

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

April 1, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 1, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Dwight Young, Chair
Rosalind Fishman, Vice Chair
Richard Buttorff
Lester Turner, Jr.
Lindsey Jagoe

Members Absent:

Lula Howard
Kimberly Leanhart, Secretary

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Jay Lockett, Planner I
Paul Whitty, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

MARCH 18, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:03 On a motion by Member Turner, seconded by Member Jagoe, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on March 18, 2019.

The vote was as follows:

Yes: Members Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Buttorff, Leanhart, and Howard

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BUSINESS SESSION

CASE NUMBER 19VARIANCE1019

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Hillsboro Road Variance
Location: 3609 Hillsboro Road
Owner/Applicant: Elizabeth & John Bland
Jurisdiction: City of St. Matthews
Council District: 26 – Brent Ackerson
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:02:50 Zach Schwager presented the case and showed the site plan (see recording for detailed presentation).

00:04:35 On a motion by Member Turner, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the garage currently exists, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage has been in its current position for many years and other properties in the neighborhood have garages with similar setbacks, and

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BUSINESS SESSION

CASE NUMBER 19VARIANCE1019

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the setbacks of the existing garage are not changing, which have caused no known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the current setback is an existing condition which is proposed to be maintained, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as a garage exists with the proposed setback already, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to relocate part of the driveway leading to the garage after the garage is shifted to the side, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1019 does hereby **APPROVE** Variance from St. Matthews Development Code Section 4.6.C.2.b to allow a structure to encroach into the required side yard setback (**Requirement 6 ft., Request 3 ft., Variance 3 ft.**).

The vote was as follows:

Yes: Members Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Buttorff, Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 18CUP1185

Request:	Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name:	Roosevelt Short Term Rental
Location:	4126 Roosevelt Avenue
Owner/Applicant/Host:	DHI IV LLC
Jurisdiction:	Louisville Metro
Council District:	10— Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

00:05:53 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

David Mour, 513 S. 2nd Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:10:48 David Mour spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 18CUP1185

00:18:09 Board Members' deliberation

00:19:31 On a motion by Vice Chair Fishman, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, 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 create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has two bedrooms; LDC regulations permit eight guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**

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- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **LDC standards credit the site with one on-street parking space. A 75 ft. driveway can accommodate up to three additional vehicles on site.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1185 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
- 2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

NOTE: Board Member Buttorff arrived at approximately 1:07 p.m.

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CASE NUMBER 18CUP1185

The vote was as follows:

Yes: Members Buttorff, Jagoe, Vice Chair Fishman, and Chair Young

No: Member Turner

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1003

Request: Variance to allow a structure to exceed the maximum setback, variance to allow a dumpster enclosure to encroach into a rear setback, a waiver to allow parking in front of a structure in the Traditional Marketplace Corridor form district, and a landscape waiver

Project Name: Goodfellas Pizza

Location: 1242, 1244, 1246, 1248, 1250 E Broadway and 708 Baxter Ave

Owner: Kennie and Patricia Combs

Applicant: Long Construction Co

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Jay Lockett, 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:

00:20:52 Jay Lockett stated the applicant is requesting a continuance to a date uncertain (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

Debra Harlan, 1734 Chichester Ave., Louisville, KY 40205

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CASE NUMBER 19VARIANCE1003

Summary of testimony of those in opposition:

00:22:00 Debra Harlan spoke in opposition of the request and submitted information to the Board Members. Ms. Harlan responded to questions from the Board Members (see recording for detailed presentation).

00:31:49 Board Members' deliberation

00:32:20 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 19VARIANCE1003 to a date uncertain.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1014

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Harvard Drive Variance
Location: 1846 Harvard Drive
Owner(s): Kimberly & Kevin Thieneman
Applicant: Anne Del Prince
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

00:33:53 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club Rd., Louisville, KY 40206

Summary of testimony of those in favor:

00:37:57 Anne Del Prince spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19VARIANCE1014

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

00:40:46 On a motion by Member Buttorff, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, the presentation, and the applicant's justification, 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 addition will not be visible from the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will be further away from the side property line than the existing structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the addition is further away from the side property line than the existing structure, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the proposed addition will be further away from the side property line than the existing structure, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing an addition that is further away from the side property line than the existing structure, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

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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 19VARIANCE1014 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required side yard setback (**Requirement 5 ft., Request 3 ft. 10 in., Variance 1 ft. 2 in.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1015

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Albany Avenue Variance
Location: 216 Albany Avenue
Owner: Ellis Family Trust Agreement
Applicant: Beverly Baker
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:

00:42:06 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Beverly Baker, 216 Albany Ave., Louisville, KY 40291

Summary of testimony of those in favor:

00:45:19 Beverly Baker spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1015

