

**MINUTES FOR THE BOARD OF ADJUSTMENT
MEETING**

August 12, 2024

- I. **CALL TO ORDER** – Acting Chair Harry Clarke called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.
- II. **ATTENDANCE** - Board members present were Harry Clarke, Branden Gross, Carolyn Plumlee, Bob Sturdivant, Linda Tucker and Chad Walker. Chair Raquel Carter was absent. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering and Josh Dezarn, Division of Engineering. Planning Staff members present were Traci Wade, Dalton Belcher, James Mills and Donna Lewis.
- III. **APPROVAL OF MINUTES**

There were no minutes available for consideration at this time.
- IV. **PUBLIC HEARING ON ZONING APPEALS**
 - A. **Swearing of Witnesses** - Acting Chair Clarke announced that any applicant or objector, or anyone in the audience who planned to speak to any appeal before the Board, please stand in order to be sworn in at this time. The oath was administered to several individuals who were present at this time.
 - B. **Sounding the Agenda** - In order to expedite completion of agenda items, Mr. Clarke sounded the agenda with regard to any postponements, withdrawals and items requiring no discussion.

Postponements

1. **PLN-BOA-24-00084: MADDEN FAMILY LLC NO 21** – requested a variance to increase the maximum allowable parking from 28 spaces to 56 spaces in a Commercial Center (B-6P) zone, on property located at 1863 Plaudit Pl. (Council District 6)

Staff comments – Ms. Wade stated that the applicant did not update their justification statement and application materials until last week, so they asked to postpone their application to the September 9, 2024 meeting.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0 (Carter absent), to approve a one-month **postponement** of **PLN-BOA-24-00084: MADDEN FAMILY LLC NO 21** – request for a variance to increase the maximum allowable parking from 28 spaces to 56 spaces in a Commercial Center (B-6P) zone, on property located at 1863 Plaudit Pl. to the September 9, 2024 Board of Adjustment meeting.

2. **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)

Staff comments – Ms. Wade stated that the applicants had informed Staff that they wished to postpone their application to the November 4, 2024 meeting to continue to work on their application. She added that Mr. Gage had reached out to Staff today, stating that they would not be able to attend today's meeting in person to make this request due to childcare needs.

Action – A motion was made by Mr. Sturdivant, seconded by Ms. Plumlee and carried 6-0 (Carter absent), to approve 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 November 4, 2024 Board of Adjustment meeting.

3. **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 previously informed Staff that they wished to postpone their application to the September 9, 2024 meeting.

Action – A motion was made by Mr. Walker, seconded by Ms. Plumlee and carried 6-0 (Carter absent), to approve a one-month **postponement** of **PLN-BOA-24-00039: LEXINGTON ISLAMIC CENTER INC** – request for 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 September 9, 2024 Board of Adjustment meeting.

4. **PLN-BOA-24-00094: ARMENTEROS PROPERTY GROUP LLC** – requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 639 Cecil Way. (Council District 10)

Applicant representation – Mr. Ethan Johnson, attorney for the applicant, stated that his client wished to request a one-month postponement to allow him to make some adjustments to his application.

Action – A motion was made by Mr. Sturdivant, seconded by Ms. Tucker and carried 6-0 (Carter absent), to **postpone** **PLN-BOA-24-00094: ARMENTEROS PROPERTY GROUP LLC** – 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 639 Cecil Way, to the September 9, 2024 Board of Adjustment meeting.

5. **PLN-BOA-24-00095: CIRENIA MOLINA** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 259 Malabu Dr. (Council District 3)

Application representative – Mr. David Jarman, 1869 Farmview Dr., was present on behalf of the applicant and stated that she wished to request a one-month postponement to the September 9, 2024 meeting.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 6-0 (Carter absent), to **postpone** **PLN-BOA-24-00095: CIRENIA MOLINA** – 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 259 Malabu Dr. to the September 9, 2024 Board of Adjustment Meeting.

Withdrawals

1. **PLN-BOA-24-00097: BROADWAY TWELFTH** – a request to continue the legal non-conforming use of a carriage house as a detached single family dwelling and to construct an addition to the carriage house on property within the defined Infill and Redevelopment Area in an Historic District Overlay (H-1) zone and a Medium Density (R-4) zone, on property located at 247 N. Broadway (aka 202 Morrow Place). (Council District 1)

Note - The applicant had informed Staff that they wished to withdraw their application.

Action – A motion was made by Ms. Plumlee, seconded by Mr. Sturdivant and carried 6-0 (Carter absent), to approve the **withdrawal** of **PLN-BOA-24-00097: BROADWAY TWELFTH**.

C. Abbreviated hearings

1. **PLN-BOA-24-00103: TAK LLC** – requested a variance to reduce the required front yard setback from 41' to 20' in order to construct a new single-family dwelling unit within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 272 Bassett Ave. (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 of the general vicinity. The applicant's proposal features a similar front yard setback to the majority of other houses on this portion of Bassett Avenue.
- b. The granting of the requested variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant has applied for the variance as soon as it was determined that it was needed and prior to construction. Additionally, the intent of the Infill and Redevelopment Area regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. The Zoning Ordinance specifically states that BOA action may sometimes be required in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood.

