

**MINUTES FOR THE BOARD OF
ADJUSTMENT MEETING**

November 4, 2024

- I. **CALL TO ORDER** - Chair Carter 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 Raquel Carter, Harry Clarke, Branden Gross, Bob Sturdivant, Linda Tucker, and Chad Walker. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering. Planning Staff members present were Traci Wade, Dalton Belcher, James Mills, and Donna Lewis.
- III. **APPROVAL OF MINUTES** - There were no minutes available for consideration by the Board at this time.
- IV. **PUBLIC HEARING ON ZONING APPEALS**
 - A. **Swearing of Witnesses** – Ms. Carter announced that any applicant, objector, or anyone in the audience or seated in the overflow seating who planned to speak to any appeal before the Board, please stand in order to be sworn in at this time. The oath was administered to several present.
 - B. **Sounding the Agenda** - In order to expedite completion of agenda items, Ms. Carter sounded the agenda with regard to any postponements, withdrawals, and items requiring no discussion.

Postponements

1. **PLN-BOA-24-00172: WILL CHAPMAN** – requests a variance to reduce the required front yard setback from forty (40) feet to zero (0) feet to maintain a circular driveway in the front yard in a Single Family Residential (R-1B) zone, on property located at 1365 Cooper Drive. (Council District 5)

Applicant Representation – Attorney Nick Nicholson was present on behalf of the applicant and requested a one-month postponement.

Action – Mr. Gross made a motion, seconded by Mr. Walker, and carried 6-0, to postpone **PLN-BOA-24-00172: WILL CHAPMAN** to the December 9, 2024 meeting.

2. **PLN-BOA-24-00170: RYAN CAMENISCH** – requests a variance to reduce the required side yard setback from three feet (3') to one (1) foot in a Medium Density Residential (R-4) zone, on property located at 444 Jefferson Street. (Council District 1)

Chair Carter announced that this item would need to be postponed due to proper notice not being given.

Action – Mr. Gross made a motion, seconded by Mr. Walker, and carried 6-0, to postpone **PLN-BOA-24-00170: RYAN CAMENISCH** to the December 9, 2024 meeting.

3. **PLN-BOA-24-00036: DUSTIN AND LAUREN GAGE** – request 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)

Chair Carter announced that the applicant had withdrawn this application.

4. **PLN-BOA-24-00119: THE CHURCH IN LEXINGTON INC** – requests 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 and the October 14, 2024 meetings.

Applicant Representation – Charlie Hall, Thoroughbred Engineering, was present to represent the applicant. He requested a one-month postponement.

Action – Mr. Gross made a motion, seconded by Ms. Tucker, and carried 6-0, to postpone **PLN-BOA-24-00119: THE CHURCH IN LEXINGTON INC** to the December 9, 2024 meeting.

5. **PLN-BOA-24-00163: RITA JONES** - requests a conditional use permit for an un-hosted short-term rental in a Medium Density Residential (R-4) zone, on property located at 3772 Kenesaw Drive. (Council District 12)

Chair Carter announced that this plan would need to be postponed due to a notice issue.

Action – Mr. Gross made a motion, seconded by Ms. Tucker, and carried 6-0, to postpone **PLN-BOA-24-00163: RITA JONES** to the December 9, 2024 meeting.

C. **Abbreviated Hearing**

1. **PLN-BOA-24-00123: MULBERRY BUILDERS** – requests a variance to reduce the required rear yard setback from twenty (20) feet to fifteen (15) feet within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 513 W. Fifth Street. (Council District 1)

The Staff Recommends: Approval, for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The subject property is within the defined Infill and Redevelopment Area and the proposed structure features a rear yard setback that is keeping with other structures in the immediate vicinity.
- b. The reduced rear yard setback should not negatively impact the adjoining property to the rear, as the home on the adjoining property is located approximately 50 feet from the shared lot line.
- c. There are special circumstances that justify the need for the requested variance. The subject property is a narrow lot that was created prior to the current development standards.
- d. The requested variance is generally reasonable, and the approval will allow the applicant to utilize a vacant lot within the Infill & Redevelopment Area for needed housing.
- e. The granting of the variance will not allow an unreasonable circumvention of the requirement of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed, and prior to beginning construction.

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

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

Applicant Representation – Chris Mulberry, Mulberry Builders, stated that he had read the conditions set forth by Staff and was in support of those conditions.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 6-0, to **approve PLN-BOA-24-00123: MULBERRY BUILDERS** – request for a variance to reduce the required rear yard setback from twenty (20) feet to fifteen (15) feet within the defined Infill and Redevelopment Area in a Planned Neighborhood Residential (R-3) zone, on property located at 513 W. Fifth Street. (Council District 1), based on Staff's recommendation and subject to the two conditions as listed.

2. **PLN-BOA-24-00140: KURT ZEHNDER** – requests a variance to reduce the required side street side yard setback of a corner lot from thirty (30) feet to five (5) feet in order to construct an accessory swimming pool and an addition to a non-conforming structure in a Single Family Residential (R-1C) zone, on property located at 607 Lane Allen Road. (Council District 10)

The Staff Recommends: Approval of a lesser variance of 6'-6", for the following reasons:

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The subject property features an existing structure with legally non-conforming setbacks and the proposed addition will continue the existing setback. The

proposed swimming pool, although considered a structure, will be in-ground and not generally visible beyond the property line.

