

Board of Zoning Adjustment
Staff Report
September 11, 2017



Case No:	16CUP1065
Project Name:	2 nd St. Short Term Rental
Location:	1324 S. Brook St.
Owner:	Jeffrey Ross
Host:	Linda Sue Ross
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Brian Mabry, AICP, Planning Supervisor

REQUEST

Conditional Use Permit to allow short term rental of a dwelling unit in the Old Louisville Traditional Neighborhood Zoning District (TNZD)

CASE SUMMARY / BACKGROUND

The applicant proposes to continue to conduct short-term rentals at the subject property. The applicant is building a carriage house and proposes to use it as a short term rental space as well as use the third floor of the main residence as a short term rental. The carriage house received a Certificate of Appropriateness from the Old Louisville Architectural Review Board and has received required building permits. The owners/host use the 1st and 2nd floor of the main building as a residence. Since the property is in the Old Louisville / Limerick TNZD, a Conditional Use Permit is required.

The subject property is rectangular in shape, 40 feet in width and 7,937 square feet in area. It is located on the west side of S. Brook Street, south of Ormsby Avenue. The carriage house is approximately 900 square feet in floor area and will have two bedrooms. The main residence is approximately 3,500 square feet in floor area. The third floor of the main residence has two bedrooms. Residential uses and TNZD zoning surround the property.

LDC regulations credit the property frontage of 40 feet with two on-street parking spaces. The carriage house will have space for two vehicles on the first floor; however, the applicant intends to use one of those for his personal vehicle. There is adequate space to the side of the parking garage to accommodate two vehicles with tandem parking.

STAFF FINDINGS

The applicant has provided the required documentation, has held a neighborhood meeting and has been informed of the standards and regulations specific to use of the dwelling unit for short term rentals.

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 issues.

INTERESTED PARTY COMMENTS

The applicant held a neighborhood meeting with seven persons in attendance. Interested party comments are attached to this Staff Report.

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 does not conflict with Comprehensive Plan policies.

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 and appearance?

STAFF: The proposed use is compatible with surrounding development. The carriage house received a Certificate of Appropriateness from the Old Louisville Architectural Review Board.

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 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 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.

STAFF: 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.

STAFF: The applicant has been informed of this requirement. Each unit may have a short term rental contract at any given time.

- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals.

STAFF: The applicant has been informed of this requirement. According to the applicant, the main residence has two bedrooms and the carriage house will have two bedrooms. Therefore, each unit can accommodate a maximum of 8 guests.

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted.

STAFF: The main residence 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.

STAFF: The applicant has been informed of this requirement.

- F. Outdoor signage which identifies the short term rental is prohibited.

STAFF: 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.

STAFF: LDC regulations credit the property frontage of 40 feet with two on-street parking spaces. The carriage house will have space for two vehicles on the first floor; however, the applicant intends to use one of those for his personal vehicle. There is adequate space to the side of the parking garage to accommodate to vehicles with tandem parking

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

STAFF: 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.

STAFF: The applicant has been informed of this provision.