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

1. Construction shall be in accordance with the submitted application materials and site plan.
2. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to construction.

Application representative – Mr. Chris Clendenen, attorney, was present on behalf of the applicant, Austen Rawlings. Mr. Clendenen stated that he and the applicant had read the Staff Report and that they were in agreement with the conditions of approval. He gave a brief summary of the application.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00103: TAK LLC** – request for a variance to reduce the required front yard setback from 41' to 20' in order to construct a new single-family dwelling unit within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 272 Bassett Ave., based on Staff's recommendation and subject to the two conditions as listed.

Note – Mr. Gross observed that Mr. Tony Barrett, representative for the applicant, Jamie Steffen/Fuzion Athletics, had returned to the meeting after conferring with neighbors outside of Council Chambers, regarding their concerns about the applicant's request. Mr. Gross suggested finding out whether the neighbors' concerns had been satisfied, so that this application could be heard in an abbreviated manner.

2. **PLN-BOA-24-00101: JAMIE STEFFEN/FUZION ATHLETICS** – requested a variance to reduce the minimum distance from an athletic club facility to a residential zone from 40' to 25' in a Professional Office (P-1) zone, on property located at 1122 Oak Hill Dr. (Council District 1)

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

- a. Granting the requested variance will not cause a negative impact on the subject or surrounding properties and will not impair the public health, safety or welfare. The previous athletic activities that have been in operation at this location for years have been limited, conducted without adversely affecting the surrounding neighbors, and without altering the character of the general vicinity at all.
- b. This variance would not result in an unreasonable circumvention of the Zoning Ordinance, as the resulting setback of the gymnasium will be 25' along one side, 42' along the opposite side, and more than 150' to the rear, which are typical and often acceptable building setbacks in the P-1 zone for lower intensity uses adjacent to residential properties. This site and the enlarged gym can be used without need for any alteration of all existing landscape buffers, which are established and mature.
- c. The existing location of the gymnasium and its central placement on the subject lot (much larger than its neighboring properties), being very well buffered by existing fencing, landscaping and mature large trees from surrounding single family residential rear yards on all sides, creates a unique circumstance that applies to this property that does not apply to others in this immediate vicinity, or generally in this zone.
- d. Strict application of the Zoning Ordinance would deny the applicant a reasonable use of a specialized athletic club facility on this property, as he is attempting to contain 90% or more of the athletic training use within a building occupying less than 25% of the subject site. As previously determined by the Board, this allowable principal use cannot be legally conducted on the subject property without the benefit of a dimensional variance to the 150' setback otherwise required in the P-1 zone.

- e. The requested variance is not a willful violation of the Zoning Ordinance. Rather, the property owner relied upon the expertise of a contractor from another county who falsely assumed the building addition required no permits as accessory structure. Although another (8' by 20') accessory structure exists on this portion of the subject property, the 24' by 32' addition to the gymnasium is attached to the existing principal structure, and by definition, cannot be considered "accessory."

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

1. The property shall be developed in accordance with the submitted site plan and application, as amended.
2. All dimensions identified on the previous BOA site plan (V-2016-35: Bruce Webb) shall be added to this site plan and submitted to the Division of Planning, prior to the issuance of any permits for this site.
3. All necessary building and other permits shall be obtained by the applicant, including but not limited to a Zoning Compliance Permit and Certificate of Occupancy for the athletic club facility.
4. The Board of Adjustment action completed dimensional information (required above), and maintenance of the identified 15' landscape buffer surrounding the gym's addition, shall all be denoted on the amended final development plan for the subject property.

Application representative – Mr. Tony Barrett, Barrett Partners, confirmed that he had met with the neighbors and that a productive conversation had resulted. He added that they all agreed to work together as good neighbors and work things out. Mr. Barrett stated that they no longer had concerns and were not in opposition to this application.

Action - A motion was made by Mr. Sturdivant, seconded by Mr. Gross and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00101: JAMIE STEFFEN/FUZION ATHLETICS** – request for a variance to reduce the minimum distance from an athletic club facility to a residential zone from 40' to 25' in a Professional Office (P-1) zone, on property located at 1122 Oak Hill Dr., based on Staff's recommendation and subject to the four conditions as listed.

3. **PLN-BOA-24-00058: CRESTWOOD CHRISTIAN CHURCH** – requested to amend an existing conditional use permit for a place of religious assembly in order to modify conditions of approval in a Single Family Residential (R-1C) zone, on property located at 1882 Bellefonte Dr. (Council District 3)

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

- a. Granting the requested change to the approved conditions for the conditional use permit should not adversely affect the subject or surrounding properties. The Crestwood Christian Church and its associated missions have been operating at the subject property for over 50 years. The organization continues to operate the site in conformity with the conditions of approval in a manner that will not create an impact to the nearby neighbors in a single family residential neighborhood.
- b. All necessary public services and facilities are available and adequate for the proposed use. Such services and facilities will not be negatively impacted by the changes to condition #5 (delete) and condition #7 (modify).

