

MINUTES FOR THE BOARD OF ADJUSTMENT MEETING

July 14, 2025

- I. **CALL TO ORDER** - Chair Carter called the meeting to order at 1:30 p.m. in the Council Chambers, 200 East Main Street, Lexington, Kentucky.
- II. **ATTENDANCE** - Board members present were Harry Clarke, Branden Gross (acting as temporary Chair), Bob Sturdivant, Linda Tucker, and Chad Walker, and James Persley. Planning Staff members present were Traci Wade, Daniel Crum, Dalton Belcher, James Mill and Patti Haley. Others present were Brittany Smith, Department of Law; Joseph Edmiston, Division of Traffic Engineering and Josh Dezarn, Division of Engineering.
- III. **APPROVAL OF MINUTES**
There were no minutes to approve at this time.
- IV. **PUBLIC HEARING ON ZONING APPEALS**
 - A. **Swearing of Witnesses** - The Chair (Mr. Gross served as temporary Chair) announced that any applicant or objector, or anyone in the audience who plans to speak to any appeal before the Board, to please stand in order to be sworn in at this time. There was a large group of people who were sworn in.
 - B. **Sounding the Agenda** - In order to expedite completion of agenda items, the Chair sounded the agenda regarding any postponements, withdrawals, and items requiring no discussion.

Postponements

1. **PLN-BOA-25-00030: CANE MANOR LLC** – requested a conditional use permit for an un-hosted short term rental in an Agricultural Rural (A-R) zone on property located at 2593 Berea Road. (Council District 12)

NOTE: *The Applicant requested a postponement to the August 11, 2025 meeting.*

Action – Ms. Tucker made a motion, seconded by Mr. Clarke; motion carried 6–0 to **Postpone PLN-BOA-25-00030: CANE MANOR LLC** – requests a conditional use permit for an un-hosted short term rental in an Agricultural Rural (A-R) zone on property located at 2593 Berea Road until the August 11, 2025 meeting.

2. **PLN-BOA-25-00082: HOUSE & HOME LLC** – requested a conditional use permit for an un hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 605 Lane Allen Road. (Council District 10)

NOTE: *The Applicant requested a postponement to August 11, 2025 meeting due to illness.*

Action – Mr. Clarke made a motion, seconded by Mr. Sturdivant; motion carried 6–0 to **Postpone PLN-BOA-25-00082: HOUSE & HOME LLC** – requests a conditional use permit for an un hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 605 Lane Allen Road until the August 11, 2025 meeting.

C. Abbreviated Hearings

1. **PLN-BOA-25-00064: WILMES AND ASSOCIATES ARCHITECTS** – requested a variance to reduce the required side street side yard setback of a corner lot from thirty (30) feet to nineteen (19) feet in a Single Family Residential (R-1C) zone, on property located at 1803 Fairway Drive. (Council District 5)

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

- a. Granting the variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity. The subject property already features a porch in this area and with the existing landscaping and screening, the sunroom will be obscured from the street.
- b. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variances as soon as it was determined that they were needed, and prior to beginning construction.

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

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

Application Representation – Tom Wilmes, architect, was present to represent the application. He stated that his clients were agreeable to the Staff's recommendations and conditions as listed.

Action – Mr. Clarke made a motion, seconded by Mr. Persley; motion passed 6–0 to **approve PLN-BOA-25-00064: WILMES AND ASSOCIATES ARCHITECTS** – requesting a variance to reduce the required side street side yard setback of a corner lot from thirty (30) feet to nineteen (19) feet in a Single Family Residential (R-1C) zone, on property located at 1803 Fairway Drive, based on Staff's recommendations and subject to the two conditions as listed.

2. **PLN-BOA-25-00076: ANDERSON-VILLAGE AT GREAT ACRES, LLC** – requested a variance to reduce the required setback between an animal hospital or clinic and a residential zone from one hundred (100) feet to forty-three (43) feet in a Corridor Business (B-3) zone, on property located at 130 Lucille Drive. (Council District 2)

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The use will remain completely indoors mitigating any noise disturbance for the future residential properties.
- b. The location of the existing split-zoning on the lot is a special circumstance that contributes to the justification of the requested reduction. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance as the applicant has applied for the variance as soon as it was determined that it was needed and prior to construction.

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

1. Client and customer entry shall be limited to the southwest side of the commercial structure.
2. A Zoning Compliance Permit and Certificate of Occupancy shall be obtained from the Divisions of Planning and Building Inspection prior to opening the facility.

Application Representation – Richard Murph, attorney, and Clay Goodman, Anderson Communities leasing manager, were present to represent the application. He stated that he and Mr. Goodman were in agreement with the recommendations and conditions made by the Staff.

Action – Mr. Sturdivant made a motion, seconded by Mr. Persley; motion carried 6–0 to **approve PLN-BOA-25-00076: ANDERSON-VILLAGE AT GREAT ACRES, LLC** – requesting a variance to reduce the required setback between an animal hospital or clinic and a residential zone from one hundred (100) feet to forty-three (43) feet in a Corridor Business (B-3) zone, on property located at 130 Lucille Drive, based on Staff's recommendations and subject to the two conditions listed.

3. **PLN-BOA-25-00070: UNITARIAN UNIVERSALIST CHURCH OF LEXINGTON** – requests to amend an existing conditional use permit for a place of religious assembly in order to construct a shed in a Single Family Residential (R-1B) zone, on property located at 3564 Clays Mill Road. (Council District 9)

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

- a. The proposed use should not adversely affect the subject or surrounding properties. The shed will be used by the applicant to store tools and equipment for the upkeep of the property, with no planned expansion of the church's operations.
- b. 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 project shall be completed in accordance with the submitted application materials and an amended site plan, depicting the requirements below and subject to any alterations required throughout the permitting process.
2. All necessary permits and approvals shall be obtained from the Divisions of Planning, Building Inspection, Environmental Services and Engineering prior to construction.
3. The remaining conditions (#3 through #5) previously approved by the Board on October 14, 2024 shall remain in effect.

Application Representation – Carri Lyda-Lucier was present to represent the application. She stated that they were requesting a permit for a shed the church needed to store tools to maintain their large property. Ms. Lyda-Lucier stated that she agreed with the recommendations and conditions recommended by Staff.

Action – Ms. Tucker made a motion, seconded by Mr. Sturdivant; motion carried 6–0 to **approve PLN-BOA-25-00070: UNITARIAN UNIVERSALIST CHURCH OF LEXINGTON** – requesting to amend an existing conditional use permit for a place of religious assembly in order to construct a shed in a Single Family Residential (R-1B) zone, on property located at 3564 Clays Mill Road, based on Staff's recommendations and subject to the three conditions listed.

4. **PLN-BOA-25-00083: CATHERINE DENNEHY** – requests a conditional use permit for a home-based business in order to establish a personal training facility in a Townhouse Residential (R-1T) zone, on property located at 653 Declaration Court. (Council District 6)

The Staff Recommends: Approval, for the following reasons:

- a. Approval of the proposed conditional use should not adversely affect the subject or nearby properties, provided that all necessary permits and approvals are secured. Additionally, such activities will occur during daytime hours and will only feature a limited amount of traffic to the site between Monday and Friday.
- b. All necessary public services and facilities are or will be available and adequate for the proposed use.
- c. Adequate parking is available on the subject property and on-street parking is available in the immediate vicinity.

