

ON MONDAY, APRIL 4, 2022, THE BOARD OF ADJUSTMENT HELD THEIR REGULAR MEETING IN THE 2nd FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE AT 6:30 P.M.

PLEDGE OF ALLEGIANCE

**MEMBERS PRESENT:** Tim Turney, Ken Winkfield, Lonnie Estes, Bart Shockley, David Prewitt.

**MINUTES:** A motion was made by Mr. Winkfield, as seconded by Mr. Shockley, to approve the March 7, 2022 minutes, as submitted. The motion carried with five (5) aye votes.

**PUBLIC HEARING** - Application #04-005-2022 –Dimensional Variance Request – Jason Elmore (Owner/applicant) – 2800 Oregon Rd - A-1 District - Article V, Section 504.4 (A & B)– Applicant is seeking a 21 foot dimensional setback variance in order to build a detached garage 21 feet forward of the rear wall of the existing house; and, an 8 foot height variance above the maximum average height of the existing home of 14 feet in order to construct a garage with an average height of 22 feet.

Chairman Turney declared the hearing open and called upon Joshua Stevens, Building and Zoning Inspector, for comments. Mr. Stevens noted that the Applicant was seeking a 21 foot dimensional setback variance in order to build a detached garage 21 feet forward of the rear wall of the existing house; and, an 8 foot height variance above the maximum average height of the existing home of 14 feet in order to construct a garage with an average height of 22 feet. The subject property is a residence currently zoned A-1 (Agricultural). The residence was constructed in 1979. The property is listed as 3 bedroom, 2 bath, with 2,118 square feet of living space on 5.3 acres.

Mr. Stevens provided in the staff report the appropriate Ordinances for the request as well as all associated definitions. All public notifications were met. The request for the variance appeared to meet the four necessary criteria.

Mr. Stevens provided four suggested conditions to be included if the Board approves the request and highlighted one of those:

1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. The owner shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the owner as a result of the approval of the Variance.
3. **The approved variance is granted only for the proposed additions of the attached garage shown on the “Site Plan” attached to the application. Any future structures or additions shall conform to the standards of the Zoning Ordinance.**
4. The applicant shall apply for a building permit with the Versailles-Midway-Woodford County Planning & Zoning office prior to any construction or continuation with any construction started prior to obtaining a permit.

Chairman Turney asked if any members had questions regarding the staff report. Hearing none, Chairman Turney called upon the applicant.

Jason Elmore was present and thanked the Board for the opportunity and possibility to be able to protect his vehicles from the elements, especially from stray deer hunter bullets.

Chairman Turney asked if there were any questions or if anyone from the public wished to speak.

Anne Bakke noted that she had been a neighbor for seven years and spoke in support of the variance because it was not offensive and is surrounded by farmland.

Chairman Turney closed the hearing and asked for a motion to approve or deny.

**A motion was made by Mr. Winkfield, as seconded by Mr. Estes, to approve, based on the staff report record and the four (4) conditions listed, Application #04-005-2022 –Dimensional Variance Request – Jason Elmore (Owner/applicant) – 2800 Oregon Rd - A-1 District - Article V, Section 504.4 (A & B)– Applicant is seeking a 21 foot dimensional setback variance in order to build a detached garage 21 feet forward of the rear wall of the existing house; and, an 8 foot height variance above the maximum average height of the existing home of 14 feet in order to construct a garage with an average height of 22 feet. The motion carried with five (5) aye votes.**

**PUBLIC HEARING - Application #04-006-2022 – Conditional Use Permit – Park Equine Properties, LP (Owner) PetVet Doghouse (Providence) LLC (applicant) – 3550 Lexington Road - A-1 District - Article VII, Section 701.4(F)– The Owner is requesting an amendment to the Conditional Use Permit (CUP) issued 2/7/2022 to reflect an amended development plan.**

Chairman Turney declared the hearing open and called upon Mr. Stevens for comments. Mr. Stevens noted that the Owner is requesting an amendment to the Conditional Use Permit (CUP) issued 2/7/2022 to reflect an amended development plan. This 2<sup>nd</sup> amended final development plan is on the agenda for the Versailles-Midway-Woodford County Planning Commission meeting on April 14, 2022. The request appeared to meet all of the necessary criteria and the associated Ordinances. All public notifications were met. The property appears to be of sufficient size to accommodate the proposed use. An aerial photograph of the subject property from the Versailles-Midway-Woodford County GIS was attached to this report.

