

**MINUTES FOR THE BOARD OF
ADJUSTMENT MEETING**

October 14, 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.

II. **ATTENDANCE**

Board members present were Raquel Carter, Harry Clarke, Bob Sturdivant, Linda Tucker and Chad Walker. Branden Gross and Carolyn Plumlee were absent. Others present were Brittany Smith, Department of Law; Steven Parker, Division of Traffic Engineering and Josh Dezarn, Division of Engineering. Planning Staff members present were Traci Wade, Dalton Belcher, Chris Chaney, James Mills and Donna Lewis.

III. **APPROVAL OF MINUTES**

Ms. Carter announced that the July 8, 2024 Board of Adjustment meeting minutes would be considered at this time.

Action – A motion was made by Mr. Walker, seconded by Ms. Tucker and carried 5-0 (Gross and Plumlee absent), to **approve** the minutes from the July 8, 2024 Board of Adjustment meeting.

IV. **PUBLIC HEARING ON ZONING APPEALS**

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

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

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

Postponements

1. **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)

Note – At the August 12, 2024 Board of Adjustment meeting, the Board approved the applicant's request for postponement of their application to the November 4, 2024 meeting.

2. **PLN-BOA-24-00119: THE CHURCH IN LEXINGTON INC** – requested a conditional use permit to establish a place of religious assembly in an Agricultural Urban (A-U) and Single Family Residential (R-1C) zone, on property located at 1136, 1220 and 1250 Higbee Mill Rd. (Council District 9)

Note – This application was continued from the September 9, 2024 meeting.

Application representative – Mr. Charlie Hall, Thoroughbred Engineering, was present on behalf of this application and informed the Board that the applicant had not yet received the report from their engineer regarding the bridge on the subject property. Therefore, the applicant requested another one-month postponement of this application.

Action – A motion was made by Mr. Sturdivant, seconded by Ms. Tucker and carried 5-0 (Gross and Plumlee absent), to **continue** this application to the November 4, 2024 meeting.

3. **PLN-BOA-24-00134: CENTENARY CHURCH INC** – requested to amend an existing conditional use permit for outdoor recreational facility (soccer fields) in an Agricultural Rural (A-R) zone, on property located at 4861 Athens Boonesboro Rd. (Council District 7)

Application representative – Mr. Carmen Ichorino was present on behalf of this application. He also mentioned that Ms. Rhonda Strauss and Mr. David Carter were present in the audience. Mr. Ichorino asked the Board for a continuance of this application to the November 4, 2024 meeting to allow the applicant time to work with Staff. On behalf of the applicant, he thanked Staff for their time and continuing to work with the applicant through their site plan.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 5-0 (Gross and Plumlee absent), to **postpone** this application to the November 4, 2024 meeting.

4. **PLN-BOA-24-00143: JOHN SCHORNICK** - requested a conditional use permit for an un-hosted short term rental in an Expansion Area Residential-2 (EAR-2) zone, on property located at 3776 Polo Club Blvd. (Council District 12)

Application representative – Mr. John Schornick, applicant and property owner, requested a one-month postponement of his application in order to meet with the Homeowners' Association of his neighborhood.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 5-0 (Gross and Plumlee absent), to **postpone** this application to the November 4, 2024 meeting.

C. **Abbreviated Items**

1. **PLN-BOA-24-00118: VANMETER PETTIT** – requested variances to 1) reduce the required front yard from eight (8) feet to six (6) feet; 2) reduce the required side street side yard setback from three (3) feet to zero (0) feet and 3) increase the maximum allowable height from twenty-four (24) feet to thirty-four (34) feet within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 472 N. Broadway. (Council District 1)

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

- Granting the variances should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The subject property is within the defined Infill and Redevelopment Area and the surrounding structures in the immediate vicinity feature legally non-conforming setbacks and heights, similar to those being proposed by the applicant.
- Due to the existing lot's shape and form, improvements or additions are limited to the area of the property where the applicant has located their proposed structure.
- The granting of these variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed, and prior to beginning construction.

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

- Construction shall be in accordance with the submitted application materials and site plan, as revised and submitted on October 7, 2024.
- All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to construction.

Application representative – Mr. VanMeter Pettit, applicant and property owner, was present on behalf of his application. Ms. Carter asked him if he had read Staff's recommendations and conditions of approval for his application. He stated that he had not. Mr. Pettit reviewed the staff report and stated that he was in agreement with the conditions of approval.

Board comment – Ms. Tucker stated that she was concerned about the closeness of the proposed wall to the existing sidewalk. Mr. Pettit replied that the wall on the ground floor will be set back one foot from the sidewalk, creating less of an impingement than what the existing overgrown shrubs cause.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00118: VANMETER PETTIT** – request for variances to 1) reduce the required front yard from eight (8) feet to six (6) feet; 2) reduce the required side street side yard setback from three (3) feet to zero (0) feet and 3) increase the maximum allowable height from twenty-four (24) feet to thirty-four (34) feet within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Planned Neighborhood Residential (R-3) zone, on property located at 472 N. Broadway, based on Staff's recommendation and subject to the two conditions as listed.

2. **PLN-BOA-24-00138: UNITARIAN UNIVERSALIST CHURCH OF LEXINGTON** – requested to amend an existing conditional use permit for a place of religious assembly in order to expand the parking area in a Single Family Residential (R-1B) zone, on property located at 3564 Clays Mill Road. (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 that will improve stormwater and water quality management. The parking lot will be required by the Zoning Ordinance to provide landscaping and screening to create a buffer between the vehicular use area along 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 sidewalk, a minimum of five feet in width, shall be provided from the subject property's Clays Mill Road frontage to the building entrance.
6. Any new outdoor lighting shall comply with the requirements of Article 30 of the Zoning Ordinance.

