

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

August 15, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 15, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner
Paul Bergmann
Lula Howard

Members Absent:

Dean Tharp

Staff Members Present:

Deborah Bilitski, Director, Develop Louisville
Emily Liu, Planning & Design Director
Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Brian Mabry, Planning & Design Supervisor
Joel Dock, Planner I
Jon Crumby, Planning & Design Coordinator
Burcum Keeton, Architectural Projects Coordinator
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

August 1, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:16 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 1, 2016.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Bergmann, and Vice Chair Jarboe

Abstain: Chair Allendorf

Absent: Member Tharp

BOARD OF ZONING ADJUSTMENT MINUTES
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OLD BUSINESS

CASE NUMBER 16DEVPLAN1125

Request:	Category 3 Plan and Variance from the Land Development Code to allow the proposed building not to maintain the zero setback at the corner
Project Name:	Nucleus Building Two
Location:	350 East Market Street
Owner:	University of Louisville Real Estate Foundation Inc.
Applicant:	NTS Realty Holdings LP
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 –David Tandy
Case Manager:	Brian Davis, AICP, Planning Manager

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:

00:03:14 Brian Davis presented the case and showed a Powerpoint presentation. Mr. Davis responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, KY 40202
Matt Ricketts, 600 N. Hurstbourne Parkway, Suite 300, Louisville, KY 40222

Summary of testimony of those in favor:

00:05:10 Glenn Price spoke in favor of the request. Mr. Price presented a proposed Condition of Approval to the Board Members (see recording for detailed presentation).

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00:07:49 Matt Ricketts spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:10:28 Mr. Price responded to a question from Legal Counsel (see recording for detailed presentation).

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

00:10:46 Board Members' deliberation

00:12:57 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

Category 3 Review:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the Category 3 Development Plan Review appears to be justified and meets the standard of review based on staff analysis; and

Variance #1 from Section 5.2.1, C.6 to increase the maximum building setback of 0 feet to approximately 26 feet at the furthest point along the Market Street property line, and Variance #2 from Section 5.2.1, C.6 to increase the maximum building setback of 0 feet to approximately 32 feet at the furthest point along the Preston Street property line:

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 additional setback will allow for the proposed outdoor dining area to take advantage of being at this particular corner and not creating a sight distance concern, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity because the proposed development will be compatible with the nearby building on the same block to the west, and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public because the additional setback will allow for the

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outdoor dining area to be located at this corner and continue to have pedestrian access along the sidewalk, and

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations because the overall design criteria for this particular section of downtown is still maintained, and

WHEREAS, the Board further finds that this particular corner is best suited for an outdoor dining area due to the elevation and the geographical placement, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because this would not allow the extension of the outdoor dining area, and

WHEREAS, the Board further finds that the applicant is proposing to develop the site, construction has not yet started; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1125, does hereby **APPROVE** The Category 3 Development Plan Review, Variance #1 from LDC Section 5.2.1, C.6 to increase the maximum building setback of 0 feet to approximately 26 feet at the furthest point along the Market Street property line (**Requirement 0 feet, Request 26 feet, Variance 26 feet**), and Variance #2 from LDC Section 5.2.1, C.6 to increase the maximum building setback of 0 feet to approximately 32 feet at the furthest point along the Preston Street property line (**Requirement 0 feet, Request 32 feet, Variance 32 feet**), based on the staff report, the site plan and the presentation and the applicant's response to questions, and **SUBJECT** to the Condition of Approval submitted by the applicant as follows:

Condition of Approval:

1. The applicant shall be responsible for the construction of the sidewalk improvements from the applicant's northern property line to the edge of the future planned southern curb (south of the proposed asphalt bike lane & approximately 30' north of the applicant's property line) of Market Street. Construction shall be completed prior to receiving final certificate of occupancy for the building.

