

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
May 14th, 2013
1:00pm**

- | | | | |
|----|----------------------------|--------------------|-----------------|
| 1. | Approval of Summary | Bill Farmer | (1-6) |
| 2. | Exaction Fees | Chris King | (7-30) |
| 3. | B1 ZOTA | Chris King | (31-98) |
| 4. | Adult Day Cares | Bill Sallee | (99-114) |
| 5. | Items in Committee | Bill Farmer | (115) |

Future Committee Meetings

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

April 16th, 2013

Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:00pm. Committee members Jennifer Mossotti, VM Linda Gorton, Charles Ellinger, Steve Kay, Chris Ford, Diane Lawless, Julian Beard, Harry Clarke and Peggy Henson were in attendance. Kevin Stinnett attended as a non-voting member.

1. Approval of Summary

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

2. Right of Entry

Chris King came to the podium to present on Right of Entry. King said that he referenced similar LFUCG legislation and the best example he found is from the Code of Ordinances 16-112(b) which establishes right-of-entry for sewer inspections. King said that he took that language and used it for 5-1(a). The new language reads as follows:

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.

Henson asked King what the time frame is for a search warrant. King said they can be granted quickly but the courts would require them to produce a burden of proof. King said they have never had to do it. King said that in any given year they have less than six property owners that will not cooperate with an inspection.

Motion by Gorton to approve to send to the full Council the modified draft of 5-1(a) Right of Entry. Seconded by Clarke.

Lawless asked King if this legislation would only apply to zoning. King said that it could also apply to building inspection. Lawless said that she would like it to apply to building inspection violations as well. She asked if King could amend it. King said that he thinks this section would apply to either one. King said that he will look into it.

David Barberie said that as the language is drafted, it would only apply to zoning violations. He said the language already exists to handle sanitary sewer issues.

Clarke asked King asked about the use of the word “this” zoning ordinance. King said that the language includes the zoning ordinance in its entirety.

Gorton’s motion passed without dissent.

3. Downtown Lexington Traffic Movement and Revitalization Study (2-Way Streets) Project Update

King began his presentation by introducing Tom Creasey from Stantec, Stan Harvey from Urban Collage, and Scott Shapiro, all of whom have been working on the study.

King said that the whole idea of converting the one-way streets pairs to two-way streets began around 2006. The two-way streets concept was supported in the Downtown Master Planning process, that concept also was supported in the 2007 update of the Comprehensive Plan. However, the Downtown Development Authority (DDA) said that the issue required more study. In 2009, the Council passed a specific resolution directing the government to proceed with the investigation of a possible conversion. In 2011, the LFUCG was awarded a grant to do a more detailed traffic movement study. That project has been going on, and Creasey will be giving that update. They are doing analysis and have developed a model.

Creasey was the project manager for the DDA study. Entran has since been acquired by Stantec. The originally study did not provide a recommendation for a conversion to two-way streets. He went on to say, however, that the current study is more detailed and is looking at numerous options for conversion.

Creasey said that the purpose of the study is 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 and propose practical solutions, if possible; develop preliminary design and cost information for the two-way conversions; and engage public participation in the study.

Creasey said that Stantec is using various evaluation tools for the study including traffic simulation models, traffic forecasting models, “urban street” evaluation, eclipsing analysis, and surveys.

Creasey said that they broke Lexington’s downtown area into three sections: the North Area, the Core Area, and the South Area.

Creasey said they are also taking into consideration traffic growth scenarios. They are looking at little or no growth, moderate growth, or high growth. Farmer asked about traffic from 21C and Creasey said that they are not predicting a large increase in traffic from 21C.

They have completed the data collection, the development of the analytical tools, the existing conditions analysis and are completing the North Area study. They will then complete the Core Area study, the South Area study and the Mobility Plan.

Creasey said that Stantec’s deliverables are as follows:

1. Safety Analysis
2. Traffic Signal System Review
3. HazMat/UST Overview
4. Multimodal Level of Service Analysis of Existing Conditions

5. Eclipsing Analysis
6. North Area Analysis Technical Memorandum (Draft)
7. Survey of Downtown Businesses Summary Report
8. Core Area Analysis Technical Memorandum
9. South Area Analysis Technical Memorandum
10. Mobility Plan

Creasey said that there is a technical Advisory Committee, a Policy Committee, stakeholder meetings and public meetings. The website for the project is www.downtownlexstudy.com.

Beard asked about parking. Creasey said they are including parking needs in their study. Creasey said one of their basic principles is that if there is on street parking, they want to keep it. Creasey said the study will not determine if there is a parking deficiency downtown.

Gorton asked who serves on the Policy Committee. Creasey said Ford, Lawless, and Kay serve on the committee, as well as staff from the Kentucky Transportation Cabinet. Gorton asked King to email her the list. (SEE ADDENDUM A)

Gorton asked King about the two resolutions included in the packet and asked him if there were any other resolutions that the Council had passed. King said that when Council agreed to accept the grant money, it set this process in motion. Creasey said that by adopting the Downtown Master Plan, the concept was supported. Gorton said that the Council adopted the Downtown Master Plan in concept only. Gorton said that she does not want the public to think that this is a done deal. She referenced the Entran study that illustrated numerous problems with conversion, specifically with Main Street and Vine Street.

Gorton asked if the conversion of Short and Second streets could move forward before the rest of the streets. Creasey said that they are working on the draft document that will provide that information. Creasey said that North Limestone and North Upper may also be able to be converted. Those two streets are part of the North Area analysis.

Creasey said that the full study will be completed by mid-October 2013.

Stinnett asked about the Steering Committee. Creasey said that Shapiro, Harvey, King, representatives from the Division of Traffic Engineering, the Kentucky Department of Transportation, and the Division of Engineering serve on the Steering Committee. Stinnett said that he voted against using the grant money to study two-way streets. He went on to say that he would like to make a decision and stick to it. Stinnett asked Creasey how the current study is different from the Entran study.

Lawless expressed concern about the current rates of speed on Main and Vine Streets. She said that the landscape downtown has changed tremendously since the last study was completed.

Ford asked if they are waiting for all the recommendations to be complete before October or can decisions be made before that. Creasey said that they will make recommendations before October. He said that in the north area, there could be decisions that are made prior to October. He said they are focusing on the three areas one at a time.

Ford asked about Upper and North Limestone and not converting Short and Second. Creasey said that they looked at those pairs individually. They did the detailed traffic simulation for those pairs.

Ford said that parking is a major concern of his. Creasey said that their plan is to leave off-street parking through the conversion to two-way streets. There may be a few parking places removed to install turn lanes.

Kay asked about the work being done on Fourth Street. Creasey said that it is included in the North Area analysis. He said that Fourth Street is converted to two-way in their analysis. Third Street from Jefferson to Newtown Pike is still one-way in their analysis.

Stan Harvey said that BCTCS and the Transportation Cabinet have been working on modifications to potentially convert Fourth Street. Harvey said that the LFUCG is working with the Transportation Cabinet to determine costs to convert Fourth Street from Jefferson to Newtown Pike. Planning Commissioner Derek Paulsen is working on this. The Transportation Cabinet is making improvements to accommodate two-way streets. The intersection at Newtown and Georgetown Street is going to be modified.

Kay asked Creasey if he would bring anything forward on specific sections before October. Creasey said that the Policy Committee could decide to do that.

Clarke asked if the study is looking at the impact of two-way streets on retail. Creasey said that it is not part of the study. Clarke asked if Creasey has considered changing parallel parking to oblique parking. Creasey said they have not studied it as part of the North Area. Creasey said that there is not space to do it. He said it might be an option somewhere and went on to say that they have not looked at it.

Clarke asked if they were considering the plans for the Town Branch Commons. Creasey said that they are considering it. He said the coordination is built in to what they are doing.

Mossotti asked about the impact of two-way streets on retail. Creasey said that they are not analyzing this. He mentioned Fargo North Dakota as a case study.

Shapiro said that many of the cities that have converted to two-way streets have seen an increase in retail activity. Creasey said Fargo, North Dakota did an economic analysis on two-way street conversion's impact on retail. He said it is on the website.

Gorton asked King to name those representing neighborhoods on the different committees when he emails the lists of membership to Council Members.

Gorton also asked if Fourth Street might proceed before October. Creasey said the Fourth Street plans are underway. Gorton asked if there are any other streets that may go forward before October. Creasey said he is unaware of any but the State might do something with Third Street. He said it would be in the State Highway Plan.

Ford said that it might be time to make the decision to make Fourth Street two-way. Ford said that the decision to do so would need to come from the Council. Ford mentioned that it might not be on the LFUCG's dime to convert from Jefferson to the railroad track.

Farmer said that after the April 17th, 2013 presentation, if the Council wants to act, they can.

Beard asked if there is a body of knowledge that says retail is totally elastic. Shapiro said that for the Administration, this is one of the most important parts of the study. He said they want it to be a place to drive to, not drive through. He went on to say that there is not a huge body of knowledge on this, but there is evidence that says that two-way streets help increase retail activity. Beard expressed concern that the cities that have been studied are much larger than Lexington. Shapiro said that Charleston, South Carolina has also converted their streets. Shapiro said that Rick Day lives there and was in charge of their conversion. Shapiro suggested inviting him to come to the next Traffic Revitalization Study update to the Planning and Public Works Committee.

Beard said he would like more data and some on-site visits to see how this is working in other communities.

Stinnett asked how the next day's presentation to the Policy Committee would be different than the current presentation. Creasey said that the Policy Committee would be reviewing the preliminary results from the North Area study. Stinnett asked why the Planning and Public Works Committee did not get that presentation. Creasey said that this is just the process. Farmer said that he placed the item in Committee and said that he would have assumed a process that would have been a little different than the current process. He said that he would have envisioned it being more Council centered.

