

**MINUTES FOR THE BOARD OF
ADJUSTMENT MEETING**

March 11, 2024

- I. **CALL TO ORDER** – Chair Carter called the meeting to order at 1:32 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. **ATTENDANCE**

Board members present were Raquel Carter, Harry Clarke, Branden Gross, Bob Sturdivant, Linda Tucker and Chad Walker. Carolyn Plumlee was absent. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering and Josh Dezarn, Division of Engineering. Planning Staff members present were Traci Wade, Autumn Goderwis, James Mills and Donna Lewis.

III. **APPROVAL OF MINUTES**

The December 2023 and the January 2024 Board of Adjustment meeting minutes were considered at this time.

Action – A motion was made by Mr. Gross, seconded by Ms. Tucker and carried 6-0 (Plumlee absent), to approve the minutes from both the December 2023 and January 2024 Board of Adjustment meetings.

IV. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Swearing of Witnesses** – Ms. Carter announced that any applicant or objector, or anyone in the audience who planned to speak to any appeal before the Board, please stand in order to be sworn in at this time.

The oath was administered to several members of the audience at this time.

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

There were no postponements or withdrawals at this time.

C. **Abbreviated Hearing**

1. **PLN-BOA-24-00013: BAPTIST HEALTH CARE SYSTEM INC** – requested 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 Recommended: Approval, for the following reasons:

- Approval of the variance should not adversely affect public health, safety, or welfare, as the proposed sign will be affixed to structural shear walls.
- 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.
- 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 was made subject to the following conditions:

- 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.

Applicant representation – Mr. Nick Nicholson, attorney, was present on behalf of the applicant. He stated that the applicant had read Staff's recommendations and the conditions of approval and that the applicant was in agreement with them.

There were no questions from the Board.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00013: BAPTIST HEALTH CARE SYSTEM INC** – request for 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., based on Staff's recommendation and subject to the two conditions as listed.

Note - Prior to hearing the following application, Mr. Gross recused himself due to a possible conflict of interest.

2. **PLN-BOA-24-00017: KROGER LIMITED PARTNERSHIP 1** – requested 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 Recommended: **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 Recommended: **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 was 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.

Applicant representation – Mr. Darby Turner, attorney, was present on behalf of the applicant. He stated that they had worked with Staff on their original recommendation of postponement of the applicant's request for a 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. Mr Turner said that he appreciated Staff's willingness and efforts in working with the applicant to reach a new recommendation of approval of that variance. He added that the applicant is in agreement with Staff's recommendation and the conditions of approval.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 5-0 (Plumlee absent; Gross recused), to **approve PLN-BOA-24-00017: KROGER LIMITED PARTNERSHIP 1** – request for 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., based on Staff's recommendations in the Supplemental Staff Report, and subject to the following conditions of approval as listed in the Supplemental Staff Report:

Recommendation of approval 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 was made subject to the following conditions:

1. Construction shall be in accordance with the submitted application materials and revised site plan (dated March 7, 2024), or as amended on a final development plan.
2. The vehicular use area perimeter buffer shall be landscaped in accordance with Article 18-3(a)(2) of the Zoning Ordinance, with the required hedge being comprised of evergreen shrubs.
3. The existing tree canopy in the vicinity of the spring shall be maintained to the greatest extent possible.
4. An additional, more direct, pedestrian walkway shall be provided from the area featuring the bicycle repair station and public benches to the first pedestrian crossing at the drive aisle serving the drive-through, mobile order pick up area, and delivery vehicles.
5. All necessary permits and approvals shall be obtained prior to paving and construction.
6. Denote action of the Board of Adjustment on the approved final development plan for the site.

Recommendation of 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 was made subject to the following conditions:

1. Installation of the lighting shall be in accordance with the submitted application materials and site plan, subject to amendments to the lighting plan necessary during the permitting process.
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.
5. Denote action of the Board of Adjustment on the approved final development plan for the site.