Application representative – Mr. Scott Southall, Earthcycle Design, was present on behalf of this application. Ms. Carter asked him if the applicant was in agreement with the six conditions of approval set forth by Staff. Mr. Southall stated that the church was in agreement with conditions #1 through #4 and condition #6, but they had concerns about condition #5 which required a sidewalk from the subject property's Clays Mill Road frontage to the building entrance. After explaining the church's concerns, Mr. Southall asked that condition #5 be removed.

Board comments – Ms. Carter asked Staff to give a presentation of the recommendations and conditions of approval for this application.

Staff presentation – Mr. Mills directed the Board's attention to the overhead screen on which he displayed aerial images of the subject property and its vicinity as well as the site plan that the applicant had submitted. He explained Staff's recommendations for approval and the conditions set forth for approval.

Board comments – There were comments from the Board concerning the length of the proposed sidewalk.

Application representative – Mr. Southall expressed other concerns the church had with the prospect of providing the proposed sidewalk.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00138: UNITARIAN UNIVERSALIST CHURCH OF LEXINGTON** – request to amend an existing conditional use permit for a place of religious assembly in order to expand the parking area in a Single Family Residential (R-1B) zone, on property located at 3564 Clays Mill Road, based on Staff's recommendation and omitting condition #5 from the conditions as listed by Staff. The following conditions reflect the Board's decision and will be reflected on the Certificate of Land Use Restriction:

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. Any new outdoor lighting shall comply with the requirements of Article 30 of the Zoning Ordinance.

D. Items for Discussion

1. **PLN-BOA-24-00137: SAUNIER LIVERY LLC** – requested a variance to increase the allowable height of a rear fence from eight (8) feet to twelve (12) feet within the defined Infill and Redevelopment Area in a Lexington Center Business (B-2B) zone, on property located at 171 Saunier Street. (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. Eight-foot-tall rear fences or walls are typical across all downtown 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 twelve-foot section to the previously approved eight-foot height in conformity with the building permit.

Staff presentation – Mr. Mills directed the Board's attention to the overhead screen on which he displayed an aerial image of the subject property and its vicinity. He explained the background of this application and why it was before the Board today.

Application representative – Mr. Mike Meuser, attorney for the applicant, was present and submitted an image of the proposed project for the Board to review and be displayed on the overhead screen. He explained the applicant's request for the variance. He introduced Mr. John Howard, who supervised the construction of the wall and arch, and stated that Mr. Howard would like to explain what would be involved in taking the wall and arch down.

Mr. John Howard was sworn in at this time and explained that he did not realize that a permit was needed to construct the arch on the wall. He described the process required to take the arch down and stated that it would be very costly and time-consuming.

Board questions and comments – Mr. Sturdivant asked if the applicant had received any complaints from neighbors about the arch. Mr. Meuser replied that they had not. There was further discussion.

Applicant comments – Mr. John Sikura, property owner, stated that when he purchased the property it was in severe disrepair and since then he has spent considerable amount of time and money to bring it back to its original state.

Note – The Board took a brief recess at 2:19 pm and reconvened at 2:27 pm.

Action – A motion was made by Mr. Walker, seconded by Mr. Sturdivant and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00137: SAUNIER LIVERY LLC** – request for a variance to increase the allowable height of a rear fence from eight (8) feet to twelve (12) feet within the defined Infill and Redevelopment Area in a Lexington Center Business (B-2B) zone, on property located at 171 Saunier Street.

The Board Recommended: **Approval**, based on the following findings:

- a. Allowing the 12-foot tall section of the fence to remain will not adversely affect the essential character of the neighborhood because the 12-foot section is a small portion of the 80-foot wall and is immediately adjacent to a parking lot. Thus, there are no residences immediately adjacent to the 12-foot portion of the fence.
- b. Allowing the 12-foot tall section of the fence to remain will not negatively impact the public health, safety or welfare or create a nuisance for the residents because the adjoining property is a school parking lot with no residential uses on the southwest side of the property.
- c. The 12-foot tall fence in the rear yard is also justified by the special circumstances of the land and will not unreasonably circumvent the zoning requirements in Article 15, because only the portion of the wall above the gate is 12 feet in height; the remaining portions of the wall are eight feet in height.

This approval is subject to the following condition:

1. The Applicant shall submit an amended site plan and obtain approval by the Division of Building Inspection.
2. **PLN-BOA-24-00039: LEXINGTON ISLAMIC CENTER INC** – requested 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)

Note – This application was postponed from the September 9, 2024 meeting.

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

- a. With the proposed conditions, approval of the amended conditional use should not adversely affect the subject or adjoining/nearby properties
- b. The subject property is large enough to accommodate the expansion of the religious assembly use.
- c. The use will be screened from view from the adjoining residential uses by the existing tree line along the perimeter of the property.
- d. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. The property shall be developed and operated in accordance with the submitted application materials and a revised site plan, subject to any alterations required throughout the permitting process.
2. The parking area shall be landscaped in accordance with Article 18 of the Zoning Ordinance, and the new off-street parking area shall be screened with trees and shrubs, as if it were in a residential zone.
3. The site plan shall be modified to show no parking areas located in the front yard area.
4. The site plan shall be modified to show pedestrian connections to Merman Drive. and Accord Drive.
5. The off-street parking areas shall be installed and maintained per Article 16 of the Zoning Ordinance.
6. All signage for this use shall comply with Article 17 of the Zoning Ordinance.
7. Storm water management facilities shall be designed in accordance with the Engineering Manuals, with a minimum additional 10% capacity, subject to approval or acceptance by the Division of Engineering.
8. Any lighting shall be provided in accordance with Article 30 of the Zoning Ordinance.
9. Perimeter trees (within 15 feet of the property boundary) shall be protected and maintained, unless recommended for removal by the Urban Forester due to safety or other concerns. If a perimeter tree is removed for any reason, it shall be replaced with a comparable tree, in consultation with the Urban Forester.
10. All necessary permits and/or approvals shall be obtained from the Divisions of Planning, Building Inspection, and Engineering, prior to construction and occupancy.

