

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

May 17, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 17, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Michael Seale, Vice Chair
Sharon Bond, Secretary
Richard Buttorff
Lindsey Jagoe
Yani Vozos

Members Absent:

Kimberly Leanhart

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Becky Gorman, Planning & Design Coordinator
Dante St. Germain, Planner II
Zach Schwager, Planner I
Molly Clark, Planner I
Jon Crumbie, Planning & Design Coordinator
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the May 17, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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MAY 3, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:47 On a motion by Member Buttorff, seconded by Vice Chair Seale, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the May 3, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vice Chair Seale, and Chair Howard

Abstain: Member Vozos

Absent: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 21-VARIANCE-0026

Request: Variance to allow for a new hotel to exceed the maximum height by 30 feet.
Project Name: Market Street Hotel
Location: 730 E Market Street (724, 726, 728, 730, 730R E Market)
Owner/Applicant: Kavah Zamanian, Green Building, LLC Stephen Wendell, Maintain & River City, LLC
Jurisdiction: Louisville Metro
Council District: 4-Jecorey Arthur
Case Manager: Becky Gorman, 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:

00:07:29 Becky Gorman presented the case and showed a Powerpoint presentation. Ms. Gorman responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:14:24 Vice Chair Seale provided a report to the Board on the 5/5/21 Nulu Review Overlay District meeting since he was the Hearing Officer for the Board at that meeting. Vice Chair Seale explained the issues that were discussed at the NROD meeting and summarized the discussions (see recording for detailed presentation).

00:18:15 Becky Gorman responded to a question from Chair Howard regarding consolidation of the lots (see recording for detailed presentation).

00:18:52 Board Members' deliberation

00:23:15 On a motion by Member Bond, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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BUSINESS SESSION

CASE NUMBER 21-VARIANCE-0026

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare. The structure will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposal will bring density and a more appropriate scale to the subject site and will contribute to the character of the District. The design elements of the new building are proportional to the adjacent structures and fit the character of the general vicinity. The design elements also help to mitigate the height difference, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public. The design elements help mitigate the height difference, otherwise the proposed structure is proportional to adjacent properties, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the variance will be paired with a building design that will mitigate the impact of the appearance of the building's height. Nulu is positioned closely to the Downtown Form District and is an appropriate location for new mid-rise medium density type buildings; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0026 does hereby **APPROVE** Variance from Land Development Code Section 5.2.3.D.3.e to allow the proposed new building to exceed the maximum height by 30 feet for a maximum building height of 75 feet (**Building height requirement 45 ft., Request 75 ft., Variance 30 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 18CUP1106

Request:	Conditional Use Permit to allow private institutional use in a single family zoning district
Project Name:	Kentucky Meditation Compassionate Peace Center
Location:	4815 Manslick Road
Owner/Applicant:	Rev. Embilipitiye Nanda Thero
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Dante St. Germain, 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:

00:24:59 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:

Rev. Embilipitiye Nanda Thero, 4815 Manslick Road, Louisville, KY

Summary of testimony of those in favor:

00:30:13 Reverend Nanda spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:35:30 Ms. St. Germain responded to a question from Chair Howard regarding landscaping. Ms. St. Germain stated she has received no interested party comments either in favor or opposition, and no one showed up for the neighborhood meeting (see recording for detailed presentation).

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CASE NUMBER 18CUP1106

The following spoke in opposition of the request:

No one spoke.

00:38:28 Board Members' deliberation

00:41:55 On a motion by Member Vozos, seconded by Member Bond, 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 meets all applicable policies of the Comprehensive Plan, 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. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The applicant requests relief from Item A to allow an existing garage to be within 30 ft. of the southern property line.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Item B does not apply. The proposed use would involve only one or two vehicles to arrive at the site at a time.**

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- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **The Planning Director has determined that off-street parking within the existing garage and driveway is sufficient for the use.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The applicant shall comply with this requirement.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **The Board must determine whether hours of operation are appropriate for this use and location;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1106 does hereby **APPROVE** Conditional Use Permit to allow an existing structure on a property to be utilized for private institutional use, with **RELIEF** from Item A, and **SUBJECT** to the following Conditions of Approval. The Board has determined there is no need to set hours of operation.

