

**MINUTES OF THE ANNUAL MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
February 3, 2020**

The Annual Meeting of the Louisville Metro Board of Zoning Adjustment was held on February 3, 2020 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

NOTE: These minutes were amended by Sue Reid, Management Assistant

Members present:

Lula Howard, Chair
Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary
Lester Turner, Jr.
LiAndrea Goatley
Lindsey Jagoe

Staff Members present:

Joe Reverman, Planning and Design Assistant Director
Joe Haberman, Planning and Design Manager
Chris French, Planning and Design Supervisor
Steve Hendrix, Planning and Design Coordinator
Jon Crumbie, Planning and Design Coordinator
Zach Schwager, Planner I
Nia Holt, Planner I
Lacey Gabbard, Planner I
Sherie' Long, Landscape Architect
Regina Thomas, Administrative Coordinator
John Carroll, Legal Counsel – Left at approximately 1:15 p.m.
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Planning and Design Management Assistant

The following matters were considered:

**BOARD OF ZONING ADJUSTMENT
ANNUAL MEETING MINUTES
February 3, 2020**

BOZA Annual Election of Officers

Chair Howard motioned to have John Carroll preside over the elections. Member Buttorff seconded the motion. The vote passed unanimously.

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.

00:03:34 A motion was made by Member Jagoe, seconded by Member Goatley, to elect Lula Howard as Chairperson. There being no further nominations, the election was closed, and the vote was as follows:

**Yes: Members Buttorff, Goatley, Jagoe, Leanhart, and Turner
Not Voting: Member Howard**

00:04:09 A motion by Member Turner, seconded by Member Howard, to elect Member Leanhart as Vice Chairperson. There being no further nominations, the election was closed, and the vote was as follows:

**Yes: Members Buttorff, Goatley, Jagoe, Turner and Howard
Not Voting: Member Leanhart**

00:05:06 A motion by Member Howard, seconded by Member Goatley, to elect Member Buttorff as Secretary. There being no further nominations, the election was closed, and the vote was as follows:

**Yes: Members Goatley, Jagoe, Leanhart, Turner and Howard
Not Voting: Member Buttorff**

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BOZA Annual Report

00:06:09 Mr. Haberman and Mr. French presented the annual report to the board members for the year 2019. A Powerpoint was provided to summarize the highlights of the year.

The Annual Meeting adjourned at approximately 1:30 p.m.

**MINUTES OF THE REGULAR MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
February 3, 2020**

APPROVAL OF MINUTES

NOTE: These minutes were amended by Sue Reid, Management Assistant

**JANUARY 27, 2020 BOARD OF ZONING ADJUSTMENT REGULAR MEETING
MINUTES**

00:32:17 On a motion by Member Turner, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the January 27, 2020 Board of Zoning Adjustment meeting.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT REGULAR MEETING

February 3, 2020

PUBLIC HEARING

CASE NO. 19-VARIANCE-0081

Project Name: Rogers Variance
Location: 1201 Rogers St
Owner(s): FlipLou, LLC
Applicant: Ariel Kattan
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:

00:34:09 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 this request:

Maria Mondino, 408 Cannons Lane, Louisville, Ky. 40206
Aerial Kattan, 408 Cannons Lane, Louisville, Ky. 40206

Summary of testimony of those in favor:

00:39:49 Maria Mondino spoke in favor of the request, and deferred justification for the waiver regarding encroaching into the required side yard setbacks to her husband (see recording for detailed presentation).

00:40:46 Aerial Kattan spoke in favor of the request. Mr. Kattan stated it is his understanding that the wall is not in compliance with fire rating because it is within the setback. Mr. Kattan stated once the variance is approved, they would need to adjust

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PUBLIC HEARING

CASE NO. 19-VARIANCE-0081

those requirements in order to comply with code. Mr. Kattan responded to questions from the Board Members (see recording for detailed presentation).

00:44:25 Ms. Mondino said the existing fence was in very poor condition and was replaced in the same location at the same height. Ms. Mondino and Mr. Kattan responded to questions from the Board Members (see recording for detailed presentation).

