

**MINUTES FOR THE BOARD OF
ADJUSTMENT MEETING**

May 13, 2024

- I. **CALL TO ORDER** - Chair Carter called the meeting to order at 1:33 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky. She informed those present in the Council Chambers that everyone in the room must be seated, as standing was prohibited per the fire code. Ms. Carter stated that there was overflow seating available in the mezzanine area, outside Council Chambers, where the meeting could be viewed as well.

II. **ATTENDANCE**

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

III. **APPROVAL OF MINUTES**

There were no minutes available for consideration by the Board at this time.

IV. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Swearing of Witnesses** – Ms. Carter announced that any applicant, objector, or anyone in the audience or seated in the overflow seating 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 present.
- 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.
- C. **Postponements**

1. **PLN-BOA-24-00012: JEROMIE R. KIRK** – requested a variance to increase the allowable width of a driveway from 10' to 20' within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 612 N. Broadway. (Council District 1)

The applicant had previously indicated to Staff that they may not be available to attend this meeting and wished to request a one-month postponement to the June 10, 2024 meeting.

Note – When Ms. Carter sounded the agenda, neither the applicant, nor his representative were present to request postponement. Ms. Carter stated they would push this application to later in the meeting in the event representation for this application arrived. (Note: This item was revisited at the end of the meeting and the action noted below occurred at the end of the meeting). Ms. Carter asked for a motion to postpone the application to the June 10, 2024 meeting.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0 (Ms. Plumlee had left the meeting), to grant a one-month **postponement** of **PLN-BOA-24-00012: JEROMIE R. KIRK** – request for a variance to increase the allowable width of a driveway from 10' to 20' within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 612 N. Broadway. to the June 10, 2024 Board of Adjustment meeting.

2. **PLN-BOA-24-00039: LEXINGTON ISLAMIC CENTER, INC** – requested a conditional use permit to amend an existing conditional use for a place of religious assembly in order to construct an addition and new parking areas in an Agricultural Urban (A-U) zone, on property located at 1240 Armstrong Mill Rd. (Council District 8)

The applicant had informed Staff that they wished to postpone their application to the June 10, 2024 meeting.

Applicant representation – Mr. Matt Carter, Vision Engineering, was present on behalf of this application. Mr. Carter stated that the applicant was agreeable to Staff's recommendations for this application from the prior month, with no changes.

Staff comments – Ms. Goderwis informed the Board that Staff was told last month that the applicant was going to provide changes to their site plan. Therefore, Staff did not prepare for the applicant to be heard today. Ms. Goderwis added that the application had not been appropriately notified, as there was no sign posted on the property.

Action – A motion was made by Mr. Gross, seconded by Ms. Plumlee and carried 7-0, to grant the **postponement** of **PLN-BOA-24-00039: LEXINGTON ISLAMIC CENTER, INC.** – requested a conditional use permit to amend an existing conditional use for a place of religious assembly in order to construct an addition and new parking areas in an Agricultural Urban (A-U) zone, on property located at 1240 Armstrong Mill Rd. to the June 10, 2024 Board of Adjustment meeting.

3. **PLN-BOA-24-00036: DUSTIN AND LAUREN GAGE** – requested a conditional use permit for a bed and breakfast in an Agricultural Rural (A-R) zone, on property located at 875 S. Cleveland Rd. (Council District 12)

The applicant had informed Staff that they wished to postpone their application to the June 10, 2024 meeting.

Action – A motion was made by Mr. Gross, seconded by Ms. Plumlee and carried 7-0, to grant the **postponement** of **PLN-BOA-24-00036: DUSTIN AND LAUREN GAGE** – request for a conditional use permit for a bed and breakfast in an Agricultural Rural (A-R) zone, on property located at 875 S. Cleveland Rd. to the June 10, 2024 Board of Adjustment meeting.

4. **PLN-BOA-24-00052: TAMMY FIEFHAUS** - requested a conditional use permit for an un-hosted short term rental in a Medium Density Residential (R-4) zone, on property located at 2900 Alydar Ct., Unit A. (Council District 7)

The applicant had informed Staff that they wish to postpone their application indefinitely.

Board question – Mr. Gross asked if there was a reason that the applicant had requested an indefinite postponement. Ms. Goderwis replied that it was due to restrictions with their homeowners association that could prohibit this use. She added that the applicant is working with the homeowners association to resolve the issue and wish to keep their application open for that reason.

Ms. Smith pointed out that the bylaws state that an application is required to be postponed to a particular date.

Action – A motion was made by Mr. Gross, seconded by Ms. Plumlee and carried 7-0, to grant the **postponement** of **PLN-BOA-24-00052: TAMMY FIEFHAUS** – 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 2900 Alydar Ct., Unit A, to the August 12, 2024 Board of Adjustment meeting.

D. Abbreviated Hearing

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

1. **PLN-BOA-24-00051: 344 ROMANY ROAD, LLC** - requested 1) a variance to reduce the vehicular use area perimeter buffer from 8' to 0', 2) a variance to reduce the property perimeter buffer from 15' to 0', 3) a variance to reduce the required vehicular use area interior landscaping from 10% to 4.5%, 4) a variance to increase the maximum distance between interior landscape areas within a vehicular use area from 90' to 110', 5) a variance to reduce the required vehicular use area tree canopy from 30% to 15%, 6) a variance to increase the maximum amount of paved area in a vehicular use area between the building and the street from 60' to 240', 7) a variance to decrease the minimum setback for a free-standing sign from 10' to 0' for two freestanding signs in order to construct a parking lot associated with a grocery store a Neighborhood Business (B-1) zone, on property located at 344 Romany Rd. and 357 Duke Rd. (Council District 5)

The Staff Recommended: **Approval of Variances #1, #2, #6, and #7** for the following reasons:

- a. Granting the variances should not adversely affect the public health, safety, or welfare of the general vicinity, as the variances will allow for the applicant to develop the site in a manner that will allow for an increase in vegetation on the site and will allow the circulation of the property to function well for daily use by customers and deliveries.
- b. There are special circumstances that justify the need for the variances, including the slope of the property and the L-shaped configuration of the lot.
- c. Granting the variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed and prior to construction.

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

1. The site shall be developed in accordance with the submitted application materials and a revised site plan.
2. All necessary permits shall be obtained from the Divisions of Building Inspection, Traffic Engineering, and Engineering prior to construction.
3. Action of the Board shall be reflected on the Final Development Plan for the property.

The Staff Recommended: **Disapproval of Variances #3 and #4** for the following reasons:

- a. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance. There is sufficient space on the property to accommodate the required interior landscaping while maintaining a majority of the desired parking spaces.
- b. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land, as they could meet the Zoning Ordinance requirements by removing parking spaces or by reducing the width of the parking spaces to a more typical dimension.

The Staff Recommended: **Approval of a lesser variance for Variance #5 to reduce the required Vehicular Use Area tree canopy from thirty percent (30%) to twenty percent (20%)** for the following reasons:

- a. Granting the lesser variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor have a negative impact on the character of the general vicinity as the applicant will be increasing the tree canopy on the subject property.
- b. Granting the variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed and prior to construction.

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

1. The site shall be developed in accordance with the submitted application materials and a revised site plan.
2. All necessary permits shall be obtained from the Divisions of Building Inspection and Engineering prior to construction.
3. Action of the Board shall be reflected on the Final Development Plan for the property.

Applicant representation – Mr. Darby Turner, was present as the attorney on behalf of the applicant, Publix. Ms. Carter noted that Staff had submitted a Supplemental Staff Report for this application and that one of the original variances had been withdrawn by the applicant. Mr. Turner replied that the applicant had made some revisions, thus the original Variance #4 was no longer necessary and the revised plan now complied

with the original Variance #6. Ms. Goderwis remarked that the applicant still needed approval of a lesser variance for #5. Ms. Carter stated that with the revisions, the following is needed: Approval of Variances #1, #2, #6 and #7; approval of a lesser variance of #5; approval of a lesser variance of #3 and the withdrawal of #4. She stated that there are conditions of approval and asked Mr. Turner if the applicant had reviewed those conditions and was agreeable to them. Mr. Turner replied that the applicant had read the conditions and was in agreement with them.

Board questions – Mr. Sturdivant asked if core drilling or soil sampling had been done. Mr. Turner stated that those had been done, but he didn't have the results with him. Mr. Sturdivant asked if the contractor had encountered significant rock. Mr. Turner replied that rock had been found there. Mr. Sturdivant said that he was concerned with the noise for the neighbors.

Ms. Plumlee asked about the width of the parking spaces. Mr. Turner replied that the spaces were going to be two feet wider than the standard.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 6-0 (Gross recused), for **approval of PLN-BOA-24-00051: 344 ROMANY ROAD, LLC** – request for 1) a variance to reduce the vehicular use area perimeter buffer from 8' to 0', 2) a variance to reduce the property perimeter buffer from 15' to 0', 3) a variance to reduce the required vehicular use area interior landscaping from 10% to 6.6%, 4) a variance to reduce the required vehicular use area tree canopy from 30% to 20%, 5) a variance to increase the maximum amount of paved area in a vehicular use area between the building and the street from 60' to 240', 6) a variance to decrease the minimum setback for a free-standing sign from 10' to 0' for two freestanding signs in order to construct a parking lot associated with a grocery store a Neighborhood Business (B-1) zone, on property located at 344 Romany Rd. and 357 Duke Rd., based on Staff's recommendation and the Supplemental Staff Case Report, and subject to the conditions as listed. (Note: Mr. Clarke stated that he re-numbered the variance requests as he read them, to reflect the revisions made as discussed.)

Note – Mr. Gross returned to the meeting at this time and resumed his place on the Board.

