

Planning and Public Works Committee

Bill Farmer – 5th District - Chair
Jennifer Mossotti – 9th District –Vice Chair
Linda Gorton – Vice Mayor
Charles Ellinger – At-Large
Steve Kay - At-large
Chris Ford – 1st District
Diane Lawless – 3rd District
Julian Beard – 4th District
Harry Clarke – 10th District
Peggy Henson – 11th District

Staff:
Jenifer Benningfield

**AGENDA
PLANNING AND PUBLIC WORKS
COMMITTEE
April 16th, 2013
1:00pm**

- | | | | |
|----|--|----------------------------------|-----------------|
| 1. | Approval of Summary | Bill Farmer | (1-4) |
| 2. | Right of Entry | Chris King/David Barberie | (5-6) |
| 3. | Two Way Streets Update: Stantec | Scott Shapiro/Tom Creasey | (7-22) |
| 4. | Exaction Fees | Chris King | (23-46) |
| 5. | B1 ZOTA | Chris King | (47-106) |
| 6. | Items in Committee | Bill Farmer | (107) |

Future Committee Meetings

May 14th, 2013
June 11th, 2013
August 20th, 2013
September 17th, 2013
October 8th, 2013
November 12th, 2013
December 3rd, 2013

“Planning and Public Works Committee, to which should be referred matters relating to the Division of Planning and including, but not limited to, matters related to housing, infill and redevelopment, purchase of development rights and historic preservation, and any related partner agencies and the Department of Public Works and its related divisions, including capital improvement projects and any related partner agencies.”



Planning and Public Works Committee

March 12th, 2013

Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:03pm. Committee Members present were VM Linda Gorton, Jennifer Mossotti, Charles Ellinger, Steve Kay, Chris Ford, Julian Beard, Harry Clarke, and Peggy Henson. Council Members Jennifer Scutchfield and Kevin Stinnett were also present. Diane Lawless was absent.

1. Approval of February 12th, 2013 Summary

Motion by Beard to approve the summary. Seconded by Ellinger. Motion passed without dissent.

2. Right of Entry

Chris King, the Director of Planning, came to the podium and introduced the item. He said that the recommendations originally came out of the Building Inspection Task Force. One of the recommendations that came out of the Task Force was to allow for right of entry. This was initiated by the Urban County Council. The Planning Commission had 60 days to review it and conduct a public hearing. During the public hearing, the Lexington Apartment Association raised questions about right of entry. The Planning Commission was at the last possible day to act; they could not explore the issue further or consider alternative language. They chose to recommend it to Council. When it came back to the Council, the right of entry was referred back to the Planning and Public Works Committee.

On January 1st, 2012 zoning enforcement duties were transferred to the Division of Planning from Building Inspection. King said that there are property owners that are not interested in having employees from the LFUCG enter their property to look for a zoning violation. This language would allow the Director of Planning or his/her designee to develop guidelines/polices to enter a property. King said that the proposed language does not make this clear.

King said that the ordinance needs clarification. Current laws do not allow staff from the Division of Planning to enter a property. He said that the language needs to be established by the Law Department.

King said that he reviewed municipalities around the United States. He provided examples of other communities that have right of entry. He recommended changing the language to parallel one of the communities he reviewed. He suggested that any policy or program that the Director of Planning develops would need to be approved by a Commissioner or CAO.

King said he could write out a draft of Administrative Guidelines to share with the Planning and Public Works Committee.

Mossotti asked King how often zoning violations happen. King said that they received 494 zoning violation complaints last year. 346 were actual violations. He said that in most cases the property owner is cooperative, but some are not. They found 116 illegal businesses. King said that he could not recall any case from last year when they had to obtain a search warrant.

King said it is not his goal to punish people; he just wants to ensure compliance.

Gorton said that she would like King, Farmer, and Barberie to draft language to assist the Division of Planning. She would like it to be presented at the April 2013 meeting.

Farmer said that the current draft language is too broad. Farmer said that he wants the new language to clarify why they need right of entry.

Gorton suggested changing the title from right of entry to something else. Barberie said that they have similar language for sanitary sewers so he offered to review that language.

Henson told King that she believes zoning violations are a large problem and often you cannot see the violation from beyond the property line. Henson suggested running the draft legislation by those who will be impacted by the potential legislation.

3. Newtown Pike Extension Update

Andrew Grunwald came to the podium to present his quarterly update on the Newtown Pike Extension. He said that Central Bridge began construction on the Lower Town Branch Box Culvert in October. He went on to say that on November 23, 2012, KYTC opened bids for Phase I infrastructure construction. The contract was awarded to L-M Asphalt Partners. AU Associates is preparing to submit their applications for Low Income Tax Credits. He also said that bids were received for renovations to the Carver Center on December 21, 2012.

Grunwald said that the Community Land Trust finally received 501c3 status.

Grunwald said that the design plans for Phase II (Versailles Road to South Broadway) are approximately 70% complete. They have held meetings with Nathaniel Mission. Additionally, utility costs are estimated at \$5.4MM and construction costs at \$16.1MM; funds are programmed within the state's Six Year plan.

Finally, Grunwald said that the final design for Phase III (Scott Street Connector) has not begun. Phase III has estimated utility costs of \$3.5MM and construction costs of \$8.7MM; funds are programmed for beyond 2014 in the state's Six Year Plan.

Beard asked about the road's connection to the University of Kentucky. Grunwald said that the Scott Street Connector will bridge South Broadway to Limestone. The University of Kentucky will realign their entrance. Part of Limestone will be closed permanently. Grunwald said that it

is an attempt to tighten up the whole intersection. The intersection will have a new traffic signal.

Clarke asked Grunwald about Phase II and the increased traffic onto Upper Street. He asked if they would alter Boliver to adjust that traffic flow. Grunwald said that there will be increased traffic at that intersection.

Clarke also asked about building a tunnel or bridge to accommodate pedestrian traffic near the University of Kentucky and the new intersection at Limestone and Upper. Grunwald said that tightening up the intersection is as far as they are going to go at this point. They will have pedestrian walkway signals there.

4. Todds Road Update

Brad Frazier, the Director of Engineering, came to the podium to present the update. Frazier said that the design phase is 70% complete. He said that they are incorporating the changes that resulted from the Practical Solutions Review. Frazier went on to say that \$1MM is programmed in the Transportation Improvement Program (TIP) for right of way acquisition. There is approximately \$2MM programmed in the TIP in FY13 for utility relocation. Frazier also said that funding for construction, estimated at \$10MM is currently spread between two fiscal years in the TIP but the full amount will be available at bid time.

Stinnett asked Frazier when the physical construction will start. Frazier said that it is now going to be just one project. Frazier said that they are in the right of way acquisition phase. Then in the beginning of 2014, the utilities will be relocated. Construction should start in May of 2014 and will continue until July 2015.

Frazier said that Hays Boulevard to Polo Club is a five lane section. The emphasis will be on that section. But it is one contract.

Stinnett asked if the monthly utility reports could be updated to be one document since it is one contract. Frazier agreed to do that.

5. Paving Update

Kevin Wentte came to the podium to give a brief update on paving. Wentte said that he was asked to present answers to three questions that he received from Council Member Clarke's office. The first was how much of the original FY13 repaving is not completed. Wentte said that there is \$500,000 not completed. The second question was the status of the bond. Wentte said that the bond received two readings. Finally, Clarke asked when the resurfacing will begin for this season. Wentte said that they were paving in the 8th district as the meeting was taking place.

Stinnett asked Wentte if all Council Districts had submitted their paving lists. Wentte said no, only half had submitted them. Stinnett expressed concern that Council Members had not met their deadlines for submission. Stinnett suggested that Wentte pick the streets for them in the future if the lists are not turned in.

Farmer asked about the remaining balance for FY13. He asked Wente to make sure that all paving that was programmed be completed. Wente said that he will get the Council Members a list.

6. Items in Committee

Farmer said that the items listed under Doug Martin need to be changed to Harry Clarke.

Kay said that the Design Excellence Update needs to be held until mid-summer.

Kay also asked to list Adult Day Care Centers under Ford.

Motion by Henson to remove Emergency Preparedness from the items referred list. Seconded by Kay. Motion passed without dissent.

Farmer asked Commissioner Paulsen to come to the podium. He thanked him for his weekly report. Farmer mentioned that the Council has been having a difficult time getting a quorum for the public hearings. He asked Paulsen to provide a brief synopsis for Council Members to inform them of issues that were heard by the Planning Commission immediately following the Planning Commission's meetings. Gorton asked if he could include the vote on each item. Farmer said that providing this report will allow the Council Members to be informed and will put specific issues on their radar.

Clarke told Council Members that his office had not yet turned in their paving list but it was because as a new Council Member, Clarke drove each street in his district to ensure a fair process when determining the streets that would be paved in the 10th district.

Motion to adjourn by Gorton. Seconded by Beard. Motion passed without dissent.

Submitted by Jenifer Benningfield, Council Administrative Specialist

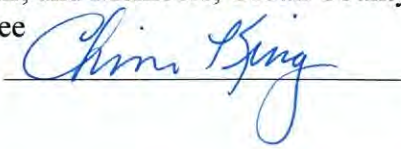


LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Department of Planning, Preservation & Development
Division of Planning

Jim Gray
Mayor

Derek J. Paulsen, Ph.D.
Commissioner

MEMORANDUM

TO: Councilmember Bill Farmer, Jr., Chair, and Members, Urban County Council
 Planning and Public Works Committee
 FROM: Chris King, Director 
 DATE: April 8, 2013
 RE: Right-of-Entry Text Amendment

Please find attached a proposed draft revision to the Zoning Ordinance text that was originally initiated by the Urban County Council.

The draft revision is modeled after current Code of Ordinances 16-112.(b) which establishes right-of-entry for sewer inspections. It articulates that right of entry to private residences is subject to constitutional restrictions regarding search and seizure. This ordinance reads:

16-112.(b) Properly identified employees or other authorized representatives of the urban county government are authorized to enter any property, land, structure or building at all reasonable times for the purpose of performing an inspection(s) to determine if surface water or groundwater is discharged into the sanitary sewer system, **subject to constitutional restrictions of unreasonable searches and seizures (emphasis added)** and may apply to the district court for a warrant allowing entrance and inspection.

If Council enacts the proposed revision, the Director will be expressly authorized to prepare guidelines for enforcement staff to utilize regarding right of entry to investigate potential violations of the Zoning Ordinance. I will be glad to provide an update on the drafting of such guidelines to the Planning and Public Works Committee in the future.

I look forward to discussing this matter at the April 16 Planning and Public Works Committee Meeting.

Attachment

C: David Barberie, Law Department
 Tracy Jones, Law Department
 Derek J. Paulsen, Commissioner, Department of Planning, Preservation, and Development
 Jim Marx, Division of Planning

H O R S E C A P I T A L O F T H E W O R L D

101 East Vine Street, Suite 700 Lexington, KY 40507 (859) 258-3160 FAX (859) 258-3163 www.lexingtonky.gov

**PROPOSED MODIFICATION OF DRAFT ZONING ORDINANCE TEXT
AMENDMENT REGARDING RIGHT-OF-ENTRY:**

Note: Revisions to language originally initiated by Council shown in **red 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. **The Director** 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 **and constitutional restrictions of unreasonable searches and seizures**. 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.

Downtown Lexington Traffic Movement & Revitalization Study

Project Update

Presented to the Lexington-Fayette Urban County Council
Planning and Public Works Committee
April 16, 2013



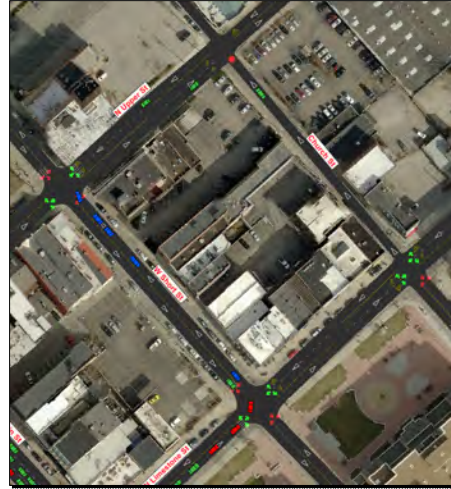
Study Purpose

From the Request for Proposals:

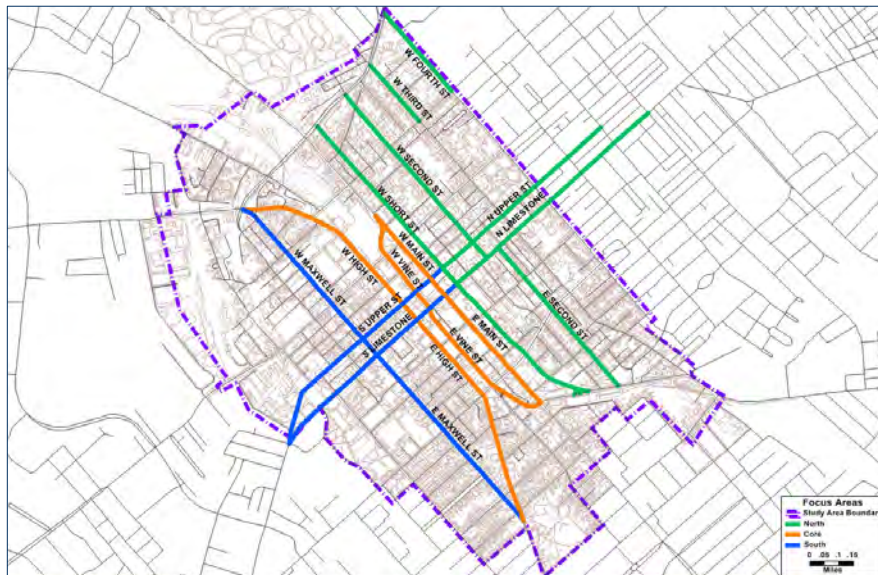
"The study will help to determine if two-way conversion can reduce driver confusion, increase accessibility to downtown businesses, and moderate vehicle speeds for improved safety. The study will also determine negative impacts (or problem spots) and propose practical solutions, if possible, for them; develop preliminary design and cost information for the two-way conversions; and engage public participation in the study."

Evaluation Tools

- **Traffic Simulation Models**
 - Operational Metrics – Delay, Travel Speed, Level of Service, etc.
- **Traffic Forecasting Model**
 - “Big picture”; changes in travel patterns, diversion to other streets
- **“Urban Street” Evaluation**
 - Levels of service for autos, pedestrians, bicycles and bus riders
- **Eclipsing Analysis**
- **Surveys**
 - Current survey of downtown businesses

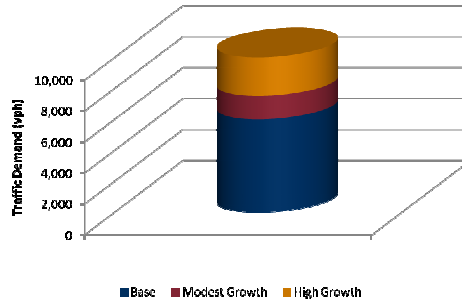


Focus Areas



Traffic Growth Scenarios

- Little or No Growth
- Moderate Growth
- High Growth
 - RAAED
 - CentrePointe



Conversion Scenarios

North Area

- North Limestone (Main to Seventh)
- North Upper (Main to Sixth)
- Short Street
- West Second Street

Core Area

- Main
- Vine
- High

South Area

- South Limestone
- South Upper
- Maxwell Street

Options are being evaluated

Progress To Date

- ✓ **Data Collection**
- ✓ **Development of Analytical Tools**
- ✓ **Existing Conditions Analyses**
- **North Area Study**
- **Core Area Study**
- **South Area Study**
- **Mobility Plan**

Deliverables

- ✓ Safety Analysis
- ✓ Traffic Signal System Review
- ✓ HazMat/UST Overview
- ✓ Multimodal Level of Service Analysis of Existing Conditions
- ✓ Eclipsing Analysis (Draft Report)
- ✓ North Area Analysis Technical Memorandum (Draft)
 - Survey of Downtown Businesses Summary Report
 - Core Area Analysis Technical Memorandum
 - South Area Analysis Technical Memorandum
 - Mobility Plan

Community Involvement

- Technical Advisory Committee (monthly meetings)
- Policy Committee
- Stakeholder Meetings
 - One-on-One/Small Group Meetings
 - Area/Larger Group Meetings
- Public Meetings (3 total)
- Web site: www.downtownlexstudy.com

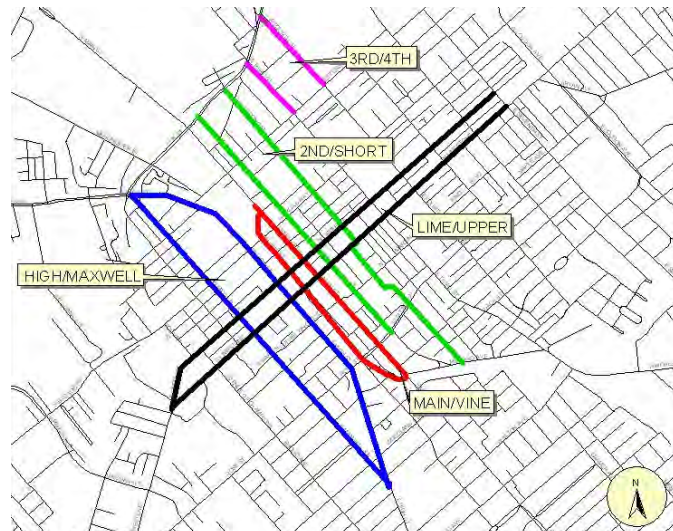
Questions?



Schedule

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Lexington One-Way Pairs



2000's Revisiting the Question

- Downtown Master Plan suggests conversion as one of 16 major principles
- Entran Report of impact to traffic congestion under two possible conversion scenarios (1. All pairs 2. Main/Vine & Lime/Upper) – Study identifies some potential problem areas but scope does not include potential solutions or cost estimates
- Planning Commission adopts as part of the 2007 Comprehensive Plan Update, noting further study needed

2000's: Revisiting the Question

- Council discusses one-way pairs and passes a resolution which supports moving in a phased approach, beginning with Second/Short
- Planning, with assistance of many other agencies, plans and executes public input process for Second/Short. Notifies thousands of businesses, residents, and institutions; conducts public dialog meetings.

2000's: Revisiting the Question

- Second/Short process identifies additional “hot spots” and need for updated, detailed traffic modelling and cost estimates
- Administration and Council utilizes grant funding opportunity to fill this need
- Stantec, Inc. chosen as consultant for the project

RESOLUTION NO. 336-2009

A RESOLUTION ADOPTING A PROCESS FLOW CHART FOR CONVERSION OF ANY ONE-WAY STREET INTO A TWO-WAY STREET.

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

Section 1 - That the Process Flow Chart for Two-Way Street Conversion, which is attached hereto and incorporated herein by reference, be and hereby is adopted.

Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 7, 2009

MAYOR



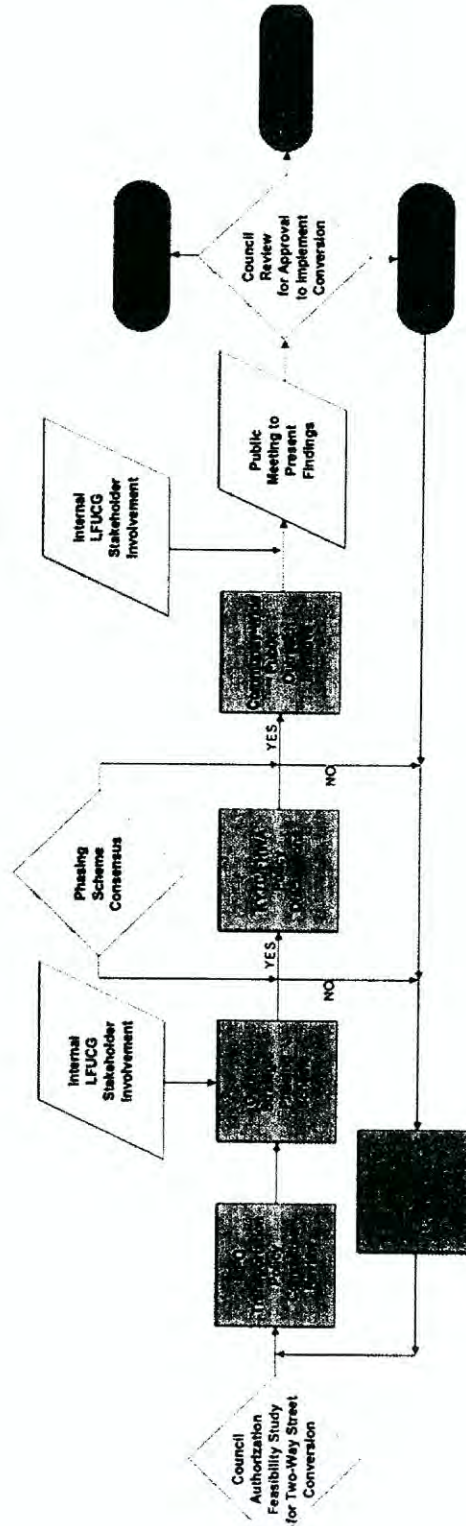
ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: May 14, 2009-1t

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Process Flow Chart for Two-Way Street Conversion
Lexington-Fayette Urban County Government
4/28/2009



PROCESS OUTLINE FOR TWO-WAY STREET CONVERSION
LEXINGTON-FAYETTE COUNTY GOVERNMENT
April 28, 2009

Short and Second Street

- Council Resolution to Authorize Feasibility Study for Two-Way Street Conversion Initiative for Short and Second Street.
- Outline Strategic Phasing Scheme for Conversion of Second and Short One-Way Pair
- Engage MPO Transportation Policy Committee in Congestion Management Policy/Strategy Discussions
- Engage various LFUCG Departments/Division and outside agencies/organizations on conversion discussion including but not limited to:
 - Transportation Planning
 - Traffic Engineering
 - Police
 - Fire
 - Engineering
 - Lextran
 - Waste Management
 - Fayette County Schools
 - Private educational institutions
 - Universities
- Initiate Policy Discussions with KYTC/FHWA Governing State/Federal Transportation Routes
- Develop and Implement Community Wide Public Outreach Initiative. Interest Group Examples include:
 - Public at large
 - Neighborhoods
 - Business
- Present findings and cost estimates to the Urban County Council for approval/disapproval of conversion.

The analysis and development of the Short/Second Two-way Conversion Plan should be finalized by summer of 2009, with actual conversion completed by end of 2009.

Limestone and Upper Street

- Council Resolution to Authorize Feasibility Study for Two-way Street Conversion Initiative for Limestone and Upper Street
 -
 - Outline Strategic Phasing Scheme for Conversion of Limestone and Upper One-way Pair:
 - Second and Short, mentioned, above must first be converted to two way
 - Other critical elements to be added as required
 - Engage MPO Transportation Policy Committee in Congestion Management Policy/Strategy Discussions
 - Engage various LFUCG Departments/Division and outside agencies/organizations on conversion discussion including but not limited to:
 - Transportation Planning
 - Traffic Engineering
 - Police
 - Fire
 - Engineering
 - Lextran
 - Waste Management
 - Fayette County Schools
 - Private educational institutions
 - Universities
 - Initiate Policy Discussions with KYTC/FHWA Governing State/Federal Transportation Routes
 - Develop and Implement Community Wide Public Outreach Initiative. Interest Group Examples include:
 - Public at large
 - Neighborhoods
 - Business
 - Determine if alternatives for Limestone/Upper Street are possible. An example could include phasing the one_ way conversion such that N. Limestone/N. Upper Street is converted to two_ way first, then S. Lime/S. Upper later.
-

- Present findings and cost estimates to the Urban County Council for approval/disapproval of conversion.

The analysis and development of the Limestone/Upper Street Two-way Conversion Plan would begin in 2010 and the plan would be completed and presented to the Urban County Council by the middle to end of 2011. If the plan is approved conversion would begin in 2012 or as otherwise appropriate dependent upon other related transportation improvements.

Maxwell and High Street

- Council Resolution to Authorize Feasibility Study for Two-way Street Conversion Initiative for Maxwell and High Street
 -
 - Outline Strategic Phasing Scheme for Conversion of Maxwell and High One-way pair:
 - Second and Short, mentioned, above must first be converted to two way
 - Limestone and Upper must be converted to two way
 - Newtown Pike extension must be completed.
 - Other critical elements to be added as required
 - Engage MPO Transportation Policy Committee in Congestion Management Policy/Strategy Discussions
 - Engage various LFUCG Departments/Division and outside agencies/organizations on conversion discussion including but not limited to:
 - Transportation Planning
 - Traffic Engineering
 - Police
 - Fire
 - Engineering
 - Lextran
 - Waste Management
 - Fayette County Schools
 - Private educational institutions
 - Universities
 - Initiate Policy Discussions with KYTC/FHWA Governing State/Federal Transportation Routes
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- Develop and Implement Community Wide Public Outreach Initiative. Interest Group Examples include:
 - Public at large
 - Neighborhoods
 - Business
- Determine if alternatives for Maxwell and High Street are possible.
- Present findings and cost estimates to the Urban County Council for approval/disapproval of conversion.

The analysis and development of the Maxwell and High Street Two-way Conversion Plan would begin in 2014 and the plan would be completed and presented to the Urban County Council by the middle to end of 2016. If the plan is approved conversion would begin in 2017 or as otherwise appropriate dependent upon other related transportation improvements.

