

**MINUTES FOR THE BOARD OF
ADJUSTMENT MEETING**

December 9, 2024

- I. **CALL TO ORDER** - The Chair 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, James Persley, Carolyn Plumlee, Bob Sturdivant, Linda Tucker and Chad Walker. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering and Josh Dezarn, Division of Engineering. Planning Staff members present were Traci Wade, Daniel Crum, Dalton Belcher, James Mills and Donna Lewis.

III. **APPROVAL OF MINUTES**

The August 2024 Board of Adjustment meeting minutes were considered at this time.

Action – A motion was made by Mr. Gross, seconded by Mr. Sturdivant and carried 7-0 to **approve** the minutes from the August 2024 Board of Adjustment meeting.

IV. **PUBLIC HEARING ON ZONING APPEALS**

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

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

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

Postponements

1. **PLN-BOA-24-00164: 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.

Action – A motion was made by Mr. Gross, seconded by Mr. Walker and carried 7-0 to **approve** the applicant's request for a postponement to the January 13, 2025 Board of Adjustment meeting.

2. **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.

Staff Comment – Ms. Wade indicated that the applicant requested a one month postponement.

Action – A motion was made by Mr. Gross, seconded by Mr. Clarke and carried 7-0 to **postpone** to the January 13, 2025 Board of Adjustment meeting.

3. **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.

Board Comment – Ms. Carter asked if the applicant was present, to which no one responded.

Action – A motion was made by Mr. Gross, seconded by Ms. Tucker and carried 7-0 to **postpone** **PLN-BOA-24-00198: DUSTIN CALDWELL AND ROBERT CALDWELL** to the January 13, 2025 Board of Adjustment meeting.

C. **Abbreviated Hearing**

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.

Application representation – Mr. Ryan Camenisch was present on behalf of the application. Ms. Carter stated that Staff had recommended approval of this application and that there was one letter of opposition.

She asked if the Board members had any questions for Staff or Mr. Camenisch.

Board Questions and Comments – Ms. Tucker asked if the letter of opposition was for both applications Mr. Camenisch has today or just this one. Staff indicated that the letter of opposition was for this application.

Action - A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 7-0 to **approve PLN-BOA-24-00170: RYAN CAMENISCH** – request for 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., based on Staff's recommendations and subject to the two conditions as listed.

2. **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.

Application representation – Mr. Ryan Camenisch was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and would entertain a motion.

Action - A motion was made by Mr. Walker, seconded by Mr. Clarke and carried 7-0 to **approve PLN-BOA-24-00200: RYAN CAMENISCH** – request for 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, based on Staff's recommendations and subject to the two conditions as listed.

3. **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.

Application representation – Mr. Nick Nicholson was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there was one letter of opposition. She asked if the Board members had any questions for Staff or Mr. Nicholson. Mr. Nicholson stated that the applicant had reviewed the conditions and are in agreement with them.

Action - A motion was made by Mr. Clarke, seconded by Mr. Sturdivant and carried 7-0 to **approve PLN-BOA-24-00202: MSW LEXINGTON KY, LLC** – request for 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, based on Staff's recommendations and subject to the two conditions as listed.

4. **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-stripped to reflect the revised layout to the approval of the Division of Traffic Engineering.

Application representation – Dr. Ihsan Bagby was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were three conditions of approval. Ms. Carter asked if Dr. Bagby had read them and if they agreed to the conditions. Dr. Bagby stated that he was in agreement.

Board Comment and Questions – Ms. Tucker stated she wanted to thank The Share Center for this application, and she thought this was much needed in this area.

Mr. Sturdivant asked about the use of the second floor of the structure. Dr. Bagby stated that it was rented out and they would continue to do so.

Action - A motion was made by Mr. Sturdivant, seconded by Ms. Tucker and carried 7-0 to **approve PLN-BOA-24-00195: SHARE CENTER** – request for 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.), based on Staff's recommendations and subject to the three conditions as listed.

5. **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 compliments 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.

Application representation – Mr. Tony Barrett was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were letters of support and opposition for it. Mr. Barrett indicated that he knew the general idea of the opposition and Ms. Carter asked if there were any questions for the applicant. Mr. Barrett stated that he was agreeable to the conditions recommended by Staff.

Board Comment and Questions – Mr. Clarke asked how the RV sites are equipped with things like waste dumps and water and electrical hook-ups. Mr. Barrett stated that waste would be dealt with on-site with a dumpsite, not an individual pad with a hook up. Mr. Barrett continued and stated that it was not clear where the water hook-ups would be at the moment.

Ms. Tucker asked if the applicant was willing to limit the stays of people on the property. Mr. Barrett stated that the applicant would prefer not to limit that.

Mr. Sturdivant asked if there were concerns from the applicant about flooding. Mr. Barrett stated that part of the property is on the floodplain, but the area where the sites are located is significantly above the floodplain.

Mr. Sturdivant also inquired if there would be more than one dumpster on the site. Mr. Barrett stated that for now they are only anticipating the one dumpster, but they can have that serviced as frequently as necessary.

Mr. Sturdivant stated that there was a different name filed for the applicant and the owner of the site and asked for clarity on why that was the case. Mr. Barrett stated that Boone Creek Outdoor is the existing operation that is similar on Richmond Road and that the management of the property would be Boone Creek Outdoor.

Mr. Gross asked what the property was currently being used for. Mr. Barrett indicated that it is intended for storage but it is largely vacant. Mr. Gross stated that he did not think that the Board should get bogged down in the aesthetics of the property and that this use is a much less intense use than anything else that could be done here and is ready to support this application.

Ms. Tucker stated that she would like to see a limit of stay placed on this property.

Ms. Carter stated that she would be against a condition like that and it would be difficult to find the correct length of stay that would make sense to her.

Mr. Walker agreed with Ms. Carter and stated that this proposed use would be the least disagreeable use he could think of in the I-1 zone. Mr. Walker asked Mr. Barrett if he knew the percentages of the amount of greenspace on the property. Mr. Barrett indicated he did not off the top of his head, but he thought it was about 40%.