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The vote was as follows:

**Yes: Members Fishman, Turner, Howard, Bergmann Vice Chair Jarboe and
Chair Allendorf**

Absent: Member Tharp

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1054

Request:	Building Height Variance
Project Name:	Blankenbaker Center II
Location:	11820 Ransum Drive
Owner:	Kentucky Property Investments, LLC
Applicant:	Pinnacle Properties of Louisville
Representative:	William B. Bardenwerper
Jurisdiction:	Middletown
Council District:	20 – Stuart Benson
Case Manager:	Laura L. Mattingly, 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:

00:16:34 Laura Mattingly presented the case and showed a Powerpoint presentation. Ms. Mattingly responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Parkway, Louisville, KY 40223
Kathy Linares, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

00:26:04 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

00:31:29 Kathy Linares 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 16VARIANCE1054

00:32:56 Nick Pregliasco and Kathy Linares responded to questions from the Board Members regarding the Landscape Buffer (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:38:18 Board Members' deliberation

00:39:56 On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution 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 proposed building height and spacing of the buildings will not impact any public health, safety or welfare issues, such as access to natural light or pedestrian and traffic access, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed scale is proportional to surrounding development, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed height is not imposing on the public right-of-way and is set back from Blankenbaker Pkwy over 300 feet. All required Landscape Buffer Areas are in compliance and the building closest to Single Family Residential will be screened appropriately, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the request is reasonable for an office condominium and is similar to surrounding development; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1054 does hereby APPROVE Variance from the Land Development Code 5.3.1.C.5, Table 5.3.2, to allow six proposed office buildings to exceed the maximum height requirement by 5 feet (**Requirement 25'**,

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Request 30', Variance 5'), based on the Staff Report, the testimony heard today, the applicant's booklet and the applicant's justification in the booklet.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Bergmann Vice Chair Jarboe and Chair Allendorf

Absent: Member Tharp

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CASE NUMBER 16VARIANCE1055

Request:	Variance for side setback
Project Name:	Grove Pointe Assisted Living
Location:	240 Masonic Home Drive
Owner:	Masonic Homes of KY, Inc.
Applicant:	Masonic Homes of KY, Inc.
Representative:	Dinsmore & Shohl LLP – Clifford Ashburner
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel Dock, 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.)

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Agency Testimony:

00:43:02 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

00:51:02 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

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No one spoke.

01:00:10 Board Members' deliberation

01:00:34 On a motion by Member Bergmann, seconded by Member Howard, the following resolution 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 building connection has no impact on public facilities related to mobility or the environment. Construction will meet all applicable building and fire code standards as required by Develop Louisville, Construction Review Division. Furthermore, the connection enhances the safety of residents and their guests by providing an integrated passage of services and staff throughout the development, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the Masonic Homes' development and proposed structure is located in an area of mixed residential and commercial development with building materials similar to those proposed for the assisted living facility, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed building connection does not hinder the safe movement of the public and is designed to be compatible with the Masonic Homes campus and surrounding uses, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the campus form district encourages that uses to be designed to serve the people who work or live on the Campus. The form should be compact and walkable, with substantial open space, central gathering areas, shared parking and signage, and an internal circulation system, and

WHEREAS, the Board further finds that the variance arises from special circumstances that do not generally apply to the land in the general vicinity as the proposed use is residential; thus, requiring a 5 foot setback. The overall design of the Masonic Homes' campus integrates services and staff to better serve residents and guests, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposed structure is compatible with surrounding uses and the connection will enhance care and services between facilities, 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; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1055, does hereby **APPROVE** Variance from LDC Table 5.3.1; the Variance is required for the proposed assisted living facility to connect to the adjacent nursing home facility across the Western property line; a setback of 0' is being requested. The variance is necessary due to the required 5' side yard setback of Land Development Code Table 5.3.1. The connection will allow for an integration of services and staff throughout the development.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Bergmann Vice Chair Jarboe and Chair Allendorf

Absent: Member Tharp

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CASE NUMBER 16WAIVER1027

Request:	Sign Authorization
Project Name:	Vue @ 3 rd
Location:	537 S. 3 rd Street
Owner:	Third Street Louisville Multifamily Partners, LLC
Applicant:	Sign-Tiques – Tracy O'Connor
Representative:	Sign-Tiques – Tracy O'Connor
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Joel Dock, 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.)