Main and Vine Street

- Council Resolution to Authorize Feasibility Study for Two-way Street Conversion Initiative for Main and Vine Street
 - Outline Strategic Phasing Scheme for Two-way Conversion of Main and Vine One-way pair:
 - Second and Short, mentioned, above must first be converted to two way
 - Limestone and Upper must be converted to two way
 - Newtown Pike extension must be completed.
 - Apply for KYTC/FHWA Permit (or “Road Swap” agreement from Miller Administration era could be revised and executed). *Note: Federal Government must be at the table to be successful in any road swap agreements. This was the fatal error the last time.
 - Other critical elements to be added as required.
 - Engage MPO Transportation Policy Committee in Congestion Management Policy/Strategy Discussions
 - Engage various LFUCG Departments/Division and outside agencies/organizations on conversion discussion including but not limited to:
 - Transportation Planning
 - Traffic Engineering
 - Police
 - Fire
-

- Engineering
- Lextran
- Waste Management
- Fayette County Schools
- Private educational institutions
- Universities
- Initiate Policy Discussions with KYTC/FHWA Governing State/Federal Transportation Routes
- Develop and Implement Community Wide Public Outreach Initiative. Interest Group Examples include:
 - Public at large
 - Neighborhoods
 - Business
- Determine if alternatives for Main and Vine Street are possible.
- Present findings and cost estimates to the Urban County Council for approval/disapproval of conversion.

The Main and Vine Street conversion plan could begin in 2015 and the plan would be completed and presented to the Urban County Council by the middle to end of 2017. If the plan is approved conversion would begin in 2018.

- **Note: Identify Critical Transportation Needs Required to Facilitate Phased Conversion and Define Completion Requirements.**

Examples include:

Per the April 2007 Downtown Lexington Transportation Analysis by Entran and given the heavy traffic volumes on High and Maxwell and Main and Vine, intersection capacity must be included in conversion scenarios to avoid unacceptable levels of congestion/delay. This would be true with Limestone and Upper also given their importance in north-south traffic movement in the system.

RESOLUTION NO. 337-2009

A RESOLUTION AUTHORIZING A FEASIBILITY STUDY OF SHORT STREET AND SECOND STREET FOR POSSIBLE CONVERSION INTO TWO-WAY STREETS.

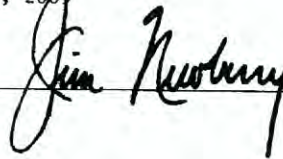
BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That a feasibility study of Short Street and Second Street for possible conversion into two-way streets be and hereby is authorized.

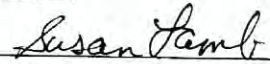
Section 2 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 7, 2009

MAYOR



ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: May 14, 2009-1t

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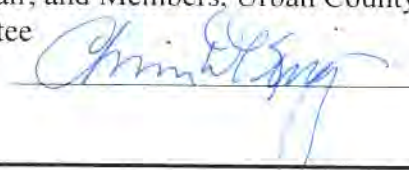


LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Department of Planning, Preservation & Development
Division of Planning

Jim Gray
Mayor

Derek J. Paulsen, Ph.D.
Commissioner

MEMORANDUM

TO: Councilmember Bill Farmer, Jr., Chair, and Members, Urban County Council
 Planning and Public Works Committee
 FROM: Chris King, Director 
 DATE: April 9, 2013
 RE: Exaction Rate Table History

Please find attached two documents for the April 16, 2013 Council Planning & Public Works Committee meeting packet. The first is a copy of the PowerPoint presentation I will give to the Committee on the 16th.

The second is a compilation of all Exaction Rate Schedules adopted by Council since the program's inception in 1996. The tables are presented in reverse chronology, i.e., the current rate table is first, with each revision presented back in time to the original rate table. The rates were initially adopted in 1996 with revisions enacted in 2000; 2002; 2003; 2005; and 2010.

The rate tables reflect not only the changes in the estimated or actual cost of the land and infrastructure improvements it was designed to finance; they also reflect significant changes made in the nature of the program by Council over the years. For example, the original 1996 program was intended to be supplemented with a long-term assessment district financing program covering one-half of the costs of most improvements, which Council ultimately chose not to implement. This concept first morphed into a two-tier exaction program ("developer" exaction & "property owner" exaction) in 2000. In 2002, a number of modifications were enacted. First, the two-tier program was scrapped in favor of a unified exaction largely at the request of the homebuilding industry. Second, exactions for storm water management were added for the first time. Third, the rate table was removed from the Zoning Ordinance in favor of Council adoption through resolution to simplify the rate update process.

I look forward to answering questions at the April 16 Council Planning & Public Works Committee Meeting.

Attachments (2)

C: Commissioner Derek J. Paulsen
 Commissioner Bill O'Mara
 Tracy Jones, Law Department
 Cynthia Schuster, Department of Finance

H:\CDK\WORK\Director\Council\Farmer - exaction history april 2013.doc

H O R S E C A P I T A L O F T H E W O R L D

101 East Vine Street, Suite 700 Lexington, KY 40507 (859) 258-3160 FAX (859) 258-3163 www.lexingtonky.gov

The Lexington-Fayette Urban
Service Area 1996 Expansion
Exaction Program Overview

For Urban County Council
Planning & Public Works
Committee
April 16, 2013

Presenter:
Chris King, AICP, Director
LFUCG Division of Planning



Infrastructure Financing &
Exaction Program

Helping make
development pay
for itself





1996 URBAN SERVICE
EXPANSION AREAS

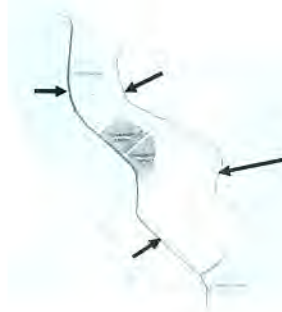
“ The imposition of a regularized set of development exactions on new growth and development within the Expansion Areas is an equitable means of allocating a fair share of the cost of capital facilities which are needed to serve new growth and development. Development exactions are a lawful means of mitigating the impact of new growth and development on the public health, safety and welfare so long as the exaction is “roughly proportional” to the need for capital facilities generated by the new growth and development”

Expansion Area Master Plan, P. 64

Facilities Covered Under the Exaction Program (a.k.a., “System Improvements”)

- “Collector Roads” (Examples: Polo Club Boulevard; Blackford Parkway (aka “Park” Road)

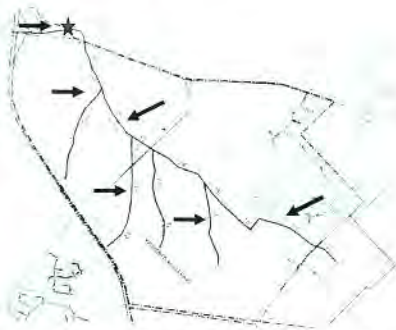
COLLECTOR ROADS



**Facilities Covered Under the
Exaction Program (a.k.a.,
“System Improvements”)**

- “Collector Roads” (Boulevard; “Park” Road)
- Sanitary Sewer Capacity
- Sanitary Sewer Transmission Facilities

SANITARY SEWERS



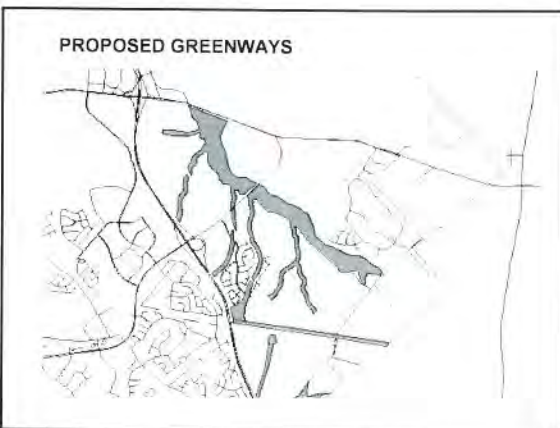
**Facilities Covered Under the
Exaction Program (a.k.a.,
“System Improvements”)**

- “Collector Roads” (Boulevard; “Park” Road)
- Sanitary Sewer Capacity
- Sanitary Sewer Transmission Facilities
- Multi-neighborhood Parks



**Facilities Covered Under the
Exaction Program (a.k.a.,
“System Improvements”)**

- “Collector Roads” (Boulevard; “Park” Road)
- Sanitary Sewer Capacity
- Sanitary Sewer Transmission Facilities
- Multi-neighborhood Parks
- Neighborhood Parks/Non-floodplain Greenways



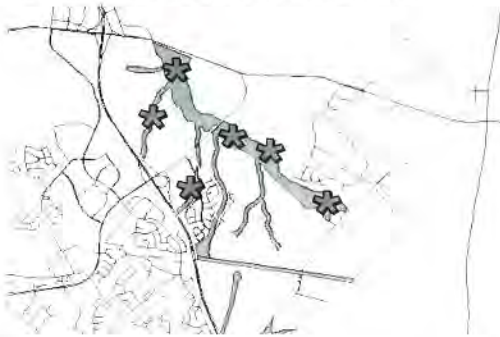
**Facilities Covered Under the
Exaction Program (a.k.a.,
“System Improvements”)**

- “Collector Roads” (Boulevard; “Park” Road)
- Sanitary Sewer Capacity
- Sanitary Sewer Transmission Facilities
- Multi-neighborhood Parks
- Neighborhood Parks/Non-floodplain Greenways
- Rural Open Space (\$1,000/acre)

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- Sanitary Sewer Capacity
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- Multi-neighborhood Parks
- Neighborhood Parks/Non-floodplain Greenways
- Rural Open Space
- Storm Water Management Facilities

STORM WATER MANAGEMENT FACILITIES



Exaction Program: Calculation of Exaction Amounts

- Principle: ZERO SUM GAME – The goal is to have the total exactions collected equal the actual cost of the system improvement facility over the development period

Estimated Cost of System Improvements

ROADS	\$41,149,730
SEWER CAPACITY	\$30,034,020
SEWER TRANSMISSION	\$23,344,644
PARK LAND	\$8,186,099
STORM	\$17,001,401
OPEN SPACE (Approx)	\$3,948,000
TOTAL	\$123,663,894

Exaction Program Highlights:

- Exactions Assessed on an Acreage Basis
- Exactions Due at Time of Building Permit
- Amount of Exaction Varies Depending Upon Specific Expansion Area and Zoning
- Developers Can Construct Exacted Infrastructure for Exaction Credit and Reimbursement
- Exaction Rates Can be Updated (up to Quarterly, if Necessary)
- Rates are Set by Urban County Council
- Exactions are Tracked for Each Lot Created

**Exaction Program Status:
Close of FY12 (June 30, 2012)**

- Total Value of Credited System Improvements Constructed or Under Construction: \$44,781,588
- Total LFUCG Bonds: \$4,338,741
- Total Exactions Due/Collected on Recorded Plats: \$34,131,242
- Total Lots: 4,916

**Expansion Area Development Status:
Close of FY12 (June 30, 2012)**

Expansion Area	Acres (Developable)	Recorded Plat Acres	Remaining Acres	% Remaining
1	553	0	553	100%
2-A	1,642	586	1055	64%
2-B	404	131	272	67%
2-C	882	813	69	8%
3	467	34	434	93%
TOTAL	3,948	1,564	2,383	60%

Questions ?



Expansion Area Master Plan
Summary of Exactions

Table 1: Roads

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$0.00	\$7,583.97	\$7,583.97	\$2,330.49	\$2,364.41
EAR1-SRA	\$0.00	\$2,275.19	\$2,275.19	\$0.00	\$0.00
EAR2	\$0.00	\$17,063.93	\$17,063.93	\$5,243.59	\$5,319.92
EAR3	\$0.00	\$31,852.66	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$31,852.66	\$31,852.66	\$9,788.04	\$9,930.52
CC(nonres)	\$0.00	\$144,531.45	\$144,531.45	\$44,413.24	\$45,059.72
ED	\$0.00	\$40,295.37	\$40,295.37	\$0.00	\$12,562.65

Table 2: Parks

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$0.00	\$2,367.61	\$2,367.61	\$1,463.31	\$0.00
EAR1-SRA	\$0.00	\$710.28	\$710.28	\$0.00	\$0.00
EAR2	\$0.00	\$5,327.13	\$5,327.13	\$3,292.44	\$0.00
EAR3	\$0.00	\$14,205.68	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$14,205.68	\$14,205.68	\$8,779.83	\$0.00
CC(nonres)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
ED	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Table 3: Stormwater

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$0.00	\$3,509.07	\$5,084.62	\$6,943.87	\$0.00
EAR1-SRA	\$0.00	\$701.81	\$1,016.92	\$0.00	\$0.00
EAR2	\$0.00	\$5,088.16	\$7,372.70	\$10,068.62	\$0.00
EAR3	\$0.00	\$12,457.21	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$12,457.21	\$18,050.40	\$24,650.76	\$0.00
CC(nonres)	\$0.00	\$12,457.21	\$18,050.40	\$24,650.76	\$0.00
ED	\$0.00	\$12,457.21	\$0.00	\$0.00	\$0.00

Table 4: Open Space Exactions

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
EAR1-SRA	\$0.00	\$1,000.00	\$1,000.00	\$0.00	\$0.00
EAR2	\$0.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
EAR3	\$0.00	\$1,000.00	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
CC(nonres)	\$0.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
ED	\$0.00	\$1,000.00	\$0.00	\$0.00	\$1,000.00

Table 5: Total Non-Sewer Exactions

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$1,000.00	\$14,460.65	\$16,036.20	\$11,737.67	\$3,364.41
EAR1-SRA	\$0.00	\$4,687.28	\$5,002.39	\$0.00	\$0.00

EXPANSION AREA
 EXACTION RATE TABLE
 ADOPTED BY COUNCIL ON MARCH 25, 2010
 RESOLUTION NUMBER 149-2010

EAR2	\$0.00	\$28,479.22	\$30,763.76	\$19,604.65	\$6,319.92
EAR3	\$0.00	\$59,515.55	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$59,515.55	\$65,108.74	\$44,218.63	\$10,930.52
CC(nonres)	\$0.00	\$157,988.66	\$163,581.85	\$70,064.00	\$46,059.72
ED	\$0.00	\$53,752.58	\$40,295.37	\$0.00	\$13,562.65

Table 6: Sewer Transmission

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$7,944.35	\$2,123.08	\$2,445.62	\$4,420.51	\$1,950.01
EAR1-SRA	\$0.00	\$636.92	\$733.69	\$0.00	\$0.00
EAR2	\$0.00	\$4,250.33	\$4,896.05	\$8,849.73	\$3,903.87
EAR3	\$0.00	\$9,127.56	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$9,127.56	\$10,514.24	\$19,004.73	\$8,383.52
CC(nonres)	\$0.00	\$11,596.57	\$13,358.34	\$24,145.51	\$10,651.26
ED	\$0.00	\$13,762.96	\$0.00	\$0.00	\$12,641.06

Table 7: Sewer Capacity

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$2,081.59	\$2,081.59	\$2,081.59	\$2,081.59	\$2,081.59
EAR1-SRA	\$0.00	\$624.48	\$624.48	\$0.00	\$0.00
EAR2	\$0.00	\$4,167.28	\$4,167.28	\$4,167.28	\$4,167.28
EAR3	\$0.00	\$8,949.21	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$8,949.21	\$8,949.21	\$8,949.21	\$8,949.21
CC(nonres)	\$0.00	\$11,369.97	\$11,369.97	\$11,369.97	\$11,369.97
ED	\$0.00	\$13,494.03	\$0.00	\$0.00	\$13,494.03

Table 8: Total Sewer Exactions

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$10,025.95	\$4,204.67	\$4,527.21	\$6,502.11	\$4,031.61
EAR1-SRA	\$0.00	\$1,261.40	\$1,358.16	\$0.00	\$0.00
EAR2	\$0.00	\$8,417.62	\$9,063.33	\$13,017.01	\$8,071.15
EAR3	\$0.00	\$18,076.77	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$18,076.77	\$19,463.44	\$27,953.93	\$17,332.73
CC(nonres)	\$0.00	\$22,966.53	\$24,728.30	\$35,515.47	\$22,021.23
ED	\$0.00	\$27,256.99	\$0.00	\$0.00	\$26,135.09

Table 9: Total Exactions per Acre

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$11,025.95	\$18,665.32	\$20,563.41	\$18,239.78	\$7,396.02
EAR1-SRA	\$0.00	\$5,948.68	\$6,360.55	\$0.00	\$0.00
EAR2	\$0.00	\$36,896.84	\$39,827.09	\$32,621.66	\$14,391.07
EAR3	\$0.00	\$77,592.32	\$0.00	\$0.00	\$0.00
CC (res)	\$0.00	\$77,592.32	\$84,572.18	\$72,172.56	\$28,263.25
CC(nonres)	\$0.00	\$180,955.19	\$188,310.15	\$105,579.47	\$68,080.95
ED	\$0.00	\$81,009.57	\$40,295.37	\$0.00	\$39,697.74

EXACTION RATE SCHEDULE (2005 UPDATE)

Adopted by the Urban County Council 9/22/2005

(Resolution 496 - 2005)

The following table indicates the per acre exactions required for the indicated Expansion Area and Zoning Category:

Table 1: Roads

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 4,441.09	\$ 4,441.09	\$ 3,840.37	\$ 1,728.76
EAR1-SRA	\$ -	\$ 1,332.33	\$ 1,332.33	\$ -	\$ -
EAR2	\$ -	\$ 9,992.46	\$ 9,992.46	\$ 8,640.83	\$ 3,889.71
EAR3	\$ -	\$ 18,652.59	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 18,652.59	\$ 18,652.59	\$ 16,129.55	\$ 7,260.79
CC(nonres)	\$ -	\$ 84,636.15	\$ 84,636.15	\$ 73,187.83	\$ 32,945.84
ED	\$ -	\$ 23,596.56	\$ 23,596.56	\$ -	\$ 9,185.30

Table 2: Parks

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 2,385.76	\$ 2,385.76	\$ 1,410.59	\$ -
EAR1-SRA	\$ -	\$ 715.73	\$ 715.73	\$ -	\$ -
EAR2	\$ -	\$ 5,367.97	\$ 5,367.97	\$ 3,173.83	\$ -
EAR3	\$ -	\$ 14,314.58	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 14,314.58	\$ 14,314.58	\$ 8,463.54	\$ -
CC(nonres)	\$ -	\$ -	\$ -	\$ -	\$ -
ED	\$ -	\$ -	\$ -	\$ -	\$ -

Table 3: Stormwater

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 3,468.31	\$ 4,208.83	\$ 6,550.78	\$ -
EAR1-SRA	\$ -	\$ 693.66	\$ 841.77	\$ -	\$ -
EAR2	\$ -	\$ 5,029.05	\$ 6,102.80	\$ 9,498.63	\$ -
EAR3	\$ -	\$ 12,312.50	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 12,312.50	\$ 14,941.35	\$ 23,255.26	\$ -
CC(nonres)	\$ -	\$ 12,312.50	\$ 14,941.35	\$ 23,255.26	\$ -
ED	\$ -	\$ 12,312.50	\$ -	\$ -	\$ -

Table 4: Open Space Exactions

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
EAR1-SRA	\$ -	\$ 1,000.00	\$ 1,000.00	\$ -	\$ -
EAR2	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
EAR3	\$ -	\$ 1,000.00	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
CC(nonres)	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
ED	\$ -	\$ 1,000.00	\$ -	\$ -	\$ 1,000.00

Table 5: Total Non-Sewer Exactions (Aggregation of Tables 1 - 4)

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,000.00	\$ 11,295.16	\$ 12,035.68	\$ 12,801.74	\$ 2,728.76
EAR1-SRA	\$ -	\$ 3,741.72	\$ 3,889.83	\$ -	\$ -

EXACTION RATE SCHEDULE (2005 UPDATE)

Adopted by the Urban County Council 9/22/2005

(Resolution 496 - 2005)

EAR2	\$	-	\$ 21,389.48	\$ 22,463.23	\$ 22,313.29	\$ 4,889.71
EAR3	\$	-	\$ 46,279.67	\$ -	\$ -	\$ -
CC (res)	\$	-	\$ 46,279.67	\$ 48,908.52	\$ 48,848.35	\$ 8,260.79
CC(nonres)	\$	-	\$ 97,948.65	\$ 100,577.50	\$ 97,443.09	\$ 33,945.84
ED	\$	-	\$ 36,909.06	\$ 23,596.56	\$ -	\$ 10,185.30

Table 6: Sewer Transmission

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 7,083.60	\$ 2,493.87	\$ 1,969.24	\$ 3,599.98	\$ 1,736.19
EAR1-SRA	\$ -	\$ 748.16	\$ 590.77	\$ -	\$ -
EAR2	\$ -	\$ 4,992.66	\$ 3,942.36	\$ 7,207.04	\$ 3,475.80
EAR3	\$ -	\$ 10,721.70	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 10,721.70	\$ 8,466.19	\$ 15,477.07	\$ 7,464.26
CC(nonres)	\$ -	\$ 13,621.92	\$ 10,756.30	\$ 19,663.62	\$ 9,483.34
ED	\$ -	\$ 16,166.67	\$ -	\$ -	\$ 11,254.95

Table 7: Sewer Capacity

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,651.23	\$ 1,651.23	\$ 1,651.23	\$ 1,651.23	\$ 1,651.23
EAR1-SRA	\$ -	\$ 495.37	\$ 495.37	\$ -	\$ -
EAR2	\$ -	\$ 3,305.70	\$ 3,305.70	\$ 3,305.70	\$ 3,305.70
EAR3	\$ -	\$ 7,098.97	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 7,098.97	\$ 7,098.97	\$ 7,098.97	\$ 7,098.97
CC(nonres)	\$ -	\$ 9,019.24	\$ 9,019.24	\$ 9,019.24	\$ 9,019.24
ED	\$ -	\$ 10,704.16	\$ -	\$ -	\$ 10,704.16

Table 8: Total Sewer Exactions (Aggregation of Tables 6&7)

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 8,734.83	\$ 4,145.10	\$ 3,620.47	\$ 5,251.20	\$ 3,387.42
EAR1-SRA	\$ -	\$ 1,243.53	\$ 1,086.14	\$ -	\$ -
EAR2	\$ -	\$ 8,298.36	\$ 7,248.06	\$ 10,512.75	\$ 6,781.50
EAR3	\$ -	\$ 17,820.67	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 17,820.67	\$ 15,565.16	\$ 22,576.05	\$ 14,563.23
CC(nonres)	\$ -	\$ 22,641.16	\$ 19,775.54	\$ 28,682.87	\$ 18,502.58
ED	\$ -	\$ 26,870.83	\$ -	\$ -	\$ 21,959.11

Table 9: Total Exactions per Acre (Aggregation of Tables 5 & 8)

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 9,734.83	\$ 15,440.26	\$ 15,656.15	\$ 18,052.94	\$ 6,116.18
EAR1-SRA	\$ -	\$ 4,985.25	\$ 4,975.97	\$ -	\$ -
EAR2	\$ -	\$ 29,687.84	\$ 29,711.29	\$ 32,826.04	\$ 11,671.21
EAR3	\$ -	\$ 64,100.34	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 64,100.34	\$ 64,473.68	\$ 71,424.40	\$ 22,824.02
CC(nonres)	\$ -	\$ 120,589.81	\$ 120,353.04	\$ 126,125.96	\$ 52,448.42
ED	\$ -	\$ 63,779.89	\$ 23,596.56	\$ -	\$ 32,144.41

EXACTION RATE SCHEDULE

Adopted by Urban County Council JULY 10, 2003

(Resolution 343-2003)

The following table indicates the per acre exactions required for the indicated Expansion Area and Zoning Category:

Table 1: Roads

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 4,029.52	\$ 4,029.52	\$ 3,131.56	\$ 1,728.76
EAR1-SRA	\$ -	\$ 1,208.86	\$ 1,208.86	\$ -	\$ -
EAR2	\$ -	\$ 9,066.42	\$ 9,066.42	\$ 7,046.02	\$ 3,889.71
EAR3	\$ -	\$ 16,923.99	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 16,923.99	\$ 16,923.99	\$ 13,152.57	\$ 7,260.79
CC(nonres)	\$ -	\$ 76,792.61	\$ 76,792.61	\$ 59,679.78	\$ 32,945.84
ED	\$ -	\$ 21,409.78	\$ 21,409.78	\$ -	\$ 9,185.30

Table 2: Parks

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 1,337.55	\$ 1,337.55	\$ 564.00	\$ -
EAR1-SRA	\$ -	\$ 401.26	\$ 401.26	\$ -	\$ -
EAR2	\$ -	\$ 3,009.49	\$ 3,009.49	\$ 1,269.00	\$ -
EAR3	\$ -	\$ 8,025.30	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 8,025.30	\$ 8,025.30	\$ 3,384.00	\$ -
CC(nonres)	\$ -	\$ -	\$ -	\$ -	\$ -
ED	\$ -	\$ -	\$ -	\$ -	\$ -

Table 3: Stormwater

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 2,526.43	\$ 3,476.95	\$ 4,120.12	\$ -
EAR1-SRA	\$ -	\$ 505.29	\$ 695.39	\$ -	\$ -
EAR2	\$ -	\$ 3,663.33	\$ 5,041.57	\$ 5,974.18	\$ -
EAR3	\$ -	\$ 8,968.83	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 8,968.83	\$ 12,343.16	\$ 14,626.43	\$ -
CC(nonres)	\$ -	\$ 8,968.83	\$ 12,343.16	\$ 14,626.43	\$ -
ED	\$ -	\$ 8,968.83	\$ -	\$ -	\$ -

Table 4: Open Space Exactions

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
EAR1-SRA	\$ -	\$ 1,000.00	\$ 1,000.00	\$ -	\$ -
EAR2	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
EAR3	\$ -	\$ 1,000.00	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
CC(nonres)	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
ED	\$ -	\$ 1,000.00	\$ -	\$ -	\$ 1,000.00

Table 5: Total Non-Sewer Exactions (Aggregation of Tables 1-4)

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,000.00	\$ 8,893.50	\$ 9,844.02	\$ 8,815.69	\$ 2,728.76
EAR1-SRA	\$ -	\$ 3,115.41	\$ 3,305.51	\$ -	\$ -

EXACTION RATE SCHEDULE**Adopted by Urban County Council JULY 10, 2003****(Resolution 343-2003)**

