

Board of Zoning Adjustment Staff Report

January 9, 2017



Case No:	16CUP1036
Project Name:	None (Short Term Rental)
Location:	118 E. Ormsby Ave.
Owner:	James Deeb
Applicant:	James Deeb
Representative(s):	James Deeb
Project Area/Size:	.17 acres / 7,405 square feet
Existing Zoning District:	Old Louisville TNZD, Traditional Neighborhood
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

REQUEST

- Conditional Use Permit to allow short term owner-occupied rentals in the Old Louisville Traditional Neighborhood Zoning District

CASE SUMMARY

The applicant proposes to conduct short-term rentals at the subject property while living there. This requires a Conditional Use Permit in the Old Louisville TNZD. The short-term rental ability would apply to both the primary residence and the carriage house at the back of the property, which, at the time of publication of this Staff Report, is very near completion. The applicant states that he and his family would primarily use the main residence as the short term rental and live in the accessory dwelling unit while the main residence is being rented; however, sometimes, the family may rent out the carriage house and reside in the main residence. Finally, in periods of high demand, or when on vacation, the hosts may rent out both the main residence and the accessory dwelling unit at the same time under two separate contracts. In his application, the applicant states that the main residence has four bedrooms and the carriage house constitutes one bedroom.

SITE CONTEXT

The subject property is rectangular in shape, 33 feet in width and 7,405 square feet in area. It is located on the south side of E. Ormsby Avenue between S. Brook Street and S. 1st Street.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Single-family dwelling and accessory dwelling unit	TNZD	TN
Proposed	Single-family dwelling and Short term rentals	TNZD	TN
<i>Surrounding Properties</i>			
North (across E. Ormsby Ave.)	Single-family residential	TNZD	TN
South (across alley)	Single-family residential	TNZD	TN
East	Two-family residential	TNZD	TN
West	Vacant residential	TNZD	TN

PREVIOUS AND ASSOCIATED CASES ON SITE

15COA1238 – In December 2015, the Old Louisville Architectural Review Committee (ARC) approved the design of the carriage house / accessory dwelling unit. In June 2016, it met again to re-review the structure because it had not been built according to approval. At the June meeting, it approved the new design of the structure.

INTERESTED PARTY COMMENTS

The applicant held a required Neighborhood Meeting regarding the request on November 10, 2016, at the subject property. No interested persons attended.

Staff received the attached comments and recommended conditions of approval from Helga Ulrich. Ms. Ulrich's recommendations include the following, in summary: 1) Maximum number of guest should be limited to 10; 2) limit on-street parking to a maximum of two vehicles; and 3) Limit outdoor events to a maximum of two times per year.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The underlying use of the property shall remain the same (single-family dwelling and carriage house). The proposal involves allowing short term rentals within the existing single-family dwelling and carriage house, which received ARC approval in June 2016. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The subject property is in a developed area where public facilities are readily available. There were not any agency comments indicating that the property's existing public facilities are inadequate to serve a short term rental.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

4.2.63 Short Term Rental Term Rental of a dwelling unit that is not 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

A short term rental of dwelling unit that is not 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 a 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. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. Long term rental contracts are permitted on the property so long as the use remains single-family residential.
- 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 four individuals.
The applicant has been informed of this requirement. If the main dwelling has four bedrooms, then the maximum number of individuals permitted in the short term rental is twelve. The maximum number of individuals permitted in the carriage house short term rental is six.
- D. The dwelling unit shall be a single-family residence or duplex or a condominium unit...This provision shall not be waived or adjusted.
The main building is a single-family dwelling. The second building is a carriage house that is associated with the main building.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
The applicant has been informed of this requirement.
- F. Outdoor signage which identifies the short term rental is prohibited.
The applicant has been informed of this requirement.
- G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.
The subject property is 33 feet in width; thus, it has credit for one on-street parking space. In addition, the newly built carriage house accommodates two off-street parking spaces.
- H. 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.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.
The applicant has been informed of this provision.

