

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

January 6, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on January 6, 2020 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Chair
Lester Turner, Jr.
LiAndrea Goatley
Lindsey Jagoe

Members Absent:

Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Nia Holt, Planner I
Zach Schwager, Planner I
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
January 6, 2020

**DECEMBER 16, 2019 BOARD OF ZONING ADJUSTMENT MEETING
MINUTES**

00:04:56 On a motion by Member Turner, seconded by Member Goatley, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the December 16, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard
Absent: Member Buttorff, and Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
January 6, 2020

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0039

Request: Variance to allow a fence in the street side yard to exceed 48 inches in height
Project Name: E. Manslick Road Variance
Location: 6510 E. Manslick Road
Owner/Applicant: Yenny Estrada
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Zach Schwager, Planner I

NOTE: This case was not heard until after 3:00 p.m.

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 5th 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:

01:56:33 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Yenny Estrada, 6510 E. Manslick Rd., Louisville, KY 40228

INTERPRETER: Eva M. Astudillo Sotelo, 1626 Ellwood Ave., #8, Louisville, KY 40204

Summary of testimony of those in favor:

02:00:21 Yenny Estrada spoke (interpreted by Ms. Sotelo) in favor of the request. Ms. Estrada stated the survey has not been completed yet because it is expensive, and she has not had the budget to get it done. Ms. Estrada thanked the Board Members for allowing her the opportunity to continue this case to today (see recording for detailed presentation).

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CASE NUMBER 19-VARIANCE-0039

The following spoke in opposition of the request:

Joseph Medley, 6706 Musket Drive, Louisville, KY 40228

John McCutcheon, 6709 Musket Drive, Louisville, KY 40228

Summary of testimony of those in opposition:

02:06:11 Joseph Medley spoke in opposition of the request. Mr. Medley stated the issue is that the fence is in the right-of-way and the height of the fence. Mr. Medley stated the neighborhood is opposed to the six foot fence. Mr. Medley stated the fence across the street is either a five or six foot vinyl fence, and that is the rear of that home. Mr. Medley responded to questions from the Board Members (see recording for detailed presentation).

02:14:13 Zach Schwager advised the Board Members he had received some additional information in support and provided that to the Board Members (see recording for detailed presentation).

02:14:48 John McCutcheon spoke in opposition of the request. Mr. McCutcheon stated this fence is right up against the sidewalk (see recording for detailed presentation).

Additional testimony in favor of the request:

Yunior Perez, 6510 E. Manslick Road, Louisville, KY 40228

Summary of additional testimony in favor:

02:17:43 Yunior Perez spoke (interpreted by Ms. Sotelo) in favor of the request. Mr. Perez stated he was not informed of what he needed to know before he built this fence. Mr. Perez stated when he started building the fence every person who approached him was just to tell him he was doing a good job. Mr. stated the two people who are here today, he has only seen them and never spoken to them. Mr. Perez stated he did realize a couple of people had taken pictures of the fence, but no one said what he was doing was wrong until after the fence was completed. Mr. Perez stated the two people who are here today do not even live close to his house. Mr. Perez responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 19-VARIANCE-0039

Additional testimony in opposition:

02:33:30 Joseph Medley spoke in opposition (see recording for detailed presentation).

02:35:44 John McCutcheon spoke in opposition (see recording for detailed presentation).

02:37:03 Joe Haberman, Planning & Design Manager, explained why the boundary survey is necessary. Mr. Haberman stated during the enforcement process, they don't believe the fence is on the property. Mr. Haberman stated that becomes a Public Works violation because it's in the right-of-way. Mr. Haberman stated the Board needs to decide when they want the boundary survey because the fence likely cannot be permitted where it is unless they get an encroachment permit from Public Works, which is unlikely. Mr. Haberman stated this is a fence height issue; they can have a fence on their property line at forty-eight inches. Mr. Haberman stated if the Board wanted to approve where the applicant has dug the other posts, they would need the boundary survey first because the variance needs to be precise. Mr. Haberman responded to questions from the Board Members (see recording for detailed presentation).

02:42:27 Yenny Estrada spoke (interpreted by Ms. Sotelo) in regard to moving the fence and the need for the fence height (see recording for detailed presentation).

02:46:50 Joe Haberman responded to a question from Legal Counsel regarding the survey (see recording for detailed presentation).

02:49:01 Ms. Estrada spoke again in regard to the need for the height of the fence to be 72 inches (see recording for detailed presentation).

