

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

October 4, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 4, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Kimberly Leanhart

Members Absent:

Yani Vozos

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Heather Pollock, Planner I
Jay Lockett, Planner I
Tara Sorrels, Associate Planner
Priscilla Bowman, Associate Planner
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the October 4, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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SEPTEMBER 27, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:04 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the September 27, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

21-VARIANCE-0112

Request:	Variance to allow a proposed structure to exceed the maximum setbacks, waiver to allow vehicle maneuvering in front of a structure in a traditional form, waiver relating to orientation of entrances towards streets
Project Name:	1500 Crums Ln Project
Location:	1500 Crums Ln
Owner/Applicant:	AL CAT, LLC
Jurisdiction:	Louisville Metro
Council District:	3 – Keisha Dorsey
Case Manager:	Jay Lockett, AICP, 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:

00:07:29 Jay Lockett presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Derek Triplett, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:12:21 Derek Triplett spoke in favor of the request and showed a Powerpoint presentation. Mr. Triplett responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

21-VARIANCE-0112

00:20:15 Board Members' deliberation

00:20:48 On a motion by Vice Chair Buttorff, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the owner's justification statement, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.5.1.A.2 to exceed the maximum 5-foot corner lot setback by up to approximately 540 ft from the Crums Ln right-of-way and by up to approximately 65 feet from the Manslick Rd right-of-way as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health, safety, or welfare as the proposed development does not impede the safe movement of pedestrians or vehicles, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site is situated in an area with similar uses and a variety of setbacks. The greater setback will allow the development to work with the existing storage use to the north of the site, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the building will meet all required health and safety regulations and provisions for the safe circulation of vehicular and pedestrian traffic have been provided, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the site development will fit in with similar uses in the surrounding area, and

WHEREAS, the Board further finds that the owner's justification statements adequately justify the requested variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0112 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2 to exceed the maximum 5-foot corner lot setback by up to approximately 540 ft from the Crums Ln right-of-way and by up to approximately 65 feet from the Manslick Rd right-of-way as shown on the development plan.

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21-VARIANCE-0112

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

00:22:55 On a motion by Member Bond, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code section 5.9.2.C.4 to allow vehicular maneuvering in front of a structure within the Traditional Workplace form district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as adequate buffering and screening will be provided, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as the proposed development will be compatible with surrounding development. The waiver will allow for the expansion of an existing storage use within an existing industrial zone, 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 and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the use is appropriate for the site and all required screening and planting will be provided around the subject site; and

Waiver from Land Development Code section 5.5.1.A.2 to not orient building entrances towards the adjacent streets:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as adequate buffering and screening will be provided, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as the structures will be accessed internally and not from adjacent rights-of-way, and

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WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the use is accessed via an existing similar development and does not directly access the adjacent streets. All required screening will be provided around the subject site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-WAIVER-0107 does hereby **APPROVE** Waiver from Land Development Code Section 5.9.2.C.4 to allow vehicular maneuvering in front of a structure within the Traditional Workplace form district, and 21-WAIVER-0117, Waiver from Land Development Code Section 5.5.1.A.2 to not orient building entrances towards the adjacent streets.

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0109

Request:	Variance to allow a freestanding multi-tenant sign to exceed the maximum permitted area
Project Name:	Sign Variance
Location:	5801 Preston Hwy
Owner:	DaVita
Applicant:	Signarama Downtown
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

00:25:27 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Clare Blim, 1430 Mellwood Ave., Louisville, KY 40206

Summary of testimony of those in favor:

00:33:44 Clare Blim spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0109

00:36:25 Board Members' deliberation

00:37:12 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the location of the sign will not interfere with pedestrian or vehicular traffic or conflict with nearby land uses, which are exclusively commercial, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as it is in character with the existing signage on the site and within the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the sign location will not disrupt pedestrian or vehicular traffic or nearby land uses, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the existing sign meets all other requirements and an addition to this sign is the applicant's only option for a sign at the street entrance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0109 does hereby **APPROVE** Variance to permit a freestanding multi-tenant sign to exceed the total area permitted, LDC Table 8.3.2 Suburban Marketplace Corridor, **(Total Area Permitted 120 sq. ft., Existing 152 sq. ft., Proposed Addition 42 sq. ft., Final Total Area 194 sq. ft.)**.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0127

Request:	Variance to allow a freestanding sign to encroach on the required front yard
Project Name:	Sign Variance
Location:	112 S. Sherrin Avenue
Owner:	KCCM LLC
Applicant:	Derby City Sign
Jurisdiction:	St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

00:39:28 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Mehlbauer, 112 S. Sharon, Louisville, KY 40207
Ken Ackerman, 1427 Hugh Ave., Louisville, KY 40213

Summary of testimony of those in favor:

00:44:48 Michael Mehlbauer spoke in favor of the request (see recording for detailed presentation).

00:47:39 Ken Ackerman responded to questions from the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0127

The following spoke in opposition of the request:

No one spoke.

00:48:27 Board Members' deliberation

00:48:42 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the location of the sign will not interfere with pedestrian or vehicular traffic or conflict with nearby land uses, which are exclusively commercial, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as it is in character with existing signage on adjoining properties with similar uses and within the same zone and form district, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the sign location will not disrupt pedestrian or vehicular traffic or nearby land uses, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the proposed sign meets all other requirements for the site and the proposed location is consistent with existing signs on adjoining properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0127 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 5.4.C.2.a to allow a sign to encroach into the required minimum front yard (**Front Yard Requirement 15 ft., Request 10 ft., Variance 5 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0120

Request:	Variance to allow a principal structure to encroach in the private yard area
Project Name:	Ashland Avenue Variance
Location:	622 W. Ashland Avenue
Owner/Applicant:	Kenneth Goodman
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Heather Pollock, 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:

00:51:17 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kenneth Goodman, 622 W. Ashland Ave., Louisville, KY 40215

Summary of testimony of those in favor:

00:55:06 Kenneth Goodman spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Rachel Roarx, Metro Council District 21, 601 W. Jefferson St., Louisville, KY 40202

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CASE NUMBER 21-VARIANCE-0120

Summary of testimony of those neither for nor against:

00:57:25 Rachel Roarx spoke neither for nor against the request. Ms. Roarx asked if the existing structure was going to be extended, or just covered and screened. Mr. Goodman stated the structure was just going to be covered and screened. Ms. Roarx thanked the applicant for investing in Beechmont and following this process (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:59:20 Board Members' deliberation

00:59:37 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposed addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is additional open space that cannot be included in the calculation. If this area could be counted toward the private yard, then a variance would not be required; now, therefore be it

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0120

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0120 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (**Private Yard Area Requirement 3,037.5 sq. ft., Request 0 sq. ft., Variance 3,037.5 sq. ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0121

Request:	Variance to allow a principal structure to exceed the maximum setback
Project Name:	Saint Andrews Church Road Variance
Location:	7332 Saint Andrews Church Road
Owner/Applicant:	Cristina Gomez
Representative:	Helder Avendano Gomez
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

01:02:09 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

Helder Avendano Gomez, 7912 Osborne Dr., Louisville, KY 40222

Summary of testimony of those in favor:

01:05:26 Helder Avendano Gomez spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:08:14 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0121

01:08:33 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other structures in the area that are setback further from the right of way, including non-residentially used properties, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the front of the subject property is located in the floodplain and the applicants are proposing to utilize an existing structure rather than construct a new residence within the floodplain; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0121 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.2.a to allow a principal structure to exceed the maximum front yard setback (**Front Yard Requirement 51 ft., Request 233 ft., Variance 182 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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PUBLIC HEARING

CASE NUMBER 21-CUP-0041

Request:	Conditional Use Permit to allow a private institutional use
Project Name:	DHKG Ethiopian Church addition
Location:	2216 Goldsmith Lane
Owner/Applicant:	Debre Haile Kidus Gabriel ET
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

NOTE: Testimony was heard for this case and the following related Case (21-VARIANCE-0114). See page 20 of these minutes for motion/vote information for the related variance.