This recommendation of approval was made subject to the following conditions, which are revised and related to the original application of **C-2000-69**, approved on August 25, 2000:

1. That the Mission Center and parking lot be constructed according to the application and most recently submitted site plan.
2. That a storm water detention system (including no less than six (6) basins) be constructed pursuant to the storm water management plan prepared by John Carman & Associates, which plan has been submitted to and approved by the Urban County Engineer.
3. That the parking lot be paved, with spaces delineated, and with screening and landscaping placed according to the landscape plan submitted at the August 25, 2000 Board of Adjustment hearing and Article 16 and 18 of the Zoning Ordinance.
4. That the layout of the off-street parking area and access to the property be subject to approval of the Urban County Traffic Engineer.
5. **DELETED**
6. That the Church will not operate the Mission Center as a facility for an elementary, middle or high school, nor will the Church lease the Mission Center to allow the operation of such school by another entity or organization provided, however, that the Church will continue to operate its kindergarten, day care center, after school programs, vacation Bible school and other religious, education and recreational programs on the property and may use the Mission Center for those activities. The Church

will also continue to make its facilities, including the Mission Center, available to the Fayette County Board of Education for emergency or temporary use by Glendover Elementary School.

7. That the lighting for the parking lot shall be directed downward and away from surrounding properties. Light trespass shall not exceed 0.5 horizontal foot candles. All light fixtures, other than those on the North boundary of the parking lot, shall be mounted in order to be parallel with grade plane and fully shielded. The lighting at the rear of the Mission Center shall be activated only by motion.
8. No air conditioning units for the Mission Center will be placed on the roof tops; they will all be at ground level.
9. That any signage be in accordance with Article 17 of the Zoning Ordinance and not internally illuminated.
10. That all applicable permits are obtained from the Division of Building Inspection prior to any construction.
11. That the applicant construct an 8-foot wooden privacy fence along the rear of the Beechmont properties and Old Dobbin Road (except for the one church member who apparently does not request it), in addition to the proposed landscaping plan.
12. If permissible under the building code, relocate entrance to be farthest away from the adjoining properties.

Application representative – Mr. John Gretz, 708 Old Dobbin Rd., was present on behalf of Crestwood Christian Church. He explained that the church requested that condition #5 placed on a previous Board of Adjustment application, C-2000-69, be removed. This condition required the church to lock a portion of their parking lot.

Board comments – Mr. Clarke reminded the Board that the current staff report depicted the deletion of condition #5 from the conditions of approval set forth by Staff, and condition #7 had been modified. Mr. Clarke asked Mr. Gretz if the applicant agreed with the revised conditions as listed. Mr. Gretz stated that the church is in agreement with the deletion of condition #5. He stated that the lighting referred to in condition #7 had been directed away from the neighbors and it is now on a motion sensor so that no light comes into the neighbor's yard now.

Staff comments - Ms. Wade stated that Staff had received an email from a neighbor stating that they still have lighting from the church coming onto their property, so she wanted the Board to be aware of this. Mr. Gretz asked when that email was received. Ms. Wade replied that it had been received that morning from Mr. Millay. Mr. Gretz stated that the church wasn't aware of that email. He stated that the church was asked to put the particular light that is located back in that area on a motion sensor and that had been done. Mr. Gretz continued, stating that there are other lights that have been on since 2000 and no one has ever made the church aware of an issue with those lights being on. He stated that this problem arose in February of 2023 during a storm when the church lost five twenty-five-foot-tall trees. Mr. Gretz added that those trees have been removed and new trees have been planted. Ms. Wade suggested that a lighting study may need to be done to verify that the lighting at the edge of the property meets the 0.5 foot candles. She added that there may always be spillover of light for various reasons, but the goal is to minimize the light trespass as much as possible. Mr. Gretz stated that the church will attempt to do that.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00058: CRESTWOOD CHRISTIAN CHURCH** – request to amend an existing conditional use permit for a place of religious assembly in order to modify conditions of approval in a Single Family Residential (R-1C) zone, on property located at 1882 Bellefonte Dr., based on Staff's findings of approval and the twelve conditions as listed.

D. Discussion Items

1. **PLN-BOA-24-00104: HELLYER PROPERTIES LLC** – requested a variance to increase the allowable height of a fence within the front yard from 4' to 6' in a Professional Office (P-1) zone, on property located at 1697 Peabody Way. (Council District 11)

The Staff Recommended: Disapproval, 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. Four-foot tall fences in the front yard are typical across business zones.

- 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. The applicant could reduce the height of the fence to four feet in order to create a physical barrier along the edge of the parking lot without a variance.
- c. Approval of the requested variance could have a negative impact on the walkability of the immediate vicinity, as the property is located in an area featuring a mixture of uses including residential uses and neighborhood serving businesses.

Staff presentation – Ms. Wade explained this application for a variance to a fence height on the subject property. She directed the Board's attention to the overhead screen on which she displayed an aerial image of the subject property and the nearby vicinity. Ms. Wade also explained the reasons for Staff's recommendation of disapproval of this request.

