Gorton
Blues
Gray
Ellinger
James
Lawless
Beard
Feigel
Stinnett
McChord

AGENDA
PLANNING COMMITTEE
February 16, 2010
1:00 P.M.

1.	**Residential Additions** - Lawless **Residential Zoning Ordinances** - Stinnett	(1-5)
2.	**Commercial Signage Text Amendment** – Martin	(6-21)
3.	**Items Referred to Committee**	(22)

"Planning Committee, to which should be referred matters relating to parks, planning and zoning, housing, transportation, grants, legislation and social services."

Council Rules & Procedures, Section 2.102(1)

TO: Mayor Jim Newberry
Councilmembers

FROM: Moratorium Work Group
CM Diane Lawless
CM Tom Blues
CM Linda Gorton
CM Peggy Henson

DATE: January 29, 2010

RE: Moratorium for Third District Residential Zones
Proposed Zoning Text Amendments

In response to the moratorium imposed by Council in Resolution No. 678-2009, passed October 15, 2009, the Moratorium Work Group was appointed by the Vice Mayor to consider alternatives to address the density problems being experienced in single family [R-1] and two-family [R-2] residential zones. In some areas, multiple unrelated persons are occupying single family homes in a manner that more closely resembles lodging or boarding houses, creating density issues and thereby threatening the integrity and stability of our single and two family neighborhoods.

In the course of examining this problem, we reviewed the definitions in Article 1 of the Zoning Ordinance for Family, Boarding House, and Lodging house. We are also aware of the pending litigation with respect to the application of these definitions. Copies of those definitions as they are currently written are attached hereto for your convenience. Attempts to enforce the use of residences for single family use only have raised issues of how to determine whether a group of people living together constitute a family. In the pending litigation, the property owner alleges that the students in his houses share meals, share the kitchen, and have meals together, thereby qualifying as a single housekeeping unit and meeting the current definition of family.

During hearings before the Court on the property owner's motion to dismiss, the judge questioned how a landlord was supposed to know, based on our current definitions, whether he was renting to a family or to a group that instead would qualify as a lodging or boarding house. Our current definition of family has been attacked in the litigation on the basis that it is too broad and vague to be enforceable. We are aware of extensive case law throughout the country struggling with the definition of family for land use regulation purposes.

The proposed text amendments to the definitions of family, boarding or lodging house, and congregate living facility were drafted after examining current case law and reviewing ordinances in other jurisdictions that have withstood scrutiny by the courts. Land use regulation is intended to address the impact of various uses on neighboring properties and assure a compatibility that will not cause disruption between property uses. Thus, the courts have looked to the definition of family as a density-controlling factor. We are proposing a definition which will allow up to and including four adults to live together without regard to relationship because that level of density is reasonable in a single dwelling unit in a single or two family residential zone. This amended definition would be put forward as a clarification of what has always been intended to be a family for zoning purposes, rather than any change in prohibited uses. Allowing up to four adults to constitute a family for zoning purposes is, if anything, less strict than what was previously permitted. Therefore, we believe we have minimized the risk of existing dense, boarding house uses from claiming to be grandfathered in. It remains our position that such a use always was, and remains, illegal in these zones.

At the same time, we do not want to prohibit non-traditional family units that are indeed stable and permanent family units of more than four adults. A group of five or more adults living together as a functional family can apply for a conditional use permit from the Board of Adjustment recognizing them as a functional family rather than a boarding or lodging house. This will allow for any unanticipated family unit to be recognized and permitted to live in a single family or two family residential zone. The attached draft includes the factors to be considered by the Board of Adjustment in making that determination.

In addition, the definitions of boarding and lodging houses have been combined since apparently any practical purpose for a distinction no longer exists. A definition of fraternity or sorority house has been added also. All three of these living arrangements fall under the new definition of congregate living facility created to be all-encompassing for living arrangements for more than four people not living together as a family. The term "congregate living facility" also creates a tie-in to building code standards which are applicable to congregate living facilities, thus incorporating a safety factor by giving notice of such regulations.

These proposed definitions were developed after review of similar legislation across the country as well as court opinions addressing the definition of family in a zoning context. We believe these amendments will address the problems of density in our existing residential neighborhoods while still providing flexibility to provide the needs of non-traditional but still functional family units. We request your serious consideration of these proposals.

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POSSIBLE ORDINANCE AMENDMENTS TO CONSIDER:

1. COMBINE AND MODIFY DEFINITION AS FOLLOWS:

Boarding or Lodging House: A residential building or part thereof for adults living together, **not as a family**, but in a congregate living arrangement. In identifying this use, the following factors shall be considered:

a) sleeping rooms are for hire for five (5) or more persons;
b) meals and/or food costs are typically not shared;
c) 5 or more rooms, excluding bathrooms, which are lockable from the exterior;
d) rent is established by leases to individuals or rents are based on charges assessed to each individual;
e) individual mailboxes are provided;
f) multiple utility meters or connections are present.

2. ADD THE FOLLOWING DEFINITION:

Congregate Living Facility: A building or part thereof that contains sleeping units where residents share bathrooms or kitchen facilities. The term includes but is not limited to boarding or lodging houses, and fraternity and sorority houses.

3. REVISE THE DEFINITION OF "FAMILY" TO READ AS FOLLOWS:

Family: A person living alone, or any of the following groups living together as a single housekeeping unit and sharing common living, sleeping facilities, and kitchen:

a. **Any number** of person related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
b. **Four** or fewer unrelated persons;
c. **Two** unrelated persons and any children related to either of them or under their care through a duly authorized custodial relationship;
d. Not more than eight persons who are:
    1. Residents of a "home-like" residence as defined in KRS 216B.450
    2. "Handicapped" as defined in the Fair Housing Act, 42 U.S.C. Section 3602(h). This definition does not include those currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. Section 802(6).
e. A functional family as defined and regulated herein.

4. ADD THE FOLLOWING NEW TERM AND DEFINITION:

Family, Functional: A group of five (5) or more persons not otherwise meeting the definition of "family" who desire to live as a stable and permanent single housekeeping unit and who have received a conditional use permit from the Board of Adjustment. "Functional family" does not include:

a. residents of a boarding or lodging house;
b. fraternity, sorority or dormitory;
c. any lodge, combine, federation, coterie or like organization;
d. any group of individuals whose association is temporary or seasonal in nature;
e. any group of individuals who are in a group living arrangement as a result of criminal offenses.

