

**AGENDA FOR THE BOARD OF ADJUSTMENT  
MEETING**

March 11, 2024

- I. **CALL TO ORDER** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. **APPROVAL OF MINUTES**

A. The December 2023 Board of Adjustment meeting minutes will be considered at this time.

B. The January 2024 Board of Adjustment meeting minutes will be considered at this time.

III. **PUBLIC HEARING ON ZONING APPEALS**

A. **Swearing of Witnesses** - The Chair will announce that any applicant or objector, or anyone in the audience who plans to speak to any appeal before the Board, please stand in order to be sworn in at this time.

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

C. **Variance Appeals**

1. **PLN-BOA-24-00013: BAPTIST HEALTH CARE SYSTEM INC** – requests a variance to increase the allowable height of a parapet wall for a wall sign from six (6) feet in height to fifteen (15) feet in an Economic Development (ED) zone, on property located at 2000 Polo Club Blvd. (Council District 12)

The Staff Recommends: **Approval**, for the following reasons:

- a. Approval of the variance should not adversely affect public health, safety, or welfare, as the proposed sign will be affixed to structural shear walls.
- b. The proposed sign will not adversely impact the character of the vicinity, as the subject property is being developed as a new regional medical campus. The hospital structure is large in size, with a number of entry points and services provided, supporting the need for significant signage for wayfinding purposes.
- c. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed and prior to installation of the sign.

This recommendation of approval is made subject to the following conditions:

1. Installation of the sign shall be in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals including a sign permit shall be obtained from the Division of Building Inspection prior to installation of the sign.

2. **PLN-BOA-24-00017: KROGER LIMITED PARTNERSHIP 1** – requests variances to increase the allowable vehicular use area (VUA) between the building and the street from sixty (60) feet to one hundred and ten (110) feet and increase the allowable height of free-standing lighting in a parking lot from twelve (12) feet to twenty-five (25) feet in order to construct a grocery store and associated parking lot in a Commercial Center (B-6P) zone, on property located at 760 Newtown Springs Dr. (Council District 1)

The Staff Recommends: **Postponement of the variance to increase the allowable vehicular use area (VUA) between the building and the street from sixty (60) feet to one hundred and ten (110) feet**, for the following reasons:

- a. There are concerns about placing a majority of auto-centric uses between the building and the street, requiring pedestrians entering the site from the sidewalk along Newtown Springs Drive to cross a complicated intersection where vehicles will be entering and exiting the lot in addition to making quick turns into and out of the gas station area and the lanes which are to be utilized for the pharmacy drive-through, mobile order pick-up area, and for use by large trucks enroute to the loading areas. Additionally, the Division of Traffic Engineering staff has indicated that the proposed lane widths in this area are larger than is typically necessary and exceed Traffic Engineering's guidelines.
- b. Staff recognizes that the number of auto-centric uses proposed on site are both important to the applicant's business model and create a number design issues to solve. However, given the size of the lot and lack of significant site constraints due to geographic features other than the spring, staff believes that an alternative design could be provided that would reduce or eliminate the need for this variance.
- c. Staff is generally supportive of a lesser variance in this location and recommends that the applicant have additional conversations with the Divisions of Traffic Engineering and Planning regarding the width of the proposed drive aisles as well as the potential to relocate the uses proposed for this portion of the property.

**The Staff Recommends: Approval of the variance to increase the allowable height of free-standing lighting in a parking lot from twelve (12) feet to twenty-five (25) feet**, for the following reasons:

- a. Approval of the variance should not adversely affect public health, safety, or welfare, provided that the conditions related to color temperature and shielding are met. Additionally, the reduction in the number of light poles required to adequately light the parking lot will result in a better environment for the required VUA tree canopy to be planted and grow.
- b. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed and prior to installation of the light poles.

**This recommendation of approval is made subject to the following conditions:**

1. Installation of the lighting shall be in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to installation of the light poles.
3. Light fixtures shall be limited to a maximum color temperature of 3,000 Kelvin.
4. Lighting shall not be placed at a location, angle, or height that directs illumination outside the property's boundary.

3. **PLN-BOA-24-00019: ANDERSON ANDOVER COUNTRY CLUB LLC** – requests variances to 1) reduce the required property perimeter buffer where a business zone abuts a residential zone from fifteen (15) feet to five (5) feet and 2) reduce the required vehicular use area (VUA) perimeter buffer from eight (8) feet to zero (0) feet in order to provide a five (5) foot buffer with a single row hedge in a Neighborhood Business (B-1) zone, on property located at 3450 Todds Rd. (Council District 7)

**The Staff Recommends: Approval**, for the following reasons:

- a. Granting the variances should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. Reducing the width and height of the landscape buffer interior to an integrated development will allow increased visibility and pedestrian access between the residential and commercial portions of the development, which are intended to be a focal point of the development and to serve the adjoining neighborhood.
- b. The existence of the walkways within the development, which connect to adjoining golf cart paths within the surrounding neighborhood, and have been placed for greatest access and connectivity are a unique feature of the development. In addition, the walkways will act as an open space buffer rather than a planted buffer between the residential and commercial uses, which is appropriate in this location.
- c. The granting of these variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed, and prior to beginning construction.