- b. Due to the existing structure's shape and form, as well as existing easements, improvements or additions are limited to the area of the property where the applicant has located their proposed addition and swimming pool.
- c. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed, and prior to beginning construction.

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

1. Construction shall be in accordance with the submitted application materials and site plan showing proposed garage addition and accessory swimming pool.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Building Inspection prior to construction.

Applicant Comments – Kurt Zehnder was present to represent his application. He stated that he had read the conditions set forth by Staff and was in agreement with the lesser variance and the conditions.

Board Questions – Ms. Tucker asked if the applicant would be willing to move the fence that was right next to the sidewalk. Mr. Zehnder replied that he would not move the fence because it had been approved to be built in that location. Ms. Wade stated that the current regulations required a one-foot setback from the sidewalk. Mr. Zehnder informed the Board that there was a 12–18-inch strip in between the fence and the sidewalk.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0, to **approve a lesser variance of 6'-6"**, for **PLN-BOA-24-00140: KURT ZEHNDER** – request for a variance to reduce the required side street side yard setback of a corner lot from thirty (30) feet to five (5) feet in order to construct an accessory swimming pool and an addition to a non-conforming structure in a Single Family Residential (R-1C) zone, on property located at 607 Lane Allen Road. (Council District 10), based on Staff's recommendation and subject to the two conditions as listed.

3. **PLN-BOA-24-00173: LUCY LEXHOUSE LLC** – requests a variance to reduce the required side yard setback from nine feet, six inches (9'-6") to one (1) foot within a Neighborhood Design Overlay (ND-1) and Single Family (R-1C) zones, on property located at 105 Old Cassidy Avenue. (Council District 5)

The Staff Recommends: Approval, for the following reasons:

- a. Granting the variances should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The existing structure features a legally non-conforming setback which is in keeping with other structures in the immediate vicinity.
- b. Due to the existing structure's shape and form, improvements or additions are limited to the area of the property where the applicant has located their proposed additions.
- c. The granting of these variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed, and prior to beginning construction.

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

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

Applicant Representation – Darren Taylor; Gibson, Taylor, Thompson Architecture & Design, LLC, was present to represent the applicant. He stated that he was in agreement with the staff's recommendation and conditions.

Ms. Tucker pointed out that there were a couple of opposition letters that had been sent regarding this application.

Action – A motion was made by Mr. Sturdivant, seconded by Mr. Clarke and carried 6-0, to **approve PLN-BOA-24-00173: LUCY LEXHOUSE LLC** – request for a variance to reduce the required side yard setback from nine feet, six inches (9'-6") to one (1) foot within a Neighborhood Design Overlay (ND-1) and Single Family (R-1C) zones, on property located at 105 Old Cassidy Avenue. (Council District 5) based on Staff's recommendation and subject to the two conditions as listed.

D. Items for Discussion

1. **PLN-BOA-24-00134: CENTENARY CHURCH INC** – request 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)

Note – This application was postponed from the October 14, 2024 meeting.

The Staff Recommends: Approval, for the following reasons:

- a. The proposed expansion of the recreational fields should not adversely affect the surrounding properties as activities are not proposed to expand in a significant manner. Although participation has increased since 2006, the applicant has been able to manage the use of the site to limit negative impacts to adjoining properties.
- b. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available on-site, and on the adjacent Brenda Cowen Elementary School to the west of the subject property. Fayette County Public Schools improved the entrance drive in 2020 from Athens Boonesboro Road, which helps with site circulation.
- c. The preservation of existing vegetative screening, prohibitions against restaurants or food service, loudspeakers and substantially similar uses, should minimize the impact of the use on properties within the general vicinity.
- d. All necessary public facilities and services are available and adequate for the proposed use.

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

1. The facilities shall be constructed and operated in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from Building Inspection prior to construction.
3. The re-design of the access and off-street parking area shall be subject to the review and approval by the Division of Traffic Engineering.
4. The proposed access drive shall be paved with asphalt or concrete and shall include pedestrian facilities adjacent to ADA accessible parking areas.
5. Portable toilets, and any subsequent sewage treatment system to be used, shall be installed and operated in accordance with the requirements of the Department of Health.
6. The fields shall not be lighted.
7. Existing vegetative areas in the north and northeastern portions of the site shall be preserved to maintain screening for the adjacent properties.
8. Loudspeakers and restaurants or food service are prohibited.
9. 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.
10. The proposed outdoor recreational facilities shall be limited to use for athletic-related activities only and shall not be used for non-athletic commercial events or gatherings, including concerts, festivals, fireworks, off-site parking and substantially similar uses.
11. Hours of operation shall be limited to 7 A.M. to 10 P.M., daily.

Applicant Representation – Mr. Allen and David Carter were present to represent the applicant. He thanked the staff for their help with the application and stated that he was in agreement with the conditions that had been presented.

Staff Comments – Ms. Wade clarified that condition #4 would need to be updated to reflect that the applicant intended to use gravel for the access drive, but would have asphalt access to pedestrian facilities.