Staff presentation – Mr. Mills directed the Board's attention to the overhead screen on which he displayed an aerial image of the subject property and its vicinity. He gave a brief explanation of the history of this application, as it was originally submitted in February 2024 and has undergone several changes to the application and revisions to the site plan. Mr. Mills also displayed the most recent site plan which had been recently submitted by the applicant. He noted that there were several conditional use permits that had been granted in the past for the subject property. Mr. Mills explained Staff's reasons for recommending approval of this application.

Application representative – Mr. Jihad Hallany, Vision Engineering, was present on behalf of the applicant. He stated that the applicant was in agreement with Staff except for condition #3, and he explained the reasons why the applicant was not in agreement with this condition.

Board questions and comments – Mr. Sturdivant asked a question about using vegetation to prevent parking from being visible from Armstrong Mill Rd. Mr. Hallany replied that the applicant was proposing that parking will not be allowed within one hundred feet from Armstrong Mill Rd. Mr. Sturdivant asked where the entrance to the mosque would be. The site plan was displayed on the overhead screen and Mr. Hallany indicated where the entrance would be. There was further discussion.

Public comment – Ms. Kausha Miller, 1251 Merman Dr., spoke in opposition to the proposed project. She submitted a presentation which was displayed on the overhead screen, which she referred to as she spoke. The presentation was submitted for the record.

Applicant rebuttal – Mr. Hallany addressed some of Ms. Miller's concerns and stated that the applicant wanted to protect the Burr Oak trees and they would also be willing to remove five or six parking spaces to give the adjacent property owner more screening. He added that the applicant wants to be a good neighbor.

Note – The Board took a recess from 2:58 p.m. to 3:03 p.m.

Action – A motion was made by Ms. Tucker, seconded by Mr. Sturdivant and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00039: LEXINGTON ISLAMIC CENTER INC** – request to amend an existing conditional use for a place of religious assembly in order to construct a new principal structure for religious assembly and vehicular use areas in an Agricultural Urban (A-U) zone, on property located at 1240 Armstrong Mill Rd., with the following amendments. Conditions #1, #2, #4, #5, #6, #7, #8, #9 and #10 would remain as listed. Condition #3 would be changed as follows:

3. The site plan shall be modified to show no parking areas located within the first one hundred feet along Armstrong Mill Rd. in the front yard area.

Also, with an addition of condition #11 as follows:

11. Remove nine (9) parking spaces along the eastern property line and any gravel to protect the Burr Oak tree.

3. **PLN-BOA-24-00125: DONTELLA ZERIAL-PRUNEAU** – requested a conditional use in order to operate a home-based business for yoga instruction in a Townhouse Residential (R-1T) zone, on property located at 3277 Buckhorn Dr. (Council District 7)

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

- a. Approval of the proposed conditional use should not adversely affect the subject or nearby properties, provided that all necessary permits and approvals are secured. Additionally, such activities will occur during normal business hours throughout the week and daytime hours on the weekends.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use. Adequate parking is available on the subject property and on-street parking is available in the immediate vicinity.

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

1. The property shall be operated in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection, as well as necessary state and federal agencies, prior to construction (if necessary) and occupancy.

3. The applicant may only use up to 300 square feet of the basement space for the home-based business for yoga instruction use.
4. All classes and instruction must occur within the dwelling unit.
5. No one shall teach classes on site other than the residents of the dwelling unit.

Application representative – Ms. Donatella Zerial-Pruneau, applicant and property owner, explained her application and addressed some of the neighbors' concerns which had been shared with her. Ms. Carter asked her if she had reviewed the conditions of approval in the staff report. Ms. Zerial-Pruneau stated that she had reviewed them, and she was in agreement with them.

Public comment

Mr. Bob Kennedy, 3296 Buckhorn Dr., expressed concerns with this application for a home-based business based on concerns of parking and a possible increase in traffic.

Ms. Beverly Hoskins, no address given, expressed her concerns regarding an increase in traffic, stating that Buckhorn Dr. is a very busy street and that some people park on the street.

Applicant rebuttal – Ms. Zerial-Pruneau addressed the concerns of her neighbors, indicating that she wants to have a harmonious relationship with the neighbors and will ask her clients to not park in the cul-de-sac.

Board comment – Ms. Tucker stated that she would like to have a condition added stating that the conditional use permit would become null and void if the property changes hands, if the application is approved. The applicant stated that she was in agreement with adding that condition.

Mr. Walker commented that the site plan submitted by the applicant showed a four hundred and sixteen square-foot area where she intended to practice, but she was only allowed three hundred square feet. Ms. Zerial-Pruneau stated that she was only going to use a portion of that area for lessons and store blankets and other props for her classes in the other portion. Ms. Wade remarked that the entire area, including the storage, must be limited to three hundred square feet. The applicant replied that she would figure out how to do that.

Action – A motion was made by Ms. Tucker, seconded by Mr. Sturdivant and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00125: DONTELLA ZERIAL-PRUNEAU** – request for a conditional use in order to operate a home-based business for yoga instruction in a Townhouse Residential (R-1T) zone, on property located at 3277 Buckhorn Dr., with the five conditions as listed and an additional sixth condition stating:

6. The conditional use permit shall become null and void if the property is sold or transferred.

E. Short Term Rentals

Staff presentation – Mr. Mills gave a review of the regulations for short term rentals adopted by the Urban County Council on July 11, 2023. He noted that as of October 7, 2024, the Division of Planning had processed 855 Zoning Compliance Permits for short term rentals in the city of Lexington. Mr. Mills also summarized Article 1-11 and Article 3-13 of the Zoning Ordinance relating to short term rentals. He displayed a graphic showing the zones in which short term rentals are allowed as a conditional use, an accessory use or a principal use on the overhead screen. Mr. Mill also displayed a graphic listing the factors that Staff takes into account when reviewing applications for conditional uses.