Mr. Stevens provided seven suggested conditions to be included if the Board approves the request and highlighted two of those:

1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. The owner shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the Owner as a result of the approval of the CUP.

3. The owner shall obtain all necessary permits, if any, from the Versailles-Midway-Woodford County Building Inspector and the Woodford County Health Department prior to operation of the equine veterinary clinic and hospital.
4. **The Conditional Use Permit shall be personal with PetVet Doghouse (Providence) LLC and shall become null and void upon the sale, rent or lease of the property to any other party.**
5. The owner shall return to the Board prior to ANY changes to the approved conditions.
6. **The Owner agrees to follow the 2<sup>nd</sup> Amended Final Development Plan. This development plan is on the agenda for the Versailles-Midway-Woodford County Planning Commission meeting on April 14, 2022.**
7. This conditional use permit shall be reviewed annually for compliance with all conditions, and then when necessary by the Board, to ensure compliance with these conditions.

Chairman Turney asked if any members had questions regarding the staff report. Pattie Wilson, Planning Director, noted that the 2<sup>nd</sup> Amended Final Development Plan was moved to the May Planning Commission meeting. Mr. Shockley asked if the Development Plan could be denied at the Commission meeting. Mrs. Wilson noted that it could and the Board's motion should be contingent upon the approval of the Amended Development Plan.

Chairman Turney called upon the applicant for comment.

Sam Carneal, representing the applicant, noted that they couldn't have the Amended Development Plan without violating the Conditional Use Permit that was approved in February 2022. There was no change in use they just needed more storage and would be putting up a building on the left driving in.

Chairman Turney asked if there were any questions for the applicant or if anyone from the public wished to speak, hearing none, Chairman Turney closed the hearing and asked for a motion to approve or deny the request.

**A motion was made by Mr. Shockley, as seconded by Mr. Prewitt, to approve contingent on the Planning Commission approving the 2<sup>nd</sup> Amended Final Development Plan and based on the record with the seven (7) conditions as listed, Application #04-006-2022 – Conditional Use Permit – Park Equine Properties, LP (Owner) PetVet Doghouse (Providence) LLC (applicant) – 3550 Lexington Road - A-1 District - Article VII, Section 701.4(F)– The Owner is requesting an amendment to the Conditional Use Permit (CUP) issued 2/7/2022 to reflect an amended development plan. The motion carried with five (5) aye votes.**

**PUBLIC HEARING – Application #04-007-2022 – Conditional Use Permit – Jackson Watts and Elizabeth Turley (Owner/Applicants) – 1277 Foraker Road – CO-1 District – Article VII, Section 721.4(B) – The Owner/Applicants are seeking a Conditional Use Permit to operate a Private Camp.**

Chairman Turney declared the hearing open and called upon Mr. Stevens for comments. Mr. Stevens noted that the Owners were seeking a Conditional Use Permit to operate a private camp. The subject property is zoned Conservation (CO-1) and is approximately 21 acres, with 1 main cabin building. The cabin was constructed around 1970 and is listed as 2 bedroom, 1 bathroom. The Owners property appears to be of sufficient size to accommodate the proposed use. The Site Plan shows that there is adequate space to accommodate the proposed private camp and associated parking.

Mr. Stevens provided fourteen suggested conditions to be included if the Board approves the request and highlighted nine of those:

1. The properties shall be subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. Owner shall comply with all federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the Applicant as a result of the approval of the CUP.
3. **The CUP shall be personal with Jackson W. Watts and Elizabeth Turley, and shall become null and void upon the sale, lease or transfer of the property.**
4. Owner shall return to the Board prior to ANY changes to the approved conditions with the CUP.
5. This CUP shall be reviewed annually for compliance with all conditions, and then when necessary by the Board, to ensure compliance with these conditions.
6. The applicant shall obtain all necessary permits, if any, from the Versailles-Midway-Woodford County Planning & Zoning and the Woodford County Health Department prior to operation of the private camp.
7. **Guests shall be required to wear USGC life vests while along the riverbank.**
8. **Guests shall be limited to a maximum of 4 overnight guests, with no more than 4 vehicles allowed onsite.**
9. **No recreational vehicles of any kind will be allowed.**
10. **No amplified music will be allowed on property.**
11. **Owner shall actively monitor river levels in case of flooding and remove or prohibit guests from the premises when necessary due to water levels or weather.**
12. **No fires allowed on the premises outside of the designated fire pit.**
13. **All parking will take place in the private driveway on the property.**
14. **No events shall take place on the property.**

Mr. Stevens noted that staff had received one letter in opposition. Chairman Turney asked if any members had questions regarding the staff report, hearing none, Chairman Turney called upon the applicant for comment.