Board Questions – Ms. Tucker asked the applicant to address a large pile of concrete and debris that was on the property. Mr. Carter replied that there had been some illegal dumping that had occurred, and they were planning to remove it. He added that all construction had been halted because they had not been given a land disturbance permit, but once this application was approved, they would immediately apply for one. Ms. Wade added that the Division of Engineering had requested that the applicant stop work until the Conditional Use Permit was granted.

Action – A motion was made by Mr. Gross, seconded by Mr. Clarke and carried 6-0, to **approve PLN-BOA-24-00134: CENTENARY CHURCH INC** – request 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) based on Staff's recommendation and subject to eleven conditions, changing Condition #4 to "The ADA accessible parking areas and adjacent pedestrian facilities shall be paved with asphalt or concrete."

2. **PLN-BOA-24-00161: DENALI TOWING LLC** – requests a conditional use permit to establish a vehicle storage yard in a Light Industrial (I-1) zone, on property located at 604 Bizzell Drive. (Council District 11)

The Staff Recommends: Approval, for the following reasons:

- a. The proposed vehicle storage yard in conjunction with a towing business should not have an adverse effect on the subject or surrounding properties. The adjacent uses are typical of the light industrial zone, and with adequate screening it is unlikely that the requested use would create any disturbances.
- b. All necessary public services and facilities are or will be available for the proposed use.

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

1. The vehicle storage yard shall be established in accordance with the submitted application materials and site plan.
2. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection and Engineering prior to commencement of the use.
3. No dismantled, or partially dismantled automobiles may be stored on the lot.
4. No inoperable vehicles may be stored on the lot for longer than sixty (60) days.
5. There shall not be any truck terminal, automobile wrecking, or junk yard uses operating on the property.
6. The rear of the property where vehicles are stored shall be paved to the approval of the Division of Traffic Engineering.
7. The storage area shall be enclosed on all sides by a 6-foot-tall solid wall or fence. Any existing chain link fence of at least 6 feet in height can be considered "solid" if privacy screening is added.
8. There shall be no storage of vehicles within the public right-of-way.
9. Vehicles shall be parked on the rear of the lot in a fashion that permits independent access (by tow trucks) to each vehicle stored on-site.
10. Any outdoor lighting for the parking lot shall meet the requirements of Article 30.

Applicant Representation – Kevin Winchester, Denali Towing, was present to represent the application. He stated that he was in agreement with the conditions.

Board Questions – Mr. Clarke asked if there would be vehicle storage both inside and outside. Mr. Winchester replied that it would only be outside.

3. Action – A motion was made by Mr. Sturdivant, seconded by Ms. Tucker and carried 6-0, to **approve PLN-BOA-24-00161: DENALI TOWING LLC** – request for a conditional use permit to establish a vehicle storage yard in a Light Industrial (I-1) zone, on property located at 604 Bizzell Drive. (Council District 11) based on Staff's recommendation and subject to the ten conditions as listed.

E. Short-term Rental Applications

Staff presentation - Chair Carter asked staff to make their short-term rental presentation at this time. Prior to hearing the following applications for short-term rentals, Mr. Mills reviewed the short-term rental regulations which had been adopted by Council on July 11, 2023. He also briefly summarized the new regulations that were being recommended.

Board Questions - Mr. Clarke asked if there was a projected date of an update for the Neighborhoods in Transitions Report, and Mr. Mills was unaware of any update at this time. Ms. Wade added that the report itself did not come out until after the Census in 2020, so the report was not necessarily outdated.

Mr. Gross asked if there would be a proposal about saturation percentage. Mr. Mills replied that it would be 3%.

1. **PLN-BOA-24-00129: JACKIE ARNOLD** – requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1C) zone, on property located at 2425 Yuma Court. (Council District 10)

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. 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 is made subject to the following conditions:

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

Applicant Comments – Jackie Arnold stated that he was in agreement with the conditions recommended by staff. He stated that the application incorrectly stated that the house was a 3-bedroom, 1-bathroom house, but it was actually a 4-bedroom, 2-bathroom house.

Board Questions – Mr. Sturdivant asked if the property has operated as a short-term rental in the past. Mr. Arnold replied that a family member uses the home about 3-4 months out of the year, but in 2020, they began occasionally renting it short-term.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 6-0, to **approve PLN-BOA-24-00129: JACKIE ARNOLD** – requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1C) zone, on property located at 2425 Yuma Court. (Council District 10) based on Staff's recommendation and subject to the four conditions as listed.

2. **PLN-BOA-24-00156: ANA RIVAS** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2240 Preakness Court. (Council District 6)

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. 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 is made subject to the following conditions:

1. The short-term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short-term rental shall be limited to no more than 6 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – Ms. Rivas stated that she agreed with the conditions of approval that staff recommended.

Board Comments – Chair Carter stated that there was one letter of opposition of the application.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 6-0, to **approve PLN-BOA-24-00156: ANA RIVAS** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2240 Preakness Court. (Council District 6) based on Staff's recommendation and subject to the four conditions as listed.

3. **PLN-BOA-24-00158: PRIYANKA SHRESTHA** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 720 Kingston Road. (Council District 1)

The Staff Recommends: 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 is 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 7 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.

Applicant Comments – Priyanka Shrestha stated that she was agreeable to the conditions of approval.