Agency testimony:

01:11:09 Jon Crumbie presented the cases and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Eric Williams, 2322 Artisan Park Pl., Louisville, KY 40023
Desmissie Boku, 3922 Vantage Place, Louisville, KY 40299

Summary of testimony of those in favor:

01:21:54 Chair Howard swore in Mr. Boku and Mr. Williams at the same time. Eric Williams spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 21-CUP-0041

01:27:37 Desmissie Boku responded to questions from the Board Members. Mr. Williams stated there were no attendees at the neighborhood meeting (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:32:32 Board Members' deliberation

01:35:15 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposed improvements are compatible with surrounding development and land uses, and

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

WHEREAS, the Board further finds that:

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

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The proposed structure will be 15 feet from the south property line which is zoned Office Residential 2.**

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- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **A traffic study was not required by Transportation Planning.**
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. Off-street parking is not associated with this proposal. **The remaining site will not be disturbed.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The proposal will comply with the Metro Noise Ordinance.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **Hours of operation has not been provided by the applicant.**

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0041 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use, with **RELIEF** from Standard 4A as the Board finds the proposed location of the structure (15 feet from the south property line) will not be an issue, 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 private institutional use until further review and approval by the Board.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0114

Request:	Variance to allow a proposed structure to exceed the maximum setback
Project Name:	DHKG Ethiopian Church addition
Location:	2216 Goldsmith Lane
Owner/Applicant:	Debre Haile Kidus Gabriel ET
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

NOTE: This case was heard in conjunction with 21-CUP-0041. Please see pages 16 through 17 of these minutes for testimony.

01:37:34 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed structure will be behind the existing church and not have visibility from Goldsmith Lane, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the required screening/landscaping will be added along the side and rear yards, and

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

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the encroachment area will have significant screening/landscaping along the side and rear yards; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0114 does hereby **APPROVE** Variance from Land Development Code Section 5.3.2.C.2.a to allow the placement of a proposed structure to exceed the maximum front yard setback (**Front Yard Requirement 275 ft., Request 572 ft., Variance 297 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

01:40:04 Meeting was recessed.

01:40:39 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 21-CUP-0117

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Breckinridge Short Term Rental
Location:	725 E Breckinridge St
Owner/Applicant:	Tyler J Gaebler
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Chris French, AICP, Planning & 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:

01:41:14 Chris French presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tyler Gaebler, 725 E. Breckinridge St., Louisville, KY 40203

Summary of testimony of those in favor:

01:45:27 Tyler Gaebler spoke in favor of the request and showed a Powerpoint presentation. Mr. Gaebler responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Rose Watkins, 727 E. Breckinridge St., Louisville, KY 40203

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CASE NUMBER 21-CUP-0117

Summary of testimony of those in opposition:

01:52:54 Rose Watkins spoke in opposition of the request. Ms. Watkins stated she does not see Mr. Gaebler there and he is not there to see the things that are going on. Ms. Watkins stated two young ladies had come over to her house and stated they needed to crash her party because it sounded like she was having a better party than them. Ms. Watkins stated she has met Mr. Gaebler but she does not see him and she does not know him. Ms. Watkins spoke about parking issues. Ms. Watkins stated she does not feel comfortable with all the people coming and going. Ms. Watkins responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:03:19 Tyler Gaebler spoke in rebuttal. Mr. Gaebler stated this is the first time he has heard of this incident. Mr. Gaebler told Ms. Watkins she is always welcome to contact him. Mr. Gaebler stated he has worked very hard to keep open communication between his neighbors and has provided his contact information to them. Mr. Gaebler responded to questions from the Board Members (see recording for detailed presentation).

