

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

June 7, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 7, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Michael Seale, Vice Chair
Sharon Bond, Secretary
Richard Buttorff
Yani Vozos
Kimberly Leanhart

Members Absent:

Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Dante St. Germain, Planner II
Zach Schwager, Planner I
Jay Lockett, Planner I
Joel Dock, Planner II
Jon Crumby, Planning & Design Coordinator
Laura Ferguson, Legal Counsel
Travis Feichter, 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 June 7, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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MAY 17, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:26 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the May 17, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

Abstain: Member Leanhart

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES

June 7, 2021

BUSINESS SESSION

CASE NUMBER 21-VARIANCE-0050

Request: Variance to allow an accessory structure to encroach into the required rear yard setback
Project Name: Bocagrande Drive Variance
Location: 5808 Bocagrande Drive
Owner: Tamela & Bryan Strong
Applicant: Timothy Hester – Hester Contracting, LLC
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:06:36 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:14:50 Vice Chair Seale questioned why the applicant is not building to the setback requirement. Chair Howard asked if he had read the applicant's justification. Vice Chair Seale stated he had. Chair Howard asked if he did not think that was a satisfactory answer. Vice Chair Seale stated that was correct. Chair Howard stated if the Members wanted to hear from the applicant this item would have to be opened for Public Hearing, because it is on the agenda as a Business Session item. Members Buttorff and Bond stated they would also like to hear from the applicant (see recording for detailed presentation).

00:16:17 Chair Howard opened Public Hearing for this case and called the applicant for testimony. Joe Haberman, Planning & Design Manager, stated he did not see the applicant in the attendee list. Mr. Haberman called for anyone who was present to speak on this case. No one was present to speak. Mr. Haberman asked Laura Ferguson, Legal Counsel, if we have to advertise it as such so that other people that may want to speak have the opportunity if this was going to be a Public Hearing. Laura

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BUSINESS SESSION

CASE NUMBER 21-VARIANCE-0050

Ferguson, Legal Counsel, stated if this was going to Public Hearing it would need to be noticed. The Board Members, Staff, and Legal Counsel discussed options for the Board Members' action today (see recording for detailed presentation).

00:23:45 On a motion by Vice Chair Seale, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby move Case Number 21-VARIANCE-0050 to the end of today's agenda to allow Mr. Schwager the opportunity to contact the applicant for further information regarding justification for the variance request.

The vote was as follows:

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

Absent: Member Jagoe

04:55:24 Vice Chair Seale recalled this case at this time. Joe Haberman stated there was no one to offer testimony. Mr. Haberman stated Zach tried to reach out to the applicant for answers to the Board Members' questions. Mr. Schwager stated he was unable to reach the applicant. Mr. Haberman stated the reasoning isn't necessarily relevant to whether it meets the standards or not for a variance. Mr. Haberman stated if the Members feel the applicant has not provided enough justification, we can ask for that but typically we do not take testimony for a Business Session item so if the Members really need to hear from him directly then we need to consider having a Public Hearing. Mr. Haberman stated we don't normally do that, so we'd have to know what extraordinary circumstances are at play here. Mr. Haberman stated Zach can reach out to him and get all the answers to their questions and if they're uncomfortable with those answers they can always deny the application. Vice Chair Seale stated there is one issue basically, and that is why is there a request for the variance. The Board Members, Staff and Legal Counsel discussed the case further (see recording for detailed presentation).

05:04:26 On a motion by Member Bond, seconded by Member Buttorff, the following resolution was adopted:

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CASE NUMBER 21-VARIANCE-0050

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-VARIANCE-0050 to the June 21, 2021 Board of Zoning Adjustment meeting as a Business Session Item to receive additional information to support the determination of justification.

The vote was as follows:

Yes: Members Buttorff, Vozos, Leanhart, Bond, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0104

Request:	Variances to exceed maximum allowed height and to exceed maximum allowed setback
Project Name:	Providence Point
Location:	2020 Herr Lane
Owner:	Providence Point LLC
Applicant:	Providence Point LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
Case Manager:	Dante St. Germain, AICP, Planner II

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

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

Agency testimony:

00:25:07 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40222

Summary of testimony of those in favor:

00:33:16 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilwoman Paula McCraney, 601 W. Jefferson St., Louisville, KY 40202

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CASE NUMBER 20-VARIANCE-0104

Summary of testimony of those neither for nor against:

00:46:04 Councilwoman Paula McCraney asked what the need is for the variance. Councilwoman McCraney asked if this was to accommodate for more apartments (see recording for detailed presentation).