Stinnett asked if this item would be heard at the next Planning and Public Works Committee meeting. Farmer said that they could take the item out of Committee, or they could have a follow-up next month.

Stinnett asked the members of the Policy Committee to keep the members of the Planning and Public Works Committee in the loop. Stinnett asked for a copy of the preliminary results of the study.

Creasey said that he will do whatever he is directed to do. Creasey said that the report is not ready. Creasey said that they are assuming that the Fourth Street connector will be done.

Lawless said that they have only had two policy meetings; the first was on short notice and the second was in August 2012. Lawless said that she does not want the Committee members to think that they have been meeting and not sharing the information. Lawless said the meeting the next day is scheduled for 1:00pm on the seventh floor of the Phoenix Building.

Kay said that he would like to err on the side of getting information out, even in draft form, instead of keeping information from people. Kay said that he is also concerned that the Council often feels that they get presentations that do not speak directly to the topic. Kay said that we need to have better coordination between the Council and the Administration.

Farmer asked about preliminary conversations with the Transportation Cabinet about the permit for a road swap agreement (Main and Vine). Creasey said that no meetings have taken place on the swap. Creasey said that parts of Main, Vine, Maxwell, High, Limestone, and Upper are part of the Federal highway system.

4. Exaction Fees

This item was delayed until the May 2013 meeting.

5. B1 ZOTA

This item was delayed until the May 2013 meeting.

6. Items in Committee

Motion by Gorton to remove Right of Entry from the items referred list. Seconded by Clarke. Motion passed without dissent.

Adult Day Cares will also be on the May 2013 agenda.

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

Submitted by Jenifer Benningfield, Council Administrative Specialist

ADDENDUM A**Downtown Lexington Traffic Movement and Revitalization Study****Technical Advisory Committee**

Barry House (KY Transportation Cabinet)
 Chris King (LFUCG-Planning)
 Kenzie Gleason (LFUCG-Planning)
 Max Conyers (LFUCG-Planning)
 Jim Woods (LFUCG-Traffic)
 Steve Cummins (LFUCG-Traffic)
 Keith Lovan (LFUCG-Engineering)
 Scott Shapiro (LFUCG-Mayor's Office)
 Stan Harvey (Urban Collage)
 Frank Harscher (ER-Stantec)
 Jeff Fugate (DDA)
 Rick Day (Stantec)
 Tom Creasey (Stantec)

Policy Advisory Committee

Scott Shapiro (LFUCG-Mayor's Office)
 Calvin Grayson (Former KY Transportation Secretary)
 CM Steve Kay (Council Member)
 CM Chris Ford (Council Member)
 CM Diane Lawless (Council Member)
 Derek Paulsen (LFUCG, Planning Commissioner)
 Jeff Fugate (DDA)
 Bill Lear (attorney, former state legislator)
 Phil Holoubek (downtown residential and commercial developer)
 Holly Weidemann (downtown residential developer)
 Lisa Higgins-Hord (UK)
 Megan Naylor (downtown resident)
 Barry House (KY Transportation Cabinet)

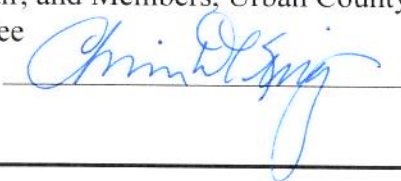


LEXINGTON - FAYETTE URBAN COUNTY GOVERNMENT
Department of Planning, Preservation & Development
Division of Planning

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

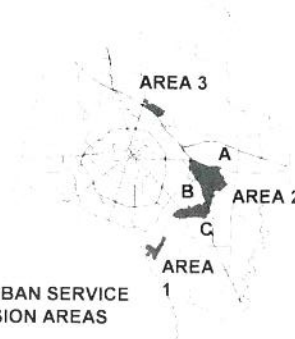
Presenter:
Chris King, AICP, Director
LFUCG Division of Planning



Infrastructure Financing &
Exaction Program

Helping make
development pay
for itself





AREA 3

A

B

C

AREA 2

AREA 1

1996 URBAN SERVICE
EXPANSION AREAS

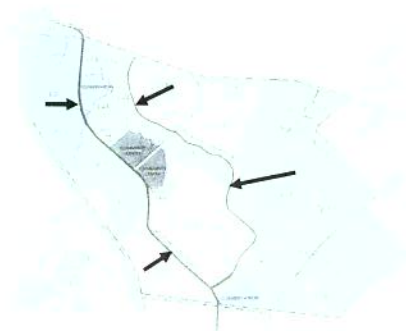
“ The imposition of a regularized set of development exactions on new growth and development within the Expansion Areas is an equitable means of allocating a fair share of the cost of capital facilities which are needed to serve new growth and development. Development exactions are a lawful means of 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)

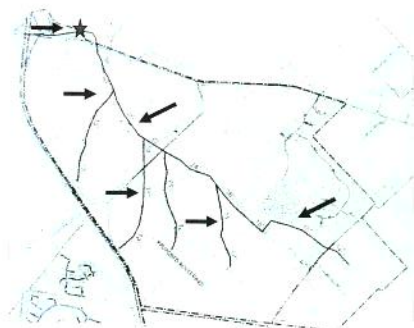
COLLECTOR ROADS



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

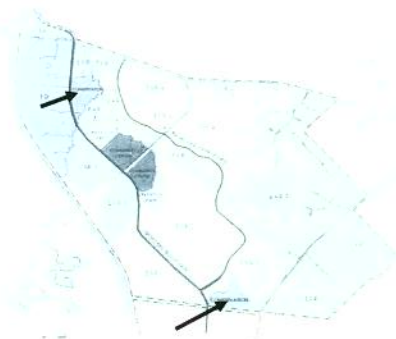
- “Collector Roads” (Boulevard; “Park” Road)
- Sanitary Sewer Capacity
- Sanitary Sewer Transmission Facilities

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

COMMUNITY 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

PROPOSED 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)

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
- 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

21

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

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

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 + 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	\$4,429
	\$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	\$1,344	\$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

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	\$ 1,459	\$ 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(g)~~ 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	\$ 1419	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 feepayor shall not be required to make a payment as specified under 23D6(a) above in order to receive a certificate of occupancy. The feepayor 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.

Recd by _____

Date: _____

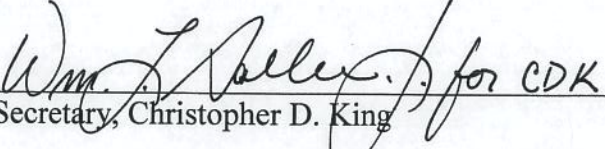
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON-FAYETTE COUNTY, KENTUCKY

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

WICK OWENS
CHAIR

WICK OWENS
CHAIR

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.

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

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~~

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

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

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

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

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

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 upholstering; 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.

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.

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

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.~~ 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.~~ 17.-16. Offices and medical clinics.
- ~~18.-17.~~ 18.-17. Taxidermy establishments.
- ~~19.-18.~~ 19.-18. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
- ~~20.-19.~~ 20.-19. Business colleges, technical or trade schools or institutions.
- ~~21.-20.~~ 21.-20. Schools for academic instruction.
- ~~22.-21.~~ 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.~~ 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.~~ 24.-23. Athletic club facilities.
- ~~25.-24.~~ 25.-24. Parking lots and structures.
- ~~26.-25.~~ 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.

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

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.

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

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. 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.
- ~~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 (250%) 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 (250%) 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 rRehabilitation 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 r~~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. S, 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.~~
 - e. ~~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

January 31, 2013

Minutes
Page 11

- 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.
- 9.40. 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,

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

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

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

January 31, 2013

Minutes
Page 13

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.

January 31, 2013

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.

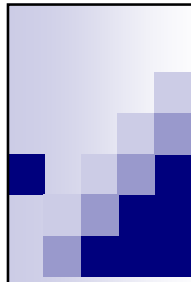
Mr. Berkley asked if the prohibited uses related to agricultural sales and greenhouses should be moved to conditional uses, until such time as the recreational ZOTA is completed. Mr. Owens responded that, since urban and rural B-1 areas must be considered, he believed that the proposed text should be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



**Amd. to Neighborhood
Business (B-1) Zone -
ZOTA 2012-9**

Council Planning & Public Works Committee
May 9, 2013



**2007 Comprehensive Plan
Implementation Chapter**

- STEP 1: Complete the *Non-Residential Infill Study*
- STEP 2: Neighborhood Business Zone Re-write



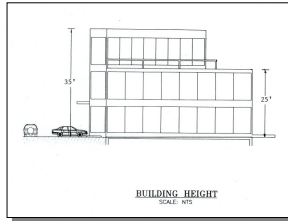
Types of Proposed Changes:

1. Yard & Height Requirements
2. Off-Street Parking
3. Special Provisions - *Form-Based Neighborhood Business Project*
4. Principal, Accessory & Conditional Uses
5. Definitions

Yard & Height Restrictions

Existing Regulations

- 25' Height Limit (or...)
- 35' Limit w/ top floor Residential Use
- 20' Min. Front Yard... (unless in I/R Area)
- NO Limitations for Side & Rear Yards... (unless adjacent to a P-1 zone or Residential zones)



Height Restrictions

- "Greater height allowance – permitting mid- or high rise structures introduces another form of incentive to give flexibility to a project. Taller buildings should not be discouraged within an urban context, even if located near conventional single family neighborhoods. Again, traditional attitudes, based on what works or doesn't work in a suburban or 'greenfield' development, must be reformed to consider what is needed to inject energy in the central core. Density and intensity can create a more vibrant environment for living, working, and enjoyment; but limiting density to what may be accomplished in a two or three story building may not permit the return to support the needed investment or the riders to support a viable transportation alternative. Certainly, compatibility of design and scale must be considered, but the possibility of taller structures in I/R areas should be made available."