Mr. Mills displayed a graphic from the Task Force on Neighborhoods in Transition Report from the mayor's office, noting that none of the applications for short term rentals to be heard today were within those areas. He also displayed a graphic showing the percentage of concentration of Short Term Rentals in proximity to the subject properties that would be considered for conditional use permits for short term rentals today.

1. **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)

Note – This application was postponed from the September 9, 2024 meeting.

After the agenda was published, but prior to the meeting, Staff submitted a revised staff report to the applicant and to the members of the Board for their review, which reflected a recommendation of approval by Staff based on the applicant having provided evidence that the compliance issues that had been previously noted have since been resolved.

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. The short term rental compliance issues with the applicant have been remediated.
- 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.

Application representatives – Mr. David Jarman, 1869 Farmview Dr., and Ms. Cirenia Molina, 3948 Georgetown Rd., were present on behalf of this application. Ms. Carter commented on the application now having Staff's recommendation of approval and she asked the applicant if she was comfortable with the conditions of approval. Ms. Molenia stated that she was comfortable with the conditions. Ms. Carter asked Ms. Molenia to explain the particulars of her application.

Mr. Jarman explained that there was more than adequate parking at the residence and that Ms. Molenia wanted to be a good neighbor and have applicants and visitors who respect her property and the property surrounding hers.

Board comment – Ms. Tucker opined that ten occupants were a lot for the size of the home. Mr. Jarman replied that this residence is a two-story home and that ten occupants would be the maximum allowed. Ms. Molenia stated that the maximum she would rent to would be seven occupants at this address, not ten.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 4-1 (Tucker opposed; Gross and Plumlee absent), to **approve 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., based on Staff's revised recommendation and the conditions listed in the revised staff report, and changing the number of occupants to up to seven (7) instead of up to ten (10) as originally requested.

2. **PLN-BOA-24-00133: DEISY PEREZ** - 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 Elm Tree Lane. (Council District 1)

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

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. 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 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.

Application representative – Mr. Dominick Lewis was present on behalf of this application and stated that he was the applicant's fiancé. He stated that families in their neighborhood have used this property when they have family come into town for a place to stay. Ms. Carter asked Mr. Lewis if he and Ms. Perez had reviewed and were in agreement with the conditions of approval set forth by staff. Mr. Lewis indicated that they had reviewed them and were in agreement with the conditions.

Board comments and questions – Ms. Tucker opined that this residence was small for an occupancy of up to 10 individuals. She asked Mr. Lewis if the bathrooms were full or half. Mr. Lewis replied that there were two full bathrooms and one half-bath on the ground level. Ms. Tucker noted that there were four short term rentals in the vicinity. Mr. Lewis stated that they typically rent to no more than six occupants, and they would be willing to amend the occupancy down to eight (8) if the Board wished.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 3-2 (Sturdivant and Tucker opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00133: DEISY PEREZ** – 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 Elm Tree Lane, based on Staff's recommendation and subject to the four conditions as listed, with the amendment of the allowable number of occupants changed from up to ten (10) individuals to up to eight (8) individuals.

3. **PLN-BOA-24-00136: PROMINENT PROPERTY** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Mixed Low Density Residential (R-2) zone, on property located at 712 W. Maxwell 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 and there is a mixture of uses in the immediate vicinity that may result in a higher demand for short term rentals.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. There is no record of short term rental compliance issues with the applicant.
- d. All necessary public services and facilities are available and adequate for the proposed use.

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

1. The short-term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short-term rental shall be limited to no more than 9 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. Matt Whitman, applicant and property owner, was present and explained his application, stating that he manages eight other properties in Lexington that are short term rentals and were grandfathered in and did not require him to apply for conditional use permits through the Board of Adjustment process.

Board comments and questions – Mr. Sturdivant noted that Staff had identified 41 short term rentals that have been issued Zoning Compliance Permits operating within 1,000 feet of the subject property. He opined that was an excessive amount for the area around this property. Mr. Whitman replied that the property is in a fairly dense area of Lexington, and he opined that his property did not have an impact on the neighborhood concerning maintaining its characteristic. There was further discussion.

Ms. Tucker stated that she agreed with Mr. Sturdivant, adding that if this application is approved, there would be five short term rentals in one block. There was further discussion.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 3-2 (Sturdivant and Tucker opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00136: PROMINENT PROPERTY** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Mixed Low Density Residential (R-2) zone, on property located at 712 W. Maxwell St., based on Staff's recommendation and subject to the four conditions as listed.

4. **PLN-BOA-24-00139: STEVEN DENNIS** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1E) zone, on property located at 845 White Wood Flat. (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 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. Steve Dennis was present on behalf of his application. Ms. Carter asked him if he had read Staff's recommendation and conditions of approval. Mr. Dennis stated that he had read and was in agreement with the conditions of approval.

Board questions – Ms. Tucker asked Mr. Dennis if he lived at the property. He stated that he did not live there but he does reside in Lexington.

Mr. Sturdivant asked Mr. Dennis when he purchased the subject property. Mr. Dennis replied that he purchased it in December of 2021. Mr. Sturdivant asked him if he had used the property as a long term rental. Mr. Dennis replied that he has been using the property as an Airbnb until they were notified that the rules changed, at which point they stopped renting it on a short term basis.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 4-1 (Tucker opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00139: STEVEN DENNIS** – request for a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1E) zone, on property located at 845 White Wood Flat, based on Staff's recommendation and subject to the four conditions as listed.