Application representative – Mr. Keith Hellyer, 2012 Hidden Falls Trail, Richmond, KY, applicant and property owner, was present on behalf of his application. He explained the various reasons for his request to install a taller fence, citing safety for the children who attend the daycare, the employees, and individuals trespassing and loitering on the property. Mr. Hellyer also mentioned instances of theft of materials from the school property.

Board questions – Mr. Sturdivant asked a question about the type of fencing that is currently across the back of the property. Mr. Hellyer replied that it is vinyl fencing.

Ms. Plumlee asked how gates on the proposed fencing would be controlled. Mr. Hellyer replied that the gates would have to be manually opened and closed.

Mr. Clarke asked if the existing fencing had gates. Mr. Hellyer replied that there were currently no gates.

Mr. Sturdivant asked if the reasons for Mr. Hellyer's request for a taller fence were all security related reasons. Mr. Hellyer confirmed that to be true.

Ms. Plumlee asked if the top of the fence would be pointed or flat. Mr. Hellyer explained that it would be pointed.

Mr. Clarke opined that a four-foot fence with a pointed top would be sufficient enough to deter trespassers.

Ms. Tucker expressed her concern with a taller fence negatively affecting the walkability of the area.

Staff comments – Ms. Wade noted that the proposed gates could be an issue for fire and EMS services, as well as access to the dumpster. She added that even with a four-foot fence, the applicant needed to be aware that the gates needed to be open and accessible, not just for parents and staff, but also for service vehicles that may need to access the site.

Action – A motion was made by Ms. Tucker, seconded by Ms. Plumlee and carried 5-1 (Sturdivant opposed; Carter absent), to **disapprove PLN-BOA-24-00104: HELLYER PROPERTIES LLC** – request for a variance to increase the allowable height of a fence within the front yard from 4' to 6' in a Professional Office (P-1) zone, on property located at 1697 Peabody Way.

2. **PLN-BOA-24-00091: FIRST ALLIANCE CHURCH OF THE CHRISTIAN AND MISSIONARY** - requested a conditional use permit to expand the parking lot for an existing place of religious assembly in an Agricultural Urban (A-U) zone, on property located at 2201 Old Higbee Mill Rd. (Council District 9)

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 within their existing site. The parking lot will be required by the Zoning Ordinance to provide landscaping and screening to create a buffer between the vehicular use area and the public street, as well as the residential neighborhoods.
- 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 an amended site plan, depicting the requirements below 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, Environmental Services 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.
5. A 6-foot-wide sidewalk shall be provided along the subject property's Old Higbee Mill Road frontage.
6. An internal pedestrian walkway, at least 5 feet in width, shall be provided parallel to the new vehicular access point in order to connect the sidewalk in the public right-of-way to the building entrance.
7. A stormwater management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
8. Any new outdoor lighting shall comply with the requirements of Article 30 of the Zoning Ordinance.

Staff presentation – Ms. Wade directed the Board's attention to the overhead screen on which she displayed an aerial image of the subject property. She explained the church's request to expand their parking lot. Ms. Wade also displayed the site plan submitted by the applicant on the overhead screen and explained the particulars of the property. She noted that one thing not reflected on the site plan, but that had been brought to Staff's attention, was that the additional parking will displace a stormwater basin and that stormwater will still need to be taken care of onsite and that is addressed through condition #7. Ms. Wade added that the applicant will need to prepare a new stormwater management plan for their site to address that stormwater, as it will not be able to be handled as it currently is. She explained that Staff recommended approval of this application, contingent on the conditions set forth.

Application representative – Mr. Daniel Rehner, Civil Engineer, was present on behalf of this application, stating that he was a long-time member of the church and was assisting with this application. He stated that conditions #5 and #6 had surprised him. He suggested meeting with Staff from the Divisions of Planning and Transportation to work on those issues. Mr. Rehner requested a postponement to next month's meeting to allow time to work through the issues.

Board question – Mr. Clarke asked if the extension of the proposed rows of parking were any closer than the original parking lot. Mr. Rehner replied that there might be a few spots on the south side that would be closer, but the applicant had talked about putting the required landscape screening along there to meet the requirements of the Zoning Ordinance. He also said that they would be happy to talk with anyone present at the meeting that had concerns about the application.

Mr. Sturdivant asked if the proposed entrance would allow one way traffic flow. Mr. Rehner replied that they have not worked that out yet. He opined that the plan would be so that both entrances would be full accesses, with the ability to have two-way traffic, but that it may change on Sundays to have one entrance and one exit to help with traffic flow. Mr. Sturdivant asked what the distance from the existing entrance to the proposed entrance was. Mr. Rehner did not have that information available. There was discussion regarding the stormwater detention plans.

Public comment

Ms. Colette Lane, 3897 Forsythe Dr., distributed a copy of the applicant's site plan and a list of questions and concerns that she had compiled, to the Board for their review. She opined that her property and others adjoining the subject property would be adversely affected by water run-off. Ms. Lane expressed several other concerns which were listed on the materials she distributed earlier.

Board discussion – There was discussion among the members as to whether to have the applicant representative have a rebuttal or whether there should be a motion for a continuance to allow the applicant to meet with the neighbors and Staff from the Division of Planning to work out some of the issues and concerns.