00:47:09 Mr. Pregliasco stated the height relates to modern apartments having taller ceilings. Councilwoman McCraney stated if that is the excuse, why is it for just those in the back. Mr. Pregliasco stated the others are reduced to three stories instead of four. Mr. Pregliasco referred to the elevations of the buildings. Chair Howard explained that part of the variance request includes the portion of the building above the roof. Councilwoman McCraney stated that helps, but it seems there is a building that is similar that faces Herr Lane and why is the variance not needed there as well. Mr. Pregliasco stated because they are smaller buildings, less units in those. Councilwoman McCraney asked if someone could tell her if these were all three stories how many units the complex would have. Mr. Pregliasco stated he would have to look at that. Councilwoman McCraney stated she would like to know the difference if they were all three story buildings. Chair Howard stated perhaps while we listen to those in opposition the applicant's representatives can figure that out before deliberation (see recording for detailed presentation).

The following spoke in opposition of the request:

Jackie Gedrose, 7108 Wesboro Road, Louisville, KY 40222

Marsha Hicks, 4924 Grantham Pl., Louisville, KY 40222

Pat Roles, 2208 Wynnewood Circle, Louisville, KY 40222

Jennifer Whitfield, 2010 Lynn Way, Louisville, KY 40222

Summary of testimony of those in opposition:

00:56:56 Jackie Gedrose spoke in opposition of the request. Ms. Gedrose stated four stories is too high because it would alter the essential character of the general vicinity which is the Herr Lane Corridor. Ms. Gedrose referred to a picture she had submitted showing the surrounding area. Ms. Gedrose stated this variance would absolutely alter the character as there are no buildings taller than two stories along the Herr Lane Corridor, and no credible reason has been given to disregard the Land Development Code (see recording for detailed presentation).

01:01:44 Marsha Hicks spoke in opposition of the request. Ms. Hicks stated it seems the justification for this variance is to increase the number of floors of the five buildings. Ms. Hicks stated she thinks it is reasonable to ask the Board to enforce the

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three story maximum. Ms. Hicks stated the pictures the applicant showed are the commercial area to the north of Brownsboro Road. Ms. Hicks stated there was a picture showing residential, and it only showed two houses but there are many subdivisions around this area. Ms. Hicks stated she lives in Crossgate, so these five buildings are the closest to her subdivision and her street. Ms. Hicks stated the applicant argues that it won't alter the essential character, but it will. Ms. Hicks stated the overwhelming buildings in this area are one and two story homes. Ms. Hicks requested the Board deny the variance for the four story buildings. Ms. Hicks responded to a question from Member Buttorff (see recording for detailed presentation).

01:05:52 Pat Roles asked if there were going to be three three story buildings and five four story buildings. Chair Howard stated there would be seven three story buildings and five four story buildings. Mr. Pregliasco stated that is correct. Ms. Roles stated she is shocked that the Planning Commission approved this development, because as the first two speakers said it is out of character with the neighborhood. Ms. Roles stated it is going to bring more people and more traffic to this neighborhood which they do not need. Ms. Roles discussed traffic concerns. Chair Howard stated the Board is requested to act on the height of the buildings and the front yard of one building, but Mr. Pregliasco will be able to address her testimony. Chair Howard stated they can't answer about traffic. Ms. Roles stated the size of this development and its proposed location necessitates the fact that we talk about traffic. Ms. Roles stated traffic is a horrible problem in this area. Ms. Roles described traffic problems in the area (see recording for detailed presentation).

01:13:46 Jennifer Whitfield spoke in opposition of the request. Ms. Whitfield stated they have spoken at prior meetings and they felt they were never heard. Ms. Whitfield stated there have been in excess of one hundred complaints directed to Ms. St. Germain's office. Ms. Whitfield stated some of the hearings were very askew and brought to an abrupt halt one evening, so they don't feel like they've been given any genuine thought to their concerns. Ms. Whitfield stated a four story building in this neighborhood does not fit and should be taken down to a three story building. Ms. Whitfield stated the traffic is barbaric already. Ms. Whitfield discussed traffic issues and other new development in the area (see recording for detailed presentation).