5. **PLN-BOA-24-00141: Z ENTERPRISES 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 2238 Circle 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 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 – Mr. Alexander Gross, applicant and property owner, distributed a packet of three letters in support of his application, as well as printouts from Airbnb documenting his Super Host status and guest reviews to the Board members and also a copy for the record. Ms. Carter asked Mr. Gross if he had read Staff's conditions of approval and if he was in agreement with them. He replied that he was in agreement with the conditions.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00141: Z ENTERPRISES 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 2238 Circle Dr., based on Staff's recommendation and subject to the four conditions as listed.

6. **PLN-BOA-24-00146: SUZANNE AHNQUIST** - requested a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Single Family Residential (R-1C) zone, on property located at 214 Arcadia 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. Suzanne Ahnquist, applicant and property owner, explained her application for a short term rental. She requested that the number of occupants allowed be increased from six (6) individuals as stated in the staff report to no more than eight (8) individuals.

Action - A motion was made by Mr. Clarke and seconded by Mr. Walker to **approve PLN-BOA-24-00146: SUZANNE AHNQUIST** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Single Family Residential (R-1C) zone, on property located at 214 Arcadia Park, based on Staff's recommendation and subject to the four conditions as listed, with an amendment to the number of occupants being no more than eight (8) individuals.

Discussion on the motion – Ms. Tucker commented that there were approximately eight neighbors who had submitted opposition to this application.

Action – The motion to **approve** was voted on and carried 4-1 (Tucker opposed; Gross and Plumlee absent).

7. **PLN-BOA-24-00147: TJH WESTWOOD LLC** - requested a conditional use permit for an un-hosted short term rental and a variance to increase the maximum number of parking spaces from two (2) to four (4) in order to add additional parking within the defined Infill and Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 105 Westwood Dr. (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.
- f. 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 proposed paved parking area should have little visual impact on the surrounding properties as it is similar to other rear parking areas in the general vicinity and is located in the rear of the structure.

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, 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. Paving shall be in accordance with the submitted application materials and revised site plan depicting the removal of the gravel area and a landscape buffer along the rear perimeter of the new parking area to provide separation between the yard and parking area and prevent the continued use of the gravel area.
6. The applicant shall apply for and receive final approval for the parking area from the Division of Traffic Engineering.

Application representatives – Mr. Jason Taylor and Mr. Tyler Hughes, applicant and property owner were both present on behalf of this application. Mr. Taylor explained that Mr. Hughes also owned 103 Westwood Dr. He added that the subject property had previously been used as a campus rental and Mr. Hughes would now like to use it as a short term rental. Mr. Taylor stated that Mr. Hughes had read and was in agreement with Staff's recommendation and the conditions of approval.

Ms. Carter asked the applicant to explain the parking for the subject property. Mr. Taylor replied that the contractor had paved too many parking spots, and the pavement will be removed. He added that they have a revised site plan depicting parking spots on each side for each unit. A copy of that site plan was submitted for the record.

Ms. Wade remarked that the Division of Building Inspection had requested an additional condition be added relating to the pavement, and that the Board members should have a copy of that request. Ms. Wade read the requested additional condition for the applicant and the Board. She added that this condition was because the two parking lots together now constitute eight spaces and they are joined by a shared drive. Mr. Taylor confirmed the applicant will meet that condition. The revised site plan was displayed on the overhead screen for the Board's reference, and Mr. Taylor explained the revisions.

Board questions – Ms. Tucker asked if the subject property would be rented as a single unit, or if there was more than one unit in the building. Mr. Taylor replied that it had been a campus rental and asked Mr. Hughes how many bedrooms were there previously. Mr. Hughes replied that there were six bedrooms and six bathrooms prior to it being re-modeled. Ms. Tucker opined that it sounded like a hotel.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 4-1 (Tucker opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00147: TJH WESTWOOD LLC** – request for a conditional use permit for an un-hosted short term rental and a variance to increase the maximum number of parking spaces from two (2) to four (4) in order to add additional parking within the defined Infill and Redevelopment Area in a Single Family Residential (R-1C) zone, on property located at 105 Westwood Dr., based on Staff's recommendation and subject to the six conditions as listed and an additional seventh condition requested by the Division of Building Inspection as follows:

7. Article 16-3 shall be followed to ensure permanent stormwater management and compliance with the stormwater manuals and accepted by the Division of Engineering shall be provided for all off-street parking spaces containing five or more spaces.

8. **PLN-BOA-24-00152: TYLER HUGHES** - 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-1E) zone, on property located at 429 Hollywood Dr. (Council District 3)

The Staff Recommended: Approval, for the following reasons:

- 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.
- The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- 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.
- There is no record of short term rental compliance issues with the applicant.
- 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:

- The short term rental use shall be established in accordance with the submitted application materials and site plan.
- Occupancy of the short term rental shall be limited to no more than 12 individuals.
- 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.
- 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 representatives – Mr. Jason Taylor stated he was representing the applicant, Mr. Tyler Hughes. Both were present on behalf of this application. Mr. Taylor stated that the name of the applicant should be changed to Glock Nicholasville, LLC and not listed as Mr. Hughes's personal name. Mr. Taylor briefly explained this application for a short term rental.

Board question – Ms. Tucker asked if the subject property was a duplex or one unit. Mr. Hughes replied that it had been operated as a duplex, but it is also listed as a single family home and will be operated as a single family home going forward. There was discussion concerning parking at the subject property.

Public comment

Mr. Chuck Mallory, 431 Hollywood Dr., was sworn in at this time and expressed opposition to this application, citing issues with the number of occupants requested and on-street parking.

