

**Board of Zoning Adjustment**  
**Staff Report**  
August 19, 2019



<b>Case No:</b>	19-CUP-0015
<b>Project Name:</b>	Short Term Rental
<b>Location:</b>	1550 Frankfort Avenue
<b>Owner:</b>	Zack Pennington & Joanna Cruz
<b>Applicant:</b>	Zack Pennington
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9—Bill Hollander
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Coordinator

**REQUEST**

Conditional Use Permit to allow short term rental of a dwelling that is not the primary residence of the host in an R-7 Zoning District and Traditional Marketplace Corridor Form District.

**CASE SUMMARY/BACKGROUND**

The 0.063 acre site is located in the Butchertown neighborhood east of Interstate 64 on the west side of Frankfort Avenue between Story Avenue and East Washington Street. The house has three bedrooms and parking will be available in the driveway, (approximately four parking spaces) and one parking credit available on the street. The floodwall is north and adjacent to the residence, beyond are industrially zoned properties, including several concrete companies. South of the site is a parking lot and a design firm. East of the site are residences and commercial operations that face Story Avenue such as Butchertown Social and Sergio's World Beers. South of the property is The Vernon Club bowling alley.

**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 May 7, 2019 and two people attended. In addition to the applicant's explanation, the adjacent parking lot 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 applicant states that the residence has three bedrooms which will allow for eight 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 rental that is not the primary residence of the host. The applicant will need to request relief to this 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. Justification letter is attached.**

- 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 dwelling unit is a single family residence.**
  
- 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 site has credit for one parking space along Frankfort Avenue and at least four spaces on the driveway.**
  