Action – A motion was made by Ms. Plumlee, seconded by Mr. Sturdivant and carried 6-0 (Carter absent), to **continue PLN-BOA-24-00091: FIRST ALLIANCE CHURCH OF THE CHRISTIAN AND MISSIONARY** – request for a conditional use permit to expand the parking lot for an existing place of

religious assembly in an Agricultural Urban (A-U) zone, on property located at 2201 Old Higbee Mill Rd. to the September 9, 2024 Board of Adjustment meeting.

Note – Ms. Wade informed the Board that at this time, Mr. James Mills, Division of Planning would give this month's presentation on short term rentals. She stated that she would step out into the hallway to meet with those in objection to the previous application.

Note - The Board took a short recess at 2:57 p.m. and reconvened at 3:03 p.m.

E. Short Term Rental Applications

Staff presentation - Mr. James Mills, Planner, gave a presentation in which he explained the regulations and requirements adopted by the City Council on July 11, 2023 for short term rentals. He also summarized Articles 1-11 and 3-13 of the Zoning Ordinance which pertain to short term rentals and a chart depicting the zones where the terms "hosted" or "un-hosted" are applicable to conditional uses for short term rentals and accessory uses. Mr. Mills displayed a description of the factors that Staff focuses on when reviewing applications for conditional use permits for un-hosted short term rentals. He also displayed a map on the overhead screen which indicated the approximate areas where Zoning Compliance Permits for short term rentals have been issued as of August 1, 2024, noting that currently, 810 Zoning Compliance Permits have been issued by the Division of Planning. Mr. Mills added that 126 of those are hosted short term rentals and 684 are un-hosted. He continued, stating that when Staff reviews short term rental applications, they focus on the number of Zoning Compliance Permits for short term rentals issued in a one thousand foot distance of the subject property. Mr. Mills added that, at the present time, Staff is unable to determine if there are any illegally operating short term rentals in that area, but with the new software that will be coming in the future, Staff will be able to do so. He advised the Board that none of the short term rental applications being reviewed by the Board today were in the Task Force on Neighborhoods in Transition Report, nor in the Top Ten Census Blocks.

Mr. Mills displayed a chart depicting the concentration of short term rentals in proximity to current short term rental applications that will be reviewed at today's meeting. He added that Staff uses this data in their evaluation of a short term rental's potential impact within the immediate area. He then displayed an image of a map of data compiled using the new Granicus Host Compliance Software. Mr. Mills stated that, according to the Zoning Compliance data, approximately 63.9% of all short term rentals in Lexington have been identified. He noted that this is preliminary data, and it is slowly updating over time, adding that the Division of Revenue estimates that there are 1,163 unique short term rentals in Lexington. In the next slide, he displayed data gathered from the new software, showing the total percentage of Zoning Compliance Permit compliance at 69.7% and the total percentage of full compliance at 58.2%.

Board comments and questions – Mr. Sturdivant asked if there was a projected date of when Staff thought the software would be fully operational. Ms. Wade responded that would be a question for the Division of Revenue and someone from their staff would be at the Board of Adjustment Work Session scheduled for the following week.

Staff comments – Mr. Mills stated that the Division of Revenue asked that he inform the Board that although the number of identified short term rentals mentioned at today's meeting was lower than what had been previously estimated, the approximate number of twelve hundred short term rentals still a fair estimate.

Board comments – Mr. Clarke thanked Mr. Mills for his presentation and the information given, stating he hoped this information would give everyone a different view of what the Board is doing and what the Board has been dealing with this since the Urban County Council passed these regulations. He noted that the Council is paying great attention to this issue to see if they need to make any changes to the process or amendments to the regulations.

1. **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)

Note – This application was postponed from the May 13, 2024 meeting on the request of the applicant.

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 area.
- 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 four (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.

Application representative – Mr. Dan Street, was present on behalf of the applicant, his wife, Tammy Fiefhaus. There were no questions from the Board.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 4-2 (Plumlee and Tucker opposed; Carter absent) to **approve 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., based on Staff's recommendation and subject to the four conditions as listed.

2. **PLN-BOA-24-00086: CITATION TOWNHOMES, LLC** – requested a conditional use permit to establish an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 107 Ferndale Pass. (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 area.
- 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.

Application representative – Mr. Charles Rashid, 107 Ferndale Pass, was present on behalf of his application. He stated that he has operated short term rentals in about six states for approximately seven years. Mr. Rashid asked the Board to reconsider the limit of four individuals, which is stated in the conditions of approval. He added that occasionally he will have families that are traveling with small children who either sleep on a couch or in a sleeping bag, so he would like to request a limit of four adults and two children, if that would be possible.

Board question – Ms. Tucker asked if this townhome had shared walls on both sides. Mr. Rashid stated that his company owns all of the townhomes in the complex. Ms. Tucker asked if they were all rentals. Mr. Rashid stated that all of the townhomes are rentals, but this would be the only short term rental.