Ms. Stephanie Rankin, 430 Hollywood Dr., was also sworn in at this time and noted that there were several other neighbors present in the audience who were concerned with this application. She expressed concern with a likely increase in traffic and the impact this use would have on their narrow street. Ms. Rankin asked the Board to deny this application.

Applicant rebuttal – Mr. Taylor addressed the public comments that had been expressed. Mr. Hughes commented that based on other short term rentals that he owns and operates, there is less parking needed for short term rentals than for campus rentals. He added that he would not be applying for an on-street parking permit if this application for a short term rental is approved. There was further discussion.

Additional Public comment

Mr. Charles Melvin, 432 Hollywood Dr., was sworn in at this time and expressed opposition to the application. He commented that there were several complaints filed against other properties owned by Mr. Hughes. He referenced a letter written by Ms. Amy Clark, 628 Kastle Rd., which he requested the Board read.

Ms. Amy Clark, 628 Kastle Rd., was sworn in at this time. She expressed her opposition to this application, reading from a letter she had written, which Mr. Melvin had mentioned. The letter was submitted into the record at this time.

Applicant rebuttal – Mr. Taylor addressed some of the citizen comments and explained that Mr. Hughes has other short term rental properties that he owns and manages and how Mr. Hughes planned to manage this property so as not to adversely affect the neighborhood.

Board comment – Ms. Tucker suggested that Mr. Hughes talk to the neighbors surrounding this property and explain what he planned to do with the property. She added that she was concerned with the six bedrooms and six bathrooms, opining that it resembled a hotel.

Audience comments – Ms. Clark spoke from the audience. Ms. Carter informed her that public comment was closed. Ms. Clark questioned there not being rebuttal for objectors.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 3-2 (Tucker and Sturdivant opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00152: TYLER HUGHES** – 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-1E) zone, on property located at 429 Hollywood Dr., based on Staff's recommendations and subject to the four conditions as listed.

Note – The Board took a brief recess at 4:32 pm and reconvened at 4:41 pm.

9. **PLN-BOA-24-00149: JULEP PROPERTIES LLC** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 3112 Sandersville 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 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, 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. Carly Moore, applicant and property owner, was present on behalf of this application. She stated that she and her husband bought the property in 2022 and that they have been operating it as a short term rental since then. Ms. Moore gave a brief presentation of the property and explained that she and her husband wished for it to remain a short term rental. She stated that they were unaware of the new rules and regulations adopted by Council and they received a notice of violation for their other property at 2909 Trailside Dr. At that point, they began the process of applying for conditional use permits for both properties.

Board questions and comments – Mr. Sturdivant asked if this property had been operating as a short term rental. Ms. Moore replied that it had been. Ms. Moore replied that it had been since they bought the property in 2022. Mr. Sturdivant asked if there had been any complaints. Ms. Moore stated that there had been one complaint in the beginning when a guest used the neighbor's trash can instead of theirs and since then they have clarified where the trash cans were. She added that they have a good relationship with that neighbor and the neighbor has even rented the property for family visiting.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00149: JULEP PROPERTIES LLC** – 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 3112 Sandersville Rd., based on Staff's recommendation and subject to the four conditions as listed.

10. **PLN-BOA-24-00151: MICHAEL NORRIS** – requested a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 2140 Palomar Trace 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, 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. Michael Norris, applicant, was present on behalf of his application. Ms. Carter asked him if he was in agreement with Staff's recommendation and the conditions of approval as listed. Mr. Norris indicated that he was in agreement with the conditions. He added that his neighbors were aware that this property is being used as a short term rental and they are in support of it.

Board question – Mr. Sturdivant asked if Mr. Norris was the owner of the property. Mr. Norris explained that he is in the process of buying the property and has been in that process for a couple of years. He further explained that Mr. Samuel Atkins is the owner of the property. Ms. Smith noted that if Mr. Atkins is the owner of the property, the conditional use permit will be issued in his name, as the owner. There was some discussion regarding this. Mr. Norris stated that he has a lease to purchase agreement, which has been in standing for a couple of years and that is what he is doing. He added that he is paying the mortgage on the property. There was further discussion.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 5-0 (Gross and Plumlee absent), to **approve PLN-BOA-24-00151: MICHAEL NORRIS** – 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 2140 Palomar Trace Dr., based on Staff's recommendation and subject to the four conditions as listed.

11. **PLN-BOA-24-00113: KATHRYN DAY** – requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 434 Queensway Dr. (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.
- 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 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 representation – Ms. Kathryn Day, applicant and property owner, was present on behalf of her application. She said that she had owned the property for approximately five years. Ms. Day explained that she works in the horse industry and currently lives in Woodford County. She added that she bought this property as an investment and as a place to retire. Ms. Day briefly explained her reasons for wanting to use this property as a short term rental. Ms. Carter asked Ms. Day if she was comfortable with the five conditions of approval. Ms. Day stated that she was.

Public comment

Ms. Gwen Potter, 300 Holiday Rd., spoke on behalf of the Fairway Neighborhood Association Board. She submitted a document showing short term rentals near the subject property. Ms. Potter stated that the Neighborhood Association Board was concerned about more short term rentals in their neighborhood. She also commented that she had an on-line petition of 128 signatures and 36 personal signatures from members of the 400 block of Queensway Dr. Ms. Potter listed various reasons for the neighbors' opposition. The petitions were submitted for the record.

Ms. Mary Reed, 313 Henry Clay Blvd., also on the Fairway Neighborhood Association Board, stated that there are many short term rentals in their neighborhood that the Board of Adjustment is not aware of

because they are not operating legally. She asked where this was going to stop.

Applicant rebuttal - Ms. Day explained that she is particular about who she rents to and that she is particular about the house and property. She stated that she has not had any complaints in the past, and that she had letters of support from some neighbors.