- 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.***

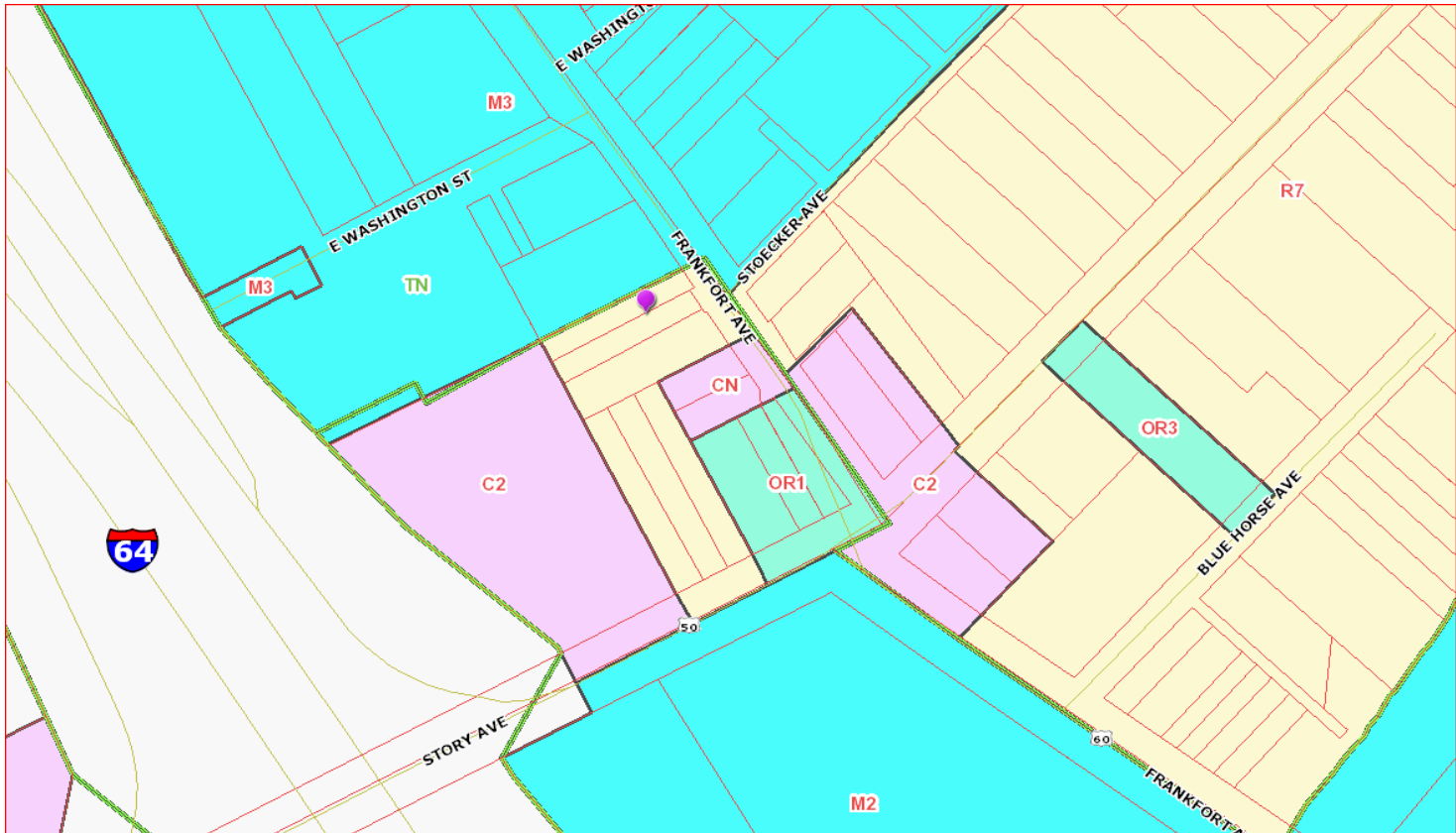
**NOTIFICATION**

Date	Purpose of Notice	Recipients
August 1, 2019 August 1, 2019	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
August 2, 2019	Hearing before BOZA	Sign Posting

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Front of house
4. Neighborhood Meeting/Minutes
5. Floor Plan
6. Bedroom Pictures
7. 600 foot map
8. Justification Letter

**Zoning Map**



**Aerial Photograph**



Front of house



Neighborhood Meeting for 1550 Frankfort Ave.  
Butchertown Social 6:00 - 7:00pm  
5/7/19

Attendees:

- Zachary Pennington - Property owner & CUP applicant
- Joanna Cruz - Property owner
- Margaret Vogt - Tier 1 neighbor: 1556 Frankfort Ave.
- Alan Thompson - Tier 1 neighbor: 1556 Frankfort Ave.

Introduction by Zachary:

- Provides information on why he and Joanna are interested in using their property as a STR.
- Defines STR and explains the CUP process.
- Describes how the property has been used as a STR while owner-occupied throughout the past year.
  - Primarily rented out single room.
  - Occasionally rented out entire house.
- Explains that if the CUP is issued, it's likely he and Joanna will utilize a local property management company.
- Asks for questions / comments.

Questions / Comments:

Potential for paid parking in the future

Margaret is one of three owners of the business located at 1556 Frankfort Ave. Their property has a parking lot that's adjacent to 1550 Frankfort Ave. There have not been any issues with STR guests parking in their lot and the business owners don't expect that to become an issue. Margaret and the owners are considering trying to monetize the parking lot in the future. She wanted to inform Zachary and Joanna that:

- If they decide to monetize the lot, there will likely be a gate or some sort of barrier installed in front of their lot.
- There could be an opportunity for Zachary and Joanna to pay for dedicated parking spots for STR guests.

Zachary and Joanna expressed support of the potential for the business owners to monetize the parking lot. They explained that currently their house rules and instructions to short-term guests already indicate not to park in the lot and warn of towing. While there have not been any issues with guests ignoring those instructions, they acknowledged that having dedicated parking spots in the lot next door would be appealing to their guests and the property owners.

Contact information

Margaret asked Zachary who they should contact if the CUP is issued and there's ever an issue they see with the property, particularly if he and Joanna opt for a property management company. Zachary said to contact the property owners. He and Joanna provided Margaret with their phone numbers and email addresses.