5. ADD A NEW SECTION PERTAINING TO THE BOARD OF ADJUSTMENT (7-6(a)(8)):

8) The granting of a conditional use permit for a "functional family" shall be based upon application of the following considerations by the Board:

a. Members of the family will share a strong bond or commitment to a single purpose (e.g., religious orders);
b. Members of the family are not legally dependent on others not part of the functional family;
c. Members can establish a legal domicile as defined by Kentucky law;
d. Members share a single household budget;
e. Members prepare food and eat together regularly;
f. Members share in the work to maintain the premises;
g. Members legally share in the ownership or possession of the premises;
h. Members demonstrate stability in the arrangement as opposed to transient living arrangements.

6. ADD THE FOLLOWING NEW TERM AND DEFINITION:

Fraternity or Sorority House: a congregate living facility used as living and/or gathering quarters for students of a college, university, or seminary who are members of a fraternity or sorority that has been officially recognized by the college, university or seminary; or their guests.

7. ELIMINATE "the keeping of roomers or boarders" by a resident family as a permitted accessory use in the single family and two family zones

Commercial Property Association of Lexington, Inc.
277 East High Street
Lexington, Kentucky 40507

February 8, 2010

Ms. Linda Gorton
Chair, Planning Committee
Lexington-Fayette Urban County Government
Government Center, Council Chambers
200 East Main Street, 2nd Floor
Lexington, KY 40507
lgorton@lfucg.com

Re: ZOTA 2009-7: Amendment to Article 17 for Commercial Real Estate Signs

Dear Ms. Gorton:

As you know, the Commercial Property Association of Lexington ("CPAL") filed an application for a zoning ordinance text amendment on August 14, 2009, which was considered at a Public Hearing of the Urban County Planning Commission of Lexington-Fayette County on September 24, 2009, and which was submitted to the Lexington-Fayette Urban County Council for consideration.

The Planning Commission previously voted to approve the Staff's recommendations for changes to CPAL's application, to limit the size of commercial real estate signs to 32' square feet in size (instead of 64' square feet in size, as requested in the original CPAL application).

It is our understanding that this matter is on the docket for further consideration by the Planning Committee at its February 16th meeting. In anticipation of the February 16th meeting, several CPAL representatives met with Mr. Sallee and Ms. Wade, together with Council member Martin, on February 4th. Following discussion and careful consideration by CPAL, CPAL would like to propose a compromise regarding the size limitation on signage, such that signage of up to (and not to exceed) 64 square feet would be permitted if any one or more of the following circumstances is present:

1. The building to which such signage pertains contains 100,000 or more square feet.

2. The site to which such signage pertains contains two (2) or more acres.

3. The property to which such signage pertains is located along a four-lane public highway.

CPAL believes that the above qualifications will enable signage to be sized appropriately based on the scale of the project.

We will appreciate the Planning Committee's consideration of the above at the February 16th meeting. For the Committee's information, we are attaching a listing of CPAL's mission statement, and current CPAL members, who represent all aspects of the commercial real estate industry in Fayette County.

Thank you for your consideration.

COMMERCIAL PROPERTY ASSOCIATION OF LEXINGTON, INC.

By: ______________________
Amy Mellinger, President

cc: Mayor Jim Newberry
Councilmembers

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Commercial Property Association of Lexington, Inc.
Mission Statement and Objectives

The Corporation is organized for the promotion and improvement of business conditions for commercial property development, financing, ownership, leasing, and management of properties located in the Commonwealth of Kentucky. "Commercial property" shall include retail, industrial, warehouse, office, mixed use, multi-family residential, apartments, condominiums, and detached single-family developments. In furtherance of the Corporation's purposes, the Corporation shall endeavor (i) to review and monitor existing and proposed regulations and policies of governmental bodies, private and public utilities; (ii) to promote and improve general business services for commercial property; and (iii) to distribute information among persons and entities with an interest in commercial property located in Fayette County, Kentucky, and surrounding counties.

2008 DIRECTORY OF MEMBERS OF COMMERCIAL PROPERTY ASSOCIATION OF LEXINGTON (CPAL)

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A G E N D A
PLANNING COMMITTEE
February 16, 2010
1:00 P.M.

1. **Residential Additions** - Lawless
   Residential Zoning Ordinances - Stinnett ( )

2. **Commercial Signage Text Amendment** – Martin ( )

3. **Items Referred to Committee** ( )

"Planning Committee, to which should be referred matters relating to parks, planning and zoning, housing, transportation, grants, legislation and social services."

Council Rules & Procedures, Section 2.102(1)

Recd by ________

Date: ________ 10

RECOMMENDATION OF THE

URBAN COUNTY PLANNING COMMISSION

OF LEXINGTON-FAYETTE COUNTY, KENTUCKY

IN RE: **ZOTA 2009-7: AMENDMENT TO ARTICLE 17 FOR COMMERCIAL REAL ESTATE SIGNS** – petition for a Zoning Ordinance text amendment to Article 17-3, 17-4, and 17-6 to modify the provisions for commercial real estate signs.

Having considered the above matter on **September 24, 2009**, at a Public Hearing and having voted **9-2** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL of the staff alternative text**, for the following reasons:

1. The proposed text amendment will allow for larger and taller real estate signage for vacant property; commercial, business, or industrial land use; mixed-use development; or a Group Residential Project. A larger sign is appropriate in these circumstances, and allowed in comparable communities to Lexington-Fayette County, due to the size and scale of development expected of such land uses.
2. The existing regulations of Article 17 remain appropriate for residential (other than a Group Residential Project) and agricultural properties.

ATTEST: This 8th day of October, 2009.

____

Secretary, Christopher D. King

FRANK PENN

CHAIR

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Ms. Tandy Patrick, attorney**.

OBJECTORS	OBJECTIONS
• None	• None

VOTES WERE AS FOLLOWS:

AYES:	(9)	Brewer, Copeland, Holmes, Owens, Paulsen, Penn, Richardson, Roche-Phillips, Wilson
NAYS:	(2)	Cravens, Whitman
ABSENT:	(0)	
ABSTAINED:	(0)	
DISQUALIFIED:	(0)	

Motion for **Approval** of **the staff alternative for ZOTA 2009-7** carried.

tw/wls/src

Enclosures:
Alternative text recommended by the Planning Commission
Application
Staff Report
Applicable excerpts of minutes of above public hearing

MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING

September 24, 2009

I. **CALL TO ORDER** – The meeting was called to order at 1:32 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Patrick Brewer; Marie Copeland; Mike Cravens; Ed Holmes; Mike Owens; Derek Paulsen; Frank Penn, Chair; Carolyn Richardson; Lynn Roche-Phillips; Joan Whitman; and William Wilson.