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 private institution until further review and approval by the Board.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 20-NONCONFORM-0022

Request:	To determine whether a nonconforming use for a private non-profit club was abandoned
Project Name:	River Road Nonconforming Rights
Location:	6603 River Road
Owner/Applicant:	Mark Mercurio and Lora Mercurio
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

00:44:10 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Herre, 2809 Rivers Edge Road, Louisville, KY 40222
Mark Mercurio, 6603 River Road, Prospect, KY 40059

Summary of testimony of those in favor:

00:50:07 Chair Howard swore in Mr. Herre and Mr. Mercurio at the same time. Mr. Herre spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

00:56:24 Mr. Mercurio spoke in favor of the request. Mr. Mercurio and Mr. Herre responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 20-NONCONFORM-0022

00:58:04 Zach Schwager responded to a question from Vice Chair Seale (see recording for detailed presentation).

01:00:05 Mr. Herre responded to a question from Chair Howard (see recording for detailed presentation).

The following spoke neither for nor against the request:

Meme Runyon, 1205 Story Ave., Louisville, KY 40204

Summary of testimony of those neither for nor against:

01:01:50 Meme Runyon spoke neither for nor against the request. Ms. Runyon stated River Fields' biggest concern is the impact to the scenic by-way and to the public experience and that's why they have been working very well with the land owner to do plantings and bufferings of the property. Ms. Runyon responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

01:10:06 Mr. Herre spoke in rebuttal. Mr. Herre stated the building has been in its current remodeled state since 2006 and has had no adverse complaints until just recently. Mr. Herre stated Mr. Mercurio has made his living out of here for many years and the property looks much nicer now than it did before it was remodeled. Mr. Herre stated they are continuing the office portion of the use and therefore submit that they did not abandon any nonconforming use rights. Mr. Mercurio stated he has talked with River Fields and he is agreeable to adding more landscaping. Mr. Mercurio stated regarding the parking lot that is going to be the trail head, they have spoken with them and he would be open to the idea of getting rid of his entrance to the building and using theirs and having one entrance to make it even more appealing. Mr. Mercurio stated there will be no after hours use. Zach Schwager stated that would have to be reviewed by Transportation Planning and Public Works to combine a curb cut. Mr. Schwager stated that would not affect today's decision (see recording for detailed presentation).

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CASE NUMBER 20-NONCONFORM-0022

01:15:23 Ms. Runyon stated River Fields has had a number of meetings with the Works Department and River Fields would support combining the two entrances (see recording for detailed presentation).

01:16:42 Board Members' deliberation (NOTE: During deliberations, Laura Ferguson, Legal Counsel, clarified actions that could be taken by the Board regarding nonconforming rights for a private non-profit club, and nonconforming rights for office use)

01:27:49 On a motion by Vice Chair Seale, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-NONCONFORM-0022 finds that nonconforming use for a private non-profit club **WAS ABANDONED**.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

01:30:15 On a motion by Vice Chair Seale, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-NONCONFORM-0022 finds that nonconforming use for office use **WAS NOT ABANDONED**.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 21-NONCONFORM-0004

Request:	Change in nonconforming rights from a private non-profit club to a professional office
Project Name:	River Road Nonconforming Rights
Location:	6603 River Road
Owner/Applicant:	Mark Mercurio and Lora Mercurio
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
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.

01:35:00 NOTE: After hearing the evidence and testimony presented for the related case (20-NONCONFORM-0022), the Board of Zoning Adjustment, by general consensus, finds that this case is moot. Therefore, no vote or action was taken. Please see pages 8-10 of these minutes for testimony and action taken.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0030

Request:	Variance to allow multiple structures to exceed the 80 foot maximum setback
Project Name:	Newburg Gas Station
Location:	3905 Newburg Road)
Owner/Applicant:	Seven Star Group LLC, Mike Hill LD&D
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Molly Clark, 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:

01:36:28 Molly Clark presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

Mike Hill, 503 Washburn Ave., Suite 101, Louisville, KY 40222

Summary of testimony of those in favor:

01:45:26 Mike Hill spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:55:56 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0030

