

Farmer, Chair
Ellinger, Vice Chair
Gorton
Kay
Ford
Blues
Beard

REVISED AGENDA PLANNING & ZONING COMMITTEE March 1, 2011 1:00 P.M.

1. Building Inspection Task Force Report/Findings & Recommendations – Stinnett (1-64)
2. Circus & Carnivals Definition Text Amendment – Henson (65-68)
3. Items Referred to Committee (69)

“Planning & Zoning Committee, to which should be referred matters relating to the Division of Planning and including, but not limited to, matters relating to housing, infill & redevelopment, purchase of development rights and Historic preservation, and any related partner agencies.”

-Council Rules & Procedures, Section 2.102(1)

Effective January 1, 2011. Adopted by Urban County Council October 14, 2010

Committee Schedule

March 1
May 3
July 5
September 13
November 1
December 6

BUILDING INSPECTION TASK FORCE REPORT OUT

Members:

Chair ~Councilmember Kevin O. Stinnett
Councilmember Peggy Henson
Councilmember Tom Blues
Councilmember Linda Gorton
Councilmember Diane Lawless

Administrative Attendees:

Director of Building Inspection ~ Dewey Crowe
Deputy Director of Building Inspection ~ John Bryant
Building Inspection Supervisor ~ Nancy Marinaro
Commissioner of Law ~ Logan Askew
LFUCG Attorney~ David Barberie
LFUCG Attorney ~ Rochelle Boland
Commissioner of Public Works ~ Mike Webb
Director of Historic Preservation ~ Bettie Kerr

History of the Task Force:

- 10-13-09 ~ Motion made by CM Stinnett to appoint a task force for a comprehensive review of the Division of Building inspection.
- 10-27-09 ~ VM Gray appoints CM Stinnett as chair of this task force and invites all council members to serve on task force.
- 12-01-09 ~ First task force meeting.
- Nine Meetings total ~ final meeting 9-24-10

Primary Goals and Issues Addressed:

- Management and Personnel of the Division of Building Inspection
- Placement of Zoning Law Enforcement within LFUCG
- Safety Issues
- Criminal vs. Civil Enforcement of Zoning Laws
- Time Limits on Construction

Other Items Discussed:

- Gravel Permit
- Temporary Structures
- Software and Application Tracking

Main Functions of Building Inspection:

1. Perform Plan Review, Inspection, and issue permits in compliance with:

2007 Kentucky Building Code

2007 Kentucky Residential Code

2. Interpret and enforce the local zoning ordinance and some sections of the Code of Ordinances.

Examples of Types Of Permits Issued:

Building Permits (Includes additions, renovations, changes of uses, ect)

HVAC Permits

Paving Permits

Electrical Permits

Swimming Pool Permits

Demolition Permits

Fence Permits

Sign Permits

Sidewalk Café Permits

Cell Towers

Location Permits for Manufactured Homes

Outdoor Seating

Temporary Structures

Moving a Structure

RECOMMENDATIONS FROM THE TASK FORCE:

1. Management and Personnel of the Division of Building Inspection

- Administrative change made in October 2009 to strictly enforce Building Codes and maintain consistent Policy for Zoning
- All Building Inspectors are cross trained to do inspections and enforce zoning laws.
- Staffing Levels have remained the same the past 2 years
(See Appendix 1 for current Hierarchy Chart)

2. Placement of Zoning Law Enforcement in LFUCG

- Currently Building Inspections administers and enforces Zoning Laws
- Several Cities have one office at administer/enforce Zoning Ordinance
- Other cities include Enforcement of Zoning Laws in with Planning Department. For Example, in Louisville, Zoning administration is housed within the Planning and Design Office with a specific employee whose role it is to shepherd that development through the various government regulations. (See Appendix 2)

Recommendation ~

Request Administration look for a long term solution and plan to separate enforcement of Zoning and Building codes into separate Departments.

3. Safety Issues

- There is a need in several instances, especially in high density areas, for Building Inspection to perform inspections of property for safety violations.
- The Division of Fire currently has access to inspect for safety violations

Recommendation~

Proposed changes to article 5, 17, 23C, and 26 of Zoning Ordinances.
(See Appendix 3)

This would allow Building Inspection to obtain an Administrative Search Warrant and would be another tool to inspect properties for safety violations.

4. Criminal vs. Civil Enforcement

- Zoning Violations are currently enforced by a Criminal Citation and are only enforceable through the District Court System.
- Many violators are choosing to appeal their case to District Court
- Sometimes takes months to enforce zoning violations and violators can continue operating while the case is heard in court.

Recommendation ~

Proposed changes to article 5, 17, 23C, and 26 of Zoning Ordinances.
(See Appendix 4)

This would change enforcement to a civil penalty and appeals would be heard by the Infrastructure Hearing Board at their regular meetings.

5. Time Limits on Construction

- Issue with incomplete housing starts in residential neighborhoods
- Mainly an issue with owner contractors performing work
- Some houses have renewed Building Permits for several years

Recommendation ~

Change to State Laws and Building Inspection to strictly adhere to the 180 day time limits on building permits in order to maintain consistency on Local and State Levels.

Tried working with the Kentucky Commissioner of Housing, Building and Construction to draft a change to the State Statute to define progress.

The state officials did not recommend moving the change to define reasonable progress forward to the State committee.

Sample language change attached. (See Appendix 5)

6. Gravel Permit

No Recommended Changes

Attached is a reference from Historic Preservation and how they administer it. In addition, examples of Sample Language that the Task Force considered. (See Appendix 6)

7. Temporary Structures

- Out of Character with existing businesses and neighborhoods
- Many temporary structures are being left up longer than the permit allows
- Issue came before Planning Committee in 2008

Recommendation ~ proposed changes to Article 1, 8 & 28 and Appendix 23A of the Zoning Ordinances. (See Appendix 7)

Language Changed to: Temporary structures designed for use or occupancy for 60-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all structures on a single property.

Cases would be heard by Board of Adjustment

8. Software and Application Tracking

Issues that could be addressed by Software:

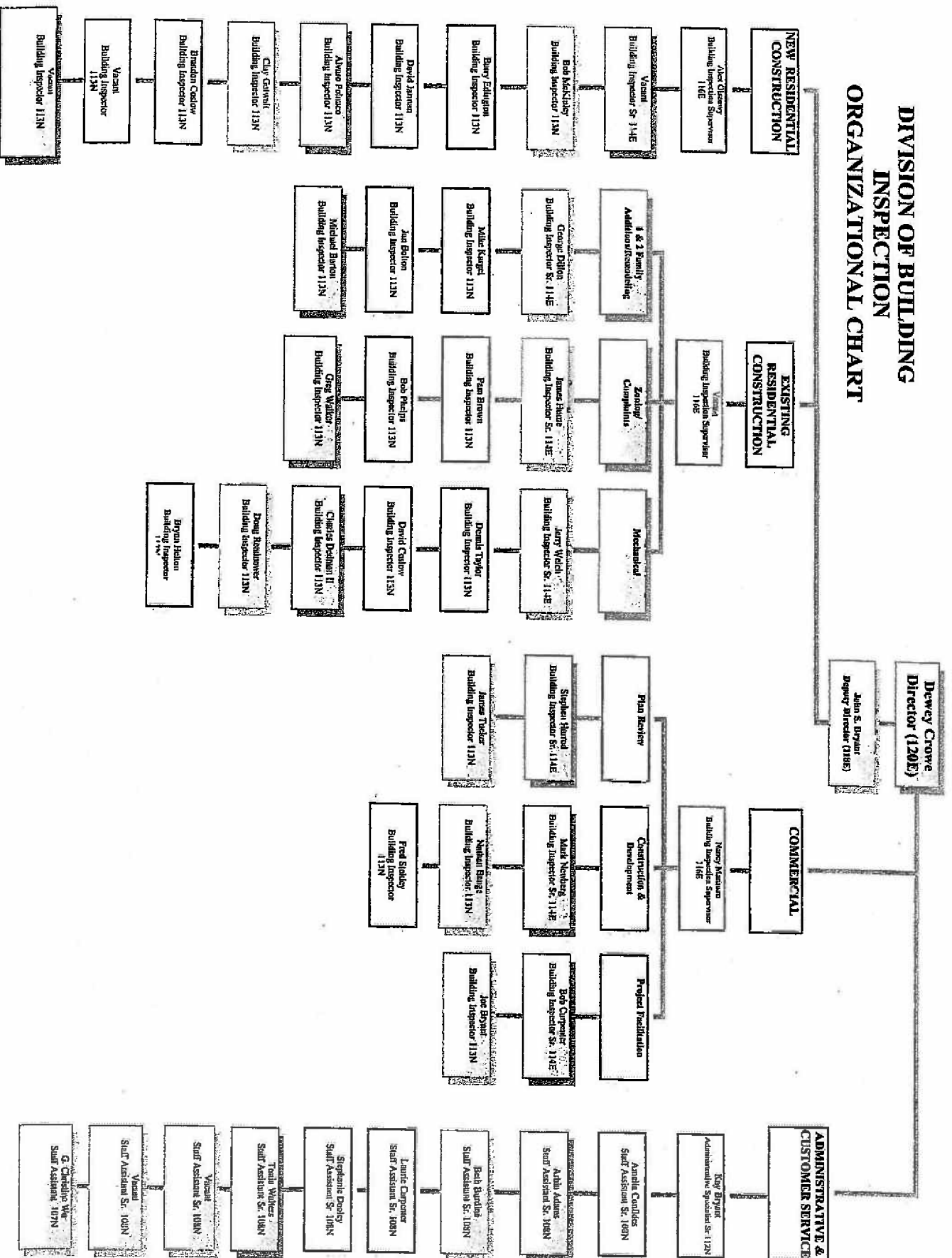
1. Tracking Inspections
2. Permitting Online for Public
3. Cross Departmental Communication
4. Archiving Information/History of Properties

Recommendation ~

- *Purchase Accela Software (Currently used in Environmental Quality) or some other type of Management Software. (See Appendix 8)*
- *Estimated price tag- \$1,371,948.00, includes software, 1year of maintenance and services.*

APPENDIX 1

DIVISION OF BUILDING INSPECTION ORGANIZATIONAL CHART



198B.070 Appeals.

- (1) The mayor or county judge/executive of a local government which is enforcing the Uniform State Building Code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of five (5) technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official. At least three (3) members of the appeals board must not be employed by the local government hearing the appeal.
- (2) Local governments which are enforcing the Uniform State Building Code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building official or employee of a local inspection department may sit on a local appeals board if the board is hearing an appeal to a decision rendered by his or her department. No member of a local appeals board shall hear an appeal in a case in which he or she has a private interest.
- (3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.
- (4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the Board of Housing, Buildings and Construction. Appeals to the Board of Housing, Buildings and Construction shall include citation of those provisions of the Uniform State Building Code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.
- (5) The Board of Housing, Buildings and Construction shall serve to hear appeals from the decisions of local appeals boards, when these boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction. In no case shall the board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.
- (6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the office. These appeals shall include citations of those provisions of the Uniform State Building Code which are at issue, and an explanation of why the decision of the agent of the office relative to those provisions is being contested.
- (7) Appeals to the Board of Housing, Buildings and Construction shall be addressed to the executive director who shall immediately notify the board when an appeal is received. The executive director or a designated employee of his or her office shall then investigate the evidence pertaining to the appeal and, based upon the results of the investigation, make recommendations to the board on the disposition of the case in question. No employee of the office shall investigate or make recommendations

on an appeal to his or her own decision, but shall defer in such cases to employees who were not party to the decision which led to the appeal. In conducting an investigation, the executive director or his or her designated representatives, acting for the office, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any informal or fact-finding hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The executive director shall complete his or her investigations and forward a written report to the board within thirty (30) days after receiving an appeal.