EAR2	\$	-	\$ 16,739.24	\$ 18,117.48	\$ 15,289.20	\$ 4,889.71
EAR3	\$	-	\$ 34,918.12	\$ -	\$ -	\$ -
CC (res)	\$	-	\$ 34,918.12	\$ 38,292.45	\$ 32,163.01	\$ 8,260.79
CC(nonres)	\$	-	\$ 86,761.44	\$ 90,135.77	\$ 75,306.21	\$ 33,945.84
ED	\$	-	\$ 31,378.61	\$ 21,409.78	\$ -	\$ 10,185.30

Table 6: Sewer Transmission

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 6,452.20	\$ 2,126.09	\$ 2,260.65	\$ 3,532.01	\$ 1,579.33
EAR1-SRA	\$ -	\$ 637.83	\$ 678.20	\$ -	\$ -
EAR2	\$ -	\$ 4,256.37	\$ 4,525.75	\$ 7,070.97	\$ 3,161.77
EAR3	\$ -	\$ 9,140.52	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 9,140.52	\$ 9,719.02	\$ 15,184.85	\$ 6,789.87
CC(nonres)	\$ -	\$ 11,613.03	\$ 12,348.01	\$ 19,292.36	\$ 8,626.53
ED	\$ -	\$ 13,782.49	\$ -	\$ -	\$ 10,238.08

Table 7: Sewer Capacity

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,095.89	\$ 1,095.89	\$ 1,095.89	\$ 1,095.89	\$ 1,095.89
EAR1-SRA	\$ -	\$ 328.77	\$ 328.77	\$ -	\$ -
EAR2	\$ -	\$ 2,193.93	\$ 2,193.93	\$ 2,193.93	\$ 2,193.93
EAR3	\$ -	\$ 4,711.45	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 4,711.45	\$ 4,711.45	\$ 4,711.45	\$ 4,711.45
CC(nonres)	\$ -	\$ 5,985.89	\$ 5,985.89	\$ 5,985.89	\$ 5,985.89
ED	\$ -	\$ 7,104.14	\$ -	\$ -	\$ 7,104.14

Table 8: Total Sewer Exactions (Aggregation of Tables 6 & 7)

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 7,548.08	\$ 3,221.98	\$ 3,356.54	\$ 4,627.89	\$ 2,675.22
EAR1-SRA	\$ -	\$ 966.59	\$ 1,006.96	\$ -	\$ -
EAR2	\$ -	\$ 6,450.30	\$ 6,719.68	\$ 9,264.90	\$ 5,355.70
EAR3	\$ -	\$ 13,851.96	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 13,851.96	\$ 14,430.47	\$ 19,896.30	\$ 11,501.32
CC(nonres) (per sq. ft.)	\$ -	\$ 17,598.92	\$ 18,333.91	\$ 25,278.25	\$ 14,612.43
ED (per sq. ft.)	\$ -	\$ 20,886.63	\$ -	\$ -	\$ 17,342.22

Table 9: Total Combined Exactions per Acre (Aggregation of Tables 5 & 8)

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 8,548.08	\$ 12,115.48	\$ 13,200.56	\$ 13,443.58	\$ 5,403.98
EAR1-SRA	\$ -	\$ 4,082.00	\$ 4,312.47	\$ -	\$ -
EAR2	\$ -	\$ 23,189.53	\$ 24,837.16	\$ 24,554.10	\$ 10,245.41
EAR3	\$ -	\$ 48,770.09	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 48,770.09	\$ 52,722.92	\$ 52,059.31	\$ 19,762.11
CC(nonres)	\$ -	\$ 104,360.36	\$ 108,469.67	\$ 100,584.46	\$ 48,558.27
ED	\$ -	\$ 52,265.24	\$ 21,409.78	\$ -	\$ 27,527.52

EXACTION RATE SCHEDULE
ADOPTED 7/16/02

2002:
 EXACTIONS COMBINED
 INTO ONE EXACTION;
 "PROPERTY OWNER" EXACTION
 ABOLISHED

The following table indicates the per acre exactions required for the indicated Expansion Area and Zoning Category:

Table 1: Roads

Zone	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 4,052.52	\$ 4,052.52	\$ 2,882.45	\$ 1,728.76
EAR1-SRA	\$ -	\$ 1,215.76	\$ 1,215.76	\$ -	\$ -
EAR2	\$ -	\$ 9,118.16	\$ 9,118.16	\$ 6,485.52	\$ 3,889.71
EAR3	\$ -	\$ 17,020.57	\$ 17,020.57	\$ -	\$ -
CC (res)	\$ -	\$ 17,020.57	\$ 17,020.57	\$ 12,106.30	\$ 7,260.79
CC(nonres)	\$ -	\$ 77,230.85	\$ 77,230.85	\$ 54,932.32	\$ 32,945.84
ED	\$ -	\$ 21,531.96	\$ 21,531.96	\$ -	\$ 9,185.30

Table 2: Parks

Zone	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 1,337.55	\$ 1,337.55	\$ 551.07	\$ -
EAR1-SRA	\$ -	\$ 401.26	\$ 401.26	\$ -	\$ -
EAR2	\$ -	\$ 3,009.49	\$ 3,009.49	\$ 1,239.90	\$ -
EAR3	\$ -	\$ 8,025.30	\$ 8,025.30	\$ -	\$ -
CC (res)	\$ -	\$ 8,025.30	\$ 8,025.30	\$ 3,306.41	\$ -
CC(nonres)	\$ -	\$ -	\$ -	\$ -	\$ -
ED	\$ -	\$ -	\$ -	\$ -	\$ -

Table 3: Stormwater

Zone	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ -	\$ 2,524.76	\$ 3,474.41	\$ 4,049.70	\$ -
EAR1-SRA	\$ -	\$ 504.95	\$ 694.88	\$ -	\$ -
EAR2	\$ -	\$ 3,660.90	\$ 5,037.89	\$ 5,872.07	\$ -
EAR3	\$ -	\$ 8,962.90	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 8,962.90	\$ 12,334.15	\$ 14,376.44	\$ -
CC(nonres) (per sq. ft.)	\$ -	\$ 8,962.90	\$ 12,334.15	\$ 14,376.44	\$ -
ED (per sq. ft.)	\$ -	\$ 8,962.90	\$ -	\$ -	\$ -

Table 4: Open Space Exactions

Zone	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
EAR1-SRA	\$ -	\$ 1,000.00	\$ 1,000.00	\$ -	\$ -
EAR2	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
EAR3	\$ -	\$ 1,000.00	\$ -	\$ -	\$ -
CC (res)	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
CC(nonres)	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
ED	\$ -	\$ 1,000.00	\$ -	\$ -	\$ 1,000.00

Table 5: Total Non-Sewer Exactions

Land Use	Expansion Area				
	EA 1	EA 2a	EA 2b	EA 2c	EA 3
EAR1	\$ 1,000.00	\$ 8,914.83	\$ 9,864.48	\$ 8,483.22	\$ 2,728.76
EAR1-SRA	\$ -	\$ 3,121.97	\$ 3,311.90	\$ -	\$ -

EXACTION RATE SCHEDULE
ADOPTED 7/16/02

EAR2	\$	-	\$ 16,788.55	\$	18,165.54	\$ 14,597.48	\$ 4,889.71
EAR3	\$	-	\$ 35,008.77	\$	25,045.87	\$ -	\$ -
CC (res)	\$	-	\$ 35,008.77	\$	38,380.03	\$ 30,789.14	\$ 8,260.79
CC(nonres) (per sq. ft.)	\$	-	\$ 87,193.75	\$	90,565.00	\$ 70,308.76	\$ 33,945.84
ED (per sq. ft.)	\$	-	\$ 31,494.86	\$	21,531.96	\$ -	\$ 10,185.30

Table 6: Sewer Transmission

Zone	Expansion Area					
	EA 1	EA 2a	EA 2b	EA 2c	EA 3	
EAR1	\$ 5,865.64	\$ 1,932.81	\$ 2,055.14	\$ 3,909.57	\$ 1,435.75	
EAR1-SRA	\$ -	\$ 579.84	\$ 616.54	\$ -	\$ -	
EAR2	\$ -	\$ 3,869.42	\$ 4,114.32	\$ 7,826.84	\$ 2,874.33	
EAR3	\$ -	\$ 8,309.56	\$ -	\$ -	\$ -	
CC (res)	\$ -	\$ 8,309.56	\$ 8,835.47	\$ 16,808.07	\$ 6,172.61	
CC(nonres)	\$ -	\$ 10,557.30	\$ 11,225.47	\$ 21,354.66	\$ 7,842.30	
ED	\$ -	\$ 12,529.54	\$ -	\$ -	\$ 9,307.35	

Table 7: Sewer Capacity

Zone	Expansion Area					
	EA 1	EA 2a	EA 2b	EA 2c	EA 3	
EAR1	\$ 824.13	\$ 824.13	\$ 824.13	\$ 824.13	\$ 824.13	
EAR1-SRA	\$ -	\$ 247.24	\$ 247.24	\$ -	\$ -	
EAR2	\$ -	\$ 1,649.89	\$ 1,649.89	\$ 1,649.89	\$ 1,649.89	
EAR3	\$ -	\$ 3,543.13	\$ -	\$ -	\$ -	
CC (res)	\$ -	\$ 3,543.13	\$ 3,543.13	\$ 3,543.13	\$ 3,543.13	
CC(nonres)	\$ -	\$ 4,501.55	\$ 4,501.55	\$ 4,501.55	\$ 4,501.55	
ED	\$ -	\$ 5,342.49	\$ -	\$ -	\$ 5,342.49	

Table 8: Total Sewer Exactions

Zone	Expansion Area					
	EA 1	EA 2a	EA 2b	EA 2c	EA 3	
EAR1	\$ 6,689.77	\$ 2,756.94	\$ 2,879.27	\$ 4,733.70	\$ 2,259.89	
EAR1-SRA	\$ -	\$ 827.08	\$ 863.78	\$ -	\$ -	
EAR2	\$ -	\$ 5,519.32	\$ 5,764.21	\$ 9,476.73	\$ 4,524.23	
EAR3	\$ -	\$ 11,852.69	\$ -	\$ -	\$ -	
CC (res)	\$ -	\$ 11,852.69	\$ 12,378.60	\$ 20,351.20	\$ 9,715.74	
CC(nonres)	\$ -	\$ 15,058.84	\$ 15,727.01	\$ 25,856.20	\$ 12,343.85	
ED	\$ -	\$ 17,872.03	\$ -	\$ -	\$ 14,649.84	

Table 9: Total Exactions per Acre

Zone	Expansion Area					
	EA 1	EA 2a	EA 2b	EA 2c	EA 3	
EAR1	\$ 7,689.77	\$ 11,671.77	\$ 12,743.75	\$ 13,216.92	\$ 4,988.65	
EAR1-SRA	\$ -	\$ 3,949.06	\$ 4,175.68	\$ -	\$ -	
EAR2	\$ -	\$ 22,307.87	\$ 23,929.76	\$ 24,074.21	\$ 9,413.93	
EAR3	\$ -	\$ 46,861.46	\$ 25,045.87	\$ -	\$ -	
CC (res)	\$ -	\$ 46,861.46	\$ 50,758.63	\$ 51,140.34	\$ 17,976.53	
CC(nonres)	\$ -	\$ 102,252.59	\$ 106,292.01	\$ 96,164.96	\$ 46,289.69	
ED	\$ -	\$ 49,366.89	\$ 21,531.96	\$ -	\$ 24,835.14	

23C-5(a) ROADS

ROAD EXACTION DISTRICT NO. 1 2A/2B

District 2 2A/2B Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON-RES.)	ED
Exaction/Acre	\$2,062	\$4,639	\$8,698	\$8,698	\$39,291	\$10,954
	\$2,295	\$5,164	\$9,639	\$9,639	\$43,737	\$12,194

ROAD EXACTION DISTRICT NO. 2 2C

District 2 2C Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON-RES.)	ED
Exaction/Acre	\$1,853	\$4,169	n/a	\$7,782	\$35,309	n/a
	\$1,945	\$4,377		\$8,171	\$37,074	

ROAD EXACTION DISTRICT NO. 3

District 3 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$834	\$1,875	n/a	n/a	n/a	\$4,129
	\$875	\$1,969				\$4,650

23C-5(b) OPEN SPACE - The Open Space Exaction District shall be subject to an exaction fee of \$1,000 per acre.

23C-5(c) SANITARY SEWER TREATMENT CAPACITY -

All Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$984	\$1,986	\$4,344	\$4,344	\$5,005	\$5,941
	\$1,213	\$2,027	\$2,465	\$2,265	\$4,609	\$5,470

23C-5(d) SANITARY SEWER TRANSMISSION CAPACITY

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT NO. 1

District 1 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$1,832	n/a	n/a	n/a	n/a	N/a
	\$2,640					

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT NO. 2 2A

District 2 2A Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$372	\$1,146	\$2,461	\$2,461	\$3,126	\$3,710
	\$839	\$1,680	\$3,608	\$3,608	\$4,584	\$5,440

2000: 39
2ND ITERATION:
"DEVELOPER" EXACTIONS,
AND
"PROPERTY
OWNER
EXACTIONS"

n/a in exaction district charts indicates that an exaction is not applicable in that district

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT NO. 3 2B

District 3-2B_Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 784	\$ 1,569	n/a	\$ 3,369	\$ 4,280	n/a
	\$ 831	\$ 1,664		\$ 3,573	\$ 4,539	

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT NO. 4 2C

District 4-2C_Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 1,159	\$ 2,922	n/a	\$ 6,274	\$ 7,972	n/a
	\$ 1,886	\$ 3,777		\$ 8,110	\$ 10,304	

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT NO. 5 3

District 5-3_Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 444	\$ 890	n/a	n/a	N/a	\$ 2,884
	\$ 709	\$ 1,419				\$ 4,595

23C-5 (e) PARKS

PARK EXACTION DISTRICT NO. 1 2A/2B

District 1-2A/2B_Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 127	\$ 255	\$ 547	\$ 547	n/a	n/a
	\$ 171	\$ 386	\$ 1,029	\$ 1,029		

PARK EXACTION DISTRICT NO. 2 2C

District 2-2C_Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 102	\$ 204	n/a	\$ 438	n/a	n/a
	\$ 174	\$ 391		\$ 1,042		

~~23C-5(e)~~ 23C-5(f) MISCELLANEOUS COMPUTATIONS EXACTIONS- In as much as land in the Conservation District (CD) Zone is proposed for future public acquisition, there shall be no ~~developer exaction fee exactions~~ imposed for any use permitted in the CD Zone. Land developed in the Transition Area (TA) Zone shall be subject to ~~an a developer exaction fee~~ based on the underlying zone. In the event a zone change is granted to a category where no exaction is shown in Sections 23C-5(a) through 23C-5(e), no development ~~activity~~ shall occur until the Urban County Council has amended this Article to create an appropriate exaction utilizing the same methodology used to create the original exaction schedules.

23C-6 PAYMENT OF DEVELOPMENT DEVELOPER EXACTIONS - Any person required to pay ~~development-developer~~ exactions pursuant to this Article shall render such ~~developer exaction~~ to the Director of Building Inspection prior to the issuance of a building permit unless the Lexington-Fayette Urban County Government has previously approved a credit against such exaction or has approved a ~~development agreement, pursuant to Section 23C-7,~~ herein providing for deferred or phased payment of the ~~developer exaction fees,~~ or for the ~~contribution or dedication of land in lieu of payment of developer exactions fees~~ or providing for construction of system improvements in lieu of payment of ~~developer exactions fees.~~

(Note: This is an entirely new section of Article 23. For clarity in reading, no dashed underlines are used.)

APPENDIX 23D: EXPANSION AREAS PROPERTY OWNER EXACTIONS

23D-1 INTENT - This Article is intended to implement and facilitate orderly growth consistent with the Expansion Area Master Plan element of the 1996 Lexington-Fayette Urban County Comprehensive Plan by assuring that new development activity is served by adequate public facilities; and that property owners within Expansion Areas developments contribute a proportionate share of the cost of infrastructure necessary to provide roads, parks, sanitary sewer transmission, and storm water management facilities in the Expansion Areas of Lexington-Fayette County. In conformance with the Expansion Area Master Plan, the property owner exactions are intended to provide financing for 50% of the cost of collector streets, 50% of the cost of parks, 100% of the cost of storm water management facilities, and 50% of the cost of sanitary sewer transmission capacity.

23D-2 DEFINITIONS - Definitions of terms used in this Article 23D shall have the meaning as established in Article 23C.

23D-3 IMPOSITION OF PROPERTY OWNER EXACTIONS - The first person who acquires property within a designated Expansion Area shall pay a property owner exaction in the manner and amount set forth herein. To ensure payment, the Lexington-Fayette Urban county government shall place a lien against all new lots created in the Expansion Areas. This lien shall not be released unless and until the required property owner exaction has been paid as set forth in article 23D-6 below. Property owner exactions shall be in addition to any other exactions for the property that have been paid by the developer as developer exactions or which may be owed to the developer in the form of credits for system improvements.

23D-4 PROPERTY OWNER EXACTION DISTRICTS ESTABLISHED - Exaction Districts for each public facility for which a property owner exaction is required pursuant to this Article are hereby established as follows:

23D-4(a) ROAD EXACTION DISTRICTS

Road Exaction District 2A/B - This exaction district is composed of Expansion Areas 2A and 2B.

Road Exaction District 2C - This exaction district is composed of Expansion Area 2C.

Road Exaction District 3 - This exaction district is composed of Expansion Area 3.

23D-4(b) SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICTS

Sanitary Sewer Transmission Capacity Exaction District 1 - This exaction district is composed of Expansion Area No. 1.

Sanitary Sewer Transmission Capacity Exaction District 2A - This exaction district is composed of Expansion Area 2A.

Sanitary Sewer Transmission Capacity Exaction District 2B - This exaction district is composed of Expansion Area 2B.

Sanitary Sewer Transmission Capacity Exaction District 2C - This exaction district is composed of Expansion Area 2C.

Sanitary Sewer Transmission Capacity Exaction District 3 - This exaction district is composed of Expansion Area 3.

23D-4(c) PARK EXACTION DISTRICTS

Park Expansion Exaction District 2A/B - This exaction district is composed of Expansion Areas 2A and 2B.

Park Expansion Exaction District 2C - This exaction district is composed of Expansion Area 2C.

23D-4(d) STORM WATER MANAGEMENT FACILITIES EXACTION DISTRICTS

Storm Water Exaction District 2A - This exaction district is composed of Expansion Area 2A.

Storm Water Exaction District 2B - This exaction district is composed of Expansion Area 2B.

Storm Water Exaction District 2C - This exaction district is composed of Expansion Area 2C.

23D-5 COMPUTATION OF THE AMOUNT OF EXACTION - The amount of property owner exactions shall be determined by the following schedule:

23D-5(a) ROAD EXACTION DISTRICTS

ROAD EXACTION DISTRICT 2A-B

District 2A-B Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON-RES)	ED
Exaction/Acre	\$ 2,295	\$ 5,164	\$ 9,639	\$ 9,639	\$43,737	\$12,194

ROAD EXACTION DISTRICT 2C

District 2C Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON-RES.)	ED
Exaction/Acre	\$ 1,945	\$ 4,377	n/a ²	\$ 8,171	\$37,074	n/a

ROAD EXACTION DISTRICT 3

District 3 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 875	\$ 1,969	n/a	n/a	n/a	\$ 4,650

23D-5(d) SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICTS**SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT 1**

District 1 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 2,640	n/a	n/a	n/a	n/a	n/a

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT 2A

District 2A Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 839	\$ 1,680	\$ 3,608	\$ 3,608	\$ 4,584	\$ 5,440

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT 2B

District 2B Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 831	\$ 1,664	n/a	\$ 3,573	\$ 4,539	n/a

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT 2C

District 2C Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 1,886	\$ 3,777	n/a	\$ 8,110	\$ 10,304	n/a

SANITARY SEWER TRANSMISSION CAPACITY EXACTION DISTRICT 3

District 3 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 709	\$ 1,419	n/a	n/a	n/a	\$ 4,595

23D-5 (e) PARKS EXACTION DISTRICTS**PARK EXACTION DISTRICT 2A/B**

District 1 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 171	\$ 386	\$ 1,029	\$ 1,029	n/a	n/a

² n/a in exaction district charts indicates that an exaction is not applicable in that district

PARK EXACTION DISTRICT 2C

District 2 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 174	\$ 391	n/a	\$ 1,042	n/a	n/a

23D-5 (f) STORM WATER MANAGEMENT FACILITIES EXACTION DISTRICTS**STORM WATER MANAGEMENT FACILITIES EXACTION DISTRICT 2A**

District 2A Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 2,869	\$ 3,618	\$ 9,357	\$ 9,357	\$ 9,357	\$ 9,357

STORM WATER MANAGEMENT FACILITIES EXACTION DISTRICT 2B

District 2B Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 3,105	\$ 3,915	n/a	\$ 10,126	\$ 10,126	Na

STORM WATER MANAGEMENT FACILITIES EXACTION DISTRICT 2C

District 2C Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 3,971	\$ 5,007	n/a	\$ 12,950	\$ 12,950	n/a

23D-5(g) MISCELLANEOUS PROPERTY OWNER EXACTIONS – Property owners in the Transitional Area (TA) Zone shall pay a property owner exaction based on the underlying zone. There shall be no property owner exaction imposed for property owners in the Conservation District (CD) Zone.

23D-6 PAYMENT OF PROPERTY OWNER EXACTIONS - Any person required to pay property owner exactions pursuant to this Article shall render such exaction to the Director of Building Inspection prior to or at the issuance of a certificate of occupancy. Such payment may take two forms at the sole option of the party seeking the certificate of occupancy:

23D-6(a) PAYMENT AT OCCUPANCY PERMIT – The property owner may choose to make the property owner exaction payment at the time of the issuance of a certificate of occupancy. No partial payments shall be accepted. The method of payment may include any combination of cash and/or Developer Exaction Certificates approved by the Lexington-Fayette Urban County Government. Upon such payment, the property owner exaction requirement shall be deemed to have been met.

23D-6(b) DEFERRED PAYMENT – Under this elective, the fee payor shall not be required to make a payment as specified under 23D6(a) above in order to receive a certificate of occupancy. The fee payor shall receive a permission to occupy the premises upon participation in a property owner exaction financing program established by the Lexington-Fayette Urban County Government which will allow for payment of the property owner exaction, plus interest, over a ten-year period. Upon completion of such payments, the property owner exaction requirement shall be deemed to have been met. The lien shall be released by the Lexington-Fayette Urban County Government.

23D-7 USE OF FUNDS - All property owner exactions collected pursuant to this Article shall be identified by the Exaction District from which it was collected and promptly transferred for deposit into the appropriate Exaction Fund to be held in funds as provided for in this Article. Funds collected as property owner exactions shall be used for system improvements. No funds shall be used for periodic or routine maintenance or repair of capital facilities. Property owner exactions shall be used exclusively for system improvements within the Exaction District that contains the project for which the fees were paid. Property owner exactions collected for sanitary sewer transmission lines shall be transferred to the Sanitary Sewer fund established by the Lexington-Fayette Urban County Government for sanitary sewer system improvements. Each fiscal year the Department of Finance shall present to the Lexington-Fayette Urban County Council an annual report describing the amount of property owner exactions collected,

Sanitary Sewer Transmission Capacity Exaction District No. 5 - This district is composed of Expansion Area No. 3.

23C-5(e) PARKS

Park Expansion Exaction District No. 1 - This district is composed of Expansion Areas 2A and 2B.

Park Expansion Exaction District No. 2- This district is composed of Expansion Area 2C.

23C-6 COMPUTATION OF THE AMOUNT OF EXACTION - The amount of development exactions shall be determined by the following schedule:

23C-6(a) ROADS

ROAD EXACTION DISTRICT NO. 1

District 2 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON- RES.)	ED
Exaction/Acre	\$ 2,062	\$ 4,639	\$ 8,698	\$ 8,698	\$39,291	\$10,954

ROAD EXACTION DISTRICT NO. 2

District 1 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON- RES.)	ED
Exaction/Acre	\$ 1,853	\$ 4,169	n/a ¹	\$ 7,782	\$35,309	n/a

ROAD EXACTION DISTRICT NO. 3

District 3 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 834	\$ 1,875	n/a	n/a	n/a	\$ 4,429

23C-6(b) OPEN SPACE -The Open Space Exaction District shall be subject to an exaction fee of \$1,000 per acre.

¹ n/a in exaction district charts indicates that an exaction is not applicable in that district

ORIGINAL
EXACTION RATES
FROM
ZONING ORDINANCE
1996

(NOTE:
50% OF
ROAD, SEWER
TRANSMISSION
& PARK COSTS
TO BE PAID
THROUGH
PROPERTY
ASSESSMENTS)

23C-6(c) SANITARY SEWER TREATMENT CAPACITY -

SANITARY SEWER TREATMENT CAPACITY EXACTION DISTRICT

Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 984	\$ 1,986	\$ 4,344	\$ 4,344	\$ 5,005	\$ 5,941

23C-6(d) SANITARY SEWER TRANSMISSION CAPACITY

SANITARY SEWER TRANSMISSION CAPACITY EXACTION
DISTRICT NO. 1

District 1 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 1,832	n/a	n/a	n/a	n/a	n/a

SANITARY SEWER TRANSMISSION CAPACITY EXACTION
DISTRICT NO. 2

District 2 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 572	\$ 1,146	\$ 2,461	\$ 2,461	\$ 3,126	\$ 3,710

SANITARY SEWER TRANSMISSION CAPACITY EXACTION
DISTRICT NO. 3

District 3 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 784	\$ 1,569	n/a	\$ 3,369	\$ 4,280	n/a

SANITARY SEWER TRANSMISSION CAPACITY EXACTION
DISTRICT NO. 4

District 4 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 1,459	\$ 2,922	n/a	\$ 6,274	\$ 7,972	n/a

0-196-96

SANITARY SEWER TRANSMISSION CAPACITY EXACTION
DISTRICT NO. 5

District 5 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 444	\$ 890	n/a	n/a	n/a	\$ 2,881

23C-6 (e) PARKS

PARK EXACTION DISTRICT NO. 1

District 1 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 127	\$ 255	\$ 547	\$ 547	n/a	n/a

PARK EXACTION DISTRICT NO. 2

District 2 Zones	EAR-1	EAR-2	EAR-3	CC (RES)	CC (NON RES.)	ED
Exaction/Acre	\$ 102	\$ 204	n/a	\$ 438	n/a	n/a

23C-6(f) PARKS; CREDIT FOR DEDICATION - If the area proposed for development includes lands designated for parks in the Expansion Area Master Plan, the developer shall dedicate such lands to the Lexington-Fayette Urban County Government in lieu of paying an exaction fee. The developer shall obtain a credit for the value of such lands against any park exactions which may be due. The value of such credit shall be computed as set forth in Article 23C-10. In the event such credit exceeds the amount of development exactions which are otherwise due, the developer may enter into a development agreement in order to recapture a portion of the fair market value of the land so dedicated from other developers in the Expansion Area who benefit from such dedication.