Action - A motion was made by Mr. Gross, seconded by Mr. Walker and carried 6-1 (Clarke opposed) to **approve 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, based on Staff's recommendations and subject to the eight conditions as listed.

D. Items for Discussion

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)

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.

Staff Presentation – Mr. James Mills directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Mills highlighted Articles 1-11, 8-6(h), 16-5(a), and 16-5(a)(4)(a) as reasons for disapproval. Mr. Mills indicated that Article 16-5(a) stated that no parking, loading, or unloading space shall be located within any required front yard or side street side yard and that the applicant's proposal was located in the front yard or side yard.

Mr. Mills gave a timeline of events that lead to this application and that the applicant had not filed the proper permits and approvals when they paved their driveway. In meetings with the applicant they stated that the circular driveway was a safer way to exit the property and much of the surrounding neighborhood had nonconforming driveways. The applicant had hired a construction company to pull what they thought were the appropriate permits for this project, but failed to do so.

Mr. Mills concluded by stating that Staff had found the applicant had built the circular driveway without the appropriate permits and approvals and that the design of the rear portion of the driveway provided enough opportunities for turnarounds without the need for a circular driveway. Due to those facts, Staff was recommending disapproval of the subject application.

Applicant Presentation – Mr. Nick Nicholson, attorney for the applicant stated that this application is to increase the width of the allowable driveway in the front yard setback and showcased aerial photographs of the subject property, as well as the other neighbors that have similar circular driveways. Mr. Nicholson indicated that the applicants have a large family and four of the daughters just turned driving age which is why the applicant is looking for this type of circular driveway. Mr. Nicholson stated that the construction company that did an interior remodel, as well as the driveway was under the impression that they had all the proper permits, but that was not the case.

Mr. Nicholson stated that in conversations with Staff, the regulation in question related to the heat island effect and how much was appropriate. Mr. Nicholson stated that the maximum allowable is 60%

front yard paving and the percentage proposed by the applicant would only be 29%. Mr. Nicholson reiterated the amount homes in this area with circular driveways and parking spaces that back into the street and that the ordinance says anything to limit the amount of vehicles that back up into a public space should be encouraged.

Board Comment and Questions – Mr. Sturdivant asked if it was the applicant's contention that the lack of permits and approvals was a contractor error. Mr. Nicholson indicated that that was the case.

Mr. Clarke asked for clarification on how the applicant would have to back out of the drive way with the current configuration. Mr. Nicholson stated that it was possible for the cars in the garage to back out safely, but for anyone else parked in the driveway, it was not possible to back out safely.

Mr. Gross stated he thought Mr. Nicholson had done a great job with a bad hand, but he was not going to support this application, even if he sympathizes with the applicant.

Mr. Sturdivant stated that he thought both Staff and the applicant had compelling arguments and that the configuration of the driveway was a difficult challenge and given that the neighbors also have non-conforming driveways, this appears to be a "Mexican standoff."

Mr. Walker stated that this might not be in line with the Ordinance, but he was comfortable in supporting this application.

Mr. Gross stated this his opposition was about consistency and that while he understood it might be unfair that the other neighbors have them, that does not make it in compliance with the Zoning Ordinance.

Ms. Carter stated that she felt like this body has been pretty consistent about declining applications that do it in the wrong order. Building the driveway and asking for forgiveness after the fact when there are applications on the docket attempting to it in the right order. She stated that she thought it was a beautiful plan.

Mr. Clarke stated that he liked the plan a lot, but he agreed with Mr. Gross and the Board needs to be consistent.

Action - A motion was made by Mr. Gross, seconded by Ms. Tucker and carried 5-2 (Sturdivant and Walker opposed) to **disapprove 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, based on Staff's recommendations and testimony hereto.

2. **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.

Staff Presentation – Mr. James Mills directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval.

Mr. Mills stated that applicant had not provided sufficient justification to meet the requirements of Article 7 or provided sufficient information to determine that strict enforcement of the Zoning Ordinance would

result in an unnecessary hardship. Mr. Mills concluded by stating Staff was recommending disapproval and could answer any questions from the Board of Adjustment.

Board Comment and Questions – Mr. Gross asked if given the front yard setback, they would be able to do one of the turnabout spaces that we have seen in the other designs. Mr. Mills stated that either way they would still have to have a variance, the one mentioned by Mr. Gross would be smaller.

Applicant Presentation – David Orren, owner of the property, stated that he had a stroke about a year ago that limited his mobility and his ability to move his neck and other extremities important for backing out of a driveway. Mr. Orren stated that he needed a configuration that was closer to the door and made driving and parking easier for him. Mr. Orren stated that if the Board was not in favor of this configuration, he would be agreeable to a parking pad and an associated variance for that.

Board Comment and Questions – Mr. Gross stated that he knew Ms. Wade did not like continuances, but was this an example where it would make sense to continue this and work more with the applicant. Ms. Wade indicated that the applicant and Staff would need to consult with Traffic Engineering about that possibility but it would be possible to do so.

Mr. Gross asked Mr. Orren if he would be willing to continue and work with Staff and Traffic Engineering for another plan and he indicated he would be agreeable to that option.

Mr. Clarke stated that he thought that was a very good option and would help Mr. Orren in the end.

Action - A motion was made by Mr. Gross, seconded by Ms. Tucker and carried 7-0 to continue **PLN-BOA-24-00186: KIM BRAGG** to the January 13, 2025 public hearing.

3. **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.

Staff Presentation – Mr. Dalton Belcher directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Belcher indicated that the applicant is seeking 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 and 132 Garrett Ave and 1613, 1617, and 1621 Glover Ave. Mr. Belcher stated that the applicant is seeking to build five houses on lots that have already been subdivided and build five driveways that are the width of the garage and not flared as is the standard.

Mr. Belcher indicated that Staff was recommending disapproval of this application because doing so would alter the character of the general vicinity, they have not supplied sufficient justification to demonstrate unnecessary hardship, and no special circumstance or unique characteristics associated with the five properties. Mr. Belcher concluded by stating that he could answer any questions from the Board.

Board Comment and Questions – Ms. Carter stated that she thought that driveways could be as wide as the garage, but Mr. Belcher stated that was incorrect and that driveways could flare up to the width of the garage.

