

**AGENDA FOR THE BOARD OF ADJUSTMENT
MEETING**

December 9, 2024

- I. **CALL TO ORDER** - The Chair will call the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.

II. **APPROVAL OF MINUTES**

The August 2024 and September 2024 Board of Adjustment meeting minutes will be considered at this time.

III. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Swearing of Witnesses** - The Chair will announce that any applicant or objector, or anyone in the audience who plans to speak to any appeal before the Board, please stand in order to be sworn in at this time.
- B. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair will sound the agenda with regard to any postponements, withdrawals, and items requiring no discussion.

C. **Variance Appeals**

1. **PLN-BOA-24-00170: RYAN CAMENISCH** – requests a variance to reduce the required side yard setback from six feet (6) and six (6) inches to one (1) foot in a Medium Density Residential (R-4) zone, on property located at 444 Jefferson Street. (Council District 1)

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

- a. There are special circumstances that justify the need for the requested variances. The subject property is a narrow lot that was created prior to the adoption of the current development standards.
- b. The requested variances are generally reasonable, and approval will allow the applicant to utilize currently vacant lot within the Infill & Redevelopment Area for needed housing.
- c. Granting the variances will not result in construction that is out of character with the general vicinity.
- d. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. The Zoning Ordinance specifically states that BOA action may sometimes be required in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood. Additionally, the applicant has applied for the variances as soon as it was determined that they were needed, prior to starting 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 Division of Building Inspection prior to construction.

2. **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)

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

- a. The applicant has not provided sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance. The subject property's expanded garage and driveway without the circular driveway provides enough space for vehicles to turn around.
 - b. The granting of this variance could allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant constructed the circular driveway without securing the proper paving permit.
3. **PLN-BOA-24-00186: KIM BRAGG** – requests a variance to reduce the required front yard setback from thirty (30) feet to zero (0) feet in order to pave a circular driveway in the front yard in a Single Family Residential (R-1C) zone, on property located at 804 Mt. Vernon Dr. (Council District 3)

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

- a. The applicant has not provided sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance. The property is similar in size, shape, and character to other properties in the vicinity. While some nonconforming circular driveways are present in the existing neighborhood, the neighborhood is largely characterized with standard driveways and do not feature paved front yard areas.
 - 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. There property's existing garage and driveway configuration provides an opportunity for vehicles to turn around.
4. **PLN-BOA-24-00194: RUSSELL CROSTHWAITE** – requests a variance to increase the maximum driveway width inside the defined Infill and Redevelopment Area from ten (10) feet to eighteen (18) feet in a Single Family Residential (R-1C) zone, on property located at 128 Garrett Ave., 132 Garrett Ave., 1613 Glover Ave., 1117 Glover Ave., and 1621 Glover Ave. (Council District 11)

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

- a. Granting the variances would alter the character of the general vicinity. The properties in the general vicinity do not feature eighteen (18) foot wide driveways.
 - b. The applicant has not provided sufficient justification to demonstrate that denying the variance(s) would create an unnecessary hardship that would deprive the applicant of the reasonable use of the land. The applicant is still able to build the homes and two car garages as well as driveways that flare out to eighteen (18) feet wide per the zoning ordinance.
 - c. The applicant has cited no special circumstances or unique characteristics associated with the five properties that would not generally apply to land in the same zone or within the general vicinity.
5. **PLN-BOA-24-00200: RYAN CAMENISCH** – requests a variance to reduce the required side yard setback of six (6) feet, two (2) inches to five (5) feet in a Medium Density Residential (R-4) zone, on property located at 438 and 440 Jefferson St. (Council District 1)

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

- a. There are special circumstances that justify the need for the requested variances. The subject properties are narrow lots that were created prior to the adoption of the current development standards.
- b. The requested variances are generally reasonable, and their approval will allow the applicant to utilize currently vacant lots within the Infill & Redevelopment Area for needed housing.
- c. Granting the variances will not result in construction that is out of character with the general vicinity.
- d. The variance request does not attempt to circumvent the provisions of the Zoning Ordinance. The intent of the Infill and Redevelopment regulations is to allow new construction that is compatible with existing development patterns in older, established neighborhoods. The Zoning Ordinance specifically states that BOA action may sometimes be required in order to facilitate appropriate development without creating an unusual hardship or development that is incompatible with the existing pattern of the neighborhood. Additionally, the applicant has applied for the variances as soon as it was determined that they were needed, prior to starting 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.

