

Board of Zoning Adjustment

Staff Report

April 21, 2025



Case No:	25-CUP-0030
Project Name:	Proposed Event Space and Short-Term Rental
Location:	2612 S English Station Road
Applicant:	2nds in Building Materials
Representative:	Bardenwerper, Talbott & Roberts, PLLC.
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Molly Clark, Planner II

REQUEST(S)

- **Conditional Use Permit** to allow a private proprietary club in the R-R Single-Family zoning district (Land Development Code 4.2.44) with relief from item D to allow a 6' tall 60 SF free-standing sign.
- **Conditional Use Permit** to allow short term rental of a dwelling unit that is not the primary residence of the owner (LDC 4.2.63).
- **Waivers:**
 1. **Waiver** from section 5.9.2.A.1.b.ii to not provide a vehicular connection to the site to the south (25-WAIVER-0031)
- **Floyds Fork Special Zoning Overlay District Review**

CASE SUMMARY

The subject site is currently zoned RR rural residential within the Neighborhood Form District on 23.70 acres. The site has an existing 49,068 SF structure that previously operated as a horse stable. The applicant is proposing to use the existing structure as a private proprietary club that will be used as event space. The applicant is also constructing 2,800 square foot, 1-story residential structure that will operate as a short-term rental with 3 bedrooms which would allow for a maximum of 8 guests. There are no other short-term rentals within 600 feet. The subject site is located right at the Echo Trail and S English Station Road intersection and is within the Floyds Fork Special Zoning Overlay District Review. The subject site has several environmental constraints such as steep slopes, karst terrain and a stream/stream buffer. The applicant is proposing improvements outside of environmentally constrained areas.

STAFF FINDING

Both conditional use permits are adequately justified for approval and appears to meet all standards, including the relief requested relating to sign size. The requested waiver is adequately justified for approval based on the analysis contained in the standard of review. The proposed plan meets the requirements of the Land Development Code and the guidelines of the Comprehensive Plan.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

Karst Survey

- The development site is located within the Karst Prone area of Jefferson Count. A karst survey was conducted by Grant Hess with ECS on April 12, 2021. A closed depression was observed near the existing septic tank as indicated on the plan.

Steep Slopes

- LDC Section 4.7.5 states that land disturbing activities on slopes greater than 20% is permitted on lots created by major subdivision after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the following standards:
 - ❖ The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,
 - ❖ Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,
 - ❖ A geotechnical survey report shall be submitted for land disturbing activities on slopes greater than 20% and less than 30%. A geotechnical survey report shall be submitted for land disturbing activities on slopes greater than 30%. Such survey will ordinarily include information obtained by drilling, locating of bedrock and testing of soils for shear strength. The report shall be prepared by a licensed and Kentucky-registered professional engineer practicing in accordance with KRS 322 and whose area of expertise includes geotechnical engineering. The report shall include mitigation measures as needed to ensure stability and minimize environmental impact during site preparation and construction phases of the regulated activity, including erosion and sediment control measures to assure compliance with the Jefferson County Erosion and Sediment Control Ordinance. The report shall demonstrate that:
 - The slope's ground surface and subsurface are not unstable;
 - Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on-site and on adjacent lands; and,
 - If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

The proposal does not involve the disturbance of slopes that are more than 20%

Floyds Fork Special Zoning Overlay District

- The subject site is subject to the Floyds Fork Special Zoning Overlay District (FFSZOD) regulations. This proposed development meets the threshold for Tier 2 Regulated Activities in LDC Table 3.1.1, which requires approval by the Planning Commission or its designee. The

Board of Zoning Adjustment may approve Tier 2 activities associated with a Conditional Use Permit.

- LDC Section 3.1.3.E states that areas with slopes 30 percent or greater shall not be disturbed. This proposed development site contains steep slopes greater than 30%. The applicant will not be proposing any land disturbing activities within the areas on the subject site with 30 percent or greater slopes.

INTERESTED PARTY COMMENTS

All comments received have been placed in the record and made available to the Board in advance of the public meeting

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT TO ALLOW A PRIVATE PROPRIETARY CLUB

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

STAFF: The proposal is consistent with the land use and development policies of Plan 2040. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between land uses that are different in scale and intensity. The proposed parking areas are meeting the required setbacks. The property is densely populated with trees and natural landscaping, which is to remain.

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

STAFF: The proposal is compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance. The property is densely populated with trees and natural landscaping, which are to remain, which is consistent with neighboring properties.

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

STAFF: Necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services are adequate to serve the proposed use are available.

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

Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit. Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

A. All new buildings, structures and facilities shall be at least 30 feet from any property line.

B. Outdoor swimming pools shall be enclosed with a fence at least six feet high.

C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.

