

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**April 3, 2017**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 3, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Members Present:**

Mike Allendorf, Chair  
Betty Jarboe, Vice Chair  
Rosalind Fishman, Secretary  
Paul Bergmann  
Lester Turner  
Dean Tharp  
Lula Howard

**Staff Members Present:**

Brian Mabry, Planning & Design Supervisor  
Emily Liu, Planning & Design Director (arrived at approximately 10:20 a.m.)  
Joe Haberman, Planning & Design Manager  
Jon Crumbie, Planning & Design Coordinator  
Dante St. Germain, Planner I  
Ross Allen, Planner I  
Beth Jones, Planner II  
Paul Whitty, Legal Counsel  
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**April 3, 2017**

**APPROVAL OF MINUTES**

**MARCH 20, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:01:55** On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on March 20, 2017.

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, and Chair Allendorf**

**Abstain: Member Howard**

**Absent: Member Tharp and Vice Chair Jarboe**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**April 3, 2017**

**BUSINESS SESSION**

**CASE NUMBER 17VARIANCE1013**

Request:	Variance from the required 25' rear yard setback
Project Name:	1218 Park Hills Drive Garage
Location:	1218 Park Hills Drive
Owner:	Sandra & James Hardison
Applicant:	James Hardison
Representative:	James Hardison
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**00:02:40** Dante St. Germain presented the case and responded to questions from the Board Members (see staff report and recording for detailed presentation).

**NOTE:** This case was opened for Public Hearing to allow testimony from the applicant.

**The following spoke in favor of the request:**

James Hardison, 1218 Park Hills Drive, Louisville, KY 40207

**Summary of testimony of those in favor:**

**00:05:47** James Hardison responded to questions from the Board Members (see recording for detailed presentation).

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**BUSINESS SESSION**

**CASE NUMBER 17VARIANCE1013**

**The following spoke in opposition of the request:**

No one spoke.

**00:12:40 Board Members' deliberation**

**00:13:01** On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the garage addition will be 5' from the rear property line, preserving safe separation from the property to the rear of the lot. The rear adjoining property owner has signed approval of the proposed garage addition, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage addition will be behind the existing structure and will not be easily visible from the public right-of-way, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will be constructed according to building code, protecting the interests of the neighbors. Additionally, the water runoff will be routed to a rain garden, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed garage addition will otherwise comply with all residential site design standards, and

**WHEREAS**, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the parcel is regularly shaped and does not have any known topographic constraints, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from building the requested garage addition; now, therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**April 3, 2017**

**BUSINESS SESSION**

**CASE NUMBER 17VARIANCE1013**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 17VARIANCE1013, does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 for a structure to encroach into the required rear yard (**Requirement 25 ft., Request 5 ft., Variance 20 ft.**), based on the Standard of Review and Staff Analysis, the discussion and the presentation.

**NOTE: Board Member Tharp arrived at approximately 8:35 a.m. and Vice Chair Jarboe arrived at approximately 8:40 a.m.**

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, Tharp, Howard, and Chair Allendorf**

**Abstain: Vice Chair Jarboe**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**April 3, 2017**

**PUBLIC HEARING**

**CASE NUMBER 14CUP1003**

Request: Conditions of Approval for the potentially hazardous or nuisance use (staging lot for trucks and trailers) Conditional Use Permit, approved on January 11, 2016.

Project Name: Conditions of Approval

Location: 151 & 201 Cabel Street

Owner: Swift Pork Company

Applicant: JBS USA, LLC & Swift Pork Company

Representative: Glenn Price

Jurisdiction: Louisville Metro

Council District: 4- Barbara Sexton Smith

Case Manager: Steve Hendrix, Planning and Design Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**00:15:18**     **NOTE:** Glenn Price and Adam Neal requested this case be continued to the 4/17/17 Board of Zoning Adjustment meeting (see recording for detailed presentation).

**00:16:57**     On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 14CUP1003 to the April 17, 2017 Board of Zoning Adjustment meeting.

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, Tharp, Howard, Vice Chair Jarboe, and Chair Allendorf**

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**PUBLIC HEARING**

**CASE NUMBER 16CUP1001**

Request: Presentation of the feasibility study concerning the additional structure in front of the unloading area as per Condition of Approval #5, 16CUP1001 and the status of the AquaCode equipment.