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Agency Testimony:

01:02:30 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

01:13:43 Burcum Keeton, DDRO Staff, responded to questions from the Board Members regarding the applicable Overlay Guidelines (see recording for detailed presentation).

01:16:42 Joel Dock reviewed the required actions for the Board of Zoning Adjustment and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Tracy O'Connor, Sign-Tiques, Atlanta, GA
John Berry, 4515 Harding Road, Nashville, TN

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Summary of testimony of those in favor:

01:19:01 Tracy O'Connor spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:21:15 John Berry spoke in favor of the request (see recording for detailed presentation).

01:22:12 Tracy O'Connor responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:27:07 Board Members' deliberation

01:27:24 Burcum Keeton responded to questions from the Board Members and reviewed the DDRO Guidelines applicable to this sign (see recording for detailed presentation).

01:29:14 Joel Dock presented a copy of the existing sign to the Board Members and responded to questions from the Board Members (see recording for detailed presentation).

01:44:44 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the sign authorization will not adversely affect adjacent property owners as the proposed signage will not create a nuisance from light trespass, noise, or flashing. Additionally, the signage will not create a hazard for pedestrians or motorists within the area of the property, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the

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impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The sign authorization will not violate specific guidelines of Cornerstone 2020 as the proposed signage is not visible from single-family residential dwellings and is surrounded by a mixture of compatible uses with and without signage. The proposed signage appears to be compatible with the character and design of signs in the surrounding area, 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 the LDC fails to regulate residential signage in the Downtown form district, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the LDC does not prohibit or permit the proposed signage and authorization of the signage has been appropriately requested; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16WAIVER1027 does hereby **APPROVE** the Exceptional Sign Authorization, including the design, the lighting and the size of the signs, with the **EXCEPTION** of delegating the responsibility to DDRO Staff to determine the height and location of said signs, based on the staff report, the testimony and the justification.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Bergmann Vice Chair Jarboe and Chair Allendorf

Absent: Member Tharp

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CASE NUMBER 16CUP1022

Request:	Conditional Use Permit to allow a Rehabilitation Home in a Traditional Neighborhood Zoning District
Project Name:	VOA Women's Rehab Home
Location:	1025 S. 2 nd Street
Owner:	Planned Parenthood of Kentucky
Applicant:	Volunteers of America of Kentucky
Representative:	Jeff Rawlins, Architectural Artisans
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Brian Mabry, Planning and Design Supervisor

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

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

Agency Testimony:

01:47:36 Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeff Rawlins, 748 E. Market Street, Louisville, KY 40202
Jennifer Hancock, 570 S. 4th Street, Louisville, KY 40202
Judie Parks, 295 N. Hubbards Ln., Suite 102, Louisville, KY 40207
Steve Magre, 1122 Rammers Ave., Louisville, KY 40204
Megan McGlothen, 25 Bronson Forest Drive, Morehead, KY 40351

Summary of testimony of those in favor:

02:03:04 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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- 02:06:04** Jennifer Hancock spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).
- 02:13:58** Judie Parks spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).
- 02:17:10** Steve Magre spoke in favor of the request (see recording for detailed presentation).
- 02:27:00** Megan McGlothen spoke in favor of the request (see recording for detailed presentation).
- 02:33:15** Jennifer Hancock responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

02:41:11 Board Members' deliberation

- 02:42:20** Jeff Rawlins responded to questions from the Board Members (see recording for detailed presentation).
- 02:45:54** On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal preserves and renovates an existing structure and will incorporate building design that is consistent with the predominate neighborhood and the structure being renovated, as demonstrated in the applicant's submitted elevations. All lighting will be code compliant. Amendments to the Old Louisville / Limerick Neighborhood Plan are silent on rehabilitation homes, specifically, but contain general criteria for consideration of Conditional Use Permits. They are:

- Operations or secondary impacts such as, parking, traffic circulation, noise and other incidental impacts shall not negatively affect either the adjoining properties or the character of the historic structure/site.