2. **PLN-BOA-24-00056: GREER LAND CO SMYRNA #2 LLC** – requested variances to reduce the minimum front yard setback from 10' to 0' and increase the maximum setback from 20' to 73' in order to construct two new buildings with a drive aisle and parking in front of a building on a corner lot in a Neighborhood Business (B-1) zone, on property located at 2041 Richmond Rd. (Council District 5)

The Staff Recommended: Approval, for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare, nor alter the character of the general vicinity. Increasing the front yard setback will ensure that the proposed building is in keeping with existing non-conforming setbacks of adjoining retail uses, and will preserve existing site access and circulation for vehicular and pedestrian users of the subject property and surrounding properties.
- b. The existing non-conforming setbacks of the adjoining retail uses, as well as the existing vehicular access, and the elevation change from Richmond Road into the subject property are special circumstances that limit the applicant's ability to develop the subject property in accordance with the Zoning Ordinance without adversely affecting the subject property and surrounding properties.
- 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 construction.

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, or as modified by the amended Final Development Plan.
2. Action of the Board shall be reflected on the Final Development Plan for the property.
3. All necessary permits from the Divisions of Planning and Building Inspection shall be obtained prior to construction.
4. A shared access easement that parallels Richmond Road shall be established on a minor subdivision plat.
5. The primary pedestrian entrance shall be established along the primary wall of the structure and be oriented to Richmond Road.
6. The compact parking located in close proximity to the restaurant drive-through lanes shall be removed

and replaced with a landscape buffer of a minimum width of 8 feet. Three (3) medium or large trees and a three-foot tall shrub row shall be installed and maintained to provide a buffer of the drive through facilities.

Applicant representation – Mr. Matt Carter, Vision Engineering, was present on behalf of this application. He stated that the applicant had a concern regarding condition #5. He stated that the applicant's prototype business model has the primary entrance on the side of the building and not the front. Mr. Carter offered to show photos of what the building would look like with the primary entrance on the side. He distributed the photos to the members of the Board. Mr. Carter directed the Board's attention to the images of the building on the overhead screen which depicted how the building would look with the primary entrance in different locations. He added that the applicant was in agreement with the other conditions.

Board comments – Ms. Carter requested that the site plan be displayed on the overhead screen again. Ms. Goderwis directed the Board's attention to the overhead screen on which a copy of the site plan was displayed. She explained that it may be possible to consider the entrance that faces Richmond Rd., with the patio, to be a primary entrance, as long as there is a direct pedestrian path to it and it is accessible. She added that there should be no gate or an enclosed patio, so that it is an accessible pedestrian access. Ms. Goderwis stated that Staff was also concerned with the bank that is on the adjoining portion of the property.

Applicant comments – Mr. Carter stated that he had originally wanted the same to apply to the bank, but has since figured out a way to make that entrance on the front. There was further discussion regarding the site plan and the proposed tenant of the subject building, Huey McGoo's restaurant.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 7-0, to **approve PLN-BOA-24-00056: GREER LAND CO SMYRNA #2 LLC** – request for variances to reduce the minimum front yard setback from 10' to 0' and increase the maximum setback from 20' to 73' in order to construct two new buildings with a drive aisle and parking in front of a building on a corner lot in a Neighborhood Business (B-1) zone, on property located at 2041 Richmond Rd., based upon Staff's recommendation, the testimony given today and subject to the six conditions set forth in the report except for condition #5, striking the words "the primary" in the beginning of the sentence, and replacing them with the word "uninterrupted".

3. **PLN-BOA-24-00028: NEW LIFE BAPTIST CHURCH (AMENDED)** – requested a conditional use permit to amend an existing conditional use for a place of religious assembly in order to construct a new accessory structure in a Single Family Residential (R-1C) zone, on property located at 333 Redding Rd. and 3457 Bellmeade Rd. (Council District 4)

The Staff Recommended: Approval, for the following reasons:

- a. The proposed structure will allow for the replacement of two existing sheds that are in disrepair and will provide needed storage for the church.
- b. The proposed structure will not result in an increase in traffic on the site and the existing parking lot will not be modified.

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

1. The structure shall be constructed and operated in accordance with the submitted application materials and site plan.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection prior to construction.

Applicant representation – Pastor Steve Wainright was present on behalf of this application. Ms. Carter asked Pastor Wainright if he had reviewed the conditions of approval and if he was comfortable with them. He stated that he had reviewed them and was comfortable with them.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried (7-0) to **approve PLN-BOA-24-00028: NEW LIFE BAPTIST CHURCH (AMENDED)** – request for a conditional use permit to amend an existing conditional use for a place of religious assembly in order to construct a new accessory structure in a Single Family Residential (R-1C) zone, on property located at 333 Redding Rd. and 3457 Bellmeade Rd., based on Staff's recommendation and subject to the two conditions as listed.

4. **PLN-BOA-24-00059: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON** - requested a conditional use permit for a place of religious assembly in order to construct additional parking within the defined Infill and Redevelopment area in a Medium Density Residential (R-3) zone, on property located at 430 Jefferson St. and 485 W. Fourth St. (Council District 1)

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

- a. The proposed use should not adversely affect the subject or surrounding properties. The parking lot will provide needed parking spaces for the church, which is located in an area that generally needs more parking. The parking lot will be required by the Zoning Ordinance to provide landscaping and screening to create a buffer between the vehicular use and the residential neighborhood.
- 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 project shall be completed in accordance with the submitted application materials and site plan, noting the shifting of the proposed landscaping in accordance with Article 18 of the Zoning Ordinance and subject to any alterations required throughout the permitting process.
2. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering prior to construction.
3. The final configuration of the parking lot, including any changes to the church's existing parking layout, shall be subject to approval by the Division of Traffic Engineering.
4. The parking lot shall be paved, with spaces delineated, and landscaped/screened in accordance with the requirements of Article 16 and 18 of the Zoning Ordinance, with the landscaping moved to the exterior edge of the proposed parking lot along 434 Jefferson Street.
5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
6. Any pole lighting for the parking lot shall be of a shoebox (or similar) design, with light directed downward to avoid disturbing any adjoining residential properties.

Applicant representation – Ms. Maureen Peters, Pearson and Peters Architects, was present on behalf of this applicant. Ms. Carter asked Ms. Peters if the applicant had reviewed the conditions of approval and was comfortable with those conditions. Ms. Peters indicated that the applicant was in agreement with the conditions of approval as put forth by Staff.

Action – A motion was made by Mr. Sturdivant, seconded by Ms. Plumlee and carried 7-0, to **approve PLN-BOA-24-00059: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON** – request for a conditional use permit for a place of religious assembly in order to construct additional parking within the defined Infill and Redevelopment area in a Medium Density Residential (R-3) zone, on property located at 430 Jefferson St. and 485 W. Fourth St., based on Staff's recommendation and subject to the six conditions as listed.

E. Items for Discussion

1. **PLN-BOA-24-00042: SOUTH MILL PROPERTIES LLC** – requested a variance to reduce the minimum side street side yard setback from 10' to 0' in order to construct a new patio within the defined Infill and Redevelopment area in an Historic District Overlay (H-1) zone and a Neighborhood Business (B-1) zone, on property located at 372 S. Mill St., aka 380 S. Mill St. (Council District 3)

The Staff Recommended: **Disapproval**, for the following reasons:

- a. The applicant has not provided sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance. The subject property is rectangular and relatively flat. The lot does have room for an outdoor patio without encroaching into the established side street side yard.
- b. Granting the requested variance would alter the character of the general vicinity as no other structures encroach into the W. Maxwell setback all the way to the right-of-way. The encroachment could also set a precedent for other structures in the general vicinity.
- c. Granting the requested variance would have a negative impact on the public health, safety, or welfare of the community by potentially damaging existing significant trees within a local historic district. Further, no tree preservation plan has been established or offered to protect the significant trees.

- d. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land, as they could meet the Zoning Ordinance requirements by shifting the requested 270-square foot patio to another location on the lot or eliminating it altogether.

Staff presentation – Ms. Wade directed the Board's attention to the overhead screen on which she displayed an aerial image of the subject property and its vicinity. She explained that this application had already been before the Board of Architectural Review (BOAR), which deals with the historic preservation and historic character of the structure; however, the applicant is also in need of a variance to the side street side yard. Ms. Wade explained the sections of the Zoning Ordinance that apply to this request for a variance. She displayed the site plan which had been submitted by the applicant and indicated the areas of the proposed new addition and the proposed new patios. Ms. Wade explained that the applicant had not provided sufficient justification for the proposed patio on the side facing W. Maxwell St. She added that the requested variance is also not in keeping with the character of W. Maxwell St., adding that she would explain more about that later in her presentation.

Ms. Wade displayed an image of a plan that the applicant had submitted to the BOAR, which shows how the applicant intends to preserve the historic Tulip Poplar trees on the site. She also displayed an image of the proposed addition, indicating the two proposed patios, noting the side patio is located almost to the sidewalk. Ms. Wade displayed a current street view of the subject property, noting that there are no structures in the area that encroach that far into the front yard. She displayed other street view images of properties in the area with setbacks of at least five feet from the sidewalk. Ms. Wade explained that for the reasons presented by Staff in their report, Staff recommended disapproval of this request for a variance.

Applicant representation – Mr. Baron Gibson, Gibson Taylor Thompson Architects, was present on behalf of this application. He directed the Board's attention to the overhead screen on which he displayed images and renderings pertaining to the proposed project, and documents pertaining to the applicant's hearings before the BOAR. Mr. Gibson addressed some of Staff's points of concern in their staff report.

Board questions and comments – Mr. Gross asked Mr. Gibson if there was a cross-section view of the proposed projection in question, that would make it easier to see what the project would look like if it were completed. Mr. Gibson displayed an image of the proposed patio and explained some of the features. There was discussion.

Mr. Gross asked Mr. Gibson if they had met with Staff to look at the proposed project to determine if this project would even work. Mr. Gibson replied that they had not done so. There was further discussion.