Jackson Watts and Elizabeth Turley were present. Mr. Watts noted that he was unaware what the letter stated. Mr. Watts noted that they bought the property approximately three years ago and had been in

the family. Mr. Watts noted that their son had planned to live there but has different job offers right now. Mr. Watts noted that they are motivated to do short term rentals.

Chairman Turney asked if there were any questions for the applicant.

Chairman Turney asked Mr. Watts to define short term. Mr. Watts understands that they can't do less than 30 days unless he gets approval for a private camp and noted that if his son lived there then they could operate it as a B&B. Mr. Estes asked if the camping was going to be primitive or RV camping. Mr. Watts stated that it would be primitive camping. Mr. Shockley asked how the property boundaries are marked. Mr. Watts noted that there are some fences and some have metal stakes that have been there for twenty to thirty years. Mr. Watts noted that he owns an adjoining tract of land and one of his brothers owns one as well. Mr. Watts noted that he spoke to the other adjoining property owner, Jason Justice, and Mr. Justice was concerned that they would steal out of his barn. Mr. Watts noted that the barn was about ¼ to ½ mile away through rough, thick woods. Chairman Turney noted that posting no trespassing signs on the boundaries would be needed.

Chairman Turney asked if anyone from the public wished to speak.

Jason Justice, a neighbor, noted that he was concerned with having this. He questioned who would police the conditions that were discussed and the stated that Mr. Watts' property was approximately twenty yards from his house barn. He was concerned about theft and people strung out on drugs and trespassing. Chairman Turney noted that if there are complaints, they are checked out immediately and at the end of every year they are reviewed; every situation is different. Complaints need to be made to Planning and Zoning. Mr. Justice submitted an aerial photo into the record showing the location of his barn to the camp. Mrs. Wilson noted that Planning and Zoning did not have record of the Barn residence that Mr. Justice referred to; no permit was obtained for this

Mrs. Turley noted that she was the wife of Mr. Watts and wanted to make sure that she was on the application because her name was not referenced in the staff report.

Chairman Turney closed the hearing and asked for a motion to approve or deny the request.

**A motion was made by Mr. Winkfield, as seconded by Mr. Prewitt, to approve, based on the record and with the fourteen (14) conditions as listed, with two (2) added conditions that, rental not to exceed 30 days and the posting of no trespassing signs around the perimeter, Application #04-007-2022 – Conditional Use Permit – Jackson Watts and Elizabeth Turley (Owner/Applicants) – 1277 Foraker Road – CO-1 District – Article VII, Section 721.4(B) – The Owner/Applicants are seeking a Conditional Use Permit to operate a Private Camp. The motion carried with five (5) aye votes.**

**PUBLIC HEARING – Application #04-008-2022 – Dimensional Variance – Thayre Hawkins (Owner) – 650 Brooklyn Road – CO-1 District – Article V, Section 504.4(A) – Applicant is seeking an 85 foot dimensional setback variance from the rear wall of the residence in order to build an accessory structure in the front/side yard instead of the rear yard due to the Special Flood Hazard Area.**

Chairman Turney declared the hearing open and called upon Mr. Stevens for comments. Mr. Stevens noted that the Applicant was seeking an 85 foot dimensional setback variance in order to build a detached garage 85 feet forward of the rear wall of the existing house. The subject property is a residence currently zoned CO-1 (Conservation District) and the residence was constructed in 1996. The property is listed as 2 bedroom, 2 bath, with 1200 square feet of living space on 19.51 acres.

The request appeared to meet all of the necessary criteria and the associated Ordinances. All public notifications were met. The property appears to be of sufficient size to accommodate the proposed use.