D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing

STAFF: The proposed proprietary club will be located at least 30 feet from all property lines. There are no outdoor swimming pools proposed and there are no recreation areas or play fields on the proposed plan. The applicant has requested relief from item D to allow a 60 SF freestanding sign. The proposed sign meets the form district standards per Chapter 8 of the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT TO ALLOW A SHORT TERM RENTAL

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

STAFF: The proposal does not conflict with applicable policies of the Comprehensive Plan.

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

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

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

STAFF: Necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services are adequate to serve the proposed use are available.

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

A short term rental of dwelling unit that is not the primary residence of the owner or the short term rental of a condominium unit that is the primary residence of the owner 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; Short Term Rental of a dwelling unit that is not the primary residence of the owner or a condominium unit that is the primary residence of the owner that is in a OR, OR-1, or OR-2 district and a TN form district; and Short Term Rental of any dwelling unit in a TNZD district. 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 for 30 consecutive days or more is not considered a short term rental.

B. The dwelling unit shall be limited to a single short term rental contract at a time.

C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the registered property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. If the aforementioned occupancy allows for more than 12 individuals, there shall be a maximum of 12 persons over the age of 16. The Board may further restrict the number of individuals. Relief to this provision may be provided by the Board on a case-by-case basis if the applicant can demonstrate that a greater occupancy will be in compliance with life safety and occupancy standards and the short term rental is of a sufficient distance to not adversely impact neighboring property.

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 nearest property line) to any property (i) on which another approved short term rental that required a conditional use permit is situated or (ii) located in an OR. OR-1 or OR-2 district and a TN form district which has an active registration and has maintained an active registration prior to the effective date of this provision and it has not been conclusively proven to the Board that the holder of the registration is the owner of the property, and the property is the owner's primary residence. Relief to this provision may be provided by the Board on case-by-case basis for the following reasons; however relief may be denied upon consideration of other factors and the burden is on the applicant to demonstrate that the subject short term rental would not contribute to an overconcentration of short term rentals in the immediate area and/or adversely affect the affordable housing stock in the immediate area.

1. Reasons for Potential Relief:

- a. The property is adjacent to nonresidential zoning districts that allow short term rentals by right.
- b. There is a significant environmental feature or primary collector or higher classification road that separates the proposed short term rental from other short term rentals within the buffer area.
- c. A short term rental property within the buffer area is located on the perimeter of the buffer area, with part of the property being located outside of the buffer area.
- d. A neighborhood plan encourages and supports short term rentals in the subject area.
- e. In applications where the entire area encapsulated by the 600 foot buffer is residentially zoned (including TNZD areas mapped Neighborhood General), under no circumstance shall the Board provide relief to this provision in cases in which two or more short term rentals with conditional use permits are already in existence within 600 feet.

2. The following exceptions to this separation requirement apply:

- a. The separation requirement shall not apply to a property on which the conditional use permit is conditioned that the owner acts as host and maintains their primary residency within another dwelling unit in the same building or on the same parcel of land.
- b. The separation requirement shall not apply between two or more short term rentals on a single property being reviewed under the same conditional use permit application. However, if the property is subdivided after the conditional use permit is granted, a new conditional use permit shall be required in order for any new lot(s) to have a short term rental, with the separation requirements applying to that subsequent application.
- c. The separation requirement shall not apply to a property in the TNZD district on which the conditional use permit is conditioned that the host shall maintain their primary residency within the dwelling unit.

E. The building in which dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit in a multi-family building, the condominium unit must be the primary residence of the owner. 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. This evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board wherein all condominium owners were notified that short term rental of the subject 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 1 1 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.

F. Food and alcoholic beverages shall not be served by the host to any guest.

G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

H. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity.

I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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 registration pursuant to section 4.3.23. When the Planning Director revokes an approved registration, staff shall schedule a public hearing for the Board to consider revoking the associated conditional use permit. The Board may also revoke the conditional use permit for other reasons pursuant to section 11.5A.6.

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. In order to commence short term rentals, a new conditional use permit must be granted if required by this Land Development Code

L. An active registration of 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 thirty (30) days, or in the event of a changer of ownership and/or host, a new registration is not issued within thirty (30) days 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 and such conditional permit must satisfy the applicable requirements for a conditional use permit in effect at the time the new application for a conditional use permit is filed

STAFF: The proposed short term rental will be located in the proposed 1 story 2,800 square foot structure with three bedrooms. The maximum number of guests permitted in the short term rental is 8 guests. There are no other short term rental conditional use permits within 600 feet of the subject site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.9.2.A.1.b.ii. to not provide vehicular connections between parking lots of abutting developments:

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposed use on the subject site is for a private proprietary club and would not be a use that is open to the public. The proposed waiver will not affect vehicular and pedestrian circulation on the subject site.