Planning staff members present: Bill Sallee; Traci Wade; and Stephanie Cunningham. Other staff members present were Rochelle Boland, Department of Law; Alan Case and Captain Charles Bowen, Division of Fire and Emergency Services; Bob Carpenter, Division of Building Inspection; and Tim Queary, Urban Forester.

II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 11-0 to approve the minutes of the August 13, 2009, and August 27, 2009, Planning Commission meetings.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT**

a. MAR 2009-11: URBAN COUNTY PLANNING COMMISSION - petition for a zone map amendment to add a Neighborhood Design Character Overlay (ND-1) zone for 239.0± net (253.3± gross) acres, to preserve existing neighborhood character for properties located at 3828-3860 Carleton Drive; 2571-2595 Edgehill Drive; 3713-3737 Gloucester Court; 3533-3901 Gloucester Drive; 3800-3825 Karen Court; 3800-3825 Margo Court; 3524-3784 Salisbury Drive; 2658-2686 Sussex Drive; 2538-2551 Westmorland Court; 2586-2766 Westmorland Road; and 3800-3880 Wyse Square.

Proposed Design Standards:

1. Exterior building materials for the principal structure, or expansion of the existing principal structure, must be brick or stone. If the original primary structure was not constructed with brick or stone, any remodel, expansion or addition must be made with the same material as the existing home. Exceptions are eaves, dormers or porches.
2. Principal structure may not exceed two stories in height.
3. Minimum rear yard setback shall be 25' or one-third the lot depth, whichever is greater. Corner lots may meet the setback requirement by using one side yard, if necessary.
4. Garages must be attached to the principal structure using the same exterior finish materials as the principal structure. The garage door opening must not be constructed to face the primary street.
5. No fences shall be erected on any lot except as required for swimming pools.
6. Pool fences shall enclose an area surrounding the pool. Total area fenced (including pool) may not exceed 400% of the pool area dimension.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan recommends Existing Rural Residential (ERR) land use for the Westmorland subdivision area, and Core Agricultural and Rural Land (CARL) for one parcel within the subject area just to the west of the subdivision. The Planning Commission has initiated a zone change request to add a Neighborhood Design Character Overlay (ND-1) zone in order to regulate exterior building materials, building height, rear yard setbacks, garage door orientation, and provide fence restrictions. The underlying Agricultural Rural (A-R) zoning is not proposed to be changed.

The Zoning Committee Recommended: **Withdrawal of 3860 Carleton Drive from this request, and Approval of the ND-1 overlay zone for the remaining properties with the Staff Alternative Design Standards**, for the reasons provided by staff.

The Staff Recommends: **Withdrawal of 3860 Carleton Drive from this request**, for the following reasons:

1. This proposed ND-1 overlay zone is not appropriate for the property located at 3860 Carleton Drive since it is a 38-acre agricultural property. Although one single-family residence does exist on the property, the property is not materially similar to the 1-7 acre lots in the Westmorland subdivision.
2. The 2007 Comprehensive Plan recommends Core Agricultural and Rural Land (CARL) land use for this property and not Existing Rural Residential (ERR) land use as for the remainder of the subject area.
3. The property at 3860 Carleton Drive is located outside of the platted bounds of the Westmorland subdivision.

The Staff Recommends: **Approval of the ND-1 overlay zone for the remaining properties with the Staff Alternative Design Standards**, for the following reason:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
   a. The Goals & Objectives of the Plan identify eight themes, one of which is "preserving, protecting, and maintaining existing residential neighborhoods in a manner that ensures stability and the highest quality of life for all residents."

* - Denotes date by which Commission must either approve or disapprove request.

Commission Questions: Ms. Roche-Phillips asked if the definition of "entertainment district" was guided by the allowable uses. Mr. Sallee responded that that definition was part of the staff's first draft, and was defined by a combination of the acreage, the Comprehensive Plan land use designations, and the fact that such a property is to be zoned MU-3. That combination of circumstances, in addition to a development plan that would declare the proposal to be a mixed-use project, was designed to follow the model of professional office parks in the P-1 zone.

Mr. Owens asked if entertainment uses would be allowed on property that is less than 10 acres in size. Mr. Sallee answered that they would not, and noted that they would only be allowed in an area 10 acres or larger with the Planning Commission's approval of a development plan.

Mr. Cravens asked if other Entertainment Mixed-Use Projects would be required to be developed in the same manner as the proposed Red Mile development. Mr. Sallee responded that that was not the intent, but the Red Mile Development Plan could serve as a model for that type of development in the community. He noted that the staff expects that each plan for this type of development will have its own set of unique circumstances.

Mr. Penn asked how the Commission will determine when 40% of the development has been accomplished, and the mixed-use provisions will be required to "kick in." Mr. Sallee answered that, since there are no existing areas of 10 acres in size with MU-3 zoning, the staff expects that the Commission will see not only final development plans for those portions, but an overall preliminary development plan with a zone change. At that time, the staff will begin work with the developer to determine how the project will be phased. The answers will vary by developer and location; in some instances, the mixed-use portion may occur in the early phases, but in others it may happen later. The staff will be required to track the final development plans to discover whether the 40% has or has not been reached, and that any further restrictions to that timing placed by the Commission are followed. The staff may make recommendations on individual plans as well, based on their review. That process will most likely become a routine part of the staff's review of these future mixed-use development plans.

Mr. Holmes stated that the staff will have to monitor the development of those mixed-use projects very closely, as the market may change during development, which could affect the proposed uses of a property. Mr. Sallee agreed with Mr. Holmes' assessment, and noted that the staff questioned the proposed 40% figure when they first reviewed the applicant's proposed text, but they were unable to offer a better restriction.

Petitioner Presentation: Bob Duncan, attorney, was present representing the petitioner. He stated that he did not have any prepared remarks, but would be happy to answer any questions from the Commission members. There were none.

Citizen Comment: There were no citizens present to comment on this request.

Motion: A motion was made by Ms. Richardson and seconded by Mr. Cravens to approve the staff alternative text, for the reasons provided by staff.

Discussion of Motion: Mr. Penn stated that he believes that the process behind the Red Mile Development Plan and the proposed text amendment has been sound, but he is concerned about the issue of shared parking. He said that, particularly during the Red Mile's racing schedule and sales, it would be necessary to be aware of the need for additional parking.