02:49:43 Board Members' deliberation

03:00:51 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution was adopted:

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0039

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 19-VARIANCE-0039 to the March 16, 2020 Board of Zoning Adjustment meeting, and the applicant was instructed to provide Planning & Design Staff with a boundary line survey no later than March 6, 2020, and to have property lines staked in the field so staff could facilitate a site visit prior to the 3/16/2020 meeting.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

03:05:42 Meeting was recessed.

03:06:06 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0059

Request:	WITHDRAWN
Project Name:	Dollar General Store
Location:	7701 Smyrna Parkway
Owner:	Kennie and Patricia Combs
Applicant:	SC Development LLC
Jurisdiction:	Louisville Metro
Council District:	23-James Peden
Case Manager:	Julia Williams, AICP, Planning Supervisor

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.

NOTE: This case was WITHDRAWN. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0062

Request: Variance to allow a private yard area to be less than the required 30% of the area of a lot.
Project Name: Cherokee Parkway Variance
Location: 2507 Cherokee Parkway
Owner: Richard Pape
Applicant: Gary Shearer – GDS – Builder & Remodeler
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, 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 5th 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:

00:06:57 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Gary Shearer, 6620 Nightingale Bluff Ln., Louisville, KY 40241

Summary of testimony of those in favor:

00:10:14 Gary Shearer spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19-VARIANCE-0062

00:14:49 Mr. Schwager responded to a question from Legal Counsel (see recording for detailed presentation).

00:15:52 Board Members' deliberation

00:16:00 On a motion by Member Turner, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification statement, 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 structure will need to be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage was approved by Historic Landmarks and Preservation Commission staff, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will need to be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there will still be a significant amount of private yard area and the front yard takes up a large portion of the lot due to its topography, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0062 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Requirement 3,386 sq. ft., Request 2,340 sq. ft., Variance 1,046 sq. ft.**), **SUBJECT** to the following Condition of Approval:

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CASE NUMBER 19-VARIANCE-0062

Condition of Approval:

1. Based upon the survey submitted on November 4, 2019, the western (rear) property line shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0064

Request: Variance to allow an addition to encroach into the street side yard setback
Project Name: Wythe Hill Place Variance
Location: 7104 Wythe Hill Place
Owner: Robert Lamarr Moore and Linda S. Moore
Applicant: Robert Lamarr Moore
Jurisdiction: Prospect
Council District: 16 – Scott Reed
Case Manager: Nia Holt, 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 5th 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:

00:18:34 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Lamarr Moore, 7104 Wythe Hill Place, Louisville, KY 40059

Summary of testimony of those in favor:

00:21:56 Robert Lamarr Moore spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0064

00:25:06 Board Members' deliberation

00:25:35 On a motion by Member Turner, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request will not adversely affect the public health, safety or welfare as all building and fire codes and safety regulations will be met on the subject site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the addition will be of a similar design and materials as the existing structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will not interfere with vision clearance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the structure and associated setback will align with the existing conditions

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0064 does hereby **APPROVE** Variance from Prospect Land Development Code Section 5.3.1 to allow an addition to a residential structure to encroach into the street side yard setback in the Village form district **(Requirement 30 ft., Request 14 ft., Variance 16 ft.)**.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard
Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0066

Request: Variance to allow a structure to exceed the 5' maximum setback for a non-residential structure on a corner lot

Project Name: Eastview Avenue Variance

Location: 2173 Eastview Avenue

Owner: Julie & Tom O'Neill

Applicant: Mark Foxworth

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Nia Holt, 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 5th 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:

00:27:00 Nia Holt presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Thomas O'Neill, 6105 Stannye Dr., Louisville, KY 40222

Summary of testimony of those in favor:

00:30:35 Thomas O'Neill spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0066

00:32:23 Board Members' deliberation

00:32:55 On a motion by Member Jagoe, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification statement, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request will not adversely affect the public health, safety or welfare as all building codes and safety regulations will be met on the subject site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as it will facilitate the renovation of a historic structure and the Bardstown Road Overlay Review Committee will ensure the site is developed in keeping with the character of the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure will be constructed to comply with building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the structure and associated setback will align with the existing conditions, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0066 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2 to allow a structure to exceed the 5' maximum setback for a non-residential structure on a corner lot in the Traditional Marketplace Corridor Form District by up to 13' as shown on the development plan **(Requirement 5 ft. max, Request 18 ft., Variance 13 ft.)**.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard
Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-SIGNAUTH-0003

Request: Sign Authorization to permit an Exceptional Sign (LDC 8.4, Appendix 8B)
Project Name: Trifecta Sign Authorization
Location: 2501 S. 4th Street
Owner: Capstone Real Estate Inc.
Applicant: Signarama Downtown
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 5th 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:

00:34:44 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:

Blake Clark, 909 E. Market St., Suite 400, Louisville, KY 40206
Kyle Crew, 402 Office Park Dr., #150, Birmingham, AL 35223

Summary of testimony of those in favor:

00:42:11 Blake Clark spoke in favor of the request (see recording for detailed presentation).