Mr. Gross asked if the disapproval was because it was in the Infill and Redevelopment Area and Ms.

Wade indicated that was the case. Additionally, Ms. Wade reiterated that allowing this variance was not within the character of this neighborhood.

Mr. Sturdivant asked if this should have been addressed at the time when it was subdivided and Ms. Wade indicated that a variance at the time of the subdivision process is not the norm.

Applicant Presentation – Greg Smorstad, representing the applicant, presented images of the approved subdivision plan and the proposed dimensions and configurations of the properties. Mr. Smorstad stated that two of the homes are under construction and that this variance would allow the future home owners the ability to fully utilize the driveway and two car garages that are being proposed and that the homes in the general area were built in the 1930's where only 20% of people had cars. Additionally, Mr. Smorstad showcased pictures of cars that are parked in the front yards in this area and argued that allowing this would fix the problem for future residents.

Mr. Smorstad concluded by showing a map of the general area that had 18 foot driveways like the one being proposed here and asking the Board for approval of the subject variance.

Board Comment and Questions – Mr. Sturdivant asked if one of the pictures shown of the houses had an 18 foot slab there and Mr. Smorstad indicated that it did.

Mr. Clarke asked if any other of the houses have been constructed with 18 foot driveways and Mr. Smorstad indicated that they had not.

Ms. Carter commented that she would rather have a driveway that accommodates the garage that has already been built there and would be willing to approve this variance.

Mr. Gross agreed with Ms. Carter and would be willing to support this application.

Mr. Clarke asked what the distance was between the street and the houses and Mr. Smorstad stated it was 30 feet. Additionally, Mr. Clarke asked if the flare could begin at 15 feet and Mr. Smortad indicated that was the case.

Mr. Walker indicated he would be willing to support this application as well.

Mr. Sturdivant stated that he would also be willing to support this, but the price of these houses would not fit under the definition of affordable housing.

Staff Rebuttal – Mr. Belcher stated that some of the houses shown were not in the Infill and Redevelopment Area and were subject to different conditions and regulations. Mr. Belcher also pointed out that the photos shown of the houses with parking in their yards did not have two car garages and long driveways, thus different from the current request.

Board Comment and Questions – Mr. Gross asked to take a short recess to discuss conditions of approval for this application.

Action - A motion was made by Mr. Gross, seconded by Mr. Persley and carried 7-0 to **approve PLN-BOA-24-00194: RUSSELL CROSTHWAITE** – request for 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., based on the following findings of fact:

- a. The variance would not adversely affect the essential character of the neighborhood and is also justified by the special circumstances of the land because these streets abut several residential streets that lay outside of the Infill and Redevelopment Area that have 18 foot driveways so a wider driveway would be more consistent with the surrounding neighborhood. A narrower driveway would not be in keeping with the character of the surrounding neighborhood and the variance will not negatively impact the health, safety, or welfare of the neighborhood or otherwise create a nuisance because the variance may benefit the surrounding owners by resolving parking issues on these two streets.
- b. The variance will not unreasonably circumvent the zoning requirements because the additional driveway width will be the best use of the available space.

This approval is subject to the two following conditions:

1. The site shall be developed in accordance with the submitted application materials and site plan renderings presented to the Board of Adjustment on December 9, 2024.
2. All necessary approvals shall be obtained by the Division of Building Inspection prior to completion of construction.

4. **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.

Staff Presentation – Mr. James Mills directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Mills stated that the applicant was requesting 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.

Mr. Mills stated that Article 8-7(i) stated that the minimum side yard in the R-1C is eight feet and that Article 15-2(b)(2) states that any zone where a side yard is required, the least width of each side shall be increased by one inch for each foot by which the side wall of a building adjacent to a side yard exceeds 50 feet. Mr. James indicated that this is how Staff came to the measurement of nine feet eight inches for the required side yard set back.

Mr. Mills concluded by stating Staff was recommending disapproval due to the lack of justification to meet the requirements of Article 7, nor has the applicant provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship. Mr. Mills stated he could answer any questions from the Board.

Applicant Presentation – Vince Thompson, Gibson, Taylor, Thompson Architecture & Design, LLC, architect for the project, brought a letter of support from the neighbor at 412 Holiday Road, and indicated that the owner of 416 Holiday Road was in attendance and supported the project. Mr. Thompson stated that he believes that the variance is in line with the neighborhood, it would uphold the spirit of the Zoning Ordinance and does not adversely affect the public welfare.

Mr. Thompson stated that the lot size was 75 feet and not 80 feet as was stated in the Staff report. Mr. Thompson showcased a map of surrounding houses that were non-conforming and, in some cases, have less setback then what they are requesting. Mr. Thompson stated from an architectural standpoint this variance would help maintain the front façade and proportional dimensions and accommodate the two car garage. Mr. Thompson presented pictures of the adjoining property and stated that their setback was in line with what they were requesting.

Additionally, Mr. Thompson presented a proposed scheme keeping the same outline and preserving the character of the neighborhood.

Board Comment and Questions – Mr. Gross asked why Mr. Thompson repeatedly stated he wanted to preserve the house and character when they are going to be demolishing it.

Mr. Thompson stated that they were looking to preserve the proportions of what is there and maintain the character of what is going to be demolished. Mr. Thompson continued and presented a rendering of what the applicant is looking to build.

Mr. Thompson concluded by asking for the Board's support and stated he could answer any questions from the Board.

Board Comment and Questions – Ms. Carter as if the lot being 75-80 feet would change Staff's recommendation of disapproval. Mr. Mills stated it would be hard to determine without looking at the lot.

Mr. Clarke asked if all the lots in proximity to this property had about the same width and depths. Mr. Thompson stated that they were except for a lot on the corner.

Mr. Clarke stated he was inclined to support this application if the Board is comfortable with it.

Ms. Carter stated she agreed with Mr. Clarke.

Staff Rebuttal – Mr. Mills stated that part of the reason that Staff recommended disapproval was because this would be a new building and not an existing building that is non-conforming.

Board Comment and Questions – Mr. Clarke stated that he thought this particular design would work very well in this area.