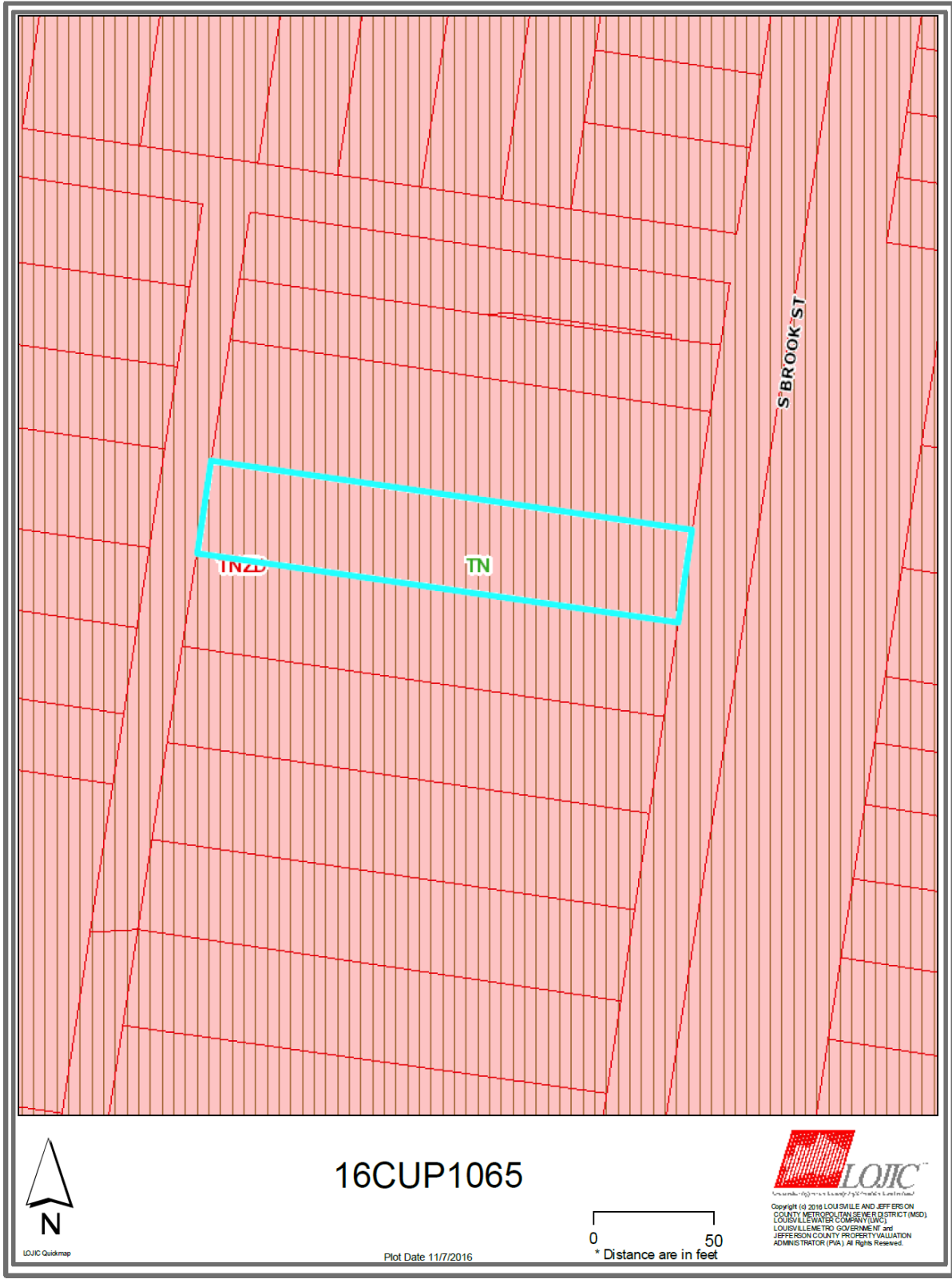
NOTIFICATION

Date	Purpose of Notice	Recipients
8/25/17	APO Notice	First tier and second adjoining property owners Subscribers to Council District 6 Development Activity
8/30/17	APO Notice	Neighborhood notification recipients
8/25/17	Sign Posting	Subject Property