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- Applicable code requirements (building & fire) shall be complied with to be compatible with the historic character of the structure as determined by the appropriate reviewing body, and

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

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and both have approved the plan. The Louisville Fire District #2 did not comment on the proposal, and

WHEREAS, the Board further finds that one parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the rehabilitation home. Parking shall be reduced to one space per five residents/clients if the rehabilitation home serves persons with disabilities that preclude operation of an automobile, and

WHEREAS, the Board further finds that one freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1022 does hereby **APPROVE** the Conditional Use Permit to allow a Rehabilitation Home in a Traditional Neighborhood Zoning District because the proposal meets the applicable standards C and D, based on the information in the Staff Report, the testimony and evidence that has been provided at the public hearing today, 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 rehabilitation home without further review and approval by the Board.

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3. The maximum number of patient-residents of the rehabilitation home shall be 16.
4. The associated revised district development plan for the site, and any necessary waivers or amendments to binding elements, shall be approved prior to development of the site for the proposed use.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Bergmann Vice Chair Jarboe and Chair Allendorf

Absent: Member Tharp

02:48:04 Meeting was recessed.

02:48:19 Meeting was reconvened.

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CASE NUMBER 16CUP1014

Request:	Conditional Use Permit to allow a boarding and lodging house in an R-6 zoning district
Project Name:	None
Location:	1401 South Shelby Street
Owner:	Robert Tobias
Applicant:	Donald Tobias
Representative:	Donald Tobias
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

02:49:16 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:

Donald Tobias, 900 S. 5th Street, Louisville, KY 40217

Summary of testimony of those in favor:

02:55:19 Donald Tobias spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

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03:54:44 Board Members' deliberation

00:37:28 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution 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 proposal under Guideline 3.B.2: The proposal preserves an existing structure that is consistent with the predominate neighborhood building design. The applicant will be asking to not provide additional landscaping and keep the site as is. No new lighting will be added, and

WHEREAS, the Board further finds that the subject site is located in an area that has a number of residential uses. This proposal will be compatible with these uses with respect to height, noise, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Transportation Planning/Public Works and MSD and both have approved the plan. The Louisville Fire Protection District #4 did not comment on the proposal, and

WHEREAS, the Board further finds that based on the staff report, testimony during the public hearing and Board discussion, the proposal is in compliance with section 4.2.11 of the Land Development Code, which regulates Boarding and Lodging Houses, specifically addressing the issue of Item A, that due to the nature of the physical structure and the separate entrances for three separate entities under one roof, that the permit is modified so that the boarding home will have a maximum of 15 boarders rather than the 8 required by code; also noting reference to Page 3 of the Staff Report, Item J, that the Board finds that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining property or land uses will not result from the facilities' operations due to the size of the building, the nature of the neighborhood where there are boarding houses and rooming houses in existence and the size of the three structures under one roof will not result in density beyond the neighborhood's capacity; now, therefore be it

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CASE NUMBER 16CUP1014

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1014, does hereby **APPROVE** the Conditional Use Permit to allow a boarding and lodging house in an R-6 zoning district; the Board does hereby also **APPROVE** the request to not add landscaping and buffering on the site because of the physical restraints on the property and the lot involved, 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 home without further review and approval by the Board.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Vice Chair Jarboe and Chair Allendorf

No: Member Bergmann

Absent: Member Tharp

03:38:13 Meeting was recessed.

03:38:29 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 16CUP1000

Request:	Conditional Use Permit to allow a crematorium in a C-1 zoning district
Project Name:	Ratterman and Sons Funeral Home
Location:	3800 Bardstown Road
Owner:	Pamela and James Ratterman
Applicant:	Alex Ratterman
Representative:	Clifford H. Ashburner
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

NOTE: Member Fishman was recused from this case.