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

00:48:04 Board Members' deliberation

00:57:02 A motion by Member Buttorff, seconded by Member Turner, that Case Number 19-VARIANCE-0081, Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard setback be **DENIED**.

The vote was as follows:

YES: Members Buttorff, Turner, Goatley, Jagoe, and Vice Chair Leanhart
NO: Chair Howard

00:59:04 A motion was made by Member Buttorff, seconded by Member Turner, that Case Number 19-VARIANCE-0081, Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Traditional Neighborhood Form District to exceed 42 inches in height be **DENIED**.

The vote was as follows:

Yes: Members Buttorff, and Turner
No: Members Goatley, Jagoe, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NO. 19-VARIANCE-0081

01:01:02 On a motion by Member Goatley, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Traditional Neighborhood Form District to exceed 42 inches in height:

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 fence is not within the sight triangle and does not interfere with vision clearance at the intersection of Roger Street and Cooper Street, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the fence replaced an existing fence of the same height, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is needed to provide privacy in the rear yard of a corner lot. A similar fence in need of serious repair was on the property previously and staff does not have information that contradicts that assertion; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0081 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Traditional Neighborhood Form District to exceed 42 inches in height (**Requirement 42 in., Request 72 in., Variance 30 in.**).

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, Vice Chair Leanhart, and Chair Howard
No: Member Buttorff

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February 3, 2020

PUBLIC HEARING

CASE NO. 19-VARIANCE-0063

Request: Setback and Sign Variances
Project Name: 7931 Bardstown Road
Location: 7931 Bardstown Road
Owner/Applicant: Patrick W. Madden, Bardstown Road Development LLC
Representative: Mike Hill, Land Design & Development, Inc
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Lacey Gabbard, AICP, 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:

01:04:18 Lacey Gabbard presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222
Patrick Madden, 2517 Sir Barton Way, Lexington, Ky. 40509

Summary of testimony of those in favor:

01:07:54 Mike Hill spoke in favor of the request and showed a Powerpoint presentation. Mr. Hill responded to questions from the Board Members (see recording for detailed presentation).

01:18:02 Patrick Madden spoke in favor of the request in regard to the signs (see recording for detailed presentation).

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CASE NO. 19-VARIANCE-0063

01:20:00 Ms. Gabbard said Mr. Hill needs to discuss why the encroachment into the setback is being requested (see recording for detailed presentation).

01:20:11 Mike Hill discussed the encroachment into the setback and referred to the Powerpoint presentation. Mr. Hill responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:27:28 Board Members' deliberation

01:28:17 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code table 5.3.2 to reduce the required street setback from 10 feet to 4 feet for the drive-thru lane to encroach:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed encroachment is located interior to the shopping center, next to Major Lane. The parcel on the opposite side (the east side) of Major Lane is Tract 1000, which is a non-buildable lot with a detention basin (according to plan certain case 9-10787-08). Additionally, the drive-thru lane and encroachment will be located behind a proposed retaining wall and at a higher elevation than Major Lane, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the subject site is part of a larger shopping center, located along the Bardstown Road commercial corridor, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed encroachment is interior to the shopping center. Because of the retaining wall and variable LBA along Major Lane, the encroachment will not be obvious to drivers traveling along Major Lane or those using the drive-thru on the subject site. Additionally, the retaining wall will create a barrier between vehicles in the drive-thru and vehicles on Major Lane, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because, according to the applicant, it is necessary in order to allow a reasonable and efficient site design; and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Variance from Land Development Code section 8.3.3 to allow a 10 foot, 100 square foot monument sign on Tract 3:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since there are no known safety concerns associated with the sign request, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since Tract 3 (the subject site) is located in a shopping center where there are several signs already existing along Bardstown Road, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since there are no known safety concerns associated with the sign request and there are several existing signs along Bardstown Road for businesses in this shopping center, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the existing sign does not appear able to accommodate all of the businesses in the shopping center, 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-0063 does hereby **APPROVE** Variance from Land Development Code Table 5.3.2 to reduce the required street setback from 10 feet to 4 feet for the drive-thru lane to encroach (**Requirement 10 feet, Request 4 feet, Variance 6 feet**), and Variance from Land Development Code Section 8.3.3 to allow a 10 foot, 100 square foot monument sign on Trace 3.