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

1. The property shall be operated in accordance with the submitted application materials and site plan, subject to any alterations required throughout the permitting process.
2. All necessary permits and/or approvals shall be obtained from the Divisions of Planning and Building Inspection, as well as necessary state and federal agencies, prior to construction (if necessary) and occupancy.
3. Hours of operation for client visitors to the business shall be no earlier than 10 a.m. and no later than 8 p.m.
4. The use shall be limited to a maximum of two clients on-site at one time.
5. The applicant may only use up to 300 square feet of the garage space for the home-based business for personal training use.
6. All classes and instruction must occur within the dwelling unit.
7. Only residents of the dwelling unit can provide personal training sessions.

Application Representation – Catherine Dennehy was present to represent her application. She stated that she is requesting to put a personal training area in the garage. She stated that she agreed with the Staff's recommendations and conditions.

Board Questions and Comments – Mr. Clarke asked Mr. Dennehy if she was the owner of the property. She stated that she was not but had written permission from the owner. Mr. Clarke asked Ms. Brittany Smith, Law Department, if the letter provided by the owner was adequate. She stated that it was fine.

Ms. Tucker stated that there was a letter from a neighbor that had concerns about adequate parking. Ms. Dennehy stated that there was one parking spot in the garage, one next to the house, and two parking spots in the driveway. She stated that clients would be signing agreements stating that they would only park in designated spaces and would not block sidewalks or mailboxes. She stated that if there were any issues with parking, she would speak to the neighbor with concerns.

Action – Mr. Persley made a motion, seconded by Mr. Clarke; motion carried 6–0 to **approve PLN-BOA-25-00083: CATHERINE DENNEHY** – requesting a conditional use permit for a home-based business in order to establish a personal training facility in a Townhouse Residential (R-1T) zone, on property located at 653 Declaration Court, as recommended by Staff and subject to the seven conditions listed.

D. Discussion Items

1. **PLN-BOA-25-00066: EL TENAMPA, LLC** – requests a conditional use permit to establish a nightclub and a variance to reduce the required setback between a nightclub and a residential zone from 100' to 90' in a Neighborhood Business (B-1) zone, on property located at 1910 and 1914 Oxford Circle. (Council District 11)

The Staff Recommends: Approval of the variance, for the following reasons:

- a. Granting the variance should not adversely affect the subject or surrounding properties, nor alter the character of the general vicinity, as the area features a mix of commercial and residential uses.
- b. The portion of the residential zones within 100-foot of the subject property is Oxford Circle's right-of-way and is a unique circumstance as the closest residentially zoned dwelling units are over 100 (100') feet away.
- c. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed and prior to occupying the space.

The Staff Recommends: Approval of the conditional use, for the following reasons:

- a. The proposed nightclub should not adversely affect the subject or surrounding properties, as the subject property has functioned in a commercial capacity throughout much of its history.
- b. The general vicinity features a mix of commercial and residential uses. The inclusion of conditions prohibiting outdoor speakers and outdoor live entertainment, as well as minimal amplification of other noise, should limit nuisances to the surrounding properties.
- c. 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 nightclub shall be operated in accordance with the submitted application materials and site plan.
2. The hours of operation of the nightclub shall be limited to Friday through Sunday, no earlier than 8:00 p.m. or later than 2:00 a.m.
3. Outdoor live entertainment and outdoor speakers shall be prohibited.
4. The properties shall be soundproofed to the maximum extent feasible, and the doors shall remain closed during the operation of the nightclub.
5. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to initiation of the use.
6. The conditional use shall become null and void should the applicant no longer operate the nightclub at this address.

Application Representation – Ted Houlehan, attorney for the applicant, was present to represent the application. Mr. Berto Torres (applicant) and Jehoshaphat Cordona (Interpreter) were also present. Mr. Houlehan stated that the applicant wanted to add a karaoke room to the existing property, which would be properly soundproofed. Mr. Houlehan stated that "nightclub" was not an accurate characterization of the proposed plan; it was a karaoke room. He also mentioned that there was a good distance between the applicant and the adjacent businesses and there was plenty of parking available. Mr. Houlehan stated that the property was ten (10') feet from the residential zone.

Board Questions and Comments – Ms. Tucker asked for clarification about the distance of the property

from the residential zone. Mr. Houlehan stated that the property was not abutted to the residential zone, but the parking lot was, and he stated that it would provide a buffer from the residential zone. The applicant stated that the property would not cause issues like a nightclub.

Citizen Comments – Ryan Van Daniker, owner of business at 1812 Oxford Circle, stated that his business was adjacent to the applicant's property. He stated that there have been multiple issues with visitors at the applicant's property. This included throwing bottles, urinating in the parking lot, and generally making a mess. He stated that this would be even worse with the proposed change. He stated that he could hear the noise from the property from inside of his business at 12:00 a.m. He stated that he assumed this was the case for the residential properties nearby as well. He stated that he was concerned about security issues that may arise.

Tim White, 1824 Oxford Circle Drive, has owned his business/property since 1977. He mentioned that there was trash and some altercations caused by the patrons of El Tenampa. He stated that the property owned by the applicant falls within the Cardinal Valley Owners Association. He stated that the applicant did not participate, pay dues or contribute to the expense of lighting of this area or any repairs needed. He expressed his concern that this expansion would cause more issues for the renters of these properties.

Applicant Rebuttal – Through the interpreter, the applicant stated that things were okay and people were only having fun. He further stated that he has been trying to clean up after closing time. Mr. Houlehan stated that the applicant just took over the lease in June 2024 and many of the long-term concerns had occurred before he moved in. He stated that he was going to advise his client to be a gracious neighbor and support the association and share in its expenses.

Board Questions and Comments – Ms. Tucker inquired as to how the applicant was going to deal with additional noise. Mr. Houlehan stated that the applicant was going to use soundproofing to keep the noise level down. Ms. Tucker expressed concern about the trespassing and the trash. Mr. Torres stated that they currently have security, and they clean up the mess, but it just gets dirty again. Mr. Torres stated that the security guard at the business did not allow patrons to take any trash out. Ms. Tucker recommended that Mr. Torres communicate with the other business owners to work things out. Mr. Houlehan stated that he would be advising the applicant to do so. He stated that they were seeking a request for a nightclub and to shrink the distance between the business and the residences. Mr. Walker asked for confirmation of the time that the business would transition to a nightclub. He stated that the hours that were recommended in Staff's conditions were agreeable to his client.

Action – Mr. Clarke made a motion, seconded by Mr. Persley; motion carried 4-2 (Tucker and Sturdivant opposed) to **approve PLN-BOA-25-00066: EL TENAMPA, LLC** – requesting a conditional use permit to establish a nightclub and a variance to reduce the required setback between a nightclub and a residential zone from 100' to 90' in a Neighborhood Business (B-1) zone, on property located at 1910 and 1914 Oxford Circle, based on Staff's recommendations and the six conditions listed.