Ms. Copeland asked how the 40% of completion would be calculated. Mr. Sallee answered that, under the staff alternative text, it would be 40% of the floor area.

Action: Ms. Richardson's motion passed, 11-0.

2. **ZOTA 2009-7: AMENDMENT TO ARTICLE 17 FOR COMMERCIAL REAL ESTATE SIGNS** – petition for a Zoning Ordinance text amendment to Article 17-3, 17-4, and 17-6 to modify the provisions for commercial real estate signs.

REQUESTED BY: Commercial Property Association of Lexington, Inc.

PROPOSED TEXT: (Note: Text underlined indicates an addition to the current Zoning Ordinance.)

ARTICLE 17: SIGN REGULATIONS

17-3 DEFINITIONS

17-3(b) BASIC SIGN TYPES BY FUNCTION - The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

(18) REAL ESTATE SIGN - A temporary sign indicating only sale, lease or rental of property or buildings on which the sign is erected.

17-4 GENERAL PROVISIONS

17-4(d) REMOVAL OF REAL ESTATE SIGNS - All real estate and tract signs shall be removed within ten (10) days after completion of the sales, rental, or lease activities in connection with the property or tract to which they pertain.

17-6 PERMITTED SIGNS IN ALL ZONES - The following signs shall be permitted within all zones, subject to the restrictions specified:

.....

(c) Real estate signs, limited to one (1) sign per street frontage, and further regulated as follows: ~~; non-illuminated;~~

(1) When associated with single- and two- family residential or agricultural use of the property, such sign area shall not exceeding six (6) square feet in area and six (6) feet in height~~; and removed within ten (10) days after completion of the sale or lease of the property to which they pertain~~. Such sign shall be non-illuminated.

(2) When associated with business or commercial, industrial, mixed-use, or multi-family residential use of the property, such sign area shall not exceed thirty-two (32) square feet in area and ten (10) feet in height. Such sign shall be non-illuminated or indirectly illuminated.

(3) When associated with vacant property where no structures exist other than for an agricultural use or in an agricultural zone, such sign area shall not exceed sixteen (16) square feet in area and six (6) feet in height. Such sign shall be non-illuminated.

The Zoning Committee Recommended: **Referral to the full Commission**.

The Staff Recommends: **Approval of the Staff Alternative Text** for the following reasons:

1. The proposed text amendment will allow for larger and taller real estate signage for vacant property; commercial, business, or industrial land use; mixed-use development; or a Group Residential Project. A larger sign is appropriate in these circumstances, and allowed in comparable communities to Lexington-Fayette County, due to the size and scale of development expected of such land uses.
2. The existing regulations of Article 17 remain appropriate for residential (other than a Group Residential Project) and agricultural properties.

Staff Presentation: Ms. Wade presented the staff report, noting that this request for a Zoning Ordinance text amendment was requested by the Commercial Property Association of Lexington (CPAL) to increase the allowable size, height, and duration that a real estate sign can be permitted on a commercial, industrial, or multi-family residential property.

Ms. Wade said that, recently, the Division of Building Inspection became aware that some commercial real estate signs had exceeded the limits permitted by the Zoning Ordinance; and Building Inspection staff began to notify some of the real estate professionals that their signs were not in compliance with the Ordinance. Those notifications led CPAL to request a text amendment, in order to increase the size of the signage that is currently allowed for commercial, industrial, and multi-family development. The existing regulations do not distinguish between commercial and residential developments; they allow six square feet for a real estate sign, with a maximum height of six feet, and duration of ten days for the sign to remain after the sale or lease of the property. The petitioner determined that the signage allowed by the Zoning Ordinance was not practical for commercial real estate. As part of their application for a text amendment, CPAL proposed new language that they believed would accommodate commercial, industrial, and multi-family uses in Lexington. The petitioner is proposing to differentiate between commercial and residential real estate signs by way of a definition. They believe that the existing restrictions are adequate for residential real estate signage. For commercial real estate, however, the petitioner proposes to be allowed signage of up to 64 square feet in size; up to a height of 12 feet; and for the signage to be allowed to remain on the property up to 30 days following the completion of the sale or lease of the property. The petitioner included some other proposed changes, including the calculation of the area of a sign, and allowing for other temporary signs on a property.

Ms. Wade said that the staff was in agreement that commercial signs locally need to be larger than six square feet; but they believed that a tenfold increase in size, a doubling of the height allowance, and a tripling of the time they are allowed on a property seemed excessive. Ms. Wade referred to a series of exhibits that the staff considered in evaluating this application. The staff first evaluated the existing regulations for freestanding signs for business and mixed use zones. Of the 11 categories from P-1 to ED, six allow 40 or 50 square feet in size. The other five categories allow up to 75 square feet for a freestanding sign. The 64 square feet proposed by the petitioner would be larger than what would be allowed as a permanent sign for some properties in Fayette County. The staff next evaluated the regulations for signage allowed in all zones in Fayette County. The petitioner noted that they considered how construction signs were regulated as a model for what should be allowed for real estate signs. For agricultural, single-family and two-family residential zones, a construction sign is allowed to be up to 32 square feet in size. For a multi-family, office, business, or industrial zone, construction signage is allowed to be up to 64 square feet in size, with no height restrictions. Ms. Wade noted that the major difference between a construction sign and a real estate sign is that a real estate sign can be placed any time there is a vacancy on the property, or the property is for sale. Therefore, the number of times a real estate sign could be placed on the property is indefinite, whereas a construction sign has a shorter "life span," as it is allowed to remain on a property only throughout construction. The Zoning Ordinance determines that the construction process is complete once an occupancy permit has been issued for the building, so any construction sign would be required to be removed at that time. Given the length and frequency that real estate signs could be posted, the staff believed that using construction sign regulations as a gauge is not appropriate in this situation. With regard to the allowable length of time that a real estate sign could be posted, the staff believes that 10 days after the sale of the property should be adequate.

Ms. Wade stated that, in considering the proposed text amendment, the staff reviewed the signage regulations of several other communities of similar size to Lexington. Almost all of the cities that the staff used for comparison had similar residential real estate signage allowances, but they differed from the existing Zoning Ordinance with regard to commercial real estate signage. The tallest commercial real estate sign allowed by any of those communities was 10 feet in height; and the largest in size was 32 square feet. The staff used those dimensions as "guideposts" in evaluating the petitioner's request for 64 square feet in size and 12 feet in height. None of the comparison communities allowed commercial signage to be that large.