**This recommendation of approval is made subject to the following conditions:**

1. Construction shall be in accordance with the submitted application materials and site plan.
2. Trees from Group A or B only shall be provided in the perimeter and VUA buffer areas at a rate of one tree per forty feet (40') of linear boundary, or fraction thereof.
3. All necessary permits and/or approvals shall be obtained from the Division of Building Inspection prior to construction.

**D. Conditional Use Appeals**

1. **PLN-BOA-24-00006: PAVILION DEVELOPMENT COMPANY** – requests a conditional use permit for drive through facilities in order to establish a drive-through coffee shop in a Neighborhood Business (B-1) zone, on property located at 1209 Winchester Rd. (Council District 1)

The Staff Recommends: **Approval**, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties, as the consolidation of access points from three to only one along Industry Road will facilitate better traffic flow and pedestrian safety than previous uses. There is adequate vehicular stacking available after the proposed ordering point.
- b. 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 subject property shall be developed in accordance with the submitted application materials and site plan. With changes as required by the Divisions of Traffic Engineering and Waste Management.
2. The final configuration of the parking lot and drive-through facilities shall be subject to the approval of the Division of Traffic Engineering.
3. The final location of the dumpster shall be subject to the approval of the Division of Waste Management.
4. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.

2. **PLN-BOA-24-00009: STORM CREEK ASSOCIATES LLC** – requests a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Medium Density Residential (R-4) zone, on property located at 258 E. High St., Unit #104. (Council District 3)

The Staff Recommends: **Approval**, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the dwelling unit is large enough to accommodate the limited number of users proposed and there are uses near the subject property that likely create a demand for overnight accommodations.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available on-site, in addition to paid parking in the vicinity.
- c. There is no record of short term rental compliance issues with the applicant.
- d. 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 3 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

3. **PLN-BOA-24-00010: CLARK AND CLARK** – requests a conditional use permit to expand an existing golf driving range (add accessory covered shelter) in an Agricultural Rural (A-R) zone, on property located at 4440 Athens Boonesboro Rd. (Council District 12)

The Staff Recommends: **Approval**, for the following reasons:

- a. Granting the requested conditional use permit should not adversely affect the subject property or surrounding agricultural tracts. A driving range has been operating at this location for more than three decades, with no indication of any significant disturbances to the surrounding properties. Minor expansion to this use approximately 10 years ago has not caused any problems or concerns, and placement of the requested structure is also unlikely to cause any issues or concerns since it will have no visual impact from the roadway.
- b. The proposed structure will provide additional covered space for 10 golfers to protect from inclement weather, rain and even the heat of the sun while utilizing the driving range.

- c. Lighting and signage are currently regulated by the current conditional use permit and will continue as such in the future.
- d. All necessary public facilities and services are available and adequate to serve the proposed modification to the use.

This recommendation of approval is made subject to the following conditions:

1. The driving range shall be operated in accordance with the existing application and revised site plan to depict the proposed structure. The areas operated by the plant nursery on the property shall be noted, as they are not a part of this conditional use permit request.
2. All necessary permits, including a Zoning Compliance Permit shall be obtained from the Divisions of Planning and Building Inspection prior to installation of the shelter.
3. The facility shall only operate during daylight hours, and shall not install lighting directed on the driving range, putting green(s) or sand trap areas.
4. The use of the driving range should be limited to no more than 40 tee boxes, unless parking over and above 42 parking spaces can be documented by the Division of Traffic Engineering, as well as the Division of Planning, and the design of that parking approved by Traffic Engineering.
5. Stormwater management shall be provided in accordance with the requirements of the adopted Engineering Manuals, or as otherwise deemed acceptable by the Division of Engineering based on any prior permitting.
6. Sewage treatment shall be provided in accordance with the requirements of the Board of Health.
7. The existing 4' by 8' freestanding sign shall not be enlarged for use by the facility, and shall not be relocated closer than 25 feet to the right-of-way fence. All other signage on the property controlled by the golf driving range shall be subject to the requirements of Article 17 of the Zoning Ordinance.
8. Only incidental retail sales and rentals are allowed at the pro shop, for items such as golf balls, golf clubs, golf gloves and tees.

4. **PLN-BOA-24-00011: CHABAD OF THE BLUEGRASS** – requests a conditional use to establish a place of religious assembly within the defined Infill and Redevelopment Area in a Historic District Overlay (H-1) zone and in a Planned Neighborhood Residential (R-3) zone, on property located at 371 and 375 Aylesford Place. (Council District 3)

The Staff Recommends: **Approval**, for the following reasons:

- a. Approval of the proposed conditional use should not adversely affect the subject or nearby properties, provided that all necessary permits and approvals are secured.
- b. The requested conditional use should not have a negative impact on traffic in the general vicinity, as adequate on-site parking will be provided and multi-modal transportation options are readily available at this location.
- c. All necessary public services and facilities are or will be available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The property shall be developed and operated in accordance with the submitted application materials and an amended site plan, subject to any alterations required throughout the permitting process.
2. The vehicular use area shall be designed in accordance with the landscaping and screening standards set forth in Articles 16 and 18 of the Zoning Ordinance.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Traffic Engineering prior to occupancy of the main structure for assembly use and paving of the rear parking area.