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SIGNATURE

ADDRESS

NAME

1556 Frankfurt Ave.  
" "

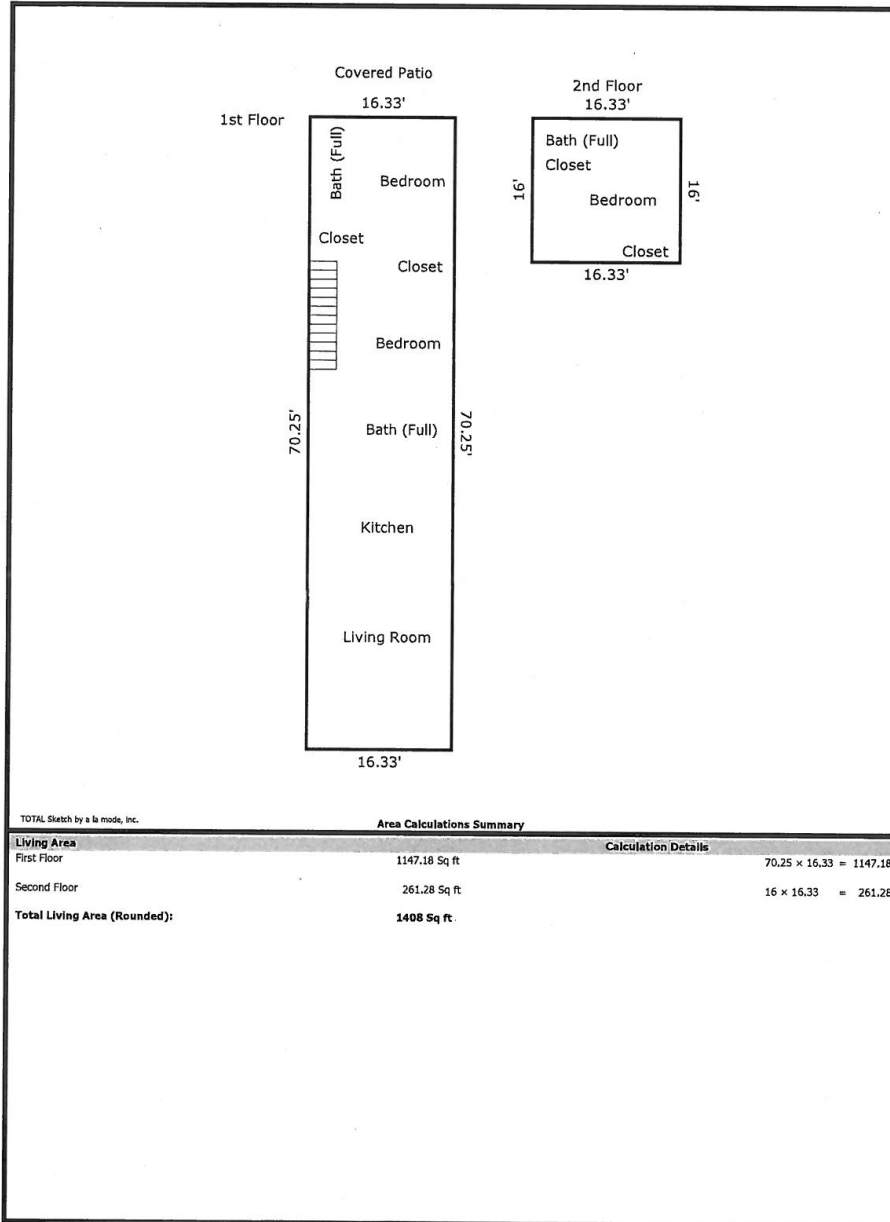
Margaret Vogt  
Alan Thurfear

*Margaret Vogt*  
*Alan Thurfear*

Neighborhood Meeting for 1550 Frankfurt Ave. 5/7/19

### Building Sketch

Borrower	Zachary Pennington & Joanna M Cruz		
Property Address	1550 Frankfort Ave		
City	Louisville	County	Jefferson
		State	KY
		Zip Code	40206
Lender/Client	Crosscountry Mortgage Inc (2903)		



