

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

September 4, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 4, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Chair
Lula Howard, Secretary
Richard Buttorff
Lester Turner, Jr.
Kimberly Leanhart

Members Absent:

Dwight Young

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
Dante St. Germain, Planner I
Beth Jones, Planner II
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES
September 4, 2018**

APPROVAL OF MINUTES

August 20, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 20, 2018.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Absent: Member Young

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BUSINESS SESSION

BOZA_Election_Officers_9.04.18

BOZA Election of Officers 09.04.18

NOTE: This item was heard out of order, before Item #2 on the Business Session agenda.

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

00:03:51 On a motion by Member Howard, seconded by Member Buttorff, Dwight Young was nominated as Vice Chair, and the following resolution was adopted:

RESOLVED, there being no further nominations, the Louisville Metro Board of Zoning Adjustment does hereby **ELECT** Dwight Young as Vice Chair of the Board of Zoning Adjustment.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman
Absent: Member Young

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BUSINESS SESSION

CASE NUMBER 18CUP1078

Request:	A request for reconsideration of Board's decision
Project Name:	Alfresco Place Short Term Rental
Location:	1933 Alfresco Place
Owner/Applicant:	Bay Breeze Capital LLC
Representative:	KeySource Properties LLC
Jurisdiction:	Louisville Metro
Council District:	8 - Brando Coan
Case Manager:	Beth Jones, AICP, Planner II

NOTE: This case was heard out of order, after Item #3 on the Business Session agenda.

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.

00:05:29 John Carroll, Legal Counsel advised the Board Members of their options in the disposition of this case (see recording for detailed presentation).

00:06:40 Chair Fishman called for a motion on this case (see recording for detailed presentation).

00:07:02 Mr. Carroll stated "let the record show that there was no motion made to reconsider" (see recording for detailed presentation).

NOTE: No motion was made to reconsider this case; therefore, no vote or action was taken.

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BUSINESS SESSION

CASE NUMBER 18CUP1054

Request:	Modified Conditional Use Permit to allow a building expansion, additional parking, and enhanced landscaping
Project Name:	Bennett & Bloom Eye Center
Location:	9200 Leesgate Road
Owner:	Leesgate Holdings, LLC
Applicant:	Bennett & Bloom
Representative:	John Campbell
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

00:07:46 Jon Crumbie presented the case and showed the site plan (see recording for detailed presentation).

00:06:48 On a motion by Member Howard, 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 is consistent with the applicable policies of the Comprehensive Plan. The required tree canopy and landscape requirements will be met, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

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WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The Lyndon Fire Protection District has reviewed the proposal for fire protection and emergency access only. This proposal will require a detailed fire protection plan review, and

WHEREAS, the Board further finds that:

Hospitals, Clinics, and Other Medical Facilities requiring a Certificate of Need issued by the Commonwealth of Kentucky, including hospitals, clinics, and other medical facilities, may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Signs - One freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at each of the major entrances, except in districts where signs are allowed. Attached signs may be located at any height. The Board shall determine the size of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1054 does hereby **APPROVE** Modified Conditional Use Permit to allow a larger building addition, additional parking, and enhanced landscape plan, **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 medical office building/eye surgery center without further review and approval by the Board.
- 3. The enhanced landscape plan shall conform to the conditions set forth in the signed letter of agreement dated July 20, 2018.

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The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Absent: Member Young

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CASE NUMBER 18VARIANCE1077

Request: Variance to allow a structure to encroach into the required side yard setback.
Project Name: Drayton Drive Variance
Location: 2629 Drayton Drive
Owners: Darlene Crutcher
Applicant: Anne Del Prince – Del Prince Designs, LLC
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Dante St. Germain, 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:

00:12:35 Dante St. Germain presented the case and showed the site plan. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:15:17: On a motion by Member Turner, seconded by Member Howard, the following resolution, based upon the testimony heard today, and the Standard of Review and Staff Analysis, 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 addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will be constructed to

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match the existing structure. Also, other structures on the same street have similar designs, 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 abutting a vacant lot, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the garage will be added to the end of the existing driveway, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is rectangular and has the same topographical constraints as the rest of the lots along Drayton Drive, 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, 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 18VARIANCE1077 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 0 ft., Variance 5 ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. A survey of the southern property line shall be completed prior to the commencement of construction activity and shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

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The vote was as follows:

Yes: Members Turner, Howard, Leanhart, and Chair Fishman

No: Member Buttorff

Absent: Member Young

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CASE NUMBER 18VARIANCE1066

Request: Variance to allow attached garage to encroach into the front yard setback
Project Name: Evergreen Place Court Variance
Location: 521 Evergreen Place Court
Owner: Mathew McCluggage
Applicant/Representative: Charles Penn – Distinctive Design
Jurisdiction: City of Middletown
Council District: 19 – Julie Denton
Case Manager: Chris French, AICP, Planning 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:

00:17:56 Chris French presented the case and showed a Powerpoint presentation. Mr. French noted one Condition of Approval. 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:

Natalie McCluggage, 521 Evergreen Place Ct., Louisville, KY 40223
Charles Penn, 1050 Enterprise Drive, Lexington, KY 40510

Summary of testimony of those in favor:

00:26:29 Natalie McCluggage spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:26:53 Charles Penn spoke in favor of the request (see recording for detailed presentation).

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00:28:14 Natalie McCluggage responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:31:45 Board Members' deliberation

00:32:50 On a motion by Member Turner, seconded by Member Leanhart, 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 proposed attached garage will be located on the eastern side of the existing home south of the existing driveway. The proposed attached garage will also be located interior, west of an existing tree in the street side yard meaning it is partially screened. No impacts would be present to the neighboring properties within or along Evergreen Place Court, and

WHEREAS, the Board further finds that the proposed garage will pose no hazard or nuisance to the public since the proposed garage is located interior to the owner's property and is approximately 341 sq. ft. in size as attached to the existing residential dwelling southwest of the existing attached garage, and

WHEREAS, the Board further finds that the lot is almost on a peninsula and having the entire frontage and street side yard being continuous along Evergreen Place Court. The record plat for the subdivision has no statements that would not allow for such an addition to the property and the applicant is using the existing driveway from Evergreen Place Court helping requiring no new curb cut, and

WHEREAS, the Board further finds that most garages in the area are attached but staff is not aware of whether the attached garages are any larger or smaller than the subject site. The attached garage as proposed will result in the subject site having two attached garages using the same driveway entrance which may be unique to the neighborhood, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land. The

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applicant has stated that the proposed attached garage will match the existing home, use the existing driveway, and is partially screened from existing trees on the subject site, 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 since the applicant is requesting relief from the City of Middletown LDC 5.3.1; table 5.3.1 for a proposed attached garage to encroach 13.4 ft. into the 30 ft. Front/Street Side Yard setback; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1066 does hereby **APPROVE** Variance from City of Middletown Land Development Code Table 5.3.1 for a proposed attached garage to encroach 13.4 ft. into the 30 ft. Front/Street Side Yard setback for an R-4 zoned parcel with a Neighborhood Form District (**Requirement 30 ft., Request 16.6 ft., Variance 13.4 ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The applicant shall submit and record a minor subdivision plat to shift the 30 ft. build limit line on this parcel as shown in plat book 39 page 46.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Absent: Member Young

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CASE NUMBER 18VARIANCE1073

Request: Variance to allow a structure to encroach into the required infill front yard setback.
Project Name: Hi View Lane Variance
Location: 9015 Hi View Lane
Owners: Eric & Raegan Hardin
Applicant: Brian McDonald – SB Home Renovations LLC
Jurisdiction: Louisville Metro
Council District: 25 – David Yates
Case Manager: Dante St. Germain, 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:

00:35:11 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Brian McDonald, 5510 Fern Valley Road, Louisville, KY 40228

Summary of testimony of those in favor:

00:39:36 Brian McDonald 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:

No one spoke.

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CASE NUMBER 18VARIANCE1073

00:42:04 Board Members' deliberation

00:42:20 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, 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 proposed encroachment will not affect sight lines or adversely affect drivers along Hi View Lane, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other front-loaded garages in the general vicinity in which the garage extends forward of the front door, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the lot is not a corner lot and the encroachment will not create a hazard for the public, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the remainder of the house is set farther back on the lot, 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 because the lot is irregular in shape, and narrower at the rear than at the front, making a detached or side-loaded garage impractical on the lot, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing the applicant from constructing a useable garage on the property, 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 18VARIANCE1073 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.2.a to allow a structure to encroach into the required infill front yard setback (**Requirement 63.5 ft., Request 44 ft., Variance 19.5 ft.**).

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Absent: Member Young

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CASE NUMBER 18VARIANCE1070

Request: Variance to allow a proposed fence to exceed the allowed height in the required front yard
Project Name: Lytle Street Variance
Location: 1709 Lytle Street
Owner/Applicant: Ritchie Gypsy
Jurisdiction: Louisville Metro
Council District: 5–Cheri Bryant Hamilton
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:

00:45:03 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:

Ritchie Gypsy, 1709 Lytle Street, Louisville, KY 40203

Summary of testimony of those in favor:

00:54:57 Ritchie Gypsy 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:

No one spoke.

