

Case Number:	BOA-23-10300106
Applicant:	Giovanna Albrecht
Owner:	Giovanna Albrecht
Council District:	1
Location:	750 Fulton Avenue
Legal Description:	Lot 12 and the west 12.5 feet of Lot 13, Block 12, NCB 6411
Zoning:	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Overlay Airport Hazard Overlay District
Staff Representative:	Emily Garcia, Planner

Request

A request for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c).

Executive Summary

The subject property is generally located west of Agnes Cotton Academy Middle School at the northwest corner of Aganier Avenue and Fulton Avenue. The property currently has one (1) existing single-family dwelling. Surrounding uses include a single-family residential home and a middle school. There is currently one other Type 2 STR Permit issued next door to the subject property. This is the only Type 2 STR Permit issued for the block face.

The applicant is seeking a special exception to allow for the operation of one (1) Type 2 short term rental unit, in addition to the other one (1) unit currently permitted on the same block face. A unit is defined as having its own distinct sleeping area, kitchen, and bathroom. Type 2 indicates that the owner/operator of the property does not occupy the site as their permanent legal residence.

Per the code, Type 2 Short Term Rentals shall be limited to no more than one-eighth (12.5 percent) of the total number of single-family, duplex, triplex, or quadplex units on the block face. At least one (1) Type 2 Short Term Rental shall be permitted per block face, regardless of the total number of units on the block face.

In this case, the block face is defined as the north side of Fulton Avenue and Aganier Avenue. There are nine (9) lots along this block face, and according to available records, there are nine (9) units on this block face, resulting in one (1) Type 2 Short Term Rental unit permitted by right. One (1) Type 2 Short Term Rental Permit has already been approved by right on the block face. Any other Type 2 Short Term Rentals on this block face must seek a Special Exception from the Board of Adjustment. If this special exception is approved, there will be a total of two (2) Type 2 Short Term Rentals on this block face, totaling 22% of the current units.

Code Enforcement History

INV-PST-INV23-3010000535

On March 22, 2023, applicant received a notice for licensing permit investigation for operating with an expired permit STR-19-13501277. Case is still open pending Board of Adjustments decision.

Permit History

Short Term Rental Permit Number: STR-19-13501228

Application Submission Date: September 10, 2019

Permit Approval Date: October 9, 2019

Original Expiration Date: October 9, 2022

Zoning History

The subject property is legally zoned for a Short-Term Rental. Per the ordinance Short-Term Rentals are prohibited only on properties zoned “C-3” General Commercial District, as well as all Industrial Districts.

“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Overlay Airport Hazard Overlay District	Residential Single Family
--	---------------------------

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Overlay Airport Hazard Overlay District	Residential Single Family
South	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Overlay Airport Hazard Overlay District	Residential Single Family
East	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Overlay Airport Hazard Overlay District	Residential Single Family
West	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Overlay Airport Hazard Overlay District	Residential Single Family

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of Beacon Hill Neighborhood Association

Street Classification

Fulton Avenue is classified as a local street.

Criteria for Review

According to Section 35-374.01 of the UDC, in order for a special exception to be granted, the applicant must demonstrate all of the following:

- A. The special exception will not materially endanger the public health or safety.

The applicant is requesting the special exception to obtain one (1) additional Type 2 STR Permit in addition to one (1) active Type 2 STR Permit on the block face. The subject property appears to be well-kept and provides parking. Surrounding uses include single family residences as well as a middle school in close proximity. The STR ordinance established a balance between permitting some STRs, while maintaining the integrity of neighborhoods to protect the health and safety of the communities they're located in. Staff does not support the requested special exception.

- B. The special exception does not create a public nuisance.

Approval of the special exception would permit a total of two (2) Type 2 STRs operating on the block face. The surrounding area is predominately residential with a middle school located to the west of the subject property. The granting of this special exception will allow for one (1) additional Type 2 STR. Staff is concerned that exceeding the blockface maximum would detract from the established neighborhood characteristics.

- C. The neighboring property will not be substantially injured by such proposed use.

The ordinance was established to provide a balance between the need for local housing and the need for operators to be able to operate their STR businesses. Staff does not support special exceptions authorizing Type 2 STR's in excess of the 12.5% block face density limitation in order to maintain this reasonable balance.

- D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

There is at least one (1) parking space provided in the front of the subject property which is an adequate amount of parking for one unit. The subject property appears to have adequate utilities, access, and open space.

- E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant currently has a code enforcement case pending. On March 22, 2023, applicant received a notice for a licensing permit investigation INV-PST-INV23-3010000535 for operating with an expired permit STR-19-13501277. Case is still open pending Board of Adjustments decision.

F. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

There is one residential structure on the property and there is currently one (1) approved Type 2 STR Permit for the block face. The subject property is in a single-family residential neighborhood. Staff is concerned that allowing more than the density allowed by the STR ordinance may result in changes to the essential character of the neighborhood.

Alternative to Applicant's Request

Denial of the request would result in the applicant being unable to operate a Type 2 Short Term Rental on this block face.

Staff Recommendation

Staff recommends DENIAL of BOA-23-10300106 based on the following findings of fact:

1. Per Section 16-1100 of the City Code, staff finds that the approval of an increase in the type 2 short term rental permit density would be detrimental to “the health and safety of [the] occupant(s) of [the] short term rental property” and to the “integrity of the neighborhood(s) in which [the] short term rental property operates”.