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PUBLIC HEARING

CASE NO. 19-VARIANCE-0063

The vote was as follows:

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

No: Vice Chair Leanhart

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PUBLIC HEARING

CASE NO. 19-VARIANCE-0082

Request: Variance to allow a fence in the street side yard in the neighborhood form district to exceed 48 inches in height
Project Name: Applewood Variance
Location: 1724 Applewood Street
Owner: Estate of Henry Kaelin Jr.
Applicant: Monica Lynn Willing
Jurisdiction: City of Graymoore-Devondale
Council District: 7 – Paula McCraney
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:

01:30:50 Nia Holt presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of this request:

Monica Lynn Willing, 7541 Turner Ridge Road, Crestwood, Ky. 40014

Summary of testimony of those in favor:

01:34:13 Monica Willing spoke in favor of the request. Ms. Willing said her father passed away and she wants to sell the property. Prospective buyers want a fence. The exit of the home is on Westport Rd. and it is elevated. A taller fence is needed for privacy on the patio. Chair Howard asked if a fence company recommended 96 inches. Ms. Willing said no. Member Jagoe asked if there's a reason she's asking for an 8 ft. fence rather than a 6 ft. fence. Ms. Willing said no, she's just trying to give buyer's that option. Member Buttorff asked if there was thought given to a landscape buffer. Ms. Willing said no, Westport Rd. is only 10 ft. away and very busy. Landscaping may not

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CASE NO. 19-VARIANCE-0082

block the noise. Member Goatley asked, is there a shorter fence height that will meet the needs of the potential buyers? Ms. Willing said she doesn't know. Also, is there a particular fence design that will be used? Ms. Willing said yes, a wooden, pre-treated lumber, connected dog ear on top. The buyer will be building the fence. Chair Howard stated it's unusual to receive a request for a 96 inch street yard side fence in a residential neighborhood. Ms. Willing said it doesn't have to be 96 inches, a 72 inch or 84 inch would be fine. Board Member Goatley said taller fences approved in the past would have a design element to make it seem worthwhile. Ms. Willing asked if the fence could continue along the back side of the property. Chair Howard said yes it can (see recording for detailed presentation).

The following spoke in opposition to this request:

Gwendolyn Snodgrass, 1723 Applewood Lane, Louisville, Ky. 40222

Summary of testimony of those in opposition:

01:47:34 Ms. Snodgrass said she's in opposition of an 8 ft. fence but not a 6 ft. privacy fence. An 8 ft. fence would be unsightly. Westport Rd. is residential on both sides and has been widened, but is still residential. There are no 8 ft. fences outside the Watterson and would be a dangerous precedent to set. Ms. Snodgrass responded to questions from the Board Members (see recording for detailed presentation).

01:51:40 Board Members' deliberation

01:52:49 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 requested variance will not adversely affect the public health, safety or welfare as the fence is not within the sight triangle and does not interfere with vision clearance at the intersection of Westport Rd. and Applewood Ln., and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there is a similar fence across the street on Applewood Ln. and the property backs up to Westport Rd., which is classified as a minor arterial, and

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CASE NO. 19-VARIANCE-0082

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as fence will provide screening between a single-family residence and Westport Rd.; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0082 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood Form District to exceed 48 inches in height (**Requirement 48 inches, Request 72 inches, Variance 24 inches**); **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The privacy fence shall be installed outside of the right-of-way on the subject property. The finished side of the fence shall face outwards from the subject property.