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CASE NUMBER 18VARIANCE1070

01:03:24 Board Members' deliberation

01:03:37 On a motion by Member Howard, seconded by Member Leanhart, 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 since the new chain link fence will not create any type of sight distance concerns, the new fence will provide a sense of security to the property owner and will contain the dogs, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the new chain link fence will be replacing an existing livestock type fence and chain link fence. Wooden privacy fences and chain link fences are adjacent to the subject site. The new fence will be placed behind the existing rose bushes, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, but will provide a type of security to the applicant as well as the public, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since this section of Lytle Street serves more like an alley, 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 since the placement of the house does not face Lytle Street and this portion of the property serves as a side yard, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since the height of the new fence would have to be reduced and would not be as effective as the proposed one, 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, the applicant has constructed the new fence along

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CASE NUMBER 18VARIANCE1070

the rear and a portion of the west side of the property, but not the “required front yard”; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1070 does hereby **APPROVE** Variance from Land Development Code Chapter 4.4.3.A.1.a.i to allow a proposed chain link fence to be 76” at the highest point (includes the pole caps) in the required front yard (**Requirement 42 inches, Request 76 inches, Variance 34 inches**).

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman
Absent: Member Young

01:05:16 Meeting was recessed.

01:05:35 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1008

Request:	Conditional Use Permit for a commercial kennel
Project Name:	Bark Louisville Kennel
Location:	713 E. Broadway
Owner/Applicant:	Bark Louisville LLC
Representative:	Architectural Artisans
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

01:06:05 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:

Mitch Collins, 628 E. Oak, Apt. 3A, Louisville, KY 40203
Jeff Rawlins, 213 S. Shelby St., Louisville, KY 40202

Summary of testimony of those in favor:

01:13:10 Mitch Collins spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:14:27 Jeff Rawlins spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:15:15 Mr. Collins responded to questions from the Board Members (see recording for detailed presentation).

01:18:20 Beth Jones responded to questions from the Board Members. Ms. Jones provided a site plan to the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:21:32 Board Members' deliberation

01:21:48 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 Comprehensive Plan, as detailed in the Cornerstone Checklist (Attachment 3), and

WHEREAS, the Board further finds that the proposal is a re-use of an existing structure and is compatible with adjoining commercial uses, and

WHEREAS, the Board further finds that the applicant is developing the property to meet MSD standards with regards to pet waste disposal. MSD has reviewed the proposal and provided preliminary approval. Remaining public facilities appear adequate to serve the site, and

WHEREAS, the Board further finds that:

4.2.17 Commercial Kennels 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.

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CASE NUMBER 18CUP1008

- 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. **All facilities, with the exception of the outdoor exercise area, are located within the existing structure. The proposed location and visual screening of this area will mitigate potential noise issues. In addition, all dogs will be kept indoors at night. The site is surrounded on all sides by commercial uses. The nearest residential use is 180 ft. away from the nearest point of the site.**
- 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. **The proposal includes a 6 ft. fence around the outdoor exercise area.**
- D. Screening – Any outdoor animal facilities shall be screened from view. **The proposed 6 ft. fence will screen the outdoor exercise area from view.**
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property. **The existing structure is a brick residence with contemporary additions along the street frontage. With the exception of the outdoor exercise yard, all operations on the site will be confined to indoor areas. No dogs will be permitted outdoors at night.**
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes. **The proposal includes a cleanable floor surface in the exercise area. The applicant will install drains and a dedicated sewer line connecting into the existing sanitary sewer line on Broadway. The proposal has been reviewed by MSD and has received preliminary approval;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1008 does hereby **APPROVE** Conditional Use Permit for a commercial kennel in a C-2 Commercial zoning district (LDC 4.2.17), **SUBJECT** to the following Conditions of Approval:

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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 BOZA.
2. The Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the BOZA 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 of BOZA.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Absent: Member Young

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CASE NUMBER 18CUP1022

Request:	Conditional Use Permit for Private Proprietary Club
Project Name:	The Barn at Cedar Creek
Location:	10309 Cedar Creek Road
Owner:	Gerry and Tammy Boston
Applicant:	Mindell Scott
Representative:	Joyner Law Offices PLLC
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
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:

01:23:51 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).

01:39:04 Joe Haberman responded to questions from the Board Members (see recording for detailed presentation).