---Non-Residential Infill/Redevelopment Study

Yard Restrictions

- "Increase site coverage – for the most part, the current non-residential districts do not place limits on lot coverage, though some limits are obviously imposed by the setback and yard requirements. Front, side, and rear yard setback requirements should be minimized or eliminated within the urban infill areas to permit maximum flexibility. Likewise, separation distances from adjacent residential districts should be reduced or eliminated altogether, in favor of specific performance standards. In some districts, setback requirements are tied to building height, requiring one foot of yard area for each foot of building height."

---Non-Residential Infill/Redevelopment Study

Proposed Amendment

- **8-16(h) Minimum and Maximum Front Yard –**
 - a. Minimum – 10 feet.
 - b. Maximum – 20 feet.
- **8-16(m) Maximum Height of Building - 35 feet,**
except as permitted in Section 8-16(o)(3).
- **No Changes are Proposed to:**
 - ☐ **Minimum Each Side Yard** - No limitation.
 - ☐ **Minimum Rear Yard** - No limitation.
 - ☐ **Minimum Usable Open Space** - No limitation, except where dwelling units are provided as principal uses; then 10%.
 - ☐ **Maximum Lot Coverage** - No limitation.

Off-Street Parking Requirements

- "A comprehensive reevaluation of the current parking requirements is needed. While parking is obviously needed, it should be treated differently in redevelopment areas, than on 'greenfield' sites. Given the limited land available on several of the infill/redevelopment sites, minimizing the area devoted to parking vehicles can be a significant benefit to a project."

--- Non-Residential Infill/Redevelopment Study



Proposed Amendment

- Arcades, with or without accessory billiard or pool tables – One (1) space for every two hundred fifty (250) square feet of floor area.
- Animal Grooming Facilities – 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.
- 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.

Special Provisions

Form-Based Neighborhood Business Project

- "Form-based code as a zoning option - One intriguing option to conventional zoning that has potential application for the infill/redevelopment areas is form-based code (FBC). A type of zoning, FBC differs from traditional zoning in several respects, most notably in that it is less focused on the segregation of uses in favor of achieving a design character that harmonizes with a project's surroundings. Because scale, materials, building placement and other physical parameters are prescribed by the ordinance, there is less need for lengthy reviews and much of the decision-making can be delegated to administrative staff. This saves the developer time and expense and results in a harmonious character for an area, consistent with an agreed upon pattern book or development guidelines. Form-based districts can be created within the framework of a traditional zoning ordinance and applied to defined sub-areas within the community."
 --- Non-Residential Infill/Redevelopment Study

Special Provisions

Maximum Structure Size

- No structure to be used principally as a single use or establishment shall exceed 40,000 square feet in floor area unless approved by the Planning Commission prior to [DATE OF ORDINANCE] for at least 40,000 square feet in size. No such structure may exceed 60,000 square feet in size, in any event.
- Will address ALL B-1 buildings, not just grocery stores (per the current Ordinance).
- Only the "Form-Based Neighborhood Business Project" would be able to exceed this maximum – only with Planning Commission approval of a development plan.

Special Provisions

Form-Based Neighborhood Business Project

- A Project may be approved by the Planning Commission
- Minimum of one (1) acre in size.
- Final Development Plan must be approved by the Planning Commission prior to any building permit(s).
- Lot, yard height and setback requirements will be approved by the Commission on the Development Plan.

Special Provisions

Form-Based Neighborhood Business Project

- Required to submit an Area Character & Context Study (prepared by an architect or urban design professional) that:
 - Documents the architectural and urban design character of the area
 - Demonstrates how the project will enhance and compliment the area's character
 - Requires project integration with the surrounding neighborhood
- Renderings, elevations and similar graphic materials [drawings] are made part of any Planning Commission approval
- Building permits must comply with all approved drawings.

Special Provisions

Form-Based Neighborhood Business Project:

- Chevy Chase Plaza
- Respects the neighborhood character
- Integrates into existing fabric of a neighborhood
- Not required to meet typical B-1 parameters



Existing Conditional Use – Chevy Chase Plaza

Use Changes

INPUT FROM:

- *Non-Residential Infill Study*
- Downtown Development Authority
- Infill & Redevelopment Steering Committee
- Divisions of Planning & Building Inspection

Use Changes

Principal Use Additions

- + Animal Grooming Facilities
- + Assisted Living Facilities (*currently a conditional use*)
- + Brew-pubs (*currently a conditional use*)
- + Mail Service Facilities
- + Tattoo parlors (*currently permitted as a beauty shop*)
- + Form-Based Neighborhood Business Project

Accessory Use Additions

- + Sidewalk Cafés
- + Retail Sale of Liquid Propane (20 lb. or less)



Use Changes

Conditional Use Additions

- + Extended-Stay Hotels
- + Independent Parking Lots
- + Drive-through facilities (without PC approval of a Development Plan)



Use Changes

Deletions

- Hospitals
- Cable TV distribution centers & studios
- Combination Business, Office and Residential Project (*replaced by special provision*)



Use Changes

Modifications & Restrictions

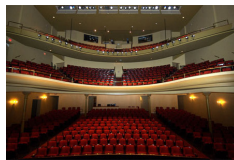
- Parking Structures & Lots
 - Principal use, if 25% of 1st floor area is another B-1 use, otherwise a conditional use
 - Surface lots = conditional use
- Drive-through Facilities
 - Accessory use, if approved by the Planning Commission, otherwise conditional use



Use Changes

Modifications

- Indoor Theaters
 - Limited to no more than three (3) screens or stages
- Truck Rental
 - Removed as an accessory use based on non-adjacency to residential zoning
 - Made a conditional use in all cases



Related Zoning Ordinance Changes

■ Article 8 – Other Zoning Categories

- ☐ P-1
- ☐ B-2, B-2B, B-3 & B-6P
- ☐ B-4 & I-1

■ Article 1 – New Definitions

Related Zoning Ordinance Changes –
New Definitions in Article 1-11

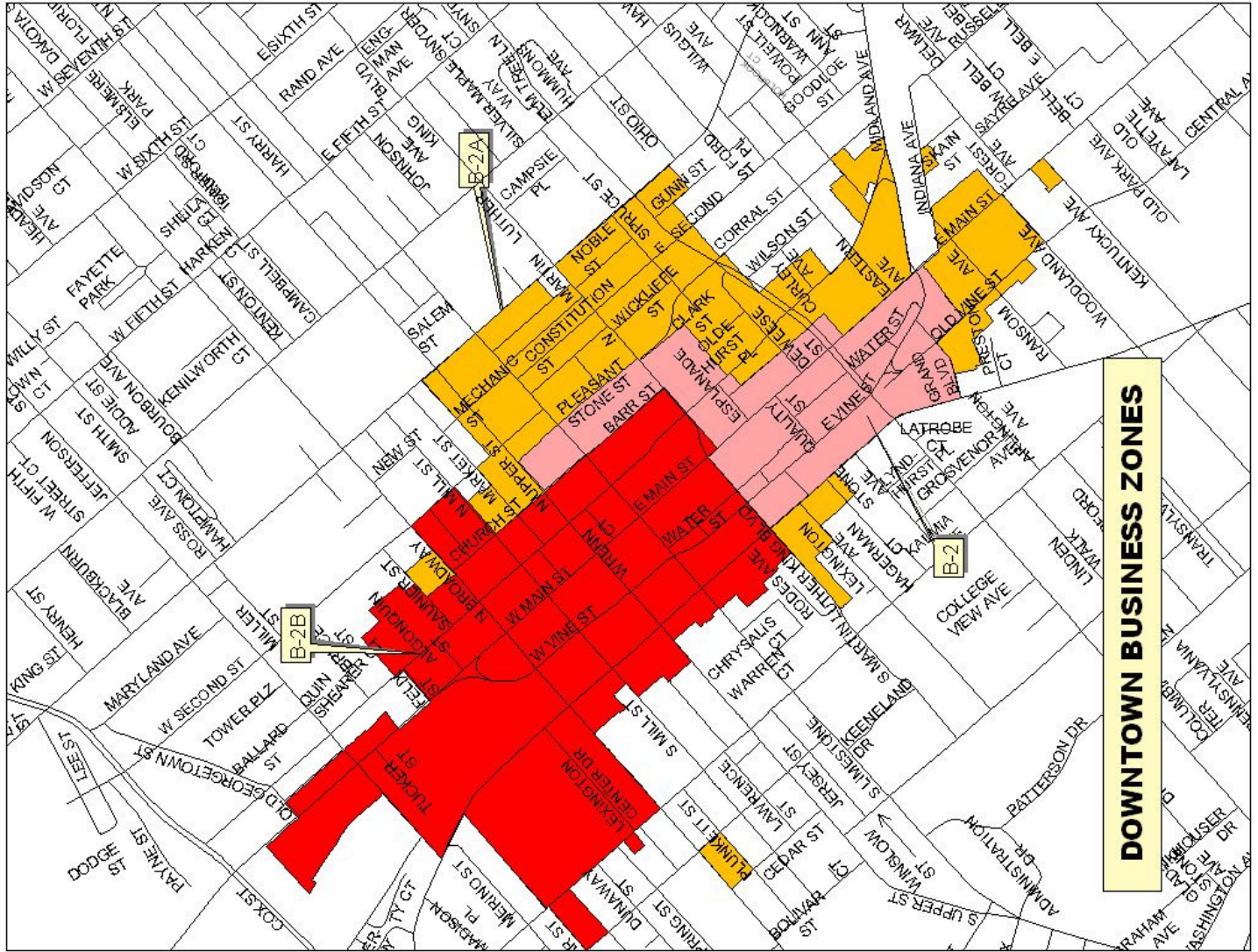
- **New uses or terms defined:**
 - ANIMAL GROOMING FACILITY –
 - MAIL SERVICE FACILITY –
 - TATTOO PARLOR –
 - PRIMARY ENTRANCE –
- **Current uses defined:**
 - COCKTAIL LOUNGE –
 - NIGHTCLUB –

Related Zoning Ordinance Changes –
New Definitions in Article 1-11

- **Add Expansion Area zoning categories**
 - **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.