6. **PLN-BOA-24-00202: MSW LEXINGTON KY, LLC** – requests a variance to reduce 1) the required height of a wall sign from fifty (50) feet to forty (40) feet; 2) the required height of a projecting sign from ten (10) feet to eight (8) feet in a Lexington Center Business (B-2B) zone, on property located at 325 W. Main St. (Council District 3)

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 subject property already features signage, as is common with many of the properties in the area, and the proposed signage is limited in size and being placed to fit the design of the building.
- b. Granting the requested variance should not adversely affect the public health, safety, or welfare; nor should it affect the character of the vicinity. The requested signage is not out of scale or overwhelming in this location. The requested signage is considerably smaller than what would be permitted by the Zoning Ordinance.
- c. Strict application of the Ordinance would create an unnecessary hardship as the applicant is allowed the signage proposed but it would be required to be affixed to windows and in less visible locations if the variances are not granted.
- d. 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. The installed signage shall be maintained in accordance with the submitted application and site plan.
2. All necessary permits for signage shall be obtained from the Division of Building Inspection.

7. **PLN-BOA-24-00203: GIBSON TAYLOR THOMPSON (VINCENT THOMPSON)** – requests a variance to reduce the required side yard setback from nine (9') feet, six (6") inches to five (5) feet in a Single Family Residential (R-1C) zone, on property located at 414 Holiday Rd. (Council District 5)

The Staff Recommends: **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 variances. The subject property is 80-feet in width, and is consistent in size and character to other lots in the vicinity.
- 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 has sufficient room to construct a new residence at this location, and could make the structure deeper or reduce the size of the proposed garage in order to accommodate the desired increase in building area.

D. Conditional Use Appeals

1. **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, October 14, 2024 and November 4, 2024 meetings.

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

- a. Approval of the proposed conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals, including a stormwater management plan are secured prior to construction and occupancy.

- b. The new structure is approximately 2,000 square feet larger than was previously approved by the Board of Adjustment in 2021, thus it is unlikely that the church expansion would create traffic issues in the neighborhood.
- c. All necessary public services and facilities are or will be available and adequate for the proposed use.

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

1. The property shall be developed and 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, Building Inspection, and Engineering, as well as necessary state and federal agencies, prior to construction and occupancy.
3. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
4. The final configuration of the parking areas shall be subject to approval by the Division of Traffic Engineering.
5. Any outdoor lighting for the parking lot shall meet the requirements of Article 30.
6. All three properties shall be consolidated with a minor subdivision plat prior to construction.
7. The existing unused bridge on 1220 Higbee Mill Road shall be removed prior to occupancy of the new structure.
8. The bridge access point currently on 1136 Higbee Mill Road shall be widened to the approval of the Division of Engineering and obtain any state and federal permits necessary for approval.
9. The parking areas shall be paved, with spaces delineated, and landscaped/screened in accordance with the requirements of Article 16 and 18 of the Zoning Ordinance.

2. **PLN-BOA-24-00155: DEBORAH S. OWENS** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 265 Meadow Valley Rd. (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 six (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.

3. **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)

Note – This application was postponed from the November 4, 2024 meeting.

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 eight (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.

4. **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)

Note – This application was postponed from the November 4, 2024 meeting. The applicant has requested that this application be postponed to the January 13, 2025 meeting.

5. **PLN-BOA-24-00165: DONNA VAUGHAN** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 2044 Heather Way. (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.
- c. The proposed use should not have an adverse impact on traffic in the general vicinity as adequate parking is available within the existing driveway.
- 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 four (4) individuals.
- 3. All necessary permits and/or approvals shall be obtained from the Divisions of Revenue and Planning prior to commencement of the use, including a Business License, Special Fees License, and a Zoning Compliance Permit.
- 4. The conditional use permit shall become null and void upon change in ownership, or if the applicant's short term rental special fee license (as regulated by the Division of Revenue and Section 13 of the Code of Ordinances) lapses or is revoked.

6. **PLN-BOA-24-00175: RLV VENTURES** – requests a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Medium Density Residential (R-4) zone, on property located at 451 Smith St. (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 five (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.

7. **PLN-BOA-24-00177: BMK 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 Single Family Residential (R-1C) zone, on property located at 110 Barberry Ln. (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. 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 twelve (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.

8. **PLN-BOA-24-00179: YUHA JUNG** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 1801 Headley Green. (Council District 11)

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.

9. **PLN-BOA-24-00180: WILLIAM MCCRAY** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 740 Addison Ave. (Council District 11)

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 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.

10. **PLN-BOA-24-00181: WILLIAM MCCRAY** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 615 Addison Ave. (Council District 11)

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 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.

11. **PLN-BOA-24-00182: FTC, LLC** – 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 1249 Embry Ave. (Council District 11)

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

- 12. PLN-BOA-24-00183: BARNETT BUNGALOWS** – request a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 4236 Desdemona Way. (Council District 9)

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.