2. **PLN-BOA-25-00078: TURNER MANAGEMENT LLC** – requested a variance to reduce the least dimension for common areas from one hundred (100) feet to eighty-five (85) feet in a Planned Neighborhood Residential (R-3) zone, on property located at 5447 Tates Creek Road. (Council District 12)

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 variances.
- b. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in unnecessary hardship or deprive the applicant of the reasonable use of their land. The proposed visitor parking can be in an alternative location within the development without impacting the density of the project.

Staff Presentation – Mr. Mills stated that the plan provided by the applicant and approved by the Planning Commission showed a large amount of common area. In the application for the variance being requested now, that area is designated as parking. Mr. Mills used the overhead to show an aerial view

of the property, pointing out that the property sat on the county line for Fayette and Jessamine Counties. Referring to Article 1–11 of the Zoning Ordinance, Mr. Mills read the definition of common area, which is a specific type of usable outdoor area which is managed and maintained for common use by groups of residents, occupants, or users of a development. Common areas are owned by a private individual or entity, such as an owner's association or other mechanism. Common areas should be designed to enhance the visual character of the area, protect public safety, and minimize conflicts with adjacent land uses. Further, Mr. Mills reviewed Article 20-5(b)(2) which stated that the least dimension for a common area is one hundred feet (100').

He explained the findings required for a variance - that granting the variance would not adversely affect public health, safety or welfare, and would not be a nuisance to the public. Also, that the variance arises from special circumstances that do not generally apply to land in the general vicinity or same zone. Lastly, that the strict application of the regulation would deprive the applicant of reasonable use, or the circumstances are the result of actions by the applicant after the adoption of the zoning regulation.

Board Questions and Comments – Mr. Sturdivant asked Mr. Mills if the plan he showed on the overhead was similar or the same as the plan approved by the Planning Commission. Mr. Mills stated that the plan approved by the Planning Commission did not include parking. Ms. Wade clarified that the parking was on the plan that was approved by the Planning Commission, but the plan's approval was contingent on the Board approving the variance, which would allow a smaller open space and therefore more parking as depicted on the site plan.

Application Presentation – Nathan Billings, attorney for applicant, was present to represent the application. Mr. Billings stated that Mr. Turner bought the property in June 2023; before buying the property, he and Mr. Turner met with Staff. He stated that half of the farm being developed is in Fayette County, and the other half is in Jessamine County. Since the purchase, they have had to deal with Fayette and Jessamine Zoning and Subdivision Ordinances, which are quite different. There is an additional property next to the two parcels, owned by another developer. They have worked to integrate the entire development together. They obtained a zone change approval by the Planning Commission in December 2023. The City Council approved the change in January 2024.

One of the key features Mr. Billings pointed out was the amount of green space that was created as a buffer. He noted that the development is well below the maximum density permitted in the Zoning Ordinance. Mr. Turner made decisions to maintain green space buffers along the Tates Creek Road side, as well as along the drainage area running through the property. The property is proposed to be developed with multiple housing options. It will be comprised of single-family homes, townhomes, and in Jessamine County there are estate lots. While the Ordinance requires a one hundred foot (100') by one hundred foot (100') green space, the development will provide 4.7 acres of green space – twenty times the minimum amount required. The final development plan was approved by the Planning Commission on May 8, 2025, with the condition that a variance be granted by the Board of Adjustment. The green space will be maintained by the Homeowners Association. Mr. Billings stated that he is requesting a variance to reduce the minimum dimension of the space, not for a lesser amount of green space. He requests that the Board reconsider the criteria for variances and use the criteria for variance which arises from special circumstances that do not generally apply to land in the general vicinity or same zone. Mr. Billings also stated that the strict application of the regulation would deprive the applicant of reasonable use of the land and devalue the property considerably.

Staff Rebuttal – Mr. Mills stated that Mr. Billings has only mentioned green space, but the land in question is common open space, to be used by all residents. Green space and common open space are not the same, they are defined separately in the Zoning Ordinance.

Chair Gross called a brief recess at 2:56 PM. The Board reconvened at 3:08 PM.

Action – Mr. Clarke made a motion, seconded by Mr. Walker; motion carried 6–0 to **approve** as amended **PLN-BOA-25-00078: TURNER MANAGEMENT LLC** for a variance to reduce the dimensional requirement for common areas from 100 feet to 85 feet in an R-3 zone, based on the following findings of fact:

- a. Granting the variance should not adversely affect the public health, safety or welfare of the general vicinity, or cause a hazard or a nuisance, or alter the character of the general vicinity, because the development plan still has over 10,000 of total common area open space (36% of the property) set aside. The approved plan also maintains the rural character of the immediate vicinity by preserving a large percentage of the property for open space.
- b. Granting the variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the Fayette and Jessamine County lines split the property, requiring the property owner to navigate two sets of zoning regulations. A utility easement and stream also bisect the property, and a pump station will need to be relocated. These factors limit the applicant's ability to relocate housing units and associated parking spaces to other locations within the development.

This approval is conditioned upon the following:

1. The variance should be denoted on the development plan and construction shall be in accordance with the submitted application materials and revised site plan.
2. All necessary permits and approvals shall be obtained from the appropriate divisions.

3. **PLN-BOA-25-00080: CHRISTINA HOWARD** – requested variances to increase the allowable size of a driveway from twenty-four (24) feet to forty (40) feet and reduce the required front yard setback from thirty (30) feet to half-a-foot (0.5) in a Single Family Residential (R-1C) zone, on property located at 2208 Harrodsburg Road. (Council District 10)

The Staff Recommends: Approval of a lesser variance of five (5) feet for the front yard setback and a lesser variance of thirty (30) for the driveway width, for the following reasons:

- a. Granting the lesser variance should not adversely affect the public health, safety, or welfare of the general vicinity, nor alter the character of the general vicinity.
- b. The location of the subject property along a major arterial roadway with an annual average daily traffic (AADT) of more than 32,000 vehicles creates safety concerns for the applicant when backing out of, or backing into, the driveway. The alternative design allows for the applicant to utilize a turn-around area in order to pull out onto Harrodsburg Road.
- c. The granting of this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the applicant has applied for the necessary variance as soon as it was determined that it was needed and prior to construction.

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

1. Construction shall be in accordance with the submitted application materials and revised site plan depicting the alternative driveway and turn-around design as provided by Staff.
2. All necessary permits and approvals shall be obtained from the Division of Building Inspection prior to paving.

Application Representation – Colin Howard was present to represent the application.