Note – Mr. Gross returned to the meeting, following the vote on the application above.

3. **PLN-BOA-24-00006: PAVILION DEVELOPMENT COMPANY** – requested 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 Recommended: 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 was 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.

Applicant representation – Mr. Michael Grace with Pavilion Development was present on behalf of this application. Ms. Carter asked him if the applicant had reviewed Staff's recommendations and the four conditions of approval as listed. Mr. Grace replied that the applicant had reviewed them and that they were in agreement with the four conditions.

Board question – Ms. Tucker asked Mr. Grace what the proposed nine-hundred and fifty square foot outbuilding was going to be. Mr. Grace replied that it was going to be a Dutch Bros coffee facility. Ms. Tucker asked if the traffic flow could be changed so that all of the traffic would go to the right. Mr. Grace replied that the applicant had eliminated the two curb cuts on Winchester Rd., so that all of the traffic movement is on Industry Rd., off of Winchester Rd.

Mr. Clarke stated that he had the same question and that he was confused about the traffic pattern. He opined that the movement of the two rows of cars was not clear. A copy of the site plan was displayed on the overhead screen. Mr. Grace explained that the site plan showed the maximum number of cars possible, to show what could be done in a maximum condition. He depicted the location where all of the cars would enter at the top left corner on the site plan, off of Industry Rd., and where the two curb cuts on Winchester Rd. have been closed off. Mr. Grace explained that would bring all of the traffic onto Industry Rd., and traffic would circulate around towards the drive through window, which will be on the driver's side of the car, and cars will then exit and come back out onto Industry Rd.

Mr. Clarke asked if the inner loop of cars will have to merge into the outer loop. Mr. Grace confirmed that to be correct, using the pointer on the overhead screen to depict where the traffic would merge if it is double stacked.

Mr. Gross commented that it appeared that there were four access points on the site plan, three of which were going to be closed, with all of the traffic on Industry Rd., with no direct traffic to Winchester Rd. Mr. Grace stated that was correct.

Ms. Goderwis displayed a copy of a site plan which had been recommended by the Division of Traffic Engineering, on the overhead screen. Mr. Gross asked Mr. Grace if he had seen this site plan. Mr. Grace replied that the applicant will work with their engineers and Staff to better define the traffic.

Ms. Carter asked Staff what the required stacking was. Ms. Goderwis replied that the stacking is five vehicles behind the first place that someone would stop. She added that she did not think the applicant used a menu board and that the customer did not stop until they reached the window. Ms. Goderwis asked Mr. Grace if that was correct. Mr. Grace confirmed that there would be no ordering board and that employees will come out and take orders if there are too many cars stacked. Ms. Goderwis stated that the applicant was showing more than adequate stacking per the regulations.

Mr. Sturdivant commented on the entrance and exit lanes, asking whether they should be reversed. There was further discussion. Ms. Carter noted that one of the conditions of approval for this application was that the application must be approved by the Division of Traffic Engineering.

Action – A motion was made by Mr. Sturdivant, seconded by Ms. Tucker and carried 6-0 (Plumlee absent, to **approve PLN-BOA-24-00006: PAVILION DEVELOPMENT COMPANY** – request for 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., based on Staff's recommendation and subject to the four conditions as listed.

4. **PLN-BOA-24-00010: CLARK AND CLARK** – requested 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 Recommended: **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 was 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.

Applicant representation – Mr. Jason Worrell, Triple Crown Construction, LLC, was present on behalf of this application. Ms. Carter asked Mr. Worrell if the applicant had reviewed the eight conditions of approval set forth by Staff, and if the applicant was comfortable with those conditions. He indicated that they had reviewed them and that they were in agreement with them. Mr. Clarke opined that this application was a great idea.

Action – A motion was made by Mr. Clarke, seconded by Ms. Tucker and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00010: CLARK AND CLARK** – request for 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., based on Staff's recommendation and subject to the eight conditions as listed.