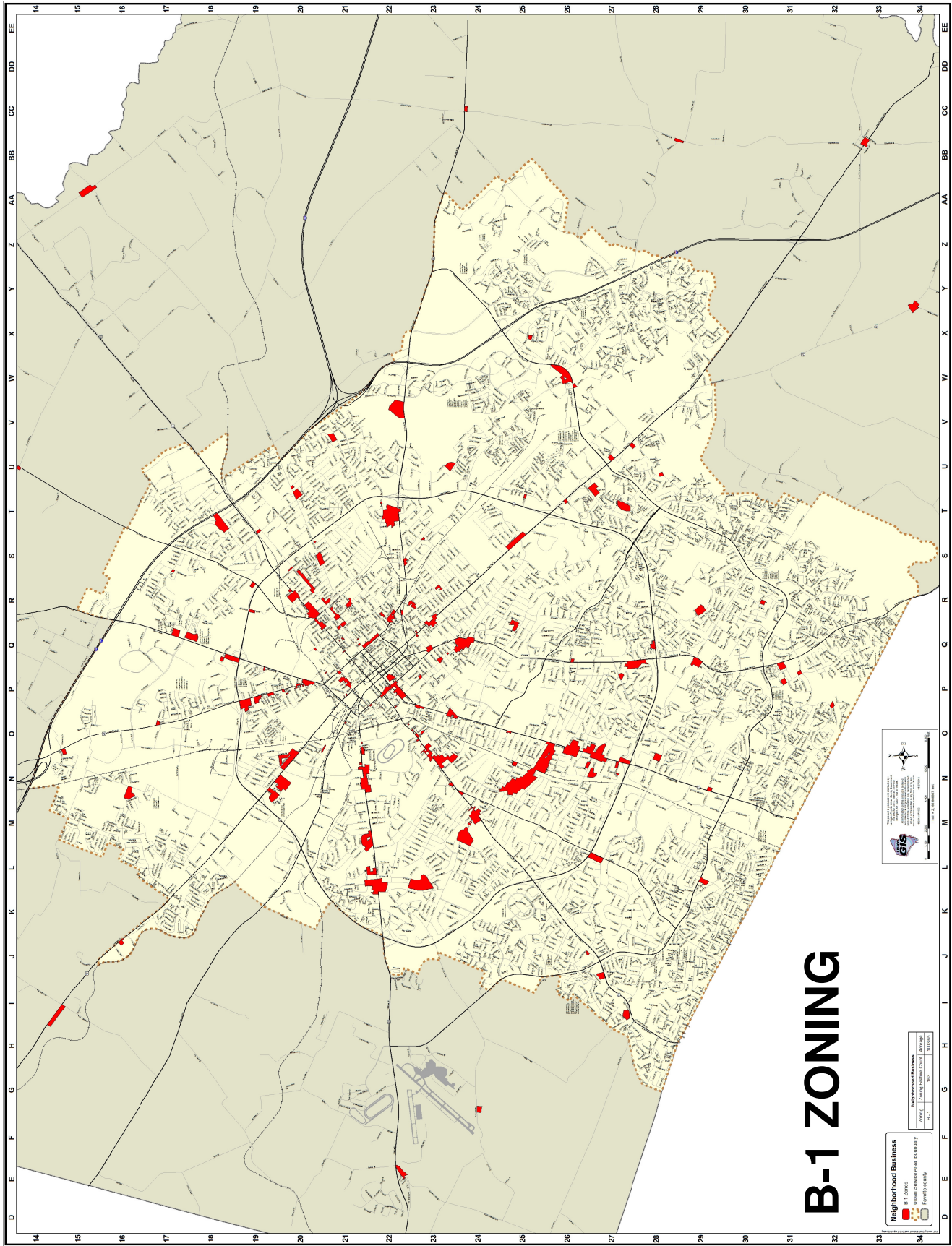
Amd. to Neighborhood
Business (B-1) Zone –
ZOTA 2012-9

Questions?



DOWNTOWN BUSINESS ZONING

B-2
B-2A
B-2B



Recd by _____

Date: _____

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

IN RE: ZOTA 2012-10: DEFINE & REGULATE ADULT DAY CARE CENTERS – a Zoning Ordinance text amendment to define adult day care centers and to regulate such facilities as a conditional use in the P-1, B-1, B-2, B-2A and P-2 zones.

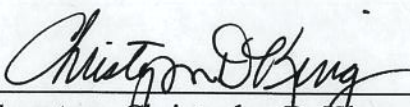
Having considered the above matter on **July 12, 2012**, at a Public Hearing and having voted **8-1** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County

Planning Commission does hereby recommend **APPROVAL OF THE REVISED COMMISSION**

PROPOSED TEXT, for the following reasons:

1. The proposed text amendment will make adult day care centers a conditional use in the P-1, B-1, B-2 and P-2 zones when proposed to be closer than 500 feet to a residential zone, which will allow for notification to neighbors and a public hearing before the Board of Adjustment prior to siting an adult day care center in these locations.
2. The proposed adult day care center definition is crafted after four zoning definitions recommended by the American Planning Association, and will allow for a new use in our zoning regulations.
3. The staff alternative text achieves the Council's goal of requiring notification and a public hearing process for siting adult day care centers proposing to locate near existing residential areas, and addresses the Commission's initial concerns with the draft text amendment forwarded to them for their review.

ATTEST: This 15th day of August, 2012.



 Secretary, Christopher D. King

MIKE OWENS
 CHAIR

At the Public Hearing before the Urban County Planning Commission, this text amendment was presented by **Bill Sallee, Planning Manager**.

OBJECTORS _____

- None

OBJECTIONS _____

- None

VOTES WERE AS FOLLOWS:

AYES: (8) Beatty, Berkley, Brewer, Cravens, Owens, Penn, Plumlee and Mundy

NAYS: (1) Roche-Phillips

ABSENT: (2) Blanton and Wilson

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **Approval of the Revised Text of ZOTA 2012-10** carried.

Enclosures: Ordinance initiating this request
PC Recommended Text
Staff Report
Supplemental Staff Report
Applicable excerpts of minutes of above public hearing

WLS

MIKE OWENS
CHAIR

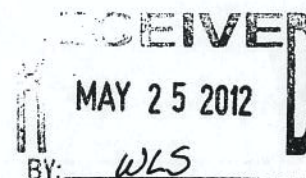
Christopher D. King
Secretary

OBJECTIONS

OBJECTIONS

• None

• None



RESOLUTION NO. 243 -2012

A RESOLUTION INITIATING ZONING ORDINANCE TEXT AMENDMENTS TO DEFINE ADULT DAY CARE CENTERS AND TO REQUIRE CONDITIONAL USE APPROVAL OF SUCH FACILITIES IN CERTAIN ZONES.

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

Section 1. - That Zoning Ordinance text amendments to define Adult Day Care Centers and to require Conditional Use Approval of the Board of Adjustment of such facilities in certain zones, are hereby initiated for Planning Commission consideration and recommendation.

Section 2 - That draft proposed text amendments are attached hereto and incorporated herein as an exhibit to this resolution.

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

PASSED URBAN COUNTY COUNCIL: May 10, 2012

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

Planning Commission Recommended Text for ZOTA 2012-10: Adult Day Care Centers

ARTICLE 1-11: DEFINITIONS

ADULT DAY CARE CENTER – A facility providing care, protection, and/or guidance for adults in a protective setting during only part of a 24-hour day, with no overnight accommodations. This term does not include public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

ARTICLE 8: SCHEDULE OF ZONES

8-15(d) Conditional Uses – PROFESSIONAL OFFICE (P-1) ZONE

7. Adult day care centers.

8-15(n) Off-Street Parking – PROFESSIONAL OFFICE (P-1) ZONE

Adult Day Care Center – One (1) space for every four (4) persons being provided care, plus one (1) space per caregiver on the maximum shift.

8-16(d) Conditional Uses – NEIGHBORHOOD BUSINESS (B-1) ZONE

13. Adult day care centers.

8-17(d) Conditional Uses – DOWNTOWN BUSINESS (B-2) ZONE (carries forward to the B-2A zone)

9. Adult day care centers.

8-24(d) Conditional Uses – OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE

5. Adult day care centers.

8-24(n) Off-Street Parking – OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE

Adult Day Care Center – One (1) space for every four (4) persons being provided care, plus one (1) space per caregiver on the maximum shift.

Mr. Berkley said that KRS 100.285 mentioned a revocation of a subdivision plat, and this request is to revoke a consolidation plat. Ms. Boland said that the 2003 request was to subdivide 10 acres from the main agricultural property and there was no distinction in that regard in the ability to revoke a plat. Mr. Sallee added that a consolidation plat is classified as a minor subdivision plat.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Questions – Mr. Owens asked if it is the intent for the PDR Program to acquire the 10 acres as a donated easement. Mr. Van Pelt said that an easement would not be recorded until the plat is revoked because there would need to be a new legal description with the new boundaries of the farm property. He then said that the Commission could possibly add a new condition to that effect.

Ms. Roche-Phillips asked if the motion of the Rural Land Management Board was to correct things with the federal Department of Agricultural with regard to the PACE Program. Mr. Van Pelt said that the Rural Land Management Board's motion was to amend the deed of conservation easement on the 102.16-acre parcel to reflect 10 additional acres with the revocation of this plat. This would result in the new deed of conservation easement to reflect 112.16 acres. He said that the PDR Program, the federal funding partners, and the property owner would sign the new conservation easement.