Staff Presentation – Mr. Mills reviewed Article 1-11 of the Zoning Ordinance defining a front yard and driveway. He referenced Article 8-17 stating that the front yard minimum is thirty feet (30'). He further stated that according to Article 16-5(a) where lot frontage is forty feet (40'), the maximum driveway width is twenty-four feet (24'). According to Article 16-5(a)(4)(a), no parking, loading or unloading shall be location in any front or side yard. Mr. Mills referred to an aerial map on the overhead. Mr. Mills stated that he had spoken with Traffic Engineering staff. He acknowledged that Harrodsburg Road is a very busy road; however, Traffic Engineering wants to continue to limit parking in the front yard. Traffic Engineering proposed a design that decreased the width and put the turnabout spot further back. Mr. Mills stated that there were not many turnabouts in the immediate area to reference, although the one that did exist was fifteen (15') to twenty feet (20') back from the right-of-way. This distance would not work for the property, as it would cut the property up. Mr. Mills stated that by trying to find a balance, Traffic Engineering proposed the redesigned site plan, as referenced on the overhead projector, which has a five-foot (5') setback.

Board Questions and Comments – Mr. Gross asked for clarification between the requested variance site plan and that of the lesser variance proposed by Staff. He asked whether the proposed plan would allow two cars to park and maneuver. Mr. Mills stated that Traffic Engineering felt that it was adequate for two cars.

Mr. Clarke confirmed that the turnaround was not for additional parking. Mr. Mills stated that any turnabouts that have been approved in the past were strictly to turn around to enter a busy street not for parking.

Applicant Rebuttal – Mr. Howard stated that he could attest to the fact that the traffic was very heavy along Harrodsburg Road where the property is located and he personally had witnessed wrecks in front of the property. He stated that he had designed the proposed site plan. He stated that he backed out with his own car, while attempting to turn around in the current driveway, and he felt that his design was necessary to turn around.

Board Questions and Comments – Mr. Gross asked Mr. Howard if he thought it would be beneficial to work with Traffic Engineering to come up with the best solution. Mr. Howard stated that he would be willing to work with Traffic Engineering. Mr. Gross asked if Staff was agreeable. Staff was agreeable.

Citizen Comments – Henrietta Johnson (2216 Harrodsburg Road) stated that there were several houses that have driveways that back out into Harrodsburg Road without turnabouts. She stated that at the location of the property, there is an incline going towards town, visibility is poor, and there is a hill nearby, and there are many cars that drive fast over the hill. The previous owner of the property was able to turn around in the twelve-foot (12') wide driveway. Mr. Gross confirmed with Traffic Engineering that they would consider the traffic triangle when they worked with Mr. Howard.

Action – Mr. Clarke made a motion, seconded by Mr. Persley; motion carried 6-0 to **continue PLN-BOA-25-00080: CHRISTINA HOWARD** – requesting variances to increase the allowable size of a driveway from twenty-four (24) feet to forty (40) feet and reduce the required front yard setback from thirty (30) feet to half-a-foot (0.5) in a Single Family Residential (R-1C) zone, on property located at 2208 Harrodsburg Road to the August 11, 2025 Board meeting.

4. **PLN-BOA-25-00057: KIM AND MICHAEL RUBEY** – requests a conditional use for a market garden and a variance to increase the allowable size of all building's accessory to the dwelling unit from 625 square feet to 1,216 square feet (103.9% of the existing residence) in a Single Family Residential (R-1C) zone, on property located at 693 Sheridan Drive. (Council District 10)

The Staff Recommends: **Disapproval of the variance**, 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.
- 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 Staff Recommends: **Approval of the conditional use**, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties, as it should not create disturbing levels of traffic, noise, or odors. The property is of sufficient size to serve the limited number of clients to the home on a daily and weekly basis.
- 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. All lighting shall be designed to not trespass onto adjoining properties.
2. On-site sales shall be limited to Fridays from 12:00 p.m. to 4:00 p.m.
3. All necessary permits, including a Zoning Compliance Permit and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to initiation of the market garden use.
4. The conditional use shall become null and void should the applicant no longer reside at this address.

Staff Presentation – Mr. Mills referenced an aerial view of the property on the overhead. He reviewed the Market Garden definition and referred to Article 1-11 for the definition of a home office. He further stated that Article 15-5(c) states that accessory buildings square footage may not exceed 50% of square footage of the building which they are accessory to. He stated that the applicants are requesting

that they build a greenhouse and move their microgreen garden from the garage to the greenhouse. The applicants requested that they use their garage as a home office in 2020. Mr. Mills stated that Staff determined that the applicant would need to request a conditional use permit and a variance. Mr. Mills restated the reasons for disapproval of the variance. He stated that the applicants request would exceed 100% of the principal structure (home) which is not allowed in a residential zone. He stated that the Staff approved the conditional use request to continue to allow operation as is, or with the addition of accessory space if the accessory space did not exceed 50% of the principal structure's square footage.

Board Questions and Comments – Mr. Gross asked to confirm the square footage allowed for accessory buildings. Mr. Mills clarified that while the garage was counted in the current square footage, a canopy covered area on the accessory building was also considered in this square footage, leaving the applicant very little accessory space available.

Application Representation – Michael and Kim Rubey applicants were present to represent their application. Mr. Gross reiterated the recommendations by Staff and asked the applicants if they were agreeable to Staff's recommendations on the variance and conditional use. Mr. Rubey said that they would still like to get the variance approved. Mr. Rubey stated that they built their garage years ago and part of the garage was a deck with a 'shed roof.' They need a dedicated space with a controlled climate so that they can grow their microgreens year-round. Mr. Gross asked if the garage would be something they would be willing to tear down. Mr. Rubey stated that they would rather not tear it down. He described the twenty-foot (20') by thirty-foot (30') space they would like to build. They need to be able to clean the walls and floors and include a floor drain. Ms. Rubey stated that this is their livelihood, and they have a very large lot. Mr. Rubey used the overhead to display the aerial view and stated that only one neighbor would be able to see the greenhouse. Ms. Rubey requested that the Board consider the percentage of accessory use based on the size of the lot instead of the size of the principal structure.

Board Questions and Comments - Mr. Clarke stated that the ordinance did not allow the Board to approve the variance and stated that he could not support this variance. Mr. Sturdivant asked the applicant if they had made any cost comparison of building the accessory building versus renting space to use for their business. Mr. Rubey stated that they were trying to keep their local footprint as small as possible and there were too many variables with renting a space that could not be climate controlled and monitored closely. The applicants said that they agreed on the conditions for approval of a conditional use permit as recommended by the Staff.

Action – Mr. Sturdivant made a motion, seconded by Mr. Persley to:

- 1) **approve PLN-BOA-25-00057: KIM AND MICHAEL RUBEY** – requesting a conditional use for a market garden, and
- 2) **disapprove PLN-BOA-25-00057: KIM AND MICHAEL RUBEY** – requesting a variance to increase the allowable size of all building accessories to the dwelling unit from 625 square feet to 1,216 square feet (103.9% of the existing residence) for property in a Single Family Residential (R-1C) zone, on property located at 693 Sheridan Drive, based on the Staff recommendations and conditions as listed. The motion passed 6-0.

Short Term Rentals Staff Presentation – Mr. Belcher gave an overview of the history of STR Zoning Ordinances, and the changes that have been incorporated into the current ordinance and its applications. The Board then proceeded to hear all conditional uses for short term rentals.