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

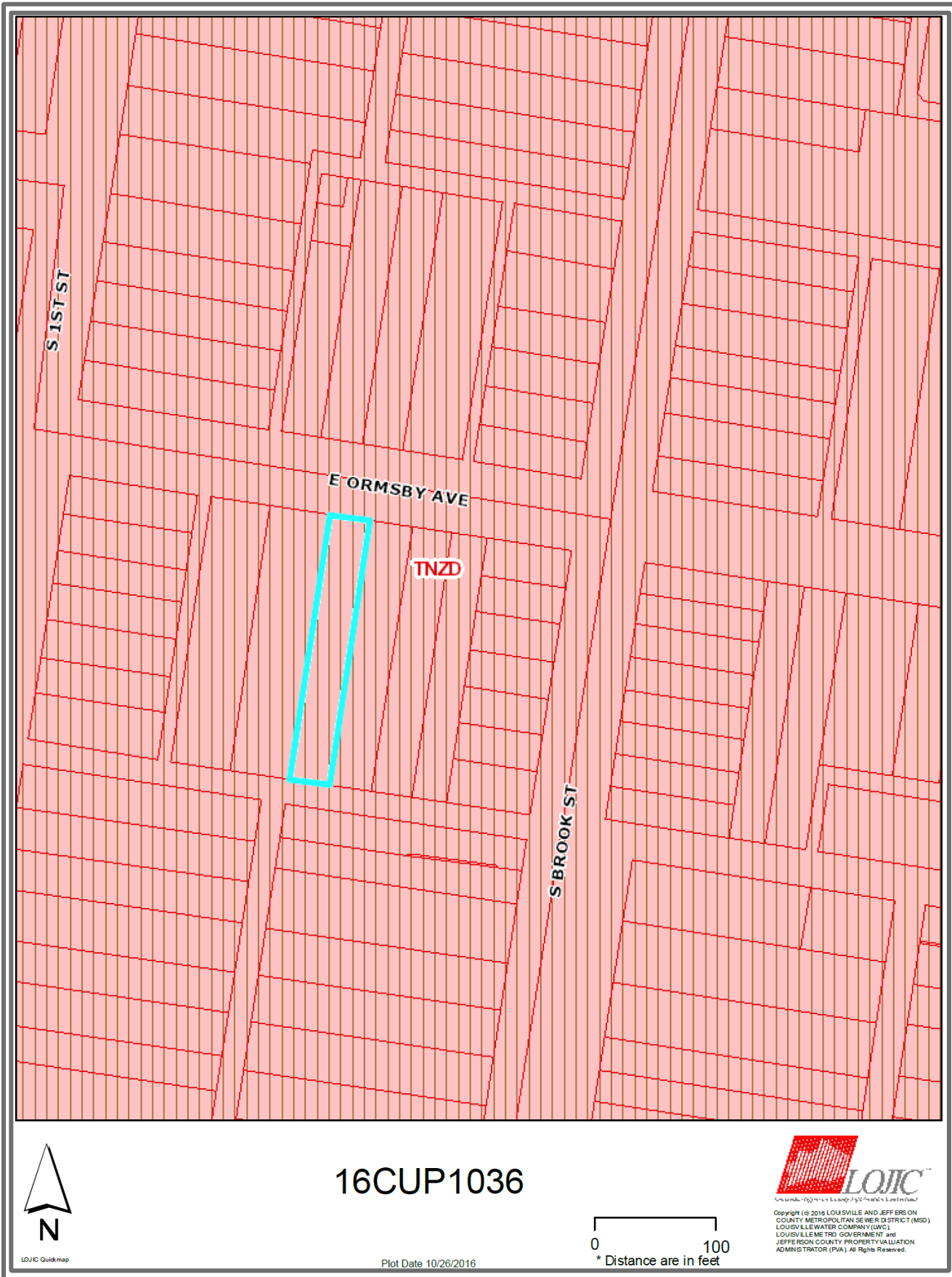
NOTIFICATION

Date	Purpose of Notice	Recipients
12/23/16	APO Notice	First tier and second adjoining property owners
12/21/16	APO Notice	Neighborhood notification recipients
12/23/16	Sign Posting	Subject Property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Interested Party Comments
4. Conditions of Approval