The vote was as follows:

Yes: Members Turner, Goatley, Jagoe, and Howard

No: Member Buttorff, and Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT REGULAR MEETING

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PUBLIC HEARING

CASE NO. 20-VARIANCE-0001

Request: Variance to allow a principle structure to encroach into the side yard setbacks
Project Name: Ash Variance
Location: 910 Ash St
Owner: Humphrey Properties, LLC
Applicant: Ryan Brown
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
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:

01:55:31 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 this request:

Ryan Brown, 5505 Wilke Farm Avenue, Louisville, Ky. 40216

Summary of testimony of those in favor:

01:58:24 Ryan Brown spoke in favor of the request. Mr. Brown said he tore the back part of the house off because it was poorly constructed. The plan is to add a second floor to the house (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NO. 20-VARIANCE-0001

02:00:46 Board Members' deliberation

02:01:20 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, 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 requested variance will not adversely affect the public health, safety or welfare as the structure will 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 proposed structure will align with the existing street wall and keep in character with other structures in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as it is an existing structure and the addition will 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 the structure will help to keep the existing street wall and built on a similar footprint; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0001 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principle structure to encroach into the required side yard setbacks (**Northeast Side Yard Requirement 3 ft., Request 0 ft., Variance 3 ft., Southeast Side Yard Requirement 3 ft., Request 2 ft., Variance 1 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 20-VARIANCE-0004

Request: Variance to allow multi-family structures to exceed the maximum height (35 ft.) by three feet (38 ft.)
Project Name: Bristol Bluffs Circle Variance
Location: 6015 Bristol Bluffs Circle
Owner: Bristol Bluffs LP
Applicant: Cliff Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
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:

02:03:54 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

02:08:03 Mr. Ashburner stated he did not know about the suggested condition of approval read by Mr. Schwager. An additional 20 trees is too many, maybe 10. This is a self-reported situation. The need for the variance was discovered when an as-build survey determined that the height was taller than 35 ft. (late 2019). This case did not come out of a citation. This variance was initially filed as a non-hearing variance because the deviation from the dimensional requirement is less than 10% and we had the signatures of all the first tier property owners; however, Councilman Benson's office

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CASE NO. 20-VARIANCE-0004

asked that it be put on the public hearing agenda. Mr. Ashburner gave a power point presentation. All the apartments have 9 ft. ceilings. The approved plan is above the Land Development Code requirements and don't need to be mitigated. It's an affordable development and the rents are capped (see recording for detailed presentation).

02:16:49 Member Buttorff said 10 trees doesn't seem like enough. Mr. Ashburner said they exceed the Land Development Code requirements and are 320 ft. off the right-of-way. The owner/developer may be fine with the row of trees directly adjacent to Gellhaus (10) but not around the clubhouse (see recording for detailed presentation).

02:21:51 Sherie Long, Planning and Design Landscape Architect, stated there's a match line so instead of 10 trees, there are 22. There's an existing overhead utility line so instead of planting Type A trees, Type C needs to be planted and it needs to be 1 tree per 30 ft. (minimum requirement). Also, it is suggested to plant trees behind the pool and clubhouse because of the elevation change. It will also help block some of the height of the buildings (see recording for detailed presentation).

02:27:17 Member Jagoe asked, if before they built they came and asked for a variance for the height difference, would there be a requirement to plant additional trees if they had come before it was built? Mr. Reverman said it's the same scenario, whether looking at the request before or after. You just look at mitigating factors for the variance. Also, when the single family properties develop the trees will be required along Gellhaus 1 per 30 ft. This needs to be disregarded for now because it will be developed at some point (see recording for detailed presentation).

02:31:09 Mr. Ashburner said this is the first time he or his client have seen this design idea. The staff has re-designed the site and that is a very bad practice. It should have been discussed before this meeting. Mr. Ashburner stated, his client is willing to plant 22 Type C trees along Gellhaus Ln. but further screening of the clubhouse does nothing to mitigate the building height and it will hide the clubhouse, which is an amenity and needs to be shown to the public.

The following spoke in opposition to this request:

Gary Miller, 6200 Gellhaus Lane, Louisville, Ky. 40299

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CASE NO. 20-VARIANCE-0004

Summary of testimony of those in opposition:

02:33:15 Gary Miller spoke in opposition of the request. Mr. Miller stated the apartments sit on a hill and that makes it look bigger. If the applicant plants the trees along Gellhaus Ln., it will help buffer the view. Also, there don't need to be any trees planted by the clubhouse (see recording for detailed presentation).