ATTACHMENTS

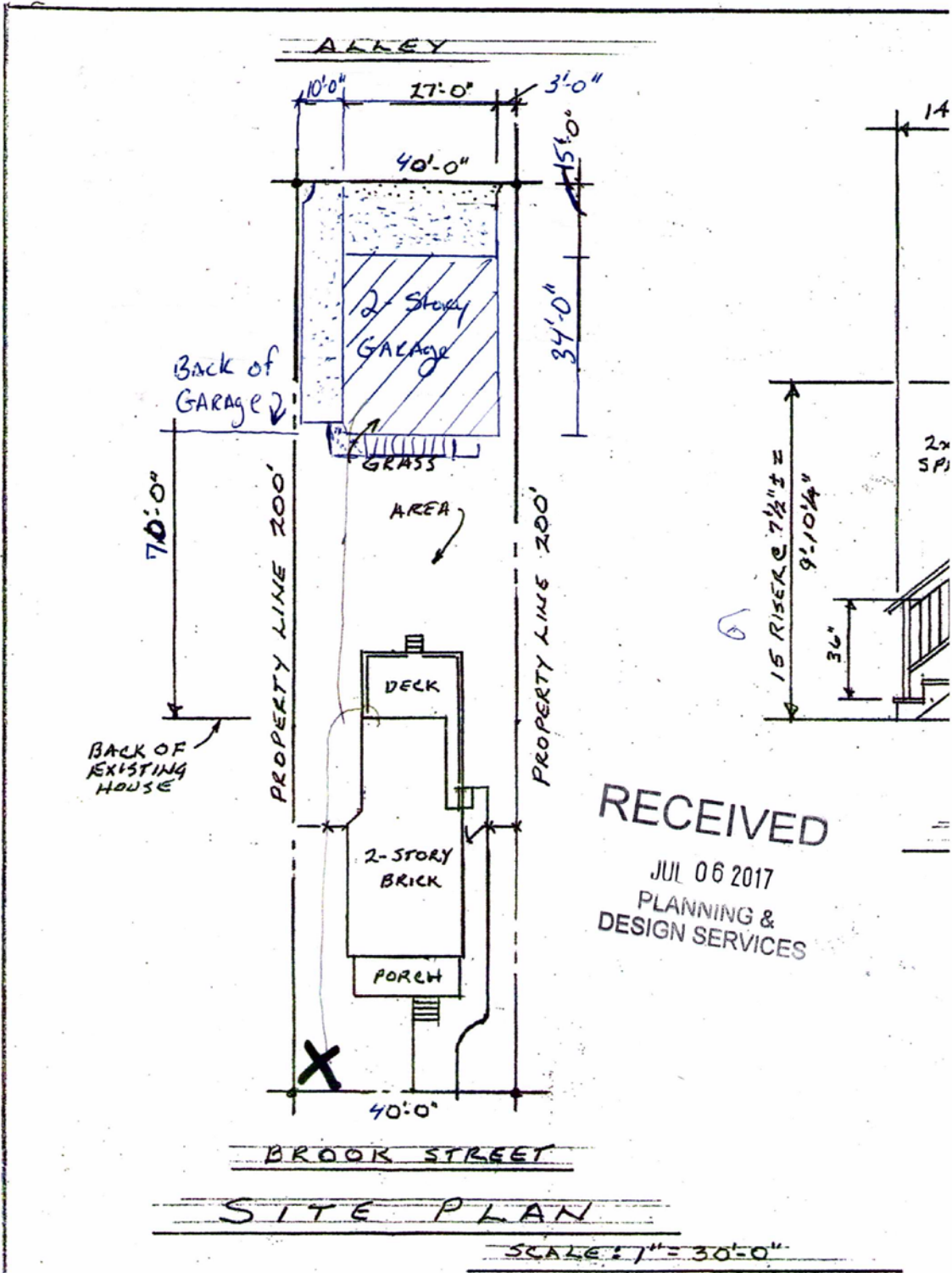
1. Zoning Map
2. Aerial Photograph & Site Plan
3. Interested Party Comments
4. Proposed Condition of Approval

1. **Zoning Map**



2. Aerial Photograph & Site Plan





16 CUP 1065

3. Interested Party Comments

From: Cheryl Fusselman
To: [Mabry, Brian K.](#)
Subject: 1324 S Brook conditional use permit
Date: Wednesday, November 23, 2016 9:30:50 AM

Dear Mr. Mabry:

I wanted to voice my complete support for Jeff and Linda Ross obtaining a conditional use permit for short term rentals. I have lived directly across the street from 1324 S Brook for 20 years and until Jeff and Linda moved in this has been a blighted property the entire time. I'm thrilled to see it has been restored and updated to the beautiful Victorian house that it was originally and have such caring owners moving forward.