Mr. Sturdivant asked Staff if there was a history of the BOAR and Staff disagreeing on design details. Ms. Wade explained that the BOAR does not make decisions on setbacks or land use. Mr. Sturdivant asked if they were aware of them. Ms. Wade replied that they were aware of them, as was the applicant. Mr. Sturdivant opined that rather than approving a project, the Board of Architectural Review could point out that there may be some problems rather than approving the project and moving it to the next level. Ms. Wade explained that the BOAR deals with Article 13 of the Zoning Ordinance; they are not there to require other aspects of the Zoning Ordinance to be adhered to. Mr. Sturdivant further opined that it could be part of the discussion. Mr. Gibson stated that it was discussed.

Ms. Plumlee expressed concern with the trees, noting that the proposed construction could be harmful to the trees. Mr. Gibson stated that they had outlined a plan for the contractor for staging equipment and excavation to prevent damage to the trees. He elaborated on that plan. Ms. Tucker expressed concern with all of the pedestrian traffic in the area.

Staff comments – Ms. Wade addressed the applicant's point regarding the unique character of the site. She explained that the structure itself is unique, but being within an H-1 District is not a unique situation, as it occurs for quite a bit of the county, especially near downtown. Therefore, the requirements to go before the Board of Architectural Review are going to be present to address the aesthetic characteristics of the site, but that does not necessarily address the zoning requirements, as Mr. Sturdivant asked about. Ms. Wade opined that the applicant had not provided sufficient justification as to why they needed two patios instead of just the one, other than it was just their desire to have

seating directly on the street. She added that it was Staff's concern that this was not consistent with the character of this area, and to do so with this variance, would create another unique situation which is not the desire of the Zoning Ordinance.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 6-1 (Gross opposed), to **disapprove PLN-BOA-24-00042: SOUTH MILL PROPERTIES LLC** – request for a variance to reduce the minimum side street side yard setback from 10' to 0' in order to construct a new patio within the defined Infill and Redevelopment Area in an Historic District Overlay (H-1) zone and a Neighborhood Business (B-1) zone, on property located at 372 S. Mill St., aka 380 S. Mill St., based on Staff's four reasons for recommending disapproval.

2. **PLN-BOA-24-00050: STEVEN M. SHERMAN** – requested a variance to reduce the required front yard setback from 30' to 0' in order to pave a circular driveway in front of the house within the defined Infill and Redevelopment area in a Single Family Residential (R-1C) zone, on property located at 1736 Fairway Dr. (Council District 5)

The Staff Recommended: Disapproval, for the following reasons:

- a. The applicant has not provided sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance. The subject property's shape and the configuration of the existing structure and paving are substantially similar to the majority of lots in the immediate vicinity.
- b. Granting the requested variance would alter the character of the general vicinity as the majority of lots on Fairway Drive have a similar orientation and layout to the subject property and circular driveways are uncommon in the neighborhood.
- c. Granting the requested variance would have a negative impact on the public health, safety, or welfare by creating an additional conflict point between vehicles and pedestrians along Fairway Drive. Additionally, the Division of Traffic Engineering has indicated that the proposed curb cut is too close to the existing curb cut and the turning radius in the circular drive is too tight for vehicle maneuverability.
- d. The granting of this variance could allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant began construction of the proposed driveway without securing the proper paving permit. Additionally, the property is located within the defined Infill and Redevelopment Area where paving is intended to be more limited than in other residential areas.

Staff presentation – Ms. Goderwis directed the Board's attention to the overhead screen on which she displayed an aerial image of the subject property and vicinity. She explained that the applicant wished to pave a circular drive within the defined front yard of their property; however, the Zoning Ordinance does not currently allow for any parking, loading, or unloading spaces within any required front yard. Ms. Goderwis also displayed a copy of the applicant's site plan, which depicted the proposed circular driveway that would attach to the existing driveway. She pointed out that the circular driveway would include a secondary curb cut, approximately nineteen feet from the existing curb cut. Ms. Goderwis stated that the applicant opined that this would provide a safer way to exit their property without having to back out. She added that Staff found that the applicant did not provide sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243, adding that there are not special circumstances that apply to this property that are unique. She added that circular driveways are not common in this neighborhood and that the Division of Traffic Engineering has indicated that it is unlikely that they would approve this application for several reasons.

Board question – Mr. Gross asked Staff if the Board had disapproved another request for a circular driveway in the same neighborhood within the past twelve months. Ms. Goderwis replied that she did not recall an application in the neighborhood, but there was another application for a circular driveway on Alexandria Dr. for which the Board approved a lesser variance. There was further discussion.

Applicant presentation – Ms. Diane Sherman, property owner and wife of the applicant, Steven Sherman, spoke on behalf of this application. She directed the Board's attention to the overhead screen on which she displayed images of their property. Ms. Sherman gave a brief summary of their application, noting all of the improvements and modifications they have made to the property over the past four years and why they had requested this variance.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross and carried 6-1 (Sturdivant opposed), to **disapprove PLN-BOA-24-00050: STEVEN M. SHERMAN** – request for a variance to reduce the required front yard setback from 30' to 0' in order to pave a circular driveway in front of the house within the defined Infill and Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 1736 Fairway Dr., based on Staff's recommendation.

3. **PLN-BOA-24-00062: LINDA DUNSMORE** – requested a variance to reduce the required front yard setback from 45' to 0' in order to allow additional paving in the front yard in a Single Family Residential (R-1C) zone, on property located at 856 Robin Rd. (Council District 3)

The Staff Recommended: Approval, for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The subject property has operated with parking in the front yard area since the home was constructed in 1955.
- b. The orientation of the structure on the lot is a special circumstance that dictates the most appropriate place for an accessible entrance would be the front of the site, near the existing front yard paving.
- 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 construction. Additionally, the cumulative width of the two paved areas will not exceed the maximum allowable width for a driveway (24') in this location.

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

1. Construction shall be in accordance with the submitted application materials and revised site plan depicting the alternative driveway design without the connection.
2. The paved connection area between the existing and proposed driveway shall be removed.
3. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to paving.

Applicant representation – Mr. Chris Clendenen, attorney for the applicant, was present on behalf of the application. He directed the Board's attention to the overhead screen on which he displayed images of the subject property and its vicinity. Mr. Clendenen gave a summary of the application and displayed the site plan that had been submitted with the application. He explained the various proposed modifications to the property.

Board questions – Mr. Sturdivant had questions about the existing garage and driveway, asked if there was proposed access from the new driveway to the new addition. Mr. Clendenen replied that there was a connection to it. Mr. Sturdivant asked if there would be a door to the driveway. Mr. Clendenen replied that there would be access to the garage and the ADU from that driveway, but not the main house. There was further discussion.

Applicant comments – Ms. Dunsmore, 856 Robin Rd., spoke on behalf of her application, and explained some of the hardships that she is experiencing with the current layout and terrain of her property. She described how the proposed modifications would benefit her and enable her to remain in her home.

Board question – Ms. Tucker had concerns and questions about the proposed driveway. She also asked if the proposed Accessory Dwelling Unit would ever be rented to anyone other than a caregiver. Mr. Clendenen and Ms. Dunsmore confirmed that it would not be rented to anyone other than a caregiver. Ms. Tucker asked if the caregiver could use the same driveway that Ms. Dunsmore uses. Mr. Clendenen explained.

Public comment

Mr. Carl Wagoner, 852 Robin Rd., informed the Board that a woman unknown to him, had approached him in the audience, and had given him letters and maps pertaining to this application. He said that she requested he pass them on to the Board members for them to read. Ms. Goderwis stated that the woman he was referring to was Ms. Amy Clark, as she had seen her speaking with Mr. Wagoner, during the previous presentation. Ms. Goderwis gave the documents to the Board members. Mr.

Wagoner stated that his only objection to the site plan was to the driveway in question. He expressed his concerns with the amount of non-permeable surface, and the possibility that it could cause issues with water coming into his basement as his property is down-hill of Ms. Dunsmore's property.

Ms. Tina Wagoner, 852 Robin Rd. expressed her concerns with an increase in pavement if the proposed project is approved. She also expressed concerns with potential damage to the existing greenspace in the vicinity of her property and that of Ms. Dunsmore's.

Staff comments – Ms. Goderwis reminded the Board that the applicant's addition is not what the Board is to review, as the variance is for the parking that exists in front of the existing garage. She added that the additional paving is allowable, so the issue is whether or not she can keep the existing driveway. Ms. Goderwis also reminded the Board that if Ms. Dunsmore moves forward with the construction of her project, with or without this requested variance, the application will go through the typical permitting process of paving permit, building permit and will have to meet all of the typical regulations for construction that occurs in our neighborhoods.

Applicant rebuttal – Mr. Clendenen said in closing that he hoped the Board would approve this application, adding that he understood the concerns of the neighbors. He stated that the idea that keeping the existing driveway would cause flooding was speculative at this point.

Board question – Mr. Sturdivant asked Staff if this application would come back to the Board for any variances based on the proposed improvement. Ms. Goderwis responded that the only variance required based on what Ms. Dunsmore is proposing is the one before the Board at this time, related to the existing driveway. There was further discussion.

Action – A motion was made by Mr. Sturdivant to **approve PLN-BOA-24-00062: LINDA DUNSMORE** – request for a variance to reduce the required front yard setback from 45' to 0' in order to allow additional paving in the front yard in a Single Family Residential (R-1C) zone, on property located at 856 Robin Rd., based on Staff's recommendation and subject to the three conditions as listed. The motion failed due to lack of a second.

Note – The Board took a recess at 3:43 p.m. and reconvened at 3:58 p.m.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 7-0, to **disapprove PLN-BOA-24-00062: LINDA DUNSMORE** – request for a variance to reduce the required front yard setback from 45' to 0' in order to allow additional paving in the front yard in a Single Family Residential (R-1C) zone, on property located at 856 Robin Rd., based on the following findings:

- a. The variance would adversely affect the public health and/or welfare of the general vicinity because allowing approximately one thousand square feet of non-permeable paving to remain could contribute to stormwater retention.
- b. The variance would alter the general character of the vicinity by permitting an additional access point to Robin Rd., which would be uncommon for the neighborhood.