Action - A motion was made by Mr. Clarke, seconded by Mr. Walker and carried 7-0 to **approve PLN-BOA-24-00203: GIBSON TAYLOR THOMPSON (VINCENT THOMPSON)** – request for 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 based on the following findings of fact:

- a. Allowing the construction of a house and attached two car garage to extend into the side yard beyond the limitation of Article 15(b)(2) will not adversely affect the essential character of the neighborhood, nor will it negatively impact the public health, safety, or welfare to create a nuisance for the residents because the addition will not block surrounding neighbors views and will allow the façade of the house to stay in character with the surrounding homes in this neighborhood.
- b. The variance is also justified by the special circumstances of the land and will not unreasonably circumvent the zoning regulations due to the lot, 75 feet. Enforcing the deed building provision would require a building layout that is inconsistent with the neighborhood. 15 of the 19 surrounding homes are also non-conforming to the existing side yard setback so the remaining width between the surrounding lots is not out of character.

This approval is based on the two following conditions.

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

E. 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.

Staff Presentation – Mr. Dalton Belcher directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended approval. Mr. Belcher indicated this application was asking for a conditional use permit for a place of religious assembly in the Agricultural Urban (A-U) and Single Family Residential (R-1C) zone, on property located at 1136, 1220 and 1250 Higbee Mill Rd. Additionally Mr. Belcher said that the applicant is looking to expand their church by adding a new building and adding more parking and consolidating all the parcels.

Mr. Belcher stated that the subject application was continued in September, October, and November due to the access point on Higbee Mill Road because Staff had concerns about the width of the access point, the amount of traffic, and the weight capacity of the bridge and if it could accommodate emergency vehicles. Mr. Belcher stated the conditions for approval and noted condition #8 reflected that the bridge access point shall be widened with the approval, of the Division of Engineering, but stated the applicant had not shown a solution to that problem to this point. Additionally, Mr. Belcher stated that the applicant would be presenting a revised condition #8 to the Board of Adjustment for their consideration.

Board Comment and Questions – Mr. Gross asked if Staff's position was that they would work with the applicant on Condition #8 about the widening of the bridge, but they have not seen a solution to this point. Mr. Belcher indicated that was the case.

Mr. Gross also asked how wide the bridge was and if two vehicles could pass on the bridge in its current

configuration and Mr. Belcher stated that was 14 feet and Mr. Gross was correct.

Applicant Presentation – Daniel Rehner, Throughbred Engineering, engineer for the applicant, stated that they have spoken extensively with the Division of Engineering and that their plan was to verify by a structural engineer that the bridge could hold emergency vehicles. Mr. Rehner indicated that they had made some modifications to the bridge to ensure that emergency vehicles could use the bridge and that Josh Dezarn from the Division of Engineering has seen the plan. Additionally, Mr. Rehner indicated that there was only one service at the church a day and that would be the only time there would be traffic at the church. Mr. Rehner indicated that he could send any related documents to Planning Staff and he asked to modify Condition #8 to get rid of the language about the width of the bridge and to focus on the approval from the Division of Engineering about structural integrity.

Staff Comment – Ms. Wade stated that the only reason that the Division of Engineering was brought in was because the property is crossing a floodplain and that the Division of Engineering would accept a structural engineer's report on the bridge.

Board Comment and Questions – Ms. Carter stated that given Mr. Rehner's presentation, there appears to be information that they have not shared with the Board and if Mr. Rehner would be willing to share that information.

Mr. Gross asked Staff's view on why they feel the need to widen the bridge.

Staff Comment – Ms. Wade stated that Staff was concerned if there was adequate access to a place of religious assembly and you may need more room so that people can come and go, especially with increased building capacity. Additionally, Ms. Wade indicated that its customary for a commercial development's access to be 20 feet.

Applicant Comment – Mr. Rehner stated that there was room for two cars to come and go as Ms. Wade suggested.

Board Comment and Questions – Mr. Gross asked Mr. Rehner what was preventing them from widening the bridge as proposed by Staff. Mr. Rehner stated that an improvement like that would limit the operations of the church in the short-term, as well as the timing and cost of the project.

Mr. Walker asked if the new building would be sprinklered. Mr. Rehner stated that they had not gotten that far into the project yet and were focusing on this part at the moment.

Ms. Carter stated that she was concerned that the application has been in this spot and the Board has the same information and she did not know how the Board wanted to move forward.

Mr. Gross asked how big the existing building was and Ms. Wade indicated that it was 400 square feet with a basement.

Mr. Gross stated that he was beside himself over this application and reiterated Ms. Carter's point that they have been stuck in this spot for three months with no resolution and there has not been a good reason given by the applicant as to why they can't widen the access point.

Ms. Tucker stated she was concerned with width and if there were an emergency with emergency vehicles getting in and regular vehicles coming in there just would not be enough room.

Mr. Clarke stated that he did not like the applicant's attitude on this and it made it look like they did not care about the safety and well-being of their growing church.

Mr. Sturdivant stated he thought that the applicant had a good development plan but it looks as though they have not addressed the Board and Staff's main concern.

Applicant Comment – George Natour, on behalf of the applicant, stated that they do accept condition #8 in order to move this forward.

Staff Comment – Ms. Wade stated that she thought that Staff should be a part of that condition and that the access point should be at least 20 feet wide.

Action - A motion was made by Mr. Gross seconded by Mr. Clarke and carried 7-0 to **approve 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. based on Staff's recommendations and subject to the nine conditions as listed amending condition #8 to say shall be widened to a minimum of 20 feet, as well as the approval of Planning Staff.

F. 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.

Staff Presentation – Mr. Dalton Belcher directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval of the variance. Mr. Belcher indicated that a text amendment had passed in 2022 that added a 2,500-foot spacing requirement that made many establishments along New Circle Road non-conforming uses due to a lack of adequate spacing. Since that time, the subject property had ceased automobile sales and the administrative appeals process began when the applicant reached out to Planning Staff to confirm if it was still an allowable use. It was no longer a conforming use due to the spacing requirement and the applicant opines that it should be allowed to operate as it was before 2022. However, Staff's records indicated that at the time of the text amendment, the auto sales had already been discontinued. Additionally, Mr. Belcher indicated that the site has had no actual use in the two years since and the applicant's definition of use does not constitute operation of a specific non-conforming use.