In cases where the land proposed for development is entirely or substantially in an area designated in the Expansion Area Master Plan for park land and the extent of the designation is such as to render the development of the land infeasible, the developer may enter into an agreement with the Lexington-Fayette Urban County Government establishing interim uses of the property in conformance with the Conservation District (CD) Zone, timing of acquisition, schedule of payments, and other related issues.



MEMORANDUM

TO: Bill Farmer, Chair Planning and Public Works Committee
Peggy Henson, Council Member

FROM: Jenifer Benningfield, Council Staff

DATE: March 29, 2013

SUBJECT: ZOTA 2012-9: Amendments to Articles 1, 8, and 12 for Modifications to the B-1 Zone Summary

The B-1 ZOTA issue has been placed on the upcoming Planning and Public Works Committee agenda. The following is a brief synopsis of the issue and a summary of the meeting where the issue was heard by members of the Planning Commission.

The text amendment was initiated in response to the 2007 Comprehensive Plan's Implementation Element and Table. The table listed a neighborhood business zone rewrite and a task that was necessary following the completion of the Non-Residential Infill Study. That study suggested adjusting land uses permitted within the B-1 zone as well as relaxing setbacks and height limitations.

The Planning staff proposed four changes to the text of the B-1 zone:

- Yard and height requirements
- Off-Street parking requirements
- Special provisions
- Principal, accessory, and conditional uses

The Planning staff recommended creating a "build to" range in the B-1 zone, so that the setback would be between 10 and 20 feet for all buildings. They also recommended increasing the maximum height to 35 feet for all B-1 zones, but made no recommendations for changes to the side or rear yard, open space, or lot coverage.

Off-Street parking requirements are found in each zone and the staff re-evaluated them using the American Parking Association standards for parking. The Planning staff made only a few recommendations for changes.

The Non-Residential Infill Study recommended two changes to the special provisions section of the Zoning Ordinance. The first is a limit to the size of any structure in a B-1 zone. The second change would create a form-based neighborhood business project. This project would be required to be at least an acre in size; be approved by the Planning Commission; and have a Final Development Plan approve prior to the issuance of any building permit. Each project would require the submission of an area character and context study, prepared by an architect or urban design professional. An example of this concept would be the Chevy Chase Plaza.

Planning Commission members had concerns regarding the text amendment. There were concerns that there would still be principal uses in the B-1 zone that might not be appropriate for neighborhood-oriented businesses. There was also a concern about how the B-1 uses could impact the rural B-1 areas, specifically those outside of the Urban Service Area Boundary. The Planning staff told the members of the Planning Commission that they have been working on a text amendment for recreational uses in the agricultural zone. This potential text amendment might alleviate some concerns.

There was also concern expressed that requiring existing B-1 areas to adhere to a form-based code could result in robbing them of their inherent character. It was suggested that the form-based code development might be more appropriate for the B-2B zone.

The Planning staff said that they would delete the Business Office and Residential Projects as a conditional use if the Planning Commission chose to add the Form-Based Neighborhood Project.

Ultimately, the Planning Commission voted 5-3 that ZOTA 2012-9 be submitted to the Urban County Council.

Recd by _____

Date: _____

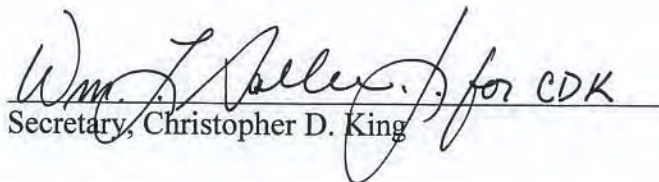
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON-FAYETTE COUNTY, KENTUCKY

IN RE: ZOTA 2012-9: AMENDMENTS TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE B-1 ZONE – petition for a Zoning Ordinance text amendment to Articles 1, 8, and 12 to make various modifications to the B-1 zone, including the addition of several new definitions.

Having considered the above matter on **January 31, 2013**, at a Public Hearing and having voted **5-3** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL of the Staff Alternative Text**, for the following reasons:

1. The text amendment will be in agreement with the Implementation Element and Table of the 2007 Comprehensive Plan, which identified the “neighborhood business zone rewrite” as a necessary task following the completion of the *Non-Residential Infill Study*. The Study suggested adjusting land uses permitted within the Neighborhood Business (B-1) zone and relaxing setbacks and height limitations.
2. The proposed amendment meets many of the recommendations of the *Non-Residential Infill Study*, and accomplishes other minor improvements to the B-1 zone to make it more compatible with residential neighborhoods.
3. The creation of a “form-based neighborhood business project” will provide added flexibility for redevelopment in the Infill and Redevelopment Area, and will provide for more compatible development with the existing character of an area.

ATTEST: This 15th day of February, 2013.


 Secretary, Christopher D. King

MIKE OWENS
 CHAIR

At the Public Hearing before the Urban County Planning Commission, this text amendment was presented by **Traci Wade, Senior Planner**.

FINAL REPORT

PAGE 2

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (5) Berkley, Blanton, Cravens, Mundy, Wilson

NAYS: (3) Owens, Plumlee, Roche-Phillips

ABSENT: (3) Beatty, Brewer, Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for Approval of the Staff Alternative Text of ZOTA 2012-9 carried.

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

src/tw/wls

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:

ANIMAL GROOMING FACILITY – An establishment where domestic animals are bathed, clipped, or combed for the purpose of enhancing their appearance or health, and for which a fee is charged, but not including overnight boarding of animals.

COCKTAIL LOUNGE – A commercial establishment dispensing and serving alcoholic beverages for consumption on the premises and in which live entertainment, exclusive of dancing, is permitted.

MAIL SERVICE FACILITY – A commercial establishment that conducts the retail sale of stationery products, provides packaging and mail services to retail customers, and provides mailboxes for lease.

NIGHTCLUB – A commercial establishment for dancing and live entertainment, which may or may not include dispensing and serving alcoholic beverages for consumption on the premises.

PRIMARY ENTRANCE – The place of ingress and egress for a structure used most frequency by the public.

TATTOO PARLOR – A commercial establishment whose principal business activity is the practice of placing designs, letters, figures, symbols, or other marks upon

or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin using needles or other instruments designed to contact or puncture the skin.

ZONE, BUSINESS - B-1, B-2, B-2A, B-2B, B-3, B-4, B-5P, ~~or~~ B-6P, or CC zone.

ZONE, INDUSTRIAL - An I-1, ~~or~~ I-2 or ED zone.

ZONE, RESIDENTIAL - An R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3 or PUD-1 zone.

ARTICLE 8

8-15 PROFESSIONAL OFFICE (P-1) ZONE

8-15(a) Intent - This zone is primarily for offices and related uses. Retail sales are prohibited, except where directly related to office functions. This zone should be located as recommended in the Comprehensive Plan.

8-15(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.
3. Research development and testing laboratories or centers.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Funeral parlors.
7. Medical and dental offices, clinics, and laboratories.
8. Telephone exchanges, radio and television studios.
9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
10. Community centers and private clubs, churches, and Sunday schools.
11. Hospitals, nursing homes, ~~and rest homes,~~ and assisted living facilities.
12. Computer and data processing centers.
13. Ticket and travel agencies.
14. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
15. Cable television system signal distribution centers and studios.
16. Dwelling units, provided the units are not located on the first floor of a structure and provided that at least the first floor is occupied by another permitted use or uses in the P-1 zone, with no mixing of other permitted uses and dwelling units on any floor.
17. Business colleges, technical or trade schools or institutions.
18. Athletic club facilities, when located at least one hundred fifty (150) feet from a residential zone.
19. Beauty shops and barber shops not exceeding 2,000 square feet in floor area, which employ not more than five licensed cosmetologists, with all service provided only by licensed cosmetologists and/or barbers.
20. ~~Assisted living facilities and r~~ Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.

8-15(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.
2. Parking areas or structures.
3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of 5,000 square feet.
4. Sales offices for the display of merchandise and the acceptance of orders.
5. Swimming pools, tennis courts, putting greens, and other similar non-commercial recreational uses.
6. Satellite dish antennas, as further regulated by Article 15-8.
7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.
8. Retail sales and storage areas accessory to internet-based businesses, for which Certificates of Occupancy are issued after November 15, 2001; provided that the retail sales and storage area occupies no more than twenty-five percent (25%) of the business area, nor more than 2,500 square feet, whichever is less; and having no display space, storage space or signs visible from the exterior of the building.
9. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

8-15(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

1. Offices of veterinarians, animal hospitals.
2. Drive-through facilities for sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.
3. Parking lots and structures.
4. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
5. ~~Assisted living facilities and~~ Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
6. Extended-stay hotels, except as permitted in a Professional Office Project.
7. Mail service facilities, except as permitted in a Professional Office Project.

8-15(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. As for A-R, except offices, institutional uses, dwelling units, and other uses as permitted herein.
2. Any use dependent upon septic tanks or pit privies.
3. Pawn shops.
4. Golf driving ranges.
5. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas; and the above- or below-ground storage of more than five (5) gallons of gasoline. However, jet fuel may be stored only in conjunction with a heliport.
6. Greenhouses, plant nurseries, and garden centers.
7. Tattoo parlors.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-15(f) Minimum Lot Size - 7,500 square feet.

8-15(g) Minimum Lot Frontage - 60 feet.

8-15(h) Minimum Front Yard - 20 feet.

8-15(i) Minimum Each Side Yard - 12 feet.

8-15(j) Minimum Rear Yard - 12 feet.

8-15(k) Minimum Usable Open Space - No limitation, except where residences are provided, then 10%.

8-15(l) Maximum Lot Coverage - 35% and a floor area ratio of 1.3.

8-15(m) Maximum Height of Building - 3:1 height-to-yard ratio.

8-15(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Athletic Club Facilities - One (1) space for every two hundred (200) square feet of floor area, plus one (1) space

for each employee on the maximum working shift.

Offices, Fine Arts Studios, Banks and Financial Establishments, Offices of Veterinarians, and Animal Hospitals, Medical and Dental Offices, Clinics and Laboratories, and the like - One (1) space for each two hundred (200) square feet of floor area.

Telephone Exchanges, Radio and Television Stations - One (1) space for every two (2) employees on a maximum shift; plus one (1) space for each vehicle owned by the use, with a minimum of five (5) spaces.

Elementary and Junior High Schools - One (1) space for every fifteen (15) auditorium seats; or one (1) space for each classroom, plus one (1) space for each employee, whichever is greater.

All Other Schools for Academic Instruction - One (1) space for every five (5) main auditorium seats, or one (1) space for every five (5) gymnasium seats, or one (1) space for every five (5) classroom seats, whichever is greater.

Professional Office Projects - One (1) space for every four hundred (400) square feet of floor area.

Kindergartens, Nursery Schools, and Child Care Centers - Three (3) spaces for the first twelve (12) children, plus one (1) space for every ten (10) (or fraction thereof) additional children.

Churches, Sunday Schools and Parish Houses - One (1) space for each five (5) seats in the main auditorium, with a minimum of five (5) spaces.

Libraries, Museums, Community Centers, Art Galleries and Reading Rooms - One (1) space for each six hundred (600) square feet of floor area.

Funeral Parlors - One (1) space for every five (5) seats under maximum occupancy, plus one (1) for each vehicle owned by the use.

Dwelling Units - One (1) space for each dwelling unit.

Private Clubs - One (1) space for every four (4) members.

Accessory Retail Facilities - One (1) space for every six hundred (600) square feet of floor area for each retail use.

Restaurants - One (1) space for each two hundred (200) square feet of floor area; or one (1) for every four (4) indoor seats plus one (1) for every eight (8) outdoor seats, whichever is greater.

Hospitals, Nursing Homes, Rest Homes, and Rehabilitation Homes - One (1) space for every three (3) beds; plus one (1) space for each employee on the maximum working shift, with a minimum of five (5) spaces.

~~**Professional Office Project** - One (1) space for every four hundred (400) square feet of floor area.~~

Assisted Living Facilities - Three (3) spaces for each four (4) bedrooms, plus one (1) space for each employee on the maximum shift.

Extended-Stay Hotels - One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.

Beauty Shops or Barber Shops - One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Mail Service Facilities - One (1) space for each two hundred (200) square feet of floor area.

Conditional Uses - Parking requirements stated herein for conditional uses are minimum requirements; the Board of Adjustment may establish additional requirements as needed.

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Combinations - Combined uses shall provide parking equal to the sum of the individual requirements.

8-15(o) Special Provisions

1. A Professional Office Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, upon the approval of a preliminary development plan and a final development plan as provided in Article 21, and subject to the P-1 zone regulations.

Subdivision of land in a Professional Office Project is permitted, subject to the following regulations:

- a. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
- b. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

a. As a principal permitted use:

1. Extended-Stay Hotels.
2. Mail service facilities.

b. As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non- perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.
2. Shoe repair, clothing alteration or tailoring services.

c. As a conditional use:

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.
2. Beauty shops and barber shops, with no restrictions.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurant(s), with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided it meets the following conditions:

- a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.
 - b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
 - c. It shall have no more than one public entrance and one service entrance directly to the outside of the building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.
 - d. It shall have no drive-in or drive-through food service.
 - e. There shall be no more than two restaurants within an office building, provided that the 25% limitation is not exceeded.
 - f. Signs permitted per office building may be used to identify the restaurant and/or the office use.
2. Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced, when specific permission is given by the Commission to reduce said required parking by not more than one percent (1%) for each one percent (1%) of additional useable open space that is provided over the minimum. Also, for every one percent (1%) of the dwelling units that will be provided as a mixed-income housing unit, the Commission may decrease the required parking by one percent (1%). In any case, the maximum parking reduction shall not exceed the minimum parking otherwise required in the zone by more than ten percent (10%) by only providing additional open space or only providing mixed-income housing, or twenty-five percent (25%) by using a combination of mixed-income housing and additional open space.

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

1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.
3. Research development and testing laboratories or centers.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Funeral parlors.
7. Medical and dental offices, clinics, and laboratories.
8. Telephone exchanges, radio and television studios.
9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
10. Community centers and private clubs, churches, and Sunday schools.
11. Nursing homes, rest homes, and assisted living facilities.
12. Computer and data processing centers.
13. Ticket and travel agencies.
14. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
15. Business colleges, technical or trade schools or institutions.
16. Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.
- ~~1. The principal permitted uses in the P-1 zone, not including a Professional Office Project.~~
- 17.-2. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
- 18.-3. Restaurants and brew-pubs, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
- 19.-4. Establishments for the retail sale of merchandise, including: clothing, shoes, fabrics, yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products, paint and other interior or exterior care products, hobby items, toys, gifts, antiques, newspapers and magazines, stationery and books, flowers, music, cameras, jewelry and luggage, business supplies and machines; prescription and non-prescription medicines and medical supplies.
- ~~20.-5. Beauty shops, and barber shops.~~
21. S, shoe repair, clothing alterations and tailoring services.
22. Self service laundry, or laundry pick-up stations, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed-system process.
- ~~23.-6. Automobile service stations, provided such use conforms to all requirements of Article 16.~~
- 24.-7. Parking lots and structures, provided such use conforms to the conditions of Article 16, and provided that at least twenty-five percent (25%) of the first floor is occupied by another permitted use or uses in the B-1 zone.
- ~~25.-8. Repair of household appliances.~~
- ~~26.-9. Retail sale of plant nursery or greenhouse products, except as prohibited herein.~~
- ~~27.-10. Outdoor miniature golf or putting courses.~~
- ~~28.-11. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.~~
- ~~29.-12. Circuses and 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.~~
- ~~30.-13. Indoor theaters, limited to three screens or stages.~~
- ~~31.-14. Rental of equipment whose retail sale would be permitted in the B-1 zone.~~
- ~~32.-15. Dwelling units, provided the units are not located on the first floor of a structure, and provided that at least the~~

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first floor is occupied by another permitted use or uses in the B-1 zone, with no mixing of other permitted uses and dwelling units on any floor, ~~not to exceed thirty-five (35) feet in height.~~

~~33.-16.~~ Arcades, including pinball and electronic games.

~~34.-17.~~ Pawnshops which (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.

~~35.-18.~~ Athletic club facilities.

~~36.-19.~~ Banquet facility.

37. Animal grooming facilities.

38. Mail service facilities.

39. Tattoo parlors.

40. Form-based neighborhood business project as per 8-16(o)(4).

8-16(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Parking areas or structures.

2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.

3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.

~~4. 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. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Division of Building Inspection for the control of such activities and shall show the entire property, signs, parking and location of the proposed storage area.~~

~~4.-5.~~ The sale of malt beverages, wine, or alcoholic beverages, when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area ~~exclusively~~ primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.

~~6. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.~~

~~5.-7.~~ Satellite dish antennas, as further regulated by Article 15-8.

~~6.-8.~~ One (1) or two (2) pool or billiard tables within an establishment.

7. Sidewalk cafés, when accessory to any permitted restaurant.

8. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).

9. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; ~~but~~ only when located more than one hundred (100) feet from a residential zone.

10. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

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

1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.

2. Animal hospital or clinic, provided that all exterior walls are completely soundproofed, and further provided that animal pens shall be completely within the principal building and used for the medical treatment of small animals.

3. 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 that the service station abuts a state or federal highway ~~when abutting a residential zone~~. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs,

- parking and location of the proposed storage area.
4. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of the establishment's public floor area ~~exclusively~~ primarily to the preparation and service of malt beverages, wine or alcoholic beverages.
 5. Outdoor live entertainment and/or dancing, cocktail lounges, ~~brew-pubs~~ or night clubs [unless prohibited under Sections 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone, and indoor uses shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood. The Board may also impose time restrictions to minimize nuisance to the surrounding neighborhood.
 6. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility; but only when located closer than 100 hundred (100) feet from a residential zone.
 7. ~~A combination business, office and residential project, provided the following conditions and requirements are met:~~
 - a. ~~The maximum residential density shall be twenty (20) units per net acre.~~
 - b. ~~The minimum lot size shall be one acre and shall be located in a B-1 area with a minimum of twenty (20) contiguous acres, which must have any part thereof being within one and one half (1½) miles of the center of Lexington-Fayette Urban County, as measured from the Courthouse Block bounded by Main, Cheapside, Short and Upper Streets, and shall be within an Urban Activity Center.~~
 - c. ~~The minimum lot frontage shall be one hundred fifty (150) feet.~~
 - d. ~~The minimum front yard shall be an average of ten (10) feet, but shall be not less than 5 feet at any point. In addition, for every story in excess of three stories, two percent (2%) of the total area shall be added to the otherwise required front yard, or such area shall be provided as ground level open space on land adjoining the right-of-way.~~
 - e. ~~The minimum side street side yard shall be an average of ten (10) feet, but shall be not less than five (5) feet at any point. In addition, for every story in excess of three stories, two percent (2%) of the total area shall be added to the otherwise required side street side yard, or such area shall be provided as ground level open space on land adjoining the right-of-way.~~
 - f. ~~The minimum usable open space shall be twenty percent (20%).~~
 - g. ~~The maximum lot (building) coverage shall be eighty-five percent (85%).~~
 - h. ~~The maximum floor area ratio shall be 1.6.~~
 - i. ~~The maximum height shall be five (5) stories or sixty-five (65) feet, whichever is less. For all stories above twenty-five (25), feet there shall be an average minimum setback ratio of three to one (3:1) from the front wall of the first two floors, measured from the top of the front wall of the second floor.~~
 - j. ~~The project must be located at least five hundred (500) feet from any other such project, measured from property line to property line.~~
 - k. ~~The project must be located at least one hundred (100) feet from any historic district or from any residential zone, except R-4 or R-5, measured from property line to property line.~~
 - l. ~~Minimum parking for business uses shall be as required in the B-1 zone; minimum parking for office uses shall be as required in the P-1 zone; and minimum parking for residential uses shall be as required in the R-3 zone, with all parking to be provided on site. The provisions of Article 16-3 shall not be applicable.~~
 - m. ~~The first floor of the structure must be occupied by a business or office use with no business or office use located above the third floor, and with no mixing of dwelling units and other permitted uses on any floor. No more than fifty percent (50%) of the floor area may be used for residential uses, and no more than fifty percent (50%) of the floor area may be used for office purposes.~~
 - n. ~~The permitted conditional uses shall be those principal and accessory uses in the B-1 zone, with the exception that no drive-through windows shall be permitted. The petitioner shall submit to the Board of Adjustment a list of proposed uses, and the Board may further limit the uses that are allowed.~~
 - o. ~~Signs shall be as otherwise permitted in the B-1 zone, with the exception that no free standing sign shall be permitted.~~
 - p. ~~The total land area for the project shall not exceed two (2) acres in size, or ten percent (10%) of the gross land area within the designated B-1 zone, whichever is the greater acreage.~~
 - q. ~~A development plan shall be submitted with the appeal containing sufficient information to determine compliance with the B-1 zone and the requirements and conditions of this conditional use.~~
 - r. ~~Before voting upon any application for a conditional use permit for a combination business, office and residential project, in addition to all other notice required by law or regulation, notice of the time, place and reason for holding a public hearing shall be given by first-class letter at least forty-five (45) days in advance of the hearing to: the owners of all property within one thousand (1,000) feet of the subject property; the officers of all neighborhood associations, registered with the Planning Commission, having any part of their~~

~~boundaries within one thousand (1,000) feet of the subject property and the County Government, Mayor and Council.~~

~~s. The Board of Adjustment may approve the conditional use only if the proposal complies with the requirements of the B-1 zone and the additional requirements as set forth in this section, and provided the Board finds the following:~~

- ~~1) The proposal will not have an adverse effect on existing or future development of the subject property or surrounding neighborhood.~~
- ~~2) The proposal will not alter the essential character of the surrounding neighborhood.~~
- ~~3) The proposed site is located in a declining or transitional business area, and the proposed development will encourage needed rehabilitation in the surrounding area.~~
- ~~4) Traffic that is anticipated, based on the proposed uses, will not have a material adverse effect on the traffic on adjoining streets.~~
- ~~5) The proposed design and use of materials will be compatible with existing development on surrounding properties.~~
- ~~6) All business and office uses within the project shall comply with the stated intent for the B-1 zone.~~
- ~~7) The project is in accordance with the Comprehensive Plan.~~

~~7.—8. Upholstery shop.~~

~~8.—9. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:~~

- ~~a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;~~
- ~~b. That a reasonable degree of reclamation and proper drainage control is feasible; and~~
- ~~c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.~~

~~9.—10. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:~~

- ~~a. To check all operating equipment;~~
- ~~b. To check fire suppression system(s);~~
- ~~c. To check the condition of the fire alarm(s);~~
- ~~d. To check for indications of fuel leaks and spillage;~~
- ~~e. To remove trash from the site;~~
- ~~f. To monitor the general condition of the site.~~

~~10.—11. Assisted living facilities and Rehabilitation homes, but only when located closer more than five hundred (500) feet from a residential zone.~~

~~11. Extended-stay hotels.~~

~~12. Parking lots, provided such use conforms to the conditions of Article 16.~~

~~13. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.~~

8-16(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments primarily engaged in agricultural sales and services.
2. Warehouses, as well as storage uses, except as accessory uses herein.
3. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; printing; electrical; sign painting; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking; construction; and paving. This is not intended to prohibit the administrative offices of such.
4. Manufacturing, compounding, assembling, bottling, processing and packaging and other industrial uses for sale or distribution other than as retail on the premises.
5. Truck terminals and freight yards, transfer stations.
6. Amusement enterprises, such as outdoor theaters, automobile racing, horse racing.
7. Kennels, outdoor runways, or pens for animals.
8. Establishments engaged in the display, rental, sales, service and major repair of automobiles, repair of

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motorcycles, boats, trucks, travel trailers, farm implements, contractor's equipment, mobile homes, and establishments primarily engaged in the sale of supplies and parts for any of the above-mentioned vehicles or equipment, except as permitted herein.

9. Establishments for cleaning, dyeing, laundering and the like, other than self-service and pickup stations, except for clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
10. Dwellings, except as permitted herein.
11. Hotel or motel, boarding house.
12. Wholesale establishments.
13. Greenhouses, nurseries, hatcheries.
14. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
15. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
16. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
17. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
18. Above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.
19. Pawnshops, except as permitted herein.
20. Pool or billiard halls.
21. Hospitals.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-16(f) Minimum Lot Size - No limitation.

8-16(g) Minimum Lot Frontage - No limitation.

8-16(h) Minimum and Maximum Front Yard –

- a. Minimum – 10 feet.
- b. Maximum – 20 feet.

8-16(i) Minimum Each Side Yard - No limitation.

8-16(j) Minimum Rear Yard - No limitation.

8-16(k) Minimum Usable Open Space - No limitation, except where dwelling units are provided as principal uses; then 10%.

