

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

November 18, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on November 18, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Chair
Richard Buttorff, Secretary (left at approximately 5:05 p.m.)
Lester Turner, Jr.
LiAndrea Goatley
Lindsey Jagoe

Members Absent:

Kimberly Leanhart, Vice Chair

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Zach Schwager, Planner I
Lacey Gabbard, Planner I
Nia Holt, Planner I
John Carroll, Legal Counsel (left at approximately 4:45 p.m.)
Laura Ferguson, Legal Counsel (arrived at approximately 4:45 p.m.)
Sue Reid, Management Assistant

The following cases were heard:

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NOVEMBER 4, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:57 On a motion by Member Turner, seconded by Member Goatley, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the November 4, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

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

Abstain: Member Jagoe

Absent: Vice Chair Leanhart

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2020_BOZA_Meeting_Schedule

00:05:40 On a motion by Member Goatley, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the change to the 2020 Board of Zoning Adjustment meeting schedule (changing November 1 to November 2).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0015

Request: Variances to allow parking to encroach into the setback (19-VARIANCE-0015), and to exceed the maximum building height (19-VARIANCE-0016)

Project Name: Middletown Station

Location: 12965 Shelbyville Rd

Owner/Applicant: J. Layson Hagan, Middletown Partners, LLC

Jurisdiction: Middletown

Council District: 19 – Anthony Piagentini

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:

00:06:46 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:11:46 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:19:15 Chair Howard asked for clarification on the parking encroachment variances. Ms. Gabbard clarified that there are two parking encroachment variances requested (see recording for detailed presentation).

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CASE NUMBER 19-VARIANCE-0015

The following spoke in opposition of the request:

No one spoke.

00:23:27 Board Members' deliberation

00:24:01 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:

Variance from Land Development Code Section 5.2.3.C.2.b to allow parking to encroach into a portion of the required side and rear setback between C-2 and C-2:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the property line between the two C-2 zoned properties is located between two parking lots interior to Middletown Station. Since the proposed development on the subject site is residential and the neighboring C-2 zoned property to the east is commercially used, the less intense residential use will not adversely affect the adjacent property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the line between the two C-2 zoned properties is located between two parking lots interior to Middletown Station. The neighboring C-2 zoned property to the east is commercially used, with expansive parking lots, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the line between the two C-2 zoned properties is located between two parking lots interior to Middletown Station. The parking areas that are proposed to encroach into the setback will be primarily used by residents of the proposed development and their guests, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the applicant is requesting only a small portion of the parking encroach into the setback; and

Variance from Land Development Code Section 5.7.1.B.1 to increase the maximum building height within a Transition Zone from 45 feet to 60 feet

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CASE NUMBER 19-VARIANCE-0015

along Aiken Road, between the Suburban Marketplace and the Neighborhood Form Districts:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since there is only one proposed building located in the transition zone, and the proposed structures are located over 100 feet from the nearest residential structures on the opposite side of Aiken Road, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the applicant is proposing to locate only one building in the transition zone. There do not appear to be any buildings in the general vicinity that exceed the maximum building height, however, if the subject site were not a transition zone, the maximum building height would be 60 feet. If setbacks are increased within the Neighborhood form district (located on the other side of Aiken Road) then additional building height would be permitted. Additionally, the Aiken Road right of way is 80 feet, which provides a buffer and transition area between the proposed development and neighboring developments, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the increased height does not appear to pose a safety issue. Additionally, the proposed structures are located over 100 feet from the nearest residential structures on the opposite side of Aiken Road, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed structures are located interior to the Middletown Station site, and are located over 100 feet from the nearest structures on the opposite side of Aiken Road; and

Variance from Land Development Code Section 5.2.3.C.2.b to allow parking to encroach into a portion of the required building setback in a Transition Zone:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, based upon the evidence and testimony presented today, a third variance is required to allow parking to encroach into a portion of the required building setback in a Transition Zone, and

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WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety or welfare, alter the essential character of the general vicinity, or cause a hazard or a nuisance to the public, 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 in the same zone, and