Mr. Belcher presented street view photographs from December 2021 and 2022 to show that at that time, the car lot had shut down and was not in use and there were no cars on the site.

Mr. Belcher cited Article 4-3 (b) that directly states that when a non-conforming use is discontinued for a year, the non-conforming use shall not be resumed. Additionally, he stated that Staff recommends that the decision be upheld.

Mr. Belcher concluded by stating Staff was recommending disapproval of the variance request because it would undermine the intent of the minimum spacing requirement.

Board Comment and Questions – Mr. Sturdivant asked when the updated Ordinance was adopted, and Mr. Belcher indicated that it was June of 2024.

Mr. Gross stated that in Mr. Murphy's letter to the Board there is mention of a marketing brochure and if Staff had access to that. Mr. Belcher indicated that he did not, but the applicant could get it to them in their presentation.

Mr. Clarke stated he was not sure if this should be concerned a gross lack of evidence as the Staff report states and he believed they were repositioning this property so that it could maintain its use.

Applicant Presentation – Mr. Dick Murphy, attorney for the applicant, opined that this property was a legal non-conforming use and that those are a protected, vested real estate right and government cannot take them away. Mr. Murphy argued that the year limit is not enforceable if you show that the owner has not abandoned the property and if you are marketing the property for the use, that in itself shows you are not abandoning the use.

Mr. Murphy showcased examples of the applicant providing upkeep of the property, including photos on the inside of the building, and stated that an auto dealer could move in the property tomorrow. Mr. Murphy even indicated there was contract ready for one if not for this appeal. Mr. Murphy stated this property has been an automobile dealership for 39 years and gave a timeline of who had been on the property since the applicant bought it. Mr. Murphy stated that since October of 2022, when it became vacant, they had reached out to over 60 auto dealerships about buying the property and had a marketing brochure to show it off and got 2 auto dealers to discuss the sale. Mr. Murphy argues that this shows the applicant never abandoned the use.

Public Comment – Councilmember Denise Gray, stated that she wished for the Board to listen to the residents of the Sixth District, and would like the appeal to be denied.

Applicant Comment – Justin Ryder, real estate advisor for the applicant, entered into the record the marketing materials used to present the property for sale and to prove they were maintaining its use.

Action - A motion was made by Mr. Gross seconded by Mr. Sturdivant and carried 6-1 (Tucker opposed) to **approve PLN-BOA-24-00174: MARK DAWAHARE** – request for 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 for the follow reasons:

- a. The applicant has provided sufficient evidence to determine that the use of this property as a car dealership had not been abandoned at the time of the adoption of the regulation that made the use nonconforming pursuant to KRS 100.253(1). The applicant showed that its realtor has actively marketed the property as an automobile dealership by contacting multiple interested car dealerships while the lot was vacant. The applicant also entertained offers with different entities to use the property as a car lot prior to the adoption of the regulation that made this use nonconforming. There is also an active sales contract between the applicant and another a car dealership, and that contract was entered prior to the regulation going into effect.

G. Short-Term Rentals

1. **PLN-BOA-24-00155: DEBORAH S. OWENS** – requests a conditional use permit for an un-hosted short term rental use 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.

Application representation – Ms. Deborah Owens was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Ms. Owens had read them and if they agreed to the conditions. Ms. Owens stated that she had.

Board Comment and Questions – Ms. Carter stated that they had received one letter of opposition.

Applicant Comment – Ms. Owens stated that she lived in the house at least half of the time and sometimes more.

Action - A motion was made by Mr. Sturdivant seconded by Mr. Walker and carried 7-0 (Tucker opposed) to **approve PLN-BOA-24-00155: DEBORAH S. OWENS** – requests a conditional use permit for an un-hosted short term rental use in a Single Family Residential (R-1D) zone, on property located at 265 Meadow Valley Rd, based on Staff's recommendations and subject to the four conditions as listed.

2. **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.

Application representation – Ms. Rita Jones was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Ms. Jones had read them and if they agreed to the conditions. Ms. Jones stated that she had.

Board Comment and Questions – Mr. Clarke asked how Ms. Jones was going to fit eight people in two rooms as was stated on the conditions. Ms. Jones stated that there was a pullout couch and a bonus room, but that condition and number came from Staff.

Mr. Sturdivant asked if this was a duplex and if so, is the other portion of the property a long-term rental. Ms. Jones stated that it was owned by the property owners and she owns the other half. Additionally, Ms. Jones stated her neighbors were ok with this application.

Ms. Tucker stated her concern about the amount of parking on this busy street. Ms. Jones assured her there was enough room and that there was space for two cars in the driveway, as well as one car in the garage.

Action - A motion was made by Mr. Clarke seconded by Mr. Sturdivant and carried 6-1 (Tucker opposed) to **approve PLN- 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, based on Staff's recommendations and subject to the four conditions as listed.

3. **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

- b. 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.

Application representation – Ms. Donna Vaughn was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Ms. Vaughn had read them and if they agreed to the conditions. Ms. Vaughn stated that she had.

Board Comment and Questions – Ms. Carter stated there was a letter of opposition concerning the vetting of guests.

Mr. Walker asked if Ms. Vaughn was only going to allow four guests when there are three bedrooms. Ms. Vaughn stated that she keeps one door locked for personal storage.

Action - A motion was made by Mr. Clarke seconded by Mr. Walker and carried 7-0 to **approve 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, based on Staff's recommendations and subject to the four conditions as listed.

- 4. **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.

Application representation – Mr. Lucas Owens was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms.

Carter asked if Mr. Owens had read them and if he agreed to the conditions. Mr. Owens stated that he had.

Board Comment and Questions – Ms. Tucker asked if the property had more parking than just on the grass. Mr. Owens stated that the parking they have would be on street parking because this was a new construction project with no off-street parking.

Action – A motion was made by Mr. Gross seconded by Mr. Clarke and carried 6-1 (Tucker opposed) to **approve 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, based on Staff's recommendations and subject to the four conditions as listed.