- 13. PLN-BOA-24-00185: LAURA COOMBS** – 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 515 N. Limestone. (Council District 1)

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

- a. The four factors listed in Article 3-13(g) of the Zoning Ordinance have been evaluated, in addition to the requirements of Article 7 of the Zoning Ordinance and KRS 100.237.
- b. Review of those factors shows that no STRs in the proximity have been cited as a nuisance, and the applicant has no history of compliance issues since this is their first application for an un-hosted short term rental.
- c. But based on a review of the number of STRs, a high concentration of short-term rentals is developing along the North Limestone Corridor, specifically the northwest side of the street, representing a decrease in housing stock. Eight (8) of the forty eight (48) parcels along the northwestern side of N. Limestone are being utilized for short term rentals, which represents 16.7% of the parcels. The average occupancy rate of the eight surrounding short term rentals is 55%., The proximity of these transient visitors in a residential area could create an adverse influence due to an increase in traffic along N. Limestone and Harry Street.

- d. This high concentration of short term rentals could also lead to a reduction of available housing stock in the neighboring vicinity. This is especially concerning because the subject property is located in close proximity (within 600') 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 North Limestone and within 600 feet of that Block Group. More short term rentals could negatively impact the surrounding neighborhood by heightening issues with gentrification and displacement within a neighborhood that is already vulnerable to involuntary displacement.
- e. Based on the high concentration of STRs already existing in this neighborhood, which is located in a top 10 Census Block Group that is potentially vulnerable to involuntary displacement, the addition of another STR could also create an adverse influence on the surrounding neighborhood by exacerbating concerns of gentrification.
- f. Further, the only parking made available by the applicant will be accessed via Harry Street, which is a sub-standard local street with no on-street parking and a narrow drive width. The limited infrastructure of Harry Street does not support a more intense use of a dwelling unit for short term rental. Allowing additional users for a short-term rental would create congestion along Harry Street and in the surrounding area which will also cause an adverse influence on the public health, safety, and welfare of the immediate area.

14. **PLN-BOA-24-00188: BLACK DIAMOND FARM LLC** – requests a conditional use permit for a Bed and Breakfast in an Agricultural Rural (A-R) zone, on property located at 3591 Paris Pike. (Council District 12)

The Staff Recommends: **Postponement**, for the following reasons:

1. The staff determined that this case needs to be heard by the Paris Pike Corridor Commission and a meeting cannot be scheduled before the upcoming Board of Adjustment hearing date.
2. The staff needs additional time to discuss the recorded PDR easement with the Purchase of Development Rights program and the Law Department to determine the impact on the applicant's proposal.

15. **PLN-BOA-24-00189: 1ST CLASS PROPERTIES, LLC** – requests a conditional use permit for an un-hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 547 Jefferson St. (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 six (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.

16. **PLN-BOA-24-00190: KALA BOUDREAUX** – 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 Single Family Residential (R-1C) zone, on property located at 131 Penmoken Park. (Council District 10)

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

- a. The four factors listed in Article 3-13(g) of the Zoning Ordinance have been evaluated, in addition to the requirements of Article 7 of the Zoning Ordinance and KRS 100.237.
- b. No other STRs have been cited in the vicinity, but based on a review of all four these factors, there are 10 STRs operating in the 1,000 feet surrounding the property, with an average occupancy rate of 59.5% – in total, this creates a concentration of 2.69% of the neighbor's dwelling units being used for STRs. That percentage borders on a too-high concentration for the area. The proximity of these transient visitors in a residential area could create an adverse influence due to an increase in traffic.
- c. The applicant also has a documented history of compliance issues with the short term regulations, including numerous outstanding unpaid citations. The applicant has willfully violated the rules and regulation set forth in the Code of Ordinances, Chapter 13, Article 5 and its sub-sections. This documented history of non-compliance, combined with the concentration of STRs in the vicinity, provides strong evidence that the continued operation of this short term rental will cause an adverse influence on the surrounding neighborhood by creating a nuisance.

17. **PLN-BOA-24-00191: SEAN BYRNE** – requests a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area in a Medium Density Residential (R-4) zone, on property located at 1625 Nicholasville Rd., Unit 805. (Council District 3)

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

1. The four factors listed in Article 3-13(g) of the Zoning Ordinance have been evaluated, in addition to the requirements of Article 7 of the Zoning Ordinance and KRS 100.237.
2. Review of those factors shows that no STRs in the proximity have been cited as a nuisance. But the proposed un-hosted short term rental for ten (10) occupants has a documented history of compliance issues with the short term regulations, including outstanding unpaid citations. The applicant has willfully violated the rules and regulation set forth in the Code of Ordinances, Chapter 13, Article 5 and its sub-sections. This history of compliance issues suggests that the continued use of the property as a short term rental could cause an adverse influence on the surrounding neighborhood by creating a nuisance.
3. Further, based on a review of the number of STRs and their occupancy rate, the surrounding area cannot support the addition of the 10 extra transient users requested for this STR. The subject property shares parking within the Coachlight Woods townhome development, which is made up of 34 townhome residences. Two (2) other un-hosted short term rental units are operating within the development, and they have an average occupancy rate of 52%. An additional un-hosted short term rental on the southern side of the development would create disproportionate demand for the limited "visitor" parking spaces within the development.
4. Based on a review of these factors, particularly the applicant's poor compliance record and the limited parking available for the existing concentration of STRs at their current occupancy rate, the addition of this short term rental is likely to create an adverse influence on the surrounding neighborhood by causing a nuisance and decreasing available parking for current residents.