02:12:47 Board Members' deliberation

02:14:58 Public Hearing was reopened and Chair Howard informed Mr. Gaebler that he would have to amend his registration if this case is approved (see recording for detailed presentation).

02:15:47 Board Members' deliberation

02:21:12 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

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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 will not create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has 3 bedrooms that will allow a maximum number of 8 guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the

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condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**

- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **Staff has confirmed that the parking area at the rear of the property can accommodate at least two vehicles. There is one on-street parking space in front of the property along E. Breckinridge St.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**

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- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement**, now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0117 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in a UN Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval.

Condition of Approval:

1. The conditional use permit approval for this short term rental shall be allowed up to one bedroom. A modification of the conditional use permit shall be required to allow additional bedrooms.
2. The applicant shall provide Ms. Watkins with additional contact information for when he is out of town.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-CUP-0121

Request:	Conditional Use Permit to allow outdoor alcohol sales and consumption
Project Name:	El Nopal
Location:	3935 Taylorsville Rd
Owner/Applicant:	McMahan Plaza
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
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:

02:23:41 Jon Crumby presented the case and showed a 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:

Chris Brown, 3001 Taylor Springs Dr., Louisville, KY 40220

Summary of testimony of those in favor:

02:29:27 Chris Brown spoke in favor of the request and showed a Powerpoint presentation. Mr. Brown responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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02:40:17 Board Members' deliberation

02:40:57 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

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

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

WHEREAS, the Board further finds that:

4.2.41 Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C- 1 Zoning District Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C1 zoning district upon the granting of conditional use permit and compliance with the listed requirements

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The proposed outdoor areas have designated boundaries.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **The outdoor dining areas are not located within the public right-of-way.**
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. **The outdoor dining areas are not located adjacent to the public right-of-way.**
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of

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residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). **The outdoor dining areas are not located within 50 feet of residentially zoned or used property.**

- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
1. Restaurant liquor and wine license by the drink for 100 plus seats
 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales. **The appropriate ABC license will be obtained.**
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. **The use of the outdoor dining area for the sale and consumption of alcohol will cease by 1:00 A.M.**
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **All activities will be compliant with the Metro Noise Ordinance.**
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0121 does hereby **APPROVE** Conditional Use Permit to allow the construction of a patio with outdoor alcohol sales and consumption, **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 outdoor alcohol sales and consumption until further review and approval by the Board.

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The vote was as follows:

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

No: Member Leanhart

Absent: Member Vozos

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CASE NUMBER 21-CUP-0140

Request:	Conditional Use Permit to allow short term rental of dwelling units that are not the primary residence of the host
Project Name:	Scales Short Term Rental
Location:	195 Crescent Avenue
Owner/Applicant:	Douglas and Karen Scales
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

02:43:16 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Douglas Scales, 2100 Northfield Dr., Louisville, KY 40222

Summary of testimony of those in favor:

02:45:51 Douglas Scales spoke in favor of the request. Mr. Scales stated they will only allow a total of four guests per unit, not six. Mr. Scales responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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02:55:09 Board Members' deliberation

02:55:34 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that unit #1 has two bedrooms that will allow a maximum number of six guests and unit #2 has two bedrooms that will allow a maximum number of six guests.**

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The applicant states that parking will not be allowed on Crescent Avenue and there is a detached garage and driveway to provide up to four off- street parking spaces.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

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- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0140 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units that are not the primary residence of the host in an R-6 Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

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

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2. The conditional use permit approval for this short term rental in unit #2 shall be allowed up to two bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Bond, Leanhart, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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02:57:30 Prior to adjournment, Emily Liu, Planning & Design Director, advised the Board Members of upcoming virtual meetings regarding Day Care Regulations, as well as four in-person meetings (see recording for detailed presentation).

The meeting adjourned at approximately 4:15 p.m.

Chair

Secretary