Project Name: Swift Update

Location: 1200 Story Avenue

Owner: Swift Inc. (JBS USA, LLC)

Applicant: John W. Cliff

Representative: Glenn Price

Jurisdiction: Louisville Metro

Council District: 4- Barbara Sexton Smith

Case Manager: Steve Hendrix, Planning and Design Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**00:15:18 NOTE:** Glenn Price and Adam Neal requested this case be continued to the 4/17/17 Board of Zoning Adjustment meeting (see recording for detailed presentation).

**00:16:57** On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 14CUP1003 to the April 17, 2017 Board of Zoning Adjustment meeting.

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**PUBLIC HEARING**

**CASE NUMBER 16CUP1001**

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, Tharp, Howard , Vice Chair Jarboe, and Chair Allendorf**



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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1014**

Request: Variance from the required 30' street side yard setback  
Project Name: 2107 Twin Hill Road  
Location: 2107 Twin Hill Road  
Owner: Phyllis A Fetter Living Trust  
Applicant: Phyllis Fetter  
Representative: Jon Baker  
Jurisdiction: Louisville Metro  
Council District: 7 – Angela Leet  
Case Manager: Dante St. Germain, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**00:18:36** Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Jon Baker, 500 West Jefferson, Suite 2800, Louisville, KY 40202

**Summary of testimony of those in favor:**

**00:23:09** Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker responded to questions from the Board Members (see recording for detailed presentation).

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1014**

**The following spoke in opposition of the request:**

No one spoke.

**00:32:08      Board Members' deliberation**

**00:33:20**      On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the condition has existed since 2005 and has caused no known adverse effects, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the encroachment is minimal and was not found until a survey was conducted of the property, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the condition has existed since 2005 and has caused no known hazards or nuisances, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment was accidental, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to pay for costly revisions or demolition of the house to correct the encroachment; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 17VARIANCE1014, does hereby **APPROVE** Variance from LDC Table 5.3.1 for a primary structure to encroach into the required street side yard (**Requirement 30 ft., Request 25.29 ft., Variance 4.71 ft.**), based upon the Staff Report, the site plan, the applicant's justification statement and particularly as this was the result of a builder's error and not that of the applicant.

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1014**

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, Tharp, Howard, Vice Chair Jarboe, and Chair Allendorf**

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**PUBLIC HEARING**

**CASE NUMBER 16DEVPLAN1108**

Request: Variance from the Land Development Code section 4.8.3.D to allow a proposed 5 story hotel and parking area to be built in the waterway buffer area, and a Landscape Waiver from LDC section 10.2.4.to allow the proposed hotel and parking to encroach into the 35 foot LBA.

Project Name: Best Western  
Location: 2905 Fern Valley Road  
Owner: KAC Enterprises, Inc.  
Applicant: Nick Pregliasco – Bardenwerper, Talbott & Roberts PLLC.  
Representative: Nick Pregliasco – Bardenwerper, Talbott & Roberts PLLC.  
Jurisdiction: Louisville Metro  
Council District: 21 – Dan Johnson  
Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**00:35:18** Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223  
Mike Evans, 6625 Colonial Ave., Evansville, IN 47725

**Summary of testimony of those in favor:**

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**CASE NUMBER 16DEVPLAN1108**

**00:55:13** Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

**01:12:43** Mike Evans spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**01:18:58** Mr. Pregliasco and Mr. Evans responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**01:48:36** **Board Members' deliberation**

**01:55:20** Ross Allen responded to a question by Vice Chair Jarboe (see recording for detailed presentation).

**01:55:29** **Board Members' deliberation**

**01:59:46** Ross Allen responded to a question by Member Tharp (see recording for detailed presentation).

**02:00:23** **Board Members' deliberation**

**02:01:25** On a motion by Member Bergmann, seconded by Vice Chair Jarboe, the following resolution was adopted:

**VARIANCE from LDC Section 4.8.3.D to allow, at its closest point, a proposed 5 story hotel and parking area to encroach into the streamside, middle and outer buffer zones by approximately 89 linear feet (maximum) or for an area of approximately 59,721 sf. Along the rear (north) property line:**