4. **PLN-BOA-24-00061: REDWOOD COOPERATIVE SCHOOL INC** - requested to amend an existing conditional use for a school of academic instruction in order to expand the outdoor play area in Single Family Residential (R-1C) and Mixed Low Density Residential (R-2) zones, on property located at 166 Crestwood Dr., 125 and 129 Greenbriar Rd. (Council District 3)

The Staff Recommended: Approval, for the following reasons:

- a. The proposed outdoor play areas should not adversely affect the subject or surrounding properties as the play area will be fenced and only used by the school during typical school hours.
- b. Approval of the request will not result in any additional traffic on or to the school, as enrollment will not be increase.
- c. All necessary public facilities and services are available and adequate for the proposed use.

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

1. The use shall be expanded in accordance with the submitted application materials and site plan, or as modified by the amended Final Development Plan.
2. Action of the Board shall be reflected on the Final Development Plan for the property.
3. All necessary permits, including a fence permit shall be obtained prior to construction.

4. Student enrollment shall be limited to 185 students and faculty employment shall be limited to 29 employees.
5. A shared parking agreement shall be established with adjoining properties for use by parents and guests for the school's special events.
6. The parking lot shall be paved, with spaces delineated, and landscaped/screened according to the provisions of Article 16 and 18 of the Zoning Ordinance.
7. Fire and Emergency access to the proposed building shall be established in accordance with Division of Fire and Emergency Services requirements.

Applicant representation – Mr. Chris Farris, attorney for the applicant, was present on behalf of this application. He briefly explained the reasons for the request to amend the existing conditional use permit.

Public comment

Mr. Mike Finucane, 308 Greenbriar Rd., spoke in opposition of this application, citing a possible decline in the neighborhood if it is approved.

Ms. Kelly Wesley Taylor, (did not sign in), stated that she has twin boys who attend Redwood Cooperative School. She spoke in support of this application.

Ms. Martha Seithers, 320 Greenbriar Rd., spoke in opposition to the application, citing the applicant was encroaching on the residential side of the neighborhood.

Ms. Diane Toll, 245 Greenbriar Rd., expressed her concerns with the applicant purchasing residential property and using it for a commercial use.

Staff comments – Ms. Goderwis clarified an error with condition #4, stating that Staff had inadvertently carried over the number of students and employees from an earlier staff report from the previous application. She added that the condition that was approved with the previous application was that student enrollment be limited to 230 students and it did not address faculty. Since that was the condition that was approved with the expansion a year or two ago, Staff is comfortable with making that change to this condition, just for continuity. Ms. Goderwis added that condition #4 should read: Student enrollment shall be limited to 230 students.

Applicant rebuttal – Mr. Farris responded to some of the public comments, and explained that the applicant was not requesting to take the entire back yards from the two properties in question; but only to use approximately one-half of each for the playground expansion.

Board questions and comments – Ms. Carter asked if the garages shown on the site plan were existing. Mr. Farris indicated that they were existing. Mr. Sturdivant asked if the two buildings in question were duplexes. Mr. Farris replied that they are duplexes. Mr. Sturdivant asked if there would be a six foot privacy fence around the area. Mr. Farris replied that there will be a fence, but he was not certain of the height. Mr. Sturdivant asked what the surface of the play area would be. Mr. Farris responded that it was his understanding that the surface would be grass. Mr. Sturdivant stated that he had driven by the area and was unable to see into the back yards of the properties. He added that this would not be an obvious change from the street. Mr. Farris agreed. Mr. Clarke commented that he had visited and toured the school pertaining to a previous application, and that he was impressed with the school.

Action – A motion was made by Mr. Clarke, seconded by Ms. Plumlee and carried 7-0, to **approve PLN-BOA-24-00061: REDWOOD COOPERATIVE SCHOOL INC** – request to amend an existing conditional use for a school of academic instruction in order to expand the outdoor play area in Single Family Residential (R-1C) and Mixed Low Density Residential (R-2) zones, on property located at 166 Crestwood Dr., 125 and 129 Greenbriar Rd., based on Staff's recommendation and subject to the seven conditions, with the revision of condition #4 to state 230 students instead of 185 and removing the number of faculty employees.

F. Short Term Rental Applications

Staff presentation - Prior to hearing the following applications for short term rentals, Ms. Goderwis reviewed the short term rental regulations which had been adopted by Council on July 11, 2023. She also summarized the resources Staff uses related to short term rentals, which Staff has been doing

since September of 2023. She directed the Board's attention to the overhead screen on which she displayed her presentation.

1. **PLN-BOA-23-00107: MIKE ADAMS** – requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 1783 Gleneagles Dr. (Council District 6)

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. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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 10 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. Mike Adams, applicant, and his business partner, Mr. Matthew Jones, were present on behalf of their application. Mr. Adams explained that since their initial application for a short term rental in February of this year, they have completed the construction project of finishing the basement in the subject property. He added that this project includes an additional seven hundred and fifty square feet, including an additional bedroom, bathroom and living space, and now the home consists of four bedrooms and two bathrooms.

Board questions and comments – Ms. Carter asked the applicants if they were comfortable with the four conditions as listed. They indicated that they were comfortable with them. Mr. Sturdivant asked if the basement was a walk-out basement. Mr. Adams confirmed that it was.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 7-0 to **approve PLN-BOA-23-00107: MIKE ADAMS** – request for a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 1783 Gleneagles Dr., based on Staff's recommendation and subject to the four conditions as listed.

2. **PLN-BOA-24-00022: ESTHER HARVEY** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 433 Silver Maple Way. (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. While there is no on-site parking present on the subject property, the use should not have an adverse impact on traffic in the general vicinity.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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. The property shall be rented on a short term basis for a maximum of 150 days per calendar year.
3. The applicant shall provide documentation that the dwelling is their primary residence, as defined in Chapter 13 of the Code of Ordinances annually at the time of renewal of their special fee license.
4. Occupancy of the short term rental shall be limited to no more than 6 individuals.
5. 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.
6. The conditional use permit shall become null and void upon change in ownership, if the property is no longer the applicant's primary residence, 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. Esther Harvey, applicant and property owner, was present on behalf of her application. Ms. Carter noted that this application was recommended for approval with six conditions, including a condition that limits the rental of this property to one hundred and fifty days per calendar year. She asked Ms. Harvey if she was agreeable to that condition. Ms. Harvey stated that she was agreeable to it. Ms. Carter asked Ms. Harvey if this property would continue to be her primary residence. Ms. Harvey stated that it would be.

Action – A motion was made by Mr. Sturdivant, seconded by Mr. Walker and carried 7-0, to **approve PLN-BOA-24-00022: ESTHER HARVEY** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 433 Silver Maple Way, based on Staff's recommendation and subject to the six conditions as listed.

3. **PLN-BOA-24-00024: BLUEGRASS INTERNATIONAL REALTY LLC** – requested a conditional use permit for an un-hosted short term rental in a Mixed Low Density Residential (R-2) zone, on property located at 732 Whitney Ave. (Council District 2)

The Staff Recommended: Disapproval, for the following reasons:

- a. The proposed use will have an adverse influence on the subject property and the surrounding neighborhood, by removing an existing housing unit from the market that could otherwise be utilized as a primary residence for an owner occupant or long-term tenant within one of the top 10 Census Block Groups identified as a Priority Area, as mapped within the Task Force on Neighborhoods in Transition Report. These priority areas are vulnerable to involuntary displacement, and the proposed use would heighten existing issues with gentrification and involuntary displacement in a location that is in the top 10 Census Block Groups for two of the four mapped attributes.
- b. It is unlikely that there is significant demand for tourist accommodations in the immediate vicinity as the area is characterized by residential uses, a cemetery, and several small light industrial uses. A cluster of short term rentals is occurring just outside the 1,000-foot area reviewed by staff near Old Georgetown Street between West Main Street and West Third Street. That area is closer to tourist destinations and the existing short term rentals there should be sufficient to meet the demand for short term rentals.

Staff presentation – Ms. Goderwis directed the Board's attention to the overhead screen on which she displayed the site plan as submitted by the applicant. She also displayed an aerial image of a map which depicted the one thousand foot boundary around the subject property, with that property identified. Ms. Goderwis also noted that the subject property is located within the one of the top ten census block groups identified by the Neighborhoods in Transition Task Force. She explained that Staff is unable to support this application because the proposed use will have an adverse influence on the subject property by removing an existing housing unit from the market that could otherwise be utilized as a primary residence within one of the top ten census block groups. Ms. Goderwis added that Staff had also identified a number of short term rentals just outside of the one thousand foot area. She explained the reasons for Staff's recommendation of disapproval of this application.

Board comments and questions – Mr. Walker opined that he did not agree with Staff's reasons for disapproval of this application.

Applicant rebuttal – Mr. James Bailey, applicant and property owner, was present on behalf of his application and read his justification statement.

Board questions – Mr. Gross asked Mr. Bailey if the subject property would be his first short term rental. Mr. Bailey stated that it would be. Mr. Gross asked Mr. Bailey if he had other rental property which was used for long term rental. Mr. Bailey said that he did have other rental property that was used for long term rental. He added that the subject property was a duplex and the apartment downstairs was rented to long term renters.

Ms. Tucker asked if there was just one driveway for the duplex. Ms. Goderwis replied that there was only one driveway.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker to **disapprove PLN-BOA-24-00024: BLUEGRASS INTERNATIONAL REALTY LLC** – request for a conditional use permit for an un-hosted short term rental in a Mixed Low Density Residential (R-2) zone, on property located at 732 Whitney Ave., based on Staff's recommendation and the two reasons listed. The motion was voted on and failed 3-4 (Walker, Sturdivant, Carter and Gross opposed).

Note – The Board took a brief recess at 4:48 pm and reconvened at 5:00 pm.