Board Questions – Ms. Carter reminded the Board members that there were some letters of opposition regarding this proposal.

Ms. Tucker asked if both bathrooms in the house were full bathrooms. Ms. Shrestha replied that they were.

Ms. Tucker stated that the required sign posting was missing from the yard.

She asked Ms. Shrestha if she lived in Lexington, and she said she did not.

Action – A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 6-0, to **approve PLN-BOA-24-00158: PRIYANKA SHRESTHA** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 720 Kingston Road. (Council District 1) based on Staff's recommendation and subject to the four conditions as listed.

4. **PLN-BOA-24-00159: STORM CHERRY** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1C) zone, on property located at 2308 Cabot Drive. (Council District 6)

The Staff Recommends: 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.

- 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 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 7 individuals.
- 3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
- 4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – Storm Cherry stated that he was in agreement with the staff recommendation and conditions.

Action – A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 6-0, to **approve PLN-BOA-24-00159: STORM CHERRY** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1C) zone, on property located at 2308 Cabot Drive. (Council District 6) based on Staff's recommendation and subject to the four conditions as listed.

- 5. **PLN-BOA-24-00160: JAMES HINKEBEIN**- requests 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 130 Shawnee Place. (Council District 3)

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not have an adverse influence on the subject property or the surrounding neighborhood, as the 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 10 individuals.
- 3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
- 4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – James Hinkebein stated that he was in agreement with the conditions of approval.

Board Questions – Ms. Tucker stated that she was concerned about the street parking by permit only and asked how much parking was available. Mr. Hinkebein replied that up to 6 cars could fit in the driveway.

Mr. Clarke stated that it appeared that there had been a citation by the Division of Building Inspection, and asked the applicant to speak to that. Mr. Hinkebein replied that they did everything that was required in 2020 to have a short-term rental, but he was not aware of the new regulations that passed. He said that the day he found out about the new requirements, he started the application process. He added that his home was a great location for visiting families of students as well as travelling health care professionals.

Mr. Clarke asked who would be managing the property. Mr. Hinkebein replied that he had a property manager, but he and his wife would check on the property often as well.

Mr. Walker asked how many beds were in each bedroom. Mr. Hinkebein replied there was one bed for each of the 5 bedrooms.

Action – A motion was made by Mr. Walker, seconded by Mr. Gross and carried 4-2 (Sturdivant and Tucker opposed), to **approve PLN-BOA-24-00160: JAMES HINKEBEIN** - 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 130 Shawnee Place. (Council District 3) based on Staff's recommendation and subject to the four conditions as listed.

6. **PLN-BOA-24-00164: EMERALD SHINOBI LLC** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2745 Woodlawn Way. (Council District 2)

The Staff Recommends: 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.
- 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:

- 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 6 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.

Applicant Comments – Jonathan Goins told the Board that he was agreeable to the conditions.

Board Comments – Chair Carter stated that there were several letters of opposition for this application.

There was some discussion among the Board members and staff about Mr. Goins not being the property owner. Ms. Wade told Mr. Goins that the property owner and the name on the Conditional Use Permit had to be the same in order to obtain the special fees license from the Division of Revenue. Mr. Goins replied that the owner of the property was a 50% partner of EMERALD SHINOBI LLC. Ms. Wade told Mr. Goins that he could get the Conditional Use Permit, but would not be able to get the special fees license until the property was transferred to the LLC. More discussion followed until Ms. Smith advised the applicant and Board to postpone the application so that the ownership issue could be resolved.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 6-0, to **postpone PLN-BOA-24-00164: EMERALD SHINOBI LLC** to the December 9, 2024 meeting.

7. **PLN-BOA-24-00166: COREY ELDER** – requests a conditional use permit for an un-hosted short-term rental within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 726 Bellaire Avenue. (Council District 1)

The Staff Recommends: 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.

- 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 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. The property shall be rented on a short-term basis for a maximum of 72 days per calendar year.
3. Occupancy of the short-term rental shall be limited to no more than 6 individuals.
4. The applicant shall provide documentation that the dwelling is their primary residence annually at the time of renewal of their special fee license.
5. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
6. The conditional use permit shall become null and void upon change in ownership, if the applicant purchases a new primary residence, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – Cory Elder told the Board that this home was his residence, but he traveled often and wanted to rent it out on a very limited basis. He said that he was unsure if his time at the home actually met the standard of Condition #4.

Board Question – Mr. Gross asked staff if it was possible to strike Condition #4 because there was a maximum number of days for rental. Staff affirmed that this was acceptable. Mr. Gross also suggested changing the wording of Condition #6 regarding the owner purchasing a new primary residence.

Ms. Tucker said that she felt the concentration of short-term rentals was too high in this area. Mr. Gross agreed, but felt comfortable with this application because it was so limited in the number of allowable rental days.

Mr. Walker also agreed that it was in an area with a high concentration of short-term rentals, and asked why the applicant had increased his request from 30-40 days of rentals up to 72. Mr. Elder said that he didn't not want to amend the request later, so he requested a larger number.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 4-2 (Sturdivant and Tucker opposed), to **approve PLN-BOA-24-00166: COREY ELDER** – requests a conditional use permit for an un-hosted short-term rental within the defined Infill and Redevelopment Area in a Mixed Low Density Residential (R-2) zone, on property located at 726 Bellaire Avenue. (Council District 1) based on Staff's recommendation and subject conditions as listed, but striking #4 and changing #6 to read "The conditional use permit shall become null and void upon change in ownership or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked".

