

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

July 2, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 2, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Rosalind Fishman, Vice Chair
Lula Howard, Secretary
Dwight Young
Richard Buttorff
Lester Turner, Jr.
Kimberly Leanhart

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumie, Planning & Design Coordinator
Beth Jones, Planner II
Mark Dutrow, Engineer II, Transportation Planning
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

June 18, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:57 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on June 18, 2018.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Howard, and Leanhart

Abstain: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

Case Number 18APPEAL1001

Request:	Review of Land Use Determination
Project Name:	Conley Appeal
Location:	4301 Mud Lane
Owner:	Rickey and Janice Conley
Representative:	Bart L. Greenwald
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Chris French, AICP, Planning & Design Supervisor

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:

00:03:50 Chris French stated the applicant has requested this case be continued until the August 20, 2018 Board of Zoning Adjustment meeting (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:05:34 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18APPEAL1001 does hereby **CONTINUE** the case to the August 20, 2018 Board of Zoning Adjustment meeting at the request of the applicant.

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Case Number 18APPEAL1001

The vote was as follows:

**Yes: Members Young, Buttorff, Turner, Howard, Leanhart, Vice Chair
Fishman, and Chair Allendorf**

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PUBLIC HEARING

CASE NUMBER 16CUP1025

Request: Conditional Use Permit to allow off-street parking in an R-5 zoning District
Project Name: Parking for Bar of Soap and Z Bar
Location: 2071 South Preston Street
Owner/Applicant: Wettig Properties, LLC
Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler
Case Manager: Jon E. Crumby, Planning & Design Coordinator

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

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

Agency Testimony:

00:06:44 Jon Crumby stated this case was continued to allow a member of Transportation Planning to be present to explain about the parking spaces, and he is here. Mr. Crumby reviewed the case and the Powerpoint presentation. Mr. Crumby 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. Fifth Street, Suite 2500, Louisville, KY 40202

Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220

Councilwoman Marianne Butler, 601 W. Jefferson St., Louisville, KY 40202

Mark Dutrow, 444 S. Fifth Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:11:08 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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00:15:15 Chris Brown spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:21:58 Mr. Ashburner spoke in favor of the request. Mr. Ashburner submitted a proposed Condition of Approval that has been discussed with Councilwoman Butler. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

00:25:29 Councilwoman Marianne Butler spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:27:03 Mark Dutrow explained some of the issues from the public meetings which were reviewed for this site (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:28:55 Board Members' deliberation

00:30:11 On a motion by Member Howard, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. The required landscaping and buffering will be eliminated and/or reduced, and

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

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

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WHEREAS, the Board further finds that an off-street parking area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements. There are seven requirements and six will be met. The applicant will be asking for relief from item c.

- a. The area shall be located within 200 feet of the property on which the building to be served is located.
- b. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- c. The minimum front, street side, and side yards required in the district shall be maintained free of parking. **The required front yard along South Preston Street is 15 feet. The parking/maneuvering area will be one foot from the front property line. The required side yard along the north property line is three feet. The parking/maneuvering area will be located on the property line. The required Lynn Street street side yard along the south property line is three feet. The parking/maneuvering area will be located two feet from the property line. The required rear yard along the east property line is five feet. The parking/maneuvering area will be located on the property line.**
- d. All driveways and the area used for the parking of vehicles shall be surfaced with a hard and durable material and be properly drained.
- e. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- f. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the Director of Works for the City of Louisville or the County Engineer for Jefferson County prior to use of the parking area.
- g. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for traffic engineering prior to the public hearing on the conditional use permit; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1025 does hereby **APPROVE** Conditional Use Permit to allow off-street parking in an R-5 zoning district, granting relief from Item C of the Standard of Review and Staff Analysis for Conditional Use Permit, 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 off-street parking without further review and approval by the Board.
3. The applicant shall submit material for construction plan approval to the applicable agencies within forty (40) days of approval of the Conditional Use Permit. Upon receipt of approval of the construction plans, the applicant shall commence construction of the parking lot within fifty (50) days and shall use its best efforts to complete the parking lot improvements as quickly as possible. The above deadlines may be extended for reasons beyond the reasonable control of the applicant, including, but not limited to, material or labor shortage, strikes, delays in the issuance of permits, acts of God, weather, acts of terrorism or other criminal acts, or any other force majeure act. The extension of time shall only continue so long as the force majeure condition continues, and the applicant shall use its best efforts to complete the construction of the parking lot as soon as the force majeure condition ceases to exist.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Howard, Leanhart, Vice Chair Fishman, and Chair Allendorf