REBUTTAL:

01:17:50 Scott Hagan (12911 Reamers Road, Louisville, KY 40245) spoke in rebuttal. Mr. Hagan provided a history of the property. Mr. Hagan stated their object is to bring a top level project to this property. Mr. Hagan stated Ms. McCraney wanted to know about the four story versus the three story. Mr. Hagan stated Mr. Pregliasco was correct that certainly ceiling heights make a big difference, but also the density that is

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necessary for this project, which is what the Planning Commission approved, is necessary to fix so many of the issues that have been brought up by the opposition. Mr. Hagan stated they are spending out of their pockets over five million dollars, as much as six million dollars to fix the roads around this property. Mr. Hagan stated doing the four story in the back provides an additional sixty-eight units, which are necessary in order for them to provide the quality of product they want and to pay for these off-site improvements that usually are paid for by the city and county. Mr. Hagan stated they're fixing a 1950's era road and bringing it into modern times. Mr. Hagan stated absolutely if you view bringing their project online through the lens of the road system staying the way it is, then it doesn't compute well. Mr. Hagan stated they are completely changing the complexion of the road improvements in that area. Mr. Hagan stated the reduction in traffic from the current plan is sixty-seven percent in the morning and seventy in the evening. Mr. Hagan stated this is a far less intensive project traffic-wise. Mr. Hagan stated they can't lose a story on the back and pay for what is necessary to be spent to fix the road system in this area (see recording for detailed presentation).

01:22:26 Nick Pregliasco stated this is not a rezoning, it is a revised plan, and this is a step down in intensity as Scott just mentioned (see recording for detailed presentation).

01:23:27 Board Members' deliberation

01:27:06 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:

Variance from Table 5.2.2 to allow residential buildings in the OR-3 and C-1 Zoning District and the Town Center form district to exceed 45' in height:

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 buildings with the excess height will be located to the rear of the property and will not create sight line issues at Herr Lane or the access drives, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the buildings requiring the variance will be located to the rear of the property and the variance is unlikely to be noticed from Herr Lane, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the buildings will be built to building code and will not constitute a hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance requested is minimal and the most affected neighboring property is in institutional use; and

Variance from 5.2.2 to exceed the front yard maximum setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as an excess setback does not create a public health, safety or welfare issue, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as most of the buildings on the Herr Lane frontage observe the required maximum setback, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as an excess setback does not constitute a hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the majority of the buildings along Herr Lane observe the required maximum setback; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0104 does hereby **APPROVE** Variance from Table 5.2.2 to allow residential buildings in the OR-3 and C-1 Zoning District and the Town Center form district to exceed 45' in height (**Requirement 45', Request 52', Variance 7'**), and Variance from 5.2.2 (20-VARIANCE-0167) to exceed the front yard maximum setback (**Requirement 25', Request 57.61', Variance 32.61'**).

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0113

Request:	Variances to exceed maximum front setbacks and encroach into minimum rear setbacks
Project Name:	Assumption Greek Orthodox Church
Location:	930 Ormsby Ln
Owner:	Assumption Greek Orthodox Church
Applicant:	Assumption Greek Orthodox Church
Representative:	Jacobi, Toombs and Lanz
Jurisdiction:	Lyndon
Council District:	18 – Marilyn Parker
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:

01:30:19 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:

Mike Harris, 2307 River Road, Louisville, KY 40206

Summary of testimony of those in favor:

01:34:44 Mike Harris 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.

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01:38:20 Board Members' deliberation

01:38:39 On a motion by Member Vozos, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Lyndon Land Development Code Table 5.3.2 to exceed the 80-foot maximum front yard setback by up to 160 feet 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 variance does not impede the safe movement of pedestrians or vehicles, and the proposed development will be in keeping with the development pattern of the area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site has historically been used as a religious institution and has previously been granted variances to exceed setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the development will follow all building and safety requirements, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as there are a range of site designs and housing types in the area. The variance will allow for an existing site to be expanded in a reasonable manner; and

Variance from Lyndon Land Development Code Table 5.3.2 to encroach into the 50-foot required setback adjacent to residential properties by up to 35 feet 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 variance does not impede the safe movement of pedestrians or vehicles, and the proposed development will be in keeping with the development pattern of the area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site has historically been used as a

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religious institution and has previously been granted variances to exceed setbacks. The applicant will provide required screening and buffering adjacent to residential properties, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the development will follow all building and safety requirements, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as there are a range of site designs and housing types in the area. The variance will allow for an existing site to be expanded in a reasonable manner; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0113 does hereby **APPROVE** Variance from Lyndon Land Development Code Table 5.3.2 to exceed the 80-foot maximum setback by up to 160 feet as shown on the development plan, and (20-VARIANCE-0114) Variance from Lyndon Land Development Code Table 5.3.2 to encroach into the 50-foot required setback adjacent to residential properties by up to 35 feet as shown on the development plan.