5. **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:

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

Application representation – Mr. William McCray was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Mr. McCray had read them and if they agreed to the conditions. Mr. McCray stated that he had.

Board Comment and Questions – Mr. Sturdivant asked if Mr. McCray was affiliated with Crib CO, LLC. Mr. McCray stated that it was no longer in existence.

Ms. Tucker stated she had concerns about the PVA value and this could be an affordable house for someone.

Mr. Walker asked if this was in the buffer zone of the amount of STR's in a close proximity to each other. Mr. Mills indicated those regulations are not in effect yet.

Action – A motion was made by Mr. Walker seconded by Mr. Clarke and carried 5-2 (Sturdivant and Tucker opposed) to **approve 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, based on Staff's recommendations and subject to the four conditions as listed.

6. **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.

Action - A motion was made by Mr. Walker seconded by Mr. Clarke and carried 5-2 (Sturdivant and Tucker opposed) to **approve 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, based on Staff's recommendations and subject to the four conditions as listed.

7. **PLN-BOA-24-00182: FTF, 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.

Application representation – Mr. Chris Washington was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Mr. Washington had read them and if he agreed to the conditions. Mr. Washington stated that he had. Mr. Washington stated that he has owned this property for three years and has managed it as an AirBnb for the past two years, has a 4.9 host score, which is extremely difficult to maintain, and stays active at the unit and the neighborhood.

Board Comment and Questions – Ms. Tucker asked if Mr. Washington currently resided at the property. Mr. Washington indicated that he did not.

Ms. Carter stated that there was one letter of opposition.

Action - A motion was made by Mr. Clarke seconded by Mr. Sturdivant and carried 7-0 to **approve PLN-BOA-24-00182: FTF, 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 Embury Ave, based on Staff's recommendations and subject to the four conditions as listed.

8. **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.

Application representation – Mr. Johnathon Mayberry was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Mr. Mayberry had read them and if they agreed to the conditions. Mr. Mayberry stated that he had and he agreed with them.

Board Comment and Questions – Ms. Tucker stated that six people in an 880 square foot property seems like a lot. Mr. Mayberry stated that there were two bedrooms with large queen size beds and that he converted part of the living room into a den with two twin beds.

Ms. Tucker commented that there are seven STR's within 1000 feet of each this property.

Action - A motion was made by Mr. Walker seconded by Mr. Gross and carried 6-1 (Tucker opposed) to **approve 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, based on Staff's recommendations and subject to the four conditions as listed.

9. **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.

Application representation – Ms. Gaye Hoffman was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Ms. Hoffman had read them and if they agreed to the conditions. Ms. Hoffman stated that she had and she agreed with them.

Board Comment and Questions – Mr. Walker asked if it was acceptable to have STR's in the A-R zone now. Ms. Wade indicated that the house on the property is located in the R-1D zone so it was allowable.

Action - A motion was made by Mr. Sturdivant seconded by Mr. Gross and carried 7-0 to **approve 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, based on Staff's recommendations and subject to the four conditions as listed.

10. **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.

Application representation – Ms. Michelyn Bhandari was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Ms. Bhandari had read them and if agreed to the conditions. Ms. Bhandari stated that she had and she agreed with them.

Board Comment and Questions – Mr. Sturdivant stated there was a discrepancy on the application and asked if the house was three or four bedrooms. Ms. Bhandari stated that there were four bedrooms.

Public Comment – Jerry Hannigan, stated his opposition because the parking is already horrible and the short term rental will make it worse. Additionally, he did not think this was appropriate for the neighborhood.

Nicholas Thamaterus, Barberry Lane stated his opposition because of the increased traffic, increased noise, and deterioration of this historic neighborhood.

Anne Maria Stamiatas, agreed with the previous comments of opposition and stated she was concerned about the owner paving the backyard to accommodate parking.

Applicant Comment – Ms. Bhandari stated that there are no plans to pave the backyard and she understood the concerns of the neighbors. She stated that there would be a strict policy on noise and there would be cameras placed on the front to ensure nothing goes too far.

Board Comment and Questions – Mr. Clarke asked about parking and if she can assure the Board there is room for four cars. Ms. Bhandari stated that four cars have fit in the garage and driveway in the past, but depending on the size of the vehicle it might be a tight fit.

Ms. Tucker asked why they decided to make it a short term rental after 5 months of owning it. Ms. Bhandari stated that it was originally bought for their children to live during college, but given when they closed on the property, it was too late for long-term rentals at the time of year. Therefore, they are seeking permission for a short term rental.

Ms. Tucker asked if the applicant would be willing to reduced the amount of occupants and Ms. Bhandari stated she would be willing to reduce the occupancy.

Mr. Gross and Ms. Carter stated they were comfortable with a reduction to eight persons.

Action - A motion was made by Mr. Clarke seconded by Mr. Walker and carried 6-1 (Persley opposed) to **approve 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, based on Staff's recommendations and subject to the four conditions as provided by Staff and amending condition #2 from 12 individuals to 8.

11. **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:

- 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 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.

Application representation – Ms. Yuha Jung was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Ms. Jung had read them and if they agreed to the conditions. Ms. Jung stated that she had and she agreed with them.

Ms.. Jung stated she has owned the property for ten years, lived there for eight, and the last two she has rented it out and needs a permit for an STR. She stated she takes good care of the property, built the floor herself, and goes to check on the house frequently and knows what going on with the property.

Public Comment – Chanel Simmon, stated that the neighborhood had grave concerns about late night partying, parking, and retaining value in their homes.

Janine Spurlin, lives next to the applicant, stated that she was opposed to a short-term rental because of the amount of cars, the weeds in the front yard, and does not think it is good for the neighborhood.

Applicant Comment – Ms. Jung stated that this was her first time hearing complaints, but she stated that she would speak with her property manager and make sure all the issues would be addressed and in her experience most short term rentals at her property have had two cars, but she will make her garage available to guests in the future.

Board Comment and Questions – Ms. Tucker asked if there were three bedrooms and Ms. Jung stated that there were.