5. **PLN-BOA-25-00039: JESSICA DAWN TAYLOR** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 856 Della Drive. (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.
- d. There are no other short-term rentals within the required 600-foot buffer and the concentration of short-term rentals within 1,000 feet of the subject property is 0.33%.

- 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 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 – Jessica Taylor was present to represent her application. Ms. Taylor stated that she lived on the property with her son and had no plans to move. She reiterated some of the relevant justifications for granting her a conditional use permit. She stated that she could have requested a ten-person occupancy based on the number of bedrooms on the property, but she was only requesting six (6) occupants. Hours of operations would be check-in at 4:00 pm and check out at 11:00 am with a minimum two night stay, which would be mainly on the weekends. She stated that she had someone to monitor the STR if she had to leave town. She stated the rules she required of guests and stated that she had a driveway that would accommodate a maximum of three vehicles. She stated that she spoke with neighbors, who were agreeable to the STR.

Board Questions and Comments – Ms. Tucker confirmed with Ms. Taylor that she lived at the property. Ms. Tucker also asked if she had rented the property out the previous weekend, as she noted that she had driven by the property and had seen out of state license plates in her driveway. Ms. Taylor stated that she had not rented out her place yet; she had out of state guest(s) staying at that time. Mr. Sturdivant confirmed that Ms. Taylor was going to manage this property.

Citizen Comments – Richard Anderson, 888 Della Drive, stated that he felt that the neighbors should have been notified first, not when the plan was “ready to be rubber stamped.” Mr. Gross stated that that was not the case; the Staff makes recommendations which the Board can choose to support or not support. Mr. Anderson stated that he had no problem with the STR as long as traffic was not impacted. He stated that the traffic has created a very loud and busy one lane street.

William Sparks, 880 Della Drive, stated that there is no parking and traffic is miserable. He asked who was going to monitor the parking if the STR was approved. He stated that he did support this plan.

Applicant Rebuttal – Ms. Taylor reiterated that the occupants would be required to park in the driveway, and she could even request information on the cars that will be parked there. She also said she could make her information available to the neighbors if they needed to contact her about any issues.

Action – Mr. Clarke made a motion, seconded by Mr. Persley; motion carried 6–0 to **approve PLN-BOA-25-00039: JESSICA DAWN TAYLOR** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1C) zone, on property located at 856 Della Drive, as recommended by Staff and subjected to the four conditions listed.

- 6. **PLN-BOA-25-00059: HR DAVIS REAL ESTATE LP** – requests a variance to reduce the spacing requirements between short-term rentals from one (1) mile (5,280 feet) to 2,100 feet and a conditional use permit for an un-hosted short term rental in an Agricultural Rural (A-R) zone, on property located at 4901 Briar Hill Road. (Council District 12)

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

- a. The proposed variance is no longer necessary because a nearby application was not approved by the Board.

The Staff Recommends: **Approval** of the conditional use, for the following reasons:

- a. The proposed use should not have an adverse influence on the uses occurring on the subject, adjoining, or adjacent properties, as the structure is large enough to accommodate the proposed number of users and is screened from view from adjoining properties by existing vegetation. All

- necessary public services and facilities are available and adequate for the proposed use.
- b. There is no record of short term rental compliance issues with the applicant.
 - c. No short term rentals in the area have been cited as a nuisance.
 - d. The subject property is not located in census tract that has been identified as vulnerable to involuntary displacement based on socio-economic demographics.
 - e. The property has adequate parking spaces (9) to accommodate the proposed number of individuals (10).
 - f. The entrance to the property and the driveway is continuously lit and there are floodlights leading to and near the unit.
 - g. There are adequate fire safety measures present in the unit, and the unit is located approximately 535 feet from an existing fire hydrant.
 - h. There are no other short-term rentals within one mile of the subject property.

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 ten (10) individuals.
3. Provisions for handling sewage shall at all times comply with the requirements of the Fayette County Health Department.
4. Applicant shall provide documentation from the Health Department, or whomever the Health Department designates, to verify the sufficiency of the septic tank for the proposed number of occupants of the short term rental to the Division of Planning.
5. The entrance to the property shall be lit and easily visible from the roadway.
6. 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.
7. 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 – Thomas Travis, attorney for the applicant, was present to represent the application. He reviewed the application request and stated that they had already obtained the Sewer Inspection required. He also stated that he had spoken with Bruce Simpson, attorney for Louis Nally, who opposed the plan, and they had to come to agreement on most of the concerns, resolving most of them. Mr. Travis requested that the plan be approved. Mr. Gross confirmed that the applicant agreed with the Staff's recommendation and conditions.

Citizen Comments – Bruce Simpson, attorney for Louise Nally a nearby property owner, stated that Ms. Nally owns a working farm with horses and cattle. Mr. Simpson stated that he and Mr. Travis had come up with additional conditions agreeable to both parties. He stated that the only concern that still existed was the condition that there be no outside sound amplification allowed. He stated that sound amplification could "spook" the very expensive animals existing on the neighboring properties. He also requested that the conditions proposed by the applicant and opposition be incorporated with the Staff's conditions.

Applicant Rebuttal – Mr. Travis stated that the applicant agreed to all but the amplification condition and stated that the applicant would comply with any noise ordinances and felt that should be sufficient.

Board Comments and Questions – Mr. Gross asked Mr. Travis if there was double fencing around the property. Howard Davis, applicant, stated that there was double fencing on the back of the property, but not on the east, west or front side of the property. Mr. Davis referred to the overhead projector for an aerial view of the property and identified the location of the double fencing. Ms. Tucker asked the applicant to confirm that his current address was in Houston, Texas. He stated that his wife resided on the property 80% of the time and he went back and forth between both properties.

Staff Rebuttal – Mr. Belcher stated that some of the conditions presented were not going to be reasonable to enforce, as several are already being reinforced by other authorities. Mr. Belcher had a concern about the lighting condition listed.

Board Questions and Comments – Mr. Sturdivant confirmed that Mr. Simpson's client was not adjacent to the property in any way. Mr. Simpson stated that noise carries quite far in the country. He stated that

a reasonable request was being made by prohibiting sound amplification. Mr. Sturdivant asked how it would be determined whether a radio or car horn would be a violation. Mr. Simpson stated that any noise would be considered a violation. Mr. Gross asked Mr. Simpson where his client lived in relation to the nearby Army Depot. Mr. Simpson said he was not familiar with the location of the Army Depot.

Staff Rebuttal – Mr. Belcher restated his concern that reinforcing a general concept of sound amplification would be difficult if not impossible to enforce without more specific language. He stated that the way the proposed condition read, no noise would be acceptable. Mr. Simpson stated that the condition applied to outside sound amplification systems.

Action – Mr. Gross stated that he was not in support of any of the additional conditions agreed to by both parties. Mr. Sturdivant made a motion, seconded by Mr. Persely; motion carried 5-0 (Walker Recused) to 1) **accept withdrawal of PLN-BOA-25-00059: HR DAVIS REAL ESTATE LP** – requesting a variance to reduce the spacing requirements between short-term rentals from one (1) mile (5,280 feet) to 2,100 feet and 2) **approval of PLN-BOA-25-00059: HR DAVIS REAL ESTATE LP** - requesting a conditional use permit for an un-hosted short term rental in an Agricultural Rural (A-R) zone, on property located at 4901 Briar Hill Road, based on Staff's recommendations and subject to the seven conditions listed.