WHEREAS, the Board further finds that the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0015 does hereby **APPROVE** Variance from Land Development Code Section 5.3.2.C.2.b to allow parking to encroach into a portion of the required side and rear setback between C-2 and C-2, Variance from Land Development Code Section 5.7.1.B.1 to increase the maximum building height within a Transition Zone from 45 feet to 60 feet along Aiken Road, between the Suburban Marketplace and the Neighborhood Form Districts (19-VARIANCE-0016), and Variance from Land Development Code Section 5.3.2.C.2.b to allow parking to encroach into a portion of the required building setback in a Transition Zone (19-VARIANCE-0015).

The vote was as follows:

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

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-SIGNAUTH-0002

Request:	Sign Authorization for monument and attached signs
Project Name:	Upton Oxmoor Apartments
Location:	7733 Upton Oxmoor Lane
Owner:	Upton Oxmoor LLC
Applicant:	Wilson Permit Services
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
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:

00:30:53 Beth Jones presented the case and showed renderings and photos. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Matthew Ricketts, 500 N. Hurstbourne Pkwy., Suite 400, Louisville, KY 40245
Richard Swartz, 4521 Industrial Access Rd., Douglasville, GA 30134

Summary of testimony of those in favor:

00:40:56 Matthew Ricketts spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:43:10 Richard Swartz spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 19-SIGNAUTH-0002

The following spoke in opposition of the request:

No one spoke.

00:44:19 Board Members' deliberation

00:46:34 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:

Sign Authorization to permit a monument sign for a residential use in a Campus Form District (LDC Table 8.3.2):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that adjoining properties to the north and south are currently undeveloped, the property to the east is a retail mall and the property to the west is a multi-family residential use similar to the proposed use for the subject site, making it unlikely that future development will be incompatible. The sign meets LDC design guidelines in that it is visually consistent with the architecture, materials, colors and overall design of the apartment complex, it has individual character tied to the development it serves and is appropriate in size and scale, and

WHEREAS, the Board further finds that the proposed signage will not conflict with compatibility standards as set by Plan 2040 as it is appropriate to the type of neighborhood, the use of the site and the character of the area, and

WHEREAS, the Board further finds that the request for the monument sign is reasonable in that it would be permitted under the current zoning of its location and is below both the maximum area and height that would be permitted in the site's form district if it were a non-residential use, and

WHEREAS, the Board further finds that the proposed monument sign is smaller in area and lower in height than would be permitted for a commercial use within the Campus form district. It was specifically created to coordinate with the design of the buildings and the development as a whole and will make a positive contribution to the general appearance of the streetscape; and

Sign Authorization to permit an attached sign for a residential use in a Campus Form District (LDC Table 8.3.2):

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CASE NUMBER 19-SIGNAUTH-0002

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that adjoining properties are to the north and south are currently undeveloped, the property to the east is a retail mall and the property to the west is a multi-family residential use similar to the proposed use for the subject site, making it unlikely that future development will be incompatible. The sign meets LDC design guidelines in that it is visually consistent with the architecture, materials, colors and overall design of the apartment complex, it has individual character tied to the development it serves and is appropriate in size and scale, and

WHEREAS, the Board further finds that the proposed signage will not conflict with compatibility standards as set by Plan 2040 as it is appropriate to the type of neighborhood, the use of the site and the character of the area, and

WHEREAS, the Board further finds that the request for the attached sign is reasonable in that it would be permitted under the current zoning of its location and is below the maximum area that would be permitted in the site's form district. In a multi-building development, it will identify the clubhouse structure for guests and residents, and

WHEREAS, the Board further finds that the proposed attached sign is smaller in area than would be permitted for a commercial use within the Campus form district. It will identify the site from a distance while still coordinating with the design of the buildings and the development as a whole; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-SIGNAUTH-0002 does hereby **APPROVE** an Exceptional Sign Review to permit one monument sign for a residential use in a Campus Form District and one attached sign for a residential use in a Campus Form district, **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The signs shall be substantially compliant with the dimensions as described in the Staff Report, including size, design, and location.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19-CUP-0183