Action - A motion was made by Mr. Walker seconded by Mr. Gross and carried 7-0 to **approve 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, based on Staff's recommendations and subject to the four conditions as provided by Staff.

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.

Application representation – Mr. Eric Barnett was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Mr. Barnett had read them and if they agreed to the conditions. Mr. Barnett stated that he had and he agreed with them. Mr. Barnett stated that he has owned the property for 20 years and would like to use it as their summer home, and use it as a short term rental when they are not there. He indicated he has operated and maintained short term rentals in southwest Florida, that the house will be maintained well, and it has been upgraded to make it nicer.

Board Comment and Questions – Mr. Sturdivant asked what the house was used for when he moved out in 2010. Mr. Barnett indicated that it was a yearly rental.

Mr. Clarke stated that he was slightly concerned (and jealous) that he lived in Florida and there would not be someone to maintain the yard. Mr. Barnett stated that he has already paid someone to maintain it during the year and they have family here so they would be here a lot through the year to ensure it is

maintained.

Public Comment – Amy Gibson, 4241 Desdemona Way, stated she was against the application because of concerns of screening the renters that would coming through and if they would be safe to be around the children in the neighborhood.

Clay Gibson, 4241 Desdemona Way, stated that he was concerned of the well-being of the children on this street and the effect it would have on property values.

Nowaria Coobanga, 4245 Desdemona Way, stated his concern for this application because of the well-being of the neighborhood and its children and was concerned with the kind of people that would use a short term rental here.

Julianne Jefferies, 4248 Desdemona Way, stated she was against the application because of the parking, visibility, and the previously mentioned concern for the well-being of children.

Applicant Comment – Mr. Barnett stated that he agreed with a lot of what his neighbors had to say and that it was a great neighborhood. Mr. Barnett stated that he was going to be actively involved in the property and will manage the bookings himself. Additionally, Mr. Barnett stated that he had a 4.97 host score on AirBnb and would bring that same attention to this property.

Board Comment and Questions – Ms. Tucker agreed with the neighbors and was worried about the kids and asked if Mr. Barnett had someone in Lexington that could take care of an issue when they are away. Mr. Barnett indicated that his two daughters were here to address any issues.

Mr. Walker stated he understood the concerns of the neighborhood, but an short term rental is a legal use and would support this application.

Action - A motion was made by Mr. Walker seconded by Mr. Gross and failed 3-4 (Clarke, Sturdivant, Tucker, and Persley opposed) to **approve PLN-BOA-24-00183: BARNETT BUNGALOWS** – request for a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 4236 Desdemona Way, based on Staff's recommendations and subject to the four conditions as provided by Staff.

Board Comment and Questions – Ms. Carter stated that she was not comfortable with using different factors than what is applicable to potentially disapprove this short term rental application.

Action - A motion was made by Ms. Tucker seconded by Mr. Clarke and carried 4-3 (Carter, Gross, and Walker opposed) to **disapprove PLN-BOA-24-00183: BARNETT BUNGALOWS** – request for a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1D) zone, on property located at 4236 Desdemona Way, based on the following findings:

1. The Board has reviewed and considered the enumerated factors stated in the Ordinance (the number of STRs in the vicinity (0), the demonstrated compliance record of the applicant, the occupancy rate of the STRs in the general vicinity (0%), and whether other STRs have been cited as a nuisance). These factors do not aide the Board in determining the appropriateness of this use in this instance.
 2. However, the evidence shows that this is a narrow, dead end street and the houses have short driveways. These factors greatly limit the available of on- and off-street parking for the requested number of occupants (8). The lack of adequate parking shows this use could have an adverse influence on the surrounding neighborhood by greatly increasing traffic and decreasing available parking on a street with a large number of children in residence.
 3. The evidence also showed that the owner/applicant does not have adequate local oversight for the short term rental, which could lead to the short term rental creating a nuisance for the surrounding neighborhood with inadequate resources for the neighbors.
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.

Staff Presentation – Mr. James Mills directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Mills indicated that there was growing concern by Staff about the concentration of short term rentals along North Limestone and stated that there are a total of 24 short term rentals in this area. Additionally, Mr. Mills indicated that the parking would only be accessible from Harry Street, which Staff views as a sub-standard street.

Mr. Mills concluded by stating because of these factors, Staff is recommending disapproval of the application, and could answer any questions from the Board.

Applicant Presentation – Ms. Laura Coombs and Mr. Bob Baney, owners of the property, stated that they bought the home on July to cater to college students, but quickly fell in love with the house and did not trust college students to take care of it. Ms. Coombs stated that the house had fallen into disrepair and they had spent \$60,000 just to bring it up to where it needed to be. Ms. Coombs stated that they are applying for an short term rental so that they can recoup some of their investment, but want to help revitalize the neighborhood.

Mr. Baney stated that they have gotten to know the neighbors and area and love it and want to help revitalize a gem of a neighborhood and this will help them do so for the time being.

Action - A motion was made by Ms. Tucker seconded by Mr. Sturdivant and carried 7-0 to **disapprove 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, based on Staff's recommendations.

14. **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.

Staff Presentation – Mr. Dalton Belcher directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Belcher indicated that there were 10 short term rentals within 1000 feet of this property, but indicated that the main reason for disapproval is the many violations by the applicant. Mr. Belcher indicated that there were nine citations that had been given out over a three month period every week and there was an active listing as recently as November 26, 2024 that was removed on December 2, 2024. Mr. Belcher concluded by stating that Staff was recommending disapproval for the reasons stated above and could answer any questions from the Board.

Applicant Presentation – Ms. Kala Boudreaux, applicant, stated that she was sorry for not complying with the notices and that she did not get the notices at her primary residence until September. Ms. Boudreaux stated that she travels a lot for work, had gone through a difficult personal situation, and moved three times. She indicated that this is something she does on the side but that all the violations had been paid as of today.

Ms. Boudreaux stated that she was extremely invested in the community and the day-to-day maintenance. Additionally, Ms. Boudreaux stated that this house is near and dear to her heart and she has put a lot of work into the house to make it a short term rental.

Ms. Boudreaux concluded by stating that she appreciated the Board's time and asked for approval.