00:47:28 Board Members' deliberation

00:47:40 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 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 addition was approved by the Clifton Architectural Review Committee, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will be the same distance from the side property line as the existing structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the addition is the same as the existing structure, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the proposed addition is the same distance from the property line as the existing structure, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing an addition that is the same distance from the side property line as the existing structure, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction; now, therefore be it

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CASE NUMBER 19VARIANCE1015

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1015 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard setback (**Requirement 3 ft., Request 1.5 ft., Variance 1.5 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 18CUP1168

Request: Conditional Use Permit for a short term rental unit not the primary residence of the host
Project Name: Short Term Rental
Location: 129 N Charlton
Owner/Applicant/Host: Teresa Willis and Laura Snyder
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

00:49:58 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Teresa Willis, 3915 Massie Ave., Louisville, KY 40207

Summary of testimony of those in favor:

00:54:29 Teresa Willis spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 18CUP1168

01:01:26 Board Members' deliberation

01:04:01 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, 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:

A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The residence has two bedrooms. LDC regulations permit up to eight guests; the applicant stated at the neighborhood meeting that the number of guests will be limited to six.**

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **There is one on-street parking space at the front of the property on Charlton and five additional spaces street-side on Arlington Avenue. The site has no off-street parking.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1168 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
- 2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

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3. The maximum number of guests permitted in the short term rental shall be the lesser of six (6), or that permitted by the Louisville Metro Code of Ordinances.
4. No excessive noise/parties outside shall be allowed between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday, and 11:00 p.m. and 8:00 a.m. Friday and Saturday.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart , and Howard

01:05:34 Meeting was recessed.

01:06:03 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 19CUP1021

Request:	Modification of a Conditional Use Permit for outdoor alcohol sales and consumption for a restaurant in a C-1 zoning district
Project Name:	Goss Alcohol Sales Modification
Location:	1031 Goss Avenue
Owner:	BCCN Real Estate Holdings LLC
Applicant:	Goss Avenue Restaurant LLC
Representative:	Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

01:07:11 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Sarah Beth Sammons, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

01:14:06 Sarah Beth Sammons spoke in favor of the request and showed a Powerpoint presentation. Ms. Sammons responded to questions from the Board Members (see recording for detailed presentation).

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

01:19:11 Board Members' deliberation

01:19:55 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the discussion, was adopted:

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

WHEREAS, the Board further finds that the proposed modification is compatible with surrounding uses and with the general character of the area, and

WHEREAS, the Board further finds that the proposed development is consistent with expectations for the property and does not substantially increase demands on public infrastructure and facilities. The proposed modification has received preliminary approval from MSD and Transportation Planning, and

WHEREAS, the Board further finds that:

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The site plan shows defined boundaries for both outdoor dining areas.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **The development plan has received preliminary approval from Transportation Planning.**
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be

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- designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the LDC 10.4 Implementation Standards. **A C-1 property in residential use adjoins the site on its northwest boundary. The proposed modification includes a 6 ft. high wood privacy fence from the front property line to the front of the residential structure on the adjoining property. In addition, the proposed modification meets side yard and the landscape buffer area requirements.**
- E. This conditional use permit shall be limited to restaurant uses in C-1 that hold the following types of ABC licenses:
1. Restaurant liquor and wine license by the drink for 100 plus seats
 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1:00 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. BOZA may require additional and more restrictive requirements than those listed above based on conditions at the specific location and characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1021 does hereby **APPROVE** Modification of a Conditional Use Permit for outdoor alcohol sales and consumption for a restaurant in a C-1 zoning district (LDC 4.2.41), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on

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the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).

2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant in the C-1 zoning district without further review and approval by BOZA.
3. The applicant shall consolidate the subject parcels at 1031, 1035, 1037 and 1041 Goss Avenue prior to applying for a building permit.
4. Crossover access and shared parking agreements between Tracts 1 and 2 shall be executed prior to applying for a building permit.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 19CUP1039

Request:	Modification of a Conditional Use Permit for a short term rental unit not the primary residence of the host
Project Name:	W Lee Short Term Rental
Location:	314 W Lee Street
Owner/Applicant:	Craig Henderson
Host:	Crystal Henderson
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

01:22:00 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members. Ms. Jones provided the Board Members with an email which was received after the deadline (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Craig Henderson, 314 W. Lee Street, Louisville, KY 40208
Councilman David James, 310 W. Lee Street, Louisville, KY 40208

Summary of testimony of those in favor:

01:29:52 Craig Henderson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:35:41 Ms. Jones showed slides of each of the bedrooms to the Board Members (see recording for detailed presentation).