02:36:28 Board Members' deliberation

02:37:27 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, 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 requested variance will not adversely affect the public health, safety or welfare as the buildings have been 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 structures have already been built and the rezoning and development plan have been approved by Louisville Metro Planning Commission, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the buildings have been 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 the variance request is less than 10% of the requirement and qualified for a non- public hearing; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0004 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow multi-family structures to exceed the maximum height (35 ft.) by three feet (38 ft.), (**Requirement 35 ft., Request 38 ft., Variance 3 ft.**) with the mitigation discussed today - 22 Type C trees to be planted along Gellhaus Ln.

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CASE NO. 20-VARIANCE-0004

The vote was as follows:

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

02:39:08 Meeting was recessed.

02:39:26 Meeting was reconvened.

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PUBLIC HEARING

CASE NO. 19-CUP-0263

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: Woodruff Avenue Short Term Rental
Location: 3527 Woodruff Avenue
Owner: Mark & Virginia Meredith
Applicant: Ginnie Meredith
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
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:

02:39:54 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Mark Meredith, 3222 Deer Point Place, Prospect, Ky. 40059

Summary of testimony of those in favor:

02:41:43 Mark Meredith spoke in favor of the request. Mr. Meredith stated he bought a property in disrepair and is fixing it up to list it as a short term rental. There were 2 neighborhood meetings and no one showed up. Vice Chair Leanhart asked who will be managing the property. Mr. Meredith said he and his wife. Member Buttorff asked, how many properties do you have? Mr. Meredith said this is the 4th investment property. Vice Chair Leanhart asked, how far away do you live from this property? Mr. Meredith said he's about 25 minutes/miles away. Chair Howard asked if the adjoining

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CASE NO. 19-CUP-0263

neighbors have Mr. Meredith's contact information. Mr. Meredith said no, but he will give it to them (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:46:25 Board Members' deliberation

02:46:43 Public Hearing was reopened to allow Mr. Meredith an opportunity to respond to questions from the Board Members regarding parking (see recording for detailed presentation).

02:50:04 Board Members' deliberation

02:50:16 On a motion by Member Jagoe, seconded by Member Buttorff, 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 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 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:

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PUBLIC HEARING

CASE NO. 19-CUP-0263

- 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 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 are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3).**
- 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 one on-street parking space. There is parking for one vehicle in the garage at the rear of the property. In addition, there appears to be available 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0263 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host.

BOARD OF ZONING ADJUSTMENT REGULAR MEETING

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PUBLIC HEARING

CASE NO. 19-CUP-0263

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 19-CUP-0265

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Cobb short term rental
Location: 922 Blankenbaker Lane
Owner/Applicant: Paul Cobb
Jurisdiction: Louisville Metro
Council District: 7 – Paula McCraney
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:

02:52:00 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Paul Cobb, 922 Blankenbaker Lane, Louisville, Ky. 40207
Jonathan Klunk, 3826 Bardstown Road, Louisville, Ky. 40218

Summary of testimony of those in favor:

02:54:18 Mr. Cobb stated his 3 main points: this proposal supports Louisville; improvements to the property; and interaction with the community. The location has very good access and plenty of parking. Also, the neighbors are very supportive and it's outside the Traditional Neighborhood so not infringing on the core of the neighborhood. Mr. Cobb described the house (themes) as well as met with neighbors and given contact information to them. Also, Mr. Cobb said he hired a professional management company. Vice Chair Leanhart asked if the driveway is a double driveway and is it concrete. Mr. Cobb said yes, the one on the right is concrete and the one on the left is

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compressed gravel. The one-car garage is accessible to the residents. Chair Howard asked the applicant if he's willing to place a note/sign on the property saying 'no parking on Blankenbaker Ln.'. Mr. Cobb said yes (see recording for detailed presentation).

02:59:32 Mr. Klunk stated Mr. Cobb reached out to him very early in the process. The thoughtful approach to the location makes it a nice setting as MSD owns the property in the rear (vacant), there's off-street parking, proximity to downtown and the highways. It's outside the communities/neighborhoods (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:02:06 Board Members' deliberation

03:02:27 On a motion by Member Goatley, seconded by Member Buttorff, 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 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:

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- 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.**
- 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 last Board meeting there are no approved short term rental conditional use permits within 600 feet 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.
- 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. **The applicant states that there will be up to three parking spaces located along the existing driveway/garage. Parking is not allowed on Blankenbaker Lane which is a two-lane roadway.**
- 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-0265 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.