- (8) If the matter is not settled by agreement of the parties through the procedure established in subsection (7) of this section, the board shall schedule an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
- (9) The board may appoint five (5) or more of its members, excluding the chairman of the board, to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire board.
- (10) The board may uphold, amend, or reverse the decision of a local appeals board, a local building official, or an agent of the office by final order, and appeal from the board's final order shall be to the Circuit Court within whose jurisdiction the property in question is located in accordance with KRS Chapter 13B.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 84, effective July 15, 1996. -- Amended 1986 Ky. Acts ch. 23, sec. 14, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 308, sec. 4, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 114, sec. 36, effective July 15, 1980. -- Created 1978 Ky. Acts ch. 117, sec. 7, effective June 17, 1978.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

APPENDIX 2

LEXINGTON-FAYETTE URBAN COUNTY COUNCIL
Memorandum

TO: Kevin Stinnett, Councilmember
6th District

FROM: Paul Schoninger
Staff to Council

DATE: March 30, 2010

SUBJECT: Merging Zoning Administration & Zoning Compliance/Enforcement Functions

This memo is in response to your recent request for information from other municipalities on how to manage/staff the administration & enforcement of zoning regulations.

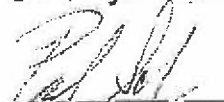
Before addressing your specific question I will attempt to summarize our present system in Lexington-Fayette County. The Zoning Ordinance is administered by the Planning Services section within the Division of Planning. Enforcement and compliance of the Zoning Ordinance is generally carried out with the Division of Building Inspection.

There are numerous examples of municipalities which has one office to both administer and enforce the Zoning Ordinance.

Winston Salem & Forsyth County, NC; Fremont, CA; Troy, MI; Washington, DC; El Cerrito, CA; Bridgeport, CT; Richmond, CA; Merced County CA; College Station, TX; Lincoln, NE; San Jose, CA; Commerce, CA; Monterey County, CA; Springfield, Mo; Culver City, CA; Sonoma County, CA; (although they are in midst of a study that may segregate the functions); Kent, WA; Clearwater, FL; Columbus, IN; and Charlotte, NC have combined either in whole or partially the administrative and compliance/enforcement functions of their respective zoning regulations..

In addition McAllen, Texas and Pierce County, Washington are examining the issue of merging administration and enforcement efforts.

Should you need any further information please do not hesitate to contact me at 258-3208.



Paul Schoninger
Staff to Council

C: Dina Melvin

LEXINGTON-FAYETTE URBAN COUNTY COUNCIL
Memorandum

TO: Kevin Stinnett, Councilmember
6th District

FROM: Paul Schoninger
Staff to Council

DATE: April 14, 2010

SUBJECT: Building Inspection/Planning Reorganization

On March 30 I sent you a memo regarding your interest in merging zoning administration and zoning compliance/enforcement efforts. On April 1 you sent me an e mail asking if there were any similar examples from Louisville, Knoxville, Cincinnati, Charleston or anyplace else within Kentucky. This memo is in response to your April 1 e mail.

Before addressing your specific questions first it might be important to note that any staffing reorganization works best if the executive branch, the unit of government charging with administering has been involved in the decision making process. Many reorganization efforts initiated by legislative bodies, without input from the executive branch fail, as the legislative body is perceived to be attempting to administer rather than acting as the legislative or policy making body.

The most common merger is between what we know as Building Inspection and Code Enforcement. Most communities have both of those functions within 1 office. Lexington is one of only a handful of municipalities that segregate those functions into not only different divisions but also within different departments.

In the March 30 memo I provided numerous examples of local governments that had merged the zoning administration and zoning enforcement/compliance into one office.

Modesto, CA was the only example that I could identify that had completely merged the functions of planning and building inspection/code enforcement. The Modesto Ca Office of Planning, Building Design & Safety also includes the Fire Marshall.

In Louisville Metro Zoning administration is housed within the Planning & Design Office; while zoning compliance/enforcement is within the Office of Inspections, Permits & Licenses. Within the Planning & Design Office each development is assigned to specific employee whose role it is to shepherd that development through the various governmental regulations.

Cincinnati uses a 1- stop effort. All development & zoning compliance efforts are housed with the Planning & Buildings Office. Zoning administration and building inspection/code enforcement efforts are housed in that office.

APPENDIX 3

RESOLUTION NO. _____-2010

A RESOLUTION INITIATING ZONING ORDINANCE TEXT AMENDMENTS FOR PLANNING COMMISSION CONSIDERATION AND RECOMMENDATION, TO AMEND ARTICLE 5-1(a) OF THE ZONING ORDINANCE TO PROVIDE FOR RIGHT OF ENTRY AND ADMINISTRATIVE SEARCH WARRANTS; AND AMENDING ARTICLES 5-9, 17-14, 23C-13 AND 26-12 TO PROVIDE FOR CIVIL FINES.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Zoning Ordinance text amendments to amend Article 5-1(a) of the Zoning Ordinance to provide for right of entry and administrative search warrants; and amending Articles 5-9, 17-14, 23C-13 and 26-12 to provide for civil fines is hereby initiated for Planning Commission consideration and recommendation.

Section 2 – That a draft proposed text amendment is attached hereto and incorporated herein as an exhibit to this resolution.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

ARTICLE 5**Provide for Administrative Search Warrants and Civil Fines¹⁶****ADMINISTRATION, ENFORCEMENT AND VIOLATIONS******* PROPOSED NEW TEXT *****

5-1(a) RIGHT OF ENTRY - The Director or his authorized agent is authorized to enter upon property, land, structures or buildings, at reasonable times for the purpose of inspecting, ascertaining and causing to be corrected any violation of this Zoning Ordinance, and is hereby empowered to prescribe, adopt, promulgate, and enforce reasonable rules, regulations, and/or guidelines pertaining to administrative inspections of properties for zoning violations which are not otherwise inconsistent with the Zoning Ordinance. Whenever the Director or his authorized agent is denied entrance to any property, land, structure or building he may apply to the district court for a warrant allowing entrance and inspection. This authority shall apply to the interior of occupied, private dwellings only when the inspecting agent has reason to believe that a zoning violation exists in the dwelling.

***** PROPOSED AMENDED SECTION OF THE CURRENT ORDINANCE *****

APPENDIX 4

RESOLUTION NO. _____-2010

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***** PROPOSED AMENDED SECTION OF THE CURRENT ORDINANCE *****

5-9 CIVIL CITATIONS AND CIVIL PENALTIES - To the extent allowable by law, any violation of this Zoning Ordinance may be enforced through the issuance of a civil citation pursuant to KRS 65.8801, et seq., as an additional or supplemental means of obtaining compliance. [Where violations of this Zoning Ordinance provide for the issuance of a civil citation, such civil citation shall be construed to provide an additional or supplemental means of obtaining compliance with the Zoning Ordinance.] All citations issued pursuant to this Zoning Ordinance shall be issued by the citation officers cited in Section 14-10 of the Code of Ordinances and referred to the Infrastructure Hearing Board with the citations and the civil process to conform to Sections 16-76 through 16-83 of the Code of Ordinances.

ARTICLE 17**Provide for Civil Citations****SIGN REGULATIONS******* PROPOSED AMENDED SECTION OF THE CURRENT ORDINANCE *****

17-14 PENALTIES FOR VIOLATION - Violation of the provisions of these sign regulations shall constitute a misdemeanor, or in the alternative may be punishable by the issuance of a civil citation, which shall be subject to the fines and penalties as set forth in Article 5 for violation of this Zoning Ordinance.

ARTICLE 23C**Provide for Civil Fines****EXPANSION AREAS DEVELOPMENT EXACTIONS******* PROPOSED AMENDED SECTION OF THE CURRENT ORDINANCE *****

23C-13 PENALTY AND ENFORCEMENT - Any violation of this Article shall be subject to the penalties provided in Article 5 of the Zoning Ordinance. In addition to those [criminal] remedies, the Lexington-Fayette Urban County Government retains the right to enforce the provisions of this Article by filing an enforcement action in civil court. Knowingly furnishing false information to the Lexington-Fayette Urban County Government on any matter relating to the administration of this Article shall constitute a violation thereof.

ARTICLE 26**Provide for Civil Fines****TREE PROTECTION STANDARDS******* PROPOSED AMENDED SECTION OF THE CURRENT ORDINANCE *****

26-12 PENALTIES - Penalties are set forth under Article 5-8, Penalties for Violations, of the Zoning Ordinance, and Article 5-9, Civil Citations and Civil Penalties. Each act or each healthy tree removed or damaged, except as described in the approved TPP, shall constitute a separate violation.

Infrastructure Hearing Board

Authorizing Legislation: Code of Ord., Ch 16, Art. XI & KRS 65.8801 through 65.8839

Purpose:

The Infrastructure Hearing Board hears matters regarding enforcement of ordinances by the divisions of Engineering, Sanitary Sewers, Planning, and Traffic Engineering.

To view LFUCG Charter & Code of Ordinances click here or KRS 65.8801 click here.



**Infrastructure
Hearing Board**
Lexington, KY 40507



(859) 258-3415

Contact: Tim Koch

Members:

NAME	TERM EXPIRES
Francis Camargo	February 1, 2011
Kenneth Cook	February 1, 2013
Mark Mahan	February 1, 2013
Jesse Robbins	February 1, 2013
Jean Watts	February 1, 2013

Meeting Schedule:

This board meets as needed and by appeal.

Meeting Minutes:

ARTICLE IX. INFRASTRUCTURE AND ENVIRONMENTAL HEARING BOARDS

Sec. 16-76. Hearing boards; establishment; powers.

Two (2) hearing boards are hereby created pursuant to KRS 65.8801 through 65.8839, one (1) to be known and referred to as the infrastructure hearing board and one (1) to be known and referred to as the environmental hearing board. The infrastructure hearing board shall hear matters regarding enforcement of ordinances by the divisions of engineering, sanitary sewers, planning, traffic engineering, and streets, roads and forestry, as specified in applicable code sections, and those portions of the zoning ordinance and subdivision regulations subject to enforcement through civil citations. The environmental hearing board shall hear matters regarding enforcement of ordinances by the divisions of environmental and emergency management and solid waste.

(Ord. No. 317-2000, § 1, 10-26-00; Ord. No. 269-2004, § 8, 11-4-04; Ord. No. 247-2007, § 3, 11-1-07)

Sec. 16-76.1. Members.