8-16(l) Maximum Lot Coverage - No limitation.

8-16(m) Maximum Height of Building - ~~25 feet for business uses; 35 feet for residential uses, as permitted herein; and 65 feet as a conditional use, as established in Section 8-16(d)(6).~~ 35 feet, except as permitted in Section 8-16(o)(3).

8-16(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for P-1.

Accessory Warehousing, Wholesaling, Storage and the like - One (1) space for every six hundred (600) square feet of floor area.

Accessory Dwellings - One (1) space per dwelling unit.

Beauty Shops, Barber Shops, and Shoe Repair Shops, Clothing Alterations, Tailoring Services and Tattoo Parlors - One space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Restaurants and Brew-Pubs with no live entertainment or dancing - One (1) space for every two hundred (200) square feet of floor area; or one (1) space for every four (4) indoor seats plus one (1) for every eight (8) outdoor seats, whichever is greater.

Cocktail Lounges, Night Clubs, Banquet Facilities or Restaurants and Brew-Pubs with live entertainment or dancing - One (1) space for every one hundred fifty (150) square feet; or one (1) space for every three (3) indoor seats plus one (1) for every six (6) outdoor seats, whichever is greater.

Retail Uses - For the first 10,000 square feet, one (1) space for every four hundred (400) square feet of floor area, with a minimum of three spaces; for all floor area exceeding the first 10,000 square feet, one (1) space for every two hundred (200) square feet. Combined uses located in a single building shall calculate required parking on the total square footage of the building and not the individual retail uses therein.

Self-Service Laundry - One (1) space for every six (6) machines (washers, dryers, and the like.)

Indoor Theaters - One (1) space for every five (5) seats.

Outdoor Miniature Golf or Putting Courses - One and one-half (1½) spaces per hole.

Arcades, with or without accessory billiard or pool tables - One (1) space for every ~~two hundred fifty (250) one hundred (100)~~ square feet of floor area, ~~plus one (1) space for every three (3) employees.~~

Animal Grooming Facilities – One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Combined Uses - Combined uses shall provide parking equal to the sum of the individual uses.

8-16(o) Special Provisions:

1. No building to be used principally as a single ~~use or establishment store selling food, produce, grocery items or general merchandise~~ shall exceed ~~40,000~~50,000 square feet in floor area unless approved by the Planning Commission prior to ~~[DATE OF ORDINANCE] April 27, 2000~~ for at least 40,000 square feet in size. No such ~~building structure~~ may exceed 60,000 square feet in size, in any event.
2. Where dwelling units are provided and the Planning Commission has approved a final development plan, the required parking spaces may be reduced when specific permission is given by the Commission to reduce said required parking by not more than one percent (1%) for each one percent (1%) of additional useable open space that is provided over the minimum. Also, for every one percent (1%) of the dwelling units that will be provided as a mixed-income housing unit, the Commission may decrease the required parking by one percent (1%). In any case, the maximum parking reduction shall not exceed the minimum parking otherwise required in the zone by more than ten percent (10%) by only providing additional open space or only providing mixed-income housing; or twenty-five percent (25%) by using a combination of mixed-income housing and additional open space.
3. A form-based neighborhood business project may be approved by the Planning Commission on any site over one (1) acre in size. For any such project, a final development plan shall be approved by the Planning Commission prior to issuance of any building permit. The lot, yard, height and setback requirements will be those established by the Commission on the approved development plan, rather than those stated above. In addition to the development plan, an applicant seeking approval of a form-based neighborhood business project shall be required to submit an area character and context study prepared by an architect or urban design professional. The study will document the architectural and urban design character of the area. It shall demonstrate, through the use of renderings, elevations and similar graphic materials, how the proposed project

will enhance and complement the area's character. It will also show its integration with the surrounding neighborhood by using positive design features such as supplemental landscaping, provision of public space and open space buffers, and improved pedestrian accommodations. These drawings shall be made a part of the Commission's approval, and building permits shall comply with the approved drawings. A form-based neighborhood business project shall not be subject to the square footage limitation of 8-16(o)(1) above.

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(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.
2. Amusement enterprises, such as indoor billiard or pool halls; indoor theaters; bowling alleys; dance halls; skating rinks.
3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing or the sale of alcoholic beverages.
4. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats, provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
5. Establishments engaged in blueprinting, printing, publishing, and lithographing, interior decorating; upholstering; laundering; clothes cleaning and dyeing; ~~dressmaking~~ clothing alterations and tailoring services.
6. Hotels and motels.
7. Passenger transportation terminals.
8. Any type of dwelling unit.
9. Wholesale establishments.
10. Minor automobile and truck repair.
11. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
12. Pawnshops.
13. Stadium and exhibition halls.
14. Telephone exchanges, radio and television studios.
15. Cable television system signal distribution centers and studios.
- ~~16.~~ 15. Animal hospitals or clinics, provided all exterior walls are completely sound-proofed and all animal pens are completely within the principal building and used only for the medical treatment of small animals.
- ~~17.~~ 16. Athletic club facilities.
- ~~18.~~ 17. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
19. Parking lots and structures, provided such use conforms to the conditions of Article 16.

8-17(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Storage, wholesaling, and warehousing.
2. Storage yards for delivery vehicles of a permitted use.
3. Sidewalk café, when accessory to any permitted restaurant.
4. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
5. Satellite dish antennas, as further regulated in Article 15-8.
6. Micro-brewery, when accessory to a restaurant permitted herein, and shall be located at least one hundred (100) feet from a residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
7. Parking areas or structures.

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

1. Helistops, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.
2. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth

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therein. The Board of Adjustment shall specifically consider and be able to find:

- a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, except as permitted herein, provided none shall be located within a 500-foot radius of any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
 5. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.
 6. ~~Assisted living facilities and~~ Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

8-17(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-1 zone, items 1 through 7, except as permitted herein.
2. Outdoor kennels, or outdoor animal runs.
3. Establishments engaged in the display, rental, or repair of farm equipment, trucks exceeding one and one-half (1½) tons, and contractor's equipment.
4. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas.
5. Hospitals.

Lot, Yard and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-17(f) Minimum Lot Size - No limitation.

8-17(g) Minimum Lot Frontage - No limitation.

8-17(h) Minimum Front Yard - No limitation.

8-17(i) Minimum Each Side Yard - No limitation.

8-17(j) Minimum Rear Yard - No limitation.

8-17(k) Minimum Usable Open Space - No limitation (except that residential uses shall provide useable open space equal to not less than 10% of only those floors occupied by dwelling units).

8-17(l) Maximum Lot Coverage - No limitation.

8-17(m) Maximum Height of Building - No limitation.

8-17(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Dwelling Units - No requirements, except for buildings with 25 or more dwelling units; then one (1) space for every two thousand (2,000) square feet of residential floor area.

All Other Permitted Uses - Off-street parking not required.

Off-street loading shall be as required in Article 16.

8-17(o) Special Provisions:

1. For any development within the Urban Renewal Project Area, all provisions of the Urban Renewal Plan shall take precedence over any provisions of this B-2 zone where such provisions are more restrictive than those set out in this zone.
2. For those floors of buildings containing dwelling units with windows for habitable rooms, there shall be provided a height-to-yard ratio of 3:1 for light and air. Public street right-of-way width may be used as part of this setback requirement, except that a minimum setback of five (5) feet from the property line, other than property lines adjoining street right-of-way, shall be required in any case. No setback shall be required for those floors containing non- residential uses or dwelling unit walls without windows.
3. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.

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

1. Civic Center and convention facilities.
2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions; savings and loan companies, holding and investment companies.
3. Offices and clinics.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Studios for work or teaching of fine arts, such as photography, music, drama, dance or theater.
7. Churches, Sunday schools, and parish houses.
8. Ticket and travel agencies.
9. Restaurants, cocktail lounges and nightclubs, including those serving alcoholic beverages and/or offering live entertainment, except as prohibited under Section 8-19(e).
10. Establishments for the retail sale of primarily new merchandise.
11. Beauty shops, and barber shops.
12. S, shoe repair, dressmaking clothing alterations or tailoring services.
- ~~13. 12.~~ Retail sale of plant, nursery or greenhouse products, or agricultural produce.
- ~~14. 13.~~ Hotels or motels.
- ~~15. 14.~~ Any type of residential use.
- ~~16. 15.~~ Antique shops.
- ~~17. 16.~~ Establishments for the display, rental or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats; provided that the outdoor display or storage of vehicles shall conform to the requirements of Article 16.
- ~~18. 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.
- ~~19. 18.~~ Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstery; repair of household appliances.
- ~~20. 19.~~ Bookstores, except as prohibited under Section 8-19(e).
- ~~21. 20.~~ Indoor amusement enterprises, such as motion picture theaters, except as prohibited under Section 8-19(e); billiard or pool halls; bowling alleys; dance halls, skating rinks; and arcades.
- ~~22. 21.~~ Computer and data processing centers.
- ~~23. 22.~~ Telephone exchanges, radio and television studios.
- ~~24. 23.~~ Cable television system signal distribution centers and studios.
- ~~25. 24.~~ Private clubs, except as prohibited under Section 8-19(e)(7, 8 and 9).
- ~~26. 25.~~ Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
- ~~27. 26.~~ Pawnshops which: (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.

8-19(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Storage area for delivery vehicles of a permitted use.
2. Sidewalk café, when accessory to any permitted restaurant.
3. Health clubs, athletic clubs and spas, when operated solely for the use of occupants of residential uses, employees, tenants and owners of office uses, or registered guests of hotels and motels.

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4. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
5. Parking lots and parking structures, when accessory to principal permitted uses.
6. Satellite dish antennas, as further regulated by Article 15-8.
7. Micro-brewery, when accessory to a restaurant permitted herein; and shall be located at least one hundred (100) feet from a residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

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

1. Automobile service stations at which only minor automobile and truck repair is performed, and provided such use conforms to all requirements of Article 16.
2. Automobile rental facilities; parking lots and parking structures, when not accessory to a principal permitted use, provided such uses conform to all requirements of Article 16.
3. Secondhand shops.
4. Self-service laundry or laundry pick-up stations, including clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
5. Helistops, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.
6. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
7. Health clubs, athletic clubs and spas, except as a permitted in 8-19(c)(3).
8. Recycling drop-off centers for aluminum; steel; plastic; glass; newspapers; cardboard and other paper products; oil and other household recyclable waste, provided that such an establishment shall be located at least two hundred (200) feet from any residential zone. Any appeal for a conditional use permit to operate a recycling drop-off center shall include as part of the application: Reasons for the location of the proposed use at a specific site, description of equipment to be used, physical arrangement, and operation of the proposed center. The Board of Adjustment shall consider the necessity of screening, if needed.
9. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
10. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.

8-19(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Establishments primarily engaged in agricultural equipment sales and services.
2. Warehouse, as well as storage uses, except as accessory uses herein.
3. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; electrical; sign painting; tile, mosaic and terrazzo work; electroplating; drilling; excavating; wrecking; construction, and paving. This is not intended to prohibit administrative offices of such.
4. Manufacturing, compounding, assembling, bottling, processing and packaging, and other industrial uses for sale or distribution other than as retail on the premises.
5. Truck terminals and freight yards.
6. Drive-in restaurants or drive-in theaters.

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7. Establishments offering live entertainment in which a person is unclothed, or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
8. Establishments at which any employee is unclothed or in the attire, costume, or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
9. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities, as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy, or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
10. Animal kennels, hospitals, clinics, outdoor runways or pens, and animal grooming facilities.
11. The above- or below-ground storage of any flammable material in gaseous form including compressed natural gas.
12. Pawnshops, except as permitted herein.
13. Tattoo parlors.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-19(f) Minimum Lot Size - No limitation.

8-19(g) Minimum Lot Frontage - No limitation.

8-19(h) Minimum Front Yard - No limitation.

8-19(i) Minimum Each Side Yard - No limitation.

8-19(j) Minimum Rear Yard - No limitation.

8-19(k) Minimum Usable Open Space - No limitation, except that 10% shall be required for any residential area.

8-19(l) Maximum Lot Coverage - No limitation.

8-19(m) Maximum Height of Building - No limitation.

8-19(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Dwelling Units - No requirements, except for buildings with 25 or more dwelling units: then one (1) space for every two thousand (2,000) square feet of residential floor area.

Hotels or Motels - One (1) space per suite, with a minimum of five (5) spaces.

8-19(o) Special Provisions:

1. For any development within the Urban Renewal Project Area, all provisions of the Urban Renewal Plan shall take precedence over any provisions of this B-2B zone where such provisions are more restrictive than those set in this zone.
2. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.

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

1. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
2. Automobile service stations, subject to the conditions of Article 16.
3. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of alcoholic beverages.
4. Car washing establishments, provided that surface water from such use shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
5. Motel or hotel.
6. Indoor amusements, such as billiard or pool halls; dancing halls; skating rinks; miniature golf or putting courses; theaters, or bowling alleys.
7. Self-service laundry, or laundry pick-up station, or clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
8. Garden centers.
9. Kennels, animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
10. Drive-in restaurants, provided that all outside food service areas shall be at least one hundred (100) feet from any residential zone.
11. Establishments for the retail sale of merchandise as permitted in the B-1 zone, unless prohibited by Section 8-20(e).
12. Minor automobile and truck repair.
13. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
14. ~~Barber shops, beauty shops.~~ Beauty shops, and barber shops.
15. Shoe repair, clothing alteration, tailoring services, and tattoo parlors.
- ~~16.-15.~~ Circuses and 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.
- ~~17.-16.~~ Offices and medical clinics.
- ~~18.-17.~~ Taxidermy establishments.
- ~~19.-18.~~ Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
- ~~20.-19.~~ Business colleges, technical or trade schools or institutions.
- ~~21.-20.~~ Schools for academic instruction.
- ~~22.-21.~~ Kindergartens, nursery schools and child care centers, where enrollment of children is sponsored and licensed by established churches and non-profit community-based groups, and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment which is located on or abutting the same lot as the proposed child care facility. A fenced and screened play area shall be provided in an area, located a minimum of ten (10) feet from a collector or arterial street, and shall contain not less than twenty-five (25) square feet per child.
- ~~23.-22.~~ Pawnshops which: (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
- ~~24.-23.~~ Athletic club facilities.
- ~~25.-24.~~ Parking lots and structures.
- ~~26.-25.~~ Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.

~~27.-26.~~ Commissaries.

8-20(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Wholesale, warehouse, and storage facilities.
2. Parking areas and structures.
3. Swimming pools.
4. Newsstands and retail shops when accessory to a motel or hotel, provided there are no exterior entrances or signs visible from outside the structure in which they are located.
5. Not more than one (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of and located above or to the rear of such permitted use.
6. Major automobile and truck repair, when accessory to an establishment primarily engaged in the sale of automobiles and trucks.
7. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
8. Satellite dish antennas, as further regulated by Article 15-8.
9. Pawnshops which are accessory to an establishment primarily engaged in the retail sale of jewelry. Not less than fifty percent (50%) of the gross revenue of such establishments shall come from the retail sale of jewelry.
10. Micro-brewery, when accessory to a restaurant permitted herein; and shall be located at least one hundred (100) feet from a residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
11. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).

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.

1. Indoor and outdoor athletic facilities that may also require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Highway Service Business (B-3) zone, such as a field house; gymnasium; football stadium; tennis courts; soccer field or polo field, and baseball field.
2. Amusement parks, fairgrounds, or horse racing tracks, if 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, church, hospital, nursing home, or rest home.
3. Outdoor theaters, provided that all facilities, other than highway access drives, are not less than one thousand (1,000) feet from any residential zone, residence, school, church, hospital, nursing home, or rest home; and further provided that a vehicle storage area equal to thirty percent (30%) of the capacity of the theater be provided between the highway and theater ticket gate.
4. Outdoor recreational facilities, including go-cart tracks; archery courts; skate-board and roller skating tracks; trampoline centers; rifle and other fire-arm ranges; swimming pools; water slides and other water-related recreational facilities, and other similar uses.
5. Passenger transportation terminals.
6. Pawnshops, except as permitted herein.
7. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust,

- or damage to the environment or surrounding properties;
- b. That a reasonable degree of reclamation and proper drainage control is feasible; and
- c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- 8. Adult arcades, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, except as permitted herein, provided none shall be located within a 500-foot radius of any elementary or secondary school, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.
- 9. Churches and Sunday schools.
- 10. The above- or below-ground storage of any flammable material in gaseous form, except as permitted herein, including compressed natural gas, except in conformance with the Kentucky Building Code and all applicable fire safety codes. Total above-ground storage of gas is limited to 600 square feet. There may be no filling or re-filling of gas containers in this zone.

8-20(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

- 1. The prohibited uses in the B-1 zone, items 1 through 5.
- 2. Automobile race tracks.
- 3. Establishments for cleaning, dyeing, and the like, except as permitted herein.
- 4. Dwellings, except as accessory uses herein.
- 5. Major automobile and truck repair, except as permitted herein.
- 6. Boarding houses.
- 7. Outdoor retail sale of merchandise, unless accessory to a permanent retail sales establishment that conducts most of its activities within a completely enclosed building or group of buildings.
- 8. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas, except as permitted herein.
- 9. Hospitals.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-20(f) Minimum Lot Size - No limitation.

8-20(g) Minimum Lot Frontage - 40'.

8-20(h) Minimum Front Yard - 20'.

8-20(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-20(o).

8-20(j) Minimum Rear Yard - No limitation, except as provided in Section 8-20(o).

8-20(k) Minimum Useable Open Space - No limitation.

8-20(l) Maximum Lot Coverage - No limitation.

8-20(m) Maximum Height of Building - 75', except where a side or rear yard abuts a Professional Office or a Residential zone, then a 3:1 height to yard ratio.

8-20(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for B-1.

Establishments for display, rental, sale, service or repair of farm implements, contractor equipment, automobiles, motorcycles, boats, travel trailers, mobile homes, or supplies for such items - One (1) space for every six hundred (600) square feet of floor area, with a minimum of five (5) spaces.

Car Washing Establishments with Two (2) or More Stalls - Two (2) spaces for each stall, plus one (1) space for each vacuum unit.

Motels and Hotels - One (1) space per suite with a minimum of five (5) spaces.

Bowling Alleys - Four (4) spaces per alley; however, snack bars and food service provided primarily to patrons shall not require additional parking.

Offices of Veterinarians, Animal Hospitals or Clinics, and Kennels - One (1) space for every two hundred (200) square feet of floor area.

Billiard or Pool Halls, Arcades, Dance Halls, Indoor Athletic Facilities, and other amusement places without fixed seats - One (1) space for every one hundred (100) square feet of floor area, plus one space for every three (3) employees.

Skating Rinks - One (1) space for each four hundred (400) square feet of floor area, plus one (1) space for every employee.

Theaters - One (1) space for every five (5) seats.

Indoor and Outdoor Athletic Facilities, Horse Race Tracks, and other amusement places with fixed seats - One (1) space for every five (5) seats, plus one (1) space for every three (3) employees.

Miniature Golf or Putting Course - One and one-half (1½) spaces per hole.

Garden Centers - One (1) space for every four hundred (400) square feet of floor area; plus one (1) space for each employee, with a minimum of five (5) spaces.

Adult Arcades and Massage Parlors - As for retail uses in the B-1 zone (with a minimum of three (3) spaces) or one (1) space for every five (5) seats, whichever is greater.

Adult Bookstores or Adult Video Stores - As for retail uses in the B-1 zone (with a minimum of three (3) spaces.)

Adult Cabarets, Adult Dancing Establishments, Adult Entertainment Establishments, and Sexual Entertainment Centers - As for retail uses in the B-1 zone (with a minimum of three (3) spaces), or one (1) space for every three (3) seats, whichever is greater.

Conditional Uses - Parking requirements for conditional uses shall be minimum requirements; the Board of Adjustment may require additional parking, as needed.

Combinations - Combined uses shall provide parking equal to the sum of individual requirements.

8-20(o) Special Provisions

1. Landscape buffer areas shall be required as set forth in Article 18.
2. No building to be used principally as a single store selling food, produce, grocery items or general merchandise shall exceed 80,000 square feet in floor area unless:
 - a) approved by the Planning Commission prior to April 27, 2000 for a larger area, or
 - b) the building is designed to meet the design guidelines for "big-box" retail establishments (Article 12-8), unless specific guidelines are waived by the Planning Commission through its approval of a final development plan.

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. This zone is also intended to encourage the adaptive reuse of older structures in or adjoining the Infill and Redevelopment Area to promote revitalization of these buildings. 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.

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

1. Wholesale establishment, wholesale establishment with warehouses, storage, and ware- housing.
2. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; plastering; metal work; printing; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.
3. Laundry (excluding self-service laundry), clothes cleaning or dyeing shop.
4. Ice plant.
5. Tire re-treading and recapping.
6. Parking lots and structures.
7. Machine shop.
8. Kennels, animal hospitals, animal grooming facilities or clinics, provided that such structures or areas used, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
9. Offices of purchasers, processors and handlers of agricultural products, limited to administrative uses only.
10. Sales of feed, grain, or other agricultural supplies.
11. Garden centers.
12. Establishments and lots for the display, rental, sale, and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles, such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
13. Truck terminals and freight yards.
14. Automobile service stations, subject to the conditions of Article 16.
15. Major or minor automobile and truck repair.
16. Establishments for the display and sale of precut, prefabricated, or shell homes.
17. Circuses and 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.
18. Retail sale of building materials and lumber.
19. Pawnshops which (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
20. Mail order business.
21. Office uses, limited to a maximum square footage of 60% of the floor area in the building in which the use is located.
22. Office/warehouse mixed-use project, as further regulated by Article 8-21(o)(3).
23. Adaptive Reuse Projects, as further regulated in 8-21(o)4.

8-21(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.

1. Parking areas and structures, and loading areas.

2. Financial and insurance offices, the principal activities of which are oriented towards agricultural loans and farm insurance.
3. Laundry pick-up station, when accessory to a laundry or dry-cleaning establishment.
4. Retail sale of hardware-related items, when accessory to the sale of building materials and/or lumber.
5. Satellite dish antennas, as further regulated by Article 15-8.
6. Sale of manufactured products, goods, merchandise and finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than 30% of the total floor and storage area.
7. The retail sale of groceries; dairy products; bakery goods; meat; beer; health and beauty items; stationery; and similar convenience-type merchandise, when accessory to an automobile service station.
8. Beauty salons, where accessory to an athletic club facility, provided that the area of the salon shall not constitute more than 10% of the total floor area, that the salon has no separate external entrance, nor separate business signage.
9. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to retail sale of building materials and lumber permitted under Sections 8-21(b)(18).

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

1. Indoor recreational activities, except as provided as a part of an adaptive reuse project that require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Wholesale and Warehouse Business (B-4) zone, including indoor tennis courts; skating rinks; athletic club facilities and bowling alleys. Also included would be any outdoor recreational facilities that are customarily accessory, clearly incidental and subordinate to such indoor recreational activities.
2. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
3. Churches, Sunday schools, and church-related schools for academic instruction, except as provided as part of an adaptive reuse project.
4. Retail sale (except as provided as part of an adaptive reuse project) of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china; when accessory to its storage, refinishing, repairing or upholstery on the same premises.

8-21(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. Heavy manufacturing, heavy assembling, com- pounding, packaging, bottling, processing, and other industrial uses, except as permitted herein.
2. Storage of commodities, the storage of which is permitted for the first time in the industrial zones.
3. Amusement enterprises, such as indoor theaters; drive-in theaters; horse race tracks; pool halls; billiard halls; dancing halls and amusement parks.
4. Retail sales and offices, except as permitted herein.
5. Motels and hotels, boarding houses.
6. Personal service establishments, except as permitted herein.
7. Dwellings, except as permitted in an office/ warehouse project herein.
8. Schools and colleges for academic instruction, except as permitted herein.
9. Restaurants, cocktail lounges, and nightclubs, except as permitted herein.
10. Car washing establishments.
11. Refuse dumps, landfills, transfer stations, and incinerators.
12. The above- or below-ground storage of any flammable material in gaseous form, including compressed natural

gas.

13. Pawnshops, except as permitted herein.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-21(f) Minimum Lot Size - No limitation.

8-21(g) Minimum Lot Frontage - No limitation.

8-21(h) Minimum Front Yard - No limitation, except as provided in Section 8-21(o).

8-21(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-21(o).

8-21(j) Minimum Rear Yard - No limitation, except as provided in Section 8-21(o).

8-21(k) Minimum Useable Open Space - No limitation.

8-21(l) Maximum Lot Coverage - No limitation.

8-21(m) Maximum Height of Building - 75', except when a side or rear yard abuts a Professional Office or a Residential zone, then a 3:1 height-to-yard ratio.

8-21(n) Off-Street Parking - (See Article 16 for additional parking regulations.)

Wholesale business, warehousing, storage; Establishments for special trade and general contractors; Machine shops; Sale of feed, grain or other agricultural supplies; Garden centers; and Establishments for the rental, sale, service and repair of farm equipment, contractor equipment, trucks, travel trailers and mobile homes - One (1) space for every six hundred (600) square feet of floor area, with a minimum of five (5) spaces.

Tire re-treading or recapping; Truck terminals and Ice plants - One (1) space for each two (2) employees on a maximum working shift; plus one (1) space for each vehicle owned or operated by the use, with a minimum of five (5) spaces total.

Offices, as permitted herein; Animal Hospitals or Clinics; Laundry, clothes cleaning or dyeing shop - One (1) space for every two hundred (200) square feet of floor area, with a minimum of five (5) spaces.

Animal Grooming Facilities – One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Kennels - One (1) space for every six hundred (600) square feet of floor area, plus one (1) space per two (2) employees on the maximum shift, with a minimum of five (5) spaces.

Office/Warehouse mixed-use project - One (1) space for every five hundred (500) square feet of parking floor area, with a minimum of five (5) spaces.