00:36:30 On a motion by Member Howard, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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Waiver to not provide the 3-foot wall along the property lines facing South Preston Street and Lynn Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the proposal will maintain the current use as a parking lot and improve the lots appearance and safety, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, 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 the parking will be brought into compliance with the conditional use permit and new entrance/exit onto Lynn Street, 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 the configuration of the parking lot would need to change and parking spaces could be lost, and

WHEREAS, the Board further finds that the proposed waivers will not adversely affect adjacent property owners because the proposal will maintain the subject property's current use as a parking area and improve upon the subject property's appearance and safety. The proposal will not expand existing encroachments into the landscape buffer areas, and will add landscaping where necessary and practical along the property's Preston Street and Lynn Street frontages. The proposal would bring the subject property into compliance with the Land Development Code while maximizing off-street parking available on the subject property. The applicant proposes to pave and stripe the existing gravel parking pad to bring it in compliance with the LDC. The proposal would create 14 off-street parking spaces and a new curb cut and access point along Lynn Street. Along Preston Street, the proposal would remove the existing non-conforming access point, restore the verge at the current access point, and create two on-street parking spaces, and

WHEREAS, the Board further finds that the proposed waivers will not violate the Comprehensive Plan. The proposed parking use matches the current use and is consistent with the subject property's current R-5 zoning. The proposed variance will allow the applicant to improve the appearance and safety of the subject

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property by paving and striping the existing gravel parking pad, adding a new conforming access point along Lynn Street, and restoring the verge along Preston Street, all of which is consistent with the Comprehensive Plan, and

WHEREAS, the Board further finds that the extent of the proposed waivers of the regulations is the minimum necessary to afford relief to the applicant. The waivers are necessary to allow the applicant to bring the existing parking area more into compliance with the LDC, while providing a meaningful amount of off-street parking, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant. The size of the subject property limits the possible configurations of conforming parking spaces on the site. Strict application of the regulations would force the applicant to reconfigure the proposed parking lot and significantly reduce the number of parking spaces. The proposed waivers will permit the applicant to bring the existing parking area into compliance with the LDC by paving and striping the lot, and adding a conforming access point along Lynn Street; and

Waivers to eliminate the required 15 feet landscape buffer along the north and east property lines:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the proposal will maintain the current use as a parking lot and improve the lots appearance and safety, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the 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. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets

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should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, 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 minimum landscaping will be added in areas where there is none, 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 the configuration of the parking lot would need to change and parking spaces could be lost, and

WHEREAS, the Board further finds that the proposed waivers will not adversely affect adjacent property owners because the proposal will maintain the subject property's current use as a parking area and improve upon the subject property's appearance and safety. The proposal will not expand existing encroachments into the landscape buffer areas, and will add landscaping where necessary and practical along the property's Preston Street and Lynn Street frontages. The proposal would bring the subject property into compliance with the Land Development Code while maximizing off-street parking available on the subject property. The applicant proposes to pave and stripe the existing gravel parking pad to bring it in compliance with the LDC. The proposal would create 14 off-street parking spaces and a new curb cut and access point along Lynn Street. Along Preston Street, the proposal would remove the existing non-conforming access point, restore the verge at the current access point, and create two on-street parking spaces, and

WHEREAS, the Board further finds that the proposed waivers will not violate the Comprehensive Plan. The proposed parking use matches the current use and is consistent with the subject property's current R-5 zoning. The proposed variance will allow the applicant to improve the appearance and safety of the subject property by paving and striping the existing gravel parking pad, adding a new conforming access point along Lynn Street, and restoring the verge along Preston Street, all of which is consistent with the Comprehensive Plan, and

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WHEREAS, the Board further finds that the extent of the proposed waivers of the regulations is the minimum necessary to afford relief to the applicant. The waivers are necessary to allow the applicant to bring the existing parking area more into compliance with the LDC, while providing a meaningful amount of off-street parking, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant. The size of the subject property limits the possible configurations of conforming parking spaces on the site. Strict application of the regulations would force the applicant to reconfigure the proposed parking lot and significantly reduce the number of parking spaces. The proposed waivers will permit the applicant to bring the existing parking area into compliance with the LDC by paving and striping the lot, and adding a conforming access point along Lynn Street; and