7. **PLN-BOA-25-00068: TAYLOR BARNES** – requests a conditional use permit for an un hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 588 Skyview Lane (Council District 2)

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 as a nuisance and the applicant has no history of compliance issues; however, based on a review of the ArcGIS concentration mapping data, there is one short term rental unit operating within the required 600-foot buffer area.
- c. The applicant does not meet any of the three provisions for relief set forth in Article 3-13(n) of the Zoning Ordinance.

Staff Presentation – Mr. Belcher referred to the overhead to display the buffer map and noted that there was another STR within six hundred feet (600'). The Staff also found that none of the relief provisions applied to the property.

Board Questions and Comments – Mr. Gross asked Mr. Belcher to leave the buffer map up on the overhead.

Application Representation – Taylor and Alex Barnes were present to represent the application. Ms. Barnes requested that the Board overlook the six hundred foot (600') requirement and instead use the percentage of STRs within one thousand feet (1000'). She stated that they would have strict rules and sufficient parking for two cars, cameras and noise sensors. They have someone in the area that could assist with any issues that arise. Ms. Barnes felt it would be good for the growing businesses and community.

Citizen Comments – Jeff Swain, 2907 Eminent Drive, Vice President of the Masterson Station HOA, stated that he was there to convey the collective objection of the HOA and other homeowners to the proposed STR. He stated that the property fell under the Green Hills Subdivision and according to Section 31 of the Deed of Restrictions it falls under the Masterson Station HOA jurisdiction. According to the Masterson Station HOA Deed of Restrictions, section 1, the property could only be used for a Single Family Home, no business shall be conducted on the property, and no noise or nuisance shall be allowed. He further stated that the association had sent a letter to the mayor requesting that LFUCG cease to grant conditional use permits for STRs in Masterson Station. He stated that there were nine properties that were granted permits without notifying the neighborhood associations as required by the ordinance. He further stated that noise complaints and nuisance complaints had consequences under the HOA deed of restrictions, which included fines and a possible lien on the property.

Board Questions and Comments – Mr. Gross stated that the Board does not weigh in on deed restrictions. Mr. Swain stated that they had received a letter from the city attorney stating, "that's not our problem" which

is why the HOA wanted to express to the applicants the potential violation. Mr. Gross stated that there was a hotline for turning in STR violations and illegal STRs. Mr. Swain stated that the city does not follow through on complaints. Mr. Gross stated that the Board did not allow illegal STRs that were reported to continue to operate.

Action – Ms. Tucker made a motion, seconded by Mr. Clarke; motion carried 6–0 to **disapprove PLN-BOA-25-00068: TAYLOR BARNES** – requesting a conditional use permit for an un hosted short term rental in a Planned Neighborhood Residential (R-3) zone, on property located at 588 Skyview Lane, based on the Staff's recommendations.

8. **PLN-BOA-25-00069: DUTCHMAN ENTERPRISES LLC** – requests a conditional use permit for an un hosted short term rental in a Mixed Low Density Residential (R-2) zone, on property located at 3204 Post Oak Court. (Council District 8)

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.
- d. There are no other short-term rentals within the required 600-foot buffer and the concentration of short-term rentals within 1,000 feet of the subject property is 0%.
- 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 ten (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 – Tanner Hoogerheide was present to represent the application. He stated that he was born and raised in Lexington and plans to stay in Lexington. He and his fiancée plan to move temporarily out of state for 1-2 years for schooling, but plan to move back and start a family at this property. He stated that he preferred an STR to a long-term rental because he will be returning to Lexington fairly often and would like to use the property when he is in town. He stated that the STR route would be best for him financially. He stated that there will be security camera coverage, up to ten guests, and his driveway and garage had adequate space for parking vehicles. He also stated that guests would be screened by AirBnB. He stated that he spoke with neighbors with concerns and explained the measures that would be in place and felt most of their concerns were alleviated. He stated that there would be support locally to manage the property.

Citizen Comments – Karen Hawkins, 1349 Post Oak Road, stated that she was opposed to this "Motel 6" in the neighborhood. She stated that this was a small, quiet neighborhood. She stated that several of the neighbors were opposed but did not attend because they thought the approval of the STR was a done deal. She requested that the Board deny the request.

Board Questions and Comments – Mr. Gross confirmed that Mr. Hoogerheide was agreeable to the conditions recommended with staff. Ms. Tucker asked if the property was currently being rented. He stated that it was not; he was waiting to get an approval from the Board before he pursued renting out his property.

Action – Mr. Clarke made a motion, seconded by Mr. Persley; motion carried 6–0 to **approve PLN-BOA-25-00069: DUTCHMAN ENTERPRISES LLC** – requests a conditional use permit for an un hosted short term rental in a Mixed Low Density Residential (R-2) zone, on property located at 3204 Post Oak Court, as recommended by Staff and subject to the four conditions listed.

9. **PLN-BOA-25-00075: ISLA PROPERTIES 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 377 Bob O Link Drive. (Council District 10)

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

- a. The three 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 as a nuisance; however, based on a review of the GIS concentration mapping data, there is one short term rental unit operating within the required 600-foot buffer area.
- c. The applicant does not meet any of the three provisions for relief set forth in Article 3-13(n) of the Zoning Ordinance.
- d. The applicant also has a documented history of compliance issues with the short term regulations, including a citation. The applicant has willfully violated the rules and regulations 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. Belcher stated the reason for disapproval, using the overhead to display a buffer map. He also noted that there was one violation for this property, which was appealed and upheld by the Code Enforcement Hearing Board. Mr. Belcher stated that there was another licensed STR within six hundred feet (600') and the relief provisions do not apply in this case. He reviewed the provisions of Article 3-13(n) one by one. Further no other STRs have been cited with violations.

Board Questions and Comments – Mr. Walker asked Mr. Belcher what the circumstances were with the currently licensed STR getting approved. Mr. Belcher stated that the other STR was grandfathered in, while the applicant's property had continued to operate without renewing the required license. When he went to reapply, the grandfathered property was already legally operating.

Application Representation – Joey Nolasco was present to represent the application. He displayed a photo of the other STR on the screen, and he stated that this was not representative of the condition of his STR, which had been operating since 2022. He stated that he had done extensive work inside and outside of the house. He stated that the property was being used to house his family when they came from out of town to visit, as well as a source of income. He stated that the reason his STR was not in compliance was "his own stupidity." He stated that he had gone through the process of getting grandfathered in but missed the fact that he needed to renew the license for 2025. He was requesting a variance but saw it as a reinstatement of his STR. He again restated the quality of the nearby STR versus his own.