01:38:26 Councilman David James spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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

01:40:54 Board Members' deliberation

01:41:18 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, 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 will be 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:

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:

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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 four individuals. **The original CUP request listed four bedrooms and limited the number of guests to eight. According to the applicant, the residence has five bedrooms, one of which is located in the basement. Up to 14 guests are permitted by LDC regulation; applicant intends to limit the number of guests to 12.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The original CUP stated that no off-street parking was available. According to the applicant, there is parking for two vehicles on a secured pad in the rear of the residence. In addition, two resident parking passes for on-street parking will be made available to guests.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

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CASE NUMBER 19CUP1039

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1039 does hereby **APPROVE** Modification of Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in the short term rental shall be the lesser of twelve (12), or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 18CUP1179

Request:	Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	112 Harlan Avenue
Owner:	Yaaawooo Realty LLC
Applicant:	Fredie Robinson
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

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

Agency Testimony:

01:43:05 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Fredie Robinson, 187 Wigeon Ct., Shepherdsville, KY 40165

Summary of testimony of those in favor:

01:46:43 Fredie Robinson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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01:51:50 Board Members' deliberation

01:54:38 On a motion by Vice Chair Fishman, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

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

WHEREAS, the Board further finds that:

Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host 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 Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The house has 4 bedrooms which would allow for 12 guests.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.

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- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Two parking spaces are located on the street in front of the house and there are 2 parking spaces at the rear of the lot.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1179 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in the short term rental shall be the lesser of nine (9), or that permitted by the Louisville Metro Code of Ordinances.

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The vote was as follows:

Yes: Members Jagoe, Turner, Vice Chair Fishman, and Chair Young

No: Member Buttorff

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 18CUP1188

Request: Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name: Short Term Rental
Location: 1700 Payne Street
Owner: Fowl Water LLC
Applicant: Matthew Fowler
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency Testimony:

01:57:01 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix provided photographs to the Board Members. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Matt Fowler, 1709 Payne Street, Louisville, KY 40206

Summary of testimony of those in favor:

02:04:08 Matt Fowler spoke in favor of the request and showed a Powerpoint presentation. Mr. Fowler responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:
Joe Rivera, 1706 Payne Street, Louisville, KY 40206

Summary of testimony of those in opposition:

02:13:39 Joe Rivera spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

02:18:59 Mr. Fowler stated he thinks most of the concerns were addressed at the beginning (see recording for detailed presentation).

02:19:10 Board Members' deliberation

02:20:30 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 does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

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

WHEREAS, the Board further finds that:

Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host 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 Use Permit. In addition to any conditions

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of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The regulations allow for 6 guests in Unit 1 and 8 guests in Unit 2.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Approximately three spaces exist on the driveway and 2 parking spaces are located in front of the house along Payne Street. Gravel has also been put down from the rear of the driveway into the rear yard which is not allowed as far as parking.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1188 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a duplex that is not the primary residence of the host in an R-5 Zoning

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District and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in Unit #1 of the short term rental shall be the lesser of four (4), or that permitted by the Louisville Metro Code of Ordinances, and the maximum number of guests permitted in Unit #2 of the short term rental shall be the lesser of six (6), or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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PUBLIC HEARING

CASE NUMBER 18CUP1197

Request:	Conditional Use Permit for a Commercial Kennel
Project Name:	Kennel
Location:	3017 Hunsinger Lane
Owner:	Louisville Realty Holdings LLC, Arthur Migirou
Applicant:	Howellco Garage Builders, Steven Howell
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

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

Agency Testimony:

02:22:20 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Steven Howell, 7038 Bea Way, Louisville, KY 40219
Arthur Migirou, 7505 Eric Edward Way, Louisville, KY 40220

Summary of testimony of those in favor:

02:26:00 Steven Howell spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:29:50 Arthur Migirou spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:35:05 Steven Howell responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:38:12 Board Members' deliberation

02:38:31 On a motion by Member Turner, 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 the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhood in terms of scale, intensity, traffic, noise, drainage and appearance. This is an existing building that is now being used as a kennel, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan, and

WHEREAS, the Board further finds that:

Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C- M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.

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- B. Signs - Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.
- D. Screening – Any outdoor animal facilities shall be screened from view.
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal waste; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1197 does hereby **APPROVE** Conditional Use Permit to allow an existing Commercial Kennel in a C-1 Zoning District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

The vote was as follows:

Yes: Members Buttorff, Jagoe, Turner, Vice Chair Fishman, and Chair Young

Absent: Members Leanhart, and Howard

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02:39:28 Prior to adjournment, Emily Liu, Planning & Design Services Director, provided the Board Members with information about the CNU Conference. Ms. Liu advised the Board Members if they were interested in attending, we did get some free registration for our Board and Commission members.

The meeting adjourned at approximately 3:52 p.m.

Stewart Young

Chair

Wm O'Leary

Secretary