Action – A new motion was made by Mr. Walker, seconded by Mr. Gross and carried 4-3 (Tucker, Clarke and Plumlee opposed), to **approve PLN-BOA-24-00024: BLUEGRASS INTERNATIONAL REALTY LLC** – request for a conditional use permit for an un-hosted short term rental in a Mixed Low Density Residential (R-2) zone, on property located at 732 Whitney Ave., based on the following findings:

- 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 guests.
- b. The proposed use should not have an adverse influence on traffic in the general vicinity as adequate parking is available.
- c. There is not a high concentration of short-term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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.

4. **PLN-BOA-24-00040: TWIN WILLOWS PROPERTIES, LLC** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Single Family Residential (R-1C) zone, on property located at 122 Thompson Rd. (Council District 11)

The Staff Recommended: Disapproval, for the following reasons:

- a. The proposed use will have an adverse influence on the subject property and the surrounding neighborhood, by removing an existing housing unit from the market that could otherwise be utilized as a primary residence for an owner occupant or long-term tenant within one of the top 10 Census Block Groups identified as a Priority Area, as mapped within the Task Force on Neighborhoods in Transition Report. These priority areas are vulnerable to involuntary displacement, and the proposed use would heighten existing issues with gentrification and involuntary displacement in a location that is in the top 10 Census Block Groups for two of the four mapped attributes. Approximately 2.1% of the housing stock within the priority area is already being utilized for this use.
- b. There are already 4 short term rentals, representing approximately 1.9% of the housing stock within 1,000 feet of the subject property, that are available for those interested in utilizing the proposed use.

Staff presentation – Ms. Goderwis directed the Board's attention to the overhead screen on which she displayed an aerial image of the subject property and its vicinity, a street view of the subject property, and gave a brief explanation of this application. She noted that, according to the mapped zoning compliance data, there are four short term rentals operating within one thousand feet of the subject property that have received Zoning Compliance Permits. Ms. Goderwis stated that the subject property is located in Census Tract Block 10, Block Group 1, which is identified as one of the Top Ten Census Block Groups in the Neighborhoods in Transition Task Force Report. She added that it is also within seven hundred feet of another Top Ten Census Block Group. Ms. Goderwis explained the reasons Staff recommended disapproval of this application.

Applicant representation – Mr. Adam Hatton, property owner and applicant spoke on behalf of his application. He explained that his intention is for this property to be used approximately fifty percent of the time as a short term rental and that his mother planned to stay there some as well.

Board question – Mr. Walker asked if there was a driveway on the property. Mr. Hatton replied that there is a driveway on the property.

Action – A motion was made by Ms. Tucker and seconded by Mr. Sturdivant for **disapproval** of **PLN-BOA-24-00040: TWIN WILLOWS PROPERTIES, LLC** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Single Family Residential (R-1C) zone, on property located at 122 Thompson Rd.

Discussion on the motion – Ms. Carter commented that it is difficult to review one application after another with similarities, citing various reasons to consider.

Action – The motion for disapproval was voted on and carried 7-0 to **disapprove** **BOA-24-00040: TWIN WILLOWS PROPERTIES, LLC** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Single Family Residential (R-1C) zone, on property located at 122 Thompson Rd.

5. **PLN-BOA-24-00041: JEFFREY GINN** – requested a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 2520 Crusaders Way. (Council District 6)

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. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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 – Mr. Jeffrey Ginn, applicant and property owner, was present and spoke on behalf of his application, explaining the reasons that he and his wife wished to use this property as a short term rental.

Board questions - Ms. Carter asked Mr. Ginn if he had read the four conditions of approval from Staff and if he was comfortable with those conditions. Mr. Ginn stated that he was comfortable with those conditions.

Public comment

Ms. Ashton Threet, Alpha Association Management, was present on behalf of the Homeowners Association for the subject property. She asked the Board to deny this request for a short term rental for several reasons. Ms. Threet stated that the association actually insures the dwelling, for both property and liability, as it owns all of the surrounding property of the unit. She opined that due to the transient nature of short term rentals, the liability of that one unit would increase, causing an increase in the liability to all one hundred and eight members of the community, not just the subject property.

Ms. Threet stated that the articles and covenants of the association strictly state the property be for residential use only. She opined that the applicant had asked about leasing the property, but it was assumed he intended to use the property for long term rentals.

Applicant rebuttal – Mr. Ginn stated that when he had purchased the house, he had it written into the contract that he intended to use the property as a short term rental, to verify that it was allowed. He addressed the point Ms. Threet made regarding increased liability, noting that the majority of the units on the property are rented currently. Mr. Ginn stated that he would be willing to take out an umbrella policy to offset some of the cost, if that was a concern.

Board questions – Ms. Tucker asked if the properties on either side of Mr. Ginn's property were rentals. Mr. Ginn stated that he did not know. Ms. Carter asked Ms. Smith if the Board should take into consideration the issue of liability and insurance that Ms. Threet had mentioned, given common property was involved in this particular application. Ms. Smith replied that the requirements of maintaining insurance would most likely be addressed within the contract that the applicant would have with the particular HOA. She opined that that would be beyond the jurisdiction of this Board. There was further discussion.

Note – The Board took at recess at 5:19 pm and reconvened at 5:30 pm.

Public comment (continued) – Ms. Audrey Jones, 2522 Crusaders Way, stated that she had just arrived to the meeting and requested to speak. She spoke in opposition to this application, citing the limited parking in the community and her concerns with the possibility her insurance may increase.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 6-1 (Clarke opposed), for **disapproval** of **PLN-BOA-24-00041: JEFFREY GINN** – 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 2520 Crusaders Way, based on the following findings:

- a. The short term rental would have an adverse influence on the adjoining properties due to the properties sharing a common area with limited privacy between units.
- b. The area has a limited amount of shared parking so adding a short term rental could have an adverse influence on the surrounding neighborhood.

6. **PLN-BOA-24-00043: RAISSA AND PETER CONWAY** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone, and a Single Family Residential (R-1C) zone, on property located at 111 Wabash Dr. (Council District 10)

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. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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. Raissa Conway, applicant and property owner, was present on behalf of her application. Ms. Carter asked Ms. Conway if she was agreeable to the four conditions of approval listed. Ms. Conway stated that she was in agreement with those conditions. Ms. Carter informed Ms. Conway that there were some emails in opposition to this application, particularly being opposed to having dogs on the property and concerns with parking. Ms. Conway replied that there was sufficient parking in the driveway and there should not be any on-street parking.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 6-1 (Plumlee opposed), to **approve PLN-BOA-24-00043: RAISSA AND PETER CONWAY** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone, and a Single Family Residential (R-1C) zone, on property located at 111 Wabash Dr., based on Staff's recommendation and subject to the four conditions as listed.

7. **PLN-BOA-24-00044: WILLIAM ALLEN** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 321 Richmond Ave. (Council District 5)

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. Additionally, the subject property will be utilized as the applicant's primary residence and the short term rental operation will be limited to only 50 days per year.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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. The property shall be rented on a short term basis for a maximum of 50 days per calendar year.
3. Occupancy of the short term rental shall be limited to no more than 5 individuals.
4. The applicant shall provide documentation that the dwelling is their primary residence, as defined in Chapter 13 of the Code of Ordinances annually at the time of renewal of their special fee license.
5. 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.
6. 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. William Allen, applicant, was present on behalf of his application. Ms. Carter asked him if he had read the six conditions of approval for his application and if he was in agreement with them. Mr. Allen stated that he was in agreement with those conditions. Ms. Carter asked Mr. Allen if he planned to use this home as a short term rental for approximately fifty days out of the year as it was his primary residence. Mr. Allen confirmed that to be true, and explained his application to the Board.

Public comment

Ms. Tomi Ross, 157 Bassett Ave., distributed a hand-out to the Board members and Staff for the record. She spoke in opposition to this application, opining there were already forty-two short term rentals in this neighborhood.

Mr. John Grimes, 272 Sherman Ave., spoke in opposition to this application, citing a large number of short term rentals already in the neighborhood. He questioned how the city will enforce the restrictions on short term rentals.

Mr. Charles Hite, 929 Aurora Ave., expressed his opposition to this application. He stated that he had a petition signed by several other concerned citizens who were opposed to this application, which he said he would submit for the record. Mr. Hite opined that additional short term rentals would be detrimental to the neighborhood and asked the Board to consider disapproval of this application.

Ms. Kaye Myers, did not give her address and did not sign in, expressed opposition to this application.

Applicant rebuttal – Mr. Allen stated that he may use this property as a short term rental for less than the fifty days requested. He also stated that he planned to use a management company to assist him with the management of the property.

Action – A motion was made by Ms. Tucker and seconded by Ms. Plumlee to **disapprove PLN-BOA-24-00044: WILLIAM ALLEN** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 321 Richmond Ave., based on the following findings:

- a. The evidence presented at the hearing shows that the subject property is surrounded by a high concentration of short-term rentals, with fifteen short term rentals identified in one thousand feet of the subject property and potentially over forty in the surrounding neighborhood.
- b. The evidence at the hearing also shows that the area has insufficient off-street parking due to the narrowness of the street, and limited on-street parking, and allowing additional users for a short term rental would create additional congestion in the surrounding area.
- c. There are also insufficient traffic calming devices on Richmond Avenue to accommodate the increased traffic. For those reasons, a short term rental would have an adverse influence on the surrounding neighborhood by increasing the volume of traffic.

Board comments – Prior to the vote, Ms. Carter remarked that she viewed this application differently because it is a primary residence, and although there are a lot of short term rentals in this particular area, she opined that with the lack of affordable housing, people, especially young people, are going to have to find a way to pay for mortgages and to pay to be in the homes that they are in. She further opined that this request to use the property as a short term rental for fifty days out of the year seemed a reasonable way to assist the applicant with off-setting some of the expenses of a mortgage.

Action – The motion for **disapproval** was voted on and passed 5-2 (Clarke and Gross opposed).