Action – A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 3-2 (Sturdivant and Tucker opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00113: KATHRYN DAY** – requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 434 Queensway Dr., based on Staff's recommendation and subject to the four conditions as listed.

12. **PLN-BOA-24-00130: EMILY HEURING** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 689 Providence Rd. (Council District 3)

The Staff Recommended: Approval, for the following reasons:

- 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.
- The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- 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.
- There is no record of short term rental compliance issues with the applicant.
- 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:

- The short term rental use shall be established in accordance with the submitted application materials and site plan.
- Occupancy of the short term rental shall be limited to no more than 8 individuals.
- 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.
- 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 representation – Mr. Joel Heuring, applicant's husband, was present on behalf of this application. Ms. Carter asked him if they had reviewed the Staff's recommendations and conditions of approval. Mr. Heuring stated that they had. Ms. Carter asked him to explain the application, which he did.

Board questions - Ms. Tucker asked where the owner lived. Mr. Heuring replied that they live in Charleston, South Carolina. He added that his wife is from Manchester, Kentucky and went to the University of Kentucky.

Mr. Sturdivant asked who the local contact would be. Mr. Heuring replied that Mrs. Heuring's first cousin, Angela Hopper, who lives in Lexington, would be the local contact.

Public comment

Ms. Mary Lena White, 692 Providence Rd., expressed her concern with the applicants living out of state and the property not being properly monitored.

Ms. Maureen Carman, 701 Mount Vernon Dr., expressed concerns with the proliferation of applications for short term rentals. She thanked Staff for putting together the information on short term rentals and she thanked the Board for looking at the concentration of short term rentals in neighborhoods. Ms. Carman opined that short term rentals do not fit the character of this neighborhood.

Mr. Roger Leasor, 688 Providence Rd., expressed opposition to the regulations adopted by the City Council regarding short term rentals.

Board comments – Mr. Sturdivant expressed concern with the subject neighborhood becoming a “tourist oriented area” which would allow a higher concentration of short term rentals.

Ms. Tucker stated that there were seven letters of opposition to this application, and she suggested that the applicant speak with the neighbors regarding their application.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 3-2 (Sturdivant and Tucker opposed; Gross and Plumlee absent), to **approve PLN-BOA-24-00130: EMILY HEURING** – 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 689 Providence Rd., based on Staff’s recommendation and subject to the four conditions as listed.

13. **PLN-BOA-24-00131: KOKATIE PROPERTIES 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 220 Sycamore Rd., Unit 3. (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.
- 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 representation – Ms. Julie Tennyson, applicant and co-owner of Kokatie Properties, LLC, was present on behalf of her application. She explained the history of the subject property, how it came to be used as a short term rental and why they would like for it to remain a short term rental.

Public comment

Mr. Ben C. Kaufmann, 126 Sycamore Rd., spoke in opposition to this application, and short term rentals in general, based on various reasons. He asked the Board to deny this application.

Mr. Jeffrey Tuttle, 232 Sycamore Rd., President of the Ashland Neighborhood Association. He stated that the Board of that association voted unanimously in opposition of this application and asked the Board of Adjustment to deny it. Mr. Tuttle listed various reasons the association and residents were opposed to the application.

Ms. Terri Bolyard, 207 Catalpa Rd., expressed her opposition to this application for a short term rental and short term rentals in general. She opined that parking was an issue on the subject street.

Ms. Colleen Dolan, 221 Sycamore Rd., expressed her objection to un-hosted short term rentals, due to no owner being present to check renters in to ensure they are who they say they are. She cited an incident that occurred in Newport, Rhode Island, where she also owns property.

Ms. Laura Boison, 620 Summershade Circle, was present representing the Homeowners Association of Audubon Condo and she owns one of the other three condos in the subject property at 220 Sycamore Rd. She stated that the applicant has not communicated with her. Ms. Boison also stated that the association will be changing its by-laws to prohibit short term rentals. She added that there have already been complaints regarding this short term rental from the long term tenants residing in the other three condos.

Applicant rebuttal – Ms. Tennyson stated that she will fight the change of by-laws in court if the association pursues that. She repeated that they meticulously screen and they will continue to screen any prospective renters. Ms. Tennyson reiterated her reasons for wanting to operate this property as a short term rental.

Board comments and questions – Ms. Tucker asked Ms. Tennyson if she planned to rent the property for more than thirty days. Ms. Tennyson replied that she did plan to rent for more than thirty days when she wasn't staying there herself and that she has been renting to a travelling nurse for two months.

Ms. Wade stated that if the applicant rented the property for more than thirty days at a time, all of the time, she did not need a conditional use permit for a short term rental. Ms. Tennyson stated that she wanted to rent the property on a short term basis during the months that she may stay there a week or so, for example during the holidays. There was further discussion.

Ms. Tucker expressed concerns with the fact that the subject unit shares a wall, a ceiling and a floor with another owner or tenant. She added that when she visited the property prior to the meeting, a car with a license plate from out of town parked in the middle of the driveway, preventing anyone else from parking in the back. There was further discussion.

Mr. Walker expressed concerns that as the property is under the same roof as three other units it needed more management. He added that he had concerns over the lack of local management as well. There was further discussion.

Mr. Clarke expressed his concerns over the fact that the subject property is a four-plex unit and what that means. There was further discussion.

Action – A motion was made by Ms. Tucker, seconded by Mr. Walker and carried 5-0 (Gross and Plumlee absent), for **disapproval** of **PLN-BOA-24-00131: KOKATIE PROPERTIES 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 220 Sycamore Rd., Unit 3, based on the following findings of fact:

- a. The property is a four-plex, and the short term rental would have an adverse influence on the adjoining properties in the four-plex due to the sharing of common areas and limited privacy between the units.
- b. There is shared parking for the four-plex that is insufficient for the four occupants of the short term rental unit, so any excess vehicles would spill over onto the street. Evidence at the hearing showed that the streets in the neighborhood are narrow and the area has limited on-street parking. Overflow parking from the short-term rental would likely create an adverse influence on the surrounding neighborhood by increasing the volume of traffic and decreasing available on-street parking.