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0040

Request:	Variance to exceed maximum front yard setback
Project Name:	Todd's Place Lot 2
Location:	4409 Bardstown Rd
Owner:	Ad Properties LLC
Applicant:	Ad Properties LLC
Representative:	Charles Podgursky
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
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:

01:42:06 Jay Lockett presented the case and showed a Powerpoint presentation (see 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.

01:48:12 Board Members' deliberation

01:48:36 On a motion by Member Bond, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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CASE NUMBER 21-VARIANCE-0040

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 variance does not impede the safe movement of pedestrians or vehicles, and the proposed development will be in keeping with the development pattern of the area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are a mix of residential and commercial designs within the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the development will follow all building and safety requirements, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as there are a range of site in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0040 does hereby **APPROVE** Variance to exceed the maximum 80-foot front setback by up to 26.5 feet as shown on the development plan.

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0031

Request:	Variances to exceed the maximum size requirements for signage and maximum setback
Project Name:	Cedar Creek Crossing
Location:	7704-7718 Bardstown Road & 7509 Cedar Creek Road
Owner:	Real Properties Plus II, LLC; Park Community Credit Union; Cindy Sue daily
Applicant:	Hogan Real Estate
Representative:	Dinsmore & Shohl, LLP – Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Joel P. Dock, 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:

01:50:25 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

Cliff Ashburner, 101 S. Fifth St., Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:00:35 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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02:23:52 Joel Dock explained the location of the 16' signs (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:26:58 Board Members' deliberation

02:27:40 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from LDC Section 5.3.1 to exceed the maximum setback along a parkway from 95' to 265' on Tract 6:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the setback is being proposed in combination with out-lot development that seeks to be located within the required setbacks. The setback does not encroach upon any parkway buffers or impact the provisioning of landscaping along the parkway; thus, preserving the intent of the parkway, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal does not affect public, health, safety, or welfare or the essential character of the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is being proposed in combination with out-lot development that seeks to be located within the required setbacks; now, therefore be it

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CASE NUMBER 21-VARIANCE-0031

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0031 does hereby **APPROVE** Variance from LDC Section 5.3.1 to exceed the maximum setback along a parkway from 95' to 265' on Tract 6.

The vote was as follows:

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

Absent: Member Jagoe

02:28:57 Board Members' deliberation (Variance #2)

02:32:43 On a motion by Vice Chair Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from LDC Section 8.3.3/Table 8.3.3 to allow signage to exceed the maximum as specified in a table included in the Staff Report:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will alter the essential character of the general vicinity as signage is being requested in excess of the parkway requirements in an area that is developing. The parkway signage requirements reduce the ordinary standards for signage in the neighborhood form district to enhance the visual experience along the parkway. When developing in this section of the corridor between I-265 and Cedar Creek Road, it is important to maintain the requirements of the parkway to set the stage for the pattern of development in the area. The desired pattern of the corridor is established by the parkway which calls for smaller signs and enhanced landscaping, and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of zoning regulations as the site does not appear to have any physical or environmental features that prevent compliance with the regulation and no development has occurred; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0032 does hereby **DENY** Variance from LDC Section 8.3.3/Table 8.3.3 to

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CASE NUMBER 21-VARIANCE-0031

allow signage to exceed the maximum as specified in a table included in the Staff Report.

The vote was as follows:

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

No: Member Vozos

Absent: Member Jagoe

02:34:18 Meeting was recessed.

02:40:34 Meeting was reconvened.