01:59:09 On a motion by Member Vozos, seconded by Member Bond, 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 variance will not adversely affect the public health, safety or welfare because the proposed building will be located further away from the ROW on unusually shaped lot. The building placement should not create any sight distance issues. The lot is not a typical polygon and has more street frontage than an average lot in Jefferson county, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed because the applicant is providing a variety of detail on the proposed primary structures. They are also providing landscaping and tree canopy that will improve the site, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed building. The buildings are being set further away from the ROW which is also bringing the proposed gas station structures further away from existing single family residential across Shepherdsville Road, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the applicant is proposing a development on a site that is not the typical shape of a lot that is normally found in Jefferson County. Since the 80 ft required front yard setback applies to almost all sides of the lot, the applicant is limited on where he can develop on the property. The variance will allow the applicant to build a gas station without affecting sight distance while improving the site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0030 does hereby **APPROVE** Variance from Land Development Code Table 5.3.2 to allow multiple structures to exceed the 80 foot front yard maximum setback **(Eastern Front Yard Requirement 80 ft. max, Request 138 ft., Variance 58 ft.; Western Front Yard Requirement 80 ft. max, Request 98 ft., Variance 18 ft.)**.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0036

Request:	Variance to allow a principal structure to encroach into the required side yard setback
Project Name:	Grand Avenue Variance
Location:	2641 Grand Avenue
Owner/Applicant:	Superior Henderson, LLC – Richard Henderson
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

02:03:13 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Teba Smith, 91 Kelly Court, Taylorsville, KY 40071

Summary of testimony of those in favor:

02:08:25 Teba Smith spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:09:54 Zach Schwager stated the previous property owner contacted him and confirmed that the property had been sold. Mr. Schwager stated there is a new deed that is in the case file for the transfer of property during the middle of the variance application (see recording for detailed presentation).

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CASE NUMBER 21-VARIANCE-0036

02:10:40 Ms. Smith responded to questions from the Board Members (see recording for detailed presentation).

02:11:12 Mr. Schwager provided further information regarding the variance application and the transfer of property. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

02:12:50 Ms. Smith responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Sandra Hughes, 2643 Grand Ave., Louisville, KY 40211

Summary of testimony of those neither for nor against:

02:16:35 Sandra Hughes spoke neither for nor against the request. Ms. Hughes stated the house on the right belongs to her mom and she is her caregiver. Ms. Hughes stated they recently were denied for the homeowner's property insurance renewal, so that's something they're still working out. Ms. Hughes stated she did not want to incur extra costs because of the activities that are going on at that home (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:19:03 Board Members' deliberation

02:23:10 On a motion by Member Vozos, seconded by Vice Chair Seale, 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, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent

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CASE NUMBER 21-VARIANCE-0036

property owner to the west because construction and maintenance of the structure may require encroachment onto the property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the new structure was built on the same foundation and footprint as the original structure. Also, the other structures in the area encroach a similar distance into the side yards, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure will be the same distance from the side yard property line as the original structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0036 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principal structure to encroach into the required side yard setback (**West Side Yard Requirement 3 ft., Request 0 ft., Variance 3 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

02:25:43 Meeting was recessed.

02:40:13 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 21-CUP-0020

Request:	Conditional Use Permit to allow transitional housing in an R-6 zoning district
Project Name:	Kaylyn's House of Joy
Location:	645 Lindell Avenue
Owner/Applicant:	Kathy Malone
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

02:41:06 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Malone, 6807 Tropic Court, Louisville, KY 40219
Chanethia Gaines, 1517 Homeview Ave., Louisville, KY 40215

Summary of testimony of those in favor:

02:48:47 Chair Howard swore in Ms. Malone and Ms. Gaines at the same time. Kathy Malone stated she owns the property on Lindell Avenue. Ms. Malone 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 21-CUP-0020

02:52:01 Chanethia Gaines responded to questions from the Board Members. Ms. Gaines and Ms. Malone provided an overview of their program and both responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:04:00 Board Members' deliberation

03:07:00 On a motion by Member Bond, 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 meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal 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. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

4.2.55 Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements.

A. Conditional Use Standards – General (all districts)

1. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line. **It would be impractical to move the existing residential structure 30 feet from any property line. The minimum side yard requirement in an R-6, Traditional Neighborhood Form District is 3 feet. The existing residence will meet that requirement.**

2. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the

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applicant in a parking study of similar uses. **The applicant states that there are at least four parking spaces along the existing driveway.**

3. Signage for transitional housing shall be in accordance with chapter 8 of the LDC for nonresidential uses. **The applicant states that there will be no signage.**
 4. The Board of Zoning Adjustments shall take into account the location of other transitional housing, homeless shelter or rehabilitation home in its analysis of conditional use permit application for transitional housing. **There are two approved transitional homes and one approved rehabilitation home within ½ mile of the subject site.**
 5. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. **The proposal is located in an existing residence within a larger residential area and is compatible with the surrounding residential units with respect to size and building setback.**
 6. For conversion of existing structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. **The Fire Marshal inspection report is included in the Board members packet.**
- B. Conditional Use Standards – Single Family Zoning Districts Only:
1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
 2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
 3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
 4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s); now, therefore be it