(a) The infrastructure hearing board established pursuant to section 16-76 shall be composed of five (5) members and two (2) alternate members to serve in absence of the regular members, appointed by the mayor in the following manner and confirmed by a majority of the urban county council:

- (1) One (1) member shall be a builder or developer.
- (2) One (1) member shall be a representative of the conservation or environmental community.
- (3) One (1) member shall be an engineer with experience in civil engineering.
- (4) Two (2) members shall be from the community at large.
- (5) Two (2) alternate members who shall be representative of two (2) of the areas designated in section 16-76.1(a)(1), (2), or (3), above.

(b) The environmental hearing board established pursuant to section 16-76 shall be composed of three (3) members, appointed by the mayor and confirmed by a majority of the urban county council.

(c) *Terms and qualification:* Appointed board members, and alternate members shall serve a term of three (3) years from the date of appointment, provided that the terms of those originally appointed shall be for one (1) year, two (2) years, and three (3) years, so as to be staggered in the manner required by KRS 65.8811. Vacancies shall be filled for an unexpired term within (60) days by the mayor in the manner prescribed for the original appointment. Board members, and alternate members, shall have been a resident of Fayette County for a minimum of one (1) year prior to appointment and shall reside there throughout the term of office.

(d) *Removal:* Members of the board, and alternate members, may be removed by the mayor for misconduct, inefficiency, or willful neglect of duty. In exercising the power to remove a member, the mayor shall submit a written statement to the member, or alternate member, and to the urban county council setting forth the reasons for the removal. The member, or alternate member, so removed shall have the right of appeal to the circuit court.

(e) *Oath of office:* All members of the board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

(f) No member, or alternate member, of the board shall be compensated for service but may be reimbursed for actual costs or expenses incurred by reason of service on the board.

(Ord. No. 269-2004, § 9, 11-4-04)

Sec. 16-77. Powers of board.

The board shall have the power to:

- (a) Adopt rules and regulations to govern its operation and conduct of its hearings consistent with the requirements of KRS 65.8801 to 65.8839 and local ordinances.
- (b) Conduct hearings to determine whether there has been a violation of any local ordinance that the board has jurisdiction to enforce.
- (c) Subpoena alleged violators, witnesses, and evidence to the hearing. Subpoenas issued by the board may be served by any enforcement officer.
- (d) Take testimony under oath. The chair of the board shall have the authority to administer oaths to witnesses prior to their testimony before the board on any matter.
- (e) Make findings and issue orders as authorized by ordinance that are necessary to remedy any violation of an urban county government ordinance that the board has jurisdiction to enforce.
- (f) Impose civil fines as authorized by ordinance on any person found to have violated any ordinance that the board has jurisdiction to enforce.

(Ord. No. 317-2000, § 1, 10-26-00)

Sec. 16-78. Conduct of hearing.

- (a) The board shall, upon the initial appointment of its members, and annually thereafter, elect a chair from among the members, who shall be the presiding officer and a full voting member of the board. In the absence of the chair, the remaining members of the board shall select one (1) of their number to preside in place of the chair and exercise the powers of the chair.
- (b) *Meetings:* The board shall meet on a designated day of each calendar month, as established by the board, if written applications for appeal have been filed or other business is pending before the board, or at such other times as deemed necessary by the board. The board secretary shall give seven (7) days' public notice of board meetings. An application for appeal shall not be heard by the board until the required public notice has been given.
- (c) The presence of three (3) or more members shall constitute a quorum of the board. The affirmative vote of a majority of the members constituting a quorum shall be necessary for any official action to be taken.
- (d) Any member of the board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest on the record and shall disqualify himself from voting on the matter and shall not be counted for purposes of establishing a quorum.
- (e) Any party to an administrative hearing may participate in person or may be represented by counsel. An attorney may serve as local counsel to the board or may represent the local government by presenting cases before the board, but in no case shall an attorney serve in both capacities.
- (f) If a party fails to attend or participate in a hearing, the board may adjourn the proceedings and issue a default order upholding the notice.
- (g) All testimony shall be made under oath or affirmation and shall be recorded. The board shall take testimony from the enforcement officer, the alleged offender, and any witnesses to the alleged violation. Formal rules of evidence shall not apply, but

fundamental due process shall be observed and shall govern the proceedings. Any person, upon request, may receive a copy of the recording, provided, however, that the party making the request shall be responsible for the cost of any transcript or copy.

(h) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party, or if such practice is authorized by statute. Any party shall have the right, upon reasonable request, to inspect the documentary or tangible evidence relating to an administrative hearing, either in person or through counsel. Copies of documentary evidence may be obtained by parties upon the payment of a fee, except where disclosure is protected by state or federal law.

(i) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(j) The board may take official notice of any matter of which a court of the Commonwealth of Kentucky may take such notice.

(k) At the hearing, the board shall determine, based on the evidence presented, whether a violation was committed. When the board determines that no violation was committed, an order dismissing the citation and civil fine shall be entered. When the board determines that a violation was committed, the board shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a civil fine, or both.

(l) Every final order of the board shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

(m) The commissioner of public works shall designate a staff person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the commissioner.

(Ord. No. 317-2000, § 1, 10-26-00; Ord. No. 282-2003, § 17, 12-4-03; Ord. No. 269-2004, § 10, 11-4-04)

Sec. 16-79. Appeals; final judgment.

(a) Any person affected by the initial notice to abate or a citation which has been issued in connection with the enforcement of applicable section of the code, or who is otherwise provided the right to appeal to the board pursuant to ordinance, shall have the right to request and shall have granted a hearing on the matter; provided that such person shall file, with the appropriate board, or its designee, a written request for such hearing on the grounds therefore within seven (7) days of the date of issuance of the notice, citation or decision.

(b) Failure to appeal. If the person fails to timely appeal as provided for in subsection (a), he or she shall be deemed to have waived the right to a hearing to contest the notice, citation or decision and the determination that a violation was committed shall be final. In this event, the board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation or upholding the notice or decision.

(c) An appeal from the board's determination may be made to the Fayette District Court within thirty (30) days of the board's determination pursuant to KRS 65.8831. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same

manner as any civil action under the Rules of Civil Procedure. The appeal shall be limited to a review of the record created before the board.

(d) A judgment of the district court may be appealed to the circuit court in accordance with the Rules of Civil Procedure and applicable state statutes.

(e) If no appeal from a final order of the board is filed within the time period set forth in this section, the board's order shall be deemed final for all purposes.

(Ord. No. 317-2000, § 1, 10-26-00; Ord. No. 282-2003, §§ 18, 19, 12-4-03)

Sec. 16-80. Notice.

(a) The board shall give notice of a hearing to the parties not less than seven (7) days in advance of the date set for the hearing. The notice may be served on the parties by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice.

(b) The notice required by this section shall include:

(1) A statement of the date, time, place, and nature of the hearing;

(2) A reference to the specific ordinances and regulations which relate to the issues involved;

(3) A statement advising the parties of their right to legal counsel;

(4) A statement advising that any party who fails to attend or participate in the hearing shall be deemed to have waived the right to a hearing to contest the notice to abate, citation or decision and the determination that a violation was committed shall be considered final.

(Ord. No. 317-2000, § 1, 10-26-00; Ord. No. 282-2003, § 20, 12-4-03; Ord. No. 269-2004, § 11, 11-4-04)

Sec. 16-81. Lien; recording; responsibility for fines, charges and fees.

(a) The urban county government shall possess a lien on property owned by the person found by a final, non-appealable order of a hearing board or by a final judgment of a court of competent jurisdiction to have committed a violation of an ordinance for all fines or civil fines assessed for the violation and for all charges and fees incurred by the government in connection with enforcement of the ordinance. The lien shall be evidenced by a notice of lien claimed, recorded in the office of the county clerk, which notice shall include the affidavit of the citation officer setting forth the property in question, the amount of the cost of abatement or civil fine, if any, the date of abatement, and a statement that the notice provisions were complied with before abatement. The urban county government shall bill the property owner at least once following abatement by the urban county government or the assessment of a civil fine. No notice of lien claimed shall be filed against the property for the cost of abatement until seven (7) days have elapsed since the bill was sent, and in the case of a fine, no notice of a lien claimed shall be filed against the property until the time for appeal has expired and the hearing board has entered a final order. The lien shall be notice to all persons from the time of its recording and shall bear interest until paid. The lien shall take precedence over all other subsequent liens except state, county, school board and city taxes pursuant to KRS 65.8835, and may be enforced by civil proceedings. Notwithstanding the foregoing, the urban count government shall not record a lien for a violation of section 16-10(b).

(b) In addition to the remedy prescribed in the foregoing section, the person found to have committed the violation shall be personally responsible for the amount of all fines or civil fines assessed for the violation and for all charges and fees incurred by the urban county government in connection with enforcement of the ordinance. The urban county

government may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt.

(Ord. No. 317-2000, § 1, 10-26-00; Ord. No. 282-2003, § 21, 12-4-03; Ord. No. 269-2004, § 12, 11-4-04)

Sec. 16-82. Immediate action to remedy violations.

Nothing contained in this article shall prohibit the urban county government from taking any action permitted by law to remedy a violation of its ordinances when there is reason to believe that the existence of the violation presents a serious threat to the public health, safety and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible.

(Ord. No. 317-2000, § 1, 10-26-00)

Sec. 16-83. Citations; notification.

(1) All civil citations issued pursuant to articles IV, V and VIII of this chapter shall be issued by citation officers cited in section 14-10, or peace officers, and shall contain the following:

- (a) The date and time of issuance;
- (b) The name and address of the person to whom the citation is issued;
- (c) The date and time the offense was committed;
- (d) The facts constituting the offense;
- (e) The section of the Code of Ordinances violated;
- (f) The name of the citation officer or peace officer issuing the citation;
- (g) The maximum civil fine that can be imposed for each violation;
- (h) The specific civil fine of less than the maximum that will be imposed if the person does not contest the citation;
- (i) The procedure for payment of the fine or contesting the citation; and
- (j) A statement that if the person fails to contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the board to contest the citation and that the determination of the citation officer, or peace officer, that a violation was committed shall be final.

(2) The property owner shall be notified of the citation in writing. Said notice shall be served upon the property owner by personal service or by fax transmission or by regular mail to the last known address of the owner of the property, as it appears on the current tax assessment roll. Said notice shall contain information regarding the procedure and the time frames established in this article for appeal of the citation.

(3) After issuing a citation to an alleged violator, the citation officer, or peace officer, shall notify the hearing board by delivering a copy of the citation to the administrative official designated by the board.

(Ord. No. 269-2004, § 13, 11-4-04)

APPENDIX 5

Kevin Stinnett, Councilmember 6th District
 June 3, 2010
 Building Inspection Task Force: Gravel Parking & Permit Time Expiration
 Page Two

Building Permit Time Limits

The 2006 National Building which was adopted by the Kentucky Department of Housing & Construction Board as part of the Kentucky Code in 2007 provides that residential permit holders have 180 days to commence work once a building permit is issued. In addition the work is to be completed within an additional 180 days. The Division of Building Inspection may issue extensions for up to 180 additional days if the applicant requests such in writing.