5. **PLN-BOA-24-00011: CHABAD OF THE BLUEGRASS** – requested 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 Recommended: **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 was 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.

Applicant representation – Mr. Samuel Hite was present on behalf of this application. Ms. Carter asked Mr. Hite if the applicant had reviewed the three conditions of approval. He indicated that they had reviewed them, and that they are comfortable with those conditions.

Action – A motion was made by Mr. Gross, seconded by Ms. Tucker and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00011: CHABAD OF THE BLUEGRASS** – request for 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, based on Staff's recommendation and subject to the three conditions as listed.

6. **PLN-BOA-24-00014: ROYALTY INVESTMENT GROUP LLC** – requested 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 Recommended: 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 was 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.

Applicant representation – Ms. Jennifer Royalty, applicant, was present on behalf of this application. Ms. Carter asked Ms. Royalty if she had reviewed the four conditions of approval. Ms. Royalty indicated that they had reviewed and were comfortable with all of the conditions of approval.

Board question – Ms. Tucker asked how many parking spaces there were. Ms. Royalty replied that there is one designated parking spot per unit, with the unit number painted on it and two to three open spots around it for overflow parking.

Action – A motion was made by Mr. Walker, seconded by Mr. Sturdivant and carried 5-1 (Tucker opposed; Plumlee absent), to **approve PLN-BOA-24-00014: ROYALTY INVESTMENT GROUP LLC** – request for 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, based on Staff's recommendation and subject to the four conditions as listed.

Applicant comment – Ms. Royalty thanked the Board and the Staff, adding that Staff had been very helpful.

7. **PLN-BOA-24-00018: OHP SOUTHLAND DRIVE** – requested 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 Recommended: 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.

Applicant representation – Mr. Matt Carter, Vision Engineering, was present on behalf of this application. Ms. Carter asked Mr. Carter if the applicant had reviewed the conditions of approval and if they were comfortable with them. Mr. Carter stated that he and the applicant had reviewed the conditions of approval and that the applicant was in agreement with them.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00018: OHP SOUTHLAND DRIVE** – request for 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., based on Staff's recommendation and subject to the four conditions as listed.

8. **PLN-BOA-24-00021: LAURA S. CALMES** – requested 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 Recommended: 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 was 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.

Applicant representation – Ms. Laura Calmes and Mr. Daniel Miller were present on behalf of this application. Ms. Carter noted that there were four conditions of approval and she asked Ms. Calmes if she had read them and if she was comfortable with them. Ms. Calmes indicated that she had read the conditions of approval and that she agreed with them.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00021: LAURA S. CALMES** – request for 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., based on Staff's recommendation and subject to the four conditions as listed.

D. Discussion Items

Note – Prior to hearing the next application, Mr. Walker recused himself, due to possible conflict of interest.

1. **PLN-BOA-24-00019: ANDERSON ANDOVER COUNTRY CLUB LLC** – requested 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 Recommended: 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 was 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.

Applicant representation – Mr. Jon Strom, General Counsel, Anderson Communities, was present on behalf of the applicant. Ms. Carter asked Mr. Strom if the applicant had reviewed the three conditions of approval. Mr. Strom stated that they had reviewed the conditions and that they were comfortable with them. Ms. Carter commented that there were some concerned citizens present in the audience, and asked Mr. Strom if he would like to explain the proposed project, prior to hearing from the citizens. Mr. Strom agreed to do so, referring to the site plan which was displayed on the overhead screen while explaining the proposed use for the property. He noted that the applicant realized the importance of retaining the current pathways that connect the neighborhoods, (former golf cart paths), and will ensure that those pathways remain. Mr. Strom explained it was the desire of the applicant for this project to be a main focal point for the community and neighborhood. He opined that putting a six foot hedge or fence would wall the property in and defeat the applicant's purpose of trying to create an inclusive community. Mr. Strom explained that the applicant was requesting a three foot hedge, similar to other parking lots in the city.