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

STAFF: Community Form Goal 1, Policy 12 calls to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Mobility Goal 1, Policy 6 calls for developments meeting established thresholds, provide facilities that support an efficient public transportation system such as convenient access to and across pedestrian, bicycle and roadway facilities. Mobility Goal 2, Policy 6 calls to ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Livability Goal 1 Policy 35 Ensure critical connections are built and maintained in the pedestrian and bicycle networks including the development of sidewalks, bike lanes, shared use paths and walkways to promote the use of multi-modal transportation options. The subject site is proposed to be a private proprietary club and not open to the public. There is still adequate vehicular and pedestrian circulation within the site. The site is also located along the Louisville Loop where an easement and the multi-use path for the loop are being provided on the site.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed use is a private proprietary club with a short term rental that are not open to the public. The subject site still has adequate vehicular and pedestrian circulation.

- (d) Either:

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

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed uses are not open to the public. Users are unlikely to visit both sites in a single trip.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **CONDITIONAL USE PERMIT** to allow a private proprietary club
- **APPROVE** or **DENY** the **CONDITIONAL USE PERMIT** to allow a short term rental of a dwelling unit that is not the primary residence of the owner (LDC 4.2.63)
- **APPROVE** or **DENY** the **WAIVER**
- **APPROVE** or **DENY** the **FLOYDS FORK SPECIAL ZONING OVERLAY DISTRICT REVIEW**

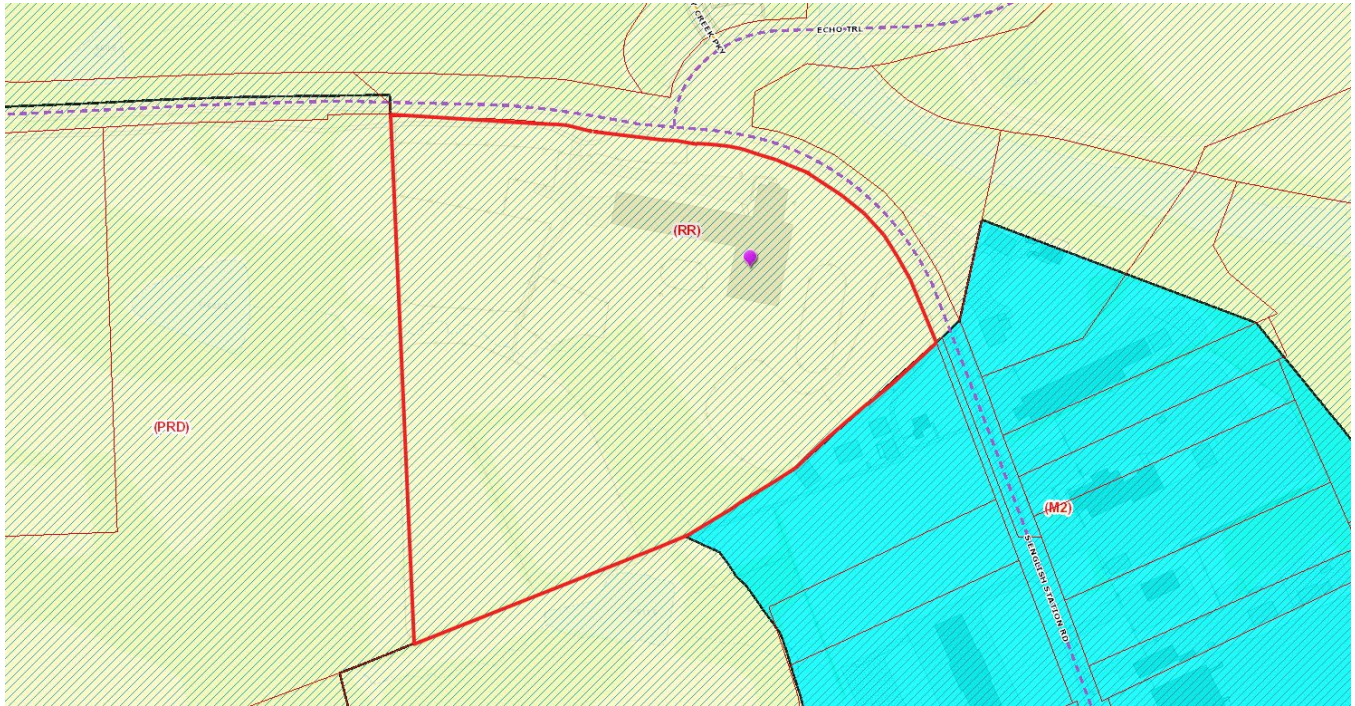
NOTIFICATION

Date	Purpose of Notice	Recipients
4-7-2025	Hearing before BOZA	1 st and 2 nd tier adjoining property owners and current residents
3-31-2025		Registered Neighborhood Groups in Council District 20
4-7-2025	Hearing before BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Conditions of Approval

1. **Zoning Map**



2. **Aerial Photograph**



3. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private proprietary club and short term rental without further review and approval by the Board.
3. The conditional use permit for this short term rental approval shall allow up to three (3) bedrooms with a maximum of eight (8) guests at any one time. Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.
4. Prior to commencement of any short term rental on the subject property, the owner 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.