As we operate within the Kentucky Code I believe we must in part adhere to the limits however a local policy might be developed dealing with extensions in a uniform manner.

There are many reasons a building permit might expire: the applicant is working on the home on a part time basis; financing of the project; health of party; etc.

Numerous communities offer different permit time periods with incentives for completing work in prescribed time frames of disincentives for delaying work.

St. Petersburg, Fla; Spokane, Wash; Lincoln, Neb; and Plano, Tex offer rebates of up to 50% of the cost of the permit if work is completed and inspected within prescribed time limits.

Providence, RI; Savannah, Ga; Aurora, Co; and Wilmington, Oh allow for building permit extensions but the price of the permit escalates for each extension. Savannah for example doubles the cost of the permit for each subsequent extension.

Still other communities tie delays in building construction permits to claiming the structures vacant and dilapidated. Seattle, Wash; Augusta, Ga; and Eugene, Ore will attempt to certify that unfinished residential structures with expired permits are vacant dilapidated and their property tax rate increases. In Eugene for example the dilapidated rate is 3 times the rate for residential property.

Honolulu, Ha; Portland, Ore; and Colorado Springs, Co assess surcharges of approximately 50% for building permit extensions. The proceeds are deposited within their respective trust fund for affordable housing in each of the municipalities.

Should you need any further information please do not hesitate to contact me at 258-3208.



Paul Schoninger
 Staff to Council

c: Dina Melvin

PROPOSED BY LEXINGTON -

R. 105.3.3 Additional permits or extensions. If the work authorized by the permit and any applicable extensions or additional permits issued for that same work is not completed within 720 days of the issuance of the original permit, the building official is authorized to reject any applications for, and refuse issuance of, any additional permits or extensions for that same work for a period of 1 year. In the event that the work and any related structures are not authorized by a permit, all applicable state and local laws shall apply, including but not limited to those pertaining to zoning and/or nuisances.

R. 105.5.1 Insufficient progress. The building official is authorized to take the position that a permit is invalid or abandoned, and is further authorized to let a permit expire if the building official determines that less than 25% of the work authorized by that permit has been performed during the applicable period of time provided for by that permit.

APPENDIX 6

Dina Melvin

From: Bettie Kerr
Sent: Thursday, April 15, 2010 1:11 PM
To: Dina Melvin
Cc: Michael Webb; Dewey Crowe
Subject: RE: gravel refreshing

Dina – For properties that are within the boundaries of any of Lexington's 14 Local Historic Districts (H-1 overlay zone), a permit is required to refresh existing gravel or to install new paving (blacktop, concrete, etc.)

For work that involves an existing condition, an application to repair pavement or refresh existing gravel is handled by HP staff, any proposed new paving, of any material, has to be reviewed and approved by the Board of Architectural Review and permits issued according to the review board's action.

With any permit application, HP staff visits the site, reviews existing situation, talks to applicant (owner or contractor), photographs the existing condition, reviews aerial photographs and determines what photos, if any, of property in Historic Preservation's archives. Relative to gravel, the Division of Historic Preservation also forwards the base information gathered for that property to Building Inspection.

When a complaint is of work being done where no permit has been issued, or the preservation inspector encounters same, owner informed of need to obtain necessary permit and work is to stop until such obtained. Other than repairing existing, the owner/contractor is also informed they also need to obtain a Building Permit and any other necessary LFUCG permits.

There is no fee for Certificates of Appropriateness (permits) for the properties within the historic districts.

I hope this info helps, please let me know if questions. Thanks.
 Bettie

Bettie Kerr
 Director
 Division of Historic Preservation
 LFUCG
 200 East Main Street
 Lexington, Kentucky 40507
 (859) 258-3265

From: Dina Melvin
Sent: Tuesday, April 13, 2010 4:42 PM
To: Bettie Kerr
Subject: gravel refreshing

Betty,

As we discussed earlier today, CM Stinnett asked that I get the requirements that you use in Historic Preservation in regards to gravel refreshing. Do you require a permit, if so, what is the cost? Thank you!!

Dina Melvin
 Legislative Aide

4/15/2010

GENERAL REGULATIONS FOR PARKING, LOADING AREAS,
GARAGES, AUTOMOBILE SERVICE STATIONS,
VEHICLE SALES LOTS AND STACKING AREAS

*** PROPOSED AMENDED SECTION OF THE CURRENT ORDINANCE ***

16-4 PARKING, LOADING AND UNLOADING AREAS IN RESIDENTIAL ZONES

16-4(a) MINIMUM REQUIRED PARKING - In every R-1A, R-1B, R-1C, R-1D, R-1E, R-1T and R-2 zone, there shall be provided at least one (1) off-street parking space for each dwelling unit; no such space shall be located within any required front yard or side street side yard area. Properties within the R-1E or R-1T zone may park within the required front or side street side yards, provided the final record plat was approved by the Planning Commission prior to December 5, 2002. The parking area and driveway shall be paved with concrete, asphalt, brick or other suitable hard surface materials, as approved by the Division of Building Inspection. Loose aggregate or other type of gravel is prohibited, except as approved by the Board of Architectural Review for the purpose of historic preservation, or when approved by the Urban County Forester for the purpose of tree protection. In either case, the applicant must show that there is not another reasonable alternative to the loose aggregate. After September 1, 2010, a means of containment approved by the Division of Building Inspection must be used in all instances in which loose aggregate or other type of gravel is either used to resurface or replace more than a ten foot (10') by ten foot (10') surface area of an existing aggregate or gravel parking area or driveway, or as an approved paving method by the Board of Architectural Review or the Urban County Forester. The containment must be of the entire parking area or driveway, and must sufficiently keep the aggregate or gravel from spreading beyond the immediate area of the parking area or driveway. The Board of Architectural Review must also approve the means of containment in instances in which the aggregate or gravel is used as a paving method for the purpose of historic preservation.

Within the defined Infill & Redevelopment Area, the maximum width in the front yard of any driveway serving the required space(s) per dwelling unit shall be limited to ten (10) feet.

APPENDIX 7

ARTICLE 1

DRAFT
10/1/2010

GENERAL PROVISIONS AND DEFINITIONS

1-11 **DEFINITIONS** - For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the word person includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the word structure includes building; the word occupied includes arranged, designed or intended to be occupied; the word used includes arranged, designed or intended to be used; the word shall is always mandatory and not merely directive; the word may is permissive; and the word lot includes plot or parcel. Other words and terms shall have the following respective meanings:

ROADSIDE STAND - A temporary structure designed or used for the display or sale of agricultural products grown on the premises upon which such a stand is located.

STRUCTURE - Anything constructed, the use of which requires permanent or continuous location on the ground, or attached to something having permanent location on the ground.

TEMPORARY STRUCTURE - Anything constructed and placed on the ground without a permanent foundation and consisting of 400 square feet or more in size, the use of which is designed for use or occupancy for only 180 days or fewer per twelve-month period. Any structure intended to remain in place in excess of that time period must be permitted as a permanent structure. For purposes of regulating the use of such structures, and limitation stated in this ordinance shall be calculated by the cumulative consideration of the use of any and all such structures on a single property. This use must also be consistent with the requirements and limitations, if any, of the Kentucky Building Code.

ARTICLE 8

DRAFT

8-5 SINGLE FAMILY RESIDENTIAL (R-1A) ZONE

8-5(a) **Intent** - These zones are established to provide for single family detached residences and supporting uses. The zones should be located in areas of the community where services and facilities will be adequate to serve the anticipated population. The Comprehensive Plan should be used to determine the location and density (units/acre) of each single family zone.

8-5(c) **Accessory Uses** (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Private garages, storage sheds, and parking areas.
2. Swimming pools and tennis courts, including accessory structures and temporary structures associated with those uses.

Note: this change above will carry through the other residential (R-1B through R-5) zones.

8-5(d) **Conditional Uses** (Permitted only with Board of Adjustment approval.)

4. Temporary real estate sales offices for the sale of lots located only within the subdivision in which said lots are located, to be removed at the end of two years or when all the lots are sold, whichever comes first.

8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

8-16(a) **Intent** - This zone is intended to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. Generally, they should be planned facilities and should be located as recommended in the Comprehensive Plan. This zone should be oriented to the residential neighborhood, and should have a roadway system which will be adequate to accommodate the anticipated vehicular traffic.

8-16(d) **Conditional Uses** (Permitted only with Board of Adjustment approval.)

11. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-17 DOWNTOWN BUSINESS (B-2) ZONE

8-17(a) Intent - This zone is intended to accommodate existing and future development in the Central Business District.

8-17(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

7. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

Note: this change above will also carry to the Downtown Frame Business (B-2A) zone.

8-19 LEXINGTON CENTER BUSINESS (B-2B) ZONE

8-19(a) Intent - This zone is intended to ensure compatible land uses, the preservation of existing attractions compatible with the Lexington Center, and the encouragement of new uses necessary to the proper development of the downtown area. The permitted land uses in the zone should have some logical relation to the Lexington Center and to the downtown core, should promote tourism, should promote the economic health of the community, should provide for an aesthetically pleasing environment, and should prevent the creation of influences adverse to the prospering of the Lexington Center and the downtown area.

8-19(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

11. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-20 HIGHWAY SERVICE BUSINESS (B-3) ZONE

8-20(a) Intent - This zone is intended to provide for retail and other uses, which are necessary to the economic vitality of the community but may be inappropriate in other zones. The Comprehensive Plan should be used to determine the locations for this zone. Special consideration should be given to the relationship of the uses in the zone to the surrounding land uses and to the adequacy of the street system to serve the traffic needs.

8-20(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

Required conditions for any conditional use permitted herein shall be as follows:

Any conditional use shall be located, in relationship to the arterial roadway system, so that the conditional use has a minimal effect on the adjoining streets and the surrounding uses.

Any outdoor theater screen or illuminated scoreboard or other similar surface shall not be visible from any street for a distance of one thousand (1,000) feet from said structure.

Entrances of ingress or egress, acceleration lanes, and deceleration lanes shall be provided in conformance with requirements as established by the Urban County Traffic Engineer.

11. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

8-21(a) Intent - This zone is intended primarily for wholesaling, warehousing, storage operations and establishments whose activity is of the same general character as the above. To a lesser extent, this zone is also intended to provide for the mixture of professional offices and warehouses that promote reuse and redevelopment of older warehouses, allowing businesses to combine their entire operation in one building, as recommended for the Office/Warehouse land use category in the Comprehensive Plan.

The Comprehensive Plan should be used to determine the appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and the adequacy of the street system to serve the anticipated traffic needs. 35

8-21(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

5. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22(a) Intent - This zone is intended for manufacturing, industrial, and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste. In addition, the Comprehensive Plan recognizes that it is important to promote adaptive reuse of older industrial areas and to allow industrial mixed-use industrial projects. The Comprehensive Plan should be used to determine appropriate locations for this zone and for Industrial Mixed-Use Projects. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.

8-22(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

21. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-23 HEAVY INDUSTRIAL (I-2) ZONE

8-23(a) Intent - This zone is intended for manufacturing, industrial, and related uses that involve potential nuisance factors. The Comprehensive Plan should be used to determine the appropriate locations for this zone. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.