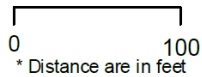
1. **Zoning Map**



LOJIC Quickmap

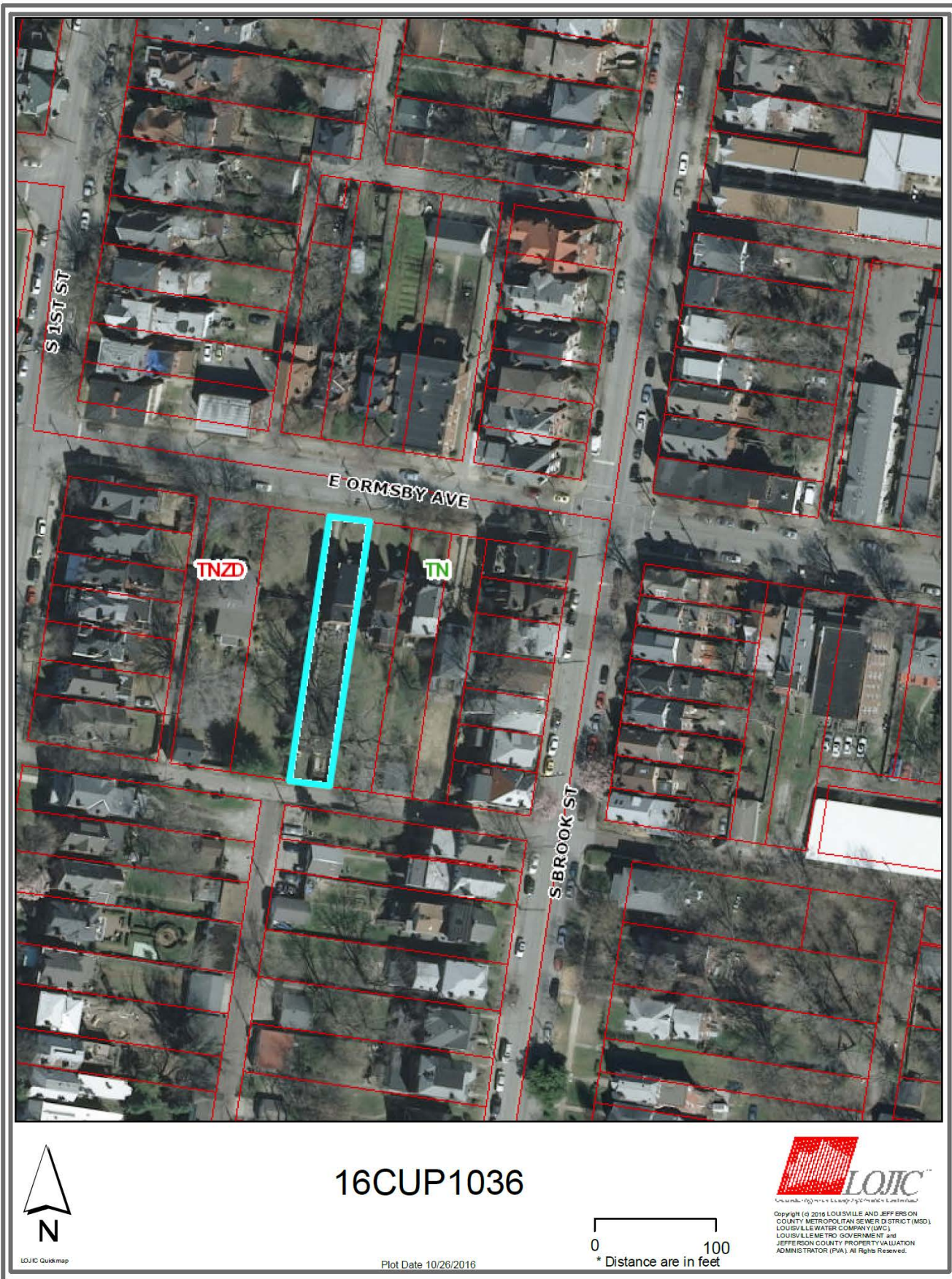
16CUP1036

Plot Date 10/26/2016



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2. Aerial Photograph



3. **Interested Party Comments**

Helga Ulrich
]112 E Ormsby Ave
Louisville, KY 40203

Brian Mabry, Supervisor
Planning and Design Services
Louisville Metro Government

SUBJECT : CUP APPLICATION --16CUP 1036 -- NEIGHBORHOOD INPUT

I have no objection to the occasional short term rental of any neighbor's house provided such business doesn't impact my quality of life. Based on the last few years' history (since late 2012) this particular rental business DOES impact me greatly for reasons I will list later. I am also concerned about the further expansion of this business once the construction of the garage with additional short term rental space is completed: more vehicles, louder parties etc.

This is a business as indicated by my records: it generated at least \$36,000 so far during 2016 (January through October). It's a business that operates on a purely residential street. On an average the house is rented out two 3-day weekends per month; sometimes more often and sometimes less. The frequency and duration of each rental period caused me to formulate the proposed restrictions.