Board Questions and Comments – Mr. Sturdivant asked Mr. Nolasco if he only received the one Notice of Violation and took care of it. Mr. Nolasco stated that it was true. Mr. Belcher stated that there was a difference between a Notice of Violation and a citation, which has a fine attached. The applicant stated that he got the citation, because he was unaware that he could not keep the STR open while appealing the process. He then stated that he appealed the citation because he felt there were a lot of changes being made with STRs. The citation was upheld, and he paid the fine. Mr. Belcher addressed Mr. Walker's previous question about the circumstances of the STR currently in place. He stated that during the grandfathering in process, the STR got a zoning compliance permit.

Citizen Comments – Earnest Parrott, 1885 Bluebird Lane, stated that he hated seeing the neighborhood becoming to a commercial neighborhood. He stated that he did not want to take residential away from long term tenants and owners.

Staff Comments – Mr. Mills clarified that there was a renewal notice sent, then two violation notices sent two weeks apart, and finally a citation letter was mailed. Ms. Tucker asked for clarification. Mr. Belcher clarified the dates for the notices. Ms. Wade stated that the Board had very little room to grant relief to STR owners. Mr. Walker asked for clarification on the distance between the applicant's property and the existing STR and the six hundred foot (600') circle. Mr. Mills stated that the operating property was very close to the edge of the circle, but in order to grant relief, the property needed to be bisected

by the circle. Mr. Clarke asked if the currently licensed property had any violations. Ms. Wade stated that the Divisions of Revenue and Building Inspection would have notified the Staff of any violations. Mr. Tucker mentioned that one option would be to confirm that the current STR had no violations. Ms. Tucker stated that her concern was that even if the current STR did have a violation, the applicants' property had also had violations. Mr. Belcher reported that the currently licensed STR had no violations as of April 23, 2025. Mr. Mills further reported that the nearby STR had been in compliance as of June 4, 2025.

Action - Mr. Persley made a motion, seconded by Ms. Tucker; motion carried 3–2 (Walker and Clarke opposed; Gross recused) to **disapprove PLN-BOA-25-00075: ISLA PROPERTIES 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 377 Bob O Link Drive, based on Staff's recommendations.

10. **PLN-BOA-25-00079: MERCY LLC** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1B) zone, on property located at 901 Wishbone Circle. (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.
- d. There are no other short-term rentals within the required 600-foot buffer and the concentration of short-term rentals in 1,000 feet of the subject property is less than 2%.
- 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. The 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 – Stephanie Quinn was present to represent the application. Mr. Gross confirmed that Ms. Quinn was agreeable to the four conditions recommended by the Staff. Ms. Quinn stated that two years ago, her family moved to Cincinnati. Ms. Quinn stated that she and her husband still maintained two homes. She stated that she and her husband recently decided to pursue renting the 901 Wishbone Circle as an STR. She stated that the house and property was very well maintained by herself and her husband. She explained that there were security cameras and they were installing noise sensors. Ms. Quinn also stated that they had just signed up with a property management company in Lexington to assist with managing the STR. She said that she and her husband wanted to be able to have access to the property as needed when they were in Lexington for work. She stated that the letters to the neighbors went out before she and her husband had the chance to speak with them. She stated that her neighbors were free to contact her by phone or text with any questions and concerns.

Citizen Comments – Jane Brannon, 945 Wishbone Circle, requested that the STR application be denied. She stated that her neighborhood was zoned as R-1B which meant that the area was zoned for single-family homes, parks, or model homes for new subdivisions. She said that the conditional use process was meant as a "release valve," not to use when a property is no longer desirable. She stated that there were no compelling reasons for this STR. Further she stated that the applicant's personal financial interests were not a reason to grant conditional use permits. She stated that the applicants and their family benefited from the rights and restrictions while they resided at the home and were "trying to benefit financially on their way out." She stated that the Board needed to consider the goal of

the zone, which is to create a community.

Zach Moscoe, 949 Wishbone Circle, stated that the applicant's property was located three hundred feet (300') from the boundary of Ecton Park – one of the busiest parks in Lexington. The streets get jammed into the neighborhood on the weekends when STRs are normally rented. He said that it was difficult and often dangerous to try and get in and out of the neighborhood at this time, especially with children in the streets. He stated that STR renters who were not familiar with the neighborhood and traffic could be dangerous. He stated that he had heard that renters were unvetted and not monitored. He referred to the support of the neighbors in the audience who wanted to protect character, livability and safety of the neighborhood.

Jessica Hastings, 905 Turkey Foot Road, stated that the neighborhood petitioned to have a speed study completed in 2022. She stated that Turkey Foot Road was the only road that feeds into Galaxie Drive and Wishbone Circle. She referred to the traffic study. She stated that the study showed that on average, there were 1,506 vehicles per day that passed through Turkeyfoot Road between Tates Creek Road and Romany Road. She stated that while the speed limit for city streets is 25 mph, the average speed was 30 mph, as stated by the traffic study. She stated that the study was done in September and October, not during the busiest months in the summer. She further stated that the neighborhood qualified for speed tables, yet the neighborhood declined. She added that a vehicle unfamiliar with the area knocked down her fence. She requests the STR be denied and asked all neighbors opposed to the STR to stand up.

Kristine Hankins, 908 Wishbone Circle, stated that there was a deficiency in the Staff's report by not considering the traffic of Ecton Park and safety issues that arise. She stated that there is a difference between a long-term renter who understands the dynamics of the area versus short-term renters who "rotate in and out all the time." She stated that safety was a big concern, especially with kids darting in and out of the street.

David Mack, 916 Turkey Foot Road, stated that his back fence lines up with the back of the applicant's fence. He stated that he was concerned about strangers near his children.

Brandy Quinn, 929 The Curtilage, stated that she was formerly in real estate for 18 years. She stated that you never know who you are going to get with an "AirBnb" and this does affect the neighbors.

Kit Rutherford, 609 Galaxie Drive, stated that getting out of the driveway with the traffic from Ecton Park was treacherous. She stated that she felt inviting "unvetted new people" who are unfamiliar with the area and community would be a mistake.

Lila Fleming, 309 Sweetbay Drive, stated that people don't leave the neighborhood unless they die or can no longer live on their own, which is an indication of how strong the neighborhood is.

Louis Rives, 912 Turkey Foot Road, urged the Board to disapprove this plan. He stated that all the UK fields were within walking distance and the STR would be used for parties. He asked that the neighborhood remain residential and not commercial.

Yvette Childers, no address provided, was present representing her mother-in-law who owned property at 912 Wishbone Circle. She stated that the STR was a "personal wish" that would not benefit the neighborhood or Lexington. She stated that the applicants were leaving Lexington – it was no longer their home. She stated that she thought STRs were preventing more properties from being available for purchase in Lexington.

Applicant Rebuttal – Ms. Quinn thanked everyone for their comments and said that the feedback was appreciated. She stated that she and her husband had not decided to permanently leave Lexington. She said that she and her husband both work in Kentucky and are in and out of the 901 Wishbone Circle property during the week and would like to continue this. She stated that they interviewed and chose a property management company. She addressed the seven parking spots that were mentioned during citizen comments. She stated that they have two driveways. She said that she and her spouse basically counted the spots available. She stated that although they had a five-bedroom home, they were only allowing up to eight people to stay at the property when rented. She stated that Ecton Park has been always an issue since her family first moved there. She stated that the traffic was not running every day. She said that they are flexible in the number of cars, where they parked, etc.