Mr. Clarke asked Staff if Mr. Rashid's request could be met. Ms. Wade stated that as there are two bedrooms in the unit, and two individuals are allowed per bedroom, plus an additional four individuals, the occupancy would be capped at eight individuals, according to the regulations for short term rentals.

Mr. Gross asked Staff if an exclusion could be added to the end of condition #2 after "no more than 4 individuals", to state "excluding minors" or "excluding up to four minors". Ms. Wade stated that it would be preferable to just have a total number of individuals as it is very difficult to monitor the ages of all of the guests. Mr. Rashid commented that this issue would likely only come up about 5% of the time, as the rental will be listed as for up to four, but if a family is traveling together, occasionally they will ask if they can have another one or two just so that the family can stay together. Mr. Gross asked if Mr. Rashid was asking that the occupancy be changed from four to six, to which Mr. Rashid agreed.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 4-2 (Plumlee and Tucker opposed; Carter absent), to **approve PLN-BOA-24-00086: CITATION TOWNHOMES, LLC** – request for a conditional use permit to establish an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 107 Ferndale Pass, based on Staff's recommendation and subject to the four conditions as listed, except for the amendment to condition #2 from a limitation of four individuals to a limitation of six individuals.

3. **PLN-BOA-24-00092: DHARMA 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 214 Floral Park. (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 area.
- 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.

Application representative – Ms. Anita Guttikonda, 3645 Barrow Wood Lane, applicant and property owner, was present on behalf of her application. She stated that she inherited the subject property, which was already being used as a short term rental. Ms. Guttikonda stated that she and her son own the property together, and they would like to continue to operate the home as a short term rental.

Board comment – Ms. Tucker expressed concern with the permitted parking on the street. Ms. Guttikonda replied that the property's driveway will accommodate up to three cars, so she doesn't expect guests to need to park on the street, as the occupancy is limited to six guests. She added that she will state in the advertisement that there is only parking for three vehicles.

Action – A motion was made by Mr. Walker, seconded by Mr. Gross and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00092: DHARMA 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 214 Floral Park, based on Staff's recommendation and subject to the four conditions as listed.

4. **PLN-BOA-24-00093: SILVER CHAIR ESTATES 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 110 Chelan 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 area.
- 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 5 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.

Application representative – Ms. Brandiann Rellinger, 105 Edgemoor Dr., applicant and property owner, was present on behalf of her application. She stated that she purchased the house this past summer and it had been operated as a short term rental at that time, adding that she would like to continue to operate the home as a short term rental.

Action – A motion was made by Mr. Walker, seconded by Mr. Gross and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00093: SILVER CHAIR ESTATES 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 110 Chelan Dr., based on Staff's recommendation and subject to the four conditions as listed.

5. **PLN-BOA-24-00096: JOEL AND ABIGAIL FUGATE** - requested a conditional use permit for an un-hosted short term rental with an occupancy greater than 12 in a Single Family Residential (R-1B) zone, on property located at 513 Andrea 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 area.
- 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 12 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, if the applicant no longer resides at 509 Andrea Drive, 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.

Application representative – Mr. Joel Fugate and Mrs. Abigail Fugate were both present on behalf of their application. Mr. Fugate stated that they had been operating this property as a short term rental since September of 2021 and as they live next door to the subject property, they are able to monitor it continuously. He added that there have not been any complaints regarding their property during that time. Mr. Fugate requested that the Board allow them to increase the occupancy to greater than twelve, as they have rented it for up to fourteen individuals in the past, adding that there are beds for fourteen individuals.

Board questions and comments – Mr. Gross asked Staff if the Board could vote to raise the occupancy to more than twelve. Ms. Wade replied that anyone could ask for an occupancy greater than twelve, but the Board would have to make a special finding to approve that request. She referenced Article 3-13(d) of the Zoning Ordinance which states that “the Board may allow additional occupants when there is sufficient evidence that a greater occupancy will not result in overcrowding or create a nuisance”. Ms. Wade added that the applicant did not address that particular additional evidence and that is why Staff recommended to limit the occupancy to twelve. Mr. Fugate apologized for not supplying that information before the meeting.

Ms. Tucker expressed concern with fourteen individuals staying in roughly twenty-two hundred square feet, with two bathrooms. Mr. Fugate acknowledged her concern and added that there is also a seven hundred square foot game room/garage under roof that guests are permitted to use.

Ms. Plumlee asked if any of the bedrooms were in the basement. Mr. Fugate replied that there are three bedrooms upstairs and two bedrooms in the basement, but it is a split-level home with a main level. Ms. Plumlee asked if the basement had an outside entrance. Mr. Fugate stated that it does.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00096: JOEL AND ABIGAIL FUGATE** – request for a conditional use permit for an un-hosted short term rental with an occupancy of no more than 12 in a Single Family Residential (R-1B) zone, on property located at 513 Andrea Dr., based on Staff's recommendation, Mr. Fugate's testimony heard today and subject to the four conditions as listed.

6. **PLN-BOA-24-00105: J.A. HENDERSON** – requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in an Historic District Overlay (H-1) zone and a Planned Neighborhood Residential (R-3) zone, on property located at 500 N. Broadway (Unit 1). (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. 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.
- c. There is no record of short term rental compliance issues with the applicant.
- d. All necessary public services and facilities are available and adequate for the proposed use.