Ms. Wade displayed for the Commission a graphic depicting signs of 64 square feet in size and 12 feet in height, compared to a nearly six-foot-tall person. She then displayed a graphic depicting a six square-foot sign (the size that is currently allowed) and a 32 square-foot size as proposed by the staff alternative. The staff noted that a 32 square-foot sign would be easy to construct, as that is the size of one sheet of plywood.

With regard to the other minor changes proposed by the petitioner, Ms. Wade noted that there is already language in Article 17 that refers to the calculation of a double-faced sign. The petitioner's other minor change referred to temporary signs such as banners; the staff believed that those would be allowed on a property whether a real estate sign was present or not, so that proposed language was not necessary. The staff believed that there were some omissions in the petitioner's proposed text. Agricultural and vacant property were not addressed, and the staff was concerned about the regulations for multi-family residential uses.

Ms. Wade stated, with regard to the regulations for agricultural property, that it should be regulated as a residential property. If a property is vacant, however, it would be appropriate to allow for larger signage. The staff's proposal is to allow a 16 square-foot sign for vacant property. With regard to multi-family uses, Ms. Wade noted that there are two types of multi-family uses: a group residential development, which consists of multiple buildings on one lot; and a single building on one lot, such as a four-plex. The staff believed that, for single-building multi-family uses, the signage should be regulated as for a single-family use, with signage allowed to be six square feet in size. For group residential developments, however, the staff believed that a 32 square-foot sign would be appropriate.

Ms. Wade referred the Commission to an exhibit packet containing the petitioner's proposed language, the staff alternative text presented at the Zoning Committee meeting, and the staff alternative prepared following the Zoning Committee meeting. At their meeting three weeks ago, the Zoning Committee discussed regulating real estate signage not by use, but by zoning category. They also discussed the possible permanent nature that real estate signs can have, as well as the principle that real estate signage remains the most effective way to advertise for a property that is for sale or lease. It was also noted at the Zoning Committee meeting that the Kentucky Real Estate Commission regulates the length of time that a sign can be permitted on a property after the sale. Ms. Whitman informed the Committee that the Real Estate Commission requires that signage be removed upon completion of the sale of the property, regardless of the requirements of the Zoning Ordinance. The Zoning Committee alternative text proposes to regulate signage by zoning category, rather than by use. Ms. Wade noted that, if signage is regulated by zoning, there may be some issues with regulation of such signage in the R-3 and R-4 zones. Those zones allow single-family, two-family, and multi-family development; and the staff would be opposed to single-family uses being allowed the same 32 square-foot sign as an apartment complex.

Ms. Wade stated that the staff is recommending approval of the staff alternative text, with one correction, or the reasons as listed in the staff report and on the agenda. In Article 17-6(c)(1), the word "exceeding" should read "exceed." The Zoning Committee recommended referral to the full Commission. Ms. Wade concluded the staff's presentation by displaying photographs of several local examples of signage for the Commission on the overhead projector.

Commission Questions: Ms. Whitman asked how the staff proposed to regulate signage in instances where more than one real estate broker is marketing property in the same building. Ms. Wade answered that one sign would be allowed per frontage, and suggested that the brokers may reach some type of agreement for sharing that one sign. Mr. Sallee noted that a combination of two signs could be placed at the corner of the property under the staff's alternative text.

Mr. Owens said that, based on the staff alternative language which would require removal of any real estate signs within 10 days ,and the Kentucky Real Estate Commission regulations that require removal immediately after completion of the sale, it appears that no sign should ever remain on a property longer than 10 days. Ms. Wade agreed with that assessment.

Petitioner Representation: Tandy Patrick, attorney, was present representing the petitioner. She urged the Planning Commission to approve the original language as proposed by the petitioner, which would allow real estate signs up to 64 square feet in size and 12 feet in height. She said that commercial real estate signage is tailored to the scope and size of a project, so not all signs will necessarily reach the maximum size allowed. If the Commission does adopt the petitioner's proposed language, it will not change the status quo, as most real estate brokers are currently placing signage up to those sizes. Ms. Patrick noted that signage is the single most important tool that real estate brokers have, and it would be excessively burdensome to require them to replace signs that are currently in place that do not meet the Zoning Ordinance requirements.

Citizen Support: Crystal Blackburn, Government Affairs Director for LBAR, stated that real estate is important to Fayette County, and signs are important to real estate. She said that real estate sales are a driving force in Fayette County's economy, and noted that those act as a "multiplier" since they result in sales of appliances, flooring, and landscaping as well. Since Lexington is dependent on tax revenue, LBAR encourages the Planning Commission to not hinder that important branch of commerce via the restriction of signage. Research from the National Association of Realtors noted that 42% of all homebuyers used signage to locate the home they purchased, and 17% found the property they purchased using only signs. Local data indicates that over 50% of homebuyers in the Lexington area drive around and look for signs as part of a home search. Ms. Blackburn stated that the importance of signage of real estate sales cannot be overstated, and noted that LBAR supports CPAL's text amendment request for that reason.

Billy Smith, Gibson Company, 250 Monarch Street, stated that signage is a real estate agent's most important means of communication. Small signs, such as what is currently allowed by the Zoning Ordinance, would not attract sufficient attention on a 100,000 square-foot building. Mr. Smith said that, whether the use of large signs is right or wrong, it has been a standard practice in the community for the past 25 to 30 years. It is critical that signage be large enough to accommodate the types of graphics, such as a rendering or photo of the building or a floor plan diagram, that attract the most attention for buyers.

Mr. Smith said that real estate brokers in the community "have not been obnoxious" with the use of large signage over the years, and it is important that they be allowed to continue to inform customers and market their properties. He asked that the Planning Commission approve the petitioner's proposed text, and allow the use of large-sized signs to continue.

Commission Questions: Mr. Brewer asked why graphics cannot also fit on a 32 square-foot sign. Mr. Smith answered that graphics would fit on a sign of that size, but they would not be large enough to accommodate the necessary amount of information.

Mr. Penn asked what would prevent signage from becoming permanent, when space is being advertised for sale or lease in a large building. Mr. Smith responded that those multi-tenant office buildings could have several different owners; if each of the units is for sale, signage could be needed to advertise for every unit.

Ms. Roche-Phillips asked if real estate brokers use double-faced signs. Mr. Smith answered that brokers do use such signs, but the use of them is predicated on the location of the sign. If it is located on a corner, it may be effective to use both sides; but sometimes the back side is not sufficiently visible.