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PUBLIC HEARING

CASE NO. 19-CUP-0265

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 19-CUP-0268

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: Cleveland Boulevard Short Term Rental
Location: 2847 Cleveland Boulevard
Owner: Albert Lee Gutterman III
Applicant: A. Lee Gutterman III
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:

03:04:12 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Albert Lee Gutterman, III, 311 West Lee Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

03:05:51 Mr. Gutterman stated he's currently a host on a property in Clifton as well. This property was his former residence. There's additional parking on site and no one showed up to the neighborhood meeting. Vice Chair Leanhart asked if there is a turnaround or patio because it looks like the garage can't be entered. Mr. Gutterman said he parked in the garage when he lived there. Also, there's a parking pad to accommodate 3 cars. Member Goatley asked if the first tier neighbors have been given contact information. Mr. Gutterman said yes. Also, make sure the house rules state

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that there's no parking allowed on the street. Mr. Gutterman agreed (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:10:43 Board Members' deliberation

03:11:01 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, owner's justification statement, and the testimony heard today, 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 are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3).**
- 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 two on-street parking spaces. There is parking for two vehicles in**

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the garage and carport at the end of the driveway. In addition, there appears to be available 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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0268 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63).

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The vote was as follows:

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

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CASE NO. 19-CUP-0269

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: King short term rental
Location: 2125 Baringer Avenue
Owner/Applicant: Amanda King
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
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:

03:12:58 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 this request:

Brett Flamion, 10710 Taylor Farm, Prospect, Ky

Summary of testimony of those in favor:

03:16:38 Mr. Flamion stated the community of Baringer Ave. has the same goals as he does – want to ensure neighborhood remains quiet, safe and the value of the homes remain high. The proposal is an investment property and many repairs and updates have been made, which includes the garage (accessible). The goal is to sell this home to a permanent resident. Selling the home has taken longer than planned so it will be used for short term rental until it's sold (see recording for detailed presentation).

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03:20:07 Mr. Flamion addressed the 8 points of the opposition (see recording for detailed presentation).

03:26:24 Chair Howard asked how long has the house been on the market? Mr. Flamion said since July. Also, will you manage the property and do the adjoining neighbors have your contact information? Mr. Flamion said yes, he will manage the property very closely. He will also make sure all adjoining neighbors have his contact information (see recording for detailed presentation).

The following spoke in opposition to this request:

Elgin L. Crull, 2128 Baringer Avenue, Louisville, Ky. 40204

Paul Norris Shockley, Jr., 1426 Cherokee Road, Louisville, Ky. 40204

Susan A. Crull, 2128 Baringer Avenue, Louisville, Ky. 40204

Robert Littlefield, 2129 Baringer Avenue, Louisville, Ky. 40204

Jene Evans, 2150 Baringer Avenue, Louisville, Ky. 40204

David E. Blank, 2119 Baringer Avenue, Louisville, Ky. 40204

Summary of testimony of those in opposition:

03:30:47 Mr. Crull requested an extension of the time limit to 20 minutes; the Board Members agreed to extend the time to 20 minutes for the opposition. Mr. Crull submitted an 8 point petition with 27 signatures into the record. Mr. Crull said the sign wasn't posted 14 days in advance. Mr. Haberman explained that 14 days doesn't apply to the posted sign, just the notices that go out by mail. Mr. Crull stated he disagrees with the staff report regarding compatibility. It is not an area to set up a temporary residence for up to 10 transient people to live in the neighborhood for 1 to 29 days. It will be a commercial enterprise – they say they want to sell the house but it was remodeled for a multi-family dwelling with an extra 2 bedrooms and 4 bathrooms. There's no manager on site. There's no driveway on the property. The parking spaces on the street fill up at night (see recording for detailed presentation).

03:40:00 Chair Howard asked Mr. Crull if he is aware that this case is not a zoning change. Mr. Crull said yes. Member Buttorff asked if there were any other long term rental properties in the area. Mr. Crull said yes, down the street (see recording for detailed presentation).