8-23(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

36. Temporary structures designed for use or occupancy for 61-180 days per twelve-month on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-24 OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE

8-24(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

4. Temporary structure designed for use or occupancy for 61-180 days per twelve-month on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

APPENDIX 23A – EXPANSION AREA ZONING CATEGORIES AND RESTRICTIONS DRAFT

23A-4 CONSERVATION DISTRICT (CD) ZONE

23A-4(d) CONDITIONAL USES

4. Temporary structures designed for use or occupancy for 61-180 days per twelve-month on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(d) CONDITIONAL USES

11. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property. 36

ARTICLE 23A-10 ECONOMIC DEVELOPMENT (ED) ZONE

23A-10(d) CONDITIONAL USES

4. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

ARTICLE 28

DRAFT

MIXED USE ZONING CATEGORIES

28-1 INTENT - The intent of this Article is to permit the development of zoning categories that promote the proper locations and regulation of development, which inherently permits the mixing of residential and non-residential uses. Such mixing of uses in appropriate locations and subject to appropriate restrictions can create a combination of functions compatible with abutting residential neighborhoods. This Article is intended to provide neighborhood-based employment opportunities; provide support services that enhance livability of neighborhoods; enhance the use of public transit and alternative modes of transportation; re-vitalize established neighborhood commercial centers; and promote quality infill and redevelopment potential in accordance with the adopted Comprehensive Plan.

28-3 MIXED-USE 1: "NEIGHBORHOOD NODE ZONE" (MU-1)

28-3(d) Conditional Uses - ~~None~~ The following shall be conditional uses in the MU-1 zone:

1. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

28-4 MIXED-USE 2: "NEIGHBORHOOD CORRIDOR ZONE" (MU-2)

28-4(d) Conditional Uses - The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities as an adjunct to a permitted use.
2. Temporary structures designed for use or occupancy for 61-180 days per twelve-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

28-5 MIXED-USE 3: "MIXED-USE COMMUNITY ZONE" (MU-3)

28-5(d) Conditional Uses - The conditional uses in the B-1 zone, except as prohibited under Section 28-5(e) below.

28-5(e) Prohibited Uses - The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: parking lots and structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.
2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle - 28' maximum overall length), trailers,

and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.

3. The following B-1 conditional uses: self-service car washes; animal hospitals or clinics; the rental of trucks (single rear axle - 28' maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.
4. All uses listed as prohibited in the B-1 zone.

ZOTA/2010/Temp. structures - 2 ZOTA.doc

APPENDIX 8

BI Project

Software:

Software Pricing for Single Department Site License

Land \$131,250

AGIS \$81,250

AMO ~~\$124,000~~

ACA \$10,995 (An additional module fee. ACA is based on County population 282,114)

~~\$347,495~~

The Single Dept Site License pricing above applies to BI. It also applies to Code. Since Bldg and Code are in different Depts, we will add both of these software pricings together, i.e. just double the pricing above.

Maintenance: ~~\$69,449~~

Services (Including Travel):

Version 2.0 – May 4, 2010

Description	Price
Project Initiation	\$ 13,320
System Setup	\$ 3,700
Analysis	\$ 195,915
Configuration	\$ 82,880
Data Conversion	\$ 48,100
Interfaces	\$ 68,450
Report Development	\$ 155,400
Training	\$ 40,440
User Acceptance Testing	\$ 29,600
Go-Live Support	\$ 33,300
Accela GIS	\$ 21,090
Accela Mobile Office	\$ 17,020
Accela Citizen Access	\$ 19,980
Project Management	\$ 150,309
Total	\$ 879,504
Estimated Travel Expenses	\$ 75,450
Total Travel & Services	\$ 954,954

The total for BI, comprised of Software, 1st year Maintenance, and Services is:

~~\$1,671,948~~

What is included in the pricing?

Pricing includes services and travel only.

Services: project management, system set up, analysis, configuration, data conversion, creation of interfaces, report development, training, acceptance testing, go-live support

Travel: multiple site visits

It DOES NOT include software (see "software" below), hardware (mobile laptops), maintenance, possible additional GIS ArcEngine licensing, dedicated LFUCG Project Manager.

Software: LFUCG is working towards an enterprise site license. Once our software licensing purchases reach \$800,000.00, license fees will no longer apply. As currently planned, implementation of Accela for Building Inspection will occur after Water Quality and LexCall.

Water Quality = \$451,804.12

LexCall estimated = \$242,245.00

Estimated amount to Enterprise Site License = \$105,951.00

If BI is done after LexCall, software licensing should not exceed \$105,951.00. If BI is done after LexCall and Code Enforcement, there will most likely be no cost for licensing.

Building Inspections Pricing

Version 2.0 – May 4, 2010

<u>Description</u>	<u>Price</u>
Project Initiation	\$ 13,320
System Setup	\$ 3,700
Analysis	\$ 195,915
Configuration	\$ 82,880
Data Conversion	\$ 48,100
Interfaces	\$ 68,450
Report Development	\$ 155,400
Training	\$ 40,440
User Acceptance Testing	\$ 29,600
Go-Live Support	\$ 33,300
Accela GIS	\$ 21,090
Accela Mobile Office	\$ 17,020
Accela Citizen Access	\$ 19,980
Project Management	\$ 150,309
Total	\$ 879,504
Estimated Travel Expenses	\$ 75,450
Total Travel & Services	\$ 954,954

Will this system track all other departments' violations?

The system can provide access to other departments'/divisions' violations if that department/division has implemented the software. If Building Inspections' implementation occurs prior to Code Enforcement's, BI will not see any Code Enforcement case management or violations.

Will it link to GIS?

Yes. The Accela GIS module ties directly into ESRI's ArcGIS server. One of the solution requirements was to leverage our existing GIS software and data format.

Will it populate multiple fields?

This is vague; therefore I'll address this from various aspects.

1. The software and supporting databases can be configured to accommodate any data our agency chooses to store, display or retrieve. We may add custom fields relevant to our specific processes.
2. Functionality will allow users to select (highlight or click) data from some data sources and auto populate into other processes. Examples: select address from drop down (GIS) and paste into inspection/permit process (form).
3. Automatically complete fields within forms/letters (work order/service request) from existing sources.

Will mobile units be used?

Yes. Licensing, services, and deliverables for mobile applications are included. While the final scoping document is not yet completed, the requirement and functionality for the following items have been documented.

- Create new inspections, investigations, service requests, work orders
- Cancel, reschedule, or reassign field appointments
- Sign off on jobs and submit results back to the agency in real-time
- Review case, application, or permit summary
- Print reports in the field
- Review maps in the field

Is the total cost what is on pg 10: answer no, just Building Inspection.

See the first question. Services and Travel are \$954,954.00. The software licensing will depend on what licensing has already been purchased and what is applicable to our EIA cap of \$800,000.00. It is expected that the license cost would be approximately \$105,951.00. There will be other costs such as GIS licensing, hardware (laptops), and staff resources.

Will the software be able to do anything about the illegal aspect?

Without being aware of the context of 'illegal aspect', it is difficult to provide an answer. If this refers to there being statuses during a business process that constitute an illegal (or just out of compliance) result, then the workflow can take whatever is the appropriate next set of steps. Since workflow is the core to Accela's functionality, any status leads to the appropriate next step, or set of steps, in accordance with a particular Division's business rules.

Will there be a way to flag an issue in the system? Dewey says yes. Citizen says it is lethargy within BI.

There are ways to flag issues. It will depend on the configuration and work flow requirements defined by each Department/Division.

If a problem is identified during a business process, then that finding could cause the process, address, parcel, to be flagged as having a "lock" or "hold" status. This condition could be made available to other Departments/Divisions.

In terms of lethargy, the system assigns, schedules, and routes assignments to the appropriate person. Staff will be notified when a particular task is in their work list. Management will be able to track and manage inspections. Configuration to the Citizen Access module will allow the public to check the status of plans, inspections, or projects.

Will the software allow the public to view the complaints?

The Citizen Access module allows for this functionality. During the "Analysis Stage" of the project, each Department/Division will determine what data should be made available to the public.



Accela Project 7 Year ROI For BI and Code

Building Inspections Seven Year Return On Investment

- Mobile Force Automation \$2,060,294.88
- Online Services \$2,682,663.23

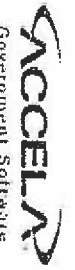
Subtotal \$4,742,958.11

Code Enforcement Seven Year Return On Investment

- Mobile Force Automation \$1,298,324.08
- Online Services \$268,800.92

Subtotal \$1,567,125.00

BI & Code Combined ROI \$6,310,083.11



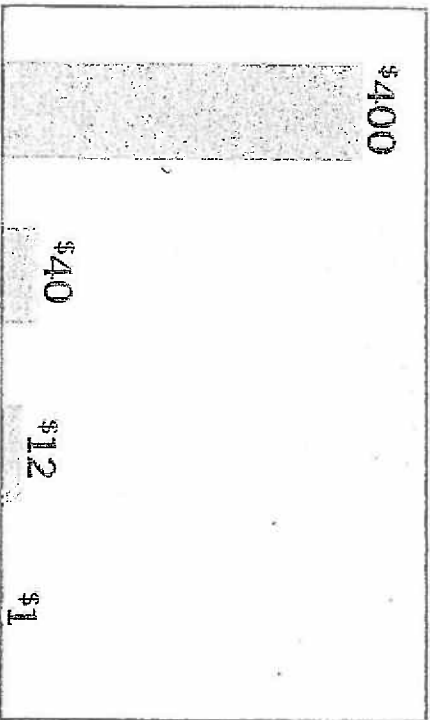
ROI: (Counterclockwise from top left) State of MI Experience; Gartner Research Data; & Accela Customer Experience with Mobile Deployment

e-Government

"Accela's solution was easy to implement and the benefits of the online system were instantaneous, both for State of Michigan employees and for the citizens we serve. Citizens are happy since the process is much shorter and we're happy because it's more efficient as employees do not have to spend all of their time processing permits."