Note – Mr. Walker left the meeting at 6:02 pm.

Note - The Board took a recess at 6:02 pm and reconvened at 6:15 pm.

14. **PLN-BOA-24-00135: KENNETH HOWARD** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 2604 Oakmont Ct. (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 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 representation – Mr. Kenneth Howard, applicant and property owner, was present on behalf of his application, and he explained his reasons for wanting to operate a short term rental at this property. He stated that he had received no complaints from his neighbors.

Board questions – Mr. Sturdivant asked Mr. Howard if he had personally contacted the neighborhood association. He stated that other than the letter that was mailed out, he had not contacted them.

Ms. Tucker asked how many bathrooms were in the home. Mr. Howard replied that there were two full bathrooms.

Citizen comments – Mr. Karl Stoerzer, 501 Severn Way, stated that he had known Mr. Howard for a long time and that he takes great care of his property. He said that he agreed with the comments heard today by other citizens regarding short term rentals in general. Mr. Stoerzer stated that his concern with this particular short term rental was that the cul-de-sac was a tight court with only four houses in the court. He added that he was concerned with the housing shortage in Lexington and short term rentals take houses off of the housing market.

Action – A motion was made by Mr. Clarke to **approve PLN-BOA-24-00135: KENNETH HOWARD** – 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 2604 Oakmont Ct., based on Staff's recommendation and subject to the four conditions as list. The motion failed due to no second.

Board comments – Ms. Tucker expressed her concerns with parking on the street at this property and she opined that this property would make an affordable home for someone.

Ms. Carter stated that this property had been operating as a short term rental with no complaints since 2021. She added that there is parking for five cars, so parking would not be an issue. Ms. Carter asked the applicant if he would be interested in a continuance of his application to the November 4, 2024 meeting. She added that there was barely a quorum at this point in the meeting. Mr. Howard agreed to request a continuance.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 3-1 (Tucker opposed: Gross, Plumlee and Walker absent), to **continue PLN-BOA-24-00135: KENNETH HOWARD** – 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 2604 Oakmont Ct. to the November 4, 2024 meeting.

15. **PLN-BOA-24-00142: EMILY NIGAM** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1E) zone, on property located at 2553 Sun Seeker Ct. (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 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 representation – Ms. Emily Nigam, applicant and property owner, was present on behalf of her application. She explained her reasons for wanting to operate a short term rental at this property, adding that she and her husband live next door to this home. Ms. Nigam listed the security measures in place at this property. She also explained the available parking for the property.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 3-1 (Tucker opposed; Gross, Plumlee and Walker absent), to **approve PLN-BOA-24-00142: EMILY NIGAM** - requested a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1E) zone, on property located at 2553 Sun Seeker Ct., based on Staff's recommendation and subject to the four conditions as listed.

16. **PLN-BOA-24-00153: JULEP PROPERTIES 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 2909 Trailside Dr. (Council District 2)

The Staff Recommends: Approval. for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the structure is large enough to accommodate the proposed number of users.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- c. 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 is made subject to the following conditions:

- 1. The short term rental use shall be established in accordance with the submitted application materials and site plan.
- 2. Occupancy of the short term rental shall be limited to no more than 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, 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 representation – Ms. Carly Moore, applicant and property owner, stated that she and her husband had purchased this property in 2022, and it had been operating as a short term rental since then. She described the subject property including the parking. She stated that they were not aware of the new regulations until recently and at that time they began the conditional use application process. Ms. Moore added that she is always available by phone and that she and her husband live fifteen minutes away.

Public comment

Mr. Tom Godell, 2912 Trailside Dr., spoke in opposition to this application. He stated that this neighborhood is deed restricted and he listed many advantages of living in the subject neighborhood.

Ms. Shelia Hale, 2912 Trailside Dr., spoke in opposition to this application, and short term rentals in general, emphasizing the lack of affordable housing. She opined that there were many other short term rentals in their neighborhood that the Board is not aware of, due to them operating illegally.

Applicant rebuttal – Ms. Moore addressed some of the concerns of the neighbors who spoke in opposition to her application. She stated that she was unaware of any discontent and has never had any complaints regarding their short term rentals.

There was further discussion among the Board members regarding short term rentals.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivan and carried 3-1 (Tucker opposed; Gross, Plumlee and Walker absent), to **approve PLN-BOA-24-00153: JULEP PROPERTIES 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 2909 Trailside Dr., based on Staff's recommendation and subject to the four conditions as listed.

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

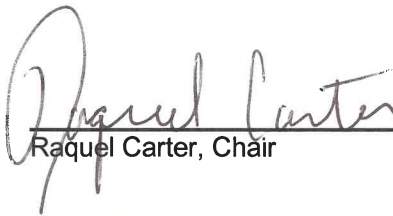
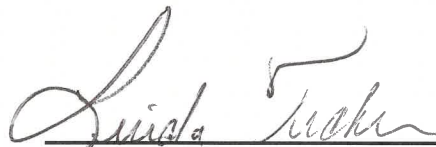
There were no Board Items to consider at this time.

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

There were no Staff Items to consider at this time.

- VII. **NEXT MEETING DATE** - Ms. Carter announced that the next meeting date will be November 4, 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 6:54 pm.


Raquel Carter, Chair
Linda Tucker, Secretary

The media and public may view the hearing on LexTV Spectrum channel 185, MetroNet channel 3, or via live stream at the following link: http://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.