Waivers to reduce the required 5 feet vehicular use area facing South Preston Street and Lynn Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the proposal will maintain the current use as a parking lot and improve the lots appearance and safety, and

WHEREAS, the Board further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way, 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 minimum landscaping will be added in areas where there is none, 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

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the configuration of the parking lot would need to change and parking spaces could be lost, and

WHEREAS, the Board further finds that the proposed waivers will not adversely affect adjacent property owners because the proposal will maintain the subject property's current use as a parking area and improve upon the subject property's appearance and safety. The proposal will not expand existing encroachments into the landscape buffer areas, and will add landscaping where necessary and practical along the property's Preston Street and Lynn Street frontages. The proposal would bring the subject property into compliance with the Land Development Code while maximizing off-street parking available on the subject property. The applicant proposes to pave and stripe the existing gravel parking pad to bring it in compliance with the LDC. The proposal would create 14 off-street parking spaces and a new curb cut and access point along Lynn Street. Along Preston Street, the proposal would remove the existing non-conforming access point, restore the verge at the current access point, and create two on-street parking spaces, and

WHEREAS, the Board further finds that the proposed waivers will not violate the Comprehensive Plan. The proposed parking use matches the current use and is consistent with the subject property's current R-5 zoning. The proposed variance will allow the applicant to improve the appearance and safety of the subject property by paving and striping the existing gravel parking pad, adding a new conforming access point along Lynn Street, and restoring the verge along Preston Street, all of which is consistent with the Comprehensive Plan, and

WHEREAS, the Board further finds that the extent of the proposed waivers of the regulations is the minimum necessary to afford relief to the applicant. The waivers are necessary to allow the applicant to bring the existing parking area more into compliance with the LDC, while providing a meaningful amount of off-street parking, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant. The size of the subject property limits the possible configurations of conforming parking spaces on the site. Strict application of the regulations would force the applicant to reconfigure the proposed parking lot and significantly reduce the number of parking spaces. The proposed waivers will permit the applicant to bring the existing parking area into compliance with the LDC by paving and striping the lot, and adding a conforming access point along Lynn Street; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1025 does hereby **APPROVE** Waiver to not provide the 3-foot wall along the property lines facing South Preston Street and Lynn Street, Waiver to eliminate the required 15 feet landscape buffer along the north and east property lines (**North Property Line Requirement 15', Request 0', Waiver 15'; East Property Line Requirement 15', Request 0', Waiver 15'**), and Waivers to reduce the required 5 feet vehicular use area facing South Preston Street and Lynn Street (**South Preston Street Requirement 5', Request 1' at closest point, Waiver 4'; Lynn Street Requirement 5', Request 4', Waiver 1'**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Howard, Leanhart, Vice Chair Fishman, and Chair Allendorf

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CASE NUMBER 16CUP1001

Request: Scrubber System Report
Project Name: 16CUP1001
Location: 1200 Story Avenue
Owner/Applicant: JBS USA, LLC & Swift Pork Company
Representative: Glenn Price
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Steve Hendrix, Planning & Design Coordinator

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

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

Agency Testimony:

00:39:28 Steve Hendrix stated staff is suggesting this be the last report from the applicant (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
Dennis Conniff, 400 W. Market Street, Suite 3200, Louisville, KY 40202

Summary of testimony of those in favor:

00:39:56 Glenn Price stated Dennis Conniff would be providing the presentation (see recording for detailed presentation).

00:40:24 Dennis Conniff provided an update on the scrubber system. Mr. Conniff stated a third party auditor had reviewed their scrubber system, and all recommendations have now been implemented. Mr. Conniff stated the last alleged odor violation occurred on March 1, 2016. Mr. Conniff responded to questions from the Board Members (see recording for detailed presentation).

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00:46:06 Mr. Price stated he didn't have anything to add. Mr. Price responded to a question from Legal Counsel (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:47:46 Board Members' deliberation

00:47:54 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1001 does hereby **ACCEPT** the Scrubber System Report as presented, and this shall be the final report to be provided by the applicant.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Howard, Vice Chair Fishman, and Chair Allendorf

Abstain: Member Leanhart

00:50:44 Meeting was recessed.

00:50:58 Meeting was reconvened.

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CASE NUMBER 17CUP1026

Request: Conditional Use Permit (CUP) to allow short term rental of dwelling units not the primary residence of the host
Project Name: Short Term Rental
Location: 1001 Cardinal Drive
Owner/Host: Joseph T. Beutenbach
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Beth Jones, AICP, Planner II

NOTE: This Case was heard out of order, following Item #6 on the Agenda.