Ms. Roche-Phillips clarified that there would be no cost to the local or federal government. Mr. Van Pelt said that there is no cost to the federal government, but the local government would pay for the new title search and the easements recording fee.

Action – A motion was made by Ms. Roche-Phillips, seconded by Ms. Beatty, and carried 5-4 (Cravens, Owens, Penn and Plumlee opposed; Blanton and Wilson absent) to approve the Revocation Plat for PLAN 2003-232C: RICHMOND ESTATES (BETSY TOY HALL PROPERTY), as presented by the staff.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Blanton and Wilson absent) to approve the release and call of bonds as detailed in the memorandum dated July 12, 2012, from Ron St. Clair, Division of Engineering.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, July 5, 2012, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, Carla Blanton, Lynn Roche-Phillips, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **PUBLIC HEARING ON ZONING ORDINANCE TEXT AMENDMENT REQUEST**

- a. **ZOTA 2012-10: DEFINE & REGULATE ADULT DAY CARE CENTERS** (7/25/12)* – a Zoning Ordinance text amendment to define adult day care centers and to regulate such facilities as a conditional use in the P-1, B-1, B-2, B-2A and P-2 zones.

INITIATED BY: Urban County Council

PROPOSED TEXT: (Text underlined indicates an addition; text ~~dashed through~~ indicates a deletion.)

ARTICLE 1-11: DEFINITIONS

ADULT DAY CARE CENTER – A facility providing care, protection, and/or guidance for adults in a protective setting during only part of a 24-hour day, with no overnight accommodations. This term does not include public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

COMMUNITY CENTER - Buildings and facilities for a social, educational, or recreational purpose, operated by a non-profit organization, which are generally open to the public and which do not render a service customarily carried on as a business.

ARTICLE 8

PROFESSIONAL OFFICE (P-1) ZONE

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

7. Adult Day Care Centers.

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

Adult Day Care Center – One (1) space for every four (4) persons being provided care, plus one (1) space per caregiver on the maximum shift.

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

NEIGHBORHOOD BUSINESS (B-1) ZONE**8-16(d) Conditional Uses** (Permitted only with Board of Adjustment approval.)13. Adult Day Care Centers.**DOWNTOWN BUSINESS (B-2) ZONE****8-17(d) Conditional Uses** (Permitted only with Board of Adjustment approval.)9. Adult Day Care Centers.**OFFICE, INDUSTRY & RESEARCH PARK (P-2) ZONE****8-24(d) Conditional Uses** (Permitted only with Board of Adjustment approval.)5. Adult Day Care Centers.**8-24(n) Off-Street Parking** (See Article 16 for additional parking regulations.)Adult Day Care Center – One (1) space for every four (4) persons being provided care, plus one (1) space per caregiver on the maximum shift.**Staff Alternative Text (including the change to Article 1-11 adding the Adult Day Care Center definition):****8-15(b) Principal Uses – PROFESSIONAL OFFICE (P-1) ZONE**21. Adult day care centers, but only when located at least five hundred (500) feet from a residential zone.**8-15(d) Conditional Uses – PROFESSIONAL OFFICE (P-1) ZONE**7. Adult day care centers, when located closer than five hundred (500) feet from a residential zone.**8-15(n) Off-Street Parking** (See Article 16 for additional parking regulations.)Adult Day Care Center – One (1) space for every four (4) persons being provided care, plus one (1) space per caregiver on the maximum shift.**8-16(b) Principal Uses – NEIGHBORHOOD BUSINESS (B-1) ZONE**1. The principal permitted uses in the P-1 zone, not including a Professional Office Project.**8-16(c) Conditional Uses – NEIGHBORHOOD BUSINESS (B-1) ZONE**13. Adult day care centers, when located closer than five hundred (500) feet from a residential zone.**8-17(b) Principal Uses – DOWNTOWN BUSINESS (B-2) ZONE (carries forward to the B-2A zone)**1. The principal permitted uses in the B-1 (and P-1) zone.**8-17(d) Conditional Uses – DOWNTOWN BUSINESS (B-2) ZONE (carries forward to the B-2A zone)**9. Adult day care centers, when located closer than five hundred (500) feet from a residential zone.**8-24(b) Principal Uses – OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE**28. Adult day care centers, but only when located at least five hundred (500) feet from a residential zone.**8-24(d) Conditional Uses – OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE**5. Adult day care centers, when located closer than five hundred (500) feet from a residential zone.**8-24(n) Off-Street Parking** (See Article 16 for additional parking regulations.)Adult Day Care Center – One (1) space for every four (4) persons being provided care, plus one (1) space per caregiver on the maximum shift.**The Zoning Committee Recommended: Approval of the Staff Alternative Text.****The Staff Recommends: Approval of the Staff Proposed Text**, for the following reasons:

1. The proposed text amendment will make adult day care centers a conditional use in the P-1, B-1, B-2, B-2A, and P-2 zones when proposed to be closer than 500 feet to a residential zone, which will allow for notification to neighbors and a public hearing before the Board of Adjustment prior to siting an adult day care center in these locations.
2. The proposed adult day care center definition is crafted after four zoning definitions recommended by the American Planning Association, and will allow for a new use in our zoning regulations.
3. The staff alternative text achieves the Council's goal of requiring notification and a public hearing process for siting adult day care centers proposing to locate near existing residential areas, and addresses the Commission's initial concerns with the draft text amendment forwarded to them for their review.

Staff Presentation – Mr. Sallee identified the proposed text amendment on the Agenda, and noted that the staff previously distributed the Council Resolution #243-2102 that was passed on May 10th, the Staff Report that was presented to the Zoning Committee on July 5th and the Supplemental Staff Report on this text amendment.

Mr. Sallee said that this text amendment request was recently initiated by the Lexington-Fayette Urban County Council. He then said that the text amendment is proposing to amend the Zoning Ordinance to create a new definition for a land use that is not currently in the Ordinance. The proposed text amendment would amend Articles 1 and 8 of the Zoning Ordinance, inserting the new land use into the list of allowable uses. Mr. Sallee said that the Council has proposed a new definition for "adult day care center" to be inserted into Article 1-11 of the Zoning Ordinance, and make adult day care centers a conditional use in the P-1, P-2, B-1, B-2 and B-2A zones. He then said that the new definition would allow care and guidance to be given to adults within a protective setting that does not involve overnight accommodation. These accommodations would only be offered during part of the day. He noted that the staff report lists the definition of Community Centers and said that this language is probably the most similar to what is being proposed with this text amendment.

Mr. Sallee said that what led the Council to initiate this text amendment was the recent opening of an adult day care center that was in close proximity to an existing downtown neighborhood. He then said that the residents of that neighborhood were displeased with the lack of notification they received, as well as the inability to verbally object to the proposed request prior to its opening. He added that the proposed text amendment suggests listing adult day care centers as a conditional use in the P-1, P-2, B-1, B-2 and B-2A zones. This would then require an application to be filed and approved by the Board of Adjustment. He explained that the requirements for a Board of Adjustment application consist of notification to be sent out to all property owners within a 500-foot radius, notification to the closest neighborhood association, and the applicant would need to present their proposal at a public hearing.

Mr. Sallee said that this amendment is proposing to define "adult day care center" similar to other zoning definitions that are used in Blacksburg, VA; Boulder, CO; Durham, NC and Wheaton, IL. He then said that there are two different types of day care centers that would be covered under the new definition; one type is a medical facility that requires a Certificate of Need and approval from different state and federal agencies. The other type of adult day care is more of a social model, and does not require medical services. He added that there are three social adult day care facilities in Lexington located on Nicholasville Road, and the most recent, North Martin Luther King Boulevard.

Mr. Sallee said that the proposed text amendment was first introduced to the Commission at their June 21st work session. He then said that, during the work session, the Commission had voiced their concern with how restrictive the regulations were; and if this use was listed as a conditional use in every instance, there may not be any real locations available under the Ordinance. The staff took what the Commission had said, and drafted the proposed alternative text and presented that text to the Zoning Committee on July 2nd. Mr. Sallee explained that the alternative text would create a two-tiered system for regulating the use. The system would still keep the Council's proposal intact; but it would also allow the new use to be a principal permitted use in the Mixed Use and Planned Shopping Center zones, but only when that location is more than 500 feet from a residential zone.

Mr. Sallee said that during the drafting of the Supplemental Staff report the staff had found an anomaly or "unintended consequence" that was not anticipated. He directed the Commission's attention to the zoning map, and explained that the map identifies the different zoning locations throughout Lexington. He said that these zones could allow an adult day care center as a conditional use or a principal permitted use. He said that the edges of most of these areas are in close proximity to residential zones, and as a conditional use the proposed new use could be allowed. He then directed the Commission's attention to the downtown area, noting that much of this area is zoned B-2A. As such, the proposed use would be considered a principal permitted use; however, the adult day care center could still be within 500 feet of a residential zone. Mr. Sallee then directed the Commission's attention to a closer view of the Constitution Historic District, and said that it is located northwest of Martin Luther King Boulevard, southeast of North Limestone and between Pleasant Stone Street and East Third Street. He indicated that this is the largest downtown area that is located in a Downtown Business (B-2A) zone, adding that it is more than 500 feet from a residential zone. Since the Zoning Committee meeting, the staff was prompted to reconsider the alternative text as it would relate to the B-2A zone. He said that the basic intent of this regulation was to allow residences and neighbors to receive notification of an adult day care center when it is being proposed in close proximity to their properties. He then said that there are so many residences within this particular area, the staff's revised alternative text would have made the adult day care center a conditional use in the B-2A zone.