Request: **THIS CASE HAS BEEN WITHDRAWN**
Conditional Use Permit for an auto storage and title processing facility, (Scrap metal processing facilities and junkyards, LDC 4.2.47)

Project Name: Copart
Location: 3200 Pond Station Road
Owner: First Industrial LP, by A, Scott McGregor
Applicant: Copart of Connecticut, Inc. by Hilary Negron
Attorney: Nick Pregliasco
Jurisdiction: Louisville Metro
Council Districts: 14 -- Cindi Fowler and 25 -- David Yates
Case Manager: Steve Hendrix, Planning and Design Coordinator

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.

00:49:27 Chair Howard asked if anyone was present to speak in regard to this case, and no one came forward (see recording for detailed presentation).

Case Number 19-CUP-0183 was WITHDRAWN; therefore, no vote or action was taken.

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CASE NUMBER 19-CUP-0133

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Horsell short term rental
Location: 502 Marengo Drive
Owner/Applicant: Graham Horsell
Jurisdiction: Woodland Hills
Council District: 19 – Anthony Piagentini
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:

00:50:41 Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Graham Horsell, P.O. Box 436104, Louisville, KY 40253

Summary of testimony of those in favor:

00:53:06 Graham Horsell 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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00:56:47 Board Members' deliberation

00:57:29 On a motion by Member Turner, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- 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.***

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the 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 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.

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- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under

this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0133 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-4 Zoning District and Neighborhood Form District.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19-CUP-0134

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Horsell short term rental
Location: 12206 St. Claire Drive
Owner/Applicant: Graham Horsell
Jurisdiction: Middletown
Council District: 19 – Anthony Piagentini
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:

00:58:52 Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Graham Horsell, P.O. Box 436104, Louisville, KY 40253

Summary of testimony of those in favor:

01:02:42 Graham Horsell 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:

Suzanne Wickliffe, 12313 St. Clair Drive, Louisville, KY 40243

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CASE NUMBER 19-CUP-0134

Summary of testimony of those in opposition:

01:06:37 Suzanne Wickliffe spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:09:51 Graham Horsell spoke in rebuttal (see recording for detailed presentation).

01:12:25 Joe Haberman, Planning & Design Manager, responded to questions from Legal Counsel (see recording for detailed presentation).

01:13:02 Mr. Horsell provided further information about the property (see recording for detailed presentation).

01:13:33 Board Members' deliberation

01:15:16 Jon Crumbie provided photographs to the Board Members (see recording for detailed presentation).

01:17:06 Public hearing was reopened to allow Mr. Horsell an opportunity to respond to questions from the Board Members (see recording for detailed presentation).

01:17:51 Mr. Haberman spoke in regard to requirements for bedrooms and responded to questions from the Board Members (see recording for detailed presentation).

01:19:58 Board Members' deliberation

01:20:22 On a motion by Member Goatley, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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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:

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, a short term rental of a dwelling unit that is the primary residence of the host is permitted by the Planning Director with special standards set forth in this section. In a C-N, C-R, C-1, C-2, C-3, C-M, W-1, W-2, PVD, PTD, PRD or TNZD district, any short term rental is permitted by the Planning Director with special standards set forth in this section.

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 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.
- D. The dwelling unit shall be a single-family residence or duplex.
- 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. The dwelling unit shall have an appropriate amount of off-street parking available for guests.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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- I. In order to maintain a registry of short term rentals, the host of the short term rental shall submit a notice of intent to commence a short term rental to the Office of Planning & Design Services in a form prescribed by the Planning Director. This form may be an online form that does not require the host to visit the office; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0134 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-4 Zoning District and Neighborhood Form District.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19-CUP-0144

Request: Conditional Use Permit for a short term rental of a duplex that is not the primary residence of the host
Project Name: Cox short term rental
Location: 4513 Southern Parkway
Owner/Applicant: Paul and Rebecca Cox
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency Testimony:

01:22:53 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Paul B. Cox, 4513 Southern Parkway, Louisville, KY 40214
Danny & Debra Brown, 4515 Southern Parkway, Louisville, KY 40214

Summary of testimony of those in favor:

01:27:13 Paul B. Cox spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:31:51 Danny & Debra Brown spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 19-CUP-0144

The following spoke in opposition of the request:

No one spoke.