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**CASE NUMBER 16DEVPLAN1108**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the site location is an “as-built” condition which will include the renovation of an existing 2-story hotel, reconstruction of an existing parking lot, and the addition of the 5 story hotel. Greasy Ditch is an altered U.S. Army Corps of Engineers managed blueline (perennial) stream and the encroachment is the minimum to allow for development on the irregularly shaped parcel. MSD has preliminarily approved the development plan, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity because, at its closest point, two existing hotels and parking area on the subject site encompass approximately 91,585 sf. of a total 128,327.8 sf. The proposed hotel expansion and parking area are encroaching into the stream side buffer zones as are multiple other structures adjacent to Greasy Ditch, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the hotel as proposed is 5 stories in height, 45 feet as allowed by LDC within a Suburban Workplace Form District, and being adjacent to Greasy Ditch increases the impervious surface area by approximately 16,307 sf. The increase in impervious surface is unknown to Planning and Design Staff but MSD has preliminarily approved the development plan. Multiple nearby properties including 2805, 2809, 2815 Fern Valley Road and 815, 825, 833 Ulrich Ave., encroach into the stream side buffers zones, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because other structures in the vicinity, 2805, 2809, 2815 Fern Valley Road and 815, 825, 833 Ulrich Ave., encroach into the stream side buffers zones, and

**WHEREAS**, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since other structures in the vicinity, 2805, 2809, 2815 Fern Valley Road and 815, 825, 833 Ulrich Ave., encroach into the stream side buffers zones, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since as stated previously other structures encroach into the stream side buffer and the applicant is willing to comply with MSD providing a 25 foot stream buffer, and

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**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the third structure that is to be constructed on site has not been built to date and the applicant is requesting relief from the Land Development Code, and

**WHEREAS**, the Board further finds that the variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Buffer Area. Had the streamside buffer setback, from the edge of bank, requirement been in place at the time that the lots in this area were created, they would have been significantly enlarged, but they weren't. So the proposed re-use of this property that does not encroach into the stream bank buffer zones would be impossible. Further, once the stream bank setback requirement was adopted, it affected this property far worse than some others due to the fact this man made stream was constructed with such steep walls. Therefore, in heavy rain events the width of the creek does not enlarge like it normally would with a natural creek. This resulted in the buffer area extending far further into the property than would normally be the case with a natural stream. Further, because the North bank of the creek is a couple of feet lower than the bank on the subject property, when there is a flood event, the flooding first occurs on the other side and does not flood this property, and

**WHEREAS**, the Board further finds that encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use. The existing building and parking already encroach into the stream bank setback as the setback did not exist at the time of their original construction. The site has been designed so as to limit the encroachment into the setback as much as possible, but to still allow its use as a Best Western hotel. This will be a new Best Western with their most modern concept which will result in a welcomed economic redevelopment of this property and area of Fern Valley Road, and

**WHEREAS**, the Board further finds that the Applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction. The construction plans must comply with MSD's soil erosion and sedimentation control ordinance now in effect and stringently enforced due to the EPA Consent Decree, and

**WHEREAS**, the Board further finds that approval of the variance will not result in a reduction in water quality. The current detention basin on this property is currently not functional. As a result, the applicant will install a brand new

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detention basin to offset any new displacement that will be fully functional and result in an improvement to the property and area. Further, the applicant shall provide floodplain compensation at a rate of 1.5 to 1 as noted on the plan, with the excess paid to MSD in the form of an \$18,503 payment for a Regional Facilities Fee. In addition, the applicant shall install water quality measures through a storm water treatment system to satisfy the MS4 requirements. Currently, the runoff from the existing encroachments on the property run off into the creek, but in the future will be properly treated by the storm water treatment system resulting in improved water quality; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1108, does hereby **APPROVE** Variance from LDC Section 4.8.3.D to allow, at its closest point, a proposed 5 story hotel and parking area to encroach into the streamside, middle and outer buffer zones by approximately 89 linear feet (maximum) or for an area of approximately 59,721 sf. along the rear (north) property line (**Requirement 100 ft., Request 11 ft., Variance 89 ft.**), based upon the Staff Report, the presentation, and **SUBJECT** to the following Condition of Approval:

**Condition of Approval:**

1. Planning and Design Services Staff shall review the elevations/renderings of the proposed 5 story hotel for requirements of LDC Section 5.6.1.B.1.a.i, ii, and iii.