8. **PLN-BOA-24-00167: BRENNAN AND SUZANNE FERAN** - requests 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 553 Jefferson Street. (Council District 1)

The Staff Recommends: Approval, for the following reasons:

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

1. The short-term rental use shall be established in accordance with the submitted application materials and site plan.

2. Occupancy of the short-term rental shall be limited to no more than 6 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – Suzanne Feran was present and while agreeable to the conditions, she asked if they could increase their occupancy to 10.

Board Questions – Ms. Carter asked about the parking available at the location. Ms. Feran replied that the driveway could fit two vehicles, and there was no restriction to on-street parking.

Mr. Sturdivant asked if the applicant would be willing to build a fence in the backyard to block access from the park and Legacy Trail. Ms. Feran responded that there was no good access to the backyard, and they would not encourage use of it.

Mr. Sturdivant inquired about the business next to the house, and Ms. Feran informed the Board that it was a restaurant. Ms. Carter added that she was more comfortable with this short-term rental because there were commercial neighbors. The Board discussed the merits of increasing the occupancy.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross, and carried 5-1 (Tucker opposed), to **approve PLN-BOA-24-00167: BRENNAN AND SUZANNE FERAN** – 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 553 Jefferson Street. (Council District 1) as recommended by staff, noting no change to occupancy, with the four conditions.

9. **PLN-BOA-24-00168: GREEN DIAMOND LLC** - requests a conditional use permit for an un-hosted short-term rental with an occupancy greater than twelve (12) in a Single Family Residential (R-1A) zone, on property located at 1911 Parkers Mill Road. (Council District 10)

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 increased occupancy will not result in overcrowding or create a nuisance as the structure and lot are large enough to accommodate 16 guests, there is ample existing parking, and the house features eight (8) bedrooms.
- c. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available.
- d. 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.
- e. There is no record of short-term rental compliance issues with the applicant.
- f. 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 16 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Representation – Attorneys Bethany Baxter and Dan Rose and property manager, Candace Kilgore, were present to represent the applicant. Ms. Baxter stated that the applicant was in agreement with the listed conditions.

Board Comments – Ms. Carter noted that the property was overseen by a property manager and seemed to have sufficient parking available to accommodate the increased occupancy.

Action – A motion was made by Mr. Gross, seconded by Mr. Clarke, and carried 6-0, to **approve PLN-BOA-24-00168: GREEN DIAMOND LLC** - requests a conditional use permit for an un-hosted short-term rental with an occupancy greater than twelve (12) in a Single Family Residential (R-1A) zone, on property located at 1911 Parkers Mill Road. (Council District 10) as recommended by staff.

Chair carter called for a recess at 2:53 and they reconvened at 3:06.

10. **PLN-BOA-24-00135: KENNETH HOWARD** - requests 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 Recommends: 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.
- 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:

- 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.

Notes – This item was continued from the October 14, 2024 Board of Adjustment meeting.

Mr. Gross asked if he could participate in this application because he was not present at the last meeting. Ms. Smith replied that he could because there was no testimony or evidence presented at the time.

Applicant Comments – Kenneth Howard was present, and he stated that he was comfortable with the conditions of approval. He said there was a long driveway that could fit 5 cars. He also stated that he had to move out of state for a job, but wanted to keep the house so they could come back to visit the area.

Board Comments – Mr. Sturdivant asked if this property had been used as an STR in the past and Mr. Howard replied that it had. He said that since they had moved out of state, they were not aware of the changes made to the STR requirements, but as soon as he received a letter of violation, he stopped renting so he could come into compliance.

Citizen Comments – Mr. Howard said that there was a man who wished to speak against short-term rentals in general, but he had to leave the meeting. Ms. Wade added that the citizen had submitted written comments.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross, and carried 5-1 (Tucker opposed), to **approve PLN-BOA-24-00135: KENNETH HOWARD** - requests 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) as recommended by staff with the four conditions.

11. **PLN-BOA-24-00143: JOHN SCHORNICK** - requests 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)

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.

Note – This item was postponed at the October 14, 2024 meeting.

Applicant Comments – John Schornick was present and was in agreement with the conditions of approval. He said that there was a cell tower across the street and power poles crossing the neighboring property which caused the property to sit vacant for over a year. He said that the HOA claimed that the property was deed restricted, but there was no evidence found at the time of the initial title search, and he submitted a letter from the title search company. He opined that no one would want to live in a house with all the overhead wires and cell tower, but it would be great as a short-term rental.

Board Comments – Mr. Gross stated that deed restrictions were a private matter that should not be considered by this board.

Public Comment – Shannon Sell, 3748 Wargrave Walk, stated that their neighborhood was small and that rentals don't work well in there.

Carlyn Frans, 3756 Wargrave Walk, brought a petition from other neighbors and felt that if there was one rental, there would be so many more. She was opposed to rentals in her neighborhood.

Krissa Stager, 3765 Wargrave Walk, was concerned about safety for the children in the area and loud parties.