01:33:17 Board Members' deliberation

01:33:40 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:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed

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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 less than two acres. The applicant states that unit 1 has two bedrooms that will allow a maximum of six guests and unit 2 has two bedrooms that will allow a maximum 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 and the applicant states that***

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there are four spaces along the driveway and two in the detached garage.

- 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-0144 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a duplex that is not the primary residence of the host in the R-5 Zoning District and Traditional Neighborhood Form District.

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The vote was as follows:

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

01:35:14 Meeting was recessed.

01:35:25 Meeting was reconvened.

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CASE NUMBER 19-CUP-0146

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host

Project Name: Ormsby Avenue Short Term Rental

Location: 431 East Ormsby Avenue

Owner/Applicant: Dreamworth Homes, Joe Worth

Jurisdiction: Louisville Metro

Council District: 4-Barbara Sexton Smith

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:

01:35:52 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:

Joe Worth, 211 E. Kentucky Street, Louisville, KY 40203

Summary of testimony of those in favor:

01:39:09 Joe Worth spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 19-CUP-0146

The following spoke in opposition of the request:

No one spoke.

01:42:52 Board Members' deliberation

01:43:21 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. No exterior construction or alterations to the building or the site will be required, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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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. **The dwelling has three bedrooms which would allow for eight guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there was no other property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The structure is a single family dwelling.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate

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vicinity. ***The property has 25 feet of street frontage, one parking credit. Additional on street parking appears available.***

- 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-0146 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 a R-6 Zoning District and Traditional Neighborhood Form District.

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The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 19-CUP-0153

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: Deerwood Avenue Short Term Rental

Location: 1838 Deerwood Avenue

Owner/Applicant: James & Haydee Fuselier

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

01:44:55 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager provided letters in opposition to the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James Fuselier, 1838 Deerwood Ave., Louisville, KY 40205

Summary of testimony of those in favor:

01:47:27 James Fuselier spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilman Brandon Coan, 601 W. Jefferson St., Louisville, KY 40202

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Summary of testimony of those neither for nor against:

02:03:13 Councilman Brandon Coan spoke neither for nor against the request. Councilman Coan spoke in regard to the 600 foot rule (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

02:08:36 James Fuselier spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:13:11 Board Members' deliberation

02:17:28 On a motion by Member Jagoe, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved (there are currently two approved Conditional Use Permits within 600 ft. of the subject property); now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0153 does hereby **DENY** Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63).

The vote was as follows:

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

Absent: Vice Chair Leanhart

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CASE NUMBER 19-CUP-0156

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host

Project Name: Meredith short term rental

Location: 3666 Woodruff Avenue

Owner/Applicant: Ginnie Meredith

Jurisdiction: Louisville Metro

Council District: 15 – Kevin Triplett

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

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

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

Agency testimony:

02:19:08 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Virginia Meredith, 3666 Woodruff Ave., Louisville, KY 40215

Summary of testimony of those in favor:

02:22:49 Virginia Meredith spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19-CUP-0156

02:25:29 Board Members' deliberation

02:26:33 On a motion by Member Goatley, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- 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.**

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the 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 and the applicant states that there are two spaces at the rear of the property.**
- 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

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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-0156 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

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

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 19-CUP-0157

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host

Project Name: Peachtree Avenue II Short Term Rental

Location: 3847 Peachtree Avenue

Owner/Applicant: Longhorn Investments LLC

Jurisdiction: Louisville Metro

Council District: 15 – Kevin Triplett

Case Manager: Chris French, Planning & Design Supervisor

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

02:28:02 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Zach Morris, 14002 Old Station Rd., Louisville, KY 40245

Summary of testimony of those in favor:

02:30:57 Zach Morris 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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02:36:05 Board Members' deliberation

02:36:31 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 proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- 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 two bedrooms that will allow a maximum number of six guests.***

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the 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 one on-street parking space. The site has a driveway that can accommodate two spaces. The detached garage can accommodate one vehicle. There is additional on-street parking surrounding the site.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.

- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0157 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

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

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CASE NUMBER 19-CUP-0158

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Peachtree Avenue I Short Term Rental
Location:	3356 Peachtree Avenue
Owner/Applicant:	Longhorn Investments LLC
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Chris French, Planning & Design Supervisor

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

02:38:08 Chris French presented the case and showed a Powerpoint presentation. Mr. French stated he had received a call on Friday from a neighbor who had a concern about the on-street parking. The caller stated he thought there had been a party at this particular property three or four weeks ago and had taken up about 20 on-street parking spaces. The caller also said they haven't had any problem with on-street parking except for this one incident (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Zach Morris, 14002 Old Station Rd., Louisville, KY 40245

Summary of testimony of those in favor:

02:41:13 Zach Morris spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

02:43:10 Board Members' deliberation

02:43:37 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:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- 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

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two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. 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 one on-street parking space. The detached garage can accommodate two vehicles. There is additional on-street parking surrounding the site.**

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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-0158 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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The vote was as follows:

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

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CASE NUMBER 19-CUP-0187

Request:	Conditional Use Permit to allow an accessory apartment
Project Name:	Derry accessory apartment
Location:	602 Mount Holly Road
Owner/Applicant:	Penny Derry/Adrian Derry
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
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:

02:45:10 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members. Mr. Crumbie provided an elevation to the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Adrian Derry, 602 Mt. Holly Rd., Fairdale, KY 40118

Summary of testimony of those in favor:

02:51:46 Adrian Derry 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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02:58:00 Board Members' deliberation

03:01:43 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 the proposal is compatible with surrounding development, 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:

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

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The property owner resides in the principal dwelling.**
- B. The accessory apartment shall be no greater than 650 square feet or 30% of the floor area of the principal residence, whichever is greater. **30% of the floor area of the principal residence is 345 square feet. The accessory apartment is approximately 960 square feet.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is

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appropriate. *The existing residence is approximately 16 feet tall and the accessory apartment is approximately 27 feet tall.*

- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows: 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate. *The plan shows at least five off-street parking spaces.*

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0187 does hereby **APPROVE** Conditional Use Permit to allow an accessory apartment in an R-4 Zoning District, with **RELIEF** from Standard 4B based on the testimony of the applicant, and Standard 4C based on the fact that the applicant owns the property on one side and has no opposition from the neighbor on the other side, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

The vote was as follows:

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

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CASE NUMBER 19-CUP-0196

Request:	Conditional Use Permit for an accessory apartment.
Project Name:	Accessory Apartment
Location:	7508 Smyrna Road
Owners	John and Melanie Christerson
Applicant:	Rick Burnette
Jurisdiction:	Louisville Metro
Council District:	24- Madonna Flood
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

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

Agency testimony:

03:05:10 Steve Hendrix presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Rick Burnette, 11200 Sewell Dr., Louisville, KY 40291

Summary of testimony of those in favor:

03:08:11 Rick Burnette spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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03:10:45 **Board Members' deliberation.**

03:11:58 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The property owners reside in the principal dwelling.**

- B. The accessory apartment shall be no greater than 650 sq. ft or 30% of the floor area of the principal residence, whichever is greater. **30% of the floor area of the principal residence is 872 square feet. The accessory apartment is 950 square feet, 78 square feet more than allowed. The applicant is requesting relief from this listed requirement.**

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

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exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **The proposed accessory apartment is one story.**

D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. **Neighborhood Form District** - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
2. **Traditional Neighborhood** - at least one off-street space provided on the lot; and
3. **Other form districts** - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate.