Mr. Sallee redirected the Commission's attention to the Supplemental Staff Report, and said that the revision to the staff's alternative text relates to the B-2A zone and where principal permitted uses of the B-2 zone carry into that zone. He then said that the staff is suggesting changing Article 8-18(b)(1) Principal Uses to read: "The principal permitted uses in the B-2 zone, except for adult day care centers" and create a new Article 8-18(d)(2) Conditional Uses to read: Adult day care centers. He said that the B-2A zone would have an exception for this use and the adult day care centers would be considered a conditional use in all instances. He added that the staff is estimating this would impact eight city blocks and should not have a huge impact on the general direction of the staff's alternative text.

Mr. Sallee said that the staff did not alter their findings, as presented to the Zoning Committee last week, and the staff is still recommending approval of the revised staff proposed text, for the following reasons:

1. The proposed text amendment will make adult day care centers a conditional use in the P-1, B-1, B-2, ~~B-2A~~, and P-2 zones when proposed to be closer than 500 feet to a residential zone, which will allow for notification to neighbors and a public hearing before the Board of Adjustment prior to siting an adult day care center in these locations.

2. The proposed adult day care center definition is crafted after four zoning definitions recommended by the American Planning Association, and will allow for a new use in our zoning regulations.
3. The staff alternative text achieves the Council's goal of requiring notification and a public hearing process for siting adult day care centers proposing to locate near existing residential areas, and addresses the Commission's initial concerns with the draft text amendment forwarded to them for their review.

Planning Commission Questions – Ms. Plumlee asked if the zoning regulations were to be based on the size of the facility. Mr. Sallee said that it is not related to the size of the facility. He then said that, generally how the regulations would work would be if a facility wanted to locate in an area, a determination would be made as to where the nearest residential zone was located, which would determine whether or not the proposal would be presented to the Board of Adjustment or if it could bypass the BOA and obtain zoning and building permits. It would not matter if the building was 2,000 square feet or a 20,000 square-foot building. Ms. Plumlee asked if the nonmedical facilities are state regulated. Mr. Sallee replied that he was unsure if the nonmedical facilities are state regulated.

Mr. Owens said that the Council had initiated this request and asked if they were requesting this to be a conditional use. Mr. Sallee replied affirmatively, noting that P1, B-1, B-2, B-2A and P-2 zones would be impacted.

Ms. Beatty asked if the current adult day care centers would be grandfathered in or if those facilities would need to come into compliance as either a conditional or a principal use. Mr. Sallee said that the current adult day care centers would be grandfathered in; but should a facility want to expand, and if that facility is closer than 500 feet to a residential zone, they would have the opportunity to request a conditional use permit. He then said that such a facility would not become a non conforming use to the point where they could not expand under any circumstances.

Ms. Roche-Phillips asked if the map previously presented to the Commission was only identifying the B-2A zones or the areas 500 feet from the nearest residential zones. Mr. Sallee explained that the previous map was showing the Constitution Historic District boundaries, and said that this largest of the B-2A zones. He then said that the edges of this B-2A zone are within 500 feet of a residential zone, and added that the map indicated the areas that are farther than 500 feet from a residential zone. He said that under the original staff alternative text, an adult day care center outside the boundaries could be considered as a "principal permitted use," and inside the boundaries it could be permitted as a "conditional use." He said that this area is primarily comprised of residential uses, which is what made it so significant. He then said that the staff's alternative text had resulted in an "unintended consequence" of negating the Council's original intention for this proposal in that one area.

Ms. Roche-Phillips said that at the Zoning Committee, there was a discussion concerning residential uses versus residential zones. She then said that that the map was showing an area where an adult day care center could potentially be located in the B-2A zone, and said that other zones could also be impacted. Mr. Sallee said that there are certainly residential uses located in the P-1 and B-1 zones, but the staff could not think of another area that is as concentrated as Constitution Historic District in a business zone.

Audience Comments – Linda Carroll, 343 North Limestone, was present. She said that the proposed text amendment was nearly perfect, particularly if the Commission were to adopt the new B-2A portion of the language. She then said that with regards to the situation on North Martin Luther King Boulevard, three separate schools were in close proximity to the facility that did not receive notification of the proposal. Ms. Carroll said that, in speaking with the staff, the one gap with this proposal was the schools. She then said that the schools in the downtown core are often not within 500 feet of residential zones, which would result in the schools being missed when the nearby areas are notified of a pending request. She requested that the Commission consider conditional use within 500 feet of a school or a child day care center because of the large number that are located downtown. She asked that the Commission add a condition that would require schools and child day care centers to be notified.

Rick Chrisman, CEO of Plummet Solutions, was present. He said that he was very familiar with the programs that are part of adult day care centers. He then said that understands the reasoning this text amendment was being proposed and he is aware that homeless people congregate downtown. He noted that there are many other adult day centers in Lexington that serve people with developmental disabilities and mental illness; and often times it would be generally known or obvious that they were in a facility. He encouraged the Commission to consider that under certain conditions these centers could be considered as a principal use.

Dawn Klus was present representing Sayre School, located at 194 North Limestone Street. She said that she supports Ms. Carroll's previous statement and she is also requesting that schools be included in the language of the proposed text amendment. She then said that this would allow the schools that are in close proximity to an adult day care center the opportunity to participate in the discussions beforehand.

Jeanne Miller was present representing St. Peter & Paul Regional Catholic School, located at 423 West Short Street and 133 Barr Street. She said that she supported Ms. Carroll's statement and requested that schools be included in the notification for this type of request.

Planning Commission Questions – Mr. Owens thanked the staff for working diligently on this request in such a short amount of time. He said that he was concerned as to how the adult day care center on North Martin Luther King

Boulevard started this issue. He then said that the adult day care center was a permitted use at that location and notification was not required. He added that, with regard to what the staff was recommending, if an adult day care center is located in a residential zone the request would become a conditional use. Mr. Owens said that with the North Martin Luther King Boulevard location there were concerns from both the residential neighborhoods and nearby businesses. He then said that it seemed that the nearby businesses were not being given the opportunity to voice their concerns, which is needed. He added that he does not want to hinder what is being accomplished, but he did not believe a conditional use would pose a hindrance in the process. Mr. Owens said that these types of request would be presented to the Board of Adjustment, and the Board members were open minded enough to realize when a use is merited or when the concerns are a "Not In My Back Yard" (N.I.M.B.Y) type situation. He then said that it is his opinion that adult day care centers could be classified as a conditional use throughout the zones, at this point in time.

Ms. Beatty applauded the staff and the work that was put into this issue. She then said that Ms. Blanton, who was absent, had strongly expressed her thoughts about creating a balance. She then said that the Commission should not lose sight of Ms. Blanton's initial comments and need to be respectful of our adult population, noting her understanding that there are challenged adults that need centers; but there are also our "traditional" aging adults that want to come together in a center. Ms. Beatty said that whatever the Commission's decision, there should be a nice balance.

Ms. Roche-Phillips said that the Zoning Committee had discussed this issue at their last meeting, and it was her understanding that Ms. Blanton did not want to make this so prohibitive to where we would not see adult day care centers in the community. She then said that she could not speak for Ms. Blanton, but she believed that the B-2A alternative would provide enough opportunity throughout the other zoning districts.

Mr. Cravens asked, if a conditional use permit was filed, if the schools would be notified if they were within a 500-foot proximity. Mr. Sallee replied affirmatively, and said that the name and address listed on the property tax information would receive the notification.

Mr. Cravens asked if the staff could include the schools' concerns. Mr. Sallee said that most of their concerns deal with the B-2 zone, and the following language could address what had been mentioned at today's meeting:

Article 8-17(d)(1) Conditional uses – Downtown Business (B-2) Zone

9. Adult day care centers, when located closer than five hundred (500) feet from a residential zone, school or child care center.

Mr. Sallee said that the downtown area is more compact, with a mixture of uses, by adding this language; it would not be difficult to ensure the requested notification. However, for the areas that are zoned B-1 and P-1, it would be difficult to ensure that each of the schools and day care facilities were properly notified since those facilities are wide spread throughout Lexington.

Mr. Brewer asked if the additional language would capture the downtown area that was indicated on the previous map. Mr. Sallee replied affirmatively, and said that the original text would have been appropriate for the school notification; but by adding the additional language, it would take the regulations one step closer in notifying the schools and day care centers. Mr. Brewer indicated that he was in agreement with the added language offered by the staff.

Ms. Beatty said that she believed that the schools should be notified, and asked why the downtown schools and day care facilities would be treated differently from any other schools and day care facilities in Lexington. Mr. Sallee said that this was offered only as an attempt to accommodate the downtown schools' request.

Mr. Owens asked if the staff believed this would be too problematic to make the proposed language applicable to the other zones. Mr. Sallee said that the B-2 zone was concentrated in one particular area, whereas the B-1 and P-1 zones are spread throughout Lexington, in multiple locations. He then said that it would be hard to know exactly where every school and day care facility is located if they fall within the 500-foot radius. Mr. Owens then asked, if this type of use was made a conditional use throughout, if those facilities would be notified. Mr. Sallee said that any property owners or schools within 500 feet would be notified of a pending request. Mr. King added that the downtown area is a finite area that can be easily managed. He then said that there is not a list of schools or day care facilities for the City of Lexington; and should a request be submitted, it would require a custom research project for that particular location to ensure that proper notification was sent. Mr. Owens said that he understood that reasoning; but, in his opinion, this type of use should be considered a conditional use.