Mr. Holmes asked who oversees placement of real estate signs. Ms. Wade responded that real estate signs do not require a permit, so the brokers and/or sign companies are responsible for the placement of the signs. There are no specific restrictions about the placement of real estate signs, but the Division of Building Inspection or Code Enforcement could respond and possibly issue a citation if a sign is placed within a sight triangle. There is a general prohibition against placing these signs within a sight triangle or a right-of-way.

Ms. Whitman asked if most of the larger signs would be placed on a building where there was not adequate space to locate a sign on the sidewalk or ground area. Mr. Smith answered that the largest signs will only be used for very large buildings, such as those 75,000 to 100,000 square feet in size. He noted that such signs could also be used to advertise large parcels of vacant land being sold for development, but the cost of a large sign is too prohibitive for them to be used often, or on small buildings.

Ms. Roche-Phillips asked if there is a provision in the Ordinance to allow the Board of Adjustment to permit a variance for the size of a sign. Ms. Wade responded that the Board of Adjustment cannot vary the number of signs; but they can, through an administrative appeal, in effect vary the size of a sign. In such cases, unused signage could be transferred from one sing to another. Those cases have for the most part involved permanent signs, however, rather than real estate signs. Mr. Sallee added that he could recall only a couple of instances where temporary or banner signs were granted the ability to transfer unused signage by the Board.

Mr. Cravens asked if tract signs are currently allowed up to 64 square feet in size. Ms. Wade answered that tract signs, which are temporary, are allowed to be up to 64 square feet in size. Mr. Cravens asked why signs of that size should not be allowed for commercial tracts. Ms. Wade responded that, in many cases, a permanent sign for that zone would not be allowed to be that large, so it seemed inappropriate to allow a temporary sign to be that large. The staff also found that most of the other communities they studied regulated commercial real estate signs to 32 square feet, so they did not see why Lexington-Fayette County should allow double that size. Mr. Cravens said that he would consider "raw subdivision land," which can have a large tract sign, to be commercial. Once a subdivision tract is purchased, a 64 square-foot tract sign can be placed, so it does not make sense to not allow a real estate sign of that size at the same location. Ms. Wade replied that the purpose of a tract sign is to sell the subdivision lots, then have the sign removed, similar to a construction sign. She added that the staff is proposing to allow signs for vacant land to be up to 16 square feet in size. Mr. Cravens stated that it "does not add up" to restrict the size of a sign for vacant land to be smaller than the size of sign allowed for an existing large building. Ms. Wade answered that the staff's thinking behind that restriction was that, on a vacant piece of land, the sign would have no other structures with which to compete for attention.

Mr. Owens asked if, should the Commission approve the staff alternative text, the existing signs in excess of the allowable size would be required to be removed. Ms. Wade answered that the Division of Building Inspection has already notified approximately 25 brokers or firms that their signs are out of compliance with the Zoning Ordinance. Most of those brokers have requested an extension from the Division of Building Inspection in order to allow this text amendment time to be considered.

Ms. Roche-Phillips asked if this text amendment would be required to be heard by Council as well. Ms. Wade responded that it would.

Ms. Copeland stated that she is in agreement with the staff's recommendation, because it can effectively limit the amount of sign clutter on the streets, as well as recognizing the use of the Internet for research during a real estate purchase.

Ms. Whitman said that Ms. Copeland's assessment is not accurate, based on research that has been conducted. Real estate buyers do drive around to look for signs noting properties for sale, rather than limiting their searches to the Internet. Ms. Whitman stated that it is important to remember that the largest signs will not be used on every property; in fact, they would probably be installed on very few properties, due to the prohibitive cost of the sign. She said that the marketing of property is essential in the community, and she would support the petitioner's proposal of signs up to 12 feet in height and 64 square feet in size.

Mr. Penn asked how, if real estate signs are not required to go through a permitting process, the Commission can be assured that large signs will not be installed without permission. Ms. Wade answered that the Divisions of Building Inspection and Code Enforcement operate on a complaint basis, and generally, do not monitor signage on their own. She said that real estate brokers are, therefore, required to self-regulate; it is obvious, however, that they have been violating the Ordinance up to this point, so it is unclear whether they will stay within the requirements of the Ordinance in the future.

Commission Comments: Mr. Brewer stated that the regulation of signage requires a delicate balance, and he is concerned about the permanency of real estate signs. He said that, since the other cities studied by the staff do not allow larger signs, he does not believe that Lexington needs to allow that increase in size either. Mr. Brewer noted that he does not believe that "we have been doing this forever" is an appropriate justification to change the current policy. He said that he believes that the proposed staff alternative text is a good compromise, in that it would provide the real estate brokers with the ability to use larger signage than is currently permitted under the Ordinance, and he would be willing to support it.

Mr. Owens stated that he agreed with Mr. Brewer's sentiments. He believes that requiring all of the real estate signage to conform to a uniform size would provide all of the brokers an equal opportunity, rather than allowing an advantage for those who are willing to otherwise circumvent the regulations of the Ordinance.

Action: A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 9-2 (Cravens and Whitman opposed) to approve the staff alternative text for ZOTA 2009-7, for the reasons provided by staff.

V. COMMISSION ITEMS

A. **CANCELLATION OF TWO UPCOMING MEETINGS** – Mr. Sallee stated that, since there are no new zoning items for the month of October, the staff would request at this time that the Commission amend their official Meeting & Filing Schedule to cancel the Zoning Committee meeting, scheduled for October 1, and the Zoning Public Hearing, scheduled for October 22.

Action: A motion was made by Mr. Holmes, seconded by Ms. Whitman, and carried 11-0 to amend the Meeting & Filing Schedule to cancel the Zoning Committee meeting of October 1, 2009, and the Zoning Public Hearing of October 22, 2009.

Staff Comment: Mr. Sallee noted that, since there are two work sessions scheduled for the month of October, the staff may recommend the cancellation of one of those meetings as well at a later date.

B. **JOINT PLANNING COMMISSION / COUNCIL PLANNING COMMITTEE MEETING** – Mr. Penn noted that the Planning Commission was scheduled to meet with the Council Planning Committee on Tuesday, September 29, at 9:00 am at the Central Public Library.

VI. STAFF ITEMS – No such items were presented.

VII. AUDIENCE ITEMS – No such items were presented.

Alternative Text Recommended by the Planning Commission on September 24, 2009

ARTICLE 17: SIGN REGULATIONS

17-3 DEFINITIONS

17-3(b) BASIC SIGN TYPES BY FUNCTION - The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

(18) REAL ESTATE SIGN - A temporary sign indicating only sale, lease or rental of property or buildings on which the sign is erected.