8. **PLN-BOA-24-00045: LISA PRESTON** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Single Family Residential (R-1C) zone, on property located at 1112 Liggett St. (Council District 11)

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. While there is an active complaint in the area regarding an Airstream trailer being used as a short term rental, no short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. While there was a complaint to Building Inspection regarding the applicant's operation of a short term rental without a permit, the applicant immediately applied for a Conditional Use Permit once notified of violation.
- e. 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 7 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. Kayla Preston, applicant and co-owner of the property with her mother, was present on behalf of this application. Ms. Carter asked her if she was in agreement with the four conditions of approval. Ms. Preston stated that she was in agreement with them. Ms. Preston gave a brief summary of the application, stating she started using the subject property as a short term rental in 2019 and recently learned of the changes in the regulations.

Public comment - Mr. Tractor Tyler Starrett, 1107 Liggett St., spoke in opposition to this application, citing a potential increase in drug problems and the transient nature of short term rental guests.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 5-2 (Plumlee and Tucker opposed), to **approve PLN-BOA-24-00045: LISA PRESTON** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Single Family Residential (R-1C) zone, on property located at 1112 Liggett St., based on Staff's recommendation and subject to the four conditions as listed.

9. **PLN-BOA-24-00046: PORCH LIGHT PROPERTIES, LLC** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone, and a Single Family Residential (R-1E) zone, on property located at 340 Park Ave. (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 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. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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 – Mr. Jarrod Williams, 1244 S. 6th St., Louisville, KY, applicant and property owner, was present on behalf of his application. Ms. Carter asked Mr. Williams if he was in agreement with the four conditions listed. He stated that he was in agreement with the conditions. He briefly summarized the application.

Board comments and questions – Ms. Plumlee opined that this property was in a price range that could make a dwelling for an individual in the work force or a long term rental. She further opined that properties are being removed from the housing market and used as short term rentals.

Mr. Sturdivant asked how many cars could be parked in the driveway. Mr. Williams replied that three cars will fit in the driveway and in the garage. There was further discussion.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and passed 5-2 (Plumlee and Tucker opposed), to **approve PLN-BOA-24-00046: PORCH LIGHT PROPERTIES, LLC** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone, and a Single Family Residential (R-1E) zone, on property located at 340 Park Ave., based on Staff's recommendation and subject to the four conditions as listed.

10. **PLN-BOA-24-00047: JENNIFER CHANG AND JONATHAN GRAHAM** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 420 Johnson Ave. (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. Additionally, the applicant is uniquely suited to manage the property as a short term rental given the immediate proximity of their permanent residence.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate on-street parking is available on Johnson Avenue and Hubbard Alley.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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.
5. The conditional use permit shall become null and void if the applicant no longer occupies the property at 417 Johnson Avenue as their primary residence.

Applicant representation – Mr. Jonathan Graham, applicant and property owner, was present on behalf of this application. Ms. Carter asked Mr. Graham if he was in agreement with the five conditions of approval, including the condition which stated that approval was contingent upon Mr. Graham and Ms. Chang continuing to reside in the house across the street, which they also own. Mr. Graham stated that they were in agreement with all of the conditions. Mr. Graham gave a summary of the application and explained that they intend to use the property as a short term rental for their families and families of other neighbors when they are visiting.

Board question – Ms. Tucker asked if there was parking for the property. Mr. Graham replied that there is only on-street parking for the property. He added that he and his wife park in the alley in the back of the house they live in.

Action - A motion was made by Mr. Gross, seconded by Mr. Walker and carried 5-2 (Plumlee and Tucker opposed), to **approve PLN-BOA-24-00047: JENNIFER CHANG AND JONATHAN GRAHAM** - request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Planned Neighborhood Residential (R-3) zone, on property located at 420 Johnson Ave., based on Staff's recommendation and subject to the five conditions as listed.

11. **PLN-BOA-24-00048: MATTHEW ISHMAEL** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 3548 King Arthur Dr. (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 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 off-street parking is available.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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 al fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant representation – Mr. Matthew Ishmael, applicant and property owner, was present and spoke on behalf of his application. Ms. Carter asked him if he had reviewed the four conditions of approval. He stated that he had reviewed them, but he had a question about some of the wording in condition #4, “short term al fee license”. Ms. Wade clarified that it was a typo and should read “short term rental special fee license”.

Board question – Mr. Sturdivant asked how close the subject property was to Southern Middle School. Mr. Ishmael replied that it was approximately one or two blocks away.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 6-1 (Plumlee opposed), to **approve PLN-BOA-24-00048: MATTHEW ISHMAEL** – request for a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 3548 King Arthur Dr., based on Staff's recommendation and subject to the four conditions as listed, including the correction to condition #4 to read “short term rental special fee license”.

12. **PLN-BOA-24-00049: KRISTIN SILVESTRI** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 2012 Parallel Rd. (Council District 2)

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. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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. Kristin Silvestri, applicant and property owner, was present on behalf of her application. Ms. Carter asked her if she had reviewed the four conditions of approval and if she was comfortable with those conditions. Ms. Silvestri said that she had reviewed them and was comfortable with them. She gave a summary of her application.

Board comments – Ms. Plumlee opined that this house, valued at approximately \$150,000.00 could serve as a permanent residence for a workforce individual. She further opined that if the Board continued to approve these homes for short term rentals, they would be neglecting the adverse effect on neighborhoods by changing the character of the neighborhood.

Mr. Clarke stated that he was not ignoring Ms. Plumlee's comment, but at the same time he was going to make a motion to approve the application.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross and carried 5-2 (Plumlee and Tucker opposed), to **approve PLN-BOA-24-00049: KRISTIN SILVESTRI** - request for a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 2012 Parallel Rd., based on Staff's recommendation and subject to the four conditions as listed.

13. **PLN-BOA-24-00054: FB REAL ESTATE** - requested a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 3109 Daly Pl. (Council District 2)

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 off-street parking is available.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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. Babar, the applicant's wife, was present on behalf of this application. Ms. Carter asked her if she had reviewed the conditions of approval for this application. She stated that she had not read them. Staff gave her a copy of the Staff Report, listing the conditions. Ms. Babar read the conditions and stated that they would be fine. She summarized the application for the Board, stating that the goal is for this property to be a long term rental, but for the time being, they wanted to use it as a short term rental.

Public comment

Ms. Rebecca McAsey, 3016 Laguna Ct., President of Parkside at Masterson Station Homeowners' Association, presented a hand-out to be distributed to the Board for their review. She expressed the concerns of the residents within this homeowners' association, regarding this application for a short term rental, citing concerns of increased traffic and parking. Ms. McAsey mentioned the possible negative impact on property values, the fact that this is a townhome community with shared walls, increased noise and safety concerns. She asked the Board to disapprove this application.

Mr. Mark Montminy, 3001 Tiburon Ct., expressed his opposition to short term rentals in this neighborhood. He stated that this community has deed restrictions that do not allow commercial businesses and opined that short term rentals are businesses.

Mr. Mark Swain, 3200 Sandersville Rd., expressed the concerns he and his wife had with the possibility of a short term rental operating in their neighborhood. He opined that Daly Pl. is already too crowded with cars parking on the street. Mr. Swain's wife also expressed her frustration with the traffic and trash in the community from the construction.

Applicant rebuttal – Ms. Babar addressed the concern regarding parking, by stating they plan to limit the parking to two vehicles. She explained that there is one covered parking space and another space in the driveway. Ms. Babar stated that they do plan to have the yard fenced in the near future. She explained that they will state in their rental contracts that there are to be no social gatherings. Ms. Babar added that, to her knowledge, there were no other short term rentals in this community, so she was not sure where the trash that Ms. Swain had referred to had originated from.

Board questions – Ms. Tucker asked if the fence would be in the rear of the property. Ms. Babar confirmed that to be true. Ms. Tucker asked the applicant if their property shared walls with neighbors on either side. Ms. Babar stated that was correct. Ms. Tucker stated that parking was very limited in this area.

Action – A motion was made by Ms. Tucker, seconded by Mr. Sturdivant and carried 6-1 (Clarke opposed), to **disapprove PLN-BOA-24-00054: FB REAL ESTATE** – 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 3109 Daly Pl., based on the following findings:

- a. The short term rental would have an adverse influence on the adjoining properties due to the sharing of common areas and limited privacy between the units.
- b. The street has a shared parking arrangement that relies upon on-street parking for some units, which greatly reduces parking for the proposed short term rental.

Note – Mr. Gross recused himself prior to hearing the next application due to a possible conflict of interest.

14. **PLN-BOA-24-00055: PATRICK HALLOWELL** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 305 Lafayette Pkwy. (Council District 10)

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. Additionally, the subject property will be primarily utilized as the applicant's primary residence and the short term rental will be limited to less than 50% of the time.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. No short term rentals in the area have been cited as a nuisance.
- d. There is no record of short term rental compliance issues with the applicant.
- e. 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. The property shall be rented on a short term basis for a maximum of 150 days per calendar year.
3. The applicant shall provide documentation that the dwelling is their primary residence, as defined in Chapter 13 of the Code of Ordinances annually at the time of renewal of their special fee license.
4. Occupancy of the short term rental shall be limited to no more than 10 individuals.
5. 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.
6. The conditional use permit shall become null and void upon change in ownership, if the property is no longer the applicant's primary residence, 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. Christina Dudek, realtor, was present on behalf of Mr. Hallowell, who could not be present. Ms. Carter asked Ms. Dudek if Mr. Hallowell was in agreement with the conditions of approval listed.

Board comments – Mr. Sturdivant stated that he could not support this application because the property was directly across the street from Lafayette High School and he did not think that was a good location for a short term rental.

Applicant questions – Ms. Dudek asked if it was a law that a short term rental could not be approved on a property located across from a school. She asked if it was an ordinance. Mr. Sturdivant opined that it was too close to a school and that it was an inappropriate location for a short term rental to be that close to that many students.