The benefits of short term rentals in our neighborhood are many. What a terrific way to showcase our lovely neighborhood and beautiful homes by hosting out of town guests that are respectful and considerate. Secondly these guest stimulate our local economy not only for renting space but for local restaurants, attractions and events and taxi/uber services. Lastly, the additional income from short term rentals will help owners maintain these historic properties which is so much more expensive than more typical types of homes.

At the neighborhood meeting there were a few complainers that were woefully ignorant or ill-informed about short term rentals. One concern was parking. The short term rental guest often fly into town and do not impact parking whatsoever. The main problem with parking is the local cars that sit on the street not being driven at all. Ironically one of the complainers has a beat up truck with "for sale, good work truck" wrote on the window that hasn't moved in months. I believe this is a code violation.

I feel that short term rentals are a win-win for Old Louisville and urge you to approve the conditional use permit for Jeff and Linda Ross.

Sincerely,

Cheryl Fusselman
Realtor, ABR, GRI, SFR
RE/MAX Metro
502.767.8292 CELL
800.986.5290 FAX
CherylFusselman.com

From: Steve Rodgers
To: [Mabry, Brian K.](#)
Subject: Case #: 16CUP 1065
Date: Thursday, November 17, 2016 8:25:25 PM

Brian,
I attended the meeting November 14, 2014.

While I was not extremely vocal, each of the "invited neighbors" which spoke out were in opposition to having a short term rental property in this neighborhood. I agree with them.

Steve Rodgers
1332 S Brook Street
Louisville, Kentucky 40204

From: jacqueline smith
To: [Mabry, Brian K.](#)
Subject: Conditional Use Permit Application 1324 S Brook Street
Date: Tuesday, November 29, 2016 1:01:56 PM

Mr. Mabry;

My name is Jacqueline Smith and I reside at 1328 S Brook Street, next door to the property referenced in the subject line. I, and every other neighbor bordering this property, are strongly opposed to this property being used as anything other than a single family residence. This neighborhood is in transition in a positive direction from a place once known as good only for transient college students and low rent apartments to a place where people like me are raising small children. In fact, my house, the house to the right of 1324 and the house directly across the alley are all homes to children under the age of 8.

My biggest concern is that neighborhood watches are most important in our urban neighborhood. We rely heavily on each neighbor knowing what is normal and what is not and we can and do call the police when we notice something that is not right. If there are people coming and going every other day how will we know who is casing the neighborhood for later break-ins and who is just visiting from Albuquerque? We are also concerned about the increased traffic in the alley where the children play after school and on weekends. Out of town people not familiar with the area could accidentally harm a child.

We are not opposed to rental property where there are long term lessees or for use of this property as a short term rental during Derby Week. We expect this sort of use in our neighborhood. But not as a motel 8 next door to our single family home.

Thank you,

Jacqueline Smith

From: julie rodgers
To: [Mabry, Brian K.](#)
Cc: [Steve Rodgers](#)
Subject: Conditional Use Permit
Date: Monday, November 21, 2016 8:15:28 PM

I am writing to state my opposition to Conditional Use Permit Application for short-term rental of 1324 S Brook St

I am Julie Rodgers. I was invited to a limited neighborhood meeting regarding this proposal.

My husband and I live 2 doors down at 1332 S Brook St

All but one of the people at this meeting spoke out against this Permit. The one person did not say anything one way or the other.

We have horrible parking problems. I have made short videos for over a week of the cars parked on our part of the block. On our half of the block we have a fire hydrant, a handicapped parking space and a driveway. Most mornings there are cars parked illegally, too close to the fire hydrant, at least partially in the handicapped space and blocking the driveway.

There is rarely more than one space open and sometimes none. This is also the situation in the evening most days. We have to be careful not to get home from anywhere very late. I believe a parking study needs to be done. I work at UPS and especially this time of year have the option of double shifting at night. I do not feel it would be safe to come home at 4:00 in the morning and have to park a block away.

This is zoned as a residential neighborhood. In the past these houses have been broken down into apartments and sleeping rooms. I believe there is a law that once a house has been vacant for one year or switched to a single family unit it cannot be broken up again. It seems like these conditional Use permits are a step backwards.

