AGENDA FOR THE BOARD OF ADJUSTMENT MEETING
May 14, 2018

I. **CALL TO ORDER** - The Chair will call the meeting to order at 1:00 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. **APPROVAL OF MINUTES** – The Chair will announce that the minutes of the April 9, 2018 meeting will be considered at this time.

III. **PUBLIC HEARING ON ZONING APPEALS**

A. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair will sound the agenda in regard to any postponements, withdrawals, and items requiring no discussion.

B. **Swearing of Witnesses** - The Chair will announce that any applicant or objector to any appeal before the Board who plans to speak will be sworn in at this time.

C. **Variance Appeals**

1. **PLN-BOA-18-00033: DISTINCTIVE DESIGN** – requests a variance to reduce the required side yard setback from 8 feet to 3 feet for construction of a garage in a Single Family Residential (R-1C) zone, at 3137 Starling Drive (Council District 4).

   The Staff Recommends: **Disapproval**, for the following reasons:
   a. While it is regrettable that the setback requirements for this project were initially miscommunicated, there do not appear to be any special circumstances that justify the need for a variance. The property is of an appropriate size and configuration to allow an average sized two-car garage without a variance.
   b. Strict adherence to the Zoning Ordinance should not create an unnecessary hardship for the owner, as a garage slightly narrower than the 28' width proposed would still be several feet wider than what is generally considered as customary.
   c. Existing homes along Starling Drive generally meet the required 8' setback without averaging and there have been no variances granted on this street. A compliant side yard of 4' at all points of the addition (with an overall average setback of 8') will already result in a garage that is closer to the side lot line than the majority of structures in the general vicinity.

2. **PLN-BOA-18-00035: CIELO PROPERTIES, LLC.** – requests a variance to reduce the minimum building setback from the floodplain from 25 feet to 0 feet for new construction in a Neighborhood Business (B-1) zone, at 1389 Alexandria Drive (Council District 11).

   The Staff Recommends: **Approval**, for the following reasons:
   a. Granting the requested variance should not adversely affect the subject or surrounding properties, as the total amount of impervious area on the site will be reduced by 21.6%. This reduction in impervious area should have a positive effect on the property and floodplain.
   b. The special circumstances that are unique to the subject property are its inclusion in the FEMA 100-Year Flood Hazard Area. The update that included this property became effective on March 3, 2014, after this lot and many of those nearby had already been developed. This inclusion renders the property unbuildable when a 25' setback from the floodplain is required. The property was previously developed and the new development will be less non-conforming than the previous structure.
   c. Strict application of the Zoning Ordinance would create an unnecessary hardship for the applicant, since it would render the entire property unbuildable.

   This recommendation of approval is made subject to the following conditions:
   1. The building shall be constructed in accordance with the approved Final Development Plan, or as that plan is amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.
   2. That all necessary permits be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to commencement of the community center use, land alterations, or erection of any structure.
   3. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
   4. Action of the Board shall be noted on both the Final Development Plan and the Final Record Plat for the subject property.

3. **PLN-BOA-18-00037: GREER LAND COMPANY** – requests a variance to increase the maximum building setback from 20 feet to 33 feet for new construction in a Neighborhood Business (B-1) zone, at 1100 and 1108 South Broadway (Council District 3).

   The Staff Recommends: **Approval**, for the following reasons:
   a. Granting the variance will result in construction that is similar in character to the rest of this part of the South Broadway corridor. Several B-1 properties in the immediate vicinity have setbacks similar to what is requested, as do many commercial uses nearby with other commercial zoning.
   b. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The increased setback is appropriate based on the use of the property and setback of the nearby properties. The Planning Commission approved an accessory drive-through facility on the development plan. The increased setback allows for unimpeded circulation around the building.

   This recommendation of approval is made subject to the following conditions:
   1. The building shall be constructed in accordance with the approved Final Development Plan, or as that plan is amended to address design requirements of the Divisions of Engineering, Traffic Engineering, or Building Inspection.
   2. All necessary permits shall be obtained from the Divisions of Planning, Engineering, and Building Inspection prior to construction and occupancy.
   3. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
   4. Action of the Board shall be noted on both the Final Development Plan and the Final Record Plat for the subject property.

D. **Conditional Use Appeals**

1. **PLN-BOA-18-00034: SHEPHERD'S HOUSE/JOURNEY CURE** – requests a conditional use permit to operate a rehabilitation home in the Agricultural Rural (A-R) zone, at 2326 Royster Road (Council District 12).

   The Staff Recommends: **Approval**, for the following reasons:
   a. The proposed use should not adversely affect the subject or adjoining/nearby properties. The property operated as the Bluegrass Boys' Ranch for many years and the facilities are appropriate for this type of residential program, which, while targeting a different group, will offer a similar scope of services to its residents.
   b. The proposed use will provide a much-needed service that will serve primarily local residents, while utilizing a property that is uniquely suited to this type of use based on its existing structures.
   c. All necessary public services and facilities are available and adequate for the proposed use.