*Teri Takai, former State of MI CIO; current State of CA CIO

The Cost of Delivering Services to Your Citizens*

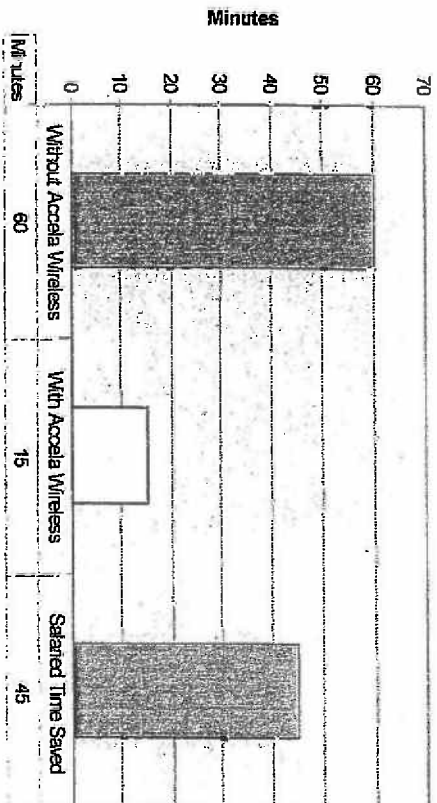


*Source: Gartner Research

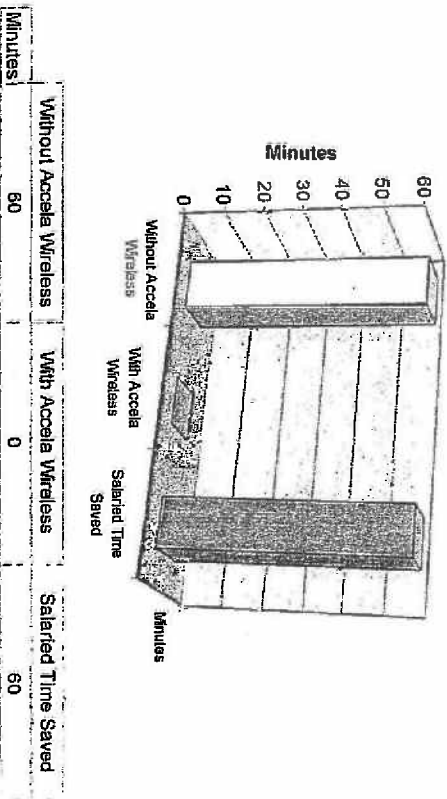
Accela Automation

Mobilizing Field Processes

Payable Time Before First Inspection



Time to Travel Back to Office & Log All Inspection Results



MEETING MINUTES

Building Inspection Task Force Meeting Minutes 12-1-09

Chair: Councilmember Kevin O. Stinnett

Attending Members:

Councilmembers Tom Blues, Linda Gorton, Peggy Henson and Diane Lawless.

Also in attendance: Councilmember Ed Lane and his Legislative Aide Scott Seymour, David Barberie, LFUCG Division of Law, John Bryant, Deputy Director Division of Building Inspection, Todd Johnson, Executive Vice President Home Builders Association of Lexington, Knox Van van Nagell, Executive Director of Fayette Alliance and John Hoglin.

CM Stinnett called the meeting to order at 10:35 and introduced the members of the task force, stated that in this meeting we would set forth our goals of this task force, what we would like to accomplish and set future meeting dates.

The following is the list of issues that the task force will look at:

1. Management and Personnel of the Division of Building Inspection

CM Stinnett stated they it would be valuable to talk to the employees of Building Inspection. We need to find out what divisions they have, what re are and what laws they are responsible for enforcing they that CM Lawless stated that we need to look at the processes and legislative resolutions that need to set a process in motion. We need input on what they need to better do their jobs

2. Zoning Law Placement and Enforcement
3. Safety Issues
4. Civil / Criminal Enforcement Hearing Board
5. Enforcement / Fines Application Tracking
6. Time Limits on Construction

The next meeting has been scheduled for Thursday, January 14, 2010 at 3:00pm in the 5th floor conference room in the Government Center.

Building Inspection Task Force Meeting Summary 1-14-10

Chair: Councilmember Kevin O. Stinnett

Attending Members:

Councilmembers -Tom Blues, Linda Gorton, Peggy Henson

Also in attendance: Legislative Aides Scott Seymour and Diana Queen, David Barberie, LFUCG Division of Law, Dewey Crowe, Director of Building Inspection, John Bryant, Deputy Director Division of Building Inspection, Todd Johnson, Executive Vice President Home Builders Association of Lexington, Kevin Wente, Administrative Officer Department of Public Works and John Hoagland.

CM Stinnett called the meeting to order at 3:05. The summary for the 12-1-09 meeting was approved.

Dewey Crow gave a general overview of the entire Division of Building Inspection. He stated that included in the packet were a divisional organizational chart and a brief two page overview, what the Division does and how it is broken down. The primary function of Building Inspection is enforcement of the 2007 Kentucky Building Code and the 2007 Kentucky Residential Code closely followed by the local zoning ordinance that we interpret and enforce

The division is broken down into four main operating units.

The Administrative unit basically takes care of the customer service issues, reporting, budgeting, payroll and purchasing.

Next is the commercial section that deals all commercial permitting and zoning interpretations that would be anything other than one and two family unit issues. Apartments, three units and above falls within this section and they enforce the 2007 Kentucky Building Code, which only applies to commercial structures.

New Residential Section they only handle new construction of one and two family dwellings and they enforce the 2007 Kentucky Residential Code as well as any associated zoning issues under the LFUCG zoning ordinances.

Existing Residential is a bit of hodge podge of various functions; if we didn't know where to put it, it fell in this section but their primary function is anything dealing with existing one and two family dwellings, renovations and additions to existing buildings, swimming pools, detached garage, and storage sheds. In

addition they contain the HVAC Inspection unit any thing dealing with replacement or install of new heating/cooling/ventilation equipment, including fire suppression units in restaurants. This unit issues permits and enforces the International Mechanical Code which is a reference code within the Kentucky Building Code. Existing Residential section, it also contains our Contractor Registration section which we register all contractors involved with doing any kind of construction or alterations, anything done a building or the land the building sits on within Fayette County you are required to be registered. There are exceptions with homeowners doing there own work and subcontractors working for registered contractors. This section also does complaint investigations for zoning violations and certain sections of the code of ordinances that are enforced that are separate issue. They share some plan review duties with the existing residential inspectors.

CM Stinnett asked Dewey how many vacancies they currently have. Dewey responded that their authorized strength is 45 and the currently have 5 positions that are vacant and unfunded under this budget. He also stated that they also had a retirement in December of an Existing Residential Supervisor and that they will use this position vacancy as part of the proposed budget reduction plan.

Dewey stated that also in the packet is a general list of various permits that Building Inspection issues and there are requirements attached to all of those. We do issue certificates of occupancy, also for re-occupancy. We work closely with the Fire Marshalls office. CM Gorton asked what occasion a certificate of occupancy issued for zoning approval, when a zone change has occurred. Dewey said no, when a new business goes into an existing building but might have a different type of business, we would inspect to make sure they are zoned for that type of business at that address and the Fire Marshall would have to do an inspection before issuing a certificate of occupancy.

Dr. Blues asked about fence permits and Dewey stated that yes, they must get a permit to build a fence. Whether it is a contractor or homeowner they have to have a permit.

David Barberie asked Dewey to provide for the group a list of the permits and for each permit the state law or city ordinance that mandates who enforces it and what code or ordinance it comes from.

Dewey talked about electrical inspectors and licenses, and then went over the last part of the list of other services that Building Inspection provided.

David Barber asked how we track projects on internet and Dewey answered that once someone makes a formal application then the project goes on the internet.

CM Stinnett asked if any permits can be submitted on-line and Dewey answered not right now but hopefully as funding comes available we will be able to.

CM Henson asked Dewey if he felt that he had sufficient staff and he answered he is doing ok but only feels that it is because we are in a down cycle. CM Henson also asked for Dewey to get the task force a list of how many permits were issued in 2009 broken down into each section and he said yes he would.

The group set the next meeting for Thursday, February 11th at 3:00pm in the 5th floor conference room. They decided that the next meeting issues to be discussed will be the Zoning Law Placement and Enforcement and also Safety Issues.

The meeting was adjourned at 4:25pm

Building Inspection Task Force Meeting Summary 2-11-10

Chair: Councilmember Kevin O. Stinnett

Attending Members:

Councilmembers -Tom Blues, Linda Gorton, Peggy Henson, Cheryl Feigel, Doug Martin and Diane Lawless.

Also in attendance: Legislative Aide Scott Seymour, David Barberie, LFUCG Division of Law, Dewey Crowe, Director of Building Inspection, John Bryant, Deputy Director Division of Building Inspection, Nancy Marinaro, Division of Building Inspection, Todd Johnson, Executive Vice President Home Builders Association of Lexington, David Jarvis, Director of the Division of Code Enforcement, Mike Webb, Commissioner of Public Works, Jimmy Emmons, Division of Planning ,Dottie Stinnett, Shayne Martin and John Hoagland.

CM Stinnett called the meeting to order at 3:10. The summary for the 1-14-10 meeting was approved.

CM Stinnett asked Dewey Crowe about the acting position listed on his divisions organization chart. John Bryant answered that part of the flow chart wasn't updated. Dewey stated position that Kay Bryant was no longer acting and that she did meet the requirements for the position; she went through the HR process.

After Dewey went through the complete list of mandates, CM Stinnett asked if there were any problems or issues that as a legislative body the Council could help with; such as local ordinances. Dewey said that they usually bring them forward as they come across them.

There was a discussion about fence height limitations and David Barberie stated that the state established the same Building Code throughout the state and in most jurisdictions it is locally enforced.

CM Henson asked if there is an ordinance to prohibit liquor stores next to schools or daycares. Dewey stated no, they only make sure the property is zoned for a retail business. David Barberie is to check and see if we can do a local ordinance that would prohibit liquor stores next to schools and daycares.

CM Lawless asked about shortening the date on temporary structures. Dewey answered that the State Fire Code states that a temporary structure can only be up 180 days in any one calendar year, and that is the only regulation we have to go by, nothing locally. He also stated that the last time Rochelle Boland looked into

that to issue; she said we could create a local ordinance that could make the temporary structure date shorter than the state code. CM Stinnett asked CM Lawless if this was something she wanted to address and she answered yes.

There was a discussion about gravel and paving permits. Dewey said that there is no gravel permitted in a residential zone unless it existed prior to December 2002. They use GIS photography to determine if a property had gravel before that date of not and that refreshing is allowed at this point without a permit. Mike Webb stated that they are going to propose permitting gravel refreshing.

There was also discussion about signage, placement of signs and what was allowed to be advertised in a residential zone.

CM Stinnett asked Dewey what Building Inspection does when they find someone doing one of these things on the list without a permit. Dewey said order them to cease work and obtain a permit. CM Stinnett asked if it were through a civil process or criminal and Dewey answered criminal. They also charge a \$500 penalty fee.

John Bryant presented the information of how Building Inspection processes zoning inquiries. Dewey stated that Building Inspection has always been the Division to interpret and enforce the zoning laws.

There was discussion about an integrated computer system/ program so information on every piece of property is accessible from Solid Waste issues to Code Enforcement, how it is zoned, if it has conditions on it or a moratorium is in place. Dewey said that the Mayor and Rama have had discussions about a system like this.

CM Henson asked if Dewey felt that it was efficient to have Building Inspection and Zoning together. Dewey answered that as complicated as both have become it is difficult for one individual to wear both hats to be really good at both sides. CM Stinnett asked if we should separate the two and how we determine if it would be more efficient to separate the two. Dewey answered that he had looked at that but with the economic downturn and the budget issues the city is having any thoughts of that have been put on hold.

There was some discussion about what safety issues will be tackled in the next meeting, which was set for March 11, 2010 at 3:00pm in the Council floor conference room.