Applicant Rebuttal – Mr. Schornick said that there was one noise complaint that he knew about, but he stated that he was happy to give out his number to anyone to help prevent future problems. He felt that the area is underserved in short-term rentals. He asked for approval.

Board Questions – Ms. Tucker inquired about parking. Mr. Schornick replied that the driveway could fit four cars and there was on street parking.

Mr. Walker asked about the site plan, because he only saw one bedroom. Mr. Schornick said that the drawing was on the bottom floor and the other bedrooms were on the second story.

Mr. Walker shared his concern over the allowance of 12 people on this property because it was a busy street. Mr. Schornick replied that he would be agreeable to dropping the occupancy limit to 10.

Mr. Walker reminded the citizens in the audience that the Board is looking at these short-term rentals under the parameters given by Council, but they don't always agree personally.

Action – A motion was made by Mr. Walker, seconded by Mr. Gross, and carried 4-2 (Tucker and Sturdivant opposed), to **approve PLN-BOA-24-00143: JOHN SCHORNICK** – request for 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), but changing Condition #2 to “no more than 10 individuals.”

Board Question - Ms. Tucker asked if staff was working on a hotline to call for short-term rental complaints. Mr. Mills replied that currently, citizens would need to call the Division of Revenue and the Police Department for complaints, and Ms. Wade confirmed that the Division of Revenue was working to create a hotline for concerned citizens.

12. **PLN-BOA-24-00154: PARSONS PLUMMER PROPERTIES LLC** – requests 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 Medium Density Residential (R-4) zone, on property located at 719 W. Main Street. (Council District 11)

The Staff Recommends: Disapproval, for the following reasons:

- a. The applicant has willfully violated the rules and regulation set forth in the Code of Ordinances, Chapter 13, Article 5 and its sub-sections.
- b. The subject property is located in close proximity (within 350') to the edge of a top 10 Census Block Group identified by the Neighborhoods in Transitions Task Force and a concentration of short-term rentals appears to be occurring near the edge of that Block Group along Oliver Lewis Way and within 500 feet of that Block Group, which could negatively impact the surrounding neighborhood by heightening issues with gentrification and displacement within a neighborhood that is already vulnerable to involuntary displacement.
- c. The subject property shares a 10-foot-wide driveway and access easement through the neighboring property. The proposed short-term rental with an occupancy of eight guests could result in an adverse influence on the surrounding neighborhood by limiting parking and access to the surrounding properties, particularly because West Main Street is a busy principal arterial roadway with no on-street parking and the egress point directly conflicts with a bus stop.

Staff Presentation – Mr. Mills oriented the Board to the subject property. He discussed the recommendation of disapproval citing issues like willful violation of the Code of Ordinances, proximity to a neighborhood susceptible to gentrification and displacement, and indicated that the subject property had a shared driveway off of a busy arterial roadway.

Board Question – Mr. Walker asked why “Close proximity to top 10 Census Block Group” was used as a reason for disapproval when it was not actually in one of those areas. Mr. Mills replied that “close proximity” had been used as a reason for disapproval previously.

Applicant Comments – Marla and Keith Parsons were present and gave some details of their history with the property. Mr. Parsons explained the timeframe of their moving to Lexington and when the notifications of violations were sent to their previous home. He also added that letters were not forwarded to them. Ms. Parsons explained that as soon as they realized that they were not in compliance, they tried to make it right. They presented several items to the record to corroborate their statements that included a letter from the neighbor that supported the application. Mr. Parsons told the Board that they now live very close to monitor the property. The applicant also indicated that there was additional parking in their 2-car garage to accommodate the use. He said he apologized for the non-compliance and asked for approval.

Board Questions - Mr. Clarke asked if the home next to them knew that the house would be used as a short-term rental. Mr. Parsons replied that they did know and had sent a letter of support.

Mr. Walker asked if the property had been a short-term rental since they purchased the property in 2017. They replied that it had been used as a short-term rental the entire time with the exception of a few months that they lived at the property. Once they found a new home in July of 2024, they opened it back as a short-term rental, but closed it again until the Board made a decision. Mr. Gross confirmed that their PVA records still list a mailing address in Tennessee.

Ms. Tucker asked where they live currently, and Mr. Parsons replied it was a few blocks away on Fayette Park.

At this time the Board took a few minutes to look over letters and documents that had been submitted.

Action – A motion was made by Ms. Tucker, seconded by Mr. Gross, and carried 4-2 (Carter and Clarke opposed), to **disapprove PLN-BOA-24-00154: PARSONS PLUMMER PROPERTIES LLC** – requests 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 Medium Density Residential (R-4) zone, on property located at 719 W. Main Street. (Council District 11) as recommended by staff.

13. **PLN-BOA-24-00162: 201 TOBACCO ROAD** - requests a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 2861 Kearney Creek Lane. (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 8 individuals.
3. The existing structure shall be rented only as a single-family dwelling with only one booking at a time.
4. Any improvements to the structure to create a separate dwelling unit in the basement shall be removed or the owner shall secure the appropriate permits from the Divisions of Building Inspection and Planning to convert the structure into a duplex or create an accessory dwelling unit.
5. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
6. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – Courtlann and Willard Atkinson were present to represent their application. They stated that they were in agreement with the conditions. Ms. Atkinson explained that this home was their secondary residence, but they used it frequently. She added that most of their guests are exhibitors at the horse park, all of the guests are screened, there was a 3-night rental minimum, and there was adequate parking available. She also stated that, because they frequently stay at the home, they take very good care of it, and they have a neighbor that watches the property for them when they are not there.