Skating Rinks - One (1) space for every four hundred (400) square feet of floor area, plus one (1) space for each employee.

Bowling Alleys - Five (5) spaces for each alley, plus one (1) space for each employee. Four (4) spaces per alley; however, snack bars and food service provided primarily to patrons shall not require additional parking.

Tennis Courts and other similar indoor recreational uses - One (1) space for every two (2) participants, plus one (1) space for every three (3) spectator seats, plus one (1) space for each employee.

Mail Order Business - One (1) for every two (2) employees on a maximum working shift, with a minimum of five (5) spaces; plus one (1) space for every four hundred (400) square feet of accessory retail sales area.

Retail Sales, Bulk Merchandise - One (1) space for every 250 square feet of floor area.

Conditional Uses - Parking requirements for conditional uses are minimum requirements; the Board of Adjustment may require additional parking, as needed.

Combinations - Combined uses shall provide parking equal to the sum of individual requirements.

8-21(o) Special Provisions:

1. All buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no opening except stationary windows and doors which are designed and intended solely for pedestrian access.
2. Landscape buffer areas shall be required as set forth in Article 18.
3. An Office/Warehouse mixed-use project may be permitted by the Planning Commission upon the approval of a final development plan, as provided in Article 21 of the Zoning Ordinance, and subject to the following requirements:

In addition to the uses permitted in Article 8-21(b), the following uses shall also be permitted in an Office/Warehouse Project:

As principal permitted uses:

- a. Offices, laboratories and data processing centers, limited to a maximum of 75% of the floor area of the building or project. This square footage limitation shall not apply if the project is located within the defined Infill and Redevelopment Area.

As accessory uses:

- a. Drive-through facilities for the provision of services allowed in an Office/Warehouse mixed-use project;
 - b. Dwelling units for on-site security personnel.
4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - a. The property must be located in or adjacent to, or across a public right-of-way from, the defined Infill and Redevelopment Area. The area of the Project will be defined by the development plan and may include noncontiguous properties that can function together as an interrelated development.
 - b. The Project must include at least one existing building that will be adaptively reused as a principal structure.
 - c. The applicant shall provide documentation demonstrating that the Project meets at least three of the following criteria:
 1. It will incorporate sustainable features such as LEED Certification, "green" infrastructure, alternative energy or other innovative design or system.
 2. It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; is located within an Historic District (H-1) overlay zone; or is over 50 years old.
 3. It is in a district that has applied for, or has obtained, special funding such as tax increment financing or similar government incentives.
 4. It will provide residential housing, at least 10% of which will be set aside for affordable housing.
 5. It will provide a high degree of innovative accommodation for non-vehicular transportation.
 6. It is in an area specified in the Comprehensive Plan for adaptive reuse or revitalization.
 7. It is within an area that is a brownfields recovery site.
 8. Public art is provided by the development that will be publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement.
 9. It has a single building of over 30,000 square feet that is over 50 years old, or a total project of over 80,000 square feet with at least two adaptive reuse buildings over 50 years old. A single building may not be used to meet both criteria #2 and #9.
 - d. Principal uses in Adaptive Reuse Projects:
 1. Any of the principal uses permitted in the underlying zone.

2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance drama or theater; theaters, including movie theaters and other indoor amusements, except as prohibited under Section 8-19(e), including billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
3. Community centers, churches and private clubs.
4. Restaurants, with or without outdoor seating and with or without live entertainment.
5. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics and similar items.
6. Pharmacies, provided that they are within a structure containing other uses and do not occupy a separate building.
7. Banquet facilities or private clubs with live entertainment, brew pubs, bars, cocktail lounges and nightclubs.
8. Offices, banks or clinics.
9. Hotels or motels.
10. Beauty shops, barber shops, shoe repair, dressmaking or tailoring.
11. Quick copy services not using offset printing methods.
12. Residences of any kind.
13. Health clubs, athletic clubs and spas.
14. Parking lots and structures.
15. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods.
16. Indoor recreational facilities.
17. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
18. Indoor or outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
19. Passenger transportation terminals.
- e. Accessory uses that are clearly incidental and subordinate to the principal uses are permitted.
- f. Conditional uses:
 1. Drive-through facilities.
- g. Prohibited uses:
 1. All adult uses, as listed in Section 8-16(e)(14 through 17).
- h. Parking
 1. **Dwelling Units** - One (1) space for every two (2) units.
 2. **Non-Residential Uses** - Fifty percent (50%) of the least parking required in any zone other than the B-2, B-2A or B-2B zone, which permits the use or a similar use.
 3. **Allowable Reductions in Parking:**
 - a. **Bicycle Reduction** - Sites having fifty (50) or more parking spaces may reduce the total minimum automobile parking space requirement by one (1) parking space for every one (1) bicycle space provided in a permanent, constructed bicycle locker. The maximum reduction of required parking spaces, based on provision of bicycle parking, shall not be reduced less than five percent (5%) of the otherwise required amount.
 - b. **Allowable Transit Stop Reductions** - Sites located within 300 feet of a transit stop with a shelter may be allowed a ten percent (10%) reduction of the minimum required parking. Sites located within 300 feet of a transit stop without a shelter shall be allowed a five percent (5%) reduction of the minimum required parking. If the site is located within 300 feet of more than one transit stop, the maximum reduction allowed will be ten percent (10%) for this specific parking reduction.
 - c. Reductions in required off-street parking for transit stops and bicycle lockers may be combined for the same property, but in any event may not reduce the total amount of required off-street parking by more than 15 percent (15%).
- i. Signage - Shall be as permitted under Article 17-7(o) for an MU-2 zone.
- j. Lot and Yard Requirements - No minimum.
- k. Height - No maximum height for adaptive reuse of existing buildings. New buildings shall not be more than 12 feet taller than the tallest structure that is being adaptively re-used, or 48 feet, whichever is greater.
- l. The applicant shall submit a compliance statement with the development plan that shall specify how the project will further the Goals and Objectives and other elements of the Comprehensive Plan.
- m. Prior to holding a hearing on the development plan, the applicant shall post a sign, with dimensions set out

in Article 23B-5(b), at a visible location on the property at least 14 days prior to the hearing, informing the public of the location, date and time of the hearing. Evidence of the sign having been posted shall be submitted to the Planning Commission at the hearing.

- n. The Planning Commission shall have the power to approve, modify or disapprove the development plan, as set out in Article 21. In addition, if the Planning Commission approves the development plan, it must adopt a finding that the development plan furthers the Goals and Objectives or other elements of the Comprehensive Plan.

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 projects and Adaptive Reuse 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(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.
2. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of articles of merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feather, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious and semi-precious metals, precious and semi-precious stones, rubber, sheet metal (excluding large stampings), shell, textiles, tobacco, wax, wire, wood (excluding sawmills, planing mills), and yarn.
3. The manufacturing, compounding, assembling, processing, packaging, or similar treatment of such products as: bakery goods; billboards; candy; ceramics; cosmetics; drafting instruments; electrical parts; appliances; electric or neon signs; electronic instruments; food products; meat packaging; ice cream; medical and dental instruments; musical instruments; pharmaceuticals; pottery, china, or figurines; radios; record players; rubber and metal stamps; rubber products; scientific instruments and equipment; shoes; television receivers; toiletries, soaps and detergents; toys; and watches and clocks.
4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; crematory; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable under-ground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.
5. Recycling, sorting, baling and processing of glass and nonferrous metals, including copper; brass; aluminum; lead and nickel, but not including automobile wrecking yard; building materials salvage; junk yards or other uses first permitted in the I-2 zone. Recycling, sorting, baling and processing of paper scrap and storage of waste paper shall be permitted only when wholly conducted in a completely enclosed building.
6. Industrial Mixed-Use Projects, as further regulated by Article 8-22(o).
7. Adaptive Reuse Projects, as set out in Section 8-21(b)23 and Section 8-21(o)4.

8-22(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Off-street parking areas and structures, and loading facilities.
2. Dwelling units for watchmen or caretakers, provided that such facilities shall be located on the same premises as the permitted use.
3. Outdoor storage of products manufactured on the premises or materials to be used in manufacture on the premises.
4. Facilities for serving food only for employees and visitors; having no direct access to the exterior, and having no signs visible from the exterior of the building.
5. Offices.
6. Recreational facilities.
7. Sale of manufactured goods.
8. Sale of finished products related or incidental to the principal use, provided that the area set aside for sales of these related or incidental items does not constitute more than thirty percent (30%) of the total floor and storage area.
9. Satellite dish antennas, as further regulated by Article 15-8.
10. Beauty salons where accessory to an athletic club facility, provided that the area of the salon shall not

constitute more than 10% of the total floor area, that the salon has no separate external entrance, nor separate business signage.

11. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to retail sale of building materials and lumber permitted under Article 8-21(b)(18).

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

1. Automobile race tracks.
2. Public utilities and public service uses and structures.
3. Columbariums and crematories.
4. Penal or correctional institutions.
5. Indoor recreational activities, except as provided as part of an Adaptive Reuse Project, that require buildings, which as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Light Industrial (I-1) zone, including indoor tennis courts; skating rinks; athletic club facilities and bowling alleys.
6. Grain drying, when operated in a fully enclosed building at least three hundred (300) feet from the nearest residential, business, or professional office zone.
7. The above- or below-ground storage for resale of any flammable or nonflammable gas or oxidizer in liquid or gaseous form, the storage of any empty container which contained any gas in any form; and the receiving of or dispensing of any gas in any form, unless limited by 8-22(e); and provided such operations conform to the standards prescribed by the National Fire Protection Association, the Kentucky Occupational Safety and Health Standards for General Industry, and any requirements of the Fire Marshall. Such conformance shall be certified in writing by the Fire Marshall, and any required protective measures for the containers shall be met in all ways.
8. Banks, with or without drive-through facilities, except as provided as part of an Industrial Mixed-Use Project or an Adaptive Reuse Project, provided:
 - a. The site lies within the area of a development plan approved by the Planning Commission, having a minimum one hundred (100) acres zoned industrial;
 - b. There shall be an on-site stacking capacity of a minimum of twenty (20) cars for each bank having drive-through facilities;
 - c. The site shall not have direct access to an arterial street;
 - d. There exists, within the development plan area, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least five hundred (500) employees;
 - e. There exists, within a one-mile radius of the property boundaries of the proposed site, industrial businesses having a full-time, non-seasonal, on-site total employee population of at least twenty-five hundred (2,500) employees;
 - f. A site development plan is submitted to, and approved by, the Board of Adjustment and the Planning Commission.
9. Concrete mixing and concrete products, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein, and only under the following conditions:
 - a. That no concrete mixing operation be conducted closer than one thousand (1,000) feet from any existing residence on another lot under different ownership.
 - b. Noise, Air & Water Quality - The facility shall be operated at all times in compliance with applicable Federal, State and local laws and regulations on noise, air, and water quality, including the LFUCG Noise Ordinance (Sections 14-70 through 14-80), Article 6-7: Stormwater Disposal Standards, and Article 20: Soil Erosion Controls.
 - c. Development Plan - The development plan shall indicate all existing contours, shown with intervals sufficient to show existing drainage courses, retention, storm water and sedimentation basins; and the names and locations of all streams, creeks, or other bodies of water within five hundred (500) feet.
 - d. Drainage and Erosion Control - All operations shall have adequate drainage, erosion, and sediment control measures incorporated in the site/development plan(s). If, in the event that adequate drainage, erosion, and sediment control cannot be provided, permits may be denied.
 - e. Roads - All access roads that intersect with a State highway or public street shall be paved with an all-weather surface of either asphalt or concrete for the entire length of road from State highway or street to the active loading point. Internal roads may be unpaved, provided dust is adequately controlled.
 - f. Screening - Screening shall be provided as defined in accordance with LFUCG Article 18 of the Zoning Ordinance.

Text approved by the Planning Commission – 1/31/13
 ARTICLE 8: SCHEDULE OF ZONES

- g. Transportation Plan - A Transportation Plan shall be planned (in relationship to the arterial roadway system) to minimize the impact of traffic, dust, and vehicle noise on areas outside the site and shall include the following information:
 - 1) Product shipping and deliveries;
 - 2) Mode of transportation;
 - 3) Route(s) to and from the site;
 - 4) Schedule and frequency of shipments;
 - 5) Delivery and shipping spillage control methods;
 - 6) Employee parking.
- h. Storage - Storage and/or stockpiles of hazardous materials shall be in a completely closed building. Outdoor storage, except aggregate, sand and recycled asphalt material, shall be enclosed on at least three sides by a solid wall or fence, not less than six (6) feet nor greater than eight (8) feet in height, and shall be placed at designated site(s) on the development plan. At the cessation of operation, all storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.
- i. Excess Product and Waste - Excess product and waste, when disposed of on site, shall be in a designated area so as to prevent erosion and contamination of streams and waterways. At the cessation of operation, all outdoor storage piles and/or stockpiles shall either be removed or graded and covered with a minimum of 18 inches of topsoil and/or other soil-making materials, and planted in accordance with Article 18 of the Zoning Ordinance.
- 10. Cable television system facilities, including transmitting towers; antennas; earth stations; microwave dishes; relays; business offices; television studios; and storage facilities.
- 11. Vehicle storage yards, for which occupancy permits were applied for on or after May 1, 1985.
- ~~12. Offices, except as provided as part of an Adaptive Reuse Project, other than as accessory uses under Section 8-22(c)(5), provided that the following requirements are met:~~
 - ~~a. That no more than fifty percent (50%) of the total floor area of any structure may be used for office purposes, not counting as accessory uses under Section 8-22(c)(5).~~
 - ~~b. That minimum parking requirements shall be met as under the P-1 zone.~~
 - ~~c. The office use would be located in a structure that would qualify for designation as a landmark under the provisions of Article 13: Historic Preservation herein.~~
- ~~12.~~ 13. Commercial composting, provided that the following requirements are met:
 - a. That all such composting shall be conducted in a fully enclosed building.
 - b. That a permit-by-rule or letter of intent from the Division of Waste Management of the Kentucky Natural Resources and Environmental Protection Cabinet be obtained prior to submission of any application to the Board of Adjustment for a conditional use permit.
 - c. That a development plan, indicating access points and circulation routes; proposed signage; screening and landscaping; fencing and other significant geological or physical features of the property, be submitted as part of any application.
 - d. That the Board specifically consider and be able to find that the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic or dust.
- ~~13.~~ 14. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.
- ~~14.~~ 15. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- ~~15.~~ 16. Churches, Sunday schools, and church-related schools for academic instruction, except as provided as part of an Adaptive Reuse Project.
- ~~16.~~ 17. Retail sale, except as provided as part of an Adaptive Reuse Project, of furniture and household-related items, such as antiques; fabrics; fixtures; furnishings; glassware and china, when accessory to its storage, refinishing, repairing or upholstery on the same premises.
- ~~17.~~ 18. Community centers, except as provided as part of an Adaptive Reuse Project.
- ~~18.~~ 19. Child care centers, except as provided as part of an Adaptive Reuse Project.

19. 20.—Agricultural market.

8-22(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

1. The prohibited uses in the B-4 zone, items 3 through 11.
2. All uses first permitted in the I-2 zone, except as specifically permitted herein.
3. A facility for the storage and distribution of gas by railroad tank cars, through gas piping, or by tank trucks, which each have a water capacity in excess of 4,000 gallons.
4. Slaughterhouses.

Lot, Yard, and Height Requirements (See Articles 3 and 15 for additional regulations.)

8-22(f) Minimum Lot Size - No limitation.

8-22(g) Minimum Lot Frontage - No limitation.

8-22(h) Minimum Front Yard - 20'.

8-22(i) Minimum Each Side Yard - No limitation, except as provided in Section 8-22(o).

8-22(j) Minimum Rear Yard - No limitation, except as provided in Section 8-22(o).

8-22(k) Minimum Useable Open Space - No limitation.

8-22(l) Maximum Lot Coverage - No limitation.

8-22(m) Maximum Height of Building - 75', except when a side or rear yard abuts a Professional Office or Residential zone, then a 3:1 height to yard ratio.

8-22(n) Off-Street Parking (See Article 16 for additional parking regulations.)

As for B-4.

Manufacturing or Industrial Uses - One (1) space for every two (2) employees on a maximum working shift, with a minimum of five (5) spaces.

Automobile Race Tracks - One (1) space for every five (5) seats.

Correctional or Penal Institutions - One (1) space for each employee.

Accessory Dwelling Units - One (1) space per dwelling unit.

Retail Sales Facility for manufactured goods - One (1) space for every four hundred (400) square feet of floor area.

Industrial Mixed Use Projects - As for MU-3, except that off-site parking may be provided in conformity with Article 16-1(d).

Conditional Uses - Parking requirements for conditional uses are minimum requirements; the Board of Adjustment may require additional parking, as needed.

Combinations - Combined uses shall provide parking equal to the sum of individual requirements.

8-22(o) Special Provisions:

1. All industrial uses shall be conducted in a completely enclosed building, except for outdoor storage uses, which shall be enclosed on all sides by a solid wall or fence not less than six (6) feet in height.
2. Except for Industrial Mixed Use Projects, all buildings and structures shall be at least one hundred (100) feet from any residential zone, unless the portion within that distance has no openings except stationary windows and doors which are designed and intended solely for pedestrian access.
3. Landscape buffer areas shall be required as set forth in Article 18.
4. An Industrial Mixed Use Project may be permitted by the Planning Commission upon the approval of a development plan, subject to the following requirements:
 - a. The property must be in a location recommended in the Comprehensive Plan for Industrial Mixed Use, and should not displace an existing agriculture-related use permitted in the I-1 zone.
 - b. At least twenty percent (20%) of the total floor area shall be devoted to residential use, at least ten percent (10%) shall be devoted to a principal permitted use in this zone or the Wholesale and Warehouse Business (B-4) zone, and no more than forty percent (40%) of the total floor area shall be occupied by retail uses.
 - c. At least forty percent (40%) of the front building wall(s) of new buildings proposed for an Industrial Mixed Use Project shall be required to be built at the 20-foot setback.
 - d. In addition to the uses otherwise permitted in the Light Industrial (I-1) zone, the following uses shall be permitted in an Industrial Mixed Use Project:

As Principal Permitted uses:

1. Dwelling units.
2. Uses permitted in the Professional Office (P-1) zone, excluding a Professional Office Project.
3. Uses permitted in the Neighborhood Business (B-1) zone.

As Conditional uses:

1. Restaurants, without live entertainment or dancing, which devote more than twenty percent (20%) of the public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
2. Restaurants or nightclubs offering live entertainment and/or dancing, brew-pubs, cocktail lounges or nightclubs, wine or spirit-tasting rooms [unless prohibited under Section 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.

As Prohibited uses:

1. All adult uses listed in Section 8-16(e)(14) through (17) of the Zoning Ordinance.
- e. The minimum and maximum mix of uses shall be calculated based on the overall Industrial Mixed Use Project shown on the development plan. Each building within the Industrial Mixed Use Project shall not be required to contain a mixture of uses, provided that at least one structure shall contain a mixture of uses.

ARTICLE 12

12-3 PRINCIPAL PERMITTED USES - The principal uses permitted in a B-6P zone shall be as follows:

- a. The ~~these~~ principal and accessory uses as permitted uses in the B-1 and P-1 zones, except as restricted herein.
- b. Indoor theaters.
- d. Parking lots and structures.

12-4 ACCESSORY USES – The accessory uses permitted in a B-6P zone shall be as follows:

- a. The accessory uses in the B-1 and P-1 zones.
- b. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

12-5 12-4 CONDITIONAL USES

- a. Restaurants, cocktail lounges, brew-pubs, nightclubs, and discotheques offering live entertainment and/or dancing, unless otherwise prohibited. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
- b. Self-service car wash, provided that such uses shall be located at least one hundred (100) feet from any residential zone; and that surface water from such establishment shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
- c. Recycling drop-off centers for aluminum, steel, glass, newspapers, cardboard and other paper products, oil, and other household recyclable waste, provided that such establishment shall be located at least two hundred (200) feet from any residential zone. Any appeal for a conditional use permit to operate a recycling drop-off center shall include as part of the application:
 - 1. Reasons for the location of the use at a specific site; description of equipment to be used; physical arrangement; and operation of the proposed center. The Board of Adjustment shall consider the necessity of screening, if needed.
- d. Animal hospital or clinic, provided all exterior walls are completely soundproofed and all animal pens are completely within the principal building and used only for the medical treatment of small animals.
- e. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - 1. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - 2. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - 3. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- f. ~~Assisted living facilities and r~~ Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
- g. Drive-through facilities for the sale of goods or products or provision of services otherwise permitted herein, except as accessory uses herein.

Re-number remaining sections as necessary

- A. **ZONING ORDINANCE TEXT AMENDMENT INITIATION** – The staff will request that the Planning Commission initiate a text amendment to Articles 8 and 12 for various modifications to the Neighborhood Business (B-1) zone. Following notification to registered neighborhood associations, and review by the Commission's Zoning Committee, the required public hearing could be scheduled next year.

Mr. Sallee stated that the staff had distributed a memorandum concerning the proposed modifications to the B-1 zone to the Commission members at their meeting one week ago. He explained that, should the Commission choose to initiate the text amendment, it would likely not be heard for several months; and they could also request more time to discuss the issue at their January work session, if desired.

Commission Question: Mr. Penn asked if there would be a down side to initiating the proposed text amendment at this meeting. Ms. Wade answered that there was no down side. Mr. Penn stated that he would be in favor of initiating a text amendment at this meeting, in order to allow the staff time to begin work on the text amendment.

Action: A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 9-0 (Beatty and Brewer absent) to initiate the text amendment to the B-1 zone as proposed by staff.

- B. **MODIFIED T.I.F. APPLICATION – RED MILE MIXED-USE DEVELOPMENT** – a review of a revised (expanded) Tax Increment Financing application for property located at 843 South Broadway, 476-478 Curry Avenue, and 1200 Red Mile Road (a portion of).

Ms. Rackers stated that the original Red Mile Tax Increment Financing (T.I.F.) application was approved by the Urban County Council in 2010, following the required review by the Planning Commission in December, 2009. At that time, the Commission found the requested T.I.F. to be in compliance with the 2007 Comprehensive Plan. Ms. Rackers displayed the approved Red Mile development plan, noting that the portion of the property along the racetrack is currently zoned A-U. The former Tattersalls facility was recently approved by the Planning Commission for a rezoning to R-5, in order to construct an apartment complex, clubhouse, and parking. All of the parcels included in the T.I.F. application are currently functionally vacant and available for development.

Ms. Rackers stated that the 2007 Comprehensive Plan recommends Office/Warehouse use for the properties on Curry Avenue; Semi-Public Facilities use for the rear portion of the Red Mile property; and Commercial/Residential mixed-use development for the South Broadway property. The area originally proposed for the T.I.F. contained 83 acres, and included the entire Red Mile complex, with the exception of the racetrack; the Tattersalls building; the stables near South Broadway; and the structure known as the Stable of Memories. The T.I.F. site plan reviewed by the Council was for a mixed-use development, to contain commercial and residential uses, as well as improvements to the Red Mile facility to extend from the racetrack to Versailles Road. Ms. Rackers explained that this proposed modification to the T.I.F. application would not change the affected areas. It would, however, expand the T.I.F. boundary to include the expanded residential use and a proposed connection to Curry Avenue. The apartment complex is proposed to be constructed by Hallmark Development at a cost of approximately \$28,000,000, and it should take approximately 15 months to complete. The development is projected to create approximately 200 construction jobs; the apartment complex itself will have seven to nine full-time employees, and will use local companies for services such as landscaping.

Ms. Rackers said that the addition of the Tattersalls property will not increase the amount of money that has been allocated by the state and local governments for this T.I.F. project. It would, however, allow the proposed apartment complex development to count against the initial \$20,000,000 that is required to activate the T.I.F., and allow reimbursement of part of the construction costs for the desired Curry Avenue connection.

Ms. Rackers concluded by saying that the staff finds the proposed modification to the T.I.F. to be in compliance with the recommendations of the 2007 Comprehensive Plan because the original application was in compliance with the Plan, and the modification proposed would involve only a small increase to the size of the T.I.F. area. In addition, it will provide connectivity and accessibility in the area via the connection of Curry Avenue, which has long been desired by the Urban County Government.

Commission Questions: Ms. Copeland asked if a "down payment" is required for the activation of the T.I.F. Ms. Rackers answered that \$20,000,000 is required in order to activate the T.I.F. Ms. Copeland asked how much money the Tattersalls property would contribute to that requirement. Casey Bolton, T.I.F. representative, stated that the apartment development is projected to cost \$28,000,000, which would cross the threshold and allow the activation of the T.I.F. within the two-year period allowed by the statutes. Ms. Copeland asked if the \$20,000,000 would be required to be spent prior to the T.I.F. activation. Mr. Bolton answered that, before the developer can recover any costs, they will have to prove that they have spent \$20,000,000. Ms. Copeland asked if the Mr. Bolton or the applicant intended to make a presentation. Mr. Bolton responded in the negative. Bruce Simpson, attorney for the applicant, responded that he did not have a formal presentation. He explained that the Planning Commission's responsibility with regard to T.I.F. applications is to determine if the request is in compliance with the Comprehensive Plan recommendations. Mr. Simpson said that the petitioner would rely upon the staff's determination that the requested T.I.F. modification is in compliance with the Comprehensive Plan, rather than make a presentation.

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

(Note: Text underlined is an addition, while text ~~stricken through~~ is a deletion to the current Zoning Ordinance.)

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

ANIMAL GROOMING FACILITY – An establishment where domestic animals are bathed, clipped, or combed for the purpose of enhancing their appearance or health, and for which a fee is charged, but not including overnight boarding of animals.

COCKTAIL LOUNGE – A commercial establishment dispensing and serving alcoholic beverages for consumption on the premises and in which live entertainment, exclusive of dancing, is permitted.