Action - A motion was made by Mr. Clarke seconded by Mr. Sturdivant and carried 7-0 to **disapprove PLN-BOA-24-00190: KALA BOUDREAUX** – request for a conditional use permit for an un-hosted short term rental within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Single Family Residential (R-1C) zone, on property located at 131 Penmoken Park, based on Staff's recommendations.

15. **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:

- 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. 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.

- c. 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.
- d. 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.

Staff Presentation – Mr. Dalton Belcher directed the Board's attention to the overhead screen on which he displayed an aerial view and a street view of the subject property. He briefly explained the particulars of this application and why the Staff had recommended disapproval. Mr. Belcher showcased photos of the proposed parking by the applicant and stated Staff's concerns for the amount of parking on the site given the amount of other short term rentals near the property. Additionally, Mr. Belcher made note of the compliance issues and stated that the applicant had 3 citations.

Mr. Belcher concluded that Staff was recommending disapproval for the reasons stated above and could answer any questions from the Board.

Applicant Presentation – Mr. Sean Byrne, applicant, stated that he had worked with Staff in trying to get this right and this was not an example of willfull non-compliance. Mr. Byrne stated that during the fall, his family uses the unit it University of Kentucky football games and emphasized he had not had a response from Building Inspection when he asked if he needed to pay the fine. He stated that in his time owning the property as an AirBnB he has had no issues with parking and that he would be willing to limit the property to 6 occupants.

Mr. Byrnes stated that it was his fault for not getting the permit in time and was just trying to do the right thing and would respect the Board's decision.

Board Comment and Questions – Mr. Sturdivant asked if there was a local property manager that he worked with. Mr. Byrne stated that Shelby Morcan was the property manager and manages the bookings and cleaning.

Mr. Clarke asked Mr. Byrne why Staff would get the impression he had been willfully non-compliant. Mr. Byrne stated that he could understand it, but there was confusion on his part because he thought that discussing it with Staff was enough to show that he was trying to make it right. He stated that he thought he was in compliance at first, but was ignorant to what hosted and un-hosted truly meant. As a business owner he acknowledged that he needs to follow the rules and he is more than willing to do so. He concluded by apologizing either way.

Ms. Carter stated that she had concern because she felt that the Board had disapproved townhome and condo development units recently. Ms. Wade stated that generally Staff has recommended approval of those applications, but the Board has disapproved them.

Action - A motion was made by Ms. Tucker seconded by Mr. Walker and carried 5-2 (Carter and Gross opposed) to **disapprove 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, based on Staff's recommendations.

16. **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.

Application representation – Mr. Adam Parritz was present on behalf of the application. Ms. Carter stated Staff had recommended approval of this application and that there were four conditions of approval. Ms. Carter asked if Mr. Parritz had read them and if they agreed to the conditions and Mr. Parritz indicated that he had and was comfortable with the conditions.

Mr. Parritz gave a brief overview of the property stating that they thought it would be the perfect short term rental for the neighborhood, that they had a dialogue with the neighbors and neighborhood representatives, and that the property would mostly be used on the weekends, easing week day traffic. Mr. Parritz stated that he did not want to see a limitless amount of AirBnb's to take over the neighborhood and this property fits into the newly updated guidelines that have not gone into effect yet. Additionally, Mr. Parritz stated that they would maintain the historic nature of the home and that they live near three short term rentals and it has not negatively impacted their lives.

Mr. Parritz concluded by stating he and his wife would be directly maintaining the property and had a direct stake in its success.

Public Comment – Jeffery Tuttle, 232 Sycamore Road, President of the Ashland Park Neighborhood Association, stated his and the neighborhood's opposition to the application, citing concerns with parking, traffic, and the proximity of another short term rental.

Janie Fergus, 308 S. Hanover Ave, stated her opposition and presented photos of the property that showcased workers parking in the yard and stated her concern with traffic, parking, and noise.

Rosalind Crinean, 1048 Fontaine Road, stated her opposition because she lives across the street from an short term rental and has had several issues with it.

Applicant Comment – Mr. Parritz stated he appreciated and heard the neighbor's concerns and noted that the house is currently being renovated and that is why the workers are there. Mr. Parritz assured them that his guests would not be parking in the yard and that he did not think the traffic and noise concerns would be as big a concern as the neighbors indicate. Mr. Parritz said that they are very close by and if there are any issues they would take care of them immediately and the house will be in a better state once the renovations are finished.

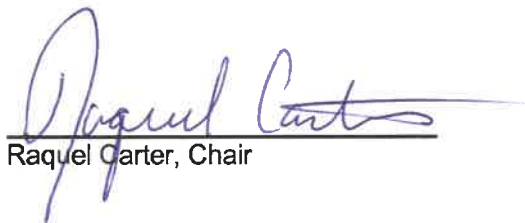
Board Comment and Questions – Ms. Tucker stated that she was concerned about the property and had been there several times, and had witnessed cars parked in the yard, on the sidewalk, and making the area muddy. She also stated she was concerned about the amount of parking. Mr. Parritz reiterated that guests will not be allowed to park in the yard.

Mr. Clarke asked the types of renovations going on in the house at the moment and Mr. Parritz indicated it was updating floors, the bathrooms, and painting.

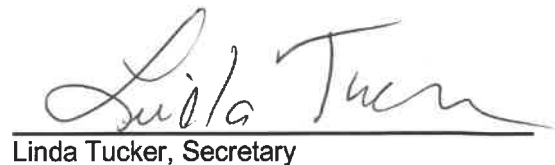
Action - A motion was made by Mr. Gross seconded by Mr. Gross and carried 5-2 (Sturdivant and Tucker opposed) to **approve PLN-BOA-24-00192: 1009 FONTAINE LLC** – requests for a conditional use

permit for an un-hosted short term rental within the defined Infill and Redevelopment Area and an Historic District Overlay (H-1) zone in a Single Family Residential (R-1C) zone, on property located at 1009 Fontaine Rd, based on Staff's recommendations and subject to the four conditions as provided by Staff.

- 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.



Raquel Carter, Chair



Linda Tucker, Secretary

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