17-4 GENERAL PROVISIONS

17-4(d) REMOVAL OF REAL ESTATE SIGNS - All real estate and tract signs shall be removed within ten (10) days after completion of the sales, rental, or lease activities in connection with the property or tract to which they pertain.

17-6 PERMITTED SIGNS IN ALL ZONES - The following signs shall be permitted within all zones, subject to the restrictions specified:

(c) Real estate signs, limited to one (1) sign per street frontage, and further regulated as follows: ; ~~non-illuminated;~~

(1) When associated with agricultural or residential (other than a Group Residential Project) use of the property, such sign area shall not exceeding six (6) square feet in area and six (6) feet in height; ~~and removed within ten (10) days after completion of the sale or lease of the property to which they pertain.~~ Such sign shall be non-illuminated.

(2) When associated with business, commercial or industrial use of the property; a mixed-use development; or a Group Residential Project, such sign area shall not exceed thirty-two (32) square feet in area and ten (10) feet in height. Such sign shall be non-illuminated or indirectly illuminated.

(3) When associated with vacant property where no structure exists other than for an agricultural use or in an agricultural zone, such sign area shall not exceed sixteen (16) square feet in area and six (6) feet in height. Such sign shall be non-illuminated.

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2009-7: AMENDMENT TO ARTICLE 17 FOR COMMERCIAL REAL ESTATE SIGNS

REQUESTED BY: Commercial Property Association of Lexington, Inc.

PROPOSED TEXT: (Note: Text underlined indicates an addition, and text ~~dashed through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 17: SIGN REGULATIONS

17-3 DEFINITIONS

17-3(b) BASIC SIGN TYPES BY FUNCTION - The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

(18) REAL ESTATE SIGN - A temporary sign indicating only sale or rental of residential or commercial property or buildings on which the sign is erected and shall include both of the following generally:

(a) **RESIDENTIAL REAL ESTATE SIGN** – a temporary sign indicating only sale or rental of residential property or buildings on which the sign is erected.

(b) **COMMERCIAL REAL ESTATE SIGN** – a temporary sign indicating only sale or rental of office, warehouse, retail, industrial, business and multi-family property or buildings on which the sign is erected.

17-4 GENERAL PROVISIONS

17-4(d) REMOVAL OF REAL ESTATE SIGNS - All residential real estate and tract signs shall be removed within ten (10) days after completion of sales activities in connection with the property or tract to which they pertain. All commercial real estate signs shall be removed within thirty (30) days after completion of sales activities in connection with the property or tract to which they pertain.

17-6 PERMITTED SIGNS IN ALL ZONES - The following signs shall be permitted within all zones, subject to the restrictions specified:

......

(c)

(1) ~~Real~~ Residential real estate signs, limited to one (1) sign per street frontage; non-illuminated; not exceeding six (6) square feet in area and six (6) feet in height; and removed within ten (10) days after completion of the sale or lease of the property to which they pertain.

(2) Commercial real estate signs, not exceeding sixty-four (64) square feet, not exceeding twelve (12) feet in height, limited to one per street frontage; in the case of a double-faced sign, only one side shall be counted for the purposes of the foregoing 64' limitation; non-illuminated or indirectly illuminated. A temporary sign as described in 17-6(g) may also be permitted in addition to the foregoing commercial real estate sign(s).

......

(g) Temporary signs, not specifically otherwise regulated, in accordance with the following conditions:

(1) Such signs shall be limited to window or wall signs only; shall not exceed one hundred (100) square feet in surface area per use where non-rigid materials are used; and shall not exceed thirty-two (32) square feet per use where rigid materials such as wallboard or plywood are utilized; and shall comply with the applicable regulations for the zone in which they are located.

(2) Such signs shall not remain in place for a period of more than thirty (30) days; except that the Division of Building Inspection may, for good cause, extend the time period for an additional 30 days upon application therefore. In addition, no use shall be permitted to display a temporary sign for more than a total of one hundred fifty (150) days during any calendar year.

STAFF REVIEW:

The Commercial Property Association of Lexington, Inc. (CPAL) has requested a text amendment to Article 17 of the Zoning Ordinance in order to increase the allowable size, height, and duration a real estate sign would be permitted to stand on a commercial, industrial or multi-family residential property.

Recently it came to the attention of the Division of Building Inspection that the existing regulations for real estate signs were not being adhered to my many commercial real estate agents, brokers and/or firms. The existing regulation does not distinguish between different uses or zones in limiting a real estate sign to six (6) square feet in size, six (6) feet in height, and removal of the sign ten (10) days following the completion of sales or leasing activity for the parcel on which the sign is located. In practice around the country, commercial real estate signs are usually allowed to be much larger and taller than that currently allowed by our Zoning Ordinance regulations.

The CPAL, Inc. has made an application to alter the definition of a real estate sign to provide for two independent types of such a sign – residential and commercial. The proposed text distinguishes between the two types of real estate signs based upon the use of the property. The petitioner proposes that the existing real estate sign regulations (6 square feet, 6' in height, and removal 10 days post-sale or lease) apply to residential uses only, and that the new definition of commercial real estate signs allow a sign that is sixty-four (64) square feet in size, twelve (12) feet in height, and removal of the sign thirty (30) days following the completion of sales or leasing activity. Other more minor changes proposed by the applicant include language regarding calculating the area of the sign (only one side of a double-faced sign shall be calculated as the sign area), and allowing for other temporary signs on the property, especially that referenced in Article 17-6(g) of the Zoning Ordinance.

While the staff agrees that the existing regulations are not in line with current practice and that commercial real estate sign should be increased, a ten-fold increase in the allowable size, a doubling of the allowable height, and tripling the potential time a sign may be erected on a property post-sale or post-lease is excessive.

The petitioner notes in their justification for the requested change that construction signs are permitted to be sixty-four (64) square feet in size, and their request for commercial real estate signs is consistent with the current provisions of Article 17-6(d) for construction signs. The staff acknowledges that construction, and tract signs for that matter, are allowed to be much larger than real estate signs, and that both are considered and meant to be temporary in nature. However, a major difference between such signs is that a construction sign is permitted for a relatively short period of time during the life of a building. Constructions signs must be "removed prior to issuance of an occupancy permit for the structure to which they pertain." On the other hand, real estate signs may be placed on a property any time a vacancy exists (for rent or for lease) or re-sale is desired, which could be for the entirety of a year or longer, and could be placed and removed numerous times during the life of a building. This difference, in the staff's opinion, would suggest a smaller amount of signage, given the length of time and frequency of this type of sign posting.