Ms. Roche-Phillips asked what the Commission's timeline is for considering this request. Mr. Owens said that the Commission has 60 days from date of initiation to make a recommendation, which would expire before their next meeting. Mr. Sallee added that the Commission has 13 more days to make a recommendation. Ms. Roche-Phillips then asked, if the Commission does not consider this request, if the initiated text amendment from Council would become law. Mr. King said that the Commission must take action on what the Council had submitted within 60 days by making a recommendation of approval, disapproval or an alternative recommendation. The Council can then consider their recommendation.

Mr. Brewer asked when the Commission sends a recommendation to the Council for approval, with a staff revision, if the Council; in turn would review the text and make their own decision. Mr. King said that the Council could approve what the

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

Commission had recommended; they could approve the original text, or, within reason, they could modify the text even further. Mr. Brewer then asked, if the Council were to modify the text, if the Commission would review those changes. Mr. King replied that, if the changes are way outside the bounds of what the Commission had discussed and what was noticed to the public for this hearing, they might recommend to remand it back, but that decision currently is unknown.

Ms. Roche-Phillips asked if a hearing would be required. Mr. King replied negatively, and said that he does not believe a separate hearing would be required. Ms. Boland said that if the Council does something substantially different, the process would be repeated and they would have to initiate something different. She then said that to pass something that is different from what the Commission had proposed, the Council would be overriding the Commission's decision; and eight Council votes, not the majority vote of who is present, would be required. She added that the Council could also form a Committee, at which time it could stay in limbo since the Council is not on a time limit. Mr. Sallee said that the only required hearing on a text amendment is before the Planning Commission.

Mr. Brewer asked, for all concerned parties, including people in the audience, if they could contact their Council member and voice their support or opposition about this proposal. Ms. Boland said that, just as for any other Council meeting, the agenda is published; notice is given to the public; and, in general, the Council meeting allows public comments. Mr. Sallee added that the staff had notified over 250 neighborhood associations about today's Commission hearing.

Mr. Cravens said that he agreed that this type of request should be a conditional use in all zones, and not as a principal use. Mr. Owens asked if the original text was proposed as a conditional use only for all zones. Mr. Sallee said that the text sent to the Commission by the Council would make this type of use a conditional use for all B-1, P-1, B-2 and B-2A, as well as P-2 zones. Mr. Owens asked if the original text submitted by Council reads as a conditional use, to which Mr. Sallee replied affirmatively.

Mr. Brewer said that there are two recommended text from the staff, and asked if the Commission was now considering the original text submitted by the Council, which would include the concerns that were raised by the audience members. Mr. Sallee said that the question posed by Mr. Owens regarded the text initially submitted by the Council. He then said that since the Committee meeting, the staff drafted an alternate text, and added that on the overhead projector, the staff had further revised the text at this meeting to reflect the concerns voiced by the audience members.

Mr. Brewer said that based upon the comments from Mr. Owens and Mr. Cravens, the suggestion was for the Commission to go back to the original text offered by the Council. He asked, if the Commission considers the original text sent by the Council, if the concerns raised by the audience members would be addressed. Mr. Sallee replied affirmatively. Mr. Brewer then said that this would also raise the logistics issue of notifying everyone and asked if the staff was concerned about that. Mr. Sallee said that the staff's concerns were based upon the Commission's initial review and response to the text amendment. He added that, as a conditional use, the only way a facility could be sited is if all property owners are given notice within the particular area. He said that, in the staff's estimation, this would address the audience's concerns. He then said that the Commission could recommend the original text or the alternate text.

Ms. Beatty asked if the original text was more inclusive or less inclusive. Mr. Sallee said that the Council text had no provisions for an adult day care facility being a principal permitted use in the community, except as allowed as a community center under the existing regulations.

Mr. Brewer asked, if the Commission agreed with the original text submitted by the Council, if there would be notification to the schools and child care facilities. Mr. Sallee replied that that was not necessarily the case, and said that only the property owners, schools and child care centers within 500 feet from the proposed site would receive notification. He added that if the property owners, schools and child care centers fall outside the 500-foot notification area, those facilities would not receive a mailed notification.

Mr. Brewer then asked if the map showing the downtown area was within the 500-foot area, and if the text amendment would cover that area. Mr. Sallee said that the map previously shown was the area zoned B-2A; and under the Council's proposal and the revised staff proposal, the adult day care center would be a conditional use and all property owners would receive notification of the proposed use. Mr. Brewer confirmed that notification would be required for all property owners within the B-2A zone. Mr. Sallee replied affirmatively.

Mr. King clarified by saying that not everyone within the B-2A zone would be notified. He then said that if the Commission were to consider the Council's proposed text, there would be nowhere in Fayette County where an adult day care center would be a "by right" use. He then said that at any time this type of facility was being requested they would be referred to the Board of Adjustment (BOA), and the normal rules of the BOA would be applicable. This would include the property owners within the 500-foot radius being notified, legal notice placed in the newspaper and the posting of a sign on the subject property.

Ms. Roche-Phillips said that making this a conditional use in all of the zones was overly restrictive; and in many of the instances, medical or non medical, these facilities would not be significantly different from facilities that accommodate children. She then said that this type of use needed to be allowed by right in certain districts, and the Commission should not require this to be a conditional use in all zones or in all cases. She added that she was in favor of the alternative text that was presented by the staff today.

Action - A motion was made by Mr. Brewer, seconded by Ms. Roche-Phillips, to approve the revised staff-proposed text for ZOTA 2012-10: DEFINE & REGULATE ADULT DAY CARE CENTERS, for the following reasons:

1. The proposed text amendment will make adult day care centers a conditional use in the P-1, B-1, B-2, ~~B-2A~~, and P-2 zones when proposed to be closer than 500 feet to a residential zone, which will allow for notification to neighbors and a public hearing before the Board of Adjustment prior to siting an adult day care center in these locations.
2. The proposed adult day care center definition is crafted after four zoning definitions recommended by the American Planning Association, and will allow for a new use in our zoning regulations.
3. The staff alternative text achieves the Council's goal of requiring notification and a public hearing process for siting adult day care centers proposing to locate near existing residential areas, and addresses the Commission's initial concerns with the draft text amendment forwarded to them for their review.

Changing Article 8-17(d)(1) Conditional uses – Downtown Business (B-2) Zone to read:

9. Adult day care centers, when located closer than five hundred (500) feet from a residential zone, school or child care center.

Discussion of Motion – Mr. Cravens asked if Mr. Brewer would amend his motion by making this type of a request a conditional use and not a principal permitted use, which would then require Board of Adjustment approval. He said that these types of facilities could have an impact on the community, adding that these facilities can be threatening to passersby. Mr. Owens agreed, and said that the Board of Adjustment is open minded enough to determine whether or not a use at a particular location is merited or not, of if it's just a NIMBY situation.

Mr. Cravens asked Mr. Brewer if he would amend the motion on the floor. Mr. Brewer declined to so. Mr. Cravens said that he would therefore make a motion to amend the motion on the floor.

Legal Comment - Ms. Boland said that this is not an amendment and the Commission had the option of the Council's original proposed text, which is what the amendment was. She then said that Mr. Brewer had made a motion to accept the revised staff alternative text. She added that Mr. Cravens had made a motion to reject the motion on floor. Mr. Cravens said that he was not rejecting the motion on the floor, but wanted to make this type of use a conditional use only, not principal permitted use. Ms. Boland said that the Council recommendation was to have this type of use as a conditional use throughout the city. She then said that if the motion on the floor fails, then what was being suggested would be appropriate for the next motion.

The motion failed 2-7 (Cravens, Owens, Penn, Beatty, Berkley, Mundy and Plumlee opposed; Blanton and Wilson absent). Mr. Owens then asked for another motion.

Discussion - Mr. Cravens asked for clarification on the Council's language. Ms. Boland said that the Council's proposed text would make this new use a conditional use only, not a principal permitted use. Mr. Cravens then asked if the proposed text would require notification to notify property owners within a 500-foot area. He said that it is important for the schools to be notified of these uses.

Mr. Brewer said that his reasoning for suggesting the staff's revision was to ensure that all schools, day care centers and others were included in the notification process. He then said that the staff had indicated that there may be certain situations that a property owner would not be notified; and before the Commission moves forward, he wanted legal clarification that the audience members' concerns were addressed.

Mr. Berkley asked if this proposal would extend to the B-2A zone. Mr. Owens replied affirmatively. Mr. Sallee said that the conditional uses in the B-2 zone are the same conditional uses in the B-2A zone.

Ms. Roche-Phillips said that the Council's proposed text did not include all zoning categories (i.e., mixed use zones & B-6P); and by adopting the original language, the Commission would make it to where these uses are not allowed, regardless of the other districts.

Mr. Cravens said that his motion would make adult day care centers a conditional use for all zones. Ms. Boland asked if Mr. Cravens was asking that for every zone that was listed in the staff's alternative text it would be a conditional use. Mr. Cravens replied affirmatively, and added that schools and day care centers are to be notified as well. Ms. Boland said that the way the text has been discussed; every school and child care center in Fayette County would be notified. She said that if the school or day care centers are within 500 feet of the proposed location, those facilities would receive notification. Mr. Cravens agreed, and asked if Ms. Carroll was in agreement. Ms. Carroll said that there are some schools within Fayette County that are outside the 500-foot boundary. She said that if this type of use were being proposed near a school, she would hope that that school would be notified. Mr. Sallee said that if the use is a conditional use, all properties within 500 feet would receive mailed notification, which would also include any schools within that boundary. Mr. Owens clarified that there would be a posting of a sign on the proposed location, as well as legal notification in the newspaper, under this proposal. Mr. Sallee replied affirmatively. Mr. Cravens indicated that that would be appropriate.

Action – A motion was made by Mr. Cravens, to approve the staff revised alternative definition for ZOTA 2012-10: DEFINE & REGULATE ADULT DAY CARE CENTERS, changing the "principal uses" to "conditional uses" for P-1, B-1, B-2, B-2A and P-2 zones.