   This recommendation of approval is made subject to the following conditions:
   1. The rehab facility shall be operated in accordance with the submitted application materials and site plan.
   2. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the commencement of this use.
   3. There shall be no medical services or prescribing of medications as part of the rehabilitation facility.
   4. The septic system shall be reviewed and approved for this use, as necessary, by the Fayette County Board of Health.

2. **PLN-BOA-18-00036: TRANSYLVANIA UNIVERSITY** – requests a conditional use permit to construct and occupy a new on-campus building in a High Density Apartment/Historic District Overlay (R-4/H-1) zone, at 331, 333, and 345 North Broadway (Council District 1).

   The Staff Recommends: **Approval**, for the following reasons:
   a. Construction of a new campus center should not have a negative effect on the public health, safety, or welfare and the use will fit in very well with the surrounding area, as the site has been used as dormitory facilities for many years and is located within the University's central campus.
   b. Construction of a new campus center near the new dormitories will enhance the area adjacent to those new residence halls and should improve the quality of student life on campus.
   c. All necessary public services and facilities are available and adequate for the proposed use, including police and fire protection. Additionally, Transylvania has its own public safety department.

   This recommendation of approval is made subject to the following conditions:
   1. The property shall be developed in accordance with the approved site plan and application, allowing for slight modifications, if necessary, during the normal permitting process. This will be subject to the review and

approval of the Divisions of Historic Preservation, Planning, Building Inspection, Traffic Engineering, and Engineering, as necessary.
2. All necessary permits, including a Building Permit, Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained prior to the construction and occupancy of this building.
3. Any construction on the property at 331 N. Broadway will be subject to review and approval by the Board of Architectural Review.

3. **PLN-BOA-18-00038: IGLESIA EVANGELICA CHRISTIANA ESPIRITUAL** – requests a conditional use permit to construct a new church building in the Agricultural Rural (A-R) zone at 3696 Hurricane Hall Road (Council District 12).

The Staff Recommends: **Approval**, for the following reasons:
a. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. A church has been operating on the property since 2015. Adjoining or nearby land uses are of an agricultural nature, and are not likely to be disturbed by typical church activities.
b. All necessary public services and facilities are available and adequate for the proposed use. A septic system already in place will be updated as necessary to permit increased capacity for the new building.

This recommendation of approval is made subject to the following conditions:
1. The church use shall be conducted in accordance with the submitted application, site plan, and the listed conditions (minor revisions to the submitted site plan are acceptable if needed to satisfy permitting requirements).
2. All necessary permits and approvals, including a Building Permit, a Paving Permit, a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained, as appropriate.
3. The septic system shall be reviewed and approved for this use, as necessary, by the Fayette County Board of Health.
4. The parking lot shall be paved, landscaped and screened in accordance with Articles 16 & 18 of the Zoning Ordinance.
5. Any pole lighting for the parking lot shall be of a shoebox or similar design, with light directed downward to avoid disturbing any adjoining or nearby properties.
6. A storm water management plan shall be implemented in accordance with the adopted Engineering Manual, subject to acceptance by the Division of Engineering.

E. **Administrative Reviews**

1. **PLN-BOA-18-00026: MINNIE SHARP** – requests an administrative appeal to allow placement of a mobile home on a property less than 40 acres with no principal structure in the Agricultural Rural (A-R) zone, at 5942 Sulphur Well Road. (Council District 12).

The Staff Recommends: **Disapproval**, for the following reasons:
a. Granting the requested appeal would set a dangerous precedent that, over time, could adversely affect the quality and character of Fayette County's rural area by allowing an accessory residential structure without a principal residential structure. The Zoning Ordinance states specifically that a mobile home shall not be permitted as a principal residence, and a tenant home is described as being accessory throughout the Zoning Ordinance.
b. In addition to the lack of a principal residence, the property is approximately one-quarter of the required size to allow a mobile home as an accessory tenant home.
c. While a mobile home did exist on the property previously, staff cannot justify the placement of a new mobile home as a replacement of the previous one, given the length of time since its removal, at least 8 years ago.

2. **PLN-BOA-18-00031: ANDY CHANG** – requests an administrative appeal to allow construction of a new residential structure within the defined Infill & Redevelopment area without a primary entrance for pedestrian access along the primary wall plane & without a one-story projection on the primary wall plane in a High Rise Apartment (R-5) zone, at 155 Transcript Ave. (Council District 3).

The Staff Recommends: **Disapproval**, for the following reasons:
a. The applicant has not provided compelling reasons that strict enforcement of the Zoning Ordinance will cause a hardship or unreasonable restriction. The applicant's request for relief from these provisions appears to be based primarily on the applicant's personal preferences, rather than any unique characteristics of the property.
b. While the adopted Residential Infill & Redevelopment Design Standards document does state that the Board has the authority to hear appeals related to its standards, the specific intent statements clarify the reasons for

those standards and are meant to provide guidance in considering if the intent can be met by other methods. The applicant has not provided evidence that the intent of design standards of the Infill and Redevelopment Area will be met by an alternative method.

IV. **BOARD ITEMS** - The Chair will announce that any items a Board member wishes to present will be heard at this time.

V. **STAFF ITEMS** - The Chair will announce that any items a Staff member wishes to present will be heard at this time.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be June 11, 2018.

VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.