Mr. Stevens provided four suggested conditions to be included if the Board approves the request and highlighted two of those:

1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. The owner shall comply with all other federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the owner as a result of the approval of the Variance.
3. **The approved variance is granted only for the proposed additions of the attached garage shown on the "Site Plan" attached to the application. Any future structures or additions shall conform to the standards of the Zoning Ordinance.**
4. **The applicant shall apply for a building permit with the Versailles-Midway-Woodford County Planning & Zoning office prior to any construction or continuation with any construction started prior to obtaining a permit.**

Chairman Turney asked if any members had questions regarding the staff report. Mr. Estes questioned if there would be any problems building the structure in the Conservation District. Mrs. Wilson noted that it would not and the reason it is Conservation is because it is in the floodplain and located on the bank of the Kentucky River.

Chairman Turney called upon the applicant for comment.

Thayre Hawkins was present and noted that the property was on the Kentucky River. There is no road and no neighbors within sight of the property.

Chairman Turney asked if there were any questions for the applicant or if anyone from the public wished to speak, hearing none, Chairman Turney closed the hearing and asked for a motion to approve or deny the request.

**A motion was made by Mr. Prewitt, as seconded by Mr. Shockley, to approve, based on the record and with the four (4) conditions as listed, Application #04-008-2022 – Dimensional Variance – Thayre Hawkins (Owner) – 650 Brooklyn Road – CO-1 District – Article V, Section 504.4(A) – Applicant is seeking an 85 foot dimensional setback variance from the rear wall of the residence in order to build**

**an accessory structure in the front/side yard instead of the rear yard due to the Special Flood Hazard Area. The motion carried with five (5) aye votes.**

**PUBLIC HEARING – Application #04-009-2022 – Conditional Use Permit – John W. Faust (Owner) – 11881 Troy Pike – A-1/CO-1 District – Article VII, Section 701.4 (I) and 701.8 (F & G) – Owner is seeking a Conditional Use Permit for an Agricultural Enterprise to grow corn and then distill in an onsite distillery, including barrel storage warehouses, a bottling facility, with restored Guynn Mill structures functioning as a tasting room and gift shop.**

Chairman Turney declared the hearing open and called upon Mr. Stevens for comments. Mr. Stevens noted that the Owner is seeking a Conditional Use Permit (CUP) for an Agricultural Enterprise to grown corn and then distill in an onsite distillery, including barrel storage warehouses, a bottling facility, with restored Guynn Mill structures functioning as a tasting room and gift shop. The subject property exists of 120 acres of land zoned A-1 (Agriculture) and CO-1 (Conservation District). Tract 1, the main entrance off of Troy Pike, consists of 32 acres, and will contain the parking lot, still house, gift shop, tasting room, storage shed, admin offices, and a corn crop field. Tract 2, directly south of Tract 1, consist of 30 acres, and will be large corn field areas. Tract 3, located west of Tract 1, will consist of 58 acres, and will contain the six proposed whisky barrel warehouses. The Agricultural Advisory Review Committee (AARC) met on February 9, 2022 to review the proposal and recommended to forward the request onto the BOA. The minutes of this Public Meeting are attached to the staff report along with the agreed upon conditions.

The applicant's property appears to be of sufficient size to accommodate the proposed use. All public notifications were met.

Mr. Stevens provided seven (7) suggested conditions to be included if the Board approves the request and highlighted five (5) of those:

1. This property is subject to all requirements of the Versailles-Midway-Woodford County Zoning Ordinance.
2. Applicant shall comply with all federal, state and local regulatory entities and shall provide copies to the Planning Commission office of any and all permits issued on behalf of the Applicant as a result of the approval of the CUP.
3. **Applicant's Conditional Use Permit shall become null and void upon the sale or transfer of the property.**
4. **Applicant shall return to the Board prior to ANY changes to the approved conditions.**
5. **The Applicant shall submit a Final Development Plan to the Planning Commission and once approved it shall be complied with as per Article V, Section 503.**
6. **Applicant must submit site construction plans for TRC review and approval to implement the final development plan**
7. **Applicant must comply with the 19 listed recommendations by the AARC per attached minutes dated February 9<sup>th</sup> 2022.**

Chairman Turney asked if any members had questions regarding the staff report. Mr. Shockley questioned the Decision Tree and the maximum number that an application could receive. Mrs. Wilson noted that the score was high enough to forward it to the Board of Adjustment for further consideration.