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CASE NUMBER 21-CUP-0020

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0020 does hereby **APPROVE** Conditional Use Permit to allow transitional housing, with **RELIEF** from Standard A1 due to existing conditions, 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 a boarding and lodging use until further review and approval by the Board.
3. Prior to lawful commencement of the transitional home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.
4. Maximum occupancy shall be limited to eight residents unless further restricted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 21-CUP-0040

Request:	Conditional Use Permit to allow a hospital in a C-2 Commercial zoning district, variances to allow the principal structure to exceed the maximum height and to exceed the maximum front yard setback, and waivers to reduce the landscape buffer area adjacent to residentially zoned property and to reduce the expressway buffer
Project Name:	B-1 Medical Office Building
Location:	2800 Breckenridge Lane
Owner:	Nilkanth, Inc.
Applicant:	Triple M Investments
Representative:	Chris Brown – BTM Engineering, Inc.
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

03:10:15 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Chris Brown, 3001 Taylor Springs Dr., Louisville, KY 40220
Jared Burt, 903 Spring Street, Jeffersonville, IN 47130

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Summary of testimony of those in favor:

03:19:18 Chair Howard swore in Chris Brown and Jared Burt at the same time. Chris Brown spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

03:32:50 Jared Burt spoke in favor of the request and reviewed the elevations and renderings (see recording for detailed presentation).

03:37:04 Chris Brown concluded his presentation. Mr. Brown stated they have worked with the City of Meadowview Estates and their Board to reach several conditions regarding concerns that were brought up at the Neighborhood Meeting. Mr. Brown stated they have also worked with Breckenridge Square Apartments so they could maintain their needed parking along portions of the property that currently have cross-access needs. Mr. Brown responded to questions from the Board Members (see recording for detailed presentation).

03:44:30 Zach Schwager advised the Board Members that the non-residential to residential setback variance is not for the principal structure, it is just for accessory structures (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:45:24 Board Members' deliberation

03:52:32 Public hearing was reopened to accept testimony from Constance Wharton (3018 Meadowview Circle, Louisville, KY 40220) who requested to speak in support of the request. Ms. Wharton stated they are looking forward to having them as neighbors. Ms. Wharton stated a little bit of a question was regarding the height of the building, but it seems they've done their homework and she feels it will not cause a problem with the residents of Meadowview Estates. Ms. Wharton stated they are happy to welcome them to their community (see recording for detailed presentation).

03:54:08 Board Members' deliberation

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03:54:38 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a hospital in a C-2 Commercial Zoning District (LDC 4.2.29):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant will need two waivers to reduce the landscape buffer area adjacent to residentially zoned property and to reduce the expressway buffer, and

WHEREAS, the Board further finds that the proposed development is compatible with surrounding land uses as the subject property is bound by an expressway to the north and a minor arterial street to the east. The residential land uses to the south and west could be served by the proposed land use, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning, KYTC, and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

4.2.29 Hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs. **All signage will meet chapter 8 requirements according to the applicant.**
- B. All buildings and structures shall be at least 30 feet from any property line. **The proposed structure will be about 79 ft. from the nearest property line.**
- C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services. **This requirement will be met.**

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- D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time. **The proposed parking meets the minimum requirements for a hospital.**
- E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation. **Breckenridge Lane is a minor arterial street.**

NOTE: The provisions of this Section 4.2.29 do not apply to Medical Offices as such are defined in this Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0040 does hereby **APPROVE** Conditional Use Permit to allow a hospital in a C-2 Commercial zoning district (LDC 4.2.29), **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 hospital use without further review and approval by the Board.
3. Prior to lawful commencement of the hospital the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

03:57:22 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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Variances to exceed the maximum height and front yard setback and to encroach into the non-residential to residential setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes, including fire codes. Variance #1: The maximum height is restricted by the form district and there are similar properties in the area that would permit increased height; Variance #2: The variance to exceed the maximum front yard setback provides more of a buffer to the residential properties to the south and is more in character with the existing site conditions; Variance #3: The variance to encroach into the non-residential to residential setback can be justified due to the existing site constraints of the parking and drainage, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity as the height variance is the only one that will increase the nonconformity of the site. However, the subject property is located adjacent to an expressway and minor arterial street and there are examples of other tall buildings in the area, and