Additionally, the time frame or duration which a sign may remain after the completion of sale or lease activities should remain consistent between the different uses or zones. Ten days appears to be sufficient to notify the public of the sale or lease of the property, and the agent or firm responsible.

Other concerns with the proposed text amendment are the omission of such signs for agricultural and vacant property, and the regulation of signs for multi-family residential land use. Signage for agricultural and vacant property should be clearly addressed in the text of the Ordinance. The staff recommends grouping agricultural property with other residential land uses, and regulating vacant property separately. There is also concern regarding the size of real estate signs for multi-family residential land use because such a use can vary significantly in its size and scale. For instance, a four-plex on an individual residential lot in the midst of a neighborhood is quite different than an apartment complex (aka: Group Residential Project) with multiple buildings, possibly multiple entrances, and frontage along a major arterial or collector roadway. The Zoning Ordinance regulates these two land use intensities separately already. Any time multiple residential structures are proposed on a single lot, Article 9: Group Residential Projects is applicable. .The staff recommends that these larger proposed real estate signs be allowed only for Group Residential Project (i.e. apartment complexes) and not multi-family residential use of one lot.

In evaluating the proposed text, the staff reviewed other model sign ordinances and several ordinances from communities of similar size to Lexington-Fayette County (Ann Arbor, Michigan; Loveland, Colorado; Spokane, Washington; and Winston-Salem, North Carolina). This review framed the issue and provided perspective for the petitioner's request. In every instance, these communities allowed for larger signage for commercial real estate signs. The maximums allowed by any of these communities were 32 square feet in area or size, and 10 feet in height. In review of the model ordinances, one provided for a slightly larger sign for industrial property (36 square feet in area). Our existing regulations for real estate signs are consistent with the comparable communities' provisions for residential real estate signs. 21

Lastly, it should be noted that the minor changes proposed by the petitioner are not necessary in that double-faced signs are already calculated as the petitioner suggested (Article 17-3(e)(2) Area of a Sign), and additional signs are permitted on the property in the form of a temporary sign, regardless of whether a real estate sign is present.

The staff recommends approval of an alternative text, which address the staff's concerns about the size, height, and duration a sign may remain after the completion of sales or leasing activity. The alternative text offered by the staff also addresses real estate signs for agricultural and vacant properties, and distinguishes between individual multi-family residential uses and Group Residential Projects.

Staff Alternative Text: (Note: Additions are identified by an underline, and deletions to the current Zoning Ordinance are identified by a ~~strikethrough~~.

17-3 DEFINITIONS

17-3(b) BASIC SIGN TYPES BY FUNCTION - The following categories of signs are hereby defined based upon the nature of the information they are intended to provide:

> **(18) REAL ESTATE SIGN** - A temporary sign indicating only sale, lease or rental of property or buildings on which the sign is erected.

17-4 GENERAL PROVISIONS

17-4(d) REMOVAL OF REAL ESTATE SIGNS - All real estate and tract signs shall be removed within ten (10) days after completion of the sales, rental, or lease activities in connection with the property or tract to which they pertain.

17-6 PERMITTED SIGNS IN ALL ZONES - The following signs shall be permitted within all zones, subject to the restrictions specified:

.....

(c) Real estate signs, limited to one (1) sign per street frontage, and further regulated as follows: ~~; non-illuminated;~~

(1) When associated with agricultural or residential (other than a Group Residential Project) use of the property, such sign area shall not exceeding six (6) square feet in area and six (6) feet in height~~; and removed within ten (10) days after completion of the sale or lease of the property to which they pertain~~. Such sign shall be non-illuminated.

(2) When associated with business, commercial or industrial use of the property; a mixed-use development; or a Group Residential Project, such sign area shall not exceed thirty-two (32) square feet in area and ten (10) feet in height. Such sign shall be non-illuminated or indirectly illuminated.

(3) When associated with vacant property where no structure exists other than for an agricultural use or in an agricultural zone, such sign area shall not exceed sixteen (16) square feet in area and six (6) feet in height. Such sign shall be non-illuminated.

The Staff Recommends: **Approval of the Staff Alternative Text** for the following reasons:

1. The proposed text amendment will allow for larger and taller real estate signage for vacant property; commercial, business, or industrial land use; mixed-use development; or a Group Residential Project. A larger sign is appropriate in these circumstances, and allowed in comparable communities to Lexington-Fayette County, due to the size and scale of development expected of such land uses.
2. The existing regulations of Article 17 remain appropriate for residential (other than a Group Residential Project) and agricultural properties.

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9/3/09
Planning Services/Staff Reports/ZOTA/2009/ZOTA2009-7.doc

Planning Committee- Issues Outstanding

02.05.2010

Issue	Member Referred	Date Referred	Status
• Liberty Road Project Status	Stinnett	Jan 06	Bi Monthly Written Report
• Newtown Pike Status	Blues	Feb 06	Bi Monthly Report
• Loudon Avenue Phase 1 Status	James	Oct 06	Bi Monthly Written Report
• Fence Regulations- Sight Distance Issues	Blues	Dec 07	Jan 10
• Mobile Home Trailer Park Quality of Life	James	Dec 07	On Hold
• Infill Redevelopment Committee Recommendations	Gray	Feb 08	Unknown
• Tree Protection Ordinance	James	Mar 08	Unknown
• Downtown Master Plan	Lawless	Apr 08	Review Recommendations
• Management Audit Recommendations	Crosbie	May 08	Subcommittee Formed
• Art 16 Zoning Ordinance re Rear Yard Parking in Residential Areas	Henson	Apr 09	Fall 09 - Winter 10
• Parks Master Plan	Stinnett	Feb 09	Financing Sub Committee Formed
• Downtown Lexington Building Inventory	Feigel	June 09	Winter/Spring 10
• **Residential Additions**	**Lawless**	**Sept 09**	**Fall 09 - Winter 10**
• Mobile Food Vendor Permits	Henson	Sept 09	
• **Commercial Signage Text Amendment**	**Martin**	**Oct 09**	
• **Residential Zoning Ordinances**	**Stinnett**	**Oct 09**	
• Permitting of Yard Sales	Henson	Oct 09	
• Encroachment Issue	Stinnett	Jan 10	