Discussion of Motion – Mr. Brewer said that if the language encompasses the audience's concerns, he does not see why the Commission spent the last hour on this request. He asked if the Council's version would include the schools and child care centers being notified. Mr. Sallee said that any time there is a request for a conditional use, there is mailed notification to all property owners within the notice radius, a legal advertisement in the newspaper and now a required posting of a sign on the subject site.

Mr. Brewer asked, if the concerns are being met, why the text is being changed. In response to the question from Mr. Brewer, Mr. Cravens said that a principal use allows the applicant to obtain a permit without any type of notification to the property owners, and suggested making this new use a conditional use, which would require notification, as well as a hearing by the Board of Adjustment.

Mr. Penn asked why the text could not be written to indicate that all schools are to be notified because the word "area" becomes a judgment call. Ms. Boland said that if the wording indicates that all schools would be notified, then all of Fayette County Schools would need to be notified. Mr. Penn then asked if the wording could indicate all schools in the affected area. Ms. Boland asked what would be the affected area. Mr. Penn conceded that was a good point and he would leave that up to the staff to determine. Ms. Boland said that the Commission can not make that request, and must define the area. She added that there are all types of schools in Fayette County to include trade, vocational and so forth, both large and small.

Mr. Penn said that the argument should be how to define an adult day care center. He said that it is not a question as to whether or not adult day care centers should be a conditional use, but rather what defines an adult day care center. Ms. Boland said that the issue of notification was raised, and this could create a situation that would pose a problem with someone not being notified. This could bring the Commission back to the beginning of the process and potentially make it impossible for anyone to have an adult day care center.

Mr. Owens said that there is a motion on the floor to amend the Zoning Ordinance text amendment language to define adult day care centers and to regulate such facilities as a conditional use in the P-1, B-1, B-2, B-2A and P-2 zones, with the definitions listed on the staff report.

The motion was seconded by Ms. Plumlee.

Discussion of Motion – Ms. Beatty said that the staff has done a phenomenal job in presenting the proposed text amendment. She then said that she understands that this text amendment must be considered today, but asked if the staff could create another report for the Commission to review and consider at the next meeting. Mr. Brewer said that there was not sufficient time to consider another proposal, because of the 60-day deadline. He then said that what has been presented is an attempt to address the concerns raised at the Commission's hearing. The deadline for the Commission to consider this proposal would have passed before the next Commission meeting. Mr. Owens said that that is correct, and if the Commission could not come to a decision, the staff would inform the Council.

The motion carried 8-1 (Roche-Phillips opposed; Blanton and Wilson absent).

V. COMMISSION ITEM – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- 1. ELECTION OF OFFICERS** – The Commission's By-laws state that at the first regular meeting in July, the Commission shall elect a Chairperson, Vice-Chairperson, Secretary, and Parliamentarian. The nominating committee will present its slate for consideration by the Planning Commission. Nominations may also be made from the floor.

The current officers are as follows:

Chairperson	-	Mike Owens
Vice Chairperson	-	Mike Cravens
Secretary	-	Lynn Roche-Phillips
Parliamentarian	-	William Wilson

Nominating Committee Report – Mr. Penn stated that the nominating committee recommended the following slate of Planning Commission Officers for 2012:

Chairperson	-	Mike Owens
Vice Chairperson	-	Mike Cravens
Secretary	-	Lynn Roche-Phillips
Parliamentarian	-	William Wilson

Other Nominations – Mr. Owens asked if there were any other nominations from the Commission. There were no other nominations from the floor.

Action - A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 9-0 (Blanton and Wilson absent) to approve the Planning Commission's Slate of Officers, as presented by the Nominating Committee.

Timeline for ZOTA 2012-10: ADULT DAY CARE CENTERS

<u>December 2011</u>	Staff from the Division of Planning, Law Dept., CAO & Councilmember Ford meet to discuss the possible need for a ZOTA, based upon recent neighborhood complaints. Under the current Zoning Ordinance, adult day care centers are considered covered under the definition of a “community center.” Community Centers are principal permitted uses in the P-1, P-2, B-1, B-2, B-2A, and B-6P zones; and are conditional uses (Board of Adjustment (BOA) approval required) in R-3, R-4, R-5, and I-1 zones.
<u>Winter 2012</u>	Planning Staff drafts ZOTA & reviews drafts internally & with Law Dept.
<u>April 2012</u>	Council Planning & Public Works Committee reviews Adult Day Care Definitions & draft ZOTA. Committee forwards text amendment to Urban County Council for initiation. The text amendment proposes that adult day care facilities be conditional uses in the P-1, B-1, B-2, B-2A, and P-2 zones in order to ensure advance neighborhood notice for this use.
<u>May 2012</u>	Council passes Resolution to initiate text amendment & forwards proposal to the Planning Commission.
<u>Mid-June 2012</u>	Planning notifies about 250 Neighborhood Associations of the text amendment, and of the scheduled public hearing by the Planning Commission.
<u>Mid-June 2012</u>	Planning Commission is introduced to text amendment at a work session. Members present request that Planning Staff prepare an alternative text amendment for consideration to permit adult day care centers as a permitted use in at least some zones.
<u>Early July 2012</u>	Staff Report completed by Planning Staff, and shared with Planning Commission’s Zoning (sub)Committee. Zoning Committee recommends approval of the Planning Staff alternative.
<u>Mid-July 2012</u>	Planning Commission holds their required public hearing. Four citizens speak at the hearing, and the ZOTA is discussed by the Commission members. Commission votes 2-7 on the alternative text; and 8-1 in favor of Council’s original text amendment proposal.
<u>Mid-August 2012</u>	Commission’s Final Report and recommendation sent to Council Office & Law Dept.
<u>Late August 2012</u>	Council refers ZOTA 2012-10 to Planning & Public Works Committee.
<u>September 2012</u>	Planning & Public Works Committee discusses the proposed ZOTA. Following discussion, the Committee decides to table this ZOTA.
<u>March 2013</u>	Council Office staff asks Planning Staff to consider work on revised definitions for this ZOTA.
<u>April 2013</u>	Planning Staff reviews APA & KRS definitions for “Adult Day Care Center” and “Adult Day Health Care Program.”
<u>May 2013</u>	Council’s Planning & Public Works Committee schedules additional consideration of ZOTA 2012-10.

216B.0441 Cabinet to license and regulate adult day care health programs.

- (1) As used in this section, "adult day health care program" means a program licensed by the Cabinet for Health and Family Services that provides organized health care for its clients during specified daytime hours, that may include continuous supervision to assure that health care needs are being met, supervision of self-administration of medications, and provision of nursing services, personal care services, self-care training, and social and recreational activities for individuals of all ages.
- (2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish health, safety, and treatment requirements for licensed adult day health care programs. No person, association, corporation, or other organization shall operate or maintain an adult day health care program without first obtaining a license as provided in this section.
- (3) The cabinet may issue a license upon request to any adult day health care program meeting the standards required under subsection (2) of this section and administrative regulations promulgated thereunder. The cabinet may deny, revoke, suspend, or modify an adult day health care program license for failure to comply with standards set by the cabinet.
- (4) Services provided in an adult day health care program for its clients may include:
 - (a) Medical therapeutic services; and
 - (b) Physical and speech therapy.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 505, effective June 20, 2005. -- Created 2000 Ky. Acts ch. 521, sec. 27, effective July 14, 2000.

205.010 Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Secretary" means the secretary for health and family services or his authorized representative;
- (3) "Public assistance" means money grants, assistance in kind, or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children, or persons with whom a needy child lives or a family containing a combination of these categories, except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device, or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself, producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;
- (4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments, and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (5) "Parent," in addition to biological or adoptive parent, shall include stepparent;
- (6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;
- (9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation, or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;
- (11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and

maintained in residence;

- (12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;
- (13) "Person determined to be potentially responsible" means any person who:
 - (a) Is not aged, blind, disabled, incapacitated, or needed in the home:
 - 1. Because of the illness or incapacity of a member of the family; or
 - 2. Because of children in the home under the age of six (6); or
 - (b) Volunteers for such determination;
- (14) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death;
- (15) **"Adult day-care center"** means any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, marriage, or adoption.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 51, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 100, sec. 1, effective July 15, 1998; and ch. 426, sec. 181, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 422, sec. 1, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 315, sec. 2, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 140, sec. 1, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, secs. 44 and 107(21); and ch. 180, sec. 1. -- Amended 1972 Ky. Acts ch. 256, sec. 1. -- Amended 1970 Ky. Acts ch. 248, sec. 6. -- Amended 1966 Ky. Acts ch. 134, sec. 1. -- Amended 1962 Ky. Acts ch. 39, sec. 1. -- Amended 1956 Ky. Acts ch. 75, sec. 1. -- Amended 1952 Ky. Acts ch. 33, sec. 1. -- Repealed and new section substituted 1950 Ky. Acts ch. 110, secs. 1 and 12. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3766bb.

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		Quarterly Update
Exploring the Use of Alternative Fuel Resources for Fayette County	Farmer	07/10/2012	08/14/2012, 01/15/2013
Adult Day Care Centers	Ford	10/11/2012	09/18/2012, 05/14/2013
Private Streets: Enforcement, Maintenance, Specifications	Mossotti	01/29/2013	
Notification Process for H1 Overlay	Myers	01/29/2013	
Exaction Fees	Stinnett	03/05/2013	05/14/2013
Capital Road Projects for Major Corridors and the Ability of LFUCG to Maintain Maintenance of Those Roads	Stinnett	04/16/2013	
Performance Bonds vs. Letters of Credit	Stinnett	04/23/2013	
B1 ZOTA	Henson	03/08/2013	05/14/2013