Kim O'Reel, Administrative Assistant read the following correspondence list into the record:

1. Jane Burnett – letter 4/4/22
2. Chris and Jennifer Hall – letter 4/4/22
3. Brian and Melanie Browning – letter 4/4/22
4. Robert Byrge – letter 4/4/22
5. Bluegrass Land Conservancy – letter 4/1/22
6. Stephen Royse and Bea Stringer – letter 3/30/22
7. Anne Rodiek Bakke – letter 2/14/22
8. Mary Sue Walker-Hughes – letter 2/8/22
9. Karen Crouch – letter – 2/8/22
10. Judy Mickelson – letter 2/4/22
11. David and Valerie Kincaid – letter 2/13/22
12. Amanda Adams – letter 2/5/22
13. Paul and Cynthia Balistocky – letter 2/3/22
14. Robert Jackson – letter
15. Karla and Jim Dugan – letter 2/3/22
16. Becky Kelly – letter w/attachment 1/31/22
17. Amy and Sam Michel – letter 1/28/22
18. John Gourley – letter w/attachment 1/28/22
19. Linda Pavey – letter 2/3/22

Chairman Turney called upon the applicant for comment.

John Faust, Owner/Applicant, noted that it was important to him to follow the Zoning Regulations and the 2018 Comprehensive Plan. Mr. Faust referenced the Zoning Ordinance 701.4 (I) and 701.8 (G, F & A), which distinctively defines a distillery. Mr. Faust noted that Guynn Mill was one of twelve historic districts in Woodford County and was approximately established in 1783. Mr. Faust noted that the original farm was eventually divided into four 30 acre tracts and one 58 acre tract. Mr. Faust purchased three lots for a total of 120 acres, which include the Grist Mill which was the first steam powered grist mill in Kentucky and is the only water powered sawmill in Kentucky. Mr. Faust noted that the other two 30 acre tracts that he did not purchase had already been converted to estate style homes. Mr. Faust noted that when looking at the Comprehensive Plan, there is no reference to turning the farms into 10 acres estate style homes. Mr. Faust noted that he had the right to place nine homes on his property by implementing in-family conveyances over a five year period of time; that was not his intention, he wants a farm for his children to grow up on. Mr. Faust noted that he came from a family of farmers and still has family members farming in Woodford County and his goal is to maintain the farmland in the county, but farming is not enough to do a \$2 million dollar renovation to the Grist Mill and sawmill. Mr. Faust is passionate



about restoring the buildings as he has done in the past in Lexington. Mr. Faust noted that the Guynn Mill property has seven springs, a mile of stone wall fences and approximately 40 acres of prime farmland and 30 acres of wooded area where they intend to put the barrel warehouses. They are projecting to distill 2,500 barrels per year and the capacity of each warehouse is 10,000. The warehouses will not be built all at one time. Mr. Faust noted that they had moved the location of where the warehouses were going to be built so they are out of sight from neighbors and would not have a negative effect. Mr. Faust noted that he listened to the concerns of neighbors about the traffic on Paul's Mill Rd and he agreed to put farm fence down Paul's Mill Road. Mr. Faust addressed the pollution and lighting issue raised by neighbors. Mr. Faust noted that the traffic would be minimal with 2-3 trucks delivering product that is in excess of what is grown on the farm. Mr. Faust noted corrections to the AARC minutes and stated that his primary goal is to have a farm and use the by-product for the distillery and it isn't to have a visitor center; he couldn't imagine having 1,500 people. They will be doing contract distilling and would like to work with Midway. They are not asking for anything new, just what was once in the community.

Robert Heath, owner of Down Home Bourbon and is partnering with Mr. Faust on the property, noted that they want to respect the neighbors and have designed the main distillery house to be like a horse farm (Mr. Heath provided a rendering for the record) and resembles a horse barn. The warehouses will be in a wooded area and that will help with the angel share pollution that had been discussed.

Chairman Turney asked if there were any questions for the applicant. Hearing none, Chairman Turney called upon Hank Graddy, representing Linda Pavey and others.