Public comment - Mr. Manuel Hajar, 624 Andover Village Place, displayed a document on the overhead screen that included a map showing houses which he opined would be affected by the proposed variances. He also noted that twelve of his neighbors had signed this document, stating their opposition to the project. Mr. Hajar expressed concerns regarding the proposed buffer not being sufficient enough for diffusing light coming from vehicle headlights, nor for the safety of pedestrians using the paths.

Applicant comments – Mr. Strom directed the Board's attention to the overhead screen, on which he displayed a development plan of the subject property and also a photo which depicted some of the construction on the property. He indicated where the hedges would be installed along the curb and opined that there would be adequate screening for the parking lot lights. Mr. Strom deferred to Mr. Tony Barrett, Barrett Partners, regarding the height of a concrete pylon in the parking lot. Mr. Barrett stated that the concrete base around the light pole in the parking lot was approximately three feet tall and the intent of that base was to prevent car bumpers from running into the light pole itself. He explained how the location of the proposed three foot tall hedge differed from the placement of the silt fencing.

Board questions – Mr. Gross asked if the trees at the rear of the residences were going to remain. Mr. Strom indicated that those trees will remain. He reminded the Board that the main restaurant parking would be on the front of the building and the parking being discussed will be for some employees and people using the gym facility, adding that there would not be as much traffic as there will be in the front.

Ms. Tucker asked how tall the lights that the three foot hedge would buffer were proposed to be. Mr. Strom replied that the hedge would buffer vehicle headlights. Ms. Tucker asked if the parking lot lights will be directed away from the homes. Mr. Strom stated that those lights already existed and that they are downward facing.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 5-0 (Walker recused; Plumlee absent), to **approve PLN-BOA-24-00019: ANDERSON ANDOVER COUNTRY CLUB LLC** – request for 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., based on Staff's recommendation, the testimony heard today and subject to the three conditions as listed.

Note – Mr. Walker returned following the vote on the application above.

2. **PLN-BOA-24-00009: STORM CREEK ASSOCIATES LLC** – requested 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 Recommended: 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 was 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.

Applicant representation – Ms. Dawn Hall and Mr. James Hall, applicants, were present on behalf of this application. Ms. Carter asked them if they had reviewed Staff's recommendations and the four conditions of approval, and if they were comfortable with them. Ms. Hall and Mr. Hall indicated that they had read them and were in agreement with the conditions.

Board comments and questions - Mr. Gross stated that he would like for the applicants to tell the Board about their application. Mr. Hall said that they purchased their condominium in 2022 to stay in while they

were in the process of building a house. He added that they have five adult children; two of which live out of state, and they would like to keep the condo for their children to stay in when they visit. Mr. Hall explained that they would like to use the condo as a short term rental when their children were not staying there.

Citizen comments - Mr. Alciedo Silimperi, 258 E. High St. #103, expressed his concerns with this application for a short term rental, citing safety due to the use of a shared door code for the front and back entrances to the building, and the lack of parking for prospective residents of the proposed short term rental. He opined there is enough parking for permanent residents, but not for any additional guests.

Applicant comments – Ms. Hall stated that she is the president of the homeowner's association for this building and that the association has recently purchased locks that have Wi-Fi ability for temporary codes to be in use for guests, while the residents have a permanent code. She added that the occupancy for their condo is limited to three people and they will only allow one vehicle to park in the vicinity of their condo. Ms. Hall stated that there is also non-designated parking in the back and metered parking across the street.

Board questions – Ms. Tucker asked how the door codes would operate. Mr. Hall explained that the front and back doors have codes to obtain entrance into the building, and each inner door has its own lock or code on it. She asked how many units there were in the building. Ms. Hall replied that there are twelve units in the building. Ms. Tucker asked how many parking spaces there were. Ms. Hall replied that there were eight parking spaces.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 5-1 (Tucker opposed; Plumlee absent), to **approve PLN-BOA-24-00009: STORM CREEK ASSOCIATES LLC** – request for 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, based on Staff's recommendation and subject to the four conditions as listed.