00:43:11 Kyle Crew was called but declined to speak (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 19-SIGNAUTH-0003

The following spoke in opposition of the request:

No one spoke.

00:43:52 Board Members' deliberation

00:44:06 On a motion by Member Goatley, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the sign authorization will not adversely affect adjacent property owners as it is appropriate for the unique use of the site. In addition, the subject stairwell structure was constructed following the execution of legal agreements with both CSX Railroad and the Reynolds Lofts, the two property owners most directly affected by the request, and

WHEREAS, the Board further finds that the sign authorization will not violate specific guidelines of Plan 2040 (Community Form Goal 1, Policy 14) as it is in compliance with the underlying form district and the character of the area and makes a positive contribution to the visual quality of its surroundings. It is also of a size adequate for effective communication and proportionate with the scale of the stairwell structure, and

WHEREAS, the Board further finds that the extent of the sign authorization is the minimum necessary to afford relief to the applicant in that the request provides appropriate direction to users of the elevated pedestrian walkway, and

WHEREAS, the Board further finds that the applicant has incorporated design measures which compensate for non-compliance resulting in a net beneficial effect. The design is appropriate for the site and the purpose and will result in minimal negative impacts; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-SIGNAUTH-0003 does hereby **APPROVE** Sign Authorization to permit an Exceptional Sign (LDC 8.4, Appendix 8B).

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PUBLIC HEARING

CASE NUMBER 19-SIGNAUTH-0003

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-NONCONFORM-0028

Request:	Change in nonconforming use from a contractor's shop to a catering kitchen/bakery
Project Name:	W. Woodlawn Change in Nonconformance
Location:	211 W. Woodlawn Avenue
Owner/Applicant:	Matthew Husted
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Nia Holt, 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 5th 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:

00:45:50 Nia Holt presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matthew Husted, 2030 Lakeside Dr., Louisville, KY 40205

Summary of testimony of those in favor:

00:48:54 Matthew Husted spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19-NONCONFORM-0028

00:51:29 **Board Members' deliberation**

00:52:30 On a motion by Member Goatley, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the new nonconforming use is in the same or more restrictive classification as the current nonconforming use, and

WHEREAS, the Board further finds that the new nonconforming use is no more odious or offensive to surrounding properties than the current nonconforming use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-NONCONFORM-0028 does hereby **APPROVE** Change in Nonconforming use from a contractor's shop provided all operation are confined within a building to catering kitchen/bakery preparing foods and meals for sale or consumption elsewhere.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-NONCONFORM-0030

Request: Change in nonconforming use from an auto repair shop to a contractor's shop
Project Name: Breckinridge Change in Nonconformance
Location: 500-508 E. Breckinridge St
Owner/Applicant: Samuel Ellis
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Nia Holt, 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 5th 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:

00:55:10 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Samuel Ellis, 3726 W. Broadway, Louisville, KY 40211
Chelsea Ellis, 5123 Frey Drive, Louisville, KY 40219

Summary of testimony of those in favor:

00:58:59 Samuel Ellis spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:02:57 Chelsea Ellis 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 19-NONCONFORM-0030

The following spoke in opposition of the request:

No one spoke.

01:04:04 Board Members' deliberation

01:04:51 On a motion by Member Goatley, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the new nonconforming use is in the same or more restrictive classification as the current nonconforming use, and

WHEREAS, the Board further finds that the new nonconforming use is no more odious or offensive to surrounding properties than the current nonconforming use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-NONCONFORM-0030 does hereby **APPROVE** Change in Nonconforming use from an auto repair shop to a contractor's shop provided all operations are confined within a building (508 E. Breckinridge St.), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The 500 E. Breckinridge Street property has nonconforming rights for off-street parking. This lot is used for parking by the use located on 508 E. Breckenridge Street. The parking lot (500 E. Breckenridge Street) may be used for accessory equipment storage as long as the equipment storage occupies no more than 3 parking spaces.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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CASE NUMBER 19-NONCONFORM-0030

01:07:23 Meeting was recessed.

01:07:43 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 19-CUP-0216

Request: Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name: The Third Space short term rental
Location: 3322 Wizard Avenue
Owner/Applicant: Madelle and Brad Gunter
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Jon E. Crumbie, Planning & 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 5th 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:

01:08:11 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:

William Bradley Gunter, 29 McIntosh Drive, Taylorsville, KY 40071

Summary of testimony of those in favor:

01:11:38 William Bradley Gunter spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 19-CUP-0216

The following spoke in opposition of the request:

No one spoke.