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CASE NUMBER 21-VARIANCE-0041

Request:	Variances to encroach upon required setbacks
Project Name:	11701 Gateworth Way
Location:	11701 Gateworth Way
Owner:	Bennett Realty, LLC
Applicant:	Drake Real Estate Services – Jon Hauser
Representative:	LD&D
Jurisdiction:	City of Middletown
Council District:	20 – Stuart Benson
Case Manager:	Joel Dock, 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:

02:41:21 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ann Richard, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

02:46:36 Ann Richard spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 21-VARIANCE-0041

02:51:22 Board Members' deliberation

02:52:03 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from LDC Section 5.3.5 to reduce the front setback along a private access easement from 25' to 15':

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the setback falls in line with existing development along the private access easement, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal does not affect public, health, safety, or welfare or the essential character of the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is consistent with existing development along the private road; and

Variance from LDC Section 5.3.5 to reduce the expressway setback from 50' to 25' at its closest point:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the setback falls in line with existing development along the expressway, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal does not affect public, health, safety, or welfare or the essential character of the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is consistent with existing development and the regulations was not in place when the existing development occurred; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0041 does hereby **APPROVE** Variance from LDC Section 5.3.5 to reduce the front setback along a private access easement from 25' to 15', and (21-VARIANCE-0055) Variance from LDC Section 5.3.5 to reduce the expressway setback from 50' to 25' at its closest point.

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-CUP-0035

Request:	Conditional Use Permit to allow a potentially hazardous or nuisance use
Project Name:	Midwest Environmental
Location:	4185 Algonquin Parkway
Owner(s):	Univar, USA Inc.
Applicant:	Ray Boyle
Jurisdiction:	1 – Jessica Green
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: Chair Howard left the meeting at approximately 3:55 p.m. Vice Chair Seale chaired the remainder of today's meeting.

Agency testimony:

02:54:51 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Talbott, 1000 N. Hurstbourne Pkwy., Louisville, KY 40222
Ray Boyle, 6829 Raven Crest, Hamilton, OH 45011

Summary of testimony of those in favor:

02:59:58 Vice Chair Seale swore in Mr. Talbott and Mr. Boyle at the same time. Mr. Talbott spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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03:23:14 Ray Boyle responded to questions from the Board Members (see recording for detailed presentation).

03:26:56 Mr. Talbott and Mr. Boyle responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:36:28 Board Members' deliberation

03:37:57 On a motion by Member Vozos, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

4.2.42 Potentially Hazardous or Nuisance Uses

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

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- A. The Comprehensive Plan; **The proposal will be a re-use of the existing buildings and tanks on site without any expansion. It is compatible with the scale and site design of nearby existing development. Additionally, the applicant will be adding a multi-use path easement that will connect to the Louisville Loop along its front property line.**
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare; **The applicant will comply with all new and current federal, state, and local environmental and air pollution regulations. Most of the activity will take place indoors except for the truck traffic which is typically three trucks per hour.**
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare; **The existing structures on site will remain and no new construction will take place on site. Landscaping requirements will be met. There is a large tree buffer along the rear property line, which abuts railroad tracks.**
- D. Any other evidence submitted by the applicant and any other party addressing the issues. **See applicant's compliance statement.**

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies.

EZ-1 and M-3

Aluminum powder Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not including storage

Cement, gypsum, lime, and plaster of paris (but not storage)

Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation

(non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting

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Coal, coke, or tar products including fuel gas, and coke-oven products Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products cupolas, and blooming mills (but not storage of metal products)
Minerals and earths (including sand-lime products), grinding, crushing, processing or storage Paint manufacture, processing, or treatment (but not storage)
Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products
Plastic, manufacture, processing, treatment, or bulk storage Radioactive materials
Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products
Waste paper and rag operations

Wood pulp or fiber, reduction or processing (including paper mill operations); now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0035 does hereby **APPROVE** Conditional Use Permit to allow a potentially hazardous or nuisance use, **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 potentially hazardous or nuisance uses (Environmental Management Facility) until further review and approval by the Board.