Public comment

Ms. Lynne Flynn, 518 Springhill Dr., was present on behalf of the Picadome Neighborhood Association and she distributed a handout to the Board for their review. She expressed the concerns of the neighborhood association regarding reasons of pedestrian and traffic safety, as well as the proximity of other short term rentals in the area.

Ms. Lauren Sherrow, 506 Reed Ln., expressed her opposition to this application, based on the current shortage of affordable housing in Lexington and the potential changes to the character of their neighborhood, should this application be approved. She requested the Board deny the application.

Ms. Christen Montgomery, 520 Woodbine Dr., stated that she wanted to defer her time to her neighbor, Steve Davis, to allow him more time to speak.

Mr. Steve Davis, 511 Woodbine Dr., was present on behalf of the Picadome Short Term Rental Working Group, a neighborhood public interest research group. He stated that they collect data from various sources. Mr. Davis displayed a map that this group put together on the overhead screen, showing twenty short term rentals currently operating within one thousand feet of the five schools in the Picadome area. He provided other data that this group had gathered in support of their opposition to another short term rental in this area.

Ms. Pam Parks, 301 Lafayette Pkwy., expressed her opposition to a short term rental at this address. She mentioned that there are several other short term rentals in the area, and she noted some of the problems she has encountered in the past with guests of those rentals.

Mr. James Adkins, 508 Woodbine Dr., stated that he and his family moved to the Picadome neighborhood from the Kenwick neighborhood. He expressed his opposition to short term rentals in neighborhoods.

Mr. Larry Ratliff, 307 Lafayette Pkwy., was sworn in at this time. He stated that he and his wife have lived at this address for thirty-eight years. Mr. Ratliff noted that he had sent a three-page document to Planning Staff earlier in the month for review by Staff and the Board. He spoke in opposition to short term rentals, stating that he and his wife have had nothing but problems from guests partying at the properties currently operating as short term rentals in their neighborhood.

Ms. Laurie Fields, 411 Picadome Park, stated that she has been a part of the neighborhood association since 2012 and that there is a sense of a neighborhood there. She added that they look out for each other and support each other. Ms. Fields expressed her concern with the narrowness of the streets and limited parking, opining that short term rentals will add to these problems. She asked the Board to deny this request.

Applicant rebuttal – Ms. Dudek stated that the applicant uses a company called Evolve, which manages short term rentals and that they vet potential renters by gathering all of the information from other rental sites, regarding people who rent from them. She added that they also have a twenty-four hour hotline for reporting issues with renters. Ms. Dudek noted that Mr. Hallowell has followed the proper channels to legally use his property as a short term rental, unlike those around him that are operating illegally.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 5-1 (Clarke opposed; Gross recused), to **disapprove PLN-BOA-24-00055: PATRICK HALLOWELL** – 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 305 Lafayette Pkwy., based on the following findings:

- a. The evidence presented at the hearing shows that the subject property is surrounded by a high concentration of short term rentals, with four short term rentals identified within one thousand feet of the subject property and potentially thirty in the Picadome neighborhood.
- b. The evidence at the hearing also shows that the area has no on-street parking, and allowing additional users for a short-term rental would create additional traffic in the surrounding area, which is already congested due to the property's proximity to Lafayette High School and SCAPA, School for the Creative and Performing Arts.
- c. For those reasons, a short term rental would have an adverse influence on the surrounding neighborhood by increasing the volume of traffic in a very congested area.

Note – Mr. Gross returned to the meeting at this time and resumed his position on the Board.

- 15. PLN-BOA-24-00057: SETH AND MEGAN HILLENMEYER** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 1952 Blairmore Rd. (Council District 5)

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 guests. Additionally, the subject property will be primarily utilized as the applicants' primary residence (50% of the time) and the short term rental operation will be limited.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate off-street parking is available in the driveway.
- c. No short term rentals in the area have been cited as a nuisance and there is not a high concentration of short term rentals in the vicinity.
- d. There applicants' compliance issues have been minimal since July 2023 and resolved quickly for the existing 15 short term rental units operated by the Hillenmeyers.
- e. 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. The property shall be rented on a short term basis for a maximum of 150 days per calendar year.
3. Occupancy of the short term rental shall be limited to no more than 12 individuals.
4. 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.
5. 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. The conditional use permit shall become null and void upon change in ownership, if the property is no longer the applicant's primary residence, 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. Seth Hillenmeyer, applicant and property owner, was present on behalf of this application. Ms. Carter asked him if he had an opportunity to review Staff's recommendation and the six conditions of approval, including the condition that he can only rent this property for 150 days per calendar year and the condition that he can have no more than twelve individuals. Mr. Hillenmeyer stated that he had reviewed the conditions and that he would like to request the removal of condition #2, which states the property may not be rented for more than 150 days per calendar year, opining that as a responsible short term rental host, he should be able to operate without restrictions on the number of rental days.

Ms. Carter asked Mr. Hillenmeyer if the property was his primary residence. He confirmed that to be correct. Mr. Hillenmeyer presented his application, stating that he has been self-managing his short term rentals for the past nine years. He reviewed numerous measures he has in place to maintain the safety associated with short term rentals.

Board questions – Mr. Sturdivant asked Mr. Hillenmeyer how many short term rentals he manages. Mr. Hillenmeyer replied that he manages 16 with his team. Mr. Sturdivant asked if all of those properties were in Fayette County. Mr. Hillenmeyer replied that they are all in Fayette County.

Mr. Gross asked Mr. Hillenmeyer if he had previously said that he did not want condition #2 to remain in the conditions of approval. Mr. Hillenmeyer stated there were two conditions he would like removed. He stated that he wanted condition #2 removed; that he should be able to rent the property as many days as he would like. Mr. Gross asked him what the other condition was. Mr. Hillenmeyer also said that regarding condition #6 which states that the permit is void if the property is no longer the applicant's primary residence, while he does not have plans to move, he opined he should have flexibility to rent it whether it's his primary residence or not.

Public comment

Mr. Bruce Simpson, attorney, was present, representing several neighbors in the Blairmore Rd. area who were opposed to this application. He distributed a handout to the Board for their review. Mr. Simpson stated that there were several signs in the neighborhood that warn of sharp curves in the streets, particularly on Blairmore Rd. He noted that people visiting this area would not be familiar with these sharp curves, nor the common shortcuts which already cause an increase in traffic in the area. Mr. Simpson shared examples of traffic issues occurring in this neighborhood, specifically on Blairmore Rd. He directed the Board's attention to the overhead screen on which were displayed images of various traffic concerns on the street. Mr. Simpson asked the Board to disapprove this application based on a list of findings of fact that he had drafted.

Mr. Grady Walter, 1961 Blairmore Rd., expressed his opposition to this application for a short term rental in this residential area.

Mr. William Greely, 1960 Blairmore Rd., shared examples of vehicular accidents to either their personal vehicles while parked at their residence, or other vehicular accidents in the curve that had been previously referenced by Mr. Simpson.

Mr. Greg Drake, 2017 Blairmore Rd., expressed his opposition to this application, stating the adverse influence this use would have on the peacefulness of their neighborhood and also the likely increase in traffic.

Ms. Beth Drake, 2017 Blairmore Rd., resident since 1972, mentioned having unmarked police cars present in the neighborhood several times a year to monitor drivers speeding to and from Henry Clay High School.

Ms. Margot McCullers, 1954 Blaire Rd., resident since 1982, expressed her opposition to this application based on vehicular traffic safety issues. She added that a lot of the neighbors, herself included, walk or jog in the neighborhood on a regular basis and an increase in traffic unfamiliar with the area would could have a negative effect.

Mr. Jim Fackler, 1872 Blairmore Rd., shared his opposition to short term rentals in neighborhoods.

Ann Michel, 1920 Blairmore Rd., resident since 2016, cited several near-accidents and opined that the proposed use would be a detriment to the neighborhood.

Melissa Kirtley, 1961 Blairmore Rd., resident since 2007, expressed her concern with the proposed use, based on vehicular traffic safety issues on Blairmore Rd. and the safety of students walking to and from Henry Clay High School. She asked the Board to vote against this application.

Erica Clay Kinhead, 1957 Hart Rd., stated that her back yard backs up to the applicant's back yard. She said that she is worried about the safety of her two teenage daughters, adding that the Hillenmeyer's property sits up higher than hers and they can see down into her property. Ms. Kinhead expressed her concern with the proposed use being a business and changing the atmosphere of the neighborhood.

Mr. Ken Mattmiller, 1904 Blairmore Rd., resident for 32 years expressed his opposition to this application, due to the traffic parking on the narrow street and the problems this causes with first responders accessing the homes on the street in an emergency.

Mr. Alexander Karakashian, 337 Lakeshore Dr., shared his concerns over the young drivers driving to and from Henry Clay High School, and the possibility that a short term rental would cause an increase in traffic.

Ms. Monica Udvardy, 1944 Blairmore Rd., resident for 33 years, expressed her opposition to this application, citing examples of serious traffic accidents on Blairmore Rd.

Mr. Tom Hakansson, 1944 Blairmore Rd., mentioned signs of near accidents, such as tire tracks on the lawns on their street. He expressed his opposition to short term rentals, opining that they have become a profit making industry, which affects neighborhood safety around those rentals. Mr. Hakansson added that he hoped the rules for short term rentals would be strengthened.

Applicant rebuttal – Mr. Hillenmeyer addressed some of the comments made by the public regarding traffic on Blairmore Rd., opining that it has nothing to do with his short term rental. He added that it appeared that speed bumps are needed in the area to reduce speeding. Mr. Hillenmeyer stated that he will not allow guests to park on the street and that he can monitor that. He also stated that he is putting additional landscape screening along the back and side of his property to provide additional screening and privacy.

Board questions – Ms. Carter asked Staff if there were concerns about the subject property not being the applicant's primary residence. Ms. Goderwis stated that the applicant presented the property as being their primary residence in their application, so that is how Staff reviewed it and calculated the 150 days per calendar year rental recommendation.