3. **PLN-BOA-24-00015: JASON AND NATALIE CLARK** – requested 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 Recommended: 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 was 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.

Applicant representation – Ms. Mary Bryson, attorney, was present on behalf of the applicants. Ms. Carter asked Ms. Bryson if the applicants had read the conditions of approval and if they were comfortable with those conditions. Ms. Bryson stated that the applicants had read the conditions of approval and that they were in agreement with them.

Citizen comments – Ms. Ana Vasquez, 629 Twin Pines Way, thanked the Board of Adjustment for providing the residents of her neighborhood with the opportunity to express their concerns regarding this application. She stated that she had reviewed the pros and cons of having a short term rental next door to her property and found that the cons outweigh the pros for numerous reasons. Ms. Vasquez stated that she was opposed to this application, listing concerns of increased traffic, parking, safety, noise, increased criminal activity and home value.

Applicant comments – Ms. Bryson spoke to the concerns of parking and traffic, stating that the subject home has an attached two car garage and the driveway also accommodates two cars. She added that Ms. Clark is a verified Super User on Airbnb and receives excellent reviews. Ms. Bryson stated that Airbnb does background checks on potential guests and has a “no parties”, “no large gathering” policy, therefore, there should be no negative impact to the home or the neighborhood.

Board question – Ms. Tucker asked how long the applicant anticipated the property to be rented out. Ms. Bryson replied that it would be dependent upon the market. Ms. Tucker asked if the goal was to rent the property as much as possible. Ms. Bryson indicated that to be correct.

Applicant comments – Ms. Natalie Clark, applicant and property owner, was sworn in at this time, as she had not been sworn in earlier. She stated that she and her husband do have another Airbnb and love it as it gives them more control over the people who use their property. Ms. Clark added that they have communication with every guest who stays on their other property throughout their stay. She commented that their only goal was to increase the value of their property.

Action – A motion was made by Mr. Walker, seconded by Mr. Gross and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00015: JASON AND NATALIE CLARK** – requested 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, based on Staff’s recommendation and subject to the four conditions as listed.

4. **PLN-BOA-24-00016: DIAMOND DESIGN AND CONSTRUCTION LLC** – requested 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 Recommended: 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 was 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.

Applicant representation – Mr. Adnan Trgo and Ms. Cynthia Trgo, applicants and property owners, were sworn in at this time, as they arrived late to the meeting. Ms. Carter asked the applicants if they had read and were comfortable with the four conditions of approval. Mr. Trgo stated that they had read and were comfortable with those conditions. Ms. Carter stated that there were some concerned citizens in the audience who wished to speak. She asked the applicants if they would like to explain their application first. Mr. Trgo said that they would let the citizens speak first. An audience member made a comment, to which Mr. Trgo replied that they had owned the property for a year and a long term renter, who is moving out, had occupied it. He added that they have invested a lot of money into improving the home and want to use it as a short term rental. The applicants mentioned some of the upgrades that they have made to the property.

Citizen comments

Ms. Sheri Graham, 3516 Windgate Way, expressed her opposition to this application, mentioning the narrow streets, the fact that the streets were private, there are serious parking issues, concerns of safety of the neighborhood, increased traffic and potential drug trafficking.

Ms. Margaret Ciolek, 3512 Windgate Way, stated that she has spoken to all of her neighbors and that none of them are consenting to this proposed use. She added that she is single and currently feels safe in her neighborhood as she knows all of her neighbors. Ms. Ciolek said that the neighbors watch out for each other. She also mentioned the close proximity to three schools and a nearby park that she was concerned about. Ms. Ciolek stated that she was “standing up for the children in Lexington”, and that this use would take away another residential person who could potentially vote in elections. She said that she is totally opposed to this use and asked the Board to consider denying it, and thanked the Board members for their service.