The vote was as follows:

Yes: Members Buttorff, Vozos, Leanhart, Bond, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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CASE NUMBER 21-CUP-0053

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:	Dimora Short Term Rental
Location:	4501 South 1st Street
Owner/Applicant:	Umile Dimora, LLC
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
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:

03:40:42 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:

Michael Marks, 2933 Bowman Ave., Louisville, KY 40205

Summary of testimony of those in favor:

03:43:49 Michael Marks spoke in favor of the request and showed a Powerpoint presentation. Mr. Marks stated there is a letter of opposition and the owner has been in contact with the neighbor and he believes most of the concerns have at least been addressed. Mr. Marks 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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03:50:42 Board Members' deliberation

03:51:14 On a motion by Member 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

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 four bedrooms that will allow a maximum number of ten 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 proposal has credit for on-street parking and there appears to be ample parking along the street. The applicant states that there is a one car garage and driveway located on site.**
- 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-0053 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

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The vote was as follows:

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

No: Member Leanhart

Absent: Member Jagoe, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-CUP-0058

Request:	Conditional Use Permit to allow an accessory apartment in an R-5 zoning district
Project Name:	Damico Accessory Apartment
Location:	1815 Newburg Road
Owner/Applicant:	Diane Damico
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
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:

03:53:03 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Diane Damico, 1815 Newburg Rd., Louisville, KY 40205
Lindsay Serrano, 1919 Newburg Rd., Louisville, KY 40205

Summary of testimony of those in favor:

03:56:26 Diane Damico spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:58:51 Lindsay Serrano spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 21-CUP-0058

The following spoke neither for nor against the request:

Councilwoman Cassie Chambers-Armstrong, 601 W. Jefferson St., Louisville, KY 40202

Summary of testimony of those neither for nor against:

04:00:20 Councilwoman Cassie Chambers-Armstrong spoke neither for nor against the request. Councilwoman Chambers-Armstrong stated she has heard no opposition to this request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

04:02:20 Board Members' deliberation

04:02:38 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and with the general character of the area. The structure will maintain the appearance of a single-unit home. The only addition will be an exterior staircase which will not interrupt the front façade, and

WHEREAS, the Board further finds that the proposed development will not substantially increase demands on public infrastructure and facilities. The Louisville Water Company has provided approval and the Department of Public Works had no concerns with the proposal, and

WHEREAS, the Board further finds that:

4.2.3. Accessory Apartments Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements:

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- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The owner will live in the principle dwelling (unit #1) on the premises.**
- B. The accessory apartment shall be no greater than 650 sq. ft. or 30% of the floor area of the principal residence, whichever is greater. **The proposed accessory apartment is approximately 475 square feet which is less than the required 650 square feet.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **The accessory apartment will not exceed the height of the principal residence since it is located in an existing structure.**
- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
1. **Neighborhood Form District** - at least three off-street spaces provided on the lot, no more than two spaces outdoors; **at least three off-street spaces provided on the lot**
 2. **Traditional Neighborhood** - at least one off-street space provided on the lot; and
 3. **Other form districts** - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0058 does hereby **APPROVE** Conditional Use Permit for an Accessory Apartment, **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. All development shall be in accordance with the approved development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).

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2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for an Accessory Apartment without further review and approval by BOZA.
3. The applicant is required to contact Louisville Metro Emergency Services to have a unique address assigned to the accessory apartment.

The vote was as follows:

Yes: Members Buttorff, Vozos, Leanhart, Bond, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-CUP-0059

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Damico Short Term Rental
Location:	1815 Newburg Road
Owner/Applicant:	Diane Damico
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
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:

04:06:28 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Diane Damico, 1815 Newburg Rd., Louisville, KY 40205

Summary of testimony of those in favor:

04:08:59 Diane Damico 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:

Councilwoman Cassie Chambers-Armstrong, 601 W. Jefferson St., Louisville, KY 40202

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CASE NUMBER 21-CUP-0059

Summary of testimony of those neither for nor against:

04:12:26 Councilwoman Cassie Chambers-Armstrong spoke neither for nor against the request. Councilwoman Chambers-Armstrong stated she has heard from a very limited number of people, one person who expressed generally concern over enforcing the 600 foot rule, and from others who say this is a unique circumstance. Councilwoman Chambers-Armstrong stated she thinks in general there is confusion and a desire to better understand how duplexes became to be known as non-owner occupied. Councilwoman Chambers-Armstrong stated many of those people have expressed that Ms. Damico is a wonderful neighbor (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

04:16:10 Board Members' deliberation

04:16:33 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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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 one bedroom that will allow a maximum number of four 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 is one property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**
- 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

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

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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-0059 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Neighborhood Form District, with **RELIEF** from Standard 4D since this is a unique situation and the owner will be in her residence on the same property, and **SUBJECT** to the following Conditions of Approval.