Form SKT.BLDSKI - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

1550 Frankfort Ave  
Bedroom 1



Bedroom 2



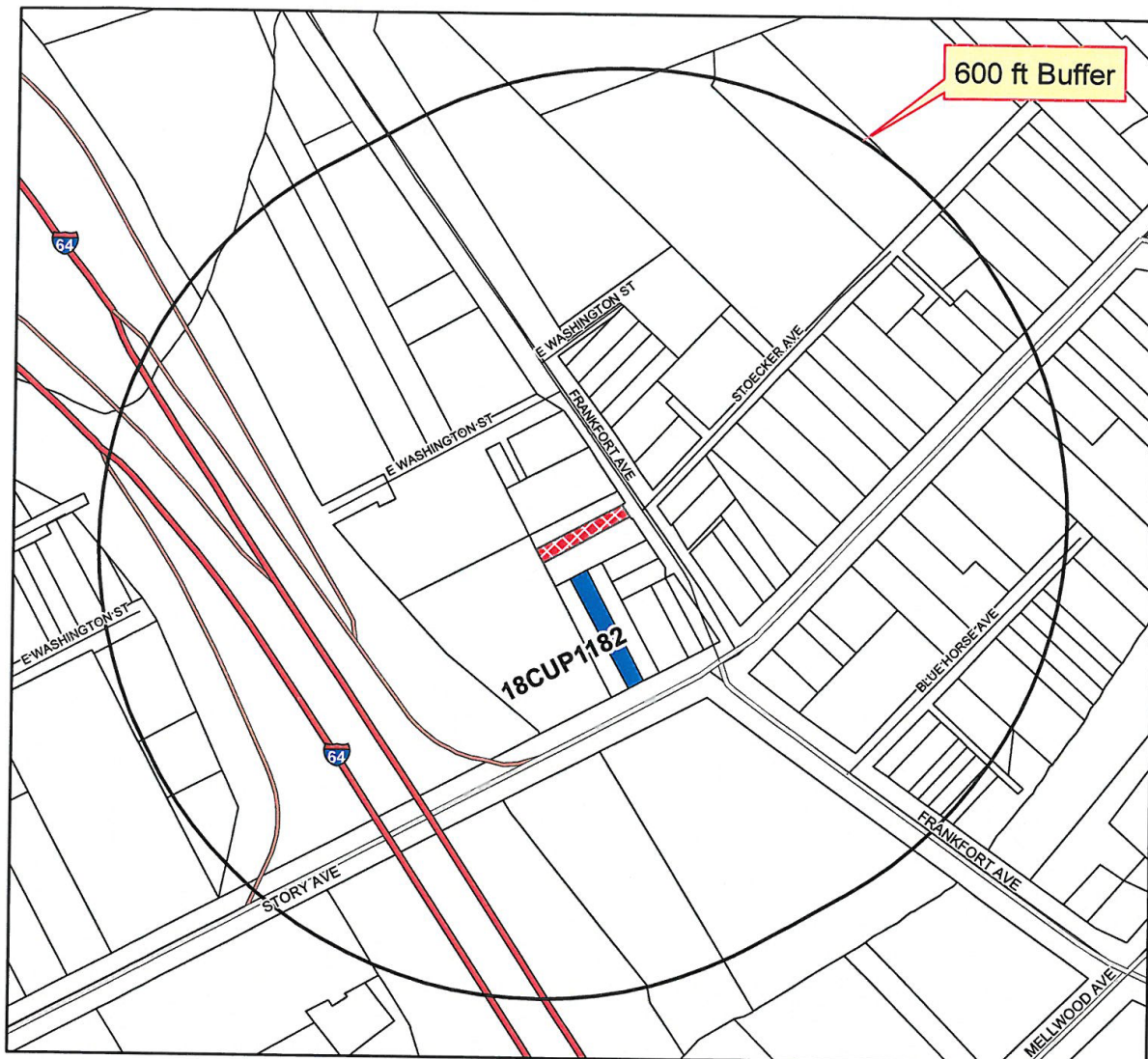
Bedroom 3






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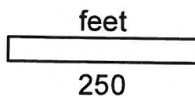
Map Created: 08/07/2019



**Legend**

-  Buffer
-  Subject Site
-  Approved

**Proximity Map  
Case # 19-CUP-0015**



This map is subject to change upon the Board of Zoning Adjustment granting approvals to other Short Term Rental Conditional Use Permits.



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8/10/19  
Written Justification re: 19-CUP0015

Zachary Pennington  
1550 Frankfort Ave  
Louisville, KY 40206

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To Whom It May Concern:

We are seeking a Conditional Use Permit to convert our primary residence at 1550 Frankfort Ave into a full-time Short-Term Rental (STR). We began the CUP application process in March of 2019 and are currently on the BOZA docket for August 19, 2019.

On August 9<sup>th</sup>, 2019, our Case Manager, Steve Hendrix, informed us that application 18CUP1182 had just been approved. The approved property is within a 600-ft. radius of our home, and thus, our application requires an appeal for approval. I plan to present why our property is a prime candidate for a STR during the BOZA meeting, but I wanted to provide you with information prior to the meeting.

#### **STR Compliance**

Prior to our interest in converting our home into a Non-Owner Occupied STR, we had been renting our house on Airbnb. It's an ideal setup for rental, given that there are three bedrooms and three bathrooms, which is a rarity in the Butchertown neighborhood. During that time, we rented our home in compliance with the Owner-Occupied requirements, under registration number STR928072. We received top ratings and quickly became a Super Host on Airbnb.