Mr. Arte and Mrs. Amy Bratton, 3509 Windgate Way, stated that they have lived in their home for almost twenty-two years, and moved there due to it being a private neighborhood with no through traffic. Mr. Bratton said that theirs is a very narrow street with narrow driveways, making it difficult for delivery trucks and school buses to come into the area. They also mentioned that it is difficult to place their trash receptacles out for pick up, adding that a short term rental would add to the trash accumulation. Mr. and Mrs. Bratton stressed the sense of neighborliness that is currently felt in their community, which they opined would suffer if one of the homes was used as a short term rental.

Ms. Sarah Cain, 3617 Windgate Way, stated that this is a very tight-knit, close community. She added that many more residents would have attended the meeting, but they had to work, so they asked her to express their opposition to this application. Ms. Cain stressed the issues with traffic and parking on the street. She expressed concerns over the rental process that the applicants would use; whether the renters would be screened in some manner. Ms. Cain stated there were already at least three short term rentals in their neighborhood and asked if there could be a limit set on the density of them in their neighborhood. She mentioned that she and her neighbors were aware of an effort that was being considered at the state level to deregulate short term rentals, and that they were concerned about that. Ms. Cain directed the Board's attention to the overhead screen on which an image of trash in front of a short term rental down the street from her home was an issue.

Applicant comments – Mr. Trgo stated that their application has a limit of two cars and that they would ask the guests to keep their cars in the driveway, which would accommodate two cars. He added that they did not intend to be rude neighbors. Mr. Trgo stated that they operate seven other short term rentals in Lexington and that they have employees that put the trash containers out and bring them back in. He addressed the issue of safety, acknowledging that Airbnb does do criminal background checks on prospective renters, and that individuals with a criminal background are not allowed to rent through Airbnb. Ms. Trgo stated that they do not allow one-night rentals, which tends to cut down on the risks for parties or other things that may be disruptive, adding they don't want those risks either. Mr. Trgo noted that they don't rent to people who live in Lexington, as another measure to reduce the risks of parties, as well as other measures they take to reduce problem renters. He added that they have been Super Hosts for eight years.

Ms. Trgo stated that she is a local realtor and many of their short term rental clients are families that need interim rentals and that is what started the process for her and Mr. Trgo to operate short term rentals. She added that she has a lot of direct contact with their renters, so she is aware of who is renting from them.

Board questions – Mr. Walker questioned the applicants regarding their restriction of two cars, with an occupancy of up to eight guests. He asked how they would monitor to ensure their guests do not bring extra vehicles. Mr. Trgo stated that they could monitor that and they were just following the occupancy as recommended by the city. Mr. Walker said that he wanted to know how the applicants plan to restrict the vehicles to two cars. Mr. Trgo replied that they would state on their Airbnb listing that there was a two car maximum and that they currently have that restriction on other short term rentals that they operate.

Ms. Tucker opined that eight people in a home of this size was quite a bit. She stated that she was concerned about the parking and the problems that could arise if there was an emergency. Ms. Tucker said that she appreciated the neighbors' concerns and that they are part of this process. Mr. Trgo stated that with all of their Airbnb's, they stay in touch with the neighbors because they do not want to ruin the neighborhood, but improve it.

Mr. Clarke opined that renting to eight individuals with only two cars does not seem that it would work, unless it was two big families. He added that he would question that rationale. Mr. Trgo stated that eight people is the maximum; it could be from two to eight people. He explained the layout of the home, stating there was sufficient space for up to eight people. There was further discussion.