People are now building housing units in our alleys and referring to them as carriage houses. I have been told the Rosses have had a tree removed that was not on their property in preparation of building this structure. We are not opposed to a garage, just housing in the alley.

There is a reason these types of permits are not allowed in several neighborhoods in the east end of Louisville. They are not wanted! In Old Louisville we have to put up with halfway houses, corner package liquor stores etc. There are also 5 or 6 homes in our immediate half block area being rented out on Air BnB and other short-term rental sites. In fact the Rosses have been renting out their third floor ever since they moved in. There are at least six reviews on Air BnB website for their room and they have only lived there a very short time.

I probably will not be able to attend the hearing on this matter because it is peak season at UPS and I cannot take off work, but I wanted to voice my strong objections to this Permit

Julie Rodgers
1332 S Brook St
502-641-4003
jlrdrgrs@hotmail.com

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From: Michael Musuraca
To: [Mabry, Brian K.](#)
Subject: Re: Email
Date: Saturday, November 19, 2016 4:13:48 PM

Dear Mr. Mabry;

My name is Michael S. Musuraca. My wife and I are writing to express our opposition to the Conditional Use Permit application, #16CUP1065, submitted for 1324 S. Brook Street.

This Conditional Use Permit is intended to allow the new owners at 1324 S. Brook to operate a mini-hotel out of their residence.

We are completely against this use of a residential structure as a business within Traditional Neighborhood zoning district. This use of the home as a short term, overnight rental lodging is a direct contradiction of the TNZD guidelines and will negatively affect the surrounding residents as well as conflicting with the stated goals of the Old Louisville Preservation District to return structures to their original residential functions and to preserve the characteristics of this unique area. Those characteristics are not furthered by encouraging the proliferation of for profit businesses within the confines of a historic residential district.

The owners propose to utilize off street parking for their rental customers exacerbating the already insufficient parking availability due to the existing numbers of rental units along this section of Brook Street. The owners have admitted to conducting rental operations prior to receiving approval of the Conditional Use Permit. The increased traffic of a transient population will pejoratively affect the adjacent neighbors with additional noise, trash, vehicle emissions and disturbances. The lighting of various pathways to and from the home at all hours of the night to accommodate rental guests is an imposition to the surrounding residents whose homes are exposed to the increased lighting. The home at 1324 S. Brook was vacant from 2004 until this year. The guidelines for Old Louisville stipulate that structures vacant for more than a year shall return to their original purpose. In the case of 1324 S. Brook, that is a single family home, not a small scale motel with multiple units on a residential parcel. These short term lodging operations, largely using online business drivers such as Air BnB or similar, have a known negative affect on property values for the homes that surround these rental businesses. Unlike conventional long term rental units and apartments that exist as "homes", Air BnB type rentals operate as hotels/motels and are banned in a large number of Louisville area incorporated communities.

We have invested over 12 years, \$100,000 and thousands of hours in labor on the restoration of our home next door at 1320 S. Brook Street. We in no way shape or form wish to live adjacent to a hotel. If we had wanted to be next door to a rental lodging operation, we would have purchased a home next door to one of the existing Bed and Breakfast businesses in the neighborhood. We did not and we do not believe we should be forced to accept this intrusion of a lodging business next to our private residence. Particularly, when those residences are within an area designated as a traditionally defined neighborhood. Zoning is set up to make sure that property uses are appropriate for the area. Businesses such as short term lodgings come with a whole host of attendant issues and they are typically located in such a way to insulate them due to their impact on the residential life of an area.

Please feel free to contact us at 502-640-4591 if we can offer any additional comments

regarding this proposal.

Sincerely,

Michael S. Musuraca and Shauna R. Musuraca

On Tue, Nov 15, 2016 at 3:59 PM, Mabry, Brian K. <Brian.Mabry@louisvilleky.gov> wrote:

Brian Mabry, AICP

Planning & Design Supervisor

Develop Louisville

Division of Planning & Design Services

444 S. 5th St., Suite 300

Louisville, KY 40202

Phone: (502) 574-5256

<http://louisvilleky.gov/government/planning-design>

4. Proposed Condition of Approval

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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