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:

02:17:39 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

02:22:14 Joe Haberman, Planning & Design Manager, clarified the calculations for number of guests (see recording for detailed presentation).

02:23:47 Beth Jones continued the presentation of the case and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Joseph Beutenbach, 1001 Cardinal Drive, Louisville, KY 40213

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Summary of testimony of those in favor:

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

02:26:59 Joe Haberman responded to questions from the Board Members regarding the dwelling units (see recording for detailed presentation).

02:31:17 Mr. Beutenbach responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:40:51 Board Members' deliberation

02:41:01 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

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- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, each dwelling unit has three bedrooms; LDC regulations permit up to ten guests in each unit.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The property has been granted non-conforming status as a duplex (17NONCONFORM1014).**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Off-street parking for up to six vehicles is available on-site; on-street parking is prohibited and the garage will not be available for guest use.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1026 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval:

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

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Howard, Leanhart, and Chair Allendorf

No: Vice Chair Fishman

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PUBLIC HEARING

18APPEAL1003

Request:	Review of Nonconforming Rights Determination
Project Name:	Henry Avenue Appeal
Location:	3599 Henry Avenue
Owner:	Launch Intl. LLC
Appellant:	James Wright
Representative:	Dustin Robinson
Jurisdiction:	Louisville Metro
Council District:	13 – Marianne Butler
Case Manager:	Chris French, AICP, Planning & Design Supervisor

NOTE: This Case was heard out of order, prior to Item #5 on the Agenda.

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:

00:52:29 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report, addendum to staff report, and recording for detailed presentation).

01:02:25 Joe Haberman, Planning & Design Manager, read the definition of “duplex” from the Land Development Code. Mr. Haberman responded to questions from the Board Members (see recording for detailed presentation).

01:05:45 Mr. French responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the Appeal:

James Wright, 8901 Nottingham Parkway, Louisville, KY 40222
Benjamin Hedrick, 4615 Bellevue Avenue, Louisville, KY 40215

BOARD OF ZONING ADJUSTMENT MINUTES
July 2, 2018

PUBLIC HEARING

18APPEAL1003

Summary of testimony of those in favor:

01:13:20 James Wright spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

01:20:52 Benjamin Hedrick spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

01:24:31 James Wright responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the Appeal:

No one spoke.

Agency Testimony:

01:27:23 Chris French reminded the Board Members of their required actions (see recording for detailed presentation).

01:27:38 Board Members' deliberation

01:27:51 A motion was made by Vice Chair Fishman, seconded by Member Turner, to **APPROVE** the Appeal. However, the motion was **WITHDRAWN** to allow further public testimony.

ADDITIONAL TESTIMONY:

01:50:11 Steve Hendrix responded to questions from the Board Members (see recording for detailed presentation).

01:51:20 Benjamin Hedrick stated he lacks clarity on what is actually necessary in order to prove continual use. Mr. Hedrick responded to questions from the Board Members (see recording for detailed presentation).

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01:58:02 Member Howard asked if the applicants were aware they had an option to rezone the property. Mr. French stated he has not spoken with the applicants about rezoning (see recording for detailed presentation).

01:58:50 Chair Allendorf briefly explained to the applicants that would involve them requesting a zoning change for the property (see recording for detailed presentation).

01:59:00 Mr. Hedrick and Mr. Wright responded to questions from the Board Members. Possible dates for continuance were discussed with the applicants. The Board Members discussed with the applicants documentation that could be acceptable to prove continual use (see recording for detailed presentation).

02:05:55 Board Members' deliberation

02:14:03 On a motion by Member Howard, seconded by Vice Chair Fishman, the following resolution, based upon the applicant's testimony, the previous owner's affidavit, the Appeal application, and the Freddie Mac second mortgage report , was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18APPEAL1003 does hereby **OVERTURN STAFF DETERMINATION**, Appeal of a staff determination issued by the Office of Planning & Design Services concerning a request for nonconforming rights for a two-family dwelling (duplex) at 3599 Henry Avenue and 1135 Whitney Avenue, Louisville, KY, and the Board further finds that the property was a duplex in 1971 and has continuously remained a duplex to date.

The vote was as follows:

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

No: Member Young

02:16:28 Meeting was recessed.

02:16:43 Meeting was reconvened.

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ADJOURNMENT

The meeting adjourned at approximately 4:09 p.m.

Chair

Secretary