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

1. The short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 8 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Application representative – Mr. J. A. Henderson, applicant and property owner, was present on behalf of his application. He stated that he had read Staff's recommendations and was in agreement with the conditions of approval as listed.

Board question – Ms. Tucker noted that there appeared to be only two parking spaces and asked if they were for the short term rental or the long term rental. Mr. Henderson stated that those parking spots were for anyone staying at the property, and in the future, he would like to request to have four parking spaces. He added that the property has been used for the past several years as short term rental with street parking only and that has not been a concern.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0 (Carter absent), to **approve PLN-BOA-24-00105: J.A. HENDERSON** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in an Historic District Overlay (H-1) zone and a Planned Neighborhood Residential (R-3) zone, on property located at 500 N. Broadway, Unit 1, based on Staff's recommendation, Mr. Henderson's testimony heard today and subject to the four conditions as listed.

7. **PLN-BOA-24-00089: HARRISON SIMMS** – requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 955 Charwood Dr. (Council District 12)

The Staff Recommended: Approval, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. There is not a high concentration of short-term rentals in the area with only one other in 1,000 feet.
- d. All necessary public services and facilities are available and adequate for the proposed use.

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

1. The short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 8 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Application representative- Mr. Harrison Simms, applicant, stated he has been operating short term rentals for approximately four years and that he owns one short term rental property out of town and another property in Lexington that fell under the "Grandfather" clause. He stated that this application was to operate a second short term rental in Lexington. Mr. Simms stated that he has rules in place for his guests. He added that he had spoken with the one neighbor who had expressed opposition to his application at the beginning of the meeting and addressed his concerns. They came to an understanding and Mr. Simms shared his contact information with that neighbor for any future concerns.

Board question – Ms. Plumlee asked Mr. Simms if he had received complaints from the Division of Revenue. He replied that he had purchased the home approximately one month prior to the July 11, 2023 regulations set forth by City Council taking effect. At that time, he used the home as a hosted short term rental. Mr. Simms explained that during the process of obtaining permits, he received a permit with a typo, which stated that he was approved for an un-hosted unit. He was then notified that he was not in compliance with the regulations for operating short term rentals. Mr. Simms obtained an attorney to work with him through the permitting process and that is why he is now applying for a conditional use permit for an un-hosted short term rental.

Action – A motion was made by Mr. Walker, seconded by Mr. Sturdivant and carried 5-1 (Plumlee opposed; Carter absent), to **approve PLN-BOA-24-00089: HARRISON SIMMS** – 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 955 Charwood Dr., based on Staff's recommendation and subject to the four conditions as listed.

8. **PLN-BOA-24-00090: AARON PROPEs** – requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 1295 Latonia Park. (Council District 8)

The Staff Recommended: Disapproval, for the following reasons:

- a. The proposed use will have an adverse influence on the public health, safety, and welfare. The Zoning Ordinance specifically states that the Board shall take into account the applicant's demonstrated compliance record and the applicant failed to act in a timely manner to obtain the necessary permits and license to operate a short term rental when they were notified that they were operating in violation of the Zoning Ordinance and Code of Ordinances following a break-in on the subject property.

Staff presentation – Ms. Wade directed the Board's attention to the overhead screen on which she displayed an overhead image of the subject property. She explained the applicant's request for a short term rental for up to eight guests, noting that according to the Zoning Compliance Permit data, there are no short term rentals in the one thousand foot area surrounding the area and that most of the properties in the area are residential. Ms. Wade explained that the reasons Staff was concerned with this application was that the Division of Revenue was notified that there was a short term rental operating at this property and that the applicant was notified that they needed to come into compliance on February 20, 2024. The applicant began the process but did not follow through with completing it. Therefore, they received a second notice from the Division of Revenue with a Notice of Violation in May and the applicant began their application again in June. Ms. Wade stated that Staff's reason for recommending disapproval was because of the timeframe between when they were notified in February and not coming into compliance until now and applying for the August hearing. That timeframe resulted in the Division of Revenue issuing the Notices of Violation as opposed to Mr. Harrison Simms's timeframe being much less, before he complied with the requests to come into compliance.

Application representative – Mrs. Cheryl Propes and Mr. Aaron Propes, applicants and property owners, were both present on behalf of their application. Mrs. Propes stated that this property had belonged to her grandparents, and she inherited it when they passed away. She explained that the reason they did not comply back in February was because they were in the process of adopting twins and one of their daughters was diagnosed with a rare muscular disease, that carries a short life expectancy. Mrs. Propes stated that they decided to focus on their family, and they shut down all of the platforms for rental purposes, except for one that they did not realize they had forgotten about. Mr. Propes stated that when they were informed that there was a rental platform still in effect, they decided to pursue the process of coming into compliance. Mrs. Propes added that the income from using the property as a short term rental allows her to stay at home with their children and take the oldest daughter who has the rare disease, back and forth to her medical appointments. She continued, explaining that if their application is approved, they will only use the platform which conducts screening of potential guests, and she assured the Board that they will not allow parties. Mrs. Propes explained other measures they have in place in order to operate a short term rental at this property. Mr. and Mrs. Propes asked the Board to approve their request.