Ms. Plumlee asked the Department of Law if findings of fact from the attorney would be acceptable for disapproval. Ms. Smith conferred with Ms. Plumlee.

Action – A motion was made by Ms. Plumlee and seconded by Ms. Tucker to **disapprove PLN-BOA-24-00057: SETH AND MEGAN HILLENMEYER** – 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 1952 Blairmore Rd., based on the following findings of fact:

- a. The subject property is in a sharp curve off Blairmore Road which is non-conforming to the current requirements for curves in a residential subdivision. The existing radius of the curve next to the subject property is fifty feet, and the current standard for curves in residential subdivisions is a 100-foot radius. The sharp curve creates blind spot situations for oncoming traffic and pedestrians.
- b. The guests of the short term rental will likely have to park in the street due to the inadequate parking space on the subject property.
- c. Sharp curve roadway warning signs have also had to be posted before entry to the Blairmore Road curve leading into the subject property.
- d. Blairmore Road's current width of thirty-one feet makes it difficult for two cars to pass one another when cars are parked on the street.
- e. The proposed short term rental would allow six vehicles to be parked on the subject property, which is not large enough to allow for on-site turnaround for this many vehicles. The guests at the short term rental would have to back into the dangerous curve to allow other vehicles parked on the subject property to exit.
- f. Considering the above factual findings, the proposed conditional use would have an adverse impact on the nearby property owners and is therefore denied.

Discussion on the motion – Ms. Carter stated that several of the conditions were actually proved to not be factually correct. She asked if the Board could make a motion on conditions that are not correct, adding that there is actually adequate parking, with six parking spaces on the subject property.

Mr. Clarke stated that he would like to comment on those as well. He said that the findings as he had heard them, seem to be written before the Board had heard much of what was going on. Mr. Clarke spoke to the residents stating that he usually tries to take the law that the City Council has posted for the Board to use and base his judgment and his vote on those laws. He reiterated his concerns with the current regulations. Mr. Clarke opined that the neighbors have a traffic problem and he could see that when he was visiting the site, but he was not sure what that had to do with short term rentals. He addressed the findings given in the motion made, and further opined those findings have nothing to do

with short term rentals. Mr. Clarke further expressed his frustration with the lack of specific reasons in the ordinance for denying applications for short term rentals. Ms. Wade interjected, asking that the discussion be re-focused, back to the specific application before the Board.

Ms. Plumlee stated that she respected Mr. Clarke's comments and opinion, however KRS 100.237 gives the Board of Adjustment the responsibility to judge a case and either vote in favor or against. She opined that KRS 100 overrules the City Council and if the Council didn't give the Board parameters, they already have parameters given to them by KRS 100 and her motion still stands.

Ms. Tucker opined that she felt it was really important for people to be a part of the government process and a part of their neighborhood. Ms. Tucker stated that the safety of the pedestrians was a concern for her.

Ms. Carter called for a vote on the motion for disapproval.

Action – The motion for disapproval was voted on and failed 3-4 (Walker, Carter, Clarke and Gross opposed).

Ms. Carter asked if there was a motion for approval, reminding the Board about the previous request regarding the conditions by Mr. Hillenmeyer. Mr. Clarke asked for a reminder of what those conditions were. Ms. Carter replied condition #2 regarding the number of days he could rent the property. Ms. Goderwis stated the applicant had an issue with condition #6 as well. There was further discussion.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross and carried 4-3 (Sturdivant, Tucker and Plumlee opposed), to **approve PLN-BOA-24-00057: SETH AND MEGAN HILLENMEYER** – 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 1952 Blairmore Rd., based on Staff's recommendation and subject to conditions #1, condition #2 with the recommended number of days of rental being 150 as stated on the agenda, instead of 182 as stated on the staff report, conditions #3, #4, #5 and #6 as listed.

Note – The Board took a brief recess at 8:31 p.m. and reconvened at 8:36 p.m. Ms. Plumlee left the meeting during this recess.

16. **PLN-BOA-24-00060: NATHAN MCCAULEY** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone, in a Mixed Low Density Residential (R-2) zone, on property located at 841 W. High St. (Council District 11)

The Staff Recommended: Disapproval, for the following reasons:

- a. The proposed use will have an adverse influence on the subject property and the surrounding neighborhood, as a high concentration of short term rentals exist in proximity to the subject property. Approximately 22% of lots containing a residential use are being utilized for short term rentals. Concentrations this high likely represent a change in the residential character of the neighborhood and may have negative impacts on housing affordability and availability in the neighborhood.
- b. The subject property is located in close proximity (within 250') to the edge of a top 10 Census Block Group identified by the Neighborhoods in Transitions Task Force and a concentration of short term rentals appears to be occurring near the edge of that Block Group along Oliver Lewis Way and within 500 feet of that Block Group, which could negatively impact the surrounding neighborhood by heightening issues with gentrification and displacement within a neighborhood that is already vulnerable to involuntary displacement.
- c. The subject property shares a 10-foot wide driveway and parking area with two other short term rental operations. Approval of the proposed short term rental with an occupancy of four guests could result in a total occupancy for these three units of up to 22 individuals, creating issues with parking and access, particularly because West High Street is a busy one-way street with no on-street parking.

Staff presentation – Ms. Goderwis directed the Board's attention to the overhead screen on which she displayed street view images of the subject property and explained the application, noting that the property is a subdivided duplex and the applicant also owns the other half of the duplex and uses it as

a short term rental. She added that the short term rental was grandfathered in during the six month time period that was allowed for doing so. Ms. Goderwis explained that the subject property shares a ten foot driveway with the neighboring property which is also registered as a short term rental and Staff does have some concerns about the parking situation. She added that there are forty short term rentals that have Zoning Compliance Permits, operating within one thousand feet of the subject property. Ms. Goderwis stated the concentration of short term rentals in the area is currently approximately twenty-two percent, but could be somewhat less due to the multi-family dwelling units that contain several units. She noted that the subject property is not located within one of the top ten Census Block Groups, but it is within two hundred and fifty feet of one, and Staff notes that there is a concentration that is beginning to form near the boundary of that Census Block. Ms. Goderwis explained that Staff was recommending disapproval of this application and she reviewed their reasons for this recommendation.

Board questions - Mr. Sturdivant asked if 843 W. High St. was being used as a long term rental. Ms. Goderwis replied that it is also a short term rental. Mr. Sturdivant asked how 841 W. High St. is currently being used. Ms. Carter deferred that question to the applicant.

Applicant representation – Mr. Nathan McCauley, applicant and property owner, was present on behalf of his application. He replied to Mr. Sturdivant's question about the subject property, stating that he and his fiancé had lived in that property for approximately one and a half years, since they had purchased the property and they have had plans of eventually making it a short term rental. Mr. McCauley added that they had lived in 843 W. High St. since 2016 prior to operating it as a short term rental. He elaborated further on his application and stated that if the Board should recommend approval of his application instead of disapproval as recommended by Staff, he would be willing to accept conditions of that approval.

Board comments – Ms. Carter opined that aside from the percentage of short term rentals already in the area, the subject property is located in an area that appeared to be well-suited for short term rentals. Mr. Sturdivant stated that he agreed with Ms. Carter's comments.

Applicant representation (continued) – Ms. Michelle Jimenez, fiancé of Mr. McCauley, spoke on behalf of the application, mentioning the mixed uses for the properties in the area, with many of them being used for businesses. She asked the Board to take that into consideration when making their decision.

Action – A motion was made by Mr. Sturdivant, seconded by Mr. Walker and carried 6-0 (Ms. Plumlee absent), to **approve PLN-BOA-24-00060: NATHAN MCCAULEY** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone, in a Mixed Low Density Residential (R-2) zone, on property located at 841 W. High St., based on the following findings:

- 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 guests.
- b. The proposed use should not have an adverse influence 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 of 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.

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

A. Discuss possible Work Sessions for the Board of Adjustment

Ms. Carter commented that the Board and Staff had discussed the possibility of scheduled Work Sessions in the months to come, in order to have an opportunity to discuss topics that are coming up and to become informed of pending legal matters, Staff positions, etc.

It was decided to inquire about the availability of the conference room on the 3rd floor of the Phoenix Building for either Monday, June 3, 2024 or Tuesday, June 4, 2024, and schedule a Work Session for one of those days if it was available. The Board was amenable to this suggestion agreed that June 3rd, 2024 at 1:30 p.m. was suitable. Staff agreed to inquire about the availability of the conference room for that date and time and to notify the Board.

B. Unfinished Business

Ms. Goderwis noted that the first application on the agenda, **PLN-BOA-24-00012: JEROMIE R. KIRK** – request for a variance to increase the allowable width of a driveway from 10' to 20' within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 612 N. Broadway, had not yet been heard, as neither the applicant nor his representative, had arrived. She stated that this application should still be heard. Ms. Wade added that Staff had attempted to contact both the applicant and his representative but neither had responded. There was discussion on how to proceed with this application, as it had been on the agenda for the past two months with neither the applicant nor his representative present at the meetings.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0 (Plumlee absent), to grant a one-month **postponement** of **PLN-BOA-24-00012: JEROMIE R. KIRK** – request for a variance to increase the allowable width of a driveway from 10' to 20' within the defined Infill and Redevelopment area in a Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 612 N. Broadway, to the June 10, 2024 Board of Adjustment meeting.

C. Discussion on the number of items on the Board of Adjustment agenda

Mr. Sturdivant asked if there were plans for a cap on the number of items on the agenda going forward, with the possibility of there being more and more applications for short term rentals. There was some discussion.

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

There were no items to discuss at this time.

VII. NEXT MEETING DATE – Ms. Carter announced that the next meeting date will be June 10, 2024 at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.

VIII. ADJOURNMENT - As there was no further business, Ms. Carter declared the meeting adjourned at 9:05 p.m.

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://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.