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, Tharp, Howard, Vice Chair Jarboe, and Chair Allendorf**

**02:03:49** On a motion by Member Bergmann, seconded by Vice Chair Jarboe, the following resolution was adopted:

**Waiver from LDC Section 10.2.4.A, Table 10.2.3, to not provide the 35 foot Landscape Buffer area with the 1.5 planting density multiplier along the rear (north) property line for a length of approximately 1,138.5 ft.:**



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**CASE NUMBER 16DEVPLAN1108**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners in this instance has a 200 foot Greasy Ditch creek between the property and the property line of the adjoining residential property providing a very large buffer between the site and the adjoining residential properties. The placement of the proposed building and parking lot will create no ill effects to the public's health, safety or welfare, and

**WHEREAS**, the Board further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

**WHEREAS**, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the proposed hotel addition and guest parking lot is more in keeping with the existing hotel development and area along Fern Valley Road. By locating parking as proposed, the plan as proposed, more closely mimics other properties in the area, which also do not provide the 35 foot LBA, and

**WHEREAS**, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would not have the ability to expand the hotel and provide adequate guest parking which is essential to the success of any hotel. The new hotel will improve the overall character of the area; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1108, does hereby **APPROVE** Waiver from LDC Section 10.2.4.A, Table 10.2.3 to not provide the 35 foot Landscape Buffer area with the 1.5 planting density multiplier along the rear (north) property line for a length of approximately 1,138.5 ft., based upon the presentation, the discussion, the applicant's justification, and **SUBJECT** to the following Conditions of Approval:

**Conditions of Approval:**

1. Planting shall be provided along the north property line that will block lighting from any vehicles.
2. Security lighting and other lighting shall be controlled such that there will be zero foot candles along the north property line.

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**CASE NUMBER 16DEVPLAN1108**

**The vote was as follows:**

**Yes: Members Fishman, Turner, Bergmann, Tharp, Howard, Vice Chair Jarboe, and Chair Allendorf**

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**02:09:21 Meeting was recessed.**

**02:09:45 Meeting was reconvened.**

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**PUBLIC HEARING**

**CASE NUMBER 16CUP1056**

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the host in a UN zoning district
Project Name:	Short Term Rental
Location:	922 Rubel Ave.
Owner:	Luke Skeen
Applicant:	Luke Skeen
Representative:	Luke Skeen
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**02:10:02** Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Luke Skeen, 1223 Valley Drive, Louisville, KY 40213

**Summary of testimony of those in favor:**

**02:17:24** Luke Skeen spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**CASE NUMBER 16CUP1056**

**The following spoke in opposition of the request:**

No one spoke.

**02:21:08 Board Members' deliberation**

**02:21:40** On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

**WHEREAS**, the Board further finds that the proposal is compatible with its surroundings because the request only involves allowing a short term rental within the existing single-family dwelling. 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, and

**WHEREAS**, the Board further finds that 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, and

**WHEREAS**, the Board further finds that :

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.*

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- 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. The dwelling has two bedrooms and so the maximum number of individuals permitted in the short term rental is eight. The applicant has no plans to add bedrooms to the structure.*

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

*The dwelling unit is a single-family residence.*

- 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 applicant states in his application that the subject property does not have a front driveway or rear parking area, but that on-street parking is ample.*

- 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.*

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- 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; now, therefore be it*

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1056, does hereby **APPROVE** Conditional Use Permit to allow a short term rental as the primary use in a UN zoning district that is not the primary residence of the owner, based upon the Staff Report, the Standard of Review and Analysis for Short Term Rentals, and **SUBJECT** to the following Condition of Approval:

**Condition of Approval:**

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

**The vote was as follows:**

**Yes: Members Fishman, Turner, Tharp, Bergmann, Howard, Vice Chair Jarboe and Chair Allendorf**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 16CUP1061**

Request: Conditional Use Permit to allow a bed and breakfast inn  
Project Name: Old Louisville Fleur de Lis B&B  
Location: 1470 S. 3<sup>rd</sup> St.  
Owner: Laura Dills  
Applicant: Sharon Dills  
Representative: Sharon Dills  
Jurisdiction: Louisville Metro  
Council District: 6 – David James  
Case Manager: Brian Mabry, AICP, Planning & Design Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**02:23:12** Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Sharon Dills, 1470 S. 3<sup>rd</sup> Street, Louisville, KY 40208

**Summary of testimony of those in favor:**

**02:31:00** Sharon Dills spoke in favor of the request and showed a Powerpoint presentation. Ms. Dills responded to questions from the Board Members (see recording for detailed presentation).



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**The following spoke in opposition of the request:**

No one spoke.