Ms. Tucker asked Staff if the number of Airbnb's in this area was known. Ms. Goderwis replied that there were two other short term rentals that have been issued Zoning Compliance Permits that are within one thousand feet of the property. She added that Staff had added a new calculation into the staff report this month, in which the number of parcels that are within that one thousand foot buffer are taken into account, and there are three hundred and forty-one parcels in this vicinity. Three hundred and thirty-six of those are designated as residential or multi-family by the PVA, which is approximately ninety-eight and one-half percent of the parcels within the area. Based on the two short term rentals that exist, that is approximately zero point six percent of the residential parcels in the vicinity. Ms. Tucker apologized for missing that. Mr. Trgo stated that they own one of those short term rentals in the vicinity. Ms. Trgo added that they have zero compliance issues.

Action – A motion was made by Ms. Tucker, seconded by Mr. Sturdivant for **disapproval** of **PLN-BOA-24-00016: DIAMOND DESIGN AND CONSTRUCTION LLC** – request for 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, based on the grounds that the subject property is located on a cul-de-sac that does not provide sufficient on-street parking and the garage and driveway on the residence do not provide adequate off-street parking. Thus, the short term rental would have an adverse effect on the surrounding neighborhood due to the limited vehicular use area.

Discussion on the motion – Mr. Clarke referred to the comments that had been made about Windgate Way being a private street. He opined that that was probably incorrect and that the street was a public street. He asked the citizens of that street if they pay for paving and sidewalks and to that question, they indicated that they did. He asked them if they actually owned the street. The residents confirmed that they own the street. Mr. Clarke stated that he was glad to clear that up.

Ms. Wade clarified that the neighborhood association and group of owners probably do own and maintain the street, but there is still public access for all other users. For example, the Post Office can still deliver the mail. There was further discussion.

Action – The motion for **disapproval** was voted on by the Board and carried 4-2 (Carter and Walker opposed; Plumlee absent).

5. **PLN-BOA-24-00020: LEXINGTON CENTER CORP** – requested 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 Recommended: 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 was 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.

Applicant representation – Mr. Evan Buckley, attorney for the applicant, was present on behalf of this application. He briefly summarized the application and stated that the applicant had read Staff's recommendation and conditions of approval and stated that they agree with those conditions. Mr. Buckley reviewed the process that had preceded this request for a conditional use permit for a sign with dynamic content, and briefly explained what dynamic content meant.

Board questions and comments – Mr. Clarke asked Mr. Buckley to define dynamic content. Mr. Buckley replied that the Zoning Ordinance itself defines dynamic content, and he read the following as stated in the Zoning Ordinance. "Dynamic content is moving or changing imagery such as video, animations, and special effects." He added that it is what one would imagine as being on a video board, including content that is not still. Mr. Buckley explained how dynamic content differs from video display content, which is also addressed in the Ordinance.

Mr. Sturdivant referred to condition #5 and stated that he had never seen a portion of West Vine Street closed to motorists. Mr. Buckley explained that it would definitely be for a special event, such as a parade, or other large city event where the Division of Traffic Engineering is involved and numerous city officials are involved with shutting down a street. He opined that he did not know how often that would occur, as it would involve a lot of planning and involving a lot of people. There was further discussion.

Staff comments – Ms. Wade explained that there are three steps involved. The first step is the electronic message display, which is what the video boards do currently, by showing a message and holding for eight seconds. That message is not changing constantly. What the applicant is requesting is for the message to change, but only at one fixed location on their property. Ms. Wade referred to an image on the overhead screen which depicted that sign. She added that the traffic at that location is one-way and the message would change or have transitions such as in a Power Point presentation. Something may scroll across, or they may be a short video clip of an upcoming event. Ms. Wade explained that the next phase would be a full-length show or something on live television, such as a basketball game that a lot of people want to come downtown to watch. In that case, the applicant would apply for a special permit, the street would be closed and the applicant would show a full, television quality, live activity. There was further discussion.

Citizen comments

Mr. William Rafter, 369 W. Vine St., Unit 1801, stated that he was president of the Vine Center Condominiums. He expressed his opposition to the proposed sign, stating that the current sign is sufficient. Mr. Rafter opined that most people who come downtown already know what is going on. He shared a document which was displayed on the overhead screen, in which a sign at the corner of Broadway and Vine St. was depicted, showing upcoming events. Mr. Rafter expressed concerns over the proposed sign due to the fact that it would flash and disrupt the residents in his building.

