval of the CUP be conditioned on both parking spaces within the attached 2-car garage being made available at all times the dwelling was used for STR purpose. The design of the parking and the site's access is consistent with other residential development and is believed sufficient to support future traffic generation without compromising public safety.

The subject dwelling is consistent in size, style, and bedroom mix as those adjoining it. There are 26 individual properties within 185-feet and two neighborhood associations within 1,000 feet of the subject dwelling. Of the 26 properties, 11 are owner-occupied and 15 are rental. Given the R-1 zoning of the surrounding dwellings, the maximum "long-term" rental occupancy of each dwelling unit would be 3-unrelated individuals.

The use of 806 Boulder Drive as a short-term rental may be considered inconsistent with the tenancy of adjacent development which is nearly equally split between owner-occupied



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and rental occupied housing given potential for higher occupant turnover. The dwelling has operated since November 2023 as an STR without apparent incident. Given there is no identified record of violation of other city regulations, approval of the requested CUP does not appear to be incompatible with the surrounding neighborhood.

Approval of the requested CUP would “legalize” the existing use of the property. The enacted STR regulations provide the City with options to address potential negative impacts that may be introduced into the neighborhood through the granting of a CUP allowing the dwelling to operate as an STR. The regulations restrict nightly usage and include other restrictions for which violations can be reported which could result in enforcement action, up to and including, revocation of the STR Certificate of Compliance.

It should be noted that concerns were expressed by property owners within the Seven Oaks Subdivision (see attached) to the Planning Commission that approval of the requested CUP would be in violation of private restrictions. Following the staff's report on this matter, the Commission inquired of the impact of these restrictions. Staff responded that per Sec. 29-1.7 of the UDC, the City is not obligated to participation in the enforcement of “third-party private restrictions”.

Aside for the public comments provided to Commissioner's prior to the public hearing with respect to the private restrictions and those contained within the originally published staff report, no member of the public appeared during the public hearing on this matter. As part of its standard CUP evaluation, staff reviewed the websites of AirBnB, VRBO, Booking.com, and Furnishedfinders.com and identified potentially three additional STR properties within a 300-foot radius of the subject property.

Given a CUP is necessary to allow for the legal operation of the dwelling as an STR, an analysis of the general and supplemental CUP criteria shown within Sec. 29-6.4(m)(2)(i) and (iii), respectively, were performed. Following this analysis, staff concluded the use of the dwelling as a 210-night STR with a maximum of eight transient guests would not be considered incompatible with the surrounding land uses. Furthermore, approval of the CUP would result in the fulfillment of several policies, strategies and actions of the City's adopted comprehensive plan. A full description of this analysis is found within the attached Planning and Zoning Commission staff report.

The Planning and Zoning Commission held a public hearing on this matter at its November 21, 2024 meeting. Staff provided its report. The Commission asked questions of both staff and the Law Department about the applicability of the private restrictions. Following clarification on the applicability of those restrictions, the owner's agent addressed the Commission and answered several questions. No members of the public were in attendance to speak in favor or opposition to the request. Following closure of the public hearing there was Commission discussion that focused on the significance of the concerns expressed with respect to the restrictive covenant, the amount of opposition received with respect to the request, and the fact that there were other STRs within the surrounding neighborhood. After fully discussing their concerns, the Commission made a motion to approve the requested CUP to permit 806



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Boulder Drive to be operated as a 210-night STR with a maximum of 8 transient guests subject to the garage spaces within the attached 2-car garage being made available at all times. The motion was approved by a vote of (9-0).

A copy of the Planning and Zoning Commission staff report, locator maps, STR application and Supplemental "Conditional Accessory/Conditional Use Questions", CUP Application Additional Information, public correspondence, and meeting minute excerpts are attached for review.

## Fiscal Impact

Short-Term Impact: None are anticipated.

Long-Term Impact: Usage of the dwelling as an STR will result in the collection of accommodation taxes which will assist the Convention and Visitor's Bureau in their marketing efforts relating to the City. While increases in public service demand is possible, such demands are not foreseen to be greater than a typical single-family home. Such increases may or may not be off-set by increased user-fees or property tax collection.

## Strategic & Comprehensive Plan Impact

### Strategic Plan Impacts:

Primary Impact: Resilient Economy, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

### Comprehensive Plan Impacts:

Primary Impact: Livable & Sustainable Communities, Secondary Impact: Land Use & Growth Management, Tertiary Impact: Economic Development

## Legislative History

Date	Action
N/A	N/A

## Suggested Council Action

Approve the issuance of a conditional use permit to allow 806 Boulder Drive to be operated as a 210-night short-term rental for a maximum of 8 transient guests subject to the garage parking spaces within the attached 2-car garage being made available at all times the dwelling is used for STR purposes as recommended by the Planning and Zoning Commission.