The meeting was adjourned at 4:30pm

Building Inspection Task Force Meeting Summary 3-11-10

Chair: Councilmember Kevin O. Stinnett

Attending Members:

Councilmembers -Tom Blues, Linda Gorton, Peggy Henson, and Cheryl Feigel,

Also in attendance: Legislative Aides Scott Seymour, Allison Webster, and Diana Queen. Commissioner of Law, Logan Askew, LFUCG Division of Law, April Meadows and David Barberie, Director of Building Inspection, Dewey Crowe, Deputy Director Division of Building Inspection, John Bryant, Division of Building Inspection, Nancy Marinaro, Executive Director of Fayette Alliance, Knox Van Nagell, Dottie Stinnett, Shayne Martin and John Hoagland.

CM Stinnett called the meeting to order at 3:15. The summary for the 2-11-10 meeting was approved after one minor change.

Commissioner Askew spoke briefly about administrative search warrants and the ability for Building Inspections to utilize for zoning violations. He stated that the fire Department already has the authority to do searches and that he will bring the appropriate ordinance changes back to the committee.

It was decided that the civil process could be used for penalties with a few changes to the zoning ordinances and Dewey Crowe stated that it is his preferred method of enforcement. CM Stinnett asked if we could have both the civil and criminal process and David Barberie answered yes that the criminal process could always be used as a fall back. CM Stinnett passed out copies of Senate Bill 116 that CM Henson had provided.

CM Blues asked about hearings and there was much discussion about Hearing Boards and if they should or would have to meet regularly or only on a as need basis, and if they should have a hearing officer like Code Enforcement or a board, David Barberie stated that Louisville has one Administrative Hearing Board for all Divisions.

David Barberie stated that he will provide draft ordinance changes to Article 5 of the Zoning Ordinances and Chapter 16 of the Code of Ordinances.

here was discussion about the enforcement and fines related to Zoning Ordinance violations. Dewey stated that the Division of Building Inspection is more reactive rather than being proactive. CM Stinnett asked who would be in charge of tracking these and he answered that the latest ones were tracked by the Law Department but going for Building Inspection would be. That statement started the discussion again about the need that LFUCG has for a software program that can track these types of issues for all divisions within government.

It was decided that the next meet they would discuss time limits on construction, as well as dig deeper on six topics that were previously discussed. Temporary Structures, Civil Hearing Process, Administrative Search Warrants, Splitting Building Inspection and Zoning into two divisions, Gravel Permitting, and Technology/Records Tracking.

The next meeting was set for April 8, 2010 at 3:00pm to be held in the 5th floor conference room.

We will be discussing time limits on construction.

The meeting adjourned at 4:30pm.

Building Inspection Task Force Meeting 4-8-10

Meeting started at 4:15 pm the 3-11-19 summary was approved.

CM Stinnett stated that we will be going over some of the items that we have discussed so that we can dig a little deeper and move to resolving some of the issues.

We started with the second item on the agenda. There was much discussion about Gravel Permitting and a suggestion to check with The Division of Historic Preservation to see what stipulations that they in regards to refreshing gravel. The citizens that spoke commented that they would like to see an appeals process put in place and a possible fine per day put into place until the property is in compliance.

The Task Force next spoke about Zoning Ordinance Enforcement. Chris King, the Director of Planning stated that State Statutes and the nature of the community are a few of the determining factors in deciding which division within government should enforce the zoning ordinances.

The next topic to be discussed was Administrative Search Warrants for zoning issues. Chief Mattingly with the Fire Department said that the Fire Department has very little authority in inspecting one and two family dwellings per state statute. Once inside a property because of a fire call, they then have complete control of the dwelling. They can also go if they have had a fire hazard complaint from another division within government. CM Blues made a motion to forward to the Planning Committee adopting the ordinance changes to Article 5-1a. Administrative Search Warrants. The motion passed unanimously.

Rama Dhuwaraha spoke about LFUCG's technology and record keeping ability. He stated that they started looking into it about two years ago because our systems were not coordinated. They had severe limitations and a number of challenges in the field. They looked at several different systems and wanted to build a city wide enterprise system that was interlinked so that each department would know what the other one is doing and each division more in the work flow process.

At the same time the city was working on the Consent Decree and did a RFP because Water Quality needed a system. The Accela Company got the bid and had an Enterprise system. They started looking into what could be done for the city as a whole, and broke it down into phases. Phase I- Water Quality, Phase II - Lexcall, Building Inspection and Code Enforcement, and Phase III -Planning. The licensing fee and implementation for Phase I is \$800K, of which 450K has already been paid. CM Stinnett asked Rama to get us a flow chart of the phases and costs.

CM Stinnett stated that he wanted to move the topic of Temporary Structures to the next meeting when CM Lawless and Rochelle Boland from the Law Department were both available.

The last topic of discussion was the Civil Hearing Process and David Barberie spoke about the proposed changes he brought to the meeting. CM Gorton made a motion to move the draft ordinance to the Planning Committee and the motion passed unanimously.

CM Henson stated that she would like to know if we could add an appeals process for Building Code Permit violations. CM Stinnett stated that he would have our Law Department check into it.

The next meeting was set for May 6th at 2:00pm.

The meeting adjourned at 5:40pm.

Building Inspection Task Force Meeting Minutes 5-6-10

Chair: Councilmember Kevin O. Stinnett

Attending Members:

Councilmembers Tom Blues, Linda Gorton, Peggy Henson

Also in attendance: Mike Webb, Commissioner of Public Works, David Barberie and Rochelle Boland, LFUCG Division of Law, Dewey Crowe, John Bryant and Nancy Marinaro of Building Inspection, Bettie Kerr, Division of Historic Preservation, Todd Johnson, Executive Vice President Home Builders Association of Lexington, Ben Gallagher and David Doucoumes.

CM Stinnett called the meeting to order at 2:10 and the summary from the April 8th meeting was approved unanimously.

The first item on the agenda was Technology/ Record Tracking and CM Stinnett asked the task force members if they felt this is something that should be in front of the full Council. CM Gorton wanted to know what all was covered in the price that was quoted in the paperwork, CM Stinnett stated that he would request that Rama Dhuwaraha be present at the next meeting to answer additional questions. Dewey Crowe stated that he supports the software because it has everything they need in his department as well as other departments. It is an excellent enterprise solution across the board. David Barberie stated that the system will enable users to down load from mobile in field and web-based server component. Commissioner Webb asked if the funding go through the IT Division or through Public Works. CM Stinnett stated again that he would request Rama to attend next BITF meeting.

The next item discussed was the Gravel permit issue. CM Henson stated that she would prefer to not have a replenish driveway permit but backyard is different. CM Gorton asked if we don't have anything in place how do we prevent something major. John Bryant answered that they are using GIS aerial photos to tell if the area has been expanded or not. Bettie Kerr stated that until two weeks ago all refreshing of gravel was going through the Architectural Review Board instead of LFUCG staff. Any violation or application will be reviewed by staff but will be handled by the Architectural Review Board. CM Henson asked about potholes and how those are handled. Bettie Kerr said that in Historic District it is consistent maintenance and not in the ordinance. CM Stinnett asked if there was flexibility in ordinance and David Barberie stated that more clarity is needed. There was a recommendation that a draft ordinance change be brought back to the task force at the next meeting.

The next topic of discussion was time limits on construction. David Barberie stated that the current limit is 180 days and Dewey stated that they can come back the very next day and start the process all over again. CM Stinnett stated that he will have Paul research what other cities are currently doing.

The next item discussed was time limit on temporary structures. Dewey Crowe stated that the limit is 180 days on tents but that does not apply to wood or other materials. Rochelle Boland stated that the city can change the ordinance but we can zone however we want to determine where it goes, ect...

CM Blues asked if we should revise the ZOTA. That will be brought to the next meeting.

The next meeting was set for June 10th at 2:00pm. The meeting adjourned at 3:40pm

Building Inspection Task Force Meeting Minutes 6-10-10

Chair: Councilmember Kevin O. Stinnett

Attending Members:

Councilmembers Tom Blues, Linda Gorton, Cheryl Feigel and Diane Lawless

Also in attendance: Marian Zeitlin, Legislative Aide to Peggy Henson, David Barberie and Rochelle Boland, LFUCG Division of Law, Dewey Crowe, John Bryant and Nancy Marinaro of Building Inspection, Bettie Kerr, Division of Historic Preservation, Todd Johnson, Executive Vice President Home Builders Association of Lexington.

CM Stinnett called the meeting to order at 2:10 and the summary from the May 6th meeting was approved unanimously.

The first item on the agenda was Technology/ Record Tracking and CM Stinnett asked Rama D. to tell the task force what this software will do to production or performance wise to help LFUCG. Rama stated that primarily the Accela will address the needs of Building Inspection from permitting, to on-line forms to expediting their work flow and much more. This project is part of the Citizens Relationship Management Application and we want to include Building Inspection, Code Enforcement and Lexcall. Water Quality is currently using and we are hoping that eventually Planning and some Fleet Management will also be apart of this enterprise application. It is currently broken in three different phases, with Lexcall leading the way because of the immediately we need to have a way to deal with the Water Quality and waste management component application and Lexcall addresses that. Depending on the funding and how it's rolled out, we can do this project concurrently, phased out one after the other or all at once. The initial cost for the site license was over \$1M but since it was for water quality we were able to negotiate it for \$800K, and out of that we have already paid \$450K. So what is left is \$350K for all other divisions that need citizen relationship management. The cost for implementing the Building Inspection portion will be \$955K and 16 months to implement. There will be a yearly support cost of 20% of the license fee.

Bettie Kerr stated that Historic Preservation should be a part of the project.

The next item on the agenda was gravel permitting CM Blues asked about making a requirement be a 10x10 section per property per year. CM Stinnett stated that this won't change the way we enforce it. David Barberie stated to the task force that if you don't think this ordinance will get the intended result, don't make it an ordinance. The task force decided not to make a recommendation at this time.

The next subject was time limits on construction where David Barberie explained that we need to come up with a criteria for renewal of permit with certain bench marks or the permit could be revoked and time frame changes would need to be pursued through the state, meaning that the state would have to define reasonable.

CM Stinnett asked if we could escalate the permit fee or put a limit on renewal and CM Blues and Gorton both stated they would like to pursue that suggestion.

The next agenda item discussed was Temporary Structures and Rochelle Boland presented a new draft ordinance on Temporary Structures and stated that tents up for up to 60 days weren't an issue because that would accommodate holiday tents like the 4th of July or Keeneland. A tent up for 60 days doesn't need approval of the Board of Adjustment and if it is more and needs approval of the BOA it is for only up to 180 days.

CM Blues made a motion to move this to the full Council and CM Lawless seconded the motion and but remove the motion when there was a question presented to Rochelle Boland asking for clarification on if a person can bring their certificate wavier to Building Inspection from the previous year from the BOA so they each year don't have to keep going back to the BOA.

The last item discussed was a Infrastructure Hearing Board when CM Stinnett ask the group if they are wanting to create a new board or let the current board know what could possibly be coming their way. CM Gorton stated that they had discussed having an Administrative Hearing Board in the Noise Ordinance Task Force Group but doesn't think they are currently in the position to go that route. It was decided that we should talk to the members of the current board first.