Ms. Kelley Schweet, 369 W. Vine St. Unit 2002, mentioned that not all of the condo owners received a letter about this meeting. She opined that the proposed sign would change the complexion of a beautiful part of Lexington. Ms. Schweet expressed concern with possible decreases in property values in the vicinity of the proposed sign. She referred to a study that was prepared by the California Department of Transportation in 2020 about the distraction from digital billboards. Ms. Schweet also commented on the traffic at this intersection being busier than indicated by the applicant.

Applicant comments – Mr. Buckley acknowledged that Lexington Center Corporation is a non-profit entity whose board is appointed by the mayor. The members are community leaders who are invested in the community and who take community involvement very seriously. He added that they had sought and obtained community feedback throughout this process, even from residents in Mr. Rafter's and Ms. Schweet's building. Mr. Buckley explained that the sign would not be on all night and that the brightness of the sign is limited by the Zoning Ordinance.

Board question – Ms. Carter asked if the existing sign would be removed. Mr. Buckley replied that the sign was permitted to stay; however, it was his understanding that the existing sign would be phased out.

Citizen comments continued - Ms. Schweet asked if she could make a comment and Ms. Carter allowed. Ms. Schweet stated that the nearby property owners had no knowledge of the Ordinance being referred to today. She asked if they should have been notified about it and allowed an opportunity to speak about it.

Mr. Buckley replied that throughout the Zoning Ordinance Text Amendment process, the applicant had sent out the required notification letters and appeared before the Council on numerous occasions. He added that they had made every effort to be responsible members of the community and go through every process to get to the point of this request.

Board comments and questions – Mr. Gross remarked that he travels for work and that he sees a lot of this type of sign around the country. He opined that the existing sign was outdated, and while he understood the neighbors' concerns, he thought that the proposed sign would be beneficial to the community and that he was in favor of it.

Mr. Sturdivant asked about the comment in Staff's recommendations which stated that the sign would not be on after 11:00 pm during the week or midnight on weekends. Mr. Buckley explained that in consistence with the Zoning Ordinance, the sign is only on between 7:00 am and 11:00 pm on weekdays and from 7:00 am to midnight on weekends. He added that if there is an active event at Rupp Arena, which goes past the end times mentioned, the sign could still be illuminated to assist in exiting the building. Mr. Buckley stated that those hours are standard, and consistent with the Zoning Ordinance. Mr. Sturdivant asked Staff who regulates the sign, if it is on past regulated hours. Ms. Wade explained that if someone called and complained about the hours, the Zoning Enforcement Section within the Division of Building Inspection would research that and communicate with Lexington Center Corporation to ensure that it is turned off at the right times. If they operate outside of the window of time, they could be fined or come back to the Board for additional review.

Action – A motion was made by Mr. Gross, seconded by Mr. Clarke and carried 6-0 (Plumlee absent), to **approve PLN-BOA-24-00020: LEXINGTON CENTER CORP** – requested 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., based upon Staff's recommendation and the testimony heard today and subject to the five conditions as listed.

- V. **BOARD ITEMS** – Ms. Carter announced that any items a Board member wished to present would be heard at this time.

There were no Board items for discussion at this time.

- VI. **STAFF ITEMS** – Ms. Carter announced that any items a Staff member wished to present would be heard at this time.

There were no Staff items for discussion at this time.

- VII. **NEXT MEETING DATE** – Ms. Carter announced that the next meeting date will be April 8, 2024 at 1:30 pm, Council Chambers, 200 East Main Street, Lexington, KY 40507.

- VIII. **ADJOURNMENT** – As there was no further business, Ms. Carter declared the meeting adjourned at 3:32 pm.

Raquel Carter, Chair

Linda Tucker, Secretary

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://fucg.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.