01:40:37 Beth Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

John Talbott, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kathy Linares, 5151 Jefferson Blvd., Suite 101, Louisville, KY 40219

Summary of testimony of those in favor:

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01:45:25 John Talbott spoke in favor of the request and showed a Powerpoint presentation. Mr. Talbott responded to questions from the Board Members (see recording for detailed presentation).

02:01:39 Kathy Linares spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:03:27 John Talbott responded to questions from the Board Members (see recording for detailed presentation).

02:04:14 Beth Jones spoke in regard to the Conditions of Approval (see recording for detailed presentation).

The following spoke in opposition of the request:

Joseph Stillings, 11432 Reality Trail, Louisville, KY 40229

Joan Stillings, 11432 Reality Trail, Louisville, KY 40229

Summary of testimony of those in opposition:

02:05:41 Joseph Stillings spoke in opposition of the request. Mr. Stillings stated in addition to the pool, there is also a pond and he doesn't think there is any protection for that. Mr. Stillings stated they have been hearing the music from the subject property since 2016. Mr. Stillings stated they cannot hold conversations in their back yard when the music is playing. Mr. Stillings indicated his residence on the map. Mr. Stillings responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:12:03 John Talbott spoke in rebuttal (see recording for detailed presentation).

NOTE: Public Hearing was reopened to allow additional testimony in opposition (see recording for detailed presentation).

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Additional testimony in opposition:

02:17:20 Joan Stillings spoke in opposition of the request. Ms. Stillings stated she doesn't know why they can hear the noise, but the DJ is so loud, they can hear every word he's saying. Ms. Stillings stated that's why they bought their house, because it was on a corner lot bumping into a woods and was nice and quiet. Ms. Stillings stated as far as the music being indoors only, she did not see any doors on the barn, just curtains. Ms. Stillings responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:19:26 John Talbott spoke in rebuttal (see recording for detailed presentation).

02:20:26 Gerry Boston (10309 Cedar Creek Road, Louisville, KY 40229) spoke in rebuttal in regard to the barn doors. Mr. Boston stated they usually leave the doors open because it is a barn venue and is not air conditioned. Mr. Boston responded to questions from the Board Members (see recording for detailed presentation).

02:21:57 Board Members' deliberation

02:22:38 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Conditional Use Permit for Private Proprietary Club (LDC 4.2.44) with Relief from Condition B to permit the existing 4 ft. fence around the pool area to remain and Relief from Condition C to permit existing buffering and landscaping to satisfy the requirement:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding setbacks and landscaping and preserves significant open space, and

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WHEREAS, the Board further finds that the proposed modification is compatible with development in the vicinity, and

WHEREAS, the Board further finds that the site is not currently served by public sewers. The proposal has been reviewed by the Louisville Metro Department of Public Health & Wellness, which is permitting the applicant to operate with the existing septic system through the remainder of 2018. Improvements to the septic system are required before any event may be held in 2019. This requirement is confirmed through a Condition of Approval. Remaining public facilities and infrastructure are adequate to serve the site, and

WHEREAS, the Board further finds that:

4.2.44 Private Proprietary Clubs may be located in the 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-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit. Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line. **The site meets this requirement.**

- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. **There is an existing in-ground pool directly behind the residence; it will not be made available to event guests. It is currently enclosed by a four foot high fence; the applicant has requested relief from this requirement in order to permit the existing fence to remain.**

- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. **The site includes existing asphalt, gravel and concrete parking areas, located a minimum of 120 ft. from the nearest property line; no new parking areas are required. Side property lines nearest the parking areas are buffered by tree lines.**

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- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non- flashing. **The applicant has been informed of this requirement. Existing signage meets these standards**, now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1022 does hereby **APPROVE** Conditional Use Permit for Private Proprietary Club (LDC 4.2.44), noting **RELIEF** from Item B and Item C, 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 by and approval of 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 Private Proprietary Club without further review by and approval of the Board.
3. Louisville Metro Department of Public Health & Wellness permits events at the site through December 31, 2018 using the existing on-site waste disposal system. A new system must be installed before any event occurring on or after January 1, 2019. This new system must meet specifications and conditions contained in the Health Department Site Evaluation #195377.
4. The number of guests for any event shall be limited to no more than 150.
5. Indoor and outdoor amplified music shall be cut off at 10:00 p.m. All speakers shall face away from adjoining residential properties.