Board question – Mr. Sturdivant asked Staff if the Board would be setting a precedent, given the Notices of Violations on the subject property?

Staff comments – Ms. Wade replied that Staff has been informed that it is the opinion of the Law Department that the Board's decisions are not setting precedence, as every case is unique and the Board takes applications on a case-by-case basis and considers the information that the applicant has submitted, their extenuating circumstances, etc. There was further discussion.

Note – The Board took a brief recess to consider findings of approval for this application. Prior to making a motion, Mr. Gross noted that Staff had spoken with the applicants during the recess regarding the proposed findings and conditions of approval, to ensure they were in agreement with them. The applicants had confirmed that they were in agreement with the findings and conditions.

Action – A motion was made by Mr. Gross seconded by Mr. Sturdivant and carried 4-2 (Plumlee and Tucker opposed; Carter absent), to **approve PLN-BOA-24-00090: AARON PROPE** – 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 1295 Latonia Park, based on the testimony heard today and the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. There is not a high concentration of short-term rentals in the area as there are zero located within 1,000 feet.
- d. All necessary public services and facilities are available and adequate for the proposed use.

The Board's recommendation of approval was made subject to the following conditions:

1. The short term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short term rental shall be limited to no more than 8 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

9. **PLN-BOA-24-00099: ROCK DANIELS** – 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 527 and 529 Harry St. (Council District 1)

The Staff Recommended: Disapproval, for the following reasons:

- a. The proposed use will have an adverse influence on the public health, safety, and welfare of the immediate area. Harry Street is a sub-standard local street with no on-street parking and a narrow drive width. In addition, Harry Street does not have curbs and gutters to help manage stormwater run-off in the area, nor are there sidewalks present to accommodate safe pedestrian movement in the area. The limited infrastructure of Harry Street does not support a more intense use of a dwelling unit for short term rental. Allowing additional users for a short term rental would create congestion along Harry Street and in the surrounding area.
- b. The subject property is surrounded by a high concentration of short-term rentals, with 22 short term rentals, representing approximately 4.8% of the housing stock, within 1,000 feet of the subject property. The existing short term rentals in the immediate area are available for those interested in utilizing a short term rental use.

Staff presentation – Ms. Wade directed the Board's attention to the overhead screen on which she displayed aerial images of, and briefly explained the subject property. Ms. Wade noted that there are already twenty-two short term rentals operating within one thousand feet of the subject property, equating to a 4.8% concentration in this area. She stated that Staff could not support this application due to Harry St. being a sub-standard local street in terms of its width and it not having the required urban street improvements or sidewalks, curbs and gutters. Ms. Wade added that there is no on-street parking, and the limited infrastructure of Harry St. does not support a more intense use of the dwelling unit for short term rental. She noted that Staff considered the concentration of close to 5% a high percentage of concentration and concluded that the proposed use could have adverse impact on the subject property and the vicinity. For those reasons and others, Staff recommended disapproval of this application.

Applicant presentation – Ms. Rachel Rubino, 527 Harry St., applicant, explained her application to the Board. She stated that she rents this property from Mr. Rock Daniels and that it had been her home since 2022. Ms. Rubino stated that she had the approval of Mr. Daniels to use this property as a short term rental.

Board comments and questions – Ms. Tucker stated that one letter of opposition to this application had been received by Staff. The letter was provided to Ms. Rubino to review. She stated that the issues mentioned in the letter have been resolved and the neighbor has her personal contact information if there are any issues in the future.

Mr. Clarke asked Ms. Rubino to explain how she planned to use this as an un-hosted short term rental, as it was also her home. She replied that she would offer the home as weekend opportunities for out of town travelers.

Ms. Tucker stated that when she made a visit to the subject property, it was difficult to turn around when she was leaving the site. Ms. Rubino addressed the comment.

Mr. Walker asked how Ms. Rubino would handle emergencies or other issues that may arise. She replied that she has a close friend who is a property manager and lives close by, who would handle any emergencies or other issues that may come up. Ms. Rubino stated that she plans to stay in Lexington while she was renting the property on a short-term basis.

Action – A motion was made by Ms. Plumlee, seconded by Ms. Tucker and carried 6-0 (Carter absent), to **disapprove PLN-BOA-24-00099: ROCK DANIELS** – 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 527 and 529 Harry St., based on Staff's recommendation and their findings as stated in the staff report.

- V. **BOARD ITEMS** – Mr. Clarke announced that any items a Board member wished to present would be heard at this time.
There were no Board Items to consider at this time.

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

Ms. Wade reminded the Board of the Work Session that is scheduled for Monday, August 19, 2024 on the third floor of the Phoenix Building, beginning at 1:30 p.m.

- VII. **NEXT MEETING DATE** - Mr. Clarke announced that the next meeting date would be September 9, 2024 at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.

- VIII. **ADJOURNMENT** - As there was no further business, the meeting was adjourned at 4:25 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.