**02:36:35 Board Members' deliberation**

**02:37:00** On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that Staff analysis indicates that the proposed CUP complies with the applicable guidelines of the Comprehensive Plan, and

**WHEREAS**, the Board further finds that the proposal is compatible with surrounding land uses and the general character of the area as it is roughly the same intensity and density of adjacent and surrounding single, and multi-family residential uses in the vicinity. The proposed B&B is of such a small scale (4 guest rooms out of a maximum allowed of 9) that it has more residential characteristics than commercial ones, and

**WHEREAS**, the Board further finds that as part of a developed area, such facilities adequately serve the subject property. In addition, Transportation Planning and MSD have provided preliminary approval, and

**WHEREAS**, the Board further finds that:

Bed and Breakfast Inns may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, U-N, TNZD (in effect within Louisville Metro only), R-5A, R-5B, R-6, M-1, PRO, PTD, PRD, W-1, W-2, and W-3 (Note: Revision proposed by Louisville Bed and Breakfast Association) Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. No more than nine (9) guest rooms shall be permitted, and a maximum of two adults shall be allowed per guest room. However, the Board of Zoning Adjustment may impose a lower limit on the number of guest rooms after considering the size of the building, the size of the property, the economics of the proposal, and the effect on surrounding properties.

*The proposal complies with this requirement.*

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- B. Guests are limited to a length of stay no more than 14 consecutive days. The resident innkeeper or owner shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.

*The applicant is aware of this requirement.*

- C. Bed and Breakfasts may provide food service or space for indoor meetings provided all applicable food service and capacity regulations are complied with. No food preparation is allowed in any guest bedroom.

*The applicant is aware of this requirement.*

- D. Bed and Breakfast Inns in residential zoning districts shall be required to comply with the requirements of Section 4.3.7 and obtain a temporary activities permit for any outdoor activities and/or events that are attended by anyone that is not a current registered overnight guest of the Bed and Breakfast Inn. This provision shall not be altered or waived by the Board.

*The applicant is aware of this requirement.*

- E. Any signage which identifies the use shall be in accordance with the underlying zoning and form district standards.

*No sign is proposed for the site.*

- F. The location of parking shall comply with the same parking standards as a single family detached dwelling unit, except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park two (2) cars must be out of the required setback and yards as specified in the underlying Form District requirements. Parking for guests shall not be served by a separate driveway from that serving the principal residential structure.

*The off-street spaces adjacent to the alley are proposed to be located outside of the setbacks, as required above.*

- G. Conditional use permits for Bed and Breakfast Inns in residential zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may

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be modified in any manner the Board determines, in its discretion to be appropriate.

*Not applicable; now, therefore be it*

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1061, does hereby **APPROVE** Conditional Use Permit to allow a bed and breakfast inn, based upon the Staff Report, the presentations, and **SUBJECT** to the following Conditions of Approval:

**Conditions of Approval:**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a bed and breakfast inn without further review and approval by the Board.

**The vote was as follows:**

**Yes: Members Fishman, Turner, Tharp, Bergmann, Howard , Vice Chair Jarboe, and Chair Allendorf**

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**PUBLIC HEARING**

**CASE NUMBER 16CUP1068**

Request: Conditional Use Permit to allow a proposed short term rental that is not the primary residence of the host in an R-5 zoning district

Project Name: None

Location: 319 South Bayly Avenue

Owner: Reid Olson

Applicant: Reid Olson

Representative: Reid Olson

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**02:39:08** Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Reid Olson, 209 South Bayly Avenue, Louisville, KY 40206

**Summary of testimony of those in favor:**

**02:42:52** Reid Olson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**The following spoke in opposition of the request:**

John and Jan Uhl, 312 S. Bayly Avenue, Louisville, KY 40206

**Summary of testimony of those in opposition:**

**02:51:50** John Uhl spoke in opposition of the request (see recording for detailed presentation).

**02:54:53** Jan Uhl spoke in opposition of the request (see recording for detailed presentation).

**02:58:06** Mr. and Mrs. Uhl responded to questions from the Board Members (see recording for detailed presentation).

**REBUTTAL:**

**03:02:25** Reid Olson spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

**03:13:28 Board Members' deliberation**

**03:16:09** On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

**WHEREAS**, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. 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, and

**WHEREAS**, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional

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development is proposed. MSD and Transportation Planning have approved the proposal, and

**WHEREAS**, the Board further finds that:

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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The dwelling unit has 3 bedrooms which will allow a maximum of 10 occupants.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- 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 property has parking on the street.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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- 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; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1068, does hereby **APPROVE** Conditional Use Permit to allow short term rental in an R-5 Zoning District that is not the primary residence of the host, based upon the Staff Report, the testimony of the applicant, and **SUBJECT** to the following Conditions of Approval:

**Conditions of Approval:**

1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
2. The front of the property shall be improved by painting the porch, cleaning the siding and landscaping.
3. All short term rental guests shall be required to use off-street parking as provided by the applicant.