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

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations as the subject property is unique in that it is bound by an expressway and a minor arterial street; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0040 (21-VARIANCE-0004) does hereby **APPROVE** Variances to allow the principal structure to exceed the maximum height (**Maximum Height Requirement 30 ft., Request 78 ft., 8 in., Variance 48 ft., 8 in.**), to exceed the maximum front yard setback (**Maximum Front Yard Requirement 80 ft., Request 121 ft., Variance 41 ft.**), and to encroach into the non-residential to residential setback (**Non-residential to residential Requirement 50 ft., Request 11 ft., Variance 39 ft.**).

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The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard

Absent: Member Leanhart

04:00:26 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from LDC Section 10.2.4.A to reduce the landscape buffer area adjacent to residentially zoned property:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the waiver is to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver request can be justified because it is to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that the strict application of the provision would deprive the applicant of the reasonable use of the land because it is to bring the existing site conditions into compliance; and

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Waiver from LDC Section 10.2.7 to reduce the expressway buffer:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the waiver is to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver request can be justified because it is to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that the strict application of the provision would deprive the applicant of the reasonable use of the land because it is to bring the existing site conditions into compliance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0040 (21-WAIVER-0003) does hereby **APPROVE** Waiver from LDC Section 10.2.4.A to reduce the landscape buffer area adjacent to residentially zoned property and Waiver from LDC Section 10.2.7 to reduce the expressway buffer.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Bond, Vozos, Vice Chair Seale, and Chair Howard
Absent: Member Leanhart

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CASE NUMBER 21-CUP-0055

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	East St Catherine Short Term Rental
Location:	919 E St Catherine St
Owner/Applicant:	Joshua Lamers
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Rachel Mandell, Planner I

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

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

Agency testimony:

04:02:38 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Josh Lamers, 919 E. St. Catherine St., Louisville, KY 40202

Summary of testimony of those in favor:

04:05:55 Josh Lamers spoke in favor of the request and showed a Powerpoint presentation. Mr. Lamers responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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04:22:45 Board Members' deliberation

04:30:01 On a motion by Member Jagoe, seconded by Member Vozos, 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. The applicant has stated that they intend to hire local businesses to provide general maintenance, cleaning services and landscaping, 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:

4.2.63 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. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres.**

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The applicant states that the residence has two bedrooms that will allow a maximum number of six guests.

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there is one property with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3). The applicant has provided justification, which is attached to the agenda item. Any motion to approve this CUP will need to include relief from this standard.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- 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 on street parking available. The dead-end road alleviates some of the demand. Additionally, there are 15 TARC stops within 0.25 miles of the subject property.**

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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. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- 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. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0055 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-6 Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because the other STR within 600 feet of the subject property is on the very edge of the radius of the 600 feet, and **SUBJECT** to the following Condition of Approval.

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Condition of Approval:

1. The conditional use permit for this short term rental shall allow up to two bedrooms.
A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Vozos, and Chair Howard

No: Member Bond, and Vice Chair Seale

Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 21-CUP-0061

Request:	Conditional Use Permit request for an existing private institutional use to allow a private school to use the existing structure and to construct a new playground
Project Name:	City Schoolhouse
Location:	2600 Dixie Highway
Owner:	Chapel Park Baptist Church
Applicant:	City Schoolhouse
Representative:	Ashley Bartley – Qk4
Jurisdiction:	City of Shively
Council District:	3 – Keisha Dorsey
Case Manager:	Zach Schwager, Planner I

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

NOTE: This case was **WITHDRAWN** by Staff because it was determined based on jurisdiction that it was in the City of Shively and the particular ordinance in question is not applicable to that city; the city has not adopted that amendment to the Land Development Code. Therefore, no testimony, vote or action was taken.

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04:33:59 Prior to adjournment, Joe Haberman, Planning & Design Manager, stated we have a lot of new ordinances that are getting ready to become effective, or not. Some affect the Board, some do not, but there will probably be some training extended to the Board Members. Mr. Haberman stated there will be changes to the Boarding House regulations, and there will also be training for that (see recording for detailed presentation).

The meeting adjourned at approximately 5:36 p.m.

Chair

Secretary