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:

03:39:06 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:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202
Alex Ratterman, 19008 Long Grove Way, Louisville, KY 40218
Ann Richard, 503 Washburn Ave., Suite 101, Louisville, KY 40222

Summary of testimony of those in favor:

03:45:55 Cliff Ashburner spoke in favor of the request (see recording for detailed presentation).

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03:46:43 Alex Ratterman spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:53:18 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

03:59:51 Ann Richard responded to questions from the Board Members in regard to connectivity (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

04:01:50 Board Members' deliberation

04:05:24 Cliff Ashburner addressed the Board in regard to the issue of connectivity (see recording for detailed presentation).

04:06:16 Board Members' deliberation

04:09:58 Cliff Ashburner addressed the Board in regard to the issue of connectivity (see recording for detailed presentation).

04:10:51 Board Members' deliberation

04:13:42 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

Conditional Use Permit to allow a crematorium in a C-1 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. Lighting will be code compliant. Community Form/Land Use Guideline 3: Compatibility A.2. The proposed building materials increase the new development's compatibility, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses with respect to height, scale, noise, drainage, lighting and appearance, and

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WHEREAS, the Board further finds that Transportation Planning/Public Works and MSD have reviewed and approved the proposal. The Buechel Fire Protection District has reviewed the proposal but staff did not receive comments, and

WHEREAS, the Board further finds that the crematory operation shall be a minimum of 200 feet from property containing a residential use, or greater distance as required by the board; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1000, does hereby **APPROVE** the Conditional Use Permit to allow a crematorium in a C-1 zoning district, based on the staff report and that all the standards for Conditional Use Permit have been met, 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 crematorium without further review and approval by the Board.

The vote was as follows:

Yes: Members Turner, Howard, Bergmann Vice Chair Jarboe and Chair Allendorf

Recused: Member Fishman

Absent: Member Tharp

04:14:34 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

Request to waive future vehicular connections with adjacent properties:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since currently there is a church with no connection to the east and two connections already exist for the credit union to the west, and

WHEREAS, the Board further finds that Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 13 requires joint and cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare, 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 since currently the adjacent sites exist in harmony with each other with a minimum of conflicts concerning access, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create a hardship on the applicant since two potentially high traffic uses could be using the same property for access at peak time for a funeral and/or church; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1000, does hereby **APPROVE** the Request to waive future vehicular connections with adjacent properties, based on the testimony heard today from the applicant regarding their reasons for not wanting the connections to the adjacent properties and the waiver justification that was provided by the applicant.

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The vote was as follows:

Yes: Members Turner, Howard, Bergmann and Chair Allendorf

No: Vice Chair Jarboe

Recused: Member Fishman

Absent: Member Tharp

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CASE NUMBER 14CUP1003

Request:	Time Extensions concerning certain Conditions of Approval for the potentially hazardous or nuisance use (staging lot for trucks and trailers) Conditional Use Permit, approved on January 11, 2016.
Project Name:	Conditions of Approval
Location:	151 & 201 Cabel Street
Owner:	Swift Pork Company
Applicant:	JBS USA, LLC & Swift Pork Company
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Steve Hendrix, Planning and Design Supervisor

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

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

Agency Testimony:

04:17:45 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:

Glenn Price, 400 W. Market, Suite 3200, Louisville, KY 40202

Summary of testimony of those in favor:

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04:22:43 Glen Price spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Jon Salomon, 3600 National City Tower, Louisville, KY 40202

Summary of testimony of those in opposition:

04:37:06 Jon Salomon spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

04:39:30 Mr. Price asked Mr. Salomon if he would acknowledge that the one condition regarding screening of the fuel tank can be satisfied with the larger screen.

