

# Board of Zoning Adjustment

## Staff Report

April 5, 2021



**Case No:** 21-MCUP-0001 & 21-WAIVER-0019  
**Project Name:** Louisville Elks Lodge Addition  
**Location:** 2824 Klondike Lane  
**Owner(s):** Louisville Lodge No. 8, Benevolent and Protective Order of Elks of the United States of America, Inc.  
**Applicant:** Louisville Lodge No. 8, Benevolent and Protective Order of Elks of the United States of America, Inc.  
**Jurisdiction:** Louisville Metro  
**Council District:** 10 – Pat Mulvihill  
**Case Manager:** Jon Crumbie, Planning & Design Coordinator

### REQUEST(S)

- Modified Conditional Use Permit to allow the replacement of two existing signs with a singular LED sign
- Waiver to allow the proposed LED sign to be closer than 300 feet to a residential use.

Location	Requirement	Request	Waiver
Adjacent Residential Use (East)	300 ft	95 ft	205 ft
Adjacent Residential Use (West)	300 ft	180 ft	120 ft

### CASE SUMMARY/BACKGROUND

The original Conditional Use Permit allowed the renovation and expansion to the existing private proprietary club. The expansion increased the structure by approximately 5,245 square feet. In addition, the plan calls for an increase of 13 parking spaces. Relief was given to listed standard item D. to permit the existing signs to continue as follows:

1. A 3-foot x 4-foot sign in the parking lot attempts to discourage illicit parking, and states: "Private Property – Parking for Elks and guests only."
2. A 7-foot x 9-foot event notification sign (i.e., a sign with changeable letters to announce upcoming events at the club). The sign will be moved out of the right-of-way.
3. A 4-foot x 4-foot x 8-foot club identification sign, which states: "Elks Louisville Lodge 8."

The modification will allow the removal of the existing signage and replace it with a singular 42 square feet LED freestanding sign. The placement of the new sign will cause it to be closer than 300 feet to a residential use.

### **STAFF FINDING / RECOMMENDATION**

There are four listed requirements and the applicant will be asking for relief of item D. Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the LDC for a Conditional Use Permit.

### **RELATED CASES**

None

### **TECHNICAL REVIEW**

There are no outstanding technical review items.

### **INTERESTED PARTY COMMENTS**

A neighborhood meeting is not required for a modified Conditional Use Permit and/or a Waiver request.

### **Modified Conditional Use Permit (21-MCUP-0001)**

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT**

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

A. All new buildings, structures and facilities shall be at least 30 feet from any property line. ***The applicant has been informed of this requirement.***

B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. ***The applicant has been informed of this requirement.***

C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. ***The applicant has been informed of this requirement.***

D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but nonflashing. ***The applicant is asking for relief. Although the sign will be larger than allowed it seems reasonable to allow the replacement of three signs with singular freestanding sign. The three existing sign signs have a square footage of approximately 91 square feet combined. The proposed sign will be approximately 42 square feet and 6 feet in height.***

#### **WAIVER (21-WAIVER-0019)**

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER** to permit a changing image sign to be located closer than 300 ft from a residentially zoned district (LDC 8.2.1.D.6.)

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners in that neighboring sites are fully developed with uses compatible with the use of the site and the signage requested.

(b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver does not violate guidelines of Plan 2040, which requires that: adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20).

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the sign meets all remaining LDC standards and requirements.

(d) Either:

- (i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
- (ii) 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.

STAFF: Strict application of the provisions of the regulation would create an unnecessary hardship as development on adjacent sites is compatible with the use of the subject site and the residential development in the vicinity will suffer minimal to no negative impacts due to the orientation of the sign.

#### **NOTIFICATION**

Date	Purpose of Notice	Recipients
3/16/2021	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
3/22/2021	Hearing before BOZA	Sign Posting

#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. 2040 Checklist
4. Conditions of Approval

#### **1. Zoning Map**





2. Aerial Photograph



### 3. 2040 Checklist

#### Conditional Use Permit Checklist

+ Meet policy

- Does not meet policy

+/- Meets/Does not meet some portion of policy

NA – Not applicable

NIS – Information needed

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
Community Form – Goal 1			
4.	Ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.	+	The modification will allow the removal of the existing signage and replace it with a singular 42 square feet LED freestanding sign.
11.	Ensure setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines.	+	There is no new construction proposed.

Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
12.	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. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.		Transportation Planning was not required to review this proposal.
14.	Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials).	-	The applicant will be asking for relief from the listed requirement item D.
17.	Mitigate adverse impacts of traffic from proposed development on nearby existing communities.		Transportation Planning was not required to review this proposal.



Policy#	Plan Element or Portion of Plan Element	Staff Finding	Comments
18.	Mitigate adverse impacts of noise from proposed development on existing communities.	+	The proposal will be compliant with the Metro Noise Ordinance.
19.	Mitigate adverse impacts of lighting from proposed development on nearby properties, and on the night sky.	+	The lighting will meet the requirements in the Land Development Code.
Goal 2 Community Facilities			
3.	Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).		MSD was not required to review this proposal.

#### **4. Existing 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 proprietary club until further review and approval by the Board

#### **5. Proposed 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 proprietary club until further review and approval by the Board