Conditions 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 host of record for the short term rental shall maintain his or her primary residence in one of the two dwelling units on the subject property. In the event that the host establishes primary residence on another property he or she must immediately cease conducting short term rentals of both units on the subject property. A new Conditional Use Permit shall be required to allow for short term rental of any unit on the property that is not the primary residence of the host.

The vote was as follows:

Yes: Members Buttorff, Vozos, Leanhart, and Vice Chair Seale

No: Member Bond

Absent: Member Jagoe, and Chair Howard

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CASE NUMBER 21-CUP-0060

Request: Conditional Use Permit to allow short term rental of dwelling units that are not the primary residence of the host
Project Name: Powell Short Term Rental
Location: 210 Crescent Court
Owner/Applicant: James and Kathy Powell
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:

04:19:31 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James and Kathy Powell, 14404 Maple Ridge Pl., Louisville, KY 40245

Summary of testimony of those in favor:

04:22:27 Vice Chair Seale swore in Mr. and Mrs. Powell at the same time. James Powell 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:

Fran Dotson, 206 Crescent Court, Louisville, KY 40206

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Summary of testimony of those in opposition:

04:26:00 Fran Dotson spoke in opposition of the request. Ms. Dotson stated the area is primarily a family area and they feel having a short term rental could be detrimental not only to the neighborhood in general, but they don't really feel like they would like to have short term rental properties when they have family homes surrounding that rental property. Ms. Dotson stated the Powell's have maintained that property as a duplex for several years. Ms. Dotson stated they haven't had a problem with it being a duplex at all, but they don't have any other short term rental properties in the area, and they feel that might be detrimental to the neighborhood and to their property values. Ms. Dotson responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

04:28:58 James Powell spoke in rebuttal. Mr. Powell stated he has been managing properties for twenty years. Mr. Powell stated short term rentals historically do not lower the property values. Mr. Powell stated the upstairs unit is currently a long term rental and the tenant is under lease for another eleven months. Mr. Powell responded to questions from the Board Members (see recording for detailed presentation).

04:32:13 Board Members' deliberation

04:33:16 On a motion by Member Bond, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal 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

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WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that unit 1 has two bedrooms that will allow a maximum number of six guests and unit 2 has three bedrooms that will allow a maximum number of eight guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are no short term rental conditional use permits within 600ft.**
- 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

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rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**

- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site has six off-street parking spaces and credit for two on-street 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.**
- 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.**

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- 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-0060 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-5A 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.
2. The conditional use permit approval for this short term rental in unit #2 shall be allowed up to three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Buttorff, Vozos, Leanhart, Bond, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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CASE NUMBER 21-CUP-0062

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:	E. Lee Street Short Term Rental
Location:	444 E. Lee Street
Owner/Applicant:	Lisa Stewart Eriks
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

04:36:10 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Lisa Stewart Eriks, 10500 Catfoot St., Prospect, KY 40059

Summary of testimony of those in favor:

04:38:44 Lisa Stewart Eriks submitted a presentation to Mr. Schwager earlier today, but Mr. Haberman reminded the Board Members that their by-laws state no new information is accepted the day of the meeting unless they want to accept it. Mr. Haberman stated the concern is that members of the public did not have an opportunity to see it. Ms. Eriks stated she could continue without the presentation. Ms. Eriks spoke in favor of the request and responded to questions from the Board Members. (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:52:46 Board Members' deliberation

04:53:35 On a motion by Member Vozos, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal 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 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

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of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of eight guests.**

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are no short term rental conditional use permits within 600ft.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site has two off-street parking spaces and one on-street space.**
- 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-0062 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-6 Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

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The vote was as follows:

Yes: Members Buttorff, Vozos, Leanhart, Bond, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

04:55:24 The Business Session Item on today's agenda was recalled at this time.
Please see Page #4 of these minutes for additional information.

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05:07:12 Prior to adjournment, Joe Haberman, Planning & Design Manager, stated Planning & Design Offices will be reopened this Friday. However, online meetings will continue through June and July so long as we are allowed. Mr. Haberman stated we will be changing our in-person location from our building back to the Old Jail Auditorium (see recording for detailed presentation).

The meeting adjourned at approximately 6:15 p.m.

DocuSigned by:

Lula Howard

Chair

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DocuSigned by:

Sharon Bond

Secretary

3106677EAC7453...