04:39:42 Mr. Salomon stated in theory he's fine with that, but as he stands here today we still don't have a fence there, so he doesn't want to waive a condition that the Board adopted that says that tank has to be screened. Mr. Salomon stated he thinks it probably makes sense to revisit that once the fence is complete and if that fence as completed is screening the tank at that point we might be fine to say you don't need to do any further screening on the diesel tank (see recording for detailed presentation).

04:40:28 Board Members' deliberation

04:42:21 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 14CUP1003, does hereby **APPROVE** the case, granting the extension of time to the November 21, 2016 Board of Zoning Adjustment meeting to allow the applicant until October 31, 2016 to submit information regarding the five deficiencies in Conditions of Approval for this Conditional Use Permit, **NOTING** that the dates originally requested for extension have already occurred.

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The vote was as follows:

**Yes: Members Fishman, Turner, Howard, Bergmann, Vice Chair Jarboe and
Chair Allendorf**

Absent: Member Tharp

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CASE NUMBER 16CUP1001

Request:	Presentation of the feasibility study concerning the additional structure in front of the unloading area as per Condition of Approval #5, 16CUP1001 and the status of the AquaCode equipment.
Project Name:	Swift Update
Location:	1200 Story Avenue
Owner:	Swift Inc. (JBS USA, LLC)
Applicant:	John W. Cliff
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4—David Tandy
Case Manager:	Steve Hendrix, Planning and Design Supervisor

NOTE: Member Bergmann left at approximately 2:33 p.m., therefore, did not vote on this case.

NOTE: Jon Baker, Legal Counsel, arrived at approximately 1:55 p.m.

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

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

Agency Testimony:

04:46:03 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market, Suite 3200, Louisville, KY 40202
John Cliff, 1200 Story Avenue, Louisville, KY
Dennis Conniff, (address not provided)
Jack Jeffries, 1200 Story Avenue, Louisville, KY

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Summary of testimony of those in favor:

04:47:27 Glenn Price spoke on behalf of the applicant in favor of the request (see recording for detailed presentation).

04:50:40 John Cliff spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

04:53:29 Mr. Price presented a letter to the Board Members from Dennis Conniff (see recording for detailed presentation).

04:53:59 Dennis Conniff spoke in favor of the request (see recording for detailed presentation).

04:56:45 Jack Jeffries spoke in favor of the request (see recording for detailed presentation).

04:58:58 John Cliff responded to questions from the Board Members (see recording for detailed presentation).

05:00:57 Dennis Conniff responded to questions from the Board Members (see recording for detailed presentation).

05:01:47 Glenn Price advised the Board Members that there is a dispute between APCD and JBS which involves unresolved allegations of odors that is going to trial next January (see recording for detailed presentation).

The following spoke in opposition to the request:

Jon Salomon, 3600 National City Tower, Louisville, KY 40202

Summary of testimony of those in opposition:

05:02:38 Jon Salomon spoke in opposition to the request and presented a handout to the Board Members. Mr. Salomon responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

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05:23:50 Glenn Price deferred to Mr. Conniff to respond to questions from the Board Members (see recording for detailed presentation).

05:24:24 Mr. Conniff responded to questions from the Board Members (see recording for detailed presentation).

05:27:57 Mr. Price spoke in rebuttal (see recording for detailed presentation).

05:34:10 Mr. Jeffries responded to questions from the Board Members (see recording for detailed presentation).

05:36:10 Board Members' deliberation

05:38:54 John Cliff stated they would send a report as soon as the Aqua Code equipment is checked out.

05:39:44 Board Members' deliberation

05:44:15 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1001, does hereby **CONTINUE** the case to the November 21, 2016 Board of Zoning Adjustment meeting, and require the applicant to submit status reports to staff as they learn of additional efforts with the equipment they described today and to be prepared to discuss the status of their efforts on November 21, 2016, and that the status reports submitted to staff need to be provided to the BOZA Board Members five days prior to the November 21, 2016 meeting.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp and Bergmann

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ADJOURNMENT

The meeting adjourned at approximately 3:32 p.m.

Chair

Secretary