MAIL SERVICE FACILITY – A commercial establishment that conducts the retail sale of stationery products, provides packaging and mail services to retail customers, and provides mailboxes for lease.

NIGHTCLUB – A commercial establishment for dancing and live entertainment, which may or may not include dispensing and serving alcoholic beverages for consumption on the premises.

PRIMARY ENTRANCE – The place of ingress and egress for a structure used most frequency by the public.

TATTOO PARLOR – A commercial establishment whose principal business activity is the practice of placing designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin using needles or other instruments designed to contact or puncture the skin.

ZONE, BUSINESS - B-1, B-2, B-2A, B-2B, B-3, B-4, B-5P, ~~or~~ B-6P, or CC zone.

ZONE, INDUSTRIAL - An I-1, ~~or~~ I-2 or ED zone.

ZONE, RESIDENTIAL - An R-1A, R-1B, R-1C, R-1D, R-1E, R-1T, R-2, R-3, R-4, R-5, EAR-1, EAR-2, EAR-3 or PUD-1 zone.

ARTICLE 8: SCHEDULE OF ZONES

(Note: Text underlined is an addition, while text ~~stricken through~~ is a deletion to the current Zoning Ordinance.)

ARTICLE 8: SCHEDULE OF ZONES

8-15 PROFESSIONAL OFFICE (P-1) ZONE

8-15(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

11. Hospitals, nursing homes, ~~and rest homes~~, and assisted living facilities.
19. Beauty shops and barber shops not exceeding 2,000 square feet in floor area, which employ not more than five licensed cosmetologists, with all service provided only by licensed cosmetologists and/or barbers.
20. ~~Assisted living facilities and r~~Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.

8-15(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

9. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

8-15(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

2. Drive-through facilities for sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.
5. ~~Assisted living facilities and r~~Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
7. Mail service facilities, except as permitted in a Professional Office Project.

8-15(e) Prohibited Uses

7. Tattoo parlors.

8-15(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Professional Office Project ~~One (1) space for every four hundred (400) square feet of floor area.~~

Beauty Shops or Barber Shops - One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Mail Service Facilities – One (1) space for each two hundred (200) square feet of floor area.

8-15(o) Special Provisions

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

a. As a principal permitted use:

1. Extended-Stay Hotels.
2. Mail service facilities.

b. As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.
2. Shoe repair, clothing alteration or tailoring services.

c. As a conditional use:

ARTICLE 8: SCHEDULE OF ZONES

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.
2. Beauty shops and barber shops, with no restrictions.

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.)

1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
2. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.
3. Research development and testing laboratories or centers.
4. Schools for academic instruction.
5. Libraries, museums, art galleries, and reading rooms.
6. Funeral parlors.
7. Medical and dental offices, clinics, and laboratories.
8. Telephone exchanges, radio and television studios.
9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
10. Community centers and private clubs, churches, and Sunday schools.
11. Nursing homes, rest homes, and assisted living facilities.
12. Computer and data processing centers.
13. Ticket and travel agencies.
14. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
15. Business colleges, technical or trade schools or institutions.
16. Rehabilitation homes, but only when more than five hundred (500) feet from a residential zone.
- ~~1. The principal permitted uses in the P-1 zone, not including a Professional Office Project.~~
- ~~17.-2.~~ Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
- ~~18.-3.~~ Restaurants and brew-pubs, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
- ~~19.-4.~~ Establishments for the retail sale of merchandise, including: clothing, shoes, fabrics, yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products, paint and other interior or exterior care products, hobby items, toys, gifts, antiques, newspapers and magazines, stationery and books, flowers, music, cameras, jewelry and luggage, business supplies and machines; prescription and non-prescription medicines and medical supplies.
- ~~20.-5.~~ Beauty shops, and barber shops.
- ~~21.~~ S-shoe repair, clothing alterations and tailoring services.
- ~~22.~~ Sself service laundry, or laundry pick-up stations, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed-system process.
- ~~23.-6.~~ Automobile service stations, provided such use conforms to all requirements of Article 16.
- ~~24.-7.~~ Parking lots and structures, provided such use conforms to the conditions of Article 16, and provided that at least twenty-five percent (25%) of the first floor is occupied by another permitted use or uses in the B-1 zone.
- ~~25.-8.~~ Repair of household appliances.
- ~~26.-9.~~ Retail sale of plant nursery or greenhouse products, except as prohibited herein.
- ~~10. Outdoor miniature golf or putting courses.~~
- ~~27.-11.~~ Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
- ~~28.-12.~~ Circuses and 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.
- ~~29.-13.~~ Indoor theaters, limited to three screens or stages.
- ~~30.-14.~~ Rental of equipment whose retail sale would be permitted in the B-1 zone.
- ~~31.-15.~~ Dwelling units, provided the units are not located on the first floor of a structure, and provided that at least the first floor is occupied by another permitted use or uses in the B-1 zone, with no mixing of other permitted uses and dwelling units on any floor, not to exceed thirty-five (35) feet in height.
- ~~32.-16.~~ Arcades, including pinball and electronic games.

ARTICLE 8: SCHEDULE OF ZONES

- ~~33.-17.~~ Pawnshops which (1) were in operation prior to August 31, 1990 and in compliance with the provisions of KRS 226.010 et seq. and Code of Ordinances, Sections 13-52 and 13-53; or (2) had on file with the Lexington-Fayette Urban County Government, prior to August 31, 1990, an application for a business license or certificate of occupancy.
- ~~34.-18.~~ Athletic club facilities.
- ~~35.-19.~~ Banquet facility.
- 36. Animal grooming facilities.
- 37. Mail service facilities.
- 38. Tattoo parlors.
- 39. Form-based neighborhood business project as per 8-16(o)(4).

8-16(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

- ~~4. 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. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Division of Building Inspection for the control of such activities and shall show the entire property, signs, parking and location of the proposed storage area.~~
- ~~4.-5.~~ The sale of malt beverages, wine, or alcoholic beverages, when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area exclusively primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
- ~~6. Drive through facilities for the sale of goods or products or the provision of services otherwise permitted herein.~~
- ~~5.-7.~~ Satellite dish antennas, as further regulated by Article 15-8.
- ~~6.-8.~~ One (1) or two (2) pool or billiard tables within an establishment.
- 7. Sidewalk cafés, when accessory to any permitted restaurant.
- 8. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).
- 9. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

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

- 3. 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 that the service station abuts a state or federal highway ~~when abutting a residential zone~~. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.
- 4. ~~A-Restaurants and brew-pubs~~, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of the establishments' public floor area exclusively primarily to the preparation and service of malt beverages, wine or alcoholic beverages.
- 5. Restaurants and brew-pubs offering live entertainment and/or dancing, cocktail lounges, ~~brew-pubs~~ or nightclubs [unless prohibited under Section 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
- 6. ~~A combination business, office and residential project, provided the following conditions and requirements are met:~~
 - ~~a. The maximum residential density shall be twenty (20) units per net acre.~~
 - ~~b. The minimum lot size shall be one acre and shall be located in a B-1 area with a minimum of twenty (20) contiguous acres, which must have any part thereof being within one and one half (1½) miles of the center of Lexington-Fayette Urban County, as measured from the Courthouse Block bounded by Main, Cheapside, Short and Upper Streets, and shall be within an Urban Activity Center.~~
 - ~~c. The minimum lot frontage shall be one hundred fifty (150) feet.~~
 - ~~d. The minimum front yard shall be an average of ten (10) feet, but shall be not less than 5 feet at any point. In addition, for every story in excess of three stories, two percent (2%) of the total area shall be added to the otherwise required front yard, or such area shall be provided as ground level open space on land adjoining the right of way.~~
 - ~~e. The minimum side street side yard shall be an average of ten (10) feet, but shall be not less than five (5) feet at any point. In addition, for every story in excess of three stories, two percent (2%) of the total area shall be added to the otherwise required side street side yard, or such area shall be provided as ground level open space on land adjoining the right of way.~~

ARTICLE 8: SCHEDULE OF ZONES

- ~~f. The minimum usable open space shall be twenty percent (20%).~~
- ~~g. The maximum lot (building) coverage shall be eighty-five percent (85%).~~
- ~~h. The maximum floor area ratio shall be 1.6.~~
- ~~i. The maximum height shall be five (5) stories or sixty-five (65) feet, whichever is less. For all stories above twenty-five (25) feet there shall be an average minimum setback ratio of three to one (3:1) from the front wall of the first two floors, measured from the top of the front wall of the second floor.~~
- ~~j. The project must be located at least five hundred (500) feet from any other such project, measured from property line to property line.~~
- ~~k. The project must be located at least one hundred (100) feet from any historic district or from any residential zone, except R-4 or R-5, measured from property line to property line.~~
- ~~l. Minimum parking for business uses shall be as required in the B-1 zone; minimum parking for office uses shall be as required in the P-1 zone; and minimum parking for residential uses shall be as required in the R-3 zone, with all parking to be provided on site. The provisions of Article 16-3 shall not be applicable.~~
- ~~m. The first floor of the structure must be occupied by a business or office use with no business or office use located above the third floor, and with no mixing of dwelling units and other permitted uses on any floor. No more than fifty percent (50%) of the floor area may be used for residential uses, and no more than fifty percent (50%) of the floor area may be used for office purposes.~~
- ~~n. The permitted conditional uses shall be those principal and accessory uses in the B-1 zone, with the exception that no drive-through windows shall be permitted. The petitioner shall submit to the Board of Adjustment a list of proposed uses, and the Board may further limit the uses that are allowed.~~
- ~~o. Signs shall be as otherwise permitted in the B-1 zone, with the exception that no free-standing sign shall be permitted.~~
- ~~p. The total land area for the project shall not exceed two (2) acres in size, or ten percent (10%) of the gross land area within the designated B-1 zone, whichever is the greater acreage.~~
- ~~q. A development plan shall be submitted with the appeal containing sufficient information to determine compliance with the B-1 zone and the requirements and conditions of this conditional use.~~
- ~~r. Before voting upon any application for a conditional use permit for a combination business, office and residential project, in addition to all other notice required by law or regulation, notice of the time, place and reason for holding a public hearing shall be given by first class letter at least forty-five (45) days in advance of the hearing to: the owners of all property within one thousand (1,000) feet of the subject property; the officers of all neighborhood associations, registered with the Planning Commission, having any part of their boundaries within one thousand (1,000) feet of the subject property and the County Government, Mayor and Council.~~
- ~~s. The Board of Adjustment may approve the conditional use only if the proposal complies with the requirements of the B-1 zone and the additional requirements as set forth in this section, and provided the Board finds the following:~~
 - ~~1) The proposal will not have an adverse effect on existing or future development of the subject property or surrounding neighborhood.~~
 - ~~2) The proposal will not alter the essential character of the surrounding neighborhood.~~
 - ~~3) The proposed site is located in a declining or transitional business area, and the proposed development will encourage needed rehabilitation in the surrounding area.~~
 - ~~4) Traffic that is anticipated, based on the proposed uses, will not have a material adverse effect on the traffic on adjoining streets.~~
 - ~~5) The proposed design and use of materials will be compatible with existing development on surrounding properties.~~
 - ~~6) All business and office uses within the project shall comply with the stated intent for the B-1 zone.~~
 - ~~7) The project is in accordance with the Comprehensive Plan.~~

Re-number remaining sections as necessary

- ~~9.—10. Assisted living facilities and r~~Rehabilitation homes, but only when located closer more than five hundred (500) feet from a residential zone.
- 10. Extended-stay hotels.
- 11. Parking lots, provided such use conforms to the conditions of Article 16.
- 12. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.

8-16(e) Prohibited Uses

- 21. Hospitals.
- 22. Outdoor miniature golf or putting course.

ARTICLE 8: SCHEDULE OF ZONES

8-16(h) Minimum and Maximum Front Yard –

- a. Minimum – 10 feet.
- b. Maximum – 20 feet.

8-16(m) Maximum Height of Building - ~~25 feet for business uses; 35 feet for residential uses, as permitted herein; and 65 feet as a conditional use, as established in Section 8-16(d)(6).~~ 35 feet, except as permitted in Section 8-16(o)(3).

8-16(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Beauty Shops, Barber Shops, and Shoe Repair Shops, Clothing Alterations, Tailoring Services and Tattoo Parlors - One space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Restaurants and Brew-Pubs with no live entertainment or dancing - One (1) space for every two hundred (200) square feet of floor area; or one (1) space for every four (4) indoor seats plus one (1) for every eight (8) outdoor seats, whichever is greater.

Cocktail Lounges, Night Clubs, Banquet Facilities or Restaurants and Brew-Pubs with live entertainment or dancing - One (1) space for every one hundred fifty (150) square feet; or one (1) space for every three (3) indoor seats plus one (1) for every six (6) outdoor seats, whichever is greater.

Outdoor Miniature Golf or Putting Course - ~~One and one half (1½) spaces per hole.~~

Arcades, with or without accessory billiard or pool tables - One (1) space for every ~~two hundred fifty (250) one hundred (100)~~ square feet of floor area, ~~plus one (1) space for every three (3) employees.~~

Animal Grooming Facilities - One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.

8-16(o) Special Provisions:

1. No building to be used principally as a single use or establishment ~~store selling food, produce, grocery items or general merchandise~~ shall exceed ~~40,000~~50,000 square feet in floor area unless approved by the Planning Commission prior to [DATE OF ORDINANCE] April 27, 2000 for at least 40,000 square feet in size. No such ~~building structure~~ may exceed 60,000 square feet in size, in any event.
3. A form-based neighborhood business project may be approved by the Planning Commission on any site over one (1) acre in size. For any such project, a final development plan shall be approved by the Planning Commission prior to issuance of any building permit. The lot, yard, height and setback requirements will be those established by the Commission on the approved development plan, rather than those stated above. In addition to the development plan, an applicant seeking approval of a form-based neighborhood business project shall be required to submit an area character and context study prepared by an architect or urban design professional. The study will document the architectural and urban design character of the area. It shall demonstrate, through the use of renderings, elevations and similar graphic materials, how the proposed project will enhance and complement the area's character. It will also show its integration with the surrounding neighborhood by using positive design features such as supplemental landscaping, provision of public space and open space buffers, and improved pedestrian accommodations. These drawings shall be made a part of the Commission's approval, and building permits shall comply with the approved drawings. A form-based neighborhood business project shall not be subject to the square footage limitation of 8-16(o)(1) above.

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.
2. Amusement enterprises, such as indoor billiard or pool halls; indoor theaters; bowling alleys; dance halls; skating rinks.
5. Establishments engaged in blueprinting, printing, publishing, and lithographing, interior decorating; upholstering; laundering; clothes cleaning and dyeing; ~~dressmaking~~ clothing alterations and tailoring services.
14. Telephone exchanges, radio and television studios.

ARTICLE 8: SCHEDULE OF ZONES

15. Cable television system signal distribution centers and studios.

Re-number remaining sections as necessary

19. Parking lots and structures, provided such use conforms to the conditions of Article 16.

8-17(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

7. Parking areas or structures.

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

6. Assisted living facilities and rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.

8-17(e) Prohibited Uses

5. Hospitals.
6. Outdoor miniature golf or putting course.

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.)

11. Beauty shops, ~~and~~ barber shops.
12. Shoe repair, dressmaking clothing alterations or tailoring services.

Re-number remaining sections as necessary

8-19(e) Prohibited Uses

10. Animal kennels, hospitals, clinics, outdoor runways or pens, and animal grooming facilities.
13. Tattoo parlors.

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.)

14. ~~Barber shops, beauty shops.~~ Beauty shops, and barber shops.
15. Shoe repair, clothing alteration, tailoring services, and tattoo parlors.

Re-number remaining sections as necessary

8-20(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

11. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).

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

1. Indoor and outdoor athletic facilities that may also require buildings which, as a result of their size and design, are not compatible with residential and business zones, but would be compatible in a Highway Service Business (B-3) zone, such as a field house; gymnasium; football stadium; tennis courts; soccer field or polo field, ~~and~~ baseball field; and miniature golf or putting course.
10. The above- or below-ground storage of any flammable material in gaseous form, except as permitted herein, including

ARTICLE 8: SCHEDULE OF ZONES

compressed natural gas, except in conformance with the Kentucky Building Code and all applicable fire safety codes. Total above-ground storage of gas is limited to 600 square feet. There may be no filling or re-filling of gas containers in this zone.

8-20(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Car Washing Establishments with Two (2) or More Stalls - Two (2) spaces for each stall, plus one (1) space for each vacuum unit.

Outdoor Miniature Golf or Putting Course - One and one-half (1½) spaces per hole.

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.)

8. Kennels, animal hospitals, animal grooming facilities or clinics, provided that such structures or areas used, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.

8-21(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.

9. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to retail sale of building materials and lumber permitted under Sections 8-21(b)(18).

8-21(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

9. Restaurants, cocktail lounges, and nightclubs, except as permitted herein.

8-21(n) Off-Street Parking - (See Article 16 for additional parking regulations.)

Animal Grooming Facilities – One (1) space for every two hundred (200) square feet, with a minimum of three (3) spaces.

Bowling Alleys - Five (5) spaces for each alley, plus one (1) space for each employee. Four (4) spaces per alley; however, snack bars and food service provided primarily to patrons shall not require additional parking.

8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

11. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to retail sale of building materials and lumber permitted under Article 8-21(b)(18).

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

12. ~~Offices, except as provided as part of an Adaptive Reuse Project, other than as accessory uses under Section 8-22(e)(5), provided that the following requirements are met:~~
 - a. ~~That no more than fifty percent (50%) of the total floor area of any structure may be used for office purposes, not counting as accessory uses under Section 8-22(e)(5).~~
 - b. ~~That minimum parking requirements shall be met as under the P-1 zone.~~
 - c. ~~The office use would be located in a structure that would qualify for designation as a landmark under the provisions of Article 13: Historic Preservation herein.~~

Re-number remaining sections as necessary

ARTICLE 12: PLANNED SHOPPING CENTER (B-6P) ZONE

(Note: Text underlined is an addition, while text ~~stricken through~~ is a deletion to the current Zoning Ordinance.)

ARTICLE 12: PLANNED SHOPPING CENTER (B-6P) ZONE

12-3 PRINCIPAL PERMITTED USES - The principal uses permitted in a B-6P zone shall be as follows:

- a. ~~The~~ these principal and accessory uses as permitted uses in the B-1 and P-1 zones, except as restricted herein.
- b. Indoor theaters.
- d. Parking lots and structures.

12-4 ACCESSORY USES - The accessory uses permitted in a B-6P zone shall be as follows:

- a. The accessory uses in the B-1 and P-1 zones.
- b. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

12-5 ~~12-4~~ CONDITIONAL USES

- f. ~~Assisted living facilities and r~~ Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone.
- g. Outdoor miniature golf or putting course.
- h. Drive-through facilities for the sale of goods or products or provision of services otherwise permitted herein, except as accessory uses herein.

Re-number remaining sections as necessary

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2012-9: AMENDMENT TO ARTICLE 1, 8 & 12 FOR MODIFICATIONS TO THE
NEIGHBORHOOD BUSINESS (B-1) ZONE**

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: (See attached document)

STAFF REVIEW:

The staff of the Division of Planning requested that the Planning Commission initiate a text amendment for various modifications to update the Neighborhood Business (B-1) zone. The proposed text amendment includes changes to Article 1-11 to add and modify definitions; to several sections of Article 8 to modify the list of uses, propose a new “form-based neighborhood business project,” and alter the height and building setback requirements in the B-1 zone; and to Article 12 to modify the list of uses in the Planned Shopping Center (B-6P) zone. The Planning Commission initiated this extensive text amendment in December 2011.

The 2007 Comprehensive Plan's Implementation Element includes an “implementation table” of plans, projects, programs, studies and other action tasks “designed to carry out the community vision espoused” by the Plan. This table has proven to be an excellent way to keep the community on track during the five-year period between major community plan review and update. The “neighborhood business zone rewrite” was identified as a task following the completion of the *Non-Residential Infill Study*. This Study was substantially completed in 2009, and the drafting of the proposed changes to the text of the B-1 zone began in 2010. The detailed recommendations of this Study were used as a starting point in drafting revisions to the B-1 zone; additional information was gathered from previous redevelopment decisions (opportunities and constraints), the Downtown Development Authority (primary public facilitator of new development downtown), and the Division of Building Inspection (previously responsible for all zoning enforcement duties). Opportunities were also given to the Divisions of Engineering and Traffic Engineering for input. This data gathering resulted in developing a draft text amendment for further review and discussion.

The Zoning Ordinance has been established with a tiered approach, where the least intensive commercial zone, the Professional Office (P-1) zone, is at the core of all of the business zones. In essence, they build upon each other – the B-1 zone carries forward the allowable uses of the P-1 zone with some additional uses; the B-2 zones carry forward the allowable uses of the B-1 zone with some additional uses, etc. For this reason, when altering the principal, accessory, conditional and prohibited uses within one business zone, there needs to be a thorough assessment of the impact on all of the other related zones.

Collectively, these proposed text changes are aimed to improve the type and character of development in the areas of our community that are in closest proximity to residential neighborhoods, the neighborhood business areas. Some of the land uses currently permitted in the B-1 zone are now considered to be out of scale with a neighborhood business area or even inappropriate. These include multi-screen movie theaters, hospitals, miniature golf courses, cable television system signal distribution studios and studios, and big-box retail establishments over 40,000 square feet in size.

The proposed B-1 zone rewrite also includes a new avenue for flexibility by creating the “form-based neighborhood business project” within the “Special Provisions” section of the B-1 zone. This special use would be reviewed by the Planning Commission as part of a development plan submission, and would follow an area character and context study, renderings (or other graphic materials), and elements that would propose to integrate the development project with the surrounding neighborhood.

The front yard setback and height limits established for the B-1 zone are also proposed for modification. The current front yard setback is suburban in scale, and the staff would suggest utilizing a minimum front yard and a maximum front yard to create a “build-to” range. Basically, a new structure would be required to be located between 10 and 20 feet from the right-of-way or front property line. The current building height limit for commercial uses is 25 feet; however, when residential uses are included on the property, the height limit

increases to 35 feet. The proposed text amendment would adjust the height limit to 35 feet for all B-1 structures and uses.

The changes proposed with this text amendment are most thoroughly described below, separated by Articles of the Zoning Ordinance as follows:

➤ **Article 1: Definitions**

- Define the following new terms:
 1. Animal Grooming Facility
 2. Cocktail Lounge
 3. Mail Service Facility
 4. Nightclub
 5. Primary Entrance
 6. Tattoo Parlor
- Amend the following terms to include the Expansion Area zoning categories:
 1. Zone, Business
 2. Zone, Industrial
 3. Zone, Residential

➤ **Article 8: Schedule of Zones**

- Professional Office (P-1) Zone
 - Change assisted living facilities from conditional uses or a principal use with a distance restriction to principal uses (without restriction).
 - Acknowledge barbers and barber shops; regulate as per beauty shops.
 - Allow drive-through facilities as accessory uses if approved by the Planning Commission on a development plan, and conditional uses if not on a development plan.
 - Allow mail service facilities as a conditional use.
 - Prohibit tattoo parlors.
 - Add parking regulations for beauty and barber shops, and mail service facilities.
 - Adjust uses in Professional Office Projects – mail service facilities (principal); shoe repair, clothing alterations, and tailoring services (accessory); and beauty and barber shops without restrictions (conditional).
- Neighborhood Business (B-1) Zone
 - Change hospitals; outdoor miniature golf or putting courses; and surface parking lots from principal uses to prohibited uses.
 - Allow brew-pubs, clothing repair and tailoring services, animal grooming facilities, mail service facilities, and form-based neighborhood business projects as principal uses.
 - Require a parking garage to have at least 25% of the first floor occupied by another B-1 use.
 - Limit indoor theaters to three screens or stages.
 - Allow drive-through facilities as accessory uses if approved by the Planning Commission on a development plan, and conditional uses if not on a development plan.
 - Adjust the percentage of public floor area in a restaurant dedicated to sale of malt beverages, wine and liquor from 20% to 25%.
 - Adjust truck rental regulations – all proposed to be conditional uses.
 - Allow sidewalk cafes and retail sale of propane tanks (20 lbs.) as accessory uses.
 - Delete combination business, office and residential projects as a conditional use (replaced by form-based neighborhood business projects).
 - Allow extended-stay hotels as conditional uses.
 - Adjust the minimum front yard from 20' to 10' and create a maximum front yard of 20' (creates a build-to zone).
 - Adjust building height maximum to 35'.
 - Add parking regulations for brew-pubs, animal grooming facilities and adjust parking for arcades.
 - Amend the special provision that limits the size of grocery stores to limit the size of all single-use establishments.
 - Create a new special provision for a form-based neighborhood business project, to be approved by the Planning Commission.

- Downtown Business (B-2) Zone
 - Adjust uses to ensure that all current uses remain permitted without restriction.
 - Prohibit hospitals and outdoor miniature golf or putting courses.
- Lexington Center Business (B-2B) Zone
 - Prohibit tattoo parlors and animal grooming facilities.
- Highway Service Business (B-3) Zone
 - Adjust uses to ensure that all current uses remain permitted without restriction.
 - Allow retail sale of propane tanks (20 lbs.) as accessory uses, and outdoor miniature golf and putting courses as conditional uses.
 - Add parking regulations for car washing establishments and outdoor miniature golf.
- Wholesale & Warehouse Business (B-4) Zone
 - Allow animal grooming facilities as principal uses, and retail sale of propane tanks (20 lbs.) as accessory uses.
 - Add parking regulations for animal grooming facilities and adjust parking for bowling alleys.
- Light Industrial (I-1) Zone
 - Allow retail sale of propane tanks (20 lbs.) as accessory uses.
 - Remove offices as a conditional use (#12) (a more restrictive duplication of #21 under principal uses in the B-4 zone).