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The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Absent: Member Young

02:24:43 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Waiver of the requirement to provide a sidewalk along the property frontage (LDC 6.2.6) AND Waiver of the requirement to provide pedestrian access to the event structure from the public right-of-way (LDC 6.2.6):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested waivers will not adversely affect the public health, safety or welfare since sidewalks do not exist on adjoining properties, and

WHEREAS, the Board further finds that the requested waivers will maintain the essential character of the vicinity, and

WHEREAS, the Board further finds that the requested waivers are not associated with excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that the requested waivers are not unreasonable based on public impact and existing development in the vicinity, and

WHEREAS, the Board further finds that the site is the largest in the vicinity and connecting sidewalks do not exist on adjoining properties, and

WHEREAS, the Board further finds that since there are no sidewalks on adjoining properties, installing them on this site would be unnecessary, and

WHEREAS, the Board further finds that the subject parcel existed prior to the zoning regulation from which relief is being sought, and

WHEREAS, the Board further finds that the waiver conforms to the Comprehensive Plan and the Land Development Code since neither the

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proposed use nor the existing conditions generate the need for a sidewalk in the area, and

WHEREAS, the Board further finds that since this proposal is for an event venue which would not generate pedestrian traffic, since there is no new construction proposed with this change in use and since there are not sidewalks to connect to nor adjacent uses that would typically benefit from the provision of sidewalks this request would not trigger the need for a sidewalk and therefore is in keeping with the Comprehensive Plan and the intent of the Land Development Code, and

WHEREAS, the Board further finds that the waiver will not adversely affect the adjacent property owners because it would not connect to any sidewalk in either direction on this side of Cedar Creek Road. There is a steep slope and guardrail east of the site along the Heritage Creek East subdivision open space lot that conflicts with the provision of a sidewalk in that direction. There is no sidewalk on Cedar Creek Road west of the site where there are several larger single family lots other than the existing sidewalk on the opposite side of Cedar Creek Road that was provided with the Heritage Creek West subdivision, and

WHEREAS, the Board further finds that the strict application of the regulations would create an unnecessary hardship on the applicant as there are no sidewalks in either direction that the walk would connect to and since the proposed event venue would not generate a need for sidewalk access; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1022 does hereby **APPROVE** Waiver of the requirement to provide a sidewalk along the property frontage (LDC 6.2.6) and Waiver of the requirement to provide pedestrian access to the event structure from the public right-of-way (LDC 6.2.6).

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman
Absent: Member Young

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02:26:07 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

Request to permit existing landscaping to serve as an alternative to the required C-1 buffering standards (LDC 10.2.4, Exception 8):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines and Policies of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1022 does hereby **APPROVE** Request to permit existing landscaping to serve as an alternative to the required C-1 buffering standards (LDC 10.2.4, Exception 8).

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman
Absent: Member Young

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CASE NUMBER 18CUP1064

Request:	Conditional Use Permit to allow short term rental of a dwelling unit located within the TNZD
Project Name:	Ormsby Avenue Short Term Rental
Location:	414 W. Ormsby Avenue
Owner/Applicant:	Thomas Evers
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:

02:28:44 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Thomas Evers, 414 West Ormsby Ave., Louisville, KY 40203

Summary of testimony of those in favor:

02:33:07 Thomas Evers 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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02:45:46 Board Members' deliberation

02:46:37 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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 includes two units. One unit is contained on the first and second floors. According to the applicant, it includes four bedrooms; LDC regulations permit up to 12 guests. The second unit occupies the third floor. According to the applicant, it includes three bedrooms; LDC regulations permit up to 10 guests. The lower unit is the applicant's primary residence.**

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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 residential 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. 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. **Based on LDC standards, the 60 ft. property frontage is credited with three on-street parking spaces. Five additional spaces are also available at a parking pad accessed via a rear alley.**
- 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 18CUP1064 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units located within the Old Louisville/Limerick 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.

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The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman
Absent: Member Young

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PUBLIC HEARING

CASE NUMBER 17CUP1101

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host
Project Name:	Vine Street Short Term Rental
Location:	911 Vine Street
Owner/Applicant:	The Wynnfield Co.
Representative:	Ken Sumner
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

02:49:32 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:

Ken Sumner, 909 Vine Street, Louisville, KY 40204

Summary of testimony of those in favor:

02:52:42 Ken Sumner 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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03:06:02 Board Members' deliberation

03:06:28 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds 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. **According to the applicant, each of the two units has one bedroom. LDC regulations permit up to six guests in each unit.**

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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 residential 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. 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. **Based on LDC standards, the 25 ft. property frontage is credited with one on-street parking space. Four additional spaces are also available at a parking pad accessed via a rear alley.**
- 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 17CUP1101 does hereby **APPROVE** Conditional Use Permit to allow short term rental of R-6 dwelling units 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.

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

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman
Absent: Member Young

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The meeting adjourned at approximately 4:25 p.m.

Chair

Secretary