**The vote was as follows:**

**Yes: Members Fishman, Turner, Tharp, Bergmann, Howard, Vice Chair Jarboe, and Chair Allendorf**

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**CASE NUMBER 17CUP1000**

Request:	Conditional Use Permit for short term rental on property in an R-5B zoning district that is not the primary residence of the owner
Project Name:	1120 Everett Avenue
Location:	1120 Everett Avenue
Owner:	Sandra Corlett
Applicant:	Sandra Corlett
Representative:	Sandra Corlett
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**03:19:45** Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones provided the Board Members with opposition comments which were received this morning. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Sandra Corlett, 4306 Mt. Eden Road, Shelbyville, KY

**Summary of testimony of those in favor:**

**03:28:54** Sandra Corlett spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).



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**CASE NUMBER 17CUP1000**

**The following spoke in opposition of the request:**

No one spoke.

**03:42:54 Board Members' deliberation**

**03:45:08** On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

**WHEREAS**, the Board further finds that the existing structure is compatible with surrounding development. No exterior alterations or other development are proposed, and

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

**WHEREAS**, the Board further finds that:

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.*

- 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.*

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- 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. Two bedrooms entitles to the applicant to a maximum of eight individuals.*

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

*The applicant has been informed of this requirement.*

- 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.

*One on-street and two off-street parking spaces are available.*

- 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 LDC 11.5A.6.

*The applicant has been informed of this provision; now, therefore be it*

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**CASE NUMBER 17CUP1000**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 17CUP1000, does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit in an R-5B Residential Two-Family zoning district that is not the primary residence of the owner, based upon the Staff Report, the applicant's testimony, and **SUBJECT** to the following Condition of Approval:

**Condition of Approval:**

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

**The vote was as follows:**

**Yes: Members Fishman, Turner, Tharp, Bergmann, Howard, Vice Chair Jarboe, and Chair Allendorf**

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**PUBLIC HEARING**

**CASE NUMBER 17CUP1006**

Request:	Conditional Use Permit to allow short term rental of an owner-occupied dwelling unit within the Old Louisville Traditional Neighborhood Zoning District
Project Name:	1325 S. Brook Street
Location:	1325 S. Brook Street
Owner:	Cheryl Fusselman
Applicant:	Cheryl Fusselman
Representative:	Cheryl Fusselman
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**03:47:01** Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Cheryl Fusselman, 1325 S. Brook Street, Louisville, KY

**Summary of testimony of those in favor:**

**03:51:26** Cheryl Fusselman spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**The following spoke in opposition of the request:**

No one spoke.

**03:58:25 Board Members' deliberation**

**04:00:07** On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

**WHEREAS**, the Board further finds that the existing structure is compatible with surrounding development. No exterior alterations or other development are proposed, and

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

**WHEREAS**, the Board further finds that:

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.*

- 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.

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*The applicant has been informed of this requirement. The applicant has stated an intention to limit occupancy of the short-term rental to no more than two persons.*

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

*The applicant has been informed of this requirement.*

- 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.

*Two parking spaces are available on Brook Street and two more in a parking area off the rear alley.*

- 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 LDC 11.5A.6.

*The applicant has been informed of this provision; now, therefore be it*

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment, in Case Number 17CUP1006, does hereby **APPROVE** Conditional Use Permit to allow short term

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rental of an owner-occupied dwelling unit within the Old Louisville Traditional Neighborhood Zoning District, based upon the Staff Report, the discussion, the presentation, and **SUBJECT** to the following Condition of Approval:

**Condition of Approval:**

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

**The vote was as follows:**

**Yes: Members Fishman, Turner, Tharp, Bergmann, Howard , Vice Chair Jarboe, and Chair Allendorf**

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**ADJOURNMENT**

The meeting adjourned at approximately 12:46 p.m.

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**Chair**

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**Secretary**