01:20:31 Board Members' deliberation

01:22:29 Public Hearing was reopened to allow Mr. Gunter an opportunity to respond to questions from the Board Members (see recording for detailed presentation).

01:23:11 Board Members' deliberation

01:24:21 On a motion by Member Goatley, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, 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 when appropriately managed, the proposed use is compatible with surrounding development and land uses, 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:

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 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.

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CASE NUMBER 19-CUP-0216

- 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 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 subject property is smaller than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of 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 1 property with an approved conditional use permit allowing short term rental that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If provided, the applicant's justification for this relief is attached to this report. 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.**
- 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.

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CASE NUMBER 19-CUP-0216

- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 on-street parking and there appears to be ample parking along the street. The applicant states that there are two spaces in front of the residence and two at the rear.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-CUP-0216

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0216 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because the property is near an entertainment venue and the approved CUP within 600 feet is not on the same street and is on the edge of the 600 foot buffer, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The applicant shall create a hard and durable parking surface in the rear of the property to accommodate two parking spaces.
2. The applicant will not permit parking in the required front yard.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard
Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-CUP-0218

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Grinstead Drive Short Term Rental
Location:	2216 Grinstead Drive
Owner/Applicant	Joe L. Fairleigh
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, 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 5th 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:

01:27:21 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager provided additional justification statements provided by the applicant to the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Joe Fairleigh, 455 Swing Ln., Louisville, KY 40207

Summary of testimony of those in favor:

01:30:20 Joe Fairleigh 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.

01:36:03 Board Members' deliberation

01:42:04 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

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

WHEREAS, the Board further finds that 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 are required, and

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

WHEREAS, the Board further finds that:

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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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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 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. **According to the applicant, there are three bedrooms; LDC regulations permit up to 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, there is one property with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3). The applicant has provided justification, which is included in the file. Any motion to approve this CUP will need to include relief from this standard.**

- 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.

- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

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- 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. **LDC standards credit the site with zero on-street parking spaces along the property frontage because it is not permitted on this portion of Grinstead Drive. There is no parking provided on the subject property. There appears to be available on-street parking in the area.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

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CASE NUMBER 19-CUP-0218

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0218 does hereby **APPROVE** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), with **RELIEF** from Standard 4D due to the fact that there are several other properties in the area that are commercial use as well as multi-family use, so this proposed use fits with the general character of the neighborhood. The Board also recognizes that parking is not an issue because there appears to be adequate parking on adjacent streets.

The vote was as follows:

Yes: Members Goatley, Jagoe, and Chair Howard

No: Member Turner

Absent: Member Buttorff, and Vice Chair Leanhart

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CASE NUMBER 19-CUP-0219

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Pope Street Short Term Rental
Location:	165 Pope Street
Owner:	Fairleigh Pope LLC
Applicant:	Joe L. Fairleigh
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Zach Schwager, 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 5th 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:

01:45:01 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Joe Fairleigh, 455 Swing Ln., Louisville, KY 40207

Summary of testimony of those in favor:

01:46:53 Joe Fairleigh spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:
No one spoke.

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PUBLIC HEARING

CASE NUMBER 19-CUP-0219

01:51:08 Board Members' deliberation

01:54:11 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and supplemental documentation provided by the applicant, was adopted:

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

WHEREAS, the Board further finds that 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 are required, and

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

WHEREAS, the Board further finds that:

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.
- 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 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. **According to the**

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applicant, there are two bedrooms; LDC regulations permit up to six 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, there is one property with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3). The applicant has provided justification, which is included in the file. Any motion to approve this CUP will need to include relief from this standard.**

- 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.

- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

- 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. **LDC standards credit the site with zero on-street parking**

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spaces along the property frontage. There is parking for two vehicles at the rear of the property off the alley. In addition, there appears to be available on-street parking in the area.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0219 does hereby **APPROVE** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), with **RELIEF** from Standard 4D because this home is in very close

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proximity to the commercial corridor of Frankfort Avenue as well as multi-family and rental properties.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-CUP-0220

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Forum Avenue Short Term Rental
Location:	526 Forum Avenue
Owner/Applicant:	Tomcyn Productions LLC. by James Horn
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Steve Hendrix, 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 5th 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:

03:06:28 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James Horn, 1501 Arnold Palmer Blvd., Louisville, KY 40245

Summary of testimony of those in favor:

03:08:26 James Horn spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19-CUP-0220

03:11:25 Board Members' deliberation

03:12:09 On a motion by Member Turner, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, 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 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, and

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

WHEREAS, the Board further finds that:

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.
- 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 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 has**

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submitted pictures of three bedrooms, which would 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, there was no other property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property.**

- 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 structure is a single family dwelling.**

- F. Food and alcoholic beverages shall not be served by the host to any guest.

- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

- 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. **A long driveway and street parking are available which will provide ample parking. The garage will not be available for guests.**

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- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0220 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Neighborhood Form District.

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The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-CUP-0221

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	914 STR
Location:	914 Euclid Avenue
Owner/Applicant:	Matthew W. Ireland
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Steve Hendrix, 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 5th 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:

03:14:02 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matthew Ireland, 1205 Red Stone Dr., Lexington, KY 40509

Summary of testimony of those in favor:

03:16:12 Matthew Ireland spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19-CUP-0221

03:22:00 Board Members' deliberation

03:22:34 On a motion by Member Goatley, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, 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 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, and

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

WHEREAS, the Board further finds that:

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.
- 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 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 has submitted pictures of two bedrooms, which would allow for six guests.**

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- 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, there was no other property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property.**
- 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 structure is a single family dwelling.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 property has 30 feet of street frontage and parking in the rear off the alley.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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- 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.
- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0221 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard
Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-CUP-0224

Request: Conditional Use Permit to allow an accessory apartment
Project Name: James accessory apartment
Location: 126 East Wellington Avenue
Owner/Applicant: James and Bryant, LLC.
Jurisdiction: Louisville Metro
Council District: 21 - Nicole George
Case Manager: Jon E. Crumbie, Planning & 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 5th 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:

03:24:13 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jason James, 8113 Parkshire Ct., Louisville, KY 40220

Summary of testimony of those in favor:

03:27:58 Jason James spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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03:43:49 **Board Members' deliberation.**

03:48:58 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, supplemental documents provided by the applicant, and the testimony heard today, 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 when appropriately managed, the proposed use is compatible with surrounding development and land uses, 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:

Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts up on the granting of a conditional use permit and compliance with the listed requirements.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The owners/ applicants will not be living at the site.**

- B. The accessory apartment shall be no greater than 650 sq. ft. or 30% of the floor area of the principal residence, whichever is greater. **The proposed accessory apartment will be 1,080 square feet and the current home is 1,200 square feet.**

- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15

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feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **The accessory apartment will be located in an existing structure, but it appears that the existing detached garage is taller than the existing residence on site, but staff does not have a height on either structure.**

- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors; **the applicant states that the site will have up to eight off-street parking spaces along the driveway and in the detached garage;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0224 does hereby **APPROVE** Conditional Use Permit to allow an Accessory Apartment, with **RELIEF** from Standard 4A because the applicant has testified that managing properties is his business and he has over twenty years of experience, Standard 4B because the accessory apartment is pre-existing and is less square footage than the main home, and Standard 4C because the applicant has testified today that he is not sure if the height of the accessory apartment is taller than the main home but based upon photos and testimony heard today if it is taller it is not significant and the fact that this is a pre-existing structure, 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 an accessory apartment without further review and approval by the Board.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard
Absent: Member Buttorff, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-CUP-0225

Request: Conditional Use Permit to allow short term rental of dwelling units that are not the primary residence of the host

Project Name: James short term rental

Location: 126 East Wellington Avenue

Owner/Applicant: James and Bryant, LLC.

Jurisdiction: Louisville Metro

Council District: 21 - Nicole George

Case Manager: Jon E. Crumbie, Planning & 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 5th 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:

03:52:16 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jason James, 8113 Parkshire Ct., Louisville, KY 40220

Summary of testimony of those in favor:

03:56:54 Jason James spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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04:00:54 Board Members' deliberation

04:01:52 On a motion by Member Jagoe, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, 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 when appropriately managed, the proposed use is compatible with surrounding development and land uses, 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:

Short 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.
- 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 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 subject property is smaller than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of eight guests and**

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the accessory apartment has three bedrooms that will allow a maximum number of eight guests (by definition, accessory apartments are limited to two adults). Total number of guests can be up to sixteen.

- 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 are 0 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- 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.
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 applicant states that the site will have up to eight off- street parking spaces along the driveway and in the detached garage.**

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- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0225 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units that are not the primary residences of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

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The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Chair Howard

Absent: Member Buttorff, and Vice Chair Leanhart

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The meeting adjourned at approximately 5:38 p.m.

Linda K. Howard
Chair

Michael S. Buttery
Secretary