Board Question – Ms. Carter asked about the basement and it's use. Ms. Atkinson replied that they use it for storage, and it is locked and not used for rentals.

Citizen Comments – Linwood Gray, 4414 Windrush Drive, said that he lived two houses down from the property. He told the Board that his biggest concern was the parking and ingress/egress of the property. He has seen horse trailers parked nearby that exacerbate the issue. He did not want the commercial use in a residential area.

Brandy Keeney, 2761 Kearney Creek Road, said that she had bad experiences with short-term rentals at previous addresses and did not want this near her home. She was also concerned about the safety of neighborhood children.

Applicant Rebuttal – Ms. Atkinson explained that her neighbor owned the horse trailer, and it had nothing to do with her home or the renters. She added that she agreed with the concerns about traffic and ingress/egress in the area, but her property was not the cause of it. She said that they have security cameras at the property so they could make sure there were no parties or events taking place there.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross, and carried 4-2 (Tucker and Sturdivant opposed), to **approve PLN-BOA-24-00162: 201 TOBACCO ROAD** - requests a conditional use permit for an un-hosted short-term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 2861 Kearney Creek Lane. (Council District 2) as recommended by staff, subject to the four conditions.

Board Comments - Mr. Clarke told the concerned neighbors that he was sympathetic to their concerns, but felt they had to follow the ordinance.

Ms. Carter stated that it seems several of the short-term rental applicants have been operating for years without issue, and they are just trying to come into compliance with the regulations.

14. **PLN-BOA-24-00169: JACK THOMAS** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2912 Piedmont Park. (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. 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 is made subject to the following conditions:

1. The short-term rental use shall be established in accordance with the submitted application materials and site plan.
2. Occupancy of the short-term rental shall be limited to no more than 6 individuals.
3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short-term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

Applicant Comments – Jack Thomas stated that he was in agreement with the four conditions and asked for approval. He had some questions regarding the next steps of the process, and Ms. Wade briefly explained them.

Board Questions – Ms. Tucker asked Mr. Thomas if he had a management company to monitor the property since he lived out of state. Mr. Thomas replied that his sister lives near the property and would be managing the property.

Ms. Carter stated that there were citizen comments that had been sent in.

Citizen Comments – Tom Godell, 2912 Trailside Drive, mentioned that the Council had proposed new requirements for short-term rentals that included distance requirements. He said that this property was in close proximity to another short-term rental, and any decision should be deferred until the new requirements were passed.

Shelia Hale, 2912 Trailside Drive, stated that she felt the process was weighted to side with the applicants. She also said she was concerned about the availability of affordable housing, and new home buyers could not compete with short-term rental operators. She opined those short-term rentals divided communities.

Staff Comments – Ms. Smith told the Board members that while there was a proposal to amend the short-term rental requirements, it had not passed either the Planning Commission or the Urban County Council, so those proposals cannot be used for consideration at this time.

Applicant Rebuttal – Mr. Thomas stated that he had spoken to neighbors and heard that their primary

concerns were parties and noise. He said that he was maintaining this home and using it as a short-term rental until he retired and then planned to move here. He also said that they had a strict 6-person limit and no party restriction.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker, and carried 6-0, to **approve PLN-BOA-24-00169: JACK THOMAS** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1D) zone, on property located at 2912 Piedmont Park. (Council District 2) as recommended by staff, with the four conditions.

15. **PLN-BOA-24-00171: CRYSTAL AND EDDIE TOWE** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1B) zone, on property located at 2059 Manor Drive. (Council District 5)

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. 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 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 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.

Chair Comments – Chair Carter announced that there was a request by Ms. Jessica Winters to be allowed to speak about this application for 20 minutes. Chair Carter indicated that she denied this request.

Applicant Representation – Attorney Ethan Johnson was present to represent the applicants. Eddie and Crystal Towe were also present. Mr. Johnson submitted a letter that included several concerns of the neighbors, and that his client had not been made aware of these concerns until that day. Mr. Towe told the Board about the property and that it was their primary residence. He said that they had some audio technology installed so that they could monitor the noise made by the renters as well as exterior video monitoring. He said that they use a management company that meets with every renter before they are allowed access. He said that he would be happy to consider any other suggestions to make the rental less impactful. Mr. Towe also added that they intended to make Lexington their permanent home. Ms. Towe said that while one of their businesses was long term rental property management, but they hired a separate property manager to take care of this property for them.

Board Question – Mr. Gross asked the applicants if they were willing to put a cap on the number of days the property was rented. Mr. Towe replied that he would be willing to discuss capping the rentals to 75 nights per year.

Applicant Comments – Mr. Towe said that they had incorrectly applied for a hosted short-term rental, but applied for the un-hosted short-term rental as soon as they realized it needed to be done.