Mr. Graddy stated that he had the right to cross examine the applicant. Chairman Turney noted that they typically do not allow that and that Mr. Graddy can ask questions through the Chair and can be answered that same way; conversations between the two parties should not happen. Mr. Graddy stated that Chairman Turney was denying his constitutional right to cross examine. Mr. Graddy asked Mr. Faust if he was a farmer and Mr. Faust replied that he would like to think so but was not farming at the present. Mr. Graddy asked if Mr. Faust had ever farmed for a living and Mr. Faust noted that it had not been in the last ten years. Mr. Graddy asked if Mr. Faust was a distiller and Mr. Faust responded that he was but was not distilling at the present time. Mr. Graddy asked how many barrels did Mr. Faust intend to produce per day. Mr. Faust noted that it would be approximately ten in a ten hour shift but at this time he did not have it built or the employees hired; Mr. Graddy noted that the *Woodford Sun* stated that it was going to be seventy barrels per day and Mr. Faust stated that was incorrect and needed to be corrected. Mr. Faust also noted that it would not be 50-100 visitors, at best it would be 20 per day. Mr. Graddy questioned if Mr. Faust stated they would be producing 188,000 barrels per year. Mr. Faust noted that if he said that, it was incorrect. Mr. Graddy asked if the spring water had been tested and questioned Mr. Faust if he had seen the results. Mr. Faust noted that he did have the water tested and had seen the results, but if there was an issue then they would use the public water.

Mr. Graddy distributed his comments (Exhibit 22) and Findings of Fact (Exhibit 23) in opposition to the Board of Adjustment members. Mr. Graddy noted that the first reason the Board should deny the application is because Mr. Faust failed to carry his burden of proof to receive a positive recommendation for approval from the Agricultural Advisory review Committee (AARC). He had a chance to convince them that this was a sufficiently valid and believable and credible agricultural enterprise proposal and get a

recommendation from them, and he did not. The AARC decision tree provides a tool for evaluating agri-tourism/business proposals. Under that tool, the maximum possible points is 845. A proposal will get a recommendation for approval if it is awarded between 676 points and 845. A proposal will get a recommendation for rejection if it scores less than 540 points. The decision tree results sent neither a positive or negative recommendation if it scores between 675 and 541. The minutes of the February 9, 2022, AARC meeting contain the score awarded by each member of the AARC, resulting in an average of 622.5. It is important to note that not a single member of the AARC scored this proposal high enough to receive a positive recommendation. Two members scored it at 675, that's one point below a positive recommendation and one member scored it at 510, well within the rejection category. Mr. Graddy asked the Board to keep in mind that the applicant was seeking a Conditional Use under sub-section "I"; the vaguest of all Conditional Uses. A distillery is recognized as an industrial land use. They failed to make the case to AARC that it deserved a positive recommendation from AARC that provided the Board of Adjustment with the basis it needed to deny the application. Mr. Graddy noted the Findings of Fact (Exhibit 23) which he submitted to the Board, that they did not convince AARC and that the Board should deny the request. The second reason is because the application is not complete and the applicant has not provided any written engineering or scientific reports. Mr. Graddy provided the Board with reports that should have been submitted by the applicant and has failed to provide. Mr. Graddy referred to a letter (Exhibit 19) from Linda Pavey which the Board had received. Mr. Graddy noted that the applicant answered questions that the proposed activity would affect water quality and that they had a plan for managing stormwater runoff, but no plan has been turned in. Mr. Graddy again referred to Ms. Pavey's letter addressing the condition of Paul's Mill Road and traffic safety impact of the residents of this road. The applicant should provide a traffic study. Mr. Graddy noted that the applicant told the AARC that they plan to produce 18,000 barrels of whiskey a year and now has changed that. A letter (Exhibit 12) from Amanda Adams translated that output to a need for 166,000 bushels of corn per year. Mr. Graddy provided the Kentucky River Watershed Watch test results from the Black Spring in Troy and it has shown E.coli for the past 17 years. Mr. Graddy noted that the applicant should have to be required to assess the water quality impact and water supply issues. Mr. Graddy believes that this product will be sourced from the Midwest Grain Producers in Lawrenceburg, Indiana and will have no benefit to Woodford County or regional Kentucky farmers. Mr. Graddy noted that the applicant has not taken any steps to protect the historic buildings nor has he contact SHPO. Mr. Graddy noted that the closest neighbor is within 50 feet across the road from the saw mill, and the headlights would be shining on the property. Mr. Graddy asked the Board to deny the application because it was not supported by adequate scientific engineering data and if he wishes to reapply then come with real engineer and real reports. The applicant is not eligible for the conditional use he sought, where he was not a farmer and was not farming the property and it was not a working farm. Mr. Graddy noted that Mr. Faust stated at the site visit that he was not a farmer and stated that the property had not been an operating agricultural enterprise for many years. Mr. Graddy noted that the "working farm" was a prerequisite and this farm was not a working farm and a distillery was not an agricultural enterprise, it is an industrial enterprise. Distilleries are only permitted in the I-1 (Light Industry) or I-2 (Heavy Industry) zoning districts in Woodford County. Mr. Graddy reviewed the zoning uses and noted that this was an unprecedented request. Mr. Graddy provided a letter from the Bluegrass Land Conservancy (Exhibit 5) and water testing from Kentucky River Watershed Watch. Ms. Pavey noted that with the traffic in the area she did a traffic study and noted that Paul's Mill Road was exactly ten feet wide and cars are approximately seven feet wide, including mirrors; and pick-up trucks are eight feet wide, including mirrors. They also need to take into account that there are hay delivering trucks on the street, FedEx and other delivery trucks that should have priority on the street. Signage