Board Questions and Comments – Ms. Tucker stated that she was concerned about the traffic and mentioned the number of letters (38) from neighbors. Mr. Clarke stated that the Board has done a lot with the new Ordinance. He stated that while he agreed with citizens opposing the STR, the law does not prevent the STR. Ms. Tucker thanked the citizens that showed up.

Action – Mr. Persley made a motion, seconded by Mr. Clarke; motion carried 5–1 (Tucker opposed) to **approve PLN-BOA-25-00079: MERCY LLC** – requests a conditional use permit for an un-hosted short term rental in a Single Family Residential (R-1B) zone, on property located at 901 Wishbone Circle, based on the Staff's recommendations and subject to the four conditions listed.

- 11. PLN-BOA-25-00081: HORSE PARK LLC** – requests a conditional use permit for an unhosted short term rental in an Agricultural Rural (A-R) zone, on property located at 112 Ashley Woods Road. (Council District 12)

The Staff Recommends: Approval, for the following reasons:

- a. The proposed use should not have an adverse influence on the use occurring on the subject, adjoining, or adjacent properties, as the structure is large enough to (accommodate the proposed number of 10 users and is screened from view from adjoining properties by existing vegetation. All necessary public services and facilities are available and adequate for the proposed use.
- b. There is no record of short term rental compliance issues with the applicant.
- c. No short term rentals in the area have been cited as a nuisance.
- d. The subject property is not located in census tract that has been identified as vulnerable to involuntary displacement based on socio-economic demographics.
- e. The property has adequate parking spaces nine (9) to accommodate the proposed number of users ten (10).
- f. The entrance to the property and the driveway is continuously lit (or will be if approved) and there are floodlights leading to and near the unit.
- g. There are adequate fire safety measures present in the unit, and the unit is located approximately 890 feet from an existing fire hydrant.
- h. There are no other short-term rentals within one mile of the subject property.

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 ten (10) individuals.
3. Provisions for handling sewage shall always comply with the requirements of the Fayette County Health Department.
4. The applicant shall provide documentation from the Health Department, or whomever the Health Department designates, to verify the sufficiency of the septic tank for the proposed number of occupants of the short term rental to the Division of Planning.
5. The entrance to the property shall be lit and easily visible from the roadway.
6. 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.
7. 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.

Staff Presentation – It was noted that there was an error in finding e. and condition 2. made by the Staff. Mr. Mills noted that the total number of bedrooms should be listed as seven (7) in the staff report and, and therefore the number of individuals allowed should be changed to ten (10). Any approval would need to include the modified language.

Applicant Representation – Scott Schuette, attorney for the applicant, stated that while the application listed the pool house as the rental property, it should have included the residence and the pool house, which are both included in the STR rental. He stated that the location and proximity to the new soccer stadium would make this STR appealing. He stated that the applicant accepted the conditions as modified by the staff.

Board Comments and Questions – Ms. Tucker asked Mr. Schutte if the property was on a septic or sewer system. He stated that the property was on a septic system. Mr. Schuette stated that while the Health Department originally approved the septic system, they no longer come to the property to recertify them. Mr. Belcher said that the Health Department has a list of approved providers who can inspect and certify septic systems. Mr. Belcher stated that he could forward that list to the applicant.

Citizen Comments – Andy Pearson, 111 Ashley Woods Road; Elizabeth Hastie, 141 Ashley Woods Road; and Amy Samples, 701 Bullock Place, all ceded their time to Charlie “Ed” Hastie, 141 Ashley Woods Road. Mr. Hastie stated that they oppose the conditional use permit. He stated that his property was the closest to the applicant’s property. He said that the property was sold to the applicant in November 2024. Since the purchase, the home has not been lived in, and the only use will be as an un-hosted STR. He stated that he thought that, due to the proximity to the Horse Park, it would lend itself to parties. He referenced the Deed of Restrictions for Ashley Woods Road, which stated “a lot shall be used for a single-family home only.”

Charles Wisdom, 195 Ashley Woods Road, lives in Ashley Woods Estates. He stated that the Deed of Restrictions only included single family residences. He quoted case law that clarified that renters were not considered residents. He further stated that the applicant’s property is located on a private road, maintained and financially supported by the other owners, so the STR would cost them money. He asked that the Board disapprove the conditional use permit.

Board Questions and Comments – Mr. Gross stated that the Board did not address any conflicts with the Deed of Restrictions; these issues are between the HOA, applicants and the courts. Mr. Walker asked for confirmation that the septic system is certified post approval. Mr. Mills confirmed this to be true.

Applicant Rebuttal – Mr. Schuette stated that the property was 650 feet from the closest neighbor, and the applicant would be paying his portion for the maintenance of the private road.

Action – Mr. Tucker made a motion, Mr. Clarke seconded; motion carried 6–0 to **approve PLN-BOA-25-00081: HORSE PARK LLC** – requests a conditional use permit for an un hosted short term rental in an Agricultural Rural (A-R) zone, on property located at 112 Ashley Woods Road based on the based on the Staff’s **amended** recommended findings and subject to the **amended** conditions:

- Item E - The property has adequate parking spaces nine **(9)** to accommodate the proposed number of users **ten (10)**; and
- Condition 2 - Occupancy of the short term rental shall be limited to no more than **ten (10)** individuals.

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

- A. **ELECTION OF OFFICERS** – The term of the elected chair of the Board of Adjustment has ended, therefore the Board is required to elect a new chair to complete the current term until regular elections occur in January of 2026.

Motion – Ms. Tucker made a motion to nominate Mr. Sturdivant as new Chair. Mr. Sturdivant accepted the nomination. The Board voted 6–0 in favor Mr. Sturdivant as the new Chair.

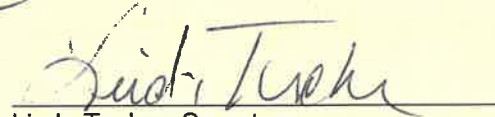
- B. Mr. Gross asked the Staff if they had coordinated with former Chair Carter to come to receive her recognition and take photos with the Board. Ms. Wade stated that it was not yet confirmed.
- C. Mr. Gross asked the Staff if there were any training for the Board before the end of the year. Ms. Wade stated that there was nothing planned at the moment.

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

VII. NEXT MEETING DATE - The Chair will announce that the next meeting date will be August 11, 2025 at 1:30 p.m. in Council Chambers, 2nd Floor, 200 E. Main St., Lexington, KY 40507.

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


Bob Sturdivant, Chair


Linda Tucker, Secretary

The media and public may view the hearing on LexTV Spectrum channel 185, MetroNet channel 3, or via live stream at the following link: http://lfucg.granicus.com/MediaPlayer.php?publish_id=12

For further information on these matters, or for persons with a disability who may need assistance in order to participate in the above meeting, please contact the Division of Planning, 101 E. Vine St., Lexington, KY, at 859-258-3160.