Background:

I have monitored this property since March 2015 when I discovered the listing on 'airbnb'. My neighbor never acknowledged to me that he was renting out his house – for a fee. For the two years prior to me discovering his short term rental business Mr Deeb talked about visitors when I voiced safety concerns about his property regarding strangers being at his house and garden. Signs of concern were loud party noises, many vehicles parked with out-of-state registration plates. Visitors, really?

Prior to realizing my neighbor operated a short term rental business I never once called the police because I wanted to be an understanding neighbor and I wanted for the family to enjoy their home and outdoor space.

Once I realized he, the neighbor, was conducting a business out of his house I started keeping records and kept a close watch on Metro Council's discussions regarding the need to regulate this rental market segment.

The websites:

Airbnb: <https://www.airbnb.com/rooms/788863?guests=16&s=IZPhE5Dm>

Advertising for 16 person occupancy

VRBO: <https://www.vrbo.com/3817301ha>

Advertises for 20 person occupancy

Following are my recommendations for restrictions to the short term rental business at 118 E Ormsby Ave:

- **Enforce occupancy to 10 maximum per Ordinance past by Metro Council in December** (2 per bedroom plus 4). This residence is legally defined as a 3 bedroom house. The third floor is one large room without any separating wall and only one egress to 2nd floor: not qualified to be defined as 2 bedrooms.

The owner continues to misrepresent the number of bedrooms of the house and advertises at a significantly higher occupancy, differently even on each website.

- **Curb the on street parking entitlement to a maximum of 2 vehicles only.**

There is no on-site parking space available since the construction of the garage began in Jan '16. Even when there were two spaces available accessed from the alley, renters never used those spaces but instead parked on the street only. During a typical weekend rental period there are 4-5 vehicles parked on the street but there have been parked as many as six plus a full sized Winnebago-type RV. Most often I cannot even find a space to park my own vehicle in front of my house for short periods of time. The Deeb's property is 33ft wide allowing only for two vehicles to park.

The entitlement was expressed "but you have a garage"..... And when I objected to the Winnebago: "but it was there only for two days". Because of its height it had damaged a tree in front of my house as well: it broke off a whole limb.

Currently there are four unoccupied houses on this block allowing a bit more street parking space but once the two houses that are currently listed for sale are occupied and the third house is occupied again with tenants (long term tenants) available parking spaces will be much more restricted.

Additionally, some of the vehicles are just left on the same spot for three days and therefore can be considered legally abandoned by §72.039.

My property, directly west, is 100 ft wide (double lot) should not provide free street parking space for this short term rental business. Once the garage construction is completed it will have potentially two on site parking spaces available, if they are available to any renters.

➔ A B&B has to prove sufficient on-site parking before a license is approved while this short term rental business isn't? How will the need for more parking be addressed when the additional short term rental space is added after the completion of the garage/carriage house?

- **Restrict outdoor event activity to twice a year.**

The current listings spell out the owner's marketing strategy: entertainment value of the newly built 2-story porch including multiple light fixtures, a propane heater, a grill and surround-sound speakers on the screened in porch. The advertisement states "to keep the noise to a minimum after 10PM while outdoors." It ignores or misrepresents the Metro Ordinance that spells, in measurable terms,

acceptable noise levels (not audible beyond 50ft): it applies to 24 hrs/day and not arbitrarily as stated by Mr Deeb.

Please note that the porch is not sound proof but screened in only. The typical group that rents this house is about 10 to 12 thirty-something young folks gathering/reuniting from various states for, perhaps a Bourbon tour. These gatherings are not for silent prayer meetings and often the party starts as soon as the folks arrive. I've had to call police as early as 6:30 PM. During the last ten months I called for police to educate the renters and owner six times about excessive noise. This fact can be easily verified via an open records requests. I believe I am not the only neighbor that has requested police to request to lower the noise level to that address.

I really enjoy my garden. I've invested significant energy and money into designing a park like environment that I offer for neighborhood social events for a few hours each year. I also enjoy hosting intimate dinner parties for neighbors and friends I/we should not have to have to listen to loud party noises and 'surround sound' music or live amplified music.

I believe that I also speak on behalf of the neighbors that will be purchasing the two houses currently for sale; as they, too, might enjoy their garden space. The previous neighbors did not. I hardly ever saw or heard them outdoors.

➔ Licensed B&Bs are permitted to have two outdoor events per year only. I request that these short term rentals are required to live by the same ordinance.

I know that my suggested restrictions will significantly change the way this short term rental business will need to be marketed. But weren't the two new ordinances enacted for the purpose of protecting neighborhoods and neighbors?

4. **Conditions of Approval**

1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.