#### **CUP Application Timeline**

As mentioned above, we submitted the CUP Pre-Application in mid-March. Based on the published timeline of the STR CUP process, we thought we'd be able to submit our formal application 21-28 days later. However, given that the Louisville Metro Planning & Design Services (PDS) was experiencing unusually high volume, we weren't able to submit the formal application until ~90 days later. The recently approved application that requires this appeal – 18CUP1182 – was submitted only two weeks prior to ours. During that timeframe, the regulation regarding the 600-ft. rule was approved by Metro Council, which potentially changed the course of our in-process application.

#### **Unique Neighborhood Makeup**

We understand the intention of the 600-ft rule was to protect and preserve residential neighborhoods, which is entirely necessary. The makeup of our neighborhood, however, is more much commercial than most neighborhoods, and our house in particular is located on a very loud and busy street (Frankfort Ave). Specifically, we are next door to a restaurant that's open nights and weekends, we're very close to two bars, and there are loud commercial vehicles driving by the house all the time. We've spoken with most of our neighbors, held a successful neighborhood meeting, and have fortunately received their overwhelming support. Here is more detailed information about our neighbors:

- Our neighbor directly to the North is the restaurant Pizza Lupo, which is open late on evenings and weekends. A giant flood wall separates our properties. We don't hear very much noise from them even when they're busy, and I doubt they hear any noise from us.
- Our neighbor across the street is The Butchertown Social, which is also open late on evenings and weekends, as is their next-door neighbor, Sergio's World Beers.
- Our neighbor directly to the South is an interior design firm office that is in use on weekdays during normal daytime business hours.
- We are down the street from Allied Concrete and the LMPD Vehicle Impound Unit. Their vehicles are loud, constant, and way more disruptive than a house with 8 or fewer guests in it.

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**Benefits to our Neighbors**

We love our neighborhood and have great relationships with the people and businesses in Butchertown. We believe the restaurants, bars, shops, and attractions highly benefit from an increase in out-of-town guests staying in the area, especially given that the nearest traditional hotel is over a mile away in NuLu at The AC Hotel. When we've had short-term renters in the past, we've encouraged them to frequent the locally-owned establishments nearby. Many of our Airbnb reviews mention Pizza Lupo and The Butchertown Social by name because the guests enjoyed those places so much.

We are also down the street from the soon-to-be-open Botanical Gardens and a few blocks away from the new Lynn Family Stadium. Both of these projects will bring even more new guests to the area who will have limited options of places to stay with the current inventory.

We have spoken with the owners of all of these businesses and have been given their blessings. Several of them have offered to write formal letters of support, which I can bring with me to our hearing if needed.

**Personal & Business Ties to Butchertown**

I have lived in Louisville since 2003 and my fiancée has been here since 2008. This is the first home either of us have ever owned, and we feel lucky that our first house is in Butchertown. While we both adore Louisville, our long-term plan was to move to Austin, Texas to be closer to her family when are ready to have a family of our own.

My fiancée and I are both keeping our jobs in Louisville, which is one of the main reasons we want to keep the house as an STR. Because we will be traveling back to Louisville at least monthly, often for weeks at a time, we want to stay in the neighborhood and house that we love. If we were required by the city to convert our house into a long-term rental, we would lose that option.

In addition to investing in a home, I'm also heavily invested in helping bring new businesses to the area. I'm part-owner of two businesses in the Butchertown/NuLu area – Flying Axes and NoraeBar. I helped open Flying Axes in 2017, which is headquartered in Louisville and has now expanded to new cities. More recently, I began opening a new karaoke bar called NoraeBar that is located in NuLu. My partners and I expect to open NoraeBar in the next few months, and we're excited to provide another entertainment destination that will further enhance the area for both locals and visitors alike.

Ultimately, I'm including this much detail in our justification letter to illustrate that we are not some out-of-town developers looking to make a quick buck, or negligent homeowners with no regard for our neighbors. Instead, converting our home into a non-owner occupied STR enables us to maintain ties to the community and to promote our neighborhood to future out-of-town visitors. We ask that you take into consideration our unique location, neighborhood makeup, commitment to Louisville, and contrast that with the original intent of the 600-ft. restriction in your approval of our appeal for a Conditional Use Permit.

Thank you for your time and consideration.

Sincerely,



Zachary Pennington and Joanna Cruz  
Owners, 1550 Frankfort Ave

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