

# REPORT TO THE SHELBY COUNTY PLANNING COMMISSION

Department of Development Services

November 15, 2021

Case No. E21-011 - 3605 Cumberland Trace

Rooming House or Short-Term Rental in a Residential District

Zoning Violation Enforcement Action

This Enforcement Action concerns the operation of a rooming house or short-term rental in the Meadowbrook single-family residential neighborhood, zoned SD, Special District. The *Zoning Regulations of Shelby County, Alabama* define a rooming house as “A building other than a hotel where lodging for three or more persons, not of the immediate family, is provided for definite periods and for compensation and by prearrangement for definite periods.” This land use is a violation of the Zoning Ordinance. The subject property is located at 3605 Cumberland Trace; Parcel Identification Number 58-09-3-06-0-001-001.012.

## DISCUSSION

The Hare residence is located at 3605 Cumberland Trace within the Meadowbrook neighborhood in unincorporated Shelby County. The subject property is zoned SD, Special District (Meadowbrook Residential Neighborhood). The Meadowbrook neighborhood includes single-family residential lots in varying sizes. While the existing structure is a single-family residence, the current land use is a rooming house or short-term rental that is actually an R-4, Multiple Dwelling district use. A rooming house or short-term rental is not a permitted use within the SD, Special District (Meadowbrook Residential Neighborhood).

According to the Zoning Ordinance:

The *Zoning Regulations of Shelby County, Alabama* define a rooming house as “A building other than a hotel where lodging for three or more persons, not of the immediate family, is provided for definite periods and for compensation and by prearrangement for definite periods.”

Rooming house is a somewhat antiquated term that has been replaced with the popular term “Airbnb” since the advent of the online short-term rental websites that include Airbnb.com, VRBO.com, HomeToGo.com and tripping.com to name a few. While the term has changed over the years, the use remains the same.

The following information will serve as a case history.

### August 2, 2021

#### **I21-0114 – AirBNB (3605 Cumberland Trace) Rooming House in SD**

On August 2, 2021, Development Services received a formal complaint from the Meadowbrook Homeowners’ Association (HOA) via email regarding multiple families occupying a single-family residence at 3605 Cumberland Trace. The complainant indicated that the activity appears to be similar to a hotel or an AirBNB. An Inquiry case was created and an investigation began. A

review of the complaint revealed the property owners had passed away and that Crosby O'Hare (family representative/rental host) posted the property as a short-term rental on the Airbnb and VRBO websites.

Upon confirmation that a violation of the Shelby County Zoning Ordinance was present, an enforcement case was opened for the operation of a rooming house or short-term rental in the Meadowbrook single-family residential neighborhood, zoned Special District.

### **Mid-August 2021**

#### **E21-011, AirBNB (3605 Cumberland Trace) Rooming House in SD**

In mid-August 2021, Development Services staff spoke to a family representative regarding the short-term rental land use, in what zoning district the short-term rental use is permitted, and the enforcement process if the property is found to be in violation. The representative did not indicate whether he would or would not comply with the requirements of the Zoning Ordinance. The call seemed to be information gathering.

### **August 24, 2021**

On August 24, 2021, the first Notice of Violation (NOV) letter was mailed to the property owner of record (Brian and Alice Hare – deceased). On the same day, a complaint status inquiry was received from Mr. Ray Fitzpatrick, legal representative for the HOA. He provided additional information about the passing of the Hares and contact information for Crosby O'Hare.

A copy of the NOV letter was mailed to Mr. O'Hare's New York City address. The first NOV letter asks the recipient to contact the Department of Development Services within 15 days (09/08/21) from the date of this letter to discuss the matter or if you feel this letter is in error.

***Status: No Response***

### **September 8, 2021**

On September 8, 2021, there being no response from Mr. O'Hare, the second NOV letter was mailed to the property owner of record (Brian and Alice Hare – deceased) and a copy of the NOV letter was mailed to Mr. O'Hare's New York City address. The second NOV letter asks the recipient to contact the Department of Development Services within 15 days (09/23/21) from the date of this letter to discuss the matter or if you feel this letter is in error.

The property continued to be listed as an available short-term rental on both AirBNB and VRBO.

***Status: No Response***

### **October 1, 2021**

On October 1, 2021, there being no response from Mr. O'Hare, the third and final NOV letter was sent via certified mail to the property owner of record (Brian and Alice Hare – deceased) and to Mr. O'Hare's New York City address. The third and final NOV letter asks the recipient to contact the Department of Development Services within 10 days (10/11/21) from the date of this letter to prevent referral of this enforcement case to the Shelby County Planning Commission.

The property continued to be listed as an available short-term rental on both AirBNB and VRBO.

*Status: No Response*

Upon verification that all required notifications had been sent, Development Services prepared to forward the case to the Planning Commission for a recommendation to the County Commission for a referral to the County Attorney for legal action to be taken to enforce the zoning ordinance.

**October 25, 2021**

On October 25, 2021, there being no response from Mr. O'Hare, the NOV letter stating the case had been referred to the Planning Commission for further action was sent via certified mail to the property owner of record (Brian and Alice Hare – deceased) and to Mr. O'Hare's New York City address. The NOV letter stated **The Planning Commission will hear the enforcement case on Monday, November 15, 2021, at 6:00 pm. At this meeting, the Planning Commission may refer the enforcement case to the County Attorney for further action.**

The property continued to be listed as an available short-term rental on VRBO.

*Status: No Response*

By November 4, 2021, two certified mail signature cards for Mr. O'Hare had been received.

**Summary**

Mr. O'Hare was notified in writing four (4) times that the operation of a rooming house or short-term rental in the Meadowbrook single-family residential neighborhood, zoned SD, Special District is a violation of the Zoning Ordinance. As of November 5, 2021, there has been no response from Mr. O'Hare. It appears that the property has been removed from both the AirBNB and VRBO websites; however, staff cannot confirm the activity has ceased in order to correct said violation. Therefore, the Shelby County Planning Commission may recommend Case Number **E21-011, Rooming House or Short-Term Rental in a Residential District (3605 Cumberland Trace)** to the Shelby County Commission for referral to the County Attorney for legal action to be taken to enforce the zoning ordinance.

Additionally, Development Services has been informed that a civil suit, brought by the HOA, is pending.



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