doesn't work and people depend on GPS and her studies placed all vehicle traffic on Paul's Mill Road and Cummins Ferry Road; there are drop-offs and shoulders are crumbling. Ms. Pavey noted that there is flooding in the area and she had to be rescued in the past. Ms. Pavey noted that there were protected species in the area and development on Paul's Mill farm could disturb the habitat for the species.

Chairman Turney called upon the public for comment using the sign-in sheet.

Hoppy Henton of Woodford County noted that his issues had been covered.

Lynne Glass of Troy Pike noted that most of his concerns had been covered but was still concerned about the traffic and noted that the applicant should not expect to get water from the City. Run-off pollution to Clear Creek, air pollution and driver's condition when leaving a tasting room when driving on the roads are other concerns. Mr. Glass noted that in 1983, forty acres of Gynn Farm was nominated for inclusion in the National Historic Registry and accepted in the register on August 29, 1983 and asked how the applicant would be following the recommendations from the Department of Interiors (Exhibit 20).

Robert Byrge of Troy Pike noted that he was opposed to the application and commended Mr. Graddy on his presentation. Mr. Byrge noted that the application was supposed to be an accessory to an agricultural use, a distillery is an industrial use.

Paul Balistocky of Cummins Ferry Road was opposed to the application because there were too many unanswered questions. Lack of scientific backing to the answers by the applicant; no soil report. The road is narrow (nowhere for pedestrian to get off road), concerned about water pressure and power issues.

Margaret Hutcherson referred to information obtained from Dr. Chad Lee that noted if the applicant met their target volume then that would be a minimum of one tanker truck a day, going past a sign that says no semi-trucks, turn around. Mr. Lee was a source of knowledge of the raw materials to make bourbon, so he knows what he is talking about. Mr. Lee told her that if they are going to distill all of the product at the site, then one grain truck a day, plus five to ten stillage trucks would be leaving every day. Are there plans to move the slop? It is terrible cattle feed and the county has enough from the distillers in the north of Woodford County and Boyle County; dry distiller grains is excellent protein feed but very few distillers will dry it. Mrs. Hutcherson said Mr. Lee was also concerned about the energy source and the main two things he reiterated was black mold and where was the water source. Ms. Hutcherson noted that the odor and black mold would be the two worst things with the distillery and not to mention the crumbling of the road.

Maryann McCauley Kelley of Troy Pike noted that she and her family have lived in the area for many generations and agreed with Mr. Graddy's comments. Ms. Kelly noted that there are not enough farmers in Woodford County to produce product that is needed. The traffic would make the roads in worse condition. The air, noise and water pollution as described in relation to a distillery in Frankfort would be detrimental.

Judy Mickelson of Mundy's Landing Road noted that the biological impact would be huge. The distillery is highly flammable and this is an industrial waste issue and agreed with Mr. Graddy's comments. The

roads are narrow and barely have a shoulder; concerned with large trucks on the road. She was opposed to the application.

Bea Stringer of Troy Pike noted that she and her husband submitted a document that listed some of the problems that they saw (Exhibit 6). Ms. Stringer noted that the black mold grows on various items and can be scrubbed off but leaves a stain. The whiskey fungus (*Baudoinia compniacensis*), first investigated in 1872 and thrives on ethanol (Angel's Share) during bourbon aging. Ms. Stringer was concerned that because their hill was north of where the proposed rickhouses will be. Ms. Stringer noted that northern Woodford County has bourbon production that has been there historically and that area is protected by the Agricultural Preserve Area as defined in the ordinance.

Ron Wallace, speaking on behalf of Woodford Coalition, noted they are very opposed to the application for all of the reasons previously stated. This project is the exact opposite of preserving a historic district.