Citizen Comments – Attorney Jessica Winters was present to represent some in the Lakeshore Neighborhood. She distributed some handouts to the Board members. She stated that she would be sharing a large presentation with other people. She began by stating that she hoped the Board would consider the statements of the neighbors, rather than the density statistics, before making the decision about this application. She stated that 75% of the residents in the neighborhood opposed this home becoming a short-term rental.

Steve Burchett, 2083 Norborne Drive, continued the presentation. He said that this property is actively listed as a party house. He displayed some screenshots of the online listing for the home. He stated that he has personally seen more than 20 people in the home at one time. He noted that it was too far away from several popular Lexington venues.

Mark Holcomb, 2076 Norborne Drive, stated that there were already two short-term rentals in their neighborhood, but they were hosted, so they did not create an adverse effect to the neighborhood. He was also concerned about parties taking place and the parking impact.

Beth Hilliard, 2056 Norborne Drive, also continued the presentation. She said that her neighborhood was quiet, safe, and friendly. She said there are several children who live and play in the cul-de-sac, and she is concerned for their safety.

Oggie Hilliard, 2056 Norborne Drive, said he did not want a commercial business in their neighborhood. He said that they should not be approved because they operated without the proper permits and rented the property while the application was pending.

Nick Altweiss, 2075, Norborne Drive, concluded the presentation. He said that safety from crime was the main concern of the neighborhoods. He submitted documents supporting his contention that there is a relationship between crime and short-term rentals.

Marissa Campbell, 2048 Manor Drive, stated that she was concerned about the safety of children and the additional vehicles and party buses that can be in the cul-de-sac. She said that there have been several parties and events at the home.

Applicant Rebuttal - Mr. Towe said there was no access to alcohol at their home and they also enjoyed the games and amenities that they have added to their basement. He said that he understood the safety concerns. He also said that he had not heard of any parties. He asked the neighbors to approach them if they had concerns, so they could be addressed. He said that they do have a huge commitment to their community and plan to eventually live in this house full time. He did not want parties to ruin the property that they plan to live in. Ms. Towe added that one accusation of a party was actually just their own vehicles plus a birthday party at a neighboring home, not the result of a rental at their home. She said that the only party buses that she is aware of, are ones that she has personally hired to take her and her family to the airport.

Emily Sharp, property manager, said that parties were not allowed at the property at all, but they did offer ride services for guests who wanted to go to Keenland or other attractions.

Board Questions - Mr. Walker asked for clarification of the number of bedrooms and beds. Ms. Towe replied that it is a 5-bedroom house with 5 beds. The fifth bedroom is a fitness room.

Mr. Walker asked if it was being advertised currently. Ms. Towe said that it had been withdrawn until the process was complete. Mr. Walker said that it appeared to be active and there were reservations. Ms. Sharp replied that those dates were blocked off from rentals for the owners. Mr. Towe reiterated that there were no future bookings, and Ms. Towe stated that she sent screen shots to staff that it was listed as inactive.

Mr. Walker said that the listing referred to the host as a super host for 3 years, when they claimed that the home had only been rented for a year. Ms. Sharp said that she was a super host, and it was her account.

Ms. Carter stated that parties were not allowed in any short-term rental in Lexington.

Mr. Towe reiterated that he wanted to know about any concerns or issues so they could be addressed.

Mr. Sturdivant said that this was the largest number of neighbors that he had seen to come speak about one application.

Mr. Johnson displayed Ms. Sharp's phone that stated, at least on the host's side of the site, it was listed as inactive.

Board members had some discussion about a similar property, and adding limitations to the rentals.

Ms. Winters asked a question about parties off microphone. Ms. Carter said that parties were not allowed by the Ordinance at all. Ms. Wade added that the occupancy limit applied to the entire rental period, day or night.

Mr. Johnson told the Board that after a discussion with his clients, they had agreed to a 75 night per year rental maximum.

Ms. Tucker thanked the neighbors for coming and wanted them to know that they were important and heard.

Mr. Clarke told the neighbors that their concerns are justified. It was difficult to make these decisions, but he had to follow the current ordinances.

Action – A motion was made by Mr. Clarke, seconded by Mr. Gross, and carried 4-2 (Tucker and Sturdivant opposed), to **approve PLN-BOA-24-00171: CRYSTAL AND EDDIE TOWE** - requests a conditional use permit for an un-hosted short-term rental in a Single Family Residential (R-1B) zone, on property located at 2059 Manor Drive. (Council District 5) as recommended by staff, but adding a Condition #5 to state: "The property shall be rented on a short-term basis for a maximum of 75 days per year."

V. BOARD ITEMS

- A. Ms. Carter announced that they would now consider the Board of Adjustment 2025 Meeting and Filing Schedule for adoption.

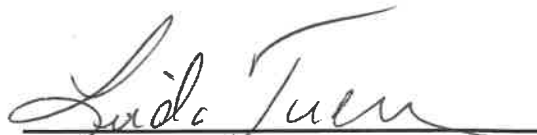
Action – Mr. Gross made a motion, seconded by Mr. Clarke, and carried 6-0, to approve the Board of Adjustment 2025 Meeting and Filing Schedule as presented.

VI. STAFF ITEMS – None at this time.

- VII. NEXT MEETING DATE** – Ms. Carter announced that the next meeting date will be December 9, 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 5:20 p.m.


Raquel Carter, Chair


Linda Tucker, Secretary