The next meeting was set for August 19th at 4:00pm. The meeting adjourned at 3:45pm

Building Inspection Task Force Meeting Minutes 8-19-10

Chair: Councilmember Kevin O. Stinnett

Attending Members: Councilmembers Tom Blues, Linda Gorton, Peggy Henson and Diane Lawless.

Also in attendance: David Barberie and Rochelle Boland, LFUCG Division of Law, Dewey Crowe, John Bryant and Nancy Marinaro of Building Inspection and Mike Webb, Commission of Public Works.

CM Stinnett called the meeting to order at 4:05 and the summary from the June 10th meeting was approved unanimously.

The first item on the agenda was Time Limits on Construction and CM Stinnett asked the task force members if they were still interested escalating permit fees that we discussed in the last meeting. They all answered yes and David Barberie stated that he felt that would not address the fundamental issue and that this is a state issue because there is no time for completion in the building permit process by law and if it needs to be addressed it will need to be at the state level. CM Henson asked about fences and how long someone has to complete a fence. David Barberie answered that fences can be done differently because there is no state code on fences. CM Stinnett stated that he will set up a meeting with the State to discuss.

The next agenda item discussed was Temporary Structures and CM Stinnett stated that at our last meeting CM Blues made a move to adopt changes that was before the Council a year ago that designated temporary structures for use for occupancy 61-180 days and the task force postponed the vote on the motion because we wanted to hear about those businesses that have to keep coming back to the BOA every year to get a new permit and we are talking about the businesses that we know are operating legitimately.

Rochelle Boland stated that in working with the Division of Planning and Building Inspection they were concerned that it would be such a burden on the Board of Adjustments, that a staff member suggested that we issue temporary structure permits for land use for zoning purposes by designating these structures, regardless of whether they have a permanent foundation or not, will be considered permanent for zoning purposes and will have to get

appropriate approvals if they are there for accumulatively longer than a certain number of days in a 12 month period. Rochelle brought a draft (attached) that defined a temporary structure as any excess of 400 sq feet for which construction does not include a permanent foundation. She then explained the limits and requirements stated in the draft. She also stated that there would have to be a second step to this draft because of our specific problem that brought us to this attention and that is being located in an H1 zone. There are no provisions in the guidelines for an H1 zone for approval of a temporary structure. CM Stinnett asked if this draft could replace the current draft before the task force and Rochelle answered yes that the new one would be easier to regulate and get the same benefits.

CM Stinnett stated the task force liked the previous draft brought before them but decided to put that motion on hold because it required approval each year by the BOA. They really didn't want the people to have to come back every year, and would like a mechanism that can approve a conditional use of a property so that it is always tied to the address.

Rochelle stated that yes as long as the property stays with that owner, if there is a change of owner, the new owner would have to apply. Several council members agreed that they had an issue with some of the wording in the new draft. Rochelle asked Dewey if he felt with some of these changes that the request that they would be sending to BOA would be overwhelming. Dewey answered no.

Rochelle stated that if this is the route the task force would like to take, she will go back and work with Chris King and Dewey on refining it. CM Lawless asked if she could add wording like- in a residential area for non-commercial use a temporary structure can go up for a week without a permit and that would allow people to have a tent up for events and tents for a weekend. Rochelle answered that with this scheme we made differentiation amongst zones so I think we could make provisions.

CM Stinnett said that he wanted to clarify that Rochelle was going to take the first draft and add cumulative use of multiple structures on the property, rolling 12 months instead of a calendar year and look at a minimum standard so that not everyone is required to get a permit and bring that info back to the next meeting.

The next item on the agenda was the hearing board. CM Stinnett stated that he is on the agenda at the next Infrastructure Hearing Board meeting on September 15th at 2:30 and invited all task force members to join him. He

will be discussing what the task force is trying to accomplish with the changes that will be recommended with zoning violations and what could be coming their way and get there feedback.

CM Stinnett stated that we had no more items on the agenda but had questions from several CM's on the \$500 fine that we started strictly enforcing the fine in October of 2009. David Barberie said that an appeal board could be used but the permit is rightfully withheld until the fee is paid and if we use an appeal board, they sometimes only meet once a month or have a backlog of cases. We could have an individual at the director or commissioner level hear the appeals and it could be done in a timelier manner. CM Stinnett asked if we set up an appeal process and the person loses, can they take it to circuit court and David answered yes or if they don't pay the fine they can take it to the State Building Code Board under the permit process. There was no further action taken on setting up an appeals process.

The next meeting was set for September 23rd at 3:00pm. The meeting adjourned at 3:45pm.

Building Inspection Task Force Meeting Minutes 9-23-10

Chair: Councilmember Kevin O. Stinnett

Attending Members: Councilmembers Tom Blues, Linda Gorton, and Peggy Henson.

Also in attendance: Diana Queen, Legislative Adie to Diane Lawless, David Barberie, LFUCG Division of Law, Dewey Crowe, John Bryant and Nancy Marinaro of Building Inspection, Mike Webb, Commission of Public Works and Bettie Kerr, Director of Historic Preservation.

CM Stinnett called the meeting to order at 3:10pm. The summary from the 8-19-10 meeting was approved unanimously.

The first item on the agenda was time limits on construction and CM Stinnett explained the meeting with the Commissioner of Housing, Building and Construction, Richard Moloney and George Mann on September 9th. David Barberie stated that he is working with the State attorney to finalize the proposed language for approval and a timeline or to limit the number of permits a person can apply for and it would have to go through several sub-committees.

The next item on the agenda was the Infrastructure Hearing Board and CM Stinnett stated that both he and CM Henson attended the meeting of this group on September 15th where he advised them that the task force would be forwarding items to the full council that would effect them and they asked for some training beforehand and that a LFUCG attorney be present at their meetings in case they had questions related to zoning.

The next item on the agenda was the issue of Temporary Structures CM Stinnett stated that Rochelle Boland was neither in attendance nor had she emailed the draft proposed ordinance changes to us. CM Stinnett said that we will be in contact with her again and forward the information to the task members when we received it from her.

The final item on the agenda was a report out date to council and format in which we wanted to report out. CM Stinnett went over the following items that the task force had worked on:

- 1.) The Change to Enforcement of Zoning Violation to Civil Process
- 2.) Recommend the purchase of Accela Software
- 3.) Request Administration to look at a long term solution and plan to separate enforcement of zoning and Building Codes into separate department.
- 4.) No Action on Gravel Permitting process
- 5.) Time Limits on Construction – Draft Language to submit to State Boards and Legislature
- 6.) Temporary Structure ordinance changes
- 7.) Addressed Infrastructure Hearing board that will hear zoning violation appeals

CM Stinnett asked CM Gorton if we could report out to the Planning Committee in November and she said yes.

POSSIBLE REVISIONS TO ZONING ORDINANCE REGULATION OF CIRCUSES AND CARNIVALS

The following revisions are presented for Council discussion and consideration. Zoning Ordinance text to be added is shown underlined; text to be removed is shown stricken through.

ARTICLE 1

GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS - For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the word *person* includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the word *structure* includes building; the word *occupied* includes arranged, designed or intended to be occupied; the word *used* includes arranged, designed or intended to be used; the word *shall* is always mandatory and not merely directive; the word *may* is permissive; and the word *lot* includes plot or parcel. Other words and terms shall have the following respective meanings:

CIRCUS - A temporary use or special event lasting no longer than ten days per calendar year that is intended or likely to attract substantial crowds to view entertainment and animal performances or displays (other than a petting zoo intended for children and/or outdoor pony rides), and which is not usually associated with the principal use of the property where the special event is to be located. Such uses may or may not also include rides, games, booths, food service and merchandise sales. No accessory structure associated with a circus can be constructed or erected on a lot without a principal structure thereon.

CARNIVAL - A temporary outdoor amusement use in a business or industrial zone lasting no longer than ten days per calendar year that includes mechanical rides, with or without inflatables. Such uses may also include games, live music, games of chance, live entertainment (other than typically associated with a "circus," defined herein), booths, food service, merchandise sales, pony rides and/or a petting zoo intended for children. A carnival does not include a circus, activities conducted at the state-designated County Fair or events at the fairgrounds designated for that activity. Carnivals may not be conducted on any property during or two weeks immediately prior to the state-designated County Fair.

ARTICLE 8

SCHEDULE OF ZONES

8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

8-16(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

12. ~~Circuses and carnivals~~ Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare; or deny such if public health, safety, or welfare are adversely affected. A carnival may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-16(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

21. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-17 DOWNTOWN BUSINESS (B-2) ZONE

8-17(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-1 (and P-1) zone.

8-17(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

7. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-18 DOWNTOWN FRAME BUSINESS (B-2A) ZONE

8-18(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-2 zone.

8-18(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. The permitted conditional uses in the B-2 zone.

8-19 LEXINGTON CENTER BUSINESS (B-2B) ZONE

8-19(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

17. Amusement enterprises, such as circuses; carnivals; horse racing or automobile racing, provided such activity is operated on a temporary basis of a duration not exceeding two weeks.

8-20 HIGHWAY SERVICE BUSINESS (B-3) ZONE

8-20(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

15. ~~Circuses and carnivals~~ Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access or in other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected. A carnival may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-20(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

Required conditions for any conditional use permitted herein shall be as follows:

- Any conditional use shall be located, in relationship to the arterial roadway system, so that the conditional use has a minimal effect on the adjoining streets and the surrounding uses.
 - Any outdoor theater screen or illuminated scoreboard or other similar surface shall not be visible from any street for a distance of one thousand (1,000) feet from said structure.
 - Entrances of ingress or egress, acceleration lanes, and deceleration lanes shall be provided in conformance with requirements as established by the Urban County Traffic Engineer.
11. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any

residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

8-21(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

17. ~~Circuses and carnivals~~ Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access or other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected. A carnival may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-21(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

5. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-4 zone.

8-22(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

20. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

8-23 HEAVY INDUSTRIAL (I-2) ZONE

8-23(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Any principal permitted use in the I-1 zone, provided that all provisions outlined therein shall apply for said uses in this zone.

8-23(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

36. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

ARTICLE 23A

(Expansion Area) ZONING CATEGORIES AND RESTRICTIONS

23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(b) PRINCIPAL USES

23. ~~Circuses and carnivals~~ Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access or other ways to protect public health, safety, or welfare; or deny such if public health, safety or welfare are adversely affected. A carnival may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

23A-9(d) CONDITIONAL USES

11. Circuses, provided all buildings are located not less than two hundred (200) feet from any residential zone; and further provided that all buildings for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home, or rest home. A circus may not displace more than twenty five percent (25%) of the minimum required parking for the site it occupies.

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EXISTING COMMITTEE ITEMS IN NEW COMMITTEE STRUCTURE

Planning & Zoning Committee

Item	Old Committee	New Committee	Rationale	CM Referred
Infill Redevelopment Committee	Planning	Planning/Zoning	Infill Development Issue	Gray
Rear Yard Parking in Residential Areas	Planning	Planning/Zoning	Zoning Issue	Henson
Circus Definition in Zoning Ordinance	Planning	Planning/Zoning	Zoning Issue	Henson