Mary Murphy noted that she opposed the application and agreed to what had been previously stated and added that flooding had occurred in the creek and rose to the bottom of the floor joist and foundation in the mill, as well as the stone fences. She was concerned about contamination into the creek from pesticides and fertilizers and where wastewater will go. She noted when the area has flooded the fish wash up on Paul's Mill Road and noise has impact on farm animals. She was concerned that no work has been done on the two historic buildings since this owner purchased it.

David Marshall of Cummins Ferry Road noted that he was former owner of the Paul's Mill Farm and he was adamantly opposed to the proposal. Mr. Marshall noted that there was a real issue with the whiskey fungus and has worked its way up to the Kentucky Supreme Court and Sixth Circuit Court of Appeals in the Federal system and resulted in a decision involving Brown-Forman and Heaven Hill Distillers. Mr. Marshall noted that the decision tells you what the fungus consists of and how prevalent and persistence it is and resilient it is and the effects can extend out half mile to mile from production site. Mr. Marshall distributed an article from Courier-Journal (Exhibit 24) and document from Westlaw Classic (Supreme Court Case – Exhibit 25).

John Creech of Mundy's Landing Road commended the applicant for wanting to save the buildings; the proposal that is in front of the Board was not the right way to go about it. Mr. Creech encouraged the applicant to come up with a plan that will not only preserve the buildings but would preserve the rural farming character in the area.

Jane Burnett of Troy Pike noted that the water pressure in the South Woodford Water District was low and showed the Board many photos on her phone of the area on Paul's Mill Road and surrounding area. (Chairman Turney asked her to email the photos to be entered into the record) (Exhibit 26).

Toy Curd Lancaster noted that she owns the farm at the corner of Paul's Mill Road and Hwy. 33. She noted that change is a constant but the request is such a drastic change. She was looking for something to honor and respect the beauty and character of the area. Ms. Lancaster noted that she respects the applicant but hopes that he will have to honor the zoning of the 30 acres to build a house and held be to the same zoning standards as the other residents in the area.

Dan Primm of Troy Pike noted that he owns property on Hwy. 33 directly across from where the distillery is proposed and they are restoring a house on their property and it is a unique and gorgeous property. Mr. Primm noted that Paul's Mill Road was an outstanding lane and did not think an industrial complex belongs on the historic property.

Lynn Prewitt of Troy Pike noted that she was concerned about the increase in traffic and giant trucks on the road and inebriated people driving on the road.

Chairman Turney called upon the applicant for rebuttal comments.

Robert Heath noted that one of the reasons the water testing or engineering had not been submitted was because they had not been approved to move onto this point and state and federal regulations, because it would be impossible to spend \$20,000-30,000 on traffic study, water testing and engineering before they knew it's worth doing. Mr. Heath noted that he has heard the complaints but ultimately what good would it have done if they spent that money to find out that it wasn't going to work because of state and federal regulations. Mr. Heath noted that he believed the order in which they approached the situation was best for them. Mr. Heath noted that the number of 38,000 gallons of spillage daily would equate to 600 barrels a day, that is astronomical and Woodford Reserve just barely makes 636 barrels a day, he didn't know where that number came from. It will take years to get to the maximum capacity. Mr. Faust noted that he appreciated everyone's comments and most importantly it is a given right when you are a landowner to follow the zoning and rules set forth. Mr. Faust noted that in the minutes it stated that the Bluegrass Distillery was placed inside the agricultural zone, but may have changed. Mr. Faust noted that the amount that they plan to distill would be substantially lower than what has been reported and would diminish many of the concerns brought forth. Mr. Faust noted that they have answered all of the questions they were required to do so and the development plan answers those. Mr. Heath noted that there are other distillery's in the state that are in agricultural zones and understood that is not the case in Woodford County and that his distillery has a conditional use in an agricultural zone.

Chairman Turney closed the hearing. Chairman Turney noted that the Board had received some new things into the record and believed that time is needed to review those items before moving forward. Chairman Turney noted that the Board could delay making decision until next month, there will be no new public input and they will only be looking at what had been entered into the record and comments at this meeting. Chairman Turney noted that he would consult with the Board legal attorney to make sure that whatever decision is made is within the law. All Board members unanimously agreed to delay decision until the May 2022 meeting.

**A motion was made by Mr. Winkfield, so moved by Chairman Turney, to adjourn at 8:30 p.m. The motion carried with five (5) aye votes.**

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Tim Turney, Chairman  
TT/ko