03:42:07 Mr. Shockley said his major concern is parking. The garage has never had anyone parked in it for the past 35 years. Parking on the street is filled up in the

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evenings. The applicant will not be able to manage the home by himself (see recording for detailed presentation).

03:45:59 Mrs. Crull stated the Cherokee triangle is a part of the Historic Preservation District and their main concerns were absentee owners and how it would affect the neighborhood – stability, changing character, the viability of the Cherokee triangle and the fact that the absentee owners had very little stake in the neighborhood. This is a giant step backwards because now you're allowing people to turn single family homes into unsupervised hotels. Maintenance of the home is also a concern. The owners had to be asked to mow the lawn. Property value is a concern as well (see recording for detailed presentation).

03:50:56 Mr. Littlefield stated the parking is a major concern. There's a 22-unit apartment down the street and there's no parking provided for them. There's a 13-story building nearby that was approved and will also affect parking. The previous owner of the home never used the garage because the doors wouldn't open (no mechanical assistance). The new owners have not been good about keeping the property up-to-date (see recording for detailed presentation).

03:53:44 Ms. Evans said she chose to live in the Cherokee triangle because it's in a historical district and single family residential with some apartments but long term residents not a hotel situation. There's a concern for high end renters as well as low end renters. It can still be a nuisance (see recording for detailed presentation).

03:55:49 Mr. Blank stated he thinks there will be transients and high rent will not stop the conversion of this property for human trafficking. Maybe this case can be delayed until an expert in this field can take a look at the plan. Ms. Ferguson, Legal Counsel, explained that this is beyond the scope of this Board. Mr. Evans said it's best to deny if you have any concerns (see recording for detailed presentation).

Rebuttal

03:59:06 Mr. Flamion said this is not a commercial enterprise. It's best to work and partner with the neighbors. The property meets all the requirements. The property is an investment and it would be a liability to just rent to anybody – very stringent and vetting and screening will be done. Mr. Flamion said he lives 16 miles from the property and there will be a secondary property manager 5 minutes from the property. Enforcing the parking permit issue is partnering with the neighbors. If there are cars with no permit, it will be addressed. The garage has been completely finished. The yard has been maintained. The goal is to sell the apartment, not rent it out. Chair Howard asked

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if he's thought of doing a month to month lease instead of short-term rental. Mr. Flamion said it is an option. Member Turner asked if the number of tenants (10) could be reduced because it will be a parking issue. Mr. Flamion is agreeable (8) (see recording for detailed presentation).

04:11:56 Mr. Haberman explained that if the Board approves the conditional use permit, it runs with the land, not the owner. Mr. Flamion asked if it was possible for there to be a time limit on the permit. Mr. Haberman stated that staff would not support tying a Conditional Use Permit to a specific applicant because staff is concerned that the approval appears to be all about the applicant, and not so much about the appropriateness of the property for the use (see recording for detailed presentation).

04:16:58 Board Members' deliberation

04:19:38 On a motion by Member Buttorff, seconded by Member Goatley, the following resolution based upon the Standard of Review and Staff Analysis, the testimony heard today, and the owner's justification, 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 when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

WHEREAS, the Board further finds 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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- 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 four bedrooms that will allow a maximum number of ten 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 last Board meeting there are no approved short term rental conditional use permits within 600 feet 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.
- 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

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on the land uses and density of the immediate vicinity. *The site has credit for on-street parking and has a driveway and detached 2-car garage that can be used.*

- 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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0269 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-5B zoning district and Traditional Neighborhood Form District.