➤ **Article 12: Planned Shopping Center (B-6P) Zone**

- Change assisted living facilities from conditional uses or a principal use with a distance restriction to principal uses (without restriction).
- Adjust uses to ensure that theaters and surface parking lots remain permitted without restriction.
- Allow drive-through facilities as accessory uses if approved by the Planning Commission on a development plan, and conditional uses if not on a development plan.
- Change outdoor miniature golf and putting courses from principal uses to conditional uses.

In addition to the text amendment initiated by the Planning Commission last December, the staff would suggest one additional change to how live entertainment is regulated. A recent text amendment to modify the definition of “banquet facility” (ZOTA 2012-4) highlighted a need to adjust the current regulations within the B-1 zone to address outdoor live entertainment. The term “live entertainment” does not distinguish between indoor and outdoor entertainment, although the definition of “banquet facility” permits indoor live entertainment as an accessory use. This change to the B-1 zone would clarify that indoor entertainment would be permitted as accessory if the use is located more than 100 feet from a residential zone. If indoor live entertainment closer than 100 feet from a residential zone or any outdoor live entertainment were sought, a conditional use would still be required from the Board of Adjustment.

Staff Alternative Text:

8-16(c) Accessory Uses

10. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub, or banquet facility, but only when located more than one hundred (100) feet from a residential zone.

8-16(d) Conditional Uses

5. ~~Restaurants and brew-pubs offering live entertainment and/or dancing. Outdoor live entertainment cocktail lounges, brew-pubs or nightclubs [unless prohibited under Section 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.~~
6. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub, or banquet facility, but only when located closer than one hundred (100) feet from a residential zone.

Re-number remaining sections

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

1. The text amendment will be in agreement with the Implementation Element and Table of the 2007 Comprehensive Plan, which identified the “neighborhood business zone rewrite” as a necessary task following the completion of the *Non-Residential Infill Study*. The Study suggested adjusting land uses permitted within the Neighborhood Business (B-1) zone and relaxing setbacks and height limitations.
2. The proposed amendment meets many of the recommendations of the *Non-Residential Infill Study*, and accomplishes other minor improvements to the B-1 zone to make it more compatible with residential neighborhoods.
3. The creation of a “form-based neighborhood business project” will provide added flexibility for redevelopment in the Infill and Redevelopment Area, and provide for more compatible development with the existing character of an area.

TLW/BJR/WLS

6/4/12

Planning Services/Staff Reports/ZOTA/ 2012/ZOTA 2012-9.doc

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2012-9: AMENDMENT TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE
NEIGHBORHOOD BUSINESS (B-1) ZONE**

STAFF REVIEW:

Prior to the initial drafting of the staff report for this text amendment, there was a need to address how live entertainment is to be regulated in Fayette County. That need has been met by a recent text amendment that modified the definition of "banquet facility" (ZOTA 2012-4). Because the Planning Commission incorporated changes to the B-1 zone to address outdoor live entertainment associated with banquet facilities, restaurants and nightclubs, the original staff alternative text is no longer necessary. However, the staff had suggested that brew-pubs be considered principal uses in B-1 zones. As such, live entertainment associated with brew-pubs should be added to the newly adopted changes to Article 8 for banquet facilities, and renumbering is necessary to accommodate the newly adopted text changes to the B-1 zone.

Revised Staff Alternative Text:

8-16(c) Accessory Uses

1. Parking areas or structures.
2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.
3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.
- ~~4. 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. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Division of Building Inspection for the control of such activities and shall show the entire property, signs, parking and location of the proposed storage area.~~
- ~~4.—5.~~ The sale of malt beverages, wine, or alcoholic beverages, when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area ~~exclusively~~ primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
- ~~6. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.~~
- ~~5.—7.~~ Satellite dish antennas, as further regulated by Article 15-8.
- ~~6.—8.~~ One (1) or two (2) pool or billiard tables within an establishment.
7. Sidewalk cafés, when accessory to any permitted restaurant.
8. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).
9. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub or banquet facility, but only when located more than one hundred (100) feet from a residential zone.
10. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

8-16(d) Conditional Uses

1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
2. Animal hospital or clinic, provided that all exterior walls are completely soundproofed, and further provided that animal pens shall be completely within the principal building and used for the medical treatment of small animals.
3. 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 that the service station abuts a

state or federal highway ~~when abutting a residential zone~~. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.

4. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of the establishment's public floor area ~~exclusively primarily~~ to the preparation and service of malt beverages, wine or alcoholic beverages.
5. Outdoor live entertainment and/or dancing, cocktail lounges, ~~brew-pubs~~ or night clubs [unless prohibited under Sections 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
6. ~~A combination business, office and residential project, provided the following conditions and requirements are met:~~
[including sub-sections a. – s. that follow]
- 6.—7. Upholstery shop.
- 7.—8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- 8.—9. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.
- 9.—10. ~~Assisted living facilities and r~~Rehabilitation homes, but only when located closer ~~more~~ than five hundred (500) feet from a residential zone.
10. Extended-stay hotels.
11. Parking lots, provided such uses conform to the conditions of Article 16.
12. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.

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

1. The text amendment will be in agreement with the Implementation Element and Table of the 2007 Comprehensive Plan, which identified the “neighborhood business zone rewrite” as a necessary task following the completion of the *Non-Residential Infill Study*. The Study suggested adjusting land uses permitted within the Neighborhood Business (B-1) zone and relaxing setbacks and height limitations.
2. The proposed amendment meets many of the recommendations of the *Non-Residential Infill Study*, and accomplishes other minor improvements to the B-1 zone to make it more compatible with residential neighborhoods.
3. The creation of a “form-based neighborhood business project” will provide added flexibility for redevelopment in the Infill and Redevelopment Area, and will provide for more compatible development with the existing character of an area.

TLW/BJR/WLS

6/4/12, 12/3/12 supp.

Planning Services/Staff Reports/ZOTA/ 2012/ZOTA 2012-9 supp.doc

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS

1. **ZOTA 2012-9: AMENDMENTS TO ARTICLES 1, 8 & 12 FOR MODIFICATIONS TO THE B-1 ZONE** – petition for a Zoning Ordinance text amendment to Articles 1, 8, and 12 to make various modifications to the B-1 zone, including the addition of several new definitions.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: *(Copies of the full proposed text are available upon request)*

Revised Staff Alternative Text:**8-16(c) Accessory Uses**

1. Parking areas or structures.
2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.
3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.
4. ~~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. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Division of Building Inspection for the control of such activities and shall show the entire property, signs, parking and location of the proposed storage area.~~
- 4.5. The sale of malt beverages, wine, or alcoholic beverages, when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty-five percent (25%) of its public floor area exclusively primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
6. ~~Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.~~
- 5.7. ~~Satellite dish antennas, as further regulated by Article 15-8.~~
- 6.8. ~~One (1) or two (2) pool or billiard tables within an establishment.~~
7. Sidewalk cafés, when accessory to any permitted restaurant.
8. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).
9. Indoor live entertainment and/or dancing, when accessory to a restaurant, **brew-pub** or banquet facility, but only when located more than one hundred (100) feet from a residential zone.
10. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

8-16(d) Conditional Uses

1. Self-service car washes, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
2. Animal hospital or clinic, provided that all exterior walls are completely soundproofed, and further provided that animal pens shall be completely within the principal building and used for the medical treatment of small animals.
3. 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 that the service station abuts a state or federal highway ~~when abutting a residential zone~~. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.
4. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of the establishment's public floor area ~~exclusively primarily~~ to the preparation and service of malt beverages, wine or alcoholic beverages.
5. Outdoor live entertainment and/or dancing, cocktail lounges, ~~brew-pubs~~ or night clubs [unless prohibited under Sections 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
6. ~~A combination business, office and residential project, provided the following conditions and requirements are met: [including deletion of sub-sections a. - s. that follow]~~
- 6.7. ~~Upholstery shop.~~
- 7.8. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - a. That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b. That a reasonable degree of reclamation and proper drainage control is feasible; and

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

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- c. That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- 8.9. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.
- 9.10. Assisted living facilities and Rehabilitation homes, but only when located closer more than five hundred (500) feet from a residential zone.
- 10. Extended-stay hotels.
- 11. Parking lots, provided such uses conform to the conditions of Article 16.
- 12. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.

The Zoning Committee Recommended: Approval, including the Staff Alternative Text, for the reasons provided by staff.

The Staff Recommends: Approval, including the Staff Alternative Text, for the following reasons:

1. The text amendment will be in agreement with the Implementation Element and Table of the 2007 Comprehensive Plan, which identified the "neighborhood business zone rewrite" as a necessary task following the completion of the *Non-Residential Infill Study*. The Study suggested adjusting land uses permitted within the Neighborhood Business (B-1) zone and relaxing setbacks and height limitations.
2. The proposed amendment meets many of the recommendations of the *Non-Residential Infill Study*, and accomplishes other minor improvements to the B-1 zone to make it more compatible with residential neighborhoods.
3. The creation of a "form-based neighborhood business project" will provide added flexibility for redevelopment in the Infill and Redevelopment Area, and will provide for more compatible development with the existing character of an area.

Staff Presentation: Ms. Wade presented the staff report for this proposed text amendment, explaining that the impetus behind it came from the 2007 Comprehensive Plan Implementation chapter. She said that the first step in the process toward initiation of this request was the Non-Residential Infill Study; the staff then analyzed the data from that study and used it to make adjustments to the B-1 zone.

Ms. Wade stated that, based on the Non-Residential Infill Study, along with input from the Downtown Development Authority, the Infill & Redevelopment Steering Committee, and the Divisions of Building Inspection and Planning, the staff is proposing four types of changes to the text of the B-1 zone: 1) yard and height requirements; 2) off-street parking requirements; 3) special provisions; and 4) principal, accessory, and conditional uses.

With regard to the proposed changes to the height and yard requirements in the B-1 zone, Ms. Wade said that, currently, the height of a building is limited to 25 feet, unless it has a top floor with a residential use. In that case, the height can extend to 35 feet. The yard restrictions are currently set at 20-foot minimum front yards, with provisions in the defined Infill & Redevelopment Area to allow a property to match the front yards on either side of it. There are no current restrictions for side and rear yards, unless the property is located adjacent to a more restrictive zone. Using a rendered graphic on the overhead, Ms. Wade explained that, if a typical urban B-1 parcel was surrounded by R-1C zoning, it would be required to adhere to an eight-foot side yard and 10-foot rear yard, with a minimum landscape buffer of five feet wherever the residential and business zones were adjoining. In a rural B-1 zone surrounded by A-R zoning, 25-foot side and rear yards would be required, with a landscape buffer of 15 feet.

Ms. Wade stated that the Non-Residential Infill Study made some general statements about encouraging higher allowances for building height, even near single-family residential areas. In addition, the I/R study promoted increasing site coverage, which would require minimizing yard requirements as much as possible. Given that direction, the staff is suggesting two different types of changes with regard to height and yard requirements. The first proposed change would create a "build to" range in the B-1 zone, so that the setback would be between 10 and 20 feet for all buildings. The result of this amendment would be an increase in buildable area to the rear of a property, and the location of parking to the side or rear, with the structure pushed closer to the front of the lot. The staff also recommended increasing the maximum height to 35 feet for all B-1 zones, with no changes to the side or rear yard, open space, or lot coverage, which all currently have no limitations.

Ms. Wade stated, with regard to off-street parking requirements, that they are found in each zone. The I/R Study recommended a re-evaluation of current parking requirements, which the staff performed, using the American Planning Association standards for parking. The staff found that most of the uses were in line with the recommended parking standards,

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and needed only a few changes. The staff is recommending a reduction in parking for arcades; the addition of animal grooming facilities and mail service facilities as new uses, with parking standards for each; and the addition of clothing alterations, tailoring services, and tattoo parlors as new uses, to be grouped with shoe repair shops, which have a parking requirement of one space for every 200 square feet.

With regard to the proposed amendments to the special provisions section of the Zoning Ordinance, Ms. Wade said that the Non-Residential Infill Study suggested two major changes. She explained that, in many of the B-1 zones, there are uses that are out of scale with the surrounding neighborhood; there is an existing restriction to limit the structure size of a big-box store that sells grocery items. The staff is recommending that that limit be applied to any structure in the B-1 zone, which should address the scale issue that the I/R Study suggested be remedied by limiting uses in the B-1 zones. The second proposed change to the special provisions section would create a form-based neighborhood business project, which would allow a great deal of flexibility for developers and the Planning Commission to meet the needs of the community. A Form-Based Neighborhood Business Project would be required to be at least an acre in size; be approved by the Planning Commission; and have a Final Development Plan approved prior to the issuance of any building permit. The lot, yard, and height setbacks would also be flexible, based on the neighborhood setting and context. Each project would require the submission of an area character and context study, prepared by an architect or urban design professional, to include information documenting the architectural setting and character of the area, and how their project would be incorporated into the neighborhood. Those study submissions would also require the presentation of renderings or other graphic materials to the Planning Commission for their approval. Ms. Wade stated that the staff believes that a good existing example of this concept is the Chevy Chase Plaza, which respects the character of the neighborhood and is integrated into its existing fabric, although it does not meet the typical setbacks and other requirements of the B-1 zone.

Ms. Wade said, with regard to the proposed use changes, that this text amendment would add a few new uses; move some uses from conditional to principal; specifically name tattoo parlors, which have been considered as beauty shops; and make the Form-Based Neighborhood Business Project a principal use. With regard to accessory uses, the proposed text amendment would make sidewalk cafes and the retail sale of propane listed uses. For conditional uses, the staff is proposing to add extended-stay hotels and parking lots as conditional uses. Parking structures with a B-1 use on the first floor could be considered as a principal use, but such structures without 25% of the first floor dedicated to a B-1 use would become a conditional use. The staff is also proposing text to allow a drive-through facility as an accessory use when the Planning Commission approves it on a development plan, but a conditional use when not approved by the Commission. Ms. Wade explained that there are many existing banks with drive-through facilities that are zoned P-1, and each such facility requires the approval of the Board of Adjustment, so the same treatment of drive-throughs would apply in that zone as well.

Ms. Wade stated, with regard to the proposed deletions, that the staff is proposing to delete hospitals and combination business, office, and residential projects from the list of conditional uses. She noted that the combination business, office, and residential project concept has not been used since the development of Chevy Chase Plaza, and the staff believes that it is overly restrictive, since it is required to be at least 20 acres in size. In addition, indoor theaters would be limited in size to three screens or stages. Truck rentals would become a conditional use across the board, since the axle size of the truck is the current determining factor as to whether that use is conditional or accessory, and the staff believes that that restriction is awkward and difficult to apply.

Ms. Wade said that there are several additional changes proposed to Article 8, due to the "trickle-down" effect of making changes to the B-1 zone. In addition, the staff is proposing to add the following new definitions: animal grooming facility; mail service facility; tattoo parlor; primary entrance; cocktail lounge; and nightclub, and to add the Expansion Area zoning categories to the existing definition of "business zone," industrial zone," and "residential zone."

Ms. Wade stated that, since the proposed text amendment was first drafted a year ago, other text amendments have been approved that have affected the B-1 zone, one of which dealt with banquet facilities. The staff felt that one of the changes to the banquet facilities text, which refers to outdoor live entertainment, was still unclear; so they are proposing additional changes to clarify that language. In addition, they are proposing to add language to allow the Board of Adjustment to impose time restrictions on outdoor live entertainment venues in order to minimize nuisances to the surrounding neighborhoods.

Ms. Wade stated that the Zoning Committee recommended approval of this request at their meeting in August of 2012, but they also recommended a change to the text relating to miniature golf courses at the request of Richard Murphy, attorney. The staff had originally recommended removing "miniature golf course" from the B-1 zone and moving it to the B-3 zone, but the Zoning Committee recommended keeping the use in the B-1 zone. The staff made the necessary changes to the proposed text; but Mr. Murphy noted just prior to this hearing that the Zoning Committee recommended deleting the word "outdoor" from the section pertaining to miniature golf courses, so that one of his clients could construct a mixed, indoor/outdoor course. Ms. Wade noted that the staff is recommending that the Commission delete the word "outdoor" from the proposed text as included in their notebooks, per the Zoning Committee recommendation and make miniature golf courses a permitted use in the B-3 zone, where most other recreation and entertainment-type uses are

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permitted. She said that the staff is recommending approval of this request, with those changes, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Ms. Plumlee thanked the staff for their diligent work on the proposed text amendment, but noted that she believed that there were still some principal uses in the B-1 zone that might not be appropriate for neighborhood-oriented businesses, including: research, development, or testing laboratories; radio and tv studios; and business colleges, technical or trade schools, or institutions. She added that she is not in favor of tattoo parlors.

Ms. Plumlee opined that it is important to consider how the B-1 uses could impact the rural B-1 areas, outside the Urban Service Area boundary. She was concerned that "establishments primarily engaged in agriculture sales and services," greenhouses, nurseries, and hatcheries are prohibited uses in the B-1 zone, since rural area B-1 locations would be ideal for those types of uses.

Ms. Wade stated, with regard to the uses to which Ms. Plumlee referred as possibly inappropriate for the B-1 zone, that the staff researched those uses and determined that deleting them might create a large number of non-conformities, so they attempted to avoid deleting uses whenever possible. With regard to rural B-1 sites, she said that the staff has been working on a text amendment for recreational uses in the agricultural zones, and they believe that it will address some of Ms. Plumlee's concerns. Ms. Wade noted that many of the existing rural B-1 sites are not large enough to accommodate a nursery or greenhouse; but, since those uses are permitted in the agricultural zones, they could locate on a parcel adjacent to a B-1 parcel. She added that the staff is not sure that it would be appropriate to permit those uses in the urban B-1 areas, which comprise nearly 90% of all of the B-1-zoned land in the County.

Mr. Owens stated that, at first, it seemed that agricultural sales and services would be appropriate in the B-1 zone, because of how well they would fit in the rural B-1 areas. However, he does not believe that that type of use would be appropriate in the urban B-1 areas. He added that the recreational ZOTA group did not discuss greenhouses and agricultural sales as part of that process, but he believed that it might be appropriate to address those uses as part of that text amendment. Mr. Owens added that he did agree with Ms. Plumlee's comment that laboratories and research centers might not be appropriate uses in the B-1 zone.

Ms. Roche-Phillips stated that requiring existing B-1 areas to adhere to a form-based code could result in "robbing them of their inherent character." She said that she believes that the B-1 zone is intended for smaller-scale business areas, and suggested that form-based code development might be more appropriate for the larger-scale, more intense B-2B zone.

With regard to the proposed additions to the permitted uses, Ms. Roche-Phillips stated that she did not agree that some of those uses would be appropriate in the rural B-1 areas, including brewpubs. She noted that a recent article in the *Lexington Herald-Leader* had indicated that the rural areas support a large number of jobs, and she did not believe the Planning Commission should allow "incremental uses to encroach on" a regional economic engine. Ms. Roche-Phillips added that she believed that the Commission should carefully consider the compatibility of the urban and rural areas, including the proposed changes to setbacks. She opined that, although the B-1 zone has needed revision for some time, the proposed text amendment might be too ambitious.

Mr. Berkley asked if someone who wished to locate an agricultural sales business in one of the agricultural zones would be forced to have the property rezoned in order to do so, since the recreational ZOTA would apply only to the agricultural zones. Ms. Wade answered that the agricultural zones are being reviewed for recreational uses, and, in some cases, some of the agricultural/recreational uses suggested might encourage related retail sales of some sort, such as selling pumpkins. Mr. Berkley asked if it would be more appropriate to make those types of retail sales a conditional use in the agricultural zones. Ms. Wade responded that that was possible.

Mr. Owens stated that, since there are B-1 zones located both within and outside of the Urban Service Area, some uses, such as greenhouses and agricultural sales, might not fit in both situations.

Mr. Berkley said that one recently approved project, The Apiary, is proposing to have a greenhouse in the B-1 zone. Ms. Wade answered that that property is actually zoned B-4, and she was unsure if it would actually be considered a greenhouse.

Mr. Cravens asked if the Form-Based Neighborhood Business Project would be optional, and if a developer could choose to meet the regular requirements of the B-1 zone instead. Ms. Wade responded that that was correct, and noted that the use of the Form-Based Neighborhood Business Project would be the only way that the 40,000 square-foot restriction could be exceeded. She added that the staff has had some discussions with the Kroger company with regard to their existing store on Euclid Avenue, which is zoned B-1. The only way that facility could be expanded would be via the form-based option, or if the property was rezoned. Mr. Cravens opined that the form-based option is a good tool for use in the Infill & Redevelopment Area, since those redevelopment projects often need require greater flexibility.

Ms. Plumlee stated that, despite the proposed recreational ZOTA, she was still concerned about rural B-1 areas, since that ZOTA will address only the agricultural zones. Ms. Wade responded that the text of that ZOTA has not yet been drafted, since the summary report has not been filed. Mr. Sallee opined that, after attending many of the recreational ZOTA meetings, the first prohibited use currently listed in the B-1 zone might be a section that this future text amendment would address.

Mr. Owens asked if the proposed text amendment would permit buildings of 35 feet in height, without the existing stipulation that the third floor of the building must be residential. Ms. Wade said that that was correct, and noted that it was intended to provide more flexibility. Mr. Owens asked if the staff was proposing to delete Business Office & Residential Projects as a conditional use. Ms. Wade answered that the staff is proposing to delete that use, if the Commission chooses to add the Form-Based Neighborhood Business Project. With regard to the proposed change to parking requirements, Mr. Owens asked if it was necessary to maintain a minimum number of three parking spaces in areas where the requirement is one space for every two hundred square feet. He said that he would prefer to see the requirement for a minimum number of parking spaces eliminated, given the importance of limiting the amount of impervious surface on a property.

Audience Comment: Richard Murphy, attorney, stated that he had spoken to the Zoning Committee in August of 2012 on behalf of Collins Bowling Center, who had a plan approved to construct a miniature golf course in conjunction with their bowling facility. He said that the original staff report on this request recommended removing miniature golf as a permitted use in the B-1 zone, but, following the discussion with the Zoning Committee, the Committee decided to recommend that it be added back to the B-1 zone; and permitted indoors or outdoors. Mr. Murphy said that he had spoken with the staff prior to this hearing, and the staff was agreeable to removing the word "outdoor," since that was an oversight in the revised staff report.

Discussion: Mr. Owens asked, with regard to Ms. Wade's comment about the creation of non-conformities if some of the principal uses were removed from the B-1 zone, if the staff knew approximately how many such non-conforming uses would be created. Ms. Wade answered that the staff had not researched exactly how many non-conformities would be created.

Ms. Plumlee stated that she believed that the proposed text amendment needed additional "tweaking" prior to the Commission making a decision.

Ms. Blanton stated that she believed that it would be appropriate for the Commission to vote on this request today, with the knowledge that some of their concerns would be resolved with the drafting of the recreational ZOTA. Mr. Owens opined that that text amendment should address those issues, and it could be expected to be completed within the next four to six months.

Director Comments: Mr. King agreed with Mr. Owens' assessment, noting that the staff would have to wait for the final report from the committee prior to drafting their work into a specific text.

Mr. Berkley asked if the prohibited uses related to agricultural sales and greenhouses should be moved to conditional uses, until such time as the recreational ZOTA is completed. Mr. Owens responded that, since urban and rural B-1 areas must be considered, he believed that the proposed text should be left as it is at this time, and it will be addressed by the upcoming text amendment.

Motion: A motion was made by Mr. Cravens and seconded by Ms. Blanton to approve ZOTA 2012-9, for the reasons provided by staff, with the changes recommended by staff with regard to miniature golf courses

Discussion of Motion: Ms. Roche-Phillips stated that she did not believe that the Form-Based Neighborhood Business Project was appropriate for the B-1 zone, and she did not believe that this proposed text amendment should go forward without further revisions.

Mr. Cravens asked if the Form-Based Neighborhood Business Project had been part of the proposed text amendment from the outset. Ms. Wade answered that it had. Mr. Sallee added that the concept was presented to the Commission at one of their work sessions in 2012. Mr. Cravens stated that he believed that it was a good idea, and he supported it. Ms. Roche-Phillips stated that she supported the concept of form-based codes, but did not believe that the B-1 zone was the appropriate location for it. Ms. Wade noted that a task force was currently considering the creation of form-based codes for the downtown zones. Mr. King added that that task force elected not to pursue a form-based code, but rather a Design Excellence program with architectural guidelines, etc. Ms. Roche-Phillips asked if that program would be restricted to a particular district. Mr. King answered that phase one of the program would apply to all of the B-2 zones.

Action: Mr. Cravens' motion carried, 5-3 (Beatty, Brewer, and Penn absent; Owens, Plumlee, and Roche-Phillips opposed).

Planning and Public Works Committee Referrals

Item	Referred by	Date	Status
Oliver Lewis Way Project	Blues	04/09/2009	Quarterly Update
Todds Road Widening Phase II	Stinnett	04/15/2010	Quarterly Update
Erecting Large Utility Poles in ROW	Clarke	03/12/2010	12/11/2012
Re-Paving Program	Clarke	04/13/2011	10/16/2012, 12/11/2012, 03/12/2013
Working with FCPS to Sustain Road Salt Services	EQ Link	06/19/2011	11/20/2012
Downtown Traffic Study			Quarterly Update
Review Street Tree and Tree Protection Ordinances	Clarke	09/27/2011	11/20/2012
Possible Revision of Sign Ordinance	Farmer	06/12/2012	
Design Excellence Update	Kay		09/18/2012
Exploring the Use of Alternative Fuel Resources for Fayette County	Farmer	07/10/2012	03/12/2013
Adult Day Care Centers	Ford	10/11/2012	08/14/2012, 01/15/2013
Amendment of Article 5-1(a) Right-of-Entry	Gorton	08/18/2011	04/16/2013
Private Streets: Enforcement, Maintenance, Specifications	Mossotti	01/29/2013	
Notification Process for H1 Overlay	Myers	01/29/2013	
Exaction Fees	Stinnett	03/05/2013	04/16/2013
B-1 ZOTA	Henson	03/11/2013	04/16/2013