5. **PLN-BOA-24-00014: ROYALTY INVESTMENT GROUP LLC** – requests a conditional use permit for an un-hosted short term rental in a Medium Density Residential (R-4) zone, on property located at 1625 Nicholasville Rd., Unit #806 (Council District 3)

The Staff Recommends: **Approval**, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the dwelling unit is large enough to accommodate the number of users proposed and there are uses near the subject property that likely create a demand for overnight accommodations.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available on-site.
- c. There is no record of short term rental compliance issues with the applicant.
- d. 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 6 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

6. **PLN-BOA-24-00015: JASON AND NATALIE CLARK** – request a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 633 Twin Pines Way. (Council District 9)

The Staff Recommends: **Approval**, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. There is no record of short term rental compliance issues with the applicant.
- d. 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 8 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

7. **PLN-BOA-24-00016: DIAMOND DESIGN AND CONSTRUCTION LLC** – requests a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 3501 Windgate Way. (Council District 4)

The Staff Recommends: **Approval**, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the dwelling unit is large enough to accommodate the number of users proposed.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available on-site.
- c. There is no record of short term rental compliance issues with the applicant.
- d. 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 8 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

8. **PLN-BOA-24-00018: OHP SOUTHLAND DRIVE** – requests a conditional use permit to modify existing drive-through facilities in order to establish a bank with drive-through facilities in a Neighborhood Business (B-1) zone, on property located at 115 Southland Dr. (Council District 10)

The Staff Recommends: **Approval**, for the following reasons:

- a. Amending the requested conditional use should not adversely affect the subject or surrounding properties, as a drive-through facility has successfully functioned on the subject property for several years and there is adequate vehicular stacking available. There are access points on both Southland Drive and Collins Lane that allow parked and ATM customers to exit separately from customers utilizing the drive-through facility.
- b. The addition of separated ATM facilities should not have an adverse impact on traffic circulation on the site.
- 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 subject property shall be developed in accordance with the submitted application materials and site plan, with changes as required by the Division of Traffic Engineering.
2. The final configuration of the parking lot shall be subject to approval of the Division of Traffic Engineering.
3. The applicant shall utilize auto-regulating technology with any speaker and/or microphone devices associated with the drive-through or ATM.
4. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.

9. **PLN-BOA-24-00020: LEXINGTON CENTER CORP** – requests a conditional use permit for a sign with dynamic content within the defined Infill and Redevelopment Area, in a Lexington Center Business (B-2B) zone, on property located at 430 W. Vine St. (Council District 11)

The Staff Recommends: **Approval**, for the following reasons:

- a. Approving the conditional use should not adversely affect the subject or surrounding properties as the sign will meet the Zoning Ordinance regulations relating to location, image and duration of message, luminance, and will not be on after 11 pm during the week or midnight on weekends. Additionally, the sign will be placed in a location allowing Triangle Park to act as a buffer to minimize the visual impact on surrounding properties.
- b. The proposed sign with dynamic content and occasional use of video display method should not negatively impact traffic, as the proposed sign will be located in an area so that it will be primarily visible only to motorists travelling on a short one-way section of West Vine Street, in an area where speeds are relatively low. Video display method will only be utilized in conjunction with permitted special events and may only occur when this portion of West Vine Street is closed to motorists.
- 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. Installation of the sign shall be in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals including a sign permit and Zoning Compliance Permit shall be obtained from the Division of Building Inspection and Planning prior to installation of the sign.
3. The sign shall be used only to advertise activities of the applicant (Lexington Center, including the Lexington Opera House) and activities occurring on site.
4. Video display method shall only be utilized in conjunction with a special events permit approved by the LFUCG.
5. Video display method shall only be utilized when the portion of West Vine Street in front of the Lexington Center is closed to vehicular traffic.

10. **PLN-BOA-24-00021: LAURA S. CALMES** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 990 Marcellus Dr. (Council District 1)

The Staff Recommends: **Approval**, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. There is no record of short term rental compliance issues with the applicant.
- d. 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 short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 4 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

- 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 April 8, 2024 at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.
- VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.

The media and public may view the hearing on LexTV Spectrum channel 185, MetroNet channel 3, or via live stream at the following link: [http://lfucg.granicus.com/MediaPlayer.php?publish\\_id=12](http://lfucg.granicus.com/MediaPlayer.php?publish_id=12)

For further information on these matters, or for persons with a disability who may need assistance in order to participate in the above meeting, please contact the Division of Planning, 101 E. Vine St., Lexington, KY, at 859-258-3160.