18. **PLN-BOA-24-00192: 1009 FONTAINE 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 Single Family Residential (R-1C) zone, on property located at 1009 Fontaine Rd. (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.

19. **PLN-BOA-24-00195: SHARE CENTER** – requests a conditional use permit to expand the existing community center in order to add a dental clinic within the defined Infill and Redevelopment Area in a Medium Density Residential (R-4) zone, on property located at 572 Georgetown St. (aka 516 Ash St.). (Council District 2)

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

- a. Approval of expansion of an existing conditional use should not adversely affect the subject or adjoining/nearby properties, provided that all necessary permits and approvals are made. Proposed activities on the site are similar to the activities which have occurred on the site since 2015 when the Board first approved the use. 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. Minimal parking is available on the subject property; however, on-street parking is available in the immediate vicinity. The community center will serve the surrounding neighborhood, thereby decreasing the demand for off-street parking in this location.

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

1. The property shall be developed and 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, Building Inspection, and Engineering, as well as necessary state and federal agencies, prior to construction (if necessary) and occupancy.
3. The site plan shall be updated to depict a maximum of two parking spaces on-site, and the parking area shall be re-striped to reflect the revised layout to the approval of the Division of Traffic Engineering.

20. **PLN-BOA-24-00197: BOONE CREEK OUTDOOR** – requests a conditional use permit for ecotourism activities in order to establish a campground in a Light Industrial (I-1) zone, on property located at 2262 Frankfort Ct. (Council District 11)

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

- a. Granting the requested conditional use should not adversely affect the public health, safety, or welfare. The property is large enough to accommodate the proposed number of campground sites, and complements existing ecotourism activities or amenities either on the site or within a five (5) radius of the subject property.
- b. All necessary public facilities and services are available and adequate for the proposed use.

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

1. The use shall not commence until the Planning Commission approves and certifies an amended final development plan.
2. The use shall be conducted in accordance with the submitted application materials and site plan, or as amended by the Planning Commission.
3. The location and design of the sanitary sewer waste disposal station shall be approved by the Division of Water Quality.
4. The retention easement in conflict with camp sites #6-13 shall be released prior to construction of the eight camp sites and their associated parking.
5. Any construction shall be completed in accordance with Article 19 of the Zoning Ordinance.
6. All landscaping shall be installed in accordance with Article 18 of the Zoning Ordinance and the Old Frankfort Pike Corridor Ordinance #134-89.
7. Any on-site lighting shall conform to the standards set forth in Article 30 of the Zoning Ordinance.

8. All necessary permits and approvals shall be obtained from the Divisions of Building Inspection, Traffic Engineering, Engineering, and Water Quality.

21. **PLN-BOA-24-00198: DUSTIN CALDWELL AND ROBERT CALDWELL** – request a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 261 Mockingbird Ln. (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 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.

22. **PLN-BOA-24-00201: TODD HOFFMAN** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D)/Agricultural Rural (A-R) zones, on property located at 5141 Old Versailles Rd. (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. 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 2 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.

E. Administrative Appeal

1. **PLN-BOA-24-00174: MARK DAWAHARE** – requests an administrative appeal of a decision of the Division of Planning denying the re-establishment of an automobile sales lot at 1171 East New Circle Road. This is an appeal of Article 4-3: Regulation of Non-Conforming Uses. (2) To request a variance to the minimum spacing between establishments for the sale, rental or display of vehicles from 2,500 feet to 110 feet as required by Article 8-20(b)2 of the Zoning Ordinance. (Council District 6)

The Staff Recommends: **Disapproval** of the requested variance, for the following reasons:

- a. Granting the variance would not create an unnecessary hardship on the applicant or deprive the applicant of the reasonable use of the land.
- b. The granting of these variances would allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the requested variance would be a significant reduction of the requirements and would undermine the intent of the minimum spacing requirement recently adopted by the Urban County Council.

IV. **BOARD ITEMS** – The Chair will announce that any items a Board member wishes to present will be heard at this time.

V. **STAFF ITEMS** - The Chair will announce that any items a Staff member wishes to present will be heard at this time.

VI. **NEXT MEETING DATE** - The Chair will announce that the next meeting date will be January 13, 2025 at 1:30 p.m., Council Chambers, 200 East Main Street, Lexington, KY 40507.

VII. **ADJOURNMENT** - If there is no further business, the Chair will declare the meeting adjourned.

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.