The site is within a Neighborhood Form District and has parking in the circular driveway and the proposed two car garage; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0196 does hereby **APPROVE** Conditional Use Permit to allow an accessory apartment in an R-4 Zoning District and Neighborhood Form District, with **RELIEF** from Standard 4B because the relief is only for an additional 78 sq. ft., and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

The vote was as follows:

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

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CASE NUMBER 19-APPEAL-0001

Request: Appeal of an Administrative Decision
Project Name: National Turnpike Appeal
Location: 9705 National Turnpike
Appellant: Mac G. Sawyer
Representative: James C. Nicholson
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Chris French, AICP, Planning and Design Supervisor

NOTE: Member Buttorff left at approximately 5:05 p.m.

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

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

Agency testimony:

03:17:10 Chris French presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Jimmy Nicholson, 121 S. 7th Street, Suite 200, Louisville, KY 40202
Nathan Adams, 1542 Lucas Rd., Smithfield, KY 40068
Crystal Sawyer, 612 MacDonald Rd., Fairdale, KY 40118
Laura Bailey, 539 School Way, Louisville, KY 40214
Mac Sawyer, 9705 National Turnpike, Fairdale, KY 40118

Summary of testimony of those in favor:

03:24:22 Jimmy Nicholson spoke in favor of the appeal and referred to notes from a former Code Enforcement employee. Mr. Nicholson provided

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documentation to the Board Members. Mr. Nicholson referred to affidavits in support of the nonconforming use. Mr. Nicholson responded to questions from the Board Members (see recording for detailed presentation).

04:01:20 Nathan Adams spoke in favor of the appeal by responding to questions from Mr. Nicholson. Mr. Adams responded to questions from the Board Members (see recording for detailed presentation).

04:05:28 Crystal Sawyer spoke in favor of the appeal by responding to questions from Mr. Nicholson. Ms. Sawyer explained how she researched the history of the property. Ms. Sawyer responded to questions from the Board Members (see recording for detailed presentation).

04:09:15 Laura Bailey spoke in favor of the appeal by responding to questions from Mr. Nicholson. Ms. Bailey spoke in regard to prior violations. Ms. Bailey responded to questions from the Board Members (see recording for detailed presentation).

04:17:50 Mac Sawyer spoke in favor of the appeal by responding to questions from Mr. Nicholson. Mr. Sawyer explained the history and operation of his business. Mr. Sawyer responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the appeal:

Mark Fulner, 9709 National Turnpike, Fairdale, KY 40118

Donna Fulner, 9709 National Turnpike, Fairdale, KY 40118

Summary of testimony of those in opposition:

04:32:12 Mark Fulner spoke in opposition of the appeal. Mr. Fulner asked questions of Mr. Sawyer regarding the length of a piece of steel used in moving a house. Mr. Fulner stated he has never seen a truck or heavy equipment come out of or go into Mr. Sawyer's driveway. Mr. Fulner responded to questions from Mr. Nicholson. Mr. Fulner responded to questions from Mr. Sawyer (see recording for detailed presentation).

04:41:39 Donna Fulner spoke in opposition of the appeal. Ms. Fulner responded to questions from Mr. Nicholson (see recording for detailed presentation).

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REBUTTAL:

04:51:14 Chris French spoke in rebuttal and responded to questions from Mr. Nicholson (see recording for detailed presentation).

04:55:26 Board Members' deliberation

05:00:01 On a motion by Member Goatley, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the nonresidential use (blacksmith, contractor's shop, and storage yard) **may** have existed on the property in 1943, and

WHEREAS, the Board further finds that the use of the property **did not** continue to present day; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-APPEAL-0001 does hereby **UPHOLD** the Administrative Decision and **DENY** the appeal.

The vote was as follows:

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

Absent: Member Buttorff, and Vice Chair Leanhart

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The meeting adjourned at approximately 6:11 p.m.

Chair

Secretary