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The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, and Jagoe

No: Vice Chair Leanhart, and Chair Howard

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CASE NO. 19-CUP-0270

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Noonan short term rental
Location: 332 Kenilworth Road
Owner/Applicant: Mary Luke Noonan
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
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:

04:22:54 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 this request:

David Desjardins, 1334 Castlewood Avenue, Louisville, Ky. 40204

Summary of testimony of those in favor:

04:26:31 Mr. Desjardins stated the property in question is his previous residence and he hosted it for 3 years. The goal is to rent for a year lease and currently on the market as a rental. The concern from the neighborhood meeting was parking. Member Turner asked how many parking spaces there are. Mr. Desjardins said one (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:32:21 Board Members' deliberation

04:32:35 On a motion by Member Goatley, seconded by Member Buttorff, 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 when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

WHEREAS, the Board further finds 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.
- 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.**

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The applicant states that the residence has two bedrooms that will allow a maximum number of 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 last Board meeting there are no approved short term rental conditional use permits within 600 feet 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.
- 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, but there appears to be limited parking along sections of the street. There are several parking spaces provided near the proposal. The applicant states that he has access to a shared driveway that will not be used by the short term rental.**

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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-0270 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-6 zoning district and Neighborhood Form District.

The vote was as follows:

YES: Members Buttorff, Turner, Goatley, Jagoe, Vice Chair Leanhart, and Chair Howard

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CASE NO. 20-CUP-0005

Request: Conditional Use Permit to allow a short term rental of a dwelling unit in the Traditional Neighborhood Zoning District.
Project Name: S. Brook Short Term Rental
Location: 1414 S. Brook Street
Owner/Applicant: Ashley Hall
Jurisdiction: Louisville Metro
Council District: 6 – David James
Staff 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:

04:34:22 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members. Ms. Holt provided the Board Members with an email in opposition received after the deadline (see recording for detailed presentation).

04:39:00 Mr. Haberman was asked if the applicant is in violation. He responded, if this is the property and they're already on Airbnb, that's a violation. There must be an active registration. Also, the applicant needs to be asked about the number of bedrooms (see recording for detailed presentation).

The following spoke in favor of this request:

Ashley Hall, 1414 South Brook Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

04:41:50 Ms. Hall said she forgot to complete the formal application after it was approved. It is currently listed on Airbnb because she thought everything was done

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correctly. Ms. Hall said when she found out she was not in compliance she left the listing up but blocked it. Vice Chair Leanhart asked if the studio has one bed. Ms. Hall said yes. It's an open floor plan and the bed is separated, but not by a wall or door. Ms. Hall said she didn't know it was listed as 4 and was told it needs to be 2. Chair Howard asked what the average number of people that stayed at the room. Ms. Hall said only 2, there's no privacy or room for more (see recording for detailed presentation).

04:43:50 Laura Ferguson, Legal Counsel, asked what the justification was for the relief from the 600 foot rule previously. Ms. Hall said it was previously granted because she lives in the home (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

04:45:40 Board Members' deliberation

04:46:35 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, 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 is consistent with Comprehensive Plan policies, and

WHEREAS, the Board further finds 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 appear to be required, and

WHEREAS, the Board further finds the subject property is served by existing public utilities and facilities. The proposal does appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

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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 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 CUP will apply only to an efficiency unit occupying the third floor. LDC regulations permit up to two 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 are three properties with an approved conditional use permit for short term rental of a dwelling unit located in the TNZD within 600 ft of the subject property (see Attachment 3). However, one of the approved conditional use permits is host-occupied. The Board granted relief in the previous approval of this case.**
- 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

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the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The building is a duplex 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 regulations credit the street frontage with one parking space. A two-vehicle garage located off the rear alley will not be available for guest use. However, there sufficient street parking in the surrounding 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

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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 does in Case Number 20-CUP-0005 hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located within the TNZD (LDC 4.2.63), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The dwelling unit approved for short-term rental use, located on the third floor of the residence, may be used for that purpose only if the dwelling unit located on the first and second floor is occupied by the owner of the property.

The vote was as follows:

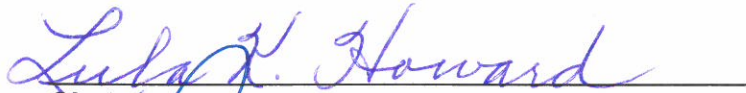
Yes: Members Buttorff, Turner, Goatley, Jagoe, Vice Chair Leanhart, and Chair Howard

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04:50:56 Prior to adjournment, the Board Members and staff discussed scenarios where a Conditional Use Permit could be revoked (see recording for detailed presentation).

The meeting adjourned at approximately 6:10 p.m.


Chair


Secretary